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THIS INDEX is based on a consolidation of contents entries appearing in the January-June issues of the FEDERAL REGISTER together with broad subject references. The entries are arranged first under the name of the agency which issued the document. Under each agency, the entries are then listed alphabetically within the categories of Rules, Proposed Rules, and Notices. Executive Orders, Proclamations, and other documents from the President are listed under Presidential Documents. The number at the end of each entry gives the page in the FEDERAL REGISTER where the document begins. Use the table of Federal Register Pages and Dates at the back of this index to locate the issue date for each page number. This index is published monthly and is cumulated for 12 months.

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Department of the Interior, Bureau of Mines.	Basic Bureau of Mines Manual General Table of Contents and Checklist–July 6, 1978.	In accordance with fee schedule in 43 CFR 2, App. A.	Helen M. Gellett, Directives Management Officer, 2401 E St. NW., Washington, D.C. 20241; telephone: 634-4730.
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Committee for Purchase from the Blind and Other Severely Handicapped.	Index of Additions and Deletions to the Procurement List: (a) Procurement List 1984 incorporates all additions and deletions through October 14, 1983; (b) Current index October 1983-June 1984.	Order from Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square Building No. 5, 1755 Jefferson Davis Highway, Suite 1107, Arlington, Va. 22202. Price: Ten cents per page, per copy. Make checks payable to: Treasurer of the United States.	Committee for Purchase from the Blind and Other Severely Handicapped, Attention: Freedom of Information Officer.
Commodity Futures Trading Commission.	Index of final Commission opinions, including concurring and dissenting opinions, and orders in the adjudication of cases. April 21, 1975 to date. (This index consists of separate chronological listings of final Commission opinions and orders in enforcement cases and reparations proceedings before the Commission).	Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW, Washington, D.C. 20581. Price: 10 cents per page	Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW, Washington, D.C. 20581 (202) 254-6314.
Do	Index of statements of policy and interpretations adopted by the Commission and not published in the Federal Register. April 21, 1975 to date.	Do	Do.
Do	Index of Commission administrative manuals and instructions to staff that affect a member of the public. April 21, 1975 to date. (Commission instructions no longer in use are not included in this index).	Do	Do.
General Services Administration (GSA).	GSA Freedom of Information Index; July 4, 1967 through June 30, 1984. Category A information which is final opinions, including concurring and dissenting opinions and orders, made in the adjudication of cases. Category B information which is those statements of policy and interpretations which have been adopted by GSA and are not published in the FEDERAL REGISTER. Category C information which is administrative staff manuals and instructions to staff that affect members of the public.	GSA, Freedom of Information Officer (ATRAR), Washington, D.C. 20405. Price: $4.75. Make checks payable to: General Services Administration.	GSA Central Office Library and the business service centers located in each regional office listed below: Central Office Library, 18th & F Sts. NW, Rm. 1033, Washington, D.C. 20405 Business Service Centers: National Capital Region: 7th & D Sts. SW., Washington, D.C. 20407 Region 1: John W. McCormack Post Office and Courthouse, Boston, Mass. 02109 Region 2: 26 Federal Plaza, New York, N.Y. 10278 Region 3: 9th & Market Sts., Philadelphia, Pa., 19107 Region 4: Richard B. Russell Bldg., 75 Spring St., Atlanta, Ga. 30303 Region 5: 230 So. Dearborn St., Chicago, Ill. 60604 Region 6: 1500 East Bannister Rd., Kansas City, Mo. 64131 Region 7: 819 Taylor St., Ft. Worth, Tex. 76102 Region 8: Building 41, Denver Federal Center, Denver, Colo. 80225 Region 9: 525 Market St., San Francisco, Calif. 94105 Region 10: GSA Center, Auburn, Wash. 98002.
International Boundary and Water Commission, United States and Mexico, U.S. Section.	Brochure: Amistad Dam and Reservoir	Project Engineer, U.S. Section, IBWC, Route 2, Box 37, Highway 90 West, Del Rio, Tex. 78840. No charge.	Project Engineer, U.S. Section, IBWC, Route 2, Box 37, Highway 90 West, Del Rio, Tex. 78840.
Do	Brochure: Falcon Dam and Power Plant	Reservoirs Manager, U.S. Section, IBWC, P.O. Box 1, Falcon Village, Tex. 78545. No charge.	Reservoirs Manager, U.S. Section, IBWC, P.O. Box 1, Falcon Village, Tex. 78545.
Do	Water Bulletins: Containing data for 1 year covering flow of Rio Grande and related data from Elephant Butte, N. Mex., to Gulf of Mexico, re storage in major reservoirs, diversions, suspended silt, chemical analyses, sanitary aspects of water quality, meteorologic data, and irrigated areas-for years 1931 through 1980.	Division Engineer, Hydrographic Division, U.S. Section, IBWC, 4110 Rio Bravo, El Paso, Tex. 79902. Price: $4.50 per bulletin (data for 1 year). Payable to: International Boundary and Water Commission, U.S. Section.	Division Engineer, Hydrographic Division, U.S. Section, IBWC, 4110 Rio Bravo, El Paso, Tex. 79902.
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Do	Annual Report: Operation of Rio Grande Dams and Reservoirs. This report provides data concerning the operation of the international dams and reservoirs constructed by the Governments of the United States and Mexico on the reach of the Rio Grande which forms the boundary between the two countries.	Division Engineer, Hydrographic Division, U.S. Section, IBWC, 4110 Rio Bravo, El Paso, Tex. 79902. No charge.	Division Engineer, Hydrographic Division, U.S. Section, IBWC, 4110 Rio Bravo, El Paso, Tex. 79902
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Office of Personnel Management	Index to Information, OPM Document No. 1. As of May, 1984. A listing of policy and non-policy publications and information systems arranged alphabetically by title and subject. This index includes some information formerly published in the Index to Civil Service Commission Information.	Internal Distribution Subunit, Room B-443, Office of Personnel Management, 1900 E Street, NW, Washington, D.C. 20415. Free.	OPM Library or any OPM Office, including regional and area offices.

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Pension Benefit Guaranty Corporation, Office of Program Operations.	Index to Pension Benefit Guaranty Corp. OPO Operations Manual; as of Sept. 30, 1982; contains statements of basic policies and procedural used by Office of Program Operations staff in administering Title IV of the Employee Retirement Income Security Act (ERISA)—plan termination insurance program.	Disclosure Officer, Office of the Executive Director, Pension Benefit Guaranty Corp., Room 7000, 2020 K St., N.W. Washington, D.C. 20006. Charge $.10 per page. Payable to Pension Benefit Guaranty Corp. or contact Disclosure Officer for price of entire Operations Manual.	Do.
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1983

Rules and Regulations

Federal Register
Vol. 49, No. 1
Tuesday, January 3, 1984

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 932

Olives Grown in California Amendment of Subparts-Rules and Regulations and Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule requires that advertising by handlers under the olive marketing order must include a reference to the California origin of the olives advertised to qualify for credit against a handler's assessment. Also, this rule terminates two provisions concerning size requirements and reserve funds, which are obsolete. This rule also establishes expenses and rate of assessment for the 1984 fiscal year to provide for maintenance and functioning of California Olive Committee.

EFFECTIVE DATE: January 3, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

A proposed rule was published in the **Federal Register** on December 2, 1983 (48 FR 54361), which contained the amendment actions established herein with respect to Subpart-Rules and Regulations. That proposed rule provided an opportunity for the public to file comments through December 22, 1983. None were received.

This amendment is issued under the Marketing Order No. 932 (7 CFR Part 932), regulating the handling of olives grown in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the California Olive Committee and upon other available information. It is found that this amendment will tend to effectuate the declared policy of the Act.

Section 932.140 establishes a reserve in an amount not to exceed approximately one crop year's expenses. That section, however, is now obsolete and should be terminated. Section 932.40 was amended in 1982 (47 FR 32908) and changed the procedures with respect to reserves.

Section 932.45(a)(2) authorizes, and 932.145 implements, procedures whereby handlers may receive credit against their assessment obligations for certain media expenses incurred in placing their paid advertising. To insure that such advertising promotes the sale and consumption of California olives, and applies only to such olives, § 932.145(a) should be amended to provide that creditable advertising must include a verbal or visual reference, acceptable to the Committee, with respect to the California origin of the olives advertised. The change should apply to all olives handled in the 1984 fiscal year, which begins January 1, 1984, and subsequent fiscal years.

Section 932.156 should be terminated. That section established procedures for handler exemption from outgoing size requirements and is no longer applicable.

Finally, § 932.318 should be added to Subpart-Expenses and Rate of Assessment to establish pursuant to §§ 932.38 and 932.39, respectively, the expenses and rate of assessment for the 1984 fiscal year (January 1–December 31, 1984). The committee would use these funds collected from handlers for its maintenance and functioning.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice and engage in public rulemaking with respect to expenses and assessment rate, and good cause exists for not postponing the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that: (1) Some of the changes are deletions of provisions no longer authorized under the order; and (2) the amendment with respect to expenses, assessments and assessment crediting would apply to the 1984 fiscal year which begins January 1, 1984, and handlers are aware of the changes and need no additional time to comply therewith.

List of Subjects in 7 CFR Part 932

Marketing agreements and orders, Olives, California.

PART 932—[AMENDED]

Therefore, Subpart-Rules and Regulations (7 CFR 932.108–932.161) and Subpart-Expenses and Rate of Assessment (7 CFR 932.217) are amended as follows:

§ 932.140 [Removed]

1. Remove § 932.140.

2. Paragraph (a)(5) is added to § 932.145 (48 FR 9633) to read as follows:

§ 932.145 Marketing promotion, including paid advertising and crediting for handler paid advertising.

(a) * * *

* * * * *

(5) To be creditable, each advertisement must include a visual or verbal reference, acceptable to the Committee, with respect to the California origin of the olives advertised.

* * * * *

§ 932.156 [Removed]

3. Remove § 932.156.

§ 932.217 [Removed]

4. Section 932.217 is removed and § 932.218 is added to read as follows (this final rule expires December 31, 1984, and will not be published in annual Code of Federal Regulations):

§ 932.218 Expenses and assessment rate.

Expenses of $2,009,518 by the California Olive Committee are authorized for the fiscal year January 1, 1984, through December 31, 1984. The rate of assessment for that period shall be established at $42.76 per ton, less any amount credited pursuant to § 932.45 but not to exceed $16.54 per ton. Unexpended funds may be carried over as a reserve.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 28, 1983.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 83-34830 Filed 12-30-83; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1430

1983-84 Milk Price Support Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule sets forth the procedures under which a reduction of 50 cents per hundredweight is to be made in the price received on all milk produced in the United States and marketed by producers for commercial use during the period December 1, 1983 through March 31, 1985. The 50-cent reduction is required to be made by section 201(d)(2) of the Agricultural Act of 1949, as amended by section 102 of the Dairy and Tobacco Adjustment Act of 1983 (Pub. L. 98-180).

EFFECTIVE DATE: This rule is effective with respect to milk marketed after November 30, 1983.

FOR FURTHER INFORMATION CONTACT: Dwight Tayman, Fiscal Division, ASCS-USDA, 6172 South Building, P.O. Box 2415, Washington, D.C. 20013: (202-447-2862).

SUPPLEMENTARY INFORMATION: This rule has been reviewed in accordance with Executive Order 12291 and Secretary's Memorandum 1512-1 and has been classified as "major" since the reduction in milk proceeds required by section 201(d)(2) of the Agricultural Act of 1949, as amended (the 1949 Act), and by this rule will have an effect on the economy exceeding $100 million. The title and number of the federal assistance program to which this notice applies are: Title—Commodity Loans and Purchases; Number—10.051 as found in the Catalog of Federal Domestic Assistance.

The Regulatory Flexibility Act is not applicable to this rule since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule. Section 102(b) of the Dairy and Tobacco Adjustment Act of 1983 (the 1983 Act) specifies that the provisions of section 201(d) of the 1949 Act, as amended by the 1983 Act, shall be implemented without regard to the provisions requiring notice and other procedures for public participation in rulemaking contained in 5 U.S.C. 553, or in any directive of the Secretary.

This notice is not expected to have any significant impact on the quality of the human environment. In addition, this action will not adversely affect environmental factors such as water quality or air quality. Accordingly, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Section 201(d)(2) of the 1949 Act, as amended by the 1983 Act, requires the Secretary of Agriculture to provide for a reduction of 50 cents per hundredweight from the price received on all milk produced in the United States and marketed by producers for commercial use. For purposes of that portion of section 201(d) of the 1949 Act which relates to the 50-cent reduction, the term "United States" is defined to mean the forty-eight contiguous States in the continental United States. Section 201(d)(2) specifies that the reduction shall apply to milk marketed in the period beginning on the first day of the first calendar month following the date of enactment of the 1983 Act and ending on March 31, 1985. Since the 1983 Act was signed by the President on November 29, 1983, the reduction is required for all milk marketed by producers for commercial use during the period beginning December 1, 1983 and ending March 31, 1985. Section 201(d)(2) further specifies that the funds represented by the reduction shall be collected and remitted to CCC at such time and in such manner as prescribed by the Secretary by each person making payment to a producer for milk purchased from the producer, except that, in the case of a producer who markets milk of the producer's own production directly to consumers, such funds shall be remitted directly to CCC by that producer.

Section 201(d) of the 1949 Act previously provided for two 50-cent deductions to be made with respect to milk marketed commercially by producers. Determinations implementing those deductions were published on March 17, 1983 (48 FR 11253), and August 2, 1983 (48 FR 34933). Regulations governing the collection of the deductions were issued on November 30, 1982 (47 FR 53831). Amended regulations were published on August 1, 1983 (48 FR 34725). These regulations remain applicable for milk marketed prior to December 1, 1983.

The regulations in this Final Rule provide for remittance by "responsible persons" of the funds represented by the 50-cent reduction required by section 201(d) of the 1949 Act, as amended by the 1983 Act. A "responsible person" is defined as any person paying a producer for milk except where the producer markets milk of his own production to consumers either directly or through wholesale or retail outlets in the form of milk and milk products, in which case the producer is considered the "responsible person". "Responsible persons" paying producers for milk must remit the funds represented by the reduction to CCC on the date of final payment to the producers, or by the end of the month following the month in which the milk is marketed, whichever is earlier. Where the producer is the "responsible person", the remittance must be made by the producer to CCC by the end of the month following the month in which the milk is marketed.

The regulations provide that the reduction shall be made and the funds represented by the reduction shall be remitted with respect to all milk marketed in any of the forty-eight contiguous States or the District of Columbia, unless it is established to the satisfaction of CCC that the milk was produced outside the forty-eight contiguous States.

The regulations also provide for certain penalties required by statute. Section 201(d)(5) of the 1949 Act provides for a penalty of up to $1,000 for any program violation. Section 201(d)(5) also provides that any person as to whom there is a failure to make a reduction in the price of milk as required by section 201(d)(2) or who fails to remit to CCC the funds required to be collected and remitted in accordance with section 201(d)(2)(B) shall be liable for a marketing penalty. The marketing penalty shall be equal to the support price for milk in effect at the time the failure occurs multiplied by the quantity of milk involved in such failure. The marketing penalty may be reduced, however, if it is determined that the failure was unintentional or without knowledge on the part of the person concerned.

The regulations also contain various administrative provisions, such as the procedures for assessing penalties and for review of determinations with respect to amounts owed by responsible persons. The manner in which late payment charges shall be applied is also set forth.

The informational collection requirements of the regulations have been reviewed and approved by the Office of Management and Budget for purposes of the Paperwork Reduction Act and, as set forth in § 1430.331, have been assigned OBM number 0581-0132.

List of Subjects in 7 CFR Part 1430

Milk, Agriculture, Price support programs, Dairy products.

Final Rule

Accordingly, 7 CFR Part 1430 is amended as follows:

1. Subpart—Regulations Governing Certain Deductions on Milk Marketings of Producers is amended to read "Regulations Governing Certain Deductions on Milk Marketings of Producers Prior to December 1, 1983".

2. A new subpart entitled "Subpart—Regulations Governing Reduction in the Price of Milk Marketed by Producers, December 1, 1983–March 31, 1985" is added which reads as follows:

PART 1430—[AMENDED]

Subpart—Regulations Governing Reduction in the Price of Milk Marketed by Producers, December 1, 1983–March 31, 1985

Sec.

1430.320 General.
1430.321 Definitions.
1430.322 Responsibility for administration of regulations.
1430.323 Required reductions and remittances.
1430.324 Availability of records and facilities.
1430.325 Adjustment of accounts of responsible persons.
1430.326 Charges and penalties.
1430.327 Scheme or device.
1430.328 Continuing obligations.
1430.329 Administrative review.
1430.330 Setoffs.
1430.331 Paperwork Reduction Act assigned number.

Authority: Section 201(d) of the Agricultural Act of 1949, as amended (7 U.S.C. 1446); Commodity Credit Corporation Charter Act, as amended (15 U.S.C. 714 et seq.).

Subpart—Regulations Governing Reduction in Price of Milk Marketed by Producers, December 1, 1983–March 31, 1985

§ 1430.320 General.

(a) *Purpose*—This subpart implements the provisions of Section 201(d) of the Agricultural Act of 1949, as amended by the Dairy and Tobacco Adjustment Act of 1983, under which the Secretary of Agriculture is required to provide for a reduction of 50 cents per hundredweight in the price received on all milk produced in the United States and marketed by producers for commercial use. The purpose of the reduction is to encourage the adjustment of milk production to levels consistent with national demand for milk and the products of milk. Funds represented by the reduction are to be remitted to the Commodity Credit Corporation (CCC) to offset a portion of the cost of the milk diversion program which is required to be established in accordance with section 201(d) of the 1949 Act.

(b) *Applicability*—The provisions of this subpart shall apply to all milk that is marketed for commercial use by producers during the period beginning December 1, 1983 and ending March 31, 1985, in the forty-eight contiguous States in the continental United States and the District of Columbia, unless it is established, by meeting such requirements as may be specified by CCC, that the milk was not produced in the forty-eight contiguous States.

§ 1430.321 Definitions.

For purpose of this subpart:

(a) "ASCS" means the Department's Agricultural Stabilization and Conservation Service.

(b) "CCC" means the Commodity Credit Corporation.

(c) "Dairy Division" means the Dairy Division of the Department's Agricultural Marketing Service.

(d) "Department" means the United States Department of Agriculture.

(e) "Person" means any individual, partnership, corporation, association or other business or government unit.

(f) "Producer" means any person who produces milk through the milking of cows.

(g) "Reduction" means that amount by which the price received for milk marketed for commercial use by producers is reduced in accordance with the provisions of this subpart.

(h) "Responsible person" means:

(1) Any person who pays a producer for milk marketed by a producer for commercial use, except as otherwise prescribed in paragraph (h)(2) of this section. This shall include a handler regulated under a Federal milk order to the extent of any payments for milk that are transmitted by the handler to the market administrator for transmittal by the market administrator to individual producers; and

(2) Any producer with respect to milk of his own production that he markets for commercial use in the form of milk or milk products to consumers either directly or through retail or wholesale outlets.

(i) "United States" means the forty-eight contiguous States in the continental United States (i.e., all fifty States of the United States, excluding Hawaii and Alaska).

(j) "United States bank" means a bank organized under the laws of the United States, a State of the United States or the District of Columbia.

§ 1430.322 Responsibility for administration of regulations.

The Dairy Division shall have the responsibility for administering the provisions of this subpart which relate to the collection of funds represented by the reductions. Administrative subpoenas as may be determined to be necessary for the administration of this subpart may be issued by the Executive Vice President, CCC, or his designee.

§ 1430.323 Required reductions and remittances.

(a) *Reductions*—A reduction of 50 cents per hundredweight shall be made in the price received on all milk marketed by producers for commercial use.

(b) *Remittances by Responsible Persons Paying for Milk*—Each responsible person who pays a producer for milk marketed for commercial use during any month, or portion thereof, shall remit to CCC by the last day of the following month, or at the time of making final payment to the producer for such milk, whichever is earlier, an amount equal to the number of hundredweight of milk for which payment to the producer is being made multiplied by 50 cents.

(c) *Remittances by Other Responsible Persons*—Each responsible person who markets milk of his own production for commercial use to consumers (either directly or through wholesale or retail outlets) in the form of milk or milk products during any month shall remit to CCC by the last day of the following month an amount equal to the number of hundredweight of such person's own production used in such marketings multiplied by 50 cents.

(d) *Remittance Report*—When remitting funds to CCC in accordance with paragraphs (b) and (c) of this section, each responsible person shall file a report prescribed by the Dairy Division which shall include:

(1) The identity of the responsible person, including such person's business address;

(2) The month, or portion thereof, in which the applicable producer marketings occurred;

(3) The total pounds of milk to which the remittance applies; and

(4) Any additional information required by the Dairy Division.

(e) *Remittance of Funds*—Remittances to CCC shall be made by negotiable instruments payable in United States currency, drawn on a United States bank and made payable to "Commodity Credit Corporation." Remittances and reports required under this subpart shall

be mailed to the location designated by the Dairy Division.

§ 1430.324 Availability of records and facilities.

(a) *Records to be maintained*—Each responsible person shall maintain records in a manner that will demonstrate compliance with the provisions of this subpart.

(b) *Availability of records and facilities*—Each responsible person shall make available to authorized representatives of CCC or the Department all records and facilities pertaining to such person's operations that are necessary to determine compliance with the provisions of this subpart.

(c) *Retention of records*—All records required under this subpart shall be retained by each responsible person for a period of three years beginning at the end of the month to which such records pertain, or for such longer period as the Dairy Division or CCC may require by notice to the responsible person.

§ 1430.325 Adjustment of accounts of responsible persons.

Whenever the Department determines through an audit of a responsible person's reports, records, books or accounts or through any other means that any funds are due CCC, such person shall be notified of the amount due. The responsible person shall then remit any amount due CCC by the next date for remitting reductions as provided in § 1430.323. Overpayments shall be credited to the account of the responsible person remitting the overpayment and shall be applied against amounts due in succeeding months or refunded if this subpart is not applicable to milk marketed in succeeding months.

§ 1430.326 Charges and penalties.

(a) *Charge for dishonored negotiable instruments*—Each responsible person who issues a negotiable instrument to CCC that is not honored because of insufficient funds or any other reason shall be assessed a charge of $25. This charge shall be in addition to any and all other authorized charges and penalties.

(b) *Late payment charge*—Any unpaid obligation due CCC under this subpart shall be increased by a late payment charge. Such charge shall be applied on the first day after the date such obligation was due and on the same day of each succeeding month until such obligation is paid. The charge shall be an amount equal to one-twelfth (rounded to the nearest one-hundreth of one percent) of: (1) the annual rate of interest published as a notice in the **Federal Register** by CCC in accordance with the provisions of 7 CFR Part 1403 or (2) such other annual rate of interest made generally applicable to CCC obligations in substitution for the publication of a rate of interest in accordance with 7 CFR Part 1403. The timeliness of payment to CCC shall be determined based upon the applicable postmark date. Notwithstanding any other provision of this section, the late payment charge shall not apply to any interest previously accrued on the obligation. The late payment charge shall otherwise apply to all amounts which may become due under this subpart.

(c) *Penalties*—(1) Any person as to whom there has been a failure to make a reduction in the price of milk received by such person as required in this subpart or who fails to remit to CCC the funds required to be collected and remitted by this subpart shall be liable, in addition to any other amount due, for a marketing penalty at a rate equal to the support price for milk in effect at the time the failure occurs on the quantity of milk as to which the failure applies. The Executive Vice President, CCC, or his designee, may reduce any such penalty in such amount as is determined equitable in any case in which it is determined that the failure was unintentional or without knowledge on the part of the person concerned.

(2) In addition to the marketing penalty prescribed in paragraph (1), any person who knowingly violates any of the provisions of this subpart shall be liable for a civil penalty of not more than $1,000 for each violation.

(3) The Executive Vice President, CCC, or his designee shall notify any person against whom a penalty is proposed to be assessed under this section of the intention to assess such penalty and provide such person with an opportunity for an administrative hearing.

§ 1430.327 Scheme or device.

Any person who is determined to have knowingly adopted any scheme or device which tends to defeat the implementation of the provisions of this subpart or made any fraudulent representation or misrepresented any fact affecting a determination under this subpart shall be considered to have knowingly violated the provisions of this subpart.

§ 1430.328 Continuing obligations.

The obligations of any person that arise under this subpart shall continue in effect until final payment or other disposition agreed to by CCC even though the reductions provided for in this subpart may no longer be required for current marketings of milk.

§ 1430.329 Administrative review.

Except with respect to the assessment of penalties under § 1430.326(c), any person who is dissatisfied with any determination of an amount determined to be owing under this subpart may obtain reconsideration of such determination by filing a request for reconsideration with the Controller, CCC, within 15 days of the date on which a written demand for payment is made. If the person is dissatisfied with the determination of the Controller upon reconsideration, the person may obtain a review of such determination and an informal hearing by filing an appeal with the Executive Vice President, CCC. Such appeals must be filed within 15 days of the date of the redetermination. Such appeals to the Executive Vice President, CCC, will be conducted in the same manner as administrative appeals which are conducted under 7 CFR Part 780. The decision on such appeal shall constitute the final agency action in the matter.

§ 1430.330 Setoffs.

CCC may set off any amounts due CCC under this subpart in accordance with the provisions of 7 CFR Part 1408, Setoff, Withholding, and Stop Payment Policies of CCC, or any provisions issued in lieu of such provisions.

§ 1430.331 Paperwork Reduction Act assigned number.

The Office of Management and Budget has approved the information collection requirements contained in these regulations under the provisions of 44 U.S.C. Chapter 35 and OMB Number 0581–0132 has been assigned.

Signed at Washington, D.C., on December 28, 1983.

John R. Block,

Secretary of Agriculture.

[FR Doc. 83–34628 Filed 12–30–83; 8:45 am]

BILLING CODE 3410–05–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 463

[Docket No. ERA-R-79-19]

Annual Reports From States and Non-Regulated Utilities on Progress in Considering the Ratemaking and Other Regulatory Standards Under the Public Utility Regulatory Policies Act of 1978

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice and publication of Form ERA-166.

SUMMARY: Sections 116 and 309 of the Public Utility Regulatory Policies Act of 1978 (PURPA) require State regulatory authorities and certain nonregulated utilities to submit, to the Department of Energy (DOE), annual reports on their progress in considering ratemaking and other regulatory standards established by Titles I and III of PURPA. Under the present DOE regulations (10 CFR Part 463), as amended by revising § 463.3 (a) and (c) (47 FR 33679, August 4, 1982), each of the reporting entities must file an annual report by February 28, 1984, covering the calendar year 1983 reporting period. All reports are to be made on Form ERA-166, a copy of which is appended to this Notice.

DATE: Reports are due by February 28, 1984.

ADDRESS: All completed Forms ERA-166 should be addressed to: Coal and Electricity Division, Economic Regulatory Administration, Department of Energy, Form ERA-166, Room GA-033, 1000 Independence Avenue, SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Steven Mintz, Coal and Electricity Division, Economic Regulatory Administration, U.S. Department of Energy, 1000 Independence Avenue, SW., Room GA-033, Washington, D.C. 20585, Phone (202) 252-1657.

SUPPLEMENTARY INFORMATION:

I. Background

On August 1, 1979 (44 FR 47264, August 13, 1979), the ERA of the DOE issued a rule (10 CFR Part 463) setting forth the manner in which State regulatory authorities and certain nonregulated gas and electric utilities are required to report on their consideration of the ratemaking and other regulatory standards established by sections 111(d), 113(b), and 303(b) of the Public Utility Regulatory Policies Act of 1978 (PURPA), Pub. L. 95-617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*).

On August 4, 1982, DOE published a Final Rule (47 FR 33679), amending Part 463 to Chapter II, Title 10 of the Code of Federal Regulations by revising § 463.3 (a) and (c). The Final Rule requires the reporting entities to file their annual report on February 28 of each year beginning with 1983. Each of these annual reports must cover the immediately preceding calendar year (for example, the report due on February 28, 1984, shall cover the period January 1, 1983–December 31, 1983).

II. The Report Form

The Form ERA-166 is identical to the form published on January 13, 1983 (48 FR 1606) except for date changes. It was approved by the Office of Management and Budget (OMB Control Number 1903-0060), and is being published today as an appendix to this Notice. It will provide reporting entities with the earliest opportunity to prepare their reports for the calendar year.

(Public Utility Regulatory Policies Act of 1978, Pub. L. 95-617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*); Department of Energy Organization Act, Pub. L. 95-91 (42 U.S.C. 7101 *et seq.*)

Issued in Washington, D.C. on December 22, 1983.

Robert L. Davies,

Director, Coal and Electricity Division, Economic Regulatory Administration.

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Appendix

Form ERA-166 is reproduced below.

Form Approved
OMB No. 1903-0060
(Expires 9-30-84)

PURPA ANNUAL REPORT OF ELECTRIC AND GAS UTILITIES

This report is mandatory under the Public Utilities Regulatory Policies Act of 1978 (P.L. 95-617) sections 116 and 309. Late filing or failure to report may result in criminal fines, civil penalties, and other sanctions as provided by law. See instructions regarding confidentiality.

Blue Section: Instructions

White Section: Questions to be Answered

Name of Regulatory Authority (or covered Nonregulated Utility)	Date (Mo, Da, Yr)

ERA-166 (11-83)

Form Approved
OMB No. 1903-0060

Federal Register / Vol. 49, No. 1 / Tuesday, January 3, 1984 / Rules and Regulations

Form Approved
OMB No. 1903-0060
(Expires 9-30-84)

PURPA ANNUAL REPORT OF ELECTRIC AND GAS UTILITIES

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BLUE SECTION

PURPA ANNUAL REPORT ON ELECTRIC AND GAS UTILITIES

SECTION I
PART I

INSTRUCTIONS

GENERAL INFORMATION

I. Purpose

The PURPA Annual Report on Electric and Gas Utilities, Form ERA-166, will be used by the Economic Regulatory Administration (ERA) for annual reporting to the President and Congress on the progress of State regulatory authorities and certain nonregulated electric and gas utilities in considering and making determinations with respect to the standards established by PURPA.

II. When to Submit

A. Submit this report no later than February 28, 1984.

B. This report covers the period of January 1, 1983 to December 31, 1983.

III. What and Where to Submit

A. Submit pages:

27
28
30
31
35 (duplicated for each utility)
36 (duplicated for each utility)
43 (duplicated for each utility)

To:

PURPA Annual Report on Electric and Gas Utilities
Coal and Electricity Division
Economic Regulatory Administration
Department of Energy, Forrestal Building
1000 Independence Avenue, S.W., Room GA-033
Washington, D. C. 20585

B. ERA reserves the right to request any supplementary information from the State regulatory authority or covered nonregulatory utility as needed to fully understand the report.

C. ERA reserves the right to return any incorrectly completed reports. The official submission date will be assigned upon receipt of the correctly completed form.

For information concerning this report call
Steven Hintz
(202) 252-1657

IV. Who must Submit

A. Each State regulatory authority (with respect to each covered electric and gas utility for which it has rate making authority) and each covered nonregulated electric and gas utility must submit this report.

GENERAL INFORMATION (CONTINUED)

GENERAL INFORMATION (CONTINUED)

B. Covered Utilities

(1) Electric Utilities. The regulated and nonregulated electric utilities covered by this report are those whose total sales of electric energy (for purposes other than resale) exceeded 500 million kilowatt-hours during any calendar year beginning after December 31, 1975, and before the immediate preceding calendar year.

(2) Gas Utilities. The regulated and nonregulated utilities covered by this report are those whose total sales of natural gas (for purposes other than resale) exceeded 10 billion cubic feet during any calendar year beginning after December 31, 1975, and before the immediate preceding calendar year.

(3) Exclusion of Wholesale Sales. When determining eligibility, do not include regulating sales of electric energy or natural gas for purposes of resale.

(4) Published List. ERA published in the Federal Register a list of utilities covered under PURPA for each reporting year. The inclusion or exclusion of any utility on the list does not affect the legal obligation to report by such utility or the responsible State regulatory authority under PURPA.

V. Provisions of Confidentiality of Information

The information contained on these forms may be (i) information which is exempt from disclosure to the public under the exemption for trade secrets and confidential commercial information specified in the Freedom of Information Act of 5 USC 552(b)(4)(FOIA) or (ii) prohibited from public release by 18 USC 1905. However, before a determination can be made that particular information is within the coverage of either of these statutory provisions, the person submitting the information must make a showing satisfactory to the Department concerning its confidential nature.

Therefore, respondents should state briefly and specifically (on an element-by-element basis, if possible), in a letter accompanying submission of the form, why they consider the information concerned to be a trade secret or other proprietary information, whether such information is customarily treated as confidential information by their companies and the industry, and the type of competitive hardship that would result from disclosure of the information. In accordance with the provisions of 10 CFR 1004.11 of DOE's FOIA regulations, DOE will determine whether any information submitted should be withheld from public disclosure.

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GENERAL INFORMATION (CONTINUED)

If DOE receives a response and does not receive a request, with substantive justification, that the information submitted should be withheld from the public, DOE will assume that the respondent does not object to disclosure to the public of any information submitted on the form.

A new written justification need not be submitted each time the ERA-166 is submitted if:

a. views concerning information items identified as privileged or confidential have not changed; and

b. a written justification setting forth respondent's views in this regard was previously submitted.

In accordance with the cited statutes and other applicable authority, the information must be made available, upon request, to the Congress or any Committee of Congress, and to the General Accounting Office.

ERA-166 (11-83)

GENERAL INSTRUCTIONS

GENERAL INSTRUCTIONS

I. The PURPA Annual Report on Electric and Gas Utilities consists of 3 parts (these are included in Section II):

Part I: General Information on the State Regulatory Authority or Covered Nonregulated Utility

Part II: Questions Pertaining to Each of the Eleven Standards

Part III: Standard Specific Questions

II. In Section II, complete Parts II and III for each electric utility listed in Part I. Complete only questions pertaining to the termination of service (TOS) and advertising (ADV) standards for each gas utility listed in Part I. Enter NA for questions that are not applicable to either the electric or gas utility, or state regulatory authority.

III. Enter the electric or gas utility name, as appropriate, in the top right corner of each returned answer sheet from Parts II and III. If the utility provides both services, submit two answer sheets for the utility.

IV. Information regarding the consideration process for each standard must, to the extent practical, be summarized from the written determination and orders issued.

V. To facilitate data collection for this form, utilities which are unable to respond to questions as of the year ending December 1983 may choose to respond on a 1983 fiscal year basis. However, utilities must be consistent throughout the form as to which option is chosen.

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DEFINITIONS

(A) Class-With respect to electric and gas consumers, any group of such consumers who have similar characteristics of electric or gas energy use.

(B) Consideration Process-With respect to any of the standards established by sections 111, 113, or 303 of PURPA, the set of appropriate procedures carried out by a State regulatory authority or nonregulated utility culminating in a decision to adopt or reject such standard or in a determination required by PURPA. (See Section I on regulations).

(C) Electric Consumer-Any person, State agency, or Federal agency to which electric energy is sold other than for purposes of resale.

(D) Electric Utility-Any person, State agency, or Federal agency that sells electric energy.

(E) Evidence-Any testimony, data, staff reports, technical analyses, briefs, or any other statements, documents, or information admitted into the record of the proceedings respecting the consideration of the standards.

(F) Federal Agency-An executive agency (as defined in section 105 of the United States Code).

(G) Gas Consumer-Any person, State agency, or Federal agency to which natural gas is sold other than for purposes of resale.

(H) Gas Utility-Any person, State agency, or Federal agency engaged in the local distribution of the sale of natural gas.

(I) Load Management Technique-Any technique (other than a time-of-day or seasonal rate) to reduce the maximum kilowatt demand on the electric utility, including (but not limited to): ripple, radio, or automatic control mechanisms; other types of interruptible electric service, energy storage devices; and load-limiting devices.

(J) Nonregulated Electric Utility-Any electric utility with respect to which no State regulatory authority has rate making authority.

(K) Nonregulated Gas Utility-Any gas utility with respect to which no State regulatory authority has ratemaking authority.

(L) Person-An individual, partnership, corporation, unincorporated association or any group, organization, or entity.

(M) Rate- (1) Any price, rate, charge, or classification made, demanded, observed, or received with respect to the sale of electric energy by an electric utility to an electric consumer or the sale of natural gas to a gas consumer;

(2) Any rule, regulation, or practice respecting any such rate, charge, or classification; and

DEFINITIONS (CONTINUED)

DEFINITIONS (CONTINUED)

(3) Any contract pertaining to the sale of electric energy to an electric consumer or the sale of natural gas to a gas consumer.

(N) Ratemaking Authority-Authority to fix, modify, approve, or disapprove rates.

(O) Sale-A transfer to a purchaser for consideration and, when used with respect to electric energy, includes any exchange of electric energy; or, when used with respect to natural gas, includes any exchange of natural gas.

(P) Standard-Refers to either the six ratemaking standards or the five regulatory standards.

The six ratemaking standards and their abbreviations as employed in this report include:

Cost-Of-Service standard	COS
Declining Block Rate standard	DBR
Time-Of-Day rate standard	TOD
SeasonaL Rate standard	SLR
INTerruptible rate standard	INT
Load Management Techniques standard	LMT

The five regulatory standards and their abbreviations as employed in this report include:

Master-Metering standard	MM
Automatic Adjustment Clause standard	AAC
Information To Consumers standard	ITC
Termination Of Service standard	TOS
ADVertising standard	ADV

(Q) State-A State, the District of Columbia, and Puerto Rico.

(R) State Agency-A State, political subdivision thereof, and any agency or instrumentality of either.

(S) State Regulatory Authority-Any State agency that has ratemaking authority with repsect to: the sale of electric energy by an electric utility other than by such State agency (in the case of an electric utility with respect to which the TVA has ratemaking authority, such term means the TVA); or the sale of gas by any gas utility (other than by such State agency).

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REGULATIONS APPLICABLE TO THE 6 RATEMAKING STANDARDS: COS, DBR, TOD, SLR, INT, LMT

Section 111(a-c) of PURPA requires consideration of six ratemaking standards, as follows:

"Sec. 111. CONSIDERATION AND DETERMINATION RESPECTING CERTAIN RATEMAKING STANDARDS.

(a) CONSIDERATION AND DETERMINATION - Each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each non-regulated electric utility shall consider each standard established by subsection (d) and make a determination concerning whether or not it is appropriate to implement such standard to carry out the purposes of this title. For purposes of such consideration and determination in accordance with subsections (b) and (c), and for purposes of any review of such consideration and determination in any court in accordance with section 123, the purposes of this title supplement otherwise applicable state law. Nothing in this subsection prohibits any State regulatory authority or nonregulated electric utility from making any determination that it is not appropriate to implement any such standard, pursuant to its authority under otherwise applicable State law.

(b) PROCEDURAL REQUIREMENTS FOR CONSIDERATION AND DETERMINATION.

(1) The consideration referred to in subsection (a) shall be made after public notice and hearing. The determination referred to in subsection (a) shall be:

(A) in writing

(B) based upon findings included in such determination and upon the evidence presented at the hearing, and

(C) available to the public.

(2) Except as otherwise provided in paragraph (1), in the second sentence of section 112(a), and in sections 121 and 122, the procedures for the consideration and determination referred to in sub-sections (a) shall be those established by the State regulatory authority or the nonregulated electric utility.

(c) IMPLEMENTATION.

(1) The State regulatory authority (with respect to each electric utility for which it has ratemaking authority) or non regulated electric utility may, to the extent consistent with otherwise applicable State law:

(A) Implement any such standard determined under subsection (a) to be appropriate to carry out the purposes of this title, or

(B) decline to implement any such standard.

(2) If a State regulatory authority (with respect to such electric utility for which it has ratemaking authority) or nonregulated electric utility declines to implement any standard established by subsection (d) which is determined under subsection (a) to be appropriate to carry out the purposes of this title, such authority or nonregulated electric utility shall state in writing the reasons therefore. Such statement of reasons shall be available to the public.

Sections 112, 121, and 122 of PURPA also establish requirements for this standard.

For the purpose of this report, for consistency with the joint committee managers report, and for consistency with terminology used in the regulatory community, the term "adopt" will be used throughout in the following questions as a synonym for the term "implement".

ERA-166 (11-83)

COST-OF-SERVICE STANDARD (COS)

ERA-166 (11-83)

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COST-OF-SERVICE STANDARD (COS)

REGULATIONS APPLICABLE TO THE COS STANDARD

Section 111(d)(1) of PURPA establishes the cost-of-service standard (COS) which states:

"Rates charged by any electric utility for providing electric service to each class of electric consumers shall be designed to the maximum extent practicable, to reflect the costs of providing electric service to such class, as determined under section 115(a)."

Section 115(a) states:

"In undertaking the consideration and making the determination under section 111 with respect to the standard concerning cost of service established by section 111(d)(1), the costs of providing electric service to each class of electric consumers shall, to the maximum extent practicable, be determined on the basis of methods prescribed by the State regulatory authority (in the case of a State regulated electric utility) or by the electric utility (in the case of a nonregulated utility). Such methods shall to the maximum extent practicable:

(1) permit identification of differences in cost-incurrence, for each such class of electric consumers, attributable to daily and seasonal time of use of service and

(2) permit identification of differences in cost-incurrence attributable to differences in customer, demand, and energy components of costs. In prescribing such methods, such State regulatory authority and nonregulated electric

(continued on next page)

FOR PURPOSES OF ANSWERING COS RELATED QUESTIONS

The cost-of-service standard (COS) has been:

A. Adopted by a State regulatory authority, when such authority has:

1. specified methods for a utility covered by the standard to use to determine cost of service, in accordance with section 115(a) above;

2. issued a written policy (or order) that a utility covered by the standard shall provide cost-of-service data or studies in accordance with these methods with each rate application or rate processing, or on a specified regular basis, or both; and

3. issued a written policy that rates charged by a utility covered by the standard for each consumer class shall be designed, to the maximum extent practicable, to reflect the costs of service to such class, as provided in section 111(d)(1).

B. Adopted by a nonregulated utility, when such nonregulated utility has:

1. specified methods that it will use for determining cost of service, in accordance with section 115(a) above;

(continued on next page)

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REGULATIONS APPLICABLE TO THE COS STANDARD (CONTINUED)

utility shall take into account the extent to which total costs to an electric utility are likely to change if:

(A) additional capacity is added to meet peak demand relative to base demand; and

(B) additional kilowatt-hours of electric energy are delivered to electric consumers."

FOR PURPOSES OF ANSWERING COS RELATED QUESTIONS (CONT)

2. issued a written policy that it will develop cost-of-service data in accordance with these methods with each rate proceeding or on a specified regular basis, or both; and

3. issued a written policy that rates charged for each consumer class will be designed, to the maximum extent practicable, to reflect the costs of service to each class, as provided in section 111(d)(1).

C. Rejected by a State regulatory authority or nonregulated utility when it has issued written policies (or orders) declining to adopt.

DECLINING BLOCK RATES STANDARD (DBR)

DECLINING BLOCK RATES STANDARD (DBR)

REGULATIONS APPLICABLE TO THE DBR STANDARD

Section 111(d)(2) of PURPA establishes the declining block rates standard (DBR) which states:

"The energy component of a rate, or the amount attributable to the energy component in a rate, charged by any electric utility for providing electric service during any period to any class of eletric consumers may not decrease as kilowatt-hour consumption by such class increases during such period except to the extent that such utility demonstrates that the costs to such utility of providing electric service to such class, which costs are attributable to such energy component, decrease as such consumption increases during such period."

FOR PURPOSES OF ANSWERING DBR RELATED QUESTIONS

The declining block rates standard (DBR) has been:

A. Adopted by a State regulatory authority, when such authority had issued written policies (or orders) providing:

1. that rates charged by utility covered by the standard shall not have declining block energy charges except to the extent that the utility has made the required demonstration (as defined in section 111(b)(2)); and

2. that the State regulatory authority will make a written determination of whether the utility has made the required demonstration.

B. Adopted by a nonregulated utility when such nonregulated authority had issued a written policy (or order) that its rates shall not have declining block energy charges except to the extent that it has made in writing the required demonstration, as defined in section 111(b)(2).

C. Rejected by a State regulatory or nonregulated utility when it had issued written policies (or orders) declining to adopt.

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TIME-OF-DAY RATES STANDARD (TOD)

REGULATIONS APPLICABLE TO THE TOD STANDARD

Section 111(d)(3) of PURPA establishes the time-of-day rates standard (TOD), which states:

"The rates charged by an electric utility for providing electric service to each class of electric consumers shall be on a time-of-day basis which reflects the costs of providing electric service to such class of electric consumers at different times of the day unless such rates are not cost-effective with respect to such class, as determined under section 115(b)."

Section 115(b) states:

"In undertaking the consideration and making the determination required under section 111 with respect to the standard for time-of-day rates established by section 111(d)(3), a time-of-day rate charged by an electric utility for providing electric service to each class of electric consumers shall be determined to be cost-effective with respect to each class of electric consumers if the long-run benefits of such rate to the electric utility and its electric consumers in the class concerned are likely to exceed the metering costs and other costs associated with the use of such rates."

For the purpose of answering the questions in this schedule, the term "time-of-day rate" means a rate that is on a time-of-day basis and that reflects the costs of providing electric service at different times of the day to the consumer class to whom it is charged.

FOR PURPOSES OF ANSWERING TOD RELATED QUESTIONS

The time-of-day rates standard (TOD) has been:

A. Implemented by a State regulatory authority, when it had issued written policies for orders providing:

1. that a utility covered by the standard shall charge time-of-day rates (as defined above) to each consumer class unless such rates are not cost-effective with respect to such class; and

2. that the State regulatory authority will make a written determination of the cost-effectiveness of such rates in accordance with section 115(b).

B. Implemented by a nonregulated utility when it had issued written policies (or orders) providing:

1. that it shall charge time-of-day rates (as defined above) to each consumer class unless such rates are not cost-effective with respect to such class; and

2. that it will make a written determination of the cost-effectiveness of such rates in accordance with section 115(b).

C. Rejected by State regulatory authority or nonregulated utility when it has issued written policies (or orders) declining to adopt this standard.

SEASONAL RATES STANDARD (SLR)

SEASONAL RATES STANDARD (SLR)

REGULATIONS APPLICABLE TO THE SLR STANDARD

Section 111(d)(4) of PURPA establishes the seasonal rates standard (SLR) which states:

"The rates charged by an electric utility for providing electric service to each class of electric consumers shall be on a seasonal basis which reflects the costs of providing service to such class for such utility."

For the purpose of answering the questions in this schedule, the term "seasonal rate" means a rate that varies by season and that reflects the costs of providing electric service at different seasons of the year to the consumer class to whom it is charged.

FOR PURPOSES OF ANSWERING SLR RELATED QUESTIONS

The seasonal rates standard (SLR) has been:

A. Adopted by a state regulatory authority when such authority has issued written policies (or orders) providing:

1. that it will determine the costs of providing electric service to each consumer class at different seasons of the year for each utility covered by the standard; and

2. that a utility covered by the standard shall charge seasonal rates (as defined above) to each consumer class to the extent that such costs vary seasonally.

B. Adopted by a nonregulated utility, when such nonregulated utility has issued written policies (or orders) providing:

1. that it will determine the costs of providing electric service to each consumer class at different seasons of the year; and

2. that it shall charge seasonal rates (as defined above) to each consumer class to the extent that such costs vary seasonally.

C. Rejected by a State regulatory authority or nonregulated utility when it had issued written policies (or orders) declining to adopt this standard.

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REGULATIONS APPLICABLE TO THE INT STANDARD

Section 111(d)(5) of PURPA establishes the interruptible rates standard (INT) , which states:

"Each electric utility shall offer each industrial and commercial electric consumer an interruptible rate which reflects the cost of providing interruptible service to the class of which such consumer is a member."

For the purpose of answering the questions in this schedule, the term "interruptible rate" means an interruptible rate that reflects the cost of providing interruptible service to the consumer class to whom it is charged.

FOR PURPOSES OF ANSWERING INT RELATED QUESTIONS

The interruptible rates standard (INT) has been:

A. Adopted by a state regulatory authority when such authority has issued written policies (or orders) providing:

1. that a utility covered by the standard shall offer each industrial and commercial electric consumer an interruptible rate; and

2. that the state regulatory authority will determine the costs of providing interruptible electric service to each consumer class that includes industrial or commercial consumers.

B. Adopted by a nonregulated utility, when such nonregulated utility has issued written policies (or orders) providing that it shall offer each industrial and commercial consumer an interruptible rate that reflects its determination of the costs of providing interruptable service to each consumer class that includes industrial or commercial consumers.

C. Rejected by a State regulatory authority or nonregulated utility when it has issued written policies (or orders) declining to adopt this standard.

LOAD MANAGEMENT TECHNIQUES STANDARD (LMT)

REGULATIONS APPLICABLE TO THE LMT STANDARD

Section 111(d)(6) of PURPA establishes the load management techniques standard (LMT) which states:

"Each electric utility shall offer to its electric consumers such load management techniques as the state regulatory authority (or the nonregulated electric utility) has determined will:

(A) be practicable and cost-effective, as determined under section 115(c),

(B) be reliable, and

(C) provide useful energy or capacity management advantages to the electric utility."

Section 115(c) states:

"In undertaking the consideration and making the determination required under section 111 with respect to the standard for load management techniques established by section 111(d)(6), a load management technique shall be determined, by the State regulatory authority or nonregulated eletric utility, to be cost-effective if:

(1) such technique is likely to reduce maximum kilowatt demand on the electric utility, and

(continued on next page)

FOR PURPOSES OF ANSWERING LMT RELATED QUESTIONS

The load management techniques standard (LMT) has been:

A. Adopted by a State regulatory authority, when such authority has issued written policies (or orders) providing:

1. that it will make a written determination of the cost-effectiveness of load management techniques relevant to each utility covered by the standard, in accordance with section 115(c);

2. that it will make a written determination of whether each technique will be practicable and cost-effective (as defined above), be reliable, and provide useful energy or capacity management advantages to the electric utility; and

3. that a utility covered by the standard shall offer its electric consumers those load management techniques that the state regulatory authority has determined will meet the criteria above (in A.2).

B. Adopted by a nonregulated utility, when such nonregulated utility had issued written policies (or orders) providing:

1. that it will make a written determination of the cost-effectiveness of relevant load management techniques, in accordance with section 115(c);

(Continued on next page)

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REGULATIONS APPLICABLE TO THE LMT STANDARD (CONTINUED)

(2) the long-run cost-savings to the utility of such reduction are likely to exceed the long-run costs to the utility associated with implementation of such technique."

For the purpose of answering the questions in this schedule, the term "load management techniques" means any technique (other than a time-of-day rate or seasonal rate) to reduce the maximum kilowatt demand on the electric utility, including (but not limited to): ripple, radio or automatic control mechanisms; other types of interruptible electric service; energy storage devices; and load-limiting devices.

FOR PURPOSES OF ANSWERING LMT RELATED QUESTIONS (CONT)

2. that it will make a written determination of whether each such technique will be practicable and cost-effective (as defined above), be reliable, and provide useful energy or capacity management advantages to the electric utility; and

3. that it will offer its electric consumers those load management techniques that it has determined will meet the criteria above (in B.2.)

C. Rejected by State regulatory authority or nonregulated utility when it has issued written policies (or orders) declining to adopt this standard.

SECTION I
PART III

SECTION I
PART III

REGULATIONS APPLICABLE TO THE FIVE REGULATORY STANDARDS: MM, AAC, ITC, TOS, ADV

Section 113(a) of PURPA requires public notice, hearing(s), and other actions respecting five regulatory standards established for electric utilities covered under Title I of PURPA, and Section 303(a) requires similar actions respecting two of these regulatory standards for gas utilities covered under Title III. With respect to the master metering (MM), automatic adjustment clause (AAC), information to consumer (ITC), termination of service (TOS), and advertising (ADV) standards, these sections establish the following requirements:

"Section 113/303. ADOPTION OF CERTAIN STANDARDS.

(a) Adoption of Standards--Not later than 2 years after the date of the enactment of this Act, each State regulatory authority (with respect to each electric (gas) utility for which it has ratemaking authority), and each nonregulated electric (gas) utility shall provide public notice and conduct a hearing respecting the standards established by subsection (b) and, on the basis of such hearing, shall:

(1) adopt the standards established by subsection (b) (other than paragraph (4) thereof) if, and to the extent, such authority or nonregulated electric utility determines that such adoption is appropriate to carry out the purposes of this title, is otherwise appropriate, and is consistent with otherwise applicable State law, and

(2) adopt the standard established by subsection (b)(4) if, and to the extent, such authority or nonregulated electric (gas) utility determines that such adoption is appropriate and consistent with otherwise applicable State law.

For purposes of any determination under paragraphs (1) or (2) and any review of such determination in any court in accordance with section 123(307), the purposes of this title supplement otherwise applicable State law. Nothing in this subsection prohibits any State regulatory or nonregulatory electric (gas) utility from making any determination that it is not appropriate to adopt any such standard, pursuant to its authority under otherwise applicable State law."

Sections 121 and 122 of PURPA establish specific procedural requirements for this process with respect to electric utilities, and sections 121 and 305 establish the authority of the Secretary to intervene in appropriate proceedings for electric and gas utilities.

For the purposes of answering the questions on the advertising standard, the term "sufficient criteria" refers to the criteria established in section 113(a)(1), above: "appropriate to carry out the purposes of this title[1], otherwise appropriate, and consistent with otherwise applicable state law."

For the purposes of answering the questions on the termination of service standard the term "sufficient criteria" refers to the criteria established in section 113(a)(2), above: "appropriate and consistent with otherwise applicable State law."

---

[1] That is, to encourage: the conservation of energy supplied by electric and gas utilities; the optimization of the efficiency of use of facilities and resources by electric and gas utilities; and equitable rates to electric consumers.

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REGULATIONS APPLICABLE TO THE MM STANDARD

Section 113(a)(1) states:

"Separate metering shall be determined appropriate for any new building for purposes of section 113(b)(1) if:

(1) there is more than one unit in such building,

(2) the occupant of each such unit has control over a portion of the electric energy used in such unit, and

(3) with respect to such portion of electric energy in such unit, the long-run benefits to the electric consumers in such building exceed the costs of purchasing and installing separate meters in such building."

For the purpose of answering the questions in this schedule:

(A) The term "master metering" (MM) applies to all cases where:

(1) There is more than one unit in the building and the electric metering does not permit identification of the energy consumption in individual units; or

(Continued on next page)

FOR PURPOSES OF ANSWERING MM RELATED QUESTIONS

The master metering standard (MM) has been:

A. Adopted by a State regulatory authority, when such authority has:

1. specified methods and procedures to be used by a utility covered by the standard in evaluating benefits versus costs of separate metering, in accordance with section 115(d)(3), and in determining whether separate metering is appropriate for a new building, in accordance with section 115(d); and

2. issued a written order that a utility covered by the standard shall not provide master metered service to new buildings except to the extent determined appropriate under those methods and procedures specified above.

B. Adopted by a nonregulated utility, when such nonregulated utility has:

1. specified methods and procedures that it will use in evaluating benefits versus costs of separate metering, in accordance with section 115(d)(3), and in determining whether separate metering is appropriate for a new building, in accordance with section 115(d); and

(Continued on next page)

MASTER METERING STANDARD (MM) (CONTINUED)

REGULATIONS APPLICABLE TO THE MM STANDARD (CONTINUED)

(2) More than one such unit is treated as a single account for billing purposes.

(B) The term "separate metering" applies to all other cases.

FOR PURPOSES OF ANSWERING MM RELATED QUESTIONS (CONT)

2. issued a written policy that it will not provide master metered service to new buildings except to the extent determined appropriate under those methods and procedures specified above.

C. Rejected by a State regulatory authority or nonregulated utility when it has issued written policies (or orders) stating that it has determined not to adopt the standard.

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AUTOMATIC ADJUSTMENT CLAUSES STANDARD (AAC)

REGULATIONS APPLICABLE TO THE AAC STANDARD

Section 13(b)(2) of PURPA establishes the automatic adjustment clauses standard (AAC), which states: "No electric utility may increase any rate pursuant to an automatic adjustment clause unless such clause meets the requirements of section 115(e)."

Section 115(a) states:

"(1) An automatic adjustment clause of an electric utility meets the requirements of this subsection if:

(A) such clause is determined, not less often than every four years, by the State regulatory authority (with respect to an electric utility for which it has ratemaking authority) or by the electric utility (in the case of a nonregulated electric utility), after an evidentiary hearing, to provide incentives for efficient use of resources (including incentives for economical purchase and use of fuel and electric energy) by such electric utility, and

(B) such clause is reviewed not less often than every two years, in the manner described in paragraph (2), by the State regulatory authority having ratemaking authority with respect to each utility (or by the electric utility in the case of a nonregulated electric utility), to insure the maximum economics in those operations and purchases which affect the rates to which such clause applies.

(Continued on next page)

FOR PURPOSES OF ANSWERING AAC RELATED QUESTIONS

The automatic adjustment clauses standard (AAC) has been:

A. Adopted by a State regulatory authority or nonregulated utility when it has issued written policies (or orders) providing that every automatic adjustment clause in effect at a utility covered by the standard must undergo the quadrennial determination and biannual review specified in section 115(e)(1) and (2) of PURPA.

B. Rejected by a State regulatory authority or non regulated utility when it has issued written policies (or orders) stating that it has determined not to adopt the standard.

AUTOMATIC ADJUSTMENT CLAUSES STANDARD (AAC) (CONTINUED)

REGULATIONS APPLICABLE TO THE AAC STANDARD (CONTINUED)

(2) In making a review under subparagraph (B) of paragraph (1) with respect to an electric utility, the reviewing authority shall examine and, if appropriate, cause to be audited the practices of such electric utility relating to costs subject to an automatic adjustment clause, and shall require such reports as may be necessary to carry out such review (including a disclosure of any ownership or corporate relationship between such electric utility and the seller to such utility of fuel, electric energy, or other item(s).

(3) As used in this subsection and section 113(b), the term 'automatic adjustment clause' means a provision of a rate schedule which provides for increases or decreases (or both), without prior hearing. In rates reflecting increases or decreases (or both) in costs incurred by an electric utility. Such term does not include an interim rate which takes effect subject to a later determination of the appropriate amount of the rate."

ERA-166 (11-83)

REGULATIONS APPLICABLE TO THE ITC STANDARD

Section 113(b)(3) of PURPA establishes the information to consumers standard (ITC) which states: "Each electric utility shall transmit to each of its electric consumers information regarding rate schedules in accordance with the requirements of section 115(f)."

Section 115(f) states:

"(1) For purposes of the standard for information to consumers established by section 113(b)(3), each electric utility shall transmit to each of its electric consumers a clear and concise explanation of the existing rate schedule and any rate schedule applied for (or proposed by a nonregulated electric utility) applicable to such consumer. Such statement shall be transmitted to each such consumer:

(A) not later than sixty days after the date of commencement of service to such consumer or ninety days after the standard established by section 113(b)(3) is adopted with respect to such electric utility, whichever last occurs, and

(2) For purposes of the standard for information to consumers established by section 113(b)(3), each electric utility shall transmit to each of its electric consumers not less frequently than once each year:

(Continued on next page)

FOR PURPOSES OF ANSWERING ITC RELATED QUESTIONS

The information to consumers standard (ITC) has been:

A. Adopted by a State regulatory authority when such authority has:

1. ordered that a utility covered by the standard shall transmit rate information to its electric consumers according to certain time requirements, in accordance with sections 115(f)(1) and (2) of PURPA; and

2. specified consumption data to be transmitted upon consumer request, and the conditions under which such data shall be considered to be not reasonably ascertainable by the utility, in accordance with section 115(f)(3) of PURPA.

B. Adopted by a nonregulated utility when such nonregulated utility has:

1. issued a written policy statement that it will transmit rate information to its electric consumers according to certain time requirements, in accordance with sections 115(f)(1) and (2) of PURPA; and

2. specified consumption data to be transmitted upon consumer request, and the conditions under which such data shall be considered to be not reasonably ascertainable by the utility, in accordance with section 115(f)(3) of PURPA.

(Continued on next page)

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INFORMATION TO CONSUMERS STANDARD (ITC) (CONTINUED)

REGULATIONS APPLICABLE TO THE ITC STANDARD (CONTINUED)

(A) a clear and concise summary of the existing rate schedules applicable to each of the major classes of its electric consumers for which there is a separate rate, and

(B) An identification of any classes whose rates are not summarized. Such summary may be transmitted together with such consumer's billing or in such other manner as the State regulatory authority or nonregulatory electric utility deems appropriate.

(3) For purposes of the standard for information to consumers established by section 113(b)(3), each electric utility, on request of an electric consumer of such utility, shall transmit to such consumer a clear and concise statement of the actual consumption for degree-day adjusted consumption of electric energy by such consumer for each billing period during the prior year (unless such consumption data is not reasonably ascertainable by the utility)."

FOR PURPOSES OF ANSWERING ITC RELATED QUESTIONS

C. Rejected by a State regulatory authority or nonregulated utility when it has issued written policies (or orders) declining to adopt this standard.

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REGULATIONS APPLICABLE TO THE TOS STANDARD

Section 113(b)(4) of PURPA establishes the termination of service standard (TOS) for electric utilities, and section 303(b)(1) establishes the same standard for gas utilities, stating: "No electric (gas) utility may terminate electric (natural gas) service to any electric (gas) consumer except pursuant to procedures described in section 115(g)/304(a)."

Section 115(g)/304(a) state:

"The procedures for termination of service referred to in section 113 (d)(4)/303(b)(1) are procedures prescribed by the State regulatory authority (with respect to electric (gas) utilities for which it has ratemaking authority) or by the nonregulated utility which provide that:

(1) no electric (gas) service to an electric (gas) consumer may be terminated unless reasonable prior notice (including notice of rights and remedies) is given to such consumer and such consumer has a reasonable opportunity to dispute the reasons for such termination, and

(2) during any period when termination of service to an electric (gas) consumer would be especially dangerous to health, as determined by the State regulatory authority (with respect to an electric (gas) utility for which it has ratemaking authority) or nonregulated electric (gas) utility, and such consumer establishes that:

(Continued on next page)

FOR PURPOSES OF ANSWERING TOS RELATED QUESTIONS

The termination of service standard (TOS) has been:

A. Adopted by a State regulatory authority when such authority has:

1. prescribed specific procedures, in accordance with sections 115(g)/304(a) of PURPA;

2. ordered that a utility covered by the standard shall not terminate electric (gas) service to any electric (gas) consumer except pursuant to such procedures.

B. Adopted by a nonregulated utility when such nonregulated utility has:

1. prescribed specific procedures, in accordance with sections 115(g)/304(a) of PURPA;

2. issued a written policy that it shall not terminate electric (gas) service to any electric (gas) consumer except pursuant to such procedures.

C. Rejected by a State regulatory authority or nonregulated utility when it had issued written policies (or orders) stating that it has determined not to adopt the standard.

TERMINATION OF SERVICE STANDARD (TOS)

REGULATIONS APPLICABLE TO THE TOS STANDARD (CONTINUED)

(a) he is unable to pay for such service in accordance with the requirements of the utility's billing, or

(b) he is able to pay for such service but only in installments,

such service may not be terminated.

Such procedures shall take into account the need to include reasonable provisions for elderly and handicapped consumers."

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REGULATIONS APPLICABLE TO THE ADV STANDARD

Section 113(b)(5) of PURPA establishes the advertising standard (ADV) for electric utilities, and section 303(b)(2) establishes the same standard for gas utilities, stating: "No electric (gas) utility may recover from any person other than the shareholders (or other owners) of such utility any direct or indirect expenditure by such utility for promotional or political advertising as defined in section 115(h)/304(b)."

Sections 115(h)/304(b) state:

"(1) For purposes of this section and section 113(b)(5)/303(b)(2):

(A) The term "advertising" means the commercial use, by an electric (gas) utility, of any media, including newspaper, printed matter, radio, and television, in order to transmit a message to a substantial number of members of the public or to such utility's electric (gas) consumers.

(B) The term "political advertising" means any advertising for the purpose of influencing public opinion with respect to legislative, administrative, or electoral matters, or with respect to any controversial issue of public importance.

(Continued on next page)

FOR THE PURPOSES OF ANSWERING ADV RELATED QUESTIONS

The advertising standard (ADV) has been:

A. Adopted by a State regulatory authority when such authority has issued a written policy (or order) that it will disallow (for ratemaking purposes) any direct or indirect expenditure by a utility covered by the standard for promotional or political advertising, as defined in accordance with section 115(h)/304(b).

B. Adopted by a nonregulated utility when such nonregulated utility had issued a written policy that it will not recover from any person other than the stockholders (or other owners) any direct or indirect expenditures for promotional or political advertising, as defined in accordance with section 115(h)/304(b).

C. Rejected by a State regulatory authority or nonregulatory utility when it has issued written policies (or orders) stating that it has determined not to adopt the standard.

32 Federal Register / Vol. 49, No. 1 / Tuesday, January 3, 1984 / Rules and Regulations

ADVERTISING STANDARD (ADV) (CONTINUED)

REGULATIONS APPLICABLE TO THE ADV STANDARD (CONTINUED)

(C) The term "promotional advertising" means any advertising for the purpose of encouraging any person to select or use the service or additional service of an electric (gas) utility or the selection or installation of an appliance or equipment designed to use such utility's service.

(2) For the purposes of this subsection and section 113(b)(5)/303(b)(2), the terms "political advertising" and "promotional advertising" do not include:

(A) advertising which informs electric (natural gas) consumers how they can conserve energy (natural gas) or can reduce peak demand for electric (natural gas) energy.

(B) advertising required by law or regulation, including advertising required under part I of title II of the National Energy Conservation Policy Act.

(C) advertising regarding service interruptions, safety measures, or emergency conditions,

(D) advertising concerning employment opportunities with such utility.

(E) advertising which promotes the use of energy efficient appliances, equipment or services, or

(F) any explanation or justification of existing or proposed rate schedules, or notifications of hearings thereon.

END BLUE SECTION

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WHITE SECTION

PURPA ANNUAL REPORT ON ELECTRIC AND GAS UTILITIES
SECTION II
PART I
General Information on State Regulatory Authority
or Covered Nonregulated Utility

IDENTIFICATION DATA

1.1 State Regulatory Authority (or Covered Nonregulated Utility)

(a)Name

(b)Street

(c)City (d)State (e)Zip Code

1.2 Designated Point(s) of Contact for the Electric Utility Portion of this Report:

(a)Name	(f)Name
(b)Title	(g)Title
(c)City, State	(h)City, State
(d)Zip (e)Phone ( )	(i)Zip (j)Phone ( )

1.3 Designated point(s) of contact for the gas utility portion of this report: (If same as 1.2, enter "SAME".)

(a)Name	(f)Name
(b)Title	(g)Title
(c)City, State	(h)City, State
(d)Zip (e)Phone ( )	(i)Zip (j)Phone ( )

CERTIFICATION

I certify that I am the chairman of this State regulatory authority or the chief executive officer of this nonregulated utility or another commissioner or officer authorized to file an official report on behalf of this authority or utility. I further certify that the data presented in this report (Section II, Parts I through III and attachments) are true, accurate, and complete to the best of my knowledge, and I hereby authorize its release as an official report on behalf of this authority or utility for the purpose of complying with sections 116 and 309 of the Public Utility Regulatory Policies Act (P.L. 95-617).

1.4 Name 1.5 Title

1.6 Signature 1.7 Date

18 USC 1001 makes it a crime for any person knowingly and willfully to make to any Agency or Department of the United States any false, fictitious, or fraudulent statements as to any matter within his or her jurisdiction.

[THIS SHEET IS TO BE RETURNED]

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PURPA IMPLEMENTATION PLAN

PURPA IMPLEMENTATION PLAN

FOR ANSWERING 1.8 to 1.10:

Which of the following steps have you taken regarding the requirements of sections 121 and 122 of PURPA?

(If your consideration process for all of the standards was completed before November 9, 1978, check NA. Otherwise, check Yes or No.)

1.8 Established a written policy or order, consistent with section 121 of PURPA, that covers the consideration proceedings and provides for intervention, participation, and access to information.

☐ Yes ☐ No ☐ NA

1.9 Adopted a procedure for compensation to certain intervenors that is consistent with section 122(a)(2) of PURPA.

☐ Yes ☐ No ☐ NA

1.10 Provided an alternative means for providing adequate compensation to certain intervenors that is consistent with section 112(b) of PURPA.

☐ Yes ☐ No ☐ NA

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IDENTIFICATION OF UTILITIES

INSTRUCTIONS

I. On pages 30 and 31, column "a", list the covered utilities for which you have ratemaking authority; if none, write "NONE". (For nonregulated utilities, list name.)

For Electric Utilities: Answer question 1.11 on page 30.

For Gas Utilities: Answer question 1.12 on page 31.

II. In the case of utilities that sell both electricity and gas (for regulated and nonregulated utilities), list the utility twice; once in 1.11 and once in 1.12.

III. List utilities in alphabetical order and place an (I) for investor-owned, a (P) for publicly owned, or a (C) for cooperatively-owned after the utility name.

IV. In the space provided next to the utility name, indicate the average number of retail customers, for the year ending December 1983 by: residential class, commercial and industrial class, and all others.

V. In the space provided next to the utility name, indicate total consumption by retail consumers for the year ending December 1983, in GWHR or MMCF by: residential class, commercial and industrial class, and all others. If desired, the utility may answer on a 1983 calendar year or 1983 fiscal year basis. Please see General Instructions on page 4 for more information on this option.

VI. If more space is required, duplicate the form provided and renumber the lines accordingly (for example, E1 will become E16 and G1 will become G16).

IDENTIFICATION OF UTILITIES (CONTINUED)

IDENTIFICATION OF UTILITIES (CONTINUED)

1.11 Electric Utility Name (a)	(I) (P) (C)	Number of Retail Customers: Residential (b)	Number of Retail Customers: Commercial & Industrial (c)	Number of Retail Customers: Other (d)	Consumption (GWH): Residential (e)	Consumption (GWH): Commercial & Industrial (f)	Consumption (GWH): Other (g)
(E1)							
(E2)							
(E3)							
(E4)							
(E5)							
(E6)							
(E7)							
(E8)							
(E9)							
(E10)							
(E11)							
(E12)							
(E13)							
(E14)							
(E15)							

[THIS SHEET IS TO BE RETURNED]

IDENTIFICATION OF UTILITIES (CONTINUED)

1.12 Gas Utility Name (a)	(I) (P) (C)	Number of Retail Customers			Consumption (MMCF)		
		Residential (b)	Commercial & Industrial (c)	Other (d)	Residential (e)	Commercial & Industrial (f)	Other (g)
(G1)							
(G2)							
(G3)							
(G4)							
(G5)							
(G6)							
(G7)							
(G8)							
(G9)							
(G10)							
(G11)							
(G12)							
(G13)							
(G14)							
(G15)							

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PURPA ANNUAL REPORT ON ELECTRIC AND GAS UTILITIES
SECTION II

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PURPA ANNUAL REPORT ON ELECTRIC AND GAS UTILITIES
SECTION II
PART II
Questions Pertaining to each of
the Eleven Standards

INSTRUCTIONS

I. (1) For Electric Utilities: Duplicate the answer sheet on page 35. Prepare one sheet for each electric utility named on page 30.

(2) For Gas Utilities: Duplicate the answer sheet on page 36. Prepare one sheet for each gas utility named on page 31.

II. Enter the utility name in the space provided on the answer sheet. Prepare one answer sheet per utility. For utilities providing both electricity and gas service, you will have one answer sheet for the electric portion of the utility's business and one for the gas portion of the utility's business.

III. (1) For Electric Utilities: Answer all questions for each of the eleven standards.

(2) For Gas Utilities: Answer all questions for only the TOS and ADV standards.

Place all responses on the answer sheets under the abbreviation for that standard and corresponding to the question number.

IV. If the answer box on the answer sheet is shaded, do not answer that question. If instructed to skip a question, leave that answer box blank.

V. Include comments pertaining to a specific utility on the back of that utility's answer sheet. For example, if a ratemaking standard has been adopted, but is still being phased-in, a comment to that effect would be appreciated. General comments are encouraged and should be included on a separate sheet (with appropriate identification).

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QUESTION 2.1

2.1 What was the status of the STANDARD as of December 31, 1983?

STATUS CODES

0 - Consideration process has not begun

1 - Hearing has been scheduled or review process has begun

2 - Consideration process has started but hearing has not been completed

3 - Hearing has been completed

4 - Official determination has been made regarding whether or not it is appropriate to adopt this standard to encourage conservation of electric energy, utility efficiency and equitable rates to consumers, but decision regarding adoption or rejection of this standard has not been made for this utility

5 - Standard has been adopted (i.e., put into effect) as defined in the PURPA regulations (pages 7-26)

6 - Standard has been rejected as defined in the PURPA regulations (pages 7-26)

7 - State law has mandated standard

8 - State law has prohibited standard

BEFORE CONTINUING TO ANSWER THIS REPORT READ THE FOLLOWING:

For each utility whose status code in Question 2.1 is:

STATUS CODES

0,1,2,3,8 - Do not complete remaining questions in Parts II or III.

5 - Complete all questions in Parts II and III.

4 or 6 - Answer only questions 2.2 through 2.5 in Part II. Answer all questions in Part III.

7 - Answer only questions 2.6 through 2.12 in Part II and all questions in Part III.

QUESTIONS (CONTINUED)

QUESTIONS (CONTINUED)

QUESTION 2.2

2.2 Have your proceedings and actions conformed to the requirements of Title I and/or Title III of PURPA for the STANDARD, as defined in the regulations applicable to each standard detailed in pages 7 through 26.

[Enter: Y (Yes)
N (No)]

QUESTIONS 2.3 through 2.5

In your consideration process, have you made written determination that it is (or is not) appropriate to adopt the STANDARD to carry out:

[Enter: Y (Yes it is appropriate);
N (No it is not appropriate;
O (Other, no written determination was made or no conclusions resulted from consideration process).]

2.3 Conservation of energy?
2.4 Optimization of efficiency?
2.5 Equitable rates?

QUESTION 2.6

2.6 Are all consumers in all classes covered by the STANDARD and billed under rate schedules which conform to the adopted or mandated STANDARD?

[Enter: Y (Yes), if Yes, Skip to Part III.
N (No), if No, answer 2.7 through 2.12.]

QUESTIONS 2.7 through 2.9

How many retail consumers who are covered by the STANDARD are billed under rate schedules which conform to the adopted or mandated STANDARD? Report the average number of consumers for the year ending December 1983 for the following "rate schedules":

2.7 Residential class?
2.8 Commercial and industrial class?
2.9 All others?

QUESTIONS 2.10 through 2.12

What were the sales (GWH) to retail consumers who are covered by the STANDARD and are billed under rate schedules that conform to the adopted or mandated STANDARD? Report for the year ending December 1983 for the following rate schedules:

2.10 Residential class?
2.11 Commercial and industrial class?
2.12 All others?

NOTE: If desired, the utility may answer on a 1983 calendar year or 1983 fiscal year basis. Please see General Instructions on page 4 for further information on this option.

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ANSWER SHEET FOR PART II

ELECTRIC
UTILITY NAME _____

QUESTIONS	(a) COS	(b) DBR	(c) TOD	(d) SLR	(e) INT	(f) LMT	(g) MM	(h) AAC	(i) ITC	(j) TOS	(k) ADV
2.1 (Status Code:0-8)											
2.2 (Y or N)											
2,3 (Y, N or O)											
2,4 (Y, N or O)											
2.5 (Y, N or O)											
2,6 (Y or N)											
2,7 (Number of Customers)											
2,8 (Number of Customers)											
2.9 (Number of Customers)											
2.10 (GWH)											
2.11 (GWH)											
2.12 (GWH)											

COS:Cost of service standard
DBR:Declining block rate standard
TOD:Time of day rates standard
SLR:Seasonal rates standard
INT:Interruptible rate standard
LMT:Load management technique standard
MM: Master metering standard
AAC:Automatic adjustment clause standard
ITC:Information to consumers standard
TOS:Termination of service standard
ADV:Advertising standard

[THIS SHEET IS TO BE DUPLICATED AND RETURNED]

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ANSWER SHEET FOR PART II

GAS

ANSWER SHEET FOR PART II

GAS
UTILITY Name _____

QUESTIONS	(j) TOS	(k) ADV
2.1 (Status) Code:0-8)		
2.2 (Y or N)		
2.3 (Y, N or O)		
2.4 (Y, N or O)		
2.5 (Y, N or O)		
2.6 (Y or N)		

TOS: Termination of Service Standard
ADV: Advertising Standard

[THIS SHEET IS TO BE DUPLICATED AND RETURNED]

PURPA ANNUAL REPORT ON ELECTRIC AND GAS UTILITIES

SECTION II
PART III
Standard Specific Questions

INSTRUCTIONS

I. Prepare duplicates of the answer sheet on page 44, as necessary, for each gas utility and electric utility named on pages 30 and 31.

II. Enter the name of each utility in the space provided on the answer sheet. If the utility provides both electric and gas services, prepare two answer sheets for the utility, one for each service.

III. Answer questions 3.1 through 3.34 for each electric utility. When answering questions for a gas utility, answer only questions 3.29 through 3.34.

IV. Include comments pertaining to a specific utility on the back of that utility's answer sheet. General comments are encouraged and should be included on a separate sheet.

QUESTIONS (CONTINUED)

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QUESTIONS (CONTINUED)

QUESTIONS 3.1 through 3.5: COS Standard

- If you have not made a determination on the Cost Of Service standard, go on to question 3.6.

For Questions 3.1 through 3.5:

- If an official determination has been made concerning the Cost of Service standard, if the standard has been adopted or if it has been mandated (status codes 4,5, or 7 for question 2.1), does your standard address the methods described in 3.1 through 3.5?

  [Enter: R (Methods are required by standard)
  A (Methods are allowed by standard)
  F (Methods are forbidden by standard)
  NC (Methods are not covered by standard)]

- OR,
  If you have REJECTED the Cost of Service standard (status code 6 for question 2.1), had you considered using the methods described in 3.1 through 3.5?

  [Enter: Y (Methods were considered)
  N (Methods were not considered)]

3.1 Methods that permit identification of customer demand and energy-related cost of service for each class of customer?

3.2 Methods that take into account the change in total costs resulting from adding capacity to meet peak demand?

3.3 Methods that take into account the change in total costs resulting from delivery of additional kWh?

3.4 Methods that permit the use of embedded cost data in setting rates?

3.5 Methods that permit the use of marginal cost data in setting rates?

QUESTIONS 3.6 through 3.7: DBR Standard

- If a determination has not been made concerning the Declining Block Rate standard, go on to question 3.8.

- If a determination has been made concerning the Declining Block Rate or if it has been mandated by state law (status codes 4,5,6 or 7 for Question 2.1), does your declining block rate standard, as adopted, address the following methods:

[Enter: R (Required by standard)
A (Allowed by standard)
F (Forbidden by standard)
NC (Not covered (addressed) by standard
NA (Not applicable, standard not adopted)]

3.6 The use of methods for determining the costs attributable to the energy component of a declining block rate?

3.7 Energy (i.e. kWh) charges that decline only to the extent that energy-related costs of service decline with increases in consumption?

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QUESTIONS (CONTINUED)

QUESTIONS 3.8 through 3.11: TOD Standard

- If a determination has not been made concerning the Time-of-Day rate standard, go on to question 3.12.

For Questions 3.8 through 3.11:

- If an official determination has been made concerning the Time-of-Day rate standard, if the standard has been adopted, or if it has been mandated (status codes 4,5, or 7 for Question 2.1), does your standard address the methods described in 3.8 through 3.11?

  [Enter: R (Methods are allowed by standard)
  F (Methods are forbidden by standard)
  NC (Methods are not covered by standard)

- OR,
  If you have REJECTED the Time-of-Day rate standard, had you considered using the methods described in 3.8 through 3.11?

  [Enter: Y (Methods were considered)
  N (Methods were not considered)]

3.8 Methods for determining costs of providing electric service at different times of day?

3.9 Methods that take into account the change in total costs resulting from adding capacity to meet peak demand?

3.10 Methods that take into account the change in total costs resulting from delivery of additional kWh?

3.11 Methods that permit the determination of the cost-effectiveness of time-of-day rates?

QUESTION 3.12: SLR Standard

- If a determination has not been made concerning the Seasonal Rate standard, go on to question 3.13.

- If a determination has been made concerning the Seasonal Rate standard, or if it has been mandated by state law, answer the following:

  [Enter: R (Required by standard)
  A (Allowed by standard)
  F (Forbidden by standard)
  NC (Not covered (addressed) by standard)
  NA (Not applicable, standard not adopted)]

3.12 Does the Seasonal Rate standard, as adopted, address the use of methods prescribed by you for determining cost incurrence by season of the year for each class of customer?

QUESTIONS 3.13 through 3.17: INT Standard

- If a determination has not been made concerning the Interruptible Rate standard, go on to 3.18.

For Questions 3.13 and 3.14:

- If an official determination has been made concerning the Interruptible Rate Standard, if the standard has been adopted, or if it has been mandated (status codes 4,5, or 7 for Question 2.1), does your standard address the methods described in 3.13 through 3.16 for determining costs of providing interruptible electrical power service to the industrial and commercial class:

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QUESTIONS (CONTINUED)

QUESTIONS (CONTINUED)

[Enter:
R (Methods are required by standard)
A (Methods are allowed by standard)
F (Methods are forbidden by standard)
NC (Methods are not covered by standard)]

• OR,
If you have REJECTED the Interruptible Rate standard (status code 6 for question 2.1), had you considered using the methods described in 3.13 and 3.14?

[Enter: Y (Methods were considered)
N (Methods were not considered)]

3.13 Methods that take into account the change in total costs resulting from adding capacity to meet peak demand?

3.14 Methods that take into account the change in total costs resulting from the delivery of additional kWh?

For rate schedules in effect as of December 31, 1983 and that complied with your interruptible rates standard:

3.15 How many commercial and industrial consumers were eligible to be billed under interruptible rates? Report the average number of consumers for the month ending December 1983.

3.16 How many commercial and industrial consumers were actually billed under interruptible rates? Report the average number of consumers for the month ending December 1983.

3.17 What is the number of megawatts of interruptible load contracted for from such interruptible consumers? Report as of December 31, 1983.

QUESTIONS 3.18 through 3.21 LMT Standard

• If a determination has not been made concerning the Load Management Technique standard, go on to 3.22.

For Questions 3.18 through 3.21:

• If an official determination has been made concerning the Load Management Technique standard, if the standard has been adopted, or if it has been mandated (status codes 4,5, or 7 for Question 2.1) does your standard address the methods described in 3.18 through 3.21?

[Enter: R (Methods are required by standard)
A (Methods are allowed by standard)
F (Methods are forbidden by standard)
NC (Methods are not covered by standard)]

• OR,
If you have REJECTED the Load Management Technique standard (status code 6 for Question 2.1), had you considered using the methods described in 3.18 through 3.21?

[Enter: Y (Methods were considered)
N (Methods were not considered)]

3.18 Methods that take into account the change in total costs resulting from adding capacity to meet peak demand?

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QUESTIONS (CONTINUED)

3.19 Methods that permit a determination of a likely reduction in maximum kilowatt demand on the electric utility from utilization of available load management techniques?

3.20 Methods that permit a determination of likely long run cost savings to the utility of reductions in maximum KW demand?

3.21 Methods that permit a determination of whether an available technique is practicable, cost-effective, reliable, and provides useful energy or capacity management advantages to the electric utility?

QUESTIONS 3.22 through 3.23: MM Standard

- If a determination has not been made concerning the Master Metering standard, go on to question 3.24.
- If a determination has been made concerning the Master Metering standard or if it has been mandated by state law, does your Master Metering standard require specific criteria for separate metering, including:

[Enter: Y (Criteria required)
N (Criteria not required)
NA (Not applicable, standard not adopted)]

3.22 The occupant of each unit having control over a portion of the electric energy used in such unit?

3.23 The long-run benefits to the electric consumer in the building exceeding the costs of purchasing and installing separate meters?

QUESTIONS 3.24 through 3.25: AAC Standard

- If a determination has not been made concerning the Automatic Adjustment Clause standard, go on to 3.26.
- If a determination has been made concerning the Automatic Adjustment Clause or if it has been mandated by state law, does the Automatic Adjustment Clauses standard, as adopted, require the following or, if the standard was not adopted, did you consider the following in your hearing process:

[Enter: Y (Yes)
N (No)]

3.24 Evidentiary hearings to be held not less often than every 4 years to determine whether each clause covered by the standard provides incentives for efficient use of resources by the electric utility?

3.25 Is your review of each covered clause not less often than every 2 years to ensure maximum economies in operations and purchases that affect automatic adjustment clause rates?

QUESTIONS 3.26 through 3.28: ITC Standard

- If a determination has not been made concerning the Information to Consumers standard, go on to 3.29.
- If an official determination has been made or if the standard was mandated by state law, does the Information to Consumers standard, as adopted, require the following:

PART III

QUESTIONS (CONTINUED)

QUESTIONS (CONTINUED)

[Enter: Y (Yes)
N (No)
NA (Not applicable, standard not adopted)]

3.26 Transmittal of information to consumers of existing rate schedule and any rate schedule applied for as specified in PURPA?

3.27 Transmittal of a summary of the existing rate schedules applicable to each of the major consumer classes for which there is a separate rate to consumers, not less frequently than once each year?

3.28 Transmittal of the identification of any classes whose rates are not summarized, not less frequently than once each year?

QUESTIONS 3.29 through 3.32: TOS Standard

- If a determination has not been made concerning the Termination of Service standard, go on to question 3.33.

- If an offical determination has been made concerning the Termination of Service standard or if it is mandated by state law, does the Termination of Service standard, as adopted, require the following:

[Enter: Y (Yes)
N (No)
NA (Not applicable, standard not adopted)]

3.29 Prior notice of termination?

3.30 Prior notice to include third party notification, or other special procedures for notifying elderly and handicapped consumers?

3.31 A notice of rights and remedies to be provided to the consumer with all termination notices?

3.32 Service not to be terminated when:
(a) Consumer's health is in danger and;
(b) he is unable to pay in accordance with the utility's billing practices and;
(c) he has established that he can only afford to pay in installments?

QUESTIONS 3.33 through 3.34: ADV Standard

- Answer questions 3.33 and 3.34 if an official determination has been made concerning the Advertising Standard or if it has been mandated by state law.

[Enter: Y (Yes)
N (No)
NA (Not applicable, standard not adopted)]

3.33 Definitions of political and promotional advertising which conform to those given in sections 115(h)(1) and (2) or 304(b)(1) and (2) of PURPA (see pages 25 and 26)?

3.34 Prohibitions on the recovery of political and promotional advertising expenses from rate-payers or any persons other than shareholdes (or other owners)?

ANSWER SHEET FOR PART III

ELECTRIC UTILITY NAME _____
OR
GAS UTILITY NAME _____

(If answering questions for an electric utility, answer questions 3.1 through 3.34; If answering questions for a gas utility, answer only questions 3.29 through 3.34.)

COS

3.1	
3.2	
3.3	
3.4	
3.5	

SLR

3.12	

INT

3.13	
3.14	
3.15	
3.16	
3.17	

MM

3.22	
3.23	

DBR

3.6	
3.7	

AAC

3.24	
3.25	

TOS

3.29	
3.30	
3.31	
3.32	

TOD

3.8	
3.9	
3.10	
3.11	

LMT

3.18	
3.19	
3.20	
3.21	

ITC

3.26	
3.27	
3.28	

ADV

3.33	
3.34	

COS:Cost of service standard
DBR:Declining block rate standard
TOD:Time of day rates standard
SLR:Seasonal rates standard
INT:Interruptible rate standard
LMT:Load management technique standard
MM: Master metering standard
AAC:Automatic adjustment clause standard
ITC:Information to consumers standard
TOS:Termination of service standard
ADV:Advertising standard

[THIS SHEET IS TO BE DUPLICATED AND RETURNED]

EIA-166 (11-83)

RETURN THE FOLLOWING PAGES:

UMI

[FR Doc. 83-34788 Filed 12-30-83; 8:45 am]
BILLING CODE 6450-01-C

RETURN THE FOLLOWING PAGES:

27
28
30
31
35 (duplicated for each utility)
36 (duplicated for each utility)
43 (duplicated for each utility)

RETURN THEM TO:

PURPA Annual Report on Electric and Gas Utilities
Coal and Electricity Division
Economic Regulatory Administration
Department of Energy, Forrestal Building
1000 Independence Avenue, S.W., Room GA-033
Washington, D.C. 20585

RETURN THEM BY:

February 28, 1984

IF YOU HAVE ANY QUESTIONS CALL:

Steven Mintz
(202) 252-1657

ERA-166 (11-83)

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 5

[Docket No. 83-59]

Rules, Policies and Procedures for Corporate Activities; Rules of General Applicability, and Employee Stock Option and Stock Purchase Plans

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: This final rule eliminates the requirement that the Office of the Comptroller of the Currency (Office) approve employee stock option and stock purchase plans. That regulatory requirement is removed because it is burdensome and unnecessary. This final rule will benefit national banks by reducing costs and burdens. Additionally, a clarifying amendment is made to 12 CFR 5.2(b).

EFFECTIVE DATE: February 2, 1984.

FOR FURTHER INFORMATION CONTACT: Randall J. Miller, Manager, Policy, Bank Organization and Structure (202) 447-1184; Robyn Ide, Paralegal Specialist, Securities and Corporate Practices Division (202) 447-1954, Office of the Comptroller of the Currency, 490 L'Enfant Plaza, East, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Background

The Office's Corporate Activities Review and Evaluation (CARE) Program, described in 45 FR 68586, dated October 15, 1980, involves a comprehensive review of the Office's rules, policies, procedures and forms governing filings for corporate expansion and structural changes for national banks. The goals of the CARE Program are to minimize costs and burdens on applicants, the agency and the public; to provide a better understanding of policies; to modify or eliminate rules, policies, procedures and forms which are unnecessary or lead to inefficiencies; and to remove barriers to competition.

As part of that ongoing program, on September 9, 1983, the Office issued for public comment a notice of proposed rulemaking (48 FR 40735) that proposed elimination of the requirement that national banks receive prior approval of this Office for employee stock option and stock purchase plans ("employee compensation plan") (12 CFR 5.51). In proposing elimination of the rule, this Office requested comments on whether its prior approval of stock option and stock purchase plans was necessary, in light of the safeguards afforded under existing laws and through the bank examination process. The proposal cited, among other things, protection provided by the tax laws governing employee compensation plans, corporate procedures requiring shareholder approval of plans, the fiduciary obligations of bank directors to bank shareholders and the disclosure obligations to such shareholders under the federal securities laws. As a general matter, employee compensation plans must be approved by shareholders after receiving adequate disclosure of the terms of the plan and all material facts relating to such plan.

Summary of Comments

A total of 11 comments were received concerning the notice of proposed rulemaking. Ten comments were from national banks and one was from a bank trade association. All commenters supported the proposal and raised no additional considerations.

Recision of 12 CFR 5.51

After careful consideration of the comments received in response to the proposal, the Office has determined to rescind 12 CFR 5.51, as proposed. It believes that existing legal requirements applicable to employee compensation plans currently serve to protect shareholders against potential abuses. In addition, the bank examination process is designed to promote a high degree of compliance by banks, bank officers and directors with applicable laws and regulations. Accordingly, we believe it unnecessary to require national banks to receive the prior approval of this Office before adopting employee compensation plans.

Clarifying Amendment to Rules of General Applicability (12 CFR 5.2(b))

The clarifying amendment to § 5.2(b) was not addressed in the notice of proposed rulemaking pertaining to employee compensation plans. The amendment only clarifies a matter of office procedure and, therefore, is not subject to the notice and comment requirements of 5 U.S.C. 553.

Section 5.2(b) currently states:

> The Office reserves the right to adopt different procedures when it deems it necessary and reasonable in acting upon any particular application or filing.

The quoted language in § 5.2(b) applies to all the procedures set forth in 12 CFR Part 5. However, that language, when read in conjunction with § 5.2(a), could possibly be misinterpreted as applying to only those procedures set forth in Subpart A of Part 5. To remove any ambiguity, § 5.2(b) is amended to read:

> The Office reserves the right to adopt procedures different from those described in this Part when it deems such action appropriate in acting on any particular application or filing.

Regulatory Flexibility Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Secretary of the Treasury certifies that the elimination of 12 CFR 5.51 will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

The Office has determined that this final rule is not a "major rule" and, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 12 CFR Part 5

National banks, Employee stock option plan, Employee stock purchase plan.

Authority and Issuance

PART 5—[AMENDED]

For the reasons set out in the preamble, 12 CFR Part 5 is amended as follows:

1. The authority citation for Part 5—Rules, Policies, and Procedures for Corporate Activities reads as follows:

Authority: 12 U.S.C. 1 *et seq.*

2. Section 5.2(b) is revised to read as follows:

§ 5.2 Rules of general applicability.

* * * * *

(b) The Office reserves the right to adopt procedures different from those described in this Part (5) when it deems such action appropriate in acting on any particular application or filing.

* * * * *

§ 5.51 [Removed]

3. Section 5.51 is removed.

Dated: December 9, 1983.

C. T. Conover

Comptroller of the Currency.

[FR Doc. 83-34786 Filed 12-30-83; 8:45 am]

BILLING CODE 4810-33-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 544 and 552

[No. 83-743]

Charters and Bylaws Available to Federal Associations and Savings Banks; Corrections

December 22, 1983.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule; corrections.

SUMMARY: The Board has adopted technical corrections to its recently revised charter and bylaw regulations for federal associations.

EFFECTIVE DATE: January 3, 1984.

FOR FURTHER INFORMATION CONTACT: In regard to federally chartered mutual institutions, David A. Permut, Attorney, Division of Corporate and Regulatory Structure, Office of General Counsel (202-377-6962), and in regard to federally chartered stock institutions, James C. Stewart, Attorney, Division of Securities and Corporate Analysis, Office of General Counsel (202-377-6457), Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: On September 15, 1983, the Federal Home Loan Bank Board promulgated final amendments to its regulations governing the types of charters available to federal associations. Board Resolution No. 83-528; 48 FR 44174, September 28, 1983. The amendments simplified and streamlined the regulations governing federal charters and bylaws by updating and clarifying existing charters and replacing bylaw requirements with standards governing internal management.

In connection with these amendments, a provision was adopted inadvertently making corporate management of a mutual association more difficult; it had the effect of requiring mutual institutions to conduct costly determinations of their exact membership each time there is a meeting. Because it was the Board's clear intention to simplify the charters and internal corporate administration, the provision has been amended to re-institute the Board's long-standing regulatory method of determining membership for the purpose of holding meetings. In addition, several provisions of the final regulation were adopted to simplify or clarify procedures. In practice, they have raised additional questions. Consequently, those provisions, dealing with charter reissuance, the size of a board for quorum purposes, and the amendment of stock bylaws, have been further clarified. Finally, several provisions contained numerical references that were inconsistent with earlier sections; by its action today, the Board has corrected those references.

The Board finds that observance of the notice and comment procedures prescribed by 5 U.S.C. 553(b) and 12 CFR 508.12, and the delay of the effective date as prescribed by 5 U.S.C. 553(d) and 12 CFR 508.14 is not necessary because the changes are of a minor technical corrective nature.

Accordingly, the Board hereby corrects Parts 544 and 552, Subchapter C, Chapter V of Title 12, *Code of Federal Regulations,* as published on September 28, 1983 (48 FR 44174), as set forth below.

PART 544—CHARTERS AND BYLAWS

§ 544.1 [Amended]

1. Amend the third to the last sentence in Section 6 of § 544.1 by removing the phrase "A majority of the outstanding voting shares," and replacing it with the phrase "Any number of members present and voting,".

§ 544.2 [Amended]

2. Amend the first sentence of § 544.2(c) by removing the phrase "ten amended copies," and replacing it with the phrase "one executed, and three conformed copies,".

§ 544.5 [Amended]

3. Amend the third sentence of § 544.5(b)(2) by removing the word "rights" and replacing it with the word "capital"; amend the fifth sentence of § 544.5(b)(8) by inserting the word "authorized" before the word "directors"; and amend the second sentence of § 544.5(b)(16) by removing the word "entire" and replacing it with the word "authorized".

PART 544—APPENDIX [AMENDED]

4. In the Appendix to Part 544, amend the fifth sentence of Section 8 by inserting the word "authorized" before the word "directors"; and amend the first sentence of Section 16 by removing the word "entire" and replacing it with the word "authorized".

PART 552—INCORPORATION, ORGANIZATION, AND CONVERSION OF FEDERAL STOCK ASSOCIATIONS

§ 552.4 [Amended]

5. Amend the first sentence of § 552.4(d) by removing the phrase "10 amended copies" and replacing it with the phrase "one executed, and three conformed copies".

PART 552—APPENDIX [AMENDED]

6. In the Appendix to Part 552, amend the first sentence of Article II, Section 5 by substituting the number "10" for the number "20"; amend the second sentence of Article II, Section 5, by removing the term "Section 5" and replacing it with the term "Section 6"; amend the second sentence of Article II, Section 6, by substituting the number "10" for the number "20"; amend the last sentence of Article III, Section 5, by removing the term "Section 11" and replacing it with the term "Section 12"; and amend the first sentence of Article XI by substituting the word "majority" for the word "two-thirds".

(Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); Secs. 402, 403, 407, 48 Stat. 1256, 1260, as amended (12 U.S.C. 1725, 1726, 1730); Reorg. Plan No. 3 of 1947; 12 FR 4981 3 CFR Parts 1943-1948 Comp p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-34662 Filed 12-30-83; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 11, 21, 43, 45, and 91

[Docket No. 23767; Amdt. No. SFAR 27-5]

SFAR 27-5 Fuel Venting and Exhaust Emission Requirements for Turbine Engine Powered Airplanes; Compliance With Revised EPA Emission Standards and Test Procedures

Correction

In FR Doc. 83-34153 beginning on page 56735 of the issue of Friday, December 23, 1983, make the following correction on page 56739. In the middle column, in § 11.101, the first line following "(b) * * *" should read "SFAR 27 2120-0508".

BILLING CODE 1505-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Release Nos. 33-6501; 34-20509; 35-23176; IC-13686; FR-15]

Interpretive Release Relating to Accounting for Extinguishment of Debt

AGENCY: Securities and Exchange Commission.

ACTION: Interpretation.

SUMMARY: The Commission is rescinding Financial Reporting Release (FRR) No. 3, its interpretive release relating to extinguishment of debt through "in-substance defeasance" arrangements, because the Financial Accounting Standards Board (FASB) has recently issued a standard on that topic. The Commission also emphasized the importance of certain aspects of the new standard.

EFFECTIVE DATE: January 3, 1984.

FOR FURTHER INFORMATION CONTACT: Dorothy E. Walker, Office of the Chief Accountant, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549, (202)–272–2130).

SUPPLEMENTARY INFORMATION:

Background

In Financial Reporting Release (FRR) No. 3, issued in August 1982 (47 FR 38868), the Commission announced its support of the tentative view of the FASB that, except in certain limited circumstances, debt should not be accounted for as extinguished unless the debtor has no further legal obligation. The Commission indicated that, to avoid inconsistent accounting, registrants should follow that tentative position while the FASB was considering the issue. Recently, after study and deliberation, the FASB issued Statement of Financial Accounting Standards (SFAS) No. 76, "Extinguishment of Debt", which clarifies the accounting for such "quasi-defeasance" or "in-substance defeasance" arrangements. Accordingly, the Commission has determined to rescind FRR No. 3.

Requirements for Extinguishment of Debt

SFAS No. 76 provides that a debtor shall consider debt to be extinguished under three circumstances. The first two are the traditional criteria for extinguishment of debt (payment of the debt and legal release as primary obligor). The third, described in paragraph 3(c), is new and provides for extinguishment under certain conditions when eligible assets are irrevocably placed in a trust to be used solely for satisfying scheduled payments on the debt.

SFAS No. 76 does not have any specific eligibility requirements for the trustee of the trust created pursuant to paragraph 3(c) of that standard. The Commission believes, however, that paragraph 3(c) of the standard contemplates that the trustee should be independent with respect to the company.[1]

Paragraph 4 of SFAS No. 76 provides that the assets used to effect an extinguishment of debt under paragraph 3(c) must be monetary assets essentially risk free as to the amount, timing, and collection of interest and principal. These requirements are designed to assure that all interest and principal payments are made on time. Accordingly, they are very important and must be strictly interpreted.

Paragraph 4 lists the three types of assets in U.S. dollars that might meet those requirements: (1) Direct obligations of the U.S. government, (2) obligations guaranteed by the U.S. government, and (3) securities that are backed by U.S. government obligations as collateral under an arrangement by which the interest and principal payments on the collateral generally flow immediately through to the holder of the security (for example, as in a closed trust). The Commission believes that very few securities of the types listed in (2) and (3) above can satisfy the essentially risk free requirements, particularly because the requirement for the assets to be risk free as to timing of collection applies to the risk of late as well as early payments. For example, if a guarantee provides only for the ultimate collection, but not for the collection of interest and principal in sufficient time to ensure payments on the defeased debt as they become due, the security would not qualify.

The Commission notes that the determination whether debt can be considered to be extinguished requires an assessment as to the likelihood of the debtor being required to make future payments with respect to the debt, not only because of an inadequacy of trust assets attributable to a failure to realize scheduled cash flows, but also because of an acceleration of the debt's maturity. An acceleration might occur because of a violation of a covenant of the debt issue being extinguished, or, under cross-default provisions, because of a violation of a covenant of another debt issue.

The determination whether debt can be considered to be extinguished is also affected by the irrevocable nature of the trust. The trust must be designed so that neither the corporation nor its creditors or others can rescind or revoke it, or obtain access to the assets.

The Commission emphasizes that the qualifications of the trustee and nature of the trust and of the assets in the trust are areas of concern and that it expects registrants which extinguish debt under paragraph 3(c) to carefully evaluate those areas.

Codification Update

The "Codification of Financial Reporting Policies" announced in Financial Reporting Release 1 (April 15, 1982) [47 FR 21028] is updated to

1. Delete old Section 217, entitled as follows:

217 Accounting for Extinguishment of Debt

2. Add new Section 217, entitled as follows:

217 Accounting for Extinguishment of Debt

3. Include in Section 217 the sections of this release entitled, "Background," and "Requirements for Extinguishment of Debt," numbered as specified below:

.01 Background
.02 Requirements for Extinguishment of Debt

This codification is a separate publication issued by the SEC; it will not be published in the **Federal Register**/Code of Federal Regulations System.

List of Subjects in 17 CFR Part 211

Accounting, Reporting and recordkeeping requirements, Securities.

Commission Action

The Commission hereby amends Subpart A 17 CFR Part 211 by deleting the reference to Release No. 3, Interpretive Release Relating to Accounting for Extinguishment of Debt and adding the reference to this Release No. 15, Interpretive Release Relating to Accounting for Extinguishment of Debt.

By the Commission.
December 22, 1983.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83–34756 Filed 12–30–83; 8:45 am]

BILLING CODE 8010–01–M

[1] Trustees that meet the eligibility requirements for trustees under Sections 310(a)(1) and 310(a)(2) of the Trust Indenture Act of 1939 (the "1939 Act"), for example, will be presumed by the staff of the Commission to be appropriate trustees. Those sections of the 1939 Act provide that a trustee must be a corporation organized and doing business under the laws of the United States or of any State or Territory or of the District of Columbia, which (a) is authorized under such laws to exercise corporate trust powers, (b) is subject to supervision or examination by Federal, State, Territorial or District of Columbia authority, and (c) has combined capital and surplus of at least $150,000.

17 CFR Part 271

[Release No. IC-13691]

Applications of Foreign Investment Companies Filed Pursuant to Section 7(d) of the Investment Company Act of 1940

AGENCY: Securities and Exchange Commission.

ACTION: Statement of Commission position.

SUMMARY: The Securities and Exchange Commission advises any foreign investment company domiciled in a civil law country which desires to sell its shares in the United States to consider organizing a separate company in the United States and offering the latter's shares in this country instead of filing an application under Section 7(d) of the Investment Company Act of 1940 ("Act") for permission to register under the Act and sell its own shares. The Commission makes this suggestion because of the difficulties a foreign company may face in meeting the existing requirements of the Act. The Commission also announces that it is recommending legislation to the Congress to amend Section 7(d) of the Act to make it easier for operating foreign investment companies to register with the Commission when that is consistent with the purposes of the Act and the protection of investors.

EFFECTIVE DATE: December 23, 1983.

FOR FURTHER INFORMATION CONTACT: Glen A. Payne, Assistant Director (202) 272-3018, Mary A. Cole, Special Counsel (202) 272-3023, or Brian M. Kaplowitz, Staff Attorney (202) 272-3024, Division of Investment Management, Securities and Exchange Commission, Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission") has determined to issue the following release in order to describe problems that certain foreign investment companies may encounter in filing applications for orders under Section 7(d) of the Investment Company Act of 1940 ("Act") [15 U.S.C. 80a-7(d)], and to suggest that any such company desiring to offer its shares for sale in the United States should consider forming a separate company in the United States and offering the latter's shares.

Background

Section 7(d) of the Act prohibits foreign investment companies from offering their shares in the United States unless the Commission issues an order permitting them to register under the Act. Under the section, the Commission must find that "by reason of special circumstances or arrangements, it is both legally and practically feasible effectively to enforce the provisions of [the Act] against such company and that the issuance of such order is otherwise consistent with the public interest and the protection of investors." In 1975, the Commission published an interpretive release ("Guidelines") setting forth its policy and guidelines for filing an application for an order under Section 7(d). The Guidelines included an analysis of the standards foreign investment companies should meet in order to enable the Commission to make the finding required by Section 7(d).[1] This release supplements the Guidelines.

The Commission recognized in the Guidelines that differences in foreign law and capital markets may make it difficult or impossible for foreign investment companies to comply with all the requirements of the Act or with those of Rule 7d-1 under the Act [17 CFR 270.7d-1].[2] Accordingly, the Commission indicated that it would entertain applications for orders pursuant to Section 7(d) and, where necessary, grant exemptive relief from other provisions of the Act pursuant to Section 6(c) of the Act [15 U.S.C. 80a-6(c)].[3] The Commission further stated, however, that any foreign investment company requesting an order under Section 7(d) should, at a minimum, demonstrate: (a) That the protections accorded to investors by the legal and regulatory system under which it operates are substantially equivalent to provisions of the Act; and (b) that, in conformity with standards listed in the Guidelines, it: (1) Is a bona fide and established company; (2) is subject to actual regulation by an appropriate governmental authority; (3) would not be dependent solely on sales in the United States; (4) would be a vehicle for investment primarily in foreign securities; (5) would subject itself and its management to service of process in the United States; and (6) would provide adequate disclosure to investors in the United States.

Only one foreign investment company has filed an application (which was subsequently withdrawn) for an order allowing it to sell its shares in the United States based on the Guidelines. However, the processing of that application made apparent certain difficulties, discussed below, that foreign investment companies, particularly those organized in civil law countries, may encounter in attempting to register under the Act pursuant to Section 7(d).

Discussion

The structure and operations of foreign investment companies, as well as the legal, regulatory and business environment in which they operate, can present varied and unforeseen problems in light of the mandate of Section 7(d) of the Act. For example, the Guidelines make clear that the foreign investment company and its managers are to consent to United States jurisdiction. However, the business practices and customs of a particular country may make it difficult or impossible for a foreign company to get its managers to accept personal liability by submitting to United States jurisdiction. The inability to submit to the jurisdiction of United States courts makes it difficult for the Commission to find under Section 7(d) that the Act would be legally enforceable against the applicant. Another problem may arise from the applicant's inability to comply with many of the provisions of Rule 7d-1. While that rule addresses Canadian investment companies and strict adherence to the rule therefore is not required, nonetheless, Rule 7d-1 provides guidance as to the types of conditions or arrangements that the Commission may rely on to support a determination to permit foreign investment companies to offer their shares in the United States.

The Commission's experience has also demonstrated that, beyond the Section 7(d) considerations, a foreign investment company may need extensive exemptive relief pursuant to Section 6(c) of the Act in order to function in a manner consistent with its own domestic laws and business practices. For example, exemptions may be necessary to reconcile the Act's

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[1] Investment Company Act Release No. 8959 (September 26, 1975) [40 FR 45424, October 2, 1975], Commission Policy and Guidelines for Filing of Application for Order Permitting Registration under the Act and Sale of Shares in the United States of Foreign Investment Companies.

[2] Rule 7d-1 provides, in general, that a Canadian management investment company may obtain an order pursuant to section 7(d) if it complies with certain specified conditions and arrangements listed in the rule and designed to ensure the enforceability of the Act against such a company. It also states that "conditions and arrangements proposed by investment companies organized under the laws of other countries will be considered by the Commission in the light of the special circumstances and local laws involved in each case."

[3] Section 6(c) provides that "the Commission * * * may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions from any provision or provisions of [the Act] or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of [the Act]."

corporate governance provisions, which are based on a concept of disinterested directors, with foreign law, which may not contemplate such a concept.[4]

Finally, a number of practical difficulties may arise in the context of a Section 7(d) application. Among such difficulties are the possible inability to obtain English translations of all applicable foreign laws and the delays inherent in communicating with and obtaining information and documents from foreign entities. In addition, there exists the problem of jurisdictional sensitivity which may be involved in inquiring into the operations and effectiveness of foreign regulatory bodies. Such an inquiry may be necessary so that the Commission can determine whether the applicable foreign system affords United States investors protections substantially equivalent to those provided by the Act, a determination required by the Guidelines.[5]

Resolution of problems of this type normally will involve time delays and significant legal and other expenses. For this reason, the Commission urges any foreign investment company operating in a legal or regulatory environment which differs significantly from the Act and which wants to sell its shares in the United States to consider forming a separate United States company and offering the latter company's shares instead of seeking an order under Section 7(d) of the Act.[6] Formation of a United States "mirror fund", *i.e.*, a United States investment company investing primarily in the securities of foreign issuers in which the foreign investment company invests, would enable a foreign investment adviser to offer its services to United States investors without the need for registration of the foreign investment company under Section 7(d). Organization of such a surrogate fund appears to be the most expeditious and least costly way to accomplish the objectives of a foreign investment adviser wishing to offer shares of a foreign investment company in the United States. It would avoid the need for the extensive exemptions that otherwise would be needed for such a foreign company to directly offer its shares in this country. In this regard, it should be noted that the Commission did not intend, when it issued the Guidelines, that foreign investment companies should rule out the possibility of using alternatives other than applications under Section 7(d).[7]

The Commission also wishes to emphasize that, in suggesting the above procedures, it is not criticizing any foreign regulatory system. The difficulties lie in the specific legal finding the Commission must make under Section 7(d) of the Act. Because the Commission believes that the present standards in Section 7(d) of the Act present unnecessary obstacles to operating foreign investment companies the Commission will recommend that the Congress amend the standards of Section 7(d) to make it easier for such companies to register and sell shares in this country when that is consistent with the purposes of the Act and the protection of investors.

List of Subjects in 17 CFR Part 271

Investment companies, Securities.

Accordingly, 17 CFR Part 271 is hereby amended by adding a reference to this statement of Commission position.

By the Commission.

Dated: December 23, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-34832 Filed 12-30-83; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket Nos. RM80-73-004, et al. and RM80-74-004, et al.; Order No. 334-A]

Delivery and Compression Allowances Under Section 110 of the Natural Gas Policy Act of 1978; Order Denying Rehearing

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order denying rehearing.

SUMMARY: On September 27, 1983, the Federal Energy Regulatory Commission (Commission) issued Order No. 334 (48 FR 44495, September 29, 1983), a final rule that established allowances that may be recovered by "first sellers," as defined by the Natural Gas Policy Act of 1978, for delivering and compressing natural gas. The Commission received six applications to rehear the final rule and requests to stay its effect. For the reasons discussed in this order and in the final rule, the Commission denies the applications for rehearing and the requests to stay the effect of the final rule.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

In the matter of Delivery Allowances Under Section 110 of the Natural Gas Policy Act of 1978, Docket Nos. RM80-73-004, RM80-73-005, RM80-73-006, RM80-73-007, RM80-73-008, RM80-73-009; and Gathering Allowances Under Section 110 of the Natural Gas Policy Act of 1978, Docket Nos. RM80-74-004, RM80-74-005, RM80-73-006, RM80-74-007, RM80-74-008, RM80-74-009; Order Denying Application for Rehearing and of Order No. 334 and Denying Requests for Stay of Order No. 334.

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[4] *See e.g.*, Section 10(a) of the Act [15 U.S.C. 80a-10(a)], which requires that at least 40 percent of an investment company's board of directors be persons who are not "interested persons" of the company as that term is defined in Section 2(a)(19) of the Act [15 U.S.C. 80a-2(a)(19)]; and Section 15(c) of the Act [15 U.S.C. 80a-15(c)], which requires that any underwriting or investment advisory agreement entered into by an investment company must be approved by a majority of its directors who are not parties to the agreement or "interested persons" of any party.

[5] *See* pages 3-4. *supra*.

[6] The Commission notes that certain foreign investment advisers in civil law countries have organized United States companies whose portfolios consist of securities traded outside of the United States. *See e.g.*, Mexico Fund, Inc., Investment Company Act Registration No. 811-3170, Securities Act of 1933 Registration No. 2-49027, a Maryland corporation advised by Impulsora del Fondo Mexico, S.A. de C.V., a Mexican corporation; Nomura Index Fund of Japan, Inc., Investment Company Act Registration No. 811-2813, Securities Act of 1933 Registration No. 2-60896, a Maryland Corporation sponsored by Nomura Securities Co., a Japanese securities firm which, through various subsidiaries, acts as investment adviser and principal underwriter to Nomura Index Fund. *Cf.* G.T. Pacific Fund, Inc., Investment Company Act Registration No. 811-2699, Securities Act of 1933 Registration No. 2-57526, a California company investing primarily in securities of issuers of Far Eastern countries and advised by a subsidiary of an English company.

[7] A further potential problem that an applicant under Section 7(d) should anticipate is the filing with the Commission of a request for a hearing by other parties. Even if the Commission ultimately issues a notice of an application, the Act affords "interested persons" the right to make such request. In that event, the Commission may conclude that, because of the matters raised in the hearing petition, the provisions of the Act and considerations of due process and fairness require or make it appropriate that it convene a hearing.

Issued: December 27, 1983.

I. Introduction

The Federal Energy Regulatory Commission (Commission) denies six petitions for rehearing of Order No. 334.[1] Order No. 334 is a final rule implementing section 110 of the Natural Gas Policy Act of 1978 (NGPA).[2] It amended 18 CFR 271.1104(d), effective October 31, 1983, to allow a "first seller" [3] of natural gas to recover costs incurred for delivering or compressing that gas. In Order No. 334, the Commission revised, but substantially retained, the interim rule promulgated on January 24, 1983.[4] That rule established the amounts which may be collected for costs incurred for delivering and compressing natural gas.

II. Discussion of Applications for Rehearing and Request for Clarification

The Commission received six applications for rehearing of Order No. 334,[5] which raise several substantive issues. Primarily, these issues relate to the applicability of the delivery allowances in certain situations.

Some issues raised in the applications received by the Commission with respect to Order No. 334 involve the decisions made and policies set forth in Order Nos. 94–A and 94–B, such as the scope of the Commission's discretion to implement NGPA section 110, and allegations that the Commission did not adequately consider the effect of its section 110 regulations on NGPA objectives, consumers of natural gas, and the natural gas market. Such issues were adequately addressed by the Commission in those orders, and this proceeding is therefore not an appropriate forum in which to discuss them once again.

Applicants also argue that the Commission erroneously permitted the operation of area rate clauses to operate as evidence of authorization to qualify for the allowance. The same issue was raised in the comments filed subsequent to the issuance of the interim rule. As the Commission explained in Order No. 334 in response to identical comments made in the interim rule, this issue was considered and decided in the Order No. 94 series of orders.[6]

Therefore, Order No. 334 incorporated the analysis in those orders,[7] and the Commission does so again here.

A. Delivery Allowances

The final rule provides that, if construction of the delivery system commenced before November 9, 1978 (old system), the seller may collect 5 cents per MMBtu for gas delivered, irrespective of the length of the delivery system. If construction of the delivery system commenced on or after November 9, 1978 (recent system), the seller may collect 7 cents per MMBtu for the first mile of haul, or fraction thereof, measured from the wellhead or lease separator, plus 2 cents per MMBtu for each mile of haul or fraction thereof, not to exceed 20 miles. The rule imposes general limitations on when, where, and how both of these allowances may be collected.

The Commission imposed several limitations on collecting the allowance for recent delivery systems. First, the gas delivered must be commingled with other gas; second, the gas delivered must be measured from a specific point; third, the line of measurement must be continuous; and fourth, the overall distance may not exceed 20 miles.

1. *Allowances for old delivery system.* Two applicants address the amount of the allowance established for an old delivery system. One of these applicants, a group of producers, argue that in establishing the allowance the Commission improperly limited the allowance to 5 cents per MMBtu failed to provide reasonable cost recovery. The applicants conclude that the amount established is insufficient and unsupported by the record. The other applicant, a pipeline, also argues that the amount in unsupported by the record, but concludes that the allowance is excessive because it would overcompensate a seller in certain situations.

In Order No. 334, the Commission recited the considerations that were employed to develop the old delivery system allowance. The Commission reemphasizes that the allowance is based not only on adequate cost recovery, but also on other factors.[8] First, the Commission considered that Order Nos. 94 and 94–A removed the requirement that a producer perform substantial off-lease gathering as a qualification for the area-wide gathering allowances under the Natural Gas Act. In addition, it removed the requirements present in some of the area-wide allowances that in order to qualify a seller had to deliver to the buyer at a central point in the field, the tailgate of a processing plant, a point on a buyer's pipeline, or an offshore platform on the buyer's pipeline.[9] These simplified the eligibility criteria for the delivery allowance. Second, it considered the benefits conferred upon first sellers by related NGPA section 110 proceedings. The Commission's rules implementing NGPA section 110 provided for collection of production-related costs other than delivery and compression. These allowances, most of which were not available under the Natural Gas Act, together with allowances for delivery and compression, provide representative compensation to sellers that perform those services. As the Commission explained in Order No. 334, once it had developed a reasonable range from which an allowance could be established, the non-cost factors were weighed as a means of setting an appropriate allowance.

The Commission has reviewed all the available data, comments and

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[1] Order No. 334, "Final Rule and Order Granting in Part and Denying in Part Rehearing of Interim Rule," issued September 29, 1983, Docket No. RM80–73, *et al.*, (48 FR 44495, Sept. 29, 1983).

[2] 15 U.S.C. 3301–3432 (Supp. V 1981).

[3] For a definition of "first sale", see 15 U.S.C. 3301(21) (Supp. V 1981).

[4] Interim Rule, "Delivery Allowances Under Section 110 of the Natural Gas Policy Act of 1978 and Compression Allowances Under Section 110 of the Natural Gas Policy Act of 1978," 48 FR 5,180 (Feb. 3, 1983), Docket No. RM80–73–000, *et al.*, issued January 24, 1983 [hereinafter cited as *interim rule*].

[5] Applications were filed by Michigan Wisconsin Pipe Line Company, Docket Nos. RM80–73–004 and RM80–74–004; Indicated Producers, Philips Petroleum *et al.*, Docket Nos. RM80–73–005 and RM80–74–005; Tennessee Gas Pipeline Company, a Division of Tenneco, Inc., Docket Nos. RM80–73–006 and RM80–74–006; Associated Gas Distributors, Docket Nos. RM80–73–007 and RM80–74–007; Natural Gas Pipeline Company of America, Docket Nos. RM80–73–008 and RM80–74–008; and United Gas Pipe Line Company, Docket Nos. RM80–73–009 and RM80–74–009. In order to have sufficient time to consider the applications for rehearing, the Commission granted, by order issued November 25, 1983, 48 FR 54000 (Nov. 30, 1983), rehearing of the regulations solely for purposes of further consideration.

[6] Order No. 94–A, "Final Rule and Order on Rehearing: Regulations Implementing section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act," 48 FR 5152, 5163–164 (Feb. 3, 1983), Docket No. RM80–47–002, issued January 24, 1983, [hereinafter cited as *Order No. 94–A*], *reh. denied*, Order No. 94–C "Order Denying Rehearing and Denying Petitions for Stay of, or Further Comment on, Final Rule," 48 FR 24039, 24043–044 (May 31, 1983), Docket Nos. RM80–47–002–012, issued May 24, 1983. In this order, the Commission promulgated regulations for the recovery of production-related costs other than delivery and compression. Order No. 94–B, "Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act; Order Amending Regulations in Subpart B of Part 270 and Subparts E, F, and K of Part 271, and Affirming Certain Final Regulations Issued in Order No. 68," 48 FR 5190, 5194–196 (Feb. 3, 1983), Docket No. RM80–47–003, issued January 24, 1983, *reh. denied*, Order No. 94–D, "Order Denying Rehearing and Denying Stay of Order No. 94–B," 48 FR 24051, 24055–056 (May 31, 1983). In this order, special provisions were made for first sellers of natural gas priced under NGPA sections 105 and 106(b) who incur production-related costs.

[7] 48 FR at 44496–7.

[8] *Id.* at 44497–8.

[9] See 18 CFR 2.56a(d).

applications and again concludes that the allowance is neither excessive nor inadequate. There are no new arguments presented by the applicants and further recapitulation of the Commission's previous discussion on this point is therefore unnecessary.

2. *Limitation on Collecting the Delivery Allowance for a Recent System—the Commingling Requirement.* The final rule requires that, in order to recover the allowance for a recent delivery system, the gas delivered must be commingled with other gas before the location of the final first sale.[10] The Commission imposed this limitation in order to ensure that the seller collecting the recent delivery allowance was performing a delivery function. The rule provides that, in the case of gas from a single gas well, the gas must be delivered to a point of commingling with gas from other wells. In the case of gas produced from an offshore platform, the gas from two or more wells must be commingled before delivery, even if delivery occurs at the platform. In the case of oil wells producing natural gas, delivery of the gas must extend downstream from the lease or field separator to a point of commingling with gas from other wells or other lease or field separators. The commingling requirement is only imposed for collecting the allowances established for recent delivery systems.

One applicant states that the Commission should not presume in all cases that a seller who delivers gas through an old delivery system has incurred significant costs relating to a delivery function and therefore argues that the commingling limitation should also be imposed on old delivery systems to ensure that a delivery function was performed. In Order No. 334, the Commission stated that the commingling requirement was imposed for recent delivery systems in order to ensure that the seller collecting the allowance had in fact provided a delivery service.[11] The Commission required this assurance because it had established a two part allowance for recent delivery systems based on the measurement of the length of the gas haul. It did so based on studies which indicated that small diameter gathering lines, most frequently used in connecting wells, were costlier than large diameter delivery lines. In other words, the greatest costs per MMBtu delivered are incurred at the very initial stages of delivery. As a result, the rule affords the seller 7 cents per MMBtu to compensate for the large investment in small diameter delivery lines in the first mile of line or fraction thereof. For each additional mile, it permits 2 cents per MMBtu to compensate for the smaller investment in larger diameter lines. Because the first part of the allowance for new systems is proportionately large, the Commission was inclined to impose a strict test to help ensure appropriate cost recovery.

The Commission did not impose the commingling limitation for old delivery systems in consideration of its development of the 5 cent allowance. First, there is no correlation between the amount established for the old delivery allowance and the length of the gas haul. In contrast to the allowance for a recent system, the Commission did not base the 5 cent allowance on the size or the length of the pipe used. It therefore concluded that the added safeguard supplied by the commingling limitation, *i.e.*, to ensure that the seller perform a delivery function, was unnecessary. As added support for its conclusion, the Commission recognized that some area-wide allowances, as discussed above, included eligibility requirements which resulted in commingling prior to qualification for the allowance. These are reliable indicators that, at least in those areas, most sellers already performed the requisite delivery function. In light of the fact that some of these area-wide rates contained the eligibility requirements and because the Commission considered simplification of the eligibility requirements in establishing the allowance, it determined that the requirement was unnecessary.

3. *Offshore Delivery.* Order No. 334 provides that a first seller may collect either the old or the recent delivery allowances for costs incurred to deliver gas from offshore, depending on the date construction of the facilities commenced,[12] and clarified how a seller could collect the allowance. Several applicants addressed application of the allowances to offshore delivery.

As a general matter, one applicant states that the Commission erred in establishing any allowance for offshore delivery arguing that when gas is brought to an offshore platform, it is brought to the platform in the process of production.

Past Commission practice guided the Commission's decision on this issue. In the area[13] and nationwide[14] rate proceedings, the Commission established gathering allowances for offshore delivery. A specific amount representing a gathering allowance was established for the "Other Southwest,"[15] the "Southern Louisiana,"[16] and "Texas Gulf Coast"[17] areas where the gas was delivered to a buyer "at a central point in the field, the tailgate of a processing plant, a point on the buyer's pipeline, *or an offshore platform on the buyer's pipeline*" (emphasis added).

As evidenced by the limitations on the points of delivery for gas priced under the area and nationwide rates, the Natural Gas Act did not distinguish between onshore and offshore delivery of gas. Therefore, with respect to interstate sellers of old gas, there was an expectation of collecting an allowance for offshore delivery upon passage of the NGPA. Similarly, because the NGPA does not distinguish between onshore and offshore delivery of gas, the same expectation can be applied to all sellers after the passage of the NGPA. The Commission finds no persuasive reason to depart from its long-standing policy of establishing delivery allowances for offshore delivery gas, and finds no basis upon which it should deny application of NGPA section 110 for offshore delivery of gas.

a. *Amount of the recent delivery allowance as it applies to offshore delivery.* Three of the applicants argue that the allowance for recent delivery systems is excessive as it applies to offshore delivery. As support for its argument, two of the applicants argue that, generally, a seller who delivers gas on an offshore platform is overcompensated because the delivery lines on an offshore platform are usually short. Another applicant cites an example where the seller's line is "no more than fifty feet." Therefore, this applicant proposes that the Commission adopt different allowances for shorter delivery lines. The Commission already addressed these applicants' argument in Order No. 334:

> * * * Admittedly, short delivery lines are common in offshore delivery. However, delivery offshore differs from delivery onshore in one important respect. Offshore delivery generally involves much greater costs in relation to the length of delivery line.[18]

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[10] A "final first sale" is the first sale as defined in NGPA section 2(21), at which a volume of gas is transferred for value to a purchaser that will not also be a first seller of that gas.

[11] 48 FR at 44498–9.

[12] *Id.* at 44500.

[13] For a discussion of these proceedings, *see* Order No. 94–A, *supra*, note 6, at 5153–155.

[14] *Id.*

[15] 18 CFR 256a(d)(3).

[16] 18 CFR 256a(d)(6).

[17] 18 CFR 256a(d)(7).

[18] 48 FR at 44498.

To guard against overcompensation for offshore delivery, the Commission imposed the commingling requirement as a limitation on collecting those allowances and addressed the opposite concerns raised by commenters that the commingling requirement, if applied offshore, would prohibit collection of the allowance. The Commission clarified the purpose of the requirement as follows:

> The Commission emphasizes its concern that eligibility to recover the allowance should relate to performance of a service and not necessarily to the length of the seller's delivery line * * *. It is less arbitrary to determine whether sellers have performed the delivery function and thereby deserve the allowance, based on whether such "commingling" has occurred, than to attempt to devise a standard length of delivery line that a seller must build from the wellhead in order to be eligible for the first 7 cents of the allowance. By means of the commingling criterion, the rule is designed to assist sellers who perform gathering services that optimize delivery, so-called "packaging," or who otherwise incur the cost of delivery. This approach should result in savings to consumers by limiting the availability of the allowances and may discourage economic waste.[19]

Most importantly, the Commission also recognized that a seller offshore performs the same function as a seller onshore who delivers gas to a central point in the field. The Commission continues to believe that the allowances for delivery should apply offshore just as onshore. Its review, prior to issuing the rule, of the comments which discussed the costliness of offshore delivery relative to onshore delivery and leads it to the conclusion that such allowances are justified.

b. *Casinghead gas.* In Order No. 334, the Commission explained that the commingling requirement operates to prohibit a first seller of casinghead gas from collecting the recent delivery allowance for offshore delivery through a recent delivery system. Casinghead is gas produced in conjunction with oil. One applicant argues that the Commission should permit an exception to the commingling requirement for offshore casinghead gas deliveries because the delivery lines are used to deliver both gas and oil.

The Commission believes that the principles of cost recovery does not warrant collection of an allowance under NGPA section 110 in this case. As it stated in the final rule:

> The reason for not creating an exception to the commingling requirement in this case is that a delivery line which extends from an oil wellhead is used primarily to deliver oil, not gas. While the Commission agrees that delivery at a platform offshore is equivalent to delivery of gas onshore to a central point in the field, the Commission will only permit a first seller who delivers gas offshore to collect the allowance if the gas from the field separator is commingled with other gas, either from other wells or from other leases or field separators.[20]

The Commission emphasizes that the delivery allowances established under NGPA section 110 were designed to reimburse the seller for costs incurred to deliver gas, not oil. Whether the Commission would permit a seller to collect the delivery allowance for the delivery of casinghead gas depends on whether the lines are used primarily to deliver gas, not oil. The Commission permits a seller of casinghead gas to collect the allowance onshore because usually the gas is delivered through a line leading from the lease separator. That line is for gas fathering and delivery prior to the point of final first sale. In such cases, commingling with other gas may or may not occur and may be collected only if that requirement is met, just as for all kinds of gas. In the case of delivery of casinghead gas offshore, however, the point of final first sale usually occurs immediately after the gas and oil are separated, and there are no lines used primarily to deliver gas. Coincidentally, because no commingling occurs under such circumstances, the rule would almost invariably bar collection of an allowance for offshore casinghead gas delivered through a new system.

The Commission notes, however, that with regard to offshore delivery of casinghead gas through an old delivery system, the Commission will permit the seller to collect the old delivery allowance. As a matter of policy, the Commission believes that a sale of gas subject to the jurisdiction of the Natural Gas Act delivered through an old delivery system is entitled to collect the allowances previously authorized by the Federal Power Commission under that Act. Sellers of casinghead gas were entitled to collect delivery allowances for offshore delivery of casinghead gas under the area and nationwide rates, if contractually authorized to collect the allowance, and, therefore, they ought to be able to collect the contractually-authorized amounts or the allowance established in Order No. 334 for delivery of gas through old delivery systems (5 cents per MMBtu), whichever is less.

4. *Allowance for combination of old or recent systems.* In Order No. 334, the Commission clarified the interim rule and provided that a seller that delivers gas through a delivery system that is both an old system and a recent system may collect the sum of the allowance applicable under the rule to both old and recent systems.

Applicants argue that, in certain instances, the delivery allowance for a recent system that has been connected to an old system may result in an amount greater than that which would be permitted for a recent system of the same length. Specifically, if the old delivery facility is two miles or less in length, and the new line connected is one mile or less in length, the resultant allowance is greater than the allowance for a new system three miles in length. They argue that a seller which is permitted the combination allowance in those instances is overcompensated. Therefore, they request that in those instances, the Commission limit the seller to the allowance for a recent system.

In order No. 334, the Commission responded to a similar comment that posed a hypothetical situation wherein a seller who combines an old system two miles or less in length with a new system would be eligible to receive an allowance greater than that afforded an entirely recent system. Just as the Commission recognized then, it agrees that this might in fact occur. However, the situations presented in that hypothetical and by the applicant for rehearing are aberrations. In Order No. 334, the Commission noted that:

> [R]arely will a seller attach new lines to an old system that will provide delivery of only 1 mile. In light of the uniform 5 cents per MMBtu allowance for all delivery by means of pre-NGPA facilities, the disproportionate allowance for the combined system cited by the commenter would only exist where the old portions of the delivery system is two miles or less in length.[21]

It went on to state that normally a seller uses a length of pre-NGPA line greater than two miles.

As previously discussed, the 5-cent allowance was established without regard to the length of the delivery system involved. If the Commission were to limit the allowance because of the length of the old delivery system, the seller would be required to measure every system that combines an old and a recent system. The Commission does not believe that imposing such a burden is warranted because it does not share the applicants' concerns that the slight anomaly that results from the application of the rule in such cases will result in overcompensation or in the abnormal manipulation of a

[19] *Id.* at 44500.

[20] *Id.*

[21] *Id.* at 44501.

configuration of pipelines designed to take advantage of the provisions.

5. *Replacement of Delivery Systems.* In Order No. 334, the Commission recognized that situations would arise where a seller would need to replace a portion of an old system on or after November 9, 1978. It, therefore, states that a seller who incurs unrepresentative replacement costs for which the 5 cents allowance would work a special hardship, inequity, or unfair distribution of burdens may apply for an adjustment under NGPA section 502(c).

One of the applicants argues that adjustments under NGPA section 502(c) are inappropriate means for dealing with replacement of parts of old delivery systems, particularly if the out-of-pocket test is applied in such a proceeding. Instead, the applicant argues that the recent allowance should apply to any *necessary* replacement of a portion of line of pre-NGPA delivery system. The applicant states that replacement of only a small length of pipe falls into the category of repair, and believes that the Commission should establish criteria for what length of line would constitute replacement.

The Commission addressed this argument in Order No. 334. The Commission did not permit recovery of the recent delivery allowance for replacement of old delivery lines on a generic basis because it did not want to provide sellers with an economic incentive to replace delivery lines unnecessarily. Furthermore, the Commission believed that, in many cases, the replacement will be minor and that the allowance for old delivery systems will be adequate. However, the Commission permitted a seller to apply for the recent delivery allowance for replacement of a portion of an old delivery system. As shown by the applicant, and as recognized by the Commission, such replacement presents unique questions of fact that cannot be determined on a generic basis. Therefore, the Commission decided to permit recovery of the recent delivery allowance only by means of a sufficient showing of a special hardship, inequity, or unfair distribution of burdens in an NGPA section 502(c) adjustment proceeding. The Commission believes that this approach best avoids the possibility of abuse. The questions presented in such an NGPA section 502(c) adjustment proceeding will be whether the replacement of an old delivery system is necessary and whether the allowance for an old delivery system is inadequate. The Commission makes clear its discussion in the final rule reiterating that an applicant that meets both of those tests will be permitted to collect the delivery allowance for a recent delivery system. It will not be restricted to the out-of-pocket test.

B. Compression Allowance

The final rule provides that, if construction of the compression facility commenced before November 9, 1978, no allowance is allowed. If construction of the compression facility commenced on or after November 9, 1978, a qualifying seller may collect an allowance of 6.0 cents per MMBtu for each stage of compression set at a ratio of 3.5 to 1 (representing the overall compression ratio of the outlet pressure of the last stage of compression to the inlet pressure of the first stage of compression), with the overall allowance not to exceed three stages.

1. *Pre-NGPA Compression.* Only one applicant addressed the compression allowances. The applicant, a group of producers, renewed their argument that the area and nationwide rates might have included separate allowances for compression.

In Order No. 334, the Commission stated that it found no instance in which compression allowances were separately provided for under the Natural Gas Act prior to the passage of the NGPA. The applicant has not supplied the Commission with any new evidence. The Commission reiterates its conclusion

that, prior to the passage of the NGPA, interstate sellers of old gas did not have any expectation of collecting an allowance for production-related compression costs. However, investors in pre-NGPA facilities can reasonably be assumed to have anticipated and provided for other means of recovering the necessary costs of compression. This contrasts with the separate delivery allowances devised under the NGA for the long-term recovery of capital.[22]

C. Procedure for Collecting Delivery and Compression Allowances

In establishing the allowances under NGPA section 110, the Commission sought to develop a self-executing procedure. It provided that only the final first seller may collect the allowance but that the seller had an obligation to make a fair and proportional distribution to any other first seller. The buyer has the obligation of paying that allowance so long as exists contractual obligation for the first seller to collect the allowance.

A pipeline applicant opposes the obligation imposed on the buyer and argues that the Commission should impose the burden of proof on the seller and require the seller to submit to the buyer certain information as verification to the buyer. It therefore proposes that the Commission require the buyer to file with the buyer well-by-well information, schematic flow diagrams, stages of compression, and other information as the Commission deems necessary to verify the charges.

The Commission believes that in order to maintain the self-executing procedure for the collection of production-related costs, it must continue to require that the seller compute the allowance and that the buyer pay the allowance if the seller is expressly authorized to collect it. The success of the self-executing mechanism depends on minimal involvement by the Commission in arbitrating disputes. The Commission suggests that sellers and buyers work out between themselves what information each of them requires in order for the allowances to be paid.

The Commission notes that it has provided buyers, sellers and third parties with a forum for redress if there are over-collections.[23] A person may file a complaint with the Commission alleging that an allowance is being charged, collected, or not paid in violation of § 271.1104(d) of the Commission's regulations.

In conclusion, the applications for rehearing are hereby denied.

III. Requests for Stay

Several of the applicants request that the Commission suspend or stay the effectiveness of the rule to permit further consideration of issues they raise in their applications to rehear the final rule. The requests for further consideration and stay pending rehearing are denied.

The Commission believes that both in this order and in the final rule it has addressed all the issues raised by the applicants in their motions for clarification. There appears to be no demonstrated hardship or inequity that would incline the Commission to believe that justice requires a stay of the rule.[24] Therefore, no purpose would be served by staying the effect of the rule. The request for suspension or stay are hereby denied.

List of Subjects in 18 CFR Part 271

Natural gas, High-cost gas, Tight formations.

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[22] *Id.* at 44502.

[23] *See* Order No. 333, "Final Rule, Regulations Implementing Refund Procedures Under Subpart K of Part 271 for Production Related Costs," issued September 27, 1983, Docket No. RM83-6, (48 FR 44492, Sept. 29, 1983).

[24] *See* 5 U.S.C. 705 (1976).

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (Supp. V 1981), Department of Energy Organization Act, 42 U.S.C. 7101–7352 (Supp. V 1981); Executive Order 12,009, 3 CFR Part 142 (1978))

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-34819 Filed 12-30-83; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 74, 81, and 82

[Docket Nos. 76N-0366 and 83C-0128]

Provisional Listing of D&C Yellow No. 10; Postponement of Closing Date and Stay of Effectiveness

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing date for the provisional listing of D&C Yellow No. 10 for use as a color additive in drugs and cosmetics. The new closing date will be March 5, 1984. FDA is establishing a new closing date for D&C Yellow No. 10 to give the agency time to complete its evaluation of objections received in response to the final regulation approving the petition for the permanent listing of D&C Yellow No. 10. The effective date of the amendments that permanently list D&C Yellow No. 10 and that remove it from the provisional list is stayed pending final agency action.

DATES: Effective January 3, 1984, the new closing date for D&C Yellow No. 10 will be March 5, 1984. The amendments to 21 CFR 74.1710, 74.2710, 81.1, 81.25 (a)(1), (b)(1)(i), and (c)(1), 81.27, and 82.1710 that were published on August 30, 1983 (48 FR 39217) are stayed pending final agency action.

FOR FURTHER INFORMATION CONTACT: James H. Maryanski, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 30, 1983 (48 FR 39217), FDA published a final rule that would "permanently" list D&C Yellow No. 10 for use in drugs and cosmetics, except for use in the area of the eye. The final rule also amended § 81.1(b) (21 CFR 81.1(b)) by removing D&C Yellow No. 10 from the provisional list of color additives; § 81.25 (21 CFR 81.25) by removing the entries for D&C Yellow No. 10 in paragraphs (a)(1), (b)(1)(i), and (c)(1); and § 81.27(d) (21 CFR 81.27(d)) by removing D&C Yellow No. 10 from the conditions of provisional listing. Additionally, the final rule amended § 82.1710 (21 CFR 82.1710) for D&C Yellow No. 10 to reference § 74.1710 (a)(1) and (b) (21 CFR 74.1710 (a)(1) and (b)).

The agency stated that the final rule would become effective on September 30, 1983, unless stayed by the filing of proper objections. At the same time, to provide for the continued use of D&C Yellow No. 10 during the period established for receipt and evaluation of objections, FDA established the closing date of November 1, 1983, for the provisional listing of D&C Yellow No. 10 for use in drugs and cosmetics (48 FR 39220).

FDA received three letters objecting to the listing regulation. Because of the objections, under section 701(e)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371(e)(2)), the final rule (48 FR 39217) that permanently lists D&C Yellow No. 10 and that removes this color additive from the provisional list is stayed until the agency can rule on the objections. In the **Federal Register** of November 1, 1983 (48 FR 50311), FDA postponed the closing date for the provisional listing of D&C Yellow No. 10 until January 3, 1984, to provide additional time for the agency to complete its evaluation of the objections that it received.

FDA's review and evaluation of these objections have required more time than anticipated. Therefore, FDA concludes that an additional brief postponement is necessary at this time.

Because of the short time until the January 3, 1984 closing date, FDA concludes that notice and public procedure on this rule is impracticable. Thus, good cause exists for issuing the postponement as a final rule. Moreover, this action is consistent with the protection of the public health because the agency has previously concluded that D&C Yellow No. 10 is safe for its intended uses. This final rule will permit the uninterrupted use of this color additive until March 5, 1984. To prevent any interruption in the provisional listing of D&C Yellow No. 10 and in accordance with 5 U.S.C. 553(d) (1) and (3), this final rule is being made effective on January 3, 1984.

List of Subjects

21 CFR Part 74

Color additives, Cosmetics, Drugs, Medical devices.

21 CFR Part 81

Color additives, Color additives provisional list, Cosmetics, Drugs.

21 CFR Part 82

Color additives, Color additives lakes, Color additives provisional list, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701, 706 (b), (c), and (d), 52 Stat. 1055–1056 as amended, 74 Stat. 399–403 (21 U.S.C 371, 376 (b), (c), and (d))) and under the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86-618, sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 74, 81, and 82 are amended as follows:

PART 74—LISTING OF COLOR ADDITIVES SUBJECT TO CERTIFICATION

1. Part 74 is amended:

§ 74.1710 [Stayed]

a. By staying § 74.1710 *D&C Yellow No. 10.*

§ 74.2710 [Stayed]

b. By staying § 74.2710 *D&C Yellow No. 10.*

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

§ 81.1 [Amended]

2. Part 81 is amended:

a. In § 81.1 *Provisional lists of color additives,* by revising the closing date for "D&C Yellow No. 10" in paragraph (b) to read "March 5, 1984."

§ 81.25 [Partial stay]

b. In § 81.25 *Temporary tolerances* the entries for D&C Yellow No. 10 in paragraphs (a)(1), (b)(1)(i), and (c)(1) are stayed.

§ 81.27 [Amended]

c. In § 81.27 *Conditions of provisional listing,* by revising the closing date for "D&C Yellow No. 10" in paragraph (d) to read "March 5, 1984."

PART 82—LISTING OF CERTIFIED PROVISIONALLY LISTED COLORS AND SPECIFICATIONS

§ 82.1710 [Stayed]

3. Part 82 is amended by staying § 82.1710 *D&C Yellow No. 10.*

Effective date. This final rule shall be effective January 3, 1984.

(Secs. 701, 706 (b), (c), and (d), 52 Stat. 1055–1056 as amended, 74 Stat. 399–403 (21 U.S.C. 371, 376 (b), (c), and (d)); sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note))

Dated: December 14, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-34763 Filed 12-30-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 510 and 558

Animal Drugs, Feeds, and Related Products; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration is amending the regulations to remove those portions reflecting approval of a new animal drug application (NADA) providing for use of a 2-gram-per-pound tylosin (as tylosin phosphate) premix in making complete swine feeds used for increased rate of weight gain and improved feed efficiency. The sponsor, Central Soya Co., Inc., requested the withdrawal of approval. In addition, the former sponsor, the O.A. Cooper Co., is being removed from the list of sponsors of approved NADA's.

EFFECTIVE DATE: January 13, 1984.

FOR FURTHER INFORMATION CONTACT: Howard Meyers, Bureau of Veterinary Medicine (HFV-218), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: In a notice published elsewhere in this issue of the **Federal Register**, approval of NADA 96-779 for Central Soya Co.'s Cooper 40% Super-T For Pigs Medicated (2-gram-per-pound tylosin phosphate premix) is withdrawn. This document amends the regulations to remove those portions of 21 CFR 510.600 and 558.625 which reflect approval of the NADA.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, New animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.84), Parts 510 and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

§ 510.600 [Amended]

1. Part 510 is amended in § 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* by removing from paragraph (c)(1) the entry for "The A.O. Cooper Co." and removing from paragraph (c)(2) the entry for "043426." (Note: The entry was incorrectly listed as A.O. Cooper instead of O.A. Cooper.)

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.625 [Amended]

2. Part 558 is amended in § 558.625 *Tylosin* by removing paragraph (b)(21) and marking it "[Reserved]."

Effective date. January 13, 1984.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: December 22, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-34760 Filed 12-30-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 35a

[T.D. 7933]

Temporary Employment Tax Regulations Under the Interest and Dividend Tax Compliance Act of 1983; Backup Withholding

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document supplements the temporary regulations relating to backup withholding. Changes to the applicable tax law were made by the Interest and Dividend Tax Compliance Act of 1983 (Pub. L. 98-67, 97 Stat. 369). These regulations affect brokers with respect to reportable gross proceeds and provide them with the guidance necessary to comply with the law.

DATE: The temporary regulations are effective for payments made after December 31, 1983.

FOR FURTHER INFORMATION CONTACT: Diane Kroupa of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, 202-566-3590, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

On October 4, 1983, the **Federal Register** published Temporary Employment Tax Regulations under the Interest and Dividend Tax Compliance Act of 1983 (26 CFR Part 35a) under sections 3406 and 6676 of the Internal Revenue Code of 1954 (26 CFR Part 35a.9999-1; 48 FR 45362). Additional temporary regulations were published in the **Federal Register** on November 25, 1983 (26 CFR Part 35a.9999-2; 48 FR 53104) and on December 20, 1983 (26 CFR Part 35a.9999-3; 48 FR 56330). Those regulations were published to conform the regulations to the statutory changes enacted by the Interest and Dividend Tax Compliance Act of 1983 (97 Stat. 369). These regulations supplement 26 CFR Part 35a.9999-3 (December 20, 1983), by adding Question (Q) and A-28B.

These temporary regulations, presented in question and answer format, are intended to provide guidelines upon which brokers may rely in order to resolve questions specifically set forth herein. However, no inference should be drawn regarding issues not raised herein or reasons certain questions, and not others, are included in these regulations.

Explanation of Provisions

These regulations provide transition rules applicable to backup withholding on gross proceeds reportable by brokers under section 6045. In summary, the regulations provide that, for purposes of backup withholding on gross proceeds, the written certification requirement for post-1983 accounts may be delayed, at the broker's option, until March 31, 1984. Thus, a customer who opens an account after December 31, 1983, and who consummates a sale prior to April 1, 1984, will not be subject to backup withholding, provided that he furnishes a taxpayer identification number to the broker prior to the sale.

In addition, until March 31, 1984, a broker may give customers with pre-1984 accounts, who have not furnished taxpayer identification numbers, 30 days after a sale to provide their numbers, without being subject to backup withholding. Until such a customer provides a number, however, the customer is not permitted to withdraw the cash proceeds from the account. If no number is furnished within 30 days after the sale, the broker must withhold 20 percent of the reportable gross proceeds on the 31st day.

Nonapplicability of Executive Order 12291

The Treasury Department has determined that these temporary regulations are not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 29, 1983.

Regulatory Flexibility Act

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for temporary regulations. Accordingly, the Regulatory Flexibility Act does not apply and no Regulatory Flexibility Analysis is required for this rule.

Drafting Information

The principal author of these regulations is Diane Kroupa of the Legislation and Regulations Division of the Office of the Chief Counsel, Internal Revenue Service. Personnel from other offices of the Internal Revenue Service and the Treasury Department participated, however, in developing the regulations on matters of both substance and style.

List of Subjects in 26 CFR Part 35a

Employment taxes, Income taxes, Backup withholding, Interest and Dividend Tax Compliance Act of 1983.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 35a is amended as follows:

PART 35a—[AMENDED]

Section 35a.9999–3 is amended by adding new Question Q–28B and Answer A–28B immediately after A–28A of that section. These added provisions read as follows:

§ 35a.9999–3 Questions and answers concerning backup withholding.

* * * * *

Q–28B. Will transition rules apply to backup withholding on gross proceeds reportable by brokers under section 6045?

A–28B. Yes. The following transition rules will apply until April 1, 1984. First, for purposes of backup withholding on gross proceeds reportable by brokers, the penalties of perjury certification required by A–12 of § 35a.9999–2 (for post-1983 accounts) may be waived, at the broker's option, until April 1, 1984. A customer who opens an account after December 31, 1983, and who consummates a sale prior to April 1, 1984, will not be subject to backup withholding, provided that the customer furnishes a taxpayer identification number to the broker prior to the sale. The gross proceeds from sales made through post-1983 accounts after March 31, 1984, however, will be subject to backup withholding if the customer does not provide a taxpayer identification number certified under penalties of perjury. See A–28A for special rules applicable when a sale is made pursuant to a telephone instruction.

Second, until April 1, 1984, the gross proceeds from a sale made through a pre-1984 account, by a customer who has not provided a taxpayer identification number, will not be subject to backup withholding, at the broker's option, provided that (1) the customer furnishes his number to the broker within 30 days after the date of the sale, and (2) the customer does not withdraw the proceeds of the sale prior to the time his taxpayer identification number is furnished to the broker (or backup withholding is applied). For purposes of the preceding sentence, an investment of the cash proceeds shall be considered a withdrawal by the customer; however, investment of the proceeds in other property shall be permitted if, at all times during the 30-day period, at least 20 percent of all gross proceeds reportable under section 6045 are held in cash within the customer's account by the broker. If the customer does not furnish his taxpayer identification number within 30 days after the date of sale, the broker must withhold 20 percent of all reportable gross proceeds on the 31st day after the date of the sale.

If, with respect to forward contracts, regulated futures contracts, security short sales, or issuer payment of debt securities, the broker applies backup withholding on a date other than the sale date (see A–23 through A–25 and A–27), the rules of this A–28B shall apply as if any date on which the broker determines whether backup withholding applies were a sale date.

* * * * *

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in section 3406 (a), (b), (c), (e), (g), (h), and (i) and section 6045 of the Internal Revenue Code of 1954 (97 Stat. 371, 372, 373, 376, 377, 378, 379, 26 U.S.C. 3406 (a), (b), (c), (e), (g), (h), and (i); 96 Stat. 600, 26 U.S.C. 6045) and in section 104 of the Interest and Dividend Tax Compliance Act of 1983 (97 Stat. 369, 371).

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

Approved:

Ronald A. Pearlman,
Acting Assistant Secretary of the Treasury.

December 29, 1983.

[FR Doc. 83–34234 Filed 12–29–83; 4:48 pm]
BILLING CODE 4830–01–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 2610 and 2622

Payment of Premiums and Employer Liability for Single Employer Plan Terminations; Rules Pertaining to Withdrawals From and Terminations of Plans to Which More Than One Employer Contributes Other Than Multiemployer Plans

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This amendment notifies the public that the rate at which interest will be imposed on late premium payments and unpaid employer liability remains at 11% for the 6-month period beginning January 1, 1984. The interest rate, which is established by the Internal Revenue Service in accordance with the provisions of the Tax Equity and Fiscal Responsibility Act of 1982 and the Internal Revenue Code, must be reviewed semiannually. The Internal Revenue Service has determined that the rate in effect for the period from July 1, 1983 through December 31, 1983 should remain in effect for the 6-month period beginning January 1, 1984. This amendment is needed to notify pension plan administrators of the specific interest rate.

EFFECTIVE DATE: January 1, 1984.

FOR FURTHER INFORMATION CONTACT: Renae R. Hubbard, Special Counsel, Legal Department, Code 250, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006, (202) 254–6476. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Title IV of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980, 29 U.S.C. 1001 *et seq.*, (the "Act") provides for a comprehensive, bifurcated pension plan insurance program administered by the Pension Benefit Guaranty Corporation ("PBGC"). The insurance program

covers two types of pension plans, *i.e.*, single-employer plans and multiemployer plans, and has two basic sources from which funds are obtained to pay guaranteed benefits.

For single-employer plans, funds are obtained from premiums paid by on-going plans, together with amounts collected as employer liability. Employer liability, which is imposed under section 4062 of the Act on sponsors of terminating single-employer plans, is the amount by which the value of the terminated plan's guaranteed benefits exceeds plan assets at the date of plan termination, but not more than 30% of the employer's net worth. Thus, guaranteed benefits in terminating plans that are single-employer plans are funded from premiums in the single-employer fund if the assets of the plan plus amounts collectible as employer liability are insufficient to fund benefits guaranteed.

For multiemployer plans, funds to provide for the payment of guaranteed benefits, should a multiemployer plan terminate with assets insufficient to fund those benefits, are obtained solely from premiums paid by on-going multiemployer plans. The employer liability provisions in section 4062 do not apply to multiemployer plans.

Section 2610.3(a)[4] of 29 CFR provides that premiums for both single-employer plans and multiemployer plans are, in general, due on the last day of the seventh month following the close of the prior plan year. Section 2622.7 of 29 CFR provides that the liability imposed by section 4062 on an employer who terminates a single-employer plan is due on the date of plan termination.

Under section 4007 of the Act and 29 CFR Parts 2610 and 2622, the PBGC charges interest on late premium payments and delinquent employer liability payments at the rate established under sections 6601(a) and 6621 of the Internal Revenue Code ("Code"). Section 6601(a) provides for interest at the rate established under section 6621. Section 6621 sets forth the method of computing the interest rate and the time period for which the established rate applies.

Code section 6621, as amended by the Tax Equity and Fiscal Responsibility Act of 1982, 96 Stat. 324, Pub. L. 97 248, ("TEFRA") provides that the interest rate is to be set by the Internal Revenue Service ("IRS") semiannually by October 15 and April 15 of each year and is to be based on the average prime interest rate for the 6-month period ending on March 31 and September 30, respectively. In compliance with TEFRA, the IRS, on October 14, 1983 (IR–83–126), announced that the current interest rate of 11% will remain in effect through June 30, 1984.

Although continuance of the 11% interest rate presently in these regulations normally would not require an amendment, the Appendices to 29 CFR Part 2610 and 29 CFR Part 2622 were written to cover finite time periods on the assumption that regular changes in the interest rate would continue as in previous years. As presently in effect, the Appendices would lead to the conclusion that the 11% rate is effective only through December 31, 1983 and could result in considerable confusion. The tables in the two Appendices, therefore, are being revised to provide that an established interest rate will remain in effect until an amendment setting forth a new rate is published.

Normally, the interest rate imposed on late payment of premiums and employer liability payments will be in effect for no less than a six-month period since TEFRA requires the IRS to review the interest rate semiannually. Therefore, the current rate of 11% will continue in effect for both overdue premiums and employer liability that is not paid when due at least through June 30, 1984. If the IRS determines that the interest rate should be raised or lowered for the 6-month period beginning July 1, 1984, the Appendices will be revised accordingly. If, however, the IRS again determines that no change in interest rate is necessary, the rates in the Appendices, as herein amended, will continue in effect with no amendment necessary.

Because this amendment simply clarifies the interest rate for the current period of time and alleviates the need for semiannual amendments to the regulation, general notice of proposed rulemaking is not required. See 5 U.S.C. 553(b). Moreover, the PBGC has determined that it would be impractical and contrary to the public interest to delay the effective date of the regulation because the interest rate is effective by law on January 1, 1984. Accordingly, the PBGC finds that good cause exists for issuing this regulation in final form without notice and opportunity for public comment and for making it effective before the 30-day period set forth in 5 U.S.C. 553.

The PBGC has also determined that this rule is not a "major rule" within the meaning of Executive Order 12291, February 17, 1981 (46 FR 13193), because it will not have an annual effect on the economy of $100 million or more; nor will it create a major increase in costs or prices for consumers, individual industries, or geographic regions; nor will it have significant adverse effects on competition, employment, investment, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Because no general notice of proposed rulemaking is required for this regulation, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

List of Subjects

29 CFR Part 2610

Employee benefit plans, Penalties, Pension insurance, Pensions, and Reporting and recordkeeping requirements.

29 CFR Part 2622

Business and industry, Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements, and Small businesses.

In consideration of the foregoing, Parts 2610 and 2622 of Chapter XXVI of Title 29, Code of Federal Regulations, are hereby amended as follows:

PART 2610—[AMENDED]

1. The authority citation for Part 2610 reads as follows:

Authority: Secs. 4002(b)(3), 4006, and 4007, Pub. L. 93–406, 88 Stat. 829, 1004, 1010, and 1013, as amended by Secs. 403(1), 105, 402(a)(3), and 403(b), Pub. L. 96–364, 94 Stat. 1208, 1302, 1264, 1298, and 1300 (29 U.S.C. 1302(b)(3), 1306, and 1307).

2. Appendix A to Part 2610 is revised to read as follows:

Appendix A—Late Payment Interest Rates

The following table lists the late payment interest rates under § 2610.7(a) for the specified time periods:

From—	Through—	Interest rate (percent)
Sept. 2, 1974	June 30, 1975	6
July 1, 1975	Jan. 31, 1976	8
Feb. 1, 1976	Jan. 31, 1978	7
Feb. 1, 1978	Jan. 31, 1980	6
Feb. 1, 1980	Jan. 31, 1982	12
Feb. 1, 1982	Dec. 31, 1982	20
Jan. 1, 1983	June 30, 1983	16
July 1, 1983		11

PART 2622—[AMENDED]

3. The Authority citation for Part 2622 reads as follows:

Authority: Secs. 4402(b)(3), 4062, 4063, 4064, 4067, and 4068, Pub. L. 93–406, 88 Stat. 829, 1004, 1029, 1030, 1031, 1032, and amended by Secs. 403(1), 403(g), 403(h), and 403(i), Pub. L. 96–364, 94 Stat. 1208, 1302, 1301 (29 U.S.C. 1302(b)(3), 1362, 1363, 1364, 1367, and 1368).

4. Appendix A to Part 2622 is revised to read as follows:

Appendix A—Late Payment and Overpayment Interest Rates

The following table lists the late payment and overpayment interest rates under § 2622.7 for the specified time periods:

From—	Through—	Interest rate (percent)
Apr. 1, 1981	Jan. 31, 1982	12
Feb. 1, 1982	Dec. 31, 1982	20
Jan. 1, 1983	June 30, 1983	16
July 1, 1983		11

Effective date: This regulation is effective on January 1, 1984.

Charles C. Tharp,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 83-34752 Filed 12-30-83; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Approval of Kentucky Permanent Regulatory Program Amendments

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: The Director, OSM, is announcing the approval of certain amendments to the Kentucky permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). These amendments pertain to changes in Kentucky's regulations for surface coal mining and reclamation operations on steep slopes that have been previously mined.

By letter dated September 20, 1983, Kentucky submitted to OSM pursuant to 30 CFR 732.17, certain revisions to its regulations for steep slope mining practices.

After providing opportunity for public comment and conducting a thorough review of the program amendment, the Director has determined that the modifications to the Kentucky program meet the requirements of SMCRA and the Federal permanent program regulations. The Federal rules at 30 CFR Part 917 which codify decisions concerning the Kentucky permanent regulatory program are being amended to implement these actions.

EFFECTIVE DATE: January 3, 1984.

FOR FURTHER INFORMATION CONTACT: W. H. Tipton, Director, Lexington Field Office, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504, telephone (606) 233-7327.

SUPPLEMENTARY INFORMATION:

I. Background on the Kentucky State Program

On December 30, 1981, Kentucky resubmitted its proposed regulatory program to OSM. On April 13, 1982, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary of the Interior approved the program subject to the correction of 12 minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the May 18, 1982 **Federal Register** (47 FR 21404–21435).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Kentucky program can be found in the May 18, 1982 **Federal Register** notice.

II. Submission of Program Amendment

By a letter dated September 20, 1983, Kentucky submitted to OSM pursuant to 30 CFR 732.17, certain revisions to its regulations for steep slope mining practices.

In the amendment, Kentucky proposed to renumber the paragraphs contained in Section 3 of KAR 405 20:060E. Additionally, Kentucky proposed to add new language pertaining to variances in certain cases from the approximate original contour and highwall elimination requirements. These modifications provide criteria for eliminating a highwall in cases where steep slope contour mining operation affects a previously mined area. Kentucky indicated that these modifications are being made to conform with the revised Federal regulations published in the **Federal Register** dated November 12, 1982 (47 FR 51316).

OSM announced procedures for the public comment period and for a public hearing in the **Federal Register** dated October 18, 1983 (48 FR 48255–48257). The public comment period closed November 17, 1983. Public comments are discussed under the heading "public comment." A public hearing was not requested; therefore, no public hearing was held.

III. Director's Findings

The Director finds, in accordance with SMCRA and 30 CFR 732.15 and 732.17, that the program amendments submitted by Kentucky on September 20, 1983, pertaining to steep slope remining practices meet the requirements of SMCRA and 30 CFR Chapter VII as discussed below.

Finding 1

The Director finds that 405 KAR 20:060E, § 3, paragraph 2 (a), (b), (d), (e), (f) and (g) provide standards for highwall elimination in areas where steep slope contour mining operations affect previously mined areas. These standards are essentially the same as the Federal standards contained in 30 CFR Part 816 pertaining to backfilling and grading for previously mined areas and therefore, the Director finds Kentucky's regulation to be no less effective than the Federal standard.

Finding 2

The Director finds that 405 KAR 20:060E, § 3, paragraph (c), which provides that all spoil be retained on the solid portion of existing or new benches, is no less effective than 30 CFR 816.106, which provides that spoil shall be included in the permit area.

Public Comments

1. Pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h)(10)(i), of those Federal agencies invited to comment, the United States Department of Agriculture, the U.S. Fish and Wildlife Service and the Environmental Protection Agency comment that no problems were found during their review of the amendment. The U.S. Forest Service comments on the hydrologic control criteria in 405 KAR 20.060, Section 3, paragraph (b). The content of this paragraph was not modified from that previously approved, and is therefore not subject to this rulemaking. The paragraph was however, renumbered from (3) to (b).

2. The Appalachian Research and Defense Fund of Kentucky, Inc. (ARDFK) prepared comments that are also endorsed by the Sierra Club. ARDFK comments that SMCRA contains no provision for a variance from the approximate original contour requirements in the elimination of a highwall for a remined area. ARDFK further contends that since SMCRA does not provide for this type of a variance, that the Secretary cannot expand the Federal regulations as published on November 12, 1982, or approve a similar provision in a State program.

OSM modified its regulations pertaining to steep slope remining by promulgating an interim final rule published in the **Federal Register** on November 12, 1982 (47 FR 51516–51321). The rule was revised in order to resolve

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the conflict that had arisen in applying the existing rule to situations where insufficient spoil was available to completely backfill the highwalls of mining operations that affect previously mined lands. The revised rule still requires that highwalls be eliminated to the extent technically practical, using all reasonably available spoil and provides certain requirements that must be met to ensure safety, stability and erosion control necessary to achieve the approved postmining land use and maximize the recovery of coal. For a discussion of the Federal rule, see the preamble at 47 FR 51316–51321.

The State has revised its regulations in a manner consistent with the current Federal rule and, therefore, provides a standard for highwall elimination in steep slope mining areas that have been previously mined that is no less effective than the Federal standard.

Additional Findings

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Imact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 917

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, Part 917 of Title 30 is amended as set forth herein.

Dated: December 16, 1983.

J. Roy Spradley,

Acting Director, Office of Surface Mining.

Authority: (Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*)).

PART 917—KENTUCKY

1. 30 CFR 917.15 is amended by reviewing paragraph (f).

§ 917.15 Approval of amendments to State regulatory program.

* * * * *

(f) The following amendment is approved effective on January 3, 1984. Revised 405 KAR 20:060E adopted by emergency regulation signed on September 19, 1983.

[FR Doc. 83–34787 Filed 12–30–83; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Part 926

Approval of Amendments to the Montana Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: This document amends 30 CFR Part 926 to approve amendments to the Montana permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act).

The amendments submitted by Montana for the Director's approval on September 13, 1983, include modifications to statutory provisions concerning the following: (1) Submission of annual reports by permittees, (2) issuance of permits to operators with a history of violations, (3) assessment of civil penalties for all violations.

EFFECTIVE DATE: January 3, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. William Thomas, Field Office Director, P.O. Box 1420, Mills, Wyoming 82644; Telephone: (307) 328–5830.

ADDRESSES: Copies of the amendments to the Montana program are available for review at the OSM Headquarters Office, the Wyoming Field Office and the Office of the State Regulatory Authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Administrative Record Room, 1100 "L" Street, N.W., Washington, D.C. 20240

Office of Surface Mining Reclamation and Enforcement, Freden Building, 935 Pendell Boulevard, P.O. Box 1420, Mills, Wyoming 82644

Montana Department of State Lands, Reclamation Division, Capitol Station, Helena, Montana 59620

SUPPLEMENTARY INFORMATION: The Montana program was conditionally approved by the Secretary on April 1, 1980. Information pertinent to the general background, revisions, modifications and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and explanation of the conditions of approval of the Montana program can be found in the April 1, 1980 **Federal Register** (45 FR 21560) and February 11, 1982 **Federal Register** (47 FR 6266).

Pursuant to OSM's regulations at 30 CFR 732.17(b)(3), Montana notified OSM by letter dated September 13, 1983, that the Montana Legislature had adopted three changes in the Montana Strip and Underground Mine Reclamation Act.

On November 8, 1983, OSM announced a 30-day public comment period on the statutory changes adopted by the State (48 FR 51334). A public hearing on the amendments scheduled for November 14, 1983, was cancelled as no one expressed an interest in presenting testimony.

Director's Findings

Following is a description of the changes adopted by the State and the Director's findings on each of these:

(1) Chapter 68, Law of 1983, amends section 82–4–237 of the Montana Strip and Underground Mine Reclamation Act (MCA) to allow an operator who has more than one permit to file with the regulatory authority one annual report for all permits rather than an annual report for each permit.

The Federal law and regulations do not include a provision stipulating that operators file annual reports with the regulatory authority as required under the approved Montana program.

Thus, the statutory change adopted by Montana which allows operators to file one annual report for all permits does not conflict with the Federal law and regulations. Therefore, the Director approves this program modification.

(2) Chapter 162, Laws of 1983, amends section 82–4–251(4) by eliminating the following language: "The Department may not issue any additional permits to an operator who has repeatedly been in non-compliance or violation of this part."

The Director finds that the language eliminated by the State was superfluous as sections 82–4–227 (11) and (12) of the State statute prohibit issuance of a

permit to an applicant with outstanding violations not in the process of being corrected or to an applicant who controls or has controlled operations with a demonstrated pattern of willful violations of SMCRA or any State law required by Pub. L. 95–87 consistent with section 510(c) of the Federal Act. Therefore, the Director approves this program modification.

(3) Chapter 499, Laws of 1983, amends section 82–4–254 of Montana's statute to allow the Department of State Lands (DSL) to waive civil penalties on minor violations if the Department determines that the violation is not of potential harm to public health, safety or the environment or does not impair administration of the Act. The Department cannot implement this provision until it establishes rules to prescribe specific criteria to be used in determining whether or not a violation poses potential harm to the public health, public safety or the environment or threatens to impair administration of the Strip and Underground Mine Reclamation Act. The rules must also establish a procedure for the issuance of waivers which must include a requirement that the Department of State Lands give notice of the violation and waiver to the permittee and place such notice in the permittee's file kept by the Department.

The Director finds that the amendment to section 82–4–254 provides DSL the authority to adopt regulations to allow the Department to waive civil penalties for minor violations.

The modified statutory provision has no practical effect until DSL promulgates implementing regulations. DSL would be required to submit such implementing regulations to OSM for review and approval. Upon receipt of proposed regulations to implement the statutory provision, OSM would review them for consistency with section 518(a) of SMCRA and the penalty waiver requirements under 30 CFR 845. The Director finds that the State's modified statutory provision, as far as it goes, does not conflict with section 518(a) of the Federal Act, and, therefore, approves the amendment.

Public Comment

OSM did not receive any comments on the proposed statutory amendments.

Approval of Amendments

Accordingly, the Montana permanent program is hereby amended to reflect the Director's approval of the statutory amendments submitted to OMS by the State on September 13, 1983.

Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OBM) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 926

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: December 19, 1983.

J. Roy Spradley,

Acting Director, Office of Surface Mining.

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*)

PART 926—MONTANA

1. 30 CFR Part 926 is amended by adding a new § 926.15 as set forth below:

§ 926.15 Approval of amendments to State regulatory program.

Statutory changes adopted during the 1983 Montana legislative session as listed below are approved effective January 3, 1984.

(a) Section 82–4–237, MCA, amended.

(b) Section 82–4–251(4), MCA, language deleted.

(c) Section 82–4–254, MCA, amended.

[FR Doc. 83–34788 Filed 12–30–83; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–10 FRL 2501–4]

Revision to Alaska State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: By this Notice EPA approves the Alaska State Implementation Plan (SIP) revision for lead. This revision was adopted to satisfy section 110 of the Clean Air Act, as amended in 1977 (hereinafter referred to as the Act).

EFFECTIVE DATE: March 5, 1984, unless notice is received or postmarked on or before February 2, 1984, that someone wishes to submit adverse or critical comments. If such notice is received, EPA will open a formal 30-day comment period on this action.

ADDRESSES: Copies of the materials submitted to EPA may be examined during normal business hours at:

Public Information Reference Unit, EPA Library, 401 M Street, SW., Washington, DC 20460;

Air Programs Branch, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101; and

State of Alaska, Department of Environmental Conservation, 3220 Hospital Drive, Juneau, Alaska 99811.

Copy of the State's Submittal may be examined at: The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, DC.

Comments Should be Addressed to: Laurie M. Kral, Air Programs Branch, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Richard F. White, Air Programs Branch, Environmental Protection Agency, 1200 Sixth Avenue, M/S 532, Seattle, Washington 98101; Telephone: (206) 442–4016, FTS: 399–4016.

SUPPLEMENTARY INFORMATION: On July 19, and August 22, 1983, the State of Alaska, Department of Environmental Conservation (ADEC) submitted drafts of lead SIPs for EPA's review prior to public hearing and adoption. EPA's review comments are contained in a technical evaluation document, which is available at the addresses shown above.

The SIP was adopted with all requested corrections on September 30, 1983 and submitted to EPA on November 15, 1983.

Technical Evaluation

Lead SIP

The requirements for an approvable lead SIP are contained in 40 CFR Part 51 Subpart E. As described in the technical evaluation document, the Alaska SIP satisfies all requirements for standard attainment demonstration, emission data and projections and air quality data and analysis. In addition, the SIP provides for statewide review of all new (greater than 5 tons per year) and modified (greater than 0.6 tons per year) lead sources under its Rules for Permitting New Sources (18 ACC 50.300) previously approved by EPA (48 FR 30623). These rules will ensure that no new violations of the standard will occur and that maintenance of the standard will continue.

Alaska has no significant point sources of lead (i.e., those sources that emit from discrete points rather than from wide areas). Automobiles are the major contributors to lead emission in the State. Federal regulations that limit the lead content of gasoline have resulted, and will continue to result, in a gradual decrease in lead emissions. Depending on the lead air concentration in the base (historic) year, it is possible for such areas to attain the lead standard solely due to Federal regulations. Based on those Federal regulations and information about past and projected gasoline sales assuming that lead concentrations decrease proportionally with automotive lead emission, EPA has calculated critical lead concentrations for several base and attainment years. These were published in a July 1983 draft report entitled Updated Information on Approval and Promulgation of Lead Implementation Plans prepared for EPA Office of Air Quality Planning and Standards, Control Programs Development Division, Research Triangle Park, N.C. If the highest lead concentration for a given base year/attainment year combination is less than the critical value for that combination, EPA assumes that the standard will be attained by the attainment year. In 1980 Anchorage had a worst-case quarterly concentration of 2.07 $\mu g/m^3$. Anchorage's worst-case concentration is less than the critical concentration of 2.40 $\mu g/m^3$, calculated by EPA for an attainment year of 1983; therefore, EPA concludes that the standard is being and will continue to be attained in Anchorage and the remainder to the State. The national ambient air quality standard is 1.5$\mu g/m^3$

Air Quality Monitoring

The SIP also contains a description of the current statewide lead monitoring network. ADEC is conducting special purpose monitoring to determine if modifications of the lead network are necessary to meet the requirements of 40 CFR Part 58 (Ambient Air Quality Surveillance). Because the special purpose monitoring will not be completed until March 1985, EPA will approve the lead monitoring network with the understanding that it will be modified by July 1985, if appropriate, based on the results of the special purpose monitoring study.

Final EPA Action

Based on evaluation of ADEC's submittal, the Administrator has determined that the Alaska lead SIP revision meets the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly, this revision is approved as a revision to the Alaska SIP.

In addition, the Statewide lead monitoring network is approved as meeting the requirements of 40 CFR Part 58, with the understanding that modifications, based on special purpose monitoring, will be made, if necessary, by July 1985.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator has certified that SIP approvals under sections 110 and 172 of the Clean Air Act will not have a significant impact on a substantial number of small entities (46 FR 8709, January 27, 1981). This action constitutes a SIP approval under section 110 within the terms of the January 27, 1981 certification.

Under Executive Order 12291, EPA must judge whether or not a regulation is "major" and therefore subject to the requirements of regulatory impact analysis. This regulation is not judged to be major, since it merely approves actions taken by the State and does not establish any new requirements.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

This notice of final rulemaking is issued under the authority of section 110 of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601).

List of Subjects in 40 CFR Part 52

Intergovernmental relations, Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: December 16, 1983.

William D. Ruckelshaus,

Administrator.

Note.—Incorporation by reference of the Implementation Plan for the State of Alaska was approved by the Director of the Office of Federal Register in July 1, 1982.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40 Code of Federal Regulations is revised to read as follows:

Subpart C—Alaska

Section 52.70, paragraph (c) is amended by adding (10) to read as follows:

§ 52.70 Identification of plan.

* * * * *

(c) * * *

(10) On November 15, 1983 the State of Alaska Department of Environmental Conservation submitted a revision to add a lead strategy to the Alaska Implementation Plan.

[FR Doc. 83-34800 Filed 12-30-83; 8:45 am]

BILLING CODE 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[FRL 2480-2]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Amendment to the Regulations Governing the Selective Enforcement Auditing of New Gasoline-Fueled and Diesel Light-Duty Vehicles and Light-Duty Trucks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In January and September, 1980, EPA established, via Subpart K of 40 CFR Part 86, an updated Selective Enforcement Auditing (SEA) program for 1984 and later model year heavy-duty engines (HDEs) and light-duty trucks (LDTs). At that time, EPA inadvertently failed to amend Subpart G of 40 CFR Part 86, which also outlined SEA procedures for LDTs, so that it would no longer apply to LDTs. Because Subparts G and K contain slightly different rules governing the procedures for an SEA, confusion could occur as to which rules would apply to the conduct of audits for LDTs. This rule makes it clear that LDTs are eligible solely for the provisions of Subpart K as of the 1984 model year.

EFFECTIVE DATE: These regulations are effective as of February 2, 1984.

ADDRESSES: Material relevant to this Final Rule is contained in Public Docket EN–83–07, Central Docket Section. The docket is located in West Tower Lobby, Gallery 1, 401 M Street, SW., Washington, D.C. 20460. The docket may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays. A reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Montgomery, Manufacturers Operations Division (EN–340), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, Phone: (202) 382–4104.

SUPPLEMENTARY INFORMATION: In January and September, 1980, EPA established, via Subpart K of 40 CFR Part 86, an updated SEA program for 1984 and later model year heavy-duty engines (HDEs) and LDTs. At that time, EPA inadvertently failed to amend Subpart G of 40 CFR Part 86, which also outlined SEA procedures for LDTs, so that it would no longer apply to LDTs. Because Subparts G and K contain slightly different rules governing the procedures for an SEA, confusion could occur as to which rules would apply to the conduct of audits for LDTs. This rule makes it clear that LDTs are eligible solely for the provisions of Subpart K as of the 1984 model year.

Legal Authority: Sections 206(b), 208(a), 301(a), Clean Air Act as amended (42 U.S.C. 7525(b), 7542(a), 7601(a)).

Public Participation: The Agency finds that good cause exists for omitting as unnecessary, impracticable, and contrary to the public interest a notice of proposed rulemaking. This finding is based on the fact that this rule merely corrects an omission in existing regulations. This rule is being promulgated via a Final Rulemaking so that manufacturers will be alerted to the correct sets of rules which govern the SEA of LDTs during the 1984 model year.

Administrative Designation: Under Executive Order 12291, EPA must submit a Regulatory Impact Analysis for all "major" rules. This regulation is not "major" because it will not have an annual effect on the economy of more than $100 million and it will have no significant adverse effects on competition, productivity, investment, employment, or innovation. Therefore, a Regulatory Impact Analysis will not be prepared.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection in the docket cited above. The information collection requirements contained in this rule have been approved by OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and have been assigned OMB control number 2000–0225.

Effect on Small Entities: The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires that EPA prepare a regulatory flexibility analysis of any final rule unless the Administrator certifies that the rule will not have a significant impact on a substantial number of small entities. This final rule clarifies an existing regulation and does not impose any new requirement on light-duty vehicle and light-duty truck manufacturers.

Therefore, I hereby certify, pursuant to 5 U.S.C. 605(b), that this rule will not have significant adverse economic impact on a substantial number of small entities. Accordingly, the Agency has not prepared a regulatory flexibility analysis to accompany this rule.

Judicial Review: This regulation is a nationally applicable regulation promulgated under the Clean Air Act. Accordingly, under section 307(b)(1) of the Clean Air Act, any judicial review must be sought in the United States Court of Appeals for the District of Columbia Circuit. Petitions for review must be filed March 5, 1984. Under section 307(b)(2) of the Act, the requirements which are the subject of today's notice may not be challenged later in judicial proceedings brought by EPA to enforce these requirements.

List of Subjects in 40 CFR Part 86

Administrative practice and procedure, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: December 27, 1983.

Alvin L. Alm,

Deputy Administrator.

PART 86—[AMENDED]

For the reasons set forth in this preamble, Part 86, Subpart G, Chapter I of Title 40, Code of Federal Regulations is revised to read as follows:

1. The Title of Subpart G is revised to read as follows:

Subpart G—Selective Enforcement Auditing of New Light-Duty Vehicles

2. Section 86.601 is revised to read as follows:

§ 86.501 Applicability.

For 1984 and later model year light-duty vehicles, all provisions of this subpart are applicable. The provisions of this subpart are not applicable to 1984 and later model year light-duty trucks.

(Secs. 206, 208(a) and 301(a) of the Clean Air Act, as amended, 42 U.S.C. 7525, 7542(a) and 7601(a))

[FR Doc. 83–34797 Filed 12–30–83; 8:45 am]
BILLING CODE 6560–50–M

VOL 49 ISS 1 JA 3 1984 UMI

Proposed Rules

Federal Register
Vol. 49, No. 1
Tuesday, January 3, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2, 154, 201, 270 and 271

[Docket Nos. RM83-72-000 and RM82-16-000]

First Sales of Pipeline Production Under the Natural Gas Policy Act of 1978

December 28, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) proposes to amend its regulations relating to first sales of pipeline production under the Natural Gas Policy Act of 1978 (NGPA). The Commission proposes to designate the intracorporate transfer of natural gas from an interstate pipeline-owned production system to the interstate pipeline's transmission system as the first sale defined in section 2(21) of the NGPA. The Commission proposes to define this transfer as one that occurs as the wellhead and to require interstate pipelines with their own production to adopt an operating agreement reflecting the terms of this transfer.

The Commission also proposes to amend its regulations to permit pipeline production to qualify for incentive prices under section 107(c)(5) of the NGPA. In addition, the Commission proposes to repeal an interim rule for first sales by affiliates and propose a similar rule in this notice.

These proposals are intended to implement the recent Supreme Court decision in *Public Service Commission of the State of New York v. Mid-Lousiana Gas Co.* in a manner that is both reasonable and administratively feasible for the Commission and natural gas pipelines owning their own production.

DATE: Written comments must be received on or before March 5, 1984. Any requests for a public hearing must be received by January 18, 1984.

ADDRESS: Comments and requests for hearing must be sent to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. All comments and requests for hearing must contain reference to Docket Nos. RM83-72-000 and RM82-16-000.

FOR FURTHER INFORMATION CONTACT: Nancy M. Rizzo, Division of Rulemaking and Legislative Analysis, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION: .

I. Introduction

The Federal Energy Regulatory Commission (Commission) proposes to amend its regulations relating to first sales of natural gas produced by a pipeline under section 2(21) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3432 (Supp. V 1981). In so doing, the Commission is implementing the Supreme Court's decision in *Public Service Commission of the State of New York v. Mid-Louisiana Gas Co. (Mid-Louisiana).*[1]

The Commission proposes to designate the intracorporate transfer of natural gas from an interstate pipeline-owned production system to the interstate pipeline's transmission system as the first sale defined in section 2(21) of the NGPA. Since such gas is not physically transferred from one entity to another in this intracorporate first sale, the Commission proposes to define the transfer of gas from the wellhead to the interstate pipeline's transmission system as the point at which the intracorporate transfer occurs. The Commission also proposes to require interstate pipelines with their own production to adopt an operating agreement reflecting this transfer between their production division and their transmission division. This will enable the Commission to administratively review these transactions in the Purchased Gas Adjustment (PGA) proceedings conducted under the Natural Gas Act (NGA).

[1] 103 S. Ct. 3024 (1983).

The Commission also proposes to amend current regulations that implement section 107 of the NGPA. These regulations require the parties to negotiate a contract price before receiving the maximum lawful price permitted by the NGPA. Since an interstate pipeline cannot negotiate an arm's-length contract with itself, the Commission proposes to use the factors present in the affiliated entities test, developed pursuant to section 601(b)(1)(E) of the NGPA, to determine if the interstate pipeline is entitled to the NGPA maximum lawful price under section 107.

The Commission also proposes to repeal an interim rule for first sales by affiliates[2] made unnecessary by this proposed rule implementing the *Mid-Louisiana* decision.

II. Background

A. Pre-NGPA Regulation of the Natural Gas Industry

Before enactment of the NGPA, section 1(b) of the Natural Gas Act (NGA) granted jurisdiction to the Commission to establish rates for sales for resale of natural gas in interstate commerce. Natural gas companies whose sales were subject to Commission rate regulation under the NGA included both (1) independent and pipeline affiliated producers, which sell natural gas to interstate pipeline purchasers, and (2) interstate pipelines, which transport natural gas acquired from independent or affiliated producers as well as natural gas produced by the pipeline itself. Jurisdiction to determine rates for producer and pipeline sales in intrastate commerce was reserved to state and local authorities.

Prior to the NGPA, the Commission in 1969 sought to provide "parity" of pricing treatment among independent and interstate pipeline producers by permitting a pipeline to value its own production (for section 4 rate case purposes) by reference to the area or nationwide rate that would have been applicable to the gas if it had been produced by an independent producer.[3]

[2] First Sales by Affiliates, 47 FR 11812 (March 18, 1982) (Issued Mar. 2, 1982, Docket No. RM82-16-000.)

[3] CFR 2.66 (1983). *See* Pipeline Production Area Rate Proceeding (Phase I), 42 F.P.C. 738 (1969) (Opinion No. 568), *reh'g denied*, 42 F.P.C. 1089 (1969), *aff'd sub nom.* City of Chicago v. FPC, 458

Continued

Area or nationwide rates were applicable to "new production"—that is, pipeline production from wells drilled on or after January 1, 1973, on leases acquired before October 8, 1969, and from all wells drilled on leases acquired after October 7, 1969.[4] "Old production"—from other, older wells drilled prior to January 1, 1973, on leases acquired before October 8, 1969—continued to be valued on a cost-of-service basis.[5]

B. Advent of the NGPA

By 1978, a disparity existed between prices for producer sales in the interstate and the intrastate markets, which tended to discourage dedication of new production to interstate commerce. This disparity compelled Congress in the NGPA to eliminate jurisdictional barriers to a nationwide market. The NGPA replaced the Commission's jurisdiction to set rates for producer sales of natural gas in interstate commerce with a system of maximum lawful prices for all domestically produced natural gas. This pricing scheme in the NGPA ostensibly embodies the incentives that Congress found necessary to induce investment in exploration for and development of new reserves.

Maximum lawful prices under the NGPA are uniformly applied to "first sales" of natural gas in the nationwide market comprised of interstate and intrastate pipelines, local distribution companies (distributors), and direct sale customers. To ensure that natural gas would be delivered to the market at the NGPA prices, section 2(21) of the NGPA makes first sale pricing applicable to sales preceding sales to pipelines, distributors, and direct sale customers.[6]

The NGPA contemplates that pipelines and distributors, in addition to purchasing and transporting gas for sale, also engage in production activities. This is reflected in section 2(21)(B) of the NGPA, which provides that the term first sale:

> shall not include the sale of any volume of natural gas by any interstate pipeline, intrastate pipeline, or local distribution company, or any affiliate thereof, *unless the sale is attributable to volumes of natural gas produced by such interstate pipeline,* intrastate pipeline, or local distribution company, or any affiliate thereof. (Emphasis added).

Section 2(21)(B) became the focal point for the Commission's efforts to price pipeline and distributor production following passage of the NGPA.

C. Commission Order Nos. 58, 98, and 102

In Order No. 58,[7] the Commission promulgated § 270.203(a) of its regulations, which restricted NGPA first sale pricing treatment only to pipeline and distributor sales comprised *exclusively* of production volumes of natural gas from wells owned by the pipeline or distributor. This interpretation reflected the Commission's view that the purpose of section 2(21)(B) is to distinguish between gas sold by a pipeline directly from the wellhead (and therefore clearly "attributable" to the pipeline's own production), and gas sold by a pipeline from its general system supply (consisting of commingled volumes of gas purchased from independent producers and gas produced by the pipeline).

The Commission in Order No. 58 also addressed sales of gas produced by a pipeline affiliate that was not itself a pipeline or distributor. The Commission recognized that an affiliate could circumvent the first sale rules by selling mixed volumes of gas (*i.e.*, volumes composed of gas produced by the affiliate and gas purchased by the affiliate) to a pipeline because such sales by affiliates would be excluded from first sale treatment under section 2(21)(B) of the NGPA. Thus, the Commission promulgated § 270.203(c), which treated all sales by affiliates as first sales.[8]

As a result of Order No. 58, most pipeline production did not qualify for first sale treatment and production by interstate pipelines thus remained subject to the Commission's NGA jurisdiction. The Commission reexamined its parity pricing policy under the NGA and, in Order No. 98,[9] found that the NGPA incentive prices should be used to encourage interstate pipelines to develop additional supplies of natural gas. The Commission permitted gas reserves that were previously subject to area or nationwide rate treatment to be valued by reference to the NGPA price that would have been applicable to the gas if it had been sold in a first sale.[10] Such incentive prices were not, however, available for production from leases previously subject to cost-of-service treatment.[11]

The Commission considered these issues one last time in Order No. 102,[12]

F.2d 731 (D.C. Cir. 1971), *cert. denied*, 405 U.S. 1074 (1972); Just and Reasonable National Rates for Sales of Natural Gas, 52 F.P.C. 1604 (1974) (Opinion No. 699–H).

[4] Although the interstate pipeline production was not acquired in a sale and no certificates were issued for the pipeline's acquisition of its own production, the Commission allowed the value for such gas, determined by reference to area or nationwide rates, to be reflected in the pipeline's PGA filings and passed through to purchasers on the same basis as natural gas purchased from producers. 18 CFR 154.38(d)(4), note 1.

[5] Two special categories of new production were also allowed cost-of-service treatment. An interstate pipeline that could demonstrate special circumstances justifying an exemption from area or nationwide rate treatment was permitted to value new production on a cost-of-service basis. In addition, the Commission approved rate settlements providing some form of cost-of-service treatment for certain pipelines which had demonstrated that cost-of-service treatment was necessary to encourage their expanded production programs.

[6] Section 2(21) defines "first sale" in the following manner:

(21) FIRST SALE.—

(A) General Rule.—The term "first sale" means any sale of any volume of natural gas—

(i) to any interstate pipeline or intrastate pipeline;

(ii) to any local distribution company;

(iii) to any person for use by such person;

(iv) which precedes any sale described in clauses (i), (ii), or (iii); and

(v) which precedes or follows any sale described in clauses (i), (ii), (iii), or (iv) and is defined by the Commission as a first sale in order to prevent circumvention of any maximum lawful price established under this Act.

(B) Certain Sales Not Included.—Clauses (i), (ii), (iii), or (iv) of subparagraph (A) shall not include the sale of any volume of natural gas by any interstate pipeline, intrastate pipeline, or local distribution company, or any affiliate thereof, unless such sale is attributable to volumes of natural gas produced by such interstate pipeline, intrastate pipeline, or local distribution company, or any affiliate thereof.

15 U.S.C. 3301(21) (Supp. V 1981).

[7] Final Rule Governing the Maximum Lawful Price for Pipeline, Distributor or Affiliate Production, 44 FR 66577 (November 20, 1979) (Docket No. RM80–7).

[8] Section 270.203(c) provides:

(c) *Sales by certain affiliates.* Any sale by an affiliate of a pipeline or distributor is a first sale if such affiliate is not itself a pipeline or distributor, unless the Commission, on application, has determined not to treat such sale as a first sale. For purposes of this paragraph, the term "sale" does not include any transaction between an interstate pipeline and an affiliate thereof if such transaction would not have been treated as a sale for purposes of the Natural Gas Act.

This rule included sales by nonproducing affiliates such as gatherers or other middlemen that are not themselves pipelines or distributors. Although sales by unaffiliated middlemen are first sales under section 2(21)(A), sales by middlemen affiliated with pipelines or distributors are excluded from first sale treatment under section 2(21)(B). Because historically these sales largely are unregulated, the Commission, by use of its authority under section 2 (21) (A) (v), denominated these sales as first sales to avoid circumvention of the NGPA maximum lawful prices.

[9] Final Rule Governing Pricing of Pipeline Production Under the Natural Gas Act, 45 FR 53091 (August 11, 1980) (Docket No. RM80–6).

[10] 18 CFR 154.42 (1983).

[11] This was because the Commission found out that such pipelines would have already enjoyed the benefits of a certain recovery of and return on the costs of production, and that their customers, who bore the risks of this investment in the early years of exploration and development, should have an opportunity to receive the price benefits of cost-of-service treatment for gas produced as a result of the expenditures.

[12] Order Denying Rehearing of Order No. 58 and Order No. 98 and Clarifying Order No. 98, 45 FR 67083 (October 9, 1980) (Docket Nos. RM80–6 and RM80–7).

the rehearing of Order Nos. 58 and 98. In Order No. 102, the Commission reaffirmed its belief that NGPA first sale treatment for pipeline production is allowable only when the gas volumes sold by the pipeline were attributable exclusively to the pipeline's own production. The Commission declined to accept the rehearing petitioners' contention that the purpose of section 2 (21) (B) is simply to distinguish between independent and pipeline producers.[13]

Concerning the affiliate sales rule in § 270.203(c), the Commission in Order No. 102 reaffirmed its belief that such sales had to be treated as first sales to avoid circumvention of the NGPA maximum lawful prices. The Commission also determined to retain the parity pricing policy in § 154.42, which established that a pipeline's new production could be valued by reference to NGPA maximum lawful prices. The Commission reiterated its decision that NGPA rate treatment would be extended only to natural gas produced from leases that had never been subject to cost-of-service treatment.

D. Court Review of Order Nos. 58 and 98

(1) *Court of Appeals Decision.* On review, the United States Circuit Court of Appeals for the former Fifth Circuit (Fifth Circuit) invalidated Order Nos. 58 and 98.[14] The court held that the NGPA was intended to provide the same incentives to pipeline production as to independent production. The Fifth Circuit decided that the Commission misread section 2(21) (A) and (B) of the NGPA when viewed in light of the Congressional intent behind the NGPA. The court also found no practical obstacles to treating as a first sale the transfer of gas from a pipeline's production division to its transmission division.

As a result, the Fifth Circuit held that the NGPA requires the Commission to treat all pipeline production as subject to first sale treatment, and that the first sale occurs at the intracorporate transfer point. The court struck down Order Nos. 58 and 98 in their entirety.[15]

(2) *Supreme Court Decision.* The Supreme Court agreed with the Fifth Circuit on the general proposition that the NGPA accords first sale treatment to all pipeline production, thereby holding that the Commission's fundamental premise for Order Nos. 58 and 98 was incorrect.[16] The Court found clear Congressional intent to include all gas produced and sold by a pipeline in the definition of "first sale." However, the Court disagreed with the Circuit Court's opinion that the first sale occurred at the intracorporate transfer point. The Court found that the Commission has discretion under the NGPA to find the first sale at the intracorporate transfer point or at some other point further downstram.[17] For this reason, the Court vacated the lower court decision, with instructions to remand the case for further proceedings consistent with the Court's opinion.[18]

III. First Sale Rule

The Commission in proposed § 270.203(a) defines the sale of gas produced by an interstate pipeline, an intrastate pipeline or a local distribution company as a first sale. The Commission also proposes to retain the affiliate first sale rule in proposed § 270.203(c). In addition, the Commission proposes several regulations which implement this first sale rule for interstate pipelines only. *See* proposed § 270.203(b). The Commission believes these regulations are necessary for the regulation of interstate pipelines under the NGA.

A. Intracorporate Transfer

The Commission proposes to designate the transfer of volumes from the production division to the transmission division of an interstate pipeline company as the first sale of pipeline production.[19] Since this intracorporate transfer is usually only a paper transaction between two corporate divisions, the Commission proposes to define this transaction as one that occurs at the wellhead. This is being done for three reasons. First this approach would continue the current Commission policy of reviewing the cost of interstate pipeline production priced by reference to the NGPA or to area or nationwide rates in Purchased Gas Adjustment (PGA) and section 4 rate proceedings.[20] Under this policy, the transfer of gas produced by an interstate pipeline is presumed to occur at the wellhead. This presumption was adopted because of the administrative ease in determining the appropriate pass-through costs when the gas is deemed "sold" at the wellhead. For example, this eliminates the need to develop an allocation of costs associated with the production of the gas versus costs associated with the transportation of gas that would otherwise be needed to discern the proper scope of a section 4 rate proceeding.

Second, the review of production-related costs incurred by an interstate pipeline is simplified. Under section 110 of the NGPA, a first seller is entitled to increase the maximum lawful price for gas sold in a first sale to recover production-related costs incurred by the first seller.[21] Generally, these production-related costs are associated with activities performed after the gas

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[13] The Commission stated:

The interpretation of section 2 (21) (B) advocated by these commenters would result in the uniform application of first sale maximum lawful prices to all mixed volume retail sales made by pipelines and distributors * * *.

Furthermore, the interpretation espoused by these commenters assumes that the NGPA contemplates a substantial reworking of the Commission's traditional methods for determining an interstate pipeline's cost-of-service.

45 FR 67083, at 67086. Nonetheless, in response to arguments made by four petitioners, the Commission acknowledged discretionary authority under section 501 of the NGPA to impute a first sale at the wellhead and thereby to accord first sale treatment to all pipeline production. The Commission did not find, however, any Congressional mandate to do so. Practical and administrative problems militating against this approach were also cited: the absence of contracts or NGA certificates regarding the intracorporate transfer; the absence of NGA just and reasonable rates applicable to that transfer; and the need for a contract to implement section 315 (governing the duration of contracts, bona fide offers, and right of first refusal) to evidence a sale that otherwise would be recorded solely in the books and records of the pipeline.

[14] Mid-Louisiana Gas Co. v. FERC, 664 F.2d 530 (5th Cir. 1981). *Aff'd sub nom.* Public Service Commission of the State of New York v. Mid-Louisiana Gas Co., 103 S. Ct. 3024 (1983).

[15] Order No. 58 also included the first sale rule for sales by affiliates found at § 270.203(c). The Commission concluded that the court did not intend to strike down this portion of that rule, since the court's decision was directed at pipeline production *not* accorded first sale treatment. The Commission issued an interim rule (*see supra* note 2) reestablishing the affiliate first sale regulations in § 270.203(g). This issue is discussed in more detail in section VI A., *infra*.

[16] The Court did not review Order No. 98 because Order No. 98 was premised on the idea expressed in Order No. 58 that not all pipeline production was subject to the NGPA. Order No. 98, prescribing the pricing treatment for interstate pipeline production excluded from NGPA first sale treatment, was grounded on the Commission's NGA authority. The Court's holding on Order No. 58 was that the Commission lacked authority to set prices for any interstate pipeline production under the NGA.

[17] ——— U.S. ———, 103 S. Ct. 3024, 3037 (1983).

[18] The impact of vacating the Fifth Circuit's opinion is somewhat unclear regarding the affiliated sales rule, which was adopted as part of Order No. 58 and which was vacated in the Fifth Circuit opinion. As noted earlier, the Commission has an interim rule outstanding that reestablished the affiliate first sale rule, and thus now technically has two affiliate first sale rules in place (§ 270.203 (c) and (g)).

[19] For ease in terminology, the reference to "pipeline production" will hereinafter include only gas produced by an interstate pipeline.

[20] An interstate pipeline is entitled to increase the rate it charges its customers above the rate approved by the Commission in a section 4 rate case if the increase is approved in a PGA proceeding. In a PGA proceeding, the Commission reviews only the increased costs incurred by the pipeline as a result of its gas purchases to determine if these extra costs should be passed through to the pipeline's customers.

[21] *See* 18 CFR 271.1100 through § 271.1106.

leaves the wellhead (as opposed to production costs which are associated with exploration and drilling activities). Since the Commission proposes to define the first sale of pipeline production as a transfer that occurs at the wellhead, the production division of the interstate pipeline cannot incur production-related costs before the first sale of its production. Thus only the transmission division of the interstate pipeline will incur these costs, and no cost allocation need be made for the pipeline's section 4 rate proceeding.[22]

Third, the accounting requirements established by the Commission in the Uniform Systems of Accounts for all interstate pipelines subject to the Commission's jurisdiction will, with minimum revisions, accommodate a wellhead transfer for all pipeline production priced at the NGPA ceiling rates.

B. NGPA Jurisdiction

In order to receive the maximum lawful prices prescribed under the NGPA for sections 102, 103, 107, and 108, a pipeline must comply with the requirements in 18 CFR Part 274 of the Commission's regulations which require a first seller to file certain information with the jurisdictional agency to receive a well category determination. Under Part 273 of the Commission's regulations, a first seller of natural gas may make interim collections of the NGPA price for gas requiring a well category determination, beginning on the date the application for the well determination is filed with the applicable jurisdictional agency. Further, once a determination has become final, the first seller may generally make retroactive collections only back to the date on which the application was filed.

The Commission recognizes that a pipeline or distributor may not have filed well category determination applications for gas produced from their wells prior to the *Mid-Louisiana* decision and thus may be precluded by Part 273 from receiving NGPA maximum lawful prices for past periods. A pipeline or distributor must comply with the well category determination filing requirements under Part 274, but the Commission proposes to consider waiver of the Part 273 regulations and other relevant provisions on a case-by-case basis. *See* proposed § 154.42(d).

C. NGA Jurisdiction

Under the NGA, the Commission generally allowed gas produced by an interstate pipeline to be priced under two methods: the cost-of-service method and the independent producer parity method. Gas produced from wells drilled on or after January 1, 1973, on leases acquired before October 8, 1969, and gas produced from all wells drilled on leases acquired after October 7, 1969, was priced on the independent producer parity method. Production from older wells drilled prior to January 1, 1973, on leases acquired before October 8, 1969, was priced on the cost-of-service method.

The costs of interstate pipeline production subject to the cost-of-service method, along with the pipeline's other costs, are reflected in the pipeline's rate filings under section 4 of the NGA. Costs for gas production priced on an independent producer parity method are reflected in the gas cost component of an interstate pipeline's base tariff rate, and increases in those costs are reported in a pipeline's PGA filings. These costs are then passed through to customers on the same basis as natural gas purchased from an independent producer.[23]

The price paid for gas sold in a first sale, up to the NGPA ceiling rate, is deemed to be just and reasonable for purposes of the NGA.[24] An interestate pipeline is permitted automatically to pass through to its customers any just and reasonable amount paid for any first sale purchase of natural gas.[25] Since the interstate pipeline is entitled to this automatic pass-through, absent any fraud or abuse under section 601(c) of the NGPA, the Commission proposes to review costs for first sale pipeline production in an interstate pipeline's PGA filing. *See* proposed § 154.42(b). This would continue the Commission's current policy of reviewing a pipeline's increased purchased gas costs, including those arising from intracorporate transfers, in the pipeline's PGA filings.

For the few pipelines that retain cost-of-service pricing for certain old and new production in their section 4 rate proceedings, the Commission proposes to allow those interstate pipelines to continue to price such production on a cost-of-service basis, up to the NGPA ceiling rates. In this case, the pipeline would have to establish the NGPA ceiling rate applicable to its production. *See* proposed § 154.42(c).

This proposal will continue the Commission's parity pricing policy by establishing the same ceiling prices for pipeline production, independent producer production, and pipeline affiliate production. In addition, since the Supreme Court determined that the transfer of pipeline production is a first sale, the NGPA maximum lawful prices established for first sales necessarily apply.

The Commission emphasizes that the interstate pipelines must still comply with the regulations in § 2.66. Under this section, interstate pipelines must maintain separate subdivisions of their plant and expense accounts for production properties and production activities, and reflect these costs in their general section 4 rate filing. This information is necessary to insure that general costs are properly allocated.

IV. Affiliated Entities Rule

Since an intracorporate transfer is a transaction that occurs between two divisions within a company, the Commission does not expect that there will be a written record of the terms of this transaction. However, when reviewing an interstate pipeline's pass-through of NGPA rates for its own production, the Commission must be assured that the pipeline is not giving preferential treatment to gas it produces. Therefore, the Commission proposes to (1) determine this issue of preferential treatment by applying the affiliated entities test to the intracorporate transfer, and (2) require the interstate pipeline to execute or memorialize an intracorporate operating agreement to evidence the terms of this transfer.[26]

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[22] Currently, an interstate pipeline must reflect all of its production-related costs in its section 4 rate proceedings. If a section 110 add-on were permitted for gas "sold" in a first sale at a point downstream from the intracorporate transfer, the pipeline would have to reflect some or all section 110 costs in the price paid for the gas. These costs are reviewed by the Commission in the pipeline's PGA proceeding. Thus, the pipeline would have to shift some or all production-related costs associated with specific volumes of gas it produced from its section 4 rate case to its PGA filing. The Commission believes this reallocation is unnecessary and burdensome.

[23] 18 CFR 154.38(d)(4), note 1 (1983).

[24] Section 601(b)(1)(A) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3431(b)(1)(A) (Supp. V 1981).

[25] Section 601(c)(2)(A) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3431(c)(2)(A) (Supp. V 1981).

[26] The affiliated entities rule in section 601(b)(1)(E) of the NGPA provides that the sale price in a first sale between an interstate pipeline and its affiliate will be deemed just and reasonable for purposes of the NGA (and therefore entitled to an automatic pass-through) provided that the price paid by the pipeline does not exceed a price paid by the pipeline in a comparable sale to a non-affiliate or between two persons not affiliated with a pipeline. The Commission applies this test to first sales by an affiliate to an interstate pipeline in reviewing the pipeline's PGA filings. In addition, in Docket No. RM80-6, the Commission applied the affiliated entities test to pipeline production priced on NGPA parity, even though it took the view that the gas was not sold in a first sale. When the Supreme Court in *Mid-Louisiana* determined that the definition of "first sale" in the NGPA included the sale of gas produced by a pipeline, it emphasized that the policy underlying the affiliated entities rule should be applied to pipeline

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These amendments are reflected in proposed §§ 154.42(b) and 270.203(b).

A. Affiliated Entities Test

The Commission believes that it is appropriate to apply the affiliated entities test to all pipeline production receiving first sale treatment for two reasons. First, it is axiomatic that the production division of an interstate pipeline is "affiliated" with the remainder of the pipeline company. Second, as in the case of affiliated subsidiaries, comparable sales transactions must be used to best determine what rate is just and reasonable.

The Commission has interpreted this affiliated entities test in several PGA proceedings involving pipeline production receiving NGPA parity prices. The Commission has determined that to apply the "comparability" standard involved in the test, it must be able to review non-price terms in the interstate pipeline's contracts. These terms include take-or-pay provisions as well as market-out clauses.[27] Additionally, the Commission has decided that it can refer to the price terms in contracts between the interstate pipeline and non-affiliates and between other pipelines and non-affiliate producers to determine a comparable price to be used for judging the reasonableness of the price paid by the pipeline for its own production.[28] These same parameters will be used in reviewing pipeline production.

B. Intracorporate Operating Agreement

As noted above, the Commission recognizes that the intracorporate transfer that occurs between the production and transmission divisions of an interstate pipeline company is probably not governed by any written agreement. The Commission also realizes that in order to apply the affiliated entities test to assess the reasonableness of an intracorporate transfer, there must be some written evidence of the terms of the transfer. Therefore, the Commission proposes to require an interstate pipeline to draft an intracorporate operating agreement which evidences the price and terms and conditions for the transfer of the gas from the production division to the transmission division of the company. *See* proposed § 270.102(b)(15). This agreement must be sufficiently definite to enable the Commission to determine that the intracorporate transfer satisfies the affiliated entities test. The Commission proposes to require this intracorporate operating agreement to be filed with the interstate pipeline's next PGA filing after the date the final rule in this docket becomes effective. *See* proposed § 154.38(d)(4)(v).[29] The interstate pipeline may file one agreement covering the first sales from all its wells. The Commission will presume this agreement governs all first sales transactions until the pipeline files a new agreement in its PGA proceedings.

C. Incentive Gas Pricing for Pipeline Production

The Commission also proposes to apply the affiliated entities comparability test to pipeline production qualifying for a section 107(c)(5) incentive price to determine the level of price which the interstate pipeline is entitled to pass through for its section 107 high-cost gas.

Under NGPA section 107(b), the Commission has the authority to prescribe higher incentive prices for any first sale of high-cost gas to the extent the price is necessary to produce that gas. The Commission has adopted regulations for high-cost tight formation gas [30] and high-cost production enhancement gas,[31] requiring in each rule evidence in the form of a contractual provision that the incentive price is necessary.[32] The Commission in its two incentive price rules presumed that the parties negotiate a contract for high-cost gas in an arm's-length transaction, and from this presumption came the negotiated contract price requirement.

The Commission realizes that the parties involved in an intracorporate transfer are essentially the same and cannot therefore meet the negotiated contract requirement in the tight formation and production enhancement rules which is necessary to allow a pipeline to pass through the incentive price. However, the Commission believes that pipeline production should be allowed the opportunity to qualify and receive these incentive prices even if the production is deemed transferred and sold within the same company. This will serve the public interest in developing these high-cost gas resources.

Therefore, the Commission proposes to amend the tight formation and production enhancement regulations to enable gas produced by an interstate pipeline to qualify and receive incentive pricing. The proposed amendments to §§ 271.702(a), 271.703(a) and 271.704(a) and (b) require the interstate pipeline to evidence a price paid for its production in its intracorporate operating agreement. The Commission will then apply the affiliated entities test to this price to determine if the statutory standard of necessity has been satisfied and to determine the applicable pass-through rate for this production.[33]

V. Accounting Rules

The Commission's Uniform Systems of Accounts for interstate pipelines do not now reflect the necessary accounting regulations for intracorporate transfers for gas produced by the pipeline. The Commission proposes to amend the Uniform Systems of Accounts to establish new accounts for this intracorporate transfer similar to those provided for interdepartmental sales (Account No. 484).[34]

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production. It stated that "Congress undoubtedly intended pipeline producers to be treated in the same manner as pipeline affiliate producers." [—— U.S. ——, 103 S. Ct. 3024, 3036 (1983)]. 15 U.S.C. 3431(c)(2)(A) (Supp. V 1981).

[27] Tennessee Gas Pipeline Company, 21 FERC ¶ 61,004 (1982) (Docket Nos. TA82-2-9-000, RP81-54-000, RP82-12-001, and TA82-1-9-001).

[28] El Paso Natural Gas Company, 23 FERC ¶ 61,216 (May 12, 1983) (Docket Nos. TA82-1-33-008 and TA82-2-33-016).

[29] This proposed regulation may be amended in the final rule in this docket to conform with the amendments recently adopted by the Commission as a final rule in Docket No. RM83-73-000, Standard Form for Purchased Gas Adjustment Filings Submitted by Natural Gas Pipeline Companies: FERC Form No. 542-PGA, 48 FR 53091 (November 25, 1983).

[30] Regulations Covering High-Cost Natural Gas Produced from Tight Formations, 45 FR 56034 (August 22, 1980) (Order No. 99, Docket No. RM79-76).

[31] High-Cost Natural Gas: Production Enhancement Procedures, 45 FR 77421 (November 24, 1980) (Order No. 107, Docket No. RM80-50); Order Granting Rehearing in Part and Denying in Part, High-Cost Natural Gas; Production Enhancement Procedures, 48 FR 45097 (October 3, 1983).

[32] The Commission's regulations require a "renegotiated contract price" for the first sale of qualified production enhancement gas (18 CFR 271.704(a) (1983)) and a "negotiated contract price" for the first sale of tight formation gas (18 CFR 271.703(a) (1983)).

[33] If gas produced from a well qualifies for the tight formation or production enhancement incentive price, § 273.204(a)(1) permits a seller to retroactively collect the tight formation price beginning on July 16, 1979, and the production enhancement price beginning on the date the production enhancement work was completed. The issue of whether a pipeline will be entitled to recover these rates retroactively for their own production is discussed in section VI B., *infra*.

[34] The Commission also proposes to amend FERC Form No. 2 to reflect the new accounts discussed in this notice. 18 CFR 260.2 (1983). These conforming changes are purely technical in nature. FERC Form No. 2 with the proposed revisions is not being printed in the **Federal Register**, it is filed as a part of the original document, but is available for public inspection and comment through the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426; telephone (202) 357-8118. Refer to Docket No. RM83-72-000 when making inquiries. In addition, technical and conforming changes may have to be made to FERC Form No. 11. 18 CFR 260.3 (1983).

Specifically, the Commission proposes to add two accounts: Account No. 800.1, "Natural Gas Wellhead Purchases, Intracorporate Transfers," and Account No. 485, "Intracorporate Transfers." These additions are reflected in the proposed amendments to Part 201.

Account Nos. 800.1 and 485 will reflect the amount recorded for gas supplied by the production division when the transfer price is not determined through a cost-of-service rate proceeding. For Account No. 800.1, the interstate pipeline will be required to maintain records for each wellhead purchase, reflecting the quantity of gas purchased and the intracorporate charges for this gas including the basis for these charges. For Account No. 485, the interstate pipeline must maintain records reflecting the quantity of gas transferred.

The Commission also proposes to revise General Instruction No. 16 (18 CFR Part 201) to clarify that § 2.66 of the Commission's regulations applies to all pipeline production not priced on a cost-of-service basis.

VI. Other Issues Under NGPA Regulations

A. First Sales by Affiliates

When the Commission adopted the first sale rules for gas produced by pipelines, distributors, and affiliates in Order No. 58, it defined any sale by an affiliate as a first sale if the affiliate was not itself a pipeline or a distributor. This rule was adopted because the Commission was concerned that an affiliate could circumvent the NGPA ceiling price since sales by affiliates who are not pipelines or distributors are largely unregulated and excluded from the first sale definition by section 2(21)(B) of the NGPA. This could have encouraged pipelines or distributors to establish affiliates solely to circumvent the NGPA price levels. To remedy this, the Commission adopted §270.203(c) classifying all sales by affiliates as first sales.

The Fifth Circuit *Mid-Louisiana* decision vacated Order No. 58 including this affiliate first sales rule. However, after close examination of that decision, the Commission believed that the Fifth Circuit did not intend to vacate the regulations governing first sales by affiliates since the Commission had granted first sale treatment to these transactions. Consequently, the Commission issued an interim rule establishing that any sale of gas not produced by the affiliate is a first sale (§ 270.203(g)).[35] The Commission did not issue any interim regulations for the sale of gas produced by an affiliate (the original rule being codified at § 270.203(c)) because the Fifth Circuit decision was appealed. Since the Supreme Court *Mid-Louisiana* decision vacated the Fifth Circuit decision, the Commission technically has two affiliate first sale rules in place (§ 270.203(c) and (g)).

Because an affiliate's production is a type of pipeline production and the *Mid-Louisiana* decision directs the Commission to grant first sale treatment to all gas produced by a pipeline, the Commission proposes to include sales by affiliates of gas it produces and purchases in the first sale definition. *See* proposed § 270.203(a) and (d). Thus, the Commission proposes to repeal the regulations promulgated as interim rules in RM82–16–000. These reguations would be duplicative of the Commission's proposals in this docket.

B. Retroactive Effect

The *Mid-Louisiana* decision held that the Commission did not properly interpret the NGPA which became effective on December 1, 1978. As a result, the Commission is proposing regulations to replace those invalidated by the Court, which must necessarily be effective as of December 1, 1978. This raises the issue of whether an interstate pipeline can pass through to its customers the costs stemming from a retroactive rate increase reflecting the difference between the NGPA ceiling rates and the costs actually recovered for a pipeline's production since December 1, 1978.

The Commission has already addressed this issue in several PGA proceedings initiated at the Commission after the Fifth Circuit decision. The Commission held in those cases that if the interstate pipeline specifically reserved the issue of NGPA rate treatment for its own production, then the interstate pipeline would be entitled to retroactive collection for this production. The Commission also determined that a failure to specifically reserve the issue would preclude a pipeline from recovering those costs retroactively.[36] The Commission reiterates here that these determinations govern any question of retroactive rate increases (including increases for section 107 high-cost gas) under the this rule.

C. Intrastate Sales

This Notice of Proposed Rulemaking proposes to define the point of first sale for gas subject to section 2(21) of the NGPA. This section includes production by interstate and intrastate pipelines, distributors and their affiliates. While the proposed definition in § 271.203(a) mentions intrastate and interstate pipelines, distributors, and their affiliates due to the scope of section 2(21) of the NGPA, all other proposals implement regulations only for *interstate* pipelines. Even though the Commission might be viewed as having some authority to extend certain elements in these regulations (such as determining the intracorporate transfer as the point of first sale) to intrastate entities, the Commission does not have jurisdiction over the rates an intrastate pipeline or distributor charges its customers. Thus, the Commission regards the issue of how an intrastate entity should be allowed to price the gas it resells (at the NGPA ceiling rates or otherwise) as one that remains within the province of state regulatory agencies.[37] The Commission specifically requests comments on this issue.

VII. Paperwork Reduction Act Statement

The information collection provisions proposed in this rule will be submitted to the Office of Management and Budget (OMB) for its approval under the Paperwork Reduction Act, 44 U.S.C. 3501–3520 (Supp. V 1981), and OMB's regulations, 48 FR 13666, 13694 (March 31, 1983) (to be codified at 5 CFR Part 1320). These provisions include §§ 154.42(d), Part 201, 270.203(b)(2), 271.702(a)(4), and 271.704(b)(5) as well as any conforming changes to FERC Form Nos. 2 and 11. Interested persons can obtain information on these proposed information collection provisions by contacting the Federal Energy Regulatory Commission, 825 North Capital St., NE., Washington, D.C., 20426 (Attention: Nancy M. Rizzo (202) 357–8033). Comments on the information collection provisions can be sent to the Office of Information and Regulatory Affairs of OMB (Attention: Desk Officer for the Federal Energy Regulatory Commission).

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[35] First Sales by Affiliates, 47 FR 11612 (March 18, 1982) (Issued March 2, 1982, Docket No. RM82–16–000).

[36] *See, e.g.*, Consolidated Gas Supply Corporation, 20 FERC ¶61,243 (August 31, 1982) (Docket No. TA82–2–22–000), *appeal docketed*, Consolidated Gas Supply Corp. v. FERC, No. 83–1499 (4th Cir. June 2, 1983).

[37] Section 602 of the NGPA permits a state to establish lower maximum lawful prices. 15 U.S.C. 3432 (Supp. V 1981).

VIII. Regulatory Flexibility Act Statement

The Regulatory Flexibility Act (RFA)[38] requires certain statements, descriptions, and analyses of proposed rules that will have "a significant economic impact on a substantial number of small entities."[39] The Commission is not required to make an RFA analysis if it certifies that a proposed rule will not have a "significant economic impact on a substantial number of small entities."[40]

Approximately 120 interstate natural gas companies are subject to the Commission's accounting and reporting requirements. Approximately 50 have production facilities. This proposed rule will only affect those 18 interstate pipelines that are large corporations and that price their gas on a cost-of-service basis. These corporations would not be classified as small entities for purposes of the RFA.[41] This rule will not have a significant impact upon any intrastate entities since state regulatory agencies can determine whether to adopt a similar regulatory regime for intrastate pipeline production. The only direct impact on intrastate pipelines is the requirement for filing jurisdictional agency determinations for their own production. This impact stems directly from the NGPA itself, as interpreted by the Supreme Court in *Mid-Louisiana*, and not from any proposal made in this proposed rule.

Accordingly, the Commission certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

IX. Comment Procedures

The Commission invites interested persons to submit written comments, data, views and other information concerning the matters set out in this notice. An original and 14 copies of such comments must be received by the Commission on or before March 5, 1984. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, and should reference Docket No. RM83–72–000.

All written submissions will be placed in the Commission's public files and will be available for public inspection in the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., 20426, during regular business hours.

In addition, an opportunity for a public hearing to receive oral comments will be afforded, if requested, in accordance with section 502(b) of the NGPA. Any person requesting an opportunity to appear to give oral comments must file with the Secretary a request to do so by January 18, 1984.

List of Subjects

18 CFR Part 2

Administrative procedure and practice, Electric power, Environmental impact statements, Natural gas, Pipelines.

18 CFR Part 154

Natural gas.

18 CFR Part 201

Natural gas, Uniform systems of accounts.

18 CFR Part 260

Natural gas, Reporting requirements.

18 CFR Part 270

Natural gas, Wage and price controls.

18 CFR Part 271

Continental shelf, Natural gas, Wage and price controls.

In consideration of the foregoing, the Commission proposes to amend Chapter I, Title 18, Code of Federal Regulations, as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

PART 2—[AMENDED]

1. In Part 2, § 2.66(e) is revised to read as follows:

§ 2.66 Pricing of certain new gas produced by pipelines and pipeline affiliates.

* * * * *

(e) *Inapplicability to certain gas produced on or after December 1, 1978.* Except for paragraph (b), this section does not apply to natural gas produced on or after December 1, 1978, and sold in a first sale as determined under § 270.203 of this chapter.

2. The authority citation for § 2.66 is revised to read as follows:

(Natural Gas Act, sections 4, 5, and 8, 15 U.S.C. 717c, 717d, 717g (1976 & Supp. V 1981))

PART 154—[AMENDED]

3. The authority citation for Part 154 is revised to read as follows:

Authority: Natural Gas Act, sections 4, 16, 15 U.S.C. 717c, 717o (1976 & Supp. V 1981), unless otherwise noted.

4. In Part 154, the reference to "§ 154.42(b)(1)" in § 154.38(d)(4) footnote 1, is revised to read "§ 154.42(b)".

5. Section § 154.38(d)(4)(v) is amended by adding a new sentence after the third sentence to read as follows:

§ 154.38 Composition of rate schedule.

* * * * *

(d) * * *

(4) * * *

(v) * * * In addition, the pipeline shall furnish the Commission, jurisdictional customers, and interested state commissioners and intracorporate operating agreement for all gas produced by the pipeline, as that term is defined in Part 270 of Subchapter H.

* * *

* * * * *

6. The authority citation for § 154.38 is revised to read as follows:

(Federal Power Act, 16 U.S.C. 791a–828c (1976 & Supp. V 1981); Natural Gas Act, 15 U.S.C. 717–717w (1976 & Supp. V 1981); Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (Supp. V 1981); Public Utility Regulatory Policies Act, Pub. L. 95–617, 92 Stat. 3117 (1978); Department of Energy Organization Act, 42 U.S.C. 7101–7352 (Supp. V 1981); Interstate Commerce Act, 49 U.S.C. 1–27 (1976); Executive Order 12009, 3 CFR Part 142 (1978); Administrative Procedure Act, 5 U.S.C. 553 (1976))

7. Section 154.42 is revised to read as follows:

§ 154.42 Pricing of gas produced on or after December 1, 1978 by pipelines and pipeline affiliates.

(a) *Applicability.* This section applies to natural gas that is produced by an interstate pipeline or an affiliate thereof and that is delivered to such pipeline or affiliate in a first sale on or after December 1, 1978.

(b) *General rule.* Except as provided in paragraph (c) of this section, natural gas to which this section applies shall be priced for ratemaking purposes in any pipeline rate proceeding at the lower of:

(1) if approved by the Commission, the rate contained in the pipeline's intracorporate operating agreement or the affiliate's contract so long as that rate does not exceed the applicable rate under Part 271 or Part 272 of Subchapter H; or

(2) the amount paid in comparable sales between persons not affiliated with such interstate pipeline, affiliate, or each other.

(c) *Cost-of-service treatment.* In any pipeline rate proceeding in which the pipeline has been permitted to price its

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[38] 5 U.S.C. 601–612 (Supp. V. 1981).

[39] *Id.* at section 603(a).

[40] *Id.* at section 605(b).

[41] *Id.* at section 601(3) citing to section 3 of the Small Business Act, 15 U.S.C. 632 (Supp. V 1981). Section 3 of the Small Business Act defines "small business concern" as a business which is independently owned and operated and which is not dominant in its field of operation.

production on a cost-of-service basis, natural gas to which this section applies may be priced for ratemaking purposes on a cost-of-service basis if the pipeline establishes that such price does not exceed the maximum lawful price under Part 271 or Part 272 of Subchapter H.

(d) *Subchapter H requirements.* A pipeline or affiliate that produces natural gas for which the maximum lawful price under Part 271 or Part 272 of Subchapter H is available under paragraph (b) of this section shall be subject to all the requirements of Subchapter H other than the requirement of § 270.101(d)(1) regarding applicable filing requirements under § 154.92 and § 154.94. Such pipeline or affiliate may apply for a waiver of any time-of-filing requirement in Subchapter H based on a showing that a timely filing was not made because such pipeline or affiliate had no notice that it was subject to such requirement.

(e) *Definitions.* For purposes of this section:

(1) *NGPA definitions.* The terms "interstate pipeline", "affiliate", "first sale", and "intracorporate operating agreement" have the same meaning as they have for purposes of Subchapter H.

(2) *Pipeline rate proceeding.* The term "pipeline rate proceeding" includes a proceeding under § 154.38(d)(4).

8. The authority citation for § 154.42 is revised to read as follows:

Natural Gas Act, 15 U.S.C. 717–717w (1976 & Supp. V 1981); Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (Supp. V 1981); Department of Energy Organization Act, 42 U.S.C. 7101–7352 (Supp. V 1981); Executive Order 12009, 3 CFR Part 142 (1978).

9. The authority citation for Part 201 is revised to read as follows:

Authority: Natural Gas Act, 15 U.S.C. 717–717w (1976 & Supp. V 1981); Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (Supp. V 1981); Department of Energy Organization Act, 42 U.S.C. 7101–7352 (Supp. V 1981); Executive Order 12009, 3 CFR 142 (1978).

10. In Part 201, following the heading "General Instructions", Instruction No. 16 is amended as follows:

a. The title is revised to read:

16. *Accounting for Costs of Gas Production by Pipelines and Pipeline Affiliates.*—A. * * *

b. Paragraph B. is redesignated paragraph C., and a new paragraph B. is added to read as follows:

B. When the transfer price of gas is not determined in a cost-of-service rate proceeding, pricing of gas produced by a pipeline or pipeline affiliate shall be in accordance with § 2.66 or § 154.42 of this chapter.

* * * * *

11. Part 201 is amended as follows:

a. The Operating Revenue Chart of Accounts is amended by adding a new account number 485, immediately following account number 484, to read "485 Intracorporate Transfers";

b. The Operating Revenue Accounts are amended by adding new account 485 to read as follows:

485 Intracorporate transfers.

A. This account shall include the amount recorded for gas supplied by the production division when the transfer price is not determined by a cost-of-service rate proceeding.

B. Records shall be maintained so that the quantity of gas transferred shall be readily available.

c. The Operating and Maintenance Expense Chart of Accounts is amended by adding a new account number 800.1, immediately following account number 800, to read "800.1 Natural Gas Wellhead Purchases, Intracorporate Transfers"; and

d. The Operating and Maintenance Expense Accounts are amended by adding new account 800.1 to read as follows:

800.1 Natural Gas Wellhead Purchases; Intracorporate Transfers.

A. This account shall include the amount recorded for gas supplied by the production division when the transfer price is not determined by a cost-of-service rate proceeding.

B. The records supporting this account shall be so maintained that there will be readily available for each wellhead, the quantity of gas, the basis of intracorporate charges, and the amount of intracorporate charges for gas.

PART 270—[AMENDED]

12. The authority citation for Part 270 is revised to read as follows:

Authority: Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (Supp. V 1981), unless otherwise noted.

13. In Part 270, § 270.102(b) is amended by adding a new subparagraph (15) to read as follows:

§ 270.102 Definitions.

* * * * *

(b) * * *

(15) "Intracorporate operating agreement" means an agreement evidencing a first sale transfer of gas from the production division to the transmission division of an interstate pipeline company.

14. The authority citation for § 270.102 is revised to read as follows:

(Natural Gas Act, 15 U.S.C. 717–717w (1976 & Supp. V 1981); Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (Supp. V 1981); Department of Energy Organization Act, 42 U.S.C. 7101–7352 (Supp. V 1981); Executive Order 12009, 3 CFR Part 142 (1978); Energy Supply and Environmental Coordination Act, 15 U.S.C. 791, *et seq.*)

15. Section 270.203 is revised to read as follows:

§ 270.203 Pipeline, distributor, and affiliate production.

(a) *General rule.* For purposes of section 2(21) of the NGPA, the sale of gas produced by an interstate pipeline, intrastate pipeline, local distribution company, or affiliate thereof, is a first sale to the extent that such sale is comprised in whole or in part of natural gas that has been produced by that same interstate pipeline, intrastate pipeline, local distribution company, or affiliate thereof.

(b) *First sales pipelines*—.(1) *Intracorporate transfer.* The first sale of gas produced by an interstate pipeline shall occur when the gas is transferred from the production division to the transmission division of the interstate pipeline. This transfer is deemed to occur at the wellhead.

(2) *Intracorporate operating agreement for interstate pipelines.* Any interstate pipeline shall execute an intracorporate operating agreement evidencing the terms and conditions of the intracorporate transfer of gas sold in a first sale.

(c) *Circumvention rule for certain sales by affiliates.* Any sale by an affiliate of an interstate pipeline, intrastate pipeline, or local distribution company, that is not itself such a pipeline or local distribution company, is a first sale even if the natural gas sold is not produced by that affiliate, unless the Commission, on application, has determined not to treat such sale as a first sale.

16. The authority citation for § 270.203 is revised to read as follows:

(Natural Gas Act, 15 U.S.C. 717–717w (1976) & Supp. V 1981); Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (Supp. V 1981); Department of Energy Organization Act, 42 U.S.C. 7101–7352 (Supp. V 1981); Executive Order 12009, 3 CFR Part 142 (1978).

PART 271—[AMENDED]

17. The authority citation for Part 271 is revised to read as follows:

Authority: Natural Gas Policy Act of 1978, 15 U.S.C. §§ 3301–3432 (Supp. V 1981).

18. In Part 271, S271.702(a) is amended by adding a new subparagraph (4) to read as follows:

§ 271.702 General rules.

(a) * * *

(4) "Interstate pipeline production price" means any price which is paid by an interstate pipeline in a first sale of gas produced by that pipeline and which is comparable to the price paid by such pipeline in a first sale to a person not affiliated with such pipeline. Such price shall be stated in the intracorporate operating agreement as defined in § 271.102(b)(15).

* * * * *

19. The authority citation for § 271.702 is revised to read as follows:

(Natural Gas Policy Act of 1978, 15 U.S.C. §§ 3301–3432 (Supp. V 1981).)

20. In Part 271, § 271.703(a) and subparagraph (a)(1) are revised to read as follows:

§ 271.703 Tight Formations.

(a) *Maximum lawful price for tight formation gas.* The maximum lawful price, per MMBtu, for the first sale of tight formation gas for which there is a negotiated contract price or a pipeline production price shall be the lesser of:

(1) The negotiated contract price or the interstate pipeline production price, as applicable; or

* * * * *

21. The authority citation for § 271.703 is revised to read as follows:

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (Supp. V 1981); Department of Energy Organization Act, 42 U.S.C. 7101–7352 (Supp. V 1981); Executive Order 12,009, 3 CFR Part 142 (1978); Administrative Procedure Act, 5 U.S.C. 553 (1976).)

22. In Part 271, § 271.704(a)(1)(i) is revised and paragraph (b)(5) is added to read as follows:

§ 271.704 Qualified production enhancement gas.

(a) * * *

(1) * * *

(i) The renegotiated price or the interstate pipeline production price, as applicable, as stated in the application; or

* * * * *

(b) * * *

(5) "Interstate pipeline production" means any price which is paid by an interstate pipeline in a first sale of gas produced by that pipeline and which is comparable to a price paid by such pipeline in a first sale to a person not affiliated with such pipeline. Such price shall be stated in the intracorporate operating agreement as defined in § 270.102(b)(15).

* * * * *

23. The authority citation in § 27.704 is revised to read as follows:

(Natural Gas Policy Act of 1978, 15 U.S.C. §§ 3301–3432 (Supp. V 1981).)

[FR Doc. 83-34820 Filed 12-30-83; 8:45 am]
BILLING CODE 6717-01-C

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL-2500-4]

Approval and Promulgation of Implementation Plans; California State Implementation Plan (SIP) Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: On June 30, 1982, EPA approved revisions to the California State Implementation Plan (SIP) for Lead, except for outstanding portions including the control strategy for the Los Angeles Area. At this time, the State Lead Phase Down program is reducing Lead emissions throughout California. This program, according to preliminary modeling data, will assure attainment and maintenance of the National Ambient Air Quality Standard (NAAQS) for Lead by 1985 in the Los Angeles area. Today's notice proposes under the Clean Air Act to approve a draft of this control strategy for Lead for the Los Angeles area.

DATES: Comments may be submitted up to February 2, 1984.

FOR FURTHER INFORMATION CONTACT: David P. Howekamp, Director, Air Management Division, Region 9, Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105, Attn: Douglas Grano (415) 454–7640.

SUPPLEMENTARY INFORMATION:

Background

As required by Section 110 of the Clean Air Act and the October 5, 1978 promulgation of a National Ambient Air Quality Standard for Lead (43 FR 46246), on November 19, 1979 California submitted a Lead SIP.

On June 30, 1982 (47 FR 28374) EPA approved the Lead SIP except for the following portions:

(1) New Source Review (NSR) requirements; and

(2) Control strategies for the Los Angeles and Fresno areas.

On April 8, 1983, the State submitted ambient Lead data for the Fresno area which was subsequently approved as a SIP revision demonstrating attainment for the area (48 FR 53558) (Nov. 28, 1983).

Demonstration of Attainment

The South Coast Air Quality Management District has certified that the Los Angeles area has no significant point sources of Lead (i.e., those sources that emit greater than five tons per day from discrete points). Automobiles are the major contributors to Lead emissions in the Los Angeles area. State and Federal regulations that limit the Lead content of gasoline have resulted, and will continue to result, in a gradual decrease in Lead emissions.

Based on the Federal regulations and information about past and projected national gasoline sales and assuming that Lead concentrations decrease proportionally with automotive Lead emissions, EPA has calculated critical Lead concentrations for several base and attainment years. These were published in a July 1983 draft report entitled *Updated Information on Approval and Promulgation of Lead Implementation Plans* prepared for the EPA Office of Air Quality Planning and Standards, Control Programs Development Division, Research Triangle Park, N.C. If the highest Lead concentration for a given base year/attainment year combination is less than the critical value of that combination, EPA assumes that the standard will be attained by the attainment date. Since 1978, Los Angeles had a worst-case quarterly concentration of 3.44 micrograms per cubic meter (ug/m^3), which occurred in 1980. The primary and secondary National Ambient Air Quality Standard for Lead is 1.5 ug/m^3 maximum arithmatic mean averaged over a calendar quarter. EPA has determined that the "highest lead concentration" of 3.44 ug/m^3 is slightly above the critical concentration calculated for an attainment date of 1985. However, use of the "critical lead concentrations" in the July 1983 draft report is of questionable value for Los Angeles, since California had different lead phasedown requirements from the Federal Program in the 1980 base year, and will have different requirements again after September 30, 1984.

During the 1980 base year, California's lead phasedown standard for large refiners was 0.4 grams per total gallon of gasoline (gptg) and 1.4 gptg for small refiners. After September 30, 1984, the California Lead content in fuel requirement is reduced from the current 1.1 grams per gallon of leaded gasoline (gplg) to 0.8 (gplg); compared the Federal Standard of 1.10 gplg.

Based on information available to the Agency (which has been placed in the docket) on past and projected lead

usage in California under its lead phasedown program EPA believes that a greater proportional reduction in lead usage will occur in California than nationally during the 1980–1985 period, and that the State will be able to demonstrate attainment of the lead ambient standard in Los Angeles by 1985.

EPA Actions

The State of California has completed a more sophisticated analysis of attainment in the Los Angeles area and has agreed to submit that analysis and the final State Lead Phase Down program. This action proposes to approve that draft submittal contingent on the State's submission of a final SIP revision that contains the revised demonstration of attainment and the final State Lead Phase Down Program.

Today's **Federal Register** action is being processed concurrently with State action to submit the Lead material as a SIP revision. In order to expedite the rulemaking process EPA is proposing action prior to State submittal of final State regulations. While final revisions to the SIP may have been submitted to EPA by the time of publication of this notice, none were received in time to be reviewed and discussed in today's notice.

Following the State's adoption and submittal of the SIP revisions, EPA will consider public comments received and proceed directly to a notice of final rulemaking on the revisions discussed in today's notice.

The Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.) The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Authority: Sections 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410 and 7601(a)).

List of Subjects in 40 CFR Part 52

Intergovernmental relations, Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: December 16, 1983.

Charles W. Murray,

Acting Regional Administrator.

[FR Doc. 83-34807 Filed 12-30-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[AW 403PA; A-3-2500-3]

Proposed Approval of Revisions to the Pennsylvania State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Commonwealth of Pennsylvania has submitted draft revisions, including draft Consent Agreements for each of the three lead smelters, to its State Implementation Plan (SIP) for lead (Pb) and has requested that EPA concurrently process these revisions.

The revisions consist of a narrative portion, draft Consent Agreements, and technical/modeling analyses for each smelter operation. The three smelters are General Battery Corporation (GBC), Laureldale, Berks County; Tonolli Corporation, Nesquehoning, Carbon County; and, East Penn Manufacturing Corporation, Lyons, Berks County.

EFFECTIVE DATE: Comments must be submitted on or before March 5, 1984.

ADDRESSES: Copies of the proposed SIP revision and the accompanying support documents are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Air Programs Branch (3AW11), Curtis Bldg., Sixth & Walnut Streets, Philadelphia, PA 19106, Attn: Ms. Eileen M. Glen.

Pennsylvania Dept. of Environmental Resources, Bureau of Air Quality, 18th Floor, Fulton Bank Building, 200 N. 3rd Street, Harrisburg, PA 17120, Attn: Mr. James Salvaggio.

All comments on the proposed revisions submitted within thirty days of publication of this notice will be considered and should be addressed to Mr. H. Glenn Hanson, Chief of the Pennsylvania-West Virginia Section at the EPA, Region III address listed above. Please reference the EPA Docket Number found in the heading of this notice.

FOR FURTHER INFORMATION CONTACT: Ms. Eileen M. Glen at the EPA, Region III address or telephone 215/597–8187.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to section 109 of the Clean Air Act, 42 U.S.C. 7409, EPA promulgated primary and secondary national ambient air quality standards for lead on October 5, 1978 (43 FR 46246). Under section 110(a)(1), 42 U.S.C. 7410(a)(1), within 9 months of this promulgation each state was required to submit a State Implementation Plan ("SIP") to provide for attainment and maintenance of the lead standards.

Under section 110(a)(2), 42 U.S.C. 7410(a)(2), each SIP must provide for attainment of a primary standard "as expeditiously as practicable, but in no case later than three years from the date of approval of such plan." Under section 110(e), 42 U.S.C. 7410(e) a state may request a two-year extension of this three-year deadline if it demonstrates that necessary technology will not be available soon enough to provide for attainment within three years.

EPA promulgated regulations establishing specific requirements for lead SIPs on October 5, 1978 (43 FR 46264). These regulations were codified as CFR 51.80–51.87. They supplement more general SIP requirements codified in 40 CFR Part 51, Subpart 3, and include a requirement that the attainment demonstration as it relates to significant point sources of lead be based on dispersion modeling. 40 CFR 51.84 (1983).

On September 30, 1982, the Commonwealth submitted a lead SIP demonstrating attainment in eight of the eleven state air quality control areas. EPA approved this submittal on October 12, 1983 at 48 FR 46309. The remaining areas are the areas in which three of Pennsylvania's lead smelters are located.

SIP Submittal

The proposed revisions were submitted on December 2, 1983. By letter dated November 21, 1983, Mr. Nicholas DeBenedictis, Secretary, Pennsylvania Dept. of Environmental Resources, requested that EPA process the proposed revisions concurrently with the Commonwealth.

At the Commonwealth's request, EPA issued a contract to Radian Corporation in June 1983 to study the proposed controls at these three smelters and to develop the modeling analysis and control strategy demonstrations. The Radian reports are included in the SIP appendices.

The Radian reports do not demonstrate attainment of the Pb NAAQS even after the proposed controls are installed. This conclusion has been caveated by Radian for several reasons. First, at GBC and Tonolli, on-site meteorological data is not available so Radian used one year of Reading airport data for GBC and one year of Allentown airport data for Tonolli. EPA modeling policy requires the use of five years of meteorological data when off-site data is being used. Furthermore,

these plants are located in complex terrain and the airport data may not adequately describe the local terrain induced meteorological conditions that occur at the plant sites. This could substantially affect the location and magnitude of the predicted maximum concentrations reported by Radian.

For the East Penn report, Radian used one year of on-site data but it was not quality assured.

1. East Penn Manufacturing Corp., Lyons, Berks County—the Company is required to install and maintain an on-site ambient monitoring network. This data, pre-installation of controls, will be used as background data in the revised modeling analysis. The draft Consent Agreement requires the maintenance of existing controls as well as the installation of the following control measures:

a. Battery breaking and agglomerator furnace buildings ventilated through baghouses.

b. Slag storage area enclosed and ventilated through a baghouse.

c. In the battery breaking, agglomerator furnace and slag storage buildings, all building openings closed, materials transferred through loading chutes and traffic restricted to entrances equipped with solid doors.

d. The undercarriages of all "in plant" vehicles routinely washed to remove dust.

e. All inplant roads paved and routinely cleaned with either brush or regenerative type road sweepers.

f. Dust suppressant routinely applied to all road shoulders and exposed yard areas.

g. Low speed limits imposed and strictly enforced on all "in plant" roadways.

The installation of these control measures by May 31, 1986, in combination with the existing control measures, will result in a level of control at the plant that is at least RACT for secondary lead smelters.

In addition, the draft Consent Agreement requires that all horizontal and downward discharge vents on significant sources be changed to vertical vents or stacks, and stack heights on all significant sources be increased to "Good Engineering Practice." EPA notes that as a result of a recent Court of Appeals decision remanding EPA's stack height regulations (*Sierra Club, et al.* v. *EPA, et al.*, No. 82–1384 (D.C. Cir. Oct. 11, 1983)), it is unclear how much credit may be taken in developing a control strategy or in demonstrating attainment for stack height increases at this smelter.

Because the Radian report indicates that this area may not attain the Pb NAAQS even after controls, the Commonwealth has committed to: (a) Obtain the data necessary to refine the attainment demonstration; (b) re-evaluate the adequacy of the control strategy approximately one year after implementation of the control measures specified above; (c) require emission reductions beyond RACT, if necessary, to achieve the NAAQS; and (d) submit to EPA by December 31, 1987 a SIP supplement (i) documenting the re-evaluation of the control strategy and (ii) specifying, if necessary, the emission control measures beyond RACT that the East Penn Manufacturing Corporation will implement to achieve the NAAQS.

To support this commitment the draft Consent Order and Agreement requires the East Penn Manufacturing Corporation:

1. To Implement all RACT for a secondary lead smelter,

2. To operate and maintain a meteorological measurement network at the plant,

3. To operate and maintain an ambient lead measurement network surrounding the plant,

4. To submit qualtiy assurance plans to the Department of Environmental Resources for the meteorological and ambient lead measurement networks,

5. To develop a list of additional control measures that could be implemented to further reduce ambient lead concentrations, and

6. To implement sufficient additional emission control measures, if necessary, to achieve the lead NAAQS.

The data obtained from the ambient lead and meteorological measurement networks will be used to re-evaluate the adequacy of the SIP after implementation of RACT. This re-evaluation will include a comparison of dispersion model predicted concentrations with ambient lead measurement. This comparison is critical because of the uncertainty associated with: (a) Quantifying the residual emissions from the enclosure buildings; (b) quantifying fugitive lead emissions from other sources at the plant; and (c) performing dispersion modeling.

Pennsylvania also will attempt to improve the quantification of all residual emissions at the plant and will investigate dispersion and rollback modeling and other techniques to determine the most accurate basis for the evaluating the adequacy of the control strategy. If additional emission reductions are determined to be necessary, the East Penn Manufacturing Corporation will be required to install the appropriate controls as expeditiously as practical but not later than the two-year attainment extension permitted under section 110(e) of the Clean Air Act (The basis for this extension is discussed below).

2. General Battery Corp. Laureldale, Berks County—PaDER has proposed a Consent Order and Agreement with GBC, as part of the SIP, which requires the maintenance of existing controls and the installation of the following control measures:

a. Enclosure of the slag storage and charge storage areas with ventilation through a fabric dust collector.

b. Ventilation of the smelter building through a high-efficiency fabric filter.

c. Ventilation of the reverberatory furnace through the charge material fabric filter system.

d. Enclosure of the slag cooling and storage building with ventilation through a fabric dust collector

e. Enclosure of the battery breaking area with ventilation through a baghouse.

f. In all ventilated buildings, all building openings closed, materials transferred through loading chutes and traffic restricted to entrances equipped with solid doors.

g. All inplant roads paved and cleaned with either brush or regenerative type road sweepers.

h. Dust suppressant applied to all road shoulders and exposed yard areas on a routine basis.

i. Low speed limits imposes and strictly enforced on all inplant roadways.

The installation of these control measures by April 1, 1986, in combination with the existing control measures result in a level of control at the plant that is at least RACT for secondary lead smelters.

In addition, the draft Consent Agreement requires that all horizontal and downward discharge vents on significant sources be changed to vertical vents or stacks, and stack heights on all significant sources be increased to "Good Engineering Practice." EPA notes that as a result of a recent Court of Appeals decision remanding EPA's stack height regulations *Sierra Club, et al.* v. *EPA, et al.*, No. 82–1384 (D.C. Cir. Oct. 11, 1983)), it is unclear how much credit may be taken in developing a control strategy or in demonstrating attainment for stack height increases at this smelter.

An analysis was performed by the Radian Corporation of the residual emissions that would be present at the plant after the implementation of control measures similar to Items a through e above. A copy of the Radian analysis is attached as Appendix B to the SIP. The

Radian analysis indicates that the control measures specified in Items a through e may not be sufficient to achieve the lead NAAQS. This conclusion is based on Radian's best judgments on fugitive emission rates, building design, lead-in-air concentrations, air exchange rates and meteorological data.

Although Radian used the best available information, there are four noteworthy points associated with the adequacy of the analysis. First, on-site meteorological data is not available. Therefore, Radian used one year of "off-site" meteorological data from the Reading Airport in the dispersion modeling analysis. The General Battery Corporation plant, however, is located in complex terrain and the application of the Reading Airport data may not adequately describe the local terrain induced meteorological conditions that occur at the plant site. This could substantially affect the location and magnitude of the predicted maximum lead concentration reported in the Radian report.

The second point concerns the estimated lead emission rates, controlled and uncontrolled, from the General Battery plant. Fugitive emissions are a major contributor to plant lead emissions. However, *all* fugitive lead emission rates are rough estimates and may be inaccurate by an order of magnitude or greater. Likewise the amount of residual emissions after the implementation of the control measures is very difficult to quantify. Although the control measures analyzed will substantially reduce lead emissions from the plant, insufficient data is available prior to implementation of the control measures to precisely estimate the residual emissions. Major problem areas are estimates of the lead-in-air concentration that will occur inside the buildings and the air exchange rate with the ambient air outside the buildings. These estimates are critical in determining the residual lead emissions and the resultant ambient concentrations.

A third point is that the General Battery Corporation believes that the Radian analysis substantially overestimates the point source emissions. General Battery states that improvements in the point source controls have been made over the past several years and these improvements substantially reduce the amount of lead the plant emits through point sources. Stack tests were not performed to confirm the new emission rates and Radian was not made aware of the improvements.

The fourth point concerns measures f through i and the measures related to stack and vent configuration. These are control measures that Radian identified as additional controls that could possibly be applied to the General Battery plant. These types of controls were suggested by Radian because they have been used successfully on other sources at the General Battery plant and at other facilities. The emission reductions that would result from implementation of these control measures were not considered in the Radian analysis.

In recognition of these points, Pennsylvania commits: (a) To obtain the data necessary to refine the attainment demonstration; (b) to re-evaluate the adequacy of the control strategy approximately one year after implementation of the control measures identified in Items a through i above the measures related to stack and vent configuration; (c) to require emission reductions beyond RACT, if necessary, to achieve the NAAQS; and (d) to submit to EPA by December 31, 1987 a SIP supplement (i) documenting the re-evaluation of the control strategy and (ii) specifying, if necessary, the emission control measures beyond RACT the General Battery Corporation will implement to achieve NAAQS. To support this commitment the draft Consent Order and Agreement requires the General Battery Corporation:

1. To implement all RACT for its secondary lead smelter,
2. To operate and maintain a meteorological measurement network at the plant,
3. To operate and maintain an ambient lead measurement network surrounding the plant,
4. To perform DER approved stack tests on all appropriate point sources,
5. To develop a list of additional control measures that could be implemented to further reduce lead emissions, and
6. To implement sufficient additional emission control measures, if necessary, to achieve the lead NAAQS.

The data obtained from the ambient lead and meteorological measurement networks will be used to reevaluate the adequacy of the SIP after implementation of RACT. This reevaluation will include a comparison of dispersion model predicted concentrations with ambient lead measurements. This comparison is critical because of the uncertainty associated with: (a) Quantifying the residual emissions from the enclosure buildings; (b) quantifying fugitive lead emissions from other sources at the plant; and (c) performing dispersion modeling in complex terrain.

Pennsylvania also will attempt to improve the quantification of all residual emissions at the plant and will investigate disperson and rollback modeling and other techniques to determine the most accurate basis for evaluating the adequacy of the control strategy. If additional emission controls are determined to be necessary, the General Battery Corporation will be required to install the appropriate controls as expeditiously as practical but not later than the two-year attainment extension permitted under section 110(e) of the Clean Air Act. (The basis for this extension is discussed below.)

3. Tonolli Corp., Nesquehoning, Carbon County—DER has negotiated a Consent Order and Agreement, Appendix A to the SIP, which requires the maintenance of existing controls and the installation of the following control measures:

a. Enclosure of the used battery storage, battery breaking, crushed battery storage, and slag storage areas; and

b. Removal of the plastic storage pile.

The installation of these control measures by May 31, 1986, in combination with the existing control measures results in a level of control at the plant that is at least Reasonably Available Control Technology (RACT) for secondary lead smelters.

An analysis of the residual emissions that would occur at the plant after the implementation of the additional control measures was performed by the Radian Corporation. A copy of the Radian analysis is attached as Appendix B to the SIP. The Radian analysis indicates that implementation of the type of controls proposed may result in attainment of the National Ambient Air Quality Standards. This conclusion is based on Radian's "best available judgments" on fugitive emission rates, building design, lead-in-air concentrations, air exchange rates and meteorological data.

Although Radian used the best available information, there are two noteworthy points associated with the adequacy of the analysis. First, on-site meteorological data is not available. Therefore, Radian used one year of "off-site" meteorological data from the Allentown Airport in the dispersion modeling analysis. The Tonolli Corporation plant, however, is located in complex terrain and the application of the Allentown data may not adequately describe the meteorological conditions that occur at the plant site.

This could substantially affect the location and magnitude of the predicted maximum lead concentration reported in the Radian report.

The second point concerns the estimated lead emission rates, controlled and uncontrolled, from the Tonolli plant. Fugitive emissions are by far the major contributor to plant lead emissions. However, all fugitive lead emission rates are rough estimates and may be inaccurate by an order of magnitude. Likewise the amount of residual emissions after the implementation of the control measures is very difficult to quantify. Although the enclosure building will substantially reduce lead emissions from the plant, insufficient data is available prior to construction of the building to precisely estimate the residual emissions. Major problem areas are estimates of the lead-in-air concentration that will occur inside the building and the air exchange rate with the ambient air outside the building. These estimates are critical in determining the residual lead emissions and the resultant ambient concentrations.

In recognition of these points, Pennsylvania commits: (a) To obtain the data necessary to refine the attainment demonstration; (b) to reevaluate the adequacy of the control strategy approximately one year after implementation of the additional control measures; (c) to require emission reductions beyond RACT, if necessary, to achieve, and maintain the NAAQS; and (d) to submit to EPA by December 31, 1987 a SIP supplement (i) documenting the reevaluation of the control strategy and (ii) specifying, if necessary, the emission control measures beyond RACT that the Tonolli Corporation will implement to achieve the NAAQS.

To support this commitment the Consent Order and Agreement requires the Tonolli Corporation to operate and maintain ambient lead and meteorological measurement networks at the plant. The data obtained from these networks will be used to reevaluate the adequacy of the SIP after the construction of the enclosure building and the removal of the plastic storage pile. This reevaluation will include a comparison of dispersion model predicted concentrations with ambient lead measurements. This comparison is critical because of the uncertainty associated with: (a) Quantifying the residual emissions from the enclosure building; (b) quantifying fugitive lead emissions from other sources at the plant; and (d) performing dispersion modeling in complex terrain.

In general, Pennsylvania will investigate dispersion and rollback modeling and other techniques to determine the most accurate basis for evaluating the adequacy of the control strategy. If additional emission reductions are determined to be necessary, the Tonolli Corporation will be required to install the appropriate controls as expeditiously as practical but not later than the two-year attainment extension permitted under section 110(e) of the Clean Air Act. (The basis for this extension is discussed below.)

Further, should a measured violation of the ambient lead NAAQS occur after the construction of the enclosure building and removal of the plastic storage pile, the Consent Order and Agreement requires the company to install air pollution control equipment on the enclosure building or institute equivalent control measures.

EPA Evaluation

EPA has reviewed the Commonwealth's preliminary submittal including the Radian reports and draft Consent Orders. We believe if the proposed control measures are installed in accordance with the schedules specified and if the additional studies are performed, that the proposed SIP revisions are approvable.

The State indicated in its draft SIP that a two-year extension may be needed to attain the NAAQS for lead for each of the three-smelter areas. EPA is proposing to approve an extension of up to two years. The draft plan relies on measures that constitute reasonably available control technology (RACT), but the plan does not actually demonstrate attainment, and the State may need to develop and implement measures that are beyond RACT. Neither EPA nor the State will be able to identify such measures without further study. Therefore, an extension appears to meet the requirements of section 110(e) of the Clean Air Act (42 U.S.C. 7410(e)) and EPA's regulations (40 CFR 51.30 (1983)). The basis for granting this extension is discussed in a technical support document in the SIP docket. EPA notes that the Governor must officially request an extension of up to two years for these areas when the State submits its final SIP to EPA.

The reader should be aware that the material submitted by the Commonwealth is "draft" and the Consent Orders and Agreements have not yet been signed by the companies involved. After these Agreements have been signed by the Commonwealth and the companies, DER will hold public hearings on the SIP. The final SIP revisions, including the signed Consent Orders, must be submitted to EPA before we can make a final decision on the acceptability of the SIP and publish a final rulemaking. Should any portion of the draft SIP be substantially changed prior to the final submittal, EPA will issue an additional public notice fully describing these changes. EPA must take final action on this SIP by August 1, 1984 (*See* **Federal Register** of August 10, 1983, 48 FR 36250).

Administrative Procedures

The public is invited to submit to the address stated above, comments on the proposed submittal as discussed above. The Administrator's decision to approve or disapprove the proposed revision will be based on the comments received and on a determination of whether the amendments meet the requirements of section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

List of Subjects in 40 CFR Part 52

Intergovernmental relations, Air Pollution Control, Ozone, Sulfur Oxides, Nitrogen Dioxide, Lead, Particulate Matter, Carbon Monoxide, Hydrocarbons.

Authority: Sections 110 and 301 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7601).

Dated: December 8, 1983.

Stephen R. Wassersug,

Acting Regional Administrator.

[FR Doc. 83-34808 Filed 12-30-83; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 721

[OPTS-50508 FRL; 2432-5]

Dicarboxylic Acid Monoester; Proposed Determination of Significant New Use

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2604(a)(2), which

would require persons to notify EPA at least 90 days before manufacturing, importing, or processing a substance for a "signifcant new use." EPA is proposing that the following be designated as significant new uses of dicarboxylic acid monoester (generic name): (1) Manufacture in the United States; (2) processing without certain personal protective equipment; and (3) distribution without certain label statements. This substance was the subject of premanufacture notice (PMN) P83–255 and a TSCA section 5(e) Consent Order issued by EPA. The Agency is concerned that this chemical substance may present unreasonable risks to human health if the defined new uses occur. These new uses were not allowed under the section 5(e) Consent Order.

DATE: Written comments should be submitted by March 5, 1984.

ADDRESS: Since some comments are expected to contain confidential business information, all comments should be sent in triplicate to: Document Control Officer (TS–793), Office of Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, D.C. 20460

Comments should include the docket control number OPTS–50508. Non-confidential comments and sanitized versions of confidential comments received on this proposal will be available for reviewing and copying from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays, in Rm. E–107 at the address given above.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–543, 401 M St., SW., Washington, D.C. 20460, toll free: (800–424–9065), in Washington, D.C.: (554–1404), outside the USA: (Operator–202–554–1404).

SUPPLEMENTARY INFORMATION: OMB control number 2070–0012.

I. Authority

Section 5(a)(2) of TSCA authorizes EPA to determine that a use of a chemical substance is a significant new use. EPA must make this determination by rule, after considering all relevant factors, including those listed in TSCA section 5(a)(2). Once a use is determined to be a significant new use, persons must, under section (5)(a)(1)(B), submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use. Such a notice is subject to the same statutory requirements and procedures as a PMN submitted under section 5(a)(1)(A) of TSCA which are interpreted at 40 CFR Part 720 (48 FR 21722, May 13, 1983). In particular, these include the information submission requirements of section 5(d)(1) and section 5(b), certain exemptions authorized by section 5(h), and the regulatory authorities of section 5(e) and section 5(f) of TSCA. If EPA does not take regulatory action under sections 5, 6, or 7 to control a substance on which it has received a SNUR notice, section 5(g) of TSCA requires the Agency to explain its reasons for not taking action in the **Federal Register**. Substances covered by proposed or final SNURs are subject to the export reporting requirements of TSCA section 12(b). EPA regulations interpreting section 12(b) requirements appear at 40 CFR Part 707. Substances subject to final SNURs would be covered by TSCA section 13 import certification requirements at 19 CFR 12.118 through 12.127, and 127.8 (amended). EPA regulations discussing section 13 and TSCA's import requirements appear at 40 CFR Part 707.

II. Background

The chemical substance covered by this proposed rule was the subject of a PMN submission which the Agency received on November 23, 1982. Notice of receipt of this submission by EPA was published in the **Federal Register** of December 3, 1982 (47 FR 54537). The PMN was designated as P83–255. The generic name of the substance is dicarboxylic acid monoester. For simplicity, this substance will be referred to by its PMN number throughout this preamble.

In the PMN submission, the following data were provided which aided in the assessment of the health effects of this substance: acute oral and dermal toxicity studies in the rat, primary skin and eye irritation studies in the rabbit, and delayed dermal sensitization study in the guinea pig. In addition, EPA obtained data on a probable metabolite of P83–255. EPA used this information to assess the potential health effects posed by P83–255.

From its review of available data and the structure of P83–255, EPA believes that P83–255 may be absorbed by all routes of exposure and may cause reproductive and teratogenic effects.

In the PMN submission, the notice submitter claimed the following as confidential business information (CBI): chemical identity, proposed import volume, processing methods, and use. The submitter stated that generically, the substance will be used "in a controlled contained use by industrial chemical workers." During the development of the section 5(e) Consent Order, the notice submitter provided information which indicated that divulging the identity of the probable metabolite for which the Agency has reproductive and teratogenic data, or divulging information regarding the conduct or specific results of these studies, would provide sufficient information to ascertain the specific chemical identity of P83–255, which the PMN submitter claimed confidential. The Agency further consulted with the PMN submitter to determine if additional information could be discussed in connection with this proposal without damaging the competitive position of the submitter. The PMN submitter believes that release of any additional information could endanger its competitive position. Therefore, EPA is unable to discuss in detail its basis for reproductive and teratogenic concerns for P83–255.

While under section 14(a)(4) of TSCA, the Agency may disclose CBI relevant in any proceeding, "disclosure in such a proceeding shall be made in such manner as to preserve confidentiality to the extent practicable without impairing the proceeding." EPA does not believe that this rulemaking will be so impaired as to justify disclosure of CBI. Therefore, EPA has decided not to disclose any of the CBI, or other information that could cause disclosure of CBI at this time. An alternative approach would be to publish the CBI and/or information that would cause the disclosure of CBI in the final rule. The Agency specifically requests comments on options for SNUR rulemakings involving CBI.

III. Reasons for Proposing This Rule

The Agency evaluated available data and information which indicate that P83–255 may present unreasonable risks to human health. During processing and use of P83–255, there is potential for workers to be exposed to the substance via dermal and inhalational routes. EPA further believes that once absorbed, P83–255 will metabolize to a substance for which the Agency has obtained data on reproductive and teratogenic effects. These data indicate that the effects of concern may result from chronic exposures to P83–255. Using the no observed effect level (NOEL) reported in these tests and applying a safety factor of 100, the Agency determined a dose level of the metabolite below which it believes reproductive and/or teratogenic effects will not occur.

Because data used to assess the health effects were not on the substance itself but, instead, on a probable metabolite of the substance, EPA concluded that there is insufficient

information to perform a reasoned evaluation of the health effects of this substance. The Agency has determined that the substance may pose unreasonable risks to human health if manufactured, processed, used, or distributed in commerce without restriction. The Agency believes, however, that with certain protective equipment and restrictions on manufacture, processing, use, and distribution in commerce, exposure can be reduced sufficiently to mitigate health concerns. Based on these findings, EPA did not ban P83–255 but instead, chose to restrict its manufacture, processing, use, and distribution in commerce, thereby encouraging innovation and benefits to society while continuing to protect human health.

The Agency and the PMN submitter negotiated a section 5(e) Consent Order which prohibits manufacture in the United States, requires the use of specific personal protective equipment during processing of P83–255, and requires that any container of any formulation containing P83–255 be labelled with specific wording as to the possible effects of exposure to this substance until appropriate data are developed to allow a reasoned evaluation of the substance. The Order became effective on April 12, 1983.

The section 5(e) Order, by its terms, applies only to the PMN submitter. Because the section 5(e) Order does not prohibit import, P83–255 was added to the TSCA Chemical Substance Inventory when EPA received a notice of commencement of import from the submitter (April 25, 1983). As a result, other persons can begin to manufacture, import, or process P83–255 without notice to EPA and without the restrictions imposed by the section 5(e) Order. This manufacturing, importing, or processing could allow the exposures of concern to occur. Therefore, EPA is proposing to designate the following as significant new uses of P83–255 so that the Agency can review those uses before they occur: (1) Manufacture in the United States; (2) processing without certain personal protective equipment; and (3) distribution in commerce without certain label statements.

Through a SNUR, the Agency would ensure that all manufacturers, importers, and processors of P83–255 are subject to similar reporting requirements and that EPA has an opportunity to review exposure and toxicity information on the substance so that, if necessary, action can be taken to ensure that persons will not be exposed to levels of the substance that are potentially hazardous. To assist EPA in making a reasoned evaluation of the potential of P83–255 to elicit reproductive and teratogenic effects in humans, the notices submitted under the SNUR should contain appropriate test data. Studies that would produce the data necessary to evaluate the potential effects of this substance are discussed below in more detail. In addition, the Agency would want to see exposure information and any available data to aid in assessing whether exposure can be adequately controlled by means other than those stated in the proposed significant new uses for P83–255.

IV. Alternatives

EPA considered other possible approaches to ensuring protection of human health. One alternative would be to promulgate a section 8(a) reporting rule for P83–255. Under such a rule, EPA could reuire any person to report to EPA before manufacturing, importing, or processing the substance. Because this substance is subject to a section 5(e) Order, the small business exemption of section 8(a) would not apply. However, the use of section 8(a) rather than SNUR authority has one major drawback. If EPA received a report under section 8(a) indicating that a person intended to manufacture, process, use, or distribute P83–255 without adhering to the restrictions, the Agency could not take action under section 5(e) as it can under a SNUR and thus would not be able to regulate the substance pending development of information. Rather, EPA would have to obtain test data after rulemaking under section 4 or, if necessary, regulate the substance under section 6. This approach would allow unnecessary risks to human health during the time needed for data development. In addition, the original PMN submitter would be at a competitive disadvantage because the section 5(e) Consent Order applies only to that company. The Agency believes that, when possible, actions taken under section 5 of TSCA should minimize unfair market effects.

The Agency has the authority to regulate substances under section 6 of TSCA. However, section 6(a) specifies that the Agency may regulate only if there is a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use or disposal of a chemical substance or mixture "presents or will present" an unreasonable risk to health or the environment. As stated previously, there is insufficient information to perform a reasoned evaluation of the health effects of P83–255. Therefore, the Agency cannot state at this time that P83–255 "presents or will present" an unreasonable risk of injury to health. Therefore, the Agency cannot presently use section 6 to regulate P83–255.

V. Proposed Significant New Uses

To determine what would constitute a significant new use of P83–225, EPA considered relevant information about the toxicity of the substance, likely exposures associated with processing, use, and distribution of the substance, and possible new uses. EPA considered the four factors listed in section 5(a)(2) of TSCA, particularly the extent to which a use increases the magnitude and duration of exposure of human beings to the substance. In framing the significant new uses, EPA drew directly from the restrictions outlined in the section 5(e) Order. Based on these considerations, EPA proposes to define three activities as significant new uses of P83–255:

1. Failure to require the use of gloves determined to be impervious to the substance, and/or failure to require the use of clothing to prevent dermal contact for any person involved in any processing or use operation where dermal contact may occur.

Data on a probable metabolite of P83–255 indicate that chronic exposures to P83–255 may result in reproductive and teratogenic effects. Using the reported NOEL for these effects for the metabolite and applying a safety factor of 100, the Agency calculated a dose level of the metabolite, below which reproductive and teratogenic effects are not expected to occur.

The Agency calculated worst-case inhalational exposure (saturated conditions, no or poor ventilation, and no personal protective equipment) and dermal exposure (the palm of one hand covered by P83–255 one time per day) to P83–255 during processing and use. During processing, workers could receive inhalational doses of up to .12 mg/kg/day and dermal doses of up to 78.00 mg/kg/day of P83–255, or a total daily dose of 78.12 mg/kg/day. During use, workers could receive inhalational doses of up to .046 mg/kg/day and dermal doses of up to 1.10 mg/kg/day of P83–255, or a total daily dose of 1.146 mg/kg/day.

When metabolized, the total daily dose calculated by EPA for processors is expected to result in a level of the metabolite of concern, approximately 2 orders of magnitude greater than the level at which the Agency believes reproductive and teratogenic effects will not occur. The total daily dose calculated by EPA for users is expected to result in a level of the metabolite of

concern less than 1 order of magnitude greater than the level at which the Agency believes reproductive and teratogenic effects will not occur. The use of impervious gloves and clothing is expected to reduce to negligible levels, the availability of P83–255 for dermal absorption leading to systemic effects. Therefore, with the use of impervious gloves and clothing, worst-case, total daily doses of P83–255 are calculated at .12 mg/kg/day for processors and .046 mg/kg/day for users. These levels, when metabolized will result in doses of the metabolite of concern that fall below the level at which the Agency has concern for reproductive and teratogenic effects. Therefore, EPA believes that without the use of the personal protective equipment proposed, persons would be exposed to levels of P83–255 that could potentially cause reproductive and teratogenic effects.

Since dermal contact is expected to occur only accidentally and incidentally, the Agency is not requiring any specific methods of determining whether gloves are impervious to P83–255. Instead, persons who plan to process or use P83–255 and who are required to provide impervious gloves for workers can choose to test the gloves using methods such as the ASTM standard method or its equivalent or can choose to rely on manufacturer's specifications for the type of glove they choose to use.

2. Any manufacture in the United States.

Because P83–255 was proposed only for import, the PMN submitter was not required to provide information on exposures and releases from manufacture which occur outside the United States. As a result, the Agency cannot judge the risks associated with potential manufacture of this substance in the United States. The Agency is concerned about potential exposures associated with manufacture in the United States that have not been examined. EPA has an obligation under TSCA to review thoroughly such exposure scenarios before they occur. EPA has no reason to conclude that if P83–255 were manufactured in the United States, exposure during manufacture would be lower than during processing. Therefore, allowing this use to occur may result in increased risk to a greater number of people.

3. Distribution in commerce, by any person including importers, processors, and distributors, without affixing to each container of any formulation containing P83–255, a label that includes, in letters no smaller than 10 point type, the following statements:

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WARNING!  HARMFUL IF INHALED OR ABSORBED THROUGH THE SKIN.
MAY CAUSE REPRODUCTIVE EFFECTS.
- Do not get in eye, on skin, on clothing.
- Do not breathe (vapor, mist, spray, dust).
- Use with adequate ventilation.
- Wear impervious gloves and protective equipment to prevent
  contact or exposure.
- Promptly remove contaminated non-impervious clothing, wash
  before reuse.
- Discard contaminated leather shoes.
- Wash thoroughly after handling, and before eating,
  drinking, or smoking.
- Keep container closed.
FIRST AID:  In case of contact
EYES:  Immediately flush with water for at least 15 minutes.
SKIN:  Promptly wash thoroughly with mild soap and water.
INHALATION:  Remove to fresh air.  If breathing is difficult,
  give oxygen.
INGESTION:  If conscious, give water and induce vomiting.
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The Agency believes that labeling such as this will reinforce required precautionary measures, thereby increasing compliance. In addition, these label statements will instruct workers on proper procedures to limit risk should exposure occur. Therefore, the Agency believes that without these label statements, a greater number of people may be exposed to P83–255 for a greater duration.

VI. Recordkeeping Requirements

To ensure compliance with this proposed rule and to assist enforcement efforts, EPA is proposing that the following records be maintained for 5 years after the date of their creation, by persons who import or process this substance subject to this proposed rule.

1. The names of persons required to wear protective clothing.

2. The name and address of each person to whom the subject substance is sold or transferred and the date of such sale or transfer.

This proposed requirement is expected to encourage compliance with this proposed rule when promulgated and to support EPA's enforcement efforts. The Agency considered omitting recordkeeping requirements, but believes compliance monitoring for this proposed SNUR would be made more difficult.

Section 5(a)(2) of TSCA does not explicitly provide for recordkeeping of the type in paragraph (h) of this proposed rule. However, as discussed above, EPA believes that such recordkeeping is necessary to implement and enforce the requirements of the SNUR effectively. EPA believes that two TSCA authorities support the recordkeeping in this proposed rule. First, EPA believes there is inherent authority in section 5 of TSCA to require the keeping of records reasonably necessary to implement the mandate of section 5. EPA has already exercised this authority in the PMN rule recordkeeping requirements (see 40 CFR 720.78). Clearly, there is no way to determine whether a manufacturer or processor is undertaking a new use of the type in this proposed rule unless the manufacturer or processor is required to keep records of its activities to show that the new use has not occurred.

Otherwise, EPA would not be able to determine whether a violation has occurred unless the importer or processor was observed in violation.

Second, section 8(a) of TSCA provides broad authority for EPA to require manufacturers and processors of chemical substances to keep records. Generally, a section 8(a) recordkeeping requirement does not apply to small manufacturers and processors, but in this case a section 5(e) Order is in effect for the chemical substance in question. Thus, under section 8(a)(3)(A)(ii) of TSCA, EPA can require recordkeeping by small manufacturers and processors as well. However, by its own terms, the section 5(e) Order will automatically be revoked when the SNUR goes into effect. EPA chose to write this and other section 5(e) Orders in this fashion to ensure that the original PMN submitter would be treated in the same manner as other manufacturers and processors once the SNUR is in effect.

EPA believes that revocation of the section 5(e) Order after the SNUR and its accompanying section 8(a) recordkeeping requirements go into effect would not invalidate the recordkeeping requirement for small manufacturers and processors. Congress clearly believed that small businesses should be subject to section 8(a) when the particular chemical substance in question was the subject of specific regulatory actions and findings. In this case the "may present an unreasonable risk" finding in the section 5(e) Order would remain valid even though the Agency has revoked the Order for administrative reasons.

As an alternative to the recordkeeping requirements in paragraph (h) of this proposed rule, EPA is considering making failure to keep certain records a significant new use. Thus, 90 days before any manufacturer or processor could cease keeping the specified records, it would be required to submit a notice to EPA. Any person who failed to keep the records without having notified EPA would be in violation of section 5 of TSCA and of the rule.

Another alternative being considered by the Agency would require recordkeeping by all persons importing, manufacturing, or processing a chemical substance subject to a 5(e) Order, in any fashion which does not constitute a significant new use.

VII. Persons Subject to SNUR Notice Requirements

Section 5(a)(1)(B) requires persons to submit a SNUR notice to EPA before they manufacture, import, or process a substance subject to a SNUR for a significant new use. The language of this proposal makes clear that manufacturers, importers, and processors are subject to SNUR notice requirements. In some past proposed SNURs, the Agency has determined that requiring both manufacturers and processors to submit SNUR notices may result in duplicative information and cause an unnecessary burden on industry. Therefore, the Agency proposed to allow manufacturers and processors to decide which party should submit what information to EPA so long as all appropriate information was submitted. The significant new uses defined in this proposed rule do not lend themselves to this type of approach. Because the proposed significant new uses put restrictions on manufacture, processing, use, and distribution, information submitted by one of the parties would most likely be dissimilar from that submitted by a different party. Therefore, in order to assess the effects resulting from these significant new uses, the Agency proposes to require any person who manufactures, imports, or processes P83–255 for a defined significant new use to submit SNUR notices.

When a manufacturer/importer sells or transfers a substance to a processor and that person processes the substance for a significant new use, both the manufacturer/importer and the processor are responsible for submitting a SNUR notice. However, EPA is proposing that only one be required to submit a notice. In this situation, that person would be the processor because he is the one most familiar with the exposures resulting from the new use. In situations where the manufacturer/importer has information important to EPA's risk assessment the Agency would encourage the two persons to make a joint submission to provide complete information. If one person did not have complete information about the substance or the use and the other person did not sumbit that information, EPA could take action under section 5(e) to regulate the new use pending submission of the information. In situations where it is not clear who should submit a SNUR notice, the Agency encourages potential SNUR notice submitters to consult EPA prior to submitting their notice.

VIII. Exemptions to Reporting Requirements

Persons who manufacture, import, process, use, or distribute in commerce, dicarboxylic acid monoester, would not be subject to the reporting requirements of this proposed rule if:

1. The substance is manufactured, imported, or processed only in small quantities solely for research and development, and the substance is manufactured, imported, or processed in accordance with the provisions of § 720.36 of the Premanufacture Notification Rule.

2. The substance is manufactured or processed only as an impurity or byproduct.

3. The substance is imported, processed, used, or distributed in commerce as part of an article.

IX. Applicability of Proposal to Uses Occurring Before Promulgation of Final Rule

EPA recognizes that since P83–255 has been added to the Inventory it may be manufactured or processed for significant new uses as defined in this proposal before promulgation of the rule. EPA has decided that the intent of section 5(a)(1)(B) can best be served by determining whether a use is "new" or "existing" as of the proposal date of the SNUR. If EPA considered uses begun during the proposal period to be "existing" rather than "new" uses, it would be almost impossible for the Agency to establish SNUR notice requirements since any person could defeat the SNUR by initiating the proposed significant new use before the rule becomes final. This is contrary to the general intent of section 5(a)(1)(B).

Thus, if P83–255 is manufactured or processed between proposal and promulgation for a proposed significant new use, the agency will still consider such uses to be "new" if they are retained in the final rule. EPA recognizes that this interpretation may disrupt commercial activities of persons who began manufacture or processing for a significant new use during the proposal period. However, this proposal puts them on notice of that potential disruption, and they proceed at their own risk. The Agency specifically requests comments on ways to minimize this disruption.

X. Procedures for Informing Persons of the Existence of This Significant New Use Rule

The final rule will be published in the **Federal Register** and codified in the Code of Federal Regulations (CFR). While this will provide legal notice of the rule, EPA also intends to publish information concerning final SNURs in the TSCA Chemicals-in-Progress

Bulletin, published by the TSCA Assistance Office of EPA's Office of Toxic Substances. EPA may also use the TSCA Chemical substance Inventory to inform persons of the existence of final SNURs through footnotes to the chemical identities of substances subject to SNURs. The footnotes would refer to an Inventory Appendix which would give a Federal Register or CFR citation of the SNUR. As a variation of this approach, the Agency is considering publishing a list of substances subject to SNURs as an Inventory Appendix.

Any person who intends to manufacture, import, or process a substance for the first time would check the Inventory to determine if the substance is listed. If the person found that the substance is on the Inventory, but subject to a SNUR, he could determine whether he would be subject to reporting by contacting EPA or reviewing the rule. Because an updated Inventory is published only periodically, manufacturers, importers, and processors should also rely on the **Federal Register** and the TSCA Chemicals-in-Progress Bulletin. Since EPA maintains a current copy of the Inventory, any questions could be resolved by consulting EPA.

Determining whether a chemical substance is subject to a SNUR is more difficult when the identity of the chemical substance involved is confidential. In this case, the chemical identity of P83–255 was claimed confidential in the PMN. EPA is proposing to keep the specific identity of the substance confidential in the final rule. The substance would be referred to by its generic chemical name. In printed versions of the Inventory, there would be a footnote indicating that a chemical substance masked by the generic name is subject to a SNUR.

EPA is proposing that any person who intends to manufacture, import, or process a chemical substance within this generic name would be able to ask EPA whether its chemical substance is subject to the SNUR. To make such a request, the person would have to show EPA that the person has a *bona fide* intent to manufacture, import, or process the substance in question. The proces proposed for doing so is very similar to that for manufacturers and importers to show a *bona fide* intent to manufacture or import under 40 CFR 710.7(g)(2) of the Inventory Reporting Rules and 40 CFR 720.25(b)(2) of the Premanufacture Notification Rules (48 FR 21722, May 13, 1983). EPA would evaluate the SNUR inquiry under the same criteria and would answer the inquiry by either informing the requester that the substance is or is not subject to the SNUR or informing the requester that it has not furnished enough information to show a *bona fide* intent to manufacture, import, or process the substance in question. (If a manufacturer or importer makes an inquiry under either § 710.7(g) of the Inventory Reporting Rules or § 720.25(b) of the Premanufacture Notification Rules and EPA informs the requester that the substance is on the Inventory, EPA will also inform the manufacturer or importer whether the substance is subject to a SNUR.)

This procedure would allow manufacturers, importers, and processors to determine whether they are subject to the rule while protecting CBI from unnecessary disclosure. An alternative approach would be to publish the specific chemical identity of the substance in the final rule. EPA is particularly interested in comments on these approaches and any further alternatives.

EPA believes that all manufacturers and importers, and most processors will know the identities of the substances they manufacture, import, or process and therefore can follow the above procedures. EPA recognizes, however, that some processors may not know the identity of substances they process and, as a result, may not know they are required to submit a SNUR notice. At the same time, manufacturers do not always know what their processors/customers do with substances supplied to them. Therefore, EPA has identified several alternative approaches to address liability of manufacturers and processors of substances subject to a SNUR.

First, EPA could hold manufacturers and importers liable if any of their customers process P83–255 for a significant new use and if a required SNUR notice has not been submitted, even if the manufacturer or importer did not know that the customer intended to process the substance for a significant new use. Manufacturers and importers could avoid liability in this situation by informing each of their customers in writing that P83–255 is subject to this SNUR and by maintaining records that verify each such customer notification. However, if a manufacturer or importer had reason to believe that a customer was processing P83–255 for a significant new use before submitting a SNUR notice, the manufacturer or importer would be required immediately to cease sales of the substance to the customer and notify EPA enforcement authorities to avoid liability. The manufacturer or importer could not resume sales of the substance to that customer until a SNUR notice had been submitted by the manufacturer, importer, or processor and the notice review had run without regulatory action by EPA.

Second, EPA could hold processors liable if they process P83–255 for a significant new use without submitting a SNUR notice, even if they did not know the identity of the substance or that the substance was subject to a SNUR. However, processors could avoid liability in this situation by asking each of their suppliers to certify in writing whether the substance is subject to a SNUR, receiving a negative response, and maintaining records of each negative response. EPA believes that many processors ask suppliers to certify that chemical substances they purchase of unknown identity are on the Inventory. Therefore, the Agency believes that processors can similarly ask suppliers whether substances are subject to SNUR notice requirements. This alternative is consistent with the reporting alternative above in which EPA proposes to require submission of SNUR notices by processors, for their significant new uses.

Third, EPA could require manufacturers and processors of this substance to notify, through a label or otherwise, any person to whom they distribute the substance that the substance is subject to this SNUR. EPA could accomplish this in one of two ways. EPA believes that, where necessary, there is inherent authority in section 5(a)(2) of TSCA to require such notification since lack of notification would impair compliance with the rule. In addition, EPA could define distribution of this substance without a notification as a significant new use; before anyone could distribute the substance without providing notification, they would have to submit a SNUR notice to EPA.

The Agency specifically requests comments on these approaches as well as on other approaches to ensure that SNUR notice requirements are followed.

XI. Required Information

A. General

The Agency proposes that SNUR notice submitters use the premanufacture notice form and follow the premanufacture notice rules which were published in the **Federal Register** of May 13, 1983 (48 FR 21722), except as otherwise specified in this SNUR. EPA urges SNUR notice submitters to provide

detailed information on human exposure that will result from the significant new use. In addition, EPA urges persons to submit information on potential benefits of the substance including information on risks posed by the substance compared to risks posed by its substitutes.

B. Test Data

EPA recognizes that under TSCA section 5, a person is not required to develop any particular test data before submitting a notice. Rather, a person is required only to submit test data in his possession or control and to describe any other data known to or reasonably ascertainable by him. However, in view of the potential health risks that may be posed by a significant new use of P83–255, EPA encourages possible SNUR notice submitters to conduct tests that would allow a more reasoned evaluation of the substance's potential to elicit reproductive and teratogenic effects in humans. A more reasoned evaluation of these effects could be made using data generated in rodent teratology and 2-generation reproduction studies with P83–255. Depending on EPA's calculations of the risks involved, if a SNUR notice is submitted for any of the defined significant new uses for P83–255 without such test data or other information to demonstrate that exposure is adequately controlled by means other than those specified in these proposed significant new uses, EPA could take action under section 5(e) similar to that already taken for the PMN submitter.

Any testing should be conducted according to good laboratory practices and through the use of methodologies acceptable to the Agency. Failure to do so may lead the Agency to find such data to be insufficient to reasonably evaluate the health effects of this substance. As part of an optional prenotice consultation, EPA will discuss the test data or other information it believes necessary to evaluate a significant new use of P83–255. EPA encourages persons to consult with the Agency before selecting a protocol for testing P83–255.

XII. EPA Review of Notice

EPA proposes to review SNUR notices the same way it reviews PMNs and to subject such notices to the procedures in the final premanufacture notice rules. Under section 5(d)(2) of TSCA, EPA will publish a summary of each notice in the **Federal Register**. The review period for the notice will run 90 days from EPA's receipt of the notice. Under TSCA section 5(c), this period may be extended up to an additional 90 days for good cause. The submitter may not manufacture, import, or process the substance for the significant new use until the review period, including extensions, has expired.

The Agency may regulate the substance during the review period. If a significant new use notice is submitted for the chemical substance without information sufficient to judge the toxicity and exposure potential of the substance, EPA may issue a section 5(e) Order limiting or prohibiting the new use until sufficient information is developed. In addition, section 5(f) authorizes EPA to prohibit the significant new use if it presents or will present an unreasonable risk to health or the environment. EPA may also refer information in SNUR notice to other EPA offices and other Federal agencies. If EPA does not take action under sections 5, 6, or 7 of TSCA to control the new use of the substance, section 5(g) requires the Agency to explain in the **Federal Register** its reasons for not taking action.

XIII. Modification of Reporting Requirements

The Agency believes that there may be circumstances that will lead to modification of the new use descriptions. When a significant new use notice is submitted, EPA will review the use to determine whether any regulatory action is nesessary. If, after review, EPA allows the use to occur uncontrolled, the use arguably should not be subject to further reporting. EPA will consider amending the SNUR to modify or eliminate the new use description if the Agency decides that a change is warranted or that further notice of that use under a SNUR is not warranted. EPA may also amend the SNUR to eliminate other use descriptions if it determines, based on available data, that the substance no longer presents health or environmental concerns for those uses.

XIV. Proposed Rule Language

This proposed rule is structured as follows. The chemical substance and defined significant new uses are described in paragraph (a) of this proposal. In paragraph (b) EPA proposes definitions applicable to this section. Paragraph (c) sets forth the procedures for determining whether a substance is subject to the rule. Paragraph (d) describes the persons who must report. The notice requirements and procedures for reporting under this proposal are stated in paragraph (e). Paragraph (f) clarifies which exemptions of TSCA section 5(h) apply in this SNUR. In paragraph (g) the Agency has described enforcement provisions applicable to this proposal. In paragraph (h) EPA describes recordkeeping requirements.

EPA invites comments on all aspects of this proposed rule language.

XV. Enforcement

It is unlawful for any person to fail or refuse to comply with any provision of section 5 or of any rule promulgated under section 5. Manufacture or processing of a chemical substance for a significant new use without prior submission of a SNUR notice, would be a violation of section 15.

Section 15 of TSCA also makes it unlawful for any person to:

(1) Use for commercial purposes a chemical substance or mixture which such person knew or had reason to know was manufactured, processed, or distributed in commerce in violation of a SNUR.

(2) Fail or refuse to permit entry or inspection as required by section 11.

(3) Fail or refuse to permit access to or copying of records, as required by TSCA.

Violators may be subject to various penalties and to both criminal and civil liability. Persons who submit materially misleading or false information in connection with the requirement of any provision of a SNUR may be subject to penalties calculated as if they never filed their notices. Under the penalty provision of section 16 of TSCA, any person who violates section 15 could be subject to a civil penalty of up to $25,000 for each violation. Each day of operation in violation could constitute a separate violation. Knowing or willful violations of a SNUR could lead to the imposition of criminal penalities of up to $25,000 for each day of violation and imprisonment for up to one year. Other remedies are available to EPA under sections 7 and 17 of TSCA such as seeking an injunction to restrain violations of a SNUR and the seizure of chemical substances manufactured or processed in violation of a SNUR.

Individuals, as well as corporations, could be subject to enforcement actions. Sections 15 and 16 of TSCA apply to "any person" who violates various provisions of TSCA. EPA may, at its discretion, proceed against individuals as well as companies. In particular, EPA may proceed against individuals who report false information or cause it to be reported.

XVI. Economic Analysis

The Agency has evaluated the potential costs of establishing significant new use reporting requirements for P83–255. A summary of

the economic analysis of the possible outcomes as a result of promulgation of this proposed SNUR is presented below. The Agency's complete economic analysis is available from the public file.

Subsequent to proposal of the SNUR, the Agency believes there are five possible outcomes for companies that would manufacture or process P83–255: (1) Use protective equipment when processing or using P83–255 and label containers as required if and when the substance is distributed in commerce, therefore, not triggering the SNUR; (2) choose not to manufacture in the United States, therefore not triggering the SNUR; (3) submit a SNUR notice proposing domestic manufacture; (4) submit a SNUR notice with information showing other methods of controlling exposure that will mitigate EPA's concerns; and (5) submit a SNUR notice with the results of the recommended testing completed or be prepared to respond to a section 5(a) Order requiring the testing. The costs of these possible outcomes are summarized below.

If a company decides to process and use P83–255 under the terms of the proposed SNUR it will not incur the cost of submitting a SNUR notice. The only cost to the company will be the cost of the protective equipment and recordkeeping. The present value of the cost of providing protective equipment (imprevious gloves and clothing to prevent dermal contact) over a 10-year period for 5 workers is estimated to range between $1,180 (assuming workers wear imprevious gloves and regular long sleeve and long pants workclothing) to $1,398 (assuming workers wear the required impervious gloves and choose also to use impervious apron and armcovers). The present value of the cost of maintaining the records required in this proposed rule for 10 years is $1,460.

Given the low cost of the required protective equipment and recordkeeping, it is unlikely that a company would file a SNUR notice proposing alternative methods of controlling exposure. The cost of providing the required protective equipment (impervious gloves for five workers over a ten-year period and maintaining the required records ($2,640) is within the estimated range of the cost of filing a SNUR notice ($1,375 to $7,950).

It is theoretically possible that a company could file a SNUR notice which would include the results of the recommended testing (teratogenic effects and reproductive/fertility effects). A company would incure the cost of filing a notice ($1,375 to $7,950), performing the tests ($166,000 to $256,000), the cost of delay (probably a delay in profits of 0.5 to 1.5 years), and the cost of regulatory follow-up. Given these costs, the Agency does not expect that this option will be chosen.

If domestic manufacture of P83–255 becomes a viable business strategy, a SNUR notice would be required from the company proposing domestic manufacture. A company would incur the cost of filing a notice ($1,375 to $7,950), the cost of delay (which may or may not impact profit since import could continue), and the cost of regulatory follow-up, if any.

XVII. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this proposed rule is not a "Major Rule" because it will not have an effect on the economy of $100 million or more and it will not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the annual cost of this proposed rule, EPA believes that the cost will be low. Even if EPA received 50 SNUR notices, the direct cost of the proposed rule would be under one million dollars. Further, while the expense of a notice and the uncertainty of possbile EPA regulation may discourage certain innovation, that impact will be limited because such factors are unlikely to discourage an innovation which has high potential value.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Under the regulatory Flexibility Act, 5 U.S.C. 605(b), EPA certifies that this proposed rule, if promulgated, will not have a significant impact on a substantial number of small businesses. EPA is unable to predict realistically whether parties affected by this proposed rule will be small businesses. However, the Agency believes that few manufacturers or processors will submit SNUR notices. Therefore, although the costs of preparing a notice under this proposed rule might be significant for some small businesses, the number of such businesses affected would not be substantial.

C. Paperwork Reduction Act

Information collection requirements contained in this proposed rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 350 *et seq.*) and have been assigned OMB control number 2070–0012.

XVIII. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPTS—50508). The record includes basic information considered by the Agency in developing this proposed rule. EPA will supplement the record with additional information as it is received. The record now includes the following categories of information:

1. The PMN for this substance.
2. The **Federal Register** notice of receipt of the PMN.
3. The section 5(e) Consent Order.
4. The toxicity support document for the section 5(e) Order.
5. The proposed SNUR for this substance.
6. The toxicity support document for the SNUR.
7. The economic support document for the SNUR.

A public version of this record containing sanitized copies from which CBI has been deleted is available to the public in the OTS Public Information Office, from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. The Public Information Office is located in Rm. E–107, 401 M St., SW., Washington, D.C.

EPA will identify the complete rulemaking record by the date of promulgation. The Agency will accept additional materials for inclusion in the record at any time between this notice and designation of the complete record. The final rule will also permit persons to point out any errors or omissions in the record.

XIX. Confidential Business Information

Any person who submits comments which the person claims as confidential business information must mark the comments as "confidential." Any comments not claimed as confidential at the time of submission will be placed in the public file. Any comments marked as confidential will be treated in accordance with the procedures in 40 CFR Part 2. EPA requests that any person submitting confidential comments prepare and submit a sanitized version of the comments which EPA can place in the public file.

(Sec. 5, Pub. L. 94–469, 90 Stat. 2012 (15 U.S.C. 2604))

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous Materials, Recordkeeping

and reporting requirements, Significant new uses.

Dated: December 21, 1983.

William D. Ruckelshaus,
Administrator.

PART 721—[AMENDED]

Therefore, it is proposed that proposed Part 721 of Chapter I of Title 40 be amended by adding § 721.110 to read as follows:

§ 721.110 Dicarboxylic acid monoester.

This section identifies activities with respect to a certain chemical substance which EPA has determined are "significant new uses" under the authority of section 5(a)(2) of the Toxic Substances Control Act. In addition, it specifies procedures for reporting on that substance.

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The following chemical substance, referred to by its premanufacture notice number and generic name, is subject to reporting under this section for the significant new uses listed in paragraph (a)(2) of this section: P83–255, dicarboxylic acid monoester.

(2) The following are significant new uses subject to reporting:

(i) Any manufacture in the United States.

(ii) Failure to require the use of gloves determined to be impervious to the substance, and/or failure to require the use of clothing to prevent dermal contact for any person involved in any processing or use operation where dermal contact may occur. (Gloves may be determined to be impervious to P83–255 either by testing the gloves under the conditions of use or by relying on manufacturer's specifications.)

(iii) Distribution in commerce, by any person including importers, processors, and distributors, without affixing to each container of any formulation containing P83–255, a label that includes, in letters no smaller than 10 point type, the following statements:

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WARNING!  HARMFUL IF INHALED OR ABSORBED THROUGH THE SKIN.
MAY CAUSE REPRODUCTIVE EFFECTS.
- Do not get in eye, on skin, on clothing.
- Do not breathe (vapor, mist, spray, dust).
- Use with adequate ventilation.
- Wear impervious gloves and protective equipment to prevent
  contact or exposure.
- Promptly remove contaminated non-impervious clothing, wash
  before reuse.
- Discard contaminated leather shoes.
- Wash thoroughly after handling, and before eating,
  drinking, or smoking.
- Keep container closed.
FIRST AID:  In case of contact
EYES:  Immediately flush with water for at least 15 minutes.
SKIN:  Promptly wash thoroughly with mild soap and water.
INHALATION:  Remove to fresh air.  If breathing is difficult,
  give oxygen.
INGESTION:  If conscious, give water and induce vomiting.
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(b) *Definitions.* Definitions in section 3 of the Act, 15 U.S.C. 2602, apply to this section unless otherwise specified in this section. Definitions in § 720.3 of this Chapter apply to this section unless otherwise specified in this section. In addition, the following definitions apply:

(1) "Process for commercial purposes" means the preparation of a chemical substance or mixture, after its manufacture for distribution in commerce with the purpose of obtaining an immediate or eventual commercial advantage for the processor. Processing of any amount of a chemical substance or mixture is included. If a chemical substance or mixture containing impurities is processed for commercial purposes, then those impurities are also processed for commercial purposes.

(2) [Reserved]

(c) *Determining whether a chemical substance is subject to this section.*

(1) A person who intends to manufacture, import, or process a chemical substance which is described by the generic name in paragraph (a) of this section may ask EPA whether the substance is subject to this section. EPA will answer such an inquiry only if EPA determines that the person has a *bona fide* intent to manufacture, import, or process the chemical substance for commercial purposes.

(2) To establish a *bona fide* intent to manufacture, import, or process a chemical substance, the person who proposes to manufacture, import, or process the chemical substance must submit to EPA:

(i) The specific chemical identity of the chemical substance that the person intends to manufacture, import, or process.

(ii) A signed statement that the person intends to manufacture, import, or process that chemical substance for commercial purposes.

(iii) A description of the research and development activities conducted to date, and the purpose for which the person will manufacture, import, or process the chemical substance.

(iv) An elemental analysis.

(v) Either an X-ray diffraction pattern (for inorganic substances), a mass spectrum (for most other substances), or an infrared spectrum of the particular chemical substance, or if such data do not resolve uncertainties with respect to the identity of the chemical substance, additional or alternative spectra or other data to identify the substance.

(3) If an importer or processor cannot provide all the information required in paragraph (c)(2) of this section because it is claimed as confidential business information by the importer's or

processor's manufacturer or supplier, the manufacturer or supplier may supply the information directly to EPA.

(4) EPA will review the information submitted by the proposed manufacturer, importer, or processor under this paragraph to determine whether it has a *bona fide* intent to manufacture, import, or process the chemical substance. If necessary, EPA will compare this information either to the information requested for the confidential chemical substance under § 710.7(e)(2)(v) of this Chapter or the information requested under § 720.85(b)(3)(iii) of this Chapter.

(5) If the proposed manufacturer, importer, or processor has shown a *bona fide* intent to manufacture, import, or process the substance and has provided sufficient unambiguous chemical identity information so EPA can make a conclusive determination as to the identity of the substance, EPA will inform the proposed manufacturer, importer, or processor whether the chemical substance is subject to this section.

(6) A disclosure to a person with a *bona fide* intent to manufacture, import, or process a particular chemical substance that the substance is subject to this section will not be considered public disclosure of confidential business information under section 14 of the Act.

(7) EPA will answer an inquiry on whether a particular chemical substance is subject to this section within 30 days after receipt of a complete submission under paragraph (c)(2) of this section.

(d) *Persons who must report.* Any person who intends to manufacture, import (other than as part of an article), or process for commercial purposes, the substance identified in paragraph (a) of this section for a significant new use defined in that paragraph must submit a notice to the EPA Office of Toxic Substances in Washington, D.C. under the provisions of section 5(a)(1)(B) of the Act, Part 720 of this Chapter, and this section. Any notice of import must be submitted by the principal importer.

(e) *Notice requirements and procedures.* Each person who is required to submit a significant new use notice under this section must submit the notice at least 90 calendar days before commencing the significant new use. The submitter must comply with any applicable rquirement of section 5(b) of the Act, and the notice must include the information and test data specified in section 5(d)(1) of the Act. The notice must be submitted on the notice form in Appendix A to Part 720 of this Chapter and must comply with the requirements of Part 720 of this Chapter, except to the extent that they are inconsistent with this section. EPA will process the notice in accordance with the procedures in Part 720 of this Chapter, except to the extent that they are inconsistent with this section.

(f) *Exemptions and exclusions.* The chemical substance identified in paragraph (a) of this section is not subject to the notification requirements of this section if:

(1) The substance is manufactured, imported, or processed only in small quantities solely for research and development, and the substance is manufactured, imported, or processed in accordance with the provisions of § 720.36 of this Chapter.

(2) The substance is manufactured, imported, or processed only as an impurity or byproduct.

(3) The substance is imported, processed, used, or distributed in commerce as part of an article.

(g) *Enforcement.* (1) Failure to comply with any provision of this section is a violation of section 15 of the Act (15 U.S.C. 2614).

(2) Using for commercial purposes a chemical substance or mixture which a person knew or had reason to know was manufactured, processed, or distributed in commerce in violation of this section is a violation of section 15 of the Act (15 U.S.C. 2614).

(3) Failure or refusal to permit access to or copying of records, as required under section 11 of the Act, is a violation of section 15 of the Act (15 U.S.C. 2614).

(4) Failure or refusal to permit entry or inspection, as required under section 11 of the Act, is a violation of section 15 of the Act (15 U.S.C. 2614).

(5) Violators may be subject to the civil and criminal penalties in section 16 of the Act (15 U.S.C. 2615) for each violation. Persons who submit materially misleading or false information in connection with the requirement of any provision of this section may be subject to penalties calculated as if they never filed their notices.

(6) EPA may seek to enjoin the manufacture or processing of a chemical substance in violation of this section or act to seize any chemical substance manufactured or processed in violation of this section or take other actions under the authority of sections 7 or 17 of the Act (15 U.S.C. 2606 or 2616).

(h) *Recordkeeping.* Manufacturers and processors who manufacture or process the substance listed in paragraph (a) of this section, must maintain the following records for five years from the date of their creation:

(1) The names of persons required to wear protective clothing.

(2) The name and address of each person to whom the substance is sold or transferred and the date of such sale or transfer.

[FR Doc. 83-34803 Filed 12-30-83; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 721

[OPTS-50507; FRL 2429-1]

Toxic Substances; Derivative of Tetrachloroethylene; Proposed Determination of Significant New Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a Significant New Use Rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2604(a)(2), which would require persons to notify EPA at least 90 days before manufacturing, importing, or processing a substance for a "significant new use." EPA is proposing that certain uses of a substance known generically as a derivative of tetrachloroethylene be designated as significant new uses. The substance was the subject of premanufacture notice (PMN) P-82-684 and a TSCA section 5(e) Consent Order issued by EPA. The Agency is concerned that this substance may present an unreasonable risk of injury to human health if the defined new uses occur. These new uses were not allowed under the section 5(e) Consent Order.

DATES: Written comments should be submitted by March 5, 1984.

ADDRESS: Since some comments are expected to contain confidential business information, all comments should be sent in triplicate to: Document Control Officer (TS-793), Office of Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460.

Comments should include the docket control number OPTS-50507. Non-confidential comments and sanitized versions of confidential comments received on this proposal will be available for reviewing and copying from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays, in Rm. E-107 at the address given above.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St.,

SW., Washington, DC 20460, toll free: (800–424–9065), in Washington, D.C.: (554–1404), outside the USA: (Operator–202–554–1404).

SUPPLEMENTARY INFORMATION:

I. Authority

Section 5(a)(2) of TSCA authorizes EPA to determine that a use of a chemical substance is a significant new use. EPA must make this determination by rule, after considering all relevant factors, including those listed in section 5(a)(2). Once a use is determined to be a significant new use, persons must, under section 5(a)(1)(B), submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use. Such a notice is subject to the same requirements and procedures as a PMN submitted under section 5(a)(1)(A) which are interpreted at 40 CFR Part 720 (48 FR 21722, May 13, 1983). In particular, these include the information submission requirements of section 5(d)(1) and section 5(b), certain exemptions authorized by section 5(h), and the regulatory authorities of section 5(e) and section 5(f). If EPA does not take regulatory action under sections 5, 6, or 7 to control a substance on which it has received a SNUR notice, section 5(g) requires the Agency to explain its reasons for not taking action in the **Federal Register**. Substances covered by proposed or final SNURs are subject to the export reporting requirements of TSCA section 12(b). EPA regulations interpreting section 12(b) requirements appear at 40 CFR Part 707. Substances subject to final SNURs would be covered by TSCA section 13 import certification requirements at 19 CFR 12.118 through 12.127, and 127.8 (amended). EPA regulations discussing section 13 and TSCA's import requirements appear at 40 CFR Part 707.

II. Substance Subject to Proposed SNUR

The substance subject to this proposed rule was the subject of a PMN. The generic name is derivative of tetrachloroethylene. This substance will be referred to by its PMN number, P–82–684, throughout this preamble.

III. Background

On September 21, 1982, EPA received a PMN which the Agency designated as P–82–684. EPA issued a notice of receipt of the PMN in the **Federal Register** of September 30, 1982 (47 FR 43161). The notice submitter claimed its identity, the chemical identity, proposed use, and proposed production volume of the substance as confidential business information (CBI). The notice submitter stated in the PMN that the substance, known generically as a derivative of tetrachloroethylene, will be used as an ingredient for a a composite product. In the PMN submission, the notice submitter included test data which indicate that the substance is a moderate eye irritant, exhibits very low oral toxicity, and is not irritating to the skin. In addition, the submission included a negative Ames test for the substance.

During PMN review, the Agency identified structural analogs of the substance (the chemical identities of which are confidential), which have been tested in lifetime rodent bioassays. Most of these analogs were found to be carcinogenic in one or more species, even though the analogs, like P–82–684, were found negative in the Ames test. Further, based upon known properties of the analogs, the Agency believes that P–82–684 is likely to be readily absorded by the skin and the gastrointestinal tracts.

IV. Reasons for Proposing This Rule

EPA found that P–82–684 may present a carcinogenic risk to unprotected workers who may be exposed to the substance during manfacture and processing. The Agency, therefore, found that uncontrolled manufacture, processing, and distribution in commerce of the substance may present an unreasonable risk of injury to human health. However, because the Agency had to rely heavily on analog data, it concluded that there is insufficient information to perform a reasoned evaluation of the health effects of this substance. EPA found that a more reasoned evaluation of the carcinogenic risk posed by the substance would require data from a two-year bioassay.

However, EPA believes that use of appropriate protective equipment will protect workers from any unreasonble risk. The Agency negotiated a section 5(e) Consent Order with the notice submitter to require protective equipment until data are available to determine the risks from the substance more accurately. The Order became effective January 18, 1982 and will remain in effect until the effective date of a SNUR for that substance. The Consent Order requires the use of impervious gloves and respirators during the manufacture and processing of P–82–684.

The Agency believes that a section 5(e) Consent Order, which allows controlled commercial production of the substance, pending the development of further data, is appreciably less burdensome than a section 5(e) Order which prohibits manufacture of the substance until adequate data are submitted to EPA. In addition, such an approach protects human health by requiring adequate exposure controls pending the development of data.

However, the Order, by its terms, applies only to the notice submitter. The notice submitter has begun commercial manufacture of the substance and has submitted a Notice of Commencement of Manufacture to EPA. The Agency has added the substance to the TSCA Chemical Substance Inventory. Because the substance is on the Inventory, another person may manufacture or process the substance without any particular controls. Therefore, EPA is proposing to designate manufacture or processing of the substance without controls a significant new use that the Agency can review that use before it occurs.

Because of the CBI claims by the PMN submitter, EPA is unable to discuss in greater detail its reasons for proposing this SNUR. The Agency worked with the PMN submitter to see if additional information could be disclosed in connection with this proposed rule without damaging the competitive position of the submitter. The PMN submitter agreed to the use of a more specific form of the generic chemical identity; however, the submitter believed that release of any additional information could endanger its competitive position.

EPA has decided not to disclose any of the CBI at this time. While under section 14(a)(4) of TSCA, the Agency may disclose CBI relevant in any proceeding, "disclosure in such a proceeding shall be made in such manner as to preserve confidentiality to the extent practicable without impairing the proceeding." At present, EPA is not convinced that this proposed rule will be so impaired as to justify disclosure of CBI. However, the Agency specifically requests comments on this point and other options for SNUR rulemakings involving CBI.

V. Alternatives

EPA considered other possible approaches. One alternative would be to promulgate a section 8(a) reporting rule for the substance. Under such a rule, EPA could require any person to report to EPA before manufacturing or processing the substance. Because the substance is subject to a section 5(e) Order, the normal small business exemption of section 8(a) would not apply. However, the use of section 8(a) rather than SNUR authority has one major drawback. If EPA received a report under section 8(a) indicating that a person intended to manufacture or

process the substance without appropriate controls, the Agency could not take action under section 5(e) as it can under a SNUR and thus would not be able to regulate the substance pending development of information. Rather, EPA would have to obtain test data under section 4 and then, if necessary, regulate the substance under section 6. This approach would allow unnecessary risks to human health during the time needed for data development. In addition, the PMN submitter would be at a competitive disadvantage because the section 5(e) Consent Order applies only to that company.

The Agency has the authority to regulate substances under section 6 of TSCA. However, section 6(a) specifies that the Agency may regulate only if there is a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of the chemical substance or mixture "presents or will present" an unreasonable risk to health or the environment. As stated previously, there is insufficient information to perform a reasoned evaluation of the health effects of this substance. Therefore, the Agency cannot state at this time that this substance "presents or will present" an unreasonable risk, but only that it "may present" an unreasonable risk of injury to health. Therefore, the Agency cannot presently use section 6 to regulate this substance.

VI. Proposed Significant New Uses

To determine what would constitute a significant new use of this chemical substance, EPA considered relevant information about the toxicity of the substance and likely exposures associated with the manufacture and processing of the substance, and possible new uses, including the four factors listed in section 5(a)(2) of TSCA. EPA considered particularly the extent to which potential new uses may change the exposure to humans. In framing the significant new uses, EPA drew from the restrictions outlined in the section 5(e) Order. Based on these considerations, EPA proposes to define the following as a significant new use of P–82–684:

Manufacture or processing without requiring use of the following personal protective equipment, for persons involved in, and in the immediate area of, any operation where dermal contact and/or inhalation of the substance may occur:

(1) a respirator approved by the Department of Interior's Bureau of Mines (BOM), or by the National Institute for Occupational Safety and Health (NIOSH) to provide protection against dusts having an air contamination level not less than 0.05 mg per cubic meter of air and fitted according to procedures set forth by the Occupational Safety and Health Administration at 29 CFR 1910.134, and

(2) Gloves which are determined to be impervious to the substance in the conditions of potential exposure (gloves may be determined to be impervious to the substance through standard testing methods or by relying on the manufacturer's specifications);

Manufacture or processing without requiring that any container of the substance or formulation containing the substance be:

(1) Packaged to prevent any leakage of the substance to the environment, and

(2) Labeled to indicate that the substance should be handled only while using a BOM or NIOSH approved respirator and impervious gloves.

Manufacture or processing without use of impervious gloves and respirators is expected to greatly increase the exposure to P–82–684. Exposure during manufacture or processing may occur dermally or by inhalation. The Agency estimates that an unprotected worker may receive a yearly dose during manufacture or processing of the substance that would be significant. Since manufacture and processing under the section 5(e) Order requires use of impervious gloves and respirators, unrestricted manufacture or processing would greatly increase the level and magnitude of worker exposure.

In addition, EPA has already determined in the section 5(e) Consent Order that unrestricted manufacture or processing of the substance may present an unreasonable risk. While such a finding is not necessary to promulgate a SNUR, it strongly supports a determination that the new use of the substance would be significant.

VII. Recordkeeping Requirements

To ensure compliance with this proposed rule and to assist enforcement efforts, EPA is proposing that the following records be maintained for 5 years after the date of their creation, by persons who manufacture or process the substance subject to this proposed rule. First, the Agency is proposing that records be kept listing the names of persons required to wear protective clothing and/or respirators. Second, the Agency is proposing that manufacturers and processors keep a record of the name and address of each person to whom they sell this substance. Additionally, the Agency proposes that records be kept of the results of respirator fit tests conducted for persons required to wear respirators. Finally, EPA proposes that records be maintained of any determinations of imperviousness for gloves described in paragraph (a) of the proposed rule.

These requirements are proposed under the authorities of TSCA sections 5 and 8 and will meet several goals. This proposed requirement is expected to encourage compliance with this proposed rule when promulgated and to support EPA's enforcement efforts. The Agency considered omitting recordkeeping requirements, but believed compliance monitoring for this proposed SNUR would be made more difficult.

Section 5(a)(2) of TSCA does not explicitly provide for recordkeeping of the type in paragraph (g) of this proposed rule. However, as discussed above, EPA believes that such recordkeeping is necessary to effectively implement and enforce the requirements of the SNUR. EPA believes that two TSCA authorities support the recordkeeping in this proposed rule. First, EPA believes there is inherent authority in section 5 of TSCA to require the keeping of records reasonably necessary to implement the mandate of section 5. EPA has already exercised this authority in the PMN rule recordkeeping requirements (see 40 CFR 720.78). Clearly, there is no way to determine whether a manufacturer or processor is undertaking a new use of the type in this proposed rule unless the manufacturer or processor is required to keep records of its activities to show that the new use has not occurred. Otherwise, EPA would not be able to determine whether a violation has occurred unless the manufacturer or processor was observed in violation.

Second, section 8(a) of TSCA provides broad authority for EPA to require manufacturers and processors of chemical substances to keep records. Generally, a section 8(a) recordkeeping requirement does not apply to small manufacturers and processors, but in this case a section 5(e) Order is in effect for the chemical substance in question. Thus, under section 8(a)(3)(A)(ii) of TSCA, EPA can require recordkeeping by small manufacturers and processors as well. However, by its own terms, the section 5(e) Order will automatically be revoked when the SNUR goes into effect. EPA chose to write this and other section 5(e) Orders in this fashion to ensure that the original PMN submitter would be treated in the same manner as other manufacturers and processors once the SNUR is in effect.

EPA believes that revocation of the section 5(e) Order after the SNUR and its accompanying section 8(a)

recordkeeping requirments go into effect would not invalidate the recordkeeping requirement for small manufacturers and processors. Congress clearly believed that small businesses should be subject to section 8(a) when the particular chemical substances in question were the subject of specific regulatory actions and findings. In this case the "may present an unreasonable risk" finding in the section 5(e) Order would remain valid even though the Agency had revoked the Order for administrative reasons.

As an alternative to the recordkeeping requirements in paragraph (h) of this proposed rule, EPA is considering making failure to keep certain records a significant new use. Thus, 90 days before any manufacturer or processor could cease keeping the specified records, it would be required to submit a notice to EPA. Any person who failed to keep the records without having notified EPA would be in violation of section 5 of TSCA and of the rule.

Another alternative being considered by the Agency would require recordkeeping by all persons importing, manufacturing, or processing a chemical substance subject to a 5(e) Order, in any fashion which does not constitute a significant new use.

VIII. Persons Subject to SNUR Notice Requirements

Section 5(a)(1)(B) requires persons to submit a SNUR notice to EPA before they manufacture or process a substance subject to a SNUR for a significant new use. The language of this proposal makes clear that manufacturers, importers, and processors who do not employ specific controls are subject to SNUR notice requirements. Since both manufacturers and processors are legally subject to SNUR notice requirements, EPA may require both manufacturers and processors to submit complete SNUR notices. EPA has considered allowing manufacturers and processors to decide which party should submit what information to EPA as long as all appropriate information is submitted. This approach would certainly be appropriate when the significant new use would occur "downstream" from the manufacture, importing, or processing operations. However, for this substance, the exposure and hazard concerns involve workers in the manufacturing and processing operations and the proposed new use is the actual manufacturing and processing operations. Therefore, the points and levels of exposure and the number of persons exposed will be unique to each manufacturer and processor. To assesss the effects resulting from these significant new uses, the Agency proposes to require any person who intends to manufacture, import, or process the substance for a defined significant new use to submit a SNUR notice.

Using this approach, if a person plans to manufacture this substance without the designated protective equipment, that person would be required to submit a SNUR notice. If a person used the designated protective equipment in manufacturing this substance, or imported the substance, but then planned to process the substance without using the designated protective equipment, that person would be legally responsible for submitting a SNUR notice. If a person used the designated protective gear in manufacturing the substance, or imported the substance, and then sold the substance to a person who planned to process the substance without using the designated protective equipment, both persons would be legally responsible for submitting a SNUR notice. However, EPA is proposing that only one be required to submit a notice and that person would be the one most familiar with the exposures resulting from the new use, the processor in this situation. In situations where the manufacturer/importer also has information important to EPA's risk assessment, the Agency would encourage the persons to make a joint submission to provide complete information. In this situation, if the notice submitter did not have complete information about the significant new use and another person did not submit that information in a joint submission, EPA could take action under section 5(e) to regulate the new use pending submission of the information. In situations where it is not clear who should submit a notice, the Agency encourages potential SNUR notice submitters to consult EPA prior to submitting a notice.

IX. Applicability of Proposal to Uses Occurring Before Promulgation of Final Rule

EPA recognizes that when chemical substances proposed to be subject to a SNUR are added to the Inventory they may be manufactured or processed for "significant new uses" as defined in the proposal before promulgation of the rule. EPA has decided that the intent of section 5(a)(1)(B) can be best served by determining whether a use is "new" or "existing" as of the proposal date of the SNUR. If EPA considered uses begun during the proposal period to be "existing" rather than "new" uses, it would be almost impossible for the Agency to establish SNUR notice requirements since any person could defeat the SNUR by initiating the proposed significant new use before the rule becomes final. This is contrary to the general intent of section 5(a)(1)(B).

Thus, if substances are manufactured or processed between proposal and promulgation for proposed significant new uses, the Agency will still consider such uses to be "new" if those particular significant new uses are included in the final rule. EPA recognizes that this interpretation may disrupt commercial acitivities of persons who began manufacture or processing for a "significant new use" during the proposal period. However, this proposal puts those persons on notice of that potential disruption, and they proceed at their own risk. The Agency specifically requests comments on ways to minimize this disruption.

X. Procedures for Informing Persons of the Existence of This Significant New Use Rule

The final rule will be published in the **Federal Register** and codified in the Code of Federal Regulations (CFR). While this will provide legal notice of the rule, EPA is exploring additional ways of informing potential SNUR notice submitters of the existence of the rule.

EPA intends to publish information concerning final SNURs in the TSCA Chemicals-in-Progress Bulletin, published by the TSCA Assistance Office of EPA's Office of Toxic Substances. EPA may also use the TSCA Chemical Substance Inventory to inform persons of the existence of final SNURs through footnotes to the chemical identities of substances subject to SNURs. The footnotes would refer to an Inventory Appendix which would give a **Federal Register** or CFR citation for the SNUR. As a variation of this approach, the Agency is considering publishing a list of substances subject to SNURs as an Inventory Appendix.

Any person who intends to manufacture or process a substance for the first time should check the Inventory to determine if the substance is listed. If the person found that the substance is on the Inventory, but subject to a SNUR, he could determine whether he would be subject to reporting by contacting EPA or reviewing the rule. Because an updated Inventory is only published periodically, manufacturers and processors would also rely on the **Federal Register** and the TSCA Chemicals-in-Progress Bulletin. Since EPA maintains a current copy of the

Inventory, any questions could be resolved by consulting EPA.

Determining whether a chemical substance is subject to a SNUR is more difficult when the identity of the chemical substance involved is confidential. In this case, the chemical identity of the substance was claimed confidential in the PMN. EPA is proposing to keep the specific identity of the substance confidential in the final rule. The substance would be referred to by a generic chemical name. In printed versions of the Inventory, there would be a footnote indicating that a chemical substance masked by the generic name is subject to a SNUR.

EPA is proposing that any person proposing to manufacture, import, or process a chemical substance within the generic name would be able to ask EPA whether its chemical substance is subject to the SNUR. To make such a request, the person would have to show EPA that the person has a *bona fide* intent to manufacture, import, or process the substance in question. The process proposed for doing so is very similar to that for manufacturers and importers to show a *bona fide* intent to manufacture or import under 40 CFR 710.7(g)(2) of the Inventory Reporting Rules and 40 CFR 720.25(b)(2) of the Premanufacture Notification Rules which were published in the **Federal Register** of May 13, 1983 (48 FR 21722). EPA would evaluate the SNUR inquiry under the same criteria and would answer the inquiry by either informing the requester that the substance is or is not subject to the SNUR or informing the requester that sufficient information has not been furnished to show a *bona fide* intent to manufacture, import, or process the substance in question. (If a manufacturer or importer makes an inquiry under either § 710.7(g) of the Inventory Reporting Rules or § 720.25(b) of the Premanufacture Notification Rules and EPA informs the requester that the substance is on the Inventory, EPA will also inform the manufacturer or importer whether the substance is subject to a SNUR.)

This procedure would allow manufacturers, importers, and processors to determine whether they are subject to the rule while protecting CBI from unnecessary disclosure. An alternative approach would be to publish the specific chemical identity of the substance in the final rule. EPA is particularly interested in comments on these approaches and any further alternatives.

EPA believes that all manufacturers and most processors will know the identities of the substances they manufacture or process and therefore can follow the above procedures. EPA recognizes, however, that some processors may not know the identity of substances they process and, as a result, may not know they are subject to a SNUR. At the same time, manufacturers do not always know what their processor/customers do with substances supplied to them. Therefore, EPA has identified several alternative approaches to address liability of manufacturers, importers, and processors of substances subject to a SNUR.

First, if a required SNUR notice had not been submitted, EPA could hold manufacturers, importers, and processors who sell P–82–684 liable if any of their customers process the substance subject to this proposed rule for a significant new use without submitting a SNUR notice even if the manufacturer, importer, or processor did not know that the customer intended to process the substance for a significant new use. However, manufacturers, importers, and processors who sell P–82–684 could avoid liability by informing each of their customers in writing that the substance is subject to this SNUR and by maintaining records that verify each such customer notification. However, if the manufacturer, importer, or processor had reason to believe that a customer was processing the substance for a significant new use before submitting a SNUR notice, the manufacturer, importer, or processor would be required to cease immediately sales of P–82–684 to the customer and to notify EPA enforcement authorities to avoid liability. The manufacturer, importer, or processor could not resume sales of the substance to that customer until a SNUR notice had been submitted by the manufacturer, importer, or processor and the notice review period had run without regulatory action by EPA.

Second, EPA could hold buyers who process the substance liable if they process the substance for a significant new use without submitting a SNUR notice, even if they did not know the identity of the substance or that the substance was subject to a SNUR. However, processors could avoid liability by asking each of their suppliers to certify in writing whether the substance is subject to a SNUR, receiving a negative response, and maintaining records of each negative response. EPA believes that many processors ask suppliers to certify that chemical substances of unknown identity are on the Inventory. Therefore, the Agency believes that processors can similarly ask suppliers whether substances are subject to SNUR notice requirements. This alternative is consistent with the reporting alternative above in which EPA proposes to require submission by processors of SNUR notices for their significant new uses.

Third, EPA could require manufacturers and processors of this substance to notify, through a label or otherwise, any person to whom they distribute any of P–82–684 that the substance is subject to this SNUR. EPA could accomplish this in one of two ways. EPA believes that, where necessary, there is inherent authority in section 5(a)(2) of TSCA to require such notification since lack of notification would impair compliance with the rule. In addition, EPA could define distribution of the substance without a notification as a significant new use; before anyone could distribute the substance without providing notification, they would have to submit a SNUR notice to EPA.

The Agency specifically requests comments on these approaches as well as on other approaches to ensure that SNUR notice requirements are followed.

XI. Required Information

A. General

The Agency proposes that SNUR notice submitters use the premanufacture notice form and follow the PMN rules published in the **Federal Register** of May 13, 1983 (48 FR 21722), except as otherwise provided in this SNUR. EPA urges SNUR notice submitters to provide detailed information on human exposure that will result from the significant new use. In addition, EPA urges persons to submit information on potential benefits of the substance and information on risks posed by the substance compared to risks posed by substitutes.

B. Test Data

EPA recognizes that under TSCA section 5, a person is not required to develop any particular test data before submitting a notice. Rather, a person is only required to submit test data in his possession or control and to describe any other data known to him or reasonably ascertainable by him. However, in view of the potential health risk that may be posed by a significant new use of P–82–684, EPA encourages possible SNUR notice submitters to test the substance's potential for oncogenicity through a two-year rodent bioassay. Depending on EPA's calculations of the risks involved, if a SNUR notice is submitted without such test data, EPA may take action under

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section 5(e) similar to that already taken for the PMN submitter.

As part of an optional prenotice consultation, EPA will discuss the test data it believes necessary to evaluate a significant new use of the substance. EPA encourages persons to consult with the Agency before selecting a protocol for testing the substance.

Test data should be developed according to good laboratory practices and through the use of methodologies generally accepted at the time the study is initiated. Failure to do so may lead the Agency to find the data to be insufficient to reasonably evaluate the health effects of the substance.

XII. EPA Review of Notice

EPA proposes to review SNUR notices the same way it reviews PMNs and to subject such notices to the procedures appearing in the final PMN rule. EPA will issue a summary of each notice in the **Federal Register** under section 5(d)(2) of TSCA. The review period for the notice will run 90 days from EPA's receipt of the notice. Under TSCA section 5(c), this period may be extended up to an additional 90 days for good cause. The submitter may not manufacture, import, or process the substance for a significant new use until the review period, including extensions, has expired.

The Agency may regulate the substance during the review period. If a significant new use notice is submitted for the chemical substance without information sufficient to judge the toxicity and exposure potential of the substance, EPA may issue a section 5(e) Order limiting or prohibiting the new use until sufficient information is developed. In addition, section 5(f) authorizes EPA to prohibit the significant new use if it presents or will present an unreasonable risk to health or the environment. EPA may also refer information in a SNUR notice to other EPA offices and other Federal agencies. If EPA does not take action under sections 5, 6, or 7 to control the new use of a substance on which it has received a significant new use notice, section 5(g) requires the Agency to explain in the **Federal Register** its reasons for not taking action.

XIII. Modification of Reporting Requirements

The Agency believes that there may be circumstances that will lead to modification of the new use descriptions. When a significant new use notice is submitted, EPA will review the use to determine whether any regulatory action is necessary. If after review, EPA allows the use to occur, the use arguably should not be subject to further reporting. EPA will consider amending the SNUR to modify or eliminate the new use description if the Agency decides that a change is warranted or further notice of that use under a SNUR is not warranted. EPA may also amend the SNUR to eliminate or modify other use descriptions if it determines, based on new data, that the substance no longer presents health or environmental concerns for those uses.

EPA will amend the SNUR through a rulemaking. When EPA revises a SNUR by eliminating notice requirements for a single, narrow use of the substance, the Agency may, for good cause, dispense with notice and comment if it finds that notice and comment is impracticable, unnecessary, or contrary to the public interest. However, EPA will completely revoke or substantially alter a SNUR only after notice and an opportunity for comment.

XIV. Proposed Rule Language

This proposed rule is structured as follows. The chemical substance and defined significant new uses are described in paragraph (a) of this rule. Paragraph (b) contains definitions applicable for this section, most of which have been used in other TSCA rules. Paragraph (c) sets forth the procedure for determining whether a substance is subject to the rule. Paragraph (d) describes the persons who must report. In this proposal, EPA also makes clear that the "principal importer" in an import transaction must be the party that submits the SNUR notice. An explanation of the principal importer concept appeared in EPA's clarification of its proposed premanufacture notification requirements which was published in the **Federal Register** of September 23, 1980 (45 FR 63006). The notice requirements and procedures for reporting under this proposed rule are stated in paragraph (e).

Paragraph (f) clarifies that the exemptions of TSCA section 5(h) apply in this SNUR. Test Marketing Exemptions (TMEs) under section 5(h)(4) generally apply to SNURs. However, in this case the the proposed significant new use involves the actual manufacture and process operations as opposed to marketable end use. Therefore, the Agency believes that TMEs should not apply in this case. Manufacture or processing without the use of designated protective equipment is not a use for which there is a market, and, therefore, a market cannot be tested. In paragraph (g) the Agency has described enforcement provisions applicable to this proposal. Paragraph (h) contains the recordkeeping requirements.

XV. Enforcement

It is unlawful for any person to fail or refuse to comply with any provision of section 5 or of any rule promulgated under section 5. Manufacture or processing of a chemical substance for a significant new use without prior submission of a SNUR notice, would be a violation of section 15.

Section 15 of TSCA also makes it unlawful for any person to:

1. Use for commercial purposes a chemical substance or mixture which such person knew or had reason to know was manufactured, processed, or distributed in commerce in violation of a SNUR.

2. Fail or refuse to permit entry or inspection as required by section 11.

3. Fail or refuse to permit access to or copying of records by an authorized EPA official, as required by TSCA.

Violators may be subject to various penalties and to both criminal and civil liability. Persons who submit materially misleading or false information in connection with the requirements of any provision of a SNUR may be subject to penalties calculated as if they never filed their notices. Under the penalty provision of section 16 of TSCA, any person who violates section 15 could be subject to a civil penalty of up to $25,000 for each violation. Each day of operation in violation could constitute a separate violation. Knowing or willful violations of a SNUR could lead to the imposition of criminal penalties of up to $25,000 for each day of violation and imprisonment for up to one year. Other remedies are available to EPA under sections 7 and 17 of TSCA such as seeking an injunction to restrain violations of a SNUR and the seizure of chemical substances manufactured or processed in violation of a SNUR.

Individuals, as well as corporations, could be subject to enforcement actions. Sections 15 and 16 of TSCA apply to "any person" who violates various provisions of TSCA. EPA may, at its discretion, proceed against individuals as well as companies. In particular, EPA may proceed against individuals who report false information or cause it to be reported.

XVI. Economic Analysis

The Agency has evaulated the potential costs of establishing significant new use reporting requirements for P-82-684. This evaluation is summarized below.

The only direct costs that will definitely occur as a result of the

promulgation of this SNUR will be EPA's costs of issuing and enforcing the SNUR. It is estimated that the Agency's costs of issuing the SNUR are $42,150. The Agency would also incur enforcement costs.

Subsequent to proposal of this SNUR, the Agency believes that there are four possible outcomes for firms that would manufacture or process the substance: (1) Manufacture and process the substance with the specified protective equipment in place and therefore not trigger the SNUR, (2) file a SNUR with information showing other methods of controlling exposures which may mitigate EPA's concern for exposures, (3) file a SNUR with the results of the recommended testing completed or be prepared to respond to a section 5(e) Order, or (4) not manufacture and process the substance (for persons other than the PMN submitter). The focus of this analysis is to estimate the benefits and costs of these outcomes and the likely response by industry to this SNUR. The costs of these outcomes are summarized below.

If a company decides to manufacture or process the substance under the terms of the SNUR, it will not incur the costs of submitting a SNUR notice. The only cost to the company will be the cost of protective equipment, fit tests, and recordkeeping. The net present value of the costs of providing protective equipment, estimated over a 10-year period, ranges from $632 to $2,645 per worker. The net present value of the costs of recordkeeping requirements is approximately $1,460 per company over the same period. Assuming, arbitrarily, that 10 workers are used per operation, over a 10-year period, fit testing is expected to cost between $4,840 and $5,215 per company. The total cost (including equipment, fit tests, and recordkeeping) is expected to be between $12,620 and $33,125 per company, for 10 workers, over a 10-year period. EPA will incur only enforcement costs once the SNUR has been proposed.

In some circumstances it could be cost effective for a company to file a SNUR notice with data which shows that other means of controlling exposures could mitigate EPA's concerns. In this case the company would incur the costs of filing the SNUR notice ($1,375 to $7,950) and possibly the cost of some exposure controls which ordinarily would not be used without the existence of the SNUR. EPA's costs following promulgation of the SNUR under this scenario would include reviewing the SNUR notice ($6,865) and modifying the terms of the SNUR ($8,430) if the information provided showed that EPA's concerns would be adequately addressed by use of a different type of exposure controls. EPA would continue to incur enforcement costs.

It is theoretically possible that a company could file a SNUR notice which would include the test results of the recommended two-year rodent bioassay. A company would incur the cost of filing a notice ($1,375 to $7,950), performing the test ($724,500 to $854,000) and the cost of delay (probably a delay in profits of up to three years). The cost of this option is expected to be prohibitive.

Some companies could find the cost of controlling exposures too expensive to justify manufacture or processing. Under this outcome a company would not incur any direct costs as a result of the SNUR. The company and society would then lose benefits that would have been derived from the manufacture or processing of the substance. However, the fact that the original PMN submitter intends to manufacture with the protective equipment in place indicates that at least some uses of the substance would still return an acceptable profit.

The Agency has not attempted to quantify the benefits of the proposed rule or of these outcomes. In general, benefits will accrue if the proposed action leads to the identification and control of unreasonable risks before significant health effects can occur. The promulgation of the SNUR provides the benefits of reduced health risks until production or processing ceases. Furthermore, these benefits would continue regardless of the outcome chosen by industry in response to the SNUR.

XVII. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this proposed rule is not a "Major Rule" because it does not have an effect on the economy of $100 million or more, and it will not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the annual cost of this rule, EPA believes that the cost will be low. In addition, because of the nature of the rule and the substance subject to it, EPA believes that there will be few significant new use notices submitted. Further, while the expense of a notice, the suggested testing, and the uncertainty of possible EPA regulation may discourage certain innovation, EPA believes that impact may be limited where an innovation has high potential value. Finally, this SNUR may encourage innovation in safe chemical substances or highly beneficial uses.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), EPA certifies that this proposed rule will not, if promulgated, have a singificant economic impact on a substantial number of small businesses. The Agency has not determined whether parties affected by this proposed rule are likely to be small businesses. However, EPA believes that the number of small businesses affected by this proposed rule would not be substantial even if all the potential new uses were developed by small companies. EPA expects to receive few SNUR notices for the substance.

C. Paperwork Reduction Act

The information reporting requirements contained in this proposed rule have been approved by OMB under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and have been assigned OMB control number 2070–0012.

XVIII. Confidential Business Information

Any person who submits comments which the person claims as CBI must mark the comments as "confidential," "trade secret," or other appropriate designation. Any comments not claimed as confidential at the time of submission will be placed in the public file. Any comments marked as confidential will be treated in accordance with the procedures in 40 CFR Part 2. EPA requests that any party submitting confidential comments prepare and submit a sanitized version of the comments which EPA can place in the public file.

XIX. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPTS–50507). The record includes basic information considered by the Agency in developing this proposed rule. EPA will supplement the record with additional information as it is received. The record now includes the following categories of information:

1. The PMN for this substance.

2. An exposure analysis for the initial PMN review.

3. The **Federal Register** notice of receipt of the PMN.

4. A new use analysis for the initial PMN review.

5. The section 5(e) Consent Order.

6. The economic analysis of this proposed rule.

A public version of this record, containing sanitized copies from which CBI has been deleted, is available from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays, in the OTS Public Information Office, Rm. E–107, 401 M Street, SW., Washington, D.C.

EPA will identify the complete rulemaking record by the date or promulgation. The Agency will accept additional materials for inclusion in the record at any time between this notice and designation of the complete record. The final rule will also permit persons to point out any errors or omissions in the record.

(Sec. 5, Pub. L. 94–469, 90 Stat. 2012 (15 U.S.C. 2604))

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Recordkeeping and reporting requirements, Significant new uses.

Dated: December 21, 1983.

William D. Ruckelshaus,

Administrator.

PART 721—[AMENDED]

Therefore, it is proposed that proposed Part 721 of Chapter I of Title 40 be amended by adding § 721.325 to read as follows:

§ 721.325 Derivative of tetrachloroethylene.

This section identifies activities with respect to a certain chemical substance which EPA has determined are "significant new uses" under the authority of section 5(a)(2) of the Toxic Substances Control Act. In addition, it specifies procedures for reporting on that chemical substance.

(a) *Chemical substance and new uses subject to reporting.* (1) The chemical substance known generically as derivative of tetrachloroethylene (P–82–684) is subject to reporting under this section for the significant new use listed in paragraph (a)(2) of this section.

(2) Significant new uses subject to reporting:

(i) Manufacture or processing without requiring use of the following personal protective equipment, for persons involved in, and in the immediate area of, any operation where dermal contact and/or inhalation of the substance may occur, is a significant new use of derivative of tetrachloroethylene (P–82–684):

(A) A respirator, approved by the Department of Interior's Bureau of Mines (BOM), or by the National Institute for Occupational Safety and Health (NIOSH) to provide protection against dusts having an air contamination level not less than 0.05 mg per cubic meter of air and fitted according to procedures established by the Occupational Safety and Health Administration and set forth at 29 CFR 1910.134, and

(B) Gloves which are determined to be impervious to derivative of tetrachloroethylene in the conditions of potential exposure (gloves may be determined to be impervious to the substance by standard testing methods or by reliance on the manufacturer's specifications for the gloves selected).

(ii) Manufacture or processing without requiring that any container of derivative of tetrachloroethylene (P–82–684) or formulation containing the substance be:

(A) Packaged to prevent any leakage of the substance to the environment, and

(B) Labeled on the package that the substance should be handled only with using BOM or NIOSH approved respirators and impervious gloves.

(b) *Definitions.* The applicable definitions in section 3 of the Act, 15 U.S.C. 2602, apply to this section. Applicable definitions in § 720.3 of this chapter apply to this section. In addition, the following definition applies:

(1) "Process for commercial purposes" means the preparation of a chemical substance or mixture, after its manufacture, for distribution in commerce with the purpose of obtaining an immediate or eventual commercial advantage for the processor. Processing of any amount of a chemical substance or mixture is included. If a chemical substance or mixture containing impurities is processed for commercial purposes, then those impurities are also processed for commercial purposes.

(2) [Reserved]

(c) *Determining whether a chemical substance is subject to this section.* (1) A person who intends to manufacture, import, or process a chemical substance which is described by the generic name in paragraph (a) of this section may ask EPA whether the substance is subject to this section. EPA will answer such an inquiry only if EPA determines that the person has a *bona fide* intent to manufacture, import, or process the chemical substance for commercial purposes.

(2) To establish a *bona fide* intent to manufacture, import, or process a chemical substance, the person who proposes to manufacture, import, or process the chemical substance must submit to EPA:

(i) The specific chemical identity of the chemical substance that the person intends to manufacture, import, or process.

(ii) A signed statement that the person intends to manufacture, import, or process that chemical substance for commercial purposes.

(iii) A description of the research and development activities conducted to date, and the purpose for which the person will manufacture, import, or process the chemical substance.

(iv) an elemental analysis.

(v) Either an X-ray diffraction pattern (for inorganic substances), a mass spectrum of the particular chemical substance, or if such data do not resolve uncertainties with respect to the identity of the chemical substance, additional or alternative spectra or other data to identify the substance.

(3) If an importer or processor cannot provide all the information required in paragraph (c)(2) of this section because it is claimed as confidential business information by the importer's or processor's manufacturer or supplier, the manufacturer or supplier may supply the information directly to EPA.

(4) EPA will review the information submitted by the proposed manufacturer, importer, or processor under this paragraph to determine whether it has a *bona fide* intent to manufacture, import, or process the chemical substance. If necessary, EPA will compare this information either to the information requested for the confidential chemical substance under § 710.7(e)(2)(v) of this chapter or the information requested under § 720.85(b)(3)(iii) of this chapter.

(5) If the proposed manufacturer, importer, or processor has shown a *bona fide* intent to manufacture, import, or process the substance and has provided sufficient unambiguous chemical identity information so EPA can make a conclusive determination as to the identity of the substance, EPA will inform the proposed manufacturer, importer, or processor whether the chemical substance is subject to this section.

(6) A disclosure to a person with a *bona fide* intent to manufacture, import, or process a particular chemical substance that the substance is subject to this section will not be considered public disclosure of confidential business information under section 14 of the Act.

(7) EPA will answer an inquiry on whether a particular chemical substance is subject to this section within 30 days after receipt of a complete submission under paragraph (c)(2) of this section.

(d) *Persons who must report.* Any person who intends to manufacture, import (other than as part of an article), or process for commercial purposes the substance listed in paragraph (a) of this section for the significant new use defined in that paragraph must submit a notice to the EPA Office of Toxic Substances in Washington, D.C. under the provisions of section 5(a)(1)(B) of the Act, Part 720 of this chapter, and this section. Any notice of import must be submitted by the principal importer.

(e) *Notice requirements and procedures.* Each person who is required to submit a significant new use notice under this section must submit the notice at least 90 calendar days before commencing the significant new use. The submitter must comply with any applicable requirement of section 5(b) of the Act, and the notice must include the information and test data specified in section 5(d)(1) of the Act. The notice must be submitted on the notice form in Appendix A to Part 720 of this chapter and must comply with the requirements of Part 720 of this chapter, except to the extent that they are inconsistent with this section. EPA will process the notice in accordance with the procedures in Part 720 of this chapter, except to the extent they are inconsistent with this seciton.

(f) *Exemptions and exclusions.* The chemical substance listed in paragraph (a) of this section is not subject to the notification requirements of this section if:

(1) The substance is manufactured or processed only in small quantities solely for research and development, and the substance is manufactured or processed in accordance with § 720.36 of this chapter.

(2) The substance is manufactured or processed only as an impurity or byproduct.

(g) *Enforcement.* (1) Failure to comply with any provision of this section is a violation of section 15 of the Act (15 U.S.C. 2614).

(2) Using for commercial purposes a chemical substance or mixture which a person knew or had reason to know was manufactured, processed, or distributed in commerce in violation of this section is a violation of section 15 of the Act (15 U.S.C. 2614).

(3) Failure or refusal to permit access to or copying of records, as required under section 11 of the Act, is a violation of section 15 of the Act (15 U.S.C. 2614).

(4) Failure or refusal to permit entry or inspection, as required by section 11 of the Act, is a violation of section 15 of the Act (15 U.S.C. 2614).

(5) Violators may be subject to the civil and criminal penalties in section 16 of the Act (15 U.S.C. 2615) for each violation. Persons who submit false or misleading information in connection with the requirement of any provision of this section may be subject to penalties calculated as if they never filed a notice.

(6) EPA may seek to enjoin the manufacture or processing of a chemical substance in violation of this section or act to seize any chemical substance manufactured or processed in violation of this section or take other actions under the authority of sections 7 or 17 of the Act (15 U.S.C. 2606 or 2616).

(h) *Recordkeeping.* Manufacturers and processors of the substance identified in paragraph (a) of this section must maintain the following records for five years from the date of their creation:

(1) The names of persons required to wear protective equipment in accordance with paragraph (a) of this section.

(2) The names and addresses of any person to whom the substance is sold or transferred and the dates of such sale or transfer.

(3) Records of respirator fit tests for each person required to wear a respirator in accordance with paragraph (a) of this section.

(4) The method for determining that the gloves described in paragraph (a) of this section are impervious to P–82–684, the date(s) of such determination, and the results of that determination.

(Approved by the Office of Management and Budget under control number 2070–0012)

[FR Doc. 83–34802 Filed 12–30–83; 8:45 am]
BILLING CODE 6560–50–M

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40 CFR Part 721

[OPTS–50505 FRL 2413–5]

Substituted Methylpyridine and Substituted 2-Phenoxypyridine; Proposed Determination of Significant New Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: is proposing a Significant New Use Rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2604(a)(2), which would require persons to notify EPA at least 90 days before manufacturing, importing, or processing five substances for a "significant new use." EPA is proposing that for the five generically named substances, manufacture or processing without certain personal protective equipment be designated as a significant new use. The five substances were the subjects of Premanufacture Notices (PMNs) P83–23 (substituted 2-phenoxypyridine), P83–24 (substituted methylpyridine), P83–49 (substituted methylpyridine), P83–75 (substituted 2-phenoxypyridine), and P83–272 (substituted methylpyridine) and a TSCA section 5(e) Consent Order issued by EPA. The Agency is concerned that these substances may present unreasonable risks of injury to human health if the defined new uses occur. These new uses were not allowed under the section 5(e) Consent Order.

DATE: Written comments should be submitted by March 5, 1983.

ADDRESS: Since some comments are expected to contain confidential business information, all comments should be sent in triplicate to: Document Control Officer (TS–793), Office of Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, D.C. 20460.

Comments should include the docket control number OPTS-50505. Non-confidential comments and sanitized versions of confidential comments received on this proposal will be available for reviewing and copying from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays, in Rm. E–107, at the address given above.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Toll free: (800–424–9065), in Washington, D.C.: (554–1404), outside the USA: (Operator–202–554–1404).

SUPPLEMENTARY INFORMATION: OMB control number 2070–0012.

I. Authority

Section 5(a)(2) of TSCA authorizes EPA to determine that a use of a chemical substance is a significant new use. EPA must make this determination by rule, after considering all relevant factors, including those listed in section 5(a)(2). Once a use is determined to be a significant new use, persons must, under section 5(a)(1)(B), submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use. Such a notice is subject to the same requirements and procedures as a PMN submitted under section 5(a)(1)(A) of TSCA which are interpreted at 40 CFR Part 720. In particular, these include the information

submission requirements of section 5(d)(1) and section 5(b), certain exemptions authorized by section 5(h), and the regulatory authorities of section 5(e) and section 5(f) of TSCA. If EPA does not take regulatory action under sections 5, 6 or 7 to control a substance on which it has received a SNUR notice, section 5(g) of TSCA requires the Agency to explain its reasons for not taking action in the **Federal Register**. Substances covered by proposed or final SNURs are subject to the export reporting requirements of TSCA section 12(b). EPA regulations interpreting section 12(b) requirements appear at 40 CFR Part 707. Substances subject to final SNURs would be covered by TSCA sectoin 13 import certification requirements at 19 CFR Parts 12.118 through 12.127, and 127.8 (amended). EPA regulations discussing section 13 and TSCA's import requirements appear at 40 CFR Part 707.

II. Substances Subject to Proposed SNUR

The five chemical substances covered by this proposed rule were the subject of PMNs. Their generic names are substituted 2-phenoxypyridine (P83–23 and P83–75), and substituted methylpyridine (P83–24, P83–49, and P83–272). These five substances are being considered together because pyridine is a structural analogue to, and a moiety of concern in, each of the five substances. For purposes of clarity, these substances will be referred to by their PMN numbers throughout this preamble.

III. Background

EPA received five PMN submissions and issued them in the **Federal Register** on the following dates: P83–23 and P83–24 received October 7, 1982, notice of receipt published in the **Federal Register** of October 18, 1982 (47 FR 46371); P83–49 received October 15, 1982, notice of receipt published in the **Federal Register** of October 29, 1982 (47 FR 49072); P83–75 received October 27, 1982, notice of receipt published in the **Federal Register** of November 5, 1982 (47 FR 50338); P83–272 received December 3, 1982, notice of receipt published in the **Federal Register** of December 23, 1982 (47 FR 57332). In each of the PMN submissions the PMN submitter claimed the following as confidential business information (CBI): Company identity, chemical identity, production volume, manufacturing process, and use. In the PMNs the uses of these substances were described generically as "intermediates."

In the PMN submissions, data were provided which aided in the assessment of the acute health effects of the five substances. The PMN submissions also contained summaries of teratology, reproduction, mutagenicity, and acute toxicity studies on a structural analogue (identity confidential) of P83–75 and P83–23. In addition, EPA obtained a subchronic and a chronic feeding study on the same analogous substance. EPA used this information and available data on pyridine, a structural analogue to, and a moiety of concern in, all five PMN substances, to assess the potential health effects posed by the substances.

EPA believes all five of these substances will be absorbed readily through the gastrointestinal tract and the lungs, and more slowly via the dermal route, and may cause significant adverse effects to the liver, kidney, and nervous system following low-level chronic exposures. In addition, two of the substances may present a hazard to the reproductive system and to fetal development. Four of the five substances may also cause slight to moderate skin irritation and slight to severe eye irritation. The support for these concerns follows.

1. *Liver, kidney, and nervous system effects.* The Agency determined that P83–49 is a structural analogue to the other four subject substances. Data submitted for P83–49 and data obtained on two analogous substances (identities confidential) indicate liver, kidney, and nervous system toxicity following test animal exposure by three routes of administration (dermal, inhalation, and ingestion). The lowest no observable effect level (NOEL) was calculated by EPA from the data on P83–49, and found to be 50 mg/kg/day or 3,500 mg/day for a 70 kg person. Similar toxicities have been elicited in animals and humans by the administration of pyridine, an analogue to all five substances. EPA has chosen to apply a safety factor of 100 to provide a reasonable degree of protection from P83–49 and the other four substances pending the development of data. Based on a calculated NOEL of 3,500 mg/day for a 70 kg person for P83–49, and applying a safety factor of 100, chronic exposures to any of the five PMN substances in excess of 35 mg/day for a 70 kg person may produce liver, kidney, and/or nervous system toxicities.

2. *Skin and eye effects.* Data submitted on the neat, undiluted PMN substances indicate that, with the exception of P83–75, all of the substances have the potential to produce slight to moderate skin irritation and slight to severe eye irritation or other adverse ocular effects. Data on P83–75 indicate that this substance is not an irritant.

3. *Teratogenic and reproductive effects.* Data obtained on a substance (identity confidential) analogous to P83–75 and P83–23 show that teratogenic effects occurred in both rats and rabbits at does levels that are not maternally toxic. Based on these data, EPA calculated the NOEL for this effect in the analogue to be 1 mg/kg/day or 70 mg/day for a 70 kg person. In a 2-generation reproduction study in rats using the same analogous substance, adverse reproductive effects (reduction in weight of testes and epididymides, and reduction in litter size and survival rate) were observed at dose levels that did not cause other signs of adult toxicity. Minimal reproductive effects were reported at 1 mg/kg/day (the lowest dose tested) or 70 mg/day for a 70 kg person. EPA has chosen to apply a safety factor of 100 to provide a reasonable degree of protection from these substances, pending the development of data. Based on a calculated NOEL for teratogenicity and a minimal effect level for reproductive effects of 70 mg/day for a 70 kg person on an analogue of P83–75 and P83–23, and applying a safety factor of 100, these two substances may pose a hazard to both fetal development and the reproductive system if doses exceed 0.7 mg/day for a 70 kg person.

IV. Reasons for Proposing This Rule

The Agency evaluated available data and information which indicate that the five substances may present unreasonable risks to human health. However, because the Agency had to rely heavily on analogue data, it concluded that there is insufficient information to perform a reasoned evaluation of the health effects of these substances. The Agency determined that the substances may pose unreasonable risks to human health if manufactured or processed without restriction. The Agency concluded, however, that with certain protective equipment, exposure can be reduced sufficiently to mitigate health concerns. Based on these findings, EPA did not ban these chemical substances, but instead, chose to restrict their manufacture and processing, thereby encouraging innovation and benefits to society while continuing to protect human health. The Agency and the PMN submitter negotiated a section 5(e) Consent Order which requires the use of specific personal protective equipment during manufacture and processing of each of the PMN substances until appropriate data are developed to allow a reasoned evaluation of the substances. The Order became effective on March 9, 1983.

The section 5(e) Order, by its terms, applies only to the PMN submitter. Because the section 5(e) Order does not prohibit manufacture, the five substances will be added to the TSCA Chemical Substance Inventory when EPA receives a notice of commencement of manufacture from the PMN submitter. As a result, other persons could begin to manufacture or process the substances without notice to EPA and without the restrictions imposed by the section 5(e) Order. This manufacturing or processing could allow the exposures of concern to occur. Therefore, EPA is proposing to designate manufacture or processing of the substances without certain protective equipment as a significant new use so that the Agency can review that use before it occurs.

Through a SNUR, the Agency would ensure that all manufacturers, importers, and processors are subject to similar reporting requirements and that EPA has an opportunity to review exposure and toxicity information on the substances so that, if necessary, action can be taken to ensure that persons will not be exposed to levels of these substances that are potentially hazardous. To assist EPA in making a reasoned evaluation of the potential of each of the five substances to elicit kidney, liver, and nervous system toxicity in humans, the notices submitted under the SNUR should contain appropriate test data. The notice should also contain data that would allow a reasoned evaluation of the potential for P83–75 and P83–23 to produce reproductive and teratogenic effects in humans. Studies that would produce the data necessary to evaluate the potential effects of the substances are discussed below in more detail. In addition, the Agency would want to see exposure information and any available data to aid in assessing whether exposure can be adequately controlled by means other than those stated in the proposed significant new uses for these substances.

Because of the CBI claims by the PMN submitter, EPA is unable to discuss in greater detail its reasons for proposing this SNUR. The Agency informally spoke with the PMN submitter to see if additional information could be disclosed in connection with this proposed rule without damaging the competitive position of the submitter. The PMN submitter believed that release of any additional information could endanger its competitive position.

EPA has decided not to disclose any of the CBI at this time. While under section 14(a)(4) of TSCA, the Agency may disclose CBI relevant in any proceeding, "disclosure in such a proceeding shall be made in such a manner as to preserve confidentiality to the extent practicable without impairing the proceeding." EPA is not convinced that this proposed rule will be so impaired as to justify disclosure of CBI.

The Agency specifically requests comments on options for SNUR rulemakings involving CBI.

V. Alternatives

EPA considered other possible approaches to ensuring protection of human health. One alternative would be to promulgate a section 8(a) reporting rule for the substances. Under such a rule, EPA could require any person to report to EPA before manufacturing or processing the substances without protective equipment. Because the substances are subject to a section 5(e) Order, the normal small business exemption of section 8(a) would not apply. However, the use of section 8(a) rather than SNUR authority has one major drawback. If EPA received a report under section 8(a) indicating that a person intended to manufacture or process any of the subject substances without protective equipment, the Agency could not take action under section 5(e) as it can under a SNUR and thus would not be able to regulate the substances pending development of information. Rather, EPA would have to obtain test data after rulemaking under section 4 or, if necessary, regulate the substances under section 6. This approach would allow unnecessary risks to human health during the time needed for data development. In addition, the original PMN submitter would be at a competitive disadvantage because the section 5(e) Consent Order applies only to that company. It is not the intent of EPA in the PMN process to create unfair marketplace disruptions.

The Agency has the authority to regulate substances under section 6 of TSCA. However, section 6(a) specifies that the Agency may regulate only if there is a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use or disposal of the chemical substance or mixture "presents or will present" an unreasonable risk to health or the environment. As stated previously, there is insufficient information to perform a reasoned evaluation of the health effects of these substances. Therefore, the Agency cannot state at this time that these substances "present or will present" unreasonable risks, but only that they "may present" unreasonable risks of injury to health. Therefore, the Agency cannot presently use section 6 to regulate these substances.

VI. Proposed Significant New Uses

To determine what would constitute a significant new use of these chemical substances, EPA considered relevant information about the toxicity of the substances, likely exposures associated with the manufacture and processing of the substances, and possible new uses. EPA considered the four factors listed in section 5(a)(2) of TSCA, particularly the reasonably anticipated manner and methods of manufacturing and processing and the extent to which these methods affect the magnitude and duration of human exposure. In framing the significant new uses, EPA drew directly from the restrictions outlined in the section 5(e) Order. Based on these considerations, EPA proposes to define the following as a significant new use of P83–49 and P83–272:

Manufacture or processing without:

1. Requiring use of the following personal protective equipment, for persons involved in, and in the immediate area of, any operation where dermal contact and/or inhalation of the substances may occur:

a. Full facepiece, positive pressure air-supplied respirators, approved by the Bureau of Mines, Department of Interior or by the National Institute for Occupational Safety and Health, and fitted according to procedures established by the Occupational Safety and Health Administration and set forth at 29 CFR 1910.134.

b. Chemical worker gloves, aprons, and armcovers, or other equivalent personal protective clothing determined to be impervious to the particular substances in its conditions of use.

2. Notifying in writing, each employee required to use protective equipment that these chemical substances may present a hazard unless the specified protective equipment is used.

EPA proposes to define the following as a significant new use of P83–23, P83–24, and P83–75:

Manufacture or processing without:

1. Requiring use of the following personal protective equipment, for persons involved in, and in the immediate area of, any operation where dermal contact may occur:

a. Face-shields.

b. Chemical worker gloves, aprons, and armcovers, or other equivalent personal protective clothing determined to be impervious to the particular substance in its conditions of use.

2. Notifying in writing, each employee required to use protective equipment that these chemical substances may present a hazard unless the specified protective equipment is used.

For each of the five substances, the potential for accidental dermal or eye contact exists, but exposure cannot be quantified given the available information. The use of dermal protective equipment as designated above is expected to significantly reduce the availability of each of the five substances for both local dermal reactions and for absorption leading to systemic effects. The Agency is not requiring any specific method of determining whether gloves, aprons, and armcovers are impervious to these substances. Instead, persons who plan to manufacture or process any of the substances subject to this proposed rule, and who plan to use the designated protective equipment/clothing, can choose to test the gloves, aprons, and armcovers using methods such as the ASTM standard method or its equivalent, or choose to rely on manufacturers specifications for the type of equipment/clothing they choose to use. Protection for the eyes such as that provided by faceshields or full facepiece respirators will prevent accidental contact with, and adverse reaction of the eyes to, P83–23, P83–24, P83–49, and P83–272. Because the use of dermal protective equipment and eye protection is expected to reduce accidental dermal exposure to insignificant levels, the Agency has excluded exposure via the dermal route as a contributing factor in calculating the total daily doses of the substances received by workers. Therefore, the following information is based only on inhalational exposures to these substances.

Based on information submitted with the PMNs, EPA calculated vapor pressures and worst-case (minimal ventilation, minimum mixing of air) equilibrium concentrations of the five substances in the ambient workplace atmosphere. Using an average inhalation rate of 10 m^3 of air per 8 hour day per worker, the Agency calculated worst-case exposures for the substances.

EPA determined that for P83–75, P83–23, and P83–24, the worst-case exposures for inhalation were sufficiently low as not to be of concern. The vapor pressure of P83–75 was such that negligible ambient workplace concentrations were estimated. EPA's worst-case exposure estimate for P83–23 resulted in dose levels of 0.21 mg/day without the use of protective equipment to control inhalational exposure. The estimated doses for both substances are below the level at which the Agency has concern for liver, kidney, and nervous system effects (35 mg/day for a 70 kg person) and for reproductive dysfunction and fetal malformation (0.7 mg/day for a 70 kg person). The Agency's worst-case exposure estimate for P83–24 would result in a daily dose of 0.12 mg per person without controls limiting inhalational exposure. This level is below that at which the Agency has concerns for liver, kidney, and nervous system effects (35 mg/day for a 70 kg person).

The Agency determined that worst-case inhalation exposures for P83–49 and P83–272 could present significant risks and that protective equipment was necessary to reduce exposures to an acceptable level. The Agency calculated that for P83–49 and P83–272 doses could reach 23,000 mg/day per person and 6,100 mg/day per person, respectively. These dose levels are likely to result in liver, kidney, and nervous system effects. However, use of the full facepiece, positive pressure air-supplied respirator is expected to reduce potential inhalation of these two substances from the ambient air by 10,000-fold (National Institute of Occupational Safety and Health. A guide to industrial respiratory protection. DHEW Pub. NIOSH 76–189). Therefore, use of this equipment is expected to reduce the doses to 2.3 mg/day per person and 0.61 mg/day per person for P83–49 and P83–272, respectively. These levels are well below the above which effects are expected (35 mg/day for a 70 kg person).

The Agency requests comments on these definitions of significant new uses, and identification of any alternative definitions that would cover the scenarios of concern.

VII. Recordkeeping Requirements

To ensure compliance with this proposed rule and to assist enforcement efforts, EPA is proposing that the following records be maintained for 5 years after the date of their creation, by persons who manufacture or process any of the substances subject to this proposed rule.

1. The names of persons required to wear protective clothing and/or equipment.
2. Records of respirator fit tests for each person required to wear a respirator.
3. The name and address of each person to whom any of these substances are sold or transferred and the date of such sale or transfer.

This proposed requirement is expected to encourage compliance with this proposed rule when promulgated and to support EPA's enforcement efforts. The Agency considered omitting recordkeeping requirements, but believes compliance monitoring for this proposed SNUR would be made more difficult.

Section 5(a)(2) of TSCA does not explicitly provide for recordkeeping of the type in paragraph (h) of this proposed rule. However, as discussed above, EPA believes that such recordkeeping is necessary to implement and enforce the requirements of the SNUR effectively. EPA believes that two TSCA authorities support the recordkeeping in this proposed rule. First, EPA believes there is inherent authority in section 5 of TSCA to require the keeping of records reasonably necessary to implement the mandate of section 5. EPA has already exercised this authority in the PMN rule recordkeeping requirements (see 40 CFR 720.78). Clearly, there is no way to determine whether a manufacturer or processor is undertaking a new use of the type in this proposed rule unless the manufacturer or processor is required to keep records of its activities to show that the new use has not occurred. Otherwise, EPA would not be able to determine whether a violation has occurred unless the manufacturer or processor was observed in violation.

Second, section 8(a) of TSCA provides broad authority for EPA to require manufacturers and processors of chemical substances to keep records. Generally, a section 8(a) recordkeeping requirement does not apply to small manufacturers and processors, but in this case a section 5(e) Order is in effect for the chemical substances in question. Thus, under section 8(a)(3)(A)(ii) of TSCA, EPA can require recordkeeping by small manufacturers and processors as well. However, by its own terms, the section 5(e) Order will automatically be revoked when the SNUR goes into effect. EPA chose to write this and other section 5(e) Orders in this fashion to ensure that the original PMN submitter would be treated in the same manner as other manufacturers and processors once the SNUR is in effect.

EPA believes that revocation of the section 5(e) Order after the SNUR and its accompanying section 8(a) recordkeeping requirements go into effect would not invalidate the recordkeeping requirement for small manufacturers and processors. Congress clearly believed that small businesses should be subject to section 8(a) when the particular chemical substances in question were the subject of specific regulatory actions and findings. In this case the "may present an unreasonable risk" finding in the section 5(e) Order would remain valid even though the

Agency had revoked the Order for administrative reasons.

As an alternative to the recordkeeping requirements in paragraph (h) of this proposed rule, EPA is considering making failure to keep certain records a significant new use. Thus, 90 days before any manufacturer or processor could cease keeping the specified records, it would be required to submit a notice to EPA. Any person who failed to keep the records without having notified EPA would be in violation of section 5 of TSCA and of the rule.

Another alternative being considered by the Agency would require recordkeeping by all persons importing, manufacturing, or processing a chemical substance subject to a 5(e) Order, in any fashion which does not constitute a significant new use.

VIII. Persons Subject to SNUR Notice Requirements

Section 5(a)(1)(B) of TSCA requires persons to submit a SNUR notice to EPA before they manufacture or process a substance subject to a SNUR for a significant new use. The language in this proposal makes clear that manufacturers, importers, and processors are subject to SNUR notice requirements. In past proposed SNURs, however, the Agency has determined that requiring both manufacturers (including importers) and processors to submit SNUR notices may result in duplicative information and cause an unnecessary burden on industry. Therefore, the Agency proposed to allow manufacturers and processors to decide which party should submit what information to EPA so long as all appropriate information was submitted. This approach would certainly be appropriate where the significant new use would occur downstream from the manufacture, importing, or processing operations. However, for these five substances, the exposure and hazard concerns involve workers in the manufacturing and processing operations and the proposed new use is the actual manufacturing and processing as opposed to a marketable end product. Therefore, the points and levels of exposure and the number of persons exposed will be unique to each manufacturer and processor. To assess the effects resulting from these significant new uses, the Agency proposes to require any person who intends to manufacture, import, or process any of the five substances for a defined significant new use to submit SNUR notices.

Using this approach, if a person plans to manufacture any of these substances without the designated protective equipment, that person would be required to submit a SNUR notice. If a person used the designated protection equipment in manufacturing any of these substances or imported the substance, but then planned to process the substance without using the designated protective equipment, that person would be required to submit a SNUR notice. If a person used the designated protective equipment in manufacturing any of these substances or imported the substance and then sold the substance to a person who planned to process it without using the designated protective equipment, both persons would be responsible for submitting a SNUR notice, but EPA is proposing that only one be required to submit a notice. In this situation, that person would be the processor because he is the one most familiar with the exposures resulting from the new use. In situations where the manufacturer/importer has information important to EPA's risk assessment the Agency would encourage the two persons to make a joint submission to provide complete information. If one person did not have complete information about the substance or the use and the other person did not submit that information, EPA could take action under section 5(e) to regulate the new use pending submission of the information. In situations where it is not clear who should submit a SNUR notice, the Agency encourages potential SNUR notice submitters to consult EPA prior to submitting their notice.

IX. Applicability of Proposal to Uses Occurring Before Promulgation of Final Rule

EPA recognizes that when chemical substances proposed to be subject to this SNUR are added to the Inventory they may be manufactured or processed for significant new uses as defined in this proposal before promulgation of the rule. EPA has decided that the intent of section 5(a)(1)(B) can best served by determining whether a use is "new" or "existing" as of the proposal date of the SNUR. If EPA considered uses begun during the proposal period to be "existing" rather than "new" uses, it would be almost impossible for the Agency to establish SNUR notice requirements since any person could defeat the SNUR by initiating the proposed significant new use before the rule becomes final. This is contrary to the general intent of section 5(a)(1)(B).

Thus, if the substances are manufactured or processed between proposal and promulgation for proposed significant new uses, the Agency will still consider such uses to be "new" if they are retained in the final rule. EPA recognizes that this interpretation may disrupt commercial activities of persons who began manufacture or processing for a significant new use during the proposal period. However, this proposal puts them on notice of that potential disruption, and they proceed at their own risk. The Agency specifically requests comments on ways to minimize this disruption.

X. Procedures for Informing Persons of the Existence of This Significant New Use Rule

The final rule will be published in the **Federal Register** and codified in the Code of Federal Regulations (CFR). While this will provide legal notice of the rule, EPA also intends to publish information concerning final SNURs in the TSCA Chemicals-in-Progress Bulletin, published by the TSCA Assistance Office of EPA's Office of Toxic Substances. EPA may also use the TSCA Chemical Substance Inventory to inform persons of the existence of final SNURs through footnotes to the chemical identities of substances subject to SNURs. The footnotes would refer to an Inventory Appendix which would give a **Federal Register** or CFR citation for the SNUR. As a variation of this approach, the Agency is considering publishing a list of substances subject to SNURs as an Inventory Appendix.

Any person who intends to manufacture or process a substance for the first time would check the Inventory to determine if the substance is listed. If the person found that the substance is on the Inventory, but subject to a SNUR, he could determine whether he would be subject to reporting by contacting EPA or reviewing the rule. Because an updated Inventory is only published periodically, manufacturers and processors would also rely on the **Federal Register** and the TSCA Chemicals-in-Progress Bulletin. Since EPA maintains a current copy of the Inventory, any questions could be resolved by consulting EPA.

Determining whether a chemical substance is subject to a SNUR is more difficult when the identity of the chemical substance involved is confidential. In this case, the chemical identify of each of the five substances was claimed confidential in the PMNs. EPA is proposing to keep the specific identities of these five substances confidential in the final rule. The substances would be referred to by their generic chemical names. In printed versions of the Inventory, there would be a footnote indicating that some

chemical substances masked by these generic names are subject to a SNUR.

EPA is proposing that any person proposing to manufacture, import, or process a chemical substance within one of these generic names would be able to ask EPA whether its chemical substance is subject to the SNUR. To make such a request, the person would have to show EPA that the person has a *bona fide* intent to manufacture, import, or process the substance in question. The process proposed for doing so is very similar to that for manufacturers and importers to show a *bona fide* intent to manufacture or import under 40 CFR 710.7(g)(2) of the Inventory Reporting Rules and 40 CFR 720.25(b)(2) of the Premanufacture Notification Rules as published in the Federal Register of May 13, 1983 (48 FR 21722). EPA would evaluate the SNUR inquiry under the same criteria and would answer the inquiry by either informing the requester that the substance is or is not subject to the SNUR or informing the requester that it has not furnished enough information to show a *bona fide* intent to manufacture, import, or process the substance in question. (If a manufacturer or importer makes an inquiry under either § 710.7(g) of the Inventory Reporting Rules or § 720.25(b) of the Premanufacture Notification Rules and EPA informs the manufacturer or importer that the substance is on the Inventory, EPA will also inform the manufacturer or importer whether the substance is subject to a SNUR.)

This procedure would allow manufacturers, importers, and processors to determine whether they are subject to the rule while protecting confidential business information from unnecessary disclosure. An alternative approach would be to publish the specific chemical identity of the substances in the final rule. EPA is particularly interested in comments on these approaches and any further alternatives.

EPA believes that all manufacturers and most processors will know the identities of the substances they manufacture or process and therefore can follow the above procedures. EPA recognizes, however, that some processors may not know the identity of substances they process and, as a result, may not know they are subject to a SNUR. At the same time, manufacturers do not always know what their processors/customers do with substances supplied to them. Therefore, EPA has identified several alternative approaches to address liability of manufacturers, importers, and processors of substances subject to a SNUR.

First, if a required SNUR notice has not been submitted, EPA could hold manufacturers and importers of these five substances liable if any of their customers process one of the substances for a significant new use (i.e., without using the worker controls) even if the manufacturer or importer did not know that the customer intended to process the substance for the significant new use. Manufacturers and importers could avoid liability in this situation by informing each of their customers in writing that the substance is subject to this SNUR and by maintaining records that verify each such customer notification. However, if the manufacturer or importer had reason to believe that a customer was processing the substance for a significant new use before submitting a SNUR notice, the manufacturer or importer would be required to immediately cease sales of the substance to the customer and notify EPA enforcement authorities to avoid liability. The manufacturer or importer could not resume sales of the substance to that customer until a SNUR notice had been submitted by the manufacturer, importer, or processor, and the notice review period had run without regulatory action by EPA.

Second, EPA could hold processors liable if they process one of these substances for a significant new use without submitting a SNUR notice, even if they did not know the identity of the substance or that the substance was subject to a SNUR. However, processors could avoid liability in this situation by asking each of their suppliers to certify in writing whether the substance is subject to a SNUR, receiving a negative response, and maintaining record of each negative response. EPA believes that many processors ask suppliers to certify that chemical substances they purchase of unknown identity are on the Inventory. Therefore, the Agency believes that processors can similarly ask suppliers whether the substances are subject to SNUR notice requirements. This alternative is consistent with the reporting alternative above in which EPA proposes to require submission by processors of SNUR notices for their significant new uses.

Third, EPA could require manufacturers and processors of any of these substances to notify, through a label or otherwise, any person to whom they distribute any of the substances that the substances are subject to this SNUR. EPA could accomplish this is one of two ways. EPA believes that, where necessary, there is inherent authority in section 5(a)(2) of TSCA to require such notification since lack of notification would impair compliance with the rule. In addition, EPA could define distribution of these substances without such notification as a significant new use. Using this approach, before anyone could distribute the substances without providing notification, they would have to submit to SNUR notice to EPA.

The Agency specifically requests comments on these approaches as well as on other approaches to ensure that SNUR notice requirements are followed.

XI. Required Information

A. General

The Agency proposes that SNUR notice submitters use the premanufacture notice form and follow the premanufacture notice rules which were published in the Federal Register of May 13, 1983 (48 FR 21722), except as otherwise specified in this SNUR.

EPA urges SNUR notice submitters to provide detailed information on human exposure that will result from the significant new use. In addition, EPA urges persons to submit information on potential benefits of the substances and information on risks posed by the substances compared to risks posed by their substitutes.

B. Test Data

Persons required to submit a SNUR notice must decide what test data, if any, to develop. EPA recognizes that under TSCA section 5, a person is not required to develop any particular test data before submitting a notice. Rather, a person is only required to submit test data in his possession or control and to describe any other data known to or reasonably ascertainable by him. However, in view of the potential health risks that may be posed by a significant new use of P83–23, P83–24, P83–49, P83–75, and P83–272, EPA encourages possible SNUR notice submitters to conduct tests that would allow a more reasoned evaluation of each substance's potential to elicit liver, kidney, and nervous system toxicity in humans and, for P83–75 and P83–23, reproductive and teratogenic effects in humans. A more reasoned evaluation of liver, kidney, and nervous system toxicity could be made using data generated in a 90-day (subchronic) inhalation study in the rodent. Similarly, rodent teratology and 2-generation reproduction studies with P83–75 and P83–23 would allow a more reasoned evaluation of those risks for these two substances. Depending on EPA's calculations of the risks involved, if a SNUR notice is submitted for any of

the subject substances without such test data, or other information to demonstate that exposure is adequately controlled by means other than those specified in these proposed significant new uses; EPA could take action under section 5(e) similar to that already taken for the PMN submitter.

Any testing should be conducted according to good laboratory practices and through the use of methodologies acceptable to the Agency. Failure to do so may lead the Agency to find such data to be insufficient to reasonably evaluate the health effects of these substances. As part of an optional prenotice consultation, EPA will discuss the test data or other information it believes necessary to evaluate a significant new use of the subject substances. EPA encourages persons to consult with the Agency before selecting a protocol for testing the substances.

XII. EPA Review of Notice

EPA proposes to review SNUR notices the same way it reviews PMNs and to subject such notices to the procedures in the final premanufacture notice rules. Under section 5(d)(2) of TSCA, EPA will issue a summary of each notice in the **Federal Register**. The review period for the notice will run 90 days from EPA's receipt of the notice. Under TSCA section 5(c), this period may be extended up to an additional 90 days for good cause. The submitter may not manufacture, import, or process the substance for the significant new use until the review period, including extensions, has expired.

The Agency may regulate the substance during the review period. If a significant new use notice is submitted for the chemical substance without information sufficient to judge the toxicity and exposure potential of that substance, EPA may issue a section 5(e) Order limiting or prohibiting the new use until sufficient information is developed. In addition, section 5(f) authorizes EPA to prohibit the significant new use if it presents or will present an unreasonable risk to health or the environment. EPA may also refer information in a SNUR notice to other EPA offices and other Federal agencies. If EPA does not take action under sections 5, 6, or 7 of TSCA to control the new use of the substance, section 5(g) of TSCA requires that the Agency explain in the **Federal Register** its reasons for not taking action.

XIII. Modification of Reporting Requirements

The Agency believes that there may be circumstances that will lead to modification of the new use descriptions. When a significant new use notice is submitted, EPA will review the use to determine whether any regulatory action is necessary. If after review, EPA allows the use to occur, the use arguably should not be subject to further reporting. EPA will consider amending the SNUR to modify or eliminate the new use description if the Agency decides that a change is warranted or that further notice of that use under a SNUR is not warranted. EPA may also amend the SNUR to eliminate or modify other use descriptions if it determines, based on any data available to EPA, that a substance no longer presents health or environmental concerns for those uses.

XIV. Proposed Rule Language

This proposed rule is structured as follows. The substances and defined significant new uses are described in paragraph (a) of this proposal. Paragraph (b) contains definitions applicable to this section. Paragraph (c) sets forth the procedures for determining whether a substance is subject to the rule. Paragraph (d) describes the persons who must report. The notice requirements and procedures for reporting under this proposal are stated in paragraph (e). Paragraph (f) clarifies which exemptions of TSCA section 5(h) apply in this SNUR. Test Marketing Exemptions (TMEs) under TSCA section 5(h)(1) generally apply in SNURs. However, in this case the proposed significant new uses involve the actual manufacture and process operations as opposed to a marketable end use. Therefore, the Agency believes that TMEs should not apply in this case. Manufacture or processing without the use of designated protective equipment is not a use for which there is a market, and therefore, a market cannot be tested. In paragraph (g) the Agency has described enforcement provisions applicable to this proposal. Paragraph (h) outlines recordkeeping requirements for the subject substances.

EPA invites comments on all aspects of this proposed rule language.

XV. Enforcement

It is unlawful for any person to fail or refuse to comply with any provision of section 5 or any rule promulgated under section 5. Manufacture or processing of a chemical substance for a significant new use without prior submission of a SNUR notice would be a violation of section 15.

Section 15 of TSCA also makes it unlawful for any person to:

(1) Use for commercial purposes a chemical substance or mixture which such person knew or had reason to know as manufactured or processed in violation of a SNUR.

(2) Fail or refuse to permit entry or inspection as required by section 11.

(3) Fail or refuse to permit access to or copying of records, as required by TSCA.

Violators may be subject to various penalties and to both criminal and civil liability. Persons who submit materially misleading or false information in connection with the requirement of any provision of a SNUR may be subject to penalties calculated as if they never filed their notices. Under the penalty provision of section 16 of TSCA, any person who violates section 15 could be subject to a civil penalty of up to $25,000 for each violation. Each day of operation in violation could constitute a separate violation. Knowing or willful violations of a SNUR could lead to the imposition of criminal penalties of up to $25,000 for each day of violation and imprisonment for up to one year. Other remedies are available to EPA under sections 7 and 17 of TSCA such as seeking an injunction to restrain violations of a SNUR and the seizure of chemical substances manufactured or processed in violation of a SNUR.

Individuals, as well as corporations, could be subject to enforcement actions. Sections 15 and 16 of TSCA apply to "any person" who violates various provisions of TSCA. EPA may, at its discretion, proceed against individuals as well as companies. In particular, EPA may proceed against individuals who report false information or cause it to be reported.

XVI. Economic Analysis

The Agency has evaluated the potential costs of establishing significant new use reporting requirements for these substances. The economic analysis of the possible outcomes as a result of the promulgation of this SNUR is summarized below. The Agency's complete economic analysis is available in the public file.

After promulgation of the SNUR, the Agency believes there are four possible courses of action a company could take: (1) Produce the substances with the protective equipment in place, (2) file a SNUR notice with information showing other methods of controlling exposures that would mitigate EPA's health concerns, (3) file a SNUR notice with the results of recommended testing already completed or be prepared to respond to a section 5(e) Order requiring testing, or (4) not manufacture or process the substances. The costs of these outcomes are summarized below.

If a company decides to produce the substances using the protective equipment specified in the SNUR, it will not incur the cost of submitting a SNUR notice. The cost to the company will be the cost of the protective equipment and recordkeeping.

The net present value of the costs of providing protective equipment (gloves, aprons, armcovers, and face-shields) over a 10-year period for five workers is $19,140 each for P83–23, P83–24, and P83–75. In addition, the net present value of the cost of maintaining the records required in this proposed rule for 10 years is $1,460 per chemical substance. Therefore, the net present value of the cost of complying with the terms of this proposed rule over a 10-year period is $20,600 each for P83–23, P83–24, and P83–75.

The net present value of the cost of providing protective equipment (gloves, aprons, armcovers, and respirators) over a 10-year period for five workers is $31,170 each for P83–49 and P83–272. The net present value of the cost of providing respirator fit testing over a 10-year period for five workers ranges from $2,100 to $2,500 per chemical substance for P83–49 and P83–272. The net present value of the cost of maintaining the records required in this proposed rule for 10 years is $1,460 per chemical substance. Therefore, the net present value of complying with the terms of this proposed rule over a 10-year period is $34,730 to $35,130 each for P83–49 and P83–272. If one company chose to manufacture or process more than one of these substances, the costs for protective equipment per substance would be lower.

In some circumstances it could be cost effective for a company to file a SNUR notice with data which show that other means of controlling exposures could mitigate EPA's concerns. In this case the company incurs the cost of filing the SNUR notice ($1,375 to $7,950) and possibly the cost of some exposure controls which ordinarily would not be used without the existence of the SNUR. In addition, a company choosing this course of action could experience a 3.2 percent reduction in profits due to delays in manufacture or processing.

It is theoretically possible that a company could file a SNUR notice which would include the test results of the recommended testing (subchronic inhalation for all five substances and teratology and reproduction studies for P83–23 and P83–75). A company would incur the cost of filing a notice ($1,375 to $7,950), performing the tests ($90,000 to $125,000 each for P83–24, P83–49, and P83–272; $242,576 to $342,728 each for P83–23 and P83–75) and the cost of delay (probably a delay in profits of 0.5 to 1.5 years). The total cost of this option is expected to be prohibitive.

Some companies could find the cost of controlling exposures too expensive to justify beginning production or processing. Under this outcome a company would not incur any direct costs as a result of the SNUR.

EPA has not attempted to quantify the benefits of the proposed rule or of the outcomes. In general, benefits will accrue if the proposed action leads to the identification and control of unreasonable risks before significant health effects can occur. The issuance and promulgation of the SNUR provides the benefits of reduced health risks until production or processing ceases. Furthermore, these benefits would continue regardless of the outcome chosen by industry in response to the SNUR.

Given the relative cost of the recommended testing versus the required protective equipment, fit tests, and recordkeeping it is unlikely that testing will be performed. Some potential exists for the cost of protective equipment, fit tests, and recordkeeping to cause some companies to decide to forego production or processing. However, the fact that the original PMN submitter intends to produce under these restrictions indicates that at least some uses of these substances could still return an acceptable profit.

XVII. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this proposed rule is not a "Major Rule" because it does not have an effect on the economy of $100 million or more, and it will not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the annual cost of this rule, EPA believes that the cost will be low. Even if EPA received 50 SNUR notices, the direct cost of the rule would be under one million dollars. In addition, because of the nature of the rule and the substances subject to it, EPA believes that there will be few significant new use notices submitted. Further, while the expense of a notice and the uncertainty of possible EPA regulation may discourage certain innovation, that impact will be limited because such factors are unlikely to discourage an innovation which has high potential value.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), EPA certifies that this proposed rule, if promulgated, will not have a significant impact on a substantial number of small businesses. EPA is unable to predict realistically whether parties affected by this proposed rule will be small businesses. However, the Agency believes that few manufacturers or processors will submit SNUR notices. Therefore, although the costs of preparing a notice under this rule might be significant for some small businesses, the number of such businesses affected would not be substantial.

C. Paperwork Reduction Act

Information collection requirements contained in this proposed rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq*) and have been assigned OMB control number 2070–0012.

XVIII. Confidential Business Information

Any person who submits comments which the person claims as confidential business information must mark the comments as "confidential," "trade secret," or other appropriate designation. Any comments not claimed as confidential at the time of submission will be placed in the public file. Any comments marked as confidential will be treated in accordance with the procedures in 40 CFR Part 2. EPA requests that any person submitting confidential comments prepare and submit a sanitized version of the comments which EPA can place in the public file.

XIX. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPTS–50505). The record includes basic information considered by the Agency in developing this proposed rule. EPA will supplement the record with additional information as it is received. The record now includes the following categories of information:

1. The PMNs for these five substances.
2. The **Federal Register** notices of receipt of the PMNs.
3. A copy of the section 5(e) Consent Order.

4. The toxicity support document for the section 5(e) Order.

5. The proposed SNUR for these five substances.

6. The toxicity support document for the proposed SNUR.

7. The economic support document for the proposed SNUR.

8. Data on analogues.

A public version of this record containing sanitized copies from which CBI has been deleted is available to the public in the OTS Public Information Office, from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. The Public Information Office is located in Rm. E–107, 401 M St., SW., Washington, D.C.

EPA will identify the complete rulemaking record by the date of promulgation. The Agency will accept additional materials for inclusion in the record at any time between this proposed rule and designation of the complete record. The final rule will also permit persons to point out any errors or omissions in the record.

(Sec. 5, Pub. L. 94–469, 90 Stat. 2012 (15 U.S.C. 2604))

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Recordkeeping and reporting requirements, Significant new-uses.

Dated: December 21, 1983.

William D. Ruckelshaus,

Administrator.

PART 721—[AMENDED]

Therefore, it is proposed that proposed Part 721 of Chapter I of Title 40 be amended by adding § 721.265 to read as follows:

§ 721.265 Substituted methylpyridine and substituted 2-phenoxypyridine.

This section identifies activities with respect to certain chemical substances which EPA has determined are "significant new uses" under the authority of section 5(a)(2) of the Toxic Substances Control Act. In addition, it specifies procedures for reporting on these substances.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The following five chemical substances, listed by their premanufacture notice numbers and generic names, are subject to reporting under this section for the significant new uses listed in paragraph (a)(2) of this section: (P83–23) Substituted 2-phenoxypyridine, (P83–24) substituted methylpyridine, (P83–49) substituted methylpyridine, (P83–75) substituted 2-phenoxypyridine, and (P83–272) substituted methylpyridine.

(2) Significant new uses subject to reporting:

(i) Manufacture or processing without adhering to the following, is a significant new use of P83–49 and P83–272.

(A) Requiring use of the following personal protective equipment, for persons involved in, and in the immediate area of, any operation where dermal contact and/or inhalation of the substances may occur:

(*1*) Full facepiece, positive pressure air-supplied respirators, approved by the Bureau of Mines, Department of Interior or by the National Institute for Occupational Safety and Health, and fitted according to procedures established by the Occupational Safety and Health Administration and set forth at 29 CFR 1910.134.

(*2*) Chemical worker gloves, aprons, and armcovers, or other equivalent personal protective clothing determined to be impervious to the particular substance in its conditions of use.

(B) Notifying in writing, each employee required to use protective equipment that these chemical substances may present a hazard unless the specified protective equipment is used.

(ii) Manufacture or processing without adhering to the following is a significant new use of P83–23, P83–24, and P83–75.

(A) Requiring use of the following personal protective equipment, for persons involved in, and in the immediate area of, any operation where dermal contact may occur:

(*1*) Face-shields.

(*2*) Chemical worker gloves, aprons, and armcovers, or other equivalent personal protective clothing determined to be impervious to the particular substance in its conditions of use.

(B) Notifying in writing, each employee required to use protective equipment that these chemical substances may present a hazard unless the specified protective equipment is used.

(b) *Definitions.* Applicable definitions in section 3 of the Act, 15 U.S.C. 2602, apply to this section. Applicable definitions in § 720.3 of this Chapter apply to this section. In addition, the following definitions apply:

(1) "Process for commercial purposes" means the preparation of a chemical substance or mixture, after its manufacture for distribution in commerce with the purpose of obtaining an immediate or eventual commercial advantage for the processor. Processing of any amount of a chemical substance or mixture is included. If a chemical substance or mixture containing impurities is processed for commercial purposes, then those impurities are also processed for commercial purposes.

(2) [Reserved]

(c) *Determining whether a chemical substance is subject to this section.* (1) A person who intends to manufacture, import, or process a chemical substance which is described by one of the generic names in paragraph (a) of this section may ask EPA whether the substance is subject to this section. EPA will answer such an inquiry only if EPA determines that the person has a *bona fide* intent to manufacture, import, or process the chemical substance for commercial purposes.

(2) To establish a *bona fide* intent to manufacture, import, or process a chemical substance, the person who proposes to manufacture, import, or process the chemical substance must submit to EPA:

(i) The specific chemical identity of the chemical substance that the person intends to manufacture, import, or process.

(ii) A signed statement that the person intends to manufacture, import, or process that chemical substance for commercial purposes.

(iii) A description of the research and development activities conducted to date, and the purpose for which the person will manufacture, import, or process the chemical substance.

(iv) An elemental analysis.

(v) Either an X-ray diffraction pattern (for inorganic substances), a mass spectrum (for most other substances), or an infrared spectrum of the particular chemical substance, or if such data do not resolve uncertainties with respect to the identity of the chemical substance, additional or alternative spectra or other data to identify the substance.

(3) If an importer or processor cannot provide all the information required in paragraph (c)(2) of this section because it is claimed as confidential business information by the importer's or processor's manufacturer or supplier, the manufacturer or supplier may supply the information directly to EPA.

(4) EPA will review the information submitted by the proposed manufacturer, importer, or processor under this paragraph to determine whether it has a *bona fide* intent to manufacture, import, or process the chemical substance. If necessary, EPA will compare this information either to the information requested for the confidential chemical substance under § 710.7(e)(2)(v) of this Chapter or the information requested under § 720.85(b)(3)(iii) of this Chapter.

(5) If the proposed manufacturer, importer, or processor has shown a *bona fide* intent to manufacture, import, or process the substance and has provided sufficient unambiguous chemical identity information so EPA can make a conclusive determination as to the identity of the substance, EPA will inform the proposed manufacturer, importer, or processor whether the chemical substance is subject to this section.

(6) A disclosure to a person with a *bona fide* intent to manufacture, import, or process a particular chemical substance that the substance is subject to this section will not be considered public disclosure of confidential business information under section 14 of the Act.

(7) EPA will answer any inquiry on whether a particular chemical substance is subject to this section within 30 days after receipt of a complete submission under paragraph (c)(2) of this section.

(d) *Persons who must report.* Any person who intends to manufacture, import (other than as part of an article), or process for commercial purposes, any of the substances listed in paragraph (a) of this section for a significant new use defined in that paragraph must submit a notice to the EPA Office of Toxic Substances in Washington, D.C. under the provisions of section 5(a)(1)(B) of the Act, Part 720 of this Chapter, and this section. Any notice of import must be submitted by the principal importer.

(e) *Notice requirements and procedures.* Each person who is required to submit a significant new use notice under this section must submit the notice at least 90 calendar days before commencing the significant new use. The submitter must comply with any applicable requirement of section 5(b) of the Act, and the notice must include the information and test data specified in section 5(d)(1) of the Act. The notice must be submitted on the notice form in Appendix A to Part 720 of this Chapter and must comply with the requirements of Part 720 except to the extent that they are inconsistent with this section. EPA will process the notice in accordance with the procedures in Part 720 of this Chapter, except to the extent that they are inconsistent with this section.

(f) *Exemptions and exclusions.* The chemical substances listed in paragraph (a) of this section are not subject to the notification requirements of this section if:

(1) The substances are manufactured or processed July only in small quantities solely for research and development, and the substances are manufactured or processed in accordance with the provisions of § 720.36 of this Chapter.

(2) The substances are manufactured or processed only as an impurity or byproduct.

(g) *Enforcement.* (1) Failure to comply with any provision of this section is a violation of section 15 of the Act (15 U.S.C. 2614).

(2) Using for commerical purposes a chemical substance or mixture which a person knew or had reason to know was manufactured, processed, or distributed in commerce in violation of this section is a violation of section 15 of the Act (15 U.S.C. 2614).

(3) Failure or refusal to permit access to or copying of records, as required under section 11 of the Act, is a violation of section 15 of the Act (15 U.S.C. 2614).

(4) Failure or refusal to permit entry or inspection, as required under section 11 of the Act, is a violation of section 15 of the Act (15 U.S.C. 2614).

(5) Violators may be subject to the civil and criminal penalties in section 16 of the Act (15 U.S.C. 2615) for each violation. Persons who submit materially misleading or false information in connection with the requirement of any provision of this section may be subject to penalties calculated as if they never filed their notices.

(6) EPA may seek to enjoin the manufacture or processing of a chemical substance in violation of this section or act to seize any chemical substance manufactured or processed in violation of this section or take other actions under the authority of sections 7 or 17 of the Act (15 U.S.C. 2606 or 2616).

(h) *Recordkeeping.* Manufacturers and processors who manufacture or process any of the substances listed in paragraph (a) of this section, must maintain the following records for five years from the date of their creation:

(1) The names of persons required to wear protective clothing and/or equipment.

(2) Records of respirator fit tests for each person required to wear a respirator.

(3) The name and address of each person to whom any of these substances are sold or transferred and the date of such sale or transfer.

(Approved by the Office of Management and Budget under control number 2070–0012)

[FR Doc. 83–34796 Filed 12–30–83; 8:45 am]

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40 CFR Part 799

[OPTS–42054; TSH–FRL 2500–1]

Aniline and Chloro-, Bromo- and/or Nitroanilines; Response to the Interagency Testing Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advance notice of proposed rulemaking.

SUMMARY: In the Fourth Report of the Interagency Testing Committee (ITC), transmitted to the Administrator of EPA in April 1979, the ITC designated the anilines category for testing consideration. The Agency is publishing this Advance Notice of Proposed Rulemaking (ANPR) to initiate rulemaking to require the testing that appears necessary to characterize the health and environmental effects of the anilines. The amount of data available differs among the various category members and effects, so that testing needs are chemical-and effect-specific. This notice constitutes EPA's response to the ITC's designation of the anilines category for testing consideration. EPA seeks comment on its conclusions as to the need for further testing of the anilines and the submission of data, information and views on a number of issues.

DATE: All comments should be submitted on or before March 5, 1984.

ADDRESS: Written comments should bear the document control number [OPTS–42054] and should be submitted in triplicate to: TSCA Public Information Office (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–108, 401 M St. SW., Washington, D.C. 20460.

The administrative record supporting this action is available for public inspection in Rm. E–107 at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–543, 401 M St. SW., Washington, D.C. 20460, toll free: (800–424–9065), in Washington, D.C.: (554–1404), outside the USA: (Operator–202–554–1404).

SUPPLEMENTARY INFORMATION:

I. Background

Section 4(a) of the Toxic Substances Control Act (TSCA) (Pub. L. 94–469.90 Stat. 2003 *et seq.*, 15 U.S.C. 2601 *et seq.*) authorizes EPA to promulgate

regulations requiring manufacturers and processors to test chemical substances and mixtures in order to develop data relevant to determining the risks that such chemicals may present to health and the environment. Section 4(e) of TSCA established an Interagency Testing Committee (ITC) to recommend to EPA a list of chemicals to be considered for the promulgation of testing rules under section 4(a) of the Act.

In April 1979, the ITC placed on its priority testing list a category of chemicals known as "aniline and chloro-bromo- and/or nitroanilines" (see 44 FR 31866, June 1, 1979). The ITC defined this category as aniline and aniline substituted in one or more positions with a chloro, bromo, or nitro group, or any combination of these substituents. Anilines bearing other substituents are excluded from the category, even if they also carry one or more of the allowed substituents. The ITC recommended that the anilines be considered for testing for the following health effects: carcinogenicity, mutagenicity, teratogenicity and chronic effects (with special emphasis on blood disorders and neurotoxicity). In addition, the ITC recommended that an epidemiology study be considered because of the large-scale production and potential for substantial occupational exposure to certain anilines. The ITC also recommended that the anilines be considered for environmental effects testing and expressed specific concern about the lack of information on the potential for anilines to persist in the environment, to bioaccumulate and to cause adverse effects in cases where exposure can be identified. This Advance Notice of Proposed Rulemaking provides EPA's response as required by TSCA section 4(e) to the ITC's designation of the anilines.

Under section 4(a)(1) of TSCA, the Administrator shall by rule require testing of a chemical substance to develop appropriate test data if the Agency finds that:

(A) (i) the manufacture, distribution in commerce, processing, use, or disposal of a chemical substance or mixture, or that any combination of such activities, may present an unreasonable risk of injury to health or the environment,

(ii) there are insufficient data and experience upon which the effects of such manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data; or

(B) (i) a chemical substance or mixture is or will be produced in substantial quantities, and (I) it enters or may reasonably be anticipated to enter the environment in substantial quantities or (II) there is or may be significant or substantial human exposure to such substance or mixture,

(ii) there are insufficient data and experience upon which the effects of the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data.

For the findings under both section 4(a)(1)(B)(ii) and 4(a)(1)(B)(ii), EPA examines toxicity and fate studies to determine if existing information is adequate to reasonably determine or predict the effects of human exposure to, or environmental release of, the chemical. In making the third finding, that testing is necessary, EPA considers whether ongoing testing will satisfy the information needs for the chemcial and whether testing that the Agency might require would be capable of developing the necessary information.

EPA's process for determining when these findings can be made is described in detail in EPA's first and second proposed test rules as published in the **Federal Register** of July 18, 1980 (45 FR 48528) and June 5, 1981 (46 FR 30300). The section 4(a)(1)(A) finding is discussed in 45 FR 48528, and the section 4(a)(1)(B) finding is discussed in 46 FR 30300.

In evaluating the ITC's testing recommendations for the anilines, EPA considered all available relevant information including the following: Information presented in the ITC's report recommending testing consideration; production volume, use, exposure, and release information reported by manufacturers of anilines under the TSCA section 8(a) Preliminary Assessment Information Rule (40 CFR Part 712); and other published and unpublished data available to the Agency, including information submitted under the TSCA section 8(d) Health and Safety Data Reporting Rule (40 CFR Part 716).

The twenty anilines listed below have been specifically identified by industry as being currently in production.

1. Aniline (CAS No. 62–53–3).
2. 2-Chloroaniline (CAS No. 95–51–2).
3. 3-Chloroaniline (CAS No. 108–42–9).
4. 4-Chloroaniline (CAS No. 106–47–8).
5. 2,3,-Dichloroaniline (CAS No. 608–27–5).
6. 2,4-Dichloroaniline (CAS No. 554–00–7).
7. 2,5-Dichloroaniline (CAS No. 95–82–9).
8. 3,4-Dichloroaniline (CAS No. 95–76–1).
9. 2,4,6-Trichloroaniline (CAS No. 634–93–5).
10. 2-Nitroaniline (CAS No. 88–74–4).
11. 3-Nitroaniline (CAS No. 99–09–2).
12. 4-Nitroaniline (CAS No. 100–01–06).
13. 2,4-Dinitroaniline (CAS No. 97–02–9).
14. 2-Chloro-4-nitroaniline (CAS No. 121–87–9).
15. 2-Chloro-5-nitroaniline (CAS No. 6283–35–6).
16. 4-Chloro-2-nitroaniline (CAS No. 89–63–4).
17. 4-Chloro-3-nitroaniline (CAS No. 635–22–3).
18. 2,6-Dichloro-4-nitroaniline (CAS No. 99–30–9).
19. 2,6-Dibromo-4-nitroaniline (CAS No. 827–94–1).
20. 2-Bromo-4,6-dinitroaniline (CAS No. 1817–73–18).

EPA uses a weight to evidence approach in making a section 4(a)(1)(A)(i) finding in which both exposure and toxicity information are considered to make the finding that the chemical may present an unreasonable risk. For the section 4(a)(1)(B)(i) finding, EPA considers only production, exposure, and release information to determine if there is substantial production, significant or substantial exposure, and substantial release. Thus, while EPA can require testing for an effect under section 4(a)(1)(A) only if there is a suspicion of a hazard, under section 4(a)(1)(B) EPA can require testing whether or not there are data suggesting adverse effects if the relevant production, exposure, and release criteria are met.

II. Tentative EPA Decision And Issues

A. Development of Rulemaking

The Agency has reviewed available data which indicate that human and environmental exposure to and the toxicity of individual anilines category members may be sufficient to support a finding of potential unreasonable risk under TSCA section 4(a)(1)(A). EPA has previously indicated that although it would generally initiate rulemaking for testing through publication of a proposed rule, it may initiate action on chemical categories and certain complex chemicals through publication of an Advance Notice of Proposed Rulemaking (ANPR), as it is doing in this case. There are several reasons, both general to categories and specific to the anilines category, why the Agency has chosen to use this approach to initiate rulemaking with respect to this ITC designation of the anilines category.

The Agency has found that in developing rules for chemical categories, the issues that require attention are considerably more complex and numerous than in rulemaking for a single chemical. These issues thus require considerable additional time to resolve. For example, in order to avoid unnecessary or duplicative testing while assuring that adequate data are developed, the Agency needs to determine whether it is scientifically valid to test a set of representative chemicals rather than test each individual chemical substance in the category. One method of achieving this goal is through the use of structure-activity relationships (SAR). The Agency believes that there is a logical basis for pursuing SAR along the lines outlined in this notice (i.e., subcategorization according to the structures of the anilines). In addition, the Agency is setting forth for public comment a variety of other methods for selecting test substances (see Unit III. B).

Identifying the appropriate means for selecting which anilines category compounds should be tested is only part of the effort necessary for development of a proposed test rule for this category. The Agency must also consider what the proper scope of the anilines category should be, because there are numerous anilines that are listed in the TSCA inventory but are not currently in production, and there is also a large number of anilines that are neither in production nor on the TSCA inventory, but which have been reported in the chemical literature (see Unit III.10). The Agency's decisions with regard to the scope of the testing category and the method for selecting test substances will have important effects on reimbursement and exemption issues that arise under TSCA section 4 test rules. Because of the complexity of these important issues, the Agency believes that the issuance of an ANPR is the most appropriate method to initiate rulemaking for the anilines category.

Furthermore, EPA must review data applicable to exposure, release, and unreasonable risk (including consideration of testing costs and economic impact) for many chemical substances when dealing with a category.

A major part of EPA's data-gathering efforts on chemical substances is completed through two rules under section 8 of TSCA. The first, published in the **Federal Register** of June 22, 1982 (47 FR 26992), required, pursuant to section 8(a) of TSCA, that manufacturers of specified chemicals supply the Agency with certain production data and other information relating to potential exposure and release of the substances in question. The second rule, published September 2, 1982 (47 FR 38780), required, pursuant to section 8(d) of TSCA, that manufacturers of the specified chemicals supply the Agency with all unpublished health and safety studies in their possession relating to the chemicals. All substances nominated for priority consideration for testing are subject to these rules.

The section 8(d) rule has resulted in the submission to EPA of important data during 1983. Moreover, the Aniline Association and the Substituted Anilines Task Force (SATF) of the Synthetic Organic Chemical Association have recently submitted important environmental release and human exposure information for the manufacturing situation (Refs. 20 and 27). However, the incomplete nature of the information, especially on human exposures and environmental releases resulting from the non-captive processing and use of anilines category members, as well as a lack of reliable environmental monitoring data has also prompted EPA to issue an ANPR for these chemicals, rather than issue a proposed test rule.

In addition to the conceptual difficulties EPA has in directly preparing a proposed rule on a category of this size, EPA believes there are positive advantages in using an ANPR to initiate the process of rulemaking for testing this category of chemical substances. Publication of such a notice provides an opportunity for public comment on the difficult issues involved in the use of subcategories based on chemical structure, the other methods for choosing representative test substances, the scope of the testing category, and the complex questions related to reimbursement and exemptions (see Unit III), before the agency expends its resources on developing a proposed test rule for the anilines category. Because of the complexity of the issues involved, development of a proposed rule before receiving such input may result in needless expenditure of Agency resources and considerable delay in rule promulgation because of the potential volume of public comments on the proposed rule. For these reasons EPA has chosen to initiate rulemaking by issuing an ANPR in response to the ITC designation of the anilines category.

EPA, in publishing this ANPR, wishes to receive comment on its tentative basis for requiring testing, on the tests the Agency believes necessary to characterize the health and environmental effects of the anilines, on EPA's tentative approach to a representative sample of chemicals for testing, and on certain technical and regulatory issues that bear significantly on the makeup of a future proposed rule for this category. The bases for the suggested findings, and for the tests under consideration, are discussed below.

B. Preliminary Findings

1. *Potential human and environmental exposure.* Production and import volumes for members of the anilines category, which are derived from the TSCA public inventory, are provided in Table 1. The most recent information available to the Agency indicates that aniline is produced in substantial quantities, that aniline may be released into the environment in substantial quantities and that there may be significant or substatial human exposure to this substance. Thus for this one category member the available data suggest that the Agency could make the section 4(a)(1)(B) findings for human and environmental exposure potential.

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TABLE 1. EXPOSURE, PRODUCTION, USE AND USAGE OF ANILINES (SUBSTITUTED AND UNSUBSTITUTED)

TABLE 1. EXPOSURE, PRODUCTION, USE AND USAGE OF ANILINES (SUBSTITUTED AND UNSUBSTITUTED)

Chemical	Uses	Usage (10^6 lbs) JRB for 1978[a]	Usage (10^6 lbs) SRI for 1980[b]	Production Volumes[d] (1977) US (10^6 lbs)	Production Volumes[d] (1977) Import (10^3 lbs)	Dyes Produced Commercially: 1980[b]	NIOSH Worker Exposure Est.[c]
aniline	Isocyanate synthesis	290	350-360	300-1500	1-10	15(1.3 x 10^6 lbs)	85,127 (16,191 to aniline derivatives)
	Rubber Chemicals	183	140				
	Dyes & Pigments Intermediate	315	28				
	Hydroquinone	325	17-20				
	Miscellaneous, Pharmaceuticals and Pesticides	24.2	55-65				
aniline hydrochloride	Dyes & Pigments Intermediate	.02	ND[e]	ND	ND	ND	537
	Photographic Chemicals	ND	ND				
2-chloroaniline	Dyes & Intermediates	ND	ND	0.1-1.0	200-2,000	2(>15,000 lbs)	18,138
3-chloroaniline	Dyes & Pigment Intermediate	ND	ND	.001-.01	100-1,000	1(>5000 lbs)	ND
	Herbicide Intermediate	ND	ND				
	Pharmaceutical Intermediate	ND	ND				
4-chloroaniline	Dyes & Pigments Intermediate	ND	ND	0.1-1.0	10-100	1(>10,000 lbs)	ND
	Pesticide Intermediate	ND	ND				
2,4-dichloroaniline	Pigment Intermediate	ND	ND	.001-.01	0-1.0	ND	110 (mixed isomers)
2,5-dichloroaniline	Dyes & Pigments Intermediate	ND	ND	ND	ND	4(>48,000 lbs)	
3,4-dichloroaniline	Pigment Intermediate	ND	ND	0.1-1.0	ND	ND	ND
	Herbicide Intermediate	ND	ND				
2,4,6-trichloroaniline	Pigment Intermediate	ND	ND	0.1-1.0	2	1(>10,000 lbs)	ND
4-bromoaniline	Azo Dyes	ND	ND	ND	ND	ND	1744
	Organic Synthesis Reagent	ND	ND				

[a] JRB (1980). JRB Associates, Inc. Level I materials balance for anilines, for office of Pesticides and Toxic Substances (OPTS), USEPA (Ref. 31)
[b] SRI (1982). SRI International Anilines by Kashiwase D and Rich P Technical Directive 60 for OPTS, USEPA. (Ref. 76)
[c] NIOSH (1983). National Institute for Occupational Health and Safety. Aniline and derivatives. In: Quarterly Hazard Summary Report (Ref. 62)
[d] USEPA (1983). Computer printout of nonconfidential TSCA inventory of anilines. Management Support Division, USEPA. (Ref. 81)
[e] ND - No Data.

TABLE 1. EXPOSURE, PRODUCTION, USE AND USAGE OF ANILINES (SUBSTITUTED AND UNSUBSTITUTED) - CONTINUED

Chemical	Uses	Usage (10^6 lbs)		Production Volumes[d] (1977)		Dyes Produced Commercially: 1980[b]	NIOSH Worker Exposure Est.[c]
		JRB for 1978[a]	SRI for 1980[b]	US (10^6 lbs)	Import (10^3 lbs)		
2-nitroaniline	Dye & Pigment Pesticide Intermediate Intermediate to phenylenediamine	7.7	ND[e]	1.2-10	ND	6(>60,000 lbs)	336
3-nitroaniline	Dye & Pigment Intermediate Organic Synthesis Intermediate	ND	ND	ND	10-100	3(>15,000 lbs)	ND
4-nitroaniline	Dye & Pigment Intermediate	6.6	ND	10-50	10-100	17(2.6 x 10^6 lbs)	2813
	Intermediate to p-phenylenediamine	ND	ND				
	Rubber Chemicals	13.2	ND				
	Gasoline Antioxidant	2.2	ND				
	Fungicide Intermediate	6.6	ND				
2,4-dinitroaniline	Dye & Pigment Intermediate	ND	ND	.01-.1	100-1000	1(581,000 lbs)	ND
2-chloro-4-nitroaniline	Dye & Pigment Intermediate Pesticide Intermediate	ND	ND	ND	ND	5(741,000 lbs)	2938
2,6-dichloro-4-nitroaniline	Dye & Pigment Intermediate	ND	ND	ND	ND	3(879,000 lbs)	3580
	Direct Fungicide	ND	0.4				
4-chloro-2-nitroaniline	Dye & Pigment Intermediate	ND	ND	0.2-2.0	10-100	10(521,000 lbs)	ND
		ND	0.4				
4-chloro-3-nitroaniline	Intermediate for Azo dyes, Pharmaceuticals and Organic Synthesis	ND	ND	0.1-1.0	1-10	ND	ND
2,6-dibromo-4-nitroaniline	Dye & Pigment Intermediate	ND	ND	ND	ND	ND	ND
2-bromo-4,6-dinitroaniline	Dye & Pigment Intermediate	ND	ND	ND	ND	2	ND
2-bromo-6-chloro-4-nitroaniline	Dye & Pigment Intermediate	ND	ND	ND	ND	ND	

[a] JRB (1980). JRB Associates, Inc. Level I materials balance for anilines, for office of Pesticides and Toxic Substances (OPTS), USEPA (Ref. 31)
[b] SRI (1982). SRI International Anilines by Kashiwase D and Rich P Technical Directive 60 for OPTS, USEPA. (Ref. 76)
[c] NIOSH (1983). National Institute for Occupational Health and Safety. Aniline and derivatives. In: Quarterly Hazard Summary Report (Ref. 62)
[d] USEPA, (1983). Computer printout of nonconfidential TSCA inventory of anilines. Management Support Division, USEPA. (Ref. 81)
[e] No Data.

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Other information available to the Agency indicates that some of the remaining category members are being produced in substantial quantities. Although certain category members are or may be produced in substantial quantities, available data do not clearly indicate that they are released into the environment in substantial quantities or that there is or may be significant or substantial human exposure to these chemical substances. Thus, without additional environmental release and/or human exposure information, the Agency does not believe that a TSCA section 4(a)(1)(B) finding can be made for the substituted anilines in the category. EPA requests the submission of additional data on the environmental release of anilines category members and information on the potential for human exposure to any of these substances. The Agency will review such information before making a determination as to whether a 4(a)(1)(B) finding can be made for anilines category members besides aniline itself.

However, the Agency does consider that publicly available and confidential information indicate that each of the twenty members of the anilines category currently in production may have sufficient human and environmental exposure to meet the criterion for a finding under section 4(a)(1)(A)(i): That the manufacture, distribution in commerce, processing, use, or disposal of anilines category members, or any combination of such activities may present an unreasonable risk of injury to health and the environment. Summaries of the available data on human exposure and environmental release are set forth below and in Unit II.B.3, respectively.

Current (1983) NIOSH estimates of the number of workers potentially exposed to the anilines addressed in this notice range from 110 to 85,127 (Ref. 62) and are summarized in Table 1. The ACGIH-recommended 8-hour, time-weighted-average (TWA) limits for aniline and 4-nitroaniline are 2 ppm and 1 ppm, respectively (Ref. 2). The OSHA-required 8-hour TWA limit for aniline is 5 ppm (Ref. 65).

The Aniline Association, which deals solely with unsubstituted aniline, has reported to EPA that a total of 344 operators and 532 other workers were potentially exposed to aniline during production and internal use by manufacturers. According to the Association, the measured level of exposure to aniline by operators was below 1 ppm in all cases (Ref. 27). The SATF reported to EPA on the numbers of workers potentially exposed and levels of exposure to the substituted anilines; however, this information is claimed confidential (Ref. 20). The Aniline Association and the SATF are compiling information on worker exposure from the distribution and processing of aniline and the substituted anilines. This information should be available to the Agency in the near future. The Agency also has confidential information on the number of workers exposed to aniline and substituted anilines submitted by manufacturers under section 8(a) of TSCA.

There is very little information on the potential for consumer exposure to the anilines. The publicly available information on usage volume and major end-uses of aniline and substituted anilines is listed in Table 1. The major TSCA uses include gasoline additives, rubber chemicals, and intermediates in the production of dyes and pigments, pesticides, isocyanates and photographic chemicals. There is no information on the presence of aniline or the substituted anilines as impurities in other chemicals.

There may be some potential for human exposure due to inadvertent aniline production (Ref. 32). Aniline has been detected in the retort water from oil shale processing and in product water from coal gasification. Reported concentrations vary widely because of differences in nitrogen content and process conditions. Aromatic amines, including aniline, have been identified as a major class of organics in effluents from coal liquefaction processes. Aniline also has been detected in cigar and cigarette smoke. However, at this time EPA has insufficient exposure-related information to suggest that it will be able to make a section 4(a)(1)(B) finding of significant or substrantial human exposure to members of the anilines category other than aniline itself.

2. *Adequacy of information and need for health effects testing.* The ITC recommended that the anilines category be considered for health effects testing in the areas of carcinogenicity, mutagenicity, teratogenicity, and chronic effects, with special emphasis on blood disorders and neurotoxicity, and for epidemiology studies. EPA has approached its analysis of these recommendations on the anilines from the standpoint of potential unreasonable risk (section 4(a)(1)(A)). Table 2 summarizes the tentative testing needs for the twenty anilines currently in production. In both Table 2 and in the discussions of specific testing needs that follow, the testing needs are presented in terms of all 20 commercial substances. However, EPA is considering whether testing a smaller number of representative substances is a possible option for this category. An application of this approach is discussed in Unit II.C; issues related to the scope of the category and what chemicals should be tested are raised for public consideration in Unit III.8 through 10.

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TABLE 2. HEALTH EFFECTS FOR WHICH TESTING IS BEING CONSIDERED*

Chemical (CAS No.)	Onco-genicity	Muta-genicity[c]	Terato-genicity	Reproductive Effects	Acute Effects	Chronic Effects[d]	Neurotoxic Effects	Epidemi-ology[e]
aniline (62533)	-	x	x[a]	x	-	x	x	x
2-chloroaniline (95512)	x	x	x	x	-	x	x	-
3-chloroaniline (108429)	x	x	x	x	-	x	x	-
4-chloroaniline (106478)	-	x	x	x	-	x	x	-
2,3-dichloroaniline (608275)	x	x	x	x	x	x	x	-
2,4-dichloroaniline (554007)	x	x	x	x	-	x	x	-
2,5-dichloroaniline (95829)	x	x	x	x	-	x	x	-
3,4-dichloroaniline (95761)	x[a]	x	x	x	-	x	x	-
2,4,6-Trichloroaniline (634935)	x	x	x	x	-	x	x	-
2-nitroaniline (88744)	x	x	x	x	-	x	x	-
3-nitroaniline (88744)	x	x	x	x	-	x	x	-
4-nitroaniline (100016)	-[b]	-	-	-[b]	-	x	x	-
2,4-dinitroaniline (97029)	x	x	x[a]	x	-	x	x	-
2-chloro-4-nitroaniline (121879)	x	x	x	x	x	x	x	-
2-chloro-5-nitroaniline (6283256)	x	x	x	x	-	x	x	-
4-chloro-2-nitroaniline (89634)	x	x	x	x	-	x	x	-
4-chloro-3-nitroaniline (635223)	x	x	x	x	-	x	x	-
2,6-dichloro-4-nitroaniline (99309)	x	x	x	x	-	x	x	-
2,6-dibromo-4-nitroaniline (827941)	x	x	x	x	-	x	x	-
2-bromo-4,6-dinitroaniline (1817738)	x	x	x	x	x	x	x	-

*x = Testing being considered.
a. Testing with second species being considered.
b. On test [Dickson B. (1983). Report to USEPA by Substituted Anilines Task Force on health and environmental effects of anilines. NTP. 1983. On-going and planned testing by National Toxicology Program (Ref. 21)].
c. Tests to evaluate gene mutational and cytogenetic potentials are being considered.
d. With emphasis on blood effects.
e. Study being considered for aniline only, no cohort currently identified for substituted anilines [Dickson B. 1983. (Ref. 21)].

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2,4-dinitroaniline
2-chloro-4-nitroaniline
2-chloro-5-nitroaniline
4-chloro-2-nitroaniline
4-chloro-3-nitroaniline
2,6-dichloro-4-nitroaniline
2,6-dibromo-4-nitroaniline
2-bromo-4,6-dinitroaniline

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a. *Hematologic disorders.* Studies have been conducted on different anilines using several test species and various routes of administration (Refs 30, 44, 58, 70 through 72 and 85). Aniline and many of the substituted anilines cause methemoglobinemia (elevation of methemoglobin, the oxidized form of hemoglobin) as well as effects on the spleen (an organ that take part in red blood celll production and destruction) and changes in the populations of various blood elements. In addition to aniline itself, other anilines shown to cause methemoglobinemia in one or more species include all three monochloroanilines, 2,4,- and 3,4-dichloroaniline, 2,4,6-trichloroaniline, and 4-nitroaniline.

Methemoglobin induction appears to be related to the formation of N-oxidized metabolites such as phenyl hydroxylamines and nitrosobenzenes (Ref. 35). Thus, any anilines category member has the potential to cause this effect, but among those tested there is considerable variation in potency and in species sensitivity. For example, 2,4,6-trichloroaniline does not induce methemoglobin in the rat but induces 44 percent methemoglobin in the cat at a single dose of 49 mg/kg (Refs. 39 and 44); 4-chloroaniline at 8 mg/kg induces 61 percent methemoglobin in the cat but is somewhat less effective in the dog, rat or monkey (Refs. 44, 70 and 75). The Agency believes that species other than the rat may be preferred for testing of anilines category members for effects that may be related to methemoglobinemia; for further discussion see Unit III.5.

The Agency believes that the decrease in the oxygen-carrying capacity of the blood that accompanies methemoglobin formation and possibly causes anoxia may cause or contribute to the development of adverse health effects [i.e., teratogenicity (see Refs. 19, 16, 56 and 63) and neurotoxicity (Refs. 6, 77 through 79, 83 and 84)]. The available data on teratogenic and neurotoxic effects raise only limited concern that the anilines category members may cause these effects. However, the potential for these substances to induce methemoglobinemia, possibly leading to anoxia, in combination with the data on neurotoxicity and teratogenicity suggests that exposures to sufficiently high levels may cause either or both of these latter effects. The available information is insufficient to evaluate the potential effects of the anilines category members *per se* or to correlate any observed teratogenic or neurotoxic effects with induction or specific levels of methemoglobin. Therefore, the Agency is considering requiring testing to adequately characterize the teratologic, hematologic and systemic (including neurotoxic) effects of the anilines category members.

The Agency is also raising for public consideration and comment the issue of whether available positive oncogenicity data on aniline and 4-chloroaniline permit regulatory alternatives that would render further health effects testing for these chemicals unnecessary (see Unit III. 4).

b. *Reproductive effects.* Aniline and the substituted anilines were not recommended by the ITC for testing for reproductive effects. On the basis of information that repeated subcutaneous injection of aniline interferes with steroidogenesis in the rat uterus and that repeated oral administration of 4-chloro-3-nitroaniline causes sperm degeneration and an increase in testes weights in rats (Ref. 28 and 69), the Agency believes that other anilines category members may cause adverse reproductive effects, and is considering requiring testing to adequately characterize the reproductive effects of these substances.

c. *Mutagenicity.* Many of the commercially available anilines have been tested in either the Ames assay or other lower-tier mutagenicity assays; in most cases, positive results were obtained in at least one system (Refs. 5, 7, 17, 25, 57, 64, 73, 74 and 89). However, few data on the anilines have been developed using higher-tier mutagenesis test systems necessary to adequately characterize the mutagenic potential of a chemical that is positive in a lower-tier test. Thus, EPA is considering requiring a set of mutagenicity tests on the anilines category members, to determine or reasonably predict their gene mutational and cytogenetic potentials. Such tests may include short-term mutagenicity tests for those category members that have not been adequately tested in such systems, as well as higher-tier mutagenicity tests for some or all of the anilines. Examples of additional mutagenicity tests include, but are not necessarily restricted to, specific-locus gene mutation tests on cells in culture, tests for induction of chromosomal aberrations in cells in culture, and tests for induction of mutations in drosophila, rats or mice.

d. *Oncogenicity.* EPA believes at this time that human exposure to anilines category members may present an unreasonable risk of oncogenicity. Three oral chronic toxicity studies have reported on the oncogenic effects of aniline hydrochloride on rats or rats and mice (Ref. 18, 59 and 87). The final report on the study sponsored by CIIT (Ref. 18) indicates that dietary intake of aniline hydrochloride for 104 weeks at levels of 10, 30 and 100 mg/kg/diet is associated with an increased incidence of primary splenic sarcomas, principally in male F344 rats. Similar effects of aniline hydrochloride exposure were observed in rats and mice in studies completed by Ward and Reznick (Ref. 87) and NCI (Ref. 59). Comparable results were noted in the two oral chronic toxicity studies on the oncogenic effects of 4-chloroaniline and 4-chloroaniline hydrochloride (Ref. 60, 61 and 87). A study completed by NCI in 1978 (Ref. 59) also reported an increase in splenic neoplasms in male rats exposed to 250 and 500 mg/kg/day and both sexes of mice after chronic dietary exposure to 4-chloroaniline hydrochloride; a confirmatory study sponsored by NTP is in progress (Ref. 64).

In a study by Weisburger *et al.* (Ref. 88), a significant dose-related increase in vascular tumors in male mice was observed after chronic oral exposure to dietary levels of 6,000 and 12,000 mg/kg/day of 2,4,6-trichloroaniline hydrochloride.

EPA believes that the available positive oncogenicity data on three anilines raise a suspicion that oncogenic effects may result from human exposure to the remaining anilines category members, but that the sum of available evidence is insufficient to reasonably determine the oncogenic effects of the untested chemicals. Therefore, EPA is considering requiring testing of untested anilines for oncogenic effects. In addition, whereas for aniline and 4-chloroaniline the data from completed or ongoing studies should be sufficient to support oncogenicity risk assessments, the study of 2,4,6-trichloroaniline may be inadequate for this purpose. For example, the authors did not report actual consumption of test compound by the animals or the relationship of the doses to the maximum tolerated dose; further, no dose-response relationship was observed. Therefore, the Agency is also considering whether to require further oncogenicity testing of this compound.

e. *Epidemiology.* The SATF has reported to EPA that based on their information there is no suitable cohort of workers available on which to conduct an epidemiology study for the substituted anilines currently produced or imported (Ref. 20). However, EPA has information which suggests that an adequate cohort of workers can be defined for the conduct of an epidemiology study on aniline. This chemical has been reported by NIOSH

(Ref. 62) to have the greatest occupational exposure among the anilines category members. In addition, the major uses of aniline are representative of the major uses of the substituted anilines. Hence EPA believes that an epidemiological study of workers exposed to aniline may be justified in light of the health effects exhibited by laboratory animals. Unless information indicating the existence of a suitable cohort becomes available for one or more of the substituted anilines, EPA will conclude that epidemiological studies of category members other than aniline may not be feasible at this time and will not propose that epidemiological studies be undertaken on those category members.

3. *Environmental release.* The Agency has tentatively concluded that aniline and the 19 substituted anilines are released into the environment from their manufacture, distribution, processing, use or disposal. The Agency has arrived at this tentative conclusion using information on the release of these substances reported by manufacturers under the TSCA section 8(a) Preliminary Assessment Information Rule (40 CFR Part 712), information provided by the SATF and the Aniline Association, and other published and unpublished data available to the Agency.

JRB Associates (Ref. 31) has estimated for EPA that the total emission of aniline from manufacture, processing and on-site use was approximately 19 million pounds in 1978. Of this amount, 18.5 million pounds was estimated to be released into water and 222,000 pounds into the air. No information was available on the disposal of solid residues.

The Aniline Association has reported to EPA that the environmental release of aniline itself from production and internal use by manufacturers was approximately 638,000 pounds in 1982. Approximately 481,000 pounds was released to air and approximately 174,000 pounds was released to water (Ref. 27).

There is little monitoring information available on environmental concentrations of anilines category members in soil. One probable source of release of residues of some of these compounds is from their direct application to soil for pesticidal uses (e.g. 2,6-dichloro-4-nitroaniline, a nematocide). However, control over the potential for exposure of plants and animals to residues of aniline or substituted anilines in the terrestrial compartment from the application of pesticides falls under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA).

Another potential source of residues of anilines category members is from treated or untreated solid wastes generated from chemical reaction processes, because these chemicals are used almost exclusively as chemical intermediates. Because there is no information on the manner in which treated or untreated solid wastes that may contain anilines are disposed of, it is not possible to estimate the release of anilines to the soil from solid wastes. If it is assumed that the disposal of these solid wastes is localized either in controlled landfills or monitored sites of agricultural fertilizer application (aniline is regulated under the Resource Conservation and Recovery Act (RCRA) as a hazardous waste, while the substituted anilines are not) there would not be a reason to assume a significant uncontrolled release of anilines into soil from solid waste disposal, nor significant exposure of terrestrial plants or animals to the anilines.

The total emissions of 2-nitro-, 3-nitro-4-nitro-aniline for 1978 were estimated to be 152,000, 5,240, and 1,738,000 pounds, respectively (Ref. 31). Of these emissions, nearly all (152,000, 5,000, and 1,580,000 pounds, respectively) were estimated to be released into water. No estimates were available for releases to land. The SATF has reported to EPA on the environmental release of the 19 substituted anilines currently in production (Ref. 20). The Agency also has confidential information on the production and release of anilines category members submitted by manufacturers under section 8(a) of TSCA. Although this information is claimed confidential it does support EPA's tentative conclusion that releases of some category members occur in connection with manufacturing and on-site uses. The SATF has agreed to supply EPA with results of its survey of downstream users of anilines.

Limited data were found on residue levels for aniline and five substituted anilines in water and sediments. Wastewater, the receiving waters and sediments near a specialty manufacturing plant that manufactures a broad range of chemicals were analyzed for organic pollutants (Ref. 34). One sample of wastewater contained 0.02 ppm of aniline. Aniline was not detected in river water or sediments. Monochloroanilines (isomers unspecified) were not detected in wastewater or river water but were found in sediments at 1–2 ppm. Games and Hites (Ref. 24) studied organic compounds in the untreated and final effluent of wastewater originating from a dye manufacturing plant near Charleston Bay, South Carolina. Results of a 2.5-month compositing study for both treated and untreated plant effluent showed the presence of six of the substituted aniline compounds. USEPA data on the STORET system include a total of 78 data points or observations on environmental levels of anilines in streams (Ref. 80). The mean residue level was 188.5 ppb, with maximum and minimum values of 2,800 and 100 ppb, respectively. The STORET data were collected from August 29, 1978 to August 4, 1980.

While the available monitoring studies and the data from the EPA STORET data base have not reported large amounts of aniline or the substituted anilines in water, wastewaters, and sediments, the Agency is concerned about the potential for exposure of aquatic organisms to anilines resulting from estimated and reported releases and the reports that the chloroanilines and possibly other substituted anilines bind to organic components in water and sediments, possibly reaching concentrations sufficient to cause acute and chronic effects on these organisms.

4. *Chemical fate.* The Agency is concerned about the chemical fate of anilines category members in water and sediment because of the estimated and reported release and dispersion of these compounds into water and because of the known toxic effects of some anilines on aquatic organisms. Therefore chemical fate testing as outlined in Table 3 is being considered by the Agency. The following is a summary of the available information on chemical fate of anilines category members.

The Agency believes there are sufficient data to reasonably determine or predict the hydrolysis of anilines category members (Ref. 20). These data suggest that, because of their chemical structure, anilines would not be susceptible to hydrolysis. The Agency also believes that there are sufficient data to reasonably determine or predict the partitioning of anilines into an organic phase from water (Refs. 36, 40 through 42). These data suggest that, because of their low to moderate octanol-water partition coefficients (log P), anilines would not partition into an organic phase in water, such as the fatty tissues of aquatic organisms.

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TABLE 3. CHEMICAL FATE TESTING BEING CONSIDERED*

	Anaerobic	Aerobic	Aerobic

TABLE 3. CHEMICAL FATE TESTING BEING CONSIDERED*

Chemical (CAS No.)	Aquatic Photolysis Rates	Aquatic Volatility Rate	Aerobic Aquatic Biodegradation Rate	Sediment Adsorption	Aerobic Sediment Biodegradation Rate	Anaerobic Sediment Biodegradation Rate
aniline (62533)	x	-	-	x	x	x
2-chloroaniline (95512)	x	x	x	x	x	x
3-chloroaniline (108429)	x	x	x	x	x	x
4-chloroaniline (106478)	x	-	x	x	x	x
2,3-dichloroaniline (608275)	x	x	x	x	x	x
2,4-dichloroaniline (554007)	x	x	x	x	x	x
2,5-dichloroaniline (95829)	x	x	x	x	x	x
3,4-dichloroaniline (95761)	-	-	x	x	x	x
2,4,6-trichloroaniline (634935)	x	x	x	x	x	x
2-nitroaniline (88744)	x	x	x	x	x	x
3-nitroaniline (99092)	x	x	x	x	x	x
4-nitroaniline (100016)	x	x	x	x	x	x
2,4-dinitroaniline (97029)	x	x	x	x	x	x
2-chloro-4-nitroaniline (121879)	x	x	x	x	x	x
2-chloro-5-nitroaniline (6283256)	x	x	x	x	x	x
4-chloro-2-nitroaniline (89634)	x	x	x	x	x	x
4-chloro-3-nitroaniline (635223)	x	x	x	x	x	x
2,6-dichloro-4-nitroaniline (99309)	x	x	x	x	x	x
2,6-dibromo-4-nitroaniline (827941)	x	x	x	x	x	x
2-bromo-4,6-dinitroaniline (1817738)	x	x	x	x	x	x

*(x)=Testing being considered.
(-)=No testing being considered.

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The Agency believes that there are insufficient data to reasonably determine or predict the persistence of anilines category members in the aquatic environment. Sufficient data exist to predict the aquatic photolysis rate of 3,4- dichloroaniline ($Tp\frac{1}{2}$=0.3–2 days; Ref. 46) and the aquatic volatility rates of aniline, 4-chloroaniline and 4-nitroaniline ($Tv\frac{1}{2}$=15.5, 44.5 and 106 days, respectively) (Refs. 22 and 23). Additional experimental data developed for 4-chloroaniline and 3,4-dichloroaniline suggest that their aquatic volatilization rates are low (Refs. 22, 23 and 38). Sufficient data exist to predict the aerobic aquatic biodegradation rate of aniline since it is recommended as a reference substance for aerobic biodegradation testing by EPA (Ref. 82). The predicted aquatic half-life of aniline in one mathematical model is 3 days (Refs. 22 and 23). The Agency believes that aniline should be used as a reference substance for any of the aerobic biodegradation rate tests being considered in this ANPR to provide an adequate internal standard for comparing test results. The Agency also believes that aquatic photolysis, aquatic volatility and aerobic aquatic biodegradation rate testing should be considered for the anilines listed in Table 3 to evaluate their potential as rate-limiting processes influencing the persistence of anilines in the aquatic environment.

The Agency believes that there are insufficient data to reasonably determine or predict the persistence of anilines in the sediment environment. Data exist to predict that a number of chloroanilines bind chemically to soil (Refs. 8, 10, 29, 35, 66, 67 and 87). These data indicate that binding of chloroanilines is greater than would be predicted from water solubilities and the algorithms of Kenega and Goring (Ref. 36) to estimate their partitioning to soil organic matter. Data also exist to predict that aniline and a number of chloroanilines are biodegraded by soil microorganisms (Refs. 10 through 13, 16, 26, 35) and activated sludge microorganisms (Refs. 43 and 68). However, the existing data do not allow the Agency to reasonably determine or predict the adsorption of anilines to sediment or the rate at which anilines may be biodegraded aerobically or anaerobically in sediment. Therefore, the Agency believes that sediment adsorption as well as aerobic and anaerobic sediment biodegradation rate testing should be considered for the anilines listed in Table 3 to evaluate their potential as rate-limiting processes influencing the persistence of anilines in the sediment environment.

5. *Environmental Effects.* The Agency has tentatively concluded that the available information indicates that aniline and the 19 substituted anilines may cause acute and chronic effects in aquatic organisms, and therefore is considering proposing the environmental effects testing listed in Table 4 under TSCA section 4(a)(1)(A). Sufficient data exist to predict the toxicity of aniline and 3,4-dichloroaniline to freshwater algae. The reported 48-hour LC_{50}'s are 0.16 mg/l and 2.2–3.2 mg/l for aniline and 3,4-dichloroaniline, respectively (Refs. 4 and 14). In addition, sufficient data exist to predict the toxicity of 3,4-dichloroaniline to marine algae. The reported 48-hour LC_{50} is 0.48 mg/l (Ref. 14). However, the Agency believes data are insufficient to reasonably determine or predict the toxicity of other anilines category members to freshwater and marine algae. The Agency believes that algal toxicity testing should be considered for the anilines category members indicated in Table 4 to determine the potential adverse effects of these substances on algae.

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TABLE 4. ENVIRONMENTAL EFFECTS FOR WHICH TESTING IS BEING CONSIDERED*

	Algal Bioassay	FW Invertebrates	Marine Invertebrates	Benthic Invertebrates
Aniline				
4-Chloroaniline				
3,4-Dichloroaniline				

TABLE 4. ENVIRONMENTAL EFFECTS FOR WHICH TESTING IS BEING CONSIDERED*

Chemical (CAS No.)	Algal Biossay		FW Invertebrates		Marine Invertebrates			FW Vertebrates				Marine Vertebrates		Benthic Invertebrates			
	FW	Marine	Daphnid Acute	Daphnid Chronic	Mysid Acute	Mysid Chronic	Oyster Acute	FHM Acute	FHM-ELS	RT Acute	RT-ELS	SHM Acute	SHM-ELS	FW Acute	FW Chronic	Marine Acute	Marine Chronic
aniline (62533)	-	X	-	X	-	X	X	-	-	-	X	X	X	X	X	X	X
2-chloroaniline (95512)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
3-chloroaniline (108429)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
4-chloroaniline (106478)	X	X	-	X	-	X	-	-	X	X	X	X	X	X	X	X	X
2,3-dichloroaniline (608275)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
2,4-dichloroaniline (554007)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
2,5-dichloroaniline (95829)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
3,4-dichloroaniline (95761)	-	-	-	-	-	X	-	-	X	-	X	X	X	X	X	X	X
2,4,6-trichloroaniline (634935)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
2-nitroaniline (88744)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
3-nitroaniline (99092)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
4-nitroaniline (100016)	X	X	-	X	-	X	X	-	X	-	X	X	X	X	X	X	X
2,4-dinitroaniline (97029)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
2-chloro-4-nitroaniline (121879)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
2-chloro-5-nitroaniline (6283256)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
4-chloro-2-nitroaniline (89634)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
4-chloro-3-nitroaniline (635223)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
2,6-dichloro-4-nitroaniline (99309)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
2,6-dibromo-4-nitroaniline (827941)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
2-bromo-4,6-dinitroaniline (1817738)	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X

*Key to Abbreviations: (X) = Testing being considered, (-) = No testing being considered, FW = Freshwater, FHM = Fathead minnow, ELS = Early life stage, RT = Rainbow Trout, SHM = Sheepshead Minnow.

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The Agency believes there are insufficient data to reasonably determine or predict the toxicity of most of the anilines to freshwater and marine invertebrates. However, sufficient data do exist to predict the acute toxicity of aniline, 4-chloroaniline, 3,4-dichloroaniline and 4-nitroaniline to daphnids. The reported 48- or 24-hour LC_{50}'s are 0.65 mg/l, 6.2 mg/l, 0.23–0.29 mg/l and 20–24 mg/l (24-hour), respectively (Refs. 3, 15, 51 through 53). Sufficient daphnid chronic toxicity data exist for 3, 4-dichloroaniline. The reported 21-day LC_{50} is 0.1 mg/l (Ref. 4). Sufficient acute toxicity data to marine invertebrate species *(Crangon septemspinosa,* shrimp) exist for aniline, 4-chloroaniline, 3,4-dichloroaniline, and 4-nitroaniline. The reported 48-hour LC_{50}'s are 28.4 mg/l, 12.5 mg/l, 3.6 mg/l and 12.6 mg/l, respectively (Ref. 45). Sufficient data exist to predict the toxicity of 4-chloroaniline and 3,4-dichloroaniline to oysters. The reported 48-hour LC_{50}'s are 10 mg/l and 24 mg/l, respectively (Ref. 48). The Agency believes that toxicity testing using freshwater and marine invertebrates should be considered for the anilines category members indicated in Table 4.

Data are not sufficient to reasonably determine or predict the toxicity of anilines to freshwater and marine vertebrates although sufficient data exist to predict the acute toxicity of 4-chloroaniline and 3,4-dichloraniline to the fathead minnow, and aniline and 4-nitroaniline to the golden orfe. The 48-hour LC_{50}'s are 61–65 mg/l and 106 mg/l for aniline and 4-nitroaniline, respectively (Ref. 33). The 48-or 96-hour LC_{50}'s for 4-chloroaniline and 3,4-dichloroaniline are 44–50 mg/l and 5.6 mg/l (96h), respectively (Refs. 49 and 50).

Sufficient data also exist to predict the acute toxicity of aniline, 3,4-dichloroaniline, and 4-nitroaniline to rainbow trout. The 48-or 96-hour LC_{50}'s are 28.3 mg/l, 2.4-3.2 mg/l (96h), and 45 mg/l (96h) (Refs. 1, 47, 54). Sufficient data exist to predict the fish early life stage toxicity of aniline to the bass, catfish and goldfish. The LC_{50}'s are 43.2-47.3, 5.6-7.4 and 10.2 mg/l, respectively (Ref. 9). There are no data on the acute or early life stage toxicity of anilines category members to marine vertebrates. The Agency believes that acute and early life stage testing of freshwater and marine vertebrates should be considered for the anilines category members indicated in Table 4 to determine their potential adverse effects on these organisms.

Finally, the Agency believes there are incomplete data to determine or predict the toxicity of anilines category members to freshwater and marine sediment-dwelling invertebrates. There are data indicating that anilines bind to soils, and the Agency believes that anilines have the potential to bind to sediments. Therefore, the Agency believes that testing of sediment-dwelling invertebrates should be considered for the anilines category members indicated in Table 4 to determine their potential adverse effects of on these organisms.

C. Subcategorization of the Anilines Category

1. *Technical analysis.* EPA is considering whether it should require testing of all anilines category members or adopt an approach in which tests are performed on substances chosen to represent smaller groups (i.e., subcategories) of anilines. In considering this issue, the Agency developed a number of alternatives as set forth in Unit III.6–8. The Agency has tentatively concluded, for the reasons outlined below, that the most feasible approach to developing test data sufficient to determine or reasonably predict the health and environmental effects of the anilines is subcategorization of the larger category and selection of representative test candidates from among the smaller subcategories.

The anilines category is rather strictly defined. The three allowed substituents are all electron-withdrawing in nature and thus tend to deactivate aromatic molecules. They (particularly the halogens) also are generally less reactive than the amino group. The amino group common to all the anilines is so reactive compared to the other substituents that it can be expected in many respects to dominate the chemistry and the toxicology of the category. Thus, the category presents the picture of a general type of behavior modified in roughly predictable ways by the various substituents. Certain effects do in fact appear to be common to several anilines—examples are hematologic effects (methemoglobinemia), mutagenesis in short-term *in vitro* assays, and tumor formation. However, the relationship between the degree and complexity of substitution and the probability and potency of a given effect is unclear. Therefore, EPA believes it may be appropriate to subdivide the anilines category into smaller, more homogeneous subcategories. The Agency is tentatively defining these subcategories by chemical structure type, in the belief that the differences in chemical structure thus emphasized can reasonably be expected to be reflected in the toxicological data. The rationale supporting the definition of the Agency's tentative subcategories is as follows:

a. Aniline is the only category member not bearing an electron-withdrawing (deactivating) substituent, and therefore comprises a one-chemical subcategory.

b. Chlorinated anilines are less reactive chemically than aniline because chlorine atoms are deactivating substituents. Increases in degree of chlorination lead to corresponding decreases in reactivity and increases in lipid solubility, as with most haloaromatic compounds. Thus, differences in metabolic reaction rates and pharmacokinetic properties can reasonably be expected for chlorianted anilines versus aniline, and to some extent among chloroanilines having different numbers of chlorine atoms. The Agency therefore believes that chloroanilines can be represented by two subcategories: monochloroanilines and polychloroanilines.

c. For nitroanilines the situation is similar to that for chloroanilines: deactivating nitro-substituents are expected to result in lowered amino and ring reactivity, with increasing substitution leading to still lower reactivity. However, in contrast to the unreactive chloro substituent, the nitro group can be reduced to hydroxylamino, nitroso or amino functions, thus making possible new families of metabolites that may produce unique toxic effects. The Agency is tentatively proposing two nitroanilines subcategories: mononitroanilines and polynitroanilines.

d. Halonitroanilines are again deactivated anilines, but the mix of substituent types complicates the chemistry as well as the potential toxicological picture. The degree to which the toxicology of a halonitroaniline might be predicted from data on individuals halo- and nitroanilines is unknown. Therefore, EPA is tentatively proposing a subcategory of halonitroanilines.

The Agency is considering proposing testing of one substance from each of the first five subcategories. While this approach may not remove all the uncertainties as to the toxicity of untested subcategory members, it may suffice to provide a reasonable basis for characterizing the risk to human health and the environment presented by members of that subcategory. Because of the complexity of the halonitroanilines subcategory, the Agency is considering proposing testing of two substances from this group.

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The subcategories and chemicals under consideration for testing by EPA are as follows:

Category identification	Test substance
Subcategory A: Aniline	Aniline.
Subcategory B: Monochloroaniline	4-chloroaniline.
Subcategory C: Polychloroanilines	3,4-dichloroaniline.
Subcategory D: Mononitroaniline	4-nitroaniline.
Subcategory E: Polychloroanilines	2,4-dinitroaniline.
Subcategory F: Halonitroanilines	2-chloro-4-nitro-aniline and 2-bromo-4,6-dinitroaniline.

2. *Legal/regulatory implications of subcategorization.* The obligation to test and exemption and reimbursement implications of this approach are discussed in this section.

Two of the subcategories—aniline and polynitroanilines—have only a single member on the Inventory and currently in commercial production—aniline and 2,4-dinitroaniline, respectively. Consequently, the testing of those two substances raises no issues about equivalence or exemptions. However, EPA believes that data developed on 2,4-dinitroaniline could be used in the future to predict the effects of other polynitroanilines that might enter commerce.

The remaining four subcategories have three or more members on the Inventory and currently in commercial production. For three subcategories—monochloroanilines, polychloroanilines, and mononitroanilines—EPA is considering proposing the testing of a single member of the subcategory—4-chloroaniline, 3,4-dichloroaniline, and 4-nitroaniline, respectively. EPA believes that within these three subcategories all members are likely to be similar toxicologically and, consequently, that testing any member of the subcategory will reasonably predict the effects of the others. EPA believes the test substance in each of these three subcategories should be a substance that is among the highest in production volume. The choice of test substances based on production volume would also result in structural variations among the entire set of seven substances that will enable EPA to compare data between subcategories to verify the effects of substituent changes in certain positions.

EPA believes that data on the three test substances in subcategories B, C and D could be used to reasonably predict the effects of all the other members and that EPA could regulate the other members of each subcategory on the basis of data produced for the designated test substance. This approach presents the advantage of avoiding unnecessary, duplicative testing and allowing industry to spread its testing resources further.

For purposes of exemptions and reimbursement, EPA is considering proposing that each member of the three subcategories B, C and D be considered equivalent to the designated test substance for that subcategory. Thus, manufacturers and processors of substances in the subcategory who apply for an exemption would not be required to show equivalence. The cost of testing the single test substance would be spread among all the manufacturers and processors of members of the subcategory and would probably be weighted on the basis of production volume.

However, EPA recognizes that a company making another substance in one of these subcategories might wish to test its own substance for some or all of the effects of concern rather than contribute to testing of the designated test substance. Accordingly, EPA is considering allowing a manufacturer or processor to test the substance it manufactures or processes, rather than the designated test substance in its subcategory, for any or all of the effects of concern. Such a manufacturer or processor would not be required to test the designated test substance or seek an exemption for any designated test that it performs with the chemical substance it manufactures or processes.

The final subcategory—halogenated nitroanilines—presents a different problem. EPA believes that to characterize adequately the effects of all the members of this subcategory it is necessary to test at least two representative substances—2-bromo-4, 6-dinitroaniline and 2-chloro-4-nitroaniline—because the variations in structure are greater within this subcategory. Here again, EPA is considering proposing as the test substances two of the highest production members of the subcategory, which also reflect the variations in structure within the subcategory. EPA's tentative conclusion is that data on the two test substances will reasonably predict the effects of the other members in the subcategory and that EPA could regulate the other members on the basis of these data.

EPA is considering proposing that the other members of the subcategory be considered equivalent to the two test substances together. Thus, a manufacturer or processor of another member of the category must seek an exemption from the testing requirements for both test substances and would be required to reimburse for testing of both test substances. However, a demonstration of equivalence would not be necessary in the exemption application. As with the three subcategories discussed above, EPA is considering that a manufacturer or processor of another member of the subcategory could instead test its own substance for some or all of the effects of concern and that it would not be required to test the test substances or seek an exemption for any designated test that if performs with the substance it manufactures or processes.

In addition, EPA is considering proposing that manufacturers and processors of only one of the two designated test substances for this subcategory not be required to perform tests for the other test substance, to contribute to that testing, or to seek exemption from testing the other test substance. The reason is that data on the substance that person manufactures or processes are all that is necessary to predict its health effects.

This testing scheme is predicated on EPA's belief that data on the designated test substances can be used to predict the effects of the other members of each subcategory and that it can regulate the other members on the basis of those data. EPA believes the intent of section 4 of TSCA is to provide enough information to regulate substances of concern. EPA also believes that the section 4 equivalence finding is inextricably intertwined with the conclusion that the data from one substance can be used to regulate another. Thus, if the data for the test substances cannot be used to predict the effects of the other members of each subcategory and, therefore, cannot be used to regulate the other members of the subcategory, testing of each of the twenty substances individually would be necessary.

III. Issues for Comment

1. For a given test organism, should some or all of the test substances be administered as salts rather than free bases? This would be expected to increase the stability of the materials, but changes the possible exposure routes and pharmacokinetic properties (for example, vapor pressures of the salts are lower than those of the free bases while water solubilities are much greater). What would be appropriate test sample purity requirements?

2. Should all the test substances to be tested in the anilines category be administered by the same route? This approach would increase comparability of test results, but might result in some discrepancies between actual and experimental exposure routes. Would comparative pharmacokinetic studies be useful?

3. EPA's analysis to date of exposure-related information shows that information on processing and use practices by non-manufacturers of anilines will be a very important factor in the Agency's eventual determinations under TSCA section 4. The SATF and the Aniline Association have told EPA that they are collecting such information and intend to supply it to the Agency. EPA wishes to hear directly from processors and users of anilines and from any other knowledgeable persons about specific uses of individual anilines, amounts of anilines devoted to particular uses, numbers of employees potentially exposed, quantities of anilines disposed, treatment of anilines-containing wastes, and any other information bearing on potential release and exposure for the anilines.

4. The Aniline Association has suggested that the Agency consider existing oncogenicity data on aniline as a sufficient basis for defining exposure controls to adequately protect human health, thereby obviating the need for further health effects testing on aniline.

Three studies show that aniline hydrochloride is oncogenic in rodents (see Unit II B.2.d), and they provide sufficient information to reasonably assess the oncogenic risk from known exposures to aniline. Consequently, as an alternative to requiring additional health effects testing of aniline EPA, is considering evaluating the need for additional exposure controls to limit the levels of aniline to which workers can be exposed on the basis of the oncogenicity data (the Occupational Safety and Health Administration (OSHA) in 1978 promulgated an 8-hour time-weighted-average (TWA) standard of 5 ppm for aniline (Ref. 65), and the American Conference of Governmental Industrial Hygienists (ACGIH) has recommended an 8-hour TWA standard of 2 ppm (Ref. 2); these standards are intended to protect workers from methemoglobinemia and related effects).

Similarly, positive oncogenicity data on 4-chloroaniline may also be sufficient for a risk assessment (See Unit II B.2.d). EPA requests comments on exposure controls as an alternative to requiring testing of aniline or 4-chloroaniline for effects other than oncogenicity—i.e., will oncogenicity-based controls be sufficiently protective against the other effects?

5. The Agency believes that methemoglobin formation and the attendant oxygen depletion resulting from exposure to aniline or the substituted anilines may cause or contribute to effects such as teratogenicity and neurotoxicity. Laboratory studies using rats do not report structural teratologic effects after exposure to aniline or 4-nitroaniline at doses that produce significant maternal and tetal toxicity. However, the rat may be an inappropriate test species since fetal rats have 10 times the methemoglobin reductase of adult rats, while human cord blood contains 0.7 times the methemoglobin reductase found in human blood (Reg. 8). Thus, human fetal effects could occur at a dose lower than rat fetal effects in the absence of maternal methemoglobin toxicity. EPA has received comment from industry representatives on this issue; however, EPA is requesting further comment to determine which species of laboratory animals are the most appropriate for reproductive, teratological, neurotoxicological and possibly other studies of aniline and the substituted anilines.

6. The environmental effects testing being considered by the Agency may provide sufficient data to reasonably determine the environmental effects of aniline category chemicals. Is the testing being considered sufficient? Are there existing data that the Agency has not obtained on the environmental effects of aniline category compounds? Are there existing validated structure-activity data to predict the environmental effects of these compounds? Are there benthic organisms that are true detritivores for which validated protocols are available to determine the environmental effects of sediment-adsorbed aniline category members? Would testing in a model benthic ecosystem be a useful approach to testing for toxicity to benthic organisms? Are there available data to indicate the bioavailability of sediment-bound category members?

7. The chemical fate testing being considered by the Agency may provide sufficient data to reasonably determine the chemical fate of anilines category chemicals in the aquatic environment. Are there available data on the fate or these chemcials that the Agency has not obtained? Are there methods of which the Agency is unaware for extracting these types of chemicals from sediments? Are there additional tests that the Agency should be considering? Since anilines may be released to the aquatic environment from waste treatment facilities, should the Agency consider additional testing to evaluate the fate of anilines in treatment plants, e.g., sorption to primary and secondary sludge solids, losses through volatilization under conditions of high aeration and mixing, biodegradation under simulated waste treatment conditions and sorption or other removal in tertiary treatment processes? Finally, should the Agency require testing to identify major transformation products of anilines resulting from environmental fate processes?

8. There are several alternatives for defining the size and scope of the anilines category for test rule purposes. As set forth in Unit II, for this ANPR EPA has focused on the twenty anilines that are on the Inventory and currently imported or in commercial production, and could limit the testing to those twenty substances. However, there are 34 anilines on the Inventory. The 14 anilines on the Inventory not now in commercial production could be put into commercial production at any time without notice to EPA. In addition, 56 anilines have been assigned CAS registry numbers, indicating that someone has explored the use of substances in addition to those on the Inventory. Theoretically, there are over one hundred more aniline structures that would fit the definition of the category recommended by the ITC.

From EPA's analysis, it appears that the twenty anilines currently in production have the same or very similar uses. Thus, the Agency believes that anilines not now in production would have uses similar to anilines now being produced. Anilines not on the Inventory may be produced in volumes and give rise to exposures and releases during production in the same ranges as those currently in production. In view of this EPA has also considered two other alternatives for defining which anilines would be subject to a test rule.

a. *All anilines on the inventory.* One alternative approach to including only the twenty anilines in commercial production would be to include in the category for the test rule all the anilines on the Inventory. All these are or have been in commercial production. They can be made at any time in any quantity without notification of EPA. Since production, uses, exposures, and releases would be similar to those currently in production, EPA believes that it could make a section 4(a)(1)(A) finding that the manufacture, processing, use, and disposal of each aniline on the Inventory "may present an unreasonable risk of injury" to human health and the aquatic environment for the effects of concern even though some of them are not now in commercial production.

Under the approach set forth in Unit II, a person could begin to manufacture a category member on the Inventory, other than the twenty covered by the proposed rule, without being required to test that chemical or to reimburse those

undertaking the testing of the anilines currently in production. The alternative discussed here, which make the test rule applicable to all anilines in the Inventory, would bring those persons into the coverage of the rule and would more fairly distribute the cost and burden of testing. A person beginning manufacture of another aniline on the Inventory would be subject to the testing requirement, but the requirement would not prevent manufacture from beginning. Rather, testing or seeking an exemption would take place as manufacture began in a manner similar to that for new manufacturers of any chemical substance under a test rule.

b. *All anilines within the ITC's category definition.* A still broader approach would be to include in the category for the test rule all the anilines that have been assigned CAS registry numbers or all those possible structures that fit the ITC category definition, regardless of whether they are on the Inventory.

EPA would make a section 4(a)(1)(A) finding in a manner similar to that discussed above for all anilines on the Inventory. The Agency believes that new anilines would probably be made for the same or very similar uses as the existing anilines. Consequently, production, use, exposures, and releases are likely to be within the same ranges. EPA believes such a finding would be appropriate for new anilines not on the Inventory because section 5(b) of TSCA clearly contemplates that new chemical substances will be subject to secton 4 test rules, and thus it is clear that EPA has the authority to subject them to such rules. In this case, a finding of "may present an unreasonable risk" based on knowledge of production, use, exposures, and releases of other members of the category would be appropriate.

This alternative would present the advantages of alternative III.8.a discussed above in that all manufacturers and processors of anilines, whether on the Inventory or not, would be required to test equally. There is, however, an impact of this approach that is inherent in TSCA. Under section 5(b) of TSCA a person required to submit a premanufacture notice under section 5(a) of TSCA for a new chemical substance that is the subject of a test rule may not submit the notice until that person has either performed and submitted the required testing or submitted the data upon which an exemption has been granted. Thus, the manufacturer of the new chemical substance may be at a competitive disadvantage relative to new manufacturers of substances subject to the test rule but already on the Inventory.

EPA is interested in comments on the advantages and disadvantages of adding substances to the category for this test rule and, in particular, on the ability of the Agency to make the "may present an unreasonable risk" finding for substances not in commercial production, whether on the Inventory or not.

9. EPA is considering proposing that rather than require testing on all members of the anilines category, it adopt an approach in which testing is performed on a selected number of representative category members and that these test results be used to predict the toxicity of all other category members. This type of an approach may be justified when the physicochemical and biological properties of category members are similar in important respects or change more or less regularly across the category, or when the category can be divided into smaller groups of similar chemicals. When this is the case, data obtained on a properly chosen subset of chemicals can be expected to allow reasonable predictions about the behavior of untested category members. The Agency is requesting comment on the appropriateness of using this approach to evaluate the health and environmental effects of the anilines category. The Agency also requests comment on other aspects of its overall approach as outlined in Unit II.C; for example, is the number of chemical substances to be tested adequate? Are the substances the Agency has selected the most appropriate to be tested and is the category appropriately subdivided?

10. EPA has tentatively decided to propose to require testing of seven anilines as representative of the substances in six subcategories. However, the Agency has considered the following alternatives to the subcategorization and the choice of test substances discussed in Unit II. Each alternative has certain exemption, reimbursement and regulatory consequences.

a. *Require testing of all category members.* One alternative would be to require testing of each substance subject to the test rule. This alternative would be appropriate if EPA finds that data from one or more representative test substances cannot be ued to predict the effects of other members of the category, that EPA could not regulate other members of the category on the basis of data from the test substances, or that the members of the subcategories are not equivalent to the test substances. This alternative would be appreciably more burdensome and would consume a far greater amount of industry testing resources.

EPA could perhaps reduce this burden by allowing any manufacturer or processor to seek an exemption by showing in its exemption application that its substance is equivalent to one or more substances being tested. This alternative would preserve the possibility that testing of selected category members could be used to predict the effects of other members and to support regulation of those other members, but it would shift the burden of showing equivalence for those purposes to the individual manufacturer or processor seeking an exemption.

b. *Base set testing for all category members and follow-up testing on one or more category members.* In this approach a set of base set testing such as mutagenicity and subchronic testing would be required of all category members. These data would be used to select one or more test substances for longer term testing. This approach offers an advantage over that described in unit II in that subcategorization and the selection of test substances would be based on toxicity data on all category members as well as relying on chemical structure considerations. The disadvantage is that this approach may add substantially to the time required for rulemaking by necessitating an additional proposal after the base set testing is completed.

In the case of base set testing, the exemptions and reimbursement implications would be the same as for individual chemicals; that is, manufacturers and processors would pay for the testing of the chemicals they manufacture or process. The exemptions and reimbursement provisions for the long term testing would be the same as for the subcategorization option if subcategories are used, or for one of the alternatives if subcategories are not used and more than one test substance is selected.

c. *Require testing of all category members but make generic equivalence decision in rulemaking.* Another alternative would be to require testing of all members of the category but to find in the rulemaking that, within the five subcategories where EPA is proposing to require testing of only a single test substance, all members of the subcategory are equivalent. Thus, manufacturers and processors of substances in those subcategories woud choose the test substances by deciding to perform testing. Other manufacturers

and processors in the subcategory could seek exemptions without having to show equivalence to the substances actually being tested.

This approach presents many of the advantages of the approach set forth in Unit II.C and provides additional flexibility for affected industry to choose the test substances. However, to the extent the EPA-chosen test substances provide a scientific cross check between the variations in structure across the subcategories, industry-chosen test substances might not provide the same cross checks.

d. *Require testing of seven representative test substances without subcategories.* Another alternative would be to require testing of the seven suggested test substances (see Unit II.C) as representative of the aniline category as a whole. Such an approach would recognize that it might be necessary to examine variations in effects across the variations in structure within the category to adequately characterize the effects of untested members of the category. Under this alternative, EPA would find that the other members of the aniline category are equivalent to the seven test substances collectively. Manufacturers and processors of other members of the category would receive exemptions without showing equivalence, but they would be obligated to reimburse for their share of testing all seven test substances. However, any manufacturer or processor could choose to test the substance it manufactures or processes instead of testing the test substances.

e. *Test the seven test substances and make a decision not to test the other category members.* A final alternative would be to require testing of the seven suggested test substances and to make a decision not to require testing of the other anilines on the basis that testing is not necessary. The finding that testing the other anilines is not necessary would be based on the conclusion that data on the seven tested anilines could be used to predict the effects of any other anilines and to regulate those other anilines. The effect of this alternative would be to limit exemptions and reimbursement to the manufacturers and processors of the seven test substances. Manufacturers and processors of other anilines would not be required to test or to pay for testing even though their substances would be evaluated using the data on the seven test substances. This would reduce the complexity of the exemptions and reimbursement but would also reduce the pool of persons obligated to pay for testing, and may be less equitable since the burden of paying for testing would not be borne by all manufacturers and processors.

EPA is particularly interested in comments on approaches to exemptions and reimbursement in light of the other issues on which substances to test and how to define the category.

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V. Rulemaking Record

The EPA has established a record for this testing decision (docket number OPTS–42054). The record includes the following information:

(1) Federal Register notices pertaining to this notice consisting of:

(a) Advance notice of proposed rulemaking for aniline and chloro-, bromo- and/or nitroanilines.

(b) Notice containing the ITC designation of the anilines to the Priority List.

(c) Notices relating to EPA's health effects test guidelines and GLP standards.

(d) Notice of proposed rule on exemption policy and procedures.

(e) Final rule on reimbursement policy and procedures.

(2) Minutes of informal meetings.

(3) Communications before proposal consisting of:

(a) Written public and intra- or interagency memoranda and comments.

(b) Telephone conversations.

(c) Meetings.

(d) Reports: Published and unpublished factual materials, including contractor's reports and information submitted by industry.

The record enumerated above includes basic information considered by the Agency in developing this decision. The Agency will supplement the record periodically with additional relevant information received.

A public version of the record with CBI deleted is available for inspection in the OPTS Reading Room from 8:00 a.m. to 4:00 p.m. Monday through Friday (except legal holidays) in Rm. E–107, 401 M St., SW., Washington, D.C. 20460.

(Sec. 4, 90 Stat. 2003; (15 U.S.C. 2601))

Dated: December 21, 1983.

William D. Ruckelshaus,

Administrator.

[FR Doc. 83–34650 Filed 12–30–83; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Adminstration

50 CFR Part 628

Bluefish Fishery Management Plan; Public Hearing

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public hearing.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) will hold a public hearing on the proposed revised bluefish Fishery Management Plan (FMP). The public hearing is being held in conjunction with the public meetings that the Council is holding from January 11 to January 13, 1984. A notice for these meetings was published in the **Federal Register** on December 21, 1983 (48 FR 56424).

DATES: Written comments on the FMP will be accepted at the public hearing. The hearing will be held on Thursday, January 12, 1984, from 11:15 to 11:45 a.m. Copies of the summaries can be requested from the Council. The revised FMP will ba available at the Council meeting. The hearing will be taped recorded and the tapes will be filed as an official transcript of the proceedings. A written summary will be prepared at the hearing.

ADDRESS: The hearing will be held at the Tidewater Inn, Dover and Harrison Streets, Easton, Maryland 21601: phone 301–822–1300.

FOR FURTHER INFORMATION CONTACT: John C. Bryson (302–674–2331), Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, Delaware 19901.

SUPPLEMENTARY INFORMATION: This hearing will provide the public with a final opportunity to comment on the revised bluefish FMP before Council adoption. The revisions involve the establishment of an allocation system for the commercial fishery and reporting requirements that have been revised from the earlier draft.

Dated: December 29, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 84–33739 Filed 12–30–84; 8:45 am]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 49, No. 1
Tuesday, January 3, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Development of Cranberry Multi-Peril Crop Insurance

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Federal Crop Insurance Corporation (FCIC), USDA has accepted a proposal by private multi-peril crop insurers through the Crop Hail Insurance Actuarial Association, to provide insurance for all applicants in all areas approved by FCIC for cranberry crop insurance, who would be insurable under FCIC's own criteria, using only FCIC approved rates and forms for this purpose, beginning with the 1984 crop year. Insurers wishing to write this business may be reinsured under FCIC's Reinsurance Agreements. Cranberry producers wishing to contact participating insurance companies, or insurers wishing further information may contact the individual listed below.

FOR FURTHER INFORMATION CONTACT: Alan S. Walter, Chief, Reinsurance Branch, Federal Crop Insurance Corporation, P.O. Box 293, Kansas City, MO, 64141, telephone (816) 926–7939.

Approved by: Edward Hews, *Acting Manager.*

[FR Doc. 83–34740 Filed 12–30–83; 8:45 am]
BILLING CODE 3410–08–M

Federal Grain Inspection Service Designation Renewals of Farwell Grain Inspection Company (TX) and Fort Smith-Van Buren Grain Inspection Service (AR)

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the designation renewals of Farwell Grain Inspection Company and Fort Smith-Van Buren Grain Inspection Service as official agencies responsible for providing official services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (Act).

EFFECTIVE DATE: February 1, 1984.

ADDRESS: James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 1647 South Building, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore, the Executive Order and Secretary's Memorandum do not apply to this action.

The August 1, 1983, issue of the **Federal Register** (48 FR 34788) contained a notice from the Federal Grain Inspection Service (FGIS) announcing that Farwell's and Fort Smith's designations terminate on January 31, 1984, and requesting applications for designation as the agency to provide official services within each specified geographic area. Applications were to be postmarked by August 31, 1983.

Farwell and Fort Smith were the only applicants for each respective designation.

FGIS announced the names of these applicants and requested comments on same in the September 30, 1983, issue of the **Federal Register** (48 FR 44871). Comments were to be postmarked by November 14, 1983.

No comments were received regarding designation renewal of Farwell or Fort Smith.

FGIS has evaluated all available information, regarding the designation criteria in Section 7(f)(1)(A) of the Act and in accordance with Section 7(f)(1)(B), and has determined that Farwell and Fort Smith are able to provide official services in the respective geographic areas for which their designations are being renewed. Each assigned area is the entire geographic area, as previously described in the August 1 **Federal Register** issue.

Effective February 1, 1984, and terminating January 31, 1987, the responsibility for providing official inspection services in their respective specified geographic areas is assigned to Farwell and Fort Smith.

A specified service point, for the purpose of this notice, is a city, town, or other location specified by an agency to conduct official inspection services and where the agency and one or more of its licensed inspectors are located. In addition to the specified service points within the assigned geographic area, an agency will provide official services not requiring a licensed inspector to all locations within its geographic area.

Interested persons may contact the Regulatory Branch, specified in the address section of this notice, to obtain a list of the specified service points. Interested persons also may obtain a list of the specified service points by contacting the agencies at the following addresses:

Farwell Grain Inspection Company, P.O. Box 488, Farwell, TX 79325
Fort Smith-Van Buren Grain Inspection Service, P.O. Box 498, Van Buren, AR 72956

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873 (7 U.S.C. 79))

Dated: December 20, 1983.

J. T. Abshier,
Director, Compliance Division.

[FR Doc. 83–34482 Filed 12–30–83; 8:45 am]
BILLING CODE 3410–EN–M

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Request for Comments on Designation Applicants in the Areas Currently Assigned to Chattanooga Grain Inspection Company, Inc. (TN), and Enid Grain Inspection Company, Inc. (OK)

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicants for official agency designation in the areas currently assigned to Chattanooga Grain Inspection Company, Inc., and Enid Grain Inspection Company, Inc.

DATE: Comments to be postmarked on or before February 17, 1984.

ADDRESS: Comments must be submitted in writing, in duplicate, to Lewis Lebakken, Jr., Information Resources Management Branch, Resources Management Division, Federal Grain Inspection Service, U.S. Department of Agriculture, Room 0667, South Building, 1400 Independence Avenue, SW., Washington, DC 20250. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 382–1738.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore, the Executive Order and Secretary's Memorandum do not apply to this action.

The October 28, 1983, issue of the **Federal Register** (48 FR 49896) contained a notice from the Federal Grain Inspection Service requesting applications for designation to perform official services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (Act), in the areas currently assigned to the official agencies. Applications were to be postmarked by November 28, 1983.

Chattanooga Grain Inspection Company, Inc., Enid Grain Inspection Company, Inc., the only applicants for each respective designation, requested designation for the entire geographic area currently assigned to each of those agencies.

In accordance with § 800.206(b)(2) of the regulations under the Act, this notice provides interested persons the opportunity to present their comments concerning the applicants for designation. All comments must be submitted to the Information Resources Management Branch, Resources Management Division, specified in the address section of this notice, and postmarked not later than February 17, 1984.

Comments and other available information will be considered in making a final decision. Notice of the final decision will be published in the **Federal Register**, and the applicants will be informed of the decision in writing.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873 (7 U.S.C. 79))

Dated: December 20, 1983.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 83–34483 Filed 12–30–83; 8:45 am]

BILLING CODE 3410–EN–M

Request for Designation Applicants to Perform Official Services in the Geographic Areas Currently Assigned to R. A. Gray Grain Inspection Service, Inc. (KY), and North Dakota Grain Inspection Service, Inc. (ND)

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of the U.S. Grain Standards Act, as amended (Act), official agency designations shall terminate not later than triennially and may be renewed in accordance with the criteria and procedures prescribed in the Act. This notice announces that the designation of two agencies will terminate, in accordance with the Act, and requests applications from parties, including the agencies currently designated, interested in being designated as the official agency to conduct official services in the geographic area currently assigned to each specified agency. The official agencies are R. A. Gray Grain Inspection Service, Inc., and North Dakota Grain Inspection Service, Inc.

DATE: Applications to be postmarked on or before February 2, 1984.

ADDRESS: Applications must be submitted to James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 1647 South Building, Washington, DC 20250. All applications received will be made available for public inspection at the above address during regular business hours.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore, the Executive Order and Secretary's Memorandum do not apply to this action.

Section 7(f)(1) of the Act (7 U.S.C. *et seq.*, at 79(f)(1)) specifies that the Administrator of the Federal Grain Inspection Service (FGIS) is authorized, upon application by any qualified agency or person, to designate such agency or person to perform official services after a determination is made that the applicant is better able than any other applicant to provide official services in an assigned geographic area.

R. A. Gray Grain Inspection Service, Inc. (Gray), P.O. Box 91, Owensboro, KY 42301, was designated under the Act as an official agency for the performance of inspection functions on October 20, 1978. North Dakota Grain Inspection Service, Inc. (North Dakota), 1601 Seventh Avenue North, Fargo, ND 58102, was designated under the Act as an official agency for the performance of inspection functions on October 25, 1978.

The agencies' designations will terminate on June 30, 1984. This date reflects administrative extensions of official agency designations, as discussed in the July 16, 1979, issue of the **Federal Register** (44 FR 41275). Section 7(g)(1) of the Act states generally that official agencies' designations shall terminate no later than triennially and may be renewed according to the criteria and procedures prescribed in the Act.

The geographic area presently assigned to Gray, in Indiana and Kentucky, pursuant to Section 7(f)(2) of the Act, and which is the area that may be assigned to the applicant selected for designation is the following: In Indiana, Perry and Spencer Counties.

In Kentucky,

Bounded: on the North by the northern Daviess and Hancock County lines;

Bounded: on the East by the eastern Hancock, Ohio, and Muhlenberg County lines;

Bounded: on the South by the Muhlenberg County line west to the Western Kentucky Parkway; the Western Kentucky Parkway west to State Route 109; and

Bounded: on the West by State Route 109 north to State Route 814; State Route 814 north to U.S. Route Alternate 41; U.S. Route Alternate 41 north to the Webster County line; the northern Webster County line; the western McLean and Daviess County lines.

The geographic area presently assigned to North Dakota, in the State of North Dakota, pursuant to Section 7(f)(2) of the Act, and which is the area that may be assigned to the applicant selected for designation is the following:

Bounded: on the North by the northern Steele County line from State Route 32 east; the eastern Steele County line south to State Route 200; State Route 200 east-southeast to the State line;

Bounded: on the East by the eastern North Dakota State line:

Bounded: on the South by the southern North Dakota State line west to State Route 1; and

Bounded: on the West by State Route 1 north to Interstate 94; Interstate 94 east to the Soo Railroad line; the Soo Railroad line northwest to State Route 1; State Route 1 north to State Route 200; State Route 200 east to State Route 45; State Route 45 north to State Route 32; State Route 32 north.

An exception to the described geographic area is the following location situated inside North Dakota's area which has been and will continue to be serviced by Grain Inspection, Inc., Jamestown, North Dakota: Norway Spur and Oakes Grain, Oakes, Dickey County.

Interested parties, including Gray and North Dakota, are hereby given opportunity to apply for designation as the official agency to perform the official services in the geographic areas, as specified above, under the provisions of Section 7(f) of the Act and § 800.196(b) of the regulations issued thereunder. Designations in the specified geographic areas are for the period beginning July 1, 1984, and ending June 30, 1987. Parties wishing to apply for designation should contact the Regulatory Branch, Compliance Division, at the address listed above for appropriate forms and information. Applications must be postmarked not later than to be eligible for consideration.

Applications submitted and other available information will be considered in determining which applicant will be designated to provide official services in a geographic area.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873 (7 U.S.C. 79))

Dated: December 20, 1983.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 83–34484 Filed 12–30–83; 8:45 am]

BILLING CODE 3410–EN–M

Request for Comments on Designation Applicant in the Decatur, Indiana, Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicant for official agency designation in the Decatur, Indiana, area.

DATE: Comments to be postmarked on or before February 17, 1984.

ADDRESS: Comments must be submitted in writing, in duplicate, to Lewis Lebakken, Jr., Information Resources Management Branch, Resources Management Division, Federal Grain Inspection Service, U.S. Department of Agriculture, Room 0667, South Building, 1400 Independence Avenue SW., Washington, D.C. 20250. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 382–1738.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore, the Executive Order and Secretary's Memorandum do not apply to this action.

The October 28, 1983, issue of the **Federal Register** (48 FR 49897) contained a notice from the Federal Grain Inspection Service requesting applications for designation to perform official services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (Act), in the Decatur, Indiana, area. This area was previously assigned to W. F. Christen Grain Inspection (Christen). Applications were to be postmarked by November 28, 1983.

Winchester Grain Inspection (Winchester), the only applicant for the designation, requested designation for the entire geographic area available for assignment. Winchester purchased the Christen Agency's assets and has been providing official inspection service in this area on an interim basis since November 15, 1983.

In accordance with § 800.206(b)(2) of the regulations under the Act, this notice provides interested persons the opportunity to present their comments concerning the applicant for designation. All comments must be submitted to the Information Resources Management Branch, Resources Management Division, specified in the address section of this notice, and postmarked not later than February 17, 1984.

Comments and other available information will be considered before a final decision is made in this matter. Notice of the final decision will be published in the **Federal Register**, and the applicant will be informed of the decision in writing.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873 (7 U.S.C. 79))

Dated: December 20, 1983.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 83–34485 Filed 12–30–83; 8:45 am]

BILLING CODE 3410–EN–M

Soil Conservation Service

City of Browning Watershed, Montana; Deauthorization of Federal Funding

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Deauthorization of Federal Funding.

SUMMARY: Pursuant to the Watershed Proctection and Flood Prevention Act, Pub. L. 83–566, and the Soil Conservation Service Guidelines (7 CFR Part 622), the Soil Conservation Service gives notice of the deauthorization of Federal funding for the City of Browning Watershed project, Glacier County, Montana, effective on December 2, 1983.

FOR FURTHER INFORMATION CONTACT: Glen H. Loomis, State Conservationist, Soil Conservation Service, Federal Building, 10 East Babcock, Bozeman, Montana 59715, telephone 406–587–5271, Ext. 4322.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. Office of Management and Budget Circular No. A–95 regarding State and local clearinghouse review of federal and federally assisted programs and projects is applicable)

Dated: December 21, 1983.

Wallace A. Jolly,

Assistant State Conservationist.

[FR Doc. 83–34743 Filed 12–30–83; 8:45 am]

BILLING CODE 3410–16–M

McHessor-Dry Gulch RC&D Measure, Montana; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives

notice than an environmental impact statement is not being prepared for the McHessor-Dry Gulch RC&D Measure, Madison County, Montana.

FOR FURTHER INFORMATION CONTACT: Glen H. Loomis, State Conservationist, Soil Conservation Service, 10 East Babcock Street, Bozeman, Montana, 59715, telephone 406–587–4271.

SUPPLEMENTARY INFORMATION: The environmental evaluation of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Glen H. Loomis, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for improved irrigation water management. The planned works of improvements include installation of a gravity pressurized pipeline delivery system and on farm irrigation water management plans.

The Notice of a Finding of No Significant Impact (Notice) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the Notice and Environmental Assessment are available to fill single copy requests at the above address. Basic data developed during the environmental Assessment are available to fill single copy requests at the above address. Basic data developed during the environmental evaluation are on file and may be reviewed by contacting Glen H. Loomis.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

Glen H. Loomis,

State Conservationist.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

[FR Doc. 83–34784 Filed 12–30–83; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

Office of the Secretary

President's Private Sector Survey on Cost Control; Meeting Amendment

AGENCY: Office of the Secretary, Department of Commerce.

ACTION: Amendment to Notice of Open Meeting of the Subcommittee and the Executive Committee of the President's Private Sector Survey on Cost Control (PPSSCC).

SUPPLEMENTARY INFORMATION: On December 28, 1983, a notice dated December 22, 1983 was published in the **Federal Register** (48 FR 57147–57148), announcing a meeting of the Subcommittee and Executive Committee of the PPSSCC on January 10, 1984 at the Washington Marriot, 22nd and M Streets, NW., Washington, D.C.

The purpose of this notice is to announce that the meeting date has been changed to January 15, 1984. The times of each meeting session remain the same— 2:00 p.m. and 9:00 p.m. Both January 15 sessions will be open to the public. The public may file written statements for consideration of the Executive Committee or the Subcommittee any time before, at, or after the meeting.

Dated: December 29, 1983.

Lester G. Welch, Jr.,

Acting Chief, Information Management Division, Office of the Secretary.

[FR Doc. 83–34768 Filed 12–30–83; 10:07 am]

BILLING CODE 3510–CW–M

National Bureau of Standards

Membership of General and Limited Performance Review Boards

AGENCY: National Bureau of Standards, Commerce.

SUMMARY: This notice announces the purpose of the National Bureau of Standards (NBS) General and Limited Performance Review Boards, changes in the membership of those Boards, and the terms of appointment of its members.

SUPPLEMENTARY INFORMATION: The purpose of the General Performance Review Board (GPRB) is to review performance agreements, performance appraisals and ratings, recommendations for certain personnel actions and other related material, and to make appropriate recommendations to the Director of NBS as the Appointing Authority for the Senior Executive Service at NBS concerning such matters in such a manner as will assure the fair and equitable treatment of senior executives and the organizations of which they are members and instill in the minds of such senior executives confidence in the integrity, competence, and impartiality of the GPRB. The GPRB performs its review functions for all NBS senior executives except those who are members of the NBS Executive Board and those who are members of the GPRB.

The purpose of the Limited Performance Review Board (LPRB) is the same as the GPRB. However, the LPRB performs its review functions for all NBS senior executives who are members of the NBS Executive Board (except the NBS Deputy Director) and those senior executives who are members of the NBS GPRB.

The individuals who have been newly appointed by the Director of NBS to membership on the GPRB and the LPRB or have had their term of membership extended, and the term of their appointment or extension, are listed below.

GPRB

Mr. Samuel A. Lawrence, Assistant Administrator for Management and Budget, National Oceanic and Atmospheric Administration, Rockville, MD 20852. Term: January 1, 1984 to December 31, 1985.

Dr. David R. Lide, Jr., Director, Standard Reference Data, National Measurement Laboratory, National Bureau of Standards, Washington, D.C. 20234. Term: January 1, 1984 to December 31, 1985.

Mr. Thomas N. Pyke, Jr., Director, Center for Programming Science and Technology, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234. Term: January 1, 1984 to December 31, 1985.

Dr. Alvin H. Sher, Deputy Director, Center for Electronics and Electrical Engineering, National Engineering Laboratory, National Bureau of Standards, Washington, D.C. 20234. Term: January 1, 1984 to December 31, 1985

LPRB

Dr. William P. Raney, Assistant Associate Administrator for Space Science and Applications (Programs), National Aeronautics and Space Administration, Washington, D.C. 20546. Term: extended to December 31, 1985.

The full membership and expiration dates of the GPRB and the LPRB as now constituted, including the changes made by this notice, are set out below.

GPRB

Dr. Howard E. Sorrows, Chair, Technology Adviser to the Director, National Bureau of Standards, Washington, D.C. 20234. Expiration of appointment—December 31, 1984.

Dr. Robert A. Kamper, Director, Boulder Laboratories, National Bureau of Standards, Boulder, Colorado 80303. Expiration of appointment—December 31, 1984.

Mr. Samuel A. Lawrence, Assistant Administrator for Management and Budget, National Oceanic and Atmospheric Administration, Rockville, MD 20852. Expiration of appointment—December 31, 1985.

Dr. David R. Lide, Jr., Director, Standard Reference Data, National Measurement Laboratory, National Bureau of Standards, Washington, D.C. 20234. Expiration of appointment—December 31, 1985.

Mr. Thomas N. Pyke, Jr., Director, Center for Programming Science and Technology, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234. Expiration of appointment—December 31, 1985.

Dr. Alvin H. Sher, Deputy Director, Center for Electronics and Electrical Engineering, National Engineering Laboratory, National Bureau of Standards, Washington, D.C. 20234. Expiration of appointment—December 31, 1985.

Dr. John K. Taylor, Voluntary Standards Coordinator, Center for Analytical Chemistry, National Measurement Laboratory, National Bureau of Standards, Washington, D.C. 20234. Expiration of appointment—December 31, 1984.

LPRB

Dr. Edward L. Brady, Chair, Associate Director for International Affairs, National Bureau of Standards, Washington, D.C. 20234. Expiration of appointment—December 31, 1984.

Dr. Richard H. Kropschot, Associate Director for Basic Energy Sciences, Office of Energy Research, Department of Energy, Washington, D.C. 20545. Expiration of appointment—December 31, 1984.

Dr. William P. Raney, Assistant Associate Administrator for Space Science and Applications (Programs), National Aeronautics and Space Administration, Washington, D.C. 20546. Expiration of appointment—December 31, 1985.

FOR FURTHER INFORMATION CONTACT: Mrs. Elizabeth W. Stroud, Chief, Personnel Division, National Bureau of Standards, Washington, D.C. 20234, (301) 921–3555.

Dated: December 27, 1983.

Ernest Ambler,

Director.

[FR Doc. 83–34785 Filed 12–30–83; 8:45 am]

BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

Establishment of a NOAA Industrial Research Associate Program

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: This notice serves as official notification of the establishment of a new NOAA Industrial Research Associate Program designed to strengthed the ties between the Nation's private and Federal sectors through joint efforts in research and engineering.

FOR FURTHER INFORMATION CONTACT: Organizations wishing to explore the possibility of sponsoring an Industrial Research Associate should contact the program's coordinator R. L. Carnahan (Wx5), National Oceanic and Atmospheric Administration, Rockville, MD 20852, telephone (301) 427–7258.

SUPPLEMENTARY INFORMATION: Under this program, NOAA invites qualified scientists and engineers from organizations outside the Government to come to NOAA laboratories and operating centers to work with Federal personnel and facilities on projects of mutual interest to the Government and private industry. Industrial Research Associates work with NOAA scientists and engineers in such areas as the atmospheric sciences, hydrology, oceanography, aeronomy, space sciences, and fishery sciences. Other fields, such as geodesy and cartography, represent additional possibilities, as well as engineering projects in computer sciences, instrumentation, and communications. Organizations in the private sector who elect to participate in this program can expect their representatives to gain access to extensive laboratory test and computational facilities and data sources. They will be able to work with some of the Nation's leading authorities in specialized fields. They will gain an appreciation of NOAA programs and future requirements and will be able to communicate to NOAA the needs and concerns of their sponsor organizations. NOAA Industrial Research Associates will be invited to work full time from 1 to 3 years on projects of interest both to NOAA and to their employers. Costs will be underwritten by their sponsoring companies.

Dated: December 21, 1983.

Samuel A. Lawrence,

Director, Office of Administrative and Technical Services.

[FR Doc. 83–34744 Filed 12–30–83; 8:45 am]

BILLING CODE 3510–12–M

Marine Mammal Permits; Modification No. 3 to Permit No. 363; Dr. Jennifer Buchwald, et al.

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Scientific Research Permit No. 363 issued to Drs. Jennifer Buchwald, Carl Shipley, and Robin Fisher, Department of Physiology and Brain Research Institute, University of California, Los Angeles, California 90024, on January 4, 1982 (47 FR 997), as modified on January 6, 1983 (48 FR 684), and March 3, 1983 (48 FR 10421), is further modified to extend the period of authorized taking for one year.

Section B–6 is deleted and replaced by:

"6. This permit is valid with respect to the taking authorized herein until December 31, 1984."

This modification becomes effective upon publication in the **Federal Register**.

The permit as modified and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: December 23, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR. Doc. 83–34613 Filed 12–30–83; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammal Permits; Receipt of Application for General Permits; Dederazione Nazionale delle Imprese di Pesca, et al.

Notice is hereby given that the following applications have been received to take marine mammals incidental to the pursuit of commercial fishing operations within the U.S. fishery conservation zone during 1984 as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1631–1407) and the regulations thereunder.

1. The Dederazione Nazionale delle Imprese di Pesca, Rome, Italy, has applied for a Category 1: "Towed or Dragged Gear" general permit to take up to 20 harbor seals (*Phoca vitulina*) and 20 small cetaceans in the North Atlantic Ocean squid fishery.

2. The Asociacion Nacional de Armadores de Buques Congeladores de Buques Congeladores de Pesquerias Varias, Vigo, Spain has applied for a Category 1: "Towed or Dragged Gear" general permit to take 20 harbor seals (*Phoca vitulina*) and 20 small cetaceans in the North Atlantic Ocean squid fishery.

The applications are available for review in the Office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C. 20235.

Interested parties may submit written views on these applications within 30 days of this notice to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235.

Dated: December 27, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-34812 Filed 12-30-83; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammal Permits; Receipt of Application for Permit; Ocean Research and Educational Society

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the Regulations, Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531-1543), the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217-222).

1. Applicant:

a. Name: Ocean Research and Education Society (P153A).

b. Address: 19 Harbor Loop, Gloucester, Massachusetts 01930.

2. Type of Permit: Scientific research/ Scientific purposes.

3. Name and Number of Animals: Various species of cetaceans unspecified.

4. Type of Take: Potential harassment during the course of photographic reidentification and sound recording studies from vessels and divers. Importation of specimen material from dead marine mammals in accordance with laws of the country of origin.

5. Location of Activity: Western North Atlantic from Nova Scotia to Caribbean Sea.

6. Period of Activity: 3 Years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;

Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01910; and Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: December 23, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-34814 Filed 12-30-83; 8:45 am]

BILLING CODE 3510-22-M

New England Fishery Management Council; Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice of public meeting with a partially closed session.

SUMMARY: The New England Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265, as amended), will hold a public meeting with a closed session to discuss the following topics:

Public Meeting: Discuss reports of the herring, groundfish, bluefish, foreign fishing and gear conflict oversight committees; conflict of interest, data confidentiality, swordfish trip presentation as well as other fishery management and administrative matters.

Closed Session: Discuss personnel and internal administrative matters. Only Council members and required staff will be allowed to attend this closed session.

DATES: *Public Meeting:* The open session of the meeting will convene on January 10, 1984 at approximately 1:30 p.m. and adjourn on January 11 at approximately 4:00 p.m. The meeting may be lengthened or shortened, or agenda items rearranged, depending on progress on the agenda.

Closed Session: The closed session of the meeting will convene on January 10, 1984 at approximately 10:00 a.m. and adjourn at approximately 12:00 noon on the same day.

ADDRESS: The meeting will take place at King's Grant Inn, Danvers, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Douglas G. Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway (Rte. 1), Saugus, Massachusetts 01906, Telephone: 617-231-0422.

SUPPLEMENTARY INFORMATION: For information on seating arrangements, changes to the agenda, and/or written comments, contact the Executive Director.

Dated: December 27, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management National Marine Fisheries Service.

[FR Doc. 83-34811 Filed 12-30-83; 8:45 am]

BILLING CODE 3510-22-M

COMMODITY FUTURES TRADING COMMISSION

Chicago Mercantile Exchange; Proposed Amendments Relating to the Frozen Pork Bellies Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule changes.

SUMMARY: The Chicago Mercantile Exchange has submitted a proposal to revise the defect-discount schedule applicable to deliveries on the frozen pork bellies futures contract. The Commodity Futures Trading Commission ("Commission") has determined that the proposal is of major economic significance and that, accordingly, publication of that proposal

is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments should be received on or before February 2, 1984.

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C., 20581. Reference should be made to CME Rule 1404.B.

FOR FURTHER INFORMATION CONTACT: Fred Linse, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C., (202) 254–6990.

SUPPLEMENTARY INFORMATION: The Chicago Mercantile Exchange ("CME" or "Exchange") is proposing to amend Rule 1404.B, Quality Deviations and Allowances, which would revise the defect-discount schedule applicable to deliveries on the Exchange's frozen pork bellies futures contract. Under the CME's proposal, the maximum number of minor defect equivalents allowed would be increased to 190 from the current 175 per sample of 50 bellies. Bellies with 176 to 190 minor defect equivalents would be deliverable at a 2½¢ per pound discount. Bellies with more than 190 minor defect equivalents would not be deliverable under the revised contract.

The CME submits that the proposed increase in the defect range for frozen pork bellies would allow more of the commercial belly supply to be deliverable under the contract. The Exchange maintains that the increase in the maximum number of minor defect equivalents allowable under the belly contract to 190 would permit more bellies to pass inspection. In addition, the Exchange notes that the increased defect range should encourage a larger number of bellies to be offered for inspection.

The Exchange indicates that had the proposed increase in the defect range been applicable to deliveries on the frozen pork bellies contract during the 1983 crop year, deliverable supplies for the contract would have increased by a minimum of 204 contracts or 35%. The Exchange believes deliverable supplies during 1983 would have likely increased by more than 35% since the revised defect schedule would have had a tendency to encourage more bellies to be offered for inspection.

The Exchange further submits that the proposed discount of 2½¢ for bellies with 176 to 190 minor defect equivalents would be adequate to compensate for any loss in yields on these bellies.

The proposed amendments to the frozen pork bellies contract would not apply to existing contracts. The amendments would become effective after Commission approval for the February 1985 contract and all other contract months subsequently listed by the Exchange for trading.

In accordance with Section 5a(12) of the Commodity Exchange Act, 7 U.S.C. 7a(12) (1982), the Commission has determined that the proposal submitted by the CME concerning its frozen pork bellies futures contract is of major economic significance. Accordingly, the CME's proposal will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Copies can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the CME in support of the proposed rule may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1982)). Requests for copies of such materials should be made to the FOIA, Privacy and Sunshine Acts Compliance staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed amendments should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, by February 2, 1984. Such comment letters will be publicly available except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C. on December 27, 1983.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83-34816 Filed 12-30-83; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Fort Lewis Military Installation, Fort Lewis, Washington; Intent To Prepare a Supplemental Environmental Impact Statement

ACTION: Notice of Intent.

Notice is hereby given of intent to prepare a Supplemental Environmental Impact Statement (SEIS) to the Fort Lewis ongoing mission Final Environmental Impact Statement entitled "Fort Lewis Military Installation" and dated June 1979. The SEIS will address environmental concerns related to the transitioning of the 9th Infantry Division (9th ID) to a High Technology Light Division (HTLD). The transition process will transform the 9th ID from a "walking" infantry division to a fully motorized division prossessing weapons of greater lethality, range, and mobility. As the result of this, many "high technology" vehicles and weapons systgems will be fielded at Fort Lewis with consequent impacts on training methodologies, tactics, land use requirements, and the installation's master plans. There is currently no scoping meeting scheduled for this action.

Questions about the transition process should be directed to: Commander, I Corps and Fort Lewis ATTN: AFZH-DEH (Mr. Bart Ives), Fort Lewis, Washington 98433.

John O. Roach,

DA Liaison Officer with the Federal Register.

[FR Doc. 83-34731 Filed 12-30-83; 8:45 am]

BILLING CODE 3710-08-M

Command and General Staff College Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following committee meeting:

Name: Command and General Staff College (CGSC) Advisory Committee

Date: 8–10 January 1984

Place: College Conference Room, Bell Hall, Ft. Leavenworth, KS 66027

Time: 2000–2200, 8 January 1984; 0900–1630, 9 January 1984; 0900–1400, 10 January 1984

Proposed Agenda:

2000–2200, 8 January 1984: Review of CGSC educational program.

0900–1630, 9 January 1984: Continuation of review.

0900–1000, 10 January 1984: Continuation of review.

1000–1130, 10 January 1984: Executive session.

1300–1430, 10 January 1984: Report to the Commandant.

The purpose of the meeting is for the Advisory Committee to examine the entire range of College operations and, where appropriate, to provide advice and recommendations to the College Commandant and Faculty.

The meeting will be open to the public to the extent that space limitations of the meeting location permit. Because of these limitations, interested parties are requested

to reserve space by contacting the Committee's Executive Secretary.

Philip J. Brookes,

Executive Secretary, CGSC Advisory Committee.

[FR Doc. 83-34738 Filed 12-30-83; 8:45 am]
BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Proposed Terms for Extension of the Deadline by Which the Alumax Pacific Corporation Must Declare Its Intent to Place Load on the Bonneville Power Administration

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of Proposed Terms for Deadline Extension.

BPA File No.: Alx-1.

SUMMARY: The Alumax Pacific Corporation (Alumax) holds a contract with the Bonneville Power Administration for delivery of power to the corporation's proposed aluminum reduction plant to be located near Umatilla, Oregon. The contract requires Alumax to declare by Octoer 1, 1983, whether it will eventually require power from BPA under the contract. Alumax requested that the deadline be extended to October 1, 1985. BPA granted an interim extension to January 31, 1984, to study the matter and consider alternatives. BPA now proposes to allow Alumax to notify BPA on or before July 1, 1985, if the corporation wishes to receive power from BPA under its contract. BPA further proposes to require that BPA retain a significant amount of discretion in determining the date on which power will actually be made available for the plant, between July 1, 1987, and December 5, 1989.

Responsible Official: Thomas M. Noguchi, Director, Division of Customer Service.

DATE: Comments on this proposal must be received by the BPA Public Involvement Manager no later than January 24, 1984.

ADDRESS: Address comments to Ms. Donna L. Geiger, BPA Public Involvement Manager, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT: Ms. Donna L. Geiger, Public Involvement Manager, at the above address, 503-230-3478. Oregon callers outside of Portland may use 800-452-8429; callers in California, Idaho, Montana, Nevada, Utah, Washington, and Wyoming may use 800-547-6048. Information may also be obtained from:

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97232, 503-230-4551.
Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East seventh Avenue, Eugene, Oregon 97401, 503-687-6952.
Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509-456-2518.
Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406-329-3860.
Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509-662-4377, extension 379.
Mr. Richard D. Casad, Puget Sound Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, 206-442-4130.
Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509-525-5500, extension 701.
Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208-523-2706.
Mr. Frederic D. Rettenmund, Boise District Manager, Owyhee Plaza Suite 245, 1109 Main Street, Boise, Idaho 83707, 208-334-9138.

SUPPLEMENTARY INFORMATION:

I. Background

Alumax holds a 20-year power sales contract with BPA, terminating on July 1, 2001, for electricity for an aluminum reduction plant Alumax proposed to build and operate in Umatilla, Oregon. The contract requires that Alumax commit itself by October 1, 1983, to receive power under the contract. On July 25, 1983, Alumax asked BPA to delay the October 1, 1983, deadline to October 1, 1985.

On August 18, 1983, BPA requested public comment on this matter (48 FR 37510). BPA received more than 70 comments in the comment period which closed September 12, 1983. Copies of the comments are available from the BPA Public Involvement office.

Commenters from the Umatilla, Oregon, area generally supported extending the deadline. Commenters from other areas generally expressed reservations or opposed extension of the deadline. Many commenters suggested BPA further analyze the implications of an extension on future Northwest Power resource needs and on BPA rates. Other commenters suggested BPA impose contract amendments on Alumax reflecting the value of a deadline extension.

Agreeing that further time was needed to analyze the situation, BPA granted Alumax an interim extension of the October 1, 1983, deadline to January 31, 1984. On October 3, 1983, BPA stated that it would request public comments on its proposed course of action during this period (48 FR 45148). BPA now requests public comment on the proposed course of action described below. To be considered in making BPA's final determination on this matter, comments must be received by the BPA Public involvement Manager by January 24, 1984.

II. Proposal

BPA proposes to grant Alumax an extension of its deadline to notify BPA that it will place load on BPA under the contract. BPA proposes to extend the deadline to July 1, 1985, rather than October 1, 1985, as requested by Alumax. The 3-month difference between the deadline requested by Alumax and that proposed by BPA will allow Alumax sufficient time after publication of rates applicable July 1, 1985, to analyze rate impacts that could affect a decision whether or not to build its plant. It will also simultaneously provide additional planning time for BPA to arrange to meet the load once Alumax gives notice.

BPA further proposes to have a substantial amount of discretion in determining when, in the contractually specified construction period of July 1, 1987, through December 5, 1989, Alumax would place its load on BPA. Alumax currently has the right to specify any date within this period. Upon Alumax making a commitment and proposing a construction date, BPA proposes to have the right to reasonably specify any date between January 1, 1988, and December 5, 1989. Further, BPA may specify a date earlier than January 1, 1988, provided that Alumax may reasonably be expected to have completed design, material procurement and construction.

BPA has not yet determined the extent to which costs may be reasonably assessed against Alumax should it not meet such earlier construction dates for reasons other than contractually specified "Uncontrollable Forces."

BPA believes that with the initial offer of a contract to Alumax, it complied with the provisions of Sections 5(d) and 5(g) of the Pacific Northwest Electric Power Planning and Conservation Act (Regional Act). Circumstances have not changed BPA's ability to serve the Alumax load. Accordingly, BPA did not contemplate refusal to serve the load, but developed this proposal within the contractual framework.

III. Effect of this Proposal on BPA Resource Planning

BPA has considered the desirability of maintaining the size of the existing direct-service industrial load, particularly in providing reserves and carrying out the exchange provisions of the Regional Act. In recent years, various events have significantly affected both the size and viability of this customer class. There is no indication that such events will diminish or not occur in the future. BPA considers this proposal to be the most prudent alternative at present to preserve its options.

Under its existing contract, the Alumax load is scheduled to come on line between July 1, 1987, and December 5, 1989, at Alumax's option. This opening occurs during a period of declining power surpluses projected under BPA's present base-case load growth forecast. In its previous load and resource forecasts, BPA has assumed that the load would come on line in 1987.

BPA recognizes the uncertainties inherent in planning for the balance between loads and resources. Obtaining the option upon certain conditions to select the date Alumax would come on line within a July 1987-December 1989 timeframe would give BPA flexibility in responding to load and resource exigencies as they emerge. Such an option, heretofore not available to BPA may become of significant value to BPA and the region's ratepayers as a means of marketing otherwise unsold firm surplus power and maximize revenues. Certainly this flexibility would enable BPA to minimize any impacts of bringing this load into the region. Given the uncertainties of load growth, marketing, and resource availability currently facing the region; BPA believes the best course of action is to retain as much flexibility as possible to respond to a range of conditions. This proposal enhances that flexibility.

For example, under current BPA's base-case load growth forecast and current resource expectations, bringing Alumax on line in 1987 produces a 70-megawatt energy shortage in the 1988–89 operating year. BPA could meet this deficit and serve the Alumax load through short-term energy purchases or by bringing resources on line sooner than they would otherwise be needed. However, with the proposed option under these circumstances, BPA would have the opportunity of choosing a later in-service date for the Alumax load.

However, should load growth patterns be lower than those projected in BPA's 1983 base forecast, or should conservation or other pressures become available during the 1987–1989 period, the region might still have surplus firm power resources into the early 1990's or beyond. In that case, serving the Alumax load with surplus resources starting in 1987 would provide net revenues to BPA compared to receiving the load in December 1989.

Based on current information, BPA has analyzed the relative costs and benefits of bringing Alumax on line as early as July 1987 or as late as December 1989 under various load-growth and resource scenarios. This analysis shows that based on assumptions about load growth and resource availability, different dates would be chosen by BPA to accept the Alumax load.

IV. Rate To Be Charged to Alumax

Like all BPA's direct-service industrial customers, Alumax will pay for power from BPA under the industrial firm power rate established through BPA's ratemaking process. The industrial firm power rate is currently 26.8 mills (2.68 cents) per kilowatthour. Alumax will be subject to the then-applicable industrial firm power rates whenever it comes on line, and throughout the duration of its contract. Any impacts on these rates which occur as a result of serving Alumax loads will be determined through the BPA ratemaking process.

V. Final Action To Be Published

BPA will consider the comments it receives on its proposal in making its final determination on Alumax's request for a 2-year extension of the October 1, 1983, deadline. BPA will then publish a notice of its final action on this matter in the **Federal Register** after January 31, 1984.

Issued in Portland, Oregon, on December 23, 1983.

James J. Jura,

Acting Administrator.

[FR Doc. 83-34845 Filed 12-30-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER82-412-001]

Kansas Gas & Electric Co.; Revised Refund Report

December 28, 1983.

Take notice that on December 12, 1983, Kansas Gas & Electric Company (KG&E) submitted for filing its Refund Report pursuant to a November 25, 1983 Commission Letter Order.

KG&E states that the refund amounts to the Cities of Girard and Oxford include interest from the date payment was received through December 8, 1983.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before January 11, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-34821 Filed 12-30-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-418-000]

Kansas Power & Light Co.; Refund Report

December 28, 1983.

Take notice that on December 5, 1983, Kansas Power & Light Company (KP&L) submitted for filing its Refund Report pursuant to a Commission Order issued on November 4, 1983, which allowed KP&L to collect reduced rates to replace those the Commission previously accepted for filing which took effect June 7, 1983.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before January 11, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-34822 Filed 12-30-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2081-000]

Donald C. Platten; Application

December 28, 1983.

The filing individual submits the following:

Take notice that on December 9, 1983, Donald C. Platten filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director—Consolidated Edison Company of New York, Inc.
Director—Chemical New York Corporation and Chemical Bank

Any person desiring to be heard or to protest said filing should file a motion to

intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, D.C. 20426, in accordance with the Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 12, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-34823 Filed 12-30-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2084-000]

Donald B. Riefler; Application

December 28, 1983.

The filing individual submits the following:

Take notice that on December 20, 1983, Donald B. Riefler filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Director—Niagara Mohawk Power Corporation
Director—Morgan Bank (Delaware)
Chairman, Sources and Uses of Funds Committee—Morgan Guaranty Trust Company of New York
Chairman, Sources and Uses of Funds Committee—J. P. Morgan & Company, Incorporated
Director—The National Reinsurance Corporation
Treasurer—J. P. Morgan Leasefunding Corporation
Treasurer—J. P. Morgan Interfunding Corporation
Director—Private Export Funding Corporation

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 17, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-34824 Filed 12-30-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2083-000]

C. Larry Schmidt; Application

December 28, 1983.

The filing individual submits the following:

Take notice that on December 19, 1983, C. Larry Schmidt filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Vice President—The Cincinnati Gas & Electric Company
Vice President Director—The Union Light, Heat and Power Company

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 17, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-34825 Filed 12-30-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER82-706-000 and ER83-77-000]

West Texas Utilities Co.; Refund Report

December 28, 1983.

Take notice that on December 2, 1983 West Texas Utilities Company (West Texas) submitted for filing its Refund Report pursuant to an October 19, 1983 Commission Letter Order which accepted the settlement agreement reached by West Texas and its wholesale customers.

West Texas states that it refunded any amounts collected in excess of the settlement rates.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 11, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-34826 Filed 12-30-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2082-000]

Franklin H. Williams; Application

December 28, 1983.

The filing individual submits the following:

Take notice that on December 9, 1983, Franklin H. Williams filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Director—Consolidated Edison Company of New York, Inc.
Director—Chemical New York Corporation and Chemical Bank.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 12, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-34827 Filed 12-30-83; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS 42046; FRL 2466-7]

Cyclohexanone; Response to the Interagency Testing Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Interagency Testing Committee (ITC) recommended to EPA

that cyclohexanone be considered for health and environmental effects testing. Following the recommendation, a group of U.S. cyclohexanone manufacturers submitted a proposed program on cyclohexanone for health effects testing. EPA has tentatively concluded that the industry testing proposal is adequate to address the ITC's and the Agency's testing concerns for health effects and that environmental effects testing for cyclohexanone is not necessary. Consequently, EPA is not at this time proposing a rule under section 4(a) of the Toxic Substances Control Act (TSCA) to require health or environmental effects testing of cyclohexanone. This notice constitutes the Agency's response to the ITC's designation of cyclohexanone as required by section 4(e) of TSCA.

DATE: Interested persons are invited to comment on this proposed decision. All comments should be submitted on or before February 17, 1984.

ADDRESS: Written comments should bear the document control number [OPTS–42046] and should be submitted in triplicate to TSCA Public Information Officer (TS–793), Office of Pesticides and Toxic Substances, Rm E–108, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Room E–543, Washington, D.C. 20460, Toll Free: (800–424–9065), In Washington, D.C.: (554–1404), Outside the USA: (Operator 202–554–1404).

SUPPLEMENTARY INFORMATION:

I. Background

Section 4(a) of the Toxic Substances Control Act (TSCA) (Pub. L. 94–469, 90 Stat. 2003 *et seq.;* 15 U.S.C. 2601 *et seq.*) authorizes EPA to promulgate regulations to require manufacturers and processors to test particular chemical substances and mixtures. Data developed through these test programs are used by EPA in assessing the risks that the tested chemicals present to health and the environment. Section 4(e) of TSCA established an Interagency Testing Committee to recommend to EPA a list of chemicals to be considered for the promulgation of testing rules under section 4(a) of the Act.

In April, 1979, the ITC designated cyclonexanone for priority consideration in its Fourth Report, published in the **Federal Register** of June 1, 1979 (44 FR 31866) (Ref. 54). The ITC recommended that cyclohexanone be considered for: (1) Health effects testing, including carcinogenicity, mutagencity, teratogenicity (with behavioral studies in the offspring) and other chronic effects (including neurological and reproductive studies); (2) an epidemiological study; and (3) environmental effects testing. The ITC's recommendations for testing of cyclohexanone were based on: (1) substantial production, (2) its widespread use as an industrial solvent and as a solvent in consumer use products, which was expected to result in potentially high worker and general population exposure, and (3) potentially large quantities released to the environment.

In evaluating the ITC's testing recommendations for cyclohexanone, EPA considered all revelant information, including the following: (1) Information presented in the ITC's Fourth Report; (2) information reported by manufacturers of cyclohexanone, represented by the Industrial Health Foundation Cyclohexanone Study Group; (3) data submitted under TSCA sections 8(a) Preliminary Assessment Information Rule (40 CFR Part 712) and 8(d) Health and Safety Data Reporting Rule (40 CFR Part 716); and (4) other published and unpublished data available to the Agency. Based on its evaluation, as discussed in Unit IV, EPA is not initiating rulemaking at this time under section 4(a) to require health or environmental effects testing of cyclohexanone.

II. Assessment of Exposure and Health and Environmental Effects

A. Production, Use, and Exposure

Cyclohexanone is a six carbon, saturated, cyclic ketone. The only functional group present is the carbonyl (C=O) group. It is a colorless liquid at room temperature (boiling point 156°C at 1 atm.) with an odor resembling peppermint and acetone (Ref. 24).

1. *Production.* Production of cyclohexanone in 1981 was reported to be 766 million pounds, most of which was used as a captive intermediate in the production of caprolactam and adipic acid, which in turn are intermediates for nylon 6 and nylon 6,6, respectively. Merchant sales of cyclohexanone were 4.7 percent (36 million pounds) of the 1981 production total (Ref. 56).

Cyclohexanone has uses as a chemical intermediate and as a solvent for resins, lacquers, dyes, and insecticides (Ref. 26). Cyclohexanone is sold in various grades, including a commercial grade (89 percent ketone) and a high purity grade (99.5 percent ketone, Ref. 26).

Cyclohexanone's slow evaporation rate and good solvency make it an attractive solvent in coatings where a slower drying rate is desirable. It is an excellent solvent for various protective coatings and adhesives, for vinyl chloride and copolymer resins, and is also used as an ingredient in some pesticide formulations (Ref. 33). Because of its expense relative to other solvents (such as acetone and methyl ethyl ketone) and because of undependable supplies during a tight (1973) market, growth of cyclohexanone as a solvent has not occurred as one might have expected (Ref. 32). Of the ketone solvents, cyclohexanone comprises about three percent of the market; only about four to five percent of total cyclohexanone production is used as a solvent (Refs. 4 and 43).

2. *Occupational exposure.* The number of persons exposed to cyclohexanone in its use as a chemical intermediate is limited because nylon manufacturing is done in an automated, closed system. Exposure in these operations could occur during cleaning operations or from accidental spills. Humans are likely to be exposed to cyclohexanone when it is used as a solvent in open processes. The National Institute for Occupational Safety and Health (NIOSH) surveyed three industrial sites where cyclohexanone was known to be used as a solvent. Concentrations of cyclohexanone in atmospheric samples varied from < 1 ppm to 21 ppm, depending on the operation (Ref. 36). The American Conference of Governmental Industrial Hygienists (ACGIH) has a recommended standard (8-hour time-weighted average) of 50 ppm in air for cyclohexanone in the workplace. ACGIH is planning on lowering its recommendation to 25 ppm, based on a NIOSH (1978) proposal (Ref. 1). According to NIOSH (1980) estimates, 839,200 people are potentially exposed to cyclohexanone in the workplace.

3. *Consumer exposure.* Even in its solvent uses, cyclohexanone is used more frequently in industrial rather than consumer applications. Lee *et al.* (1979) reported, however, that cyclohexanone is used as a solvent in consumer products such as spot removers for leathers and textiles, metal degreasers, lacquers and stains, and paint removers used in furniture repairing and refinishing. Exposure from these uses could occur through inhalation or through skin absorption.

4. *General population exposure.* Patterson *et al.* (1976) modelled the release of cyclohexanone from a major manufacturing plant. They assumed a

plant production of 240 million pounds/year and an emission rate of one percent of that, or 34.5 g/sec of cyclohexanone. This latter estimate was derived from information on similar chemical processes (Ref. 40). They calculated that ground level concentrations, 500 meters from the release source, could average 1.3 ppm over a 1-hour time period or approximately 1.0 ppm over a 24-hour time period. Aside from this postulated exposure from cyclohexanone in the atmosphere in vicinities very close to industrial plants, there is little indication of general population exposure. However, Shackleford and Keith (1976) reported the presence of cyclohexanone in four samples of finished drinking water analyzed by the EPA Laboratory in Cincinnati, Ohio and in one sample of drinking water analyzed in Ottumwa, Iowa. Sampling sites and concentration levels were not given.

5. *Release.* Releases of cyclohexanone into the environment are expected to be largely due to atmospheric releases resulting from production, storage, and (especially) solvent use of the chemical substance (Ref. 40). Patterson *et al.* (1976) estimated annual losses of cyclohexanone in 1974 (production about 850 million pounds) of 42.5 million pounds from solvent use, 8.5 million pounds from production losses and 0.3 million pounds from storage losses. They assumed that all of this loss would be to the atmosphere and, in the case of the solvent loss, would be widely scattered geographically. Using some other assumptions, JRB (1981) estimated annual releases of cyclohexanone to the environment for 1979 (production 875 million pounds); again it was estimated that the single greatest release of cyclohexanone into the environment would occur from solvent loss to the atmosphere (43.6 million pounds). Production losses would contribute an additional 4.85 million pounds to the atmosphere and 20.3 million pounds to wastewater. Losses from other processes would account for an additional 0.35 million pounds to air and 0.055 million pounds to wastewater.

The greatest point source of cyclohexanone release to surface waters would be from wastewater discharge (Ref. 24). Modelling was performed for this source using worst case assumptions, including saturated influent (25,000 ppm cyclohexanone) and no waste treatment (Ref. 57). Maximum environmental concentrations of less than 1 ppb up to 60 ppm, varying according to the particular receiving stream, were calculated for each of the seven plants manufacturing cyclohexanone in the United States. Mean environmental levels were estimated to be less than 1 ppb up to 8.23 ppm cyclohexanone, depending on the site (Ref. 57). However, cyclohexanone is treated before being discharged and available information indicates that environmental levels of cyclohexanone, which would occur as a result of wastewater discharge, are four to six orders of magnitude lower than the worst-case estimates just given (i.e., maximum aquatic concentrations would be less than 6 ppb after treatment). It was reported that four of the six cyclohexanone producers discharge to wastewater treatment plants that utilize activated sludge systems. A fifth producer has two sites, one which also discharges to an activated sludge treatment plant. The second site discharges to a retention basin only. However, analysis of the effluent from the retention basin has shown no detectable cyclohexanone (detection limit 1 mg/1). The sixth producer's wastewater containing cyclohexanone is disposed of in injection wells (Ref. 21).

It was further reported that there is little information available at the present time on actual influent and effluent concentrations of cyclohexanone in wastewater. However, limited data suggest that concentrations vary from 1–100 mg/1 in the influent to the activated sludge treatment plants. One in-house treatability study of cyclohexanone, utilizing a scale model of an activated sludge plant, showed reductions greater than 99 percent (Ref. 21). Furthermore, process wastes containing cyclohexanone are regulated under RCRA. Spent cyclohexanone solvent and the still bottoms from the spent solvent recovery are hazardous wastes listed under 40 CFR § 261.31 as EPA Hazardous Waste No. F003.

B. Health Effects Information

1. *Metabolism.* Cyclohexanone is quickly metabolized and excreted with the major metabolic pathway being transformation to cyclohexanol followed by glucuronidation in the liver with subsequent excretion of the glucuronic acid conjugates in the bile and urine (Refs. 14, 23, 29, 52, and 53).

2. *Acute Toxicity.* Acute LD_{50} studies on guinea pigs, rats, mice and rabbits show that the acute toxicity of cyclohexanone to these species is on the order of 1,000 to 2,000 mg/kg (oral or intravenous routes of administration); no significant difference in acute toxicity was found between males and females (Refs. 19, 52 and 53).

Exposure by inhalation killed two of four rabbits exposed for 90 hours at 3,082 ppm (Ref. 53). Although there were signs of toxicity observed, no fatalities were observed among the four animals treated at the next highest dose in this experiment, 1,414 ppm, after 300 hours of exposure.

The major sign of intoxication in rabbits following an acute oral dose of 1.6–1.9 grams/kg of cyclohexanone was narcosis (Ref. 52).

Pathological examination also revealed marked lung damage, including atelectasis, edema, hemorrhage, and necrosis of the respiratory epithelium (Ref. 52). Treon *et al.* (1943a) also noted severe, widespread, vascular damage at unspecified dosage levels. Postmortem examination of rat and mice dosed with cyclohexanone revealed intestinal congestion, suggesting an irritant effect. Light narcosis and loss of coordination were also observed in rabbits given an inhalation dose of 3,082 ppm, 6 hours per day, 5 days per week, for 90 hours, but not in rabbits given 1,414 ppm for 300 hours, under the same dosing schedule (Ref. 53). Irritation to cyclohexanone was also observed down to 300 ppm but was not seen at the lowest dose of 190 ppm (total exposures for 300 hours).

Cyclohexanone has also been shown to be irritating to both the skin and eyes of rabbits (Refs. 8 and 19). Undiluted cyclohexanone (0.005 ml and 0.02 ml) applied directly to the eyes of rabbits caused injury of grade 5 (out of a maximum severity score of grade 10, which the authors classified as having a severe irritating effect (Ref. 8). Topical application of cyclohexanone to the skin of rabbits, as a 12.4 to 99 percent solution in cottonseed oil, caused slight (12.4%) to moderate (49.5%) to greater than marked (99%) skin irritation within one day of application (Ref. 19). The irritation effect seen from each solution gradually decreased, with no observable irritation on day 2, day 3, and day 7 for each of the above three concentrations, respectively.

3. *Subchronic and chronic toxicity.* The major effects seen from subchronic exposure to cyclohexanone include primary irritation and general central nervous system effects such as narcosis, lethargy, temors, and hypothermia (Refs. 27 and 53).

Rengstorff *et al.* (1972) also observed a significant cataractogenic effect when cyclohexanone was administered to guinea pigs three times per week for 3 weeks, however, subsequent studies have not confirmed that cyclohexanone causes cataractogenic effects. In the Rengstorff *et al.* (1972) study, three groups of guinea pigs received cyclohexanone either cutaneously (0.5 ml doses of undiluted material) or subcutaneously (0.05 ml doses of 5 percent cyclohexanone in saline).

Subsequent work includes: studies sponsored by the Industrial Health Foundation (1983b) in which rats and guinea pigs were cutaneously administered cyclohexanone using the same dose and treatment schedule as Rengstorff *et al.*; studies by Travenol Laboratories (1982) in which rabbits and guinea pigs were administered cyclohexanone intravenously (iv) at two dosages (0.5 and 5.0 mg/kg), or cutaneously, at a dosage of 0.5 ml of undiluted cyclohexanone, again using the same treatment schedule as Rengstorff *et al.* (1972); and a study by Greener *et al.* (1982) in which rats were administered (iv) 50 and 100 mg/kg cyclohexanone in saline solutions containing 0.25 and 0.50 percent cyclohexanone, respectively, for 28 consecutive days. No cataractogenic effect due to cyclohexanone was observed in any of the three species tested in these studies. Additionally, data from the studies utilizing guinea pigs also indicated that guinea pigs are not an appropriate model for cataractogenesis studies; lenticular changes are indicated to be an inherent characteristic of guinea pigs, as shown by relatively high levels of cataracts observed in the control groups (Refs. 22, 51 and 55).

4. *Neurotoxocity.* Although cyclohexanone exhibits generalized CNS effects with sufficient administration, it does not appear to affect the peripheral nervous system. Perbelini *et al.* (1981) studied cyclohexanone in Sprague-Dawley rats to determine whether or not cyclohexanone causes peripheral nervous system lesions. Control rats were treated with peanut oil and experimental rats received intraperitoneally 400 mg/kg/day cyclohexanone. The animals were dosed for a 5 day period each week for 13 weeks. After 6 and 13 weeks of administration, electrophysiological and histological examinations were performed. The rats treated with cyclohexanone remained in good condition throughout the study and maintained a steady weight-gain comparable to the controls. The treated rats did not exhibit signs of neurotoxicity, such as motor deficits or ataxia, either at week 6 or week 13. The neuropathological examination also showed that there was no effect indicative or neurologic deficit.

5. *Mutagencity.* The mutagenic potential of cyclohexanone is somewhat unclear. Massoud *et al.* (1980) obtained positive results in mutagenicity assays with *Bacillus subtilis* and *Salmonella typhimurium* (strains TA 1535, TA 1537, TA 1538, TA 98, and TA 100).

However, Florin *et al.* (1980) also ran cyclohexanone in the Ames assay (with and without metabolic activation) in *S. typhimurium* strains TA 1535, TA 1537, TA 98, and TA 100 and found negative results in their tests. Collins (1971) found that cyclohexanone also had a cytogenetic effect in his investigations using human leukocyte cultures. McGregor (1980) screened cyclohexanone for mutagenic effects in five tests: unscheduled DNA synthesis (UDS), bone marrow cytogenicity, mouse dominant lethal, sperm abnormality, and *Drosphila* sex-linked recessive lethal. The UDS and sperm abnormality tests appeared to be clearly negative; the three other tests were also considered by the author to be statistically negative, but the results were not as clear because of various problems with reproducibility, positive control response or, in one case, with the experimental response possibly being affected by a viral infection in the animals.

6. *Teratogencity.* A study done on chicken embryos by Griggs *et al.* (1971) indicates that cyclohexanone may have teratogenic potential. Six experimental groups of eggs were exposed to cyclohexanone vapors (at an unknown, but reportedly constant concentration) for 3 to 12 hours, beginning at either the start of incubation or after the first 96 hours of incubation; there also were six nonexposed control groups. Although the results are difficult to interpret, there did appear to be treatment-related effects, such as increased mortality and, in two experimental groups, functional changes observed in the chicks. The chicks were unable to walk and had curled-in toes. There were no other anatomical abnormalities observed, aside from the curled toes. Griggs *et al.* (1971) postulated that an upper motor neuron lesion or other functional abnormality at the neuromuscular junction would be the embryopathic effect of cyclohexanone. No histopathology was performed, however.

7. *Reproductive effects.* There are no adequate reproductive effects studies of cyclohexanone. Hall *et al.* (1974) reported a study in which eight female CF_1 mice were dosed intraperitoneally for 28 days with 50 mg/kg/day cyclohexanone. Compared to control values, the experimental mice had the same percentage of pregancies and 83 percent as many viable fetuses per litter (a value of 75 percent would be considered significant in this test). The number of resorption sites was 46 percent of the control value of 0.48 per litter. A significant anti-fertility effect was, therefore, not observed for cyclohexanone in this screening test.

C. Environmental Fate and Effects Information

1. *Environmental fate.* Cyclohexanone is very water soluble (23,000 mg/1 at 20°C), of moderate volatility (4 mm Hg at 20°C), with a low soil adsorption coefficient (K_{OC}=17) and a low octanol/water partition coefficient of log P=0.81 (Refs. 12 and 58). As discussed in Unit II.A., most of the cyclohexanone released into the environment will be released to air. Most of this release will be from cyclohexanone's dispersive use as a solvent, and concentrations in air will be low. Low environmental concentrations are also expected as a result of wastewater discharge from manufacturing plants (see Unit II.A.). Data obtained from mathematical modelling indicate that cyclohexanone will partition preferentially to water from air. It will also volatilize from water 1 meter in depth to air with a calculated half-life of 2.6 to 5.0 days (Refs. 13 and 24). Modelling by Falco *et al.* (1980) further indicates that little cyclohexanone will be sorbed to soils or sediments and that concentrations in these compartments will only be a fraction of those in the water compartment (Ref. 15).

In air, cyclohexanone should readily break down by photo-oxidation or photolysis reactions (Refs. 3, 24 and 36). In urban atmosphere, cyclohexanone is expected to photodecompose at a fairly rapid rate, with a half-life of 1.9 to 3.2 hours (Ref. 24). In rural atmospheres, which have a low concentration of hydroxyl radicals and other oxidizing compounds, photodegradation would be much slower and would depend more strongly on cyclohexanone's potential for direct photolysis. Cyclohexanone is also expected to undergo direct photolysis. Serat and Mead (1959) reported that cyclohexanone absorbs substantial amounts of radiation at wavelengths above 290 nm (a cut-off value on the low end for photolysis, Ref. 34).

In water or soils, cyclohexanone is readily degraded by microorganisms. A number of microorganisms have been identified as being able to grow on and degrade cyclohexanone, including strains of *Nocardia Zoogloea*, *Acinetobacter*, and *Pseudomonas*. These species were isolated from soil, sewage and estuarine habitats and grew on and degraded cyclohexanone while using the chemical as a sole carbon source (Refs. 2, 11, 35, 38, 48, 49 and 50). Murray *et al.*

(1974) found that *Nocardia* sp. grew at an average rate of 0.22/hr. using cyclohexanone as a carbon source. There was an initial lag of 16 hours with the stationary phase of growth reached by 39 hours. Pitter (1976), found that an initial cyclohexanone concentration of 200 mg/liter disappeared, as measured by chemical oxygen demand (COD), from a medium of adapted activated sludge at a rate of 30 mg COD/g dry inoculum per hour over a 5 day period. Patel and Patel (1977), in another test, found that after 5 days 58.3 percent of theoretical oxygen demand for cyclohexanone was removed when cyclohexanone was added to acclimated sewage sludge from a laboratory-scale activated sludge unit. Measured COD in this experiment was 2.44 mg/mg; measured biological oxygen demand (BOD) was 1.6 mg/mg; and theoretical oxygen demand was 2.74 mg/mg.

2. *Environmental effects.* Cyclohexanone has been shown to be only slightly toxic to a variety of organisms that have been tested in acute toxicity tests. Acute LC_{50} values for the fish, *Leuciscus idus,* and the invertebrate, *Daphnia magna,* were between 536 and 800 mg/L (Refs. 6 and 25).

Tests on algae, a protozoan, and terrestrial plants also indicate that cyclohexanone is not very toxic to environmental species. In toxicity tests of seven days duration with the algae *Scenedesmus quadricauta* and *Microcystis aeruginosa,* cyclohexanone inhibited cell multiplication at concentrations of 52 mg/L and 370 mg/L, respectively. (Ref. 7). In a similar test of three days duration, the minimum concentration for inhibition of cell multiplication for the protozoan, *Entosiphon sulcatum,* was 545 mg/L (Ref. 5). Corn plants irrigated with wastewater containing cyclohexanone were unaffected in terms of yields of cobs and number of kernals per cob, compared to untreated plants, up to the highest concentration tested, 500 mg/L (Ref. 10). Reynolds (1977), however, observed a 50 percent inhibition of seed germination of lettuce seeds at a cyclohexanone concentration of 41 mg/L.

III. Testing Program Proposed by Representatives of the Cyclohexanone Industry

In the spring of 1981, EPA began discussions with representatives of the cyclohexanone industry regarding the need for testing of cyclohexanone to characterize its health and environmental effects. The industry, organized as the Cyclohexanone Study Group under the auspices of the Industrial Health Foundation, submitted a testing proposal to address the EPA's testing concerns for the potential health effects of cyclohexanone. The study group was not asked to pursue environmental effects testing in the program because the Agency does not believe that environmental effects testing is necessary at this time. The Study Group was, however, asked to address all of the health effects concerns raised by the ITC, and their proposal includes testing for all of the ITC's and the Agency's effects of concern in this area.

Mutagenicity, teratogencity, and reproductive effects testing will be performed by the Study Group. The neurological and behavioral effects on rats exposed prenatally to cyclohexanone will also be examined. Mutagenicity testing will examine the induction of sister chromatid exchanges, chromosome aberrations and gene mutations, using cultured Chinese hamster ovary cells. Protocols for the mutagenicity testing have been submitted by the Study Group and have been reviewed by the Agency and judged to be adequate. The Study Group has proposed that mutagenicity testing begin September 28, 1983, be completed December 15, 1983; with a final report on April 30, 1984. Teratogenicity testing will be an inhalation study using the rat. A probe study, setting exposure concentrations, has already been completed. Both the teratogencity protocol and the probe study have been reviewed and found adequate by the Agency. The Study Group will also run, in tandem with the rat teratogenicity study, a teratogenicity screening study using the mouse. Mice will be exposed to cyclohexanone at the high dose of the rat study, using a sufficient number of mice to obtain 20 pregnant females. The effects of cyclohexanone on these mice will be compared to a control group. Should a teratogenic effect be seen, a full teratogencity study on mice will be conducted by the Study Group. The Study Group proposed that the teratology study begin October 15, 1983, and be completed December 15, 1983 with a final report on April 30, 1984.

The protocol for the reproductive effects test has been received by the Agency and testing is anticipated to start in 1984. Included as an addition to the reproductive effects study is a study to examine development neuropathology in the rat. Previous work by Perbellini *et al.* (1981) demonstrated no neurological effects on adult rats; however, work by Griggs *et al.* (1971) on chick embryos did show effects on developing chickens and suggested a need for follow-up work using mammals. The Study Group has proposed test initiation two months after final EPA publication in the **Federal Register** accepting the Study Group's test program; with test completion 13 months after test initiation, and a final report 24 months after test initiation.

The Study Group has furnished EPA with the names and addresses of the laboratories conducting these tests. The Study Group has also committed to adhere to the final TSCA Good Laboratory Practice Regulations.

The Study Group also has agreed to permit laboratory audits/inspections in accordance with the authority and procedures outlined in TSCA, section 11, at the request of duly designated representatives of the EPA. These inspections may be conducted for purposes which include verification that testing has begun, that schedules are being met, that reports accurately reflect the underlying raw data and interpretations and evaluation thereof, and that the studies are being conducted according to Good Laboratory Practices.

The Study Group has further committed that all raw data, documentation, including correspondence related to the conduct and interpretation of the study, records, protocols, specimens, and reports generated as a result of each study will be retained for 10 years. In addition, the raw data documentation, records, protocols, specimens, and reports, will be made available during an inspection or submitted to EPA if requested by EPA or its duly designated representative.

The Agency plans to issue in the **Federal Register** a notice of the receipt of all data submitted under this test program. Subject to TSCA section 14, the notice will provide information similar to that described in section 4(d). Except as otherwise provided in TSCA section 14, any data submitted will be made available by EPA for examination by any person.

Should the Study Group fail to conduct the testing according to the specified protocols or fail to follow Good Laboratory Practices, such actions may invalidate the tests. In such cases, a data gap may still exist, and the Agency may decide to promulgate a test rule or otherwise require further testing.

IV. Decision Not To Initiate Rulemaking

The Agency has concluded that there are sufficient data on cyclohexanone's environmental release, fate, and effects to indicate that, at the present time, cyclohexanone does not present an unreasonable risk to the environment. In addition, while the quantity of

cyclohexanone released to the environment might be considered substantial as that term is used in TSCA section 4(a)(1)(B)(i), EPA believes that available data allow the Agency to reasonably predict that the effects on the environment of such releases will be minimal. Cyclohexanone is readily degraded in the environment and data indicate that cyclohexanone is only slightly toxic to environmental organisms (see Unit II.C.). Furthermore environment levels of cyclohexanone in air, water, and soils are expected to generally be much less than 1 ppm (see Unit II.A.). Therefore, the Agency is not at this time requiring testing of this substance for environmental fate or effects under section 4 of TSCA.

The Agency further believes that the results of the testing being undertaken by the Study Group, combined with exising data, are likely to provide sufficient data to reasonably determine or predict the health effects of cyclohexanone for which EPA has concluded testing should be undertaken. EPA, therefore, is not proposing a TSCA section 4 rule for health effects testing at this time. The Study Group has agreed to test for mutagenicity, teratogenicity, reproductive effects, and developmental neuropathology. Cataractogenic effects of cyclohexanone have already been examined to the Agency's satisfaction, and a 2-year oncogenicity study has been performed by the National Cancer Institute. The National Toxicology Program is now evaluating the data and has not yet released results. The ITC also recommended epidemiology studies. However, the Agency has concluded that an epidemiology study is not practical at this time. There has not yet been identified a cause-effect relationship for an effect of cyclohexanone in laboratory animals that is of sufficient significance or distinction that one could reasonably pursue in epidemiology study for this substance. The Agency will, however, reevaluate the need for an epidemiology study when the results of the Study Group's program are received.

In conclusion, the Agency has decided not to initiate rulemaking to require further testing of cyclohexanone at this time. However, should the test results from the Study Group or other information reveal a need for additional testing that the Study Group is unwilling to perform, the Agency reserves its right to require testing under section 4(a).

EPA is soliciting comments on the IHF Cyclohexanone Study Group's program and the Agency's decision to accept it in lieu of section 4(a) rulemaking at this time. After considering these comments, EPA will either publish in the **Federal Register** a final notice of acceptance of a negotiated test program or will initiate rulemaking under section 4(a) of TSCA.

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VI. Public Record

The EPA has established a public record for this testing decision, docket number [OPTS–42046] which includes:

(1) **Federal Register** notice designating cyclohexanone to the Priority list and comments received thereon.

(2) Communications from industry consisting of letters, contact reports of telephone conversations, and meeting summaries.

(3) Testing proposals and protocols.

(4) Published and unpublished data.

(5) **Federal Register** notice requesting comment on the negotiated testing proposal and comments received in response thereto.

The record, containing the basic information considered by the Agency in developing the decision, is available for inspection in the OPTS Reading Room from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays, in Rm. E–107, 401 M St., SW., Washington, D.C. 20460. The Agency will supplement this record periodically with additional relevant information received.

(Sec. 4, 90 Stat. 2003; (15 U.S.C. 2601))

Dated: December 21, 1983.

William D. Ruckelshaus,

Administrator.

[FR Doc. 83-34801 Filed 12-30-83; 8:45 am]

BILLING CODE 6560-60-M

[OPTS–53056; FRL 2500–8]

Premanufacture Notices; Monthly Status Report for November 1983

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the **Federal Register** each month reporting the premanufacture notices (PMNs) pending before the Agency and the PMNs for which the review period has expired since publication of the last monthly summary. This is the report for November 1983.

DATE: Written comments are due no later than 30 days before the applicable notice review period ends on the specific chemical substance. Nonconfidential portions of the PMNs may be seen in Rm. E–106 at the address below between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

ADDRESS: Written comments are to be identified with the document control number "[OPTS–53056]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Information Management Division, Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M Street., SW., Washington, D.C. 20460, (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hammett, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–229, 401 M Street., SW., Washington, D.C. 20460. (202–382–3736).

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)3) of TSCA (90 Stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during November; (b) PMNs

received previously and still under review at the end of November; (c) PMNs for which the notice review period has ended during November; (d) chemical substances for wich EPA has received a notice of commencement to manufacture during November; and (e) PMNs for which the review period has been suspended. Therefor, the November 1983 PMN Status Report is being published.

Dated: December 23, 1983.

Linda A. Travers,

Acting Director, Information Management Division.

Premanufacture Notices Monthly Status Report—November 1983

I. 51 Premanufacture Notices Received During the Month

PMN No	Identity-generic name	FR citation	Expiration date
84-191	Generic name: Polymer of laurolactam, caprolactam, alkanedioic acid and alkanediamine	[illegible] FR [illegible]4 (11/18/83)	Jan 29, 1984
84-192	Generic name: Polymer of laurolactam, caprolactam, alkanedioic acid and alkanediamine	48 FR 52504 (11/18/83)	Do
84-193	Generic name: Functional copolymer of styrene with acrylate type monomers	48 FR 52504 (11/18/83)	Do
84-194	Generic name: Diisocyanate polymers with polyether polyols	48 FR 52504 (11/18/83)	Do
84-195	Generic name: Diisocyanate polymers with polyether polyols	48 FR 52504 (11/18/83)	Do
84-196	Generic name: Diisocyanate polymers with polyether polyols	48 FR [illegible] (11/18/83)	Do
84-197	Carboxylic acid, C_8–C_{10} mono and C_8–C_{10} di, polymers with neopentyl glycol and propylene glycol	48 FR [illegible] (11/18/83)	Do
84-198	Generic name: 2-ethyl-2(hydroxymethyl)-1,3-propanediol; benzoic acid, substituted propanediol; 1,3-benzenedicarboxylic acid; cyclic oxo-benzene carboxylic acid, mixed vegetable oils and polymer	48 FR [illegible] (11/18 /83)	Do
84-199	Acriflavine hydrochloride	48 FR 52506 (11/18/83)	Feb. 4, 1984
[illegible]	4,4'-(1,2-ethanediyldiimino) bis-3-pentene-2-one	48 FR 52506 (11/18/83)	Do
84-201	Generic name: Tetrasubstituted dithiadiphosphetane	48 FR 52506 (11/18/83)	Feb. 5, 1984
84-202	Generic name: Chromophore substituted polyoxyalkylene	48 FR 52503 (11/18/83)	Do
84-203	Generic name: Trisubstituted amino thiopene	48 FR 52506 (11/18/83)	Do.
84-204	Generic name: A derivtized olefinic polymer	48 FR 52506 (11/18/83)	Feb. 6, 1984
84-205	Generic name: Thermoplastic polyurethane	48 FR 53162 (11/25/83)	Feb. 7, 1984
84-206	Generic name: Thermoplastic polyurethane	48 FR 53162 (11/25/83)	Do
84-207	Generic name: Thermoplastic polyurethane	48 FR 53162 (11/25/83)	Do
84-208	Generic name: Vegetable oil polyamide resin	48 FR 53162 (11/25/83)	Feb. 11, 1984
84-209	Generic name: Pentasubstituted phenyl fatty acid ester	48 FR 53162 (11/25/83)	Do
84-210	Generic name: 4-substituted benzoyl chloride	48 FR 53162 (11/25/83)	Do
84-211	Generic name: 3,7-bis(di-substituted amino)-5-(substituted phenyl) phenazinium salt	48 FR 53162 (11/25/83)	Do
84-212	Generic name: 3,7-bis(di-substituted amino)-5-(substituted phenyl) phenazinium salt	48 FR 53162 (11/25/83)	Do
84-213	Generic name: 2,8-phenazinediamine, tetra-substituted-5,10-dihydro-10-(substituted-phenyl)-5-(4-substituted) benzoyl	48 FR 53162 (11/25/83)	Do
84-214	Generic name: Reaction products of quinone and amine	48 FR 53163 (11/25/83)	Feb. 12, 1984
84-215	2-Butenedioic (E)-, ditridecyl ester	48 FR 54394 (12/2/83)	Feb. 15, 1984
84-216	Generic name: Phosphate ester	48 FR 54394 (12/2/83)	Do
84-217	Generic name: Phosphonium catalyst	48 FR 54394 (12/2/83)	Do
84-218	Generic name: Modified polyester	48 FR 54394 (12/2/83)	Feb 19, 1984
84-219	Generic name: Modified alkyd polymer	48 FR 54394 (12/2/83)	Do
84-220	Generic name: Benzenesulfonic acid, 4-[[4-substituted]-3-methyl-5-oxo-2-pyrazolin-1-yl]-, salt	48 FR 54395 (12/2/83)	Do
84-221	Generic name: Ethoxylated alkyl quarternary amine	48 FR 54395 (12/2/83)	Feb. 20, 1984
84-222	Generic name: Urethane bisoxazolidine	48 FR 54395 (12/2/83)	Do
84-223	Generic name: Aromatic sulfonate of substituted heteropolycycle	48 FR 55332 (12/12/83)	Feb. 22, 1984
84-224	Generic name: Alkoxylated disphenol A, inorganic ester, monoethanolamine salt	48 FR 55332 (12/12/83)	Do
84-225	Generic name: Polyester—amide resin	48 FR 55332 (12/12/83)	Do
84-226	Generic name: 1,3 benzenedicarboxylic acid polymer with 1,4-benzenedicarboxylic acid adipic acid and polyols	48 FR 55332 (12/12/83)	Feb 25, 1984
84-227	Generic name: Fatty acids, esters with polyol	48 FR 55332 (12/12/83)	Do
84-228	Generic name: Modified copolymer of alkenoic esters and substituted alkenoic esters with styrene	48 FR 55333 (12/12//83)	Do
84-229	Zinc ammonium phosphate	48 FR 55333 (12/12/83)	Do
84-230	Zinc Magnesium orthosphosphate	48 FR 55333 (12/12/83)	Do
84-231	Generic name: Aliphatic polycarbonate diol	48 FR 55333 (12/12/83)	Do
84-232	Generic name: Alkyd resin	48 FR 55333 (12/12/83)	Feb 26, 1984
84-233	Silicon aluminum oxynitride	48 FR 55333 (12/12/83)	Do
84-234	Generic name: Diisocyanate polymer with polyether polyols	48 FR 55333 (12/12//83)	Feb. 27, 1984
84-235	Generic name: Diisocyanate polymer with polyether polyols	48 FR 55333 (12/12/83)	Do
84-236	Generic name: Diisocyanate polymer with polyether polyols	48 FR 55333 (12/12/83)	Do
84-237	Generic name: Hydroxyalkylene-bis-[-trialkyl ammonium chloride]	48 FR 55333 (12/12/83)	Do
84-238	Generic name: Alkenyltrialkylammonium phosphate	48 FR 55333 (12/12/83)	Do
84-239	Generic name: Amine derivative of a fatty acid condensation polymer	48 FR 55333 (12/12/83)	Do
84-240	Generic name: Trisubstituted benzoxazolium salt	48 FR 55333 (12/12/83)	Feb 28, 1984
84-241	Generic name: Trisubstituted benzoxazolium salt	48 FR 55333 (12/12/83)	Do

II. 188 Premanufacture Notices Received Previously and Still Under Review at the End of the Month

PMN No	Identity/generic name	FR citation	Expiration date
84-1	Generic name: Polyester of dicarboxylic acids and difunctional alcohols	48 FR 46852 (10/14/93)	Dec. 31, 1983
84-2	Generic name: Amine salt of a modified carboxyl terminated polyester urethane polymer	48 FR 46852 (10/14/83)	Do
84-3	Generic name: Modified magnesium fluorogermanate	48 FR [illegible] (10/14/63)	Do
84-4	Generic name: Tannins, methylamino methylated	48 FR 46852 (10/14/83)	Do
84-5	Generic name: Aliphatic polyester, cyclohexane diisocyanato based polyurethane	48 FR 46853 (10/14/83)	Do
84-6	Generic name: Polyurethane based on TDI and a polycarbonate	48 FR [illegible] (10/14/83)	Do
84-7	Generic name: N,N,N',N'-tetraglycidyl-1,3-bisaminomethyl cyclohexane	48 FR 46853 (10/14/83)	Jan. 1, 1984
84-8	Generic name: Polyfunctional copolymer of styrene with alkyl acrylate and substituted alkyl methacrylates	48 FR 46853 (10/14/83)	Do
84-9	Generic name: Polyester from vegetable oil fatty acids, alkane triol, alkanoic anhydride and carbomonocyclic acids	48 FR [illegible] (10/14/83)	Do
84-10	Generic name: Polymer of N,N'-biscycloamnio-alkylene diamine and an alkanoic acid	48 FR 46853 (10/14/83)	Jan. 2, 1984
84-11	Generic name: Alkylated cycloalkanone, bis[(4-azidophenyl)methylene]-	48 FR 46853 (10/14/83)	Jan. 3, 1984
84-12	Generic name: Aliphatic polycarbonate urethane	48 FR 46853 (10/14/83)	Do
84-13	Generic name: Disubstituted benzene	48 FR 46853 (10/14/83)	Do
84-14	Generic name: Polyurethane prepolymer resin	48 FR [illegible] (10/21/83)	Jan. 4, 1984
84-15	Generic name: Substituted heterocyclic metal complex	48 FR [illegible] (10/21/83)	Do
84-16	Generic name: Epoxy urethane	48 FR [illegible] (10/21/83)	Jan. 6, 1984
84-17	Generic name: Substituted heterocyclic metal complex	48 FR [illegible] (10/21/83)	Do
84-18	1 (1,1 dimethylethoxy)-propan-2-ol	48 FR [illegible] (10/21/83)	Do
84-19	Generic name: Tolylene diisocyanate polymer with acrylated glycols	48 FR [illegible] (10/21/83)	Do
84-20	Generic name: Methylene bis(4-isocyanatocyclo-hexane)polymer with acrylated glycols	48 FR 46864 (10/21/83)	Do

II. 188 PREMANUFACTURE NOTICES RECEIVED PREVIOUSLY AND STILL UNDER REVIEW AT THE END OF THE MONTH—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
84-21	Generic name: Polybutanediol acrylate	48 FR 48864 (10/21/83)	Do.
84-22	Generic name: Isophorone diisocyanate polymer with acrylated diols	48 FR 48864 (10/21/83)	Do.
84-23	Generic name: 1,4-cyclohexylene diisocyanate polymer with acrylated diols	48 FR 48864 (10/21/83)	Do.
84-24	Generic name: Methylene-bis(cyclohexyl isocyanate)polymer with acrylated diols	48 FR 48865 (10/21/83)	Do.
84-25	Generic name: Titanium alcohol complex	48 FR 48865 (10/21/83)	Jan. 9, 1984.
84-26	Generic name: Alkoxy functional polydimethyl-siloxane	48 FR 48865 (10/21/83)	Do.
84-27	Generic name: Polyol carboxylate ester	48 FR 48865 (10/21/83)	Do.
84-28	Generic name: Flexibilized dicyclopentadiene modified unsaturated polyester resin	48 FR 48865 (10/21/83)	Do.
84-29	Generic name: Ethylene terpolymer	48 FR 48865 (10/21/83)	Do.
84-30	Generic name: Modified polyethylene ionomer	48 FR 48865 (10/21/83)	Do.
84-31	Generic name: Modified polyethylene ionomer	48 FR 48865 (10/21/83)	Do.
84-32	Generic name: Aminomethylene phosphonic acid	48 FR 48865 (10/21/83)	Do.
84-33	Generic name: Phosphorus containing aminosilane	48 FR 48865 (10/21/83)	Do.
84-34	Generic name: Aliphatic polycarbonate diol	48 FR 48865 (10/21/83)	Do.
84-35	Generic name: (Substituted)phenyl (heterocycle-substituted alkyl) ketone	48 FR 48865 (10/21/83)	Do.
84-36	Generic name: Substituted heterocyclic metal complex	48 FR 48866 (10/21/83)	Jan. 10, 1984.
84-37	Poly[oxy(methyl-1,2-ethanediyl)], alpha-hydro-omega-(2-amino-2-methyl)ethoxy-, ether with 1,2,3-propanetriol (3:1)	48 FR 48866 (10/21/83)	Do.
84-38	Generic name: Oil modified polyester	48 FR 48866 (10/21/83)	Do.
84-39	Generic name: Oil free polyester	48 FR 48866 (10/21/83)	Do.
84-40	Generic name: Oil modified polyester	48 FR 48866 (10/21/83)	Do.
84-41	Generic name: Metal complex with amine fatty acid salt	48 FR 48866 (10/21/83)	Jan. 9, 1984.
84-42	Generic name: Substituted benzene	48 FR 50951 (11/4/83)	Jan. 11, 1984.
84-43	Generic name: Fatty acid mercaptan acrylic copolymer	48 FR 50952 (11/4/83)	Do.
84-44	Generic name: Acrylic copolymer	48 FR 50952 (11/4/83)	Do.
84-45	Generic name: Acrylic urethane polymer	48 FR 50952 (11/4/83)	Do.
84-46	Generic name: Acrylic urethane polymer	48 FR 50952 (11/4/83)	Do.
84-47	Generic name: Ester urethane copolymer	48 FR 50952 (11/4/83)	Do.
84-48	Generic name: Acrylic styrene copolymer	48 FR 50952 (11/4/83)	Do.
84-49	Generic name: Formaldehyde reaction product with phenol and diamine	48 FR 50952 (11/4/83)	Do.
84-50	Generic name: Substituted heterocyclic metal complex	48 FR 50952 (11/4/83)	Do.
84-51	Generic name: Substituted heterocyclic metal complex	48 FR 50952 (11/4/83)	Do.
84-52	Generic name: Vinylpyrrolidone copolymer	48 FR 50952 (11/4/83)	Do.
84-53	Generic name: Vinylpyrrolidone copolymer	48 FR 50952 (11/4/83)	Do.
84-54	Generic name: Drying oil modified alkyd	48 FR 50952 (11/4/83)	Jan. 14, 1984.
84-55	Generic name: Ethoxylated nonylphenol urethane derivative	48 FR 50952 (11/4/83)	Do.
84-56	Generic name: Polyester resin	48 FR 50953 (11/4/83)	Do.
84-57	Generic name: Transition metal complex	48 FR 50953 (11/4/83)	Do.
84-58	Generic name: Cycloaliphatic amines	48 FR 50953 (11/4/83)	Do.
84-59	Generic name: Copolyester polymer	48 FR 50953 (11/4/83)	Do.
84-60	Generic name: Copolyester polymer	48 FR 50953 (11/4/83)	Do.
84-61	Generic name: Copolyester polymer	48 FR 50953 (11/4/83)	Do.
84-62	Generic name: Copolyester polymer	48 FR 50953 (11/4/83)	Do.
84-63	Generic name: Substituted-phenyl-N-substituted-amino monochlorotriazinylamino substituted-sulfophenylazo-benzylidenehydrazino sulfobenzoate-copper sulfate, potassium salt.	48 FR 50953 (11/4/83)	Do.
84-64	Generic name: Substituted-phenylamino monochloro-triazinylamino sulfophenylazo-substituted disulfonaphthalenylazo-naphthalene-disulfonic acid, hexasodium salt.	48 FR 50953 (11/4/83)	Do.
84-65	Generic name: Substituted anthraquinone aryl sulphamate	48 FR 50953 (11/4/83)	Do.
84-66	Generic name: Substituted phenol-formaldehyde condensate	48 FR 50953 (11/4/83)	Do.
84-67	Generic name: Substituted aromatic azo pyridinium salt	48 FR 50953 (11/4/83)	Do.
84-68	Generic name: Substituted anthraquinone aryl amine	48 FR 50953 (11/4/83)	Do.
84-69	Generic name: Substituted anthraquinone ammonium salt	48 FR 50953 (11/4/83)	Do.
84-70	Generic name: Substituted methamine indolium acetic acid salt	48 FR 50953 (11/4/83)	Do.
84-71	Generic name: Substituted pyridinium chloride	48 FR 50954 (11/4/83)	Jan. 15, 1984.
84-72	Generic name: Modified acrylate ester resin	48 FR 50954 (11/4/83)	Do.
84-74	Generic name: Unsaturated organic compounds with isocyanates	48 FR 50954 (11/4/83)	Do.
84-75	Generic name: Copolymer of unsaturated organic compounds with polyols and isocyanates	48 FR 50954 (11/4/83)	Do.
84-76	Generic name: Vinyl acetate—ethylene copolymer	48 FR 50954 (11/4/83)	Do.
84-77	Generic name: Substituted heterocycle, diester with alkanedioic acid	48 FR 50954 (11/4/83)	Do.
84-78	Generic name: Substituted benzaldehyde	48 FR 50954 (11/4/83)	Do.
84-79	Generic name: Glycol/phthalate polyester resin	48 FR 50954 (11/4/83)	Do.
84-80	Cellulose, acetate, [(1-oxo-2-propenyl)amino] methyl ether	48 FR 50954 (11/4/83)	Do.
84-81	Cellulose, acetate butanoate, [(1-oxo-2-propenyl)amino] methyl ether	48 FR 50954 (11/4/83)	Do.
84-82	Generic name: Azo triazolium salt	48 FR 50954 (11/4/83)	Do.
84-83	Generic name: Azo triazolium salt	48 FR 50955 (11/4/83)	Do.
84-84	Generic name: Azo benzothiazolium salt	48 FR 50955 (11/4/83)	Do.
84-85	Generic name: Azo benzothiazolium salt	48 FR 50955 (11/4/83)	Do.
84-86	Generic name: Heterocyclic azo substituted aromatic compound	48 FR 50955 (11/4/83)	Do.
84-87	Generic name: Ethylene interpolymer	48 FR 50955 (11/4/83)	Jan. 16, 1984.
84-88	Generic name: Acrylic resin	48 FR 50955 (11/4/83)	Do.
84-89	Generic name: Acrylic resin	48 FR 50955 (11/4/83)	Do.
84-90	Generic name: Azo triazolium salt	48 FR 50955 (11/4/83)	Do.
84-91	Generic name: Azo triazolium salt	48 FR 50955 (11/4/83)	Do.
84-92	Generic name: Polymer of 1,2-propanediol, 1,6-hexanedioic acid and tetra substituted benzene dicarboxylic acid derivative	48 FR 50955 (11/4/83)	Do.
84-93	Generic name: Substituted-1H-isoindol-1-one	48 FR 50955 (11/4/83)	Do.
84-94	Generic name: Cresol formaldehyde polymer	48 FR 50955 (11/4/83)	Do.
84-95	Generic name: Thermoplastic polyurethane	48 FR 50945 (11/4/83)	Jan. 18, 1984.
84-96	Generic name: Polyurethane polymer	48 FR 50945 (11/4/83)	Do.
84-97	Generic name: Ethanol, 2-amino-hydrobromide	48 FR 50945 (11/4/83)	Do.
84-98	Generic name: Alkoxy polyol terpolymer	48 FR 50945 (11/4/83)	Do.
84-99	Generic name: Hydroxyalkyl ether	48 FR 50945 (11/4/83)	Do.
84-100	Generic name: Ester of substituted, unsaturated acid	48 FR 50945 (11/4/83)	Do.
84-101	Generic name: Ester of substituted, unsaturated acid	48 FR 50945 (11/4/83)	Do.
84-102	Generic name: Substituted aromatic	48 FR 50945 (11/4/83)	Do.
84-103	Generic name: Modified polyacrylate polymer	48 FR 50945 (11/4/83)	Do.
84-104	Generic name: Starch grafted polyacrylate polymer	48 FR 50945 (11/4/83)	Do.
84-105	Generic name: Halogenated alkene	48 FR 50945 (11/4/83)	Do.
84-106	Generic name: Halogenated alkane	48 FR 50945 (11/4/83)	Do.
84-107	Generic name: Halogenated alkane	48 FR 50945 (11/4/83)	Do.
84-108	Generic name: Trisubstituted heterocyclic disubstituted monocycle	48 FR 50945 (11/4/83)	Do.
84-109	Generic name: Substituted-substituted-oxadiazine	48 FR 50946 (11/4/83)	Do.
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II. 188 PREMANUFACTURE NOTICES RECEIVED PREVIOUSLY AND STILL UNDER REVIEW AT THE END OF THE MONTH—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
84-110	Generic name: Polyurea	48 FR 50946 (11/4/83)	Do
84-111	Generic name: Substituted aromatic polymer	48 FR 50946 (11/4/83)	Do
84-112	Generic name: Substituted aromatic polymer	48 FR 50946 (11/4/83)	Do
84-113	Generic name: Substituted aromatic polymer	48 FR 50946 (11/4/83)	Do
84-114	Generic name: Substituted aromatic polymer	48 FR 50946 (11/4/83)	Do
84-115	Generic name: Substituted aromatic polymer	48 FR 50946 (11/4/83)	Do
84-116	Generic name: Substituted aromatic polymer	48 FR 50946 (11/4/83)	Do
84-117	Generic name: Substituted aromatic polymer	48 FR 50946 (11/4/83)	Do
84-118	Generic name: Aliphatic polycarbonate urethane	48 FR 50946 (11/4/83)	Do
84-119	Generic name: Aliphatic polycarbonate urethane	48 FR 50946 (11/4/83)	Do
84-120	Generic name: Modified halogenated hydrocarbon	48 FR 50946 (11/4/83)	Do
84-121	Generic name: Substituted heterocyclic metal	48 FR 50946 (11/4/83)	Do
84-122	Generic name: Substituted-benzene sulfonic acid, sodium salt	48 FR 50946 (11/4/83)	Do
84-123	Generic name: Naphthaquinone-(1,2)-diazide-(1)-sulfonic-(5)-acid ester	48 FR 50947 (11/4/83)	Jan. 21, 1984
84-124	Invalid		
84-125	Generic name: 2,7-naphthalenedisulfonic acid, 4-amino-5-hydroxy-6-substituted, potassium salt	48 FR 50947 (11/4/83)	Do.
84-126	Generic name: Substituted naphthalene diazonium sulfate	48 FR 50947 (11/4/83)	Do
84-127	Generic name: Polyurethane prepolymer resin	48 FR 50947 (11/4/83)	Do
84-128	Generic name: Alkyleneamine methylene phosphonic acid	48 FR 50947 (11/4/83)	Do
84-129	Generic name: Fluorocarbon ionic polymer	48 FR 50947 (11/4/83)	Do
84-130	Generic name: Fluorocarbon ionic polymer	48 FR 50947 (11/4/83)	Do
84-131	Generic name: Fluorocarbon ionic polymer	48 FR 50947 (11/4/83)	Do
84-132	Generic name: Fluorocarbon ionic polymer	48 FR 50947 (11/4/83)	Do
84-133	Generic name: Fluorocarbon ionic polymer	48 FR 50947 (11/4/83)	Do
84-134	Generic name: Fluorocarbon ionic polymer	48 FR 50947 (11/4/83)	Do
84-135	Generic name: Fluorocarbon ionic polymer	48 FR 50947 (11/4/83)	Do.
84-136	Generic name: Fluorocarbon ionic polymer	48 FR 50947 (11/4/83)	Do
84-137	Generic name: Fluorocarbon ionic polymer	48 FR 50947 (11/4/83)	Do
84-138	Generic name: Fluorocarbon ionic polymer	48 FR 50948 (11/4/83)	Do.
84-139	Generic name: Fluorocarbon ionic polymer	48 FR 50948 (11/4/83)	Do
84-140	Generic name: Fluorocarbon ionic polymer	48 FR 50948 (11/4/83)	Do
84-141	Generic name: Fluorocarbon ionic polymer	48 FR 50948 (11/4/83)	Do
84-142	Generic name: Fluorocarbon ionic polymer	48 FR 50948 (11/4/83)	Do
84-143	Generic name: Fluorocarbon ionic polymer	48 FR 50948 (11/4/83)	Do.
84-144	Generic name: Fluorocarbon ionic polymer	48 FR 50948 (11/4/83)	Do
84-145	Generic name: Fluorocarbon ionic polymer	48 FR 50948 (11/4/83)	Do.
84-146	Generic name: Fluorocarbon ionic polymer	48 FR 50948 (11/4/83)	Do.
84-147	Generic name: Fluorocarbon ionic polymer	48 FR 50948 (11/4/83)	Do.
84-148	Generic name: Fluorocarbon ionic polymer	48 FR 50948 (11/4/83)	Do
84-149	Generic name: Polyalkylene glycol ether	48 FR 50948 (11/4/83)	Do
84-150	Generic name: Aminomethylene phosphonic acid	48 FR 50948 (11/4/83)	Do
84-151	Lithium aluminum hydroxide	48 FR 50948 (11/4/83)	Do.
84-152	Hydroxy bromide	48 FR 50948 (11/4/83)	Do
84-153	Hydroxy chloride	48 FR 50949 (11/4/83)	Do
84-154	Lithium aluminum hydroxy stearate	48 FR 50949 (11/4/83)	Do
84-155	Palmitate	48 FR 50949 (11/4/83)	Do
84-156	Myristate	48 FR 50949 (11/4/83)	Do.
84-157	Laurate	48 FR 50949 (11/4/83)	Do
84-158	Generic name: Modified epoxy resin	48 FR 50949 (11/4/83)	Do
84-159	Generic name: Rubber modified epoxy resin	48 FR 50949 (11/4/83)	Do
84-160	Generic name: Rubber modified epoxy resin	48 FR 50949 (11/4/83)	Do
84-161	Reaction of: Diethylene triamine, Cardura E, Cardura glycidyl ether, urea	48 FR 50949 (11/4/83)	Jan. 22, 1984.
84-162	Generic name: Modified epoxy resin	48 FR 50949 (11/4/83)	Do
84-163	Generic name: Substituted triazine	48 FR 50949 (11/4/83)	Do
84-164	Generic name: Fluorine substituted dioxolane	48 FR 50949 (11/4/83)	Do
84-165	Generic name: Carbonyl-fluorine substituted dioxolane	48 FR 50949 (11/4/83)	Do
84-166	Generic name: Fluorine substituted polydioxolane	48 FR 50949 (11/4/83)	Do
84-167	Generic name: Fluorine substituted dioxan-2-one	48 FR 50950 (11/4/83)	Do
84-168	Generic name: Oxo-fluorine substituted dioxolane	48 FR 50950 (11/4/83)	Do
84-169	Generic name: Acrylate ester blocked polyurethane	48 FR 50950 (11/4/83)	Do
84-170	Generic name: Acrylate blocked polyurethane	48 FR 50950 (11/4/83)	Do
84-171	Generic name: Functional polyurethane	48 FR 50950 (11/4/83)	Do
84-172	Generic name: Functional acrylic copolymer	48 FR 50950 (11/4/83)	Do
84-173	Generic name: Titanium (4+) mixed alcohol complex	48 FR 50950 (11/4/83)	Do
84-174	Generic name: Titanium (4+) mixed alcohol complex	48 FR 50950 (11/4/83)	Do
84-175	N-dodecylthio-2-propanol	48 FR 50950 (11/4/83)	Do
84-176	Generic name: Aliphatic triol ester	48 FR 50950 (11/4/83)	Do
84-177	Generic name: Ester of substituted cyclohexene	48 FR 50950 (11/4/83)	Do.
84-178	Generic name: Ester of substituted cyclohexene	48 FR 50950 (11/4/83)	Do
84-179	Generic name: Substituted-phenyl-N-substituted-amino monochlorotriazinylamino substituted-sulfophenylazo-benzylidenehydrazino sulfobenzoate-copper sulfate, sodium salt.	48 FR 50950 (11/4/83)	Jan. 24, 1984
84-180	Generic name: Polyether acrylate ester	48 FR 50951 (11/4/83)	Do
84-181	Generic name: Aliphatic acrylate ester	48 FR 50951 (11/4/83)	Do
84-182	Generic name: Polyether acrylate	48 FR 50951 (11/4/83)	Do
84-183	Generic name: Aliphatic ester methacrylate	48 FR 50951 (11/4/83)	Do.
84-184	Generic name: Aliphatic ester methacrylate	48 FR 50951 (11/4/83)	Do
84-185	Generic name: Perhaloolefin	48 FR 50951 (11/4/83)	Do
84-186	Generic name: (Polyurethane from polyhydroxyalkyls and an aromatic diisocyanate)	48 FR 50951 (11/4/83)	Do
84-187	Yttrium aluminum gallium oxide	48 FR 525041 (11/18/83)	Jan. 25, 1984
84-188	Generic name: Aryl alkyl alkanedione	48 FR 525041 (11/18/83)	Do
84-189	Generic name: Aminoplast resin	48 FR 525041 (11/18/83)	Do
84-190	Generic name: Chromophore substituted polyoxyalkylene	48 FR 525041(11/18/83)	Jan. 28, 1984.

III. 72 Premanufacture Notices for Which the Notice Review Period Has Ended During the Month. (Expiration of the Notice Review Period Does not Signify That the Chemical Had Been Added to the Inventory.)

PMN No.	Identity/generic name	FR citation	Expiration date
[illegible]	Generic name: Disubstituted heterocycle	48 FR 24968 (6/3/83)	Nov. 8, 1983.
83-906	Generic name: Brominated aryl alkyl ether	48 FR 32383 (7/15/83)	Nov. 16, 1983
83-994	Generic name: Saturated natural fatty acid choline chloride	48 FR 35713 (8/5/83)	Nov. 24, 1983
83-1021	Generic name: Hydroxy functional acrylic copolymer	48 FR 36649 (8/12/83)	Nov. 1, 1983.
83-1022	Generic name: Saturated polyester	48 FR 36649 (8/12/83)	Do
83-1024	Generic name: Polyether urethane-methacrylate blocked	48 FR 37699 (8/19/83)	Nov. 2, 1983
83-1025	Generic name: Amino disubstituedsulfoamoyl carbomonocycle	48 FR 37699 (8/19/83)	Do.
83-1027	Halcalkyl dipnosphorohalidic acid	48 FR 37699 (8/19/83)	Do
83-1028	Generic name: Polyester resin	48 FR 37699 (8/19/83)	Nov. 6, 1983
83-1030	Generic name: Hydroxy functional acrylic copolymer	48 FR 37699 (8/19/83)	[illegible]
83-1031	Generic name: Oil modified polyester	48 FR 37699 (8/19/83)	Do.
83-1032	Generic name: Substituted alkyl cyclic amine	48 FR 37700 (8/19/83)	Nov. 7, 1983
83-1034	Generic name: Polyoxyalkylene acetate ester	48 FR 37700 (8/19/83)	Nov. 8, 1983
83-1035	Generic name: Substituted polyoxyalkylene aniline	48 FR 37700 (8/19/83)	Do.
83-1036	Generic name: Chromophore substituted polyoxyalkylene	48 FR 37700 (8/19/83)	Do.
83-1037	Generic name: Chromophore substituted polyoxyalkylene	48 FR 37700 (8/19/83)	Do.
83-1038	Generic name: Acrylamide polymer	48 FR 37700 (8/19/83)	Do.
83-1039	Generic name: Cycloalkylamine salt	48 FR 37700 (8/19/83)	Do.
83-1040	Generic name: Thioalkyl substituted nitrogen heterocycle	48 FR 37700 (8/19/83)	Do
83-1041	Generic name: Siloxanes and silicones, dimethyl, methyl (acetamido alkyl) trimethyl endblocked	48 FR 37700 (8/19/83)	Do.
83-1043	Generic name: Hydrogen <2-[2-[a-[2-hydroxy-3, 5-substituted phenyl azo]-arylhy=drazino]4-substitutedaryl]cuprate, sodium salt.	48 FR 37700 (8/19/83)	Do.
83-1044	Generic name: Hydrogen <2-[a-[2-hydroxy-3,5-substituted phenylazo]-arylhydrazino]-5-substitutedaryl]cuprate, sodium salt	48 FR 37700 (8/19/83)	Do.
83-1045	Generic name: 1,3-naphthalenedisulfonic acid, 4-amino-5-hydroxy-6-arylazo	48 FR 37700 (8/19/83)	Do.
83-1046	Generic name: 1,5-naphthalenedisulfonic acid, 3-((3-arylazo)arylazo)	48 FR 37700 (8/19/83)	Do.
83-1047	Polymer of benzophenone tetracarboxylic dianhydride, methylene dianiline, bicyclo (2,2,1)-5-hepten-2,3 dicarboxylic anhydride	48 FR 38890 (8/26/83)	Nov. 9, 1983
83-1049	Generic name: Alkoxy polyalkyleneoxy alkyl trialkoxy silane	48 FR 38890 (8/26/83)	[illegible]
83-1050	Generic name: Cationic acrylamide copolymer	48 FR 38890 (8/26/83)	Nov. 12, 1983
83-1051	Thiomolybdic acid, diammonium salt	48 FR 38890 (8/26/83)	Do.
83-1052	Polymer of: tannin, formaldehyde, monoethanol-amine, hydrochloric acid	48 FR 38890 (8/26/83)	Do.
83-1053	Generic name: Epoxy resin	48 FR 38890 (8/26/83)	Nov. 13, 1983
83-1054	Generic name: Substituted polyether polyurethane	48 FR 38890 (8/26/83)	Do.
83-1055	Generic name: Tnsubstituted heteromonocycle	48 FR 38890 (8/26/83)	Do
83-1056	Generic name: Tnsubstituted heteromonocycle	48 FR 38890 (8/26/83)	[illegible]
83-1058	Generic name: Methylated alkene-yne	48 FR 38890 (8/26/83)	Do.
83-1059	Generic name: Amine salt of perfluoroalkylamido carboxylate	48 FR 38891 (8/26/83)	Nov. 14, 1983
83-1060	Generic name: Polyamide of tall oil, diethylene-tnamine, and polybasic acid	48 FR 38891 (8/26/83)	Nov. 15, 1983
83-1061	Generic name: Tetracarboxylic compound	48 FR 38891 (8/26/83)	Do.
83-1063	Generic name: Reaction product of melamine, formaldehyde, and polyol	48 FR 39689 (9/1/83)	Nov. 19, 1983
83-1064	Generic name: Cyanoacetate ester	48 FR 39689 (9/1/83)	Do.
83-1065	Generic name: Cyanoacrylate ester	48 FR 39689 (9/1/83)	Do
83-1066	Magnesium aluminum hydroxy phosphate-monobasic form	48 FR 39689 (9/1/83)	Nov. 20, 1983
83-1067	Magnesium aluminum hydroxy phosphate-dibasic form	48 FR 39689 (9/1/83)	Do.
83-1068	Magnesium aluminum hydroxy phosphate-tribasic form	48 FR 39690 (9/1/83)	Do.
83-1069	Generic name: Ethylene, polymer with mixed alpha olefins	48 FR 39690 (9/1/83)	Do.
83-1070	Generic name: Ethylene, polymer with mixed alpha olefins	48 FR 39690 (9/1/83)	Do.
83-1071	Generic name: Ethylene, polymer with mixed alpha olefins	48 FR 39690 (9/1/83)	Do.
83-1072	Generic name: Ethylene, polymer with mixed alpha olefins	48 FR 39690 (9/1/83)	Do.
83-1073	Generic name: Ethylene, polymer with mixed alpha olefins	48 FR 39690 (9/1/83)	Do.
83-1074	Generic name: Ethylene, polymer with mixed alpha olefins	48 FR 39690 (9/1/83)	Do.
83-1075	Generic name: Reaction products of triglycerides and polyethylene glycol	48 FR 39690 (9/1/83)	Do.
83-1076	Generic name: Polyester urethane-isocyanate terminated	48 FR 39690 (9/1/83)	Do.
83-1077	Generic name: Polyester urethane-isocyanate terminated	48 FR 39690 (9/1/83)	Do.
83-1078	Generic name: Unsaturated polyester	48 FR 39690 (9/1/83)	Do.
83-1079	2-(3-heptyloxy) acetic acid	48 FR 39690 (9/1/83)	Do.
83-1080	Generic name: Silylated silica gel	48 FR 39690 (9/1/83)	Do.
83-1081	Generic name: Quaternary ammonium chloride	48 FR 39690 (9/1/83)	Do.
83-1082	Docosyl methacrylate	48 FR 39691 (9/1/83)	Nov. 21, 1983
83-1083	Generic name: Modified polyether polyurethane from substituted alkanepolyols and an aromatic diisocyanate	48 FR 39691 (9/1/83)	Do.
83-1084	Generic name: Hydrocarbon novolac	48 FR 39691 (9/1/83)	Nov. 22, 1983
83-1085	Generic name: Substituted phenylacetamide	48 FR 39691 (9/1/83)	Do.
83-1086	Generic name: Aliphatic unsaturated copolyester	48 FR 40782 (9/9/83)	Nov. 23, 1983
83-1087	Generic name: Sodium poly[1-oxyalkyl-1-amino-2-(tert-butyl-2-sulfonate)-1-oxoalkyl-1-amino (N,N-dimethane)]	48 FR 40782 (9/9/83)	Do.
83-1088	Generic name: Polyester from an alkanediol, alkanoic acid and a carbomonocyclic anhydride	48 FR 40782 (9/9/83)	Do.
83-1089	Generic name: Unsaturated polyester with halogenated polyol	48 FR 40782 (9/9/83)	Do.
83-1090	Generic name: Mono and polycarbocyclic poly (ester-amide)	48 FR 40782 (9/9/83)	Do.
83-1091	Generic name: Reaction product of: mixed aliphatic and amino aliphatic alcohols and dimer diisocyanate and 1,1'-methylenebis[4-isocyanate]-cyclohexane.	48 FR 40782 (9/9/83)	Nov. 26, 1983
83-1094	Withdrawn		
83-1095	Generic name: Amine salt of alkylnaphthalene sulfonic acid	48 FR 40783 (9/9/83)	Nov. 29, 1983.
83-1096	Withdrawn		
83-1097	Generic name: (2-(=(3-(4-amino-6-chloro-1,3,5-triazin-2-ylimino)-2-hydroxy-5-sulfophenylazo) substituted methinohydrazono)-4-sulfobenzoate-(0,0')(4-)) copper (II) acid, disodium.	48 FR 41638 (9/16/83)	Nov. 30, 1983
83-1098	Generic name: μ-(2,2'-bis(=-(2-carboxy-5-sulfophenylhydrazono)substituted methinoazo)-4,4'-disulfo-6,6'-(6-chloro-1,3,5-triazin-2,4-diyldimino)di-1-phenolato-(0,0',0'',0''') (8-)) dicopper(II) acid, tetrasodium.	48 FR 41638 (9/16/83)	[illegible]
83-1099	Polymer of: tall oil, pentacrythritol, isophthalic acid, benzoic acid, styrene, methyl methacrylate	48 FR 41638 (9/16/83)	Do.
83-1100	Generic name: Heteromonocyclic substituted diester	48 FR 41638 (9/16/83)	Do.
83-1101	Generic name: Heteromonocyclic substituted diester	48 FR 41639 (9/16/83)	Do.

IV. 60 Chemical Substances for Which EPA Has Received Notices of Commencement to Manufacture

PMN No	Chemical identification	FR citation	Date of commencement
80-1	Generic name: 3-alkoxy (C_{12}-C_{14})-2-hydroxypropyl ester of dimer/trimer acids (fatty ester)	45 FR 3468 (1/21/80)	May 17, 1980.
80-44	Generic name: Alpha alkene copolymer with alpha alkene	45 FR 23500 (4/7/80)	Aug. 12, 1980.
80-158	Polymer of: epoxy resin, maleic anhydride, butanol, styrene, and methacrylic acid	45 FR 51265 (8/1/80)	Nov. 11, 1983.
81-165	Generic name: Siliconized alkyd resin	46 FR 24992 (5/4/81)	Nov. 2, 1983.

IV. 60 Chemical Substances for Which EPA Has Received Notices of Commencement to Manufacture—Continued

PMN No.	Chemical identification	FR citation	Date of commencement
81-187	Generic name: Cycloaliphatic polyester modified with a polyether glycol	46 FR 28005 (5/22/81)	Nov. 10, 1983.
81-222	Generic name: Oligomer of alkanedioic acid, dimer fatty acids, substituted and unsubstituted alkanediols, and benzene dicarboxylic acids.	46 FR 31345 (6/15/81)	Oct. 26, 1983.
81-250	Generic name: Disubstitutedbenzene amine	46 FR 32496 (6/23/81)	Oct. 25, 1983.
81-606	Generic name: Substituted-(2-hydroxy-benzophenone oxy)propane	46 FR 60056 (12/8/81)	Oct. 11, 1983.
81-645	Generic name: Organic salts of tertiary aliphatic amines	47 FR 337 (1/5/82)	Mar. 23, 1982.
81-646	Generic name: Organic salts of tertiary aliphatic amines	47 FR 337 (1/5/82)	Do.
81-647	Generic name: Organic salts of tertiary aliphatic amines	47 FR 337 (1/5/82)	Do.
82-258	Generic name: Heterocyclic-methoxyphenylazo substance	47 FR 16404 (4/16/82)	Oct. 24, 1983.
82-656	Generic name: Polymer of disubstituted benzenes and disubstituted alkane	47 FR 41167 (9/17/82)	On or about Dec. 16, 1982.
82-658	Generic name: Substituted pyrazine salt	47 FR 42152 (9/24/82)	Oct. 22, 1983.
83-239	Generic name: Polyester polyurethane from a diisocyanate and an alkanediol and alkenoic acid and anhydride	47 FR 53783 (11/29/82)	Nov. 3, 1983.
83-240	Generic name: Reaction product of an inorganic acid, with the reaction product of carboxylic acid and alkanolamine	47 FR 53783 (11/29/82)	Nov. 1, 1983.
83-243	Generic name: Methyl-oxyethyl-methylene imidazolium deriv. of copper phthalocyanine methoxyacetate	47 FR 53783 (11/29/82)	Nov. 4, 1983.
83-325	Generic name: Polyester polyurethane from carbomonocyclic anhydride, alkanediols and diisocyanates	48 FR 72 (1/3/83)	Oct. 24, 1983.
83-335	((Substituted phenyl)azo)naphthalene sulfonic acid, sodium salt	48 FR 73 (1/3/83)	Sept. 9, 1983.
83-399	Polymer of dimethyl ester of 4,4'-(hydroxy-methylene) bis-1,2-benzenedicarboxylic acid with 4,4'-oxydianiline	48 FR 5304 (2/4/83)	Nov. 9, 1983.
83-475	Generic name: Chlorendic anhydride based alkyd polymer	48 FR 7301 (2/18/83)	Oct. 31, 1983.
83-505	Generic name: Modified acrylic polymer	48 FR 9367 (3/4/83)	Nov. 3, 1983.
83-527	Generic name: Sulfonaphtholazonaphthol, chromium complex	48 FR 10470 (3/11/83)	July 19, 1983.
83-546	Generic name: Substituted phenolazo, substituted pyrazolone	48 FR 11501 (3/18/83)	Sept. 26, 1983.
83-547	Generic name: Substituted phenolazo, substituted pyrazolone	48 FR 11501 (3/18/83)	Sept. 26, 1983.
83-572	Generic name: Polyester poly carboxylate salt	48 FR 14035 (4/1/83)	Sept. 9, 1983.
83-623	Generic name: [Bis(alkylphenamino)-fluoran] [(phenimidazolyl)bis methylene] deriv., phosphate	48 FR 16332 (4/15/83)	Sept. 26, 1983.
83-625	Generic name: Polyamine adduct	48 FR 16332 (4/15/83)	July 11, 1983.
83-627	Generic name: Substituted diyne urethane	48 FR 17385 (4/22/83)	Nov. 11, 1983.
83-686	Generic name: [(Substituted phenyl)hydrazono] substituted oxoheteromonocycle	48 FR 21371 (5/12/83)	Oct. 2, 1983.
83-691	Generic name: Trisubstituted benzothiazole salt	48 FR 21371 (5/12/83)	Nov. 1983.
83-697	Generic name: Fatty acid alkyd based polymer	48 FR 21372 (5/12/83)	Oct. 6, 1983.
83-708	Generic name: Chromophore substituted poly (oxyalkylene)	48 FR 22793 (5/20/83)	Nov. 18, 1983.
83-712	Generic name: Polyhydroxyaromatic amine sulfonate salt	48 FR 22794 (5/20/83)	Jan. 1, 1984.
83-730	Oxo-hexyl acetate	48 FR 23904 (5/27/83)	Week of Nov. 14, 1983
83-752	Generic name: Benzothiazole, N-substituted-2-substituted	48 FR 23905 (5/27/83)	Oct. 28, 1983.
83-798	Generic name: Blocked polyurethane prepolymer	48 FR 26885 (6/10/83)	Week of Nov. 14, 1983.
83-805	Generic name: Saturated polyester resin	48 FR 26885 (6/10/83)	Nov. 3, 1983.
83-817	Generic name: Disperse blue azo dye	48 FR 29049 (6/24/83)	Oct. 11, 1983.
83-828	Generic name: Aliphatic sulfonate salt	48 FR 29055 (6/24/83)	Dec. 1, 1983.
83-832	Generic name: Prepolymerized halogenated magnesium, zirconium, aluminum oxo-titanate	48 FR 29055 (6/24/83)	Oct. 24, 1983.
83-871	Generic name: [Alkoxyalkyloxadiazol-nitrophen-azo]-[Bis alkylamino-methpyridinenitril]	48 FR 31461 (7/8/83)	Oct. 12, 1983.
83-917	Generic name: Substituted (cyanophenyl-thiazyl) tetrazo dimethoxybenzene	48 FR 32383 (7/15/83)	Oct. 14, 1983.
83-930	Generic name: Modified phenol/formaldehyde resin	48 FR 33532 (7/22/83)	Oct. 28, 1983.
83-950	Generic name: Carboxylated arylalkene alkadiene copolymer	48 FR 33534 (7/22/83)	Oct. 18, 1983.
83-959	Generic name: Cresol-formaldehyde resin	48 FR 33534 (7/22/83)	Do.
83-962	Generic name: Acrylic unsaturated acid terpolymer	48 FR 33534 (7/22/83)	Oct. 11, 1983.
83-978	Generic name: Aromatic copolyester	48 FR 34507 (7/29/83)	Oct. 27, 1983.
83-980	Generic name: Cyanoacetate ester	48 FR 34507 (7/29/83)	Nov. 9, 19883.
83-981	Generic name: Quaternized alkyl amine	48 FR 34507 (7/29/83)	Oct. 30, 1983.
83-982	Generic name: Cyanoacrylate ester	48 FR 34507 (7/29/83)	Nov. 9, 1983.
83-999	Generic name: Substituted oxazoline	48 FR 35714 (8/5/83)	Nov. 16, 1983.
83-1010	Generic name: Aromatic, tertiary amine containing polyether polyurethane prepolymer	48 FR 36648 (8/12/83)	Week of Nov. 28 or Dec. 5, 1983.
83-1014	Generic name: Hydroxy functional acrylic copolymer	48 FR 36648 (8/12/83)	Nov. 7, 1983.
83-1034	Generic name: Polyoxyalkylene acetate ester	48 FR 37700 (8/19/83)	Nov. 18, 1983.
83-1035	Generic name: Substituted polyoxyalkylene	48 FR 37700 (8/19/83)	Dc.
83-1036	Generic name: Chromophore substituted polyoxy-alkylene	48 FR 37700 (8/19/83)	Do.
83-1037	Generic name: Chromophore substituted polyoxy-alkylene	48 FR 37700 (8/19/83)	Do.
83-1060	Generic name: Polyamide of tall oil, diethylene-triamine, and polybasic acid	48 FR 38891 (8/26/83)	Nov. 22, 1983.
83-1063	Generic name: Modified polyether polyurethane from substituted alkanepolyols and an aromatic diisocyanate	48 FR 39691 (9/1/83)	Week of Nov. 28, 1983.

V. 56 Premanufacture Notices for Which the Review Period Has Been Suspended

PMN No.	Identity/generic name	FR citation	Date suspended
80-146	Phosphorodithioic acid *O,O'*-di(isohexyl, isoheptyl, isooctyl, isononyl, isodecyl) mixed esters, zinc salt	45 FR 49153 (7/23/80)	Sept. 17, 1980.
80-147	Phosphorodithioic acid *O,O'*-di(isohexyl, isoheptyl, isooctyl, isononyl, isodecyl) mixed esters	45 FR 49153 (7/23/80)	Do.
82-60	Generic name: Zinc, O,O-bis alkylphosphoro dithioate	47 FR 5932 (2/9/82)	Apr. 15, 1982.
82-387	Phosphorodithioic acid, O,O', secondary butyl and isooctyl mixed esters	47 FR 25401 (6/11/82)	July 30, 1982.
82-388	Phosphorodithioic acid, O,O', secondary butyl and isooctyl mixed esters, zinc salt	47 FR 25401 (6/11/82)	Do.
83-1	Generic name: Polyhalogenated aromatic alkylated hydrocarbon	47 FR 46371 (10/18/82)	Oct. 22, 1982.
83-110	Generic name: Saturated acid diester	47 FR 52223 (11/19/82)	Jan. 26, 1983.
83-115	Generic name: Naphthalenedisulfonic acid, disodium salt, ((2-((sodium sulfooxyethyl) sulfonyl)aryl)azo), and monochlorotriazinyl amino, substituted, copper complex.	47 FR 52224 (11/19/82)	Apr. 1, 1983.
83-333	Generic name: Reaction product of polycycle-sulfonic acid salt with phosphorus halide/halogen, subsequent reaction with an amine, subsequent reaction with an aldehyde/sodium bisulfite alkali.	48 FR 73 (1/3/83)	Mar. 14, 1983.
83-401	Generic name: Naphthalenetrisulfonic acid, chlorortriazinylamino-methoxymethylphenylazo-	48 FR 5304 (2/4/83)	Aug. 18, 1983.
83-418	Generic name: Benzenedisulfonic acid, chloro-triazinylaminodimethylphenylazo-sulfo-naphthaleneazo-	48 FR 5306 (2/4/83)	Aug. 18, 1983.

V. 56 PREMANUFACTURE NOTICES FOR WHICH THE REVIEW PERIOD HAS BEEN SUSPENDED—Continued

PMN No	Identity/generic name	FR citation	Date suspended
83-434	Generic name: Unsaturated aliphatic	48 FR 6397 (2/11/83)	Apr. 20, 1983
83-461	Generic name: Substituted alkoxy silane	48 FR 7300 (2/18/83)	Apr. 25, 1983
83-479	Generic name: Monoazo substituted aromatic	48 FR 7301 (2/18/83)	May 2, 1983.
83-634	Generic name: Substituted mono azo aromatic	48 FR 17385 (4/22/83)	July 5, 1983.
83-669	Generic name: Chromium complex of substituted phenolazosulfonaphthol with naphtholazosulfo-naphthol	48 FR 20490 (5/6/83)	Aug. 5, 1983
83-677	Generic name: Chromium complex of substituted alkylaminoformimidphenol with sulfonaphtholazo-sulfophenylpyrazolone	48 FR 20491 (5/6/83)	Do.
83-755	4-hydroxy-5-phenylaminonaphthalene-2-sulfonic acid	48 FR 24967 (6/3/83)	Aug. 17, 1983
83-770	Generic name: Cobalt complex of a substituted phenolazonaphthol	48 FR 24968 (6/3/83)	Aug. 15, 1983
83-771	Generic name: Chromium complex of substituted phenolazoalkylarylamino-formimidphenol with sulfonaphthylazosulfonaphthol	48 FR 24968 (6/3/83)	[illegible]
83-785	Generic name: Substituted heteromonocycle sulfonylphenyl azo substituted naphthalene-sulfonic acid, salt	48 FR 26884 (6/10/83)	Aug. 24, 1983
83-820	Generic name: Disubstituted heterocyclic azo disubstituted benzene	48 FR 29049 (6/24/83)	Sept. 28, 1983
83-821	Generic name: Trisubstituted phenyl azo disubstituted heterocycle	48 FR 29049 (6/24/83)	Do.
[illegible]	Generic name: Trisubstituted aniline	48 FR 29049 (6/24/83)	Do.
83-831	Generic name: Disazo solvent red dye	48 FR 29055 (6/24/83)	Sept. 9, 1983.
83-845	Generic name: Tetrasodium salt of μ-(2-(2-hydroxy-3-nitro-5-sulfo-phenylazo)-2'-(2-hydroxy-5- substituted-3-sulfphenylazo)-3,3'-disulfo-6,6'-iminodi-1-naphtholate-(0,0',0'',0''') (8⁻)]dicopper[II]acid.	48 FR 30434 (7/1/83)	Sept. 16, 1983
[illegible]	Generic name: Metal complexed substituted aromatic azo compound	48 FR 30435 (7/1/83)	Sept. 21, 1983
83-875	4-(2-cyano-4-nitrophenylazo)-[N-(2-cyanoethyl)-N-(2-phenoxyethyl)amino]benzene	48 FR 31462 (7/8/83)	Do.
83-876	4-(2-cysno-4-nitrophenylazo)-[N,N-bis(2-propionyloxyethyl)amino]-3-chlorobenzene	48 FR 31462 (7/8/83)	[illegible]
83-997	Generic name: 6-diethylamino-2-(substituted) spiro(xanthene-9,3'-phthalide)	48 FR 35713 (8/5/83)	Oct. 20, 1983.
[illegible]	Generic name: 6-dibutylamino-2-(substituted) spiro(xanthene-9,3'-phthalide)	48 FR 35714 (8/5/83)	Do.
83-1006	Generic name: (Amino)-(hydroxy)-(substituted)-(substituted) naphthalenedisulfonic acid, and (amino)-(hydroxy)-(substituted)-(substituted) naphthalenedisulfonic acid, salts with sodium and potassium.	48 FR 36648 (8/12/83)	Oct. 14, 1983.
83-1007	Generic name: (Substituted)-(substituted)-hydroxy-naphthalenesulfonic acid, sodium salts	48 FR 36648 (8/12/83)	Oct. 14, 1983.
83-1012	Generic name: Bis(sulfophenylchlorotriazine-aminosulfophenylazo) hydroxyaminodisulfo-naphthalene	48 FR 36648 (8/12/83)	Oct. 24, 1983.
83-1018	Generic name: Substituted-naphthalene tetradisulfonic acid, bis[(substituted-hydroxyphenylazo)phenyl]derivative	48 FR 36649 (8/12/83)	Do.
83-1023	Generic name: Alkyl aryl phosphine	48 FR 36649 (8/12/83)	Oct. 20, 1983.
83-1026	Generic name: Disubstitutedsulfamoylcarbomono-cycle azo substituted naphthalene sulfonic acid, sodium salt	48 FR 37699 (8/19/83)	Oct. 27, 1983.
83-1029	Generic name: Substituted heterocycle	48 FR 37699 (8/19/83)	Nov. 3, 1983.
83-1042	Acridine, 9-phenyl	48 FR 37700 (8/19/83)	Oct. 17, 1983.
83-1048	Generic name: Polyether polyurethane	48 FR 38890 (8/26/83)	Oct. 27, 1983.
83-1057	Generic name: 1,1-di(alkylsubstituted)hydrazine	48 FR 38890 (8/26/83)	Nov. 4, 1[illegible].
83-1062	Generic name: Polycarboxylic acid	48 FR 39589 (9/1/83)	Nov. 19, 1983.
83-1092	Generic name: Mixed castor amide with diethylene triamine	48 FR 40783 (9/9/83)	Oct. 11, 1983.
83-1093	Generic name: Mixed castor amide with amino ethyl ethanol amine	48 FR 40783 (9/9/83)	Oct. 11, 1983.
83-1157	Generic name: Substituted oxirane	48 FR 41642 (9/16/83)	Nov. 29, 1983.
83-1162	Generic name: Substituted pyridine	48 FR 41643 (9/16/83)	Do.
83-1163	Generic name: Substituted pyridine	48 FR 41643 (9/16/83)	Do.
83-1222	Generic name: Substituted alkyl halide	48 FR 43398 (9/23/83)	Do.
83-1227	Generic name: Perhalo alkoxy ether	48 FR 43399 (9/23/83)	Do.
83-1228	Generic name: Perhalo alkoxy ether	48 FR 43399 (9/23/83)	Do.
83-1229	Generic name: Perhalo alkoxy ether	48 FR 43399 (9/23/83)	Do.
83-1267	9H-thioxanthen-9-one, 2,4-diethyl-	48 FR 43402 (9/23/83)	Nov. 28, 1983.
83-1268	9H-thioxanthen-9-one, 2,4-dimethyl-	48 FR 43402 (9/23/83)	Do.
83-1269	Methanone, (4-methoxy-3-methylphenyl)	48 FR 43402 (9/23/83)	Do.
83-1270	9H-thioxanthen-9-one, 4-chloro-	48 FR 43402 (9/23/83)	Do.
84-73	Generic name: Polyester polycarboxylate salt	48 FR 50954 (11/4/83)	Nov. 30, 1983.

[FR Doc. 83-34796 Filed 12-30-83; 8:45 am]
BILLING CODE 6560-50-M

[OPPE-FRL 2500-2]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 USC 3501 et seq.) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests that have been forwarded to the Office of Management and Budget (OMB) for review. The information collection requests listed are available to the public for review and comment.

FOR FURTHER INFORMATION CONTACT: David Bowers; Office of Standards and Regulations; Information Management Section (PM-223); U.S. Environmental Protection Agency; 401 M Street, SW.; Washington, D.C. 20460; telephone (202) 382-2742 or FTS 382-2742.

SUPPLEMENTARY INFORMATION:

Research and Development Programs

- Title: Applications for Reference and Equivalent Method Determinations (EPA 0559).

Abstract: Manufacturers of automatic air monitoring instruments may request EPA approval of these instruments for use by air pollution monitoring agencies. Requests must contain performance data so that EPA can determine if the instruments can accurately measure for compliance with the National Ambient Air Quality Standards.

Respondents: Manufacturers of automatic air monitoring instruments.

- Title: EPA Performance Audit Program for Evaluation of Ambient and Source Air Measurements (EPA 0865).

Abstract: EPA sends unlabeled samples to air monitoring agencies for analysis in order to check the accuracy of the agencies' monitoring instruments and methods. The agencies submit the results to EPA on these standard forms. When the analyses are inaccurate, EPA provides technical assistance to improve monitoring capabilities.

Respondents: Owners/operators of air monitoring agencies.

Comments on all parts of this notice should be sent to:

David Bowers (PM-223), U.S. Environmental Protection Agency, Office of Standards and Regulations, 401 M Street, SW., Washington, D.C. 20460; and

Vartkes Broussalian, Wayne Leiss or Carlos Tellez, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, NW., Washington, D.C. 20503

Dated: December 22, 1983.

Daniel J. Fiorino,

Acting Director, Regulation and Information Management Division.

[FR Doc. 83-34809 Filed 12-30-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 522.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Committee regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: T-4154.

Title: The Port of Portland and Johnson ScanStar Lease Agreement.

Parties: The Port of Portland and Johnson ScanStar.

Synopsis: Agreement No. T-4154 provides that in consideration of Johnson ScanStar providing every vessel direct service rather than every other vessel direct service at the Port of Portland, the Port will provide Johnson ScanStar with reduction to its tariff rates for wharfage and dockage.

Filing Party: Milton A. Mowat, Manager, Traffic and Regulatory Affairs, Port of Portland, P.O. Box 3529, Portland, Oregon 97208.

Agreement No.: T-4155.

Title: Georgia Ports Authority and Zim American-Israeli Shipping Corporation, Lease Agreement for Terminal Premises.

Parties: Georgia Ports Authority (Port) and Zim American-Israeli Shipping Corporation (Zim).

Synopsis: Agreement No. T-4155 provides for the lease of paved premises by the Port to Zim, located at berths Nos. 56 and 57 within the confines of the Port's Garden City Terminal, Chatham County, Georgia. The premises will be used for the storage and handling of containers, trailers and chassis. The agreement will run for a period of three years, and it will replace Agreement No. T-4054, as amended.

Filing Party: Robert W. Goeth, Assistant Executive Director, Georgia Ports Authority, P.O. Box 2406, Savannah, Georgia 31402.

Agreement No.: T-4156.

Title: City of Los Angeles and Indies Terminal Company, Non-exclusive Preferential Lease Agreement.

Parties: City of Los Angeles (City) and Indies Terminal Company (ITC).

Synopsis: Agreement No. T-4156 provides that City will lease to ITC 4,650 linear feet comprising Berths 216-225 and 90 acres of backland located within the Port of Los Angles. The premises will be used by ITC for the loading and unloading of its vessels, and terminal purposes incidental thereto. The agreement will run for 5 years. The City will construct two container berths and erect second and third container cranes at the facility.

Filing Party: Raymond P. Bender, Assistant City Attorney, City of Los Angeles, Harbor Division, P.O. Box 151, San Pedro, California 90731-0151.

Agreement No.: 10066-4.

Title: U.S. Atlantic and Pacific/Colombia Equal Access Agreement.

Parties: Coordinated Caribbean Transport, Inc., Delta Steamship Lines, Inc., Flota Mercante Grancolombiana, S.A.

Synopsis: Agreement No. 10066-4 would amend the basic agreement to: (1) Extend the agreement for an additional three-year term ending February 21, 1987; (2) add CCT as a signatory to the agreement, and (3) eliminate the present cargo reporting requirements.

Filing Party: William H. Fort, Esquire, Kominers, Fort, Schlefer & Boyer, 1776 F Street, Northwest, Washington, D.C. 20006.

Agreement No.: 10494

Title: Barber West Africa Line and Societe Ivoirienne de Transport Maritime Space Charter Agreement.

Parties: Barber West Africa Line (BWAL), Societe Ivoirienne de Transport Maritime (SITRAM).

Synopsis: Agreement No. 10494 would establish a non-exclusive space charter agreement between the parties for a term of three years under which SITRAM could charter space from BWAL in the west-bound trade from the Ivory Coast to the United States.

Filing Party: John A. DeVierno, Esquire, Billig, Sher & Jones, P.C., 2033 K Street, NW., Washington, D.C. 20006.

Dated: December 23, 1983.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 83-34817 Filed 12-30-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

The Chase Manhattan Corporation, et al.; Proposed de Novo Nonbank Activities by Bank Holding Companies

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Libery Street, New York, New York 10045:

1. *The Chase Manhattan Corporation,* New York, New York (mortgage banking and related lending and insurance activities; Texas): To engage through its subsidiary Chase Home Mortgage Corporation in the making or acquiring for its own account or for the account of others, loans and other extensions of credit secured by real estate including but not limited to, first and second mortgage loans secured by mortgages on one-to-four family residential properties, servicing loans and other extensions of credit for any person, selling mortgage loans in the secondary market, and offering mortgage term life insurance, accident and health insurance and disability insurance directly related to such lending and servicing activities. These activities would be conducted from an office in Grand Prairie, Texas, serving the State of Texas. Comments on this application must be received not later than January 23, 1984.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Maryland National Corporation,* Baltimore, Maryland (commercial lending operations and related activities; northeastern United States): To engage through its subsidiary, Maryland National Industrial Finance Corporation, in the following activities: engaging generally in commercial lending operations, including but not limited to financing of accounts receivable, inventories, and other types of secured and unsecured loans to commercial enterprises; servicing commercial loans for affiliated or non-affiliated individuals, partnerships, corporations or other entities; and acting as advisor or broker in commercial lending transactions. These activities would be conducted from an office in Princeton, New Jersery, serving the north-eastern United States. Comments on this application must be received not later than January 20, 1984.

2. *NCNB Corporation,* Charlotte, North Carolina, (consumer finance and insurance activities, sale of money orders; Florida): To engage, through its subsidiary, TranSouth Financial Corporation of Florida, in making direct loans for consumer and other purposes, purchasing retail installment notes and contracts, selling at retail money orders having a face value of not more than $1,000, and acting as agent for the sale of credit life, credit accident and health and physical damage insurance directly related to its extensions of credit; and through its subsidiary, TranSouth Mortgage Corporation of Florida, in making direct loans for consumer and other purposes under the general usury statues, purchasing retail installment notes and contracts, making direct loans to dealers for the financing of inventory (floor planning) and working capital purposes and acting as agent for the sale of credit life, credit accident and health and physical damage insurance directly related to its extensions of credit. All of the aforementioned types of credit-related insurance activities are permissible under sections 4(c)(8) (A) and (D) of the Bank Holding Company Act of 1956, as amended by the Garn-St Germain Depository Institutions Act of 1982. These activities would be conducted from a relocated common office in Panama City, Florida, serving an area consisting of a 25 mile radius from said office. Comments on this application must be received not later than January 20, 1984.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Mid-America Bancorp,* Louisville, Kentucky (financing activities; Ohio): To engage *de novo* through its subsidiary, Mid-America Financial Services, Inc., (d.b.a. America Consumer Finance Company) in the activities of making consumer loans and second mortgage loans. These activities will be conducted from two offices located in Columbus, Ohio, and three offices located in Cincinnati, Ohio, serving Cincinnati, Ohio and Columbus, Ohio. Comments on this application must be received not later than January 13, 1984.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *BankAmerica Corporation,* San Francisco, California (travelers check activities; *de novo* office; New York): To engage, through its indirect subsidiary, BancAmerica Financial Services Corporation of Albany, a New York corporation, in the activity of selling travelers checks. This activity will be conducted from a *de novo* office located at the John F. Kennedy International Airport, Jamaica, New York, serving the entire State of New York. Comments on this application must be received not later than January 23, 1984.

2. *BankAmerica Corporation,* San Francisco, California (making loans and other extensions of credit; Florida): To engage, through its proposed indirect subsidiary, Overseas Finance Corporation, a proposed Delaware corporation, in the activities of making loans and other extensions of credit to domestic and overseas borrowers, including foreign governments and their agencies and instrumentalities. Such activities will include, but not be limited to, issuing letters of credit and accepting drafts. These activities will be conducted from a *de novo* office located in Coral Gables, Florida, serving all fifty states, the District of Columbia, and all foreign countries. Comments on this application must be received not later than January 23, 1984.

3. *BankAmerica Corporation,* San Francisco, California (mortgage banking, servicing activities and equity financing: California): To engage, through its direct subsidiary, BA Mortgage and International Realty Corporation, a Delaware corporation, in the activities of making or acquiring for its own account or for the account of others, loans or other extensions of credit such as would be made or acquired by a morgage company, servicing such loans and other extensions of credit for itself and others, and arranging commercial real estate equity financing. These activities will be conducted from a *de novo* office located in Los Angeles, California, serving the entire State of California. Comments on this application must be received not later than January 18, 1984.

Board of Governors of the Federal Reserve System, December 27, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-34732 Filed 12-30-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Project Grants for Preventive Health Services—Childhood Immunization Availability of Funds for Fiscal Year 1984

The Centers for Disease Control announces the availability of funds for Fiscal Year 1984 for Project Grants for Preventive Health Services—Childhood Immunization, Catalog of Federal Domestic Assistance Number 13.268. This grant program is authorized by section 317 (42 U.S.C. 247b) of the Public Health Service Act, as amended.

The objectives of this grant program are to reduce morbidity and mortality due to vaccine-preventable diseases of childhood; to maintain interruption of indigenous measles transmission; to maintain 90 percent immunization levels for school children under age 15 against measles, poliomyelitis, diphtheria, tetanus, and rubella; to maintain 95

percent immunization levels for school enterers and 90 percent immunization levels for children enrolled in licensed day-care centers against measles, poliomyelitis, diphtheria, tetanus, pertussis, rubella, and mumps; and to develop, test, and implement systems for use in the States to ensure that 90 percent or more of all children complete basic immunizations by age 2.

Eligible applicants for this program are the official public health agencies of State and local governments, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and American Samoa.

Approximately $30,482,000 will be available in Fiscal Year 1984 to award 63 continuation grants with the average award expected to be $479,000, ranging from $10,000 to $2,063,000. Grants are usually funded for 12 months in a 3- to 5-year project period. Continuation awards within the project period are made on the basis of satisfactory progress in meeting project objectives and on the availability of funds. No new grants are expected to be made in 1984 since current grantees are coordinating activities in all political jurisdictions in the United States. Funding estimates outlined above may vary and are subject to change.

Applications are subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs, and regulations (42 CFR Part 122, as amended, and Part 123) implementing the National Health Planning and Resource Development Act of 1974. Program guidelines, information on application and review procedures, deadlines, the consequences of late submission, and other materials may be obtained from the appropriate Department of Health and Human Services Regional Office as set forth below.

Dated: December 21, 1983.

William C. Watson, Jr.,

Acting Director.

Department of Health and Human Services (HHS) Regional Offices

Regional Health Administrator, PHS, HHS Region I, John Fitzgerald Kennedy Building, Boston, Massachusetts 02203, (617) 223–6827.
Regional Health Administrator, PHS, HHS Region II, Federal Building, 26 Federal Plaza, Room 3337, New York, New York 10278, (212) 264–2561.
Regional Health Administrator, PHS, HHS Region III, Gateway Building #1, 3521–35 Market Street, Mailing Address: P.O. Box 13716, Philadelphia, Pennsylvania 19101, (215) 596–6637.
Regional Health Administrator, PHS, HHS Region IV, 101 Marietta Towers, Suite 1007, Atlanta, Georgia 30323, (404) 221–2316.
Regional Health Administrator, PHS, HHS Region V, 300 South Wacker Drive, 33rd Floor, Chicago, Illinois 60666, (312) 353–1385.
Regional Health Administrator, PHS, HHS Region VI, 1200 Main Tower Building, Room 1835, Dallas, Texas 75202, (214) 767–3879.
Regional Health Administrator, PHS, HHS Region VII, 601 East 12th Street, Kansas City, Missouri 64106, (816) 374–3291.
Regional Health Administrator, PHS, HHS Region VIII, 1185 Federal Building, 1961 Stout Street, Denver, Colorado 80294, (303) 837–6163.
Regional Health Administrator, PHS, HHS Region IX, 50 United Nations Plaza, San Francisco, California 94102, (415) 556–5810.
Regional Health Administrator, PHS, HHS Region X, 2901 Third Avenue, MS. 402, Seattle, Washington, 98121, (206) 442–0430.

[FR Doc. 83-34791 Filed 12-30-83; 8:45 am]

BILLING CODE 4160-18-M

Project Grants for Venereal Disease Control Availability of Funds for Fiscal Year 1984

The Centers for Disease Control announces the availability of funds for Fiscal Year 1984 for Project Grants for Venereal Disease Control, Catalog of Federal Domestic Assistance Number 13.977. This grant program is authorized by section 318 (42 U.S.C. 247c) of the Public Health Service Act, as amended.

The objective of this grant program is to reduce morbidity and mortality from venereal disease by preventing cases and complications. Eligible applicants for this program are the official public health agencies of State and local governments, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and American Samoa.

Approximately $42,510,000 to $43,510,000 will be available in Fiscal Year 1984 to award 64 continuation grants to supplement programs to control venereal disease and prevent its complications. The average award in Fiscal Year 1984 is expected to be $610,000 ranging from $26,900 to $3,050,400. Grants are usually funded for 12 months in a 3- to 5-year project period. Continuation awards within the project period are made on the basis of satisfactory progress in meeting project objectives and on the availability of funds. No new grants are expected to be made in 1984 since current grantees are coordinating activities in all political jurisdictions in the United States. Funding estimates outlined above may vary and are subject to change.

Applications are subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs, and regulations (42 CFR Part 122, as amended, and Part 123) implementing the National Health Planning and Resource Development Act of 1974. Program guidelines, information on application and review procedures, deadlines, the consequences of late submission, and other materials may be obtained from the appropriate Department of Health and Human Services Regional Office as set forth below.

Dated: December 21, 1983

William C. Watson, Jr.,

Acting Director.

Department of Health and Human Services (HHS) Regional Offices

Regional Health Administrator, PHS, HHS Region I, John Fitzgerald Kennedy Building, Boston, Massachusetts 02203, (617) 223–6827
Regional Health Administrator, PHS, HHS Region II, Federal Building, 26 Federal Plaza, Room 3337, New York, New York, 10278, (212) 264–2561.
Regional Health Administrator, PHS, HHS Region III, Gateway Building #1, 3521–35 Market Street, Mailing Address: P.O. Box 13716, Philadelphia, Pennsylvania 19101, (215) 596–6637.
Regional Health Administrator, PHS, HHS Region IV, 101 Marietta Towers, Suite, 1007, Atlanta, Georgia 30323, (404) 221–2316.
Regional Health Administrator, PHS, HHS Region V, 300 South Wacker Drive, 33rd Floor, Chicago, Illinois 60666, (312) 353–1385.
Regional Health Administrator, PHS, HHS Region VI, 1200 Main Tower Building, Room 1835, Dallas, Texas 75202, (214) 767–3879.
Regional Health Administrator, PHS, HHS Region VII, 601 East 12th Street, Kansas City, Missouri 64106, (816) 374–3291.
Regional Health Administrator, PHS, HHS Region VIII, 1185 Federal Building, 1961 Stout Street, Denver, Colorado 80294, (303) 837–6163.
Regional Health Administrator, PHS, HHS Region IX, 50 United Nations Plaza, San Francisco, California 94102, (415) 556–5810.

Regional Health Administrator, PHS, HHS Region X, 2901 Third Avenue, MS. 402, Seattle, Washington 98121, (206) 442-0430.

[FR Doc. 83-34793 Filed 12-30-83; 8:45 am]
BILLING CODE 4160-18-M

Project Grants for Venereal Disease Research, Demonstrations, and Public Information and Education Availability of Funds for Fiscal Year 1984

The Centers for Disease Control (CDC) announces the availability of funds for Fiscal Year 1984 for Project Grants for Venereal Disease Research, Demonstrations, and Public Information and Education, Catalog of Federal Domestic Assistance Number 13.978. This grant program is authorized by section 318(b) (42 U.S.C. 247c(b)) of the Public Health Service Act, as amended.

The objectives of this grant program are to develop, improve, and evaluate methods for the prevention and control of sexually transmitted diseases (STD) through demonstrations and applied research; to develop, improve, apply, and evaluate methods and strategies for public information and education about STD; and to support particularly deserving STD public information and education programs. Because of the limited funds available for this grant program, applications related to Acquired Immunodeficiency Syndrome will not be considered under this announcement. Any State, political subdivisions of States, and other public or nonprofit private entities are eligible to apply for a grant.

Approximately $2 million to $3 million will be available in Fiscal Year 1984 to award 4 continuation grants and 10 to 25 new grants, with the average award expected to be $80,000, ranging from approximately $10,000 to $200,000. Initial grants are usually funded for 12 months in a 1- to 5-year project period. Continuation awards within the project period are made on the basis of satisfactory progress in meeting project objectives and on the availability of funds. Funding estimates outlined above may vary and are subject to change.

Applications received in any of the three areas listed below will receive priority consideration for funding in Fiscal Year 1984:

I. Sexually transmitted disease epidemiologic and/or clinical research. Applications for mathematical modeling in sexually transmitted diseases will also be considered in this category.

II. Demonstration activities in the areas of:

A. Chlamydia control efforts, particularly those designed to:

1. Investigate the feasibility of modifying existing disease control activities to include control of sexually transmitted chlamydial infections.

2. Emphasize activities directed toward the prevention and reduction of chlamydial disease complications.

3. Establish linkages between existing laboratory, clinical, and outreach components.

B. Medical school-health department liaison activities to develop STD curricula and implement the developed STD curricula into the medical school instructional program. This activity requires a significant STD training component within the medical school and a liaison relationship between the faculty members and the local STD/VD program and its clinic(s).

C. Community hospital, medical school, and/or school of public health joint liaison efforts with health departments to establish innovative, expanded surveillance efforts for such areas as congenital syphilis, neonatal herpes, and gonococcal/nongonococcal pelvic inflammatory disease.

III. Public information and education efforts, particularly in the following areas:

A. Clinic-based patient education efforts to improve future disease prevention potential and/or improve future health-seeking behaviors on the part of infected patients.

B. Community education efforts directed toward selected subgroups of pregnant females (to reduce congenital syphilis and neonatal herpes) and homosexuals.

C. Community education efforts directed toward school-based populations, particularly in the pilot testing and evaluation of the CDC-developed STD curriculum.

D. A national, toll free, telephone "hotline" operation to provide the public with current STD information and direct people to local sources of public and private quality clinical assessment.

Competing applications must include a description of the following:

1. The setting and circumstances for which project grant support is being requested, including:

a. The immediate and long-range objectives of the project in specific and measurable terms.

b. The activities which will be undertaken to accomplish the objectives, including the timing of these activities.

c. The anticipated application of findings to the national venereal disease control effort.

d. Any other information which will support the request for grant assistance.

2. The relationship between the planned activities and the project objectives. The application must describe in detail how the applicant intends to proceed, particularly if the project is unusually complex and several activities are interdependent or unprecedented.

3. A comprehensive and realistic plan which the applicant will use to evaluate the project. The plan must include periodic assessment of any possible impact, both positive and negative, that the proposed project might have upon the established venereal disease control program in the locality or localities in which the project will be undertaken.

An application for a noncompeting continuation grant must be submitted for each funding period. This continuation application must include the following:

1. A budget and justification for the grant funds requested.

2. A summary of the progress achieved during the previous budget period.

3. A description of any changes in the information shown in the project application.

Grant applications will be reviewed and evaluated according to the following criteria:

1. Is there adequate evidence that the proposed project is needed and that the outcome has potential to directly benefit the national venereal disease control effort?

2. Are the project objectives specific, measurable, realistic, and time-phased?

3. Is the method of operation logical and clearly related to project objectives, and does it describe how the applicant intends to proceed particularly with activities which are complex, interrelated, or unprecedented?

4. Does the method of operation include an assessment of any possible impact, both positive and negative, that the conduct of the proposed initiative might have upon the established venereal disease control program in the locality or localities in which the project will be undertaken?

5. Does the proposal include a comprehensive and realistic plan for the evaluation of the project, and specify the measures and instruments of measurement to be used?

6. Is the budget request reasonable and consistent with the intended use of grant funds?

7. If the applicant intends only to evaluate an existing disease prevention and control approach, are the objectives substantially different from those which could be met by routine program evaluation?

The original and one copy of the application must be submitted to the address in 1.a. below on or before 4:30 p.m. (e.s.t.) on Thursday, March 1, 1984. Applicants may meet the deadline by either delivering or mailing the application on or before that date, provided the following conditions are met:

1. *Mailed applications.* Applications mailed through the U.S. Postal Service shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date by Leo A. Sanders, Chief, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, N.E., Room 107A, Atlanta, Georgia 30305, or

b. Sent by first class mail, postmarked on or before the deadline date, and received by the granting agency in time for submission to the independent review group. (Applicants are cautioned to request a legible U.S. Postal Service postmark or use U.S. Postal Service express mail, or certified or registered mail, and obtain a legible dated mailing receipt from the U.S. Postal Service. Private metered postmarks will not be acceptable as proof of timely mailing.)

2. *Applications submitted by other means.* Applications submitted by any means except mailing first class through the U.S. Postal Service shall be considered as meeting the deadline only if they are physically received at the place specified in paragraph 1.a. above before close of business on or before the deadline date (4:30 p.m. e.s.t. Thursday, March 1, 1984).

3. *Late applications.* Applications which do not meet the criteria in either paragraph 1. or 2. above are considered late applications and will not be considered in the current competition.

Applications are subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs, and regulations (42 CFR Part 122, as amended, and Part 123) implementing the National Health Planning and Resource Development Act of 1974.

Information on application procedures, copies of application forms, copies of application guidelines, and other material may be obtained from Leo A. Sanders, Chief, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control at the address in paragraph 1.a. above, or by calling (404) 262–6575 or FTS 236–6575. Technical assistance may be obtained from Dr. Stephen Margolis, Division of Venereal Disease Control, Center for Prevention Services, Centers for Disease Control, Atlanta, Georgia 30333, telephone (404) 329–2551, or FTS 236–2551.

Dated: December 21, 1983.

William C. Watson, Jr.,

Acting Director.

Department of Health and Human Services (HHS) Regional Offices

Regional Health Administrator, PHS, HHS Region I, John Fitzgerald Kennedy Building, Boston, Massachusetts 02203, (617) 223–6827.

Regional Health Administrator, PHS, HHS Region II, Federal Building, 26 Federal Plaza, Room 3337, New York, New York 10278, (212) 264–2561.

Regional Health Administrator, PHS, HHS Region III, Gateway Building #1, 3521–35 Market Street, Mailing Address: P.O. Box 13716, Philadelphia, Pennsylvania 19101, (215) 596–6637.

Regional Health Administrator, PHS, HHS Region IV, 101 Marietta Towers, Suite 1007, Atlanta, Georgia 30323, (404) 221–2316.

Regional Health Administrator, PHS, HHS Region V, 300 South Wacker Drive, 33rd Floor, Chicago, Illinois 60666, (312) 353–1385.

Regional Health Administrator, PHS, HHS Region VI, 1200 Main Tower Building, Room 1835, Dallas, Texas 75202, (214) 767–3879.

Regional Health Administrator, PHS, HHS Region VII, 601 East 12th Street, Kansas City, Missouri 64106, (816) 374–3291.

Regional Health Administrator, PHS, HHS Region VIII, 1185 Federal Building, 1961 Stout Street, Denver, Colorado 80294, (303) 837–6163.

Regional Health Administrator, PHS, HHS Region IX, 50 United Nations Plaza, San Francisco, California 94102, (415) 556–5810.

Regional Health Administrator, PHS, HHS Region X, 2901 Third Avenue, MS. 402, Seattle, Washington 98121, (206) 442–0430.

[FR Doc. 83-34792 Filed 12-30-83; 8:45 am]

BILLING CODE 4160-8-M

Food and Drug Administration

Central Soya Co., Inc.; Cooper 40% Super-T for Pigs Medicated (Tylosin Phosphate); Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) sponsored by Central Soya Co., Inc., providing for use of Cooper 40% Super-T For Pigs Medicated (a 2-gram-per-pound tylosin phosphate premix) in making complete swine feeds. The sponsor requested the withdrawal of approval.

EFFECTIVE DATE: January 13, 1984.

FOR FURTHER INFORMATION CONTACT: Howard Meyers, Bureau of Veterinary Medicine (HFV-218), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; 301–443–4093.

SUPPLEMENTARY INFORMATION: Central Soya Co., Inc., 1300 Fort Wayne Bank Bldg., P.O. Box 1400, Fort Wayne, IN 46801, is the sponsor of NADA 96–779, originally sponsored by the O.A. Cooper Co., Humboldt, NE 68376. The O.A. Cooper Co. and the NADA are now owned by Central Soya Co., Inc. The NADA provides for use of a 2-gram-per-pound tylosin premix to make complete swine feeds used for increased rate of weight gain and improved feed efficiency.

The application was originally approved November 4, 1974 (39 FR 38897). By letter of March 2, 1983, Central Soya Co., Inc., informed FDA of the change of sponsor and requested withdrawal of approval of the NADA because the product is no longer being marketed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115, *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 96–779 and all supplements for Cooper 40% Super-T is hereby withdrawn, effective January 13, 1884.

In a document published elsewhere in this issue of the **Federal Register**, the regulations are amended accordingly.

Dated: December 22, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-34779 Filed 12-30-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 81N–0396; DESI 6514]

Drugs for Human Use; Drug Efficacy Study Implementation; Prescription Drugs Offered for Relief of Symptoms of Cough, Cold, or Allergy; Amendment

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) amends a notice

of opportunity for hearing which proposed to withdraw approval of the intire new drug applications (NDA's) for Dimetane Expectorant, Dimetane Expectorant-DC, and Actifed-C Expectorant. As amended, the proposal applies to the NDA's only as they pertain to the old formulations of the products. FDA announces the conditions for marketing the reformulated and renamed products for the indications for which they are regarded as effective.

EFFECTIVE DATES: January 3, 1984.

ADDRESSES: Communications in response to this notice should be identified with Docket No. 81N–0396, and directed to the attention of the appropriate office named below:

Supplements to full new drug applications (identify with NDA number): Division of Surgical-Dental Drug Products (HFN–160), National Center for Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFN–520), National Center for Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20957.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFN–310), National Center for Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFN–501), National Center for Drugs and Biologics, Food and Drug Administration, 5600 Fisher Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David T. Read, National Center for Drugs and Biologics (HFN–8), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; 301–443–3650.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** ot a May 25, 1982 (47 FR 22609), FDA revoked the temporary exemption from the time limits for completing certain phases of the Drug Efficacy Study Implemention (DESI) program that had been granted for Dimetane Expectorant, dimetane Expectorant-DC, and Actifed-C Expectorant. these three oral prescription products are offered for the relief of symptoms of cough, cold, or allergy. FDA reclassified the three products as lacking substantial evidence of effectiveness, proposed to withdraw approval of the following new drug applications for the products in their entirety, and offered an opportunity for a hearing on the proposal. Hearing requests were submitted for the three products.

1. Dimetane Expectorant (NDA 11–694) contaning 2 milligrams (mg) brompheniramine maleate, 5 mg phenylephrine hydrochloride, 5 mg phenylpropanolamine hydrochloride, and 100 mg guaifenesin: A. H. Robins Co., 1407 Cummings Dr., Richamond, VA 23220. A. H. Robins Co. has proposed to supplement NDA 11–694 to provide for a reformulation that changes the name from "Dimetane Expectorant" to "Dimetane-DM Cough Syrup" and contains 2 mg brompheniramine maleate, 30 mg pseudoephedrine hydrochloride, and 10 mg destromethorphan hydrobromide.

2. Dimetane Expectorant-DC (NDA 11–694) containing 10 mg codeine phosphate, 2 mg brompheniramine maleate, 5 mg phenylephrine hydrochloride, 5 mg phenylpropanolameine hydrochloride, and 100 mg guaifenesin; A. H. Robins Co. A. H. Robins Co. has proposed to supplement NDA 11–694 to provide for a reformulation that changes the name from "Dimetane Expectorant-DC" to Dimetane-DC Cough Syrup" and contains 2 mg brompheniramine raleate, 12.5 mg phenylpropanolamine hydrochloride, and 10 mg codeine phosphate.

3. Actifed-C Expectorant (NDA 12–575) containing 10 mg codeine phosphate, 2 mg triprolodine hydrochloride, 30 mg pseudoephedrine hydrochloride, and 100 mg quaifenesin; Burroughs Wellcome Co., 3030 Cornwallis Rd., Research Triangle Park, NC 27709. Burroughs Wellcome Co. has supplemented NDA 12–575 to provide for a reformulation that changes the name from "Actifed-C Expectorant" to "Actifed-C Cough Syrup" and contains 10 mg codeine phosphate, 1.25 mg triprolidine hydrochloride, and 30 mg pseudoephedrine hydrochloride.

Hearing request are still pending on the product formulations indentified as Dimetane Expectorant, Dimetane Expectorant-DC, and Actifed-C Expectorant. These products will be the subjects of a future **Federal Register** notice.

FDA now amends the May 25, 1982 notide: The proposal to withdraw approval of NDA's 11–694 and 12–575 does not apply to those NDA's as supplemented to provide for reformulations described above. Each of the components (except triprolidine hydrochloride) or the reformulations were considered to be safe and effective by the over-the-counter (OTC) drug review panel for cough, cold, allergy, bronchodilator, and antiasthmatic (CCABA) drugs (41 FR 38339). Triprolidine hydrochloride, which was not reviewed by the OTC drug review panel, was classified by FDA as an effective antihistamine, on March 19, 1973 (DESI 6303: 38 FR 7265). The OTC drug review panel for CCABA drugs concluded that combinations containing an antihistamine, an antitussive, and a nasal decongestant, each present in amounts within the effective dosage range, are safe and effective (41 FR 38326).

The notice is also amended to include the following conditions for approval and marketing of the reformulated products.

A. *Effectiveness classification.* FDA has reviewed all available evidence and concludes that the drug products, as reformulated, are effective for the indications in the labeling conditions below. The drug products lack substantial evidence of effectiveness in their old formulations, and for other labeled indications. This notice does not prevent FDA, in any future OTC drug monograph, from including any of the ingredients listed above, and requiring labeling different from that approved for prescription use.

B. *Conditions for approval and marketing.* FDA is prepared to approve abbreviated new drug applications for the formulations now regarded as effective and supplements to the previously approved new drug applications under conditions described herein.

1. *Form of drug.* The preparation is in a syrup form suitable for oral administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the Federal Food, Drug, and Cosmetic Act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The Indications are as follows:

For relief of coughs and upper respiratory symptoms, including nasal congestions, associated with allergy or the common cold.

3. *Marketing status of "reformulated" products.* Approval of an abbreviated new drug application (21 CFR 314.2, previously 314.1(f) (revised and recodified January 21, 1983; 48 FR 2751)) or of a supplement to an approved or effective new drug application must be obtained before marketing such

products. The bioavailability regulations (21 CFR 320.21) require any person submitting a full or abbreviated new drug application or a supplement for reformulation after July 7, 1977, to include either evidence demonstrating the in vivo bioavailability of the drug or information to permit waiver of the requirement. Marketing the drug products before approval of a new drug application or a supplement will subject those products, and the person who caused the products to be marketed, to regulatory action.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053 as amended (21 U.S.C. 352, 355)), and under the authority delegated to the Director of the National Center for Drugs and Biologics (see 21 CFR 5.70, 5.82, and 47 FR 26913 published in the **Federal Register** of June 22, 1982).

Dated: December 22, 1983.

Harry M. Meyer, Jr.,

Director, National Center for Drugs and Biologics.

[FR Doc. 83-34781 Filed 12-30-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 75N-0230; DESI No. 1786]

Isordil With Phenobarbital Tablets; Drugs for Human Use; Drug Efficacy Study Implementation; Withdrawal of Approval of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of those parts of new drug application (NDA) 12–093 pertaining to Isordil with Phenobarbital Tablets containing isosorbide dinitrate and phenobarbital. FDA is withdrawing approval because the combination drug product lacks substantial evidence of effectiveness. The product has been used in the treatment of angina pectoris, but is no longer marketed.

EFFECTIVE DATE: February 2, 1984.

ADDRESS: Requests for an opinion of the applicability of this notice to a specific product should be identified with the reference number DESI 1786 and directed to be Division of Drug Labeling Compliance (HFN–310), National Center for Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Margery C. Erickson, National Center for Drugs and Biologics (HFN–8), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** on August 29, 1973 (38 FR 23349), and amended in December 9, 1975 (40 FR 57377), FDA offered an opportunity for a hearing on a proposal to withdraw approval of the new drug applications for Isordil with Phenobarbital Tablets and certain other combination drugs containing an organic nitrate. The basis of the proposal was that the products lack substantial evidence of effectiveness. In response to the notices, American Home Products Corp. (AMHO), 685 3d Ave., New York, NY 10017, and its subsidiary, Ives Laboratories, Inc. (Ives), filed a hearing request for Isordil with Phenobarbital Tablets.

AMHO and Ives have since withdrawn their request for a hearing. Accordingly, approval of the following new drug application is now being withdrawn:

Those parts of NDA 12–093 pertaining to Isordil with Phenobarbital Tablets containing isosorbide dinitrate and phenobarbital; Ives Laboratories, Inc., 685 3d Ave., New York, NY 10017.

Any drug product that is identical, related, or similar to the drug product named above and is not the subject of an approved new drug application is covered by the new drug application reviewed and is subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance (address given above).

This notice does not apply to be following products which are the subject of pending hearing requests. These hearing requests are under review, and will be the subject of a future **Federal Register** notice.

Peritrate with Phenobarbital SA Tablets (NDA 12–266) containing pentaerythritol tetranitrate and phenobarbital; Parke-Davis, Division of Warner-Lambert, Inc., 201 Tabor Rd., Morris Plains, NJ 07950.

Corovas Tymcaps (no NDA) containing pentaerythritol tetranitrate and secobarbital; Amfre-Grant, Inc., 520 South Dean St., Englewood, NJ 07631.

Antora-B T.D. Capsules (no NDA) containing pentaerythritol tetranitrate and secobarbital; Mayrand, Inc., 1026 East Lindsey St., Greensboro, NC 27420.

Mannitol Hexanitrate with Phenobarbital and Mannitol Hexanitrate with Reserpine (no NDA's); Lemmon Pharmacal Co., Sellerville, PA 18960.

The Director of the National Cener for Drugs and Biologics, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053 as amended (21 U.S.C. 355)), and under the authority delegated to him (21 CFR 5.82), finds, on the basis of new information before him with respect to the drug product evaluated together with the evidence available to him when the application was approved, that there is a lack of substantial evidence that the combination product Isordil with Phenobarbital will have the effect it purports or is represented to have under the conditions of use perscribed, recommended, or suggested in its labeling.

Therefore, pursuant to the foregoing finding, approval of those parts of NDA 12–093 pertaining to Isordil with Phenobarbital Tablets and all amendments and supplements for that product in withdrawn effective February 2, 1984. Shipment in interstate commerce of the above product or any identical, related, or similar product that is not the subject of an approved new drug application will then be unlawful.

Dated: December 23, 1983.

Harry M. Meyer, Jr.,

Director, National Center for Drugs and Biologics.

[FR Doc. 83-34782 Filed 12-30-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Consumer Participation; Notice of Open Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meetings:

Newark District Office, chaired by Matthew H. Lewis, District Director. The topic to be discussed is drug use and the elderly.

Date: Wednesday, January 4, 10 a.m.

Address: Elizabeth Public Library, 11 South Broad St., 4th Floor Auditorium, Elizabeth, NJ 07201.

For Further Information Contact: Lillie Dortch-Wright, Consumer Affairs Officer, Food and Drug Administration, 20 Evergreen Place, East Orange, NJ 07018; 201–645–3265.

Kansas City District Office, chaired by James A. Adamson, District Director. The topic to be discussed is drug use and the elderly.

Date: Friday, January 13, 9:30 a.m. to 12 m.

Address: Federal Office Bldg., Rms. 147 and 148, 601 East 12th St., Kansas City, MO 64016.

For Further Information Contact: Julia S. Hewgley, Consumer Affairs Officer, Food and Drug Administration, 1009 Cherry St., Kansas City, MO 64106; 816–374–3817.

Boston District Office, chaired by Frederick R. Carlson, District Director. The topic to be discussed is drug use and the elderly.

Date: Friday, February 3, 9:30 a.m to 12 m.
Address: Government Center, JFK Bldg., Rm. 2003, Boston, MA 02203.
For Further Information Contact: Carolyn L. Hommel, Consumer Affairs Officer, Food and Drug Administration, 585 Commercial St., Boston, MA 02109; 617–223–5857.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: December 23, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-34782 Filed 12-30-83; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

Analgesic-Associated Kidney Disease; Conference

Notice is hereby given of the NIH Consensus Development Conference on "Analgesic-Associated Kidney Disease," sponsored by the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases, and the NIH Office of Medical Applications of Research. The conference will be held February 27–29, 1984, in the Masur Auditorium of the Warren G. Magnuson Clinical Center (Building 10) at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205.

Research has shown that the ingestion of large doses of some pain-relieving drugs, primarily phenacetin, is associated with the development of kidney disease and eventual failure of the kidneys. Since this problem was first reported in the 1950s, analgesic-associated kidney disease has become recognizes as a significant, costly, and potentially preventable and treatable public health problem. This consensus conference is being held because of the risk to the public of analgesic abuse and the critical need to advance medical understanding and control of this problem.

The key questions to be addressed at the conference include: Can analgesics, alone or in combination, cause kidney disease and chronic kidney failure? What are the scope and characteristics of the problem of kidney disease caused by excessive use of analgesics in the United States and in other countries? What causes analgesic-associated kidney disease? What factors increase the risk of its occurrence? Can it be prevented? What treatment strategies are appropriate? What are the directions for future research?

This consensus conference will bring together biomedical investigators, clinicians, other health professionals, and representatives of the public. Following two days of presentations by medical experts and discussion by the audience, a Consensus Panel will weigh the scientific evidence and formulate a draft statement responding to the key conference questions. On the final day of the meeting, the Consensus Panel Chairman Roscoe R. Robinson, M.D., Vanderbilt University Medical Center, Nashville, Tennessee, will read this preliminary Consensus Statement before the conference audience and invite comments and questions.

Information on the program may be obtained from Mrs. Michele Dillon, Prospect Associates, Suite 401, 2115 East Jefferson Street, Rockville, Maryland 20852, (301) 468–6555

Dated: December 22, 1983.

James B. Wyngaarden,

Director, HIH.

[FR Doc. 83-34742 Filed 12-30-83; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-83-1327]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755–5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposals should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Grievance Procedure Requirements—Informal Settlement of Grievance
Office: Public and Indian Housing
Form Number: None
Frequency of submission: Recordkeeping
Affected public: Individuals or Households and State or Local Governments
Estimated burden hours: 129,000
Status: New
Contact: Edward C. Whipple, HUD, (202) 426–0744, Robert Neal, OMB, (202) 395–7316.

Proposal: Admission—Verification Procedure
Office: Public and Indian Housing
Form Number: None
Frequency of submission: Recordkeeping
Affected public: Individuals or Households and State or Local Governments
Estimated burden hours: 1,500,000
Status: New
Contact: Edward C. Whipple, HUD, (202) 426–0744, Robert Neal, OMB, (202) 395–7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: November 28, 1983.

Lee Hamilton,

Director, Office of Information Policies and Systems.

[FR Doc. 83-34770 Filed 12-30-83; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-83-1321]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal; OMB Desk Officer; Office of Management and Budget; New Executive Office Building; Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755-5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Tenant Participation in Multifamify Housing Projects
Office: Housing
Form number: None
Frequency of submission: On occasion
Affected public: Individuals or Households, State or Local Governments, Businesses or Other For-Profit, Non-Profit Institutions, and Small Businesses or Organizations
Estimated burden hours: 16,480
Status: New
Contact: James J. Tahash, HUD (202) 755-5654 Robert Neal, OMB, (202) 395-7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 13, 1983.

Lea Hamilton, Director,

Office of Information Policies and Systems.

[FR Doc. 83-34777 Filed 12-30-83; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. 83-1320]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 415 7th Street, SW., Washington, D.C. 20410, telephone (202) 755-5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Commuity Development Block Grant Entitlement Housing Assistance Plan
Office: Community Planning and Development
Form number: HUD-7091 and HUD-7092
Frequency of submission: On Occasion
Affected public: State or Local Governments
Estimated burden hours: 31,600
Status: Reinstatement
Contact: James R. Broughman, HUD, (202) 755-9267; Robert Neal, OMB, (202) 395-7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d)

Dated: November 28, 1983.

Lea Hamilton,

Director, Office of Information Policies and Systems.

[FR Doc. 83-34778 Filed 12-30-83; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-83-1326]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, telephone (202) 755-5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer of the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposals should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Custodial Agreements
Office: Government National Mortgage Association
Form number: HUD-1722, HUD-11726, HUD-1729, and HUD-1732
Frequency of submission: On Occasion
Affected public: Businesses or Other For-Profit
Estimated burden hours: 137
Status: New
Contact: Patricia Gifford, HUD (202) 755-5550, Robert Neal, OMB (202) 395-7316.

Proposal: Permanent Note
Office: Public and Indian Housing
Form number: HUD-52250
Frequency of submission: On Occasion
Affected public: State or Local Governments and Non-Profit Institutions
Estimated burden hours: 3,335
Status: New
Contact: Theodore R. Daniels, HUD (202) 755-6444, Robert Neal, OMB (202) 395-7316.

Proposal: Survey of New Mobile Home Placements
Office: Policy Development and Research
Form number: C-MH-9A and C-MH-9B
Frequency of submission: Monthly
Affected public: Businesses or Other For-Profit and Small Businesses or Organizations
Estimated burden hours: 4,000
Status: Extension
Contact: Connie Casey, HUD (202) 755-5060, Robert Neal, OMB (202) 395-7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 19, 1983.

Lea Hamilton,

Director, Office of Information Policies and Systems.

[FR Doc. 83-34771 Filed 12-30-83; 8:45 am]
BILLING CODE 4210-01-M

[Docket No. N-83-1325]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755-5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is decribed as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Comprehensive Improvement Assistance Program (CIAP): Project Implementation Schedule
Office: Public and Indian Housing
Form number: None
Frequency of submission: Annually
Affected public: State or Local Governments
Estimated burden hours: 2,000
Status: New
Contact: Pris Buckler, HUD, (202) 755-5595, Robert Neal, OMB, (202) 395-7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 7, 1983.

Lea Hamilton,

Director, Office of Information Policies and Systems.

[FR Doc. 83-34772 Filed 12-30-83; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-83-1324]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755-5310. This is toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency from number, if applicable; (4) how frequently information submissions will be required; (5) what numbers of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatment of an information collection requirement; and (8) the names and telephone numbers of ar agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephjone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the above address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Procurement Policies and Procedures Handbook
Office: Administration
Form number: HUD Handbook 2210.3, Rev 2
Frequency of submission: On Occasion
Affected public: Individuals or Households, State or Local Governments, Businesses or Other For-Profit, Federal Agencies or Employees, Non-Profit Institutions, and Small Businesses or Organizations
Estimated burden hours: 146,800
Status: Revision
Contact: Edward L. Girovasi, Jr., HUD, (202) 755-5294; Robert Neal, OMB, (202) 395-7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: November 30, 1983.

Lea Hamilton,

Director Office of Information Policies and Systems.

[FR Doc. 83-34773 Filed 12-30-83; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-83-1323]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755-5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposals should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Modernization Project Amendment to Consolidated Annual Contributions Contract
Office: Public and Indian Housing
Form number: HUD-53008 and HUD-53009
Frequency of submission: On Occasion
Affected public: State or Local Governments
Estimated burden hours: 400
Status: New
Contact: Pris Buckler, HUD, (202) 755-5595, Robert Neal, OMB, (202) 395-7316.

Proposal: Procedure for Obtaining Certificates of Insurance for Development and Modernization Projects
Office: Public and Indian Housing
Form number: None
Frequency of submission: Recordkeeping
Affected public: State or Local Governments
Estimated burden hours: 223

Status: Extension
Contact: Bruce Vincent, HUD, (202) 426–1383, Robert Neal, OMB, (202) 395–7316.

Proposal: Comprehensive Improvement Assistance Program (CIAP): Survey Instrument
Office: Public and Indian Housing
Form number: None
Frequency of submission: On Occasion
Affected public: State or Local Governments
Estimated burden hours: 9,600
Status: Extension
Contact: Mark Isaacs, HUD, (202) 755–6640, Robert Neal, OMB, (202) 395–7316.

Proposal: Comprehensive Improvement Assistance Program (CIAP): Consultation
Office: Public and Indian Housing
Form number: None
Frequency of submission: On Occasion
Affected public: State or Local Governments
Estimated burden hours: 4,800
Status: Extension
Contact: Pris Buckler, HUD, (202) 755–5595, Robert Neal, OMB, (202) 395–7316.

Proposal: Public Housing—Contract Administration
Office: Public and Indian Housing
Form number: HUD–5371, HUD–5373, HUD–51000a, and HUD–51000b
Frequency of submission: On Occasion
Affected public: State or Local Governments
Estimated burden hours: 8,040
Status: Revision
Contact: Pris Buckler, HUD, (202) 755–5595, Robert Neal, OMB, (202) 395–7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 12, 1983.

Lea Hamilton,

Director, Office of Information Policies and Systems.

[FR Doc. 83–34774 Filed 12–30–83; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. 83–1322]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755–5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information of OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Office for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposals should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Description of Materials
Office: Housing
Form number: HUD–92005
Frequency of submission: On Occasion
Affected public: Businesses or Other For Profit
Estimated burden hours: 50,000
Status: Reinstatement
Contact: Alvin Stevenson, HUD, (202) 755–6700, Robert Neal, OMB, (202) 395–7316.

Proposal: Petition for Rulemaking
Office: General Counsel
Form number: None
Frequency of submission: On Occasion
Affected public: Individuals or Households, State or Local Governments, Farms, Businesses or Other For-Profit, Federal Agencies or Employees, Non-Profit Institutions, and Small Businesses or Organizations
Estimated burden hours: 2
Status: New
Contact: William R. Granik, HUD, (202) 755–7085, Robert Neal, OMB, (202) 395–7316.

Proposal: Schedule of Pooled Mortgages—Single Family Loans
Office: Government National Mortgage Association
Form number: HUD–11706
Frequency of submission: On Occasion
Affected public: Businesses or Other For profit
Estimated burden hours: 6,200
Status: Extension
Contact: Patricia Gifford, HUD, (202) 755–5550, Robert Neal, OMB, (202) 395–7316.

Proposal: Management Documents for Multifamily Housing Projects
Office: Housing
Form number: None
Frequency of submission: On Occasion
Affected public: Individuals or Households, Businesses or Other For profit, and Non-Profit Institutions.
Estimated burden hours: 9,016
Status: New
Contact: Judy Lemeshewsky, HUD (202) 755–6870, Robert Neal, OMB, (202) 395–7316.

Proposal: Retention of Documents—Mortgagee Letters 81–14 and 82–12
Office: Housing
Form number: None
Frequency of submission: On Occasion
Affected public: Businesses or Other For Profit
Estimated burden hours: 1
Status: New
Contact: Ann M. Sudduth, HUD, (202) 755–6672, Robert Neal, OMB, (202) 395–7316.

Proposal: Prospectus
Office: Government National Mortgage Association
Form number: HUD–1712, HUD–11712–II, HUD–1717, HUD–11717–II, HUD–1724, HUD–11728, HUD–11728–II, HUD–1731, HUD–1734, HUD–1747, and HUD–11747–II
Frequency of submission: On Occasion
Affected public: Businesses or Other For Profit
Estimated burden hours: 1,514
Status: New

Contact: Patricia Gifford, HUD, (202) 755–5550, Robert Neal, OMB, (202) 395–7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 12, 1983.

Lea Hamilton,

Director, Office of Information Policies and Systems.

[FR Doc. 83–34776 Filed 12–30–83; 8:45 am]

BILLING CODE 4210–01–M

Office of Environment and Energy

[Docket No. NI–117]

Intended Environmental Impact Statement

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is intended to be prepared under HUD programs as described in the appendix: Villages at Castle Rock, Castle Rock, Colorado. This notice is required by the Council on Environmental Quality under its rules (40 CFR Part 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning the area to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Each Notice shall be effective for one year. If one year after the publication of a Notice in the **Federal Register** a Draft EIS has not been filed on a project, then the Notice for that project shall be cancelled. If a Draft EIS is expected more than one year after the publication of the Notice in the **Federal Register**, then a new and updated Notice of Intent will be published.

Issued at Washington, D.C., December 20, 1983.

Francis G. Haas,

Deputy Director, Office of Environment and Energy.

Appendix—EIS on the Villages at Castle Rock, Town of Castle Rock, Colorado

The Department of Housing and Urban Development (HUD) Denver Regional Office intends to prepare an EIS on The Villages at Castle Rock, in the Town of Castle Rock, Colorado. The Department hereby solicits comments and information for consideration in this EIS.

Description: Thw Town of Castle Rock is located 35 miles south of Denver, Colorado on Interstate I–35. The proposed development, consisting of approximately 7,000 acres, is located approximately two (2) miles east of the Town's center extending both north and south of State Highway 86. The project's legal description is Township 8, South Range 66 West, Sections 6, 7, 8, 9, and 17; Township 7, South Range 66 West, Sections 20, 21, 22, 29, 30, 31, and 32; and Township 8, South Range 67 West, Section 1. Approximately 20,000 single-family, townhouses, condominiums and multifamily dwelling units will be constructed in this development as well as neighborhood and integrated businesses and park and recreational land uses. The project is being reviewed for acceptability under Section 203(b) of Title II of the National Housing Act of 1934, as amended. When fully developed over a ten-year period the subdivision will provide housing for approximately 60,000 persons.

Need: An EIS is proposed due to HUD threshold requirements in accordance with housing program environmental regulations and probable impact on the community of Castle Rock.

Alternatives: The alternatives are HUD participation in the development as proposed by the developer, participation in the development with modifications, or reject the proposed development.

Scoping: A general scoping meeting will not be held. HUD will request information from appropriate government agencies and service organizations. Responses to this notice will help determine potentially significant environmental issues and consequently will assist in identifying policy areas that the EIS should address.

Comments: Comments should be sent within 21 days following publication of this Notice in the **Federal Register** to: Mr. Robert J. Matuschek, Regional Director of CPD, Attn. Mr. Howard S. Kutzer, Department of Housing and Urban Development, 1405 Curtis Street, Denver, Colorado 80202.

[FR Doc. 83–34775 Filed 12–30–83; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[M–59923]

Montana; Realty Action—Exchange

AGENCY: Bureau of Land Management—Lewistown District Office, Interior.

ACTION: Notice of Realty Action M–59923, Exchange of public and private lands in Phillips County, Montana.

SUMMARY: The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Management Act of 1976, 43 U.S.C. 1716:

Principal Meridian

T. 29 N., R. 28 E.,
Sec. 25, N½/2NE¼, SW¼SW¼.
T. 28 N., R. 29 E.,
Sec. 2, Lots 3 & 4, S½NW¼;
Sec. 3, Lots 1 & 2, S½NE¼, SE¼;
Sec. 10, NE¼.
T. 29 N., R. 29 E.,
Sec. 18, Lot 2, 3 & 4, SW¼NE¼, SE¼NW¼, E½SW¼, S½SE¼;
Sec. 28, SW¼;
Sec. 30, Lot 1, NE¼, NE¼NW¼;
Sec. 33, NW¼.
T. 29 N., R. 31 E.,
Sec. 5, S½SW¼, SE¼;
Sec. 6, Lots 1, 2, 3, 5–12 S½SE¼.
T. 30 N., R. 32 E.,
Sec. 33, SE¼NW¼, NE¼SW¼, S½SW¼.

Containing 2,548.97 acres of public land.

In exchange for these lands, the United States will acquire the following described lands:

Principal Meridian, Montana

T. 31 N., R. 29 E.,
Sec. 3, Lots 2, 3, 4, SW¼NW¼;
Sec. 4, Lot 1;
Sec. 5, Lot 2, 3, 4, SE¼NW¼, NE¼SW¼.
T. 32 N., R. 29 E.,
Sec. 27, W½SW¼;
Sec. 28, SW¼NE¼, SE¼NW¼, SE¼
Sec. 31, Lot 1 (S½N½, S½), 2, 3, & 4, E½W½, E½;
Sec. 32, SW¼NE¼, NW¼NW¼, S½NW¼, N½S½, SW¼SW¼;
Sec. 33, SW¼, NE¼SE¼, W½SE¼;
Sec. 34, N½SW¼, W½SE¼.

Containing 2,139.65 acres of private lands.

DATES: For a period of 45 days from the date of this notice, interested parties may submit comment to the Bureau of Land Management, Lewistown District Office, Airport Road, Lewistown, Montana 59457. Any adverse comments will be evaluated by the BLM, Montana State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of Interior.

FOR FURTHER INFORMATION CONTACT: Information related to the exchange will be available for review at the Bureau of Land Management, Phillips Resource Area Office, 501 So. 2nd St. E., Malta, Montana 59538.

SUPPLEMENTARY INFORMATION: The publication of this notice segregates the public land described above from settlement, sale, location, and entry under the public land laws, including the mining laws but not from exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976.

The exchange will be made subject to:

1. A reservation to the United States of a right-of-way for ditches or canals in accordance with 43 U.S.C. 945.
2. The reservation to the United States of oil and gas in the lands being transferred out of Federal ownership.
3. All valid existing rights (e.g., rights-of-way, easements, and leases of record).
4. Value equalization by cash payments or acreage adjustment.
5. The exchange must meet the requirements of 43 CFR 4110.4–2(b).

This exchange is consistent with Bureau of Land Management policies and planning and has been discussed with State and local officials. The public interest will be served by completion of this exchange.

Dated: December 12, 1983.

David E. Little,

Acting District Manager.

[FR Doc. 83-34736 Filed 12-30-83; 8:45 am]

BILLING CODE 4310-DN-M

Oregon; Designation of Research Natural Areas, Outstanding Natural Areas and Areas of Critical Environmental Concern

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of designation of 35 special management areas in the Eugene, Roseburg and Salem Districts.

SUMMARY: Pursuant to the authority in the Federal Land Policy and Management Act of October 21, 1976 (Section 202(c)(3)) and 43 CFR Parts 1610, 8223 and 8351.2, I have designated lands in the following ares for special management direction. These designations were developed with public involvement in the Eugene (district-wide), Roseburg (district-wide), Westside Salem and Eastside Salem Management Framework Plans, Timber Management Evironmental Impact Statements, and Timber Management Records of Decision. These documents are available for inspection at the respective District Offices. The decisions provided for appropriate levels of management restrictions or exclusions from timber management activities and associated land use allocations. Each area has unique management requirements, however all will be managed to maintain generally undisturbed conditions. Research Natural Areas and Outstanding Natural Area uses are restricted to protest opportunities for observational activities associated with research and education or recreation. Buffer or caution zones around some areas have been designated to allow timber harvest and other activities provided primary zone values are not jeopardized.

Areas with high recreational use potential may have management plans which include construction of trailhead parking facilities, on-site interpretive facilities and appropriate measures to reduce hazards to the public. All primary zones are closed to off-road vehicles.

DATE: These decisions were included in the September 9, 1983 Westside Salem and September 30, 1983 Eastside Salem Eugene and Roseburg Timber Management Plan Records of Decisions and became final 30 days after publication.

ADDRESSES: Questions on specific management plans, research opportunities or development/protection plans should be addressed to the responsible District noted in the heading of each area. Addresses are: Joseph C. Dose, Salem District Manager, 1717 Fabry Rd., SE, P.O. Box 3227, Salem OR 97302; Melvin D. Clauson, Eugene District Manager, 1255 Pearl St., P.O. Box 10225, Eugene, OR 97401; and James E. Hart, Roseburg District Manager, 777 NW Garden Valley Blvd., Roseburg, OR 97470.

SUPPLEMENTARY INFORMATION:

Big Canyon Outstanding Natural Area, an Area of Critical Environmental Concern

280 acres of BLM-administered land in T. 2 N., R. 3 W., Sec. 5, W.M., Washington County, Salem District

This area is designated to preserve the diversity of plant communities and the high scenic value of Big Canyon, and to provide for educational and recreational use. The main fork of Big Canyon has nearly vertical walls rising to 150 feet above a canyon floor that is only 20 to 30 feet wide. The area has outstanding scenic qualities and has attracted sightseers for many years. The main stream drainage contains an unusually large variety of plant species, including a remnant stand of old-growth Douglas-fir that is more than 400 years old. This combination of old-growth forest with its associated ecosystem situated within a steep canyon is very uncommon. Professional educators use the area to study its important botanical values.

The area contains a "primary zone" covering the main fork of Big Canyon Creek and a "caution zone" encompassing adjacent BLM-administered land. Management of the primary zone will be directed toward maintaining relatively undisturbed conditions, acquiring legal public access, constructing a trailhead parking facility, providing suitable interpretive facilities, and acquiring title to or scenic easements on private lands south of Big Canyon. Management of the caution zone will permit timber harvest and other activities, provided these are carried out in such a manner that the botanical and scenic values of the primary zone are not jeopardized.

The Butte Research Natural Area, an Area of Critical Environmental Concern

40 acres of BLM-administered land in T. 4 S., R. 5 W., Sec. 19, W.M., Yamhill County, Salem District

This area is designated to preserve it's botanical values for research and educational purposes. The Butte fills the "ecotone between the Willamette Valley and Coastal Range" RNA cell and contains a wide range of distinctly defined microsites. Plants typical of both the Valley and Coast Range are represented, as are three different age classes of Douglas-fir. The west side of the area is a fine example of valley succession in a late serial phase, the south end is a dry meadow with oak, the north end is rocky and dry, and the central part contains a thick carpet of lush wet-site herbs. The Butte is a protectable example of a natural habitat that is rapidly disappearing.

The area will be managed to maintain generally undisturbed conditions, with use restricted to essentially observational activities associated with research and educational programs. All roads passing through the ACEC will be permanently closed or gated.

Little Sink Research Natural Area, and Area of Critical Environmental Concern

80 aces of BLM-administered land in T. 8 S., R. 6 W., Sec. W.M., Polk County, Salem District

This area is designated to preserve it's natural ecosystem for research and educational purposes. Little Sink was established as a Federal Research Natural Area in 1973. It is an example of a foothill Douglas-fir forest occupying an area of marine siltstone which has undergone considerable landsliding. Frequent mass soil movement has produced slump benches, scarps, basins and several ponds. Great biotic diversity within a relatively small area makes this RNA unique. It fills the "permanent slump pond on Willamette Valley margin" RNA cell. Three distinct plant communities and many microhabitats have been identified. The RNA also provides excellent habitat for wildlife including waterfowl, some of which nest in the area. Little Sink RNA is presently used for research and education. It has

been extensively studied by ecologists from Western Oregon State College and Willamette University. Many of its specialized microhabitats need further study and offer opportunities to investigate such topics as soil-vegetation changes following mass soil movements and the effects of landslides on animal populations.

The area has already been withdrawn from mineral entry and closed to off-road vehicle use and the discharge of firearms. Management will continue to maintain relatively undisturbed conditions, restricting use to essentially observational activities associated with research and education.

Saddleback Mountain Research Natural Area, an Area of Critical Environmental Concern

135 aces of BLM-administered land in T. 7 S., R. 9 W., Sec. 3 and 4, W.M., Lincoln County, Salem District

This area is designated to preserve the last remaining old-growth Pacific silver fir—western hemlock stand in public ownership in the Oregon Coast Range. The stand is the sole candidate to fill this particular RNA terrestrial cell. The ACEC consists of a 29-acre RNA to be preserved for research and educational purposes, and an additional 106 acres adjacent to it to serve as a protective buffer for the RNA. Besides Pacific silver fir and western hemlock, the RNA contains noble fir and Douglas-fir. The western hemlock and Pacific silver fir are approximatelly 400 years old, and some of the Douglas-fir is 600 years old. The Pacific silver fir is a relict population near the southern extent of its distribution in the Coast Range. This population has been reproductively isolated for centuries and could be quite distinct genetically. The noble fir has also been isolated, probably for the same length of time, and may also be genetically unique.

The 29-acre RNA will be managed to maintain generlly undistrubed conditions, with use restricted to essentilly observational activities associated with research and educational programs. Salvage of windthrown timber and some other activities will be permitted in the adjacent 106-acre buffer area, provided these activities do not jeoparidize the botanical values of the RNA.

Lost Praire Area of Critical Evironmental Concern

60 aces of BLM-administered land in T. 7 S., R. 9 W., Sec 2, W.M., Lincoln Country, Salem District

This area is designated to preserve it's diversity of plant species for research and educational purposes and to preserve its habitat diversity for wildlife. This area is one of the few natural high elevation sphagnum peat bogs in western Oregon. Considered rare, the "prairie" is a continuous soggy-wet expanse of sphagnum moss with a meadow-like covering of sedge, herbs and wildflowers, one of which (*Anemone oregana* var. *felix*) is a candidate for Federal listing as a threatened species. "Islands" of beargrass, huckleberry and western white pine are scattered throughout the bog. The highest islands and edge areas support stands of western redcedar and western hemlock with a Pacific rhododendron understory. The bog, pond, snag and riparian habitat in this small area, with its diversity of plants and aminals, makes Lost Prairie a unique ecosystem. It offers nesting and feeding areas for a number of amphibians, wetland birds and wildlife such as deer and elk.

The area will be managed to allow natural regeneration and maintain natural conditions, with use restricted to essentially observational activities associated with research and educational programs. Management criteria and recovery plan techniques will be developed for *Anemone oregana* var. *felix* in its Oregon range.

Rickreall Ridge Area of Critical Environmental Concern

175 acres of BLM-administered land in T. 7 S., R. 7 W., Sec. 27, 33 and 34, W.M., Polk County, Salem District

This area is designated to preserve it's ecological values for research and educational purposes. Rickreall Ridge is distinctive in supporting a wide variety of plant species within a relatively small area. Several Willamette Valley species reach their upper elevational limits here, and typical Coast Range plants can be found here also. The area harbors some plants and animals that are more characteristic of southwestern Oregon and appears to be a refuge for species that had spread northward during a past warmer and drier climatic period. Several studies are presently being conducted on Rickreall Ridge by researchers from Western Oregon State College.

The ACEC consists of a "primary zone" of 80 acres surrounded by a 95-acre "caution zone." The primary zone will be managed to allow natural revegetation and maintain natural conditions, with use restricted to essentially observational activities associated with research and educational programs. Timber harvest and other activities will be permitted within the caution zone, providing they are carried out in such a manner that the ecological values of the primary zone are not jeopardized.

Little Grass Mountain Outstanding Natural Area, an Area of Critical Environmental Concern

42 acres of BLM-administered land in T. 9 S., R. 7 W., Sec. 31, W.M., Polk County, Salem District

This area is designated to protect it's botanical, wildlife and scenic values and provide for public visitation. The relatively undisturbed natural setting atop this peak is recognized for its open grass/fern bald complex, a feature found atop only a few other peaks in Oregon's Coast Range. The complex has widely dispersed pockets of conifers within it and is bordered by unaltered conifer forest. The area is noted for its attractive spring and early summer vegetation colors and its stark visual contrasts of vegetation types. The summit provides excellent panoramic views of the Coast Range, Willamette Valley and Cascade Range. Oregon State lands adjacent to the ACEC are presently managed as important summer range habitat for recently introduced elk. The ACEC complements this important habitat.

The area will be managed to maintain relatively undisturbed conditions. Actions will include construction of a trailhead parking facility development of on-site interpretive facilities, closure to off-road vehicle use and acquisition of legal public access.

Yaquina Head Outstanding Natural Area, an Area of Critical Environmental Concern

80 acres of BLM-administered land in T. 10 S., R. 11 W., Sec. 28 and 30, W.M., Lincoln County, Salem District

This area is designated to protect its scenic, wildlife and botanical values for public education and enjoyment and to reduce critical safety hazards. Yaquina Head is a rocky coastal headland that is one of the outstanding natural and scenic features of the Oregon coast. In recognition of its special values, the United States Congress passed Pub. L. 96–199 establishing the Yaquina Head Outstanding Natural Area on March 5, 1980. The Oregon Coastal Conservation and Development Commission describes Yaquina Head as a resource having potential for exceptional coastal experience and a landscape of statewide and/or national concern.

The area is covered by a complex mixture of herb- and shrub-dominated plant communities supported by a unique variety of micro-habitats. Two plant species within the ACEC are

considered uncommon and of special interest. These are Alaska rein orchid (*Habenaria greenei*) and sea kale (*Crambe maritima*). Botanists generally agree that the Alaska rein orchid is threatened by coastal development and urbanization. The sea kale, a native species of coastal Europe, is extremely rare in North America and may have been introduced by one of the early sailing ships.

Steep cliffs and remote rock outcrops around the headland provide crucial nesting sites for several species of marine birds. These rocks also provide resting areas for numerous other migrating and coastal wintering birds including the endangered brown pelican.

The ACEC's near-vertical cliffs and steep-walled quarry areas create hazardous conditions for visitors. Existing trails and fences frequently direct people toward, rather than away from, hazards. With an estimated 125,000 people annually visiting the headland during the primary recreation use season, the problem is critical.

The area will be managed to conserve natural values, rehabilitate existing quarry areas, provide visitor facilities, and reduce hazards by installing appropriate fencing, guardrails and signs. To ensure that the ACEC's values are not jeopardized, cooperative agreements will be developed with other government agencies having direct management responsibilities affecting the area.

Valley of the Giants Outstanding Natural Area, an Area of Critical Environmental Concern

47 acres of BLM-administered land in T. 7 S., R. 8 W., Sec. 19 and 30, W.M., Polk County, Salem District

This area is designated to preserve a stand of 400- to 600-year-old Douglas-fir and hemlock trees and provide for public visitation. Valley of the Giants was established as an Outstanding Natural Area in 1976. Many of the Douglas-fir in this area are over 20 feet in circumference, and three of them are over 30 feet. The largest, blown down in a windstorm in 1981, was more than 35 feet in circumference and was believed to be the second largest Douglas-fir in Oregon. The exceptionally large size of the trees has generated considerable concern for their protection. The area also provides habitat for may species of wildlife, including the northern spotted owl.

Management of the area will be directed toward maintaining relatively undisturbed conditions, acquiring legal public access, improving the trailhead parking facility, improving the existing trail system, providing interpretative facilities and closing the area to off-road vehicle use.

High Peak-Moon Creek Research Natural Area, an Area of Critical Environmental Concern

1,525 acres of BLM-administered land in T. 2 S., R. 8 W., Sec. 32 and 33; T. 3S., R. 8 W., Sec. 3–6, 8 and 9, W.M., Tillamook County, Salem District

This area is designated to preserve a stand of old-growth western hemlock and Douglas-fir, the last major concentration of western hemlock zone old-growth from 10 miles south of Mt. Hebo to the north end of the old Tillamook Burn. Some of the Douglas-fir is over 500 years old and very large. The stand is representative of typical Douglas-fir/western hemlock/swordfern communities, which are becoming increasing rare in the Coast Range.

The area contains young-growth coastal Douglas-fir stands in a wide range of aspects, slopes and elevations, which fill the "Douglas-fir/swordfern community, 100 to 150 years old" RNA cell. The southwest portion of the ACEC includes streams dominated by red alder and bigleaf maple, with old-growth Douglas-fir, western hemlock and western redcedar growing higher up on the streambanks. This area fills the "riparian hardwoods-streamside forest on third to fifth order stream at low elevation" RNA cell. The ACEC also contains scattered populations of weak bluegrass (*Poa marcida*), a candidate for Federal listing as a threatened species.

The ACEC will be managed to maintain generally undisturbed conditions, with use restricted primarily to observational activities associated with research and educational programs.

Elk Creek Bald Eagle Area of Critical Environmental Concern

1,655 acres of BLM-administered land in T. 3 S., R. 7 W., Sec. 8, 9, 16, 17, 20, 21 and 28, W.M., Tillamook County, Salem District

This area is designated to protect nesting and roosting habitat for a pair of bald eagles, Federally listed as threatened. Eagles have nested in this vicinity since 1970, successfully fledging young in 8 of the last 10 years. This is the only active nest site in the Salem District.

The ACEC contains a 356-acre "primary zone" surrounded by "secondary" and "tertiary" zones. The primary zone will be managed to maintain undisturbed conditions year-round. Human entry will be limited and low level aircraft operation will be restricted from January 1 through August 15. In the secondary and tertiary zones, undisturbed conditions will be maintained and low level aircraft operation will be restricted from January 1 through August 15.

Sheridan Park Area of Critical Environmental Concern

305 acres of BLM-administered land in T. 3 S., R. 6 W., Sec. 20, 29 and 30, W.M., Tillamook and Yamhill Counties, Salem District

This area is designated to preserve enough habitat for weak bluegrass (*Poa marcida*) to ensure its continued survival in the Sheridan Peak-Bald Mountain area. *Pao marcida* has been recommended for inclusion on the Federal list of threatened species. It occurs in concentrated patches and in widely scattered locations throughout this ACEC. Very few sites of the plant are known elsewhere in Oregon. The BLM has carried on a research project on the species since 1979, focusing on the Sheridan Peak-Bald Mountain area because of the quantity of populations in that area and the diversity of the micro-habitats in which they occur.

A 160-acre "primary zone" within the ACEC containing concentrated *Poa marcida* populations will be managed to maintain generally undisturbed conditions, with use restricted to essentially observational activities. An additional 145-acre "secondary zone" will be managed for multiple resource activities, including timber harvest, within a research framework whereby the effects of these activities on *Poa marcida* will be studied. *Poa marcida* study plots established by BLM botanists in the secondary zone will be protected until ongoing studies are completed. Individual *Poa marcida* plants in the secondary zone will be protected on a case-by-case basis where practical and where such protection would not preclude timber harvest.

Nestucca River Area of Critical Environmental Concern

5,280 acres of BLM-administered land in T. 3 S., R. 6 W., Sec. 7, 17–19; T. 3 S., R. 7 W., Sec. 12, 13, 21–29 and 32–35; T. 4 S., R. 7 W., Sec. 5, W.M., Tillamook County, Salem District

This area is designated to protect, and in some cases enhance, it's important scenic, fisheries, wildlife and botanical values, while providing for recreational use and harvest of its timber resources. The scenic quality of the area is designated Class A with a high visual sensitivity level. Seen from the Nestucca River Access Road, the river corridor exhibits a thick, largely unaltered coniferous canopy covering steep

canyon walls. The river flows over a rocky bottom exposing white water and rock outcrops along the river and a wide variety of vegetation including Douglas-fir, hemlock, red alder, bigleaf maple, vine maple and scattered cedar. That portion of the Nestucca River within the ACEC has been proposed as a State Scenic River and is also a potential candidate for a component of the National Wild and Scenic Rivers program.

The river supports five species of game fish which are valuable commercial and recreational resources. It is the primary spawning grounds for steelhead, coho and chinook salmon. During 1978–1980, the river produced the second highest populations of steelhead in the State. Bald eagles, on the Federal list of threatened species, forage and roost along the river. The ACEC also contains key habitat for the northern spotted owl, a State listed threatened species.

The ACEC contains five plant species of special interest. These are fringed pinesap (*Pleuricospora fimbsiolata*), gnome plants (*Hemitomes cogestum*), calypso orchids (*Calypso bulbosa*), phantom orchids (*Eburophyton austiniae*) and weak bluegrass (*Poa marcida*). Weak bluegrass is a candidate for Federal listing as a threatened species, while fringed pinesap and gnome plants are under review for State and Federal listing. The calypso orchids and phatom orchids are being monitored in accordance with guidelines of the Oregon State Natural Heritage Program.

The ACEC contains a 1,160-acre "primary zone" along the river surrounded by a 4,120-acre "caution zone." Management of the primary zone will be directed toward protecting and enhancing fish and wildlife habitat, preserving scenic values, upgrading existing recreation sites, rehabilitating existing rock quarries, constructing recreation trails, and prohibiting the use of motorized vehicles off of designated access roads. The caution zone will be managed for multiple resource use including timber harvesting, but measures will be taken to reduce conflicts with nearby fisheries, scenic and recreational values. Recreational use of motorized vehicles in the caution zone will be limited to designated access roads.

Mary's Peak Outstanding Natural Area, an Area of Critical Environmental Concern

105 acres of BLM-administered land (four separate parcels) in T. 12 S., R. 7 W., Sec. 20, 28 and 29, W. M. Benton County, Salem District

This area is designated to protect portions of a meadow and a unique rock garden containing xeric and subalpine plant species. Located on the highest point of the Oregon Coast Range, the area fosters plant species usually found only at higher elevations and latitudes, along with species commonly of the Willamette Valley and sites east of the Cascade Range. Noble fir stands adjacent to the meadow are within the southern-most range of their natural distribution within the Coast Range. Commanding panoramic views are available from several summit viewpoints. The area's proximity to and accessibility from population centers make it an important and popular sightseeing area. The four parcels in the ACEC are located within the boundaries of a U.S. Forest Service Scenic-Botanical Special Interest Area (SBA). Several special values were identified as criteria for designation of the SBA, all of which exist on the BLM parcels. Preservation of the values and integrity of the SBA depends in large part on BLM management.

The ACEC will be managed to maintain relatively undisturbed conditions. A cooperative agreement with the U.S. Forest Service will be developed to ensure that mutual management objectives are met.

Grass Mountain Research Natural Area, an Area of Critical Environmental Concern

730 acres of BLM-adminstered land in T. 13 S., R. 8 W., Sec. 17, 20, 21 and 29, W. M., Benton County, Salem District

This area is designated to preserve the botanical values which fill four RNA cells. The area includes a grass bald complex and 75- to 100-year-old noble fir and Douglas-fir forests. The grass balds and the presence of noble fir near the southern extent of its range are of significance to the scientific community as is the presence of an old burn site with Douglas-fir regrowth 25 to 50 years old. The area is a favorable site for conducting research and educational programs involving the structure and succession of various plant communities, four of which have been identified in the grass balds alone. It fills the RNA terrestrial cells described as "grass bald on Coast Range Mountain," "rock garden community on Coast Range Mountain," "Douglas-fir 25 to 50 years old on old burn site," and "headwaters of high elevation stream with noble fir or Pacific silver fir forest."

The area will be managed to maintain generally undisturbed conditions, with use restricted to essentially observational activities associated with research and education. All roads extending into the ACEC will be permanently closed or gated.

Williams Lake Area of Critical Environmental Concern

90 acres of BLM-administered land in T. 5 S., R. 4 E., Sec. 26, W. M., Clackamas County, Salem District

This area is designated to protect the Williams Lake and bog ecosystem, the best example within the District of a Cascadian massive seep-formed lake undergoing peat bog/quaking bog succession. Plant communities at the bog have specialized, adapting to the geographic and hydrographic systems which have formed the lake. The water for the lake is provided solely by an extensive series of seeps 50 to over 125 feet wide and reaching to within 150 feet of the ridgetop surrounding the lake. Specialized micro-habitats for plants of special interest are found on the wet seep slopes for *Isopyrum halii*, the bog fringes for *Parnassia fimbriata*, and small seep drainages for *Lycopodium inundatum*. *Lycopodium inundatum* is a State-listed threatened species. The interrelationships between present plant communities, the geology and hydrography, and the surrounding forests from which the seeps flow form a rare habitat complex with significant botanical values.

The ACEC contains a "primary zone" including the lake and slopes draining to it, and an adjacent "caution zone" which provides a buffer against windthrow. The primary zone will be managed to maintain generally undisturbed conditions. The caution zone will be managed for multiple resource use including timber harvest, provided such activities are conducted in such a manner that primary zone values are not jeopardized. No more than 10 percent of the timber in the caution zone will be harvested per decade.

Soosap Meadows Area Critical Environmental Concern

400 acres of BLM-administered land in T. 5 S., R. 4 E., Sec. 36; T. 6 S., R. 4 E., Sec. 1; T. 6 S., R. 5 E., Sec. 6, W.M., Clackamas County, Salem District

This area is designated to protect the only large, undisturbed expanse of natural Cascadian subalpine meadows in the District. These pristine meadows at the headwaters of Dead Horse Canyon are in a bowl-shaped area, the result of a glacial moraine which originally prevented runoff from flowing down the drainage. Through time, streams have cut through the moraine and have left behind a unique and

diverse remnant of natural subalpine habitat. The undisturbed ecology has fostered populations of three plants of special interest: *Parnassia fimbriata, Hemitomes congestum* and *Isopyrum halli. Hemitomes congestum* is being reviewed for State and Federal listing as a threatened species.

The ACEC contains a "primary zone" encompassing the meadow area, surrounded by a "caution zone." The primary zone will be managed to maintain relatively undisturbed conditions, with use restricted to essentially observational activities associated with research and education. The caution zone will be managed for multiple resource use including timber harvest, provided such activities are conducted in such a manner that primary zone values are not jeopardized. No more than 10 percent of the timber in the caution zone will be harvested per decade.

Sandy River Gorge Outstanding Natural Area, an Area of Critical Environmental Concern

400 acres of BLM-administered land (three parcels) in T. 1 S., R. 4 E., Secs. 23 and 25, W.M., Multnomah and Clackamas Counties, Salem District

This area is designated to preserve it's scenic, botanical and other natural values for public education and enjoyment. The ACEC is within the Sandy River State Scenic Waterway, and approximately 85 percent of it is visible from the river. The 6½-mile segment of roadless river gorge containing the BLM-administered parcels is in a near-pristine condition with few adverse visual intrusions. The nearly vertical walls of the gorge rise to over 400 feet in elevation and support a wide variety of plant communities. Ancient river terraces add an integral component to the river environment's fragile setting and outstanding scenic qualities.

Five river terraces on two of the ACEC parcels harbor an exceptionally rare example of low elevation, old-growth Douglas-fir forest. Some of the conifers are reportedly over 500 years old. Covering approximately 170 acres on both sides of the river, this remnant old-growth stand is the only known example of its kind in northwestern Oregon.

The ACEC will be managed to maintain relatively undisturbed conditions. BLM will cooperate with public agencies and adjacent landowners in developing the Oregon State proposed Sandy River Gorge Trail and will provide interpretive facilities along the trail. Motorized vehicle use will be limited to the surfaced road on the upper terrace of the ACEC.

Columbia River Gorge Area of Critical Environmental Concern

900 acres of BLM-administered land (four parcels) in T. 1 N., R. 4 E., Secs. 29 and 30; T. 1 N., R. 5 E., Secs. 13, 14, 21, 22, 27, 28, 29 and 32, W.M., Multnomah County, Salem District

This area is designated to assist the Oregon State Columbia River Gorge Commission in preserving the scenic, recreational and natural resource values of the gorge. Precipitous basaltic cliffs, some with majestic waterfalls over 400 feet high, basaltic outcrops, steep slopes and tributary drainages displaying highly diverse and colorful vegetation combine to establish the gorge as one of the most scenic areas in the State. The ACEC parcels are designated Scenic Quality Class A with a high visual sensitivity level. All four parcels adjoin State park- or U.S. Forest Service-administered lands and are vital to the preservation of the resource values associated with all publicly-owned lands in the gorge.

The ACEC parcels share in harboring over 200 plant species, including unusual populations of aspen, Sitka alder and scrub white oak. Long-bearded hawkweed (*Hieracium longeberbe*) and Howell's reedgrass (*Calamagrostis howellii*), plants on the State list of threatened and endangered species, are found at one location in the ACEC.

The area will be managed to maintain relatively undisturbed conditions. The BLM will cooperate with other public agencies in developing the Columbia River Gorge trail and will assist in maintaining the existing trail system. Motorized vehicle use will be limited to presently maintained roads, and no new roads will be developed outside existing rights-of-way.

Table Rock Area of Critical Environmental Concern

6,000 acres of BLM-administered land in T. 7 S., R. 3 E., Sec. 12–14; T. 7 S., R. 4 E., Sec. 7–10, 15–22, 27 and 28, W.M., Clackamas County, Salem District

This area is designated to protect its scenic, cultural and botanical values for public education and enjoyment. The area represents one of the last remnants of undeveloped forest lands within the Molalla River drainage. It contains numerous high quality resource values within a relatively small area. The varied topography of the area with its geological stratifications, high relief features and vegetative variety combine to creat spectacular panoramas and large areas of unaltered foreground views. The ACEC contains an outstanding diversity of plant species, resulting from the presence of four distinct vegetation zones within a short vertical sequence of geologic features. Specialized micro-habitats within the ACEC support Gorman's aster (*Aster gormanii*), a candidate for the Federal list of threatened species, and fringed pinesap *(pleuricospora fimbriolata)* which is under review for State and Federal listing. An 8½-mile trail, extending the length of the ACEC's main ridgelines, is a segment of a once more extensive trail system used from prehistoric times until the present day. The trail has been determined eligible for inclusion in the National Register of Historic Places. A portion of the ACEC, consisting of approximately 1, 745 acres, is being designated an Outstanding Natural Area.

The ACEC contains a "primary zone" and an adjacent "caution zone." The primary zone, encompassing the trail and Outstanding Natural Area, will be managed to maintain relatively undisturbed conditions with use restricted to essentially observational activities. The trail and trailhead parking facilities will be improved, and maintained roads will be gated to restrict public motor vehicle use within the primary zone. The caution zone will be managed for multiple resource use, including timber harvest, with consideration for the resource values of the primary zone. To protect scenic values, no more than 10 percent of the timber in the caution zone will be harvested per decade. The size of clearcuts observable from key observation points along the trail will be limited to 15 acres, and no new rock quarries will be developed in locations observable from these key observation points. Timber will be harvested with aerial methods when feasible.

Middle Santiam Terrace Area of Critical Environmental Concern

80 acres of BLM-administered land in T. 12 S., R.4 E., Sec. 19, W.M., Linn County, Salem District

This area is designated to protect an outstanding example of an old (400+ years) western hemlock and Douglas-fir climax forest ecology. The area represents a forest type described as "moist, temperate river terrace forest with Douglas-fir, western hemlock, western redcedar and associated hardwoods" and has been recommended for protection by Oregon State University scientists for over 10 years. The high consistency of old western hemlock in this stand indicates that this ecosystem has been developing

for a very long time, perhaps 800 to 1,000 years, and is now approaching a dynamic equilibrium.

The area will be managed to maintain relatively undisturbed conditions, with use restricted to essentially observational activities associated with research and education. The road passing through the ACEC will be closed or gated.

Carolyn's Crown Research Natural Area, an Area of Critical Environmental Concern

260 acres of BLM-administered land in T. 11 S., R. 3 E., Sec. 8, 9 and 17, W.M., Linn County, Salem District

This area is designated to protect a rare example of very old Douglas-fir, western redcedar and western hemlock forest. The high proportion of western redcedar in the stand and the extreme age of the canopy trees (400 to 600 years old) are of particular significance. Botanically interesting is the almost complete lack of Douglas-fir in the understory. The topography and vegetation of the area has been strongly influenced by glacial activity during the last ice age. The ACEC fills the terrestrial RNA cell described as near-climax old-growth Douglas-fir, western redcedar and western hemlock forest in a glaciated cirque with glaciation phase plant ecology. Three plants of special interest are found in the drainages, including Anderson's shield fern *(Polystichum andersonii)*, Hall's isopyrum (*Isopyrum halii)*, and Washington lilies (*Lolium washingtonianum)*. Northern spotted owls, on the State threatened species list, inhabit the older forest within the ACEC.

The area will be managed to maintain generally undisturbed conditions, with use restricted to essentially observational activities associated with research and education. The area will be closed to off-road vehicle use.

Fox Hollow Research Natural Area, an Area of Critical Environmental Concern

160 acres of BLM-administered lands in T. 19 S., R. 4 W., Sec. 9., W.M., Lane County, Eugene District

This area is designated to preserve its botanical values for research and education. The site is the only identified area with a "dry-site Douglas-fir forest exhibiting contrasting vegetational patterns on north and south aspect slopes in a Willamette Valley foothill setting." Designation is necessary to preserve an undisturbed example of a major ecosystem type of great significance.

The area will be managed to maintain generally undisturbed conditions, with use restricted to essentially observational activities associated with research and education. The area is closed to off-road vehicle use.

Camas Swale Research Natural Area, an Area of Critical Environmental Concern

280 acres of BLM-administered lands in T. 19 S., R. 4 W., Sec. 25, W.M., Lane County, Eugene District

This area is designated to preserve its botanical values for research and education. The site's importance is its combination of a dry-site Douglas-fir forest in a Willamette Valley setting, dry meadow plant communities and examples of forest/meadow succession. The area has been considered for years as an established integral part of the Pacific Northwest RNA system.

The area will be managed to maintain generally undisturbed conditions, with use restricted to essentially observational activities associated with research and educational programs. The area is closed to off road vehicle use.

Mohawk Research Natural Area, an Area of Critical Environmental Concern

290 acres of BLM-administered lands in T. 16 S., R. 2 W., Sec. 19, W.M., Lane County, Eugene District

This area is designated to preserve its botanical values for research and education. The site has been identified as an important cell in the Federal RNA program: A Douglas-fir/Western hemlock forest on Willamette Valley foothills. The three age classes of Douglas-fir; the distinct differences between plant communities present and those to the east, south and west; and the presence of the wet sedge/alder meadow in the center of the tract are also notable.

The area will be managed to maintain essentially disturbed conditions, with use restricted to essentially observational activities associated with research and education. The area is closed to off-road vehicle use.

Upper Elk Meadows Research Natural Area, an Area of Critical Environmental Concern

200 acres of BLM-administered lands in T. 23 S., R. 2 W., Sec. 35, W.M., Douglas County, Eugene District

This area is designated to preserve its botanical and wildlife values for research and education. This open, wet meadow is a biological crossroads where valley and mountain, Coast and Cascade Range species have intermingled. Over 200 species of vascular plants have been identified on the site, including two which are candidates for listing as Treatened by the U.S. Fish and Wildlife Service. Unusual associations of plant communities provide unique extension of wildlife habitat usually found in higher elevations of the Cascade Range.

The area will be managed to maintain generally undisturbed conditions, with use restricted to essentially observational activities associated with research and education. The area is closed to off-road vehicle use.

Lake Creek Falls, an Area of Critical Environmental Concern

3 acres of BLM-administered lands in T. 16 S., R. 7 W., Sec. 19, W.M., Lane County, Eugene District

This area is designated to reduce a natural hazard that has caused several injuries and deaths. Several thousand visitors are attracted each year to this natural site and its scenic waterfall, algae-covered rockslide and large swimming pools. Natural cliff and overhanging trees invite daredevil diving into pools concealing sharp boulders. Slippery walking conditions and unstable log jams also present hazards. In addition, visitors must hike to the site along a narrow, curving highway.

The area will be managed to reduce hazards to recreationists, with measures to increase safety both at the site and on the route approaching the site.

Horse Rock Ridge, an Area of Critical Environmental Concern

190 acres of BLM-administered lands in T. 15 S., R. 2 W., Sec. 1, W.M., Lane County, Eugene District

This area is designated to preserve outstanding botanical, scenic, wildlife and cultural values. Although its soils are thin and dry, this large, grassy bald supports a diversity of flora in unique mixture of lowland and alpine types. The prominent geological feature of Horse Rock offers panoramic views of the Coastal Range to the west and the higher peaks of the mid-Cascade Range to the east. Combined with significant cultural resource and wildlife habitat values, this site offers unique recreational and educational opportunities.

The area has been designated as closed to off-road-vehicle use. It will be managed to maintain generally undisturbed conditions, with use restricted to essentially observational activities associated with non-consumptive recreation, research and education.

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Long Tom, an Area of Critical Environmental Concern

8 acres of BLM-administered lands in T. 16 S., R. 5 W., Sec. 33, W.M., Lane County. Eugene District

This area is designated to preserve botanical and wildlife values. The site is an example of the pre-settlement Willamette Valley oak and grassland matrix that has all but disappeared due to agricultural and urban development. The site supports nearly 100 species of vascular plants, most of which are native, and critical habitat for four plants. One plant is a candidate species for listing as Endangered by the U.S. Fish and Wildlife Service. The area also provides unique habitat for a vertebrate community within a relict floristic type.

This area will be managed to maintain generally undisturbed conditions, with use restricted to essentially observational activities associated with research and education. The area is closed to off-road vehicle use.

North Umpqua River Recreation and Scenic Area, an Area of Critical Environmental Concern

1,620 acres of BLM-administered land in a corridor from approximately 1 mile below Rock Creek upstream to the USFS boundary (approx. ½ mile wide and seven miles long). T. 26 S., R. 3 W., Sec. 1, 11; T. 26 S., R. 2 W., Secs. 7, 13, 14, 17, 21, 22, 23, 24, W.M., Douglas County, Roseburg District

This area is designated to preserve and enhance its recreation opportunities, scenic quality, fish and wildlife habitat, natural systems and processes (particularly riparian and old growth ecosystems). The area is nationally recognized for its steelhead and salmon fishery and contains well established scenic values. It was considered for designation as a State scenic waterway in 1980, and has been recommended for inclusion in national wild, scenic or recreational rivers system through 1980 bill H.R. 8096. It includes important habitat for anadromous and resident fish species, as well as riparian habitat. It is within a State of Oregon designated scenic area and contains some of the highest scenic values in the District. It contains existing and potential recreation sites and trails. Further details will be developed in a specific management plan, currently being prepared.

Brad's Creek Wildlife Area, an Area of Critical Environmental Concern

137 acres of BLM-administered land in T. 23 S., R. 7 W., Sec. 15, W.M., Douglas County, Roseburg District

This area is designated to protect the habitat of a federal threatened species. The area is valuable for its prime habitat involving an old growth forest community suitable in structure for both nesting, rearing and hiding cover of bald eagle and other cavity dwelling wildlife. The area is in close proximity to a slow water section of the Umpqua River, created by a natural dam in river bedrock, which provides a high value forage area for eagles. Anadromous fish serve as a primary food source (shad, steelhead, salmon) for the eagles. Further management details will be addressed in a Habitat Management Plan, scheduled for completion in 1985.

Golden Bar Wildlife Area, an Area of Critical Environmental Concern

217 acres of BLM-administered land in T. 25 S., R. 7 W., Sec. 9, 10, 15, 17, W.M., Douglas County, Roseburg District

This area is designated to protect the habitat of a federal threatened species. The area contains an old growth forest community suitable in structure for nesting, rearing and hiding cover for bald eagle, osprey and other cavity dwelling wildlife. It is in close proximity to a slack water section of the Umpqua River, which provides high value forage area for eagle. Anadromous fish serve as a primary food source (shad, steelhead, salmon). Further mangement details will be addressed in a Habitat Management Plan, scheduled for completion in 1985.

Tater Hill Landslide Research Natural Area, an Area of Critical Environmental Concern

169 acres of BLM-administered land in T. 29 S., R. 2 W., Sec. 6, 7; T. 29 S., R. 3 W., Sec. 1, W.M., Douglas County, Roseburg District

This designation is made to protect the natural systems and processes in an area of high geologic instability. The area involves an active landslide within a geologic setting comprised of pyroclastic volcanic rocks, primary basalt flows, small amounts of tuffaceous sediments and massive light colored ashflow tuffs. The area is highly unstable, includes fragile soils and provides an excellent example of mass wasting as well as unique botanical features. Several stages of terrestrial plant succession are represented, along with an aquatic environment, confined to one small slump pond, largely in an undisturbed environment.

Although not currently an identified cell in the Research Natural Area needs book, the Pacific Northwest RNA committee has recommended special cell designation for the area, based on their field review. Further details will be addressed in a specific management plan, scheduled for completion in early 1984.

North Myrtle Creek (Slideover) Research Natural Area, an Area of Critical Environmental Concern

240 acres of BLM-administered land in T. 28 S., R. 4 W., Sec. 33, W.M., Douglas County, Roseburg District

This designation is made to preserve its natural systems and processes for research and education. This area fills the coniferous forest mixture in the Umpqua River Valley RNA cell. A district staff report notes the area contains populations of (*Phacelia verna*) a candidate federal threatened plant species (*Viola ocellata*), a BLM listed sensitive plant species.

The area will be managed to maintain generally undisturbed conditions, with use restricted primarily to observational activities associated with research and educational programs. Further details will be included in a specific management plan, scheduled for completion in 1984.

Little River Rock Arch, an Outstanding Natural Area

15 acres of BLM-administered land in T. 27 S., R. 2 W., Sec. 6, W.M., Douglas County, Roseburg District

The area is characterized by several unusual rock pillars nearly 200 feet in height which form a natural bridge or arch. They are located in a steep timbered environment which supports a variety of vegetation and enhances the scenic quality surrounding the natural geologic feature.

Management of the area will be directed toward maintaining relatively undisturbed conditions to protect the scenic values and provide for public visitation. Further details will be included in a specific management plan for the area, scheduled for completion in early 1985.

Dated: December 16, 1983.

William G. Leavell,

Oregon State Director.

[FR Doc. 83-34754 Filed 12-30-83; 8:45 am]

BILLING CODE 4310-33-M

Colorado; Filing of Plats of Survey

December 19, 1983.

The plats of survey of the following described lands were officially filed in the Colorado State Office, Bureau of

Land Management, Denver, Colorado, effective 10:00 a.m., December 19, 1983.

The plat representing the dependent resurvey of a portion of the west boundary and subdivisional lines, and the survey of the subdivision of certain sections in T. 42 N., R. 11 W., New Mexico Principal Meridian, Colorado, Group No. 713, was accepted November 30, 1983.

The plat representing the dependent resurvey of a portion of the subdivisional lines and the survey of the subdivision of section 32 and 34, T. 43 N., R. 11 W., New Mexico Principal Meridian, Colorado, Group No. 713, was accepted November 30, 1983.

These surveys were executed to meet certain administrative needs of the U.S. Forest Service.

The protraction diagram of the following described lands approved December 1, 1983, will be officially filed in the Colorado State Office, Bureau of Land Management, Denver, Colorado, effective February 8, 1984.

Protraction Diagram No. 38, prepared to delineate the remaining unsurveyed public lands in T. 39 N., R. 13 W., New Mexico Principal Meridian, Colorado, was approved December 1, 1983.

This diagram was prepared to meet certain administrative needs of this Bureau.

All inquiries about these lands should be sent to the Colorado State Office, Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202.

Kenneth D. Witt,

Chief Cadastral Surveyor for Colorado.

[FR Doc. 83-34747 Filed 12-30-83; 8:45 am]

BILLING CODE 4310-84-M

Elko District Grazing Advisory Board; Meeting

In accordance with the Federal Advisory Committee Act and the Federal Land Policy and Management Act, notice is hereby given that the Elko District Grazing Advisory Board will meet on January 31, 1984. The meeting will start at 10:00 a.m. at the Ranch Inn, 852 Idaho Street, Elko, Nevada.

The agenda for the meeting will include: (1) Reorganization of the Board; (2) update on FY 1983 range improvement projects; (3) discussion of proposed FY 1984 range betterment funds and expenditures; (4) update on selective management criteria; (5) review of allotment management plans.

The meeting is open to the public. Interested persons may make oral statements to the Board between 1:30 p.m. and 2:00 p.m. or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, BLM, 2002 Idaho Street, Elko, Nevada 89801, by January 23, 1984. Depending on the number of persons wishing to make oral statements, a per person time limit may be established.

Summary minutes of the Board meeting will be maintained in the District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

Rodney Harris,

District Manager.

[FR Doc. 83-34746 Filed 12-30-83; 8:45 am]

BILLING CODE 4310-84-M

[I-20452-ILM]

Idaho Falls District Advisory Council; Meeting

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Meeting of the Idaho Falls District Advisory Council.

SUMMARY: The Idaho Falls District Advisory Council will meet February 1, 1984. Notice of this meeting is in accordance with Pub. L. 91-463, Pub. L. 94-579, Pub. L. 95-514 and 43 CFR Part 1780. The meeting will begin at 9 a.m. at the BLM District Office, 940 Lincoln Road in Idaho Falls.

The Council will discuss two topics:

1. The Medicine Lodge Resource Area's Resource Management Plan.

2. Proposed prescribed burns on the Edie Bench.

The meeting is open to the public. Interested persons may make oral statements to the Council between 1 p.m. and 1:30 p.m., or may file written statements for the Council's consideration. Statements should address agenda items. Depending on the number of persons wanting to make oral statements, a per-person time limit may be established.

Summary minutes of the meeting will be kept in the District Office and will be available for public inspection and reproduction during business hours (7:45 a.m. to 4:30 p.m.) at least 30 days after the meeting.

FOR FURTHER INFORMATION CONTACT: Julia Corbett (202) 529-1020.

Dated: December 20, 1983.

O'dell A. Frandsen,

District Manager.

[FR Doc. 83-34767 Filed 12-30-83; 8:45 am]

BILLING CODE 4310-84-M

[I-19496]

Realty Action; Idaho Falls District; Exchange of Public Lands

The following described lands have been examined and determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1716:

Boise Meridian

T. 5 S., R. 39 E.,
Sec. 27; SE¼SE¼;
Sec. 34; NE¼NE¼;
T. 8 S., R. 46 E.,
Sec. 9; SW¼NE¼;
Sec. 20; NE¼NE¼; W½NE¼, W½SE¼;
Sec. 33; SE¼NW¼;
Sec. 34; W½SW¼.
T. 9 S., R. 46 E.,
Sec. 19; NE¼SE¼.

The above contains 480 acres.

In exchange for these lands, the Federal Government will acquire a tract of non-Federal land in Bonneville County from J.R. Simplot Company, described as follows:

Boise Meridian

T. 4 S., R. 43 E.,
Sec. 12; N½NW¼, W½NE¼, SE¼NW¼, N½SE¼, SE¼SE¼;
Sec. 13; NE¼, N½SE¼, SE¼SE¼, NE¼SW¼.
T. 4 S., R. 44 E.,
Sec. 18; lot 6;
Sec. 19; lot 1.

The above contains 681.94 acres.

The purpose of the exchange is to acquire the non-Federal land to consolidate the public lands in order to better manage it and provide long-term benefits to the government, i.e., grazing, wildlife habitat and general outdoor recreation. The exchange is consistent with the Bureau's planning for the lands involved and has been discussed with the Department of Fish and Game and the Bonneville and Caribou County Commissioners. The public interest will be well served by making the exchange.

The value of the lands to be exchanged is approximately equal and the acreage will be adjusted or money will be used to equalize the values upon completion of the final appraisal of the lands.

The terms and conditions applicable to the exchange are:

1. The reservation to the United States of a right-of-way for ditches and canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. Those rights for water pipeline purpoes as have been granted to W. Gregg Draney under Serial Number I-20440.

3. Both parties will reserve their minerals; only surface ownership will be exchanged.

The publication of this notice of the **Federal Register** will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws including the mining laws. As provided by the regulations of 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is descretionary, shall not be accepted, shall not be considered as filed and shall be returned to the applicant.

The non-Federal lands described above are subject to prior Federal reserved minerals. The prior Federal interests are hereby segregated to the extent that such interest will not be subject to appropriation under the mining laws until a notice pursuant to 43 CFR 2200.3(a) is issued.

Detailed information concerning the exchange, including the environmental analysis and the record of public discussions, is available for review at the Idaho Falls District Office, 940 Lincoln Road, Idaho Falls, Idaho.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Idaho Falls District Manager, Bureau of Land Management at the above address.

Dated: December 21, 1983.

James Gabettas,

Acting District Manager.

[FR Doc. 83-34746 Filed 12-30-83; 8:45 am]

BILLING CODE 4310-GG-M

[A-14965]

Realty Action—Direct Sale, Public Land In Graham County Arizona; Amended

AGENCY: Bureau of Land Management, Interior.

ACTION: Amendment of Notice of Realty Action.

SUMMARY: A Notice of Realty Action for a direct sale was published in the **Federal Register** on March 17, 1982 (47 FR 11569). The Notice authorized a direct sale of 10 acres to Matthew Gibson, the adjoining land owner, to resolve an unauthorized use. The 10 acres was described as the W½W½ NE¼NW¼, Section 21, T. 8. S., R. 26 E., Gila and Salt River Meridian. It has now been determined that a direct sale of 20 acres is necessary to resolve the unauthorized use. The 20 acres includes the prior 10 acres and is described as the W½NE¼NW¼, Section 21, T. 8 S., R. 26 E., Gila and Salt River Meridian. The land will be sold March 30, 1984, for $19,000, the appraised value. A new 45 day comment period is established.

DATE: Comments may be submitted within 45 days of the date of this publication.

ADDRESS: Comments should be sent to: District Manager, Bureau of Land Management, Safford District Office, 425 East 4th Street, Safford, Arizona 85546.

Any adverse comments will be evaluated by the District Manager, who may vacate or modify the realty action and issue a final determination. In the absence of any action by the District Manager, this amended realty action will become the final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Clarence F. Hougland (602) 428-4040.

Dated: December 22, 1983.

Robert E. Jones

Acting District Manager.

[FR Doc. 83-34739 Filed 12-30-83; 8:45 am]

BILLING CODE 4310-02-M

[W-86388]

Realty Action; Proposed Noncompetitive Sale of Public Lands in Albany County, Wyoming

December 20, 1983.

The following described lands have been found suitable for disposal and are proposed for sale pursuant to section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713) at no less than fair market value.

Legal description	Acreage
T. 17 N., R. 74 W., 6th P.M. Wyo.; Sec. 14: SE¼NE¼, NW¼, NE¼SW¼, N½SE¼, SE¼SE¼	[redacted]

The land is being sold noncompetitively to Wales Wenberg. The purpose of this sale is to facilitate land-use planning in the area and to enhance land-use compatibility with adjoining lands. This parcel is a small isolated tract which is difficult to manage as part of the public lands. It is unsuitable for management by another federal agency. There are no significant resource values which would be affected by this disposal. The proposed sale is consistent with Bureau Planning and is compatible with County Plans. The public interest would be served by making this land available for public sale.

Patent for the land, if issued, would contain the following reservations to the United States.

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All minerals with the right to explore, prospect for, mine, and remove under applicable law, and such regulations as the Secretary may prescribe. "All minerals" is defined as, but not limited to, metaliferous and non-metaliferous locatable minerals, leasable minerals such as oil, gas, coal, sodium, potassium, and geothermal resources, and salable minerals such as sand and gravel. However, upon filing of an application under 34 CFR 2720, the State Director may convey the mineral interest if all requirements of the law are met.

3. The land would be sold subject to valid existing rights of record on the date of conveyance.

4. The sale would be subject to oil and gas lease W-62359.

Detailed information concerning the proposed sale, including the planning documents, and the land report/environmental assessment, is available for review at the Bureau of Land Management, Rawlins District Office, 1300 North Third Street, Rawlins, Wyoming 82301. The proposed sale will not be held until 60 days after the date of this notice.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Rawlins District Manager, Bureau of Land Management, Rawlins District Office, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

David J. Walter,

District Manager.

[FR Doc. 83-34738 Filed 12-30-83; 8:45 am]

BILLING CODE 4310-22-M

[W-86390]

Realty Action; Proposed Sale of Public Lands in Carbon County, Wyoming

December 21, 1983.

The following described lands have been found suitable for disposal and are proposed for sale pursuant to Section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713) at no less than fair market value.

Legal description	Acreage	Value
T. 15 N., R. 84 W., 6th P.M., Wyo.: Sec. 23: W½SW¼, SE¼SW¼; Sec. 26: NW¼NW¼; Sec. 27: NE¼NE¼...	200.0	$30,000

The lands are being proposed for sale, by sealed bid only, in order to facilitate land-use planning in the area and to enhance land-use compatibility with adjoining lands. This parcel is irregularly-shaped, isolated, and difficult to manage as part of the public lands. It is unsuitable for management by another federal agency. There are no significant resource values which would be affected by this disposal. The proposed sale is consistent with Bureau Planning and is compatible with County Plans. The public interest would be served by making this land available for public sale.

The land is located approximately 2 miles north of Encampment, Wyoming. In the past, the land was used as a rural aircraft landing strip. We recommend the land be inspected by prospective bidders prior to bid submission.

Patent, if issued, would contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All minerals with the right to explore, prospect for, mine, and remove under applicable law, and such regulations as the Secretary may prescribe. "All minerals" is defined as, but not limited to, metaliferous and non-metaliferous locatable minerals, leasable minerals such as oil, gas, coal, sodium, potassium, and geothermal resources, and salable minerals such as sand gravel. However, upon filing of an application under 43 CFR Part 2720, the State Director may convey the mineral interest if all requirements of the law are met.

3. The land would be sold subject to valid existing rights of record on the date of conveyance.

The lands, if sold, would remain subject to Carbon County planning and zoning. The land has legal access via Carbon County Road 303.

Sealed bids must be submitted on or before 1:00 p.m., Tuesday, February 28, 1984, to the Rawlins District Office, 1300 North Third Street, P.O. Box 670, Rawlins, Wyoming 82301. Sealed bids received after the hour specified will not be considered. The envelope must be marked in the lower left-hand corner as follows: "Bid W-86390, Sale to be held February 28, 1984."

No special form of sealed bid is required, but all bids must show the amount bid for the entire 200-acre parcel, the name and address of the bidder, and must be signed by the bidder or a person authorized to act for the bidder. Each sealed bid must be accompanied by a certified check, money order, bank draft, or cashier's check, made payable to the Department of the Interior—BLM for one-fifth of the amount of the bid. Federal law requires that bidders be U.S. Citizens or, in case of corporations, subject to the laws of any state of the United States. A statement over the bidder's signature with respect to citizenship must be included with the bid.

At 2:00 p.m., February 28, 1984, 1300 North Third Street, Rawlins, Wyoming, the authorized officer will open and read all the sealed bids. If two or more envelopes containing valid bids of the same amount are received, the determination of which is to be considered the highest bid shall be by drawing. The highest bid would be announced and the successful high bidder notified in writing. The successful bidder shall submit the remainder of the full bid price within 30 days of the sale. Failure to submit the full bid price shall result in forfeiture of the deposit. All bids would either be returned, accepted, or rejected in writing within 30 days of the sale date.

If the land does not sell at the February 28, 1984, sale or the high bidder defaults, the land would be reoffered by the above procedure at 2:00 p.m. on the last Thursday of each month at the Rawlins District Office, at the above address until the parcel is sold or the sale is otherwise terminated. Please contact the Rawlins District Office of the Bureau of Land Management (Phone: 307/324-7171) for further details.

Detailed information concerning the proposed sale, including the planning documents and the land report/environmental assessment is available for review at the Bureau of Land Management, Rawlins District Office, 1300 North Third Street, Rawlins, Wyoming.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Rawlins District Manager, Bureau of Land Management, Rawlins District Office, 1300 North Third Street, P.O. Box 670, Rawlins, Wyoming 82301. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

David J. Walter,
District Manager.

[FR Doc. 83-34750 Filed 12-30-83; 8:45 am]
BILLING CODE 4310-22-M

Realty Action; Public Land Sale, Haskell County, Oklahoma

[NM-51738 (OK), NM-51740 (OK), and NM-51773 (OK)]

AGENCY: Bureau of Land Management, Interior.

ACTION: Sale of 1,170.75 Acres of Public Land in Haskell County, Oklahoma by sealed bid only.

SUMMARY: The following described lands have been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act (FLPMA) of 1976 (90 Stat. 2750, 43 U.S.C. 1713) at no less than the appraised fair market value:

Indian Meridian

Tract 12

T. 8 N., R. 22 E.,
Sec. 14, NW¼, N½NW¼SW¼.
Sec. 15, SW¼, N½SE¼, S½SE¼NE¼, S½SE¼SW¼NE¼.
Sec. 16, S½SE¼.
Sec. 21, Townsite Addition No. 2, lots 38, 47, 48, 49, 50, 60, 61, 62, 63, and 64.
Sec. 22, Townsite Addition No. 2, lots 5, 6, 7, 8, 9, 18, 19, 28, 29, and 30.
Acres: 732.47.

Tract 12A

T. 8 N., R. 22 E.,
Sec. 22, Townsite Addition No. 3, lots 8, 9, 10, 11, 12, 13 and 14.
Acres: 39.71.

Tract 14

T. 8 N., R. 22 E.,
Sec. 23, Townsite Addition No. 3, lots 1, 2, and 3.
Sec. 24, SW¼, W½SE¼, SE¼SE¼.
Acres: 398.57.

The above described lands will be sold by sealed bid only through a competitive bid type sale. The sale will be held on Monday, March 12, 1984, and the sealed bids will be opened at 10:00 a.m., Bureau of Land Management (BLM) Conference Room, 200 N.W. Fifth Street, Room 548, Oklahoma City, Oklahoma, 73102. Particulars for this sale, including appraisals, reservations, and other specific items, will be made available to the public approximately 30 days before the scheduled sale date.

The subject lands are part of the remaining public land holdings in Oklahoma that are scattered throughout

42 counties (approximately 8,000 acres). The lands are being offered for sale since the BLM can not economically or feasibly manage the subject lands. No other federal agency or department was interested in managing these lands. Areas residents of McCurtain, Oklahoma favor the transfer of the lands into private ownership. The sale is consistent with the Bureau's planning for the lands involved and has been discussed with governmental units and local officials. The public interest would be served by offering the lands for sale.

The terms and conditions applicable to the sale are:

1. The patents will contain a reservation to the United States for ditches and canals.

2. The sale is for surface estate only. The patents will contain a reservation to the United States for all minerals.

3. The sale will be subject to all valid existing rights.

4. For Tract 12 in Sections 14, 15, 16, 21, and 22; Tract 12A in Section 22; and Tract 14 in Section 23 and 24, patents are issued recognizing that the lands lie within a floodplain and as such the patentees or their successors are limited by Section 3(d) of Executive Order 11988 of May 24, 1977 from seeking compensation from the United States or its agencies in the event existing or future facilities on these lands are damaged by flood.

5. No preference right would be given to adjoining land owners. No bids will be accepted for less than the appraised price. Federal law requires that bidders be United States citizens or, in the case of a corporation, subject to the laws of any state of the United States. Proof of citizenship shall accompoany the bid.

Portions of the above described public lands contain wetlands. Patents to such lands will contain a wetland protection patent restriction. The type, location, and size of each wetland will appear in the restriction as well as the following:

In accordance with Section 209 of the FLPMA of 1976, 43 U.S.C. 1718 (1976) and Section 4 of Executive Order 11990 (1978), 3 Code of Federal Regulations 121 (1978), the patentee's use of the patented lands is restricted as follows:

1. Restrictions on use of wetlands contained in applicable federal, state, or local wetlands regulations are incorporated hereby as if set forth fully herein.

2. The patentee may not use the patented land, or authorize its use, in such a manner that would directly or indirectly result in an adverse alteration of the wetland characteristics or category of that portion of the lands identified above as wetlands.

These patent restrictions are binding upon the patentee and his successors, heirs, and assigns.

Sealed written bids will be considered only if received by the Bureau of Land Management, 200 N.W. Fifty Street, Room 548, Oklahoma City, Oklahoma, 73102 prior to 10:00 a.m., Monday, March 12, 1984. A separate written bid should be submitted for each sale parcel desired. Each written sealed bid must be accompanied by a certified check, postal money order, bank draft, or cashiers check made payable to the Department of the Interior, Bureau of Land Management for at least twenty percent of the amount bid. The written sealed bids will be opened and publicly declared at the begining of each sale. If two or more envelopes containing valid bids of the same amount are received, the determination of which is to be considered the highest bid, shall be by drawing. All bids will be either returned, accepted, or rejected within 30 days of the sale date.

Parcels not sold on the assigned day of the sale will remain available for sale until sold or withdrawn. Sealed bids will be solicited on these parcels at no less than the appraised fair market value. The sale for these parcels will be held on the first Monday of each month.

DATE: For a period of 45 days from the date of this Notice, interested parties may submit comments to the District Manager. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

ADDRESS: Comments and suggestions should be sent to: District Manager, Tulsa District Office, Bureau of Land Management, 6136 East 32nd Place, Tulsa, Oklahoma 74135.

FOR FURTHER INFORMATION CONTACT: Hans Sallani, (405) 231–5491.

Jim Sims,

District Manager.

[FR Doc. 83–34751 Filed 12–30–83; 8:45 am]

BILLING CODE 4310–FB–M

Wyoming; Availability of Rangeland Program Summary and Record of Decision for the Divide Grazing Environmental Impact Statement Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Availability of Rangeland Program Summary (RPS) and Record of Decision for the Divide Grazing Environmental Impact Statement (EIS) area.

SUMMARY: Notice is hereby given that the Bureau of Land Management (BLM) has prepared an RPS and Record of Decision for the Divide Grazing EIS area. Copies of this document are available at the Rawlins District Office.

DATE: April 30, 1984.

ADDRESS: Rawlins District Office, 1300 N. 3rd Street, P.O. Box 670, Rawlins, Wyoming 82301.

FOR FURTHER INFORMATION CONTACT: Bud Holbrook, Divide Area Manager, Rawlins District, Bureau of Land Management, P.O. Box 670, Rawlins, Wyoming 82301 (307) 324–7171.

SUPPLEMENTARY INFORMATION: The Divide RPS and Record of Decision is a summary of the rangeland program for the Divide Grazing EIS area of the Rawlins District. BLM has adopted a grazing management policy that involves assignment of management priorities to groups of grazing allotments, within the context of BLM's existing planning system. BLM's rangeland management goals and objectives are: (1) Provide enough forage on a sustained-yield basis to satisfy at least the present demands of livestock and BLM population objective levels for wild horses; (2) maintain the ecological range condition at a level that would provide for an adequate, sustained yield of forage production; (3) maintain and improve terrestrial, aquatic and riparian ecosystems to provide wildlife (game and nongame species) with adequate amounts of forage and habitat to maintain Wyoming Game and Fish Department population objective levels.

Four possible actions were analyzed in the Divide Grazing EIS: the Proposed Action; the No Action alternative; the Enhance Watershed, Wildlife, and Soil Resources alternative; and the Enhanced Livestock Grazing alternative. The Proposed Action is BLM's preferred alternative and has been accepted as the basis for the District Manager's final planning decisions.

A monitoring program will be developed, in consultation with all affected parties in accordance with current BLM policy and procedures. Four monitoring parameters will be used to evaluate the effectiveness of management actions taken: trend, utilization, actual use, and climate.

Interested parties have until April 30, 1984, to express their views on the RPS. Comments should be submitted to: Bud

Holbrook, Divide Area Manager, BLM, P.O. Box 670, Rawlins, Wyoming 82301.

David J. Walter,

District Manager.

[FR Doc. 83-34737 Filed 12-30-83; 8:45 am]

BILLING CODE 4310-22-M

Anchorage District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Meeting.

SUMMARY: The Anchorage District Advisory Council will meet on February 9, 1984 to consider proposed and pending regulations of the Bureau of Land Management regarding the levy of fees for recreation use on public lands and waters.

Any member of the public wishing to address the council should write Joette Storm, Public Affairs Officer, prior to the meeting, at the Anchorage District Office, 4700 East 72nd Avenue, Anchorage, AK 99507-2899, (907) 267-1200.

DATE: February 9, 1984, 9:00 a.m.-4:00 p.m.

Place: Anchorage District Office Training Room 4700 East 72nd Avenue, Anchorage, Alaska.

SUPPLEMENTARY INFORMATION:

Proposed Agenda

9:00—Call to order
9:10—Election of Officers
9:30—Update on current district programs
10:30—Break
10:45—Update continued
Noon—Lunch break
1:00—Recreation fee regulations
3:00—Public comment
4:00—Adjournment

Wayne A. Boden,

District Manager.

[FR Doc. 83-34741 Filed 12-30-83; 8:45 am]

BILLING CODE 4111-0116-M

Availability of the Southern Appalachian Federal Coal Production Region, Alabama, Final Environmental Impact Statement (EIS)

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice correction.

SUMMARY: In the **Federal Register** of Wednesday, December 7, 1983 (48 FR 54902) the Bureau published a notice stating that the Final Southern Appalachian Regional Coal Environmental Impact Statement II had been prepared. Additionally, the notice was a call for submission to the Bureau of Land Management of qualified surface owner consents. Appendix A gave the legal descriptions of the federally owned coal rights in the delineated tracts.

Inexplicably, a 160-acre parcel in the north half of Section 12, T. 19S., R. 9W., in the Panther Branch Tract was not included in the description. This notice provides the correct legal description of the federally owned coal rights in the subject tract in its entirety.

FOR FURTHER INFORMATION CONTACT: Bob Todd, Team Leader, Southern Appalachian Regional Coal II EIS, of the Jackson District Office, Bureau of Land Management, Jackson Mall Office Center, Suite 3495, 300 Woodrow Wilson Drive, Jackson, Mississippi 39213.

Appendix A (corrected)

Legal Description of Federal coal in the Panther Branch Tract T. 19S., R. 9W., Huntsville, P.M.

Section 1, that part of SW¼NE¼, E½NW¼ south of Watermelon Road
Section 12, E½, E½W½
Containing approximately 639.09 acres in Tuscaloosa County, Alabama.

Denise Meredith,

Acting Eastern States Director.

[FR Doc. 83-34815 Filed 12-30-83; 8:45 am]

BILLING CODE 4310-GJ-M

Minerals Management Service Plan of Development/Production; Vermilion Area, Offshore Louisiana

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Plan of Development/Production (POD/P).

SUMMARY: Notice is hereby given that Diamond Shamrock Exploration Company has submitted a POD/P describing the activities it proposes to conduct on Leases OCS-G 5026 and 3977, Blocks 45 and 57, Vermilion Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject POD/P was deemed submitted on December 12, 1983. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject POD/P is available for public review at the Office of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the POD/P and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans*, Post Office Box 44396, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Mr. Hossein Hekmatdoost, Minerals Management Service, Gulf of Mexico Region; Rules and Production; Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 838-0873.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the POD/P and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to Section 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the POD/P for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in POD/Ps available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: December 23, 1983.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 83-34753 Filed 12-30-83; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Gateway National Recreation Area; Meeting

AGENCY: National Park Service—Gateway Advisory Commission.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Gateway Advisory Commission. Notice

of this meeting is required under the Federal Advisory Committee Act.

DATE: January 24, 1984, commencing at 3 p.m.

ADDRESS: Federal Hall, 26 Wall Street, Lower Level, New York, New York.

FOR FURTHER INFORMATION CONTACT: Robert W. McIntosh, Jr., Superintendent, Gateway National Recreation Area, Headquarters, Building No. 69, Floyd Bennett Field, Brooklyn, New York 11234, (212) 338–3578.

SUPPLEMENTARY INFORMATION: The Advisory Commission was established by Pub. L. 92–592, to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Gateway National Recreation Area. The agenda for the meeting will include; (1) Discussion, State of the Park; (2) Status, Development Concept Plans for: Floyd Bennett Field; Sandy Hook Fort Hancock; Riis Park/Fort Tilden; Fountain/Pennsylvania Avenue Landfill Sites; (3) Gateway Land Protection Plan; (4) Meeting schedule, 1984 and other items which may come before the Commission.

The meeting will be open to the public. The facility at which the meeting will be held is considered physically accessible. If interpretive services for the deaf or hearing impaired will be needed, they should be requested within five working days before the meeting. Facilities and space to accommodated members of the public are limited, and persons will be accommodated on a first-come, first-served basis.

Any member of the public may file with the Commission a written statement concerning agenda items to be discussed. The statement should be addressed to the Commission, c/o Gateway National Recreation Area, Building No. 69, Headquarters, Floyd Bennett Field, Brooklyn, New York 11234. Minutes of the meeting will be available for inspection four weeks after the meeting at Gateway National Recreation Area Headquarters Building in Brooklyn, New York.

Dated: December 13, 1983.

Chrysandra L. Walter,

Acting Superintendent, Gateway National Recreation Area.

[FR Doc. 83–34734 Filed 12–30–83; 8:45 am]

BILLING CODE 4310–70–M

National Registry of Natural Landmarks

AGENCY: National Park Service, Interior.

ACTION: Public notice and request for comment.

The areas listed below appear to qualify for designation as national natural landmarks, in accordance with the provisions of 36 CFR Part 62. Pursuant to 62.4 (d)(1) of 36 CFR Part 62, written comments concerning the potential designations of these areas as national natural landmarks may be forwarded to the Director, National Park Service (413), U.S. Department of the Interior, Washington, D.C. 20240. Written comments should be received no later than 60 days from the date of this notice.

FOR FURTHER INFORMATION CONTACT: Charles M. McKinney, Branch of Natural Landmarks, Interagency Resources Division, (202) 343–9525.

Dated: December 23, 1983.

Russell E. Dickenson,

Director.

Nebraska

Grant County

Nebraska Sands Hills—This 32,900-acre site, just south of Hyannis, is the largest sand dunes area in the Western Hemisphere. This site differs from other large dunes of the world because it is almost completely stabilized by vegetation.

Oregon

Wasco County

Lawrence Memorial Grasslands Preserve—This 378-acre site, 27 miles northeast of Madras, is an excellent illustration of the geologic formation known as "biscuit and scabland," formed in the Columbia Plateau during the Wisconsin glaciation. Also found here are excellent examples of widespread plant communities.

Washington

Grant County/Adams County

Saddle Mountain Landslide—This 1,600-acre easily visible site, 9 miles west of Othello, is an excellent example of an earthflow landslide and one of the largest on the Columbia Plateau. It occurred probably during the late Pleistocene when massive blocks of basalt broke loose from the Saddle Mountains.

Whitman County

Rose Creek Preserve—This 12-acre site, 10 miles northwest of Pullman, may be the only protected site of such integrity for scientific research of a rare phenomenon: quaking aspen and hawthorn stands replacing one another indefinitely.

Wyoming/Colorado

Albany County (WY)/Larimer County (CO)

Sand Creek—This 6,000-acre site, 20 miles southwest of Laramie, Wyoming, possesses the most spectacular examples of cross-bedded sandstone and "topple blocks" in North America. Excellent geomorphological, stratigraphical, sedimentological, paleontological, and botanical features abound.

Wyoming

Natrona County

Hell's Half Acre—This 1,200-acre site, 40 miles west of Casper, is an extraordinarily well-exposed and well-developed area of Lower Eocene badlands. Nowhere else is there a combination of such intricate microsculpture developed on such colorful rocks that can be viewed from a single vantage point. It is also an excellent example of angular unconformity.

Sweetwater County

Chain of Lakes—This 12,800-acre site is a part of the Chain Lakes Big Game Winter Refuge 50 miles northwest of Rawlins. It is an excellent illustration of the Great Divide Basin, a unique geomorphic feature where the Continental Divide splits south of the Wind River Range to surround a large internally drained basin.

[FR Doc. 83–34735 Filed 12–30–83; 8:45 am]

BILLING CODE 4310–10–M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before December 23, 1983. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by January 16, 1984.

Carol Dubie,

Acting Chief of Registration, National Register.

ALABAMA

Cullman County

Cullman, *Ave Maria Grotto*, St. Bernard Abbey

CALIFORNIA

Santa Cruz County

Watsonville, *Madison House*, 335 East Lake

CONNECTICUT

Middlesex County

Middle Haddam, *Middle Haddam Historic District*, Moodus and Long Hill Rds.

New London County

Norwich, *Broad Street School*, 100 Broad St.

DISTRICT OF COLUMBIA

Church of the Ascension, 1215 Massachusetts Ave., NW
Union Trust Building, 740 15th St., NW
Wardman Park Annex and Arcade, 2600 Woodley Rd., NW

IOWA

Madison County

Macksburg, *Craven, J.D., Women's Relief Corps Hall*, South St.

Polk County

Des Moines, *West Chester*, 3520 Grand Ave.

LOUISIANA

Ascension Parish

Donaldsonville, *Donaldsville Historic District*, Roughly bounded by Bayou Lafourche, the Mississippi River levee, Jackson Ave., Marchand Dr., and Monroe and Church Sts.

MISSOURI

Moniteau County

California, *Gray-Wood Buildings*, 401–407 N. High St.
St. Louis (Independent City)
Beaumont Medical Building, 3714–26 Washington Ave.
Buildings at 2327–31 and 2333–35 Rutger Street, 2327–31 and 2333–35 Rutger St.
Dolman Row, 1424–1434 Dolman St.

NEW MEXICO

Sandoval County

Pueblo Tuerto,
Espinaso Ridge Pueblo,

RHODE ISLAND

Kent County

West Warwick, *Valley Queen Mill*, 200 Providence St.

Providence County

Pawtucket, *Montgomery, Nathaniel, House*, 178 High St.

SOUTH DAKOTA

Beadle County

Site 39BE14 (James River Basin Woodland Sites TR),
Site 39BE15 (James River Basin Woodland Sites TR),
Site 39BE23 (James River Basin Woodland Sites TR),
Site 39BE46 (James River Basin Woodland Sites TR),
Site 39BE48 (James River Basin Woodland Sites TR),
Site 39BE57 (James River Basin Woodland Sites TR),
Site 39BE64 (James River Basin Woodland Sites TR),
Site 39BE94 (James River Basin Woodland Sites TR),

Davison County

Site 39DV9 (James River Basin Woodland Sites TR),
Site 39DV24 (James River Basin Woodland Sites TR),

Hanson County

Site 39HS3 (James River Basin Woodland Sites TR),

Hutchinson County

Site 39HT14 (James River Basin Woodland Sites TR),
Site 39HT24 (James River Basin Woodland Sites TR),
Site 39HT27 (James River Basin Woodland Sites TR),
Site 39HT29 (James River Basin Woodland Sites TR),
Site 39HT30 and 39 HT202 (James River Basin Woodland Sites TR),

Sanborn County

Site 39SB15 (James River Basin Woodland Sites TR),
Site 39SB18 (James River Basin Woodland Sites TR),
Site 39SB31 (James River Basin Woodland Sites TR),

Spink County

Site 39SP2 (James River Basin Woodland Sites TR),
Site 39SP3 (James River Basin Woodland Sites TR),
Site 39SP12 (James River Basin Woodland Sites TR),
Site 39SP19 (James River Basin Woodland Sites TR),
Site 39SP24 (James River Basin Woodland Sites TR),
Site 39SP37 (James River Basin Woodland Sites TR),
Site 39SP46 (James River Basin Woodland Sites TR),

TEXAS

Bexar County

San Antonio, *San Antonio Missions National Historical Park*, 727 E. Durango

Dallas County

Dallas, *Viola Courts Apartments*, 4845 Swiss Ave.

Kendall County

Boerne, *Dienger, Joseph, Building*, 106 W. Blanco Rd.

Tarrant County

Fort Worth, *Blackstone Hotel*, 601 Main St.

[FR Doc. 83–34733 Filed 12–30–83; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

S. J. L. Drug Corp., d.b.a. Brunell's Family Pharmacy; Revocation of Registration

On July 14, 1983, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to S. J. L. Drug Corporation, d/b/a Brunell's Family Pharmacy (Respondent), 183 Pine Street, Lowell, Massachusetts 01851. The order sought to revoke Respondent's DEA Certificate of Registration, AS7519474. The statutory predicate under 21 U.S.C. § 824(a)(2) for the Order to Show Cause was that on March 31, 1983, Salvatore J. Lipomi, R.Ph., owner and managing pharmacist of S. J. L. Drug Corporation was convicted in the Middlesex County Superior Court, Commonwealth of Massachusetts of 34 counts of illegal distribution of controlled substances without an oral or written prescription from a practitioner in violation of Massachusetts General Laws Chapter 94C, a felony relating to controlled substances.

Respondent, through Lipomi, did not request a hearing under 21 CFR 1301.48(d) even though given the opportunity to do so. Lipomi submitted his written position on the issues raised by the Order to Show Cause. Accordingly, the Administrator finds that Lipomi waived the pharmacy's opportunity for a hearing under 21 CFR 1301.54(d) and enters this final order on the record as it appears, including Lipomi's submission. 21 CFR 1301.54(e).

On March 22, 1978, Cpl. William R. Sutherland, Narcotics Section, Department of Public Safety, Commonwealth of Massachusetts went to the Brunell's Family Pharmacy. Cpl. Sutherland examined Mr. Lipomi's filled Schedule II prescription file and found a number of prescriptions that appeared to be forged or altered. During a formal audit of the pharmacy that began on May 4, 1978, Mr. Lipomi stated that the pharmacy had been broken into numerous times from July 9, 1977 to May 3, 1978. He never notified DEA of the break-ins as required by state and Federal law.

One of these alleged thefts occurred in the evening of February 25, 1978, at which time two members of the Lowell Fire Department heard glass breaking at Brunell's Pharmacy. From across the street, they observed a subject enter the pharmacy and then emerge approximately 45–60 seconds later. They

did not see the subject carrying anything in his hands. Mr. Lipomi advised an officer of the Lowell Police Department that small quantities of Seconal, Tuinal and possibly 500 Valium were taken.

At the time of the audit on May 4, 1978, Mr. Lipomi furnished the officers a list of drugs that he claimed were taken during the February 25, 1978 break-in. The list included controlled substances such as Quaalude, Seconal, Percodan, Dilaudid and codeine. These drugs were not reported stolen to the Lowell Police Department or to DEA.

It is not likely that these drugs were actually stolen from Respondent pharmacy. The alleged thief was in the store for no more than 60 seconds. He was not carrying anything when he came out of the pharmacy. Mr. Lipomi disperses his Schedule II drugs throughout the pharmacy. The area behind the counter, at the time of the break-in, was not well lighted and it would have taken some time for a burglar to locate all of the drugs. The only logical inference that can be drawn is that Mr. Lipomi was using these alleged thefts to cover shortages in his inventory. These shortages apparently resulted from the illegal distribution of controlled substances without the oral or written prescriptions of a practitioner which resulted in Mr. Lipomi's conviction. The Administrator concludes that there is a statutory ground for revocation of Respondent's DEA registration. 21 U.S.C. 824(a)(2).

The Administrator further finds that on October 25, 1933, the Board of Registration in Pharmacy, Commonwealth of Massachusetts suspended the certificate of registration of Salvatore J. Lipomi for a period of four years. This action terminates Lipomi's authorization personally to possess, dispense or otherwise handle controlled substances in Massachusetts. While the suspension of a registrant's state authorization to handle controlled substances is an additional ground for revocation under 21 U.S.C. 824(a)(3), the action of the Board regarding Lipomi does not terminate the authorization of Brunell's Family Pharmacy to handle controlled substances. The Administrator must therefore look to the facts surrounding the conviction upon which to exercise his discretion in deciding whether to revoke this Certificate of Registration.

The Administrator is not convinced that Respondent pharmacy is capable of responsibly handling controlled substances given the past practices of Salvatore Lipomi, its managing owner and pharmacist.

Lipomi raised two grounds in opposition to the revocation in his submission. First, his conviction is on appeal to the Massachusetts Supreme Judicial Court and therefore not final. Second, the Supreme Judicial Court suppressed certain evidence seized during the audit of the pharmacy. These grounds are without merit.

As to the first ground, DEA has consistently held that a conviction is final for the purpose of 21 U.S.C. 824(a)(2) if there is a judgment of guilt, plea of guilty or nolo contendere, or some other indication that the individual is found guilty of a controlled substance related felony. *Faunce Drug Store*, Docket No. 82–3, 47 FR 30122 (July 12, 1982) citing *Berman* v. *United States*, 302 U.S. 211, 58 S.Ct. 164 (1937) and *Korematsu* v. *United States*, 319 U.S. 432, 63 S.Ct. 1124 (1943). See also *United States* v. *Rosenstengel*, 323 F. Supp. 499 (E.D. Mo. 1971), where the court gave the broadest meaning to the word "convicted" in interpreting 18 U.S.C. 1202(d) (relating to possession of firearms by convicted felons). The record in this case shows that the conviction of Salvatore Lipomi is complete for purposes of 21 U.S.C. 824(a)(2), his appeal notwithstanding.

The Administrator does not reach Lipomi's second point since there is ample evidence on which to base the exercise of his discretion without examining the material suppressed by the Massachusetts court. However, the Administrator notes that the Supreme Court has declined to extend the Fourth Amendment exclusionary rule to civil proceedings. *United States* v. *Janis*, 428 U.S. 433, 96 S.Ct. 3021 (1976). The Department of Justice policy follows this doctrine and permits use of evidence suppressed in an antecedent criminal matter in an administrative proceeding. *In re Emma Sandoval*, 17 I & N D. #2725 (BIA 1979). Therefore, Lipomi's second ground in opposition to revocation would not prevent the Administrator from considering suppressed evidence if he chose to do so.

Based upon these reasons, it is the decision of the Administrator to revoke the Certificate of Registration previously issued to Respondent and to deny any pending applications. Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration AS7519474 previously issued to S. J. L. Drug Corporation d/b/a Brunell's Family Pharmacy, be, and it hereby is, revoked, and any pending applications for renewal of such registration are hereby denied.

Dated: December 23, 1983.

Francis M. Mullen, Jr.,

Administrator.

[FR Doc. 83–34810 Filed 12–30–83; 8:45 am]

BILLING CODE 4410–09–M

NATIONAL SCIENCE FOUNDATION

Permit Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit issued under the Antarctic Conservation Act of 1978, Pub. L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice of permits issued.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers, Permit Office, Division of Polar Programs, National Science Foundation, Washington D.C. 20550. Telephone (202) 357–7934.

SUPPLEMENTARY INFORMATION: On November 17, 1983, the National Science Foundation published a notice in the **Federal Register** of a permit application received. On December 19, 1983 a permit was issued to: John L. Bengtson.

Charles E. Myers,

Permit Office, Division of Polar Programs.

[FR Doc. 83–34761 Filed 12–30–83; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Availability of Recommendation Responses

Recommendation Responses From

Aviation—*Federal Aviation Administration: Nov. 9: A–83–1:* A notice will be published in the **Federal Register** of the FAA's intent to issue an advisory circular on the use of child restraints in aircraft, which will provide airlines and the general public with procedures to assure the safe use of DOT-approved seats in aircraft. *Nov. 21: A–80–53:* Extensive pitch axis modifications similar to those proposed in the Notice of Proposed Rulemaking on Learjet Model 24 series airplanes are not being considered for the Model 23 or 28/29. The puller/overspeed warning modification which was required as part of Airworthiness Directive 81–16–08 and AD 82–01–04, applicable to the Model 25 series, has been incorporated into the Learjet Model 28/29 production line. *Nov. 21: A–83–50 and 51:* Piper Aircraft Corporation will provide appropriate cautionary flight manual information, and possibly placards as well, for their various affected aircraft models regarding operation of the toe brakes and

their relationship to the parking brake. FAA plans to issue an Airworthiness Directive by mid-February 1984. *Nov. 21: A–83–56:* A Special Certification Review of the Mitsubishi MU–2 series aircraft has revealed four design areas that are possible contributing factors in MU–2 aircraft accidents. A Multiple Expert Opinion Team (MEOT) will be formed to review certain factors to determine the adequacy of crew complement, pilot ratings, and any other training or qualification process. A design review will be conducted of the fuel system, the landing gear warning system, the autopilot and trim system, and the icing protection system. Other systems may be included if service history or evaluation indicates a need for design review. *Nov. 28: A–79–7:* Issued Airworthiness Directive 79–12–02 on Jun. 21, 1979, requiring the inspection of the elevator stop bolts, verification of proper elevator travel, torquing of elevator stop bolt lock nuts, and painting or installation of a slip strip or torque seal. *Nov. 29: A–83–27 through 30:* Will review findings of special study of approaches for north entry into Washington National Airport. *Dec. 1: A–83–62:* Is drafting a Notice of Proposed Rulemaking to revise language in 14 CFR Parts 91 and 125 to be consistent with Parts 121 and 135 for users of aircraft who have voluntarily installed a CVR/FDR in their aircraft. *Dec. 1: A–76–51 and 52:* The SAE Inc., A–20 committee addressed the ignition/explosion mechanism involved with strobe light systems and incorporated an explosion containment requirement in Aerospace Standards 8017, "Minimum Performance Standard for Anticollision Light Systems." Issued Technical Standard Order TSO–C96, Anticollision Light System, on Jun. 22, 1982. *Dec. 2: A–83–34:* Will issue a special airworthiness alert to notify all the owners on record of the early Cessna 200 series airplanes of the recommendation to replace the throttle and mixture controls in accordance with Cessna Service Letter SE69–16. *Dec. 8: A–83–64 and 65:* Is reviewing with the manufacturer the problem associated with linkages to the fuel tank selector valve on certain Cessna airplanes. *Dec. 9: A–83–67, –68, and 69:* Is reviewing with the manufacturer the service history and design details relative to the Donaldson dry paper carburetor air filters. *Dec. 9: A–83–66:* Is reviewing with the manufacturer the problem associated with auxiliary fuel tank plugs on Maule M–4 and M–5 series airplanes. *Dec. 16: A–83–35 through 43:* Software for operational error detection is now in seven air route traffic control centers (ARTCC). Has created a Quality Assurance Division within the Air Traffic Service, recently conducted in-depth 4-week quality assurance evaluations at each ARTCC, and has stressed controller awareness of operational errors and the need for reporting these errors regardless of how small the separation infringement. Developing an operational error separation infringement classification system. Software modifications for the terminal Automated Radar Terminal System (ARTS) IIIA computers are in the design stage. *Dec. 16: A–83–63:* Based on information presented by the Canadian Department of Transportation, FAA does not recommend that a fleetwide survey of the Canadair CL–600 hydraulic system fluid be made. No modification to the hydraulic system is warranted. *Dec. 20: A–83–33:* Issued Notice of Proposed Rulemaking, Docket No. 83–NM–45–AD, on Jun. 24, 1983, that an Airworthiness Directive be issued to require accomplishment of Sundstrand Data Control Service Bulletin No. 23 concerning digital flight data recorder Model 573A.

State of Alaska Dept. of Transportation and Public Facilities: Dec. 9: A–80–97: Has improved the level of airport maintenance throughout the State, particularly in rural villages, and is continuing to upgrade maintenance levels to the extent permitted by our annual operating budget.

Note.—Single copies of these response letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include respondent's name, date of letter, and recommendation number(s) in your request. The photocopies will be billed at a cost of 20 cents per page ($2 minimum charge).

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

December 28, 1983.

[FR Doc. 83–34730 Filed 12–30–83; 8:45 am]

BILLING CODE 4910–58–M

Availability of Recommendation Responses

Recommendation Responses from:

Highway—*National Highway Traffic Safety Administration: Dec. 12: H–83–53 through –59:* Recommendations concerning child motor vehicle passenger protection have been brought to the attention of appropriate officials of NHTSA for response.

American Association of Motor Vehicle Administrators: Nov. 9: H–83–31 through –33 and H–83–38: Agrees that AAMVA should coordinate development and implementation of nationwide programs for the safe transportation of hazardous materials on highways. Will seek funding from the NHTSA.

State of Maryland: Nov. 22: H–80–1: Had a 28-percent decline in alcohol-related highway fatalities from 1981 to 1982, and to date in 1983 has maintained and slightly improved upon this achievement. These saved lives are a more significant indicator of effectiveness in dealing with the drinking driver than conformity with an arbitrary and less effective definition of driving-while-intoxicated. *H–81–71:* The reconstructed I–95/495 interchange should be completed in 1988. *H–82–33:* Various State agencies, along with local government, railroad, and private safety organizations, participate in "Operation Lifesaver." An "Operation Lifesaver" committee has been established within the Safety Council of Maryland.

State of Iowa: Nov. 29: H–83–46 through –48 and H–83–39 through –41: Recommendations concerning schoolbus safety have been forwarded to Departments of Transportation and Public Instruction.

State of California: Nov. 3: H–83–39: A study of seatbelt usage in schoolbuses, conducted in 1975/76 by the Southwest Research Institute under California Highway Patrol contract No. C–208–75/76, concluded that seatbelts should not be installed in any category of bus. The costliness of implementing the recommendation must be weighed carefully against factual data and the benefits that can be expected. *H–83–40:* Regarding the transportation of children to and from school and school-related activities, State has such requirements. Regarding transportation to and from camps, day care centers, or similar locations, State requires an annual inspection of the maintenance facility or operational terminal of any person who at any time operates a bus to transport minors on organized outings. *H–83–41:* Regarding schoolbus driver seatbelt use, State already complies with recommendation.

State of Oregon: Nov. 10 H–83–39 through –41: Recommendations concerning schoolbus safety will be kept on file to be considered when developing bills to be introduced during the 1985 session of the Oregon legislature.

State of Connecticut: Nov. 8: H–83–39 through –41: When used for transportation of special education students, seat restraint systems are required by State regulation for 15-passenger non-schoolbuses. Drivers of schoolbuses are required to wear seatbelts.

State of Georgia: Nov. 18: H–83–39: The Georgia Association of Pupil Transportation believes that small schoolbuses with good structural integrity, that meet the static load test, do not need seatbelts for passengers. Some van conversions do not have such structural integrity. If study indicates these vehicles are unsafe, they should be banned rather than equipped with seatbelts. *H–83–40:* All public schoolbuses, regardless of size or capacity, are required to meet or surpass Federal Motor Vehicle Safety Standards and must comply with specifications mandated by the State Board of Education; this does not apply to nonpublic school transportation vehicles. *H–83–41:* Driver's seat is required to be equipped with a seatbelt which is to be used at all times when children are being transported on the bus. The importance of this law is being stressed in training program. *H–83–46:* All public schoolbuses are inspected annually and 235 schoolbuses are inspected monthly by Georgia State Patrol troopers who are selected for their mechanical ability and interest in schoolbus safety. Georgia law does not require inspection of nonpublic school transportation vehicles. *H–83–47:* Law prohibits driving a vehicle which is in an unsafe condition and not equipped properly. Occasional drivers should be as well-trained and as fully qualified as a regular driver. *H–83–48:* A fire extinguisher at the rear of the bus out of the immediate view and control of the driver could be misused by students, which could result in asphyxiation or eye injury.

State of New York: Nov. 18: H–83–39 through –41: Every motor vehicle having a seating capacity of not more than 12 school children, used for the transportation of children to and from public or private schools, must be equipped with seat safety belts. Vehicles are required to meet Federal standards. Vehicle safety inspections apply not only to vehicles being used in school service, but also vehicles being used for

transportation to and from day care centers, camps, etc. All vehicles being used for transporting children to and from school must be equipped with a seatbelt for the driver, and the driver is required to use it.

Dept. of Transportation, State of New York: Dec. 2: H–83–39 through –41: Would appreciate obtaining whatever information NTSB has available on seatbelts in schoolbuses to be reviewed by a School Bus Safety Advisory Committee.

Tennessee State Dept. of Education: Nov. 29: H–83–39 through –41 and H–83–46 through –48: Recommends: (1) That all Type II, Class A vehicles (10,000 lbs. GVW or less) be equipped with safety belts and that monitoring procedures be implemented to assure that both drivers and pupils are using this equipment; (2) that all Type II, Class A vehicles, when used to transport pupils to and from school, school-related events, camps, day care centers, meet all Federal standards applicable to small schoolbuses (Type B, 10,000 lbs. GVW or more); (3) that appropriate enforcement procedures be implemented to ensure that schoolbus drivers use the safety belts provided at all times when pupils are being transported; (4) that steps be taken to ensure that transportation supervisors, bus drivers, and schoolbus mechanics be employed in sufficient numbers to adequately supervise, operate and maintain schoolbuses to the end that all children are provided with safe, efficient, and economical transportation; (5) that all employees be subjected to appropriate screening, adequate training, and constant supervisory practices, and that the operation of schoolbus-type equipment on field trips and/or activity trips be entrusted to fully licensed, experienced, regular route bus drivers; (6) that all buses be fully repaired and thoroughly inspected prior to each trip and that a copy of the inspection report be presented to the district superintendent, school principal, or sponsoring agency official before the trip begins; (7) that each extracurricular trip bus be equipped with two fire extinguishers, that they be mounted in the front and rear of the bus, and that adequate instructions in the use of same be provided all on-board passengers and chaperones prior to departure.

State of Connecticut: Nov. 8: H–83–46 through –48: School bus inspectors are periodically given in-service training to insure compliance with policy and procedure and a uniform statewide inspection. All schoolbuses are required to have first-aid kits and fire extinguishers in the driver's compartment. Because of discipline and vandalism problems, does not feel that a fire extinguisher or other emergency equipment mounted in the rear of the bus would be very effective.

State of New York: Nov. 3: H–83–46 through –48: Schoolbus inspections are conducted by inspectors employed by the Dept. of Transportation who have no connection with the mechanical staff employed by school districts or school bus contractors. Inspections are required at least once every six months, and repair and maintenance records are examined each time a vehicle is offered for inspection. Will consider placing fire extinguishers at both the front and rear of schoolbuses. Drills on schoolbuses are required to be conducted at least three times during each school year, including practice and instruction in the location, use, and operation of the emergency door, fire extinguishers, first aid equipment and windows as a means of escape in case of fire or accident.

Department of California Highway Patrol: Dec. 9: H–83–46 through –48: Requires schoolbuses and school pupil activity buses to be inspected at least once each year by California Highway Patrol Motor Carrier Specialists, who must have had a minimum of five years' experience as heavy-duty journey level mechanics. They also audit inspection and maintenance records. Schoolbus and school pupil activity bus drivers are required to inspect their buses daily prior to operating and submit daily written reports. Requires schools to provide instruction to children transported from home to school concerning safe riding practices and emergency evacuation procedures; will consider amending regulations to include briefings to passengers on the use and location of emergency equipment before the start of an activity trip. Would need much more justification to mandate all schoolbuses to be equipped with two fire extinguishers, one at the front and one at the rear.

President of the Senate, Territory of Puerto Rico: Dec. 9: H–83–49 and –50: Referring recommendations concerning legislation to protect children traveling in motor vehicles to the Government Affairs Committee.

Senate of State of Louisiana: Dec. 6: H–83–49 and –50: Referring recommendations concerning legislation to protect children traveling in motor vehicles to the Committee on Transportation, Highways and Public Works.

Office of the Speaker, Wisconsin Legislature: Dec. 6: H–83–51: Referred recommendation concerning public information and education activities aimed at combating misuse of child safety seats to Dept. of Transportation.

State of Virginia: Dec. 12: H–83–51: Will bring the recommendations concerning public information and education activities aimed at combating misuse of child safety seats to the attention of the appropriate officials for their consideration.

Office of the Speaker, Michigan House of Representatives: Dec. 20: H–83–51: Office of Highway Safety Planning (Dept. of State Police) has: (1) Employed a full-time occupant restraint coordinator who conducts workshops for various groups, does television spots and public service announcements, and numerous other tasks relative to the correct usage of child restraints; (2) assembled a rental guide that gives readers pertinent information on where to rent safe car seats; and (3) developed brochures and pamphlets including "A Family Shopping Guide to Infant/Child Automobile Restraints" and "Loan a Seat for Safety: How to Establish and Operate an Infant and Child Restraint." The Department of State has developed brochures which include informaton about the State law, where a person can obtain a safety seat, and a guide to auto restraint systems.

Ohio Department of Highway Safety: Dec. 17: H–83–51: Began a media campaign and pilot project, "Make Sure They're Secure," in Sept. 1983 for public awareness and education specifically aimed at correcting misue of child safety seats.

State of Alabama: Dec. 20: H–83–51: Dept. of Public Safety has been instructed to include materials on the proper use of child seats under the auspice of its fiscal year 1984 Highway Safety Grant.

Senate Chamber, (Lieutenant Governor), State of Tennessee: Dec. 8: H–83–51: Referring recommendations concerning child motor vehicle passenger protection to Committee on Transportation.

State of Tennessee: Dec. 13: H–83–51: Referring recommendation concerning child motor vehicle passenger protection to State's Highway Safety Program for review.

State of Minnesota Dept. of Public Safety: Dec. 8: H–83–51: Employs a full-time Occupant Restraint Program Director to address the infant and child restraint use problem.

Speaker of the House of Representatives, State of Arkansas: Dec. 13: H–83–52: State does not mandate public awareness campaigns concerning use of child restraints.

State of Hawaii: Dec. 19: H–83–52: Dept. Of Transportation's Motor Vehicle Safety Office conducted a retraining workshop for operators of loaner programs and discussed installation and usage. The Child Transportation Coalition of Hawaii is working on a training program for police officers to motivate them to enforce the law and provide instruction to people they observe using child restraints incorrectly.

Chief Clerk of the Assembly, Nevada Legislature: Dec. 13: H–83–52: Will consider recommendation for public information and education activities specifically aimed at combating misuse of child safety seats during the 1985 legislative session.

Speaker, House of Delegates of Maryland: Dec. 8: H–83–52: General Assembly passed bill concerning child safety seats which states that the Depts. of Transportation and of Health and Mental Hygiene will implement the child safety seat program and foster compliance with this section through educational and promotional efforts.

Lieutenant Governor of Washington: Dec. 7: H–83–52: Will refer recommendation concerning public information and education activities specifically aimed at combating misuse of child safety seats to the proper Senate committees for consideration.

Speaker, House of Representatives, State of Hawaii: Dec. 22: H–83–52: Will consider recommendation concerning public information and education activities specifically aimed at combating misuse of child safety seats.

State of North Dakota: Dec. 20: H–83–52: Has an extensive public education program to ensure that the seat safety system is used according to the manufacturer's suggestions. The North Dakota Health Dept. and the Traffic Safety Division of the Highway Dept. have conducted eight regional training programs at day care centers, for Jayceettes, for all of the larger hospitals, county health nurses, and county extension offices. Letters and phone calls have been made to smaller hospitals and organizations and the film,

"The Perfect Gift," has been made available for showing at these gatherings.

Office of the Speaker, Ohio House of Representatives: Dec. 13: H–83–51: Acknowledges receipt of recommendation concerning public information and education activities specifically aimed at combating misuse of child safety seats.

"Strolee" of California: Dec. 12: H–83–60 and –61: Instruction sheets for child seats are under review for any possible revision to make them clearer and easier for the consumer to understand and use. They carry specific suggested height and weight usage for both the infant carrier position and child seating position. Some car seat models already carry the safety belt routing labels, and this is being incorporated to include all child restraint systems currently being manufactured.

Questor Juvenile Furniture Company: Dec. 14: H–83–60 and –61: Revision to instructions have been incorporated in all of its safety seats. Certain models include labels identifying the correct location and placement of the automobile lap belt. Other labels are attached to its child restraint devices in accordance with Federal Motor Vehicle Safety Standard 213 to illustrate proper installation of the devices in both front and rear automobile seating positions.

Collier-Keyworth Company: Dec. 19: H–83–60 and –61: Is attaching permanent labels to safety seats to identify correct safety belt routing points on its child restraint seats.

Kolcraft Products, Inc.: Dec. 8: H–83–60 and –61: Is reviewing the recommendations to review and revise instructions for use of child safety seats to improve their clarity, and to attach permanent labels to safety seats to identify correct safety belt routing points.

Century Products, Inc.: Dec. 7: H–83–60 and –61: Is reviewing the recommendations to review and revise instructions for use of child safety seats to improve their clarity, and to attach permanent labels to safety seats to identify correct safety belt routing points.

Note.—Single copies of these response letters are availble on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include respondent's name, date of letter, and recommendation number(s) in your request. The photocopies will be billed at a cost of 20 cents per page ($2 minimum charge).

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

December 28, 1983.

[FR Doc. 83–34840 Filed 12–30–83; 8:45 am]

BILLING CODE 4910–58–M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Aeronautical Policy Review Committee; Establishment

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), it is hereby determined that the establishment of the Aeronautical Policy Review Committee (APRC) is necessary, appropriate, and in the public interest in connection with the performance of duties imposed upon the Director, Office of Science and Technology Policy (OSTP), by the Presidential Science and Technology Advisory Organization Act of 1976 and other applicable laws. This determination follows consultation with the General Services Administration, pursuant to Section 9(a)(2) of the Federal Advisory Committee Act and GSA Interim Rule on Federal Advisory Committee Management (48 FR 19324, April 28, 1983).

1. *Name of Group:* Aeronautical Policy Review Committee.

2. *Purpose:* The purpose of the Aeronautical Policy Review Committee is to review for the Director, Office of Science and Technology Policy, the implementation of national aeronautical research and technology (R&T) policy. This is comprised of the recent Administration policy established as a result of the OSTP study on aeronautical R&T and by the goals and technical objectives of the National Aeronautics and Space Administration, the Department of Defense, Federal Aviation Administration, and the aeronautical industry. The Committee shall report annually the results of this review to the Director, OSTP. The Committee shall also advise on special aeronautical issues as directed by the Director, OSTP.

3. *Effective Date of Establishment and Duration:* The establishment of the Aeronautical Policy Review Committee is effective upon filing the charter with the Director, OSTP, and with the standing committees of Congress having legislative jurisdiction over the Office of Science and Technology Policy. The Committee will terminate on October 13, 1985, unless sooner extended.

4. *Membership:* Members of the Aeronautical Policy Review Committee shall be appointed by the Director, Office of Science and Technology Policy. That appointment shall be subject to review every 365 days unless earlier terminated. The Panel shall consist of no more than 17 members. The Director, OSTP, shall appoint a Chairman and Vice Chairman from the members of the Committee.

5. *Advisory Group Operation:* The Aeronautical Policy Review Committee shall operate in accordance with provisions of the Federal Advisory Committee Act (Pub. L. 92–463), the GSA Interim Rule on Federal Advisory Committee Management (48 FR 19324, April 28, 1983), and other directives and instructions issued in implementation of the Act.

Jerry D. Jennings,

Executive Director.

[FR Doc. 83–34755 Filed 12–30–83; 8:45 am]

BILLING CODE 3170–01–M

PENSION BENEFIT GUARANTY CORPORATION

Withdrawal of Pendency of Request for Exemption From Bond/Escrow Requirement Relating to Sale of Assets by an Employer That Contributes to a Multiemployer Plan: Libby, McNeill & Libby, Inc. (California Canners and Growers)

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of withdrawal by PBGC of the notice of pendency of request.

SUMMARY: On May 10, 1983, the Pension Benefit Guaranty Corporation published a notice of pendency in the **Federal Register**, 48 FR 21031, soliciting public comment on a request PBGC had received from Libby, McNeill & Libby, Inc. ("Libby") for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974. The exemption request concerned a sale and lease of certain assets by Libby to California Canners and Growers ("Cal Can").

In response to the notice, PBGC received one comment, which provided information to the effect that the purchaser, Cal Can, had filed a petition under Chapter 11 of the Federal Code of Bankruptcy. The petition appears to have been filed after publication of the notice of pendency. Thereafter, pursuant to 29 CFR 2643.2(d), PBGC requested from Libby updated financial information on Cal Can, including details on the most recent financial developments concerning Cal Can. A representative of Libby has indicated that the information is not at this time available. Without this information, PBGC is unable to determine whether the exemption will significantly increase the financial risk to the plans (29 CFR 2643(a)(2)). Therefore, PBGC has concluded that it must withdraw from the public the notice of pendency on this matter. The effect of this notice is to advise interested persons that PBGC will take no further action on the request.

FOR FURTHER INFORMATION CONTACT: James M. Graham, Attorney, Corporate Planning and Program Development Department (140), Pension Benefit

Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006; (202) 254–4862. [This is not a toll-free number.]

Issued at Washington, D.C., on December 23, 1983.

Charles C. Tharp,

Acting Executive Director,

Pension Benefit Guaranty Corporation.

[FR Doc. 83-34780 Filed 12-30-83; 8:45 am]

BILLING CODE 7708-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-8029]

The Ryland Group, Inc.; Application To Withdraw From Listing and Registration

December 28, 1983.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. The common stock of The Ryland Group, Inc. ("Company"), Common Stock, $1 Par Value, is listed and registered on the Amex. Pursuant to a Registration Statement on Form 8-A which became effective on November 22, 1983, the Company is also listed and registered on the New York Stock Exchange ("NYSE"). The Company has determined that the direct and indirect costs and expenses do not justify maintaining the dual listing of the common stock on the Amex and the NYSE.

2. This application relates solely to withdrawal of the common stock from listing and registration on the Amex and shall have no effect upon the continued listing of such stock on the NYSE. The Amex has posed no objection to this matter.

Any interested person may, on or before January 19, 1984 submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-34833 Filed 12-30-83; 8:45 am]

BILLING CODE 8010-01-M

[SR-NSCC-83-13; Rel. No. 20516]

Filing and Immediate Effectiveness of Proposed Rule Change by the National Securities Clearing Corp.

December 28, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), the National Securities Clearing Corporation ("NSCC"), on November 28, 1983, filed with the Commission a proposed rule change that would modify NSCC's over-the-counter ("OTC") trade comparison system. The Commission is publishing this notice to solicit comments from persons interested in the proposed rule change.

The NSCC comparison process [1] for OTC transactions begins when NSCC members submit to NSCC trade data on the first day after trade date ("T+1"). This trade data includes: (1) Identification of the major side and minor side executing brokers and clearing members; and (2) the volume and value of the trade. On the night of T+1, NSCC validates and matches this trade data, arriving at a Contract List that is provided to NSCC members on the morning of T+2. These Contract Lists categorize trade data into compared, uncompared, and advisory items. When a member receives an advisory notice, which shows the trade data as submitted by a *contra* party, the member may agree to the trade by stamping the notice and returning it to NSCC on T+2 or T+3. After T+1, NSCC provides its members with supplemental comparison mechanisms other than the initial advisory process.[2]

For T+1 trade data, NSCC currently performs a two-step comparison process. First, NSCC attempts an exact match of the data submitted, comparing the clearing and executing brokers and the quantities and prices submitted by each side. If a transaction remains uncompared, NSCC then will summarize the trade data with respect to the quantity of shares traded for each clearing broker by each executing broker. When the clearing and executing broker information matches, NSCC will attempt to match quantities, either fully or partially. (For the supplemental trade services, *e.g.*, Withholds and Demand As-Ofs, NSCC currently performs only the first step.)

Under the NSCC proposal, an additional step would be added to the comparison process for all trade data. In this step, NSCC will ignore the major and minor executing broker data. Trades then will be compared based on the identities of the clearing broker.[3] When a trade is compared as a result of this step, NSCC will indicate that fact on the Contract Lists.[4]

NSCC indicates that the new comparison procedure will reduce the number of uncompared OTC trades. Under the proposal, NSCC now will be able to compare trades that previously would have been uncompared because of inaccurate executing broker data. NSCC states that some of its participants have developed informal agreements by which they automatically accept advisory notices. As a result of these arrangements, rather than correcting inaccurate executing broker data or other incorrect data, they use the advisory process to generate a contract.[5] Under the proposal, however, NSCC believes that participants will be able, for the first time, to know specifically from the notations on the Contract Lists that executing broker data did not match. Through that notation process, NSCC believes that it

[1] The NSCC Comparison process is described in Section II of NSCC's Procedures.

[2] Besides the first advisory process, supplemental comparison mechanisms include Withholds, Demand Withholds, As-Ofs, and Demand As-Ofs. *See* Section II of NSCC's Procedures for a detailed discussion of each mechanism.

[3] For example, suppose that, on T+1, Clearing Broker A submits data showing that Executing Broker X has three purchases of 100, 200, and 300 shares against Clearing Broker B and Executing Broker Y. Clearing Broker B submits data showing that Executing Broker Y had one sale of 600 shares to Executing Broker X, Clearing Broker A. In the first step NSCC would attempt an exact match of the data submitted, but this would result in an uncompared trade. In the second step, NSCC would summarize the quantity of shares traded by Executing Broker X (600) and find a matched trade with the data submitted by Clearing Broker B. Under the proposed rule change, for trades that do not match on executing broker data, but do match on clearing members and quantity of shares traded, NSCC will generate a comparison. Thus, if Clearing Broker A submits the same data as above, but Clearing Broker B submits a trade of 600 to Executing Broker F, Clearing Broker A, a compared trade would be generated.

[4] Asterisks will be inserted in place of executing broker data for T+1 trade data that is compared through this step. For supplemental trade services, supplemental contract lists will indicate whenever compared trades result from the third step.

[5] To ensure simplicity of use during high volume periods, advisory notices do not identify which data field is incorrect.

will be facilitating participants' identification of the incorrect data. Finally, NSCC notes that while executing broker data will not be essential to the comparison process, participants still will be obligated to submit to NSCC for comparison correct executing broker data.

NSCC states that the rule change effects a change in an existing NSCC service that does not adversely affect either the safekeeping of securities in NSCC's control or for which it is responsible. The proposed rule change has become effective under Section 19(b)(3)(A) of the Act and Rule 19b–4 thereunder. At any time within sixty days of the filing of the proposal, the Commission can summarily abrogate the rule change if such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

If you wish to comment on the proposal, please submit your written comments to the Commission within twenty-one days from the date this notice is published in the **Federal Register**. Please file six copies of your comments with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Please make sure that your comments refer to File No. SR–NSCC–83–13.

Copies of the filing, exhibits, and comments can be inspected at the Securities and Exchange Commission's Public Reference Room, 450 Fifth Street NW., Washington, D.C. Copies of the filing also are available at NSCC's principal office.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83–34834 Filed 12–30–83; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–20513; File No. SR–CBOE–83–61]

Self-Regulatory Organizations; Proposed Rule Change by Chicago Board Options Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 20, 1983, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of Proposed Rule Change

Deletions are bracketed, there are no additions.

"Crossing" Orders

Rule 6.74 (a)(i) through (a)(iii) no change.

(b)(i) and (b)(ii) no change.

(iii) After providing an opportunity for such bids and offers to be made, the Floor Broker must, on behalf of the public customer, either bid above the highest bid in the market or offer below the lowest offer in the market, identify the order as being subject to facilitation, and disclose all terms and conditions of the public customer order. After all other market participants are given an opportunity to accept the bid or offer made on behalf of the public customer, the Floor Broker may cross all or any remaining part of the public customer order and the facilitation order at the public customer's bid or offer by announcing in public outcry that he is crossing and by stating the quantity and price(s). Once such bid or offer has been made, the public customer order has precedence over any other bid or offer in the crowd [at the same price], to trade immediately with the facilitation order.

(c) no change.

. . . Interpretations and Policies:

.01 through .03 no change.

[.04 Where a related transaction must be effected in another market, that transaction must be effected prior to effecting the options transaction.]

II. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The Commission recently approved the Exchange's Proposed Rule Change, File No. SR–CBOE–83–04, which amended, among other things, Rule 6.74, the cross rule. Based upon experience with implementation of the revised provisions, the two modifications reflected in this new rule change appear appropriate.

Rule 6.74(b) establishes the procedure for a customer facilitation cross transaction. When the floor broker representing a facilitation order enters the crowd, he is to first ask for a market from the crowd. After the market is established, he then announces the terms of the facilitation order. For example, the floor broker asks for a market in an option series, and the best market announced in the crowd is 2 bid—2¼ offer. The floor broker announces a facilitation cross of 100 option contracts at 2⅛, the customer bidding 2⅛ and the firm offering at 2⅛. Under Rule 6.74, persons in the trading crowd and orders represented in the trading crowd can accept the customer's bid or offer, but cannot block the customer side of the order by changing the established market of 2 bid to 2⅛ or higher.

The last sentence of Rule 6.74(b)(iii) emphasizes that the customer side of the facilitation order cannot be blocked by revision in the trading crowd's market: "Once such bid or offer has been made, the public customer order has precedence over any other bid or offer in the crowd at the same price, to trade immediately with the facilitation order." However, placement of the phrase "at the same price" in that sentence has caused confusion. Contrary to the intent of the rule, some traders have inferred that this creates a second opportunity for a market quotation, which, if *better* than the customer side of the facilitation order, would halt the customer's facilitation order from being transacted. In the above illustration, this interpretation would permit blocking the customer bid of 2⅛ by moving the market up to 2¼ bid, under the argument that the rule provides that the customer order only has precedence "at the same price". Because this interpretation is contrary to the Exchange's intent, the rule is being interpreted as not permitting such a market revision to block the customer's order. Elimination of the phrase "at the same price" will clarify the rule's intent and codify the Exchange's current interpretation.

Interpretation .04 to Rule 6.74 was intended to avoid fixing the price of the stock portion of a stock-option transaction on the Exchange's trading floor. Initial experience has demonstrated that flexibility in executing such orders warrants elimination of this interpretation, and will avoid technical rule violations which are unrelated to the provision's purpose. In addition, the American

Stock Exchange option facilitation rule does not contain such a limiting provision. Accordingly, elimination of this provision is also in the interest of having consistent rules on the various options exchanges.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 23, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-34831 Filed 12-30-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20514; File No. SR-CBOE-83-41, 42, 45-52, 54-60]

Self-Regulatory Organizations; Proposed Rule Change by Chicago Board Options Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 20, 1983, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organizations. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to permit CBOE to list and trade standardized put and call options on the following narrow-based (or "industry") indexes published by Standard & Poor's Corporation ("S&P"). The indexes are widely recognized and followed by the securities industry.

1. Financial
2. Transportation
3. Utilities
4. Aerospace
5. Drugs
6. Gold
7. Entertainment
8. Gaming
9. Retail Stores-Gen'l Mdse
10. Banks (NYC & Outside NYC)
11. Communication Equip/Mfrs.
12. Telephone
13. Air Transport
14. Computer & Business Equip. (Excl. IBM)
15. Automobiles
16. Restaurants
17. Steel

Options on the indexes will be traded within the general framework of Exchange rules for trading industry index options. Contract specifications are as follows; an index miltiplier of 100; 5 point exercise price intervals; if the Commission approves SR-CBOE-83-38 expiration will be in consecutive months, otherwise at three-month intervals in the March-June-September-December cycle.

Presently the Indexes are disseminated in various S&P publications. Before trading begins, CBOE will assure the index values are disseminated by various securities information vendors throughout the day. The final index values reported by S&P will be the closing index values as defined in Rule 24.1(g). The Exchange has designated S&P as the reporting authority as that term is defined in Rule 24.1(h).

A major use of the indexes is as a standard for comparison of the performance of individual stocks within each the index. Each stock in the index must represent a viable enterprise and must be representative of the industry group to which it is assigned. Its market price movements must in general be responsive to changes in the industry. Aggregate market value of the stock and its trading activity are important considerations in the selection process. Judgments as to the investment appeal of the stocks do not enter into the selection process.

Each stock in the Indexes are weighted by the number of shares outstanding, and the level of the Indexes at any time represents the quotient of the aggregate market value of their component stocks multiplied by the base index then divided by their aggregate market value (adjusted for certain capitalization changes) as of the base period when the indexes were established.

This proposed rules change covers a family of index options that CBOE will seek permission to trade. CBOE does not intend to begin trading every option as soon as authority is received for the option to be listed; new options will be introduced at a reasonable and orderly pace.

The statutory basis for the proposed rules change is Section 6(b)(5) of the Exchange Act in that these options will serve the public investors by enabling investors to hedge against risk associated with a particular industry. For example, an investor may believe that a particular stock will outperform its industry but is concerned that the price of that stock could decline as a result of factors affecting the industry as a whole. The investor could hedge against the industry component of risk by buying a put option on that industry group.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposal does not create any burden on competition among exchanges that is not necessary or appropriate under the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments on the proposed rule change were neither solicited nor received.

II. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date is it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: December 23, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-34835 Filed 12-30-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements for OMB Review

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATE: Comments must be received on or before January 30, 1984. If you anticipate commenting on a submission but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the agency clearance officer of your intent as early as possible.

COPIES: Copies of the proposed surveys and forms, the requests for clearance (S.F. 83), supporting statements, instructions, transmittal letters, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer:

Elizabeth M. Zaic, Small Business Administration, 1441 L St. NW., Room 200, Washington, D.C. 20416, Telephone: (202) 653-8538.

OMB Reviewer:

J. Timothy Sprehe, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, Washington, D.C. 20503, Telephone: (202) 395-4814.

Forms Submitted for Review:

Title: Survey of Government Contractors to Assess Level of Subcontracting to Small Business
Frequency: One time, nonrecurring.
Description of Respondents: Prime contractors and subcontractors
Annual Responses: 1,875
Annual Burden Hours: 938
Type of Request: New

Title: SBDC Case Record Form
Form No.: SBA 1394
Frequency: Annually
Description of Respondents: Clients at time of counseling assistance
Annual Responses: 50,000
Annual Burden Hours: 22,000
Type of Request: New

Title: SBIR Mailing List and Confirmation Request
Form Nos.: SBA Form 1386
Frequency: On occasion
Description of Respondents: Small business concerns
Annual Responses: 60,000
Annual Burden Hours: 1,000
Type of Request: New

Dated: December 27, 1983.

Richard Vizachero,

Acting Chief, Paperwork Management Branch, Small Business Administration.

[FR Doc. 83-34838 Filed 12-30-83; 8:45 am]

BILLING CODE 8025-01-M

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATE: Comments must be received on or before January 31, 1984. If you anticipate commenting on a submission but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the agency clearance officer of your intent as early as possible.

COPIES: Copies of the proposed forms, the requests for clearance (S.F. 83), supporting statements, instructions, transmittal letter, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer

Elizabeth M. Zaic, Small Business Administration, 1441 L St,. NW., Room 200, Washington, D.C. 20416, Telephone: (202) 653-8538.

OMB Reviewer

J. Timothy Sprehe, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, Washington, D.C. 20503, Telephone: (202) 395–4814.

Forms Submitted for Review

Title: Disaster Loan Authorization and Agreement
Form Nos.: SBA 1366 and 1391
Frequency: On Occasion
Description of Respondents: Borrowers
Annual Responses: 14,500
Annual Burden Hours: 49,625
Type of Request: Revision

Dated: December 27, 1983.

Richard Vizachero,

Acting Chief, Paperwork Management Branch, Small Business Administration.

[FR Doc. 83–34554 Filed 12–30–83; 8:45 am]
BILLING CODE 8025–01–M

Senior Executive Service Performance Review Boards; List of Members

AGENCY: Small Business Administration.

ACTION: Listing of personnel serving as members of this Agency's Senior Executive Service Performance Review Boards for fiscal year 1984.

SUMMARY: Pub. L. 95–454 dated October 13, 1978, (Civil Service Reform Act of 1978) requires that Federal Agencies publish notification of the appointment of individuals who serve as members of that Agency's Performance Review Board (PRB). The following is a listing of those individuals currently serving as members of this Agency's PRB:

Primary Performance Review Board

Harry S. Carver, Comptroller
Donald R. Templeman, Assistant Administrator for Innovation, Research and Technology
Janice E. Wolfe, District Director, Washington District Office
James N. Thomson, Associate Administrator for Management Assistance
Stephen J. Hall, Regional Administrator, Seattle Regional Office
Richard L. Osbourn, Director of Personnel; Technical Advisor (Nonvoting Member)
George H. Robinson, Director of Equal Employment Opportunity and Compliance; EEO Advisor (Nonvoting Member)

Alternate Performance Review Board

The following executives will review the Senior Executive Service ratings of the members of the Primary PRB:

Charles Hertzberg, Deputy Associate Administrator for Financial Assistance
Donald Young, Deputy General Counsel
Carlos Suarez, Regional Administrator, Denver Regional Office

Inspector General Performance Review Board

A separate PRB consisting of members from Inspector General Offices in other agencies and a member of SBA's Senior Executive Service has been appointed to review appraisals of executives assigned to the Office of the Inspector General:

Donald Kirkendall, Assistant Inspector General for Audit, Department of Housing & Urban Development
Robert B. Webber, General Counsel
Robert Hudak, Assistant Inspector General for Management & Fraud Control, Department of Housing & Urban Development; Alternate
Donald Dougherty, Assistant Inspector General for Investigations, National Aeronautics & Space Administration; Alternate

James C. Sanders,

Administrator.

[FR Doc. 83–34839 Filed 12–30–83; 8:45 am]
BILLING CODE 8025–01–M

[Proposed License No. 02/02–0472]

Croyden Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an Application has been filed with Small Business Administration pursuant to Section 107.102 of the Regulations governing Small Investment Companies pursuant to § 107.102 of Revision 6 of the SBA Regulations [48 FR 45014 (September 30, 1983)] under the name of Croyden Capital Corp., Suite 2165, 45 Rockefeller Plaza, New York, New York 10020, for a license to operate as a small business investment company, under the provisions of the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and their shareholders are as follows:

Harry Freund, 45 Rockefeller Plaza, New York, New York 10020—Chairman of the Board & Director
Victor L. Hecht, 2019 Repley Lane, Merrick, New York 11566—President, Treasurer Director
Jay Goldsmith, 45 Rockefeller Plaza, New York, New York 10020—Vice Chairman, Secretary, Director
Don Cecil, 1114 Avenue of the Americas, New York, New York—Director
Singer Investments, S.A., London, England

All of the above may own in excess of 10 percent of the common stock.

Singer Investments, S.A. is a wholly owned subsidiary of Singer & Friedlander, Ltd., a merchant bank located in London, England.

At this time it is unknown who the other stockholders will be.

The Applicant will begin with capitalization of $1,050,000 which will be the source of both equity and debt financing to qualified small business concerns for expansion and working capital. The applicant does not intend to use the services of an investment adviser but will provide consulting services to its clients and other small concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed management and owner, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this notice submit to SBA in writing relevant comments on the proposed licensing of this company. Any such communications should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in the New York City area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 23, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83–34837 Filed 12–30–83; 8:45 am]
BILLING CODE 8025–01–M

Small Business Investment Co; Maximum Annual Cost of Money to Small Business Concerns

13 CFR 107.301(c) sets forth the SBA Regulations governing the maximum annual cost of money to small business concerns for Financing by small business investment companies.

Section 107.301(c)(2) requires that SBA publish from time to time in the **Federal Register** the current Federal Financing Bank (FFB) rate for use in computing the maximum annual cost of money pursuant to § 107.301(c)(1). It is

anticipated that a rate notice will be published each month.

13 CFR 107.301(c) does not supersede or preempt any applicable law that imposes an interest ceiling lower than the ceiling imposed by that regulation. Attention is directed to new subsection 308(i) of the Small Business Investment Act, added by section 524 of Pub. L. 96–221, March 31, 1980 (94 Stat. 161), to that law's Federal override of State Usury ceilings. and to its forfeiture and penalty provisions.

Effective January 1, 1984, and until further notice, the FFB rate to be used for purposes of computing the maximum cost of money pursuant to 13 CFR 107.301(c) is 11.995% per annum.

Dated: December 27, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-34836 Filed 12-30-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

December 23, 1983.

On December 23, 1983 the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 535–6020. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7227, 1201 Constitution Avenue, N.W., Washington, D.C. 20220.

Comptroller of the Currency

OMB Number: 1557–0100
Form Number: FFIEC 009
Type of Review: Revision
Title: Country Exposure Report
OMB Reviewer: Judy McIntosh (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Cathy Thomas,

Departmental Reports Management Office.

[FR Doc. 83-34806 Filed 12-30-83; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

December 23, 1983.

On December 23, 1983 the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 535–6020. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7227, 1201 Constitution Avenue, NW., Washington, D.C. 20220.

Office of the Secretary

OMB Number: None
Form Number: None
Type of Review: Existng Collection
Title: Financial Recordkeeping and Reporting of Currency and Foreign Transactons (ccmmonly referred to as the Bank Secrecy Act)

Internal Revenue Service

OMB Number: 1545–0008
Form Number: W–3cPR
Type of Review: Revision
Title: Wage and Tax Statement
OMB Reviewer: Norman Frumkin (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Joseph A. Donahue,

Departmental Reports Management Office.

[FR Doc. 83-34805 Filed 12-30-83; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

December 21, 1983.

On December 21, 1983 the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 535–6020. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7227, 1201 Constitution Avenue, NW., Washington, D.C. 20220.

Alcohol, Tobacco and Firearms

OMB Number: 1512–0291
Form Number: ATF Rec 5110/14
Type of Review: Existing Regulation
Title: Alcohol Fuel Plants—Letterhead Applications and Notices Relating to Operations

OMB Number: 1512–
Form Number: ATF Rec 5000/4
Type of Review: Existing Regulation
Title: Application for Awards Under the Equal Access to Justice Act

Internal Revenue Service

OMB Number: 1545–0057
Form Number: 1024
Type of Review: Revision
Title: Application for Recognition of Exemption Under Section 501(a)

OMB Number: 1545–
Form Number: None
Type of Review: Existing Regulation
Title: Requests for Copies of Written Determinations
OMB Reviewer: Norman Frumkin (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Joseph A. Donahue,

Departmental Reports, Management Office.

[FR Doc. 83-34804 Filed 12-30-83; 8:45 am]

BILLING CODE 4810-25-M

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 500]

Change of Title

This Notice announces that the position of Regional Regulatory Administrator is retitled Regional Director (Compliance). This change of title shall be effective January 2, 1984.

Signed: December 28, 1983.

W. T. Drake,

Acting Director.

[FR Doc. 83-34818 Filed 12-30-83; 10:27 am]

BILLING CODE 4810-31-M

Fiscal Service

[Dept. Circ. 570, 1983 Rev., Supp. No. 12]

Surety Companies Acceptable on Federal Bonds; Southeastern Casualty and Indemnity Insurance Company, Inc.]

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company

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under Sections 9304 to 9308 Title 31 of the United States Code. An underwriting limitation of $304,000 has been established for the company.

Name of Company:
Southeastern Casualty and Indemnity Insurance Company, Inc.

Business Address:
1512 E. Broward Blvd.
Ft. Lauderdale, FL 33301

State of Incorporation:
Florida

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1983 Revision, at page 30540 to reflect this addition. Copies of the circular, when issued, may be obtained from the Operations Staff, Banking and Cash Management, Department of the Treasury, Washington, D.C. 20226.

Dated: December 23, 1983.

W. E. Douglas,

Commissioner.

[FR Doc. 83-34783 Filed 12-30-83; 8:45 am]

BILLING CODE 4810-35-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 1
Tuesday, January 3, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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Consumer Product Safety Commission	1
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1

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, January 5, 1984, Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED:

1. Policy on Release on Consumer Complainant Data

The Commission will consider issues related to the release of consumer complainant data.

2. Enforcement Matter OS #5067

The staff will brief the Commission on issues related to enforcement matter OS #5067.

3. Enforcement Matter OS #4540

The Commission will consider issues related to enforcement matter OS #4540.

For a recorded message containing the latest agenda information call (301) 492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, Md. 20207, (301) 492–6800.

[S–1810–83 Filed 12–29–83; 3:39 pm]

BILLING CODE 6355–01–M

2

POSTAL SERVICE BOARD OF GOVERNORS

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold meetings at 1:00 p.m. on Monday, January 9, 1984, in Washington, D.C., and at 8:30 a.m. on Tuesday, January 10, 1984, in the Benjamin Franklin Room, 11th floor, Postal Service Headquarters, 475 L'Enfant Plaza, SW, Washington, D.C. As indicated in the following paragraph, the January 9 meeting is closed to public observation. The January 10 meeting is open to the public. The Board expects to discuss the matter stated in the agenda which is set forth below. Requests for information about the meetings should be addressed to the Secretary of the Board, David F. Harris, at (202) 245–3734.

At its meeting on December 5–6, the Board voted in accordance with the provisions of the Government in the Sunshine Act to close to public observation its meeting scheduled for January 9. (See 48 FR 56305, December 20, 1983.) The agenda items of the meeting to be closed concern (1) discussion of Board personnel matters; and (2) strategic planning in connection with collective bargaining.

Agenda:

Monday Session, January 9: (Closed)

1:00 p.m.:

1. Discussion of Board personnel matters.
2. Strategic Planning—Collective Bargaining.

Tuesday Session, January 10: (Open)

8:30 a.m.:

1. Minutes of the Previous Meeting, December 5–6, 1983.
2. Remarks of the Postmaster General. (In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the Members of miscellaneous current developments concerning the Postal Service. Nothing that requires a decision by the Board is brought up under this item.)
3. Selection of Chairman and Vice Chairman. (Under the Board's Bylaws, the first regular meeting of each calendar year is designated as the Annual Meeting. The terms of the Chairman and Vice Chairman of the Board expire at the end of the first Annual Meeting following the meeting at which they were elected. Accordingly, the Board will consider the election of a Chairman and Vice Chairman.)
4. Appointment of Committee Members by Chairman. (The Bylaws also provide that the terms of the Chairman and members of the several committees of the Board expire at the end of this meeting.)
5. Annual Report on Open Meetings Compliance. (Mr. Harris will present for approval by the Board the Annual Report to Congress that is required by the Government in the Sunshine Act regarding the Board's compliance with the Act.)
6. Consideration of a proposed rulemaking regarding deposit of E-COM messages in Serving Post Offices (SPOs).
7. PRISM. (Mr. Hagburg, Assistant Postmaster General, Delivery Services Department, will brief the Board on the Program for Retail Information Systems Management.)
8. Capital Investment Projects:

a. Quarter-ton Light Delivery Vehicles
b. Automation—Phase II

(Mr. Hagburg will present the proposal for the purchase of 1,000 right-hand drive light delivery vehicles, and Mr. Jellison will present the proposal for Phase II of the Automation System.)

9. Review of schedule of 1984 Board of Governors' Meetings.
10. Consideration of a Tentative Agenda for the February 8–9, 1984 meetings for the Board in Los Angeles, California.

David F. Harris,

Secretary.

[S–1809–83 Filed 12–29–83; 10:35 am]

BILLING CODE 7710–12–M

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federal register

Tuesday
January 3, 1984

Part II

Department of Justice

Bureau of Prisons

28 CFR Part 524
Progress Reports of Inmates; Final Rule

28 CFR Part 524
Classification and Program Review of Inmates; Final Rule

28 CFR Part 548
Religious Beliefs and Practices of Inmates; Proposed Rule

28 CFR Parts 511 and 551
Searching/Detaining of Non-Inmates; Arresting Authority; Use of Metal Detectors; and Marriages of Inmates; Proposed Rule

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DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 524

Control, Custody, Care, Treatment, and Instruction of Inmates; Progress Reports

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document, the Bureau of Prisons is publishing its final rule on Progress Reports. The rule discusses the type of progress reports used by the Bureau to maintain current information on an inmate. The progress report is intended to summarize information relating to the inmate's adjustment during confinement, program participation, and readiness for release.

EFFECTIVE DATE: February 6, 1984.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 760, 320 1st Street NW., Washington, D.C. 20534.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone 202/724–3062.

SUPPLEMENTARY INFORMATION: In this document, the Bureau of Prisons is publishing its final rule on Progress Reports. A proposed rule on this subject was published in the **Federal Register** January 12, 1979 (at 44 FR 2981 et seq.). Interested persons were invited to submit comment on the proposed rule. Members of the public may submit comments concerning the final rule by writing the previously cited address. These comments will be considered but will receive no response in the **Federal Register**.

The Bureau of Prisons has determined that this rule is not a major rule for the purpose of EO 12291. The Bureau of Prisons has determined that EO 12291 does not apply to this rule since the rule involves agency management. After review of the law and regulations, the Director, Bureau of Prisons, has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96–354), does not have a significant impact on a substantial number of small entities.

Summary of Changes

1. *Section 524.40*—Final § 524.40 is revised. Deleted from the final rule are specific references to staff regularly preparing progress reports, to discussion of an inmate's response to confinement, and to discussion of the inmate's offense and background. The revised rule more accurately describes the purpose and scope of the progress report, to summarize information relating to the inmate's adjustment during confinement, program participation, and readiness for release. The inmate's individual situation determines when a progress report is prepared. The last sentence of proposed § 524.40 is deleted, since a progress report ordinarily is not intended to decide on institutional programs for an inmate. The purpose for each type of progress report is described in § 524.41.

2. *Section 524.41*—Final § 524.41 is retitled "Types of Progress Reports". Proposed § 524.41(a), concerning an annual progress report, is deleted. This report is not necessary. In addition to the progress reports described in the final rule, each inmate receives a program review at least once every 180 days (see Part 524, Subpart B). This ensures a regular review of the inmate's status. New final § 524.41(a)–(e) identifies progress reports prepared by the Bureau of Prisons. Proposed § 524.42 discussed parole progress reports. Final § 524.41(a)–(c) identifies three types of parole progress reports. A report for an initial parole hearing is prepared when the Bureau's staff summary (classification report) on the inmate is more than 90 days old. Statutory interim/two-thirds review are progress reports prepared for use of the U.S. Parole Commission (see 28 CFR 2.14, 2.53). The pre-release record review is also a report prepared for, and mailed to, the U.S. Parole Commission at least six months prior to the inmate's presumptive parole date. Final § 524.41(d) discusses transfer reports and generally reflects proposed § 524.43, which is now deleted. Final §524.41(e) recognizes that other progress reports (for example, upon request of the court) may occasionally be required.

3. *Section 524.42*—Proposed § 524.44 is revised and becomes final § 524.42. The final rule requires that the inmate central file contain a copy of each progress report prepared on an inmate. The current progress report is to contain a summary of important information reflected in earlier progress reports. Deleted from the revised rule is the statement that all earlier progress reports be destroyed. This revision is compatible with comments received on proposed § 524.42. One commenter suggested that retention of progress reports allows for a "valuable comparison over time". Two other comments, submitted by inmates in federal institutions, also supported the retention of progress reports.

4. *Section 524.43*—Final § 524.43 is retitled "Content of Progress Reports" and identifies information to be included in a progress report prepared on an inmate. One segment of proposed § 524.41(b)(1) becomes final § 524.43(a) and now reads "committed name" as opposed to "name". The other segment of proposed § 524.41(b)(1) and § 524.41 (b)(2)–(b)(12) are in final § 524.43 (a)–(c) and (e)–(n). Final § 524.43(e) reads "offense(s) for which committed" as opposed to "offense" in the proposed rule. Final § 524.43(i) clarifies proposed § 524.41(b)(7) by specifying extra good time "earned". Final § 524.43(k) substitutes the phrase "Tentative release date" for "current mandatory release date" used in proposed § 524.41(b)(9). Final § 524.43(n) requires information on co-defendants to be included in the progress report "when possible". Final § 524.43(d) is new and requires staff to identify the inmate's present security and custody level. Final § 524.43(o) requires the current progress report to contain a summary of the most significant information from earlier reports. This revision encompasses language previously included as part of proposed § 524.41(b). Final § 524.43(p) replaces proposed §524.41(c). The final rule requires staff to summarize significant new information. Proposed § 524.41 (c)(1) through (c)(3) is deleted as a determination on "significant new information" depends more on the inmate and the specific situation than on identification of standard topics. This change is consistent with the thrust of a comment on proposed § 524.41 (c)(1) and (c)(3). Proposed § 524.41(d) and the equivalent language in proposed § 524.41(b) are deleted as final § 524.43(q) identifies areas ordinarily reviewed within the context of institutional adjustment. These include identification of the program plan, work assignments (including information on the inmate's specific work skills), educational/vocational participation, relationship with staff (interactions), incident reports, any community program involvement, institutional movement (transfers), and the physical and mental health of the inmate. Proposed §524.41(e) is deleted as staff analysis and an interpretation of information based on the inmate's abilities is not a general purpose of the progress report and is to be included only when relevant to a specifically discussed aspect. Proposed § 524.41(f) becomes final § 524.43(q)(8). The final rule requires staff to include information on any significant mental or physical health problem, and on any corrective action taken. The intent of proposed §§ 524.41(g) and 524.42 (a)(1) and (a)(2) is now encompassed within final § 524.43(r). This requires staff to request, where appropriate (for example, for an

inmate requesting parole as opposed to a community treatment center placement), the inmate to provide a specific release plan. This ordinarily includes information on the inmate's planned residence and employment. Deleted is the specific reference to an advisor (inmate may provide if has one) and to the U.S. Probation Officer (probably not known by inmate). The final rule expects staff to identify both available release resources and any particular problems that may be present in planning for an inmate's release. Reference in the proposed rule to pre-release program is deleted from the final rule. Pre-release involvement may be discussed in other sections of the progress report.

Proposed § 524.42 (a)(3) and (a)(4) are deleted, with final § 524.43(s), "parole recommendation", indentifying current Bureau procedures. Accordingly, the final rule states that no recommendation is made by the Bureau in connection with an inmate's initial appearance before the U.S. Parole Commission. Where the U.S. Parole Commission has established an effective or presumptive parole date, Bureau of Prisons staff ordinarily will not recommend that the designated date either be affirmed or changed. If a change is recommended, staff are to fully explain in the progress report the reason for this recommendation. Proposed § 524.42(b) is deleted from the final rule as its substance is considered inappropriate in a rule on progress reports.

A commenter on the proposed rule expressed concern that the emphasis on residence, employers, and resources will result in longer incarceration for the poor and for minorities, and a shorter incarceration for the well-to-do. An inmate's release date is established by, and based on, parole guidelines of the U.S. Parole Commission (see 28 CFR 2.20). Inclusion of an inmate's parole plan within a progress report assists the inmate by providing concerned parties with relevant information. It is not intended, nor is it expected, to impact adversely on whether or not the inmate is released.

5. *Section 524.44*—Comments suggested that the inmate receive a copy of his/her progress report(s). Final § 524.44, "Inmate's Access to Progress Reports", is new. It allows the inmate, upon request, to read and/or receive a copy of the progress report completed on that inmate. Staff will request the inmate sign the original progress report to acknowledge having received and/or read the report. Where the inmate refuses to do this, staff are expected to document the refusal on the progress report. The final rule also allows an inmate to receive a copy of any existing progress report, prepared after October 15, 1974. Because recent Bureau policy was to destroy all prior progress reports, upon completion of the new report, this provision will primarily apply to inmates returned to custody following an extended period in the community.

List of Subjects in 28 CFR Part 524

Prisoners.

Conclusion

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(q), 28 CFR, Chapter V is amended as set forth below.

Dated: December 22, 1983.

Norman A. Carlson,

Director, Bureau of Prisons.

Amend Subchapter B of 28 CFR, Chapter V as follows: In Subchapter B, add a new Subpart E to Part 524.

SUBCHAPTER B—INMATE ADMISSION, CLASSIFICATION, AND TRANSFER

PART 524—CLASSIFICATION OF INMATES

Subpart E—Progress Reports

Sec.

524.40 Purpose and scope.
524.41 Types of progress reports.
524.42 Retention of reports.
524.43 Content of progress reports.
524.44 Inmate's access to progress reports.

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 5006–5024, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

* * * * *

Subpart E—Progress Reports

§ 524.40 Purpose and scope.

The Bureau of Prisons maintains current information on each inmate through progress reports completed by staff. The progress report summarizes information relating to the inmate's adjustment during confinement, program participation, and readiness for release.

§ 524.41 Types of progress reports.

The Bureau of Prisons prepares the following types of progress reports.

(a) *Initial Hearing*—prepared for an inmate's initial parole hearing only if the staff summary (classification report) is more than 90 days old.

(b) *Statutory Interim/Two-Thirds Review*—prepared for a parole hearing conducted 18 or 24 months following a hearing at which no effective parole date was established, or for a two-thirds review (see 28 CFR 2.53).

(c) *Pre-Release Record Review*—prepared for and mailed to the Regional Parole Commissioner at least six months prior to the inmate's presumptive parole date.

(d) *Transfer Report*—prepared on an inmate recommended for transfer to a community treatment center (CTC) or to another institution and whose progress has not been summarized within the previous three months.

(e) *Other*—prepared for any reason other than those previously stated in this section. The reason (e.g., court request, clemency review) is specified in the report.

§ 524.42 Retention of reports.

Staff shall maintain in the inmate central file a copy of each progress report prepared on the inmate. The most current report is to include a summary of important information from the previous progress reports.

§ 524.43 Content of progress reports.

Staff shall include the following information in each progress report prepared on an inmate:

(a) Committed name;
(b) Registration number;
(c) Age;
(d) Present security and custody level;
(e) Offense(s) for which committed;
(f) Sentence;
(g) Date of commencement of service of sentence;
(h) Time served to date, including jail time credit;
(i) Extra good time earned;
(j) Good time withheld or forfeited;
(k) Tentative release date;
(l) Most recent Parole Commission action, including any special requests or requirements;
(m) Detainers and pending charges on file;
(n) Names of the inmate's co-defendant's, and, when possible, their sentence, present location, and any Parole Commission action;
(o) Summary of the most significant information (program achievements, major disciplinary actions, etc.) from prior progress reports;
(p) Summary of significant new information;
(q) Institutional adjustment; this ordinarily includes information on the inmate's:
(1) Program plan;
(2) Work assignments;
(3) Educational/vocational participation;
(4) Relationship with staff;
(5) Incident reports;
(6) Community program involvement, if any;

(7) Institutional movement; and
(8) Physical and mental health, including any significant mental or physical health problems, and any corrective action taken;
(r) Release planning:
(1) Where appropriate, staff shall request that the inmate provide a specific release plan;
(2) Staff shall identify available release resources (including CTCs) and any particular problem that may be present in release planning; and
(s) Parole recommendation:
(1) Staff recommendations are not made on an inmate's initial appearance before the Parole Commission;
(2) Where the Parole Commission has established an effective or presumptive parole date, Bureau of Prisons staff ordinarily will not recommend that the designated date either be affirmed or changed. If a change is recommended, staff shall fully explain in the progress report the reason for this recommendation.

§ 524.44 Inmate's access to progress reports.

Upon request, an inmate may read and receive a copy of any progress report prepared on that inmate after October 15, 1974. Staff shall request the inmate sign and date the original. If the inmate refuses to sign the progress report, staff witnessing the refusal shall document this refusal on the original of the form.

[FR Doc. 83-34749 Filed 12-30-83; 8:45 am]
BILLING CODE 4410-05-M

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28 CFR Part 524

Control, Custody, Care, Treatment, and Instruction of Inmates; Classification and Program Review of Inmates

AGENCY: Bureau of Prisons, Justice.
ACTION: Final rule.

SUMMARY: The Bureau of Prisons is amending its final rule on classification and program review of inmates. The amendments are intended to refine and/or clarify existing rules. The amendments primarily concern membership on the classification team, the inmate's initial classification, subsequent program reviews, and the effect of a detainer on an inmate's program.

EFFECTIVE DATE: February 6, 1984.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 760, 320 1st Street NW., Washington, D.C. 20534.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone 202/724-3062.

SUPPLEMENTARY INFORMATION: In this document the Bureau of Prisons is making final amendments to its rule on classification and program review of inmates. These amendents were published as proposed rules in the **Federal Register** April 29, 1983 (at 48 FR 19576 et seq.). They are intended to improve the Bureau's existing rules. In an effort to provide more classroom instruction, § 524.11(a) deletes the requirement that an education representative be a mandatory member of the classification team. Section 524.12, retitled "Initial classification", is revised. Specifically, the first sentence of existing § 524.12(d) becomes the first sentence of new § 524.12(c). The reference to the classification packet in existing paragraph (c) is deleted as the program review report discusses the inmate's program. Section 524.12(c) now includes a statement that all sentenced inmates who are physically and mentally able are to be assigned to a work program at the time of initial classification. As revised, the final rule states that with the exception of the work assignment, or where program involvement is mandated by statute (for example, the Youth Corrections Act) or by Bureau policy (for example, the Audit Basic Education (ABE) Program), an inmate may choose not to participate in the offered program.

Section 524.13 is revised. Existing § 524.13(a)(2)(v) used U.S. Parole Commission's guidelines to determine an inmate's anticipated release date. Because there is no certainty that the Bureau would interpret these guidelines the same as the U.S. Parole Commission, subsection (v) is deleted from the existing rule. Remaining § 524.13(a)(2)(i)–(iv) sufficiently explains the term "anticipated release date". Section 524.13(b) is revised to require that a copy of the program review report be placed in the inmate's central file. Revised § 524.13(c) holds the inmate who refuses to attend the program review directly responsible, and accountable, for recommendations made by the classification team. While a copy of the report will be forwarded to the inmate, the Bureau will no longer personally inform the inmate of the team's actions. Section 524.14 is new and discusses the impact of a detainer (ordinarily none) on an inmate's program. Based on new § 524.14, existing §§ 524.14–16 become new §§ 524.15–17.

Interested persons were invited to submit comments on these proposed amendments. No public comment was received. On the basis of internal staff review, some minor changes have been made. In § 524.11(a), the term "(unit)" is added after "classification", as a classification team may also be referrred to as a unit team. The phrase "education advisor" is substituted for "education representative" in this section. A sentence is added to § 524.12(e) to state that a staff summary is not required for an inmate serving a sentence of six months or less. A staff summary in this situation would have little, if any, practical effect. Section 524.13(c) now includes subsections (1) and (2). The only change to the proposed rule is a statement that an inmate who elects not to attend the program review must ordinarily indicate this intent, in writing, at least 24 hours prior to the scheduled team meeting. This change should allow the unit team to function more effectively. In § 524.15, the term "unit manager" is substituted for "team chairperson".

Members of the public may submit comments concerning the final rule by writing the previously cited address. These comments will be considered, but will receive no response in the **Federal Register**.

The Bureau of Prisons has determined that this rule is not a major rule for the purpose of EO 12291. The Bureau of Prisons has determined that EO 12291 does not apply to this since the rule involves agency management. After review of the law and regulations, the Director, Bureau of Prisons, has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96-354), does not have a significant impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 524

Prisoners.

Conclusion

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons, in 28 CFR 0.96(q), 28 CFR, Chapter V is amended as set forth below.

Dated: December 22, 1983.

Norman A. Carlson,

Director, Bureau of Prisons.

1. In Subchapter B, Part 524 is amended to read as follows:

SUBCHAPTER B—INMATE ADMISSION, CLASSIFICATION, AND TRANSFER

A. In Part 524, Subpart B is amended as follows:

PART 524—CLASSIFICATION OF INMATES

1. In Part 524, Subpart B, the Table of Contents and authority citation are revised to read as follows:

Subpart B—Classification and Program Review of Inmates

Sec.
524.10 Purpose and scope.
524.11 Classification team.
524.12 Initial classification.
524.13 Program reviews.
524.14 Effect of a detainer on an inmate's program.
524.15 Unscheduled reviews.
524.16 Appeals procedure.
524.17 Study and observation cases.

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 5006–5024, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

* * * * *

2. In § 524.11, paragraph (a) is revised to read as follows:

§ 524.11 Classification team.

The Warden shall ensure that each department within the institution has the opportunity to contribute to the classification process.

(a) At a minimum, each classification (unit) team shall include the unit manager, a case manager, and a correctional counselor. An education advisor is ordinarily a member of the classification team. Where the institution does not have unit management, the classification team shall include a case manager, correctional counselor, and one other staff member.

* * * * *

3. In §524.12, the heading of this section and paragraphs (c), (d), and (e) are revised to read as follows:

§ 524.12 Initial classification.

* * * * *

(c) Staff shall complete a program review report at the inmate's initial classification. This report ordinarily includes information on the apparent needs of the inmate, and shall offer a correctional program designed to meet those needs. Each sentenced inmate who is physically and mentally able is assigned to a work program at the time of initial classification. With the exception of the work assignment, or where program involvement is mandated by Bureau policy (for example, Adult Basic Education (ABE) Program) or by statute (for example, Youth Corrections Act), the inmate may choose not to participate in the offered program.

(d) The inmate is to be provided and sign for a copy of the program review report. If the inmate refuses to sign for a copy of this report, staff witnessing the refusal shall place a signed statement to this effect on the report. Staff shall place a copy of the program review report in the inmate's central file.

(e) Within five working days following the initial classification meeting, staff shall prepare a staff summary, discussing those facts which were available at the time of the initial classification. The staff summary is to include information on the inmate's current offense and prior record, social situation, recommended programs, and community resources. A copy of the staff summary is provided to the inmate, upon the inmate's request. A staff summary is not required for an inmate serving a sentence of six months or less.

4. In § 524.13, paragraphs (a)(2)(i)–(iv) are revised, paragraph (a)(2)(v) is removed and paragraphs (b) and (c) are revised to read as follows:

§ 524.13 Program reviews.

(a) * * *

(2) * * *

(i) The inmate's mandatory (statutory) release date;

(ii) The inmate's minimum expiration date;

(iii) The inmate's presumptive parole date; or

(iv) The inmate's effective parole date.

(b) Staff shall prepare a program review report to document each program review. The inmate is to sign for and receive a copy of this report. If the inmate refuses to sign for a copy of this report, staff witnessing the refusal shall place a signed statement to this effect on the report. Staff shall place a copy of the program review report in the inmate's central file.

(c) Staff shall notify an inmate of the scheduled program review at least 48 hours prior to a staff-originated meeting.

(1) An inmate may waive in writing the 48 hours notice requirement.

(2) An inmate may elect not to attend the program review. An inmate who elects not to attend this review ordinarily must indicate this intent, through a signed statement on the program review report, at least 24 hours prior to the scheduled team meeting. When an inmate does not provide this signed statement, but elects not to attend the program review, staff shall indicate the inmate's refusal to appear and, if known, the reasons for refusal on the program review report. A copy of this report is to be forwarded to the inmate. The inmate who elects not to appear for a program review is responsible for becoming aware of, and will be held accountable for, the classification team's actions.

5. Redesignate existing §§ 524.14 through 524.16 as §§ 524.15 to 524.17 and revise these sections to read as follows::

§ 524.15 Unscheduled reviews.

Staff may establish a schedule to ensure that inmates are provided program reviews as required by this rule. Upon request of either the inmate or staff, and with the concurrence of the unit manager, an advanced or previously unscheduled program review may occur.

§ 524.16 Appeals procedure.

An inmate may appeal, through the Administrative Remedy Procedure, a decision made at initial classification or at a program review.

§ 524.17 Study and observation cases.

Inmates committed to the custody of the U.S. Attorney General for purposes of study and observation are excluded from the provisions of this rule.

6. Add a new § 524.14 to read as follows:

§ 524.14 Effect of a detainer on an inmate's program.

The existence of a detainer, by itself, ordinarily does not affect the inmate's program. An exception may occur where the program is contingent on a specific issue (for example, custody) which is affected by the detainer.

[FR Doc. 83-34757 Filed 12-30-83; 8:45 am]
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DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 548

Control, Custody, Care, Treatment, and Instruction of Inmates; Religious Beliefs and Practices

AGENCY: Bureau of Prisons, Justice.

ACTION: Proposed rule.

SUMMARY: The Bureau of Prisons is amending and republishing its entire rule on religious beliefs and practices of committed offenders. As amended, the rule provides an inmate reasonable opportunities for pursuing religious beliefs and practices, within the constraints of budgetary limitations and the security and orderly running of the institution and the Bureau of Prisons.

DATE: Comments must be received on or before February 17, 1984.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 760, 320 1st Street N.W., Washington, D.C. 20534. Comments received will be available for examination by interested persons at the above address.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone 202/724-3062.

SUPPLEMENTARY INFORMATION: Pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons, in 28 CFR 0.96(q), notice is hereby given that the Bureau of Prisons intends to amend, and to republish for public comment, its rule on religious beliefs and practices of committed offenders. A final rule on this subject was published in the **Federal Register** June 29, 1979 (at 44 FR 38251). Previous amendments to the rule were published in the **Federal Register** November 13, 1980 (at 45 FR 75127) and November 1, 1983 (at 48 FR 50478 et seq.).

The amended rule affords all inmates comparable opportunities to adhere to their religious beliefs and practices within the constraints of budgetary limitations and the security and orderly running of the institution and the Bureau of Prisons. The amended rule includes a recently finalized section on religious diet. This section was originally published in the **Federal Register** June 1, 1983 (at 48 FR 24626 et seq.) as a proposed amendment to Part 547, Subpart B, Religious Diet Requirements. In the process of making that rule final, the Bureau decided to include the rule on religious diets within the rule on religious beliefs and practices. Because of this redesignation, the Bureau has taken two actions. The first was to make final the proposed amendment to religious diet requirements as an amended § 548.12(a). In conjuction with this, the Bureau has implemented a pilot project to assess the effectiveness of a common fare menu designed to meet nutritional requirements and religious dietary laws to the extent practicable. This new final § 548.12(a), and additional information about the common fare menu, was published in the **Federal Register** November 1, 1983 (at 48 FR 50478 et seq.).

The second action taken by the Bureau is to include the language of new § 548.12(a) within the present proposed rule (see § 548.13(a)). This action allows the public the opportunity both to review and, if desired, to comment on this section.

The Bureau of Prisons has determined that this rule is not a major rule for the purpose of E.O. 12291. After review of the law and regulations, the Director, Bureau of Prisons, has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96-354), does not have a significant impact on a substantial number of small entities.

Interested persons may participate in this proposed rulemaking by submitting data, views, or arguments in writing to the Bureau of Prisons, Room 760, 320 1st Street, N.W., Washington, D.C. 20534. Comments received will be considered before final action is taken. The proposed rule may be changed in light of the comments received. No oral hearings are contemplated.

List of Subjects in 28 CFR Part 548

Prisoners.

In consideration of the foregoing, it is proposed to amend Subchapter C of 28 CFR, Chapter V as follows:

1. In Subchapter C, Part 548, revise Subpart B to read as follows:

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 548—RELIGIOUS PROGRAMS

Subpart B—Religious Beliefs and Practices of Committed Offenders

Sec.

548.10 Purpose and scope.
548.11 Definition.
548.12 Procedures.
548.13 Diet.
548.14 Scheduling to observe religious holidays, celebrations, and activties.

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 5006-5024, 5039; 28 U.S.C. 509, 510; 42 U.S.C. 1996; 28 CFR 0.95-0.99.

Subpart B—Religious Beliefs and Practices of Committed Offenders

§ 548.10 Purpose and scope.

(a) The Bureau of Prisons provides inmates of all religious faiths with reasonable and equitable opportunities for pursuing individual religious beliefs and practices, within the constraints of budgetary limitations and the security and orderly running of the institution and the Bureau of Prisons.

(b) When it is considered necessary for the security or good order of the institution, the Warden may limit attendance at or discontinue completely a religious activity. The Warden may not restrict or allow the religious group itself to restrict attendance at or participation in a religious activity on the basis of race, color, nationality, or creed.

548.11 Definition.

For purposes of this rule, the term "religious activity" includes religious diets, services, ceremonies, and meetings.

§ 548.12 Procedures.

(a) Institution chaplains are available upon request to provide pastoral care and counseling in the inmate's personally held religious beliefs.

(b) Under the general supervision of the Warden, institution chaplains shall schedule and cordinate the institution's religious activities. If an institution has no staff chaplain, a staff member designated by the Warden shall exercise the authority of the chaplain.

(c) Institution staff may contract with representatives of faith groups in the community and are encouraged to accept the services of volunteers to assist inmates to pursue their religious beliefs.

(d) No one may disparage the religious beliefs of an inmate, nor coerce or harass an inmate to change religious affiliation.

(e) An inmate may designate any or no religious preference. An inmate may change this designation at any time.

(f) Attendance at all religious activities is voluntary.

(g) An inmate may wear appropriate personal, liturgical, or ceremonial apparel only during devotional services. An inmate may retain this apparel in designated storage areas, as approved by the Warden, consistent with maintaining security, safety, and good order in the institution.

(h) Consistent with maintaining security, safety, and good order in the institution, an inmate may be approved to wear religious headgear or other

apparel of religious significance within the institution. Such headgear or apparel may be worn only if approved by the Warden. Prior to this approval, the Warden may request the institution chaplain to obtain a documented determination from the recognized representatives of the inmate's faith group of that group's official requirements concerning the wearing of this headgear or other apparel.

(i) Each inmate who wishes to have religious books, publications, or materials must comply with the general rules of the institution regarding ordering, purchasing, retaining and accumulating personal property. Literature, publications or books about religion or religious teaching are permitted in accordance with the procedures governing incoming publications.

§ 548.13 Diet.

(a) An inmate who wishes to observe religious dietary laws will be provided a diet which meets or exceeds recommended daily allowances established by the Food and Nutrition Board of the National Research Council, National Academy of Sciences, and which complies with religious dietary laws to the extent practicable within the constraints of budget limitations and the security and orderly running of the institution and the Bureau of Prisons.

(b) As a once-a-year accommodation, staff may make arrangements with an inmate religious group to have a ceremonial meal. If the inmates representing the organization request, based upon documented necessity, staff may purchase from a food supplier specially prepared food items which meet religious requirements. Funds for the purchase of special food items may be provided from:

(1) Funds from Chaplain's budget;

(2) Inmates' commissary accounts; or

(3) Funds provided by the community organization.

§ 548.14 Scheduling to observe religious holidays, celebrations, and activities.

(a) The Warden shall endeavor to facilitate the observance of important religious holidays or celebrations and to facilitate that observance in accordance with specific requirements of a faith group, such as fasting, worship, diet, or work proscription. The inmate must initiate a request for specific observance of a religious holiday.

(b) The Warden may relieve an inmate from an institution assignment if a religious activity is also scheduled at that time.

Dated: December 22, 1983.

Norman A. Carlson,

Director, Bureau of Prisons.

[FR Doc. 83-34758 Filed 12-30-83; 8:45 am]

BILLING CODE 4410-05-M

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28 CFR Parts 511, and 551

Control, Custody, Care, Treatment, and Instruction of Inmates; Searching/Detaining of Non-Inmates; Arresting Authority; Use of Metal Detectors; and Marriages of Inmates

AGENCY: Bureau of Prisons, Justice.

ACTION: Proposed Rules.

SUMMARY: The Bureau of Prisons is publishing its proposed rules on: (1) searching/detaining of non-inmates; arresting authority; use of metal detectors; and (2) marriages of inmates. The first rule is intended to prevent the introduction of contraband (such as narcotics and weapons) into, and the removal of illegal items from, Bureau of Prisons institutions. The rule also discusses the authority of Bureau employees to detain visitors and to make an arrest without a warrant. The second rule is intended to discuss Bureau of Prisons policy on marriages of inmates and on the use of institution facilities for an inmate's marriage ceremony. A proposed rule on each subject was published in the **Federal Register** January 12, 1979 (at 44 FR 2978 et seq.). Those rules are now withdrawn.

DATE: Comments must be received on or before February 17, 1984.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 760, 320 1st Street N.W., Washington, D.C. 20534. Comments received will be available for examination by interested persons at the above address.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone 202/724-3062.

SUPPLEMENTARY INFORMATION: Pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons, in 28 CFR 0.96(q), notice is hereby given that the Bureau of Prisons intends to publish in the **Federal Register** proposed rules on: (1) Searching/detaining of non-inmates; arresting authority; use of metal detectors; and (2) marriages of inmates. A proposed rule on each subject was published in the **Federal Register** January 12, 1979 (at 44 FR 2978 et seq.). Those rules are now withdrawn.

The first rule is proposed in an effort to prevent the introduction of contraband (such as narcotics and weapons) into a Bureau institution, and to prevent the illegal removal of items from the institution. The rule authorizes staff to subject all persons entering or leaving a Bureau of Prisons institution to a search of their persons and effects. Procedures used in conducting this search may include the use of metal detectors, pat or visual searches, and breathalyzer and urine surveillance tests. Except for the use of metal detectors, the remaining searches and tests may be conducted only when there is reasonable suspicion that an individual possesses contraband or is introducing or attempting to introduce contraband into the institution, or is under the influence of a narcotic, drug, or intoxicant. The rule provides a visitor who objects to any of the search or test or entrance procedures the option of refusing and leaving the institution property, unless there is reasons to detain and/or arrest. The rule also describes Bureau policy with respect to detaining and/or arresting a non-inmate.

The rule on marriages of inmates says that the Warden shall approve an inmate's request to marry except where a legal restriction to the marriage exists, or where the proposed marriage presents a threat to the security or good order of the institution, or to the protection of the public. Institution facilities may be used for an inmate's marriage ceremony provided that a ceremony in the institution poses no threat to the security or good order of the institution.

The Bureau of Prisons has determined that these rules are not major rules for the purpose of E.O. 12291. The Bureau of Prisons has determined that E.O. 12291 does not apply to these rules since the rules involve agency management. After review of the law and regulations, the Director, Bureau of Prisons, has certified that these rules, for the purpose of the Regulatory Flexibility Act (Pub. L. 96-354), do not have a significant impact on a substantial number of small entities.

Interested persons may participate in this proposed rulemaking by submitting data, views, or arguments in writing to the Bureau of Prisons, Room 760, 320 1st Street, N.W. Washington, D.C. 20534. Comments received will be considered before final action is taken. The proposed rules may be changed in light of the comments received. No oral hearings are contemplated.

List of Subjects in 28 CFR Parts 511 and 551

Prisoners.

In consideration of the foregoing, it is proposed to amend Subchapters A and C of 28 CFR Chapter V as follows:

1. In Subchapter A, add a new Part 511 to read as follows:

SUBCHAPTER A—GENERAL MANAGEMENT AND ADMINISTRATION

PART 511—GENERAL MANAGEMENT POLICY

Subpart A—[Reserved]

Subpart B—Searching/Detaining of Non-Inmates; Arresting Authority; Use of Metal Detectors

Sec.
511.10 Purpose and scope.
511.11 Reasonable suspicion.
511.12 Procedures for searching visitors.
511.13 Controlled visiting—denying visits.
511.14 Right of refusal/termination of a visit.
511.15 Detaining visitors.
511.16 Use of arrest authority.

Authority: 5 U.S.C. 301; 18 U.S.C. 751, 752, 1791, 1792, 3050, 4001, 4042; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99, 6.1.

Subpart A—[Reserved]

Subpart B—Searching/Detaining of Non-Inmates; Arresting Authority; Use of Metal Detectors.

§ 511.10 Purpose and scope.

(a) In an effort to prevent the introduction of contraband (such as narcotics and weapons) into its institutions, and to prevent the illegal removal of items from the institution, Bureau of Prisons staff may subject all persons entering or leaving an institution to a search of their persons and effects.

(b) Title 18, United States Code, section 3050 authorizes Bureau of Prisons Employees (does not include United States Public Health Services employes) to make an arrest without warrant for any violation of the provisions of section 751—Prisoners in Custody of Institution or Officer; section 752—Instigating or Assisting Escape; section 1791—Traffic in Contraband Articles; and section 1792—Mutiny, Riot, Dangerous Instrumentalities Prohibited. Such an arrest may be made when staff has reasonable suspicion that a person has committed one of these offenses and when there is likelihood of the person fleeing or escaping before a warrant can be obtained.

§ 511.11 Reasonable suspicion.

As used in this rule, "reasonable suspicion" refers to specific, objective facts and to rational inferences that prison officials may draw from these facts on the basis of experience. A reasonable suspicion may be based on reliable on reliable, although confidential information; on a positive reading of a metal detector; or when contraband or indicia of contraband is found during search of a visitor's personal effects.

§ 511.12 Procedures for searching visitors.

(a) The Warden shall post a notice outside the institution's secure perimeter advising all persons that it is a Federal crime to bring upon the institution grounds any weapons, ammunition, intoxicants, drugs, or contraband, and that all persons, property (including vehicles), and packages are subject to search.

(b) The Warden may require visitors entering the institution from outside the secure perimeter to submit to a search:

(1) By electronic means (for example, walk-through and/or hand-held metal detector).

(2) Of personal effects. The institution ordinarily provides locker space for personal effects not taken into the visiting room.

(c) The Warden may authorize a pat search of a visitor as a prerequisite to a visit when there is reasonable suspicion that the visitor possesses contraband or is introducing or attempting to introduce contraband into the institution.

(d) The Warden may authorize a visual search (visual inspection of all body surfaces and cavities) of a visitor as a prerequisite to a visit to an immate in a Security Level IV, V, VI, or administrative institution when there is reasonable suspicion that the visitor possessess contraband or is introducing or attempting to introduce contraband into the institution.

(e) The Warden may authorize a breathalyzer or urine surveillance test or other comparable test of a visitor as a prerequisite to a visit to an inmate when there is reasonable suspicion that the visitor is under the influence of a narcotic, drug, or intoxican.

(f) When practicable, the Warden should request the Federal Bureau of Investigation (FBI) or other appropriate law enforcement officials to investigate and conduct the search of a visitor suspected of introducing or attempting introduce contraband into the institution, or who appears to be under the influence of a narcotic, drug, or intoxicant. When time and/or circumstances do not permit this contact, or when the FBI or other appropriate law enforcement officials are unable to undertake the investigation or to conduct the search, the Warden shall, consistent with the procedures of this rule, take that action necessary to maintain the security of the institution.

(1) When a pat search, visual search, or urine surveillance test is to be conducted by Bureau staff, the staff member conducting the search or taking the sample shall be the same sex as the visitor.

(2) Bureau staff shall conduct a pat search, visual search, urine surveillance, or breathalyzer test out of the view of other visitors and inmates.

§ 511.13 Controlled visiting—denying visits.

(a) The Warden may restrict visiting to controlled situations or to more closely supervised visits when there is any suspicion that the visitor is introducing or attempting to introduce contraband, or when there has been a prior incident of such introduction or attempted introduction, or when there is any concern, based upon sound correctional judgment, about the visitor presenting a risk to the orderly running of the visiting room or area.

(b) The Warden may deny visiting privileges when a controlled or closely supervised visit is not possible.

(c) Staff shall deny admission to the institution to a visitor who refuses to be screened by a metal detector or who refuses to undergo a search of his/her person and effects as dictated by these rules.

§ 511.14 Right of refusal/termination of a visit.

(a) A visitor who objects to any of the search or test or entrance procedures has the option of refusing and leaving the institution property, unless there is reason to detain and/or arrest.

(b) Staff may terminate a visit upon determining that a visitor is in possession of, or is passing or attempting to pass contraband not previously detected during the search process, or is engaged in any conduct or behavior which poses a threat to the orderly or secure running of the institution, or to the safety of any person in the institution. The staff member terminating the visit is to prepare written documentation describing the basis for this action.

§ 511.15 Detaining visitors.

(a) Staff may detain a visitor who is found to be introducing or attempting to introduce such contraband as norcotics, guns, knives or other weapons or who is engaged in any other conduct which is a violation of law (including, but not limited to, actions which assist escape or encourage riots), pending notification and arrival of appropriate law enforcement officials. Institution staff should not interrogate suspects unless immediate questioning is necessary to protect the security of the institution or the life or safety of any person.

(b) Staff shall employ only the minimum amount of force necessary to detain the individual. Visitors will be detained in an area away from the sight of, and where there can be no contact with, other visitors and inmates.

§ 511.16 Use of arrest authority.

To effect an arrest under any of the cited sections in § 511.10(b), staff shall have reasonable suspicion that the suspected individual is violating the law. Whenever possible, the Warden or designee shall make the determination as to whether an arrest should occur.

2. In Subchapter C, Part 551 is amended by adding a new Subpart B to read as follows:

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 551—MISCELLANEOUS

Subpart B—Marriages of Inmates

Sec.
551.10 Purpose and scope.
551.11 Authority to approve a marriage.
551.12 Eligibility to marry.
551.13 Application to marry.
551.14 Special circumstances.
551.15 Furloughs.
551.16 Marriage ceremony in the institution.

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 5006–5024, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

Subpart B—Marriages of Inmates

§ 551.10 Purpose and scope.

(a) The Warden shall approve an inmate's request to marry except where a legal restriction to the marriage exists, or where the proposed marriage presents a threat to the security or good order of the institution, or to the protection of the public.

(b) The Warden may approve the use of institution facilities for an inmate's marriage ceremony. If a marriage ceremony poses a threat to the security or good order of the institution, the Warden may disapprove a marriage ceremony in the institution.

§ 551.11 Authority to approve a marriage.

(a) The Warden may approve the marriage of a federal inmate confined in a federal institution. This authority may not be delegated below the level of Acting Warden.

(b) The appropriate Regional Director may approve the request to marry of a federal inmate who is not confined in a federal institution (for example, an inmate who is in U.S. Marshal's custody or who is in state custody).

§ 551.12 Eligibility to marry.

An inmate's request to marry shall be approved provided:

(a) The inmate is legally eligible to marry;

(b) The inmate is mentally competent;

(c) The intended spouse has verified, ordinarily in writing, an intention to marry the inmate;

(d) The marriage poses no threat to institution security or good order, or to the protection of the public; and

(e) There is no indication that the marriage will interfere with, or discourage the inmate's good adjustment while confined, or upon release to the community.

§ 551.13 Application to marry.

(a) A federal inmate confined in a Bureau institution who wants to get married shall submit a request to marry to the inmate's unit team. The unit team shall evaluate the request based on the criteria identified in § 551.12. A written report of the unit team's findings, and its recommendation, shall be forwarded to the Warden for a final decision.

(b) The Warden shall notify the inmate in writing whether the inmate's request to marry is approved or disapproved. A copy of this notification shall be placed in the inmate's central file. Where the Warden's decision is to disapprove the inmate's request, the notification to the inmate shall include a statement of reason(s) for that action. The Warden shall advise the inmate that the decision may be appealed through the Administrative Remedy Procedure.

(c) All expenses of the marriage (for example, a marriage license) shall be paid by the inmate, the inmate's intended spouse, the inmate's family, or other appropriate source approved by the Warden. The Warden may not permit appropriated funds to be used for an inmate marriage.

§ 551.14 Special circumstances.

(a) *Detainers and Pending Charges.* Staff review of a marriage request from an inmate who has a detainer(s) and/or a pending charge(s) shall include an assessment of the legal effects of the marriage on these actions. For example, an inmate could request to marry a potential witness in litigation pending against that inmate. Approving this marriage could affect the status of this litigation.

(b) *Marriages Between Inmates in Federal Institutions.* Because of the potential for an adverse impact on both institution security and good order, close scrutiny should be given to a marriage request from one inmate asking to marry another inmate.

(c) *Pretrial Inmates.* A pretrial inmate may request permission to marry in accordance with the provisions of this rule. Staff shall contact the court, U.S. Attorney, and in the case of an alien, the Immigration and Naturalization Service, to advise of the marriage request of the pretrial inmate and to request their comments.

(d) *Federal Inmates not in Federal Institutions.* The appropriate Regional Director may approve the request to marry of a federal inmate who is not confined in a federal institution (for example, an inmate who is in U.S. Marshal's custody or who is in state custody). Prior to making a decision on the inmate's request, the Regional Director shall advise the detaining authority of the inmate's request, the Regional Director shall advise the detaining authority of the inmate's request and ask that information on the criteria identified in § 551.12 be furnished.

§ 551.15 Furloughs.

An inmate whose request to marry is approved, and who also meets the Bureau's criteria for furlough (see Part 570, Subpart C), may be considered for a furlough for the purpose of getting married.

§ 551.16 Marriage ceremony in the institution.

(a) The Warden may approve the use of institution facilities for an inmate's marriage ceremony. If a marriage ceremony poses a threat to the security or good order of the institution, the Warden may disapprove a marriage ceremony in the institution. The Warden may not delegate the authority to approve or to disapprove a marriage ceremony in the institution below the level of Acting Warden.

(b) Expenses for a marriage ceremony in the institution shall be paid by the inmate, the inmate's intended spouse, the inmate's family, or other appropriate source approved by the Warden. The Warden may not permit appropriated funds to be used for the marriage ceremony, except for those inherent in providing the place and supervision for the event. Upon request of the inmate, a Chaplain may also be authorized to assist in a marriage ceremony at the institution.

(c) The Warden shall require that a marriage ceremony at the institution be a private ceremony conducted without media publicity.

Dated: December 22, 1983.

Norman A. Carlson,

Director, Bureau of Prisons.

[FR Doc. 83-34759 Filed 12-30-83; 8:45 am]

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Part III

Environmental Protection Agency

Ethylene Oxide; Response to the Interagency Testing Committee; Notice

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–4207; BHTSH FRL 2443–1]

Ethylene Oxide; Response to the Interagency Testing Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The First Report of the Interagency Testing Committee (ITC), transmitted to EPA in October 1977, designated the category of alkyl epoxides for consideration by EPA for health and environmental fate testing. This Notice provides EPA's response to the ITC's recommendations with respect to ethylene oxide, one member of the alkyl epoxides category. Other category members will be addressed in separate **Federal Register** notices. In view of the accumulating data base and the current regulatory activities underway on ethylene oxide by the Occupational Safety and Health Administration (OSHA) and EPA's Office of Pesticide Programs (OPP), EPA has concluded that additional health effects testing of ethylene oxide should be pursued by EPA only if OSHA or OPP concludes that such additional testing is necessary and requests support in gathering test data under the Toxic Substances Act (TSCA). EPA believes that existing data are adequate to reasonably predict the environmental fate of ethylene oxide. Consequently, EPA is not initiating rulemaking under section 4(a) of TSCA to require health or environmental fate testing of ethylene oxide at this time.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–547, 401 M St., SW., Washington, D.C. 320460, Toll Free: (800–424–9065), In Washington, D.C.: (554–1404), Outside the USA: (Operator—202–554–1404).

SUPPLEMENTARY INFORMATION:

I. Background

Section 4(a) of the Toxic Substances Control Act (TSCA) (Pub. L. 94–469, 90 Stat. 2003 et seq.; 15 U.S.C. 2601 et seq.) authorizes EPA to promulgate regulations requiring testing of chemical substances and mixtures to develop data relevant to assessing the risks that such chemicals may present to health and the environment.

Section 4(e) of TSCA established an Interagency Testing Committee (ITC) to recommend to EPA a list of chemicals to be considered for the promulgation of testing rules under section 4(a) of TSCA. The ITC placed the alkyl epoxides category on its first priority testing list published in the **Federal Register** of October 1977 (42 FR 55026). The ITC recommended that testing be considered for the alkyl epoxides for carcinogenicity, mutagenicity, teratogenicity, other chronic effects, and environmental; effects. The ITC recommended that the chronic effects testing consider organ effects and behavioral changes and that the environmental testing focus on the fate of epoxides in the environment. Epidemiological studies were also recommended for two or three of the highest exposure compounds if suitable cohorts could be identified.

The alkyl epoxides category, as defined by the ITC, includes all noncyclic aliphatic hydrocarbons with one or more epoxide functional groups. This notice addresses a single member of this category, ethylene oxide. Other members of the category will be addressed in other **Federal Register** notices.

Approximately 5 to 6 billion pounds of ethylene oxide is produced annually in the United States. Over 99 percent of the ethylene oxide produced is consumed as a chemical intermediate. Less than 1 percent of the ethylene oxide produced is used as a sterilant or fumigant. However, these latter uses are regulated by EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and by the Food and Drug Administration (FDA), and therefore releases to the environment and exposures from these uses have not been considered in this notice. EPA's responses to the ITC's specific recommendations are set forth below with respect to ethylene oxide.

II. Analysis of the ITC's Concerns

A. Carcinogenicity

A chronic inhalation bioassay with ethylene oxide has been completed at Union Carbide's Bushy Run Research Center. Exposure levels were 10, 33, and 100 parts per million (ppm). A statistically significant increase in mononuclear cell leukemia was found in female rats exposed to 100 ppm. In addition, increased incidences of mononuclear cell leukemia for the females exposed at 33 and 10 ppm, although not statistically significant over controls, suggest a dose-response relationship. An increase in peritoneal mesothelioma was reported in the male rats exposed at 33 and 100 ppm. Among the males exposed at 100 ppm, the cumulative percentage developing a tumor of this type was reported to be statistically significantly higher than that of the controls beginning with the 21st month of exposure. The incidence of these tumors in males exposed at 33 ppm was not appreciably higher than in the controls until the final month of the study. These peritoneal tumors originated in the testicular mesothelium and were confined to the abdominal cavity (Ref. 1). A statistically significant increased incidence of primary brain neoplasms in the male rats exposed to 100 ppm ethylene oxide and an increased incidence (not statistically significant) of primary brain neoplasms for males exposed to 33 ppm and for females exposed to both 100 and 33 ppm ethylene oxide was subsequently reported (Ref. 2).

Preliminary results from a two-year chronic inhalation study conducted by the National Institute for Occupational Safety and Health (NIOSH) on male rats and male monkeys were reported at the 1982 meeting of the Society of Toxicology (Ref. 3). In that study, groups of 80 male Fischer 344 rats and 12 male Cynomolgus monkeys were exposed to 50 ppm and 100 ppm ethylene oxide over a two year period. Two groups, 80 rats and 12 monkeys, were used as controls and exposed to conditioned, filtered ambient air. During the study, all of the rat groups became infected with *Mycoplasma pulmonis* which, beginning with the sixteenth month, caused the death of a large segment of the rat population. The preliminary results of the available histopathological evaluation of the spleen indicated an exposure-related increase of mononuclear cell leukemia in male rats exposed to ethylene oxide at 50 ppm but not at 100 ppm. NIOSH has acknowledged that these preliminary results must be interpreted in light of the known spontaneous incidence of leukemia in Fischer 344 rats, but notes that excess mortality has occurred in the 100 ppm group (19% survived as compared to 49% of the controls). At the terminal kill, a significantly higher frequency of leukemia was found only in the group exposed to 100 ppm of ethylene oxide. Of equal or greater importance, however, is the apparent dose-related finding of gliomas in the rats of the NIOSH study. This tumor is rare in Fischer 344 rats. Gliomas were found in 5 of 79 rats exposed at 100 ppm and 2 of 77 rats exposed at 50 ppm. There were none in the 76 control rats. A significant association of exposure and an occurrence of peritoneal mesothelioma was found for rats exposed to 100 ppm ethylene oxide, but not to 50 ppm ethylene oxide. These results parallel those from the Bushy Run study. None of the monkeys in the

NIOSH study have demonstrated any evidence of leukemia to date but they are still being monitored. A more comprehensive evaluation of the chronic studies is planned by NIOSH after further data analysis. In addition, the National Toxicology Program (NTP) is sponsoring a chronic bioassay via inhalation with ethylene oxide in mice. The exposure phase of this study was completed in July, 1983.

Available data and the data to be obtained from these ongoing studies are sufficient to reasonably determine the carcinogenicity of ethylene oxide. The current OSHA and OPP regulatory actions on ethylene oxide are based in part on the excess risks to humans presented due to carcinogenicity.

B. Mutagenicity

Ethylene oxide gave positive results in gene mutation assays in: (1) prokaryotes (Refs. 4, 5); (2) eukaryotes (Refs. 6–13); (3) the *Drosophila* sex-linked recessive lethal mutation assay (Refs. 14, 15); and (4) the *Drosophila* autosomal deletion mutation assay (Refs. 15). There is an ongoing evaluation of the mutagenicity testing sponsored by EPA and conducted at Oak Ridge National Laboratory (ORNL) and Louisiana State University on: (1) alkylation in *Drosophila* sperm cells, (2) alkylation in mouse sperm cells, and (3) mouse specific locus test. In addition, the National Institute of Environmental Health Sciences (NIEHS) is conducting a biochemical specific locus assay in mice.

Positive results were obtained in the following tests to detect chromosomal aberrations: (1) dominant lethal in mice (Refs. 16–18); (2) dominant lethal in rats (Ref. 19); (3) micronucleus test (Ref. 20); (4) heritable translocation in mice following intraperitoneal injection (Ref. 17); (5) chromosomal abnormalities in rat bone marrow cells (Refs. 4, 21–23); and (6) chromosomal aberrations in the cultured lymphocytes of Cynomolgus monkeys (Ref. 3). In addition, a heritable translocation test in mice inhalation sponsored by NTP is in progress at ORNL. The NTP protocol calls for exposure concentrations of 50, 100, 150, 200, and 255 ppm.

Positive results were obtained in the following studies to detect primary DNA damage: (1) unscheduled DNA synthesis in mice (Ref. 24); and (2) increases in sister chromatid exchanges (SCE's) in cultured lymphocytes of Cynomolgus monkeys exposed to ethylene oxide via inhalation (Ref. 3).

Indications of chromosomal changes in humans resulting from occupational exposure to ethylene oxide have also been reported. These include increases in chromosomal aberrations (Refs. 25, 26) and sister chromatid exchanges (Refs. 26–29) in human lymphocytes.

Available data and data from ongoing mutagenicity studies are sufficient to reasonably determine the mutagenic effects of ethylene oxide. The current OSHA and OPP regulatory actions are based partially upon the evidence of mutagenicity for ethylene oxide.

C. Teratogenicity

A discussion of the data from teratogenicity testing of ethylene oxide in the mouse, the rat, and the rabbit follows.

Mouse. La Borde and Kimmel (Ref. 30) reported the results of a teratogenicity study in the CD–1 mouse following intravenous injections of ethylene oxide in 5% dextrose at doses of 75 and 150 mg/kg. Four groups of mice were treated daily for 3 days at each of the following periods of gestation: days 4–6 (Period I), 6–8 (Period II), 8–10 (Period III), and 10–12 (Period IV). Cervical and thoracic skeletal abnormalities were noted in fetuses in the 150 mg/kg group exposed during period II. This dose also produced severe effects in the dams exposed during periods I, III, or IV but not during period II. A dose-response relationship was not evident in any of the periods; the incidence of effects (both maternal and fetal) was similar for animals treated at 75 mg/kg and for controls.

Rat. Results of an inhalation teratology study sponsored by NIOSH in Sprague-Dawley CD rats have been reported (Ref. 31). Maternal toxicity, reproductive performance, and developmental toxicology were evaluated following 7 hr/day inhalation exposures to 150 ppm ethylene oxide. Rat exposure regimens were: (1) filtered air (control); (2) chemical exposure from days of gestation (dg) 7 through 16; (3) chemical exposure from dg 1 through 16 and (4) chemical exposure for 5 days/wk for 3 weeks prior to mating and daily from dg 1 through 16. Unexposed males were used in mating.

Reduction in food consumption and body weight were significant in rats exposed before breeding and rats exposed dg 1 through 16. The incidence of resorptions was significantly increased only in litters from rats exposed before breeding. Fetal weight and crown-rump length were reduced in litters from all ethylene oxide-exposed groups of rats. Fetal morphologic changes included reduced ossification of the skull and sternebrae in litters from all ethylene oxide-exposed groups and an increased incidence of hydroureter (not statistically significant) in litters exposed from dg 7 through 16. Significant adverse effects in development were observed in the group exposed from dg 7 through 16 in the absence of any significant adverse effects on maternal body weight gain or food consumption.

Results from another inhalation teratology study in rats at the Bushy Run Research Center have also been reported (Ref. 32). Pregnant Fischer 344 rats were exposed 6 hours daily to 10, 33, or 100 ppm ethylene oxide on dg 6 through 15. No treatment-related effects were noted in the dams. Fetal weights for both males and females were significantly depressed, and an increased frequency (not statistically significant) of delay ossification was noted in the 100 ppm group. No effects from exposure were noted for the dams or fetuses in the 33 and 10 ppm groups.

Rabbit. Intravenous studies were carried out by Kimmel et al. (Ref. 33) in rabbits at doses of 0, 9, 18, and 36 mg/kg administered intravenously daily on dg 6 through 14 or doses of 0, 18, and 36 mg/kg daily on dg 6 through 9. Preliminary studies had indicated the maximum tolerated dose (MTD) to be approximately 40 mg/kg. A statistically significant trend toward decreased maternal weight gain with increasing dose was seen during treatment and throughout gestation after treatment either on dg 6 through 9 or 6 through 14. No significant effects were seen in the fetal parameters examined after treatment on dg 6 through 9. However, a significant increase in mean number and percent resorptions/litter was noted in the 36 mg/kg dose group treated on dg 6 through 14. Thus, ethylene oxide administered intravenously to pregnant rabbits increases the incidence of adverse effects on development, after treatment throughout organogenesis at a dose that also produces maternal toxicity. Unlike the effect of ethylene oxide in the mouse following intravenous administration, no structural malformations were detected in rabbits in this study.

Results of an inhalation teratology study sponsored by NIOSH in New Zealand white rabbits have also been reported (Ref. 31). Rabbits were artificially inseminated and placed on one of the following exposure regimens at 150 ppm for 7 hours/day: (1) filtered air (control); (2) chemical exposure from dg 7 through 19; and (3) chemical exposure from dg 1 through 19. No evidence of maternal toxicity, adverse effects on development or structural malformations was detected in rabbits exposed to 150 ppm of ethylene oxide.

EPA concludes that the data from the above studies are sufficient to

reasonably determine the teratogenicity of ethylene oxide.

D. Other Chronic Effects

As a matter of general policy under section 4 of TSCA, EPA generally accepts data from well-conducted oncogenicity studies as being sufficient to assess the chronic toxicity of a chemical. EPA has concluded that adequate data are and will be available, from the completed oncogenicity studies, from the ongoing oncogenicity studies, and from the various subchronic studies which have been conducted, to reasonably determine the other chronic effects of ethylene oxide, except for reproductive and neurotoxic effects.

E. Reproductive Effects

The final report of a one-generation reproductive study in rats by the Bushy Run Research Center is available (Ref. 34). Both male and female rats were exposed to doses of 10, 33, or 100 ppm of ethylene oxide vapor. Statistically significant observations in the 100-ppm exposure group were decreased implantations, smaller litters, and increased length of gestational period. No treatment-related effects were noted in either the dams exposed to 33 or 10 ppm ethylene oxide or in their litters. Because this study was only a one-generation study, EPA does not believe that it was fully adequate to assess the reproductive effects of ethylene oxide.

Nevertheless, as discussed in Unit III of this notice, EPA has concluded that, in view of the ongoing regulatory activities on ethylene oxide by OPP and OSHA, additional reproductive effects testing of ethylene oxide should only be required under TSCA if requested by OSHA or OPP in support of their regulatory efforts.

F. Neurotoxicity

Paralysis, muscular atrophy of the hind limbs, and growth depression were observed in subchronic studies in rats, rabbits, and monkeys exposed to 357 and 204 ppm ethylene oxide vapor (Ref. 35). Peripheral neuropathy was reported in four workers who were accidentally exposed to high levels of ethylene oxide over a two-month period at a plant where hospital products were sterilized (Ref. 36). The NIOSH chronic inhalation bioassay (Ref. 3), discussed in Unit II.A. of this notice, includes an evaluation of neuropathology and neurophysiology in Cynomolgus monkeys. Exposure levels in the NIOSH chronic bioassay were 50 and 100 ppm via inhalation over a two-year period. The results of the neuropathological evaluation have recently been reported (Ref. 37). Two of the twelve monkeys in each exposure group were sacrificed for neuropathological evaluation. The only significant finding was an increase in axonal dystrophy in the nucleus gracilis of the experimental monkeys as compared to the two controls and demyelination of portions of the gracile tract in one of the monkeys in each of the low and high dose groups.

As discussed in Unit III of this notice, in view of the ongoing regulatory activities on ethylene oxide by OPP and OSHA, EPA has concluded that additional Neurotoxicity testing of ethylene oxide, including testing for behavioral changes, should be pursued under TSCA only if requested by OSHA or by OPP to support their ongoing regulatory activities.

G. Epidemiology

As a consequence of three observed cases, Hogstedt et al. (Ref. 38) reported an apparent excess of leukemia among Swedish workers in a factory where a mixture of ethylene oxide and methyl formate had been used to sterilize hospital equipment. In another study, Hogstedt et al. (Ref. 39) reported the results of a historical prospective mortality and cancer morbidity investigation of 89 workers in an ethylene oxide production facility. These workers may also have been exposed to other chemicals. Among 23 deaths, 9 cancer deaths were observed compared with 3.4 that were expected. The significance of the above epidemiological findings is limited by the small number of observed deaths, the uncertainty of worker exposure information, and the inability to attribute the observed mortality to a particular chemical. Morgan et al. (Ref. 40) reported on a mortality study cohort of 787 production workers potentially exposed to ethylene oxide. Industrial hygiene measurements reportedly revealed no detectable ethylene oxide levels in the product area. At the sources of ethylene oxide (pumps, valves, pipe flanges, spigots, and gauges), less than 10 ppm was recorded. Only during tank car loading operations were levels of approximately 6,000 ppm ethylene oxide recorded. All other measurements were below 50 ppm. The researchers saw fewer than expected deaths from all causes and fewer than expected deaths from total malignancies. The standardized mortality ratios were 58 to 79, respectively. No death from leukemia was observed as compared to 0.70 expected. There were, however, a total of 8 deaths reported for pancreatic cancer, bladder cancer, brain and CNS cancer and Hodgkin's disease compared to 2.16 expected for this worker group. In addition, at least two mortality studies are in progress. NIOSH is conducting a study on occupational exposure to ethylne oxide at a Union Carbide plant in West Virginia. EPA's Office of Research and Development (ORD) is funding an epidemiological study at Columbia University of hospital workers exposed to ethylene oxide.

Recently, Hemminki et al. (Ref. 41) reported an increase in the number of spontaneous abortions of Finnish hospital workers exposed to ethylene oxide. From other studies, the authors inferred the 8-hour time weighted average (TWA) to be 0.1 to 0.5 ppm with peak concentrations up to 250 ppm. Due to certain methodological problems, this study does not sufficiently define the effects of ethylene oxide exposure on female reproduction. The finding of spontaneous abortions in ethylene oxide-exposed humans, however, does raise questions about reproductive effects. Further efforts may be needed to address this issue. Because of the small number of women exposed to ethylene oxide during its manufacture (Ref. 42), confirmatory epidemiological studies would have to be carried out on hospital workers, where the use of ethylene oxide is not covered by TSCA. A reproductive outcome study of workers potentially exposed to ethylene oxide in hospitals, partially funded by the March of Dimes, has recently begun at the State University of New York at Buffalo. NIOSH has also expressed an interest in performing an epidemiological study of the effects of ethylene oxide on males. In addition, OSHA's proposed rule on ethylene oxide (Ref. 43) includes workplace exposure monitoring and a requirement for worker medical surveillance.

As discussed in Unit III of this notice, in view of the completed and ongoing epidemiological efforts on ethylene oxide, EPA has concluded that a requirement for additional epidemiological studies on ethylene oxide under TSCA does not appear necessary at this time. The TSCA authority could be utilized at a later time if the ongoing epidemiological activities prove to be inadequate and if such additional work is considered necessary to support OSHA or OPP regulatory activities.

H. Environmental Fate

The ITC expressed concern for the reaction products of alkyl epoxides in the environment. Therefore, it recommended that the fate of epoxides in the environment should be determined through testing. EPA has concluded, however, that there are

sufficient data to reasonably predict the environmental fate, including the characterization of degradation products, of the ethylene oxide that might be released during manufacture, distribution in commerce, processing, use, and disposal, and that there is no need for EPA to require testing to better characterize the fate of such releases.

Ethylene oxide is produced by the direct oxidation of ethylene. Almost 90 percent of the ethylene oxide produced is used by its manufacturers as an intermediate or a raw material for the manufacture of other products. Over 9 percent is sold to other firms for similar use (Ref. 44). As explained earlier, sterilant or fumigant uses are regulated under FIFRA and by FDA; therefore, environmental releases from these uses have not been considered in this notice.

Ethylene oxide is manufactured, processed, and distributed in systems engineered to prevent escape of ethylene oxide to the surrounding air. In a letter from the Ethylene Oxide Industry Council (EOIC) to EPA dated December 7, 1981, estimates of the release of ethylene oxide to the atmosphere were submitted. According to the EOIC, the primary source of environmental exposure is through release into the air. The EOIC estimates that about 3 million lbs/year is released to the air (Ref. 45). In a report prepared by Science Applications, Inc. (SAI) for EPA, total nationwide atmospheric emissions of ethylene oxide in 1978 from all sources were estimated to be 1,991,000 lbs (Ref. 46). Results from an atmospheric dispersion model predict average annual exposure levels of ethylene oxide near production plants to be very low, i.e., < 10 ug/m^3 (< 6 ppb) (Ref. 46). In addition, the chemistry of ethylene oxide is such that it will be hydrolyzed by water vapor and oxidized by hydroxyl free radicals in the atmosphere. An anticipated atmospheric degradation product is formic anhydride, OHCOCHO, which reacts with water to give formic acid (Ref. 47).

In its December 7, 1981, letter the EOIC also stated that the amount of ethylene oxide lost to water during production and processing was 800,000 lbs. annually; however, most producers reported to the EOIC that this waste water containing ethylene oxide is treated in a biopond before being discharged from the plant (Ref. 45). Ethylene oxide reacts readily with water to form ethylene glycol. The hydrolysis half-life of ethylene oxide in river water at 25° C and pH 7.4 was 14.2 days (Ref. 48). In sterile river water and sterile distilled water, the hydrolysis half-lives were 12.9 and 12.2 days, respectively (Ref. 48). The epoxide functional group of ethylene oxide readily reacts with other nucleophiles, such as the chloride ion, by pathways that parallel hydrolysis. The hydrolysis/hydrochlorination half-life of ethylene oxide in salt water is about 9 days at 25° C (Ref. 48). The ratio of chlorohydrin to glycol formed is about 0.2 at 3% NaCl; the ratio is directly proportional to salt concentration (Ref. 48). Biodegradation within the water column should further decrease ethylene oxide concentrations. In three BOD tests without prior acclimation, ethylene oxide was biodegraded 75, 69, and 52 percent in 20 days (Refs. 48–50). The desorption rate of ethylene oxide from natural waters was estimated to be 0.36 times that of oxygen under the same conditions (Ref. 48).

On the basis of the environmental release, waste treatment, and environmental fate information on ethylene oxide discussed above, EPA concludes that sufficient data exist to reasonably predict the environmental fate, including the characterization of degradation products, of the ethylene oxide that might be released during the manufacture, distribution in commerce, processing, use, and disposal of ethylene oxide and that there is no need for EPA to require testing to better characterize the fate of such releases.

III. Decision Not To Initiate Rulemaking

EPA has decided not to initiate rulemaking at this time under section 4(a) of TSCA to require further health and environmental fate testing of ethylene oxide. This decision is based on a review of the available data and ongoing testing for this chemical and on regulatory actions being undertaken by EPA and OSHA.

OSHA has recently published a proposed rule which would lower the permitted exposure limit (PEL) of ethylene oxide to an 8 hour time-weighted average (TWA) of 1 ppm. The proposal would provide for certain methods of exposure control, personal protective equipment, measurement of employee exposures, training, medical surveillance, signs and labels, regulated areas, emergency procedures and record keeping, among other requirements (Ref. 43). OPP has previously issued a Rebuttable Presumption Against Registration (RPAR) (Ref. 51) against ethylene oxide and plans in the near future to issue a proposal in the **Federal Register** to change pesticide labels and adopt other appropriate measures which will help to lower exposure levels of ethylene oxide resulting from its use as a pesticide.

EPA has sufficient data to reasonably predict the environmental fate of ethylene oxide, and therefore EPA concludes additional environmental fate testing is unwarranted. In view of the ongoing epidemiological efforts on ethylene oxide as discussed in Unit II. G. of this notice, EPA concludes that a requirement for additional epidemiological studies on ethylene oxide under TSCA does not appear necessary at this time. The most recent information available to EPA indicates that available data and ongoing testing are adequate to characterize ethylene oxide's carcinogenicity, mutagenicity, teratogenicity, and other chronic effects except reproductive and neurotoxic effects (including behavioral changes). Although the available health effects data may not be sufficient to thoroughly assess the neurotoxicity or reproductive effects of ethylene oxide, the Agency is not initiating rulemaking to require additional testing for these effects at this time for a number of reasons. First, the available data indicate that ethylene oxide is a carcinogen and may produce other health hazards. The Agency believes that the available data on carcinogenicity and other effects are sufficient to support regulatory action to control exposure from uses governed by TSCA. As noted above, OSHA already has proposed to lower the occupational exposure level for ethylene oxide to a PEL of 1 ppm. Moreover, the occupational exposures subject to OSHA's proposal include the exposures that would be subject to the Agency's authority under TSCA.

In addition, the Agency believes that the 1 ppm TWA level proposed by OSHA will reduce significantly not only the cancer risk from worker exposure to ethylene oxide but will also substantially reduce the potential risks from other health hazards including any neurotoxic and adverse reproductive effects. The Agency believes that additional testing does not need to be conducted in order to adequately support the 1 ppm TWA exposure level proposed by OSHA or even a lower exposure level. Thus, the Agency concludes that no significant additional benefit to society will result from requiring further testing for neurotoxicity or reproductive effects at this time. OSHA and OPP are aware of EPA's activities on ethylene oxide under section 4 of TSCA. If either entity should determine at a later time that additional testing of ethylene oxide is necessary, EPA will consider requiring additional testing under TSCA section 4.

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(45) Ethylene Oxide Industry Council (EOIC), Washington, D.C. Letter dated December 7, 1981, to Steve Newburg-Rinn, Assessment Division, Office of Pesticides and Toxic Substances, USEPA, Washington, D.C. 20460 (1981).

(46) Science Applications, Inc. (SAI), "Human Exposure to Atmospheric Concentrations of Selected Chemicals,"

Prepared by SAI for OAQPS, USEPA, Vol. II, Appendix A–14, p. 17 (1981).

(47) Cupitt, L. T., "Fate of Toxic and Hazardous Materials in the Air Environment (Project Summary)," Environmental Science Research Laboratory, Research Triangle Park, N.C. 27711, EPA–600/53–80–084 (1980).

(48) Conway, R. A., G. T. Waggy, M. H. Spiegal, and R. L. Bergluand, "Environmental Fate and Effects of Ethylene Oxide," *Environ. Sci. Technol.* 17:107–112 (1983).

(49) Dow Chemical Co., TSCA Sec. 8(d) Submission 8DHQ–0978–0297, "Summary of Environmental Response Evaluations of Ethylene Oxide, Propylene Oxide, and Butylene Oxide," Washington, D.C.: Office of Toxic Substances, USEPA (1978).

(50) Union Carbide Co., TSCA Sec. 8(d) Submission 8DHQ–1078–03305, "Supplementary Test Results on Butylene Oxide, Ethylene Oxide, and Propylene Oxide," Washington, DC: Office of Toxic Substances, USEPA (1978).

(51) USEPA, Notice of Rebuttable Presumption Against Registration and Continued Registration of Pesticide Products Containing Ethylene Oxide (43 FR 3801, January 27, 1978).

V. Public Record

The EPA has established a public record for this testing decision (docket number OPTS–42027). This record includes:

1. **Federal Register** notice designating the alkyl epoxides category to the priority list and all public comments on ethylene oxide received in response to that notice.

2. Letters.

3. Contact reports of telephone conversations and meeting summaries.

4. Published and unpublished data.

This record, containing the basic information considered by the Agency in developing this decision, is available for inspection in the Office of Pesticide and Toxic Substances (OPTS) Reading Room from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, in Rm. E–107, 401 M St., SW., Washington, D.C. 20460. The Agency will supplement the record periodically with additional relevant information received.

(Sec. 4, 90 Stat. 2003; (15 U.S.C. 2601))

Dated: December 21, 1983.

William D. Ruckelshaus,

Administrator.

[FR Doc. 83–34799 Filed 12–30–83; 8:45 am]

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January 3, 1984

Part IV

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978; Notices

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Volume 1030]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: December 27, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, DC. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd., Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS

ISSUED DECEMBER 27 , 1983

VOLUME 1030

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-ADOBE OIL & GAS CORPORATION				RECEIVED:	11/25/83	JA: TX			
8409415	F-89-075099	4209732323		102-4	103	BURRELL #4	DELAWARE BEND NORTH (	110.0	LONE STAR GAS CO
-ALCORN PRODUCTION CO				RECEIVED:	11/25/83	JA: TX			
8409418	F-81-075103	4217731227		102-4		M M LEWIS #2	CHRISTIAN (6800) FIEL	0.0	TIPPERARY GAS CO
-ALPS OIL CO				RECEIVED:	11/25/83	JA: TX			
8409345	F-88-074683	4218333242		103		M B MCKNIGHT "A" 10	SAND HILLS (MCKNIGHT)	13.7	WARREN PETROLEUM
-AMOCO PRODUCTION CO				RECEIVED:	11/25/83	JA: TX			
8409268	F-86-071942	4234730549		102-4		EMMETT CASE #1	APPLEBY N (RODESSA)	548.0	UNITED GAS PIPELI
8409373	F-88-074989	4208333478		103		FULLERTON SAN ANDRES UNIT #48	FULLERTON SAN ANDRES	97.0	AMOCO PRODUCTION
-ARCO OIL AND GAS COMPANY				RECEIVED:	11/25/83	JA: TX			
8409246	F-84-071086	4213136231		103		J R FOSTER #66	HAGIST RANCH (1030)	45.0	NATURAL GAS PIPEL
8409277	F-86-073218	4241930417		103		J S PRICE GAS UNIT #4	JOAQUIN TRAVIS PEAK	372.0	SOUTHERN NATURAL
8409258	F-86-071935	4236585207		107-TF		J W WILTCHER GAS UNIT #2	CARTHAGE	200.0	SOUTHERN NATURAL
8409259	F-86-071937	4236530895		107-TF		OCIE GLASPIE GAS UNIT #3	CARTHAGE	365.0	SOUTHERN NATURAL
-AREMA OIL & GAS CO				RECEIVED:	11/25/83	JA: TX			
8409322	F-82-074356	4229733282		102-4		W A SMITH #1	GOEBEL N (SLICK 6635)	109.0	REATA INDUSTRIAL
-BRAZOS PETROLEUM CO				RECEIVED:	11/25/83	JA: TX			
8409284	F-88-073521	4232931171		103		ERVIN #3	SPRABERRY (TREND AREA	11.0	PHILLIPS PETROLEU
8409351	F-88-074799	4231732717		103		KELLY #1	SPRABERRY (TREND AREA	18.0	PHILLIPS PETROLEU
8409352	F-88-074800	4232931173		103		RAYBURN #1	SPRABERRY (TREND AREA	22.0	PHILLIPS PETROLEU
-BRYANT OIL CO				RECEIVED:	11/25/83	JA: TX			
8409329	F-8A-074438	4207931636		103		NICEWARNER #1	LEVELLAND (SAN ANDRES	73.0	CITIES SERVICE OI
-BTA OIL PRODUCERS				RECEIVED:	11/25/83	JA: TX			
8409303	F-7C-073995	42383326 43		103		ROCKER "B" #28	SPRABERRY (TREND) ARE	26.0	EL PASO NATURAL G
-BUCK WHEAT RESOURCES INC				RECEIVED:	11/25/83	JA: TX			
8409350	F-78-074768	4242933662		102-4		SMITH #3	SMITH (MISS)	0.0	WARREN PETROLEUM
-C F LAWRENCE & ASSOC INC				RECEIVED:	11/25/83	JA: TX			
8409333	F-88-074502	4237134481		103		MCMURTRY #11	LEHN-APCO	0.0	APACHE GAS CORP
8409336	F-88-074503	4237134482		103		MCMURTRY #14	LEHN-APCO	0.0	APACHE GAS CORP
8409364	F-88-074967	4237134438		103		MCMURTRY #21	LEHN-APCO 1600	0.0	APACHE GAS CORP
8409365	F-7C-074969	4210534424		103		TODD "X" #4	TODD SW (SAN ANDRES L	0.0	APACHE GAS CORP
-CARTER EXPLORATION CO				RECEIVED:	11/25/83	JA: TX			
8409327	F-82-074389	4223931321		102-4	103	KUBECKA ESTATE #1	WILDCAT PROPOSED - CO	29.5	TRANSCONTINENTAL
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	11/25/83	JA: TX			
8409330	F-86-074472	4236500000		108		CARTHAGE GAS UNIT 23 #1	CARTHAGE	17.0	TENNESSEE GAS PIP
8409331	F-86-074473	4236500000		108		CARTHAGE GAS UNIT 24 #1	CARTHAGE	13.0	TENNESSEE GAS PIP
-CHEVRON U S A INC				RECEIVED:	11/25/83	JA: TX			
8409432	F-8A-075145	4241532431		103		SACROC UNIT #26-14	KELLY - SNYDER	32.0	EL PASO NATURAL G
8409435	F-8A-075148	4241532448		103		SACROC UNIT #293-4	KELLY - SNYDER	36.0	EL PASO NATURAL G
8409433	F-8A-075146	4241532439		103		SACROC UNIT #55-8	KELLY - SNYDER	676.4	EL PASO NATURAL G
8409434	F-8A-075147	4241532417		103		SACROC UNIT #58-4	KELLY - SNYDER	21.0	EL PASO NATURAL G
8409431	F-8A-075144	4241532430		103		SACROC UNIT NO 56-16	KELLY - SNYDER	44.0	EL PASO NATURAL G
-CLAYTON W WILLIAMS JR				RECEIVED:	11/25/83	JA: TX			
8409248	F-83-071154	4205100000		102-2		FRANK MACHANN #1	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
8409245	F-83-071002	4205100000		102-2		THARP-SCHWARTZ #1	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
-COCKRELL CORPORATION				RECEIVED:	11/25/83	JA: TX			

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8409412	F-02-075094	4246932038		102-4		ARMOR URBAN #1	GAFFNEY SE (6110) FIE	54.0	
-COMANCHE ENERGY AGENCY				RECEIVED:	11/25/83	JA: TX			
8409242	F-7B-070494	4205933948		102-4		LINDA JONES #1	BOWNE (CADDO)	0.0	LONE STAR GAS CO
-CONOCO INC				RECEIVED:	11/25/83	JA: TX			
8409307	F-08-074088	4213500000		108		GIST UNIT #18 ID 19373	FOSTER	265.0	EL PASO HYDROCARB
8409274	F-04-072896	4247933500		102-2	107-TF	VAQUILLAS RANCH A832	VAQUILLAS RANCH (WILC	0.0	E I DUPONT DE NEM
-CORPUS CHRISTI OIL AND GAS CO				RECEIVED:	11/25/83	JA: TX			
8409353	F-04-074809	4270330301		102-4		STATE TRACT 691-L SW/4 WELL #3-U	BLOCK 691-L (5200') F	0.0	HOUSTON PIPELINE
8409293	F-04-073752	4260330208		102-4		STATE TRACT 826-S WELL #1A-L	CLEAR NORTH (MIOCENE	0.0	HOUSTON PIPELINE
-COTTON PETROLEUM CORPORATION				RECEIVED:	11/25/83	JA: TX			
8409249	F-10-071162	4235700000		103		MCGARROUGH #4	MCGARROUGH WEST	0.0	DIAMOND CHEMICALS
-CRYSTAL OIL AND LAND COMPANY				RECEIVED:	11/25/83	JA: TX			
8409299	F-06-073865	4206730426		102-4		HAYNES #1-L	RODESSA	18.3	BRECKENRIDGE GASO
-DANIEL OIL COMPANY				RECEIVED:	11/25/83	JA: TX			
8409238	F-03-070162	4215731368		102-4		MOORE #10	MOORES ORCHARD (YEGUA	0.0	UNITED TEXAS TRAN
8409239	F-03-070176	4215731281		102-4		MOORE #4	MOORES ORCHARD (YEGUA	0.0	
8409240	F-03-070180	4215731282		102-4		MOORE #5	MOORES ORCHARD (YEGUA	0.0	
8409237	F-03-070157	4215731308		102-4		MOORE #7	MOORES ORCHARD (YEGUA	0.0	UNITED TEXAS TRAN
-DEMARCO OIL & GAS INC				RECEIVED:	11/25/83	JA: TX			
8409218	F-7B-061062	4225300000		103		BLANKENSHIP #1	BARTLETT EAST	27.4	PALO DURO PIPELIN
8409219	F-7B-061063	4225300000		103		O C LITTLE #1	BARTLETT EAST	27.4	PALO DURO PIPELIN
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	11/25/83	JA: TX			
8409210	F-10-048438	4239300000		108-ER		CHAMBERS B #1-79	MENDOTA NORTHWEST	0.0	SOUTHWESTERN PUBL
8409211	F-10-048648	4221100000		108-ER		JOHN C ISAACS J #8	CANADIAN SE	0.0	NORTHERN NATURAL
8409208	F-10-020331	4235700000		108-ER		MORRISON E #1-52L	PARSELL	0.0	SOUTHWESTERN PUBL
8409207	F-10-005450	4229500000		108-ER		WALLACE HAMKER B #1	NORTHRUP (CLEVELAND)	0.0	SOUTHWESTERN PUBL
-DIRECTION ENERGY CORP				RECEIVED:	11/25/83	JA: TX			
8409267	F-01-072388	4234130944		103		BRUMLEY #1	PANHANDLE MOORE COUNT	0.0	DIAMOND CHEMICALS
-DJS ENERGY CORP				RECEIVED:	11/25/83	JA: TX			
8409285	F-7C-073552	4210534452		103	107-TF	LADD PIERCE "2" #1	OZONA (CANYON SAND)	73.0	VALERO TRANSMISSI
-ENRICH OIL CORPORATION				RECEIVED:	11/25/83	JA: TX			
8409312	F-7C-074177	4208131199		102-4		J B WALKER #2	SILVER (ODOM)	131.0	SUN GAS CO
-ENSERCH EXPLORATION INC				RECEIVED:	11/25/83	JA: TX			
8409234	F-05-069544	4221300000		103		FLOYD GOODGAME #3	TRI-CITIES	913.0	TEXAS UTILITIES F
8409247	F-05-071149	4221300000		103		FLOYD GOODGAME #3	TRI-CITIES	0.0	
-ESENJAY PETROLEUM CORP				RECEIVED:	11/25/83	JA: TX			
8409328	F-04-074413	4224931644		103		WILBUR ERCK #1	CAPTAIN LUCEY (4000')	0.0	NUE WELLS PIPELIN
-ESSEX EXPLORATION INC				RECEIVED:	11/25/83	JA: TX			
8409217	F-10-060375	4219530845		103		GLASGOW #1	BERNSTEIN	137.5	PHILLIPS PETROLEU
-EXPORT PETROLEUM CORP				RECEIVED:	11/25/83	JA: TX			
8409269	F-09-072589	4223731081		108		WORTHINGTON EDWARDS #4	KEN-RICH CONGLOMERATE	2.0	SOUTHWESTERN GAS
-EXXON CORPORATION				RECEIVED:	11/25/83	JA: TX			
8409339	F-03-074546	4233930585		103		CONROE FIELD UNIT #2071	CONROE	110.0	MOPAN UTILITIES C
8409326	F-8A-074379	4216531895		108		EXXON-SHELL FEE #8	ROBERTSON N (CLEAR FO	0.6	PHILLIPS PETROLEU
8409363	F-04-074963	4213135276		102-4		FARMERS LIFE GAS UNIT #1-1 (106439)	SEVEN SISTERS EAST (H	1241.0	ARMCO STEEL CORP
8409324	F-08-074373	4200333475		103		FULLERTON CLEARFORK UNIT #2070	FULLERTON	15.0	PHILLIPS PETROLEU
8409354	F-08-074817	4200333511		103		FULLERTON CLEARFORK UNIT #2276	FULLERTON	15.0	PHILLIPS PETROLEU
8409332	F-08-074484	4200333496		103		FULLERTON CLEARFORK UNIT #584	FULLERTON	15.0	PHILLIPS PETROLEU
8409316	F-06-074228	4245930569		102-4	107-TF	GLADEWATER GAS UNIT 13 #1	GLADEWATER	365.0	DELHI GAS PIPELIN
8409421	F-06-075122	4249931176		103		HAWKINS FIELD UNIT #720	HAWKINS	73.0	
8409325	F-08-074376	4200300000		108		J E PARKER A/C 9 #43	THREE BAR (YATES)	12.0	PHILLIPS PETROLEU
8409437	F-04-075158	4227331580		102-4		KING RANCH ALAZAN 375 (186670)	ALAZAN (J-36)	70.0	ARMCO STEEL CORP
8409436	F-04-075149	4226130821		102-4		KING RANCH TIO MOYA 19 (107147)	SAN JOSE SOUTH (M-39)	365.0	ARMCO STEEL CORP
8409420	F-04-075118	4242731758		103		MCGILL BROS 495-F (10118)	JAY SIMMONS	37.0	TRUNKLINE GAS CO
8409391	F-08-075054	4237134344		102-4		STATE UNIVERSITY FC #1	CUNNINGHAM RANCH (LEO	8.0	
8409370	F-8A-074982	4250132333		103		W C KNORPP #2	JANICE (WOLFCAMP)	2.0	
8409452	F-03-075189	4220131061		103		WEBSTER FIELD UNIT #341	WEBSTER	7.0	HOUSTON PIPELINE
-FARGO ENERGY CORP				RECEIVED:	11/25/83	JA: TX			
8409244	F-03070877	4214931562		102-3		RIETZ "E" GAS UNIT #1	GIDDINGS (AUSTIN CHAL	150.0	PHILLIPS PETROLEU
-FIRST TRIAD CORP				RECEIVED:	11/25/83	JA: TX			
8409319	F-7B-074295	4236732429		102-4		PICKERING #2 (GAS)	DENNIS WEST (STRAWN)	365.0	PARKER GAS INC
8409320	F-7B-074296	4236732428		102-4		WOODRUFF #4 (GAS)	DENNIS WEST (STRAWN)	299.0	PARKER GAS INC
-G S I INC				RECEIVED:	11/25/83	JA: TX			
8409348	F-03-074734	4204130997		102-2		A P WEHMEYER #2	KURTEN (BUDA) FIELD	100.0	FERGUSON CROSSING
-GEODYNE RESOURCES INC				RECEIVED:	11/25/83	JA: TX			
8409335	F-10-074507	4229531350		103		BRADLEY "D" #1	MAMMOTH CREEK NORTH (	104.0	TRANSWESTERN PIPE
-GEORGE L ROUSSEAU				RECEIVED:	11/25/83	JA: TX			
8409355	F-03-074911	4205132433		102-4		FRED OWEN WELL #4-A	HOOKER CREEK (NAVARRO	70.0	PHILLIPS PETROLEU
-GEOSOUTHERN ENERGY CORP				RECEIVED:	11/25/83	JA: TX			
8409228	F-03-062698	4247730485		102-2	103	MONIQUE #1	GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
-GETTY OIL COMPANY				RECEIVED:	11/25/83	JA: TX			
8409367	F-8A-074976	4207900000		108		SOUTHWEST LEVELLAND UNIT #24	LEVELLAND	0.0	CITIES OIL & GAS
8409366	F-8A-074975	4207900000		108		SOUTHWEST LEVELLAND UNIT #52	LEVELLAND	2.0	CITIES OIL & GAS
8409368	F-8A-074977	4207900000		108		SOUTHWEST LEVELLAND UNIT #54	LEVELLAND	1.0	CITIES OIL & GAS
-GOLDSTON OIL CORP				RECEIVED:	11/25/83	JA: TX			
8409356	F-01-074950	4231131865		102-4	103	T J MARTIN G U #2 WELL #1-C #107265	ROOS (1500')	110.0	TENNESSEE GAS PIP
-GRAHAM-MICHAELIS CORP				RECEIVED:	11/25/83	JA: TX			
8409209	F-10-044296	4242100000		108-ER		HILL #1	TEXAS HUGOTON	0.0	PHILLIPS PETROLEU
-GROTHE BROTHERS				RECEIVED:	11/25/83	JA: TX			
8409344	F-7B-074680	4244733506		103		CONDRON #1 186680	THROCKMORTON COUNTY R	0.0	LONE STAR GAS CO
8409317	F-7B-074270	4241700000		102-4		LES RAYMOND #1	ROYALL ELLENBURGER	40.0	LONE STAR GAS CO
-GRUY MANAGEMENT SERVICE CO				RECEIVED:	11/25/83	JA: TX			
8409232	F-04-069136	4242700000		102-4		I G GUTIERREZ #2	SALINAS (2100')	0.0	ESPERANZA TRANSMI
-GULF COAST MINERALS CO INC				RECEIVED:	11/25/83	JA: TX			
8409349	F-04-074745	4213100000		102-4		HINOIOSA-PEREZ UNIT #2-A	JAM (6500)	74.8	UNITED GAS PIPE L
-GULF OIL CORPORATION				RECEIVED:	11/25/83	JA: TX			
8409440	F-08-075155	4247532835		103		HUTCHINGS STOCK ASSN #1233	WARD-ESTES NORTH	5.0	CABOT CORP
8409439	F-08-075154	4247532836		103		HUTCHINGS STOCK ASSN #1234	WARD-ESTES NORTH	5.0	CABOT CORP
8409438	F-08-075153	4247532843		103		HUTCHINGS STOCK ASSN #1249	WARD-ESTES NORTH	40.0	CABOT CORP
8409278	F-10-073248	4221131586		102-4		ISAACS #4-210	CANADIAN SW (DOUGLAS	29.4	
-HANLEY PETROLEUM INC				RECEIVED:	11/25/83	JA: TX			
8409323	F-7C-074367	4246132027		103		H F NEAL "248" WELL #2	SPRABERRY (TREND AREA	18.0	EL PASO NATURAL G
-HOWELL DRILLING INC				RECEIVED:	11/25/83	JA: TX			
8409457	F-02-075204	4223931795		103		T K SIMONS #4	TEXANA N	0.0	HOUSTON PIPE LINE
-HUFO OILS				RECEIVED:	11/25/83	JA: TX			
8409214	F-10-056162	4234100000		103		BRENT 63-4	BRENT (PANHANDLE MOOR	0.0	PANHANDLE EASTERN
8409215	F-10-056164	4234100000		103		BRENT 65-1	BRENT (PANHANDLE MOOR	0.0	PANHANDLE EASTERN
-HUGHES & HUGHES				RECEIVED:	11/25/83	JA: TX			
8409282	F-02-073402	4202532005		102-4		DOUGHERTY PROPERTIES -C- #1	DOUGHERTY RANCH (1035	548.0	HOUSTON PIPE LINE
8409309		4247932983		102-4	107-TF	OLMITOS RANCH INC -C- 1	LINCOLN (LOBO III 819	50.0	HOUSTON PIPE LINE
-INDIAN WELLS OIL CO				RECEIVED:	11/25/83	JA: TX			
8409347	F-7C-074711	4223532125		102-2		HARRIS 60-5	PROBANDT (CANYON)	0.0	NORTHERN NATURAL
8409289	F-7C-073654	4223531887		102-2		PROBANDT 4-1	PROBANDT (CANYON)	0.0	FARMLAND INDUSTRI
8409288	F-7C-073653	4223532090		102-2		SMITH 58-2	PROBANDT (CANYON)	0.0	NORTHERN NATURAL

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8409410	F-7C-075081	4223532127		103		WINTERBOTHAM 27-3
				RECEIVED:	11/25/83	JA: TX
-J M HUBER CORPORATION						
8409375	F-10-075000	4223300000		108		MAGNOLIA HERRING #14 RC
8409376	F-10-075001	4223300000		108		MAGNOLIA HERRING #6
8409374	F-10-074999	4234130534		108		OTIS PHILLIPS "C" #3A
8409388	F-10-075005	4223300000		108		PENNY "A" #1A
8409379	F-10-075004	4223300000		108		PENNY "A" #2
8409378	F-10-075003	4223300000		108		PENNY "B" #6
8409377	F-10-075002	4223300000		108		READ #1
8409212	F-10-054473	4223300000		108-ER		SANFORD E #2
				RECEIVED:	11/25/83	JA: TX
-J R PARTEN						
8409256	F-03-071705	4231300000		102-4		SEVEN J STOCK FARM #37
8409255	F-03-071703	4231300000		102-4		THOMAS W DORRELL #1
				RECEIVED:	11/25/83	JA: TX
-JOHN L COX						
8409235	F-7C-069686	4246132021		103		AMCRADA - NEAL F #1
8409226	F-7C-067415	4246100000		103		OWENS #3 RRC #87174
				RECEIVED:	11/25/83	JA: TX
-KILLAM OIL CO						
8409342	F-04-074574	4247933522		102-4		KILLAM & HURD FEE 2042 WELL #1
				RECEIVED:	11/25/83	JA: TX
-LANDMARK EXPLORATION INC						
8409283	F-03-073518	4205132491		102-3		LYDIA CALVIN #1
				RECEIVED:	11/25/83	JA: TX
-MARALO INC						
8409340	F-01-074547	4249331095		102-2	103	HAWKINS-MCMULLEN OIL UNIT #1
				RECEIVED:	11/25/83	JA: TX
-MARTIN OIL & GAS CO						
8409341	F-03-074549	4214931479		102-2		FREYTAG #1
				RECEIVED:	11/25/83	JA: TX
-MCCLYMOND BROTHERS						
8409336	F-7B-074508	4242900000		103		TEMPLETON #1
				RECEIVED:	11/25/83	JA: TX
-MCCORMICK OPERATING CO						
8409254	F-04-071664	4204700000		102-4		CARTER RANCH #7
				RECEIVED:	11/25/83	JA: TX
-MCMURREY PETROLEUM INC						
8409264	F-06-072098	4218300000		102-4	103	J R GARNER #1 RRC ID NO 84938
				RECEIVED:	11/25/83	JA: TX
-MCZ INC						
8409286	F-03-073600	4204100000		102-3		ADKINS UNIT #2
				RECEIVED:	11/25/83	JA: TX
-MEWBOURNE OIL COMPANY						
8409343	F-10-074639	4229530691		103	107-TF	PEERY #4 ID #05161
				RECEIVED:	11/25/83	JA: TX
-MICHAELSON PRODUCING CO						
8409399	F-7C-075062	4238332084		103		R B #1
8409398	F-7C-075061	4238332209		103		R B #2
8409397	F-7C-075060	4238332098		103		R B #3
8409396	F-7C-075059	4238332394		103		R B #4
8409394	F-7C-075057	4238332333		103		R B #5
8409395	F-7C-075058	4238332210		103		R B #6
8409393	F-7C-075056	4238332395		103		R B #7
8409392	F-7C-075055	4238332393		103		R B #8
8409409	F-7C-075073	4238332099		103		RANCH #1
8409408	F-7C-075072	4238332211		103		RANCH #2
8409407	F-7C-075071	4238332328		103		RANCH #3
8409406	F-7C-075070	4238332488		103		RANCH #4
8409405	F-7C-075069	4238332128		103		SCOTT #1
8409404	F-7C-075068	4238332341		103		SCOTT #2
8409403	F-7C-075067	4238332342		103		SCOTT #3
8409402	F-7C-075066	4238332517		103		SCOTT #4
8409401	F-7C-075065	4238332518		103		SCOTT #5
8409400	F-7C-075063	4238332599		103		SCOTT #7
				RECEIVED:	11/25/83	JA: TX
-MILLS BENNETT ESTATE						
8409430	F-04-075141	4204700000		108		MILLS BENNETT ESTATE FEE #27
				RECEIVED:	11/25/83	JA: TX
-MITCHELL ENERGY CORPORATION						
8409388	F-09-075042	4249700000		108		C A EUBANKS #1 #19409
8409387	F-09-075041	4249700000		108		G W EANES #1 #091724
8409230	F-09-068116	4249700000		108		J A NORWOOD #1 091009
8409386	F-09-075038	4249700000		108		J W BRUMLEY #2 #043159
8409443	F-8A-075176	4203330921		103		SHAFER 411 "A" #1 #64504
8409444	F-09-075177	4249732553		103		T C W B #40 #17160
				RECEIVED:	11/25/83	JA: TX
-MOBIL PRDG TEXAS & NEW MEXICO INC						
8409233	F-08-069535	4237134090		102-4		LELA-PRICE STATE #1
8409389	F-08-075050	4210301521		108		SHACKELFORD SPRABERRY UNIT #3-1
				RECEIVED:	11/25/83	JA: TX
-MONSANTO COMPANY						
8409358	F-8A-074953	4241531728		103		CLARENCE #10
8409359	F-8A-074954	4241531684		103		CLARENCE #9
8409357	F-8A-074952	4241531686		103		JACK #17
8409371	F-8A-074984	4241531682		103		JACK #18
8409360	F-8A-074955	4241532460		103		MCLAUGHLIN ACCT #1 - WELL #98
				RECEIVED:	11/25/83	JA: TX
-MONTERO OPERATING INC						
8409224	F-7B-066740	4235331385		103		TUBB "A" #1
				RECEIVED:	11/25/83	JA: TX
-NATURAL RESOURCES CORP						
8409318	F-03-074278	4208900000		107-TF		NRC HERDER #2 RRC #045887
				RECEIVED:	11/25/83	JA: TX
-NEUMIN PRODUCTION CO						
8409223	F-02-066080	4205700000		107-PE		STATE TRACT 90 #2 SAN ANTONIO BAY
				RECEIVED:	11/25/83	JA: TX
-OUTLINE OIL CORP						
8409253	F-03-071605	4240700000		102-4		MASSEY-CLUXTON UNIT 1 #1
				RECEIVED:	11/25/83	JA: TX
-PANHANDLE PRODUCING COMPANY						
8409231	F-10-069074	4202900000		108		CONTINENTAL-SANFORD #1 (023780)
				RECEIVED:	11/25/83	JA: TX
-PARKER & PARSLEY INC						
8409306	F-08-074063	4231732718		103		GLASS "D" WELL #1
8409280	F-08-073260	4232900000		103		SALLY WELL #1
8409279	F-08-073258	4232900000		103		TATOM WELL #1
				RECEIVED:	11/25/83	JA: TX
-PARTNERS OIL COMPANY						
8409236	F-03-069813	4215731408		102-4		GRIGAR RA #1
				RECEIVED:	11/25/83	JA: TX
-PHILLIPS PETROLEUM COMPANY						
8409419	F-08-075105	4222732462		108		(02896) BELLAM #15
8409423	F-10-075126	4217900000		108		CLAY #8
8409422	F-10-075125	4234100000		108		FUGUA B #1
8409426	F-10-075129	4217900000		108		HUSTED #4
8409383	F-10-075031	4223300000		108		INEZ #2
8409425	F-10-075128	4235700000		108		NEUFELD A #1
8409424	F-10-075127	4235700000		108		ROBERTS D #6
				RECEIVED:	11/25/83	JA: TX
-PRAIRIE PRODUCING CO						
8409276	F-05-073137	4237900000		102-4		R R GOODRICH #1
				RECEIVED:	11/25/83	JA: TX
-Q E D EXPLORATION INC						
8409372	F-7C-074987	4223534146		102-2	103	FARMAR-SUGG #9
				RECEIVED:	11/25/83	JA: TX
-RANKIN OIL CO						
8409458	F-08-075205	4249531583		103		COWDEN A #1
8409417	F-08-075102	4200333587		103		PEBSWORTH "C" #1
				RECEIVED:	11/25/83	JA: TX
-REDD & WILLINGHAM						
8409321	F-06-074324	4200530160		102-2		DIBOLL HEIRS #1 106686

FIELD NAME	PROD	PURCHASER
BROOKS (CANYON K)	0.0	NORTHERN NATURAL
WEST PANHANDLE	18.0	COLORADO INTERSTA
WEST PANHANDLE	18.0	COLORADO INTERSTA
WEST PANHANDLE	18.0	COLORADO INTERSTA
WEST PANHANDLE	6.6	COLORADO INTERSTA
WEST PANHANDLE	4.4	COLORADO INTERSTA
WEST PANHANDLE	3.2	COLORADO INTERSTA
WEST PANHANDLE	10.0	COLORADO INTERSTA
PANHANDLE	0.0	COLORADO INTERSTA
FORT TRINIDAD W (GLEN	185.0	LONE STAR GAS CO
FORT TRINIDAD W (GLEN	185.0	MADISON PIPE LINE
BENEDON (FUSSELMAN)	10.0	PHILLIPS PETROLEU
SPRABERRY (TREND AREA	10.0	PHILLIPS PETROLEU
VILLEGAS (MIDDLE WILC	0.0	
GIDDINGS (AUSTIN CHAL	100.0	FERGUSON CROSSING
STOCKDALE S (AUSTIN C	28.5	WILSON COUNTY GAS
GIDDINGS BUDA	0.0	PHILLIPS PETROLEU
STEPHENS COUNTY REGUL	60.0	WARREN PETROLEUM
NORTH RUCIAS	650.0	TRANSCONTINENTAL
ALPINE	0.0	ARKANSAS LOUISIAN
KURTEN (BUDA)	55.0	VANGUARD PIPELINE
PEERY (CLEVELAND)	12.0	TRANSWESTERN PIPE
JOHN SCOTT (GRAYBURG)	1.5	NEW ENERGY CO
JOHN SCOTT (GRAYBURG)	1.6	NEW ENERGY CO
JOHN SCOTT (GRAYBURG)	2.9	NEW ENERGY CO
JOHN SCOTT (GRAYBURG)	1.5	NEW ENERGY CO
JOHN SCOTT (GRAYBURG)	12.8	NEW ENERGY CO
JOHN SCOTT (GRAYBURG)	1.8	NEW ENERGY CO
JOHN SCOTT (GRAYBURG)	0.7	NEW ENERGY CO
JOHN SCOTT (GRAYBURG)	1.8	NEW ENERGY CO
JOHN SCOTT (GRAYBURG)	8.6	NEW ENERGY CO
JOHN SCOTT (GRAYBURG)	1.5	NEW ENERGY CO
JOHN SCOTT (GRAYBURG)	7.3	NEW ENERGY CO
JOHN SCOTT (GRAYBURG)	0.7	NEW ENERGY CO
JOHN SCOTT (GRAYBURG)	3.7	NEW ENERGY CO
JOHN SCOTT (GRAYBURG)	16.4	NEW ENERGY CO
JOHN SCOTT (GRAYBURG)	12.8	NEW ENERGY CO
JOHN SCOTT (GRAYBURG)	11.0	NEW ENERGY CO
JOHN SCOTT (GRAYBURG)	12.8	NEW ENERGY CO
JOHN SCOTT (GRAYBURG)	8.1	NEW ENERGY CO
MILLS BENNETT (J-2 SA	0.0	TEXAS EASTERN TRA
BOONSVILLE (CADDO LIM	0.0	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
RHOME (CADDO)	0.0	NATURAL GAS PIPEL
BOONSVILLE (BEND CONG	8.0	NATURAL GAS PIPEL
MYRTLE W (STRAWN)	8.0	
CAP YATES (CONSOLIDAT	123.5	NATURAL GAS PIPEL
ATHEY (MISSISSIPPIAN)	511.0	
SPRABERRY (TREND AREA	0.5	EL PASO NATURAL G
DIAMOND M (CLEARFORK)	2.0	DIAMOND M-SHARON
DIAMOND M (CLEARFORK)	4.0	DIAMOND M-SHARON
DIAMOND M (CLEARFORK)	4.0	DIAMOND M-SHARON
DIAMOND M (CLEARFORK)	2.0	DIAMOND M-SHARON
DIAMOND M (CLEARFORK)	8.0	DIAMOND M-SHARON
JMM (CANYON)	0.0	SUN GAS CO
EAST RAMSEY	0.0	AMOCO PRODUCTION
PANTHER REEF S W (G-2	607.0	HOUSTON PIPE LINE
OLD WAVERLY (YEGUA 45	110.0	TEXAS EASTERN TRA
WEST PANHANDLE	9.0	COLORADO INTERSTA
SPRABERRY (TREND AREA	0.0	ADOBE OIL & GAS C
SPRABERRY (TREND AREA	15.0	PHILLIPS PETROLEU
SPRABERRY (TREND AREA	15.0	PHILLIPS PETROLEU
MOORES ORCHARD NE (YE	0.0	UNITED TEXAS TRAN
IATAN EAST (HOWARD)	1.0	GETTY OIL CO
PANHANDLE GRAY	0.0	
PANHANDLE WEST	0.0	EL PASO NATURAL G
PANHANDLE GRAY	0.0	
PANHANDLE WEST	0.0	EL PASO NATURAL G
HORIZON CLEVELAND	0.0	
HORIZON CLEVELAND	0.0	
S E GINGER SMACKOVER	0.0	TEXAS UTILITIES F
LUCKY-MAG (CLEARFORK	6.0	FARMLAND INDUSTRI
HENDRICK	0.0	PHILLIPS PETROLEU
NIX SOUTH	0.0	PHILLIPS PETROLEU
REDD-WILLINGHAM (REKL	0.0	UNITED GAS PIPELI

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-REED OPERATING CO INC				RECEIVED:	11/25/83	JA: TX			
8409441	F-7B-075160	4236300000		103		TOMERLIN "B" 2	MINERAL WELLS S (STRA	35.5	SOUTHWESTERN GAS
-RELIANCE ENERGY & MINERALS CORP				RECEIVED:	11/25/83	JA: TX			
8409292	F-03-073738	4205100000		102-2		BLACK LAKE #3	GIDDINGS/AUSTIN CHALK	0.0	CLAJON GAS CO
-RK PETROLEUM CORP				RECEIVED:	11/25/83	JA: TX			
8409442	F-08-075167	4231732293		103		ROGERS "A" #1	SPRABERRY (TREND AREA	11.0	PHILLIPS PETROLEU
-ROGER D DAVID INC				RECEIVED:	11/25/83	JA: TX			
8409338	F-7B-074544	4244132443		103		SANTA FE 1-425 #106923	LAWN (GRAY SAND)	75.0	UNION TEXAS PRODU
-SAMSON RESOURCES COMPANY				RECEIVED:	11/25/83	JA: TX			
8409287	F-06-073636	4236500000		108		BRAD YATES #1-C	BETHANY	10.1	TENNESSEE GAS PIP
-SANTA FE ENERGY PRODUCTS CO				RECEIVED:	11/25/83	JA: TX			
8409250	F-03-071395	4214900000		102-2		KIEL #1		0.0	
-SCANDRILL INC				RECEIVED:	11/25/83	JA: TX			
8409273	F-09-072890	4250337126		103		HINSON-BANNIN "B" #1	BRYSON SOUTHWEST (STR	45.6	TEXAS UTILITIES F
8409382	F-09-075024	4223734716		103		REYNOLDS #2	JACK COUNTY REGULAR	25.6	LONE STAR GAS CO
8409300	F-09-073872	4250337237		103		SCAN-KING "F" #1	STOVALL (MCLESTER)	14.6	J M TAYLOR GAS CO
-SHELL OIL CO				RECEIVED:	11/25/83	JA: TX			
8409251	F-01-071397	4231131857		102-4		L S MCCLAUGHERTY "A" #4	A W P (OLMOS)	50.0	HPI TRANSMISSION
-SOUTHLAND ROYALTY CO				RECEIVED:	11/25/83	JA: TX			
8409294	F-08-073802	4243131321		103	107-TF	FLINT ESTATE #10	CONGER PENN	36.5	VALERO TRANSMISSI
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	11/25/83	JA: TX			
8409295	F-8A-073834	4250132368		103		B L GILSTRAP #8	OWNBY	7.0	AMOCO PRODUCTION
8409384	F-01-075035	4212732427		103		BIG WELLS (SAN MIGUEL) UNIT #13-08	BIG WELLS	3.0	HOUSTON PIPE LINE
8409449	F-08-075185	4233532467		103		J T MCCABE A #19	JAMESON NORTH	22.0	LONE STAR GAS CO
8409451	F-08-075187	4233532542		103		M J WILSON #1	JAMESON N	32.0	LONE STAR GAS CO
8409305	F-02-074005	4246932033		103		MCFADDIN #1-61	MCFADDIN	82.0	TENNESSEE GAS PIP
8409385	F-08-075036	4200300000		108		O B HOLT PENN #1-18	TRIPLE -N (PENN UPPER	1.0	AMOCO PRODUCTION
8409446	F-7B-075182	4215131143		103		PEARCE HOLLAND #1	PARDUE	2.5	
8409447	F-7B-075183	4215131468		103		PEARCE HOLLAND #3	PARDUE	10.0	
8409281	F-04-073395	4242731759		102-4		S RODRIQUEZ #7	SUN N	44.0	FLORIDA GAS TRANS
8409448	F-08-075184	4233532533		103		V T MCCABE #48	JAMESON N	28.0	LONE STAR GAS CO
8409428	F-8A-075134	4207900000		108		WRIGHT UNIT #17-52	LEVELLAND	0.1	CITIES SERVICE OI
8409450	F-8A-075186	4207900000		108		WRIGHT UNIT #20-64	LEVELLAND	0.0	CITIES SERVICE OI
8409427	F-8A-075133	4207900000		108		WRIGHT UNIT #22-55	LEVELLAND	0.1	CITIES SERVICE OI
-SUPERIOR OIL CO				RECEIVED:	11/25/83	JA: TX			
8409369	F-04-074979	4240931704		103		MINNIE S WELDER WELL # 64U	PORTILLA (8100 SAND)	13.0	TENNESSEE GAS PIP
8409304	F-08-074000	4237134434		102-4	103	UNIVERSITY "19-1" WELL #3	TUNIS CREEK (DEVONIAN	46.0	DELHI GAS PIPELIN
-T M HOPKINS				RECEIVED:	11/25/83	JA: TX			
8409296	F-06-073840	4240131669		103	107-TF	BOOTH-FREEMAN #3	OAK HILL (COTTON VALL	730.0	TEXAS EASTERN TRA
-TAMARACK PETROLEUM CO INC				RECEIVED:	11/25/83	JA: TX			
8409453	F-8A-075194	4221933527		103		TAYLOR 19 #1 (RRC #63943)	LEVELLAND	6.[illegible]	CITIES SERVICE CO
8409455	F-8A-075196	4221933575		103		TAYLOR 19 #2 (RRC #63943)	LEVELLAND	6.0	CITIES SERVICE CO
8409456	F-8A-075197	4221933613		103		TAYLOR 19 #3 (RRC #63943)	LEVELLAND	[illegible].0	CITIES SERVICE CO
8409454	F-8A-075195	4221933614		103		TAYLOR 19A #1 (RRC #64223)	LEVELLAND	10.[illegible]	CITIES SERVICE OI
-TED TRUE INC				RECEIVED:	11/25/83	JA: TX			
8409216	F-10-056170	4234100000		103		BRENT 66-5	PANHANDLE MOORE COUNT	0.0	PANHANDLE EASTERN
-TEE OPERATING CO				RECEIVED:	11/25/83	JA: TX			
8409252	F-02-071580	4217531752		102-4		CARMICHAEL #1	MARSHALL EAST WILCOX	0.0	LONE STAR GAS CO
-TEXACO INC				RECEIVED:	11/25/83	JA: TX			
8409310	F-08-074165	4243131287		107-TF		E B COPE #5	CONGER S W (PENN)	165.4	VALERO TRANSMISSI
8409275	F-8A-072953	4221933859		103		MONTGOMERY ESTATE DAVIES NCT-2 #101	LEVELLAND	34.3	AMOCO PRODUCTION
8409311	F-08-074172	4243131150		107-TF		STERLING "Q" FEE #1	CONGER (PENN)	413.6	VALERO TRANSMISSI
8409291	F-8A-073734	4216532600		103		WHARTON UNIT #134	HARRIS	[illegible].0	PHILLIPS PETROLEU
-TEXAS INTERNATIONAL PET CORP				RECEIVED:	11/25/83	JA: TX			
8409229	F-03-067856	4205131488		102-2		BOHACEK #5	BIG "A" TAYLOR	0.0	CLAJON GAS CO
8409228	F-03-067855	4205130881		102-2		BUGG #4	BIG "A" TAYLOR	0.0	CLAJON GAS CO
-TEXLAND-RECTOR & SCHUMACHER				RECEIVED:	11/25/83	JA: TX			
8409429	F-8A-075138	4221933954		103		J J STALLINGS #8	LEVELLAND	17.0	AMOCO PRODUCTION
-THOMPSON J CLEO & JAMES CLEO JR				RECEIVED:	11/25/83	JA: TX			
8409266	F-7C-072271	4210534494		103		INGHAM "B" #1	INGHAM (DEVONIAN)	130.0	PHILLIPS PETROLEU
-THROCKMORTON GAS SYSTEMS				RECEIVED:	11/25/83	JA: TX			
8409213	F-7B-054786	4244732756		102-4		GREGORY #4	BOHNER KIMBELL (CADDO	0.0	WARREN PETROLEUM
-TOM BROWN INC				RECEIVED:	11/25/83	JA: TX			
8409314	F-7C-074187	4243532865		103	107-TF	HILL-EDWIN S MAYER JR "LL" #1	SAWYER (CANYON)	73.0	LONE STAR GAS CO
8409313	F-7C-074186	4243532890		103	107-TF	HILL-EDWIN S MAYER JR "T" #1	SAWYER (CANYON)	73.0	LONE STAR GAS CO
8409346	F-7C-074684	4243532864		103	107-TF	HILL-JOHN A WARD "A" #1	SAWYER (CANYON)	73.0	LONE STAR GAS CO
8409301	F-7C-073883	4243532996		103	107-TF	HILL-MRS MAY M RAY "G" 1	ALDWELL RANCH (CANYON	73.0	LONE STAR GAS CO
8409315	F-7C-074209	4243532999		103	107-TF	HILL-RIP WARD "A"	SAWYER (CANYON)	73.0	LONE STAR GAS CO
-TOM MCGEE CORP				RECEIVED:	11/25/83	JA: TX			
8409272	F-10-072843	4229531179		103	107-TF	SCHULTZ #3	BRADFORD (CLEVELAND)	36.5	TRANSWESTERN PIPE
-TRAVELERS OIL CO				RECEIVED:	11/25/83	JA: TX			
8409381	F-10-075015	4217900000		108		BACK #1 04159	PANHANDLE	0.0	PHILLIPS PETROLEU
-TRI-SERVICE DRILLING CO				RECEIVED:	11/25/83	JA: TX			
8409271	F-7C-072782	4238300000		108		ROCKER "B" #29 #04794	SPRABERRY TREND (SPRA	1.5	PHILLIPS PETROLEU
-TXO PRODUCTION CORP				RECEIVED:	11/25/83	JA: TX			
8409263	F-06-071961	4240131685		102-4		BIRDWELL #2-C	MINDEN E (PETTIT UPPE	[illegible].0	DELHI GAS PIPELIN
8409262	F-06-071960	4240131685		102-4		BIRDWELL #2-T	MINDEN E	[illegible].0	DELHI GAS PIPELIN
8409290	F-08-073730	4237100000		103		CABEEN #3	PUTNAM (WICHITA-ALBAN	750.0	DELHI GAS PIPELIN
8409261	F-06-071959	4245930575		103		CEDAR SPRINGS 6-3	CEDAR SPRINGS (TRAVIS	0.0	DELHI GAS PIPELIN
8409243	F-03-070533	4208900000		103		ENGLEHART GAS UNIT 3	ENGLEHART (WILCOX 880	[illegible].0	DELHI GAS PIPELIN
8409222	F-03-065096	4248131735		103		HILL 5	LOUISE N (MIOCENE 250	[illegible].0	TENNESSEE GAS PIP
8409265	F-06-072146	4245930572		103	107-TF	HUGGINS #1-X	HUGGINS #1-X	0.0	DELHI GAS PIPELIN
8409302	F-7C-073957	4223500000		103		LINDLEY "40" #9	LINDLEY "40" #9	75.0	NORTHERN NATURAL
8409270	F-02-072685	4229700000		102-4		MCCLELLAND E-1	OAKVILLE (WILCOX 9700	0.0	DELHI GAS PIPELIN
8409225	F-06-067115	4231530604		103		MITCHELL "J" #1	LASSATER (TRAVIS PEAK	0.0	
8409241	F-02-070346	4228500000		103		SMOTHERS 4	SPEAKS (9400' WILCOX)	0.0	HOUSTON PIPE LINE
8409227	F-05-067600	4216130790		102-4	103	STEWARDS MILL GAS UNIT #1-3	STEWARDS MILL (TRAVIS	0.0	DELHI GAS PIPELIN
8409221	F-01-064197	4231131793		102-4		STISCHER #2	ROOS (1450')	0.0	TEXAS EASTERN TRA
-USEMCO INC				RECEIVED:	11/25/83	JA: TX			
8409337	F-7B-074512	4236732497		103		WHITE "A"	BETHESDA (CADDO)	1.5	LONE STAR GAS CO
-W D H OIL PROPERTIES INC				RECEIVED:	11/25/83	JA: TX			
8409413	F-7C-075097	4239932745		102-4		ALEXANDER #1 (OIL) (10297)	KING (ELLENBURGER)	27.0	UNION TEXAS PETRO
8409414	F-7B-075098	4244132200		102-4		BURNS A #1 (105963)	SHEP SE (GARDNER SAND	73.0	UNION TEXAS PETRO
-W L BRUCE OPERATOR				RECEIVED:	11/25/83	JA: TX			
8409445	F-10-075181	4206531255		103		LOCKE #3 (ID #05368)	PANHANDLE CARSON	40.0	GETTY OIL CO
8409390	F-10-075053	4206531468		103		LOCKE #6 (ID# 05368)	PANHANDLE CARSON	40.0	GETTY OIL CO
-WAGNER & BROWN				RECEIVED:	11/25/83	JA: TX			
8409411	F-08-075085	4243131350		103		GLASS #5-24	CONGER (PENN)	136.2	TEXAS UTILITIES F
-WALLEN PRODUCTION CO				RECEIVED:	11/25/83	JA: TX			
8409308	F-7C-074099	4210534131		103		HELBING #6	OZONA SOUTH (LOWER PE	182.5	NORTHERN NATURAL
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	11/25/83	JA: TX			
8409416	F-08-075100	4210333228		103		M B MCKNIGHT "F" #3	SAND HILLS (MCKNIGHT)	88.7	EL PASO NATURAL G
-WESTERN CHIEF OIL & GAS CO				RECEIVED:	11/25/83	JA: TX			
8409268	F-09-072419	4223725089		103		DUNLAP JOHNNY "C"	NANN ETHEL CONGL	0.0	SOUTHWESTERN GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME			FIELD NAME	PROD	PURCHASER
-WICK PRODUCTION CORP				RECEIVED:	11/25/83		JA:	TX			
8409298	F-7C-073850	4239932627		102-4		FOLSOM #2			WINGATE WEST (GARDNER	36.0	LONE STAR GAS CO
8409297	F-7C-073849	4239932769		102-4		FOLSOM #3			WINGATE WEST (GARDNER	72.0	LONE STAR GAS CO
-WILSON ENERGY INC				RECEIVED:	11/25/83		JA:	TX			
8409362	F-7C-074958	4210500000		108		UNIVERSITY 11 "A" #1			FARMER (SAN ANDRES)	1.0	J L DAVIS
8409361	F-7C-074957	4210500000		108		UNIVERSITY/11 "A" #2			FARMER (SAN ANDRES)	1.0	J L DAVIS
-WYOMING RESOURCES-KEYSTONE				RECEIVED:	11/25/83		JA:	TX			
8409257	F-7C-071771	4238332433		103		PALOMINO "42" #1			SPRABERRY (TREND AREA	52.2	PHILLIPS PETROLEU

[FR Doc. 83-34697 Filed 12-30-83; 8:45 am]

BILLING CODE 6717-01-C

[Volume 1031]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: December 27, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories with each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATION'S — VOLUME 1031

ISSUED DECEMBER 27, 1983

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
OHIO DEPARTMENT OF NATURAL RESOURCES									
-A & R COMPANY				RECEIVED:	11/30/83	JA: OH			
8409558		3416724982		107-TF		LARRY M HAYNES #1-S OH-29-1901	NEWPORT	12.0	COLUMBIA GAS TRAN
-ALL STATES OIL & PRODUCING CO INC				RECEIVED:	11/30/83	JA: OH			
8409559		3410323513		107-TF		MARGARET E COX WELL #1	SHARON	5.0	EAST OHIO GAS CO
8409560		3410323514		107-TF		MARGARET E COX WELL #2	SHARON TOWNSHIP	5.0	EAST OHIO GAS CO
-ALLEGHENY PRODUCERS INC				RECEIVED:	11/30/83	JA: OH			
8409561		3412725735		103		HOWDYSHELL #5	CLAYTON	24.0	NATIONAL GAS & OI
8409562		3412725968		103		HOWDYSHELL WELL #4	CLAYTON	20.0	NATIONAL GAS & OI
-ALSID OIL & GAS DEVELOPMENT CO				RECEIVED:	11/30/83	JA: OH			
8409563		3409921642		107-TF		MANYPENNY - HENDERSON #1	GOSHEN	15.0	
-ALTIER PETROLEUM INC				RECEIVED:	11/30/83	JA: OH			
8409564		3412725660		107-TF		KETCHAM #1	BEARFIELD	6.0	TRAN-CONTINENTAL
8409565		3412725742		107-TF		MINGUS #1	BEARFIELD	6.0	TRAN-CONTINENTAL
-AMERICAN ENERGY DEVELOPMENT INC				RECEIVED:	11/30/83	JA: OH			
8409567		3408504360		107-TF		ADVEY JOLES #2	PERRY	35.0	
8409566		3408520407		107-TF		HERBERT N ROSENBERG #1	PERRY	38.0	
-ATWOOD RESOURCES INC				RECEIVED:	11/30/83	JA: OH			
8409568		3407524171		103	107-TF	SCHLABACH/MILLER UNIT #1	BECKMILLS	15.0	
-B & B ENTERPRISES				RECEIVED:	11/30/83	JA: OH			
8409569		3411523253		107-TF		JERRY APPERSON #1	MCCONNELSVILLE	40.0	
8409570		3411523286		107-TF		LYLE & CARMELITTA APPERSON #1	MCCONNELLSVILLE	40.0	
-BARTLO OIL AND GAS COMPANY				RECEIVED:	11/30/83	JA: OH			
8409571		3410323419		103	107-TF	A NAGY UNIT #3	SHARON	5.0	
-BELDEN & BLAKE & CO				RECEIVED:	11/30/83	JA: OH			
8409574		3416923587		103	107-TF	F & M WRIGHT #4 - 341330	CHESTER	36.5	
-BELDEN & BLAKE & CO 80				RECEIVED:	11/30/83	JA: OH			
8409572		3415123830		103	107-TF	GEORGE & ELIZABETH GONTER #1-341311	SUGAR CREEK	36.5	
-BELDEN & BLAKE & CO 82				RECEIVED:	11/30/83	JA: OH			
8409573		3416923586		103	107-TF	J&J MILEY #1 -341327	CHESTER	36.5	
-BLAUSER WELL SERVICE INC				RECEIVED:	11/30/83	JA: OH			
8409578		3410522166		107-TF		B D GRIFFIN #1	OLIVE TOWNSHIP	0.4	COLUMBIA GAS TRAN
8409575		3400922099		107-TF		FRANKLIN WASHBURN #1	CARTHAGE TOWNSHIP	5.7	COLUMBIA GAS TRAN
8409577		3400922150		107-TF		H C PARRISH #1	CARTHAGE	5.9	COLUMBIA GAS TRAN
8409576		3400922149		107-TF		HARLEY G SHAN #1	CARTHAGE	6.4	COLUMBIA GAS TRAN
8409579		3416725177		107-TF		HAROLD DUNFEE #2	DECATUR TOWNSHIP	6.4	COLUMBIA GAS TRAN
-BUCKEYE CRUDE EXPLORATION INC				RECEIVED:	11/30/83	JA: OH			
8409581		3416725001		103		LAURA GIFFEN #1	ADAMS	10.0	OHIO OIL GATHERIN
8409580		3416724683		103		WAY #1	ADAMS	10.0	OHIO OIL GATHERIN
-CALLANDER & KIMBREL INC				RECEIVED:	11/30/83	JA: OH			
8409582		3400722326		103		OROS #2	PLYMOUTH	2.0	
-CLINTON OIL CO				RECEIVED:	11/30/83	JA: OH			
8409672		3411926707		107-TF		E VIRGIL PYLE #1-586	SALT CREEK	10.0	
-CUYAHOGA EXPLORATION & DEVELOPMENT				RECEIVED:	11/30/83	JA: OH			
8409586		3411122746		103		HERMAN RITCHIE #1	FRANKLIN	23.4	
8409583		3411122604		103		HERMAN RITCHIE #2	FRANKLIN	27.0	
8409584		3411122605		103		HERMAN RITCHIE #3	FRANKLIN	18.9	

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8409588		3416727402		103		LULU B KOOM #1	LIBERTY	57.2	
8409587		3411122931		103		ROSE #3	WASHINGTON	35.5	
8409585		3411122643		103		SIONER LAND #1	FRANKLIN	49.3	
-DEER CREEK INC				RECEIVED:	11/30/83	JA: OH			
8409589		3411926776		103		MATHEWS #3	MONROE	15.0	
-DERBY OIL & GAS CORP				RECEIVED:	11/30/83	JA: OH			
8409590		3407524127		103	107-TF	ANDY YODER #1	WALNUT CREEK	12.0	COLUMBIA GAS TRAN
-DUSTY DRILLING COMPANY INC				RECEIVED:	11/30/83	JA: OH			
8409591		3412724699		103		HELSER #3	THORN	3.7	NATIONAL GAS & OI
8409592		3412725890		103		HELSER #4	THORN	3.7	NATIONAL GAS & OI
-ENERGY DEVELOPMENT CORP				RECEIVED:	11/30/83	JA: OH			
8409594		3405520168		107-RT		SOLTIS #3	PARKMAN	18.0	COLUMBIA GAS TRAN
8409595		3408550231		107-RT		SOLTIS WELL #4	PARKMAN	17.0	COLUMBIA GAS TRAN
-FRANKLIN GAS & OIL CO INC				RECEIVED:	11/30/83	JA: OH			
8409596		3408323333		103		RUBY FARQUHAR #2	JEFFERSON	0.0	EAST OHIO GAS CO
-FREDERICK PETROLEUM CORP				RECEIVED:	11/30/83	JA: OH			
8409597		3412122446		103		D HELLER #1	ELK	5.0	
-GRAVEL BANK PRODUCTION CO				RECEIVED:	11/30/83	JA: OH			
8409598		3416727308		103		LOREN TROUT HEIRS #2	WARREN TOWNSHIP	0.0	GAS TRANSPORT INC
-GREENLAND PETROLEUM CO				RECEIVED:	11/30/83	JA: OH			
8409599		3412123047		107-TF		MARTIN #1	WARREN	150.0	EAST OHIO GAS CO
8409600		3412123053		107-TF		SMITH #3	JACKSON	150.0	EAST OHIO GAS CO
-HERALD OIL & GAS CO				RECEIVED:	11/30/83	JA: OH			
8409601		3410522696		107-TF		EVA SEIDEMABLE #1	SALISBURY	273.3	COLUMBIA GAS TRAN
-HOPEWELL OIL AND GAS DEVELOPMENT CO				RECEIVED:	11/30/83	JA: OH			
8409602		3412726073		103	107-TF	PEABODY HILLIS LEWIS #2	PIKE	0.0	COLUMBIA GAS TRAN
-IRVIN PRODUCING COMPANY				RECEIVED:	11/30/83	JA: OH			
8409603		3411523255		103	107-TF	PENNSYLVANIA FARMS #3	YORK	10.0	COLUMBIA GAS TRAN
-J D DRILLING CO				RECEIVED:	11/30/83	JA: OH			
8409604		3410522590		107-TF		J B & ROBERTA O'BRIEN #6	SALISBURY	7.0	COLUMBIA GAS TRAN
-J O B INC				RECEIVED:	11/30/83	JA: OH			
8409607		3416727562		103		ROBERT RUDOLPH #1	MUSKINGUM	4.0	RIVER GAS CO
8409606		3416727555		103		W & J BURKHART #1	DEVOLA	2.0	RIVER GAS CO
8409605		3416727558		103		WHITING #3	MUSKINGUM	4.0	RIVER GAS CO
-JOHN C MASON				RECEIVED:	11/30/83	JA: OH			
8409609		3407524113		103		ADA BROWN #1	RICHLAND	15.0	COLUMBIA GAS TRAN
-JOHNSON JAMES E/EAGLE EXPLORATION				RECEIVED:	11/30/83	JA: OH			
8409608		3403125122		103	107-TF	CALL #1	BETHLEHEM	15.0	COLUMBIA GAS TRAN
-KENOIL				RECEIVED:	11/30/83	JA: OH			
8409610		3416923385		107-TF		RICHARD #1	CANAAN	1.0	COLUMBIA GAS TRAN
-L & S OIL & GAS				RECEIVED:	11/30/83	JA: OH			
8409611		3408924768		103		HUGHES #1-A	LICKING	4.0	NATIONAL GAS & OI
-LAKE REGION OIL INC				RECEIVED:	11/30/83	JA: OH			
8409612		3407524142		103	107-TF	NOAH & AMANDA YODER #2	CLARK	10.0	YANKEE RESOURCES
-LANGASCO DRILLING CO				RECEIVED:	11/30/83	JA: OH			
8409613		3402920974		107-TF		LEE BUCKMAN #1	WEST	45.0	EAST OHIO GAS CO
-LOMAK PETROLEUM INC				RECEIVED:	11/30/83	JA: OH			
8409614		3405520528		107-TF		A FIRST #2	CLARIDON	30.0	EAST OHIO GAS CO
8409615		3415520553		107-TF		C BATES #2	MESOPOTAMIA	30.0	CNG DEVELOPMENT C
-M B OPERATING CO INC				RECEIVED:	11/30/83	JA: OH			
8409626		3415123848		103		CITY OF CANTON #4	PIKE	12.8	CITY OF CANTON
8409627		3415123849		103		CITY OF CANTON #5	PIKE	12.8	CITY OF CANTON
8409628		3415123897		103		GRIFFITH UNIT #1	CANTON	54.8	EAST OHIO GAS CO
8409629		3415123902		103		R FRANK UNIT #2-A	BETHLEHEM	27.4	EAST OHIO GAS CO
-M C F OIL COMPANY INC				RECEIVED:	11/30/83	JA: OH			
8409619		3407523031		103		BENJAMIN MILLER #1	MONROE	1.0	COLUMBIA GAS TRAN
8409616		3407522727		103		GRAVEN FARM	MONROE	3.0	COLUMBIA GAS TRAN
8409617		3407523028		103		JERRY & LAVONNE UHL #2	MONROE	2.0	COLUMBIA GAS TRAN
8409618		3407523029		103		UHLAND FARMS INC #1	MONROE	1.0	COLUMBIA GAS TRAN
8409620		3407523723		103		VICTOR W & SARAH HOFFMAN #1	MONROE	1.5	COLUMBIA GAS TRAN
-MARK RESOURCES CORP				RECEIVED:	11/30/83	JA: OH			
8409622		3400722296		103		BRUNELL UNIT #1	KINGSVILLE	30.0	EAST OHIO GAS CO
8409623		3400722299		103		FISCHER #1	SHEFFIELD	30.0	EAST OHIO GAS CO
8409625		3400722318		103		GANLEY #2	KINGSVILLE	30.0	EAST OHIO GAS CO
8409621		3400722184		103		HUBBARD #2	KINGSVILLE	30.0	EAST OHIO GAS CO
8409624		3400722301		103		VESEY-BURNETT UNIT #1	KINGSVILLE	30.0	EAST OHIO GAS CO
-MILLER & VERMILLION DRILLING CO INC				RECEIVED:	11/30/83	JA: OH			
8409630		3407322819		103		CARTER #2	STARR	2.0	OHIO OIL GATHERIN
-MULTI BASIN ENERGY CORP				RECEIVED:	11/30/83	JA: OH			
8409631		3411123023		103		M FRY #2	BENTON	8.5	RIVER GAS CO
-OHIO OIL & GAS CO				RECEIVED:	11/30/83	JA: OH			
8409632		3415522340		107-TF		PARK COLONY #3	BAZETTA	20.0	COLUMBIA GAS TRAN
-OXFORD OIL CO				RECEIVED:	11/30/83	JA: OH			
8409679		3408923373		108		BARRICK-WALCUTT #1		2.5	NATIONAL GAS & OI
8409680		3408923374		108		BARRICK-WALCUTT #2		2.5	NATIONAL GAS & OI
8409681		3408923664		108		BARRICK-WALCUTT #3		2.5	NATIONAL GAS & OI
8409682		3408923775		108		BARRICK-WALCUTT #4		2.5	NATIONAL GAS & OI
8409683		3408923776		108		BARRICK-WALCUTT #5		2.5	NATIONAL GAS & OI
8409678		3407524120		103		DALE SCHLEGEL #2	PRAIRIE	0.0	
8409684		3408924732		103		DORIS WHITE FOLK #3	FALLSBURY	0.0	
8409674		3403123095		108		MASTON - FOWLER #3		4.0	NATIONAL GAS & OI
8409673		3403123094		108		MASTON-FOWLER #1		4.0	NATIONAL GAS & OI
8409675		3403123551		108		MASTON-FOWLER #2		4.0	NATIONAL GAS & OI
8409676		3403123608		108		MASTON-FOWLER #4		4.0	NATIONAL GAS & OI
8409677		3403123617		108		MASTON-FOWLER #5		4.0	NATIONAL GAS & OI
-POI ENERGY INC				RECEIVED:	11/30/83	JA: OH			
8409633		3400722341		103	107-TF	EASTLAKE #1	ANDOVER	45.0	
-POMINEX INC				RECEIVED:	11/30/83	JA: OH			
8409635		3409921635		103	107-TF	BUEHLER #2	BEAVER	18.0	YANKEE RESOURCES
8409634		3409921622		103	107-TF	ELSER #2	BEAVER	18.0	YANKEE RESOURCES
8409636		3409921636		103	107-TF	KERSHNER UNIT #1	BEAVER	18.0	YANKEE RESOURCES
-PRIME TIME ENERGY INVESTMENT INC				RECEIVED:	11/30/83	JA: OH			
8409637		3407524069		103		JOSEPH POOLE #1	GREER	35.0	COLUMBIA GAS OF O
-PROFESSIONAL PETROLEUM INC				RECEIVED:	11/30/83	JA: OH			
8409638		3416727438		103		USA/MILDREN #4	INDEPENDENCE	20.0	
8409640		3416727539		103		USA/MILDREN #6	INDEPENDENCE	0.0	
8409639		3416727466		103		USA/MILDREN #7	INDEPENDENCE	25.0	
8409641		3416727540		103		USA/MILDREN #8	INDEPENDENCE	0.0	
-PUTNEY RIDGE GAS CO INC				RECEIVED:	11/30/83	JA: OH			
8409657		3405920678		108		ALLIE HALL #3239R (2 WELLS)	ALLIE HALL	3.0	COLUMBIA GAS OF O
8409644		3405920069		108		BAR #2309R (2 WELLS)	BARR	4.8	COLUMBIA GAS OF O
8409656		3405920341		108		COLBURN #4091X	COLBURN	2.4	COLUMBIA GAS OF O
8409646		3405920137		108		CORBEAU #3048	CORBEAU	3.7	COLUMBIA GAS OF O
8409658		3405920213		108		E A HALL #3424R	E A HALL	2.2	COLUMBIA GAS OF O

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8409648		3405920202		108		FREY #3383X (2 WELLS)	FREY	5.0	COLUMBIA GAS OF O
8409643		3405920068		108		HARTLEY #2729	HARTLEY	2.3	COLUMBIA GAS OF O
8409654		3405920307		108		HEANY #3518R	HEANY	2.5	COLUMBIA GAS OF O
8409655		3405920309		108		HENDERSON #7239R	HENDERSON	2.5	COLUMBIA GAS OF O
8409658		3405920763		108		KEENAN #6010	KEENAN	2.5	COLUMBIA GAS OF O
8409652		3405920227		108		MILLER #3406R (2 WELLS)	MILLER	2.3	COLUMBIA GAS OF O
8409645		3405920106		108		OHIO #6460	OHIO	2.7	COLUMBIA GAS OF O
8409649		3405920212		108		QUAKER #3482R	QUAKER	4.8	COLUMBIA GAS OF O
8409651		3405920220		108		R HALL #3508R	R HALL	2.9	COLUMBIA GAS OF O
8409647		3405920175		108		STILLION & HALL #6537R	STILLION & HALL	2.5	COLUMBIA GAS OF O
8409659		3405900769		108		VIRGINIA #2646	VIRGINIA	3.3	COLUMBIA GAS OF O
8409653		3405920240		108		WEBSTER #6666	WEBSTER	2.2	COLUMBIA GAS OF O
8409642		3405920066		108		YAW #2850	YAW	2.5	COLUMBIA GAS OF O
-R GENE BRASEL DBA BRASEL & BRASEL				RECEIVED:	11/30/83	JA: OH			
8409666		3405320834		107-TF		BOSTER #2	ADDISON	1.0	COLUMBIA GAS TRAN
8409664		3405320799		107-TF		CHARLES ROUSH #2	ADDISON	1.0	COLUMBIA GAS TRAN
8409660		3405320574		107-TF		CHARLES W SHAVER #1	ADDISON	1.0	COLUMBIA GAS TRAN
8409665		3405320833		107-TF		JAMES BAIRD #2	GALLIPOLIS	1.0	COLUMBIA GAS TRAN
8409667		3405320841		107-TF		JAMES BAIRD #3	GALLIPOLIS	1.0	COLUMBIA GAS TRAN
8409661		3405320705		107-TF		R O J #1-A	CHESHIRE	1.0	COLUMBIA GAS TRAN
8409663		3405320794		107-TF		R O J #5-A	CHESHIRE	1.0	COLUMBIA GAS TRAN
8409662		3405320749		107-TF		STELLA BURNETT #5	ADDISON	1.0	COLUMBIA GAS TRAN
-RELIANCE ENERGY				RECEIVED:	11/30/83	JA: OH			
8409593		3408323317		103		LAKEN STOOTS #3	HARRISON	3.5	COLUMBIA GAS TRAN
-RESERVE EXPLORATION CO				RECEIVED:	11/30/83	JA: OH			
8409669		3400922249		107-TF		BROZAK #1	ROME	1.2	COLUMBIA GAS TRAN
8409668		3400922241		107-TF		SEEL #1	ROME	0.9	COLUMBIA GAS TRAN
-SHONGUM OIL & GAS INC				RECEIVED:	11/30/83	JA: OH			
8409670		3410323218		107-TF		VAUGHN #2	SHARON	0.0	YANKEE RESOURCES
-THE CARTER JONES LUMBER CO				RECEIVED:	11/30/83	JA: OH			
8409671		3415321350		107-TF		CARTER-JONES #4	TALLMADGE	15.0	
-THUNDERBIRD PETROLEUM DEVELOP CO				RECEIVED:	11/30/83	JA: OH			
8409685		3411122063		103		RHODES #1	BENTON	0.0	RIVER GAS CO
8409686		3411122064		103		RHODES #2	BENTON	0.0	RIVER GAS CO
-UNIVERSAL ENERGY INVESTMENT CO				RECEIVED:	11/30/83	JA: OH			
8409687		3415521390		103		G F BUSINESS EQUIPMENT INC #1	LIBERTY	23.0	G F BUSINESS EQUI
-VICTOR MCKENZIE DRILLING CO INC				RECEIVED:	11/30/83	JA: OH			
8409688		3408924807		103		DAVID R CUMMINGS #1	BOWLING GREEN	0.0	
-WALLICK PETROLEUM CO				RECEIVED:	11/30/83	JA: OH			
8409689		3411523278		103	107-TF	TOM SCHULTZ #1-A	HOMER	10.0	COLUMBIA GAS TRAN
-WILLIAM N TIPKA				RECEIVED:	11/30/83	JA: OH			
8409695		3415723921		107-TF		BEAR #1	PERRY	15.0	LIBBEY-OWENS-FORD
8409692		3406720636		107-TF		CYRUS UNIT #1	FREEPORT	15.0	LIBBEY-OWENS-FORD
8409691		3406720635		107-TF		GARDNER UNIT #1	FREEPORT	20.0	LIBBEY-OWENS-FORD
8409694		3410323524		107-TF		GREATHOUSE UNIT #1	SHARON	15.0	DOEHLER-JARVIS
8409693		3410323521		107-TF		GRINDLE UNIT #1	SHARON	20.0	DOEHLER-JARVIS
8409690		3405923499		103		MONTGOMERY #2A	WASHINGTON	5.0	LIBBEY-OWENS-FORD
**********									
** DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, ALBUQUERQUE,NM									
**********									
--AMOCO PRODUCTION CO				RECEIVED:	11/28/83	JA: NM 4			
8409530	NM-1292-83PB	3004520966		108-PB		A L ELLIOTT B #7	BLANCO	0.0	EL PASO NATURAL G
8409529	NM-1291-83PB	3004709188		108-PB		E E ELLIOTT B #6	BASIN	0.0	EL PASO NATURAL G
8409532	NM-1293-83PB	3004520297		108-PB		ELLIOTT GAS COM T #1	BLANCO	0.0	EL PASO NATURAL G
8409531	NM-1294-83PB	3004509109		108-PB		ELLIOTT GAS COM K #1	BLANCO	0.0	EL PASO NATURAL G
8409525	NM-1288-83PB	3004506798		108-PB		GALLEGOS CANYON UNIT #147	BASIN	0.0	EL PASO NATURAL G
8409526	NM-1287-83PB	3004507158		108-PB		GALLEGOS CANYON UNIT #175	BASIN	0.0	EL PASO NATURAL G
8409527	NM-1290-83PB	3004507275		108-PB		GALLEGOS CANYON UNIT #198	BASIN	0.0	EL PASO NATURAL G
8409528	NM-1289-83PB	3004511618		108-PB		GALLEGOS CANYON UNIT #213	BASIN	0.0	EL PASO NATURAL G
8409534	NM-1306-83PB	3004511739		108-PB		GALLEGOS CANYON UNIT #240	BASIN	0.0	EL PASO NATURAL G
8409533	NM-1256-83PB	3003932337		108-PB		JICARILLA CONTRACT 148 #14	OTERO	0.0	EL PASO NATURAL G
8409523	NM-1255-83PB	3004520970		108-PB		W D HEATH B #5	BLANCO	0.0	EL PASO NATURAL G
-BLACKWOOD & NICHOLS CO LTD				RECEIVED:	11/28/83	JA: NM 4			
8409555	NM-1071-83PB	3004522528		108-PB		NORTHEAST BLANCO UT #65	BLANCO-MV	0.0	EL PASO NATURAL G
--CONOCO INC				RECEIVED:	11/28/83	JA: NM 4			
8409556	NM-1307-83PB	3003908083		108-PB		JICARILLA CONTRACT #78	BALLARD - PC	0.0	EL PASO NATURAL G
-CONSOLIDATED OIL & GAS INC				RECEIVED:	11/28/83	JA: NM 4			
8409554	NM-1267-83PB	3004510866		108-PB		OWEN #1	BLANCO-MV	0.0	EL PASO NATURAL G
-DEPCO INC				RECEIVED:	11/28/83	JA: NM 4			
8409547	NM-1260-83PB	3003906632		108-PB		MKL #10	SOUTH BLANCO-PC	0.0	EL PASO NATURAL G
8409544	NM-1259-83PB	3003906554		108-PB		MKL #11	SOUTH BLANCO-PC	0.0	EL PASO NATURAL G
8409545	NM-1258-83PB	3003906615		108-PB		MKL #13	SOUTH BLANCO-PC	0.0	EL PASO NATURAL G
8409543	NM-1257-83PB	3003906712		108-PB		MKL #14	SOUTH BLANCO-PC	0.0	EL PASO NATURAL G
8409548	NM-1262-83PB	3003900000		108-PB		MKL #6	SOUTH BLANCO-PC	0.0	EL PASO NATURAL G
8409546	NM-1261-83PB	3003906673		108-PB		MKL #9	SOUTH BLANCO-PC	0.0	EL PASO NATURAL G
-DUGAN PRODUCTION CORP				RECEIVED:	11/28/83	JA: NM 4			
8409549	NM-1321-83PB	3004522969		108-PB		FAF #4	FRUITLAND-PC	0.0	EL PASO NATURAL G
-EL PASO NATURAL GAS COMPANY				RECEIVED:	11/28/83	JA: NM 4			
8409465	NM-1327-83-P	3004507049		108-PB		BLANCO #12	BLANCO	0.0	EL PASO NATURAL G
8409514	NM-1344-83-P	3004507019		108-PB		BOLACK B #1	BLANCO	0.0	EL PASO NATURAL G
8409512	NM-1346-83-P	3004506600		108-PB		BOLACK B #4	BLANCO	0.0	EL PASO NATURAL G
8409504	NM-1355-83-P	3003921172		108-PB		CANYON LARGO UNIT #288DK	BASIN	0.0	EL PASO NATURAL G
8409463	NM-1329-83-P	3004508782		108-PB		CORNELL #5	UNDESIGNATED FRUITLAN	0.0	EL PASO NATURAL G
8409521	NM-1336-83PB	3004521515		108-PB		DAY #8	BLANCO	0.0	EL PASO NATURAL G
8409488	NM-1371-83-P	3004511912		108-PB		DAY A #6	BLANCO	0.0	EL PASO NATURAL G
8409489	NM-1368-83-P	3004512192		108-PB		DAY A #8	BLANCO	0.0	EL PASO NATURAL G
8409503	NM-1354-83-P	3004522824		108-PB		FIELDS #11	BLANCO	0.0	EL PASO NATURAL G
8409471	NM-1318-83PB	3004520890		108-PB		FIELDS #8	BLANCO	0.0	EL PASO NATURAL G
8409472	NM-1319-83PB	3004521094		108-PB		GELBKE #1	BLANCO	0.0	EL PASO NATURAL G
8409478	NM-1313-83-P	3004513085		108-PB		GRAMBLING #4	BLANCO	0.0	EL PASO NATURAL G
8409482	NM-1309-83-P	3004521564		108-PB		GRAMBLING #8	BLANCO	0.0	EL PASO NATURAL G
8409498	NM-1361-83-P	3004521120		108-PB		GRAMBLING C #10	BLANCO	0.0	EL PASO NATURAL G
8409466	NM1328-83-PB	3004520671		108-PB		GRAMBLING C #7	BLANCO	0.0	EL PASO NATURAL G
8409510	NM-1348-83-P	3004507496		108-PB		HARDIG E #1	BLANCO	0.0	EL PASO NATURAL G
8409462	NM-1332-83-P	3003906851		108-PB		HARRINGTON #2	SOUTH BLANCO	0.0	EL PASO NATURAL G
8409461	NM-1331-83-P	3004520669		108-PB		HEATON #25	AZTEC	0.0	EL PASO NATURAL G
8409520	NM-1337-83PB	3004520757		108-PB		HEATON #26	BLANCO	0.0	EL PASO NATURAL G
8409464	NM-1330-83-P	3004522883		108-PB		HORTON #2	BLANCO	0.0	EL PASO NATURAL G
8409511	NM-1345-83-P	3004506950		108-PB		HOWELL #3	BLANCO	0.0	EL PASO NATURAL G
8409491	NM-1366-83-P	3004521454		108-PB		HUBBELL #4	OTERO	0.0	EL PASO NATURAL G
8409486	NM-1373-83PB	3004560020		108-PB		HUERFANO UNIT #155	BASIN	0.0	EL PASO NATURAL G
8409473	NM-1316-83-P	3004511944		108-PB		HUERFANO UNIT #159	BASIN	0.0	EL PASO NATURAL G
8409476	NM-1315-83-P	3004505701		108-PB		HUERFANO UNIT #58	BALLARD	0.0	EL PASO NATURAL G
8409459	NM-1333-83-P	3004520308		108-PB		HUERFANO UNIT #181	BASIN	0.0	EL PASO NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8409460	NM-1334-83-P	3003921115		108-PB		JICARILLA C #11	SOUTH BLANCO	G	0.0 EL PASO NATURAL G
8409478	NM-1324-83-P	3003921158		108-PB		JICARILLA C #13	SOUTH BLANCO	G	0.0 EL PASO NATURAL G
8409518	NM-1340-83-P	3003906409		108-PB		JICARILLA F #3	SOUTH BLANCO	G	0.0 EL PASO NATURAL G
8409513	NM-1343-83-P	3002906359		108-PB		JICARILLA G #2	SOUTH BLANCO	G	0.0 EL PASO NATURAL G
8409477	NM-1312-83-P	3003906416		108-PB		JICARILLA J#4	SOUTH BLANCO	G	0.0 EL PASO NATURAL G
8409480	NM-1311-83-P	3003906368		108-PB		JICARILLA J#7	SOUTH BLANCO	G	0.0 EL PASO NATURAL G
8409507	NM-1349-83-P	3003922120		108-PB		JICARILLA 67 #19	SOUTH BLANCO	G	0.0 EL PASO NATURAL G
8409474	NM-1317-83-P	3004509752		108-PB		KELLY B #1	BLANCO	G	0.0 EL PASO NATURAL G
8409519	NM-1338-83PB	3003920304		108-PB		KLEIN #15	OTERO	G	0.0 EL PASO NATURAL G
8409481	NM-1308-83-P	3003921061		108-PB		KLEIN #25	SOUTH BLANCO	G	0.0 EL PASO NATURAL G
8409496	NM-1363-83-P	3004506554		108-PB		KNAUFF #1	FULCHER KUTZ	G	0.0 EL PASO NATURAL G
8409467	NM-1325-83-P	3003920638		108-PB		LINDRITH UNIT #76	SOUTH BLANCO	G	0.0 EL PASO NATURAL G
8409500	NM-1359-83-P	3003921197		108-PB		LINDRITH UNIT #85	SOUTH BLANCO	G	0.0 EL PASO NATURAL G
8409497	NM-1360-83-P	3003922057		108-PB		LINDRITH UNIT #96	SOUTH BLANCO	G	0.0 EL PASO NATURAL G
8409499	NM-1358-83-P	3003900000		108-PB		LINDRITH UNIT #82	SOUTH BLANCO	G	0.0 EL PASO NATURAL G
8409475	NM-1314-83-P	3004513111		108-PB		MANSFIELD #5	BLANCO	G	0.0 EL PASO NATURAL G
8409493	NM-1364-83-P	3004509054		108-PB		MURPHY E #3	AZTEC	G	0.0 EL PASO NATURAL G
8409492	NM-1367-83-P	3004520841		108-PB		NYE #6	AZTEC	G	0.0 EL PASO NATURAL G
8409487	NM-1370-83-P	3004513312		108-PB		QUITZAU #11	BALLARD	G	0.0 EL PASO NATURAL G
8409508	NM-1358-83-P	3004520773		108-PB		RIDDLE B #6	BLANCO	G	0.0 EL PASO NATURAL G
8409502	NM-1357-83-P	3004521271		108-PB		RIDDLE C#4	BLANCO	G	0.0 EL PASO NATURAL G
8409522	NM-1335-83PB	3004521130		108-PB		RIDDLE G #4	SOUTH BLANCO	G	0.0 EL PASO NATURAL G
8409495	NM-1362-83-P	3003920497		108-PB		RINCON UNIT #192	BASIN	G	0.0 EL PASO NATURAL G
8409469	NM-1323-83-P	3003906728		108-PB		RINCON UNIT #2	SOUTH BLANCO	G	0.0 EL PASO NATURAL G
8409505	NM-1351-83-P	3003921392		108-PB		RINCON UNIT #220	LARGO	G	0.0 EL PASO NATURAL G
8409484	NM-1375-83-P	3003906537		108-PB		RINCON UNIT #94	SOUTH BLANCO	G	0.0 EL PASO NATURAL G
8409483	NM-1374-83-P	3003907049		108-PB		SAN JUAN 27-5 UNIT #47 PC&MV	SOUTH BLANCO & BLANCO	G	0.0 EL PASO NATURAL G
8409515	NM-1341-83-P	3003907067		108-PB		SAN JUAN 28-7 UNIT #116	SOUTH BLANCO	G	0.0 EL PASO NATURAL G
8409479	NM-1310-83PB	3003920993		108-PB		SAN JUAN 28-7 UNIT #232	BASIN	G	0.0 EL PASO NATURAL G
8409509	NM-1347-83-P	3003921084		108-PB		SAN JUAN 28-7 UNIT #243	BASIN	G	0.0 EL PASO NATURAL G
8409506	NM-1353-83-P	3003921083		108-PB		SAN JUAN 28-7 UNIT #244	BASIN	G	0.0 EL PASO NATURAL G
8409490	NM-1369-83-P	3003907793		108-PB		SAN JUAN 30-6 UNIT #11	BLANCO	G	0.0 EL PASO NATURAL G
8409501	NM-1356-83-P	3004506756		108-PB		SCHWERDTFEGER A#12	BLANCO	G	0.0 EL PASO NATURAL G
8409516	NM-1342-83-P	3004521821		108-PB		SCOTT #10	BLANCO	G	0.0 EL PASO NATURAL G
8409468	NM-1326-83-P	3004509234		108-PB		SELLERS #1	BLANCO	G	0.0 EL PASO NATURAL G
8409494	NM-1365-83-P	3004520854		108-PB		SELLERS #7	AZTEC	G	0.0 EL PASO NATURAL G
8409485	NM-1372-83-P	3004509720		108-PB		STOREY B #6	AZTEC	G	0.0 EL PASO NATURAL G
8409517	NM-1339-83-P	3004521265		108-PB		TAPP #11	SOUTH BLANCO	G	0.0 EL PASO NATURAL G
-LADD PETROLEUM CORPORATION				RECEIVED:	11/28/83	JA: NM 4			
8409542	NM-1297-83PB	3004524090		108-PB		AZTEC #2E	BASIN-DAKOTA	G	0.0 EL PASO NATURAL G
-MERRION OIL & GAS CORP				RECEIVED:	11/28/83	JA: NM 4			
8409550	NM-1269-83PB	3004320273		108-PB		JICARILLA 428 #4	BALLARD-PC	G	0.0 NORTHWEST PIPELIN
--MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	11/28/83	JA: NM 4			
8409553	NM-1320-83PB	3003906438		108-PB		JICARILLA D #7	BLANCO-MV & GAVILAN-P	G	0.0 NORTHWEST PIPELIN
8409552	NM-1304-83PB	3003907044		108-PB		JICARILLA E #3	BLANCO-MV & GAVALIN P	G	0.0 NORTHWEST PIPELIN
-NORTHERN NATURAL GAS PRODUCING CO				RECEIVED:	11/28/83	JA: NM 4			
8409551	NM-1303-83PB	3004500000		108-PB		NYE FED TRACT 1 #2	BASIN-DAKOTA	G	0.0 EL PASO NATURAL G
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	11/28/83	JA: NM 4			
8409540	NM-1280-83PB	3003907838		108-PB		SAN JUAN 30-5 UNIT #10	BLANCO MESAVERDE	G	0.0 NORTHWEST PIPELIN
8409539	NM-1281-83PB	3003907792		108-PB		SAN JUAN 30-5 UNIT MP 27	BASIN/BLANCO DAKOTA/M	G	0.0 NORTHWEST PIPELIN
— 8409538	NM-1278-83PB	3003921148		108-PB		SAN JUAN 30-5 UNIT 2R	BLANCO MESAVERDE	G	0.0 NORTHWEST PIPELIN
- 8409537	NM-1279-83PB	3003907754		108-PB		SAN JUAN 30-5 UNIT 7	BLANCO MESAVERDE	G	0.0 NORTHWEST PIPELIN
8409541	NM-1282-83PB	3003907907		108-PB		SAN JUAN 31-6 UNIT 14	BLANCO MESAVERDE	G	0.0 EL PASO NATURAL G
8409535	NM-1269-83PB	3004521330		108-PB		SAN JUAN 32-7 NP 34	BASIN DAKOTA	G	0.0 EL PASO NATURAL G
8409536	NM-1283-83PB	3004511251		108-PB		SAN JUAN 32-7 UNIT 14	BLANCO MESAVERDE	G	0.0 EL PASO NATURAL G
-TENNECO OIL COMPANY				RECEIVED:	11/28/83	JA: NM 4			
8409557	NM-1264-83PB	3004500000		108-PB		BASSETT COM #1	BASIN-DAKOTA	G	0.0 EL PASO NATURAL G

[FR Doc. 83-34701 Filed 12-30-83; 8:45 am]

BILLING CODE 6717-01-C

[Volume 1032]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued December 27, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the Federal Register.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Rd, Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 Mile rule)
102-3: New well (1000 Ft rule)
102-4: New onshore reservoir
102-5: New reservoir on old OCS lease
Section 107-DP: 15,000 feet or deeper
107-GB: Geopressured brine
107-CS: Coal Seams
107-DV: Devonian Shale
107-PE: Production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation
Section 108: Stripper well
108-SA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
ISSUED DECEMBER 27, 1983
VOLUME 1032

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
ILLINOIS DEPARTMENT OF MINES & MINERALS									
-HORIZON ENERGY CORP				RECEIVED: 11/28/83		JA: IL			
8409696		1213500000	D	102-2		WAGGONER #1		0.0	INTERNATIONAL VER
** DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, ALBUQUERQUE,NM									
-AMOCO PRODUCTION CO				RECEIVED: 11/22/83		JA: NM 4			
8409818	NM-1049-83PB	3004520966		108-PB		A L ELLIOTT B #7	BLANCO	0.0	EL PASO NATURAL G
8409828	NM-0934-83PB	3004520964		108-PB		A L ELLIOTT B #7	BLANCO	0.0	EL PASO NATURAL G
8409827	NM-0934-83PB	3004521014		108-PB		A L ELLIOTT C #3	BLANCO	0.0	EL PASO NATURAL G
8409844	NM-1051-83PB	3004505258		108-PB		C A MCADAMS B #2	BASIN	0.0	EL PASO NATURAL G
8409830	NM-1053-83PB	3004509183		108-PB		E E ELLIOTT B #6	BLANCO	0.0	EL PASO NATURAL G
8409832	NM-1037-83PB	3004509193		108-PB		E E ELLIOTT B #7	BASIN	0.0	EL PASO NATURAL G
8409841	NM-1043-83PB	3004507137		108-PB		E E ELLIOTT C #2	BLANCO	0.0	EL PASO NATURAL G
8409834	NM-1029-83PB	3004509109		108-PB		ELLIOTT GAS COM K #1	BLANCO	0.0	EL PASO NATURAL G
8409833	NM-1045-83PB	3004520297		108-PB		ELLIOTT GAS COM T #1	BASIN	0.0	EL PASO NATURAL G
8409822	NM-1041-83PB	3004507158		108-PB		GALLEGOS CANYON UNIT #175	BASIN	0.0	EL PASO NATURAL G
8409826	NM-0939-83PB	3004507158		108-PB		GALLEGOS CANYON UNIT #175	BASIN	0.0	EL PASO NATURAL G
8409835	NM-1028-83PB	3004507275		108-PB		GALLEGOS CANYON UNIT #198	BASIN	0.0	EL PASO NATURAL G
8409819	NM-0992-83PB	3004511739		108-PB		GALLEGOS CANYON UNIT #240	BASIN	0.0	EL PASO NATURAL G
8409839	NM-1044-83PB	3004511687		108-PB		GALLEGOS CANYON UNIT #241	BASIN	0.0	EL PASO NATURAL G
8409821	NM-0993-83PB	3004506981		108-PB		GALLEGOS CANYON UNIT #90	BASIN	0.0	EL PASO NATURAL G
8409825	NM-0938-83PB	3004506402		108-PB		H B MCGRADY A #2	BASIN	0.0	EL PASO NATURAL G
8409842	NM-1046-83PB	3004506402		108-PB		H B MCGRADY A #2	BASIN	0.0	EL PASO NATURAL G
8409831	NM-1054-83PB	3003982337		108-PB		JICARILLA CONTRACT	OTERO	0.0	EL PASO NATURAL G
8409821	NM-0994-83PB	3003982337		108-PB		JICARILLA CONTRACT 148 #14	OTERO	0.0	EL PASO NATURAL G
8409837	NM-1043-83PB	3003905975		108-PB		JICARILLA CONTRACT 148 #16	OTERO	0.0	EL PASO NATURAL G
8409823	NM-0937-83PB	3003921999		108-PB		JICARILLA CONTRACT 148 #17	OTERO	0.0	EL PASO NATURAL G
8409843	NM-1050-83PB	3003921999		108-PB		JICARILLA CONTRACT 148 #17	OTERO	0.0	EL PASO NATURAL G
8409840	NM-1045-83PB	3004500000		108-PB		JICARILLA CONTRACT 148 #24	OTERO	0.0	EL PASO NATURAL G
8409836	NM-1027-83PB	3004524339		108-PB		SHANE GAS COM A #1	BLANCO	0.0	EL PASO NATURAL G
8409838	NM-1042-83PB	3004520715		108-PB		SHAW GAS COM B #1	BLANCO	0.0	EL PASO NATURAL G
8409824	NM-0936-83PB	3004520970		108-PB		W D HEATH B #5	BLANCO	0.0	EL PASO NATURAL G
8409829	NM-1052-83PB	3004520970		108-PB		W D HEATH B #5	BLANCO	0.0	EL PASO NATURAL G
-BLACKWOOD & NICHOLS CO LTD				RECEIVED: 11/22/83		JA: NM 4			
8409711	NM-1072-83PB	3004510867		108-PB		NORTHEAST BLANCO UT #35	BLANCO-MV	0.0	EL PASO NATURAL G
-DUGAN PRODUCTION CORP				RECEIVED: 11/22/83		JA: NM 4			
8409712	NM-1069-83PB	3004522969		108-PB		FAF #4	WAW FRUITLAND - PC	0.0	EL PASO NATURAL G
-EL PASO EXPLORATION CO				RECEIVED: 11/22/83		JA: NM 4			
8409698	NM-0931-83PB	3003906226		108-PB		JICARILLA 120 C #15	SOUTH BLANCO	0.0	NORTHWEST PIPELIN
8409697	NM-0967-83PB	3004506443		108-PB		SAN JUAN 27-8 B#4	SOUTH BLANCO	0.0	NORTHWEST PIPELIN
-EL PASO NATURAL GAS COMPANY				RECEIVED: 11/22/83		JA: NM 4			
8409814	NM-1058-83PB	3004506373		108-PB		ANGEL PEAK #2	BASIN	0.0	EL PASO NATURAL G
8409740	NM-0965-83PB	3004512093		108-PB		ATLANTIC C #3	BLANCO	0.0	EL PASO NATURAL G
8409718	NM-1000-83PB	3004520758		108-PB		ATLANTIC C #9	BLANCO	0.0	EL PASO NATURAL G
8409722	NM-0927-83PB	3004500000		108-PB		BLANCO #15	BLANCO-MV SOUTH BLANC	0.0	EL PASO NATURAL G
8409782	NM-1011-83PB	3004507019		108-PB		BOLACK B #1	BLANCO	0.0	EL PASO NATURAL G

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8409795	NM-1015-83PB	3004506176		108-PB		BOLACK C #1o	BLANCO	0.0	EL PASO NATURAL G
8409801	NM-1026-83PB	3004506176		108-PB		BOLACK C #16	BLANCO	0.0	EL PASO NATURAL G
8409803	NM-1019-83PB	3003982368		108-PB		CANYON LARGO UNIT #107	OTERO	0.0	EL PASO NATURAL G
8409807	NM-1107-83PB	3003906194		108-PB		CANYON LARGO UNIT #11	SOUTH BLANCO	0.0	EL PASO NATURAL G
8409763	NM1064-83-PB	3003920261		108-PB		CANYON LARGO UNIT #148	OTERO	0.0	EL PASO NATURAL G
8409715	NM-0997-83PB	3003920271		108-PB		CANYON LARGO UNIT #151	OTERO	0.0	EL PASO NATURAL G
8409745	NM-0958-83PB	3003920278		108-PB		CANYON LARGO UNIT #154	OTERO	0.0	EL PASO NATURAL G
8409799	NM-1111-83PB	3003906059		108-PB		CANYON LARGO UNIT #29	SOUTH BLANCO	0.0	EL PASO NATURAL G
8409742	NM-0961-83PB	3003906116		108-PB		CANYON LARGO UNIT #34	SOUTH BLANCO	0.0	EL PASO NATURAL G
8409809	NM-1067-83PB	3003905978		108-PB		CANYON LARGO UNIT #52	BALLARD	0.0	EL PASO NATURAL G
8409751	NM-0954-83PB	3003906187		108-PB		CANYON LARGO UNIT #65	SOUTH BLANCO	0.0	EL PASO NATURAL G
8409776	NM-1081-83PB	3003960048		108-PB		CANYON LARGO UT NP #78	BALLARD	0.0	EL PASO NATURAL G
8409805	NM-1109-83PB	3003920793		108-PB		CANYON LARGO UNIT NP #238	BLANCO	0.0	EL PASO NATURAL G
8409769	NM1058-83-PB	3003920798		108-PB		CANYON LARGO UT #228	SOUTH BLANCO	0.0	EL PASO NATURAL G
8409738	NM-0977-83PB	3004521515		108-PB		DAY #8	BLANCO	0.0	EL PASO NATURAL G
8409734	NM-0971-83PB	3004520907		108-PB		DAY A #14	BLANCO	0.0	EL PASO NATURAL G
8409806	NM-1108-83PB	3004506724		108-PB		DAY B #5	BLANCO	0.0	EL PASO NATURAL G
8409717	NM-0999-83PB	3004520444		108-PB		DRYDEN #5	SOUTH BLANCO	0.0	EL PASO NATURAL G
8409778	NM1057-83-PB	3004521528		108-PB		EL PASO #3	AZTEC	0.0	EL PASO NATURAL G
8409784	NM-1008-83PB	3004520890		108-PB		FIELDS #8	BLANCO	0.0	EL PASO NATURAL G
8409741	NM-0964-83PB	3004511769		108-PB		FLORANCE #6	BLANCO	0.0	EL PASO NATURAL G
8409716	NM-0998-83	3004520462		108-PB		FLORANCE #8	BLANCO	0.0	EL PASO NATURAL G
8409792	NM-1012-83PB	3004507163		108-PB		FLORANCE C #10	BASIN	0.0	EL PASO NATURAL G
8409732	NM-0979-83PB	3004506543		108-PB		FLORANCE D #3	SOUTH BLANCO	0.0	EL PASO NATURAL G
8409790	NM-1014-83PB	3004520819		108-PB		GRAMBLING A #4	SOUTH BLANCO	0.0	EL PASO NATURAL G
8409773	NM1084-83-PB	3004507136		108-PB		HANCOCK B #7	AZTEC	0.0	EL PASO NATURAL G
8409778	NM-1079-83PB	3004521087		108-PB		HARDIE #7	BLANCO	0.0	EL PASO NATURAL G
8409767	NM1066-83-PB	3003906848		108-PB		HARRINGTON #3	SOUTH BLANCO	0.0	EL PASO NATURAL G
8409815	NM-1097-83PB	3004510351		108-PB		HEATON #14	BASIN	0.0	EL PASO NATURAL G
8409753	NM-0950-83PB	3004520757		108-PB		HEATON #25	BLANCO	0.0	EL PASO NATURAL G
8409724	NM-0923-83PB	3004506950		108-PB		HOWELL #3	BLANCO	0.0	EL PASO NATURAL G
8409761	NM1063-83-PB	3004506132		108-PB		HUERFANITO UNIT #31	BALLARD	0.0	EL PASO NATURAL G
8409808	NM-1099-83PB	3004506076		108-PB		HUERFANITO UNIT #71	BASIN	0.0	EL PASO NATURAL G
8409748	NM-0952-83PB	3004505916		108-PB		HUERFANITO UNIT #92	BASIN	0.0	EL PASO NATURAL G
8409764	NM1062-83-PB	3004506154		108-PB		HUERFANITO UT #36	BALLARD	0.0	EL PASO NATURAL G
8409752	NM-0953-83PB	3004511944		108-PB		HUERFANO UNIT #159	BASIN	0.0	EL PASO NATURAL G
8409813	NM-1092-83PB	3004511966		108-PB		HUERFANO UNIT #163	BASIN	0.0	EL PASO NATURAL G
8409743	NM-0960-83PB	3004511948		108-PB		HUERFANO UNIT #165	BASIN	0.0	EL PASO NATURAL G
8409750	NM-0955-83PB	3004520419		108-PB		HUERFANO UNIT #190	BASIN	0.0	EL PASO NATURAL G
8409771	NM0996-83-PB	3004520632		108-PB		HUERFANO UNIT #204	BASIN	0.0	EL PASO NATURAL G
8409798	NM-1076-83PB	3004505969		108-PB		HUERFANO UNIT #21	WEST KUTZ	0.0	EL PASO NATURAL G
8409817	NM-1068-83PB	3004521227		108-PB		HUERFANO UNIT #239	ANGELS PEAK	0.0	EL PASO NATURAL G
- 8409745	NM-0995-83PB	3004521809		108-PB		HUERFANO UNIT #265 GL & DK	ANGELS PEAK & BASIN	0.0	NORTHWEST PIPELIN
8409749	NM-0956-83PB	3004520390		108-PB		HUERFANO UNIT #54	BASIN	0.0	EL PASO NATURAL G
8409768	NM1059-83-PB	3004521140		108-PB		HUGHES A #7	BLANCO	0.0	EL PASO NATURAL G
8409720	NM-0930-83PB	3003921158		108-PB		JICARILLA B #13	SOUTH BLANCO	0.0	EL PASO NATURAL G
8409787	NM-1006-83PB	3003921164		108-PB		JICARILLA D #4	SOUTH BLANCO	0.0	EL PASO NATURAL G
8409755	NM-0948-83PB	3003906409		108-PB		JICARILLA F #8	SOUTH BLANCO	0.0	EL PASO NATURAL G
8409762	NM1065-83-PB	3003906459		108-PB		JICARILLA F #9	SOUTH BLANCO	0.0	EL PASO NATURAL G
8409810	NM-1091-83PB	3003906429		108-PB		JICARILLA J #6	SOUTH BLANCO	0.0	EL PASO NATURAL G
- 8409812	NM-1093-83PB	3003906469		108-PB		JICARILLA J #9	SOUTH BLANCO	0.0	EL PASO NATURAL G
8409737	NM-0963-83PB	3004507451		108-PB		JOHNSTON #4	AZTEC	0.0	EL PASO NATURAL G
8409714	NM-1004-83PB	3004521049		108-PB		KING #2	BLANCO-PC	0.0	EL PASO NATURAL G
8409772	NM1083-83-PB	3004507349		108-PB		LACKEY B #16	BASIN	0.0	EL PASO NATURAL G
8409775	NM1085-83-PB	3004507316		108-PB		LACKEY B #17	BASIN	0.0	EL PASO NATURAL G
8409811	NM-1094-83PB	3003920016		108-PB		LINDRITH UNIT #66	SOUTH BLANCO	0.0	EL PASO NATURAL G
8409779	NM-1038-83PB	3004506338		108-PB		LODEWICK #6	FULCHER KUTZ	0.0	EL PASO NATURAL G
8409719	NM-0929-83PB	3004509329		108-PB		LUDWICK #6	AZTEC	0.0	EL PASO NATURAL G
8409754	NM-0949-83PB	3004509023		108-PB		LUDWICK #8	BLANCO	0.0	EL PASO NATURAL G
8409793	NM-1017-83PB	3004513111		108-PB		MANSFIELD #5	BLANCO	0.0	EL PASO NATURAL G
8409816	NM-109683-PB	3004509228		108-PB		MANSFIELD #6	BLANCO	0.0	EL PASO NATURAL G
8409777	NM-1080-83PB	3004523710		108-PB		MORRIS A #3R	AZTEC	0.0	EL PASO NATURAL G
8409791	NM-1013-83PB	3004513208		108-PB		MUDGE #20	BASIN	0.0	EL PASO NATURAL G
8409725	NM-0925-83PB	3003906332		108-PB		QUANTIUS #3	SOUTH BLANCO	0.0	EL PASO NATURAL G
8409788	NM-1001-83PB	3004520773		108-PB		RIDDLE B #6	BLANCO	0.0	EL PASO NATURAL G
8409738	NM-0959-83PB	3004520848		108-PB		RIDDLE B #7	BLANCO	0.0	EL PASO NATURAL G
8409733	NM-0970-83PB	3003960093		108-PB		RINCON UNIT #107	SOUTH BLANCO	0.0	EL PASO NATURAL G
8409759	NM0932-83-PB	3003920699		108-PB		RINCON UNIT #142	SOUTH BLANCO	0.0	EL PASO NATURAL G
8409804	NM-1110-83PB	3003920496		108-PB		RINCON UNIT #191	OTERO	0.0	EL PASO NATURAL G
8409721	NM-0926-83PB	3003906728		108-PB		RINCON UNIT #2	SOUTH BLANCO	0.0	EL PASO NATURAL G
8409726	NM-0973-83PB	3003921392		108-PB		RINCON UNIT #220	LARGO	0.0	EL PASO NATURAL G
8409723	NM-0928-83PB	3003906809		108-PB		RINCON UNIT #35	SOUTH BLANCO	0.0	EL PASO NATURAL G
8409746	NM-0957-83PB	3003906925		108-PB		RINCON UNIT #70	SOUTH BLANCO	0.0	EL PASO NATURAL G
8409760	NM0933-83-PB	3003906822		108-PB		RINCON UNIT #9	SOUTH BLANCO	0.0	EL PASO NATURAL G
8409756	NM0947-83-PB	3003960094		108-PB		RINCON UNIT #97	BLANCO & SOUTH BLANCO	0.0	EL PASO NATURAL G
8409797	NM-1077-83PB	3003982404		108-PB		RINCON UNIT NP #23	BLANCO	0.0	EL PASO NATURAL G
8409765	NM1061-83-PB	3003960092		108-PB		RINCON UT #68	SOUTH BLANCO	0.0	EL PASO NATURAL G
8409744	NM-0959-83PB	3004520281		108-PB		ROELOFS #4	BLANCO	0.0	EL PASO NATURAL G
8409736	NM-0966-83PB	3004500000		108-PB		SAN JUAN #21	AZTEC	0.0	EL PASO NATURAL G
8409730	NM-1039-83PB	3003920731		108-PB		SAN JUAN 27-4 UNIT #63	TAPACITO	0.0	EL PASO NATURAL G
8409786	NM-1005-83PB	3003907049		108-PB		SAN JUAN 27-5 UNIT #47 PC & MV	SOUTH BLANCO & BLANCO	0.0	EL PASO NATURAL G
8409739	NM-0968-83PB	3003906774		108-PB		SAN JUAN 27-5 UNIT #93	SOUTH BLANCO	0.0	EL PASO NATURAL G
8409729	NM-0976-83PB	3003907125		108-PB		SAN JUAN 28-6 UNIT #24	BLANCO	0.0	EL PASO NATURAL G
8409796	NM-1021-83PB	3003907067		108-PB		SAN JUAN 28-7 UNIT #116	SOUTH BLANCO	0.0	EL PASO NATURAL G
8409800	NM-1020-83PB	3003906999		108-PB		SAN JUAN 28-7 UNIT #119	SOUTH BLANCO	0.0	EL PASO NATURAL G
8409728	NM-0975-83PB	3003920517		108-PB		SAN JUAN 28-7 UNIT #164	BASIN	0.0	EL PASO NATURAL G
8409731	NM-0978-83PB	3003920624		108-PB		SAN JUAN 28-7 UNIT #193	BASIN	0.0	EL PASO NATURAL G
8409802	NM-1022-83PB	3003920875		108-PB		SAN JUAN 28-7 UNIT #216	BASIN	0.0	EL PASO NATURAL G
8409785	NM-1009-83PB	3003921082		108-PB		SAN JUAN 28-7 UNIT #240	LARGO	0.0	EL PASO NATURAL G
8409727	NM-0974-83PB	3003921084		108-PB		SAN JUAN 28-7 UNIT #243	BASIN	0.0	EL PASO NATURAL G
8409747	NM-0962-83PB	3003960071		108-PB		SAN JUAN 28-7 UNIT NP #68	BLANCO	0.0	EL PASO NATURAL G
8409766	NM1060-83-PB	3003907433		108-PB		SAN JUAN 28-7 UT #23	BLANCO	0.0	EL PASO NATURAL G
8409794	NM-1016-83PB	3004509161		108-PB		SELLERS #6	BASIN	0.0	EL PASO NATURAL G
8409735	NM-0972-83PB	3004520854		108-PB		SELLERS #7	AZTEC	0.0	EL PASO NATURAL G
- 8409774	NM1078-83-PB	3003906165		108-PB		SHEETS A #2	BALLARD	0.0	EL PASO NATURAL G
8409757	NM0946-83-PB	3004513231		108-PB		STOREY B #3	BLANCO	0.0	EL PASO NATURAL G
8409781	NM-1018-83PB	3004521135		108-PB		SUNRAY H #3	BLANCO	0.0	EL PASO NATURAL G
8409783	NM-1007-83PB	3004521136		108-PB		SUNRAY H #5	BLANCO	0.0	EL PASO NATURAL G
8409789	NM-1003-83PB	3004521050		108-PB		TURNER #6	BLANCO	0.0	EL PASO NATURAL G
8409758	NM0951-83-PB	3003920258		108-PB		VAUGHN #10	OTERO	0.0	EL PASO NATURAL G
-KOCH INDUSTRIES INC				RECEIVED:	11/22/83	JA: NM 4			
8409704	NM-0939-83PB	3004521830		108-PB		CAIN #2	BLANCO- PC	0.0	EL PASO NATURAL G
- 8409703	NM-0990-83PB	3004521901		108-PB		LAMBE #7	BLANCO - PC	0.0	EL PASO NATURAL G
- 8409702	NM-0991-83PB	3004503504		108-PB		WRIGHT #2	AZTEC - PC	0.0	EL PASO NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	11/22/83	JA: NM 4			
8409710	NM-1034-83PB	3003900000		108-PB		JICARILLA OTERO FED #1	BASIN-DAKOTA	0.0	EL PASO NATURAL G
8409709	NM-1035-83PB	3004500000		108-PB		STEPHENS UNIT #1	BASIN-DAKOTA	0.0	NORTHWEST PIPELIN
-NATIONAL COOP REFINERY ASSOC				RECEIVED:	11/22/83	JA: NM 4			
8409706	NM-0987-83PB	3003906735		108-PB		CANDADO #11	SOUTH BLANCO-PC	0.0	EL PASO NATURAL G
8409705	NM-0988-83PB	3003906744		108-PB		CANDADO #13	SOUTH BLANCO - PC	0.0	EL PASO NATURAL G
8409707	NM-0986-83PB	3003906731		108-PB		CANDADO #3	SOUTH BLANCO-PC	0.0	EL PASO NATURAL G
-NORTHERN NATURAL GAS PRODUCING CO				RECEIVED:	11/22/83	JA: NM 4			
8409708	NM-1033-83PB	3004500000		108-PB		NYE FEDERAL TRACT 1 #2	BASIN-DAKOTA	0.0	EL PASO NATURAL G
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	11/22/83	JA: NM 4			
8409701	NM-1040-83PB	3004510700		108-PB		SAN JUAN 32-8 UNIT #16	BLANCO - MV	0.0	EL PASO NATURAL G
-SOUTHLAND ROYALTY CO				RECEIVED:	11/22/83	JA: NM 4			
8409700	NM-1031-83PB	3004508787		108-PB		HARE #1	AZTEC-PC	0.0	EL PASO NATURAL G
8409699	NM-1030-83PB	3004507512		108-PB		MCCLANAHAN #1	AZTEC -.PC	0.0	EL PASO NATURAL G
-THELMA FORD SIMMONS				RECEIVED:	11/22/83	JA: NM 4			
8409713	NM-1023-83PB	3004511869		108-PB		SIMMONS PC #11	AZTEC-PC	0.0	EL PASO NATURAL G

[FR Doc. 83-34698 Filed 12-30-83; 8:45 am]

BILLING CODE 6717-01-C

[Volume 1033]

Determinations by Jurisdictional Agencies Under the Natusal Gas Policy Act of 1978

Issued: December 27, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS

VOLUME 1033

ISSUED DECEMBER 27, 1983

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION									
-GOULD OIL INC				RECEIVED: 11/30/83		JA: KS			
8409856	K-83-0340	1500720495		108-SA		Z-BAR #1	AETNA	3.5	NORTHWEST CENTRAL
-KAN-EX INC				RECEIVED: 12/01/83		JA: KS			
8409853	K-83-0611	1515121268		102-4		NEEL #1	KAN-OPENER	18.0	KANSAS GAS SUPPLY
8409852	K-83-0612	1515121275		102-4		NEEL #2	KAN-OPENER	18.0	KANSAS GAS SUPPLY
8409854	K-83-0613	1515121304		102-4		NEEL #3	KAN-OPENER	18.0	KANSAS GAS SUPPLY
8409855	K-83-0609	1515121208		102-4		ONSTOT #1	KAN-OPENER	18.0	KANSAS GAS SUPPLY
-TEXAS ENERGIES INC				RECEIVED: 12/01/83		JA: KS			
8409851	K-83-0067	1500721528		102-4		HOAGLAND 2-21	WILDCAT	150.0	REPUBLIC NATURAL
LOUISIANA OFFICE OF CONSERVATION									
-ALLIANCE EXPLORATION CORPORATION				RECEIVED: 12/02/83		JA: LA			
8409984	83-1122	1705721997		102-4		M B RICHARD #1 6A RB SUA	ROUSSEAU	474.5	TEXAS GAS TRANSMI
-AMOCO PRODUCTION CO				RECEIVED: 12/02/83		JA: LA			
8410042	83-1091	1703121518		102-3		J F GUY #1	WILDCAT/GRAND CANE	730.0	UNITED GAS PIPELI
8410034	83-1088	1701320519		102-3		LAUHON LAND COMPANY #1	WILDCAT/RINGGOLD BLOC	730.0	
8409952	82-3239	1705320608		103		LOUISIANA RICE MILLING CO #7	SOUTH THORNWELL	730.0	COLUMBIA GAS TRAN
8409974	83-0638	1770520094		103		S/L 862 #11	VERMILION BLOCK 14	1200.0	FLORIDA POWER & L
8409975	83-0637	1770520107		103		S/L 862 #14	VERMILION BLOCK 14 FI	3000.0	TRUNKLINE GAS CO
8409976	83-0633	1770520116		103		S/L 862 #15	VERMILION BLOCK 14 FI	2500.0	TRUNKLINE GAS CO
8410004	83-1265	1708120421		102-3		SAMPLE #2	THORN LAKE	292.0	UNITED GAS PIPELI
-ANSYTHE EXPLORATION CO INC				RECEIVED: 12/02/83		JA: LA			
8410026	82-3450	1700520139		103		UNITED LANDS CO INC #1	SORRENTO	1332.0	
-BASS ENTERPRISES PRODUCTION CO				RECEIVED: 12/02/83		JA: LA			
8409972	83-0624	1707523017		103		DELACROIX #52 (BF-7 "A") VUF	POINTE-A-LA-HACHE	18.0	SOUTHERN NATURAL
8410005	83-1264	1707523017		103		DELACROIX #52 VUF	POINTE-A-LA-HACHE	180.0	SOUTHERN NATURAL
-C & K PETROLEUM INC				RECEIVED: 12/02/83		JA: LA			
8410027	83-0205	1710920266		102-2		STATE LEASE 8083 #2-D	COON POINT	1049.0	AMERICAN PIPELINE
-CONOCO INC				RECEIVED: 12/02/83		JA: LA			
8409977	83-0628	1771920261		103		WELL #2 S/L 2550 WD56	WEST DELTA BLOCK 56	360.0	TENNESSEE GAS PIP
-CRYSTAL OIL AND LAND COMPANY				RECEIVED: 12/02/83		JA: LA			
8410039	83-1100	1704920190		102-4		DAVIS BROTHERS "C" #1 HOSS RA SU22	VERNON	803.0	UNITED GAS PIPE L
8410033	83-1121	1701521447		102-4		DICKSON DUTY #1 CVRB SU38	ARKANA	168.8	ARKANSAS LOUISIAN
8409967	83-1120	1701521644		102-4		J T DAVIS #1 CV RB SUQ	ARKANA	157.0	ARKANSAS LOUISIAN
8409968	83-1119	1701521544		102-4		KEOUN #1 CV RB SU16	ARKANA	14.6	ARKANSAS LOUISIAN
8410013	83-1009	1708120300		103		POLLEY #1	GAHAGAN	54.4	LOUISIANA INTRAST
8410032	83-1016	1708120411		103		POSEY "A" #2	GAHAGAN	83.9	LOUISIANA INTRAST
8410037	83-1105	1701521731		102-4		WATSON #1-D CV RB SU 46	ARKANA	18.3	ARKANSAS LOUISIAN
-DEVON ENERGY CORP				RECEIVED: 12/02/83		JA: LA			
8409956	83-1084	1707300045		108		GUTHRIE #1	MONROE	1.8	PRIMOS PRODUCTION
-DYNAMIC EXPLORATION INC				RECEIVED: 12/02/83		JA: LA			
8409985	83-0605	1705320686		102-4		LANGLEY #2 NB RA SUA	WEST EDNA FIELD	182.0	TENNESSEE GAS PIP
-E W SMITH III ENERGY CORP				RECEIVED: 12/02/83		JA: LA			
8410015	83-1042	1703121540		103		MARTIN TIMBER A #1 SERIAL #174082	BETHANY-LONGSTREET	0.0	LOUISIANA INTRAST
-EDWIN L COX				RECEIVED: 12/02/83		JA: LA			

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8409994	83-1260	1704720568		103		E B SCHWING #1	BAYOU SORREL	36.0	
8409973	82-3167	1710922409		102-4		MORRIS BLANCHARD #1	HUMPHREYS	730.0	
-EXXON CORPORATION				RECEIVED:	12/02/83	JA: LA			
8409983	83-0884	1772520219		102-2		S L 6894 A #4	MAIN PASS BLOCK 74	78.0	UNITED GAS PIPE L
8409993	83-1261	1709920894		103		S L 711 #2 DL UL-4 RA NVU	DUCK LAKE	170.0	UNITED GAS PIPE L
-FOREST OIL CORPORATION				RECEIVED:	12/02/83	JA: LA			
8410040	83-1099	1701120510		102-2		CROSBY #1 CKF 9 RA SUB	LITTLE BARNES CREEK	360.0	FLORIDA GAS TRANS
-FREYER SMITH & ASSOCIATES INC				RECEIVED:	12/02/83	JA: LA			
8409992	83-1262	1708120466		102-2		HINKIE #1	RED RIVER BULL BAYOU	125.0	TEXAS EASTERN TRA
-GETTY OIL COMPANY				RECEIVED:	12/02/83	JA: LA			
8410036	83-1039	1712721032		102-2		E GRIFFIN 11-16 #2	CALVIN	260.0	LOUISIANA INTRAST
8410011	83-1011	1703121800		103		J D SAMPLE #2	LOGANSPORT	100.0	TENNESSEE GAS PIP
-GOLDKING PRODUCTION COMPANY				RECEIVED:	12/02/83	JA: LA			
8410012	83-1010	1703320120		102-4		JONES #1 MORGAN 2 RA SU A	BATON ROUGE	8.0	MID LOUISIANA GAS
8409938	83-0613	1703320144		103		LSU A #1 8720 RA SU A "A"	BATON ROUGE	110.0	MID LOUISIANA GAS
8409979	83-1270	1702321802		103		MERMENTAU MIN & LAND CO INC F-1	WILDCAT	2847.0	LOUISIANA INTRAST
-GUERNSEY PETROLEUM CORPORATION				RECEIVED:	12/02/83	JA: LA			
8409995	83-1259	1703122009		103		INTERNATIONAL PAPER CO "C" #8	TEN MILE BAYOU	72.0	TENNESSEE GAS PIP
8410029	83-1013	1703121767		103		INTERNATIONAL PAPER CO "C"-2	BRUSHY BAYOU	0.5	TENNESSEE GAS PIP
8410030	83-1014	1703121769		103		INTERNATIONAL PAPER CO "C"-4	BRUSHY BAYOU	0.5	TENNESSEE GAS PIP
8410028	83-1012	1703121912		103		INTERNATIONAL PAPER CO "C"-7	BRUSHY BAYOU	1.0	TENNESSEE GAS PIP
8410017	83-1055	1703121803		103		SEARCY ETAL #2	BENSON	75.0	LOUISIANA INTRAST
-GULF OIL CORPORATION				RECEIVED:	12/02/83	JA: LA			
8410001	83-1251	1707523077		103		BLD ST UNIT 2 WELL #26	SOUTH PASS BLOCK 24	5.0	SOUTHERN NATURAL
8409991	83-1263	1707522943		103		J C HENDERSON #15	WEST BAY	10.2	TEXAS EASTERN TRA
8409986	83-0622	1707523027		103		J G TIMOLAT 'B' #159	WEST BAY	70.0	TEXAS EASTERN TRA
8410002	83-1250	1707522852		103		S L 195 QQ #316 QB 3 RB SU	QUARANTINE BAY FIELD	0.7	UNITED GAS PIPELI
8410009	83-1125	1707523068		102-4		S L 7332 WELL #7 OB 9C RA SU	QUARANTINE BAY FIELD	171.6	UNITED GAS PIPELI
-HENRY GOODRICH D/B/A GOODRICH OIL C				RECEIVED:	12/02/83	JA: LA			
8410010	83-1123	1704920188		102-4		STUBBLEFIELD #1HOSS RBSUA	HODGE	365.0	ARKANSAS LOUISIAN
8409969	83-1118	1700120875		102-4		WRIGHT #1 DISCORBIS C SAND RD SUA	MIDLAND	292.0	CONOCO INC
-INEXCO OIL COMPANY				RECEIVED:	12/02/83	JA: LA			
8410008	82-3080	1703920223		102-4		LAHAYE BROTHERS INC CT AL #1	PINE PRAIRIE	70.0	LOUISIANA INTRAST
-J D CARUTHERS & BRADDOCK EXPL				RECEIVED:	12/02/83	JA: LA			
8410031	83-1015	1701725016		103		HALL #1	CADDO PINE ISLAND	249.3	
-JOHN O CLAY EXPLORATION INC				RECEIVED:	12/02/83	JA: LA			
8410041	83-1094	1702120482		102-2		HERMAN HOGG #1 WUA	SWIM LAKE	70.0	LOUISIANA INTRAST
-KERR-MCGEE CORPORATION				RECEIVED:	12/02/83	JA: LA			
8409987	83-0614	1772620254		103		S L 1227 #2	BRETON SOUND BLOCK 32	257.0	SOUTHERN NATURAL
8409971	83-0627	1772620289		103		S L 1237 #6	BRETON SOUND BLOCK 36	125.0	SOUTHERN NATURAL
-LAIHAM EXPLORATION CO INC				RECEIVED:	12/02/83	JA: LA			
8410035	83-1090	1701724544		102-2		W H NORTH EST #1 HOSS RC SUA	CADDO PINE ISLAND	250.0	UNITED GAS PIPE L
-MARSHALL EXPLORATION INC				RECEIVED:	12/02/83	JA: LA			
8410003	83-1248	1703121390		103		CLAYTON #1-D SERIAL #182915	WILDCAT	0.0	ARKANSAS LOUISIAN
8410020	83-1059	1703121683		103		HUTCHINS #1 SERIAL #177315	GRAND CANE	80.0	SOUTHERN NATURAL
-MICH-LA OIL & GAS EXPLORATION				RECEIVED:	12/02/83	JA: LA			
8410023	83-1056	1703121949		103		CLECO #1	GROGAN	127.0	TENNESSEE GAS PIP
8410014	83-1047	1703122006		103		W G LORD #7	CROWN	11.0	TENNESSEE GAS PIP
-PENNZOIL COMPANY				RECEIVED:	12/02/83	JA: LA			
8410018	83-1051	1707520326		102-2		S PASS 57-58 BA-6 S L 6310 A #6	SOUTH PASS 57-58 AREA	1750.0	LOUISIANA INTRAST
8410019	83-1049	1707520326		102-2		S PASS 57-58 BA-6D S L 6310 A #6D	SOUTH PASS 57-58 AREA	1606.0	LOUISIANA INTRAST
8410021	83-1058	1707520328		102-2		S PASS 57-58 BA-7 S L 6310 A #7	SOUTH PASS 57-58 AREA	1750.0	LOUISIANA INTRAST
-PENNZOIL PRODUCING COMPANY				RECEIVED:	12/02/83	JA: LA			
8409996	83-1258	1710921997		103		LATERRE CO INC C #14	DULAC	540.0	UNITED GAS PIPE L
-PETRO-LEWIS CORPORATION				RECEIVED:	12/02/83	JA: LA			
8409981	82-3166	1704520733		103		KYLE-PETERMAN MANAGEMENT CO #1	BAYOU POSTILLION FIEL	1277.5	SOUTHERN NATURAL
8410024	82-3359	1708720213		103		STATE LEASE 4909 #3	STUMPD'S BLUFF	926.0	SOUTHERN NATURAL
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	12/02/83	JA: LA			
8409965	83-1083	1703121759		108		SOTO #2 HOSS RA SUP	SPIDER	19.0	SOUTHERN NATURAL
-PLACID OIL COMPANY				RECEIVED:	12/02/83	JA: LA			
8410000	83-1252	1701320363		102-3		TOBIN #1 VUR	LUCKY	438.0	TEXAS EASTERN TRA
-SAMEDAN OIL CORPORATION				RECEIVED:	12/02/83	JA: LA			
8410022	83-1057	1701724738		103		GEORGE ADAMS HEIRS #1	ROLESSA	1000.0	ARKANSAS LOUISIAN
8409998	83-1254	1711321251		103		STATE LEASE 3020 #4	NORTH BUCK POINT	180.0	SUGAR BOWL GAS CO
-SANTA FE MINERALS INC				RECEIVED:	12/02/83	JA: LA			
8409999	83-1253	1700120945		103		D HARMON #1	CHURCH POINT	300.0	MONTEREY PIPELINE
-SHELL OFFSHORE INC				RECEIVED:	12/02/83	JA: LA			
8410025	82-3410	1770920265		103		EI 18 SL 1667 #48	EUGENE ISLAND BLOCK 1	260.0	TENNESSEE GAS PIP
8410007	83-1267	1707502899		103		SP 24 FLD SL 1388 #B-73	SOUTH PASS BLOCK 24 F	210.0	TENNESSEE GAS PIP
8410006	83-1268	1772100857		103		SP 27 SL 1012 #291	SOUTH PASS BLOCK 27 F	50.0	TENNESSEE GAS PIP
-SHELL OIL CO				RECEIVED:	12/02/83	JA: LA			
8409980	83-1271	1704720501		103		WILBERT #241	WHITE CASTLE	20.0	FLORIDA GAS TRANS
-SKYLINE OIL COMPANY				RECEIVED:	12/02/83	JA: LA			
8410016	83-1041	1702321728		103		SWEETLAKE LAND & OIL CO #7	CHALKLEY	252.0	TEXAS EASTERN TRA
-SOURCE PETROLEUM INC				RECEIVED:	12/02/83	JA: LA			
8409978	83-1269	1701921100		103		FARMERS LAND & CANAL INC #1	SOUTH BON AIR	8.0	LOUISIANA GAS SYS
-SOUTHERN PETROLEUM SERVICES INC				RECEIVED:	12/02/83	JA: LA			
8409997	83-1257	1710922518		103		J G DUPLANTIS	SOUTH HOUMA	256.0	UNITED GAS PIPE L
-SUPERIOR OIL CO				RECEIVED:	12/02/83	JA: LA			
8409990	83-0606	1702321855		103		S L 344 #30	GRAND LAKE	100.0	TRUNKLINE GAS CO
8409989	83-0603	1702321855		103		S L 344 #30-D	GRAND LAKE	100.0	TRUNKLINE GAS CO
-VIKING RESOURCES (LA)				RECEIVED:	12/02/83	JA: LA			
8410038	83-1103	1711123938		108		OLIN #7	MONROE	14.0	PRIMOS PRODUCTION
-WEAVER EXPLORATION CO				RECEIVED:	12/02/83	JA: LA			
8409970	83-1117	1711321086		103		SIMMONS INTEREST #1	FRESHWATER BAYOU	400.0	TRUNKLINE GAS CO
MONTANA BOARD OF OIL & GAS CONSERVATION									
-CELSIUS ENERGY CO				RECEIVED:	12/01/83	JA: MT			
8409850	3-83-46	2510122267		108		BENJAMIN FEDERAL LAND BANK 61-27	OLD SHELBY GAS FIELD	14.6	MICHAEL L LETSIN
-J BURNS BROWN				RECEIVED:	12/01/83	JA: MT			
8409846	10-83-140	2500522265		103		NEMITZ 30-33-18	LOMAN	40.0	NORTHERN NATURAL
8409847	10-83-139	2500522137		102-2		WERK 21-32-18	TIGER RIDGE	28.0	NORTHERN NATURAL
-MIDLANDS GAS CORPORATION				RECEIVED:	12/01/83	JA: MT			
8409849	6-83-84	2507121790		108		1712 BELL FARMING 1	BOUDOIN	14.0	K-N ENERGY INC
8409848	9-83-130	2507121757		108		3571-1	BOUDOIN	19.0	K N ENERGY INC
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-ALPHA TWENTY-ONE PRODUCTION CO				RECEIVED:	12/01/83	JA: NM			
8409859		3002527710		103		TONI #2	HOBBS GRAYBURG SAN AN	50.0	PHILLIPS PETROLEU
-AMOCO PRODUCTION CO				RECEIVED:	12/01/83	JA: NM			
8409864		3004525616		103		ABRAMS "K" #1	ARMENTA - GALLUP	7.8	
8409866		3004525560		103		STEDJE GAS COM/TRUE #1E	BASIN - DAKOTA	27.4	EL PASO NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-EL PASO NATURAL GAS COMPANY				RECEIVED:	12/01/83	JA: NM			
8409858		3004520896		108-PB		CALLISON #1	AZTEC	0.0	EL PASO NATURAL G
-EXXON CORPORATION				RECEIVED:	12/01/83	JA: NM			
8409869		3002528018		103		NEW MEXICO DD STATE #6	SCHARB-BONE SPRINGS	5.0	WARREN PETROLEUM
-GULF OIL CORPORATION				RECEIVED:	12/01/83	JA: NM			
8409861		3002527428		108		ARNOTT-RAMSAY (NCT-E) #11	JALMAT SEVEN RIVERS Q	22.4	NORTHERN NATURAL
-MESA PETROLEUM CO				RECEIVED:	12/01/83	JA: NM			
8409872		3002528257		103		VACUUM STATE #4	SCHARB-BONE SPRINGS	26.0	WARREN PETROLEUM
-PETRO-LEWIS CORPORATION				RECEIVED:	12/01/83	JA: NM			
8409867		3002500000		108		WARLICK QUEEN #1	EUNICE	0.0	EL PASO NATURAL G
-POGO PRODUCING COMPANY				RECEIVED:	12/01/83	JA: NM			
8409865		3002500000		103		STATE WES #1	SAUNDERS (PERMO UPPER	65.0	WARREN PETROLEUM
-SOUTHLAND ROYALTY CO				RECEIVED:	12/01/83	JA: NM			
8409857		3004509726		108-PB		CURRENT #1 PC	AZTEC	0.0	EL PASO NATURAL G
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	12/01/83	JA: NM			
8409868		3002500000		108		STATE "A" A/C-1 #49	LANGLIE MATTIX 7 RVRS	16.0	PHILLIPS PETROLEU
-SUPERIOR OIL CO				RECEIVED:	12/01/83	JA: NM			
8409862		3002526735		103		MESCALERO RIDGE #1	SCHARB (BONE SPRING)	0.0	
-UNION TEXAS PETROLEUM				RECEIVED:	12/01/83	JA: NM			
8409860		3004525612		103		CALVIN #3	GALLUP	101.0	EL PASO NATURAL G
-YATES PETROLEUM CORPORATION				RECEIVED:	12/01/83	JA: NM			
8409870		3001524400		103		ACHEN FREY "DM" ST #9	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8409875		3001524359		103		JACKSON "AT" #15	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8409873		3001523397		103		JACKSON ESTATE "BY" #11	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8409874		3001524323		103		JACKSON ESTATE "BY" #16	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8409871		3000524542		103		JACKSON ESTATE "BY" #13	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8409863		3002528262		103		WOODPECKER "SY" ST #7	SAUNDERS PERMO UPPER	0.0	WARREN PETROLEUM
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
-AMERICAN PENN ENERGY INC				RECEIVED:	12/02/83	JA: NY			
8409948	5007	3101317816		102-2	107-TF	STATE REFORESTATION AREA #11 #1590	STEBBINS CORNERS	10.0	COLUMBIA GAS TRAN
-BEREA OIL AND GAS CORPORATION				RECEIVED:	12/02/83	JA: NY			
8409951	5848	3101318562		103	107-TF	CAGUE UNIT #1	WILDCAT	12.0	
-GYPSUM ENERGY MANAGEMENT CO				RECEIVED:	12/02/83	JA: NY			
8409938	5816	3112118148		103	107-TF	BEECHLER #1	WILDCAT	4.0	U S GYPSUM CO
8409935	5818	3112118059		103	107-TF	BOXLER #1	WILDCAT	4.0	U S GYPSUM CO
8409944	5828	3112117996		103	107-TF	BREISSINGER #1	WILDCAT	24.0	U S GYPSUM CO
8409942	5824	3112118202		103	107-TF	BRICZNA #1	WILDCAT	4.0	U S GYPSUM CO
8409960	5800	3112118173		103	107-TF	FUGLE #1	WILDCAT	8.0	US GYPSUM CO
8409963	5806	3112118185		103	107-TF	GASTOMSKI #1	WILDCAT	18.0	US GYPSUM CO
8409961	5802	3112117995		103	107-TF	HALSTEAD #1	WILDCAT	18.0	US GYPSUM CO
8409940	5820	3112118200		103	107-TF	IGLA #1	WILDCAT	8.0	U S GYPSUM CO
8409956	5792	3103717398		103		J BURKHARDT #1	WILDCAT	24.0	US GYPSUM CO
8409946	5832	3103717396		103	107-TF	KEMP #1	WILDCAT	24.0	U S GYPSUM CO
8409957	5794	3112118149		103	107-TF	KIRSCH #1	WILDCAT	3.0	US GYPSUM CO
8409962	5804	3112118058		103	107-TF	KOHLHAGEN #1	WILDCAT	3.0	US GYPSUM CO
8409964	5808	3112118057		103	107-TF	LEFORT #1	WILDCAT	15.0	US GYPSUM CO
8409937	5814	3103717401		103	107-TF	P MILLER #1	HURON CREEK	14.0	U S GYPSUM CO
8409954	5788	3112118556		103	107-TF	PADAK #1	WILDCAT	24.0	US GYPSUM CO
8409958	5796	3112118230		103	107-TF	PFAFF #1	WILDCAT	8.0	US GYPSUM CO
8409936	5812	3112118231		103	107-TF	RUPERT #1	WILDCAT	24.0	U S GYPSUM CO
8409943	5826	3112117879		103	107-TF	SCHAD #1	WILDCAT	15.0	U S GYPSUM CO
8409952	5784	3103717397		103	107-TF	SIERK #2	WILDCAT	8.0	US GYPSUM CO
8409953	5786	3112117724		103	107-TF	SLOAND #1	WILDCAT	18.0	US GYPSUM CO
8409955	5790	3112118201		103	107-TF	STEVES #1	WILDCAT	8.0	US GYPSUM CO
8409939	5818	3112117997		103	107-TF	TOPOR #1	WILDCAT	24.0	U S GYPSUM CO
8409945	5830	3112117273		103	107-TF	TRYBUSKIEWICZ #1	WILDCAT	15.0	U S GYPSUM CO
8409947	5834	3112117679		103	107-TF	UNSELT #1	WILDCAT	12.0	US GYPSUM CO
8409959	5798	3103717365		103	107-TF	VILLAGE OF AKRON #1	WILDCAT	4.0	US GYPSUM CO
8409941	5822	3112117243		103	107-TF	WAURZYNIAK #1	WILDCAT	18.0	U S GYPSUM CO
-KEYSTONE ENERGY OIL & GAS PRODUCTIO				RECEIVED:	12/02/83	JA: NY			
8409950	5045	3100913495		103	107-TF	R ADAMS #1	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
-NORD/MONTARA PETROLEUM CO				RECEIVED:	12/02/83	JA: NY			
8409949	5844	3112113083		108		GERALD R KEEM #1	JAVA MEDINA	8.0	COLUMBIA GAS TRAN
PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES									
-B & B OIL & GAS PRODUCTIONS CO				RECEIVED:	12/02/83	JA: PA			
8409908	20964	3706327418		103		ROBERT E & ANNA MAE GOOD	WEST MAHONING	10.0	T W PHILLIPS
-C & C TROYER BROTHERS				RECEIVED:	12/02/83	JA: PA			
8409924	21541	3704923084		102-2		J LANDIS #1 #84	WATERFORD	11.0	NATIONAL FUEL GAS
8409925	21542	3704923084		107-TF		J LANDIS #1 #84	WATERFORD	11.0	NATIONAL FUEL GAS
8409912	21392	3704923010		107-TF		JON G ROTHSTEIN #1 (#83)	WATERFORD	8.0	NATIONAL FUEL GAS
8409911	21391	3704923010		102-2		JON G ROTHSTEIN #83	WATERFORD	2.0	NATIONAL FUEL GAS
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	12/02/83	JA: PA			
8409931	21593	3703300479		108		LILLIAN MANLEY #1 WN-1195	PENN	17.0	GENERAL SYSTEM PU
-FAIRMAN DRILLING CO				RECEIVED:	12/02/83	JA: PA			
8409921	21441	3706522761		103		SARAH ELDA MCCORMICK #3 F-3750	BIG RUN	25.0	CONSOLIDATED GAS
-J C ENTERPRISES				RECEIVED:	12/02/83	JA: PA			
8409918	21402	3706522808		103		J C ENTERPRISES JEF-22808 #212	FROSTBURG	23.0	
-KEPCO INC				RECEIVED:	12/02/83	JA: PA			
8409928	21550	3705921822		102-4		W G PHILLIPS #1 (PK-73)	RUFF CREEK	10.0	NEW JERSEY NATURA
-MERIDIAN EXPLORATION CORP				RECEIVED:	12/02/83	JA: PA			
8409919	21409	3704922882		102-2		EDINBORO GRAVEL CO #696-3	EDINBORO	30.0	NATIONAL FUEL GAS
8409920	21410	3704922882		107-TF		EDINBORO GRAVEL CO #696-3	EDINBORO	30.0	NATIONAL FUEL GAS
8409915	21395	3704922884		102-2		HECKER #688-2	EDINBORO NORTH	0.0	COLUMBIA GAS TRAN
8409916	21396	3704922884		107-TF		HECKER #688-2	EDINBORO NORTH	8.0	COLUMBIA GAS TRAN
-MES COOSS CO				RECEIVED:	12/02/83	JA: PA			
913	21393	3704923011		102-2		EDWARD ANYZEK #1	LEBOEUF	10.0	COLUMBIA GAS TRAN
8409914	21394	3704923011		107-TF		EDWARD ANYZEK #1	LEBOEUF	10.0	COLUMBIA GAS TRAN
8409909	21388	3704923083		102-2		HERBERT WILLIAMS #1	LEBOEUF	10.0	COLUMBIA GAS TRAN
8409910	21389	3704923083		107-TF		HERBERT WILLIAMS #1	LEBOEUF	10.0	COLUMBIA GAS TRAN
-PHILLIPS PRODUCTION CO				RECEIVED:	12/02/83	JA: PA			
8409923	21538	3703321628		103		ESTATE OF THERESA DEHAVEN #1	BELL	35.0	
-S T JOINT VENTURE 82-D				RECEIVED:	12/02/83	JA: PA			
8409917	21399	3703321542		103		LUPOLD #1	FIKE	25.0	CONSOLIDATED GAS
-SNYDER BROTHERS INC				RECEIVED:	12/02/83	JA: PA			
8409927	21545	3706522899		103		E C PIFER #1	BELL TWP	10.0	T W PHILLIPS GAS
8409926	21544	3706522819		103		L & R PIFER #1	BELL TWP	10.0	T W PHILLIPS GAS
-TETRA ENERGY GROUP LTD				RECEIVED:	12/02/83	JA: PA			
8409932	21607	3704923044		107-TF		ED MORVAY #2	UNION CITY FIELD EMMO	63.0	COLUMBIA GAS TRAN
8409933	21609	3704923004		107-TF		FRANCIS RICHARDS #1	UNION CITY FIELD EMMO	5.4	COLUMBIA GAS TRAN
8409934	21610	3704923036		107-TF		WILLIAM CZARNECKI #1	UNION CITY FIELD EMMO	4.5	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-WILLIAM B WOOD				RECEIVED:	12/02/83	JA: PA			
8409922	21444	3706300000		108		H E MCCULLOUGH	ARMSTRONG	0.0	PEOPLE NATURAL GA
-4-R INVESTMENT CO				RECEIVED:	12/02/83	JA: PA			
8409929	21553	3704923210		103		MERCYHURST COLLEGE #1	ERIE	20.0	
8409930	21554	3704923210		107-TF		MERCYHURST COLLEGE #1	ERIE	20.0	
********** WEST VIRGINIA DEPARTMENT OF MINES **********									
-ALLEGHENY & WESTERN ENERGY CORP				RECEIVED:	12/01/83	JA: WV			
8409893		4701100721		107-DV		E SLOAN #1	BARBOURSVILLE	36.0	COLUMBIA GAS TRAN
8409895		4701100719		107-DV		E WALKER #1	BARBOURSVILLE	36.0	COLUMBIA GAS TRAN
8409894		4701100720		107-DV		MCCALLISTER #1	BARBOURSVILLE	36.0	COLUMBIA GAS TRAN
8409891		4701100730		107-DV		MILLS-KILLEN #1	BARBOURSVILLE	36.0	COLUMBIA GAS TRAN
8409892		4701100725		107-DV		NASH #1	BARBOURSVILLE	36.0	COLUMBIA GAS TRAN
-ASHLAND EXPLORATION INC				RECEIVED:	12/01/83	JA: WV			
8409907		4703902576		107-DV		BEDFORD LAND CO #11 - 050490	PAINT CREEK	18.0	COLUMBIA GAS TRAN
8409905		4701900474		107-DV		LAWSON HAMILTON #1 - 093121	PAINT CREEK	2.0	COLUMBIA GAS TRAN
8409904		4701900507		102-2		WRISTON-SMARR UNIT #1 - 095901	PAINT CREEK	14.0	COLUMBIA GAS TRAN
8409906		4701900507		107-DV		WRISTON-SMARR UNIT #1 - 095901	PAINT CREEK	14.0	COLUMBIA GAS TRAN
-FOX DRILLING CO INC				RECEIVED:	12/01/83	JA: WV			
8409900		4700101881		107-DV		M MORSH #2	NOT AVAILABLE	10.0	
-OILSEARCH INTERNATIONAL INC				RECEIVED:	12/01/83	JA: WV			
8409902		4708505344		107-DV		PRIBBLE #1	GRANT DIST	30.0	
8409901		4708505501		107-DV		WILSON-LIGHT #2	MURPHY DIST	75.0	
-SENECA-UPSHUR PETROLEUM CO				RECEIVED:	12/01/83	JA: WV			
8409897		4705901042		107-DV		C-36	HARDEE	35.0	COLUMBIA GAS TRAN
8409898		4705901046		107-DV		C-38	HARDEE	35.0	COLUMBIA GAS TRAN
8409899		4705901038		107-DV		C-42	HARDEE	35.0	COLUMBIA GAS TRAN
8409896		4705901043		107-DV		C-53	HARDEE	35.0	COLUMBIA GAS TRAN
-TRIO PETROLEUM CORP				RECEIVED:	12/01/83	JA: WV			
8409903		4702103917		107-DV		CRADDOCK "A" #1	GLENVILLE NORTH	15.0	COLUMBIA GAS TRAN
8409887		4702103918		107-DV		CRADDOCK "A" #2	GLENVILLE NORTH	20.0	COLUMBIA GAS TRAN
-WACO OIL AND GAS CO INC				RECEIVED:	12/01/83	JA: WV			
8409888		4702104050		107-DV		BAILEY #1	HORN CREEK	10.0	COLUMBIA GAS TRAN
8409889		4702104024		107-DV		BONNETT #1A	LEADING CREEK	12.0	COLUMBIA GAS TRAN
8409890		4702103907		107-DV		JACKSON #1A	ELLIS CREEK	20.0	COLUMBIA GAS TRAN
** DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, CASPER,WY **********									
-BASS ENTERPRISES PRODUCTION CO				RECEIVED:	12/01/83	JA: WY 5			
8409835	W678-2	4900526601		103		OHMAN FEDERAL #19-31	BUFF	36.5	MGPC INC
-CITIES SERVICE COMPANY				RECEIVED:	12/01/83	JA: WY 5			
8409877	W643-2	4900526563		103		HARTZOG DRAW UNIT TRACT 78 #5208	HARTZOG DRAW UNIT	29.2	PANHANDLE EASTERN
-DAVIS OIL COMPANY				RECEIVED:	12/01/83	JA: WY 5			
8409881	W659-2	4900526546		102-2		AMOS DRAW FEDERAL #1	WILDCAT	340.0	PHILLIPS PETROLEU
8409879	W657-2	4900922082		102-2		FULMAR FEDERAL #1	WILDCAT	110.0	PHILLIPS PETROLEU
8409880	W658-2	4900526496		102-2		HARRIER FEDERAL #1	WILDCAT	35.0	PHILLIPS PETROLEU
-INTERNORTH INC				RECEIVED:	12/01/83	JA: WY 5			
8409883	W673-2	4900921639		102-2		FEDERAL 952 #1-10	SCOTT	15.0	PHILLIPS PETROLEU
8409882	W672-2	4900921665		102-2		FEDERAL 952 #1-3	SCOTT	15.0	PHILLIPS PETROLEU
8409884	W674-2	4900921638		102-2		FEDERAL 952 #2-10	SCOTT	15.0	PHILLIPS PETROLEU
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	12/01/83	JA: WY 5			
8409878	W650-2	4900526566		102-3		THUNDER CREEK FED Q #1	SCHOOL CREEK	5.4	PANHANDLE EASTERN
8409876	W639-2	4900526737		102-3		THUNDER CREEK FED R #2	SCHOOL CREEK	9.1	PANHANDLE EASTERN
-WOODS PETROLEUM CORPORATION				RECEIVED:	12/01/83	JA: WY 5			
8409886	W 694-2	4900515459		102-2		TAYLOR UNIT #1	WILDCAT	77.0	WESTERN GAS PROCE

[FR Doc. 83-34699 Filed 12-30-83; 8:45 am]

BILLING CODE 6717-01-C

[Volume 1034]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: December 27, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the Federal Register.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd, Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1,000 Ft rule)
102–4: New onshore reservoir
103–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS
ISSUED DECEMBER 27, 1983

VOLUME 1034

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KENTUCKY DEPARTMENT OF MINES & MINERALS									
-ASHLAND EXPLORATION INC				RECEIVED:	12/02/83	JA: KY			
8410251	502234	1619500000		108-SA		MASON COAL & COKE #2		0.0	COLUMBIA GAS TRAN
-EQUITABLE LIFE ASSURANCE SOCIETY				RECEIVED:	12/02/83	JA: KY			
8410250		1608555250		107-DV		EQUITABLE-IDA LIKENS #4	READY (SHREWSBURY GAS	13.0	MIDWESTERN GAS TR
8410249		1608555275		107-DV		EQUITABLE-WILLIS HEIRS #2	READY (SHREWSBURY GAS	18.0	MIDWESTERN GAS TR
-J SCOTT TALBOTT				RECEIVED:	12/02/83	JA: KY			
8410244	505998	1613100000		108		T-14 ROSS BAKER	T-14 ROSS BAKER	0.7	KENTUCKY WEST VIR
8410245	505999	1613300000		108		T-2 WATTS SHEPARD CRASE	T-2 WATTS SHEPARD CRA	10.0	KENTUCKY WEST VIR
8410246	506000	1619300000		108		T-8 LOGAN HEIRS	T-8 LOGAN HEIRS	9.0	KENTUCKY WEST VIR
-J W KINZER				RECEIVED:	12/02/83	JA: KY			
8410242	505992	1619500000		107-DV		GRANT PHILLIPS #5	PIKEVILLE	0.0	COLUMBIA GAS TRAN
-KENTUCKY WEST VIRGINIA GAS CO				RECEIVED:	12/02/83	JA: KY			
8410072	506163	1619500000		108		A C CHARLES - #5402	KENTUCKY EAST	11.9	
8410132	506103	1619500000		108		A H BLACKBURN #615	KENTUCKY EAST	11.1	
8410189	506046	1619500000		108		AARON JUSTICE - #5495	KENTUCKY EAST	2.4	
8410179	506056	1611500000		108		ABE ELLIOTT ESTATE #5609	KENTUCKY EAST	5.0	
8410140	506095	1607100000		108		ABIGAL AKERS #205	KENTUCKY EAST	16.2	
8410226	506009	1619500000		108		ABNER L JUSTICE - #889	KENTUCKY EAST	1.7	
8410129	506106	1619500000		108		ADRON LOWE #651	KENTUCKY EAST	9.4	
8410125	506110	1619500000		108		ADRON LOWE #752	KENTUCKY EAST	10.1	
8410174	506061	1611900000		108		ALAMANDER CAUDILL #5644	KENTUCKY EAST	9.4	
8410062	506173	1619500000		108		ALBERT THACKER - #5812	KENTUCKY EAST	3.5	
8410191	506044	1619500000		108		ALEX TACKETT - #5489D	KENTUCKY EAST	3.6	
8410225	506010	1619500000		108		ALFRED YOUNG SR #929	KENTUCKY EAST	3.0	
8410151	506084	1619300000		108		ALLEN COMBS #6699	KENTUCKY EAST	5.3	
8410195	506040	1619300000		108		ANDERSON FIELDS #7114	KENTUCKY EAST	11.6	
8410141	506094	1611900000		108		ANDREW COBURN #188	KENTUCKY EAST	1.4	
8410113	506122	1619500000		108		ANDY COLLINS - #6111	KENTUCKY EAST	1.8	
8410087	506148	1607100000		108		ANTHONY HAMILTON - #5197	KENTUCKY EAST	16.6	
8410185	506050	1619500000		108		AVERY STATEN - #5551	KENTUCKY EAST	2.5	
8410053	506182	1607100000		108		B C & T R MAY - #5828 D	KENTUCKY EAST	18.1	
8410050	506185	1607100000		108		B C & T R MAY - #5999	KENTUCKY EAST	[illegible].9	
8410121	506114	1619500000		108		B F JOHNSON - #908	KENTUCKY EAST	[illegible].3	
8410092	506143	1607100000		108		BEAVER ELKHORN - #5049D	KENTUCKY EAST	2.9	
8410163	506072	1619300000		108		BEN GRIGSBY #5557D	KENTUCKY EAST	9.3	
8410119	506116	1611900000		108		BEN SMITH - #5040D	KENTUCKY EAST	3.5	
8410162	506073	1607100000		108		BENJAMIN A CONLEY #6569	KENTUCKY EAST	4.7	
8410157	506075	1619300000		108		BENJAMIN HOLLIDAY #6638	KENTUCKY EAST	[illegible].4	
8410116	506119	1619500000		108		BOWLES & RATLIFF - #6030	KENTUCKY EAST	3.2	
8410115	506120	1619500000		108		BOWLES & RATLIFF - #6092	KENTUCKY EAST	3.6	
8410085	506150	1607100000		108		BURRIS HERALD - #5224D	KENTUCKY EAST	4.7	
8410206	506029	1615900000		108		CARLISLE LANDS - #6218 D	KENTUCKY EAST	3.6	
8410142	506093	1607100000		108		CARR HAYS #119D	KENTUCKY EAST	10.1	
8410159	506076	1619300000		108		CHARLES GODSEY #6615	KENTUCKY EAST	18.4	
8410153	506082	1619300000		108		CHARLES GODSEY #6655	KENTUCKY EAST	3.2	
8410058	506177	1619500000		108		CHAS BARTLEY - #5836	KENTUCKY EAST	14.1	

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8410232	506003	1611900000		108		CLAY MARTIN #13D	KENTUCKY EAST	4.3	
8410214	506021	1612700000		108		CLIFTON MOORE - #1138	KENTUCKY EAST	1.9	
8410194	506041	1613300000		108		CLINT ISON #7133	KENTUCKY EAST	10.1	
8410209	506026	1619300000		108		CUSTER BRASHEAR - #1312	KENTUCKY EAST	14 1	
8410205	506030	1619300000		108		CYNTHIA CORNETT - #6795	KENTUCKY EAST	4.4	
8410135	506100	1607100000		108		D B HARRIS #421	KENTUCKY EAST	3.5	
8410059	506176	1607100000		108		DAVID JOHNSON - #5829	KENTUCKY EAST	5.8	
8410082	506153	1611900000		108		DAVID MARTIN - #5319	KENTUCKY EAST	11 2	
8410077	506158	1611900000		108		DAVID MARTIN - #5348	KENTUCKY EAST	3.9	
8410045	506190	1619500000		108		DAVID NEUSOM - #5965	KENTUCKY EAST	6.1	
8410155	506080	1611900000		108		DAVID RITCHIE #6641	KENTUCKY EAST	14.8	
8410222	506013	1619500000		108		E L PINSON - #971	KENTUCKY EAST	3 1	
8410139	506096	1607100000		108		E P MERRITT #232 D	KENTUCKY EAST	5.8	
8410212	506023	1619300000		108		EDITH FELTNER ET AL - #1162	KENTUCKY EAST	8.0	
8410219	506016	1611900000		108		ELBERT HARD - #1056D	KENTUCKY EAST	11.4	
8410108	506127	1619500000		108		ELENDER HALL - #6152	KENTUCKY EAST	1 8	
8410098	506137	1619500000		108		ELI AND BRICE BARTLEY - #6227	KENTUCKY EAST	1 0	
8410176	506059	1615900000		108		ELI CRUM #5632	KENTUCKY EAST	3.2	
8410051	506184	1619500000		108		ELISHA BRANHAM - #5898	KENTUCKY EAST	2.5	
8410208	506027	1611500000		108		ELMER G CONLEY - #1357	KENTUCKY EAST	10.4	
8410148	506087	1607100000		108		F F MARTIN #6727	KENTUCKY EAST	18.1	
8410178	506057	1619500000		108		FERRELL AND HATCHER #5613	KENTUCKY EAST	10 8	
8410123	506112	1619500000		108		FIELDS MAYNARD #863	KENTUCKY EAST	7 3	
8410187	506048	1619500000		108		FREEMAN WILLIAMSON - #5540	KENTUCKY EAST	8 7	
8410134	506101	1607100000		108		G B HALL #464	KENTUCKY EAST	4.9	
8410083	506152	1619500000		108		G W CARROLL - #5292D	KENTUCKY EAST	2 5	
8410076	506159	1619500000		108		GEO W MAYNARD - NO 5354	KENTUCKY EAST	4.3	
8410168	506067	1615900000		108		GEO WILLIAMSON #5713D	KENTUCKY EAST	3.2	
8410144	506091	1619300000		108		GILBERT COMBS #6762	KENTUCKY EAST	6.9	
8410128	506107	1619500000		108		GUFF B WEAVER #698D	KENTUCKY EAST	9.7	
8410175	506060	1611900000		108		H C SHORT #5634	KENTUCKY EAST	12 6	
8410171	506064	1611900000		108		H C SHORT #5683	KENTUCKY EAST	9 8	
8410221	506014	1611900000		108		HAGER MADDEN #983	KENTUCKY EAST	4.9	
8410064	506171	1607100000		108		HARVEY JOHNSON - #5808	KENTUCKY EAST	15 5	
8410136	506099	1611900000		108		HATTIE TRIPLETT #327	KENTUCKY EAST	9 4	
8410120	506115	1619500000		108		HELEN LESLIE - #1143D	KENTUCKY EAST	6.2	
8410147	506089	1611900000		108		HYATT COMBS #6758	KENTUCKY EAST	5.4	
8410210	506025	1619300000		108		J D CORNETT - #1291	KENTUCKY EAST	5.8	
8410143	506092	1619300000		108		J H HALL #6781	KENTUCKY EAST	6.5	
8410056	506179	1619500000		108		J J KENDRICK - #5874	KENTUCKY EAST	5.4	
8410099	506136	1619500000		108		J M JOHNSON - #6219	KENTUCKY EAST	2.5	
8410074	506161	1607100000		108		J M PORTER #5392	KENTUCKY EAST	3.6	
8410122	506113	1619500000		108		J P LOWE - #947	KENTUCKY EAST	7.4	
8410046	506189	1611900000		108		J S AMBURGEY - #5962	KENTUCKY EAST	5 8	
8410067	506168	1619500000		108		J S CLINE - #5728	KENTUCKY EAST	11.2	
8410227	506008	1619500000		108		J S CLINE - #801	KENTUCKY EAST	3.3	
8410160	506075	1619500000		108		J W VICARS #6606	KENTUCKY EAST	12.3	
8410220	506015	1619500000		108		J W YOUNG - #1011	KENTUCKY EAST	2.2	
8410224	506011	1619500000		108		JACK L HATCHER #952	KENTUCKY EAST	20.2	
8410089	506146	1607100000		108		JACOB AKERS - #5148	KENTUCKY EAST	9.0	
8410093	506142	1619500000		108		JAMES A BARTLEY - #6464	KENTUCKY EAST	2.0	
8410130	506105	1619000000		108		JAMES BLACKBURN #635D	KENTUCKY EAST	17 8	
8410095	506140	1619500000		108		JAMES ELKINS - #6387D	KENTUCKY EAST	9.0	
8410071	506164	1607100000		108		JAMES HOPKINS - #5404D	KENTUCKY EAST	18.1	
8410063	506172	1619500000		108		JAMES JOHNSON - #5810	KENTUCKY EAST	6.9	
8410170	506065	1619500000		108		JAMES M MILLER #5687	KENTUCKY EAST	2.1	
8410198	506037	1613300000		108		JAMES POTTER #6982	KENTUCKY EAST	3.2	
8410079	506156	1619500000		108		JAMES W BEVINS - #5334	KENTUCKY EAST	11.3	
8410102	506133	1611900000		108		JAS OWENS - #6195	KENTUCKY EAST	8.3	
8410196	506039	1619300000		108		JASON FIELDS #7099	KENTUCKY EAST	1.2	
8410073	506162	1607100000		108		JASPER JOHNSON - #5396	KENTUCKY EAST	12.6	
8410105	506130	1611900000		108		JASPER STEWART - #6183	KENTUCKY EAST	7.2	
8410126	506109	1619500000		108		JEFF SPEARS #751	KENTUCKY EAST	5.2	
8410137	506093	1607100000		108		JENNY SIZEMORE #288	KENTUCKY EAST	2.1	
8410145	506090	1607100000		108		JOEL STUMBO #6759	KENTUCKY EAST	6.9	
8410127	506108	1619500000		108		JOHN B LESLIE #739	KENTUCKY EAST	4.7	
8410094	506141	1619500000		108		JOHN B MORRIS - #6391	KENTUCKY EAST	6.8	
8410204	506031	1619300000		108		JOHN BABCOCK - #6806	KENTUCKY EAST	5.8	
8410202	506033	1619300000		108		JOHN BABCOCK #6819	KENTUCKY EAST	6.9	
8410200	506035	1619300000		108		JOHN BABCOCK #6860	KENTUCKY EAST	10.5	
8410218	506017	1619500000		108		JOHN CABLE - #1072	KENTUCKY EAST	6.2	
8410084	506151	1607100000		108		JOHN F BURCHETT - #5263	KENTUCKY EAST	2.9	
8410080	506155	1607100000		108		JOHN F BURCHETT - #5332	KENTUCKY EAST	10.8	
8410065	506170	1619500000		108		JOHN M LOWE - #5758	KENTUCKY EAST	1 8	
8410183	506052	1607100000		108		JOHN HALL - #5558	KENTUCKY EAST	18.2	
8410078	506157	1611900000		108		JOHN J SLONE - #5338	KENTUCKY EAST	10.9	
8410201	506034	1619300000		108		JOHN P CAUDILL #6852	KENTUCKY EAST	8.7	
8410061	506174	1607100000		108		JOHN W JONES - #5824 D	KENTUCKY EAST	1.8	
8410118	506117	1607100000		108		JOSEPH R LANGLEY - #5046D	KENTUCKY EAST	6.1	
8410156	506079	1611900000		108		JOSEPH RITCHIE #6640	KENTUCKY EAST	3.2	
8410169	506066	1611900000		108		JOSEPH STEWART #5710	KENTUCKY EAST	5.1	
8410086	506149	1607100000		108		L L HUNT - #5216	KENTUCKY EAST	7.9	
8410101	506134	1619500000		108		LEWIS ADKINS - #6206	KENTUCKY EAST	3.6	
8410158	506077	1619300000		108		LEWIS FELTNER #6633	KENTUCKY EAST	6.5	
8410229	506006	1611900000		108		LINDSEY MARTIN - #597	KENTUCKY EAST	17.8	
8410066	506169	1615900000		108		M B GOBLE - #5746D	KENTUCKY EAST	5.4	
8410146	506088	1619300000		108		M C GRIGSBY #6737	KENTUCKY EAST	15.5	
8410154	506081	1611900000		108		MADISON COMBS #6646	KENTUCKY EAST	4.3	
8410112	506123	1619500000		108		MARGARET WRIGHT - #6124	KENTUCKY EAST	14.8	
8410217	506018	1607100000		108		MARION NEELEY ET UX #1074	KENTUCKY EAST	8.3	
8410047	506188	1619500000		108		MARION TACKITT - #5949D	KENTUCKY EAST	6.5	
8410213	506022	1612700000		108		MARY BALL ET AL - #1157	KENTUCKY EAST	2.7	
8410091	506144	1607100000		108		MARY OSBORNE - #5095	KENTUCKY EAST	6.9	
8410172	506063	1619500000		108		MATILDA CLARK #5668	KENTUCKY EAST	6.9	
8410117	506118	1619500000		108		MILES COLEMAN - #6054	KENTUCKY EAST	14.8	
8410197	506038	1613300000		108		MINERAL FUEL COMPANY #7073	KENTUCKY EAST	1.8	
8410165	506070	1619300000		108		NANCY SMITH #6531	KENTUCKY EAST	11.2	
8410124	506111	1619500000		108		P P MCCOY #774	KENTUCKY EAST	9.0	
8410044	506191	1619500000		108		PETER ADKINS - #6014	KENTUCKY EAST	3.2	
8410211	506024	1619500000		108		PROCTOR SPEARS #1235	KENTUCKY EAST	17.3	
8410230	506005	1607100000		108		REUBEN TAYLOR #535D	KENTUCKY EAST	17.3	
8410055	506180	1619500000		108		RICHARD CAINS - #5375	KENTUCKY EAST	8.7	
8410150	506085	1607100000		108		RICHARD GEARHEART #6716	KENTUCKY EAST	14.1	
8410048	506187	1619500000		108		RICHARD ROBERTS - #5939	KENTUCKY EAST	5.1	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8410111	506124	1619500000		108		RICHARD TACKITT - #6130	KENTUCKY EAST	8.7	
8410110	506125	1619500000		108		ROBERT HYLTON - #6131	KENTUCKY EAST	7.2	
8410068	506167	1611900000		108		ROBERT THACKER - #5472D	KENTUCKY EAST	2.5	
8410190	506045	1611900000		108		ROBERT THACKER - #5494	KENTUCKY EAST	7.5	
8410223	506012	1619500000		108		ROBERT WILLIAMS ET AL - #954	KENTUCKY EAST	1.9	
8410051	506154	1619500000		108		S B LESLIE - #5323	KENTUCKY EAST	13.4	
8410070	506165	1619500000		108		S B LESLIE - #5413	KENTUCKY EAST	13.4	
8410096	506139	1619500000		108		S K DAMRON - #6372	KENTUCKY EAST	4.3	
8410133	506102	1607100000		108		S P DAVIDSON #5980	KENTUCKY EAST	9.0	
8410188	506047	1619500000		108		SAM CHILDERS - #5511D	KENTUCKY EAST	7.8	
8410216	506019	1619500000		108		SAM POTTER - #1084	KENTUCKY EAST	3.7	
8410152	506183	1611900000		108		SAM WILLIAMS - #5893	KENTUCKY EAST	14.5	
8410043	506192	1611900000		108		SAMPSON SPARKMAN - NO 6052	KENTUCKY EAST	9.8	
8410100	506135	1619500000		108		SAMUEL J ELKINS - #6212	KENTUCKY EAST	6.1	
8410104	506131	1619500000		108		SHERWOOD W TACKITT - #6188	KENTUCKY EAST	7.2	
8410192	506043	1619500000		108		SPURLOCK ADKINS - #5485	KENTUCKY EAST	6.1	
8410088	506147	1607100000		108		SQUIRE HAMILTON - #5189	KENTUCKY EAST	13.7	
8410135	506097	1607100000		108		T A MARTIN #237	KENTUCKY EAST	7.2	
8410131	506104	1619500000		108		T B BLACKBURN #618	KENTUCKY EAST	14.2	
8410228	506007	1619500000		108		T J TACKETT #789	KENTUCKY EAST	4.7	
8410069	506166	1607100000		108		THOS H BURGY - #5462	KENTUCKY EAST	4.3	
8410181	506054	1607100000		108		TIPTON HALL #5550	KENTUCKY EAST	1.6	
8410103	506132	1619500000		108		URIAH H JOHNSON - #6190	KENTUCKY EAST	7.2	
8410097	506138	1619500000		108		V J KELLEY - #6342	KENTUCKY EAST	2.4	
8410180	506055	1619500000		108		W B FREECE - #5301	KENTUCKY EAST	9.3	
8410154	506051	1619500000		108		W B FREECE #5550D	KENTUCKY EAST	6.9	
8410114	506121	1619500000		108		W H JUSTICE - #5097	KENTUCKY EAST	11.6	
8410203	506032	1619300000		108		W H MILLER - #6815	KENTUCKY EAST	3.9	
8410207	506025	1619500000		108		W J DAMRON - #5160	KENTUCKY EAST	15.1	
8410054	506181	1611900000		108		W J HALL - #5878	KENTUCKY EAST	17.7	
8410109	506126	1613300000		108		W R FOLLEY - #6132	KENTUCKY EAST	5.8	
8410164	506071	1611900000		108		WAYNE FELTNER #6554	KENTUCKY EAST	8.7	
8410161	506074	1611900000		108		WAYNE FELTNER #6579	KENTUCKY EAST	5.1	
8410057	506178	1619500000		108		WESLEY BRANHAM - #5645	KENTUCKY EAST	2.9	
8410107	506128	1607100000		108		WESLEY PRATER - #6172	KENTUCKY EAST	2.5	
8410136	506049	1611900000		108		WESLEY REYNOLDS - #5549	KENTUCKY EAST	1.0	
8410090	506145	1612700000		108		WILLIAM BOYD - #5137	KENTUCKY EAST	1.0	
8410199	506036	1619300000		108		WILLIAM C BASHEAR #5873	KENTUCKY EAST	12.0	
8410238	506629	1613100000		108		WILLIAM CRESS #7293	KENTUCKY EAST	12.6	
8410193	506042	1613300000		108		WILLIAM J CAUDILL - #7155	KENTUCKY EAST	7.9	
8410167	506063	1619500000		108		WILLIAM RAMEY #6463	KENTUCKY EAST	4.3	
8410166	506069	1619500000		108		WILLIAM RAMEY #5503	KENTUCKY EAST	8.7	
8410173	506062	1619500000		108		WILLIAM STANLEY #5655	KENTUCKY EAST	2.8	
8410231	506094	1607100000		108		WILSON CRAFTREE #493	KENTUCKY EAST	4.1	
8410075	506160	1619500000		108		WINSTON G STRATTON - #5363	KENTUCKY EAST	3.2	
8410152	506083	1619500000		108		WINSTON G STRATTON #5664	KENTUCKY EAST	5.5	
8410182	506053	1619500000		108		WM DAMRON #5375	KENTUCKY EAST	11.2	
8410060	506175	1611500000		108		WM E MOLLETT - #5827	KENTUCKY EAST	5.2	
8410177	506058	1619500000		108		WM FRANCISCO #5624	KENTUCKY EAST	10.8	
8410049	506186	1611900000		108		WM J MADDEN - #3913	KENTUCKY EAST	4.0	
8410149	506086	1619300000		108		WM W GOOSEY #6725D	KENTUCKY EAST	2.1	
8410106	506129	1611900000		108		Z W RITCHIE - #6179	KENTUCKY EAST	12.6	
8410215	506020	1612700000		108		ZEAL HAYES - #1115	KENTUCKY EAST	2.9	
-KEPCO INC				RECEIVED:	12/02/83	JA: KY			
8410248	506002	1607100000		107-DV		G W VANCE #KL401	KENTUCKY EAST	8.9	KENTUCKY WEST VIR
8410247	506001	1613100000		107-DV		KYCOGA LAND COMPANY - #KL25	KENTUCKY EAST	10.7	KENTUCKY WEST VIR
8410241	506642	1607100000		108		M A DAVIDSON #KL47	KENTUCKY EAST	16.6	KENTUCKY WEST VIR
8410239	506640	1611900000		108		THE ARIO CORPORATION - NO KP1	KENTUCKY EAST	8.7	KENTUCKY WEST VIR
8410240	506641	1611900000		108		THE ARIO CORPORATION #KL306	KENTUCKY EAST	6.1	KENTUCKY WEST VIR
-WINMAR CORP				RECEIVED:	12/02/83	JA: KY			
8410233	505187	1611500000		108		EVANS OIL & GAS #1 THEALKA COAL CO	BIG SANDY	2.5	COLUMBIA GAS TRA
MISSISSIPPI OIL & GAS BOARD									
-MARATHON OIL COMPANY				RECEIVED:	12/02/83	JA: MS			
8410268	69-83-53	2303500099		108		UNIT SE 12 #2-T	MAXIE	18.8	UNITED GAS PIPE L
8410266	65-83-53	2303500237		108		UNIT SE 21 #2-E	MAXIE	18.4	UNITED GAS PIPE L
-PRUET PRODUCTION CO				RECEIVED:	12/02/83	JA: MS			
8410265	57-83-573	2308120006		102-2	103	HESTER 27-9 WELL #1	GOODWIN	331.2	TEXAS EASTERN TRA
8410262	54-83-128	2312720083		102-4	103	MANGUM 2-1 WELL #1	MAGEE	4.8	UNITED GAS PIPELI
8410264	56-83-573	2305720034		102-2	103	ROGERS 26-11 WELL #1	GOODWIN	270.0	TEXAS EASTERN TRA
8410259	68-83-598	2309520393		102-2	103	TENNESSEE RIVER PULP & PAPER 30-1#1	WISE GAP	730.0	
8410263	55-83-576	2309520395		102-4	103	W B RYE JR 7-T1 WELL #1	RIVERLINE	36.5	TENNESSEE GAS PIP
-RADZEWICZ OPERATING CORP				RECEIVED:	12/02/83	JA: MS			
8410261	34-83-512	2315720925		102-4		THELMA SESSIONS UNIT #1	ASHWOOD	0.0	TENNESSEE GAS PIP
MONTANA BOARD OF OIL & GAS CONSERVATION									
-BRANCH OIL & GAS				RECEIVED:	12/02/83	JA: MT			
8410284		2510122483		102-4		ATKINS 2-30 SECTION 30-33N-2W	PRAIRIE DELL GAS FIEL	3600.0	ALOE VENTURES GAT
-ENERGY & MINERALS EXPLORATION INC				RECEIVED:	12/02/83	JA: MT			
8410281	10-83-144	2510122453		102-4		BAILEY ENEX 1-32 35N3W SEC 32	KEVIN-SUNBURST	40.0	ALOE VENTURES INC
8410285	10-83-145	2510122480		102-4		BAILEY MX 3-32 35N 3W SEC 32	KEVIN-SUNBURST	30.0	ALOE VENTURES INC
-J BURNS BROWN				RECEIVED:	12/02/83	JA: MT			
8410283	10-83-141	2500522235		103		PROSSER 19-33-18	WILDCAT	18.0	NORTHERN NATURAL
-MIDLANDS GAS CORPORATION				RECEIVED:	12/02/83	JA: MT			
8410282	11-83-147	2507121888		102-2		0260-2	BOUDOIN	74.0	K N ENERGY INC
NORTH DAKOTA INDUSTRIAL COMMISSION									
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	12/05/83	JA: ND			
8410238	874	3300700924		102-2		BARLOW B-1	LITTLE KNIFE	30.0	WESTERN GAS PROCE
-MOBIL OIL CORP				RECEIVED:	12/05/83	JA: ND			
8410287	873	3305301495		102-2		ROY MOEN #1	TIMBER CREEK	0.0	MONTANA-DAKOTA UT
-WILLIAM HERBERT HUNT TRUST ESTATE				RECEIVED:	12/05/83	JA: ND			
8410289	875	3300700919		102-2		DOROTHY OSADCHUK D #1	TREETOP	63.5	KOCH HYDROCARBON
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-DOYLE HARTMAN OIL OPERATOR				RECEIVED:	12/02/83	JA: NM			
8410271		3002528289		103		LEGAL #5	JALMAT (GAS)	26.3	EL PASO NATURAL G
-V H WESTBROOK				RECEIVED:	12/02/83	JA: NM			
8410272		3001500000		103		GRANDI #1	UNDESIGNATED E CARLSB	106.0	LLANO INC
-YATES PETROLEUM CORPORATION				RECEIVED:	12/02/83	JA: NM			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8410274		3001523528		103		JACKSON "AT" #10	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8410273		3001523529		103		JACKSON "AT" #11	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8410278		3001523530		103		JACKSON "AT" #12	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8410280		3001524211		103		JACKSON "AT" #13	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8410279		3001524274		103		JACKSON "AT" #14	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8410275		3001524395		103		JACKSON "AT" #16	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8410267		3001523396		103		JACKSON ESTATE "BY" #10	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8410277		3001500000		103		MORRIS ESTATE "CC" #5	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8410276		3001524324		103		MORRIS ESTATE "CC" #6	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8410269		3001500000		103		WINTERS "DN" #2	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8410268		3001524276		103		WINTERS "DN" #3	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8410270		3001524325		103		WINTERS "DN" #4	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
** DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, LOS ANGELES,CA									
-UNION OIL COMPANY OF CALIF				RECEIVED:	12/02/83	JA: CA 2			
8410286	OCS-P-24-83	0431120550		102-5		SANTA CLARA UNIT WELL S-21	CALIFORNIA OFFSHORE	0.0	PACIFIC LIGHTING
** DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, CASPER,WY									
-BELCO DEVELOPMENT CORP				RECEIVED:	12/02/83	JA: UT 5			
8410252	042-83	4304731290		107-TF		STAGECOACH UNIT 22-17	STAGECOACH	0.0	MOUNTAIN FUEL SUP
-CHEVRON U S A INC				RECEIVED:	12/02/83	JA: UT 5			
8410254	040-83	4304730391		108		RWU #250 (41-29 C)	RED WASH UNIT	5.5	NORTHWEST PIPELIN
-FRANK B ADAMS				RECEIVED:	12/02/83	JA: UT 5			
8410256	038-83	4301930864		102-2		FEDERAL #2-037	GREATER CISCO AREA	31.8	NORTHWEST PIPELIN
8410255	039-83	4301930992		102-2		FEDERAL #3-037	GREATER CISCO AREA	23.7	NORTHWEST PIPELIN
-NATURAL GAS CORPORATION OF CALIF				RECEIVED:	12/02/83	JA: UT 5			
8410257	036-83	4301330670		102-2		FEDERAL 32-5-G	WILDCAT	41.8	PACIFIC GAS & ELE
8410253	041-83	4301330638		102-2		FEDERAL 42-4	WILDCAT	154.8	PACIFIC GAS & ELE
-TXO PRODUCTION CORP				RECEIVED:	12/02/83	JA: UT 5			
8410258	037-83	4304731248		103		OIL SPRINGS UNIT #7	OIL SPRINGS	965.0	MOUNTAIN FUEL SUP
** DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, TULSA,OK									
-SAMSON RESOURCES COMPANY				RECEIVED:	12/05/83	JA: OK 6			
8410290	0587-83	3512120849		102-4		NAVY UNIT #1	EAST ASHLAND	177.9	ARKANSAS LOUISIAN

[FR Doc. 83-34700 Filed 12-30-83; 8:45 am]

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January 3, 1984

Part V

Department of Agriculture

Animal and Plant Health Inspection Service

Horse Protection, Certified Designated Qualified Person (DQP) Programs and Licensed DQP's; Notice

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 83-102]

Horse Protection, Certified Designated Qualified Person (DQP) Programs and Licensed DQP's

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of currently certified DQP (Designated Qualified Person) Programs and Licensed DQP's.

SUMMARY: This notice advises the general public and the horse industry of the Designated Qualified Person (DQP) programs currently certified by the Department and the currently licensed Designated Qualified Persons (DQP's) under each certified program.

SUPPLEMENTARY INFORMATION: Section 11.7(b)(8) of the "Horse Protection Regulations" (9 CFR Part 11) states in relevant part "* * * A current list of certified DQP programs and licensed DQP's will be published in the **Federal Register** at least once each year, and as may be further required for the purpose of deleting programs and names of DQP's that are no longer certified or licensed, and of adding the names of programs and DQP's that have been certified or licensed subsequent to the publication of the previous list."

This document lists the Designated Qualified Person (DQP) programs which are currently certified and lists the currently licensed DQP's under those programs. This list supersedes the list published in the **Federal Register** on March 9, 1981, (46 FR 15852) and serves as notice to the general public and the horse industry that the programs listed are currently certified and the individuals listed are currently licensed, according to the regulations in 9 CFR, Part 11.

The certified DQP programs and the DQP's licensed by each certified program are as follows:

(a) American Fox Trotting Horse Breed Association, Inc., Marshfield, MO 65706

(1) Licensed DQP:

(i) CALIFORNIA

Judy Clother, Sylmar, CA
Steve Herrera, Rowland Heights, Ca
Sebastian C. Kolbusz, Acton, CA
Frank Murphy, Sunland, CA
Ray Pridgen, Sun Valley, CA
Ellen Slaton, Santa Rosa, CA
Paul Slaton, Santa Rosa, CA

(ii) KANSAS

Bruce Howey, Maize, KS
Jack Kirschbaum, Wichita, KS

(iii) MISSOURI

Barbara Bailey, Kirksville, MO
Kerry Baker, Houston, MO
Larry Baysinger, Russellville, MO
Jim Devine, Eminence, MO
Norris Johnson, Jr., St. Joseph, MO
Jeff Jones, Marshville, MO
Billy Kimmons, Bolivar, MO
Claude Laffoon, Houston, MO
Jerry Middleton, Springfield, MO
William Montgomery, Mountain Grove, MO
James McDonough, Salem, MO
A. B. Quick, Protem, MO
Sonny Scrivner, Strafford, MO
Tom Tyler, Hylandville, MO
Jimmy Wisdom, Arnold, MO

(b) Heart of America Walking Horse Association, Inc., Olatha, KS 66061

(1) Licensed DQP:

(i) KANSAS

Dick Brown, Olatha, KS
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Done at Washington, D.C., this 22nd of December 1983.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

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Part VI

Department of Health and Human Services

Health Care Financing Administration

Medicare Program; Prospective Payment for Medicare Inpatient Hospital Services; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405, 409, and 489

Medicare Program; Prospective Payment for Medicare Inpatient Hospital Services

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This final rule amends the Medicare regulations published as an interim final rule on September 1, 1983 (48 FR 39752). Those regulations implement Title VI of the Social Security Amendments of 1983 (Pub. L. 98–21), which changed the method of payment for inpatient hospital services from a cost-based, retrospective reimbursement system to a prospective payment system based on diagnosis. The changes contained in this final rule result from our consideration of the public comments that were received in response to the interim final rule.

EFFECTIVE DATE: With certain exceptions, these regulations are effective with cost reporting periods beginning on or after October 1, 1983. We refer the reader to section XVII.A. of this preamble for a detailed discussion of effective dates.

FOR FURTHER INFORMATION CONTACT:

Paul Olenick, (301) 594–9349; Determination of Federal Rates, Special Treatment, Addendum

Ed Rees, (301) 597–0274; Determination of Hospital-Specific Rates Excluded Costs Waivers Concerning Part A Billing

John Eppinger, (301) 597–2884; Interim Payments

Sheridan Gladhill, (301) 594–9440; Excluded Hospitals

Tom Hoyer, (301) 594–9446; Medical Review Activities, Exclusions From Coverage

George Cray, (301) 597–3874; Provider Appeals

Ed Roth, (301) 594–9437; Charges to Beneficiaries Secondary Liability

William Morse, (301) 594–1160; Definition of and Payment for Physician Services

SUPPLEMENTARY INFORMATION: On September 1, 1983, we published an interim final rule on Medicare prospective payment for inpatient hospital services (48 FR 39752), to implement Title VI of the Social Security Amendments of 1983 (Pub. L. 98–21). These amendments changed the method of payment for inpatient hospital services (under Part A, Medicare Hospital Insurance) from a cost-based, retrospective reimbursement system to a prospective payment system based on diagnosis. As part of the interim final rule, we issued a number of conforming changes in the regulations made necessary by the prospective payment system. We also published on September 1, 1983, an interim final notice (48 FR 39746) containing both the schedule of target rate percentages for limits on the rate of hospital cost increases and the updating factors for prospective payment rates during the transition period. We refer the reader to the interim final rule and the interim final notice for more detailed explanations of the changes made to Medicare regulations in 42 CFR Parts 405, 409, and 489 as a result of Pub. L. 98–21.

We provided a 45-day comment period on both the interim final rule and interim final notice. This final rule announces our decisions on the issues raised by commenters in response to both documents.

To assist the reader in reviewing this document, we are providing the Table of Contents below.

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I. BACKGROUND

A. Summary of Legislation

Title VI of Pub. L. 98–21 added section 1886(d) to the Social Security Act (the Act) establishing a prospective payment system for Medicare payment of inpatient hospital services. Under the new system, Medicare payment is made at a predetermined, specific rate for each discharge. All discharges are classified according to a list of diagnosis-related groups (DRGs). This list contains 470 specific DRGs into which a discharge may be classified.

Section 1886(d)(1)(A) of the Act provides for a three-year transition period during which a declining portion of the total prospective payment rate is based on hospitals' historical costs in a given base year, and a gradually increasing portion is based on a regional or national Federal rate per discharge or both. Beginning with the fourth year, and continuing thereafter (that is, for cost reporting periods beginning on or after October 1, 1986), Medicare payment for inpatient hospital services will be determined fully under a national DRG payment methodology.

As discussed in detail below, under section 1886(d)(1)(B) of the Act, several types of hospitals and hospital units are excluded from the prospective payment system and will continue to be reimbursed on the basis of reasonable costs subject to the rate of increase limits authorized under section 1886(b) of the Act.

B. Summary of Interim Final Rule

In the interim final rule, we set forth new regulations for the prospective payment system by adding new §§ 405.470 through 405.477. These provisions apply, as hospitals become subject to the prospective payment system, to inpatient hospital services furnished to beneficiaries beginning with hospital cost reporting periods on or after October 1, 1983. We described how the rates and additional payments are calculated; how interim payments are made; how certain hospitals are to receive special treatment; appeal rights under the prospective payment system; changes in review activities; payment for nonphysician services; and changes in the Medicare provider agreement applicable for hospitals paid under the prospective payment system. Additionally, we amended and revised other Medicare regulations considered necessary to conform to the new payment system.

On October 19, 1983, we issued a correction notice (48 FR 48467) in the **Federal Register** to correct technical errors that appeared in the interim final rule (48 FR 39752). The regulations text in this document includes those corrections.

C. Number and Types of Public Comment

We received a total of 2,739 individual comments during the comment period that raised many issues. The types and volume of commenters were as follows:

- Hospitals—383.
- Hospital Associations—46.
- Medical Associations—141.
- Other Associations (professional or supplier associations)—65.
- Individuals—1918.
- Physicians—109.
- Congressional inquiries—77.

The issues raised by the commenters varied widely; however, we received a significant volume of comments (over 200) on each of the following subjects:

- The DRGs for alcoholism and drug abuse treatment modalities.
- Rebundling as it would affect certified registered nurse anesthetists.
- The definition of non-physician services, particularly clinical laboratory services.
- The definition of excluded distinct part rehabilitation and psychiatric units and excluded rehabilitation and psychiatric hospitals.

We also received some general comments on the role of the Federal government, the Medicare program, and the impact of the interim final rule on the health care industry. Several commenters questioned the capability of the Medicare prospective payment system to contain health care costs and the nationwide viability of an "untested" system. These issues are addressed in the impact analysis in section XVI of this preamble. In addition, a few commenters believe that the 45-day comment period was too short a period of time to assess the interim final rule and comment on it. However, section 604(c) of Pub. L. 98–21 required us to publish in the **Federal Register**, no later than September 1, 1983, an interim final rule and an interim final notice of prospective payment rates for purposes of implementing section 1886(d) of the Act beginning with October 1, 1983. The statute also required us to afford a period of public comment on the rule and the rates, and to affirm or modify them, after consideration of comments, no later than December 31, 1983. Given these statutory deadlines, we determined that a longer comment period would not allow a sufficient period of time to consider and respond to the comments adequately and to publish a final rule by December 31, 1983 (extended to January 3, 1984, in accordance with section 216(j) of the Act).

Below we briefly summarize each of the major provisions of the interim final rule, and provide an analysis of the comments and our responses. Section XV of this preamble provides the reader with a summary of the changes we are making to the regulations as a result of the comments.

II. APPLICABILITY

Section 1886(d) of the Act requires that the prospective payment system apply to inpatient hospital services furnished by all hospitals participating in the Medicare program except those hospitals or units specifically excluded by the law. A hospital's status (that is, whether it is subject to, or excluded from, the prospective payment system) will generally be determined at the beginning of each cost reporting period. This status will continue throughout the period, which is normally one year. Changes in a hospital's (or unit's) status that result from meeting or failing to meet the criteria for exclusion will be implemented only at the start of a cost reporting period. However, under some circumstances involving factors external to the hospital, status changes could be made at times other than the beginning of the cost reporting period. For example, a change in status could occur if a hospital is first included under the prospective payment system and, after the start of its cost reporting period, is excluded because of its participation in an approved demonstration project or State reimbursement control program that begins after the hospital's cost reporting period has begun.

A. Excluded Hospitals and Units

Section 1886(d)(1)(B) of the Act excludes the following hospitals or distinct part hospital units from the prospective payment system:

1. Hospitals that meet the definition of psychiatric hospital in section 1861(f) of the Act (see § 405.471(c)(1)).

2. Hospitals that are rehabilitation hospitals as defined by the Secretary in regulations (see § 405.471(c)(2)).

3. Psychiatric and rehabilitation units of a hospital that are distinct parts of hospitals (see § 405.471(c)(4)).

4. Hospitals whose inpatients are predominantly individuals under 18 years of age (referred to as children's hospitals—see § 405.471(c)(5)).

5. Hospitals with an average length of stay greater than 25 days (referred to as long-term hospitals—see § 405.471(c)(6)).

6. Hospitals located outside the 50 States and the District of Columbia (see § 405.471(c)(7)).

We received approximately 450 comments concerning the provisions of the interim final regulations applicable to excluded hospitals and hospital units. These comments were made by hospitals, consultant groups, physicians, physician and provider associations, occupational therapists, and recreational therapists. A summary of the public comments and our responses follows.

1. Psychiatric Hospitals and Units (§§ 405.471 (c)(1) and (c)(4) (iii))

Comment—Commenters objected to the requirement that the reason for admission to the psychiatric unit must be a diagnosis contained in the American Psychiatric Association's Diagnostic and Statistical Manual, Third Edition. They believe that the approach precludes admission to the psychiatric unit of an inpatient in need of psychiatric care whose reason for admission to the hospital (principal diagnosis) was not psychiatric.

Response—We do not believe that units that admit inpatients whose principal diagnosis is not psychiatric to facilitate patient management while treating the physical condition should be excluded from prospective payment. These units are providing services other than those unique to psychiatric care that are the basis for exclusion of psychiatric units. A patient whose principal diagnosis is physical, rather than psychiatric, would be placed appropriately in an acute care bed and the services would be paid under the DRG for that diagnosis. The prospective payment amounts include allowances for additional services required by secondary diagnoses. However, we have revised the regulations at § 405.471(c)(4)(ii)(A) to clarify that a psychiatric unit must admit only patients whose admission to the unit is required for active treatment of a psychiatric principal diagnosis and that the admission must be for an intensity of treatment that requires use of an inpatient hospital setting. Also, the psychiatric principal diagnosis must be one that is listed in the Third Edition of the American Psychiatric Association's Diagnostic and Statistical Manual, or in Chapter Five ("Mental Disorders") of the International Classification of Diseases, Ninth Revision, Clinical Modification. This change is consistent with our use of special conditions of participation for psychiatric hospitals (§§ 405.1037 and 405.1038) to ensure that patients in those hospitals receive active treatment.

Comment—One commenter expressed concern that the provision stating that psychiatric units must furnish certain services to qualify for exclusion will be interpreted to preclude the use of contractors to furnish the services. The commenter recommended that we revise the provision to state explicity that the unit may use contractors to furnish the services, or may ensure their availability by other means.

Response—If the types of services listed are available in the psychiatric unit, this criterion will have been met. This is true whether the services are furnished by hospital employees assigned to the unit, by contractors, or by other means. We have not revised the provision based on this comment, because we believe that the text is clear as written.

Comment—Several commenters objected to the requirement, stated in the instructions used to implement the interim final regulations, that the supervising nurse for the psychiatric unit be a registered nurse with a masters degree or its equivalent in psychiatric or mental health nursing. They stated that staff with these educational credentials are rare and not typically available.

Response—We have revised § 405.471 to clarify that the supervising nurse may have "the equivalent" of a masters in psychiatric or mental health nursing or may be qualified by education and experience (§ 405.471(c)(4)(ii)(E)(3)(i)). We believe this will assure adequate availability of appropriately trained staff. We have not deleted the requirement, because we believe that a supervising nurse (described in the final regulations as the "director of psychiatric nursing services") with such qualifications is characteristic of a psychiatric unit that provides services that are so similar to those provided in a psychiatric hospital (and thus so dissimilar to services provided elsewhere in the hospital) as to justify exclusion from prospective payment.

Comment—Several commenters objected to the requirement that a psychologist be one of the members of the multidisciplinary team treating the patient. Some commenters stated that in private psychiatric hospitals a psychiatrist generally is responsible for the inpatient's treatment and that a psychologist is called in only on consultation. Other commenters objected because the unavailability of psychologists in some areas would inappropriately prevent exclusion of their units. Another commenter recommended that we require a team to be composed of one or more doctors of medicine or osteopathy, a psychiatric nurse, and other allied health care professionals as appropriate. One commenter recommended that we require that the team be composed of a doctor of medicine or osteopathy, a psychiatric nurse and, if the doctor of medicine or osteopathy is not a psychiatrist, a psychologist. Several commenters objected to any specification of the minimal composition of the team. They indicated that a team approach should be required, but that specifying the composition of the team is overly burdensome.

Response—In view of the variety of recommendations we received from commenters regarding the composition of the multidisciplinary team, we are concerned that it may be impossible to specify a minimal composition that reflects accurately the practices of psychiatric units of acute care hospitals. Moreover, even if a provision appropriate to these units could be developed, it would necessarily be so flexible as to be ineffective as an identifier of units that should be excluded as psychiatric units. Therefore, we have revised the regulations (§ 405.471) governing exclusion of distinct part psychiatric units by deleting the criterion related to a multidisciplinary treatment team.

Comment—One commenter was concerned that State survey agencies would interpret the regulations to require a daily meeting of the multidisciplinary team in order to review and revise the plan of treatment.

Response—As explained above, we have revised § 405.471 to delete the requirement that the plan be established, reviewed, and revised by a multidisciplinary team. We intend to permit each unit and the medical staff associated with the unit to determine who will perform these functions, and we have not specified the frequency of team meetings. However, the final regulations at § 405.471(c)(4)(ii)(D)(4), which deal with the treatment plan, provide that progress notes are to be recorded at least weekly for the first two months and once a month thereafter, and that these notes are to contain recommendations for revisions in the treatment plan as indicated.

Comment—Several commenters stated that they had not been given sufficient advance warning to bring their

psychiatric units into compliance with the requirements for exclusion. They requested that they be reconsidered for exclusion.

Response—The criteria that define psychiatric units that are excluded from prospective payment were established to identify existing units that provide care that is so similar to the care provided in psychiatric hospitals, and is so unlike the acute care provided elsewhere in the hospital, as to warrant exclusion. If existing units do not meet these criteria before the start of their fiscal year, exclusion of these units is not appropriate for the forthcoming year. However, if the characteristics of an existing unit change within the year, the hospital would be able to request exclusion beginning with the start of the hospital's next fiscal year. If the unit meets the criteria at that point, exclusion for the forthcoming year would be granted.

In addition to retaining some of the specific criteria for psychiatric units that were included in the interim final rule at § 405.471(c)(3)(ii), we are revising the criteria to provide that psychiatric units must maintain sufficient clinical records and meet certain staffing requirements in order to qualify for exclusion (§ 405.471(c)(4)(ii)(D)). These special clinical records and staffing criteria are similar to the special conditions of participation for psychiatric hospitals that are now in effect (§§ 405.1037 and 405.1038). We believe these criteria will enhance our ability to identify those hospital units that are similar enough to psychiatric hospitals to warrant exclusion from the prospective payment system.

2. Rehabilitation Hospitals and Units (§§ 405.471 (c)(2) and (c)(4)(iii))

As an administrative measure to simplify and expedite initial application of the regulatory criteria for exclusion of rehabilitation hospitals and units, we issued instructions to the State surveyors who recommend exclusion decisions. The instructions specified that rehabilitation hospitals or hospital rehabilitation units that are accredited by the Commission for Accreditation of Rehabilitation Facilities (CARF) or are in substantial compliance with Standard VII of the Joint Commission for Accreditation of Rehabilitation Facilities (JCAH) Standards for Rehabilitation Program Services were assumed to meet all conditions for exclusion except one.

This assumption to meet all conditions for exclusion except one applies for the hospital's or unit's first cost reporting period beginning on or after October 1, 1983. We believe that our instructions facilitated the initial identification and verification of excluded rehabilitation hospitals and units.

The one condition for exclusion that was not assumed to have been met was the requirement that at least 75 percent of the inpatient population must have received intensive rehabilitation services for the list of conditions specified in the regulations. The percentage requirement for the conditions of inpatients treated in the unit or hospital would still have to be met by the JCAH or CARF accredited facilities and units.

However, as discussed below in the comments and responses, we have now revised the instructions to require application of the full-time physician director criterion even if the hospital or unit is JCAH or CARF accredited.

Comment—One commenter recommended that we assume that rehabilitation hospitals and units that have CARF accreditation meet all specified conditions for exclusion. The commenter stated that any facility or unit accredited by CARF would meet or exceed all stated requirements and that assuming the requirements to be met by such facilities or units would prevent duplicative surveys, thus saving time and cost for the provider and the Federal government. Similarly, another commenter recommended that CARF accreditation be *required* for any rehabilitation hospital or unit to be excluded from prospective payment. The commenter stated that such a requirement would result in reduced duplication of resources and less provider cost.

Response—For the reasons set forth in the interim final rule, we believe that the criterion related to the patient population served by a hospital or unit is a key indicator of whether the hospital or unit is primarily engaged in rehabilitation. However, neither JCAH nor CARF evaluates the patient population served. Therefore, we have not adopted the recommendation that hospitals and units accredited by JCAH or CARF be assumed to meet all criteria specific to rehabilitation. We also have not accepted the recommendation that we *require* CARF accreditation. We believe that requiring CARF accreditation would be unnecessarily burdensome to providers and could be more costly than allowing that accreditation to remain optional.

Comment—For a variety of reasons, several commenters objected to the requirement that, to be excluded, a rehabilitation unit must have a full-time director. Some stated that many rehabilitation units are not large enough to require full-time direction or to afford the additional cost such direction may entail. These commenters stated that this requirement, if retained, will result in units hiring full-time directors in order to assure exclusion and that other payors will be required to pay for the resulting physician time.

Other commenters noted that the JCAH and CARF accreditation standards for rehabilitation facilities do not explicitly require full-time service by a director. The commenters stated that since we adopted an administrative approach under which units accredited by JCAH or CARF are assumed to meet all rehabilitation criteria except the provision related to the conditions of the patient population, we should not impose a more restrictive requirement with regard to the director's service than these organizations. However, one commenter who noted the difference between our criteria and the JCAH and CARF standards regarding service by a unit director stated that, because of this difference, we should not accept JCAH or CARF accreditation in lieu of compliance with this criterion.

In addition, some commenters noted that the regulations require full-time direction of rehabilitation units while not explicitly requiring directors of psychiatric units to serve on a full-time basis.

The commenters who objected to the requirement that a director of rehabilitation perform this function on a full-time basis offered a variety of proposals for modifying the requirement. Some commenters recommended that we simply delete the phrase "full-time" from the regulations, and permit each hospital to decide independently how many hours per week the director must serve. Other commenters recommended that a full-time director be required for only those units that have more than a specified number of beds. Many commenters suggested that, if the requirement for full-time direction is retained, we should specify that part of the unit director's time may be spent in performing nonadministrative duties in the unit (for example, direct physician services to inpatients of the unit) or in furnishing services to inpatients or the provider in parts of the provider other than the rehabilitation unit.

Response—We have not adopted the comments recommending that we delete the requirement for full-time direction. We continue to believe that the presence of a full-time director of rehabilitation is characteristic of hospital units that are sufficiently engaged in the provision of intensive inpatient rehabilitation services to

warrant exclusion from prospective payment. We do not agree that requiring full-time direction will cause hospitals to incur excessive compensation costs for the unit director. To the extent unit directors are permitted to spend part of their time in furnishing patient care services for which they can bill the inpatients or their insurers, the hospital's compensation cost should be reduced to a level that is reasonable in relation to the actual services the director provides to the unit.

We also do not agree that a hospital's costs of compensating the director of its rehabilitation unit will be shifted from Medicare to other payers. The reasonable cost reimbursement principles applicable to excluded hospitals and units provide a mechanism under which Medicare bears its proportionate share of the costs of operating the unit, including costs of its direction.

In response to those comments noting that it is inconsistent to apply the full-time director criterion only to hospital units not accredited by the JCAH or CARF, we have revised our program operating instructions to specify that this criterion will apply to all hospitals and units that wish to qualify for exclusion as rehabilitation hospitals or units, without regard to whether they are accredited by the JCAH or CARF. This change will provide for equitable and uniform treatment of both accredited and non-accredited hospitals and units. As noted above, we believe full-time service by the director of rehabilitation is an important indicator of the extent to which a hospital or unit is primarily engaged in rehabilitation, and we do not agree that our exclusion criteria should be less explicit and prescriptive on this point than the JCAH and CARF accreditation standards.

In response to the comments suggesting that we specify that directors of rehabilitation can be considered "full-time" even though they perform some non-administrative functions, we wish to note that the interim final rule does not specify that the director of rehabilitation must spend all of his or her time performing administrative duties. On the contrary, we expect that directors of rehabilitation will spend a significant proportion of their time in overseeing or otherwise involving themselves in the actual provision of rehabilitation services in the unit. As noted below, we have added language to the final regulations to make it clear that not all of the director's time must be spent on administrative activities (§ 405.471(c)(4)(iii)(F)).

We do not believe it is appropriate to consider a physician to be a "full-time" director if he or she regularly spends part of his or her time performing services in other parts of the hospital, since such services would ordinarily be performed for the benefit of other hospital units (or inpatients of those units), and would bear only a very indirect relationship to the operation of the rehabilitation unit.

In response to the comments requesting clarification of the full-time service issue, we have revised § 405.471(c)(4)(iii)(F) to specify that the unit director must serve the unit or its inpatients on a full-time basis. For consistency, we have also made this change in the provision dealing with directors of rehabilitation for hospitals.

Comment—The commenters presented a variety of views regarding the qualifications required to be a director of a rehabilitation hospital or unit. Many commenters stated that the qualification requirements in the interim final rule are not rigorous enough to ensure quality care. Some commenters stated that physicians in the specialties other than physiatry would not be qualified to treat the full range of medical conditions associated with rehabilitation hospitals and units. For example, Board certification in neurology or neurosurgery would not necessarily qualify a physician to treat inpatients with amputations or rheumatoid arthritis. Other commenters stated that no Board-certified physiatrist, or other physician who is Board-certified in any of the specialties noted above, could be qualified to treat the full range of conditions that we have identified as being associated with rehabilitation hospitals and units.

On the other hand, one commenter recommended that we adopt less rigorous requirements for directors of rehabilitation. This commenter stated that the skills of doctors of medicine or osteopathy are not needed to direct rehabilitation hospitals or units, since the director's duties are primarily managerial. The commenter stated that any individual with experience in rehabilitation would be qualified to serve as a director of rehabilitation.

Finally, a commenter recommended that we require directors of rehabilitation to be trained to manage the treatment of the full range of conditions associated with rehabilitation hospitals and units.

Those commenters who did not fully approve of the qualification requirements in the interim final rule recommended a variety of alternatives to them. In particular, various commenters recommended that we require that the director of rehabilitation be one of the following:

- A physiatrist or other doctor of medicine or osteopathy with at least two years of training in the medical direction of a rehabilitation program. (Some commenters also recommended that we permit the two-year requirement to be met by either training or experience.)
- A doctor of medicine or osteopathy who is Board-certified in physiatry or has completed, after State licensing in medicine or surgery and a one-year hospital internship, at least three years of training in the medical management of the full range of conditions we have identified as being characteristic of rehabilitation hospitals and units. (For directors of units that treat only some of those conditions, commenters recommended another standard, that is, Board-certification in a specialty other than physiatry that is related to the conditions treated in the unit, or one year of experience in the medical management of those conditions.)
- A doctor of medicine or osteopathy who is licensed under State law to practice medicine or surgery and has had, subsequent to completing a one-year hospital internship, at least one year of training in the medical management of inpatients requiring rehabilitation services, or has had at least one year of full-time or part-time experience in a rehabilitation setting providing physicians' services similar to those required in 42 CFR Part 488, Subpart B. (These are the requirements for "facility physicians" in comprehensive outpatient rehabilitation facilities (CORFs).)
- A doctor of medicine or osteopathy who is Board-certified or Board-eligible in physical medicine and rehabilitation or has at least two years of training or experience in the medical direction of rehabilitation services.
- A doctor of medicine or osteopathy who is Board-certified in physical medicine and rehabilitation (a physiatrist).

Response—In response to these comments, we first wish to note that we recognize that not all hospitals and units will treat inpatients with the full range of medical conditions we have identified as being associated with inpatient rehabilitation. The mix of inpatients treated by a particular hospital or unit will be determined by a variety of factors. These include the needs of inpatients in the area the hospital or unit serves, the specialties of the physicians who admit inpatients to the hospital or unit, and (in the case of distinct part units) the type and mix of cases treated in the part of the hospital that primarily provides general acute care. Because

certain hospitals and units treat only inpatients with certain medical conditions, we do not believe it would be either reasonable or necessary to require directors of rehabilitation to be qualified in the medical management of all conditions associated with rehabilitation hospitals and units. Therefore, we have not adopted the comments recommending that we impose this requirement.

For similar reasons, we have not adopted the recommendation that we require a director of rehabilitation to be a physiatrist. Although a physiatrist clearly would be qualified to serve as a director of rehabilitation, the relatively small number of physicians in this specialty and their concentration in major urban areas could make it difficult for small and rural hospitals to induce physicians in this specialty to serve as directors of rehabilitation. We believe many small, highly specialized rehabilitation units will not require direction by a physiatrist (although they may require a physiatrist's services on a part-time or consultant basis), and that to require direction by a physiatrist would unfairly deny exclusion to many otherwise qualified units.

While we do not wish to impose qualification requirements for directors of rehabilitation that are unduly restrictive, we are sensitive to the arguments of those who stated that the qualifications for directors of hospitals and units that provide rehabilitation services to inpatients should be at least as rigorous as the requirements for facility physicians in CORFs, which generally provide less intensive rehabilitation services to outpatients. Moreover, we wish to avoid the unwarranted implication that physicians who are Board-certified in certain specialties (for example, neurosurgery) are qualified to direct rehabilitation units that primarily furnish services in other specialties. Therefore, we have revised the regulations to delete references to Board certification in specialties other than physiatry and to emphasize training or experience in rehabilitation as a qualifying factor (§§ 405.471(c)(2)(v) and (c)(4)(iii)(F)). As revised, the regulations require that a director of rehabilitation for an excluded rehabilitation hospital unit be a doctor of medicine or osteopathy who—

- Is licensed under State law to practice medicine or surgery;
- Has completed a one-year hospital internship; and
- After completing the hospital internship, has had at least two years of training or experience in the medical management of inpatients requiring rehabilitation services.

We have not adopted the comment recommending that individuals who are not doctors of medicine or osteopathy be permitted to serve as directors of rehabilitation. We expect that directors of rehabilitation will primarily be engaged in the medical management of rehabilitation, and an individual other than a physician would not be able to perform this function.

Comment—Some commenters stated that it is inappropriate to use a definition of "rehabilitation hospital" or "rehabilitation unit" that is based in part on the medical conditions of inpatients admitted to the hospital or unit. One commenter objected to this approach because it is not explicitly provided for by Pub. L. 98–21 of its legislative history. Other commenters recommended that, in the case of hospitals or units that cannot qualify for exclusion based on their mix of inpatients, we use the types of services provided in a hospital or unit, rather than the medical conditions of inpatients admitted to it, to determine whether it is primarily engaged in rehabilitation. One commenter suggested that we use the preadmission screening procedures we have required for rehabilitation hospitals and units as the sole criterion for determining whether the hospitals or units are primarily engaged in rehabilitation (that is, a hospital or unit that admitted only inpatients found to require intensive inpatient rehabilitation would be considered to be primarily engaged in rehabilitation).

Response—As noted in the preamble to the interim final rule, the language of section 1886(d) of the Act indicates clearly that the definitions of "rehabilitation hospital" and "rehabilitation unit" are to be developed by the Secretary. In view of this, we do not agree that use of the approach taken in the interim final rule exceeds the Secretary's statutory authority.

We agree with the statement of some commenters that the types of services furnished in a hospital or unit, and the presence of a preadmission screening of inpatients for their need for rehabilitation, are important indicators of whether a particular hospital or unit is primarily engaged in rehabilitation. However, we do not agree that either of these indicators taken alone, provides a sufficient basis for concluding that a particular hospital or unit is primarily engaged in rehabilitation. Many inpatients of acute care hospitals (or units of hospitals) require some rehabilitative services in conjunction with the acute care that is the primary objective of their hospitalization. Thus, the presence in a hospital or unit of certain types of services is not in itself sufficient to demonstrate that the hospital or unit is primarily engaged in rehabilitation rather than acute care. Also, preadmission screening procedures may not be applied with complete consistency by all hospitals and units. Therefore, we have decided not to use these procedures as the sole basis for determining the primacy of rehabilitation in certain hospitals or units.

Comment—Some commenters stated that the data used to develop the list of conditions associated with rehabilitation hospitals and units were originally gathered in 1975, and argued that because of shifts in patient populations that may have occurred since then, these data may not reflect accurately the current patient mix of rehabilitation hospitals and units. These commenters also noted that the study that produced the data was performed to facilitate review by Professional Standard Review Organizations (PSROs), and stated that the results of such a study are not necessarily transferable to a definition used to determine the status of certain hospitals and units with respect to prospective payment.

Response—We do not believe that the data used to develop the list of medical conditions associated with rehabilitation hospitals and units are outdated. Although the initial work began in 1975, the project results were revised in 1979 and endorsed by the Committee on Rehabilitation Criteria for PSRO of the American Academy of Physical Medicine and Rehabilitation and the American Congress of Rehabilitation Medicine. While it is true that the data were originally gathered for purposes of PSRO review rather than with the objective of defining rehabilitation hospitals and units, we believe it is the fact that the data were derived from comprehensive medical rehabilitation hospitals and units, rather than the original uses of the data, that is material to the data's validity in describing conditions characteristic of rehabilitation inpatients.

Comment—Some commenters recommend that we not specify that a certain percentage of inpatients must be admitted for conditions associated with rehabilitation, since not all inpatients receive uniform amounts of services. They recommended that our characterization of rehabilitation hospitals and units be more closely linked to resource consumption than to inpatients' medical conditions.

Response—For reasons cited above, we believe it is much more feasible from

an administrative standpoint to focus on inpatients' medical conditions than on services in defining inpatient rehabilitation. Moreover, while there are undeniable differences in the services required by individual inpatients, resource consumption by inpatients with similar diagnoses tends to be relatively uniform. Therefore, we have not revised the interim final rule based on these comments.

Comment—Some commenters recommended that we permit a rehabilitation hospital or unit to qualify for exclusion if 60 percent (rather than 75 percent) of its inpatients have medical conditions that we have identified as being associated with rehabilitation.

Response—As explained earlier, we have not received any objective evidence to show that use of the 75 percent figure would fail to recognize hospitals and units that are primarily engaged in rehabilitation. Moreover, we have expanded the list of conditions by adding two conditions that were not taken into account in developing the 75 percent figure. Therefore, we have not adopted this comment.

Comment—Some commenters asked us to specify whether the 75 percent rule is to be applied to a hospital's (or unit's) number of discharges, or to the patient-days of inpatient care it provides.

Response—The 75 percent rule applies to the inpatient population. The population could be measured by either the number of admissions or discharges from a hospital or unit in a particular cost reporting period, but not by its number of patient-days. This approach is consistent with the study used to develop the sample screening criteria, which showed that 75 percent of the admissions included in the study data were for certain medical conditions.

Comment—Several commenters recommended that neurological disorders and burns be added to the lists of medical conditions associated with inpatients in rehabilitation hospitals and units (§§ 405.471(c)(2)(ii) and (c)(4)(iii)(A)), since many inpatients with these conditions require inpatient rehabilitation services. Another commenter stated that neurological conditions limiting motor ability and chronic pain conditions derived from neurological and musculoskeletal conditions are characteristic of about 30 percent of all inpatients in currently existing rehabilitation hospitals and units. One commenter submitted the June 1982 report of the Graduate Medical Education National Advisory Committee regarding requirements for specialists in physical medicine and rehabilitation. The commenter noted that chronic pain and neurological disorders were not included in the list of conditions characteristic of rehabilitation even though these conditions account for many of the cases seen by specialists in physical medicine and rehabilitation. The commenter recommended that these two medical conditions be added to the lists.

Response—Based on these comments, we have revised the lists of medical conditions in §§ 405.471(c)(2)(ii) and (c)(4)(iii)(A) to include neurological disorders (including multiple sclerosis, motor neuron diseases, polyneuropathy, muscular dystrophy, and Parkinson's disease) and burns. We believe that inclusion of these conditions will help us to identify more accurately those hospitals and hospital units that are primarily engaged in intensive inpatient rehabilitation.

We have not adopted the comments recommending that chronic pain conditions be included on the lists cited above, for several reasons. First, chronic pain is not in itself a medical condition of the same type as those now included in the lists, but instead may be a symptom of other medical conditions that, in many cases, may not be fully diagnosed. Second, many of the treatments used for inpatients with chronic pain are significantly different from those used in the traditional physical medicine approach to rehabilitation, and it is not clear that the cost characteristics of hospitals and units that specialize in these treatments are sufficiently different from those of acute care hospitals to warrant exclusion of such hospitals and units. Finally, much of the patient care activity directed toward inpatients with chronic pain represents diagnosis, medical intervention, or palliative care, and this activity cannot be characterized accurately as rehabilitation.

Although we have not included chronic pain as one of the medical conditions characteristic of rehabilitation hospitals and units, this decision does not preclude payment for services to patients with this condition who are treated in these hospitals or units. In rehabilitation hospitals and units, up to twenty-five percent of the discharges may be for conditions not listed, including chronic pain.

Comment—One commenter noted that many elderly people suffer from multiple dysfunctions that interact with one another to produce disabilities. The commenter stated that in recent years many hospitals have set up special geriatric assessment and rehabilitation units to treat inpatients with these conditions. According to the commenter, these units have had a high degree of success in improving inpatients' functional abilities, reducing rates of mortality, and reducing rates of reinstitutionalization (in hospitals and skilled nursing facilities) of inpatients treated in the units. The commenter recommended that the criteria for exclusion of rehabilitation units, and in particular the list of medical conditions associated with rehabilitation units, be revised to permit exclusion of geriatric assessment and rehabilitation units.

Response—In our view, the list of medical conditions set forth in these final regulations comprises those conditions most characteristic of inpatients in rehabilitation hospitals and units. We believe that, in most cases, inpatients treated in geriatric assessment and rehabilitation units would have at least one of the listed conditions, and units that treat only such inpatients would therefore qualify for exclusion. In view of this, we believe it would be redundant to revise the list to specifically include these units. Therefore, we have not adopted this comment.

Comment—Several commenters recommended that we add pulmonary/cardiac disorders to the list of conditions associated with rehabilitation hospitals and units.

Response—Unlike the medical conditions included in the lists, pulmonary/cardiac disorders present special difficulties in distinguishing between the acute and rehabilitative phases of treatment. This is especially apparent with inpatients who may suffer an acute episode during their rehabilitative phase, thus requiring further acute care. If we were to include these disorders on the list, acute care services could be excluded inappropriately from the prospective payment system. Therefore, we have not adopted this comment.

Comment—One commenter objected to the requirement that plans of treatment for inpatients in rehabilitation hospitals and units be established, reviewed, and revised by a physician. The commenter stated that physicians are often not familiar with how to write treatment plans for rehabilitation inpatients, and recommended that we revise the regulations to state that other professional personnel may perform this function.

Response—As noted in the preamble to the interim final rule, the primary objective of the exclusion criteria for rehabilitation hospitals and units is to identify those hospitals and units that are primarily engaged in intensive inpatient rehabilitation. We continue to believe that hospitals and hospital units

of this type will have treatment plans that require creation and revision by physicians. (The same requirement applies to treatment plans for CORFs, which furnish less intensive rehabilitation services on an outpatient basis.) Therefore, we are not revising the regulations based on this comment.

Comment—Some commenters stated that hospitals could use their resources more efficiently if they were permitted to place acute care inpatients in their excluded rehabilitation units when all acute care beds are in use. They recommended that we revise the provision (§ 405.471(c)(4)(i)(G)) regarding commingling of beds to permit this practice.

Response—We are not revising the regulations based on this comment. If we were to permit hospitals to place acute care inpatients in rehabilitation units on an "overflow" basis, special cost finding techniques would be needed to determine and disallow for reasonable cost reimbursement purposes the costs of services to acute care inpatients temporarily located in the units. These procedures would generate additional administrative costs for hospitals and their intermediaries, and would require additional recordkeeping and reporting. Unless the procedures were correctly applied, certain hospitals could inadvertently receive duplicate payments, based on prospective rates and on reasonable costs, for the same services.

If a hospital experiences shortages of acute care beds together with a correspondingly low level of occupancy in an excluded rehabilitation unit, we believe the appropriate response is to redesignate certain rehabilitation beds as acute care beds.

3. Exclusion of Alcohol/Drug Treatment Hospitals and Units (§ 405.471 (c)(3) and (c)(4)(iv))

Comment—We received several comments recommending that programs for the treatment of alcohol and drug dependency be excluded from the prospective payment system. In regard to programs for the inpatient treatment of chronic alcoholism, some commenters stated that the prospective payment system does not provide for payment rates appropriate to the lengths of stay typical of either detoxification or rehabilitation programs. (The comments regarding the lengths of stay of these programs are discussed in greater detail in section III. B. of this preamble.) These commenters recommended that, until the DRGs on which the prospective payment system is based are revised to reflect more accurately the lengths of stay characteristic of these programs, we should permit alcohol/drug programs to qualify for exclusion.

Commenters suggested different approaches to the exclusion of alcohol/drug programs. Some commenters suggested that we develop special criteria for the exclusion of distinct part psychiatric units. Under the criteria these commenters recommended, the requirements for a psychiatrist as director, a registered nurse with a masters degree in psychiatric or mental health nursing as supervising nurse, and a multidisciplinary team composed of a doctor of medicine of osteopathy, psychologist, and psychiatric nurse would not apply to alcohol/drug units. Other commenters suggested that we develop separate criteria to be applied only to alcohol/drug rehabilitation programs.

Response—We have revised the regulations to provide separate criteria for the exclusion, for a limited time period, of hospitals and distinct part units that specialize in alcohol/drug dependency treatment. Under these criteria, the hospitals and units would not be required to meet the criteria related to psychiatric or rehabilitation hospitals or distinct part units. Instead, they would be subject to special criteria regarding the reasons for admission of inpatients to the hospital or unit, the composition of the multidisciplinary treatment team, and the types of services available. The units would also be subject to the general criteria for distinct part units. These special criteria, which are set forth in greater detail in § 405.471(c)(4)(iv), are designed to correspond to the staffing and treatment practices of alcohol/drug programs. We believe application of these criteria will help prevent these hospitals and units from being inappropriately included under the prospective payment system.

Each hospital that is granted the special exclusion for a distinct part alcohol/drug treatment unit is expected to use that unit to provide the full range of alcohol and drug dependency treatment services available in the hospital. To the extent that the hospital admits alcohol and drug dependent individuals for inpatient detoxification or rehabilitation, those admissions must be to the excluded unit. Consequently, a hospital with an excluded alcohol/drug unit should not claim prospective payment for any discharges with principal diagnoses that result in assignment to DRGs 436 (Alcohol Dependence) or 434 (Drug Dependence). We will examine closely the appropriateness of continuing to exclude the alcohol/drug unit of any hospital that claims payment for discharges assigned to DRGs 436 or 434.

The special criteria we have developed for alcohol/drug treatment hospitals and units would permit exclusion only until October 1, 1985. As required by section 1886(d)(4)(C) of the Act, we will adjust the classifications and weighting factors used in determining payment for discharges on or after that date. Since we expect that this adjustment will permit prospective payment to be made appropriately for alcohol/drug treatment services, we do not believe it will be necessary to continue to exclude hospitals or units that provide these services.

4. Treatment of New Rehabilitation Hospitals and Units

Comment—Several commenters noted that hospitals and units that have not previously been extensively involved in rehabilitation would not have a base of patient data to which the 75 percent test could be applied. As a result, they could not meet this test and qualify for exclusion from prospective payment until they had operated for at least a full (12-month) cost reporting period. These commenters stated that this result is inequitable to these new hospitals and units, and recommended that we provide some special recognition of these hospitals' and units' need to be excluded.

Some of the commenters recommended that we permit new rehabilitation hospitals and units to be excluded for their first year of operation based on their assurances regarding compliance with the exclusion criteria and their estimates of the medical conditions of the patient populations they plan to treat.

Response—We recognize that new rehabilitation hospitals and units will not be excluded until they have demonstrated compliance with the exclusion criteria. However, we believe that providing exclusions based on projections of future operations could create significant overpayments and severe administrative problems in situations in which a hospital's (or unit's) projections prove to be inaccurate. Therefore, we have not adopted the comments suggesting that we exclude hospitals and units based on assurances and estimates.

5. Types of Services That Must Be Available in Excluded Hospitals and Units

Comment—Several commenters expressed general approval of the provisions of the interim final rule that recognize occupational therapy as one of the services furnished in excluded rehabilitation hospitals and units and in

excluded psychiatric units (§§ 405.471(c)(2)(iv), (c)(4)(iii)(C) and (c)(4)(ii)(C), respectively, of this final rule). These commenters suggested that we retain the provisions in the final regulations. One commenter recommended that we also specify that psychiatric hospitals must provide occupational therapy services in order to qualify for exclusion from the prospective payment system.

Response—As recommended by these commenters, we have retained the provisions that recognize occupational therapy as one of the services typically furnished in rehabilitation hospitals and units and in psychiatric units. In regard to the comment suggesting that these services also be required in excluded psychiatric hospitals, we wish to note that § 405.1038(g)(1) imposes this requirement on psychiatric hospitals, and that the criteria for exclusion of psychiatric hospitals (§ 405.471(c)(1)(ii) require those hospitals to comply with § 405.1038. Therefore, we do not believe it is necessary to revise §405.471 to restate the requirement explicitly.

6. Long-Term Hospitals (§ 405.471(c)(6))

Comment—A commenter noted the difference between the criteria for determining long-term hospitals for purposes of exclusion from the limits on inpatient operating costs under section 1886(b) of the Act and from the prospective payment system. The commenter suggested that we clarify the distinction and that accurate provider numbers be issued as soon as possible.

Response—We will not apply the inpatient operating cost limits in determining a hospital's reimbursable costs if the hospital is considered a long-term hospital. The final notice of the cost limits, published in the **Federal Register** on August 30, 1983 (48 FR 39430) permits a hospital to establish long-term status, for purposes of exclusion from the cost limits, by meeting one of the following criteria: (1) The hospital has a provider number that identifies the hospital as a distinct type facility; or (2) the hospital has an average length of stay of more than 25 days for more than 50 percent of its patient population.

Under the prospective payment system, a hospital must have an average length of stay greater than 25 days for all its inpatients in order to be excluded as a long-term hospital. Generally, the average length of stay will be based on a hospital's most recently filed cost report. The other criteria for distinguishing long-term hospitals that were used under the inpatient operating cost limits will not justify exclusion of the hospital under the prospective payment system. However, those hospitals that have been excluded from the operating cost limits under the cost limit criteria will continue that exclusion until their first cost reporting period beginning on or after October 1, 1983.

We have issued instructions to our regional offices on assigning provider numbers to excluded hospitals. Hospitals should be assigned a provider number accurately reflecting their status under the prospective payment system at the time of their first cost reporting period beginning on or after October 1, 1983.

7. Comments on Other Issues

Comment—We received a large number of comments regarding recreational therapy. Many of those who commented on this issue made general statements regarding the value of these services and the need for Medicare payment for them, but did not request specific changes in the interim final rule. Other commenters recommended adding recreational therapy on an "as needed" basis to the list of services that help us to distinguish rehabilitation hospitals and units. These commenters stated that recreational therapy services should be included because these services are ordered by physicians, benefit inpatients in daily living after discharge, and are listed as daily required (not "as needed") treatments in the CARF accreditation requirements.

Response—We have not revised the interim final rule based on these comments. We wish to note that, in establishing the lists of services that help us to distinguish rehabilitation hospitals and units, our purpose was to include only those core services that typically are required by inpatients of hospitals and units that primarily engage in intensive inpatient rehabilitation. Although we recognize that recreational therapy services may benefit many inpatients, we do not agree that their provision is so indicative of intensive inpatient rehabilitation that we should refuse to exclude hospitals and units that do not provide them. Therefore, we have not included recreational therapy among the services that must be offered to permit a hospital or unit to qualify for exclusion.

Comment—We received some comments suggesting that the interim final rule would lead to denial of Medicare payment for recreational therapy services. Several commenters expressed concern that the cost-saving incentives of the prospective payment system would lead hospitals paid under the system to stop providing recreational therapy services. Other commenters stated that if rehabilitation hospitals and units are not required to furnish recreational therapy services, they will stop doing so and the costs of the services will not be included in the data used to develop prospective rates for those hospitals and units when they are brought under the prospective payment system. The commenters believe this result would severely restrict the future availability of the services, since hospitals and units have a financial disincentive to incur expenses for types of services not covered by their prospective rates.

Response—Neither the implementation of the prospective payment system nor the criteria for excluding certain hospitals and units from it will prohibit the provision of recreational therapy services to hospital inpatients. In particular, the absense of these services from the list of rehabilitative services in rehabilitation hospitals and units does not indicate that Medicare will no longer pay for them in those hospitals and units that provide them. On the contrary, these services will continue to be covered to the same extent they always have been under existing Medicare policies.

Comment—One commenter noted that the criteria for excluded units (§ 405.471(c)(4)(i) of this final rule) are similar to, but not identical with, the provisions of the Provider Reimbursement Manual (HCFA Pub. 15–1) that deal with separate cost entities (section 2336.1D). The commenter stated that some hospitals could be confused regarding which criteria they may meet, and recommended that we avoid this confusion by specifying that only the criteria in the interim final rule will be used to determine whether a part of a hospital qualifies as a "distinct part unit" for purposes of exclusion from the prospective payment system.

Response—As the commenter correctly stated, only the criteria in § 405.471(c) will be used to determine whether a part of a hospital qualifies as a "distinct part unit" for purposes of exclusion from the prospective payment system. Those hospitals that wish to establish a "separate cost entity" for cost reporting purposes may continue to use the criteria in section 2336.1D of the Provider Reimbursement Manual for this purpose. However, the establishment of a separate cost entity, generally, will not affect Medicare payment. An exception to this general rule exists in the case of separate cost entities established in hospitals that are excluded from the prospective payment system (that is, long-term, children's rehabilitation, and psychiatric hospitals). In these cases,

separate rate of increase limits will be applied to the hospital and unit.

Comment—Some commenters noted that the Conference Committee that recommended enactment of the prospective payment legislation deleted the provision of the House bill that would have conditioned granting of an exclusion on receipt by the Secretary of a request from the hospital. These commenters reasoned from this that we cannot require hospitals to submit requests in order to qualify for exclusion, and that we must exclude hospitals or units prospectively from the earliest date on which they met the criteria. The commenters objected in particular to the statement in the interim final rule that a hospital or unit ordinarily will be included in (or excluded from) the prospective payment system only for entire costs reporting periods.

Response—While we have requested hospitals and units that believe they meet the exclusion criteria to identify themselves, we do not believe this voluntary self-identification contradicts any provision of the prospective payment system or is inconsistent with its legislative history. On the contrary, we believe the procedure is the only administratively feasible approach to implementation of the exclusion provisions with respect to categories of statutorily excluded hospitals and units that have not previoulsy been identified separately, and cannot be found to qualify for (or be disqualified from) exclusion based on the information we or our intermediaries already have. Therefore, we have not changed the procedure based on this comment. Of course, this procedure would not be required for categories of hospitals, such as long-term hospitals, that can be excluded based on information already available to us.

For similar administrative reasons, we believe it is necessary to require that, in most cases, changes in a hospital's (or unit's) exclusion status be made only for entire cost reporting periods. Serious billing, cost reporting, and other payment problems could arise if a hospital (or unit) were paid under different systems during different parts of the same period.

Comment—One commenter asked whether hospitals or units that initially are excluded based on self-identification but later are found not to meet the exlusion criteria will have their status adjusted as soon as the finding is made.

Response—To avoid the administrative problems that could arise from changes in status made during a cost reporting period, we plan to adjust the payment status of such hospitals and units only prospectively, starting with the beginning date of the next cost reporting period.

Comment—Several commenters requested clarification of the application of the rate of increase ceiling for excluded hospitals. Specifically, these commenters questioned the establishment of base periods for excluded hospitals and units.

Response—Section 405.463(b)(1) defines base period as the 12-month cost reporting period immediately preceding the first cost reporting period subject to the rate of increase ceiling. Generally, this is the cost reporting period ending on or after September 30, 1982, and before October 1, 1983.

For those hospitals and previously separately certified subprovider units that will be excluded from the prospective payment system, there should be no change in base periods and the rate of increase limit will apply as it did in the first year subject to the rate of increase ceiling except that the inpatient operating cost limits will not be applied.

For newly identified units excluded from the prospective payment system, there is no previously identified base period cost per discharge as the unit's costs were included with the hospital's total costs reported. Therefore, newly identified units will establish a base period as the first 12-month cost reporting period for which they are excluded from the prospective payment system (generally, the cost reporting period ending on or after September 30, 1984, and before October 1, 1985). The rate of increase ceiling will apply to all subsequent periods for which they remain excluded from prospective payment.

B. Excluded Hospitals Paid Under Alternative Payment Programs

In addition to exclusions under section 1886(d)(1)(B) of the Act, the law also excludes the following hospitals from the prospective payment system:

- Hospitals paid under State cost control systems authorized by section 1886(c) of the Act.
- Hospitals paid in accordance with demonstration projects authorized by section 402(a) of Pub. L. 90–248 (42 U.S.C. 1395b–1) or section 222(a) of Pub. L. 92–603 (42 U.S.C. 1395b–1 (note)).

Comment—One commenter requested that we specifically identify which regulations will affect or will not affect hospitals that are excluded because they are paid under alternative programs.

Response—We are currently developing regulations for alternative programs and we will provide specific information in those regulations.

C. Other Special Exclusions

Regarding the implementation of the prospective payment system, three types of services require special treatment as follows:

- Payment for emergency services, furnished by hospitals not participating in the Medicare program, will not be based on the prospective payment system, but will continue to be made under § 405.152.
- Payment for services provided by Veterans Administration hospitals that furnish services, not otherwise available in the community, to Medicare beneficiaries will be determined, as it has been in the past, in accordance with 38 U.S.C. 5053(d).
- Payment for hospital services provided to a beneficiary through a risk-based health maintenance organization (HMO) or competitive medical plan (CMP), when the HMO or CMP elects to have us pay the hospital directly, will be made either under the prospective payment system or on a reasonable cost basis if the hospital is excluded. In either event, payments made directly to the hospital, plus administrative costs for paying hospitals directly, will be subtracted from the Medicare capitation payments made to the HMO or CMP. Regulations addressing HMOs and CMPs are currently being developed.

III. BASIS OF PAYMENT UNDER THE PROSPECTIVE PAYMENT SYSTEM

All hospitals subject to the prospective payment system will be paid, for inpatient services provided, a specific amount for each discharge based on the case's classification into one of 468 diagnosis-related groups (DRGs).

A. Discharges and Transfers (§ 405.470(c))

The terms "discharge" and "transfer" are defined, for purposes of the prospective payment system, in § 405.470(c) of the regulations. It was necessary to distinguish between discharges where patients have received complete treatment and discharges where patients are transferred to other institutions for related care. Generally, a patient is considered discharged when the patient:

- Is formally released from the hospital (Release of the patient to another hospital as described in § 405.470(c)(2) of these regulations will not be recognized as a discharge for the purpose of determining payment under the prospective payment system.);
- Dies in the hospital; or

• Is transferred to another hospital or unit that is excluded from the prospective payment system.

Hospitals releasing a patient under circumstances constituting a transfer as defined in § 405.470(c)(2) are paid a per diem amount. The per diem amount is determined by dividing the appropriate prospective payment rate by the geometric mean length-of-stay for the specific DRG into which the case falls.

We received numerous comments involving various aspects of our discharge/transfer policy as presented below.

Comment—We stated in the preamble to the interim final rule (48 FR 39759) that "a patient on a leave of absence from a hospital will not be considered discharged." A few commenters noted that this policy was not stated explicitly in the regulation concerning discharges in § 405.470(c).

Response—To avoid further concern or questions regarding the intent of our policy, we are amending § 405.470(c) to state explicitly that a leave of absence will not be considered a discharge.

Comment—Several commenters stated that our transfer policy is inconsistent with our payment for DRGs 385 and 456 (for neonates, died or transferred, and burns, transferred to another acute care facility, respectively). The weighting factors for these two DRGs are based on the assumption that the patient will be transferred. Therefore, paying a per diem amount for these cases to a transferring hospital will result in underpayment to the hospital.

Response—The rationale for per diem payments as part of our transfer policy is that the transferring hospital generally provides only a limited amount of treatment. Therefore, payment of the full prospective payment rate would be unwarranted. While this policy is generally appropriate, we agree that its application to a discharge assigned to DRG 385 or 456 will result in underpayment to the transferring hospital. An expected transfer is built into the weighting factors for these DRGs. Accordingly, we are revising § 405.470(c) to provide for payment of the full prospective payment rate to a transferring hospital for discharges assigned to DRG 385 or 456.

Comment—Several commenters questioned the applicability of our transfer policy to multiple transfer cases, as for example, where a patient is transferred more than once among the same facilities.

Response—Multiple transfers may occur for numerous reasons. For example, patients are transferred to other hospitals for highly specialized diagnositc or therapeutic services and transferred back to the original community hospital for the convalescent portion of treatment.

In accordance with § 405.470(c), only the discharging hospital is paid the full prospective payment rate, while all transferring hospitals are paid a per diem amount. This policy was adopted in recognition of the fact that a transferring hospital generally provides only limited services, whereas the discharging hospital generally provides the bulk of services during the course of a patient's treatment. With a multiple-transfer situation, there is concern that the first transferring hospital may also be the discharging hospital, thus unjustifiably receiving the full prospective payment rate in addition to the per diem amount.

We do not believe that the policy contained in the interim final rule will result in unjustified payment in the majority of situations. No evidence has been submitted that the amount or intensity of treatment by the transferring hospital, which is not the discharging hospital, is greater than that of the other hospital. It must also be noted that the second transferring hospital may receive, on a per diem basis, total payments up to the full amount of the DRG payment, depending upon the length of time it treats the patient. Therefore, this hospital also will receive payment commensurate with the services it furnishes to the beneficiary.

For the above reasons, we do not believe it is necessary at this time to revise the policy on transfers included in the interim final rule regarding multiple transfer situations. In this connection, we emphasize again, as we did in the preamble to the interim final rule, that the policy on transfers included in § 405.470(c) is meant as an interim policy. Thus, we will be closely monitoring data on discharge/transfer patterns, for example, through medical review activities, and will revise our policy as appropriate.

Comment—Some commenters asked for clarification of our policy on transfers under the prospective payment system. Specifically, these commenters were concerned about the policy expressed in §§ 405.470 (c)(2)(iii)(A) and (c)(2)(iii)(B) in that a transfer from one hospital to another is not considered a discharge if the second hospital is either excluded from the prospective payment system because of participation in an approved statewide cost control program or demonstration, or is a hospital whose first cost reporting period under the prospective payment system has not yet begun. The commenters believe that this policy would produce inequitable results where the second hospital is one which, were it not included in a waiver State, or its first cost reporting period under the prospective payment system had not yet begun, would be an excluded hospital under the prospective payment system. In that situation, the transfer would be considered a discharge, and the first hospital would be paid the full DRG payment.

Response—We agree that this interpretation of the policy would produce an inequitable result. However, it was not our intention that the policy would produce this result. In the interim final rule, transfers from hospitals paid under the prospective payment system to hospitals excluded from the system are treated differently for payment purposes than transfers to other hospitals included under the prospective payment system.

The reason for this difference is due to the difference in the types of treatment furnished in the two classes of facilities. As we stated in the interim final rule, we believe that hospitals and units excluded from the prospective payment system are organized for treatment of conditions distinctly unlike treatment encountered in short-term acute care facilities. Therefore, the services obtained in excluded facilities would not be the same services obtained in transferring hospitals (that is, paid under the prospective payment system), and payment to both facilities would be appropriate, with the transferring hospital paid at the full DRG prospective payment rate.

Thus, the significant factor in determining the payment to a transferring hospital is the type of hospital to which the patient is transferred. The type of hospital is independent of that hospital's particular cost reporting period beginning date, or whether it is located in a waiver State. Thus, in the preamble to the interim final rule, it is stated that payment to the transferring hospital is on a per diem basis if the transfer is to a hospital that would ordinarily be paid under the prospective payment system, but is not at the time the transfer occurs because the hospital's first cost reporting period under prospective payment has not begun, or the hospital is located in a waiver State. Similarly, full DRG prospective payment should be made to a transferring hospital where the patient is transferred to a hospital that would be excluded from the prospective payment system, regardless of that hospital's location or its cost reporting period. We have clarified the regulations

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at § 405.470(c) to avoid further misinterpretation.

There may be situations where the status of the receiving hospital or unit is unclear regarding exclusion from the prospective payment system. This would be the case where a patient is transferred to a hospital unit that, while it may be excluded from the prospective payment system once the hospital itself becomes subject to prospective payment, there is no indication presently that the unit will be excluded. For example, the unit may be a rehabilitation unit within a short-term hospital. However, the unit is currently part of the hospital and is not separately certified as a distinct part. Since no determination has yet been made as to whether the unit would qualify under the regulations for exclusion as a distinct part rehabilitation unit, to prevent overpayments it would be necessary to consider the transfer as being to a short-term acute care hospital which subsequently will become subject to prospective payment. A similar situation would occur in the case of a rehabilitation hospital. Since prior to the implementation of the prospective payment system the Medicare program did not separately certify or recognize rehabilitation hospitals, it may not be clear with respect to a transfer to a rehabilitation hospital that has not yet begun its first cost reporting period under prospective payment whether in fact that hospital will quality for exclusionary status under the regulations. Payment of the full DRG amount to the transferring hospital in this situation would risk overpayments being made, since the hospital or unit may actually become subject to prospective payment if it does not meet the established criteria for exclusion. We do not believe it is in the best interests of the Medicare Trust Fund for the program to incur overpayments in this way. Therefore, in situations such as those illustrated above, payment to the transferring hospital will be on a per diem basis.

Comment—We received a number of recommendations on revising the policy contained in the interim final rule for payment of transfers. Some commenters stated that the beginning of a patient's course of treatment is the most resource intensive, and therefore, the transferring hospital should receive the full prospective payment rate, or should be paid in some other manner, such as on a sliding scale, that reflects this resource intensive phase of treatment. It was also suggested that regional rather than national average lengths-of-stay for the DRGs should be used in computing the per diem payments, and that outlier payments, where appropriate, be permitted for the transferring hospital. Another commenter called into question the basis for the transfer policy by stating that the DRG prices themselves already take transfers into consideration. This is because, in the data base, transfers are considered as discharges. It was also stated that hospitals will be reluctant to transfer patients due to the perceived inequity of the policy for payment of transfers. The reluctance will not be in the best interest of the patient whose medical condition indicates that he or she could best be treated at another hospital.

Response—While some issues were raised concerning the resource intensive nature of the first part of a patient's treatment, little or no data were provided in support of this position. We believe that in many cases the bulk of a patient's treatment is received after he or she is transferred. That is, the transferring hospital merely stabilizes a patient in preparation for his or her transfer to a second hospital, where the bulk of the diagnostic and therapeutic services are furnished. It should also be noted in this regard that even if we were to concede the logic of the commenters' arguments that in a transfer situation, the most resource intensive services were provided by the transferring hospital at the beginning of the patient's course of treatment, there is still no generally acceptable, objective method of measuring this resource intensity. For example, while charges could be used in this way, there is some question whether in many instances a "charge" is an objective measure of resource consumption. This is because in particular hospitals the charge structure reflects cross-subsidization among departments, so that a charge may not represent actual resources consumed in particular instances. Therefore, computation of an appropriate payment based on resource intensity is problematic. The per diem method, on the other hand, is a generally recognized and accepted method of payment.

With respect to the use of the national average length-of-stay for a DRG in deriving the per diem payment amount, we note that the ultimate purpose of the prospective payment system is to pay for treatment using national standardized costs that are adjusted for area wages. More importantly, we note that the weighting factor for each DRG reflects the relative cost, across all hospitals, of treating cases classified in that DRG.

The DRG weighting factors are national weights, and are based on average standardized costs for each DRG developed from cost data from all hospitals. The average standardized cost for each of the 468 DRGs was calculated by summing the standardized adjusted costs for all cases in the DRG and dividing that amount by the number of cases classified in the DRG. The average standardized cost for each DRG was then divided by the overall average standardized cost to determine the weighting factor. In sum, the DRG weights are national weights, and reflect the cost of all hospitals without regard to the differing lengths-of-stay that may exist regionally.

Therefore, use of regional measures of length-of-stay for developing the per diem DRG payments would be inappropriate, since they could overstate or, in areas with longer lengths-of-stay, understate the payment appropriate for a particular DRG. We would note, however, that our studies have demonstrated an extraordinarily high correlation between regional weights and national weights.

In regard to outlier payments for the transferring hospital, we believe these are clearly inappropriate. In a transfer situation, we would not expect a patient to be present in the transferring hospital long enough to qualify as an outlier. If this situation were to arise, there would then be some question as to whether the case were a transfer case at all. Also, if a patient needs to be transferred, but is kept in the first hospital long enough to qualify as an outlier case, this would also raise questions as to whether the patient is receiving the most appropriate care. As we gain additional experience with the prospective payment system, we will continue to analyze the situation on an ongoing basis to determine whether any further refinements in this policy are necessary.

Finally, we do not believe that the transfer policy contained in the interim final rule will affect the quality of care furnished to Medicare inpatients. The decision on whether to transfer a patient will ultimately be made on the basis of medical considerations, with the welfare of the patient being the primary consideration. In any event, as indicated above, we do not believe that our transfer policy is either disadvantageous to the transferring hospital or results in any danger of declining quality of care.

With respect to the data used in computing prospective payment rates, we recognize that transfers were previously considered as discharges. Under the interim final rule, the transfer of a patient between two hospitals, each of which is subject to the prospective payment system, will not be considered

a discharge for the transferring hospital. This type of a transfer would have been a discharge under the reasonable cost reimbursement system. However, no data were presented to indicate the actual effect, if any, that this difference between the definitions of discharge under the old and new payment system might have on the DRG rates.

With respect to the Federal rates, we would expect any discrepancy between the "old" and "new" definitions of discharge to have no significant effect on the rates. This is because patients transferred to another hospital constitute only a small fraction of the total number of discharges. It should also be noted that certain transfers under the prospective payment system will still be considered discharges, namely, transfers between a hospital subject to prospective payment and an excluded hospital. This would reduce even further the already small discrepancy between the definition of discharges under the old system and the definition under the new system.

In discussing the transfer policy with respect to the difference in the definition of "discharge", a distinction must be made between the computation of the Federal rates, and the payments made to a particular hospital under the prospective payment system. While we would expect, as stated above, that there would be little effect of the difference in definitions on the rates, individual providers could receive a significant amount of unjustified payments, if they had a large number of transfers and we paid for each transfer at the full prospective payment rate as if it were a discharge.

With respect to the hospital-specific portion of the blended rates, we note that the purpose of this portion during the first three years of the prospective payment system is to ease a hospital's transition from the cost-based reimbursement system to a fully Federal prospective payment system. We do not believe it was the Congressional intent that the hospital-specific portion recognize every detail of a hospital's cost situation, since the hospital is not being paid, under the prospective payment system, based on its actual costs incurred. In addition, the hospital-specific portion constitutes a decreasing portion of the blended rate as the transition period progresses. On the other hand, the Federal portion becomes a larger share of the prospective payment rate, to the point that beginning in fiscal year 1987, it will constitute 100 percent of the prospective payment. Therefore, the significance of our transfer policy is mainly related to the Federal rates and as we indicated above, we believe our current policy is an appropriate response until we are able to restructure the payment method so that we are recognizing one payment to the final discharging hospital.

Finally, we wish to reiterate that the transfer policy contained in the interim final rule was intended as an interim policy. As we stated in the preamble to the interim final rule (48 FR 39759), our ultimate goal, which we expect to implement within the next few years, is to pay a single rate to one hospital for a given course of treatment to a given patient. Therefore, we believe that hospital managers should begin to anticipate our final transfer policy and to incorporate this eventual change into their financial and management planning.

B. DRG Classification

The DRG classification system, based on the case classification system developed at Yale University, results in the assignment of each patient discharge to one of 467 DRGs. DRG 468 may also be assigned when valid discharge records contain only operating room procedures that are unrelated to the principal diagnosis. Based on information contained in each patient's bill, the fiscal intermediary assigns the proper DRG using the Grouper program. This program screens the essential information from the inpatient bill against criteria that distinguish DRGs, inlcuding principal diagnosis, secondary diagnoses, procedures performed, and the patient's age, sex, and discharge status. When bills contain certain errors, DRGs 469 or 470 may be assigned. When this occurs, the bills are returned to the hospital for correction.

A wide variety of comments have been received charging that DRG classifications are inaccurate or inappropriate, or that the weighting factors should be recalculated.

Comment—Several commenters challenged the general framework of the DRG classification system and weighting factors.

Response—In enacting the prospective payment system, Congress was plainly aware that the Secretary would have to use available data in setting the DRG prices. Both the House Ways and Means Committee (H.R. Rep. 98–25, 98th Congress, 1st Session 133 (1983)) and the Senate Finance Committee (S. Rep. 98–23, 98th Congress, 1st session 47 (1983)) recognized the need to use the data currently available. In complying with congressional intent, we have used the 1981 MEDPAR data and data from Maryland and Michigan hospitals for the same period to construct the weights for all 468 DRGs. (A full discussion of the methodology used in constructing the weights is presented in the preamble of the interim final rule (48 FR 39768).)

As explained in the same Federal Register issuance (48 FR 39760), the DRG classification system that was developed for prospective payment is based on a universe of 1.4 million records selected from a nationally representative sample of 332 hospitals participating in the Commission on Professional and Hospital Activities Abstracting Service. Using a combination of clinical judgment and statistical analysis, the study staff at Yale University developed the 468 DRGs currently used for computing prospective payment rates.

Although Congress recommended using currently available discharge data for constructing the DRGs and the most current DRG classification system for grouping discharges into DRGs, Congress recognized the need to periodically recalibrate the DRG weights and to reevaluate the methodology for classifying discharges. Therefore, in section 1886(d)(4)(C) of the Act, Congress directed the Secretary to recalibrate the DRG rates ". . . to reflect changes in treatment patterns, technology and other factors which may change the relative use of hospital resources." This recalibration is to be performed no later than fiscal year (FY) 1985 to appear in the notice of rates effective for FY 1986 and to be performed at least every four years thereafter. Additionally, Congress provided for the establishment of a "Prospective Payment Assessment Commission" to advise the Secretary on issues affecting rate-of-increase factors, DRG weights, and diagnostic classification systems.

In our regulations we have followed Congress' expressed intentions and have set forth in § 405.473(a)(4) the schedule for recalibrating the DRG weights. Although we could recalibrate and reclassify the DRGs prior to FY 1986, we do not anticipate doing so. The DRG weights are an index of the resources consumed in treating the various types of cases relative to the national average. Therefore, recalibrating or reclassifying one DRG necessarily has an impact on all other DRGs. Also, because the DRGs are related to each other as an index, attempting to correct inequities in one DRG through recalibration may produce inequities in other DRGs. We also note that the Prospective Payment Assessment Commission, under the statute, is responsible for assessing the

entire DRG system and reporting its findings to the Secretary. The Department of Health and Human Services will be working with the Commission in this matter. Since the entire DRG system of classification will be under review, we believe that would be the most appropriate time to make any changes, particularly in view of the interrelatedness of all the DRGs, as discussed above.

Congress also realized that no system of classifying diagnoses would be perfect. Thus, the Conference Committee Report accompanying section 101 of Pub. L. 97–248 states the following:

> It is understood that initially the Secretary will need to rely on a currently available indication of case-mix complexity such as the system developed at Yale University. It is expected that the Secretary will continue to evaluate possible methods for adjusting for case-mix and will adopt an improved method when it becomes available. (H.R. Rep. 97–760, 97th Congress, 2d Session 417 (1982)

Comment—Some commenters questioned our use of the actual indirect teaching adjustment factor of .05795 in computing the DRG cost weights instead of the doubled teaching adjustment factor of .1159 that Congress directed the Secretary to use when determining additional payments to cover indirect costs of medical education.

Response—Section 1886(d)(5)(B) of the Act provides for additional payments to be made to hospitals under the prospective payment system for the indirect costs of medical education. This payment is computed in the same manner as the indirect teaching adjustment under the notice of hospital cost limits published September 30, 1982 (47 FR 43310), except that Congress specifically directed that the educational adjustment factor is to equal twice the factor computed under that method.

If a hospital has a graduate medical education program approved under § 405.421, an additional payment will be made to the hospital equal to 11.59 percent of the aggregate payments made to the hospital, based on the Federal portion of prospective payment and outlier payments, for each .1 increase (above zero) in the hospital's ratio of full-time equivalent interns and residents (in approved programs) to its bed size. Because we are paying a hospital with an approved education program on the basis of a double indirect medical education adjustment factor, we had to standardize the hospital costs in our data base by using a double teaching adjustment. This was to insure that a teaching hospital does not receive more than it is entitled to under the law for indirect teaching costs. However, section 1886(d)(4)(B) of the Act requires that each DRG be assigned an appropriate weighting factor which reflects the relative hospital resources used for treating patients classified within each DRG as compared to the resources used for discharges classified within other DRGs. Since, under the law the DRG weights are to reflect the relative hospital resources *actually* consumed in treating patients assigned to different DRGs, we have used the actual indirect medical education cost adjustment factor of .05795 to remove the effects of the indirect cost of medical education from all teaching hospitals. To have used a double indirect educational cost factor would have removed more costs than the amount that could be attributed to the indirect effects of teaching activity based on our empirical estimates. The resulting DRG weights would then be understated with respect to the relative resources consumed for those more complex DRGs which teaching hospitals regularly treat as compared to the less complex DRGs treated in nonteaching hospitals.

The effect of understating the relative resources involved in treating patients classified into the more complex DRGs would have been a reduction in the payments to teaching hospitals. The intent of Congress, however, was to provide teaching hospitals with more rather than less payment in recognition of the indirect effects of graduate medical education programs. The policy would have essentially controverted the additonal recognition for indirect medical education had we standardized the weighting factors using a double indirect education cost factor.

Comment—Comments were received concerning patients who are on dialysis. It was pointed out that these patients, when admitted to a hospital for other reasons, generally experience more costly complications and have longer lengths-of-stay than other patients. Since individual DRG payments do not recognize these complications, the commenters suggested that a payment mechanism be developed that would fairly compensate hospitals for services rendered to inpatients who are on dialysis but who are admitted for other reasons.

One commenter felt that if additional payments cannot be made for patients who are on dialysis but are admitted to a hospital for another reason, then a hospital that is not a certified renal dialysis institution should be allowed to have the dialysis billed separately by the organization performing the service.

Response—The DRG weighting factors were constructed with the intention of reflecting the relative resource consumption associated with the cases falling in each DRG. Therefore, whenever kidney dialysis services were provided to an inpatient in the data base, whether that patient has been diagnosed as having end-stage renal disease and, thus, requires a regular course of dialysis or the patient requires dialysis services only on a limited basis, those services were included in the DRG weighting factor. This is true of those DRGs that are specifically directed to renal failure (DRGs 316 and 317) as well as any other DRG with cases where dialysis was provided. In addition, the program recognizes the extra resource consumption and complicated medical management required in cases where dialysis is provided. If either the costs of these services or length of the stay meet the "outlier" criteria, extra payment can be made.

It is important to distinguish between dialysis services furnished to non-ESRD beneficiaries that occur intermittently and are widely dispersed throughout the 1981 MEDPAR data base and those dialysis services furnished to ESRD beneficiaries. Since dialysis services to the latter population are furnished routinely and these inpatients could be concentrated in particular hospitals, there may be a significant disparity between the average amount in the rates attributable to dialysis services and the actual average amount of dialysis services that certain hospitals provide to ESRD beneficiaries. We believe we have a special legislative responsibility to ESRD patients who require a regular course of dialysis to maintain life, and we will monitor payment for their inpatient care to assure that it is equitable and does not diminish the availability of the services they require. At this time, however, the suggestions made by the commenter regarding extra payment or separate billing for dialysis services cannot be accepted, because, absent a specific adjustment to the rates, these recommendations could result in the program paying twice for dialysis services and would be in direct violation of the rebundling provision of the statute. However, we will continue to review this issue and will actively consider alternative solutions, if appropriate.

Comment—Approximately 900 comments were received concerning payment for the treatment of alcoholism. The commenters felt that the DRG for alcohol dependency reflected two different treatment modalities, alcohol detoxification and rehabilitation, resulting in inequities in payment. The

commenters felt that the average length-of-stay and the payment is too high for detoxification and inadequate for rehabilitation.

Response—First, we would like to point out that the prospective payment system makes no change in the types of services covered by Medicare, nor does it place new limits on the number of days for treatment for any illness. Under the prospective payment system there are four alcohol-related DRGs. The payment for each of these has been developed based on hospitals' specific experience with each type of case. The "alcohol-dependence" DRG payment has an average length-of-stay of 8.1 days The others, "alcohol use without dependency" and "alcohol and drug use with organic mental syndrome," have average lengths-of-stay of 3.5 and 6.5 days, respectively. Under the prospective payment system, cases that have either an extremely long length-of-stay or extraordinarily high costs when compared to most discharges classified in the same DRG are known as "outliers". In the case of the alcohol dependency DRG, outlier payments would begin on day 29. It should be noted that the average lengths-of-stay are the geometric means used in determining outlier cutoffs.

As stated previously, the statute requires the Director of the Congressional Office of Technology Assessment to appoint an independent Prospective Payment Assessment Commission. One of the functions of this commission will be to review medical treatment and technology and make recommendations for changes in DRGs. Any changes the Commission recommends in the alcohol DRGs, will receive every consideration. In the meantime, we have temporarily excluded alcohol units from prospective payment, and we will review DRGs with a view toward making modifications.

Comment—Several commenters recommended that we permit the assignment of a patient with multiple diagnoses to a DRG based on the patient's "primary" rather than "principal" diagnosis.

Response—The basis for this proposal is concern that use of the Uniform Hospital Discharge Data Set (UHDDS) definition of "principal" diagnosis may result in DRG classification (and, therefore, prospective payment) that does not properly reflect the cost of services actually provided. The recommendation would permit hospitals to report the most resource intensive condition as the principal diagnosis rather than "the diagnosis established after study to be chiefly responsible for occasioning the admission of the patient to the hospital for care" (*Uniform Hospital Discharge Data, Minimum Data Set*, April 1980, p. 12). Adopting this recommendation would presumably result in a case being appropriately assigned to a more costly DRG, yielding a greater prospective payment rate. The proposal would permit the assignment of a multiple diagnosis case to any number of DRGs depending upon the selection of the "primary" diagnosis. Patients with otherwise identical principal diagnoses would be assigned to different DRGs solely because of differing hospital or physician judgments as to which diagnosis was "primary." This would result in our inability to accurately classify a multiple diagnosis case to a specific DRG because of the requirement to accept the hospital's judgment as to which diagnosis was the most resource intensive. We believe this would create a powerful incentive for providers to select as the primary diagnosis the condition which would result in assignment to a DRG with the highest prospective payment rate.

Although several commenters reasoned that the same incentive exists in selecting the principal diagnosis, we believe permitting the use of a primary diagnosis would effectively remove the objective standard which the UHDDS definition of principal diagnosis affords. We have, therefore, not adopted the recommendation. We also wish to point out that no data base exists in which primary diagnosis has been used for assignment of cases. Therefore, relative weights for DRGs appropriate to the use of primary diagnosis could not be developed.

The Uniform Hospital Discharge Data Set can be obtained by writing to the National Center for Health Statistics, Room 1–57, 3700 East West Highway, Hyattsville, Maryland 20782.

Comment—Some commenters expressed concern regarding the processing of bills for cases that fall into DRG 468. These commenters believe that the method of processing these inpatient bills contained in the interim final rule is unnecessarily cumbersome, and they recommended that the procedures in § 405.473(a)(3)(iii) of the interim final rule be revised.

Response—DRG 468 represents a discharge in which all operating room procedures, present on the discharge record, are unrelated to the principal diagnosis.

This does not necessarily represent an invalid record. For example, a patient may be admitted for cataract surgery, but have a coronary bypass operation rather than the cataract procedure. In this instance, the procedures established in the interim final rule require the intermediaries to return the claims to the provider for clarification. If the accuracy of the discharge data is affirmed, the prospective payment rate will be paid as for any other DRG classification. Otherwise, the case will be reassigned to the appropriate DRG using corrected data.

We recognize that the method contained in the interim final rule may in some instances have cash flow consequences for some hospitals, especially those not receiving periodic interim payments. However, we note that DRG 468 has a relatively high weighting factor of 2.1037. In view of this high weighting factor, we believe the intermediary must have assurances before making payment that the assignment of the case is not the result of an error either in the coding of the principal diagnosis or the surgical procedure. We believe the potential for errors in cases assigned to this DRG is high, since the criteria for the assignment of a case to this DRG is an inconsistency between surgical procedures and the principal diagnosis. Therefore, we believe that retaining the procedure contained in the interim final rule is necessary to ensure that hospitals do not submit incorrect bills, and that the intermediary does not make an improper payment. We also believe that retaining this procedure may act as an incentive for hospitals to submit accurate bills, thus ensuring that payments are not made for erroneously coded claims falling into DRG 468.

We recognize that in many cases intermediaries receive claims on magnetic tape or on other computer generated formats. In these situations, it would not be feasible to actually return the claim to the hospital since there may in fact be no claim form. Therefore, the requirement, stated in § 405.473(a)(3)(iii), for returning the bill to the hospital for validation and reverification, will be satisfied if a written notification of the case being classified into DRG 468 and a request for verification of the claims data is sent to the hospital.

Comment—One commenter emphasized the need for the rapid merging of new technologies into the DRG payment system. It was explained that new products must be approved by the Food and Drug Administration, they must meet Medicare's safety and efficacy review criteria for coverage, and now under the prospective payment system, they must also be incorporated into the DRG weighting factors. It was emphasized, therefore, that criteria on which such coverage and reimbursement decisions are made should be clearly communicated, that

affected parties have opportunities for comment and appeal, and that the evaluations are prompt and thoughtful.

Response—While DRGs must be recalibrated regularly, we see no need to force more frequent changes than required to take technological changes into account. We believe that in most cases the effects of technological advances will be offsetting. While some advances increase the cost of treatment, others dramatically reduce the cost of treatment. An example of the latter case is the introduction of percutaneous transluminal coronary augioplasty resulting significant savings in open heart surgery. It is emphasized that one of the major incentives under the prospective payment system is for the hospital to become more efficient through the introduction of cost-saving procedures, such as technological advances, resulting in the generation of additional revenue to the hospital. Immediate recalibration of DRGs may, to some extent, work against this incentive. Additionally, to the extent that advancements in medical technology require initial investment in equipment, the current regulation permits recognition under Medicare of full capital costs.

Comment—A number of commenters have challenged the weight of .0510 assigned to DRG 39 "Lens Procedures." These commenters believe that as a result of a significant shift toward the use of intraocular lens implants (ILI) in the removal of cataracts since 1981, the DRG weight published in the interim final rule understates the relative amount of resources consumed in performing procedures grouped into this DRG. Commenters generally recommended that we either increase the weight or permit the cost of ILI to be paid for under Part B.

Response—As explained earlier, the Congress was aware of the limitations inherent in the data used in constructing the DRG weights and for classifying discharges by DRG. Moreover, in establishing the prospective payment system, Congress acknowledged the fact that evolving medical technology and new treatment methods and procedures would result in changes to both the DRG weighting factors and the classification of discharges. To help the Secretary determine the nature and extent to which the DRGs need to be recalibrated, Congress provided for the establishment of the Prospective Payment Assessment Commission which is to advise the Secretary on issues such as that connected with DRG 39. Based on the requirements in the law, we do not anticipate recalibrating the DRGs prior to FY 1986.

In regard to the suggestion that payment for the ILIs be covered under Part B of the Medicare program, we do not believe that such a suggestion is in keeping with the general format of the prospective payment system, that is to pay a fixed rate per discharge depending upon the diagnosis of the patient. The fixed rate is meant to represent payment in full for all services rendered during a particular inpatient stay, regardless of the costs incurred in treating a particular patient. To the extent that we allow certain services to be billed separately to Part B, the fixed rate pricing system is compromised. We would expect that under the prospective payment system hospitals will have the opportunity to offset cases in which their costs exceed the rate by other cases where the amount of payment exceeds the actual costs incurred.

We agree that changes in the DRG categories and weighting factors may be necessary in order to recognize events such as changes in medical technology. However, given the interrelatedness of the DRG weighting factors, we believe that changes would be most appropriate in connection with the overall review and, if necessary, recalibration of the DRGs required under the law. Accordingly, we have not adopted the commenter's suggestion.

Comment—One commenter charged that the methods used in calculating the DRG weighting factors create a bias across all DRGs in that "the weights do not accurately reflect the actual relationships among the DRGs." This commenter recommended a modification of the mathematical formula for the weighting factors so that the average cost per case values in both the numerator and denominator would be weighted only by the number of cases falling into each DRG.

Response—This proposal amounts to merely substituting one constant for another in the denominator of the relative weight ratios for all DRGs. However, the relative structure of an index (for example, the DRG relative weighting factors) is mathematically invariant with respect to multiplication or division by a constant, such as the substitution of one constant denominator for another. Therefore, this suggestion would not alter the relationship between the DRGs. Given the methods we used, the DRG payment amounts for individual hospitals would remain unchanged. Therefore, we have not adopted this suggestion.

Comment—One commenter suggested that the compression of the DRG weighting factors caused by the presence of various reporting errors in the HCFA billing data could be relieved by adjusting the DRG weights. The suggested adjustment would raise the relative weight to a power where the exponent is the estimated elasticity of the case-mix index with respect to operating costs-per-case, as determined in an average cost function based on Medicare data.

Response—This suggestion is based on a previously published cost function analysis of 1980 Medicare data ("Reliability and Validity of Hospital Case Mix Measurement," *Health Care Financing Review*, December, 1982) in which the estimated elasticity of the case-mix index was 1.061. More recent unpublished results based on 1981 Medicare data show an estimated elasticity value of 1.012. The difference in the elasticity is most likely the result of a change in the methods used to develop the DRG relative weights in 1981 compared to the methods used in 1980. In particular, the 1981 DRG weights are based on operating costs, excluding capital and medical education costs, while the 1980 DRG weights were based on total costs. In addition, the 1981 DRG weights cover all DRGs rather than the 356 categories used in the 1980 TEFRA case-mix indexes. Given an elasticity of 1.012, which is not significantly different from the expected value of 1.0, we have not adopted this suggestion.

C. Costs Included Under the Prospective Payment System

The statute requires that the prospective payment rate serve as total Medicare payment for inpatient operating costs for all items and services furnished, other than physicians' services associated with each discharge. As set forth at § 405.407(b)(3), these costs include Part A operating costs for routine services, ancillary services, intensive care type unit services, and malpractice insurance costs. Capital-related costs, direct medical education costs, kidney acquisition costs of approved renal transplantation centers, and the costs of direct medical and surgical services of physicians in teaching hospitals are paid for on a reasonable cost basis.

A wide variety of comments were received regarding the inclusion or exclusion of costs of various services or items under the prospective payment system. Many of these concerns are discussed under other sections in this preamble in the context of requests for adjustments or special considerations. Because the statute is clear as to the

intent of Congress regarding what is to be included under the prospective payment system, most requests for special handling of certain costs must be denied. These comments and our responses are presented below.

Comment—A number of commenters were concerned with the inclusion of allowable malpractice insurance costs under the prospective payment system. The point was made that since Medicare reimbursement is based on Medicare malpractice claims history, those hospitals that had a poor claims history in the base year will be advantaged, while a hospital with a good history will be disavantaged. It was also pointed out that numerous hospitals are appealing the current malpractice regulations which are used to determine allowable costs.

It was recommended that malpractice premiums be included in costs through the normal stepdown methodology or considered as a pass-through until the appeal issues have been resolved. Another recommendation was that base year costs should be adjusted to include malpractice costs on a utilization rather than a claims paid basis.

Response—We do not agree that malpractice insurance costs should be excluded from the prospective payment system. Section 1886(d) of the Act requires the Secretary to determine the payment rates with respect to the operating costs of inpatient hospital services. Operating costs are defined as all routine operating costs, ancillary service operating costs and special care unit costs. The only costs that are specifically excluded are the costs of educational activity and, for cost reporting periods beginning before October 1, 1986, capital-related costs.

Regarding the recommendation to change the methodology for determining allowable malpractice insurance costs, the current methodology reflects Medicare's share of these costs, and we do not believe a change is warranted. As stated in § 405.452(b), "Total allowable costs of a provider shall be apportioned between program beneficiaries and other patients so that the share borne by the program is based upon actual services received by program beneficiaries."

Comment—One commenter stated that DRG payments should be treated as including payment for emergency room and preadmission testing services furnished prior to admission by the same hospital if (1) the services were directly related to the condition for which the patient was admitted, and (2) the preadmission testing was provided on the day prior to admission to the same hospital.

Response—Section 3608 of the Intermediary Manual provides that when an individual is furnished outpatient hospital services and is thereafter admitted as an inpatient of the same hospital before midnight of the next day, the outpatient hospital services furnished to him/her are treated as inpatient services unless the patient does not have Part A coverage. We require that these outpatient services be included in the hospital's bill submitted for payment under Part A. Because this has been a longstanding policy, the related costs have been built into the cost base and DRG weighting factors, and are appropriately compensated for under the prospective payment system. Therefore, such services may not be billed separately and payment is included in the prospective payment rate.

D. Cost Reporting Periods

Hospitals paid under the prospective payment system will be paid for inpatient services effective with the hospital's first cost reporting period beginning on or after October 1, 1983. If a patient is admitted before and discharged after the beginning of the hospital's first reporting period under the prospective payment system, the reasonable costs for the portion occurring before the hospital begins prospective payment are subtracted from the prospective payment rate for the applicable discharge (but not below zero). Additionally, for all cost reporting periods ending on or after September 1, 1983 (the date of publication of the interim final rule), changes in cost reporting periods will be recognized only if good cause is found for the change (see § 405.453(f)(3)). To establish good cause, a hospital must show that there were specific circumstances that support and explain the basis for requesting the change in the cost reporting period. Good cause does not exist where the effect of the change is to delay or expedite the date by which a hospital becomes subject to the prospective payment system. The hospital's written request must be received by the intermediary 120 days before the close of the new reporting period requested.

Comment—One commenter expressed concern that § 405.453(f)(3) may be interpreted to mean that the new owner of a hospital is bound to the same cost reporting period as the previous owner.

Response—The purpose of § 405.453(f)(3) is to establish good cause for a provider requesting a change in cost reporting periods so that the effect is not to change the date by which a hospital would be affected by the rate-of-increase ceiling or be paid under the prospective payment system. However, we recognize that the regulation could be interpreted as stated by the commenter. Therefore, we are changing the regulation to add that a cost reporting period may be changed if a change in ownership is experienced.

E. Conditions for Payment

The interim rule included certain conditions, set forth in § 405.472, that a hospital is required to meet to receive payment under the prospective payment system. These conditions included requirements related to charges to beneficiaries, admissions and quality review, furnishing all services to hospital inpatients either directly or under arrangements, and reporting and recordkeeping. Section 405.472(a) established the general requirement that hospitals meet these conditions, and provided for withholding of payment or termination of provider agreements in cases in which a hospital did not meet these requirements.

Specifically, § 405.472(a)(2) provided that, if a hospital fails to comply with those conditions with respect to a particular inpatient hospital stay for a single individual, we could deny payment for that case. Alternatively, § 405.472(a)(3) provided that, if a hospital's noncompliance affects Medicare beneficiaries generally, we could, as appropriate, either terminate the hospital's provider agreement or withhold all Medicare payment until the hospital provides adequate assurances of future compliance.

These provisions were, inadvertently, stated in terms that are inappropriately inflexible. A strict reading of these provisions might lead to the conclusion that if a hospital had a pattern of noncompliance that affected some of its Medicare patients, but not "Medicare beneficiaries generally", our only permissible course of action would be to identify individual beneficiaries affected, and withhold payment only for those cases. Alternatively, if a hospital's noncompliance was general, but of a relatively minor nature, our sanction options would be limited to withholding all payments, or terminating the hospital's provider agreement. Therefore, as permitted by statute, and as originally intended, we are revising § 405.472(a) to clarify that, if a hospital violates any conditions for payment in one or more cases, we may, as appropriate—

- Withhold payment in full or in part; or
- Terminate the provider agreement.

IV. DETERMINATION OF THE PROSPECTIVE PAYMENT RATES

This section contains a discussion of the assumptions used, changes in those assumptions, and the comments and responses concerning the methods used to determine the basic prospective payment rates and how rates are calculated during the three-year transition period. This basic methodology is set forth in regulations in §§ 405.473 and 405.474.

A. Calculation of Adjusted Standardized Amounts

The methodology for arriving at the appropriate rate structure is essentially prescribed in the Act in section 1886(d)(2). It requires that certain base period cost data be developed and modified in several specified ways. In summary, this methodology includes:

- Development of base year cost data for individual hospitals from the best data available and deriving an average cost per Medicare discharge (cost reports for reporting periods ending in 1981 were used);
- Updating the above amounts to account for inflation through fiscal year 1984;
- Standardizing the data by removing the effects of variations in case mix, indirect medical education, variations in hospital wage levels, and the high (nonlabor) cost-of-living in Alaska and Hawaii;
- Grouping the data from individual hospitals both nationally and according to nine census divisions, and calculating urban and rural averages for each census division and for the nation as a whole; and
- Adjusting the average standardized amounts to account for an approximation of costs of services provided to inpatients but previously billed under Part B, increased FICA taxes for hospitals required to enter the Social Security system, an estimation of outlier payments (6.0 percent of total payments for fiscal year 1984), and an estimation of an adjustment necessary to maintain budget neutrality (applicable only for fiscal years 1984 and 1985).

1. Access to Data

Comment—Several commenters stated that the hospital industry should have timely access to the data and methodologies used to construct the prospective payment rates, case-mix indexes, DRG weighting factors, and adjustment factors, especially the budget neutrality adjustment. Also, it was recommended that all data be released at the time of the publication of payment rates in the **Federal Register**. Some commenters recommended that the data used to determine the budget neutrality adjustment be published for review and comment, or that we at least offer additional opportunity to comment on the budget neutrality methodology.

Response—We agree hospitals should have access to the data used in connection with the development of the prospective payment system. We would like to point out that public access to disclosable information is provided under the Freedom of Information Act (5 U.S.C. 552). While we cannot guarantee that all requested information will be disclosed in the format desired by the requester, we will continue to respond promptly to all information requests and provide all available data to assist the hospital industry and other interested parties in the evaluation of the prospective payment system.

In fact, much of the applicable data has already been made available to requesters. For example, the cost report file used as a basis for determining the budget neutrality adjustment factor and other factors had already been made available for public use before publication of the interim rule. This data, together with our descriptions of the budget neutrality determination published in section VIII of the Addendum to the interim rule, should allow our budget neutrality determination to be replicated.

We do not agree that all data should be released simultaneously with the publication of prospective payment rates in the **Federal Register**. The data are voluminous, and would be of no interest to many hospitals and individuals that are otherwise involved in hospital payments. In addition, we believe the lengthy and detailed description of the data and the development of rates contained in the **Federal Register**, along with the many examples furnished, afford the reader all the information necessary for an understanding of the prospective payment system. Those individuals, hospitals, or associations desiring additional data and other material, either for verification of rates or for other purposes, may request this data under the Freedom of Information Act.

Similarly, we do not agree that it is necessary to afford further opportunity for comment on the adjustment methodologies, such as for the budget neutrality factor. Section VIII of the Addendum to the interim rule included an explanation of the budget neutrality determination, including descriptions and interpretations of special studies, sufficient to permit replication of the determinations, as noted above. We believe this explanation meets the requirements of section 1886(d)(6) of the Act, which requires that the published notice of methodology, data, and rates include an explanation of any adjustments. We fully expect to be actively involved in dialogue with hospitals and other parties during the implementation of the prospective payment system. Further, we will publish future notices of methodology, data, and rates for public review and comment on an annual basis. Accordingly, we have not offered further opportunity for comment on this rulemaking, as commenters suggested.

2. Base Year Costs

Comment—One commenter was under the impression that Medicare costs from hospitals in the four waiver States (Massachusetts, New York, New Jersey, and Maryland) were not included in the development of the standardized amounts. It was suggested that exclusion of these data would distort the standardized amounts.

Response—As stated in the preamble of the interim final rule, we constructed the Federal standardized rates using costs from the cost reports of all hospitals in our data base. The costs from hospitals excluded under section 1886(d)(1)(B) of the Act (psychiatric, rehabilitation, childrens', and long-term hospitals) and all subproviders were excluded, while the costs from hospitals located in the four waiver States were included. We agree that exclusion of these data would have an impact on the determination of certain regional rates. For example, excluding data from New York and New Jersey hospitals would have meant that the Federal rates for the Middle Atlantic region would have been based entirely on data from hospitals in Pennsylvania. Because the number of Medicare waiver States can change over time, we believe that the Federal rates should reflect all available data from the hospitals not otherwise excluded from the system.

Inclusion of data from the waiver State hospitals is, we believe, supported by the law. While the law specifically states that the costs of excluded hospitals are not to be used in calculating the standardized amounts, it is silent with respect to the costs of hospitals located in waiver States. Section 1886(d)(2)(D) of the Act states that:

> The Secretary shall compute an average of the standardized amounts determined under subparagraph (c) for the United States and for each region—

(i) For all subsection (d) hospitals located in an urban area within the United States or that region, respectively, and

(ii) For all subsection (d) hospitals located in a rural area within the United States or that region, respectively. (Emphasis added.)

Therefore, under this section of the law, subsection (d) hospitals must include hospitals located in the waiver States which would otherwise qualify for that designation. Presumably, had Congress wished to exclude costs of waiver State hospitals from the data base, it would have expressly indicated so, either in the law itself or the accompanying Committee reports. Absent such specific directive and following the reasoning discussed above, we agree with the commenter that such an exclusion would be inappropriate.

Comment—Several commenters felt that hospital base period costs used to determine the hospital-specific portion and the Federal portion of the rate should not be reduced by excluding costs in excess of the routine per diem cost limits authorized by section 223 of Pub. L. 92–603. One commenter stated that Pub. L. 98–21 indicated that base year costs are to be the "hospital's target amount for the cost reporting period" determined "without application of" the subsection of the Act that authorizes limits on inpatient operating costs.

Response—We do not agree that costs in excess of the routine cost limits should be included in determining either the hospital-specific rate or the Federal rate. Inclusion of costs in excess of the limit would result in recognition of costs that had been legitimately found to be unnecessary and unreasonable in the efficient delivery of hospital services under section 1861(v)(1)(A) of the Act. If we included costs in excess of the limits, the method included in the law for inflating both the hospital-specific portion and the Federal portion would compound the excess costs by carrying them forward into future years. Not only would they be carried forward into future years, they would also be inflated by the applicable percentage increases. In addition, because of the budget neutrality requirements, any increase in costs due to the inclusion of costs in excess of the routine limits must be offset against all hospitals' costs. Therefore, inefficient hospitals would be advantaged at the expense of efficient hospitals.

The exclusion of excess costs is also justified by reference to the statutory language in Pub. L. 97–248 and Pub. L. 98–21. Pub. L. 98–21 specifies only that the sections 1886(a) limits do not apply. That is, the limits on total inpatient operating cost effective for periods beginning on or after October 1, 1982, do not affect the prospective payment system. The original bill, H.R. 1900, would have set the hospital-specific portion of the prospective payment rate at 75 percent of the lesser of the hospital's target amount for the cost reporting period or the section 1886(a) cost limit. In other words, the original bill would have included total inpatient operating cost limits in the determination of the prospective payment rates. The Senate bill dispensed with the application of the section 1886(a) total operating cost limits. The conference agreement followed the Senate amendment and so included language making clear that the limit on total inpatient operating costs would not apply along with the rate of increase as they would have under the original version.

Section 1886(d)(1)(A) of the Act states that the hospital-specific portion of the prospective payment rates is based on section 1886(b)(3)(A). Exclusion of excess costs is consistent with section 1886(b)(3)(A)(i) of the Act, which defines the hospital target amount (the basis of the hospital-specific portion) for the first year of the rate of increase provision as the "allowable operating costs . . ." of the preceding 12-month cost reporting period (base year). The phrase "allowable operating cost of inpatient hospital services" is used in both sections 1886(b)(3)(A)(i) and 1886(a)(1)(C) of the Act. In reference to the latter section, the Conference Committee Report on Pub. L. 97–248 clearly states that "in no case would reimbursement on a cost-per-case basis be reduced below the allowable cost-per-case *reimbursement* for the hospital's cost reporting period that immediately precedes the first cost reporting period to which the new limitation is applicable." (H.R. Rep. No. 97–760, 97th Congress, 2d Session (418) (1982.) (Emphasis added.) By applying this explanation of "allowable operating costs" to both contexts in which the identical language is used, it is clear that, for purposes of setting target amounts, only base year costs that were actually reimbursed should be considered, thus excluding any costs in excess of the cost limits in that year.

3. Updating for Inflation

Section 1886(d)(2)(B) of the Act requires that base year cost data be updated. Therefore, we updated through fiscal year 1983 by using actuarial estimates of the rate of increase in hospital inpatient operating costs nationwide, and further accounted for inflation through fiscal year 1984 by using the estimated annual rates of increase in the hospital market basket plus one percentage point.

Using the data available to us in August 1983, we estimated the calendar year 1983 rate of increase in cost per discharge to be 11.7 percent. More recent data available to us have lead us to revise our estimate of the calendar year 1983 rate of increase in cost per discharge to 10.9 percent. We have decided to revise the actuarial estimate of the rate of increase in hospital operating costs nationwide that was used in computing the adjusted standardized amounts. This produces a decrease in those amounts. The revised adjusted standardized amounts are set forth in Table I of the Addendum to these regulations.

Comment—Several commenters recommended that we provide for retroactive adjustments of the prospective payment rates if our market basket estimates of inflation prove to be inaccurate.

Response—One of the purposes of the prospective payment system is that hospitals will know in advance of each discharge the amount of Medicare payment. Using the latest available market basket projections prior to the beginning of a particular Federal fiscal year is consistent with this concept. To permit retroactive adjustments of the market basket inflation rates would erode the prospective nature of the system. We believe this would introduce an element of uncertainty incompatible with the very purpose of the prospective payment system. Therefore, we have not adopted the suggestion that the rates be adjusted if market basket projections prove to be inaccurate.

Moreover, section 1886(d)(2)(B)(ii) of the Act specifically requires that the hospital costs in the data base be projected for FY 1984 by using the "applicable percentage increase (as defined in subsection (b)(3)(B))." In accordance with section 1886(b)(3)(B), the update factor is the percentage increase, estimated by the Secretary "before the beginning of the period or year," by which the cost of the market basket of goods and services "will exceed" the cost of such goods and services for the preceding 12-month period. Therefore, the law requires that the inflation estimates be set before the beginning of the period. There is no authority for retroactive adjustment of the inflation adjustment.

During our continuing analysis of the requirements of the section 601(b)(7) of Pub. L. 98–21, it became apparent that, while the target rates for rate-of-increase purposes (as well as for purposes of setting the hospital-specific

portion of the prospective payment rate) must be prospective, there is no requirement in the law that we publish quarterly notices of market basket rates. The law requires only that the Secretary estimate the percentage change in the market basket before the beginning of the period or year.

Congress determined that certain hospitals will be excluded from the prospective payment system. Under the law, these hospitals will continue to be paid on a reasonable cost basis and will be subject to target rate ceilings under § 405.463 of the regulations.

In addition, we believe that the requirement to issue notices on a quarterly basis constitutes an unnecessary administrative burden on providers, the intermediaries and HCFA as a result of the constant monitoring and responding to changes in the market basket, that underlies the quarterly notice procedures.

Accordingly, we are amending section 405.463(c)(5)(iii) of the regulations to eliminate the quarterly estimates.

It should be noted, however, that in order to allow hospitals the opportunity to adjust to this change in policy, we are, in a separate notice, providing the target rates based on the latest available data since the interim final regulations and notices were published on September 1. However, these will be the final rates that will be used by all hospitals whose cost reporting periods begin on or after January 1, 1984 and before October 1, 1984.

We realize that certain providers (primarily those whose cost reporting periods began 10/1/83, 11/1/83, and 12/1/83) were assigned updating factors which appeared in the September 1, 1983 interim final regulation and notice of target rates. Normally, the updating factors already assigned for these providers would remain in effect throughout their entire cost reporting periods. However, this first year is unusual with respect to the prospective payment system due to the necessity of our publishing an interim final regulation and then a final regulation. Under these circumstances, we are publishing updated target percentages for those hospitals whose cost reporting periods begin on or after January 1, 1984. The latest market basket rates are reflected in these target percentages. Since these market basket rates in the aggregate are lower than the rates which were used for the interim final regulations, we believe it is appropriate to also adjust the updating factors for those hospitals whose cost reporting periods began prior to January 1, 1984 for discharges occurring after 30 days following publication of the final regulations. If we were not to take this action, hospitals whose cost reporting periods begin prior to January 1, 1984 could receive a windfall vis-a-vis other hospitals, since their rates would have been computed using higher market basket rates. We do not think this is a desirable outcome from the point of view of consistent and equitable treatment. Accordingly, the updating factors contained in section V. of the addendum will be used in computing the hospital-specific portion, for discharges occurring after 30 days from the date of publication of the final regulations, for providers whose cost reporting periods began prior to January 1, 1984. (Note also that these rates have been revised to reflect a reduced budget neutrality adjustment factor.

4. Grouping of Standardized Costs

Several comments were received regarding the grouping of costs per discharge into urban and rural averages.

Comment—We received a number of comments suggesting alternative ways of grouping hospitals for purposes of computing the standardized amounts. For example, one commenter suggested that the standardized amounts be determined by hospital bed size or by the services offered.

Response—In calculating the standardized amounts which were published in the interim final rule, we followed the detailed requirements for such calculations that are contained in section 1886 (d)(2)(C) and (d)(2)(D) of the Act. Under these provisions, the costs of each hospital in our data base were standardized to eliminate the effects of indirect medical education costs, area wages, and the mix of cases treated by each hospital. We then computed average standardized amounts for each urban and rural within the nine census divisions, as well as for the United States as a whole. We have not seen objective data indicating that there is a better system that does not advantage on particular group of hospitals or segment of the industry.

Comment—Several commenters asked how we will recognize revised Metropolitan Statistical Area (MSA) designations announced by the Executive Office of Management and Budget (EOMB).

Response—Changes in MSA designations will not affect the prospective payment rates until the beginning of the Federal fiscal year (October 1) following the changes announced by EOMB. At the time of the update of the standardized amounts, we will recognize the revised status of those hospitals which have been reclassified by paying at the appropriate standardized amount for their revised status of those hospitals which have been reclassified by paying at the appropriate urban or rural status as adjusted by the revised wage index. For example, if a hospital is reclassified as urban in June 1984, it would be paid using the rural standardized amount until October 1, 1984 (that is, the beginning of the next Federal fiscal year).

According to EOMB, new MSA designations do not become effective until official notification is given of the change in status. Thus, in no case will we recognize a change in MSA designation, or the creation of a new MSA, prior to the effective date announced by EOMB. Since EOMB is responsible for these designations, it would be improper for us to recognize an effective date which is other than the date announced by EOMB.

We also do not believe it would be appropriate to change a hospital's prospective payments retroactively to take account of revised MSAs. We agree that adopting new MSA designations retroactively generally would benefit providers in areas that have newly acquired MSA status. However, it should be noted that as a result of a new census, MSAs are both added and deleted. This means that providers in locales that have lost or are about to lose their MSA classification, as a result of EOMB's continuing analysis of factors such as commuting patterns, would have their payments retroactively reduced.

Also, it is important to note that the prospective payment system, as legislated by Congress, was meant to set payments in advance. That is, hospitals would know in advance of services being furnished what price would be paid for those services. In this regard, the Congress recognized in both Pub. L. 98–21 and the Conference Committee Report accompanying the law that prices would often have to be computed using data that, later in the period, could be changed or supplemented by more recent data. However, it was not Congress' intention that the prices would be changed immediately to reflect that new data, or that retroactive changes in prices would be made. Rather, the law is specific as to when updates of averages of standardized amounts will be made, that is, effective with the beginning of each new Federal fiscal year.

Comment—Some commenters expressed concern that the census region boundaries may be inappropriate where an MSA, including counties from more than one State, is split into

different census regions. It was suggested that all hospitals within a designated MSA should be paid a standardized payment rate based on MSA designation since these hospitals not only share the same labor market (as recognized by the wage index), but also incur the same costs for services and supplies.

Response—The law provides that, during the transition period, a portion of the prospective payment rate will be based on standardized regional Federal rates. The problem is one of transition. When the prospective payment system is fully implemented, payment will not be dependent upon census regions. However, Congress did believe a transition system using regional averages was needed to make the move to the permanent system of national rates more gradual. The very nature of these two different systems creates a few awkward situations, but we believe they do not detract from the basic intent to soften the movement to the national system. It should be noted in this connection that the issue raised by these commenters applies only to the transition period payment system, under which regional rates will gradually be phased out.

We believe the problem posed by the commenters is one which is inherent in any situation where geographic boundaries must be established. Unfortunately, it is impossible to designate boundaries that will be completely satisfactory to all hospitals. We believe that the classification system contained in the law producers reasonable results in its overall application.

We recognize that the Secretary has broad authority under the law to provide for exceptions or adjustments as deemed appropriate, and that the Conference Committee Report accompanying Pub. L. 98–21 ". . . clear that this authority permits the Secretary to provide for such exceptions and adjustments as may be appropriate with respect to hospitals experiencing special problems because of their location in a particular census division." (H.R. Rep. No. 98–47, 98th Congress, 1st Session (23) (1983).) However, to provide exceptions in this area would require that there be objective criteria that would allow us to determine whether and to what extent hospitals located in one region should more appropriately be paid using the standardized amounts from another region. To date, there are no such objective criteria. As we stated above, we believe the current classification method to be reasonable in its outcome, since it does not systematically discriminate for or against particular groups or classes of hospitals.

Comment—Several comments were received from providers in rural areas that border urban areas stating that their rural classification producers an inequitable result. They allege that while the rural standardized costs are lower than the urban costs, the generally higher costs of urban areas have a large impact on the costs of these rural providers.

Response—Section 1886(d)(2)(D) of the Act details the specific definitions to be used in determining urban and rural areas. An urban area means an area within an SMSA as defined by EOMB, or a similar area that we have recognized for hospital cost limits under regulations. (Effective June 30, 1983, the MSA designation replaced the Standard Metropolitan Statistical Area (SMSA) designation.) A rural area is defined as any area outside an urban area. We do not independently make the urban/rural determinations. Rather, we use the EOMB designations of metropolitan areas, that is, MSAs. The EOMB definitions that were published on June 27, 1983, and became effective June 30, 1983, are based on the best information currently available.

In administering a national payment system, we must have a national classification system built on clear, objective standards. Otherwise, the program becomes increasingly difficult to administer because the distinction between rural and urban hospitals is blurred. To date, we believe that the MSA system is the only one that meets the requirements for use as a classification system in a national payment program. The MSA classification is a statistical standard developed for use by Federal agencies in the production, analysis, and publication of data on metropolitan areas. The standards have been developed with the aim of producing definitions that will be as consistent as possible for all MSAs nationwide. These definitions are based on the 1980 census data, which is the most recent and accurate population data available. Until a better classification system is devised, we will continue to use the EOMB definitions as expected by Congress.

We do not believe a general exception or adjustment is appropriate at this time for other rural hospitals that border an urban area. Any such exception or adjustment would have to be based on objective criteria that indicate the nature and extent of the dependence of the hospital on the economic life of the urban area. To date, we have no such generally accepted criteria except for the EOMB designations of urban areas, which were used in determining the urban/rural location of hospitals.

5. Adjustments to Average Standardized Amounts

The methodology for computing prospective payment rates includes adjustments to the average standardized amounts to take into account shifts of Part B payments, FICA taxes, outliers, and budget neutrality. In reviewing the methodology, adjustments, and comments, we have decided not to make any changes to the methodologies on which these adjustments to the standardized amounts are based. However, as explained in the discussion of updating base year costs for inflation, we have revised our inflation estimate, resulting in slightly lower average standardized amounts. This does not affect most of the factors used to adjust those amounts, but it does affect the budget neutrality adjustment factor.

We have not changed the methodology by which we determined the budget neutrality adjustment factor. However, that methodology includes a comparison of estimated average per case payments under Federal rates, hospital-specific rates, and the case-mix adjusted cost limits and rate of increase ceiling established by Pub. L. 97–248. Since revision of our inflation estimate for 1983 affected the assumptions that we used in this comparison, we had to recompute the budget neutrality adjustment factors. This recomputation is explained and illustrated in the Addendum to these regulations. The revised budget neutrality adjustment factors are set forth at the end of the Addendum.

A number of comments addressed the bases and methodologies for determining the various adjustments to average standardized amounts. Most of these comments also addressed the technical discussion of the methodology for determining the budget neutrality adjustment factor, published as section VIII of the Addendum to the interim rule, which included a comparison of projected payment levels using Federal rates based on the adjusted standardized amounts with projected hypothetical payment levels based on hospital-specific rates and on the law in effect as of April 19, 1983 (that is, the Social Security Act as amended by Pub. L. 97–248). To avoid repetition, the comments and responses below deal with adjustments to the hospital-specific rates and TEFRA estimates, as well as to average standardized amounts.

Comment—Many comments addressed the basis, for, methodology of, and consistency of application of adjustments to the payment rates. Several commenters supported increasing payment rates to take into account FICA taxes for nonprofit hospital entering the Social Security system as of January 1, 1984, Part B costs shifted to Part A as a result of rebundling, and the shift of costs of hospital-based physicians' services to providers from Part B to Part A as a result of regulations published March 2, 1983 (48 FR 8902). In addition, some commenters suggested additional adjustments to the payment rates, such as an upward adjustment to anticipate successful appeals related to costs disallowed in hospitals' base periods.

Response—In developing the prospective payment rates, we computed several adjustment factors, some of which were applied to the average standardized amounts, and some of which were used solely for adjusting the Federal, hospital-specific, and TEFRA projections for purposes of determining budget neutrality adjustments.

As explained in the interim rule, we did make upward adjustments to the average standardized amounts to reflect expanded coverage for FICA taxes and the shift from Part B to Part A resulting from rebundling. However, as some commenters noted with objections we did not increase the average standardized amounts to reflect the costs of hospital-based physicians' services shifted from Part B to Part A as a result of the regulations published March 2, 1983, although we did increase the average per case payments, estimated for budget neutrality purposes, based on hospital-specific rates and payments under Pub. L. 97–248.

Our reasons for making this adjustment in only the latter two cases are quite specific. First, the hospital-based physician regulations were primarily intended to implement section 108 of Pub. L. 97–248. As such, they are clearly related to the Social Security Act as it stood on April 19, 1983, and should be included, with the case-mix limits and rate of increase limit, among provisions affecting payment levels under previous law. (Conversely, since, Pub. L. 97–248 did not provide for hospitals being newly subject to FICA or for rebundling, we did not apply these adjustments to the TEFRA estimates.) Second, the methodology used by intermediaries to determine each hospital's hospital-specific rate permits hospitals to submit data on this shift from Part B to Part A for purposes of adjusting base-year costs. Thus, the hospital-specific estimates would be inaccurate if we failed to take into account the hospital-based physicians regulation.

Finally, applying such an adjustment to the average standardized amounts (and, by extension, to the per case budget neutrality estimates of Federal rate payments) would not actually increase the level of payments under budget neutrality. If we were to increase the initial standardized amounts to reflect this shift, the budget neutrality adjustment factor would have to be recalculated, would accordingly be increased, and the net result would be virtually identical. As a result, such an adjustment would have no effect on payment levels during FYs 1984 and 1985, which are subject to budget neutrality. Since we expect to reexamine the basis for the level of rates for FY 1986, we believe there is no justification for adding this unnecessary step to the rate calculations at this time.

Regarding additional adjustments recommended by commenters, we made no adjustments to either the adjusted standardized amounts or to the budget neutrality estimates for conditions that could not be quantified on the basis of currently available data, even if there were a likelihood that these conditions might exist under prospective payment. For example, no adjustment was made for the likelihood that admissions would increase more rapidly under prospective payment than under the provisions of Pub. L. 97–248, or for costs that might be disallowed as a result of audit or desk review by the intermediaries. Likewise, we made no attempt to quantify adjustments for the likelihood of transfers under prospective payment, emergency room services, and disallowed costs which are successfully appealed.

Comment—One commenter suggested that the adjusted average standardized amounts and hospital-specific rates not be adjusted downward for outlier payments since the outlier cases, which represent unusual, extremely atypical cases, would have been eligible for additional payments under Pub. L. 97–248.

Response—The law specifically requires that the payment amounts be adjusted downward for outliers. Furthermore, since Pub. L. 97–248 applied a limitation on the average cost of all cases in a hospital, a few atypical, high cost cases would have only a small impact on the overall average cost per case, and a substantial portion of this impact would be offset by cases with lower than average cost.

Comment—A number of comments addressed the assumptions underlying the development of the various adjustment factors used in both the rate-setting methodology and the budget neutrality determination. One commenter expressed concern that the assumptions employed in the determination of the budget neutrality factors were different from those used in updating the prospective payment standardized amounts. Another commenter, concerned about determining budget neutrality adjustments by comparing average per case payments, suggested that we should provide to the hospital industry "bottom line" FY 1984 outlay estimates and supporting details under Pub. L. 97–248, Federal rates, and hospital-specific rates.

One other comment inquired about the assumptions, data, and estimates used in computing FY 1984 nonoperating costs per discharge for purposes of the budget neutrality determination. This comment expressed concern that inaccuracies in these estimates would affect the budget neutrality factors.

Response—With the exception of those cases addressed specifically in the explanation of the budget neutrality determination, we used no assumptions in estimating the payment rates under Pub. L. 97–248 that were different from those used in updating the payment rate under the prospective payment system. For example, the inflation rates and market basket increases used in estimating payments made under Pub. L. 97–248 were the same as those used to update the prospective payment rates.

As we explained in the interim rule, the assumption that admission increases will be equal under prospective payment and under the provisions of Pub. L. 97–248 makes admission increase assumptions irrelevant to the determination of budget neutrality. Moreover, because of hospital accounting year distributions, because some hospitals are exempt from the system, and because some hospitals are in States that operate alternative reimbursement systems, less than half of the hospital payments during FY 1984 are affected by the budget neutrality determination. Therefore, "bottom line" outlay estimates are not relevant to the determination of budget neutrality.

The nonoperating costs per discharge wer computed using data from the same cost reports and the same increase assumptions as for operating costs. Hence, any inaccuracies in nonoperating cost assumptions would also affect the

operating cost estimates in the same manner, so that the effect on the budget neutral factors would be negligible. Further, only the *difference* between prospective payment nonoperating costs and TEFRA nonoperating costs affects the budget neutrality factor. Since the difference is extremely small, the impact of any inaccuracies is minimal.

Comment—Some comments inquired whether, for purposes of budget neutrality, the costs per case were unweighted, or weighted by discharges. One commenter expressed concern that prices based on unweighted means would be lower than necessary for budget neutrality.

Response—For purposes of budget neutrality, we weighted both costs and unadjusted payment rates by discharges, as described in the explanation of the budget neutrality determination addendum. Since the budget neutrality determination sets the final average cost per discharge, if the level of the prospective payment means were too low, the budget neutrality factor would be too high, so that average payment rates after the budget neutrality factors are applied would be set at the correct level to achieve budget neutrality.

Comment—In the interim rule, we explained how we adjusted the budget neutrality estimates for Federal and hospital-specific rates, increasing them by 3.38 percent, to take into account expected improvements in hospital coding of diagnoses and procedures on their bills. One commenter asked for our assumption with regard to the pace at which coding errors could be eliminated by hospitals. Another commenter asked if the 3.38 percent coding improvement factor was built into the base and if no further adjustment would be made in this factor for the FY 1985 budget neutrality determination.

Response—For purposes of the FY 1984 budget neutrality determination, we have assumed that coding would be correct on all bills submitted under prospective payment. However, based on actual experience, we may change or replace the factor for the FY 1985 determination.

Comment—One comment inquired what was meant by budget neutrality adjustment on a "periodic payment" rather than "total end-of-year" cash basis.

Response—"Periodic payment" is the value of services when provided or incurred. "Total end-of-year" reflects the time delays in actual cash payments for services provided. If the budget neutrality determination had been made on a cash basis, a downward adjustment in the rates would have been necessary to account for the fact that, under Pub. L. 97-248, a portion of payments to hospitals would have been delayed until after the settlement of the cost report.

Comment—One commenter suggested that the budget neutrality factor should be adjusted to prevent the reallocation of funds from teaching hospitals to nonteaching hospitals.

Response—The budget neutrality factor is not related to the teaching adjustment. The budget neutrality factor is applied uniformly over all hospitals and results in no reallocation of funds among hospitals.

Comment—Several comments expressed concern that we were removing "section 223" per diem penalties from the data used to make the budget neutrality comparisons.

Response—In the interim rule, we explained that we computed FY 1984 TEFRA limits, for purposes of making the budget neutrality estimate, using the same method as we used for the actual FY 1983 limits, except that we appropriately revised the applicable percentage level of the limits to 115 percent of the mean, as required by section 1886(a) of the Act. Since the section 223 per diem penalties were not removed in determining or applying the FY 1983 TEFRA limits under Pub. L. 97-248, we did not remove them from the estimated FY 1984 limits either.

Comment—Several comments inquired about the mean and distributions of the empirical data used to derive the standard deviation of 12 percent used in the budget neutrality determination.

Response—We developed two empirical distributions, each one covering a two-year period, of hospitals' percentage rates of cost increase from the available data for 1978 to 1981, inclusive. The means of the two distributions differed, but, for both distributions, the best-fit normal distribution had a standard deviation of 12 percent. In addition, for both cases the standard error of the fit was less than 0.2 percent. Hence, both empirical distributions showed a close fit to normal distribution. In addition, their standard deviations were equal, even though the means were different.

B. Adjustments for Area Wage Levels

Two types of adjustments are made to the adjusted standardized amounts by the fiscal intermediaries. The labor-related portion (that is, 79.15 percent) of the adjusted standardized amount is multiplied by the appropriate wage index for the area in which the hospital is located. (The wage indexes applicable for FY 84 were presented in Tables 4.a. and 4.b. of the addendum to the interim final rule (48 FR 39871).) The nonlabor-related portion (that is, 20.85 percent) of the adjusted standardized amount is then multiplied by the appropriate cost-of-living adjustment factor for hospitals in Alaska and Hawaii. (We received no comments on the cost-of-living adjustment.)

Comment—We received comments concerning the inclusion of professional fees, business services, and miscellaneous expenses in the labor-related portion of the market basket. This portion, which amounts to 79.15 percent under the interim final rule, is adjusted by the area wage index. The commenters argued that professional fees and business services are not always based on local wages, since these services are often provided by companies that are regional or national in scope. The commenters also questioned whether the miscellaneous category is truly labor-related.

Response—The decision to include professional fees, business services, and miscellaneous expenses along with wages and fringe benefits in the labor-related portion of the market basket was made in recognition of the fact that most items purchased by a hospital have a wage component. In the promulgation of the hospital cost limits for cost reporting periods beginning on or after July 1, 1980, we increased the percentage of the labor portion to include employee benefits, professional fees, business services, and other miscellaneous expenses. The data used to develop these limits showed that variations among hospital costs are closely correlated with area variations in prevailing wage levels.

In particular, we believe business services and services furnished by professionals are labor intensive. Since the purpose of the wage index is to take account of the variations in wages, we believe it is appropriate to consider these services as labor-related and thus subject to the wage index. We also believe it is appropriate to include the miscellaneous category in the labor-related portion. As indicated above, most items purchased by a hospital have a wage component. We believe it is appropriate to continue under the prospective payment system with the same components of the labor-related portion of the market basket, since we do not expect that there have been substantial changes in the relationship between costs and area variations in prevailing wage levels. Therefore, we do not agree with the recommendations that professional fees, business services,

and miscellaneous expenses be removed from the labor-related portion.

Comment—Several commenters recommended that rural hospitals be permitted to use the higher of the rural wage index or the index for a neighboring urban area if they can demonstrate that their wage levels parallel those for the urban locale.

Response—This suggestion presumes that hospitals located just outside an MSA or the New England County Metropolitan Area (NECMA) compete in the urban area's labor market. However, the recommendation fails to recognize that the wage index is not meant to reflect the wage levels of any one hospital. Rather, it is a measure of how hospital wages paid in a "local area" compare to a national average. A rural hospital paying higher wages may merely be out of line with its local market (not necessarily the adjacent urban area), in which case permitting the use of the higher urban wage index would not be appropriate.

The basis for the recommendation is the belief that application of a single rural wage index does not recognize the widely varying labor market conditions that may prevail throughout a State. However, simply permitting rural hospitals the use of the generally higher urban wage index would not properly address this problem. The comments concerning the accuracy of the rural wage indexes imply that a better means for aggregating rural counties to obtain indexes more reflective of economically integrated rural areas should be investigated. We acknowledged this in the final rule published August 30, 1983 which implemented the Medicare provisions of Pub. L. 97–248 (see 48 FR 39433).

We will be working with the hospital industry to evaluate alternative data sources for the wage index and alternative methodologies for computing the indexes. One of the issues that will be explored is the development of a more refined wage index for rural areas.

Comment—Several commenters suggested that we modify the present hospital wage index to recognize the generally higher labor costs associated with hospitals within the more economically interdependent central counties of each urban area. These commenters recommended that we apply separate wage indexes to urban areas subdivided into "core" and "ring" (that is, suburban) counties.

Response—Because of their greater specificity, the use of "core/ring" urban distinctions would, in principle, recognize labor cost differences within large urban areas. However, we believe adoption of such a measure is not feasible in the near future because of certain limitations of the BLS data used to construct the wage indexes. Although BLS records are the best presently available for the development of hospital wage indexes compatible with the prospective payment system, these data are limited in their usefulness when broken down to small areas. For example, the data are not sensitive to differences in the proportion of part-time employees, area differences in occupational mix, hospital variation in overtime utilization, and length of work week.

The current use of aggregated BLS ES 202 data from all non-Federal hospitals within the specific urban areas mitigates the effect of these uncontrolled variables, particularly in large metropolitan areas with many hospitals. We believe disaggregating these urban data further would only magnify the inherent limitations of the BLS data and increase the potential for distortion in core/ring wage indexes, particularly in those areas with few hospitals. We would also note that the use of the "core/ring" concept would exacerbate the already existing problem of creating geographic boundaries.

Comment—We received a number of comments that question the reliability of the Bureau of Labor Statistics (BLS) data used to construct the wage indexes. For example, it was mentioned that the data do not take into account part-time employees and overtime work, both of which may distort the wage index. Some commenters suggested that we use full-time equivalents (FTEs) from the Medicare cost report, rather than the number of hospital workers, as the basis for computing average monthly employment.

Response—We recognize that the data are not controlled for variations in occupational mix, area variations in the proportion of FTEs, and differences in reporting compliance, all of which are relevant factors. However, we believe the BLS data are the best currently available for the development of a wage index compatible with a national payment system.

We currently do not have a data base other than the BLS data which is sufficient for computing accurate wage indexes. While it has been suggested that data currently on the cost report could be used, we do not believe that these data are sufficiently accurate and detailed to be used in constructing a wage index. For example, the number of FTE employees is often missing from the cost report or that the data are inaccurate. This occurs because the particular data item has not usually been used for reimbursement or payment purposes. Accurate reporting by all providers would be necessary for purposes of establishing a wage index. As another example, the salary information on the cost report is currently reported in total. However, a total figure is not sensitive to distortions from factors such as overtime, bonuses, and severance pay. It is the actual payment rates that are significant in deriving an index that is more accurate than the index based on BLS data and overcomes the shortcomings of that index. Generally, FTEs and salaries should be broken down into occupational categories, in addition to the cost center categories that currently exist on the cost report.

There is a common realization on the part of both the hospital industry and the Federal government that an improved wage index is needed, since the payment to every hospital for each discharge is adjusted by the index. Therefore, we will be participating with the hospital industry in a workgroup to investigate and analyze alternative data sources and methodologies for constructing a hospital wage index. Any changes will be adopted on a prospective basis. However, we note that certain changes, if recommended by the workgroup, may require legislation to be implemented.

Comment—Several commenters objected to the continued exclusion of (BLS) wage and employment records from Federal hospitals to derive the wage index. These commenters stated that Federal facilities compete in the same labor market as other hospitals but typically have higher pay scales. This forces non-Federal hospitals to raise their own wage levels to remain competitive or risk deterioration in their quality of care.

Response—We have found that the exclusion of Federal wage and employment records from the BLS data used to construct the hospital wage index has led to higher index values in some areas and lower index values in others. Where local Federal hospital wages are higher than those paid by non-Federal facilities, the exclusion of Federal wages has generally yielded a lower wage index value. In localities without Federal hospitals, the exclusion of Federal data yields a higher index value due to the corresponding reduction in the national average. Thus, exclusion of Federal data does not result in lower wage indexes across the board. If we agree with the assumption that Federal hospital wage rates are generally higher than those for non-Federal facilities, differences between Federal and private sector employment

practices may be an important cause. Such differences could include the filling of most Federal jobs through competitive examination, and the Federal requirement to compile national registers of eligible candidates prior to selection, and the frequent use of uniform national pay scales. To the extent this occurs, then Federal hospitals are, by definition, not in the same labor market. Therefore, continuing to exclude Federal hospital statistics from the BLS data used to construct the wage index is appropriate. In addition, if area hospitals pay employees wage rates similar to those of Federal hospitals to attract qualified personnel, this would be reflected in the non-Federal BLS data used to develop the index, and the exclusion of Federal data would have little effect on the measure. We expect to examine these issues as part of the study mentioned above currently underway to examine the adequacy of the hospital wage index.

Comment—One commenter recommended that the hospital wage indexes be recomputed to exclude BLS data from New York, New Jersey, Massachusetts, and Maryland, the four "Medicare waiver" States. It was argued that use of these data violates the budget neutrality provisions of the Act.

Response—The wage index relates each area's average hospital wage level to a national average wage level. As explained previously, BLS data from the four waiver States were included in calculating the national average. Because these four States tend to have higher than average hospital wage levels, the effect of this inclusion is a higher BLS national average than if these data were excluded. The basis for the suggestion is the belief that the published wage indexes are inappropriately smaller than they would be if the waiver States were excluded in deriving the BLS national average. The commenter maintains that this exclusion would comport with the budget neutrality provisions of the Act.

It should be noted that, in accordance with section 1886(d)(2) of the Act, we constructed the Federal rates using standardized costs from all available hospitals not otherwise excluded from the prospective payment system under section 1886(d)(1)(B) of the Act. This included hospitals located in the four waiver States. We do not believe it would have been desirable to exclude data from waiver State hospitals to develop the Federal rates in view of the significant impact such an exclusion would have had on the determination of certain regional rates. For example, excluding New York and New Jersey hospitals would have meant that the Federal rates for the Middle Atlantic region would have been based entirely on data from hospitals in Pennsylvania. Because the list of Medicare waiver States can change over time, we believe that the Federal rates should reflect all available data from hospitals not otherwise excluded from the system under section 1886(d)(1)(B) of the Act in order to avoid the potential for regional bias in those rates.

Since data from the waiver States were used to develop the Federal rates, BLS data from these States should also be used to construct the hospital wage indexes. The commenter recognized that the adjustments for budget neutrality were computed excluding estimates of reimbursement to providers located in the four waiver States. This is technically appropriate in view of the present exclusion of hospitals in those States from the prospective payment system. The commenter reasoned that in view of this exclusion, BLS data from Medicare waiver States should not be used to construct the hospital wage indexes.

We point out that the inclusion or exclusion of these data has no effect on a hospital's otherwise applicable prospective payment rate (other than perhaps very slight differences due to rounding). This occurs because any net increase in an area's wage index resulting from the exclusion of BLS records from waiver States would be offset by a corresponding *reduction* in the regional standardized rates (see Table 1, Adjusted Standardized Amounts, Labor/Nonlabor, in the addendum of the interim final rule, 48 FR 39844). The following example demonstrates this:

Wage Index Constructed	Average regional cost per discharge		Wage index (WI)	Average regional cost per discharge (WI deflated)		Prospective pmt. for DRG (excludes all constant subsequent adjustments), Federal rate only
	Labor	Non-labor		Labor	Non-labor	
Including waiver State wage data	$2,000	$500	0.9500	$2,105.26	$500	$2,105.26 x .9500 + $500 = $2,500.
Excluding waiver State wage data	2,000	[illegible]	1.0450	1,913.88	500	$1,913.88 x 1.0450 + $500 = $2,500.

Because the Federal rates would be the same in both instances as demonstrated in the above example, we have not adopted the recommendation.

Comment—We received a number of questions concerning the effective date for recognizing wage index corrections to derive revised prospective payment rates. The commenters believed that the interim final rule was unclear on this issue. It was suggested that any corrections to the wage index should be applied retroactively to the beginning of the hospital's first cost reporting period under the prospective payment system.

Response—The interim final rule provides (48 FR 39765) that where a hospital's wage index is incorrect due to an error that we or the BLS have made, we will direct the Medicare intermediary to recalculate the payment rates. However, BLS has advised us that they are unable to correct any inaccuracies in the wage index that may result from a hospital's failure to report the required wage and employment data.

Where errors are identified and corrections are made to the wage index, we believe the appropriate policy is to apply the revised index prospectively to payments for discharges occurring after the date the correction is made. However, any revisions in wage indexes will only apply to the area wage adjustment to the standardized amounts. We will not recalculate the standardized amounts themselves based on revised wage indexes. We considered retroactively adjusting the prospective payment rates for corrections in the wage index. However, for a number of reasons we did not adopt this approach. Application of a retroactive adjustment to the rates would erode the basis of the prospective payment system that payment will be made at a predetermined, specified rate. We also believe hospitals will have less incentive to report accurate ES 202 data if we guarantee a retroactive correction to the wage index.

We also considered implementing corrections to the wage index effective with the next Federal fiscal year. However, this approach effectively provides no relief at all in view of the fact that the FY 1985 prospective payment rates will not reflect the current wage indexes, which are based on 1981 BLS data. We would expect to use 1982 BLS data to develop the FY

1985 rates, and presumably that data will already reflect corrections.

Therefore, we believe that application of corrected wage indexes on a prospective basis effective with discharges occurring after the date the correction is made is the more appropriate approach since it coincides with the basic concept of a prospective payment system. Also, since a correction to the wage index could decrease as well as increase a hospital's prospective payment rate, we believe we should maintain the prospectivity of the system when making any revisions to the payment rates.

C. Prospective Payment Rates During the Transition Period

For the first three years under the prospective payment system, hospitals will be paid a prospective payment rate that is a blend of a hospital-specific portion and a Federal portion.

1. Hospital-Specific Portion

Fiscal intermediaries estimate the hospital-specific rate using the best data available prior to the hospital's entry into the prospective payment system. Once the amounts are calculated, they will be applied throughout the three-year transition period except for adjustment as allowed under § 405.474

The hospital-specific rate is an amount derived from the following formula:

$$\frac{\text{(Base year costs per discharge)}}{\text{(Case-mix index)}} \times \text{Outlier adjustment} \times \text{Updating factor}$$

- Base year costs per discharge are developed from operating cost data for the 12-month (or longer) reporting period ending on or after September 30, 1982 and before September 30, 1983. Total allowable Medicare operating costs for each hospital are divided by the number of Medicare discharges during the applicable base year.
- Base year operating costs per discharge are divided by the hospital's case-mix index to neutralize them for the effects of the complexity of the mix of patients.
- The intermediary reduces the case-mix adjusted base year costs to take into account outlier payments.
- The case-mix adjusted base year costs are multiplied by an updating factor that is equal to the compounded applicable target rate percentage, multiplied by the adjustment factor necessary to maintain budget neutrality, and added to 1.0.
- The resulting hospital-specific rate is multiplied by the appropriate transition period percentage (see section D.3. below) and multiplied by the weighting factor corresponding to the DRG assigned to the discharge. The final amount is the hospital-specific portion of the prospective payment rate.

Comment—Numerous comments were received that objected to prospective application for future transition years of adjustments to base year costs resulting from successful appeals. Most commenters believe the adjustment to the hospital-specific portion should be applied retroactively to the beginning of the fiscal year the hospital first becomes subject to prospective payments. Some of the commenters were confused by the provision in § 405.474(b)(1)(v) regarding the finality of the intermediary's estimate of base year costs for purposes of determining the hospital-specific rate.

Response—In light of these comments, we have reviewed and clarified our interpretation of the provisions on administrative and judicial review of base year costs. A variety of issues are encompassed within this subject. Disputes may arise over the amount of costs incurred during the base year, including amounts that were disallowed for purposes of base year reimbursement. In addition, disputes may arise with respect to adjustments made to these base year costs for purposes of implementing the prospective payment system, for example, elimination of direct medical education costs, the adjustment for payment of FICA taxes, etc. With respect to the latter category of adjustments, there is a question whether the provider is entitled to present new information in support of its position after the intermediary's determination has become final. With respect to both categories of disputes, there is a question whether relief should be made retroactive in the event that the provider eventually prevails.

The starting point for resolving these issues is the prospective nature of the system and congressional recognition that, during the transition period, establishment of the prospective rates would have to be done rapidly based on the data available. The conference committee stated, "Since the hospital-specific portion of the rate must be determined in advance of the hospital's first fiscal year under the system, the managers expect that the Secretary will use *the best data available at that time* to determine operating costs for the purposes of the phase-in" (Joint Explanatory Statement of the Committee of Conference, Item 3.B, Congressional Record—House, page H1773, March 24, 1983) (emphasis added). In short, the determination of a particular provider's hospital-specific portion was not to be subject to subsequent revision—either up or down—since such revision would defeat the prospective nature of the system and would be inappropriate fine-tuning of an inherently crude transitional payment factor. Moreover, subsequent revisions of the hospital-specific portions could upset the budget neutrality adjustment upon which the levels of the rates were set. At the same time, we recognize that a provider is entitled to have its hospital-specific portion calculated in accordance with law, and we do not wish to preclude rectifying calculations that were made contrary to law.

To fulfill these statutory objectives, we are articulating in the regulations the standard for administrative and judicial review of adjustments to base year costs. In view of the prospective nature of the payment system and the conference committee's expectation that final determinations would be made on the basis of the best information available at a time prior to a hospital's entering the system, we believe that the proper scope of review of adjustments to base year costs is extremely narrow. Review will be limited to the question of whether the adjustments were made in accordance with the statute and regulations, for example, whether an adjustment was made for FICA taxes where a hospital was entitled to such an adjustment. As to the amount of any adjustment, review will be limited to whether the intermediary was unreasonable and clearly erroneous in its assessment of the information then before it. The intermediary's judgement is entitled to substantial deference in these cases and should be subject to revision only in cases of egregious error. Additional data, information, and arguments cannot properly be subsequently developed and presented during the review process, since such a procedure would be inconsistent with the requirement for a final determination prior to the beginning of the phase-in period based on the best available information.

In the event that a provider demonstrates during the review process that the calculation of its hospital-specific portion was contrary to law or clearly not based on the best data available at the time, a revision retroactive to the beginning of the transition period would be appropriate and is authorized by the regulations. When the statute has been violated or the best data clearly not used, equity suggests that full relief should be afforded to the provider.

In the case of disallowed base year costs that are successfully appealed by the provider, we do not believe that retroactive revision of the hospital-specific portion would be appropriate. Before an intermediary disallows costs, it carefully assesses the circumstances and the applicable law. In such situations, we believe that there is sufficient formality to ensure that the intermediary has exercised a good faith judgement and hence every reason to believe that it has acted on its assessment of the best data available. Since a later determination that the disallowance was incorrect does not impugn the validity of the intermediary's prior efforts to make a good faith assessment on the data then available, a retroactive revision would be inappropriate. A prospective revision for subsequent years is appropriate, however, because of the better information then available as the hospital's base year costs.

It might be argued that revised adjustments to base year costs should be allowed prospectively even if based on new information, but we do not think that such an approach would be consistent with the statute. As indicated in the conference committee statement quoted above, it was anticipated that the hospital-specific portion would be finally determined before the beginning of the transition period. Accordingly, it would generally be improper to allow subsequent recalculations. Where, however, better information is developed for reasons independent of the prospective payment system, that is, the appeal of disallowed base year costs, we believe that it is acceptable to consider that information on a prospective basis.

We have revised § 405.474(b) to reflect the above policies.

Additionally, we noted an inconsistency between program instructions which allowed hospitals until November 15, 1983 to request the intermediary to recompute their hospital-specific portions to take into account inadvertent omissions in their previous submissions to the fiscal intermediary and the interim final regulations which allowed until November 15, 1983 for the recomputation to be completed. Since the instructions served as the basis for determining target amounts for hospitals entering the system on October 1 and intermediaries as well as hospitals will of necessity have performed in good faith based on the instructions, we are revising the regulations at 405.474(b)(1)(iii)(B) to clearly reflect the policy as stated in chapter 28 of the Provider Reimbursement Manual (HCFA-Pub. 15–1).

Comment—Several commenters suggested that we allow a recalculation of a hospital's case-mix index, based on 100 percent of its 1981 discharges, such as was allowed with respect to the inpatient operating cost limits promulgated under Pub. L. 97–248.

Response—We do not believe that permitting a recalculation of a hospital's cases-mix index would be appropriate. Congress was clearly aware that only limited data were available to us at the time we needed it to set prospective payments rates. The best available data are contained in the 1981 MEDPAR file. In addition, it should be noted that under prospective payment the case-mix indexes are used in setting prospective rates for discharges. This is unlike the use of the case-mix indexes under the system of reimbursement prompted by Pub. L. 97–248. That is, under that law, payments were determined retrospectively based on an individual provider's costs, and subject to subsequent adjustment at settlement of the final cost report. Under such circumstances, recalculation of an individual hospital's case-mix index was not unreasonable, and was consistent with a system based on actual costs and circumstances at individual providers. However, under the prospective payment system, payments are established prospectively and represent full and final Medicare payment for individual beneficiary stays. The purpose of the hospital-specific portion, which is adjusted by the case-mix index, is to ease the transition of a hospital from the reasonable cost system to a fully national prospective system. As such, it is meant to represent only an estimate of costs, based on the best available data at the time the rate is set. It is not meant to guarantee reimbursement of actual costs incurred.

Finally, recalculation of provider case-mix indexes—whether up or down—would make the budget neutrality calculations problematic, since it would be difficult to estimate in advance the changes in payments that would result from such recalculations.

Comment—There were several comments suggesting that in determining the hospital-specific rate and case-mix adjustment, consideration should be given to significant additions in services provided, expansions, relocations and other changes which affect the comparability of a hospital's base period experience to its transition period hospital-specific rate.

Response—The hospital-specific portion of prospective payments must be based on each hospital's allowable inpatient operating costs for the 12-month or longer cost reporting period ending on or after September 30, 1982, and before September 30, 1983. The hospital-specific amount must be based on the best evidence available at the time of the hospital's inpatient operating cost in the applicable base period. Once the costs for that base period are established based on the allowable costs in the pertinent cost reporting period, adjustments are limited to those authorized by the law and regulations.

In addition, the resulting base year costs per case are adjusted by dividing it by the hospital's 1981 case-mix index. This adjustment is made to neutralize the hospital-specific amount for its base year case-mix so that the actual case mix during the transition period can be used to determine payment amounts. Thus, to the extent that additions in services provided are reflected in changes in case mix, and patient services continue to be provided with comparable or improved efficiency, the DRG-specific payment amounts based on the hospital-specific portion will reflect the effects of these changes automatically in a manner that is both accurate and appropriate. This conforms with the congressional intent ". . . that some portion of the prospective payment rate will be related to each hospital's own experience in the base cost reporting year." (Joint Explanatory Statement of the Committee of Conference, Item 3.B., Congressional Record-House, p. H1773, March 24, 1983.) In this regard, it is important to recognize that the purpose of the hospital-specific portion is to moderate the impact of change to a fully national system. There is no indication of an intention to continue the determination of reasonable costs for periods subject to the prospective payment system.

However, we are aware as a result of comments received, in certain isolated instances changes in the organization, management and operation of a hospital between the 12-month reporting period used as the base period and the first prospective payment year may be of such magnitude as to make the base period entirely unrepresentative of historical experience. This can occur where, for instance, a hospital's services are substantially curtailed in anticipation of closing except that the hospital is purchased prior to an actual shut-down taking place. Under such circumstances, substantial layoffs of employees during the curtailment and suspension of certain services, for example, could artificially supress base year experience relative to the scope of

operations during the transition years so that the hospital-specific portion of the rate would not effectively serve its intended purpose. We are, therefore, modifying our policy to allow hospitals, which can demonstrate to their intermediaries' satisfaction that the base period reflects previous ownership and control under which the hospital's operations were being deliberately phased out in expectation of sale or termination of operations, to use the Federal DRG rate as the basis for payment. This would allow the same treatment accorded new hospitals in cases where a hospital technically had never ceased operations but could prove that the base year represented a curtailed level of operations. In order to meet these conditions, a hospital would have to document to the intermediary's satisfaction that occupancy during the current period was more than 150 percent of base year levels, that previous ownership and management had taken deliberate steps to curtail services in the base period by reducing operations, laying off or transferring employees to non-inpatient areas, reducing physician staff and reducing inpatient admissions. The hospital would also need to show that a change in ownership and management along with a corresponding growth in inpatient services and occupancy had occurred between the base period and the first prospective payment period. We wish to emphasize that this provision is intended to prevent the hospital-specific portion from working an unwarranted hardship on a hospital which, except for deliberate actions by a predecessor, would be able to function successfully within the transition payment formula. It is not intended to afford hospitals a choice of the Federal rate merely as a source of additional revenue. We wish to emphasize that a change in ownership, in and of itself, is not sufficient to warrant use of the Federal rate as the basis of payment.

Comment—We received several comments asking for elimination of, or changes to, the provision requiring exclusion of costs in the base period resulting from higher costs incurred for purposes of increasing base year costs, or having the effect of distorting base year costs or as a result of a change in hospital accounting principles in the base year. Some commenters felt that base year costs should include accounting principle changes that were based on necessary management decisions. Two comments suggested that this type of modification to the hospital base year experience should be made for one-time, nonrecurring reductions in cost. Also, objections were raised over the lack of instructions in the regulations as to how these modifications would be applied by intermediaries.

Response—We believe the Congress intended to assure, by giving us broad authority under the law to provide for exceptions, exclusions and adjustments, that some hospitals are not advantaged or disadvantaged by unique circumstances in their base year that do not reflect their usual cost of operation per case. This intent is indicated in section 1886(b)(4)(A) of the Act. We believe that current program operating instructions provide adequate description of its implementation.

However, we agree that one-time, nonrecurring experiences which decrease costs should also be acknowledged as inappropriately distorting a hospital's cost experience. Therefore, we are incorporating a change to § 405.474(b) to require modification of the base period costs in such circumstances as well. We advised our intermediaries of this policy shortly after the publication of the interim final rule and they have made the necessary adjustments where appropriate. Therefore, although retroactive adjustment of the hospital-specific rate is not permitted under the regulations, we believe those hospitals which began prospective payment prior to the publication of this regulation change were able to make the appropriate adjustment based on intermediary instructions.

Comment—We received one comment suggesting a change to the requirement that if a hospital's last cost reporting period ending before September 30, 1983 is less than 12 months, the hospital's base period will be the most recent preceding 12-month or longer cost reporting period. The commenter recommended allowing use of short periods, which are at least seven-months in duration, in order to fulfill the congressional intent to use the best evidence available as represented by the most recent cost reporting period for which data is at hand.

Response—We have rejected this comment because distortions of cost experiences are much too readily amplified by using shorter time periods. For example, many hospitals experience seasonal variations in hospital occupancy and costs. Were we to compute a hospital's cost per case during a period of peak occupancy, we would not have an accurate representation of their true average cost per case. Such situations could occur which would benefit some hospitals while penalizing others. We believe it is more fair and accurate to go back to the hospital's last 12-month or longer cost reporting period. We wish to point out that in updating costs from base year cost reporting periods that occur earlier than the most recently completed cost reporting period, we have used the inflation estimate for the hospital industry rather than the market basket inflation figure. In this way, we do not believe that hospitals are disadvantaged when we use prior periods as base years.

Comment—Several comments were received asking for clarification of how base period costs should be treated to consider the distinct costs involved with hospital psychiatric and rehabilitation units, which are excluded from the prospective payment system.

Response—Differing treatment of a hospital's base year costs for units that may be excluded from the prospective payment system at a later time is not appropriate since the hospital's experience in the base year must serve as the basis for determining the hospital-specific rate, notwithstanding subsequent changes in the hospital's operation. If hospitals provided such services prior to the creation of the distinct unit, the services were billed as acute care and were not accounted for separately. Since the hospital-specific portion is case-mix adjusted and the DRG weights include cost for such services, it would not be practical to adjust the hospital-specific portion when the other elements will not also be adjusted.

Comment—Several commenters stated that the hospital-specific portion of the prospective payment rates should not be reduced for the estimated costs of outlier cases. These commenters believe that reducing the hospital-specific portion for outliers is not in accord with a strict interpretation of sections 1886(d)(2)(E) and 1886(d)(3)(B) of the Act, which discuss the reduction only in connection with the "average standardized amounts" (that is, the Federal portion of the rates). It was argued that the outlier reduction should be applied only to the standardized amounts, which determine the Federal rate.

These commenters further contended that the 5.7 percent reduction for outlier payments on both the Federal and hospital-specific portions of the prospective payment rates implicitly assumes that outlier cases are more or less uniformly distributed across all hospitals. However, they argued that certain hospitals, particularly large urban teaching hospitals, are likely to

have a higher incidence of outlier cases than other providers. Because the outlier reduction is uniformly applied to the base period costs of all hospitals, these commenters concluded that the uniform 5.7 percent reduction acts to benefit facilities with a greater concentration of outliers and penalize those hospitals with relatively few outliers.

Response—In the interim final rule we provided that the hospital-specific portion of the prospective payments would be standardized for case mix by dividing it by the hospital's case-mix index. Standardizing the hospital-specific portion of the prospective payment rate to remove the effect of case mix has the advantage of relating the entire payment to the actual mix of discharges which will occur after a hospital becomes subject to the prospective payment system. This is conceptually consistent with the intent of prospective payment and is an approach supported by major segments of the hospital industry. Because the hospital-specific portion is paid on a DRG-specific basis, we believed that it was appropriate under the law to provide for full payment of outlier cases based on the full prospective payment rate, rather than limit outlier payments only to the portion of the payment derived from the Federal regional/national standardized amounts (that is, 25 percent in the first year). This decision required an adjustment to remove the effect of outliers in the base year in order to avoid duplicate payments for outliers in the hospital-specific portion of the prospective payment rate. Because the blended rates are DRG-specific (that is, both the hospital-specific and Federal portions are multiplied by the weighting factor for the appropriate DRG to determine payment), we believe that reducing the hospital-specific portion for outliers conformed with the intent of section 1886(d)(5)(A)(iv) of the Act, which requires that payment for outlier cases be "based on DRG prospective payment rates for discharges in that year."

In light of the comments received, we have reconsidered our position and believe that a literal interpretation of sections 1886(d)(2)(E), 1886(d)(3)(B) and 1886(d)(5)(A) of the Act requires that we restrict the reduction for outlier payments to the Federal share of the prospective payment rates. Accordingly, we will limit the reduction for outliers to the Federal rates and apply the 5.7 percent reduction factor only to the standardized amounts used to compute the Federal portion of the blended rates. The hospital-specific portion of the prospective payment rate will not be reduced for outliers. Because the hospital-specific portion will now include the cost of outlier cases in each provider's base period, and because of the requirement for maintaining budget neutrality, the outlier payment amount in the first transition year must be reduced to 25 percent of the Federal rate that otherwise applies after application of the 60 percent marginal cost factor. In the second transition year, the payment would be 50 percent of the applicable Federal rate, in the third year, 75 percent, and by the fourth year the payment will be 100 percent of the Federal rate. We have revised § 405.475 of the regulations to reflect this change.

In addition, we wish to point out that there were many significant comments received on this issue. As a result of our analysis of these comments, we believe that it is in the interests of equity to implement this change retroactive to cost reporting periods beginning on or after October 1, 1983. Thus, the base period cost per discharge for all hospitals that have become subject to prospective payment since its implementation on October 1, 1983 will be increased to reflect this change in policy. Since these amounts were previously reduced (by 5.7 percent) by multiplying them by .943, we will restore those outlier-adjusted amounts by multiplying them by 1.0 divided by .943, or 1.06045.

Appropriate instructions will be issued to the intermediaries to ensure that each hospital's base period cost per discharge is increased by 5.7 percent (that is, the amount of the outlier reduction reflected in the interim final rule) to take into account this change in outlier payment policy.

The following is an example of how the additional payment will be determined for a length-of-stay (day) outlier:

Assume the following:

DRG Rate (Based on Tables 1 and 5)=$3,800

Geometric Means LOS for the DRG (Table 5)=10.0 days

Per Diem Rate=$380

Marginal Cost Factor=.60

Federal Portion of Prospective Payment Rate=25 percent

Actual LOS for Discharge=14 days

DRG Outlier Threshold=12 days

Calculation:

Outlier Days (14−12)=2 days

Outlier Payment=2×($3,800 divided by 10.0)×.60×.25=$114*

* This payment will be included in total Federal DRG revenue for purposes of the educational adjustment.

The following is an example of how the additional payment will be determined for a high cost outlier:

STEP 1—DETERMINATION OF THE HOSPITAL'S COST

Billed charges	$35,000
National Ratio of Cost to Charges	.72
Educational Adjustment Factor	1.1924

Hospital's Cost=$35,000×.72÷1.1924=$21,134*

STEP 2—DETERMINATION OF OUTLIER THRESHOLD

(Discharges prior to October 1, 1984)

DRG rate (Based on Tables 1 and 5	$3,800
Wage Index	1.10
Labor-Related Portion	.7915
Nonlabor-Related Portion	.2085

Wage Adjusted Threshold=
($12,000×.7915×1.10)+
($12,000×.2085)=$12,950

Step 3—Determination of Outlier Payment

Outlier Cost ($21,134−$12,950)=$8,184

Federal Portion of Prospective Payment Rate=25 percent

Marginal Cost Factor=.60

Outlier Payment=$8,184×.60×.25=$1,228*

2. Phase-In Period

The Federal portion of the prospective payment rate during the transition period is calculated by multiplying the Federal rate (after adjustments have been made to the rate for area wages and cost-of-living increase for hospitals in Alaska and Hawaii) by the appropriate transition period percentage and then multiplying by the weighting factor corresponding to the DRG assigned to the discharge.

During the first year of the transition period, the Federal rate is derived from the regional urban and rural standardized amounts. During the second and third year of the transition period, the Federal rate is comprised in part from regional standardized amounts and in part from national standardized amounts as shown in the following table.

Federal fiscal year beginning	Regional rate percentage	National rate percentage
Oct. 1, 1983	100	
Oct. 1, 1984	75	25
Oct. 1, 1985	50	50
Oct. 1, 1986		100

The table below provides the transition period percentages for the hospital-specific and Federal portions.

Cost reporting period beginning on or after	Hospital-specific portion percentage	Federal portion percentage
Oct. 1, 1983	75	25
Oct. 1, 1984	50	50
Oct. 1, 1985	25	75
Oct. 1, 1986		100

It is emphasized that, while the hospital-specific portion of the prospective payment rate is determined on the basis of cost reporting periods, the blend of regional and national amounts in the Federal portion is determined on the basis of the Federal fiscal year.

New providers, because there is no historical cost experience on which to base a hospital-specific rate, will be paid totally on the basis of the Federal rates, with the appropriate regional and national blending.

Comment—Several commenters expressed a belief that the regional/national proportion of the Federal DRG rate during the transition period should change according to hospital accounting cycle rather than the Federal fiscal year. They believe the change in the regional/national blend should be consistent with the hospital-specific/Federal blend of the rate, which changes according to hospital accounting cycle.

Response—Since the standard payment amounts are calculated according to the Federal fiscal year, we believe it is more appropriate to change the national/regional blend of the Federal portion of the rate at the same time that the standardized amounts are updated. To a large extent, the requirement that the standard amounts be set and updated according to Federal fiscal year and that outlier and budget neutrality determinations be made for the Federal fiscal year predisposes the change in the regional/national blend on the basis of the Federal fiscal year.

We also do not believe that changing the regional/national blend according to Federal fiscal year will defeat the purpose of the transition period, which is to moderate the immediate impact of the prospective payment system. Hospitals whose cost reporting periods begin later than October 1, do not enter the prospective payment system until a future date. Therefore, they remain under cost reimbursement for a longer time relative to hospitals whose accounting periods begin October 1 and have greater opportunity to adapt to the new system. Since these hospitals have had the advantage of additional months of cost reimbursement, with the greater opportunity to plan for prospective payment, having somewhat less of a regional weight in the blend is not unwarranted.

In addition, the prospective payment rate is intended to be predictable and represent full payment for inpatient hospital services. We believe that the Federal DRG portion of the payment should be the same for all hospitals in an area. Changing the regional/national blend according to hospital accounting year would put neighboring hospitals in the position of receiving different Federal DRG rates for identical services purely because of their accounting cycle. It would be quite possible for two hospitals in the same city to deliver identical services on the same day and have one hospital receive a lower Federal DRG rate. This is not consistent with a system designed to achieve similar revenue for similar services. If hospitals are to operate in a competitive market environment and maintain efficient operations, it is more equitable that the Federal portion of the payment rate be the same for all hospitals in an area. This will ensure that all hospitals have the same objective standard against which to measure their performance, and will not accord any hospital an unwarranted advantage with respect to prices merely because of the dates of its particular cost reporting period. The use of an objective standard becomes increasingly important as the transition period progresses and the Federal portion of the rate increases.

Comment—Some commenters questioned the decision explained in the interim final rule to pay new providers during the transition period using a blend of the national and regional Federal rates only. These commenters recommended that a hospital-specific portion of the rate be developed for new providers based on the section 223 hospital cost limits as suggested by the report of the Committee on Ways and Means.

Response—We believe it is inappropriate to apply the hospital-specific portion of the payment rate to new providers based on the section 223 hospital cost limits developed under section 1886(a) of the Social Security Act. The 223 limits were developed as an upper limit to hospital costs and were not intended to be used as a basis for payment to hospitals.

Application of the hospital-specific portion during the transition period was intended to minimize the initial impact of the new system on hospitals which had previously operated based on a cost reimbursement system. We believe that newly established hospitals will not be impacted by this change in reimbursement methodology since they will be entering the program under the new system with little or no prior experience under cost reimbursement. In addition, effective for cost reporting periods beginning on or after October 1, 1986 all hospitals (except those covered under § 405.476 of the regulations as well as hospitals excluded from the system under section 1886(d)(1)(B) of the Act) will be paid at the national Federal rate, and the hospital-specific portion will no longer be applied. Therefore, we believe that, because they have no history from which to make a transition, payment to new hospitals based on a blend of regional and national Federal rates, is more appropriate than applying the section 223 hospital cost limits as a proxy for hospital base period costs.

3. Update of Standardized Amounts

The average standardized amounts determined for FY 1984 will be updated for FY 1985 by the estimated percentage change in the cost of goods and services (that is, market basket) plus one percentage point. Additionally, the standardized amounts will be adjusted for outliers, for "unbundling," and to maintain budget neutrality.

Updates beginning with FY 1986 may take into account such factors as changes in the market basket, productivity, technological and scientific advances, quality of health care, the long-term cost-effectiveness of the program, and recommendations of the Prospective Payment Assessment Commission.

Section 1886(d)(4)(C) of the Act requires the appropriate adjustment to the DRG classifications and weighting factors for discharges in FY 1986 and every four fiscal years thereafter, to reflect changes in treatment patterns, technology, and other factors that may change the relative use of hospital resources.

Comment—Some commenters expressed concern about the policy stated in the interim final rule that if we fail to meet the September 1 publication date for a subsequent year's standardized rates, the prospective rates in effect on September 1 will be extended for the following Federal fiscal year. Commenters stated that this unduly places hospitals at increased risk for any unforeseen delays in the publication of the rates and limits hospital's and HCFA's recourse. It was suggested that if we do not meet the September 1 publication date, then we publish and pay interim rates based on the most current market basket projection prior to October 1. The actual rates would then be effective 30 days after their publication in the **Federal Register**, with a retroactive adjustment if the actual rates are higher than the interim rates.

Response—Our purpose in providing for this policy was to ensure that rates would continue in effect if there were no publication of updated rates. One of the basic tenets of the prospective payment system is that hospitals will know in advance the rates for services. Thus, if updated rates are not published by September 1, the policy contained in the interim final rule will act to ensure that the hospitals will still know what rates will apply. If we were to adopt the commenters' recommendation, it would be some time before hospitals knew what the actual final rates would be. With our policy, there would be no question after September 1 as to what rates would apply.

It should also be pointed out in this connection that the law *requires* rates to be published according to a specified schedule. Thus, timely publication of the standardized amounts by September 1 will have top priority, and we do not expect that we will miss this deadline. We have therefore not adopted this suggestion.

Comment—One commenter stated that hospitals with fiscal years that do not correspond to the Federal fiscal year (beginning October 1 of each year) will have difficulty with financial planning, since updated Federal rates will be unknown until after their cost reporting periods actually begin. It was suggested that we should provide the information needed by these hospitals to project the Federal component of the prospective payment rate.

Response—We believe the interim final rule does contain adequate information to enable hospitals with fiscal years beginning on other than October 1 to project the Federal rate changes for the hospital's next fiscal year. The Federal average standardized amounts determined for FY 1984 will be increased by the estimated applicable percentage change in the cost (excluding non-operating costs) of the mix of goods and services for FY 1985 over the cost in FY 1984 (i.e., the market basket), plus one percentage point. The schedule of Target Rate Percentages published in the interim final rule (48 FR 39774) provides the estimated market basket indexes through calendar year 1985. Although the estimates for FY 1985 are subject to change, the current figures provide reasonable guidance to hospitals in planning their Federal rate.

In addition to the market basket adjustment, the updated average standardized amounts for FY 1985 will be adjusted for items such as outliers, unbundling, and budget neutrality. The factors we used for making these adjustments to the FY 1984 average standardized amounts are provided in the interim final rule. Again, while these are subject to change in FY 1985, we believe that using these same factors for estimating purposes will provide a reasonable projection of the updated FY 1985 average standardized amounts.

Therefore, even though the interim final rule does not specifically address the methods and data that will be used to project the updated rates, we believe we have provided sufficient detail to enable hospitals to adequately estimate the FY 1985 Federal rates. We also note in this connection that under the law and regulations, proposed changes in the methods, amounts, and factors used to determine prospective payment rates will be published in the **Federal Register** not later than the June 1 before the beginning of the Federal fiscal year in which the proposed changes would apply. The proposed amounts would provide advance notice to the hospital industry of our estimate of rates for the next Federal fiscal year.

V. ADDITIONAL PAYMENT AMOUNTS

In addition to prospective payment rates per discharge, payments are made for items or services as specified below. Most of the approximately 60 comments received regarding additional payment amounts requested changes to the regulations.

A. Outliers (§ 405.475)

Section 1886(d)(5)(A) of the Act requires that additional amounts be paid for atypical cases known as "outliers". These are cases that have either an extremely long length of stay or extraordinarily high costs when compared to most discharges classified in the same DRG.

A day outlier case is a discharge in which the length of stay exceeds the average length of stay for discharges in the DRG by 20 days or 1.94 standard deviations, whichever equals the fewer number of days. A per diem payment is made for each covered day of care beyond the outlier threshold.

A high cost outlier case is a discharge that does not qualify as a day outlier case but in which covered charges, adjusted to operating costs, exceed 1.5 times the Federal prospective payment rate (regional) for the DRG or $12,000, whichever is greater.

Comment—Several commenters suggested that payment for outlier cases should reflect a blend of the hospital's base year costs and the Federal payment rates. This would comply with the basis for determining the prospective payment rates during the three-year transition period.

Response—The hospital-specific portion of the prospective payment rate is derived from base year costs for reporting periods ending primarily in fiscal year 1982. The latest available data used to develop the Federal rates came from cost reports with fiscal years ending in 1981. In order to estimate the amount of outlier payments to ensure budget neutrality, we would have had to estimate the hospital-specific portion for each hospital using 1981 data. Unlike the Federal rate in which all elements used in its construction are known, estimating the hospital-specific portion using data at least one year older than the "real" base years would have been more problematic. Therefore, estimating outlier payments using blended rates would have substantially increased the uncertainty of the estimate for the budget neutrality adjustment.

Basing outlier payments on the blended rates would needlessly complicate their calculation. For example, payments for length-of-stay outliers would be determined by dividing the blended rate by the average length-of-stay for the DRG which is an average for all hospitals and does not represent the experience of any one provider. The hospital-specific portion, however, is unique to each hospital and reflects the cost per discharge based on the average length-of-stay for each hospital. Using the blended rate and average length-of-stay for the DRG would produce per diem outlier payments that are overstated for some hospitals and understated for others. While this could be remedied by computing a "hospital-specific portion per diem" based on the hospital's average length-of-stay, a "Federal per diem" based on the DRG length-of-stay and blending the two rates, we believe this would unduly complicate the computation of the outlier payments.

As indicated elsewhere, we have revised the outlier payment policy to provide, during the transition period, for payment only of the Federal portion of the outlier amount. The costs of outlier cases are already reflected in each hospital's base period operating costs used to compute the hospital-specific portion of the blended rate during the transition period.

Comment—We received several comments suggesting that the DRG length-of-stay outlier criteria unfairly discriminate against regions in which the average length-of-stay is below the national average. These commenters recommended that we either apply regional rather than national length-of-stay outlier criteria or revise the outlier criteria so that cost outlier criteria

rather than the length-of-stay criteria account for the major share of outlier payments.

Response—The basis for this suggestion is the fact that hospitals in some regions, notably in the West, have shorter average lengths-of-stay than hospitals in other regions, even after differences in case-mix are considered. Therefore, it is true that the length-of-stay outlier criteria that are based on the national average length-of-stay in each DRG, will identify fewer outlier cases in relatively short-stay regions than in relatively long-stay regions such as the East.

Several considerations are important in evaluating the proposed recommendation. First, section 1886(d)(5)(A) of the Act does not authorize outlier criteria based on regional length-of-stay means. If the Congress had intended that the length-of-stay outlier criteria should be based on regional length-of-stay means, then we believe that explicit language to that effect would have been included in clause (i) of that section.

Second, although Congress recognized the inherent ease of administration and reliability of patient length-of-stay as a basis for identifying atypical cases, it also recognized that length-of-stay criteria would not identify short-stay cases that are extraordinarily costly. Thus, section 1886(d)(5)(A)(ii) of the Act permits hospitals to request additional payments for cases that do not meet the applicable length-of-stay criteria but have charges adjusted to cost in excess of the cost outlier criteria. Since the cost criteria are based on the higher of 1.5 times the Federal DRG payment rate or $12,000 (adjusted for variations in area wages and cost of living), these criteria will reflect regional differences in treatment cost throughout the three-year transition period. Thus, even though a smaller percentage of cases may be identified as length-of-stay outliers in a short-stay region, a correspondingly higher percentage of cases will be eligible for consideration as cost outliers.

This suggests that the percentage of total outlier payments accounted for by the cost outlier criteria should vary across regions in response to regional differences in the distribution of cases by length-of-stay and cost. Although the length-of-stay and cost criteria were calibrated so that the national average shares of length-of-stay and cost outlier payments would be 85 and 15 percent, respectively, our projections show substantial variation across regions. For example, cost outlier payments are expected to account for less than 6 percent of total outlier payments in New England but nearly 29 percent in the Pacific Census Division. Thus, we believe that the combination of length-of-stay and cost criteria is responsive to regional differences in the incidence of extraordinarily long-stay or expensive cases.

Regarding the suggestion that we alter the outlier criteria to increase the relative share of cost outlier payments, our simulations of alternative outlier policies suggest that changing the shares of length-of-stay and cost outlier payments to 75 and 25 percent, respectively, would not substantially alter the distribution of outlier payments across regions or across types of hospitals. It may also create perverse incentives to manipulate charges or to maximize use of ancillary services in order to gain additional payment. Therefore, we believe that the current length-of-stay and cost outlier criteria provide reasonably similar protection to all hospitals against the financial consequences of outlier cases.

Comment—One commenter requested clarification as to the day in which outlier payments are payable for length-of-stay outliers.

Response—Payments for these length-of-stay outliers begin with the day *after* the threshold day for the appropriate DRG. For example, DRG 6 has an outlier threshold day of 8 days. Based on § 405.475(c)(1), outlier payments would be payable from the 9th day onward, subject to medical review. We are revising the column heading of Table 5 in the addendum of the interim final rule (48 FR 39876) from "OUTLIER CUTOFFS" to "OUTLIER THRESHOLD". For the convenience of the reader, we refer to the revised column headings in the addendum to this document.

Comment—Several commenters challenged the propriety of using the national cost-to-charge ratio of .72 to determine whether the cost of a discharge exceeds the outlier cost threshold. It was suggested that outlier costs and payments should be computed using hospitals' own ratios of inpatient costs to charges.

Response—The basis for this recommendation is the variability in hospital cost-to-charge ratios due to location, payor mix, and degree of cross-subsidization among hospital service departments. It was pointed out that providers with actual cost-to-charge ratios less than 72 percent could receive windfalls under the current policy while hospitals with ratios greater than the national average will be penalized. Although ease of administration was a factor in our decision to apply an overall national ratio to each hospital's billed charges to determine outlier payments, it was not the only one. Both the length of stay and cost outlier criteria were developed from national data. Therefore, use of a nationally based normative cost-to-charge ratio to compute outlier payments is not inappropriate. The use of hospital specific cost-to-charge ratios to compute outlier payments would require that they be frequently revised to account for changes in the mix and scope of services provided. Application of a national ratio derived from data aggregated from all available hospitals substantially reduces the need for periodic revisions in view of the decreased likelihood of overall change. For these reasons, we have not adopted the recommendation.

Comment—Several commenters questioned the likelihood that we would actually pay out the full six percent of total prospective payments set aside for outlier payments. These commenters suggested that we amend the regulations to consider the six percent outlier payment allocation as a "pool" of funds, from which distributions would be made of funds that were not actually paid for outlier cases.

Response—We disagree with viewing the money allocated for outlier payments as belonging to a "pool" of funds. To describe the allocation in this manner suggests that, should outlier payments exceed six percent of total payments, we would pay only up to the amount reserved for outlier payments and no more. However, section 1886(d)(5)(A)(iv) of the Act requires that outlier payments ". . . not be less than five percent nor more than six percent of the total payments *projected or estimated* to be made based on DRG prospective payment rates for discharges in that year". (Emphasis added.)

Using the data we had available, we set the outlier criteria so that an estimated six percent of total payments would be made for outliers. Nevertheless, there is no necessary connection between the amount of estimated outlier payments and the actual payments made to hospitals for cases that actually meet the outlier criteria. While we expect that under these criteria outlier payments will approximate six percent of total payments, we will pay for any outlier that meets the criteria, even if aggregate outlier payments result in more than six percent of total payments. Under such circumstances, we will continue to make these payments for the remainder of the Federal fiscal year without adjusting the DRG rates to compensate for the additional payments. Similarly, if we

overestimate the amount of outlier payments, we will not adjust the DRG rates to compensate hospitals for funds that were not actually paid for outlier cases.

Comment—Several commenters objected to the provision that the eligibility of a case for payment as a cost outlier can only be considered after eligibility for payment as a length-of-stay outlier has been ruled out. That is, length-of-stay outliers cannot be cost outliers. Because this policy could lead in isolated cases to significantly *lower* payment as a length-of-stay outlier if a case were also sufficiently expensive to qualify as a cost outlier, these commenters suggested that outlier payments should not be arbitrarily limited to one criterion. It was recommended that we provide outlier payments if cases qualified as *either* length-of-stay or cost outliers based on an appropriate combination of both criteria. Under this proposal, payment as a cost outlier would not be precluded if a case also qualified as a length-of-stay outlier.

Response—We recognize that providers may receive less payment in some cases under the length-of-stay outlier criteria for cases that otherwise qualify as both length-of-stay and cost outliers. However, paying for outliers using the more advantageous of either the length-of-stay or cost outlier criteria would result in the need for more stringent outlier criteria. Because outlier payments are limited to a fixed percentage of total estimated prospective payments, any increase in outlier payments would have to be offset by a compensating reduction in the number of outlier cases in order to maintain the system's budget neutrality. Adoption of the recommendation would also increase the share of outlier payments made on a cost basis, an outcome which we believe is inconsistent with the goals of the prospective payment system. A primary purpose of the prospective payment system is to replace the reasonable cost reimbursement system with one that pays a fixed rate per discharge. We do not believe we should be encouraging additional payments on a cost-related basis. In addition, allowing the more advantageous of the criteria to govern any given case could lead to perverse incentives to manipulate charges or to maximize use of ancillary services in order to obtain additional payment.

We also point out that the commenters' suggestion may be at odds with statutory intent. We believe that under section 1886(d)(5)(A)(ii) of the Act, a case is eligible for payment as a cost outlier *only if* it cannot be considered a length-of-stay outlier. This interpretation, which is reasonable and supportable, would preclude greater cost outlier payments if a case also qualified as a length-of-stay outlier. For these reasons, we have not adopted the recommendation.

Comment—One commenter suggested that the evidence cited in the preamble of the interim final rule (48 FR 39776) with respect to the ratio of marginal cost to average cost, as presented in the review chapter by J. Lipscomb, I. Raskin, and J. Eichenholz ("The Use of Marginal Cost Estimates in Hospital Cost-Containment Policy", *Hospital Cost Containment: Selected Notes for Future Policy*, ed. M. Zubkoff, I. Raskin, and R. Hanft (New York: Prodist, 1978), pp. 527–532), does not support the ratio of .60 adopted for making outlier payments to hospitals. The commenter said that this ratio is too low and recommended that the marginal cost estimate used in making length-of-stay outlier payments be revised upward to .85.

Response—The citation of the evidence from the marginal cost literature in the interim final rule was intended to make the point that the available estimates of the ratio of marginal cost to average cost vary quite substantially from one study to another. Moreover, as this commenter noted, none of the studies in the literature examined the type of data that would be needed to develop an accurate estimate of the short run marginal cost of an extra day of care. Nevertheless, the marginal cost to average cost ratio that we have adopted (.60) is in the upper range of the available estimates for per diem costs.

The marginal cost to average cost ratio may be somewhat higher for per diem operating costs than for per diem total costs, because of the exclusion of fixed costs of capital and medical education. However, we note that the estimate of interest here is the marginal cost of an extra day or an extra unit of service beyond a threshold that greatly exceeds the mean of the length-of-stay or cost distribution. Thus, the true value of the marginal cost to average cost ratio in this case may be expected to be below the marginal cost to average cost estimate that might be appropriate for an extra day (or service) at or near the mean of either distribution. Therefore, we are not adopting the suggestion to raise the marginal cost to average cost ratio from .60 to .85.

B. Alternate Placement Days

Under section 1861(v)(1)(G) of the Act, Medicare provides for continued coverage when a beneficiary who no longer requires an acute level of hospital care remains hospitalized because medically necessary SNF services are not available. These excess hospital days are known as alternate placement days. Medically necessary SNF-level days of care continue to constitute covered inpatient hospital services and qualify for prospective payment in the same manner as other inpatient stays as well as an outlier payment when the outlier threshold is exceeded.

Comment—One commenter questioned the basis for outlier payments for alternate placement days when the outlier threshold is exceeded.

Response—Section 405.475(c)(3) requires that the per diem payment for length-of-stay outliers be based on 60 percent of the average per diem payment for the applicable DRG for those days exceeding the outlier threshold. In developing the regulations for the interim final rule, we considered treatment of outlier days for the SNF level of care at the lower of the Medicaid rate or 60 percent of the mean daily rate for applicable DRGs. However, we decided to treat outlier payments for alternate placement days in the same manner as other day outliers.

C. Payments on Reasonable Cost Basis

1. Capital-Related Costs

Section 1886(a)(4) of the Act excludes capital-related costs (as described in § 405.414) from the definition of inpatient operating costs. Payment for these costs is determined on a reasonable cost basis.

Comment—We have received many comments from the health industry concerning the criteria listed in § 405.414(g)(2) for the recognition of capital-related costs to a provider when a supplying organization, not related to the provider, furnishes services to the provider. In particular, the criterion contained in § 405.414(g)(2)(ii) which states that "The capital-related equipment be located on the provider's premises . . ." is a major concern.

It is argued that this criterion inappropriately prevents unrelated shared service organizations that provide data processing, laundry and laboratory services at centralized sites, from structuring their rental and lease arrangements comparable to suppliers that use a decentralized (on-premises) method for providing like services.

Response—The criterion, "on the premises" was not intended to restrict capital-related equipment to be onsite of the provider. The provider's premises includes any real estate owned, leased

or rented by the provider regardless of the location. In regard to supplying organizations not related to the provider, regardless of where the unrelated supplying organization is located, a distinction has to be made as to what the unrelated supplying organization is actually offering to the provider. Where an unrelated supply organization is offering a service to a hospital (such as, laundry services, laboratory services or computer services) the use and possession of the equipment utilized for the service are with the supplying organization, not the hospital. For example, an independent service organization provides computerized-axial tomography (CT) scanner services to various hospitals via a mobile CT scanner unit. The mobile unit while providing services for the hospital is located on the hospital's premises. Even though the unit is located on the premises of the hospital, the hospital does not have use and possession of the unit. The independent service organization, in this case, cannot provide a capital-related cost breakout of its charges to the hospital. The organization is providing a service to the hospital and the service is not capital-related in nature. Unless the services, facilities or supplies of the unrelated supplying organization are capital-related in nature and the criteria for leases and rentals as stated in §405.414(b) are met, there will not be any recognition of capital-related costs to the provider.

We are revising the criterion in §405.414(g)(2)(ii) to clarify that capital-related equipment includes both property located on the provider's premises and offsite that is owned, leased or rented by the provider.

We are adding a cross-reference in § 405.414(g)(2)(i) to § 405.414(b) to clarify that the criteria under leases and rentals applies to capital-related equipment.

We are clarifying § 405.414(b)(2) to state that a nonrelated purchaser includes shared service organizations not related within the meaning of § 405.427 (Related organizations).

Comment—Two commenters requested that § 405.414(a) be modified to consider the costs of long-term service contracts and maintenance agreements, including initial operator training, as capital-related expenses. One commenter requested that § 405.414(a) be modified to consider the costs of product warranty coverage as capital-related expenses.

Response—The intent of § 405.414 was not to change existing policy on the treatment of capital costs. The conditions stated in the regulations represent existing policy and provide for the treatment of capital costs in a manner consistent with the way identical or similar costs were treated in the base period. We are not accepting the recommendation that § 405.414(a) be amended to include long-term service contracts, maintenance agreements, initial operator training or costs of product warranty. To the extent that these items are included in the arm's length purchase price of the capital-related item and capitalized and written off over the useful life of the assets, these items are considered capital costs with respect to depreciation.

Comment—One commenter stated that § 405.414(d), regarding minor equipment, does not adopt all three methods of accounting for minor equipment permitted under the cost reimbursement principles. This commenter suggests that minor equipment is an asset, and the associated utilization of the asset should be reflected as depreciation.

Response—Only the 3-year amortization method and the actual depreciation methods of accounting for minor equipment are considered as capital-related costs under the prospective payment system.

The base stock method is not considered depreciation because the cost of minor equipment is generally written off in the period purchased and is neither amortized nor depreciated.

Comment—One commenter requested that § 405.414(b)(4), regarding leases as capital-related costs, be modified to protect the lessee against technological obsolescence and the variables of risk in setting lease or rental charges.

Response—We do not agree. At a lease's inception, there is no way of determining when technological obsolescence will occur. The criteria that we have selected are objectively verifiable and are consistent with current policy in this area. As these criteria were not intended to represent absolute conditions, we are modifying § 405.414(b) to state that, "A lease that meets the following conditions will generally establish a virtual purchase".

2. Direct Medical Education

Section 1886(a)(4) of the Act excludes the direct costs of medical education (as described in § 405.421) from the definition of inpatient operating costs. Payment for these costs is determined on a reasonable cost basis.

Comment—A number of comments were received concerning whether the pass through of direct education costs is limited to only the costs of those approved medical education programs that a hospital directly operates itself. If this is the case, commenters were concerned that certain costs, such as the costs of clinical training for students enrolled in programs other than at the hospital, may not be excluded from the prospective payment system, but rather are considered to be normal operating costs.

Response—We believe that only the costs of those approved medical education programs operated directly by a hospital be excluded from the prospective payment system. If a program is operated by another institution, such as a nearby college or university, it must be noted that by far the majority of the costs of that program are borne by that other institution, and not by the hospital. While it is true that the hospital may incur some costs associated with its provision of clinical training to students enrolled in a nearby institution, the hospital also gains in return. For example, it obtains the services of the trainee (often at no direct cost to itself). We do not believe that this type of relationship was what Congress intended when it provided for a pass through of the costs of approved medical education programs. Rather, we believe that Congress was concerned with those programs that a hospital operates itself, and for which it incurs substantial direct costs.

We are revising § 405.421(d)(6) to clarify that the costs of clinical training for students enrolled in programs, other than at the hospital, are normal operating costs.

3. Direct Medical and Surgical Services of Teaching Physicians

Under § 405.465 of the interim final rule, payment for direct medical and surgical services of physicians in teaching hospitals is made on a reasonable cost basis, if the hospital exercises the election to receive reimbursement for these services on this basis (§ 405.521(d)). We received no comments on this issue and are, therefore, making no changes.

D. Bad Debts

We noted in the interim final rule that an additional payment will be made for bad debts attributable to deductibles and coinsurance as described in § 405.420. We received no comments on this issue and are, therefore, making no changes.

E. Indirect Medical Education

Section 1886(d)(5)(B) of the Act provides for additional payment to be made to hospitals under the prospective payment system for the indirect costs of medical education. If a hospital has a graduate medical education program

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approved under § 405.421, an additional payment will be made equal to 11.59 percent, for each .1 increase in the hospital's ratio of full-time equivalent interns and residents to bed size, of the aggregate payments made to the hospital. Thus, this payment is calculated by multiplying the hospital's applicable medical education adjustment factor by the sum of the Federal portion of its prospective payments and its outlier payments which are based on the Federal rates. (We note that in the interim final rule (48 FR 39778) we incorrectly implied that the payment was based on the Federal portion of outlier payments, rather then on total outlier payments, which are computed on the basis of 100 percent of the Federal rates.)

For purposes of this adjustment, a hospital is allowed to count only interns and residents in teaching programs approved under § 405.421 who are employed at the hospital. The teaching adjustment factor applies only to hospitals paid under the prospective payment system.

Comment—We received a number of comments regarding the computation of the indirect teaching adjustment. Concern was expressed with respect to our use of the full-time equivalent employees concept, as well as the use of 35 hours per week as a basis for full-time status, in determining the number of interns and residents to be used in computing each hospital's adjustment for indirect medical education costs. The commenters argued that interns and residents in reality are students and not employees. Accordingly, they should be counted on the basis of "assigned time" rather than on the basis of full-time employee status, since payroll status is not an accurate determinant of the number of interns and residents actually working at the hospital.

Similarly, commenters objected to the restriction expressed in § 405.477(d) that interns and residents not on the payroll of a hospital are excluded from the number of interns and residents considered in the computation of the adjustment. It was stated that our policy does not recognize the various arrangements hospitals enter into for obtaining interns and residents. It was stressed in the comments that the purpose of the indirect teaching adjustment is to recognize the additional costs a hospital incurs as a result of its teaching program. These costs are incurred regardless of whether or not the interns and residents are actually on the hospital's payroll.

Response—The method for counting interns and residents which is detailed in § 405.477(d) was adopted under the hospital cost limits program, and is basically the same method used by the American Hospital Association (AHA) in its annual survey. We decided to utilize the same basic data collected as part of the AHA survey in order to prevent the imposition of an additional recordkeeping burden on hospitals. In addition, we have historically required interns and residents to be on the payroll of the institution where they perform their services in order to prevent an intern or resident from being counted by more than one institution.

As a result of comments received, we recognize that there may be other methods of counting interns and residents that would serve the dual purposes of accurately identifying interns and residents while at the same time maintaining the integrity of the prospective payment system. In this connection we are in the process of reviewing alternative data and methods for counting interns and residents and will make adjustments as appropriate. As part of this process we are working with representatives of the hospital industry. At this time we are able to make one moderate change based on the comments. Specifically, we have decided to revise § 405.477(d) to permit the inclusion of interns and residents employed by an organization with a long-standing historical medical relationship with the hospital. This revision is intended to accommodate those hospitals which have historically incurred the higher indirect costs of medical education programs although not actually employing the interns and residents themselves. It is clear that in some cases such an adjustment is needed to provide recognition of the fact that the operation of these hospitals is impacted significantly by teaching programs. In addition, we do not believe our adoption of this policy will impose an additional reporting burden on hospitals. To the contrary, it will prevent the need for some hospitals to significantly reorganize their employment relationship solely to meet the form of our requirement.

It is intended that the hospital and the organization employing the graduate medical students have an extensive and long-standing relationship, such as those that exist between suppliers and hospitals under § 489.23. The organization must be the sole employer of substantially all of the interns and residents furnishing services at the hospital. Fiscal intermediaries will verify through audit that the interns and residents are counted only for the one hospital in which they provide the majority of their services.

For other situations, we will make any necessary revision in the method of counting interns and residents in future updates of the prospective payment standardized amounts. Accordingly, should a future change in the method of counting interns and residents be necessary based on our further review of the alternative data, the effective date of such change would not be in fiscal year 1984. We believe that many hospitals with interns and residents would be affected by a revision to the method of counting interns and residents and, accordingly, a retroactive adjustment would require making additional payments to some providers and recouping overpayments from others. The most equitable method for all providers, therefore, is to make such changes on a prospective basis. It should also be noted that, while the regulations published on September 1 were interim regulations, they were also final regulations effective 10/1/83. Intermediaries are already making payments based on these regulations, and it is most appropriate that changes to them be on a prospective basis.

Comment—Section 1886(d)(5)(B) of the Act requires that the indirect teaching adjustment for hospitals be doubled under the prospective payment system. However, the adjustment under Pub. L. 97–248 was .0606 and doubling that amount would result in a factor of .1212. The commenter questioned why the teaching adjustment factor is .1159.

Response—Section 1886(d)(5)(B) states that the teaching adjustment factor must be doubled, and also requires that the adjustment be "computed in the same manner as the adjustment for such costs under regulations (in effect as of January 1, 1983) . . . ". Therefore, we have used the same methodology as was used to compute the teaching adjustment under Pub. L. 97–248 and we have doubled that adjustment as required by law.

However, we have used more recent data in computing the adjustment than was used under Pub. L. 97–248. We note that the definition of operating cost under the prospective payment system is different than it was under Pub. L. 97–248. For example, inpatient operating costs under Pub. L. 97–248 excluded malpractice insurance, whereas inpatient operating costs under the prospective payment system included the cost of malpractice insurance. These changes in the data base account for the difference in the amount of the factor under the prospective payment system from what that amount was under Pub. L. 97–248. Since the law states only that the amount for indirect teaching costs

will be computed in the same manner as under Pub. L. 97-248, we did not consider it appropriate merely to double the Pub. L. 97-248 factor. Rather, we used the most recent data, in the same manner as other facets of the prospective payment system are based on the most recent data.

VI. INTERIM PAYMENTS

Prior to implementation of the prospective payment system, hospitals received interim payments for their costs of covered inpatient and outpatient services furnished to Medicare beneficiaries as described in § 405.454 (a) through (j). Those interim payments are computed to approximate as closely as possible actual reimbursement, which is determined at year end based on the hospital's submitted cost report.

Effective with cost reporting periods beginning on or after October 1, 1983, hospitals paid under the prospective payment system are paid an amount for each discharge based on actual bills submitted. The payment constitutes final payment for each discharge claimed.

There are two methods of payment for inpatient hospital services. Under the first method, referred to as the periodic interim payment method, total payments for the year are estimated and periodic level payments are made to hospitals without regard to the submission of individual bills. To qualify for periodic interim payments, hospitals must meet the criteria in § 405.454(j). The second method, which applies to all other hospitals under the prospective payment system, requires that payment be made on the basis of a submitted bill. Under this method, payment for Part A inpatient services is based on a prospectively determined amount for each discharge. Payment for all services under the prospective payment system is described in § 405.454(m).

For items applicable to Part A inpatient hospital services not paid on a prospective basis (capital-related and direct medical education costs, kidney acquisition costs in hospitals approved as renal transplantation centers, and the indirect teaching adjustment), interim payments will be made subject to final settlement, using applicable Medicare principles of cost reimbursement.

We received several responses on interim payments.

Comment—A number of commenters requested that regulations at § 405.475 (c) and (d) should be modified so that prospective payments may be made prior to discharge in outlier cases. These commenters stated that without this modification, hospitals that do not receive periodic interim payments, would experience cash flow problems.

The specific request was to make biweekly or monthly payments of the non-outlier portion upon verification of the medical necessity of the admission.

Response—The standard DRG payment is payable upon submission of a discharge bill only since the appropriate DRG cannot be determined until the patient is discharged. However, we are revising § 405.475(c) regarding payment for day outliers so that the prospective payment for an appropriate DRG, including the outlier payment, may be made prior to medical review. We believe that there is little incentive for a hospital to inappropriately retain Medicare beneficiaries in order to obtain outlier payments because § 405.475(c)(4) prohibits payment to the hospital for noncovered days, and our requirement for review of all outlier days makes it likely that inappropriate outlier days will be identified and denied.

We are not revising § 405.475(d) regarding payment for cost outliers because hospitals must identify and specifically request payment for cost outliers, whereas the identification and payment determination for day outliers is an automatic feature of the intermediary bill processing system.

If the hospital does not have the capability to determine outlier status in advance of bill submission, because it does not have a Grouper program, or would otherwise prefer to have its claim for outlier payment considered separately, the discharge bill may be submitted and processed as a non-outlier case and an adjustment bill processed after the medical review entity has approved the medical necessity of the outlier claim. If the payment of the standard DRG payment on the basis of a discharge bill only, with or without the presence of an outlier situation, creates cash flow difficulties, a hospital has the option of electing periodic interim payment through meeting the criteria in § 405.454(m).

Comment—One commenter requested that § 405.454(m)(3) be modified to clairfy when payments will be made for inpatient hospital services not paid on a prospective basis (for example, capital-related costs or direct medical education costs).

Response—We are revising §§ 405.454(m) (2), (3) and (4) to state that we will make payments to providers two weeks following a two week period of services for inpatient services not paid on a prospective basis.

Comment—One commenter requested that § 405.454(m)(2)(iii) be modified to indicate that deductibles and coinsurance must be deducted before computing the bi-weekly periodic interim payment amount.

Response—We are revising § 405.454(m)(2)(iii) to state that deductibles and coinsurance are not included in the bi-weekly periodic interim payment amount.

Comment—One commenter requested that, for hospials electing to receive their prospective payments in the form of level payments, the payments be reviewed and adjusted quarterly rather than twice during the cost reporting period.

Response—We have provided that intermediaries must review the level payments at least twice during the cost reporting period. However, reviews may be made more frequently than twice during the cost reporting period at a hospital's request in accordance with § 405.454(c)(4) and (j)(5).

Comment—One commenter pointed out that the preamble (48 FR 39778) states that the indirect teaching adjustment is an annual lump sum payment but that § 405.454(m)(4) states that the payment is to be made not as a lump sum but rather through 26 equal biweekly payments. The commenter also states that the preamble indicates that the estimate is subject to year end adjustment but that the regulation fails to address the year end adjustment.

Response—Although the preamble states that the indirect teaching adjustment is an annual lump sum payment, it also indicates that, to alleviate cash flow problems for a hospital, the adjustment may be estimated and payable in interim payments. With regard to the second part of the comment, we are revising § 405.454(m)(4) to clarify that the estimate is subject to year end adjustment.

VII. CHANGE OF OWNERSHIP

Section 405.477(f) provides that, if a hospital undergoes a change in ownership, payment for inpatient operating costs, including outlier payments and payments for indirect teaching costs, is made to the legal owner or operator of the hospital as of the date of discharge, without proration between the buyer and seller. Compensation to the previous owner for inpatient services provided before the sale (for a case discharged after the sale) is to be negotiated by the former and new owners as they see fit, without Government involvement.

The capital-related costs and the direct costs of approved medical education programs continue to be

reimbursed on a reasonable cost basis. As such, the buyer and seller are reimbursed proportionally for the capital-related and direct medical education costs each incurred. Also, in the case of for-profit hospitals, the buyer and seller are reimbursed for the return on equity capital generated during each party's respective period of participation.

VIII. SPECIAL TREATMENT OF CERTAIN HOSPITALS

Section 1886(d)(5)(C) of the Act authorizes certain exceptions and adjustments to the prospective payment rates for the following facilities:

- Sole community hospitals (SCHs).
- Hospitals extensively involved in treatment for and research on cancer.
- Regional and national referral centers.
- Hospitals with disproportionate numbers of low income or Medicare beneficiaries or both.
- Hospitals in Alaska and Hawaii (see sections IV. A. and B. of this preamble).
- Other exceptions and adjustments as the Secretary deems appropriate.

Most of the approximately 125 responses we received regarding special treatment under the prospective payment system requested changes in regulations. However, all the commenters who addressed the treatment of kidney acquisition costs responded favorably.

We received two general comments regarding special treatment of certain hospitals.

Comment—A number of commenters suggested that we provide for additional exceptions or adjustments under the prospective payment system. In particular, several commenters suggested that particular groups or classes of hospitals be afforded special treatment because of perceived problems with particular DRGs that form a large percentage of the caseload in those hospitals.

Response—While Congress gave us the authority to provide for exceptions and adjustments as deemed appropriate, it was clearly congressional intent that all hospitals, to the extent feasible, be subject to the prospective payment system. Therefore, the interim final rule provided for only a limited number of special treatment hospitals (that is, SCHs, certain cancer hospitals, and certain referral centers) and specified stringent criteria to qualify for this treatment.

In determining whether exceptions or adjustments would be appropriate, we were particularly concerned with situations where broad classes of hospitals could be adversely affected by the prospective payment system. As we indicated both in the interim final regulations and elsewhere in these final regulations, cancer hospitals and referral centers, for example, because of the types of patients they treat and the types of services they furnish, could be disadvantaged by a formula-based prospective payment system that did not take into account the special and atypical features of these classes of hospitals. On the other hand, many of the comments we received advocated exceptions or adjustments to alleviate or ameliorate perceived undesirable consequences of the prospective payment system which individual hospitals might experience. However, it was not apparent from the comments that entire segments of the hospital industry, or broad classes of hospitals, would be adversely affected by particular features of the prospective payment system, or that beneficiaries would be unable to obtain particular types of services or levels of care solely because of the impact of the prospective payment system. Absent compelling evidence of broad-based inequities in the formula payment method of the prospective payment system, we did not consider it appropriate at this time to provide for additional exceptions or adjustments.

Comment—Several commenters asked for clarification as to which HCFA component will review and then approve or deny requests for SCH status, and for adjustments or exceptions for SCHs, cancer hospitals and referral centers under the prospective payment system.

Response—We stated in the interim final rule that we will make a determination as to whether a hospital qualifies for one of the special payment provisions for SCHs, cancer hospitals or referral centers.

Under procedures in effect prior to implementation of the prospective payment system, our central office made all final determinations on cost limit exceptions and exemptions except for SCH exemptions. Our regional offices had final approval authority on these exemptions.

We believe that under the prospective payment system it would generally be in the best interest of all parties to have the HCFA central office make the final determination in all cases involving whether a hospital qualifies for the special payment provisions available to cancer hospitals and referral centers. Placing authority for final approval with central office ensures consistent treatment nationwide. It will also enable us to keep apprised of current data on the number of hospitals that qualify for the special criteria, and alert us to potential problems with these criteria.

We believe it appropriate for the HCFA regional offices to continue to have the final authority for determining whether a hospital may be designated as a SCH under § 405.476(b). These offices are most familiar with hospitals in a particular area.

However, with respect to adjustments for SCHs experiencing a significant volume decrease during the transition period under § 405.476(d), we believe that our central office should retain the authority for making final determinations. This will enable us to gain experience with the types of situations faced by SCHs, with a view toward developing common rules for reviewing all the adjustment requests. This experience will also enable us to better prepare the report called for by section 603(a)(3)(A) of Pub. L. 98–21 dealing with recommendations for payment of SCHs.

Therefore, any hospital requesting status as a SCH, cancer hospital or referral center, or requesting special payments as a SCH, should submit its request with all supporting documentation to its intermediary. The intermediary, after reviewing the case, will forward it along with a recommendation to the HCFA regional office. The regional offices will review and make recommendations on requests for status as a cancer hospital, referral center or adjustments for SCHs for volume decreases under § 405.476(d), and forward the submittals to central office where the final decision will be made. The regional offices will retain and process requests for SCH status.

It should be noted that none of the procedures discussed above alters the procedures contained in §§ 405.460 and 405.463 for obtaining exceptions, exemptions or adjustments to the hospital cost limits or the target rate provision for hospitals not paid under the prospective payment system. For these hospitals the procedures contained in those regulations apply. The new procedures discussed above apply only to those hospitals paid under the prospective payment system.

A. Sole Community Hospitals (§ 405.476 (b), (c) and (d))

Section 1886(d)(5)(C)(ii) of the Act requires that the special needs of SCHs be taken into account by using a special payment formula for hospitals so classified. This section of the Act defines SCHs as those that, by reason of factors such as isolated location, weather conditions, travel conditions, or

absence of other hospitals (as determined by the Secretary), are the sole source of inpatient hospital services reasonably available to individuals in a geographic area who are entitled to benefits under Part A of Medicare. Regulations regarding the special treatment of SCHs under the prospective payment system are set forth in § 405.476(b).

Hospitals classified as SCHs are paid in accordance with the methods used to establish rates for the first year of the transition period (that is, 75 percent of the hospital-specific rate and 25 percent of the Federal rate), and will continue to be paid on that basis of payment to SCHs indefinitely. During the transition period, SCHs may also receive an additional payment amount if the hospital has experienced a decrease of more than five percent in its total number of inpatient cases, due to circumstances beyond its control.

Comment—Several commenters objected to the exclusion of urban hospitals as SCHs. These comments pointed out that, especially in large counties, hospitals may be the sole source of services in a sparsely populated area of a county that contains a metropolitan area some distance away.

Response—Generally, we have found that because of population density, road conditions, availability of snow removal equipment, etc., hospitals in urban areas cannot be considered the sole source of inpatient services available. Therefore, we have ordinarily only designated hospitals in rural areas as SCHs.

Prior to implementation of the prospective payment system, in certain individual circumstances, we granted SCH exemptions to hospitals located in urban areas. In these instances there have been unusual situations, such as a hospital being located in an extremely remote portion of a large county that contains an urbanized area many miles away, to justify such action.

We do not wish to remove SCH designation from those hospitals where circumstances have not changed since they were granted their SCH status. Therefore, we are amending § 405.476(b)(3)(i) to provide that all SCH designations previously approved continue to be considered SCHs with respect to the prospective payment system.

However, we continue to believe that SCH status should not generally be available to those hospitals in urban areas. We note that these hospitals are being paid the higher urban rates. Therefore, the criteria for granting new SCH designations are not being altered.

Comment—One commenter noted that the grandfathering of SCHs was limited to those approved prior to October 1, 1983. The commenter objected to this aspect of the criteria stating that a hospital may be penalized for delays caused by the fiscal intermediary or regional office in processing the request.

Response—The commenter's point is well taken. We did not intend to penalize hospitals for delays in the processing of SCH requests. The intent of the October 1, 1983 date was to institute a common effective date for the new criteria. We do not wish to require that the SCH requests already in process be reworked under the new criteria.

Therefore, we are revising § 405.476(b)(3)(i) to permit the grandfathering of all approved SCHs whose requests were received by the fiscal intermediary prior to October 1, 1983 and subsequently approved.

Comment—Some commenters wrote objecting to the classification of like facilities in § 405.476(b)(5) as "hospitals furnishing short-term, acute care". These commenters suggested that specialty hospitals should be permitted SCH status if there were not hospitals in the area furnishing similar specialty services.

Response—The intent of the SCH provision is to ensure the availability of short-term acute care services to Medicare beneficiaries by providing special payment provisions for those hospitals located in remote areas. The statutory language (section 1886(d)(5)(C)(ii) of the Act) defines an SCH as a hospital that by reason of isolated location, weather conditions, travel conditions, or absence of other hospitals is the sole source of inpatient hospital services available. There is no indication in either the law or legislative history that Congress intended this provision to apply to specialty hospitals.

We believe the special treatment for referral centers is intended to provide relief for those hospitals that are so specialized that the kind of patients they treat do not come from the local community. For those hospitals that furnish general short-term acute care plus particular specialty services, we believe the prospective payment rates provide adequate payment for the services provided and no special treatment is required.

Comment—One commenter objected to the effective date of SCH status as stated in the preamble of the interim final rule (48 FR 39781). This commenter suggested that SCH designations should be effective on the date a hospital meets the criteria rather than 30 days after our approval.

Response—Often it is extremely difficult to ascertain the exact date that a hospital meets the criteria for SCH designation. This is particularly true of those hospitals qualifying because no more than 25 percent of the service area patients utilize alternative sources of care. Moreover, for those hospitals that first apply for SCH status during or after the second year of the prospective payment system, SCH designation will result in different prospective payment rates. If we were to make the SCH effective date retroactive, we would need to reprocess every inpatient hospital claim submitted for the hospital and make adjustment payments at a new rate.

It is not in keeping with the basis of the prospective payment system or the concept of budget neutrality to permit retrospective adjustment of Medicare prospective payment rates. Thus, we are not adopting this recommendation. We will, however, make every effort to process requests for SCH designations as soon as possible.

Comment—One commenter felt that there is no need to establish regulatory criteria for SCHs. This commenter supported the previous method of handling SCH requests.

Response—Prior to the interim final rule, the HCFA regional offices granted SCH exemptions using broad general program instructions. These Medicare program instructions are not binding upon the Provider Reimbursement Review Board or the courts. Consequently, this system provided insufficient basis for defending the regional office decisions upon appeal.

We believe that § 405.476(b) will resolve many of the previous problems associated with SCH designations by providing objective criteria that make it easy for both hospitals and regional offices to distinguish which hospitals may qualify. Additionally, a single set of objective criteria will promote uniformity throughout the nation in designating SCHs. Finally, the regulations provide a basis for adjudicators of SCH appeals to evaluate the appropriateness of HCFA regional office decisions.

Comment—Two commenters suggested that the payment adjustment for SCHs which experience a five percent volume decrease for reasons beyond their control, be made by adjusting the payment rate rather than by auditing fixed and variable costs.

Response—Although we recognize that the time lag between the period that a hospital experiences the volume decrease and the time that the program makes additional payments may be

problematic, we do not at present have any means of determining what the amount of the payment adjustment should be. Therefore, we are not adopting this comment.

After we have some experience with evaluating requests for this volume adjustment, we may consider some method of making interim adjustments on a discharge basis.

Comment—Several commenters suggested modifying § 405.476(d) to extend the volume adjustment beyond the transition period for SCHs experiencing a significant volume decrease.

Response—Section 1886(d)(5)(C)(ii) of the Act explicitly authorizes the volume adjustment for cost reporting periods beginning on or after October 1, 1983, and before October 1, 1986. Therefore, we do not at the present time have the authority to extend the volume adjustment beyond the transition period.

We are required to report to the Congress no later than April 1, 1985 with respect to an equitable method of reimbursing SCHs that takes into account their unique vulnerability to substantial variations in occupancy. We will consider extending the volume adjustment based on fixed and variable costs when we are making recommendations for that report.

Comment—One commenter believes that a hospital may be denied SCH status because patients utilize services outside the service area due to unavailability of specialty services at the community hospital. This commenter suggested that the SCH criteria in § 405.476(b)(3) be revised to account for such occurrences.

Response—The commenter has made a valid point in that many small rural hospitals do not normally furnish many specialty services. Therefore, it is possible that a hospital would not meet the utilization criteria solely because of the special needs of the patient population and not because of the ready accessibility of alternative hospital services.

Accordingly, we are revising § 405.476(b)(3) to permit an under 50-bed hospital located between 25 and 50 miles of neighboring hospitals to be designated as an SCH if a PSRO or fiscal intermediary certifies that the hospital would have met the utilization criteria were it not for the fact that patients in the service area were forced to utilize alternative hospital services due to the unavailability of certain services at the requesting hospital.

Comment—One commenter described the difficulty in obtaining the data necessary to demonstrate that no more than 25 percent of the patients in a hospital's service area utilize alternative inpatient hospital services. The commenter suggested that hospitals requesting SCH status be permitted to show that no more than 25 percent of the Medicare beneficiaries utilize services outside the service area as this information would be more readily available from the intermediary.

Response—We recognize that utilization data on all patients may not be readily available or verifiable.

Therefore, we are amending the criteria for SCHs at § 405.476(b)(3) to permit hospitals an option of demonstrating the required utilization using either total patient population or Medicare beneficiaries.

Comment—One commenter requested clarification of the one-month inaccessibility criteria for approval as an SCH contained in § 405.476(b)(3)(ii)(C). Specifically, this commenter wanted to know if the one-month stated in the regulations must be 30 consecutive days.

Response—The intent of the inaccessibility criteria is to acknowledge that hospitals, which may not be isolated at certain times during the year, may be the sole source of inpatient services available in an area at other times due to prolonged severe weather conditions or other temporary but recurring external conditions.

Therefore, hospitals must be inaccessible for at least 30 full consecutive days in order to meet the criteria. Hospitals that are inaccessible for only a portion of a day during this period, such as early morning road freezes or fog, would not be considered inaccessible.

B. Christian Science Sanitoria (§ 405.476(e))

Section 405.476(e) provides that inpatient hospital services furnished to a beneficiary by a Christian Science sanitorium will be paid for on the basis of a predetermined fixed amount per discharge based on the sanitorium's historical inpatient operating costs per discharge.

Comment—One commenter requested that § 405.476(e)(3) be modified to establish standards under which a Christian Science sanitorium may become eligible for outlier payments.

Response—Outlier payments are additional amounts paid to hospitals for atypical cases that have either an extremely long length-of-stay or extraordinarily high costs. These payments are in addition to the prospective payment rates for discharges.

For hospitals not paid under the prospective payment system, outlier payments would be inappropriate because these hospitals are reimbursed for the reasonable costs of services provided. For Christian Science sanitoria that are not excluded from the prospective payment system, we believe that the predetermined fixed amount per discharge based on a sanitorium's historical inpatient operating costs per discharge takes into consideration the costs of atypical cases.

C. Cancer Hospitals (§ 405.476(f))

Section 1886(d)(5)(C)(iii) authorizes special treatment for hospitals involved extensively in treatment for and research on cancer. Cancer hospitals are given the opportunity, during their first cost reporting period under the prospective payment system, to opt for reimbursement on a reasonable cost basis subject to the target rate ceiling.

The criteria used in the interim final rule for defining cancer hospitals were as follows:

- The hospital must have been recognized by the National Cancer Institute of the National Institutes of Health as a Comprehensive Cancer Center or Clinical Cancer Research Center as of April 20, 1983 (that is, the date Pub. L. 98–21 was enacted).
- The hospital must demonstrate that the entire facility is organized primarily for treatment of and research on cancer.
- 80 percent or more of the hospital's total discharges must be classified in those DRGs reflecting the condition of cancer as the principal diagnosis.

Comment—Some commenters stated that the requirement that 80 percent of the hospital's discharges fall into DRGs incorporating a finding of cancer as the principal diagnosis is unduly restrictive. The commenters maintain that many patients are admitted to cancer centers for treatment of conditions that are either the result of cancer or cancer treatment, such as infections due to decreased immunity caused by chemotherapy or bone fractures resulting from radiation therapy. Because the principal diagnosis assigned to such cases may not necessarily indicate cancer, commenters suggested that the percentage criterion be lowered to 50 percent and that the criterion be expanded to include all diagnoses based on the *International Classification of Diseases, 9th Revision, Clinical Modification* (ICD–9–CM) codes rather than just the principal diagnosis.

Response—After consideration, we agree that the published percentage criterion does not adequately reflect the actual cases treated in cancer hospitals. Therefore, we are lowering the

percentage criterion in § 405.476(f)(1)(iii) from 80 to 50 percent in order to ensure that hospitals which are extensively involved in cancer treatment and research will be able to qualify for the exception. However, we continue to believe that the criterion must be based solely on principal diagnosis. Many patients in the Medicare age group have at some point in their lives received treatment for some form of cancer. To permit exceptions based on all diagnoses listed on the claim form would preclude identification of the principal reason for the admission and prevent verification that the hospital is primarily organized for cancer treatment and research. We believe that lowering the percentage from 80 to 50 percent will serve the purpose of identifying these hospitals, while at the same time preventing hospitals that are not primarily cancer hospitals from choosing the diagnoses most advantageous to them in trying to obtain cancer hospital status.

In addition to lowering the percentage requirement, we are modifying a criterion in § 405.476(f)(1)(iii) for classification as a cancer hospital by including principal diagnoses that reflect neoplastic disease, rather than a finding of cancer, as defined by the ICD–9–CM. We are making this change because the term "neoplastic disease" has a more precise meaning than does "cancer". We are also providing the range of diagnostic codes that must be used in determining the percentage of cases which reflect neoplastic disease. By specifying these codes in § 405.476(f)(1)(iii), we are ensuring that all hospitals, seeking this exception, are judged by the same standards.

Comment—Several commenters stated that they believed that exceptions should be provided for any hospital that participates in an organized cancer program. Others suggested that the exception process should be extended to include approximately 250 hospitals that admit 25 or more patients a year on NCI-approved clinical protocols. Still others suggested that a hospital should be required to show that treatment for and research on cancer is only *one* of the primary reasons for which it is organized. Finally, some commenters suggested that the April 20, 1983 date for qualification as a Comprehensive Cancer Center or a Clinical Cancer Research Center be dropped.

Response—Any of the definitions suggested above would extend the exception process far beyond what we believe Congress intended. Congress directed us (in section 1886(d)(5)(C)(iii) of the Act) to limit whatever exceptions or adjustments are granted to "hospitals involved *extensively* in treatment for and research on cancer" (emphasis added). At no other point in the statute is the intensity of a hospital's involvement in treatment of a particular disease so clearly qualified. Therefore, while we have broad discretion with respect to exceptions and adjustments, it was clearly Congressional intent that any exceptions granted to cancer hospitals be limited to only those hospitals that are "extensively" involved in cancer treatment and research.

We believe the qualification present in the law reflected an appropriate concern for certain hospitals which limit their admissions to cancer and would not experience a diverse range of both high and low cost cases. The exception has been structured to recognize that hospitals primarily devoted to cancer care do not usually admit a full range of patients and so may have a limited opportunity to take advantage of a main feature of the prospective payment system, the ability to obtain additional revenue in some DRGs to offset costs in other DRGs. We believe Congress intended, on the other hand, that an average or efficiently run facility that exercises sound judgment will not be *systematically* disadvantaged by the prospective payment system.

With these understandings, we limited the provision to those hospitals that have historically demonstrated an intensive commitment to cancer programs. We do not believe Congress intended that an exception or adjustment be granted to hospitals merely because they belong to a particular organization, because they participate in organized cancer treatment and research, or because they admit at least 25 patients annually under approved clinical protocols. In addition, as we stated in the interim final regulations, we believe Congress was concerned about reducing the number of current programs in cancer treatment and research. In order to assure that cancer treatment and research are maintained and that incentives for artificial expansion are avoided, we focused our attention on current programs that might be limited or curtailed as a result of the prospective payment system. Accordingly, we limited the exception to those facilities that met the requirements as a Comprehensive Cancer Center or a Clinical Cancer Research Center as of April 20, 1983, the date the authorizing statute was enacted. Finally, Congress indicated a desire to include as many hospitals as possible under the prospective payment system. To provide an exception to a hospital merely because it is recognized by NCI or because it treats 25 or more patients a year under certain conditions would defeat this intent.

Comment—Some commenters expressed the belief that the prospective payment system will jeopardize the research efforts of community cancer hospitals, or will limit the accessibility of such hospitals to Medicare patients.

Response—We do not believe that limiting the exception process to a select number of institutions will negatively impact the efforts of community hospitals engaged in cancer research or the accessibility of cancer treatment to Medicare beneficiaries. Under existing law and regulations, the Medicare program has always been prohibited from paying for research costs and for items and services that are either experimental in nature or that are paid for by another governmental entity. These restrictions in the Medicare law were not altered by Pub. L. 98–21. However, the costs of providing usual medical care for cancer patients *are* payable by Medicare and these costs are included in the data used to establish the Federal DRG payment amounts which form the basis of the prospective payment system. In addition, when warranted, the statute also provides for outlier payments for individual patients requiring exceptionally long or exceptionally costly inpatient stays compared to DRG norms. Thus, because the prospective payment rates reflect the only costs for which Medicare can legitimately pay, we do not believe that failure to grant exceptions to community hospitals involved in cancer research should curtail research or treatment of Medicare beneficiaries at the community level.

It is important to recognize that, apart from the Medicare program, there is substantial Federal support for research activities to assist cancer research through NCI's programs. Funding for these activities totalled an estimated $804 million in fiscal year 1983, and an increase to $825 million has been requested for fiscal year 1984.

Comment—Several commenters suggested that payment for cancer hospitals be based on twice the DRG rate for the cancer-related DRGs.

Response—As we indicated in a previous response to another commenter's recommendation for paying hospitals extensively involved in treatment for and research on cancer, we believe that these hospitals are unique because of the atypical services

they furnish that result in higher expenses which may not be recognized under a DRG-based prospective payment system. We also believe that the nature of the services furnished by these hospitals, as well as their use of rapidly changing treatment modalities, makes them particularly susceptible to changes in the types of costs they incur. Because of this volatility in the costs they incur, paying double the normal DRG payment, for cancer-related DRGs, would not necessarily result in equitable payment for these hospitals, since the double payments would still not be sensitive to their actual cost experience.

However, because it is based on actual costs incurred, the reasonable cost reimbursement system is sensitive to volatility in costs. Therefore, we continue to believe that offering cancer hospitals the choice of being paid under the prospective payment system or reimbursed under the reasonable cost system is the most equitable solution for the unique situation of these hospitals, since it offers them the opportunity to choose the system most suited to their needs. Accordingly, we have not adopted the suggested payment system.

Comment—One commenter suggested that cancer hospitals approved for an exception should be paid on the basis of a DRG prospective price schedule computed on the basis of the hospital component only. This commenter believes that merely granting the hospital the option of electing to remain under reasonable cost reimbursement places the hospital at risk for changes in length of stay and use of ancillary services, but limits its reward to the payment of the incentive under the rate-of-increase provision.

Response—The basis for allowing a cancer hospital the opportunity to elect reasonable cost reimbursement was to recognize that such a hospital may provide extremely intensive and costly services, for which payment may not be adequate under the prospective payment system. The reasonable cost reimbursement system will recognize the actual cost incurred for the more intensive, costly, and generally atypical services furnished by cancer hospitals qualifying for the exception. While it is true that these hospitals will be subject to the rate-of-increase control provision, this provision limits only the rate at which costs increase from year to year, not the costs themselves. However, to the extent a hospital experiences extraordinary cost increases in a particular year, § 405.463 provides for adjustments to take such increases into account to the extent warranted. Of particular interest to cancer hospitals is the adjustment that is provided to take account of significant distortions in cost from one year to another.

As we understand the commenter's suggestion, a cancer hospital would have its payment computed on the basis of the hospital-specific portion only. As such, the hospital's payment would be based on its base period cost per discharge increased from year to year by the appropriate target rate percentage. While this method would recognize changes in case-mix due to the multiplication of the cost per discharge by the appropriate DRG weighting factor, use of the base period cost is insensitive to any changes in actual cost experienced by the hospital. However, we believe that it is precisely these types of changes that a cancer hospital may experience as it implements new treatment modalities and accepts the sickest patients for treatment. The reasonable cost methodology, we believe, provides such flexibility within the overall constraints of the rate-of-increase control, and also provides for exceptions or adjustments where changes in cost affect the rate-of-increase of costs. There would be no such flexibility under the type of system recommended by the commenter. Therefore, we have not adopted the suggestion.

Comment—Some commenters questioned what was meant by the requirement that a hospital demonstrate "... that the entire facility is organized primarily for treatment of and research on cancer," and how we will determine whether this criterion is met. Others suggested that oncology units within acute general hospitals and at university-based medical centers be included in the exceptions process.

Response—If a cancer research and treatment center meets the other two criteria (that is, it was recognized by the National Cancer Institute as a Comprehensive Cancer Center or a Clinical Cancer Research Center as of April 20, 1983 and at least 50 percent of its total discharges have a principal diagnosis that reflects a finding of neoplastic disease), the third criterion will be met if the facility is not a subunit of a large acute general hospital. That is, oncological subunits of acute general hospitals and university-based medical centers will not meet this criterion and thus will not qualify for an exception.

We do not believe that Congress intended that oncological subunits be excepted from the prospective payment system because section 1886(d)(5)(C)(iii) specifically refers to "*hospitals* involved extensively in treatment for and research on cancer" (emphasis added). Congress did not mention subunits in relation to cancer hospitals, whereas it clearly excluded from the prospective payment system both psychiatric and rehabilitative units of general hospitals as well as hospitals devoted to psychiatric or rehabilitative care. Had Congress wished to make special provision for oncological subunits, clearly it could have done so. In addition, the language defining the exceptions or adjustments contains an explicit qualification directing appropriate exceptions and adjustments to those hospitals which are involved *extensively* in cancer research and treatment. We believe the qualification present in the law reflected an appropriate concern for certain hospitals which limited their admissions to cancer and would not experience a diverse range of both high and low cost cases. The exception has been structured to recognize that hospitals primarily devoted to cancer care do not usually admit a full range of patients and so may have a limited opportunity to take advantage of a main feature of the prospective payment system, the ability to obtain additional revenue in some DRGs to offset costs in other DRGs. However, a hospital with a cancer subunit would still be able to take advantage of this feature. To the extent that the hospital incurs costs in the cancer subunit that are greater than the DRG payments for the patients treated in that subunit, it will be able to offset these costs with revenue it obtains from discharges in other units of the hospital where its costs are less than the DRG payments. Accordingly, we are revising § 405.476(f)(1)(ii) to state that we will consider an entire facility to be organized primarily for treatment of and research on cancer if it is not a subunit of an acute general hospital or university-based medical center, and if it meets the other two criteria for qualification as a cancer hospital.

D. Referral Centers (§ 405.476(g))

Section 1886(d)(5)(C)(i) of the Act provides that the Secretary take into account the special needs of referral centers. To be considered as a referral center, a hospital must be a short term acute care hospital with a provider agreement in effect under 42 CFR Part 489 to participate in the Medicare program; and

- Not be located in a MSA or NECMA and have at least 500 beds (as that term is defined in section 2510.5 of the Provider Reimbursement Manual); or
- Have a patient population such that at least 60 percent of all Medicare patients reside out-of-State or more than

100 miles from the hospital (whichever is more stringent) and at least 60 percent of all services received by Medicare beneficiaries must be provided to Medicare beneficiaries residing out-of-State or more than 100 miles from the hospital.

For rural hospitals with 500 or more beds, we determine prospective payment rates on the basis of the urban, rather than rural, adjusted standardized amounts as adjusted by the applicable DRG weighting factor and the hospital's area wage index.

For rural referral centers with less than 500 beds, and for referral centers located in urban areas, there is no adjustment for the first year of the transition period.

Comment—We received a number of comments on the criteria for identifying referral centers. The comments received were uniformly critical of the criteria, emphasizing that the policy in the regulations was so restrictive that hospitals could not qualify. The comments reflected a particular concern for fairly large rural hospitals (100–400 beds) which served as a central source for specialized care. A major share of the comments focused on the inadequacy of a mileage/distance measure as a test for determining whether a hospital was engaged in treating referrals.

Response—In the interim final rule, we identified certain criteria that we believe would establish a hospital as a referral center as contemplated in the law. Since the law specifies "regional and national" referral centers, we concluded that Congress intended that such referral centers would serve a substantial number of patients from a very broad geographical area.

The present criteria were constructed based on our best understanding from limited source materials as to the purpose for the provision which we believe is to provide special recognition for hospitals which draw patients from widely diverse geographical locations and afford the broader range of highly sophisticated services. For this reason we specifically encouraged comment on the criteria in the interim final rule. Given the scarcity of any material on identification of referral centers, we wanted to obtain public comment and suggestions as to ways in which the criteria could be modified.

As a result of the comments received, we agree that the criteria at § 405.476(g) should be revised. As pointed out by commenters, we believe that we should adopt criteria that give weight to the actual fact of referral from other hospitals or physicians. Accordingly, we are eliminating the present criteria with respect to out-of-State status and mileage. We are adopting a new criterion that identifies a referral center as being a hospital which obtains a certain proportion (that is, at least 50 percent) of its patients from other hospitals *or* from physicians *not* on the staff of the hospital. We believe that this criterion establishes a measure of those hospitals that treat the *sickest* patients, since presumably it is those patients that will be sent to the hospital by other hospitals and physicians. (The notion of a referral center being a hospital that treats the "sickest" patients was specifically mentioned in the congressional debates on this provision as being a key characteristic of a referral center (Congressional Record, Vol. 129, No. 34, March 17, 1983. S3224.).) In addition, we believe 50 percent to be an optimal figure, since it is high enough to exclude those hospitals which do not receive substantial numbers of referrals from other hospitals or physicians. Also, the percentage is not so high as to preclude hospitals from qualifying as a referral center.

We are also substituting a lower mileage criterion. Thus, at least 60 percent of the Medicare patients must live more than 25 miles from the hospital, and at least 60 percent of all the services the hospital furnishes to beneficiaries must be furnished to beneficiaries who live more than 25 miles from the hospital. We believe a mileage criterion that provides a margin for patient residence is still needed in order to conform with congressional intent that referral centers should serve a substantial number of patients outside the local area. However, lowering the criterion to "more than 25 miles" will enable hospitals to qualify that are truly referral centers, but which because of population dispersion in parts of the country, will obtain most of their patients from areas relatively close to the hospital. Also, we believe it is still necessary to incorporate the criterion of "60 percent of all services," which permits a provider, for example, to consider 60 percent of the aggregate inpatient hospital charges in lieu of itemized services. This criterion was established in order to preclude a hospital from qualifying as a referral center because it obtains referred patients only in one or two specialties, since that is the only hospital in the area offering those specialties. We do not believe this type of hospital is what Congress intended as a referral center, since it does not furnish extraordinary medical and surgical care to the sickest and most resource intensive patient populations, but merely particular services for those who must go to that hospital for particular services because no other hospital in the area offers them.

Comment—Several commenters requested clarification as to which wage index should be used in determining the prospective payments for rural referral centers. Under the regulations, the prospective payments for these hospitals are computed using the urban DRG adjusted standardized amounts. One commenter suggested that we use the wage index of the MSA closest to the hospital.

Response—Referral centers located in rural areas and having 500 or more beds must use the rural wage index applicable to that hospital. This is explicitly stated in § 405.476(g)(2) . Using the wage index of the MSA closest to the hospital would pose difficulties in administration, since in many cases it would be difficult to determine which MSA was closest to the hospital. Also, and more importantly, applying an urban wage index makes an unwarranted assumption that these hospitals are entirely divorced from their local environments. The adjustment provided in the regulations recognizes that because of the type and sophistication of their services, we would expect that the standardized costs of very large rural hospitals would be similar to the costs of large urban hospitals. However, we would not expect that in all cases the wage scales paid by the large rural hospitals would be on a par with large urban hospitals. Rather, we would expect that much of the labor force of large rural hospitals would be drawn from the local area, and that therefore the wage scale would be sensitive to local economic conditions. If a particular institution has high wages, this may mean that it is paying wages that are unreasonable in view of the local labor market. Applying an urban wage index to the standardized costs of that institution would result in our recognizing the unreasonable wage scale. We do not believe this is what Congress intended when it established the prospective payment system and included an area wage adjuster. Accordingly, we have not adopted the recommendation that we adjust the standardized cost of rural referral centers by using the wage index of the closest MSA.

Comment—Several commenters observed that the interim final rule did not address definitively the issue of the payment adjustment that would be appropriate for rural referral centers with less than 500 beds, and for referral centers located in urban areas.

Response—As we indicated in the interim final rule (48 FR 39783), we were

particularly interested in receiving comments on our referral center criteria. While we believed at that time that our criteria were appropriate, we were also cognizant of the fact that there was no generally accepted and recognized definition of referral centers. We stated in the interim final rule that during the second six months of the first transition year, we would analyze all data submitted during the first six months of the first transition year by hospitals seeking referral center status to determine which payment adjustments may be appropriate beginning with the second transition year.

Since there is no generally accepted definition of referral centers, it is not possible at this time to determine which payment adjustments are appropriate. This is because we will not know how referral center costs are atypical when compared to other hospitals until we have an opportunity to examine and analyze in detail the data pertaining to those hospitals (other than large rural hospitals) which apply for referral center status. Only when we have completed an analysis will we be able to determine in what ways referral centers are atypical when compared to other hospitals with respect to their costs, and to then develop an appropriate adjustment.

E. Hospitals with Disproportionate Numbers of Low Income Patients or Medicare Beneficiaries or Both

Section 1886(d)(5)(C)(i) authorizes adjustments to the propsective payment rates in consideration of the special needs of certain classes of hospitals that incur additional costs because they serve a significantly disproportionate number of low income patients or Medicare Part A beneficiaries or both. We did not make special provisions for these hospitals in the regulations (§ 405.476) because our current data do not show that an adjustment is warranted.

Comment—A number of commenters stated that hospitals with disproportionate numbers of low income patients or Medicare beneficiaries or both should receive special treatment because of the excess cost of providing health care to this group resulting from additional staffing, supplies and lengths of stay. The commenters believe that a review and analysis of bad debt and charity cases should be undertaken in addition to the studies of Medicaid recipients which may vary from State to State.

Response—We have previously responded to this issue in the following documents:

Interim final notice on Schedules of Limits on Hospital Inpatient Operating Costs (47 FR 43296);

Final notice on Schedule of Limits on Hospital Inpatient Operating Costs (48 FR 39426); and

Interim final rules on Prospective Payment for Medicare Inpatient Hospital Services (48 FR 39752).

We direct you to our responses published in these documents for a complete discussion of the reasons for our decision not to make special provision in such cases.

In summary and after a careful review of all comments received, we repeat that the data now available to us do not indicate that Medicare cost is generally affected by disproportionate numbers of low income patients or Part A beneficiaries. Therefore, there is not a sufficient basis for providing for an exception or adjustment at this time for hospitals that treat these patients. These hospitals may have a problem with bad debts. However, under the Act and long-standing regulations, Medicare is prohibited from reimbursing for bad debts other than uncollectible deductible and coinsurance amounts attributable to Medicare beneficiaries. This part of the law was not altered by Pub. L. 98–21.

We are continuing to examine this issue further to determine what action may be appropriate with respect to these types of hospitals. After consultation with industry representatives, we have agreed to an independent study of our data. As of this date, the study is still ongoing. Preliminary analysis of 487,706 1980 discharges across the nation's large urban hospitals is yielding results which differ greatly from other studies. Our preliminary work shows that:

- Large urban non-public general hospitals have an average length-of-stay for their Medicare patients that is .63 days greater than the average length-of-stay for Medicare patients at a public general hospital.
- Nineteen out of the 20 most common DRGs at large urban hospitals had greater Medicare average lengths-of-stay at the non-public general hospitals than at the public general hospitals.
- For the DRGs where discharge data is available, the majority of the DRGs have a longer Medicare average length-of-stay at the large non-public general urban hospitals compared to the public general hospitals.
- The percentage of Medicare average length-of-stay long-stay cases to hospital discharges is greater at the large non-public general urban hospitals compared to the public general hospitals. This conclusion was consistent across five separate definitions of long-stay case boundaries.

Our preliminary data analysis is using 1980 data from MEDPAR, the Medicare Cost Reports, the Office of Civil Rights hospital survey and other previously generated HCFA data such as the Medicare Case-Mix Index, the Bureau of Labor Statistics hospital wage index and the ratio of interns and residents to beds. These data are the best available data we have to conduct our analysis. We will evaluate the results once the final report is completed. If this evaluation shows there is a need and basis for an adjustment, we will take appropriate action.

Comment—One commenter suggested that the study we are conducting should not examine public general hospitals as a group, but rather those hospitals (both public general hospitals and private hospitals) which have a disproportionate number of low-income patients.

Response—Our current public general hospital analysis has examined a hospital's percentage of Medicaid admissions as an indicator of its proportion of low-income patients. This is the best surrogate variable available to use as an indicator of a hospital's proportion of low-income patients. Our current study results to date show that a significantly higher percentage of Medicaid patients are served by the public general hospitals compared to the other large urban hospitals. This finding leads us to believe that the public general hospitals as a group treat a higher proportion of low-income patients than do the private hospitals. We have not pursued a study which specifically examines low income patients independent of their Medicaid status because we do not have a measure of patients' incomes.

Comment—One commenter stated, that in their study, hospitals serving disproportionate numbers of low-income patients or Medicare beneficiaries have the following characteristics:

- Municipal hospitals have a greater concentration of more complex cases attributable to the variety of diagnoses within DRG's.
- Voluntary hospitals perform more surgery; however, the performance of surgery is not automatically associated with a higher level of complexity.
- A significantly greater proportion of outlier admissions occur through public hospital emergency rooms and these may be associated with a significantly larger average length-of-stay.
- Cost alone may be inadequate to measure the special need of low-income

patients. Additional focus is required on the needs of these patients, not merely the costs.

Response—Contrary to this commenter's study, preliminary findings from our current analysis indicate the following:

- Our 1980 national data for large urban hospitals has shown that the Medicare Case-Mix Index (MCMI) at the public general hospitals is 1.114. The MCMI at the other non-public general hospitals is 1.111. This difference is slight and was not statistically significant.
- Our study of large urban hospitals using 1980 data concludes that the non-public general hospitals have a longer Medicare average length-of-stay than the public general hospitals do. Our data show that these non-public general hospitals had an average length-of-stay of 11.59 days for their Medicare patients compared to the average length-of-stay for Medicare patients of 10.96 days at the public general hospitals. Our data also show that Medicare length-of-stay long-stay cases represent a higher percentage of Medicare discharges at the non-public general hospitals compared to the public general hospitals.
- The study is also looking at Medicare average cost per case and Medicare average length-of-stay. However, other "need" variables such as a hospital's percentage of patients having surgery, and the percentage of a hospital's inpatients admitted from the emergency room are being examined descriptively. As many low-income patient resource need variables as are available are included in our current research.

F. Kidney Acquisition Costs Incurred by Renal Transplantation Centers (§ 405.476(h))

Kidney acquisition costs incurred by renal transplantation centers (RTCs) are treated as an adjustment to prospective payments. The payments to a hospital are adjusted in each cost reporting period to compensate hospitals for reasonable expenses of kidney acquisition, and costs of this type will not be included in determining the prospective payment rates.

Kidney acquisition costs have been removed from the standardized amounts and from cost weight for DRG 302 (Kidney Transplant).

We received five favorable comments on our adjustment for renal transplantation centers to remove the estimated net expenses associated with kidney acquisition and are, therefore, making no changes to the final rule.

IX. APPEALS

The interim final rule provided that disputes concerning the prospective payment system will generally be resolved under the administrative and judicial appeals procedures and authorities already established under the Medicare Program.

A. Beneficiaries

We explained in the interim final rule that the procedures described in Subparts G and H of 42 CFR Part 405 for beneficiary appeals will remain in effect under the prospective payment system. Also, we noted that the waiver of liability provisions of section 1879 of the Act (§§ 405.330–405.332 of the regulations) continue to apply and that under section 1866(a)(1)(G) of the Act, hospitals receiving payment under the prospective payment system cannot charge beneficiaries for inpatient hospital services furnished when payment for the services is denied under section 1886(f)(2) of the Act (unnecessary admissions or inappropriate practices).

We did not receive any comments on beneficiary appeals under the prospective payment system. Accordingly, we have made no changes to the regulations text.

B. Hospitals

In the interim final rule, we dealt with three areas of hospital appeal procedures that are necessary to accommodate the prospective payment system. These areas involved: (1) Provider Reimbursement Review Board procedures, (2) appeals relating to DRG coding, and (3) appeals relating to outlier claims.

We received several comments from hospitals, professional associations, individual physicians, and law firms concerning these matters. As discussed below, the issues raised by the commenters involve a variety of concerns about appeals procedures and matters that may be appealed.

1. Provider Reimbursement Review Board (the Board)

Comment—One commenter asked that we clarify whether providers in group appeals may join issues that are not common to all in the group. Another commenter believes that § 405.1837(b) of the regulations should be amended to eliminate the requirement that a provider file a separate appeal and separately meet the requirements for Board review, when some issues are not common to the other providers in the group. The latter commenter recommended that this section merely require the provider to identify any separate issues in the group appeal.

Response—Section 1878 of the Act and the implementing regulations in § 405.1837 preclude a provider in a group appeal from joining issues not common to the other providers in the group. The law and regulations provide for a group appeal before the Board only with respect to matters that involve a common question of fact or interpretation of law, regulations, or HCFA Rulings. This language was in effect prior to the interim final rule published on September 1, 1983, and we believe that it clearly prohibits a joinder of issues not common to all providers in a group appeal.

Section 1878 of the Act also requires that the amount in controversy, which determines Board jurisdiction, be satisfied for each hearing granted by the Board. Thus, when a group appeal is permitted or required and includes a provider that also wishes to file an appeal on issues not common to the others in the group, the appeal of these additional issues constitutes an independent hearing request. Accordingly, the amount in controversy requirement of $10,000 for a Board hearing must be met separately and independently, without any consideration of the group appeal issue dollar amounts.

Comment—One commenter stated that it is not clear from the definition of "intermediary determination" in § 405.1801 whether the initial determination of an exclusion or adjustment is to be made by the intermediary. If that is the intent, the commenter believes the regulations should state that intermediaries have the function of determining the status of a hospital as this determination will affect the amount of reimbursement the hospital is to receive.

Response—In the process for determining a hospital's status under the prospective payment system, a hospital could certify that it meets the criteria for exclusion from the system. If a hospital seeks to be excluded, the determination of status is made by the HCFA regional office serving the State in which the hospital is located. For all other cases, the determination of status is made by the hospital's fiscal intermediary. Regardless of the authority making the determination of hospital status, this determination applies to the intermediary's determination of the total amount of prospective payment due the hospital for the applicable cost reporting period.

Comment—One commenter believes that certain aspects of the

determinations made on individual medical bills by medical review entities (that is, a fiscal intermediary, a peer review organization (PRO), or a Professional Standards Review Organization (PSRO), depending on the circumstances) under the prospective payment system are more properly within the jurisdiction of the Board. The commenter suggested that § 405.1801 be revised to clarify that all determinations on bills would be considered intermediary determinations and appealable to the Board, regardless of the authority making the determination. The commenter further stated that if an issue falls within the jurisdiction of the PRO, that particular issue should be sent by the Board to the PRO for review and decision. Also, for cases involving medical issues not within the PRO's jurisdiction, the Board should secure an advisory PRO opinion.

Response—We believe that bill review activities, such as those discussed in paragraphs B.2. and B.3. below, are consistent with the jurisdiction and decision-making authority of the medical review entities (PROs, PSROs, and fiscal intermediaries). The determinations required of the medical review entities (for example, those concerning outlier cases) relate to medical necessity, appropriateness, or coverage determinations on individual bills submitted for payment. These determinations are not within the jurisdiction of the Board.

Comment—One commenter asked if the Board must always hear an appeal if a hospital meets the required conditions for appeal.

Response—In the preamble of the interim final rule (48 FR 39784), we stated that hospitals receiving payment under the prospective payment system may obtain a Board hearing if specified conditions are met. Our use of the word "may" in the preamble was consistent with the statutory language in section 1878 of the Act. However, the regulations in § 405.1835 clearly establish that a provider has a right to a hearing when the prescribed requirements, including the requirement that the provider must file a written request for a hearing, are met. We believe the regulations correctly interpret the law. Accordingly, the Board must hear the appeal if the provider meets all the conditions.

Comment—One commenter stated that § 405.1839 does not clearly explain how the amount of controversy is to be computed. This commenter also questioned the need to identify target rate reimbursement separately from other reasonable cost reimbursement and suggested a separate paragraph to explain prospective payment in greater detail.

Response—We agree and have revised the final regulations to remove all references that apply to and separately identify hospitals receiving payment for inpatient hospital services under the reasonable cost subject to the target rate system. Thus, all providers that do not receive payment under the prospective payment system are now included in the rules applicable to reasonable cost reimbursement. The changes are as follows:

§ 405.1801(a)—definition of "intermediary determination" revised
§ 405.1801(b)(1)—revised
§ 405.1801(c)(1)—revised
§ 405.1801(c)(3)—deleted
§ 405.1803(a)(2)—deleted
§ 405.1809(a)—revised
§ 405.1839(a)(2)—revised
§ 405.1839(b)(2)—revised

We revised § 405.1839 to explain in a separate paragraph, how the amount in controversy is to be computed for providers paid under the prospective payment system.

2. Errors in DRG Coding

As we stated in the preamble of the interim final rule, if errors in the fiscal intermediary's initial DRG coding occur, the hospital may resubmit the billing data for review with the revised coding for the discharge. This review would appropriately be conducted by the fiscal intermediary.

When a medical review entity (PRO, PSRO, or fiscal intermediary), upon DRG validation, determines that an error has occurred in the coding of a DRG, it may revise the DRG code accordingly. If the hospital disagrees with the revised DRG code determined by the medical review entity, the hospital may request the medical review entity to review its determination.

Comment—One commenter sees a potential conflict between the requirement that prohibits retroactive adjustments to a hospital's base year costs and the appeal allowed to the provider if an error occurs in the DRG classification assigned to an individual patient's case.

Response—We see no conflict between the cost requirement and the provider's right to question whether the proper DRG code was assigned to an individual patient's case.

3. Outlier Claims

A hospital's claim for outlier payments is subject to review by a PSRO or PRO (or in the absence of a peer review organization, by the hospital's fiscal intermediary). The reviewing entity makes appropriate coverage determinations. The PSRO, PRO or intermediary examines outlier cases and denies claims for additional payment for those days of care or services provided in the outlier case that are not covered. The provider may challenge an adverse coverage determination under the provisions listed in § 405.472(e)(2). If the medical review entity is a PRO, § 405.472(e)(2)(i) is applicable and if the entity is a PSRO, § 405.472(e)(2)(ii) applies. If the medical review entity is a fiscal intermediary, § 405.472(e)(2)(iii) is applicable.

A provider may not appeal the coverage determination beyond the reconsideration stage. However, if items or services are excluded from coverage based on a determination that the services are not medically necessary, constitute custodial care, or are excluded under section 1154(a) (1) and (2) of the Act, and a determination is made under section 1879 of the Act concerning waiver of liability, the section 1879 determination is appealable. Under these circumstances, if we have determined that the beneficiary will not pursue his or her appeal rights, the provider may request a reconsideration, a hearing before the Office of Hearings and Appeals of the Social Security Administration, and a judicial review as part of the appeals process authorized under §405.704(b)(12) of the regulations. The waiver of liability regulations are found in §§ 405.330–405.332.

C. Other Comments on Appeals

We also received various comments on other aspects of the prospective payment system that relate to appeals procedures. One commenter stated that a hospital experiencing atypical circumstances can undergo temporary financial difficulty if the circumstances cause the hospital's current costs to compare unfavorably with the regional or national DRG rates, or the hospital's own base year costs. The commenter recommended that hospitals be allowed to receive temporary relief for the atypical circumstances through the Board or judicial review. The commenter recommended that the appeal rights should not be restricted beyond the conditions contained in the Social Security Act, and the appropriate adjustment provided to a hospital based on its individual circumstances be evaluated by the Board or the courts. Another commenter stated that § 405.1839 does not clearly explain the issues that can be appealed.

One commenter believes that the final rules should include an appeal

mechanism for denials of exclusion from the prospective payment system (section 1886(d)(1)(B) of the Act).

Another commenter believes that providers should be allowed to appeal denials of exclusion to the Board immediately after they are notified of the denials. The commenter recommended that an adverse determination regarding excluded status be considered an intermediary determination and any adverse determination concerning exclusion either be deemed to involve $10,000 or more, or not be subject to that requirement. The commenter suggested that, as an alternative, all adverse determinations could be reviewed under certification determinations and appeals procedures in 42 CFR Part 405, Subpart O, to provide an expeditious forum for resolving disputes.

A commenter stated that the prohibition against administrative or judicial review of an established DRG might be challenged successfully in a court of law if the prohibition is found to be arbitrary and unreasonable.

Another commenter stated that the definition of intermediary determination in § 405.1801 does not seem to cover determinations of the hospital-specific rate. The commenter believes this should be an appealable issue and that the right of appeal should begin immediately upon receipt of the determination. The commenter believes that this is especially important because the decision impacts only on a prospective basis. The commenter stated further that although there would be a problem in determining the amount in controversy and the process might be exposed to a two-stage appealable review, administrative problems should not be used as a basis for denying hospitals an effective right to contest the determination.

One commenter stated that the application of a combination of various regulations sections in 42 CFR Part 405, Subpart R permit a hospital subject to the prospective payment system to appeal the total amount due for a cost reporting period. The commenter believes that without further clarification the regulations could be interpreted to mean that a hospital could appeal the determination of the hospital-specific portion of payment due for all cases discharged during the year. The commenter noted § 405.474(b)(1)(iv) states that the intermediary's estimate of base year costs is final and may not be changed except for limited adjustments and suggested that this issue be addressed in the final rule.

A commenter asked if the notice reflecting the intermediary's determination of the base year costs constitutes an appealable intermediary determination. The commenter believes that base year cost determinations meet the definition for an intermediary determination as defined in §§ 405.1801(a)(iii) and (iv). The commenter recommended that § 405.1801 be revised to clarify that a hospital may appeal the base year cost determination directly to the Board.

Finally, several commenters believe that hospitals should be allowed to appeal perceived adverse effects of the wage index and the case-mix index to the Board and the Courts.

Response—Disputes that arise concerning prospective payments will be resolved under the administrative and judicial review procedures established in section 1878 of the Act and the Medicare regulations at 42 CFR Part 405, Subpart R. Under these procedures, a provider that is dissatisfied with the intermediary determination of the total amount of the program reimbursement due for a cost reporting period (as contained in a "Notice of Amount of Program Reimbursement" issued after the close of the period) may request a hearing before an intermediary hearing officer or panel of hearing officers. The amount in controversy must be at least $1,000. A provider may request a hearing before the Board if the amount in controversy is $10,000 or more. The request for hearing must be filed within 180 days from the date of mailing of the notice reflecting the intermediary's determination.

Under the law and regulations, a provider who requests and has the right to a hearing by the Board may obtain both Board and judicial review of disputes involving the applicable provisions of title XVIII of the Act, implementing regulations, HCFA Rulings, or program instructions that govern the intermediary's actions in determining the total amount of program reimbursement due the provider. In general, the provider may dispute both factual and legal issues arising from the intermediary's application of the governing law, regulations, HCFA Rulings, or program instructions. The provider may also raise questions concerning the validity of the governing law, regulations, or HCFA Rulings if the provider wishes to challenge our legal position in court. On questions relating to validity, the law and regulations (see § 405.1842) allow a provider to request and obtain expedited Board proceedings.

Additionally, under current regulations at § 405.1873, the Board decides all questions relating to its jurisdiction to grant a hearing. A Board decision denying jurisdiction is a "final decision" that may be reviewed by the Administrator of HCFA (§ 405.1875). If a provider is dissatisfied with the decision of the Board or the administrator (where there is a decision affirming the action of the Board), the provider may request judicial review of the final agency decision (§ 405.1877).

We believe these procedures are consistent with the requirements of the law. The procedures permit providers to dispute those matters with which they are dissatisfied including matters described in the above comments. Accordingly, we believe the rights of providers, in this respect, are fully protected.

D. Entire Patient Stay

As we stated in the interim final rule (48 FR 39784–39786), the waiver of liability regulations found at §§ 405.330–405.332 will apply to a denial of an entire patient stay as well as to a denial of a day outlier or cost outlier that is based on a determination that the services are not medically necessary or constitute custodial care. Waiver of liability considerations will also apply if a PSRO, PRO, or fiscal intermediary finds that services are excluded under section 1154(a)(1) and (2) of the Act. We received no comments regarding this aspect of the appeals process.

X. CHARGES TO BENEFICIARIES

We stated in the interim final rule that, generally, a hospital paid under the prospective payment system must bill its intermediary under Medicare Part A for all inpatient hospital services furnished to a beneficiary. With certain exceptions, a hospital cannot bill Medicare Part B for inpatient hospital services if it receives payment under the prospective payment system. Further, a hospital cannot charge a beneficiary for services covered under the prospective payment system. However, Medicare Part A beneficiaries are still responsible for payment of deductible and coinsurance amounts.

We did not intend to have the interim final rule result in any new liability to beneficiaries or to impose new costs on hospitals because of the provision of medically unnecessary or other noncovered services. The revisions that we have made in these final regulations are designed to clarify when charges may be made and also to retain our original intent that beneficiary liability not change under the prospective payment system. We received several comments from hospitals, professional associations, individual physicians and law firms about these provisions. The

major comment and issue raised is as follows.

Comment—Several commenters requested that the regulations be revised to permit a hospital or utilization review committee to notify a Medicare beneficiary that continued hospital stay is not medically necessary, and to permit billing the beneficiary for custodial care and medically unnecessary services, prior to the outlier threshold. The commenters believe that hospitals must be able to exercise this authority as early as possible to control patient length-of-stay and hospital costs under the prospective payment system. Some of these commenters also believe, however, that the regulations should not preclude a patient from paying the hospital for a lower level of care that is needed, when the patient is willing to pay.

Response—We agree and have revised § 405.472(b)(1). We have also included a number of safeguards to protect the beneficiary against the possibility that hospitals might abuse the procedure by characterizing medically necessary services as noncovered or by using the procedure in a harsh and abrupt manner. The danger of such abuse arises from the fact that noncovered care rendered prior to the outlier threshold, during a covered stay, does not result in a corresponding reduction of Medicare payment as it does under the cost reimbursement system. The details of this new procedure and the safeguards associated with it are described below in the Statement of Permissible Charges to Beneficiaries.

For ease of understanding, further comments on this issue and our responses (written in the light of our revised policy) follow this summary statement.

Statement of Permissible Charges to Beneficiaries

We have revised the regulations pertaining to the permissible charges to beneficiaries. The following discussion summarizes the effect of these changes.

A hospital furnishing inpatient hospital care for which payment may be made under the prospective payment system may charge beneficiaries only for the following:

1. The applicable deductible and coinsurance amounts under §§ 409.82, 409.83, and 409.87.

2. Items and services, furnished at any time during a covered stay, that are excluded from coverage on some basis other than the requirements at § 405.310(g) (custodial care), § 405.310(k) (medically unnecessary items and services), § 405.310(m) (nonphysician services furnished to hospital inpatients by other than the hospital or a provider or supplier under arrangements made by the hospital), § 409.61 (exhaustion of benefits), or Subpart A of Part 408 (nonentitlement to Part A).

3. Items and services excluded from coverage on the basis of § 405.310(g) (custodial care) or § 405.310(k) (medically unnecessary items and services) and furnished by the hospital after all of the following conditions have been met:

a. The hospital (acting directly or through its utilization review committee) determines that the beneficiary no longer requires inpatient hospital care (including an SNF level of care considered unavailable under Medicare criteria outside of the hospital).

b. The attending physician agrees with the hospital determination in writing (for example, by issuing a written discharge order). If the hospital believes that the beneficiary does not require inpatient hospital care but is unable to obtain the agreement of the physician, it may request an immediate review of the case by the medical review entity. Concurrence by the medical review entity in the hospital's determination will serve in lieu of the physician's agreement.

c. The hospital (acting directly or through its utilization review committee) notifies the beneficiary (or person acting on his or her behalf) in writing that—

(1) In the hospital's opinion, and with the attending physician's or the medical review entity's concurrence, the beneficiary no longer requires inpatient hospital care;

(2) Customary charges will be made for continued hospital care beyond the second day following the date of the notice;

(3) The medical review entity will make a formal determination on the validity of the hospital's finding if the beneficiary remains in the hospital after he or she is liable for charges;

(4) The determination of the medical review entity made after the beneficiary received the purportedly noncovered services will be appealable by the hospital or the beneficiary under the appeals procedures that apply to medical review entity determinations affecting Medicare Part A payment; and

(5) The charges for continued care will be invalid and refunded if collected by the hospital, to the extent that a finding is made that the beneficiary required continued care beyond the point indicated by the hospital.

d. If the beneficiary remains in the hospital after the appropriate notification, and either the hospital, the physician who concurred in the hospital determination on which the notice was based, or the medical review entity subsequently finds that the beneficiary requires an acute level of inpatient hospital care, the hospital may not charge the beneficiary for continued care until the conditions for the charges again meet the required criteria.

4. Diagnostic procedures and studies, and therapeutic procedures and courses of treatment (for example, experimental procedures) that are excluded from coverage under § 405.310(k) (medically unnecessary items and services), even though the beneficiary requires continued inpatient hospital care, and that are furnished after the beneficiary (or the person acting on his or her behalf) has acknowledged in writing that the hospital (acting directly or through its utilization review committee and with the concurrence of the intermediary) has informed him or her that—

a. In the hospital's opinion, which has been agreed to by the intermediary, the items or services to be furnished are not considered reasonable and necessary under Medicare;

b. Customary charges will be made if he or she receives the items or services;

c. The intermediary will make a formal determination on the validity of the hospital's finding if the beneficiary receives the items or services;

d. The determination of the intermediary is appealable by the hospital or the beneficiary under the appeals procedure that applies to determinations affecting Medicare Part A payment; and

e. The charges for the services will be invalid and, to the extent collected, will be refunded by the hospital if the services are found to be covered by Medicare.

5. Customary charges for noncovered items and services furnished on outliers days (as described in § 405.475) for which payment is denied because the beneficiary is not entitled to Medicare Part A or his or her Medicare Part A benefits are exhausted (if payment is considered for outlier days, the entire stay is reviewed and days up to the number of days in excess of the outlier threshold may be denied on the basis of nonentitlement to Part A or exhaustion of benefits, and in applying this rule, the latest days will be denied first); and

6. The customary charge differential for a private room or other luxury service that is more expensive than is medically required and is furnished for the personal comfort of the beneficiary at his or her request (or the request of the person acting on his or her behalf).

Under the above rules, a hospital receiving payment under the prospective payment system may notify the beneficiary that he or she no longer requires inpatient hospital care, and will have to pay for continued care, only if the attending physician or medical review entity concurs. The hospital may notify a beneficiary who requires continued inpatient hospital care that a diagnostic procedure or study or therapeutic procedure or course of treatment is not considered reasonable and necessary under Medicare guidelines, and that the beneficiary will be liable for the charges, only if the intermediary concurs. (Procedures will be established to enable the hospital to obtain expeditious medical review entity or intermediary concurrence, as necessary.) If the beneficiary receives services that the hospital has notified the beneficiary were not medically necessary or constitute custodial care, the Medicare program will make a determination regarding the coverage of the services, and such determination will be appealable by either the hospital or the beneficiary under the usual appeals procedures regarding medical necessity issues affecting Medicare payment.

We believe that the safeguards described above will in most cases provide adequate protection to beneficiaries against a hospital characterizing covered care as noncovered (and thereby causing the premature discharge of the patient or other withholding of covered care or subjecting the beneficiary to charges for covered care). As additional protection against these abuses, we have redesignated § 405.472(b)(2) as § 405.472(b)(3) and added a new paragraph (b)(2) to provide that the medical review entity or intermediary may review any cases in which the hospital notifies the beneficiary (or the person acting on his or her behalf) of the noncoverage of the services in accordance with § 405.472(b). The hospital must identify such cases to the medical review entity or intermediary in accordance with HCFA instructions. In practice, it is likely that this review will be done on a sample basis. Particular emphasis will be placed on cases where the beneficiary is discharged before the stay reaches the average length of stay for the particular DRG. If this review together with an analysis of the routine review by the medical review entity or intermediary of cases in which the beneficiary elects to receive noncovered care reveals that the hospital frequently characterizes covered care as noncovered or improperly induces beneficiaries to request noncovered care, the Office of the Inspector General, Department of Health and Human Services is authorized to impose sanctions against the hospital under sections 1156(b)(1) and 1862(d)(1)(C) for providing poor quality care or under section 1886(f)(2) for engaging in inappropriate medical and other practices with respect to beneficiaries. Such sanctions might include requiring the hospital to submit to prereview by the medical review entity, all notices of noncoverage the hospital planned to issue to beneficiaries, or exclusion from the Medicare program.

Further discussion of comments and responses follows:

Comment—One commenter stated that under the reasonable cost method of reimbursement, a patient could be billed for further hospitalization if the utilization review committee found that the patient's admission was not warranted. The commenter asked if a patient can be billed in the same manner under the prospective payment system.

Response—If the utilization review committee finds that the beneficiary's admission was unwarranted, the hospital generally can bill the beneficiary for his or her continued stay after due notice (as was permitted under regulations prior to the prospective payment regulations).

Comment—One commenter asked that the regulations be revised to allow hospitals to bill the State Medicaid program for intermediate care facility (ICF) administratively necessary days, when the patient is a dual Medicare/Medicaid enrollee. The commenter stated that the current prohibition against doing so imposes financial penalties on hospitals that are not able to place patients in nursing homes or other facilities due to a shortage of beds in the particular community. The commenter also believes that this restriction violates budget neutrality under Pub. L. 97-248 because hospitals are precluded payment for services previously allowed.

Response—A provider cannot, consistent with its Medicare participation agreement, charge third parties such as Medicaid for services for which it cannot charge the beneficiary. The hospital can, however, charge a beneficiary for providing an ICF level of care after giving notice to the beneficiary or his or her representative as described in the Statement of Permissible Charges to Beneficiaries. Hence, under these circumstances, the hospital is able to look to the Medicaid program for payment of authorized benefits on the Medicare beneficiary's behalf.

Comment—One commenter believes that the limitation on charges to beneficiaries in § 405.472(b)(1)(iv) should be deleted. This provision requires that charges for items and services representing cost outliers denied because of the absence of medical necessity be limited to what Medicare would pay if the services were viewed as covered. The commenter stated that the beneficiary is responsible for the customary charges for noncovered services, not for the incremental costs. Further, the commenter believes that the charge under § 405.472(b)(1)(iv) would not be known until long after the beneficiary left the hospital, since it would take time for the intermediary to ascertain what Medicare would pay for covered services. The commenter stated that most hospitals would have to rely on the intermediary to tell them what Medicare would have paid had the services representing the potential cost outlier been covered. The commenter believes that the cost of calculating these amounts and communicating them to the patient via hospital billing would be excessive and the hospital would have difficulty attempting collection so long after discharge.

Response—We have revised § 405.472(b)(1)(iv) to permit the hospital to charge its customary charges for medically unnecessary and custodial care subject to appropriate notice to the beneficiary and other safeguards. If medical review by the Medicare program indicates that the hospital has charged for care that is in fact covered, the hospital will be required to make a refund.

Comment—Several commenters believe that hospitals should be able to charge the beneficiary, subject to the waiver of liability provisions, for any noncovered care furnished during the hospital stay and not just for care furnished when the patient no longer requires hospitalization. They believe the regulations should not preclude the beneficiary from obtaining services that are not medically necessary (for example, experimental procedures) by Medicare standards if he or she wishes to purchase them. Otherwise, a severe intrusion into the beneficiary's freedom of choice would occur. This is particularly true when conventional methods of diagnosis or treatment have failed and experimental methods offer the only hope.

Response—We agree that the hospital should be able to charge for medically unnecessary or custodial care furnished after due notice. Such charges should,

however, because of the possibility of abuse, be subject to safeguards more stringent than those of the waiver of liability provisions. These are described in the Statement of Permissible Charges to Beneficiaries.

XI. REVIEW ACTIVITIES

A. Review System Background

The law requires all hospitals to enter into agreements with Utilization and Quality Control Peer Review Organizations (PROs) by October 1, 1984. PROs will be expected to undertake all inpatient hospital medical review. In the interim, PSROs and fiscal intermediaries will perform review in areas until a PRO contract is awarded. In the interim final rule, for convenience, we used the term "medical review agents" to refer to PROs, PSROs, and fiscal intermediaries. In doing so, we inadvertently implied that PROs are agents of the Federal government. Therefore, to correct this impression, we are referring in this preamble to the variety of organizations that will be performing these review functions in the short term as "medical review entities" (MREs).

MREs will be responsible for determining the medical necessity, appropriateness, and quality of care as well as performing DRG validation. As in the past, MREs will be responsible for providing appropriate medical determinations in connection with coverage rules.

The prospective payment legislation did not change Medicare coverage or eligibility rules currently in effect (although it did expand our authority to cover certain services). As a result, requirements relating to exclusions, physician certification and recertification, and national coverage rules continue to be applicable. These rules will continue to be applied by intermediaries with assistance from PROs and PSROs where appropriate.

The review system established in the interim final rule was designed to conform review activities to the nature of the payment process and to the new fiscal incentives created by the payment system as a whole. Our objective was to create a system in which all the medical review and coverage requirements were brought to bear on a claim, balanced appropriately against the claim as a whole, and in which the result is generally either payment or denial of the whole prospective payment.

Accordingly, we revised the physician certification and utilization review requirements to permit these functions, to the extent possible under the law, to occur at points in a stay where payment incentives could lead to inappropriate utilization. Necessarily, these points are at admission and in cases where outlier status has been achieved.

We received comments from hospitals, medical records personnel, consultant groups and MREs. Many of the comments concerned the medical review process and DRG validation.

Comment—A commenter requested that we specify in the regulations that all review by MREs regarding medical appropriateness and necessity must be made only by a physician and on a timely basis (that is, 30 days from billing).

Response—All MREs employ personnel with varying levels of medical education and deploy them in review in a manner that enables issues to be screened by personnel appropriate to the type of decision that needs to be made. We are confident that the system that is in place enables physicians to review cases that require the judgement of physicians and leaves in the hands of nurses and other reviewers such decisions as they may appropriately make. We note, too, that the average billing cycle results in submission of claims 25 days after discharge. PROs and PSROs generally will have reviewed cases before that point and intermediaries will have done so after that point, but, in our view, all reviews will be done timely in relation to the claims process.

Comment—A commenter requested clarification as to whether MREs will use national or local standards of care and how criteria will be established. The commenter is concerned because intermediaries will perform this function prior to PRO implementation when there is no PSRO in the area.

Response—Intermediaries use guidelines for medical review that are based on local practice patterns. The PSRO/PRO review system uses professionally developed and approved criteria. These requirements do not change as a result of this new method of payment for hospital care.

Comment—A commenter stated that intermediaries lack the capability to conduct appropriate medical review and will tend to emphasize cost reductions over quality considerations. The commenter recommended that the regulations be modified to allow review by utilization review (UR) committees until a PRO or PSRO is available to perform medical review.

Response—Until a PRO contract is awarded in an area where there currently is no PSRO, the hospital is required to have a UR committee. This committee is required to perform both utilization review and medical care evaluation studies and quality review. However, the UR committee's affirmative findings remain advisory to the intermediary.

B. Review System Components

1. Admission Review

MREs will review admissions to determine whether inpatient hospital care is medically necessary for treatment of the inpatient's condition. Based on a finding of medical necessity and appropriateness, a prospective payment will be made. If the admission is not medically necessary, no payment will be made (except to the extent permitted under the waiver of liability provisions). MREs will not attempt to deny Medicare payment for individual days or services in a medically necessary stay (except in outlier cases and cases where a noncovered procedure can result in payment of different DRGs, as discussed below).

2. Procedure Review

The MRE will also review operating room procedures and, where the MRE determines that such procedures are not appropriate, will assure that the DRG to which the case is assigned is one that is not weighted for the operating room procedure that was found unnecessary.

3. Admission Pattern Monitoring

We will analyze admission patterns of providers to determine if admission rates have increased or the number of short-stay cases have increased. If either have increased beyond a certain threshold, the MRE will be asked to review the hospital's admissions (on a sample or other basis) to determine if the increased admissions or decreased lengths of stay are medically necessary and appropriate.

Comment—A commenter requested that hospitals be given an opportunity to explain increases in admission rates before MREs perform onsite reviews. Also, the commenter requested that the "predetermined thresholds" and review activities to be performed be specified and published.

Response—These review activities are outlined in instructions to our MREs (see Transmittal Number 308 to Part 2 of the *Intermediary Manual*, HCFA Pub. 13–2). These instructions are in the public domain and are available for scrutiny at Federal Depository Libraries.

4. Outlier Review

Outlier cases will be reviewed in their entirety and the MRE will determine whether the stay as a whole contains noncovered or medically unnecessary or inappropriate days or services (as

discussed below) and may deny outlier payments as a result of their review. Although services and days throughout the stays are reviewed, denials may not exceed the amounts claimed for outlier payments. The basic prospective payment amount will not be subject to reduction as a result of outlier review. In the case of day outliers, denials will be made on a day-by-day basis. In the case of cost outliers, denials will be made on a service-by-service basis as well.

Comment—A commenter noted that § 405.475(c) merely provides that, in day-outlier cases, MREs must review and approve the admission and the number of outlier days. On the other hand, for cost outlier cases, § 405.475(d) specifically provides that MREs must determine that the admission was medically necessary and that all services were medically necessary and delivered in the most appropriate setting. The commenter recommended that § 405.475(c) be revised to clarify that medical necessity is also the reason for the review of admissions and outlier days in day-outlier cases.

Response—We agree with the commenter and have revised § 405.475(c)(2) accordingly.

5. DRG Validation

DRG validation is conducted for the purposes of assuring that cases have been appropriately reported to the intermediary so that a proper DRG can be assigned. The MRE will be required to conduct a review of, at a minimum, a sample of a hospital's discharges and, at the Secretary's discretion, may do so onsite. The purpose of the review is to evaluate the hospital's coding of the case on the claim against the principal diagnosis, secondary diagnosis, and procedures specified by the attending physician and the medical record.

We received several comments on the process and format for physician attestation to the procedural and diagnostic information.

Comment—Several commenters pointed out that the preamble language stated that DRG validation is to be performed every three months while the regulation itself (§ 405.472(d)(2)(ii)) stated that the validation is to be performed every six months.

Response—This was a drafting error and has been corrected in the regulatory text (§ 405.472(d)(2)(ii)) to make clear that DRG validation is to be performed at least every three months using Medicare discharges from the previous three-month period or the period since the last review.

Comment—One commenter stated that there was no reason given for performing DRG validation onsite and requested that the requirement be dropped.

Response—We agree with the commenter that it may not be necessary routinely to visit the provider in order to perform DRG validation; however, we believe that there are many cases where this course of action is advisable. For example, it may well be more efficient than requesting large volumes of medical records and could well facilitate the educational effect of the function by permitting face-to-face interaction with the hospital personnel responsible for coding the bills before submission to the intermediary. Therefore, we have clarified this provision by changing the language in § 405.472(d)(2)(ii) to make it clear that this function need not always be done onsite but that we have the discretion to determine when onsite review will be conducted.

Comment—Numerous comments were received that requested a rationale for requiring physicians to attest to the diagnostic and procedural information. Commenters were particularly interested in the necessity of the attending physician's attestation where numerous physicians were involved in the inpatient's care or in a teaching hospital situation.

Response—We have required that attending physicians attest to the diagnostic and procedural information because the nature of the prospective payment system requires, in order for proper payment to be made, an accurate statement of this information and an accurate transcription of this information on the claim. We believe that it is most appropriate to base our DRG validation on the views of the attending physician and therefore have required that the attending physician create a record of his or her views against which the coding decisions of the hospital may be measured.

Where numerous physicians are involved in an inpatient's care, the attending physician is the coordinator of this activity and is the best person to coordinate the data applicable to the particular inpatient. In the teaching hospital, the intern or resident may prescribe for the inpatient, but the attending physician or chief of the service is ultimately responsible for the inpatient. In those situations, the intern or resident dictates the discharge summary, but the attending physician of record must make appropriate entries in the clinical chart for it to be considered complete. We would require the same; that is, the intern or resident could list or dictate the diagnostic and procedural information, but the attending physician, for example, would have to attest to the validity of the information by signing. Our policy in this respect mirrors the policies of the hospitals themselves which permit many "physicians" to receive training by dealing with the inpatient and ordering care and other items and services, but recognize that the superior knowledge (and thus the ultimate control) of the case is in the hands of the attending physician. We believe that the Medicare program should benefit from the judgement of the physician to the same extent that interns and residents would do so.

Comment—One commenter asked why the New Jersey alternate reimbursement system does not require physician attestation.

Response—DRG validation is a requirement we have established under the Medicare prospective payment system and which we believe that we have the authority to require under prospective payment systems which operate under waivers. We would note, however, that this requirement did not exist at the time the New Jersey demonstration was approved and we believe it would not be appropriate to impose it on that system without a modification in the contract. We will, of course, consider these issues at the time that these projects are reviewed for renewal.

Comment—Several commenters requested permitting physicians to enter narrative descriptions of diagnoses rather than requiring physicians to learn the ICD-9-CM coding process.

Response—We do not intend for physicians to learn coding procedures. Physicians may use familiar diagnostic and procedural information and appropriate medical records personnel may then convert the information to the correct codes.

Comment—One commenter asked if we meant that the attending physician had to actually write out the diagnostic and procedural information. Another commenter urged that we permit nonphysicians to code and sequence diagnoses.

Response—We do not envision the attending physician, in all cases, actually writing the diagnostic and procedural information. The attending physician may dictate the information as part of the discharge summary and medical records personnel may sequence the diagnoses. In all cases, regardless of the form or format, the attending physician must either write the information or read it and attest to the validity of the information by signing the document utilized by the hospital. The attending physician may write and sign, or read and sign, diagnostic and procedural information which is in

either narrative or ICD–9–CM code form. If the attending physician signs a document that expresses the information as ICD–9–CM codes, we expect the attending physician to understand the meaning of the codes. Because of the importance of this information in determining payment, we have added a provision in these regulations (§ 405.472(d)(2)(i)) that there be a statement on the document used by the hospital for this purpose that will alert the attending physician of his or her responsibility to provide accurate information.

Comment—Many commenters asked if we had a prescribed form or format for use by the attending physician when a physician attests to the diagnostic and procedural information.

Response—We have not prescribed a form for this purpose. This information could be found, for example, on the face sheet or in the discharge summary used by the hospital. We would expect, however, that a hospital use the same method for all cases so that DRG validation can be efficiently performed. We would not allow a hospital's medical staff to totally delegate this function, including the signature requirement, to the medical records staff and, thus, bypass physician involvement because we believe that the purpose here is to have a statement by (or supported by the signature of) the attending physician against which the MRE can measure the accuracy of the medical records department's coding.

Comment—One commenter noted the potential for manipulation of diagnostic and procedural information for puposes of claiming additional payment (that is, by providing information that would cause a claim to be assigned to a DRG with a higher weight). The commenter suggested that a statement be placed on the document used for physician attestation that warns the attending physician of the consequences of false statements.

Response—We have accepted this comment and have added a provision to § 405.472(d)(2)(i) that requires that cautionary language be included in the document used by the provider for physician attestation.

Comment—A commenter stated that hospitals should not be penalized by delayed payments for lack of timely attestation to diagnostic information by physicians.

Response—While we realize that some hospitals that are not capable of meeting the requirements may experience delayed payments until they are able to comply, we think it necessary that the hospital have the attending physician's attestation before that claim is submitted. If hospitals were to bill before the attending physician attested to the diagnostic and procedural information, it could result in a large number of adjustment bills being submitted. This would be an increased administrative cost and would result in problems relative to the accuracy of data. The arithmetic average for submittal of Medicare claims by hospitals is currently 25 days after discharge. We believe it is reasonable to expect that, generally, in this 25-day period, the hospital can ascertain from the attending physician what diagnostic and procedural information should be used for Medicare billing. In addition, the hospital may elect to receive periodic interim payments if it qualifies. Under this method, payments are made on a biweekly basis without regard to the timing of physician attestation to diagnostic information.

Comment—Commenters requested that we explain how changes to the diagnostic and procedural information can be executed once the physician has attested to the information.

Response—We do not anticipate that this situation will occur often. If the need arises to change the diagnostic and procedural information (for example, the late arrival of a culture report more accurately describes the infectious process), we will allow the change(s) to be made. However, we will require that the attending physician countersign each change.

Comment—One commenter questioned the language in § 405.472(d)(2)(iii) that indicates that the MRE will change the diagnostic and procedural coding on the beneficiary's clinical record if review indicates that it does not accurately reflect the course of hospitalization.

Response—We do not intend for the MRE to alter the beneficiary's clincial record. Instead, we meant that the MRE would change the coding on the Medicare claim, thus enabling the intermediary to classify the case in a DRG appropriate to the beneficiary's hospital stay.

6. Coverage Review

Intermediaries will continue to apply all technical and medical coverage rules to the cases that they review. They will consult with other MREs in cases where a medical judgment is required to apply a coverage rule. Review may result in the reclassification of a case from one DRG to another, or in total payment denial. In outlier cases, review may result in reduction or denial of outlier claims. Review will not, however, result in the reduction of a nonoutlier propsective payment for a particular DRG.

Comment—A commenter stated that we appear to be using these regulations to create a regulatory status for coverage decisions, which are presently made informally and announced only through manual changes. The commenter recommended that regulations be promulgated to formally describe this process of making "national" coverage decisions and the criteria used.

Response—The preamble discussion is intended merely to provide general background on how the "national" coverage decisions (however made) affect payment under the prospective payment system. There is no intended attempt to convey a regulatory status on the decisionmaking process by simply referring to what the resulting decisions will mean in processing claims under the prospective payment system.

Comment—A commenter requested that care never be considered to violate the "reasonable and necessary" requirement based on a nationally applicable policy. The commenter recommended that review of care be based solely upon "community" practice.

Response—There are some services that are never coverd under Medicare, and those coverage prohibitions are applicable throughout the country (that is, they are "national" coverage rules). For example, Medicare does not pay for experimental care (that is, care that has not been proven to be safe and effective). These limitations apply irrespective of "community" practice. In contracting with MREs, we plan to exclude from their review any issues that have been resolved by national coverage rules. For care not in these categories, community standards, as applied by PROs, PSROs, or intermediaries, are the governing consideration. The new provisions in the law permitting us to make limited payment for experimental items and services clearly affirms our existing policy that such services should generally be denied until found medically efficacious.

Comment—A commenter stated that intermediaries should not review for "reasonable and necessary" compliance. The commenter further stated that it is a waste of resources, particularly since once an admission is considered appropriate, any covered care furnished in the stay is paid for by the DRG amount.

Response—Under the prospective payment system, intermediaries and *not* other MREs will continue to enforce the

Medicare prohibition against paying for experimental care (this comes under the "reasonable and necessary" exclusion). If a stay was primarily for the purpose of furnishing experimental treatment, then the *admission* is denied and no DRG payment is made. Therefore, "reasonable and necessary" review by an intermediary can be an appropriate use of resources.

Comment—The commenters requested that we amend the way in which we describe cases where delivery of a noncovered service in a prospective payment stay should lead to admission denial. The preamble language to the interim final rule (48 FR 39787) states that an admission will be denied if the sole or primary services provided to an inpatient were experimental or otherwise noncovered. The commenter requested that we state that there should be a denial if the *only* service provided is noncovered.

Response—We do not believe that that type of definitive provision would be workable or appropriate for the review of every case. Specifically, Medicare's objective is to see whether, in cases where clearly noncovered services have been furnished to a beneficiary, there are nevertheless sufficient covered services remaining so that payment of the DRG is appropriate. This is an essential judgment to make since Medicare does not pay for noncovered care, and we must, therefore, assure that there are reasonable covered services for which we are paying. In our judgment, it would not be appropriate to require that we make a DRG payment in every case where a major noncovered procedure was performed merely because a minor covered ancillary service was also provided to the inpatient. The revision recommended would force us into that result in every case. We believe that the most workable approach requires the more flexible approach we have taken.

Comment—One commenter stated that the medical review activities were far too prescriptive for PROs, which were to be allowed flexibility in performing medical review.

Response—The PRO enabling legislation (the Peer Review Improvement Act of 1982 (Title I, Subtitle C of Pub. L. 97–248)) was designed with the existing cost reimbursement system as a given and did not contain review provisions designed to deal with a prospective payment system. However, Pub. L. 98–21, which established the prospective payment system, recognizes this fact and embodies specific PRO review requirements tailored to the payment system it created. Specifically, it directs that PROs review admissions, outliers and the accuracy of diagnostic information. Neither the timing of the review (for example, concurrent versus retrospective) nor the selection of admission or DRG validation samples is dictated in either Pub. L. 97–248 or Pub. L. 98–21. Since outlier payments must remain within the precentages dictated by Congress and the number of outlier cases is to be small, we believe that the review of every outlier case is warranted and should be mandatory. DRG validation and admission pattern monitoring are essential parts of the Congressional mandate, and these review efforts are, therefore, directed.

Comment—One commenter requested that we add a statement to § 405.472 that medical review could be lessened in a hospital that has exhibited no problems.

Response—As indicated above, we are not, in these regulations, dictating review processes for medical review, other than the review of outliers, DRG validation, and admission pattern monitoring. Further administrative instructions were issued, which address review processes for intermediaries and PSROs. The PRO contract will govern review procedures for PROs. We see no need to make any change to the regulation based on this comment.

7. Unnecessary Admissions and Readmissions.

Congress provided in Pub. L. 98–21 a new section 1886(f)(2) of the Act. Under this new section, if we determine that a hospital tries to circumvent the rate of increase controls under section 1886(b) of the Act or the prospective payment system under section 1886(d) of the Act, by encoureging unnecessary admissions or readmissions of Part A beneficiaries or other inappropriate medical practice with respect to such beneficiaries, we may (1) deny payment (in whole or in part) under Part A for impatient hospital services provided for an unnecessary admission (or subsequent admission of the same individual), or (2) require the hospital to take other corrective action necessary to prevent or correct the inappropriate practice.

Section 1886(f)(3) of the Act provides that sections 1862(d) (2), (3), and (4) also apply to these determinations. Section 1862(d) of the Act contains general requirements prohibiting fraudulent billing practices and provision of unnecessary services, or services that fail to meet professionally recognized standards and permits notice to providers and suppliers, the public, and State Medicaid agencies when it is determined that these practices have occurred. Section 1866 of the Act generally sets forth the requirements of provider agreements with which a provider must comply in order to participate in Medicare. Section 1866(a)(1)(G) of the Act prohibits providers from billing beneficiaries for services that are the subject of such determinations. Section 1866(a)(1)(F) specifically provides that hospitals furnishing inpatient services must maintain an agreement with a PRO for the purpose of reviewing the appropriateness and quality of care.

Determinations under section 1886(f)(2) must, according to the statutory language, be based upon the findings of a PRO. Because we implemented the prospective payment system under section 1886(d) of the Act before any PRO regulations became effective or any PRO contracts established, we provided, at § 405.472(e), general authority for us to impose sanctions based on a review by an MRE, and cross-referred to appropriate regulations providing for notice and appeal.

C. Utilization review

For hospitals under prospective payment, Congress retained the requirement of a UR committee, that operates in conformance with certain statutory provisions (section 1861(k) of the Act). This statutory requirement does not apply to hospitals under PSRO or PRO review. Currently, another statutory provision, section 1866(d) of the Act, further provides that no Medicare payment will be made beyond a certain point in "long-stay" cases (that is, no payment beyond 20 days) if we find inadequate UR compliance. (Also see section 1814(a)(6) of the Act.) Finally, section 1814(a)(7) of the Act provides that program payment cannot be made if a hospital UR committee has found that further care is not necessary, except that up to three grace days may be provided.

Hospitals covered by section 1861(k) of the Act had to comply with the basic terms of the statute and a partial set of implementing regulations, parts of which had been permanently enjoined. (See *AMA et al. v. Weinberger*, 395 F. Supp. 515 (N.D. Ill., 1975), affd. 522 F. 2d 921 (7th Cir., 1975).) Essentially, the requirements that hospitals had to meet included—

- Having a UR committee;
- Reviewing admissions and durations of stay;
- Reviewing extended stay cases no later than seven days after specified time intervals; and
- Notifying parties of denials.

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For purposes of prospective payment, we revised 42 CFR Part 405, Subpart J, Conditions of participation: Hospitals, by adding a new condition § 405.1042—Condition of participation: special utilization review requirements for services subject to the prospective payment system. The changes contained in this new condition represent, for hospitals under the prospective payment system, a revision and adoption of the proposed § 482.30 on utilization review that appeared in our proposed regulations for hospital conditions published on January 4, 1983 (48 FR 299).

A discussion of the comments we received on the proposed § 482.30, and the changes in this provision that we made based on those comments appeared in the interim final rule (48 FR 39790). The new UR requirements became effective for hospitals that began participation in the prospective payment system as their cost reporting periods ended on or after October 1, 1983. Regulations at § 405.1035 on utilization review continue to apply to all other hospitals participating in Medicare.

In the interim final rule, we added § 405.1042 to replace the current UR provisions for hospitals under prospective payment and to avoid certain overly prescriptive and detailed specifics for those hospitals. However, in the final regulations, we have clarified that § 405.1042 is not applicable to hospital units excluded from prospective payment. We point out that the findings of UR committees, particularly regarding approval of admissions and outlier care, do not substitute for intermediary review. The UR requirements are necessary to comply with current statutory requirements (for example, 1861(k), 1814(a)(6) and (7) of the Act).

Section 405.1042(c) requires that the UR plan provide for some type of admission review, either pre-admission, upon admission, or after admission. Hospital UR plans must include procedures under which the UR committee will automatically review day outliers (based on the hospital's reasonable estimate of the outlier threshold of the proper DRG) and the necessity for continued services in cases that the hospital believes will qualify for an "extra" or outlier payment. We stated that the Medicare outlier payment should be denied or reduced if the quality of UR committee activities is inadequate.

Section 1814(a)(7) of the Act, which prohibits payment after a UR committee finding that further care is not necessary, is now interpreted to include only those committee findings that relate to situations where additional payment would be made on the basis of medical need and utilization, that is, outliers. In the interim final rule, we revise § 405.162 accordingly.

Comment—The commenters recommended that hospitals should not become ineligible for outlier payments simply because physicians have not certified on time.

Response—Section 1814(a)(2) of the Act explicitly mandates physician involvement in certifying the need for inpatient care if the hospital is to receive Medicare payment for inpatient services. As was the case prior to the prospective payment system, hospitals will still be expected to work closely with and cooperatively with physicians for assuring appropriate utilization. However, § 405.1625(e) of the regulations permits the acceptance of delayed certifications and recertifications.

Comment—The commenters stated that the UR regulations should not prohibit hospitals from "acting upon" cases where medical necessity for continued stay no longer exists. The commenter understands that this is to be permitted only in appropriately admitted outlier cases.

Response—The UR regulations do not prohibit hospitals from taking action when appropriately admitted nonoutlier inpatients should no longer be hospitalized. For example, the UR regulations do not prohibit the hospital from sending a notice to an inpatient and/or to the inpatient's physician advising that the inpatient is no longer at the acute level of care. Also, pursuant to changes being made in other provisions of the prospective payment regulations (§ 405.472(b)), hospitals (including their UR committees) may give appropriate notices to beneficiaries and then charge them for services not covered by Medicare.

Comment—A commenter interpreted the regulations to mean that hospitals can no longer use their UR committees to notify inpatients when care is no longer covered under Medicare. The regulations indicate that this can now be done only by PROs and that hospitals may be penalized if inpatients are not given timely notification of "noncoverage".

Response—Utilization review is a term of art that has long been used to characterize a hospital's internal review mechanism. It is also a term that is used by the law to set minimum review standards for Medicare inpatients. There is neither a UR regulation nor a PSRO/PRO provision that prohibits the hospital from using its internal review structure to notify nonoutlier inpatients and their physicians when it believes that those inpatients no longer require a hospital level of care. Such determinations may affect Medicare payment only to the extent provided in § 405.162. Care must be exercised to assure that internal notices do not inappropriately state or imply that there is a direct reimbursement consequence when this is not true. Also, changes have been made in § 405.472(b) to permit hospital charges to beneficiaries in certain circumstances when the hospital (e.g., its UR committee) has given notice to the beneficiary that services not covered by Medicare are being furnished.

Comment—A Commenter questioned whether or not a hospital UR system (provided for in section 1861(k) of the Act) will operate in place of a PRO that does not assume binding review under prospective payment.

Response—A hospital UR system or a PSRO will operate in an area until a PRO assumes binding review under prospective payment. We believe that utilization review will be an interim activity and will be completely displaced by PRO review, which is scheduled to be in place in all review areas by October 1, 1984.

Comment—A commenter urged rapid development of professional review mechanisms to review for quality of care and that it be *required* that registered nurses serve as part of the review mechanism under PSRO/PRO and utilization review, whichever system is applicable.

Response—With respect to utilization review, as was pointed out in the interim final rule (48 FR 39790), section 1861(k)(1) of the Act permits but does not require, participation on UR committees by nonphysician personnel. While we encourage participation by nonphysician personnel, we believe that it would be inappropriate to limit hospital discretion and flexibility by imposing committee composition requirements exceeding those established in the statute.

With respect to PRO/PSRO review, nurses are an integral part of both the quality and UR process. The PSRO regulations do and the PRO regulations will encourage the use of health care professionals other than physicians in the review processes.

Comment—A commenter requested that UR committee findings be binding.

Response—Pub. L. 98–21, in enacting the prospective payment provisions, did not change the status of UR provisions of the statute, and thus the status of UR committee findings in the Medicare program remains advisory.

Comment—A commenter stated that the UR committee authority is inappropriately reduced since it appears that under the prospective payment system they can no longer determine that a Medicare inpatient's continued stay is noncovered.

Response—The commenter has misinterpreted the law and current regulations governing utilization review. In the absence of PSRO review, the UR committee has always been responsible under the law for reviews of medical necessity and appropriateness of a stay but never coverage. The regulations do not prohibit UR committee's notifying nonoutlier inpatients when continued hospital care for them is no longer medically necessary. Such action, however, is not required by Medicare and, as is the case with UR findings required by Medicare, these UR committee determinations do not constitute official Medicare program findings. Moreover, these regulations do require UR committee review of outlier cases and such determinations do have an effect upon payment under section 1814(a)(7) of the Act.

Comment—The Commenter requested that UR rules stipulate that the UR committee establish, where feasible, consulting committees for input from the respective specialties. The commenter believes this is needed because the number of physicians on the committee may not be sufficient to allow input by specialists regarding cases in their specialty area.

Response—Hospitals now have the option of having such committees if they so choose. We would not propose to mandate this as a requirement since it would limit hospital flexibility and discretion beyond that which is required by the statute.

D. Physician Certification and Recertification

Section 1814(a)(3) of the Act requires that no Medicare payment be made where a physician has failed to certify and, as appropriate, recertify that care is needed. Under the statute, in hospitals that are not tuberculosis or psychiatric hospitals, the certification must be no later than the 20th day of an inpatient hospital stay.

In the interim final rule, for hospitals under prospective payment, we revised § 405.1627(b) to require certification at the beginning of what the hospital reasonably assumes to be an outlier (cost or day), or no later than 20 days into the stay, whichever is earlier. As is currently the case, we will accept delayed certifications and recertifications.

The content of the physician certification statement remains substantially the same. However, in the interim final rule, we amended § 405.1627(a) to require a showing as to the need for special or unusual services in cost-outlier cases. The physician is still authorized to recertify the need for hospital care if other needed, covered care in an SNF is unavailable.

Comment—A commenter requested that we eliminate the requirement for physician certification at the beginning of and during outlier status, because Medicare outlier payments cannot be made unless an MRE has approved the medical necessity and appropriateness of the services. The commenter believes that physician certification is unnecessary as a means of insuring that Medicare pay for only reasonable and necessary services and should be eliminated, particularly since the precise outlier point for a particular case will not be determined definitively until after discharge, when the intermediary assigns a DRG to the case.

Response—Physician certification in "long-stay" cases continues to be a *statutory* requirement (section 1814(a)(3) of the Act). Until there is a statutory amendment eliminating the requirement, a physician certification of the continued need for care at the 20th day of the stay or earlier is an absolute requirement for payment. We are requiring certification no later than the 20th day of a stay, or at the time the hospital reasonably assumes to be the outlier point in the case, whichever is earlier, because we believe this statutory requirement should be as relevant as possible to the prospective payment system. We believe that this change in the previous physician certification requirements most appropriately focuses physician attention on the case at points in time that are relevant to the payment system.

E. Quality Review

Section 1866(a)(1)(F) of the Act, effective October 1, 1984, authorizes PROs to review the quality of care provided by a hospital. Specific guidelines and procedures for PRO quality review will be included in PRO regulations currently under development and PRO contracts.

Comment—One commenter noted that under the prospective payment system, because of the strong economic incentive not to provide service, physicians could be subject to pressure to discharge inpatients prematurely or to withhold some medically indicated services. Therefore, the commenter recommended that PROs be available as a means of insuring quality medical care by supporting physicans in their decisions to continue medically necessary care. Also, the commenter recommended that the regulations allow PROs the specific authority to review cases based on an individual physician's request.

Response—The prospective payment regulations do not contain the specific provisions relating to PRO review. However, PRO regulations currently under development will establish the general requirements that a PRO determine whether the quality of care furnished to Medicare beneficiaries meets professionally recognized standards of health care and whether that care is complete and adequate. Specific PRO review obligations will be included in contracts between HCFA and each PRO. These contracts will describe the quality review activities to be undertaken and the quality of care objectives to be achieved by the PRO. Also, each contract will include the requirement that a PRO participate in studies or investigations by HCFA or HHS of abusive practices of participants in the Medicare program.

Comment—A commenter stated that the new PROs must be able to perform effective quality assurance activities and not become too overburdened with DRG validation responsibilities.

Response—We believe that the funding accorded these new organizations is adequate to permit their full development as anticipated by the statute, and that funding will enable PROs to meet all the activities required under the statute. The statute itself requires that quality assurance activities be an integral aspect of PRO activities.

Moreover, the PRO Scope of Work (that is, the document describing the duties and functions of PROs) does emphasize quality assurance activities by requiring PROs to establish quality objectives. However, it should be noted that DRG validation is an intergral part of maintaining budget neutrality and, therefore, must continue to be an important part of the medical review process.

Comment—A commenter stated that the regulations do not emphasize the importance of quality assurance review activities.

Response—Again, we believe that the funding accorded the new PRO organizations is adequate to permit their full development as anticipated by the statute. The statute itself requires that quality assurance activities be an integral aspect of PRO activities. Also, in other documents (that is, the PRO review regulations and the PRO Scope

of Work), quality assurance will be addressed more thoroughly.

Specifically, the requirements for quality assurance review activities and quality of care objectives to be achieved by PROs will be contained in the contracts between HCFA and PROs. Each PRO will be obligated to conduct meaningful quality review and achieve significant impact on the quality of care furnished to Medicare beneficiaries.

XII. PAYMENT FOR NONPHYSICIAN SERVICES FURNISHED TO HOSPTIAL INPATIENTS

Section 1862(a)(14) of the Act requires that all nonphysician services furnished to a hospital inpatient be paid only as hospital services. This provision was added to the Act to prohibit the practice followed by some suppliers and other providers of billing under Part B of Medicare for nonphysician services that are furnished to a hospital inpatient. This practice has been referred to as "unbundling" and was prohibited effective October 1, 1983, for all participating hospitals, regardless of a hospital's fiscal period or inclusion or exclusion from the prospective payment system.

Although these requirements apply to all hospitals on October 1, 1983, there is a statutory provision for a waiver of this requirement. Section 602(k) of Pub. L. 98–21 provides that we may waive the prohibition on unbundling for any cost reporting period beginning before October 1, 1986 if—

- A hospital has been extensively allowing Part B billing of inpatient services since before October 1, 1982; and
- Immediate compliance with this prohibition would threaten the stability of patient care in that hospital.

We received approximately 1,000 comments on our changes in the regulations concerning payment for nonphysician services furnished to hospital inpatients. The comments we received on issues related to this provision and our responses to those comments are discussed below.

A. Part A Billing

The rebundling provision specifies that Medicare payment will not be made if nonphysician services are furnished to a hospital inpatient by anyone other than the hospital. Therefore, in order to receive Medicare payment, the hospital must either furnish the services directly or "under arrangements."

The regulations (§ 405.310(m)) also require that all services within the definition of inpatient hospital services must be billed under Part A, except when the patient is not eligible for Part A benefits or when Part A benefits are exhausted before the patient is admitted or, in the case of a hospital being paid on a prospective rate basis, enters outlier payment status.

We received several comments on the rebundling provision from professional health care associations and providers and suppliers of health care services.

Comment—Some of the commenters are concerned about the possibility that the unbundling prohibition will lead to a decrease in the level of services available to Medicare beneficiaries. Because health professionals other than physicians will no longer be reimbursed directly under Part B for their services, the commenters believe there will be a reduction in the use of these nonphysician personnel. Therefore, these commenters believe that this situation could have an adverse impact on the quality of care furnished to these beneficiaries.

Response—We believe that the prospective payment system, including the necessary rebundling provision, will not adversely effect the quality of patient care. Even though we expect the quality of care not to diminish under the prospective payment system, we have instituted a comprehensive system of medical review. These medical reviews will alert us to hospitals that may abuse the system and, thus, allow corrective action to be taken.

We believe that fears of the adverse impact on the quality of care are unfounded and do not give credit to the professional standards of those individuals involved in the health care industry. Therefore, we are not making any changes to the regulations based on this comment.

Comment—A physician association opposes the manner in which we have approached the issue of unbundling and payment for nonphysician services furnished to Medicare beneficiaries. The association's opinion is that we are attempting to define the practice of medicine on the basis of the location of the patient. For example, a physician can furnish the same service in his or her office to a patient who is not a hospital inpatient and one who is a hospital inpatient. In the first case, the service can be billed under Medicare Part B and, in the second case, the physician has to bill the hospital for the service.

Response—These regulations, including the unbundling provision, are not intended to be an attempt to influence the practice of medicine. We are explicitly prohibited from any action such as that by section 1801 of the Act. Rather, these regulations address a payment mechanism for inpatient hospital services.

In order for a payment system that is based on a national average rate for a particular diagnosis to succeed, it is vital that the services and supplies included in the payment be essentially the same in every hospital. If the statute had not included the rebundling provision, it would have been possible for hospitals to collect the full prospective payment rate for inpatient services and, at the same time, reduce their costs by having outside providers and suppliers furnish many of the necessary services and bill Part B. Thus, Medicare would be paying for those services twice.

Physicians continue to have the freedom to prescribe for their patients the services that the physicians believe are necessary. We have altered only the method of payment for these services. They continue to be covered by the program. Therefore, we do not believe that rebundling can be construed as an attempt to define the practice of medicine.

Comment—We received comments from two freestanding radiation centers on the Part A billing issue. These commenters believe that this provision places an inappropriate burden on nonhospital-based cancer treatment facilities for the following reasons. First, these facilities have a disproportionately high number of Medicare-covered hospital inpatients. Second, the DRG relative weighting factors for oncology patients do not reflect the costs of freestanding cancer facility services because these services were never included in Part A cost data used to compile the DRG weighting factors and the hospitals that do furnish these services are a minority; therefore, the national DRG payment will not reflect the costs of these services. Third, because cancer patients have inordinate lengths of stay and are heavy resource users within the hospital, there will not be monies left over from the DRG payment to pay freestanding facilities for their services. Therefore, hospitals will not negotiate with freestanding centers in good faith due to their inability to make sufficient payment.

In the end, the commenters believe that the cancer patient will suffer because the freestanding cancer therapy center will not be reimbursed fully by the hospitals for the services furnished to hospital inpatients and the centers will be prohibited from receiving any Part B payment.

Response—We do not believe that the rebundling provision will adversely effect freestanding radiation centers.

The Federal portion of the prospective payment rates have been adjusted to account for the rebundling of services that were previously billed under Part B of the program.

In addition, those hospitals that had used the services of freestanding radiation centers were entitled to request an adjustment to their base year costs to reflect the additional cost to the hospitals in arranging for these services to be furnished to their inpatients in the future. Thus, the prospective payment rates do reflect the cost of freestanding radiation therapy.

While it is true that the DRG weighting factors may not reflect the cost of these centers, we believe that the proportion of these services that were billed under Part B is relatively small when compared to those hospitals that furnish radiation therapy directly. Since the costs of directly supplied radiation therapy have been included in determining the oncology DRG weighting factors, we do not believe that the omission of the costs of radiation therapy furnished by freestanding centers significantly effects the weighting factors based on average national resource consumption.

Finally, the DRG weighting factors do reflect the length of inpatient stay. We do not believe that the location of the radiation therapy would alter the length-of-stay. Therefore, the weighting factors should equally represent the length-of-stay for oncology patients regardless of where they received their radiation therapy. Consequently, we are not revising the regulations based on this comment.

Comment—Several commenters noted the short time period between the issuance of the interim final rule (September 1, 1983) and the effective date of the rebundling provision (October 1, 1983). Many hospitals requested a time-limited waiver of the rebundling provision in order to more accurately determine the cost and volume of Part B services that has been furnished directly by suppliers. As an alternative, some commenters suggested that we permit subsequent adjustment of the hospital-specific rate if data indicates that the original adjustments were in error or incomplete.

Response—The October 1, 1983 effective date of the prohibition on unbundling is prescribed by the statute (section 604(a)(2) of Pub. L. 98–21). There is no provision in the law to authorize waiver of this effective date for hospitals other than the waiver authorized by section 602(k) of Pub. L. 98–21. Therefore, we cannot waive the effective date of the rebundling provision except for those hospitals that meet the criteria specified in § 489.23.

With respect to the suggestion that we permit subsequent adjustment to the hospital-specific rate for rebundling, the regulations specify that hospitals that become subject to the prospective payment system on or before November 15, 1983, may, up to November 15, 1983, request that their intermediaries recompute their base period costs to take into account inadvertent omissions in their previous submissions to the respective intermediary related to changes made by the prospective payment legislation for purposes of determining base period costs. In addition, hospitals may submit additional information and request that their rates be recalculated for up to three weeks after their intermediaries notify the hospitals of their initial rates.

We notified hospitals of the rebundling adjustment through a revision to the Provider Reimbursement Manual (HCFA Pub. 15–1) in June 1983. Thus, hospitals have had a minimum of five months in which to notify their intermediaries of the necessary adjustments. Since the hospital-specific rate is based on the best data available, we believe this is an adequate amount of time for hospitals to review their records and determine which services were billed under Part B during their base year. Furthermore, it would not be consistent with the concept of prospectively determined rates to permit hospitals to continually receive adjustments in their hospital-specific rates.

Comment—One commenter wanted to know if hospitals in waiver States (those excluded from the prospective payment system because they are paid under State cost control systems or paid in accordance with demonstration projects) would be permitted to continue to unbundle inpatient hospital services.

Response—The statutory authority for the rebundling provision is set forth at section 1862(a)(14) of the Act. This section of the Act applies to all hospitals participating in the Medicare program whether or not they are subject to the prospective payment system.

It appears that the rebundling provision may not be waived under the current reimbursement waivers authorized under section 222 of Pub. L. 92–603. Therefore, the rebundling provision also applies to hospitals in those States that are currently operating alternative payment systems under existing waivers of the reimbursement provisions of the Act.

Comment—One commenter wrote encouraging us to cease attempts to rebundle inpatient hospital services claiming that this provision discourages competition in the industry.

Response—Since the rebundling provision is required by law, we do not have the authority to cease our rebundling efforts as suggested. Morever, we do not agree that the rebundling provision is anticompetitive. On the contrary, we believe that by requiring that the hospital be the sole deliverer of inpatient hospital services under Medicare, we are promoting competition in the delivery of inpatient services and permitting the Medicare program to reap the benefits of the competitive market.

The rebundling provision does not preclude arrangements between a hospital and an outside supplier. It does establish the hospital as the responsible agent for the delivery of nonphysician services to inpatients. Unlike a beneficiary who is often restricted in the practical ability to shop for competing supplies and services (for example, durable medical equipment and prosthetic devices) because access to the marketplace is limited, hospitals are in a better position to use their power and access to the marketplace to obtain the best overall value.

Comment—Two commenters raised an issue concerning the inclusion of ambulance services furnished to hospital inpatients as inpatient hospital services under the rebundling provision. Previously, those services could be billed to Medicare under Part B of the program when the criteria for ambulance coverage were met. However, now these services must be considered to be inpatient hospital services and, for those hospitals under the prospective payment system, these services are included in the payment rate.

Response—Before we address the question of recovering the cost of ambulance services, it is important to clarify the circumstances under which ambulance services must be rebundled.

Transportation services furnished to hospital inpatients, such as transportation to and from another site for the purpose of administering tests that are not available at the patient's hospital, are considered to be inpatient hospital services. These services, to the extent that they were billed directly under Part B in the base period, must be rebundled and payment for these transportation services will be made to the hospital. For those hospitals under the prospective payment system, payment will be included in the prospective payment rate.

Generally, movement of a patient who is not an inpatient of a hospital at the

time of ambulance transportation (for example, transportation from a residence to a hospital for admission or transportation between hospitals while the patient is being transferred to another hospital) is covered only as a Part B ambulance service. Payment for these services will be on a reasonable charge basis if furnished by a nonprovider supplier. As a part of this final rule, we are amending § 405.232(i) to clarify when payment may be made under Medicare Part B for ambulance service.

With regard to those transportation services furnished by an ambulance that must be rebundled, adjustments were made in computing the prospective payment rate to accommodate the change in payment methods. Since prospective payment rates during the transition period are comprised of two portions (that is, the Federal and hospital-specific rates), two separate adjustments were necessary to accommodate rebundling of inpatient services.

As we stated in the preamble to the interim final rule (48 FR 39766), the Federal rates have been increased by the estimate of the national average cost per discharge for services to inpatients that were previously billed under Part B. In order to have its hospital-specific rate increased for ambulance or other services previously billed under Part B, a hospital must request the adjustment and submit the necessary information to its intermediary. This adjustment should be submitted by the hospital on the form HCFA-1008. Instructions for completing this form are contained in § 2800ff of the Provider Reimbursement Manual—Part I (HCFA—Pub. 15-1).

B. Definition of Nonphysician Services

The regulations (§ 405.310(m)) identify nonphysician services as those services furnished to hospital inpatients that do not meet the criteria of physician's services as set forth in § 405.550(b). Section 405.550(b) provides that physicians' services are medical services to individual patients if—

- The services are personally furnished to an individual patient by a physician;
- The services contribute directly to the diagnosis or treatment of an individual patient;
- The services ordinarily require performance by a physician; and
- If applicable, the services meet certain special rules that apply to the services of anesthesiologists, radiologists, and pathologists.

Therefore, any service to a hospital inpatient that cannot be defined as a physician's service is a nonphysician service.

Over 400 nonphysician personnel engaged in the delivery of clinical laboratory services and their professional associations wrote to express their support of the definition of nonphysician services presented in the regulations. They indicate that this provision will help reduce inappropriate Part B payments and thus allow Medicare funds to be spent more wisely.

We received other comments that disagree with our definition of nonphysician services.

Comment—A physician organization believes that referring to those services that do not meet the criteria of physician's services as "nonphysician" services is inappropriate and misleading because physicians may indeed furnish these services. In situations where a physician may be furnishing these services that are not directly applicable to individual patients, that physician is still furnishing a physician service. In these cases, the commenter believes that the services should be classified as "physician services" to the hospital inpatient.

Response—We recognize that services classified by Medicare policy as "nonphysician" services may be furnished by a physician. However, the critical issue is that the services do not constitute physician services reimbursable on a reasonable charge basis. Referring to these services as "nonphysician" services is not intended to denigrate their significance but is merely our use of a convenient term to describe them for reimbursement purposes.

Comment—A physician association contended that we have chosen not to define nonphysician services for the purposes of these regulations; rather, we have taken pre-existing regulations (§ 405.550(b)) and applied the criteria in these regulations as a definition of physicians' services. The commenter believes that this approach appears to be in direct conflict with the parenthetical phrase in section 1862(a)(14) of the Act (that is, "* * * (as defined in regulations promulgated specifically for purposes of this paragraph) * * *"). The association stated that the preamble language of the interim final rule is misleading in that it implies that section 1887(a) of the Act (enacted by Pub. L. 97-248) was enacted by Congress to cover *all* physician services. In fact, the commenter believes that section 1887(a) of the Act was enacted for the purposes of defining Part B payable services furnished by provider-based physicians to patients of the provider.

Response—Section 1887 of the Act deals explicitly with distinguishing between physicians' professional services to individual patients (reimbursable on a reasonable charge basis under Part B) and services to providers (which are reimbursable only on a reasonable cost basis). This section specifies that, in reimbursing the services of provider-based physicians, we must apply certain standards of reasonableness to the costs providers incur for physician services to the providers. In implementing this statutory provision, we added § 405.550 (Conditions for payment of charges for physician services to patients in providers; General provisions) to our regulations. Section 405.550(b) defines those physicians' services that are payable on a Part B charge basis.

Section 1862(a)(14) of the Act gives the Secretary the authority to define physicians' services for the purpose of distinguishing those services from all other items and services furnished to hospital inpatients by physicians. Since we already have a definition of physicians' services in § 405.550(b), we used that definition in our interim final rule. We believe this was clearly within the intent of the statute and is a more precise method than trying to define all services, items, and supplies that are or potentially could be included among inpatient hospital services.

C. Services "Incident to" Physicians' Services

With one exception, the regulations (§ 405.310(m)(2)(vi)) include as nonphysician services those inpatient hospital services furnished incident to a physician's services. The single exception to this policy is set forth in § 405.553(b)(4). That paragraph provides that, if a physician's practice was to employ anesthetists, and bill Medicare on a reasonable charge basis for their services, as of the last day of a hospital's most recent 12-month or longer cost reporting period ending before September 30, 1983, then the physician may continue this practice through subsequent cost reporting periods beginning before October 1, 1986. However, if the physician chooses to continue this practice, the hospital may not add the costs of the anesthetist's services to its base period cost for purposes of determining the hospital-specific portion of its transition payment rates.

The majority of the approximately 550 comments received on this provision were from certified registered nurse anesthetists (CRNAs), anesthesiologists, hospitals, and their professional

organizations. In addition to the various other comments, we also received numerous comments on the exclusion of intraocular lenses from Part B payment as a service "incident to" a physician's service.

The specific comments and our responses are as follows:

Comment—In general, many of the CRNAs who commented supported the exception that was granted under this provision. However, they would prefer that these regulations be amended to permanently exclude them from the unbundling prohibition. They believe that unless this exclusion is made effective indefinitely, there will be an adverse impact on CRNAs and a substantial increase in cost to the Medicare program for anesthesia for hospital inpatients.

Response—The intent of this special exception for physician-employed CRNAs is to prevent the sudden disruption of longstanding employer-employee relationships. However, our ultimate goal is to move all the hospital inpatient services we possibly can under the prospective payment system. For example, during the transition years, we will be studying the feasibility of a prospective method of payment for capital-related costs and physician services to inpatients. The results of this study will be the basis of recommendations we make to Congress on this issue. We are hopeful that we can develop an equitable means of including these services under the prospective payment system. Therefore, we do not think it is necessary at this time to extend the exception to the unbundling prohibition for the services of physician-employed CRNAs beyond the transition period.

Comment—Many of the commenters indicated that the effect of this provision is to encourage the use of higher-cost physicians and discourage the use of CRNAs. There will be a strong incentive in the system to substitute a physician for a CRNA in the administration of anesthesia. As long as physician services are paid for separately under Part B of Medicare, and a substantial number of CRNAs must be paid under Part A, services will be unbundled to physicians wherever possible.

Response—We have tried to discourage this practice by excluding interns and residents employed by a hospital for this purpose from inclusion in the computation of the special payments applicable to graduate medical education (§§ 405.421(d)(6) and 405.477(d)(2)(ii)(A)). We doubt that there will be any widespread effort to substitute anesthesiologists for CRNAs. We further note that a study done by the Graduate Medical Education National Advisory Committee (GMENAC) indicates an overall shortage of anesthesiologists. However, we will monitor this situation and address this issue at some later date if we believe it warrants further policy change.

Comment—We received several comments that disagreed with the criteria set forth in § 405.553(b)(4). In particular, the commenters disagree with the fact that § 405.553(b)(4)(ii) states that in order to be excepted from the rebundling provision, it must have been the physician's practice to employ anesthetists as of the last day of the hospital's most recent 12-month or longer cost reporting period ending before September 30, 1983. These commenters believe that this requirement unfairly penalizes anesthesiologists on the basis of the hospital's cost reporting period and discourages anesthesiologists who have not previously employed anesthetists from doing so in the future.

Response—The intent of this single, time-limited exception to the rebundling provision is to recognize the unique and longstanding physician-employer and anesthetist-employee relationships. One of the major reasons for this exception is the widespread use of anesthetists as physician employees. If we required renegotiation of the multitude of contracts involved, this requirement, coupled with the short period of time given for the implementation of rebundling, would have potentially created serious disruption in medical practice.

It is not our intention to have anesthesiologists become the sole employers of CRNAs. Therefore, these regulations do not provide for the transfer of hospital-employed CRNAs to the employ of physicians. In addition, we do not believe that linking the date of employment of CRNAs by physicians to hospital cost reporting periods unfairly penalizes physicians. We believe that this requirement is consistent with our intent to recognize only previously longstanding physician practices.

Our hospital cost reporting period deadline is necessary to prevent shifting of CRNA costs that were incurred by the hospital in earlier periods (and thus included in the prospective payment rate) to Part B of the program. If we did not maintain this requirement, the program could potentially make payment for CRNA services under both parts of the program.

Comment—A privately practicing CRNA not employed by either a physician or hospital wanted further clarification of this provision. This CRNA is paid by the hospital for services furnished to Medicare beneficiaries; the hospital then includes these costs on their cost report as a cost item. In particular, he would like to know if he will continue to receive payment in this manner for hospital inpatients.

Response—Payment may be made for these services only through the hospital. This policy has been in existence for some time and is unchanged by these regulations.

Comment—We received a large volume of comments that objected to the treatment of the services of hospital-employed CRNAs. These commenters believe that a system that requires that payment for the services of hospital-employed CRNAs be included in the prospective payment rate while permitting physicians to bill the Medicare program directly under Part B for the services of physician-employed CRNAs is disruptive to the practice of medicine and will result in hospital-employed CRNAs being replaced by physicians and the CRNAs employed by them. The commenters encouraged us to modify the prospective payment system to allow additional payments to the hospital for the costs of the services of hospital-employed CRNAs (similar to the payments for capital-related costs and the direct cost of medical education).

Response—We recognize that by establishing two methods of paying for the services of CRNAs depending upon their employer presents some difficulty for hospitals and the CRNAs they employ. However, we do not collect data on the cost of hospital-employed CRNAs. These costs are combined with other costs of the department and are shown as a single line item on the hospital's Medicare cost report.

Since the Federal rates already include the cost to the hospital for their CRNA employees, we would need to reduce the Federal rates in order to avoid duplicate payments for this service if we were to pay hospitals an additional amount for the costs of CRNAs. We do not have data that would enable us to estimate the amount of the necessary adjustment.

In addition, the removal of the cost of CRNA services from the prospective payment system technically would demand recalibration of all the DRG weighting factors. We would need to remove the cost of CRNA services for each claim represented in the MEDPAR file and create new relative weights. Since CRNA costs are not separately identified on cost reports or bills, this is technically not feasible.

Although we are not able to adopt this recommendation, we will evaluate the effects of these regulations on hospital-employed CRNAs and will consider alternative approaches as the transition to a full Federal prospective payment rate proceeds. It should be noted that, in the initial year, the prospective payment rate is heavily weighted by each hospital's individual historical cost experience including the costs of hospital-employed CRNAs.

It should also be noted that the provisions that allow continued payment of physician-employed anesthetist services under Part B will terminate for cost reporting periods beginning after October 1, 1986. Thus, the existence of dual payment methods is limited to the transition period.

Comment—We received several comments that deal more specifically with payment to CRNAs and anesthesiologists. The commenters wish to know how we will make payment when a case's complexity or the patient's condition require both an anesthesiologist and an anesthetist.

Response—If a patient's condition requires both an anesthesiologist and a CRNA, and the CRNA is not employed by the physician, the reasonable charge of the anesthesiologist would be based on 15-minute time units, because the service was personally furnished by a physician. Medicare payment for the CRNA's service would be made to the hospital on a reasonable cost basis (for nonprospective payment hospitals) or on a prospective payment basis (for all other hospitals). If the CRNA is employed by the physician, the physician should explain the special circumstances on the bill. The Medicare carrier (the entity that has a contract with us to determine and make Medicare payments for Part B benefits payable on a reasonable charge basis) is authorized to recognize special circumstances in determining the reasonable charge for these services.

Comment—A medical association requested that an exception under this provision, similar to the physician-employed CRNA exception, should also be made for services furnished to hospital inpatients by speech-language pathologists and audiologists employed by physicians. The commenter contends that unless this waiver is granted, hospital inpatients may be deprived of needed services because the hospital will not have individuals on staff to perform the necessary rehabilitative services and the physician will not continue to employ and make available speech-language pathologists and audiologists if they cannot receive reimbursement under Part B for their services.

Another medical association requested that the services of the employees of radiologists be granted an exemption similar to the CRNA exception. As the regulations are currently written, radiologists or other physicians who employ radiological physicists and treat patients in one or more hospitals will be forced to transfer the physicist to a hospital payroll or to arrange to bill the appropriate hospital for the physicist's direct patient services. This would be disruptive to patterns of cancer treatment, particularly in circumstances where cancer therapy facilities are independent of hospitals but treat hospitalized patients.

Response—As we stated in the preamble to the interim final rule, we believe it is vital to the success of the prospective payment system that the services and supplies furnished to hospital inpatients included in the payment be essentially the same in every hospital. In addition, there is a strong statutory mandate for discontinuing the use of "incident to" billing for services and supplies furnished to hospital inpatients, as was also discussed in the interim final rule.

The single time-limited exception for physician-employed CRNAs was permitted because the practice of physician-employer and anesthetist-employee is so widespread, and the relationship of anesthesiologist to anesthetist is so unique, that we believe that it would be disruptive of medical practice and adverse to the quality of patient care to require all these contracts to be renegotiated in the limited time available before implementation of the prospective payment system.

We do not believe that the relationships between physician-employed speech language pathologists, audiologists, radiological physicists, or any other physician employees are as unique or widespread. Therefore, we are not expanding the rebundling exception to include other "incident to" physician services.

Comment—We received comments from physicians, hospitals, and a medical association on our policy to discontinue Part B payment for intraocular lenses. The commenters contend that these lenses should not be included in the Part A payment, and should be reimbursed separately under Part B, because—

- The patient is entitled to the intraocular lens under Part B since it is a prosthetic device that replaces the natural lens, as are cataract spectacles and contact lenses which are covered under Part B; and
- The practice patterns relating to cataract surgery and intraocular lens implant have changed dramatically in the last three years, resulting in an increase in the rate of these implantations from 20 to 80 percent or more since 1981.

Therefore, the DRG rate HCFA has calculated for lens operations (DRG 39) substantially underestimates the 1984 cost of performing cataract surgery with intraocular lens implant and these lenses should continue to be covered under Part B.

Response—As mentioned above, we believe there is a strong statutory mandate for discontinuing the use of "incident to" billing for services and supplies furnished to hospital inpatients. We also believe that, in order for the prospective payment system to succeed, it is essential that we not exclude any services or supplies previously billed under Part B as part of the "incident to" provision from being rebundled. (The single exception to this policy being the time-limited CRNA exception.) In addition, there are provisions for adjusting both the Federal and hospital-specific rates to account for services that were billed under Part B in the base year. Thus, through these adjustments, hospitals will be paid for the services they must rebundle.

With regard to the weight of DRG 39, we are not adjusting any of the 468 DRG weights at this time. For a more thorough discussion of the DRG classification system and weighting factors, and DRG 39 in particular, see the comments and responses included in section IV.B. of this preamble.

Comment—One commenter requested that we clarify the effect that the rebundling provision has on Medicare payment for custom-made prosthetic devices such as artificial limbs. Specifically, the commenter wanted to know if the payment for these devices will be made under Part B if the beneficiary was fitted for the device while he or she was an inpatient, but did not receive delivery of the device until after being discharged.

Response—Generally, the Medicare program has not considered an item or service as an incurred expense until it has been delivered. In the case of custom-fitted prosthetic devices, we consider the expense incurred on the date of delivery, unless the device is never delivered because the beneficiary dies or the order is canceled. In the event of nondelivery, the expense is

considered to be incurred on the date of death or cancellation.

If the patient is an inpatient at the time the expense is considered incurred (delivery or cancellation), the service would be considered an inpatient hospital service and Medicare payment would be made to the hospital. If the patient is not a hospital inpatient when the expense is incurred, the service is billed under Part B of the program regardless of where the patient was located when the item was ordered or fitted.

D. Payments for Physical Radiology Services Furnished to Hospital Inpatients

In the interim final rule, we amended § 405.555(a)(2) to provide that the reasonable charge for any physician radiology service furnished to a hospital inpatient, regardless of the site at which the service is furnished, cannot exceed 40 percent of the prevailing charge in a nonprovider setting. The change in the regulations was necessary to implement the provisions of the section 1862(a)(14) of the Act.

We received one comment on this issue from a medical association.

Comment—The association stated its continuing objections to the 40 percent ceiling on reimbursement of the professional services of radiologists in hospital. The commenter believes that this provision has no statutory basis and, as drafted, it is capricious in application and likely to be more meddlesome than productive in effect.

Response—The 40 percent limitation reflects differences in costs that we estimate exist between the overhead cost in provider-based and office-based practices. This provision limits payment for the physician's services component of radiology services to 40 percent of the prevailing charge for similar services furnished in a nonprovider setting. The rationale for this special limitation on payment for these services is set forth in the final rules we published on March 2, 1983 (48 FR 8930–8931).

The interim final rule published September 1, 1983 modified the regulations published March 2, 1983, to apply the limitation to the services furnished to hospital inpatients outside the provider setting. This change was necessary to implement the requirements of section 1862(a)(14) of the Act.

The limitation is applied to all radiological services that are generally furnished in physician's offices and clinics in the area to assure that technical input, such as equipment, will be paid as nonphysician services. If the radiological service furnished is not generally furnished in nonprovider settings in the area, then the 40 percent limitation would not apply because there would be no prevailing charge for that service on which to base the 40 percent limitation.

On several occasions we have specifically requested the public to furnish studies that demonstrate the relationship of charges for radiology services in hospital and office settings. We have not received any information that indicated to us that this limit is not reasonable.

E. Payment for Physicians' Services Furnished Through Independent Laboratories

In implementing section 1862(a)(14) of the Act, it was necessary to differentiate between independent laboratory services that are nonphysician services for the purposes of the unbundling provision and must be furnished under arrangements and any independent laboratory services that qualify as physicians' services reimbursable on a reasonable charge basis under Part B. Section 405.556(c) was added to the interim final rule to clarify this issue.

The comment we received on this issue was from a medical association.

Comment—The medical association took issue with our extending the criteria for identifying physician laboratory services that are reimbursable on a reasonable charge basis under Part B to independent laboratory inpatient services. The commenter strongly disagrees with our contention that these criteria "afford the most appropriate and consistent basis for distinguishing physicians' services reimbursable on a reasonable charge basis furnished by independent laboratories." The association believes that these criteria—

- Go beyond the statutory provisions of the law and the intent of Congress;
- Establish harmful public policies; and
- Demonstrate a misunderstanding of the practice of medicine and particularly the practice of pathology.

In particular, the commenter objected to the definition of consultation used in the regulations. The association contended that the interpretation of test material or data that requires the medical expertise of a pathologist would be a more realistic and rational approach for determining whether Part B payment is appropriate.

Response—We are continuing to discuss this matter with pathologists to determine whether additional services furnished in laboratories should be billed on a reasonable charge basis under Medicare Part B. If any changes are made in the future, they will apply to services furnished to inpatients by independent laboratories and hospital laboratories alike. This policy would be in accord with section 1862(a)(14) of the Act, which requires the Secretary to define nonphysician services for the purpose of prospective payment. However, for purposes of these final regulations, we are making no changes in this policy.

XIII. PROVIDER AGREEMENTS

A. Changes Affecting Basic Provider Agreement Commitments

In implementing sections 1866(a)(1)(F), (G), and (H) of the Act, as well as the requirements of the prospective payment system in general, the regulations concerning provider agreements under Medicare (42 CFR Part 489) were amended by the interim final rule to include several new provisions. The regulations (§§ 489.20 (d) and (e)) specify that in order to participate in Medicare a hospital that furnishes inpatient services must agree—

- To either furnish directly or make arrangements for all items and services (other than physicians' services) to which the beneficiary is entitled under Medicare; and
- To maintain an agreement with a PRO for that organization to review the admissions, quality, appropriateness, and diagnostic information related to those inpatient hospital services.

In addition to these requirements, §§ 489.21 (e) and (f) require that a hospital must also agree that it will not charge a beneficiary for the following:

- Inpatient hospital services for which the beneficiary would be entitled to have prospective payment made but for a denial or reduction in payments as a result of admissions or quality review.
- Items and services furnished to a hospital inpatient (other than physicians' services and the services of an anesthetist as described in § 405.553(b)(4)) for which Medicare payment would have been made if furnished by the hospital or by other provider or suppliers under arrangements made by the hospital. The hospital must also agree that a charge will not be made by another provider or supplier for these items and services.

We received one comment, which is answered below, on the provider agreement commitments. However, several comments concerning charges to beneficiaries were received. Those comments and our responses are set forth in section X. of this preamble.

Comment—A health care facilities' system believes that it is unfair for us to hold hospitals at risk of violating their provider agreements if unrelated suppliers improperly bill Medicare beneficiaries for items and services furnished to a hospital inpatient (other than physicians' services). This commenter contended that it is unreasonable for us to hold a hospital accountable for the billings of unrelated suppliers who may not have consulted with the hospital concerning their billing practices. It would be more appropriate to merely prohibit a hospital from participating in any improper billing of beneficiaries and to require that a hospital contractually prohibit the known suppliers of its patients from engaging in these billing practices.

Response—Section 1866(a)(1)(H) of the Act provides that a hospital's agreement with the Secretary to participate in Medicare and receive Medicare payment must include an agreement to furnish directly or under arrangements all items and services (other than physicians' services) furnished to inpatients of the hospital. If a hospital fulfills this requirement, no charges will be made by any unrelated suppliers. We have no statutory authority to amend the regulations that implement this provision.

B. Waiver of Requirements Concerning Part A Billing

Section 602(k) of Pub. L. 98–21 authorizes temporary waiver, in certain circumstances, of the requirement that nonphysician inpatient hospital services be furnished either directly or under arrangements. This waiver authority is implemented through our regulations governing provider agreements (42 CFR Part 489). However, the statute requires that we reduce the Medicare Part A payments to the hospital for the amount of Part B billings for nonphysician services furnished to the hospital's inpatients. Therefore, our regulations (§ 405.477(e)(3)) state that payments for inpatient services will be reduced to take into account 100 percent of the reasonable charges (before application of the Medicare Part B deductible and coinsurance amounts) for nonphysician services furnished by an outside supplier.

Section 489.23 sets forth the criteria for a waiver, specifies how a hospital must apply, and gives the terms that a hospital and its suppliers must meet under a waiver agreement.

Essentially, to qualify for a waiver, a hospital must—

- Have allowed extensive billing under Part B for services furnished to inpatients before October 1, 1982; and
- Demonstrate, by meeting certain criteria, that this practice was so extensive that the hospital's immediate compliance with the new requirement would threaten the stability of patient care.

The following criteria must be met by a hospital to satisfy the second requirement of the waiver provision:

- The hospital must show that the outside suppliers' reasonable charges for nonphysician services in the hospital's base period must have been at least 125 percent of the reasonable cost of the nonphysician ancillary services furnished to Medicare inpatients by the hospital, exclusive of the costs for operating room, recovery room, labor and delivery room, and drugs and medical supplies charged to hospitals.
- The hospital must show that at least three ancillary services furnished for its inpatients have been furnished by outside suppliers and billed directly under Medicare Part B.

In addition to these provisions, the regulations (§489.23(c)(3)) require that a hospital must show that its suppliers have agreed to the following during the period the waiver is in effect:

- The supplier will bill only for services for which payment may be made under Part B.
- The supplier will bill Medicare directly for services furnished to a hospital inpatient (even if assignment is not accepted).
- The bill will be submitted within 30 days of the patient's discharge.
- The bill will specify that the services were furnished to an inpatient of a particular hospital.
- The bill will identify the nonphysician services furnished and the charge for each service.

The last four requirements are necessary to enable us to make the required reduction in the hospital's Part A payment to reflect Part B billings.

The waiver authority extends through cost reporting periods beginning before October 1, 1986.

Comments on the waiver issue were submitted by a hospital association and four medical associations. All five commenters believed that the waiver criteria set forth in the regulations are unreasonable and inappropriate.

Comment—Two commenters believe that it is excessively restrictive to require that the hospital must show that at least three ancillary services furnished for its inpatients have been furnished by outside suppliers. Since the number of services seems to be an arbitrary decision and no rationale has been presented to support the decision that it must be three services, the commenters believe that the waiver should be granted to any hospital that has at least one ancillary service furnished by outside suppliers.

Response—The statutory language authorizing waiver of rebundling (section 602(k) of Pub. L. 98–21) is quite specific in stating that the waiver may only be granted in the case of a hospital that has followed a practice, since prior to October 1, 1982, of allowing direct billing under Part B for services (other than physician services) so *extensively* that immediate compliance with those requirements would threaten the stability of patient care. We believe the use of the terms "extensively" and "threaten the stability of patient care" call for restrictive criteria for evaluating waiver requests. We do not believe that hospitals that have a practice of direct billing for only one or two services can be considered to have engaged in this practice extensively.

Also, Congress intended that as many hospitals as possible should come under the general payment system. This is evidenced by the application of the rebundling provision to hospitals excluded from or not yet subject to the prospective payment system. Therefore, although the statute does provide for waiver of the unbundling prohibition, we believe those waivers are to be granted sparingly.

Comment—One commenter objected to the burden placed upon the hospital to acquire assurances from their outside suppliers as a condition of receiving a waiver. In the commenter's opinion, it would have been more appropriate for HCFA to directly seek from the outside suppliers the assurances dealing with the billing for services furnished by those outside suppliers. Also, mandatory assignments, as required by the waiver, is prejudicial and not consistent with present law or prior experience.

Response—We do not believe that it is appropriate for us to interfere in the contract negotiations between hospitals and their suppliers. Therefore, we are not going to seek the assurances directly from suppliers. Moreover, we believe that hospitals that have consistently arranged for services or supplies from an organization would be more familiar with the suppliers in question, and therefore, more likely to succeed in obtaining the required assurances.

With regard to the issue of mandatory assignment, we do not require mandatory acceptance of assignment as part of the assurance of suppliers for hospitals that have been granted a section 602(k) waiver. We do, however, require that the supplier submit a bill directly to the program for the services. If assignment is not accepted, the

supplier may not receive the Medicare payment on the bill in accordance with section 1842(b)(5) of the Act and, therefore, may bill the beneficiary for the full charge of the services.

Comment—One commenter suggested that the requirements be modified so that any hospital able to demonstrate that a current supplier will not agree to a revised contract and that other suppliers are not generally available will be eligible for a waiver to permit the necessary time for the hospital to investigate alternative suppliers or to develop the capacity to provide the service on-site.

Response—While we recognize that the situation where a hospital and a supplier are having difficulty negotiating agreements may be problematic in some circumstances, particularly where alternative sources are limited, we do not believe this situation can be considered to meet the hospitals and suppliers will be able to come to agreements swiftly, once they accept the virtually universal application of the rebundling provision.

Comment—One commenter stated that it is unreasonable to require that all waiver requests and supporting documentation had to be submitted by September 10, 1983 (§ 489.23(b)(1)). First, the commenter believes the date itself, only 10 days after the publication of the interim final rule, is unreasonable. Second, the unfavorable impact of these regulations may not be fully evident until after the new system has been in operation for some time. Hospitals should have the option of applying for this waiver at any time if the waiver will remove threats to the stability or availability patient care.

Response—The interim final regulations stated that requests for a waiver of the rebundling provision under section 602(k) of Pub. L. 98–21 must be submitted by September 10, 1983. The intent of this filing date was to assure waiver for qualified hospitals before October 1, 1983, the effective date of the rebundling provision. We do not believe that it is possible to extend the deadline for requesting waivers. This is because those hospitals that have not received waiver by October 1, 1983, have already rebundled previously directly billed services and have demonstrated that rebundling would not threaten the stability of patient care.

XIV. CONFORMING CHANGES

In the interim final rule, we made a number of conforming changes to the regulations. Some of these changes were directly necessary as a result of the prospective payment system, and some were necessary to implement other statutory changes made by Pub. L. 98–21. In addition, several sections of the regulations were deleted from the Code of Federal Regulations to remove obsolete or repetitious material. We also made some clarifying technical changes to correct errors in wording and cross-references. The conforming changes and corresponding comments and responses are summarized below.

- *Introduction to Subpart D*—Section 405.401 was revised to incorporate a reference to the prospective payment system. We received no comments on this change.
- *Methods of apportionment under title XVIII*—Section 405.404 was deleted since this was repetitious of regulations contained in § 405.452 (Determination of cost of services to beneficiaries) and § 405.453 (Adequate cost data and cost finding).

We received no comments on this deletion.

- *Cost of educational activities* ("orientation" and "on-the-job training")—Section 405.421(d) was changed to clarify which training and personnel development costs must be treated as operating costs, rather than direct medical education costs. This provision applies to all providers paid under Subpart D.

Comment—A number of commenters noted that § 405.421(d)(3) specifically excludes payment for costs for sending employees to educational seminars and workshops that increase the quality of medical care or operating efficiency. The commenter's were concerned that this provision could be construed as denying a cost-based payment for continuing medical education and other continuing education for health care professsionals. It was the commenter's opinion that such a decision will materially and harmfully affect the quality of services available to Medicare inpatients and others.

The commenters recommended that continuing education programs for physicians and other health professionals should be paid as a pass through cost and treated as direct medical education expenses.

Several other commenters noted that § 405.421(d)(4) provides that the cost of maintaining a medical library is a normal hospital operating cost included in the prospective payment amount rather than a pass through cost such as education program costs, which are reimbursed based on reasonable costs. Several commenters suggested that § 405.421(d)(4) be deleted and that medical library costs should be treated as an indirect medical education cost and treated as an additional payment.

Some commenters suggested that medical library costs incurred by a teaching hospital in excess of those of non-teaching hospitals should be allowed as educational program costs paid on a cost reimbursement basis. These commenters suggested that this could be accomplished by re-allocating library expenses in proportion to utilization by (1) attending physician and hospital staff, a general expense paid through prospective payment revenues, and (2) residents and other trainees, in education program costs paid on a cost reimbursement basis. These commenters further suggested that we revise § 405.421(d)(4) to permit an allocation of medical library expenses to both operating costs and education program costs using this or some similar methodology to distinguish the two.

Response—We believe that the prospective payment rates represent a fair payment to a hospital for normal inpatient operating costs, which are incurred by all hospitals. Included in normal operating costs are costs for such programs as on-the-job-training, employee orientation, continuing education and the maintenance of a medical library. These types of programs are areas engaged in by virtually all hospitals and constitute part of the normal day-to-day activities of the facility as it fulfills its primary function of providing needed health care services to its patients. In view of the fact that these programs are an integral part of the entire operation of the hospital, it is appropriate that they be included under the prospective payment system. A hospital whose operations (including these programs) are efficiently run will gain under the prospective payment system. Inefficient hospitals, on the other hand, will tend to be at a disadvantage, and thus will have an incentive to improve their efficiency. This was precisely the intent of Congress when it legislated the prospective payment system. Thus, it would be inappropriate to exclude continuing education, on the job training, employee orientation and the costs associated with maintaining a medical library from the prospective payment system, just as it would be inappropriate to exclude other facets of hospital operations from the prospective payment system.

It should be noted that the indirect medical education adjustment as discussed in section V.E. of this preamble recognizes higher costs for teaching hospitals. This adjustment factors into the prospective payment the higher costs incurred by a teaching

hospital for maintaining a medical library.

We also note in this regard that both the hospital specific portion and the Federal standardized amount include costs such as those which the commenters suggested should be passed through.

Comment—Some commenters noted that § 405.421(d)(6), which provides that the costs of interns and residents in anesthesiology who are employed to replace anesthetists are included in the prospective payment amount, should be deleted or modified. Some believe that this cost should be included and reimbursed as a medical education activity cost. One commenter suggested that we require the fiscal intermediary to determine that a hospital that employs more anesthesiology interns and residents and fewer anesthetists in any particular year has done so solely for the purpose of maximizing reimbursement and to disallow the cost on that basis.

Response—We do not believe it is appropriate for costs associated with interns and residents who replace anesthetists to be passed through as direct medical education costs. In providing for the pass through of direct medical education costs, Congress was very concerned about the possible effect of the prospective payment system on education programs operated by hospitals, and of the consequences the system would have on the future supply of medical personnel. Therefore, Congress provided that the direct costs of medical education programs would not be subject to the prospective payment system, but would continue to be reimbursed on a reasonable cost basis. However, we believe that when an intern or resident substitutes for an anesthetist, the intern or resident is no longer acting primarily in the role of a trainee in a formal approved education program, but rather is engaged primarily in providing hospital services to inpatients. Since the services of anesthetists are subject to the prospective payment system, it appears logical to us that the services of an individual qualified to substitute for the anesthetist should also be subject to the prospective payment system when in fact that individual serves as an anesthetist.

Since an intern or resident who performs the duties of an anesthetist is primarily performing what would be considered hospital services, rather than functioning as a trainee, we believe it is appropriate that all the costs of these services be subject to the prospective payment system, just as if they had been performed by an anesthetist. Therefore, there is no reason as one commenter suggested, to determine on a yearly basis whether the hospital is attempting to maximize its reimbursement by employing more interns and residents and fewer anesthetists.

Comment—One commenter questioned whether paragraphs (g) and (h) of § 405.421, which deal with the treatment of grants and donations, should be removed as the result of the deletion of § 405.423 (Grants, gifts, and income from endowments) in the interim final rule.

Response—We agree that a revision is necessary. We have therefore revised § 405.421 by revising paragraph (g)(1) and removing paragraphs (g)(2) and (h). This change merely makes the regulations consistent with the change that was made in the interim final.

- *Grants, gifts and income from endowments*—Section 405.423 was eliminated effective for cost reporting periods beginning on or after October 1, 1983. As a result, restricted grants and gifts will no longer be used to offset costs. We received several comments commending us for making this change in policy.
- *Compensation of owners*—Paragraph (d) of Section 405.426 was removed in the interim final rule since it included unnecessary payment requirements. Paragraph (d)(1) included requirements concerning sole proprietorships that are implicit in § 405.426(c)(2). Paragraph (d)(2) set forth special rules on the compensation paid corporate owners that we believe are adequately provided for in section 2305 of the Provider Reimbursement Manual (HCFA Pub. 15–1).

We received no comments on this change.

- *Allowance in lieu of specific recognition of other costs*—Section 405.428 was deleted since the provisions of this section were obsolete. We received no comments on this deletion.
- *Return on equity capital of proprietary provider*—Section 405.429(a)(1) was amended to implement section 1886(g)(2) of the Act, which was enacted by Pub. L. 98–21. Section 1886(g)(2) provided that the amount of allowable return on equity capital related to inpatient hospital services "shall be equal to amounts otherwise allowable under regulations in effect on March 1, 1983, except that the rate of return to be recognized shall be equal to the average of the rates of interest, for each of the months any part of which is included in the reporting period, on obligations issued for purchase by the Federal Hospital Insurance Trust Fund." This provision is effective for cost reporting periods beginning on or after April 20, 1983. We received no comments on this change.
- *Inpatient routine nursing salary cost differential for services furnished before October 1, 1982*—Section 405.430 was eliminated as the result of section 103 of Pub. L. 97–248, which added section 1861(v)(1)(J) to the Act. This amendment was effective for services furnished on or after October 1, 1982. We received no comments on this deletion.
- *Reasonable cost of physical and other therapy services furnished under arrangements* (exceptions, exemptions for inpatient hospital services)—Section 405.432(f)(4) was added to provide that effective with cost reporting periods beginning on or after October 1, 1983, the costs of therapy services furnished under arrangements to a hospital inpatient will be excepted from the guidelines issued under this section if such costs are subject to the provisions of § 405.463 (Ceiling on rate of hospital cost increases) or § 405.470 (Prospective payment: general provisions).

We received one comment on this change. The comment was from a national trade association which maintained that it agreed with our rationale that the coverage of these services under the salary equivalency guidelines no longer applies under the prospective payment and target rate reimbursement systems.

- *Reasonable cost of extended care services furnished by a swing-bed hospital*—Section 405.434(c)(3) was revised to provide that the cost of swing-bed ancillary services will be determined in the same manner as the reasonable cost of other ancillary services furnished by a hospital in accordance with § 405.452(a)(1).

We received one comment endorsing our policy on this change.

- *Determination of cost of services to beneficiaries*—Section 405.452 was reorganized. Several provisions were obsolete and were thus deleted. In addition, we revised the methodology for computing reimbursement for inpatient general routine service costs. Section 405.452(b)(3) (Carve-out method for swing-bed hospitals) was moved to § 405.452(a)(2). We further provided in § 405.452(a)(1)(iii) that for hospitals subject to the prospective payment system, it is no longer necessary to determine the higher costs of private rooms since the same amount per discharge will be paid regardless of whether private or semiprivate accommodations are provided. (Hospitals will, however, continue collecting the private room charge differential when private rooms are

requested and are not medically necessary.) We received the following comments on § 405.452(a)(2) (Carve-out method):

Comment—One commenter pointed out that the preamble of the interim final rule states that the carve-out method for computing general routine inpatient hospital service costs will not apply to swing-bed hospitals that are subject to prospective payment; however, the regulation did not contain the necessary corresponding changes. This commenter expressed the value of retaining the present system of reporting hospital costs, citing the many uses of Medicare cost data.

Response—The preamble discussion of the elimination of the carve-out methodology for swing-bed hospitals under the prospective payment system was in error. Pass through costs, for example direct medical education costs and capital related costs, will be based on the reasonable costs after carve-out. This will not affect the amount of Medicare payment for hospital inpatient operating costs for hospitals under the prospective payment system.

Comment—One commenter requested clarification of the effect of SNF services furnished in a swing-bed hospital on the prospective payment rate. Specifically, this commenter was concerned that payment for SNF-type services would be offset against the prospective payment rate.

Response—Payment for SNF-type services in swing-bed hospitals will not affect the hospital prospective payment rate for inpatient hospital services. Swing-bed hospitals will be paid the appropriate prospective payment rate for the discharge just as if the patient had been discharged to a separate SNF. The hospital would receive separate payment for the SNF-type services at the appropriate swing-bed rate. Even though the hospital must continue to carve-out SNF-type costs on the Medicare cost report, the carve-out will only impact Medicare payment for that portion of costs payable on a reasonable cost basis.

• *Adequate cost data and cost finding (cost reports-changes in cost reporting periods)*—Section 405.453 paragraph (f)(3) was added to describe the conditions under which a provider may change its cost reporting period. In the interim final, paragraph (g) of this section was erroneously removed and we are thus at this time reinstating this paragraph unchanged. (See section III. E. of this preamble for a comment and our response concerning this section.)

• *Payments to providers (outstanding current financing payments)*—Section 405.454(g) was erroneously retained in the interim final. This paragraph is being removed since all cases involving current financing are now referred to either the General Accounting Office or to the Department of Justice for collection. Removal of this provision for future cost reporting periods will not affect the status of existing overpayment cases.

• *Amount of payments where customary charges for services furnished are less than reasonable cost*—Section 405.455 was revised to provide that the lower of cost or charges (LCC) provision will not apply to the determination of payment for Part A Medicare inpatient hospital services under either the rate of increase or the prospective payment system. Section 101 of Pub. L. 97–248, which was effective for cost reporting periods beginning on or after October 1, 1982, provided that the rate of increase ceiling provisions were to be applied in determining payment for inpatient operating costs notwithstanding the LCC provision. With respect to the prospective payment system, payment for inpatient operating costs is made on the basis of a fixed amount per discharge rather than on the basis of LCC. In order to prevent imposing significant new recordkeeping burdens on hospitals if we were to apply the LCC provisions to costs other than inpatient *operating* costs (by which we mean capital-related costs, and costs allocated by a hospital to approved medical education programs), we decided to discontinue application of the LCC provision with respect to all Part A Medicare inpatient hospital services furnished in cost reporting periods beginning on or after October 1, 1982. The LCC provisions will still be applicable to all Medicare Part B services. Section 405.455(d)(1) was revised to state that we will not permit unreimbursed costs from a prior cost reporting period to be recovered in a current cost reporting period if the allowable costs of the current cost reporting period exceed the rate of increase ceiling under § 405.463.

We received one comment on the change, as discussed below.

Comment—The regulations do not address the determination of payments for carry-forward amounts from prior cost reporting periods under prospective payment. Although the carry-forward provision under section 223 of Pub. L. 92–603 for new providers has been eliminated, cost reporting periods for which this provision is applicable have not expired. Also, carry-forward amounts based on the lower of cost or charges provision will be applicable under prospective payment. The commenter recommended that the regulations should permit the recapture of carry-forward amounts from prior cost reporting periods under the prospective payment system. The commenter further recommended that specific instructions are needed concerning the determination of the carry-forward amounts and the method of payment.

Response—Current regulations in § 405.455 permit the recapture of carry-forward amounts from prior cost reporting periods whether or not a hospital is paid under the prospective payment system. The methodology for the computation has not changed.

• *Limitations on reimbursable costs*—Section 405.460 was amended to provide that it does not apply to the operating costs of inpatient hospital services furnished in cost reporting periods beginning on or after October 1, 1983. This statutory change was mandated by Pub. L. 98–21 and conforms to the prospective payment system. We received no comments on this change.

• *Ceiling on rate of hospital cost increases*—Section 405.463 was also amended in accordance with Pub. L. 98–21. We deleted all references to the inapplicability of the rate of increase limits to cost reporting periods beginning on or after October 1, 1985. This section will now apply indefinitely. We further clarified the costs subject to the ceiling by stating that for cost reporting periods beginning on or after October 1, 1983, only capital-related costs and the direct costs of approved medical education programs are excluded from the ceiling. We also provided that the target rate percentages for which target amounts are determined will be published in a quarterly **Federal Register** notice. Target rate percentages will be prorated for cost reporting periods that span portions of two calendar years. We made it explicit in the regulation that no retroactive adjustment will be made to the prospectively set target rate percentages if the actual increase in the market basket differed from the estimate.

Comment—Several commenters were of the opinion that the distinct part units that are excluded from the prospective payment system should also be excluded from the target rate ceiling.

Response—There is no statutory basis for the exclusion of distinct part units from the rate of increase ceiling. Section 1886(d)(1)(B) of the Act, as enacted by Pub. L. 98–21, provides that psychiatric and rehabilitation units are excluded from the prospective payment system. Although this section provides an exclusion from the prospective payment

system, it does not provide for an alternative payment method for such units. Thus, the existing reasonable cost reimbursement principles will continue to apply to these units.

Distinct part units are subject to the rate of increase limits under the current regulations in § 405.463. Therefore, such units will continue to be subject to a rate of increase ceiling. It is our belief that the application of a ceiling on the rate of hospital cost increases may be advantageous to some units since under this provision a unit could be paid an incentive or bonus for keeping its costs under the ceiling.

• *Limits on compensation for services of physicians in providers*—Section 405.482 was amended to provide that the reasonable compensation equivalent (RCE) limits do not apply to physician compensation related to inpatient hospital services paid for under the prospective payment system. Effective October 1, 1983, we will apply the RCE limits to inpatient operating costs for cost reporting periods, or portions thereof, that are not subject to the prospective payment system. The RCE limits continue to apply to hospital outpatient costs.

We received several comments endorsing our policy decision on this change. Some commenters noted that this policy will substantially reduce the recordkeeping requirements for physicians and will provide hospitals with flexibility in compensating physicians.

• *Conditions for payment of charges for physician services to patients in providers: General provisions* (effect of physician's assumption of operating costs)—Section 405.550(e), Conditions for payment of charges: anesthesiology services—Section 405.552, and *Reasonable charges for anesthesiology services*—Section 405.553 were amended to ensure that physician charges appropriately exclude payment for inpatient hospital services furnished by nonphysicians. These changes were required as the result of the unbundling provisions contained in Pub. L. 98–21 and have an effective date of October 1, 1983.

We received a number of comments on these changes, which are summarized below.

Comment—Several commenters noted that the effective date of October 1, 1983 did not provide enough time to make the necessary operational changes to implement these changes. One commenter pointed out that there appeared to be a conflict where physicians were obligated under § 405.550(e) to change their methods of billing in a leased facility on October 1, 1983, but the hospital's fiscal year allows the prospective payment system to begin on a different date.

Response—Generally, these changes were made to conform the final rules published on March 2, 1983 in the **Federal Register** (48 FR 8902) concerning the implementation date of § 405.550(e) to the unbundling provisions contained in section 1862(a)(14) of the Act, as enacted by Pub. L. 98–21. The unbundling provisions are effective for services furnished to hospital inpatients on or after October 1, 1983, regardless of when, or if, a hospital becomes subject to prospective payment.

Comment—One commenter stated that "the elimination of the delayed effective date for leases in effect prior to Medicare" again makes a drastic change for those involved, with no advance notice, and too little time and consideration of the impact. In addition, the commenter stated that it is difficult to understand HCFA's rationale that the unbundling concept can be extended to lease arrangements and used to eliminate the implementation schedule provided in the March 2, 1983 regulations concerning the effective date for § 405.550(e) (48 FR 8902). This commenter further stated that unbundling was intended to deal with outside providers such as independent laboratories and that leased laboratories are not independent laboratories. The commenter noted that section 1862(a)(14) of the Act (as enacted by Pub. L. 98–21) is cited as the authority for the inclusion of leased laboratories in unbundling; however, the commenter pointed out that this section of the Act makes no mention of leased laboratories. This commenter stated that the purpose of unbundling was to prevent hospitals from removing services previously provided in the hospital to providers outside the hospital. The commenter pointed out that the delayed effective date giving two years to long-standing leases was intended to give hospitals that had used laboratory arrangements for a long period of time the opportunity to make adjustments in those arrangements. The commenter believes that during the period between the passage of Pub. L. 98–21 and the issuance of the interim final rules on September 1, that HCFA could have found a more equitable mechanism, other than providing 30 days, to advise those entities that were expecting the two year delayed effective date.

The commenter expressed strong opposition to the use of the unbundling provision as the basis for the government's disregard for a commitment made to the delayed effective date published in the March 2, 1983 regulations.

Response—While the March 2, 1983 regulations provided for continuing recognition of lease arrangements that predated the Medicare program until March 3, 1985, this provision was superseded by § 602(e) of Pub. L. 98–21. Section 602(e) added section 1862(a)(14) to the Act and, in effect, provides that effective October 1, 1983 all services, items and supplies, other than physicians' services furnished to hospital inpatients are covered as hospital services unless the hospital is granted a waiver under section 602(k). Since it was necessary to eliminate the delayed effective date for inpatient services furnished by a lease entity, we decided to eliminate it for outpatient services. This consistency in approach was intended to facilitate program administration. Also, since the volume of services furnished by a leased department to inpatients is generally greater than those furnished to outpatients, we did not believe that there would be a significant problem for a leasing entity to make the same change for outpatient services that it was being required to make for inpatient services.

Comment—One commenter voiced opposition to the provisions contained in § 405.550(e) that treat physicians or other entities with lease arrangements as being related to providers. It is the commenter's belief that § 405.427 (costs to related organizations) cannot reasonably be applied to lease arrangements. The commenter believes that lease arrangements were not created for related organizations and pointed out that to apply the related organizations provision to leased laboratories on one hand and then to require open books and records (§ 405.550(e)(4)) for independent contractors on the other hand illustrates the inappropriateness of this association. The commenter stated that while § 405.427 provides for exemptions, it is unlikely that a leased laboratory would or should meet the criteria of having a "substantial part of its business activity of this type carried on with the provider . . . . transacted with others . . . .". It is difficult to comprehend, the commenter further stated, that the rationale used by HCFA to define a laboratory as an entity in which a physician has assumed all operating costs, and either individually or through a professional corporation is not under the ownership or control of the hospital as a related organization. The commenter noted that §§ 405.550(e)(4) is especially puzzling

because it is the commenter's understanding that the access to books provision of the Medicare law (section 1861(v)(1)(i) of the Act) and existing regulations was to be applied to independent contractors. This commenter questioned how a leased laboratory can be two entities: a related organization and an independent contractor.

Finally, this commenter also recommended that the provisions of § 405.550(3) should be withdrawn and reissued as a notice of proposed rulemaking.

Response—The addition of § 405.550(e)(3) merely reflects our policy as set forth in the preamble of the March 2, 1983 final rule entitled, "Payment for Physician Services Furnished in Hospitals, Skilled Nursing Facilities, and Comprehensive Outpatient Rehabilitation Facilities (48 FR 8913). The discussion in that rule concerning a physician's assumption of operating costs points out the close connection inherent in the relationship between a hospital or other provider and its leased departments. This close connection makes it appropriate to treat these entitles as related parties for payment purposes.

• *Cost reimbursement—general* (HMOs)—Section 405.2041(d) was amended to delete inappropriate references to reasonable cost reimbursement. An HMO continues to have an option to elect to have providers that furnish covered services to HMO enrollees paid directly by Medicare. This election continues under the prospective payment system.

We received no comments on this change.

• *Lifetime reserve days*—Section 409.65(e) was revised to provide that if a beneficiary has one or more days of regular coverage available upon entering the hospital, an election not to use lifetime reserve days will apply automatically to all days that are not outlier days. The beneficiary may also elect not to use lifetime reserve days for outlier days but this election must apply either to all outlier days, or to all outlier days after a specified date. If a beneficiary has no regular coverage available upon entering the hospital, an election not to use lifetime reserve days must apply either to the entire hospital stay, to all outlier days, or to all outlier days after a specified date. The revisions to this section were necessitated by the prospective payment system to prevent a beneficiary from manipulating use of his or her lifetime reserve days to gain some unintended advantage not contemplated by the statute.

We received one comment on this change as follows:

Comment—The commenter believes that the options that the Medicare program gives the beneficiary regarding lifetime reserve days under the prospective payment system are unduly complex, difficult for hospitals to explain to beneficiaries, and seem to have little relevance to beneficiary needs.

Response—We agree and have, therefore, revised § 409.65(e). A beneficiary who has any regular benefit days available upon entering the hospital is deemed to have elected not to use lifetime reserve days for any nonoutlier days. Further, any election by the beneficiary not to use lifetime reserve days for outlier days must apply to all outlier days. Also, if a beneficiary has no regular benefit days available upon entering the hospital and he or she elects not to use lifetime reserve days, this election must apply to the entire hospital stay.

XV. SUMMARY OF REGULATIONS CHANGES

For the convenience of the reader, we are summarizing the changes we are making to the regulations as a result of public comments. The reader is referred to the detailed discussions above for a complete explanation of the rationale for these changes. In addition, we note that we made several technical and editorial conforming changes, not in response to public comments, where necessary to make the regulations easier to understand.

A. Applicability

We made the following changes in § 405.471 (Hospitals and hospital services subject to and excluded from the prospective payment system).

• Neurological disorders and burns were added to the list of conditions that help identify rehabilitation hospitals and units (§ 405.471(c)(2)(ii) and § 405.471(c)(3)(iii), respectively).

• We revised the criteria for directors of rehabilitation hospitals and units (§§ 405.471(c)(2)(v) and (c)(3)(iii)(F), respectively) to require that the directors must provide services to the hospital or unit, or to the inpatients of the hospital or unit, on a full-time basis and that the director have, after having completed a one-year hospital internship, at least two years of training or experience in the medical management of inpatients who need rehabilitation services. (We also note that we have revised our program operating instructions that implement the criteria for directors of rehabilitation hospitals and units (§ 405.471(c)(2)(v) and (c)(4)(iii)(F) respectively) to specify that the full-time director criterion will apply to all hospitals and units that wish to qualify for exclusion as rehabilitation hospitals or units, without regard to whether they are accredited by the JCAH or CARF.)

• In § 405.471(c)(4)(ii)(A), we clarified that a psychiatric unit must admit patients only for intensive, active treatment of a psychiatric diagnosis.

• We added requirements in § 405.471(c)(4)(ii)(C) to the effect that excluded psychiatric units must maintain sufficient clinical records and meet special staff requirements.

• A new provision was added (§§ 405.471(c)(3) and (c)(4)(iv)) to provide a special time-limited exclusion for alcohol/drug treatment hospitals and units.

B. Basis of Payment under the Prospective Payment System

• We are clarifying § 405.453(f)(3) to indicate that a provider may request a change in cost reporting period if a change in ownership of the provider occurs.

• We amended § 405.470(c) to—

—State explicitly that an inpatient leave of absence will not be considered a discharge.

—Provide for payment of the full prospective payment rate to a transferring hospital for discharges assigned to DRGs 385 and 456.

—Ensure that full DRG payment will be made to a transferring hospital if a patient is transferred to a hospital that would be excluded from the prospective payment system regardless of its location (for example, a hospital located in a State with a cost control program) or whether its first cost reporting period under the prospective payment system has begun. (Conversely, we note that the transferring hospital will be paid on a per diem basis if a patient is transferred to any hospital that would be subject to prospective payment except that the hospital is located in a State with a cost control program or its first cost reporting period under prospective payment has not yet begun.)

—Make clear that, in order to prevent possible overpayments, the transferring hospital will be paid on a per diem basis in any case where a patient is transferred to a hospital or hospital unit, and it has not yet been officially determined that that hospital or unit is excluded from the prospective payment system.

• We revised § 405.472(a) to clarify the sanctions that HCFA may take against a hospital that violates any conditions for prospective payments.

C. Determination of the Prospective Payment Rates

• We revised § 405.463(C)(5)(iii) to indicate that target rate percentages will no longer be published quarterly.

• Section 405.463(h) was amended to clarify that adjustments to amounts of operating costs considered in establishing cost per case, for rate of increase ceiling purposes, include adjustments for FICA taxes and services billed under part B.

• We are revising § 405.474 to—

—Clarify that the "inadvertent omission" for which recomputations of base period costs are permitted pertain to adjustments to exclude capital-related costs, direct medical education costs, and costs associated with Part B services and payment of FICA taxes as provided under § 405.474(b)(2)(ii).

—Distinguish between base year cost determination actions subject to prospective adjustment based on appeal of disallowed costs, and those modifications to the hospital's base year experience that are not related to payment of a hospital's costs in the base year, but are solely related to establishing a hospital specific rate, and that may not be appealed.

—Incorporate a change to allow for a modification in base period costs for one-time, nonrecurring experiences that decrease costs.

—Permit review of intermediary's estimation of base year costs.

—No longer reduce the case-mix adjusted base year costs for outlier payments.

—Establishes criteria for which hospitals under new ownership through a change in ownership may be classified as "new" hospitals, which allows them to be paid solely on the basis of the Federal rate.

D. Additional Payment Amounts

• Section 405.414(b)(2) was changed to state that a nonrelated purchaser includes a shared service organization not related within the meaning of § 405.427 (related organizations).

• In § 405.414(b)(4), we provided flexibility in the description of when a lease constitutes a purchase.

• We cross-referred § 405.414(g)(2(i) to § 405.414(b) to clarify that the criteria under leases and rentals applies to capital-related equipment.

• We revised the criterion in § 405.414(g)(2)(ii) to clarify that capital-related equipment includes both property that is located on the provider's premises as well as offsite property that is on real estate owned, leased or rented by the provider.

• We revised § 405.421(d)(6) to clarify that the cost involved for clinical training of students not enrolled in an approved education program operated by the provider is a normal operating cost.

• Also, in § 405.421(d)(7), we deleted the provision that allowed costs associated with support of educational activities to be considered as direct medical education costs subject to pass through in situations where the hospital does not actually operate the educational program.

• In § 405.475(c)(1), we provide that day outlier payments may be made in advance on request of the hospital.

• We revised § 405.477(d)(2) to permit the inclusion of interns and residents employed by an organization with a long-standing historical medical relationship with the hospital in determining the additional payment for indirect medical education costs.

E. Interim Payments

• We revised §§ 405.454 (m)(2) and (m)(3) to state that interim payments under prospective payment will be made two weeks after a two-week period of services has ended and that these payments will be reviewed and adjusted if necessary. We revised § 405.454(m) to clarify that the estimate for the indirect teaching adjustment is subject to year-end adjustment.

F. Special Treatment of Certain Hospitals

• We revised § 405.476(b)(3)(i) to permit the inclusion as sole community hospitals of all hospitals whose requests for that classification were received by the appropriate intermediaries prior to October 1, 1983, and subsequently approved, without regard to whether the hospital is located in an urban area.

• Section 405.476(b)(3)(ii)(B) was changed to permit an under 50-bed hospital, located between 25 and 50 miles of neighboring hospitals, to be designated as an SCH if it meets certain utilization criteria. We added a provision permitting utilization patterns to be based on the experience of either 25 percent of the general resident population, or 25 percent of Medicare beneficiaries, in the hospital's service area who would have entered the hospital but for the unavailability of necessary specialty services.

• We revised § 405.476(f)(1)(ii) to clarify that a facility that is a subunit of an acute care general hospital or university-based medical center may not qualify as a cancer hospital.

• In § 405.476(f)(1)(iii), we lowered the percentage criterion for cancer hospitals from 80 to 50 percent in order to ensure that hospitals that are extensively involved in cancer treatment and research will be able to qualify for special treatment. For purposes of clarity, we are also linking the principal diagnosis to neoplastic disease rather than a finding of cancer.

• We revised § 405.476(g)(1)(ii) to change the criteria for referral centers to include hospitals that obtain 50 percent of their patients from other hospitals or by referral from physicians not on the hospital's staff, and to lower the mileage criterion from 100 miles to 25 miles or more.

G. Appeals

• Generally, in §§ 405.1801, 405.1803 and 405.1809 we removed the references that separately identified hospitals receiving payment for inpatient hospital services under reasonable cost subject to the target rate system under § 405.463.

• We revised § 405.1804 to clarify further those matters that cannot be appealed and § 405.1839 to explain in greater detail how the amount in controversy is to be computed for hospitals paid under the prospective payment system.

H. Charges to Beneficiaries

• We revised § 405.472(b)(1) to permit a hospital receiving payment for inpatient hospital services under prospective payment to charge for medically unnecessary services and custodial care furnished after requirements concerning notice to the beneficiary (or to his or her representative) and other safeguards have been met.

• We revised § 409.65 to simplify the process concerning the beneficiary's options in electing lifetime reserve days under the prospective payment system.

I. Review Activities

• We revised § 405.472(d)(2)(i) to require that cautionary language be included in the document used by the hospital for physician attestation. This language warns the physician of the consequences of making false statements.

• We revised § 405.472(d)(2)(ii) to state that—

—DRG validation is to be performed every three months.

—DRG validation may be done at the hospital or another site as opposed to the current requirement that it be done at the hospital.

• We revised § 405.472(e)(3) to clarify that the responsibility for making determinations with respect to sanctions under sections 1862(d) and 1866(b) of the Act rests with the Office of the Inspector General.

• In § 405.475, paragraph (c)(2) was revised to clarify that medical necessity is also the reason for the review of admissions and outlier services in the context of the entire stay in day-outlier cases.

• For purposes of editorial and technical consistency, we revised and restructured §§ 405.1042, 405.1627, and 405.1630. We also changed a cross-reference in § 405.1629.

J. Payment for Nonphysician Services Furnished to Hospital Inpatients

• We revised § 405.232(i) to clarify when payment will be made under Medicare Part B for ambulance services furnished to hospital inpatients.

K. Provider Agreements

• In §§ 489.20, 489.21, and 489.23, we made corrections to cross-references and minor editorial corrections.

• We revised § 489.21(f) to clarify that separate charges may be made to beneficiaries who are hospital inpatients for the services of physician-employed anesthetists who are excepted from the rebundling provision under § 405.553(b)(4).

L. Conforming Changes

• In § 405.421, we made revisions to delete outdated material relating to grants, gifts, and endowments.

• Because we erroneously removed paragraph (g) of § 405.453 in the interim final rule, we are reinserting the paragraph unchanged.

• In § 405.454, we are removing paragraph (g) because cases involving current financing overpayments are no longer recovered by withholding Medicare payments but are referred to the General Accounting Office or to the Department of Justice for collection.

• As noted above in the section dealing with charges to beneficiaries, we revised § 409.65 concerning election of lifetime reserve days by beneficiaries.

XVI. IMPACT ANALYSIS

A. Introduction

A preliminary analysis of the impact of the regulations implementing the prospective payment system was included in the interim final rule published September 1, 1983. The purpose of that analysis was to fulfill, in combination with the preamble to the interim rule, the requirements of Executive Order 12291 and the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.).

Executive Order 12291 requires that, for any major rule, a regulatory impact analysis be performed and made available to the public. A "major rule" is defined as one that would:

• Result in an annual effect on the national economy of $100 million or more;

• Result in a major increase in costs or prices for consumers, any industries, any government agencies, or any geographic regions; or

• Have significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or import markets.

The Regulatory Flexibility Act requires us to prepare and publish a regulatory flexibility analysis for regulations for which a notice of proposed rulemaking is utilized unless the Secretary certifies that the regulations will not have significant economic impact on a substantial number of small entities. For purposes of the Regulatory Flexibility Act, we treat all hospitals participating in Medicare as small entities.

Under both the Executive Order and the Regulatory Flexibility Act, such analyses must, when prepared, examine regulatory alternatives that minimize unnecessary burden or otherwise assure that regulations are cost-effective.

In considering whether the prospective payment regulations required a regulatory impact analysis or regulatory flexibility analysis, we determined that the major features of the prospective payment system are specified in the statute, which allows only limited regulatory discretion. Although the statute does allow the Secretary some administrative discretion in the implementation of some minor aspects of the prospective payment system, it was not immediately clear whether the regulatory provisions for which we had such discretion would, in themselves, meet the criteria for a major rule under the Executive Order. Further, since the statute explicitly required the regulations inplementing the prospective payment system to be promulgated on an interim final basis, rather than first issuing a notice of proposed rulemaking, it was arguable that the Regulatory Flexibility Act did not apply.

However, we believe that the extensive changes in our methods of paying for inpatient hospital services will significantly impact all hospitals participating in the Medicare program. In addition, although the statute requires that the prospective payment system be budget neutral in fiscal years 1984 and 1985, we anticipate that the changed incentives of the system will result in annual program savings exceeding $100 million in subsequent years, meeting the primary Executive Order definition of a "major rule". Therefore, as explained in the interim rules, we have chosen to treat these regulations as a major rule under Executive Order 12291, and are voluntarily providing a discussion that, combined with the rest of this preamble, constitutes a final and voluntary regulatory impact analysis and a final and voluntary regulatory flexibility analysis. We do not expect the overall economic impact and program expenditures resulting from these final regulations to differ significantly from the impacts expected from and analyzed in the interim rule published September 1. Thus, the following discussion does not focus in the differences between the interim rules and these regulations, but rather provides a more extensive discussion than previously published of the anticipated effects of the prospective payment system.

B. Objectives of the Prospective Payment System

The prospective payment system for inpatient hospital services was enacted in response to the increasing costs of hospital services furnished to Medicare beneficiaries. Numerous studies have highlighted the rate of growth in health care spending in the United States, particularly the rapid increase in Medicare payments to hospitals. These issues have been, for many years, a focal point for discussion and action on the part of all levels of government and various sections of the health care industry.

Hospital care represents a significant portion of present and projected health care expenditures. The increases in spending experienced by hospitals and the Medicare program appear to be caused by several factors, including—

• General inflation in the economy;

• The relative weakness, in the marketplace for hospital services, of traditional supply and demand forces;

• The cost reimbursement system used by Medicare and other third party payors; and

• The growth and increasing age of the Medicare beneficiary population.

The combined effect of these factors has been the explosion of overall health care utilization and expenditures, including Medicare utilization and payments. Medicare expenditures for inpatient hospital services have increased more than tenfold since its inception—from about $3 billion in 1967 to more than $33 billion in 1982. From 1979 to 1982, the average cost of a day of hospital care increased at an annual rate of almost 18 percent, and Medicare expenditures for hospital services increased at an annual rate of over 19

percent. In 1982, hospital costs increased by 15.5 percent, three times the rate of inflation in the economy as a whole.

Although a substantial part of the rate of increase in Medicare expenditures is attributable to factors outside the financing system for such services, it has been clear for some time that cost reimbursement has established incentives that greatly contribute to these increases. These incentives have exacerbated the weakness of supply and demand forces, rewarding hospitals and physicians for increasing utilization of services, lengths of stay, and the intensity of services without regard to the relative cost-effectiveness of such practices.

The prospective payment system is designed to alter these past incentives by providing hospitals with a fixed set of payment rates for each type of discharge. Prospective rates represent a set of prices with characteristics similar to the prices a hospital would face in a more conventional market. Therefore, each hospital will know the amount it will be paid per discharge and that the payment rate will remain unchanged regardless of its own operating cost experience. Setting payment rates prospectively places hospitals at risk in terms of the management of their operations and the use of their resources. A hospital that spends, on the average, more than it is paid to treat Medicare beneficiaries, will lose money. Conversely, as in any normal industry, a hospital that spends less than it is paid will make money. Thus, we believe that the prospective payment system will begin to address some of the serious problems inherent in the cost reimbursement payment methodology and, therefore, will allow us to better manage the Medicare program and preserve the integrity of the trust funds.

By establishing prospective payment rates based on DRGs, hospital payments will be related to the treatment provided to each patient. These groupings are designed to take into account the fact that patients have different diagnoses, require different treatments, are of different ages, and differ in other ways. This patient classification system offers the following advantages:

- The category definitions into which cases are classified cover virtually the entire patient population.
- The groupings have been extensively reviewed by physicians for clinical coherence throughout their development.
- The DRGs conform closely to the organization (by clinical specialty) of the delivery of inpatient care in the hospital.
- The DRGs group those inpatient cases together which are generally quite similar in use of resources.
- The DRGs allow inpatient records to be easily classified by an efficient computer program using readily available discharge abstract data.

Based on these considerations, Congress concluded that a DRG-based prospective payment system is currently the best available response to the problems of increased hospital expenditures experienced by the Medicare program. As a result, Pub. L. 98–21 required us to implement such a system, with the expectation that this change would—

- Restructure hospitals' economic incentives, establishing market-like forces;
- Link payment to diagnosis, basing payment on a system that more accurately identifies the product being purchased on behalf of Medicare beneficiaries;
- Establish the Federal government as a prudent buyer of services, adopting an active role in determining payments for inpatient services on behalf of Medicare beneficiaries; and
- Restrain the rate of hospital cost increases, and, therefore, moderate the outflow from the Medicare trust funds.

In the discussion below, we examine how the prospective payment system will achieve these intended effects and what additional consequences may be expected from these rules.

C. Problems of Impact Quantification

In the preliminary analysis published with the interim rules, we discussed the objectives and impacts of the rules in general conceptual terms. At that time, we did not have adequate data, analytic resources, or time to perform a detailed quantitative impact analysis for publication with the interim rules. However, we solicited comments and information that would enable us to better describe and quantify the anticipated effects of the Medicare prospective payments system.

For the most part, commenters addressed specific provisions of the interim rule, rather than the broader considerations of the interactions and the impact of the provisions as a whole. Since we respond to comments on specific provisions in the earlier sections of this preamble, we have decided that we will generally not repeat discussions of the impact of specific provisions in this section. Rather, we see this analysis section as a broader discussion and the conclusion of the many other impact-related discussions of this preamble. Therefore, this section summarizes and generalizes the impact of all the provisions of the regulations, and examines the net effects of those provisions on different groups affected by the rules, such as hospitals, physicians, and beneficiaries.

At present, we have no adequate way to model potential behavioral changes on the part of hospitals, hospital managers and employees, physicians, suppliers, or beneficiaries. Most of the available Medicare program data reflect only patterns and trends of utilization and payment under cost reimbursement. We do have data from, and have published studies of, various State rate-setting systems, including prospective payment systems. However, these systems are so different (in specific rate-setting methods, payors subject to the system, and other matters) from the Medicare prospective payment system that, although they certainly contribute to our conceptual understanding of likely effects, we do not believe they are sufficiently comparable to this system to afford us a basis for making quantitative projections that take into account potential changes of behavior of the various actors affected by the prospective payment system.

Congress recognized that the prospective payment system, as initially implemented, would not be perfect. The intent of Congress was to establish the system as soon as possible, and to make changes and improvements as experience dictates. This is evidenced by the statutory requirements concerning the issuance of interim and final rules, monitoring reports, and periodic recalibration of weights and factors used in rate determination. The three-year transition period was provided for the explicit purpose of buffering the effects of implentation of national payment rates, *because* it was expected that such rates would have dramatic impacts on hospitals and the delivery of inpatient hospital services. It is likely that this transition period will involve not only the blending of rates, but further regulatory amendments, and potential statutory changes. Therefore, we have established various monitoring activities to provide us with timely information on the effects of the implementation of the prospective payment system. Further, we are required by law to make annual reports to Congress on the impact of the prospective payment system. Finally, the process of ongoing problem resolution, inevitable in the case of system changes such as these, necessitates our participation in an extended future dialogue with all affected parties.

In view of these considerations, we believe that the approach we have taken in the specific impact discussions below is the best feasible. Since it is not possible to develop a reliable quantitative analysis and comparison of the costs and benefits to all the various affected parties, we have instead made an effort to explain the kinds of interactions, and the decisions, which those parties will have to consider.

D. Hospitals Under Prospective Payment

1. Initial Impacts

The types and magnitudes of the impacts that the prospective payment system will have on hospitals are significant. The effects range from those "start-up costs" associated with the implementation of any such major system change, to the shifting of incentives for hospital behavior that will increasingly affect hospital services and payment in forthcoming years. The most immediate impacts on hospitals will result from individual hospitals' implementation strategies, the implementation costs that they incur, and the effect of the transition payment rates on hospital revenues.

In order to adapt to a DRG-based prospective payment system, hospitals may make significant internal managment changes. First, each hospital will have to determine its status and needs for computer or data processing capacity, medical records personnel, staff orientation or training programs, and so forth. Each hospital's assessment of these needs will have to take into consideration available resources, past practices, and whatever implementation objectives the hospital governing body and management establish. Many hospitals will be purchasing computers, data processing equipment, or software tailored to management under a DRG-based system. Alternatively, a hospital may choose to acquire such capabilities from a management consulting firm or other outside contractor. Other hospitals may have information systems that are relatively easily adjusted to this system, but may still need to modify medical records activities.

Hospitals that operate under the expectation of achieving a favorable level of Medicare revenue under prospective payment may initially set short-term objectives significantly differently from those that expect to risk a significant gap between Medicare revenues and costs. However, over the long run, all the hospitals paid under this system will experience similar incentives, and may be expected to react in similar ways. That is, whether the immediate expectation is that an action will avoid a loss, or increase a gain, the basic push will be to reduce costs and increase revenues.

For many hospitals, one initial implementation problem will be to determine the actual costs of producing specific services in order to accurately estimate the operating costs of treatment on a per case basis in each DRG. Under prospective payment, revenues and costs flow independently, and accurate data on the true costs of services are necessary for informed managerial decisionmaking. However, under retrospective cost reimbursement, hospital reimbursement specialists have tended to allocate costs to maximize reimbursement, even when such allocations did not otherwise serve to aid hospital management. As a result, a hospital's accounting system may produce misleading information on what it costs to produce a particular service. Thus, implementation of prospective payment will encourage some hospitals to revise their accounting principles and procedures.

2. Payment to Hospitals

During the first year of implementation, total hospital revenues, and the impact of those revenues, are expected to be similar to those that would have occurred under the provisions of Pub. L. 97–248, for two reasons. First, the hospital-specific portion of each hospital's first year rate will be approximately equal to 75 percent of the target amount that would have been set if the hospital had remained subject to the rate-of-increase limit established under section 1886(b) of the Act. Second, during the first two years of the transition period, aggregate payments under the prospective payment system will be adjusted, in accordance with section 1886(e)(1) of the Act, to be "budget neutral"; that is, so that aggregate payments under the prospective payment system, including outlier payments, exceptions, and adjustments, will be neither more nor less than the estimated payment amounts to affected hospitals that would have resulted under the Act in effect before April 20, 1983. To make adjustments for budget neutrality, we have assumed that hospital economic behavior during these first two years will be similar to what it would have been under the case-mix adjusted cost limits and rate of increase ceiling established by Pub. L. 97–248.

However, as the transition period comes to a close, the hospital-specific portion of each hospital's transition payment rate will be set at an increasingly lower percentage, and budget neutrality adjustments will be discontinued. This transition will gradually bring into full force the changes in economic incentives that influence a hospital's decisions in the use of resource inputs for each case. Individual hospitals may experience increasingly substantial revenue changes, perhaps resulting in sizeable losses or surpluses, thus encouraging management and behavior changes. The profit potential inherent in this system should encourage hospitals to begin changing their behavior to decrease their operating costs. We believe that individual hospitals with lower current year operating costs per case will probably do better under this system than hospitals with higher costs that do not reduce or control these costs.

Eventually, we expect that the prospective payment system will create incentives for hospitals to improve their economy and efficiency that are sufficiently strong to result in substantial Medicare program savings, compared to the estimated level of expenditures absent in such a system. Although we cannot reliably estimate how large those anticipated savings may become, we do believe they will eventually substantially exceed $100 million per year.

3. Expected Behavioral Changes

These savings are dependent on the responses hospitals make to the incentives established by this DRG-based prospective payment system. We assume that current hospital operations are such as to afford substantial opportunities for many hospitals to significantly improve performance in terms of economy and efficiency. Although we cannot model or predict exactly how large these opportunities and future changes may be, there has been a large amount of discussion of the incentives created by DRG payment. One of the most important of these, which we have relied on heavily in preparing this impact analysis, is *Diagnosis Related Groups (DRGs) and the Medicare Program: Implications for Medical Technology—a Technical Memorandum* (Washington, D.C., U.S. Congress, Office of Technology Assessment (OTA), OTA–TM–H–17, July 1983). This technical memorandum was prepared as a part of OTA's assessment of medical technology and the costs of the Medicare program.

Although primarily concerned with utilization, adoption, and diffusion of innovations in medical technology, this study examines the general economic incentives of DRG payment, reviews a significant part of the related literature, and incorporates a substantial

bibliography that reflects the full spectrum of analytic perspectives vis-a-vis DRGs and prospective payment.

As discussed in the OTA study, DRG payment creates two fundamental incentives: to reduce the cost to the hospital of each inpatient hospital stay and to increase the number of inpatient admissions.

The incentive to reduce cost per case is the objective of per-case payment systems in the first place. As noted above, per-case payment is predicated on the belief that hospitals have many opportunities to save money by operating more efficiently and offering a more cost-effective mix of services, and is designed to reward hospitals that take advantage of these opportunities.

Reductions in cost per admission can be achieved in several ways, such as—

- Reducing length-of-stay by—
  - —Better scheduling of tests and procedures;
  - —Improved discharge planning; and
  - —More careful review of the need for hospitalization.
- More careful examination of the number, mix, and quality of services furnished during a patient's stay in order to—
  - —Reduce unnecessary utilization of ancillary services;
  - —Ensure appropriate and cost-effective assignment of personnel; and
  - —Reduce waste of supplies and other resources; and
- More careful examination of the prices a hospital pays for the resource inputs into the production of hospital services, including supplies, equipment, and personnel.

Reductions in length-of-stay are likely to have the greatest immediate effects on per-case costs, although such savings would be lower for hospitals already operating at low occupancy rates. A reduction in occupancy rate does not result in a proportional reduction in operating costs, because many of these costs (for example, utilities, housekeeping, administration) are largely fixed. Thus, in hospitals with low occupancy, the incentive to reduce length-of-stay, though present, will be less than in hospitals with a high daily census and a backlog of potential admissions. Nonetheless, as long as its occupancy rate is not a problem, a hospital would have a strong incentive to establish an effective discharge planning program. By ensuring that patients are transferred to a lower level of appropriate care (such as skilled nursing or home care) as soon as possible, such discharge planning can contribute to efficiency by reducing a hospital's average length-of-stay, while ensuring that patients continue to receive appropriate and high quality care.

A hospital could also seek to reduce its cost per case by reviewing the cost-effectiveness of ancillary services. If ancillary services, particularly diagnostic tests, have been provided in the past without adequate consideration for their impact on total hospital costs, then per-case payment would encourage reduction of the intensity or amount of these services per stay. A recent report from the General Accounting Office (GAO) claimed that a significant portion of the charges for ancillary services furnished to a sample of Medicare beneficiaries represented unnecessary care. (GAO, *Need to Eliminate Payments for Unnecessary Hospital Ancillary Services*. HRD–83–74; September 30, 1983.) However, the cost of ancillary services whose use would, on the average, shorten hospital length-of-stay, would be weighed against the savings from reductions in length-of-stay. For example, hospitals might provide certain high-cost services more frequently if these were shown to substantially reduce the average length-of-stay, such as through reductions in hospital-acquired infection rates.

For these reasons, the effect of the prospective payment system on any particular ancillary service would depend on the nature of cost tradeoffs. In the absence of good information on such trade-offs, it is hard to predict a general trend for utilization of ancillary services. A probable byproduct of DRG payment will be an increase in the demand for a supply of information on such cost tradeoffs.

A hospital may also seek to reduce its cost per case by more effective procurement of drugs, biologicals, and medical supplies. In the past 10 years, hospitals have increasingly used group purchasing plans and generic substitution programs. The pressure to find new ways to save on the purchase of drugs and supplies should continue.

In addition to improving the ratio of costs to revenues by reducing cost per case, a hospital could attempt to improve its revenues by increasing admissions. Whereas cost and charge-based reimbursement gave the hospital an incentive to keep occupancy rates high by increasing either admissions or lengths-of-stay, only admissions increases produce or increase revenue under DRG payment. Every new admission generates new revenue (in the amount of the DRG price) and new costs. In general, a hospital benefits from any admission for which the revenue for that patient exceeds the marginal cost of furnishing services to that patient, even if the hospital's average cost for treating a patient in that DRG equals or exceeds the DRG payment rate. As a result, hospitals may adopt a variety of "marketing" strategies to increase their admissions, including—

- Public relations campaigns designed to influence patient choice;
- Recruitment of physicians; and
- Expansion, adoption, or specialization of services.

These strategies may be called "competitive" in that they are designed to increase admissions by attracting patients from other hospitals.

In addition to adopting competitive strategies such as those discussed above, some hospitals may turn to noncompetitive means to increase admissions and lower per-case-costs. There has been extensive concern that this incentive could result in an increase in inappropriate admissions. For example, physicians or staff might be encouraged (directly or indirectly) to hospitalize marginally ill patients and to discharge and readmit patients at a later date for deferrable procedures that might otherwise be performed as part of a single stay. This strategy is both easy for physicians to implement and difficult for third-party payors to control.

Alternatively, a hospital could attempt to identify and avoid admitting unprofitable patients. Patient selection strategies could conceivably be used to exclude patients in unprofitable DRGs or unprofitable patients within DRGs. However, although hospitals may be able to avoid admissions in some unprofitable DRGs by not offering the necessary facilities or services, for many patients the DRG is unknown at the time of admission, and such adverse selection requires active cooperation from physicians. To discriminate against the less profitable (i.e., more costly) patients within a specific DRG, a physician would have to be able to predict with reasonable accuracy the relative costliness of different patients within the same DRG at the time of admission, and would have to be induced not to admit his or her costly (and presumably sicker) patients to that hospital.

In recognition of the potential adverse effect of the incentive to increase admissions, we have established an admission monitoring program, as discussed in section XI, above. However, we wish to point out that we believe that the environment in which hospitals and physicians operate already provides certain constraints on behaviors that would optimize revenues at the expense of the quality of care. Both physicians and hospital decision-

makers have ethical, legal and financial reasons to practice high-quality medicine.

In developing the prospective payment system, we were concerned that it was possible that these constraints would not be sufficient. Therefore, we considered whether it was possible to incorporate into the payment system a mechanism that would provide a counter-incentive to the admissions increase incentive. For example, we considered setting a volume threshold such that if the admissions growth of a particular hospital exceeded a certain rate of increase, certain reviews or reductions in per case payments would be triggered. However, our current experience did not certainly demonstrate the necessity of such a mechanism. Since such volume adjustments would be controversial and administratively complex, we decided not to impose a volume adjustment or other counter-incentive mechanism at this time.

None the less, we recognize that there may be problems in individual cases. Therefore, we have provided that, if a hospital is found to be inappropriately admitting patients, or furnishing care of inadequate quality, we may withhold payment (in full or in part) or terminate the hospital's provider agreement and participation in the Medicare program. We plan to monitor admissions patterns, and, if a widespread pattern of abuse does emerge under the prospective payment system, we will develop additional appropriate sanctions and counter-incentive mechanisms.

In summary, hospitals affected by the prospective payment system are likely to change their behavior in some or all of the following ways:

- Improving medical records and accounting systems, including expansion of departments, personnel, and use of better qualified personnel;
- Involving the medical staff in managing hospital operations;
- Adopting improved management information systems;
- Devoting more attention to reducing average length-of-stay, including improved discharge planning, designed to ensure that appropriate patients are placed in skilled nursing facilities earlier, or that appropriate home care is arranged;
- Identifying and increasing utilization of services and treatment modes linked to shorter length-of-stay or lower costs;
- Indentifying and decreasing utilization of ancillary services not demonstrated to be sufficiently efficacious or cost effective;
- Increasing specialization of services that afford an opportunity for revenue increases in excess of the costs of greater specialization;
- Increasing competition among hospitals for physicians and other health professionals whose services afford a hospital an opportunity to improve its revenue cost ratio; and
- Adopting services and strategies designed to attract patients and increase admissions relative to other hospitals.

4. Summary of Costs and Benefits

These changes cannot be simply characterized as either costs or benefits; rather they are actions taken in an attempt to avoid costs and to take advantage of opportunities for benefit. Their actual effects will vary from hospital to hospital, depending on each hospital's initial relationship between Medicare costs and revenue, and the relative success of its strategies. This will in turn depend on the proximity and relative success of competing hospitals, and on other factors affecting the demand for and utilization patterns of the services hospitals offer.

The costs associated with these changes would be the implementation and operating costs incurred by hospitals in seeking to adapt to prospective payment. Hospitals would accrue benefits from improved economy and efficiency of operations, and an improved ratio of Medicare costs to Medicare revenues. The net effect of these costs and benefits would differ for each hospital, and is at present inestimable.

Some commenters have suggested that, in the extreme, some hospitals will experience such a gap between costs and revenues that they would be forced to close. In view of the transition period payment system, we do not expect this to occur. Since we are required to use a transition period payment formula that blends both hospital-specific cost experience and Federal rates, the initial impact resulting from differences in bed size or other economic factors should not be significant between hospitals. This difference in impacts could be more pronounced in the long-run relative to each hospital's ability to respond to the incentives of this payment system. A hospital that has significant problems of management, finances, or low utilization may not be able to respond well to the new system and could conceivably determine that it must close. Such cases have occurred prior to the implementation of the prospective payment system, and must be expected to occur occasionally in the future. However, we do not believe that such closures can justly be attributed to this payment system.

E. Hospitals and Units Excluded from Prospective Payment

The fact that long-term hospitals, children's hospital, psychiatric hospitals and units, and rehabilitation hospitals and units are excluded from prospective payment does not mean that these facilities will continue unchanged. Rather, the implementation of other regulation changes associated with, but not limited in application to, prospective payment, has also restructured the overall payment system and fiscal incentives for these hospitals and units. For example, the prohibition of unbundling applies to these hospitals and units as well as to hospitals under prospective payment. Also, although payment to these hospitals and units will not be affected directly by DRGs or case-mix measures, the allowable rate of increase of cost-based payments is subject to a per case limit. Further, each hospital and unit subject to this limit is eligible for bonus payments if it keeps the annual increase of its costs per case below a specified target rate.

In addition, the criteria for exclusion from the prospective payment system set forth requirements that establish certain compliance incentives. Based on whether or not these criteria are met, hospitals and units *must* be either paid under or excluded from prospective payment. Thus, although a hospital or unit would ordinarily be expected to adapt its organization and operation to meet these criteria in order to be excluded, it could, alternatively, choose to not meet some criterion in order to be included under prospective payment.

F. Hospital Employees

The employees of hospitals affected by these regulations will experience the impact of these rules as hospitals adapt to the prospective payment system. Data processing, accounting, and medical records personnel in many hospitals will experience an increased demand for their services. All employees, regardless of whether they are directly involved in the implementation of DRG-based management, can be expected to experience pressure from the hospital to increase productivity in terms related to cost-effectiveness. Any employee group that is involved in furnishing services for which productivity or cost-effectiveness measures are problematic may reasonably expect to be challenged to justify the continuation of the level of services they furnish.

Hospital inpatient care is very labor-intensive. This is suggested by our

estimate, used in determining payment rates, that 79.15 percent of hospital inpatient operating costs are labor-related. Clearly a major means for hospitals to limit or reduce their per case costs is to seek ways to reduce their labor-related costs. The implementation of DRG-based management information systems will undoubtedly result in the identification of labor resoures used to produce the services necessary for patients in each DRG, and to relate the cost of those labor resources to the hospital's projected revenue for those DRGs. Such applications of newly developed management information systems will not be simple, and this may delay the full force of the incentive to reduce labor costs.

There are many different types of hospital employees. Of these, some, such as nursing personnel and the various types of specialized therapists (physical, occupational, respiratory, and so forth), are involved in furnishing patient care services directly to patients in a manner that could perhaps be related to particular DRGs relatively easily. For others, such as administrative, support, and housekeeping staffs, the relationship to DRGs would not be so simple. For such groups, the relationship of labor costs and productivity to particular DRGs will be indirect, and difficult to determine.

However, it is reasonable to expect that hospital managers will be increasingly concerned with measuring and documenting the productivity and cost-effectiveness of staff of all kinds. This will not affect all types of staff equally; for example—

- Staff or functions viewed as "luxuries" will be scrutinized particularly closely.
- Since the direct costs of medical education are a pass-through, the labor-related costs allocated to those education activities may not be as strongly affected.
- There may be a general tendency for hospitals to substitute lower-cost, lesser qualified personnel where they believe it would be cost-effective. However, this may be complicated by the countervailing incentive for hospitals to have certain services furnished by physicians, if the payment for those services could be made on a Part B reasonable charge basis.

Services "incident to" physician services illustrate functions provided to hospital inpatients that can result in payments on a Part B reasonable charge basis. Our definition of these services and the comments were received on it are discussed in section XII.C. of this preamble. In this analysis section we are concerned with the potential effects of prospective payment and the rebundling provision on hospital employees. For discussion purposes, we will use as an example those health professionals who administer anesthesia. We chose this area for illustration because of the numerous comments we received on it even though an exception to the rebundling provision for the transition period is provided for some professionals who administer anesthesia.

Under prospective payment, hospitals may choose to reduce their cost per case by substituting physicians for CRNAs. Physicians can bill under Part B for their services and during the transition period, the services of CRNAs they employ. We doubt that many hospitals will resort to this practice to reduce their labor costs. First, a shortage of anesthesiologists has been documentated by GMENAC. We expect that few hospitals will be able to convince anesthesiologists to perform functions CRNAs can perform in the hospital. We know that other physicians also administer anesthesia, however, we do not have information on the number and type of such physicians and we do not believe that there is a sufficient number of them to replace CRNAs.

Second, hospital financial managers are not unilateral decisionmakers. They are responsible to the hospital's governing body. Further, they must consider and work with employee unions and the community the hospital serves. These managers will not be able to significantly alter the hospital's staffing configuration without consulting, cooperating with, and answering to these entities.

Third, hospitals and those health professional administering anesthesia will use the time provided them during the transition period to redefine their roles and relationships as they relate to employer-employee arrangements for the purpose of providing anesthesia services to hospital inpatients. There is no way to predict what types of new arrangements can be negotiated to provide for these services in the most appropriate and cost efficient configuration of physician and non-physician personnel.

G. Physicians

Physicians will be affected in various ways by the changes made to implement the prospective payment system. First, the rebundling provision immediately affects all those physicians who have included in their charges for services to impatients amounts for supplies or services furnished incident to their physicians' services, Second, as hospitals make adjustments to a payment system based on DRGs, they will undoubtedly attempt to influence those physician activities that affect the hospitals' ratio of revenue to costs per case. (For physicians compensated by hospitals for services furnished to either the hospital or the hospital's patients, there will be additional changes resulting from other regulations, such as the rules on payment for physician services in providers, published March 2, 1983 or the elimination of combined billing, published September 1, 1983. However, these changes are discussed here only as they are interrelated with the changes resulting from the interim rule on prospective payment.)

The effect of the rebundling requirement will vary according to whether a physician was charging for items or supplies, or for the services of persons employed by the physician. Those physicians who have included the costs of intra-ocular lenses, pacemakers, and other items in their charges for services to inpatients will no longer do so. Rather, payment for these will go to the hospital. We expect that hospitals will not ordinarily wish to purchase these from the physician, rather than directly from the supplier. In some cases, physicians may wish to sell existing inventory to a hospital. In others, they may be returnable to the supplier for a credit. However, there may be cases, such as a surgical specialist operating in more than one hospital, in which a physician may be able to establish a more favorable relationship with a supplier than would the hospital. In such cases, the physician may be reimbursed by the hospital for furnishing items or supplies to the hospital's inpatients. Such a relationship might also be established where the other payors do not require rebundling and the hospital is bearing the cost of such items and services only for Medicare patients. In any event, there are a variety of ways in which physicians and hospitals will be able to adjust their operations and practices to take the rebundling requirement into account.

The rebundling requirement will, however, have a more profound impact when the physician's former unbundled charges included amounts for the services of nonphysicians, whether employees of, or under contract to, the physician. Under the new rules, we will pay only the hospital for these services when furnished to inpatients. As a result, there is an incentive for physicians to stop furnishing these services incident to their own services, and to utilize only hospital personnel.

However, this incentive will not be the only determinant of behavior. First, if a hospital has not previously employed (or contracted with) the type of personnel involved, it will be reluctant to incur a new cost, or to increase its existing staff. However, a hospital that has not borne such costs in the past will also be reluctant to reimburse the physician for such costs. Second, a physician may have excellent reasons for not choosing to sever an existing employer/employee relationship in response to a single payor's change in practices. Many such physician employees probably furnish a large proportion of their services to patients other than hospital inpatients. In such cases, rebundling may affect only a small proportion of services of a given type, weakening the incentive to change employment relationships and practices accordingly.

Further, we expect that the largest number of such physician employees involved in furnishing services to hospital inpatients work in hospital departments for which a physician, group, or other entity has assumed the operating costs. In these cases, it has been clear since the publication of final regulations on payment for physician services furnished in providers on March 2, 1983 that we would only pay the provider for the operating costs incurred by such departments. The physicians associated with these departments may have to revise the agreements they have with these hospitals, but we expect that in almost all cases reasonable accommodations would be possible without severing the relationship.

The effect of DRG-based payment will not into full force as quickly as the rebundling changes, but will probably be more profound. In reacting to the DRG system, hospitals will develop many new kinds of management information, as discussed above. They will undoubtedly apply this information to assess the practice patterns of their medical staffs, and will attempt to encourage physicians to alter admission, practice, or discharge patterns that hinder hospitals from controlling their costs and maximizing their revenue. For example, hospitals are likely to encourage each physician to:

- Use preadmission diagonstic tests (laboratory tests, X-rays, and so forth) that may be paid for separately;
- Discharge patients as early as feasible to nursing homes, hospices, or home;
- Complete records more timely than in the past and work with medical records specialists to ensure completeness and accuracy of the discharge data needed to assign DRGs;
- Moderate any behaviors that lead to per case costs that are higher than other physicians'.

Hospitals will attempt to identify and control any physician that, by the hospital's standards, overutilizes services. For the most part, we expect that hospital objectives will be met by review discussions, training programs, and providing pattern monitoring feedback to such physicians. However, as hospitals attempt to increase their effective influence on physician behavior, there may be attempts to reduce or terminate hospital privileges for certain physicians, based on the hospitals' internal review of the necessity of the amount of resources consumed in furnishing services to those physicians' patients.

H. Beneficiaries

1. General Discussion

We do not expect the prospective payment system to have an immediate significant financial impact on beneficiaries. Perhaps the first difference they will notice is the changes in billing resulting from rebundling and the elmination of combined billing. The charges to most beneficiaries, as explained in Section X. of this preamble, will be similar to those under cost reimbursement, especially since we have decided to permit a hospital to bill a beneficiary for noncovered care for which the beneficiary (or person acting in his or her behalf) acknowledges liability. Some beneficiaries will be advantaged by our prohibiting the "unbundling" of Part A services (as discussed in section XII of the preamble). Their previous Part B coinsurance payments for these services are eliminated as these services are now considered inpatient hospital services subject to the prospective payment methodology. With this exception, over the longer run, beneficiaries would benefit from any restraint on cost increases resulting from prospective payment. First, the incentives created for competiton and cost control should ensure that hospital care does not become unaffordable for some. Second, reducing growth of Medicare expenditures will also reduce the growth of the out-of-pocket deductibles that beneficiaries must pay.

However, although it is clear that the prospective payment system will benefit beneficiaries financially, great concern had been expressed that the incentives for economy and efficiency created by this system may adversely affect the quality of or access to care. As we made clear in the interim rule, we do not agree. We anticipate that quality of care for beneficiaries will be maintained or improved. Quality of care is protected in a number of ways separate from this regulation, and results of several recent studies indicate that prospective payment programs operating to date have not compromised the quality of care provided in hospitals, even while such programs generally reduce the intensity of care provided to patients. In addition, insofar as prospective payment encourages specialization in certain services, we believe treatment may be improved for beneficiaries and other patients. Further, to the extent that prospective payment acts to constrain cost increases, it will contribute to maintaining the affordability and accessibility of quality care. Finally, as discussed earlier, we intend to monitor admission, utilization and quality to ensure that beneficiaries continue to receive care that is reasonable and necessary and of good quality.

However, some commenters have differed strongly from our view, and the particular arguments and issues they have raised deserve attention. Their concern is evident, and the consequences they envision, if they were to occur, are clearly undesirable. We merely disagree as to the expectations that these undesirable outcomes will actually occur.

For the initial discussion, we will consider quality of care and access to care separately. In practice, in the real lives of beneficiaries, they are not separable, but they are also not the same. In some cases, they may move together, increasing or decreasing in response to a common situation. But this is not always the case, and some of the differences are crucial to the impact evaluation of the prospective payment system.

2. Quality of Care

A basic premise of those who criticize the prospective payment system is that the changes it will engender in the behavior of hospitals and physicians will tend to decrease the quality of care furnished, unless some strong mechanism is in place to assure that quality is maintained. Thus, the commenters tend to identify four separable issues: the relation of incentives for economy to assurances of quality, the expected perverse changes in hospital behavior, the concomitant changes in physician behavior, and the adequacy of the medical review system.

Comment—Some commenters stated that the incentives for economy established by this system will encourage hospitals to reduce their costs per case in ways that would adversely

affect the quality of care. Examples of such perverse economies mentioned by commenters include:

- Unnecessary admissions;
- Premature or inappropriate discharge;
- Reduction of intensity of nursing and other services; and
- Inappropriate controls on utilization of diagnostic tests and ancillary services.

Response—Although the commenters' assertions have a certain intuitive appeal, in that it seems easy to believe that a reduction in services, length-of-stay, or intensity of services implies a reduction in quality, such statements are not as simple as they seem. Although the potential for such effects is real, the possibility of adverse effects on access to and quality of care under DRG payment is moderated by several built-in constraints.

First, the physician, not the hospital administrator, makes the decision to admit and discharge patients and order procedures. The physician's income often is dependent on hospitalization, as in the case of surgical admissions. Physician visits to hospitalized patients may be more lucrative relative to their time requirements than are office visits. Perhaps most important, the physician's professional and ethical standards protect the patient from the withholding of needed care. And, in a DRG payment system not covering all payors, the physician would still be likely to engage in a uniform style of practice for all patients.

Second, both hospitals and physicians are subject to potential malpractice suits. As a result, physicians are unlikely to engage in risky practices merely to increase hospital revenue. Hospitals themselves are increasingly adopting risk management programs, operating in close conjunction with quality assurance efforts, that are designed to reduce the incidence of opportunities for malpractice liability.

Third, we expect that the hospital's efforts to reduce costs, particularly by reducing the length-of-stay, will not necessarily affect quality of care. Considered in itself, a hospital's attempts to reduce average length-of-stay could have either positive or negative effects on patients' health. On the one hand, hospitalization itself carries certain risks, such as those of nosocomial infections and iatrogenic illness; shorter lengths-of-stay reduce this risk. Psychological factors associated with hospitalization may also be important in adversely affecting outcomes. Further, we believe that effective discharge planning affords hospitals an opportunity to reduce the length of stay, without adversely affecting quality. On the other hand, we grant, and Congress recognized, that too early discharge could place patients at risk of inadequate care and threaten recovery, and we have therefore implemented a monitoring system designed to review the appropriateness of admissions and discharges.

Comment—Several commenters stated that this system, even when coupled with the new PRO program, may be inadequate to assure the maintenance of quality standards in hospitals. They asserted that the inappropriate focus in the PRO program is on dollar savings, as opposed to assurances of quality health services. The emphasis on cost-cutting through the review process could serve as a catalyst for diminution in the quality of care available to Medicare beneficiaries in hospitals.

Response—As discussed in sections VIII.E., above, we disagree. First of all, the quality standards of hospital services have never been maintained solely to meet Federal requirements. As noted above, many other factors contribute to both hospitals and physicians being strongly motivated to deliver a quality product. Second, quality review is an integral part of the PRO system design. Each PRO will be obligated to conduct meaningful quality review and to achieve significant impact in the quality of care furnished to Medicare beneficiaries. We wish to further point out that even those reviews that some commenters seem to consider to be related solely to payment, such as determination of medical necessity, have a significant relationship to the quality of care.

3. Access to Care

Comment—Commenters suggest that access to care could be affected in three ways: a hospital could be forced to close as a result of inadequate revenue; a hospital could withdraw from the Medicare program; or a hospital could choose to reduce or discontinue particular services.

One commenter noted that the proposed Conditions of Participation for hospitals would leave surgical services, anesthesia services, rehabilitation services, respiratory care, nuclear medicine services, outpatient services, and emergency services as optional services that a hospital could provide. The commenter was concerned that, with the incentive under the prospective payment system to not provide services, access to such optional services will be increasingly more difficult for patients who could benefit from these services.

Response—As discussed above in relation to the impacts in hospitals, we do not expect hospitals to close suddenly as a result of the prospective payment system. The law and the regulations provide a transition period to cushion the initial impact. We expect that, if any hospital were to close, a good examination of its case would show it had difficulties with finances, management, and, probably a low census, well before the beginning of the prospective payment system. Theoretically, of course, a hospital could simply choose not to participate in the DRG payment system by refusing all Medicare patients. While this response is infeasible in an all-payor system, it might be attractive to some hospitals under this Medicare-only system. Total nonparticipation would be financially attractive to a hospital if the average DRG payment level were to lie below the additional (marginal) cost of serving patients in any DRG. However, we do not expect the payment levels to be lower than marginal costs in most hospitals, and we know of no hospital that is seriously considering refusing Medicare patients.

As regards particular services, we expect some will be discontinued, just as we expect that other hospitals would then respond to increased demand by expanding the same services. We expect this system to produce changes in the patterns of service delivery, particularly by encouraging competition and specialization. Of course, as a result some hospitals would benefit as others experienced problems. We wish to point out that such specialization in service delivery may have desirable effects on quality as well as cost, since for many services there is a positive relationship between quality and volume, particularly in furnishing certain high-cost services such as cardiac surgery.

We cannot at present predict the patterns of specialization that may occur in response to prospective payment. As a result, it would be presumptuous to guarantee that access to certain services will not be a problem. Therefore, among other things, the patterns of service specialization will be considered in monitoring the ongoing impact of the prospective payment system.

I. Technology Diffusion

Another issue that is closely related to the quality of and access to care is the effect of the prospective payment system on the adoption of new technology. Technology diffusion, that is, the rate of adoption of innovations for the support and improvement of medical care, is one of the areas that is

likely to be affected as hospitals attempt to reduce their costs per case. Prospective payment may alter technology diffusion by changing the way hospitals allocate their limited resources to increase their cost-effectiveness.

Congress recognized this issue when it provided for the establishment of a Prospective Payment Assessment Commission to be appointed by the Director of the Office of Technology Assessment (OTA). DRG classification and weighting factors will be adjusted "to reflect changes in treatment patterns, technology, and other factors which may change the relative use of hospital resources" (section 1886 (d)(3)(C) of the Act). The Commission's mission is to make recommendations to the Secretary concerning these adjustments "based upon its evaluation of scientific evidence with respect to new practices, including the use of new technologies and treatment modalities" (section (d)(4)(D) of the Act). The Commission is also charged with reviewing the applicable percentage increase factor (market-basket plus 1 percent) to ensure that it accounts for hospital productivity, technological and scientific advances, the quality of health care provided in hospitals and long-term effectiveness of the provision of inpatient hospital services, and make recommendations to the Secretary accordingly.

Individual hospitals, in their quest to reduce operating costs per case under prospective payment, will, among several options, focus on the adoption of technologies that save operating costs. Under cost-reimbursement hospitals had few, if any, incentives to focus on the development and adoption of cost-saving technologies. Initially, hospitals may focus on the adoption of information processing technologies. There may be a large margin for improvement and heretofore unrealized savings in this area because information exchange comprises a large part of what hospitals do.

While the effect of prospective payment on the adoption of cost-saving technologies seems rather straightforward, there is little evidence to indicate its effect on the diffusion of technologies that are expensive in the early stages of diffusion, but save costs once operating efficiently, and technologies that raise total operating costs, but enhance the overall quality of patient care. As discussed in the OTA study:

> New technology will have to compete with alternative uses of funds, such as employee wage and benefit increases, additional nursing staff, etc. New technology may be at an additional disadvantage relative to other uses of funds because of the relative uncertainty about its benefits in the early stages of diffusion. The implications are obvious: with limited resources, hospitals will need to assess new technologies more closely and ration resources more carefully. (OTA, *DRGs and the Medicare Program*, page 41.).

Hospitals will examine more closely whether the benefits of implementing a particular technology outweigh the costs. This problem is no different from that experienced by a firm in any other industry considering a new capital investment. For technologies that are expected to reduce costs in the long-run, hospital managers will calculate the appropriate time discount rate and use this information in their decisionmaking. Hospitals will be inclined to purchase technologies in a more selective way than under cost-reimbursement. They will require more evidence of the short-term and long-term benefits of those technologies. They will strive to effectively manage the adoption of the technologies. For example, they will require their staffs to educate physicians about the uses of the technologies so that the time lag between installation and operating efficiency is reduced and the savings can be realized earlier. Hospitals will question the benefits of a particular technology that is expensive to adopt. Pressure will be generated on the producers of these technologies to identify their uses, lower their prices, and ensure that they are efficiently designed and produced. A reduction in the costs of adopting these technologies will undoubtedly result.

Furthermore, hospitals are influenced by the communities they serve and some hospitals will choose to subsidize the costs of certain technologies with the profits from other DRGs. The prevalence of this practice will depend on each hospital's objectives and strategies for optimizing resource utilization.

Provision of pass-throughs such as capital-related costs and direct medical education complicate the incentives affecting technology diffusion under prospective payment. The capital-related costs of technologies that require major capital investments will be passed through. Therefore, adoption of technologies that are capital-intensive and cost-saving may be encouraged more than if capital costs were included in the DRG payment. However, many capital-related expenditures also have an unintended multiplier effect on operating costs. Further, Congress indicated in the statute its future intent to include capital-related costs in the DRG rates. Therefore, hospitals will carefully weigh the risks associated with purchasing a capital-intensive technology that may affect operating costs and not be fully reimbursed under a future DRG rate.

The methods for adjusting the relative prices of the DRGs also affect technology diffusion under prospective payment. When the DRG prices are updated, cost-saving as well as cost-increasing technologies will be reflected in the new DRG prices. As discussed earlier, the Commission has the responsibility of advising the Secretary as to how these adjustments should be made. The statute requires that the DRG classification and weight factors be adjusted for fiscal year 1986 and at least once every four years thereafter. The methods for systematically incorporating the changes in resource utilization resulting from new technologies have yet to be determined by the Commission.

We received several comments concerning the effect of prospective payment on technology diffusion. Many of these comments are related to the recalibration of DRG weights; those comments and our responses to them are discussed in section III. B. of this preamble. Below is a summary of the other comments and our responses to them.

Comment—A few commenters were concerned that the interim final rule did not provide an adequate mechanism for assessing the cost impacts of emerging technologies in a timely manner.

Response—We agree that there is a need for a mechanism to identify and assess the costs and benefits of emerging technologies and the effect of prospective payment on their diffusion. Congress also recognized this need when it provided for the Commission and defined its responsibilities. We expect that an early task of the Commission will be to develop and provide for such a mechanism.

Comment—One commenter cited the following conclusion of the OTA study: "Though DRG payment does not imply that technological change will approach a standstill, its directions are likely to be altered, and the adoption of technologies that are cost-raising to the hospital is likely to decline by an unknown quantity." This commenter felt that this result would lead to a decline in the quality of patient care.

Response—We discussed the effect of prospective payment on the adoption of cost-raising technologies above. OTA is correct to conclude that a decline in the adoption of these technologies cannot be quantified. We can only speculate as to the effects of prospective payment on technology diffusion at this time and monitor them closely to ensure that they

do not adversely affect the quality of patient care.

Comment—Some commenters contended that the 1 percent addition to the market-basket percentage increase factor was insufficient to cover the increased costs associated with medical technology.

Response—We do not agree with this comment. First, the addition of one percent to the market-basket is required by the statute. Second, hospitals have had an incentive under cost-reimbursement to selectively implement cost-increasing technologies over cost-saving technologies. This means that any historical rate of increase due to technology is probably too high. If the incentives had been reversed, as under prospective payment, the rate of increase due to a focus on cost-saving technologies and increased productivity might have been negative. Viewed in this light, we believe one percent is probably sufficient. However, we do expect to monitor the impact on technology diffusion, and to be engaged in future discussions on this issue, once we have had an opportunity to accumulate experience and appropriate data.

J. Impacts Summary

1. General conclusions

As is apparent from the above discussion, we expect the impacts of the prosepctive payment system to be extensive, complex, and long-standing. We have been aware of the profundity of these changes throughout the policy development process, and have accordingly endeavored to exercise appropriate care in the development of the regulations implementing the prospective payment system.

In making provision for the transition period, exclusion criteria, special treatment of certain classes of hospitals, and in setting rates, we have tried to provide appropriate flexibility, minimize the economic impact on small entities, recognize geographic and other differences, and use performance rather than design standards. We have reviewed a tremendous number of comments on the interim rules, and have considered a wide range of options both before and after publication of the interim rules. For the most part our selection of options has been constrained by statutory provisions and objectives. Where we have had discretion regarding a particular regulatory provision or portion of the rate-setting methodology, we have explained our decision and its basis in the preambles of this document and the interim rules. We have taken into account the current conditions of the hospital industry, the types and magnitudes of the effects these rules are likely to have, and have chosen those alternatives that we believe involve the least net cost to society.

For the above reasons, we believe that these rules meet the objectives of Executive Order 12291 and of the Regulatory Flexibility Act. We also believe that the benefits resulting from the prospective payment system will significantly outweight the cost associated with the system. The above discussion explains why we cannot, at this time, quantify these costs and benefits. The following sections, for summary purposes, set forth those Medicare cost and expenditure impacts that we can estimate with reasonable confidence, and identify anticipated benefits.

2. Medicare program costs and expenditures

The implementation of the prospective payment system will result in changes in both the program operating costs, including the costs of intermediary operations, and in program expenditures for hospital services. Intermediaries will be required to make some changes in their claims processing system, increase auditing activities, and train providers to submit appropriate forms. The intermediaries will be reimbursed in full for their costs. The estimated incremental administrative costs for implementing and operating the prospective payment plan are: $27.5 million in FY 1983, $17 million in FY 1984, and $3.8 million in FY 1985.

During fiscal years 1984 and 1985, the payment rates for inpatient hospital services will be adjusted to maintain budget neutrality, as discussed above. Thus, the payment rates reflect the savings that would have been achieved by the case-mix adjusted limits and rate-of-increase ceiling established under section 101 of Pub. L. 97–248. (See 48 *FR* 39412 and 48 *FR* 39426, both published August 30, 1983, for a discussion of the impacts of these limits.)

In addition, we estimate that rebundling will reduce expenditures from the Part B trust fund, and, for FY 1984, increase expenditures from the Part A trust fund. These Part B reductions are in addition to the Part B savings resulting from the regulations on payment for physician services published March 2, 1983, but we have considered both regulations together in reestimating the effect on Part B expenditures. This is necessary because both regulations have the same effective date, affect services in the same departments, and, to some extent, overlap in effect. We estimate that the hospital-based physician regulation and the rebundling requirement together will result in Medicare savings of $151 million and $145 million in FY 1984 and FY 1985, respectively.

3. Benefits of the Prospective Payment System

This change in our payment methods will result in numerous net benefits to society and to the Medicare program. In the near term, these benefits will probably not result in a significant impact on the economy. Due to our phasing-in of the payment system, the full extent of the anticipated benefits will be realized only when the system is fully operational and hospitals have responded with cost-effective management strategies.

Included among these benefits are:

- Restructuring the economic incentives facing the health care system to establish market-like forces;
- Restraining hospital cost increases, which will preserve the integrity of the Medicare trust funds and the financial status of other payors;
- Adopting an active role on behalf of Medicare beneficiaries in determining payments made for inpatient services. This will establish the Federal government as a prudent buyer of services;
- Payment being based upon the type of discharge will identify, more accurately than the present system, the product being purchased on behalf of Medicare beneficiaries. This approach over time will have desirable effects regarding hospitals' decisions on which services to provide.
- A strong link between payment and diagnosis, along with the ability for hospitals to retain any amounts by which their prospective payment rates exceed their costs. This will invite more active medical participation in the financial and operating routines of hospitals; and,
- Providers being able to identify, in terms of revenue to the institution, what services they deliver well and what services they do not provide efficiently.

We expect that these benefits will be substantial, and that the accumulated data from the extensive monitoring system will progressively demonstrate the cumulative positive effects of this prospective payment system.

XVII. OTHER REQUIRED INFORMATION

A. Effective Dates

The provisions of the interim final rule generally were effective on October 1,

1983. (See 48 FR 39802, which contains a list of exceptions to the October 1, 1983 effective date.) For the most part, the changes to regulations contained in this final rule consist of corrections to the interim final rule or technical or editorial clarifications necessary to clear up ambiguities contained in the interim final rule. Therefore, except with respect to the unbundling and other regulations as noted below, these changes are effective with cost reporting periods beginning on or after October 1, 1983.

The clarifying changes to the following unbundling regulations, which implement sections 1862(a)(14) and 1866(a)(1)(H) of the Act, are applicable to items and services furnished on or after October 1, 1983, regardless of hospital cost reporting periods.

§ 405.232 Medical and other health services; conditions, limitations and exclusions.
§ 489.20 Basic commitments.
§ 489.21 Specific limitations on charges.
§ 489.23 Special provisions for waiver of certain inpatient hospital services requirements.

In addition, as noted above in Section IV.C.1 of this preamble, the change to § 405.475(b)(5), which deletes the outlier adjustment of base year costs, is effective with cost reporting periods beginning on or after October 1, 1983.

September 1, 1983

As stated in the interim final rule, under section 604(a)(1) of Pub. L. 98–21, the procedures in §405.453(f)(3) relating to changes in cost reporting periods are effective for cost reporting periods ending on or after September 1, 1983. The clarifying changes to this section contained in this final rule are also effective on that date.

January 1, 1984

Some of the changes in this final rule may affect hospital payment amounts and would involve significant administrative difficulties if we applied them retroactively. For example, the changes in § 405.474 could result in different hospital-specific rates. To apply those changes retroactively would necessitate reprocessing of every claim submitted by the hospital and perhaps result in recovery of overpayments. As mentioned earlier in this preamble, we do not believe it is consistent with the concept of prospectively determined rates to retrospectively revise hospital payment rates. In addition, a retroactive effective date for the revised distinct part unit criteria in § 405.471 would necessitate a resurvey of 237 psychiatric and 95 rehabilitation units. Therefore, we are making the changes in the following regulations effective for hospital cost reporting periods beginning on or after January 1, 1984. (For those hospitals with cost reporting periods beginning on or after October 1, 1983 and before January 1, 1984, these changes are effective with each hospital's next cost reporting period occurring on or after January 1, 1984.)

§ 405.471(c) Hospitals and hospital services subject to and excluded from the prospective payment system.
§ 405.474(c)(1)(ii) Determination of transition period payment rates-concerning new hospitals.
§ 405.477 Payments to hospitals under the prospective payment system.

We are making the changes to the following sections effective on January 1, 1984 without respect to beginning dates of cost reporting periods so as not to deny the benefit of these changes to hospitals whose cost reporting periods under prospective payment began during the period October 1, 1983–December 31, 1983.

§ 405.475(c)(2) Payment for outlier cases-payment of day outliers prior to medical review.
§ 405.476 Special treatment for sole community hospitals, Christian Science sanatoria, cancer hospitals, referral centers, and renal transplantation centers.

As a matter of equity, we are making the amendments to the conditions for payment under the prospective payment system in §§ 405.472 (a) and (b) and the rules on lifetime reserve days in § 409.65(e) effective prospectively. We revised § 405.472(a) to clarify the sanctions that may be imposed for violations of the conditions of payment. This change is effective for sanctions imposed on or after January 1, 1984. We revised § 405.472(b) to allow hospitals to charge beneficiaries in situations not previously permitted. The changes in § 405.472(b) are effective for items and services furnished on or after January 1, 1984. We revised § 409.65(e) by reducing the options of the beneficiary concerning his or her election not to use lifetime reserve days. This change is effective for elections made on or after January 1, 1984.

Effective 30 days after date of publication

We are making the change in § 405.463(c)(5)(iii) regarding the publication of target rate percentages effective 30 days after publication of this final rule.

The changes to § 405.472(d)(2)(i) are effective 30 days after the date of publication. In this section we added a requirement that language must be included in the hospital form used for physician attestation to caution the physician about the consequences of making false statements. The delay in effective date provides hospitals with extra time to implement the requirement.

Effective for discharges occurring after 30 days after date of publication

Under section 604(c)(2) of Pub. L. 98–21, the changes to §§ 405.475(c)(3) and (d)(6), which result in a reduction of payment rates, are effective for discharges occurring after 30 days after the date of publication of this final rule. Similarly, Table 1 (Standardized Amounts) in the Addendum to this final rule is effective for discharges occurring after 30 days after the date of publication.

B. Waiver of 30-day Delay of Effective Dates

As noted above, the regulations in the interim final rule are in effect. As stated previously, to the extent that regulations are amended or revised in this **Federal Register** document, the effective dates generally apply to hospital cost reporting periods beginning on or after October 1, 1983.

Section 604(c) of Pub. L. 98–21 requires us to affirm or modify the interim final rules (published in the **Federal Register** on September 1, 1983) by December 31, 1983. As a practical matter, we would be unable to implement this final rule by December 31, 1983 if we were to provide the customary 30-day delay in the effective date. Therefore, we find good cause to waive the delay in the effective date.

As indicated earlier, this final rule also includes clarifying editorial and technical changes to the interim final rules. To facilitate implementation of the prospective payment system, and to comply with the statutory requirement to affirm or modify the interim final rule, we are making regulatory changes both to prevent perverse interactions between existing rules and rules implementing the prospective payment system, and to ensure that the objectives of the prospective payment system are realized. Therefore, we find good cause to waive the delay in the effective date of these amendments.

C. Paperwork Reduction Act

Certain sections of these regulations contain information collection requirements that are subject to the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). As required by that Act, we requested Office of Management and Budget (OMB) approval of these requirements.

Under 44 U.S.C. 3507(g), OMB granted approval through November 30, 1983 under the following control numbers:

Section	Control No.
405.476(b)	0938-0309
405.476(d)(2)	0938-0308
405.1042(c)	0938-0305
405.1627 and 405.1629	0938-0306
489.23(b)(1) and (c)	0938-0304

We have submitted to OMB a request for continued approval of four of the five information collection requirements. We will publish a notice in the **Federal Register** when the continued approval is obtained. We are not requesting continued OMB approval for the information collection requirements in §§ 489.23(b)(1) and (c) because the information was collected before September 10, 1983, and is not a recurring requirement.

In addition, § 405.471(c)(3)(ii) and (c)(3)(iii)(C)of this final rule contains information collection requirements. OMB approval will be sought for these information collection requirements. A notice will be published in the **Federal Register** when approval is obtained.

D. List of Subjects

42 CFR Part 405

Administrative practice and procedure, Certification of compliance, Clinics, Contracts (Agreements), End-Stage Renal Disease (ESRD), Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Health suppliers, Home health agencies, Hospitals, Inpatients, Kidney diseases, Laboratories, Medicare, Nursing homes, Onsite surveys, Outpatient providers, Reporting requirements, Rural areas, X-rays.

42 CFR Part 409

Blood, Health insurance, Home health, Hospitals, Inpatients, Medicare, Nursing homes.

42 CFR Part 489

Clinics, Health care, Health facilities, Medicare, Provider Agreements, Rural health clinics, Termination procedures.

Accordingly, the interim final rules published on September 1, 1983, at 48 FR 39807–39838 are confirmed as final with the following amendments.

42 CFR Chapter IV is amended as set forth below:

I. Part 405 is amended as follows:

Part 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

A. Subpart B is amended as follows:

Subpart B—Supplementary Medical Insurance Benefits; Enrollment, Coverage, Exclusions, and Payment

1. The authority citation for Subpart B is revised to read as follows:

Authority: Secs. 1102, 1831–1843, 1861, 1862, 1866, and 1871 of the Social Security Act (42 U.S.C. 1302, 1395j–1395v, 1395x, 1395y, 1395cc, and 1395hh).

2. In section 405.232, paragraph (i)(1) is amended by adding a definition for "hospital inpatient" in alphabetical order and revising the definition of "institution"; paragraph (i)(3) is redesignated as (i)(4); and a new paragraph (i)(3) is added to read as follows:

§ 405.232 Medical and other health services; conditions, limitations, and exclusions.

* * * * *

(i) *Ambulance service.*

(1) *Definitions.* For purposes of this paragraph—

* * * * *

"Hospital inpatient" means a beneficiary who has been formally admitted to a hospital and does not include a beneficiary who is in the process of being transferred from one hospital to another.

"Institution" means a hospital or skilled nursing facility that meets the requirements of sections 1861(e)(1) or 1861(j)(1) of the Act.

* * * * *

(3) *Limits on Medicare Part B payment for hospital inpatients.* Medicare Part B payment will be made for ambulance services as described in paragraph (i)(2)(iii) of this section for hospital inpatients only if—

(i) Medicare Part A payment is not available for the service; or

(ii) The hospital in which the beneficiary is an inpatient has been granted a waiver in accordance with § 489.23 of this chapter.

* * * * *

B. Subpart D is amended as follows:

Subpart D—Principles of Reimbursement for Providers, Outpatient Maintenance Dialysis, and Services by Hospital-Based Physicians

1. The authority citation for Subpart D reads as follows:

Authority: Secs. 1102, 1814(b), 1815, 1833(a), 1861(v), 1871, 1881, 1886, and 1887 of the Social Security Act as amended (42 U.S.C. 1302, 1395f(b), 1395g, 1395(a), 1395x(v), 1395hh, 1395rr, 1395ww, and 1395xx).

2. The table of contents for Subpart D is amended by revising the title of § 405.414 to read as follows:

Subpart D—Principles of Reimbursement for Providers, Outpatient Maintenance Dialysis, and Services by Hospital-Based Physicians

Secs.

* * * * *

Specific Categories of Costs

405.414 Capital-related costs.

* * * * *

3. Section 405.414 is amended by: revising the title; reprinting the introductory language of paragraph (a) unchanged; and revising paragraph (a)(1), the introductory language of paragraphs (b)(2) and (b)(4), and paragraph (g)(2) to read as follows:

§ 405.414 Capital-related costs.

(a) *General rule.* Capital-related costs and allowance for return on equity are limited to the following:

(1) Net depreciation expense as determined under §§ 405.415, 405.417, and 405.418, adjusted by gains and losses realized from the disposal of depreciable assets under § 405.415(f):

* * * * *

(b) *Leases and rentals.*

(1) * * *

(2) A provider must include incurred rental charges in its capital-related costs, as specified in a sale and leaseback agreement with a nonrelated purchaser (including shared service organizations not related within the meaning of § 405.427) involving plant facilities or equipment, only if—

* * * * *

(4) A lease that meets the following conditions will generally establish a virtual purchase:

* * * * *

(g) *Costs of supplying organizations.*

(1) * * *

(2) *Supplying organizations not related to the provider.* If the supplying organization is not related to the provider within the meaning of § 405.427, no part of the charge to the provider may be considered a capital-related cost (unless the services, facilities or supplies are capital-related in nature) unless—

(i) The capital-related equipment is leased or rented (as described in paragraph (b) of this section) by the provider;

(ii) The capital-related equipment is located on the provider's premises, or is located offsite and is on real estate owned, leased or rented by the provider; and

(iii) The capital-related portion of the charge is separately specified in the charge to the provider.

* * * * *

4. Section 405.421 is amended by: reprinting the introductory language of paragraph (d) unchanged, revising paragraph (d)(5), redesignating and revising paragraph (d)(6) as (d)(7) and adding a new paragraph (d)(6); redesignating and revising paragraph (g)(1) as (g), and removing paragraphs (g)(2) and (h) to read as follows:

§ 405.421 Cost of educational activities.

* * * * *

(d) *Activities not within the scope of this principle.* The costs of the following activities are not within the scope of this principle but are recognized as normal operating costs and are reimbursed in accordance with applicable principles—

(1) * * *

(5) Training of a patient or patient's family in the use of medical appliances;

(6) Clinical training of students not enrolled in an approved education program operated by the provider; and

(7) Other activities that do not involve the actual operation of an approved education program including the costs of interns and residents in anesthesiology who are employed to replace anesthetists.

* * * * *

(g) *Calculating net cost.* Net costs of approved educational activities are determined by deducting, from a provider's total costs of these activities, revenues it receives from tuition. For this purpose, a provider's total costs include trainee stipends, compensation of teachers, and other direct and indirect costs of the activities as determined under the Medicare cost-finding principles in § 405.453.

5. Section 405.453 is amended by revising the introductory language of paragraph (f)(3) and adding a new paragraph (g) to read as follows:

§ 405.453 Adequate cost data and cost finding.

* * * * *

(f) *Cost reports.* * * *

(3) *Changes in cost reporting periods.* A provider may change its cost reporting period if a change in ownership is experienced or if—

* * * * *

(g) *Exception from full cost reporting for lack of program utilization.* If a provider does not furnish any covered services to Medicare beneficiaries during a cost reporting period, it is not required to submit a full cost report. It must, however, submit an abbreviated cost report, as prescribed by HCFA.

* * * * *

6. Section 405.454 is amended by removing and reserving paragraph (g), and revising paragraphs (m)(2), (m)(3), and (m)(4) to read as follows:

§ 405.454 Payments to providers.

* * * * *

(g) [Reserved]

* * * * *

(m) *Prospective payments.*

(1) * * *

(2)(i) No year end retroactive adjustment is made for prospective payments. However, hospitals meeting the criteria in paragraph (j) of this section may elect to receive periodic interim payments. Therefore, at the discretion of the intermediary, the hospital's proposective payments will be estimated and made on a periodic interim basis (26 biweekly payments). These payments are subject to final settlement. Each payment will be made two weeks after the end of a biweekly period of services, as described in paragraph (j)(4) of this section. Hopitals electing periodic interim payments may convert to payments on a per discharge basis at any time.

(ii) For the hospitals receiving periodic interim payments for inpatient operating costs, the biweekly interim payment amount is based on the total estimated Medicare discharges for the reporting period multiplied by the hospital's estimated average prospective payment amount. These interim payments are reviewed at least twice during the reporting period and adjusted if necessary.

(iii) For purposes of determining periodic interim payments under this paragraph, the intermediary computes a hospital's estimated average prospective payment amount by multiplying its transition payment rates as determined under § 405.474(a)(3), but without adjustment by a DRG weighting factor, by the hospital's case-mix index, and subtracting from this amount estimated deductibles and coinsurance.

(3) For items applicable to inpatient hospital services not reimbursed on a prospective basis (capital-related costs and direct medical education costs), interim payments are made subject to final cost settlement. Interim payments for the estimated cost of capital-related and approved medical education items (applicable to inpatient costs payable under Part A and for kidney acquisition cost in hospitals approved as renal transplantation centers) are determined by estimating the reimbursable amount for the year based on the previous year's experience and on substantiated information for the current year and divided into 26 equal biweekly payments. Each payment will be made two weeks after the end of a biweekly period of services, as described in paragraph (j)(4) of this section. The interim payments are reviewed at least twice during the reporting period and adjusted if necessary.

(4) Payments for the indirect costs of medical education (described in § 405.477(d)(2)) are paid based on an estimate of the total for the Federal portion of the DRG revenue to be received in the current period. The total estimated annual amount of the adjustment will be divided into 26 equal biweekly payments and included with other inpatient costs reimbursed on a reasonable cost basis. This estimate is subject to year end adjustment. Each payment will be made two weeks after the end of a biweekly period of services. The interim payments are reviewed at least twice during the reporting period and adjusted if necessary.

* * * * *

7. In § 405.463, paragraphs (c)(5)(iii), (h)(1) (i) and (ii) are revised to read as follows:

§ 405.463 Ceiling on rate of hospital cost increases.

* * * * *

(c) *Procedure for establishing the ceiling (target amount).*

(1) * * *

(5) *Applicable target rate percentage.*

(i) * * *

(iii) The applicable target rate percentage will be the prospectively determined percentage published by HCFA.

The percentage will be published as part of the notice described in § 405.470(e). The notice will include the applicable estimate of the market basket rate of increase and the resulting target rate percentage for the next two calendar years. The target rate percentages included in this notice will apply to all hospital cost reporting periods that begin on or after the first day of the Federal fiscal year to which the notice applies and before the beginning date of the subsequent Federal fiscal year. The percentages will be applied prospectively and will be prorated in accordance with paragraph (c)(5)(ii) of this section, but will not be retroactively adjusted if the actual market basket rate of increase differs from the estimate.

* * * * *

(h) *Adjustments*—(1) *Comparability of cost reporting periods.* (i) HCFA may adjust the amount of the operating costs

considered in establishing cost per case for one or more cost reporting period(s), including both periods subject to the ceiling and the hospital's base period, to take into account factors which could result in a significant distortion in the operating costs of inpatient hospital services. The adjustments include, but are not limited to, adjustments of the base period costs to include explicitly FICA taxes (if the hospital did not incur costs for FICA taxes in its base period), and services billed under Part B of Medicare during the base period, but paid under Part A during the subject cost reporting period.

(ii) In determining the target amount for cost reporting periods beginning on or after October 1, 1983, the intermediary will adjust the base period costs to explicitly include in the costs subject to the ceiling malpractice insurance costs.

* * * * *

8. Section 405.470 is amended by revising paragraphs (c)(1), (c)(2), and (c)(4) to read as follows:

§ 405.470 Prospective payment: general provisions.

* * * * *

(c) *Discharges and transfers.*

(1) *Discharges.* A hospital inpatient is discharged when—

(i) The patient is formally released from the hospital (release of the patient to another hospital as described in paragraph (c)(2) of this section, or a leave of absence from the hospital, will not be recognized as a discharge for the purpose of determining payment under the prospective payment system);

(ii) The patient dies in the hospital; or

(iii) The patient is transferred to a hospital or unit that is excluded from the prospective payment system under § 405.471.

(2) *Transfers.* Except as provided under paragraph (c)(1)(iii) of this section, a discharge of a hospital inpatient is not counted for purposes of the prospective payment system when the patient is transferred—

(i) From one inpatient area or unit of the hospital to another area or unit of the hospital;

(ii) From the care of a hospital paid under this section to the care of another such hospital;

(iii) From the care of a hospital paid under this section to the care of another hospital—

(A) Excluded from the prospective payment system only because of its participation in an approved statewide cost control program or demonstration; or

(B) That would be paid under this section except that its first cost reporting period under the prospective payment system has not yet begun; or

(iv) From the care of a hospital paid under this section to the care of another hospital or hospital unit not officially determined to be excluded from the prospective payment system under § 405.471.

(3) * * *

(4) *Payment to a hospital transferring an inpatient to another hospital.* If a hospital paid under the prospective payment system transfers an inpatient to another such hospital, as described in paragraphs (c)(2) (ii) and (iii) of this section, the transferring hospital is paid a per diem rate for each day of the patient's stay in that hospital, not to exceed the amount that would have been paid under §§ 405.473 or 405.474 if the patient had been discharged to another setting. The per diem rate is determined by dividing the appropriate prospective payment rate (as determined under §§ 405.473 or 405.474) by the average length of stay for the specific DRG into which the case falls. However, if a discharge is classified into DRG No. 385 (Neonates, died or transferred) or DRG No. 456 (Burns, transferred to another acute care facility), the transferring hospital is paid in accordance with paragraph (b)(2) of this section.

* * * * *

9. Section 405.471 is amended by: revising the title of paragraph (a); revising paragraphs (b)(2) and (b)(3); and amending paragraph (c) by reprinting the introductory language of paragraphs (c) and (c)(2) unchanged, revising paragraphs (c)(2)(ii) and (c)(2)(v), redesignating paragraphs (c)(3) through (c)(7) as (c)(4) through (c)(8) respectively, adding a new paragraph (c)(3), revising the title and the introductory language of newly redesignated paragraph (c)(4), revising newly redesignated paragraph (c)(4)(ii), reprinting the introductory language of paragraph (c)(4)(iii) unchanged, revising newly redesignated paragraph (c)(4)(iii)(A), revising newly redesignated paragraph (c)(4)(iii)(F), and adding a new paragraph (c)(4)(iv) to read as follows:

§ 405.471 Hospitals and hospital services subject to and excluded from the prospective payment system.

(a) *Services subject to the prospective payment system.*

* * * * *

(b) *Excluded hospitals: general rules.*

(1) * * *

(2) *Cost reimbursement.* Except for those hospitals specified in paragraph (b)(3) of this section, all excluded hospitals (and distinct part hospital units, as described in paragraph (c)(4)(i) of this section) are reimbursed under the cost reimbursement rules set forth in this subpart, and will be subject to the ceiling on the rate of hospital cost increases described in § 405.463.

(3) *Special payment provisions.* The following classifications of hospitals are paid under special provisions and therefore are not generally subject to the cost reimbursement or prospective payment rules of this subpart:

(i) Veterans Administration hospitals.

(ii) Hospitals reimbursed under State cost control systems approved under Part 403 of this chapter.

(iii) Hospitals reimbursed in accordance with demonstrations projects authorized under section 402(a) of Pub. L. 90–248 (42 U.S.C. 1395b–1) or section 222(a) of Pub. L. 92–603 (42 U.S.C. 1395b–1 (note)).

(iv) Nonparticipating hospitals furnishing emergency services to Medicare beneficiaries.

(c) *Excluded hospitals and hospital units: classifications.* Hospitals and distinct part units of hospitals that meet the requirements for the classifications set forth in this paragraph may not be reimbursed under the prospective payment system.

(1) * * *

(2) *Rehabilitation hospitals.* A rehabilitation hospital must—

(i) * * *

(ii) Have treated, during its most recent 12-month cost reporting period, an inpatient population of which at least 75 percent required intensive rehabilitative services for the treatment of one or more of the following conditions:

(A) Stroke.

(B) Spinal cord injury.

(C) Congenital deformity.

(D) Amputation.

(E) Major multiple trauma.

(F) Fracture of femur (hip fracture).

(G) Brain injury.

(H) Polyarthritis, including rheumatoid arthritis.

(I) Neurological disorders, including multiple sclerosis, motor neuron diseases, polyneuropathy, muscular dystrophy, and Parkinson's disease.

(J) Burns.

* * * * *

(v) Have a director of rehabilitation who—

(A) Provides services to the hospital or its inpatients on a full-time basis;

(B) Is a doctor of medicine or osteopathy;

(C) Is licensed under State law to practice medicine or surgery; and

(D) Has had, after completing a one-year hospital internship, at least two

years of training or experience in the medical-management of inpatients requiring rehabilitation services.

* * * * *

(3) *Alcohol/Drug hospitals.* An alcohol/drug hospital will be excluded from the prospective payment system until October 1, 1985, if it meets the following requirements:

(i) Treats only patients whose admission to the hospital is required for diagnosis or treatment of alcohol or drug dependence, or both.

(ii) Provides treatment using a multidisciplinary team consisting of at least—

(A) A doctor of medicine or osteopathy;

(B) A registered nurse;

(C) A certified alcohol/drug counselor; and

(D) To the extent deemed necessary by the program director, other qualified health professionals (for example, clinical psychologists or social workers).

(iii) Ensures that each inpatient is admitted on the authority of, and his or her care is under the direction of, a doctor of medicine or osteopathy who is a member of the hospital's medical staff.

(iv) Has a program director to whom the governing body of the hospital has delegated responsibility for maintaining proper standards and assuring quality medical care. The director must be a doctor of medicine or osteopathy who has one year of post-medical school education, or equivalent clinical experience, in the alcohol/drug field, including at least six months of education or experience in an alcohol/drug treatment inpatient program.

(v) Has a full-time director of nursing services who is a registered nurse with a master's degree in psychiatric or mental health nursing, or its equivalent from a school or nursing accredited by the National League for Nursing, or with equivalent experience in alcohol/drug treatment.

(vi) Has a written treatment plan for each inpatient that is established, reviewed, and revised as needed by the multidisciplinary team. The plan must include a medical assessment and a social/psychological assessment, a record of progress during the course of treatment, and a plan of treatment upon discharge.

(vii) Involves inpatients in individual, group, and family educational or therapy programs and other medical or psychological approaches designed to treat the psychological and physical aspects of alcohol/drug dependence and to motivate them to use suitable community support and facilities for long-range rehabilitation.

(viii) Coordinates its program with appropriate alcohol/drug abuse programs of other organizations operating in the vicinity such as community mental health centers and Veterans Administration hospitals, voluntary programs such as halfway houses and recovery homes and the Salvation Army, and self-help groups such as Alcoholics Anonymous, Al-Anon and Alateen.

(4) *Psychiatric, rehabilitation, and alcohol/drug units (distinct parts).* A psychiatric unit must meet the requirements of paragraphs (c)(4)(i) and (c)(4)(ii) of this section. A rehabilitation unit must meet the requirements of paragraphs (c)(4)(i) and (c)(4)(iii) of this section. An alcohol/drug unit must meet the requirements of paragraphs (c)(4)(i) and (c)(4)(iv) of this section.

(i) * * *

(ii) A psychiatric unit (distinct part) must—

(A) Admit only patients whose admission to the unit is required for active treatment, of an intensity that can be provided appropriately only in an inpatient hospital setting, of a psychiatric principal diagnosis that is listed in the Third Edition of the American Psychiatric Association's Diagnostic and Statistical Manual, or in Chapter Five ("Mental Disorders") of the International Classification of Diseases, Ninth Revision, Clinical Modification.

(B) Furnish, through the use of qualified personnel, psychological services, social work services, psychiatric nursing, occupational therapy, and recreational therapy.

(C) Maintain medical records that permit determination of the degree and intensity of the treatment provided to individuals who are furnished services in the unit, and that meet the following requirements:

(1) Development of assessment/diagnostic data. Medical records must stress the psychiatric components of the record, including history of findings and treatment provided for the psychiatric condition for which the inpatient is treated in the unit.

(i) The identification data must include the inpatient's legal status.

(ii) A provisional or admitting diagnosis must be made on every inpatient at the time of admission, and must include the diagnoses of intercurrent diseases as well as the psychiatric diagnoses.

(iii) The reasons for admission must be clearly documented as stated by the inpatient or others significantly involved or both.

(iv) The social service records, including reports of interviews with inpatients, family members, and others must provide an assessment of home plans and family attitudes, and community resource contacts as well as a social history.

(v) When indicated, a complete neurological examination must be recorded at the time of the admission physical examination.

(2) Psychiatric evaluation. Each inpatient must receive a psychiatric evaluation that must—

(i) Be completed within 60 hours of admission;

(ii) Include a medical history;

(iii) Contain a record of mental status;

(iv) Note the onset of illness and the circumstances leading to admission;

(v) Describe attitudes and behavior;

(vi) Estimate intellectual functioning, memory functioning, and orientation; and

(vii) Include an inventory of the inpatient's assets in descriptive, not interpretative fashion.

(3) Treatment plan.

(i) Each inpatient must have an individual comprehensive treatment plan that must be based on an inventory of the inpatient's strengths and disabilities. The written plan must include a substantiated diagnosis; short-term and long-term goals; the specific treatment modalities utilized; the responsibilities of each member of the treatment team; and adequate documentation to justify the diagnosis and the treatment and rehabilitation activities carried out; and

(ii) The treatment received by the inpatient must be documented in such a way as to assure that all active therapeutic efforts are included.

(4) Recording progress. Progress notes must be recorded by the doctor of medicine or osteopathy responsible for the care of the inpatient, a nurse, social worker and, when appropriate, others significantly involved in active treatment modalities. The frequency of progress notes is determined by the condition of the inpatient but must be recorded at least weekly for the first two months and at least once a month thereafter and must contain recommendations for revisions in the treatment plan as indicated as well as precise assessment of the inpatient's progress in accordance with the original or revised treatment plan.

(5) Discharge planning and discharge summary. The record of each patient who has been discharged must have a discharge summary that includes a recapitulation of the inpatient's hospitalization in the unit and recommendations from appropriate services concerning follow-up or

aftercare as well as a brief summary of the patient's condition on discharge.

(D) Meet special staff requirements in that the unit must have adequate numbers of qualified professional and supportive staff to evaluate inpatients, formulate written, individualized comprehensive treatment plans, provide active treatment measures and engage in discharge planning, as follows:

(1) Personnel. The unit must employ or undertake to provide adequate numbers of qualified professional, technical, and consultative personnel to—

(i) Evaluate inpatients;

(ii) Formulate written individualized, comprehensive treatment plans;

(iii) Provide active treatment measures; and

(iv) Engage in discharge planning.

(2) Director of inpatient psychiatric services; medical staff. Inpatient psychiatric services must be under the supervision of a clinical director, service chief, or equivalent who is qualified to provide the leadership required for an intensive treatment program. The number and qualifications of doctors of medicine and osteopathy must be adequate to provide essential psychiatric services.

(i) The clinical director, service chief, or equivalent must meet the training and experience requirements for examination by the American Board of Psychiatry and Neurology or the American Osteopathic Board of Neuorology and Psychiatry.

(ii) The director must monitor and evaluate the quality and appropriateness of services and treatment provided by the medical staff.

(3) Nursing services. The unit must have a qualified director of psychiatric nursing services. In addition to the director of nursing, there must be adequate numbers of registered nurses, licensed practical nurses, and mental health workers to provide nursing care necessary under each inpatient's active treatment program and to maintain progress notes on each inpatient.

(i) The director of psychiatric nursing services must be a registered nurse who has a master's degree in psychiatric or mental health nursing, or its equivalent from a school of nursing accredited by the National League for Nursing, or be qualified by education and experience in the care of the mentally ill. The director must demonstrate competence to participate in interdisciplinary formulation of individual treatment plans; to give skilled nursing care and therapy; and to direct, monitor, and evaluate the nursing care furnished.

(ii) The staffing pattern must ensure the availability of a registered nurse 24 hours each day. There must be adequate numbers of registered nurses, licensed practical nurses, and mental health workers to provide the nursing care necessary under each inpatient's active treatment program.

(4) Psychological services. The unit must provide or have available psychological services to meet the needs of the inpatients. The services must be furnished in accordance with acceptable standards of practice, service objectives, and established policies and procedures.

(5) Social services. There must be a director of social services who monitors and evaluates the quality and appropriateness of social services furnished. The services must be furnished in accordance with accepted standards of practice and established policies and procedures. Social service staff responsibilities must include, but are not limited to, participating in discharge planning, arranging for follow-up care, and developing mechanisms for exchange of appropriate information with sources outside the hospital.

(6) Therapeutic activities. The unit must provide a therapeutic activities program.

(i) The program must be appropriate to the needs and interests of inpatients and be directed toward restoring and maintaining optimal levels of physical and psychosocial functioning.

(ii) The number of qualified therapists, support personnel, and consultants must be adequate to provide comprehensive therapeutic activities consistent with each inpatient's active treatment program.

(iii) A rehabilitation unit (distant part) must—

(A) Have treated, during its most recent 12-month cost reporting period, an inpatient population of which at least 75 percent required intensive rehabilitative services for the treatment of one or more of the following conditions:

(1) Stroke.

(2) Spinal cord injury.

(3) Congenital deformity.

(4) Amputation.

(5) Major multiple trauma.

(6) Fracture of femur (hip fracture).

(7) Brain injury.

(8) Polyarthritis, including rheumatoid arthritis.

(9) Neurological disorders, including multiple sclerosis, motor neuron diseases, polyneuropathy, muscular dystrophy, and Parkinson's disease.

(10) Burns.

* * * * *

(F) Have a director of rehabilitation who—

(1) Provides services to the unit or its inpatients on a full-time basis;

(2) Is a doctor of medicine or osteopathy;

(3) Is licensed under State law to practice medicine or surgery; and

(4) Has had, after completing a one-year hospital internship, at least two years of training or experience in the medical management of inpatients requiring rehabilitation services.

(iv) An alcohol/drug unit (distinct part) will be excluded from the prospective payment system until October 1, 1985, if it meets the following requirements:

(A) Treats only patients whose admission to the unit is required for diagnosis or treatment of alcohol or drug dependence, or both.

(B) Provides treatment using a multidiciplinary team consisting of at least—

(1) A doctor of medicine or osteopathy;

(2) A registered nurse;

(3) A certified alcohol/drug counselor; and

(4) To the extent deemed necessary by the unit director, other qualified health professionals (for example, clinical psychologists or social workers).

(C) Ensures that each inpatient is admitted on the authority of, and his or her care is under the direction of, a doctor of medicine or osteopathy who is a member of the unit's medical staff.

(D) Has a director to whom the governing body of the hospital has delegated responsibility for maintaining proper standards and assuring quality medical care. The director must be a doctor of medicine or osteopathy who has one year of post-medical school education, or equivalent clinical experience, in the alcohol/drug field, including at least six months of education or experience in an alcohol/drug treatment inpatient unit.

(E) Has a full-time director of nursing services who is a registered nurse with a master's degree in psychiatric or mental health nursing, or its equivalent from a school of nursing accredited by the National League for Nursing, or with equivalent experience in alcohol/drug treatment.

(F) Has a written treatment plan for each inpatient that is established, reviewed, and revised as needed by the mulitidisciplinary team. The plan must include a medical assessment and a social/psychological assessment, a record of progress during the course of treatment, and a plan of treatment upon discharge.

(G) Involves inpatients in individual, group, and family educational or therapy programs and other medical or psychological approaches designed to

treat the psychological and physical aspects of alcohol/drug dependence and to motivate them to use suitable community support and facilities for long-range rehabilitation.

(H) Coordinates its program with appropriate alcohol/drug abuse programs of other organizations operating in the vicinity such as community mental health centers and Veterans Administration hospitals, voluntary programs such as halfway houses and recovery homes and the Salvation Army, and with self-help groups such as Alcoholics Anonymous, Al-Anon and Alateen.

* * * * *

10. In section 405.472, the phrase "medical review agent" is changed to read "medical review entity "in paragraphs (d) and (e); and paragraphs (a), (b), (c), (d)(2)(i), (d)(2)(ii), (d)(2)(iii), and (e)(3) are revised to read as follows:

§ 405.472 Conditions for payment under the prospective payment system.

(a) *General requirements.*

(1) A hospital must meet the conditions of this section to receive payment under the prospective payment system for inpatient hospital services furnished to Medicare beneficiaries.

(2) If a hospital fails to comply fully with these conditions with respect to inpatient hospital services furnished to one or more Medicare beneficiaries, HCFA may, as appropriate—

(i) Withhold Medicare payment (in full or in part) to the hospital until the hospital provides adequate assurances of compliance; or

(ii) Terminate the hospital's provider agreement.

(b) *Charge to beneficiaries.*

(1) *Permitted charges—stay covered.* A hospital furnishing covered inpatient hospital services to a Medicare beneficiary for which payments may be made under the prospective payment system may charge only for the following items and services furnished during the stay—

(i) The applicable deductible and coinsurance amounts under §§ 409.82, 409.83, and 409.87 of this chapter;

(ii) Items and services, furnished at any time during a covered stay, that are excluded from coverage on some basis other than the requirements at § 405.310(g) (custodial care), § 405.310(k) (medically unnecessary items and services), § 405.310(m) (nonphysician services furnished to hospital inpatients by other than the hospital or a provider or supplier under arrangements made by the hospital), Subpart A of Part 408 of this chapter (nonentitlement to Part A), or § 409.61 of this chapter (exhaustion of benefits);

(iii) Items and services excluded from coverage on the basis of § 405.310(g) (custodial care) or § 405.310(k) (medically unnecessary items and services) and furnished by the hospital after all of the following conditions have been met:

(A) The hospital (acting directly or through its utilization review committee) determines that the beneficiary no longer requires inpatient hospital care (including an SNF level of care considered unavailable under Medicare criteria outside of the hospital).

(B) The attending physician agrees with the hospital determination in writing (for example, by issuing a written discharge order). If the hospital believes that the beneficiary does not require inpatient hospital care but is unable to obtain the agreement of the physician, it may request an immediate review of the case by the medical review entity (that is, a PSRO, PRO or intermediary). Concurrence by the medical review entity in the hospital's determination will serve in lieu of the physician's agreement.

(C) The hospital (acting directly or through its utilization review committee) notifies the beneficiary (or person acting on his or her behalf) in writing that—

(1) In the hospital's opinion, and with the attending physician's concurrence or that of the medical review entity, the beneficiary no longer requires inpatient hospital care;

(2) Customary charges will be made for continued hospital care beyond the second day following the date of the notice;

(3) The medical review entity will make a formal determination on the validity of the hospital's finding if the beneficiary remains in the hospital after he or she is liable for charges;

(4) The determination of the medical review entity made after the beneficiary received the purportedly noncovered services will be appealable by the hospital or the beneficiary under the appeals procedures that apply to medical review entity determinations affecting Medicare Part A payment; and

(5) The charges for continued care will be invalid and refunded if collected by the hospital, to the extent that a finding is made that the beneficiary required continued care beyond the point indicated by the hospital.

(D) If the beneficiary remains in the hospital after the appropriate notification, and the hospital, the physician that concurred in the hospital determination on which the notice was based, or medical review entity subsequently finds that the beneficiary requires an acute level of inpatient hospital care, the hospital may not charge the beneficiary for continued care until the conditions in paragraphs (b)(1)(iii) (A), (B), and (C) of this section are met once again.

(iv) Diagnostic procedures and studies, and therapeutic procedures and courses of treatment (for example, experimental procedures) that are excluded from coverage under § 405.310(k) (medically unnecessary items and services), even though the beneficiary requires continued inpatient hospital care, and that are furnished after the beneficiary (or the person acting on his or her behalf) has acknowledged in writing that the hospital (acting directly or through its utilization review committee and with the concurrence of the intermediary) has informed him or her that—

(A) In the hospital's opinion, which has been agreed to by the intermediary, the items or services to be furnished are not considered reasonable and necessary under Medicare;

(B) Customary charges will be made if he or she receives the items or services;

(C) The intermediary will make a formal determination on the validity of the hospital's finding if the beneficiary receives the items or services;

(D) The determination of the intermediary is appealable by the hospital or the beneficiary under the appeals procedure that applies to determinations affecting Medicare Part A payment; and

(E) The charges for the services will be invalid and, to the extent collected, will be refunded by the hospital if the services are found to be covered by Medicare;

(v) Customary charges for noncovered items and services furnished on outliers days (as described in § 405.475) for which payment is denied because the beneficiary is not entitled to Medicare Part A or his or her Medicare Part A benefits are exhausted (if payment is considered for outlier days, the entire stay is reviewed and days up to the number of days in excess of the outlier threshold may be denied on the basis of nonentitlement to Part A or exhaustion of benefits, and, in applying this rule, the latest days will be denied first); and

(vi) The customary charge differential for a private room or other luxury service that is more expensive than is medically required and is furnished for the personal comfort of the beneficiary at his or her request (or the request of the person acting on his or her behalf).

(2) *Review.* The medical review entity or intermediary may review any cases in which the hospital advises the beneficiary (or the person acting on his or her behalf) of the noncoverage of the

services in accordance with paragraph (b)(1)(iii)(C) or (b)(1)(iv) of this section. The hospital must identify such cases to the medical review entity or intermediary in accordance with HCFA instructions.

(3) *Prohibited charges.* A hospital may not charge a beneficiary for any services for which payment is made by Medicare, even if the hospital's costs of furnishing services to that beneficiary are greater than the amount the hospital is paid under the prospective payment system.

(c) *Admissions and quality review.* Beginning on October 1, 1984, a hospital must have an agreement with a Utilization and Quality Control Peer Review Organization (PRO) to have the PRO review, on an ongoing basis, the following:

(1) The appropriateness of the hospital's admissions, admission patterns, discharges, lengths of stay, transfers, and services furnished in outlier cases.

(2) The validity of the hospital's diagnostic and procedural information.

(3) The completeness, adequacy, and quality of the services furnished in the hospital.

(d) *Medical review activities for hospitals paid under the prospective payment system.*

(1) * * *

(2) *DRG validation.* (i) The attending physician must, shortly before, at or shortly after discharge (but before a claim is submitted), attest to in writing the principal diagnosis, secondary diagnoses, and names of procedures performed. The following statement must immediately precede the physician's signature: "I certify that the identification of the principal and secondary diagnoses and the procedures performed is accurate and complete to the best of my knowledge. (Notice: Intentional misrepresentation, concealment, or falsification of this information may, in the case of a Medicare beneficiary, be punishable by imprisonment, fine, or civil penalty.)"

(ii) The medical review entity will review, at least every three months, a random sample of discharges for the previous three-month period or the period since the last review, to verify that the diagnostic and procedural coding, used by the hospital for DRG assignment, is substantiated by the corresponding medical records. DRG validation must be done on the basis of a review of medical records and, at HCFA's discretion, may take place at the hospital or away from the hospital site.

(iii) If the diagnostic and procedural information, attested to by the attending physician, is found to be inconsistent with the hospital s coding or DRG assignment, the hospital's coding for the Medicare claim will be appropriately changed and payments recalculated, based on the appropriate DRG assignments.

* * * * *

(e) *Denial of payment as a result of admissions and quality review.*

(1) * * *

(3) A determination under paragraph (e)(1) of this section, related to a pattern of inappropriate admissions and billing practices that have the effect of circumventing the prospective payment system, will be referred to the Office of the Inspector General for a determination in accordance with section 1866(b)(2) of the Act. Such determination will be effective in the manner provided in section 1866(b) (3) and (4) of the Act, and regulations in Part 489 of this chapter, with respect to terminations of agreements, and will remain in effect until the Office of the Inspector General finds and gives reasonable notice to the public that the basis for such determination has been removed and that there is reasonable assurance that it will not recur.

* * * * *

11. Section 405.474 is amended by: revising the title of paragraph (b)(1), paragraph (b)(1)(iii), the title of paragraph (b)(2), paragraph (b)(2)(i), the introductory language of paragraph (b)(2)(ii), and paragraph (b)(2)(iii); adding a new paragraph (b)(2)(iv); removing paragraph (b)(5); redesignate paragraphs (b)(6), (b)(7), and (b)(8) as paragraphs (b)(5), (b)(6), and (b)(7), respectively; and revising paragraph (c)(1) to read as follows:

§ 405.474 Determination of transition period payment rates.

* * * * *

(b) Determining the hospital-specific rate. (1) Base-year cost experience.

(i) * * *

(iii) A hospital that becomes subject to the prospective payment system beginning on or after October 1, 1983 and before November 16, 1983, may request their intermediary, up to November 15, 1983, to recompute their base period costs to take into account inadvertent omissions in their previous submissions to the intermediary related to changes made by the prospective payment legislation for purposes of determining the base period costs. The intermediary may also initiate changes to the determination for any reason prior to the date the hospital becomes subject to prospective payment, and before November 16, 1983, for corrections to take into account inadvertent omissions in the hospital's previous submissions related to changes made by the prospective payment legislation for purposes of determining the base period costs. Such omissions pertain to adjustments to exclude capital-related costs and the direct medical education costs of approved educational activities and to adjustments specified in paragraph (b)(2)(ii) of this section. The intermediary must notify the provider of any change to the hospital-specific amount as a result of the provider's request within 30 days of receipt of the additional data. Any change to base period costs made pursuant to the above exception will be made effective retroactively, beginning with the first day of the affected hospital's fiscal year.

* * * * *

(2) *Modifications to base year cost experience.*

(i) The intermediary will use the best data available at the time in estimating each hospital's base year costs. Prior to determining the hospital-specific rate, the intermediary will adjust the hospital's estimated base year inpatient operating costs, as necessary, to eliminate nursing differential costs (as described in § 405.430), direct medical education costs (as described in § 405.421), capital-related costs (as described in § 405.414), and kidney acquisition costs incurred by hospitals approved as renal transplantation centers (as described in § 405.476(h)). Kidney acquisition costs in the base year will be determined by multiplying the hospital's average kidney acquisition cost per kidney times the number of kidney transplants covered by Medicare Part A during the base period. Malpractice insurance costs will be included in the inpatient operating costs, as described in § 405.452. Also, higher costs that were incurred for purposes of increasing base year costs, or either one-time nonrecurring higher costs or revenue offsets that have the effect of distorting base year costs as an appropriate basis for computing the hospital-specific rate, or higher costs that result from changes in hospital accounting principles initiated in the base year, will be excluded from base year costs for purposes of this section.

(ii) Prior to the date it becomes subject to the prospective payment system, a hospital may request the intermediary to further adjust its estimated base period costs to take into account—

* * * * *

(iii) If a hospital requests its base period costs to be adjusted under

paragraph (b)(2)(ii) of this section, it must timely provide the intermediary with sufficient documentation to justify the adjustment and adequate data to compute the adjusted costs. The intermediary will decide whether to use part or all of the data based on audit, survey, and other information available.

(iv) An intermediary's estimation of a hospital's base year costs, made for purposes of determining the hospital-specific rate, is subject to administrative and judicial review only with respect to whether the intermediary followed the provisions of this paragraph. In any administrative or judicial review of whether the intermediary used the best data available at the time, as required by paragraph (b)(2)(i) of this section, an intermediary's estimation will be revised based on this review only if the estimation was unreasonable and clearly erroneous in light of the data available at the time the estimation was made. Specifically excluded from administrative or judicial review are any issues based on data, information, or arguments not presented to the intermediary at the time of the estimation. In the event that an estimation is revised based on administrative or judicial review in accordance with this paragraph, the revision may be made retroactive to the time of the intermediary's estimation.

* * * * *

(c) *Determining transition payment rates for new hospitals.* (1) For purposes of this section, a new hospital is a hospital that meets either of the following requirements:

(i) The hospital—

(A) Is newly participating in the Medicare program (under previous and present ownership); and

(B) Does not have a 12-month cost reporting period ending before September 30, 1983; or

(ii) The hospital is under new ownership and can document to the satisfaction of its intermediary that—

(A) Its base period reflects previous ownership and control under which the hospital's operation was deliberately phased out in expectation of sale or termination of operations;

(B) Its occupancy rate during the current period is 150 percent of the occupancy rate during the base year;

(C) Previous ownership and management took deliberate steps to curtail services in the base period by reducing operations, laying off or transferring employees to non-inpatient areas, reducing physician staff, and reducing inpatient admissions; and

(D) The change in ownership and the corresponding growth in inpatient services and occupancy occurred between the base period and the first prospective payment period.

* * * * *

12. Section 405.475 is amended by revising the title of paragraph (c), paragraphs (c)(1), (c)(2) and (c)(3), the introductory language of paragraph (d)(3), and paragraph (d)(6) to read as follows:

§ 405.475 Payment for outlier cases.

* * * * *

(c) *Payment for extended length of stay (day) outliers.* (1) If the hospital stay reflected by a discharge includes covered days of care beyond the applicable threshold criterion, the intermediary will make an additional payment, on a per diem basis, to the provider for those days. A special request or submission by the hospital is not necessary to initiate this payment. However, a hospital may request payment for day outliers prior to the medical review provided for in paragraph (c)(2) of this section.

(2) The medical review entity (that is, a PSRO, PRO, or intermediary) must review and approve—

(i) The medical necessity and appropriateness of the admission and outlier services in the context of the entire stay; and

(ii) The validity of the diagnostic and procedural coding.

(3) The per diem payment made under paragraph (c)(1) of this section will be derived by first taking 60 percent of the average per diem payment for the applicable DRG, as calculated by dividing the Federal prospective payment rate as determined under § 405.475(a)(2)(ii) by the mean length-of-stay for that DRG. The resulting amount will then be multiplied by the applicable Federal portion of the blend as follows:

Cost reporting periods beginning on or after	Federal portion (percent)
Oct. 1, 1983	25
Oct. 1, 1984	50
Oct. 1, 1985	75
Oct. 1, 1986	100

* * * * *

(d) *Payment for extraordinarily high-cost cases (cost outliers).*

(1) * * *

(3) The hospital must request review by a medical review entity and approval of all services. The entity using the medical records and itemized charges must determine that:

* * * * *

(6) The additional payment amount will be derived by first taking 60 percent of the difference between the hospital's adjusted cost for the discharge (as determined under paragraph (d)(3) of this section) and the threshold criteria established under paragraph (a)(2) of this section. The resulting amount will then be multiplied by the applicable Federal portion of the blend as indicated in paragraph (c)(3) of this section.

* * * * *

13. Section 405.476 is amended by revising paragraphs (b)(3), (f)(1), and (g) to read as follows:

§ 405.476 Special treatment of sole community hospitals, Christian Science sanitoria, cancer hospitals, referral centers, and renal transplantation centers.

* * * * *

(b) *Requests and criteria for classification as a sole community hospital (SCH).*

(1) * * *

(3) Criteria for classification as a sole community hospital.

(i) A hospital that has been granted an exemption from the hospital cost limits under § 405.460(e)(1) prior to October 1, 1983, or whose request for the exemption was received by the appropriate intermediary prior to October 1, 1983, and was subsequently approved, will be automatically classified as a sole community hospital under the prospective payment system unless the hospital's classification has been cancelled under paragraph (b)(6) of this section, or unless a change occurs in the circumstances under which the hospital was approved.

(ii) A hospital will be classified as a sole community hospital if it is located in a rural area; and

(A) The hospital is located more than 50 miles from other like hospitals;

(B) The hospital is located between 25 and 50 miles from other like hospitals and meets one of the following criteria:

(1) No more than 25 percent of the residents or, if data on general resident utilization are not available, no more than 25 percent of the Medicare beneficiaries in the hospital's service area are admitted to other like hospitals for care:

(2) The hospital has less than 50 beds and the PSRO or intermediary certifies that the hospital would have met the criteria in paragraph (b)(3)(ii)(B)(*1*) of this section were it not for the fact that some beneficiaries or residents were forced to seek care outside the service area due to the unavailability of necessary specialty services at the community hospital; or

(3) Because of local topography or periods of prolonged severe weather conditions, the other like hospitals are

inaccessible for at least one month out of each year; or

(C) The hospital is located between 15 and 25 miles from other like hospitals but because of local topography or periods of prolonged severe weather conditions, the other like hospitals are inaccessible for at least one month out of each year.

* * * * *

(f) *Cancer hospitals*

(1) *Criteria for classification.* HCFA will consider a hospital's request for an adjustment to a cancer hospital's prospective payment rates only if the hospital—

(i) Was recognized as a comprehensive cancer center or clinical cancer research center by the National Cancer Institute of the National Institutes of Health as of April 20, 1983;

(ii) Demonstrates that the entire facility is organized primarily for treatment of and research on cancer (that is, the facility is not a subunit of an acute general hospital or university-based medical center); and

(iii) Has a patient population such that at least 50 percent of the hospital's total discharges have a principal diagnosis that reflects a finding of neoplastic disease. (The principal diagnosis for this purpose is defined as the condition established after study to be chiefly responsible for occasioning the admission of the patient to the hospital. For the purposes of meeting this definition, only discharges with ICD–9–CM principal diagnosis codes of 140 through 239, V58.0, V58.1, V66.1, V66.2, or 990 will be considered to reflect neoplastic disease.)

* * * * *

(g) *Referral centers.*

(1) *Criteria.* HCFA will consider a hospital's request for a referral center adjustment to the hospital's prospective payment rates only if the hospital is an acute care hospital that has a provider agreement under Part 489 of this chapter to participate in Medicare as a hospital; and

(i) Is located in a rural area (as defined in § 405.473(b)(6)) and has 500 or more beds available for use; or

(ii) Has an inpatient population such that at least 50 percent of its Medicare patients are referred from other hospitals or from physicians not on the staff of the hospital. In addition, at least 60 percent of the hospital's Medicare patients must live more than 25 miles from the hospital, and at least 60 percent of all the services that the hospital furnishes to Medicare beneficiaries must be furnished to beneficiaries who live more than 25 miles from the hospital.

(2) *Payments to rural referral centers with 500 or more beds.* A hospital that meets the criteria of paragraph (g)(1)(i) of this section will be paid prospective payments per discharge based on the applicable urban payment rates as determined in accordance with § 405.473(b)(10) or (c)(6), as adjusted by the hospital's area wage index.

* * * * *

14. Section 405.477 is amended by revising paragraphs (d)(2)(v), adding a new paragraph (d)(2)(vi), and revising paragraph (e)(3) to read as follows:

§ 405.477 Payments to hospitals under the prospective payment system.

* * * * *

(d) *Additional payments.*

(1) * * *

(2) *Indirect medical education costs.*

(i) * * *

(v) In order to be included in the count of interns and residents under paragraph (d)(2)(ii)(A) of this section, the interns and residents must be enrolled in a teaching program approved under § 405.421 (excluding those employed by the hospital, but furnishing services at another site). The interns and residents must also be employed by the hospital or by an organization that—

(A) Has a long-standing historical medical relationship with the hospital in which the stability of the graduate medical education program is dependent upon the relationship between the hospital and the employing organization such as the type described in § 489.23(a) of this chapter (approval or disapproval of waiver will not be a factor in this determination);

(B) Is the sole employer of substantially all the interns and residents furnishing services at the hospital;

(C) Agrees to supply documentation of the names and assigned time in the hospital of each intern and resident and agrees to permit the intermediary to audit its records to verify that no intern or resident is counted at more than one hospital.

(vi) The number of full-time equivalent interns and residents under paragraph (d)(2)(ii)(A) of this section must equal the sum of—

(A) Interns and residents employed for 35 hours or more per week; and

(B) One half of the total number of interns and residents working less than 35 hours per week (regardless of the number of hours worked).

(e) *Reductions to total payments—*

(1) * * *

(3) Part P payment to outside suppliers. HCFA will reduce payments for inpatient hospital services to take into account 100 percent of the reasonable charges (before application of Medicare Part B deductible and coinsurance amounts) for nonphysician services furnished, to beneficiaries entitled to benefits under Medicare Part A, by an outside supplier under § 489.23 of this chapter.

* * * * *

C. Subpart J is amended as follows:

Subpart J—Conditions of Participation; Hospitals

1. The authority citation for Subpart J is revised to read as follows:

Authority: Sections 1102, 1154(a)(10), 1861 (e), (f), (g), and (k), 1871, and 1886 of the Social Security Act, as amended (42 U.S.C. 1302, 1320c–3(a)(10), 1395x (e), (f), (g), and (k), 1395hh, and 1395ww).

2. The table of contents for Subpart J is amended by revising the title of § 405.1042 to read as follows:

Subpart J—Conditions of Participation: Hospitals

Secs.

* * * * *

405.1042 Condition of participation—Special utilization review requirements for services subject to the prospective payment system.

* * * * *

3. Section 405.1042 is amended by revising the title of the section and paragraphs (c)(1) and (c)(2) to read as follows:

§ 405.1042 Condition of participation: Special utilization review requirements for services subject to the prospective payment system.

* * * * *

(c) *Standard: Scope and frequency of reviews.*

(1) The UR plan must provide for review with respect to the medical necessity of admissions to the institution and, as provided in paragraph (c)(2) of this section—

(i) The duration of stays; and

(ii) Professional services furnished, including drugs and biologicals.

(2) In hospitals paid for inpatient hospital services under the prospective payment system (see § 405.470–405.477), the UR plan must provide for:

(i) Review of the duration of stays as required under paragraph (c)(1)(i) of this section only in cases reasonably assumed by the hospital to be outlier cases based on extended length of stay, as described in § 405.575(a)(1); and

(ii) Review of services furnished as required under paragraph (c)(1)(ii) of this section only in cases reasonably assumed by the hospital to be outlier

cases based on extraordinarily high costs, as described in § 405.475(a)(2).

* * * * *

D. Subpart P is amended as set forth below:

Subpart P—Certification and Recertification; Claims and Benefit Payment Requirements; Check Replacement Procedures

1. The table of contents is amended by revising the title of § 405.1627 and the authority citation to read as follows:

Subpart P—Certification and Recertification; Claims and Benefit Payment Requirements; Check Replacement Procedures

Secs.

* * * * *

405.1627 Inpatient hospital services other than inpatient psychiatric or tuberculosis hospital services: Certification and recertification.

* * * * *

Authority: Secs. 1102, 1814, 1835, 1871 and 1883 of the Social Security Act, as amended (42 U.S.C. 1302, 1395f, 1395n, 1395hh and 1395tt).

2. Section 405.1627 is revised to read as follows:

§ 405.1627 Inpatient hospital services other than inpatient psychiatric or tuberculosis hospital services: Certification and recertification.

(a) *Content of Certification.* The certification and recertification statements must contain the following information:

(1) An adequate written record of the reasons for either—

(i) Continued hospitalization of the patient for medical treatment or for medically required inpatient diagnostic study; or

(ii) Special or unusual services for cost outlier cases (under the prospective payment system described in § 405.470).

(2) The estimated period of time the patient will need to remain in the hospital and, for cost outlier cases, the period of time for which the special or unusual services will be required; and

(3) Any plans, where appropriate, for posthospital care.

(b) *Certification when a skilled nursing facility (SNF) bed is not available.*

(1) A physician may certify or recertify need for continued hospitalization if the physician finds that the patient could receive proper treatment in an SNF but no bed is available in the participating SNF.

(2) If this is the basis for the physician's certification or recertification, the required statement must so indicate; and the physician is expected to continue efforts to place the patient in a participating SNF as soon as a bed becomes available.

(c) *Signature of certification.*

(1) Certifications and recertifications must be signed by the physician responsible for the case, or by another physician who has knowledge of the case and who is authorized to do so by the responsible physician or by the hospital's medical staff.

(2) Certification of the need to admit a patient, in connection with dental procedures, because his or her underlying medical condition and clinical status or the severity of the dental procedures, require hospitalization, may, if the intermediary requests such certification, be signed by the dentist caring for the patient.

(d) *Waiver of recertification statement.* A separate recertification statement is not necessary if the requirements for a second or subsequent recertification are satisfied through utilization review in accordance with paragraph (e)(3) of this section. It is sufficient if records of the UR committee show that consideration was given to the reasons for continued hospitalization, estimated time the patient will need to remain in the hospital, and plans for posthospital care.

(e) *Timing of certifications and recertifications.*

(1) *For cases not subject to the payment system.* For cases that are not subject to the prospective payment system, certification is required no later than as of the 12th day of hospitalization. A hospital may, at its option, provide for the certification to be made earlier, or it may vary the timing of the certification within the 12-day period by diagnostic or clinical categories. The first recertification is required no later than as of the 18th day of hospitalization. Thereafter, subsequent recertifications are required at intervals established by the UR committee (on case-by-case basis if it so chooses), but no less frequently than every 30 days.

(2) *For cases subject to the prospective payment system.* For cases subject to the prospective payment system, certification is required as follows:

(i) For day-outlier cases, certification is required no later than one day after the hospital reasonably assumes that the case meets the outlier criteria, established in accordance with § 405.475(a)(1), or no later than 20 days into the hospital stay, whichever is earlier. The first and subsequent recertifications are required at intervals established by the UR committee (on a case-by-case basis if it so chooses) but not less frequently than every 30 days.

(ii) For cost-outlier cases, certification is required no later than the date on which the hospital requests cost outlier payment or 20 days into the hospital stay, whichever is earlier. If possible, certification must be made before the hospital incurs costs for which it will seek cost outlier payment. In cost outlier cases, the first and subsequent recertifications are required at intervals established by the UR committee (on a case-by-case basis if it so chooses).

(3) *Recertification requirement fulfilled by utilization review.*

(i) At the hospital's option, extended stay review by its UR committee may take the place of the second and subsequent physician recertifications required for cases not subject to the prospective payment system, and for prospective payment day-outlier cases.

(ii) A utilization review that is used to fulfill the recertification requirement is considered timely if performed no later than the seventh day after the day the physician recertification would have been required. The next physician recertification would need to be made no later than the 30th day following such review; if review by the UR committee took the place of this physician recertification, the review could be performed as late as the seventh day following such 30th day.

(4) *Description of procedure.* The hospital must have available in the files a written description of the procedure it adopts on timing of certifications and recertifications—that is, the intervals at which the necessary statements are required and whether review of long-stay cases by the UR committee serves as an alternative to recertification by a physician in the case of the second or subsequent recertifications required under paragraphs (e)(1) and (e)(2)(i) of this section.

3. In § 405.1629, the uncoded introductory language is revised to read as follows:

§ 405.1629 Inpatient tuberculosis hospital services and inpatient psychiatric hospital services; certification and recertification.

The requirements for physician certification and recertification for inpatient psychiatric and tuberculosis hospital services are generally similar to the requirements for certification and recertification for inpatient hospital services under § 405.1627. However, for inpatient tuberculosis and psychiatric hospital services, certification is required at the time of admission or as soon thereafter as is reasonable and practicable, and the content of the

certification and recertification statements is to conform with the requirements of this section and, in the case of patients admitted to the hospital on or after January 1, 1970, recertification statements are to be obtained in accordance with the intervals set forth in § 405.1627(e)(1). The content requirements differ because of recognition that there frequently is a difference between treatment provided in mental and tuberculosis hospitals and the treatment provided in other hospitals. Often the care provided in such hospitals is purely custodial, while the Medicare program's intent is to cover only active care and not to cover custodial care.

* * * * *

4. Section 405.1630 is revised to read as follows:

§ 405.1630 Certification and recertification for beneficiary admitted to a hospital before entitlement to benefits.

If an individual is admitted to a hospital before becoming entitled to Medicare Part A, the following rules apply:

(a) Certification and recertification are not required until the individual becomes entitled.

(b) Except as specified in paragraph (c) of this section, the applicable requirements for content, signature, and timing of certifications and recertifications are those set forth—

(1) For tuberculosis and psychiatric hospitals, in § 405.1629; and

(2) For all other hospitals, in § 405.1627.

(c) *Exception.* The time limits for certification and recertification are computed from the date of entitlement instead of the date of admission.

E. Subpart R is amended as follows:

Subpart R—Provider Reimbursement Determinations and Appeals

1. The authority citation for Subpart R reads as follows:

Authority: Secs. 205, 1102, 1814(b), 1815(a), 1833, 1861(v), 1871, 1872, 1878, and 1886 of the Social Security Act (42 U.S.C. 405, 1302, 1395f(b), 1395g(a), 1395l, 1395x(v), 1395hh, 1395ii, 1395oo, and 1395ww).

2. Section 405.1801 is amended by revising the definition of "intermediary determination" in paragraph (a), and revising paragraphs (b)(1) and (c) to read as follows:

§ 405.1801 Introduction.

(a) *Definitions.* * * *

"Intermediary determination" means the following:

(1) With respect to a provider of services that has filed a cost report under §§ 405.406 and 405.453(f), the term means a determination of the amount of total reimbursement due the provider for items and services furnished to beneficiaries for which reimbursement may be made on a reasonable cost basis under Medicare for the period covered by the cost report.

(2) With respect to a hospital that receives payments for inpatient hospital services under the prospective payment system (§§ 405.470–405.477), the term includes a determination of the total amount of payment due the hospital under that system for the hospital's cost reporting period covered by the determination.

(3) For purposes of appeal to the Provider Reimbursement Review Board, the term is synonymous with the phrases "intermediary's final determination" and "final determination of the Secretary", as those phrases are used in section 1878(a) of the Act.

(4) For purposes of § 405.374 concerning claims collection activities, the term does not include an action by HCFA with respect to a compromise of a Medicare overpayment claim, or termination or suspension of collection action on an overpayment claim, against a provider or physician or other supplier.

* * * * *

(b) *General Rule.*

(1) *Providers.* The principles of reimbursement for determining reasonable cost and prospective payment are contained in Subpart D of this part. In order to be reimbursed for covered services furnished to Medicare beneficiaries, providers of services are obliged to file cost reports with their intermediaries as specified in § 405.453(f). Where the term "provider" appears in this subpart, it includes hospitals paid under the prospective payment system for purposes of applying the appeal procedures described in this subpart to those hospitals.

* * * * *

(c) *Effective dates.*

(1) Except as provided in paragraphs (c)(2) and (c)(3) of this section or in § 405.1885(e), this subpart applies to all cost reporting periods ending on or after December 31, 1971, for which reimbursement may be made on a reasonable cost basis.

(2) Sections 405.1835–405.1877 apply only to cost reporting periods ending on or after June 30, 1973, for which reimbursement may be made on a reasonable cost basis.

(3) With respect to hospitals under the prospective payment system (see §§ 405.470–405.477), the appeals procedures in §§ 405.1811–405.1877 that apply become applicable with the hospital's first cost reporting period beginning on or after October 1, 1983.

3. Section 405.1803 is amended by revising paragraph (a) to read as follows:

§ 405.1803 Intermediary determination and notice of amount of program reimbursement.

(a) *General requirement.* Upon receipt of a provider's cost report, or amended cost report where permitted or required, the intermediary must within a reasonable period of time (see § 405.1835(b)), furnish the provider and other parties as appropriate (see § 405.1805) a written notice reflecting the intermediary's determination of the total amount of reimbursement due the provider. The intermediary must include the following information in the notice, as appropriate:

(1) *Reasonable cost.* The notice must—

(i) Explain the intermediary's determination of total program reimbursement due the provider on the basis of reasonable cost for the reporting period covered by the cost report or amended cost report; and (ii) Relate this determination to the provider's claimed total program reimbursement due the provider for this period.

(2) *Prospective payment.* With respect to a hospital that receives payments for inpatient hospital services under the prospective payment system (see § 405.470–405.477), the intermediary must include in the notice its determination of the total amount of the payments due the hospital under that system for the cost reporting period covered by the notice. The notice must explain (with appropriate use of the applicable money amounts) any difference in the amount determined to be due, and the amounts received by, the hospital during the cost reporting period covered by the notice.

* * * * *

4. Section 405.1804 is revised to read as follows:

§ 405.1804 Matters not subject to administrative and judicial review under prospective payment.

Neither administrative nor judicial review is available for controversies about the following matters:

(a) The determination of the requirement, or the proportional amount, of any budget neutrality adjustment in the prospective payment rates.

(b) The establishment of—

(1) Diagnosis related groups (DRGs);

(2) The methodology for the classification of inpatient discharges within the DRGs; or

(3) Appropriate weighting factors that reflect the relative hospital resources used with respect to discharge within each DRG.

5. Section 405.1809 is amended by revising paragraph (a) to read as follows:

§ 405.1809 Intermediary hearing procedures.

(a) *Hearings.* Each intermediary must establish and maintain written procedures for intermediary hearings, in accordance with the regulations in this subpart, for resolving issues that may arise between the intermediary and a provider concerning the amount of reasonable cost reimbursement, or prospective payment due the provider (except as provided in § 405.1804) under the Medicare program. The procedures must provide for a hearing on the intermediary determination contained in the notice of program reimbursement (§ 405.1803), if the provider files a timely request for a hearing.

* * * * *

6. Section 405.1839 is revised to read as follows:

§ 405.1839 Amount in controversy.

(a) *Single appeals.* The $1,000 amount in controversy required under § 405.1809 for an intermediary hearing and the $10,000 amount in controversy required under § 405.1835 for a Board hearing is, as applicable to the matters for which the provider has requested a hearing, the combined total of the amounts computed as follows:

(1) *Providers under prospective payment.* For providers that are paid under the prospective payment system, by deducting—

(i) The total of the payment due the provider on other than a reasonable cost basis under the prospective payment system from the total amount that would be payable after a recomputation that takes into account any exclusion, exception, adjustment, or additional payment denied the provider under §§ 405.470–405.477, as applicable;

(ii) The total of the payment due the provider on a reasonable cost basis under the prospective payment system from the total reimbursable costs claimed by the provider; and

(iii) The adjusted total reimbursable costs due the provider on a reasonable cost basis under other than the prospective payment system from the total reimbursable costs claimed by the provider.

(2) *Providers not under prospective payment.* For providers that are not paid under the prospective payment system, by deducting the adjusted total reimbursable program costs due the provider on a reasonable cost basis from the total reimbursable costs claimed by the provider.

(b) *Group appeals.* The $50,000 amount in controversy required under § 405.1837 for group appeals to the Board is, as applicable to the common matters for which the group of providers have requested a hearing, the combined total of the amounts computed as follows:

(1) *Providers under prospective payment.* For providers that are paid under the prospective payment system, by deducting—

(i) The total of the payment due the providers (in the aggregate) on other than a reasonable cost basis under the prospective payment system from the total amount that would be payable to the providers (in the aggregate) after a recomputation that takes into account any applicable exception, exclusion, adjustment, or additional payment denied the providers under §§ 405.470–405.477;

(ii) The total of the payment due the providers (in the aggregate) on a reasonable cost basis under the prospective payment system from the total reimbursable costs claimed in the aggregate by the providers; and

(iii) The adjusted total reimbursable costs due the providers (in the aggregate) on a reasonable cost basis under other than the prospective payment system from the total reimbursable costs claimed in the aggregate by the providers.

(2) *Providers not under prospective payment.* For providers that are not paid under the prospective payment system, by deducting the adjusted total reimbursable program costs due the providers (in the aggregate) on a reasonable cost basis from the total reimbursable costs claimed in the aggregate by the providers.

II. Part 409, Subpart A is amended as follows:

PART 409—MEDICARE BENEFITS, LIMITATIONS, AND EXCLUSIONS

Subpart A—Hospital Insurance

A. The authority citation for Subpart A reads as follows:

Authority: Secs. 1102, 1812, 1813, 1814, 1861, 1866, 1871, 1881, and 1883 of the Social Security Act (42 U.S.C. 1302, 1395d, 1395e, 1395f, 1395x, 1395cc, 1395hh, 1395rr, and 1395tt), and Sec. 602(k) of Pub. L. 98–21 (42 U.S.C. 1395y (note)).

B. Section 409.65 is amended by revising paragraphs (e)(2) (i) and (ii) to read as follows:

§ 409.65 Lifetime reserve days.

* * * * *

(e) *Period covered by election.*

(1) * * *

(2) *Exception.* A beneficiary election not to use lifetime reserve days for an inpatient hospital stay for which payment may be made under the prospective payment system (see §§ 405.470–405.477) is subject to the following rules:

(i) If the beneficiary has one or more regular benefit days (see § 409.61(a)(1) of this chapter) remaining in the benefit period upon entering the hospital, an election not to use lifetime reserve days will apply automatically to all days that are not outlier days. The beneficiary may also elect not to use lifetime reserve days for outlier days but this election must apply to all outlier days.

(ii) If the beneficiary has no regular benefit days (see § 409.61(a)(1) of this chapter) remaining in the benefit period upon entering the hospital, an election not to use lifetime reserve days must apply to the entire hospital stay.

III. Part 489, Subpart B is amended as follows:

PART 489—PROVIDER AGREEMENTS UNDER MEDICARE

Subpart B—Essentials of Provider Agreements

A. The authority citation for Part 489 reads as follows:

Authority: Secs. 1102, 1861, 1864, 1866, and 1871 of the Social Security Act (42 U.S.C. 1302, 1395x, 1395aa, 1395cc, and 1395hh).

B. Section 489.20 is amended by reprinting the introductory language and paragraph (a) unchanged and revising paragraphs (b), (c), and (d) to read as follows:

§ 489.20 Basic commitments.

The provider agrees—

(a) To limit its charges to beneficiaries and to other individuals on their behalf, in accordance with provisions of Subpart C of this part;

(b) To comply with the requirements of Subpart D of this part for the return or other disposition of any amounts incorrectly collected from a beneficiary or any other person in his or her behalf;

(c) To comply with the requirements of § 420.203 of this chapter when it hires certain former employees of intermediaries;

(d) In the case of a hospital that furnishes inpatient hospital services to a

beneficiary, to either furnish directly or make arrangements for all items and services (other than physicians' services as described in § 405.550(b) of this chapter) for which the beneficiary is entitled to have payment made under Medicare; and

* * * * *

C. Section 489.21 is revised to read as follows:

§ 489.21 Specific limitations on charges.

Except as specified in Subpart C of this part, the provider agrees not to charge a beneficiary for any of the following:

(a) Services for which the beneficiary is entitled to have payment made under Medicare.

(b) Services for which the beneficiary would be entitled to have payment made if the provider—

(1) Had in its files the required certification and recertification by a physician relating to the services furnished to the beneficiary;

(2) Had furnished the information required by the intermediary in order to determine the amount due the provider on behalf of the individual for the period with respect to which payment is to be made or any prior period;

(3) Had complied with the provisions requiring timely utilization review of long stay cases so that a limitation on days of service has not been imposed under section 1866(d) of the Act (see Subparts J and K of Part 405 of this chapter for utilization review requirements); and

(4) Had obtained, from the beneficiary or a person acting on his or her behalf, a written request for payment to be made to the provider, and had properly filed that request. (If the beneficiary or person on his or her behalf refuses to execute a written request, the provider may charge the beneficiary for all services furnished to him or her.)

(c) Inpatient hospital services furnished to a beneficiary who exhausted his or her Part A benefits, if HCFA reimburses the provider for those services.

(d) Custodial care and services not reasonable and necessary for the diagnosis or treatment of illness or injury, if—

(1) The beneficiary was without fault in incurring the expenses; and

(2) The determination that payment was incorrect was not made until after the third year following the year in which the payment notice was sent to the beneficiary.

(e) Inpatient hospital services for which a beneficiary would be entitled to have payment made under Part A of Medicare but for a denial or reduction in payments under regulations at § 405.472(e) of this chapter or under section 1886(f) of the Act.

(f) Items and services furnished to a hospital inpatient (other than physicians' services as described in § 405.550(b) of this chapter or the services of an anesthetist as described in § 405.553(b)(4) of this chapter) for which Medicare payment would be made if furnished by the hospital or by other providers or suppliers under arrangements made with them by the hospital. For this purpose, a charge by another provider or supplier for such an item or service is treated as a charge by the hospital for the item or service, and is also prohibited.

D. Section 489.23 is amended by reprinting the introductory language of paragraph (a) unchanged and revising paragraphs (a)(1), (c)(2), and (c)(3) to read as follows:

§ 489.23 Special provisions for waiver of certain inpatient hospital services requirements.

(a) *General rule.* For any cost reporting period beginning before October 1, 1986, HCFA may waive the requirements of §§ 489.20(d) and 489.21(f), regarding items and services furnished to hospital inpatients, for a hospital that—

(1) Since before October 1, 1982, has extensively followed the practice of allowing suppliers of items and services furnished to the hospital's inpatients to bill directly under Medicare Part B for those items and services; and

* * * * *

(c) *Waiver criteria.*

(1) * * *

(2) The criteria in paragraph (c)(1) of this section are met if—

(i) The outside suppliers' reasonable charges for nonphysician services in the hospital's base period (as described in § 405.474(b)(1) of this chapter) were at least 125 percent of the reasonable cost of the nonphysician ancillary services furnished to Medicare inpatients by the hospital exclusive of the costs of operating room, recovery room, labor and delivery room, pharmacy, and medical supplies; and

(ii) The hospital's inpatients received at least three distinct types of ancillary services (such as pathology, radiology, and physical therapy services) primarily from outside suppliers.

(3) The hospital must show that outside suppliers furnishing items and services to its Medicare inpatients under the waiver have agreed that—

(i) The supplier will bill only for services for which payment may be made under Part B (or would be made if the beneficiary were entitled to Part B benefits);

(ii) The supplier will bill the program directly for services furnished to an inpatient of the hospital (even if assignment is not accepted) within 30 days of his or her discharge from the hospital; and

(iii) The supplier's billing will specify that the services were furnished to an inpatient of a particular hospital, identify the nonphysician services that were furnished, and identify the charge for each service.

(Catalog of Federal Domestic Assistance Programs No. 13.773, Medicare-Hospital Insurance; No. 13.774, Medicare-Supplementary Medical Insurance)

Dated: December 20, 1983.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: December 22, 1983.

Margaret M. Heckler,

Secretary.

Editorial Note.—The following addendum will not appear in the Code of Federal Regulations.

Addendum—Schedule of Standardized Amounts and Relative Weights Effective with Discharges 30 Days after the Date of Publication

I. Summary and Background

The addendum to the interim final rule published September 1, 1983 contained a very detailed description of the standardized amounts and relative weights effective with cost reporting periods beginning on or after October 1, 1983. That detailed description is repeated here, revised to reflect the changes we have made in the way we will pay for outlier cases, and including revised budget neutrality adjustment factors and the resulting adjusted standardized amounts.

This addendum sets forth the schedule of standardized amounts and relative weights that will be used to calculate prospective payment amounts under the Medicare program for inpatient, nonphysician services associated with a discharge occurring after 30 days after the date of publication, and before October 1, 1984. This schedule is combined, for publication purposes, with the final rule implementing the prospective payment system because of the close relationship between this schedule, applicable for fiscal year (FY) 1984, and the rules governing prospective payment as a whole. In the future, notices, similar to this schedule, will be published on or before September 1, of each year, setting forth

the schedule of standardized amounts and, if appropriate, relative weights applicable for future periods.

II. Calculation of Adjusted Standardized Payment Amounts

This section contains a brief explanation of how the adjusted standardized payment amounts, applicable for FY 84, have been derived. The methodology for arriving at the appropriate rate structure is essentially prescribed in section 1886(d)(2) of the Act.

A. Base Year Cost Data

Section 1886(d)(2)(A) of the Act requires the establishment of base year cost data containing allowable operating costs per discharge of inpatient hospital services for each hospital. See section III C.1.a of the preamble to the interim final rule which contains a detailed explanation of how base year cost data are established.

B. Updating for Inflation

Section 1886(d)(2)(B) of the Act requires that the base year cost data be updated for FY 84. A two-step process is necessary.

1. The base year cost data, representing allowable costs per Medicare discharge (per hospital), are inflated through FY 83 using actuarial estimates of the rate of increase in hospital costs nationwide.

Note.—As explained in section IV.A.3. of the preamble to these regulations, we have revised the assumptions used to inflate these costs through FY 1983, resulting in a slight reduction of the adjusted standardized amounts set forth in Table I, below.

2. The resulting amounts are further inflated through FY 84 by using the estimated annual rate of increase in the hospital market basket, plus 1 percentage point, in accordance with the section 1886(b)(3)(B) of the Act.

Since July 1, 1979, the hospital cost limit schedules have incorporated a "market basket index" to reflect changes in the prices of goods and services that hospitals use in producing general inpatient services. We developed the current market basket by identifying the most commonly used categories of hospital inpatient operating expenses and by weighting each category to reflect the estimated proportion of total hospital operating expenses attributable to that category. We then obtained historical and projected rates of increase in the resource prices for each category. Based on the rate of increase and the weight of each category, we developed an overall annual rate of increase in the hospital market basket. The categories of expenses used to develop the revised market basket are based primarily on those used by the American Hospital Association in its analysis of costs, and by the U.S. Department of Commerce in publishing price indexes by industry.

For the purpose of updating base year cost data for FY 84, we revised the market basket previously used under the hospital cost limits, which was published in the **Federal Register** (47 FR 43313) on September 30, 1982. First, we have added malpractice insurance as a new category of expense in the market basket. This change was necessary because malpractice insurance premiums, which were excluded from the hospital cost limits, are to be included under the prospective payment rates. Second, because of the addition of this new category, it was also necessary to revise the relative proportions assigned to each expense category.

Table 2, Section VII of the addendum to the interim final rule contains the price variables used to predict price changes for each category of expense. For further background on the development of the market basket index, see Freeland, Anderson and Schendler, "National Hospital Input Price Index", *Health Care Financing Review*, Summer 1979, pp. 37–61.

C. Standardization

Section 1886(d)(2)(C) of the Act requires that the updated base year per discharge costs be standardized. Standardization means the removal of the effects of certain causes of variation in cost among hospitals from the cost data.

1. Variations in Case Mix Among Hospitals

Section 1886(d)(2)(c)(iii) of the Act requires that the updated amounts be standardized to adjust for variations in case mix among hospitals. The methodology used for determining the appropriate adjustment factor (i.e., the case-mix index) is comparable to that used for the hospital cost limits published in the **Federal Register** on September 30, 1982 (47 FR 43303). A case-mix index has been calculated for each hospital based on 1981 cost and billing data.

Standardization, necessary to neutralize the effects of variations in case mix, is accomplished by dividing the hospital's average cost per Medicare discharge by that hospital's case-mix index. Table 3a, section VII of the addendum to the interim final rule contains the case-mix index values used for this purpose.

2. Indirect Medical Education Costs

Section 1886(d)(2)(C)(i) of the Act requires that the updated amounts be standardized for indirect medical education costs. Therefore, after adjusting each hospital's inpatient operating cost per discharge for inflation and case-mix, we divided each cost by 1.0 plus the product of double the education adjustment factor (11.59 percent) and the individual hospital's adjusted intern-and-resident to bed ratio. We determined that adjusted ratio by dividing the hospital's number of FTE interns and residents for the cost reporting period by the hospital's bed size determined at the beginning of the cost reporting period represented in the data base period to obtain the hospital's intern-and-resident to bed ratio, and dividing that ratio by .1.

3. Adjustments for Variation in Hospital Wage Levels

Section 1886(d)(2)(C)(ii) of the Act requires that the updated amounts be standarized by adjusting for variations among hospitals in the average area hospital wage level. Therefore, the updated average cost per discharge is divided into labor-related and nonlabor-related portions. We determined the labor-related portions by multiplying each hospital's cost per discharge by 79.15 percent which is the labor-related portion of costs from the market basket. The labor-related portion is then divided by the appropriate wage index for the geographic area in which the hospital is located to remove the effects of local wage differences from hospital costs. An example of standardization for area wage differences follows.

Example:

Assume a hospital has an average cost per Medicare discharge of $3,000 and the wage index for the area is 1.0293.

$3000 \times 79.15\% = 2374.50$ (labor share)

$$\frac{2374.50}{1.0293} = 2306.91 \text{ (wage adjusted labor share}$$

Table 4, section VII of the addendum to the interim final rule contains the wage indexes. Basically, the wage index relates wage and employment data, gathered by the Bureau of Labor Statistics, to a single national average. Since the wage index is used for measuring the differences between wages in any area and the national average, the index does not vary with changes in State or census division designations. The variation in adjusted

standardized amounts between regions (as shown in Table 1) is significantly less than it would have been if regional wage indexes had been used. We considered but rejected using regional wage indexes for the following reasons:

- Since DRG weighting factors are determined using national cost data, regional wage indexes would have to be converted to a national base to derive the appropriate weighting factor for each DRG.
- The use of regional wage indexes would not result in prospective payment rates that are different from those based on a national wage index.
- Regional wage indexes would confuse hospitals because the numerous base levels would result in index values that could not be directly compared across areas.

4. Cost-of-Living Factor for Alaska and Hawaii

Section 1886(d)(5)(C)(iv) of the Act authorizes the Secretary to provide for such adjustments to the payment amounts as the Secretary deems appropriate to take into account the unique circumstances of hospitals located in Alaska and Hawaii. Generally, these two States have higher levels of cost in comparison to other States in the nation. The high cost of labor is accounted for in the wage index adjustments discussed above. However, the high cost-of-living in these States also affects the cost of nonlabor items (e.g., supplies and equipment). Therefore, in order to remove the effects of the higher nonlabor costs from the overall cost data (i.e., for standardization purposes), the nonlabor portion of the average cost per Medicare discharge in hospitals located in Alaska and Hawaii is divided by an appropriate cost-of-living adjustment factor. Below are the factors used for this adjustment.

TABLE—COST-OF-LIVING ADJUSTMENT FACTORS, ALASKA AND HAWAII HOSPITALS

Alaska—All areas	1.25
Hawaii:	
Oahu	1.20
Kauai	1.175
Maui	1.20
Molokai	1.20
Lanai	1.20
Hawaii	1.10

(The above factors are based on data obtained from the U.S. Office of Personnel Management, published in their FPM–591 letter series.)

The formula used to make the standardization adjustments for the nonlabor related costs in Alaska and Hawaii is as follows:

$$\frac{\text{(Average Cost Per Medicare Discharge)} \times 20.85\%}{\text{(Cost-of-living Adjustment Factor)}}$$

D. Urban/Rural Averages Within Geographic Areas

Section 1886(d)(2)(D) of the Act requires that average standardized amounts per discharge be determined for hospitals located in urban and rural areas of the nine census divisions and the nation. Table 1, as revised in this addendum, contains the 18 regional standardized amounts (further divided into labor/nonlabor portions). The national standardized amounts are not included in the table because, for FY 84, Federal rates are based on regional averages only. The statute further specifies that the term "urban area" means an area within a Standard Metropolitan Statistical Area, as defined by the Executive Office of Management and Budget (EOMB), or within such similar area as the Secretary has recognized by regulation. As explained in detail in section III.C.1.d. of the preamble to the interim final rule, EOMB began using Metropolitan Statistical Areas (MSAs), in lieu of SMSAs, on June 30, 1983. The term "rural area" means any area outside of urban areas.

As a result, the average standardized amounts per Medicare discharge for each hospital have been grouped according to urban or rural designation into the nine census divisions (i.e. 18 separate means).

E. Adjustment to Average Standardized Amounts

The average standardized amounts, calculated as described above, were further adjusted as explained below.

1. Part B Costs

Section 602(e) of Pub. L. 98–21 amends section 1862(a) of the Act to prohibit payments for nonphysician services furnished to hospital inpatients unless the services are furnished either directly by the hospital or by an entity under arrangements made by the hospital. While this provision applies both to inpatient hospital services paid for on the basis of prospective payment rates and to such services paid for on a reasonable cost basis (i.e., furnished by hospitals excluded from prospective payment), it is discussed here only as it applies to adjustments to the standardized amounts for prospective payment.

Essentially, the prospective payment rates are intended to cover all inpatient services except "physicians' services". Since, in the past, many services for inpatients were billed under Part B, the standardized amounts calculated here were derived from data which did not reflect all services provided to inpatients. Therefore, in order to adjust the standardized amounts per discharge so that they represent costs previously billed under Part B, the amounts were increased by .13 percent. This is an estimate of the costs of inpatient hospital services previously billed to HCFA under Part B (updated to reflect 1984 costs) made by HCFA's Office of Financial and Actuarial Analysis.

2. FICA Taxes

Section 102 of Pub. L. 98–21 requires that certain hospitals (i.e., non-profit organizations), enter the Social Security system and begin paying FICA taxes for employees beginning January 1, 1984. Section 1886(b)(6) of the Social Security Act is also amended requiring that adjustments be made in the base period costs used to determine the hospital-specific portion of the prospective payment rate in recognition of these higher payroll costs. The conference committee report accompanying Pub. L. 98–21 expressed the intent that the Federal rate also be adjusted to reflect this change. HCFA's actuaries have estimated the amount of the adjustment to the standardized amounts necessary to account for additional costs of payroll taxes for hospitals entering the Social Security system to be .18 percent. Therefore, we have increased the standardized amounts by this percentage.

3. Outliers

Section 1886(d)(5)(A) of the Act requires that payments, in addition to the basic prospective payment rates, be made for discharges involving day or cost outliers. Section 1886(d)(2)(E) of the Act correspondingly requires that the standardized amounts be reduced by a proportion which is estimated to reflect additional payments for outlier cases. The statute further directs that outlier payments may not be less than 5 percent or more than 6 percent of total payments projected to be made based on the prospective payment rates in any year. In accordance with these requirements, we have calculated a factor necessary to adjust standardized amounts for FY 84 to take into account outlier payments of 6.0 percent of total payments based on the Federal rate. This factor is .943.

4. Budget Neutrality

Section 1886(e)(1) of the Act requires that the prospective payment system result in aggregate program reimbursement equal to "what would have been payable" under the reasonable cost provisions of prior law; that is, for fiscal years 1984 and 1985, the prospective payment system should be "budget neutral."

Under the Amendments, the prospective payment rates are a blend of a hospital-specific portion and a Federal portion. Section 1886(e)(1)(A) of the Act requires that aggregate payments for the hospital-specific portion should equal the comparable share of estimated reimbursement under prior law. Similarly, section 1886(e)(1)(B) of the Act requires that aggregate reimbursement for the Federal portion of the prospective payment rates plus any adjustments and special treatment of certain classes of hospitals should equal the corresponding share of estimated outlays prior to the passage of Pub. L. 98–21. Thus, for FY 84, 75 percent of total projected reimbursement based on the hospital-specific portion should equal 75 percent of total estimated outlays under law as in effect prior to April 20, 1983. Likewise, total estimated prospective payment system outlays deriving from the 25 percent Federal portion, including adjustments and special payment provisions, should equal 25 percent of projected reimbursement under prior laws.

The adjustment of the Federal portion was determined as follows:

- *Step 1*—Estimate total incurred payments for inpatient hospital operating costs for FY 84 that would have been made on a reasonable cost basis under Medicare prior to Pub. L. 98–21.
- *Step 2*—Multiply total incurred payments by 25 percent, i.e., the Federal portion of total payment amounts for fiscal year 1984.
- *Step 3*—Estimate the Federal portion of total payments that would have been made without adjusting for budget neutrality, but with the adjustment for outlier payments.
- *Step 4*—Add an estimate of total adjustments and payments under special payment provisions to the Federal portion (e.g., outliers, indirect medical education).
- *Step 5*—The difference between the Step 2 and Step 4 amounts is divided proportionally among the standardized amounts, resulting in the budget neutrality adjusted (standardized) amounts.

The resulting adjustment factor, for the Federal portion of payments for discharges in fiscal year 1984 occurring after 30 days after the date of publication, is .970. Payment amounts of hospitals excluded from the prospective payment system (e.g., psychiatric and children's hospitals) and of hospitals not participating in prospective payment because of their participation in demonstrations and studies were not included in the calculations above. For a more detailed explanation of budget neutrality, see section VIII of this addendum.

F. Summary of Calculations Resulting in Adjusted Standardized Amounts

In summary, we began our calculations by developing base year cost data for individual hospitals; we updated these amounts to account for inflation through fiscal year 1984; we standardized the data for variations in case mix, indirect medical education, area wage levels, and cost-of-living in Alaska and Hawaii; we grouped the data from individual hospitals and calculated average standardized amounts for urban and rural hospitals located in the nine census divisions and the nation; and we adjusted the resulting 18 average amounts in accordance with requirements of the Act. Throughout the remainder of this addendum, when we refer to "adjusted standardized amounts," we are referring to the 18 separate average amounts calculated as described above.

III. ADJUSTMENTS FOR AREA WAGE LEVELS AND COST-OF-LIVING IN ALASKA AND HAWAII

This section contains an explanation of the application of two types of adjustments to the adjusted standardized amounts that will be made by the fiscal intermediaries in determining the prospective payment rates as described in section IV. below. For discussion purposes, it is necessary to present the adjusted standardized amounts divided into labor and non-labor portions. Table 1, as revised in this addendum, contains the actual labor-related and nonlabor-related shares which will be used to calculate the prospective payment rates.

A. Adjustment for Area Wage Levels

Section 1886(d)(2)(H) of the Act requires that an adjustment be made to the labor-related portion of the national and regional prospective payment rates to account for area differences in hospital wage levels. This adjustment will be made by the fiscal intermediaries by multiplying the labor-related portion of the adjusted standardized amount by the appropriate wage index for the area in which the hospital is located. The wage indexes applicable for fiscal year 1984 are presented in Table 4, section VII of the addendum to the interim final rule.

B. Adjustment for Cost-of-Living in Alaska and Hawaii

As explained in section III.C.1.c.iv. of the preamble to the interim final rule the statute provides for an adjustment to take into account the unique circumstances of hospitals in Alaska and Hawaii. Higher labor-related costs for these two States were included in the adjustment for area wages above. The adjustment necessary for nonlabor-related costs for hospitals in Alaska and Hawaii will be made by the fiscal intermediaries by multiplying the nonlabor portion of the standardized amounts by the appropriate adjustment factor contained in the table in section II.C.4. of this addendum.

IV. FEDERAL PROSPECTIVE PAYMENT RATES

This section contains a brief explanation of how the adjusted standardized amounts are converted to prospective payment rates per discharge.

A. Discharge

The prospective payment system provides for payment of an amount per discharge. See section III.A. of the attached preamble which provides a detailed discussion of comments and changes regarding discharges and transfers. A "discharge" is defined in § 405.470(c).

B. DRG Classification System

All inpatient hospital discharges will be categorized according to one of 470 DRGs. (Note that no payment is made for DRG numbers 469 and 470.) Every hospital discharge case will fit into a DRG category and no case will apply to more than one category. The assignment is based on the principal diagnosis, secondary diagnoses (if any), procedures performed, and age, sex, and discharge status of the patient. Table 5, section VII of the addendum to the interim final rule, contains the list of DRGs.

C. DRG Weighting Factors

We have developed weighting factors for each DRG that are intended to reflect the relative resource consumption associated with each DRG. Each factor reflects the average cost, across all hospitals, of treating cases classified in that DRG relative to all other DRGs. In establishing the weighting factors, we used data from the MEDPAR file, from

Medicare cost reports, and from non-Medicare discharge records for Maryland and Michigan hospitals. Table 5, section VII of the addendum to the interim final rule contains the weighting factors corresponding to each DRG applicable for FY 84.

V. CALCULATION OF PROSPECTIVE PAYMENT RATES FOR FY 84

To ease the sudden impact of a completely new method of payment for hospital services, Pub. L. 98–21 provides for a 3-year transition period. The addendum to the interim final rule as revised here contains the method that will be used for calculating prospective payment rates for cost reporting periods beginning on or after October 1, 1983.

General Formula for Calculation of Prospective Payment Rates for Cost Reporting Periods Beginning on or after October 1, 1983 and Before October 1, 1984.

Prospective Payment rate = Hospital-Specific Portion + Federal Portion.

A. Hospital-Specific Portion

The hospital-specific portion (HSP) of the prospective payment rate is based on a hospital's historical cost experience. The conference committee report expresses the committee's expectation that the hospital-specific portion be based on the best data available at the time the rate is established for purposes of the transition period.

The hospital-specific portion is an amount derived from the following formula:

$$\frac{\text{(Base year Costs)}}{\text{(Case-mix Index)}} \times \text{Updating Factor} \times 75 \text{ percent} \times \text{DRG Weight}$$

1. Base-year Costs

Base year costs, necessary for calculating the hospital-specific portion of the prospective payment rates, are developed from cost data for the 12-month (or longer) reporting period ending on or after September 30, 1982 and before September 30, 1983. If the applicable period is less than 12 months, then the preceding 12-month (or longer) period is used.

Costs in excess of the routine cost limits (i.e., the section 223 limits) will be excluded from base year costs in calculating the hospital-specific portion in the same manner as they are excluded when determining base period costs for the rate-of-increase ceiling under 42 CFR 405.463.

Each hospital's total allowable Part A costs will be adjusted:

- To remove any capital-related costs;
- To remove any medical education costs;
- To remove the nursing differential previously permitted;
- To remove net kidney acquisition costs incurred in hospitals approved as renal transplantation centers;
- To include allowable malpractice insurance costs;
- To include estimated FICA taxes for those hospitals that did not incur such costs in the base period;
- To include the costs of services that were billed under Part B of the program during the base period but will be billed under Part A as inpatient hospital services effective October 1, 1983.

In order to make some of these adjustments, the intermediary must receive documentation from the hospitals as outlined in PRM Chapter 2800 (Transmittal 291).

Total allowable Medicare inpatient operating costs for each hospital, resulting from the above adjustments, are divided by the number of Medicare discharges during the applicable base year. The amount resulting from this calculation will be used as the base year cost per case for purposes of calculating the hospital-specific portion (HSP) of the transition period prospective payment rates.

2. Case-Mix Adjusted Base Year Cost

In order to take into consideration the hospital's individual case mix, the base year cost amount is divided by the case-mix index. (See Table 3a, section VII, of the addendum to the interim final rule which contains applicable case-mix indexes.) Adjusted base period costs are divided by the hospital's case-mix index to neutralize them for the effects of the mix of patients treated.

The effects of individual case complexity will be taken into account at the time the rate is applied by multiplying the hospital-specific rate by the weighting factor for the corresponding DRG in which the case is classified to determine the hospital-specific portion of payment for each case.

3. Budget Neutrality

The hospital-specific portion of the payment rates will be adjusted for cost reporting periods that begin between October 1, 1983 and October 1, 1985, to maintain budget neutrality in accordance with section 1886(e)(1)(A) of the Act. The hospital-specific portion of the rate is set at 75 percent in the first year.

An adjustment will be made to the otherwise applicable target rate percentage to maintain budget neutrality of the hospital-specific portion of the payment. To determine the necessary adjustment we estimated total expenditures under the reasonable cost methodology under TEFRA. The appropriate share of this estimate is compared to a projection of aggregate payments from the hospital-specific portion of the prospective payment amount. For example, if estimated outlays for inpatient operating payments under the law as in effect before April 20, 1983 would have been $10 billion, the total payments under the hospital-specific portion must equal $7.5 billion (75 percent of $10 billion) for FY 84. In making the above estimates, the statute specifies that payments made or estimated to be made for utilization review activities be excluded. The applicable adjustment factor for maintaining budget neutrality in the hospital-specific portion is .983. This factor has been included in the updating factor discussed in section 4 below.

4. Updating Factor

The hospital-specific rate is calculated by increasing the case-mix adjusted base year costs by an applicable updating factor in accordance with sections 1886(d)(2)(B) and 1886(e)(1)(A). The revision of the estimated rates of increase in hospital costs nationwide requires a modification of the budget neutrality factor incorporated in the applicable updating factor in order to meet the requirements of section 1886(e)(1)(A). This modification results in a reduction in the hospital-specific portion of the rate and applies to discharges occurring after 30 days after the date of publication. The delay in application is in accordance with section 604(c)(2) of Pub. L. 98–21, which directs that modifications which reduce prospective payment rates shall apply only to discharges occurring after 30 days after publication in the **Federal Register**. For discharges occurring after 30 days following publication of this final rule for cost reporting periods beginning on or after October 1, 1983 and before October 1, 1984, the updating factor is equal to the compounded applicable target rate percentage (as used for the rate of increase ceiling under revised 42 CFR 405.463),

multiplied by the modified adjustment factor for budget neutrality (.983). The table below sets forth the updating factors applicable to discharges in FY 1984 occurring after 30 days after the date of publication.

If base year cost reporting period ends	And first cost reporting period under PPS ends	Updating factor
Sept. 30, 1982	Sept. 30, 1984	1.13242
Oct. 31, 1982	Oct. 31, 1984	1.12938
Nov. 30, 1982	Nov. 30, 1984	1.12635
Dec. 31, 1982	Dec. 31, 1984	1.12333
Jan. 31, 1983	Jan. 31, 1985	1.12295
Feb. 28, 1983	Feb. 28, 1985	1.12456
Mar. 31, 1983	Mar. 31, 1985	1.12517
Apr. 30, 1983	Apr. 30, 1985	1.12578
May 31, 1983	May 31, 1985	1.12639
June 30, 1983	June 30, 1985	1.12701
July 31, 1983	July 31, 1985	1.12762
Aug. 31, 1983	Aug. 31, 1985	1.12823

If a hospital's base year cost reporting period ends on a day other than those listed above, the update factor for the month nearest to (i.e., either before or after) the actual ending date will be used. For example, if a hospital's cost reporting period ends between October 16 and November 15, the October 31 update factor will be used.

5. Example of Calculation of Hospital Specific Rate

Assume that a hospital's base year costs equal $3,000, its case-mix index is 1.0235, and the update factor for its cost reporting period is 1.13455 percent. The hospital-specific rate would be computed as follows:

$$\frac{\text{Base year costs}}{\text{Cases-mix index}} \times \text{Updating Factor} = \text{Hospital-specific rate}$$

$$\frac{\$3{,}000}{1.0235} \times 1.13455 = \$3{,}325.50$$

6. Calculation of Hospital-Specific Portion

The hospital-specific portion of a hospital's payment rate for a given discharge is calculated by:

Step 1—Multiplying the hospital-specific rate (as determined in subsection 1 through 5 above) by 75 percent, and

Step 2—Multiplying the amount resulting from Step 1 by the specific DRG weighting factor applicable to the discharge. The result is the hospital-specific portion.

7. New Providers

Hospitals that have not completed a 12 month cost reporting period under Medicare (either under current or previous ownership) prior to September 30, 1983 will be considered new providers for purposes of the prospective payment system. These hospitals do not have any historical cost experience from which we could calculate a hospital-specific rate. Therefore, prospective payment rates for new providers will be computed without regard to the hospital-specific portion. Thus, new providers will be paid 100 percent of the Federal regional rate for discharges occurring on or after October 1, 1983 and before October 1, 1984.

B. Federal Portion

For discharges occurring before October 1, 1984, the Federal portion of the prospective payment rate is 25 percent of the Federal regional prospective rate. The Federal rates are determined by:

Step 1—Selecting the appropriate regional adjusted standardized amount considering the location and urban/rural designation of the hospital;

Step 2—Multiplying the labor-related portion of the standardized amount by the appropriate wage index;

Step 3—For hospitals in Alaska and Hawaii, multiplying the nonlabor-related portion of the standardized amount by the appropriate cost-of living adjustment factor;

Step 4—Summing the amounts from Step 2 and the nonlabor portion of the standardized amount (adjusted if appropriate under Step 3); and

Step 5—Multiplying the final amount from Step 4 by the weighting factor corresponding to the appropriate DRG Classification.

VI. ADDITIONAL PAYMENT AMOUNTS

In addition to prospective payment rates per discharge, payments will be made for items or services as specified below.

A. Outlier

In accordance with the statute, additional amounts are to be paid on a per case basis for atypical cases known as "outliers." These cases are those that have either an extremely long length of stay or extraordinarily high costs when compared to most discharges classified in the same DRG. See § 405.475 of the regulations regarding payment for outliers cases.

We established as our objectives in fiscal year 84 to define the outlier criteria so that total outlier payments for both types of outlier cases would amount to approximately 6.0 percent of total basic prospective payments (exclusive of outlier payments) that would be payable based on 100 percent of Federal (regional) rates and that approximately 85 percent of the outlier payments would be paid for day outliers and the remaining 15 percent would be paid for high cost outliers.

We analyzed the 1981 MEDPAR file to identify the criteria that would meet our objectives. In doing so, we set the per diem payment for day outliers at 60 percent of the hospital's Federal rate divided by the national geometric mean length of stay for the DRG. For high cost outliers, we set the payment at 60 percent of the difference between adjusted covered charges and the applicable cost criterion for the DRG. We calculated the adjusted covered charges by inflating the covered charges for the case to fiscal year 84, multiplying them by .72 (the national ratio of operating cost to total inpatient charges) and dividing the result by the hospital's educational adjustment factor.

We tested alternative sets of criteria to identify the combination that would result in the desired levels of outlier payments. Based on this analysis, we are providing that a discharge in fiscal year 84 will be considered an outlier if the number of days in the stay exceeds the mean length of stay for discharges within the DRG by the lesser of 20 days or 1.94 standard deviations. The first criterion will primarily identify cases in the long-stay resource intensive DRGs whereas the second criterion should identify slightly less than 2.5 percent of the cases within primarily short-stay DRGs as outliers. In total, we estimate 4.4 percent of all cases will qualify as day outliers.

For fiscal year 84, we are also providing that a discharge that does not qualify as a day outlier will be considered a high cost outlier if the cost of covered services exceeds the greater of 1.5 times the Federal rate (regional) for the DRG or $12,000. Both criteria will be adjusted for area wage differences. The first criterion will operate only for the relatively few DRGs with a Federal rate of $8,000 or more. In most cases, the $12,000 criterion will operate. In total, we estimate 1.0 percent of all cases will qualify as high cost outliers.

B. Additional Payments on Reasonable Cost Basis

1. Capital-Related Costs

In accordance with the statute, payment for capital-related cost (as described in § 405.414) will be determined on a reasonable cost basis.

The capital-related costs must be determined consistently with the treatment of such costs for purposes of determining the hospital-specific portion of the hospital's prospective payment rate under § 405.474(b).

2. Direct Medical Education

In accordance with the statute, the direct costs of medical education programs will be paid on the basis of reasonable cost subject to applicable regulations at § 405.421.

3. Direct Medical and Surgical Services of Teaching Physicians

In accordance with the statute, payment for direct medical and surgical services of physicians in teaching hospitals will be made on a reasonable cost basis under § 405.465 where the hospital exercises the election as provided for in § 405.521(d).

C. Bad Debts

An additional payment will be made to each hospital in accordance with § 405.420 for bad debts attributable to deductibles and coinsurance amounts related to covered services received by beneficiaries.

D. Indirect Medical Education

Section 1886(d)(5)(B) of the Act provides for additional payments to be made to hospitals under the prospective payment system for the indirect costs of medical education. This payment is computed in the same manner as the indirect teaching adjustment under the notice of hospital cost limits published September 30, 1982 (47 FR 43310), except that the educational adjustment factor is to equal twice the factor computed under that method.

If a hospital has a graduate medical education program approved under 42 CFR 405.421, an additional payment will be made equal to 11.59 percent of the aggregate payments made to the hospital, based on the Federal portion of prospective payments and outlier payments related to those portions, for each .1 increase (above zero) in the hospital's ratio of full-time equivalent (FTE) interns and residents (in approved programs) to its bed size.

The number of FTE interns and residents is the sum of:

1. Interns and residents employed for 35 hours or more per week, and
2. One-half of the total number of interns and residents working less than 35 hours per week (regardless of the number of hours worked).

For purposes of this payment, a hospital will be allowed to count only interns and residents in teaching programs approved under § 405.421 who are employed at the hospital. See § 405.477(d)(2) regarding exceptions in counting interns and residents employed by an organization with a long-standing history of medical relationship.

VII. TABLES

This section contains revisions to Table 1 and the headings on Table 5 as set forth below. Tables 2, 3a, 3b, 4a, and 4b are unchanged (See the addendum to the interim final rule.).

TABLE 1.—ADJUSTED STANDARDIZED AMOUNTS

(Labor/Nonlabor)

Region	Urban		Rural	
	Labor related	Non labor related	Labor related	Non labor related
1. New England (CN, ME, MA, NH, RI, VT)	2,332.56	635.51	1,994.31	482.14
2. Middle Atlantic (PA, NJ, NY)	2,096.87	[illegible]	1,984.97	488.97
3. South Atlantic (DL, D.C., FL, GA, MD, NC, SC, VA, WV)	2,183.42	[illegible]	1,796.04	406.30
4. East North Central (IL, IN, MI, OH, WS)	2,330.77	677.44	1,950.90	455.12
5. East South Central (AL, KT, MS, TN)	1,982.32	517.99	1,811.73	380.17
6. West North Central (IA, KS, MN, MO, NB, ND, SD)	2,273.55	[illegible]	1,820.83	390.59
7. West South Central (AR, LA, OK, TX)	2,137.03	570.02	1,754.37	378.77
8. Mountain (AZ, CO, ID, MT, NV, NM, UT, WY)	2,099.73	605.05	1,818.61	425.10
9. Pacific (AK, CA, HA, OR, WA)	2,210.17	708.49	1,900.63	495.70

TABLE 1.—ADJUSTED STANDARDIZED AMOUNTS—Continued

(Labor/Nonlabor)

Region	Urban		Rural	
	Labor related	Non labor related	Labor related	Non labor related
6. West North Central (IA, KS, MN, MO, NB, ND, SD)	2,273.55	[illegible]	1,820.83	390.59
7. West South Central (AR, LA, OK, TX)	2,137.03	570.02	1,754.37	378.77
8. Mountain (AZ, CO, ID, MT, NV, NM, UT, WY)	2,099.73	605.05	1,818.61	425.10
9. Pacific (AK, CA, HA, OR, WA)	2,210.17	708.49	1,900.63	495.70

In response to a comment received requesting clarification of the "outlier cutoff" day in Table 5 of the addendum in the interim final rule (48 FR 39876), we are changing the column heading from "OUTLIER CUTOFFS" to "OUTLIER THRESHOLD". In accordance with § 405.475(c)(1), outlier payments are applicable for covered days of care beyond the threshold day. We are providing below the revised title and column headings for Table 5.

LIST OF DIAGNOSIS-RELATED GROUPS (DRGS), RELATIVE WEIGHTING FACTORS, GEOMETRIC MEAN LENGTH OF STAY, AND LENGTH OF STAY OUTLIER THRESHOLD POINTS USED IN THE PROSPECTIVE PAYMENT SYSTEM

DRG	MDC	TITLE	RELATIVE WEIGHTS	GEOMETRIC MEAN LOS	OUTLIER THRESHOLD

VIII. TECHNICAL EXPLANATION OF THE BUDGET NEUTRALITY ADJUSTMENT METHODOLOGY

A. Overview

Section 1886(e)(1) of the Act requires that, for Federal fiscal years 1984 and 1985, prospective payments be adjusted so that aggregate payments for the operating costs of inpatient hospital services are neither more nor less than we estimate would have been paid under prior legislation for the costs of the same services. To implement this provision, we are making actuarially determined adjustments to the average standardized amounts used to determine Federal national and regional payment rates and to the updating factors used to determine the hospital-specific per case amounts incorporated in the blended transition payment rates for fiscal years 1984 and 1985. Section 1886(d)(6) of the Act requires that the annual published notice of the methodology, data and rates include an explanation of any budget neutrality adjustments. This section is intended to fulfill that requirement.

In determining the amount of the budget neutrality adjustment factors, we have considered all hospital costs, including pass-through costs such as capital-related and direct medical education costs. However, it should be noted that the *aggregate payments* that will be adjusted to be budget neutral do not include payment for capital-related costs or direct medical education costs, payments for hospital and distinct part unit services excluded from the prospective payment system, payment of a return or equity capital, or payments on a reasonable cost basis to hospitals under the prospective payment system for outpatient services.

The budget neutrality adjustments required by the statute are determined by comparing an estimate of fiscal year 1984 reimbursement per discharge, under the law in effect prior to enactment of Pub. L. 98–21, with an estimate of DRG-related payments per

discharge (Federal rates, outlier payments, and payments for the indirect costs of medical education, before budget neutral adjustment) and with an estimate of the hospital-specific payments per discharge (before budget neutral adjustment). Therefore, payment under each of the three systems (reasonable cost reimbursement, Federal rates, and hospital-specific rates) must be estimated separately.

Although, for methodological reasons, the budget neutrality adjustment is calculated on a per discharge basis, it should be emphasized that the ultimate comparison is between the aggregate payments to be made under the prospective payment system and the aggregate payments that would have been incurred under the prior legislation. Therefore, changes in hospital behavior from that which would have occurred in the absence of the prospective payment system are required to be taken into account in determining the budget neutrality adjustment if they affect aggregate payment. For example, any expectation of increased admissions beyond the level that would have occurred under prior law would have to be considered in the adjustment. To assist in making the budget neutrality adjustment for fiscal year 1985, HCFA will monitor for, and take account of, changes in hospital behavior attributable to the new system.

Subsequent adjustments, exceptions and other occurrences not included in the calculations of budget neutrality will be carefully analyzed to determine what costs would have occurred under TEFRA and under the prospective payment system. Generally, changes will be made prospectively. Changes which would differentially affect projected TEFRA costs and prospective payments in a significant manner will ordinarily prompt a recalibration of the rates to preserve budget neutrality.

Based on the estimates of projected payments under all three systems, we must derive two budget neutrality adjustment factors for Federal fiscal year 1984. The first such factor will be applied in computing Federal regional rates for cost reporting periods beginning during Federal fiscal year 1984. The second budget neutrality adjustment factor will be applied in computing the updating factors used to determine the hospital-specific portion of transition payment rates for cost reporting periods beginning during the fiscal year.

B. Assumptions and Data

The Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) established a DRG-adjusted limit on the allowable amount of inpatient operating costs per case and a per case limit on the rate of increase of operating costs of inpatient hospital services. Due to these per case limits, the incentives that influence hospital admission patterns are similar under TEFRA and prospective payment. Accordingly, we have assumed that the number of admissions under both prior law and the prospective payment system will be the same. As a result, the budget neutrality factors can be calculated by comparing reimbursement per discharge for each of the systems, and there is no need to estimate an actual number of hospital admissions. (Since the interim rule was published on September 1, 1983, we have revised certain assumptions that affect the determination of budget neutrality adjustment factors. However, the revised assumptions relate to rates of cost increase nationwide *prior to* the implementation of the prospective payment system. This change has slightly lowered the estimated payment per discharge under all three payment systems considered in the comparisons described below, and has resulted in revised adjustment factors. This revision does not reflect any change in our assumptions about numbers of admissions under prospective payment.)

A hospital will begin receiving payment under the prospective payment system at the beginning of its first cost reporting period starting on or after October 1, 1983. Therefore, most hospitals will not be under the prospective payment system for the entire Federal fiscal year 1984. Hence, the payment per discharge under each of the systems should be estimated only for those portions of hospital cost reporting periods beginning October 1, 1983 or later that overlap Federal fiscal year 1984. To properly compute payment per discharge, total payment is divided by the number of discharges across all hospitals. We developed a distribution of discharges that occur between the start of a hospital's cost reporting period (that starts in Federal fiscal year 1984) and September 30, 1984. This distribution, which was developed from the March 1983 update of the 1982 discharge notice file, was applied to the number of discharges in the hospital's 1981 data. This procedure properly weights the relative sizes of hospitals and cost reporting period distributions for computing payments per discharge.

Since the prospective payment system is to be budget neutral for included hospitals, and since the prospective payment system will not change payments to hospitals that are excluded from that system, excluded hospitals were removed from the determinations (for example, long term care, psychiatric, and children's hospitals). Further, four States (Maryland, Massachusetts, New Jersey, and New York) currently operate alternative reimbursement systems under Medicare waivers. Since payment amounts in these States will not change because of the prospective payment system, hospitals in these States were removed from the determination of payment per discharge under each of the three systems for purposes of determining budget neutrality.

We also assumed that the means of affording exceptions or special treatment for sole community hospitals under different systems would provide comparable relief to those relatively few hospitals that qualify for such exceptions and treatment. Since the amounts of special payments to these hospitals are assumed to be the same under the different systems, the budget neutrality determination is not affected by these payments. Therefore, we did not make explicit allowance for additional payments to these hospitals in our estimates and comparisons.

Section 1881(e)(1) of the Act requires that total payments under the DRG system and under the HSP system be the same as total payments that would have been payable under provisions of the prior law (that is, for fiscal year 1984, the limits that would have been implemented under provisions of TEFRA). To achieve this we have equalized the amounts payable under the Federal rate and HSP systems with those that would have been payable on a periodic basis under TEFRA, not with the total end-of-year cash amounts. As a result, changes of cash flow, timing of payments, and retroactive payments will not affect the budget neutrality determination.

Operating costs are defined differently under the different systems. We excluded malpractice costs and kidney acquisition costs from operating costs under the TEFRA limits. However, the Federal rate and HSP systems exclude the same kidney acquisition costs but include malpractice costs under operating costs. We must use a method of comparing costs that takes into account "the payment amounts which would have been payable for such services for those same hospitals", as required by law. If we were to compare only the operating costs of the different payment systems we would not fulfill the statutory requirement, since the actual amounts paid are comparable only if we include both operating and nonoperating costs. Hence, nonoperating costs (excluding payments to

proprietary hospitals for a return on equity capital) must also be included in the calculation of the budget neutrality adjustment factors. By using total costs, including nonoperating costs, in the comparisons necessary to determine budget neutrality adjustments, we will ensure that the amounts considered under the Federal and hospital-specific rate systems are comparable to amounts payable under prior law.

These comparisons will yield adjustments reflecting *differences* between the systems in a way that prevents distortions by differing definitions of operating costs. The equations below illustrate that comparing total costs in determining budget neutrality adjustments produces results identical to those that would have been produced using only operating costs under the Federal rate system and comparable costs under the TEFRA system.

Cost Components Under Federal rate and TEFRA systems

Federal rate × budget neutral factor = TEFRA operating costs + Malpractice costs

Federal rate × budget neutral factor + (kidney acquisition costs + capital costs + direct medical education costs) = TEFRA operating costs + (Malpractice costs + capital costs + kidney acquisition costs + direct medical education costs)

Federal rate × budget neutral factor + Federal system nonoperating costs = TEFRA operating costs + TEFRA nonoperating costs

The analysis is identical for the hospital-specific rate system. Note that payments for a return on equity (which are not classified as operating costs) are excluded from the equations. Since the amounts for return on equity differ among the systems, adding in return on equity would unbalance the equations. (Under prior law, which must be reflected in the TEFRA estimates, the rate of return was set at 1.5 times the Hospital Insurance Trust Fund interest rates, whereas under Pub. L. 98–21 the rate of return applicable to the costs related to inpatient hospital services was reduced to 1.0 times that rate.)

C. Estimated Payment per Discharge Under Prior Law (TEFRA Limits)

To estimate payment per discharge under prior law, the TEFRA limits that would have been published must first be determined. These limits are calculated in the same manner as the fiscal year 1983 limits, except that the most recent data available (that is, 1981 cost report and billing data) are used, and the fiscal year 1984 limit is set at 115 percent of the mean, instead of 120 percent of the mean, in accordance with section 1886(a)(1)(A)(ii) of the Act.

To estimate payment per discharge under the TEFRA limits, cost per discharge must be estimated for each hospital and compared to the costs allowable under the TEFRA limits, that is, DRG-adjusted cost per case limits on inpatient operating costs and the separate limit on the rate of increase of those costs. Since the rate of increase target rate percentage is less than the average rate of increase in hospital costs, comparison of the rate of increase target rate percentage to the average rate of increase in hospital costs would lead to the conclusion that all hospitals would be penalized by the rate of increase limit and that no hospital would receive a bonus. (Under section 1886(b)(1) of the Act, a hospital that has per case costs less than its target amount would be paid a bonus of 50 percent of the amount by which the target amount exceeds its cost, or five percent of its target amount, whichever is less. Alternatively, a hospital that has costs in excess of its target amount would, for cost reporting periods beginning in Federal fiscal years 1983 or 1984, be paid only 25 percent of its costs in excess of the target amount.) To overcome this erroneous conclusion, the rate of increase target must be compared to cost increases that vary by hospital.

Hospital cost per discharge data for cost report years 1978, 1979, 1980, and 1981 were analyzed for patterns in rates of increase in costs per discharge. Study found that the statistical distributions of rates of increase in cost per discharge closely fit the normal distribution. Since the second year of TEFRA uses a two-year rate of increase target over the hospital's base year, we analyzed two-year rates of increase and found that a normal distribution with a standard deviation of 12 percent closely approximated the distributions. To compute a hospital's cost per discharge for comparison to the hospital's TEFRA rate-of-increase target amount, the hospital's base year costs were increased by a randomly determined factor. This factor was computed by adding the estimated two-year average rate of increase in cost per case to a random number. This random number is generated from a statistical distribution that is normal with a mean of zero, and has a standard deviation of 12 percent. Further, the random numbers were restricted so that none were further than three standard deviations from the mean. This randomly determined cost per admission for a hospital was compared to the rate of increase limit target amount for determining the reimbursement per discharge under TEFRA. Because of the randomizing process, not all hospitals are shown to be penalized by the targets; hospitals with cost per case over the target amount are shown as receiving one quarter of their excess costs over that limit (in accordance with section 1886(b) of the Act), and some hospitals are shown to receive bonus payments. To measure the overall stability, the model was tested with ten different sets of random numbers and found to be stable.

The cost per discharge that is compared to the TEFRA limits was adjusted by 0.1326 percent before comparison to the TEFRA limts to account for the shift of certain types of costs to Part A of Medicare because of the regulations on payment for physicians' services to patients and providers, published March 2, 1983. (These rules implement section 1887 of the Act, established by section 108 of TEFRA. (48 FR 8902; 42 CFR 405.480 through 405.482, and 405.550 through 405.556.)) Since this adjustment increases the costs of hospitals below the limits, it will have the effect of raising slightly the estimate of TEFRA payment per discharge.

D. Estimated Payment on a Federal Rate (DRG) Basis

The estimated payment per discharge based on DRG-related payments (that is, Federal rates plus outlier payments) was estimated by directly using the adjusted average standardized amounts, adjusted by the applicable wage index, cost of living adjustment (for hospitals in Alaska and Hawaii), and case mix for each hospital. Additional outlier payments were computed using each hospital's historical experience in the MEDPAR file. The payment amounts were further adjusted to include the indirect costs of medical education.

Before the ratio of estimated DRG-related payments to the estimated payments under prior law is computed, the estimated DRG-related payment was increased by 3.38 percent to reflect improvements and greater completeness in the coding of diagnoses and procedures on the bills. This adjustment is necessary because payment will depend on the diagnoses and procedures coded on the bill, and hospitals will have the incentive to be more complete than in the past in reporting diagnoses and procedures.

Hospitals reported diagnoses on the bills that are included in the 1981 MEDPAR data. For a variety of reasons, these diagnoses were not always completely or accurately coded, especially when payment did not depend on the diagnoses coded. Since payments under the prospective system

depend on the diagnoses and procedures coded, hospitals will submit complete and accurate data. We studied the differences between bills coded for the MEDPAR and bills coded after medical review. The carefully and completely coded bills were provided from the PSRO Uniform Hospital Discharge Data Set (UHDDS) data base. The data base included about 9 million bills from all States except Nebraska and Texas. The study found that reimbursement under the prospective system using the PSRO data would be 3.38 percent higher than reimbursement using the MEDPAT DATA. Since the prospective rates are set using the MEDPAR data, actual reimbursement under the prospective system will be higher than predicted from the MEDPAR data; hence, the factor (3.38 percent) for improvements in diagnostic coding must be used for the budget neutral calculation.

E. Estimated Hospital-Specific (HSP) Payment per Discharge

To properly estimate the payments per discharge based on the hospital-specific rates to be used during the transition period, the hospital's base year cost per case must first be estimated, since actual base year data are not available. To estimate the base year, the 1981 cost report data were adjusted by the change in the nursing differential from 1981 to the base year. These data were updated to the base year and the resulting routine operating costs were compared with the appropriate routine cost limit applicable to base year cost reporting periods, as calculated from the September 30, 1981 **Federal Register** notice, to compute the savings resulting from application of the routine cost limits. Total costs were also reduced by the remainder of the amounts based on the Medicare nursing differential, since section 103 of TEFRA, by amending section 1861(v)(1)(J) of the Act, eliminated this differential effective with services furnished on or after October 1, 1982.

Operating costs were computed by carving out of total costs direct medical education, capital-related, and certain kidney acquisition costs. Operating costs were increased by 0.18 percent and 0.13 percent to adjust, respectively, for the extra estimated costs hospitals will report for their base year because of required coverage of their employees under FICA (as required by section 1886(b)(6) of the Act) and for the requirement that certain services are now required to be paid under Part A of Medicare which were formerly paid under Part B (as required by section 1886(b)(5)(D) of the Act). Operating costs were further increased by 0.1326 percent to account for the shift of certain types of costs to Part A of Medicare because of regulations on payment for physicians' services to patients and providers, published March 2, 1983. These rules implement section 1887 of the Act, established by section 108 of TEFRA (48 *FR* 8902; 42 CFR 405.480 through 405.482, and 405.550 through 405.556.) The base year operating costs were increased by two years of the market basket index increased by one percentage point for each year. This result was further increased by 3.38 percent to allow for improvements and greater completeness in the coding of diagnoses and procedures. This adjustment, discussed above under the Federal rate system, is necessary because the hospital-specific portion will be adjusted by the DRG weighting factors.

F. Adjustment for Outlier Payments

Sections 1886 (d)(2)(E) and (d)(3)(B) of the Act require that the average standardized amounts for the Federal rates be reduced so that, when combined with the outlier payments, the resulting payments will be the same as payments under a DRG-related system with no outlier payments but full standard DRG-adjusted rates.

For cost-reporting periods beginning during Federal fiscal year 1984, transition payment rates will be a blend of 25 percent of the applicable Federal rate and 75 percent of the applicable hospital-specific rate. As explained in the interim rules published September 1, 1983, we had decided to pay the full outlier payment for outlier cases, rather than to pay only a percentage equal to the Federal portion percentage of the blended rate. As a result, we adjusted both the Federal rates and the hospital-specific rates so that when estimated payments based on them were combined with the outlier payments, the resulting aggregate payments equaled the payments from full Federal or hospital-specific rates with no outliers. However, as explained in section III. of the preamble to these final regulations, we have now decided not to reduce the hospital-specific portion for outlier payments, and to pay only the Federal portion of outlier payments during the transition period. This has affected the budget neutrality computations. The revised computations are shown below.

The determination of the outlier payment criteria budget neutrality adjustment was done only with respect to hospitals that will be reimbursed under the prospective payment system, since outlier payments and standard payments under the prospective payment system will not be on behalf of exempt hospitals and hospitals in waiver States. Reimbursement to exempt hospitals and hospitals in waiver States is not changed by the provisions of the prospective payment system.

The outlier criteria were calibrated using experience in the 1981 MEDPAR file so that outlier payments would be 6 percent of standard payments. Since budget neutrality is determined based on total payments, the outlier payments should be compared to total payments (the sum of standard payments and outlier payments). Example: Suppose standard payments are $100 so that the desired outlier payments would be $6. Outlier payments as a percent of total payments would be $6 divided by ($100 + $6) = 5.7 percent.

The outlier adjustment ratio for Federal rates is calculated by dividing the total estimated payments on the basis of Federal rates by the sum of the Federal rate payments and the outlier payments. The outlier adjustment ratio is not applied to hospital-specific rates. The budget neutrality adjustments are applied to the outlier-adjusted Federal rates and the hospital-specific rates.

Example: Computation of outlier adjustment ratio of Federal rates.

Estimated Values:

Federal rate payment per discharge (before outlier adjustment)	[illegible]
Federal rate outlier payment per discharge (before outlier adjustment) *	205.80

Computation of Federal Rate Outlier Adjustment ($3,385.03 + $205.80) x Federal rate outlier adjustment = $3,385.03

Federal rate outlier adjustment = $3,385.03 divided by ($3,385.03 + $205.80)

Federal rate outlier adjustment = .943

Outlier adjusted Federal rate payment per discharge = $3,385.03 x .943 = $3,192.06

* This payment per discharge was calculated by applying the cost and length-of-stay outlier criteria to the MEDPAR experience and using all discharges, including discharges for which no outlier payments would be made.

G. Calculation of Budget Neutrality Adjustment Factors

As noted above, we must compute two budget neutrality adjustment factors—one for adjusting Federal rates and the other for adjusting the updating factors used to determine the hospital-specific rates.

For the Federal rate system, the following equation must be solved:

(Federal standard (outlier adjusted) payment per discharge + Outlier payment per discharge (computed from outlier adjusted Federal rates)) × Federal rate budget neutral factor (FRBN) + Federal rate system nonoperating cost per discharge = TEFRA operating reimbursement per discharge + TEFRA nonoperating cost per discharge.

Example: Computation of Federal Rate Budget Neutrality Adjustment Factor.

Estimated Values:

TEFRA operating reimbursement per discharge	$3,253.14
TEFRA nonoperating cost per discharge	347.55
Federal rate standard payment (outlier adjusted) per discharge	3,192.08
Federal rate outlier payment (based on above number) per discharge	194.07
Federal nonoperating cost per discharge	316.00

Solve:

(\$3,192.08 + \$194.07) × FRBN + \$316.00 = \$3,253.14 + \$347.55
\$3,386.15 × FRBN + \$316.00 = \$3,600.69
FRBN = (\$3,600.69 − \$316.00) divided by \$3,386.15
FRBN = .970

For the HSP system, the following must be solved:

(HSP payment per discharge × hospital-specific budget netural factor (HSBN)) + HSP system nonoperating cost per discharge = TEFRA operating reimbursement per discharge + TEFRA nonoperating cost per discharge.

Example: Computation of Hospital-Specific Rate Budget Neutrality Adjustment Factor

Estimated Values:

TEFRA operating reimbursement per discharge	$3,253.14
TEFRA nonoperating cost per discharge	347.55
HSP payment per discharge	3,342.12
HSP nonoperating cost per discharge	316.00

Solve:

(\$3,342.12 × HSBN) + \$316.00 = \$3,253.14 + \$347.55
HSBN = (\$3,600.69 − \$316.00) divided by \$3,342.12
HSBN = .983

Note that the HSP budget neutral factor is not applied to the outlier payments. Outlier payments are paid based only on applicable Federal rates, which already incorporate an adjustment for budget neutrality.

Note that payments per discharge were computed at 100 percent for purposes of the budget neutrality calculations. The calculated budget neutrality adjustment factors would be unchanged if computed from Federal rates at 25 percent compared with payments under prior law at 25 percent, and HSP rates at 75 percent compared with prior law payments at 75 percent.

H. Summary—Table of Outlier and Budget Neutrality Adjustment Factors—Federal Fiscal Year 1984

Adjustment factors	Federal rates	Hospital-specific rates
Outlier	0.943	
Budget Neutrality	0.970	0.983

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federal register

Tuesday
January 3, 1984

Part VII

Department of Health and Human Services

Health Care Financing Administration

Medicare Program; Schedule of Target Rate Percentages for Limits on the Rate of Hospital Cost Increases and Updating Factors for Transition Prospective Payment Rates; Second Quarter FY 84; Notice

VOL 49 ISS 1 JA 3 1984 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Medicare Program; Schedule of Target Rate Percentages for Limits on the Rate of Hospital Cost Increases and Updating Factors for Transition Prospective Payment Rates (Second Quarter FY 84)

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice sets forth target rate percentages needed to limit the rate of increase of hospital inpatient operating costs for cost reporting periods ending on or after January 1, 1984 and before September 30, 1984. The notice also—

- Announces the updating factors for computing the hospital-specific portion of transition period prospective payment rates for cost reporting periods beginning on or after January 1, 1984 and before October 1, 1984.
- Implements changes in the budget neutrality adjustment to the hospital-specific portion of the prospective payment rates for discharges occurring after 30 days after the date of publication of the final rule for prospective payment for inpatient hospital services.
- Sets forth, for hospitals not paid under the prospective payment system, the target rate percentages for cost reporting periods beginning on or after January 1, 1984 and before October 1, 1984.
- Describes changes in the way target rate percentages will be announced in the future.

EFFECTIVE DATE: See the text of this notice for an explanation of the application of these target rate percentages to particular cost reporting periods.

FOR FURTHER INFORMATION CONTACT: Marilyn Koch, (301) 594–9343.

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(a)(1) of the Tax Equity and Fiscal Responsibility Act of 1982, or TEFRA (Pub. L. 97–248, enacted September 3, 1982), added sections 1886(a) and (b) to the Social Security Act (the Act). These sections supplemented section 1861(v) of the Act by establishing under the Medicare program a limit on the amount of inpatient operating costs per discharge, and a new three-year control on the rate of increase of operating costs of inpatient hospital services. Section 1886(b) of the Act required that we establish a ceiling on the rate of increase of operating costs per case for inpatient hospital services and provided for both incentive payments for hospitals that keep their cost below the target, and a reduction in the amount of Medicare reimbursement for hospitals that incur costs greater than the target.

Title VI of Pub. L. 98–21, enacted April 20, 1983, amended section 1886(b) by providing that:

1. The rate of increase limits (described in regulations at 42 CFR 405.463) apply indefinitely rather than for a three-year period.

2. For cost reporting periods beginning on or after October 1, 1983, capital-related costs and the direct costs of approved medical education programs continue to be excluded from the ceiling.

3. An adjustment of base period costs is required to account for FICA taxes incurred by a non-profit hospital that had not incurred such taxes for all its employees in its base period.

4. The target rate percentages by which target amounts are determined will be established prospectively (rather than retroactively).

In addition to the changes required by Pub. L. 98–21, we amended the regulations at 42 CFR 405.463 and added a new section 405.477(c) in the **Federal Register** on September 1, 1983 (48 FR 39752) to state that:

1. Hospitals must treat capital-related costs and the direct costs of approved medical education programs consistently with the treatment in their base period.

2. Certain kidney acquisition costs are not subject to the rate of increase control.

3. The target rate percentages will be published in a quarterly **Federal Register** notice.

Title VI of Pub. L. 98–21 is, in general, effective for cost reporting periods beginning on or after October 1, 1983. It also amended section 1886(a) of the Act by eliminating the total cost limits on hospital inpatient operating costs effective with cost reporting periods beginning on or after October 1, 1983.

During the first three years of the prospective payment system, as established by Pub. L. 98–21, a portion of each hospital's prospective rate is calculated from each hospital's historical cost experience in its base cost reporting year. For a more indepth discussion of the phase-in period base year, hospital-specific portion and diagnosis related group (DRG) rate for the prospective payment system, see regulations published in the **Federal Register** on September 1, 1983 (48 FR 39752).

The hospital-specific portion consists of the hospital target amount multiplied by the applicable target percentage (as defined in section 1886(d)(1)(C) of the Act). In fiscal years 1984 and 1985, the applicable percentage increase (as defined in section 1886(b)(3)(B) of the Act) that is used to determine the hospital's target amount would be reduced to achieve budget neutrality in relationship to the reimbursement levels that would have been obtained under TEFRA. The adjustment for budget neutrality is modified by the final regulations implementing prospective payment. Since the modification results in a lower rate, that is, a slightly greater reduction for budget neutrality, the applicable percentage increase is less for discharges occurring after 30 days after the date of publication of the final prospective payment regulations. See final propsective payment regulations published elsewhere in this issue of the **Federal Register**.

Although most hospitals will be paid under the prospective payment system, some categories of hospitals as described in section III, of this notice continue to be reimbursed on a reasonable cost basis under the regulations at 42 CFR Part 405, Subpart D. The rate of increase limits in § 405.463 continue to apply to those hospitals reimbursed on a reasonable cost basis.

II. How the Rate of Increase Ceiling Works

We have established in our regulations a target rate percentage system to be applied to control the rates of increase of total hospital inpatient operating costs per case effective for 12-month cost reporting periods beginning on or after October 1, 1982 (see § 402.463(b)). The target rate percentage equals the estimated market basket increase plus one percentage point. In the first year of applicability, this target rate percentage is applied to each hospital's allowable inpatient operating cost per discharge for its immediately preceding cost reporting period (§ 405.463(c)). In the case of a hospital whose first reporting period subject to the rate-of-increase control began October 1, 1982, the target rate percentage was applied to the allowable inpatient operating cost per discharge for the period beginning October 1, 1981. The resulting amount was that hospital's target amount for inpatient operating cost per discharge in the first cost reporting period subject to this provision (§ 405.463(b)). The regulations provide that in each subsequent cost reporting period, the target amount will be

computed by applying the applicable target rate percentage to the previous period's target amount (§ 405.463(c)(4)(ii)).

If a hospital's costs in a subject cost reporting period are below its target amount, we will pay the hospital its actual costs per case plus the lower of 50 percent of the difference between the hospital's cost per case and the target amount, or five percent of the target amount. If a hospital's cost in a subject period is higher than its target amount, we will pay, in the first two years, the target amount plus 25 percent of the excess costs, and, in the third year, the target amount [§ 405.463(d)]. For cost reporting periods that began on or after October 1, 1982 and before October 1, 1983, the maximum payment is limited by the TEFRA limits on total inpatient operating cost established under section 1886(a) of the Act.

III. Hospitals Subject to the Rate of Increase Ceiling

Under the rules implementing TEFRA, only new hospitals and risk-basis health maintenance organizations (HMOs) were exempt from the rate of increase ceiling. All other hospitals participating in Medicare were subject to this rate of increase limit on inpatient operating costs for cost reporting periods beginning on or after October 1, 1982.

Under Pub. L. 98–21, most participating short-term acute care hospitals are paid under the prospective payment system and, therefore, are not subject to the rate of increase ceiling for cost reporting periods beginning on or after October 1, 1983. Rather, this ceiling will apply to hospitals and hospital units (that is, distinct part psychiatric and rehabilitation units) that are excluded from the prospective payment system and paid on a reasonable cost basis under our regulations at 42 CFR Part 405, Subpart D. The criteria for identifying these hospitals and units are set forth in the regulations on the prospective payment system (48 FR 39752) issued on September 1, 1983.

In summary, the following classes of hospitals will be subject to the rate of increase ceiling for cost reporting periods beginning on or after October 1, 1983:

- Psychiatric hospitals;
- Rehabilitation hospitals;
- Psychiatric and rehabilitation distinct part units;
- Children's hospitals;
- Long-term hospitals;
- Cancer hospitals that have elected to be reimbursed on a reasonable cost basis; and
- Hospitals outside the 50 States and the District of Columbia (for example, Puerto Rico).

IV. Inpatient Operating Costs Subject to the Rate of Increase Ceiling

The rate of increase ceiling applies to operating costs incurred by a hospital in furnishing inpatient hospital services. These operating costs *include* the operating costs related to ancillary services, to special care units and to routine services, such as nursing services and room and board.

For cost reporting periods beginning on or after October 1, 1982 and before October 1, 1983, inpatient operating costs *exclude* capital-related costs, the direct costs of medical education, malpractice insurance costs, and certain costs of kidney acquisition. However, section 601(a)(2) of Pub. L. 98–21 amended section 1886(a)(4) of the Act, which defines inpatient operating costs effective for cost reporting periods beginning on or after October 1, 1983. For those cost reporting periods, costs *excluded* from operating costs are capital-related costs, and certain medical education costs. In addition, because of the unique nature of and special coverage provisions relating to kidney acquisition, we decided to exclude these costs from the rate of increase limits.

V. Application of Target Rate Percentages

The target rate percentages are set at the market basket index plus one percentage point, in accordance with section 1886(b)(3)(B) of the Act. The market basket index is an estimate of the annual rate of increase in the costs of certain goods and services that are representative of the goods and services used by hospitals in the production of inpatient care. The items and services used in the market basket index have been selected and weighted to reflect the effect that general price changes have on hospital inpatient operating costs.

As stated in the **Federal Register** on September 1, 1983 (48 FR 39764), two changes were made to the market basket previously used under the hospital cost limits. Malpractice insurance is now included in the categories of expense in the market basket since malpractice insurance premiums are included in the prospective payment rates. We also revised the proportions assigned to each expense category to reflect the estimated proportions of total inpatient operating costs including malpractice insurance attributable to each category. For further background on the development of the market basket index, see Freeland, Anderson and Schendler, "National Hospital Input Price Index", *Health Care Financing Review*, Summer 1979, pp. 37–61. The market basket index set forth in this edition of the **Federal Register** applies this previously announced methodology without any changes.

When a hospital's cost reporting period spans two calendar years (that is, begins in one calendar year and ends in another), the hospital's target rate percentage will be determined by prorating the applicable percentages for the calendar years the period spans. The interim final regulations published in the **Federal Register** on August 30, 1983, amended § 405.463(c) to provide for quarterly publication of target rate percentages. The first such notice was also published in the **Federal Register** on September 1, 1983 (48 FR 39746).

However, as we indicated in the final regulations published elsewhere in this issue of the **Federal Register**, we have determined after further analysis that providing target rate percentages on a quarterly basis for the purpose of setting a hospital's base period cost per discharge under the prospective payment system creates unnecessary administrative difficulties.

Congress determined that certain hospitals will be excluded from the prospective payment system. Under the law, these hospitals will continue to be paid on a reasonable cost basis and will be subject to target rates under § 405.463.

Accordingly, the final regulations published elsewhere in this issue of the **Federal Register** eliminate the quarterly notices.

However, in order to allow hospitals the opportunity to adjust to this change in policy and to comply with rulemaking procedures under the Administrative Procedure Act (5 U.S.C. 553), we are providing in this notice the target rates based on the latest available data since the interim final regulations and notices were published on September 1. However, this notice will be the last of these quarterly notices, and the rates contained in it will apply as indicated below.

Hospitals With Cost Reporting Periods Beginning Before October 1, 1983

For 12-month cost reporting periods beginning on or after October 1, 1982 and before October 1, 1983, the applicable target rate percentages will be taken either from this notice or from the **Federal Register** notice published September 1, 1983 (48 FR 39746). Thus, the percentages published in this notice will be used to determine the rate of

increase ceilings for hospital cost reporting periods *ending* on or after January 1, 1984 and before September 30, 1984. To obtain the applicable target rate percentages for hospital cost reporting periods ending on or after September 30, 1983 and before January 1, 1984, refer to the September 1, 1983 **Federal Register** notice. These percentages will not be adjusted later if the actual rates of increase differ from the market basket estimates.

Cost reporting periods of other than 12 months that *do not* occur along with a change in operations of the facility as a result of changes in ownership, merger, or consolidation, are subject to the rate of increase limit. In such cases, the applicable target rate percentage must be obtained from HCFA. We will adjust the target percentage rate to reflect fewer months in the case of a short reporting period, using a monthly factor corresponding to the annual percentage rate and apply the ceiling. (We will also use such a monthly factor to make adjustments for cost reporting periods longer than 12 months.)

Hospitals Not Subject to the Prospective Payment System With Cost Reporting Periods Beginning On or After October 1, 1983

As noted above, Pub. L. 98–21 specified that, effective for cost reporting periods beginning on or after October 1, 1983, the target rate percentages must be established prospectively (for hospitals not paid under the prospective payment system). Therefore, the target rate percentages published in this notice will also be applied to 12-month cost reporting periods *beginning* on or after January 1, 1984 and before October 1, 1984. Again, these percentage rates will not be revised later based on actual market basket experience.

Prorating Calendar Year Percentages

A hospital's intermediary will prorate the appropriate calendar year percentages from Table A to determine the target rate percentage for a hospital with a cost reporting period that spans two calendar years. The intermediary will compute a prorated target rate percentage as follows:

1. The intermediary will determine the number of months in each calendar year covered by the hospital's cost reporting period.

2. The number of months for each calendar year will be divided by twelve and multiplied by the applicable target rate percentage for that year.

3. The two resulting percentages are added, yielding the hospital's target rate percentage for that cost reporting period.

Example A:

Hospital A has a cost reporting period beginning October 1, 1982 and ending September 30, 1983. Therefore, there are 3 months of the period in 1982 and 9 months of the period in 1983.

The applicable calendar year target rate percentages are:

1982: 10.3 (0.103)
1983: 7.2 (0.072)

Hospital A's rate percentage is calculated as follows:

$$\frac{(3\times 0.103)}{12} + \frac{(9\times 0.072)}{12} = 8.0\%$$

Example B:

Hospital B has a cost reporting period beginning November 1, 1983 and ending October 31, 1984. Therefore, there are 2 months of the period in 1983 and 10 in 1984.

The applicable calendar year target rate percentages are:

1983: 7.2 (0.072)
1984: 7.8 (0.068)

Hospital B's target rate percentage is calculated as follows:

$$\frac{(2\times 0.072)}{12} + \frac{(10\times 0.068)}{12} = 6.9\%$$

Note that in Example A, in which the cost reporting period begins before October 1, 1983, the resulting percentage will be applied retroactively. In Example B, the resulting percentage will be applied prospectively, since the cost reporting period begins after October 1, 1983.

VI. Updating Factors for Determining Transition Payment Rates Under the Prospective Payment System

The prospective payment rates during the initial three-year transition period are determined using a blend of Federal prospective payment rates (based on standardized payment amounts) and rates based on each hospital's cost experience. The hospital-specific portion of the transition payment rates is based on per discharge target amounts computed generally in the same way as are amounts for hospitals subject to the rate of increase ceiling.

For cost reporting periods beginning on or after January 1, 1984, we are publishing in Table B, below, updating factors for computing the hospital-specific portion of transition period prospective payment rates for discharges occurring on or before 30 days following the date of publication of final prospective payment rates in the **Federal Register**. (For cost reporting periods beginning on or after October 1, 1983 and before January 1, 1984, refer to the September 1, 1983 **Federal Register** notice (48 FR 39746)). The updating factors are computed by adjusting the calendar year target rate percentages by an actuarially estimated factor. This adjustment is necessary to implement the budget neutrality provisions of the statute. The factor is computed to ensure that the estimated amount of aggregate Medicare payments made based on the hospital-specific portion of the transition payment rates for Federal fiscal year 1984 is neither greater nor less than 75 percent of the payment amounts that would have been payable for the inpatient operating costs incurred by those same hospitals for fiscal year 1984 under title XVIII of the Act as it was in effect on April 19, 1983.

The budget neutrality adjustment has been modified in final regulations implementing prospective payment. We are publishing in table C the adjusted updating percentages that will apply for discharges occurring after 30 days following the date of publication of the final prospective payment rates in the **Federal Register.**

VII. Tables of Target Rate Percentages and Hospital-Specific Portion Updating Factors

TABLE A.—TARGET RATE PERCENTAGES

[Applicable to Hospitals Subject to the Rate of Increase Ceiling]

Calendar year	Estimated market basket index [1]	Target rate percentage
1983	5.9	6.9
1984	5.9	6.9
1985	6.6	7.6

[1] This market basket index includes malpractice insurance costs.

TABLE B.—UPDATING FACTORS [1]

[Applicable to Hospitals Under the Prospective Payment System for discharges occurring on or before 30 days following the date of publication of the final prospective payment rates.]

If base year cost reporting period ends	And first cost reporting period under PPS ends	Updating factor [2]
Dec. 31, 1982	Dec. 31, 1984	1.12448
Jan. 31, 1983	Jan. 31, 1985	1.12509
Feb 28, 1983	Feb. 28, 1985	1.12570
Mar. 31, 1983	Mar. 31, 1985	1.12631
Apr. 30, 1983	Apr. 30, 1985	1.12693
May 31, 1983	May 31, 1985	1.12754
June 30, 1983	June 30, 1985	1.12815
July 31, 1983	July 31, 1985	1.12877
Aug. 31, 1983	Aug. 31, 1985	1.12938

[1] Incorporates budget neutrality factor of .984.
[2] If a hospital's base year cost reporting period ends on a date other than as specified above, the fiscal intermediary will contact HCFA for the appropriate adjustment factor.

TABLE C.—UPDATING FACTORS [1]

[Applicable to Hospitals Under the Prospective Payment System for Discharges Occurring after 30 days following the date of publication of the final prospective payment rates]

If base year cost reporting period ends	And first cost reporting period under PPS ends	Updating factor [2]
Dec. 31, 1982	Dec. 31, 1984	1.12333
Jan. 31, 1983	Jan. 31, 1985	1.12386
Feb. 28, 1983	Feb. 28, 1985	1.12456
Mar. 31, 1983	Mar. 31, 1985	1.12517
Apr. 30, 1983	Apr. 30, 1985	1.12578
May 31, 1983	May 31, 1985	1.12639
June 30, 1983	June 30, 1985	1.12701
July 31, 1983	July 31, 1985	1.12762
Aug. 31, 1983	Aug. 31, 1985	1.12823

[1] Incorporates budget neutrality factor of .983.
[2] If a hospital's base year cost reporting period ends on a date other than as specified above, the fiscal intermediary will contact HCFA for the appropriate adjustment factor.

For discharges occurring after 30 days following the date of publication of the final prospective payment rate, the budget neutrality modification can be implemented by multiplying the previous target amount by .99898, the ratio of the revised budget neutrality factor to the original budget neutrality factor.

EXAMPLE

	Base year cost per discharge	Update factor (Table B)	Target amount
Discharges on or before 30 days following publication of final PPS rates	$3,000 ×	1.12448 =	$3,373.44

	Target amount	Ratio	Modified target amount
Discharges after 30 days following publication of final PPS rates	$3,373.44 ×	.99898 =	$3,369.99

	Base year cost per discharge	Modified update factor (Table C)	Modified target amount
Proof of computation	$3,000 ×	1.12333 =	$3,369.99

VIII. Impact Analysis

Executive Order 12291 requires us to prepare and publish a regulatory impact analysis for any regulations that are likely to have an annual effect on the economy of $100 million or more, cause a major increase in costs or prices, or meet other threshold criteria that are specified in that order. In addition, the Regulatory Flexibility Act (Pub. L. 96–354) requires us to prepare and publish a regulatory flexibility analysis for regulations unless the Secretary certifies that the regulations will not have a significant economic impact on a substantial number of small entities. (For purposes of the Regulatory Flexibility Act, small entities include all nonprofit and most for-profit hospitals.)

The primary purpose of this notice is to publish the updated target rate percentages for determining the rate of increase ceiling for hospitals subject to our regulations at 42 CFR 405.463, and the updating factors used to determine the hospital-specific portion of transition payment rates under the prospective payment system. These updates are derived by applying the most recent economic index data without revising the methodology.

This notice merely notifies the public of an update of the data derived from the rate of increase ceiling methodology (§ 405.463) and the methodology for determining the hospital-specific portion of the transition prospective payment rates (§ 405.474). The updated target rate percentages and updating factors announced in this notice do not result in an estimable impact because they do not affect these methodologies.

We have, therefore, determined that this notice does not meet any of the criteria of E.O. 12291 and that a regulatory impact analysis is not required. In addition, we have determined, and the Secretary certifies, that this notice will not have a significant economic impact on a substantial number of small entities, and that a regulatory flexibility analysis is therefore not required.

IX. Other Required Information

A. Response to Public Comments

In the interim notice (48 FR 39746) for the first quarter FY 84 target rate percentages and updating factors and the interim rules implementing the prospective payment system (48 FR 39752), we provided a 45-day comment period. Our responses to comments on those documents are addressed in the final rule on the prospective payment system. Those documents announced the methodology followed in this notice.

B. Paperwork Reduction Act

This final notice does not contain information collection requirements that are subject to review by the Executive Office of Management and Budget under the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

C. Waiver of Prior Public Comment Period and 30-Day Delay in Effective Date

The Administrative Procedure Act (5 U.S.C. 553) (APA) provides for a period of public comment and for a 30-day delay in the effective date of substantive rules, unless there is good cause to waive the requirements. Because this notice merely announces the target rate percentages and updating factors computed under a previously established methodology, it is not subject to these APA procedures.

The target rate percentages and updating factors published in this interim notice are necessary for several purposes:

For hospitals reimbursed on a reasonable cost basis—

- To compute appropriate rate of increase ceilings under our regulations at § 405.463 for hospital cost reporting periods ending on or after January 1, 1984 and before September 30, 1984;
- To compute appropriate rate of increase ceilings under § 405.463 for hospital cost reporting periods beginning on or after January 1, 1984 and before October 1, 1984; and

For hospitals paid under the prospective payment system—

- To update the cost data used to determine the hospital-specific portion of transition payment rates.
- To implement the revisions in the calculation of the budget neutrality adjustment for the hospital specific portion adopted in the final prospective payment rules.

The first purpose requires a retroactive application of percentages to cost reporting periods beginning as long ago as January 1, 1983. This retroactive effect is required by § 405.463.

The second purpose requires a prospective application of target rate percentages to cost reporting periods. This prospective effect is also required by § 405.463.

The updating factors for hospitals paid under the prospective payment system are necessary for the calculation of the transition payment rates that we will pay during the first year of that payment system. These updating factors become effective on January 1, 1984 in accordance with §§ 405.463 and 405.474. The modifications to the update factors for changes in the final prospective payment rates are effective for discharges occurring after 30 days following the date of publication in the **Federal Register** in accordance with § 405.474 of the final prospective payment regulation and section 604(c) of Pub. L. 98–21.

There are no changes in the methodology for computing the target rate percentages and updating factors. The modification of the budget neutrality reduction is the direct result of changes in the regulations implementing the prospective payment system. We invited comments on the interim notice (48 FR 39748) for the first quarter fiscal year 1984 target rate percentages and updating factors and the interim final rule on the prospective payment system (48 FR 39752). In those documents we discussed the methodology to be used in computing the target rate percentages and updating factors. We have reviewed the comments received regarding this methodology and have made appropriate changes, as necessary, in the final rule on the prospective payment system.

In addition, the requirement in the regulation for timely quarterly publication of this notice of target rate percentages and updating factors using the most recent estimates obviates the practicality of a prior public comment period.

For the reasons stated above, we believe that it is not practicable, necessary, or in the public interest to publish this notice as a proposal for public comment or to provide for a delay in the effective date.

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare-Hospital Insurance)

(Sections 1102, 1871, and 1886(b) and (d) of the Social Security Act (42 U.S.C. 1302, 1395hh, and 1395ww(b) and (d); 42 CFR 405.463 and 405.474)

Dated: November 28, 1983.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: December 22, 1983.

Margaret M. Heckler,

Secretary.

[FR Doc. 83-34634 Filed 12-30-83; 5:13 pm]

BILLING CODE 4120-03-M

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Tuesday, January 3, 1984

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TABLE OF EFFECTIVE DATES AND TIME PERIODS—JANUARY 1984

This table is for determining dates in documents which give advance notice of compliance, impose time limits on public response, or announce meetings.

Agencies using this table in planning publication of their documents must allow sufficient time for printing production.

In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or a holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
January 3	January 18	February 2	February 17	March 5	April 2
January 4	January 19	February 3	February 21	March 5	April 3
January 5	January 20	February 6	February 21	March 5	April 4
January 6	January 23	February 6	February 21	March 6	April 5
January 9	January 24	February 8	February 23	March 9	April 9
January 10	January 25	February 9	February 24	March 12	April 9
January 11	January 26	February 10	February 27	March 12	April 10
January 12	January 27	February 13	February 27	March 12	April 11
January 13	January 30	February 13	February 27	March 13	April 12
January 16	January 31	February 15	March 1	March 16	April 16
January 17	February 1	February 16	March 2	March 19	April 16
January 18	February 2	February 17	March 5	March 19	April 17
January 19	February 3	February 21	March 5	March 19	April 18
January 20	February 6	February 21	March 5	March 20	April 19
January 23	February 7	February 22	March 8	March 23	April 23
January 24	February 8	February 23	March 9	March 26	April 23
January 25	February 9	February 24	March 12	March 26	April 24
January 26	February 10	February 27	March 12	March 26	April 25
January 27	February 13	February 27	March 12	March 27	April 26
January 30	February 14	February 29	March 15	March 30	April 30
January 31	February 15	March 1	March 16	April 2	April 30

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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been changed since last week.

New units issued during the week are announced on the back cover of the daily **Federal Register** as they become available.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

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Title	Price	Revision Date
1, 2 (2 Reserved)	$6.00	Jan. 1, 1983
3 (1982 Compilation and Parts 100 and 101)	6.00	Jan. 1, 1983
4	7.50	Jan. 1, 1983
5 Parts:		
1–1199	8.50	Jan. 1, 1983
1200–End, 6 (6 Reserved)	6.00	Jan. 1, 1983
7 Parts:		
0–45	9.00	Jan. 1, 1983
46–51	7.50	Jan. 1, 1983
52	9.00	Jan. 1, 1983
53–209	7.50	Jan. 1, 1983
210–299	7.00	Jan. 1, 1983
300–399	5.50	Jan. 1, 1983
400–699	6.50	Jan. 1, 1983
700–899	6.50	Jan. 1, 1983
900–999	8.50	Jan. 1, 1983
1000–1059	7.50	Jan. 1, 1983
1060–1119	6.50	Jan. 1, 1983
1120–1199	7.00	Jan. 1, 1983
1200–1499	7.00	Jan. 1, 1983
1500–1899	6.50	Jan. 1, 1983
1900–1944	8.00	Jan. 1, 1983
1945–End	7.00	Jan. 1, 1983
8	6.50	Jan. 1, 1983
9 Parts:		
1–199	7.50	Jan. 1, 1983
200–End	7.50	Jan. 1, 1983
10 Parts:		
0–199	9.00	Jan. 1, 1983
200–399	7.50	Jan. 1, 1983
400–499	6.50	Jan. 1, 1983
500–End	7.00	Jan. 1, 1983
11	5.50	July 1, 1983
12 Parts:		
1–199	7.00	Jan. 1, 1983
200–299	8.00	Jan. 1, 1983
300–499	7.00	Jan. 1, 1983
500–End	8.00	Jan. 1, 1983
13	8.00	Jan. 1, 1983
14 Parts:		
1–59	7.00	Jan. 1, 1983
60–139	7.00	Jan. 1, 1983
140–199	5.50	Jan. 1, 1983
200–1199	7.00	Jan. 1, 1983
1200–End	6.50	Jan. 1, 1983
15 Parts:		
0–299	6.50	Jan. 1, 1983
300–399	7.00	Jan. 1, 1983
400–End	7.50	Jan. 1, 1983

Title	Price	Revision Date
16 Parts:		
0–149	7.00	Jan. 1, 1983
150–999	7.00	Jan. 1, 1983
1000–End	7.00	Jan. 1, 1983
17 Parts:		
1–239	8.00	Apr. 1, 1983
240–End	7.00	Apr. 1, 1983
18 Parts:		
1–149	7.00	Apr. 1, 1983
150–399	8.00	Apr. 1, 1983
400–End	6.50	Apr. 1, 1983
19	8.50	Apr. 1, 1983
20 Parts:		
1–399	5.50	Apr. 1, 1983
400–499	7.00	Apr. 1, 1983
500–End	7.50	Apr. 1, 1983
21 Parts:		
1–99	6.00	Apr. 1, 1983
100–169	6.50	Apr. 1, 1983
170–199	6.50	Apr. 1, 1983
200–299	4.75	Apr. 1, 1983
300–499	8.00	Apr. 1, 1983
500–599	6.50	Apr. 1, 1983
600–799	5.00	Apr. 1, 1983
800–1299	6.00	Apr. 1, 1983
1300–End	5.00	Apr. 1, 1983
22	8.50	Apr. 1, 1983
23	7.00	Apr. 1, 1983
24 Parts:		
0–199	6.00	Apr. 1, 1983
200–499	8.00	Apr. 1, 1983
500–799	5.00	Apr. 1, 1983
800–1699	6.50	Apr. 1, 1983
1700–End	6.00	Apr. 1, 1983
25	8.00	Apr. 1, 1983
26 Parts:		
§§ 1.0–1.169	8.00	Apr. 1, 1983
§§ 1.170–1.300	7.50	[1] Apr. 1, 1982
§§ 1.301–1.400	6.00	Apr. 1, 1983
§§ 1.401–1.500	7.00	Apr. 1, 1983
§§ 1.501–1.640	6.50	Apr. 1, 1983
§§ 1.641–1.850	7.50	[1] Apr. 1, 1982
§§ 1.851–1.1200	8.00	Apr. 1, 1983
§§ 1.1201–End	8.50	Apr. 1, 1983
2–29	7.00	Apr. 1, 1983
30–39	6.00	Apr. 1, 1983
40–299	7.50	Apr. 1, 1983
300–499	6.00	Apr. 1, 1983
500–599	8.00	[2] Apr. 1, 1980
600–End	5.00	Apr. 1, 1983
27 Parts:		
1–199	6.50	Apr. 1, 1983
200–End	6.50	Apr. 1, 1983
28	7.00	July 1, 1983
29 Parts:		
0–99	8.00	July 1, 1983
100–499	5.50	July 1, 1983
500–899	8.00	July 1, 1983
900–1899	5.50	July 1, 1983
1900–1910	8.50	July 1, 1983
1911–1919	4.50	July 1, 1983
1920–End	8.00	July 1, 1983
30 Parts:		
0–199	7.00	July 1, 1983
200–End	10.00	July 1, 1982
31 Parts:		
0–199	6.00	July 1, 1983
200–End	6.50	July 1, 1983
32 Parts:		
1–39, Vol. I	8.50	July 1, 1983

Title	Price	Revision Date
1–39, Vol. II	13.00	July 1, 1983
1–39, Vol. III	9.00	July 1, 1983
40–189	6.50	July 1, 1983
190–399	13.00	July 1, 1983
400–699	10.00	July 1, 1982
700–799	7.50	July 1, 1983
800–999	6.50	July 1, 1983
1000–End	6.00	July 1, 1983
33 Parts:		
*1–199	14.00	July 1, 1983
200–End	7.00	July 1, 1983
34 Parts:		
1–299	13.00	July 1, 1983
300–399	6.00	July 1, 1983
400–End	8.50	July 1, 1982
35	5.50	July 1, 1983
36 Parts:		
1–199	6.50	July 1, 1983
*200–End	12.50	July 1, 1983
37	6.00	July 1, 1983
38 Parts:		
0–17	7.00	July 1, 1983
18–End	6.50	July 1, 1983
39	7.00	July 1, 1982
40 Parts:		
0–51	7.50	July 1, 1983
*52	14.00	July 1, 1983
53–80	8.50	July 1, 1982
81–99	7.50	July 1, 1983
100–149	6.00	July 1, 1983
150–189	6.50	July 1, 1983
190–399	7.00	July 1, 1983
400–424	6.50	July 1, 1983
425–End	7.50	July 1, 1982
41 Chapters:		
1, 1–1 to 1–10	7.00	July 1, 1983
1, 1–11 to Appendix, 2 (2 Reserved)	6.50	July 1, 1983
3–6	7.00	July 1, 1983
7	5.00	July 1, 1983
8	4.75	July 1, 1983
9	7.00	July 1, 1983
10–17	6.50	July 1, 1983
18, Vol. I, Parts 1–5	6.50	July 1, 1983
18, Vol. II, Parts 6–19	7.00	July 1, 1983
18, Vol. III, Parts 20–52	6.50	July 1, 1983
19–100	7.00	July 1, 1983
101	9.00	July 1, 1982
102–End	6.50	July 1, 1983
42 Parts:		
1–60	7.50	Oct. 1, 1982
61–399	7.00	Oct. 1, 1982
400–End	9.50	Oct. 1, 1982

Title	Price	Revision Date
43 Parts:		
1–999	7.00	Oct. 1, 1982
1000–3999	8.50	Oct. 1, 1982
4000–End	7.00	Oct. 1, 1982
44	7.50	Oct. 1, 1982
45 Parts:		
1–199	7.00	Oct. 1, 1982
200–499	6.00	Oct. 1, 1982
500–1199	7.50	Oct. 1, 1982
1200–End	7.50	Oct. 1, 1982
46 Parts:		
1–29	6.00	Oct. 1, 1982
30–40	5.50	Oct. 1, 1982
41–69	7.50	Oct. 1, 1982
70–89	6.00	Oct. 1, 1982
90–109	6.50	Oct. 1, 1982
110–139	5.00	Oct. 1, 1982
140–155	7.00	Oct. 1, 1982
156–165	7.50	Oct. 1, 1982
166–199	7.00	Oct. 1, 1982
200–399	8.50	Oct. 1, 1982
400–End	7.00	Oct. 1, 1982
47 Parts:		
0–19	8.50	Oct. 1, 1982
20–69	9.00	Oct. 1, 1982
70–79	8.00	Oct. 1, 1982
80–End	9.00	Oct. 1, 1982
48	1.50	[3] Sept. 19, 1983
49 Parts:		
1–99	6.50	Oct. 1, 1982
100–177	9.00	Oct. 1, 1982
178–199	8.00	Oct. 1, 1982
200–399	7.50	Oct. 1, 1982
400–999	8.00	Oct. 1, 1982
1000–1199	7.50	Nov. 1, 1982
1200–1299	7.50	Oct. 1, 1982
1300–End	7.50	Oct. 1, 1982
50 Parts:		
1–199	7.00	Oct. 1, 1982
200–End	8.00	Oct. 1, 1982
CFR Index and Findings Aids	9.50	Jan. 1, 1983
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Microfiche CFR Edition:		
Complete set (one-time mailing)	155.00	1982
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[1] No amendments to these volumes were promulgated during the period Apr. 1, 1982 to March 31, 1983. The CFR volumes issued as of Apr. 1, 1982 should be retained.

[2] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1983. The CFR volume issued as of Apr. 1, 1980, should be retained.

[3] Refer to September 19, 1983, FEDERAL REGISTER, Book II (Federal Acquisition Regulation).

CFR ISSUANCES 1983

Complete Listing of 1983 Editions and Projected January, 1984 Editions

This list sets out the CFR issuances for the **1983 editions** and projects the publication plans for the **January,** 1984 quarter. A projected schedule that will include the **April,** 1984 quarter will appear in the first **Federal Register** issue of **April.**

For pricing information on available 1983 volumes consult the CFR checklist which appears every Monday in the Federal Register.

Pricing information is not available on projected issuances. Individual announcements of the actual release of volumes will continue to be printed in the **Federal Register** and will provide the price and ordering information. The weekly CFR checklist or the monthly List of CFR Sections Affected will continue to provide a cumulative list of CFR volumes actually printed.

Normally, CFR volumes are revised according to the following schedule:

Titles 1–16—January 1
Titles 17–27—April 1
Titles 28–41—July 1
Titles 42–50—October 1

All volumes listed below will adhere to these scheduled revision dates unless a notation in the listing indicates a different revision date for a particular volume.

Titles revised as of January 1, 1983:

Title

CFR Index

1–2

3 (Compilation)

4

5 Parts:
1–1199
1200–End

6 [Reserved]

7 Parts:
0–45
46–51
52
53–209
210–299
300–399
400–699
700–899
900–999
1000–1059
1060–1119
1120–1199
1200–1499
1500–1899
1900–1944
1945–End

8

9 Parts:
1–199
200–End

10 Parts:
0–199
200–399
400–499
500–End

11 (Revised as of July 1, 1983)

12 Parts:
1–199
200–299
300–499
500–End

13

14 Parts:
1–59
60–139
140–199
200–1199
1200–End

15 Parts:
0–299
300–399
400–End

16 Parts:
0–149
150–999
1000–End

Titles revised as of April 1, 1983:

17 Parts:
1–239
240–End

18 Parts:
1–149
150–399
400–End

19

20 Parts:
1–399
400–499
500–End

21 Parts:
1–99
100–169
170–199
200–299
300–499
500–599
600–799
800–1299
1300–End

22

23

24 Parts:
0–199
200–499
500–799
800–1699
1700–End

25

26 Parts:
1 (§§ 1.0–1–1.169)
1 (§§ 1.170–1.300) (Cover only)
1 (§§ 1.301–1.400)
1 (§§ 1.401–1.500)
1 (§§ 1.501–1.640)
1 (§§ 1.641–1.850) (Cover only)
1 (§§ 1.851–1.1200)
1 (§§ 1.1201–End)
2–29
30–39
40–299
300–499
500–599 (Cover only)
600–End

27 Parts:
1–199
200–End

Titles revised as of July 1, 1983:

28

29 Parts:
0–99
100–499
500–899
900–1899
1900–1910
1911–1919
1920–End

30 Parts:
0–199
200–699 (Revised as of Oct. 1, 1983)*
700–End (Revised as of Oct. 1, 1983)*

31 Parts:
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200–End

32 Parts:
1–39, Vol. I
1–39, Vol. II
1–39, Vol. III
40–189
190–399
400–699
700–799
800–999
1000–End

33 Parts:
1–199
200–End

34 Parts:
1–299
300–399
400–End

35

36 Parts:
1–199
200–End

37

38 Parts:
0–17
18–End

39

40 Parts:
0–51
52
53–80
81–99
100–149
150–189
190–399
400–424
425–End

41 Parts:
Chap. 1 (1–1 to 1–10)
Chap. 1 (1–11 to App.)–2
Chap. 3–6
Chap. 7
Chap. 8
Chap. 9
Chap. 10–17
Chap. 18, Vol. I
Chap. 18, Vol. II
Chap. 18, Vol. III
Chap. 19–100
Chap. 101
Chap. 102–End

Titles revised as of October 1, 1983:

42 Parts:
1–60
61–399
400–End*

43 Parts:
1–999
1000–3999*
4000–End

44*

45 Parts:
1–199
200–499*
500–1199
1200–End

46 Parts:
1–40
41–69
70–89
90–139
140–155*
156–165*
166–199
200–399*
400–End

47 Parts:
0–19*
20–69*
70–79*
80–End*

48 (See 48 FR 41774 and 42103, Sept. 19, 1983)

49 Parts:

1–99*
100–177 (Revised as of Nov. 1, 1983)*
178–199 (Revised as of Nov. 1, 1983)*
200–399*
400–999*
1000–1199*
1200–1299*
1300–End*

50 Parts:
1–199*
200–End*

* Indicates volume is still in production and not ready for distribution.

Projected January 1, 1984 editions:

CFR Index

1–2

3 (Compilation)

4

5 Parts:
1–1199
1200–End

6 [Reserved]

7 Parts:
0–45
46–51
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53–209
210–299
300–399
400–699
700–899
900–999
1000–1059
1060–1119
1120–1199
1200–1499
1500–1899
1900–1944
1945–End

8

9 Parts:
1–199
200–End

10 Parts:
0–199
200–399
400–499
500–End

11 (To be announced)

12 Parts:
1–199
200–299
300–499
500–End

13

14 Parts:
1–59
60–139
140–199
200–1199
1200–End

15 Parts:
0–299
300–399 (To be announced)
400–End

16 Parts:
0–149
150–999
1000–End

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing December 19, 1983.

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announced)

C LAWS

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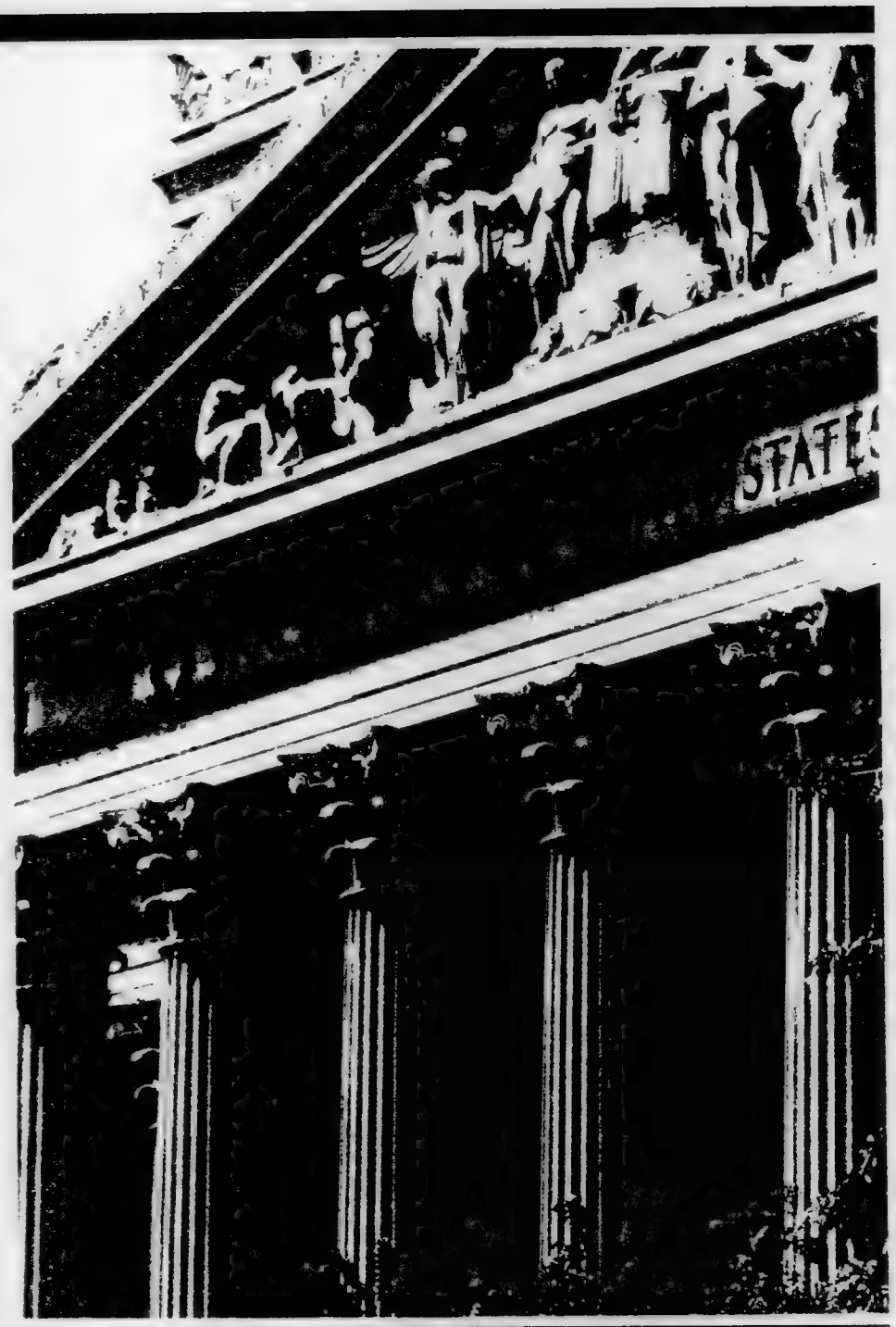

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federal register

Wednesday
January 4, 1984

Selected Subjects

Administrative Practice and Procedure
Patent and Trademark Office

Agricultural Commodities
Environmental Protection Agency

Air Pollution Control
Environmental Protection Agency

Animal Drugs
Food and Drug Administration

Aviation Safety
Federal Aviation Administration

Chemicals
Environmental Protection Agency

Color Additives
Food and Drug Administration

Environmental Protection
Environmental Protection Agency

Fisheries
National Oceanic and Atmospheric Administration

Hazardous Materials
Environmental Protection Agency

Housing Standards
Housing and Urban Development Department

Imports
Agriculture Department

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Savings and Loan Associations
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Presidential Documents

Title 3—

The President

Proclamation 5142 of December 29, 1983

To Amend Proclamation 5133 Implementing the Caribbean Basin Economic Recovery Act

By the President of the United States of America

A Proclamation

1. Section 212 of the Caribbean Basin Economic Recovery Act (the Act) (19 U.S.C. 2702) authorizes the President to designate certain countries and territories or successor political entities as "beneficiary countries" under the Act. In Proclamation 5133 of November 30, 1983, I designated several countries and territories as "beneficiary countries". I am now adding Antigua and Barbuda, Belize, El Salvador, Grenada, Guatemala, Haiti, Honduras, Montserrat, and the British Virgin Islands to the list of "beneficiary countries". I have notified the House of Representatives and the Senate of my intentions to designate these countries and given the considerations entering into my decision.

2. In order to add these countries to the list of beneficiary countries, I am amending the Annex to Proclamation 5133. I am also making certain technical corrections to the Annex to that proclamation.

NOW THEREFORE, I, RONALD REAGAN, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States, including but not limited to section 212 of the Act, do proclaim that:

(1) The list of countries in the Annex to Proclamation 5133 of November 30, 1983, is hereby amended by adding, in alphabetical order, "Antigua and Barbuda", "Belize", "El Salvador", "Grenada", "Guatemala", "Haiti", "Honduras", "Montserrat", and "Virgin Islands, British."

(2) The references to "the United States Committee for the Implementation of Textile Agreements" in the Annex to Proclamation 5133 of November 30, 1983, are corrected to read "the United States".

(3) The reference to TSUS items "748.45–478.50" in the Annex to Proclamation 5133 of November 30, 1983, is corrected to read "748.45–748.50".

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of December, in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 84-300
Filed 1-3-84; 11:23 am]
Billing code 3195-01-M

Editorial Note: The text of the President's letters to the Speaker of the House of Representatives and the President of the Senate, dated Dec. 29, 1983, on his intention to sign Proclamation 5142, is printed in the *Weekly Compilation of Presidential Documents* (vol. 19, no. 52).

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Presidential Documents

Executive Order 12454 of December 29, 1983

President's National Security Telecommunications Advisory Committee

By the authority vested in me as President by the Constitution and statutes of the United States of America, and in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), it is hereby ordered that the President's National Security Telecommunications Advisory Committee, established by Executive Order No. 12382, is continued until September 30, 1985.

Ronald Reagan

THE WHITE HOUSE,
December 29, 1983.

[FR Doc. 84-301
Filed 1-3-84; 11:24 am]
Billing code 3195-01-M

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Executive Order 12455 of December 29, 1983

President's Private Sector Survey on Cost Control in the Federal Government

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), and in order to extend the life of the President's Private Sector Survey on Cost Control in the Federal Government, it is hereby ordered that Section 4(b) of Executive Order No. 12369 of June 30, 1982, as amended, is further amended to read: "The Committee shall terminate on January 31, 1984, unless sooner extended.".

Ronald Reagan

THE WHITE HOUSE,
December 29, 1983.

[FR Doc. 84-302
Filed 1-3-84; 11:25 am]
Billing code 3195-01-M

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Presidential Documents

Executive Order 12456 of December 30, 1983

Adjustments of Certain Rates of Pay and Allowances

By the authority vested in me as President by the Constitution and laws of the United States of America, it is hereby ordered as follows:

Section 1. *Statutory Pay Systems.* Pursuant to the provisions of subchapter I of chapter 53 of title 5 of the United States Code, the rates of basic pay and salaries are adjusted, as set forth at the schedules attached hereto and made a part hereof, for the following statutory pay systems:

(a) The General Schedule (5 U.S.C. 5332(a)) at Schedule 1;

(b) The Foreign Service Schedule (22 U.S.C. 3963) at Schedule 2; and

(c) The schedules for the Department of Medicine and Surgery, Veterans Administration (38 U.S.C. 4107) at Schedule 3.

Sec. 2. *Senior Executive Service.* Pursuant to the provisions of section 5382 of title 5 of the United States Code, the rates of basic pay are adjusted, as set forth at Schedule 4 attached hereto and made a part hereof, for members of the Senior Executive Service.

Sec. 3. *Pay and Allowances for Members of the Uniformed Services.* Pursuant to the provisions of Section 901 of Public Law 98–94 (97 Stat. 634), the rates of monthly basic pay (37 U.S.C. 203(a)), the rates of basic allowances for subsistence (37 U.S.C. 402), and the rates of basic allowances for quarters (37 U.S.C. 403(a)) are adjusted, as set forth at Schedule 5 attached hereto and made a part hereof, for members of the uniformed services.

Sec. 4. *Executive Salaries.* The Executive Salary Cost-of-Living Adjustment Act (Public Law 94–82, 89 Stat. 419) provides for adjustments in rates of pay and salaries as set forth at the schedules attached hereto and made a part hereof, for the following:

(a) The Vice President (3 U.S.C. 104) and the Executive Schedule (5 U.S.C. 5312–5316) at Schedule 6;

(b) Congressional Salaries (2 U.S.C. 31) at Schedule 7; and

(c) Judicial Salaries (28 U.S.C. 5, 44(d), 135, 172(b), 252, and 11 U.S.C. 68(a), and Sections 401(a), 404(a), 404(b), and 404(d) of Public Law 95–598) at Schedule 8.

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Sec. 5. *Effective Date.* The adjustments in rates of monthly basic pay and allowances for subsistence and quarters for members of the uniformed services, and all other adjustments of salary or pay, shall be effective on the first day of the first applicable pay period beginning on or after January 1, 1984.

Sec. 6. Executive Order No. 12387 of October 8, 1982, is superseded.

Ronald Reagan

THE WHITE HOUSE,
December 30, 1983.

Billing code 3195-01-M

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Schedule 1 - THE GENERAL SCHEDULE

	1	2	3	4	5	6	7	8	9	10
GS-1	$8,980	$9,279	$9,578	$9,876	$10,175	$10,350	$10,646	$10,942	$10,955	$11,232
2	10,097	10,337	10,671	10,955	11,078	11,404	11,730	12,056	12,382	12,708
3	11,017	11,384	11,751	12,118	12,485	12,852	13,219	13,586	13,953	14,320
4	12,367	12,779	13,191	13,603	14,015	14,427	14,839	15,251	15,663	16,075
5	13,837	14,298	14,759	15,220	15,681	16,142	16,603	17,064	17,525	17,986
6	15,423	15,937	16,451	16,965	17,479	17,993	18,507	19,021	19,535	20,049
7	17,138	17,709	18,280	18,851	19,422	19,993	20,564	21,135	21,706	22,277
8	18,981	19,614	20,247	20,880	21,513	22,146	22,779	23,412	24,045	24,678
9	20,965	21,664	22,363	23,062	23,761	24,460	25,159	25,858	26,557	27,256
10	23,088	23,858	24,628	25,398	26,168	26,938	27,708	28,478	29,248	30,018
11	25,366	26,212	27,058	27,904	28,750	29,596	30,442	31,288	32,134	32,980
12	30,402	31,415	32,428	33,441	34,454	35,467	36,480	37,493	38,506	39,519
13	36,152	37,357	38,562	39,767	40,972	42,177	43,382	44,587	45,792	46,997
14	42,722	44,146	45,570	46,994	48,418	49,842	51,266	52,690	54,114	55,538
15	50,252	51,927	53,602	55,277	56,952	58,627	60,302	61,977	63,652	65,327
16	58,938	60,903	62,868	64,833	66,798*	68,763*	70,728*	72,693*	74,658*	
17	69,042*	71,343*	73,644*	75,945*	78,246*					
18	80,920*									

*The rate of basic pay payable to employees at these rates is limited to $66,000, the rate payable for level V of the Executive Schedule.

Schedule 2 - THE FOREIGN SERVICE SCHEDULE

	1	2	3	4	5	6	7
Class 1	$50,252	$51,760	$53,312	$54,912	$56,559	$58,256	$60,004
2	40,719	41,941	43,199	44,495	45,830	47,204	48,621
3	32,995	33,985	35,004	36,055	37,136	38,250	39,398
4	26,736	27,538	28,364	29,215	30,092	30,994	31,924
5	21,664	22,314	22,983	23,673	24,383	25,115	25,868
6	19,367	19,948	20,546	21,163	21,798	22,452	23,125
7	17,314	17,833	18,368	18,919	19,487	20,072	20,674
8	15,478	15,942	16,421	16,913	17,421	17,943	18,482
9	13,837	14,252	14,680	15,120	15,574	16,041	16,522

	8	9	10	11	12	13	14
Class 1	61,804	63,658	65,327	65,327	65,327	65,327	65,327
2	50,079	51,582	53,129	54,723	56,365	58,056	59,797
3	40,580	41,797	43,051	44,343	45,673	47,043	48,454
4	32,882	33,868	34,884	35,931	37,009	38,119	39,263
5	26,644	27,443	28,267	29,115	29,988	30,888	31,814
6	23,819	24,534	25,270	26,028	26,808	27,613	28,441
7	21,294	21,933	22,591	23,269	23,967	24,686	25,426
8	19,036	19,607	20,195	20,801	21,425	22,068	22,730
9	17,018	17,528	18,054	18,596	19,154	19,728	20,320

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8	19,036	19,607	20,195	20,801	21,425	22,068	22,730
9	17,018	17,528	18,054	18,596	19,154	19,728	20,320

Schedule 3 - DEPARTMENT OF MEDICINE AND SURGERY SCHEDULES, VETERANS ADMINISTRATION

	Minimum	Maximum
Sec. 4103 schedule:		
Chief Medical Director	(Single rate)	$90,745 1/
Deputy Chief Medical Director	(Single rate)	87,050 2/
Associate Deputy Chief Medical Director	(Single rate)	83,377 3/
Assistant Chief Medical Director	(Single rate)	80,920 3/
Medical Director	$69,042 3/	78,246 3/
Director of Nursing Service	69,042 3/	78,246 3/
Director of Podiatric Service	58,938	74,658 3/
Director of Chaplain Service	58,938	74,658 3/
Director of Pharmacy Service	58,938	74,658 3/
Director of Dietetic Service	58,938	74,658 3/
Director of Optometric Service	58,938	74,658 3/
Physician and dentist schedule:		
Director grade	$58,938	$74,658 3/
Executive grade	54,422	70,748 3/
Chief grade	50,252	65,327
Senior grade	42,722	55,538
Intermediate grade	36,152	46,997
Full grade	30,402	39,519
Associate grade	25,366	32,980

1/ Notwithstanding the rate shown, the maximum rate payable at this level may not exceed $70,800, the rate payable for level III of the Executive Schedule.

2/ Notwithstanding the rate shown, the maximum rate payable at this level may not exceed $69,600, the rate payable for level IV of the Executive Schedule.

3/ Notwithstanding the rates shown, the maximum rate payable at these levels may not exceed $66,000, the rate payable for level V of the Executive Schedule.

Schedule 3 - DEPARTMENT OF MEDICINE AND SURGERY SCHEDULES, VETERANS ADMINISTRATION (continued)

	Minimum	Maximum
Nurse Schedule:		
Director grade	$50,252	$65,327
Assistant Director grade	42,722	55,538
Chief grade	36,152	46,997
Senior grade	30,402	39,519
Intermediate grade	25,366	32,980
Full grade	20,965	27,256
Associate grade	18,041	23,450
Junior grade	15,423	20,049
Clinical podiatrist and optometrist schedule:		
Chief grade	$50,252	$65,327
Senior grade	42,722	55,538
Intermedite grade	36,152	46,997
Full grade	30,402	39,519
Associate grade	25,366	32,980

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Schedule 4 - SENIOR EXECUTIVE SERVICE SCHEDULE

ES-1	$58,938
ES-2	61,292
ES-3	63,646
ES-4	66,000
ES-5	67,800
ES-6	69,600

Full grade..... 39,519
Associate grade..... 32,980

30,402
25,366

Schedule 5 - PAY AND ALLOWANCES OF THE UNIFORMED SERVICES
Part 1 - Monthly Basic Pay
(Years of service computed under 37 U.S.C. 205)

Pay Grade	Commissioned Officers						
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10
0-10 1/.....	$4874.40	$5046.00	$5046.00	$5046.00	$5046.00	$5239.50	$5239.50
0-9.....	4320.30	4433.40	4527.60	4527.60	4527.60	4642.80	4642.80
0-8.....	3912.90	4030.20	4125.90	4125.90	4125.90	4433.40	4433.40
0-7.....	3251.40	3472.50	3472.50	3472.50	3627.90	3627.90	3838.50
0-6.....	2409.90	2647.80	2821.20	2821.20	2821.20	2821.20	2821.20
0-5.....	1927.50	2263.50	2419.50	2419.50	2419.50	2419.50	2493.30
0-4.....	1624.50	1978.20	2110.50	2110.50	2149.20	2244.60	2397.30
0-3 2/.....	1509.90	1687.80	1804.20	1996.50	2091.90	2167.50	2284.20
0-2 2/.....	1316.40	1437.60	1727.10	1785.30	1822.80	1822.80	1822.80
0-1 2/.....	1143.00	1189.80	1437.60	1437.60	1437.60	1437.60	1437.60

Pay Grade	Commissioned Officers						
	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26
0-10 1/.....	$5640.60*	$5640.60*	$6044.10*	$6044.10*	$6448.50*	$6448.50*	$6850.80*
0-9.....	4836.00	4836.00	5239.50	5239.50	5640.60*	5640.60*	6044.10*
0-8.....	4642.80	4642.80	4836.00	5046.00	5239.50	5449.50	5449.50
0-7.....	3838.50	4030.20	4433.40	4737.90	4737.90	4737.90	4737.90
0-6.....	2821.20	2916.90	3378.30	3551.10	3627.90	3838.50	4163.10
0-5.....	2627.10	2802.90	3012.60	3185.70	3282.00	3396.60	3396.60
0-4.....	2532.30	2647.80	2763.90	2840.40	2840.40	2840.40	2840.40
0-3 2/.....	2397.30	2456.40	2456.40	2456.40	2456.40	2456.40	2456.40
0-2 2/.....	1822.80	1822.80	1822.80	1822.80	1822.80	1822.80	1822.80
0-1 2/.....	1437.60	1437.60	1437.60	1437.60	1437.60	1437.60	1437.60

* Basic pay is limited to the rate of basic pay payable for level V of the Executive Schedule, which is $5,499.90 per month.

1/ While serving as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, basic pay for this grade is $7,558.80* regardless of cumulative years of service computed under sec. 205 of title 37 of the United States Code.

2/ Does not apply to commissioned officers who have been credited with over 4 years' active service as enlisted members and/or as warrant officers.

2/ Does not apply to commissioned officers who have been credited with over 4 years' active service as enlisted members and/or as warrant officers.

(Years of service computed under 37 U.S.C. 205)

Pay Grade	Over 4	Over 6	Over 8	Over 10	Over 12
Commissioned officers who have been credited with over 4 years active duty as an enlisted member and/or as a warrant officer:					
0-3.....	$1996.50	$2091.90	$2167.50	$2284.20	$2397.30
0-2.....	1785.30	1822.80	1880.40	1978.20	2053.80
0-1.....	1437.60	1535.70	1592.40	1650.00	1707.30

	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26
0-3.....	$2493.30	$2493.30	$2493.30	$2493.30	$2493.30	$2493.30
0-2.....	2110.50	2110.50	2110.50	2110.50	2110.50	2110.50
0-1.....	1785.30	1785.30	1785.30	1785.30	1785.30	1785.30

	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10
Warrant Officers:							
W-4.....	$1538.10	$1650.00	$1650.00	$1687.80	$1764.60	$1842.30	$1919.70
W-3.....	1398.00	1516.50	1516.50	1535.70	1554.00	1667.70	1764.60
W-2.....	1224.60	1324.50	1324.50	1363.20	1437.60	1516.50	1573.80
W-1.....	1020.30	1169.70	1169.70	1267.20	1324.50	1381.50	1437.60

	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26
W-4.....	$2053.80	$2149.20	$2224.80	$2284.20	$2358.30	$2437.20	$2627.10
W-3.....	1822.80	1880.40	1936.80	1996.50	2073.90	2149.20	2224.80
W-2.....	1631.40	1687.80	1746.90	1804.20	1861.50	1936.80	1936.80
W-1.....	1497.30	1554.00	1611.30	1667.70	1727.10	1727.10	1727.10

(Years of service computed under 3 U.S.C. 205)

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10
Enlisted members:							
E-9 1/.....	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$1788.90
E-8.....	0.00	0.00	0.00	0.00	0.00	1500.60	1543.20
E-7.....	1047.60	1130.70	1173.00	1213.80	1255.50	1295.10	1336.80
E-6.....	901.20	982.50	1023.60	1067.10	1106.40	1146.90	1188.90
E-5.....	791.10	861.00	902.70	942.00	1003.80	1044.60	1086.30
E-4.....	738.00	779.10	824.70	888.90	924.00	924.00	924.00
E-3.....	695.10	732.90	762.60	792.90	792.90	792.90	792.90
E-2.....	668.70	668.70	668.70	668.70	668.70	668.70	668.70
E-1>4 2/.....	596.40	596.40	596.40	596.40	596.40	596.40	596.40
E-1<4 3/.....	573.60	573.60	573.60	573.60	573.60	573.60	573.60

	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26
E-9 1/.....	$1829.70	1871.10	1914.00	1956.60	1994.70	2099.70	2303.70
E-8.....	1583.70	1625.10	1668.00	1706.40	1748.40	1851.00	2057.70
E-7.....	1378.20	1440.60	1481.40	1523.10	1542.90	1646.40	1851.00
E-6.....	1250.10	1289.40	1331.10	1351.20	1351.20	1351.20	1351.20
E-5.....	1126.20	1146.90	1146.90	1146.90	1146.90	1146.90	1146.90
E-4.....	924.00	924.00	924.00	924.00	924.00	924.00	924.00
E-3.....	792.90	792.90	792.90	792.90	792.90	792.90	792.90
E-2.....	668.70	668.70	668.70	668.70	668.70	668.70	668.70
E-1>4 2/.....	596.40	596.40	596.40	596.40	596.40	596.40	596.40
E-1<4 3/.....	573.60	573.60	573.60	573.60	573.60	573.60	573.60

1/ While serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy or Coast Guard, Chief Master Sergeant of the Air Force, or Sergeant Major of the Marine Corps, basic pay for this grade is $2,800.20 regardless of cumulative years of service computed under Sec. 205 of title 37 of the United States Code.

2/ Applies to personnel who have served 4 months or more on active duty.

3/ Applies to personnel who have served less than 4 months on active duty.

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2/ Applies to personnel who have served 4 months or more on active duty.

3/ Applies to personnel who have served less than 4 months on active duty.

Part II -- Basic Allowance for Subsistence Rates

Officers (per month).....	$102.10	
Enlisted Members (per day):		
	E-1 (less than 4 months) 1/	All Other Enlisted
When on leave or authorized to mess separately:.....	$4.68	$4.87
When rations in-kind are not available:.....	$5.29	$5.50
When assigned to duty under emergency conditions where no messing facilities of the United States are available:.....	$7.00	$7.28

1/ Applies to personnel who have served less than 4 months on active duty.

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Part III - Monthly
Basic Allowance For Quarters Rates

Pay grade	Without dependents		With dependents
	Full rate 1/	Partial rate 2/	
Commissioned officers:			
0-10	$528.90	$50.70	$661.80
0-9	528.90	50.70	661.80
0-8	528.90	50.70	661.80
0-7	528.90	50.70	661.80
0-6	474.90	39.60	579.00
0-5	437.70	33.00	527.10
0-4	389.70	26.70	470.10
0-3	342.60	22.20	422.70
0-2	297.60	17.70	376.20
0-1	232.50	13.20	302.40
Warrant officers:			
W-4	$375.30	$25.20	$453.30
W-3	334.80	20.70	412.80
W-2	291.00	15.90	370.80
W-1	262.80	13.80	340.50
Enlisted members:			
E-9	$283.20	$18.60	$398.70
E-8	261.00	15.30	368.10
E-7	222.00	12.00	342.60
E-6	201.90	9.90	315.30
E-5	194.10	8.70	289.80
E-4	171.00	8.10	254.70
E-3	153.00	7.80	222.00
E-2	135.00	7.20	222.00
E-1>4 3/	127.50	6.90	222.00
E-1<4 4/	122.70	6.90	213.60

1/ Payment of the full rate of basic allowance for quarters at these rates to members of the uniformed services without dependents is authorized by 37 U.S.C. and part IV of Executive Order 11157, as amended.
2/ Payment of the partial rate of basic allowance for quarters at these rates to members of the uniformed services without dependents who, under 37 U.S.C. 403(b) or 403(c), are not entitled to the full rate of basic allowance for quarters, is authorized by 37 U.S.C. 1009(d) and part IV of Executive Order 11157, as amended.
3/ Applies to personnel who have served 4 months or more on active duty.
4/ Applies to personnel who have served less than 4 months on active duty.

Schedule 6 - VICE PRESIDENT AND THE EXECUTIVE SCHEDULE

Vice President	$94,200
Level I	82,900
Level II	72,200
Level III	70,800
Level IV	69,600
Level V	66,000

3/ Applies to personnel who have served 4 months or more on active duty.
4/ Applies to personnel who have served less than 4 months on active duty.

Schedule 7 - CONGRESSIONAL SALARIES

Senator	$72,200
Member of the House of Representatives	72,200
Delegate to the House of Representatives	72,200
Resident Commissioner from Puerto Rico	72,200
President pro tempore of the Senate	81,700
Majority leader and minority leader of the Senate	81,700
Majority leader and minority leader of the House of Representatives	81,700
Speaker of the House of Representatives	94,200

Schedule 8 - JUDICIAL SALARIES

Chief Justice of the United States	$100,700*
Associate Justices of the Supreme Court	96,700*
Circuit Judges	77,300*
District Judges	73,100*
Judges of the Court of International Trade	73,100*
Judges of the United States Claims Court	67,500
Referees in Bankruptcy (full-time) or Bankruptcy Judges	65,800
Referees in Bankruptcy (part-time) (maximum rate)	32,900

*Under section 140 of Public Law 97-92 (95 Stat. 1200), salaries for Federal judges and Justices of the Supreme Court are not increased.

[FR Doc. 84-303
Filed 1-3-84; 11:26 am]
Billing code 3195-01-C

Rules and Regulations

Federal Register
Vol. 49, No. 2
Wednesday, January 4, 1984

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 6

Regulations Governing Licenses for Importation of Sugar To Be Re-Exported in Refined Form

AGENCY: Office of the Secretary.

ACTION: Amendment to rule; notice of determination.

SUMMARY: This determination permits an increase in the quantitative limit on licenses for the importation of sugar to be re-exported in refined form. After review of the operation of this program to date, it has been determined that the current short ton limit may be too restrictive under certain circumstances. These circumstances often arise because of unforeseen difficulties in determining precise shipping schedules. Accordingly, it has been determined that the quantitative limit of an individual license may be set at 50,000 short tons, under certain circumstances.

EFFECTIVE DATE: December 29, 1983.

ADDRESS: Mail comments to Chief, Sugar Group, Horticultural and Tropical Products Division, Foreign Agricultural Service, USDA, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Carol Brick-Turin, Agricultural Economist, Foreign Agricultural Service, Room 6603–South, Department of Agriculture, Washington, D.C. 20250, Tel: (202) 447–6939.

SUPPLEMENTARY INFORMATION: On June 28, 1983, "Regulations Governing Licenses for Importation of Sugar to be Re-exported in Refined Form", 7 CFR Part 6, were published in the **Federal Register** (48 FR 29824). These regulations established procedures and conditions for the issuance of licenses which permit the importation of sugar exempt from the import quota on sugar when used for specific purposes. Section 6.101(c) of the regulations limits the size of an individual license to 28,000 short tons. However, § 6.101(e) provides that the Secretary may change this limit through publishing a notice in the **Federal Register** if he or she determines that such a change is appropriate within the purposes of this program.

After a review of the operation of this program to date, it has been determined that the 28,000 short ton limit may be too restrictive under certain circumstances. These circumstances often arise because of unforseen difficulties in determining precise shipping schedules. Accordingly, it has been determined that the quantitative limit of an individual license may be set at 50,000 short tons, raw value, under certain circumstances. This notice, therefore, provides that the Licensing Authority may issue licenses under 7 CFR 6.101 for an amount up to 50,000 short tons, raw value. Those who already hold a license may request in writing an increase in the license amount up to 50,000 short tons, raw value. In the request for a license or for an increase in the size of a license, the applicant or license holder shall provide an explanation of why a license amount over 28,000 short tons is necessary

List of Subjects in 7 CFR Part 6

Imports, sugar.

Accordingly 7 CFR 6.101 is amended by adding the following paragraph (e)(1):

§ 6.101 Issuance of a license.

* * * * *

(e) * * *

(1) Notice is hereby given that effective December 29, 1983, in conformity with the provisions of 7 CFR 6.101(e), the Secretary has determined that it is appropriate within the purposes of this regulation that the quantitative limit in 7 CFR 6.101(c) be increased to 50,000 short tons, raw value. Any request for a license amount in excess of 28,000 short tons may be approvd by the Licensing Authority if the Licensing Authority determines that there is a reasonable basis for such request.

(Presidential Proclamation No. 5002, 47 FR 54289, Dec. 2, 1982; 7 CFR 6.101(e), 48 FR 29827, July 28, 1983)

Signed at Washington, D.C., on December 28, 1983.

Richard E. Lyng,

Acting Secretary of Agriculture.

[FR Doc. 83-33020 Filed 12-29-84; 4:00 pm]
BILLING CODE 3410-10-M

Commodity Credit Corporation

7 CFR Part 1430

Milk Diversion Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This final rule implements the Milk Diversion Program authorized by the Dairy and Tobacco Adjustment Act of 1983. This rule provides that the Commodity Credit Corporation (CCC) will enter into contracts with producers of milk in the forty-eight States of the continental United States who agree to reduce the quantity of milk which they market for commercial use during the period January 1, 1984, through March 31, 1985. Contracts will be made on a unit basis. Producers who enter into a milk diversion contract with CCC must agree to reduce the marketings of milk for commercial use from the contract unit during the contract period by an amount equal to 5 percent to 30 percent of the milk base which is established for the producer's unit. Producers who comply with the terms and conditions of the contract and applicable regulations are eligible to receive a milk diversion payment of $10 per hundredweight for such reductions. A milk base will, subject to adjustment, be established for each unit based upon marketings of milk for commercial use during calendar year 1982 or, at the election of the producer, the average of marketings from calendar years 1981 and 1982. This rule sets forth eligibility requirements, conditions for payment, penalties for noncompliance, and other program requirements.

EFFECTIVE DATE: January 1, 1984.

FOR FURTHER INFORMATION CONTACT: Jerry W. Newcomb, Director, Emergency Operations and Livestock Programs Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013 Telephone: (202) 447–5621.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed in accordance with procedures implementing Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified as "major" since the program will have an annual effect on the economy exceeding $100 million.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since CCC is not required by 5 U.S.C. 553 or any other provision of the law to publish a notice of proposed rulemaking with respect to the subject matter of this rule. Section 102(b) of the Dairy and Tobacco adjustment Act of 1983 (the "1983 Act") provides that the Secretary of Agriculture shall implement the Milk Diversion Program and other provisions of Section 201(d) of the Agricultural Act of 1949 (the "1949 Act") without regard to the provisions requiring notice and other procedures for public participation in rulemaking contained in 5 U.S.C. 553 or in any directive of the Secretary.

An Environmental Evaluation with respect to the Milk Diversion Program has been completed. It has been determined that this action is not expected to have a significant impact on the quality of the human environment. In addition, it has been determined that this action will not adversely affect environmental factors such as wildlife habitat, water quality, air quality, and land use and appearance. Accordingly, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

The Department has prepared a Final Regulatory Impact Analysis of this regulation. Copies of the analysis are available to the public by contacting the person named above.

The title and number of the federal assistance program to which this notice applies are: Title—Commodity Loans and Purchases; Number 10.051, as found in the Catalog of Federal Domestic Assistance.

Section 201(d)(3) of the 1949 Act provides that the Secretary shall offer to enter into a contract with any milk producer who: (1) Produces milk in the forty-eight States of the continental United States and markets such milk for commercial use and (2) agrees to reduce the quantity of milk marketed for commercial use during the fifteen-month period beginning January 1, 1984. The reduction must be an amount equal to a percentage specified by the producer, but the percentage may not be less than 5 percent nor more than 30 percent of a milk base which is established for such producer's unit. The milk base is determined based upon the quantity of milk marketed for commercial use during calendar year 1982 or, at the producer's election, the average of such marketings during calendar years 1981 and 1982.

This rule provides a producer will be eligible on a dairy unit basis to enter into milk diversion contracts with CCC if the producer: (1) Was actively engaged in the production of milk as of November 29, 1983; (2) has filed a milk reduction plan with CCC; (3) provides acceptable evidence to CCC of the marketings during the historical base period for the purpose of determining a milk base; and (4) has not violated restrictions applicable to transfers of dairy cows after November 8, 1983. Producers may offer to enter in a milk diversion contract in accordance with the provisions of this rule no later than January 31, 1984.

The producer's milk reduction plan must be filed with CCC before the contract is executed by the producer and must be on a form prescribed by CCC. The plan will describe how the producer intends to reduce milk marketings during the contract period, including the estimated number of dairy cows which will be sold for slaughter during each month of the contract period. With respect to transfers of dairy cows, the producer shall not be eligible to offer to enter into a milk diversion contract if, after November 8, 1983 and through the date of the offer, the producer has sold or otherwise transferred dairy cows that would have or could have been used to produce milk unless: (i) The transfer is a sale for slaughter and the cows were, in fact, slaughtered as a result of such sale; (ii) the transfer is to another producer who executes a milk diversion contract with CCC; or (iii) the transfer is a sale and delivery of dairy cows for export from the United States and the dairy cows do not re-enter the United States. Notwithstanding the foregoing, dairy cows may be transferred during the period November 8, 1983, through January 1, 1984, if it is determined that the transfer does not defeat the goals of the milk diversion program. The transfer restrictions apply to dairy cows leased as of November 8, 1983, including the return of such cows to the lessor.

Each contract unit shall consist of all land, equipment, and dairy cows identified by the producer as such unit for purposes of the contract. A producer may execute a contract for more than one unit. The components of a unit shall be identified by the producer at the time the producer makes a request for the establishment of a milk base.

The milk base will be determined based upon actual marketings of milk for commercial use in the base period. Marketing history may be transferred if a producer's entire interest in the unit has been transferred to another producer claiming the marketing history and such transfer of interest was by reason of the death of the transferring producer, by a gift from such producer, or by a transfer by such producer to such producer's family members. Family members of a producer are defined to be an ancestor, spouse, lineal descendant, spouse of a lineal descendant, or parent of the producer, or a lineal descendant of the producer's spouse.

The milk base established for a producer's unit may be adjusted to correct for abnormally low production due to a natural disaster or other conditions beyond the control of the producer.

In order to make preliminary payments to producers who comply with the contract before the end of the contract period, five quarterly milk bases will be established. If the quantity of milk marketed for commercial use during the calendar year 1982 is used to establish the milk base for the producer's unit, the milk marketings of the four quarters of such year will constitute the first four quarterly milk bases for the contract period. The quarterly milk base for the first quarter of the contract period will also constitute the fifth quarter milk base. If the producer utilizes a 1981/1982 base period, the base period marketings for each quarter for 1981 and 1982 will be averaged to establish a milk base for each of the first four quarters. The first quarter milk base will also constitute the fifth quarter milk base.

The milk base for the entire contract period shall be the amount in pounds of milk which is equal to the sum of the amount of pounds of milk in the five quarterly milk bases.

The amount of reduction over the contract period shall, unless adjusted by CCC, be the quantity in pounds computed by applying the contract percentage specified by the producer to the milk base.

The contract reduction by the producer may be modified if the Secretary determines that there would be an excessive reduction in milk production in the United States or there has been a hardship on producers of beef cattle, dairy cattle, hogs, and poultry sold for slaughter. In the latter case, CCC may not adjust the contract so as to require the producer to make a reduction in excess of 150 percent of the contract reduction percentage for any quarter.

A producer who complies with the terms and conditions of the contract is

eligible to receive a milk diversion payment of $10 per hundredweight for reducing the quantity of milk marketed for commercial use during the contract period. Payments will be made for actual reductions which equal the contract reduction (as adjusted, if applicable) plus or minus 3 percent of the milk base so long as such reductions exceed 5 percent of the established milk base. Payments will not be made for any reduction in milk marketings which exceeds 30 percent of the established milk base.

A producer who fails to reduce marketings during the contract period by the quantity required by the contract or who otherwise fails to comply with the contract shall be ineligible for payments and must refund any payments previously received, together with interest. The contract will prohibit sales of dairy cows after the date the offer to enter the contract is submitted by the producer except under limited circumstances.

The contract will also provide that any production capacity which becomes available because of the producer's compliance with the terms and conditions of the milk diversion contract may not be made available for use by another producer. The contract will further provide that a producer will be ineligible for any payment if the total quantity of milk marketed for commercial use during the contract period from all units in which the producer has an interest and which are not the subject of a contract exceeds the total quantity of marketings during the period December 1, 1982, through November 30, 1983, with the marketings during January through March 1983, being counted twice, from all units in which the producer had an interest as of January 1, 1984, and which are not the subject of a contract.

Milk diversion payments will be adjusted if there is a marked deviation in the composition of the milk marketed by the producer from the unit in comparison to the composition of the milk which comprised the milk marketings used to establish the milk base for the unit. Assignments of the contract are allowed only to the extent that the contract permits such assignments. If the producer dies, the producer's estate may perform the contract or assign the contract to the same extent that an assignment would be permitted if made by the producer.

A producer who fails to make the reduction required by a milk diversion contract will be liable, in addition to being ineligible for any payment under the contract, for a penalty equal to the support price for milk in effect when the failure occurs multiplied by the amount of the reduction not achieved. In addition, a producer is also subject to a penalty of $1,000 for any other program violation. If there is more than one producer on the unit, all such persons are jointly and severally liable for penalties and other assessments which may be asserted by CCC in connection with the contract.

Other miscellaneous provisions in the regulations relate to: (1) The assignment of payments; (2) a prohibition against schemes or devices which are designed to, or which have the effect of, defeating the purposes of the program; (3) and the application of interest and late payment charges with respect to any amounts which become due and owing to CCC under the program.

The information collection requirements of this subpart have been approved by the Office of Management and Budget (OMB) for purposes of the Paperwork Reduction Act and OMB number 0560–0114 has been assigned.

List of Subjects in 7 CFR Part 1430

Milk, Agriculture, Price support programs, Dairy products.

Final Rule

PART 1430—[AMENDED]

Accordingly, a new subpart is added to 7 CFR Part 1430 as follows:

Subpart—Milk Diversion Program

Sec.

1430.400 General statement.
1430.401 Administration.
1430.402 Definitions.
1430.403 Nature of the contract; period of applicability; sign-up; producer eligibility.
1430.404 Milk reduction plan.
1430.405 Establishment of milk base.
1430.406 Transfer of marketing history.
1430.407 Milk base amount.
1430.408 Contract reduction.
1430.409 Contract compliance.
1430.410 Restrictions on transfers of dairy cows.
1430.411 Modification of contracts.
1430.412 Amount of payment.
1430.413 Time of payment; eligibility for payment.
1430.414 Assignment of contracts.
1430.415 Penalties.
1430.416 Interest; late payment charges; setoffs and withholdings.
1430.417 Misrepresentation; scheme or device; fraud.
1430.418 Appeals.
1430.419 Performance based upon advice or action of county or State committee.
1430.420 Miscellaneous provisions.
1430.421 Other regulations.
1430.422 Paperwork Reduction Act assigned numbers.

Authority: Sec. 201(d) of the Agricultural Act of 1949, as amended (7 U.S.C. 1446(d); Sec. 102(b) of the Dairy and Tobacco Adjustment Act of 1983; Commodity Credit Corporation Charter Act (15 U.S.C. 714 *et seq.*).

Subpart—Milk Diversion Program

§ 1430.400 General statement.

This subpart implements the Milk Diversion Program authorized by Section 201(d)(3) of the Agricultural Act of 1949, as amended by the Dairy and Tobacco Adjustment Act of 1983. Producers of milk in the forty-eight continental States of the United States may enter into contracts with the Commodity Credit Corporation under which such producers agree, on a unit basis, to reduce their marketings of milk for commercial use during the period January 1, 1984, through March 31, 1985, from the marketings of milk attributable to the unit during an historical base period. Contracts will be made on a unit basis. The reduction, which is subject to certain adjustment and tolerances, shall be an amount specified by the producer but shall not be less than 5 percent nor more than 30 percent of the milk base established for the producer's unit in accordance with this subpart. The Commodity Credit Corporation will make a milk diversion payment at a rate of $10 per hundredweight to producers who reduce the quantity of milk marketed for commercial use by the required amounts and who also comply with all other terms and conditions of the program. This subpart sets forth eligibility requirements, conditions for payment, penalties for program violations, and other program requirements and provisions.

§ 1430.401 Administration.

(a) The program will be administered under the general supervision of the Administrator, Agricultural Stabilization and Conservation Service (ASCS), and shall be carried out in the field by Agricultural Stabilization and Conservation State and county committees (herein called "State and county committees") and the ASCS Kansas City Management Field Office (KCMO).

(b) State and county committees, the KCMO, and representatives and employees thereof do not have authority to modify or waive any of the provisions of the regulations in this subpart, as amended or supplemented.

(c) The State committee shall take any action required by these regulations which has not been taken by the county committee. The State committee shall also:

(1) Correct, or require a county committee to correct, any action taken

by such county committee which is not in accordance with this subpart, or

(2) Require a county committee to withhold taking any action which is not in accordance with this subpart.

(d) No delegation herein to a State or county committee shall preclude the Administrator, ASCS, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee.

§ 1430.402 Definitions.

In determining the meanings of the provisions of this subpart, unless the context indicates otherwise, words imparting the singular include and apply to several personsl or things, words imparting the plural include the singular, words imparting the masculine gender include the feminine as well, and words used in the present tense include the past and future as well as the present. The following terms shall have the following meanings and all other words and phrases shall have the meanings assigned to them in the regulations governing reconstitution of farms, Part 719 of this chapter.

(a) *"Actively Engaged in the Production of Milk"* means the producing and marketing of milk for commerical use.

(b) *"ASCS"* means the Department's Agricultural Stabilization and Conservation Service.

(c) *"Base Period"* means calendar year 1982 or calendar years 1981 and 1982, whichever the producer has elected for the purpose of establishing a milk base.

(d) *"CCC"* means the Commodity Credit Corporation.

(e) *"Contract"* means Form CCC–150 when executive by CCC and the producer.

(f) *"Contract Percentage"* means the percentage by which the producer agrees to reduce the marketings of milk for commerical use from the milk base established for the producer's unit.

(g) *"Contract Period"* means the period from January 1, 1984, through March 31, 1985.

(h) *"Contract Reduction"* means the quantity by which the milk marketings for commercial use from the unit during the contract period must be reduced from the milk base amount as determined under § 1430.407 of this subpart.

(i) *"County ASCS Office"* means the office of the county committee in the headquarters county.

(j) *"County Committee"* means an Agricultural Stabilization and Conservation County Committee as established in accordance with Section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h).

(k) *"Dairy Cow"* includes heifers born before April 1, 1983.

(l) *"Department"* means the United States Department of Agriculture.

(m) *"Headquarters County"* means the county a producer elects to be the location of the county ASCS office through which all business related to the producer's participation in the Milk Diversion Program for the unit shall be conducted provided that the unit or a portion of the unit is located in such county.

(n) *"Marketed for Commercial Use"* means the disposition of milk in raw or processed form by voluntary or involuntary sale, barter or exchange, or by gift.

(o) *"Marketed Milk"* means all milk produced in the United States and marketed for commercial use.

(p) *"Milk"* means milk of dairy cows.

(q) *"Milk Base"* means a base established in pounds of milk for a unit as determined in accordance with § 1430.407 of this subpart.

(r) *"Milk Production Facility"* means all buildings and related equipment used for the production or handling of milk.

(s) *"Person"* means an individual, partnership, association, corporation, trust, estate, or other business enterprise or other legal entity and, whenever applicable, a State, a political subdivision of a State, or any agency thereof.

(t) *"Producer"* means any person who is involved in, contributes to, or has any interest in any unit which is used for the production of milk and who shares in the risk and proceeds of the production of milk.

(u) *"Quarter"* means any of the following five three-month periods: January 1–March 31, 1984; April 1–June 30, 1984; July 1–September 30, 1984; October 1–December 31, 1984; and January 1–March 31, 1985.

(v) *"Quarterly Milk Base"* means any of the five quarterly bases determined in accordance with § 1430.407 of this subpart.

(w) *"Unit"* means the dairy cows, milk production facilities, and land used to produce milk which are identified on the form used to establish a milk base for the unit and approved by the county committee.

(x) *"United States"* means the forty-eight contiguous States in the continental United States.

§ 1430.403 Nature of the contract; period of applicability; sign-up; producer eligibility.

(a) *Nature of the contract.* CCC will enter into milk diversion contracts on a unit basis with producers who produce milk in the United States and market such milk for commercial use and who agree to reduce their marketings of milk for commercial use during the period beginning January 1, 1984, through March 31, 1985, by an amount equal to a percentage specified by the producer of the milk base determined under this subpart. The specified percentage reduction shall not be less than 5 percent nor greater than 30 percent of the milk base established for the producer's unit. The unit shall be identified by the producer at the time the producer requests the establishment of a milk base. A producer with an interest in more than one unit may execute a contract to participate in the program for each such unit. All persons who have an interest in the unit must execute the contract. All such persons shall be jointly and severally liable on such unit for a failure to comply with the terms and conditions of the contract and this subpart. The milk base for the unit will be determined using five quarterly milk bases. These bases will be determined in the manner specified in this subpart based upon either the quantity of milk marketed for commercial use from the unit during calendar year 1982 or, at the producer's election, the average of such marketings during calendar years 1981 and 1982. Producers who make the required contract reduction and who otherwise comply with the terms and conditions of the contract and this subpart are eligible to receive a milk diversion payments from CCC in accordance with the provisions of this subpart. Producers who fail to make the required contract reduction or who otherwise fail to comply with the terms and conditions of the contract shall be ineligible for any milk diversion payments and shall be liable for substantial penalties.

(b) *Sign-up.* Eligible producers may offer to enter into a contract with CCC by executing a contract and submitting it to the county ASCS office not later than January 31, 1984.

(c) *Producer eligibility.* In order to be eligible to enter into a contract with CCC, a producer must:

(1) Be a producer of milk in the United States;

(2) Be actively engaged in the production of milk as of November 29, 1983;

(3) Have submitted a milk reduction plan to the county ASCS office in the headquarters county in accordance with the provisions of § 1430.404 of this subpart;

(4) Have established a milk base in accordance with § 1430.405 of this subpart; and

(5) Not have sold, leased or otherwise transferred either directly or indirectly, after November 8, 1983 and through the date an offer to enter into the milk diversion contract is submitted, dairy cows which would or could have been used for the production of milk during the contract period unless:

(i) The transfer is a sale, lease, or other transfer of dairy cows to another producer who executes a milk diversion contract with CCC;

(ii) The transfer is a sale of dairy cows for slaughter and the cattle are, in fact, slaughtered;

(iii) The cows are sold and delivered for export: *Provided,* that the producer is divested of all interest in such cows and the cows do not re-enter the United States; or

(iv) Such sale, lease, or transfer occurs before January 1, 1984, and the Administrator, ASCS, or his designee has determined that such sale, lease, or transfer does not defeat the goals of the Milk Diversion Program provided for in this subpart.

(d) If a unit includes dairy cows which were leased from another person as of November 8, 1983, the provisions of subsection (c) shall apply to such dairy cows and the word "transfer" shall include the return of such cows to the lessor.

(e) A producer may be considered to have been actively engaged in the production of milk as of November 29, 1983, if it is determined by the county committee that the producer was prevented from carrying out normal operations for the production of milk on that date due to conditions beyond the producer's control.

§ 1430.404 Milk reduction plan.

(a) Before executing a contract with CCC, the producer shall provide a milk reduction plan to the county ASCS office. The plan shall:

(1) Describe the manner in which the producer intends to achieve the reduction in milk marketings required under the contract;

(2) Include an estimate of the amount of such reduction which the producer intends to achieve through increased slaughter of dairy cows including the approximate number of dairy cows that will be sold for slaughter during each month of the contract; and,

(3) Contain such additional information as the county committee or CCC may require.

(b) The producer shall submit a revised plan if requested by the county committee and shall file all other reports relating to the disposition of cows which CCC may require in the contract or which may otherwise be required by this subpart.

§ 1430.405 Establishment of milk base.

(a) In order to establish the milk base for a unit, the county committee shall determine the quantity of marketings of milk for commercial use which can be claimed for the unit by the producer on the unit for the base period.

(b) A producer may claim those marketings of milk for commercial use which are attributable to the unit during the base period and for which the producer shared in the risk of production by supplying either the dairy cows from which the milk was produced and/or the production facility used to produce such milk: *Provided, however,* a producer may only claim such marketings to the extent to which the producer was entitled to an individual share in the proceeds of such marketings. In addition, a producer may claim those marketings of milk for commercial use which are attributable to the unit and claimable by the producer as a result of the transfer of marketing history in accordance with § 1430.406.

(c) The milk base for a unit shall be established based upon evidence submitted to the county committee by the producer which, in addition to such other evidence as the county committee or CCC may require, indicates the quantity of milk marketed for commercial use from the unit during the base period and any marketing history which has been transferred to the producer in accordance with § 1430.406. All producers on the unit shall be responsible for the accuracy of all information submitted to establish the milk base for the unit.

(d) A milk base may be adjusted if it is determined that such an adjustment is necessary to correct for abnormally low production in the base period as the result of a natural disaster or other condition beyond the control of the producer.

§ 1430.406 Transfer of marketing history.

Marketing history may be transferred by a producer to another person only if the producer's entire interest in the milk production facility and the producer's entire interest in the entire dairy herd has been transferred directly to the person claiming such history and such transfer of interest was made as a result of: (a) The death of the producer; (b) a gift from the producer; or (c) a transfer to a member or members of the family of the producer. The term "member of the family of the producer" as used in this section shall mean: (a) An ancestor of the producer; (b) the spouse of the producer; (c) a lineal descendant of the producer, or the producer's spouse, or a parent of the producer; or (d) the spouse of any such lineal descendant.

§ 1430.407 Milk base amount.

(a) *Milk Base.* The milk base for the unit shall be the sum of the five quarterly bases for the unit as determined in accordance with paragraph (b) of this section.

(b) *Quarterly base.* Five quarterly milk bases (expressed in pounds) shall be determined for each unit to correspond to the five quarters of the contract period.

(1) *Base period of 1982.* If the producer elects a 1982 base period, the first four quarterly bases of the contract period shall be the quantity of milk marketed for commercial use (as adjusted, if applicable) determined in accordance with § 1430.405 during each corresponding quarter for calendar year 1982. The first quarter base shall also be the fifth quarter base.

(2) *Base period of 1981 and 1982.* If the producer elects to use 1981 and 1982 marketing history as the base for the unit, the first four quarterly bases for the contract period shall be the average of the quantity of milk marketed for commercial use (as adjusted, if applicable) determined in accordance with § 1430.405 for each corresponding quarter of calendar year 1981 and the quantity of milk marketed for commercial use (as adjusted, if applicable) determined in accordance with § 1430.405 for each corresponding quarter of calendar year 1982. The first quarter base shall also be the fifth quarter base.

§ 1430.408 Contract reduction.

(a) The producer shall specify in the contract a percentage, which shall not be less than 5 percent nor more than 30 percent, by which the producer agrees to reduce the quantity of milk marketed for commercial use in the contract period from the milk base established for the unit. The contract reduction (expressed in pounds) shall be the milk base established for the unit multiplied by the percentage specified in the contract. A producer shall be eligible for payment under the contract only if the reduction in the quantity of milk marketed for commercial use from the unit during the contract period equals or exceeds greater of: (1) The contract reduction less an amount equal to 3 percent of the milk base, and (2) 5 percent of the milk base.

(b) If the contract reduction is adjusted by CCC, a producer shall be considered to be eligible for payments if the producer has complied with the terms and conditions of the contract and the reduction in the quantity of milk marketed for commercial use equals or exceeds the greater of: (1) The adjusted contract reduction less an amount equal to 3 percent of the milk base, and (2) 5 percent of the milk base.

§ 1430.409 Contract compliance.

(a) In order to be eligible for diversion payments, the producer must be an eligible producer and must comply with all of the terms and conditions of the contract and this subpart. The contract between the producer and CCC shall provide that:

(1) The producer shall reduce the quantity of milk marketed for commercial use during the contract period by the quantity agreed upon between the producer and CCC (as adjusted, if applicable);

(2) The producer shall not have transferred, at any time after the date on which the offer to enter into the contract was submitted by the producer, any dairy cows that would or could have been used by the producer for the production of milk if the producer had not executed and complied with the contract, except to the extent that such transfer is permitted by § 1430.410 of this subpart.

(3) Any production capacity of a milk production facility that becomes available for use because a producer reduces milk production in order to comply with the terms and conditions of the contract shall not be used by the producer, or made available by the producer for use by any other person, for the production of milk; and

(4) The producer shall refund to CCC any payments received under the contact, together with interest, if the producer fails to comply with the terms and conditions of the contract and this subpart.

§ 1430.410 Restrictions on transfers of dairy cows.

(a) After the date on which the offer to enter into the contract was submitted by the producer, a producer shall not sell, lease, or otherwise transfer, either directly or indirectly, dairy cows which would or could have been used by the producer for the production of milk if the producer had not executed a contract unless:

(1) The producer sells the dairy cows for slaughter and such cows are, in fact, slaughtered;

(2) The transfer is a sale, lease, or other transfer of diary cows to another producer who has executed a milk diversion contract with CCC;

(3) The dairy cows are sold and delivered for export: *Provided*, that the producer is divested of all interest in such cows and the cows do not re-enter the United States.

(b) The transfer restrictions of paragraph (a) shall not apply to transfers of dairy cows in connection with the assignment of the producer's entire interest in the contract to the extent such assignments of the contract are permitted by the contract.

(c) If a unit includes dairy cows which were leased from another person as of November 8, 1983, the provisions of this section shall apply to such dairy cows, and the word "transfer" as used in this section shall include the return of such cows to the lessor.

§ 1430.411 Modification of contracts.

(a) Contracts entered into under this subpart may be modified with respect to the amount of reduction required if it is determined that: (i) There would be an excessive reduction in the level of milk production in the United States, or (ii) there has been a substantial hardship to producers of beef cattle, dairy cattle, hogs, or poultry sold for slaughter: *Provided, however*, that any reduction made in accordance with clause (ii) of this subsection shall not be so great as to require the producer to make a reduction in excess of 150 percent of the contract reduction for any succeeding quarter of the contract period.

(b) In addition to any modification in the contact which may be specifically provided for in this section, CCC may make such other modifications in the terms and conditions of the contract as may be determined to be necessary to further the goals of the Milk Diversion Program.

§ 1430.412 Amount of payment.

A producer who is determined to be eligible for payments under the provisions of the contract and this subpart shall be eligible to receive a payment of $10 per hundredweight for actual reductions from the milk base in the quantity of milk marketed for commercial use during the contract period, subject to any adjustments provided for in the contract and this subpart, up to the lesser of: (a) The contract reduction (as adjusted, if applicable) plus 3 percent of the milk base, or (b) 30 percent of the milkbase.

§ 1403.413 Time of payment; eligibility for payment.

(a) Quarterly payments may be made to each eligible producer by the county committee at the end of each quarter of the contract period and shall be made on such basis as CCC determines will serve to further contract compliance and avoid overpayment.

(b) A producer shall not be eligible for any payments under the contract and shall refund to CCC any payments previously received under the contract if the producer has failed to make the contract reduction for the contract period within the tolerances provided for in this subpart or has otherwise failed to comply with the terms and conditions of the contract and this subpart.

(c) A final payment shall be made following the fifth quarter of the contract period. This payment shall include payment for the fifth quarter and shall be adjusted for any amounts which are determined to be due and owing to CCC by the producer.

(d) The producer shall report the marketings from the unit to the county ASCS office during the contract period and for each individual quarter of the contract period if the producer makes an application for any quarterly payment. The producer is responsible for the accuracy of such information. In order to be eligible for payment, the producer shall certify that any reported reduction is a net decrease in the marketings of milk for commercial use from the milk base established for the unit and has not been offset by expansion of production and marketings in other production facilities in which the producer has an interest, by a transfer of partial interest in any production facility, or by employment of any scheme or device to qualify for a payment for which such producer would otherwise not be eligible.

(e) The contract shall provide that the producer shall be ineligible for any payment under the contract if the total quantity of milk marketed for commercial use by the producer during the contract period from all units in which the producer has an interest and which are not the subject of a milk diversion contract exceeds the total quantity of such marketings during the period December 1, 1982, through November 30, 1983, with the marketings January through March 1983 being counted twice, from any unit in which the producers had an interest as of January 1, 1984, and which is not the subject of a contract.

(f) For purposes of this section a producer shall be considered to have an interest in any unit which consists in whole or in part of any land, equipment, production facility or dairy cows owned, leased or supplied, in whole or in part by: (1) The producer; (2) any partnership

or joint venture other than a corporation of which the producer is a member; (3) any corporation in which the producer holds more than a 20 percent interest; (4) a spouse of the producer, a minor child of the producer, or legal guardian of the such minor child acting on behalf of such minor child; or (5) any trust in which the producer has an interest.

(g) Marketings during the contract period shall be adjusted in such manner as may be specified in the contract to reflect any marked deviation in the composition of milk marketed for commercial use during the contract period from the composition of such marketings during the base period.

§ 1430.414 Assignment of contracts.

Assignments of contracts shall be permitted only upon such terms and conditions as may be specified in the contract. In the event of the death of a producer who has entered into a contract with CCC, the estate may perform the contract and may assign the producer's interest in the contract to the extent that the producer could have made such an assignment.

§ 1430.415 Penalties.

(a) Any producer who fails to make the reduction in the quantity of milk marketed for commercial use as required by the contract shall be liable, in addition to any other amount due under the contract, to a marketing penalty which shall be computed at a rate equal to the support price for milk in effect at the time the failure occurs on the quantity of milk as to which the failure applies. Increased marketings during the contract period from any unit in which the producer has an interest may be counted as marketings from the contract unit for purposes of determining whether there has been compliance with the contract and whether a marketing penalty should be assessed. Any marketing penalty which is assessed in accordance with this subsection may be reduced in such amount as the Administrator, ASCS, or his designee, determines to be equitable if the failure by the producer to make the required reduction in the marketings of milk for commercial use was unintentional or without the producer's knowledge.

(b) Except for a failure to make the contract reduction, any producer or person who knowingly violates any provision of the Milk Diversion Program shall be liable for a civil penalty of not more than $1,000 for each violation.

(c) Any penalty provided for under this section shall be assessed only after notice and opportunity for an informal administrative hearing which shall be conducted in accordance with the administrative appeal regulations found at 7 CFR Part 780.

§ 1430.416 Interest; late payment charges; setoffs and withholding.

(a) Interest shall be charged on any amounts which are determined to be due and owing to CCC from the date of disbursement to the date of refund. The rate of interest shall be the rate of interest which is established in accordance with 7 CFR Part 1403.

(b) Any amounts which are due and owing to CCC under the Milk Diversion Program shall be subject to late payment charges as provided for in 7 CFR Part 1403.

(c) The regulations issued by the Secretary of Agriculture with respect to setoffs and withholdings, 7 CFR Part 13, shall be applicable to the Milk Diversion Program authorized by this subpart.

§ 1430.417 Misrepresentation; scheme or device; fraud.

(a) A producer who is determined by the county committee or the State committee to have erroneously represented any fact affecting a Milk Diversion Program determination shall not be eligible for payments under such program and shall refund to the CCC any payments received by such producer with respect to any unit.

(b) A producer shall refund to the CCC all payments received by such producer with respect to the program if it is determined by the State committee, or the county committee with the approval of the State committee, that the producer knowingly:

(1) Adopted any scheme or device which tends to defeat the purpose of the program;

(2) Made any fraudulent representation in connection with the program; or

(3) Misrepresented any fact affecting a program determination.

(c) The provisions of this section shall be applicable in addition to any liability under criminal and civil fraud statutes.

(d) If the County Committee finds that any person has adopted or participated in any pratice which tends to defeat the purposes of the program, it may withhold, or require to be refunded, all or any part of the payment which otherwise would be due the producer under the program.

§ 1430.418 Appeals.

A producer may obtain reconsideration and review of the determinations made under this subpart in accordance with the Appeal Regulations, 7 CFR Part 780.

§ 1430.419 Performance based upon advice or action of county or State committee.

The provisions of 7 CFR Part 790 relating to performance based upon action or advice of an authorized representative of the Secretary shall be applicable to this subpart.

§ 1430.420 Miscellaneous provisions.

(a) The contract between CCC and the producer shall contain such other provisions as CCC determines appropriate to carry out the program established by this subpart.

(b) Payments which are earned by a producer may be assigned in accordance with the provisions of 7 CFR Part 709. For the purpose of making an assignment of payment under this section, the phrase "to finance the making a crop" in § 709.3 of Part 709 shall be construed to include the production of milk.

(c) Any payment which is due any person shall be allowed without regard to questions of title under State law and without regard to any claim or lien against the contract unit or any milk produced from the unit, and the proceeds thereof, which may be asserted by any creditor except agencies of the United States Government.

(d) All records of the producer which relate to the performance and compliance by the producer with the provisions of the contract and this subpart shall be maintained for three years from the date of final payment by CCC under the contract.

(e) The producer shall execute all certifications specified in the contract or required by CCC or any other representative of the Department in the administration of this subpart.

§ 1430.421 Other regulations.

The following regulations shall also be applicable to this subpart:

(a) 7 CFR Part 13—Setoffs and Witholding;

(b) 7 CFR Part 707—Payments Due Persons Who Have Died, Disappeared or Have Been Declared Incompetent;

(c) 7 CFR Part 780—Appeal Regulations;

(d) 7 CFR Part 790—Incomplete Performance Based Upon Action or Advice of an Authorized Representative of the Secretary;

(e) 7 CFR Part 791—Authority to Make Payments When There Has Been a Failure to Comply Fully With the Program;

(f) 7 CFR Part 796—Harvesting of Marihuana or Other Such Drug-Producing Plants for Illegal Use; and

(g) 7 CFR Part 1403—Interest on Delinquent Debts.

§ 1403.422 Paperwork Reduction Act assigned numbers.

The information collection requirements contained in these regulations (7 CFR Part 1430) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Control Number 0560–0114.

Signed at Washington, D.C. on December 29, 1983.

Richard E. Lyng,

Acting Secretary, U.S. Department of Agriculture.

[FR Doc. 83-34849 Filed 12-30-83; 11:33 am]
BILLING CODE 3410-05-M

Animal and Plant Health Inspection Service

9 CFR Part 81

[Docket No. 83-148]

Highly Pathogenic Avian Influenza

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the "Highly Pathogenic Avian Influenza" interim rule by reducing the area designated as a quarantined area in New Jersey because of highly pathogenic avian influenza. The quarantined area is changed by deleting portions of Atlantic, Cumberland, Gloucester, and Salem Counties from the quarantined area (with this change all of Atlantic County is outside of the quarantined area). The quarantined area was established as part of a mechanism to help prevent the spread of highly pathogenic avian influenza. However, it is no longer necessary to quarantine the deleted area for such purpose.

DATES: Effective date is December 30, 1983. Written comments must be received on or before March 5, 1984.

ADDRESS: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal building, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. William W. Buisch, Chief, National Emergency Field Operations Staff, VS, APHIS, USDA, Room 747, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8073.

SUPPLEMENTARY INFORMATION:

Emergency Action

Dr. John K. Atwell, Deputy Administrator of the Animal and Plant Health Inspection Service for Veterinary Services, has determined that an emergency situation exists which warrants publication of this interim rule without prior opportunity for public comment. Immediate action is warranted in order to delete unnecessary restrictions on the movement of live poultry and certain other items from portions of Atlantic, Cumberland, Gloucester, and Salem Counties in New Jersey.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest; and good cause is found for making this interim rule effective upon signature. Comments are solicited for 60 days after publication of this document. A final document discussing comments received and any amendments required will be published in the **Federal Register**.

Background

The "Highly Pathogenic Avian Influenza" interim rule in 9 CFR Part 81, among other things, regulates the interstate movement of poultry and certain other items from quarantined areas in Pennsylvania and New Jersey because of highly pathogenic avian influenza (48 FR 51422–51423, 52420–52427, 52885–52887, 53678–53679, 53679–53681, 53997, 54574–54575, 55402–55405, 55722, 57474–57475). This document reduces the area designated as a quarantined area in New Jersey.

Highly Pathogenic Avian Influenza

Highly pathogenic avian influenza is a highly contagious and pathogenic viral disease of poultry. It is defined as a disease of poultry caused by any influenza virus Type A that results in not less than 75 percent mortality within 8 days in at least 8 healthy susceptible chickens, 4 to 8 weeks old, inoculated by the intramuscular, intravenous, or caudal airsac route with bacteria-free infectious allantoic or cell culture fluids and using standard laboratory operating procedures to assure specificity. Clinical evidence of the disease includes decreased feed and water consumption, depression, unusual movements or positions, increased mortality, hemorrhage beneath the skin on the lower legs and feet, severe decrease in egg production, post mortem lesions, and history of the disease occurrence in the flock.

Effect of Designation as a Quarantined Area

With certain exceptions, the interim rule provides that the following articles designated as prohibited articles are prohibited from being moved interstate from a quarantined area:

(1) Live poultry,

(2) Manure from poultry, and

(3) Litter that has been used by poultry.

The interim rule also provides, with certain exceptions, that the following articles designated as restricted articles are allowed to be moved interstate from a quarantined area only in accordance with certain conditions:

(1) Poultry carcasses or parts thereof,

(2) Eggs from poultry, and

(3) Coops, containers, troughs or other accessories that have been used in the handling of poultry or poultry eggs.

Reduction of Quarantined Area in New Jersey

Prior to the effective date of this document, the quarantined area in New Jersey consisted of approximately 400 square miles and included portions of Atlantic, Cumberland, Gloucester, and Salem Counties. This document reduces the quarantined area in New Jersey to an area of approximately 12 square miles by deleting portions of Atlantic, Cumberland, Gloucester, and Salem Counties from the quarantined area (with this change all of Atlantic County is outside of the quarantined area). The previously established quarantined area was based on the finding of highly pathogenic avian influenza in live poultry on a premises in Salem County in New Jersey.

The poultry on the infected premises have been depopulated. Also, based on extensive surveys in the previously quarantined area in New Jersey it has been determined that the disease has not spread from that premises to live poultry on other premises. Further, in addition to being within the quarantined area in New Jersey, the infected premises is also subject to a Federal premises quarantine which prohibits the movement from such premises of all of the articles referred to above as prohibited articles or restricted articles.

However, the quarantined area cannot be completely eliminated since reservoirs of the virus remain on the premises where the disease was found in Salem County. It has been determined that it is still necessary to protect

against the spread of highly pathogenic avian influenza from the infected premises by vectors such as small animals or insects. Further, it has been determined that this can be accomplished with a quarantine which has easily understood boundary lines, includes the premises containing highly pathogenic avian influenza virus, and includes at least a one mile buffer zone in every direction from premises containing the virus.

Prior to the effective date of this document, the quarantined area in Atlantic, Cumberland, Gloucester, and Salem Counties in New Jersey was described as:

That portion of New Jersey beginning at the intersection of NJ Highway 45 and NJ Highway 49; then northeasterly along NJ Highway 45 to its intersection with U.S. Highway 322; then southeasterly along U.S. Highway 322 to its intersection with NJ Highway 54; then southwesterly along NJ Highway 54 to its intersection with NJ Secondary Road 557; then southeasterly along NJ Secondary Road 557 to its intersection with NJ Secondary Road 552; then westerly along NJ Secondary Road 552 to its intersection with NJ Highway 47; then southerly along NJ Highway 47 to its intersection with NJ Highway 49; then northwesterly along NJ Highway 49 to its intrersection with NJ Highway 45.

Under the circumstances and criteria explained above, the quarantined area in New Jersey is redescribed as follows:

That portion of Salem, Gloucester, and Cumberland Counties in NJ beginning at the intersection of U.S. Highway 40 with NJ Highway 55; then southerly along New Jersey Highway 55 to its intersection with County Road 690; then westerly along County Road 690 to its intersection with County Road 655; then northerly along County Road 655 to its intersection with County Road 639; then northwesterly along County Road 639 to its intersection with County Road 553; then northerly along County Road 553 to its intersection with U.S. Highway 40; then easterly along U.S. Highway 40 to its intersection with NJ Highway 55.

Executive Order and Regulatory Flexibility Act

The emergency nature of this action makes it impracticable for the Agency to follow the procedures of Executive Order 12291 and Secretary's Memorandum 1512–1 with respect to this interim rule. Immediate action is warranted in order to delete unnecessary restrictions on the movement of live poultry and certain other items from portions of Atlantic, Cumberland, Gloucester, and Salem Counties in New Jersey.

This emergency situation also makes compliance with section 603 and timely compliance with section 604 of the Regulatory Flexibility Act impracticable. Since this action may have a significant economic impact on a substantial number of small entities, the Final Regulatory Impact Analysis, if required, will address the issues required in section 604 of the Regulatory Flexibility Act.

List of Subjects in 9 CFR Part 81

Animal diseases, Poultry and poultry products, Transportation.

PART 81—HIGHLY PATHOGENIC AVIAN INFLUENZA

Under the circumstances referred to above, § 81.4(a) of 9 CFR Part 81 is revised to read as follows:

§ 81.4 Quarantined areas.

(a) The following area in Cumberland, Gloucester, and Salem Counties in New Jersey is designated as a quarantined area: That portion of New Jersey beginning at the intersection of U.S. Highway 40 with NJ Highway 55; then southerly along NJ Highway 55 to its intersection with County Road 690; then westerly along County Road 690 to its intersection with County Road 655; then northerly along County Road 655 to its intersection with County Road 639; then northwesterly along County Road 639 to its intersection with County Road 553; then northerly along County Road 553 to its intersection with U.S. Highway 40; then easterly along U.S. Highway 40 to its intersection with NJ Highway 55.

* * * * *

Authority: Sec. 2, 23 Stat. 31, as amended; secs. 4–8, 23 Stat. 31–33, as amended; secs. 1–3, 32 Stat. 791, 792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; 41, Stat. 699; sec. 2, 65 Stat. 693; Secs. 2–3, 5–6, and 11, 76 Stat. 129–132; 76 Stat. 663, 7 U.S.C. 450, 21 U.S.C. 111–113, 114a–1, 115–117, 119–126, 130, 134a, 134b, 134d, 134e, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, D.C. this 30th day of December, 1983.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 83-34852 Filed 12-30-83; 4:26 pm]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-NM-111-AD; Amdt. 39-4791]

Airworthiness Directives; British Aerospace Model HS 748 2A and 2B Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to British Aerospace Model HS 748 2A and 2B series airplanes which requires installation of new rudder, elevator, and aileron lock levers. A fatal accident occurred during take-off with the elevator gust lock in the locked position. The new levers are necessary to prevent this condition from occurring.

DATE: Effective January 11, 1984.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to British Aerospace, Inc., Box 17414, Dulles International Airport, Washington, D.C. 20041 or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM–150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 431–2979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The Civil Aviation Authority of the United Kingdom (CAA) has classified British Aerospace HS 748 Service Bulletin 27/88 as mandatory. There has been a fatal accident during take-off, due to the elevator being locked. It is probable that the elevator gust lock reengaged after the pilot's checks for full and free movement of the rudder and ailerons. Subsequent investigation has shown that the introduction of new cam slots for all three controls will improve the tolerance of these components to in-service defects which could add to the possibility of a lock becoming reengaged. The service bulletin prescribes installation of new gust lock levers for the three controls.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, the FAA has determined that an AD is necessary which requires installation of new gust lock levers for the three controls.

Further, since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for

making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

British Aerospace: Applies to all Model HS 748 2A and 2B series airplanes certificated in all categories. Compliance is required as indicated. To prevent the gust locks of the control surfaces from reengaging during flight, accomplish the following within the next 60 days after the effective date of this AD, unless previously accomplished:

A. Replace the existing elevator, rudder and aileron lock levers with new parts in accordance with the Accomplishment Instructions of British Aerospace HS 748 Service Bulletin 27/88, Revision 2, dated April 22, 1983.

B. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

This amendment becomes effective January 11, 1984.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89)

Note: The FAA has determined that this regulation is an emergency regulation that is not major under section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Seattle, Washington on December 22, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 84-59 Filed 1-3-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-NM-75-AD; Amdt. 39-4789]

Airworthiness Directives; McDonnell Douglas Model DC-9-10, -30, -40, and C-9 (Military) series airplanes equipped with ventral aft pressure bulkhead

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: On July 22, 1983, the FAA issued a telegraphic airworthiness directive (AD), T83-15-51, effective upon receipt, to all known operators of McDonnell Douglas Model DC-9-10, -30, -40, and C-9 (Military) series airplanes certificated in all categories. This AD required inspection for cracked ventral aft pressure bulkheads and rework, if necessary. This action was prompted by a report of a 51-inch crack in the right side of the ventral aft pressure bulkhead web. Failure of the bulkhead web will result in loss of cabin pressurization: This AD is hereby published in the **Federal Register** to make it effective to all persons.

DATES: Effective January 9, 1984.

This AD was effective earlier to all recipients of telegraphic AD T83-15-51, dated July 22, 1983.

Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Michael N. Asahara, Sr., Aerospace Engineer, Airframe Branch, ANM-120L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2826.

SUPPLEMENTARY INFORMATION: On July 22, 1983, the FAA issued a telegraphic airworthiness directive (AD), T83-15-51, applicable to McDonnell Douglas Model DC-9-10, -30, -40, and C-9 (Military) series aircraft requiring inspection and rework, if necessary, of the ventral aft pressure bulkhead. There had been one incident reported by an operator of a 51-inch crack in the right-hand side of the ventral aft pressure bulkhead. Subsequent study of the failed pressure bulkhead revealed that the cracking in the web initiated in an area coincident with a crease found on the forward side of the bulkhead. Fractographic analysis revealed that a portion of the crack coincident with the crease failed in shear overload. This indicates that the crack was a through flaw, created approximately the same time as the crease was initiated. Study also revealed that fatigue cracking initiated at the ends of the flaw and propagated in the inboard and outboard directions. The FAA has since concluded that the fatigue cracking was caused by mechanical damage, but is unable to ascertain the probable origin of the damage or the existence or extent of a similar condition on other aircraft. The failure of the ventral aft pressure bulkhead could compromise the structural integrity of the fuselage and result in rapid loss of cabin pressurization. The aircraft involved had approximately 33,000 total flight hours and 34,076 landing cycles.

Since this condition may exist or develop on other aircraft of this same type design, a telegraphic AD was issued which required a visual inspection designed to reveal cracks at a location similar to the one discovered in service, and rework, if necessary.

Since a situation existed and still exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation Safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-9-10, -30, -40, and Military C-9 series airplanes, fuselage numbers 20 through 264, with ventral aft pressure bulkhead not in compliance with McDonnell Douglas DC-9 Alert Service Bulletin A53-144, certificated in

all categories, unless already accomplished:

A. For airplanes with 30,000 or more cycles, accomplish the following within the next 100 additional cycles after the effective date of this AD:

1. Roll back or remove and retain insulation material from aft side of bulkhead web for approximately 15 inches outboard of RH/LH edge or ventral door cutout.

2. Clean as necessary and perform close detail visual check for cracks running along AD4 rivet rows, for attaching RH/LH horizontal stiffeners, P/N 9915558, at Z=14.00, 24.00, 34.00, 48.00 and 63.50. (Reference McDonnell Douglas Service Sketch SK 3110A, Figure 1, Sheet 6). Check for cracks for a distance of 15 inches outboard of RH/LH edge of ventral door cutout. Removal of existing finger doublers along edges of door cutout is not required. Primary areas of interest are the outboard edges of finger doublers.

3. In addition to above, on Group 1 aircraft identified in McDonnell Douglas DC–9 Alert Service Bulletin A53–144, perform a visual check for cracks in the web at the upper and lower ends of the firex support stiffeners. (Refer to McDonnell Douglas Service Sketch 3109.)

B. Rework any cracked bulkhead panels, per McDonnell Douglas Service Sketches SK 3525 (temporary), dated July 19, 1983, or SK 3524A (permanent), dated July 18, 1983.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes unpressurized to a base in order to comply with the requirements of this AD.

D. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–750 (54–60). These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This Admendment becomes effective, January 9, 1984, and was effective earlier to those recipients of telegraphic AD T83–15–51, dated July 22, 1983.

(Sec. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evalution or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evalution is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Seattle, Washington on December 21, 1983.

F. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 84–56 Filed 1–3–84; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 83–AGL–11]

Alteration of Control Zone; Columbus, Ohio

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to alter the Port Columbus International Airport, Columbus, Ohio, control zone to revise/reduce the airspace currently designated for the control zone.

The intended effect of this action is to insure segregation of the aircraft using approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions in controlled airspace.

EFFECTIVE DATE: March 15, 1983.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL–530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–7360.

SUPPLEMENTARY INFORMATION: This action revises the Port Columbus International Airport control zone to accommodate existing airspace requirements. A review of designated airspace in the Columbus area prompted a rewrite to better and more accurately describe the airspace in the area. The revised description is presented in the text of this notice.

Aeronautical maps and charts will reflect the defined areas which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

History

On the page 49863 of the **Federal Register** dated October 28, 1983, the FAA proposed to amend § 71.171 of the Federal Aviation Regulations (14 CFR Part 71) so as to alter the Port Columbus International Airport, Columbus, Ohio, control zone. Interested parties were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.171 of Part 71 of the Federal Aviation Regulations was published in Advisory Circular AC 70–3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Control zones/Aviation safety.

Adoption of the amendment

§ 71.171 [Amended]

Accordingly, pursuant to the authority delegated to me, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT, March 15, 1984, as follows:

Columbus, Port Columbus International Airport, OH

Within a 5-mile radius of Port Columbus International Airport (latitude 39°59'42" N., longitude 82°53'11" W.); within 1 mile each side of the 100° bearing from the center of the airport, extending from the 5-mile radius zone to 6 miles east of the airport; within 1 mile each side of the 280° bearing from the center of the airport, extending from the 5-mile radius zone to 6 miles west of the airport.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983))

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, it is certified that this—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on December 20, 1983.

Monte R. Belger,

Acting Director,

Great Lakes Region.

[FR Doc. 84-55 Filed 1-3-84; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 73

[Docket No. 83C-0179]

Listing of Color Additives for Coloring Contact Lenses

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the color additive regulations to provide for the safe use in coloring contact lenses of the color polymeric reaction products formed by chemically bonding certain dyes, used singly or in combination, with poly(hydroxyethyl methacrylate). The reaction products are called "poly(hydroxyethyl methacrylate)-dye copolymers" in the listing regulation. The agency is taking this action in response to a petition filed by Ciba Vision Care.

DATES: Effective February 6, 1984; objections by February 3, 1984.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: John L. Herrman, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of July 5, 1983 (48 FR 30758), FDA announced that a color additive petition (CAP 3C0174) has been filed by Ciba Vision Care, P.O. Box 105069, Atlanta, GA 30348, proposing "that the color additive regulations be amended to provide for the safe use of the following dyes chemically bonded to the lens polymer, singly or in various combinations, for coloring contact lenses: Reactive Blue 21 (CAS Reg. No. 73049-92-0), Reactive Black 5 (CAS Reg. No. 17095-24-8), Reactive Yellow 15 (CAS Reg. No. 60958-41-0), and Reactive Orange 78 (CAS Reg. No. 68189-39-9)." The petition was filed under section 706 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 376).

The colored polymeric reaction products that are subject of this petition are formed when one or more of the dyes listed in § 73.3121(a) (21 CFR 73.3121(a)) are bonded with poly(hydroxyethyl methacrylate) on the front surface of a contact lens to form a thin layer of colored polymeric material on that surface. This polymeric material colors the contact lens.

Under the Medical Device Amendments of 1976 (Pub. L. 94-295), a color additive for use in a medical device must be listed when the color additive comes in direct contact with the body for a significant period of time (section 706(a) of the act). The polymeric reaction products of the reactive dyes and poly(hydroxyethyl methacrylate), called "poly(hydroxyethyl methacrylate)-dye copolymers" in § 73.3121, are color additives within the meaning of section 201(t) of the act (21 U.S.C. 321(t)) because they are substances made by a process of synthesis or similar artifice, and because they are capable of imparting color to food, drugs, cosmetics, or the human body if added or applied thereto. In the use considered here, the reactive dyes are merely starting materials and not color additives subject to section 706 of the act. In the reaction process that occurs in bonding the reactive dyes to the poly(hydroxyethyl methacrylate), the reactive dyes cease to exist as separate entities.

The use of the poly(hydroxyethyl methacrylate)-dye copolymers as color additives in contact lenses is subject to regulation under section 706(a) of the act. The lenses that have this colored polymeric material on their front surfaces are intended to be placed on the eye for several hours a day, each day, for 1 year or more. These color additives accordingly will come in direct contact with the body for a significant period of time. Consequently, the use of the color additives presented in the petition now before the agency is subject to the statutory listing requirement.

To establish that the color additives are safe for use in contact lenses, the petitioner submitted various toxicity data. In a primary ocular irritation study with extracts of lens material containing the color additives, and in a 21-day ocular irritation study with contact lenses tinted with the color additives, both of which were done in rabbits, neither the lens containing the color additives nor the extracts of the colored lens material caused ocular irritation under the conditions of these tests. The agency has also reviewed data regarding the toxicity of potential impurities, such as unbound reactive dye starting materials, remaining in the lens. The reactive dye starting materials, being of lower molecular weight than the polymeric color additive, would be more readily absorbed into the body than the color additive and would thus be expected to show a greater toxic effect. FDA has concluded that, as a worst case, any material migrating from the color additive in the lens would not pose a greater safety concern than if the reactive dye starting materials were placed in the lens unbound, and all migrated into the eye over a 1-year period. This amount of migration would be equivalent to 5 to 45 micrograms of reactive dye starting material per lens or a total of 27 to 250 nanograms per day for both eyes, depending on the reactive dye used. The petitioner conducted cytotoxicity studies in which serial dilutions of the individual reactive dyes were applied directly to L-929 mouse fibroblast cells. For the reactive dye used in the greatest amounts, no toxic effect was seen at a concentration 1,300 times the concentration that would be in the eyes if 250 nanograms migrated into the eyes per day. All other reactive dyes showed no toxic effect with even greater factors above the worst case eye concentration, ranging up to 61,000 times the concentration that would be in the eyes from 27 nanograms per day.

On the basis of these studies, FDA concludes that the safety margin is sufficiently large that, for any foreseeable formulation, a limitation on the amount of these color additives that may be present on the lens, beyond the limitation that only that amount necessary to accomplish the intended technical effect may be used, is not required.

FDA received an anonymous comment in response to the notice of filing of this petition. The person making the comment claims that the dye-polymer reaction is reversible, resulting in the release of toxic dyes into the eye during the lifetime of the contact lens, but did not provide data to support that claim. Information in the petition shows that the dye-polymer reaction is reversible in alkali, but that the polymeric color additive is highly stable under the physiological conditions of the eye. The agency has also searched the toxicity literature and has found no data supporting the claim regarding the toxicity of the materials that would be released if the binding reaction were reversed. The agency therefore finds no basis for the assertions in the comment.

FDA, having reviewed the anonymous comment, data in the petition, and other

relevant material, concludes that there is a reasonable certainty that no harm will result from the proposed use of the reaction products of poly(hydroxyethyl methacrylate) with Reactive Black 5, Reactive Blue 21, Reactive Orange 78, and Reactive Yellow 15, used singly or in various combinations, for coloring contact lenses. To further assure the safety of the use of these color additives, FDA is establishing a requirement that the manufacturer wash the lens to remove unbound reactive dyes. The agency also concludes that the poly(hydroxyethyl methacrylate)-dye copolymers listed in § 73.3121 are suitable for their intended use. On the basis of factors listed in § 71.20(b) (21 CFR 71.20(b)), the agency concludes that certification of the color additive is not necessary for the protection of the public health.

In accordance with § 71.15(a) (21 CFR 71.15(a)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in § 71.15(b), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has previously concluded that this action will not have a significant impact on the human environment and that an environmental impact statement is not required. No new information or comments have been received that would alter the agency's previous determination that there is no significant impact on the human environment, and that an environmental impact statement is not required.

List of Subjects in 21 CFR Part 73

Color additives, Cosmetics, Drugs, Medical devices.

PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701(e), 706, 70 Stat. 919 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 371(e), 376)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 73 is amended by adding new § 73.3121 under Subpart D, to read as follows:

§ 73.3121 Poly(hydroxyethyl methacrylate)-dye copolymers.

(a) *Identity.* The color additives are formed by reacting one or more reactive dyes listed in this paragraph with poly(hydroxyethyl methacrylate), so that the sulfate group (or groups) of the dye is replaced by an ether linkage to the poly(hydroxyethyl methacrylate). The dyes are (1) Reactive Black 5 [2,7-naphthalenedisulfonic acid,4-amino-5-hydroxy-3,6-bis[(4-[(2-(sulfooxy)ethyl)sulfonyl)-phenyl)azo)-, tetrasodium salt] (CAS Reg. No. 17095-24-8); (2) Reactive Blue 21 [copper, (29*H*,31*H*-phthalocyaninato(2-)-*N*(29),*N*(30),*N*(31),*N*(32))-, sulfo((4-((2-sulfooxy)ethyl)sulfonyl)phenyl)amino) sulfonyl derivs] (CAS Reg. No. 73049-92-0); (3) Reactive Orange 78 [2-naphthalene-sulfonic acid,7-(acetyl-amino)-4-hydroxy-3-((4-((2-(sulfooxy)-ethyl)sulfonyl)phenyl)azo)-] CAS Reg. No. 68189-39-9); and (4) Reactive Yellow 15 [benzensulfonic acid,4-(4,5-dihydro-4-((2-methoxy-5-methyl-4-((2-(sulfooxy)ethyl)sulfonyl)phenyl)azo)-3-methyl-5-oxo-1*H*-pyrazol-1-yl)-] (CAS Reg. No. 60958-41-0).

(b) *Uses and restrictions.* (1) The substances listed in paragraph (a) of this section may be used to color contact lenses in amounts not to exceed the minimum reasonably required to accomplish the intended coloring effect.

(2) As part of the manufacturing process, the lenses containing the color additives are thoroughly washed to remove unbound reactive dyes.

(3) Authorization and compliance with this use shall not be construed as waiving any of the requirements of sections 510(k), 515, and 520(g) of the Federal Food, Drug, and Cosmetic Act (the act). A person intending to introduce a device containing a poly(hydroxyethyl methacrylate)-dye copolymers listed under this section into commerce shall submit to the Food and Drug Administration either a premarket notification in accordance with Subpart E of Part 807 of this chapter, if the device is not subject to premarket approval, or submit and receive approval of an original or supplemental premarket approval application if the device is subject to premarket approval.

(c) *Labeling.* The label of the color additive shall conform to the requirements of § 70.25 of this chapter.

(d) *Exemption from certification.* Certification of this color additive is not necessary for the protection of the public health, and therefore the color additive is exempt from the certification requirements of section 706(c) of the act.

Any person who will be adversely affected by the foregoing regulation may at any time on or before February 3, 1984 file with the Dockets Management Branch (address above) written objection thereto. Objections shall show how the person filing will be adversely affected by the regulation., specify with particularity the provisions of the regulation deemed objectionable, and state the grounds for the objections. Objections shall be filed in accordance with the requirements of 21 CFR 71.30. If a hearing is requested, the objections shall state the issue for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Three copies of all documents shall be filed and shall be identified with the docket number found in the brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective February 6, 1984, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be announced by publication in the **Federal Register.**

(Secs. 701(e), 706, 70 Stat. 919 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 371(e), 376))

Dated: December 28, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-81 Filed 1-3-84; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 452

[Docket No. 83N-0285]

Antibiotic Drug; Updating and Technical Changes; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the final rule that amended the antibiotic drug regulations by making corrections, updatings, and minor technical changes. This document corrects the amendatory language to clairfy the technical change that was made in § 452.510b(a)(1).

EFFECTIVE DATE: November 8, 1983.

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, National Center for Drugs and Biologics (HFN-140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION:

§ 452.510b [Corrected]

In FR Doc. 83–30122 in the issue for Tuesday, November 8, 1983 (48 FR 51292), on page 51292 in the right column, amendment 7 is corrected to read "Part 452 is amended in § 452.510b by revising the fifth sentence and deleting the sixth sentence in paragraph (a)(1); by revising paragraph (a)(3)(i)(*b*); and by revising paragraph (b)(2) to read as follows:"

(This correction clarifies that only sentences five and six in §452.510b(a)(1) are affected. Even though sentence four is restated in the amendment, it is not changed. Nor is the last sentence, which is not restated, changed.)

Dated: December 28, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–30 Filed 1–3–84; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed for International Nutrition, Inc., providing for manufacturing a 20-gram-per-pound tylosin premix. The premix is used to make finished feeds for swine, beef cattle, and chickens.

EFFECTIVE DATE: January 4, 1984.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Bureau of Veterinary Medicine (HFV–130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4913.

SUPPLEMENTARY INFORMATION:

International Nutrition, Inc., 6664 L St., Omaha, NE 68117, is sponsor of a supplement to NADA 95–551 submitted on its behalf by Elanco Products Co. This supplement provides for the manufacture of 20-gram-per-pound premixes subsequently used to make finished feeds for swine, beef cattle, and chickens for use as in 21 CFR 558.625(f)(1) (i) through (vi). Based on the data and information submitted, the supplement is approved and the regulations are amended to reflect the approval. The basis for approval of this supplement is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact settlement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.625 by revising paragraph (b)(3), to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(3) To 043733: 4 grams per pound, paragraph (f)(1)(vi)(*a*) of this section; 10 grams per pound, paragraph (f)(1) (i), (iii), (iv), and (vi) of this section; 20 grams per pound, paragraph (f)(1) (i) through (vi) of this section.

* * * * *

Effective date. January 4, 1984.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: December 22, 1983.

Robert A. Baldwin,

Associate Director for Selective Evaluation.

[FR Doc. 84–27 Filed 1–3–84; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Monensin and Virginiamycin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by SmithKline Animal Health Products, providing for safe and effective use of separately approved monensin and virginiamycin premixes in making a combination broiler chicken feed. The feed is used for prevention of coccidiosis and increased rate of weight gain.

EFFECTIVE DATE: January 4, 1984.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Bureau of Veterinary Medicine (HFV–128), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4317.

SUPPLEMENTARY INFORMATION:

SmithKline Animal Health Products, Division of SmithKline Beckman Corp., 1600 Paoli Pike, West Chester, PA 19380, filed supplemental NADA 122–481 providing for use of separately approved monensin sodium (Coban®) and virginiamycin (Stafac®) premixes in making a combination broiler feed containing 90 to 110 grams of monensin per ton and 5 to 15 grams of virginiamycin per ton. The feed is intended for use as an aid in the prevention of coccidiosis and for increased rate of weight gain. The original approval provides for a combination broiler feed containing 90 to 110 grams of monensin per ton and 5 grams of virginiamycin per ton for use as an aid in the prevention of coccidiosis and for increased rate of weight gain and improved feed efficiency. The premixes are approved for individual use in broiler feed at the same dosage ranges and for the same claims now provided for in combination. The supplemental NADA is approved and the regulations are amended accordingly. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(ii) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under

authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.355 by revising paragraph (b)(5) and adding new paragraph (f)(1)(xxi) to read as follows:

§ 558.355 Monensin.

* * * * *

(b) * * *

(5) To 000007: 45 grams per pound, as monensin sodium provided by No. 000986, paragraph (f)(1)(xiii), (xx), and (xxi) of this section.

* * * * *

(f) * * *

(1) * * *

(xxii) *Amount per ton.* Monensin, 90 to 110 grams, plus virginiamycin, 5 to 15 grams.

(*a*) *Indications for use.* For increase in rate of weight gain; as an aid in the prevention of coccidiosis caused by *Eimeria necatrix, E. tenella, E. acervulina, E. maxima, E. brunetti,* and *E. mivati.*

(*b*) *Limitations.* Do not feed to laying chickens; feed continuously as sole ration; withdraw 5 days before slaughter; as monensin sodium provided by No. 000986 in § 510.600 of this chapter; virginiamycin provided by No. 000007 in § 510.600 of this chapter.

* * * * *

Effective date. January 4, 1984.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: December 23, 1983.

Richard A. Carnevale,

Acting Deputy Associate, Director for Scientific Evaluation.

[FR Doc. 84-29 Filed 1-3-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 200

[Docket No. R-83-1098; FR-1356]

Use of Materials Bulletin No. 82-HUD Building Product Standards and Certification Program for Sealing Insulating Glass Units

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This rule adopts as a part of HUD's Minimum Property Standards (MPS), a Use of Materials Bulletin (UM) that incorporates certain standards issued by the American Society for Testing and Materials, Inc. (ASTM) for the manufacture of sealed insulating glass units.

This action is taken after evaluation of technical standards prepared by the ASTM in response to industry requests for such evaluation.

The rule also supplements HUD's building products certification procedures by requiring that certain additional information be included on the label which each manufacturer affixes to the certified product, and by specifying the frequency with which sealed insulating glass units must be tested in order to be acceptable under HUD Programs.

EFFECTIVE DATE: Upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, but not before further notice of the effective date is published in the **Federal Register.** The approval by the Director of the Federal Register of the incorporations by references in this document will become effective on the effective date of this rule.

FOR FURTHER INFORMATION CONTACT: Mr. Leslie H. Breden, Construction Standards Division, Office of Manufactured Housing and Construction Standards, Room 3222, Department of Housing and Urban Development, Washington, D.C. 20410 (202) 755-5929. This is not a toll free number.

SUPPLEMENTARY INFORMATION: On August 8, 1983 at 48 FR 35890, HUD published a proposed rule that would adopt technical standards prepared and issued by the American Society for Testing and Materials, Inc. (ASTM) relating to the design, assembly, and testing of sealed insulating glass units.

HUD received only one public comment. That comment supported HUD's publication of the proposed rule. However, the rule is being published as final with one change.

The requirement for the class designation and the approximate date of manufacture has been deleted because it was determined that these items constituted unnecessary information collection.

The text of UM 82 [1] is not being reproduced in this rule because its substance is embodied in the new § 200.940, which HUD is adopting as set forth below. However, a copy of UM 82 is available for public inspection during regular business hours in the Construction Standards Division, Office of Manufactured Housing and Construction Standards, Room 3222, and in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, Washington, D.C. 20410.

[1] Filed with the original.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implements Section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk, at the above address.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulations issued by the President on February 12, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices of consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities. UM 82 adopts product standards that are both nationally recognized and generally followed throughout the affected industry.

This rule was listed in the Department's Semiannual Agenda of Regulations published on October 17, 1983 at 48 FR 47415, pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Housing standards, Loan programs, Housing and community development, Mortgage insurance, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Minimum property standards, Incorporation by reference.

PART 200—[AMENDED]

Accordingly, 24 CFR Part 200 is amended by adding a new § 200.940 to read as follows:

§ 200.940 Supplementary specific procedural requirements under HUD Building Product Standards and Certification Program for Sealed Insulating Glass Units.

(a) *Applicable standards.* (1) Sealed insulating glass units shall be designed, assembled and tested in compliance with the following American Society of Testing and Materials (ASTM) standards:

ASTM E–546–75—Standard Test Method for Frost Point of Sealed Insulating Glass Units;
ASTM E–773–81—Standard Test Method for Seal Durability of Sealed Insulating Glass Units; and
ASTM E–774–81—Specification for Sealed Insulating Glass Units.

(2) These standards have been approved by the Director of the **Federal Register** for incorporation by reference. They are available from the American Society for Testing Materials (ASTM) 1916 Race St. Philadelphia, PA 19103. The standards are also available for inspection at the Office of the **Federal Register**, 1100 L Street, NW., Room 8401, Washington, D.C. 20408.

(b) *Labeling.* (1) Under the procedures set forth in § 200.935(d)(6) concerning labeling of a product, the administrator's validation mark and the manufacturer's certification of compliance with the applicable standards are required to be on the certification label issued by the administrator to the manufacturer. In the case of sealed insulating glass units, the following additional information shall be included on the certification label:

(i) The manufacturer's statement of conformance to the appropriate referenced ASTM standard.

(ii) The manufacturer's name and code identifying the plant location.

(2) The certification label shall be affixed to each sealed insulating glass unit.

(c) *Periodic tests and quality control inspections.* Under the procedures set forth in § 200.935(d)(8) concerning periodic tests and quality control inspections, the frequency of testing for a product shall be described in the specific building product certification program. In the case of sealed insulating glass units, testing and inspection shall be conducted as follows:

(1) At least every twelve months, beginning with the initial administrator visit, a sample of each certified sealed insulated glass unit shall be selected by the administrator for testing in an approved laboratory, in compliance with the applicable standards.

(2) The administrator shall visit the manufacturer's facility at least once every six months to assure that the initially accepted quality procedures continue to be followed.

(Sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); Sec. 211 of the National Housing Act, 12 U.S.C. 1715b.)

Dated: December 19, 1983.

W. Calvert Brand,

Acting Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 84–110 Filed 1–3–84; 8:45 am]

BILLING CODE 4210–01–M

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24 CFR Part 200

[Docket No. R–83–1101; FR–1405]

Use of Materials Bulletin No. 39a–HUD Building Product Standards and Certification Program for Aluminum Windows, Storm Windows, Sliding Glass Doors and Storm Doors

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissoner, HUD.

ACTION: Final rule.

SUMMARY: This rule adopts as a part of HUD's Minimum Property Standards (MPS), a Use of Materials Bulletin that incorporates certain standards issued by the American National Standards Institute, Inc. (ANSI) for the manufacture of aluminum windows, storm windows, sliding glass doors and storm doors. UM 39a revises and supersedes existing UM 39.

This rule also supplements HUD's building products certification program by requiring that certain additional information be included on the label which each manufacturer affixes to the certified product, and by specifying the frequency with which aluminum windows, storm windows, sliding doors and storm doors must be tested in order to be acceptable under HUD programs.

EFFECTIVE DATE: Upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, but not before further notice of the effective date is published in the **Federal Register**. The approval by the director of the **Federal Register** of the incorporations by reference in this document will become effective on the effective date of this rule.

FOR FURTHER INFORMATION CONTACT: Mr. Leslie H. Breden, Construction Standards Division, Office of Manufactured Housing and Construction Standards, Room 3222, Department of Housing and Urban Development, Washington, D.C. 20410 (202) 755–5929. This is not a toll free number.

SUPPLEMENTARY INFORMATION: HUD published a proposed rule on August 5, 1983 at 48 FR 35668 which would adopt technical standards prepared and issued by the American National Standards Institute/Architectural Aluminum Manufacturer's Association (ANSI/AAMA), relating to the design, assembly, and testing of aluminum windows, storm windows, sliding glass doors and storm doors.

HUD received only one public comment on the proposed rule. The commentor suggested that (1) § 200.938(a)(1) be revised to state that ANSI/AAMA 1002.9–1977 is applicable until July 1, 1984, after which it will be superseded by ANSI/AAMA 1002.10–1983; and (2) § 200.938(c)(1) be revised to state that at least every four years a sample aluminum window, storm window, sliding glass door and storm door of the maximum size commercially available *and submitted for certification* shall be selected by the program administrator for testing in accordance with the *performance requirements* of the applicable standard by an approved laboratory. (Corrections recommended in the public comment are underlined.)

Response to Comment No. 1: Upon further review, HUD has determined that the listed references were incorrect, but that the necessary change is not precisely that recommended by the commenter. ANSI/AAMA 1002.9–1977 was superseded by ANSI/AAMA 1002.10–1980, which was then revised in 1983. Therefore, ANSI/AAMA 1002.9–1977 is obsolete and is being deleted from the UM in this final rule.

Response to Comment No. 2: Addition of "and submitted for certification" is incorporated in the Final Rule, as the commenter suggested. Addition of "performance requirements" is not acceptable to HUD. Testing of sample units must be in accordance with *all* provisions of the referenced standards, not just the performance requirements.

In addition, the requirement for the identity and location of the manufacturer, specification designation, and series or model number has been deleted. The Department has determined that these items constitute unnecessary information collection.

The text of UM 39a is not being reproduced in this rule because its substance is embodied in the new § 200.938 which HUD is adopting as set forth below. However, a copy of UM 39a is available for public inspection during regular business hours in the Construction Standards Division, Office of Manufactured Housing and

Construction Standards, Room 3222, and in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, Washington, D.C. 20410.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implements Section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk, at the above address.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities. UM 39a adopts product standards that are both nationally recognized and generally followed throughout the affected industry.

This rule was listed under the Office of Housing in the Department's Semiannual Agenda of Regulations published on October 17, 1983, 48 FR 47429, pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Housing standards, Loan programs: Housing and community development, Mortgage insurance, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Minimum Property Standards, Incorporation by reference.

PART 200—[AMENDED]

Accordingly, 24 CFR Part 200 is amended by adding a new § 200.938, to read as follows:

§ 200.938 Supplementary specific procedural requirements under HUD Building Product Standards and Certification Program for Aluminum Windows, Storm Windows, Sliding Glass Doors and Storm Doors.

(a) Applicable standards. (1) Aluminum windows, storm windows, sliding glass doors and storm doors certified for this program shall be designed, assembled, and tested in conformance with the following American National Standards Institute/Architectural Aluminum Manufacturer's Association (ANSI/AAMA) standards:

ANSI/AAMA 302.9–1977 Specifications for Aluminum Prime Windows.

ANSI/AAMA 402.9–1977 Specifications for Aluminum Sliding Glass Doors.

ANSI/AAMA 1002.10–1983 Specifications for Aluminum Insulating Storm Products for Windows and Sliding Glass Doors.

ANSI/AAMA 1102.7–1977 Specifications for Aluminum Storm Doors.

(2) These standards have been approved by the Director of the Federal Register for incorporation by reference. They are available from the American National Standards Institute, Inc, 1430 Broadway, New York, NY 10018. The standards are also available for inspection at the Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20406.

(b) *Labeling.* (1) Under the procedures set forth in § 200.935(d)(6), concerning labeling of a product, the administrator's validation mark and the manufacturer's certification of compliance with the applicable standards are required to be on the certification label issued by the administrator to the manufacturer. In the case of aluminum windows, storm windows, sliding glass doors and storm doors, the following additional information shall be included on the certification label:

(i) The manufacturer's statement of conformance to the appropriate referenced ANSI/AAMA standard.

(ii) The manufacturer's name and the code identifying plant location.

(2) The specification label shall be permanently affixed to each aluminum window, storm window, sliding glass door and storm door.

(c) *Periodic tests and quality control inspections.* Under the procedures set forth in § 200.935(d)(8), concerning periodic tests and quality control inspections, the frequency of testing for a product shall be described in the specific building product certification program. In the case of aluminum windows, storm windows, sliding glass doors and storm doors, testing and inspection shall be conducted as follows:

(1) At least every fours years, a sample unit of the maximum size commerically available and submitted for certification, shall be selected by the administrator for testing by an approved laboratory, in accordance with the applicable standard.

(2) The administrator shall visit the manufacturer's facility at least once every six months to assure that the initially accepted quality procedures continue to be followed.

(Sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); Sec . 211 of the National Housing Act, 12 U.S.C. 1715b)

Dated: December 19, 1983.

W. Calvert Brand,

Acting Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 84-112 Filed 1-3-84; 8:45 am]

BILLING CODE 4210-27-M

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24 CFR Part 200

[Docket No. R-83-1100; FR-1358]

HUD Building Product Standards and Certification Program for Plastic Bathtub Units, Plastic Shower Receptors and Stalls, Plastic Lavatories, Plastic Water Closet Bowls and Tanks; Adoption of Use of Materials Bulletin No. 73a

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This rule adopts as a part of HUD's Minimum Property Standards (MPS), a Use of Materials Bulletin (UM) that incorporates certain standards issued by the American National Standards Institute, Inc. for the manufacture of plastic bathtub units, shower receptors and stalls, lavatories, and water closet bowls and tanks. UM 73a revises supersedes existing UM 73.

The rule also supplements HUD's building products certification procedures by requiring, for this particular certification program, that certain additional information be included in the label which each manufacturer affixes to the certified product, and specifies the frequency with which plastic bathroom fixtures must be tested in order to be acceptable to HUD.

EFFECTIVE DATES: Upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, but not before further notice of the effective date is published in the **Federal Register**. The approval by the

Director of the Federal Register of the incorporations by reference in this document will become effective on the effective date of this rule.

FOR FURTHER INFORMATION CONTACT: Mr. Leslie H. Breden, Construction Standards Division, Office of Manufactured Housing and Construction Standards, Room 3222, Department of Housing and Urban Development, Washington, D.C. 20410; telephone (202) 755–5929. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: A proposed rule was published in the **Federal Register** on August 5, 1983 regarding UM 73a—HUD Building Product Standards and Certification Program for Plastic Bathtub Units, Plastic Shower Receptors and Stalls, Plastic Lavatories, Plastic Water Closet Bowls and Tanks. Comments were received from the Cultured Marble Institute and from the Spartan Manufacturing Company, Inc. Responses to resolve these comments are as listed below.

Discussion of Public Comments

1. *Comment:* The requirement in 24 CFR 200.937(b)(2) which states that a certification label shall be permanently affixed to each plastic bathroom fixture duplicates a requirement in the Manufactured Home Construction and Safety Standards which states that the fixtures be marked or labeled with the manufacturer's name and trademark. This requirement is also ambiguous in terms of what is intended by use of the word "permanently."

Response: These standards are promulgated for use with conventional housing built in conformance with the HUD Minimum Property Standards. Manufactured Home Construction and Safety Standards apply only to manufactured (mobile) homes built in conformance with Title VI of the National Manufactured Housing Construction and Safety Standards Act of 1974. (Section 200.937(b)(2) has been revised by the deletion of the word "permanently.")

2. *Comment:* A commenter recommends that a twelve month interval for product testing and inspections be adopted.

Response: Section 200.937(c)(3) has been revised to state that an administrator shall review a manufacturer's compliance with quality control procedures when he tests its plastic bathtub units, plastic shower receptors and stalls, plastic water closet bowls and tanks (every six months) and lavatories (every twelve months).

3. *Comment:* The biannual plant inspection required by 24 CFR 200.937(c)(3) will drastically increase the cost of producing goods for the HUD/FHA market.

Response: This practice already exists and is recommended by the industry.

4. *Comment:* A commenter suggested that a uniform national building standard be created.

Response: UM 73a is a revision to an existing UM, to reference only those standards which have been developed and accepted by the private sector, in accordance with OMB Circular A 119. It eliminates reference to HUD-developed standards, and also separate fire and smoke requirements.

5. *Comment:* Administrators are not qualified to conduct meaningful inspections of manufacturers plants.

Response: These administrators have been effectively monitoring this program for almost five years. HUD has examined their credentials and monitors their program for certification of manufacturers. The administrator's visits are only to determine that plastic bathroom fixtures continue to comply with the appropriate standards and that quality control procedures are maintained.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implements Section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of General Counsel, Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulations issued by the President on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities. UM 73a adopts product standards that are nationally recognized throughout the affected industry and will not create a burden on manufacturers currently meeting the standards.

This rule was listed as Item H–22–81 under the Department's Semiannual Agenda of Regulations published on October 17, 1983, 48 FR 47450, pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Housing standards, Loan programs: Housing and community development, Mortgage insurance, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Minimum Property Standards Incorporation by reference.

PART 200—[AMENDED]

Accordingly, 24 CFR Part 200 is amended by adding a new § 200.937, to read as follows:

§ 200.937 Supplementary specific procedural requirements under HUD Building Product Standards and Certification Program for Plastic Bathtub Units, Plastic Shower Receptors and Stalls, Plastic Lavatories, Plastic Water Closet Bowls and Tanks.

(a) *Applicable standards.* (1) Plastic bathtub units, plastic shower receptors and stalls, plastic lavatories, and plastic water closet bowls and tanks shall be designed, assembled and tested in compliance with the following standards, which are incorporated by reference:

ANSI Z124.1—(1980)	Plastic Bathtub Units
ANSI Z124.2—(1980)	Plastic Shower Receptors and Stalls
ANSI Z124.3—(1980)	Plastic Lavatories
ANSI Z124.4—(1983)	Plastic Water Closet Bowls and Tanks

(2) These standards have been approved by the Director of the Federal Register for incorporation by reference. They are available from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018. The standards are also available for inspection at the Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408.

(b) *Labeling.* (1) Under the procedures set forth in paragraph (d)(6) of Sec. 200.935, concerning labeling of a product, the administrator's validation mark and the manufacturer's certification of compliance with the

applicable standards are required to be on the certification label issued by the administrator to the manufacturer. In the case of plastic bathtub units, plastic shower receptors and stalls, plastic lavatories, and plastic water closet bowls and tanks, the following additional information shall be included on the certification label:

(i) Manufacturer's statement of conformance to UM 73a;

(ii) Manufacturer's name and code identifying the plant location.

(2) The certification label shall be affixed to each plastic bathroom fixture.

(c) *Periodic tests and quality control inspections.* Under the procedures set forth in paragraph (d)(8) of § 200.935, concerning periodic tests and quality control inspections, the frequency of testing for a product shall be described in the specific building product certification program. In the case of plastic bathroom fixtures, testing and inspection shall be conducted as follows:

(1) At least every six months, the administrator shall visit the manufacturer's facility to select a sample of each certified plastic bathtub unit, plastic shower receptor and stall, plastic water closet bowl and tank for testing in an approved laboratory, in accordance with applicable standards.

(2) At least every twelve months, the administrator shall visit the manufacturer's facility to select a sample of each certified plastic lavatory for testing in accordance with applicable standards.

(3) The administrator shall also review quality control procedures at each visit to determine that they continue to be followed.

(Sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); sec. 211 of the National Housing Act, 12 U.S.C. 1715b)

Dated: December 19, 1983.

W. Calvert Brand,

Acting Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 84-113 Filed 1-3-84; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

Approval of Pennsylvania Permanent Regulatory Program Amendments

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: OSM is announcing the approval of certain amendments to the Pennsylvania permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). These amendments relate to Pennsylvania's subsidence control regulations.

By letter dated August 1, 1983, Pennsylvania submitted amendments consisting of a suspension order suspending certain portions of 25 PA Code sections 89.143–89.147 pertaining to subsidence control.

After providing opportunity for public comment and conducting a thorough review of the program amendments, the Secretary has determined that the modifications to the Pennsylvania program meet the requirements of SMCRA and the Federal permanent program regulations. The Federal rules at 30 CFR Part 938 which codify decisions concerning the Pennsylvania permanent regulatory program are being amended to implement these actions.

EFFECTIVE DATE: The approval of the program amendments is effective January 4, 1984.

FOR FURTHER INFORMATION CONTACT: Robert Biggi, Director, Harrisburg Field Office, Office of Surface Mining, 101 South 2nd Street, Harrisburg, Pennsylvania 17101; Telephone: (717) 782–4036.

SUPPLEMENTARY INFORMATION:

I. Background on the Pennsylvania State Program

On July 30, 1982, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved the program subject to the correction of ten minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the July 30, 1982 **Federal Register** (47 FR 33050–33080).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Pennsylvania program can be found in the July 30, 1982 **Federal Register.**

II. Submission of Revisions and Program Amendments

By letter dated August 1, 1983, OSM received from the Commonwealth of Pennsylvania, pursuant to the 30 CFR 732.17 procedures, certain revisions to its subsidence control regulations. These revisions are contained in a suspension order published in *13 Pennsylvania Bulletin 2057* dated July 2, 1983, suspending certain portions of 25 PA. Code Sections 89.143–89.147 pertaining to Pennsylvania's subsidence control regulations. The suspension order was not a proposed rulemaking, but a temporary action explicitly authorized in the Administrative Code, that does not amend the Pennsylvania Code, but does suspend certain subsidence regulations. This action was ordered by the Chairman of the Environmental Quality Board (EQB) in an effort to keep the requirements of the Pennsylvania program consistent with the revised Federal requirements published in the June 1, 1983 **Federal Register** (48 FR 24638).

Additionally, the State submitted to OSM a draft copy of revised subsidence control regulations that was to be submitted to the EQB on August 16, 1983, for rulemaking. The EQB did not act on these revised regulations. In a letter dated November 22, 1983, the Department of Environmental Resources (DER) notified OSM that when proposed regulations are approved by the Board and published in the Pennsylvania Bulletin, it will submit such regulations as a program amendment. Therefore, OSM will not take further action on the draft proposed regulations submitted with the program amendment on August 1, 1983.

III. Secretary's Finding

The Secretary finds, in accordance with SMCRA and 30 CFR 732.15 and 732.17, that the program amendment submitted on August 1, 1983, pertaining to the suspension of certain subsidence regulations meets the requirements of SMCRA and 30 CFR Chapter VII as discussed below.

Finding 1

The Secretary finds that the suspension of PA 89.143(2)(iii) (A), (B), (C), and (D); 89.143(4); 89.146(e); and 89.147(a) affects subsidence control provisions pertaining to surface features or structures and not to surface lands, which is no less effective than the revised Federal standards at 30 CFR Part 784 and 817 pertaining to subsidence control.

In making this finding, the Secretary notes that Pennsylvania requires a subsidence control plan to be submitted and approved as part of the permit application for an underground mine consistent with 30 CFR 784.20 and distinguishes between damage to land and damage to structures or facilities in a manner no less effective than the distinction provided in 30 CFR 817.121. Material damage to land must be

remedied and the affected land restored. Material damage to structures and facilities need be remedied or money damages paid *only* if the operator is liable under *State law*.

Finding 2

In Annex B of the order, the full text of the Pennsylvania regulation was printed as suspended, including impoundments. However, Pennsylvania clarified the suspension in Annex B by adding the explanation that "89.145 (a)(4) and (b) are suspended to the extent that these suspended regulations include perennial streams which are not a significant source of a public water supply." Additionally, in the "background" section of Pennsylvania's order announcing the suspension action, the State discusses the fact that revised 30 CFR 817.121(d) provides protection for perennial streams which are a significant source of a public water supply but not for all streams. Therefore, the "no less effective than finding" is based on the explanation to Annex B in the suspension order and the background information pertaining to the provision retaining the provision for impoundments with a storage volume exceeding 20 acre-feet.

The Secretary finds that suspended PA 89.145(4) pertains only to perennial streams and not to impoundments with a storage capacity of 20 acre-feet or more or to bodies of water with a volume of 20 acre-feet or more.

Finding 3

The Secretary found that the suspension of PA 89.144(b)(3), pertaining to a public notice requirement regarding a description of the measures to be taken to prevent or control adverse surface effects, is no less effective than the revised Federal rule at 30 CFR 817.122 that does not require a description of the measures to be taken to prevent or control adverse surface effects.

Public Comment

Pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h)(10)(i), of those Federal agencies invited to comment, the United States Fish and Wildlife Service (PA 450) commented that perennial streams, lakes, impoundments and wetland areas should be afforded the same level of protection as surface structures by PA 89.143(a).

Pennsylvania does have a paragraph (a) in PA 89.143. However, Pennsylvania suspended 89.143(2)(iii) (A), (B), (C), and (D) pertaining to specific surface features that were removed from the Federal regulations when revised and published in the **Federal Register** June 1, 1983. (See 48 FR 24638–24652 for a complete discussion of the revised Federal subsidence regulations.) Pennsylvania, however, does provide protection for impoundments with a storage volume exceeding 20 acre-feet and for aquifers which serve as a significant source of water supply to any public system in 89.145(a) (4) and (5). When revising Federal subsidence control regulations, OSM decided that it was unnecessary to extend the subsidence control plan to include general hydrologic impacts. The performance standards of section 516 of SMCRA and the following Pennsylvania statutes: Section 4, Surface Mining Conservation and Reclamation Act; Section 6, Coal Refuse Disposal Control Act; Section 6, The Bituminous Mine Subsidence and Land Conservation Act; and Section 315, The Clean Streams Law and the permitting requirements contain extensive requirements relative to protection of the hydrologic balance. (See 47 FR 16605, April 16, 1982, for discussion of the permitting requirements and performance standards protecting the hydrologic balance.)

Part 817 of 30 CFR was revised to reflect a distinction between surface structures and facilities and land. The surface effects of underground mining are regulated in order to assure the maintenance of the value of the *land* and its reasonably forseeable uses. The Secretary can not require Pennsylvania to protect surface structures or features not protected under the Federal regulations.

Additional Findings

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that exiting requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 938

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: December 29, 1983.

Dean K. Hunt,

Acting Director, Office of Surface Mining.

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

PART 938—PENNSYLVANIA

1. 30 CFR 938.15 is amended by adding paragraph (b).

§ 938.15 Approval of Amendments to State Regulatory Program.

* * * * *

(b) The following amendment is approved effective on Janaury 4, 1984. Order announcing the suspension of 25 PA Code Chapter 89.143(2)(iii) (A), (B), (C), and (D); 89.143(4); 89.144(b)(3); 89.145 (a)(4) and (b); 89.145(d); 89.146(e); and 89.147(a) by publication in the *Pennsylvania Bulletin, Vol. 13, No. 27,* dated July 2, 1983.

[FR Doc. 84–130 Filed 1–3–84; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 162

[OPP–30061A; FRL–2501–5]

Pesticide Programs; Registration Procedures

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; revocation of policy statement.

SUMMARY: This rule amends EPA's regulations on registration of pesticides to (1) eliminate the requirement for Agency approval of supplemental registrations; (2) eliminate the requirement for Agency review of final printed labeling of pesticide products; and (3) modify the child-resistant packaging requirements to eliminate mandatory testing requirements by the Consumer Product Safety Commission protocol. These changes will decrease paperwork burdens on pesticide

producers, increase the efficiency of the Agency's registration process, and allow faster introduction of products into commerce. This publication also revokes the March 3, 1981, policy statement explaining certain aspects of EPA's child-resistant packaging requirements.

EFFECTIVE DATE: Under FIFRA sec. 25(a)(4), this rule must be reviewed by Congress before it can become effective. A minimum of 60 days of continuous Congressional session is allowed for this review. Accordingly, this rule will become effective on the date that is 60 calendar days of continuous session of Congress after publication in the **Federal Register**. The Agency will issue a notice in the **Federal Register** announcing the date on which this rule became effective.

FOR FURTHER INFORMATION CONTACT: By mail: Jean M. Frane, Registration Division (TS–767–C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 1114, CM 2, 1921 Jefferson Davis Highway, Arlington, Virginia, (703–557–0592).

SUPPLEMENTARY INFORMATION: OMB Control Numbers 2000–0014 and 2000–0407.

In the **Federal Register** of September 15, 1982 (47 FR 40659), the EPA issued a proposal to revise its existing regulations on registration of pesticides in several ways. These final revisions to 40 CFR Part 162, modified as explained in the comments section of this preamble, are hereby adopted.

Twenty written comments were received from interested parties, including Federal agencies, State extension services, State pesticide regulatory agencies, industry and user organizations, and public interest groups. The changes made in the regulation, categorized by topic, are discussed below, together with EPA's response to the more significant comments.

I. Final Printed Labeling

EPA proposed to eliminate the requirement for applicants to submit a copy of a product's final printed labeling before the Agency would issue a registration or amended registration. Instead, EPA proposed to use an applicant's draft labeling as the basis for its approval of the application. If the Agency registered a product based on the draft labeling, it would condition the registration on making necessary revisions in the labeling, and on submission of final printed labeling before the product was released for shipment. EPA stated it would selectively review final printed labeling to assure that required revisions have been made. EPA also indicated that it would discontinue its present practice of stamping a final printed label "Accepted" and returning a copy to the registrant.

Seven comments were received in response to this proposal. The principal concern expressed by most commenters was that eliminating the practice of stamping "Accepted" on final printed labeling would create problems in obtaining registration in individual States and foreign countries, some of which rely on the Agency's approval of the label. Although EPA agrees that some minor difficulties may arise in the short term, EPA believes that States and foreign governments can rely equally well on the earlier approved draft label, together with the Agency's comments on that label, and can adapt their procedures. No comments were received from States that suggested that the approved draft label would not suffice for State registration purposes.

Several commenters suggested that the Agency should agree to stamp final printed labels upon request by a registrant, if he submitted a certification that the submitted label was identical to the draft label as revised. The Agency has not included this provision in the final rule. One of EPA's objectives in eliminating approval of the final printed labeling was to reduce Agency paperwork and resources that have been required to carry out the review of final printed labeling. If the Agency were to adopt the commenters' suggestion, such savings in time would largely be lost.

One commenter suggested that the Agency's requirement for submission of final printed labeling before distribution or sale be explicitly stated in the regulation. EPA agrees, and has revised § 162.6(b) (2) and (3) accordingly.

II. Supplemental Distribution of Registered Products

EPA proposed to eliminate the requirement for Agency approval of "supplemental registration" of distributor products. Supplemental registration is not registration of a separate product under FIFRA sec. 3, but permits an existing registrant to market his registered product, bearing a different name and address, through a distributor. EPA proposed to allow a registrant to permit such marketing simply by notifying the Agency. The distributor would be considered an agent of the registrant for enforcement purposes.

Only one comment was received on this part of the proposal, and that reflected a misunderstanding of the Agency's distributor review process as it existed previously. The commenter believed that EPA reviewed the labels of distributor products and stated that this review should not be relinquished.

EPA reviews the label of a product when it is submitted for registration or amended registration. Once registered, additional distributors may be used to market the product. Under previous procedures the Agency approved the addition of a distributor without reviewing or approving the distributor's product label. The revision being made in this rule will require only that the registrant notify the Agency when he enters into a distributor arrangement. The Agency still will not review the distributor's label. The distributor's label must, however, conform to the provisions of the original label. The Agency has therefore promulgated its proposal without change.

III. Efficacy Data Waiver

EPA proposed on September 15, 1982, to expand the scope of its existing efficacy data waiver. Previously, EPA required applicants to submit efficacy data for certain uses which were often thought to be public health but which are primarily aesthetic or nuisance problems. Data submission would not be required for these uses under the expanded waiver provisions. Similarly, the Agency proposed to waive efficacy data submission for public health uses where a lack of control is readily apparent to the user, and would not result in adverse health effects, such as rodenticides and mosquito control products. Thus, the Agency proposed to normally waive the submission of efficacy data for all products except those bearing claims for controlling microorganisms posing a threat to human health or for control of organisms producing mycotoxins.

The Agency received 12 comments regarding the expansion of the efficacy data waiver. Most of the commenters opposed the Agency's proposal, and gave a variety of reasons for their opposition. With respect to consumer products for non-public-health pests, several commenters argued that homeowners generally lack sufficient knowledge to evaluate product effectiveness. Others argued that there is no mechanism to report ineffective products in areas of public health and consumer products. Other commenters noted the delay and unreliability perceived in the consumer marketplace to remove inefficacious products. Finally, several commenters asserted that society fears unwarranted risks associated with the large amounts of

non-beneficial or ineffective pesticides. In effect, the commenters all argued that an expanded efficacy data waiver would result in more ineffective pesticides on the market.

In addition to the September 15, 1982, proposal, the Agency subsequently included the extension of the efficacy data waiver in two later proposals, one relating to registration data requirements (proposed Part 158), published in the **Federal Register** of November 24, 1982 (47 FR 53192) and the other to conditional registration, published in the **Federal Register** of December 27, 1982 (47 FR 57624). Few comments were received on the efficacy data waiver in the conditional registration proposal, and these were not sufficient to persuade the Agency that it should modify the waiver extension provisions. Because this latter proposal was under a court-ordered deadline that required the Agency to reissue the regulation by September 1, 1983, the Agency expedited its issuance. The efficacy waiver extension was thus promulgated when published in the **Federal Register** of July 26, 1983 (48 FR 34000) when the conditional registration rule was issued, and was recodified at that time as § 162.163(b)(2). Although promulgated, the rule will not become effective until after a 60-day Congressional review period.

In response to the proposal of pesticide data requirements, for which the comment period was extended until May of 1983, a number of comments were received from persons who had not commented on the original proposal of September 15, 1982, or on the conditional registration proposal. These commenters also were unanimously opposed to the extension of the waiver.

In light of the comments received on the two proposals, the Agency intends to modify the efficacy data waiver such that efficacy data would be required for vertebrate control products (such as rodenticides) to the extent it was required previously. The Agency does not intend to modify the waiver with respect to the other products to which it was extended by the conditional registration promulgation.

The Agency's final rule on data requirements (Part 158) currently contains language reinstating a requirement for vertebrate product efficacy data. This requirement will be promulgated together with other Part 158 requirements, but will not be made effective until the Agency can revise the current language in § 162.163(b)(2) to be consistent with Part 158. At the time of promulgation of Part 158, the Agency will issue a proposal to this effect.

Until this revision can be issued as a final rule, the Agency will continue to operate under the waiver provisions of § 162.163(b)(2), but may require efficacy data for vertebrate products on a case-by-case basis, as is allowed by that section.

IV. Child-Resistant Packaging

EPA's proposal contained a number of revisions to the existing child-resistant packaging regulations. EPA proposed revisions to make clear that the entire package in which a pesticide is sold or distributed, and not merely the closure of the package, must meet the packaging standards. The Agency also proposed to exempt products from the requirement to use child-resistant packaging if the product were restricted to "sale to, use and storage only by" servicepersons. Exemptions would also be authorized in cases of economic hardship. Finally, EPA proposed to eliminate its requirement for mandatory testing of each child-resistant package by the CPSC protocol, provided that the registrant could provide satisfactory proof that the package met the packaging standards. Issues raised by commenters are discussed below.

A. Consistency With the Poison Prevention Packaging Act

Several commenters stated that the Agency's child-resistant packaging regulations do not comply with the language in FIFRA sec. 25(c)(3), which authorizes the Administrator "to establish standards (which shall be consistent with those established under the authority of the Poison Prevention Packaging Act (Pub. L. 91–601)) with respect to the package, container, or wrapping in which a pesticide or device is enclosed . . . to protect children . . . ." Specifically, several commenters noted that the Poison Prevention Packaging Act (PPPA) requires child-resistant packaging only when such packaging is "practicable" and "appropriate." See 15 U.S.C. 1472(a)(2). These commenters argued that to be consistent with the PPPA, the Agency must grant exemptions from its child-resistant packaging requirements if a registrant or applicant shows that the use of such packaging would be impracticable or inappropriate.

The Agency does not agree with the commenters that FIFRA sec. 25(c)(3) requires EPA to include these additional grounds for an exemption. Based on research into the legislative history of FIFRA and the PPPA, the Agency has concluded that the Administrator is not required to establish the same grounds for an exemption under FIFRA as exist under the PPPA. The Agency further concludes that this final rule is a proper exercise of the Administrator's discretion under FIFRA sec. 25(c)(3).

However, nothing precludes the Agency from adopting criteria such as those under the PPA, and the Agency has accepted the commenters' suggestion to expand the grounds for granting exemptions, and accordingly has included in § 162.16(f)(1) consideration for exemption if child-resistant packaging would not be "practicable" or "appropriate" for the product. Moreover, EPA has included definitions of these terms (which are the same as those used by the Consumer Product Safety Commission (CPSC) under the PPA) in § 162.16(a). Together with other factors now set out in § 162.16(f)(1), these terms will be used to evaluate requests for exemption from child-resistant packaging requirements based on technical factors. Two commenters, in advocating that the Agency adopt the "practicable" and "appropriate" criteria, expressed the belief that these criteria would encompass the cost to the registrant of having to switch to a different type of container in order to meet the child-resistant packaging requirements. EPA's position is that, in applying these criteria, the Agency is not required to find that child-resistant packaging is readily available, or that it will lend itself conveniently to the existing packaging or packaging equipment of the registrant. In other words, the cost of conversion to child-resistant packaging does not enter into the definitions of these terms. As discussed, however, in the next unit of this preamble, the Agency has included certain cost considerations in its decisionmaking process for granting exemptions.

B. Economic Hardship Exemption

Several commenters questioned the need for the proposed economic hardship exemption, and suggested instead that the Agency consider a registrant's economic circumstances as a factor in granting technical feasibility exemptions. Another commenter was concerned that the trade secret provisions of FIFRA sec. 10 for the financial data used as the basis for the exemption would preclude public scrutiny of such requests.

Based on these comments the Agency has reconsidered the need for the economic hardship exemption, in particular the probability that the proposed exemption will accomplish EPA's objective of introducing greater flexibility into its decisions. The Agency has concluded that the economic exemption as proposed should not be

adopted. EPA believes that certain economic factors may be pertinent in its decision to exempt a product from the requirement of child-resistant packaging, but that these factors relate to the economic costs and incentives to the packaging industry to produce the packaging rather than to the ability of an individual registrant to acquire and use already developed child-resistant packaging. EPA believes that there are few products for which a suitable form of child-resistant packaging is not readily available, even though the use of that packaging may entail certain costs to the pesticide industry. Further, EPA believes it is reasonable to require that a pesticide producer incur the costs of changing from one available packaging type to another in order to obtain child-resistant packaging. This cost of compliance is viewed as not unduly burdensome if a product may pose a hazard to children.

On the other hand, EPA recognizes that there may be situations other than those encompassed in the strict definitions of technically feasible, practicable and appropriate when an exemption may be appropriate. A registrant may genuinely need a special form of packaging, for which child-resistant technology has not been developed. The technology may have been developed, but the packaging is unlikely to be made available because of insufficient producer demand. If the registrant can demonstrate that child-resistant packaging is not reasonably available because of the "minor use" nature of the packaging, an exemption may be granted. Temporary shortages or delays in acquisition of child-resistant packaging may impose hardships, particularly on small producers who may have fewer sources of packaging and whose ability to meet short-term difficulties is more constrained. The Agency believes that a registrant should not be compelled to take extraordinary measures to acquire child-resistant packaging.

In the final rule, EPA has included a partial list of factors that will be considered in determining whether to grant an exemption. First and foremost among these is the potential for hazard to children if the product is allowed to be marketed in non-child resistant packaging. This consideration is analogous to the public interest finding contained in the proposed economic exemption, and will be applied to all exemption requests. The remaining items are those which the Agency believes may be applicable, depending on the product, the producer and the particular packaging situation. The final rule specifies that exemptions based on technical or packaging considerations will be temporary. Exemptions will thus reflect the constantly evolving technology of child-resistant packaging, and permit the Agency to reevaluate these factors on a continuing basis. Exemptions granted for considerations of lack of toxicity will generally be granted on a permanent basis. In both cases, the exemption will apply to products of similar composition and intended uses, and the Agency will issue notice in the **Federal Register** of the granting of an exemption. Additionally, in either case, the Agency reserves the right to withdraw the exemption if the lack of child-resistant packaging creates a hazard to children.

C. Serviceperson Exemption

The Agency had proposed to incorporate into its regulation the provision of the policy notice of March 3, 1981, that products restricted to sale to, and use and storage by, servicepersons, be exempt from the requirements of child-resistant packaging. The majority of commenters were strongly opposed to this provision. Comments from the States stated that the serviceperson exemption would be unenforceable because neither State or Federal law provided any mechanism to regulate servicepersons. A serviceperson, they pointed out, is not a category of certified applicator under FIFRA sec. 3(d)(1)(C)(i). They suggested that, if a form of restricted use was considered necessary, that it should not be "servicepersons" under FIFRA sec. 3(d)(1)(C)(ii), but certified applicators under FIFRA sec. 3(d)(1)(C)(i).

Other commenters were concerned about the implications of restricting products for serviceperson use under either provision of FIFRA sec. 3(d)(1)(C). One pointed out that Japan will not register restricted use products if alternative pesticides are available. Others clearly were apprehensive about a perceived stigma attached to the Restricted Use designation, arguing that such products would suffer unduly in the marketplace by comparison with products not so restricted.

The Agency has considered carefully the objectives of the serviceperson exemption, and the available regulatory alternatives for accomplishing that objective. EPA has concluded that the serviceperson exemption may not be the most desirable choice. Consequently, EPA has not adopted the serviceperson exemption in the final rule. Instead, EPA intends to issue a proposal that would generally exempt packages of certain sizes from the requirement for child-resistant packaging. This proposal is being issued today, elsehwere in this issue of the **Federal Register**.

Because the serviceperson exemption was introduced by a policy notice in 1981, and has been in use by a number of registrants since that time, the Agency will continue to permit its use until a final rule on package size as a criterion can be promulgated. Products whose labels currently bear the serviceperson statement and comply with the requirements of the Agency's March 3, 1981, notice, will not be considered in violation of FIFRA sec. 12(a)(1)(E). Products may continue to be registered bearing the serviceperson statement as an interim measure. At the time that the final rule on package size is promulgated, the Agency will announce the further disposition of products bearing serviceperson labeling.

D. Basis for Certification to the Agency

The Agency proposed to eliminate mandatory testing by the CPSC protocol. The proposal stated that the Agency would be willing to accept alternate methods of determining that a package was child-resistant. The Agency gave several examples of acceptable alternate documentation that could be used by the registrant as evidence that his packaging met the standards. The registrant would be required to keep documentation showing the basis for his certification of child-resistance, and to make it available to the Agency.

A certain amount of confusion arose because the Agency stated in the preamble that other relevant information, such as extrapolation from existing testing, scientific judgment, or inclusion on a list of "CPSC approved" packaging would suffice in lieu of the CPSC testing. At the same time, in the rule, the Agency stated that the registrant must retain in his files a copy of the "test data or other scientific evidence" on which he based his certification.

A number of comments were received on this proposal. Most pointed out that the preamble and the rule were not consistent in stating what types of "other scientific evidence" would be acceptable as alternatives to the CPSC test method. Others argued that the alternatives offered were not broad enough. Some believed that the Agency was increasing the stringency of the requirement, others that the Agency was relinquishing control and decreasing public protection without justification.

EPA intends to ensure that products hazardous to children are marketed in packaging that will minimize the possibility of accidental illness or injury. EPA believes that packaging meeting the

standards in the regulation will accomplish this objective.

However, EPA intends to be flexible about how companies determine that packaging is in fact child-resistant under the standards set out in the rule. The comments on the proposal indicated that companies believed that they had sufficient expertise or other means at their disposal to determine whether packaging is child-resistant, without recourse to the CPSC protocol. The ultimate test of child-resistance is the CPSC protocol, which the Agency will require if necessary to demonstrate that a package is child-resistant, and thus not in violation of the Act. As long as the packaging meets the stated standards for effectiveness, chemical and physical compatibility and durability, and the registrant is willing to certify to that effect, EPA sees no reason to require that the registrant use the CPSC protocol as the basis for that certification.

EPA has revised the recordkeeping requirements such that a wide variety of types of documentation will suffice to support certification. The registrant may retain data per the CPSC protocol on the exact package being used.

Alternatively, he may keep other types of scientific testing on the exact package from which determinations of child-resistance can be demonstrated or extrapolated, or testing on a different package which supports a determination that the package being used is child-resistant. Moreover, rather than keeping actual test data, he may retain written evidence from a supplier or testing facility that the package has passed the CPSC protocol. Finally, in the special case where the container and closure are purchased separately, he may retain a combination of test data for the closure and written rationales explaining why the container and the total package are child-resistant.

If, based on enforcement inspection, consumer complaints, or a child poisoning occurrence related to the child-resistant package, EPA has reason to believe that a package that should be child-resistant does not in fact meet the standards, the Agency will, under the authority of FIFRA sec. 3(c)(2)(B), require that a registrant submit test data to document the basis for his certification. Under that section, the Agency may require that the registrant conduct testing according to the CPSC protocol to determine if the package is child-resistant. The burden of proving that a package is child-resistant rests with the registrant in all cases.

If the Agency determines that a product subject to the requirements of this section is being distributed in packaging that is not child-resistant, the product may be deemed to be misbranded under FIFRA sec. 2(q), regardless of the type of test data or other documentation of child-resistance the registrant may have.

Several commenters noted that there is no list of CPSC "approved" packaging. CPSC does maintain a listing of companies which state that their packaging has been tested according to the CPSC protocol and meets the CPSC standards, but the CPSC does not verify or approve these packaging types in any way.

E. Certification to the Agency

In its proposal, EPA clarified that the terms "package" and "packaging" were intended to include the entire package, container and closure. Some commenters claimed that defining the term in this inclusive manner, coupled with the requirement to certify to the Agency the child-resistance of the package, would impose significant economic burdens on registrants, many of whom have tested and certified only the closure of the package. The commenters cited the Agency's testing estimates given in the proposal as proof that EPA acknowledged this increased testing cost. Further, they opposed the Agency's proposal that previously submitted certifications for closures only would be deemed to be certifications for the package unless the registrant chose to resubmit.

With respect to the question of "closure" versus "package" certification, the Agency's position is, and has always been, that the entire package must be child-resistant. This was stated in the preamble when the original rule was issued in 1979, and clarified in the Agency's policy document published in the **Federal Register** on March 3, 1981 (46 FR 15104). The final rule thus defines the term "package" to include the closure and container together.

EPA estimated in its proposal that the cost of mandatory testing of each package design under the existing regulation would be about $16 million. This estimate was based on the fact that most registrants had tested only the closures and not the entire package, and that under the existing regulations a considerable amount of retesting would be required to certify as to the child-resistance of the entire package. However, under the proposal, EPA estimated that 50 percent of this cost would be eliminated, since existing testing or other substantiating evidence would suffice in many cases to permit certification to the Agency of child-resistance of several packages. Since the provisions of the proposal eliminating specific testing by the CPSC protocol are being adopted, this assumption of the amount of testing still needed and its cost are unchanged.

The Agency agrees with the comments concerning the need for new certification statements from registrants. A product would be misbranded if the packaging were not child-resistant. The registrant, however, could not be held in violation of the Act for falsification of his certification, if the certification on file with the Agency pertained solely to the closure (unless the closure itself were shown not to be child-resistant). The Agency has concluded, therefore, that new certifications must be submitted for all products currently required to be in child-resistant packages in order to complete its records, and to provide an adequate basis for enforcement. Moreover, the registrant must retain in his records a copy of the certification statement submitted to the Agency.

Manufacturers whose certifications currently cover only their closures may wish to assure themselves of the child-resistance of their entire package. They may want to undertake testing or other confirmatory activities. To provide for such investigation, the Agency will permit a period of six months from the effective date of this rule for new certifications to be submitted. Submission of a new certification statement is not an application, and the provisions of FIFRA sec. 3(c)(1)(D) do not apply.

F. Form of the Certification

EPA had proposed, for the convenience of registrants, to allow the certification to be submitted by merely signing the form submitted at the time of application, rather than by filing a separate and specifically worded certification. Some commenters argued that this was too cursory a form for such a serious commitment. Although the Agency believes that signing the form would be legally sufficient to sustain an allegation of falsification of an application, it also notes that the majority of certifications previously submitted are limited to certification of the closure, rather than the package. The Agency agrees that a more carefully delineated certification is desirable, and would impose a negligible additional paperwork burden on registrants. Accordingly, the final rule requires that a certification of child-resistant packaging be a separate recitation of the statement given in the regulation, identifying the product and registrant, and signed by a company official. Language in the regulation permitting

the use of the application form has been deleted.

G. Additional Changes From Agency Policy Statement

In the **Federal Register** of March 3, 1981 (46 FR 15104), the Agency issued a notice clarifying its child-resistant packaging regulations. That notice is superseded by the final rule being issued today and is hereby revoked. Certain of its provisions are being incorporated into the regulation. Others will continue in effect, but need not be promulgated in the regulation as they merely reflect existing policies or procedures contained in other regulations or written elsewhere. The contents of that notice and their disposition are summarized below.

1. *Unit A—Eye and skin irritation criteria.* The notice stated that eye and skin irritation testing should be conducted according to National Academy of Science protocols. The Agency has since incorporated its recommended testing procedures in Subdivision F of the Registration Guidelines, available through the National Technical Information Service. Thus, they are not incorporated here.

2. *Unit B—"Inherently child-resistant" products.* The notice stated that products that registrants believed to be inherently child-resistant should be tested according to the CPSC protocol. Since mandatory testing by the CPSC protocol has been eliminated, this question becomes moot. The registrant may base his certification on other evidence of child-resistance than actual CPSC testing, as provided in § 162.16(i)(3).

3. *Unit C—Distinction between "Exempt from child-resistant packaging" and "Not being subject to child-resistant packaging."* This part of the policy notice is unchanged. If a product does not meet the criteria for child-resistant packaging in § 162.16, for whatever reason, the product is not subject to the requirement for such packaging. A product that meets the criteria for child-resistant packaging may, however, be eligible for an exemption based on one of the factors stated in the rule.

4. *Unit D—"Dormant" pesticide registrations.* The notice stated the Agency's policy for products not in production, i.e., not being distributed or sold at the time the notice was issued. This policy is unchanged, but does not need to be stated in regulatory form.

5. *Unit E—Voluntary child-resistant packaging.* The provisions of this section have been incorporated as § 162.16(c) of the rule.

6. *Unit F—Product toxicity and child-resistant packaging.* The notice stated that, if existing toxicity data were not precise enough to demonstrate that the product did not meet the toxicity criteria for child-resistant packaging, the Agency would assume that child-resistant packaging was required. The policy is unchanged. The criteria for determining the need for child-resistant packaging do not correspond directly to those for establishing toxicity categories under § 162.10. Therefore, data developed for the purpose of assigning a product to a Toxicity Category may not be precise enough to determine whether the product is subject to the requirement for child-resistant packaging. In this case a registrant may wish to do further testing to determine the precise toxicity of his product, or he may simply comply with the child-resistant packaging requirement. If the Agency is unable to determine whether a product meets the toxicity criteria for child-resistant packaging based on the data available, it will assume that the product should be distributed in child-resistant packaging.

7. *Unit G—Released for shipment.* The term "distributed and sold" is used in FIFRA sec. 3 and in this rule to describe when the section 3 requirements (including child-resistant packaging) apply. The term includes "release for shipment," which is viewed as the initial act in distribution and sale. A product is therefore deemed to have been "distributed or sold" if it has been packaged and labeled in the manner in which it will be shipped, or if it is stored in an area where finished products are ordinarily held for shipment.

8. *Unit H—Testing procedures for child-resistant packaging which requires a tool for opening.* Since mandatory CPSC testing has been eliminated, this unit no longer applies.

9. *Unit I—Limited exception for products sold to, used and stored by, servicepersons.* The serviceperson exemption is not being adopted by the Agency, as stated earlier. Therefore, this provision of the notice does not apply.

10. *Unit J—Testing each size of a design.* Since mandatory CPSC testing has been eliminated, this unit no longer applies.

11. *Unit K—Label language.* The policy is unchanged. The specific label language instructing adults how to open the child-resistant packaging is at the registrant's discretion.

12. *Unit L—Certification of child-resistance.* The final rule contains provisions requiring that the registrant certify to the Agency that the package, including the closure, is child-resistant. As discussed earlier in this preamble, each affected registrant will be required to submit a new certification to that effect.

13. *Unit M—Amended product registrations for child-resistant packaging.* This unit of the notice stated the procedures for filing an application for amended registration with the Agency. These procedures are stated in § 162.6 of the registration regulations and, because registrants should be familiar with these procedures, they will not be restated in the rule. An application for amended registration is required to revise the directions for use to delete residential uses, or to limit use only to non-residential sites. However, neither submission of a certification statement nor a request for exemption is considered an amendment to registration.

14. *Unit N—Child-resistant packaging certification for registration of a new pesticide product which meets the criteria.* The procedures for new registration are found in § 162.6. If a certification of the child-resistance of the package is required, it must be submitted as part of the application, and registration will not be approved without the certification on file with the Agency. Thus, this rule need not include these provisions.

15. *Unit O—Requesting exemptions.* This unit of the notice explained how to submit requests for exemption. The pertinent portions of this section have been incorporated into the regulation as § 162.16(f)(2).

16. *Unit P—Data compensation.* Applications for new registration and amendment are subject to the provisions of FIFRA sec. 3(c)(1)(D). The submission of a certification statement of child-resistance of a package or a statement that the product will be packaged in child-resistant packaging are notifications to the Agency, and are exempt from those provisions of the Act, provided no other amendments to the registration are requested at the same time.

V. Statutory Review

In accordance with FIFRA sec. 25(a), this final rule was submitted to the Secretary of Agriculture for comment.

USDA reiterated its previously stated opposition to the extension of the efficacy data waiver and discontinuation of final printed label review. These comments have been expressed in regulation reviews in the past, and have been addressed in several responses by the Agency. EPA's position on the discontinuance of the final printed label review is unchanged, and the Agency has no further response. As stated earlier in this preamble, the

Agency is reserving its decision on the extension of the efficacy data waiver until promulgation of its Part 158 data requirements rule.

Copies of the rule were also provided to the Committee on Agriculture of the U.S. House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the U.S. Senate. No comments were received from either of these Committees.

VI. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. The Agency determined that these revisions to Part 162 are not a major regulation as defined by E.O. 12291.

This final rule was submitted to the Office of Management and Budget (OMB) for review, as required by E.O. 12291.

VII. Regulatory Flexibility Act

This rule has been reviewed under the provisions of sec. 3(a) of the Regulatory Flexibility Act, and it has been determined that this rule does not contain provisions that would have a significant adverse impact on a substantial number of small entities. Since the revisions would reduce paperwork, registration processing times, and compliance costs, the regulation would be beneficial to small businesses. Thus, a detailed Regulatory Flexibility Analysis is not required. I hereby certify that the revisions to 40 CFR Part 162 in this rule do not have a significant impact on a substantial number of small entities.

VIII. Paperwork Reduction Act

The rule requires that each applicant and registrant whose product is subject to the requirement for child-resistant packaging certify to the Agency that the packaging being used for his product meets the standards set out in § 162.16(g). In order to reduce paperwork burdens, the Agency had proposed that a registrant could accomplish his certification by simply checking an appropriate box on the application form and signing it. As discussed earlier in this preamble, several commenters representing the regulated pesticide companies questioned whether this simplified approach was not too casual, and suggested that a specific certification document be required to be submitted to the Agency. Although EPA acknowledges that this would increase the paperwork burdens on pesticide producers, it has agreed that a new certification is preferable from a legal and enforcement standpoint, and thus will require each registrant and applicant to submit a specifically worded certification in addition to the application form.

Information collection requirements contained in this regulation (§§ 162.6(b)(4), and 162.16 (h) and (i)) have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and have been assigned OMB Control Number 2000–0014 (notification of supplemental distribution) and 2000–0407 (child-resistant packaging compliance requirements).

(Secs. 3, 25(a)(1) and 25(c)(3), Federal Insecticide, Fungicide, and Rodenticide Act, as amended (Pub. L. 92–516, 92 Stat. 819; 7 U.S.C. 136 through 136y; 1972, 1975, and 1978))

List of Subjects in 40 CFR Part 162

Intergovernmental relations, Labeling, Packaging and containers, Pesticides and pests, Administrative practice and procedure.

Dated: December 21, 1983.

William D. Ruckelshaus,

Administrator.

PART 162—[AMENDED]

Therefore, 40 CFR Part 162 is amended as follows:

1. In § 162.6, by revising paragraph (b)(2)(i)(A)(*2*), (3)(ii)(B), and (4), and by adding OMB control numbers at the end thereof to read as follows:

§ 162.6 Registration procedures.

* * * * *

(b) * * *

(2) * * *

(i) * * *

(A) * * *

(*2*) A number copies, as specified by the Agency, of the complete final printed labeling, modified in accordance with any Agency requirements specified in the Notice of Registration, and meeting the requirements of § 162.10. Final printed labeling must be submitted before the product is released for shipment by the registrant. The Agency may require that final printed labeling be submitted prior to registration, including, but not limited to, when the applicant has previously failed to comply with labeling requirements, or the Agency finds that the revisions are so extensive that further label review is needed.

* * * * *

(3) * * *

(ii) * * *

(B) A number of copies, as specified by the Agency, of the complete final printed labeling, modified in accordance with any Agency requirements specified in the notice of approval, and meeting the requirements of § 162.10. Final printed labeling must be submitted before the product is released for shipment bearing the revised labeling. The Agency may require that final printed labeling be submitted prior to approval of the amendment, including, but not limited to, when the applicant has previously failed to comply with labeling requirements, or the Agency finds that the labeling revisions are so extensive that further review is needed.

* * * * *

(4) *Notification of supplementally distributed product.*

(i) A distributor may sell or distribute a registered product bearing his own name and address and brand name if:

(A) The registrant has submitted to the Agency for each distributor product a statement signed by both the registrant and the distributor listing the names and addresses of the registrant and the distributor, the distributor's company number, the additional brand name(s) to be used, and the registration number of the registered product;

(B) The composition of the supplementally distributed product is identical to that of the registered product;

(C) The supplementally distributed product is manufactured, packaged and labeled in a registered establishment operated by the same producer who manufactures, packages, and labels the registered product;

(D) The supplementally distributed product remains in the producer's unopened container (is not repackaged);

(E) The label of the supplementally distributed product bears the name and address of the distributor and the registration number of the registered product followed by the EPA distributor number, and the label or immediate container bears the establishment number of the final establishment at which the product was produced;

(F) Except as provided by paragraph (b)(4)(i)(E) of this section, the labeling of the supplementally distributed product is the same as that of the registered product; provided, however, that: specific claims may be deleted if by so doing no other changes are necesary; the brand name of the distributor product may be different; and the name and address of the supplemental distributor may be substituted for that of the registrant;

(G) The distributor product name is not misleading, as defined in § 162.10.

(ii) If a registrant has a potential distributor to whom a company number

has not been assigned, he should have the distributor apply, by letterhead, to the Agency for a company number.

(iii) The distributor is deemed to be an agent of the registrant for all intents and purposes under the Act.

* * * * *

(Information collection requirements contained in § 162.6(b)(4) have been approved by OMB under control number 2000–0014)

2. By revising § 162.16 to read as follows:

§ 162.16 Child-resistant packaging.

(a) *Definitions.* Terms used in this section shall have the following meanings:

(1) "Appropriate," when used with respect to child-resistant packaging, means that the packaging is chemically compatible with the pesticide contained therein.

(2) "Child-resistant packaging" means packaging that is designed and constructed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance contained therein within a reasonable time, and that is not difficult for normal adults to use properly.

(3) "Package" or "packaging" means the immediate container or wrapping, including any closure(s) and liners, in which the pesticide is contained for consumption, use of storage. "Package" does not include any shipping or bulk container used for transporting or delivering the pesticide, unless it is the only such package.

(4) "Practicable," when used with respect to child-resistant packaging, means that the packaging can be mass-produced and can be used in assembly line production.

(5) "Residential use" means use of a pesticide:

(i) Directly on humans or pets;

(ii) In, on or around any structure, vehicle, article, surface, or area associated with the household, including but not limited to areas such as out-buildings, non-commercial greenhouses, pleasure boats, or recreational vehicles; or

(iii) In or around any preschool or day care facility.

(6) "Technically feasible," when applied to child-resistant packaging, means that the technology exists to produce child-resistant packaging for a particular pesticide.

(7) "Unit packaging" means a package which is labeled with directions to use the entire contents of the package in a single application.

(b) *When required.* A pesticide product must be distributed and sold in child-resistant packaging if the product meets all of the following criteria:

(1) It meets any of the following toxicity criteria:

(i) The pesticide has an acute oral LD_{50} of 1.5 g/kg or less;

(ii) The pesticide has an acute dermal LD_{50} of 2000 mg/kg or less;

(iii) The pesticide has an acute inhalation LC_{50} of 2 mg/liter or less;

(iv) The pesticide is corrosive to the eye (causes irreversible destruction of ocular tissue) or causes corneal involvement or irritation persisting for 21 days or more;

(v) The pesticide is corrosive to the skin (causes tissue destruction into the dermis and/or scarring) or causes severe skin irritation (severe erythema or edema) at 72 hours; or

(vi) The pesticide has such characteristics that, based upon human toxicological data, use history, accident data or such other evidence as is available, the Agency determines there is a serious hazard of accidental injury or illness which child-resistant packaging could reduce;

(2) Its labeling either directly recommends residential use or reasonably can be interpreted to permit residential use;

(3) It has not been restricted to use by or under the direct supervision of a certified applicator;

(4) It has not been exempted in accordance with paragraph (f) of this section.

(c) *Voluntary use of child-resistant packaging.* A registrant whose product is not required to be in child-resistant packaging may distribute or sell his pesticide product in child-resistant packaging. If he does so, that packaging must meet the standards for child-resistant packaging stated in paragraph (g) of this section. The registrant must certify to this effect in accordance with paragraph (h) of this section, and must retain the records required by paragraph (i) of this section.

(d) *Products classified for restricted use.* Nothwithstanding the provisions of paragraph (b) of this section, the Agency may require the use of child-resistant packaging if the product is classified for restricted use only by or under the direct supervision of a certified applicator and the Agency determines that the product poses a risk of serious accidental injury or illness which child-resistant packaging could reduce. If the Agency makes such a determination, it will notify the registrant in writing and provide a short statement of the basis of its determination. The registrant will then have 30 days to show in writing why his product should not be in child-resistant packaging. Thereafter the Agency will determine whether to require the product to be distributed only in child-resistant packaging and will so notify the registrant.

(e) *Unit packaging.* Pesticide products distributed and sold as an aggregate of one or more unit packages and meeting the criteria of paragraph (b) of this section must be distributed and sold in child-resistant packaging either for each unit package or for the outer retail container which contains the unit packages. Child-resistant packaging is not required for both the outer package and the unit packages unless the Agency determines, on a case-by-case basis, that it is necessary for risk reduction.

(f) *Exemptions*—(1) *General.* The Agency may, on a case-by-case or class basis, grant exemptions from the requirements of this section, provided that the Agency first determines that such an exemption would be in the public interest. An exemption may be withdrawn by the Agency at any time if the lack of child-resistant packaging results in serious illnesses or injuries to children, or if a feasible package becomes available for the product.

(2) *Requesting an exemption.* An applicant or registrant who wishes to request an exemption from the requirement of child-resistant packaging must submit two copies of the following information:

(i) The name, address and telephone number of the requester;

(ii) The name and registration number (or file symbol) of the product(s) for which the exemption is requested;

(iii) A description of the package and the size(s) for which the exemption is requested; and

(iv) Documentation supporting the request for exemption, including the length of time for which the exemption is requested.

(3) *Exemption based upon lack of toxicity.* The Agency may grant an exemption from the requirements of this section if the registrant or applicant demonstrates to the Agency's satisfaction that the hazards indicated by the toxicity criteria in paragraph (b) of this section are not indicative of the risk to man. If granted, an exemption shall apply to other products of substantially similar composition. A notice will be issued in the **Federal Register** stating the nature of and reasons for the exemption.

(4) *Exemption based upon technical factors.* The Agency may grant an exemption from the requirements of this section based upon technical considerations. If granted, the exemption will be for a specified length of time, and will apply to other products

of substantially similar composition and intended uses. A notice of the granting of an exemption will be issued in the Federal Register. In considering whether to grant an exemption, the Agency will consider, among other things, the following:

(i) Whether the toxicity of the product is such that it should not be allowed to be distributed or sold except in child-resistant packaging.

(ii) Whether child-resistant packaging is technically feasible, practicable or appropriate.

(iii) Whether the composition or use pattern of the product necessitates a particular form of packaging for proper use.

(iv) Whether child-resistant packaging that is technically feasible, practicable and appropriate is available for the product or can reasonably be made available to the registrant in sufficient quantities to meet his packaging needs. This determination does not include a consideration of whether the packaging would be adaptable to a registrant's existing package type or packaging equipment.

(v) Whether the registrant has made a timely and good faith effort to obtain child-resistant packaging for the product.

(vi) If child-resistant packaging which is technically feasible, practicable and appropriate is not yet available, when such packaging is likely to be available.

(g) *Standards*—(1) *Effectiveness standard.* The child-resistant package, when tested by the protocol specified in 16 CFR 1700.20, shall meet the effectiveness specifications in 16 CFR 1700.15(b).

(2) *Compatibility standard.* The child-resistant packaging must continue to meet the effectiveness specifications of paragraph (g)(1) of this section when in actual use as a pesticide container. The registrant may assure himself that this standard is met by appropriate scientific evaluation of the compatibility of the substance with the child-resistant packaging to determine that the chemical and physical characteristics of the pesticide will not compromise or interfere with the proper functioning of the child-resistant packaging and that the packaging will not be detrimental to the integrity of the product during storage and use.

(3) *Durability standard.* The child-resistant packaging must continue to meet the effectiveness and compatibility standards of paragraph (g) (1) and (2) of this section for the reasonably expected lifetime of the package, taking into account the number of times the package is customarily opened and closed. The registrant may assure himself that this standard is met by appropriate technical evaluation based on physical wear and stress factors of the packaging, the force required for activation, and other relevant factors.

(h) *Certification*—(1) *General.* (i) The registrant of a pesticide product required to be in child-resistant packaging shall certify to the Agency that the package meets the standards set forth in paragraph (g) of this section.

(ii) Certification must be submitted with each application for new registration, if applicable. A previous certification pertaining solely to the closure of the child-resistant package does not comply with the requirements of this section. A certification that complies with the requirements of this section must be submitted for each currently registered product subject to the requirement for child-resistant packaging by October 1, 1984.

(2) *Contents of certification.* The certification must contain the following information:

(i) The name and EPA registration number of the product to which the certification applies, the registrant's name and address, the date, and the name, title, and signature of the company official making the certification.

(ii) A statement that the packaging that is being used for the product meets the standards of paragraph (g) of this section. The statement "I certify that the packaging used for this product meets the standards of 40 CFR 162.16(g)" will suffice for this purpose.

(i) *Recordkeeping.* For as long as the registration of a pesticide product required to be in child-resistant packaging is in effect, the registrant must retain the records listed in paragraph (i) (1) through (3). The registrant must, upon request by the Agency, make them available to Agency representatives for inspection and copying, or submit them to the Agency.

(1) A description of the package including a description of:

(i) The container, including its dimensions and composition.

(ii) The closure or child-resistant mechanism, including the name of its manufacturer and the manufacturer's designation for the closure or the physical working of the child-resistant packaging mechanism.

(2) A copy of the certification statement required by paragraph (h) of this section.

(3) One of the following types of records verifying that each package for the product is child-resistant:

(i) Test data on the package based on the CPSC protocol in 16 CFR 1700.20.

(ii) Test data, not conforming to the protocol in 16 CFR 1700.20, or a set of measurements on the package, together with an explanation as to why such data or measurements demonstrate that the package is child-resistant.

(iii) Test data, whether or not conducted according to the protocol in 16 CFR 1700.20, on a different package, together with an explanation of why such data demonstrate that the package being used is child-resistant.

(iv) Written evidence that verifies that testing on the package has been conducted according to the CPSC protocol. Written evidence may be:

(A) A letter or literature from the packaging supplier;

(B) A letter from the facility that conducted the testing; or

(C) A specification in the contract between the registrant or applicant and the packaging supplier;

(v) When the container and closure are purchased separately by the registrant:

(A) Information of the kinds described in paragraphs (i)(3) (i) through (iv) of this section showing that the closure is child-resistant; and

(B) A written explanation of why the container is child-resistant; and

(C) Information showing that the closure and container are compatible with each other, and a written explanation of why the resulting package is child-resistant.

(vi) A combination of the above.

(Information collection requirements contained in § 162.16 (h) and (i) have been approved by OMB under control number 2000-0467.)

[FR Doc. 84-8 Filed 1-3-84; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 180

[PP 2F2665/R519A; OPP-FRL-250-6]

Technical Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Rule; technical amendment.

SUMMARY: This document amends the regulation permitting residues of the fungicide 1-(4-chlorophenoxy)-3,3-dimethyl-1-(1*H*-1,2,4-triazol-1/yl)-2-butanone to include in the tolerance expression the metabolite "beta-(4-chlorophenoxy)-alpha-(1,1-dimethylethyl)-1*H*-1,2,4-triazole-1-ethanol" in or on raw agricultural commodities and the metabolites "containing chlorophenoxy and triazole moieties (expressed as the fungicide)" in or on animal derived commodities.

This amendment will permit the maximum permissible levels of residues of the fungicide in or on the commodities.

EFFECTIVE DATE: Effective on January 4, 1984.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Henry Jacoby, Product Manager (PM) 21, Registration Division (TS–767C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 229, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–1900).

SUPPLEMENTARY INFORMATION: EPA issued a regulation published in the **Federal Register** of February 9, 1983 (48 FR 5920) that established tolerances for the combined residues of the fungicide 1-(4-chlorophenoxy)-3,3-dimethyl-1-(1*H*-1,2,4-triazol-1-yl)-2-butanone in or on certain raw agricultural and animal derived commodities.

In the pesticide petition 2F2665 submitted to the Agency by Mobay Chemical Corp., PO Box 4913, Kansas City, MO 64120, published in the **Federal Register** of May 26, 1982 (47 FR 23021) proposing tolerances for the fungicide, the tolerance expression was given as "1-(4-chlorophenoxy)-3,3-dimethyl-1-(1*H*-1,2,4-triazol-1-yl)-2-butanone and its metabolite beta-(4-chlorophenoxy)-alpha-(1,1-dimethylethyl)-1*H*-1,2,4-triazole-1-ethanol" for all the commodities included in the petition. In the **Federal Register** of November 30, 1983 (48 FR 54117), the petition was amended to include the metabolite "beta-(4-chlorophenoxy)-alpha-(1,1-dimethylethyl)-1*H*-1,2,4-triazole-1-ethanol" in or on raw agricultural commodities and the metabolites "containing chlorophenoxy and triazole moieties (expressed as the fungicide)" in or on animal derived commodities.

There were no comments received in response to the amendment. The regulation is amended as set forth below.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(a), (e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: December 19, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.410 is revised to read as follows:

§ 180.410 1-(4-Chlorophenoxy)-3,3-dimethyl-1-(1H/1,2,4-triazol-1-yl)-2-butanone; tolerances for residues.

(a) Tolerances are established for the combined residues of the fungicide 1-(4-chlorophenoxy)-3,3-dimethyl-1-(1H-1,2,4-triazol-1-yl)-2-butanone and the metabolite beta-(4-chlorophenoxy)-alpha-(1,1-dimethylethyl)-1*H*-1,2,4-triazole-1-ethanol in or on the following raw agricultural commodities:

Commodities	Parts per million
Almonds	0.05
Almond, hulls	0.10
Apples	1.0
Barley, grain	1.0
Barley, green forage	15.0
Barley, straw	5.0
Chick pea, seed (dry)	0.1
Grapes	1.0
Grass, forage	0.2
Grass, seed cleanings (including hulls)	145.0
Grass, seed straw (including chaff)	105.0
Pears	1.0
Pineapples (fresh)	1.0
Wheat, grain	1.0
Wheat, green forage	15.0
Wheat, straw	5.0

(b) Tolerances are established for the combined residues of the fungicide 1-(4-chlorophenoxy)-3,3-dimethyl-1-(1H-1,2,4-triazol-1-yl)-2-butanone and its metabolites containing chlorophenoxy and triazole moieties (expressed as the fungicide) in or on the following raw agricultural commodities:

Commodities	Parts per million
Eggs	0.04
Cattle, fat	1.0
Cattle, mbyp	1.0
Cattle, meat	1.0
Goats, fat	1.0
Goats, mbyp	1.0
Goats, meat	1.0
Hogs, fat	0.04
Hogs, mbyp	0.04
Hogs, meat	0.04
Horses, fat	1.0
Horses, mbyp	1.0
Horses, meat	1.0
Milk	0.04
Poultry, fat	0.04
Poultry, mbyp	0.04
Poultry, meat	0.04
Sheep, fat	1.0
Sheep, mbyp	1.0
Sheep, meat	1.0

[FR Doc. 84–6 Filed 1–3–84; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[OPP–260047; FRL–2502–1]

Pesticide Chemicals in or on Raw Agricultural Commodities; Cross-Referencing Update

AGENCY: Environmental Protection Agency (EPA).

ACTION: Rule; cross-referencing update.

SUMMARY: These editorial amendments to 40 CFR 180.1001 (c), (d), and (e) update cross-references to certain sections in 21 CFR Part 121 which were recodified.

EFFECTIVE DATE: Effective on January 4, 1984.

FOR FURTHER INFORMATION CONTACT: John A. Richards, Chief, Federal Register Unit (TS–788), Office of the Assistant Administrator for Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–130, 401 M St., SW., Washington, D.C. 20460 (202–382–3626).

SUPPLEMENTARY INFORMATION: The Food and Drug Administration issued a recodification of 21 CFR Part 121, Subparts:

B—Exemption of Certain Food Additives from the Requirement of Tolerances

C—Food Additives Permitted in Feed and Drinking Water of Animals

F—Food Additives Resulting From Contact with Containers or Equipment and Food Additives Otherwise Affecting Food

published in the **Federal Register** of September 10, 1976 (41 FR 38618) and Subpart D—Food Additives Permitted in Food For Human Consumption, published in the **Federal Register** of March 16, 1977 (42 FR 14302).

These regulations are cross-referenced in 40 CFR 180.1001 (c), (d), and (e). This document amends the cross-references to reflect the new codification under 21 CFR, and represents no substantive change in the content of the regulations under 40 CFR Part 180.

Dated: December 22, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180.1001 is amended as follows:

§ 180.1001 [Amended]

1. In paragraph (c), the following changes are made in the table:

a. Under "Calcium salt of partially dimerized rosin" the reference to "§ 121.1179" is changed to read "§ 172.210".

b. Under "Coumarone-indene resin" the reference to "§ 121.1050" is changed to read "§ 172.215".

c. Under "Fatty acids" the reference to "§ 121.1070" is changed to read "§ 172.860".

d. Under "Methyl esters of higher fatty acids" the reference to "§ 121.224" is changed to read "§ 573.640".

e. Under "Methyl ester of rosin, partially hydrogenated" the reference to "§ 121.1059" is changed to read "§ 172.615".

f. Under "Petrolatum" the reference to "§ 121.1166" is changed to read "§ 172.880".

g. Under "Petroleum hydrocarbons, light odorless" the reference to "§ 121.1182" is changed to read "§ 172.884".

h. Under "Petroleum hydrocarbons, synthetic isoparaffinic" the reference to "§ 121.1154" is changed to read "§ 172.882".

i. Under "Petroleum naphtha" the reference to "§ 121.1209(d)" is changed to read "§ 172.250(d)".

j. Under "Petroleum wax" the reference to "§ 121.1156(d)" is changed to read "§ 172.886(d)".

k. Under "Polyethylene, oxidized" the reference to "§ 121.1142" is changed to read "§ 172.260".

l. Under "Polyglycerol esters of fatty acids" the reference to "§ 121.1120" is changed to read "§ 172.854".

m. Under "Polysorbate 65" the reference to "§ 121.1108" is changed to read "§ 172.838".

n. Under "Propylene glycol alginate" the reference to "§ 121.1015" is changed to read "§ 172.858".

o. Under "Rosin, partially dimerized" the reference to "§ 121.1059" is changed to read "§ 172.615".

p. Under "Rosin, partially hydrogenated" reference to "§ 121.1059" is changed to read "§ 172.615".

q. Under "Salts of fatty acids", the reference to "§ 121.1071" is changed to read "§ 172.863".

r. Under "Sperm oil" the reference to "§ 121.1179" is changed to read "§ 172.210".

s. Under "Xylene" the reference to § 121.1182(b)(4)" is changed to read "§ 172.884(b)(4)".

2. In paragraph (d), the following changes are made in the table:

a. Under "Carrageenan" the reference to "§ 121.1066" is changed to read "§ 172.620".

b. Under Polyethylene, oxidized" the reference to "§ 121.1142(a)" is changed to read "§ 172.260(a)".

c. Under "Polysorbate 60" the reference to "§ 121.1030" is changed to read "§ 172.836".

d. Under "Polyvinyl acetate" the reference to "§ 121.1059" is changed to read "§ 172.615".

e. Under "Rosin, dark wood" the reference to "§ 121.2592" is changed to read "§ 178.3870(a)(1)(v)".

f. Under "Sodium salt of partially or completely saponified dark wood rosin" the reference to "§ 121.2592(a)(1)(5)" is changed to read "§ 178.3870(a)(4)".

g. Under "Zinc stearate" the reference to "§ 121.101(d)(5)" is changed to read "§§ 182.5994 and 582.5994".

3. In paragraph (e), the following changes are made in the table:

a. Under "Methyl esters of higher fatty acids" the reference to "§ 121.224" is changed to read "§ 573.640".

b. Under "Mineral oil, U.S.P." the reference to "§ 121.1146 or § 121.2589(a)(b)" is changed to read "§ 172.878 or § 178.3620(a)(b)".

c. Under "Petroleum hydrocarbons, light, odorless" the reference to "§ 121.1182 or § 121.2594" is changed to read "§ 172.884 or § 178.3650".

d. Under "Petroleum hydrocarbons, synthetic isoparaffinic" the reference to "§ 121.1154 or § 121.2558" is changed to read "§ 172.882 or § 178.3530".

e. Under "Polyethylene esters of fatty acids" the reference to "§ 121.1120" is changed to read "§ 172.854".

f. Under "Wood rosin acid, potassium salts" the reference to "§ 121.2592" is changed to read "§ 178.3870".

g. Under "Zinc stearate" the reference to "§ 121.101(d)(g)" is changed to read "§§ 182.5994 and 582.5994".

[FR Doc. 84-72 Filed 1-3-84; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 180

[PP 2F2645/R631; PH FRL 2499-4]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Ethalfluralin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the herbicide ethalfluralin in or on certain raw agricultural commodities. This regulation to establish the maximum permissible level for residues of ethalfluralin in or on these commodities was requested by Elanco Products Co.

EFFECTIVE DATE: Effective on January 4, 1984.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Richard F. Mountfort, Product Manager (PM) 23, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 237, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1830).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the Federal Register of March 10, 1982 (47 FR 10286), which announced that Elanco Products Co., a division of Eli Lilly Co., 740 South Alabama St., Indianapolis, IN 46285, had submitted a pesticide petition (2F2645) to EPA proposing that 40 CFR Part 180 be amended by establishing a tolerance for residues of the herbicide ethalfluralin -ethyl-N-(2-methyl-2-propenyl)-2,6-dinitro-4-(trifluoromethyl) benzenamine] in or on the agricultural commodities groupings seed and pod vegetables, forage legumes, and cucurbits at 0.05 part per million (ppm). This petition was later amended to specify dry beans, dry peas, soybeans, and the crop commodity grouping cucurbits at 0.05 ppm.

Since the petition was amended, a new crop grouping scheme was enacted (see the Federal Register of June 29, 1983 (48 FR 29855)). The cucurbit crop commodity group has been replaced by the cucurbit vegetable group. Adequate data have been submitted to support the 0.05 ppm tolerance for the representative crops for this new grouping; therefore, the Agency acting on its own initiative is establishing the 0.05 ppm tolerance in the cucurbit vegetable group.

There were no comments received in response to the notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The data submitted include plant and animal metabolism studies; a 90-day rat-feeding study with a no-observed-effect level (NOEL) of 500 ppm (equivalent to 25 milligrams (mg/kilogram (kg) of body weight (bw)); a 90-day dog-feeding study with a NOEL of 27.5 mg/kg; a rabbit teratology study with a fetotoxic, maternal toxicity, and teratogenic NOEL of 75 mg/kg (the teratogenic effect level is 150 mg/kg with multiple anomalies observed in 2 fetuses out of 76 examined at this level (margin of safety (MOS) values are based on the NOEL of 75 mg/kg/day); a 3-generation rat reproduction study with a NOEL of 250 ppm (12.5 mg/kg); a 2-year rat chronic feeding/oncogenicity study with a systemic NOEL of 750 ppm (37.5 mg/kg) and a significant increase

in mammary gland fibroadenomas at 250 ppm (12.5 mg/kg) and 750 ppm (37.5 mg/kg) (this study is discussed further below); a 2-year mouse oncogenicity study with no observed oncogenic potential up to 1,500 ppm (225 mg/kg), the highest dose tested; a bacterial gene mutation (modified Ames test), positive; an Ames assay, positive; an *in vitro* unscheduled DNA synthesis (UDS) in rat hepatocytes, negative; an *in vitro* mouse lymphoma assay, negative.

The Agency has evaluated dietary exposure to ethalfluralin residues for the commodities proposed. Assuming 100 percent of the proposed crops are treated with residues at the tolerance level (0.05 ppm), using the "one-hit" model, the worst-case dietary oncogenic risk is calculated to be 3.77 incidences in one million.

The benefits analysis for ethalfluralin has been prepared concerning these uses. The Agency will use this analysis in considering registration for ethalfluralin.

Data lacking and considered desirable are as follows: a second species teratology study and a nonrodent chronic feeding study. The petitioner has submitted a rat teratology study which did not indicate teratogenic potential at the dose levels tested (up to 250 mg/kg). This study is considered supplementary, however, because maternal toxicity was not demonstrated at the highest dose used.

Tolerances have not previously been established for ethalfluralin. Based on a NOEL of 750 ppm in the 2-year rat study and a 100-fold safety factor, the acceptable daily intake (ADI) has been set at 0.375 mg/kg/day with a maximum permissible intake (MPI) of 25.5 mg/day for a 60-kg person. The tolerances have a theoretical maximal residue contribution (TMRC) of 0.0031 mg/day in a 1.5-kg diet or 0.01 percent of the ADI.

There are no regulatory actions pending against the registration of ethalfluralin. The metabolism of ethalfluralin in plants and animals is adequately understood for purposes of the tolerances set forth below. An analytical method, electron capture gas-liquid chromatography, is available for enforcement purposes. There is no expectation of secondary residues in meat, milk, poultry, and eggs.

Based on the information cited above, the Agency has determined that establishing tolerances for residues of the pesticide in or on the commodities will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice procedure, Agricultural commodities, Pesticides and pests.

Dated: November 28, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.416 is added to Subpart C, to read as follows:

§ 180.416 Ethalfluralin; tolerances for residues.

Tolerances are established for residues of the herbicide ethalfluralin [*N*-ethyl-*N*-(2-methyl-2-propenyl)-2,6-dinitro-4-(trifluoromethyl)benzenamine] in or on the following raw agricultural commodities:

Commodities	Parts per million
Beans, dry	0.05
Cucurbits vegetable group	0.05
Peas, dry	0.05
Soy beans	0.05

[FR Doc. 84-1 Filed 1-3-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83-424; RM-4332]

TV Broadcast Station in Mobile, Alabama; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF Channel 61 to Mobile, Alabama, in response to a petition filed by David Allen Crabtree.

DATE: Effective: February 27, 1984.

ADDRESS: Federal Communications Commission, Washington, D. C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Mobile, Alabama) MM Docket No. 83-424 RM-4332.

Adopted: December 5, 1983.
Released: December 21, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 23862, published May 27, 1983, which invited comments on a proposal to assign UHF Television Channel 61 to Mobile, Alabama, in response to a petition filed by David Allen Crabtree ("petitioner"). Petitioner submitted comments in support of the proposal and expressed his interest in applying for the channel, if assigned. Comments in support of the proposal were also filed on behalf of Ken Vallis and other unnamed individuals.

2. We believe that the petitioner has adequately demonstrated the need for a seventh television service in Mobile and that the public interest would be served by assigning UHF Commercial Television Channel 61 to that community. The channel can be assigned in compliance with the minimum distance separation requirements of § 73.610 of the Commission's Rules.

§ 73.606 [Amended]

3. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as

amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective February 27, 1984, the Television Table of Assignments, § 73.606(b) of the Rules, is amended, with respect to the following community:

City	Channel No.
Mobile, Ala	5+, 10+, 15+, 21+, *31, *42, and 61.

4. It is further ordered, that this proceeding is terminated.

5. For further information contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-40 Filed 1-3-84; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83-360; RM-4369]

TV Broadcast Station in Novato, California; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF television Channel 68 to Novato, California, as its first television service, in response to a request filed by Stephen J. Mewhort.

DATE: Effective: February 27, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau (202) 634–6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.606(b) Table of Assignments, TV Broadcast Stations. (Novato, California) MM Docket No. 83-360, RM-4369.

Adopted: December 12, 1983.
Released: December 21, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 16922, published April 20, 1983, issued in response to a request filed by Stephen J. Mewhort ("petitioner"), proposing the assignment of UHF television Channel 68 to Novato, California, as that community's first television service. Petitioner filed comments reaffirming his intention to apply for the channel, if assigned. No oppositions to the proposal were received.

2. Novato (population 43,916),[1] in Marin County (population 222,952), is located approximately 35 kilometers (22 miles) north of San Francisco, California.

3. In light of the fact that the proposed assignment could provide a first local television service to Novato, we believe that the public interest would be served by assigning UHF television Channel 68 as requested. The assignment can be made in conformity with the minimum distance separation requirements of §§ 73.610 and 73.698 of the Commission's Rules, provided the transmitter is located 2.4 miles northwest [2] of the community to avoid short-spacing to Station KTEH (Channel 54) in San Jose, California, and to applications for Channel 66 in Vallejo, California.

§ 73.60 [Amended]

4. Accordingly, pursuant to the authority contained in §§ 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective February 27, 1984, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended with respect to the community listed below, as follows:

City	Channel No.
Novato, Calif	68

5. It is further ordered, that this proceeding is terminated.

6. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-34 Filed 1-3-84; 8:45 am]

BILLING CODE 6712-01-M

[1] Population figures were extracted from the 1980 U.S. Census.

[2] The *Notice* incorrectly indicated that a site restriction 2.4 miles "northeast" of Novato was required to effectuate this proposal. Accordingly, that error has been corrected herein.

47 CFR Part 73

[MM Docket No. 83-420; RM-4340]

TV Broadcast Station in Bowling Green, Kentucky; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF Television Channel 59 to Bowling Green, Kentucky, in response to a petition filed by Stanley G. Emert.

DATE: Effective: February 27, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp. Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Bowling Green, Kentucky) MM Docket 83–420; RM—4320.

Adopted: December 5, 1983.
Released: December 21, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 23869, published May 27, 1983, which proposed the assignment of UHF Television Channel 59 to Bowling Green, Kentucky, in response to a petition filed by Stanley G. Emert ("petitioner"). Petitioner filed comments in support of the *Notice* and reaffirmed his interest in applying for the channel, if assigned. No opposing comments were filed.

2. The Association of Maximum Services Telecasters filed comments noting a short spacing between petitioner's proposal and a proposal to assign Channel 66 to Lebanon, Tennessee (MM Docket 83–415). A site restriction has been placed on the Lebanon proposal to eliminate the short spacing.

3. We believe that the petitioner has adequately demonstrated the need for a fourth television assignment to Bowling Green, Kentucky, and that the public interest would be served by assigning UHF Television Channel 59 to that community. The channel can be assigned in compliance with the minimum distance separation requirements and other technical criteria of the Commission's Rules.

§ 73.606 [Amended]

4. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective February 27, 1984, the Television Table of Assignments, § 73.606(b) of the Rules, is amended with respect to the community listed below:

City	Channel No.
Bowling Green, Ky.	13, 40+, *53−, and 59+.

5. It is further ordered, that this proceeding is terminated.

6. For further information please call Mark N. Lipp, Mass Media Bureau, (202), 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–39 Filed 1–3–84; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 83–377; RM–4344]

TV Broadcast Station in Madisonville, Kentucky; Changes Made in Table of Assignment

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF Television Channel 57 to Madisonville, Kentucky, in response to a petition filed by William T. Conner.

DATE: Effective: February 27, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau (202) 634–6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Madisonville, Kentucky) MM Docket No. 83–377 RM–4344.

Adopted: December 5, 1983.
Released: December 21, 1983.
By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 18858, published April 26, 1983, which invited comments on a proposal to assign UHF Channel 57 to Madisonville, Kentucky, in response to a petition filed by William T. Conner ("petitioner"). Petitioner submitted comments in support of the proposal and expressed an interest in applying for the channel, if assigned. No other comments were received.

2. We believe that the petitioner has adequately demonstrated the need for a second commercial television assignment in Madisonville, and that the public interest would be served by assigning UHF Television Channel 57 to that community. The channel can be assigned in compliance with the minimum distance separation requirements of § 73.610 of the Commission's Rules.

§ 73.606 [Amended]

3. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective February 27, 1984, the Television Table of Assignments, § 73.606(b) of the Rules, is amended, with respect to the following community:

City	Channel No.
Madisonville, Ky	19−, *35−, and 57+.

4. It is further ordered, That this proceeding is terminated.

5. For further information contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–36 Filed 1–3–84; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 83–227; RM–4320]

TV Broadcast Station in McCook, Nebraska; Changes in Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF television Channel 16 to McCook, Nebraska, as its second commercial television assignment, in response to a request filed by Jerrell E. Kautz.

DATE: Effective: February 27, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau (202) 634–6530

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (McCook, Nebraska) MM Docket No. 83–227 RM–4320.

Adopted: December 9, 1983.
Released: December 21, 1983.
By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 14685, published April 5, 1983, in response to a petition filed by Jerrell E. Kautz ("petitioner"), proposing the assignment of UHF television Channel 16 [1] to McCook, Nebraska, as that community's second commercial television assignment. Supporting comments were filed by petitioner in which he reaffirmed his intention to apply for the channel, if assigned. No oppositions to the proposal were received.

2. We believe the public interest would be served by granting petitioner's request since it could provide a competitive television service to the community for the expression of diverse viewpoints and programming.

3. As indicated in the *Notice*, the channel can be assigned consistent with the minimum distance separation requirements of §§ 73.610 and 73.698 of the Commission's Rules.

§ 73.606 [Amended]

4. In view of the foregoing, and pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective February 27, 1984, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended as follows:

City	Channel No.
McCook, Nebr	8−, 16+.

5. It is further ordered, that this proceeding is terminated.

[1] Although petitioner initially requested assignment of UHF television Channel 14 to McCook, that proposal conflicted with an assignment on the co-channel at Hays, Kansas. As a result, UHF television Channel 16 was proposed as a substitute for Channel 14.

6. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-32 Filed 1-3-84; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-381; RM-4294]

TV Broadcast Station in Omaha, Nebraska; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF Television Channel 54 to Omaha, Nebraska, in response to a petition filed by Harry C. Powell.

DATE: Effective: February 27, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Omaha, Nebraska) MM Docket No. 83-381 RM-4294.

Adopted: December 5, 1983.
Released: December 21, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 18859, published April 26, 1983, which invited comments on a proposal to assign UHF Television Channel 54 to Omaha, Nebraska, in response to a petition filed by Harry C. Powell ("petitioner"). Petitioner submitted information in support of the proposal and expressed his interest in applying for the channel, if assigned. No other comments were received.

2. We believe that the petitioner has adequately demonstrated the need for a sixth commercial television assignment in Omaha and that the public interest would be served by assigning UHF commercial Television Channel 54 to that community. The channel can be assigned in compliance with the minimum distance separation requirements of § 73.610 of the Commission's Rules.

§ 73.606 [Amended]

3. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective February 27, 1984, the Television Table of Assignments, § 73.606(b) of the Rules, is amended, with respect to the following community:

City	Channel No.
Omaha, Nebr	3, 6+, 7, 15, *26, 42+, *48–, and 54.

4. It is further ordered, that this proceeding is terminated.

5. For further information contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-37 Filed 1-3-84; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-383; RM-4357]

TV Broadcast station in Charleston, Illinois; Changes made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns and reserves UHF Channel *51 to Charleston, Illinois, for noncommercial educational use, in response to a petition filed by Eastern Illinois University.

DATE: Effective: February 27, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau (202) 634–6530

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Charleston, Illinois) MM Docket No. 83-383 RM-4357.

Adopted: December 5, 1983.
Released: December 21, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 18856, published April 26, 1983, which invited comments on a proposal to assign UHF Television Channel *51 (reserved for noncommercial educational use) to Charleston, Illinois, in response to a petition filed by Eastern Illinois University ("petitioner"). Petitioner filed comments in support of the *Notice* and reaffirmed its interest in applying for the channel, if assigned. No other comments were received.

2. We believe that the petitioner has adequately demonstrated the need for a first noncommercial educational television service at Charleston, Illinois, and that the public interest would be served by assigning and reserving UHF Television Channel *51 for noncommercial educational use at that community.

§ 73.606 [Amended]

3. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective February 27, 1984, the Television Table of Assignments, § 73.606(b) of the Rules, is amended, with respect to the following community:

City	Channel No.
Charleston, Ill	*51+

4. It is further ordered, that this proceeding is terminated.

5. For further information contact Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-38 Filed 1-3-84; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-361; RM-4336]

TV Broadcast station in Cleveland, Tennessee; Changes made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF television Channel 53 to Cleveland,

Tennessee, in response to a petition filed by Peggy Ann Rothchild. The assignment could provide Cleveland with its first television service.

DATE: Effective: February 27, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau (202) 634–6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Cleveland, Tennessee) MM Docket No. 83–361 RM–4336.

Adopted: December 12, 1983.
Released: December 21, 1983.

By the Chief, Policy and Rules Division.

1. Before the Commission for consideration is the *Notice of Proposed Rule Making*, 48 FR 16921, published April 20, 1983, issued in response to a petition filed by Peggy Ann Rothchild ("petitioner"), proposing the assignment of UHF television Channel 53 to Cleveland, Tennessee, as that community's first television service. Supporting comments were filed by petitioner reiterating her intention to apply for the channel, if assigned. No oppositions to the proposal were received.

2. Cleveland (population 26,415),[1] seat of Bradley County (population 67,547), is located in southeastern Tennessee, approximately 200 kilometers (125 miles) southeast of Nashville.

3. We believe the public interest would be served by assigning UHF television Channel 53 to Cleveland, since it could provide that community with its first television service. As indicated in the *Notice*, the assignment can be made to Cleveland in conformity with the minimum distance separation requirements of §§ 73.610 and 73.698 of the Commission's Rules, provided the transmitter is located 9.7 miles southeast to avoid short-spacing on the co-channel to Station WKGB, Bowling Green, Kentucky.

§ 73.606 [Amended]

4. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b), and 0.283 of the Commission's Rules, it is ordered, that effective February 27, 1984, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended with regard to the community listed below, as follows:

City	Channel No.
Cleveland, Tenn	■

5. It is further ordered, that this proceeding is terminated.

6. For further information, concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division Mass Media Bureau.

[FR Doc. 84–35 Filed 1–3–84; 8:45 am]

BILLING CODE 6712–01–M

[1] Population figures were extracted from the 1980 U.S. Census.

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47 CFR Part 73

[MM Docket No. 83–355; RM–4305]

TV Broadcast Station in Fort Worth, Texas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF television Channel 52 to Fort Worth, Texas, as that community's fourth commercial television service, in response to a petition filed by Dennis H. Owen.

DATE: Effective: February 27, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Fort Worth, Texas) MM Docket No. 83–355; RM–4305.

Adopted: December 5, 1983.
Released: December 21, 1983.

By the Chief, Policy and Rules Division.

1. Before the Commission for consideration is the *Notice of Proposed Rule Making*, 48 FR 16088, published April 14, 1983, proposing the assignment of UHF television Channel 52 [1] to Fort Worth, Texas, as that community's fourth commercial television service, in response to a request from Dennis H. Owen ("petitioner"). Supporting comments were filed by petitioner reaffirming his intention to apply for the channel, if assigned. Additionally, comments were filed by Latin American Broadcasting Company ("LABC") advocating its support of the proposed assignment. No oppositions to the proposal were received.

2. Fort Worth (population 385,141),[2] the seat of Tarrant County (population 860,880), is located in northeast Texas, approximately 50 kilometers (28 miles) west of Dallas. Currently, Fort Worth is served by commercial television stations KXAS(TV) (Channel 5+), KTVT(TV) (Channel 11–), KTXA(TV) (Channel 21–), and noncommercial educational Channel *31 (applications pending).

3. We find that the public interest would be served by assigning UHF television Channel 52 to Fort Worth as its fourth commercial television service. As set forth in the *Notice*, Channel 52 can be assigned to Fort Worth consistent with the minimum distance separation requirements of §§ 73.610 and 73.698 of the Commission's Rules provided it is offset [3] to avoid short spacing on the co-channel.

§ 73.606 [Amended]

4. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective February 27, 1984, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended as follows:

City	Channel No.
Fort Worth, Tex	5+, 11–, 21–, *31+, and 52–.

5. It is further ordered, that this proceeding is terminated.

[1] Although petitioner initially requested the assignment of UHF television Channel 43 to Fort Worth, that proposal was short-spaced to the proposed assignment of Channel 58 to Dallas, Texas, in BC Docket No. 82–834 (RM–4202). Therefore, Channel 52 was proposed for consideration, in lieu of Channel 43.

[2] Population figures were extracted from the 1980 U.S. Census, Advance Reports.

[3] Although the *Notice* proposed the assignment of Channel 52 with a plus offset to avoid short spacing to Station KSBI(TV), Oklahoma City, Oklahoma, it will be changed herein to avoid conflicting with another pending rule making proposing the assignment of Channel 52+ to Blanco, Texas (see MM Docket No. 83–478; RM–4371).

6. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–33 Filed 1–3–84; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 83–481; RM–4382]

TV Broadcast Station in Morton, Washington; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF Television Channel 39 to Morton, Washington, in response to a petition filed by The Daily Chronicle, Inc.

DATE: Effective: February 27, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau (202) 634–6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Morton, Washington) MM Docket 83–481, RM–4382.

Adopted: December 5, 1983.
Released: December 21, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 27567, published June 16, 1983, which proposed the assignment of UHF Television Channel 39 to Morton, Washington, in response to a petition filed by The Daily Chronicle, Inc. ("petitioner"). The petitioner filed comments in support of the *Notice* and reaffirmed its interest in applying for the channel, if assigned. No opposing comments were received.

2. The Association of Maximum Service Telecasters, Inc. filed comments noting a short spacing of 16.9 miles between proposed Channel 39 in Morton and Channel 25 in Rochester, Washington (MM Docket 83–473, RM–4383). The conflict has been resolved by substituting Channel 26 in MM Docket 83–473.

3. We believe that the petitioner has adequately demonstrated the need for a first commercial television assignment to Morton, Washington, and that the public interest would be served by assigning UHF Television Channel 39 to that community. The channel can be assigned in compliance with the minimum distance separation requirements and other technical criteria of the Commission's Rules provided there is a site restriction of 1 mile north of the city to avoid short spacing to a construction permit on Channel 24 at Portland, Oregon. Canadian concurrence has been received.

§ 73.606 [Amended]

4. Accordingly, pursuant to the authority contained in Section 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective February 27, 1984, the Television Table of Assignments, § 73.606(b) of the Rules, is amended with respect to the community listed below:

City	Channel No.
Morton, Wash	39

5. It is further ordered, that this proceeding is terminated.

6. For further information please call Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–41 Filed 1–3–84; 8:45 am]

BILLING CODE 6712–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1152

[Ex Parte No. 274 (Sub-No. 8)]

Exemption of Out of Service Rail Lines

AGENCY: Interstate Commerce Commission.

ACTION: Final rule; partial granting of petition.

SUMMARY: At 48 FR 27547, June 16, 1983, the Commission issued a decision exempting railroad abandonments from the requirement or prior approval under 49 U.S.C. 10903–10905, where the lines have been out of service for at least 2 years, subject to certain conditions and standard labor protection provisions. Petitions to reopen the proceeding and rescind the rules at 49 CFR 1152.50 were filed. Those petitions are granted to the extent of narrowing the exemption to exclude those instances where a formal complaint has been filed by State or local government entities with regard to unanswered service requests. In all other respects the petitions are denied. The amended rule appears in the Appendix.

DATE: This action is effective on January 4, 1984.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275–7245.

SUPPLEMENTARY INFORMATION:

List of Subjects in 49 CFR Part 1152

Railroads.

This action taken under 49 U.S.C. 10321 and 10505 and 5 U.S.C. 553.

Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to: T. S. InfoSystems, Inc., Interstate Commerce Commission, Room 2227, Washington, DC 20423, or call 289–4357 (DC metropolitan area) or toll free (800) 424–5403.

Decided: December 27, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Vice Chairman Sterrett did not participate.

James H. Bayne,

Acting Secretary.

Appendix

Title 49 of the Code of Federal Regulations is amended as follows:

PART 1152—[AMENDED]

§ 1152.50 [Amended]

The first sentence of § 1152.50(b) is amended by adding the parenthetical expression "(or a State or local governmental entity acting on behalf of such user)" to follow the words "filed by a user or rail service on the line."

[FR Doc. 84–48 Filed 1–3–84; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 675

[Docket No. 31214–236]

Foreign Fishing; Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues a final rule to implement Amendment 1 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP). The amendment (1) establishes a multi-year, multi-species optimum yield for the Bering Sea and Aleutian Islands area groundfish complex, (2) establishes a framework procedure for the determination and apportionment of amounts of groundfish specified for total allowable catch, domestic annual harvest, reserves, and total allowable level of foreign fishing, (3) modifies domestic restrictions in the Winter Halibut Savings Area and Bristol Bay Pot Sanctuary, (4) modifies foreign trawl restrictions in the area known as Petrel Bank, and (5) modifies certain appendices and annexes to the FMP. These management measures are necessary to provide the flexibility necessary for efficient management of the groundfish resource and the fishery and are intended to allow more timely implementation of management decisions made in response to the needs of the rapidly developing U.S. groundfish fishery and to changes in the condition of the groundfish resource.

EFFECTIVE DATE: January 1, 1984.

ADDRESSES: Copies of the amendment, environmental impact statement, and the regulatory impact review/final regulatory flexibility analysis may be obtained from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, Alaska 99510; telephone 907–274–4563.

FOR FURTHER INFORMATION CONTACT: Susan J. Salveson (Regional Plan Coordinator), 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

The FMP was implemented on January 1, 1982 (46 FR 63295, December 31, 1981), by the NOAA Assistance Administrator for Fisheries (Assistant Administrator) under the Magnuson Fishery Conservation and Management Act (Magnuson Act). Since then, five amendments to the FMP have been implemented.

Amendment 1 to the FMP as adopted by the North Pacific Fishery Management Council (Council), on May 20, 1982, is the subject of this action. An earlier version of the amendment had been adopted by the Council in February 1981, but that version was later revised by the Council at its May 1982 meeting. The amendment makes the following changes to the management system prescribed in the FMP: (1) The current optimum yield (OY) specifications for individual groundfish species are replaced by a combined OY for the entire Bering Sea and Aleutian Islands area groundfish resource, or "complex," with a total allowable catch (TAC) specified annually for each target species and for the "other species" category; (2) a new system is established for the annual determination of domestic annual harvest (DAH), total allowable level of foreign fishing (TALFF), and reserves, and for apportionment of reserves to DAH and TALFF and of the DAH that will not be harvested by U.S. fishing vessels to TALFF; (3) domestic fishing restrictions stipulated in the FMP for the Bristol Bay Pot Sanctuary and the Winter Halibut Savings Area are changed to allow year-round fishing; (4) the January 1 through June 30 closure to foreign trawling between 3 and 12 miles from the baseline used to measure the U.S. Territorial Sea in Area "D" (known as the Petrel Bank) is changed so that all of Area D is closed to foreign trawling for the first 6 months of a calendar year; and (5) appendices and annexes to the FMP are revised to reflect changes made in the body of the FMP.

The preamble to the proposed rule (48 FR 41791, September 19, 1983) thoroughly discussed the need and justification of Amendment 1. It also discussed the procedures for the annual determination of TAC, DAH, and TALFF amounts for each target species and the "other species" category and for the reapportionment to TALFF of reserves and DAH amounts surplus to the needs of the U.S. fishing industry. Public comments on the proposed rule were invited until November 3, 1983. Seven comments were received from three individuals representing various sectors of the Japanese fishing industry. All comments received have been considered and are responded to below. After considering the comments, the Director of the National Marine Fisheries Service, Alaska Region (Regional Director), has decided to give final approval to Amendment 1.

The final rule incorporates four changes to the proposed regulations in response to public comment and Council clarification of its intent for the amendment. First, § 611.93 (c)(2)(i)(B) and (c)(2)(ii)(D) is changed to accommodate a comment submitted by the Council that clarifies the Council's intent for the foreign trawl restriction in the Petrel Bank area. Currently, the area between 3 and 12 miles from the baseline used to measure the U.S. Territorial Sea in the Petrel Bank area is closed to foreign trawling from January 1 through June 30 to reduce the potential for gear conflicts with U.S. crab fishermen and to reduce the incidental mortality of crabs during spring months when the crabs are molting. The proposed regulations revised these restrictions so that the entire Petrel Bank area would be closed to foreign trawling from 7 days before the opening of the U.S. king crab fishery in the western Aleutian Islands area (currently November 10) through June 30. These revisions were proposed because (1) the U.S. king crab fishery extends beyond 12 miles in the Petrel Bank area, and (2) the opening of the king crab fishery is currently at an earlier date than that which is supported by the current restrictions on the foreign trawl fishery in the Petrel Bank area.

Protests to the Council by representatives for Japanese trawling interests on the proposed revisions to the Petrel Bank restrictions made evident to the Council that its intent for the Petrel Bank closure had not been made clear to the public. Also questioned was whether or not the extension of the time closure in the Petrel Bank area had ever been formally adopted by the Council. The Council therefore reexamined its intent for the Petrel Bank closure at its September 1983 meeting and after considering the present use of the area by U.S. crab fishermen and the need to protect molting crab in *all* of Petrel Bank, reaffirmed its intent to extend the Petrel Bank closure from between 3 and 12 miles to all of Petrel Bank. However, information and testimony from U.S. and Japanese fishery representatives confirmed that U.S. and foreign fishermen have been able to resolve any gear conflicts among themselves, and that the potential for gear conflicts is not considered a problem by U.S. crab fishermen utilizing the Petrel Bank area. As a result, the Council affirmed that it did not wish to extend the closure of the Petrel Bank beyond the current 6-month closure of January 1 through June 30, and requested that the final rule be changed accordingly. Thus, § 611.93 (c)(2)(i)(B) and (c)(2)(ii)(D) of the final rule is changed to reflect that the entire Petrel Bank area is closed to foreign trawling from January 1 through June 30.

The second change in the regulations implementing Amendment 1 as reflected in the final rule involves § 675.20(a)(2)(i) and addresses a clarification of the Council's intent that socioeconomic factors will be considered when annual TACs are determined, when the reapportionment of reserves to a target species or the "other species" category will result in that species' TAC being exceeded, and when surplus DAH is reapportioned to TALFF.

The third change to the proposed regulations involves § 675.20 (a)(6) and (b) and clarifies that the Federal Register notices addressed in these two paragraphs are rule-related notices.

The last change to the proposed regulations is in § 675.20(b)(2) and makes provisions for public notice and comment if reserves are to be retained for conservation reasons, or if surplus DAH is to be retained for conservation or socioeconomic reasons.

Public Comments

1. *Comment:* The changes to the foreign trawl closure set forth in the proposed rule should be revised to reflect the Council's intent for that closure as expressed at its September 1983 meeting.

Response: As noted above, the appropriate changes have been incorporated into the final rule.

2. *Comment:* The proposed extension of the six-month closure of the Petrel Bank from between 3 and 12 miles of the baseline used to measure the U.S. territorial sea to all of Petrel Bank should be disapproved, because it is in violation of the Magnuson Act, the Administrative Procedure Act (APA), and other applicable law for the following reasons: (1) Adequate notice was never given to the public that the proposed change was contemplated prior to the time the Council acted on Amendment 1; (2) this change was never a part of Amendment 1, as approved by the Council; (3) no supporting data or rationale were ever presented to either the Council or to the public on this proposed change prior to the adoption of Amendment 1 by the Council; and (4) no mention of this proposed change, much less discussion of it, occurred before the Council or its advisory bodies.

Response: In July 1978 and at the behest of the Japanese North Pacific Longline-Gillnet Association, a longline sanctuary concept was introduced into the draft FMP for Council consideration. The draft would have prohibited foreign trawling between 172° W. longitude and 179° E. longitude. Analysis of the potential impacts of the proposed sanctuary by the Council's Plan Development Team (PDT) indicated that, aside from the obvious benefits to longline fleets, the potential savings accrued through the reduced incidental trawl mortality of red and blue king crab in the sanctuary would have to be balanced against a potential loss of foreign groundfish production.

Representative for Japanese trawl interests (including the commenter) subsequently proposed a smaller alternative for a longline sanctuary (between 172° W. longitude and 178°30' W. longitude) to reduce the projected loss of foreign groundfish production. The PDT highlighted, however, that the smaller longline sanctuary would also reduce the projected savings of king crab. It suggested, therefore, that should the longline sanctuary be reduced in size as proposed by foreign trawl interests, then it might be necessary to consider specific closures to foreign trawling to protect both halibut and crab.

Several alternatives for Aleutian Islands area trawl closures and longline sanctuaries were presented to the Council and its advisory bodies at the May 1979 meeting, at which the commenter was present. It was moved before the Council that the alternative providing for (1) no foreign trawling year round in the proposed longline sanctuary between 172° W. longitude and 178°30' W. longitude and (2) no trawling from January 1 through June 30 in the entire Petrel Bank be adopted. The motion was passed unanimously by the Council in order to provide for the foreign and domestic longline fisheries, to avoid gear conflicts during the conduct of the domestic king crab fishery, and to reduce the incidental mortality of king crab by foreign trawlers during those months when the crab are molting, making them particularly vulnerable to mortality from trawl gear.

Unfortunately, the Petrel Bank trawl closure as adopted by the Council was misspecified in the FMP, which stated that only that portion of the Petrel Bank between 3 and 12 miles would be closed to foreign trawling from January 1 through June 30. This language did not express the intent of the Council as voiced at the May 1979 meeting and did not conform to the Council's objective for the Petrel Bank closure of protecting crab stocks in all of Petrel Bank and reducing the potential for gear conflicts in the area. The subsequent drafts of revisions to section 14 of the FMP under Amendment 1 that were distributed for public review from April 1980 through March 1982 did reflect the Council's intent for the Petrel Bank closure and stated the foreign trawl closure applied to all of Petrel Bank and not just to that area between 3 and 12 miles. Although this change in the Petrel Bank trawl closure was not highlighted in staff summaries of Amendment 1, NOAA has determined that the public was given due notice of this action through its consistent inclusion in public review drafts of the amendment itself. The procedures followed by the Council when it adopted this change were consistent with the Magnuson Act, the APA, and other applicable law for the following reasons: (1) The Council deliberated before the public on the Petrel Bank issue in 1979; (2) the revised language closing all of Petrel Bank was in every Amendment 1 public review package since 1980 and a careful reading of the amendment by persons knowledgeable of foreign trawl restrictions should have identified to the reader the revisions being made, (3) the issues surrounding the Petrel Bank closure were reexamined by the Council at its September 1983 meeting and, after receiving public comment, the Council reaffirmed its intent to close all of Petrel Bank from January 1 through June 30 for the same reasons stated at its May 1979 meeting and (4) the public was provided a 75-day period in which to review and submit comments on Amendment 1 to the Secretary of Commerce through the NMFS Regional Director. NOAA has considered the comment questioning the Petrel Bank trawl closure and, after reviewing the history of this action and the opportunity for public input since 1979 on the proposed closure, does not find that this part of Amendment 1 warrants disapproval.

3. *Comment:* The upper end of the OY range established by the amendment should be set at a value which exceeds the upper end of the range established for the maximum sustainable yield (MSY). The fact that the upper limit of the OY range is set higher than the maximum range for MSY does not necessarily imply that the level of exploitation will ever exceed the MSY. However, an OY range which encompasses the MSY range will provide the flexibility necessary for managing the resource and the fishery in accordance with the OY provisions of the Magnuson Act and the goals and objectives of Amendment 1. Therefore, it is recommended that the upper limit of the OY range be conservatively increased to at last 2.5 million mt.

Response: The most recent biological information estimates the total 1984 equilibrium yield for target species and the "other species" category to be in excess of 2.2 million mt and the 1984 TAC for these species has been set at the maximum 2.0 million mt level allowed by Amendment 1. The Council may find it desirable to expand the 1.4–2.0 million mt OY range in view of the apparent health of the groundfish resource and to enhance management flexibility under the FMP. Such action, however, may be inconsistent with the conservative approach to groundfish management that the Council has found to be necessary in view of the available information on groundfish stocks. If an expansion of the OY range is found

appropriate and necessary by the Council, such expansion would require a separate amendment to the FMP.

4. *Comment:* The portion of each species' TAC (15 percent) that is contributed towards the reserve should be reapportioned back to the respective species' TAC when reserves are released, unless there is evidence that the condition of any particular species requires a downward adjustment in its TAC.

Response: Amendment 1 does not contain any constraint on the reapportionment of reserves to a species unless a conservation problem exists or if a species' TAC will be exceeded, in which case the reserve reapportionment must be consistent with various socioeconomic factors and must not result in overfishing. The intended use of reserves is to address unexpected developments or adjustments in either the foreign or domestic fisheries. As such, the reapportionment of reserves to various species cannot be predicted except that all reapportionments must be consistent with the rule implementing Amendment 1. If no unexpected development of the domestic industry or condition of groundfish stocks arose and no operational problems developed in either the foreign or domestic fleets, the reapportionment of reserves to target species and the "other species" category would likely be such that the entire TAC for each species would be made available to the fishery.

5. *Comment:* In the event the Regional Director anticipates a retention of reserves for conservation reasons, some means of reasonable notice to the affected user groups in advance of a scheduled reserve apportionment would be desirable. The notice should also include a brief description of the biological information upon which the proposed retention is based.

Response: As noted above, the final rule makes provisions for public notice and comment if reserves are retained for conservation reasons.

6. *Comment:* The provisions of the proposed rule to authorize the retention of surplus DAH for socioeconomic reasons is inconsistent with the Magnuson Act because it may preclude the attainment of OY. Furthermore, the retention of surplus DAH for conservation reasons is not necessary because the Regional Director already has the authority to withhold reserves for conservation reasons.

Response: Amendment 1 defines the OY for the Bering Sea and Aleutian Islands area target species and the "other species" category as a range of 1.4 to 2.0 million mt to the extent that this amount can be harvested consistently with the rules implementing the FMP as amended, including the proposed rule for retention of surplus DAH for socioeconomic reasons. Thus, a proper DAH retention under that rule would necessarily lead to the attainment of OY, as so defined.

Unlike the reserve, surplus DAH is apportioned by species and is reapportioned to TALFF as such. Thus, if an inseason conservation problem did arise for a particular species, it would be much more effective to retain any surplus DAH for that species, rather than to retain a portion of the reserve, which could be reapportioned to other species in better biological condition.

The authority to retain surplus DAH if the reapportionment of those amounts to TALFF would have an *adverse* biological or socioeconomic effect is set forth in Section 12.2 of the original FMP. The Council found it desirable to implement this provision of the FMP with the rule implementing Amendment 1, because the management flexibility inherent in the FMP provision enhances and augments similar types of provisions originating under Amendment 1.

7. *Comment:* Consideration of biological or socioeconomic factors every time surplus DAH is or is not reapportioned to TALFF is both redundant and cumbersome. Rather, socioeconomic and/or conservation factors should be considered only when a reapportionment of surplus DAH to TALFF would result in a harvest in excess of the TAC established for the species in question. In that event, the consideration of such factors would be entirely reasonable and consistent with the purpose of the amendment and the objectives of the Magnuson Act.

Response: Socioeconomic and biological conditions within various segments of the groundfish fishery may vary within a year. For that reason, NOAA has determined that implementation of the current provision in the FMP authorizing the retention of surplus DAH is necessary and appropriate if an adverse biological or socioeconomic effect on the U.S. industry would otherwise result from its reapportionment to TALFF.

Classification

The Regional Director has determined that Amendment 1 and this rule are necessary for the conservation and management of the Bering Sea and Aleutian Islands area groundfish fishery and that both are consistent with the Magnuson Act and other applicable law.

The Council prepared a final environmental impact statement for this FMP and filed it with the Environmental Protection Agency on November 20, 1981; it addresses Amendment 1 and is available from the Council at the address set forth above.

The NOAA Administrator determined that this final rule is not "major rule" requiring a regulatory impact analysis under Executive Order 12291 because it will not result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices to consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises on domestic or export markets. This rule will have a significant beneficial economic impact on a substantial number of small entities for purposes of the Regulatory Flexibility Act, and thus requires the preparation of a regulatory flexibility analysis.

These determinations are based on the regulatory impact review/final regulatory flexibility analysis (RIR/FRFA) available at the address above. The analysis in the RIR/FRFA is essentially the same as that contained in the RIR/initial regulatory flexibility analysis, which was summarized in the preamble to the proposed rule at 48 FR 41791.

This rule does not contain a collection of information requirement for purposes of the Paperwork Reduction Act.

The Council determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management program of the State of Alaska. The Alaska Office of Management and Budget has concurred in this determination.

The Assistant Administrator finds good cause not to delay for 30 days the effective date of this final rule under 5 U.S.C. 553(d). The intended effect of this rule is to provide the management flexibility necessary to meet the allocation needs of the rapidly developing U.S. groundfish fishery and to provide for fuller utilization of the groundfish resource. If the 1984 fishery were initiated on January 1, 1984, under the outdated fishery specifications currently set forth in the FMP, the domestic fishery would not be provided with sufficient amounts of groundfish, and recent increases in the annual surplus production of various target species would not be made available to either the domestic or foreign fisheries. Implementation of Admendment 1 after that date would require midseason

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changes, causing confusion and disruption within the groundfish fisheries, and may preclude full utilization of available groundfish resources. Both the U.S. and foreign fishing industries are aware of and expect the implementation of Amendment 1 by January 1, 1984. The provisions of the final rule for notice and comment on proposed TACs for 1984 are already being implemented, so as to provide all interested parties with the opportunity to comment on the rule's implementation for that year. No purpose would be served by a delay in the rule's implementation.

List of Subjects

50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting and recordkeeping requirements.

50 CFR Part 675

Fish, Fisheries, Reporting and recordkeeping requirements.

Dated: December 29, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR Parts 611 and 675 are amended as follows:

PART 611—[AMENDED]

1. The authority citation for Part 611 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*, unless otherwise noted.

2. In § 611.93, paragraphs (a)(3), (b)(1)(i), (b)(2), (b)(3)(ii)(A), and (c)(2)(i) are revised, paragraph (c)(2)(ii)(D) is redesignated as (c)(2)(ii)(E) and the references to paragraph "(c)(2)(ii)(D)" in paragraph (e) are changed to "(c)(2)(ii)(E)", and a new paragraph (c)(2)(ii)(D) is added to read as follows:

§ 611.93 Bering Sea and Aleutian Islands groundfish fishery.

(a) * * *

(3) The optimum yield for the fishery regulated by this section and by 50 CFR Part 675 is a range of 1.4 to 2.0 million mt for target species and the "other species" category in the management area to the extent this amount can be harvested consistently with this Part and 50 CFR Part 675, plus the amounts of "nonspecified species" taken incidentally to the harvest of target species and the "other species" category. For a definition of the categories of species involved in the fishery, see Table 1 of this section.

(b) *Authorized fishery.* (1)(i) See 50 CFR Part 675, Subpart B, for procedures to determine total allowable catch (TAC), reserve, domestic annual harvest (DAH), and total allowable level of foreign fishing (TALFF).

* * * * *

(2) For apportionment to TALFF of Reserves and surplus DAH, see 50 CFR Part 675, Subpart B.

(3) * * *

(ii) * * *

(A) *Attainment of quota.* If the amount of "other species" or any target species, except sablefish, turbots, or Pacific cod, that is apportioned to the fishery will be reached, the Secretary shall prohibit foreign trawling in all or part of the management area until January 1. If the amount of sablefish, turbots, or Pacific cod that is apportioned to the fishery will be reached, the Secretary shall prohibit all foreign harvesting in all or part of the management area until January 1.

* * * * *

(c) * * *

(2) *Trawling.* (i) Trawling by foreign vessels between 3 and 12 nautical miles from the baseline used to measure the territorial sea is allowed (A) at all times in the area bounded by 170°00′ W. and 172°00′ W. longitude south of the Aleutians and between 170°30′ W. and 172°00′ W. longitude north of the Aleutians, (B) on Petrel Bank from July 1 through December 31, and (C) from May 1 through December 31 in other areas west of 178°30′ W. longitude. Petrel Bank is bordered by straight lines connecting the following coordinates in the order listed:

Latitude	*Longitude*
52°51′ N.	178°30′ W.
52°51′ N.	179°00′ E.
51°15′ N.	179°00′ E.
51°15′ N.	178°30′ W.
52°51′ N.	178°30′ W.

(ii) * * *

(D) From January 1 through June 30 in the area known as Petrel Bank, described in paragraph (c)(2)(i) of this section.

* * * * *

PART 675—[AMENDED]

3. The authority citation for Part 675 is revised to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

4. In § 675.20, paragraphs (a) and (b) are revised, a new paragraph (d) is added, and Table 1 is revised to read as follows:

§ 675.20 General limitations.

(a) *OY, TAC, Reserve, DAH, and TALFF.* (1) *Optimum yield.* The optimum yield (OY) for the fishery regulated by this section and by 50 CFR § 611.93 is a range of 1.4 to 2.0 million mt for target species and the "other species" category in the Bering Sea and Aleutian Islands management area, to the extent this amount can be harvested consistently with this Part and 50 CFR Part 611, plus the amounts of "nonspecified species" taken incidentally to the harvest of target species and the "other species" category. The species categories are defined in Table 1 of this section.

TABLE 1.—CATEGORIES OF SPECIES INVOLVED IN THE BERING SEA AND ALEUTIAN ISLANDS GROUNDFISH FISHERY

Unallocated species [1]	Target species	Other species	Nonspecified	Groundfish
Salmonids, halibut, herring, king crab, Tanner crab, coral, shrimp, horsehair crab, lyre crab, scallops, snails, dungeness crab, surf clams.	Pollock, cod, other flatfishes, Atka mackerel, sablefish, turbots, squid, Pacific ocean perch, other rockfish, yellowfin sole.	Sculpins, sharks, skates, eulachon, smelts, capelin, octopus.	All species not included in previous categories.	Target, "other", and nonspecified species.

[1] Salmonids, Pacific halibut, Tanner crab, and any other unallocated species, the retention of which is prohibited by other applicable law, must be returned to the sea with a minimum of injury.

(2) *TAC.* The Secretary, after consultation with the North Pacific Fishery Management Council (Council), will specify the total allowable catch (TAC) for each calendar year for each target species and for the "other species" category. The sum of the TACs established must be within the OY range of 1.4–2.0 million mt for target species and the "other species" category.

(i) The annual determination of the TAC for each target species and the "other species" category, the exceeding of these species' TACs through the apportionment of reserves, and the

reapportionment of surplus domestic annual harvest (DAH) to total allowable level of foreign fishing (TALFF) will be based upon and be consistent with two types of information:

(A) Biological condition of groundfish stocks as set forth in the resource assessment documents prepared annually for the Council. These documents will provide information on historical catch trend; updated estimates of the maximum sustainable yield of the groundfish complex and its component species groups; assessments of the stock condition of each target species and the "other species" category; assessments of the multi-species and ecosystem impacts of harvesting the groundfish complex at current levels given the assessed condition of stocks, including consideration of rebuilding depressed stocks; and alternative harvesting strategies and related effects on the component species group.

(B) Socioeconomic considerations that are consistent with the goals of the fishery management plan for the groundfish fishery of the Bering sea and Aleutian Islands area, including the need to promote efficiency in the utilization of fishery resources, including minimizing costs; the need to manage for the optimum marketable size of a species; the impact of groundfish harvests on prohibited species and the domestic target fisheries which utilize these species; the desire to enhance depleted stocks; the seasonal access to the groundfish fishery by domestic fishing vessels; the commerical importance of a fishery to local communities; the importance of a fishery to subsistence users; and the need to promote utilization of certain species.

(3) *Reserve.* Fifteen percent of the TAC for each target species and the "other species" category is automatically placed in a reserve, and the remaining 85 percent of the TAC for each target species and the "other species" category is apportioned between DAH and TALFF. The reserve is not designated by species or species group and any amount of the reserve may be apportioned to a target species or the "other species" category provided that such apportionments are consistent with paragraph (a)(2)(i) of this section and do not result in overfishing of a target species or the "other species" category.

(4) *DAH.* (i) The initial amounts for the two components of DAH, i.e., expected domestic annual processing (DAP) and U.S. harvest authorized for delivery to foreign processors (JVP), will be determined each year by the Regional Director. The DAP and JVP amounts for each target species and for the "other species" category equals the actual DAP and JVP of the previous year plus any additional amounts the Regional Director projects will be used by the U.S. fishing industry during the coming fishing year. This projection will be based upon the latest reliable information that is available, including industry surveys, market data, and stated intentions by representatives for the U.S. fishing industry.

(ii) The DAH for the "nonspecified species" category equals the amount of that category caught during the fishing year while harvesting the DAH for the target species and "other species" categories.

(5) *TALFF.* The TALFF for each target species and for the "other species" category at the beginning of the fishing year is 85 percent of each TAC minus DAH. The TALFF for the "nonspecified species" category equals the amount caught during the fishing year while harvesting the TALFF for the target species and "other species" categories.

(6) *Rule-related notice.* As soon as is practicable after October 1 of each year, the Secretary, after consultation with the Council, shall publish a rule-related notice in the **Federal Register** specifying preliminary TAC, Reserve, DAP, JVP, and TALFF amounts for each target species and for the "other species" category for the next calendar year. Public comment on these amounts will be accepted by the Secretary for a period of 30 days after the amounts have been published in the **Federal Register**. The Secretary shall consider all timely comments when determining, after consultation with the Council, the final annual TAC, initial DAH, and initial TALFF for each target species and the "other species" category for the next year. These figures will be published as a rule-related notice in the **Federal Register** as soon as practicable after December 15 and made available to the public through other suitable means by the Regional Director.

(7) When the combined catch by foreign and U.S. vessels in the fishery or applicable sub-area of the fishery reaches the amount of a target species or the "other species" category that is apportioned to the fishery, further fishing by U.S. vessels that involves the taking of that species is prohibited in the management area or applicable sub-area for the remainder of the fishing year.

(b) *Apportioning the reserve and surplus DAH*—(1) *Dates.* (i) *Reserve to DAH and TALFF.* As soon as practicable after April 1, June 1, and August 1, and on such other dates as he determines appropriate, the Secretary shall by rule-related notice apportion to DAH and TALFF all or part of the reserve in accordance with paragraphs (a)(3) and (b)(2) of this section. The Secretary shall apportion to DAH the amount of reserve that he finds will be harvested by U.S. vessels during the remainder of the year and shall apportion to TALFF the remaining portion of the reserve that will not be apportioned to DAH, except that part or all of the reserve may be withheld if an apportionment would adversely affect the conservation of groundfish resources or prohibited species.

(ii) *DAH to TALFF.* As soon as practicable after April 1, June 1, and August 1, and on such other dates as he determines appropriate, the Secretary shall, by rule-related notice, reassess and reapportion to TALFF the part of DAH that he determines will not be harvested by U.S. vessels during the remainder of the fishing year, unless such reapportionments to TALFF would adversely affect the conservation of groundfish or prohibited species or would have an adverse impact on the socioeconomic considerations set forth in paragraph (a)(2)(i)(B) of this section.

(2) *Procedure.* (i) The Secretary shall provide all interested persons an opportunity to comment on the proposed apportionments or retentions under paragraph (b)(1) of this section before such apportionments or retentions are made, unless he finds that there is good cause for not providing a prior comment opportunity, and publishes the reasons therefor in the rule-related notice of apportionment and/or retention. No apportionment or retention may take effect until it has been published in the **Federal Register** as a rule-related notice with a statement of the findings upon which the apportionment or retention is based. Comments provided for in this paragraph must be received by the Secretary not later than 5 days before April 1, June 1, and August 1, or other dates that may be specified. If the Secretary determines for good cause that a rule-related notice of apportionment and/or retention must be issued without providing interested persons a prior opportunity for public comment, comments on the apportionment or retention will be received for a period of 15 days after its effective date. The Secretary shall consider all timely comments in deciding whether to make a proposed apportionment or retention or to modify an apportionment or retention that has previously been made, and shall publish responses to those comments in the **Federal Register** as soon as practicable.

(ii) Comments provided for in paragraphs (a)(6) and (b)(2)(i) of this section should be addressed to Director,

Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802. The Regional Director will make available to the public during business hours the aggregate data upon which any preliminary TAC, DAH, or TALFF figure is based or the data upon which any apportionment or retention of surplus DAH or reserve was or is proposed to be based at the National Marine Fisheries Service Alaska Regional Office, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska. These data will be available for a sufficient period to facilitate informed comment by interested persons.

* * * * *

(d) The Secretary of Commerce shall make appropriate arrangements to place observers aboard U.S. trawl vessels operating in the Winter Halibut Savings Area from December 1 through May 31. The Winter Halibut Savings Area is bounded by straight lines connecting the following coordinates in the order listed:

Latitude	*Longitude*
54°36′ N.	164°55′42″ W. (Cape Sarichef Light)
52°48′ N.	170°00′ W.
55°30′ N.	170°00′ W.
55°30′ N.	166°47′ W.
56°00′ N.	167°45′ W.
56°00′ N.	166°00′ W.
56°30′ N.	166°00′ W.
56°30′ N.	163°00′ W.
56°20′ N.	163°00′ W.
55°16′ N.	166°10′ W.
54°36′ N.	164°55′42″ W.

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50 CFR Part 655

[Docket No. 31220-244]

Foreign Fishing, Atlantic Mackerel, Squid, and Butterfish Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues a final rule to implement Amendment No. 1 to the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries. The rule provides for additional flexibility in the annual specification of the optimum yields for squid and revises the estimated Atlantic mackerel natural mortality rate downward from 0.30 to 0.20 on the basis of recent scientific information. The regulations are intended to promote development and orderly operations of the U.S. fishery.

EFFECTIVE DATE: February 7, 1984, through March 31, 1986.

ADDRESS: Copies of Amendment 1 to the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries, the environmental assessment, and the regulatory impact review are available from the Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, Delaware, 19901-6790.

FOR FURTHER INFORMATION CONTACT: Salvatore A. Testaverde, 617-281-3600, extension 273.

SUPPLEMENTARY INFORMATION: The Director, Northeast Region (RD), National Marine Fisheries Service (NMFS) has approved Amendment 1 to the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries (FMP). Amendment 3 to the FMP consolidated three separate plans for Atlantic mackerel, squid (*Illex* and *Loligo*), and butterfish into one management regime for a three-year period which ends on March 31, 1986. Final regulations to implement the FMP were published September 30, 1983 (48 FR 44834). Amendment 1, prepared by the Mid-Atlantic Fisherey Management Council (Council), incorporates a more flexible mechanism to establish optimum yields (OY) for squid and changes the Atlantic mackerel natural mortality rate based upon recent scientific information.

The preamble to the proposed rule to implement Amendment 1 (48 FR 49077, October 24, 1983) provided a detailed discussion of the management measures. The procedure which sets squid annual specifications provides greater flexibility for proper management of this developing resource. The procedure allows adjustments to the OY because of changes in availability of squid; increases in total allowable foreign fishing (TALFF) to foreign nations providing markets for U.S. exports; joint venture operations and changes to approved joint ventures; or other benefits to the U.S. fishing industry. The procedure fosters the "fish and chips" policy and the Magnuson Fishery Conservation and Management Act (Magnuson Act).

The adopting of the new natural mortality rate for Atlantic mackerel based upon the best scientific information available is consistent with National Standard 2: "Conservation and management measures shall be based upon the best scientific information available."

The procedure which establishes the domestic annual harvest amount when the minimum spawning stock size exceeds 400,000 metric tons (mt) has confused some reviewers, who interpreted the formulation to set a minimum domestic annual harvest of 30,000 mt. This is not the case. There is no minimum amount for domestic annual harvest or domestic annual processing.

Response to Public Comments

Written comments were submitted by the Council, the Office of the United States Trade Representative (U.S. Trade Representative), the National Fisheries Institute (NFI), the Association of Spanish Fishermen (ANAVAR), and the Japan Deep Sea Trawlers Association (JDSTA).

The Council's comment was to notify NOAA that the council had voted at its November 1983 meeting to support the proposed regulations to implement Amendment 1 as published in the **Federal Register.**

Comment 1: The NFI comment focuses primarily on the offshore sales of squid, i.e., joint venture "over-the-side" transactions, stating that these sales compete both with the amount of squid landed shoreside by U.S. vessels and with domestic shoreside products in the world market. NFI does not suggest excluding all offshore sales of squid, but suggests that offshore sales of squid should be the exception, rather than the rule.

Response: The Magnuson Act provides that U.S. processors have first preference to the U.S. harvest of a species when they are able to and will utilize this harvest. At the present time, the domestic squid industry is evolving and domestic landings are increasing each year. Landings in 1983 may exceed 12,000 metric tons (mt), the greatest amount of squid landed along the Northwest Atlantic coast since fishery information began to be collected. This year's squid catch, including catch for joint ventures, exceeded 21,000 mt, which is approximately one-third of the potential maximum total squid OYs available.

Based upon the Council's survey of processors and past performance of the industry, NOAA will first assign the portion of U.S. squid harvest for domestic annual processing (DAP) and then consider joint venture applications

for the U.S. harvest in determining preliminary specifications. There will be ample opportunity for NFI and the public to be heard on the upcoming 1984–1985 fishing year specifications, when the Council meets in January, 1984, to recommend initial annual specifications, and during the subsequent public comment period.

Comment 2: The U.S. Trade Representative, the ANAVAR and the JDSTA have requested NOAA not to implement final regulations on Amendment 1. All are in opposition to the flexible mechanism for establishing squid OY, although for varying reasons. The U.S. Trade Representative believes that the establishment of the squid specification deviated from § 303 of the Magnuson Act, while the JDSTA comment specifically stated that the assessment and specification of squid OY is not in accordance with § 303(a)(3) of the Magnuson Act. ANAVAR expressed concern that the OY setting mechanism for squid appears to undermine several provisions of the Governing International Fishery Agreement (GIFA).

Response: The JDSTA comments concerning § 303 stated that the RD, in a memorandum to the Council in October 1981, considered the "floating" OY concept in the FMP and Amendment 1 not to be in accordance with the Magnuson Act. NOAA replies to the comment by reference to the RD memorandum. The memorandum demonstrates that the method of determining the OYs for both Amendment 1 and the FMP are in accordance with § 303(a)(3) and other applicable sections of the Magnuson Act and other applicable laws, including NOAA's regulatory guidelines.

The RD memorandum began by saying that to determine OY, "* * * the appropriate process is to begin with a MSY, maximum sustainable yield, (either newly specified or confirmed with knowledge of best available scientific information), and then to consider whether to modify MSY." Both Amendment 1 and the FMP state that, "* * * the OY for *Illex, Loligo,* and butterfish reflect the best current estimates of maximum sustainable yield, except for *Illex,* for which the OY was reduced from MSY in the original Squid Plan to account for biological uncertainties, and this reduction is continued" (p. 34, Amendment 1; p. 50, FMP). Both the MSY and the OY for *Loligo* is 44,000 mt, for *Illex,* OY is 30,000 mt.

In Amendment 1, the allowable biological catch (ABC) may be equal to or less than MSY to take into account the latest biological information. Such a process is consistent with National Standard 1. The ABC in turn is adjusted by economic factors to become the initial optimum yield (IOY); this adjustment is also consistent with National Standard 1. The definition of OY in the Magnuson Act § 3(18) provides that OY may differ from MSY for economic reasons. In the case of Amendmemt 1, the reason for the difference is the development of the U.S. fishery for export, since the less squid the foreigners are allowed to catch for themselves, the more incentive they will have to buy squid from U.S. processors. This revision merely allows the estimation of DAH without regard for policy considerations while carrying out the Council's policy of reducing the maximum TALFFs in order to increase the probability of the development of the export markets.

Thus, the RD's memorandum further stated "* * * after an OY is determined, the next step is to determine the expected annual harvest (DAH and reserve both represent domestic interests) with the remainder being TALFF * * *" Amendment 1 follows this policy. This shows that DAH is estimated *first*, with the remainder being TALFF in conformance with the procedure outlined by the RD. It is definitely not the case, as in the JDSTA comment, of determining TALFF first and adding a DAH with the sum representing the specification of OY.

Under Amendment 1, after the IOY is determined, DAH is projected by reviewing the data concerning past domestic landings and estimating anticipated domestic catches, including joint venture harvests. The TALFF is the amount left over.

Finally, the JDSTA comment makes the assertion that "* * * the Magnuson Act allows Councils to set OYs lower than the MSY levels, providing the OY specifications have an inseparable, integral relationship to the MSYs and all deviations from MSY are well documented and thoroughly justified to show a real need for such reductions."

The definition of OY in the Magnuson Act allows MSY to be modified by any relevant economic, social, or ecological factor. Only the latter has "an inseparable, integral relationship to the MSY levels"; the other two factors are dependent on extraneous human decisions but are expressly authorized by the Magnuson Act.

This being the case, the floating OY proposed by Amendment 1, which can be adjusted at any time during the year owing to changed economic conditions, is consistent with the Magnuson Act. As Amendment 1 states:

> The purpose of the Magnuson Act and this Plan is to develop the U.S. fishery while recognizing that a significant part of such development, particularly in the short run, involves arrangements with foreign nations to purchase U.S. harvested and processed fish, with incentives to the foreign nations provided by preferential allocations from TALFF. To do this effectively requires the ability to adjust OY and DAH during a year in response to changing economic conditions (p. 10).

The reply also applies to the JDSTA comment that the amount of TALFF under Amendment 1 must be derived from the formula OY−DAH=TALFF; not, as the JDSTA comment states, DAH+TALFF=OY. Amendment 1 does use the OY−DAH=TALFF formula, as described above.

ANAVAR's concern that Amendment 1 undermines provisions of the GIFA, Article I and III, by straying from the achievement of OY is unfounded. The achievement of OY is a goal. Since the passage of the Magnuson Act, the fixed OYs have never been achieved; neither have allotted TALFF amounts. Amendment 1, with its flexible OY will calculate IOY and subsequent OY amounts from actual DAH and TALFF needs, thereby making the actual achievement of OY more likely. If during the fishing year, one or both of the components of OY need to be adjusted upward beyond the established OY, the flexible mechanism allows for adjustments. However, the ABC amount must not be exceeded.

Comment 3: The U.S. Trade Representative, ANAVAR, and the JDSTA also expressed concern over the nine economic factors to be considered in specifying squid OYs within Amendment 1. The JDSTA and ANAVAR believe that these economic factors are sufficiently vague to allow arbitrary and discriminatory determinations to be made with respect to the IOY. ANAVAR believes there is no assurance that the factors will be equitably applied or that they will not be used as a simple means of extracting trade benefits from the foreign fishing interests.

The U.S. Trade Representative expressed concern that the RD, in conjunction with the Council, would use the list of economic criteria to modify the ABC or the OY for squid. The U.S. Trade Representative considered that the end results of these modifications will be to set the TALFF for squid on the basis of U.S. trade policy considerations, rather than on the basis of sound fishery management and conservation practices.

All three commenters are opposed to delegating the authority for the

establishment of the squid OY to the RD, preferring instead the Secretary of Commerce (Secretary).

Response: NOAA has determined that the nine factors are based upon sound fishery management and conservation practices. Further, as previously stated, these factors are consistent with National Standard 1: "Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery."

MSY is reviewed annually against the latest biological information. If new biological information indicates that the MSY may not be attained for that particular fishing year, a lower ABC is established. The reduction prevents overfishing, thereby maintaining the consistency of the fishery. In turn, ABC may be adjusted by the nine social and economic factors to determine the IOY. IOY may be equal to ABC or less than ABC.

NOAA's reply to the above commenters on the designation of the RD, instead of the Secretary, as the official empowered to set final annual specifications is quite similar to the reply given in the final rule implementing the FMP. In that rule, the majority of domestic comments opposed designation of the Secretary as the official to set final annual amounts. They stated that a change from the RD to the Secretary was at variance with the intent of the Council as specified in the FMP.

NOAA notes for the public that any decision by the RD is subject to review by the Secretary. Therefore, the procedure for determining annual specifications is similar whether the RD or the Secretary sets the final annual amounts. After consultation with the Council and after publication of notice and an invitation to comment on the proposed amounts, the agency will set specifications that are in the best interest of the United States.

Comment 4: ANAVAR and the JDSTA objected to the flexible procedures for establishing squid OY in Amendment 1. These organizations contend that the flexibility will create uncertainty and instability in the Northwest Atlantic squid industry, thereby undermining U.S. development of its squid resources and seriously affecting foreign fishing operations in the fishery conservation zone (FCZ). ANAVAR claims that FMP regulations inhibit foreign fishermen from coming into the FCZ to fish for squid and that the introduction of the squid procedure of Amendment 1 will exacerbate the situation. Also, the comments claim that the flexible procedure subject to the consideration of the nine factors will be used to reduce TALFF. Additionally, the U.S. Trade Representative and the foreign organizations believe that the squid OY procedure will be used unfairly to induce foreign nationals to increase imports of squid harvested by U.S. fishermen.

Response: NOAA recognizes that the overall amount of squid within the Northwest Atlantic resource is finite; the present maximum harvestable amount of squid totals 74,000 mt. As pointed out by the JDSTA, many unforeseeable conditions affect squid resources, as well as the world market for squid. NOAA acknowledges these conditions and believes that the flexible procedure for adjusting OY will provide the most reasonable means to manage the squid resources in the U.S. interests.

The foreign associations commented that the flexibility will create uncertainty and instability because of the assumption that TALFF can be reduced after it has been allotted. This is not the case. At the establishment of initial annual specifications, a TALFF will be allowed. If an inseason adjustment to OY occurs during the fishing year, TALFF can only be increased, not decreased. Therefore, foreign nations can plan to conduct fishing operations based upon their allocation.

ANAVAR's comment on the present FMP regulations refers particularly to the 1983–1984 fishing year for the *Illex* fishery that is entirely an incidental fishery. Because of the increased joint venture processing (JVP) demand for *Illex* within the DAH, the level of TALFF was reduced to an incidental fishery. Domestic harvest has priority under the Magnuson Act. However, the *Loligo* fishery TALFF was set at 11,000 mt, thereby maintaining a foreign directed fishery. Additionally, an amount of 11,000 mt was placed within the reserve creating a potential 22,000 mt amount for foreign nations. In October 1983, an additional 10,166 mt was moved from reserve to TALFF, bringing the latter amount to 21,166 mt (48 FR 50080). NOAA has determined that the use of a reduced TALFF to induce foreign nationals to increase fishery product trade is a distinct goal of the Magnuson Act. The Magnuson Act, as amended, promotes as purposes Number 6—"to encourage the development by the United States fishing industry of fisheries which are currently underutilized or not utilized by United States fishermen, * * * to ensure that optimum yield determinations promote such development." Although the Magnuson Act preserves certain rights for foreign nations, the domestic industry has preference. Therefore, TALFF for squid could be reduced to levels which promote the growth of the U.S. commercial fishery, including the fishery for export. If foreign nations are not allowed to harvest squid directly, they will have a greater incentive to purchase squid from U.S. harvesters and processors. However, TALFF need not be reduced to incidental-catch levels only, but may be allocated to individual foreign nations by prior "fish and chips" agreement. To repeat, an IOY established at the level that will provide the greatest overall benefits to the nation, if greater than DAH, will include an appropriate TALFF.

Annual squid specifications, including IOY, will be published on or about March 15, prior to the beginning of the next fishing year. Since foreign fishing resumes off the Northeast Atlantic on June 15, foreign nations can plan their fishing strategy for the summer-fall *Illex* fishery. The fishing season for *Loligo* also provides ample opportunity for foreign nations to plan their fishing strategy since it begins in early winter, ending March 31.

Comment 5: The JDSTA objected to the designation of butterfish and Atlantic mackerel as incidental-catch fisheries.

Response: Amendment 1 specifically addresses two new management measures. First, a mechanism to enable the RD, in consultation with the Council, to specify initially and then adjust the squid OYs at any time during the year; and second, a revision of the Atlantic mackerel natural mortality rate from 0.30 to 0.20 to reflect recent scientific information.

The JDSTA comment on incidental catch was previously addressed in the final rule implementing the FMP. As noted in the preamble to that rule, the demand for butterfish for domestic processing has grown to incorporate all good quality butterfish landed by domestic vessels; therefore, the DAP equals the DAH minus the TALFF provided for the foreign incidental catch of butterfish, but not to exceed the OY (see Comment 9, 48 FR 44834, September 30, 1983). Within the same rule, Comment 10 addressed the issue of Atlantic mackerel as an incidental-catch fishery. It should be noted that as the spawning stock increases beyond 400,000 mt, TALFF may sustain a directed fishery. For example, in fishing year 1983–1984 the TALFF is presently 35,850 mt with a reserve equal to that amount. Depending on the growth of the Atlantic mackerel spawning biomass, the foreign nations can benefit by having a directed fishery.

Comment 6: The JDSTA claims that the fixed incidental-catch rate is inappropriate for a multi-year plan and violates National Standards 1, 5, and 6.

Response: NOAA has concluded that National Standards 1 and 6 are not applicable to the fixed incidental-catch rates which are set within the FMP and continued in Amendment 1. NOAA has considered whether the fixed incidental-catch rates may violate National Standard 6 which requires, "Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches."

The Council in preparation of the FMP calculated the relationships within the incidental catch of foreign fisheries in the Northwest Atlantic. In Background Paper No. 2, "Incidental Catch Relationships Among Foreign Fisheries for the Squids, Atlantic Mackerel, Butterfish, and the Hakes," approved by the Council in January, 1983, the Council evaluated the relationships of six species: Atlantic mackerel, butterfish, silver hake, red hake, and *Loligo* and *Illex* squids. Three sources of information were considered to establish the fixed rates: (1) International Commission for the Northwest Atlantic Fisheries (ICNAF) Statistical Bulletins, (2) NMFS Designated Foreign Official Reports (NEREIS) and, (3) NMFS Foreign Fishery Observer Program information. The findings within this paper, taking into consideration the targeted fisheries during certain seasons, all major foreign nations participating within a certain fishery, and the variation between nations with specific harvesting practices, concluded that average fixed rates could be achieved by all nations which chose to operate a "clean" fishery for targeted species. NOAA concludes on the basis of this study that National Standard 6 is not violated.

The JDSTA also claimed that for Amendment 1 to comply with Magnuson Act section 201(d)(2)(A), a provision should be included to allow the reallocation of unused portions of DAH to TALFF.

This comment was previously addressed in the final rule implementing Amendment 3 to the FMP. NOAA considers various sources of information when setting the DAH that include Council recommendations and public comments on proposed amounts. With this information, NOAA evaluates and determines DAP and JVP portions which comprise the DAH. Since the DAHs are based on substantive data and reviews, a reallocation mechanism is not necessary (see Comment 7, 48 FR 44834, September 30, 1983).

Comment 7: ANAVAR and the JDSTA criticized the flexible OY procedure stating that an adjusted OY less than the maximum OY would prevent foreign fishermen from utilizing the squid. The commenters concluded that this would contribute to additional "waste" in the squid fishery. Additionally, the JDSTA challenged NOAA's conclusion that the regulations implementing Amendment 1 are not a major rule under Executive Order 12291.

Response: NOAA has concluded that, unlike previous squid FMPs and amendments, the flexible OY allows realistic OYs to be set for squid. An IOY or a subsequent adjusted OY will reflect the best determined DAH and TALFF. Each component of DAH, DAP, and JVP will be examined based upon previous past performance and results from a survey of the industry. Biological assessments and predicted abundance will also be examined. TALFF amounts will be calculated based upon needs of foreign nations taking into consideration "fish and chips" agreements and participation within other fisheries where an incidental catch of squid is necessary.

The question of "waste" was addressed previously in the final rule for Amendment 3 (48 FR 44834, Comment 7). As stated, NOAA believed there was the potential to achieve estimated amounts. However, as noted, shortfalls in these harvests may occur and will be taken into account in future DAH projections. NOAA believes that the flexible procedure facilitates achievement of OY projections.

The JDSTA, commented that it believed that the Council had failed to properly assess all of the costs and benefits accruing to the United States if Amendment 1 were implemented. They asserted that the amendment will have an annual effect on the economy of $100 million or more.

NOAA re-examined the analysis provided by the Council in the recent regulatory impact review (RIR) prepared for Amendment 1. NOAA disagrees with the JDSTA calculation of potential loss based on total allocations. These total allocations have never been achieved in Atlantic mackerel, squid, and butterfish fisheries since the Magnuson Act was enacted. The Council used peak levels of foreign catch as a basic for analysis. These were multiplied by the corresponding foreign fishing fees with a calculated amount of $5 million, and when this is coupled with a total phase-out of foreign fishing and its associated loss of expenditures of supplies, the total would amount to less than $10 million.

On these calculations, NOAA concluded that the final rule implementing Amendment 1 was not a major rule under E.O. 12291.

Classification

The RD has determined that implementation of Amendment 1 is necessary for the conservation and management of the Atlantic mackerel, squid, and butterfish fisheries and that it is consistent with the Magnuson Act and other applicable law.

The NOAA Administrator determined that this rule is not a major rule requiring a regulatory impact analysis under E.O. 12291. The General Counsel of the Department of Commerce certified to the Small Business Administration that the rule will not have a significant economic impact on a substantial number of small entities. (RIR summary published at 48 FR 49077, October 24, 1983.) Based upon these findings, a regulatory flexibility analysis was not prepared.

The Council prepared an environmental assessment (EA) in accordance with the National Environmental Policy Act for this FMP amendment and concluded that there will be no significant impact on the environment as a result of this rule. Copies of the EA can be obtained from the Council at the address above.

This rule does not contain a collection of information requirement for purposes of the Paperwork Reduction Act.

The Council determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of all the coastal States from Maine to Florida. As of the date of implementation, the Council has received no negative findings. Responses indicating consistency have been received from New Hampshire, Massachusetts, Connecticut, New York, Delaware, and Maryland.

List of Subjects in 50 CFR Part 655

Fisheries, Reporting and recordkeeping requirements.

Dated: December 29, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

PART 655—ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FISHERIES

1. The authority citation for 50 CFR Part 655 is as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Section 655.2 is amended by revising the definition of "*Joint venture harvest*" to read as follows:

§ 655.2 Definitions.

* * * * *

Joint venture harvest means U.S.-harvested Atlantic mackerel, squid, or butterfish transferred to foreign vessels in the FCZ or in the internal waters of a State. Transfers to foreign vessels in the internal waters of a State are governed under § 306(c) of the Magnuson Act.

* * * * *

3. Section 655.21 is amended by revising paragraphs (a)(2), (b), (b)(1) in its entirety, (b)(2) introductory text, (b)(2)(i) introductory text, (b)(2)(ii) introductory text, (b)(2)(ii)(A)(*1*), (b)(2)(ii)(B)(*1*), (b)(2)(ii)(C)(*3*), and (c), to read as follows:

§ 655.21 Allowable levels of harvest.

(a) * * *

(2) For Atlantic mackerel, the OY may not exceed 30,000 mt if the spawning stock at the end of the upcoming year is estimated, under the procedures specified in the FMP, to be less than or equal to 400,000 mt. If the spawning stock at the end of the upcoming year is estimated to exceed 400,000 mt, the maximum OY is determined in accordance with paragraph (b)(2)(ii) of this section.

(b) *Annual specifications.* Total allowable biological catch (ABC), initial optimum yield (IOY), and amounts for domestic annual harvest (DAH), domestic annual processing (DAP), joint venture processing (JVP), and total allowable level of foreign fishing (TALFF) for each species will be determined annually by the Regional Director, in consultation with the Mid-Atlantic Fishery Management Council (Council) under the procedures specified in § 655.22, consistent with the following:

(1) *Squid.* (i) Total allowable biological catch (ABC) for any fishing year is either the maximum OY specified in paragraph (a)(1) of this section, or a lower amount determined by the Regional Director, in consultation with the Council, if stock assessments or other ecological data indicate that the potential yield is less than the maximum OY level.

(ii) The IOY consists of an initial DAH and initial TALFF and represents a modification of ABC, based on economic factors. These factors must include the following:

(A) Total world export potential by squid-producing countries;

(B) Total world import demand by squid-consuming countries;

(C) U.S. export potential based on expected U.S. harvests, expected U.S. consumption, relative prices, exchange rates, and foreign trade barriers;

(D) Increased or decreased revenues to the U.S. from foreign fishing fees;

(E) Increased or decreased revenues to U.S. harvesters (with or without joint ventures);

(F) Increased or decreased revenues to U.S. processors and exporters;

(G) Increases or decreases in U.S. harvesting productivity due to decrease or increase in foreign harvest;

(H) Increases or decreases in U.S. processing productivity; and

(I) Potential impact of increased or decreased TALFF on foreign purchases of U.S. products and services and U.S.-caught fish, changes in trade barriers, technology transfer, and other considerations.

(iii) The DAH, DAP and JVP must be based on data from sources specified in § 655.22(e) and other relevant data including past domestic landings, the capacity and intent of U.S. processors to process U.S.-harvested squid, and projected amounts of squid necessary for joint ventures during the fishing year.

(iv) IOY must be set at a level that will produce the greatest overall net benefit to the United States. In determining this amount, the Regional Director, in consultation with the Council, will provide for a TALFF of at least a minimum incidental catch in other directed fisheries. TALFF may be greater than an incidental catch level, if the IOY determined to produce the greatest overall benefit to the United States is sufficiently greater than DAH.

(A) *Loligo.* The incidental catch level is one percent of the allocated portion of *Illex*, mackerel (if a directed fishery is allowed), silver hake, and red hake TALFFs.

(B) *Illex.* The incidental catch level is ten percent of the allocated portion of *Loligo*, and one percent of the allocated portion of mackerel (if a directed fishery is allowed), silver hake, and red hake TALFFs.

(v) The IOY may be adjusted by the Regional Director, in consultation with the Council, at any time during the fishing year, under § 655.22(f). The basis for any adjustment may be that new information or changed circumstances indicate that U.S. fishermen will exceed the initial DAH, or that the IOY should be increased to produce maximum net benefits to the United States based upon an application of the factors above. The IOY may be increased by the amount that DAH or TALFF, or both, are increased, but IOY may not exceed ABC. An adjustment to IOY may not result in TALFF being reduced to a quantity less than that allocated to and accepted by foreign nations or to a quantity less than the incidental catch levels specified in paragraph (b) of this section.

(2) *Atlantic mackerel.* In all cases, initial DAP is the estimated amount of initial DAH that domestic processors will process. In estimating the DAH in the cases set forth below, the recreational catch will be predicted by the formula: $Y=(0.01)(X)+(180)$, where "X" is equal to the current spawning stock size, and "Y" is the estimated recreational catch in metric tons.

(i) *Case 1.* If the spawning stock size at the end of the upcoming fishing year, estimated in accordance with the procedures specified in the FMP, is less than or equal to 400,000 mt, then:

* * * * *

(ii) *Case 2.* If the spawning stock size at the end of the upcoming fishing year, estimated under the procedures specified in the FMP, is more than 400,000 mt, then OY during that fishing year may not exceed the acceptable catch (AC). AC is that amount which, when taken in addition to the predicted catch in the Canadian fishery, would result in a spawning stock size of 400,000 mt at the end of the upcoming fishing year. AC plus the predicted Canadian catch may not exceed a fishing mortality rate (F) greater than 0.1.

(A) * * *

(*1*) TALFF equals the fixed percentages specified in paragraph (b)(2)(i)(A) of this section.

* * * * *

(B) * * *

(*1*) TALFF equals the fixed percentages specified in paragraph (b)(2)(i)(A) of this section.

* * * * *

(C) * * *

(*3*) *TALFF plus reserve.* If OY minus DAH is less than 10,000 mt, then TALFF equals OY minus DAH (but no less than the fixed percentages specified in paragraph (b)(2)(i)(A) of this section), and there is no reserve. If OY minus initial DAH is greater than or equal to 10,000 mt, then the difference between OY and initial DAH is divided evenly between TALFF and reserve.

* * * * *

(c) *Allowable domestic harvest.* Fish taken within State jurisdiction will be counted against the domestic harvests specified under this section. The allowable domestic harvest for each species is the OY (including OY as increased under paragraph (b)(1)(v) of this section) minus TALFF.

4. Section 655.22 is amended by revising paragraphs (a) and (b) and by adding a new paragraph (f) to read as follows:

§ 655.22 Procedures for determining initial annual amounts and adjustments.

(a) On or about January 15 of each year, the Mid-Atlantic Council will prepare and submit recommendations to the Regional Director of the initial annual amounts for the fishing year beginning April 1, based on information gathered from sources specified in paragraph (e) of this section.

(b) By February 1 of each year, the Secretary will publish a notice in the **Federal Register** that specifies preliminary initial amounts of OY, DAH, DAP, JVP, TALFF, and reserve (if any) for each species. The amounts will be based on information submitted by the Council and from the sources specified in paragraph (e) of this section; in the absence of a Council report, the amounts will be based on information gathered from sources specified in paragraph (e) of this section and other information considered appropriate by the Regional Director. The **Federal Register** notice will provide for a 30-day comment period.

* * * * *

(f) Any adjustments to the IOY for squid must be published in the **Federal Register** with the reasons for such adjustment. Any notice of adjustment may provide for a public comment period.

5. Section 655.23 is amended by removing paragraphs (a)(1) and (b)(1), by redesignating paragraph (a)(2) as (a)(1) and paragraph (b)(2) as (b)(1), and by revising the introductory paragraph to the section to read as follows:

§ 655.23 Reserve releases.

All or part of the Atlantic mackerel reserve may be allocated to TALFF following the procedures of this section.

* * * * *

§ 655.2 [Amended]

6. In addition to the amendments set forth above, 50 CFR Part 655 is further amended § 655.2 by revising the definition of *Fishery Management Plan* to read as follows: *Fishery Management Plan* (FMP) means the Fishery Management Plans for the Atlantic Mackerel, Squid, and Butterfish Fisheries of the Northwest Atlantic Ocean, as consolidated by amendment 3 and revised by subsequent amendments.

* * * * *

[FR Doc. 84-153 Filed 1-3-84; 8:45 am]
BILLING CODE 3510-22-M

50 CFR Part 681

[Docket No. 31219-240]

Western Pacific Spiny Lobster Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues a final rule to implement Amendment 2 to the Fishery Management Plan for the Spiny Lobster Fisheries of the Western Pacific Region (FMP). Implementation of the amendment will allow the use of a wider variety of lobster traps in the spiny lobster fishery in the Northwestern Hawaiian Islands (NWHI) while still affording protection for the Hawaiian monk seal.

EFFECTIVE DATE: January 9, 1984.

ADDRESSES: Copies of the environmental assessment and regulatory impact review are available by writing to Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1608, Honolulu, Hawaii 96813.

FOR FURTHER INFORMATION CONTACT: James J. Morgan (National Marine Fisheries Service (NMFS), Southwest Region), 213-548-2518.

SUPPLEMENTARY INFORMATION: On February 7, 1983, regulations implementing the FMP were published in the **Federal Register** (48 FR 5560) with an effective date of March 9, 1983. Final regulations implementing Amendment 1 to the FMP, which established management measures for the Fishery Conservation Zone (FCZ) off the main Hawaiian Island the same as State of Hawaii regulations for the territorial sea, were published in the **Federal Register** on November 23, 1983 (48 FR 52922).

Section 681.24(b) of the regulations that implemented the FMP required that "an entryway in a spiny lobster trap may measure no greater than 10½ inches in its greatest diagonal or diameter at the large end, and no greater than 6½ inches in its greatest diagonal or diameter at the small end." The entryway specifications were implemented to minimize the possible entrapment of the endangered Hawaiian monk seal as the seals search for food.

During review and implementation of the FMP, new traps, different in design from those formerly used, were introduced into the fishery. Also, the traditional traps became distorted with use. The new traps and some of the traditional traps do not conform to the specifications in § 681.24(b); therefore, the question was raised about their effect on the monk seal, and what prohibiting the new traps would mean to the fishermen. The Western Pacific Fishery Management Council (Council) reviewed the trap problem and concluded that the measurements required for the entryway of spiny lobster traps could be changed and still prevent the possible entrapment of monk seals, as long as the 6.5 inch measurement was retained. As a result, the Council voted unanimously on May 24, 1983, to request the Secretary of Commerce to implement emergency regulations with the following language for § 681.24(b): "The smallest opening of an entryway of any spiny lobster trap may not allow any sphere or cylinder greater than 6.5 inches in diameter to pass from outside the trap to inside the trap." An emergency rule was approved on June 27, 1983, and published in the **Federal Register** on July 11, 1983 (48 FR 31655). The rule was effective for 90 days, to October 11, 1983. A complete background on the lobster trap problem is contained in the July 11 publication of the **Federal Register**.

Amendment 2 to the FMP was submitted by the Council to make the emergency interim rule permanent. Proposed rules to implement the amendment were published in the **Federal Register** on October 21, 1983 (48 FR 48853), and comments were invited until December 2, 1983. No comments were received. Amendment 2 presents the economic and environmental costs and benefits of four alternatives for managing the lobster trap problem. The Council's preferred alternative in the amendment is identical to the emergency interim rule and it will maintain a 6.5 inch measurement to minimize the possible entrapment of monk seals while allowing the use of a wider variety of traps in the lobster fishery of the NWHI. In addition, enforcement costs and costs to the fishermen will be minimized by this approach.

The emergency interim rule was extended for an additional 90 days, from October 11, 1983, to January 9, 1984, under section 305(e)(3)(B) of the Magnuson Fishery Conservaton and Management Act (Magnuson Act) to permit public review of Amendment 2 (48 FR 46342, October 12, 1983). This is the maximum extension of an emergency rule permitted by the Magnuson Act.

The 30-day delayed effectiveness period for implementing regulations required by the Administrative Procedure Act (Act) is waived according

to section 553(d)(1) of the Act because the final rule is a substantive rule that relieves a restriction. The effective date of the amendment and the expiration date of the emergency rule will coincide on January 9, 1984.

Classification

The Secretary of Commerce has determined that Amendment 2 to the FMP is necessary for the conservation and management of the spiny lobster fishery and that it is consistent with the Magnuson Act and other applicable law. The Council prepared an environmental assessment of this amendment and concluded that there will be no significant impact on the environment as a result of this rule.

Based upon the analysis in the regulatory impact review, the Administrator of NOAA has determined that the regulations implementing this amendment are not major under Executive Order 12291 and that they do not require a regulatory impact analysis.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities because the amendment removes a restriction and permits more flexibility for fishermen in the type of traps which may be used in the fishery which results in savings to individual fishermen. This rule does not contain a collection of information requirement for purposes of the Paperwork Reduction Act.

In response to a letter from the Council that this rule will be implemented in a manner consistent to the maximum extent practicable with the approved coastal zone management program of Hawaii, in accordance with § 307 of the Coastal Zone Management Act, the Hawaii Department of Planning and Economic Development, on August 17, 1983, informed the Council that Amendment 2 is consistent with the Hawaii Coastal Zone Management Plan.

Implementation of Amendment 2 will not constitute an action that "may affect" endangered or threatened species within the meaning of regulations implementing the Endangered Species Act of 1973. Furthermore, implementation of the amendment will not affect marine mammal populations within the meaning of the Marine Mammal Protection Act of 1972. The biological opinion for the FMP concluded that the FMP contained safeguards to reduce adverse impacts to monk seals from the lobster fishery, and recommended that the FMP be implemented with provisions for emergency closures in the event fishery-related mortality of monk seals was identified. Amendment 2 will not change the safeguards established for the protection of the monk seal. The proposed change in the regulations on trap openings is as protective to monk seals as those considered in the biological opinion. Some of the new traps are likely to be safer. The proposed change in the regulation is consistent with the conclusions of the biological opinion; therefore, reinitiation of the consultation process is not necessary.

Lists of Subjects in 50 CFR Part 681

Fish, Fisheries, Reporting and recordkeeping requirements.

Dated: December 29, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

For the reasons stated above, 50 CFR Part 681 is amended as follows:

PART 681—WESTERN PACIFIC SPINY LOBSTER FISHERIES

1. The Authority citation for Part 681 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 681.24, paragraph (b) is revised to read as follows:

§ 681.24 Gear restriction.

* * * * *

(b) The smallest opening of an entryway of any spiny lobster trap may not allow any sphere or cylinder greater than 6.5 inches in diameter to pass from outside the trap to inside the trap.

[FR Doc. 84-154 Filed 1-3-84; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Prospective Payment for Medicare Inpatient Hospital Services

Correction

In FR Doc. 83-34405 beginning on page 234 in the issue of Tuesday, January 3, 1984, make the following correction on page 313: In the third column, in § 405.463, paragraph (c)(5)(iii) should have read:

§ 405.463 [Corrected]

* * * * *

(c) * * *

(5) * * *

(iii) The applicable target rate percentage will be the prospectively determined percentage published by HCFA. The percentages will be applied prospectively and will be prorated in accordance with the paragraph (c)(5)(ii) of this section, but will not be retroactively adjusted if the actual marketed basket rate of increase differs from the estimate.

* * * * *

BILLING CODE 1505-01-M

Proposed Rules

Federal Register
Vol. 49, No. 2
Wednesday, January 4, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 770

Special Programs of Payment in Kind Acreage Diversion for 1983 Crops of Wheat, Feed Grains, Upland Cotton, and Rice

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule proposes to amend the regulations at 7 CFR Part 770 which now set forth the provisions of the payment in kind program for the 1983 crops of wheat, corn, grain sorghum, upland cotton, and rice. The proposed rule would make these regulations, as amended, applicable to any programs of payment in kind for acreage diversion for any of the 1984 and subsequent crops of wheat, corn, grain sorghum, barley, oats, upland cotton, extra long staple cotton, or rice which are announced by the Secretary of Agriculture. The rule, as amended, would provide that payments in kind received under such programs with respect to 1984 and subsequent crops shall be taken into account in the application of the payment limitation regulations set forth at 7 CFR Part 795.

DATE: Comments must be received on or before January 13, 1984, in order to be assured of consideration.

ADDRESS: Grant Buntrock, Director, Cotton, Grain, and Rice Price Support Division, USDA-ASCS, Room 3620, South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Grant Buntrock, ASCS, (202) 447–7641.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA Procedures implementing Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified "not major". It has been determined that this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local governments, or geograhic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The titles and numbers of the Federal assistance programs to which this proposed rule applies are: Cotton Production Stabilization, 10.052; Feed Grain Production Stabilization, 10.055; Rice Production Stabilization, 10.065; and Wheat Production Stabilization, 10.058; as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this proposed rule since the Agricultural Stabilization and Conservation Service is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore neither an Environmental Assessment nor an Environmental Impact Statement is needed.

The Secretary announced on August 9, 1983, that a program of payment in kind for acreage diversion for the 1984 crop of wheat, which is similar to the one offered for the 1983 crop of wheat, would be in effect. A program of payment in kind for acreage diversion may also be considered for subsequent crops of various commodities. The current regulations set forth at 7 CFR Part 770 are applicable only to the 1983 crops. Since a program of payment in kind for acreage diversion has been authorized for the 1984 crop of wheat and may be authorized in subsequent years for various crops, it is proposed to amend these regulations and make them applicable to such programs as are announced by the Secretary.

Participation in the 1983 program of payment in kind for a commodity was conditioned upon a producer's participation in the 1983 acreage reduction and cash land diversion programs for that commodity. The 1983 payment in kind program provided that a producer would be eligible to receive payment in kind compensation based upon a percentage of the farm's yield (i.e., 95 percent for wheat and 80 percent for corn, grain sorghum, rice, and upland cotton) in return for a reduction in acreage of 10 to 30 percent of the farm acreage based established for the commodity.

The 1983 program also provided that contracts would be awarded on a competitive bid basis to producers who devoted 100 percent of the farm acreage base for one or more commodities to an approved conserving use. Payment in kind compensation was made in accordance with the percentage of the farm's yield specified on an accepted bid.

This proposed rule provides that, for the 1984 and subsequent crops of wheat, feed grains, upland cotton, extra long staple (ELS) cotton, and rice, the Secretary may establish a program of payment in kind for acreage diversion under which: (1) The producer would be allowed to divert only a portion of the farm's crop acreage base as determined by the Secretary; (2) the producer would be allowed to submit a bid to divert the entire farm's crop acreage base; or (3) the producer would be allowed to elect whether to divert either a portion of the farm's crop acreage base or to submit a bid to divert the entire farm's crop acreage base. The decision with respect to the options available to the producer would be announced by the Secretary for the applicable crop of the commodity.

The 1983 program of payment in kind for acreage diversion included in the contract a provision commonly known as "harvest for PIK." Under this provision, the producer who had insufficient price support loan collateral which could be utilized for payment in kind purposes could have been required to pledge as loan collateral an eligible quantity of the commodity produced in the 1983 crop year. This loan collateral would then be redeemed and sold to CCC. CCC would then make such quantities available to the producer as payment in kind compensation. Under the 1983 program, the producer could also be compensated from other stocks of the commodity which were available to CCC.

While the 1984 wheat program as announced by the Secretary includes a

similar "harvest for PIK" provision, it does not include any provision with respect to compensation of the producer from other stocks available to CCC. This proposed rule includes a "harvest for PIK" provision. The proposed rule further provides that, if the producer has no quantities of commodities pledged as collateral for outstanding price support loans which can be redeemed and sold to CCC for payment in kind purposes or has no crop year production of such commodities which could be utilized in accordance with the "harvest for PIK" provisions, the Secretary may release such producer from the obligations under the payment in kind contract.

The current regulations include references to the specific percentages of the farm yield which are utilized in order to determine the amount of payment in kind compensation which is to be received by the producer. With respect to the option available to the producer to divert from production a portion of the farm's crop acreage base rather than the entire farm's crop acreage base, references are also made in the current regulations to the percentage of the farm's crop acreage base which may be diverted from production in return for which payment in kind compensation will be made available to the producer. In the proposed rule, such percentages are not specified for the 1984 and subsequent crops. It is proposed that such percentages would be determined for the individual crop of the commodity and announced by the Secretary at the same time the announcement is made of the other program provisions which are applicable to such commodity.

The Extra Long Staple Cotton Act of 1983 (Pub. L. 98–88, 97 Stat. 494) (the "Act") made inapplicable acreage allotments and marketing quotas with respect to Extra Long Staple (ELS) cotton and authorized the Secretary to implement annual commodity price support and production adjustment programs for ELS cotton which are similar to the commodity programs which are authorized for upland cotton. While the 1984 program for ELS cotton which has been announced in accordance with the provisions of this Act does not include a program of payment in kind, it is possible that such a program may be implemented for subsequent crop years. Accordingly, this proposed rule includes ELS cotton as a commodity for which a future program of payment in kind may be implemented.

In addition, the current regulations applicable to the 1983 payment in kind program provide that the limitation imposed by Section 1101 of the Agriculture and Food Act of 1981 on the amount of payments which a person may receive under one or more of the annual programs of wheat, feed grains, upland cotton, and rice shall not be applicable to commodities received as payment in kind compensation. Recently, the General Counsel of the General Accounting Office has taken the position that compensation received under the payment in kind program is subject to the payment limitation. The Department is also involved in litigation with respect to this issue.

It does not appear that this issue will be resolved in the near future. While the Department does not agree with the position taken by the General Accounting Office, it has been concluded that the current uncertainty as to the applicability of the payment limitation to payment in kind compensation must be removed before producers contract with CCC to participate in the 1984 production adjustment programs. Accordingly, this proposed rule, as a matter of administrative policy, provides that, for the 1984 and subsequent crops, payments in kind received under programs established by this part shall be taken into account in the application of the payment limitation regulations (7 CFR Part 975). For this purpose, the value assigned to the payment in kind would be based upon the county price support loan rate applicable to the commodity for the crop year for which the payment in kind program has been implemented.

A program of payment in kind for the 1984 crop of wheat has been announced and producers must execute contracts to participate in such program during the period January 16 through February 24, 1984. If the program is to achieve its objectives, this rule must be made effective as soon as posible so that producers might be made aware of their opportunity to participate in the program. Therefore, comments will be received with respect to this proposed rule through January 13, 1984, and any appropriate changes in the program as a result of such comments will be made before the final rule is issued.

List of Subjects in 7 CFR Part 770

Cotton, Feed grains, Price support program, Wheat, Rice.

Proposed Rule

Accordingly, it is proposed that, effective for the 1984 and subsequent crops of wheat, feed grains, upland cotton, extra long staple cotton, and rice, Part 770 of Subchapter C of Chapter VII of Title 7 of the Code of Federal Regulations is revised to read as follows:

PART 770—SPECIAL PROGRAMS OF PAYMENT IN KIND FOR ACREAGE DIVERSION FOR THE 1984 AND SUBSEQUENT CROPS OF WHEAT, FEED GRAINS, UPLAND COTTON, EXTRA LONG STAPLE COTTON, AND RICE

Sec.

770.1 General description of program.
770.2 Obligations of operators and producers.
770.3 Obligations of the Department.
770.4 Other contract provisions.
770.5 Contracting procedures.
770.6 Miscellaneous provisions.
770.7 Paperwork Reduction Act assigned number.

Authority: Secs. 101(i), 103(g), 103(h), 105B and 107B of the Agricultural Act of 1949, as amended (7 U.S.C. 1441, 1444, 1444(d), 1444(g), 1444(h), and 1445b–1) and the Commodity Credit Corporation Charter Act (15 U.S.C. 714).

§ 770.1 General description of program.

(a) The Department of Agriculture, through the Commodity Credit Corporation, will enter into contracts with operators and producers who agree to reduce the acreage normally planted to a commodity specified in § 770.1(b) and devote an equivalent acreage to an approved conserving use in return for compensation in the form of the commodity for which the planted acreage is reduced. This part describes the general terms and conditions of these contracts and the procedures under which the Department will enter into such contracts.

(b) This special program is available throughout the United States, including Puerto Rico, for the 1984 and subsequent crops of wheat, corn, grain sorghum, barley, oats, upland cotton, extra long staple cotton, or rice as announced by the Secretary of Agriculture (the "Secretary").

§ 770.2 Obligations of operators and producers.

(a) The contract between the Department and the operator of a farm and any other producers on the farm will impose the following obligations on the operator and any other producers:

(1) The operator and any other producers will be required to comply with all of the requirements of any other acreage reduction or paid diversion program established by the Department for any commodity included in the contract.

(2) The operator and any other producers will be required to devote a percentage of the farm's acreage base

for any commodity included in the contract to an approved conserving use in addition to any other acreage reduction or paid diversion. This percentage will depend on the contract between the Department and the operator and any other producers.

(i) The Department may enter into a contract with the operator of a farm and any other producer on the farm which provides for devoting a percentage of the farm's acreage base for one or more commodities to an approved conserving use, with a commensurate reduction in permitted acreage, if the operator and any other producers wish to do so. The operator and any other producers may select the commodities to be included in the contract, except that the Department may require that the contract include either both crops or neither crop of corn and grain sorghum or barley and oats. Compensation to operators and other producers under these contracts will be based on a fixed percentage of the farm yield for each of the commodities included in the contract. See § 770.3(a)(1). The percentage or range of percentages will be announced by the Secretary.

(ii) In addition, the Department may, in some cases, enter into a contract with the operator of a farm and any other producers on the farm which requires the operator and any other producers to devote 100 percent of the farm's acreage base for one or more commodities to an approved conserving use. These contracts will be awarded on a competitive bid basis and the compensation to an operator and any other producers under one of these contracts will be based on the percentage of the established yield for the farm for each of the commodities included in the contract which was bid by the operator and any other producers. See § 770.5(b).

(3) If the operator of a farm or any other producers on the farm have outstanding farmer owned reserve loans obtained prior to a date specified by the Secretary or regular price support loans for which they have pledged as security a commodity which the Department is obligated to pay them under the contract they must, at the time they request payment of the commodity, sell the commodity to the Department, if required by the Secretary, up to the quantity of the commodity the Department is obligated to pay them. The purchase price shall be equal to the cost of liquidating the loan or the portion of the loan for which the quantity of the commodity sold to the Department is pledged as collateral, except that, in the case of a farmer owned reserve loan, the price will be reduced by the amount of any unearned advance storage payments received under the loan.

(4) To the extent that the operator or any other producers have loans to which paragraph (a)(3) of this section applies at the time they enter into the contract, they may liquidate those loans or forfeit the commodity securing them only to the extent that the liquidation or forfeiture does not reduce the quantity of the commodity pledged as security for the loans still held by the operator and such other producers below the quantity of the commodity the Department is obligated to pay the operator and such other producers under the contract. The commodities pledged as security for loans that must be held under this paragraph will be used by the Department to compensate the operator and any other producers under the contract. See § 770.3(a)(2)(i).

(b) The contract shall provide for the payment of liquidated damages in the event that the operator or any other producers fail to comply with their obligations under the contract. The purpose of a program of payment in kind is to obtain a diversion of acreage from production of the applicable crops of commodities in order to adjust the total national acreage of such commodities to desirable goals. Once a contract has been entered into between the Department and producers, the Department, and other segments of the agricultural community, act based upon the assumption that the contract will be fulfilled and the reduction in acreage will be obtained. The Department's action include budgeting and planning for programs in subsequent crop years, as well as making the necessary arrangements to compensate producers through payment in kind. A producer's failure to comply with a contract undermines the basis for these actions, damages the credibility of the Department's programs with other segments of the agricultural community, and requires additional expenditures in subsequent crop years to offset the effect of the increased production in the current crop year. While the adverse effects on the Department of the producer's failure to comply with a contract are obvious, it would be impossible to compute the actual damages suffered by the Department.

§ 770.3 Obligations of the Department.

(a) The contract between the Department and the operator of a farm and any other producers on the farm will impose the following obligations on the Department:

(1) The Department will be required to compensate the operator and any other producers for devoting acreage to an approved conserving use by payment of a quantity of the commodity or commodities that would otherwise have been produced, unless the substitution of a different commodity is provided for in the contract. The quantity shall be the yield for the farm for a commodity multiplied by the acreage devoted to a conserving use in accordance with the provisions of the contract less the acreage devoted to a conserving use as required under any acreage reduction and cash land diversion program which is in effect for the commodity, multiplied by a percentage determined as follows:

(i) For contracts awarded on a competitive bid basis, the percentage shall be the percentage bid by the operator and any other producers.

(ii) For contracts other than those awarded on a competitive bid basis, the percentage shall be the percentage announced by the Secretary.

(2) The contract will provide that the commodities will be paid in the following manner:

(i) To the extent that the operator and any other producers have outstanding regular price support or farmer owned reserve loans for which they have pledged as security a commodity which they must sell to the Department, the commodities sold to the Department will be paid to the operator and such other producers. See § 770.2(a)(3).

(ii) To the extent that a commodity cannot be paid using the procedure described in paragraph (a)(2)(i) of this section, the producer may be required to pledge as collateral for a price support loan eligible quantities of the crop produced in the current crop year and then be paid the commodity using the procedure described in paragraph (a)(2)(i) of this section.

(iii) To the extent that a commodity cannot be paid using the procedures described in paragraphs (a)(2)(i) and (ii) of this section, the contract may provide that the commodity shall be paid out of stocks available to the Department for that purpose. Alternatively, as announced by the Secretary, the contract may provide that the producer will be released from the obligations under the contract rather than receiving any quantity of the commodity.

(3) The contract will provide that the commodities will be paid upon request of the operator and any other producers at any time during the five month period with a date announced for the commodity in the area where the area where the farm is located.

(4) The contract may contain special arrangements and requirements with respect to the Department's obligations to producers who are active members of a marketing cooperative.

§ 770.4 Other contract provisions.

(a) The contract between the Department and the operator of a farm and any other producers on the farm will establish standards for the grade and other characteristics affecting the quality of any commodity the Department is obligated to pay to the operator and any other producers. It will further provide for adjustments in the quantity of a commodity paid to this operator and any other producers to compensate for any difference between these standardss and the grade and other characteristics affecting the quality of the commodity paid to the operator and any other producers. For the purpose of determining these adjustments, a commodity paid under the procedure described in § 770.3(a)(2)(i) shall be treated as having the grade and other characteristics affecting its quality which it was treated as having at the time that the price support or farmer owned reserve loan for which it was pledged as security was made.

(b) The contract between the Department and the operator of a farm and any other producers on the farm shall contain such other provisions as the Department determines appropriate to carry out the program established by this part.

§ 770.5 Contracting procedures.

(a) An operator of a farm and any other producers on the farm may enter into a contract with the Department, which provides for devoting a percentage of the farm's acreage base, as determined in accordance with § 770.2, to an approved conserving use. The contract may be entered into at the appropriate county ASCS office prior to the close of business on a date to be announced by the Secretary.

(b) An operator of a farm and any other producers on the farm may submit a bid for a contract with the Department, which provides for devoting 100 percent of the farm's acreage base for one or more commodities to an approved conserving use. The bid may be submitted to the appropriate county ASCS office prior to the close of business on a date to be announced by the Secretary.

(1) The operator and any other producers may select the commodities to be included in the bid, except that the Department may require that the bid include either both crops or neither crop of corn and grain sorghum, or barley and oats.

(2) The bid shall state the percentage of the established yield for the farm for each of the commodities included in the bid to be used in determining the compensation to be paid to the operator and any other producers under the contract if the bid is accepted. The operator and any other producers may select any percentage, except that the maximum percentage and other conditions will be announced by the Secretary.

(c) After the final date for submitting bids, the bids in each county shall be ranked for each commodity, treating corn and grain sorghum or barley and oats as single commodities, if so required by the Department, on the basis of the percentage of established yield to be used in determining compensation stated in the bids, with the lowest percentage being ranked highest. In the case of identical bids, they shall be ranked in the order received or, where an appointment procedure was utilized by the county ASCS office during the course of which producers submitted bids, a lottery shall be conducted to determine the order by which such bids should be ranked. The bids for each commodity shall then be accepted in rank order. The Department will establish the number of acres for which bids will be accepted for each commodity in each county, based on particular supply/demand situations, conditions in local communities, and other relevant factors. In no case will more than 50 percent of the total of the acreage bases for a commodity in a county be removed from production of the commodity under the program established by this part and any other acreage reduction or diversion program established under Part 713 of this chapter. Acceptance of a bid under this subsection with respect to a commodity shall terminate any contractual obligations with respect to that commodity entered into under paragraph (a) of this section.

§ 770.6 Miscellaneous provisions.

(a) Part 795 of this chapter contains regulations which govern the applicability of the payment limitations imposed by section 1101 of the Agriculture and Food Act of 1981. Payments in kind received under the programs established by this part with respect to 1984 and subsequent crops shall be taken into account in the application of the payment limitation regulations set forth at Part 795 of this chapter. The value assigned to the payment in kind for this purpose will be based upon the county price support loan rate applicable to the commodity for the crop year for which the payment in kind program has been implemented.

(b) Part 713 of this chapter contains regulations which govern regular annual acreage reduction and diversion and other programs for wheat, feed grains, cotton and rice. Sections 713.60 through 713.74 of that part concerning land eligible for designation as conserving use acreage and the obligations of producers with respect to the use of that acreage shall apply to the program established by this part.

(c) In addition, the following provisions of this title concerning general program administration also apply to the program established by this part:

(1) Part 707—Payments Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent.

(2) Part 718—Determination of Acreage and Compliance.

(3) Part 780—Appeal Regulations.

(4) Part 790—Incomplete Performance Based Upon Action Or Advice of an Authorized Representative of the Secretary.

(5) Part 791—Authority to Make Payments Where There Has Been a Failure to Comply Fully with the Program.

(6) Part 1403—Interest on Delinquent Debts.

(7) Section 110 of Part 713 concerning protection of tenants and sharecroppers.

(d) When any person who had an interest as a producer in the commodity or would have had an interest in the commodity as a producer if the commodity had been planted (herein called "predecessor") is succeeded on the farm by another producer (herein called "successor") after a contract has been executed, any payment in kind which is due and owing shall be divided between the predecessor and successor on such basis as the predecessor, successor, and the Department agree is fair and equitable, the contract shall be revised accordingly, and the successor shall sign the revised contract.

(e) Assignments with respect to quantities of a commodity which can be received by a producer as payment in kind will be recognized by the Department only if such assignment is made on Form CCC–479, Assignment of Payment-In-Kind, executed by the assignor and assignee, and filed with the county committee.

(f) Except as provided in paragraph (e) of this section, any payment in kind or portion thereof which is due any person shall be made without regard to questions of title under State law, and without regard to any claim of lien

against the commodity, or proceeds thereof, which may be asserted by any creditor, except for a levy the the Internal Revenue Service.

§ 770.7 Paperwork Reduction Act assigned number.

The information collection requirements contained in these regulations (7 CFR Part 770) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Control Number 0560–0092.

Signed at Washington, D.C. on December 30, 1983.

C. Hoke Leggett,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 84–177 Filed 1–3–84; 8:45 am]

BILLING CODE 3410–05–M

Agricultural Marketing Service

7 CFR Part 989

Raisins Produced From Grapes Grown in California; Quality Control, Minimum Grape and Condition Standards, Supplementary Regulations and Weight Dockage System

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice of proposed rulemaking invites written comments on changing the incoming substandard tolerances on Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Monukka, and Oleate and Related Seedless raisins, as well as modifying the weight dockage system to conform with the proposed changes. The proposed tolerances are intended to improve product quality and reduce handling costs without placing an excessive burden on producers. The proposal was recommended by the Raisin Administrative Committee, which works with the USDA in administering the marketing agreement and order for California raisins.

DATE: Comments must be received by February 2, 1984.

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447–5053.

SUPPLEMENTARY INFORMATION: This proposal has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities

The substandard tolerances for the varietal types of raisins proposed to be changed are contained in § 989.701 of Subpart—Quality Control (7 CFR 989.701–989.703; 48 FR 49214; 53683). The weight dockage system is contained in § 989.210 of Subpart—Supplementary Regulations (7 CFR 989.210–989.221; 48 FR 35347; 49214; 52028; 53683). These subparts are operative pursuant to the marketing agreement, and Order No. 989, both as amended, regulating the handling of raisins produced from grapes grown in California (hereinafter referred to collectively as the "order"). The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

On the basis of a Raisin Administrative Committee recommendation, the Department recently changed tolerances prescribed for substandard Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Monukka, and Oleate and Related Seedless raisins, which growers deliver to packers, from 8 percent to 6 percent for the 1983–84 crop year, to 4 percent for the 1984–85 crop year, and to 2 percent for the 1985–86 and subsequent crop years. This action was issued on October 19, 1983, and published in the **Federal Register** on October 25, 1983 (48 FR 49214). On November 21, 1983, the Committee recommended that the substandard tolerances of 4 percent and 2 percent be revoked, and that a substandard tolerance of 5 percent be established for the 1984–85 and all subsequent crop years. The substandard tolerance is one of the factors prescribed in the minimum grade and condition standards for natural condition raisins. Substandard (immature) raisins made from grapes with less than desired sugar levels.

The Committee made its recommendation because, after further consideration, it concluded that the tolerances scheduled to take effect in 1984–85 and subsequent crop years were too restrictive and would place an undue burden on producers.

This proposal requires conforming changes to be made in the weight dockage system tables prescribed in § 989.210(g) for Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Monukka, and Oleate and Related Seedless raisins. The weight dockage system permits handlers to acquire as standard raisins any lot of the above varietal types even though the lots have been determined to be off-grade because they contain an excess of substandard (immature) raisins. Immature raisins are removed during normal processing. The creditable weight of such lots is computed by multiplying the net weight of the lot by a factor from the dockage table in § 989.210(g). The factor reduces the weight of the lot by an amount approximating the weight of the substandard (immature) raisins needed to be removed from the lot in order for the balance of the lot to meet grade standards.

The proposal also deletes § 989.703 because it is obsolete. That section prescribed changes in the standards for certain packed raisins through November 30, 1983, and the changes are no longer applicable.

PART 989—[AMENDED]

The proposal is as follows:

1. Section 989.210(a) and (g) of Subpart-Supplementary Regulations (7 CFR 989.210–989.221; 48 FR 35347, 49214, 52028, 53683) are revised to read as follows:

§ 989.210 Handling of varietal types of raisins acquired pursuant to a weight dockage system.

(a) *General.* Subject to prior agreement between handler and tenderer, a handler may acquire as standard raisins by any lot of Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Monukka, and Oleate and Related Seedless raisins containing more than 6 percent beginning with the 1983–84 crop year, and 5 percent beginning with the 1984–85 and all subsequent crop years, by weight, of substandard raisins under a weight dockage system. A handler also may, subject to prior agreement, acquire as standard raisins any lot of Muscat (including other raisins with seeds), Sultana, and Zante Currant raisins containing more than 12 percent, by weight, of substandard raisins under a weight dockage system. The creditable weight of each lot of raisins acquired in this manner shall be that obtained by multiplying the net weight of the raisins in the lot by the applicable dockage factor from the appropriate dockage table prescribed in paragraphs (g) or (h) of this section.

* * * * *

(g) *Dockage table applicable to Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Monukka, and Oleate and Related Seedless raisins.*

Percent substandard	Dockage factor
Crop Year—1983–84	
5.0 or less	(1)
5.1	.999
5.2	.998
5.3	.997
5.4	.996
5.5	.995
Crop Year—1984–85 and Thereafter	
5.0 or less	(1)
5.1	.999
5.2	.998
5.3	.997
5.4	.996
5.5	.995

[1] No dockage.

NOTE.—Percentages in excess of the last percentage shown in each table shall be expressed in the same increments as the foregoing, and the dockage factor for each such increment shall be .001 less than dockage factor for the preceding increment.

* * * * *

2. Section 989.701 (a)(3), (b)(3) and (c)(3) of Subpart—Quality Control (7 CFR 989.701–989.703; 48 FR 49214, 53683) are amended to read as follows:

§ 989.701 Minimum grade and condition standards for natural condition raisins.

(a) * * *

(3) shall for the 1983–84 crop year contain not more than 6 percent, and for the 1984–85 and subsequent crop years, contain not more than 5 percent, by weight, of substandard raisins (raisins that show development less than that characteristic of raisins prepared from fairly well-matured grapes);

* * * * *

(b) * * *

(3) shall for the 1983–84 crop year contain not more than 6 percent, and for the 1984–85 and subsequent crop years, contain not more than 5 percent, by weight, of substandard raisins (raisins that show development less than that characteristic of raisins prepared from fairly well-matured grapes);

(c) * * *

(3) shall for the 1983–84 crop year contain not more than 6 percent, and for the 1984–85 and subsequent crop years, contain not more than 5 percent, by weight, of substandard raisins (raisins that show development less than that characteristic of raisins prepared from fairly well-matured grapes);

* * * * *

§ 989.703 [Removed]

3. Section 989.703 of Subpart—Quality Control (7 CFR 989.701–989.703) is removed.

List of Subjects in 7 CFR Part 989

Marketing agreements, Grapes, Raisins, California.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674))

Dated: December 28, 1983.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 84-46 Filed 1-3-84; 8:45 am]

BILLING CODE 3410-02-M

Foreign Agricultural Service

7 CFR Part 1540

Emergency Relief From Duty-Free Imports of Perishable Products, Correction

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a proposed rule relating to emergency relief from duty-free imports of perishable products. It corrects § "1540.2 Definitions" relating to the definitions of "perishable products". The correction is necessary because several categories were omitted in the original announcement. For further information contact: Gretchen Stanton (202) 382–1336.

SUPPLEMENTARY INFORMATION:

Correction

In FR Doc. 83–33800 beginning on page 56060 in the issue of Monday, December 19, 1983, make the following correction:

On page 56061, § "1540.2 Definitions" is incomplete; the complete section should have read:

§ 1540.2 Definitions.

(a) "Perishable product" means:

(1) Live plants provided for in subpart A of part 6 of schedule 1 of the TSUS;

(2) Fresh or chilled vegetables provided for in items 135.10 through 138.42 of the TSUS;

(3) Fresh mushrooms provided for in item 144.10 of the TSUS;

(4) Fresh fruit provided for in items 146.10, 146.20,146.30, 146.50 through 146.62, 146.90, 146.91, 147.03 through 147.33, 147.50 through 149.21 and 149.50 of the TSUS;

(5) Fresh cut flowers provided for in items 192.17, 192.18, and 192.21 of the TSUS; and

(6) Concentrated citrus fruit juice provided for in items 165.25 and 165.35 of the TSUS.

(b) "Beneficiary country" means any country listed in section 212(b) of the Act with respect to which there is in effect a proclamation by the President designating such country as a beneficiary country for purposes of the Act.

Issued at Washington, D.C. this 29th day of December 1983.

Richard A. Smith,

Administrator.

[FR Doc. 83-34847 Filed 12-29-83; 2:36 pm]

BILLING CODE 3410-10-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2 and 72

Hybrid Hearing Procedures for Expansion of Onsite Spent Fuel Storage Capacity at Civilian Nuclear Power Reactors

AGENCY: Nuclear Regulatory Commission.

ACTION: Extension of comment period.

SUMMARY: On December 5, 1983 (48 FR 54499), the NRC published for public comment two versions of a proposed rule to implement the hybrid hearing process established by Section 134 of the Nuclear Waste Policy Act of 1982. The notice provided that the comment period would expire on January 5, 1984. The Utility Nuclear Waste Management Group (UNWMG) has requested a sixty-day extension of the comment period. In view of the importance of the proposed rule, the amount of time that the UNWMG suggests is required in order to provide meaningful comments on behalf of its forty-three member utilities, and the desirability of developing a final rule as soon as practicable, the NRC has decided to extend the comment period for an additional forty-five (45) days to February 20, 1984.

DATES: The comment period has been extended and now expires February 20, 1984. Comments received after that date will be considered if it is practicable to do so, but assurance of consideration cannot be given except as to comments received on or before that date.

ADDRESSES: Send written comments or suggestions to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments received may be examined at the NRC Public Document Room, 1717 H. Street NW., Washington, D.C. 20555.

FOR FURTHER INFORMATION CONTACT: Linda S. Gilbert, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone: (301) 492–7678.

Dated at Washington, D.C. this 28th day of December 1983.

For the Nuclear Regulatory Commission.
Samuel J. Chilk,
Secretary to the Commission.
[FR Doc. 84-132 Filed 1-3-84; 8:45 am]
BILLING CODE 7590-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563b

Sale-of-Control Conversions

December 27, 1983.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed recission of rule.

SUMMARY: The Federal Home Loan Bank Board ("Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), proposes to rescind its regulations governing Sale-of-Control Conversions contained in Subpart B of 12 CFR Part 563b. The action is proposed because the rules in their current form do not provide a workable method of capital formation. If adopted, the rescission would be effective as of the date of this proposal.

DATES: Comments must be received by February 3, 1984.

ADDRESS: Send comments to Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Comments will be available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT: James C. Stewart, Attorney, Office of General Counsel, (202–377–6457), J. Larry Fleck, Deputy Director, Division of Securities and Corporate Analysis, Office of General Counsel (202–377–6413) or Julie L. Williams, Director, Division of Securities and Corporate Analysis, Office of General Counsel (202–377–6459).

SUPPLEMENTARY INFORMATION: In Resolution No. 83–149, dated March 17, 1983, the Federal Home Loan Bank Board ("Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), adopted Subpart B of Part 563b of the Conversion Regulations, 12 CFR 563b.11 through 563b.19, authorizing conversions of mutual insured institutions into stock form in transactions in which a person or persons could acquire control of the institution. 48 FR 15591 (Apr. 12, 1983). Unlike standard mutual-to-stock conversions in which purchases are generally limited to five percent of the offering, these "sale-of-control" conversion regulations would allow an individual to buy more than ten percent of the institution's conversion stock, provided that a control premium is paid in connection with their purchase. During the sale-of-control conversion process, the regulations allow other persons to make competing bids for the institution. The mutual members determine the successful bid at a special meeting held for consideration of the competing proposals.

As stated in the preamble to the regulations, the Board's objectives in adopting the sale-of-control conversion regulations were to: (1) Increase the flexibility of the conversion process; (2) recognize the ownership rights of the members of mutual insured institutions; and (3) increase the potential sources of capital available to converting institutions and the capital received in the conversion process. To date, however, the sale-of-control conversion regulations have not accomplished these goals.

In the nine months since their adoption, no association has submitted an application for a sale-of-control conversion. From the informal inquiries that have been made to the staff, it has become readily apparent that, in their present form, the sale-of-control conversion regulations do not provide a workable method of capital-raising and do not accomplish the objectives established by the Board.

The Board therefore is proposing to rescind Subpart B of its conversion regulations. The recission will allow the Board to reassess the need and methodology for sale-of-control conversions. Should the Board determine in future that a modified sale-of-control conversion process is an appropriate addition to the conversion methods available to insured institutions, a new regulation would be proposed.

If the proposal to rescind Subpart B is adopted as a final action by the Board, the rescission shall become effective as of the publication date of the proposal January 4, 1984; the Board believes that this is an appropriate step to take in order to avoid precipitate filings during the comment period, when the public is on notice that the Board is considering rescission of the sale-of-control conversion procedure.

The Board also finds that good cause exists for using an abbreviated 30-day public comment period on the grounds that the failure to take expeditious action may engender public confusion regarding the rules applicable to mutual-to-stock conversions.

Initial Regulatory Flexibility Analysis

1. *Description of reasons why actions is being considered:* Discussed above.

2. *Succinct statement of the objectives and legal basis of proposed rule:* The legal basis of the proposed actions National Housing Act section 402(j)(1), 12 U.S.C. 1725 (1982). Objective is discussed above.

3. *Description and estimate of small entities to which proposed rule will apply.* Cannot be determined since no small entities have applied for sale-of-control conversions.

4. *Description of projected reports and other requirements of proposed rule:* None.

5. *Identification of overlapping rules:* None.

List of Subjects in 12 CFR Part 563b

Reporting and recordkeeping requirements, Savings and loan associations, Securities.

Accordingly, the Board hereby proposes to amend Part 563b of Subchapter D, Chapter V, Title 12 of the Code of Federal Regulations, as set forth below.

PART 563b—CONVERSIONS FROM MUTUAL TO STOCK FORM

Subpart B—Sale-of-Control Conversion [Removed]

Remove the table of contents and text of Subpart B of Part 563b.

(Section 402(j) of the National Housing Act, 12 U.S.C. 1725(j) (1982))

By the Federal Home Loan Bank Board.
J. J. Finn,
Secretary.
[FR Doc. 84-82 Filed 1-3-84; 8:45 am]
BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-NM-113-AD]

Airworthiness Directives; British Aerospace Model DH/HS/BH 125 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes an airworthiness directive (AD) that would require replacement of fuses and installation of covers on an electrical panel on certain British Aerospace Model DH/HS/BH 125 airplanes. There has been an incident on the ground that seriously damaged an airplane due to a

short circuit on this panel. These actions are needed to prevent electrical failures in the panel which could cause a fire in the aircraft.

DATES: Comments must be received no later than February 20, 1984.

ADDRESSES: The applicable service information may be obtained from British Aerospace, Inc., Box 17414, Dulles International Airport, Washington, D.C. 20041 or may also be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 431-2979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified below. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report sumarizing each FAA-public contact concerned with the substance of this proposed will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 83-NM-113-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The Civil Aviation Authority of the United Kingdom (CAA) has classified British Aerospace 125 Service Bulletins 24-239-(2885) and 24-220-(2749) as mandatory. Incidents have been reported where resetting a circuit breaker after an electrical system failure led to rupture of the main electrical bus bar feeder fuses. Service Bulletin 24-239-(2885) prescribes replacement of the two existing 80 amp fuses on 'ZL' panel with 100 amp fuses.

In another incident also related to 'ZL' panel, an aircraft was badly damaged on the ground when a mechanic created a short circuit in the panel. Service Bulletin 24-220-(2749) prescribes the addition of protective covers on 'ZL' panel.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require the actions described above.

It is estimated that 150 U.S. registered airplanes would be affected by this AD, that it would take approximately 6 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Repair parts are estimated at $1000 per airplane. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $186,000. For these reasons, the proposed rule is not considered to be a major rule under the criterial of Executive Order 12291. Few small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

British Aerospace: Applies to all Model DH/HS/BH 125 series airplanes, certificated in all categories, specified in the service bulletins listed below. Compliance is required as indicated. To prevent electrical failures in 'ZL' panel, accomplish the following within the next 60 days after the effective date of this AD unless previously accomplished:

A. Replace the two existing 80 amp fuses on the 'ZL' panel with 100 amp fuses in accordance with the Accomplishment Instructions of British Aerospace 125 Aircraft Service Bulletin 24-239-(2885), dated March 17, 1983.

B. Install covers on the 'ZL' panel in accordance with Accomplishment Instructions of British Aerospace 125 Aircraft Service Bulletin 24-220-(2749), Revision 3, dated March 3, 1983.

C. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

(Sec. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington on December 22, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 84-60 Filed 1-3-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-NM-112-AD]

Airworthiness Directives; Airbus Industrie Model A300 Series B2 and B4 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes an airworthiness directive (AD) that would require repetitive inspections of the aft bulkhead of the Airbus Model A300 airplanes for cracks and repairs, as necessary. Further, it would require reinforcement of the bulkhead after a certain number of landings. This action is necessary because cracks developed in the aft bulkhead of the test airplane after the equivalent of 50,000 landings. These actions are needed to ensure bulkhead integrity and prevent possible loss of pressurization.

DATES: Comments must be received no later than February 20, 1984.

ADDRESSES: The applicable service information may be obtained from Airbus Industrie, Airbus Support

Division, Avenue Didier Daurat, 31700 Blagnac, France or may also be examined at the address shown below.

Send comments to: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

FOR FURTHER INFORMATION CONTACT:

Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM–150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 431–2979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communication should identify the regulatory docket number and be submitted in duplicate to the address specified below. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitted a request to the FAA, Northwest Mountain Region, Office of the Regional Cousel, Attention: Airworthiness Rules Docket No. 83–NM–112–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

The Direction General De l'Aviation Civile (DGAC), which is the French Civil Aviation Authority, has issued an AD mandating compliance with Airbus Industrie Service Bulletins A300–53–152, A300–53–121, and A300–53–122.

During fatigue tests done by the manufacturer, cracks developed in the aft bulkhead after the equivalent of 50,000 landings. A scatter factor was used to establish a conservative life limit for the structure. Once the life limit has been reached, reinforcing modifications must be incorporated to ensure the structural integrity of the bulkhead.

The service bulletins prescribe inspections; repairs, if necessary; and reinforcing modifications.

This airplane model is manufactured in France and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require the actions described in the service bulletins.

It is estimated that nine U.S. registered airplanes would be affected by this AD, that it would take approximately 665 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Repair parts are estimated at $4,000 per airplane. Based on these figures, the total cost impact of this AD to the sole U.S. operator is estimated to be $275,400. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. No small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

Airbus Industrie: Applies to all Model A300 Series B2 and B4 airplanes, certificated in all categories, whose serial numbers are listed in Airbus Industrie Service Bulletin A300–53–152. To ensure aft bulkhead integrity and prevent loss of cabin pressurization, accomplish the following, unless previously accomplished:

A. Inspect the aft bulkhead and repair, as necessary, in accordance with the Accomplishment Instructions of Service Bulletin A300–53–152, Revision 1, dated January 30, 1981, within 120 days after the effective date of this AD or upon reaching the landing threshold specified in the service bulletin, whichever occurs later.

B. Incorporate Airbus Industrie modifications 2476/D1842 and 2476/D1869 described respectively in Airbus Industrie Service Bulletins A300–53–121, Revision 3, and A300–53–122, Revision 2, both dated January 30, 1981, prior to the accumulation of 17,000 landings or within 12 months after the effective date of this AD, whichever occurs later.

C. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

(Sec. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because no small entities operate model A300 airplanes. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington on December 22, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 84–58 Filed 1–3–84; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 83–NM–114–AD]

Airworthiness Directives; Short Brothers Limited Model SD3–30 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes an airworthiness directive (AD) that would require inspection of structural and system components on certain Shorts SD3–30 series airplanes and modification or repair, as necessary, to correct unsafe conditions which may exist. This action is necessary to preserve the structural integrity of the wing and horizontal stabilizer; to prevent fuel leaks into the cabin; to ensure adequate fire protection for the aft baggage compartment; and to prevent attempted operations with the control surfaces locked.

DATES: Comments must be received no later than February 20, 1984.

ADDRESSES: The applicable service information may be obtained from

Shorts Aircraft, 1725 Jefferson Davis Highway, Suite 510, Arlington, Virginia 22202 or may be examined at the address shown below.

Send comments to: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

FOR FURTHER INFORMATION CONTACT:
Mr. Harold N. Wantiez, Foreign Aircraft Certification Branch, ANM–150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 431–2977. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified below. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 83–NM–114–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

The United Kingdom Civil Aviation Authority (CAA) has, in accordance with existing provisions of a bilateral agreement, notified the FAA of a number of unsafe conditions that may exist on Shorts SD3–30 airplanes. These may be corrected by incorporating eight (8) separate mandatory service bulletins. The unsafe conditions and corrective actions are described as follows:

A. The amount of fire extinguishing agent available to extinguish a fire in the aft baggage compartment may not be adequate because the compartment is not sealed. A new closing panel is installed which seals the compartment. (Reference Short Brothers Ltd. Service Bulletin SD3–25–30.)

B. Fuel leakage into the cabin can occur if there is spillage during refueling. Inspections of the fuselage crown skins are required and repairs or additional sealing must be accomplished where necessary. (Reference Short Brothers Ltd. Service Bulletins SD3–53–01 R2, SD3–53–18, and SD3–53–41.)

C. The bottom flanges of the wing drag links were notched to clear the aft attachment bracket. A fatigue crack could form in the drag link if a sharp corner was left in the web which would compromise the strength of the wing attachment. Inspections and modifications/replacement are required. (Reference Short Brothers Ltd. Service Bulletin SD 3–53–48 R1.)

D. Corrosion and/or wear has occurred on the horizontal stabilizer-to-fuselage attachment pins and bushings which, if allowed to increase, could compromise the strength of the stabilizer/fuselage assembly. An inspection of the lugs, bushings, and pins is required and replacement is necessary if the are worn beyond acceptable limits. (Reference Short Brothers Ltd. Service Bulletin SD3–55–16 R2).

E. Cracks have been found in the rib/skin attachment cleats at the left wing upper surface which, if allowed to grow, could compromise the structural capability of the wing. Inspections and repairs, where necessary, are required. (Reference Short Brothers Ltd. Service Bulletin SD3–57–10 R1.)

F. The existing gust lock/power control interlock system allows excessively high power selections to be made with the flight controls locked. The power control circuit must be modified so that only limited power is available when the flight control gust locks are engaged in order to prevent takeoff with locked controls. (Reference Short Brothers Ltd. Service Bulletin SD3–76–01.)

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require the incorporation of the previously mentioned corrective actions.

It is estimated that approximately 50 airplanes would be affected by this AD, that it would take approxmately 180 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Repair parts are estimated at $3000 per airplane. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $510,000. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. Few small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

Short Brothers Limited: Applies to Model SD3–30 airplanes as indicated in the applicability statement of each service bulletin listed below. Compliance is required within the time interval specified in each of the following paragraphs unless already accomplished:

A. To ensure the availability of adequate concentration of fire extinguishing agent in the event of a baggage compartment fire, within 180 days after the effective date of this AD, install a new closing panel in the aft baggage compartment in accordance with Short Brothers Ltd. Service Bulletin SD3–25–30 dated january 8, 1982.

B. To prevent fuel leakage into the passenger cabin, within 180 days after the effective date of this AD, inspect and seal the fuselage crown in accordance with Short Brothers Ltd. Service Bulletin SD3–53–01 R2 dated January 19, 1977, SD3–53–18 dated November 25, 1977, and SD3–53–41 dated May 21, 1980.

C. To prevent fatigue failure of the wing drag links, within 600 hours time in service after the effective date of this AD or upon the accumulation of 4800 total hours time in service, whichever occurs later, inspect and modify in accordance with Short Brothers Ltd. Service Bulletin SD3–53–48 R1 dated January 5, 1983. Replace damaged parts per the service bulletin.

D. To detect excessive corrosion or wear in the stabilizer/fuselage attach pins, within the next 600 hours time in service after the effective date of this AD or upon the accumulation of 4800 total hours time in service, whichever occurs later, inspect in accordance with Short Brothers Ltd. Service Bulletin SD3–55–16 R2 dated June 24, 1982. Replace damaged parts per the service bulletin.

E. To detect cracked or broken rib/skin attachment cleats at left wing station 160,

within 300 hours time in service after the effective date of this AD or upon the accumulation of 4800 hours total time in service, whichever occur later, inspect in accordance with Short Brothers Ltd. Service Bulletin SD3–57–10 R1 dated October 11, 1982. Replace damaged parts as necessary.

F. To prevent takeoff with locked flight controls, within 180 days after the effective date of this AD, modify the power control circuit in accordance with Short Brothers Ltd. Service Bulletin SD3–76–01 dated September 8, 1981.

G. Alternate means of compliance which provide an equavalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

H. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.85)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291, and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issed in Seattle, Washington on December 22, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 84–57 Filed 1–3–84; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 83–AWA–31]

Proposed Alteration of Marshfield, MA, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the description of the Marshfield, MA, Transition Area to provide airspace protection for aircraft utilizing the nondirectional beacon (NDB) approach to Runway 06 at Marshfield Airport, Marshfield, MA. This action would improve air safety by providing controlled airspace for standard instrument approaches to that airport.

DATES: Comments must be received on or before February 14, 1984.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, New England Region, Attention: Manager, Air Traffic Division, Docket No. 83–AWA–31, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (AAT–230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83–AWA–31." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to §71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the description of the Marshfield, MA, Transition Area. The transition area's proposed enlargement is to provide airspace protection for aircraft executing IFR approaches to Runway 06 at Marshfield, MA, Airport. This action provides controlled airspace with a base altitude of 700 feet above the surface for arriving IFR flights. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3A dated January 3, 1983.

ICAO Considerations

As part of this proposal relates to navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of, and Annex 11 to, the Convention on International Civil Aviation, which pertains to the establishment of air navigational facilities and services necessary to promoting the safe, orderly, and expeditous flow of civil air traffic. Their purpose is to ensure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of

undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator is consulting with the Secretary of State and the Secretary of Defense on accordance with the provisions of Executive Order 10854.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

The Proposed Amendment

§ 71.181 [Amended]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Marshfield, MA [Amended]

By deleting all the words after "Marshfield, MA;" and substituting the words "and within 5 miles on each side of the 224° bearing from the Marshfield NDB (lat. 42°05'52" N., long. 70°40'33" W.) extending from the NDB to 11.5 miles southwest, excluding the portion within the Boston, MA, and Plymouth, MA, Transition Areas."

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); Executive Order 10854 (24 FR 9565) (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on December 21, 1983.

B. Keith Potts,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 84-54 Filed 1-3-84; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

Office of the Secretary

15 CFR Part 17

Appeal Procedures Related to Licensing of Patents Under the Jurisdiction of the Department of Commerce

AGENCY: Office of the Secretary, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: This new subpart sets forth proposed appellate procedures for patent licensing in the Department of Commerce. This regulation implements Pub. L. 96-517, The Patent and Trademark Amendments of 1980, and the General Services Administration Regulation in 41 CFR Part 101-4 dealing with federally owned inventions in the control of Federal agencies with the exception of the Tennessee Valley Authority. This subpart describes the terms, conditions and procedures under which a party may appeal from a decision of the Director of the National Technical Information Service concerning the grant, denial, interpretation, modification or termination of a license of any patent in the custody of the Department of Commerce.

DATE: Comments should be received no later than February 3, 1984.

ADDRESS: All comments should be directed to: Robert B. Ellert, Assistant General Counsel for Economic Affairs, Room 4610, U.S. Department of Commerce, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Michael R. Rubin, 202-377-5394.

SUPPLEMENTARY INFORMATION: The Secretary of Commerce has delegated the responsibility of rendering decisions concerning the licensing of Department patents to the Director of the National Technical Information Service (NTIS). This proposed rule deals with appeals to the Assistant Secretary from that Director's determinations pursuant to 41 CFR Part 101-4.

List of Subjects in 15 CFR Part 17

Inventions and patents, Appeal procedures.

PART 17—[AMENDED]

Subpart C is added to 15 CFR Part 17 as follows:

Subpart C—Appeal Procedures for Licensing Department of Commerce Patents

Sec.
17.21 Purpose.
17.22 Definitions.
17.23 Authority to grant licenses.
17.24 Persons who may appeal.
17.25 Procedures.
17.26 Adjudicatory.

Authority: 40 U.S.C. 486(c).

Subpart C—Appeal Procedures for Licensing Department of Commerce Patents

§ 17.21 Purpose.

This subpart describes the terms, conditions and procedures under which a party may appeal from a decision of the Director of the National Technical Information Service concerning the grant, denial, interpretation, modification or termination of a license of any patent in the custody of the Department of Commerce.

§ 17.22 Definitions.

(a) 41 CFR Part 101-4 shall mean the General Services Administration Final Rule concerning "Patents: Licensing of Federally Owned Inventions" which was originally published in the **Federal Register**, Vol. 47, No. 152, Friday, August 6, 1982 at pages 34148 through 34151.

(b) Director shall mean the Director of the National Technical Information Service, an operating agency within the U.S. Department of Commerce.

(c) Assistant Secretary means the Assistant Secretary for Productivity, Technology and Innovation who is an officer appointed by the President and confirmed by the Senate and is an official to whom the Director reports within the Department of Commerce.

§ 17.23 Authority to grant licenses.

The Director has been duly delegated authority to make any decision or determination concerning the granting, denial, interpretation, modification or termination of any license of any patent in the custody and control of the U.S Department of Commerce. The decision and determination of the Director is final and conclusive on behalf of this Department unless the procedures for appeal set forth below are initiated.

§ 17.24 Persons who may appeal.

The following person(s) may appeal to the Assistant Secretary any decision or determination concerning the grant,

denial, interpretation, modification or termination of a license:

(a) A person whose application of the license has been denied;

(b) A licensee whose license has been modified or terminated in whole or in part; or

(c) A person who has timely filed a written objection in response to the notice published in the **Federal Register** as required by 41 CFR 101–4.104–3(a)(1)(c)(1) or 101–4.104–3(b)(1)(i) and who can demonstrate to the satisfaction of the Assistant Secretary that such person may be damaged by the Director's determination.

§ 17.25 Procedures.

(a) Any appellant party(ies) who was denied a license by the Director under § 17.24(a) above shall not be entitled to an adversary hearing. Such party(ies) shall file appropriate documents no later than 30 days from the receipt of the Director's decision unless the Assistant Secretary grants for good cause an extension of time. The notice, in concise and brief terms, should state the grounds for appeal and include copies of all pertinent documents. Accompanying the notice should be concise arguments as to why the Director's decision should be rejected or modified.

(b) The Assistant Secretary shall render a written opinion within 30 days of receiving all required documentation in a non-adversary appeal.

(c) Judicial review is available as the law permits.

§ 17.26 Adjudicatory.

(a) Any appellant party who seek review of the Director's decision based upon a modification or termination of a license by the Director under § 17.24(b) above, or who has filed a timely objection and can demonstrate damages as provided in § 17.24(c) above, shall be entitled to an adversary hearing in accord with the provisions of the Administrative Procedures Act (5 U.S.C. 554–557). A party may waive an adversary hearing by filing a written waiver with the Assistant Secretary.

(b) When an adversary hearing is required under § 17.24 (b) or (c) the Assistant Secretrary shall appoint as promptly as possible an Administrative Law Judge who shall hold hearings no later than 45 days from the date of the appointment. The hearings will be conducted in conformity with the objectives of the Administrative Procedures Act. The Administrative Law Judge shall submit a written recommendation to the Assistant Secretary no later than 30 days subsequent to the hearing and/or the filing of any required written arguments or documentation.

(c) The Assistant Secretary shall render a final written decision on behalf of the Department based upon the appeal file which shall include the hearing record, exhibits, written submissions of the party(ies), and the recommendation of the Administrative Law Judge. The Assistant Secretary's decision shall include the reasons which form the basis of the determination. The final decision may uphold, overrule, or modify the Director's decision or take any action deemed appropriate.

(d) Judicial review is available as the law permits.

Dated: December 5, 1983.

D. Bruce Merrifield,

Assistant Secretary for Productivity, Technology and Innovation.

[FR Doc. 84–77 Filed 1–3–84; 8:45 am]

BILLING CODE 3510–04–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–20517; File No. S7–1000]

Applicability of Broker-Dealer Registration to Banks

AGENCY: Securities and Exchange Commission.

ACTION: Extension of time for comment.

SUMMARY: The Securities and Exchange Commission announced today that it has extended until February 15, 1984 the date by which comments on Securities Exchange Act Release No. 34–20357 (November 15, 1983) (48 FR 51930) must be submitted. The Commission has received a request that the comment period be extended and believes that an extension of time until February 15, 1984 will be beneficial since it will result in the receipt of additional useful comments. The release originally had a comment period ending on December 30, 1983.

DATE: Comments must be received on or before February 15, 1984.

ADDRESS: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549 (Reference to File No. S7–1000). All comments will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Colleen Curran Harvey, Office of Chief Counsel, Division of Market Regulation (202) 272–2417, or Karen Buck Burgess, Office of Chief Counsel, Division of Market Regulation (202) 272–2848.

SUPPLEMENTARY INFORMATION: In Securities Exchange Act Release No. 34–20357, the Commission published for public comment Rule 3b–9 which provides that, for purposes of the "broker" and "dealer" definitions in Sections 3(a)(4) and (5) of the Securities Exchange Act of 1934, the term "bank"does not include a bank that engages in certain securities activities. Sections 3(a)(4) and (5) provide that the terms "broker" and "dealer" do not include a "bank." Under the proposed rule, a bank could not rely on this exclusion from the difinitions of "broker" and "dealer" when it (i) publicly solicits brokerage business, (ii) receives transaction-related compensation for providing brokerage services for trust, managing agency, or other accounts to which the bank provides advice, or (iii) deals in or underwrites (on either a firm commitment or best efforts basis) securities other than exempted or municipal securities. The proposed rule would require that the activities listed above be performed through a broker-dealer registered with the Commission and subject to the same rules and regulations as all others who engage in such activities.

The Commission has received a request that the comment period be extended. In view of such request and in order to receive the benefit of comments from the greatest number of interested persons, the Commission has extended the comment period for Securities Exchange Act Release No. 34–20357 until February 15, 1984.

By the Commission.
December 28, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–116 Filed 1–3–84; 8:45 am]

BILLING CODE 8010–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 87

[AMS–FRL–2475–1]

Control of Air Pollution From Aircraft and Aircraft Engines; Smoke Emission Standard

AGENCY: Environmental Protection Agency.

ACTION: Proposed denial of petition for reconsideration.

SUMMARY: EPA proposes to deny a petition for reconsideration of the aircraft gas turbine smoke standard submitted by the General Aviation Manufacturers Association (GAMA) on March 17, 1983, and extend the compliance date for specified small engines until one year from the date this proposal is finalized.

DATE: All comments should be submitted by March 5, 1984, or, if a hearing is held, within 30 days after the date of the hearing.

Any person requesting a public hearing on this proposal should submit a request in writing to the information contact identified below no later than January 19, 1984. If a hearing is requested, its date and location will be announced in a subsequent **Federal Register** notice.

ADDRESS: Interested parties may participate in this rulemaking by submitting written comments to the U.S. Environmental Protection Agency, Central Docket Section (A–130), Attn: Docket No. OMSAPC–78–1, 401 M Street, SW, Washington, D.C. 20460. Two copies of comments are requested but not required. The docket may be inspected between 8 a.m. and 4 p.m. on weekdays and a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. George D. Kittredge (ANR–455), U.S. Environmental Protection Agency, at the above address. Telephone: (202) 382–4981.

SUPPLEMENTARY INFORMATION:

I. Background

On December 30, 1982 EPA issued final rules which amended emission standards applicable to aircraft gas turbine engines (47 FR 58462). One change consisted of the adoption by EPA of a smoke standard which had been developed and adopted by the International Civil Aviation Association (ICAO) in June, 1981. The ICAO standard is similar in format to, but slightly less stringent than, that proposed by EPA in the March 24, 1978, Notice of Proposed Rulemaking which preceded the 1982 amendments (43 FR 12614). On March 17, 1983, GAMA submitted a petition for reconsideration of the amended smoke standard asserting that EPA did not consider comments it had submitted during the rulemaking process and that the standard adopted was inequitable as applied to small gas turbine engines. The petition recommended an alternative smoke standard which GAMA believes would eliminate the perceived inequity.

The Garrett Turbine Engine Company, a member of GAMA, also filed a petition for reconsideration of the 1982 amendments in the U.S. Court of Appeals for the District of Columbia Circuit.

In an agreement reached between EPA and Garrett, EPA, on July 18, 1983, proposed to stay the January 1, 1984 date of compliance with the smoke standard for engines rated below 26.7 kilonewtons (kN) thrust, so as to provide time for careful evaluation of the issues raised by the GAMA petition (48 FR 32745). A final stay was published on October 12, 1983 (48 FR 46481).

II. Discussion of Issues

The smoke standard which is the subject of this proposed rulemaking action was originally established on July 17, 1973, as one component of a wide-ranging series of emission standards applicable to almost all categories of civil aircraft (38 FR 19088). The smoke standard took the form of a limiting graph relating engine rated thrust to a measured smoke number which was selected to ensure that engines meeting the standard would be for all practical purposes "smokeless" as perceived by human observers during normal viewing conditions. The standard was necessarily subjective, since human observers vary widely in their abilities to evaluate aircraft smoke and since climatic conditions as well as the direction from which an observer views the aircraft can influence the visibility of the engine exhaust plume. Nevertheless, the 1973 standard was not challenged.

Because of problems in applying the graphical limit to practical enforcement situations, EPA developed a mathematical equation to substitute for the graph and EPA proposed this standard in the form of an equation in its 1978 proposal. The intent was not to alter the stringency of the standard, but only to provide a more precise way of calculating the exact standard applicable to any given engine.

The 1981 ICAO standard subsequently adopted by EPA in 1982 is a similar equation developed independently by the British National Gas Turbine Establishment and recommended to ICAO in May, 1978. While the objective was to match the same 1973 EPA curve, the ICAO equation turned out to be slightly less stringent than the 1978 EPA proposal.

The principal focus of the GAMA petition was an August, 1979 EPA report which attempted to relate the visibility of aircraft engines in flight to the EPA smoke standard, taking advantage of research conducted by the U.S. Air Force. This report is available in the public docket along with the petition itself. The analysis carried out in this report entailed a conversion from engines characterized by exhaust nozzle diameter, which is the Air Force practice, to rated thrust as used by EPA and ICAO. The GAMA petition claimed that the exhaust nozzle diameters attributed to small engines in the report were inaccurate and, because of this, the resultant smoke standard based upon threshold visibility as estimated in the report is excessively stringent. GAMA proposed an alternative standard which it believes would be more equitable. The petition also claims that the 1980 GAMA comments on this point were not responded to in EPA's 1982 rulemaking.

The issues brought up by GAMA have been investigated in a report which supports this proposed rulemaking action and which is available in the public docket for review. The results of this analysis are summarized below:

(1) Neither the EPA rulemaking docket nor any other available documentation shows any evidence that the 1980 GAMA comments were considered during the rulemaking process leading to the 1982 amendments.

(2) The 1979 EPA report which was the subject of the 1980 GAMA comments and 1983 petition used inaccurate engine exhaust nozzle data in attempting to support the 1973 (reproposed in 1978) smoke standards. This inaccuracy extended to engines of all sizes, not just to the small engines identified by GAMA.

(3) The amended EPA standard was not based upon the disputed 1979 report, but rather on the ICAO standard, consistent with a decision to eliminate as many differences as posible between the two sets of standards in the interests of international harmonization.

(4) A review of the available technical literature comparing measured smoke number to smoke plume visibility in flight shows that the amended smoke standard is not inequitable to any class of engines, but rather is a reasonable good compromise between the environmental goal of threshold visibility under all realistic viewing situations and the availability of effective control technology. The errors in the EPA report mentioned above are irrelevant since only the least severe viewing situation was considered in the report.

(5) Only 1 of the 23 engines for which data were available has experienced any difficulty in achieving compliance with the standard.

Two comments were received on the GAMA petition in response to EPA's

notice of proposed rulemaking to stay the smoke standard (48 FR 32745). The Aircraft Owners and Pilots Association stated that standards should be no more stringent than necessary and should be based upon the best available evidence. The above conclusions indicate that the current smoke standard appears to fulfill these two criteria.

Somewhat more extensive comments were received from Garrett, some of which are also responded to in the conclusions of EPA's analysis listed above. Among other things, Garrett commented that the TFE731 series of engines has not been brought into compliance with the standard and that to achieve compliance would require significant additional engine development costs plus potential costs for air frame component redesign.

However, since many other engines have been brought into compliance apparently without excessive costs, based on the information cited above, it does not appear that an industry-wide problem with either costs or availability of technology exists. In this situation, an exemption would be a more appropriate mechanism for dealing with the situation described by Garrett rather than a change to the standard itself. The 1982 amendments provide expanded exemption provisions designed expressly for situations in which isolated compliance problems exist with a standard for which industry as a whole has achieved compliance § 87.7(c)]. The criteria justifying consideration of an exemption include "(1) adverse economic impact on the manufacturer" and "(3) equity in administering the standards among all economically competing parties", either or both of which might apply in the case cited by Garrett if there are unique features about the TFE-731 engine which make compliance more difficult and costly than for other engines.

Moreover, the added time for compliance provided by this proposed rulemaking action and the stay announced on October 12, 1983 will provide temporary relief to Garrett and other GAMA members. EPA believes that revising the standard should be an action of last resort, because the standard in question is an ICAO standard which was accepted by EPA as a step towards international harmonization of aircraft engine emission standards and which has never before been challenged on the basis of cost of compliance.

The inaccuracies in the 1979 EPA report and the failure to acknowledge the GAMA comments on the report are regrettable. Nevertheless, the manufacturers of small engines were not damaged by these errors, since the report was not the basis for selection of the final smoke standard and since subsequent analysis has not shown the standard to be unreasonable.

III. Proposed Action

The evaluation of the GAMA petition does not justify changing the smoke standard, since it has not been shown to be inequitable based upon the information available to EPA reviewers. The single engine type experiencing compliance problems may qualify for exemption under § 87.7(c) of the amended regulations and Garrett is encouraged to pursue its request now pending before the Federal Aviation Administration.

Nevertheless, EPA proposes to extend the compliance date for engines covered by the current stay until one year following the date this proposal is finalized, to provide to those manufacturers who have been awaiting the outcome of this rulemaking action the leadtime they would have had without the stay.

IV. Public Participation

Comments are invited on the proposed action and on the EPA analysis of the GAMA petition. Additional comments on the GAMA petition itself would also be welcomed. Comments should be submitted in writing to the EPA Central Docket Section at the address given earlier.

V. Regulatory Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirements for a Regulatory Analysis. This rulemaking is not major because it will result in annual adverse effects on the economy of less than $100 million. There are no discernible effects on competition, productivity, investment, employment or innovation. For these reasons, EPA has not prepared a formal Regulatory Impact Analysis.

This proposal has been sent to the Office of Management and Budget (OMB) for review pursuant to Executive Order 12291. Any OMB comments and EPA responses thereto have been placed in the docket.

VI. Impacts on Reporting Requirements

There are no reporting requirements directly associated with this proposed rulemaking.

VII. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., EPA is required to determine when a regulation will have a significant effect on a substantial number of small entities so as to require a regulatory flexibility analysis. Because of the limited classes of engines influenced by the proposal, no small entities (as defined by the Small Business Act) will be affected. Therefore, no regulatory flexibility analysis has been prepared.

List of Subjects in CFR Part 87

Air pollution control, Aircraft.

Dated: December 27, 1983.

Alvin L. Alm,

Acting Administrator.

PART 87—[AMENDED]

For the reasons set forth above, EPA proposes that the stay in the effective date of smoke standards applicable to turbojet and turbofan engines rated below 26.7 kN thrust be rescinded, effective (one year after date of publication of the final rule). EPA also proposes that the effective date of standards for these engines in 40 CFR 87.21(e) be amended to (one year after the date of publication of the final rule).

[FR Doc. 84-78 Filed 1-3-84; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 162

[OPP-30061B; FRL 2399-8]

Pesticide Products; Child-Resistant Packaging

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to amend its regulations on the use of child-resistant packaging for pesticide products. The proposed amendment would exempt certain products from the requirement to use child-resistant packaging based on the size of the package in which the product was distributed. The Agency believes that child-resistant packaging is unnecessary for pesticides in certain size packages because the bulk of pesticides purchased in these sizes are used primarily by service personnel, who, although they may use them in residential areas, do not leave them in such areas. This revision could reduce the cost of packaging for producers who market large-size containers to this segment of the pest control user community.

DATE: Written comments on this proposed rule should be submitted on or before March 5, 1984. Identify comments with the notation OPP-30061B.

ADDRESS: Submit written comments to: Program Management and Support Division (TS–757C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. In person, bring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Written comments may be reviewed in Rm. 236, at the address given above.

FOR FURTHER INFORMATION CONTACT: By mail: Jean M. Frane, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 1114, CM#2, 1921 Jefferson Davis Highway, Arlington, VA (703–557–0592).

SUPPLEMENTARY INFORMATION:

I. Background

Under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA or the Act), as amended, EPA has the responsibility for regulating all pesticide products distributed in commerce in the United States. FIFRA sec. 25(c)(3) authorizes the Administrator to establish standards for the packaging of pesticide products and devices to protect children and adults from accidental poisoning. Regulations under this section of the Act were issued by the Agency in the **Federal Register** of March 9, 1979 (44 FR 13022).

The Agency issued a notice clarifying the provisions of the 1979 regulations, which was published in the **Federal Register** of March 3, 1981 (46 FR 15104). That notice provided, among other things, that products, which were otherwise required to be in child-resistant packaging, could be distributed in packaging that was not child-resistant if the label restricted purchase, storage, and use to "servicepersons." The term "serviceperson" was defined to include persons who provide a service of controlling pests without delivering any unapplied pesticide to the person so served. The definition was intended to cover pest control operators, janitors, pool service technicians, nursery and lawn care specialists and similar persons. The notice also indicated that the Agency intended to incorporate the serviceperson exception into its regulations at a future date.

Subsequently, the Agency proposed a revision if its child-resistant packaging regulations, which was published in the **Federal Register** on September 15, 1982 (47 FR 40659), including provisions adopting the serviceperson exception described in the earlier notice. The majority of commenters on the proposal opposed the serviceperson exception or expressed concern about its enforceability under the Act. Based on these comments, the Agency has decided not to adopt the serviceperson exception provisions. Final rules amending the child-resistant packaging regulations, published elsewhere in today's issue of the **Federal Register**, do not contain the proposed serviceperson exception provisions. A discussion of the comments on the serviceperson proposal and the Agency's subsequent decision is included in the preamble to that rule.

II. Purpose of This Proposal

The Agency recognizes that there are certain types of products and uses for which child-resistant packaging is currently required but which pose little hazard to children. Such products are primarily marketed to specialized segments of the residential service industry, and are generally not available to, or not likely to be purchased by, individual consumers. The Agency is interested in limiting the requirements to use child-resistant packaging in a way that excludes this class of products, without reducing the protection afforded children by the use of child-resistant packaging.

EPA believes that its objective can be accomplished by establishing an exemption based on container size for child-resistant packaging. EPA believes that child-resistant packaging should not be required for large size products which are typically purchased by users who would have been characterized as "servicepersons" under its previous policy. These persons buying larger quantities of pesticides are generally in the business of applying pesticides, and thus purchase large sizes for economic resons. Since they provide pest control as a service to other persons, groups, or institutions, they normally do not leave unused pesticide at the site of application. Thus the potential hazard to children because these packages are not child-resistant is minimal.

In addition, residential consumers typically do not require large amounts of pesticides for home or garden use. Pesticides for individual consumer use are, with few exceptions, marketed in small quantities more appropriate for their limited residential use. Large packages marketed to service users are not generally readily available to residential users. Furthermore, the high cost of pesticides should preclude routine purchase of large packages by a residential consumer.

For the above reasons, the Agency concludes that permitting the distribution of pesticides in large packages without child-resistant packaging would not significantly increase the risks to children from exposure to those products.

III. Size Exemption for Child-Resistant Packaging

This proposal would establish a general exemption based on package size. Products distributed or sold in package sizes greater than the sizes listed would be exempt from the child-resistant package requirements. Products distributed or sold in package sizes equal to or less than those proposed would not be so exempted.

Certain types of products, however, are generally available to individual consumers in large packages because they are used in larger quantities even in household situations. Examples are swimming pool chemcials, which are needed on a continuing basis throughout the season. The proposal identifies swimming pool products, and would establish separate limits for that specific product type. If other products are identified as generally available to consumers in large size containers, the list will be modified to establish higher limits for the packaging exemption.

Further, the proposal would reserve to the Agency the right to determine that the exemption based on size would not apply to a particular product. If the Agency were to make this determination, the product(s) to which it applied would have to be marketed in child-resistant packaging notwithstanding the size exemption. This likely would occur because the Agency had reason to believe either that the exempt sizes were generally used by or marketed to consumers for residential use. The Agency's determination could apply to an individual product or to a group of products having common characteristics.

Specifically, the Agency proposes to amend § 162.16(f) of its child-resistant packaging regulations to include a size exemption for both liquid and solid products of various types. The sizes proposed as the limits are based on the best information available to the Agency. They are believed to be those generally marketed to and purchased by the serviceperson industry as opposed to the individual residential user.

The Agency considered proposing a single size cutoff point that would apply to all products, regardless of type. A single size cutoff would be comparable to the interpretation of the Consumer Prouduct Safety Commission (CPSC) in its regulations under the Poison Prevention Packaging Act (PPPA). The CPSC states in 16 CFR 1701.3 that products packaged in containers of five

gallons or more are not deemed to be "household substances," and therefore not subject to the special [child-resistant] packaging requirements of the PPPA, unless the CPSC makes a determination to the contrary with respect to a specific substance.

Because of the range of products regulated under the FIFRA, EPA believes that a single size cutoff would not be suitable. The size of a pesticide product marketed primarily for consumer residential use as opposed to serviceperson use depends on the intended use of the product. Insecticides, rodenticides, herbicides, fungicides, disinfectants and swimming pool chemicals are normally distributed for residential use in packages of different size.

Moreover, the distinct marketing channels normally expected for residential products (such as those regulated by the CPSC) are for pesticides more likely to be blurred by usage and user considerations. Larger sizes may be marketed to individual consumers if the dosage rate is high, the active ingredient concentration is low, or frequent application is needed. On the other hand, servicepersons may purchase smaller containers of a product whose use requires less product per application, or which is more concentrated. Because of the variety of pesticide types, and the greater potential for user "crossover," the Agency believes that a single size limit would not realistically define the residential and serviceperson markets for the purposes of child-resistant packaging requirements. EPA believes that an exemption based on product type would permit the Agency to more accurately delineate the residential and serviceperson markets. This proposal therefore would establish size exemptions according to product type.

The Agency is proposing a set of size limits that it believes represent limits above residential users are unlikely to purchase the product. Child-resistant packaging would be required for products in sizes at or below the specified limits. Packaging in sizes above the specified limits would be exempt from the child-resistant packaging requirements. If a serviceperson chooses to purchase a smaller package, the only consequence would be that he would have to open a child-resistant package in order to use the product. EPA does not view this as an unreasonable burden for servicepersons.

Because data on the marketing of pesticides are not required to be submitted to the Agency, EPA has little information to substantiate that its proposed size limits are those that most accurately reflect the residential and serviceperson markets. The Agency's intention is that products in sizes available for purchase by residential consumers be required to be in child-resistant packaging. EPA has proposed to include products at or below the specified sizes within the requirement for child-resistant packaging. For example, an insecticide or rodenticide in a 5-gallon container would be required to be in child-resistant packaging. Only those above the specified size limits (in the example, greater than 5 gallons) would be exempt. EPA believes that this approach would offer the greatest assurance of protection for children. EPA requests comment on its proposed size limits, in particular on the following questions:

1. Is it sound to conclude that there is little risk to children from the use of a pesticide by servicepersons if the pesticide is not packaged in child-resistant packaging?

2. Are the categories of products sufficiently defined for the purpose of specifying a size limit for that type of product? Are sub-categories, for example, needed to refine the limits?

3. Is it sufficient to specify size cutoffs for liquid and solid products, or should additional product formulation descriptions be added?

4. Do the size limits for the product types identified accurately describe a cutoff such that sizes above the limit are generally available exclusively to servicepersons and those at or below exclusively to residential users? If any should be changed, in what way?

5. Are there product types and/or uses other than those identified for which higher and/or separately defined limits clearly should be established because they are ordinarily marketed to consumers for residential use in sizes larger than that specified for the product category?

6. What, if any, marketing practices should be taken into consideration in defining the categories or limits?

EPA notes that the CPSC provides for non-complying [non-child-resistant] packaging for certain household products under the PPPA. Their provision is intended to aid the elderly and handicapped who may have difficulty in opening child-resistant packaging. In its original promulgation of child-resistant packaging requirements in 1979, EPA did not establish a comparable provision for pesticide products, because, as stated at that time: "The Agency assumed that a person's need for a pesticide is not normally as urgent as for a drug and the person normally could arrange for someone to help him apply the pesticide. . . . [B]ecause less toxic pesticides would be available in non-complying packaging, the Agency believed the elderly and handicapped would not be seriously inconvenienced."

No comments opposing or contradicting this proposal were received by the Agency at that time, and since then the Agency has received only one request (from a pesticide producer) for a consumer non-complying package. The Agency continues to believe that non-complying packaging for the benefit of the elderly and handicapped is not necessary for pesticides, and currently has no plans to incorporate a non-complying package option into pesticide regulations. However, EPA would like additional comment on the matter at this time. The comment would be useful if in the future the Agency considers a noncomplying package option for household pesticides. If it were to do so, the Agency would likely use the CPSC approach as a model, within the framework and limitations of the FIFRA.

IV. Application of the Exemption

The general exemption would be automatically applicable to products subject to child-resistant packaging. Neither an application by the registrant nor approval by the Agency would be required.

The Agency recognizes the pesticide marketing strategies are constantly changing, and that the size limits proposed may not in the future reflect the sizes actually offered in residential and serviceperson channels of trade. For this reason, the Agency would reserve authority to require that a product intended for residential use be distributed in child-resistant packaging, notwithstanding the size exemption that would otherwise apply. This action could be taken on a single product, or applied to a group of products if the Agency discovered that those products were being made readily available to residential users.

V. Labeling of Exempted Products

Because of the inexact nature of the size limits, and the difficulty of addressing the many factors that influence consumer purchase choice, EPA is proposing that products exempted from child-resistant packaging requirements solely because of application of the size exemption be labeled with an advisory statement. This would assure that residential users who sought out a large size package would at least be informed that the package was not child-resistant. The statement would reinforce the existing

admonition to "Keep Out of Reach of Children," but would not replace it.

EPA proposes that language similar to "This package is not child-resistant" be used for this purpose. This statement would not require the user to take any particular action and would not be considered a restriction upon the purchaser. The statement would be required to appear on the front panel of the label in type size at least as large as the "Keep Out of Reach of Children" statement.

VI. Statutory Review

In accordance with FIFRA sec. 25(a), this proposal was submitted to the U.S. Department of Agriculture for comment.

USDA generally supported the proposal to exempt certain package sizes from child-resistant packaging requirements. USDA did, however, suggest that herbicide products be categorized in more detail, with higher limits for products of the "weed-and-feed" variety (mixed with fertilizers) and lower limits for more concentrated products. Since the Agency has specifically requested comment on the questions of appropriate sizes and level of detail of the description of the exempted products, it will consider USDA's comments in conjunction with those received in response to the proposal from other interested parties.

Copies were also supplied to the Committee on Agriculture of the U.S. House of Representatives and the Committee on Agriculture, Forestry, and Nutrition of the U.S. Senate for comment. No comments were received from either Committee.

VII. Regulatory Requirements

A. Executive Order 12291

Under E.O. 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. EPA has determined that this proposal is not a major regulation as defined by E.O. 12291.

This proposal could decrease the costs to pesticide producers to package large-size products intended for the residential service industry. In small packages, child-resistant packaging adds about three cents to the cost of each package. The savings by not having to use child-resistant packaging for large packages should not be less than the cost for small containers.

When promulgated, this proposal would replace a current policy permitting products labeled for serviceperson use only to be excepted from the requirement of child-resistant packaging. To the extent that producers of pesticides in large-size packages avail themselves of the exemption, producers of child-resistant packaging could suffer some losses. This proposal may also have a negative effect on any research and development efforts in the area of large-size child-resistant packaging. Both of these impacts are expected to be negligible, however, since most producers marketing large size packages currently use the serviceperson statement in lieu of child-resistant packaging. Hence few package of the size that would be exempted by the proposal are currently in child-resistant packaging.

This proposed rule was submitted to the Office of Management and Budget (OMB) for review as required by E.O. 12291.

B. Regulatory Flexibility Act

This proposed regulation has been reviewed under the provisions of sec. 3(a) of the Regulatory Flexibility Act and it has been determined that this proposal does not contain provisions which would have a significant adverse impact on a substantial number of small entities. Since this proposal would reduce costs to all pesticide producers, it would be beneficial to small producers. Therefore, I hereby certify that the proposed revisions to 40 CFR 162.16 would not have a significant impact on a substantial number of small entities.

C. Paperwork Reduction Act

This proposal contains no information collection requests. Therefore, the Paperwork Reduction Act does not apply.

(Secs. 3, 25(a)(1) and 25(c)(3), Federal Insecticide, Fungicide, and Rodenticide Act, as amended (Pub. L. 92–516, 92 Stat. 819; 7 U.S.C. 136 through 136y; 1972, 1975, and 1978)

List of Subjects in 40 CFR Part 162

Intergovernmental relations, Labeling, Packaging and containers, Pesticides and pests, Administrative practices and procedures.

Dated: December 21, 1983.

William D. Ruckelshaus,

Administrator.

PART 162—[AMENDED]

Therefore, it is proposed that 40 CFR 162.16 be amended by adding paragraph (f)(5) (i), (ii), and (iii) to read as follows:

§ 162.16 Child-resistant packaging.

* * * * *

(f) * * *

(5) *Exemption based upon package size.* (i) Except as provided in paragraph (f)(5)(ii) of this section, the Agency hereby grants an exemption from the requirements of this section for each product that is distributed or sold in packages having the net contents specified in the following table:

TABLE A—SIZE LIMITS FOR PACKAGES THAT ARE NOT REQUIRED TO BE DISTRIBUTED OR SOLD IN CHILD-RESISTANT PACKAGING

If the product type is:	The following sizes are not required to be distributed or sold in child-resistant packaging if the net contents are measured by:	
	Volume (for liquids, gallons)	Weight (for non-liquids, pounds)
Insecticide	>1	>40
Rodenticide	>1	>40
Herbicide	>5	>75
Fungicide	>5	>75
Antimicrobial (except swimming pool chemicals)	>5	>10
Swimming pool chemicals	>15	>100

(ii) Notwithstanding the general exemption granted by paragraph (f)(5)(i) of this section, the Agency may require that a product packaged in a size exceeding that listed in the table be distributed or sold only in child-resistant packaging if the Agency determines that the product is, or is intended to be, distributed or sold to homeowners or other members of the general public. If the Agency makes such a determination, it will notify the registrant in writing and provide a short statement on the basis of its determination. The registrant will then have 30 days to show in writing why his product should not be in child-resistant packaging. Thereafter the Agency will determine whether to require the product to be distributed only in child-resistant packaging and will so notify the registrant.

(iii) A product that is exempted from the reqirement for child-resistant packaging by the provisions of this paragraph (f)(5), must bear the following statement on the front panel of the label, in capital letters and in type size at least as large as that used for the child hazard warning ("Keep Out of Reach of Children"): "This package is not child-resistant."

* * * * *

[FR Doc. 84-0 Filed 1-3-84; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 180

[PP 2E2605/P320; OPP-FRL-2500-5]

Ethyl 3-Methyl-4-(Methylthio) Phenyl (1-Methylethyl) Phosphoramidate; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for the combined residues of the nematocide ethyl 3-methyl-4-(methylthio) phenyl (1-methylethyl) phosphoramidate and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodity raspberries. The proposed regulation to establish a maximum permissible level for residues of the nematocide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR–4).

DATE: Comments must be received on or before February 3, 1984.

ADDRESS: Written comments by mail to: Program Management and Support Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703–557–1192).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 2E2605 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Stations of Oregon and Washington.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the combined residues of the nematocide ethyl 3-methyl-4-(methylthio) phenyl (1-methylethyl) phosphoramidate and its cholinesterase-inhibiting metabolites ethyl 3-methyl-4-(methylsulfinyl) phenyl (1-methylethyl) phosphoramidate and ethyl 3-methyl-4-(methylsulfonyl) phenyl (1-methylethyl) phosphoramidate in or on the raw agricultural commodity raspberries at 0.1 part per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance were a 2-year dog feeding study with a no-observed effect level (NOEL) of 0.025 mg/kg/day (1.0 ppm); an 18-month mouse oncogenicity study with a NOEL of 7.5 mg/kg/day (50 ppm) and no observed oncogenic effects at all levels tested (2, 10, and 50 ppm); a 2-year rat feeding study with a NOEL for ChE inhibition of 0.15 mg/kg/day (3 ppm); a 3-generation rat reproduction study with a NOEL of 1.5 mg/kg/day (30 ppm); and teratology studies using rates and rabbits with NOEL's of 0.5 mg/kg and 0.3 mg/kg, respectively. An oncogenicity study in a second species (rat) is currently being conducted and is expected to be completed in 1986.

The acceptable daily intake (ADI), based on the 2-year dog feeding study (NOEL of 0.025 mg/kg/day) and using a 10-fold safety factor, is calculated to be 0.0025 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 0.15 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg; daily diet is calculated to be 0.0045 mg/day; the current action will increase the TMRC by 0.00005 mg/day (1.1 percent). Published tolerances utilize 3.01 percent of the ADI; the current action will utilize an additional 0.03 percent.

The nature of the residues is adequately understood and an adequate analytical method, gas-liquid chromatography, is available for enforcement purposes. Raspberries are not considered an animal feed item and, therefore, there is no expectation of secondary residues in meat, milk, poultry, and eggs. There are presently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR 180.349 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 2E2605/P320]. All written comments filed in response to this petition will be available in the Program Management and Support Division at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: December 16, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.349(a) be amended by adding and alphabetically inserting the raw agricultural commodity raspberries to read as follows:

§180.349 Ethyl 3-methyl-4-(methylthio) phenyl (1-methylethyl) phosphoramidate; tolerances for residues.

(a) * * *

Commodities	Parts per million
* * * *	*
Raspberries	0.1
* * * *	*

[FR Doc. 84–7 Filed 1–3–84; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 261

[FRL–2501–1]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of data and request for comment.

SUMMARY: On March 16, 1981, the American Iron and Steel Institute following up on its comments on interim final Agency regulations, submitted a rulemaking petition pursuant to the Resource Conservation and Recovery Act of 1976 (RCRA) requesting an exclusion from the presumption of hazardousness presently contained in the regulations for lime neutralized

waste pickle liquor sludge from all steel finishing operations (formerly EPA Hazardous Waste No. K063). In response to that petition, the Agency has obtained data which will become part of the administrative record for Agency action. EPA is now making this data available for public inspection and comment.

DATE: EPA will accept comments until February 21, 1984.

ADDRESSES: Comments should be sent to Docket Clerk, Office of Solid Waste (WH–562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Comments should identify the docket number "Section 3001—Spent pickle liquor listings." The supporting information is available for inspection and copying in Room S–212, U.S. Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays. Comments will be made available as they are received.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free at 1–800–424–9346 or at (202) 382–3000. For technical information contact Jacqueline W. Sales, Office of Solid Waste (WH–565B), 401 M St., SW., Washington, D.C. 20460, (202) 382–4770.

SUPPLEMENTARY INFORMATION:

I. Background

On May 19, 1980, when EPA promulgated the first phase of the RCRA Subtitle C hazardous waste regulations, the Agency included in its list of hazardous wastes spent pickle liquor from steel finishing operations (EPA Hazardous Waste No. K062) and sludge from lime treatment of spent pickle liquor from steel finishing operations (EPA Hazardous Waste No. K063). The sludge is generated by a well known technique involving lime neutralization, flocculation, clarification, and, in most cases, dewatering of the resultant sludge.

On November 12, 1980, in response to public comment, the Agency removed EPA Hazardous Waste No. K063 from the list and relied on the provisions of 40 CFR 261.3(c)(2) to retain regulatory control over these wastes. This provision states that wastes derived from treating hazardous wastes are presumptively hazardous. In addition, the Agency indicated that it would consider a rulemaking petition to exclude these wastes from RCRA control it the steel finishing industry submitted data which demonstrated that these wastes are non-hazardous.

On March 16, 1981, the American Iron and Steel Institute (AISI), following up on its earlier comments, submitted a rulemaking petition requesting an exclusion of lime neutralized waste pickle liquor sludge (LNWPLS). AISI submitted data showing that lead and hexavalent chromium, the constituents of concern for which the waste is listed, are present in the LNWPLS in essentially an immobile form. EPA has since obtained considerable additional data, both from AISI members and from other sources, which bears on the original waste listing and on AISI's rulemaking petition. We are now seeking comment on this information. This information and comments we receive will form the record for subsequent Agency rulemaking.

II. Availability of Information

The following information is available for public inspection in the EPA RCRA docket:

A. American Iron and Steel Institute Rulemaking Petition

AISI submitted Extraction Procedure (EP) extract data from fourteen steel finishing operations to support their claim that lead is present in lime neutralized waste pickle liquor sludge (LNWPLS) in concentrations well below the maximum EP toxicity limits and hexavalent chromium is well below the proposed EP toxicity limits (see 45 FR 72029–72041, October 30, 1983) demonstrating that they are present in essentially an immobile form (see Table 1).

TABLE 1.—LIME NEUTRALIZED WASTE PICKLE LIQUOR SLUDGE

[EP Extract Values (ppm) [1]]

Facility	Lead	Total chromium	Hexavalent chromium
1 [2]	<0.030	0.19	0.089
2 [2]	[illegible]	0.018	0.008
3	0.0027	0.037	
4 [2]	0.04	0.82	0.16
5 [2]	<0.02	2.07	
6	0.37	0.35	
7	0.15	1.00	
8	0.60	<0.03	
9	0.12	0.024	0.025
10	[illegible]	<0.02	
11 [2]	<0.10	0.05	
12 [2]	0.055	0.076	
13	0.10	<0.02	
14 [2]	0.18	5.10	0.127

[1] These values represent an *average* of all samples analyzed from each facility.
[2] Stainless steel facilities.
Source: AISI rulemaking petition.

B. Data from Site-specific Delisting Petitions

Agency records indicate that approximately 360 steel finishing facilities handle or generate LNWPLS; therefore, the Agency does not view the data submitted in the AISI rulemaking petition (*i.e.*, EP extract data from fourteen facilities) as fully representative of steel finishing industry wastes. The Agency, therefore, reviewed additional data available from site-specific delisting petitions (see Table 2 for data; petitioners names are listed at the end of today's notice). These data appear to support AISI's contention that lead and hexavalent chromium are present in low levels and are substantially immobilized in properly neutralized LNWPLS. (Virtually all of the chromium present in the lime neutralized waste will be in the trivalent state because total chromium is reduced by ferrous ion, a reducing agent present in all spent pickle liquors.)

TABLE 2—IRON AND STEEL INDUSTRY, LIME NEUTRALIZED WASTE PICKLE LIQUOR SLUDGE

[EP Extract values (ppm [1])]

Facility [2]	Lead	Total chromium	Hexavalent chromium
1	0.50	0.10	0.10
2	0.29	0.05	0.05
3	0.80		0.10
4	0.08	0.05	
5	0.45	0.26	
6	0.04		0.07
7	0.30	0.06	0.01
8	0.02	4.73	
9	1.20	0.03	0.02
10	1.00	3.80	0.01
11	0.05		0.22
12	0.17	0.03	0.02
13	0.25	0.02	
14	0.57	15.0	0.03
15	1.00	0.38	0
16	1.36		0.01
17	0.50	0.50	
18	0.147	0.04	
19	0.50	0.10	0.005
20	0.06	0.223	0.022
21	1.70		0.053
22	0.056	0.082	
23	0.19	0.17	
24	0.10	0.03	0.03
25	0.08	0.10	
26	1.00		1.00
27	0.06	0.10	0.50
28	0.02	0.68	0.02
29	0.15		0.45
30	0.01	2.20	0.02
31	0.649		0.058
32	0.12	0.10	
33	0.04	0.40	
34	0.60	0.02	
35	0.42	0.11	
36	0.32	0.11	
37	0.21	0.10	
38	<0.50	0.38	
39	0.10	0.28	
40	0.11	2.70	0.18
41	2.60	0.05	
42	0.17	1.03	<0.02
43	0.03	0.04	

[1] These values represent the *maximum* EP values for all samples analyzed from each facility.
[2] The facility names are listed at the end of today's notice.

C. EPA Studies to Determine Whether Commingling of Spent Pickle Liquor With Non-hazardous Waste May Affect the Treatment Process And Whether Hazardous Constituents Other Than Those For Which Spent Pickle Liquor Was Listed Are Present in the Waste at Levels of Regulatory Concern

In considering the AISI petition, the Agency is concerned that in making such a decision (such as to exclude LNWPLS), a diverse group of persons who treat spent pickle liquor but whose wastes may still be hazardous may be excluded. Our basis for this concern is two-fold; first, we are concerned that if the spent pickle liquor is commingled with non-hazardous waste (such as organic waste streams), commingling could adversely affect the treatment process and increase the leachability of the toxic heavy metals. Steel finishing is practiced by a large diverse group of manufacturers. For example, plants in such standard industrial classes (SIC) as Paints, Varnishes, Lacquers, Enamels (SIC 285), Industrial Organic Chemicals (SIC 286) and Adhesives, Sealants, Printing Ink, Other (SIC 289) treat spent pickle liquor and generate LNWPLS. If the spent pickle liquor were commingled with other wates that are generated by these industries, the Agency believes that the metal leachability could be directly affected. The Agency has data from delisting petitions which indicate that organic-containing wastes may interfere with effective lime neutralization.[1]

Therefore, because commingling of spent pickle liquor with other materials could likewise affect treatability, we are contemplating a rule to exclude only those wastes where we have assurances that the treatment process is controlled to prevent significant interferences. Although the steel industry may mix other waste streams with spent pickle liquor before treatment, there do not appear to be interfering agents, such as organics, in these other waste streams (see EPA Phase I Report for the Spent Pickle Liquor Listing). For example, cold rolling process wastes (oily waste containing organics) are frequently mixed with spent pickle liquor prior to treatment. However, the oily organic containing phase is typically skimmed off prior to lime treatment. Thus, organics are not expected to be present in significant concentrations to interfere with waste treatment, or to be present in LNWPLS. Findings from delisting petitions for LNWPLS from the iron and steel industry appear to indicate that treatment is effective.

Secondly, the Agency is concerned that when spent pickle liquor is commingled with other wastes before treatment there may be hazardous constituents, other than lead and hexavalent chromium, in the LNWPLS at levels of regulatory concern. The Agency has completed the first phase of this study which addresses hazardous constituents present in LNWPLS from the iron and steel industry. We have evaluated raw waste pickle liquor influent typically lime treated by the iron and steel industry. Organic toxicants do not appear to be present in the effluent in significant concentrations (see Development Document for Effluent Limitations Guidelines and Standards for the Iron and Steel Manufacturing Point Source Category, Vol. V). Data indicate, however, that nickel is present in LNWPLS from stainless steel finishing operations. Since nickel is a constituent in the manufacture of stainless steel, the Agency can reasonably expect nickel to be present in the wastes. The Agency is evaluating whether the levels present in these wastes are of regulatory concern. No other toxic metals are present in significant concentrations in the EP extract from LNWPLS (see EPA Stainless Steel Finishing Waste Characterization, May 1982 and Development Document for Effluent Limitations Guidelines and Standards for the Iron and Steel Manufacturing Point Source Category, Vol. VI).

Copies of the following information and studies discussed in this Notice are available for public inspection in the RCRA docket:

1. AISI Rulemaking Petition.
2. EPA, *Stainless Steel Finishing Waste Characterization,* Contract No. 68–01–6467, May 1982.
3. Witmer, Charlotte, *Toxicity of Orally Ingested Nickel Compounds,* September 1982 (report submitted to EPA by the Specialty Steel Industry).
4. EPA, Phase I Report for the Spent Pickle Liquor Listing, Contract No. 68–01–6804, December, 1983.
5. Delisting Verification, Sampling Mission No. 1: Environmental Waste Removal, Inc. Contract No. 68–01–6467, October, 1982.
6. Delisting Verification, Sampling Mission No. 2: Al-Chem Tron, Inc., Contract No. 68–01–6467, October, 1983.
7. EPA, Development Document for Effluent Limitation Guidelines and Standards for the Iron and Steel Manufacturing Point Source Category, Vol. V, EPA 440/1–82/024, May 1982.
8. EPA, Development Document for Effluent Limitation Guidelines and Standards for the Iron and Steel Manufacturing Point Source Category, Vol. VI, EPA 440/1–82/024, May 1982.
9. Letter to Earle Young (AISI) from John Lehman (EPA), July 16, 1981.
10. Letter from Matthew Straus (EPA) to Stephen Schwartz (AISI), October 5, 1981.
11. Letter from John Lehman (EPA) to Stephen Schwartz (AISI), October 27, 1981.
12. Letter from Rita Lavelle (EPA) to Earle Young (AISI), December 27, 1982.
13. Letter to Lee Thomas (EPA) from R. Sarah Compton (Counsel for Specialty Steel Institute), April 21, 1983.
14. Letter to R. Sarah Compton (Counsel for Specialty Steel Institute) from John H. Skinner (EPA), November 9, 1983.
15. Site-Specific Petitions to Delist EPA Hazardous Waste Nos. K062 and K063:

IRON AND STEEL INDUSTRY

Petition No.	Facility
0506	U.S. Steel Corp.
0120	Copperweld Steel Co.
0271	Union Carbide
0027	[illegible] Steel Wire
0228	Carpenter Technology
0014	Johnson Steel & Wire
0475	[illegible] Corp
0097	Allegheny Ludlum.
0099	Keystone Group.
[illegible]	[illegible] Steel Corp.
0106	Jones & Laughlin Steel.
0115	Timken Co.
0423	Quanex Corp.
0117	Trent Tube.
0314	Ohio Steel Tube Co.
0455	Inland Steel/Indiana Harbor Works.
0482	Mid-West Fabricating Co.
0105	Great Lakes Steel.
0298	Ingersoll Johnson Steel Co.
0158	Al Tech Specialty Steel Corp.
0086	Crucible, Inc.
0029	Firestone Steel Products.
0055	ARMCO, Inc.
0063	Keystone Group.
0075	Ohio Steel Tube Co.
0080	Gulf & Western.
0085	ARMCO, Inc.
0094	Allegheny Ludlum.
0106	Allegheny Ludlum.
0110	Allegheny Ludlum.
0134	Empire Detroit Steel Division.
0159	General Cable.
0160	Al Tech Specialty Steel Corp.
0266	General Cable.
0179	Lehigh Lancaster.
0203	Vulcan Rivet & Bolt Corp.
0132	Peerless Chain Co.
0389	[illegible]
0144	Bekaert Steel Wire Corp.
0273	Bethlehem Steel Corp.
0193	Bethlehem Steel Corp.
0043	Plymouth Tube Co.
0089	Triangle PWC.

Other Industries

0191	Leggett & Platt, Inc.
0192	Chemline Corp.
0193	American Nickeloid Co.
0303	Robertson, Inc.
0310	Calvin Ind.
0323	Liquid Dynamics.
0324	National Standard.
0347	General Electric.
0397	Beech Aircraft Corp.
0404	Conversion Systems, Inc.
0424	GMC Harrison Radiator.
0379	Special Metals.
0433	Cleaners Hanger Co.
0451	True Temper Sport, Inc.
0460	Steel Warehouse Co.

[1] For example, as part of its spot check verification program for delisting, the Agency has visited several facilities that treat electroplating wastes and commingle them with other nonhazardous wastes (such as organic waste streams). In reviewing these results, we find that, in most instances, the treated wastes continue to leach high concentrations of toxic metals or actually exhibit the EP toxicity characteristic. The type of treatment used at these facilities is virtually the same as that used in treatment of spent poickle liquor. (See Delisting Verification, Sampling Mission #1 and Sampling Mission #2, October, 1982.)

IRON AND STEEL INDUSTRY—Continued

Petition No.	Facility
0460	MOOG Automotive.
0471	H. H. Robertson Co.
0491	CWM.
0507	Teledyne Monarch Rubber.
0523	All-Brite.
0524	International Galvanizing Co.
0005	Fostoria.
0024	Dresser Industries.
0028	Florida Wire & Cable.
0044	Wiremill Inc.
0048	American Recovery Co.
0051	Maytag.
0059	Chem Met Services.
0068	Carborundum.
0060	Al Chem-Tron, Inc.
0139	Resource Recycle Tech/Industrial.

The Agency requests that all comments be submitted to the RCRA Docket Clerk on or before February 21, 1984.

Dated: December 21, 1983.

Jack McGraw,

Acting Assistant Administrator for Solid Waste.

[FR Doc. 84-16 Filed 1-3-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 799

[OPTS-42028A; FRL 2742-3]

Propylene Oxide; Proposed Test Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In the First Report of the Interagency Testing Committee (ITC), the ITC designated the category of alkyl epoxides for priority consideration for epidemiological studies and testing for carcinogenicity, mutagenicity, teratogenicity, other chronic effects, and environmental fate. This notice addresses one member of the alkyl epoxides category, propylene oxide. Other members of the category will be addressed in other **Federal Register** notices.

Under section 4(a) of the Toxic Substances Control Act (TSCA), EPA today is proposing that manufacturers and processors of propylene oxide test this chemical for teratogenicity. EPA is not proposing epidemiological studies or testing for carcinogenicity, mutagenicity, other chronic effects, or environmental fate at this time.

DATES: Submit written comments on or before March 5, 1984. Make requests to submit oral comments by February 21, 1984. If requests are made to submit oral comments, EPA will hold a public meeting on March 19, 1984 on this rule in Washington, D.C. For further information on arranging to speak at the meeting see Unit X of this preamble.

ADDRESS: Submit written comments in triplicate identified by the document control number (OPTS-42028A) to: TSCA Public Information Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-108, 401 M St. SW., Washington, D.C. 20460.

A public version of the administrative record supporting this action (with any confidential business information deleted) is available for inspection at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Rm. E-543, 401 M St. SW., Washington, D.C. 20460, Toll Free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: (Operator-202-554-1404).

I. Introduction

Section 4(e) of TSCA (Pub. L. 94-469, 90 Stat. 2003 *et seq.*; 15 U.S.C. 2601 *et seq.*) established in Interagency Testing Committee (ITC) to recommend to EPA a list of chemicals to be considered for testing under section 4(a) of the Act.

The ITC designated the alkyl expoxides category for priority consideration in its First Report, submitted to EPA in October 1977, and published in the **Federal Register** of October 12, 1977 (42 FR 55026). The category, as defined by the ITC, includes all non-cyclic aliphatic hydrocarbons with one or more epoxide functional groups. The ITC recommended that the alkyl epoxides category be considered for the following testing: carcinogenicity, mutagenicity, teratogenicity, other chronic effects and environmental fate; it also recommended epidemiological studies. This notice serves as EPA's response to the recommendations of the ITC for one member of the alkyl epoxide category, propylene oxide.

Under section 4(a) of TSCA, the Administrator shall by rule require testing of a chemical substance or mixture to develop appropriate test data if the Agency finds that:

(A) (i) the manufacture, distribution in commerce, processing, use, or disposal of a chemical substance or mixture, or that any combination of such activities, may present an unreasonable risk of injury to health or the environment,

(ii) there are insufficient data and experience upon which the effects of such manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data; or

(B) (i) a chemical substance or mixture is or will be produced in substantial quantities, and (I) it enters or may reasonably be anticipated to enter the environment in substantial quantities or (II) there is or may be significant or substantial human exposure to such substance or mixture.

(ii) there are insufficient data and experience upon which the effects of the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data.

In making section 4(a)(1)(A) findings, EPA considers both exposure and toxicity information to make the finding that the chemical may present an unreasonable risk. For the first finding under section 4(a)(1)(B), EPA considers only production, exposure and release information to determine if there is substantial production and significant or substantial exposure or substantial release. For the second finding under both sections 4(a)(1)(A) and 4(a)(1)(B), EPA examines toxicity and fate studies to determine if existing information is adequate to reasonably determine or predict the effects of human exposure to or environmental release of the chemical. In making the third finding that testing is necessary, EPA considers whether any ongoing testing will satisfy the information needs for the chemical and whether testing which the Agency might require would be capable of developing the necessary information.

EPA's approach to determining when these findings are appropriately made is described in detail in EPA's first and second proposed test rules as published in the **Federal Register** of July 18, 1980 (45 Fr 48528) and June 5, 1981 (46 FR 30300). The section 4(a)(1)(A) finding is discussed in 45 FR 48528 and the section 4(a)(1)(B) finding is discussed in 46 FR 30300.

In evaluating the ITC's testing recommendations for propylene oxide, EPA considered all available relevant information including the following: information presented in the ITC's report recommending testing consideration; production volume, use, exposure, and release information reported by manufacturers of propylene oxide under the TSCA section 8(a) Preliminary Assessment Information Rule (40 CFR Part 712); unpublished health and safety studies submitted by manufacturers and processors of propylene oxide under the TSCA section

8(d) Health and Safety Data Reporting Rule (40 CFR Part 716); and other published and unpublished data available to the Agency.

II. Proposed Rule

On the basis of its evaluation, as described in this proposed rule and the technical support document, EPA is proposing teratogenicity testing for propylene oxide on the authority of sections 4(a)(1)(A) and 4(a)(1)(B) of TSCA.

A. Profile

Propylene oxide (CAS No. 75-56-9) is a colorless liquid that has an ether-like odor and is extremely flammable. It has a boiling point of 34.23°C (Ref. 1) and a density of 0.859 g/ml at 0°C (Ref. 1). Its solubility in water is 405,000 ppm at 20°C (Ref. 1).

In 1980, domestic production of propylene oxide totaled 1.77 billion pounds. Propylene oxide is currently produced by two firms—Dow and ARCO Chemical Companies—at four sites in the United States. Dow uses the chlorohydrin process at its propylene oxide plants; ARCO uses the peroxidation process. Each process accounts for about 50 percent of total U.S. capacity. Propylene oxide's major use is as a chemical intermediate. It is also used as a stabilizer in dichloromethane. In 1977, there were 32 processors of propylene oxide (Ref. 2). For a more detailed discussion of production, uses and exposure of propylene oxide, see the propylene oxide support document available from the TSCA Assistance Office.

B. Findings

EPA is basing its proposed testing on the authority of sections 4(a)(1)(A) and 4(a)(1)(B) of TSCA.

1. The 4(a)(1)(A) findings for teratogenic effects are as follows:

a. EPA finds that the manufacture, processing, and use of propylene oxide may present an unreasonable risk of injury to human health due to teratogenic effects because (a) available animal studies suggest that propylene oxide has a teratogenic potential and (b) in excess of 40,000 individuals are potentially exposed to propylene oxide as a result of its manufacture, processing, and use.

b. EPA also finds that there are insufficient animal and human data to reasonably determine or predict the teratogenic effects of propylene oxide. The finding of "may present an unreasonable risk" of teratogenic effects is based on a NIOSH inhalation teratology study (Ref. 3). Rats and rabbits were exposed to a single concentration of 300 ppm propylene oxide. Neither developmental toxicity nor maternal toxicity was observed in rabbits exposed to 300 ppm. However, developmental and maternal toxicity were observed among female rats and their pups exposed to 300 ppm propylene oxide. A no-effect level for developmental toxicity in the rat could not be determined and one can not determine if the developmental toxicity observed in the study can be attributed entirely to maternal toxicity.

c. EPA finds that additional teratogenicity testing of propylene oxide is necessary to develop additional data to evaluate reasonably the teratogenic risks posed by exposure to propylene oxide.

2. The 4(a)(1)(B) findings for teratogenic effects are as follows:

a. There are substantial amounts of propylene oxide produced in or imported into the United States each year. The annual U.S. production volume of propylene oxide is estimated to be approximately 1.8 billion pounds, with another 90 million pounds imported into the United States each year.

b. Estimates indicate that over 40,000 people may be exposed to propylene oxide each year via manufacturing, processing, and use activities.

c. EPA finds that there are insufficient data from the NIOSH teratology study (Ref. 3) from which to reasonably determine or predict the teratogenic effect from exposure to propylene oxide, and that additional testing of propylene oxide for teratogenicity is necessary to develop such data.

On the basis of these findings, the Agency is proposing a teratogenicity test in rats on propylene oxide.

The Agency is not proposing the other tests which the ITC recommended at this time. Data from several recently completed oncogenicity studies should be sufficient to make a reasonable determination of the carcinogenicity of propylene oxide. A decision for additional mutagenicity testing on propylene oxide will be postponed until the results of a number of mutagenicity tests in progress on ethylene oxide are analyzed by the Agency (ethylene oxide, a member of the alkyl epoxides category, consistently has shown greater activity in mutagenesis assays and has tested positive in more mutagenesis assays than propylene oxide). EPA believes that the data from ongoing mutagenicity testing on ethylene oxide, along with available mutagenicity data on propylene oxide, should be used to determine what, if any, further mutagenicity testing on propylene oxide may be appropriate. Inhalation mutagenicity testing in progress on ethylene oxide includes: (1) Alkylation in *Drosophila* sperm cells; (2) alkylation in mouse sperm cells; (3) mouse specific locus test; (4) biochemical specific locus test in mice; and (5) heritable translocation test in mice. After the data from the ongoing ethylene oxide mutagenicity testing and existing propylene oxide mutagenicity data are analyzed by the Agency, the Agency will consider: (1) whether a mouse specific locus test or other additional mutagenicity testing on propylene oxide is necessary or (2) whether ethylene oxide mutagenicity data will provide a sufficient basis for mutagenicity risk assessment for propylene oxide without further testing of propylene oxide for this effect. In making its analysis, EPA will take into account available data on other effects that may provide sufficient basis for regulation. The Agency is interested in public comment on the various aspects of assessing mutagenicity testing needs for propylene oxide. Because Dow and ARCO are performing reproductive and neurotoxic effects testing, EPA is not proposing testing for these two effects at this time. Data from these studies should be sufficient to make a reasonable determination of the reproductive and neurotoxic effects (including behavioral changes) of propylene oxide. EPA is not proposing an epidemiological study at this time. When the Agency has evaluated the results of all the oncogenicity studies on propylene oxide, it will determine whether an epidemiological study is necessary. In addition, EPA has concluded that available data are sufficient to reasonably predict the environmental fate of propylene oxide.

The analysis on which the above findings are based is presented in the propylene oxide support document, which is available from the TSCA Assistance Office.

C. Test Substance

EPA is proposing that propylene oxide of at least 99.0 percent purity be used as the test substance. Such a grade is readily available commercially.

D. Persons Required to Test

Section 4(b)(3)(B) of TSCA specifies that the activities for which the Administrator makes section 4(a) findings (manufacturing, processing, distribution in commerce, use and/or disposal) determine who bears the responsibility for testing. Manufacturers are required to test if the findings are based on manufacturing ("manufacture" is defined in section 3(7) of TSCA to include "import"). Processors are

required to test if the findings are based on processing. Both manufacturers and processors are required to test if the exposures giving rise to the potential risk occur during use, distribution, or disposal. Because EPA has found that manufacture, processing, and use of propylene oxide give rise to exposures that may lead to an unreasonable risk, EPA is proposing that persons who manufacture or process, or who intend to manufacture or process this chemical at any time from the effective date of this test rule to the end of the reimbursement period, be subject to the rule. The end of the reimbursement period ordinarily will be 5 years after the submission of the last final report required under the final test rule. As discussed in Unit II. F, EPA expects that manufacturers will conduct testing and that processors will ordinarily be exempted from testing.

Because TSCA contains provisions to avoid duplicative testing, not every person subject to this rule must individually conduct testing. Section 4(b)(3)(A) of TSCA provides that EPA may permit two or more manufacturers or processors who are subject to the rule to designate one such person or a qualified third person to conduct the tests and submit data on their behalf. Section 4(c) provides that any person required to test may apply to EPA for an exemption from that requirement.

E. Approach to Adoption of Test Rules

1. *General process.* On March 26, 1982, EPA announced a new approach to adoption of test rules (47 FR 13102). EPA intends to promulgate a general procedural rule in 40 CFR Part 770 which will contain the procedural requirements of this new approach. However, since that procedural rule is not in effect, this proposed rule contains specific procedures for adoption of this test rule. If the general rule is promulgated before this proposed rule becomes final, the propylene oxide rule will be modified to comport with the general procedural provisions.

Under the new approach, test rule development will be a two-phase process. In phase I, EPA will propose that specific testing be required for the chemical. This phase of the rulemaking will allow the public to comment on the decision to require testing and the specific tests required. Phase II begins after promulgation of the phase I rule. In phase II, EPA will receive proposed study plans for the specific tests adopted in the phase I rule. EPA will propose those study plans for public comment. After comment, the Agency will adopt the study plans, as proposed or modified, as specific test standards for the tests required by the phase I rule. Persons who submit the study plans will be obligated to perform the tests in accordance with the test standards adopted.

2. *Letter of intent to test or exemption application.* The proposed rule would require manufacturers and processors of propylene oxide to perform certain tests. Once the rule is in effect (February 3, 1984) each current manufacturer would have 30 days to submit, for each required test, either a letter of intent to perform the test or an application for exemption. Each manufacturer who submitted a letter of intent to perform a specific test would be obligated, first, to submit, within 90 days of the effective date, a proposed study plan for the test and, ultimately, to perform the test.

If manufacturers of propylene oxide performed all the required tests, processors of propylene oxide would not be required to test or to submit exemption applications. EPA would automatically grant them exemptions from the requirements of the rule.

If no manufacturer of propylene oxide submitted a letter of intent to perform a particular test within the 30-day period, EPA would publish a notice in the **Federal Register** to notify all processors of propylene oxide. The notice would state that EPA had not received letters of intent to perform certain tests and that current processors would have 30 days to submit, for each test remaining, either a letter of intent to perform the test or an exemption application for that test. Each processor who submitted a letter of intent to perform a specific test would be obligated, first, to submit, within 90 days of the publication of the **Federal Register** notice, a proposed study plan for the test and, ultimately, to perform the test.

If no manufacturer or processor submitted a letter of intent to perform a particular test, EPA would notify all manufacturers and processors, by letter or through the **Federal Register**, that all exemption applications would be denied and that all manufacturers and processors would be in violation of the rule until a proposed study plan is submitted for the test.

Any person not manufacturing propylene oxide at the time the rule goes into effect, who later begins manufacturing, would be required to submit a letter of intent to test or an exemption application for each required test by the day the person begins manufacture. If EPA has published a notice in the **Federal Register** telling processors to submit letters of intent or exemption applications for certain tests, any person not processing propylene oxide at the time the **Federal Register** notice is published who later begins processing would be required to submit a letter of intent to test or an exemption application for each test specified in the **Federal Register** notice by the day the person begins processing.

3. *Submission and adoption of study plans.* Any manufacturer of propylene oxide who submitted a letter of intent to perform a test would have to submit, within 90 days after the effective date of the rule, a proposed study plan for that test. In the event manufacturers do not submit letters of intent for all the required tests, any processor who submits a letter of intent to perform a specific test would have to submit, within 90 days of the publication of the **Federal Register** notice discussed in Unit II. E., a proposed study-plan for that test. Paragraph (e) of the rule describes the contents of a proposed study plan.

EPA proposed generic test methodology requirements (generic test standards) which were published in the **Federal Register** of May 9, 1979 (44 FR 27334), July 26, 1979 (44 FR 44054), and November 21, 1980 (45 FR 77332). In response to concerns about the rigidity of generic test methodology requirements, EPA has changed its approach for providing test standards for TSCA section 4 test rules. It has issued generic test methodology guidelines to replace the previously proposed generic test methodology requirements. The TSCA guidelines have been published by the National Technical Information Service (NTIS) for health effects (PB 82–232984), environmental effects (PB 82–232992), and chemical fate (PB 82–233008). Good Laboratory Practice (GLP) standards for development of data on health effects of chemical substances under TSCA were proposed in the **Federal Register** of May 9, 1979 (44 FR 27334) and July 26, 1979 (44 FR 44054). GLP standards for development of data on physical and chemical properties, persistence, and ecological effects of chemical substances under TSCA were proposed in the **Federal Register** of November 21, 1980 (45 FR 77353). These GLP standards will be promulgated as generic requirements. The final GLP Standards will apply to the propylene oxide rule.

For guidance in preparing study plans, EPA recommends that test sponsors consult the TSCA Test Guidelines and the TSCA GLP Standards as referenced in Unit II. E.; the Organization for Economic Cooperation and Development's (OECD) Guidelines, as adopted by the OECD Council on May 12, 1981; or the FIFRA Pesticide Assessment Guidelines (PB 83–153916),

published by the National Technical Information Service (see the **Federal Register** of November 24, 1982 (47 FR 53192), for a list of these guidelines).

Failure to submit a study plan would be a violation of the rule.

EPA would review the proposed study plans. If they are incomplete, the manufacturer or processor would be notified of the deficiency and would have 15 days to provide appropriate information to make the plan complete. If the information is not provided in 15 days, the manufacturer or processor would be in violation of the rule. In addition, EPA would return to the appropriate stage of the process and require manufacturers or processors, as appropriate, to submit letters of intent, exemption application, and study plans.

If the proposed study plan is complete, EPA will propose the study plan for public comment. In particular, the comment would focus on whether the study plan will ensure that data from the test will be reliable and adequate. There would be a 45-day comment period and the opportunity to present views orally upon request. After considering the public comment, EPA would adopt the study plan as proposed, or as modified in response to comment, as the test standard for the required test.

The person who submitted the proposed study plan would be required to perform the test according to that standard. Failure to perform the test would be a violation of the rule.

F. Exemptions

EPA's proposed policy on application for exemptions from section 4 testing requirements was published in the **Federal Register** of July 18, 1980 (45 FR 48512). EPA intends to promulgate its final procedures for exemptions in 40 CFR Part 770. The exemption procedures described in Unit II. F. and included in the proposed rule language are consistent with EPA's current thinking on exemption procedures. If the general rule is promulgated before this proposal becomes final, the propylene oxide rule will be modified to comport with the general procedural provisions.

Any manufacturer or processor of propylene oxide would be able to apply for an exemption. Any person who has applied for an exemption would not be in violation of the rule until such time as EPA denies the application.

If manufacturers perform all the required testing, processors would be granted exemptions automatically without having to file applications.

When EPA has received a proposed study plan for a test and has adopted the plan as the test standard, EPA would conditionally grant all exemption applications for that test. If the test sponsor later fails to perform the test, EPA would notify all persons who had submitted exemption applications for that test, that the exemptions would be denied unless within 30 days a manufacturer or processor notified EPA of its intent to perform the test in accordance with the adopted test standards.

EPA is not proposing to require the submission of equivalence data as a condition for exemption from the proposed testing for propylene oxide. As noted in Unit II. C., EPA is interested in evaluating the effects attributable to propylene oxide itself and has specified a relatively pure substance for testing.

G. Reporting Requirements

EPA is proposing that all data developed under this rule be reported in accordance with the final EPA Good Laboratory Practice (GLP) Standards which will appear in 40 CFR Part 792. EPA has reviewed public comments on the proposed GLP Standards and will soon publish final GLP standards. The final GLP standards will apply to this rule.

EPA is required by TSCA section 4(b)(1)(C) to specify the time period during which persons subject to a test rule must submit test data. These deadlines will be established in the phase II rulemaking in which study plans are approved.

TSCA section 14(b)(1)(A)(ii) governs Agency disclosure of all test data submitted pursuant to section 4 of TSCA. Upon receipt of data required by this rule, the Agency will publish a notice of receipt in the **Federal Register** as required by section 4(d).

H. Enforcement Provisions

Section 15(1) of TSCA makes it unlawful for any person to fail or refuse to comply with any rule or order issued under section 4. Section 15(3) of TSCA makes it unlawful for any person to fail or refuse to (1) establish or maintain records, (2) submit reports, notices, or other information, or (3) permit access to or copying of records required by the Act or any regulation or rule issued under TSCA. The Agency considers that failure to comply with any aspect of a section 4 rule or the submission of invalid data would be a violation of section 15 of TSCA.

Additionally, TSCA section 15(4) makes it unlawful for any person to fail or refuse to permit entry or inspection as required by section 11. Section 11 applies to any "establishment, facility, or other premises in which chemical substances or mixtures are manufactured, processed, stored, or held before or after their distribution in commerce. . . ." The Agency considers a testing facility to be a place where the chemical is held or stored, and therefore, subject to inspection. Laboratory audits/inspections will be periodically conducted in accordance with the authority and procedures outlined in TSCA section 11 by authorized representatives of the EPA for the purpose of determining compliance with this rule. These inspections may be conducted for purposes which include verification that testing has begun, that schedules are being met, that reports accurately reflect the underlying raw data and intepretations and evaluations thereof, and that the studies are being conducted according to EPA Good Laboratory Practice Standards and the test standards adopted in the phase II rule.

EPA's authority to inspect a testing facility also derives from section 4(b)(1) of TSCA, which directs EPA to promulgate standards for the development of test data. These standards are defined in section 3(12)(B) of TSCA to include those requirements necessary to assure that data developed under testing rules are reliable and adequate, and such other requirements as are necessary to provide such assurance. The Agency maintains that laboratory inspections are necessary to provide this assurance.

Violators of TSCA are subject to criminal and civil liability. Persons who submit materially misleading or false information in connection with the requirement of any provision of this rule may be subject to penalties which may be calculated as if they had never submitted their data. Under the penalty provision of section 16 of TSCA, any person who violates section 15 could be subject to a civil penalty of up to $25,000 per day for each violation. Each day of operation in violation may constitute a separate violation. This provision would be applicable primarily to manufacturers or processors that fail to submit a letter of intent or an exemption request and that continue manufacturing or processing after the deadlines for such submissions. Knowing or willful violations could lead to the imposition of criminal penalties of up to $25,000 for each day of violation and imprisonment for up to 1 year. In determining the amount of penalty, EPA will take into account the seriousness of the violation and the degree of culpability of the violator as well as all the other factors listed in section 16. Other remedies are available to EPA under section 17 of TSCA, such as seeking an injunction to restrain violations of TSCA section 4.

Individuals, as well as corporations, could be subject to enforcement actions. Sections 15 and 16 of TSCA apply to "any person" who violates various provisions of TSCA. EPA may, at its discretion, proceed against individuals as well as companies themselves. In particular, this includes individuals who report false information or who cause it to be reported. In addition, the submission of false, fictitious, or fraudulent statements is a violation under 18 U.S.C. 1001.

Dow Chemical Company, which is conducting reproductive effects and neurotoxic effects testing on propylene oxide, has agreed to adhere to the proposed TSCA Good Laboratory Practice Standards issued by the Agency and published in the **Federal Register** of May 9, 1979 (44 FR 27334) and Nov. 21, 1980 (45 FR 77332) and has agreed to permit laboratory audits/inspections in accordance with the procedures outlined in TSCA section 11, at the request of authorized representatives of the EPA for the purpose of determining compliance with this agreement. These inspections may be conducted for purposes which include verification that testing has begun, that schedules are being met, that reports accurately reflect the raw data, and that the studies are being conducted with adequate quality assurance procedures.

In addition, Dow has agreed that all raw data, documentation, records, protocols, specimens, and reports generated as a result of a study will be retained as specified in the proposed TSCA Good Laboratory Practice Standards published by the Agency and made available during an inspection or submitted to EPA if requested by EPA or its authorized representative.

Dow has agreed that TSCA section 14(b)(1)(A)(ii) governs Agency disclosure of all test data submitted for these tests.

Dow Chemical Company began the reproductive effects test and neurotoxicity test in March, 1983. The final reports on the 2-generation reproductive test and neurotoxicity test will be submitted in June 1985. Should industry fail to make a good faith effort to adhere to this schedule, EPA may require this testing by rule.

I. Issues

1. EPA considers it appropriate to postpone proposing additional mutagenicity testing on propylene oxide until the results of the ongoing mutagenicity testing on ethylene oxide are submitted to and analyzed by the Agency. Ethylene oxide is a member of the alkyl epoxides category. It has consistently shown greater activity in mutagenicity assays and has tested positive in more mutagenicity assays than propylene oxide. Inhalation mutagenicity testing in progress on ethylene oxide includes: (1) Mouse specific locus test; (2) biochemical specific locus test in mice; (3) heritable translocation test in mice; (4) sperm alkylation in mice; and (5) sperm alkylation in *Drosophila*. EPA believes that the data from ongoing mutagenicity testing on ethylene oxide along with available mutagenicity data on propylene oxide, should be considered in determining what, if any, further mutagenicity testing on propylene oxide may be approriate.

After the data from the ongoing ethylene oxide mutagenicity testing and existing propylene oxide mutagenicity data are analyzed by the Agency, the Agency will consider: (1) Whether a mouse specific locus test or other additional mutagenicity testing on propylene oxide is necessary or (2) whether ethylene oxide mutagenicity data will provide a sufficient basis for mutagenicity risk assessment for propylene oxide without further testing of propylene oxide for this effect. In making its analysis, EPA will take into account available data on other effects that may provide sufficient basis for regulation. The Agency is interested in public comment on the various aspects of assessing mutagenicity testing needs for propylene oxide.

2. Propylene oxide has been found to be oncogenic. (See pages 22–23 of the propylene oxide support document, which is available from the TSCA Assistance Office.) Will control of propylene oxide for its established oncogenicity be sufficient to provide adequate protection against other possible health effects of concern?

III. Economic Analysis of Proposed Rule

To evaluate the potential economic impact of test rules, EPA has adopted a two-stage approach. All candidates for test rules go through a Level I analysis; this analysis consists of evaluating each chemical, or chemical group, on four principal market characteristics: (1) Demand sensitivity, (2) cost characteristics, (3) industry structure, and (4) market expectations. The results of the Level I analysis for propylene oxide, along with a consideration of the cost of the required tests, indicated no significant adverse economic impact exists; therefore, Level II analysis was not needed.

Total teratogenicity testing costs for the proposed rule for propylene oxide are estimated to range from $18,000 to $54,000. The annualized cost range is $4,700 to $14,000 per year based upon the requirement for a teratogenic health effects test.

The potential for adverse economic effects due to this test rule is small. Each of the market characteristics evaluated indicates that the potential for adverse economic impact is low. Furthermore, the additional product costs imposed by the required tests would at most be 0.0007 cents per pound, or between 0.0006 and 0.002 percent of the current price per pound (46.5 cents). This suggests that the economic impact would be minimal.

For a more complete and thorough discussion of the methodology used to conduct the economic analysis of this test rule see *Economic Impact Analysis for Test Rule on Propylene Oxide.* A copy of this document is available in the public record for this rulemaking, docket number [OPTS–42028A].

IV. Availability of Test Facilities and Personnel

Section 4(b)(1) requires EPA to consider "the reasonably foreseeable availability of the facilities and personnel needed to perform the testing required under the rule." Therefore, EPA conducted a study to assess the availability of test facilities and personnel to handle the additional demand for testing services created by section 4 test rules and test programs negotiated with industry in place of rulemaking. Copies of the study, Chemical Testing Industry: Profile of Toxicological Testing, can be obtained through the National Technical Information Service (NTIS), Springfield, Virginia (Publication No. 82–140773).

The conclusions reached in the laboratory availability study were: (1) The chemical testing industry's anticipation of increased testing requirements has prompted the rapid expansion of testing facilities in recent years; (2) currently, excess capacity exists in all major testing areas, and surveyed laboratories indicated they could perform about 20 percent more testing; (3) measurable industry concentration exists, but it is not enough to restrict market entry or control key resources; and (4) currently, capital and professional manpower are the most constraining resources on industry expansion of testing facilities. Capital is understandably a cyclical constraint. The constraint imposed by a shortage of professional personnel can be long-term because of the lengthy period required for professional preparation; however, current personnel numbers appear adequate relative to present testing levels.

On the basis of this study, the Agency believes that there will be available test facilities and personnel to perform the testing required in this proposed rule.

V. Environmental Impact Statement

EPA is not required to prepare Environmental Impact Statements (EIS) under the National Environmental Policy Act (NEPA), 41 U.S.C. 4321, for test rules. EPA has determined that voluntary preparation of an EIS is not appropriate for regulations issued under section 4 of TSCA. See the preamble to the Agency's rules for compliance with NEPA published in the **Federal Register** of November 6, 1979 (44 FR 64174).

VI. Guidelines and Study Plans

The following guidelines and/or study plans cited in this proposed test rulemaking are available from the: National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161 (703–487–4650).

NTIS Publication No.	Title	Price
PB 82–232984	Health Effects Test Guidelines	$40.00
PB 82–233008	Environmental Effects Test Guidelines.	40.00
PB 82–233006	Chemical Fate Test Guidelines	40.00
PB 82–140773	Chemical Testing Industry: Profile of Toxicological Testing.	16.00
PB 83–153916	Pesticide Assessment Guidelines.	11.50

VII. Classification of Rule

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. According to section 1, definition (b) " 'Major rule' means any regulation that is likely to result in: (1) Annual effect on the economy of $100 million or more; (2) A major increase in costs of prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets." This test rule is not major because it does not meet any of the criteria set forth in section 1(b) of the Order. First, the actual annual cost of all the testing proposed for propylene oxide is $4,700–14,000, or less than $54,000 over the testing and reimbursement period. Second, because the cost of the required testing will be distributed over a large production volume, the rule will have only very minor effects on users' prices (less than 0.002 percent) for this chemical, even if all test costs were passed on. Finally, taking into account the nature of the market for this substance, the low level of costs involved, and the expected nature of the mechanisms for sharing the costs of the required testing, EPA concludes that there will be no significant adverse economic effects of any type as a result of this rule.

This proposed regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments received from OMB are included in the Public Record for this rulemaking.

VIII. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA), (15 U.S.C. 601 *et seq.*, Pub. L. 96–354, September 19, 1980), EPA is certifying that this test rule, if promulgated, will not have a significant impact on a substantial number of small business for the following reasons:

1. There are no small manufacturers of this chemical.

2. Small processors will not perform testing themselves, or participate in the organization of the testing efforts.

3. Small processors will experience only very minor costs in securing exemption from testing requirements.

4. Small processors are unlikely to be affected by reimbursement requirements and any testing costs passed on to small processors through price increases will be small.

IX. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* the information provisions in test rules are subject to the OMB review and are not effective until OMB approves them. OMB is currently reviewing information requirements under section 4 test rules. A notice concerning the results of that review will be published in the **Federal Register**.

X. Public Meetings

If persons indicate to EPA that they wish to present comments on this proposed rule to EPA officials who are directly responsibile for developing the rule and supporting analyses, EPA will hold a public meeting on March 19, 1984 in Washington, D.C. This meeting is scheduled after the deadline for submission of written comments, so that issues raised in the written comments can be discussed by EPA and the public commenters. Information on the exact time and place of the meeting will be available from the TSCA Assistance Office. Toll Free: (800–424–9065). In Washington, D.C.: (554–1404). Outside the U.S.A.: (Operator–202–554–1404).

Persons who wish to attend or present comments at the meeting should call the TSCA Assistance Office by February 21, 1984. While the meeting will be open to the public, active participation will be limited to those persons who have arranged to present comments and to designated EPA participants. Attendees should call the TSCA Assistance Office before making travel plans because the meeting will not be held if members of the public do not indicate they wish to make oral comments.

Should a meeting be held, the Agency wil transcribe the meeting and include the written transcript in the public record. Participants are invited, but not required, to submit copies of their statements prior to or on the day of the meeting. All such written materials will become part of EPA's record for this rulemaking.

XI. References

(1) Winholz, M., editor. *The Merck Index*, 9th Ed. Rathway, NJ. Merck and Co., p. 1017. (1976).

(2) SRI, "A Study of Industrial Data on Candidate Chemicals for Testing." Prepared by SRI International, Menlo Park, CA. for the Office of Toxic Substances, U.S. Environmental Protection Agency, Washington, D.C. Contract No. 68–4109 (PB 274–264). (1977).

(3) Hackett, P.L., Brown, M.G., Buschbom, R.L., Clark, M.L., Miller, R.A., Musie, R.L., Rowe, S.E., Schirmer, R.E., and Sikov, M.R., "Teratogenic Study of Ethylene and Propylene Oxide and n-Butyl Acetate." Prepared for the National Institute for Occupational Safety and Health under contract 2311104277 (NIOSH Contract No. 210–80–0013). (1982).

XII. Rulemaking Record

EPA has established a public record for this rulemaking, docket number [OPTS–42028A]. This record includes the basic information considered by the Agency in developing this proposal, and appropriate **Federal Register** notices. The Agency will supplement the record with additional information as it is received.

The Record includes the following information:

(1) **Federal Register** notices pertaining to this rule consisting of:

(a) Notice of proposed rule on propylene oxide

(b) Notice containing the ITC addition of the alkyl epoxides category to the Priority List [42 FR 550928]

(c) Notices relating to EPA's health effects test guidelines and TSCA Good Laboratory Practice Standards [44 FR 27334 and 44 FR 44054]

(d) Notice of proposed rule on exemption policy and procedures

(e) Notice of final rule on reimbursement policy and procedures

(2) Support Documents: consisting of:

(a) Propylene oxide support document

(b) Economic analysis support document

(3) Minutes of informal meetings

(4) Communications before proposal consisting of:

(a) Written public and intra-agency or interagency memoranda and comments

(b) Summaries of telephone conversations

(c) Summaries of meetings

(d) Reports—published and unpublished factual materials, including contractors' reports.

Confidential business information (CBI), while part of the record, is not available for public review. A public version of the record, from which CBI has been deleted, is available for inspection in the OPTS Reading Room, Rm. E-107, 401 M St. SW., Washington, D.C., from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

(Sec. 4, 90 Stat. 2003; (15 U.S.C. 2601))

List of Subjects in 40 CFR Part 799

Testing, Environmental Protection Agency, Environmental protection, Hazardous materials, Chemicals.

Dated: December 23, 1983.

Alvin L. Alm,

Acting Administrator.

PART 799—[AMENDED]

Therefore, it is proposed that a new § 799.3450 be added to Subpart B of proposed Part 799 to read as follows:

§ 799.3450 Propylene Oxide.

(a) *Identification of test substance.* (1) Propylene oxide (CAS No. 75-56-9) shall be tested in accordance with this part.

(2) Propylene oxide of at least 99.0 percent purity shall be used as the test substance.

(b) *Persons required to submit study plans, conduct tests, and submit data.* (1) All persons who manufacture or process propylene oxide from the effective date of this section February 3, 1984 to the end of the reimbursement period shall submit letters of intent to test, exemption applications, and study plans and shall conduct tests and submit data as specified in paragraphs (c), (d), (e), (h), (i), and (j) of this section.

(2) Any person subject to the requirements of this section may apply to EPA for an exemption from study plan submission and testing requirements. Any such application shall be in accordance with paragraph (h) of this section.

(c) *Submission of notice of intent to test or exemption application.* (1) No later than 30 days after the effective date of this section, each person manufacturing propylene oxide as of the effective date of this section must, for each test required by paragraph (i) of this section, either notify EPA by letter of its intent to perform the test or submit an application for an exemption from the study plan submission and testing requirements for the test.

(2) If, by the date specified in paragraph (c)(1) of this section, no manufacturer of propylene oxide has notified EPA of its intent to perform testing for a test required by paragraph (i) of this section, EPA will publish a notice in the Federal Register of this fact specifying the test for which no notice of intent has been submitted. No later than 30 days after publication of such a notice, each person processing propylene oxide as of the [effective date of this rule] must, for each test specified in the Federal Register notice, either notify EPA by letter of its intent to perform the test or submit an application for an exemption from the study plan submission and testing requirements for the test.

(3) Any person not manufacturing propylene oxide as of the effective date of this section who, before the end of the reimbursement period, manufactures propylene oxide must comply with the requirements of paragraphs (c)(1) and (d)(1) of this section. For purposes of this paragraph (c)(3), the manufacturer must submit the notice of intent to test or exemption application required by paragraph (c)(1) of this section by the date manufacture begins and must submit any proposed study plan required by paragraph (d)(1) of this section within 60 days of the date manufacture begins.

(4) If a Federal Register notice has been published under paragraph (c)(2) or (d)(4) of this section, any person not processing propylene oxide as of the effective date of this section who, before the end of the reimbursement period, processes propylene oxide must comply with the requirements of paragraphs (c)(2) and (d)(2) of this section. For purposes of this paragraph, the processor must submit the notion of intent to test or exemption application required by paragraph (c)(2) of this section by the date processing begins and must submit any proposed study plan required by paragraph (d)(2) of this section within 60 days of the date processing begins.

(5) Any manufacturer or processor of propylene oxide, which has notified EPA under paragraphs (c) (1), (2), (3), or (4) of this section of its intent to perform testing for a test required by paragraph (i) of this section, must submit a proposed study plan for the test as required in paragraph (d) of this section and must perform that test in accordance with the test standards in paragraph (j) of this section.

(d) *Submission of proposed study plans.* (1) Manufacturers of propylene oxide which notify EPA under paragraph (c)(1) of this section that they intend to perform a test must submit a proposed study plan for the test in accordance with paragraph (e) of this section no later than 90 days after the effective date of this section. Manufacturers may jointly submit a single proposed study plan if they plan to sponsor or perform the test jointly. Any manufacturer which, having notified EPA of its intent to perform a test, fails to submit a proposed study plan for that test will have been in violation of this section as if no letter of intent to perform the test had been submitted.

(2) Processors of propylene oxide which notify EPA under paragraph (c)(2) of this section that they intend to perform a test must submit a proposed study plan for the test in accordance with paragraph (e) of this section no later than 90 days after the publication of the notice specified in paragraph (c)(2) of this section. Processors may jointly submit a single proposed study plan if they plan to sponsor or perform the test jointly. Any processor which, having notified EPA of its intent to perform a test, fails to submit a proposed study plan for that test will have been in violation of this section as if no letter of intent to perform the test had been submitted.

(3) If EPA determines in accordance with paragraph (f)(1)(i) of this section that a proposed study plan is incomplete and the manufacturer or processor has not, after notice from EPA, submitted appropriate information to make the study plan complete within 15 days, the manufacturer or processor will have been in violation of this section as if no letter of intent to perform the test had been submitted.

(4) If either: (i) By the date specified in paragraph (d)(1) of this section a manufacturer of propylene oxide, which notified EPA of its intent to perform a test, has failed to submit a proposed study plan for that test, or

(ii) A proposed study plan submitted under paragraph (d)(1) of this section has been found to be incomplete under paragraph (f)(1)(i) of this section and the manufacturer has not submitted appropriate information to make the study plan complete within 15 days, EPA will publish a notice in the Federal Register of this fact specifying the test.

The requirements of paragraphs (c)(2) and (d)(2) of this section for processors to submit letters of intent to perform testing, applications for exemption, and proposed study plans will apply.

(5) If either: (i) By the date specified in paragraph (c)(2) of this section no prosessor of propylene oxide has notified EPA of its intent to perform testing for any test identified in a **Federal Register** notice published under paragraphs (c)(2) or (d)(4) of this section, or

(ii) By the date specified in paragraph (d)(2) of this section any processor of propylene oxide, which notified EPA of its intent to perform a test, has failed to submit a proposed study plan for that test, or

(iii) A proposed study plan submitted under paragraph (d)(2) of this section has been found to be incomplete under paragraph (f)(1)(i) of this section and the processor has not submitted appropriate information to make the study plan complete within 15 days, all applications for exemption from the requirements to submit study plans and to perform tests for the specific test involved will automatically be denied. EPA will notify each manufacturer and processor of propylene oxide, which applied for an exemption for the specific test involved, of this automatic denial either by letter or by notice in the **Federal Register**. Each manufacturer or processor of propylene oxide for whom an exemption application has been automatically denied will be in violation of this section 30 days from the time that it receives the notice letter or that the notice is published in the **Federal Register**, whichever comes first. The violation will continue until a manufacturer or processor of propylene oxide submits a proposed study plan for each test involved.

(6) Any manufacturer or processor of propylene oxide may submit a proposed study plan for any test required by this section at any time regardless of whether the manufacturer or processor previously submitted an application for exemption from testing for that test.

(e) *Content of study plans.* (1) All study plans are required to contain the following information:

(i) A citation to this section and the specific test covered by the study plan.

(ii)(A) The names and addresses of the test sponsors.

(B) The names, addresses, and telephone numbers of the responsible administrative officials and project manager(s) in the principal sponsor's organization.

(C) The name, address, and telephone number of the appropriate individual for oral and written communications with EPA.

(D)(*1*) The name and address of the testing facility and the names, addresses, and telephone numbers of the testing facility's administrative officials and project manager(s) responsible for this testing.

(*2*) Brief summaries of the training and experience of each professional involved in the study including study director, veterinarian(s), toxicologist(s), pathologist(s) and pathology assistants.

(iii) Identity and data on the chemical substance being tested, including appropriate physical constants, spectral data, chemical analysis, and stability under test and storage conditions.

(iv) Study protocol, including rationale for: species/strain selection; dose selection (and supporting data); route(s) or method(s) of exposure; a description of diet to be used and its source, including nutrients and contaminants and their concentrations; for *in vitro* test systems, a description of culture medium and its source; and a summary of expected spontaneous chronic diseases (including tumors), genealogy, and life span.

(v) Schedule for initiation and completion of major phases of long-term tests; schedule for submission of interim progress and final reports to EPA.

(2) Information specified under paragraph (e)(1)(ii)(D) of this section is not required in proposed study plans if the information is not available at the time of submission; however, the information must be submitted before the initiation of testing.

(f) *Review and adoption of study plans.* (1) Upon receipt of a proposed study plan, EPA will review the study plan to determine whether it complies with paragraph (e) of this section.

(i) If EPA determines that the proposed study plan does not comply with paragraph (e) of the section, EPA will notify the submitter that the submission is incomplete and will identify the deficiencies and the steps necessary to complete the submission. The submitter will have 15 days from the day it receives this notice to submit appropriate information to make the study plan complete. If the submitter fails to provide appropriate information to complete the study plan within this time, the submitter will have been in violation of this section as if no study plan had been submitted.

(ii) If EPA determines the proposed study plan complies with paragraph (e) of this section, EPA will publish a notice in the **Federal Register** requesting comments on the ability of the study plan to ensure that data from the test will be reliable and adequate. EPA will provide a 45-day comment period and will provide an opportunity for an oral presentation upon request of any person. EPA may extend the comment period if it appears from the nature of the issues raised by EPA's review or from public comments that further comment is warranted.

(2) After receiving and considering public comment, EPA will adopt the study plan, including time deadlines and reporting schedules, as proposed or as modified in response to EPA review and pubic comments, as test standards for the testing of propylene oxide in paragraph (j) of this section.

(g) *Modification of study plans during conduct of study.* (1) *Application.* Any test sponsor who wishes to modify the adopted study plan for any test or study required under this section must submit an application in accordance with this paragraph. Application for modification shall be made in writing to the Chief, Test Rules Development Branch, Office of Toxic Substances, or by phone with written confirmation to follow as soon as feasible. Applications must include appropriate explanation of why the modification is necessary.

(2) *Adoption.* To the extent feasible, EPA will seek public comment on all substantive changes in study plans. EPA will issue a notice in the **Federal Register** requesting comments on requested modifications. However, EPA will act on the requested modification without seeking public comment if either: (i) EPA believes that an immediate modification to a study plan is necessary in order to preserve the accuracy or validity of an ongoing study, or

(ii) EPA determines that a modification clearly does not pose any substantive issues. EPA will notify the sponsor of EPA's approval or disapproval. When EPA approves a modification, it will publish a note in the **Federal Register** indicating that the study plan has been modified.

(h) *Exemption applications.* (1) Any manufacturer or processor of propylene oxide may submit an application to EPA for an exemption from submitting proposed study plans for and from performing any or all of the tests specified in paragraph (i) of this section. The application must include the name and address of the manufacturer or processor and must identify the specific requirements of this section for which the exemption is sought.

(2) No manufacturer or processor of propylene oxide will be in violation of the requirement to perform a specific test under paragraph (i) of this section if it has submitted a timely application for

an exemption for that test and the application has not been denied by EPA.

(3) EPA will conditionally grant any requested exemption for a specific test required by paragraph (i) of this section if EPA has received a complete proposed study plan for that test in accordance with paragraph (e) of this section and has adopted the study plan in accordance with paragraph (f)(2) of this section.

(4) EPA will deny any exemption for a specific test in paragraph (i) of this section if the study sponsor fails to perform the test or to submit data as required in the test standards adopted under paragraph (j) of this section.

(5) If manufacturers of propylene oxide perform all the tests required by paragraph (i) of this section, processors of propylene oxide will automatically be granted an exemption from the study plan submission and testing requirements of this section without the need to file an application for exemption.

(i) *Health effects testing; teratogenicity inhalation toxicity*—(1) *Required testing.* A teratogenicity inhalation toxicity test in rats shall be conducted with propylene oxide.

(2) *Study plans.* For guidance in preparing study plans, the inhalation teratogenicity study design submitted by the Chemical Manufacturing Association (CMA) for inhalation teratology of isophorone in the rat and mouse should be consulted. A copy of this protocol is available in the public record for this rulemaking, docket number [OPTS–42028A].

(j) *Test standards.* (1) Test sponsors and testing facilities must adhere to EPA Good Laboratory Practice Regulations in Part 792 of this chapter.

(k) *Enforcement.* (1) If a manufacturer or processor, which notified EPA under paragraph (c)(1), (2), (3) or (4) of this section of its intent to perform a test required by paragraph (i) of this section, fails to perform the test in accordance with the test standards in paragraph (j) of this section, that failure will be a violation of this section.

(2) EPA will publish a notice in the **Federal Register** to inform all manufacturers and processors that all exemptions for performance of that test will be denied unless within 30 days of the publication of the notice a manufacturer or processor of propylene oxide notifies EPA by letter that it intends to perform that test in accordance with the test standards in paragraph (j) of this section.

(3) Any person who fails or refuses to comply with any aspect of this section is in violation of section 15 of TSCA.

(l) *Availability of study plans.* The various study plans given in this proposed rule are available from the: National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161 (703–487–4650).

[FR Doc. 84–74 Filed 1–3–84; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 799

[OPTS–42048; FRL 2480–4]

Hydroquinone; Proposed Test Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Under section 4(a) of the Toxic Substances Control Act (TSCA), EPA is proposing that manufacturers and processors of hydroquinone perform tests to evaluate hydroquinone's toxicokinetics and tests to evaluate its potential nervous system, reproductive, teratogenic, and mutagenic effects. Epidemiologic studies that evaluate the explicit types and risks of adverse health effects resulting from human exposure to hydroquinone are also proposed. In addition, the Agency is proposing that chemical fate and environmental effects testing be performed. This notice constitutes EPA's response to the Interagency Testing Committee's designation of hydroquinone as a priority candidate for testing.

DATES: Submit written comments on or before March 5, 1984. If persons request an opportunity for oral comment by February 21, 1984, EPA will hold a public meeting on March 19, 1984 on this rule in Washington, D.C. For further information on arranging to speak at the meeting see unit V of this preamble.

ADDRESS: Submit written comments in triplicate to: TSCA Public Information Office (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–108, 401 M St. SW., Washington, D.C. 20460. Include the document control number [OPTS–42048] on all submissions.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Rm. E–543, 401 M St. SW., Washington, D.C. 20460, toll free: (800–424–9065), in Washington, D.C.: (554–1404), outside the USA: (Operator–202–554–1404).

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 4(e) of TSCA (Pub. L. 94–469, 90 Stat. 2003 *et seq.*; 15 U.S.C. 2601 *et seq.*) established an Interagency Testing Committee (ITC) to recommend to EPA a list of chemicals to be considered for testing under section 4(a) of the Act. The ITC may designate substances on the list for priority consideration for requiring testing by EPA.

The ITC designated hydroquinone for priority consideration in its Fifth Report, published in the **Federal Register** on December 7, 1979 (44 FR 70664). The ITC recommended that hydroquinone be considered for testing for carcinogenicity and teratogenicity, and that epidemiology, human metabolism and environmental fate studies also be considered.

The ITC's recommendations were based on the widespread use of the chemical substance by people having little knowledge of its health and environmental effects. The ITC estimated that the U.S. production of hydroquinone in 1977 was about 11 million pounds.

Under section 4(a)(1) of TSCA, EPA must require testing of a chemical substance to develop health or environmental data if the Agency finds that:

(A) (i) the manufacture, distribution in commerce, processing, use, or disposal of a chemical substance or mixture, or that any combination of such activities, may present an unreasonable risk of injury to health or the environment,

(ii) there are insufficient data and experience upon which the effects of such manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data; or

(B) (i) a chemical substance or mixture is or will be produced in substantial quantities, and (I) it enters or may reasonably be anticipated to enter the environment in substantial quantities or (II) there is or may be significant or substantial human exposure to such substance or mixture,

(ii) there are insufficient data and experience upon which the effects of the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data.

EPA uses a weight of evidence approach in making a section 4(a)(1)(A)(i) finding in which both exposure and toxicity information are considered to make the finding that the chemical may present an unreasonable risk. For the finding under section 4(a)(1)(B)(i), EPA considers only production, exposure, and release information to determine if there is or may be substantial production and substantial or significant exposure or substantial release. For the second finding under both sections 4(a)(1)(A)(ii) and 4(a)(1)(B)(ii), EPA examines toxicity and fate studies to determine if existing information is adequate to reasonably determine or predict the effects of human exposure to, or environmental release of, the chemical. In making the third finding, that testing is necessary, EPA considers whether any ongoing testing will satisfy the information needs for the chemical and whether testing which the Agency might require would be capable of developing the necessary information.

EPA's process for determining when these findings apply is described in detail in EPA's first and second proposed test rules. The section 4(a)(1)(A) findings are discussed in the **Federal Register** of July 18, 1980 (45 FR 48528) and June 5, 1981 (46 FR 30300), and the section 4(a)(1)(B) findings are discussed in the **Federal Register** of June 5, 1981 (46 FR 30300).

In evaluating the ITC's testing recommendations for hydroquinone, EPA considered all available relevant information including the following: information presented in the ITC's report recommending testing consideration; production volume, use, exposure, and release information reported by manufacturers of hydroquinone under the TSCA section 8(a) Preliminary Assessment Information Rule (40 CFR Part 712); unpublished health and safety studies submitted by the manufacturers of hydroquinone under the TSCA section 8(d) Health and Safety Data Reporting Rule (40 CFR Part 716); and other published and unpublished data available to the Agency. On the basis of its evaluation as described in this proposed rule and the accompanying technical support document, EPA is proposing limited metabolism (toxicokinetics), nervous system effects, reproductive effects, teratogenicity, and mutagenicity testing requirements, as well as epidemiologic studies, for hydroquinone under section 4(a)(1)(B). The Agency believes that its proposed health effects testing requirements also can be based on section 4(a)(1)(A) of TSCA. EPA is also proposing chemical fate and environmental effects testing requirements for hydroquinone under section 4(a)(1)(A) of TSCA. By these actions, EPA is responding to the ITC's designation of hydroquinone for testing consideration.

II. Proposed Rule

A. Profile

Hydroquinone [$C_6H_4(OH)_2$] CAS No. 123-31-9, is a white crystalline solid at room temperature and is very soluable in water, ethanol, and acetone. It acts chemically as a reducing agent, being oxidized to quinone. Although the EPA Toxic Substances Inventory records that approximately 11 million pounds of hydroquinone were produced in the United States in 1977, data obtained through the Preliminary Assessment Information Rule, issued under section 8(a) of TSCA (47 FR 26992), indicates that the annual production is significantly higher. These 8(a) data have been claimed as confidential business information and aren not cited directly in this document. The annual production of photograde, technical, and other grades of hydroquinone from 1976 to 1980 has been estimated to be as high as 25 to 26 million pounds.

Hydroquinone is used as a photographic developer and as an organic intermediate in the manufacture of dyes and other chemicals. It is used directly as an antioxidant or is processed into derivatives that are used as antioxidants to inhibit the breakdown of nonfood industrial fats, oils, paints, and motor fuels. Hydroquinone is used in dermatologic preparations designed to bleach hyperpigmented skin and as a storage and in-process polymerization inhibitor for vinyl monomers and unsaturated resins.

B. Findings

EPA is basing its proposed hydroquinone health effects testing on the authority of section 4(a)(1) (A) and (B) of TSCA.

1. EPA finds that hydroquinone is manufactured, processed, and used in substantial quantities, and these activities may result in substantial human exposure. Furthermore, EPA finds that there are insufficient data available to reasonably determine or predict either the result of this exposure in the areas of carcinogenic, mutagenic, teratogenic, nervous system, and reproductive health effects or the incidence of hydroquinone-rated effects among humans. Finally, EPA finds that testing of hydroquinone for these health effects and epidemiologic parameters is necessary to develop data needed to evaluate the health risks posed by exposure to hudroquinone.

These findings are based on the following information:

a. There are substantial amounts of hydroquinone produced in the United States each year. The annual U.S. production volume of hydroquinone is estimated to be as high as 26 million pounds.

b. In 1980 the National Institute for Occupational Safety and Health estimated that approximately 470,000 U.S. workers, in 137 occupations, are potentially exposed to hydroquinone annually. Of major concern to the Agency are the estimated 2.2 million photohobbyists who develop their own film and prints, because much of this involves the development of black and

white film which incorporates solutions containing hydroquinone. The Agency believes that both workers and hobbyists will receive inhalation and dermal exposure.

2. In addition, EPA has found that the manufacture, processing and use of hydroquinone may present an unreasonable risk of injury to human health. There is evidence of potential human health risks from nervous system, mutagenic, teratogenic, reproductive, and carcinogenic effects resulting from the manufacture, processing, and use activities associated with hydroquinone; there are existing data to support this belief with respect to these effects. Exposures to hydroquinone are sufficient to result in such effects. The existing data are inadequate to reasonably predict or determine the effects of these exposures to hydroquinone. Testing is necessary for these effects. Therefore, EPA believes that requiring epidemiologic studies and testing of hydroquinone for nervous system effects, mutagenicity, teratogenicity, reproductive effects, and carcinogenicity can also be based upon section 4(a)(1) (A) of TSCA.

EPA is not proposing oncogenicity testing of hydroquinone, since the National Toxicology Program (NTP) is currently conducting a 2-year bioassay on hydroquinone. However, the Agency is proposing limited metabolism (toxicokinetic) studies of hydroquinone via dermal and oral routes of exposure. These studies will provide a reliable means by which the internal dose administered in the NTP bioassay can be related to doses expected to be received by workers and hobbyists.

In addition, the Agency has concluded that the acute toxicity (lethality) and the subchronic toxicity of hydroqinone are adequately characterized, and therefore, no further testing should be required at this time.

The Agency is basing its chemical fate and environmental effects testing on the authority of section 4(a)(1)(A) of TSCA. (1) EPA finds that there is evidence of potential environmental risks to aquatic organisms resulting from the processing and use activities associated with hydroquinone. (2) While there are existing data to support this belief with respect to these effects, the data are inadequate to reasonably predict or determine the effects of these exposures to hydroquinone. (3) Testing is necessary to develop data with respect to these effects.

Although the ITC did not recommend environmental effects testing for hydroquinone, the Agency is concerned with effluents from photoprocessing facilities and is proposing a series of environmental effects tests. Based on existing aquatic toxicity data and the limited data on photoprocessing effluents, the Agency believes that the levels of hydroquinone in these effluents, although not so substantial as to dictate a section 4 (a)(1)(B) finding, may present an unreasonable risk (section 4(a)(1)(A)) to aquatic organisms. Testing is needed to provide data to establish whether an unreasonable risk to freshwater and saltwater aquatic species exists.

The Agency is also proposing chemical fate testing for hydroquinone. EPA believes that this testing is essential, because the existing chemical fate data are limited and more data are needed to assess the magnitude of the possible risks to aquatic organisms. EPA needs information to establish biodegradation rates in order to assess the levels of hydroquinone exposure to aquatic organisms.

EPA does not believe that the rule will result in a loss to society of the benefits of hydroquinone because the Agency's economic evaluation has shown that the economic impact of testing this substance will be minimal.

The analyses on which these findings are based are presented in the Technical Support Document, "Assessment of Testing Needs: Hydroquinone/Quinone," which is available from the TSCA Assistance Office. The ITC recommendations and EPA's proposed testing requirements are summarized in the following Table.

TESTING RECOMMENDATIONS FOR HYDROQUINONE

Effect or study	ITC recommendation	EPA proposal
Mutagenicity	—	X
Carcinogenicity	X	—*
Teratogenicity	X	X
Nervous System Effects	—	X
Reproductive Effects	—	X
Epidemiology	X	X
Metabolism (Toxicokinetics)	X	X
Environmental Fate	X	X
Environmental Effects	—	X

* Not proposed since NTP is conducting a 2-year bioassay.

C. Test Substance

EPA is proposing for the mutagenicity, teratogenicity, reproductive effects, nervous system effects, toxicokinetics, chemical fate, and environmental effects testing that hydroquinone of at least 99 percent purity, available commercially, be used as the test substance. EPA has specified a relatively pure substance for testing because the Agency is interested in evaluating the effects attributed to hydroquinone itself. This requirement would increase the likelihood that any toxic effects observed are related to hydroquinone and not to any impurities.

D. Persons Required to Test

Section 4(b)(3)(B) specifies that the activities for which the Administrator makes section 4(a) findings (manufacture, processing, distribution, use, and/or disposal) determine who bears the responsibility for testing. Manufacturers are required to test if the findings are based on manufacturing ("manufacture" is defined in section 3(7) of TSCA to include "import"). Processors are required to test if the findings are based on processing. Both manufacturers and processors are required to test if the exposures giving rise to the potential risk occur during use, distribution, or disposal. Because EPA has found that the manufacturing, processing, and use of hydroquinone give rise to exposures that may lead to an unreasonable risk, EPA is proposing that persons who manufacture or process, or who intend to manufacture or process hydroquinone at any time from the effective date of this test rule to the end of the reimbursement period be subject to the rule. The end of the reimbursement period ordinarily will be 5 years after the submission of the last final report required under the test rule.

Because TSCA contains provisions to avoid duplicative testing, not every person subject to this rule must individually conduct testing. Section 4(b)(3)(A) of TSCA provides that EPA may permit two or more manufacturers or processors who are subject to the rule to designate one such person or a qualified third person to conduct the tests and submit data on their behalf. Section 4(c) provides that any person required to test may apply to EPA for an exemption from that requirement (as discussed in Unit II.F. below).

E. Approach to Adoption of Test Rules

1. *General Process.* On March 26, 1982, EPA announced a new approach to adoption of test rules (47 FR 13102). EPA intends to promulgate a general procedural rule in 40 CFR Part 770 which will contain the procedural requirements of this new approach. However, since that procedural rule is not in effect, this proposed rule contains specific procedures for adoption of this test rule. If the general rule is promulgated before this proposal becomes final, the hydroquinone rule will be modified to comport with the general procedural provisions.

Under the approach being followed for hydroquinone, test rule development will be a two-phase process. In phase I, EPA will propose that specific testing be

required for hydroquinone. This phase of the rulemaking will allow the public to comment on the decision to require testing and the specific types of tests to be required. Phase II begins after promulgation of the phase I rule. In phase II, EPA will receive proposed study plans for the specific tests adopted in the phase I rule. EPA will propose those study plans for public comment. After comment, the Agency will adopt the study plans, as proposed or modified, as specific test standards for the tests required by the phase I rule. Persons who submit the study plans will be obligated to perform the tests in accordance with the test standards adopted.

2. *Letter of Intent to Test or Exemption Application.* The proposed rule would require manufacturers and processors of hydroquinone to perform certain test sets. (The term "test set" is used because certain mutagenicity tests in the proposal are tiered, and EPA is proposing that the person who tests must perform all the required tests in that tier.) Once the rule is in effect, 30 days after publication in the **Federal Register**, each current manufacturer would have 30 days to submit, for each required test set in paragraphs (j), (k), and (l) of the rule, either a letter of intent to perform the test set or an application for exemption. Each manufacturer who submitted a letter of intent to perform a specific test set would be obligated, first, to submit, within 90 days of the effective date, a proposed study plan for the test set and, ultimately, to perform the testing.

If manufacturers of hydroquinone performed all the required test sets, processors of hydroquinone would not be required to test or to submit exemption applications. EPA would automatically grant them exemptions from the requirements of the rule.

If no manufacturer of hydroquinone submitted a letter of intent to perform a particular test set within the 30-day period, EPA would publish a notice in the **Federal Register** to notify all processors of hydroquinone. The notice would state that EPA had not received letters of intent to perform certain test sets and that current processors would have 30 days to submit, for each test set remaining, either a letter of intent to perform the test or an exemption application for that test set. Each processor who submitted a letter of intent to perform a specific test set would be obligated, first, to submit, within 90 days of the publication of the **Federal Register** notice, a proposed study plan for the test set and, ultimately, to perform the testing.

If no manufacturer or processor submitted a letter of intent to perform a particular test set, EPA would notify all manufacturers and processors, by letter or through the **Federal Register**, that all exemption applications would be denied and that within 30 days all manufacturers and processors would be in violation of the rule until a proposed study plan is submitted for that test set.

Any person not manufacturing hydroquinone at the time the rule goes into effect, who later begins manufacturing before the end of the reimbursement period, would be required to submit a letter of intent to test or an exemption application for each required test set, by the day the person begins manufacture. If EPA has published a notice in the **Federal Register** telling processors to submit letters of intent or exemption applications for certain test sets, any person not processing hydroquinone at the time the rule goes into effect, who later begins processing before the end of the reimbursement period, would be required to submit a letter of intent to test or an exemption application for each test set specified in the **Federal Register** notice by the day the person begins processing.

3. *Submission and Adoption of Study Plans.* Any manufacturer of hydroquinone who submitted a letter of intent to perform a test set would have to submit, within 90 days after the effective date of the rule, a proposed study plan for that test set. In the event manufacturers do not submit letters of intent for all the required test sets, any processor who submits a letter of intent to perform a specific test set would have to submit, within 90 days of the publication of the **Federal Register** notice notifying processors, a proposed study plan for that test set. Paragraph (e) of the rule describes the contents of a proposed study plan.

EPA proposed generic test methodology requirements (generic test standards) in the **Federal Register** of May 9, 1979 (44 FR 27334) July 26, 1979 (44 FR 44054), and November 21, 1980 (45 FR 77332). In response to concerns about the rigidity of generic methodology requirements, EPA has changed its approach for providing test standards for TSCA section 4 test rules. It has issued generic test methodology guidelines to replace the previously proposed generic test methodolgy requirements. The TSCA Guidelines have been published by the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161 (703–487–4650), for health effects (PB 82–232984), chemical fate (PB 82–233008), and environmental effects (PB–82–232992), respectively. Good Laboratory Practice (GLP) standards for development of data on health effects of chemical substances under TSCA were proposed in the **Federal Register** of May 9, 1979 (44 FR 27334) and July 26, 1979 (44 FR 44054), and for chemical fate and environmental effects testing in the **Federal Register** of November 21, 1980 (44 FR 77357). GLP standards for development of data on physical and chemical properties, persistance, and ecological effects of chemical substances under TSCA were proposed in the **Federal Register** of November 21, 1980 (44 FR 77357). These GLP standards will be promulgated as generic requirements. The final TSCA GLP regulations will apply to the hydroquinone test rule.

For guidance in preparing study plans, EPA recommends that test sponsors consult the TSCA Test Guidelines and the TSCA GLP standards as referenced above, the Organization for Economic Cooperation and Development's (OECD) Guidelines, as adopted by the OECD Council on May 12, 1981, or the FIFRA Pesticide Registration Guidelines: Proposed Data Requirements, published by the National Technical Information Service (see the **Federal Register** of November 24, 1982 (47 FR 53192), for a list of these guidelines).

Failure to submit a study plan would be a violation of the rule.

EPA would review the proposed study plans. If they were incomplete, the manufacturer or processor would be notified of the deficiency and would have 15 days to provide appropriate information to make the plan complete. If the information were not provided in 15 days, the manufacturer or processor would be in violation of the rule. In addition, EPA would return to the appropriate stage of the process and require manufacturers or processors, as appropriate, to submit letters of intent, exemption applications, and study plans.

If the proposed study plan were complete, EPA would propose the study plan for public comment. In particular, the request for comments would focus on whether the study plan would ensure that data from the test set would be reliable and adequate. There would be a 45-day comment period and the opportunity to present views orally upon request. After considering the public comment, EPA would adopt the study plan as proposed, or as modified in response to comment, as the test standard for the required test set.

The person who submitted the proposed study plan would be required

to perform the testing according to that standard. Failure to perform the testing would be a violation of the rule.

F. Exemptions

EPA's proposed policy on application for exemptions from section 4 testing requirements was published in the **Federal Register** of July 18, 1980 (45 FR 48512). EPA intends to promulgate its final procedures for exemptions in 40 CFR Part 770. The exemption procedures described below and included in the proposed rule language are consistent with EPA's current thinking on exemption procedures. If the general rule is promulgated before this proposal becomes final, the hydroquinone rule will be modified to comport with the general procedural provisions.

Any manufacturer or processor of hydroquinone would be able to apply for an exemption. Any person who has applied for an exemption would not be in violation of the rule until such time as EPA denies the application.

If manufacturers perform all the required testing, processors would be granted exemptions automatically without having to file applications.

When EPA has received a proposed study plan for a test set and has adopted the plan as the test standard, EPA would conditionally grant all exemption applications for that test set. If the test sponsor later fails to perform the testing, EPA would notify all persons who had submitted exemption applications for that test set that the exemptions would be denied, unless within 30 days a manufacturer or processor notified EPA of its intent to perform the testing in accordance with the adopted test standards.

EPA is not proposing to require the submission of equivalence data as a condition for exemption from the proposed testing for hydroquinone. As noted in Unit II.C., EPA is interested in evaluating the effects attributable to hydroquinone itself and has specified a relatively pure substance for testing.

G. Reporting Requirements

EPA is proposing that all data developed under this rule be reported in accordance with its final GLP Standards, which will appear in 40 CFR Part 792.

EPA is required by TSCA section 4(b)(1)(C) to specify the time period during which persons subject to a test rule must submit test data. These deadlines will be established in the phase II rulemaking in which study plans are approved.

TSCA section 14(b) governs Agency disclosure of all test data submitted pursuant to section 4 of TSCA. Upon receipt of data required by this rule, the Agency will publish a notice of receipt in the **Federal Register** as required by section 4(d).

H. Enforcement Provisions

The Agency considers failure to comply with any aspect of a section 4 rule to be a violation of section 15 of TSCA. Section 15(1) of TSCA makes it unlawful for any person to fail or refuse to comply with any rule or order issued under section 4. Section 15(3) of TSCA makes it unlawful for any person to fail or refuse to (1) establish or maintain records, (2) submit reports, notices, or other information, or (3) permit access to or copying of records required by the Act or any rule issued under TSCA.

Additionally, TSCA section 15(4) makes it unlawful for any person to fail or refuse to permit entry or inspection as required by section 11. Section 11 applies to any "establishment, facility, or other premises in which chemical substances or mixtures are manufactured, processed, stored, or held before or after their distribution in commerce. . . ." The Agency considers a testing facility to be a place where the chemical is held or stored and, therefore, subject to inspection. Laboratory audits/inspections will be conducted periodically in accordance with the authority and procedures outlined in TSCA section 11 by duly designated representatives of EPA for the purpose of determining compliance with any final rule for hydroquinone. These inspections may be conducted for purposes which include verification that testing has begun, that schedules are being met, that reports accurately reflect the underlying raw data and interpretations and evaluations thereof, and that the studies are being conducted according to EPA GLP standards and the protocols established in the phase II rule.

EPA's authority to inspect a testing facility also derives from section 4(b)(1) of TSCA, which directs EPA to promulgate standards for the development of test data. These standards are defined in section 3(12)(B) of TSCA to include those requirements necessary to assure that data developed under testing rules are reliable and adequate, and such other requirements as are necessary to provide such assurance. The Agency maintains that laboratory inspections are necessary to provide this assurance.

Violators of TSCA are subject to criminal and civil liability. Persons who submit materially misleading or false information in connection with the requirement of any provision of this rule may be subject to penalties calculated as if they never submitted their data. Under the penalty provision of section 16 of TSCA, any person who violates section 15 could be subject to a civil penalty of up to $25,000 per day for each violation. Each day of operation in violation may constitute a separate violation. This would be applicable primarily to manufacturers or processors that fail to submit a letter of intent to perform testing or an exemption request, and that continue manufacturing or processing after the deadlines for such submissions. Knowing or willful violations could lead to the imposition of criminal penalties of up to $25,000 for each day of violation and imprisonment for up to one year. Other remedies are available to EPA under sections 7 and 17 of TSCA, such as seeking an injunction to restrain violations of TSCA section 4.

Individuals, as well as corporations, could be subject to enforcement actions. Sections 15 and 16 of TSCA apply to "any person" who violates various provisions of TSCA. EPA may, at its discretion, proceed against individuals as well as companies themselves. In particular, this includes individuals who report false information or who cause it to be reported. In addition, the submission of false, fictitious, or fraudulent statements is a violation under 18 U.S.1001.

I. Issues for Public Comment

1. EPA has proposed only limited metabolism (toxicokinetic) studies via oral and dermal routes of exposure in lieu of full metabolism investigations. Of concern, however, is the presence of unconjugated hydroquinone and unconjugated metabolites in the systemic circulation after penetration through the skin. This is of concern because hydroquinone is a suspected carcinogen, and, at this time, it is assumed that unconjugated rather than conjugated hydroquinone is the carcinogenic agent. The Agency is requesting comments on possible additional study requirements for the skin penetration investigation of hydroquinone. Specifically, it may be useful to ascertain the time-course and distribution of unconjugated hydroquinone after topical application, since hydroquinone reaching the blood via this route may be metabolized differently than that via the oral route.

2. Some xenobiotics are known to penetrate skin more readily after repeated applications. The skin penetrating potential of hydroquinone is unknown, and thus, the possible differences between single and repeated exposures remain obscured. The

Agency, therefore, is requesting comments on whether or not repeated topical exposures during the required toxicokinetic testing may be more definitive as regards the true penetrating potential of hydroquinone.

3. The Agency is concerned with the effect of chronic exposures to hydroquinone on aquatic organisms. Therefore, EPA has proposed a series of acute and chronic tests on aquatic organisms with hydroquinone. The data derived from these tests will be used to determine whether an unreasonable risk exists to aquatic species. Further, if it is determined from these data that hydroquinone poses an unreasonable risk, this universe of data could be used to establish water quality criteria under the Clean Water Act.

However, it is anticipated that chronic testing of hydroquinone on aquatic species may present some technical problems in that it appears difficult to maintain the compound in test systems (see Hydroquinone/Quinone Technical Support Document). The Agency is requesting comments, from a technological standpoint, on the feasibility of conducting these chronic aquatic toxicity studies. If the methods for the chronic studies prove to be unsatisfactory, EPA may require supplemental acute testing of embryo-juvenile life stages of fish and larvae of invertebrates.

4. EPA is proposing two epidemiologic studies to evaluate the magnitude of the potential health risks, identified by the Agency, in individuals exposed to hydroquinone. The Agency is requesting comments on:

a. The suitability of the Agency's selection of endpoints (i.e., ocular lesions; total cancers for one study; total birth defect incidence, spontaneous abortions, and testicular effects for the other study).

b. The Agency's suggestion that the study design specified, which uses cancer as a guide, will also assist in detecting unreasonable risks from other morbid endpoints.

Further, is there enough information regarding human responses to hydroquinone exposure for the Agency to be more explicit in its design requests and still (1) gain information on a variety of endpoints and (2) not restrict the investigations?

5. As indicated in the Technical Support Document for Hydroquinone/Quinone, the Agency believes that the presence of quinone in the environment is primarily a result of the release of hydroquinone which is converted to quinone in the environment. The Agency is proposing environmental effects and chemical fate testing for quinone as well as environmental effects and chemical fate testing for hydroquinone. As proposed, manufacturers and processors of quinone would be responsible for testing quinone for environmental effects, regardless of the fact that most quinone in the environment might result from release of hydroquinone.

Requiring manufacturers and processors of quinone to conduct environmental effects and chemical fate testing of quinone may be inequitable if the quinone in the environment results primarily from hydroquinone manufacture and processing. However, section 4(b)(3)(B) of TSCA specifies that testing must be conducted by "[e]ach person who manufactures or intends to manufacture *such substance*" and "[e]ach person who processes or intends to process *such substance*." EPA believes that this language requires the approach contained in the proposal for quinone testing. However, the Agency is considering requiring the manufacturers and processors of hydroquinone to either conduct or share in the cost of conducting environmental effects and chemical fate testing for quinone. This could be accomplished either by transferring the quinone environmental effects and chemical fate testing requirements to the hydroquinone test rule or by adding manufacturers and processors of hydroquinone to those required to test under the quinone test rule. EPA solicits comments on these alternative approaches to testing quinone for chemical fate and environmental effects.

III. Economic Analysis of Proposed Rule

To assess the potential economic impact of this proposed rule, EPA has prepared a Level I economic analysis that examines the costs of the required testing and analyzes four market characteristics of the chemical substance: (1) Demand sensitivity, (2) cost characteristics, (3) industry structure, and (4) market expectations.

The Level I analysis of hydroquinone, which estimates the total testing costs to range from $682,600 to $1,577,700, indicates that the potential for adverse economic effects due to the estimated testing costs is low. This conclusion is based on the following observations:

1. Stable or moderate market growth is expected for hydroquinone.

2. The relative magnitude of the test cost is minor, i.e., on an annualized unit cost basis, the hydroquinone test costs are estimated to average 0.7 to 1.6 cents per pound. The unit costs represent 0.31 to 0.71 percent of the price of hydroquinone.

3. Because the market for hydroquinone is stable or growing somewhat and demand in its primary uses is inelastic, it appears that the direct cost of testing hydroquinone can be passed on to consumers with little or no economic impact.

Because the Level I analysis indicates very little potential for an adverse economic impact, EPA has determined that a more comprehensive and detailed Level II economic evaluation is not needed for hydroquinone.

IV. Availability of Test Facilities and Personnel

Section 4(b)(1) of TSCA requires EPA to consider "the reasonably foreseeable availability of the facilities and personnel needed to perform the testing required under the rule." Therefore, EPA conducted a study to assess the availability of test facilities and personnel to handle the additional demand for testing services created by section 4 test rules and test programs negotiated with industry in place of rulemaking. Copies of the study, "Chemical Testing Industry: Profile of Toxicological Testing, October, 1981," can be obtained from NTIS, under publication number PB 82-140773.

On the basis of this study, the Agency believes that there will be available resources to perform the testing in this proposed rule.

V. Public Meetings

If persons indicate to EPA that they wish to present comments on this proposed rule to EPA officials who are directly responsible for developing the rule and supporting analyses, EPA will hold a public meeting on March 19, 1984 in Washington, D.C. Persons who wish to present comments at the meeting should call the TSCA Assistance Office (TAO), Toll Free: (800-424-9065). In Washington, D.C.: (554-1404). Outside the U.S.A. (Operator-202-554-1404) by February 21, 1984. The meeting will not be held if members of the public do not indicate they wish to make oral presentations. This meeting is scheduled after the deadline for submission of written comments, so that issues raised in the written comments can be discussed by EPA and the public commenters.

While the meeting will be open to the public, active participation will be limited to those persons who arranged to present comments and to designated EPA participants. Attendees should call the TAO before making travel plans to check whether the meeting will be held.

Should a meeting be held, the Agency will transcribe the meeting and include the written transcript in the public record. Participants are requested, but

not required to submit copies of their statements prior to or on the day of the meeting. All such written materials will become part of EPA's record for this rulemaking.

VI. Rulemaking Record

EPA has established a record for this rulemaking, docket number [OPTS–42048]. This record includes the basic information the Agency considered in developing this proposal, and appropriate **Federal Register** notices. The Agency will supplement the record with additional information as it is received. Confidential business information (CBI), while part of the record, is not available for public review. A public version of the record, from which CBI has been deleted, is available for inspection in the OPTS Reading Room from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays, in Rm. E–107, 401 M St. SW., Washington, D.C.

The record includes the following information:

(1) **Federal Register** notices pertaining to this rule consisting of:

(a) Notice of proposed rulemaking on hydroquinone.

(b) Notice containing the ITC designation of hydroquinone to the Priority List [44 FR 70664, December 7, 1979].

(c) Notices relating to EPA's health effects, chemical fate, and environmental effects test guidelines (44 FR 27334, May 9, 1979; 44 FR 44054, July 26, 1979) and EPA Good Laboratory Practice standards (44 FR 27334 May 9, 1979; 44 FR 44054, July 26, 1979).

(d) Notice of proposed rulemaking on exemption policy and procedures.

(e) Final reimbursement policy and procedures.

(2) Support Documents consisting of:

(a) Hydroquinone/Quinone technical support document.

(b) Economic analysis support decument.

(3) Communications before proposal consisting of:

(a) Written public comments.

(b) Summaries of telephone conversations.

(c) Meeting summaries.

(d) Reports—published and unpublished factual materials, including contractors' reports.

(4) Report—Chemical Testing Industry: Profile of Toxicological Testing. October, 1981.

VII. Classification of Rule

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This test rule is not major because it does not meet any of the criteria set forth in section 1(b) of the Order. First, the actual annual cost of the testing proposed for hydroquinone is less than $408,800 over the testing and reimbursement period. Second, because the cost of the testing will be distributed over a large production volume, the rule will have only very minor effects (annualized unit costs are less than 1.6 cents per pound) on producers' costs or users' prices for this chemical substance. Finally, taking into account the nature of the market for this substance, the low level of costs involved, and the expected nature of the mechanisms for sharing the costs of the required testing, EPA concludes that there will be no significant adverse economic impact of any type as a result of this rule.

This proposed regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA, and any EPA response to those comments, will be included in the public record.

VIII. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, (15 U.S.C. 601, *et seq.*, Pub. L. 96–354, September 19, 1980), EPA is certifying that this test rule, if promulgated, will not have a significant impact on a substantial number of small businesses because:

(1) Small processors will not perform testing themselves and will not participate in the organization of the testing effort.

(2) They will experience only minor costs in securing exemption from testing requirements.

(3) They are unlikely to be affected by reimbursement requirements.

(4) There are no small manufacturers of hydroquinone which will be affected by this rule.

IX. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB marked Attention: Dest Officer for EPA. The final rule package will respond to any OMB or public comments on the information collection requirements.

X. Guidelines and Study Plans

The following guidelines and/or study plans cited in this proposed test rulemaking are available from: National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, (703) 487–4650.

NTIS Publication No.	Title	Price
PB–82–140773	Chemical Testing Industry: Toxicological Testing.	$16.00
PB–82–232964	TSCA Health Effects Guidelines	40.00
PB–82–232992	Environmental Effects Guidelines	60.00
PB–83–153908	OECD Test Guidelines for Hazard Evaluation: Wildlife and Aquatic Organisms.	11.50
PB–82–233006	TSCA Chemical Fate	40.00
PB–83–153916	FIFRA Pesticides Registration Guidelines: Proposed Data Requirements for Hazard Evaluation: Human and Domestic Animals.	11.50

List of Subjects in 40 CFR Part 799

Testing, Environmental protection, Hazardous material, Chemicals.

(Sec. 4, Pub. L. 94–469, 90 Stat. 2003; (15 U.S.C. 2061))

Dated: December 23, 1983.

Alvin L. Alm,

Acting Administrator.

PART 799—[AMENDED]

Therefore, it is proposed that a new § 799.2200 be added to Subpart B of proposed Part 799 to read as follows:

§ 799.2200 Hydroquinone.

(a) *Identification of test substance.* (1) Hydroquinone (CAS No. 123–31–9) shall be tested in accordance with this section.

(2) Hydroquinone of at least 99 pecent purity shall be used as the test substance.

(b) *Persons required to submit study plans, conduct tests and submit data.* (1) All persons who manufacture or process hydroquinone from the effective date of this section (30 days from the publication date of the final rule in the **Federal Register**) to the end of the reimbursement period shall submit letters of intent to test, exemption applications, and study plans and shall conduct tests and submit data as specified in paragraphs (c), (d), (e), (h), (j), (k) and (l) of this section.

(2) Any person subject to the requirements of this section may apply to EPA for an exemption from study plan submission and testing requirements. Any such application shall be in accordance with paragraph (h) of this section.

(c) *Submission of notice of intent to test or exemption application.* (1) No later than 30 days after the effective date of this section, each person manufacturing hydroquinone as of the effective date of this section must, for

each test set required by paragraphs (j), (k), and (l) of this section, either notify EPA by letter of his/her intent to perform the test set or submit an application for an exemption from the study plan submission and testing requirements for the test set.

(2) If, by the date specified in paragraph (c)(1) of this section, no manufacturer of hydroquinone has notified EPA of its intent to perform testing for a test set required by paragraphs (j), (k), or (l) of this section, EPA will publish a notice in the **Federal Register** of this fact specifying the test sets for which no notice of intent has been submitted. No later than 30 days after publication of such a notice, each person processing hydroquinone as of the effective date of this section must, for each test set specified in the **Federal Register** notice, either notify EPA by letter of his/her intent to perform the test set or submit an application for an exemption from the study plan submission and testing requirements for the test set.

(3) Any person not manufacturing hydroquinone as of the effective date of this section who, before the end of the reimbursement period, manufactures hydroquinone must comply with the requirements of paragraphs (c)(1) and (d)(1) of this section. For purposes of this paragraph (c)(3), the manufacturer must submit the notice of intent to test or exemption application required by paragraph (c)(1) of this section by the date manufacture begins and must submit any proposed study plan required by paragraph (d)(1) of this section within 60 days of the date manufacture begins.

(4) If a **Federal Register** notice has been published under paragraphs (c)(2) or (d)(4) of this section, any person not processing hydroquinone as of the effective date of this section who, before the end of the reimbursement period, processes hydroquinone must comply with the requirements of paragraphs (c)(2) and (d)(2) of this section. For purposes of this paragraph (c)(4), the processor must submit the notice of intent to test or exemption application required by paragraph (c)(2) of this section by the date processing begins and must submit any proposed study plan required by paragraph (d)(2) of this section within 60 days of the date processing begins.

(5) Any manufacturer or processor of hydroquinone which has notified EPA under paragraphs (c) (1), (2), (3), or (4) of this section of its intent to perform testing for a test set required by paragraph (j), (k), or (l) of this section, must submit a proposed study plan for the test set as required in paragraph (d) of this section and must perform that test set in accordance with the test standards in paragraph (m) of this section.

(d) *Submission of proposed study plans.* (1) Manufacturers of hydroquinone which notify EPA under paragraph (c)(1) of this section that they intend to perform a test set must submit a proposed study plan for the test set in accordance with paragraph (e) of this section no later than 90 days after the effective date of this section. Manufacturers may jointly submit a single proposed study plan if they plan to sponsor or perform the test set jointly. Any manufacturer which, having notified EPA of its intent to perform a test set, fails to submit a proposed study plan for that test set will have been in violation of this section as if no letter of intent to perform the test set had been submitted.

(2) Processors of hydroquinone which notify EPA under paragraphs (c)(2) of this section that they intend to perform a test set must submit a proposed study plan for the test set in accordance with paragraph (e) of this section no later than 90 days after the publication of the notice specified in paragraph (c)(2) of this section. Processors may jointly submit a single proposed study plan if they plan to sponsor or perform the test set jointly. Any processor which, having notified EPA of its intent to perform a test set, fails to submit a proposed study plan for that test set will have been in violation of this section as if no letter of intent to perform the test set had been submitted.

(3) If EPA determines in accordance with paragraph (f)(1)(i) of this section that a proposed study plan is incomplete and the manufacturer or processor has not, after notice from EPA, submitted appropriate information to make the study plan complete within 15 days, the manufacturer or processor will have been in violation of this section as if no letter of intent to perform the test set had been submitted.

(4) If either:

(i) By the date specified in paragraph (d)(1) of this section a manufacturer of hydroquinone, which notified EPA of its intent to perform a test set, has failed to submit a proposed study plan for that test set, or

(ii) A proposed study plan submitted under paragraph (d)(1) of this section has been found to be incomplete under paragraph (f)(1)(i) of this section and the manufacturer has not submitted appropriate information to make the study plan complete within 15 days, EPA will publish a notice in the **Federal Register** of this fact specifying the test set. The requirements of paragrpahs (c)(2) and (d)(2) of this section for processors to submit letters of intent to perform testing, applications for exemption, and proposed study plans will apply.

(5) If either:

(i) By the date specified in paragraph (c)(2) of this section no processor of hydroquinone has notified EPA of its intent to perform testing for any test set identified in a **Federal Register** notice published under paragraphs (c)(2) or (d)(4) of this section,

(ii) By the date specified in paragraph (d)(2) of this section any processor of hydroquinone, which notified EPA of its intent to perform a test set, has failed to submit a proposed study plan for that test set, or

(iii) A proposed study plan submitted under paragraph (d)(2) of this section has been found to be incomplete under paragraph (f)(1)(i) of this section and the processor has not submitted appropriate information to make the study plan complete within 15 days, all applications for exemption from the requirements to submit study plans and to perform tests for the specific test set involved will automatically be denied. EPA will notify each manufacturer and processor of hydroquinone, which applied for an exemption for the specific test set involved, of this automatic denial either by letter or by notice in the **Federal Register**. Each manufacturer or processor of hydroquinone for which an exemption application has been automatically denied will be in violation of this section 30 days from the time that it receives the notice letter or 30 days from the time that the notice is published in the **Federal Register**, whichever comes first. The violation will continue until a manufacturer or processor of hydroquinone submits a proposed study plan for each test set involved.

(6) Any manufacturer or processor of hydroquinone may submit a proposed study plan for any test set required by this section at any time, regardless of whether the manufacturer or processor previously submitted an application for exemption from testing for that test set.

(e) *Content of study plans.* (1) All study plans are required to contain the following information:

(i) A citation to this section.

(ii) The specific test set covered by the study plan.

(iii)(A) The names and addresses of the test set sponsors.

(B) The names, addresses, and telephone numbers of the responsible administrative officials and project manager(s) in the principal sponsor's organization.

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(C) The name, address, and telephone number of the appropriate individual for oral and written communications with EPA.

(D)(*1*) The name and address of the testing facility and the names, addresses, and telephone numbers of the testing facility's administrative officials and project manager(s) responsible for this testing.

(*2*) Brief summaries of the training and experience of each professional involved in the study including study director, veterinarian(s), toxicologist(s), pathologist(s) and laboratory assistants.

(iv) Identity and data on the chemical substance being tested, including appropriate physical constants, spectral data, chemical analysis, and stability under test and storage conditions.

(v) Study protocol, including rationale for: species/strain selection; dose selection (and supporting data); route(s) or method(s) of exposure; a description of diet to be used and its source, including nutrients and contaminants and their concentrations; for *in vitro* test systems, a description of culture medium and its source; and a summary of expected spontaneous chronic diseases (including tumors), genealogy, and life span.

(vi) Schedule for initiation and completion of major phases of long term tests; schedule for submission of interim progress and final reports to EPA.

(2) Information specified under paragraph (e)(1)(iii)(D) of this section is not required in proposed study plans if the information is not available at the time of submission; however, the information must be submitted before the initiation of testing.

(f) *Review and adoption of study plans.* (1) Upon receipt of a proposed study plan, EPA will review the study plan to determine whether it complies with paragraph (e) of this section.

(i) If EPA determines that the proposed study plan does not comply with paragraph (e) of this section, EPA will notify the submitter that the submission is incomplete and will identify the deficiencies and the steps necessary to complete the submission. The submitter will have 15 days from the day it receives this notice to submit appropriate information to make the study plan complete. If the submitter fails to provide appropriate information to complete the study plan within this time, the submitter will have been in violation of this section as if no study plan had been submitted.

(ii) If EPA determines the proposed study plan complies with paragraph (e) of this section, EPA will publish a notice in the **Federal Register** requesting comments on the ability of the study plan to ensure that data from the test set will be reliable and adequate. EPA will provide a 45-day comment period and will provide an opportunity for an oral presentation upon the request of any person. EPA may extend the comment period if it appears from the nature of the issues raised by EPA's review or from public comments that further comment is warranted.

(2) After receiving and considering public comment, EPA will adopt the study plan, including time deadlines and reporting schedules, as proposed or as modified in response to EPA review and public comments, as test standards for the testing of hydroquinone in paragraph (m) of this section.

(g) *Modification of study plans during conduct of study*—(1) *Application.* Any test set sponsor who wishes to modify the adopted study plan for any test set required under this section must submit an application in accordance with this paragraph. Application for modification shall be made in writing to the Chief, Test Rules Development Branch, Office of Toxic Substances, or by phone with written confirmation to follow as soon as feasible. Applications must include appropriate explanation of why the modification is necessary.

(2) *Adoption.* To the extent feasible, EPA will seek comment on all substantive changes in study plans. EPA will issue a notice in the **Federal Register** requesting comments on requested modifications. However, EPA will act on the requested modification without seeking public comment if either:

(i) EPA believes that an immediate modification to a study plan is necessary in order to preserve the accuracy or validity of an ongoing study, or

(ii) EPA determines that a modification clearly does not pose any significant substantive issues. EPA will notify the sponsor of EPA's approval or disapproval. When the Agency approves a modification, it will publish a notice in the Federal Register indicating that the study plan has been modified.

(h) *Exemption applications.* (1) Any manufacturer or processor of hydroquinone may submit an application to EPA for an exemption from submitting proposed study plans for, and from performing, any or all of the test sets specified in paragraphs (j), (k), and (l) of this section. The application must include the name and address of the manufacturer or processor and must identify the specific requirements of the section from which the exemption is sought.

(2) No manufacturer or processor of hydroquinone will be in violation of the requirement to perform a specific test set under paragraph (j), (k), or (l) of this section if it has submitted a timely application for an exemption for that test set and the application has not been denied by EPA.

(3) EPA will conditionally grant any requested exemption for a specific test set required by paragraph (j), (k), or (l) of this section if EPA has received a complete proposed study plan for that test set in accordance with paragraph (e) of this section and has adopted the study plan in accordance with paragraph (f)(2) of this section.

(4) EPA will deny any exemption for a specific test set in paragraph (j), (k), or (l) of this section if the test set sponsor fails to perform the test or to submit data as required in the test set standards adopted under paragraph (m) of this section.

(5) If manufacturers of hydroquinone perform all the test sets required by paragraphs (j), (k), and (l) of this section, processors of hydroquinone will automatically be granted an exemption from the study plan submission and testing requirements without the need to file an application for exemption.

(i) *Test results.* A positive or negative test result in any of the health effects tests enumerated in paragraph (j) of this section is defined as specified in the TSCA Health Effects Test Guidelines published by the National Technical Information Service (NTIS) under publication number PB 82–232984.

(j) *Health effects testing*—(1) *Toxicokinetic Studies*—(i) *Required testing.* Skin and oral dosing studies, which provide data regarding both rate and extent of absorption, shall be conducted with hydroquinone.

(ii) *Study plans.* At present, EPA has no approved guidelines or protocols for determining the penetrating potential of xenebiotics through skin. The best available guidance may be the method of Feldman and Maibach (1969). In addition, Chapter 5 of the *Dermatotoxicology* (*in vivo* percutaneous absorption, Webster R., Maibach H. In: *Dermatotoxicology*, Second edition, 1983, edited by F. Marzulli and H. Maibach. Hemisphere Publishing Corporation, New York) contains a thorough discussion of *in vitro* percutaneous absorption testing. The purpose of this test is to determine the rate and extent of hydroquinone penetration through skin. Concurrent intravenous dosing of a separate group of animals is mandatory and collection of urine and feces from all test animals should be sensitive enough to characterize the penetration of the applied dose during the first 24 hours of

observation. In addition, urine and fecal collection should continue until at least 90 percent of the administered dose is recovered, but no longer than 14 days. To determine the rate and extent of gastrointestinal absorption of hydroquinone, an acute methodology, such as that described in the TSCA Health Effects Testing Guidelines, using at least two doses would be appropriate. One dose should be of the same magnitude as that used in the National Toxicology Program cancer bioassay, preferably the medium dose. The low dose should reflect actual human exposure levels. As with the skin penetration study, urine and fecal collection should be sensitive enough to characterize the penetration of the applied dose during the first 24 hours of observation; and collection should continue until at least 90 percent of the administered dose is recovered, but not longer than 14 days.

(2) *Mutagenic effects—Chromosomal aberrations*—(i) *Required testing.* A dominant lethal assay shall be conducted in rodents with hydroquinone.

(ii) *Study plans.* For guidance in preparing study plans, the TSCA Health Effects Test Guidelines for Chromosomal Effects, published by NTIS (PB 82–232984), should be consulted. Additional guidance may be obtained from the OECD Test Guidelines for Genetic Toxicology, and the FIFRA Pesticide Registration Guidelines; Proposed Data Requirements for Hazard Evaluation: Human and Domestic Animals, published by NTIS (PB 83–153916).

(3) *Mutagenic effects—Gene Mutation*—(i) *Required testing.* (A) A gene mutation assay, in mammalian cells in culture, shall be conducted with hydroquinone.

(B) Hydroquinone shall be tested in a *Drosophila* sexlinked recessive lethal (SLRL) assay if the results of the gene mutation assay are positive.

(C) A mouse-specific locus assay shall be conducted with hydroquinone if a positive result is produced in the *Drosophila* SLRL assay.

(ii) *Study plans.* For guidance in preparing study plans, the TSCA Health Effects Test Guidelines for Gene Mutations, published by NTIS (PB 82–232984), should be consulted. Additional guidance may be obtained from the OECD Test Guidelines for Genetic Toxicology and the FIFRA Registration Guidelines; Proposed Data Requirements for Hazard Evaluation: Human and Domestic Animals, published by NTIS (PB 83–153916).

(4) *Teratogencity*—(i) *Required testing.* Teratogenicity studies in both a rodent and a non-rodent species shall be conducted with hydroquinone. These tests must be conducted using the oral route of exposure.

(ii) *Study plans.* For guidance in preparing study plans, the TSCA Health Effects Test Guidelines for Specific Organ/Tissue Toxicity-Teratogenicity, published by NTIS (PB 82–232984), should be consulted. Additional guidance may be obtained from the OECD Test Guidelines for Health Effects, and the FIFRA Pesticide Registration Guidelines; Proposed Data Requirements for Hazard Evaluation: Human and Domestic Animals, published by NTIS (PB 83–153916).

(5) *Reproductive Effects*—(i) Required testing. A two-generation reproductive effects study in the rodent shall be conducted with hydroquinone. Oral dosing shall be the route of administration of the test substance in this study.

(ii) *Study plans.* For guidance in preparing study plans, the TSCA Health Effects Test Guidelines for Specific Organ/Tissue Toxicity—Reproduction/Fertility Effects, published by NTIS (PB 82–232984), should be consulted. Additional guidance may be obtained from the FIFRA Pesticide Registration Guidelines—Proposed Data Requirements for Hazard Evaluation: Human and Domestic Animals, published by NTIS (PB 83–153916).

(6) *Epidemiology*—(i) Required testing. Two epidemiologic studies shall be conducted for hydroquinone. One study shall be a cohort study designed to detect a 50 percent increase in total cancer incidence with at least 80 percent probability when both random and nonrandom sources of error have been taken into account. Incidence of and mortality from the following additional specific endpoints shall be included: specific cancers and a variety of ocular effects including loss of visual acuity and conjunctival or corneal changes. The other study shall be a study of teratogenic and adverse reproductive effects. This study shall conform to category 5 or category 4 of the levels of inferential knowledge specified by the 1979 Draft Interagency Regulatory Liaison Group's Guideline for Documentation of Epidemiological Studies. It shall be designed to detect a relative risk of 2 in the rate of total defects among live-borns, if of category 5, or an odds ratio of 2, if of category 4, with at least 90 percent probability at 5 percent significance. Both spouses shall be included, and spontaneous abortions (with recorded gestational age), testicular effects, and effects on sperm formation shall be studied.

(ii) *Study plans.* For guidance in preparing study plans, the following paper should be consulted: Epidemiology Workgroup. Interagency Regulatory Liaison Group, Nov. 1979. Draft IRLG Guideline for Documentation of Epidemiology Studies.

(7) *Neurotoxicity*—(i) *Required testing.* The following neurotoxicity testing shall be conducted for hydroquine using an animal with oral exposure:

(A) A functional observation battery,

(B) A neuropathology test, and

(C) A motor activity test or an operant behavior test.

(ii) *Study plans.* For guidance in preparing study plans, the TSCA Health Effects Test Guidelines for Neurotoxicity, published by NTIS (PB 82–232984), should be consulted. Additional guidance may be obtained by consulting the FIFRA Pesticide Registration Guidelines; Proposed Data Requirements for Hazard Evaluation: Human and Domestic Animals (PB 83–153916).

(k) *Chemical fate testing*—(1) *Aerobic biodegradation*—(i) *Required testing.* An aerobic biodegradation test shall be conducted with hydroquinone using natural waters representative of aquatic environments that may be exposed to hydroquinone. Transformation of hydroquinone may be determined using either compound-specific analytical techniques or radiolabeled test compound. Regardless of the analytical method chosen, it shall be adequate to determine both disappearance of parent compound and the extent of interconversion of hydroquinone and quinone.

(ii) *Study plans.* The Agency has not published guidelines for the type of biodegradation test suggested for hydroquinone. However, any natural waters die-away or similar test method should be suitable, provided that it meets the requirements set forth above. Examples of methods that may be used to develop an acceptable study plan are described in Saeger, V.W. and Tucker, E.S., "Biodegradation of phthalic Acid Esters in River Water and Activated Sludge," Applied Environmental Microbiology *31*, 29–34 (1976), and Spain, J.C., Pritchard, P.H., and Bourquin A.W., Effects of Adaptation on Biodegradation Rates in Sediment/Water Cores from Estuarine and Freshwater Environments, Applied Enivronmental Microbiology *40*, 726–734 (1980).

(2) [Reserved]

(l) *Environmental effects testing*—(1) *Aquatic freshwater acute toxicity*—(i) *Required testing.* Acute toxicity tests

shall be conducted with hydroquinone with freshwater animals in eight different species provided that, of the eight species:

(A) At least one is a salmonid fish.

(B) At least one is a on-salmonid fish.

(C) At least one is a Planktonic crustacean.

(D) At least one is a benthic crustacean.

(E) At least one is a benthic insect.

(F) At least one of the benthic species is a detritivore.

(ii) *Study plans.* For guidance in preparing study plans, the STCA Environmental Effects Test Guidelines for acute toxicity testing, published by NTIS (PB 82–232992), should be consulted. Additional guidance may be obtained by consulting the OECD Test Guidelines for Effects on Biotic Systems, the FIFRA Guidelines for Hazard Evaluation: Wildlife and Aquatic Organisms (PB 83–153908), and the Water Quality Criteria Guidelines, published in the **Federal Register** on November 28, 1980 (45 FR 79341).

(2) *Aquatic freshwater chronic toxicity*—(i) *Required testing.* Chronic toxicity testing shall be conducted with hydroquinone for three species of aquatic animals provided that of the three species:

(A) At least one is fish.

(B) At least one is an invertebrate.

(C) At least one is a freshwater species (the other two may be saltwater species).

(ii) *Study plans.* For guidance in preparing study plans, the TSCA Environmental Effects Test Guidelines for chronic toxicity testing, published by NTIS (PB 82–232992), should be consulted. Additional guidance may be obtained by consulting the FIFRA Guidelines for Hazard Evaluation: Wildlife and Aquatic Organisms (PB 83–153908) and the Water Quality Criteria Guidelines (45 FR 79341).

(3) *Aquatic freshwater plants*—(i) *Required testing.* Testing shall be conducted with hydroquinone with a freshwater alga, or a chronic test shall be conducted with hydroquinone with a freshwater vascular plant.

(ii) *Study plans.* For guidance in preparing study plans, the TSCA Environmental Effects Test Guidelines for algal and macrophytic toxicity testing, published by NTIS (PB 82–23992), should be consulted. Additional guidance may be obtained by consulting the FIFRA Guidelines for Hazard Evaluation: Wildlife and Aquatic Organisms (PB 83–153908), the OECD Test Guidelines for Effects on Biotic Systems, and the Water Quality Criteria Guidelines.

(4) *Freshwater bioconcentration testing*—(i) *Required testing.* A bioconcentration factor test shall be conducted with hydroquinone with a freshwater aquatic animal species.

(ii) *Study plans.* For guidance in preparing study plans, the TSCA Environmental Effects Test Guidelines, published by NTIS (PB 82–232992), should be consulted. Additional guidance may be obtained by consulting the FIFRA Guidelines for Hazard Evaluation: Wildlife and Aquatic Organisms (PB 83–153908), the OECD Test Guidelines for Degradation and Accumulation, and the Water Quality Criteria Guidelines.

(5) *Aquatic saltwater acute toxicity*—(i) *Required testing.* Acute toxicity tests shall be conducted with hydroquinone with saltwater animals in eight different species provided that of the eight species:

(A) At least two different fish families are included.

(B) At least five different invertebrate families are included.

(C) Either the Mysidae or Penaeidae family or both are included.

(D) At least one of the invertebrate families is in a phylum other than Arthropoda.

(ii) *Study plans.* For guidance in preparing study plans, the TSCA Environmental Effects Test Guidelines for acute toxicity testing, published by NTIS (PB 82–232992), should be consulted. Additional guidance may be obtained by consulting the OECD Test Guidelines for Effects on Biotic Systems, and the FIFRA Guidelines for Hazard Evaluation: Wildlife and Aquatic Organisms (PB 83–153908), and the Water Quality Criteria Guidelines.

(6) *Aquatic saltwater chronic toxicity*—(i) *Required testing.* Chronic toxicity tests shall be conducted for three species of aquatic animals provided that of the three species:

(A) At least one is a fish.

(B) At least one is an invertebrate.

(C) At least one is a saltwater species (the other two may be freshwater species).

(ii) *Study plans.* For guidance in preparing study plans, the TSCA Environmental Effects Test Guidelines for chronic toxicity testing, published by NTIS (PB 82–232992), should be consulted. Additional guidance may be obtained by consulting the FIFRA Guidelines for Hazard Evaluation: Wildlife and Aquatic Organisms (PB 83–153908) and the Water Quality Criteria Guidelines.

(7) *Aquatic saltwater plants*—(i) *Required testing.* Testing shall be conducted with hydroquinone with saltwater alga, or a chronic test shall be conducted with hydroquinone with a saltwater vascular plant.

(ii) *Study plans.* For guidance in preparing study plans, the TSCA Environmental Effects Test Guidelines for algal and macrophytic toxicity testing, published by NTIS (PB 82–232992 and PB 83–257709), should be consulted. Additional guidance may be obtained by consulting the FIFRA Guidelines for Hazard Evaluation: Wildlife and Aquatic Organisms (PB 83–153908), the OECD Test Guidelines for Effects on Biotic Systems, and the Water Quality Criteria Guidelines.

(8) *Saltwater bioconcentration testing*—(i) *Required testing.* A bioconcentration factor test shall be conducted with a saltwater aquatic animal species.

(ii) *Study plans.* For guidance in preparing study plans, the TSCA Environmental Effects Test Guidelines, published by NTIS (PB 82–232992), should be consulted. Additional guidance may be obtained by consulting the FIFRA Guidelines for Hazard Evaluation: Wildlife and Aquatic Organisms (PB 83–153908), the OECD Test Guidelines for Degradation and Accumulation, and the Water Quality Criteria Guidelines.

(m) *Test Standards.* (1) Sponsors and testing facilities must adhere to the EPA Good Laboratory Practice Regulations in Part 792 of this chapter.

(n) *Enforcement.* (1) If a manufacturer or processor, which notified EPA under paragraph (c) (1), (2), (3), or (4) of this section of its intent to perform testing for a test set required by paragraphs (j), (k), or (l) of this section, fails to perform the test set in accordance with the test standards in paragraph (m) of this section, that failure will be a violation of this section.

(2) EPA will publish a notice in the **Federal Register** to inform all manufacturers and processors that all exemptions for performance of that test set will be denied unless, within 30 days of the publication of the notice, a manufacturer or processor of hydroquinone notifies EPA by letter that it intends to perform that test set in accordance with the test standards in paragraph (m) of this section.

(3) Any person who fails or refuses to comply with any aspect of this section is in violation of section 15 of the Act.

(o) Availability of study plans. The TSCA and FIFRA guidelines for the various study plans are available from the National Technical Information Service (NTIS). Address and telephone number: National Technical Information

Service, 5285 Port Royal Road, Springfield, VA 22161, (703–487–4650).

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40 CFR Part 799

[OPTS–42053; FRL 2482–8]

Toxic Substances; Alkyl Epoxides; Response to the Interagency Testing Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This Advance Notice of Proposed Rulemaking (ANPR) is the Agency's response to the Interagency Testing Committee's (ITC) designation of the chemical category "alkyl epoxides" and its recommendation that the alkyl epoxides be considered for health effects and chemical fate testing. This notice addresses those alkyl epoxides on the Toxic Substances Control Act (TSCA) Chemical Substances Inventory other than ethylene oxide, propylene oxide, and 1,2–butylene oxide, which are addressed in other **Federal Register** notices. EPA is publishing this notice to inform the public of the rationale to be used in selecting the chemicals for testing, to define the regulatory approaches that are being considered, and to seek public comments on EPA's approach in proposing a test rule.

DATE: Interested persons are invited to comment on this ANPR. All comments should be submitted on or before March 5, 1984.

ADDRESS: Submit written comments identified by the document control number (OPTS 42053) in triplicate to: TSCA Public Information Office (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–108, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Room E–543, 401 M St. SW., Washington, D.C. 20460, Toll Free: (800–424–9065), In Washington, D.C. (554–1404), Outside the USA: (Operator–202–554–1404.

SUPPLEMENTARY INFORMATION:

I. Background

A. ITC Report

Section 4(a) of TSCA (Pub. L. 94–469, 90 Stat. 2003 *et seq.*; 15 U.S.C. 2601 *et seq.*) authorizes the Administrator of EPA to promulgate regulations requiring testing of chemical substances and mixtures in order to develop data relevant to determining the risks that such chemicals may present to health and the environment.

Section 4(e) of TSCA established the ITC to recommend to the Administrator of EPA those chemicals that should receive priority consideration for the development of test rules under section 4(a).

The ITC transmitted its First Report to the Administrator of EPA, as published in the **Federal Register** of October 12, 1977 (42 FR 55026), and designated the category "alkyl epoxides" for priority testing consideration for mutagenicity, carcinogenicity, teratogenicity, other chronic effects (with emphasis on organ effects and behavioral changes), and environmental fate. Epidemiological studies were also recommended for priority consideration for two or three of the highest exposure compounds, if suitable cohorts could be identified.

In order to make a section 4(a)(1)(A) finding, EPA must determine that the manufacture, distribution in commerce, processing, use or disposal of a chemical substance or mixture, or any combination of such activities, may present an unreasonable risk of injury to health or the environment, that insufficient data exist to characterize the potential effects of that chemical to human health and the environment, and that testing is necessary to develop such data. In order to make a section 4(a)(1)(B) finding, EPA must determine that a substance is produced in substantial quantities and that there is or may be significant or substantial human exposure or substantial environmental release of that substance, that there are insufficient data to characterize the potential effects of that chemical to human health and the environment, and that testing is necessary to develop such data.

B. Category Members

The ICC defined the alkyl epoxides category as noncyclic aliphatic hydrocarbons bearing one or more epoxide functional groups.

EPA has identified from the non-confidential (public) TSCA Chemical Substances Inventory six short-chain up to four carbon atoms) alkyl epoxides and eight longer chain (greater than nine carbon atoms) alkyl epoxides and eight longer-chain (greater than nine carbon atoms) alkyl epoxides that fit the alkyl epoxides chemical category definition. No additional alkyl epoxides are listed in the confidential portion of the Inventory. Of the short-chain compounds, three are addressed in separate **Federal Register** documents: ethylene oxide (Ref. 1), propylene oxide (Ref. 2), and 1,2-butylene oxide (Ref. 3). This notice addresses the remaining three short-chain compounds and eight long-chain substances:

Chemical	CAS No.
SHORT-CHAIN	
2,3–Epoxybutane	(CAS No. 3266–23–7)
Isobutylene oxide	(CAS No. 558–30–5)
1,2:3,4–Diepoxybutane	(CAS No. 1464–53–5)
LONG-CHAIN	
1,2-Epoxydecane	(CAS No. 2404–44–6)
1,2-Epoxydodecane	(CAS No. 2855–19–8)
1,2-Epoxytetradecane	(CAS No. 3234–28–4)
1,2-Epoxypentadecane	(CAS No. 18833–25–5)
1,2-Epoxyhexadecane	(CAS No. 7320–37–8)
1,2-Epoxyheptadecane	(CAS No. 22092–38–2)
1,2-Epoxyoctadecane	(CAS No. 7390–81–0)
1,2-Epoxynonadecane	(CAS No. 67860–04–2)

II. Response to ITC Report

EPA has reviewed the ITC report, the data on which their recommendations were based, the information obtained on alkyl epoxides under the TSCA section 8(a) Preliminary Assessment Information Rule (40 CFR Part 712), unpublished health and safety studies submitted by manufacturers of alkyl epoxides under the TSCA section 8(d) Health and Safety Data Reporting Rule (40 CFR part 716), and other published and unpublished data available to the Agency. EPA is publishing in this **Federal Register** notice its tentative conclusions as to appropriate action the Agency may take on the alkyl epoxides not addressed in other **Federal Register** notices.

EPA previously indicated that, although it would generally initiate testing action through publication of a proposed rule, it would initiate action on some chemical categories and certain complex chemicals through publication of an ANPR, as it is doing in this case. There are several reasons, both general to categories and specific to the long-chain alkyl epoxides, why the Agency has chosen to apply this approach in this situation. EPA believes that there are definite advantages to using an ANPR to initiate the process of section 4 rulemaking for certain categories of chemicals.

The Agency has found that in attempting to develop testing rules for a category of chemical substances, the issues that require attention are more complex and numerous than in rulemakings for a single chemical. For example, the Agency is attempting to determine whether it is scientifically valid to obtain data for one or more representative chemicals within the category rather than to test each chemical, in order to avoid unnecessary

or duplicative testing while assuring that adequate data are developed.

One method of achieving this goal is through the use of structure-activity relationships (SAR). The agency believes that there is a logical basis for subcategorization of the long-chain alkyl epoxides based on SAR analysis, see unit IV.C., and for the adoption of a representative testing sample, see unit IV.D.

Publication of an ANPR provides an opportunity for public comment on the difficult issues associated with the alkyl epoxides structural category before the Agency proposes a testing approach for the chemicals in this category. Proceeding with the development of proposed rules prior to receiving such input could result in needless expenditure of the Agency's limited resources and considerable delay in promulgating a final rule, especially if public comments necessitate modification of the proposed sampling approaches or reconsideration of the bases for requiring testing.

Moreover, available data are inadequate for a complete characterization of the extent and types of exposures presented by the alkyl epoxides identified in this notice. The Agency is soliciting public comment through this ANPR in order to obtain additional information on production volumes, exposure, off-site processing and use of these chemicals.

III. General Information

A. Chemical Description

The commercial short-chain alkyl epoxides, Unit I.B., are gases or volatile liquids at ambient temperature, except for the diepoxide, 1,2:3,4-diepoxybutane which is a moderately volatile liquid. The long-chain members of the alkyl epoxide category, Unit I.B., are liquids or lowmelting, waxy solids at ambient temperature. Because all of the long-chain substances are 1,2-monoepoxides, physicochemical properties such as water solubility and partition coefficients are expected to change in a consistent fashion with increasing chain length.

Alkyl epoxides are alkylating agents, because of the presence of the epoxide functional group. These alkylating groups react with nucleophiles such as alcohols, amines or mercaptans, a property that makes them useful as chemical intermediates.

B. Manufacturing Process and Exposure Potential for Alkyl Epoxides

EPA has no information on the specific processes that are being used to manufacture the alkyl epoxides under consideration in this ANPR. However, in general alkyl epoxides can be prepared from the corresponding olefins by oxidation with organic peracids, by catalytic oxidation with air or oxygen, or by treatment of the corresponding halohydrin with base (Refs. 4 and 5).

The three short-chain epoxides—isobutylene oxide, 2,3-epoxybutane, and 1,2:3,4-diepoxybutane—are reported to be available only in small quantities for very minor captive use or for research purposes (Ref. 6). According to information available to EPA, isobutylene oxide is produced on a custom basis and is sold entirely to research laboratories (Ref. 6); 2,3-epoxybutane is produced in amounts less than 100 pounds per year and is used captively as an intermediate (Ref. 6); 1,2:3,4-diepoxybutane is not currently produced in this country but is imported for use as a laboratory research intermediate, with sales of 3 to 4 kilograms per year. On the basis of the low production/import volumes and the known uses of these chemicals, EPA believes that a small number of individuals are likely to be exposed to these chemicals, and that exposure levels are likely to be low. However, given the lack of specific information on exposures (levels and durations), EPA is soliciting comment on its tentative conclusion that such exposures are minimal as well as obtaining any specific exposure information that may be available.

Viking Chemical Company produces the eight long-chain epoxides reported in the TSCA Chemical Substances Inventory. Viking's total annual production of the eight chemicals is estimated at less than 100,000 pounds (Ref. 6). In addition to Viking Chemical Company, Union Carbide Corporation also produces 1,2-epoxyhexadecane; the actual production levels have been claimed as TSCA Confidential Business Information (CBI). The long-chain alkyl epoxides are thought to be used primarily as acid scavengers and in the synthesis of specialty chemicals, possibly including surfactants, lubricants, alkyl resins and coatings (Ref. 6).

Recent patterns indicate a relatively stable demand for the long-chain alkyl epoxides (Ref. 6). Because they may be sold to a variety of users, and because possible intermittent high-level exposures to these chemicals are a concern owing to their alkylating properties, human exposure to some of these long-chain alkyl epoxides could be sufficient to support a finding of potential unreasonable risk. Furthermore, intermittent releases to the environment could be significant near manufacturing, processing, use and disposal sites. However, a lack of detailed knowledge about the uses of the long-chain alkyl epoxides makes a meaningful exposure assessment for these substances difficult, and it is further complicated, as discussed in more detail in unit IV, by the differences in properties between short-chain and long-chain alkyl epoxides.

C. Existing Data and Potential for Adverse Health and Environmental Effects

The alkylating properties that make alkyl epoxides useful as synthetic intermediates also confer the potential to react with and alter biomolecules such as proteins, enzymes, and nucleic acids, with possible adverse consequences such as carcinogenicity, mutagenicity and other effects.

Discussions of the toxicity data for high-production short-chain alkyl epoxides appear in separate **Federal Register** notices on ethylene oxide (Ref. 1), propylene oxide (Ref. 2), and 1,2-butylene oxide (Ref. 3). The following health effects have been reported for one or more of these three compounds: carcinogenicity, mutagenicity, neurotoxicity, and reproductive toxicity.

EPA has not located any toxicity data for two of the three short-chain alkyl epoxides discussed in this document: 2,3-epoxybutane and isobutylene oxide. Information on 1,2:3,4-diepoxybutane shows acute toxicity with an inhalation LC_{50} (rats) of 90 ppm for a 4-hour exposure, an oral LD_{50} (rats) of 78 mg/kg and a dermal LD_{50} of 89 mg/kg (rabbits) (Ref. 7). Also, the substance elicited a carcinogenic response in a number of studies using a dermal or subcutaneous route of administration (Ref. 8, 9, 10, 11, and 12). In addition, teratogenic effects have been reported in studies using rats and chickens (Ref. 13), and a mutagenic response was reported for a number of test systems (Refs. 14, 15, 16, and 17).

Some acute toxicity data are available on the long-chain alkyl epoxides (specific gravity and animal weight not provided) (Ref. 18). For several mixed long-chain 1,2-epoxides, rat i.p. LD_{50} values were in the range of 4.9 to 7.5 "ml/kg", while rabbit dermal LD_{50}'s were in the range of 5.0 to 14.1 "ml/kg". For 1,2-epoxyhexadecane the corresponding values were 4.9 "ml/kg" (rat) and 10.0 "ml/kg" (rabbit). Skin irritation (rabbit) was "moderate" or "minor"; eye injury (rabbit) was graded as "none" or "trace" (Ref. 18). Additional information on the toxicity of long-chain alkyl epoxides is available from a subchronic study on 1,2-epoxyhexadecane applied dermally to

rats and mice, completed in 1980 for the National Toxicology Program (NTP). Dosages given to both species were 62.5, 125, 250, 500 and 1,000 mg/kg. The material (1,2-epoxyhexadecane in acetone) was applied 5 times weekly to a one-inch square, shaved portion of the dorsal area for 13 weeks. Some mortiality was observed in the mouse at doses of 250 mg/kg and above; none was observed in the rat. Cutaneous reactions, manifested by exfoliation of the stratum corneum, alopecia, hyperemia and/or blanching were seen at the application sites in male mice and rats receiving dose levels of 250, 500 and 1,000 mg/kg, in female mice receiving 1,000 mg/kg and in female rats receiving 500 and 1,000 mg/kg. Reduced body weights were observed in male mice and rats dosed at 250 mg/kg and above and female rats dosed at 500 and 1,000 mg/kg. No other toxic effects were observed (Ref. 19).

Although a recently completed Ames test on 1,2-epoxyhexadecane, with and without metabolic activation, was negative (Ref. 20), the work of Van Duuren *et al.* (Ref. 21) suggests that some long-chain alkyl epoxides may be oncogenic. Van Duuren *et al.* (Ref. 21) tested 1,2-epoxydodecane and 1,2-epoxyhexadecane separately in mouse skin painting studies to assess their oncogenic activity. No tumors were observed in a group of 30 ICR/Ha Swiss mice treated for 540 days (18 months) with approximately 100 mg of a 2 percent solution of 1,2-epoxydodecane in acetone (applied to the clipped back of each mouse three times per week from the age of 8 weeks). However, in an experimental group of 41 mice similarly treated with a 10 percent solution of 1,2-epoxyhexadecane in acetone, two mice developed papillomas and one developed a squamous carcinoma. The test duration was 598 days, with a median survival time of 427 days. The first papilloma appeared on day 308 and the carcinoma appeared on day 372. No tumors were reported for the control group.

To confirm the results of Van Duuren *et al.*, the NTP selected 1,2-epoxyhexadecane as a representative long-chain terminal monoepoxide "having potential for significant exposure" to undergo a 2-year bioassay in B6C3F1 mice and Fisher 344 rats by dermal application (Ref. 22). The exposure phase of the test was completed in June, 1982. Doses of 62.5 and 125 mg/kg were applied to a one-inch square shaved portion of the dorsal area of the mice and rats five times per week. The results from this study are not yet available.

The Agency has no data on the environmental effects of alkyl epoxides addressed in this notice nor does it have information relating to the release or the environmental fate of these chemicals. The ITC's concerns for the environmental effects of alkyl epoxides were for the characterization of biodegradation products and the environmental fate of these chemicals.

IV. Tentative EPA Decisions and Issues

A. Preliminary Findings

EPA does not believe that testing of the three short-chain alkyl epoxides 2,3-epoxybutane, isobutylene oxide and 1,2:3,4-diepoxybutane is warranted at this time because of their extremely low current production and import volume. These chemicals do not appear to meet the criteria for a finding under section 4(a)(1)(A)(i), that they may present an unreasonable risk, or for a finding under section 4(a)(1)(B)(i), that they are produed in substantial quantities and may enter the environment in substantial quantities or have significant or substantial human exposure. However, the Agency is soliciting comment on its tentative conclusion that such exposures are minimal and is interested in obtaining specific exposure and environmental release information that may be available. In addition, EPA is considering options for follow-up activities on these chemical substances such as rulemaking to require reporting of production and importation levels under a TSCA section 8(a) rule or reporting of significant new uses under a TSCA section 5(a)(2) rule.

EPA believes that the long-chain alkyl epoxides may meet the criteria for a section 4(a)(1)(A)(i) finding of potential unreasonable risk to human health on the basis of the information presented in units III.C and IV.C. Although it seems unlikely that the long-chain alkyl epoxides would meet the criteria for a finding under section 4(a)(1)(B)(i), the Agency is interested in acquiring information to better define exposure to these chemicals.

B. Testing Alternatives

On the basis of information available to the Agency and in order to address the ITC's concerns for the long-chain alkyl epoxides the Agency is considering a number of testing options.

1. *Full-scale testing.* This approach could include testing for carcinogenicity, mutagenicity, teratogenicity, other chronic effects and environmental fate as well as conducting epidemiological studies. This assumes that the Agency could make the requisite findings under section 4(a)(1)(A). The Agency acknowledges that in light of the available information on the production and economics of these chemicals this approach may cause curtailment of production and use of some or all of these alkyl expoxides (Ref. 6) and thus may be less desirable than other alternatives.

2. *Battery of tests for all long-chain alkyl epoxides.* EPA believes that as another alternative, the uncertainties about the health effects and environmental fate of these epoxides could be addressed by performing a limited series of tests (Tables 1).

TABLE 1.—EXAMPLE OF LIMITED TESTING FOR SELECTED LONG-CHAIN ALKYL EPOXIDES

	1,2-epoxydecane	1,2-epoxyhexadecane	1,2-epoxynonadecane
Health effects:			
Ames (Salmonella) assay	X	(1)	X
Cell transformation	X	X	X
90–Day subchronic	X	(1)	X
Chemical fate:			
Melting point	X	(1)	X
Boiling point	(1)	(1)	X
Vapor pressure, 20°	X	X	X
Water solubility	X	X	X
Partition coeff. (oct.-H_2O)	X	X	X
Partition coeff. (soil-H_2O)	X	X	X
Hydrolysis rate	X	X	X
Biodegradation	X	X	X

X = Testing proposed.
1 = Testing completed or in progress.
2 = Liquid at ambient temperature.

These tests might include: health effects—Ames test, with an without metabolic activation; *in vitro* cell transformation (possible substitute: *in vitro* cytogenetics and sister chromatid exchange); 90-day subchronic study (which would include parameters for assessing behavioral effects) in rats. Environmental fate—water solubililty; vapor pressure at 20° C; octanol-water partition coefficient; soil-water partition coefficient; hydrolysis rate; boiling point; melting point; and biodegradation rate. Certain results from these tests could trigger additional testing. In general, the intent of these tests is to verify that the long-chain alkyl epoxides behave differently than the short-chain alkyl epoxides while addressing as many of the ITC concerns as is possible. Additional testing may be required if this group of chemicals exhibits activity in these tests.

3. *Battery of tests for representative long-chain alkyl epoxides.* Tests such as those mentioned in alternative 2 could be applied to the three alkyl epoxides that EPA believes could provide data representative of the group. These are: 1,2-epoxydecane, 1,2-epoxyhexadecane and 1,2-epoxynonadecane. Certain results from these tests would trigger additional testing. A discussion of the

rationale for selecting these three epoxides can be found in unit IV.D. This approach would provide information on a range of long-chain alkyl epoxides (C–10, C–16 and C–19) and should provide an indication of the environmental fate and general toxicity of the eight long-chain alkyl epoxides.

4. *Battery of tests for one representative long-chain alkyl epoxides.* The tests (described in alternative 2) might be applied to only one long-chain alkyl epoxide such as 1,2-epoxyhexadecane. Again, certain results from these tests would trigger additional testing. It may be determined that this approach would adequately characterize the group of alkyl epoxides with chain lengths of C–10 to C–19. This testing approach would have the least economic impact. However, the Agency questions the adequacy of such limited testing to characterize all eight of the substances in question.

5. *No testing.* The Agency may decide on the basis of information received as a result of this ANPR that testing is unwarranted at this time. It may become apparent that another approach such as better control of exposures in the workplace or follow-up activities requiring the reporting of production and importation levels under a TSCA section 8(a) rule or the reporting of significant new uses under a TSCA section 5(a)(2) rule might be appropriate.

C. Structure-Activity Analysis

The Agency believes that it is reasonable to expect that a consistent structure-activity relationship will exist among the eight long-chain alkyl epoxides identified in this notice with respect to physicochemical and toxicologic properties. These compounds are members of a homologous series of organic compounds; i.e. they are long-chain 1,2-monoepoxides that differ only in their numbers of methylene groups. Effects of such changes are increasingly subtle at longer chain lengths and would not be expected to result in substantial differencs among longchain epoxides differing by only one or two carbon atoms. Some physical properties of the long-chain alkyl epoxides are available and are listed in Table 2.

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TABLE 2

TABLE 2

PHYSICAL PROPERTIES OF LONG-CHAIN ALKYL EPOXIDES

	C_{10}	C_{12}	C_{14}	C_{16}	C_{18}	C_{15-18}
Formula wt.	156.26	184.81	212.36	240.42	268.47	
Boiling point	112-113°C, 35mm	106-109°C, 6mm	95-96°C, .4mm	104-106°C, .2mm	137°C, .5mm	
Melting point	Low	Low	Below room temperature	22°C	26°C	
Specific gravity	.837	.844	.847	.849	.830	.844
N_D	1.4286	1.4358	1.4412	1.4441	-	1.4447
Appearance	Colorless, mobile liquid	Colorless, mobile liquid	Colorless, mobile liquid	Clear, colorless liquid or white, waxy solid	White waxy solid	Pale yellow liquid
Odor	Ether like, penetrating	Ether like, pleasant	Ether like, pleasant	Faint, pleasant	Very faint	Characteristic, pleasant
Vapor pressure				< .01 mm 4.6×10^{-4}mm*		
Solubility in water				< 100 ppm 6×10^{-4} ppm*		

* EPA estimates based on physical data.

(Ref. 24)

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Considerable data on physicochemical properties and on health effects are available or are being generated for several of the short-chain alkyl epoxides, particularly the three substances, ethylene, propylene and 1,2-butylene oxides that the Agency is addressing in the separate **Federal Register** notices (Refs. 1, 2 and 3). Where sufficient data are available for comparison of effects, ethylene oxide appears to be more toxic than propylene oxide, which in turn appears more toxic than 1,2-butylene oxide. Because no corresponding data are available on the 1,2-epoxides having five to nine carbon atoms, it is difficult to determine whether the trend continues beyond 1,2-butylene oxide. Fewer data are available on the longer chain alkyl epoxides than for their two-, three-, and four-carbon homologs. This is unfortunate because some of the physicochemical properties that are extremely important contributors to health effects and chemical fate differ markedly between the short-chain and long-chain members of the series.

The long-chain alkyl epoxides, for example, have much lower water solubilities and vapor pressures and higher estimated soil-water and octanol-water partition coefficients than do the short-chain alkyl expoxides. In addition, the aqueous hydrolysis rates of the long-chain alkyl epoxides may be considerably slower than those of the short-chain alkyl epoxides, owing to their hydrophobic nature and/or their less reactive molecular conformations. Such lowered reactivity can be a consequence of the molecular folding that occurs with large flexible molecules such as straight-chain alkyl derivatives; the folding can result in blocking (steric hindrance) of reactive sites in a molecule. Thus, persistence and bioaccumulation, which depend on factors such as high fat solubility and low reactivity, could be significant for these substances, whereas for the short-chain homologs they are not, according to the available data. In addition, dermal exposures would be expected to be the primary route of human exposures for the long-chain alkyl epoxides, whereas inhalational exposures are likely to predominate for the volatile or gaseous short-chain alkyl epoxides.

For these reasons, the Agency believes that, on the basis of its structure activity analysis, the long-chain alkyl epoxides comprise a subcategory of alkyl epoxides that are more similar to each other than they are to their short-chain homologs, and will most likely exhibit different physicochemical properties and toxicities than their short-chain homologs. However, the Agency believes that the available data on the long-chain alkyl epoxides are insufficient to confirm this conclusion and that they do not provide adequate information to characterize their toxicity. The Agency believes that the presence of the epoxide functional group, a known alkylator, and the well documented toxicity of the short-chain alkyl epoxides, ethylene oxide and propylene oxide, are sufficient to generate concern for the potential toxic effects of these compounds.

D. Justification for Testing Representative Chemicals

EPA believes that the close relationshop of the long-chain alkyl epoxides to one another affords an opportunity to obtain adequate information about the group without testing all members of the category. Although the differences in physicochemical properties described in unit IV.C. and the lack of data on epoxides having an intermediate number (five to nine) of carbon atoms reduces the accuracy of extrapolating test data from short-chain to Long-chain alkyl epoxides, the near-continuity of the series from C–10 to C–19 suggests that relatively little difference in physicochemical properties can be expected between nearest neighbors in the latter series. This is true largely because all the chemicals are 1,2-monoepoxides and, therefore, no discontinuities are introduced as a result of positional isomerism. Thus, the Agency is considering as an alternative requiring the testing of a representative sample rather than all eight of the long-chain alkyl epoxides. In that case, EPA believes that the following group members would be appropriate: 1,2-epoxydecane, 1,2-epoxyhexadecane, and 1,2-epoxynonadecane. The Agency is considering this approach because by testing three members of the group, the entire group of long-chain alkyl epoxides (i.e., C–10 to C–19) might be adequately characterized on the basis of test results from one substance having a low number of carbon atoms (i.e., C–10), one having a high number (i.e., C–19) and one an intermedate number (i.e., C–16). The Agency believes such an approach is appropriate because, as discussed above, chemical activity for this group of epoxides, seems to correlate well with chain length. Although the C–14 or C–15 compound is closer to the midpoint of the series, the Agency believes that the available data and ongoing testing of the C–16 epoxide justifies the choice of this substance for testing. This may result in a more complete data base on one of the chemicals tested. The Agency believes that testing only one of the long-chain alkyl epoxides is a less desirable alternative in that extrapolations based on data for one representative member of the group will result in greater uncertainties than would be the case if data were obtained on three representative epoxides.

E. Economic Impact

Although EPA is still assessing the economic impact of different approaches to testing the long-chain alkyl epoxides, it appears that conducting the full range of ITC-recommended tests on all eight epoxides would impose a substantial financial burden on the industry. While adverse economic effects are not a barrier to requiring testing under section 4(a), these economic assessments have encouraged the Agency to examine testing needs carefully with respect to this category and to seek public comment on the best way to obtain needed data while not depriving society of the benefits of the chemicals. Estimated comparative costs for the testing alternatives 2, 3 and 4, described in unit IV.B., are indicated in Table 3.

TABLE 3. Estimated Cost of Tests Listed in Table 1.

	Estimated Cost for Limited Testing[1]		
	C-10,C-12,C-14 to C-19 ($)	C-10, C-16, C-19 ($)	C-16 ($)
Testing Cost range[2]	402,200—1,350,400	102,200—360,400	20,700—80,100
Annualized testing cost range[2,3]	104,217—349,910	26,482—93,385	5,364—20,755

[1] Cost estimated for limited testing only, additional testing not considered in estimates.

[2] Cost range reflects variations in protocols and costs among testing laboratories.

[3] Annual Cost derived using a 15 year period and a 25% cost of capital.

(Ref. 23)

The potential for adverse economic effects resulting from even relatively limited testing requirements for alkyl epoxides is high for the following reasons:

1. Of the two companies producing these long-chain alkyl epoxides, one produces approximately 100,000 pounds per year of all eight chemicals combined (Ref. 6) and the other produces only 1,2-epoxyhexadecane (quantity is Confidential Business Information);

2. No major demand changes are expected in the next 3 to 5 years.

Testing costs would be expected to create a noticeable impact on the pricing structure of these compounds with resulting effects on the marketability of products. These effects could range from a minor curtailment of production to a complete cessation of production of one or more of the compounds. A manufacturer might elect to stop production rather than embark on testing (Ref. 6).

V. Issues and Alternatives

1. EPA is soliciting exposure-related data and additional production data to refine its analysis of the alkyl epoxides. EPA requests the submission of more detailed exposure information and current production figures for the short-chain and long-chain alkyl epoxides addressed in this notice. The Agency is particularly interested in receiving information on the number of workers at manufacturing, processing, and use sites actually involved with alkyl epoxides, their use patterns, and the potential for exposure of workers, consumers and the general public. The Agency is likewise soliciting information on the release, potential release, disposal, transformation products, persistence and bioaccumulation of the alkyl epoxides addressed in this notice. The Agency will reconsider which alkyl epoxides should be tested if new production and other exposure related data on the compounds warrant this approach.

2. The Agency is interested in obtaining data on ecotoxicity and any additional health effects information not previously submitted under the section 8(d) Health and Safety Reporting Rule.

3. The Agency is interested in obtaining information on the industrial uses and consumer uses of the alkyl epoxides addressed in this notice and their possible substitutes.

4. The Agency is interested in receiving comments on the proposed testing options, other testing alternatives not considered in this notice, the choice of tests which would comprise the optimum testing battery, the rational for selecting representative chemicals for testing and the conclusions drawn by EPA from its structure-activity analysis.

5. The Agency invites suggestions for other testing approaches such as combinations of the testing options, see unit IV.B., or other approaches which could be employed. An example of a combination is the application of the tests to all eight of the compounds and the application of futher tests to one or several of the compounds. The Agency is interested in receiving comments on this and other approaches for testing.

6. If epidemiological studies were to be conducted, could suitable cohorts be identified?

VI. References

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VII. Development of Rulemaking

After an analysis of the public comments on the ITC report and review of the available data, EPA tentantively believes that there is reason to proceed with development of a proposed rule for testing of the long-chain alkyl epoxides but not of the short-chain alkyl epoxides addressed in this notice.

By publishing this ANPR, EPA hopes to receive early comment on its tentative bases for proceeding with rulemaking, on the testing alternatives proposed, on the use of structure-activity analysis for the long-chain alkyl expoxides, on its proposed sampling approach to test substances, and on the kinds of tests the Agency believes necessary to characteristize the effects of these chemicals. Also, comment is requested on the bases for the choice of test chemicals, for the suggested findings, and for the screening tests under consideration. The Agency will analyze all comments, production, use patterns, available data, and other relevant issues raised in comments on this ANPR. The Agency will also consider any negotiated testing plans proposed for its review and comment. Testing plans submitted for the Agency's consideration in the ANPR comments need not be in final form, but they should include formal protocodls for proper review.

VIII. Public Record

The EPA has established a public record for this ANPR. (Docket Number OPTS–42053). This record includes:

(1) **Federal Register** notice containing the designations of alkyl epoxides to the priority list and all comments on alkyl epoxides received in response to that notice.

(2) Communications with industry.

(3) Letters.

(4) Contact reports of telephone conversations.

(5) Published and unpublished data.

(6) **Federal Register** notice requesting information and comments on alternatives being considered by the Agency and all comments received in response to that notice.

This record, containing the basic information considered by the Agency in developing the decision, is available for inspection in the OPTS Reading Room 8:00 a.m. to 4:00 p.m., Monday through Friday (except legal holidays) in Room E–107, 401 M Street, SW., Washington, D.C. 20460. The Agency will supplement this record periodically with additional relevant information received.

(Sec. 4, 90 Stat. 2003 (15 U.S.C. 2601))

Dated: December 23, 1983.

Alvin L. Alm,

Acting Administrator.

[FR Doc. 84–67 Filed 1–3–84; 8:45 am]

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40 CFR Part 799

[OPTS–42047; FRL 2480–5]

Quinone; Proposed Test Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Interagency Testing Committee recommended that EPA consider requiring carcinogenicity, teratogenicity, and environmental fate testing of quinone. Under section 4(a) of the Toxic Substances Control Act (TSCA), EPA is proposing that manufacturers and processors of quinone perform testing to evaluate quinone's carcinogenic potential. Testing for teratogenicity is not being proposed because, in reviewing the existing data, the Agency has no reason to believe that quinone may present an unreasonable risk of producing teratogenic effects. EPA is not proposing to require any additional health effects testing at this time. However, EPA is proposing chemical fate and environmental effects testing because existing data indicate that effluents to surface waters may present an unreasonable risk to aquatic organisms. Chemical fate testing will establish the magnitude of the potential risk. This notice constitutes EPA's response to the Interagency Testing Committee's (ITC) designation of quinone as a priority candidate for testing.

DATES: The public is asked to submit written comments on this proposed rule on or before March 5, 1984. If persons request an opportunity for oral comment by February 21, 1984 EPA will hold a public meeting on March 19, 1984 on this rule in Washington, D.C. For further information on arranging to speak at the meeting see unit V of this preamble.

ADDRESS: Submit written comments in triplicate to: TSCA Public Information Office (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–108, 401 M St. SW., Washington, D.C. 20460.

Include the document control number [OPTS–42047] on all submissions.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Rm. E–543, 401 M St. SW., Washington, D.C. 20460, Toll Free: (800–424–9065), in Washington, D.C.: (554–1404), outside the USA: (Operator–202–554–1404).

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 4(e) of TSCA (Pub. L. 94–469, 90 Stat. 2003 *et seq.;* 15 U.S.C. 2601 *et seq.*) established an Interagency Testing Committee (ITC) to recommend to EPA a list of chemicals to be considered for testing under section 4(a) of the Act. The ITC may designate substances on the list for priority consideration for requiring testing by EPA.

The ITC designated quinone for priority consideration in its Fifth Report, published in the **Federal Register** on December 7, 1979 (44 FR 70664). The ITC recommended that quinone be considered for testing for carcinogenicity and teratogenicity, and also recommended that it be considered for environmental fate testing.

The ITC based its recommendation on its belief that there was potentially high exposure to humans in manufacturing and processing operations. The ITC held this assumption even considering the reported annual production of 100,000 pounds.

The ITC also had concerns about the environmental fate of quinone once it

was released into the environment because of a potentially stable oxidation/reduction system involving quinone and hydroquinone, with a stable theoretical intermediate, semiquinone.

Under section 4(a)(1) of TSCA, EPA must require testing of a chemical substance to develop health or environmental data if the Agency finds that:

> (A) (i) the manufacture, distribution in commerce, processing, use, or disposal of a chemical substance or mixture, or that any combination of such activities, may present an unreasonable risk of injury to health or the environment,
>
> (ii) there are insufficient data and experience upon which the effects of such manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and
>
> (iii) testing of such substance or mixture with respect to such effects is necessary to develop such data; or
>
> (B) (i) a chemical substance or mixture is or will be produced in substantial quantities, and (I) it enters or may reasonably be anticipated to enter the environment in substantial quantities or (II) there is or may be significant or substantial human exposure to such substance or mixture,
>
> (ii) there are insufficient data and experience upon which the effects of the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and
>
> (iii) testing of such substance or mixture with respect to such effects is necessary to develop such data.

EPA uses a weight of evidence approach in making a section 4(a)(1)(A)(i) finding in which both exposure and toxicity information are considered to make the finding that the chemical may present any unreasonable risk. For the section 4(a)(1)(B)(i) finding, EPA considers only production, exposure and release information to determine if there is or may be substantial production and substantial or significant exposure or substantial release. For the findings under both sections 4(a)(1)(A)(ii) and 4(a)(1)(B)(ii), EPA examines toxicity and fate studies to determine if existing information is adequate to reasonably determine or predict the effects of human exposure to, or environmental release of, the chemical. In making the third finding, that testing is necessary, EPA considers whether any ongoing testing will satisfy the information needs for the chemical and whether testing which the Agency might require would be capable of developing the necessary information.

EPA's process for determining when these findings apply is described in detail in EPA's first and second proposed test rules. The section 4(a)(1)(A) findings are discussed in the **Federal Register** of July 18, 1980 (45 FR 48528) and June 5, 1981 (46 FR 30300) and the section 4(a)(1)(B) findings are discussed in the **Federal Register** of June 5, 1981 (46 FR 30302).

In evaluating the ITC's testing recommendations for quinone, EPA considered all available relevant information including the following: information presented in the ITC's report recommending testing consideration; production volume, use, exposure, and release information reported by manufacturers of quinone under the TSCA section 8(a) Preliminary Assessment Information Rule (40 CFR Part 712); unpublished health and safety studies submitted by the manufacturers of quinone under the TSCA section 8(d) Health and Safety Data Reporting Rule (40 CFR Part 716); and other published and unpublished data available to the Agency. On the basis of its evaluation, as described in this proposed rule and the accompanying technical support document, EPA is proposing oncogenicity, chemical fate, and environmental effects testing requirements for quinone under section 4(a)(1)(A) of TSCA. By these actions, EPA is responding to the ITC's designation of quinone for testing consideration.

II. Proposed Rule

A. Profile

Quinone ($C_6H_4O_2$), CAS No. 106-51-4, is a yellow crystalline solid at room temperature, is slightly soluble in water, and is soluble in ethanol, ether, and hot petroleum ether. It acts chemically as an oxidizing agent and, in aqueous solution, is reduced to hydroquinone by sulfur dioxide. The EPA Toxic Substances Inventory records that from 100,000 to 1,000,000 pounds of quinone were produced in the United States in 1977.

Quinone is primarily used as an intermediate in the production of hydroquinone. Because quinone is a very good oxidizing agent, it is used as a bleach for silver in photographic processes. It is also used as an inhibitor of polymerization, as a tanning agent, and as an intermediate in the synthesis of other chemicals.

B. Findings

1. EPA is basing its proposed health effects testing on the authority of section 4(a)(1)(A) of TSCA. Based upon the facts stated below, EPA finds that quinone may present an unreasonable risk of injury to human health and that there are insufficient data and experience to reasonably determine or predict the carcinogenic potential of quinone. Therefore, testing is needed to obtain these data.

a. EPA has determined that existing data indicate a potential human health hazard from quinone with respect to carcinogenic effects. Two studies have suggested the induction of malignant adenomas in mice after prolonged inhalation, and another has reported sarcomas in rats after subcutaneous exposure. While these studies have limited quality, they do suggest that quinone may have carcinogenic potential.

b. EPA believes that persons are exposed to quinone in the workplace, both in manufacturing and processing activities at levels that may lead to carcinogenic effects. In 1980, the National Institute for Occupational Safety and Health (NIOSH) estimated that annually about 3,700 U.S. workers, in nine occupations, are potentially exposed to quinone. Therefore, based on the Agency's review and analyses of the information at its disposal, EPA is proposing that quinone be tested for carcinogenic effects.

2. The Agency is basing its chemical fate and environmental effects testing on the authority of section 4(a)(1)(A) of TSCA. The ITC proposed that chemical fate testing be conducted with quinone to establish the stability of the quinone-semiquinone-hydroquinone oxidation-reduction system in the environment. EPA finds that there is evidence of potential unreasonable environmental risks to aquatic organisms resulting from exposure to quinone.

a. The levels of quinone that may be found in receiving waters after

treatment efforts are very close to the quinone levels that have been found to be acutely toxic to two aquatic species. While the existing exposure and environmental effects data suggest these concerns, these data are inadequate to reasonably predict or determine the actual effects of these exposures of aquatic organisms to quinone. Therefore, testing is needed to obtain these data.

b. The Agency believes that hydroquinone is released to surface waters from photoprocessing operations and that a substantial portion of this material is converted to quinone. EPA also believes that the levels of hydroquinone in these effluents may be high enough that, when converted, the resulting levels of quinone would pose an unreasonable risk to freshwater and saltwater aquatic species. This conclusion is based on existing aquatic organism toxicity data. Additional environmental effects testing is needed to assess the types of organisms potentially at risk.

c. The Agency is also proposing chemical fate testing for quinone. EPA believes this testing is essential because the existing chemical fate data are limited and additional data are needed to assess the magnitude of the possible risks to aquatic organisms. EPA needs additional information to establish biodegradation rates in order to assess the levels of exposure of aquatic organisms to quinone.

3. EPA does not believe that the rule will result in a loss to society of the benefits of quinone because the Agency's economic evaluation has shown that the economic impact of testing this substance will be minimal.

The analyses on which these findings are based are presented in the Technical Support Document "Assessment of Testing Needs: Hydroquinone/Quinone" which was developed for this rulemaking and is available from the TSCA Assistance Office (TAO). The ITC recommendations and EPA's proposed testing requirements are summarized in the following Table.

TABLE—TESTING RECOMMENDATIONS FOR QUINONE

Test or study	ITC recommendation	EPA proposal
Carcinogenicity	X	X
Teratogenicity	X	
Environmental fate	X	X
Environmental effects		X

The Agency is not proposing teratogenicity testing for quinone. Although teratogenicity testing was proposed by the ITC, EPA has not identified any data that provide sufficient evidence under section 4(a)(1)(A) of TSCA that quinone may present an unreasonable risk of causing teratogenic effects.

C. Test Substance

EPA is proposing that quinone of at least 99 percent purity be used as the test substance in the carcinogenicity, chemical fate and environmental effects testing. EPA has specified a relatively pure substance for testing because the Agency is interested in evaluating the effects attributable to quinone itself. This requirement would increase the likelihood that any toxic effects observed are related to quinone and not to any impurities.

D. Persons Required to Test

Section 4(b)(3)(B) specifies that the activities for which the Administator makes section 4(a) findings (manufacture, processing, distribution, use, and/or disposal) determine who bears the responsibility for testing. Manufacturers are required to test if the findings are based on manufacturing ("manufacture" is defined in section 3(7) of TSCA to include "import"). Processors are required to test if the findings are based on processing. Both manufacturers and processors are required to test if the exposures giving rise to the potential risk occur during use, distribution, or disposal. Because EPA has found that the manufacture, processing, disposal, and use of quinone may present an unreasonable risk to human health and the environment, EPA is proposing that persons who manufacture or process, or who intend to manufacture or process, quinone at any time from the effective date of this test rule to the end of the reimbursement period be subject to the rule. The end of the reimbursement period ordinarily will be 5 years after the submission of the last final report required under the test rule.

Because TSCA contains provisions to avoid duplicative testing, not every person subject to this rule must individually conduct testing. Section 4(b)(3)(A) of TSCA provides that EPA may permit two or more manufacturers or processors who are subject to the rule to designate one such person or a qualified third person to conduct the tests and submit data on their behalf. Section 4(c) provides that any person required to test may apply to EPA for an exemption from that requirement (as discussed in Unit II F. below).

E. Approach to Adoption of Test Rules

1. *General Process.* On March 26, 1982, EPA announced a new approach to adoption of test rules (47 FR 13102). EPA intends to promulgate a general procedural rule in 40 CFR Part 770 which will contain the procedural requirements of this new approach. However, since that procedural rule is not in effect, this proposed rule contains specific procedures for adoption of this test rule. If the general rule is promulgated before this proposal becomes final, the quinone rule will be modified to comport with the general procedural provisions.

Under the approach being followed for quinone, test rule development will be a two-phase process. In phase I, EPA will propose that specific testing be required for quinone. This phase of the rulemaking will allow the public to comment on the decision to require testing and the specific types of tests to be required. Phase II begins after promulgation of the phase I rule. In phase II, EPA will receive proposed study plans for the specific tests adopted in the phase I rule. EPA will propose those study plans for public comment. After comment, the Agency will adopt the study plans, as proposed or modified, as specific test standards for the tests required by the phase I rule. Persons who submit the study plans will be obligated to perform the tests in accordance with the test standards adopted.

2. *Letter of Intent to Test or Exemption Application.* The proposed rule would require manufacturers and processors of quinone to perform certain tests. Once the rule is in effect, 30 days after publication in the **Federal Register**, each current manufacturer would have 30 days to submit, for each required test in paragraphs (i), (j) and (k) of the rule, either a letter of intent to perform the test or an application for exemption. Each manufacturer who submitted a letter of intent to perform a specific test would be obligated, first, to submit, within 90 days of the effective date, a proposed study plan for the test and, ultimately, to perform the testing.

If manufacturers of quinone performed all the required tests, processors of quinone would not be required to test or to submit exemption applications. EPA would automatically grant them exemptions from the requirements of the rule.

If no manufacturer of quinone submitted a letter of intent to perform a particular test within the 30-day period, EPA would publish a notice in the **Federal Register** to notify all processors of quinone. The notice would state that EPA had not received letters of intent to perform certain tests and that current processors would have 30 days to submit, for each test remaining, either a

letter of intent to perform the test or an exemption application for that test. Each processor who submitted a letter of intent to perform a specific test would be obligated, first, to submit, within 90 days of the publication of the **Federal Register** notice, a proposed study plan for the test and, ultimately, to perform the testing.

If no manufacturer or processor submitted a letter of intent to perform a particular test, EPA would notify all manufacturers and processors, by letter or through the **Federal Register**, that all exemption applications would be denied and that within 30 days all manufacturers and processors would be in violation of the rule until a proposed study plan is submitted for that test.

Any person not manufacturing quinone at the time the rule goes into effect, who later begins manufacturing before the end of the reimbursement period, would be required to submit a letter of intent to test or an exemption application for each required test by the day the person begins manufacture. If EPA has published a notice in the **Federal Register** telling processors to submit letters of intent or exemption applications for certain test, any person not processing quinone at the time the rule goes into effect, who later begins processing before the end of the reimbursement period, would be required to submit a letter of intent to test or an exemption application for each test specified in the **Federal Register** notice by the day the person begins processing.

3. *Submission and Adoption of Study Plans.* Any manufacturer of quinone who submitted a letter of intent to perform a test would have to submit, within 90 days after the effective date of the rule, a proposed study plan for that test. In the event manufacturers do not submit letters of intent for all the required tests, any processor who submits a letter of intent to perform a specific test would have to submit, within 90 days of the publication of the **Federal Register** notice notifying processors, a proposed study plan for that test. Paragraph (e) or the rule describes the contents of a proposed study plan.

EPA proposed generic test methodology requirements (generic test standards) in the **Federal Register** of May 9, 1979 (44 FR 27334) July 26, 1979 (44 FR 44054) and November 21, 1980 (45 FR 77332). In response to concerns about the rigidity of generic methodology requirements, EPA has changed its approach for providing test standards for TSCA section 4 test rules. It has issued generic test methodology guidelines to replace the previously proposed generic test methodology requirements. The TSCA guidelines have been published by the National Technical Information Service (NTIS) for health effects (PB 82–232984), for chemical fate, (PB 82–233008) and for environmental effects (PB 82–232992), respectively. Good Laboratory Practice (GLP) Standards for development of data on health effects of chemical substances under TSCA were proposed in the **Federal Register** of May 9, 1979 (44 FR 27334) and July 26, 1979 (44 FR 44054), and for chemical fate and environmental effects testing in the **Federal Register** of November 21, 1980 (44 FR 77357). GLP standards for development of data on physical and chemical properties, persistence, and ecological effects of chemical substances under TSCA were proposed in the **Federal Register** of November 21, 1980 (44 FR 77357). These GLP standards will be promulgated as generic requirements. The final TSCA GLP regulations will apply to the quinone test rule.

For guidance in preparing study plans, EPA recommends that test sponsors consult the TSCA Test Guidelines and the TSCA GLP standards as referenced above; the Organization for Economic Cooperation and Development's (OECD) Guidelines, as adopted by the OECD Council on May 12, 1981; or the FIFRA Pesticide Registration Guidelines: Proposed Data Requirements, published by the National Technical Information Service (see the **Federal Register** of November 24, 1982 (47 FR 53192), for a list of these guidelines).

Failure to submit a study plan would be a violation of the rule.

EPA would review the proposed study plans. If they are incomplete, the manufacturer or processor would be notified of the deficiency and would have 15 days to provide appropriate information to make the plan complete. If the information is not provided in 15 days, the manufacturer or processor would be in violation of the rule. In addition, EPA would return to the appropriate stage of the process and require maufacturers or processors, as appropriate, to submit letters of intent, exemption applications, and study plans.

If the proposed study plan is complete, EPA would propose the study plan for public comment. In particular, the request for comments would focus on whether the study plan will ensure that data from the test will be reliable and adequate. There would be a 45-day comment period and the opportunity to present views orally upon request. After considering the public comment, EPA would adopt the study plans as proposed, or as modified in response to comment, as the test standard for the required test.

The person who submitted the proposed study plan would be required to perform the testing according to that standard. Failure to perform the testing would be a violation of the rule.

F. Exemptions

EPA's proposed policy on application for exemptions from section 4 testing requirements was published in the **Federal Register** of July 18, 1980 (45 FR 48512). EPA intends to promulgate its final procedures for exemptions in 40 CFR Part 770. The exemption procedures described below and included in the proposed rule language are consistent with EPA's current thinking on exemption procedures. If the general rule is promulgated before this proposal becomes final, the quinone rule will be modified to comport with the general procedural provisions.

Any manufacturer or processor of quinone would be able to apply for an exemption. Any person who has applied for an exemption would not be in violation of the rule until such time as EPA denies the application.

If manufacturers perform all the required testing, processors would be granted exemptions automatically without having to file applications.

When EPA has received a proposed study plan for a test and has adopted the plan as the test standard, EPA would conditionally grant all exemption applications for that test. If the test sponsor later fails to perform the test, EPA would notify all persons who had submitted exemption applications for that test that the exemptions would be denied, unless within 30 days a manufacturer or processor notified EPA of its intent to perform the test in accordance with the adopted test standards.

EPA is not proposing to require the submission of equivalence data as a condition for exemption from the proposed testing for quinone. As noted in Unit II.C., EPA is interested in evaluating the effects attributable to quinone itself and has specified a relatively pure substance for testing.

G. Reporting Requirements

EPA is proposing that all data developed under this rule be reported in accordance with the TSCA GLP standards which will appear in 40 CFR Part 792.

EPA is required by TSCA section 4(b)(1)(C) to specify the time period during which persons subject to a test rule must submit test data. These

deadlines will be established in the phase II rulemaking in which study plans are approved.

TSCA section 14(b) governs Agency disclosure of all test data submitted pursuant to section 4 of TSCA. Upon receipt of data required by this rule, the Agency will publish a notice of receipt in the **Federal Register** as required by section 4(d).

H. Enforcement Provisions

The Agency considers failure to comply with any aspect of a section 4 rule to be a violation of section 15 of TSCA. Section 15(1) of TSCA makes it unlawful for any person to fail or refuse to comply with any rule or order issued under section 4. Section 15(3) of TSCA makes it unlawful for any person to fail or refuse to: (1) Establish or maintain records, (2) submit reports, notices, or other information, or (3) permit access to or copying of records required by the Act or any rule issued under TSCA.

Additionally, TSCA section 15(4) makes it unlawful for any person to fail or refuse to permit entry or inspection as required by section 11. Section 11 applies to any "establishment, facility, or other premises in which chemical substances or mixtures are manufactured, processed, stored, or held before or after their distribution in commerce. . . ." The Agency considers a testing facility to be a place where the chemical is held or stored, and therefore, subject to inspection. Laboratory audits/inspections will be conducted periodically in accordance with the authority and procedures outlined in TSCA section 11 by duly designated representatives of EPA for the purpose of determining compliance with any final rule for quinone. These inspections may be conducted for purposes which include verification that testing has begun, that schedules are being met, that reports accurately reflect the underlying raw data and interpretations and evaluations thereof, and that the studies are being conducted according to EPA GLP standards and the protocols established in the phase II rule.

EPA's authority to inspect a testing facility also derives from section 4(b)(1) of TSCA, which directs EPA to promulgate standards for the development of test data. These standards are defined in section 3(12)(B) of TSCA to include those requirements necessary to assure that data developed under testing rules are reliable and adequate, and such other requirements as are necessary to provide such assurance. The Agency maintains that laboratory inspections are necessary to provide this assurance.

Violators of TSCA are subject to criminal and civil liability. Persons who submit materially misleading or false information inconnection with the requirement of any provision of this rule may be subject to penalties calculated as if they never submitted their data. Under the penalty provision of section 16 of TSCA, any person who violates section 15 could be subject to a civil penalty of up to $25,000 per day for each violation, with each day of operation in violation constituting a separate violation. This provision would be applicable primarily to manufacturers or processors that fail to submit a letter of intent to perform testing or an exemption request, and that continue manufacturing or processing after the deadlines for such submissions. Knowing or willful violations could lead to the imposition of criminal penalties of up to $25,000 for each day of violation and imprisonment for up to one year. Other remedies are available to EPA under section 17 of TSCA, such as seeking an injunction to restrain violations of TSCA section 4.

Individuals as well as corporations could be subject to enforcement actions. Sections 15 and 16 of TSCA apply to "any person" who violates various provisions of TSCA. EPA may, at its discretion, proceed against individuals as well as companies themselves. In particular, this includes individuals who report false information or who cause it to be reported. In addition, the submission of false, fictitious, or fraudulent statements is a violation under 18 U.S.C. 1001.

I. Issue for Public Comment

As indicated in the Technical Support Document for Hydroquinone/Quinone, the Agency believes that the presence of quinone in the environment is primarily a result of the release of hydroquinone which is converted to quinone in the environment. The Agency is proposing environmental effects and chemical fate testing for quinone as well as environmental effects and chemical fate testing for hydroquinone. As proposed, manufacturers and processors of quinone would be responsible for testing quinone for environmental effects, regardless of the fact that most quinone in environment might result from releases of hydroquinone.

Requiring manufacturers and processors of quinone to conduct environmental effects and chemical fate testing of quinone may be inequitable if the quinone in the environment results primarily from hydroquinone manufacture and processing. However, section 4(b)(3)(B) of TSCA specifies that testing must be conducted by "[e]ach person who manufactures or intends to manufacture *such substance*" and "[e]ach person who processes or intends to process *such substance*." EPA believes that this language requires the approach contained in the proposal for quinone testing. However, the Agency is considering requiring the manufacturers and processors of hydroquinone to either conduct or share in the cost of conducting environmental effects and chemical fate testing for quinone. This could be accomplished either by transferring the quinone environmental effects and chemical fate testing requirements to the hydroquinone test rule or by adding manufacturers and processors of hydroquinone to those required to test under the quinone test rule. EPA solicits comments on these alternative approaches to testing quinone for chemical fate and environmental effects.

III. Economic Analysis of Proposed Rule

To evaluate the potential economic impact of this proposed rule, EPA has prepared a Level I economic analysis that examines the costs of the required testing and analyzes four principal market characteristics of the chemical substance: (1) Demand sensitivity, (2) cost characteristics, (3) industry structure, and (4) market expectations.

The Level I analysis of quinone, which estimates the total testing costs to range from $322,200 to $975,800, indicates that the potential for adverse economic effects due to the estimated testing costs is low. This conclusion is based on the following observations:

1. Stable or moderate market growth is expected for quinone.

2. The relative magnitude of the test cost is minor, i.e., on an annual unit cost basis, the test costs are estimated to average 0.5–1.4 cents per pound. The unit costs represent 0.1 to 0.3 percent of the price of quinone.

3. Since most of the quinone produced is used for the production of hydroquinone, most of the cost of testing quinone will be passed on to the consumers of hydroquinone.

4. Because the market for hydroquinone is stable or growing somewhat and demand in its primary uses is inelastic, it appears the indirect cost of quinone testing can be passed on to consumers with little or no economic impact.

Because the Level I analysis indicates very little potential for an adverse economic impact, EPA has determined that a more comprehensive and detailed Level II economic analysis is not needed for quinone.

IV. Availability of Test Facilities and Personnel

Section 4(b)(1) of TSCA requires EPA to consider "the reasonably foreseeable availability of the facilities and personnel needed to perform the testing required under the rule." Therefore, EPA conducted a study to assess the availability of test facilities and personnel to handle the additional demand for testing services created by section 4 test rules and test programs negotiated with industry in place of rulemaking. Copies of the study, "Chemical Testing Industry: Profile of Toxicological Testing," October, 1981, can be obtained through the NTIS (PB 82–140773).

On the basis of this study, the Agency believes that there will be available test facilities and personnel to perform the testing in this proposed rule.

V. Public Meetings

If persons indicate to EPA that they wish to present comments on this proposed rule to EPA officials who are directly responsible for developing the rule and supporting analyses, EPA will hold a public meeting on March 19, 1984 in Washington, D.C. Persons who wish to present comments at the meeting should call the TSCA Assistance Office (TAO), Toll Free: (800–424–9065). In Washington, D.C.: (554–1404). Outside the U.S.A.: (Operator 202–554–1404), by February 21, 1984. The meeting will not be held if members of the public do not indicate they wish to make oral presentations. This meeting is scheduled after the deadline for submission of written comments, so that issues raised in the written comments can be discussed by EPA and the public commenters. While the meeting will be open to the public, active participation will be limited to those persons who arranged to present comments and to designated EPA participants. Attendees should call the TAO before making travel plans to check whether the meeting will be held.

Should a meeting be held, the Agency will transcribe the meeting and include the written transcript in the public record. Participants are requested, but not required, to submit copies of their statements prior to or on the day of the meeting. All such written materials will become part of EPA's record for this rulemaking.

VI. Rulemaking Record

EPA has established a record for this rulemaking, docket number [OPTS–42047]. This record includes the basic information the Agency considered in developing this proposal, and appropriate **Federal Register** notices. The Agency will supplement the record with additional information as it is received. Confidential business information (CBI), while part of the record, is not available for public review. A public version of the record, from which CBI has been deleted, is available for inspection in the OPTS Reading Room from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays, in Rm. E–107, 401 M St. SW., Washington, D.C.

The record includes the following information:

(1) **Federal Register** notices pertaining to this rule making consisting of:

(a) Notice of proposed rulemaking on quinone.

(b) Notice containing the ITC designation of quinone to the Priority List [44 FR 70664, December 7, 1979].

(c) Notices relating to EPA's health effects, chemical fate, and environmental effects (44 FR 27334, May 9, 1979; 44 FR 44054, July 26, 1979) test guidelines and EPA's Good Laboratory Practice Standards (44 FR 27334, May 9, 1979; 44 FR 44054, July 26, 1979).

(d) Notice of proposed rulemaking on exemption policy and procedures.

(e) Final reimbursement policy and procedures.

(2) Support Documents consisting of:

(a) Hydroquinone/Quinone technical suppport document.

(b) Quinone economic analysis support document.

(3) Communications before proposal consisting of:

(a) Written public comments.

(b) Summaries of telephone conversations.

(c) Meeting summaries.

(d) Reports—published and unpublished factual materials, including contractors' reports.

(4) Report—Chemical Testing Industry: Profile of Toxicological Testing. October, 1981.

VII. Classification of Rule

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This test rule is not major becaue it does not meet any of the criteria set forth in section 1(b) of the Order. First, the actual annual cost of the testing proposed for quinone is less than $253,000 over the testing and reimbursement period. Second, because the cost of the testing will be distributed over a large production volume, the rule will have only very minor effects (annualized unit costs are less than 1.4 cents per pound) on producers' costs or users' prices for this chemical substance. Finally, taking into account the nature of the market for this substance, the low level of costs involved, and the expected nature of the mechanisms for sharing the costs of the required testing, EPA concludes that there will be no significant adverse economic impact of any type as a result of this rule.

This proposed regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA, and any EPA response to those comments, will be included in the public record.

VIII. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (15 U.S.C. 601, *et seq.*, Pub. L. 96–354, September 19, 1980), EPA is certifying that this test rule, if promulgated, will not have a significant impact on a substantial number of small businesses for the following reasons:

1. Small processors will not perform testing themselves and will not participate in the organization of the testing effort.

2. Small processors will experience only minor costs in securing exemption from testing requirements.

3. Small processors are unlikely to be affected by reimbursement requirements.

4. There are no small manufacturers of quinone.

IX. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB marked Attention: Desk Officer for EPA. The final rule package will respond to any OMB or public comments on the information collection requirements.

X. Guidelines and Study Plans

The following guidelines and/or study plans cited in this proposed test rulemaking are available from the: National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, (703–487–4650).

NTIS publication No.	Title	Price
PB 82–140773	Chemical Testing Industry: Profile of Toxicological Testing.	$16.00
PB 82–232984	TSCA Health Effects Guidelines.	40.00
PB 82–232992	Environmental Effects Guidelines.	65.00

NTIS publication No.	Title	Price
PB 83–153908	OECD Test Guidelines for Hazard Evaluation: Wildlife and Aquatic Organisms.	11.50
PB 83–153916	FIFRA Pesticides Registration Guidelines: Proposed Data Requirements for Hazard Evaluation: Human and Domestic Animals.	11.50
PB 82–233006	TSCA Chemical Fate	40.00

List of Subjects in 40 CFR Part 799

Testing, Environmental protection, Hazardous material, Chemicals.

(Sec. 4, Pub. L. 94–469, 90 Stat. 2003; (15 U.S.C. 2061))

Dated: December 23, 1983.

Alvin L. Alm,

Acting Administrator.

PART 799—[AMENDED]

Therefore, it is proposed that a new § 799.3600 be added to Subpart B of proposed Part 799 to read as follows:

§ 799.3600 Quinone.

(a) *Identification of test substance.* (1) Quinone (CAS No. 106–51–4) shall be tested in accordance with this section.

(2) Quinone of at least 99 percent purity shall be used as the test substance in all tests.

(b) *Persons required to submit study plans, conduct tests and submit data.* (1) All persons who manufacture or process quinone from the effective date of this rule (30 days from the publication date of the final rule in the **Federal Register** to the end of the reimbursement period shall submit letters of intent to test, exemption applications and study plans and shall conduct tests and submit data as specified in paragraphs (c), (d), (e), (h), (i), (j), and (k) of this section.

(2) Any person subject to the requirements of this section may apply to EPA for an exemption from study plan submission and testing requirements. Any such application shall be in accordance with paragraph (h) of this section.

(c) *Submission of notice of intent to test or exemption application.* (1) No later than 30 days after the effective date of this section, each person manufacturing quinone as of the effective date of this section must, for each test required by paragraphs (i), (j), and (k) of this section, either notify EPA by letter of its intent to perform the test or submit an application for an exemption from the study plan submission and testing requirements for the test.

(2) If, by the date specified in paragraph (c)(1) of this section, no manufacturer of quinone has notified EPA of its intent to perform testing for a test required by paragraphs (i), (j), or (k) of this section, EPA will publish a notice in the **Federal Register** of this fact specifying the tests for which no notice of intent has been submitted. No later than 30 days after publication of such a notice, each person processing quinone as of the effective date of this section must, for each test specified in the **Federal Register** notice, either notify EPA by letter of its intent to perform the test or submit an application for an exemption from study plan submission and testing requirements for the test.

(3) Any person not manufacturing quinone as of the effective date of this section, who before the end of the reimbursement period manufactures quinone, must comply with the requirements of paragraphs (c)(1) and (d)(1) of this section. For purposes of this paragraph (c)(3), the manufacturer must submit the notice of intent to test or exemption application required by paragraph (c)(1) of this section by the date manufacture begins and must submit any proposed study plan required by paragraph (d)(1) of this section within 60 days of the date manufacture begins.

(4) If a **Federal Register** notice has been published under paragraphs (c)(2) or (d)(4) of this section, any person not processing quinone as of the effective date of this section, who before the end of the reimbursement period processes quinone, must comply with the requirements of paragraphs (c)(2) and (d)(2) of this section. For purposes of this paragraph (c)(4), the processor must submit the notice of intent to test or exemption application required by paragraph (c)(2) of this section by the date processing begins and must submit any proposed study plan required by paragraph (c)(2) of this section within 60 days of the date processing begins.

(5) Any manufacturer or processor of quinone which has notified EPA under paragraphs (c)(1), (c)(2), (c)(3), or (c)(4) of this section of its intent to perform testing for a test required by paragraphs (i), (j), or (k) of this section, must submit a proposed study plan for the test and must perform that test in accordance with the test standards in paragraph (l) of this section.

(d) *Submission of proposed study plans.* (1) Manufacturers of quinone which notify EPA under paragraph (c)(1) of this section that they intend to perform a test must submit a proposed study plan for the test in accordance with paragraph (e) of this section no later than 90 days after the effective date of this section. Manufacturers may jointly submit a single proposed study plan if they plan to sponsor or perform the test jointly. Any manufacturer which, having notified EPA of its intent to perform a test, fails to submit a proposed study plan for that test will have been in violation of this section as if no letter of intent to perform the test had been submitted.

(2) Processors of quinone which notify EPA under paragraph (c)(2) of this section that they intend to perform a test must submit a proposed study plan for the test in accordance with paragraph (e) of this section no later than 90 days after the publication of the notice specified in paragraph (c)(2) of this section. Processors may jointly submit a single proposed study plan if they plan to sponsor or perform the test jointly. Any processor, which, having notified EPA of its intent to perform a test, fails to submit a proposed study plan for that test will have been in violation of this section as if no letter of intent to perform the test had been submitted.

(3) If EPA determines in accordance with paragraph (f)(1)(i) of this section that a proposed study plan is incomplete and the manufacturer or processor has not, after notice from EPA, submitted appropriate information to make the study plan complete within 15 days, the manufacturer or processor will have been in violation of this section as if no letter of intent to perform the test had been submitted.

(4) If either:

(i) By the date specified in paragraph (d)(1) of this section a manufacturer of quinone, which notified EPA of its intent to perform a test, has failed to submit a proposed study plan for that test, or

(ii) A proposed study plan submitted under paragraph (d)(1) of this section has been found to be incomplete under paragraph (f)(1)(i) of this section and the manufacturer has not submitted appropriate information to make the study plan complete within 15 days, EPA will publish a notice in the **Federal Register** of this fact specifying the test. The requirements of paragraphs (c)(2) and (d)(2) of this section for processors to submit letters of intent to perform testing, applications for exemption, and proposed study plans will apply.

(5) If either:

(i) By the date specified in paragraph (c)(2) of this section no processor of quinone has notified EPA of its intent to perform testing for any test identified in a **Federal Register** notice published under paragraphs (c)(2) or (d)(4) of this section,

(ii) By the data specified in paragraph (d)(2) of this section any processor of quinone, which notified EPA of its intent to perform a test, has failed to submit a proposed study plan for that test, or

(iii) A proposed study plan submitted under paragraph (d)(2) of this section has been found to be incomplete under paragraph (f)(1)(i) of this section and the processor has not submitted appropriate information to make the study plan complete within 15 days, all applications for exemption from the requirements to submit study plans and to perform tests for the specific test involved will automatically be denied. EPA will notify each manufacturer and processor of quinone, which applied for an exemption for the specific test involved, of this automatic denial either by letter or by notice in the **Federal Register**. Each manufacturer or processor of quinone for whom an exemption application has been automatically denied will be in violation of this section 30 days from the time that it receives the notice letter or 30 days from the time that the notice is published in the **Federal Register**, whichever comes first. The violation will continue until a manufacturer or processor of quinone submits a proposed study plan for each test involved.

(6) Any manufacturer or processor of quinone may submit a proposed study plan for any test required by this section at any time, regardless of whether the manufacturer or processor previously submitted an application for exemption from testing for that test.

(e) *Content of study plans.* (1) All study plans are required to contain the following information: (i) A citation to this section

(ii) The specific test covered by the study plan.

(iii)(A) The names and addresses of the test sponsors.

(B) The names, addresses and telephone numbers of the responsible administrative officials and project manager(s) in the principal sponsor's organization.

(C) The name, address, and telephone number of the appropriate individual(s) for oral and written communications with EPA.

(D)(*1*) The name and address and telephone number of the testing facility including administrative officials and project manager(s) responsible for this testing.

(*2*) Brief summaries of the training and experience of each professional involved in the study including study director, veterinarian(s), toxicologist(s), pathologist(s) and laboratory assistants.

(iv) Identity and data on the chemical substance being tested including appropriate physical constants, spectral data, chemical analysis, and stability under test and storage conditions.

(v) Study protocol, including rationale for: species/strain selection; dose selection (and supporting data); route(s) or method(s) of exposure; a description of diet to be used and its source, including nutrients and contaminants and their concentrations; for *in vitro* test systems, a description of culture medium and its source; and a summary of expected spontaneous chronic diseases (including tumors), genealogy, and life span.

(vi) Schedule for initiation and completion of major phases of long term tests; schedule for submission of interim progress and final reports to EPA.

(2) Information specified under paragraph (e)(1)(iii)(D) of this section is not required in proposed study plans if the information is not available at the time of submission; however, the information must be submitted before the initiation of testing.

(f) *Review and adoption of study plans.* (1) Upon receipt of a proposed study plan, EPA will review the study plan to determine whether it complies with paragraph (e) of this section.

(i) If EPA determines that the proposed study plan does not comply with paragraph (e) of this section, EPA will notify the submitter that the submission is incomplete and will identify the deficiencies and the steps necessary to complete the submission. The submitter will have 15 days from the day it receives this notice to submit appropriate information to make the study plan complete. If the submitter fails to provide appropriate information to complete the study plan within this time, the submitter will have been in violation of this section as if no study plan had been submitted.

(ii) If EPA determines the proposed study plan complies with paragraph (e) of this section, EPA will publish a notice in the **Federal Register** requesting comments on the ability of the study plan to ensure that data from the test will be reliable and adequate. EPA will provide a 45-day comment period and will provide an opportunity for an oral presentation upon the request of any person. EPA may extend the comment period if it appears from the nature of the issues raised by EPA's review or from public comments that further comment is warranted.

(2) After receiving and considering public comment, EPA will adopt the study plan, including the time deadlines and reporting schedules, as proposed or as modified in response to EPA review and public comments, as test standards for the testing of quinone in paragraph (1) of this section.

(g) *Modification of study plans during conduct of study*—(1) *Application.* Any test sponsor who wishes to modify the adopted study plan for any test required under this section must submit an application in accordance with this paragraph. Application for modification shall be made in writing to the Chief, Test Rules Development Branch, Office of Toxic Substances, or by phone, with written confirmation to follow as soon as feasible. Applications must include appropriate explanation of why the modification is necessary.

(2) *Adoption.* To the extent feasible, EPA will seek comment on all substantive changes in study plans. EPA will issue a notice in the **Federal Register** requesting comments on requested modifications. However, EPA will act on the requested modification without seeking public comment if either: (i) EPA believes that an immediate modification to a study plan is necessary in order to preserve the accuracy or validity of an on-going study, or

(ii) EPA determines that a modification clearly does not pose any significant substantive issues. EPA will notify the sponsor of the EPA's approval of disapproval. When EPA approves a modification, it will publish a notice in the **Federal Register** indicating that the study plan has been modified.

(h) *Exemption applications.* (1) Any manufacturer or processor of quinone may submit an application to EPA for an exemption from submitting proposed study plans for, and from performing, any or all of the tests specified in paragraphs (i), (j), and (k) of this section. The application must include the name and address of the manufacturer or processor and must identify the specific requirements of the section from which the exemption is sought.

(2) No manufacturer or processor of quinone will be in violation of the requirement to perform a specific test under paragraphs (i), (j), or (k) of this section if it has submitted a timely application for an exemption for that test and the application has not been denied by EPA.

(3) EPA will conditionally grant any requested exemption for a specific test required by paragraphs (i), (j), or (k) of this section if EPA has received a complete proposed study plan for that test in accordance with paragraph (e) of this section and has adopted the study plan in accordance with paragraph (f)(2) of this section.

(4) EPA will deny any exemption for a specific test in paragraphs (i), (j), or (k) of this section if the study sponsor fails to perform the test or to submit data as required in the test standards adopted under paragraph (l) of this section.

(5) If manufacturers of quinone perform all the tests required by

paragraphs (i), (j), or (k) of this section, processors of quinone will automatically be granted an exemption from the study plan submission and testing requirements without the need to file an application for exemption

(i) *Health effects testing*—(1) *Carcinogenicity*—

(i) *Required testing.* A two-year oncogenicity bioassay, with inhalation as the route of exposure, shall be conducted with quinone.

(ii) *Study plans.* For guidance in preparing study plans, the TSCA Health Effects Guidelines for Chronic Exposure—Oncogenicity, published by NTIS (PB 82–232984), should be consulted. Additional guidance may be obtained from the OECD Test Guidelines for Health Effects, and the FIFRA Pesticides Registration Guidelines: Proposed Data Requirements for Hazard Evaluation: Human and Domestic Animals, published by NTIS (PB 83–153916).

(j) *Chemical fate testing*—(1) *Aerobic biodegradation.* (i) *Required testing.* An aerobic biodegradation test shall be conducted with quinone using natural waters representative of aquatic environments that may be exposed to quinone. Transformation of quinone may be determined using either compound-specific analytical techniques or radiolabeled test compound. Regardless of the analytical method chosen, it shall be adequate to determine both disappearance of parent compound and the extent of interconversion of hydroquinone and quinone.

(ii) *Study plans.* EPA has not published guidelines for this type of biodegradation test. However, any natural waters die-away or similar test methods should be suitable, provided that it meets the requirements set forth above. Examples of methods that may be used to develop an accepable study plan are described in Saeger, V.W. and Tucker, E.S., Biodegradation of Phthalic Acid Esters in River Water and Activated Sludge, Applied Environmental Microbiology 31, 29–34 (1976), and Spain, J.C., Pritchard, P.H. and Bourquin, A.W., Effects of Adaptation Rates in Sediment/Water Cores from Estuarine and Freshwater Environments, Applied Environmental Microbiology 40 726–734 (1980).

(k) *Environmental effects testing*—(1) *Aquatic freshwater acute toxicity*—(i) *Required testing.* Acute toxicity tests shall be conducted with quinone with freshwater animals in eight different species provided that of the eight species:

(A) At least one is a salmonid fish.

(B) At least one is a non-salmonid fish.

(C) At least one is a planktonic crustacean.

(D) At least one is a benthic crustacean.

(E) At least one is a benthic insect.

(F) At least one is a benthic species.

(ii) *Study plans.* For guidance in preparing study plans, the TSCA Environmental Effects Test Guidelines for acute toxicity testing, published by NTIS (PB 82–232992), should be consulted. Additional guidance may be obtained by consuting the OECDS Test Guidelines for Effects on Biotic Systems, the FIFRA Guidelines for Hazard Evaluation: Wildlife and Aquatic Organisms (PB 83–153908), and the Water Quality Criteria Guidelines (45 FR 79341).

(2) *Aquatic freshwater chronic toxicity*—(i) *Required testing.* Chronic toxicity tests shall be conducted with quinone for three species of aquatic animals provided that of the three species:

(A) At least one is a fish.

(B) At least one is an invertebrate.

(C) At least one is a freshwater species (the other two may be saltwater species).

(ii) *Study plans.* For guidance in preparing study plans, the TSCA Environmental Effects Test Guidances for chronic toxicity testing, published by NTIS (PB 82–232992), should be consulted. Additional guidance may be obtained by consulting the FIFRA Guidelines for Hazard Evaluation: Wildlife and Aquatic Organisms (PB 83–153908) and the Water Quality Criteria Guidelines, published in the **Federal Register** on November 28, 1980 (45 FR 79341).

(3) *Aquatic freshwater plants*—(i) *Required testing.* Testing shall be conducted with quinone with a freshwater alga, or a chronic test shall be conducted with quinone with a freshwater vascular plant.

(ii) *Study plans.* For guidance in preparing test study plans, that the TSCA Environmental Effects Test Guidelines for algal and macrophytic toxicity testing, published by NTIS (PB 82–232992), should be consulted. Additional guidance may be obtained by consulting the FIFRA Guidelines for Hazard Evaluation: Wildlife and Aquatic Organisms (PB 83–153908), the OECD Test Guidelines for Effects on Biotic Systems, and the Water Quality Criteria Guidelines (45 FR 79341).

(4) *Freshwater bioconcentration testing*—(i) *Required testing.* A bioconcentration factor test shall be conducted with guinone with a freshwater aquatic animal species.

(ii) *Study plans.* For guidance in preparing study plans, the TSCA Environmental Effects Test Guidelines, published by NTIS (PB 82–232992), should be consulted. Additional guidance may be obtained by consulting the FIFRA Guidelines for Hazard Evaluation: Wildlife and Aquatic Organisms (PB 83–153908), the OECD Test Guidelines for Degradation and Accumulation, and the Water Quality Criteria Guidelines (45 FR 79341).

(5) *Aquatic saltwater acute toxicity*—(i) *Required testing.* Acute toxicity tests shall be conducted with quinone with saltwater animals in eight different species provided that, of the eight species:

(A) At least two different fish families are included.

(B) At least five different invertebrate families are included.

(C) Either the Mysidae or Penaeidae family or both are included.

(D) At least one of the invertebrate families is in a phylum other than Arthropoda.

(ii) *Study plans.* For guidance in preparing study plans, the TSCA Environmental Effects Test Guidelines for acute toxicity testing, published by NTIS (PB 82–232992), should be consulted. Additional guidance may be obtained by consulting the OECD Test Guidelines for Effects on Biotic Systems, the FIFRA Guidelines for Hazard Evaluation: Wildlife and Aquatic Organism (PB 83–153908), and the Water Quality Criteria Guidelines (45 FR 79341).

(6) *Aquatic saltwater chronic toxicity*—(i) *Required testing.* Chronic toxicity tests shall be conducted with quinone for three species of aquatic animals provided that of the three species:

(A) At least one is a fish.

(B) At least one is an invertebrate.

(C) At least one is a saltwater species (the other two may be freshwater species).

(ii) *Study plans.* For guidance in preparing study plans, the TSCA Environmental Effects Test Guidelines for chronic toxicity testing, published by NTIS (PB 82–232992), should be consulted. Additional guidance may be obtained by consulting the FIFRA Guidelines for Hazard Evaluation: Wildlife and Aquatic Organisms (PB 83–153908) and the Water Quality Criteria Guidelines (45 FR 79341).

(7) *Aquatic saltwater plants*—(i) *Required testing.* Testing shall be conducted with quinone with a saltwater alga, or a chronic test shall be conducted with quinone with a saltwater vascular plant.

(ii) *Study plans.* For guidance in preparing study plans, the TSCA Environmental Effects Test Guidelines for algal and macrophytic toxicity testing, published by NTIS (PB 82–232992 and PB 83–257709), should be consulted. Additional guidance may be obtained by consulting the FIFRA Guidelines for Hazard Evaluation: Wildlife and Aquatic Organisms (PB 83–153908), the OECD Test Guidelines for Effects on Biotic Systems, and the Water Quality Criteria Guidelines.

(8) *Saltwater bioconcentration testing*—(i) *Required testing.* A bioconcentration factor test shall be conducted with a saltwater aquatic animal species.

(ii) *Study plans.* For guidance in preparing study plans, the TSCA Environmental Effects Test Guidelines published by NTIS (PB 82–232992), should be consulted. Additional guidance may be obtained by consulting the FIFRA Guidelines for Hazard Evaluation: Wildlife and Aquatic Organisms (PB 83–153908), the OECD Test Guidelines for Degradation and Accumulation, and the Water Quality Criteria Guidelines.

(l) *Test standards.* (1) Sponsors and testing facilities must adhere to the EPA Good Laboratory Practice Regulations in Part 792 of this chapter.

(m) *Enforcement.* (1) If a manufacturer or processor, which notified EPA under paragraph (c)(1), (2), (3) or (4) of this section of its intent to perform testing for a test required by paragraphs (i), (j) or (k) of this section, fails to perform the test in accordance with the test standards in paragraph (l) of this section, that failure will be a violation of this section.

(2) EPA will publish a notice in the **Federal Register** to inform all manufacturers and processors that all exemptions for performance of that test will be denied unless, within 30 days of the publication of the notice, a manufacturer or processor of quinone notifies EPA by letter that it intends to perform that test in accordance with the test standards in paragraph (l) of this section.

(3) Any person who fails or refuses to comply with any aspect of this section is in violation of section 15 of the Act.

(n) *Availability.* The TSCA and FIFRA guidelines for the various study plans are available from the National Technical Information Service (NTIS). Address and telephone number: National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161 (703–487–4650).

[FR Doc. 84–65 Filed 1–3–84; 8:45 am]
BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83–482; RM–4402]

FM Broadcast Station in Williams, Arizona; Withdrawal of Proposed Rule

AGENCY: Federal Communications Commission.

ACTION: Withdrawal of Notice of Proposed Rulemaking.

SUMMARY: Action taken herein dismisses a proposal to assign FM Channel 257A to Williams, Arizona, based upon the petitioner's notification withdrawing interest in the request.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

List of subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Williams, Arizona), MM Docket No. 83–482, RM-4402.

Report and Order (Proceeding Terminated)

Adopted: December 5, 1983.

Released: December 21, 1983.

By the Chief, Policy and Rules Division.

1. Before the Commission is the *Notice of Proposed Rule Making,* 48 FR 27565, published June 16, 1983, proposing the assignment of Channel 257A to Williams, Arizona, as its second FM assignment, in response to a petition filed by Soho Broadcasting ("petitioner"). Petitioner initially stated that he would apply for the channel, if assigned, but has since filed a request to dismiss his proposal.

2. Absent an expression of interest in the use of a proposed channel, it is the Commission's general policy to refrain from making a new assignment to a community. Therefore, since there has been no such interest here, we will grant the petitioner's request for dismissal.

3. Accordingly, it is ordered, that the petition of Soho Broadcasting, proposing the assignment of Channel 257A to Williams, Arizona, is hereby dismissed.

4. It is further ordered, that this proceeding is terminated.

5. For further information concerning the above, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–42 Filed 1–3–84; 8:45 am]
BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 83–1343; RM–4606]

FM Broadcast Stations in Aspen, Colorado; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes to assign Channel 296A to Aspen, Colorado, as its second FM service, in response to a petition filed by Nae Kyung Kim.

DATES: Comments must be filed on or before February 13, 1984, and reply comments on or before February 28, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Aspen, Colorado), MM Docket No. 83–1343, RM–4606.

Adopted: December 12, 1983.

Released: December 23, 1983.

By the Chief, Policy and Rules Division.

1. A petition for rule making was filed by Nae Kyung Kim ("petitioner"), seeking the assignment of Channel 296A to Aspen, Colorado, as that community's second local FM service. Petitioner indicates that he, or an entity of which he is a part, will apply for the channel, if assigned. The channel can be assigned in conformity with the minimum distance separation requirements of § 73.207 of the Commission's Rules.

§ 73.202 . [Amended]

2. In view of the fact that the proposed assignment could provide a second local FM service to Aspen, Colorado, for the expression of diverse viewpoints and programming, the Commission believes it is appropriate to propose amending

the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with respect to that community, as follows:

City	Channel No.	
	Present	Proposed
Aspen, Colorado	249A	249A, 296A.

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

4. Interested parties may file comments on or before February 13, 1984, and reply comments on or before February 28, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner and his consultant, as follows:

Nae Kyung Kim, P.O. Box 1226, Aspen, Colorado 81611 (Petitioner); and Edward M. Johnson, One Regency Square, #450, Knoxville, Tennessee 37915 (Consultant).

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act ot 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken of written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84-43 Filed 1-3-84; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-1244; RM-4643]

FM Broadcast Station in Manteo, North Carolina; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 252A to Manteo, North Carolina, in response to a petition filed by Bayliss Broadcasting Co.

DATES: Comments must be filed on or before February 13, 1984, and reply comments must be filed on or before February 28, 1984.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau (202) 634–6530..

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast

Stations. (Manteo, North Carolina) MM Docket No. 83-1344 RM-4643

Adopted: December 9, 1983.
Released: December 23, 1983.
By the Chief, Policy and Rules Division.

1. A petition for rule making has been filed by Bayliss Broadcasting Co. ("petitioner"), proposing the assignment of FM Channel 252A to Manteo, North Carolina, as its second local FM service.[1] Petitioner expressed an interest in applying for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements.

§ 73.202 [Amended]

2. In view of the fact that the proposed assignment could provide a second FM service to Manteo, North Carolina, the Commission believes it is appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Manteo, North Carolina	257A	252A, 257A

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

NOTE.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

4. Interested parties may file comments on or before February 13, 1984, and reply comments on or before February 28, 1984, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner as follows: Peter D. O'Connell, Marnie K. Sarver, Pierson, Ball & Dowd, 1200—18th St. NW., 1000 Ring Building, Washington, D.C. 20036, (counsel for the petitioner).

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Appendix

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commisssion to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commisson's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84-44 Filed 1-3-84; 8:45 am]
BILLING CODE 6712-01-M

[1] Channel 257A has recently been assigned to Manteo, North Carolina (MM Docket No. 83-715, RM-4451).

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47 CFR Part 73

[MM Docket No. 83-1345; RM-4595]

TV Broadcast Station in Sturgeon Bay, Wisconsin; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of UHF Television Channel 42 to Sturgeon Bay, Wisconsin, as that community's first local television station in response to a petition filed by Sturgeon Bay Television Company.

DATES: Comments must be filed on or before February 13, 1984, and reply comments on or before February 28, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kathleen M. Scheuerle, Mass Media (202) 634–6530.

SUPPLEMENTARY INFORMATION.

List of Subjects in 47 CFR Part 73

Television broadcasting

Notice of Proposed Rule Making

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Sturgeon Bay, Wisconsin) MM Docket No. 83–1345 RM–4595.

Adopted: December 7, 1983.
Released: December 23, 1983.

1. A petition for rule making has been filed by Sturgeon Bay Television Company ("petitioner"), seeking the assignment of UHF Television Channel 42 [1] to Sturgeon Bay, Wisconsin, as that community's first local television service. Petitioner indicates that it will apply for the channel, if assigned.

2. Sturgeon Bay (population 8,847) [2], seat of Door County (population 25,029), is located on a peninsula approximately 60 kilometers (38 miles) northeast of Green Bay, Wisconsin.

3. We believe the proposal warrants consideration. The channel can be assigned consistent with the minumum distance separation requirements of §§ 73.610 and 73.698 of the Commission's Rules. Since Sturgeon Bay is located within 400 kilometers (250 miles) of the common U.S.-Canadian border, the Commission must obtain Canadian concurrence in the proposal.

§ 73.606 [Amended]

4. In view of the foregoing and the fact that the proposed assignment could provide a first local commercial television broadcast service to Sturgeon Bay, Wisconsin, the Commission believes it appropriate to propose amending the Television Table of Assignments, § 73.606(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Sturgeon Bay, Wisconsin	—	42

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before February 13, 1984, and reply comments on or before February 28, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: J. Geoffrey Bentley, Esq., Joseph P. Benkert, Esq., Liberman, Sanchez & Bentley, 2000 "L" Street, NW., Suite 200, Washington, D.C. 20036, (Counsel for petitioner).

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is not longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Appendix

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice*

[1] Petitioner originally requested Channel 46. We have substituted Channel 42 for consideration in order to avoid a conflict with an application for Channel 32 in Appleton, Wisconsin.

[2] Population figures are from the 1980 U.S. Census, Advance Report.

of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84-45 Filed 1-3-84, 8:45 am]
BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 49, No. 2
Wednesday, January 4, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Section 22 Import Fees; Determination of Quarterly Import Fees on Sugar

AGENCY: Office of the Secretary, USDA.
ACTION: Notice.

SUMMARY: Headnote 4(c) of Part 3 of the Appendix to the Tariff Schedules of the United States (TSUS) requires the Secretary of Agriculture to determine on a quarterly basis the amount of the fees which shall be imposed on imports of raw and refined sugar (TSUS items 956.05, 956.15, and 957.15) under the authority of Section 22 of the Agricultural Adjustment Act of 1933, as amended. This notice announces those determinations for the first calendar quarter of 1984.

EFFECTIVE DATE: January 1, 1984.

FOR FURTHER INFORMATION CONTACT: William F. Doering, Foreign Agricultural Service, Department of Agriculture, Washington, D.C. 20250 (202–447–6723).

SUPPLEMENTARY INFORMATION: By Presidential Proclamation No. 4940, dated May 5, 1982, Headnote 4 of Part 3 of the TSUS was amended to provide that quarterly adjusted fees shall be imposed on imports of raw and refined sugar (TSUS items 956.05, 956.15, and 957.15). Paragraph (c)(ii) of Headnote 4 provides that the quarterly adjusted fee for item 956.15 shall be the amount by which the average of the adjusted daily spot (domestic) price quotations for raw sugar for the 20 consecutive market days immediately preceding the 20th day of the month preceding the calendar quarter during which the fee shall be applicable (as reported by the New York Coffee, Sugar, and Cocoa Exchange), expressed in United States cents per pound, in bulk, is less than the market stabilization price. The market stabilization price for the first calendar quarter of 1984 is 21.17 cents per pound. However, whenever the average of the daily spot price quotations for 10 consecutive market days within any calendar quarter: (1) Exceeds the market stabilization price by more than one cent, the fee then in effect shall be decreased by one cent; or (2) is less than the market stabilization price by more than one cent, the fee then in effect shall be increased by one cent. Paragraph (c)(i) of Headnote 4 further provides that the quarterly adjusted fee for items 956.05 and 957.15 shall be the amount of the fee for item 956.15 plus one cent.

The average of the adjusted daily spot (domestic) price quotations for raw sugar for the applicable period prior to the first calendar quarter of 1984 has been calculated to be 21.5680 cents per pound. This results in a fee of 0.00 cent per pound for item 956.15, since the adjusted average spot price is greater than 21.17 cents. Accordingly, the fee for items 956.05 and 957.15 for the first calendar quarter of 1984 is 1.00 cent per pound.

Headnote 4(c) requires the Secretary of agriculture to determine and announce the amount of the quarterly fees no later than the 25th day of the month preceding the calendar quarter during which the fees shall be applicable. The Secretary is also required to certify the amounts of such fees to the Secretary of the Treasury and file notice thereof with the **Federal Register** prior to the beginning of the calendar quarter during which the fees shall be applicable. This notice is therefore being issued in order to comply with the requirements of Headnote 4(c).

Notice is hereby given that, in accordance with the requirements of Headnote 4(c) of Part 3 of the Appendix to the Tariff Schedules of the United States, it is determined that the quarterly adjusted fees for raw and refined sugar (TSUS items 956.05, 956.15, and 957.15) for the first calendar quarter of 1984 shall be as follows:

Item	Fee
956.05	1.00 cent per lb.
956.15	0.00 cent per lb.
957.15	1.00 cent per lb.

The amounts of such fees have been certified to the Secretary of the Treasury in accordance with paragraph (c)(iv) of Headnote 4.

Signed at Washington, D.C. on December 28, 1983.

Richard E. Lyng,
Acting Secretary of Agriculture.

[FR Doc. 83–33702 Filed 12–29–83; 4:00 pm]
BILLING CODE 3410–10–M

Farmers Home Administration

Servicing of Farmer Program Loan Accounts; Temporary Directives

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice of Temporary Directives Sent to Field Staff Concerning Servicing Actions.

SUMMARY: In an effort to comply with the November 14, 1983, Preliminary Injunction entered in the nationwide class action entitled *Coleman* v. *Block*, Civil No. Al–83–47 (D. N. Dak.) so that it can proceed with servicing certain of its farmer program loan accounts while the litigation is pending, the Farmers Home Administration (FmHA) has issued temporary directives to its field staff. These directives will generally affect only those farmer program loan borrowers (including those who have both farmer program and single-family rural housing loans) who have had, or are about to have: (1) The release of income which their current year's farm plan of operation shows they planned to use family living and/or farm operating expenses terminated by FmHA; (2) their FmHA debts accelerated and their real estate or chattels foreclosed upon; (3) demand made on them to convey to FmHA property they own on which FmHA has a lien; and (4) their chattels repossessed or in other ways property they own in which FmHA has a security interest proceeded against.

Copies of these directives may be obtained from any FmHA office.

The Catalog of Federal Domestic Assistance Programs affected are:

10.404 Emergency Loans
10.406 Farm Operating Loans
10.407 Farm Ownership Loans
10.416 Soil and Water Loans

FOR FURTHER INFORMATION CONTACT: Edward R. Yaxley, Senior Loan Officer, Processing Branch, Farm Real Estate and Production Division, Farmers Home Administration, USDA, Room 5322–S, Washington, D.C. 20250, telephone (202) 447–4572.

Dated: December 21, 1983.

Michael E. Brunner,

Acting Administrator, Farmers Home Administration.

[FR Doc. 84-118 Filed 1-84; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 50-83]

Foreign-Trade Zone 72, Indianapolis, Indiana; Application for Subzone Eli Lilly Plants, Indianapolis Area

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Indianapolis Airport Authority, grantee of Foreign-Trade Zone 72, requesting special-purpose subzone status for pharmaceutical and chemical manufacturing plants of Eli Lilly and Company, located in Indianapolis, Lafayette and Clinton, Indiana, within a 75-mile radius of the Indianapolis Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on December 22, 1983. The applicant is authorized to make this proposal under Indiana Code 3-10-3-2. The question of adjacency is being reviewed by Customs.

On September 28, 1981, the Board authorized the Airport Authority to establish a foreign-trade zone in the Indianapolis area (Board Order 179, 46 FR 50091, 10/9/81). The project involves 15 acres at the Indianapolis International Airport, including an air cargo building.

The proposed subzone is for the three Indianapolis area manufacturing plants of Eli Lilly a multi-national producer of human health, cosmetic and agricultural products with 38 plants in 17 countries and annual sales of close to $3 billion. The subzone's Site I will cover 220 acres at the company's Indianapolis plant, including the production complex in the White River and Kentucky Avenue area, about one-half mile south of I-70, an a facility at 2301 Executive Drive. Site II is at the company's Lafayette plant covering 449 acres on Lilly Road in West Lafayette, some 60 miles northeast of Indianapolis. Site III is at Lilly's Clinton plant, a 747-acre facility on State Road 63 in Clinton, some 70 miles west of Indianapolis. The plants employ a total of 9,600 persons.

The three plants are part of an integrated process for producing pharmaceuticals, herbicides and animal health products. Althought the major proportion of the materials used in the plants' production come from domestic sources, certain intermediate chemicals, such as cephalexin disolvate and other benzenoid derivatives, are purchased from abroad. Because about 75 percent of the imported material is reexported, foreign content of the plants' products destined for the domestic market is only 2 percent. The operations of the three plants account for the most of the company's $350 million in annual U.S. exports.

Zone procedures will exempt Lilly from duty payments on the material it uses in its exports. The company will derive secondary cost savings by deferring duty and by taking advantage the same duty rate available to importers of finished products. On the imported material used by Lilly the duty rates range from 7.9 to 17.9 percent whereas final product rates range from 7.4 to 12.5 percent. The savings from zone procedures, primarily derived from reexports, will help the company's U.S. facilities remain competitive with similar production plants abroad.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; John F. Nelson, District Director, U.S. Customs Service, North Central Region, 55 Erieview Plaza, 6th Floor, Cleveland, OH 44114; and Colonel Dwayne G. Lee, District Engineer, U.S. Army Engineer District Louisville, P.O. Box 59, Louisville, KY 40201.

Comments concerning the proposed subzone are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before February 3, 1984.

A copy of the application is available for public inspection at each of the following locations:

U.S. Dept. of Commerce District Office, 375 Federal Bldg./Courthouse, 46 East Ohio Street, Indianapolis, OH 46204.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1872, 14th and Pennsylvania, NW., Washington, D.C. 20230.

Dated: December 28, 1983.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 84-68 Filed 1-3-84; 8:45 am]

BILLING CODE 3510-DS-M

[Order No. 240]

Removal of Time Limit on Temporary Zone Site of Foreign-Trade Zone No. 31, Granite City, Illinois, Within the St. Louis Customs Port of Entry

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) adopts the following order:

Whereas, on November 21, 1980, the Tri-City Regional Port District (Port District), grantee of Foreign-Trade Zone 31 in Granite City, Illinois, received authority from the Board to establish a temporary zone site on South State Street in Granite City until December 31, 1983 (Board Order 169, 45 FR 79520);

Whereas, the Port District has applied to the Board for authority to remove the time limitation on zone status for the South State Street site;

Whereas, the application was accepted for filing on September 26, 1983, and notice inviting public comment was given in the **Federal Register** on October 6, 1983 (Docket No. 36-83, 48 FR 45579);

Whereas, the temporary site has provided zone services in a satisfactory manner from the standpoint of both the grantee and local Customs officials;

Whereas, the FTZ Staff has investigated the proposal in accordance with the Board's regulations and, finding continuation of zone services at the site to be in the public interest, has recommended approval; and;

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied;

Now, Therefore, the Board hereby orders:

That the time limitation on the South State Street zone site of FTZ 31 is removed. The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations. The authority given in this Order is subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, D.C. this 27th day of December 1983.

William T. Archey,

Acting Assistant Secretary of Commerce for Trade Administration Chairman, Committee of Alternates.

ATTEST:

John T. DuPonte,

Executive Secretary

[FR Doc. 84-84 Filed 1-3-84; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-588-008]

Lightweight Polyester Filament Fabric From Japan; Final Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that lightweight polyester filament fabrics (LPFF) from Japan are being sold in the United States at less than fair value. Therefore, we have notified the U.S. International Trade Commission (ITC) of our determination, and the ITC will determine, within 45 days of publication of this notice, whether these imports are materially injuring, or are threatening to materially injure, a U.S. industry. We have directed the U.S. Customs Service to continue to suspend the liquidation of all entries of the subject merchandise which are entered, or withdrawn from warehouse, for consumption, on or after August 8, 1983, in accordance with our preliminary determination, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice. Those firms which are subject to the suspension of liquidation are indicated in the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: January 4, 1983.

FOR FURTHER INFORMATION CONTACT: Charles E. Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-5288.

SUPPLEMENTARY INFORMATION: .

Final Determiation

We have determined that LPFF from Japan are being sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The firms investigated are indicated in the "Suspension of Liquidation" section of this notice.

Case History

On January 4, 1983, we received a petition filed by counsel for Burlington Industries, Inc., Milliken & Co., J.P. Stevens & Co., Inc., Dan Rivers, Inc., Texfi Industries, Frank Ix & Sons, Inc., and Bloomsburg Mills, Inc. on behalf of the U.S. industry producing lightweight polyester filament fabrics. In accordance with the filing requirements of § 353.36 of the Commerce Department Regulations (19 CFR 353.36), the petitioner alleged that LPFF from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening to materially injure, a U.S. industry. The allegations of sales at less than fair value include an allegation that home market sales are being made at less than the cost of production in Japan.

After reviewing the petition,we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. We notified the ITC of our action and initiated such an investigation on January 24, 1983 (48 FR 3797). The ITC subsequently found, on February 18, 1983, that there is a reasonable indication that imports of LPFF are materially injuring, or are threatening to materially injure, a U.S. industry.

The petitioner alleged that at least eight Japanese companies produce LPFF for export to the United States. However, we identified eleven producers and exporters which account for at least 60 percent of the exports to the United States. Questionnaires were presented in Japan to these producers and exporters on February 21, 1983.

On March 28, 1983 and May 19, 1983, we received letters from Counsel for the Japanese LPFF producers and exporters requesting additional time in which to respond because of the numerous companies and complicated products. Extensions were granted and we received responses on April 28, 1983; and May 2, 6, 9 and 31, 1983. Supplemental questionnaires were sent on June 21, and the supplemental responses were received between June 29 and July 19, 1983. We received responses from the following companies: Asahi Chemical Industry Co., Ltd. (Asahi); C. Itoh & Co., Ltd.; Kanebo Synthetic Textiles, Ltd. (Kanebo); Kuraray Co., Ltd.; Mitsubishi Rayon Co., Ltd. (Mitsubishi); Nichibo Co., Ltd.; Nishikawa Bussan Co., Ltd. (Nishikawa); Teijin Limited; Toray Industries, Inc.; Toyobo Co., Ltd; and Unitika, Ltd. We also received a response to Section E of the questionnaire, "Data from Certain Resellers," from Chori Company, Ltd. Chori is a trading company related to Toray.

On May 20, 1983, we found this case to be extraordinarily complicted because of the large number of complex transactions and the large number of firms whose activities had to be investigated. We postponed our preliminary determination until August 2, 1983 (48 FR 23471).

On August 2, 1983, we preliminarily determined that LPFF from Japan were being sold in the United States at less than fair value (48 FR 35976). We held a hearing on November 1, 1983, to allow the parties an opportunity to address the issues.

During the period August 4, to September 1, 1983, we received letters from eight of the respondents requesting that the final determination be extended until December 21, 1983. We extended our final determination until that date.

Scope of Investigation

The products covered by this investigation are lightweight polyester filament fabrics, currently provided for in items 338.5009, 388.5011, 388.5012, 388.5013, and 338.5015 of the *Tariff Schedules of the United States Annotated (TSUSA).*

Since the respondents produced and exported at least 60 percent of the LPFF from Japan to the United States during the period of investigation, we limited our investigation to them.

We investigated sales of LPFF by these respondents during the period from July 1, to December 31, 1982.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price for the sales by the Japanese producers or exporters, because the merchandise was sold to unrelated purchasers prior to its importation into the United States.

We calculated the purchase price based on the ex-factory, ex-go-down, f.o.b., c.& f., c.i.f., c.i.f., duty-paid, or c.i.f. duty-paid delivered packed price to unrelated purchasers in the United

States. We made deductions, where appropriate, for foreign inland freight, foreign inland insurance, foreign brokerage and handling charges, bank charges, ocean freight, marine insurance, U.S. brokerage and handling charges, U.S. excise and other special taxes, U.S. customs duties, factor charges, U.S. inland freight, and U.S. inland insurance.

Foreign Market Value

In accordance with section 773(a) of the Act, we calculated foreign market value based on home market sales and, where appropriate, third country sales and constructed value.

We established categories of "such or similar" merchandise, pursuant to section 771(16)(C) of the Act, on the basis of fabric designation (georgette, palace crepe, etc.), the type of weave, and whether a fabric is greige or partially finished, or is completely finished. Individual combinations of these components each determine a "such or similar" group upon which a viability test was performed (i.e., we decided whether there were adequate above-cost sales to warrant price-to-price comparisions) and within which price-to-price comparisons were made. In order to select the most similar fabrics within a "such or similar" category, we used the following factors: the finished width of a fabric, the state of a fabric, the type of yarn, whether or not the fabric has been caustically reduced, whether or not the fabric has a specialty post finish. This system accounts for the major factors influencing the cost of manufacture and market value. Where adjustments were necessary to account for differences in physical characteristics of fabrics, we were able to calculate these differences in the cost of manufacture.

Petitioner alleged that sales in the home market were at prices below the cost of producing LPFF. We examined production costs which included all appropriate costs for materials, fabrication and general expenses. Sales below the cost of production were found to be made within certain such or similar categories of LPFF. Where sales within any of the categories were made over an extended period of time and in substantial quantities, and were at prices which did not permit recovery of all costs within a reasonable period of time in the normal course of trade, we disregarded these sales in our analysis in accordance with section 773(b) of the Act. Disregarding such sales, we found for certain categories that sufficient sales of such or similar merchandise were made at or above the cost of production in the home market. Therefore, we used those sales to determine foreign market value. If, within these such or similar categories, all home market sales of particular fabric types identical or most similar to particular fabrics sold to the United States were disregarded pursuant to section 773(b) of the Act, we used sales of the most similar home market merchandise made at or above the cost of production for comparision to those United States sales, after appropriate adjustments. On the other hand, where sales remaining above the cost of production in a such or similar category were inadequate as a basis for determining foreign market value, we used constructed value to determine the foreign market value of those particular fabric types.

In addition, Teijin identified a number of its home market sales made at distress prices (in the case of end-of-season or out-of-fashion merchandise), which it claims are in the normal course of trade for the LPFF industry. The Department's product expert verified that this was indeed the case. Accordingly, we have used these distress sales in making fair value comparisons.

Where we used home prices as the basis for foreign market value, we calculated the home market prices for each type of LPFF on the basis of delivered packed prices to unrelated purchasers. From these prices we deducted, where appropriate, foreign inland freight, foreign inland insurance, rebates, and discounts. We made adjustments, were appropriate, for credit expenses, advertising expenses, warranty and servicing expenses, after-sale warehousing expenses, and other direct selling expenses, such as sales promotional activities by company staff, in accordance with § 353.15 of the Commerce Regulations.

We also made an adjustment, where appropriate, for the differences between commissions on sales to the United States and indirect selling expenses in the home market used as an offset to U.S. commissions, in accordance with § 353.15(c) of the Commerce Regulations. We also made adjustments for the cost of materials, labor, and direct factory overhead associated with differences in the merchandise in accordance with § 353.16 of the Commerce Regulations. In the cases of Kuraray and Teijin, we made an adjustment to the weighted-average home market price for differences in shrinkage of greige fabric, which is sold on a shrunk basis in the home market and on an unshrunk basis in the United States. We also deducted home market packing cost and added the packing cost incurred on sales to the United States.

We disallowed the follwing claims in calculating foreign market value. Asahi requested a circumstance-of-sale adjustment for quality testing inspection expenses and other direct selling expenses covering entertainment and meeting costs. We disallowed these claims because we do not consider these items to be a circumstance-of-sale bearing a direct relationship to sales of LPFF in the home market.

Kuraray requested circumstance-of-sale adjustments for advertising expenses covering various trade shows. One of these claims was disallowed because the expenditure was not incurred during the period of investigation. Kuraray also requested circumstance-of-sale adjustments for other direct selling expenses covering travel, special promotion, and entertainment costs. These claims were disallowed because they do not bear a direct relationship to sales of LPFF.

Unitika requested a circumstance-of-sale adjustment for the LPFF share of corporate funding for Unitika's volleyball and basketball teams. We disallowed this claim because the expenditures do not bear a direct relationship to sales of LPFF, nor are they attributable to a letter sale of LPFF by a purchaser.

We also disallowed the following claims by Unitika for other direct selling expenses because we could not establish that the expenditures bore a direct relationship to sales of LPFF, not that they were attributable to a later sale of LPFF by a purchaser: travel expenses, sales meetings, quality tests, meeting costs, and notebooks distributed to clients. In addition, we disallowed Unitika's claims for special Silmie-5 advertising and direct selling expenses because the expenditures were not incurred during the period of investigation. Unitika also requested an adjustment for the higher value of its trademarked Silmie-5 habutae. Although the qualitative evidence in the record of this investigation indicates that the Silmie-5 trademark does generate a higher market value for Unitika's Silmie-5 habutae; however, we were not able to conclude that the method used by Unitika to calculate the higher market value of the trademarked fabric was adequate upon which to base the adjustment. Because we recognize that the Silmie-5 trademark does have an effect on the market value that we cannot sufficiently quantity, we excluded Unitika's Silmie-5 habutae from our fair value comparisons.

As required in section 773(a)(1)(B) of the Act, we selected sales for export to a country other than the United States (a "third country") as the basis for foreign market value in two instances. In the case of Nichibo, where there were insufficient sales of LPFF in the home market, we calculated the third country prices on the basis of the c. & f. or c.i.f., packed price to unrelated purchasers in Saudi Arabia. In the case of C. Itoh, all home market sales were of greige products which we do not consider as being such or similar to fully finished products. Lacking home market sales of such or similar merchandise for comparison to sales of dyed goods to the United States, we calculated the foreign market value based in the c. & f. or c.i.f., packed price to unrelated purchasers in Hong Kong, Canada, and the United Kingdom. We made deductions, where appropriate, for inland freight insurance. An adjustment was also made, where appropriate, for the differences between commissions on sales to the United States and indirect selling expenses incurred on sales in the home market, used as an offset to U.S. commissions, in accordance with § 353.15(c) of the Commerce Regulations. We made circumstance-of-sale adjustments, where appropriate, for quality control, testing, inspection expenses, and credit expenses in accordance with § 353.15 of the Commerce Regulations. We also made adjustments for the cost of materials, labor, and direct factory overhead associated with difference in merchandise in accordance with § 353.16 of the Commerce Regulations. We deducted third-country packing costs and added the packing costs incurred on sales to the United States. Regarding the other companies where there were insufficient sales in the home market in certain such or similar categories and the companies had provided adequate third country sales information, we used the third country sales date as a basis for the determination of foreign market value in making our comparisons.

Where we used constructed value as the basis for foriegn market value, we calculated the cost of materials, fabrication, general expenses, profit, and the cost of packing. The amount added for general expenses was the statutory minimum of 10 percent of the sum of material and fabrication costs or the actual general expenses, which is higher. The amount added for profit was the statutory minimum of 8 percent of the sum of materials, fabrication costs, and general expenses or the actual profit, whichever was higher.

Verification

In accordance with 776(a) of the Act, we verified the information used in making this determination by using standard verification procedures, including on-site inspection of the manufacturers' operations and examination of accounting records and selected documents containing relevant information.

Results of Verification

We made fair value comparisons on all U.S. sales reported by the respondents. We have found that the foreign market value of LPFF exceeded the U.S. price on 43.065 percent of the sales we compared. These margins ranged from 0.013 percent to 68.47 percent. The overall weighted-average margin on all sales compared is 5.211 percent. The weighted-average margins for individual companies investigated are presented in the "Suspension of Liquidation" section of this notice.

Petitioners' Comments

Comment 1

Respondents failed to provide the necessary information needed to calculate the cost of producing individual fabrics. Detailed fabric-by-fabric information on labor costs, yarn costs, energy costs, production processes, equipment efficiency, and the amount of each cost factor used in each step of the production process was not provided in the questionnaire responses. In addition, respondents did not provide quarterly breakdowns of costs for materials; direct labor; factory overhead; selling, general, and administrative expenses; and packing and financing costs for lightweight polyester fabric as a whole, and separately for each fabric type. Furthermore, individual fabrics were not described fully enough in the questionnaire responses for the Department to evaluate the cost information and to make proper comparisons. Therefore, the Department should disregard the respondents' cost information and substitute the best information available.

DOC Position

During verification respondents provided additional information related to calculating the cost of producing LPFF products, including:

- Fabric specific information on the price of labor costs, raw materials costs, energy costs, production processes, equipment efficiency, and actual weaving and finishing costs;
- The amount of each cost factor used in each step in the production processes;
- Monthly breakdowns of costs for materials; direct labor; factory overhead; selling, general, and administrative expenses; and packing and financing costs for LPFF as a whole, and separately for each fabric type;
- The number of employees at each stage of the production process, their wages and other compensation levels;
- Internal industrial engineering standards and fabric descriptions.

Petitioners maintain that "the sample cost sheets provided to the Department show that cost information is routinely kept at that level of detail." Respondents do maintain extensive cost accounting systems, which were reviewed at verification. It is their verified cost sheets which they used as the basis for preparing their submissions. In all cases, the LPFF production cost elements submitted by each respondent company were reconciled with its general ledger and financial statements to assure that the cost of production schedules submitted included all costs incurred.

Additionally, the fabric designation methodology developed by our product consultant, Geoffrey Lund Associates, accounts for all the major factors influencing the cost of manufacture and market value of LPFF fabrics (such as weight, twist, texturizing, and complexity of manufacture). It allowed us to both evaluate the cost information and to make proper price-to-price comparisons.

Comment 2

Petitioners maintain that not all responding companies described the manner in which costs were allocated among individual lightweight polyester fabrics, nor did they describe how allocations were made between lightweight polyester yarns and other heavier polyester yarns. The allocation methods used by respondents to determine preparation costs, weaving costs, yarn costs, labor costs per hour, dyeing costs, and overhead were improper in that they are not reasonably related to the actual expenses incurred during each stage of the production process, including subcontracted work, and they distort downward the cost of light-weight fabric. The Department should disregard the cost information that is not based on fully-disclosed, proper methods of allocation, and base foreign market value on constructed value, with production costs calculated according to a reasonable method of

allocation selected by the Department, as the best available information.

DOC Position

During verification, we discovered that in the Japanese textile industry all weaving and finishing functions are performed by outside subcontractors. The weaving and finishing costs accounted for between 61 and 72 percent of the costs of producing LPFF for the companies verified. After determining that such prices approximated the costs incurred by related companies, we used actual fabric-specific invoice prices as the basis for determining the weaving and finishing components of cost of production, rather than internal cost allocation procedures.

Selling, general, and administrative expenses accounted for an additional 9 to 14 percent of the cost of producing LPFF. These costs were generally allocated to LPFF production by either production volume or value.

The cost of manufacturing yarn accounted for the remaining 17 to 26 percent of LPFF cost of production. The cost allocation methodologies used by respondents to determine yarn-specific manufacturing costs were based on company-specific enginering standards prepared by respondents' industrial engineers for use in the normal course of business. With one exception, each of the companies visited used these engineering standards to adjust the cost amounts allocated to major yarn categories (fully-oriented yarn, partially oriented yarn, and drawn-textured yarn) for yarn specific characteristics such as denier, number of filaments and other distinguishing characteristics (semidull, bright, etc.) The one exception calculated the overall weighted average cost per kilogram for each major yarn category. However, this is the cost accounting system used by this company for internal management purposes, and the same methodology was used to calculate the yarn cost component of both home market and export fabric production costs.

Based on the information obtained during verification, we determined that respondents' cost allocation methodologies are based on fully-disclosed, proper methods of allocation. Therefore, we used this information for our final determination.

Comment 3

Based on petitioners's analysis, the product-specific cost estimates provided by Toray materially understate the cost associated with high-twist lightweight polyester filament fabric production. Toray's allocation procedures do not result in a pattern of costs that comport with reasonable industrial standards and the impact that such factors as construction and twist would have on costs.

DOC Position

The LPFF cost of production elements submitted by Toray were reconciled with its general ledger and financial statements to ensure that the response included all costs incurred. As was the case for each respondent, all Toray's weaving and finishing requirements are performed by subcontractors. Consequently, Toray used the actual fabric-specific invoice prices to determine the weaving and finishing components of the cost of production. These items plus selling, general and administrative expenses accounted for a large majority of total costs. Yarn manufacturing costs representing the balance were allocated based on reasonable procedures to the major yarn categories: fully-oriented yarn, partially-oriented yarn, and drawn-textured yarn. Through the use of engineering standards which were developed by Toray's industrial engineers and applied consistently throughout the company's accounting system, costs were then adjusted for yarn-specific characteristics such as denier, number of filaments, and other distinguishing characteristics. Therefore, we determined that Toray's allocation procedures are acceptable for the purposes of our final determination.

Comment 4

According to section 773(b) of the Act, the Department is to disregard below cost sales made over an extended period of time and in substantial quantities and at prices which will not permit the recovery of all costs within a reasonable period. Where the remaining above-cost sales are inadequate as a basis for the determination of foreign market value, the Department should employ the constructed value of the merchandise to determine its foreign market value. However, even though respondents sold substantial quantities of fabric below cost, they avoided application of the constructed value provisions of the law in the preliminary determination by listing in their concordances of such or similar merchandise only those fabrics sold at above cost in the home market. As a result of the Department's acceptance of respondents' concordances for the preliminary determination, virtually all transaction margins were based on home market prices. This approach leads to inequitable results which the Department should correct in its final determination.

DOC Position

We have not accepted respondents' concordances for purposes of this determination. With the advice of our product expert, we have organized the fabrics according to whether they are "such or similar," and compared "such" or "most similar" fabrics pursuant to section 771(16)(C) of the Act. When sales were made below cost over an extended period of time, in substantial quantities, and at prices not permitting the recovery of all costs within a reasonable period, and where the remaining above cost sales are inadequate as a basis for determining foreign market value, we used the constructed value of the merchandise to determine its foreign market value.

Comment 5

Petitioners maintain that home market viability and sales below cost tests should be conducted on the basis of the narrowest possible product grouping. Petitioners support the establishment of "such or similar" merchandise categories on the basis of various combinations of fabric designation, type of weave, degree of twist, and state (to include greige, prepared for print, dyed and printed).

DOC Position

Fabric designations, such as georgette, palace crepe, etc. have become well established in the textile industry and are considered to be indicative of the purposes for which particular fabrics may be used. Therefore, we believe that these common designations should be used to determine "such or similar" merchandise. We have used home market sales of "such or similar" merchandise for purposes of testing home market viability as well as for price comparisons. In addition to fabric designations, we have included type of weave and state (greige or partially-finished not suitable for use in apparel; and completely-finished, suitable for use in apparel). We have also included as adjustment factors: orientation, caustic reduction, width, state and specialty post-finish. We have defined the categories as narrowly as possible in determining "such or similar" merchandise. To be consistent with section 771(16)(C), we could not further refine the categories. To do so would have prevented merchandise from being compared which, under the Act is reasonable comparable.

Comment 6

Petitioners argue that if the Department accepts respondents' product groupings, then we must maintain an approach in our pricing analysis that is consistent with the group(s) upon which it performs the viability tests. Petitioners assert that in order to maintain such consistency, the Department must compare the price of individual U.S. sales with the average price for home market sales of all such or similar merchandise used for testing home market viability.

DOC Position

We did not accept respondents' arguments that the viability test be conducted on the class or kind of merchandise, or alternatively on the three product groupings used in the preliminary. Nor have respondent's concordances been relied upon for the selection of most similar merchandise. Not only have we developed product groupings which include only fabrics which can be considered similar (and in fact, include all fabrics which are similar), but we have selected from these already narrowly defined groups those fabrics which are most similar to the fabrics sold to the United States based on our own methodology developed in conjunction with our fabric expert. In rejecting respondents' arguments on these issues, we analyzed respondents' information ourselves.

Comment 7

Petitioners maintain that "such" or "more similar" fabrics must be selected over "similar" fabrics for purposes of comparisons. In selecting similar merchandise, the Department may not base foreign market value on a product that is not "approximately equal in commercial value" to the product exported to the United States if a product that is "approximately equal in commercial value" is sold in the home market.

DOC Position

As stated in response to petitioners' comment 4, we have compared "such" or "most similar" fabrics pursuant to section 771(16)(C) of the Act.

Comment 8

In evaluating below-cost sales and calculating constructed value, the Department should substitute actual costs for transaction prices where yarn producers are related to raw material suppliers, weavers or finishers, or trading companies are related to yarn or fabric suppliers, weavers or finishers.

DOC Position

Our analysis of the transaction prices between the manufacturers of LPFF and their related company suppliers indicates that such prices approximated the costs incurred by the related companies in the production of LPFF. Therefore, we used the transaction prices where yarn producers are related to raw material suppliers, weavers or finishers, or trading companies related to yarn or fabric suppliers, weavers or finishers, in computing respondents' costs of production.

Comment 9

Petitioners claim that no adjustment is warranted under 19 CFR 353.16 or 353.15 for Unitika's claimed adjustment between the "Silmie-5" sold in Japan and its non-trademarked equivalent or very similar fabric sold in the United States. By its terms, the regulation clearly limits adjustments to cost differences, or differences in physical characteristics that affect market value. It does not encompass differences in market value based on consumer perception.

DOC Position

See DOC position to Respondents' Comment 14.

Comment 10

Petitioners maintain that there is no percedent in the administration of the antidumping law or in normal accounting practices for including fixed factory overhead in general, selling and administrative expenses for the purpose of calculating constructed value. Fixed overhead more appropriately relates to the production process, and should be allocated to particular operations or output.

DOC Position

We agree with petitioners that it is standard cost accounting practice to allocate fixed factory overhead to particular operations or output. The financial and cost accounting systems used by respondents in the normal course of business treat the "indirect yarn costs" in this manner, and we see no reason to diverge from this practice for the purpose of calculating constructed value.

Comment 11

In determining whether to exclude Teijin's close-out sales from the computation of fair value, the Department must evaluate whether these below-cost sales are consistent in timing, volume and price with the normal practice in the Japanese lightweight polyester industry. In the event the Department does not determine that, because these sales occur normally in the practices of the Japanese textile industry, they should not be disregarded even where they are made at prices which are less than the cost of production, then in the interest of fairness such sales should not be used as the basis for comparison to the non-closeout sales to the United States.

DOC Position

At verification, our industry expert ascertained that Teijin's distress sales of end-of-season or out-of-fashion merchandise are consistent with normal business practices and are often unavoidable in the ordinary course of trade in the Japanese textile industry. We have, instead, aggregated such sales, which appear to have been made at less than the cost of production, with other sales made at less than cost to determine whether a sufficient home market exists with respect to specific fabric types.

Respondents' Comments

Comment 1

Respondents maintain that whether a fabric is finished or greige is not at all indicative of the use of that fabric. It is the construction of a fabric, not the finish, which determines its use or similarity to another fabric. Therefore, when calculating home market values, "such or similar" merchandise should include fabric sold in the home market in the greige or "prepared-for-printing" state.

DOC Position

Fabrics of the same designation may be sold in different stages of the production sequence. For example, fabrics may be sold in the greige or loom state, in which case they are only suitable for sale as an intermediate product to a converter. Only after further processing by the converter is the product suitable for use in the styles and garments suggested by its designation. Other states, such as "boiled-off," and in some cases, "bleached white" or "prepared for printing" may or may not be suitable for use in garments without further processing. We determined that fabrics which are suitable for use in garments without further processing in these various stages of the production sequence are such or similar to finished fabrics sold to the United States.

Comment 2

Respondents maintain that the inflexible use of "weave type" as a bar to similar merchandise comparisons is

improper both as a matter of fact and as a matter of law.

DQC Position

We disagree. Based on the advice of our product expert, we have determined that weave type is a significant factor in determining whether or not merchandise is such or similar.

Comment 3

The Department's late changes in the product classification system have been detrimental to respondents. During the verification process, respondents state that our expert—who knew that the intermediate/finished distinction had been a significant question with certain Department employees—told them that he believed comparisons of intermediate and finished fabrics were appropriate. Later, the analytical focus of the classification system was changed from the 11 technical characteristics of fabric set forth in the Department's original questionnaire, to turn upon the single criterion of the stage of fabrics in the production sequence. Respondents were neither given an opportunity to comment on revisions made to the product groupings for similar merchandise comparisons, nor given adequate time in which to provide the Department with alternative similar merchandise comparisons.

DOC Position

The parties did not raise the comparability of intermediate to finished fabrics as an issue prior to verification. Nor were we aware, nor was it likely for us to have been aware, prior to verification of any differences between the uses of intermediate and finished fabrics. We did not then have the assistance of a product expert. During verification, our product expert assumed that, because the extra cost of processing griege or other incompletely finished fabrics to make them suitable for use in garments could be estimated, such fabrics could be compared to fully finished fabrics. However, once the issue of the comparability of intermediate to finished fabrics became apparent to Department officials in late September, we asked Mr. Lund to describe the differences in uses between intermediate and finished fabrics. We publicly released our position on this issue in our notice of final determination, published on October 27, 1983, in the investigation of LPFF from the Republic of Korea (Korea) (48 FR 49679). We also formalized our classification system for determining such or similar merchandise for the Korean case in the same **Federal Register** notice. Additionally, in our letter to the Japanese respondents of October 20, 1983, we clarified that, at least with respect to the intermediate/finished product distinction, we intended to base our determination of such or similar merchandise in the Japanese case on the same criteria that we used in the Korean case. Furthermore, at the time we decided in the Korean case the most reasonable and statutorily consistent means by which to select such or similar merchandise, we were well aware that the final determination in the Korean case would be precedent-setting for the Japanese case, barring discovery of facts unique to the Japanese case. We suggested that respondents bring to our attention any such facts. Respondents submitted extensive comments with respect to our decision in the Korean case that intermediate fabrics are not similar to fully finished fabrics, and that identical weave type is a prerequisite for similar merchandise comparisons. Additionally, certain respondents submitted information which ultimately convinced us that certain "boiled off," "bleached white" and "prepared for printing" fabrics are suitable for use in garments and are, therefore, similar to the fully finished fabrics sold to the United States. Although our product expert's formal statement was not ready for release until December 15, 1983, respondents were well aware that we had been considering each of their arguments as they presented them, since we had responded favorably to their argument that certain fabrics in stages of the production process other than finished are suitable for use in garments. Thus, while the potential existed for changes to the position we had taken in the Korean LPFF final determination, we feel that our intended position for the final Japanese determination was, in essence, known to respondents. They in turn knew that we would consider any comments which they submitted.

The sheer volume of comments on this issue submitted by respondents shows that they took full advantage of their opportunity to comment on this issue. Accordingly, we feel that ample time has been accorded to all interested parties to comment on these positions. This is especially true in light of the fact that our product expert has suggested no substantial change for this final determination after careful analysis of all facts and comments available to him.

In any case, respondents are not entitled to a second preliminary prior to our final determination.

Comment 4

Respondents are opposed to the Department's using the costs of production of finishers, weavers and other suppliers of goods or services who are related to the fabric manufacturers, rather than the actual transaction prices between those parties, for purposes of determining the cost of production of the merchandise sold in the home market. Further, respondents maintain that based on previous cases, all costs used in calculating the cost of production or constructed value should be based on the actual costs incurred by a manufacturer, as distinguished from the suppliers' internal production costs. Pursuant to section 773(e)(2) of the Act, once it is established that the price at which a supplier sells input to a related party represents an arm's length price, in that it fairly reflects the market value for that input in the country in question, then, in calculating what it actualy costs the manufacturer of the merchandise to produce it, that price must be accepted as constituting the manufacturer's actual cost for the input, whether or not the price at which that supplier provided the input was less than what it cost to produce it. The Department has verified that the prices from related suppliers of inputs are at market value. Therefore, the value of suppliers' inputs to the respondents' costs of production should be based on the market prices paid by respondents.

DOC Position

We verified that the related party suppliers did not appear to be selling dyeing and finishing services to the primary manufacturers at below the suppliers' cost of production. Our analysis of the related party supplier commission fees to primary manufacturers and related party suppliers' cost of production amounts indicates that sales prices to the primary manufacturers approximated cost in the aggregate. When calculating cost of production, we use the full actual cost incurred by the manufacturer as well as those costs incurred by related companies (20 percent or more owned by the manufacturer) in the production of the product under investigation. When circumstances indicate that transaction prices between the manufacturer and a related company (5 percent or more but less than 20 percent owned by the manufacturer) may not represent a fair market value, that is a price which could recover all costs, then the Department will also examine the costs associated with these transactions.

In this case, the Department examined the costs incurred by the production of LPFF by all related companies (5 percent or more owned by the manufacturer).

Our analysis of the transaction price between the manufacturer and the related companies indicated that in the aggregate these prices approximated the costs incurred by the related companies to produce the input in the manufacturing of LPFF.

Therefore, the use of transaction price or costs from the related companies would have little, if any, effect.

Comment 5

The home market viability test, the adequacy and degree of sales above cost and similar merchandise tests should each be made across "the class or kind" of merchandise (i.e. lightweight polyester fabric) rather than groupings of similar merchandise, because the statute speaks in terms of "class of kind of" or "the merchandise." If "the merchandise" is some subgroup of LPFF, then the fair value determination should be made on that same subgroup. However, if the Department maintains its position that it is necessary to conduct the above-mentioned tests on such or similar product groupings, the system employed in the preliminary determination should be used for the final determination and no additional product groupings should be created.

DOC Position

Section 773(a) of the Act requires that the determination of foreign market be based on sales, or in the absence of sales, offers for sale of "such or similar" merchandise in the home market, if "such or similar" merchandise is sold or offered for sale in the market. Section 773(a)(1)(B) of the Act limits the use of home market sales as a basis for the determination of foreign market value to those situations in which the quantity of sales or offers for sale of "such or similar" merchandise in the home market is adequate. This test for the adequacy of home market sales is commonly called the home market viability test. Pursuant to the directive of § 353.4 of the Commerce Regulations, we grouped together all merchandise sold in the home market which is either "such or similar" to the merchandise sold to the United States, and then determined whether the quantity of this merchandise was adequate. Consistent with this statutory scheme, we then performed our test for sales at less than the cost of production on each of the "such or similar" product groupings. In this case we consistently applied the home market viability test and the sales at less than cost of production test to each category of "such or similar" merchandise.

Based on the advice of our product expert, we determined to use certain criteria (fabric designation, weave type and whether the fabric is partially or fully finished) in making our selection of similar merchandise. Using these criteria has resulted in an expansion of the number of product groupings. As we did not have the benefit of a product expert's opinion for our preliminary determination for this investigation, we erroneously used broader categories of merchandise for our tests in our preliminary determination.

Comment 6

Respondents claim that the Department has created another viability test to determine whether the above-cost home market sales constitute more than 5 percent of third country sales, in addition to the home market viability and below-cost tests. Respondents argue that this goes against precedent and serves only to decrease the chances that home market sales will be the measure of "foreign value" and increases the resort to constructed value with the greater potential for dumping margins.

DOC Position

Section 773(b) states that sales made at less than the cost of production shall be disregarded if such sales have been made over an extended period of time and in substantial quantities and are not at prices which permit recovery of all costs within a reasonable period in the normal course of trade. Section 773(b) further states that whenever sales are disregarded by virtue of having been made at less than the cost of production, and the remaining sales in the home market (or, as appropriate, the third countries) made at not less than the cost of production are determined to be inadequate as a basis for determining foreign market value under section 773(a), the Secretary shall determine foreign market value on the basis of constructed value.

In order to determine whether the remaining above-cost home market sales may be used as a basis for the determining foreign market value under section 773(a), we must test the adequacy of these sales. Section 353.4 of the Commerce Regulations describes the standard by which home market sales are tested for adequacy. As section 773(b) dictates by its reference to section 773(a), the remaining above-cost sales should be tested for adequacy using the same standard employed to determine the adequacy of home market sales under 773(a), that standard being the five percent test described in section 353.4 of the Commerce Regulations. Therefore, the Department is not creating a "new" viability test, but rather is adhering to the Congressional mandate requiring that the home market or third country sales which are ultimately used in making price-to-price comparison be adequate.

Comment 7

When home market sales are inadequate for fair value comparisons, the respondents believe the Department should seek third country comparisons before using constructed value.

DOC Position

The Department provided respondents with the opportunity to submit third country sales data. For those respondents that did submit information on third country sales, we have used this information, as appropriate, in making fair value comparisons for the final determination where home market sales could not be used.

Comment 8

Respondents maintain that the Department incorrectly calculated the constructed values used in the preliminary determination. When the statutorily mandated 10 percent minimum for general expenses was calculated, selling, general and administrative expenses were included and fixed factory overhead was erroneously excluded.

DOC Position

We use for our criteira—the purpose for which a cost was incurred—to determine our classification in the constructed value calculation.

Costs associated with manufacturing the product are considered "fabrication" expenses. Therefore, fixed factory overhead—e.g. depreciation of the factory and equipment used for the production of LPFF—would rightfully be classified as a fabrication expense.

Costs associated with selling and the general over-all operations of the company would be considered "general" expenses.

Comment 9

Since the rebates given by Asahi to the customers of trading companies selling Asahi's fabrics are established at the time of contract with the trading company, and each claimed rebate amount is directly related to a specific sale of the merchandise in the home market, the Department should allow these rebates as a circumstance-of-sale adjustment.

DOC Position

In providing data to us, Asahi included the rebates to customer's

customers with other direct selling expenses. At the time of the preliminary determination, we were not able to separate the amount of rebates from the amount of other direct selling expenses, some of which were not allowable circumstance-of-sale adjustments.

At our request, Asahi submitted a revised computerized sales listing which identified as separate variables these verified rebates to customer's customers and each of the other direct selling expenses claimed. For the final determination, we are allowing the rebates given to the customers of trading companies to whom Asahi sells the merchandise under investigation.

Comment 10

Teijin maintains that its claims for each of the three types of direct selling expenses (promotional payments to cutter and apparel wholesalers and retailers, payments to customers for allowances to apparent manufacturers, and exhibitions held by Teijin directed at apparel manufacturers) incurred in the home market should be allowed as a circumstance-of-sale adjustment. All three payments are directly related to home market sales, are targeted or paid directly to customers or customers of customers, and are ordinary and necessary incidents of doing business in the home market.

DOC Position

We agree. At verification we ascertained that these other direct selling expenses claimed by Teijin to have been incurred in the home market were directly related to sales of the products under investigation were targeted to later purchasers of the merchandise. Therefore, we allowed these claims.

Comment 11

Teijin maintains that the Department now has sufficient evidence to reverse the position taken in the preliminary determination regarding Teijim's claim that its close-out sales of end-of-season or out-of-fashion goods are a necessary and normal part of the textile business and allow recovery of costs over time. Teijin points out that the legislative history recognizes that in normal business practice, sales of obsolete or end-of-model year merchandise frequently occur at less than cost and, based on this language, argues that its below cost sales of obsolete or end-of-model year merchandise not be disregarded for the final determination because they were made in the course of normal Japanese business practice.

DOC Position

See response to petitioners' comment 11.

Comment 12

Claims made by certain respondents for circumstance-of-sale adjustments which were not allowed in the preliminary determination because they were included in aggregated claims involving both allowable and non-allowable expenses, and the Department did not have sufficient information to segregate the allowable expenses that should be allowed for the final determination because these claims have now been separately identified and verified.

DOC Position

In responding to our questionnaire, respondents included a number of different expenses in the variables for advertising and other direct selling expenses. At the time of the preliminary determination, we were unable to separate the allowable expenses from those that were not allowable.

At our request, respondents have identified each of the claimed advertising expenses and other direct selling expenses as separate variables. For the final determination, we have allowed circumstance-of-sale adjustments for those advertising expenses where they are attributable to a later sale of the merchandise of a purchaser, and those other direct selling expenses which we have determined are directly related to sales of LPFF (see the Foreign Market Value section of this notice for a description of which claims were allowed and which were not).

Comment 13

Respondents maintain that the reversals in policy guidelines and burdensome, last-minute requests for information raise the question of whether this proceeding has been tainted by legislative interference. Even if a showing can be made that it has not, respondents argue that the abundance of last minute reversals of longstanding administrative practice alone, have denied their rights to due process.

DOC Position

It is not unusual for there to be a degree of Congressional interest in our determinations, this case being no exception. Notwithstanding whatever legislative interest there may have been in this case, all of our decisions throughout the course of the investigation were based upon the Act and our regulations as applied to the facts of this case.

Respondents make the subsidiary argument that they have been denied due process as a result of what they perceive to be policy reversals by the Department and last minute requests for information. While we have, based on verification of the data and the opinion of our product expert, changed some of the conclusions reached in our preliminary determination, this is not unusual in the course of an investigation. This particularly true where,as here, where there are many related parties and the technical characteristics of the product under investigation are numerous and complex. In such a situation, difficulties often arise in calculating production costs, in assessing the reasonableness of respondents' cost allocation methods and in making determinations of such or similar merchandise. Decisions on these types of questions are necessarily made on a case-by-case basis, applying the law, as we understand its requirement and intent, to the facts of each case. Consequently, issues are resolved as they become apparent to the Department, either through our continuing analysis of the facts before us or because an interested party raises them for us to address. Unfortunately, there is often no mechanism for ensuring that each issue comes to our attention at some early stage in the course of an investigation. However where, as here, we have had to resolve issues at various stages during the investigation, we have promptly disclosed our positions to all interested parties, and where appropriate, have made prompt requests for submissions of information. Each respondent took advantage of its opportunity to comment, both orally and in writing, upon these decisions and requests for information. We took all of these comments fully into account in reaching our final determination. As such, each respondent fully participated in the decision-making process, and cannot properly be viewed as having been denied any such rights.

Comment 14

Unitika argues that the Department should allow its claimed adjustment on its trademarked Silmie-5 habutae because a recognized trademark is an advertising and marketing tool with an ascertainable market value distinct from the value of the merchandise bearing the mark. Unitika further claims that the Department must adjust the foreign market value to account for the market value of a trademark on merchandise sold in the home market when similar merchandise sold for exportation to the United States does not bear that mark.

Alternatively, Unitika argues that if the Department determines that an adjustment cannot be allowed for the value of the Silmie-5 trademark, then, as a matter of law, the Department must conclude that the Silmie-5 merchandise is not such or similar to the merchandise sold to the United States not bearing this mark because the presence of the trademark precludes a reasonable comparison under section 771(16)(C) of the Act.

DOC Position

In its questionnaire response, Unitika quantified the amount of its claimed adjustment by comparing the price of its trademarked Silmie-5 brand habutae with the prices of non-branded identical or very similar habutal sold to the same customers in Japan. Based on our understanding from reading the response that, in its above-described quantification method, Unitika produced and sold both trademarked and untrademarked habutae to the same customers in Japan, we allowed the adjustment in our preliminary determination. However, after further investigation it became apparent that in order to quantify what it believes to be the value of the Silmie-5 trademark, Unitika was using for benchmark the prices at which a competitor sells a very similar fabric in Japan.

Determining whether the prices at which a competitor sells a very similar fabric can properly be used as a benchmark for calculating the effect of the claimed difference in circumstance-of-sale upon the market value of the merchandise in question presents the Department with a novel issue. We have difficulty concluding that such price differentials are reliable as a benchmark for purposes of determining the value of the Slimie-5 trademark, since any number of factors conceivably could explain why one manufacturer's price for habutae are different from those of another manufacturer. Thus, in the absence of an objective, reliable benchmark for the effect of the trademark upon the value of the merchandise, we did not feel able to make the requested adjustment. At the same time, we believe that there is sufficient evidence of a significant effect of the trademark so as to distort the reliability of and make arbitrary any comparisons of this merchandise which ignores this fact, but insufficient evidence of which we are aware, to justify the use of constructed value in place of adjusted home market prices, as Unitika has urged in the alternative. Accordingly, we have not included these sales in making fair value comparisons. However, even without them, we were able to examine at least 60 percent of the dollar volume of exports to the United States of the merchandise subject to this investigation, as is required by § 353.38 of our regulations. These transactions would be subject to any antidumping order which might be issued, and in the course of a review under section 751 of the Act, information may be developed to permit proper resolution of this issue.

Suspension of Liquidation

In accordance with section 733(d) of the Act, on August 8, 1983 we instructed the United States Customs Service to suspend liquidation of all entries of LPFF from Japan, with the exception of LPFF produced by C. Itoh & Co., Ltd., Chori Company Ltd., Kanebo Synthetic Textiles, Ltd., Kuraray Co., Ltd., Mitsubishi Rayon Company, Ltd., Nichibo Co., and Toray Industries, Inc. (48 FR 35976).

As of the date of publication of this notice in the **Federal Register** the Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price in the following amounts. Where sales by trading companies cannot be identified by manufacturer, the Customs Service shall require a cash deposit or the posting of a bond equal to the highest estimated weighted-average margin of 10.831 percent.

This suspension of liquidation will remain in effect until further notice. The weighted-average margins are as follows:

Manufacturer and status	Weighted-average margin percentage
Asahi Chemical Industry Co., Ltd.	9.325
C. Itoh & Co., Ltd.	8.081
Kanebo Synthetic Textiles, Ltd.	2.651
Kuraray Co., Ltd.	4.900
Mitsubishi Rayon Co., Ltd.	6.838
Nichibo Co.	1.863
Nishikawa Bussan Co., Ltd.	2.027
Teijin Limited	3.113
Toray Industries, Inc. (including sales through Chori Company, Ltd.)	5.216
Toyobo Co., Ltd.	1.880
Unitika, Ltd.	10.831
All other companies	5.211

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our final determination. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will make its determination whether these imports are materially injuring, or threatening to materially injure, a U.S. industry within 45 days of the publication of this notice.

If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue an antidumping order, directing Customs offices to assess an antidumping duty on LPFF from Japan entered, or withdrawn, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value of the merchandise exceeds the U.S. prices.

This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

William T. Archey,

Acting Assistant Secretary for Trade Administration.

December 21, 1983.

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[C-274-002]

Carbon Steel Wire Rod From Trinidad and Tobago Final Affirmative Countervailing Duty Determination and Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order.

SUMMARY: We have determined that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to the manufacturers, producers, or exporters in Trinidad and Tobago of carbon steel wire rod, as described in the "Scope of Investigation" section of this notice. The net bounty or grant is indicated under the "Administrative Procedures" section of this notice.

EFFECTIVE DATE: January 4, 1984.

FOR FURTHER INFORMATION CONTACT: Andrew Debicki, Office of Investigation, Import Administration, International

Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone (202) 377–5403.

SUPPLEMENTARY INFORMATION:

Final Determination and Order

Based upon our investigation, we determined that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Trinidad and Tobago of carbon steel wire rod, as described in the "Scope of Investigation" section of this notice.

We determine the bounty or grant to be the amount indicated for the Iron and Steel Company of Trinidad and Tobago (ISCOTT) in the "Administrative Procedures" section of this notice.

Case History

On May 16, 1983, we received a petition from counsel for Atlantic Steel Company, Continental Steel Corporation, Georgetown Steel Corporation, Georgetown Texas Steel Corporation and Raritan River Steel Company on behalf of the U.S. industry producing carbon steel wire rod. The petition alleged that producers, manufacturers, or exporters in Trinidad and Tobago of steel wire rod receive, directly or indirectly, bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act).

We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation and, on June 6, 1983, we initiated a countervailing duty investigation (48 FR 27415).

We stated that we would issue a preliminary determination on or before August 9, 1983. We subsequently determined the investigation to be "extraordinarily complicated," as defined in section 733(c) of the Act, and postponed our preliminary determination until October 13, 1983 (48 FR 43206).

Trinidad and Tobago is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and, therefore, section 303 of the Act applies to this investigation. Under this section, since the merchandise being investigated is dutiable, the domestic industry is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of this product cause or threaten material injury to a U.S. industry.

On April 18, 1983, we presented questionnaires concerning the allegations in the petition to the government of Trinidad and Tobago and to counsel for the Iron and Steel Company of Trinidad and Tobago (ISCOTT) in Washington, D.C. on August 12, 1983, we received the responses to our questionnaire from the government of Trinidad and Tobago and ISCOTT.

On October 13, 1983, we issued our preliminary determination in this investigation (48 FR 48694). We preliminarily determined that benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Trinidad and Tobago of carbon steel wire rod.

The program preliminarily determined to bestow countervailable benefits was the Guarantee of Debt Service by the Government of Trinidad and Tobago (GOTT).

We preliminarily determined that the following programs which were listed in the notice of "Initiation of Countervailing Duty Investigation" were not used by the manufacturers, producers or exporters in Trinidad and Tobago of carbon steel wire rod:

- Tax Benefits.
- Worker Training.
- Marketing Assistance.
- Preferential Export Insurance.
- Export Shipping Rates.
- Preferential Loans.

We preliminarily determined that we needed additional information about GOTT equity participation in ISCOTT, loss coverage or absorption, Point Lisas Development Estate, import duty exemptions, preferential prices for natural gas and short-term loans.

On November 1–5, 1983, we conducted a verification in Trinidad and Tobago of the responses. Our notice of preliminary determination gave interested parties an opportunity to submit oral and written views. We held a public hearing on November 26, 1983, at which counsel for the parties to the investigation and consultants retained by petitioners' counsel participated.

Scope of Investigation

The product covered by this investigation is carbon steel wire rod, a coiled semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.20 inch nor over 0.74 inch in diameter, not tempered, not treated, not partly manufactured, and valued over 4 cents per pound. The merchandise is currently classified under item number 607.17 of the Tariff Schedules of the United States.

ISCOTT is the sole producer and exporter of carbon steel wire rod from Trinidad and Tobago.

The period for which we are measuring bounties or grants is January 1, 1982 to April 30, 1983.

Analysis of Programs

In their responses, the GOTT and ISCOTT provided data for the applicable period. Based upon our analysis of the petition, the responses to our questionnaire, legal briefs submitted by counsel for ISCOTT and the petitioners, our verification, oral and written comments by interested parties and other information gathered by the Department, we determine the following:

I. Programs Determined To Confer Bounties or Grants

We determine bounties or grants are being provided to manufacturers, producers, or exporters in Trinidad and Tobago of carbon steel wire rod under the programs listed below:

A. ISCOTT Point Lisas Lease

The Point Lisas Industrial Port Development Company, Ltd (PLIPDECO) is responsible for managing the Point Lisas Industrial Estate. Majority ownership and effective control are in the hands of the GOTT. The terms of ISCOTT's lease of real estate in the Point Lisas Estate were established through negotiations with PLIPDECO conducted over several years. The final lease agreement between PLIPDECO and ISCOTT was executed in 1983 and made retroactive to 1978.

As noted by the Department in Certain Steel Products from Belgium (47 FR 39304), government ownership of separate companies does not necessarily preclude them from conducting some transactions on an arm's-length basis, but our examination should focus on whether prices actually charged were at prevailing market rates. In addition, we have balanced factors supporting ISCOTT's negotiating advantages (e.g., it was the first tenant at Point Lisas; it is a major tenant capable of attracting other tenants) against commercial considerations which would argue for a higher rate (e.g., ISCOTT occupies a choice site within the Point Lisas Estate; the Lessor Authority is currently unprofitable; and the terms of ISCOTT's lease resulted in ISCOTT's position having been better than that of other lessees concluding lease agreements in more recent years).

Based on our analysis, we determine that any preferential nature of ISCOTT's lease *vis-a-vis* commercially available leases cannot be ascribed to ISCOTT's

apparent negotiating advantages because such advantages are fully counterbalanced by the benefits ISCOTT receives by virtue of its location. Accordingly, we determine ISCOTT received a countervailable benefit.

To calculate the existence and extent of any bounty or grant, we compared ISCOTT's payments under its PLIPDECO lease with what it would have paid for the same amount of space under the published tariffs. The published tariffs are our "benchmarks" for comparison purposes because all leases in the Industrial Estate, except for ISCOTT and two others, follow the tariffs. Under the tariffs, a lessee may either (1) sign a 99-year lease by paying a set price for the land and a nominal annual fee for 99 years, or (2) sign a renewable 30-year lease by paying a premium or down payment at the start of the lease period, followed by annual rental payments. The 30-year lease also provides that the annual payments may escalate periodically based on increases in the Index of Retail Prices. The basic unadjusted annual rental amount is calculated such that the stream of annual payments, when discounted to the present at a 6 percent discount rate, will equal the difference between (1) the fixed purchase price of a 99 year lease and (2) the amount of the premium. Thus, the larger the premium, the smaller the annual payments.

To calculate the bounty or grant, we computed the present value of the 30 years of payments for each square meter of land, as specified in the ISCOTT lease. We added this to the down payment actually made by ISCOTT and subtracted the total from the tariffed purchase price. In order to compare consistent results, we used the same discount rate which the development authority uses to calculate annual rentals from the purchase price. We ignored unspecified and indeterminable future escalations which may result from rental under the standard tariff because another renter would have the option of making a lump-sum purchase payment, which would preclude those escalations. This also explains why we did not base our calculations on a simple comparison of payments made during the period for which we are measuring bounties or grants. The result is the present value of ISCOTT's rental savings over the life of the lease.

We then treated the rental savings as the grant equivalent of the lease benefits using methodology similar to that applied to preferential loans in Appendix 2 of Certain Steel Products from Belgium (47 FR 39,304). Finally, we allocated the grant equivalent over the term of the lease (30 years) in annual amounts using the GOTT's "risk free" 20-year plus borrowing rate for 1978, the year the lease became effective.

When allocated over the total value of ISCOTT's 1982 sales, this yields a bounty or grant of 2.246% *ad valorem*.

B. ISCOTT Dock Facility

Petitioners allege that a specially designed marine terminal was created for use by ISCOTT at preferential prices. We found that during three quarters of 1982 ISCOTT had the free use of a specialized dock facility owned by GOTT, built with GOTT funds, and constructed for ISCOTT's use.

Though the GOTT has indicated its intention to vest ownership of the ISCOTT dock in the National Energy Corporation, a wholly GOTT owned entity, as of the end of 1982 no arrangement regarding leasing or fees for use of the dock was concluded by ISCOTT with either GOTT or the National Energy Corporation. ISCOTT showed no accrual, which might be applied retroactively after a contract is concluded, in its fiscal year 1982 financial statements of estimated rental or use fees for the dock.

The dock was put in service in the first quarter of 1982 and was used almost exclusively by ISCOTT during the second, third and fourth quarters of 1982. During this time, ISCOTT did not either pay or accrue any rental fee for the dock. Our investigation established that there was no similar dock facility in Trinidad and Tobago with established rental fees against which to compare the ISCOTT situation. Certain information obtained during verification, however, indicates that any payment for this facility which may ultimately be required of ISCOTT will be based on a present value calculation of its cost.

We allocated to ISCOTT the dock's capital cost for 1982 using the grant method described in *Certain Steel Products from Belgium* (47 FR 39,304). We took the total construction cost of the dock and computed the annual amount whose present value taken over 25 years would give the amount of the construction cost.

Following the methodology of the Belgian case, we used the "risk free" interest rate on GOTT bonds in 1982, the year the dock was put into service, as the discount rate; we used 25 years as the estimated useful life of the facility, consistent with ISCOTT depreciation practices. We applied appropriate proportionality factors to account for the fact that the dock was in service for only three quarters of 1982 and that some non-ISCOTT-related ships also used it during this time.

We determine that the benefit to ISCOTT from the acquisition and use of dock facilities at no cost amounts to 4.02% *ad valorem*. As agreements concerning the dock may be concluded in the future, this amount and any subsequent agreements relating to leasing or rental of the dock will be examined in a section 751 administrative review.

C. Preferential Prices for Natural Gas

The petitioners allege that ISCOTT benefits from the provision of natural gas through government-owned entities at preferential rates, and that this gas is delivered through a specially built pipeline. Petitioners believe that ISCOTT is one of the largest gas consumers in the region.

Based upon our investigation, we found that ISCOTT uses gas supplied by the National Gas Company (NATGAS), but is billed for its gas consumption by the National Energy Corporation (NEC).

Both entities are wholly owned by the GOTT. NATGAS purchases, processes and meters gas, which it transports through its own pipelines. NATGAS rates throughout the country do not depend on distance from the wellhead. Pipeline transmission costs are implicitly included in NATGAS rates. Although ISCOTT receives gas under a large consumer contract, its gas consumption is relatively small in proportion to that of other large consumers at Point Lisas.

During 1982, NATGAS invoiced NEC for ISCOTT's gas usage at a rate which is equal to the average of those of other comparable large users. NEC, however, invoiced ISCOTT at a lower rate. In the absence of an adequate explanation of this differential, we consider this difference to be countervailable subsidy. Because ISCOTT's gas price escalation factor is higher than those of certain other large users, ISCOTT's rate in future years, including the reduction, may become equal to or higher than those of many other consumers and the relationship of rates paid by ISCOTT to NEC to rates of other consumers should be examined in subsequent years as part of section 751 administrative review.

We compared the rate charged NEC by NATGAS for ISCOTT's gas consumption with the rate charged ISCOTT by NEC. We multiplied this rate difference by ISCOTT's total 1982 gas consumption. We then allocated this amount over the value of ISCOTT's total 1982 sales. This resulted in a bounty or grant rate of 0.472% *ad valorem*.

II. Programs Determined Not to Confer Bounties or Grants

A. Government Equity Participation in ISCOTT

ISCOTT was incorporated June 20, 1975 to serve as the vehicle for a joint venture between the Government of Trinidad and Tobago and three private investors—Hoogovens Igmuiden, B.V.; Kawasaki Steel Corporation and Mitsui & Company. As originally conceived, the venture would involve the parties in the ownership and construction of a greenfield steel mill dedicated primarily to billet production. In 1976–77, changing market conditions led to reevaluation of the project. This included redefining the project to envisage construction of a scaled down mini-mill oriented primarily toward finished products, specifically wire rod.

The redefined project was unacceptable to GOTT's foreign partners in that it no longer would serve to accommodate their interest in a steady supply of billets to be "off taken" for further processing in their own mills. The GOTT then purchased the equity interest of its co-venturers and commissioned a feasibility study of the redefined project. After further study, the GOTT determined to proceed with the redefined project.

A financing package put together by a private concern was proposed and, on December 1, 1978, ISCOTT, the GOTT, Barclays Bank, Ltd. (as Trustee) and several external private and government-sponsored lenders entered into a financing contract, the Completion and Cash Deficiency Agreement (CCDA). Under the terms of the CCDA, the GOTT agreed to provide equity investment in ISCOTT at a level which maintained a 60/40 debt to equity ratio for the company. Completion of construction, as defined in the CCDA, is now scheduled for 1984. In addition to providing seed capital, the GOTT has continued to make equity contributions to ISCOTT in accordance with its obligations under the CCDA.

It is well established that government equity participation in a commercial enterprise is not a bounty or grant *per se*. In assessing whether such participation gives rise to bounties or grants within the meaning of the countervailing duty law, the Department applies the standard of whether a government's investment is not inconsistent with commercial considerations. The issue is whether the investment, analyzed in terms of objective business or investment criteria operative *at the time the investment was made*, may be deemed commercially reasonable in that, from the perspective of a commercial investor making the same decision in the same circumstances, there is a reasonable expectation of return within an acceptable period of time.

The test whether a particular investment is not inconsistent with commercial considerations is based on a case-by-case analysis of the commercial context in which the investment decision is made. In the case of ISCOTT, an assessment of commercial reasonableness must take into account the special circumstances of a start-up project in a developing country.

Factors ordinarily applied in the case of investment in an established industry or enterprise in a developed country may require adjustment or prove inappropriate. For example, investments in developing countries pose a variety of special problems which may include scarcity of capital, lack of established financial markets, lack of complementary infrastructure, shortages of skilled labor, insufficient managerial experience and other "learning curve" costs. While these may, in some some senses, increase the element of risk in such investments, the increased risk which may be present does not of itself become dispositive of the issue of whether a particular investment in a developing economy may be viewed as inconsistent with commercial considerations.

In citing the special circumstances affecting evaluation of investment in a start-up project in a developing country, we do not, however, seek to imply that we are deviating from or softening the statutory standard of consistency with commercial considerations. We are simply restating our policy that consistency with commercial considerations should be judged in terms of the specific commercial context in which a particular investment decision is being evaluated.

On the basis of our analysis, we determine the GOTT's initial decision to proceed with the ISCOTT project was consistent with the requirements of commercial reasonableness. First, as originally conceived and later redefined, the ISCOTT mill was designed to make use of certain natural advantages. Trinidad and Tobago has ample natural gas reserves. The direct reduction of iron (DRI) process employed in ISCOTT's mill is particularly well suited to capitalize on the availability of natural gas. Trinidad and Tobago also enjoys a strategic geographic location close to plentiful sources of iron ore and to potential Caribbean, North American and South American markets. Second, ISCOTT's installation of state of the art technology builds upon natural advantages by providing long-term cost efficiencies and producing consistent qualities of steel. Third, at the time the ISCOTT mini-mill venture was initially conceived, the consensus among steel industry analysts was that projected demand would require installation of considerable new worldwide capacity by 1985.

GOTT's commitments to the ISCOTT project were undertaken on the basis of at least three independent feasibility studies prepared by private consultants. The original concept of an integrated mini-mill emerged from both engineering and economic studies. The subsequent adaptation of the project to emphasis wire rod production was also based on a study which assessed the potential viability of the redefined project in a changed market. Finally, preparation of the financing package which formed the basis of the CCDA entailed a third, independent assessment of the project's financial prospects, including specific projections of a probable rate of return on investment. All these studies concluded the project was feasible and would be profitable. In our view, the GOTT's decision to supplement its own evaluation of the commercial viability of the ISCOTT project with independent analyses by private consultants indicates a careful approach consistent with a prudent investment policy.

Independent confirmation of favorable projections made in the studies noted may be discerned from the decisions of several private commercial lenders to participate in the debt financing of the ISCOTT project. Participants include private lenders in the U.S., Japan, Canada and the Federal Republic of Germany. In addition to reviewing the feasibility studies commissioned by the GOTT, these lenders were also in a position to draw on their own internal resources and experience to assess the project's viability. That they chose to lend to the project is further indication of its commercial reasonableness.

Moreover, while we do not question that quarantees provided by the GOTT would be taken into account in a decision by private lenders to finance the ISCOTT project, it is our understanding of commercial banking practice thay any decision to lend would have been based primarily on consideration of the underlying project's viability and potential apart from the presence of governmental guarantees or backing. In these circumstances, the participation of private lenders should not be discounted as having no bearing on the central issue of whether investment in ISCOTT is consistent with

commercial considerations. (See section II.C *infra*).

Although the GOTT's decision to commence the ISCOTT mini-mill project apprears to have been carried out on a sound commercial basis, its continued commitment through the period of construction and beginning of commercial production poses somewhat different questions. In this stage, fundamental assumptions supporting the commercial reasonableness of the decision to initiate the project must be measured against actual development and operating experience. The issue is whether that experience raises fundamental questions about the commercial reasonableness of the GOTT's maintaining its commitment to the ISCOTT project.

The GOTT has continued to make heavy equity investments in ISCOTT during a period in which the company has encountered significant difficulties associated with construction, start-up and initial commercial operation. Unanticipated construction delays have resulted in substantially higher than projected costs which have been compounded by the effects of inflation. Breakdowns in key plant components and delays in obtaining replacements have also hampered the project. Shortages of adequately trained operations, maintenance and management personnel present continuing problems. The plant has not yet approached full rated capacity, and the engineering performance tests for all production units have not been completed. As a consequence, ISCOTT has not begun to achieve significant production levels or earnings on its products. Its cash flow per-ton of nominal capacity remains negative. All of this has occurred against the background of a severely deteriorated world market for steel.

In the latter phase of the investigation, both petitioners and respondents developed and presented financial models which seek to assess the commercial reasonableness of the GOTT's continued investment in ISCOTT, even in the face of the difficulties cited. The focal point of these studies has been the commercial reasonableness of the GOTT's decision in 1982 to make substantial additional equity investiments in the company.

The fact construction delays and other difficulties have occurred during the course of ISCOTT's start-up phase does not necessarily lead to the conclusion that the assumptions and expectations which arguably supported the GOTT's decision to embark upon the project are no longer tenable.

First, natural advantages such as reliable and plentiful sources of basic inputs and location continue to support ISCOTT's long-term prospects. Second, particularly in a developing country, the learning curve costs associated with the installation of a technologically advanced industrial facility may reasonably be expected to be higher than those in a more developed economy. Similarly, shortages of adequately trained manpower needed for the construction and maintenance of a major industrial plant make it more likely there will be delays in both construction and the achievement of fully operational status. In this respect it is significant that the CCDA made specific allowances for the possibility of delay, and that its final deadline for the certification of completion has not, as yet, been exceeded. Third, while ISCOTT's cash flow per-ton of capacity figures are negative, they nevertheless compare favorably with available estimates of expected per-ton devleopment costs for new steel mills in both developing and developed countries. Fourth, while ISCOTT is not profitable, it has been conducting limited commercial operations for a period of only 26 months. Regardless of location in a developed or developing country, the Department has found no indication in any of the sources available to it that a new industrial facility requiring large capital investment should be expected to show a positive rate of return within so short time from the commencement of production. To the contrary, it appears the reasonable commercial expectation is that the project would normally be expected to operate at a loss for several years before beginning to earn a positive return on the initial investment.

Fifth, lenders who participated in ISCOTT's debt financing arrangement have not withdrawn their support and have continued to make funds available to the company. Sixth, despite problems with start-up, ISCOTT has made some shipments to unrelated buyers, thereby demonstrating the existence of at least a potential market for its products.

In sum, while ISCOTT may not yet have unquestionably proven itself as a viable, self-sustaining venture, nothing in its experience to date establishes a compelling argument that the considerations or expectations which led the GOTT to begin the project have, in light of subsequent developments, lost all measure of commercial reasonableness. Though difficulties encountered during start-up have led to substantial cost increases not contemplated in the original projections, the GOTT's continuing commitment to the project, a commitment seconded by independent lenders, does not at this juncture appear inconsistent with commercial considerations.

We stress that this determination is not based on judgment that one of the financial models analyzing the GOTT's 1982 equity investments in ISCOTT is superior to another. The analyses submitted by both respondents and petitioners employed the same basic operational methodology and factored in essentially the same raw data. The pronounced differences in their respective results stem primarily from financial assumptions built into the models. While these assumptions may in either case be presumed arguable, they are not, in the strict sense of the word, "wrong." Rather, the divergence in results is inherent in the analytical process. Certain assumptions involved necessarily speculative attempts to predict events. Others require a substantial element of subjectivity.

In our view, this divergence bears on the issue of the consistency with commercial considerations of the GOTT's 1982 equity infusions by highlighting the complexities involved in applying the standard to investments of this kind. Sophisticated models applied to the same basic data and employing the same methodology achieve very different results, supporting the conclusion that, in this instance at least, there is no unanimity or consensus as to what constitutes consistency with commercial considerations. When this additional element of uncertainty is factored into other arguments for or against the GOTT's 1982 decision to continue investing in ISCOTT, we believe it reinforces our determination that, absent a convincing showing the project has lost virtually all reasonable measure of commercial viability, the GOTT's decision may properly be viewed as not inconsistent with commercial considerations.

B. Loss Coverage or Absorption

Petitioners allege that at least a portion of the funds which the GOTT has committed to the ISCOTT project since the commencement of commercial operations should be treated as loss coverage or absorption. In effect, they maintain that ISCOTT has been the beneficiary of substantial operating subsidies without which the company could not reamain viable.

As discussed in the section of this notice titled "Equity Participation by the Government", the GOTT's continued commitment to getting ISCOTT off the ground does not represent an investment

inconsistent with commercial considerations as we view them within the context of the start-up of a new industry in a developing country. While ISCOTT has begun to market its products on an intermittent basis, it is not yet a fully operational enterprise. From this perspective, equity infusions by the GOTT which may in some instances serve to offset initial operating losses may still be viewed primarily as investments in the capitalization and establishment of ISCOTT rather than as loss coverage *per se*. As such, they remain within the realm of commercial reasonableness which governs with respect to investment in the start-up of an enterprise.

C. Government Guarantees of Debt Service

Section 401, Article I of the Completion and Cash Deficiency Agreement (CCDA) states: "if, for any reason whatsoever, ISCOTT shall fail to pay or to pay in full any debt service amount on any debt service date with respect thereto, the Government, in consideration for the loans made by the lenders to ISCOTT, shall, and hereby covenants and agrees with each of the lenders to, pay to the lenders or the lenders entitled to such debt service amount the cash deficiency in respect thereof . . . within 10 days after the applicable debt service date, unless prior thereto ISCOTT shall have paid such cash deficiency in full."

During the period 1978–1981, ISCOTT obtained several medium-term loans from private lenders and other government loan agencies in the United States and elsewhere. Petitioners allege the guarantees provided for in Article IV of the CCDA enabled ISCOTT to obtain financing at interest rates several points below those charged for comparable commercial loans. They contend that ISCOTT would have had to pay a substantial premium over the commercial rate charged (estimated by petitioners as 5 percent), if the loan financing had not been backed by a government guarantee. In support of these arguments, petitioners cited banking authorities to the effect that a project of ISCOTT's magnitude would not have received debt financing without the government's guarantee.

Respondents argued the GOTT guarantee was part of a larger financing package and was given because banks, as a standard practice, often require principal shareholders in a project to guarantee loans to the project. They also contend it would be commercially irrational for a lender not to require such a guarantee of a majority shareholder in a new enterprise in a developing country. Respondents cited examples of other projects in Trinidad and Tobago for which guarantees have been provided by private shareholders at no charge. Finally, they asserted it is not standard commercial practice for principal shareholders to charge a fee to their corporations for loan guarantees which they provide.

In our preliminary determination, we concluded there was a subsidy from the GOTT to ISCOTT based on our estimate of the fee which ISCOTT would have been required to pay in the absence of such a guarantee. The value of this fee was 1.5 percent per year, an amount derived from information gathered by the Department. Our assumption was that the GOTT's guarantee of ISCOTT's debt service provided a benefit to the company for which it had made no payment.

After additional review, we conclude the method followed in the preliminary determination was not appropriate to this situation. Specifically, we have found that standard international banking practice in comparable transactions in Trinidad and Tobago does not involve a charge to the borrower by the shareholder guarantor for a guarantee.

We consulted banking experts in the area of international project financing regarding guarantee requirements and their relationship to the creditworthiness or commercial feasibility of a project. They indicated the usual practice in deciding on credits for start-up projects in developing countries is first to evaluate the commercial viability of each project, before taking into account any guarantees. If the project is not considered creditworthy on this basis, it will generally not be extended credit, regardless of any guarantee.

Once the creditworthiness of a project is established, if it is a greenfield project in a less developed country (LDC), such as Trinidad and Tobago, a guarantee would normally be required. It is standard banking practice to require a guarantee for any new project in an LDC.

If a countervailable subsidy were ruled on the basis of such a guarantee being given, then all guaranteed projects in LDC's, which require guarantees for bank financing, would be considered to have received *prima facie* countervailable subsidies. Viewed in this context, the requirement for a guarantee does not in itself indicate the ISCOTT project was not creditworthy.

To further clarify the issue, we sought to determine whether a guarantee was reflected in interest rates, and whether private shareholders in similar venture would charge a guarantee fee.

We examined agreements for U.S. dollar loans made by international lenders to similar projects in Trinidad and Tobago. These were joint ventures between U.S. companies and the GOTT and involved loan agreements entered into at approximately the same time as the ISCOTT financing agreements. We found that these loans were made at rates comparable to those for the ISCOTT loans; that they were guaranteed by private U.S. companies and by GOTT in proportion to their respective share ownership and that no guarantee fees were charged by the guarantors.

Thus, the GOTT guarantee did not give ISCOTT access to rates of interest which were below those obtainable by enterprises guaranteed by private U.S. investors. Furthermore, GOTT's action in not charging ISCOTT a guarantee fee was not inconsistent with that of a private major shareholder.

The results of our investigation indicate the GOTT guarantee should be viewed as the action of a major shareholder contributing to its investment in a new project. Thus, the loans taken by ISCOTT and the associated guarantees should be evaluated as part of the overall project financing package of equity and debt and considered in terms of the project's commercial viability at the time the financing was arranged. As the determination regarding the equity investment (see section of this notice titled "Government Equity Participation in ISCOTT") finds the GOTT's investment in the ISCOTT project was not inconsistent with commercial considerations, we determine there was no countervailable bounty or grant to ISCOTT resulting from loan guarantees given by GOTT.

D. Point Lisas Development Estate

Petitioners allege the Point Lisas Development Estate (the Estate), in which ISCOTT's steel mill is located, represents the GOTT's effort to establish an infrastructure specifically designed to support the company's operations, and that this infrastructure is not generally available to all companies in Trinidad and Tobago.

As noted previously, the Point Lisas Industrial Port Development Company, Ltd. (PLIPDECO), which is responsible for development of services in the Estate, is a corporation whose majority ownership and almost total control is in the hands of the GOTT. We have determined the Estate does not exist as a means for the GOTT to provide

subsidies based on regional preference. Companies which locate there derive no special benefits as a result of their location. Though the Estate provides infrastructure and services not available elsewhere in Trinidad and Tobago, there are no restrictions on eligibility to become a tenant, nor is the ability to locate in the estate dependent on export performance or objectives.

With certain exceptions applicable to ISCOTT treated elsewhere in this notice, all lessees in the Estate are subject to the same schedules of fees and charges for use of the infrastructure and services. We have no evidence on the record to indicate that fees charged are not reflective of the long-term true cost of the facilities and services provided by the Estate. Finally, there are over twenty-five other tenants in the Estate, an indication its facilities are not dedicated to the sole use of ISCOTT. We determine, therefore, that ISCOTT receives no countervailable benefits by virtue of locating at Point Lisas.

E. Port Facilities

Petitioners allege that ISCOTT received subsidized stevedoring and other port services from a GOTT controlled development authority.

Based on our investigation, we found that port services provided to ISCOTT by the Point Lisas Development Estate authority are also available to other users at the same rates and do not represent a countervailable subsidy to ISCOTT.

There are three docks at the Point Lisas Estate:

- ISCOTT Dock, specialized for, used and operated by ISCOTT (see separate section of this notice titled "ISCOTT Dock Facility");
- Savonetta Pier, with specialized facilities for another company;
- PLIPDECO Dock, for general users.

Charges for all services provided to users of Port Point Lisas follow a standard schedule of tariffs. We verified that ISCOTT pays these tariffs at the same rates as for all other users. Stevedoring on the ISCOTT Dock is provided by ISCOTT. We determine, therefore, that port services provided by the Development Estate authority do not constitute countervailable bounties or grants.

E. Worker Training-Management Development Center (MDC)

Though petitioners did not specifically allege ISCOTT has benefitted from worker training subsidies provided through the MDC, the questionnaire responses of both the GOTT and ISCOTT indicated that certain of the company's employees had participated in MDC programs.

The MDC is a government corporation founded in 1965 under joint sponsorship with the International Labor Organization (ILO). Its purpose is to provide improved management knowledge. In 1973 the MDC became independent of the ILO. The MDC is active in five areas: (1) Training courses, (2) Consultancy, (3) Research, (4) Publications and (5) Promotion of scientific management in the media. Any company in Trinidad and Tobago may subscribe to courses offered by the MDC. Fees are charged for courses offered.

Some ISCOTT workers were enrolled in MDC courses during 1982, and the fees paid by the company for this training were comparable to those charged other companies enrolling their personnel in similar courses. Since MDC courses are available without restriction to all industries in Trinidad and Tobago, and the fees paid by ISCOTT for MDC training are comparable to those charged other companies, we determine the company receives no countervailable benefits as a result of this program.

F. Import Duty Exemptions

Under the laws of Trinidad & Tobago imports may or may not be subject to duties under any one of three tariff schedules. Products on the First Schedule, which is established by treaty and identical for all countries in the Caribbean Common Market, are assigned duties ranging from zero to some percentage of value. Those on the Second Schedule benefit a general exemption. The Third Schedule establishes conditional exemptions for approved industries.

The First and Second Schedules are general enactments applicable to all industries in Trinidad and Tobago. Section 49A of the Customs Act of 1973 empowers the Government to grant duty exemptions on any merchandise imported by a company which is within the approved industry list of the Third Schedule. ISCOTT has applied for and received exemptions under this provision.

Examination of the Third Schedule shows that at least 76 industries in Trinidad and Tobago are specifically listed as qualifying for a Third Schedule exemption. Furthermore, the criteria for granting a concession under section 49A are not industry specific or related to exports, and the Third Schedule exemption is effectively available to any company which meets them, regardless of whether it falls within the list of approved industries. A review of concessions actually granted under Section 49a shows that the vast majority of applications are approved without any discernible degree of preference for any industry or specific group of industries. Finally a substantial portion of the items subject to a conditional exemption under the Third Schedule may already qualify for a general Second Schedule exemption. Other items are assessed a duty free rate under the First Schedule.

Since Third Schedule exemptions are not made available on the basis of preference for any specific industry or group of industries, we determine ISCOTT receives no countervailable benefits as a result of its participation in this program.

G. Short Term Loans

ISCOTT indicates the receipt of several short-term loans from private sources during the period for which we are measuring bounties or grants. Some of these loans have been repaid and others have been rolled-over. There is no evidence these loans were made to ISCOTT on preferential terms. Consequently we determine ISCOTT received no countervailable benefits as a result of these short-term loans.

H. Export Shipping Rates

Petitioners allege ISCOTT has benefitted from preferential shipping rates provided at government direction or with government financial assistance.

The Shipping Corporation of Trinidad and Tobago (SCOTT) acts as a broker for ISCOTT in locating private vessel owners and negotiating shipping fees. As such, SCOTT is not responsible for setting rates, nor does it own any vessels. It is reimbursed for its services on a commission basis. The commission fees charged ISCOTT by SCOTT are in line with those charged throughout the industry.

During the period for which we are measuring benefits, ISCOTT has used both SCOTT and a private concern based in New York as its agents for locating vessels and negotiating shipping rates. Rates have varied with each shipment, and ISCOTT has received no direct assistance from the GOTT for purposes fo paying export freight charges. Consequently, we have determined ISCOTT has not benefitted from preferential shipping rates as the result of direct or indirect action by the GOTT.

III. Programs Determined Not To Be Used

We determine that the following programs have not been used by

producers or exporters in Trinidad and Tobago of carbon steel wire rod:

A. Tax Benefits

Petitioners allege ISCOTT benefits from preferential tax treatment accorded under the Fiscal Incentives Act and other provisions of the tax laws of Trinidad and Tobago.

Since ISCOTT has not to date been profitable, it has not been in a position to take advantage of any preferential tax benefits which might otherwise be available to it under the laws of Trinidad and Tobago. We note, however, that certain preferential carryover benefits which may accrue to ISCOTT should be examined in the appropriate administrative review period under section 751 of the Act.

B. Worker Training—Industrial Development Corporation

Petitioners allege ISCOTT has benefitted from worker training subsidies provided through the Industrial Development Corporation (IDC).

The IDC's activities are limited to the support of training through grants to small businesses with assets of less than TT $250,000. On the basis of its size, ISCOTT is ineligible for IDC grants. We verified that ISCOTT received no training grants from the IDC during the period for which we are measuring bounties or grants.

C. Marketing Assistance

Petitioners allege ISCOTT has benefitted from marketing assistance provided by the GOTT through the International Marketing Company (IMC).

The IMC was established in 1979 as a GOTT owned non-revenue company for export promotion. In late 1982, the GOTT made the decision to terminate the IMC and ordered it to disband. We verified that the IMC's records showed no disbursements on behalf of ISCOTT or for activities related to the promotion of steel exports.

D. Preferential Export Insurance

Petitioners allege ISCOTT has benefitted from preferential export insurance provided through the Trinidad and Tobago Export Credit Insurance Company, Ltd. (EXICO).

EXICO is a GOTT-owned company founded in 1974 to provide insurance to exporters against the risks involved in exporting goods on credit. Due to limitations on the amount of risk it can assume, EXICO deals only with small and medium-sized companies. The limit on EXICO's assumable risk is far too small to allow for insuring ISCOTT shipments. We verified EXICO had no dealings with ISCOTT during the period for which we are measuring bounties or grants.

E. Preferential Loans

In our initiation notice, we stated we would investigate the allegation ISCOTT received loans from the GOTT at preferential interest rates. Since foreign lending institutions served as the sources of ISCOTT's debt financing, the issue is moot.

Comments

Petitioners' Comments

Comment 1

Petitioners contend the Department should find the GOTT's initial decision to invest in ISCOTT countervailable as inconsistent with commercial considerations. In making this contention they cite the existence of studies other than those commissioned by the GOTT which cast doubt on the commercial reasonableness of its investment and failure to explain adequately the withdrawal of foreign co-venturers initially involved in the project.

DOC Position

For reasons set forth in the section of this notice titled "Government Equity Participation in ISCOTT," we have determined the GOTT's initial decision to invest in ISCOTT was not inconsistent with commercial considerations. In our view, the issue is not whether there are studies available which contradict those commissioned by the GOTT, but whether the GOTT acted in a commercially reasonable manner when it made the decision to commerce the ISCOTT project. The important fact is that the GOTT did seek independent evaluations of the project's feasibility.

Nor was it commercially unreasonable to rely on those studies as a basis for the decision to go forward. Finally, as to the issue of the withdrawal of the GOTT's original co-venturers, we are satisfied that their decision was based primarily on the fact the redefined project would not meet their interest in an "off-take" arrangement for billets and not on any reservations as to its commercial feasibility.

Comment 2

Petitioners contend that, even if for purposes of argument the GOTT's initial investment in ISCOTT is determined to be consistent with commercial considerations, the GOTT's decision to continue its commitment by making additional large equity infusions in 1982 was, in light of actual experience, not consistent with commercial considerations. They also argue that, faced with the choice of continuing the project or shutting it down, a reasonable investor would opt for the latter as the less costly alternative to a massive commitment in a project which had demonstrated no reasonable prospect of return.

DOC Position

We do not agree. See the section of this notice titled "Government Equity Participation in ISCOTT." Regarding the issue of whether a shut-down of ISCOTT represents a less costly and, therefore, more reasonable option than continued operation, we find no evidence in the record which makes a compelling case for the former over the latter. Though shut-down is an option, it is not, on the basis of all the information available to us, the only commercially reasonable option open to an investor in ISCOTT.

Comment 3

Petitioners contend the GOTT's 1982 infusion of funds conveyed a countervailable benefit for the further reason that at least a portion of the infusion constituted a grant of funds to cover operating losses.

DOC Position

We do not agree. See the section of this notice titled "Loss Coverage or Absorption."

Comment 4

Petitioners contend the GOTT's guarantee of ISCOTT's debt service constitutes a countervailable benefit.

DOC Position

For reasons set forth in the section of this notice titled "Government Guarantees of Debt Service", we have altered our preliminary determination and now determine ISCOTT has received no countervailable benefits as a result of the GOTT's guarantee.

Respondents Comments

Comment 1

Respondents contend the Department erred in determining the GOTT's guarantees of ISCOTT's debt service constituted a countervailable benefit.

DOC Position

As discussed in the section of this notice titled "Government Guarantees of Debt Service", we now agree.

Comment 2

Respondents contend it is contrary to law and policy to countervail against loan guarantees required by the Export-Import Bank and other export credit agencies.

DOC Position

In view of our final determination that the GOTT's guarantees of ISCOTT's debt service do not give rise to countervailable benefits, this issue is moot.

Comment 3

Respondents contend the Department's imputed 1.5 percent guarantee fee applied in the preliminary determination is overstated.

DOC Position

In view of our final determination that ISCOTT does not receive countervailable benefits as the result of the GOTT's guarantee of its debt, the issue is moot.

Comment 4

Respondents contend the Department should not have based its calculations of the benefit from the GOTT's loan guarantees on the total amount of the loan commitment by the lender but only on the amounts actually drawn down.

DOC Position

In view of our final determination regarding the GOTT's loan guarantees, the issue is moot.

Comment 5

Respondents contend that, despite acknowledged difficulties in achieving fully operational status, the ISCOTT project remains feasible and retains its potential for a reasonable rate of return. Consequently, the GOTT's 1982 equity infusions are consistent with commercial considerations and do not represent countervailable bounties or grants.

DOC Position

We agree. See the section of this notice titled "Government Equity Participation in ISCOTT."

Comment 6

Respondents contend the denominator used in the Department's subsidy calculations should include the total value of ISCOTT's sales during the appropriate period and not only wire rod and billet sales.

DOC Position

We agree. However, the figures for ISCOTT's total sales were not made available to us in time for use in the preliminary determination. We have adjusted our calculations in this determination to take account of these sales.

Comment 7

Respondents contend that, since ISCOTT is in a start-up mode, the denominator in our subsidy calculations should employ an extrapolated sales figure reflective of total sales for a fully operational plant. This would be consistent with the Department's recognition that ISCOTT is suffering from under-utilization and avoid overstatement of the *ad valorem* rate merely because of ISCOTT's start-up status.

DOC Position

There is no guarantee that, even if ISCOTT were capable of operating at full capacity, its would actually be selling its full production. Rather than speculating as to what might be, we prefer to base our calculations on actual sales. Increases in ISCOTT's production capability and sales are properly addressed in a section 751 review.

Verification

In accordance with section 776(a) of the Act, we verified the information used in making our final determination. During this verification, we followed normal procedures, including meetings and inspection of documents with government officials and on-site inspection of the records and operation of the companies exporting the merchandise under investigation to the United States.

Administrative Procedures

The Department has afforded interested parties an opportunity to present oral views in accordance with its regulations (19 CFR 355.34(a)). Oral and written views have been received and considered.

The suspension of liquidation ordered in our preliminary affirmative determination shall remain in effect until further notice. The net bounty or grant for duty deposit purposes for ISCOTT is 6.738 percent *ad valorem*.

As required by section 706(a)(3) of the Act, we are directing the United States Customs Service to require a cash deposit in the amount indicated above for each entry of the subject merchandise entered or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**, and to assess countervailing duties in accordance with sections 706(a)(1) and 751 of the Act.

The Department intends to conduct an administrative review within 12 months of publication of this determination as provided in section 751 of the Act.

This notice is published pursuant to sections 303 and 706 of the Act (19 U.S.C. 1303, 1671e).

Dated: December 27, 1983.

William T. Archey,

Acting Assistant Secretary for International Trade Administration.

[FR Doc. 84-78 Filed 1-3-84; 8:45 am]

BILLING CODE 3510-DS-M

Articles of Quota Cheese; Annual Listing of Foreign Government Subsidies

AGENCY: International Trade Administration, Commerce.

ACTION: Publication of Annual List of Foreign Government Subsidies on Articles of Quota Cheese.

SUMMARY: The Department of Commerce, in consultation with the Secretary of Agriculture has prepared its annual list of foreign government subsidies on articles of quota cheese. We are publishing the current listing of those subsidies that we have determined exist.

EFFECTIVE DATE: January 1, 1984.

FOR FURTHER INFORMATION CONTACT: Patricia W. Stroup or Susan E. Silver, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION: Section 702(a) of the Trade Agreements Act of 1979 ("the TAA") requires the Department of Commerce ("the Department") to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of quota cheese, as defined in section 701(c)(1) of the TAA, and to publish an annual list and quarterly updates of the type and amount of those subsidies.

The Department has developed, in consultation with the Department of Agriculture, information on subsidies (as defined in section 702(h)(2) of the TAA) being provided either directly or indirectly by foreign governments on articles of quota cheese. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amount of each subsidy on which information is currently available.

The Department will incorporate programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of quota cheese to submit such information in writing to the Deputy Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230.

This determination and notice are in accordance with section 702(a) of the TAA (19 U.S.C. 1202 note).

Dated: December 29, 1983.

C. Christopher Parlin,

Acting Deputy Assistant Secretary, Import Administration.

APPENDIX.—QUOTA CHEESE SUBSIDY PROGRAMS

Country	Program(s)	Gross [1] subsidy (cents per pound)	Net [2] subsidy (cents per pound)
Belgium	European Community (EC) Restitution Payments	3.5	3.5
Canada	Export Assistance on Swiss Cheese	[illegible]	[illegible]
	Export Assistance on Aged Cheddar N/Ov. 2.37 Kg/pkg	[illegible]	[illegible]
	Export Assistance on NSPF Cheeses	[illegible]	[illegible]
Denmark	EC Restitution Payments	10.2	10.2
Finland	Export Subsidy	[illegible]	36.8
	Indirect Subsidies	16.1	16.1
		[illegible]	52.9
France	EC Restitution Payments	.3	.3
Ireland	EC Restitution Payments	0	0
Italy	EC Restitution Payments	[illegible]	[illegible]
Luxembourg	EC Restitution Payments	3.5	3.5
Netherlands	EC Restitution Payments	.2	[illegible]
Norway	Indirect (Milk) Subsidy	16.7	16.7
	Consumer Subsidy	[illegible]	[illegible]
		53.8	53.8
Switzerland	Deficiency Payments	59.1	[illegible]
U.K	EC Restitution Payments	0	0
W. Gemany	EC Restitution Payments	1.0	1.0

[1] Defined in 19 U.S.C. 1677(5).
[2] Defined in 19 U.S.C. 1677(6).

[FR Doc. 84-122 Filed 1-3-84; 8:45 am]
BILLING CODE 3510-25-M

[C-475-008]

Countervailing Duty Order; Semifinished Forged Undercarriage Components From Italy

AGENCY: International Trade Administration, Commerce.

ACTION: Countervailing Duty Order.

SUMMARY: In separate investigations, the U.S. Department of Commerce (the Department) and the U.S. International Trade Commission (ITC) have determined that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers and exporters in Italy of semifinished forged undercarriage components and that these imports are materially injuring a U.S. industry. Therefore, all entries, or withdrawals from warehouse, for consumption, of semifinished forged undercarriage components from Italy made on or after August 30, 1983, the date on which the Department published its "Suspension of Liquidation" notice in the **Federal Register**, are liable for the possible assessment of countervailing duties.

Further, a cash deposit of estimated countervailing duties must be posted on all such entries and withdrawals from warehouse, for consumption, on or after the date of publication of this order in the **Federal Register**.

EFFECTIVE DATE: January 4, 1984.

FOR FURTHER INFORMATION CONTACT: Deborah A. Semb, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-3534.

SUPPLEMENTARY INFORMATION: In accordance with section 703 of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1671b) on August 30, 1983, the Department published its preliminary determination that certain benefits which constitute subsidies within the meaning of the countervailing duty law were being provided to the manufacturers, producers, or exporters in Italy of semifinished forged undercarriage components (48 FR 39273). On November 16, 1983, in accordance with section 705 of the Act (19 U.S.C. 1671d), we published our final determination that certain benefits that constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Italy of semifinished forged undercarriage components (48 FR 52111). On December 21, 1983, in accordance with section 705 of the Act (19 U.S.C. 1671d), the ITC notified the Department that it had determined that an industry in the United States is being materially injured by reason of imports of semifinished forged undercarriage components from Italy. Therefore, all entries or withdrawals from warehouse, for consumption, on or after August 30, 1983, the date on which the Department published its "Suspension of Liquidation" notice in the **Federal Register**, are liable for the possible assessment of countervailing duties.

Scope of Countervailing Duty Order

The products covered by this investigation are semifinished forged undercarriage links and rollers for crawler-mounted machinery (forged undercarriage components). The subject merchandise is currently classifiable under item numbers 664.08, 692.34 and 692.35 of the *Tariff Schedules of the United States Annotated (TSUSA).*

Industries Meccanica e Stampaggio S.p.A. (IMES) of Sumirago (Varese), Italy is the only known exporter of the forged undercarriage components which were exported to the United States.

In accordance with sections 706(a)(1) and 751 of the Act (19 U.S.C. 1671e), the Department directs the U.S. Customs Service to assess countervailing duties and to require a cash deposit equal to the amount of the estimated net subsidy on all entries of semifinished forged undercarriage components from Italy. This countervailing duty order applies to all entries of the subject merchandise entered or withdrawn from warehouse, for consumption, on or after the date of publication of this notice. The amount to be deposited is 1.37 percent *ad valorem.*

This notice is published pursuant to section 706(a) of the Act (19 U.S.C. 1671e(a)) and § 355.36 of the Commerce Regulations (19 CFR 355.36). The Department intends to conduct an administrative review of this order, as

provided for under section 751 of the Act (19 U.S.C. 1675).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

December 27, 1983.

[FR Doc. 84-121 Filed 1-3-84; 8:45 am]

BILLING CODE 3510-25-M

[Case No. 647]

Globe Computers AB and Goran B. Josberg; Order Temporarily Denying Export Privileges

In the Matter of: Globe Computers AB, Strandvagen 9, S–114 56 Stockholm, Sweden, and Goran B. Josberg, President, Globe Computers AB, Strandvagen 9, S–114 56 Stockholm, Sweden.

The Department of Commerce (the Department), pursuant to the provisions of § 388.19 of the Export Administration Regulations (15 CFR parts 368–399 (1983)) (the Regulations), has petitioned the Hearing Commissioner for an order temporarily denying all export privileges to Globe Computers AB, Strandvagen 9, S–114 56 Stockholm, Sweden and its president, Goran B. Josberg (hereinafter collectively referred to as respondents).

The Department states thats the respondents are under investigation by the Department's Office of Export Enforcement. The Department states further that its investigation gives it reason to believe: (1) That respondents made false and misleading statements to the Department for the purpose of effecting exports from the United States; (2) that respondents have reexported a U.S.-origin computer from Sweden to the Union of Soviet Socialist Republics without obtaining authorization for that reexport from the Department; and (3) that the respondents may attempt to reexport or divert U.S.-origin commodities or technical data contrary to the Regulations in the future, unless appropriate action is taken to preclude such attempts.

Based on the showing made by the Department, I find that an order temporarily denying all export privileges to the respondents, and to any party related to them, is required in the public interest to facilitate enforcement of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401–2420 (Supp. V 1981)), and the Regulations and to permit completion of the Department's investigation.

Anyone who is now or may in the future be dealing with the above-named respondents or any related party in transactions that in any way involve U.S.-origin commodities or technical data is specifically alerted to the provisions set forth in Paragraph IV below.

Accordingly, it is hereby

Ordered:

I. All outstanding validated export licenses in which respondents or any related party appear or participate, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Administration for cancellation.

II. The respondents, their successors or assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to a validated export license application, (b) in the preparation or filing of any export license application or reexport authorization, or of any document to be submitted therewith, (c) in the obtaining or using of any validated or general export license or other export control document, (d) in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported, and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondents, but also to their agents and employees and to any successors. After notice and opportunity for comment, such denial may also be made applicable to any person, firm, corporation, or business organization with which respondents are now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or related services. A party now known to be affiliated with the respondents, and which is accordingly subject to the provisions of this order, is: Globe Metals AB, Strandvagen 9, S–114 56 Stockholm, Sweden.

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Administration, shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with the respondents or any related party, or whereby the respondents or any related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for the respondents or any related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. In accordance with the provisions of § 388.19(b) of the Regulations, the respondents or any related party may move at any time to vacate or modify this temporary denial order by filing with the Hearing Commissioner, International Trade Administration, U.S. Department of Commerce, Room 6716, 14th and Constitution Avenue, NW., Washington, D.C. 20230, an appropriate motion for relief and may also request an oral hearing thereon, which, if requested, shall be held before the Hearing Commissioner at the earliest convenient date.

VI. This order is effective immediately. It remains in effect until the final disposition of any administrative or judicial proceedings initiated against the respondents as a result of the ongoing investigation. A copy of this order and Parts 387 and 388 of the Regulations shall be served upon the respondents and the above-named related party.

Dated: December 28, 1983, 11:30 am EST.

Thomas W. Hoya,

Hearing Commissioner.

[FR Doc. 84-86 Filed 1-3-84; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

[Docket No. 31202-230]

Civil Penalties for U.S. Fishermen

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of policy on civil penalties.

SUMMARY: This notice announces the general agency policy to deny applications under any agency grant, loan, or loan guaranty program from any applicant who has not paid a final and unappealable civil penalty under the provisions of statutes protecting living marine resources. It is this Agency's policy to encourage payment of assessed penalties as they become due. In addition, it is not consistent with the wise use of the nation's living marine resources to make loans, loan guarantees or grants to those individuals who have not paid outstanding civil penalties under programs administered by this agency.

DATES: This policy is effective on January 4, 1984.

FOR FURTHER INFORMATION CONTACT: Cdr. John K. Callahan, Jr., National Oceanic and Atmospheric Administration, Washington, D.C. 20235 (202/254-5043).

SUPPLEMENTARY INFORMATION: Under the provisions of a number of statutes administered by the National Oceanic and Atmospheric Administration (See Appendix), the Secretary of Commerce may assess a civil penalty against any person who commits an act prohibited by regulations promulgated under the statutes' provisions. Regulations enacted for these statutes contain provisions for formal administrative hearings with appellate review. The assessment of a civil penalty becomes a final and unappealable order thirty days after final administrative action or, if the agency's decision is challenged in the courts, at such time as a final and unappealable judicial order is entered.

The Secretary of Commerce also has the authority to provide assistance to the fishing industry under a variety of grant, loan, and loan guaranty programs. The Secretary of Commerce has delegated authority for many of these programs to the National Marine Fisheries Service. It is the policy of the agency to encourage payment of assessed penalties as they become due and to ensure that the assistance programs are implemented in a manner consistent with the wise use of the nation's living marine resources. Accordingly, the National Oceanic and Atmospheric Administration will generally not approve an application submitted under any of its grant, loan, or loan guaranty programs by a person who has been assessed a civil penalty which has become final and unappealable under the statutes listed in the Appendix, unless that person has either paid the penalty or entered into an agreement to pay the penalty in installments and has paid installments as they fell due. Exceptions to this policy may be made when necessary to limit the financial exposure of the federal government.

Samuel A. Lawrence,

Director, Office of Administrative and Technical Services.

Appendix

This policy applies as to civil penalties assessed under the following statutes.

Antarctic Conservation Act of 1978, 16 U.S.C. 2401-2412;
Atlantic Tuna Conventions Act of 1975, 16 U.S.C. 971-971g;
Atlantic Salmon Convention Act of 1982, Pub. L. 97-389 (Dec. 29, 1982);
Endangered Species Act of 1973, 16 U.S.C. 1531-1543;
Lacey Act Amendments of 1981, 16 U.S.C. 3371-3378;
Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801-1882;
Marine Mammal Protection Act of 1972, 16 U.S.C. 1361-1407;
Marine Protection, Research and Sanctuaries Act, 16 U.S.C. 1431-1434;
Northern Pacific Halibut Act of 1982, 16 U.S.C. 773-773k;
North Pacific Fisheries Act of 1954, 16 U.S.C. 1021-1032;
Tuna Conventions Act of 1950, 16 U.S.C. 951-961.

[FR Doc. 84-119 Filed 1-3-84; 8:45 am]
BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Soliciting Public Comment on Bilateral Textile Consultations with the Government of Hong Kong on Categories 314, 318, 337, 359, 361, 369, 459, 649 and 669

December 29, 1983.

On December 23, 1983, the Government of the United States requested consultations with the Government of Hong Kong with respect to Categories 314 (Poplin and Broadcloth), 318 (Other Yarn-Dyed Fabrics), 337 (Playsuits), 349 (Other Cotton Apparel), 361 (Sheets), 369 (Other Cotton Manufactures), 459 (Other Wool Apparel), 649 (Brassieres) and 669 (Other Man-Made Fiber Manufactures). This request was made on the basis of the agreement of June 23, 1982, as amended, between the Governments of the United States and Hong Kong relating to trade in cotton, wool and man-made fiber textiles and textile products.

The purpose of this notice is to advise the public that if no solution is agreed upon in consultations between the two governments, the Committee for the Implementation of Textile Agreements may later establish limits for the entry and withdrawal from warehouse for consumption of textile products in Categories 314, 318, 337, 359, 361, 369, 459, 649 and 669, produced or manufactured in Hong Kong and exported to the United States during the twelve-month period which began on January 1, 1983 and extended through December 31, 1983.

Any party wishing to comment or provide data or information regarding the treatment of these categories under the bilateral agreement, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in these categories is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, it is requested that comments be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreements or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreement.

[FR Doc. 83-34239 Filed 12-29-83; 4:51 pm]
BILLING CODE 3510-DR-M

Announcing Import Limits for Certain Cotton, Wool, and Man-Made Fiber Textile Products, Produced of Manufactured in the Republic of Korea

December 29, 1983.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA) under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on January 9, 1984. For further information contact Ross Arnold, International Trade Specialist (202/377–4212).

Background

Under the terms of the Bilateral Cotton, Wool and Man-Hour Fiber Textile Agreement of December 1, 1982, as amended, between the Governments of the United States and the Republic of Korea, the United States Government has decided to convert to specific limits in 1984 the levels or textile products in Categories 313, 314, 315, 317, 319, 320, 336, 435, 442, 448, 613, 631, 636, 642, 644, 647 and parts of 669, which are exported during 1984. The letter to the Commissioner of Customs which follows this notice establishes the new specific limits.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), and December 14, 1983 (48 FR 55607).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

December 29, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs
Department of the Treasury
Washington, D.C.

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of December 1, 1982, as amended, between the Government of the United States and the Republic of Korea; and in accordance with the provisions in Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 9, 1984, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, and man-made fiber textile products in the following categories, produced or manufactured in Korea, and exported during 1984, in excess of the indicated levels of restraint:

Category and Twelve-Month Level of Restraint

313—35,875,000 square yards
314—2,562,500 square yards
315—21,893,199 square yards
317—15,781,692 square yards
319—7,681,561 square yards
320—35,487,398 square yards
336—41,000 dozen
435—30,366 dozen
442—43,438 dozen
448—30,561 dozen
613—21,798,820 square yards
631—215,250 dozen pairs
636—205,000 dozen
642—74,513 dozen
644—82,000 dozen
647—773,963 dozen
669–P [1]—647,795 pounds
669–P [2]—4,356,250 pounds
669–T [3]—4,944,435 pounds

Textile products in the foregoing categories which have been exported to the United States prior to January 1, 1984 shall not be subject to this directive.

Textile products in the foregoing categories which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The levels set forth above are subject to adjustment according to the provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 1, 1982, as amended, which provide, in part, that: (1) During any agreement year specific limits and sublimits may be exceeded by designated percentages, provided a corresponding reduction in square yards equivalent is made in one or more other specific limits; (2) under specified conditions specific limits and sublimits may be adjusted for carryover and carryforward not to exceed 10 percent; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement. Any adjustments under the foregoing provisions of the agreement will be made to you by letter.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), and December 14, 1983 (48 FR 55607).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of cotton, wool and man-made fiber textile products from Korea have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 533. This letter will be published in the **Federal Register**.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-34846 Filed 12-29-83; 5:05 pm]
BILLING CODE 3510-DR-M

[1] In Category 669, only TSUSA numbers 355.4520 and 355.4530.

[2] In Category 669, only T.S.U.S.A. number 385.5300.

[3] In Category 669, only TSUSA numbers 386.1105 and 389.8210.

Soliciting Public Comment on Bilateral Textile Consultations with Korea to Review Trade in Categories 359, 369, 436 and 438

December 29, 1983.

On December 27, 1983, the Government of the United States requested consultations with the Government of the Republic of Korea with respect to Categories 359 (Other Cotton Apparel), 369 (Other Manufactures), 436 (Women's, Girls' and Infants' Dresses) and 438 (Knit Shirts and Blouses). This request was made on the basis of the agreement of December 1, 1982, as amended, between the Governments of the United States and the Republic of Korea relating to trade in cotton, wool and man-made fiber textiles and textile products.

The purpose of this notice is to advise the public that if no solution is agreed upon in consultations with Korea, the Committee for the Implementation of Textile Agreements may later establish limits for the entry and withdrawal from warehouse for consumption of textile products in Categories 359, 369, 436 and 438, produced or manufactured in Korea and exported to the United States during the twelve-month period which began on January 1, 1983 and extended through December 31, 1983.

Any party wishing to comment or provide data or information regarding the treatment of Categories 359, 369, 436 and 438 from Korea under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, or any other aspect thereof, or to comment on domestic production or availability of textile products included in these categories, is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the

consultations is not yet certain, it is requested that comments be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreements or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-34330 Filed 12-29-83; 4:55 pm]

BILLING CODE 3510-DR-M

Establishing a New Export Visa Requirement for Certain Cotton, Wool and Man-Made Fiber Textile and Apparel Products Produced or Manufactured in the Socialist Republic of Romania

December 29, 1983.

ACTION: Establishing a new visa requirement for certain cotton, wool and man-made fiber textile and apparel products in Categories 300–369, 400–469 and 600–669, produced or manufactured in Romania, under the terms of the Bilateral Cotton Textile Agreement of January 28 and March 31, 1983 and the Bilateral Wool and Man-Made Fiber Textile Agreement of September 3 and November 3, 1980, as amended, between the Governments of the United States and the Socialist Republic of Romania.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

EFFECTIVE DATE: February 1, 1984 for cotton, wool and man-made fiber textile and apparel products in Categories 300–369, 400–469 and 600–669, exported on and after that date. Merchandise in these categories exported before February 1, 1984, shall not be denied entry for lack of a visa.

FOR FURTHER INFORMATION CONTACT: Diana Bass, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. (202/377–4212).

SUPPLEMENTARY INFORMATION: Cotton, wool and man-made fiber textile and apparel products in Categories 300–369, 400–469 an 600–669, which are subject to the terms of the bilateral agreements and exported on and after February 1, 1984, shall be visaed with a circular stamp in order to be entered, or withdrawn from warehouse, for consumption in the United States.

Shipments shall be visaed by the placing of an original stamped marking (the visa) in blue ink on the front of the invoice (Special Customs Invoice Form 5515, successor document, or commercial invoice, when such form is used). Each visa shall include the number, date of export, and signature of the authorized issuing official. The visa shall also state the correct category and quantity in the shipment in the applicable category units; however, if the quantity shown on the export visa is more than the actual quantity of the merchandise, entry shall be permitted, despite the inaccuracy. A facsimile of the new visa stamp is published as an enclosure to the letter to the Commissioner of Customs which follows this notice.

Merchandise imported for the personal use of the importer, and not for resale, does not require a visa, regardless of value.

The Government of the Socialist Republic of Romania has authorized the following officials to issue export visas:

Tomulescu Petre
Lungu Gheorghe
Linc Mircea
Atanasiu Bogdan
Ciobanescu Stefan
Mateescu Jeni
Sadeanu Neli
Romanescu Mircea

Interested persons are advised to take all necessary steps to ensure that cotton, wool and man-made fiber textile and apparel products, produced or manufactured in Romania which are to be entered into the United states for consumption, or withdrawn from warehouse for consumption on and after February 1, 1984, will meet the stated visa requirements.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

December 29, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton Textile Agreement of January 28 and March 31, 1983 and the Bilateral Wool and Man-Made Fiber Textile Agreement of September 3 and November 3, 1980, as amended, between the Governments of the United States and the Socialist Republic of Romania; and in accordance with the provisions in Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on February 1, 1984, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile and apparel products in Categories 300–369, 400–469, and 600–669, produced or manufactured in Romania and exported on and after February 1, 1984, for which the Government of the Socialist Republic of Romania has not issued an appropriate export visa. Merchandise exported before February 1, 1984, shall not be denied entry.

Textile and apparel products in Categories 300–369, 400–469 and 600–669, exported on and after February 1, 1984, shall be visaed with a circular stamp in order to be entered into the United States for consumption, or withdrawn from warehouse for consumption. Merchandise shall be visaed by the placing of an origianl stamped marking (the visa) in blue ink on the front of the invoice (Special Customs Invoice Form 5515, successor document, or commercial invoice, when such form is used). Each visa shall include the number, date of export, and signature of the issuing official. The visa shall also state the correct category and quantity in the applicable category units, except that, if the quantity indicated on the export visa is more than that of the merchandise, entry shall be permitted. The categories and quantities shall be those determined by the U.S. Customs Service. A facsimile of the visa stamp is enclosed.

Merchandise imported for the personal use of the importer, and not resale, does not require a visa or certification for entry, regardless of value.

You are directed to permit entry into the United States for consumption and withdrawal from warehouse for consumption of designated shipments of textile products, produced or manufactured in Romania and exported to the United States, notwithstanding the designated merchandise does not fulfill the aforementioned visa requirements, whenever requested to do so in writing by the Chairman of the Committee for the Implementation of Textile Agreements.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Socialist Republic of Romania and with respect to imports of cotton, wool and man-made fiber textile products from Romania have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-114 Filed 1-3-84; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Advisory Committee on Women in the Services (DACOWITS); Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that a meeting of the Executive Committee of the Defense Advisory Committee on Women in the Services (DACOWITS) is scheduled to be held from 1:30 p.m. to 5:00 p.m., February 7, 1984 in MRA&L Conference Room No. 3E794, the Pentagon, and from 9:30 a.m. to approximately 12:00 noon, February 8, 1984 in MRA&L Conference Room No. 3E794, the Pentagon. Meeting sessions will be open to the public.

The purpose of the meeting is to review the responses to recommendations/requests for information/continuing concerns made at the 1983 Fall Meeting, discuss current issues relevant to women in the Services, and finalize the itinerary/program for the next Semiannual Meeting scheduled for April 29–May 3, 1984 in Washington, D.C.

Persons desiring to (1) attend the Executive Committee Meeting or (2) make oral presentations or submit written statements for consideration at the Meeting must contact Captain Marilla J. Brown, Executive Secretary, DACOWITS, OASD (Manpower, Reserve Affairs, and Logistics), Room 3D769, The Pentagon, Washington, D.C. 20301, telephone (202) 697-2122 no later than Janruary 23, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

December 28, 1983.

[FR Doc. 84-53 Filed 1-3-84; 8:45 am]

BILLING CODE 3810-01-M

DOD Advisory Group on Electron Devices; Committee Meeting

Working Group B (Mainly Low Power Devices) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session on January 17, 1984 at Palisades Institute For Research Services, Inc. 1925 North Lynn Street, Arlington, Virginia 22209.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Enginering, the Director, Defense Advanced Research Projects Agency and the Military Department with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. The low power device area includes such programs as integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with Section 10(d) of Pub. L. 92-463, as amended (5 U.S.C. App. 1 section 10(d) (1976)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

December 28, 1983.

[FR Doc. 84-51 Filed 1-3-84; 8:45 am]

BILLING CODE 3810-01-M

DOD Advisory Group on Electron Devices; Committee Meeting

Working Group D (Mainly Laser Devices) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session on January 26 and 27, 1984 at Lawrence Livermore Labs, 7000 East Avenue, Livermore, Ca.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Department with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group D meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. The laser area includes such programs on developments and research related to low energy lasers for such applications as battlefield surveillance, target designation, ranging, communications, weapon guidance and data transmission. The review will include classified program details throughout.

In accordance with Section 10(d) of Pub. L. 92-463, as amended, (5 U.S.C. App. 1 section 10(d) (1976)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

December 28, 1983.

[FR Doc. 84-50 Filed 1-3-84; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board.

Dates of meeting: Thursday and Friday, January 19 and 20, 1984.

Times: 0830-1700 (Closed).

Place: Pentagon, Washington, D.C.

Agenda: Several members of the Planning, Concepts and Management Support Functional Subgroup are scheduled to meet to review preparations for Army descriptions of Research and Development programs. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., App. 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board's Administrative Officer, Sally A. Warner, may be contacted for further information at (202) 695-3039 or (202) 697-9703.

Sally A. Warner,

Administrative Officer.

[FR Doc. 84-61 Filed 1-3-84; 8:45 am]

BILLING CODE 3710-08-M

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of

submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

New

Commercial Transportation Facilities Data.

Information on transportation facilities at Department of Defense commercial contractors is needed by MTMC for publication of current data in the Commercial Contractors Terminal Facilties Guide. The data is used by DOD activities for shipment of freight.

Businesses: 230 respondents, 690 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DOD Clearance Officer, WHS/DIOR, Room 1C535, Pentagon, Washington D.C. 20301, telephone (202) 694–0187.

A copy of the information collection proposal may be obtained from David O. Cochran, DAAG–OPI, Room 1D667, Pentagon, Washington, D.C. 20310, telephone (202) 605–5111.

Dated: December 28, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84–52 Filed 1–3–84; 8:45 am]

BILLING CODE 3710–8–M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Proposed Transmission Rate Adjustment

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice. *BPA File No.:* TR–83. Federal Energy Regulatory Commission Docket No. EF84–2021–000

SUMMARY: On January 28, 1983, BPA gave notice of its intent to revise transmission rates. On March 28, 1983, BPA published its initial proposal for transmission rate schedules in anticipation that such rates would become effective on an interim basis on or about November 1, 1983. Following an extensive hearing process, BPA submitted its rates to the Federal Energy Regulatory Commission (Commission) for approval on October 3, 1983. On October 26, 1983, the Commission denied BPA's request for interim approval of its transmission rates. BPA was directed to cure a deficiency in its filing by submitting certain accounting information. By request of November 23, 1983, BPA has asked the Commission to grant interim approval to its transmission rates while a "tracking system" is developed which will provide the Commission with the accounting information for which the Commission asked. In the event that BPA's application for rehearing is successful and the Commission subsequently approves BPA's transmission rates, BPA hereby gives notice that BPA anticipates that new transmission rates will be effective on the first day of the month following interim or final approval of such rates by the Commission.

FOR FURTHER INFORMATION CONTACT: Ms. Kathleen S. Johnson, Public Involvement, P.O.Box 12999, Portland, Oregon 97212; 503–230–3478. Oregon callers outside of Portland may use 800–452–8429; callers in California, Idaho, Montana, Nevada, Utah, Washington, and Wyoming may use 800–547–6048. Additional information is available from the following:

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 N.E. Irving Street, Portland, Oregon 97232, 503–230–4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503–687–6952.

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509–456–2518.

Mr. George E. Eskeidge, Montana District Manager, 800 Kensington, Missoula, Montana 49801, 406–329–3860.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509–662–4377.

Mr. Richard Casad, Puget Sound Area Manager, Room 250, 415 First Avenue North, Seattle, Washington 98109, 206–442–4130.

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509–525–5500, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208–523–2706.

Mr. Frederic D. Rettenmund, Boise District Manager, Owyee Plaza Suite 245, 1109 Main Street, Boise, Idaho 83707, 208–334–9138.

SUPPLEMENTARY INFORMATION: On January 28, 1983, BPA published in the **Federal Register** (48 FR 4027) a "Notice of Intent to Revise Transmission Rates" because revenue from the current rates is insufficient to recover increased costs of the Federal Columbia River Transmission System (FCRTS). On March 28, 1983, BPA published in the **Federal Register** (48 FR 12766) a "Notice of Proposed Transmission Rate Adjustment, Public Hearings, and Opportunities for Public Review and Comment" setting forth an initial proposal for Transmission Rate Schedules and anticipating that new transmission rates would become effective on an interim basis on or about November 1, 1983.

Subsequent to these notices, BPA and 42 parties participated in an extensive hearing process beginning April 5, 1983, and continuing until September 30, 1983, when BPA's decision was released. This process afforded parties a full opportunity to review and rebut evidence submitted by the Administrator, and allow cross-examination. In addition, BPA held field hearings throughout the Pacific Northwest to allow the public at large to comment on BPA's proposed rates.

On October 3, 1983, BPA filed its proposed transmission rate schedules with the Federal Energy Regulatory Commission (Commission). On October 26, 1983, the Commission issued an order denying BPA's request for interim approval of its transmission rates. The Commission directed BPA to cure the deficiency in its filing by submitting certain accounting information as required by the Commission. Pending resolution of the filing deficiency, the Commission extended until December 31, 1984, confirmation and approval of BPA's current transmission rates.

On October 31, 1983, BPA sent a telegram to all of its wheeling customers and the parties to the rate proceedings canceling the November 1, 1983, rate adjustment date. The telegram was solely due to the Commission's order, a circumstance beyond BPA control. BPA noted that additional details would follow. This **Federal Register** notice provides additional details regarding that telegram.

On November 23, 1983, BPA filed with the Commission an "Application for Rehearing and Request for Clarification" regarding BPA's transmission rate proposal. In pertinent part, this application establishes two points. First, BPA is undertaking a comprehensive effort to complete a "tracking system" to satisfy the concerns expressed in the Commission's Order of October 26, 1983.

The application proposes a methodology for compiling data on transmission revenue deficiencies and surpluses. Second, BPA has requested that the Commission reconsider its decision to deny interim approval of the proposed transmission rates. BPA requests that the Commission grant interim approval of proposed transmission rates for a period of 4 months pending resolution of the "tracking system" issues. With regard to the proposed Townsend-Garrison (TGT-1) transmission rate, for which there is no pre-existing rate, BPA requests interim approval as of November 1, 1983. TGT-1 is unrelated to the "tracking system" issue and interim approval would not be limited to 4 months.

In the event that BPA's application for rehearing is successful and the Commission subsequently approves BPA's transmission rates, BPA hereby gives notice that BPA anticipates that new transmission rates will be effective on the first day of the month following interim or final approval of such rates by the Commission. Under certain contractual provisions, this effective date may be July 1 following Commission approval for some customers. As a courtesy, BPA will notify its customers of the date of any future Commission hearings in the event this matter is placed on the Commission's docket. BPA now anticipates that the Commission will consider the BPA rehearing application in January of 1984.

Issued in Portland, Oregon, on December 22, 1983.

Peter T. Johnson,

Administrator.

[FR Doc. 84-62 Filed 1-3-84; 8:45 am]

BILLING CODE 6450-01-M

Office of Conservation and Renewable Energy

[Docket Nos. CE-CP-SPRM, 006-029]

Energy Conservation Program for Consumer Products; State Notices of Petition

Correction

In FR Doc. 83-34311 beginning on page 56996 in the issue of Tuesday, December 27, 1983, make the following corrections:

1. On page 56997, in the table in the entry for "Illinois", under the category for "Room air conditioner", delete the "X".

2. In the entry for "Washington", delete all "X's" under all categories.

BILLING CODE 1505-01-M

Federal Energy Regulatory Commission

[Docket No. ER84-152-000]

Allegheny Power Service Corp.; Filing

December 29, 1983.

The filing Company submits the following:

Take notice that Allegheny Power Service Corporation (Allegheny) on December 13, 1983, tendered for filing an Agreement concering limited term and supplemental power service among Monongahela Power Company (Monongahela), the Potomac Edison Company (Potomac), West Penn Power Company (West Penn) and Public Service Electric and Gas Company (Buyer).

Allegheny states that the Agreement set forth terms pursuant to which Monongahela, Potomac and West Penn will deliver to Buyer 496,000 kilowatts of limited term power and energy and 124,000 kilowatts of supplemental power and energy for 1984 or such other amounts as the parties may agree on from time-to-time in 1984 and in future periods.

Allegheny requests an effective date of January 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 13, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-95 Filed 1-3-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER78-490-002 and ER80-673-001]

American Electric Power Service Corp.; Compliance Filing

December 29, 1983.

Take notice that on December 12, 1983 American Electric Power Service Corporation (AEP) submitted for filing on behalf of Ohio Power Company (Ohio Power) Supplement No. 13 dated December 1, 1983 to the Interconnection Agreement dated January 1, 1952, between Ohio Edison Company and Ohio Power, which is an operating subsidiary of AEP.

AEP states that the purpose of the Supplement No. 13 is to settle the remaining issues in Docket Nos. ER78-490-002 and ER80-673-001, as specified in the Commission's Opinion No. 170 issued on June 3, 1983. AEP further states Supplement No. 13 is being submitted to provide additional information to the Commission pertaining to AEP's Emergency Service Schedule, and to revise its response concerning a Supplement No. 12.

AEP requests that section 1 of Supplement No. 12, dated August 9, 1983, and Supplement No. 13 dated December 1, 1983, become effective as soon as possible.

Copies of this filing have been served upon Ohio Edison Company and the Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before January 11, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-96 Filed 1-3-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-166-000]

Arizona Public Service Co.; Filing

December 29, 1983.

The filing Company submits the following:

Take notice that on December 19, 1983, Arizona Public Service Company (APS) tendered for filing a Notice of Cancellation of the Wholesale Power Agreement between APS and Plains Electric Generation and Transmission Cooperative, Inc., FERC Rate Schedule No. 83.

APS requests an effective date of December 31, 1983.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of

Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 18, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-97 Filed 1-3-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-161-000]

Carolina Power & Light Co.; Filing

December 29, 1983.

The filing Company submits the following:

Take notice that on December 14, 1984, Carolina Power & Light Company (CP&L) tendered for filing Exhibits A for the following customers and Points of Delivery:

Jones-Onslow EMC-Topsail 115 kV
Lumbee River EMC-Pembroke 115 kV
Wake EMC-Wake Forest 115 kV

CP&L also tendered for filing an executed Amendment dated August 1, 1983, to the Service Agreement between CP&L and the Town of Waynesville, FPC No. 89.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 18, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-98 Filed 1-3-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-157-000]

Cleveland Electric Illuminating Co.; Filing

December 29, 1983.

The filing Company submits the following:

Take notice that on December 13, 1983, the Cleveland Electric Illuminating Company (CEI) submitted for filing a November 22, 1983 Service Agreement between CEI and the City of Cleveland, Ohio providing transmission service, and Exhibits A and B to the Service Agreement.

CEI states that under this Agreement, it will purchase the power and energy from Ohio Power Company, and the City will pay the cost of such power purchased by CEI from the Ohio Power Company.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 18, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-99 Filed 1-3-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-158-000]

Cleveland Electric Illuminating Co.; Filing

December 29, 1983.

The filing Company submits the following:

Take notice that on December 13, 1983, Cleveland Electric Illuminating Company (CEI) submitted for filing the November 9, 1983 Service Agreement between CEI and the City of Cleveland Ohio (the City), and Exhibits A and B to the Service Agreement.

CEI states that the City has contracted to purchase 50 MW of power and associated energy generated by Big Rivers Electric Corporation, Henderson, Kentucky, from November 16, 1983 to November 22, 1983. Pursuant to this arrangement, CEI will purchase the power and energy, bought indirectly by Ohio Power Company from Big Rivers, from Ohio Power, and will sell it to the City for Ohio Power's cost of such energy.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of Commission's Rules and Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 18, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-100 Filed 1-3-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-159-000]

Cleveland Electric Illuminating Co.; Filing

December 29, 1983.

The filing Company submits the following:

Take notice that on December 13, 1983, Cleveland Electric Illuminating Company (CEI) submitted for filing a November 30, 1983 Service Agreement between CEI and the City of Cleveland, Ohio (the City), and Exhibits A and B to the Service Agreement, and an Agreement for Transmission and Purchase of Ontario Hydro Power for the City's Department of Public Utilities, dated December 2, 1983.

CEI states that Cleveland has contracted to purchase up to 20 MW of power and associated energy generated by Ontario Hydro from November 30, 1983 to February 28, 1984. Pursuant to this Agreement for Transmission and Purchase of Ontario Hydro Power, CEI will purchase the power and energy from Toledo Edison Company, and the City will purchase the power for the cost for which it was purchased by CEI.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests

should be filed on or before January 18, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-101 Filed 1-3-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER81-267-003 and ER81-341-005]

Kentucky Utilities Co.; Compliance Filing

December 29, 1983.

Take notice that on December 2, 1983, Kentucky Utilities Company (Kentucky) submitted for filing its Compliance Report pursuant to the Commission's Order of November 3, 1983, approving the Settlement Agreement.

Kentucky states that the Order approved a stipulated amount for the fuel synchronization adjustment and required Kentucky to make other changes as called for by Opinion No. 184.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before January 16, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-102 Filed 1-3-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-137-000]

Kentucky Utilities Co.; Filing

December 29, 1983.

The filing Company submits the following:

Take notice that on November 14, 1983, Kentucky Utilities Company (KUC) submitted for filing a notice of delayed construction of its 500 kV line pursuant to section 4, Subsection (f) of the Amendatory Agreement dated April 5, 1979 between KUC and the Tennessee Valley Authority (TVA).

KUC also submitted a letter of acceptance of the delay from the TVA.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 18, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervenue. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-103 Filed 1-3-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-156-000]

Montana Power Co.; Filing

December 29, 1983.

The filing Company submits the following:

Take notice that on December 13, 1983, Montana Power Company (Montana) tendered for filing a revised Appendix I as required by Exhibit C for retail sales in accordance with the provisions of the Residential Purchase and Sale Agreement (Agreement) between Montana and the Bonneville Power Administration (BPA).

Montana states that the Agreement was entered into pursuant to the Pacific Northwest Electric Power Planning and Conservation Act, Pub. L. 96-501. The Agreement provides for the exchange of electric power between Montana and BPA for the benefit of Montana's residential and farm customers.

Montana requests an effective date of June 30, 1983, and therefore requests waiver of the Commission's notice requirements.

A copy of the filing was served upon BPA.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 13, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-104 Filed 1-3-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-153-000]

Northern States Power Co.; Filing

December 29, 1983.

The filing Company submits the following:

Take notice that on December 13, 1983, Northern States Power Company (NSP) tendered for filing the Interconnection and Interchange Agreement between NSP and Hutchinson Utilities Commission of the City of Hutchinson, Hutchinson, Minnesota (Agreement).

NSP states that this Agreement provides for the interconnection of the NSP system with that of the City of Hutchinson and provides for transmission service between other municipalities with an interconnection agreement with NSP and other power suppliers.

NSP requests an effective date of February 13, 1984.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 13, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-105 Filed 1-3-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-162-000]

Pacific Gas & Electric Co.; Contract Filing

December 29, 1983.

Take notice that Pacific Gas and Electric Company (PG&E) on December

15, 1983, tendered for filing as an initial rate schedule a October 20, 1983 Letter Agreement for interruptible transmission service by PG&E for the Western Area Power Administration (Western).

The agreement provides that PG&E will transmit non-firm energy obtained by Western, from the Colorado River Storage Project, from Midway Substation to Tracy Substation, subject to the availability of transmission capacity in the PG&E system. The transmission rate of 1.0 mill/kWh is a negotiated rate. Energy delivered at Midway shall be reduced by 1.7 percent to compensate for transmission losses.

Excess non-firm energy not required for Western's preference customers load shall be sold to PG&E at Tracy Substation for banking at Western's cost for such energy (including wheeling and losses) or 85 percent of PG&E's R–1 energy rate including applicable Fuel Cost Adjustment, whichever is less.

PG&E has requested a waiver of the 60-day notice requirement of Section 35.11 of the Commission Regulations so as to permit an immediate effective date of January 1, 1982.

Copies of the filing were served upon Western and the California Public Utilities Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 18, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–106 Filed 1–3–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER84–163–000]

Portland General Electric Co.; Filing

December 29, 1983.

The filing company submits the following:

Take notice that on December 15, 1983 Portland General Electric Company (PGE) tendered for filing its Revised Average System Cost which reflects PGE's Power Cost Adjustment (PCA) rate change effective with meter readings on and after July 29, 1983. The filing includes a revised Schedule 5 of Appendix 1, Exhibit C to the Residential Purchase and Sale Agreement and the authorization for the PCA change from the Public Utility Commissioner of Oregon.

PGE states that the filing shows PGE's PCA adjustment to the base ASC of 47.89 mills/kWh is (5.83) mills/kWh.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 18, 1984. Protests will be considered by the Commission determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–107 Filed 1–3–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER84–167–000]

Portland General Electric Co.; Filing

December 29, 1983.

The filing Company submits the following:

Take notice that on December 19, 1983, Portland General Electric Company (PGE) tendered for filing the Peak Sale-Energy Exchange Agreement (Agreement).

PGE states that the purpose of the Agreement is to supply the City of Seattle, City Light Department, at its request, 100 megawatts of firm peaking capacity not to exceed 8,400 megawatt hours during any seven-day period. The term of the Agreement is from December 1, 1983 to February 28, 1984. PGE also states that the Agreement provides that Seattle shall pay PGE $450,000 for firm peaking capacity plus $1.85 times each kilowatt of capacity scheduled.

PGE further states that estimates of the expected transactions and revenues under this rate schedule are impossible to give at this time.

PGE requests an effective date of December 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 18, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–108 Filed 1–3–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER84–155–000]

Public Service Company of New Mexico; Filing

December 29, 1983.

The filing Company submits the following:

Take notice that on behalf of the following utilities: Arizona Public Service Company (APS), El Paso Electric Company (EPE), Public Service Company (SPS), and Texas-New Mexico Power Company (TNP) hereinafter referred to as the Jurisdictional Participants, Public Service Company of New Mexico (PSNM) tendered for filing on December 13, 1983, the Southwest Bulk Power Market Experiment Participation Agreement. In addition to the Jurisdictional Participants, the City of Farmington (COF), and the Salt River Project Agricultural Improvement and Power District (SRP) are participating in this experiment. The primary purpose of the Participating Agreement is to create a controlled bulk power market experiment for limited nonrequirements power interchanges between the participating utilities. The Participation Agreement has an initial term of one year, commencing January 1, 1984, with a possible one year extension.

In order to enable the experiment to be undertaken, the participants have requested FERC approval of the Participation Agreement as an initial filing, which includes approval of a zone of reasonableness for the pricing of economy and block energy transactions. Approval is also requested for certain

transmission service to be provided by the participants. A portion of the incentive revenues received by the selling participants, is requested to not be required to flow through the experiment adjustment clause, but be retained by the selling utility as incentive for entering into the transaction.

Additionally the participants have requested that the Commission's Order No. 84, as well as certain other rules and regulations such as supplemental filing requirements and filing of notice of termination not be made applicable to this experiment.

The participants have indicated that without the above-referenced approvals, the participants reasons for participating in this experiment would be substantially reduced which might result in the experiment not being pursued.

Copies of this filing were served on the above listed participants, the New Mexico Public Service Commission, the Texas Public Utility Commission, and the Arizona State Corporation Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 13, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-109 Filed 1-3-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-471-001]

Public Service Company of Oklahoma; Compliance Filing

December 29, 1983.

Take notice that on November 28, 1983, the Public Service Company of Oklahoma (PSO) submitted for filing its Revised Schedule PRA that reflects the Settlement Agreement reached in Docket No. ER80-592-000, *et al.*

PSO requests that the Commission cancel Supplement No. 8 to Rate Schedule FPC No. 172 and accept Service Schedule PRA in its place with an effective date of October 19, 1983.

PSO states that there is no refund due to the Western Farmers Electric Cooperative because no transactions pursuant to service schedule PRA have occurred.

PSO further states that copies of this filing have been sent to the Oklahoma Corporation Commission and Western Farmer's Electric Cooperative.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before January 16, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-87 Filed 1-3-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-178-001]

Public Service Co. of Oklahoma; Compliance Filing

December 29, 1983.

Take Notice that on November 28, 1983, Public Service Company of Oklahoma (PSO) submitted for filing its Revised Service Schedule PRA which reflects the settlement agreement reached in Docket No. ER80-594, *et al* on October 19, 1983.

PSO requests that the Commission cancel Supplement No. 3 to Rate Schedule FERC No. 223 and accept the Service Schedule PRA with an effective date of October 19, 1983.

PSO states that no refund is due to the Southwestern Power Administration because no transactions have occurred that are subject to service schedule PRA.

PSO further states that copies of this letter have been sent to the Oklahoma Corporation Commission and the Southwestern Power Administration.

Any person desiring to the heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 16, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-88 Filed 1-3-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-179-001]

Public Service Company of Oklahoma; Compliance Filing

December 29, 1983.

Take notice that on November 28, 1983, the Public Service Company of Oklahoma (PSO) submitted for filing its Revised Service Schedule PRA to an Interchange Agreement between PSO and the Grant River Dam Authority (GRDA).

PSO requests that the Commission cancel Supplement No. 5 to Rate Schedule FERC No. 224 and accept service schedule PRA to be effective as of October 19, 1983.

PSO states that it is also submitting the refund documents served on GRDA on November 11, 1983.

PSO further states that copies of this filing have been sent to the Oklahoma Corporation Commission, Counsel for the intervenors (Oklahoma Municipal Power Authority, Municipal Electric Systems of Oklahoma, and Municipal wholesale customers of PSO), and GRDA.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before January 16, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-89 Filed 1-3-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-160-000]

Southern California Edison Company; Filing

December 29, 1983.

The filing Company submits the following:

Take notice that on December 14, 1983, Southern California Edison (SCE) submitted for filing as an initial rate schedule the Coordination Agreement Between Southern California Edison and the State of California Department of Water Resources (Agreement).

SCE states that the Agreement provides for the sale of non-firm energy, the short-term exchange of energy, energy banking for use at San Luis Reservoir, and seasonal capacity and energy exchange, pursuant to Sections 6, 7, 8, and 9, respectively, of the Agreement.

SCE further states charges for non-firm energy transactions under section 6 of the Agreement, unless otherwise provided, be equal to the average of the Decremental Energy Value and the Incremental Energy Cost.

SCE proposes an effective date of 60 days after receipt of this filing by the Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 18, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-90 Filed 1-3-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-164-000]

Toledo Edison Co.; Filing

December 29, 1983.

The filing Company submits the following:

Take notice that on December 16, 1983, Toledo Edison Company (Toledo) submitted for filing Original Sheet Nos. 41 through 48 to the Toledo's FERC Electric Tariff, Original Volume No. 1, setting forth a proposed Partial Requirements Rate for inclusion in that tariff.

Toledo states that under the Partial Requirements Rate, any customer may purchase any portion, up to and including 100 percent, of its firm power requirements from Toledo. The rate for power and energy purchased by any customer from Toledo includes a Generation Capacity Billing Charge, an Energy Charge, and a fuel cost adjustment charge.

In addition, Toledo states that it will transmit all power purchased by a customer, whether or not the power is purchased from Toledo Edison.

Toledo requests that the Partial Requirements be made effective on March 1, 1984.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 13, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-91 Filed 1-3-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-165-000]

Toledo Edison Co.; Filing

December 29, 1983.

The filing Company submits the following:

Take notice that on December 16, 1983, Toledo Edison Company (Toledo) submitted for filing as an initial rate schedule a Municipal Resale Service Rate Agreement dated as of June 1, 1983, between the Toledo Edison Company and American Municipal Power-Ohio, Inc. (AMP-Ohio).

Toledo states that under the enclosed Agreement, Toledo will provide to AMP-Ohio a portion of the power and energy needed to serve those municipal electric systems listed on Exhibit A, which were previously directed to Toledo Edison. In addition, Toledo has agreed to transmit such power for AMP-Ohio to the municipal systems designated on Exhibit A at the rates specified in the Municipal Resale Service Rate Agreement.

Toledo requests an effective date of February 1, 1984.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 13, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-92 Filed 1-3-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-64-000]

Virginia Electric & Power Co.; Notice of Revised Filing

December 29, 1983.

Take notice that on December 1, 1983 Virginia Electric and Power Company (Vepco) submitted for filing an Agreement for the Purchase of Electricity for Resale (Agreement) by Vepco and North Carolina Electric Membership Corporation (NCEMC).

Vepco states that the Agreement has been revised extensively, and supercedes the unexecuted version of the Agreement filed on November 1, 1983.

Vepco requests that the Agreement be accepted for filing, without suspension, as of November 1, 1983.

Vepco requests that the Agreement become effective immediately, and therefore, requests a waiver of 18 CFR 5.3.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 13, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-93 Filed 1-3-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-89-001]

Columbia Gas Transmission Corp.; Notice of Petition for Waiver of Rule

December 29, 1983.

Take notice that on December 23, 1983, Columbia Gas Transmission Corporation (Petitioner), P.O. Box 1273, Charleston, West Virginia 25325-1273, filed in Docket No. CP84-89-001 a petition pursuant to § 385.207 of the Commission's Rules of Practice and Procedure, for a waiver of § 157.209(e)(1) of the Commission's Regulations. Petitioner seeks waiver of § 157.209(e)(1) to permit it to continue to transport gas on behalf of an industrial customer in an automatically authorized transaction commenced under § 157.209(a)(2).

Petitioner states that, pursuant to § 157.209(a)(2), it initiated transportation on behalf of SCM Corporation (SCM), an industrial customer of Baltimore Gas and Electric Company in Baltimore, Maryland, on September 9, 1983. Accordingly, the 120-day authorization period prescribed by § 157.209(e)(1) extends only through January 6, 1984.

Petitioner further states that its Request for Authority to Transport, seeking long-term authorization for the above transportation, was filed in Docket No. CP84-89-000 on November 23, 1983, and that notice of that Request, required under § 157.205, entails a 45-day comment period before final action will be taken by the Commission. That notice was issued by the Commission on December 27, 1983.

Because the comment period will extend beyond the 120-day authorization period, petitioner asserts that should Columbia be forced to cease transportation on behalf of SCM on January 6, 1984, SCM would lose a low-cost gas supply and would be forced to switch to higher-cost fuel oil. Petitioner also asserts that should transportation on behalf of SCM cease, Columbia would lose relief from take-or-pay exposure provided thereby, and Columbia's customers would lose in excess of $0.01 per dekatherm of natural gas which other wise would be transported for SCM.

Any person desiring to be heard or to make any protest with reference to said petition should on or before January 5, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene, or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (§§ 385.211 and 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any persons wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-94 Filed 1-3-84; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-180635; PH-FRL-2499-6]

Oregon Department of Agriculture; Receipt of Application for Specific Exemption To Use an Unregistered Pesticide, 3,4,5-Trimethoxybenzoyl Methyl Resperate; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the Oregon Department of Agriculture (hereafter referred to as the "Applicant") for a specific exemption to use the active ingredient 3,4,5-trimethoxybenzoyl methyl reserpate to control Aplodontia (*Aplodontia rufa*) on 1,200 acres of Douglas fir plantations in two counties in Oregon. EPA is soliciting comment before making the decision whether to grant the specific exemption.

DATE: Comments must be received on or before January 19, 1984.

ADDRESS: By mail, submit comments to:

Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM 2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: By mail: Donald Stubbs, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 716B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1192).

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any registration provision of FIFRA if he determines that emergency conditions exist which require such exemption.

The Applicant has requested the Administrator to issue a specific exemption to permit the use of 3,4,5-trimethoxy benzoyl methyl resperate to control Aplodontia (*Aplodontia rufa*), mountain beaver or boomer, not to be confused with the common beaver) in Elliott State Forest in Coos and Douglas Counties in Oregon. Information in accordance with 40 CFR Part 166 was submitted as part of this request.

The Applicant claims that trapping is the method of contol of these pests. Trapping requires repeated visits to set and check traps on the part of trappers, thus limiting the acreage which can be treated; costs become prohibitive. Trapping costs amount to $100 per acre, baiting would cost $20 per acre, a saving of approximately $96,000 per year. Non-treatment can result in losses up to $1,250 per acre adding up to nearly $1.5 million in losses in this single forest area. The Applicant proposes to treat Douglas fir plantations in growth areas of between the ages of 3 to 15 years. Reforestation in 1983-84 due to Aplodontia damage alone would amount to $400 per acre or $480,000 over the 1,200 acre forest with trapping. With baiting, reforestation needs are expected to be minimal.

Aplodontia are primitive rodents that are physiologically unable to produce concentrated urine and are highly vulnerable to hypothermia. The active ingredient is a tranquilizer that induces a reduction in body temperature and causes death within 24 to 48 hours after bait ingestion.

The Applicant proposes to use approximately 1,200 grams of 3,4,5-trimethoxybenzoyl methyl reserpate in an extruded bait pellet formulation using 1.5 mg of the active ingredient per gram (w/w dry) or 0.15 percent active ingredient in each pellet. Pellets would be formulated from grain, alfalfa, and fresh apples and mixed with a high viscosity binder. It is estimated that the rate of bait application will amount to 1 gram (0.0022 lb) active ingredient per acre (1,200 grams active ingredient for the 1,200 acres proposed for treatment). Application would be under the supervision of a licensed pesticide applicator or pest control consultant. Each applicator would be trained in:

1. The biology and ecology of the Aplidontia.
2. Safe handling of the toxic grain and apple baits.
3. Proper placement of the baits.
4. Consideration of environmental conditions before baiting is begun.
5. Necessary record keeping.

6. Other competency standards.

Treatment would be made once in any area, and the application period would be from December 1983 through April 30, 1984. To prevent unreasonable hazard to the environment, the Applicant proposes to apply baits inside main runways of active Aplodontia burrows in piles at least 12 inches from any surface opening and to avoid burrows in or near the edges of streams.

This notice does not constitute a decision by EPA on the application itself. The chemical 3,4,5-trimethoxybenzoyl methyl reserpate is an unregistered pesticide and therefore, the Agency has decided that public notice and opportunity for public comment pursuant to 40 CFR 166.10 is called for as a part of the informal adjudication for specific exemptions. Accordingly, interested persons may submit written views on this subject to the Program Management and Support Division at the address above. The comments must be received on or before January 19, 1984, and should bear the identifying notation OPP-180635. All written comment filed pursuant to this notice will be available for public inspection in Rm. 236, Crystal Mall No. 2, at the address given above, from 8:00 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by Oregon.

Dated: December 16, 1983.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

[FR Doc. 84-3 Filed 1-3-84; 8:45 am]

BILLING CODE 6560-50-M

[PF-358; PH-FRL 2499-5]

Certain Companies; Pesticide and Feed Additive Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide and feed additive petitions relating to the establishment of tolerances for residues of certain pesticide chemicals in or on certain commodities.

ADDRESS: By mail, submit written comments to:

Program Management and Support Division (TS-757C), Attn: Product Manager (PM) 17, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, deliver comments to: Rm. 236, CM # 2, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Written comments must be identified by the document control number [PF-358]. All written comments filed in response to this notice will be available for public inspection in the Program Management and Support Division office at the address above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Timothy A. Gardner, PM-17, CM # 2, Rm. 207, (703-557-2690).

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following pesticide and feed additive petitions relating to the establishment of certain pesticide chemicals in or on certain commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

Initial Filings

1. *PP 4F2985.* ICI Americas, Inc., Agricultural Chemicals Division, Concord Pike and New Murphy Road Wilmington, DE 19897. Proposes amending 40 CFR 180.378 by establishing tolerances for the combined residues of the insecticide permethrin [(3-phenoxyphenyl) methyl 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate] and its metabolites in or on the commodity tomatoes at 2.0 parts per million (ppm). The proposed analytical method for determining residues is gas chromatography.

2. *PP 4F2995.* ICI Americas, Inc. Proposes amending 40 CFR 180.378 by establishing tolerances for the combined residues of the insecticide permethrin or on the commodity pistachios at 0.1 ppm. The proposed analytical method for determining residues is gas chromatography.

3. *PP 4F2981.* FMC Corp., Agricultural Chemical Group, 2000 Market St., Philadelphia, PA 19103. Proposes amending 40 CFR 180.378 by establishing tolerances for the combined residues of the insecticide permethrin in or on the commodity sunflowers at 0.05 ppm. The proposed analytical method for determining residues is gas chromatography.

4. *PP 4F3003.* Shell Oil Co., Suite 200, 1025 Connecticut Ave., NW, Washington, D.C. 20036. Proposes amending 40 CFR 180.379 by establishing tolerances for residues of the insecticide cyano-(3-phenoxyphenyl) methyl-4-chloro-alpha-(1-methylethyl) benzeneacetate in or on the commodities as follows:

Commodities	Parts per million (ppm)
Alfalfa	10.0
Alfalfa hay	25.0
Eggs	0.2
Fat of cattle, goats, hogs, horses, and sheep	2.0
Meat of cattle, goats, hogs, horses, and sheep	0.5
Milk	0.4
Milk fat	9.0
Poultry fat	0.15
Poultry meat byproducts	0.15
Poultry meat	0.03
Sorghum grain	8.0
Sorghum fodder and forage	15.0

The proposed analytical method for determining residues is gas chromatography.

5. *FAP 4H5419.* Shell Oil Co. Proposes amending 21 CFR Part 561 by establishing a regulation permitting residues of the above insecticide (PP 4F3003) in or on the commodity sorghum milled products at 15.0 ppm.

6. *PP 4F2994.* Shell Oil Co. Proposes amending 40 CFR 180.379 by establishing tolerances for residues of the above insecticide (PP 4F3003) in or on the commodity English walnuts at 0.2 ppm. The proposed analytical method for determining residues is gas chromatography.

7. *PP 4F3004.* Shell Oil Co. Proposes amending 40 CFR 180.379 by establishing tolerances for residues of the above insecticide (PP 4F3003) in or on the commodities grass hay and grass (pasture and rangeland) at 15.0 ppm.

8. *PP 4F3002.* SDS Biotech Corp., 7528 Auburn Rd., P.O. Box 348, Plainesville, OH 44077. Proposes amending 40 CFR 180.379 by establishing tolerances for residues of the above insecticide (PP 4F3003) in or on the commodities poultry eggs at 0.03 ppm; poultry fat, meat and meat byproducts at 0.2 ppm. The proposed analytical method for determining residues is gas chromatography.

(Sec. 408(d)(2) 68 Stat. 512 (21 U.S.C. 346a(d)(2); 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348)))

Dated: December 20, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84-2 Filed 1-3-84; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-42049; OTS-FRL 2501-7]

1,2-Butylene Oxide; Response to the Interagency Testing Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The First Report of the Interagency Testing Committee (ITC) designated the category of alkyl epoxides for consideration by EPA for health and environmental effects testing. This notice provides EPA's response to the ITC's recommendations with respect to 1,2-butylene oxide, one member of the alkyl epoxides category. Other category members are being addressed in separate **Federal Register** notices.

The available data and the testing in progress on 1,2-butylene oxide appear to address adequately the ITC's concerns that this chemical's potential for carcinogenicity, teratogenicity, and other chronic effects be evaluated. In the case of reproductive and neurotoxic effects, EPA believes that testing being performed for these effects on propylene oxide can also serve as the basis for any needed regulation and control of 1,2-butylene oxide exposure for these two effects. A decision for additional mutagenicity testing on 1,2-butylene oxide will be postponed until the results of a number of mutagenicity tests on 1,2-butylene oxide and ethylene oxide are analyzed by the Agency. EPA is not pursuing the ITC's recommendation for an epidemiological study because a toxicological endpoint has not been sufficiently well characterized to warrant an epidemiological study at this time.

EPA has sufficient data to reasonably predict the environmental fate of 1,2-butylene oxide. Consequently, EPA is not initiating rulemaking under section 4(a) of the Toxic Substances Control Act (TSCA) to require health or environmental fate testing of 1,2-butylene oxide at this time.

DATE: Submit written comments on or before February 21, 1984.

ADDRESS: Submit written comments in triplicate identified by the document control number (OPTS–42049) to:

TSCA Public Information Office (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–108, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS–799), Offfice of Toxic Substances, Environmental Protection Agency, Rm. E–543, 401 M St. SW., Washington, D.C. 20460, Toll free: (800–424–9065), In Washington, D.C.: (554–1404), Outside the USA: (Operator–202–554–1404).

SUPPLEMENTARY INFORMATION:

I. Background

Section 4(a) of the Toxic Substances Control Act (TSCA) (Pub. L. 94–469, 90 Stat. 2003 *et seq.*; 15 U.S.C. 2601 *et seq.*) authorizes EPA to promulgate regulations requiring testing of chemical substances and mixtures to develop data relevant to determining the risks that such chemicals may present to health and the environment.

Section 4(e) of TSCA established an Interagency Testing Committee (ITC) to recommend to EPA a list of chemicals to be considered for the promulgation of testing rules under section 4(a) of TSCA. The ITC placed the alkyl epoxides category on its priority testing list in October 1977. The ITC recommended testing the alkyl epoxides for carcinogencity, mutagencity, teratogenicity, other chronic effects, and environmental effects. The ITC recommended that the chronic effects testing consider organ effects and behavioral changes and that the environmental testing focus on the fate of epoxides in the environment. Epidemiological studies were also recommended for two or three of the highest exposure compounds if suitable cohorts could be identified.

The alkyl epoxides category, as defined by the ITC, includes all noncyclic aliphatic hydrocarbons with one or more epoxide functional groups. This notice addresses a single member of this category, 1,2-butylene oxide. Other members of the category will be addressed in other **Federal Register** notices.

A. Production and Uses

1. *Production.* Dow Chemical Company is the only U.S. producer of 1,2-butylene oxide (Ref. 1). This production occurs at the Midland, Michigan, plant using the chlorohydrin process. 1,2-Butylene oxide produced by this process is at least 98 percent pure (Ref. 2).

In 1977, 1,2-butylene oxide production in the U.S. was approximately 5.7 million pounds or about 0.1 percent of the total alkyl epoxides produced (Ref. 3). Total demand for 1,2-butylene oxide was estimated at eight million pounds in 1978 (Ref. 4). The same source projected demand to increase moderately to about ten million pounds in 1983 and eleven million pounds in 1985 (Ref. 4). According to Dow (Ref. 5), 1,2-butylene oxide is produced in the U.S. in quantities of less than 10 million pounds per year, and about a half million pounds is imported into the U.S. annually. However, according to BOC-Imports (Ref. 6), imports of 1,2-butylene oxide totalled 2.5 million pounds in 1981.

2. *Uses.* According to Dow, the principal use of 1,2-butylene oxide is as a stabilizer in chlorinated hydrocarbon solvents. About 75 percent of 1,2-butylene oxide is used for this purpose and constitutes 0.1 to 0.7 weight percent of the solvent formulation. About 20 percent is used as a chemical intermediate and about 5 percent is exported (Refs. 3 and 5).

B. Human Exposure

1. *Occupational exposure.* The National Occupational Hazard Survey estimated 43,705 people were exposed to 1,2-butylene oxide (Ref. 7). Estimates on human exposure to 1,2-butylene oxide provided by Dow (Ref. 5) are shown in this table.

TABLE—DOW'S ESTIMATES ON HUMAN EXPOSURE TO 1,2-BUTYLENE OXIDE

Activity	Number of persons exposed
Manufacturing	<100
Processing	<500
Distribution	<100
Use and disposal	<50,000

The large number of persons exposed during the use of 1,2-butylene oxide reflects its major use as a solvent stabilizer. Dow has conducted industrial hygiene surveys to determine occupational exposure to 1,2-butylene oxide. A review of Dow surveys for the past 10 years shows the exposure levels in the air to 1,2-butylene oxide (Ref. 5) from its use as a stabilizer for the following solvents: trichloroethylene—1,2-butylene oxide exposure <0.5 parts per million (ppm); 1,1,1-trichlorethane—1,2-butylene oxide exposure <0.5 ppm; and dichloromethane—1,2-butylene oxide exposure <1 ppm.

In the absence of an Occupational Safety and Health Administration (OSHA) standard or an American Conference of Governmental Industrial Hygienists threshold limit value (ACGIH TLV), Dow has set a 40 ppm 8-hour time-weighted-average (TWA) limit for exposure in its manufacturing and processing facilities.

2. *Consumer exposure.* Chlorinated solvents such as 1,1,1-trichloroethane are available to consumers and may contain 1,2-butylene oxide as a stabilizer. Therefore, consumers may be exposed to low levels of 1,2-butylene oxide when they use these solvents.

II. Analysis of the ITC's Concerns

EPA's response to the specific ITC recommendations is set forth below.

A. Carcinogenicity

The National Toxicology Program (NTP) is sponsoring an inhalation bioassay with 1,2-butylene oxide with B6C3F1 mice and Fisher 344 rats. Exposure levels are 0, 200, and 400 ppm in the rats and 0, 50, and 100 ppm in the mice. The exposure phase began in November 1981, and is to run to November 1983. The data from this study should be sufficient to reasonably determine the carcinogenic effects of 1,2-butylene oxide.

B. Mutagenicity

1,2-Butylene oxide gave positive results in gene mutation assays in *Salmonella* (Refs. 8 through 11), in *N. crassa* (Ref. 12), in mouse lymphoma cells (Ref. 8), and in feeding studies in *Drosophila* in the sex-linked recessive lethal test (Ref. 8). A negative result was observed in *Drosophila* in the sex-linked recessive lethal test via inhalation (Ref. 13).

A positive result in a feeding study in *Drosophila* in the reciprocal translocation test, a test to detect chromosomal aberrations, has been reported (Ref. 8). Negative results have also been reported by McGregor (Ref. 13) in the following tests to detect chromosomal aberrations and primary DNA damage: (1) Dominant lethal in male rats; (2) sperm abnormality test in male mice; (3) cytogenetic test in male and female rat bone marrow cells; and (4) unscheduled DNA synthesis assay in human diploid fibroblasts.

For a number of reasons, EPA is not proposing additional mutagenicity testing on 1,2-butylene oxide at this time. First, EPA believes that a further evaluation needs to be made of the apparently conflicting results from the two sex-linked recessive lethal tests in *Drosophila* on 1,2-butylene oxide. A feeding study was positive (Ref. 8), while an inhalation study was negative (Ref. 13). Secondly, a number of mutagenicity tests are in progress on ethylene oxide, which is the alkyl epoxide having two fewer carbon atoms than 1,2-butylene oxide. On the basis of structure activity relationship considerations between 1,2-butylene oxide and ethylene oxide, and the fact that ethylene oxide consistently has shown greater activity in mutagenesis assays, and has tested positive in more mutagenesis assays than 1,2-butylene oxide, EPA believes that results of the ongoing mutagenicity testing on ethylene oxide along with available data on 1,2-butylene oxide will provide guidance as to what, if any, further mutagenicity testing on 1,2-butylene oxide may be appropriate. Inhalation mutagenicity testing in progress on ethylene oxide includes: (1) Mouse specific locus test; (2) biochemical specific locus test in mice; (3) heritable translocation test in mice; (4) sperm alkylation in mice; and (5) sperm alkylation in *Drosophila.*

After the data from the ongoing ethylene oxide mutagenicity testing and existing 1,2-butylene oxide mutagenicity data, including that from the two sex-linked recessive lethal tests in *Drosophila,* are analyzed by the Agency, the Agency will consider: (1) Whether a mouse specific locus test or other additional mutagenicity testing on 1,2-butylene oxide is necessary or (2) whether ethylene oxide and/or propylene oxide mutagenicity data will provide a sufficient basis for mutagenicity risk assessment for 1,2-butylene oxide without further testing of 1,2-butylene oxide for this effect. In making its analysis, EPA will take into account available data on other effects that may provide sufficient basis for regulation. The Agency is interested in public comment on the various aspects of assessing mutagenicity testing needs for 1,2-butylene oxide.

C. Teratogenicity

A teratogenicity study on 1,2-butylene oxide in rats and in rabbits via inhalation at concentrations of 250 ppm and 1,000 ppm has been reported by Sikov *et al.* (Ref. 14). Wistar rats were exposed for 7 hours per day, 5 days per week 3 weeks. They were then mated and exposed daily through the 19th day of gestation (dg 19). New Zealand white rabbits were artificially inseminated and exposed for 7 hours daily through dg 24. The rats were killed at dg 21 and the rabbits at dg 30. Pregnant animals were examined for toxic changes including altered tissue weights and histopathologic effects. Litters were evaluated using several measures of embryotoxicity and live fetuses were examined for external, visceral, and skeletal malformations. No significant effects were observed in the rats exposed to either 250 ppm or 1,000 ppm 1,2-butylene oxide. Maternal toxicity, developmental toxicity and embryotoxicity were observed in the rabbit at 1,000 ppm. Specific effects observed were: (1) Maternal mortality; (2) fetuses markedly smaller than controls; (3) decrease in number of live fetuses per litter; and (4) increased frequency of resorptions. At 250 ppm significantly elevated mortality in the dams was observed. No other significant effects were observed at 250 ppm in the rabbit.

The data from this study are sufficient to reasonably determine the teratogenic effects of 1,2-butylene oxide.

D. Other Chronic Effects

As a matter of general policy under section 4 of TSCA, EPA generally accepts data from well-conducted oncogenicity studies as being sufficient to assess the chronic toxicity of a chemical. EPA has concluded that adequate data will be available from the various subchronic studies (Refs. 15 through 17) that have been conducted and the ongoing oncogenicity study to reasonably determine or predict the other chronic effects of 1,2-butylene oxide with the exception of reproductive and neurotoxic effects.

E. Reproductive Effects

Both male and female reproductive organs were examined microscopically from mice and rats exposed to sublethal concentrations of 1,2-butylene oxide in a 9-day subchronic study (Ref. 16) and a 90-day subchronic study with exposures of up to 600 ppm 1,2-butylene oxide (Ref. 16), without any detectable treatment-related effects indicative of impaired reproductive function. EPA is not aware of any reproductive effects studies on 1,2-butylene oxide.

EPA concludes that it does not have sufficient data to reasonably predict or determine the reproductive effects of 1,2-butylene oxide. However, EPA is not proposing further reproductive effects testing of 1,2-butylene oxide at this time. EPA proposed to Dow that the results of the industry-sponsored propylene oxide 2-generation reproduction study (OPTS-42028A, appearing elsewhere in this issue of the **Federal Register**, discusses EPA's conclusions with respect to testing needs for propylene oxide) serve as the basis for any needed regulation and control of 1,2-butylene oxide exposure for reproductive effects. Factors relating to this proposal were that (a) Dow is the only domestic producer of 1,2-butylene oxide, (b) almost all exposures to 1,2-butylene oxide are low-level exposures resulting from its use as a stabilizer in chlorinated hydrocarbon solvents, and (c) testing to date, including that for mutagenicity and teratogenicity, has shown 1,2-butylene oxide to have a lower order of toxicity than propylene oxide. EPA believes that controlling 1,2-butylene oxide exposure on the basis of propylene oxide reproductive effects data will provide at least as much protection as basing control of 1,2-butylene oxide on a 1,2-butylene oxide reproductive effects study. Dow has agreed to EPA's proposal. If propylene oxide shows

adverse reproductive effects, Dow will enter into discussions with the Agency, which will determine what actions are required to reduce occupational exposure to 1,2-butylene oxide as a result of its manufacture, distribution in commerce, processing, use, and disposal. Such actions would continue in effect until Dow came forward with new data showing that such actions are unnecessary for 1,2-butylene oxide (Ref. 18). Because of this agreement between Dow and EPA, EPA is not proposing reproductive effects testing of 1,2-butylene oxide at this time.

F. Neurotoxicity

Miller *et al.* (Ref. 16) have conducted 9-day and 90-day subchronic studies on 1,2-butylene oxide in mice and rats. A number of neuropathological examinations were conducted. In addition to the histopathology of nervous tissue, all animals were observed daily for appearance and change in demeanor. In the 9-day study, all mice exposed to 1,600 ppm 1,2-butylene oxide died. The only lesions observed in the nervous system in either study were non-specific degeneration and inflammation of the olfactory epithelium, even at sublethal concentrations. These studies are weak negatives because no systematic functional tests were performed, no data were reported, and pathological methods were not described. This neurotoxicity assessment can best be regarded as demonstrating that no profound (rather than no) effects occurred owing to exposure to 1,2-butylene oxide. EPA concludes that it does not have sufficient data to reasonably predict or determine the neurotoxicity of 1,2-butylene oxide.

However, EPA is not proposing further neurotoxicity testing of 1,2-butylene oxide at this time. EPA proposed to Dow that the results of the industry-sponsored propylene oxide neurotoxicity testing (OPTS 42028A, appearing elsewhere in this issue of the **Federal Register**, discusses EPA's conclusions with respect to testing needs for propylene oxide) serve as the basis for regulation and control of 1,2-butylene oxide exposure for neurotoxicity. Factors relating to this proposal were that (a) Dow is the only domestic producer of 1,2-butylene oxide, (b) almost all exposures to butylene oxide are low level exposures resulting from its use as a stabilizer in chlorinated hydrocarbon solvents, and (c) testing to date, including that for mutagenicity, teratogenicity, and neurotoxicity, has shown 1,2-butylene oxide to have a lower order of toxicity than propylene oxide. EPA believes that controlling 1,2-butylene oxide exposure on the basis of propylene oxide neurotoxicity data will provide at least as much protection as basing control of 1,2-butylene oxide exposure on a 1,2-butylene oxide neurotoxicity study. Dow has agreed to EPA's proposal. If propylene oxide shows adverse neurotoxic effects, Dow will enter into discussions with the agency, which will determine what actions are required to reduce occupational exposure to 1,2-butylene oxide during its manufacture, distribution in commerce, processing, use, and disposal. Such actions would continue in effect until Dow came forward with new data showing that such actions are unnecessary for 1,2-butylene oxide (Ref. 18). Because of this agreement between Dow and EPA, EPA is not proposing neurotoxicity testing of 1,2-butylene oxide at this time.

G. Epidemiology

The Agency has concluded that a toxicological endpoint has not been sufficiently well characterized for 1,2-butylene oxide to warrant requiring an epidemiological study at this time.

H. Environmental Fate: Sufficiency of Data

The ITC expressed concern for the reaction products of alkyl epoxides in the environment. Therefore, the ITC recommended that the fate of alkyl epoxides in the environment should be determined through testing. EPA has concluded that there are sufficient data to reasonably predict the environmental fate, including the characterization of degradation products, of the 1,2-butylene oxide that might be released during manufacturing, distribution in commerce, processing, use, and disposal and that there is no need for EPA to require testing to further characterize the fate of such releases.

On the basis of the atmospheric emission factor of 0.000802 for propylene oxide as a result of the chlorohydrin process (Ref. 19), EPA estimates the amount of 1,2-butylene oxide lost to the atmosphere during production to be 8,000 lbs. annually. On the basis of structure-activity relationship considerations between propylene oxide and 1,2-butylene oxide, EPA predicts that 1,2-butylene oxide will undergo atmospheric hydrolysis and oxidation via hydroxyl-free radicals with rates similar to those of propylene oxide. The estimated half-life for atmospheric oxidation via hydroxyl-free radicals for propylene oxide is 6.1 days (Ref. 20). On the basis of structure-activity relationship considerations between propylene oxide and 1,2-butylene oxide, one would predict that the atmospheric reaction mechanisms and degradation products for 1,2-butylene oxide closely parallel those for propylene oxide. (OPTS 42028A, appearing elsewhere in this issue of the **Federal Register**, discusses EPA's conclusions with respect to testing needs for propylene oxide.)

There are no published data on the release of 1,2-butylene oxide into bodies of water or any monitoring data of 1,2-butylene oxide concentrations in water. However, on the basis of structure-activity relationship considerations among 1,2-butylene oxide, propylene oxide, and ethylene oxide, EPA estimates the hydrolysis half-life of 1,2-butylene oxide to be siilar to those for ethylene oxide and propylene oxide. The hydrolysis half-lives of ethylene oxide and propylene oxide at pH 7 are approximately 14 days (Ref. 21) and 12 days (Ref. 22), respectively. Hydrolysis of butylene oxide would produce butylene glycol. In salt water, butylene chlorohydrin would also be produced. A BOD_5 for 1,2-butylene oxide of 6 percent has been measured (Ref. 23)

On the basis of the environmental release, biodegradation, and environmental fate information on 1,2-butylene oxide or its homologs discussed above, EPA concludes that sufficient data exist to reasonably predict the environmental fate, including the characterization of degradation products, of the 1,2-butylene oxide that might be released during the manufacture, distribution in commerce, processing, use and disposal of 1,2-butylene oxide and that there is no need for EPA to require testing to further characterize that fate of such releases.

I. Other Testing

Although it was not recommended by the ITC, EPA recognized that a data gap existed for dermal sensitization testing of 1,2-butylene oxide Dow Chemical Company is conducting this test voluntarily. The study began in October 1983 and the final report is due in January 1984.

III. Decision Not To Require Testing

The EPA has decided not to initiate rulemaking at this time under section 4(a) of TSCA to require further health and environmental fate testing of 1,2-butylene oxide. This decision is based on a review of the available data and ongoing testing for this chemical and on agreements reached between EPA and Doe Chemical Company, the sole U.S. manufacturer of 1,2-butylene oxide, that exposure to the chemical will be restricted based on testing of propylene oxide to be performed. The most recent

information available to EPA indicates that available data are sufficient to reasonably predict or determine the teratogenicity and environmental fate of 1,2-butylene oxide.

Data from ongoing testing should be sufficient to reasonably predict the carcinogenicity of 1,2-butylene oxide. A decision for additional mutagenicity testing on 1,2-butylene oxide will be postponed until the result of a number of mutagenicity tests on 1,2-butylene oxide and ethylene oxide are analyzed by the Agency. Reproductive and neurotoxic effects testing are not being proposed because Dow has accepted EPA's proposal that propylene oxide testing will serve as the basis for any needed regulation and control of 1,2-butylene oxide exposure for these two effects. EPA is not proposing an epidemiological study for 1,2-butylene oxide because a toxicological endpoint has not been sufficiently well characterized to warrant an epidemiological study at this time. Therefore, EPA is not proposing a test rule for 1,2-butylene oxide at this time. Should new information reveal a need for additional testing, the Agency reserves the right to promulgate a test rule.

IV. Issues

1. EPA is not proposing reproductive or neurotoxic effects testing of 1,2-butylene oxide because Dow has accepted EPA's proposal that propylene oxide testing will serve as the basis for regulating and control of 1,2-butylene oxide exposure for these effects. The agency invites comments on this approach.

2. For a number of reasons, EPA is not proposing additional mutagenicity testing on 1,2-butylene oxide at this time. First, EPA believes that a further evaluation needs to be made of the apparently conflicting results from the two sex-linked recessive lethal tests in Drosophila on 1,2-butylene oxide. A feeding study was positive (Ref. 8), while an inhalation study was negative (Ref. 13). Secondly, a number of mutagenicity tests are in progress on ethylene oxide, which is the alkyl epoxide having two fewer carbon atoms than 1,2-butylene oxide. On the basis of structure-activity relationship considerations between 1,2-butylene oxide and ethylene oxide, and the fact that ethylene oxide consistently has shown greater activity in mutagenesis assays and has tested positive in more mutagenesis assays than 1,2-butylene oxide, EPA believes that results of the ongoing mutagenicity testing on ethylene oxide, along with available data on 1,2-butylene oxide, will provide guidance as to what, if any, further mutagenicity testing on 1,2-butylene oxide may be appropriate. Inhalation mutagenicity testing in progress on ethylene oxide includes: (1) Mouse specific locus test; (2) biochemical specific locus test in mice; (3) heritable translocation test in mice; (4) sperm alkylation in mice; and (5) sperm alkylation in *Drosophila*.

After the data from the ongoing ethylene oxide mutagenicity testing and existing 1,2-butylene oxide mutagenicity data, including the results from the two sex-linked recessive lethal tests in *Drosophila*, are analyzed by the Agency, the Agency will consider: (1) Whether a mouse specific locus test or other additional mutagenicity testing on propylene oxide is necessary, or (2) whether ethylene oxide and/or propylene oxide mutagenicity data will provide a sufficient basis for mutagenicity risk assessment for 1,2-butylene oxide without further testing of 1,2-butylene oxide for this effect. In making its analysis, EPA will take into account available data on other effects that may provide sufficient basis for regulation. The Agency is interested in public comment on the various aspects of assessing mutagenicity testing needs for 1,2-butylene oxide.

V. References

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VI. Public Record

EPA has established a public record for this testing decision, docket number (OPTS–42049). This record includes:

(1) **Federal Register** notice designating the alkyl epoxides category to the priority list.

(2) Letters.

(3) Contact reports of telephone conversations and meeting summaries.

(4) Published and unpublished data.

This record, containing the basic information considered by the Agency in developing the decision, is available for inspection in the Office of Pesticide and Toxic Substances (OPTS) reading room from 8:00 a.m. to 4:00 p.m. Monday through Friday, except legal holidays, in Rm. E–107, 401 M St. SW., Washington, D.C. 20460. The Agency will supplement the record periodically with additional relevant information received.

(Sec. 4, 90 Stat. 2003; (15 U.S.C. 2601)

Dated: December 23, 1983.

Alvin L. Alm,

Acting Administrator.

[FR Doc. 84–75 Filed 1–3–84; 8:45 am]

BILLING CODE 6560–50–M

[OPP–62005; FRL 2501–8]

Griffin Technical Chlorothalonil; Intent To Hold a Hearing To Determine Whether To Cancel Registration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Intent to Hold a Hearing.

SUMMARY: The Administrator intends to hold a hearing under section 6(b)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA) (7 U.S.C. 136d(b)(2)) to determine whether a registration for technical chlorothalonil held by the Griffin Corporation and bearing pesticide registration number 1218–268 (Griffin Technical Chlorothalonil) should be cancelled.

DATE: Notices indicating an intention to participate in this hearing must be filed by February 3, 1984. (See Unit III of this Notice for a discussion of the contents of a Notice of Intent to Participate.)

ADDRESS: Notices of Intent to Participate must be submitted to: Ms. Bessie Hammiel, Hearing Clerk (A–110), U.S. Environmental Protection Agency, Room 3708A, Waterside Mall, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: William L. Jordan, Office of General Counsel (LE–132P), Room 513, West Tower, 401 M Street, SW., Washington, DC 20460, Telephone: (202) 382–7505.

SUPPLEMENTARY INFORMATION: The Diamond Shamrock Corporation (Diamond Shamrock) in submittals dated June 28, 1983, and July 21, 1983, has petitioned the Environmental Protection Agency to cancel the registration for technical chlorothalonil (Griffin Technical Chlorothalonil, Reg. No. 1218–268) issued to the Griffin Corporation (Griffin) on January 10, 1983. Griffin's registration authorizes the sale and distribution of the product for use in the formulation of end use products. In July of 1983, Diamond Shamrock assigned all its rights and interests relating to its registration of chlorothalonil and its related data to SDS Biotech Corporation, a joint venture between Diamond Shamrock and Showatenko KK, a Japanese corporation. Throughout this notice, references to Diamond Shamrock are intended to include SDS Biotech Corporation where appropriate.

I. Background

By letter dated June 19, 1979, Diamond Shamrock and EPA entered into an agreement which provided that EPA would not take any registration action for a pesticide containing chlorothalonil as an active ingredient without providing 30 days prior notice in writing to Diamond Shamrock advising as to the nature of the proposed registration action. The Griffin registration in question was issued without the provision of formal written notice of the proposed registration action by EPA to Diamond Shamrock under the terms of the agreement.

In its July 21, 1983, submittal to EPA, Diamond Shamrock states that the Administrator has the authority to cancel the Griffin Technical Chlorothalonil registration under FIFRA section 6(b). Section 6(b) states in pertinent part:

> * * * If it appears to the Administrator that a pesticide or its labeling or other material required to be submitted, does not comply with the provisions of this Act * * * the Administrator may issue a notice of his intent either
>
> (1) To cancel its registration * * * or
>
> (2) To hold a hearing to determine whether or not its registration should be cancelled * * *.

Diamond Shamrock alleges that Griffin was required to submit with its application "a citation to data. . . that previously had been submitted to the Administrator and that the Administrator may consider in accordance with the following provisions. . . ." FIFRA sec. 3(c)(1)(D). Diamond Shamrock further alleges that Griffin did not comply with this requirement because the Diamond Shamrock data which Griffin cited in order to fulfill the data requirements for registration were not available for EPA to consider in support of Griffin's registration until EPA had complied with the terms of the agreement between Diamond Shamrock and EPA regarding prior written notice. Specifically, Diamond Shamrock provided the following analysis of its position:

> The very purpose of the EPA-Diamond agreement was to prevent reliance on Diamond's data by follow-on applicants (or the Administrator) until Diamond had an opportunity to seek judicial relief blocking such reliance. In effect, the agreement expressly barred EPA from "considering" the Diamond data, in the sense of issuing a registration based on that data, until Diamond had been given thirty days notice and opportunity to obtain judicial relief in the event EPA refused to deny the follow-on registration. Therefore, the data cited by Griffin was not data which Griffin could properly cite under Section 3(c)(1)(D) or which EPA could properly "consider" under Section 3(c)(5)(B) without prior notice to Diamond. The data was simply not available from a legal standpoint at least until after that notice had occurred. Under Section 6 EPA must, in Diamond's view, cancel Griffin's registration in ordr to effectuate its agreement with Diamond and restore Diamond's rights.

On the other hand, Griffin claims that it obtained its registration for Griffin Technical Chlorothalonil in complete compliance with the statutory requirements. It argues further that EPA's authority to cancel registrations is limited to very specific grounds and that the calm being made by Diamond Shamrock does not constitute a basis for cancelling the registration of a pesticide product.

It thus appears that there is a dispute as to whether the material required to be submitted by Griffin complied with the provisions of FIFRA. Therefore, it is appropriate to hold a hearing to determine whether the registration should be cancelled. See Fifteen Registrations Held by Velsicol Corp.; Intent to Hold Hearing, 44 FR 21706 (March 30, 1979).

II. Statement of Issues

EPA's Rules of Practice, 40 CFR Part 164, govern the initiation and conduct of formal adjudicatory hearings under FIFRA. Section 164.20 provides that a proceeding shall be commenced whenever "the Administrator decides to call a hearing to determine whether or not the registration of a pesticide should be cancelled * * *." The Administrator is filing with the Hearing Clerk a copy of this Notice and a statement of issues for the hearing. In addition, the

Administrator is sending a copy of this notice to Griffin and is issuing it for publication in the **Federal Register**. See FIFRA sec. 6(b); 40 CFR 164.8.

The Rules of Practice require that the Notice of Intent to Hold a hearing state the issues which will be addressed in the hearing. The Administrator desires to have the following issues addressed during the hearing:

(1) Whether the June 19, 1979 agreement between EPA and Diamond Shamrock was lawful.

(2) Whether the legal status of the Griffin Technical Chlorothalonil registration is affected by EPA's failure to provide formal written notice to Diamond Shamrock under the agreement.

(3) Whether EPA's dealings with Diamond Shamrock and with Griffin, and the dealings between the two companies, affect the status of the registrations. In particular, the hearing should consider EPA's provision of notice to Diamond Shamrock and issuance to Griffin of Registration No. 1812–266 on November 19, 1981, for an end use product containing chlorothalonil; Griffin's submission to Diamond Shamrock of an offer to pay compensation in connection with (and prior to) the issuance of the Griffin Technical Chlorothalonil registration; any informal communications between EPA and Diamond Shamrock regarding the Griffin Technical Chlorothalonil registration; and the timing of Diamond Shamrock's request to EPA for action to cancel the Griffin Technical Chlorothalonil registration.

(4) For purposes of the sec. 6(b) issues in this hearing, what consideration, if any, should be given to the recent decisions and orders in *Monsanto* v. *Administrator*, C.A. #79–366(c)(I) (E.D. Mo., May 9, 1983) and *Union Carbide Agricultural Products Co., Inc.* v. *Ruckelshaus*, Case No. 76 Civ. 2913 (RO) (S.D.N.Y. Oct. 29, 1983).

(5) What precedential value, if any, should be given to the determinations reached by the Administrator in *In re Fifteen Herbicide Registration-Velsicol*, FIFRA Docket No. 483 (April 24, 1980) and in *In re Herbicides: Dinitro Technical and Ancrack Herbicides*, FIFRA Docket No. 407 (April 3, 1980).

(6) Any other issues relevant to the question of whether the Griffin Technical Chlorothalonil registration should be cancelled because of EPA's failure to give notice under its agreement with Diamond Shamrock which are contained in Diamond Shamrock's June 28 and July 21 submittals to EPA or which may be raised by any participant or the Administrative Law Judge.

The language of FIFRA sec. 6(b) cited above states that the Administrator may issue a notice of intent to cancel or to hold a hearing. This contrasts with the language of sec. 6(a)(1) which states that the Administrator shall cancel certain registrations under certain circumstances. Nowhere in sec. 6(b) is there a requirement that the Administrator must cancel a registration even if he finds that there are grounds for cancellation, although, of course, a decision not to cancel would be judicially reviewable under FIFRA sec. 16. The Administrator thus appears to have a certain amount of discretion with respect to cancelling a registration, even if grounds for cancellation exist. Assuming the evidence developed at the hearing shows that the material required to be submitted in connection with the Griffin Technical Chlorothalonil registration does not comply with the provisions of FIFRA, as construed, a remaining issue will be whether the registration should be cancelled. In that regard, there are a number of significant issues which the Administrator must consider before determining whether to grant Diamond Shamrock's request for cancellation. Accordingly, the Administrator desires to have the following additional issues addressed during the hearing:

(1) Whether EPA's failure to provide prior written notice to Diamond Shamrock of its intent to issue the Griffin Technical Chlorothalonil registration has had, or will have, any adverse effect on Diamond Shamrock which cancellation of the registration could rectify.

(2) Whether cancellation of the Griffin Technical Chlorothalonil registration would have any adverse effect on Griffin.

(3) Whether cancellation of the Griffin Technical Chlorothalonil registration would cause an impact on: The price of chlorothalonil, the production or price of various commodities on which chlorothalonil is used, the extent of use of alternative fungicides, retail food prices, or otherwise on the agricultural economy.

(4) Any other related issue which may be raised by any participant or the Administrative Law Judge.

III. Procedure for Requesting to Participate in the Proceeding

Any person who wishes to participate in the proceeding shall submit a Notice of Intent to Participate to the Hearing Clerk on or before February 3, 1984. The Notice of Intent to Participate shall identify the person (individual or organization) and his representative. A Notice of Intent to Participate shall also contain a written response to the statement of issues including a statement of the person's interest and position with respect to the issues. Finally, the Notice of Intent to Participate shall include an address at which documents in the proceeding can be served.

IV. Separation of Functions

The Agency's Rules of Practice forbid anyone who may take part in deciding this case, at any stage of the proceeding, from discussing the merits of the proceeding *ex parte* with any party or with any person who has been connected with the preparation or presentation of the proceeding as an advocate or in any investigative or expert capacity, or with any of their representatives. 40 CFR 164.7.

Accordingly, the following Agency offices, and the staffs thereof, are designated as the trial staff to represent the institutional interests of the Agency as a party in this case: the Office of Pesticides and Toxic Substances; the Office of General Counsel; and the Office of Enforcement and Compliance Monitoring.

From the date of this notice until the final Agency decision in this case, neither the presiding Administrative Law Judge, the Judicial Officer, the members of the staff in the immediate office of the Administrator, or the Administrator shall have any *ex parte* communication with the trial staff or any other interested person not employed by EPA, on the merits of any of the issues involved in this proceeding.

V. Agricultural Impact Analysis

The Agency has performed an analysis of the impacts of cancelling Griffin's registration of technical chlorothalonil on the "production and prices of agricultural commodities, retail food prices and otherwise on the agricultural economy." See FIFRA sec. 6(b). The Agricultural Impact Analysis, dated September 28, 1983, indicates that cancellation of the Griffin registration would have no significant impacts on production or prices of agricultural commodities or on retail prices. However, EPA did estimate that agricultural producers might incur an annual cost increase of up to $5 million resulting from a possible increase in the price of chlorothalonil products. The size of this increase in production costs would vary from one commodity to another, but for peanut producers, the major use group, it would raise production costs less than 2 percent.

VI. Statutory Review

FIFRA sections 6(b) and 25(d) require the Agency to provide copies of a proposed Notice of Intent to Hold a Hearing to the Secretary of Agriculture and the Scientific Advisory Panel at least 60 days prior to sending the Notice to the affected registrants and issuing the notice for publication in the **Federal Register**. Section 6(b) also requires the Agency to prepare an analysis of the impacts of a proposed cancellation action on the agricultural economy and to send the analysis to the Secretary of Agriculture for his comments. If either the Panel or the Secretary comments, the Agency is required to issue for publication in the **Federal Register** the comments together with EPA's response in the Notice of Intent to Hold a Hearing. Both sections 6(b) and 25(d) allow the Secretary and Panel to waive their opportunity to comment on such Notices.

As required by the statute, the Agency sent the appropriate documents to the Secretary of Agriculture and the Scientific Advisory Panel. On August 22, 1983, the Panel notified the Agency that it waived its right to comment on the proposed Notice Of Intent To Hold A Hearing. Acting on behalf of the Secretary of Agriculture, Charles L. Smith submitted comments on the Agency's proposed Notice and Agricultural Impact Analysis in letters dated September 1, and November 1, 1983. Mr. Smith's September 1 letter addressed the Agency's proposed hearing notice and indicated that the Department of Agriculture considered it appropriate to comment at a later time—after the hearing record had been developed and briefs had been filed—on the impacts of cancellation of Griffin's chlorothalonil registration on the agricultural economy.

Mr. Smith's November 1 letter commented on the Agency's Agricultural Impact Analysis and indicated that EPA had failed to consider several relevant factors. Noting the paucity of readily available data on these factors, Mr. Smith stated that "this information can be developed as part of the hearing." The factors which his letter said were not considered and the EPA response regarding each factor are as follows:

"(1) Potential impacts to individual producers."

EPA response. While the Agency does not think that the statute requires the Agricultural Impact Analysis to address impacts on individual producers, it recognizes that estimates of such impacts may be useful in deciding what action should be taken on the continued registration of Griffin technical Chlorothalonil. Indeed, for this reason, the Agricultural Impact Analysis did attempt to estimate the producer level impacts of cancelling Griffin's registration. Specifically, EPA considered the consequences of cancelling Griffin's registration for the cost of producing peanuts, the crop on which the largest quantity of chlorothalonil is used. EPA discussed the impacts in terms of the change in production cost per acre, and estimated that, for peanut acreage treated with chlorothalonil, cancellation could lead to a maximum increase of $7.00 an acre, representing a rise of 1.7 percent in variable costs. This information can be used to predict the impacts on individual peanut producers. While EPA did not perform a quantitative assessment of the impacts of cancelling Griffin's registration on the cost of production of other commodities, the Agency expects the impacts to be comparable to the impacts on peanuts.

"(2) EPA estimates of use by crop do not concur with State and USDA pesticide use data. Reports containing these data are available to the public."

EPA response. In preparing its Agricultural Impact Analysis, EPA staff examined data on chlorothalonil usage from several sources covering a number of years. The estimates presented in the Analysis are not based on the use information from a single survey or a single year. Rather, as explained in the Analysis, the figures represent an approximate average of the amounts used on different commodities over the last few years, and reflect EPA's judgment about the realiability of the various sources of data.

Following receipt of Mr. Smith's letter, Agency staff contacted a USDA economist who helped to prepare the November 1 letter. The USDA economist identified a survey that EPA had not considered while it was developing the Agricultural Impact Analysis. This survey does, indeed, contain somewhat different estimates of the amount of chlorothalonil used on various commodities. While this additional survey may raise a question about the reliability of the data used by EPA, the Agency thinks that it does not require any fundamental change in the conclusions expressed in the Analysis. The usage estimates in the USDA survey are generally consistent with those of other surveys. EPA thinks that it would be appropriate to use the hearing to develop better estimates of the relative and absolute amounts of chlorothalonil used on different crops and sites.

"(3) The analysis did not include other major uses sites such as onions and watermelons."

EPA response. The survey used in preparing USDA's comments reported higher usage on onions—approximately 0.1 million pounds of active ingredient—than other sources considered by EPA in preparing the Agricultural Impact Analysis. Without information showing this figure to be more reliable than the other data reviewed by EPA, the Agency is reluctant to adopt this figure. If correct, however, this information shows that onions are one of the major crops on which chlorothalonil is used.

The level of usage of chlorothalonil on watermelons reported in the USDA survey (0.06 million pounds) was similar to that in other surveys. It was not as high as either of the lowest of the "major crops" identified by EPA: broccoli, 0.1 million pounds, and potatoes, 0.2 million pounds. USDA apparently considered watermelons to be a major crop because an unusually large part of this crop is treated with chlorothalonil. EPA thinks that this information may warrant closer examination during the hearing, regardless of whether watermelons are called a major chlorothalonil use crop.

"(4) It would have been useful to examine the competitiveness of chlorothalonil imported from Japan with the domestically produced chlorothalonil."

EPA response. If imported chlorothalonil competed in the U.S. market with chlorothalonil from domestic sources, this would have been a useful comparison, but no such competition exists. Currently, all chlorothalonil used in this country is imported by Diamond Shamrock, who sells to other domestic producers, as well as to users. Diamond Shamrock's imported chlorothalonil is produced under a joint agreement with a Japanese company, Showatenko KK. Thus, there is no direct competition in the U.S. market between chlorothalonil imported from Japan and domestically produced chlorothalonil products.

"(5) It would seem that changes in chlorothalonil sales since the price change would be an important consideration in predicting what could happen given various regulatory options. Unfortunately, sales figures for the current year are not yet available."

EPA response. EPA questions whether data on changes in the sales volume of chlorothalonil products following the recent price reduction by Diamond Shamrock would provide information useful in evaluating the impact of cancelling Griffin's registration. EPA has no information on the reasons for the price reduction. While Diamond Shamrock may have lowered its sales price for chlorothalonil in anticipation of

competition from Griffin, Diamond Shamrock may also have had other motives. If Diamond Shamrock acted for reasons largely unrelated to the existence of Griffin's registration, its action provides little basis for predicting how it would respond to active competition (or the removal of such competition) from Griffin. On the other hand, even if the price reduction were designed to reduce future competition, recent changes in the sales of chlorothalonil indicate only how effectively Diamond Shamrock's chlorothalonil products are competing with other fungicides, since Griffin's technical chlorothalonil product is not currently being sold and distributed. Sales and prices of chlorothalonil might follow a different pattern if Diamond Shamrock products must compete both with other fungicides and with Griffin's chlorothalonil products.

Dated: December 20, 1983.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 84-73 Filed 1-3-84; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30235; FRL-2502-2]

Ethalfluralin; Determination Concerning Conditional Registration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of conditional registration; request for comments.

SUMMARY: This Notice sets forth the Agency's determination to issue a conditional registration, pursuant to section 3(c)(7)(C) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), for the herbicide ethalfluralin for use on dry beans, dry peas, soybeans, and cucurbits for a period which extends to December 1, 1985. The Agency has determined that, although ethalfluralin meets or exceeds the RPAR criteria set forth in 40 CFR 162.11, the benefits of use outweigh the risks of use for the period of the conditional registration, and the issuance of the conditional registration is in the public interest.

DATE: Comments must be received on or before December 1, 1985.

ADDRESS: Comments should bear the document control number OPP-30235 and be submitted by mail to:

Program Management and Support Division (TS-767C), Office of Pesticide Programs, Environmental Portection Agency, 401 M St., SW., Washington, D.C. 20460.

In person bring comments to: Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments will be available for inspection in Rm. 236 at the address above, from 8:00 a.m. to 4:00 p.m. on Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Lois Rossi, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm 711, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-7451).

I. Introduction

An application for registration for the herbicide, ethalfluralin, was received by the Agency. The Agency has evaluated the data submitted by the manufacturer and has decided to issue a conditional registration and request comments.

Ethalfluralin is the accepted American National Standards Institution name for the chemical [*N*-ethyl-*N*-(2-methyl-2-propenyl)-2,6-dinitro-4-(trifluoromethyl) benzenamine. The trade name for ethalfluralin is Sonalan.® Technical ethalfluralin is a yellow-orange, crystalline solid with a faint amine odor. The chemical has a molecular weight of 333.26. Ethalfluralin has a melting point of 53.0–55.5°C (determined by USP Class I Method) and a vapor pressure of 8.2×10^{-5} Torr at 25°C.

Ethalfluralin is a dinitroaniline herbicide and has the empirical formula $C_{13}H_{14}F_3N_3O_4$. The structural formula is:

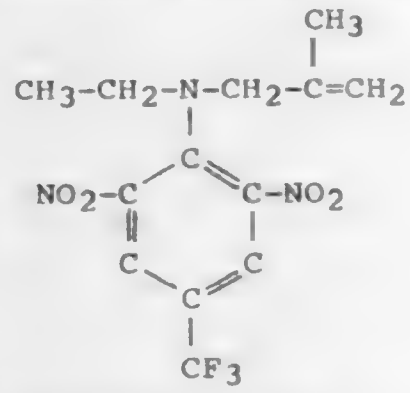

Electron capture gas-liquid chromatographic methods of analysis are available to determine residues of ethalfluralin.

On February 4, 1982 Elanco Products Company filed an application with the EPA proposing the registration of the herbicide ethalfluralin, for selective preemergence control of certain annual grasses and broadleaf weeds in dry beans, soybeans, and cucurbits (cantaloupe, cucumber, pumpkin, watermelon). A pesticide petition to establish a tolerance for ethalfluralin for seed and pod vegetables, forage legumes, and cucurbits at 0.05 ppm was also filed, as published in the **Federal Register** (47 FR 10286, March 10, 1982). This petition was later amended to specify a tolerance of 0.05 ppm for dry beans, dry peas, soybeans, and cucurbits. Since 1978, Experimental Use Permits (EUPs) under section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) have been issued for field evaluation of ethalfluralin. EUP's were initially requested and received for testing on the following crops: soybeans, dry beans (kidney, lima, pinto, cowpeas, blackeye peas), fresh beans (snap, string, wax, limas), cucurbits (cucumbers, muskmelons, squash, watermelons, pumpkins), lentils, peas (field, dry, English) and peanuts. Ethalfluralin was evaluated with S-ethyl dipropylthiocarbamate (EPTC) on beans, metribuzin on soybeans, and with vernolate and dinoseb on peanuts. Ethalfluralin was surface applied preemergent on cucumbers, preemergent to cracking on peanuts and preplant incorporated on all other crops under the EUP.

Elanco Products Company received EUP extensions in 1981 for evaluation of ethalfluralin on cucurbits, peanuts, and soybeans. In 1982, ethalfluralin was evaluated on soybeans in 19 States alone and in combination with chloramben and metribuzin; snapbeans and dry beans in 21 States alone or mixes with EPTC and chloramben; field peas and lentils in 10 States; cucurbits (cucumbers, cantaloupes, watermelons) in 25 States; and for peanuts in 6 States alone or mixed with vernolate, metolachlor and Dyanap®.

In 1983, the producer requested and was granted an EUP request that included the same State where ethalfluralin was tested in 1982 and to extend the testing in peanuts to four additional States.

The Agency has determined that ethalfluralin exceeds the RPAR criteria set forth in 40 CFR 162.11. Based on a review of the risks and benefits of the proposed uses of ethalfluralin, the Agency has determined that the benefits of use outweigh the risks. This Notice sets forth the bases for this determination and for EPA's determination to conditionally register ethalfluralin for use on dry beans, dry peas, soybeans, and cucurbits pursuant to section 3(c)(7)(C) of FIFRA. The supporting documentation which provides the detailed basis for this determination is available in Rm. 236 at the address given above.

This Notice is organized into four units. Unit I is this Introduction. The regulatory framework under which this action is taken is discussed in Unit II. Unit III summarizes the risks and benefits of the uses of ethalfluralin and sets forth the Agency's determination to issue a conditional registration for ethalfluralin. Finally Unit IV requests comments on the registration determination announced in this Notice and describes the procedures the Agency will follow subsequent to receipt of the comments.

II. Legal Background

In order to obtain a registration for a pesticide under FIFRA, a person must demonstrate that the pesticide satisfies the statutory standard for registration. That standard requires (among other things) that the pesticide perform its intended function without causing "unreasonable adverse effects on the environment" under section 3(c)(5). Section 2(bb) of FIFRA defines the term "unreasonable adverse effects on the environment" as "any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide." In effect, the statute requires a finding that the benefits of each use of the pesticide exceed the risks of use, when the pesticide is used in accordance with the terms and conditions of registration or in accordance with widespread and commonly recognized practice. The burden of proof that a pesticide satisfies this registration criterion is on the proponents of registration and continues as long as the registration remains in effect. Section 3(c)(7)(C) of FIFRA gives the Agency authority to issue a conditional registration for a pesticide containing a new active ingredient, where certain data are lacking, on condition that such data will be received by the end of the conditional registration period and do not meet or exceed the risk criteria set forth in the regulations. A conditional registration may only be granted if the Agency determines that the use of the pesticide during the conditional registration period will not cause unreasonable adverse effects during the period of conditional registration and when a determination is made that the registration is in the public interest.

The Agency created the Rebuttable Presumption Against Registration (RPAR) process to facilitate the identification of pesticide uses which may not satisfy the statutory standard for registration and to provide a structure for gathering and evaluating information about the risks and benefits of these uses. After an RPAR is issued, registrants and other interested persons are given the opportunity to review the data upon which the presumption is based and to submit data and information to rebut the presumption. Respondents may rebut the presumption of risk by showing that the Agency's initial determination of risk was in error, or by showing that use of the pesticide is not likely to result in any significant exposure to humans or to animals or plants of concern with regard to the adverse effects in question. See 40 CFR 162.11(a)(4). Further, in addition to submitting evidence to rebut the risk presumption, respondents may submit evidence as to whether the economic, social, and environmental benefits of uses of the pesticide subject to the presumption outweigh the risks of use. If the Agency determines that a presumption has not been rebutted, it will then consider information relating to the social, economic and environmental costs and benefits which registrants and other interested persons submitted to the Agency, and any other benefits information known to the Agency.

After weighing the risks and the benefits of a pesticide's use, the Administrator may conclude the RPAR process by issuing a notice of intent to cancel or deny registration pursuant to FIFRA section 6(b)(1) and section 3(c)(6), or issuing by a determination that the benefits of use outweigh the risks of use. The latter determination may include the imposition of regulatory measures to reduce the risk to an acceptable level.

III. Summary of Risks and Benefits—Registration Determination

The Agency has considered information on the risks associated with the proposed uses of ethalfluralin including information submitted by the manufacturer. The Agency has also considered information on the social, economic, and environmental benefits of the proposed uses of ethalfluralin, including benefits information submitted by the manufacturer.

The Agency's assessment of the risk and benefits of the proposed uses of ethalfluralin, its conclusions and determinations on whether any of these proposed uses pose unreasonable adverse effects on the environment, are set forth in this Notice and other supporting documentation. The reasons summarized below, and developed in the supporting documentation, support the conclusions of the Agency with respect to the determination to issue a conditional registration for ethalfluralin.

A. Determination of Risk

The Agency has reviewed and evaluated the data submitted by the manufacturer in support of the registration of ethalfluralin and the establishment of tolerances on food crops. Data submitted and used to evaluate the risk include: a 90-day rat-feeding study demonstrating a No-Observed-Effect Level (NOEL) of 500 ppm, the equivalent of 25 milligrams(mg)/ kilogram(kg) of body weight (bw); a 90-day dog feeding study demonstrating a NOEL of 27.5 mg/kg; a rabbit teratology study demonstrating a fetotoxic, maternal toxicity and teratogenic effect NOEL of 75 mg/kg; a 3-generation rat reproduction study demonstrating a NOEL of 250 ppm (12.5 mg/kg); a 2-year rat chronic feeding/ oncogenicity study demonstrating a systemic NOEL of 750 ppm (37.5 mg/kg) and a significant increase in mammary gland fibroadenomas at 250 ppm (12.5 mg/kg) and 750 ppm (37.5 mg/kg); a 2-year mouse oncogenicity study demonstrating no observed oncogenic potential up to 1500 ppm (225 mg/kg), the highest does tested; and a number of mutagenicity studies indicating a weak mutagenic response.

The following data are lacking and must be submitted by the manufacturer as a condition for this registration by December 1, 1985: a second species teratology study, a nonrodent chronic feeding study, and a dermal penetration study.

Several of the studies are discussed below.

Oncogenicity. Two long-term animal bioassays have been submitted and reviewed by the Agency to assess the oncogenic potential of ethalfluralin. In one study, ethalfluralin was administered to Fischer 344 rats in the diet for 2 years. Dietary concentrations of the chemical were 100, 250, and 750 ppm dose levels. Historical data provided by the manufacturer indicate an incidence of fibroadenomas in untreated Fischer 344 rats to be from 0 percent to 26.7 percent, with an overall incidence of 15.3 percent. In comparison, incidences of 35 percent and 46.7 percent respectively for the mid-dose and high-dose females in this study would categorize ethalfluralin as an oncogen for benign mammary gland adenomas. For systemic effects, a NOEL of 750 ppm was indicated.

In another bioassay, ethalfluralin was administered to B6C3F1 mice in the diet for 2 years to 100, 400, and 1500 ppm in replicate studies. The results were negative for oncogenicity at all dose levels.

Teratogenicity. The Agency has reviewed a rabbit teratology study of ethalfluralin conducted and submitted by the manufacturer. Twenty Dutch Belted female rabbits were randomly assigned to five test groups. Insemination was staggered over a 4-day period with equal numbers of animals per group being started on each day. On day 6 through 18 of gestation, technical ethalfluralin (94.0 percent purity) was administered by gavage at dose levels of 25, 75, 150, and 300 mg/kg to each of the test groups.

Based on the results of this study, a NOEL of 75 mg/kg is indicated for maternal toxicity, fetotoxicity, and teratogenic effects. Slight maternal toxicity in two dams was observed at 150 mg/kg/day and clear maternal toxicity was observed at 300 mg/kg/day. A possible teratogenic effect was observed at 150 mg/kg/day and cannot be clearly associated with maternal toxicity.

Mutagenicity. Two bacterial and two mammalian mutagenicity studies were submitted by the manufacturer and reviewed and considered valid by the Agency.

A bacterial mutation study was conducted in which eight *his*-strains of *Salmonella typhimurium* and two *try*-strains of *Escherichia coli* were simultaneously treated with technical ethalfluralin in a modification of the Ames procedure. The test was conducted both in the absence and presence of metabolic activation provided by microsomal S–9 fractions of liver from rats primed with Arochlor 1254, as well as those from non-induced animals. The results indicated that technical ethalfluralin is weakly mutagenic in bacterial cultures of *S. typhimurium* and *E. coli.*

In another study, five *his*-strains of *Salmonella typhimurium* were treated with technical ethalfluralin by the standard Ames plate incorporation procedure at dose levels ranging from 125 to 1000 μg/plate, both in the absence and presence of metabolic activation. Parallel cultures were exposed to a mutagen appropriate for each strain. All cultures responded to the positive control substances. The results of this test indicate that ethalfluralin induced point mutations in two strains of *S. typhimurium* in the presence of a metabolic activation enzyme system with results indicating a weak mutagenic response.

In another study, primary hepatocyte cultures from an adult male F344 rat were incubated for 20 hours with graded concentrations of technical ethalfluralin dissolved in DMSO. Ethalfluralin was inactive in inducing unscheduled DNA synthesis at all dose levels up to cytotoxic doses of 500 and 1000 nM.

In a further study investigating the induction of forward mutation at the thymidine kinase locus of L5178Y mouse lymphoma cells, ethalfluralin was judged not to induce increased incidences of mutants at any concentration administered.

Exposure—1. *Dietary.* The Agency has evaluated dietary exposure to ethalfluralin residues for the commodities: dry beans, dry peas, soybeans, and cucurbits. Assuming 100 percent of these crops are treated with ethalfluralin and residues are at the proposed tolerance level of 0.05 ppm, the Theoretical Maximal Residue Contribution (TMRC) is 3.1×10^{-3} mg/day in a 1.5 kg diet.

2. *Dermal and inhalation.* The manufacturer submitted a study in which dermal and inhalation exposure to ethalfluralin were determined during the application of ethalfluralin (Sonalan®)-treated fields. The Agency is not able to determine separate exposure estimates for the mixing/loading and application process. It is expected that the most exposure will occur during the mixing and loading operation. Also, for the purposes of this exposure analysis, it is assumed that the same individual is the mixerloader and the applicator.

Mixer/loaders and applicators of ethalfluralin will be exposed to an emulsifiable concentrate ethalfluralin formulation during the early stages of the mixing-loading process and during this process dermal absorption is assumed to be 100 percent. During the actual application of ethalfluralin, the applicator is exposed to the emulsifiable concentrate in water and, therefore, the dermal absorption is expected to be significantly less than 100 percent.

In estimating dermal exposure, the Agency assumed a "worst case" situation of 100 percent dermal absorption throughout the mixing/loading and application processes and no protective clothing. Dermal exposure is estimated to be 31,420 micrograms (ug)/applicator/year and inhalation exposure is estimated to be 394 ug/applicator/year. The dermal exposure estimates represent the amount of ethalfluralin potentially contacting the skin since data are not available to determine the amount of material that actually penetrates the skin. A dermal penetration study is being requested as a condition of this registration.

The daily lifetime exposure estimates were calculated assuming a 40-year life, a 70-year lifespan, and 100 percent vapor and particulate inhalation as well as dermal absorption. A daily lifetime worker dermal and inhalation exposure is calculated to be 7.0×10^{-4} mg/kg/day.

Risk Assessment—1. *Oncogenic Risk.* The Agency calculated the oncogenic risk associated with exposure levels using the "one-hit" dose extrapolation model and based on the results of the 2-year rat bioassay. Assuming that 100% of the crops are treated and residue levels are at tolerance levels, the upper bound estimate of dietary oncogenic risk is calculated to be 3.8×10^{-6}. Dietary risk estimates are significantly lower when using the registrant's projections for the five-year market penetration rather than the Agency's assumption that 100% of the crops will be treated with ethalfluralin. The oncogenic risk estimate for a 70 kg applicator/loader-mixer, assuming no protective clothing and 100% dermal absorption is 6.3×10^{-5}.

2. *Teratogenic risk.* Based on the NOEL of 75 mg/kg/day in the rabbit teratology study, and assuming residues at the tolerance level of 0.05 ppm on 100 percent of the crops, the consumption of an average single serving of all commodities on a given day results in a Margin of Safety (MOS) of 123,762.

Margin of safety estimates were calculated for the mixer/loader/applicator. Assuming a 60 kg female applicator, no protective clothing, and an 8-hour working day, the maximum daily exposure would be 18,595 micrograms/applicator. Assuming the 100 percent of ethalfluralin is absorbed dermally and by inhalation, a MOS of 242 is calculated using the 75 mg/kg/day NOEL.

B. Evaluation of Benefits

Ethalfluralin is currently proposed for registration as a herbicide for use on beans (dry commercial and dry peas), soybeans, and cucurbits. The Agency's review of the benefits of this chemical focused on evaluating the manufacturer's claims for benefits of ethalfluralin on each crop use proposed for registration. Based on these data, the Agency has determined that the conditional registration of ethalfluralin is in the public interest as required for a section 3(c)(7)(C) registration.

The manufacturer's benefit claims state that the spectrum interest of ethalfluralin weed control is similar to other dinitroaniline herbicides, but would be extremely useful to control the *Solanaceae spp.* (nightshade family), particularly hairy nightshade *Solanum sarachoides* (an increasingly hard to control weed in western irrigated dry bean production areas) and Eastern black nightshade, *Solanum pytcanthum*

(an increasing problem in midwest soybeans).

Nightshades appear to be increasing as a weed problem because of growth characteristics of the plant as well as various cropping practices. Nightshade seeds can become cemented to the crop seed by sticky, heavy juice and be spread or transported by contaminated seed, field equipment, water, birds and in feces of grazing animals that cannot digest the seeds. Nightshade seedlings may germinate as early as March and continue to germinate and emerge during the summer if conditions remain favorable. Nightshade plants can produce viable seed from two weeks after emergence until killing frosts. Nightshade must be controlled early as well as throughout the season to prevent harvesting problems as occurred in the midwest soybean growing areas in 1980. The 1980 drought, followed by late August rains, greatly increased the nightshade problem.

Several researchers indicate that nightshades have become a more serious problem because of the extensive use of dinitroaniline herbicides that do not control nightshade, and that reduced cultivations, or changes in cultivation practices (narrower rows) have reduced crop competition, resulting in increased nightshade infestation. Removal of competitive grasses and broadleaved weeds that were susceptible to these herbicides has helped favor the growth of more tolerant and/or resistant weeds such as nightshades.

The American black nightshade is common to California, Eastern States south to Florida and Texas, and warm regions of the world. It is the most variable nightshade weed and is often confused with Eastern black nightshade. Black nightshade is uncommon in most of North America except for Far Western States and occurs together with American black nightshade in California. The Eastern black nightshade is common to North America east of the Rocky Mountains and frequently confused with American black nightshade in the Southeastern States. It is the major species found in the North Central States. Hairy nightshade is locally abundant throughout North America especially on irrigated lands in parts of Plain States, Pacific Northwest and adjacent Canadian areas. The silverleaf nightshade infests Texas and Oklahoma and is spreading east and north.

Nightshades are considered a more serious weed pest than the other weeds claimed on the ethalfluralin label because they can compete with crops to directly reduce yields, are poisonous to humans and livestock, and can seriously impede harvesting operations.

Nightshades plants interfere with soybean and dry bean harvesting operations because these plants do not dry rapidly in the fall and are not killed by light frosts. The stems and leaves become a sticky mass after entering the combine and can plug up rotors and screens. Also, each plant can produce up to 1,000 berries with 50 or more seeds. When the nightshade berries are blended together with chaff in the combine it becomes cemented by the sticky berry juice to other parts of the combine. Once beans are coated with berry juice and are stained they are difficult to clean, are susceptible to mold and postharvest storage problems and often lowered in grade and quality. Loads containing berries may be refused at grain elevators because the berries are very difficult to separate from soybeans at harvest, being about the same size. Many dry edible bean processors begin discounting the price when greater than 4 percent of the beans are stained by the berries and may be sold as U.S. sample grade quality which cannot be used for human consumption. Even low weed infestation of nightshade interfere with harvesting. Soybean harvesting can be stopped by less than 1 nightshade plant per 10 feet of row.

Commercial Dry Beans, Dry Peas. The proposed registration of ethalfluralin for use on commercial dry beans and dry peas is targeted for control of hairy nightshade, which is a problem in fields of western dry beans. The economic value of ethalfluralin to dry bean growers is dependent upon the degree of hairy nightshade infestation, comparative efficacy of ethalfluralin and alternatives, and differences in treatment costs per acre between ethalfluralin and currently registered herbicides.

Hairy nightshade is considered a major problem in western irrigated dry beans in general and the primary weed problem for dry bean growers in Idaho. There are several herbicide alternatives to control hairy nightshade. Ethalfluralin used alone has the same spectrum of weed control as currently registered herbicide alternatives plus equal or somewhat superior control of hairy nightshade as compared to currently registered tank-mixed alternatives. Thus, the economic value of ethalfluralin to dry bean growers is primarily the difference in comparative treatment costs per acre. The cost reduction on a per acre basis will range from $2.61 to $10.74, depending upon the particular tank-mix used by the grower.

The overall effect on dry bean growers resulting from registering ethalfluralin is dependent on the extent of use by growers and the response of producers of competitive products in their pricing decisions. Assuming a market penetration of ethalfluralin in the dry bean market of at least 5.5 percent or 102,000 acres by the fifth marketing year and maintenance of the current differences in relative treatment costs per acre, the total range of cost reduction to growers would be approximately $266,000 to $1,095,000.

Soybeans. The manufacturer has targeted ethalfluralin for use on soybeans for control of Eastern black nightshade. Eastern black nightshade is a problem in 25–30 percent of the midwestern soybean acreage but only one percent of the acreage has a serious, unmanageable level of infestation.

The potential economic value to soybean producers from an ethalfluralin registration is dependent upon the product's comparative efficacy, effect on soybean yield, and relative treatment cost per acre. In terms of comparative efficacy, alternative herbicides appear to be superior to ethalfluralin and are expected to remain the herbicides of choice. Thus, the advantage ethalfluralin would provide to soybean growers is dependent upon the degree of substitution of ethalfluralin for alternatives in areas where suppression and not control of eastern black nightshade is desirable. As a single active ingredient, ethalfluralin would have a cost advantage on a per acre basis when compared to the currently registered preemergent and postemergent herbicide alternatives. If preemergent alternatives are incorporated, ethalfluralin has a $3.43 to $9.03 treatment cost advantage per acre and a $3.83 to $4.95 treatment cost advantage over the postemergent herbicide alternatives. The manufacturer expects a market penetration by the fifth market year of at least 1.6 percent or approximately 1.1 million acres. If this occurs, then the net cost advantage of using ethalfluralin as a single active ingredient would range from $1,903,000 to $9,933,000.

Cucurbits. Registration of ethalfluralin is proposed for use on the cucurbit crops of cantaloupes, cucumbers, pumpkins, and watermelons to control a wide spectrum of broadleaved weeds and grasses as a postplant surface applied herbicide. Relatively few herbicides exist for weed control for these crops and those that are currently used often cause phytotoxic damage. Comparisons of the performance of ethalfluralin to currently used alternatives indicate that it will be an attractive herbicide for cucurbit growers, particularly those in

the area extending south from North Carolina, and is less likely to cause phytotoxic damage. Depending upon the alternative used, the cost advantage in per acre treatment cost for ethalfluralin is $11.11 to $29.91. The manufacturer expects a market penetration by the fifth market year of at least 3.9 percent or approximately 20,000 acres. The total cost advantage would range from approximately $222,200 to $598,200 per year.

C. Conclusion Regarding Registration

Based on the data and information reviewed by the Agency on ethalfluralin, the RPAR criteria for oncogenicity [40 CFR 162.11(a)(3)(ii)(A)] and teratogenicity [40 CFR 162.11(a)(3)(ii)(B)] have been met. In evaluating the risks and benefits associated with the proposed uses of ethalfluralin, the Agency has determined that the benefits from the use of ethalfluralin on dry beans, dry peas, soybeans and cucurbits exceed the risks posed by these uses for the period of this conditional registration and the use of ethalfluralin is in the public interest. The Agency has decided to conditionally register ethalfluralin under the authority of section 3(c)(7)(C) of FIFRA for use on the commodities listed above for a period through December 1, 1985 to allow time for the generation and submission of the data which are lacking because a period reasonably sufficient for the generation of the data has not elapsed since the Administrator first imposed the data requirements. The data that must be submitted by December 1, 1985 are: a second species teratology study, a nonrodent chronic feeding study, and a dermal penetration study. These data were identified by the Agency as necessary as a result of this registration review. The Agency has determined that the label must specify the certain protective clothing requirements. Specifically, impermeable gloves, coveralls, and a long-sleeved shirt must be worn during the application process in order to reduce the applicator risk to an acceptable level.

A companion notice in this issue of the **Federal Register** establishes tolerances for the commodities listed above at 0.05 ppm. There is no expectation that residues of ethalfluralin in the raw agricultural commodities will concentrate in processed food or feed; therefore, food additive regulations do not have to be established under section 409 of the Federal Food, Drug and Cosmetic Act [FFDCA].

IV. Procedural Matters

Comments regarding the registration decision announced in this notice may be submitted to the Agency through December 1, 1985.

Comments may be submitted on all aspects of the Agency's risk/benefit analysis and the Agency's decision to conditionally register ethalfluralin. The Agency is sending information regarding the risk/benefit analysis on ethalfluralin to the Science Advisory Panel (SAP) for their comment, although the Agency is not required to do so by statute.

The Agency will consider any significant comments received in response to this Notice as they are received. In addition, all comments received along with the requested data will be considered in the future determination regarding the registration of ethalfluralin under Section 3(c)(5) of FIFRA.

Dated: November 28, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 84-66 Filed 1-3-84; 8:45 am]

BILLING CODE 6560-50-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Report Forms Under OMB Review

AGENCY: Equal Employment Opportunity Commission.

ACTION: Request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission. The proposed report form under review is listed below.

DATE: Comments must be received on or before February 21, 1984. If you anticipate commenting on a report form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Reviewer and the Agency Liaison Officer of your intent as early as possible.

ADDRESS: Copies of the proposed report form, request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Liaison Officer. Comments on the item listed should be submitted to the Agency Liaison Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

EEOC Agency Liaison Officer: Gary G. Papritz, Administrative Management Services, Room 281, 2401 E Street, NW., Washington, D.C. 20507: Telephone (202) 634-6990.

OMB REVIEWER: Joseph Lackey, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503; Telephone (202) 395-6880.

Type of request: Revision of Currently Approved Collection.

Title: Employer Information Report, EEO-1 (S.F.-100).

Form Number: S.F.-100.

Frequency of report: Annual.

Type of respondent: Private Employers.

Responses: 126,700.

Reporting hours: 633,500.

Federal cost: $543,000.00.

Number of forms: 1.

Abstract—Needs/Uses: EEO-1 data is used by EEOC to investigate charges of employment discrimination against employers in the private sector. It is used to support EEOC decisions and conciliations, and in systemic program activities. Data is also shared with other Federal agencies, particularly with the Office of Federal Contract Compliance Programs (OFCCP) and with the Small Business Administration (SBA). Additionally it is shared with State and Local Fair Employment Practices Commissions (FEPC's) as required by Title VII. The S.F.-100 is being changed to add necessary information. Additional questions are being asked (e.g. Dun and Bradstreet Number, reference financial assistance from SBA, and employment of apprentices), but no increase in recordkeeping burden is imposed.

Dated: December 21, 1983.

For the Commission.

Clarence Thomas,

Chairman, Equal Employment Opportunity Commission.

[FR Doc. 84-18 Filed 1-3-84; 8:45 am]

BILLING CODE 6570-06-M

FEDERAL RESERVE SYSTEM

C&P Bank Corporation of Pensacola, et al.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications

are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *C&P Bank Corporation of Pensacola,* Pensacola, Florida; to become a bank holding company by acquiring at least 80 percent of the voting shares of Citizens and peoples National Bank, Pensacola, Florida. Comments on this application must be received not later than January 25, 1984.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Decatur Bancshares, Inc.,* Greensburg, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of Decatur County Bank, Greensburg, Indiana. Comments on this application must be received not later than January 13, 1984.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Peoples National Bancshares of Checotah, Inc.,* Checotah, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of The Peoples National Bank of Checotah, Checotah, Oklahoma. Comments on this application must be received not later than January 18, 1984.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montlaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Milford Bancshares, Inc.,* Milford, Texas; to become a bank holding company by acquiring 80 percent or more of the voting shares of First State Bank, Milford, Texas. Comments on this application must be received not later than January 25, 1984.

E. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *AmerAsia Corp.,* Philadelphia, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of AmerAsia Bank, Philadelphia, Pennsylvania. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Philadelphia. Comments on this application must be received not later than January 23, 1984.

2. *Coal City Capital Corp.,* Coal City, Illinois; to become a bank holding company by acquiring 80 percent or more of the voting shares of The First National Bank of Coal City, Coal City, Illinois. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Chicago. Comments on this application must be received not later than January 27, 1984.

Board of Governors of the Federal Reserve System, December 28, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-25 Filed 1-3-84; 8:45 am]

BILLING CODE 6210-01-M

Citicorp, et al.; Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Citicorp,* New York, New York; to acquire 100 percent of the voting shares of Citibank (Maryland), National Association, Towson, Maryland. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York. Comments on this application must be received not later than January 23, 1984.

2. *BankAmerica Corporation,* San Francisco, California; to acquire 100 percent of the voting shares of Bank of America—South Dakota, Rapid City, South Dakota. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of San Francisco. Comments on this application must be received not later than January 23, 1984.

Board of Governors of the Federal Reserve System, December 28, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-24 Filed 1-3-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 83M-0423]

Safeway Products, Inc.; Premarket Approval of Soft Lens Thermal Disinfecting Unit, Model No. 6726

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Soft Lens Thermal Disinfecting Unit, Model No. 6726, sponsored by Safeway Products, Inc., Middletown, CT. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by February 3, 1984.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles H. Kyper, National Center for Devices and Radiological Health (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

SUPPLEMENTARY INFORMATION: On December 3, 1982, Safeway Products, Inc., Middletown, CT 06457, submitted to FDA an application for premarket approval of the Soft Lens Thermal Disinfecting Unit, Model No. 6726, for use in the heat (thermal) disinfection of all soft (hydrophilic) contact lenses. The application was reviewed by the

Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, an FDA advisory committee, which recommended approval of the application. On December 5, 1983, FDA approved the application by a letter to the sponsor from the Associate Director for Device Evaluation of the Office of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94–295, 90 Stat. 539–583), accessories for contact lenses consisting of polymers other than polymethylmethacrylate (PMMA) were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), non-PMMA lens accessories are now regulated as class III medical devices (premarket approval). As FDA explained in a notice published in the **Federal Register** of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III medical devices formerly regulated as new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of non-PMMA contact lenses or accessories comply with the records and reports provisions of Subpart D of Part 310 (21 CFR Part 310) until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file with the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the National Center for Devices and Radiological Health—contact Charles H. Kyper (HFK–402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA's action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before February 3, 1984, file with the Dockets Management Branch (address above), two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 23, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–28 Filed 1–3–84; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

Medicaid Program; Hearing; Reconsideration of Disapproval of an Idaho State Plan Amendment

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on February 7, 1984 in Seattle, Washington, to reconsider our decision to disapprove Idaho State Plan Amendment 83–11.

CLOSING DATE: Requests to participate in the hearing as a party must be received by January 19, 1984.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, Bureau of Eligibility, Reimbursement and Coverage, 365 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone: (301) 594–8261.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove an Idaho State Plan Amendment.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid Agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues which will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with the requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins, in accordance with the requirements contained in 45 CFR 213.15(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The issue in this matter is whether Idaho's request to include personal care services, with certain limitations, as a covered service under the Idaho Medicaid Program violates regulations at 42 CFR 440.240(b). Subparagraph (b) of 42 CFR 440.240 states that the plan must provide that services available to any individual in the categorically needy or a covered medically needy group of recipients are equal in amount, duration and scope for all recipients within the group. Idaho includes only the categorically needy in its State Medicaid Plan. Under Idaho's proposed plan, coverage of personal care services are subject to the following limitations: (1) Prior authorization by the medical assistance section; (2) costs of personal care services in conjunction with other community services are not to exceed the cost of institutional placement based on the daily State expenditure for skilled nursing facilities, intermediate care facilities, and intermediate care facilities for the mentally retarded services; and (3) recipients must be medically eligible for facility placement in the absence of personal care services. HCFA determined that Idaho's proposed plan violated the comparability provisions at 42 CFR 440.240(b) on the basis that the limitations in items 2 and 3 would not allow all categorically eligible individuals equal access to personal care services.

The notice to Idaho announcing an administrative hearing to reconsider our

disapproval of its State plan amendment reads as follows:

Ms. Rose Bowman,
Director, Department of Health and Welfare, Bureau of Benefit Payment, Medical Assistance Section, Boise, Idaho.

Dear Ms. Bowman: This is to advise you that your request for reconsideration of the decision to disapprove Idaho State Plan Amendment 83–11 was received on November 30, 1983. You have requested a reconsideration of whether this plan amendment, which would include personal care services, with certain limitations, as a covered service under Idaho's Medicaid Program, conforms to the requirements for approval under the Social Security Act and pertinent Federal requirements.

I am scheduling a hearing on your request to be held on February 7, 1984, at 10 a.m., in Room 288, New Federal Building, 915 Second Avenue, Seattle, Washington. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties.

I am designating Mr. Stanley Krostar as the presiding official. If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (301) 594–8261.

Sincerely yours,

Carolyne K. Davis.

(Sec. 1116 of the Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: December 27, 1983.

Carolyne K. Davis,
Administrator, Health Care Financing Administration.

[FR Doc. 84–83 Filed 1–3–84; 8:45 am]
BILLING CODE 4120–03–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Statute of Limitations Claims List

December 28, 1983.

AGENCY: Bureau of Indian Affairs.

ACTION: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

SUMMARY: This notice lists certain potential pre-1966 Indian damage claims which were submitted to the Bureau of Indian Affairs pursuant to Sec. 4(a) of the Indian Claims Limitation Act of 1982, Pub. L. 97–394, but which were inadvertently excluded from the list of claims published in the **Federal Register** on November 7, 1983 (Vol. 48, No. 216, Part II). This notice constitutes an addendum to that November 7 list. Publication of these claims is intended to preserve the potential rights of action of any affected Indian tribe or individual.

DATE: This notice establishes that for any claims appearing in this notice, the statute of limitations does not begin to run until the Secretary takes certain actions.

FOR FURTHER INFORMATION CONTACT: Guy Fringer, Bureau of Indian Affairs, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20245. Telephone: (202) 343–3604.

SUPPLEMENTARY INFORMATION: Pursuant to Sec. 4(a) of the Indian Claims Limitation Act of 1982, Pub. L. 97–394, Indian tribes, groups, and individuals had until September 27, 1983, to submit to the appropriate Area Office additional pre-1966 Indian damage claims not included on the list of claims published in the **Federal Register** on March 31, 1983 (Vol. 48, No. 63, Part V). Such additional claims were published in the **Federal Register** on November 7, 1983 (Vol. 48, No. 216, Part II). Certain claims submitted to the appropriate Area Office prior to the September 27, 1983, deadline were inadvertently excluded from the list of claims published on November 7. This notice constitutes an addendum to that November 7 list and is intended to preserve the potential rights of action of any affected Indian tribe or individual.

Certain claims submitted by the Duckwater Shoshone Tribe were listed as Claim No. H64642–157 and were erroneously characterized as "Mineral Materials Doc. 328–K" in the Federal Register of November 7, 1983. The Duckwater Shoshone Tribe had in fact submitted a list of mining companies which the Tribe alleges have trespassed on the aboriginal lands of the Western Shoshone Nation. This notice corrects the erroneous characterization of those claims by describing them as "Mineral Trespass Claims". In addition, the Duckwater Shoshone Tribe submitted a list of railroads which the Tribe alleges have trespassed on the aboriginal lands of the Western Shoshone Nation. Those claims are described in the November 7 list as "Railroad Trespass" under Claim No. H64642–158. It was intended by this description to encompass all the potential railroad trespass claims submitted by the Duckwater Shoshone Tribe even though the notice appears to describe only a single claim.

In the **Federal Register** of November 7, Claim P06 108–028 should read "Fishery—Lamb Creek" instead of "Fishery—Lamp Creek", and Claim P06 108–022 should read "Fishery—Ozette Lake" instead of "Fishery—Makah River".

Please note that the inclusion of any claims on this list does not constitute a determination by the Department of the Interior that a claim is valid or has any legal merit.

John W. Fritz,
Acting Assistant Secretary—Indian Affairs.

Tribe and case	Addition	Allotment	Type of claim
F53404:0162	Tribal	N/A	Wrongful Diminution of Game Supplies.
F53405:0155	Tribal	N/A	Wrongful Diminution of Game Supplies.
F53406:0093	Tribal	N/A	Wrongful Diminution of Game Supplies.
H63602:174	Cocopah Tribe	N/A	Abongnal Title Claim.
M45751:			
003	Ute Mountain Ute	N/A	Road Trespass.
004	Annie Dutchie	AC141	Do.
005	Mandy Bush	AC142	Do.
006	Betty Bennally	AC143	Do.
007	Tempie W. Rabbit	AC146	Do.
008	Avon W. Rabbit	AC147	Do.
009	Mollie Cantsee	AC154	Do.
010	Pat Cantsee	AC156	Do.
011	Carrie Cantsee	AC157	Do.
012	James Eyetoo	AC159	Do.
013	Etta Eyetoo	AC160	Do.
014	Babe Deer	AC167	Do.
015	Erma Lehi	AC170	Do.
016	Ned Dutchie	AC176	Do.
017	Ute Mountain Ute	N/A	Recovery of State Mineral Taxes.
P06121:			
007	Squaxin Island Tribe	N/A	Claim for Recovery of Land.
008	Squaxin Island Tribe	N/A	Aboriginal Title Claim.
P10123.022	Tulalip Tribe	N/A	Dikes Constructed by Mr. Wester.
P12103: 007	Indian Joseph	N/A	Claim to Indian Island.
P13203:0132	Flathead Tribe	N/A	Catholic School Tuition-Tribal Funds.

The following list consists of Winnebago (A13383) forced fee patent claims.

Case	Allottee	Allotment No.
0585	Olive Grant	2
0586	Edward Hatchet	3
0587	David Blackhawk	6
0588	James Bird	7
0589	Fanny Bird	8
0590	David Blackhawk	9
0591	Mary Tiebault	10
0592	Samuel Wallace	19
0593	Clara Elk	25
0594	Henry Comingback	35
0595	David Henry	36
0596	Ruth Henry	39
0597	Mrs. Henry Decora	48
0598	Little Thunder Peterson	52
0599	Edward Bearskin	57
0600	Paul Edward Bearskin	58
0601	Helen Hunter Priest	63
0602	Charles Frenchman	64
0603	Marie Frenchman	65
0604	Benjamin B. Bird	67
0605	Small Woman	70
0606	James Thomas	78
0607	Jospeh Thomas	81
0608	John Cloud Holt	82
0609	William Holt	83
0610	Louis Buchanon	84
0611	Amos Buchanon	85
0612	Thomas Buchanon	86
0613	Joseph Littlebear, Jr	89
0614	Fanny West	90
0615	Abraham Priest	98
0616	William Hatchet	103
0617	Marie Hatchet	105
0618	See Suchkaw	114
0619	Rosalie Chief	116A
0620	Alexander Chief	117
0621	John Bigbear	126
0622	Louis Bigbear	127
0623	Louisa Bigbear	130
0624	Bigbear (Susie White)	131
0625	Mrs. Henrietta Lemon	132
0627	Davie Lemmon	133
0628	Irene Lemmon	138
0629	Thomas Van Buren	141
0630	Lawrence Smith	145
0631	Late Rave	148
0632	Emily Rave	149
0633	Clara Goodman	157
0634	John Goodman	158
0635	Emma Rave	160
0636	John Rave	162
0637	Henry Rave	165
0638	George Decora (Police)	168
0639	Mrs. Young Bear	178
0640	George Bear	179
0641	Henry Bear	181
0642	Lara Waggoner	186
0643	Harrison Tabo	200
0644	Peter Painter	201
0645	Lucy Tabo	204
0646	Mrs. James Smith	205
0647	George Sun	208
0648	Maggie Sun	209
0649	Henry Sun	210
0650	Charles Houghton	215
0651	Fanny Houghton	216
0652	Mary Houghton	217
0653	Bad Thunder Bradford	218A
0654	Henry Houghton	230
0655	Taylor Houghton	231
0656	Prosper Armell, Sr.	234A0
0657	Unknown	235
0658	Louis Arnell	237
0659	Unknown	238
0660	Elizabeth Armell	240
0661	Teresa Arnell	241
0662	Minnie St. Cyr	244
0663	Louis St. Cyr	245
0664	Julia St. Cyr	247
0665	David St. Cyr	248
0666	Lilly St. Cyr	249
0667	Henry Wolf	250
0668	Unknown	255
0669	Little Jim	257
0670	Mary Russell	264A0
0671	Russell Hunter	268
0672	Andrew Wolf	269
0673	Joseph Wolf	271
0674	Willie Littlebird	273
0675	William Wolf	275
0676	Henukaw Crosby	283
0677	Night Walking Woman	284
0678	Nancy Hittie	286
0679	Alexander Hittie	288
0680	Wind Walker	290
0681	William Davis	294
0682	James Blackhawk	295
0683	Redlegs	298
0684	Hattie James	302
0685	Joseph Johnson	302A0
0686	Unknown	304
0687	Unknown	305
0688	Henry White Spirit	309
0689	Lucy White Spirit	310
0690	Felix Wilson	317
0691	Mary Wilson	324
0692	Palagie Nash	327
0693	Mane Nash	328
0694	Violletta Nash	329
0695	Josephine Nash	330
0696	Albert Nash	331
0697	Nellie Raymond	333
0698	George Raymond	334
0699	Fanny Raymond	335
0700	Jeannette Raymond	336
0701	Maggie Raymond	337
0702	Charles Raymond	338
0703	Joseph Bigbear	339
0704	Unknon	340
0705	do	340–A
0706	do	340–B
0707	do	340–2
0708	John Hunter	344
0709	Lettie Hunter	345
0710	William Hunter	346
0711	John Logan	349
0712	Julie Brown	351
0713	Belle Logan	352
0714	Albert Logan	357
0715	Jeanette Rice	358
0716	Eunice Rice	359
0717	Edmund Rice	370
0718	Edith Earth	378
0719	Harriet Earth	380
0720	Alice Cloud	384
0721	Nettie Perry	390
0722	James Peterson	391
0723	James Smith	392
0724	Joseph Baker	396
0725	Lewis Baker	398
0726	Philip Long	400
0727	Joseph Longtail	414
0728	James Paquette	421
0729	James Mallory	423
0730	Connokaw Mallory	424
0731	Mrs. Edward Walker	425
0732	do	425A0
0733	Helen Walker	426
0734	Mary Walker	427
0735	Swan Chief	432
0736	Broken Treetop	433
0737	Henukaw Treetop	434
0738	Charles Fisher, Jr.	435
0739	Clarance Fisher	447
0740	Charles Mann	449
0741	Frank White	450
0742	Edward Sherp	452
0743	Edward Decora	458
0744	James Caramony	460–2
0745	Connokaw Caramony	461
0746	John Chief	462
0747	Lydia Chief	463
0748	George Whitewing	466
0749	do	466A0
0750	Henry Lincoln	468–A
0751	John Bear Skin	470
0752	Peter Decora	480
0753	John Decora	481
0754	Sarah Decora	482
0755	Alice White	483
0756	Little Thunder	488
0757	Margret Perry	490
0758	Mrs. John Synder	491
0759	White Bear	492–A
0760	do	492–B
0761	Moses Whitebear	494
0762	Louis Greyhair	498–A
0763	David Hinman	500
0764	do	500–1
0765	Robinson Hinman	501
0766	Simeon Hinman	502
0767	Solomon Hill	504–A
0768	Elsie Perry	509
0769	Joseph Twin	515
0770	James Yellowbank	530
0771	John Decora	536
0772	David Lowry	541
0773	do	541–1
0774	John Lowry	542
0775	Mary Rasdell	550
0776	Unknown	551
0777	Charles Gilbert	556
0778	Willie Esau	569
0779	Daniel Wolf	573
0780	Edward Lincoln	578–1
0781	Cyrus Cx	591
0782	Mrs. Raise Wing	592
0783	Henry Raise Wing	594
0784	Unknown	600–1
0785	John Little Walker	601
0788	Frank Lamere	609
0789	Catherine Lamere	612
0790	Connokaw	625
0791	Albert Hensley	632
0792	David McClaska, Jr	633
0793	Joseph Armell, Jr.	637
0794	John Clay	643
0795	Jesse Clay	645
0796	Paul Priest	650
0797	Fishtail Lincoln	651–A
0798	Unknown	651–B
0799	James Fishtail Lincoln	655
0800	Emma Hill	660
0801	Frank Ewing	668
0802	Frank Bearer	671
0803	Joseph Armell	672
0804	Lousa Armell	674
0805	Frank Armell	675
0806	Johnson Smith	677
0807	Henukaw French	678
0808	Little Prophet	689
0809	John Lincoln	690
0810	Henukaw Blackdeer	691
0811	James Penn	697
0812	Green Crow	701
0813	Dora Green Crow	702
0814	Iowa Crow	703
0815	Charles Bonepart	706
0816	Mrs. Bradford L. Porter	711–1
0817	Amos Snow	717
0818	Henry Decora	721
0819	Charles Decora	722
0820	Porter Decora	723
0821	John Smith	730
0822	Twin	732
0823	James Smith	734
0824	Mary Smith	735
0825	Chone wn kaw	744
0826	Henry French	752
0827	Lewis Greyhair	761
0828	John Greyhair	765–1
0829	Unknown	768
0830	Unknown	771
0831	Nancy Armell	774
0832	Andrew Sharpback	782
0833	Charles Brown	790
0834	Thomas Rice Hill	802–1
0835	do	802–3
0836	Joseph Prophet	804
0837	Walter Prophet	808
0838	Unknown	809
0839	Julie Lamere	823
0840	Eunice Lamere	824
0841	James Rice Hill	827
0842	Charles Rice Hill	828
0843	George Eaton	829
0844	Abel Wolf	833–A
0845	Ebenezer Kingsley	835A0
0846	Fanny Man Eater	838
0847	George Brown No. 2	839
0848	Mattie Kuno	840
0849	George Brown, Jr.	841
0850	Bear	842
0851	Cyrus Bear	844
0852	Mrs. Mary Lamere Rave	846
0853	Turner Rave	849
0854	Ellen Baker	851
0855	Sally Baker	854
0856	Peter Sampson	857
0857	Mary Sampson	859
0858	Julia Decora	862
0859	Angel Decora	863
0860	Albert Walker	866
0861	Isaac Johnson	868

Case	Allottee	Allotment No.
0862	Stiff Wing	969
0863	Charles Black Hawk	878
0864	Barclay Payer	900
0865	Maria Payer	901
0866	Jon Smith	904
0867	Walter Smith	905
0868	George Boyd	914
0869	Frank Boyd	915
0870	George Johnson	919
0871	Helene Johnson	920
0872	Henry Johnson	921
0873	Lamson Whirling Thunder	922
0874	Marl Wilkinson	923
0875	Frank T. Thunder	925
0876	Eli Williams	943
0877	George Brown Carpinter	945
0878	Joseph Carpenter	946
0879	Fanny bird	949
0880	John Painter	953
0881	Mary Painter	954
0882	Florence Lamere	970
0883	do	971
0884	John West	974
0885	Michael St. Cyr	975
0886	Unknown	976
0887	do	978
0888	do	988
0889	Florence White Man	990
0890	Unknown	166L-A
0891	do	221L
0892	do	326L
0893	do	371L

[FR Doc. 84-47 Filed 1-3-84; 8:45 am]
BILLING CODE 4310-03-M

Bureau of Land Management

Intent To Hold Public Scoping Meetings and To Prepare an Environmental Impact Statement for a Coal Preference Right Lease Application (PRLA), Located in the Craig District, Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Scoping Meetings and Notice to Prepare an EIS (James Creek Preference Right Lease Application Environmental Impact Statement).

SUMMARY: This notice advises the public that the Bureau of Land Management intends to hold meetings to gather information and seek assistance in defining the range of uses and concerns for preparation of an Enviromental Impact Statement (EIS) for Coal PRLA (C–0126998) located in Rio Blanco County, Colorado. This notice is made in accordance with the National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) regulations (40 CFR 1501.7 and 1508.22) to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments and participation in this scoping process are solicited.

FOR FURTHER INFORMATION AND SUBMISSION OF COMMENTS: An information packet and PRLA location map will be available upon request from the White River Resource Area Office at the address given below and at the public meetings. The meeting dates and places are as follows:

Place, Date, Time and Address

Meeker, Colorado, Jan. 23, 1984, 7:00 p.m., BLM, WRRA Office, two (2) miles west of Meeker, Colorado
Denver, Colorado, Jan. 24, 1984, 2:00 p.m., Ramada Foothills, Union & 6th Avenue, Lakewood, Colorado

Oral testimony and submission or written comments will be received at the meetings, or written comments may be mailed to B. Curtis Smith, Area Manager, Bureau of Land Management, White River Resource Area, Post Office Box 928, Meeker, Colorado 81641. Written comments will be accepted through February 6, 1984.

SUPPLEMENTARY INFORMATION: The EIS is intended to evaluate leasing alternatives as well as identifying mitigating measures and special stipulations that the applicant must take into consideration when preparing the PRAL's final showing. Alternatives that have been tentatively identified include the following: (1) No Action, or no development alternative, (2) Applicants Proposed Action, and (3) Applicants Proposed Action incorporating BLM Mitigating Measures and Special Stipulations. The purpose of the meetings is to encourage participation from interested persons in defining significant environmental issues and concerns which may result from the issuance of a noncompetitive coal lease. The EIS will not be written until 1985, but the major issues and concerns need to be identified at this time in order to collect the necessary data for analysis.

Oral presentations may be made in lieu of or in addition to any written comments submitted. Each witness will be limited to a maximum of ten minutes of oral presentation. The text of any prepared presentation materials may be given to the BLM representative at the meetings.

The agenda for the scoping meetings will be as follows:

1. Introduction
   a. Purpose and Intent of Meeting.
   b. Location and description of the PRLA.
   c. Presentation by Consolidation Coal Company on their Proposal.
   d. Description of Issues Identified During Pre-Analysis.
   e. Discussion of Possible Alternatives to be Considered in the EIS.
2. Solicitation of public comment, recommendations, and issues of major concern to be considered and addressed in the EIS.

Potential issues in the area associated with development of this PRLA include impacts to wildlife and groundwater hydrology. Preparation of the EIS will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, Council on Environmental Quality Regulations (40 CFR Part 1500), Federal Coal Management Regulations (43 CFR Part 3430), and other Federal laws and regulations, and Department of the Interior policies and precedures.

Dated: December 21, 1983.

Cecil Robert,

Acting State Director, Bureau of Land Management.

[FR Doc. 84-84 Filed 1-3-84; 8:45 am]
BILLING CODE 4310-JB-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Chevron U.S.A.

AGENCY: Mineral Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Chevron U.S.A. Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 4858, Block 42, Eugene Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Morgan City, Louisiana.

PURPOSE: The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the Code of Federal Regulations, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the Plan for consistency with the Louisiana Coastal Resources Program.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and

procedures under which the Minerals Management Service makes information contained in Development and Protection Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations. Accordingly, a copy of the Plan is available for public review at the Office of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Matairie, Louisiana (Office hours: 9 a.m. to 3:30 p.m., Monday through Friday).

A copy of the Consistency Certification and the Plan are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans*, Post Office Box 44396, Baton Rouge, Louisiana 70804. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the Plan from the Minerals Management Service.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, 3301 North Causeway Blvd., Matairie, Louisiana 70002, Phone (504) 838–0519.

Dated: December 20, 1983.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84–21 Filed 1–3–84; 8:45 am]

BILLING CODE 4310–MR–M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Forest Oil Corp.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Forest Oil Corporation has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 0991, Block 284, Eugene Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

PURPOSE: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the Code of Federal Regulations, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the Plan for consistency with the Louisiana Coastal Resources Program.

SUPPLEMENTARY INFORMATION: Revised rules governing practices under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations. Accordingly, a copy of the Plan is available for public review at the Office of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

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FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 838–0519.

Dated: December 20, 1983.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84–19 Filed 1–3–84; 8:45 am]

BILLING CODE 4310–MR–M

Office of Surface Mining Reclamation And Enforcement

Continuance of Public Hearing for the National Wildlife Federation/Wyoming Wildlife Federation's Petition To Designate the Red Rim Area, Carbon and Sweetwater Counties, Wyoming, as Unsuitable for Surface Coal Mining Operations; Extension of Comment Period for the Petition and Draft Combined Petition Evaluation Document/Environmental Impact Statement

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior, Washington, D.C. 20240.

ACTION: Notice of date changes for public hearing and close of public comments on petition and draft petition evaluation document/environmental impact statement (PED/EIS).

SUMMARY: On December 2, 1983, OSM and the Wyoming Environmental Quality Council (EQC) granted the petitioners' and an intervenor's request for continuance of the hearing on the Red Rim unsuitability petition. The hearing will be held no sooner than February 6, 1984. The comment period on the petition and draft PED/EIS is extended until further notice. Notice of the hearing date and close of the comment period will be made in the **Federal Register**.

DATE: The date of the public hearing will be announced. The hearing will be held no sooner than February 6, 1984.

Public comments: Comments will be accepted until further notice.

ADDRESSES: Copies of the petitioners' and intervenor's request for continuance of the public hearing and the Wyoming EQC's order granting the continuance are available for review in OSM and Wyoming Department of Environmental Quality's (DEQ) administrative record of the petition process. The record is located at the following four locations:

Office of Surface Mining, 2d Floor, Brooks Towers, 1020 15th Street, Denver, Colorado 80202.

Wyoming Department of Environmental Quality, Equality State Bank Building, 401 West 19th Street, Cheyenne, Wyoming 82002.

Bureau of Land Management, District Office, 1300 North 3d Street, Rawlins, Wyoming 82301.

Office of the County Clerk, Carbon County Courthouse, Fifth and Spruce Street, Rawlins, Wyoming 82301.

FOR FURTHER INFORMATION CONTACT: Charles Albrecht, OSM, Western Technical Center (telephone (303) 837–

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5421; FTS 327–5421), or Patrick Boles, Wyoming DEQ (telephone (307) 777–7756), at the addresses listed above.

SUPPLEMENTARY INFORMATION: On December 2, 1983, the petitioners, the National Wildlife Federation and Wyoming Wildlife Federation, and an intervenor, Rocky Mountain Energy Company, requested a continuance of the public hearing scheduled for December 6, 1983, until at least February 6, 1984. The basis for the request was that the petitioner and intervenor believed that a continuance might allow the parties to the petition to reach a settlement. On December 2, 1983, the Wyoming EQC and OSM granted the continuance as requested. Notice of the hearing date, time, and place, and of the date for the close of comments on the petition and draft PED/EIS will be published in the **Federal Register** at a later date. The comment period on the unsuitability petition and draft PED/EIS would be extended beyond the hearing date.

Copies of the joint OSM and Wyoming DEQ draft PED/EIS are available upon request from Charles Albrecht, OSM, and Patrick Boles, Wyoming DEQ, at the addresses listed above.

Dated: December 28, 1983.

Dean K. Hunt,

Acting Director, Office of Surface Mining.

[FR Doc. 84–115 Filed 1–3–84; 8:45 am]

BILLING CODE 4310–05–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30343]

Railcarriers; Burlington Northern Railroad Co. and Illinois Central Gulf Railroad Co.; Exemption; Acquisition, Trackage Rights, and Joint Use of Terminal Facilities

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts (1) the purchase by Burlington Northern Railroad Company (BN) of that part of the East Thomas Yard in Birmingham, AL owned by Illinois Central Gulf Railroad Company (ICG); (2) acquisition of trackage rights in that yard by ICG over BN; and (3) a new joint facilities agreement between BN and ICG governing operations in that yard, from prior approval requirements of 49 U.S.C. 11343 *et seq.*, subject to standard employee protective conditions.

DATES: The exemption is effective on December 29, 1983. Petitions to reopen must be filed by January 24, 1984.

ADDRESSES: Send petitions to reopen referring to Finance Docket No. 30343 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423
and
(2) Petitioners' representatives:
Peter M. Lee, Burlington Northern Railroad Company, 176 East Fifth Street, St. Paul, MN 55101
Howard D. Koontz, Illinois Central Gulf Railroad Company, 233 North Michigan Avenue, Chicago, IL 60601

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: December 21, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

James H. Bayne,

Acting Secretary.

[FR Doc. 84–49 Filed 1–3–84; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

Evaluation of the Habitual Serious and Violent Juvenile Offender Program and Operation Hardcore Program

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Notice of issuance of guideline for a program evaluation.

SUMMARY: This guideline announces one new OJJDP program initiative entitled "Evaluation of Habitual Serious and Violent Juvenile Offender Program and Operation Hardcore Program."

Under the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) plans to sponsor the following two-year demonstration programs: (1) The Habitual Serious and Violent Juvenile Offender Program, and (2) the Operation Hardcore Program. Both of these programs focus on the enhanced prosecution and correctional treatment of habitual serious juvenile offenders. Those jurisdictions experiencing a juvenile gang problem may elect to focus solely on those offenders repeatedly involved in gang and gang-related felony cases, through the Operation Hardcore Program. OJJDP's National Institute for Juvenile Justice and Delinquency Prevention (NIJJDP) invites public or private agencies to submit applications to design and implement the evaluation component for both the Habitual Serious and Violent Juvenile Offender Program and the Operation Hardcore Program.

National Institute for Juvenile Justice and Delinquency Prevention—Solicitation for Grant Applications for the Evaluation of the Habitual Serious and Violent Juvenile Offender Program and Operation Hardcore

Introduction

Under the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) plans to sponsor the following two-year demonstration programs: (1) The Habitual Serious and Violent Juvenile Offender Programs, and (2) the Operation Hardcore Program. Both of these programs focus on the enhanced prosecution and correctional treatment of habitual serious juvenile offenders. Those jurisdictions experiencing a juvenile gang problem may elect to focus solely on those offenders repeatedly involved in gang and gang-related felony cases, through the Operation Hardcore Program. OJJDP's National Institute for Juvenile Justice and Delinquency Prevention (NIJJDP) invites public or private agencies to submit applications to design and implement the evaluation component for both the Habitual Serious and Violent Juvenile Program and the Operation Hardcore Program. Up to $325,000 is available for the initial twelve month period. It is anticipated that two noncompetitive continuation grants, at approximately the same level of funds, will be made available to support the evaluation for an additional two years subject to: (1) Availability of funds, (2) satisfactory completion of objectives and conditions of the initial grant award, (3) continued need for further evaluation of these programs, and (4) continued best interest of the Government.

Background

According to the UCR arrest statistics juveniles account for approximately 31% of arrests for serious property and violent crimes in the United States today. Various studies have shown, however, that a very small percentage of

the juvenile population is responsible for the majority of serious juvenile crime.

What is needed is a clearer understanding of the habitual serious juvenile offender. That is, why do these youth (who are repeatedly involved in serious crime, referred to the justice system, subjected to the adjudication process, and provided with correctional/probation interventions) continue to engage in serious criminal activity? The primary question to be addressed by this evaluation is how might the justice system more effectively identify, prosecute and rehabilitate these repeat offenders.

Research suggests that those youth who repeatedly come into contact with the juvenile justice system experience inconsistency in the sanctioning and treatment process, which may partially account for failure of rehabilitative efforts. These demonstration programs are intended to increase the consistency of the juvenile justice system in holding a youth accountable for his actions. Also stressed is the justice system's need to be held more accountable by the victims of these serious repeat offenders.

The present technology of prediction is not sufficiently advanced to allow for accurate early identification of individual youth who will pursue long-term criminal careers. The strongest known predictor of future criminal activity is past delinquent behavior. Therefore, each program site will be required to use the best available information to specify the "serious offense" pattern(s) a youth must exhibit in order to be considered eligible.

An issue to be considered in determining the selection criteria for target youth is the limitation of system resources. Each jurisdiction should establish selection criteria which, when consistently adhered to, result in a manageable caseload for prioritized prosecution and intensified correctional efforts. It is this small group of serious juvenile offenders who repeatedly victimize the community, that require the most intensive resources of the entire justice system in order to protect the public as well as enhance the likelihood of successful rehabilitation efforts.

Description of the Program Initiative

As indicated in the Program Announcements for the Habitual Serious and Violent Juvenile Offender Program (HSVJOP) and the Operation Hardcore Program (OHP) in the September 22, 1983, edition of the **Federal Register** (48 FR 43238–45), the target youth for these programs are those delinquents whose juvenile histories indicate repeated commission of serious and violent delinquent acts. The program design requires that each jurisdiction establish objective case selection criteria which will be uniformly adhered to throughout the duration of the demonstration program. Funds awarded under these programs cannot be used to pursue transfer to the adult system unless a provision exists under state law which permits the adult system to waive/transfer-back the juvenile to the juvenile system for treatment following disposition. Applications were invited from State and local prosecutor offices having jurisdiction over juvenile matters in jurisdictions where there is a high incidence of serious and violent crime. It is anticipated that up to sixteen jurisdictions will participate in the HSVJOP and that up to five jurisdictions will participate in the OHP.

HSVJOP and OHP share the following objectives:

(1) Expeditious prosecution and treatment of the targeted juvenile offenders;

(2) Reduction in the number of prehearing or pretrial release or bond decisions made without knowledge of the juvenile's delinquent history because juvenile records (court or police) are unavailable to the prosecutor;

(3) Reduction of pretrial, trial and dispositional delays;

(4) Restriction or elimination of charge or sentence bargaining;

(5) Reduction in the number of dismissals for reasons other than the merits of the case by ensuring that all evidence collected by law enforcement authorities is obtained in an admissible manner;

(6) Enhancement and improvement of methods for obtaining the cooperation of victims and witnesses (with OHP specifying the need to reduce the incidences of gang victim/witness intimidation through the development of victim/witness protection and relocation programs); and

(7) Enhancement of treatment and rehabilitative initiatives to foster successful reintegratioin into society.

In addtion to the above objectives, the OHP specifies:

(8) Prevention of gang-related serious and violent crimes through prosecution of the most serious gang offenders; and

(9) Increased cooperation and coordination among police, prosecutorial authorities, neighborhood groups, probation officials, schools, and youth organizations.

For both HSVJOP and OHP, there are four major strategy areas: prosecution, courts, victim/witness assistance, and corrections.

The prosecutorial and court approach for each of these programs builds upon lessons learned from the Law Enforcement Assistance Administration's Career Criminal Program which sought to intensify prosecutorial efforts of those adult defendants who appeared to have established a consistent, serious and violent pattern of criminal behavior. In those jurisdictions which choose to specifically target youth repeatedly involved in gang-related felonies, the OHP design incorporates key program strategies developed by the Los Angeles County District Attorney's Office in their approach to selective and targeted prosecution of these offenders, entitled "Operation Hardcore." Specific strategies to be demonstrated by the prosecutors include the following:

(1) Screening and evaluation of all juvenile arrests and delinquency petitions to identify target cases in accordance with predetermined and uniformly applied selection criteria;

(2) Assignment of experienced prosecutors to these cases;

(3) Individualized case preparation (vertical prosecution with initiating prosecutor remaining with the case throughout entire process);

(4) A policy of limited or no charge or sentence bargaining;

(5) Enhanced victim/witness coordination and notification at each critical stage of the prosecution process;

(6) Representation of the State at all critical stages in the juvenile process; and

(7) Assignment of a quantitatively trained program analyst to the project to collect and analyze project data for assessment of project performance, in conjunction with the National Evaluation.

Specific strategies to be implemented in the courts include:

(1) Priority case docketing; and

(2) Expeditious preparation of pre-sentence investigation reports.

Each of the programs is to incorporate key services articulated in the U.S. Attorney General's "Guidelines for Victims and Witness Assistance," issued in July 1983, and the Final Report of the President's Task Force on Victims of Crime. The following strategies are to be implemented:

(1) Victims are informed of the availability of public or private programs that provide victim counseling, treatment, or support;

(2) Victims are informed of compensation for which they may be entitled under law;

(3) Prosecutors shall consult victims for their views on scheduling changes

and/or continuances affecting their appearances or attendance at judicial proceedings;

(4) Prosecutors shall consult with victims for their views on the proposed terms of any negotiated plea, and notify the court of the victim's views if the victim disagrees with the terms of the plea; and

(5) Prosecutors shall ensure that victims have the opportunity at the time of sentencing to inform the court in writing and in person of the circumstances of the crime and the full impact that the defendant's crime has had on them and their families.

The suggested rehabilitative approach for HSVJOP and OHP is comprised of key components derived from the most promising correctional programs for serious offenders. While considerable local discretion is allowed for jurisdictions to determine how best to enhance the existing juvenile correctional system, the following three critical treatment requirements are specified for adjudicated target youth:

(1) Development and implementation of an enhanced diagnostic assessment process for determination of individual youth's treatment needs in such areas as physical health, mental health, individual behavior and social problems, family involvement and background, educational status, vocational status, recreational and leisure time activities, life skills for community living, and existing community resources;

(2) Development of goal-oriented treatment plans and provision of individualized services which respond to the needs identified in the diagnostic assessment; and

(3) Utilization of the concept of continuous case management to ensure individualized advocacy and care for each youth, continuity of treatment, and a primary focus on community reintegration.

Evaluation Design

The following discussion of the proposed evaluation for HSVJOP and OHP should be considered a preliminary design subject to revision by the evaluation applicants; and subsequent modification by the evaluator to adapt more fully to site-specific needs and constraints.

The overall purpose of the national evaluation is to aid in the design of programs aimed at reducing serious juvenile crime through the assessment of program strategies designed to increase the capacity of the justice system to more effectively prosecute, adjudicate and rehabilitate target youth. In addition, it should contribute to our understanding of the characteristics of habitual offenders and their experiences in the justice system.

The following is a listing of those objectives which are most critical to the national evaluation:

(1) To assess the degree to which the prosecutor offices consistently: identify target cases in accordance with selection criteria; assign experienced prosecutors to handle target cases; utilize vertical prosecution of target cases; reduce the number of decisions made without knowledge of the juvenile's delinquent history; and restrict or eliminate charge or sentence bargaining.

(2) To determine whether the courts reduce pretrial, trial and dispositional delays.

(3) To evaluate how consistently prosecutor offices implement specified program services for the victims of target youth crimes.

(4) To document efforts to enhance the rehabilitative approach for project youth, particularly in terms of utilization of individualized needs assessment, goal-oriented treatment plans, and continuous case management.

(5) To develop and institutionalize a Management Information System (MIS) capacity to enhance identification, record management, processing and follow-up of target youth throughout their involvement in the juvenile and criminal justice system.

The evaluation design is primarily a pre-post comparison of each local site's existing method of handling delinquent youth with the handling of target youth and other cases following the site's initiation of the program. The process evaluation will therefore require the gathering of data on current operations to serve as the baseline for assessment of program enhancement activities. Implementation of mandatory program components would be assessed in terms of: what sequence of events occurred; what time frame was followed; what justice system actors were involved; and what changes occurred in target youth processing throughout their involvement with law enforcement, prosecution, corrections, probation and parole.

The evaluators will be responsible for designing a Management Information System (with site-specific adaptations) which would serve (1) to enhance the capacity of local sites to manage their operations as wells as (2) to provide the national data base for evaluating the implementation of required program strategies for proscecutors, courts, and victim/witness assistance. The evaluators would have primary responsibility for training each local project's data collector to incorporate this MIS into program operations in order to enhance the identification, processing and follow-up of target youth throughout their involvement in the justice system. In addition, the MIS would provide the national evaluators with critical data regarding such factors as target youth's offense history, justice system experiences, and correctional interventions. In the program announcements for HSVJOP and OHP, applicant jurisdictions were informed that they should presently have available a sufficiently sophisticated record-keeping system to allow for: generation of baseline as well as treatment period data, and the incorporation of the MIS into the existing records system.

In order to assess whether program strategies increase the capacity of the justice system to handle offenders efficiently and effectively, the evaluation might include the construction of four offender cohorts similar to those utilized in the LEAA Career Criminal Program National Evaluation (1981). Two cohorts would be constructed from a specified baseline period prior to program initiation, one cohort would be comprised of youthful offenders who would have met the "criteria" for HSVJOP and OHP target offenders, the second cohort would be non-target offenders. The third and fourth cohorts would be identified during the course of the program. They would include target offenders and non-target offenders processed during the time the program is in operation. The basis for analysis would be a comparison of the performance of the justice system in processing these for cohorts of offenders and, if feasible, a comparison of actual rates of recidivism among these four cohorts.

In order to improve our understanding of characteristics of individuals who engage in habitual serious and violent delinquency, it would be useful for the applicant to consider the feasibility of conducting interviews with the youth in the program which could provide self-reported data on such topics as delinquent activity, juvenile or ciminal justice system involvement, family background, educational experience, peer relations, attitudes regarding victims, and gang involvement.

Major Responsibilities of the National Evaluation

The national evaluator will:

(1) Design the evaluation components;

(2) Collect baseline data, and document project structure and process;

(3) Provide training and technical assistance to the projects to help them

in adapting the MIS self-study approach to program management;

(4) Receive and analyze the data;

(5) Provide bimonthly feedback on caseflow statistics to the projects and OJJDP; and

(6) Prepare a series of papers on specific HSVJOP and OHP issues for the purpose of informing program refinement and documenting program activities.

Application requirements

Eligible applicants include public or private agencies or organizations. Applicants must complete all parts of the application of Federal Assistance (Standard Form 424). Particular attention should be paid to the Budget Information and Program Narrative sections. In addition to the requirements set forth under Program Narrative, the following information should be included in the application:

(1) A succinct statement of your understanding of the goals and objectives of the programs (HSVJOP and OHP) and the evaluation.

(2) A review of the theoretical and empirical literature on serious juvenile offenders, gang-related delinquency, and alternative approaches to prosecution, corrections, and victim/witness assistance which are directly related to the evaluation.

(3) A preliminary evaluation design which includes research questions, key concepts and variables, research methodology (sampling procedures and methods of data collection), and a plan for analysis of the data.

(4) A plan for determining which of the potential sixteen HSVJOP and five OHP jurisdictions will be selected as evaluation sites, recognizing the limitations of the evaluation budget.

(5) A plan for delivering training and technical assistance to local project data collectors to assist them in incorporating the MIS into their routine operations and in providing key data for the national evaluation.

(6) A detailed time-task plan for three years which includes the number and types of interim and final products of the evaluation, and the purpose of each.

(7) Funds for the first twelve months should be requested. An estimate of costs to conduct the second and third years of the evaluation should also be provided.

(8) A capability statement which includes relevant organizational experience, staff resources and a proposed staffing plan for this project. Do not include general background brochures. The resumes of key project staff should be included as an appendix to the application. The project director should devote a minimum of sixty percent (60%) of his/her time to this effort.

(9) A Privacy Certificate should be submitted with the application in accordance with funding agency regulations, copies of which are available upon request.

(10) Funds should be included in the budget for a three-person Project Advisory Board to meet once for two days, plus two days of additional consulting time.

In order to maximize open competition in the award of this evaluation grant, "for-profit" organizations are eligible to apply, provided they comply with the requirements of LEAA Instruction 4000.3, "Federal Grant and Cooperative Agreement Act of 1977." Specifically, any "for-profit" applicant organizations must certify compliance with the following two requirements:

(1) The OJJDP grant award must not be used to support the normal profit-making operations of the organization, but must serve to support or stimulate the legislatively authorized research and evaluation objectives of NIJJDP.

(2) For at least of one year following the termination of this award, the recipent will not complete or accept any procurement or assistance award supported by OJJDP funds which may have resulted or been derived from the original award.

Selection Criteria

In general, all applications received in response to this solicitation will be reviewed in terms of the rigor and feasibility of the evaluation design, and innovativeness regarding approaches to evaluation problems. Application reviews will be conducted by funding agency staff and may also involve the utilization of external peer reviewers. Specifically, applications will be rated according to the following criteria and weights:

(1)	Understanding of the scope and goals of the HSVJOP and OHP, and the evaluation componet	15
(2)	Evidence of knowledge of related literature, including theoretical and empincal research	10
(3)	Soundness of the evaluation design and methodology	[illegible]
(4)	Staff capability, particularly expertise in program evaluation methodology, juvenile justice issues, management of large-scale research projects, and training and technical assistance around program evaluation issues	15
(5)	Appropnateness and potential utility of the interim and final evaluation reports	10
(6)	Adequacy of the time-task plan	15
(7)	Corporate capability	[illegible]
(8)	Cost	5

The application which receives the highest total score on the above criteria will be recommended for funding to the Administrator, OJJDP, provided that required changes in the application can be successfully negotiated. The final decision will be made by the OJJDP Administrator.

Submission Requirements

All applicants responding to this solicitation should be aware of the following requirements for submission:

(1) Applicants must submit the original signed application and three copies to NIJJDP/OJJDP. The necessary forms for applications (Standard Form 424) will be provided upon request.

(2) The NIJJDP/OJJDP will notify applicants in writing of the receipt of their application. Subsequently, applicants will be notified, by letter, as to the decision made regarding whether or not their submission will be recommended for funding. It is anticipated that the grant may be awarded as early as March of 1984.

(3) Applications must be received by mail or hand delivered to the NIJJDP/OJJDP by 5:30 p.m. EST on February 10, 1984. Those applications sent by mail should be addressed to Barbara Tatem Kelley, NIJJDP/OJJDP, U.S. Department of Justice, 633 Indiana Avenue, NW., Washington, D.C. 20531. Hand delivered applications must be taken to the NIJJDP/OJJDP, Room 700, 633 Indiana Avenue, NW., Washington, D.C. between the hours of 8:00 a.m. and 5:30 p.m. except Saturdays, Sundays or federal holidays.

Alfred S. Regnery,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

Dated: December 22, 1983.

Charles A. Lauer,

General Counsel, Office of Justice Assistance, Research, and Statistics.

[FR Doc. 84–23 Filed 1–3–84; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

The Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: January 10, 1984, 9:30 a.m., Rm. S4215 A & B Frances Perkins, Department of Labor Building.

200 Constitution Avenue NW., Washington, D.C. 20210.

Purpose: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of Section 10(d) of the Federal Advisory Committee Act. The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

For further information, contact: Fernand Lavallee, Acting Executive Secretary, Labor Advisory Committee, Phone: (202) 523–6565, December 28, 1983.

Signed at Washington, D.C. this 28th day of December 1983.

Robert W. Searby,

Deputy Under Secretary, International Affairs.

[FR Doc. 84-191 Filed 1-3-84; 8:45 am]

BILLING CODE 4510-28-M

NUCLEAR REGULATORY COMMISSION

Proposed Availability of FY 1984 Funds for Financial Assistance to Enhance Technology Transfer and Dissemination of Nuclear Energy Process and Safety Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC), Office of Nuclear Regulatory Research announces proposed availability of FY 1984 funds to support professional meetings, symposia, conferences, national and international commissions and publications for the expansion, exchange and transfer of knowledge, ideas and concepts directed toward the research necessary to provide a technology base to assess the safety of nuclear power (hereinafter called project).

Projects will be funded through grants.

EFFECTIVE DATE: October 1, 1983 through September 30, 1984.

ADDRESS: U.S., Nuclear Regulatory Commission, ATTN: Grants Officer, Division of Contracts, Office of Administration, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: The cognizant NRC grant official is Mr. Kellogg Morton, telephone (301) 492–4294.

SUPPLEMENTARY INFORMATION: .

A. Scope and Purpose of this Announcement

Pursuant to Section 31.a. and 141.b. of the Atomic Energy Act of 1954, as amended, the NRC, Office of Nuclear Regulatory Research proposes to support educational institutions, nonprofit institutions, state and local Governments, and professional societies through providing funds for expansion, exchange and transfer of knowledge, ideas and concepts directed toward the research program. The program includes, but is not limited to, support of professional meetings, symposia, conferences, national and international commissions, and publications. The primary purpose of this will be to stimulate research to provide a technological base for the safety assessment of systems and subsystems technologies used in nuclear power applications. The results of this program will be to increase public understanding relating to nuclear safety, to enlarge the funds of theoretical and practical knowledge and technical information, and ultimately to enhance the protection of the public health and safety.

B. Eligible Applicants

Educational institutions, nonprofit entities, state and local Governments and professional societies are eligible to apply for a grant under this announcement.

C. Research Proposals

A research proposal should describe: (i) The objectives and scientific significance of the proposed meeting, symposium, conference, or commission; (ii) the methodology to be proposed or discussed, and its suitability; (iii) the qualifications of the participants and the proposing organization; and (iv) the level of financial support required to perform the proposed effort.

Proposals should be as brief and concise as is consistent with communication to the reviewers. Neither unduly elaborate applications nor voluminous supporting docmentation is desired.

State and local Governments shall submit proposals utilizing the standard forms specified in Office of Management and Budget (OMB) Circular A–102, Attachment M. Nonprofit organizations, universities and professional societies shall submit proposals utilizing the standard forms stipulated in OMB Circular A–110, Attachment M.

The format used for project proposals should give a clear presentation of the proposed project and its relation to the specific objectives contained in this notice. Each proposal should follow the format outlined below unless the NRC specifically authorizes exception.

1. Cover Page. The cover Page should be typed according to the following format (submit separate cover pages if the proposal is multi-institutional):

Title of Proposal—To include the term "conference," "symposium," "workshop," or other similar designation to assist in the identification of the project;

Location and Dates of Conference, Symposium, Workshop, etc.;

Name of Principal Participants;

Total Cost of Proposal;

Period of Proposal;

Organization or Institution and Department;

Required Signatures;

Principal Participants:

Name _____
Date _____
Address _____
Telephone Number _____

Required Organization Approval:

Name _____
Date _____
Address _____
Telephone Number _____

Organization Financial Officer:

Name _____
Date _____
Address _____
Telephone Number _____

2. Project Description. Each proposal shall provide, in ten pages or less, a complete and accurate description of the proposed project. This section should provide the basic information to be used in evaluating the proposal to determine its priority for funding.

Applicants must identify other proposed sources of financial support for a particular project.

The information provided in this section must be brief and specific. Detailed background information may be included as supporting documentation to the proposal.

The following format shall be used for the project description:

(a) Project Goals and Objectives:

The project's objectives must be clearly and unambiguously stated.

The proposal should justify the project including the problems it intends to clarify and the development it may stimulate.

(b) Project Outline: The proposal should show the project format and agenda, including a list of principal area or topics to be addressed.

(c) Project Benefits: The proposal should indicate the direct and indirect benefits that the project seeks to achieve and to whom these benefits will accrue.

(d) Project Management: The proposal should describe the physical facilities

required for the conduct of the project. Further, the proposal should include brief biographical sketches of individuals responsible for planning the project.

(e) Project Costs: Nonprofit organizations shall adhere to the cost principles set forth in OMB Circular A–122; Educational Institutions shall adhere to the cost principles set forth in OMB Circular A–21; and state and local Governments shall adhere to the cost principles set forth in OMB Circular A–87.

The proposal must provide a detailed schedule of project costs, identifying in particular:

(1) Salaries—in proportion to the time or effort directly related to the project;

(2) Equipment (rental only);

(3) Travel and Per Diem/subsistence in relation to the project;

(4) Publication Costs;

(5) Other Direct Costs (specify)—e.g., supplies or registration fees;

Note.—Dues to organizations, federations or societies, exclusive or registration fees are not allowed as a charge.

(6) Indirect Costs (attach negotiated agreement/cost allocation plan); and

(7) Supporting Documentation. The supporting documentation should contain any additional information that will strengthen the proposal.

D. *Proposal Submission and Deadline:* This program announcement is valid for the period of October 1, 1983 to September 30, 1984. Proposal submissions shall be one signed original and six copies.

E. *Funds:* For Fiscal Year 1984, the U.S. Nuclear Regulatory Commission, Office of Nuclear Regulatory Research anticipates making $75,000–$100,000 available for funding the project(s) mentioned herein.

The NRC anticipates that approximately 5 to 10 projects will be funded. Further, the NRC anticipates that its average support will be $5,000–$15,000 per project.

F. *Evaluation Process:* All proposals received as a result of this announcement will be evaluated by an NRC review panel.

G. *Evaluation Criteria:* The award of NRC grants is discretionary. Generally, projects are supported in order of merit to the extent permitted by available funds.

Evaluation of proposals will employ the following criteria:

1. Potential usefulness of the proposed project for the advancement of scientific knowledge;

2. Clarity of statement of objectives, methods, and anticipated results;

3. Range of issues covered by the meeting agenda;

4. Qualifications and experience of project speakers; and

5. Reasonableness of estimated cost in relation to anticipated results.

H. *Disposition of Proposals:* Notification of award will be made by the Grants Officer and organizations whose proposals are unsuccessful will be so advised.

I. *Proposal Instructions and Forms:* Questions concerning the preceding information, copies of application forms, and applicable regulations shall be obtained from or submitted to: U.S. Nuclear Regulatory Commission, ATTN: Grants Officer, Division of Contracts, Office of Administration, Washington, DC 20555.

The address for hand-carried applications is: U.S. Nuclear Regulatory Commission, ATTN: Grants Officer, Division of Contracts, Office of Administration, Room 2223, 4550 Montgomery Avenue, Bethesda, MD 20814.

Nothing in this solicitation should be construed as committing the NRC to dividing available funds among all qualified applicants.

Dated at Washington, DC this 22nd day of December 1983.

For the Nuclear Regulatory Commission.

Kellogg V. Morton,

Chief, Technical Contracts Branch, Division of Contracts, Office of Administration.

[FR Doc. 84–145 Filed 1–3–84; 8:45 am]

BILLING CODE 7590–01–M

Carolina Power and Light Co. (H. B. Robinson Steam Electric Plant, Unit No. 2); Availability of Safety Evaluation Report Related to the Steam Generator Repair

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that the Safety Evaluation Report related to steam generator repair (NUREG–1004) prepared by the Commission's Office of Nuclear Reactor Regulation, related to the proposed operation of the H. B. Robinson Steam Electric Plant Unit 2 located in Darlington County, South Carolina, is available for inspection by the public and in the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29150. The Safety Evaluation Report is also being made available at the Pee Dee Regional Council of Governments, P.O. Box 5719, Florence, South Carolina 29150.

The notice of availability of the Draft Environmental Statement for the H. B. Robinson Electric Plant Unit 2, and request for comments from interested persons was published in the **Federal Register** on September 16, 1983 (48 FR 41363). The comments received from Federal, State, and local agencies, and interested members of the public have been included as appendices to the Final Environmental Statement. The notice of availability of the Final Environmental Statement was published in the **Federal Register** on December 16, 1983 (48 FR 43317).

Copies may be purchased at current rates directly from NRC by sending check or money order, payable to Superintendent of Documents, to director, Division of Technical Information and Document Control, U.S. NRC, Washington, D.C. 20555. GPO Deposit Account Holders may charge their orders by calling (301) 492–9530. Copies are also available for purchase through the National Technical Information Service, Springfield, Virginia 22161.

Dated at Bethesda, Maryland this 23rd day of December, 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 84–133 Filed 1–3–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–261–OLA; ASLBP No. 83–484–03LA]

Carolina Power and Light Co. (H. B. Robinson Steam Electric Plant, Unit 2); Further Notice of Hearing

December 27, 1983.

This is to supplement the Notice of Hearing served December 15, 1983. Notice is hereby given that the evidentiary hearing in the captioned proceeding will commence at 9:00 a.m., local time, on February 7, 1984 in the Hartsville County Magistrates Court, Courtroom 300, 404 South 4th Street, Hartsville, South Carolina.

Pursuant to § 2.715(a) of Title 10 of the Code of Federal Regulations, persons not party to the proceeding will be permitted to make a limited appearance, by oral or written statement, on their position on the issues relevant to the application. Oral statements by a person making a limited appearance will be restricted to ten minutes.

The taking of limited appearances is scheduled for February 8, 1983 between the hours of 9:00 a.m. and 12:00 noon. An evening session will be scheduled if

needed. We will give priority to those limited ar earances of which advance notice ha. een given. Those desiring to inform the Licensing Board in advance should write to Morton B. Margulies, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

The public is invited to attend and observe the proceeding.

Dated at Bethesda, Maryland this 27th day of December 1983.

For the Atomic Safety and Licensing Board.

Morton B. Margulies,

Chairman, Administrative Law Judge.

[FR Doc. 84-134 Filed 1-3-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. STN 50-470]

Combustion Engineering Inc.; Combustion Engineering Standard Safety Analysis Report (CESSAR-F System 80 Design); Issuance of Final Design Approval

Notice is hereby given that the staff of the Nuclear Regulatory Commission (NRC staff) has issued Final Design Approval No. FDA-2 dated December 21, 1983, for the System 80 design described in Combustion Engineering Standard Safety Analysis Report (CESSAR-F). CESSAR-F was reviewed by the NRC staff pursuant to Appendix 0 to 10 CFR Part 50.

CESSAR-F contains final design information in accordance with 10 CFR Part 50, Appendix 0, paragraph 3, for the nuclear steam supply system portion of a pressurized water nuclear power plant, designated as System 80, which encompasses the reactor system, reactor coolant system, reactor control system, reactor protective system, engineered safety features actuation system, chemical and volume control system, shutdown cooling system, safety injection system, fuel handling equipment, and related systems and features. The System 80 reference design is for a facility which would operate at a core thermal power level of 3800 megawatts.

The Safety Evaluation Report (SER), and Supplements 1 and 2 thereto, document the results of the NRC staff's review and evaluation of CESSAR-F, including Amendments 1 through 8 thereto. The SER also addresses the comments of the Advisory Committee on Reactor Safeguards (ACRS) as reflected in its report to the Commission dated December 15, 1981. A copy of the ACRS report is included in Appendix F to SER Supplement 1.

FDA-2 provides NRC staff approval of the final System 80 design described in CESSAR-F, including Amendments 1 through 8 thereto. By the issuance of FDA-2, the NRC staff has determined that the design is acceptable for referencing in utility applications for operating licenses for those plants that had previously referenced the Preliminary Design Approval for the CESSAR System 80 design (PDA-2) at the construction permit stage. The System 80 design as described in CESSAR-F, subject to the conditions of the FDA-2, shall be utilized by and relied upon by the NRC staff and the ACRS in their reviews of facility operating license applications incorporating by reference CESSAR-F unless there exists significant new information which substantially affects the determinations in FDA-2 or other good cause.

Issuance of FDA-2 does not constitute a commitment to issue a permit or license, or in any way affect the authority of the Commission, Atomic Safety and Licensing Appeal Board, Atomic Safety and Licensing Boards and other presiding officers in any proceeding under Subpart G of 10 CFR Part 2. This action only approves the design of a facility for use for reference purposes in applications for operating licenses for nuclear power plants that referenced PDA-2 at the construction permit stage. It does not authorize the operation of any nuclear power plant or any other facility. The environmental impacts associated with any facility proposed to be operated utilizing the approved reference design will be considered in accordance with the Commission's regulations in 10 CFR Part 51.

FDA-2 is effective as of its date of issuance.

A copy of (1) Final Design Approval No. FDA-2 dated December 21, 1983; (2) the report of the Advisory Committee on Reactor Safeguards dated December 15, 1981; (3) the NRC staff's Safety Evaluation Report, NUREG-0852, dated November 1981; Supplement 1 thereto dated March 1983; and Supplement 2 thereto dated September 1983; and (4) the Combustion Engineering Standard Safety Analysis Report CESSAR-F and Amendments 1 through 8 thereto are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. 20555. A copy of FDA-2 may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing. Copies of the Safety Evaluation Report and Supplements 1 and 2 thereto may be purchased at current rates from the National Technical Information Service, Springfield, Virginia 22161.

Dated at Bethesda, Maryland this 21st day of December 1983.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-135 Filed 1-3-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-213]

Connecticut Yankee Atomic Power Co.; Granting of Relief From ASME Section XI, Inservice Testing Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to the Connecticut Yankee Atomic Power Company. The relief relates to the inservice testing program at the Haddam Neck Plant (the facility) located in Middlesex County, Connecticut. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR 50.55a(g). The relief is effective as of its date of issuance.

The relief permits the licensee to test certain designated pumps in a manner or on a schedule different from that prescribed in Section XI of the ASME Boiler and Pressure Vessel Code and applicable Addenda, as required by 10 CFR Part 50, because of inaccessibility, configuration of components, radiation level, or other valid reasons.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the relief.

For further details with respect to this action, see (1) the application for amendment dated June 29, 1977 and November 4, 1980, and supporting information submitted by letters dated May 26, 1978, May 29, 1978, July 14, 1978,

April 27, 1979, June 29, 1979, March 25, 1980, November 4, 1980, March 15, 1982 and May 26, 1982, (2) Amendment No. 37 to License No. DPR-61, dated February 16, 1981, including the Commission's related transmittal letter, and (3) the Commission's letter and Safety Evaluation related to the granting of relief dated December 29, 1983. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Russell Library, 119 Broad Street, NW., Middletown, Connecticut 06457. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 29th day of December 1983.

Walter A. Paulson,

Acting Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 84-136 Filed 1-3-84; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-369 and 50-370]

Duke Power Co.; Consideration of Issuance of Amendments to Facility Operating Licenses and Proposed no Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF-9 and NPF-17, issued to Duke Power Company (the licensee), for operation of the McGuire Nuclear Station, Units 1 and 2, located in Mecklenburg County, North Carolina.

The amendments would (1) reduce by 2% the reactor coolant system (RCS) flow rate required for operation of McGuire Unit 2 at 100% power and revise the limits for safety systems setting to accommodate the RCS flow reduction and (2) provide for a 1% reduction in power for each 1% reduction in the measured RCS flow below the flow requirement for 100% power for McGuire Unit 2.

The operation of McGuire Unit 2 at 90% power, as a part of the unit power ascension program, has identified a low reactor coolant flow condition that, pursuant to the existing technical specification requirement, prevents the unit from operating above 90% power. The first part of the amendment which reduces reactor coolant system flow would not affect the probability of accidents previously evaluated nor create the possibility of a new or different kind of accident; however, lower RCS flow can have some effect on the consequences of accidents previously evaluated. The effects of lower RCS flow have been evaluated for the accidents discussed in the Final Safety Analysis Report (FSAR), Chapter 15. This evaluation shows that adequate thermal margin to Departure from Nucleate Boiling Ratio (DNBR) would be maintained (i.e., DNBR greater than 1.30). Non-DNB-limited transients were also evaluated and the results were determined to be within their respective limits. Therefore, operation under this aspect of the proposed amendments would not involve a significant increase in the consequences of accidents previously evaluated. Similarly, because the evaluation showed that the original analysis results are valid for the DNB-limited transients, the safety margins inherent in the DNBR limit of 1.30 (based on the W-3 correlation) are unaffected. Also, the non-DNB-limited transients remain within their respective limits. Therefore, this aspect of the proposed amendment does not involve a significant reduction in a safety margin. This is in response to the licensee's application for amendments dated November 18, 1983.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility or a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided examples of amendments likely to involve no significant hazards considerations (48 FR 14870). One example of actions likely to involve no significant hazards considerations is an amendment which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan. Because the evaluation previously discussed shows that the DNB limit of 1.30 is met (Re: Standard Review Plan Section 4.4, Acceptance Criterion 1) and other design-basis transients would remain within their respective limits, the above example can be applied to this situation.

The second part of the amendment involves a requirement to reduce power by 1% for each 1% reduction in RCS flow below the minimum flow required for 100% power. Thermal-hydraulic sensitivity studies have shown that this power/flow tradeoff is conservative with respect to DNB margin. Therefore, this aspect of the amendment would not: (1) Involve a significant increase in the probability or consequences of an accident, (2) create the possibility of a new or different kind of an accident, and (3) involve a significant reduction in a safety margin.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn.: Docketing and Service Branch.

By February 3, 1984, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition

should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promprly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700. The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Elinor G. Adensam: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. Albert Carr, Duke Power Company, P.O. Box 33189, 422 South Church Street, Charlotte, North Carolina 28242, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendments which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28242.

Dated at Bethesda, Maryland, this 27th day of December 1983.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief Licensing Branch No. 4, Division of Licensing.

[FR Doc. 84–137 Filed 1–3–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–369 and 50–370]

Duke Power Co.; Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for Prior Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License No. NPF–9 and Facility Operating License No. NPF–17, issued to Duke Power Company (the licensee), for operation of the McGuire Nuclear Station, Units 1 and 2, located in Mecklenburg County, North Carolina.

The amendments would change Technical Specification 3.5.1.2. to allow operation at less than or equal to 46% Rated Thermal Power with the Upper Head Injection Accumulator System inoperable. The system performs no function during normal operation but serves to mitigate accidents after they occur. The change would provide operating flexibility but would not result in exceeding operating limits established by 10 CFR 50.46. These amendments were requested in the licensee's application for amendments dated August 2, 1983.

Prior to issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By February 3, 1984, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above

date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Wester Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Elinor G. Adensam: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. Albert Carr, Duke Power Company, P.O. Box 33189, 422 South Church Street, Charlotte, North Carolina 28242, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendments dated August 2, 1983, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28242.

Dated at Bethesda, Maryland this 23rd day of December 1983.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 84–138 Filed 1–3–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–458 and 50–459]

Gulf States Utilities Co., and Cajun Electric Power Cooperative; Receipt of Additional Antitrust Information

Gulf States Utilities Company, on behalf of itself and Cajun Electric Power Cooperative, has filed additional antitrust information for their application for an operating license in connection with the owners' plans to operate two boiling water reactors in West Feliciana Parish, Louisiana known as the River Bend Station, Units 1 and 2. The data submitted contain antitrust information for review pursuant to NRC Regulatory Guide 9.3 necessary to determine whether there have been any significant changes since the completion of the antitrust review at the construction permit stage. (These data represent an updated response from the applicants' orignial data submission that was noticed in the **Federal Register** on August 6, 1981–Vol. 46, pg. 40111.)

On completion of a staff antitrust review, the Director of Nuclear Reactor Regulation will issue an initial finding as to whether there have been "significant changes" under section 105c(2) of the Atomic Energy Act. A copy of this finding will be published in the **Federal Register** and will be sent to the Washington, DC and local public document rooms and to those persons providing comments or information in response to this notice. If the initial finding concludes that there have not been any significant changes, requests for reevaluation may be submitted for a period of 30 days after the date of the **Federal Register** notice. The results of any reevaluations that are requested will be published in the **Federal Register** and copies sent to the Washington and local public document rooms.

A copy of the general information portion of the application for an operating license and the antitrust information submitted is available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555, and in the local public document room at the Louisiana State University, Government Document Department, Baton Rouge, Louisiana 70803.

Any person who desires additional information regarding the matter covered in this notice or who wishes to have views considered with respect to significant changes related to antitrust matters which have occurred in the applicants' activities since the construction permit antitrust review should submit such requests for information or views to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, ATTN: Section Leader, Antitrust and Economic Analysis Section, Site Analysis Branch, Office of Nuclear Reactor Regulation on or before February 3, 1984.

Dated at Bethesda, Maryland this 20th day of December 1983.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 84-139 Filed 1-3-84; 8:45 am]

BILLING CODE 7590-01-M

[ASLBP Docket No. 81-453-03 OL; (NRC Docket No. 50-482)]

Kansas Gas & Electric Co., et al. (Wolf Creek Generating Station, Unit No. 1); Order; Correction

December 22, 1983.

In the matter of correcting a date for the taking of limited appearance statements.

The second to the last sentence in Part II of the Board's Second Amended Notice of Hearing, dated November 30, 1983 should be corrected to read as follows:

"Oral limited appearance statements may be made at the Coffey County Courthouse, Basement Room, Sixth and Neosho Streets, Burlington, Kansas 66839 between 2:00 p.m. and 6:00 p.m. on Tuesday, January 17, 1984 and at the same location between 9:30 a.m. and 6:00 p.m. on January 21, 1984."

Dated at Bethesda, Maryland this 22nd day of December 1983.

For the Atomic Safety and Licensing Board.

Sheldon J. Wolfe,

Chairman, Administrative Judge.

[FR Doc. 84-140 Filed 1-3-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-344; License No. NPF-1; EA 83-85]

Portland General Electric Co. Trojan Nuclear Facility; Order Imposing Civil Monetary Penalty

I

Portland General Electric Company, 121 S.W. Salmon Street, Portland, Oregon 97204 (the "licensee") is the holder of License No. NPF-1 issued by the Nuclear Regulatory Commission (the "Commission" or "NRC") which authorizes the licensee to operate the Trojan Nuclear Facility at Rainier, Oregon in accordance with the conditions specified therein. License No. NPF-1 was issued on November 21, 1975 and has an expiration date of February 8, 2011.

II

An NRC review of the licensee's activities under the license was conducted on June 20-24 and July 26-28, 1983 to assure compliance with 10 CFR 50.48 and, in particular, Sections III.G, III.J, and III.O of Appendix R to 10 CFR Part 50 relating to fire protection. As a result of this review, it appears that the licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty was served upon the licensee by letter dated September 29, 1983. The Notice states the nature of the violations, the provisions of the Nuclear Regulatory Commission requirements that the licensee had violated, and the amount of civil penalty proposed. An answer dated October 28, 1983 to the Notice of Violation and Proposed Imposition of Civil Penalty was received from the licensee.

III

Upon consideration of the answers received and the statements of fact, explanation and argument for remission or mitigation of the proposed civil penalty contained therein, and as set forth in the Appendix to this Order, the Director of the Office of Inspection and Enforcement has determined that the penalty proposed for the violations designated in the Notice of Violation and Proposed Imposition of Civil Penalty should be mitigated by 50 percent based upon the licensee's prompt and extensive corrective action.

IV

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, Pub. L. 96-295), and 10 CFR 2.205, it is hereby ordered that:

The licensee pay civil penalties in the amount of Fifty Thousand Dollars ($50,000) within thirty days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director of the Office of Inspection and Enforcement, USNRC, Washington, D.C. 20555.

V

The licensee may, within thirty days of the date of this Order, request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement. A copy of the hearing request shall also be sent to the Executive Legal Director, USNRC, Washington, D.C. 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. Upon failure of the licensee to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

VI

In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the licensee violated NRC requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalty; and

(b) Whether, on the basis of such violations, this Order should be sustained.

Dated at Bethesda, Maryland this 19th day of December 1983.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

Appendix

Statement of Violation A

10 CFR Page 50, Appendix R, Section III.G.1 requires that fire protection features shall be provided for structures, systems, and components important to safe shutdown. These features shall be capable of limiting fire damage so that one train of systems necessary to achieve and maintain hot shutdown conditions from either the control room or emergency control station(s) is free of fire damage.

Sections III.G.2 and III.G.3 specify four alternatives that may be implemented outside of primary containment to assure that one redundant train of equipment, cabling and associated circuits necessary to achieve and maintain hot shutdown remains free of fire damage. The alternatives are:

1. Separation of redundant trains of equipment, cabling and associated circuits by a three-hour rated fire barrier.

2. Enclosure of redundant trains of equipment, cabling and associated circuits by a one-hour rated fire barrier with fire detection and automatic fire suppression systems installed in the area.

3. Separation of redundant trains of equipment, cabling and associated circuits by a horizontal distance of 20 feet with no intervening combustibles and fire detection and automatic fire suppression systems installed in the area.

4. Installation of alternative or dedicated shutdown capability independent of the equipment, cabling and associated circuits under consideration, and installation of fire detection and fixed fire suppression systems in the area under consideration.

Contrary to the above requirments, at the time of the inspection, fire protection features were not provided for certain

redundant trains of equipment and/or cabling necessary to achieve and maintain hot shutdown conditions such that one train would remain free of fire damage. Specifically, regarding the centrifugal charging pumps and associated coolers, none of the alternatives provided by Section III.G.2 and III.G.3 were implemented, and Section III.G.1., a was violated. The two reactor coolant system centrifugal charging pumps and associated coolers necessary to achieve and maintain hot shutdown would not remain free of fire damage in the event of a fire in either of the pump rooms or the adjacent access area. The wall separating the pump rooms had open penetrations and other power supply cables were not protected to preclude loss of both trains of equipment.

Summary of Licensee's Response

The licensee denies this item is a violation of Section III.G.1, III.G.2 or III.G.3. The licensee states that the requirements of III.G.1 are met because the two centrifugal charging pumps (CCP's) are not in the same fire area as defined in Topical Report PGE–1012 which was reviewed and approved by the NRC. The licensee argues that the final NRC rule on fire protection did not provide a new definition of fire area and only an internal NRC clarifying memorandum used by the NRC inspection team indicated that the previously accepted definition of fire area was unacceptable. The licensee argues that the CCP's are twelve feet apart and located in separate rooms, separated by a 13 inch thick wall. In addition, PGE asserts that the fire loading of combustibles is such that a fire in one CCP room would not spread to the other CCP room even though a pipe chase and penetration exist in the separation wall between the two rooms. Finally, the licensee argues that the loss of one or more CCPs could be compensated for by use of either of two safety injection pumps or a positive displacement pump, which could not be realistically expected to fail as a result of a fire in one of the CCP rooms.

NRC Evaluation

The licensee's argument that each CCP room is a separate fire area is incorrect. "Fire Area" is defined in (1) Branch Technical Position APCSB 9.5–1, "Guidelines for Fire Protection for Nuclear Power Plants," dated May 1976, for new plants docketed after July 1, 1976, and in (2) Appendix A to BTP APCSB 9.5–1, "Guidelines for Fire Protection for Nuclear Power Plants Docketed Prior to July 1, 1976," dated August 23, 1976, for plants that were operating or under various stages of design or construction before July 1, 1976. 10 CFR 50.48(a) contains an explicit reference to the BTP and Appendix A so the licensee's assertion that a clear definition of fire area was not available is incorrect. Further, as noted in the licensee's Fire Protection Program, PGE–1012, BTP APCSB 9.5–1 and Appendix A to BTP APCSB 9.5–1 were received by the licensee in 1976.

BTP APCSB 9.5–1, Section B.4, Definitions, defines a "Fire Area" as that portion of a building or a plant that is separated from other areas by boundary fire barriers and "Fire Barriers" as "those components of construction (walls, floors, and their supports), including beams, joists, columns, penetration seals or closures, fire doors, and fire dampers that are rated by approving laboratories in hours of resistance to fire and are used to prevent the spread of fire." Appendix A to BTP APCSB 9.5–1, Section D.1(j) states that penetrations in fire barriers, including conduits and piping, should be sealed or closed to provide a fire resistance rating at least equal to that of the fire barrier itself.

Arguments concerning fire loading notwithstanding, the wall separating the two CCP's had penetrations which were not sealed and did not have a fire rating equal to that of the fire barrier itself. Therefore, the wall cannot be considered a fire barrier and the pumps must be considered to be in the same fire area. The licensee states that fire areas were clarified in Topical Report PGE–1012, that NRC had issued a Safety Evaluation Report (SER) on this document, and that there was no reason to believe that the definition of fire areas in this document was inappropriate. PGE did not provide definitions of "fire area" or "fire barrier" so the NRC was not aware that PGE's interpretation did not take into account penetrations and seals. Furthermore, Topical Report PGE–1012 did not identify the separation wall between the two centrifugal charging pumps as a fire barrier; thus NRC did not review it as such. Finally, as noted in the proposed action, if an adequate technical review had been performed by the licensee, any confusion as to the meaning of the terms used in Appendix R could have been identified and resolved.

Statement of Violation B

10 CFR Part 50, Appendix R, Section III.G.1.b, requires that systems necessary to achieve and maintain could shutdown from the control room or emergency control station(s) can be repaired within 72 hours.

Contrary to the above, at the time of the inspection, the redundant trains of equipment and cabling necessary to achieve cold shutdown conditions were not capable of being repaired within 72 hours as demonstrated by the absence of planning, procedures, and/or materials necessary to implement fire damage repairs. Further, these systems were not sufficiently protected to survive the effects of a single fire as described below:

1. The two residual heat removal (RHR) pumps were located in separate rooms in the auxiliary building at the 5 foot elevation. The wall separating the pumps and other enclosing walls had open penetrations. Also, the access doors to the rooms were constructed with nonclosing ventilation louvers. Transient combustibles consisting of anti-C clothing, paper, tape, etc. were stored on open shelves in the access area outside the RHR rooms. Also, the RHR pump power cables were not protected to preclude the loss of both trains of equipment from a fire in either of the pump rooms or the adjacent access area.

2. The boric acid transfer pumps, Trains A and B, were located on the 65 foot elevation in the fuel building. The pumps were in a common area, within approximately 12 feet of each other, and were not protected by an automatic fire supression system. The pump power cables were also located in the common area and not protected to preclude the loss of both pumps due to a fire in the area.

Licensee's Response

PGE denies the violation. PGE contends that the two systems are not susceptible to damage by fire, but claims that, even if they were damaged, they were capable of being repaired within 72 hours.

The licensee argues that the two trains of RHR equipment and cables are in two separate rooms separated by a 13 inch wall and that the common pipe chase had a two hour fire wall around it. The licensee states that since only one train of cables runs through the corridor, a fire there would not jeopardize safe shutdown.

Further, the licensee argues that the boric acid transfer pumps are not required for safe shutdown or cooldown of the Trojan Plant. Finally, PGE claims that although it does not have specific material for repair of equipment immediately available in one location, the material is available in the warehouse where it is easily available and not subject to deterioration.

NRC Evaluation of Licensee Response

Although the RHR pumps are in separate rooms, for the reasons discussed in the response to Violation A above, the wall between the rooms is not a three hour fire barrier nor are the other separation criteria of Section III.G met. Thus, a fire in the area could cause a loss of both RHR pumps.

The licensee, in PGE–1012, previously identified the Boric Acid Transfer Pumps as necessary "Components Required to Safely Shut down the Plant." Specifically, these pumps were identified as being required for boration which is required to achieve safe shutdown and these pumps were, therefore, included in the inspection. Although the licensee now claims these pumps are not necessary for safe shutdown, having identified them as necessary prior to the inspection, the licensee was obligated to assess compliance with Appendix R for this equipment.

Although it might not be necessary for repair material to be onsite, there was no indication during the inspection, nor has PGE supplied any evidence in its response, of any plans or procedures that would be used to make such repairs. The licensee has not demonstrated that it has: (1) identified what equipment might be damaged by fire; (2) what material would be necessary to repair it; (3) where that material is located; (4) if material out of the general warehouse is to be used, what mechanism is in place to assure it will not be used up in routine repairs or maintenance; or (5) performed any analysis to show that potential damage could be repaired within 72 hours.

Statement of Violation C

10 CFR Part 50, Appendix R, Section III.G.2 requires that inside non-inerted containments one of six (a through f) fire protection means shall be provided such as: separation of cables and equipment and associated non-safety circuits of redundant trains by a horizontal distance of more than 20 feet with no intervening combustibles or fire hazards; or installation of fire detectors and an automatic fire suppression system in the fire area; or separation of cables and equipment and associated non-safety circuits of redundant trains by a noncombustible radiant energy shield.

Contrary to the above, at the time of inspection, the cabling for both safe shutdown trains and associated non-safety circuits were not adequately separated and intervening combustibles (other electrical cable) bypassed the installed radiant energy shields at the electrical penetration area inside containment. No automatic fire suppression system had been installed in this area of containment.

Licensee's Response

PGE denies that a violation exists. PGE says that it did not consider other electrical cables as an intervening combustible. PGE contends that this interpretation of the requirement in Appendix R has only set forth in an internal NRC Memorandum and thus PGE did not take action based on such an understanding of the regulation. PGE had concluded that both trains of safety-related cable in the containment were adequately protected.

NRC Evaluation of Licensee Response

The Statement of Considerations which was published at the time 10 CFR 50.48 and Appendix R were issued (45 FR 62789, September 22, 1980) discussed each of the sections of Appendix R. In the discussion under Section III.G. of separation criteria, it is noted that this means of fire protection may be used "when redundant trains and associated circuits are separated by 20 feet or more of *clear space*," (emphasis added).

Throughout PGE Topical Report 1012, "Trojan Nuclear Plant Fire Protection Program," the fire hazards described for various areas of the plant include combustible materials in the form of electrical cable. (See, e.g., 3.4–4, 3.4–7, Table 3–1.) Thus, PGE itself recognized that cables are intervening combustibles. Moreover, the term "clear space" used to explain the 20 foot separation criteria in the Statement of Considerations is unambiguous.

Statement of Violation D

Section III.G.3 requires that alternate or dedicated shutdown capability and its associated circuit in the area, room or zone under consideration, shall be provided where the protection of systems whose function is required for hot shutdown does not satisfy the requirements of the Section III.G.2.

Section III.L.2 requires that process monitoring function for alternative or dedicated shutdown capability shall be capable of providing direct readings of reactivity and reactor coolant system heat removal functions.

Contrary to the above, for the control room and cable spreading room, the licensee elected to provide alternate shutdown capability in accordance with Section III.G.3 but, at the time of the inspection, alternative or dedicated shutdown system process monitoring instrumentation was not installed outside the control room and the cable spreading room to provide direct reading for source range neutron flux or the hot and cold leg reactor coolant system temperatures.

Licensee's Response

PGE denies that this item is a violation of Sections III.G.2 and III.L.2. PGE asserts that when Appendix R to 10 CFR Part 50 was issued, the Commissioners specifically said that plants licensed prior to January 1, 1979 were required to meet only Sections III.G, III.J, and III.O. Requiring all such plants to comply with III.L is an NRC staff backfit unsubstantiated and unsupported by the language of 10 CFR 50.48.

Even if III.L.2 were to apply, the licensee's argument continues, there is no specific requirement in this section for source range neutron flux or hot and cold leg Reactor Coolant System temperatures. These specific measurements were only defined in NRC internal memoranda which were not provided in a timely manner to PGE. Trojan does have methods of monitoring both reactivity and RCS heat removal for alternative shutdown.

NRC Evaluation of Licensee Response

While 10 CFR 50.48, when describing those requirements of Appendix R which apply to plants licensed prior to Janurary 1, 1979, listed only III.G, III.J, and III.O, when the rule is read as a whole, it is apparent that Section III.L would serve no purpose if it is not read together with III.G. Section III.G provides that if adequate fire protection features are not provided in a given fire area, an alternative or dedicated shutdown capability must be provided which assumes loss of all shutdown equipment in that area. Section III.L is entitled "Alternative and dedicated shutdown capability," and opens with the words, "Alternative or dedicated shutdown capability provided for a specific fire area shall be able to. . . ." and provides design criteria for alternative or dedicated shutdown systems required by III.G. Since Appendix R applies only to pre-1979 operating plants, one cannot suggest that Section III.L was to be somehow prospective in effect or applied only through "open items" remaining in NRC Staff analyses of plants against Appendix A to Branch Technical Position BTP APCSB 9.5–1. This would result in different criteria applying to some plants for an element of safe shutdown capability which the Commission had specifically determined to backfit. Such an anomalous situation was not intended by the Commission. Indeed, the Utility Group's challenge to

the fire protection requirements and the court's decision upholding the rule both were premised on the assumption that Section III.L was a part of the rule being applied to plants licensed prior to January 1, 1979.

PGE has spare equipment that could be used to provide an alternate source range neutron detector. However, no specific plant administrative procedures existed to prevent the removal of parts from the spare drawer to ensure their readiness for operational use. In addition, facility procedures did not specify the equipment or methods used to accomplish temperature monitoring under post-fire shutdown conditions. Although PGE has stated that they have methods for monitoring both reactivity and RCS heat removal for alternative shutdown, the lack of procedures to implement alternative monitoring of selected parameters, and the lack of control procedures to ensure availability and operability of equipment, does not assure that post-fire monitoring as defined in Section III.L.2 can be met.

Statement of Violation E

10 CFR Part 50, Appendix R, Section III.O. requires that the reactor coolant pump shall be equipped with an oil collection system. Leakage shall be collected and drained to a vented closed container that can hold entire lube oil system inventory.

Contrary to the above, at the time of the inspection, two oil collection tanks had been installed, each with a capacity of 308 gallons. Each tank collects oil leakage from two reactor coolant pumps. A reactor coolant pump lube oil system contains approximately 265 gallons of oil. Therefore, the potential lube oil leakage of two pumps into a tank exceeds collection capacity by approximately 224 gallons.

Summary of Licensee's Response

The licensee denies that this item is a violation of Section III.O of Appendix R to 10 CFR Part 50. The licensee argues that Section III.O is ambiguous as to the capacity of the lube oil collection system for the reactor coolant pump (RCP) and the inconsistent mixing of singular and plural words to three different components (reactor coolant pumps, lube oil systems and oil collection system) made Section III.O extremely difficult to interpret. PGE claims it provided a description of its lube oil collection system in PGE–1012, which the NRC reviewed and approved, which did not indicate that it had a system capable of providing full capacity. PGE claims it was first informed that partial capacity was unacceptable when the NRC fire protection inspection took place. At the time of the NRC fire protection inspection, PGE was made aware of an internal NRC memorandum providing clarification of the lube oil collection system such that full capacity was necessary.

NRC Evaluation

Section III.O states that if a containment is not inerted during normal operation, an oil collection system shall be designed, engineered and installed so that failure will not lead to fire during normal or design basis accident conditions and that the system will withstand the Safe Shutdown Earthquake. Section III.O also states that such collection systems shall be capable of collecting lube oil from all potential pressurized and unpressurized leakage sites in the reactor coolant pump lube oil systems, and leakage shall be collected and drained to a vented closed container that can hold the entire lube oil system inventory.

It is clear from the use of the word "entire" that the collection system should have capability of holding the whole inventory. Furthermore, it is clear PGE's description of its collection system in PGE–1012 was approved prior to the effective date of Appendix R and the Commission made it clear when Appendix R took affect that it intended to backfit Section III.O and that the intent of this section is the capability of collecting any lube oil leakage that could occur which could include the entire inventory of all reactor coolant pumps.

Licensee General Concerns

The licensee states that no breakdown in administrative controls occurred and this item cannot be considered a violation. Furthermore, the licensee states that none of the alleged violations involve a direct noncompliance with any particular provision of applicable law, that the severity level has not been evaluated for each individual violation and that a separate civil penalty has not been assessed for each violation.

NRC Response

The NRC identified the breakdown in administrative controls involving (1) an inadequate reassessment of plant conditions regarding the applicable Appendix R requirements, (2) lack of documentation of reassessments and reviews, and (3) lack of supervisory reviews to assure technical adequacy and accuracy of the reassessments as the root cause of the violations identified in the Notice of Violation. After careful review of the licensee's response, the staff has concluded that the breakdown in administrative controls did occur as stated. The licensee did not devote adequate attention to understanding and implementing the Appendix R requirements. Guidance was available to the licensee and if the licensee's engineering assessment of the status of compliance with Appendix R had been of the quality expected by the NRC, any confusion as to what the new rule required would have been detected and promptly resolved. The NRC did not consider this breakdown in administrative controls to be a separate violation. Rather, the fact that this was the cause of the individual violations resulted in the decision to propose a cumulative civil penalty of $100,000 for the violations.

Each of the violations is a violation of 10 CFR Part 50, Appendix R, a valid regulatory requirement. Each of the violations could have been considered as a separate violation and a separate civil penalty assessed for each. In accordance with the NRC's Enforcement Policy, 10 CFR Part 2, Appendix C, the violations were evaluated in the aggregate as a Severity Level III problem. The Policy provides that, to focus on the fundamental underlying causes of a problem for which enforcement action appears warranted, the cumulative total for all violations which contributed to or were unavoidable consequences of that problem will generally be based on the amount shown in the table, as adjusted. All of the violations stemmed from the same underlying cause—a significant breakdown in administrative controls of engineering activities. The base civil penalty for one Severity Level III violation is $40,000. In view of the multiplicity of violations and the significance with which the cause of the violations is viewed, the NRC determined that the base civil penalty amount should be adjusted upwards to $100,000.

Licensee Statements Concerning Mitigation

The licensee requested remission or substantial mitigation of the proposed civil penalty based on the mitigation factors stated in Section IV.B of 10 CFR Part 2, Appendix C as follows:

Prompt Identification and Reporting

PGE asserts that mitigation for prompt identification and reporting is appropriate.

NRC Response

The violations of Appendix R were identified during an NRC inspection. Had the licensee done an adequate

assessment of its compliance with Appendix R, it could have avoided the violations by making the necessary modifications or by requesting appropriate exemptions. No credit for prompt identification or reporting is appropriate.

Corrective Action

The licensee asserts that mitigation should be given for the corrective actions it took after the violations were identified by the NRC. With regard to the violation of Section III.G. 1, the licensee took immediate action to seal all pipe penetrations in the separation wall between the CCP rooms with 3-hour seals, seal the opening above the B train CCP room, install a fire damper in the heating and ventilation duct penetration between the CCP rooms and install hatch covers on the hoistway openings in the Auxiliary Building. Additionally, two hour fire watch patrols of the Auxiliary Building with hourly patrols of Elevations 5 feet and 25 feet were established. Long-term corrective actions were described in letters to the NRC dated July 8 and September 28, 1983. An Appendix R Task Force was created the first working day after the NRC inspection exit meeting. Completion of this task force's efforts is expected by April 1, 1984 and schedules for implementation of any necessary corrective action will be provided by June 1, 1984. Full compliance with 10 CFR 50 and Appendix R will be achieved prior to return to power operation from the 1985 refueling outage.

NRC Response

The NRC has review these actions and the ten areas of corrective action identified as items 2.a through 2.j of Attachment 2 to the licensee's response dated October 28, 1983. As a result of this review, the NRC has concluded that the corrective actions taken were prompt and extensive. Accordingly, the civil penalty amount has been mitigated by 50% in accordance with the NRC Enforcement Policy, 10 CFR Part 2, Appendix C.

Enforcement History

The licensee states that it has received no previous enforcement citations in the area of fire protection, has been responsive to NRC's request for information on analyses, and has received a favorable SALP rating in fire protection.

NRC Response

This factor allows the NRC to increase a civil penalty as much as 25% for failure to implement corrective action for prior similar problems. The NRC has not escalated the penalty for this reason in this case.

Prior Notice of Similar Events

The licensee states that based on special fire protection inspections conducted at two other plants prior to the Trojan fire inspection, several changes to plant procedures were implemented

NRC Response

The base civil penalty may be increased as much as 25% for cases where the licensee had prior knowledge of a problem as a result of a licensee audit, or specific NRC or industry notification, and had failed to take effective preventive steps. The NRC has not escalated the civil penalty based upon this factor. The enforcement policy does not provide for mitigation for action taken by the licensee based on prior notice of similar events.

Multiple Occurrences

The licensee states that the civil penalty should not be increased because of multiple occurrences, since the alleged violations can be attributed to differences in interpretation of Appendix R requirements.

NRC Response

The civil penalty proposed by the NRC was based on the licensee's failure to conduct an adequate reassessment of the fire protection features at the Trojan facility after Appendix R became effective. If an adequate reassessment had been conducted, any confusion regarding the correct interpretation of Appendix R could have been resolved. Because the NRC considers this a serious breakdown in the licensee's efforts to ensure compliance with NRC requirements, an escalated civil penalty was assessed.

Conclusions

The violations did occur as originally stated. However, as discussed above, the civil penalty has been mitigated by 50% based upon the licensee's prompt and extensive corrective actions.

[FR Doc. 84-141 Filed 1-3-84; 8:45 am]
BILLING CODE 7590-01-M

[License No. 12-16941-01; EA 83-102]

Professional Service Industries, Inc.; Order Imposing Civil Monetary Penalties

I

Professional Service Industries, Incorporated (the "licensee") 1000 Jorie Boulevard, Suite 34, Oak Brook, IL 60521, is the holder of Byproduct Material License No. 12-16941-01 (the license") issued by the Nuclear Regulatory Commission (the "Commission") which authorizes the use of gauges to measure properties of materials. The license was issued on May 20, 1982 and expires on May 31, 1987.

II

As a result of an inspection conducted on July 20, 26, 29, and August 3 and 4, 1983 by the Nuclear Regulatory Commission's Region III Office, the NRC staff determined that the licensee had not conducted its activities in full compliance with NRC requirements. The NRC served on the licensee a written Notice of Violation and Proposed Imposition of Civil Penalties by letter dated October 20, 1983. The Notice stated the nature of the violations, the provisions of the Nuclear Regulatory Commission's requirements that the licensee had violated and the cumulative amount of the proposed civil penalties. The licensee responded to the Notice of Violation and Proposed Imposition of Civil Penalties with a letter dated November 18, 1983.

III

Upon consideration of the Professional Service Industries, Incorporated response (November 18, 1983) and the statements of fact, explanation, and arguments for remission or mitigation of the proposed civil penalties contained therein as set forth in the Appendix to this Order, the Director of the Office of Inspection and Enforcement has determined that the penalties proposed for the violations designated in the Notice of Violation and Proposed Imposition of Civil Penalties should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, Pub. L. 96-295), and 10 CFR 2.205, it is hereby ordered that:

The licensee pay civil penalties in the cumulative amount of Two Thousand Dollars within 30 days of the date of this Order, by check, draft, or money order payable to the Treasurer of the United States and mailed to the Director of the Office of Inspection and Enforcement, USNRC, Washington, D.C. 20555.

V

The licensee may, within 30 days of the date of this Order, request a hearing. A request for a hearing shall be

addressed to the Director, Office of Inspection and Enforcement. A copy of the hearing request shall also be sent to the Executive Legal Director, USNRC, Washington, D.C. 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing.

Should the licensee fail to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

VI

In the event the licensee requests a hearing as provided above, the issues to be considered at such a hearing shall be:

(a) Whether the licensee was in violation of the Commission's requirements as set forth in the Notice of Violation and proposed Imposition of Civil Penalties referenced in Section II above, and

(b) Whether on the basis of such violations, this Order should be sustained.

Dated at Bethesda, Maryland, this 19th day of December 1983.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

APPENDIX—Evaluations and Conclusions

The violations and associated civil penalties are identified in the Notice of Violation and Proposed Imposition of Civil Penalties dated October 20, 1983. The violations generally concerned the improper control, use, possession and shipment of radioactive byproduct material and the failure to prevent and report overexposures to radiation. The Office of Inspection and Enforcement's evaluation and conclusion regarding the licensee's response dated November 18, 1983 are presented below:

A. Evaluation of Licensee's Response

In the response, the licensee admits that each violation occurred as described in the Notice of Violation. The licensee requests mitigation of the proposed civil penalty because corrective actions were taken upon notification of one violation involving unauthorized possession of sealed sources and because two violations involving overexposures occurred more than two years ago under the administration of another Corporate Radiation Safety Officer.

The General Policy and Procedure for NRC Enforcement Actions, 10 CFR Part 2, Appendix C, Section IV. B.2, allows mitigation of a civil penalty for unusually prompt and extensive corrective action. The NRC realizes that the licensee disposed of the unauthorized sources within approximately two weeks after notification by NRC inspectors that possession of two sealed sources was unauthorized. This corrective action is, however, of the type considered by the NRC to be normal and expected, not unusually prompt or extensive.

In addition, the NRC would have expected the licensee to have taken more effective measures to recover the lost source once it was discovered to be missing. Instead, the NRC determined through an inspection that the source was at the home of a Professional Services, Inc. employee.

The NRC also recognizes that the two overexposures discovered by the NRC inspectors occurred before the current Radiation Safety Officer's administration. Although it appears the licensee is now evaluating and reporting overexposures as required, the failures to report the two previous overexposures were violations for which the licensee is responsible. A civil penalty is appropriate for these as well as the other violations specified in the Notice of Violation to deter similar noncompliance in the future.

B. Conclusion

While the NRC encourages corrective actions of the type described in the licensee's response, the licensee has not provided a sufficient basis for mitigation of the proposed civil penalties.

[FR Doc. 84-142 Filed 1-3-84; 8:45 am]
BILLING CODE 7590-01-M

[License No. 37-21014-01; EA 83-112]

Roof Auditing Services; Decision on Order To Show Cause

I

Roof Auditing Services, P.O. Box 22, Oreland, Pennsylvania 19075 (the "Licensee") is the holder of a specific byproduct material license issued by the Nuclear Regulatory Commission (the "Commission") pursuant to 10 CFR Part 30. The license, issued on June 4, 1982 and due to expire on June 30, 1987, authorizes the use, storage, and transfer of byproduct material as stated in the Licensee's application dated March 22, 1982 and letter supplementing that application dated May 27, 1982.

II

On October 13, 1983, the Director of the Office of Inspection and Enforcement issued an "Order to Show Cause and Order Temporarily Suspending License Effective Immediately", 48 FR 48885 (October 21, 1983), to the Licensee on the basis of a number of violations of NRC requirements enumerated in the Order. The violations included failure to store the material in a location prescribed by the license, failure to use film badges, and use of the material by persons other than the named user on the license. The Order required the Licensee to show cause why its license should not be revoked and also suspended the licensee's authority to use the material it holds under NRC license.

The Licensee has provided responses to the matters set forth in the Order in letters to the NRC staff dated November 15 and December 8, 1983. The letters describe in general terms the corrective actions that the Licensee proposes to take to correct the violations identified in the Order. Upon consideration of the Licensee's responses and proposed corrective action, the Director has determined the Licensee has shown adequate cause why the license should not be revoked.

Further corrective action is necessary, however, before licensed activities may be resumed. This corrective action requires an amendment of the license. In this amendment, the Licensee must add an authorized user or users to its license to replace the currently named authorized user who no longer works for the company. Although the Licensee did attach a sketch of a proposed storage area to the December 8, 1983 letter, the Licensee must also request an amendment to the license to include a new storage area for the licensed material in lieu of the storage location currently identified in the license application. The application for an amendment must include a complete description of the method to control access to licensed material when in storage.

Until the Licensee applies for and is granted a license amendment to add an authorized user or users and an approved storage area to its license, it is prohibited from using radioactive material. The suspension of the license and terms of the October 13, 1983 Order, which required the Licensee to place all byproduct material in its possession in locked storage or to transfer such material to an authorized person, shall continue until an appropriate license amendment is issued.

III

Accordingly, the Licensee may not resume licensed activities until it has obtained a license amendment which

identifies approved authorized users and which identifies a current approved location for storage of licensed material. Pending issuance of such an amendment, the suspension imposed by the Order of October 13, 1983, remains in effect and, accordingly, the Licensee shall maintain byproduct material in its possession in locked storage or transfer such material to an authorized recipient. If the Licensee does not apply for a license amendment within five months, the staff will reconsider the question of whether the license should be revoked and may issue an appropriate Order.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Maryland this 27th day of December 1983.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 84-143 Filed 1-3-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-305]

Wisconsin Public Service Commission, Kewaunee Nuclear Station; Relocation of Local Public Document Room

Notice is hereby given that the Nuclear Regulatory Commission (NRC) has relocated the local public document room (LPDR) for Wisconsin Public Service Corporation's Kewaunee Nuclear Station from the Kewaunee Public Library, Kewaunee, WI to the University of Wisconsin, Green Bay, WI.

Members of the public may now inspect and copy documents and correspondence related to the licensing and operation of the Kewaunee Nuclear Station at the University of Wisconsin, Library Learning Center, 2420 Nicolet Drive, Green Bay, WI 54301. The Library is open on the following schedule: Monday through Thursday 8:00 am to 11:30 pm, Friday 8:00 am to 8:00 pm, Saturday 9:00 am to 6:00 pm and Sunday 1:00 pm to 11:30 pm.

For further information, interested parties in the Green Bay area may contact the LPDR directly through Mrs. Kathy Pletcher, telephone number (414) 456-2547. Parties outside the service area of the LPDR may address their requests for records to the NRC's Public Document Room, 1717 H Street, NW., Washington, DC 20555, telephone number (202) 634-3273.

Questions concerning the NRC's local public document room program or the availability of documents at the Kewaunee LPDR should be addressed to Ms. Jona L. Souder, Chief, Local Public Document Room Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone number (800) 638-8081 toll free.

Dated at Bethesda, Maryland, December 23, 1983.

For the Nuclear Regulatory Commission.

Joseph M. Felton,

Director, Division of Rules and Records Office of Administration.

[FR Doc. 84-144 Filed 1-3-84; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards will hold a meeting on January 12-14, 1984, in Room 1046, 1717 H Street, NW, Washington, DC. Notice of this meeting was published in the **Federal Register** on December 27, 1983.

The agenda for the subject meeting will be as follows:

Thursday, January 12, 1984

8:30 A.M.-8:45 A.M.: Opening Remarks (Open)—The ACRS Chairman will report briefly on matters of current interest regarding ACRS activities.

8:45 A.M.-12:30 P.M.: Shearon Harris Nuclear Plant Units 1 & 2 (Open)—The Committee will consider the request for an Operating License for this facility. Members of the NRC Staff and representatives of the applicant will participate as appropriate.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this matter.

1:30 P.M.-3:30 P.M.: Probabilistic Risk Assessment (Open)—The members of the Committee will consider the proposed NRC report entitled, "Probabilistic Risk Assessment—Status Report and Guidance for Regulatory Application." Members of the NRC Staff will participate as appropriate.

3:30 P.M.-6:30 P.M.: NRC Safety Research Program and Budget (Closed)—The members will discuss the proposed ACRS report to the U.S. Congress regarding the proposed NRC safety research program and budget for FY 1985-86.

This session will be closed to discuss information the premature release of which would be likely to significantly frustrate the agency in the performance of its function.

Friday, January 13, 1984

8:30 A.M.-10:30 A.M.: National Bureau of Standards Reactor (Open)—The Committee will consider a proposed power increase and extension of the Operating License for this facility. Representatives of the NRC Staff and the Licensee will participate as appropriate.

10:30 A.M.-10:45 A.M.: Future ACRS Activities (Open)—The members will discuss anticipated ACRS subcommittee activities and proposed items for full Committee consideration.

10:45 A.M.-11:30 A.M.: Consideration of Severe Accidents (Open)—The Committee will hear a briefing and hold discussions with representatives of the NRC Staff regarding the proposed decision-making process for consideration of severe nuclear power plant accidents in the regulatory process.

11:30 A.M.-12:30 P.M.: Activities of NRC Office of Inspection and Enforcement (Open)—The Committee will hear reports from and hold discussions with representatives of the NRC Staff regarding proposed changes in NRC enforcement policy and topics related to recent operating experience, such as action taken to correct management deficiencies at the Quad Cities Nuclear Station.

1:30 P.M.-2:30 P.M.: Extreme Environmental Phenomena (Open)—The Committee will consider proposed changes in the NRC Standard Review Plan 2.5.2, Vibratory Ground Motion. Members of the NRC Staff will participate as appropriate.

2:30 P.M.-3:30 P.M.: ACRS Subcommittee Activities (Open)—The members will hear and discuss reports of its Subcommittees regarding ongoing subcommittee activities including seismic design of nuclear facilities, site evaluation and emergency planning, and maintenance practices and procedures at nuclear power plants.

3:30 P.M.-5:30 P.M.: NRC Safety Research Program (Closed)—The Members will discuss the proposed ACRS report to the U.S. Congress regarding the proposed NRC safety research program and budget for fiscal year 1985-86.

This session will be closed to discuss information the premature release of which would be likely to significantly frustrate the agency in the performance of its function.

5:30 P.M.-6:00 P.M.: Activities of ACRS Members (Closed)—The members will discuss proposed ACRS policy regarding the non-government activities of ACRS members.

This session will be closed to discuss information that relates to the internal personnel rules and practices of the agency and information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Saturday, January 14, 1984

8:30 A.M.–12:30 P.M. and 1:30 P.M.–2:30 P.M.: Preparation of ACRS Reports (Open/Closed)—The members will discuss proposed reports to the NRC and the U.S. Congress regarding matters considered during this meeting.

Portions of this session will be closed as necessary to discuss Proprietary Information, information which will be involved in an adjudicatory proceeding, and information the premature release of which would be likely to significantly frustrate the agency in the performance of its statutory function.

2:30 P.M.–3:30 P.M.: Miscellaneous (Open)—The members will complete discussion of items considered during this meeting.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on September 28, 1982 (48 FR 44291). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a telephone call to the ACRS Executive Director, R. F. Fraley, prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) Pub. L. 92–463 that it is necessary to close portions of this meeting as noted above to discuss Proprietary Information (5 U.S.C. 552b(c)(4)), information that involves the internal personnel rules and practices of the agency (5 U.S.C. 552b(c)(2)), information the release of which would involve an unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)), and information the premature release of which would be likely to significantly frustrate the agency in the performance of its function (5 U.S.C. 552b(c)(9)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634–3265), between 8:15 A.M. and 5:00 P.M. est.

Dated: December 27, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 84–146 Filed 1–3–84; 8:45 am]

BILLING CODE 7590–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 180 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of proposal(s):

(1) Collection title: Supplemental Doctor's Statement

(2) Form(s) submitted: SI–7, ID–7h

(3) Type of request: Revisions of a currently approved collection

(4) Frequency of use: On occasion

(5) Respondents: Small business or organizations

(6) Annual responses: 50,050

(7) Annual reporting hours: 4,171

(8) Collection description: The RUIA provides for the payment of sickness benefits to qualified railroad employees. The physician's statement will be used for determining whether the applicant meets the requirements for sickness benefits.

Additional information or comments: Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312–751–4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Milo Sunderhauf (202–395–6880), Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

William A. Oczkowski,

Director of Planning and Information Management.

[FR Doc. 84–20 Filed 1–3–84; 8:45 am]

BILLING CODE 7905–01–M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

White House Science Council (WHSC); Meeting

The White House Science Council, the purpose of which is to advise the Director, Office of Science and Technology Policy (OSTP), will meet on January 19 and 20, 1984, in Room 5026, New Executive Office Building, Washington, D.C. The meeting will begin at 6:00 p.m. on January 19, recess and reconvene at 8:00 a.m. on January 20. Following is the proposed agenda for the meeting:

(1) Briefing of the Council, by the Assistant Directors of OSTP, on the current activities on OSTP.

(2) Briefing of the Council by OSTP personnel and personnel of other agencies on proposed, ongoing, and completed panel studies.

(3) Discussion of composition of panels to conduct studies.

The January 19 session and a portion of the January 20 session will be closed to the public.

The briefing on some of the current activities of OSTP necessarily will involve discussion of material that is formally classified in the interest of national defense or for foreign policy reasons. This is also true for a portion of the briefing on panel studies. As well, a portion of both of these briefings, will require discussion of internal personnel procedures of the Executive Office of the President and information which, if prematurely disclosed, would significantly frustrate the implementation of decisions made requiring agency action. These portions of the meeting will be closed to the public pursuant to 5 U.S.C. 552b(c) (1), (2), and 9(B).

A portion of the discussion of panel composition will necessitate the disclosure of information of a personal nature, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Accordingly, this portion of the meeting will also be closed to the public, pursuant to 5 U.S.C. 552b(c)(6).

The portion of the meeting open to the public will begin at 10:00 a.m. Because of the security in the New Executive

Office Building, persons wishing to attend the open portion of the meeting should contact Anne L. Boyd, Secretary, White House Science Council at (202) 456–7740, prior to 3:00 p.m. on January 18. Ms. Boyd is also available to provide further information regarding this meeting.

Jerry D. Jennings,

Executive Director, Office of Science and Technology Policy.

December 20, 1983.

[FR Doc. 84-88 Filed 1-3-84; 8:45 am]

BILLING CODE 3170-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirement Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirement to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATE: Comments must be received on or before February 9, 1984. If you anticipate commenting on a submission but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the agency clearance officer of your intent as early as possible.

Copies

Copies of the proposed forms, the request for clearance (S.F. 83), supporting statement, instructions, transmittal letter, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the item listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency clearance officer: Elizabeth M. Zaic, Small Business Administration, 1441 L St., NW., Room 200, Washington, D.C. 20416, Telephone: (202) 653–8538

OMB reviewer: J. Timothy Sprehe, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, Washington, D.C. 20503, Telephone: (202) 395–4814

Forms Submitted for Review

Title: Score/Ace Quarterly Activity Report
Frequency: Quarterly
Description of Respondents: Score Chapters
Annual Responses: 1,600
Annual Burden Hours: 800
Type of Request: New

Title: SBDC Quarterly Financial Reports
Frequency: Quarterly
Description of Respondents: Recipients receiving funding
Annual Responses: 108
Annual Burden Hours: 7,200
Type of Request: New

Title: Small Business Institute Counseling Report
Frequency: On occasion
Description of Respondents: University business students
Annual Responses: 8,000
Annual Burden Hours: 25,000
Type of Request: New

Title: Evaluation of Conference Education Modules
Form No.: SBA 1385
Frequency: On occasion
Description of Respondents: Women business owners
Annual Responses: 23,000
Annual Burden Hours: 2,300
Type of Request: New

Title: PASS—Company Profile and Validation of Registration
Form Nos.: SBA 1167, 1167A, and 1395
Frequency: Annually
Description of Respondents: Small businesses
Annual Responses: 110,000
Annual Burden Hours: 12,500
Type of Request: Revision

Dated: December 29, 1983.

Richard Vizachero,

Acting Chief, Paperwork Management Branch, Small Business Administration

[FR Doc. 84-129 Filed 1-3-84; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 08/08–5062

Bandell Investments, Ltd.; Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C 661 *et seq.*), has been filed by Bandell Investments, Ltd. with the Small Business Administration (SBA), pursuant to 13 CFR 107/102 (1983).

The officers, directors and stockholders of the Applicant are as follows:

Jimmie W. Lloyd, 529 E. 2nd, Florence, CO 81226—President & Sole Stockholder

Myrna F. Lloyd, 529 E. 2nd, Florence, CO 81226—Secretary

Robert W. Lloyd, 529 E. 2nd, Florence, CO 81226—Vice President

Rosemary A. Scutti, P. O. Box 227, 16 John St., Florence, Co. 81226—Treasurer & General Manager

The applicant, a Colorado corporation, with its principal place of business 119 W. Maine, Florence, Colorado 81226, will begin operations with $1,003,500 of paid-in capital and surplus.

The Applicant will conduct its activities principally in the State of Colorado.

As a small business investment company under Section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose particiation in the free enterprise system is hampered because of social or economic disadvantage.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice should be published in a newspaper of general circulation in Florence, Colorado.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 23, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-128 Filed 1-3-84; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0463]

County Capital Corp.; Issuance of License To Operate as a Small Business Investment Company

On May 10, 1983, a notice was published in the **Federal Register** (48 FR 21039) stating that County Capital Corp., 25 Main Street, P.O. Box 112, Southampton, New York 11968 had filed an Application with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies [13 CFR 107.102 (1983)], for a license as a small business investment company (SBIC).

Interested parties were given until the close of business May 25, 1983, to submit their comments. No comments were received.

Notice is hereby given that, having considered the application and all other pertinent information, SBA on December 8, 1983 issued License No. 02/02-0463 to County Capital Corp., pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 23, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-126 Filed 1-3-84; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 09/09-5338]

Charterway Investment Corporation; Application for a License To Operate as a Small Business Investment Company.

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1983)), for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

Applicant: Charterway Investment Corporation.

Address: 222 South Hill Street, Suite 800, Los Angeles, California 90012.

The proposed officers, directors and stockholders of the Applicant are as follows:

Harold Hwa Ming Chuang, 32544 Seacliff Drive, Rancho Palos Verdes, Ca. 90274—President, Director, and 30.6% Stockholder

Philip Hwa-Yen Chuang, 19561 Braewood Drive, Tarzana, California 91356—Vice President, Chief Financial Officer, Director and 20.4% Stockholder

Tien H. Chen, 162 South Edinburgh Avenue, Los Angeles, California 90012—Vice President, Director and 17.6%, Stockholder

Edmund C. Lau, 4105 S. Hermitage Drive, Hacienda Heights, California 91745—Vice President, Secretary, Director and 17.0% Stockholder

Hiram Wai Kwan, 5151 Los Encantos Way, Los Angeles, California 90027—Vice President, Director and 15.0% Stockholder

The Applicant, a California corporation with its principal place of business at 222 South Hill Street, Suite 800, Los Angeles, California 90012, will begin operations with $1,000,000 paid-in capital and paid-in suprlus.

The applicant will conduct its activities principally in the State of California.

As a small business investment company under Section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Act, as amended from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice should be published in a newspaper of general circulation in the Los Angeles, California area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 23, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-123 Filed 1-3-84; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-0301]

HMS Capital, Ltd.; Issuance of a License To Operate as a Small Business Investment Company

On September 14, 1983, a notice was published in the **Federal Register** (48 FR 41263), stating that HMS Capital, Ltd, 1500 Newell Avenue, Suite 702, Walnut Creek, California 74596, has filed an application with the Small Business Administration pursuant to 13 CFR 107.102(1983), for a license to operate as a small business investment company under the provisions of Section 301(c) of the Small Business Investment Act of 1958, as amended.

The period for comment expired on September 29, 1983, and no significant comments were received.

Notice is hereby given that considering the application and other information, SBA has issued License No. 09/09-0301 to HMS Capital, Ltd.

Dated: December 23, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-127 Filed 1-3-84; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 06/08-0061]

Rocky Mountain Ventures, Ltd.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1983)), for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

Applicant: Rocky Mountain Ventures, Ltd.

Address: 315 Securities Building, Billings, Montana 59101.

The proposed officers, directors and stockholders of the Applicant are as follows:

Eldon E. Kuhns, 3117 Ramada Drive, Billings, Montana 59102—Chairman and Director, 70 percent
James H. Koessler, 733 Highland Park Drive, Billings, Montana 59102—President and Director, 15 percent
Robert M. Brown, 2231 Ridgeview Drive, Billings, Montana 59105—Vice President, Secretary-Treasurer and Director, 15 percent

The Applicant, a Montana corporation, will begin operations with $525,000 paid-in capital and paid-in surplus.

The Applicant will conduct its activities principally in the State of Montana.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the Applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice should be published in a newspaper of general circulation in the Billings, Montana area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 23, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-125 Filed 1-3-84; 8:45 am]

BILLING CODE 8025-01-M

[License No. 06/06-0209]

Rust Capital, Ltd.; Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Rust Capital, Ltd. (Rust), 1300 Norwood Tower, 114 West 7th Street, Austin, Texas 78701, a Federal Licensee under the Small Business Investment Act of 1958, as amended, has filed an application with the Small Business Administration pursuant to § 107.903 of the Regulations governing small business investment companies (13 CFR 107.903 (1983)) for approval of a conflict of interest transaction.

Rust proposes to sell its investment in the Chrysostom Corporation to the Norwood Broadcasting, Ltd., (Norwood) for $1,495,000. Frank P. Krasovec, presently a general partner of Rust, will form Norwood as a Texas limited partnership and become its sole general partner.

The conflict of interest arises because of Mr. Krasovec's present affiliation with Rust and the fact that Norwood will issue the licensee a fully secured note in the amount of $1,495,000. Because Mr. Krasovec is deemed an associate, the proposed transaction falls within the purview of Section 107.903(b)(3) of the Regulations and requires prior written approval of SBA.

Notice is hereby given that any person may, not later than fifteen (15) days from the date of publication of this Notice, submit written comments to the Deputy Associated Administrator for Investment, Small Business Administration, 1441 "L" Street NW., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in the Austin, Texas and Casper, Wyoming area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 27, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-124 Filed 1-3-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Waiver Petition Docket Nos. RSRM-83-2 Through RSRM-83-5]

Petition for Relief From the Requirements for Rear End Marking Device on Trains

In accordance with 49 CFR 211.41 and 211.9, notice is hereby given that four railroads have petitioned the Federal Railroad Administration (FRA) for relief from the requirements of 49 CFR 221.13. Each petition requests that the individual railroads be granted authority to operate trains without the trailing end of the rear car of the train being equipped with a marking device when following movements are prohibited.

Section 221.13 provides that after June 30, 1978, each train that occupies or operates on a main track shall be equipped with marking devices located on the trailing end of the rear car of the train. However § 221.9 contains a provision that permits a railroad to petition the FRA for a waiver of compliance. Each railroad asserts that only one train is operated in the same direction in a given territory and, therefore, a marker device has no safety function as there are no following movements and the threat of a rear end collision is nonexistent. The railroads seeking an exemption are as follows:

The Detroit and Mackinac Railway Company (Waiver Petition Number RSRM-83-2)
Missouri Pacific Railroad Company (Waiver Petition Number RSRM-83-3)
Seaboard System Railroad (Waiver Petition Number RSRM-83-4)
Illinois Central Gulf Railroad Company (Waiver Petition Number RSRM-83-5)

The Detroit and Mackinac Railway operates one train at any given time on each of two separated main tracks extending between Linwood, Michigan and Cheboygan, Michigan and between Cheboygan, Michigan and Mackinac, Michigan. Movements of trains are governed by train orders issued by train dispatcher located at Bay City, Michigan. The Detroit and Mackinac Railroad proposes to operate in a manner that no train would follow another train into the affected territory, thereby eliminating the risk of a rear end collision.

The Missouri Pacific Railroad conducts operations on multiple subdivisions on which no more than one train in the same direction is operated at any given time. In the event a second train is operated on a subdivision at the same time and in the same direction, all trains operating in that direction will be given a train order specifying that flag protection will be provided and the trailing end of the rear car of the train would be equipped with the required marking device. Under the proposed method of operation no train would follow another train into an affected territory unless the first train was equipped with a marking device and protected by flag protection thereby eliminating the risk of a rear collision.

The Seaboard system seeks relief of rear of train marking device on all trains operating in present and future absolute block operations. Carrier Rule 120 restricts the occupancy of an absolute block to one train except in case of failure of communications. Additional trains or on-track equipment may enter and move through an absolute block at restricted speed only when proceeded by a flagman at full flagging distance and flag protection to the rear is provided. As of July 25, 1983, the Seaboard System had 172 segments of track over which operations were conducted by absolute blocks and contemplates additional absolute block

operations on other track segments. If relief is granted the use of markers will be discontinued in absolute block territories. The petitioner contends that the requirement for a marker device was intended to provide a visual warning to any following train to avoid rear end collisions and in the absence of such risk the railroad seeks authority to dispense with the marker.

The Illinois Central Gulf Railroad seeks relief where the railroad will operate not more then one train in an absolute block at any given time. If relief is granted the railroad would institute absolute block systems using timetable special instructions. These instructions prohibit a following train to enter an absolute block until the proceeding train has cleared the block and a report has been made. Under extreme emergency conditions, the proceeding train is notified and flag protection provided. In those territories where trains operate by absolute block operations there would be no following trains, thus the requirement for a rear end marking device is unnecessary, and its elimination would have no measurable effect on safety. If relief is granted the petitioner further proposes to adopt Carrier Operating Rule S–225 to authorize operations by absolute block system operations on any part of its system authorized by timetable special instructions.

Interested persons are invited to participate in these proceedings by submitting written views or comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning these proceedings should identify the docket number, (e.g. Docket Number RSRM–83–2) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590. Communications received before February 15, 1984, will be considered by FRA before final action is taken. Comments received after that will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 7330, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

(Sec. 202 of the Federal Railroad Safety Act of 1970, 84 Stat. 971, 1.49(m) of the regulations of the Office of the Secretary, 49 CFR 1.49(m))

Issued in Washington, D.C., on December 20, 1983.

J. W. Walsh,

Associate Administrator for Safety.

[FR Doc. 84–63 Filed 1–3–84; 8:45 am]

BILLING CODE 4910–06–M

Research and Special Programs Administration

[Docket No. IRA–26]

Arizona Department of Transportation; Application for Inconsistency Ruling; Public Notice and Invitation to Comment

Correction

In FR Doc. 83–32791, beginning on page 55383, in the issue of Monday, December 12, 1983, make the following corrections:

1. On page 55384, in the first column, in the fourth line from the top, "been a" should read "been made a".

2. Also on page 55384, in the third column, after the seventh paragraph, Paragraph D, the following should be inserted:

"E. Requires prenotification;".

3. On page 55384, in the third column, the eighth paragraph, now designated paragraph "E" should read paragraph "F".

BILLING CODE 1505–01–M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 84–13]

Approval of Public Gauger Performing Gauging Under Standards and Procedures Required by Customs

Notice is hereby given pursuant to the provisions of section 151.43 of the Customs Regulations (19 CFR 151.43) that the application of Ipic, Ltd., 1234 West 8th Street, Long Beach, California 90801, to gauge imported petroleum and petroleum products in all Customs districts, in accordance with the provisions of § 151.43, Subpart C, of the Customs Regulations is approved.

Dated: December 27, 1983.

Donald W. Lewis,

Director, Entry Procedures and Penalties Division.

[FR Doc. 84–80 Filed 1–3–84; 8:45 am]

BILLING CODE 4820–02–M

UNITED STATES INFORMATION AGENCY

Reporting and Information Collection Requirements Under OMB Review

AGENCY: United States Information Agency.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed or established reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the agency has made such a submission. USIA is requesting approval of an information collection for a new University Affiliation Program.

DATE: Comments must be received by January 31, 1984.

COPIES: Copies of the request for clearance (SF–83), supporting statement, instructions, transmittal letter and other documents submitted to OMB for review may be obtained from the USIA Clearance Officer. Comments on the item listed should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention Desk Officer for USIA.

FOR FURTHER INFORMATION CONTACT: Agency Clearance Officer, Charles N. Canestro, United States Information Agency, M/M, 301 Fourth Street SW., Washington, D.C. 20547, telephone (202) 485–8676. And OMB Review: David S. Reed, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503, telephone (202) 395–7231.

SUPPLEMENTARY INFORMATION: Title: "University Affiliation Program". Abstract: This information collection is intended to supplement and enhance existing university affiliation programs, and/or assist in the creation of new programs. Eligibility for grants of up to $50,000 will be given to U.S. universities which are affiliated, or agree to affiliate with foreign universities in order to promote mutual understanding and contribute to the academic excellence of participating institutions. This is accomplished through exchanges of faculty and staff members.

Dated: December 29, 1983.

Charles N. Canestro,

Management Analyst, Federal Register Liaison.

[FR Doc. 84-70 Filed 1-3-84; 8:45 am]

BILLING CODE 8230-01-M

President's International Youth Exchange Initiative; Selective Assistance Through Limited Grant Support to Not-for-Profit Organizations

The United States Information Agency (USIA) announces a program of selective assistance through limited grant support to private not-for-profit organizations for programs in support of the President's International Youth Exchange Initiative with the United Kingdom, the Federal Republic of Germany and France.

The primary goal of the program will be to develop collaborative, continuing exchange relationships between eligible U.S. exchange organizations and clearly identified youth groups in the three countries. Such groups in the U.K. may, but need not, be sponsored and assisted by the British Council or the Central Bureau for Educational Visits and Exchanges. In Germany, they must be sponsored by the Ministry for Youth, Family and Health. In France such groups may, but need not, be sponsored and assisted by the French Ministry of Cultural Relations or the French Ministry of Youth and Sports.

Amounts of $400,000 for US-German exchanges, $150,000 for US-UK exchanges, and $150,000 for US-French exchanges have been allocated for all programs within this announcement.

Organizations meeting eligibility requirements and interested in working cooperatively with USIA are invited to submit concept papers for the following program areas to the International Youth Exchange Staff.

Program Proposal Content

The following categories for the program have been established for this competition:

A. U.K. Programs

1. Participant type—Students aged 15 to 19 years; youth leaders, young workers and farm youth aged 15–25.
2. Program Length—Generally, four to six weeks or longer.
3. Accommodations—Homestays for the full period of residency are preferred.

Preference will be given to:

1. Organizations which have established ongoing partnerships with appropriate British youth organizations.
2. Exchanges that involve work, service and other similar projects, which lend themselves to continuing exchanges in future years, not requiring Federal funding.
3. Reciprocal exchanges in which a group of members of a youth organization in the U.S. and a group of members of a similar organization in the United Kingdom exchange visits for the purpose of better understanding of each other's way of life. In each country there should be a program in which both groups take part.

For the U.K., a two-step process of concept paper and full proposal will be employed (See Grant Guidelines section). Organizations whose intended partners in the Kingdom are applying separately to either the British Council or the Central Bureau should include reference to that application for funding (and the amount requested) in their concept papers. The Governments of the U.S. and Great Britain will coordinate on the award of grants. A consultative mechanism consisting of representatives of appropriate US/UK governmental entities will meet to review all applications for grant funding prior to final awards.

B. Federal Republic of Germany (FRG)

1. Participant type—16 to 25 year-olds.
2. Program length—Generally three-six weeks or longer.
3. Homestay—Homestays are preferred.

Preference will be given to:

1. Organizations which have established ongoing partner relationships with appropriate German youth organizations;
2. Exchanges that involve work, service and other similar projects, which lend themselves to continuing exchanges in future years, not requiring Federal funding.

Proposals are invited in fulfillment of the following types of exchanges:

1. A program to enable youth active in social welfare projects to gain practical experience through an exchange with the FRG. Preference will be given to concepts which include work/observation periods in areas of mutual German-American concern. For example, community action, minorities, drug addiction, probation system, the disabled, juvenile delinquency.
2. A program to enable youth active in environmental protection to gain experience through an exchange with the FRG. Preference will be given to concepts which provide broad exposure to the measures which both societies are taking to respond positively to environmental problems.
3. A program to enable youth to observe the political process in the U.S. and the FRG. Preference will be given to concepts which provide maximum exposure to grass-roots political activity and the positive role of youth in political action.
4. A program to enable young trade union leaders and potential leaders to participate in youth-related activities of unions in the U.S. and the FRG. Preference will be given to concepts which will provide well-rounded activities allowing for the participation in all aspects of youth-related union work.
5. A program for young farm youth to intensify organizational contacts between farm youth organizations in the U.S. and the FRG, leading to continued exchange programs.
6. A program to bring together young Germans and Americans who share an appreciation for the arts in fora such as workshops, camps, and other educational activities (excluded are professionals and performing tours of national groups).

For the FRG, organizations whose German partners intend to apply separately to the Ministry of Youth, Family and Health for funding should so indicate in their concept papers. Proposals will be reviewed by a joint US–FRG committee prior to the award of grants.

C. France

1. Participant type—15–22 year-olds.
2. Program length—Generally four weeks or longer.
3. Homestay—Homestays for the full period of residency are preferred.
4. Preference will be given to intercultural learning programs designed specifically for non-academic participants, such as young workers, business interns, and farm youth.

Organizations interested in establishing new partnerships with French organizations should contact the Youth Exchange Staff of USIA at the address below for the list.

For France, a joint US-French panel will be convened in Paris to review all proposals recommended by USIA prior to final approval.

Eligibility

Academic, cultural and not-for-profit exchange-of-persons organizations are eligible to apply. Organizations should be able to demonstrate a proven record (four years) of work in their field.

Not-for-profit organizations which are the offspring of for-profit firms engaged in similar activities will not be eligible for consideration under this program.

Priority will be given to organizations with national or regional volunteers. Organizations must be capable of meeting the "Criteria for Teen-ager

Exchange Visitors Programs" or "Criteria for Practical Trainees", which may be obtained by writing to the USIA address listed at the end of this announcement.

Grant Guidelines

USIA grant assistance should constitute only a portion of total project funding. Continuing projects for which USIA assistance is requested should include an accceptable plan for leading to a self-sustaining status. Under normal circumstances, USIA support is limited to one year.

Concept papers will be judged on the basis of the following criteria:

—The proposed activity should contribute to the sustained, long-term development of youth exchanges.

—The project should show promise of generating additional private exchange activity.

—The project should enhance the quality of the exchange visitors' experience.

—The organization should demonstrate the ability to manage the exchange (adequate field personnel, administrative support mechanisms, etc.).

—Reciprocity of exchange—i.e., two-way flow—is an integral part of this program.

—Reasonable per capita costs, as viewed in comparison with other proposals and with standards for the field.

—Consistency with the thematic emphases described in this announcement.

Under this program USIA will not finance: preparation of research studies; the underwriting of exchange activities already being carried out or of operating costs; any project which is designed to lobby elected officials or promote politically partisan views; projects whose aim is to promote religious activities.

Interested organizations are invited to forward (to the address given below) 10 copies of a brief two to three page concept paper, in the case of the United Kingdom, outlining the objective of their proposed activity and the nature of the project. Please also include: a copy of the organization's charter; a list of the board of directors; a budget which notes the probable contributions of the organization or other sources to the total cost of the proposed project; and curricula vitae on the principal project staff.

In the case of Germany and France, interested organizations are invited to submit 10 copies of a full proposal, which should include the following: (1) A standard USIA cover sheet; (2) project summary; (3) narrative description of the project; (4) work plan/time frame for achieving the project's objectives; (5) a line-item budget; and the other attachments listed above. Organizations may call or write USIA for a copy of the proposal guidelines and cover sheet.

Timetable

United Kingdom—In order to be considered for funding in this competition, concept papers must be received by USIA not later than February 15, 1984. USIA review of the concept papers, on the basis of the criteria listed above, will be completed by March 15 and full proposals invited. Proposals will be due April 15. Final review and approval decisions will be made by May 31. It should be understood that USIA's recommendation to prepare a detailed grant proposal does not necessarily quarantee the approval of the proposal.

Germany—The concept paper stage will not be included in the competition for US-German exchanges. As noted above, interested organizations should request a copy of the Guidelines for Youth Exchange Proposals from the address listed below. Proposals are due in USIA by February 15, 1984. They will be reviewed by March 15 and decisions made by April 1.

France—As in the case of Germany, full proposals are herein solicited. Interested organizations may write or call for the Guidelines and proposals must be received in USIA by February 15. The Youth Exchange Staff will complete initial review of the proposals by March 1.

As stated above, all project ideas will be subjected to review by the joint committees in the U.K., the FRG and France.

Address for all inquiries: The International Youth Exchange Staff, Bureau of Educational and Cultural Affairs (E/YX), U.S. Information Agency, Washingtoon, D.C. 20547 or call (202) 485–7299.

Dated: December 29, 1983.

Charles Canestro,

Federal Register Liaison, United States Information Agency.

[FR Doc. 84-79 Filed 1-3-84; 8:45 am]

BILLING CODE 8230-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Renewal of the Advisory Committee for Trade Negotiations

The United States Trade Representative, pursuant to Section 135(b) of the Trade Act of 1979 (19 U.S.C. 2155(b)), (the Act), the Federal Advisory Committee Act (5 U.S.C. App. I) and Section 4(d) of Executive Order No. 11846 of March 27, 1975, hereby renews the Advisory Committee for trade Negotiations to provide overall policy advice referred to in Title I of the Act.

The Committee shall consist of not more than 45 members including representatives of government, labor, industry, agriculture, small business, service industries, retailers, consumer interest, and the general public. Members of the Committee shall be appointed by the President for a period of two years, and may be reappointed.

The Committee shall provide overall policy advice with respect to negotiating objectives and bargaining positions directed toward trade agreements under Section 102 of the Act, to the operation of trade agreements entered into, and to other matters arising in connection with the administration of the trade policy of the United States. The Committee also shall provide to the President, the Congress and the United States Trade Representative advice on whether and to what extent any agreement entered into under Section 102 of the Act promotes the economic interests of the United States.

Representatives from the private sector wishing further information should contact: the Office of the U.S. Trade Representative, Office of Private Sector Liaison, 600 17th Street, NW., Washington, D.C. 20506, (202) 395–6120.

Phyllis O. Bonanno,

Director, Office of Private Sector Liaison.

[FR Doc. 84-36 Filed 1-3-84; 8:45 am]

BILLING CODE 3190-01-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 2
Wednesday, January 4, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Monday, January 9, 1984.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: December 30, 1983.

James McAfee,

Associate Secretary of the Board.

[S-1811-83 Filed 12-30-83; 4:18 pm]

BILLING CODE 6210-01-M

2

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

AGENCY HOLDING THE MEETING: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting to be held pursuant to the Government in the Sunshine Act (5 U.S.C. 552b).

STATUS: Open. A portion of this meeting will be closed to the public to discuss pending litigation and other legal matters.

TIME AND DATE: January 11-12, 1984, 9:00 a.m.

PLACE: Federal Building, South Auditorium, Seattle, Washington.

MATTERS TO BE CONSIDERED:

Status Reports on Yakima Basin Workplan
Status Report on Goals Study
Decision on Pend Oreille Hatchery
Status Report on Columbia River Basin Fish and Wildlife Program Amendment Schedule
Staff Presentation on EPA Billing Credits
Public Comment on Proposed Amendments to the Council's Study on Large Thermal Plant Planning and Construction Schedules (Action 23.1)
Status Report on Regional Energy Demand
Review of Model Conservation Standards Material
Council Business
Public Comment

FOR FURTHER INFORMATION CONTACT: Ms. Bess Wong (503) 222-5161.

Edward Sheets,

Executive Director.

[S-1812-83 Filed 12-3-83; 4:26 pm]

BILLING CODE 0000-00-M

federal register

Wednesday
January 4, 1984

Part II

Department of Commerce

Patent and Trademark Office
37 CFR Part 1
Revision of Patent Practice; Final Rule

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No. 31-201-229]

Revision of Patent Practice

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The Patent and Trademark Office is amending the rules of practice in patent cases, Part 1 of 37 CFR, to clarify the practice under certain sections of Pub. L. 97-247 of 1982 and to make certain other changes and clarifications in practice which have been found desirable after some experience. The rulemaking changes the practice under §§ 1.27 and 1.28 with regard to subsequently establishing small entity status and qualifying for a refund of fees paid in full. The changes in other rules clarify and improve the practice in certain areas.

EFFECTIVE DATE: April 1, 1984.

FOR FURTHER INFORMATION CONTACT: R. Franklin Burnett by telephone at (703) 557-3054 or by mail marked to his attention and addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: This rule change is designed primarily to (1) clarify the small entity status of independent inventors, small business concerns and nonprofit organizations having funding agreements with a federal governmental agency as defined in 35 U.S.C. 202(c)(4); (2) rewrite § 1.28 to provide a system for obtaining a refund of a portion of a fee paid in full when small entity status is established within two months of the date of such payment; (3) provide that a separate statement establishing small entity status is not required in an application filed under § 1.62 when such status has been established in the parent application; and (4) modify certain other rules to clarify practice.

New § 1.21(l) establishes a fee for processing and retaining any application which is abandoned for failing to complete the application pursuant to § 1.53(d). This new paragraph, as well as the changes to §§ 1.53 and 1.78, indicate that in order to obtain benefit of a prior U.S. application, either the basic filing fee or the processing and retention fee of § 1.21(l) must be paid. Section 1.53(d) further establishes that the application will be disposed of if the required fee is not paid within a set period. Section 1.56(b) requires submission of copies of foreign patent documents, non-patent publications, or other non-patent items of information disclosed pursuant to the duty to disclose. New § 1.191(d) clarifies that § 1.136 applies in patent applications and that § 1.550(c) applies in reexamination proceedings to all time periods set forth in §§ 1.191-1.194, 1.196 and 1.197.

Discussion of Specific Rules and Significant Differences Between Proposed and Final Rules

Section 1.5, paragraph (a) is amended to remove a reference to § 1.55, which is no longer appropriate and to clarify how letters to the Office are to be identified.

Section 1.6 is amended as proposed to clarify the manner in which letters and papers, including fees, filed in accordance with § 1.10 by "Express Mail" are date stamped when received in the Patent and Trademark Office. Such letters and papers, which comply with § 1.10, will be stamped with the date of deposit as "Express Mail" with the United States Postal Service unless the date of deposit is a Saturday, Sunday or federal holiday within the District of Columbia, in which case the date stamped will be the next succeeding day which is not a Saturday, Sunday, or a federal holiday within the District of Columbia. No papers are received in the Patent and Trademark Office on Saturdays, Sundays, or federal holidays within the District of Columbia.

Section 1.10, paragraphs (a) and (c), are amended to clarify that papers deposited as "Express Mail" on a Saturday, Sunday, or a federal holiday within the District of Columbia will be stamped with the date of the next succeeding day which is not a Saturday, Sunday, or a federal holiday within the District of Columbia. A cross reference to § 1.6(a) has also been added to the rule. This change was not contained in the notice of proposed rulemaking but is being made to avoid confusion and to ensure that the Office's practice in date-stamping of papers is clearly understood. The change was suggested by a comment received on the proposed rules.

Section 1.14 is amended as proposed to revise paragraph (b) to clarify that only complete patent applications as defined in § 1.51(a) which become abandoned will be retained for a period of twenty years from the filing date. Incomplete applications will be retained as provided in §§ 1.21 and 1.53.

Section 1.19, paragraph (b)(3), is amended as proposed to clarify that only copies made from Office records, but not prepared by the Office, will be compared with the original prior to certification of the copies. The Office will not compare copies made from some other copy or record with Office records for purposes of certification. The stated charge of ten cents per page would not be sufficient to make a word-by-word comparison. The requirements of the public appear to still be served by limiting the use of the comparison fee to Office records.

Section 1.21 is amended as proposed to revise paragraph (b)(2) and establish a new paragraph (l). The change in paragraph (b)(2) is in accord with the change in § 1.25(a). New paragraph (l) provides a fee for processing and retaining any application which is abandoned pursuant to § 1.53(d). Such applications have received a filing date pursuant to 35 U.S.C. 111 but have been abandoned for failure to complete the application by filing the oath or declaration, filing fee or surcharge (§ 1.16(e)). The fee covers the handling, filming, processing, data input and storage required to retain an application. The fee is not due in any application in which the basic filing fee was paid.

Section 1.25 is amended as proposed to revise paragraph (a) to set the minimum deposit for a deposit account at $1000 and to clarify that an amount sufficient to cover all fees as well as services, copies, etc., requested must always be on deposit. This minimum amount is considered necessary and proper in view of the substantial increase in the amounts of fees being charged to deposit accounts and the processing costs of handling overdrawn accounts. Paragraph (b) clarifies that fees may be charged against a deposit account only where sufficient funds are on deposit to cover the entire amount of the fees. Paragraph (b) also clarifies that an authorization to charge a fee to a deposit account will not be considered payment on the date the authorization to charge is effective as to that fee unless sufficient funds are present in the account to cover the fee.

Section 1.27 is amended as proposed to revise paragraphs (b), (c) and (d) to provide clearly that an independent inventor, small business concern, or nonprofit organization, which is otherwise qualified as a small entity for purposes of paying reduced patent fees under 37 CFR 1.9 and 1.27, is not disqualified therefrom because of a license to a federal agency pursuant to 35 U.S.C. 202(c)(4). Section 1.27 is amended to state that such a license does not constitute a license or a conveyance of rights which would preclude qualifying for small entity status. The amendment is necessary for clarification and to avoid frustrating the

intent of Pub. L. 97–247 and Pub. L. 96–517 when taken together.

The text of Title 35, United States Code, section 202(c)(4) reads as follows:

Section 202. Disposition of rights

(c) Each funding agreement with a small business firm or nonprofit organization shall contain appropriate provisions to effectuate the following:

* * * * *

(4) With respect to any invention in which the contractor elects rights, the Federal agency shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States any subject invention throughout the world, and may, if provided in the funding agreement, have additional rights to sublicense any foreign government or international organization pursuant to any existing or future treaty or agreement.

Section 1.28 is amended as proposed to revise paragraph (a) to clarify that a separate verified statement is not required to be filed in a file wrapper continuing application filed pursuant to § 1.62, if status as a small entity has been established in the parent application and is still proper. Section 1.28(a) also permits a refund of a fee timely paid in the full amount if within two months of the date of the full timely payment: (1) Small entity status is properly established, and (2) a refund is requested. Under § 1.28(a), no request for a refund filed later than two months after the date on which a full fee has been paid will be entertained even if additional time is sought to file the request. The two-month period referred to in § 1.28(a) is not a period for response under § 1.136 and cannot be extended. Section 1.28(a) provides for, in somewhat modified form, the practice presently in effect pursuant to a waiver of § 1.28 published at 1023 O.G. 77 on October 26, 1982 and extended at 1027 O.G. 115 on February 15, 1983. The revised refund procedures in § 1.28(a) will apply to any fees timely paid in full on or after the effective date of the final rule. The refund procedures set forth in the Patent and Trademark Office *Official Gazette* Notice entitled "Filing of Verified Statements Claiming Small Entity Status" published at 1023 O.G. 77 on October 26, 1982, and the *Official Gazette* Notice entitled "Requirement for Filing Verified Statements Claiming Small Entity Status" published at 1027 O.G. 115 on February 15, 1983, continue in effect until the effective date of the final rule.

Section 1.52(d) is amended as proposed to clarify that the verified English translation of a non-English language application and the fee set forth in § 1.17(k) can be filed with the application or within such time as may be set by the Office.

Section 1.53, paragraphs (b) and (d), are amended to clarify in paragraph (b) that the application for patent must be filed in the name of the actual inventor or inventors by giving all their names as required by § 1.41. Paragraph 1.53(d) states that if a correspondence address is provided, notice will be provided to that address where the appropriate filing fee or oath or declaration does not accompany the application. Paragraph 1.53(d) also provides that if the required filing fee is not paid, or the processing and retention fee is not paid, within one year of the date of mailing of notification pursuant to § 1.53(d) or within one year from the filing date if no correspondence address is included in the application, the application will be disposed of. The paragraph further indicates that no copies will be provided or certified by the Office of an application which has been disposed of or in which neither the basic filing fee nor the processing fee has been paid. Finally, § 1.53(d) specifies that if no correspondence address is included in the application, applicant will have two months from the filing date to file the fee, oath or declaration and to pay the surcharge set forth in § 1.16(e) in order to prevent abandonment of the application.

Section 1.55, paragraph (b), is amended as proposed to correct an error in referring to paragraph (a) of this section.

Section 1.56 is amended as proposed to revise paragraph (b) and add a new paragraph (j). Paragraph 1.56(b) requires that a copy of each foreign patent document, non-patent publication, or other non-patent item of information in written form being disclosed pursuant to § 1.56 accompany such disclosures unless the copy is not in the possession of the person making the disclosure. In such a situation, a statement to that effect is required. Paragraph 1.56(b) also adds "or her" to refer to both genders. New § 1.56(j) states that applicant will be notified if a copy or statement required pursuant to § 1.56(b) is not submitted and that applicant will be given a time period within which to file the copy or a statement that the copy is not in the possession of the person making the disclosure. Such a time period would be extendable under § 1.136. Failure to respond in a proper and timely manner would result in abandonment of the application.

Section 1.59 is amended as proposed to clarify that the Office will furnish copies of papers received in the Office at the usual cost only if the basic filing fee or the processing and retention fee has been paid.

Section 1.60 is amended to break the section into paragraph (a) and new paragraph (b). Paragraph (a) adds a reference to amended § 1.78(a) to clarify the conditions under which continuation or divisional applications may be filed. New § 1.60(b) provides that the signing of the oath or declaration can be omitted if the prior application was complete as set forth in § 1.51(a). New § 1.60(b) also requires that a true copy of the prior complete application be filed. The final rule also clarifies that the copy of the oath or declaration filed must show the applicant's signature or contain an indication it was signed. Paragraph 1.60(b) also provides that only amendments reducing the number of claims or adding a reference to the prior application will be entered before calculating the filing fee and granting the filing date.

Section 1.62 is amended as proposed to revise paragraphs (a) and (d). Paragraph 1.62(a) provides that the file wrapper continuing procedure is applicable only to prior complete applications under § 1.51(a). Paragraph 1.62(d) clarifies that the filing fee referred to is the basic filing fee.

Section 1.78 is amended as proposed to change the title to more explicitly define the contents of the section. Paragraph 1.78(a) specifies that in order for an application to claim the benefit of a prior filed copending national application, the prior application must be complete as set forth in § 1.51(a) or be entitled to a filing date as set forth in § 1.53(b) and include the basic filing fee set forth in § 1.16, or be entitled to a filing date as set forth in § 1.53(b) and have paid the processing and retention fee set forth in § 1.21(l) within the time period set forth in § 1.53(d).

Section 1.121 is amended as proposed to revise paragraph (e) to specify how amendments to the description and claims are to be made in reissue applications.

Section 1.123 is amended as proposed to clarify that the sketch showing proposed amendments to the drawing with its cover letter should be a separate paper.

Section 1.135 is amended as proposed to remove paragraph (d) since it is not necessary in view of the ability to obtain extensions of time under § 1.136(a) by petition and payment of fee.

Section 1.136 is amended as proposed to clarify in paragraphs (a) and (b) that the extension of time practice under this section does not apply in interference proceedings or in reexamination

proceedings. Extension of time practice in interference proceedings, including extension of time for appeal or civil action (§ 1.304), is subject to § 1.245. Extension of time practice in reexamination proceedings, including extension of time for appeal or civil action (§ 1.304), is subject to § 1.550(c).

Section 1.191 is amended as proposed to add a new paragraph (d) to provide that the time periods for appeal and review set forth in §§ 1.191–1.194, 1.196 and 1.197 are subject to the provisions of § 1.136 for patent applications or § 1.550(c) for reexamination proceedings.

Section 1.192 is amended as proposed to revise paragraph (a) to delete the reference to § 1.136 since it is provided for in new § 1.191(d).

Section 1.197 is amended as proposed to revise paragraph (b) to delete the reference to § 1.136 since it is provided for in new § 1.191(d).

Section 1.304 is amended as proposed to clarify that extensions of time periods set forth therein are subject to the provisions of § 1.245 for interferences or § 1.550(c) where reexamination proceedings are involved rather than to § 1.136 which applies in all other cases.

Section 1.550 is amended as proposed to revise paragraph (c) to clarify that the time for taking any action, including appeal, by a patent owner in a reexamination proceeding is governed solely by this section.

Section 1.555 is amended to revise paragraphs (a) and (b). In § 1.555(a) "prior art" statement has been changed to "information disclosure" statement to conform to the language of § 1.98. Paragraph 1.555(b) requires that disclosures pursuant to this paragraph be accompanied by a copy of each foreign patent document or non-patent printed publication which is being disclosed and which is in the possession of the person making the disclosure.

Responses To Comments on the Rules

Specific comments were received on a number of the sections. Thirty-five letters presenting written comments were received. No oral testimony was presented at the public hearing conducted on October 18, 1983. All of the comments were considered in adopting the changes set forth herein. Comments appear below with responses thereto.

Comments From Associations

Comment: The American Patent Law Association commented that they were in full accord with most of the proposed changes. They submitted comments and suggestions from some members. The Patent, Trademark and Copyright Section of the American Bar Association did not render an official section position on the proposed rule changes but polled its members and found the majority of the members responding either to favor the proposed rule changes or to view them as acceptable. They also submitted comments and suggestions from some members. The United States Trademark Association commented on the proposed rules concerning deposit accounts.

Reply: The efforts and input of these organizations are appreciated. Specific comments and suggestions from individual members of the organizations are covered below.

Comments From Individuals

Comment: One comment was received that the proposed amendment to § 1.6 was unnecessary and possibly improper.

Reply: The amendment to § 1.6 has been adopted as proposed. The amended rule sets out the Patent and Trademark Office practice which has been in effect. No papers are stamped as having arrived in the Office on Saturday, Sunday, or a federal holiday within the District of Columbia no matter how the papers are filed. Article 4, C(3) of the Paris Convention says that the period of priority shall be extended until the first following working day "when the Office is not open for the filing of applications in the country where protection is claimed". To accept papers through use of "Express Mail" or some other way on Saturdays, Sundays or federal holidays within the District of Columbia would raise the possibility that the Office would be viewed as open for the filing of papers on such days and thereby remove the current ability to file a priority claiming application on the first working day if the priority year ended on a non-working day. The final rule avoids this implication.

Comment: One comment indicated that the change to § 1.6 should not be applied retroactively to papers filed before the clarifying language was placed in the rule.

Reply: Any such fact situation will be reviewed through the normal petition procedure.

Comment: One comment suggested that § 1.10 be amended rather than § 1.6 with regard to papers deposited as "Express Mail" on a Saturday, Sunday, or federal holiday within the District of Columbia.

Reply: This comment has been adopted in that both §§ 1.6 and 1.10 have been amended to avoid any possible confusion.

Comment: One comment suggested that § 1.19(b)(3) be changed to permit the Office to certify material not copied from the records of the Office when reproduction of Office records is not feasible or possible.

Reply: This comment has not been adopted. The Office will only certify that material is a copy of an Office record if, in fact, the material was reproduced from the Office record.

Comment: One person commented that the $100 processing and retention fee under § 1.21 was excessive and unnecessary.

Reply: The fee is considered proper and necessary in view of the cost to the Office in handling, filming, processing and storage required to retain an application which has a filing date but in which no basic filing fee has been paid. If this expense is not covered by the applicant, it must be recovered from other sources.

Comment: Twenty-seven comments were received on the proposal to amend § 1.25 to raise to $1000 the minimum balance required in a deposit account. The amount is also referred to in § 1.21(b)(2). These comments generally suggested that the $1000 amount was too high for account holders who did not use their accounts for charges other than small fees such as for patent copies. Several comments received acknowledged that the minimum balance for deposit accounts should be raised and suggested various amounts less than the proposed $1000. Several comments suggested a separate account category for persons who do not use their accounts for other than small fees. Two comments suggested that the Office accept credit cards for payment of fees.

Reply: These comments and suggestions have not been adopted. The fees for filing, processing and issuing of patent and trademark applications have increased so as to make the present $40 minimum balance for deposit accounts totally inadequate. A number of persons objecting to the $1000 minimum balance acknowledged that they used their deposit accounts as a safeguard against failure to calculate or to submit proper fees by a check. An account with a very low balance obviously cannot be effective as a safeguard when a patent filing fee is $300 and a patent issue fee is $500. Dealing with overdrawn accounts causes administrative problems for the Patent and Trademark Office. An authorization to charge an account without sufficient funds to cover a charge will not be effective as payment and may result in loss of rights to an applicant. Also, unnecessary expense will be incurred by an applicant if an insufficient balance in an account results in abandonment of an application and the necessity of filing a

petition to revive under 37 CFR 1.137(b) with the requisite $500 fee. Experience has shown that many single practitioners and small firms have failed to have sufficient funds in their accounts when needed. The increase of the minimum balance in deposit accounts to $1000 is seen to be necessary and proper. A failure to raise the minimum balance in deposit accounts to $1000 would serve as an incorrect indication that the Patent and Trademark Office views a minimum balance of less than $1000 as acceptable. If it is not possible for a small firm or individual to maintain a minimum balance of $1000, the deposit account could still be retained and used by paying the service charge set forth in § 1.21(b)(2) for any month in which the balance at the end of the month is below $1000. The use of credit cards is not considered viable since legislation would be required to do so.

Comment: Two comments were received suggesting that a license to a federal agency in an invention made by a federal employee should not preclude the employee from qualifying as a small entity and that § 1.27 should be amended to cover this situation.

Reply: These comments have not been adopted. Such an amendment was not proposed and the public has not had an opportunity to comment on it.

Comment: One comment suggested that the time for filing a verified statement claiming small entity status to obtain a refund of a filing fee pursuant to § 1.28 should run from the date of mailing of the filing receipt due to difficulty in identifying the new application before the filing receipt is received. Three persons suggested that the period for establishing small entity status and requesting a refund should be three months rather than two months as proposed.

Reply: These comments have not been adopted. An application may be identified before the filing receipt is issued in a number of ways including title, inventor's name, filing date and attorney docket number. Also, a postcard may be included with filing of the application to learn the application serial number. The two month period for obtaining a refund is seen to be adequate since the small entity practice is no longer new and the public has had time to become familiar with it. It allows sufficient time to have a small entity statement executed and sent to the Patent and Trademark Office.

Comment: One comment suggested that it should be made clear that an application filed in a foreign language (§ 1.52(d)) without including a signed oath or declaration can receive a filing date under the provisions of § 1.53(b).

Reply: The regulations permit and this reply makes it clear that an application filed in a language other than English can receive a filing date by complying with § 1.53(b).

Comment: Three comments were received suggesting that the proposed language not be added to § 1.53(b). One comment alleged that the requirement to name the inventors upon filing a patent application is not required or even authorized by statute.

Reply: 35 U.S.C. 111 says that application for patent "shall be made, or authorized to be made, by the inventor". The rules of practice (§ 1.41(a)) contain the same requirement. The amendment to § 1.53(b) is only clarifying the rules by also placing the requirement in the section. Further, United States patent practice has long required that the inventors be named at the time of filing.

Comment: One person commented that the language of § 1.53(d) should be changed to reflect that only one of the filing fee or processing and retention fee must be paid to prevent the application being disposed of.

Reply: The language of the rule is seen to be unambiguous in this regard.

Comment: One person commented that the language of § 1.53(d) should be changed to establish a time within which the processing and retention fee may be paid to prevent the application being disposed of when no correspondence address has been provided.

Reply: The suggestion has been adopted.

Comment: One person suggested that § 1.56(b) which states that copies of disclosed documents must be filed is inconsistent with § 1.56(j) which provides that such copies must be filed unless they are not in the possession of the person making the disclosure.

Reply: The language of § 1.56(b) has been modified to clarify this point.

Comment: Three persons commented that the requirement of § 1.56(b) that copies of disclosed documents be supplied was an unnecessary burden. One person commented similarly on the requirement of § 1.555 that copies of disclosed documents be supplied. Another person suggested that the proposed amendment to § 1.56(b) would require submission of a complete document even if only a small portion were relevant.

Reply: The Office agrees with another person who commented that the "requirement that disclosers in application and reexamination proceedings provide copies of disclosed documents which they have is fair and reasonable and should aid the Examiner in making an informed as possible decision in any given proceeding". The portion of a document required to be submitted under § 1.56(b) is the portion which is material to the examination of the application under § 1.56(a).

Comment: One person commented that the proposed amendment to § 1.78(a) would appear to require that a petition for correction of inventorship under § 1.48 be filed in a parent application as well as in the continuing application in which the inventorship was corrected.

Reply: The amendment to § 1.78 does not change the practice regarding the filing of petitions under § 1.48.

Comment: One person commented that § 1.123 is unclear as amended in not referring to the paper requesting that amendments to the drawing be made.

Reply: The Patent and Trademark Office no longer makes amendments to the drawings. Applicants must submit new drawings with the changes or use bonded draftmen to make the amendments. A paper requesting that the Office make the amendments is therefore inappropriate.

Comment: Four persons commented that § 1.135(d) should not be deleted since they thought it desirable to be able to ratify unsigned papers without paying any fee.

Reply: The statute and rules now provide for obtaining extensions of time through simple petition and payment of fee and for revival through a simple statement that the abandonment was unintentional and the payment of a fee. Further, a filing date can now be obtained on filing an application without the oath or declaration. The handling of unsigned papers by the Patent and Trademark Office causes administrative problems and expense to the Office and delays the processing of applications. The emergency-type situations involving loss of rights which the previous practice was intended to cover have been substantially eliminated by the changes in the law and rules.

Comment: One person commented that § 1.191(d) was undecipherable in that it refers to a number of other rules.

Reply: This section was intended to serve as a point of summerization for the applicable extension of time rules in appeals before the Board of Appeals. The section is seen to adequately serve that purpose.

Comment: One person commented that the final sentence of § 1.555(b) needs clarification.

Reply: This sentence was not changed by the proposed rules and is seen to be clear as written.

Comment: One person commented that proposed § 1.555(b) requires copies

and does not make any exceptions or qualifications on this requirement.

Reply: The language of § 1.555(b) has been clarified to require filing of a copy of each foreign patent document or non-patent printed publication which is being disclosed and which is in the possession of the person making the disclosure.

Environmental, energy, and other considerations: The rule change will not have a significant impact on the quality of the human environment or the conservation of energy resources.

The rule change is in conformity with the requirements of the Regulatory Flexibility Act (Pub. L. 96-354), Executive Order 12291, and the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

The General Counsel of the Department of Commerce certified to the Small Business Administration that the rule change will not have a significant adverse economic impact on a substantial number of small entities (Regulatory Flexibility Act. Pub. L. 96-354). Public Laws 96-517 and 97-247 have both taken into consideration the impact they may have on small entities.

The Patent and Trademark Officer has determined that this rule change is not a major rule under Executive Order 12291. The annual effect on the economy will be less than $100 million. There will be no major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions. There will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule change will not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, since no significant additional recordkeeping or reporting requirements are placed upon the public. In fact, some paperwork, especially that related to filing of small entity statements in applications filed under § 1.62 will be reduced.

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Authority delegations (government agencies), Conflict of interests, Courts, Inventions and patents, Lawyers.

Notice is hereby given that, pursuant to the authority granted to the Commissioner of Patents and Trademarks by 35 U.S.C. 6 and Pub. L. 97-247, the Patent and Trademark Office is amending Title 37 of the Code of Federal Regulations as set forth below.

PART 1—[AMENDED]

37 CFR, Part 1, is amended as follows:

1. Section 1.5 is amended by revising paragraph (a) to read as follows:

§ 1.5 Identification of application, patent or registration.

(a) When a letter concerns an application for patent, it should state the name of the applicant, the title of the invention, the serial number or international application number of the application, the date of filing the same, and, if known, the group art unit or other unit within the Patent and Trademark Office responsible for considering the letter and the name of the examiner or other person to which it has been assigned.

* * * * *

2. Section 1.6 is amended by revising paragraph (a) to read as follows:

§ 1.6 Receipt of letters and papers.

(a) Letters and other papers received in the Patent and Trademark Office are stamped with the date of receipt except where such letters and papers are filed in accordance with § 1.10. Any such letters and papers filed in accordance with § 1.10 will be stamped with the date of deposit as "Express Mail" with the United States Postal Service unless the date of deposit is a Saturday, Sunday, or federal holiday within the District of Columbia in which case the date stamped will be the next succeeding day which is not a Saturday, Sunday, or federal holiday within the District of Columbia. No papers are received in the Patent and Trademark Office on Saturdays, Sundays or federal holidays within the District of Columbia.

* * * * *

3. Section 1.10 is amended by revising paragraphs (a) and (c) to read as follows:

§ 1.10 Filing of papers and fees by "Express Mail" with certificate.

(a) Any paper or fee to be filed in the Patent and Trademark Office can be filed utilizing the "Express Mail Post Office to Addressee" service of the United States Postal Service and be considered as having been filed in the Office on the date the paper or fee is shown to have been deposited as "Express Mail" with the United States Postal Service unless the date of deposit is a Saturday, Sunday, or federal holiday within the District of Columbia. See § 1.6(a).

* * * * *

(c) The Patent and Trademark Office will accept the certificate of mailing by "Express Mail" and accord the paper or fee the certificate date under 35 U.S.C. 21(a) (unless the certificate date is a Saturday, Sunday, or federal holiday within the District of Columbia—see § 1.6(a)) without further proof of the date on which the mailing by "Express Mail" occurred unless a question is present regarding the date of mailing. If more than a reasonable time has elapsed between the certificate date and the Patent and Trademark Office receipt date or if other questions regarding the date of mailing are present, the person mailing the paper or fee may be required to file a copy of the "Express Mail" receipt showing the actual date of mailing and a statement from the person who mailed the paper or fee averring to the fact that the mailing occurred on the date certified. Such statement must be a verified statement if made by a person not registered to practice before the Patent and Trademark Office.

4. Section 1.14 is amended by revising paragraph (b) to read as follows:

§ 1.14 Patent applications preserved in secrecy.

* * * * *

(b) Except as provided in § 1.11(b) abandoned applications are likewise not open to public inspection, except that if an application referred to in a U.S. patent, or in an application which is open to inspection pursuant to § 1.139, is abandoned and is available, it may be inspected or copies obtained by any person on written request, without notice to the applicant.

Complete applications (§ 1.51(a)) which are abandoned may be destroyed after 20 years from their filing date, except those to which particular attention has been called and which have been marked for preservation. Abandoned applications will not be returned.

* * * * *

5. Section 1.19 is amended by revising paragraph (b)(3) to read as follows:

§ 1.19 Document supply fees.

* * * * *

(b) * * *

(3) For comparing copies, made from Patent and Trademark Office records but not prepared by the Patent and Trademark Office, with the original, prior to certification of the copies, per page—$0.10

* * * * *

6. Section 1.21 is amended by revising paragraph (b)(2) and by adding a new paragraph (l) to read as follows:

§ 1.21 Miscellaneous fees and charges.

* * * * *

(b) * * *

(2) Service charge for each month when the balance at the end of the month is below $1,000—$2.00

* * * * *

(l) For processing and retaining any application abandoned pursuant to § 1.53(d) unless the required basic filing fee has been paid—$100.00.

7. Section 1.25 is revised to read as follows:

§ 1.25 Deposit accounts.

(a) For the convenience of attorneys, agents, and the general public in paying any fees due, in ordering services offered by the Office, copies of records, etc., deposit accounts may be established in the Patent and Trademark Office upon payment of the fee for establishing a deposit account (§ 1.21(b)(1)). A minimum deposit of $1,000 or more, depending on the activity of the individual account, is required. At the close of each month's business, a statement will be rendered. A remittance must be made promptly upon receipt of the statement to cover the value of items or services charged to the account and thus restore the account to its established normal deposit value. An amount sufficient to cover all fees, services, copies, etc., requested must always be on deposit. A service charge (§ 1.21(b)(2)) will be assessed for each month that the balance at the end of the month is below $1,000.

(b) Filing, issue, appeal, international-type search report, international application processing, petition, and post-issuance fees may be charged against these accounts if sufficient funds are on deposit to cover such fees. A general authorization to charge all fees, or only certain fees, set forth in §§ 1.16 to 1.18 to a deposit account containing sufficient funds may be filed in an individual application, either for the entire pendency of the application or with respect to a particular paper filed. An authorization to charge to a deposit account the fee for a request for reexamination pursuant to § 1.510 and any other fees required in a reexamination proceeding in a patent may also be filed with the request for reexamination. An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.

8. Section 1.27 is amended by revising paragraphs (b), (c) and (d) to read as follows:

§ 1.27 Statement of status as small entity.

* * * * *

(b) Any verified statement filed pusuant to paragraph (a) of this section on behalf of an independent inventor must be signed by the independent inventor except as provided in §§ 1.42, 1.43, or 1.47 of this part, and must aver that the inventor qualifies as an independent inventor in accordance with § 1.9(c) of this part. Where there are joint inventors in an application, each inventor must file a verified statement establishing status as an independent inventor in order to qualify as a small entity. Where any rights have been assigned, granted, conveyed, or licensed, or there is an obligation to assign, grant, convey, or license, any rights to a small business concern, a nonprofit organization, or any other individual, a verified statement must be filed by the individual, the owner of the small business concern, or an official of the small business concern or nonprofit organization empowered to act on behalf of the small business concern or nonprofit organization averring to their status. For purposes of a verified statement under this paragraph, a license to a federal agency resulting from a funding agreement with that agency pursuant to 35 U.S.C. 202(c)(4) does not constitute a license as set forth in § 1.9 of this part.

(c) Any verified statement filed pursuant to paragraph (a) of this section on behalf of a small business concern must (1) be signed by the owner or an official of the small business concern empowered to act on behalf of the concern; (2) aver that the concern qualifies as a small business concern as defined in § 1.9(d); and (3) aver that exclusive rights to the invention have been conveyed to and remain with the small business concern, or if the rights are not exclusive, that all other rights belong to small entities as defined in § 1.9. Where the rights of the small business concern as a small entity are not exclusive, a verified statement must also be filed by the other small entities having rights averring to their status as such. For purposes of a verified statement under this paragraph, a license to a federal agency resulting from a funding agreement with that agency pursuant to 35 U.S.C. 202(c)(4) does not consititute a license as set forth in § 1.9 of this part.

(d) Any verified statement filed pursuant to paragraph (a) of this section on behalf of a nonprofit organization must (1) be signed by an official of the nonprofit organization empowered to act on behalf of the organization; (2) aver that the organization qualifies as a nonprofit organization as defined in § 1.9(e) of this part specifiying under which one of § 1.9 (e)(1), (e)(2), (e)(3), or (e)(4) of this part the organization qualifies; and (3) aver that exclusive rights to the invention have been conveyed to and remain with the organization or if the rights are not exclusive, that all other rights belong to small entities as defined in § 1.9 of this part. Where the rights of the nonprofit organization as a small entity are not exclusive, a verified statement must also be filed by the other small entities having rights averring to their status as such. For purposes of a verified statement under this paragraph, a license to a federal agency resulting from a funding agreement with that agency pursuant to 35 U.S.C. 202(c)(4) does not constitute a conveyance of rights as set forth in this paragraph.

9. Section 1.28 is amended by revising paragraph (a) to read as follows:

§ 1.28 Effect on fees of failure to establish status, or change status, as a small entity.

(a) The failure to establish status as a small entity (§§ 1.9(f) and 1.27 of this part) in any application or patent prior to paying, or at the time of paying any fee precludes payment of the fee in the amount established for small entities. A refund pursuant to § 1.26 of this part, based on establishment of small entity status, of a portion of fees timely paid in full prior to establishing status as a small entity may only be obtained if a verified statement under § 1.27 and a request for a refund of the excess amount are filed within two months of the date of the timely payment of the full fee. The two-month time period is not extendable under § 1.136. Status as a small entity is waived for any fee by the failure to establish the status prior to paying, at the time of paying, or within two months of the date of payment of, the fee. Status as a small entity must be specifically established by a verified statement filed in each application or patent in which the status is available and desired, except those applications filed under § 1.60 or § 1.62 of this part where the status as a small entity has been established in a parent application and is still proper. Once status as a small entity has been established in an application or patent, the status remains in that application or patent without the filing of a further verified statement pursuant to § 1.27 of this part unless the Office is notified of a change in status. Status as a small entity in one application or patent does not affect any other application or patent, including applications or patents which are directly or indirectly dependent upon the application or patent in which the

status has been established, except those filed under §1.60 or § 1.62 of this part. Applications filed under § 1.60 or § 1.62 of this part must include a reference to a verified statement in a parent application if status as a small entity is still proper and desired.

* * * * *

10. Section 1.52 is amended by revising paragraph (d) to read as follows:

§ 1.52 Lanaguage, paper, writing, margins.

* * * * *

(d) An application may be filed in a language other than English. A verified English translation of the non-English-language application and the fee set forth in § 1.17(k) are required to be filed with the application or within such time as may be set by the Office.

11. Section 1.53 is amended by revising paragraphs (b) and (d) to read as follows:

§ 1.53 Serial number, filing date, and completion of application.

* * * * *

(b) The filing date of an application for patent is the date on which (1) a specification containing a description pursuant to § 1.71 and at least one claim pursuant to § 1.75, and (2) any drawing required by § 1.81(a), are filed in the Patent and Trademark Office in the name of the actual inventor or inventors as required by § 1.41. No new matter may be introduced into an application after its filing date (§ 1.118).

* * * * *

(d) If an application which has been accorded a filing date pursuant to paragraph (b) of this section does not include the appropriate filing fee or an oath or declaration by the applicant, applicant will be so notified, if a correspondence address has been provided, and given a period of time within which to file the fee, oath, or declaration and to pay the surcharge as set forth in § 1.16(e) in order to prevent abandonment of the application. If the required filing fee is not timely paid, or if the processing and retention fee set forth in § 1.21(l) is not paid within one year of the date of mailing of the notification required by this paragraph, the application will be disposed of. No copies will be provided or certified by the Office of an application which has been disposed of or in which neither the required basic filing fee nor the processing and retention fee has been paid. The notification pursuant to this paragraph may be made simultaneously with any notification pursuant to paragraph (c) of this section. If no correspondence address is included in the application, applicant has two months from the filing date to file the fee, oath or declaration and to pay the surcharge as set forth in § 1.16(e) in order to prevent abandonment of the application or one year from the filing date to pay the processing and retention fee set forth in § 1.21(l) to prevent disposal of the application.

* * * * *

12. Section 1.55 is amended by revising paragraph (b) to read as follows:

§ 1.55 Claim for foreign priority.

* * * * *

(b) An applicant may under certain circumstances claim priority on the basis of an application for an inventor's certificate in a country granting both inventor's certificates and patents. When an applicant wishes to claim the right of priority as to a claim or claims of the application on the basis of an application for an inventor's certificate in such a country under 35 U.S.C. 119, last paragraph (as amended July 28, 1972), the applicant or his or her attorney or agent, when submitting a claim for such right as specified in paragraph (a) of this section, shall include an affidavit or declaration including a specific statement that, upon an investigation, he or she has satisfied himself or herself that to the best of his or her knowledge the applicant, when filing his or her application for the inventor's certificate, had the option to file an application either for a patent or an inventor's certificate as to the subject matter of the identified claim or claims forming the basis for the claim of priority.

13. Section 1.56 is amended by revising paragraph (b) and by adding a new paragraph (j) to read as follows:

§ 1.56 Duty of disclosure; fraud; striking or rejection of applications.

* * * * *

(b) Disclosures pursuant to this section must be accompanied by a copy of each foreign patent document, non-patent publication, or other non-patent item of information in written form which is being disclosed or by a statement that the copy is not in the possession of the person making the disclosure and may be made to the Office through an attorney or agent having responsibility for the preparation or prosecution of the application or through an inventor who is acting in his or her own behalf. Disclosure to such an attorney, agent or inventor shall satisfy the duty, with respect to the information disclosed, of any other individual. Such an attorney, agent or inventor has no duty to transmit information which is not material to the examination of the application.

* * * * *

(j) If any disclosure pursuant to this section does not include a copy of each foreign patent document, non-patent publication, or other non-patent item of information in written form which is being disclosed or a statement that a copy thereof is not in the possession of the person making the disclosure, applicant will be so notified and given a period of time within which to file the copy or a statement that a copy is not in the possession of the person making the disclosure. The time period set may be extended under § 1.136.

14. Section 1.59 is revised to read as follows:

§ 1.59 Papers of application with filing date not to be returned.

Papers in an application which has received a filing date pursuant to § 1.53 will not be returned for any purpose whatever. If applicants have not preserved copies of the papers, the Office will furnish copies at the usual cost of any application in which either the required basic filing fee (§ 1.16) or the processing and retention fee (§ 1.21(l)) has been paid.

15. Section 1.60 is revised to read as follows:

§ 1.60 Continuation or divisional application for invention disclosed in a prior application.

(a) A continuation or divisional application (filed under the conditions specified in 35 U.S.C. 120 or 121 and § 1.78(a)), which discloses and claims only subject matter disclosed in a prior application may be filed as a separate application before the patenting or abandonment of or termination of proceedings on the prior application.

(b) An applicant may omit signing of the oath or declaration in a continuation or divisional application if (1) the prior application was a complete application as set forth in § 1.51(a) and (2) applicant files a true copy of the prior complete application as filed including the specification (including claims), drawings, oath or declaration showing the applicant's signature or an indication it was signed, and any amendments referred to in the oath or declaration filed to complete the prior application. The copy of the prior application must be accompanied by a statement that the application papers filed are a true copy of the prior application and that no amendments referred to in the oath or declaration

filed to complete the prior application introduced new matter therein. Such statement must be by the applicant or applicant's attorney or agent and must be a verified statement if made by a person not registered to practice before the Patent and Trademark Office. Only amendments reducing the number of claims or adding a reference to the prior application (§ 1.78(a)) will be entered before calculating the filing fee and granting the filing date.

16. Section 1.62 is amended by revising paragraphs (a) and (d) to read as follows:

§ 1.62 File wrapper continuing procedure.

(a) A continuation, continuation-in-part, or divisional application, which uses the specification, drawings and oath or declaration from a prior complete application (§ 1.51(a)) to be abandoned, may be filed before the payment of the issue fee, abandonment of, or termination of proceedings on the prior application. The filing date of an application filed under this section is the date on which a request is filed for an application under this section including identification of the Serial Number, filing date, and applicant's name of the prior complete application.

* * * * *

(d) If an application which has been accorded a filing date pursuant to paragraph (a) of this section does not include the appropriate basic filing fee pursuant to paragraph (b) of this section, or an oath or declaration by the applicant in the case of a continuation-in-part application pursuant to paragraph (c) of this section, applicant will be so notified and given a period of time within which to file the fee, oath, or declaration and to pay the surcharge as set forth in § 1.16(e) in order tp prevent abandonment of the application. The notification pursuant to this paragraph may be made simultaneously with any notification of a defect pursuant to paragraph (a) of this section.

* * * * *

17. Section 1.78 is amended by revising the heading and paragraph (a) to read as follows:

§ 1.78 Claiming benefit of earlier filing date and cross-references to other applications.

(a) An application may claim an invention disclosed in the same applicant's prior filed copending national application or international application designating the United States of America. In order for an application to claim the benefit of a prior filed copending national application, the prior application must be (1) complete as set forth in § 1.51, or (2) entitled to a filing date as set forth in § 1.53(b) and include the basic filing fee set forth in § 1.16; or (3) entitled to filing date as set forth in § 1.53(b) and have paid therein the processing and retention fee set forth in § 1.21(l) within the time period set forth in § 1.53(d). Any application claiming the benefit of a prior filed copending national or international application must contain or be amended to contain in the first sentence of the specification following the title a reference to such prior application, identifying it by serial number and filing date or international application number and international filing date and indicating the relationship of the applications. Cross-references to other related applications may be made when appropriate. (See § 1.14(b)).

* * * * *

18. Section 1.121 is amended by revising paragraph (e) to read as follows:

§ 1.121 Manner of making amendments.

* * * * *

(e) In reissue applications, both the descriptive portion and the claims are to be amended by either (1) submitting a copy of a portion of the description or an entire claim with all matter to be deleted from the patent being placed between brackets and all matter to be added to the patent being underlined, or (2) indicating the exact word or words to be stricken out or inserted and the precise point where the deletion or insertion is to be made. Any word or words to be inserted must be underlined. See § 1.173.

* * * * *

19. Section 1.123 is revised to read as follows:

§ 1.123 Amendments to the drawing.

No change in the drawing may be made except by permission of the Office. Permissible changes in the construction shown in any drawing may be made only by bonded draftsmen, at applicant's expense, or by the submission of substitute drawings by applicant. A sketch in permanent ink showing proposed changes, to become part of the record, must be filed for approval by the examiner and should be a separate paper.

§ 1.135 [Amended]

20. Section 1.135 is amended by removing paragraph (d).

21. Section 1.136 is revised to read as follows:

§ 1.136 Filing of timely responses with petition and fee for extension of time and extensions of time for cause.

(a) If an applicant is required to respond within a non-statutory or shortened statutory time period, applicant may respond up to four months after the time period set if a petition for an extension of time and the fee set in §1.17 are filed prior to or with the response, unless (1) applicant is notified otherwise in an Office action or (2) the application is involved in an interference declared pursuant to § 1.207. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for purposes of determining the period of extension and the corresponding amount of the fee. The expiration of the time period is determined by the amount of the fee paid. In no case may an applicant respond later than the maximum time period set by statute, or be granted an extension of time under paragraph (b) of this section when the provisions of this paragraph are available. See § 1.245 for extension of time in interference proceedings and § 1.550(c) for extension of time in reexamination proceedings.

(b) When a response with petition and fee for extension of time cannot be filed pursuant to paragraph (a) of this section, the time for response will be extended only for sufficent cause, and for a reasonable time specified. Any request for such extension must be filed on or before the day on which action by the applicant is due, but in no case will the mere filing of the request effect any extension. In no case can any extension carry the date on which response to an Office action is due beyond the maximum time period set by statute or be granted when the provisions of paragraph (a) of this section are available. See § 1.245 for extension of time in interference proceedings and § 1.550(c) for extension of time in reexamination proceedings.

22. Section 1.191 is amended by adding a new paragraph (d) to read as follows:

§ 1.191 Appeal to Board of Appeals.

* * * * *

(d) The time periods set forth in §§ 1.191 through 1.194, 1.196 and 1.197 are subject to the provisions of § 1.136 for patent applications or § 1.550(c) for reexamination proceedings.

23. Section 1.192 is amended by revising paragraph (a) to read as follows:

§ 1.192 Appellant's brief.

(a) The appellant shall, within 2 months from the date of the notice of appeal under § 1.191 in an application, reissue application, or patent under reexamination, or within the time allowed for response to the action appealed from, if such time is later, file a brief in triplicate. The brief must be accompanied by the requisite fee set forth in § 1.17(f) and must set forth the authorities and arguments on which the appellant will rely to maintain the appeal. The brief must include a concise explanation of the invention which should refer to the drawing by reference characters, and a copy of the claims involved.

* * * * *

24. Section 1.197 is amended by revising paragraph (b) to read as follows:

§ 1.197 Action following decision.

* * * * *

(b) A single request for rehearing or reconsideration, or modification of the decision, may be made if filed within thirty days from the date of the original decision, unless that decision is so modified as to become, in effect, a new decision, and the Board of Appeals so states.

* * * * *

25. Section 1.304 is amended by revising paragraph (a) to read as follows:

§ 1.304 Time for appeal or civil action.

(a) The time for filing the notice and reasons of appeal to the U.S. Court of Appeals for the Federal Circuit (§ 1.302) or for commencing a civil action (§ 1.303) is sixty days from the date of the decision of the Board of Appeals or the Board of Patent Interferences. If a request for rehearing or reconsideration, or modification of the decision, is filed within the time provided pursuant to § 1.197(b) or § 1.256(b), the time for filing an appeal or commencing a civil action shall expire at the end of the sixty-day period or thirty days after action on the request, whichever is later. The time periods set forth herein are subject to the provisions of § 1.136 or § 1.550(c) as to decisions of the Board of Appeals, or § 1.245 as to decisions of the Board of Patent Interferences.

* * * * *

26. Section 1.550 is amended by revising paragraph (c) to read as follows:

§ 1.550 Conduct of reexamination proceedings.

* * * * *

(c) The time for taking any action by a patent owner in a reexamination proceeding will be extended only for sufficient cause, and for a reasonable time specified. Any request for such extension must be filed on or before the day on which action by the patent owner is due, but in no case will the mere filing of the request effect any extension.

* * * * *

27. Section 1.555 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1.555 Duty of disclosure in reexamination proceedings.

(a) A duty of candor and good faith toward the Patent and Trademark Office rests on the patent owner, on each attorney or agent who represents the patent owner, and on every other individual who is substantively involved on behalf of the patent owner in a reexamination proceeding. All such individuals who are aware, or become aware, of patents or printed publications material to the reexamination which have not been previously made of record in the patent file must bring such patents or printed publications to the attention of the Office. An information disclosure statement, preferably in accordance with § 1.98, should be filed within two months of the date of the order for reexamination, or as soon thereafter as possible in order to bring such patents or printed publications to the attention of the Office.

(b) Disclosures pursuant to this section must be accompanied by a copy of each foreign patent document or non-patent printed publication which is being disclosed or by a statement that the copy is not in the possession of the person making the disclosure and may be made to the Office through an attorney or agent having responsibility on behalf of the patent owner for the reexamination proceeding or through a patent owner acting in his or her own behalf. Disclosure to such an attorney, agent or patent owner shall satisfy the duty of any other individual. Such an attorney, agent or patent owner has no duty to transmit information which is not material to the reexamination.

* * * * *

Dated: November 30, 1983.

Gerald J. Mossinghoff,

Commissioner of Patents and Trademarks.

[FR Doc. 84-111 Filed 1-3-84; 8:45 am]

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Federal Register
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Thursday, January 5, 1984

Presidential Documents

Title 3—

The President

Proclamation 5143 of January 3, 1984

Alaska Statehood Day, 1984

By the President of the United States of America

A Proclamation

The Territory of Alaska was admitted to the Union on January 3, 1959, as the forty-ninth State. In the twenty-five years since then, the sturdy inhabitants of our largest State have continued with distinction the work of developing this vast storehouse of abundant resources, while preserving its special environment. As a result of their efforts, Alaska now produces one-eighth of the Nation's gold, one-fifth of its petroleum, and two-fifths of its harvested fish. Ten of the sixteen strategic minerals vital to our Nation's security are produced in Alaska. The millions of dollars worth of minerals, forest and food products, and energy resources produced each year have long since repaid many times over the $7,000,000 paid by the United States to purchase Alaska in 1867.

The people of Alaska constitute a special resource, one which has made possible the wise use of all the other abundant resources of this important State. Native Alaskans and immigrants from every State, as well as foreign countries, have worked together to build the cities, pipelines, rail, water, air, and ground transportation facilities which are the basis of Alaska's prosperity. Their hard work and dedication are an example to the rest of our people as we work to maintain America's greatness.

In recognition of the importance of Alaska's people and its scenic and natural resources to the United States and in honor of the twenty-fifth anniversary of the admission of Alaska into the Union, the Congress, by Senate Joint Resolution 42, has authorized and requested the President to proclaim January 3, 1984, as "Alaska Statehood Day."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim January 3, 1984, as Alaska Statehood Day and call upon the people of the United States and the Federal, State, and local governments to observe that day with appropriate ceremonies.

IN WITNESS WHEREOF, I have hereunto set my hand this 3rd day of Jan., in the year of our Lord nineteen hundred and eighty-4, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 84-385
Filed 1-4-84; 10:38 am]
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Rules and Regulations

Federal Register
Vol. 49, No. 3
Thursday, January 5, 1984

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Ch. VII and Parts 720, 722, 735, 750, 790, 791, 792, and 793

Redesignation of CFR Chapters Assigned to National Credit Union Administration

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule; redesignation of sections.

SUMMARY: The NCUA Board has voted to redesignate some of the parts in Title 12 of CFR that are reserved to it. The basic breakdown will be into those regulations affecting credit unions and those that effect NCUA only. This is being done to simplify the ability of credit unions to locate those parts of the regulations that affect only them.

EFFECTIVE DATE: January 5, 1984.

ADDRESS: National Credit Union Administration 1776 G Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Todd Okun, Assistant General Counsel, at the above address or telephone (202) 357–1030.

SUPPLEMENTARY INFORMATION: The NCUA Board, in order to simplify for credit unions the locating of relevant rules and regulations, has voted to redesignate 12 CFR 700, *et seq.* into two divisions: Parts 700–789 are to be parts affecting only credit unions and Parts 790–799 are to be parts affecting only the internal operations of NCUA.

Regulatory Procedures

The NCUA Board has determined that because this action is non-substantive in nature, consideration of the Financial Regulatory Simplification Act, the Regulatory Flexibility Act and the Paperwork Reduction Act are unnecessary.

Authority: 12 U.S.C. 1766(a) and 1789(a)(11).

Accordingly, 12 CFR Parts 700, *et seq.* is amended as follows:

1. Parts 700 through 789 are designated "Subchapter A: Regulations Affecting Credit Unions."
2. Parts 790 through 799 are designated "Subchapter B: Regulations Affecting the Operations of the National Credit Union Administration."
3. Part 720, "Description of Offices, Disclosure of Official Records, Availability of Information," is redesignated as Part 790.
4. Part 722, "Rules of Board Procedure," is redesignated as Part 791.
5. Part 735, "Employee Responsibility and Conduct," is redesignated as Part 792.
6. Part 750, "Tort Claims Against the Government," is redesignated as Part 793.

By the National Credit Union Administration Board.

Rosemary Brady,

Secretary NCUA Board.

[FR Doc. 84–31 Filed 1–4–84; 8:45 am]
BILLING CODE 7535–01–M

FEDERAL TRADE COMMISSION

16 CFR Part 453

Trade Regulation Rule; Funeral Industry Practices

AGENCY: Federal Trade Commission.

ACTION: Staff Compliance Guidelines.

SUMMARY: The staff of the Federal Trade Commission publishes the first stage of its staff compliance guidelines for the Funeral Rule. The staff is publishing these guidelines to provide assistance to industry members regarding areas in which the staff believes that guidance should prove most helpful to industry members. The views expressed in the guidelines are those of the staff only. They have not been approved or adopted by the Commission and they are not binding on the Commission. However, the guidelines will serve as enforcement criteria for the staff in assessing compliance with the trade regulation rule.

DATE: Effective January 1, 1984.

FOR FURTHER INFORMATION CONTACT: Lewis Rose, 202–376–3478, or Raouf M. Abdullah, 202–376–2820, Attorneys, Federal Trade Commission, Division of Enforcement, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION:

Compliance Guides

I. Introduction

These interpretive guidelines describe certain provisions of the Federal Trade Commission's trade regulation rule on funeral industry practices,[1] which was promulgated on September 24, 1982.[2] The Funeral Rule is scheduled to become effective on two different dates. Thoses portions of the Funeral Rule which prohibit certain oral or written misrepresentations will become effective on January 1, 1984.[3] Those portions of the Funeral Rule which impose an affirmative obligation upon funeral providers (i.e., price lists, itemization, telephone disclosures, written disclosures) will take effect on April 30, 1984.[4]

These compliance guidelines cover only those Rule provisions which become effective on January 1, 1984. A second set of compliance guidelines, covering those provisions of the Rule which become effective on April 30, 1984, will be issued at a later date. These guidelines neither amend nor modify the Funeral Rule. The staff is publishing these guidelines to provide assistance to industry members in understanding the Commission's Rule and complying with its obligations.

The views expressed in the guidelines are those of the staff only; they have not been approved or adopted by the Commission and they are not binding on the Commission. However, the guidelines will serve as enforcement criteria for staff in assessing compliance with the Commission's Funeral Rule.

These guidelines explain, section by section, the provisions of the Rule which become effective on January 1, 1984.

[1] 16 CFR Part 453.

[2] 47 FR 42260.

[3] The Rule provisions which are scheduled to become effective on January 1, 1984 are appended as Attachment A to these guidelines. The applicable sections are: 453.1, 454.3(a)(1)(i), 453.3(a)(2)(i), 453.3(b)(1)(i), 453.3(c)(1)(i), 453.3(d)(1), 453.3(e), 453.3(f)(1)(i), 453.8, and 453.9. 48 FR 45537 (October 6, 1983).

[4] The Rule provisions which are subject to the extension of the effective date are: 453.2, 453.3(a)(1)(ii), 453(a)(2)(ii), 453(b)(1)(ii), 453.3(b)(2), 453.3(c)(1)(ii), 453.3(c)(2), 453.3(d)(2), 453.3(f)(1)(ii), 453.3(f)(2), 453.4, 453.5, 453.6, 453.7, and 453.10.

Included in the discussion of each Rule provision are illustrations of how the Rule will operate in specific fact situations which may arise in the ordinary course of business for many funeral providers. The guidelines cover those areas in which guidance should prove most helpful to industry members. If you have further questions regarding the Rule, they will be handled informally by the staff, or if appropriate by the Commission, as provided for in Sections 1.1 through 1.4 of the Commission's Rules of Practice.

II. Who must comply with the Rule?

A. *Generally.* Anyone who is a "funeral provider" is covered by the Funeral Rule and must comply with all of its requirements. The Rule defines a "funeral provider" as "any person, partnership or corporation that sells or offers to sell funeral goods and funeral services to the public." Only those who sell or offer to sell *both* funeral goods *and* funeral services are covered.

Funeral goods and funeral services are separately defined by the Rule. Funeral goods consist of all products sold to the public for use in connection with funeral services. Funeral services consist of two types of functions:

1. Those services used to care for and prepare human bodies for burial or other disposition; and
2. Those services used to arrange, supervise or conduct the funeral or disposition.

Both types of services must be performed in order to come within the definition of "funeral services."

Thus, in order to be classified as a funeral provider and therefore be covered by the Rule, you must sell funeral goods *and* provide services to care and prepare remains for disposition *and* provide services to arrange, supervise or conduct the final disposition.

Illustration #1: You operate a traditional funeral home selling various caskets, burial clothes and/or alternative containers. In addition, you consult with the family and clergy, arrange and direct the ceremony, prepare and file required notices, and/or coordinate with the cemetery or crematory. Other services you provide include embalming, facilities for viewing, and/or preparation of the body for disposition. Are you covered by the Rule?

Yes. You are a funeral provider as defined by the Rule. The sale or offering for sale of caskets, burial clothes and/or alternative containers meets the definition of funeral goods. In addition, the professional services you offer include both care for and preparation of human bodies for burial or other disposition, and also arrangement, supervision or conducting of the funeral and/or disposition.

Illustration #2: You have a traditional funeral practice in that you sell various funeral goods, prepare remains and arrange for final dispositions. However, you have separately incorporated the sale of funeral goods from the provision of funeral services. Are you covered by the Rule?

Yes. Under these circumstances, you must comply with the Rule because as a person who sells funeral goods and funeral services you meet the definition of a funeral provider.

Illustration #3: You have a traditional funeral practice in that you sell various funeral goods, prepare remains and arrange for final dispositions. A consumer wants you to arrange a funeral but is providing his own casket and does not want to purchase any other funeral goods from you. Is this transaction covered by the Rules even though you are not selling funeral goods to this particular consumer?

Yes. If you sell or offer to sell funeral goods and funeral services you must comply with the Rule's provisions for every consumer, even for those consumers who wish to purchase only goods or only services.

Illustration #4: You have a traditional funeral practice in that you sell various funeral goods, prepare remains and arrange for final dispositions. Rather than maintaining your own casket selection room, you use a manufacturer's showroom to sell caskets. Are you covered by the Rules?

Yes. You are selling or offering to sell funeral goods and funeral services and therefore must comply with the Rule's provisions. This is true even though you are utilizing a manufacturer's showroom to sell caskets. Although the casket manufacturer is not covered by the Rule, as discussed in Illustration No. 5 below, you still meet the definition of a funeral provider and must comply with the Rule.

Illustration #5: You are a casket salesman or a person selling caskets or coffins or kits to make caskets. Are you covered by the Rule?

No. Casket salesmen and others, if they only sell caskets, coffins or casket kits and provide no services relating to disposition, are not covered under the Rule. They are only providing funeral goods. They must also provide funeral services in order to be covered.

Illustration #6: You operate a cemetery and want to know if you must comply with the Rule. Your cemetery sells outer burial containers and grave liners. Are you covered by the Rule?

No. Under the Rule's definitions, although you sell funeral goods, you would *not* be considered a funeral provider since you only arrange or conduct final dispositions and do not prepare remains for final dispositions. Thus, a cemetery generally only performs one of the functions included in "funeral services." It would have to provide *both* in order to be covered under the Rule.

Illustration #7: Is a cemetery which also operates a funeral home covered under the Rule?

Yes. All funeral providers are covered by the Rule even those which are operated by a cemetery. As long as you provide funeral goods and services, you must comply with the Rule's requirements.

Illustration #8: You operate a direct disposition company which arranges for direct cremations and sells urns for cremated remains. Are you covered by the Rule?

Yes. In this situation, the Rule would cover the direct disposition company. The company is selling funeral goods (i.e., urns) and provides funeral services in that it cares for and prepares the bodies for the direct cremation *and* arranges the final disposition.

Illustration #9: Same situation as above except that your direct disposition company does not sell urns or any other funeral goods. Are you still covered?

No. In this situation, the direct disposition company would not be covered since it provides *only* mortuary and disposition services. To be covered by the Rule, you must provide both funeral goods *and* funeral services.

Illustration #10: Are crematories which sell urns and provide services to care for and prepare human bodies for final disposition covered by the Rule?

Yes. In this situation, the crematory meets the definition of a funeral provider. It sells funeral goods and conducts the disposition, thereby satisfying the supervisory prong of the definition of a funeral provider. In addition, the crematory in this illustration provides those services used to care for and prepare human bodies for final disposition. However, if the crematory did not provide services to care for and prepare human bodies for final disposition, it would not be covered by the Rule. In the case of a crematory, final disposition would be the cremation.

B. *Pre-Need Contracts Negotiated After Effective Date of Rule.* The Rule's coverage does extend to funeral providers who sell pre-need contracts after the effective date of the Rule. That

means that you must comply with all the relevant portions of the Rule when you discuss pre-need arrangements with consumers.

Illustration #1: You operate a traditional funeral home. After the Rule becomes effective, a family enters your establishment to pre-plan their funeral arrangements. Does the Rule apply?

Yes. The Rule applies in both pre-need and at-need circumstances. Therefore, you must comply with all of the relevant portions of the Rule when you discuss funeral arrangements.

Illustration #2: Same circumstances as above, but you sell pre-need contracts door to door, rather than solely in your establishment. Does the Rule apply?

Yes. The Rule requires funeral providers to comply whenever consumers inquire about funeral goods and services. Thus, the obligation of a funeral provider to comply with the Rule is not limited to discussions within the funeral home. If you visit a consumer, knowing that you are going to discuss pre-need arrangements, you should be prepared to comply with the Rule.

Illustration #3: You sell pre-need contracts to consumers at their residences on behalf of several funeral homes. You do not yourself, however, operate an establishment that provides funeral goods and services. Does the Rule apply?

Yes. In such a situation, you are an agent of a funeral provider. Therefore, you should be prepared to comply with the Rule.

C. *Pre-Need Contracts Negotiated Prior to Effective Date of Rule.* The Funeral Rule's coverage does not extend to pre-existing contracts such as pre-need arrangements or burial insurance policies payable in funeral goods and services.

Illustration #1: Before the Rule becomes effective, a consumer makes a pre-need arrangement with your funeral home for specific funeral goods and services. The consumer dies after the Rule goes into effect and the consumer's spouse comes to you to have you provide exactly those goods and services specified in the pre-need contract. Under these circumstances, is the transaction covered by the Rule?

No. In this situation, if you are fulfilling the obligations under a pre-existing contract, the provisions of the Rule would not apply.

Illustration #2: Same situation as Illustration #1 except that the spouse wants to upgrade the funeral arrangements specified in the pre-need contract. Does the Rule apply?

Yes. In this situation the spouse presumably intends to spend additional money for the additional funeral arrangements and has asked about funeral arrangements. Therefore, the provisions of the Rule would apply because the funeral provider is offering additional funeral goods and services.

III. What Representations are Prohibited? Section 453.3

The requirements of this section state that you can not make any misrepresentations when you sell or offer to sell funeral goods or services to consumers in six specific areas which are described below.

A. *Representations Concerning Embalming: Section 453.3(a).* This provision prohibits you from telling consumers that state or local law requires you to embalm the remains whenever that is not true. Consequently, you may not tell a consumer that you are required to embalm under any of the following circumstances, *unless state or local law requires it:*

(1) When the consumer wishes to have a *direct cremation;*

(2) When the consumer wishes to have an *immediate burial;*

(3) When the remains are placed in a sealed casket;

(4) If refrigeration is available *and* there is to be a funeral with no viewing or visitation *and* there is to be a closed casket.

Illustration #1: A family wants you to arrange for a funeral involving an immediate burial with no viewing. Can you tell the family that embalming is required?

No. Unless there is some state or local law that requires it, you may not make any representation to this family that embalming is required.

Illustration #2: Your establishment has refrigeration facilities available. The law in your jurisdiction states that if there is no burial or cremation within two days of the date of death, the remains must be either embalmed or refrigerated. A family comes to your funeral home and wants you to plan a funeral for them. There is to be no viewing, but the burial will not take place until three days after the person died. Can you tell the family that embalming is required?

Yes, but only if you told them that refrigeration is an option. However, if the state law referred to embalming only, and did not list refrigeration as an option, the Rule would not be violated if you told the family that embalming was required by law.

Illustration #3: A family comes to your funeral home and wants you to plan a funeral for them. Under the particular circumstances, the law does not require that the body be embalmed. The family requests that there be no viewing, that the remains be placed in a sealed casket, and requests two days of visitation. Can you represent to the family that embalming is required?

No. Under these circumstances you may not represent to the family that embalming is required because the remains have been placed in a sealed casket.

Illustration #4: Your state law provides that whenever a person has died of certain highly contagious diseases, such as diptheria, smallpox or malaria, the remains must be embalmed. A family comes to your establishment to arrange a funeral service for someone who died of smallpox. Can you represent to the family that embalming is required?

Yes. In this situation, you may inform the family that because of the precise circumstances, embalming is required by law.

Illustration #5: A family enters your establishment and wants to arrange for a funeral with a formal viewing. The funeral is to occur two days after the death has occured. In your jurisdiction, there is no law or regulation that requires embalming. Can you tell the family that embalming is required?

Yes. You may *not* tell the family that the *law* requires embalming since that is not the case. However, in this situation, even though there is no *legal* requirement that the body be embalmed, the Rule allows you to tell the family that embalming is a *practical* necessity to delay decomposition of the remains and to preserve them for viewing.

Illustration #6: A family enters your establishment and wants to arrange an immediate burial with no formal viewings. However, before burial, a family member wants to look at the body by lifting the lid of the unsealed casket. In your jurisdiction, there is no law or regulation that requires embalming. Can you tell the family that embalming is required?

No. You may not tell the family that the law requires embalming since that is not true. The fact that a family member wants to look at the remains does not constitute a formal viewing which would enable you to tell the family that embalming is required.

B. *Representations Concerning Caskets for Cremations: Section 453.3(b).* This provision prohibits you from telling consumers that state or local law requires them to purchase a casket when they wish to arrange for a direct cremation. The Rule defines a "direct cremation" as one that occurs without any formal viewing of the

remains or any visitation or ceremony with the body present.

Illustration #1: A family enters your establishment and wants to arrange for a funeral involving a direct cremation. This is one of the services that your establishment provides. Can you represent that a casket is required by law?

No. You may not make any representation to the family that either state or local law requires them to purchase a casket.

Illustration #2: A family wants to arrange for a funeral involving a direct cremation. This is not a service that your establishment provides. Can you tell them that the law requires them to buy a casket in such circumstance?

No. You may *not* make any statement that caskets are required by law for direct cremations.

C. *Representations Concerning Outer Burial Containers: Section 453.3(c).* This provision states that you may not tell consumers that state or local laws or regulations require the purchase of an outer burial container if that is not true; or that a particular cemetery requires an outer burial container, if that is not true. However, if the *cemetery* imposes such a requirement, you may explain this fact to the family.

Illustration #1: A family wants you to arrange a funeral involving a ground burial. No state or local laws or regulations require the purchase of an outer burial container. Moreover, there is no requirement in the cemetery that the family has chosen that an outer burial container be used. Can you represent that an outer burial container is required?

No. In this instance, you may not tell the family that an outer burial container is required by any state or local law or regulation, or by the cemetery in question.

Illustration #2: A family wishes to arrange a funeral with a ground burial. No state or local law or regulation requires outer burial containers. However, the cemetery that the family has chosen requires that the casket be placed in a rigid outer container. Can you represent that an outer burial container is required?

Yes. In this instance, you may tell the family that the cemetery requires the outer burial container.

D. *Representations Concerning Legal and Cemetery Requirements: Section 453.3(d).* This provision states that you may not tell consumers that federal, state or local law requires them to buy a particular funeral good or funeral service if that is not true. You also may not tell consumers that a particular crematory or cemetery requires them to buy a particular good or service if in fact there are no such requirements.

Illustration #1: The law in your state requires that if you are going to ship the remains into another state, you must place those remains in a sealed casket. A family asks you to arrange a funeral and requests that you ship the remains to another state for burial. Can you inform them that they must buy a sealed casket under these circumstances?

Yes. In this instance, the law requires you to use a sealed casket. Because of these legal requirements, you may inform the family that there are certain purchases that they must make.

Illustration #2: A family enters your establishment and asks you to arrange a funeral with burial in a local cemetery. The cemetery does not require any particular funeral goods for burial. Can you inform the family that the cemetery requires them to buy a specific type of sealed casket under these circumstances?

No. You may not tell consumers that a particular cemetery requires them to buy a particular good or service if in fact there are no such requirements.

E. *Representations Concerning Preservative and Protective Value Claims: Section 453.3(e).* This provision states that you may not tell consumers that any funeral goods or funeral services will delay the natural decomposition of the deceased for a long-term or indefinite time. You also may not state that funeral goods will protect the deceased from gravesite substances when that is not the case.

While the Rule flatly prohibits representations that any funeral goods or services will delay the decomposition of the deceased for a long-term or indefinite time, the Commission recognizes that it is possible that some funeral goods or services may delay decomposition for a short period of time. However, a funeral provider can not say that any goods or services will delay natural decomposition after burial when such is not the case.

Illustration #1: A family asks you to arrange a funeral with a full service and a viewing of the remains. After the service, there is to be a ground burial. Can you tell the family that embalming will temporarily preserve the body to make it suitable for viewing?

Yes. In this situation, you may, if you want, explain to the family that embalming will temporarily preserve the body to make it suitable for viewing. However, you may not make any statement to them that embalming has any preservative effect other than a temporary one.

Illustration #2: Same situation as above, except that the family now wants to discuss the purchase of a casket or outer burial container. Can you tell the family that these goods will delay the natural decomposition of the deceased for a long-term or indefinite time?

No. In explaining the properties of either of these items you may not tell the family that they can delay the natural decomposition of the remains for a long-term or indefinite period of time. You also may not state that either the casket or the vault will protect the body from air, dirt, water or other gravesite substances when such is not the case.

Illustration #3: Same situation as above. The manufacturer of the casket or burial vault states in the warranty that it will preserve the body for a period longer than five years. Must you make the warranty available to the family?

Yes. Existing federal law requires you to make all warranty information available to the consumer. This means that you must allow the family to read any of the manufacturer's warranties. However, you must disclose the warranty information without adopting as your own, any statement that you know to be a violation of the Rule. You may, if you wish, inform the family that while the manufacturer has made certain statements about the product that you are required to disclose, you do not have personal knowledge of the preservative value of the merchandise that enables you to state that it has a preservative value after burial.

F. *Representations Concerning Cash Advances: Section 453.3(f).* This provision states that you may not tell consumers that the price that you charge them for a cash advance item is the same price that you paid for it, when such is not the case. A cash advance item is any item which you describe to purchasers as a cash advance, accommodation, cash disbursement, or any similar terms.

The Rule does *not* prevent you from adding a service charge nor does it require you to disclose the amount of that charge. Moreover, there is no restriction on how much you may charge.

Illustration #1: A family asks you to arrange a funeral and asks for flowers as part of the service. You obtain the flowers from the florist and pay $50.00 for them and charge the family $75.00. Can you tell the family that the amount you are charging them is the same

amount that you paid for the flowers?

No. You may not represent to the family in any way that the cost to you for obtaining the flowers is the same as the amount that you are charging them.

Illustration #2: Same situation as above except that, instead of adding a service charge to the cost of the flowers, you charge the same amount that you paid for them but receive a trade or volume discount at the end of the year. Can you tell the family that the amount you are charging them for the flowers is the same amount that you paid?

No. You may not represent to the family in any way that the cost to you for obtaining the flowers is the same as the amount that you are charging them. As before, there is no requirement that you disclose the *amount* of that discount or rebate to the consumer.

IV. What Are the State Exemption Provisions of the Rule? Section 453.9

The Rule provides that it will not be in effect in a state to the extent specified by the Commission where:

(1) Application for an exemption is made by a state;

(2) There is a state requirement in effect which applies to any transaction to which the Rule applies; and

(3) The state requirement provides an overall level of protection which is as great as, or greater than, the protection afforded by the Rule.

If an exemption is granted, it shall be in effect only for so long as the state administers and enforces effectively the state requirement. During the exemption proceeding, the FTC Rule will remain in effect.

The Commission will issue guidelines regarding procedures for exemption proceedings at a later date. However, in the interim, the Commission will accept petitions from those states wishing to apply for an exemption.

Illustration #1: You are a funeral provider in a state which has a state requirement in effect which applies to the same transactions to which the Rule applies. The state requirement provides an overall level of protection which is as great as, or greater than, the protection afforded by the Rule. Can you file a state exemption petition?

No. The Rule provides that applications for exemption be made by state governmental agencies. Therefore, funeral providers or trade associations may not file for statewide exemption.

List of Subjects in 16 CFR Part 453

Funerals, Trade practices.

By direction of the Commission.

Emily H. Rock,

Secretary.

Funeral Rule Provisions Which Become Effective on January 1, 1984

The following rules were originally published at 47 FR 42299, September 24, 1982. They are being republished without change for the convenience of the user.

§ 453.1 Definitions.

(a) *Accounting year.* "Accounting year" refers to the particular calendar year or other one year period used by a funeral provider in keeping financial records for tax or accounting purposes.

(b) *Alternative container.* An "alternative container" is a non-metal receptacle or enclosure, without ornamentation or a fixed interior lining, which is designed for the encasement of human remains and which is made of cardboard, pressed-wood, composition materials (with or without an outside covering) or pouches of canvas or other materials.

(c) *Cash advance item.* A "cash advance item" is any item of service or merchandise described to a purchaser as a "cash advance," "accommodation," "cash disbursement," or similar term. A cash advance item is also any item obtained from a third party and paid for by the funeral provider on the purchaser's behalf. Cash advance items may include, but are not limited to, the following items: cemetery or crematory services; pallbearers; public transportation; clergy honoraria; flowers; musicians or singers; nurses; obituary notices; gratuities and death certificates.

(d) *Casket.* A "casket" is a rigid container which is designed for the encasement of human remains and which is usually constructed of wood, metal, or like material, and ornamented and lined with fabric.

(e) *Commission.* "Commission" refers to the Federal Trade Commission.

(f) *Cremation.* "Cremation" is a heating process which incinerates human remains.

(g) *Crematory.* A "crematory" is any person, partnership or corporation that performs cremation and sells funeral goods.

(h) *Direct cremation.* A "direct cremation" is a disposition of human remains by cremation, without formal viewing, visitation, or ceremony with the body present.

(i) *Funeral goods.* "Funeral goods" are the goods which are sold or offered for sale directly to the public for use in connection with funeral services.

(j) *Funeral provider.* A "funeral provider" is any person, partnership or corporation that sells or offers to sell funeral goods and funeral services to the public.

(k) *Funeral services.* "Funeral services" are any services which may be used to care for and prepare deceased human bodies for burial, cremation or other final disposition; and arrange, supervise or conduct the funeral ceremony or the final disposition of deceased human bodies.

(l) *Immediate burial.* An "immediate burial" is a disposition of human remains by burial, without formal viewing, visitation, or ceremony with the body present, except for a graveside service.

(m) *Outer burial container.* An "outer burial container" is any container which is designed for placement in the grave around the casket including, but not limited to, containers commonly known as burial vaults, grave boxes, and grave liners.

(n) *Person.* A "person" is any individual, partnership, corporation, association, government or governmental subdivision or agency, or other entity.

(o) *Services of funeral director and staff.* The "services of funeral director and staff" are the services, not included in prices of other categories in Section 453.2 (b)(4) which may be furnished by a funeral provider in arranging and supervising a funeral, such as conducting the arrangements conference, planning the funeral, obtaining necessary permits and placing obituary notices.

(p) *Unfinished wood box.* An "unfinished wood box" is an unornamented casket made of wood which does not have a fixed interior lining

§ 453.3 Misrepresentations.

(a) *Embalming provisions.*

(1) *Deceptive acts or practices.* In selling or offering to sell funeral goods or funeral services to the public, it is a deceptive act or practice for a funeral provider to:

(i) Represent that state or local law requires that a deceased person be embalmed when such is not the case.

(2) *Preventive requirements.* To prevent these deceptive acts or practices, as well as the unfair or deceptive acts or practices defined in Sections 453.4(b)(1) and 453.5(2), funeral providers must:

(i) Not represent that a deceased person is required to be embalmed for

direct cremation, immediate burial, a funeral using a sealed casket, or if refrigeration is available and the funeral is without viewing or visitation and with a closed casket when state or local law does not require embalming.

(b) *Casket for cremation provisions.* (1) *Deceptive acts or practices.* In selling or offering to sell funeral goods or funeral services to the public, it is a deceptive act or practice for a funeral provider to:

(i) Represent that state or local law requires a casket for direct cremations.

(c) *Outer burial container provisions.*—(1) *Deceptive acts or practices.* In selling or offering to sell funeral goods and funeral services to the public, it is a deceptive act or practice for a funeral provider to:

(i) Represent that state or local laws or regulations, or particular cemeteries, require outer burial containers when such is not the case.

(d) *General provisions on legal and cemetery requirements.* (1) *Deceptive acts or practices.* In selling or offering to sell funeral goods or funeral services to the public, it is a deceptive act or practice for funeral providers to represent that Federal, State, or local laws, or particular cemeteries or crematories, require the purchase of any funeral goods or funeral services when such is not the case.

(e) *Provisions on preservative and protective value claims.* In selling or offering to sell funeral goods or funeral services to the public, it is a deceptive act or practice for a funeral provider to:

(1) Represent that funeral goods or funeral services will delay the natural decomposition of human remains for a long-term or indefinite time;

(2) Represent that funeral goods have protective features or will protect the body from gravesite substances when such is not the case.

(f) *Cash advance provisions.*—(1) *Deceptive acts or practices.* In selling or offering to sell funeral goods or funeral services to the public, it is a deceptive act or practice for a funeral provider to:

(i) Represent that the price charged for a cash advance item is the same as the cost to the funeral provider for the item when such is not the case.

§ 453.8 Declaration of intent.

(a) Except as otherwise provided in Section 453.2(a), it is a violation of this rule to engage in any unfair or deceptive acts or practices specified in this rule, or to fail to comply with any of the preventive requirements specified in this rule;

(b) The provisions of this rule are separate and severable from one another. If any provision is determined to be invalid, it is the Commission's intention that the remaining provisions shall continue in effect.

(c) This rule shall not apply to the business of insurance or to acts in the conduct thereof.

§ 453.9 State exemptions.

If, upon application to the Commission by an appropriate State agency, the Commission determines that:

(a) There is a State requirement in effect which applies to any transaction to which this rule applies; and

(b) That State requirement affords an overall level of protection to consumers which is as great as, or greater than, the protection afforded by this rule; then the Commission's rule will not be in effect in that State to the extent specified by the Commission in its determination, for as long as the State administers and enforces effectively the State requirement.

[FR Doc. 84-162 Filed 1-4-84; 8:45 am]
BILLING CODE 6750-01-M

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16 CFR Part 453

Trade Regulation Rule Concerning Funeral Industry Practices; Change in Effective Date

AGENCY: Federal Trade Commission.

ACTION: Change in effective date.

SUMMARY: The effective date for § 453.3(b)(1)(ii) of the Federal Trade Commission's Trade Regulation Rule for Funeral Industry Practices, 16 CFR Part 453, is postponed from January 1, 1984 until April 30, 1984. This section of the Rule prohibits funeral providers from representing that a casket (other than an unfinished wood box) is required for direct cremations. It is intended to operate in conjunction with § 453.4(a) of the Rule which prohibits funeral providers from requiring consumers to purchase a casket, other than an unfinished wood box, for direct cremations, if they arrange direct cremations. Because § 453.4(a) of the Rule has been stayed until April 30, 1984, the Commission has determined that a prohibition on statements by funeral providers that a casket is required for direct cremations would be inequitable.

FOR FURTHER INFORMATION CONTACT: Lewis Rose, 202-376-3478, or Raouf M. Abdullah, 202-376-2820, Attorneys, Federal Trade Commission, Division of Enforcement, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: On September 24, 1982, the Commission published in the **Federal Register** a final Trade Regulation Rule for Funeral Industry Practices, 16 CFR Part 453.[1] Thereafter, the Rule was subject to Congressional review, which terminated on May 15, 1983, with neither House of Congress having passed a resolution of disapproval. On June 6, 1983, the Commission established an effective date for the Rule of January 1, 1984.[2] Subsequently, the Commission in response to petitions filed by two industry trade associations, announced its decision to postpone the effective date of portions of the Rule until April 30, 1984.[3] However, those parts of the Rule requiring only that funeral providers refrain from specified oral or written misrepresentations are scheduled to become effective on January 1, 1984, as previously determined.

The Commission has decided to stay the effective date of § 453.3(b)(1)(ii) of the Rule until April 30, 1984. This section of the Rule prohibits funeral providers from representing that a casket (other than an unfinished wood box) is required for direct cremations. It is intended to operate in conjunction with § 453.4(a) of the Rule which prohibits funeral providers from requiring consumers to purchase a casket, other than an unfinished wood box, for direct cremations, if they arrange direct cremations. Because § 453.4(a) of the Rule has been stayed until April 30, 1984, the Commission has determined that a prohibition on statements by funeral providers that a casket is required for direct cremations would be inequitable.

Accordingly, § 453.3(b)(1)(ii) of the Rule has been stayed until April 30, 1984.

List of Subjects in 16 CFR Part 453

Funerals, Trade practices.

By Direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 83-34853 Filed 12-30-83; 4:30 pm]
BILLING CODE 6750-01-M

[1] 47 FR 42260 (September 24, 1982).
[2] 48 FR 25274 (June 6, 1983).
[3] 48 FR 45537 (October 6, 1983).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 154 and 271

[Docket No. RM80-47-002; Order No. 94-E]

Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978; Clarification of Final Rule

December 29, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending its regulations to clarify how § 271.1104(e) of its regulations, pertaining to retroactive collection of delivery and compression allowances under section 110 of the Natural Gas Policy Act of 1978 by sellers of natural gas subject to the Commission's jurisdiction under the Natural Gas Act apply to § 154.94(k) of its regulations, the blanket affidavit section. The amendment clarifies that sellers of such natural gas who file a blanket affidavit under § 154.94(k) may retroactively collect delivery compression allowances as provided in § 271.1004(e).

EFFECTIVE DATE: March 17, 1983.

FOR FURTHER INFORMATION CONTACT:

Michael A. Stosser, Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 357-8033

Louis J. Engel, Federal Energy Regulatory Commission, Office of Producer and Pipeline Regulation, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 357-8667

SUPPLEMENTARY INFORMATION:

I. Introduction

The Federal Energy Regulatory Commission (Commission) is amending § 154.94(k) of its regulations to clarify how § 271.1104(e) of the Commission's regulations, pertaining to retroactive collection of delivery and compression allowances under section 110 of the Natural Gas Policy Act of 1978 (NGPA),[1] is affected by the Commission's blanket affidavit procedure in § 154.94(k).

II. The Problem

A. Retroactive Collection of Delivery and Compression Allowances

On July 25, 1980, the Commission issued Order No. 94,[2] amending interim regulations implementing section 110 of the NGPA.[3] That order defined production-related activities, established allowances for those activities, and set out an application procedure for prospective collection of the allowances. However, because of the complexity involved in determining an allowance for two types of production-related costs, gathering and compression, the Commission believed they should be established generically. Therefore, it suspended all applications for those allowances and instituted a rulemaking proceeding to develop those allowances.[4] However, the Commission indicated that a retroactive collection procedure would be provided under which the allowance for gathering and compression costs determined under the generic rulemaking would be applied to costs incurred with respect to gas delivered on or after the date of issuance of Order No. 94, July 25, 1980, or earlier if a seller has filed an application for those allowances, provided that collection of such costs is contractually authorized.[5]

With respect to collecting delivery and compression allowances, in Order No. 94-A, the Commission developed special rules in § 271.1104(e) designed to compensate a first seller who had incurred delivery or compression costs under the terms of its contract in reliance on statements in Order No. 94 that sellers would be able to retroactively collect delivery [6] and compression allowances. The "retroactive collection period" is specifically defined as "prior to March 7, 1983 but after the earlier of July 25, 1980, or the date on which the seller filed an application with the Commission to recover the costs." [7] In order to retroactively collect an allowance for the delivery and compression costs, § 271.1104(e) provides that a first seller must have had the contractual authority to do so; that any collection must be offset by any amounts collected for delivery or compression during the retroactive collection period; and that the collection of the generic allowances must be pro-rated over time.

B. Blanket Affidavit Procedure

In addition to the authorization of retroactive recovery of delivery and compression allowances, the Commission set up procedures for collection of all production-related cost allowances under NGPA section 110. Those selling natural gas that is still subject to the Commission's jurisdiction under the Natural Gas Act,[8] however, must make certain rate filings in order to collect the allowances, and the blanket affidavit provision in § 154.94(k) was added to provide a simple means of fulfilling the requirement of sections 4, 5 and 7 of the Natural Gas Act.[9] Under that provision, a first seller that has met the eligibility requirements necessary in order to collect a production-related cost allowance, as set out in § 271.1104, may file a blanket affidavit indicating its intention to collect the production-related allowance applicable to its sale.

In order to provide eligible sellers with the opportunity to collect the allowances beginning on the effective date of the order, the Commission established a two-month grace period. Therefore, an affidavit filed on or after March 7, 1983, but not later than May 6, 1983, will be effective for deliveries beginning on March 7, 1983. However, an affidavit filed after May 6, 1983, will be effective on the date of filing with respect only to deliveries beginning on and after the date of filing.

III. Clarification

It has come to the Commission's attention that the language in the blanket affidavit rule in § 154.94(k) can be interpreted to preclude retroactive collection of delivery and compression allowances under § 271.1104(e) for pre-March 7, 1983, costs. Because the regulation reads that "an affidavit * * * shall become effective *with respect to deliveries beginning on March 7, 1983*" (emphasis added), it can be read to preclude deliveries beginning prior to that date.

Section 154.94(k) merely marks the date from which a seller, if eligible, may

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[1] 15 U.S.C. 3301-3432 (Supp. V 1981).

[2] Order No. 94, "Interim Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy under the Natural Gas Act," issued July 25, 1980, Docket No. RM80-47 (45 FR 53,099 (Aug. 11, 1980)) [hereinafter cited as *Order No. 94*].

[3] "Interim Regulations Implementing the Natural Gas Policy Act," issued December 1, 1978, Docket No. RM79-3 (43 FR 56, 448 (Dec. 1, 1978)).

[4] On December 16, 1980, the Commission issued a notice of inquiry, Docket Nos. RM80-73 and RM80-74, (45 FR 84,814 (Dec. 23, 1980)). On January 24, 1983, the Commission issued an interim rule establishing allowances (48 FR 5,190 (Feb. 3, 1983)). On September 27, 1983, the Commission issued a final rule that amended and clarified the interim rule (48 FR 44,495 (Sept. 29, 1983)).

[5] Order No. 94, *supra* note 1, and Order No. 94-A, "Final Rule and Order On Rehearing: Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act," (48 FR 5,152 (Feb. 3, 1983)), Docket No. RM80-47-002, issued January 24, 1983, [hereinafter cited as *Order No. 94-A*]

[6] "Delivery" is defined as gathering and transportation. *See* 18 CFR 271.1104(c)(3) (revised 1983).

[7] *See* 18 CFR 271.1104(e)(1).

[8] 15 U.S.C. 717-717w (1976 and Supp. V 1981). *See* 15 U.S.C. 3431 (Supp. V 1981), for categories of gas covered.

[9] Order No. 94-A, *supra*, note 5, at 5,170-171.

begin to collect production-related cost allowances under a blanket affidavit. In other words, a qualifying first seller who filed a timely affidavit by May 6, 1983, could collect production-related costs incurred on and after March 7, 1983, the effective date of Order No. 94–A. Because of the Commission's promise in Order No. 94, however, the situation is somewhat different with respect to production-related cost allowances for delivery and compression. The Commission, therefore, wishes to make clear that, by filing an affidavit on or before May 6, 1983, a first seller becomes eligible to collect for deliveries and compression retroactively as of March 7, 1983, for the retroactive collection period subject to the conditions in § 271.1104(e).

Nevertheless, there are certain similarities in the tratment of all production-related costs for the period after March 7, 1983. A qualifying first seller who filed a late affidavit after May 6, 1983, may only begin to collect any production-related cost allowance prospectively from the date of that affidavit. This is also the case with respect to delivery and compression allowances for sales of gas after March 7th. With respect to those costs, a first seller is also denied collection for costs between the date of that affidavit and March 7, 1983. This does not, however, alter the seller's right to collect retroactively for delivery and compression costs incurred during the retroactive collection period.

The Commission amends the regulations slightly to reflect this clarification.

IV. Effective Date

Inasmuch as this amendment effects no substantive change in the rule but is necessary only for proper implementation, the Commission finds that public notice and comment is unnecessary under section 553(b) of the Administrative Procedure Act (5 U.S.C. 553 (1976)). For the same reasons, the amendment is being made effective as of March 7, 1983, the date the original regulations became effective.

List of Subjects in 18 CFR Parts 154 and 271

Natural gas.

In consideration of the foregoing, Parts 154 and 271 of Title 18 Code of Federal Regulations, are amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PARTS 154 AND 271—[AMENDED]

1. The authority citations for Parts 154 and 271 are revised to read as follows:

Authority: Natural Gas Act, 15 U.S.C. 717–717w, Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432, Department of Energy Organization Act, 42 U.S.C. 7101–7352, Executive Order 12009, 3 CFR, 1977 Comp., p. 142.

2. In § 154.94(k)(4), the first sentence is revised to read as follows:

§ 154.94 Changes in rate schedules.

* * * * *

(k) *Affidavit to collect production-related costs.* * * *

(4) *Effective date of coverage under affidavit.* Except as otherwise permitted for delivery and compression allowances under § 271.1104(e), an affidavit filed under this paragraph by May 6, 1983, shall become effective with respect to deliveries beginning on March 7, 1983; an affidavit filed under this paragraph after May 6, 1983, shall become effective on the date of filing with respect to deliveries beginning on and after the date of filing. * * *

* * * * *

[FR Doc. 84–220 Filed 1–4–84; 8:45 am]

BILLING CODE 6717–01–M

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18 CFR Parts 271 and 274

[Docket No. RM83–3–001; Order No. 336–A]

Reduction in Filing Requirements for Well Category Applications Under Sections 102, 103, 107 and 108 of the Natural Gas Policy Act of 1978

Issued December 29, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order denying rehearing, making clarifications and technical conforming amendments to final rule.

SUMMARY: On September 27, 1983 the Federal Energy Regulatory Commission (Commission) issued Order No. 336, a final rule that amended Parts 271 and 274 of its regulations relating to filing requirements for well category determinations under the Natural Gas Policy Act of 1978 (NGPA).

In this order, the Commission denies rehearing of petitioner's request to permit one application for a section 107(c)(1) deep, high-cost gas determination to cover natural gas produced from any completion location in the wellbore below 15,000 feet. In addition, this order clarifies the regulations implementing sections 102 and 108 and makes technical conforming changes to the Commission's regulations.

EFFECTIVE DATE: December 29, 1983.

FOR FURTHER INFORMATION CONTACT: Nancy M. Rizzo, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–8033.

Order Denying Rehearing and Making Clarifications and Technical Conforming Amendments To Final Rule

Issued December 29, 1983.

I. Introduction

On September 27, 1983 the Commission issued Order No. 336, a final rule that amended Parts 271 and 274 of its regulations relating to filing requirements for well category determinations under the Natural Gas Policy Act of 1978. The Commission received one petition for rehearing from Getty Oil Company. This order denies that petition. In addition, this order clarifies the regulations implementing sections 102 and 108 and makes certain technical conforming amendments to §§ 274.202 and 274.206.

II. Petition for Rehearing

In Order No. 336, the Commission amended § 274.205 to permit an application for a section 107(c)(1) deep, high-cost gas determination to cover natural gas produced from the completion location identified in the application and any deeper completion location. On October 27, 1983, the Commission received a timely petition for rehearing of that order from Getty Oil Company.[1] The petition requests the Commission to reconsider its decision to restrict the original application for determination to the completion location identified and any deeper completion locations. Getty requests that the Commission amend its regulations to permit the original application to cover *all* completion locations below 15,000 feet, and contends the Commission has no factual or policy reasons for limiting this rule to completion locations deeper than the original completion location.[2]

[1] Order No. 336 covered two docket numbers: RM83–3–000 and RM81–12–000. The petition for rehearing filed by Getty Oil Company is a request for a rehearing of the issues in Order No. 336 associated with Docket No. RM83–3–000 only.

[2] On November 3, 1983, Getty filed a petition for rehearing of the Commission's declaratory order issued October 4, 1983, in Docket No. GP82–46–000. In that order the Commission determined that the Commission's regulations required a new determination for each uphole completion in a section 107(c)(1) deep gas well. This petition for rehearing is still pending at the Commission.

Getty's factual argument asserts that the same documentary evidence is used to establish the depth of a completion location regardless of its relationship to other completion locations in the same wellbore. Hence, the Commission does not need to review this documentary evidence for completion locations above the original completion location and below 15,000 feet (hereinafter referred to as "uphole completions").

The Commission permitted the original application to cover any subsequent deeper completion location because the deeper completion location necessarily satisfied the "deep gas" definition. Specifically, the Commission could be assured that the completion location was below 15,000 feet, since the original completion location depth had been verified in the original determination.

In considering whether to include "uphole completions" in this application for determination, the Commission specifically rejected this option and Getty's argument in the final rule. Since there is no assurance that an "uphole completion" will be completed below 15,000 feet, there is no basis to determine that the completion location satisfies the statutory criteria. As stated in the final rule: "[t]he filing requirements established in the regulations for these 'uphole completions' are necessary to enable the jurisdictional agencies to verify that the completion location is below 15,000 feet. The jurisdictional agency must review the well completion report and relevant portions of the well log to corroborate the depth of the completion location." [3]

Getty's second argument states that there is no policy reason for the Commission to require a separate determination for "uphole completions." Getty notes that as a practical matter, most deep gas wells will first be completed in the deepest location and subsequently be recompleted in a completion location above this deepest completion location.

The purpose of the final rules adopted in Order No. 336 was to reduce filing burdens by eliminating those applications that were not necessary to support the substantial evidence standard in section 503 of the NGPA. The Commission determined that when a producer recompleted uphole of the original completion location, the depth of this completion location must be reviewed by the jurisdictional agency to establish the substantial evidence requirement in the NGPA. Accordingly, Getty's petition is denied for the above stated reasons and the reasons set forth in the final rule.

III. Technical, Conforming Amendments to Regulations

The Commission adopted a final rule in § 271.805(e)(2) requiring the purchaser (or operator) to provide the operator (or purchaser) with a copy of its petition for a determination under § 271.806 or a copy of the motion contesting the disqualification or requalification of a stripper well. This rule removed the requirement that a copy of this petition or motion be filed with the jurisdictional agency or the Commission.

The final rule inadvertently retained the portion of the oath statement in § 274.206 that stated a copy of the petition or motion was filed with the jurisdictional agency and the Commission. The Commission is, therefore, removing these words from the oath statement to conform with the rule adopted in Order No. 336.

In addition, the final rule did not amend the reference to § 274.202(e) in § 274.202(b). Since old paragraph (e) was renumbered paragraph (d), this reference should be § 274.202(d).

IV. Clarification of OCS and Stripper Well Regulations

The Commission has received several informal inquiries concerning the stripper well regulations adopted by the Commission in Order No. 336.[4] These inquiries address the issue of whether the Commission intended to permit a well that received a section 108 determination and subsequently disqualified before December 7, 1983, the effective date of Order No. 336, to be eligible for the section 108 stripper well price if the well subsequently requalified according to the regulations adopted in Order No. 336.

The Commission intended the disqualification and requalification rules adopted in Order No. 336 to apply not only to any well that receives an affirmative determination on or after December 7, 1983 but also to any well that received an affirmative section 108 determination prior to December 7, 1983, regardless of whether that well subsequently disqualified as a stripper well prior to that date. The Commission's intent in adopting these procedures in Order No. 336 was to require only one determination for a stripper well. Thus, the rules in Order No. 336 are applicable to stripper wells that disqualify or disqualify and requalify, provided they have received an affirmative section 108 determination.

The Commission notes, however, that even though a new application need not be filed for a stripper well that was disqualified prior to December 7, 1983, the rule does not permit collection of the stripper well price for gas produced from a disqualified well before the effective date of the rule. Hence, the rule does not effect the refund obligation a producer may have incurred prior to December 7, 1983, if that producer collected the section 108 price during the period the well was disqualified or during the period the well produced within the stripper well limitation if a new application was not filed.

Finally, in Order No. 336, the Commission adopted a new procedure for determinations of gas produced from a new OCS lease under section 102(c)(1)(A) of the NGPA. Under this procedure, the jurisdictional agency (U.S. Department of the Interior, Minerals Management Service (MMS)) may file one notice of determination for all new natural gas on new OCS leases by submitting the lease number, area and block number, and the date the OCS lease was issued by the Secretary of the Interior. In addition, the Commission permitted MMS to file a blanket notice of determination to cover new leases that were issued prior to the effective date of the rule.[5] The Commission stated in the preamble that "[a]ny gas produced from a well drilled on a new lease included in this blanket notice would be eligible for the section 102 maximum lawful price beginning on the date the blanket notice is filed at the Commission." [6] Because MMS submitted its blanket notice to the Commission prior to the effective date of this rule, the Commission is clarifying that gas produced from a well drilled on a new lease included in the blanket notice is eligible for the section 102 rate beginning on December 7, 1983, the effective date of Order No. 336, unless a separate application for determination for a well was previously filed.

List of Subjects in 18 CFR Part 274

Natural gas, Wage and price controls.

In consideration of the foregoing, the Commission orders:

(A) The petition for rehearing of Order No. 336 is denied; and

[3] 48 FR 44,508, 44,515 (September 29, 1983) (Order No. 336).

[4] The Commission also has received a request from Dorchester Oil and Gas Company for an official interpretation from the General Counsel concerning these stripper well regulations. (Request for Interpretation, Dorchester Gas Producing Company, December 2, 1983.)

[5] Pursuant to § 274.104(c), the blanket notice filed by the MMS is a notice of determination and therefore is subject to the 45-day determination review period in § 275.202.

[6] 48 FR 44508, 44510 (September 29, 1983).

(B) The regulations in Part 274, Subchapter H, Chapter I, Title 18, Code of Federal Regulations are amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 274—[AMENDED]

1. The authority citation for Part 274 is revised to read as follows:

Authority: Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (Supp. V 1981); Department of Energy Organization Act, 42 U.S.C. 7101–7352 (Supp. V 1981); E.O. 12009, 3 CFR 142 (1978), unless otherwise noted.

§ 274.202 [Amended]

2. Sections 274.202 (b)(1)(v), (b)(1)(vi), (b)(2)(iv), and (b)(2)(v) are amended by removing the reference to "§ 274.202(e)" and inserting, in its place, "§ 274.202(d)".

§ 274.206 [Amended]

3. In § 274.206,

A. Paragraphs (c)(6), (d)(5), and (e)(7)(iii) are amended by removing the words "the jurisdictional agency, the Commission, and"; and

B. Paragraph (f)(5) is amended by removing the words "on the Commission and".

[FR Doc. 84–219 Filed 1–4–84; 8:45 am]
BILLING CODE 6717–01–M

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18 CFR Part 282

[Docket No. RM80–18–001]

Treatment Under the Incremental Pricing Program of Natural Gas Used in the Manufacturing Process for Fertilizer, Agricultural Chemicals, Animal Feed, or Food; Order Denying Rehearing

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order denying rehearing.

SUMMARY: On September 24, 1981, the Federal Energy Regulatory Commission (Commission) issued Order No. 177 (46 FR 50060, October 9, 1981), a final rule that exempted from incremental pricing the boiler fuel use of natural gas by the fertilizer, agricultural chemicals, animal feed and food industries. The Commission issued the final rule pursuant to its exemptive authority under section 206(d) of the Natural Gas Policy Act of 1978. The Commission received one application for rehearing of the final rule. For the reasons discussed in this order and in the final rule, the Commission denies rehearing of the final rule.

FOR FURTHER INFORMATION CONTACT: Barbara K. Christin, Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357–8033.

SUPPLEMENTARY INFORMATION:

Order Denying Rehearing

Issued: December 29, 1983.

I. Introduction

On September 24, 1981, the Federal Energy Regulatory Commission (Commission) issued Order No. 177 (46 FR 50060, October 9, 1981), a final rule amending the Commission's regulations on incremental pricing under Title II of the Natural Gas Policy Act (NGPA) (15 U.S.C. 3301–3432). The rule, which became effective on November 1, 1981, provides an exemption from incremental pricing surcharges for natural gas used as boiler fuel in the manufacture of fertilizer, agricultural chemicals, animal feed or food, until such time as the Commission determines that there is an alternative fuel that is economically practicable and reasonably available.

The Commission issued the final rule pursuant to its authority under section 206(d) of the NGPA. Section 206(d) authorizes the Commission to issue a rule or order, providing for the exemption, "in whole or in part, of any other incrementally priced industrial facility or category thereof."

On October 23, 1981, the Process Gas Consumers Group, the American Iron and Steel Institute, and the Georgia Industrial Gas Group (Groups) jointly filed an application for rehearing of Order No. 177. On November 20, 1981, the Commission granted the application for rehearing of Order No. 177 solely for purposes of further consideration. For the reasons discussed below and in Order No. 177, the Commission denies the application for rehearing.

II. Discussion

In the application for rehearing, the Groups argue that there was no basis for the policy decision in Order No. 177 to exempt from incremental pricing the boiler fuel use of natural gas in the manufacture of fertilizer, agricultural chemicals, animal feed or food. The application accordingly requests that the Commission revoke the exemption by rescinding the final rule.

The Groups argue that the exemption granted by Order No. 177 is contrary to Congressional intent in the NGPA. Section 206(b)(3)(B) of the NGPA includes as agricultural uses that are exempt from incremental pricing only the process and feedstock uses of gas by the fertilizer, agricultural chemicals, animal feed or food industries. The Groups assert that the Commission's use of legislative history as support for the exemption that goes beyond the uses defined in section 206(b)(3)(B) is inappropriate because the statute is clear and unambiguous in excluding the boiler fuel use of gas by these enumerated industries.

The Commission disagrees that its discussion of the legislative intent is inappropriate. Section 206(b) excludes the boiler fuel use of natural gas by the four industries from qualifying for an exemption as an *agricultural use.* On the other hand, the exemption granted by Order No. 177 was issued under section 206(d) of the NGPA.

Section 206(d) confers on the Commission broad discretion to issue exemptions in addition to those specifically enumerated in paragraphs (a)–(c) of that section. Section 206(d) allows the Commission to exempt, in whole or in part, "any other incrementally priced industrial facility or category thereof." This exemptive authority was intended to maximize the Commission's discretion in administering the incremental pricing program. The preamble to the final rule discusses the scope of this exemptive authority and cites *Ohio Association of Community Action Agencies v. Federal Energy Regulatory Commission (Ohio Association),* 654 F.2d 811 (D.C. Cir. 1981), in support of the Commission's use of its exemptive authority in this proceeding.[1] In *Ohio Association,* the court said that the Commission is to use this exemptive authority " 'flexibly' to accomplish other purposes talked about in the legislative history—to prevent individual hardship, to protect essential process uses of natural gas, * * * [and] to introduce a measure of stability in the market * * *" [2]

In considering whether to issue the proposed exemption using its section 206(d) authority, the Commission reviewed the relevant legislative history and concluded that the exemption "appears to be consistent with Congressional intent to single out generally [the agricultural] industry for preferred treatment in connection with incremental pricing." [3]

The Groups further allege that Order No. 177 is violative of the spirit of the decision of the United States Court of Appeals for the District of Columbia Circuit in *Process Gas Consumer's Group v. United States Department of Agriculture (Process Gas),* 657 F.2d 459

[1] 46 FR 50061.
[2] 654 F.2d at 824–825.
[3] 46 FR 50063.

(D.C. Cir 1981). They cite the *Process Gas* case as further support for their argument that the Commission cannot justify the special exemption for these uses on the grounds that they are deserving of the same special treatment which the NGPA accords to agricultural uses because the "agricultural use" class defined by Congress in Title II specifically excludes these boiler fuel uses of natural gas. The Groups also allege that the Commission did not sufficiently distinguish the *Process Gas* decision from the policy decision in Order No. 177.

The Commission does not accept this argument. The applicants' reliance on the *Process Gas* decision in this proceeding is inappropriate. That decision was reached in the context of Title IV of the NGPA, not Title II, and the issue in *Process Gas* is unrelated to the issue in this proceeding.

Title IV sets forth a system of priorities of natural gas allocation during periods of gas shortages. The highest curtailment priority category includes gas used in residences, hospitals, and similar facilities. The second priority consists of those uses of natural gas certified by the Secretary of Agriculture as "essential agricultural uses" of natural gas pursuant to section 401(f)(1) of the NGPA. The definition of "essential agricultural uses" in section 401(f)(1) is similar to the definition of "agricultural use" in section 206(b)(3). Sections 206(b)(3)(B) and 401(f)(1)(B) both include the use of natural gas as a "process fuel or feedstock in the production of fertilizer, agricultural chemicals, animal feed, or food."

The issue in *Process Gas* was whether the Secretary had the authority to define the term "process fuel" as used in section 401 so as to include in Priority 2 some boiler fuel uses of natural gas by the enumerated industries. The court held that the Commission, not the Secretary, has the explicit responsibility for defining technical terms used in the NGPA, and that, for purposes of section 401(f)(1)(B), process fuel does not mean boiler fuel. Hence, it has been argued that, because the language of sections 401(f) and 206(b) are similar, the Commission is prohibited from exempting these boiler fuel uses of natural gas from incremental pricing.

In this proceeding, however, the exemption was not issued pursuant to the Commission's authority under section 206(b) to define agricultural uses of natural gas. Rather, as previously noted, the Commission used its authority under section 206(d) of the NGPA to exempt the boiler fuel use of natural gas by the industries enumerated in section 206(b)(3)(B). Section 206(d) gives the Commission broad discretion to provide for the exemption from incremental pricing of industrial uses of natural gas not specifically exempted elsewhere in Title II.

The Groups object to the discussion in the preamble relating to the price impact that the imposition of incremental pricing surcharges on the boiler fuel use of natural gas by the fertilizer, agricultural chemicals, animal feed or food industries would have on the agricultural sector.[4] They argue that the impact estimates cannot reasonably be relied on to grant exemption relief to the enumerated industries.

The Commission disagrees. All the information submitted by commenters was thoroughly evaluated by the Commission. Based upon this information, it appeared that agricultural production would be furthered by granting the exemption. Although the applicants apparently object to this appraisal, they simply restate arguments that have been raised previously by some of the commenters, and do not present any data that were not part of the record and available to the Commission when it issued the exemption in Order No. 177.

Moreover, as fully discussed in Order No. 177, the Commission's decision to exempt the boiler fuel use of natural gas by the fertilizer, agricultural chemical, animal feed or food industries was not based solely upon a consideration of price impact. For example, the Commission was aware that, "by defining agricultural use as it did, Congress delineated a class of uses that merited special treatment under Title II of the NGPA."[5] The Commission also considered the vital relationship of these industries to agricultural production, as well as relevant legislative history and the extent of the Commission's authority under section 206(d) of the NGPA.

While the Groups raise other arguments in their application for rehearing, the Commission believes that further discussion of these issues here would serve no purpose because they were considered by the Commission and adequately discussed in Order No. 177.

The Commission Orders

Accordingly, for the reasons discussed above and in the preamble to the final rule, the Commission denies the application for rehearing of Order No. 177.

List of Subjects in 18 CFR Part 282

Natural gas.

[4] 46 FR 50062.
[5] 46 FR 50060.

(Natural Gas Policy Act of 1978, Pub. L. 95-621, 92 Stat. 3350, 15 U.S.C. 3301-3434)

By the Commission. Commissioner Richard concurred with a separate statement attached.

Kenneth F. Plumb,

Secretary.

Richard, Commissioner, Concurring

Issued December 29, 1983.

On December 1, 1983, the Commission issued a Notice of Proposed Rulemaking dealing with Phase II of the Incremental Pricing program.[1] In that Notice, the Commission recognized the changes in natural gas marketing conditions in recent years and noted that Phase I of the program has been "unable to achieve its intended market-ordering function in the face of those conditions." [2] The Commisson further noted that negotiations between pipelines and producers "hold more promise of restoring gas markets to balance than an artificial mechanism such as Phase II of incremental pricing." [3] For these reasons the Commission proposed not to implement a Phase II rule.

Given this de-emphasis on incremental pricing, the question of whether or not fertilizer manufacturers should receive a discretionary exemption from the program no longer has much significance. Accordingly, I see no reason not to concur in the Commission's decision to deny rehearing in the instant docket. Were incremental pricing to become a meaningful factor in the Commisson's deliberations on natural gas market ordering, I would want to reconsider the arguments raised by the Process Gas Consumers Group.

Oliver G. Richard III,

Commissioner.

[FR Doc. 84-217 Filed 1-4-84; 8:45 am]

BILLING CODE 6717-01-M

[1] 25 FERC ¶ 61,368.
[2] *Id., slip op.* at 8.
[3] *Id., slip op.* at 10.

RAILROAD RETIREMENT BOARD

20 CFR Part 341

Statutory Lien Where Sickness Benefits Paid

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: The Railroad Retirement Board hereby amends Chapter II of Title 20 of the Code of Federal Regulations by adding a new Part 341, Statutory Lien Where Sickness Benefits Paid. Section

12(o) of the Railroad Unemployement Insurance Act provides that sickness benefits shall be payable to an individual for days of sickness regardless of the liability of any person for the infirmity for which the benefits are paid. However, that section also provides that the Board is to be reimbursed by means of a statutory lien, for the sickness benefits actually paid from any sum or damages paid or payable to the individual by reason of the infirmity.

The new Part 341 explains when a lien is established under section 12(o) of the Railroad Unemployment Insurance Act, and how the amount of the lien is determined, what procedures must be followed by the Board in establishing the lien, and how the lien may be satisfied. In addition, the new Part 341 establishes procedures to be followed by the Board in terminating sickness benefits where it has been reported to the Board that the beneficiary has recovered through settlement or judgment any sum or damages for the same injury or sickness for which sickness benefits under the Railroad Unemployment Insurance Act have been paid.

EFFECTIVE DATE: January 5, 1984.

FOR FURTHER INFORMATION CONTACT: Walter Witkovich, Bureau of Unemployment and Sickness Insurance, Railroad Retirement Board, 844 Rush Street, Room 600, Chicago, Illinois 60611, (312) 751–4810, (FTS 387–4810).

SUPPLEMENTARY INFORMATION: Part 341 was published as a proposed rule in the **Federal Register** on November 10, 1980 (40 FR 74510), with a request for comments from the public. The Board received two comments from the public concerning the proposed rule. The first comment concerned sections 341.6 and 341.8 and requested that additional language be added to those sections to make it clear that sickness benefits would not be terminated before entry of a final judgment. Concern was expressed that the wording in the proposed rule might permit termination where a judgment has been appealed and where any damages awarded might never be paid or would be delayed for an extended period. The Board agrees with this comment and has added language to the two sections to make it clear that benefits will not be terminated until notice of settlement or *final* judgment. The second comment suggested deletion of the authority provided in section 341.9 for the Board to intervene in actions for damages under certain circumstances. The Board considered this comment and determined that the authority to intervene should be retained since intervention has been necessary to protect the Board's interest in certain instances in the past.

The new Part 341 is not a major rule under Executive Order 12291 and no regulatory analysis is required. The information collections associated with this regulation have been approved by the Office of Management and Budget.

List of Subjects in 20 CFR Part 341

Railroad employees, Railroad unemployment insurance, Unemployment compensation.

Title 20, Chapter II of the Code of Federal Regulations is amended as follows:

1. A new Part 341 is added to Subchapter C to read as follows:

PART 341—STATUTORY LIEN WHERE SICKNESS BENEFITS PAID

Sec.

341.1 Lien.
341.2 Sum or damages paid or payable.
341.3 Notice of lien.
341.4 Information required to be furnished by the employee.
341.5 Amount of reimbursement.
341.6 Report of settlement or judgment.
341.7 Liability on Board's claim.
341.8 Termination of sickness benefits due to a settlement.
341.9 Board as a party; attorney's fee.

Authority: Sec. 323, Pub. L. 79–572, 60 Stat. 740, 741 (45 U.S.C. 362(o)).

§ 341.1 Lien.

After notice in accordance with this part, the Board shall have a lien upon any sum or damages paid or payable to an employee based upon an infirmity for which the employee received sickness benefits.

§ 341.2 Sum or damages paid or payable.

(a) The term "sum or damages paid or payable" means the amount of money that an employee recovers because of any claim of liability based upon his or her injury or illness.

(b) The term "sum or damages paid or payable" does not include:

(1) An amount specified in a settlement or award as payment for any loss of property, or the amount of a settlement or award specifically apportioned as pay for lost time.

(2) An amount paid as a result of a lawsuit based on wrongful death.

(3) Workers' compensation payments.

(4) "No-Fault" personal-injury protection benefits or any other benefits paid under a health, sickness, accident or similar insurance policy carried by an employee.

(5) Payments made to an employee under the terms of his or her insurance policy providing for payment of all amounts that the employee is legally entitled to recover for bodily injury from the owner or operator of an uninsured motor vehicle.

§ 341.3 Notice of lien.

(a) *Notice to alleged tortfeasor.* The Board shall mail a "Notice of Lien" to each person or company identified as liable or potentially liable for causing the employee's infirmity. The "Notice of Lien" will notify the person or company of the Board's right to reimbursement. The notice shall include:

(1) The employee's name, address and social security number;

(2) The date and place of the accident; and

(3) The employee's occupation, if injured on duty.

(b) *Notice to employee.* A notice regarding repayment of sickness benefits shall be sent to an employee who names a party other than a railroad as the alleged tortfeasor.

(c) *Notice of amount of lien.* The amount of the Board's lien shall be reported, upon request, to a railroad or other person or company that may be liable for paying damages, or to the employee, or to an attorney representing any of those parties. The amount of the lien shall be reported whether or not the terms of a settlement have been agreed upon. When requested, a list showing the sickness benefits paid for each claim period may be furnished.

§ 341.4 Information required to be furnished by the employee.

(a) When applying for sickness benefits, an employee shall report the name and address of the person or company, if any, who is alleged to have caused his or her infirmity. The employee shall also provide whatever other details are reasonably needed so that the Board may establish its lien.

(b) The employee shall, upon request, tell the Board whether and from whom he or she has collected any damages for the infirmity.

§ 341.5 Amount of reimbursement.

(a) The Board shall receive as reimbursement the lesser of:

(1) The amount of sickness benefits paid to the employee for the infirmity for which he or she recovers any sum or damages; or

(2) The net amount of the sum or damages paid to the employee for the infirmity, after substracting the amount of the expenses listed in paragraph (b) of this section.

(b) The expenses that may be subtracted from the amount of damages recovered are:

(1) The medical and hospital expenses that the employee incurred because of his or her injury. These expenses are deductible even if they are paid under an insurance policy covering the employee or are covered by his or her membership in a medical or hospital plan or association. But such expenses are not deductible if they are not covered by insurance or by membership in a medical or hospital plan or association and are consequently paid by a railroad or other person directly to the doctor, clinic or hospital that provided the medical care or services.

(2) The cost of litigation. This includes both the amount of the fee to which the attorney and the employee have agreed and the other expenses that the employee incurred in the conduct of the litigation itself.

§ 341.6 Report of settlement or judgment.

(a) When a person or company makes a settlement or must satisfy a final judgment based on an injury for which the employee received sickness benefits, the person or company shall notify the Board of the settlement or judgment. That notice shall be in writing and submitted within five days of the settlement or final judgment. That notification shall contain:

(1) The amount of the settlement or final judgment;

(2) The date of the settlement or final judgment; and

(3) The amount withheld from the settlement or final judgment to satisfy the Board's lien.

(b) Payment of the amount due the Board shall be delivered to the Board within 30 days after the date of the settlement agreement or the entry of final judgment.

(c) If the damages payable are to be paid directly to the court to satisfy a final judgment, thus making it impossible for the person or company to remit the amount of reimbursement due the Board, the person or company shall immediately notify the Board of the situation.

§ 341.7 Liability on Board's claim.

(a) A person or company paying any sum or damages to an employee who has received sickness benefits from the Board shall, upon receipt of notice as provided in § 341.3(a), be liable to the Board for the amount of reimbursement computed under § 341.5. This liability may be relieved by either:

(1) Withholding the amount reimbursable to the Board from the sum or damages payable to the employee, and subsequently paying that amount to the Board; or

(2) Including the United States Railroad Retirement Board as a payee on the check or draft along with the employee and any others who have an interest in the damages.

(b) If the person or company paying the damages does not protect the Board's lien or attempts to protect the Board's lien in some manner other than those described in paragraph (a), that person or company shall remain liable to the Board until the Board is reimbursed in full.

§ 341.8 Termination of sickness benefits due to a settlement.

(a) Sickness benefits payable to an eligible employee shall be paid without regard to whether any person or company may be liable for causing the employee's infirmity. However, the Board will terminate the payment of sickness benefits upon receipt of an oral or written report that a settlement or final judgment for the infirmity has been made.

(b) A report of settlement shall be made to the Division of Claims Operations, Bureau of Unemployment and Sickness Insurance, and shall include the information required in § 341.6. Where the report is an oral report, and the informant is neither the employee not his or her representative, the informant shall be told that written confirmation containing the information called for by § 341.6 must be submitted to the Board within five days from the date of the oral report.

(c) If, in the case of an oral report, the written confirmation as described in paragraph (b) of this section is not received within five days, the Division of Claims Operations shall take steps within five additional working days to verify whether there has been a settlement or final judgment. If there has been no settlement or final judgment, the payment of sickness benefits shall be reinstated.

(d) Within five days of the notification of a settlement or final judgment, the Board shall inform the employee of the report of the settlement or final judgment. The notice to the employee shall state how the employee may inform the Board that there has not been a settlement or final judgment. If the employee states that there has not been a settlement or final judgment, the adjudicating office shall, within 10 days after the receipt of such a statement, make a determination as to the employee's rights to future sickness benefits and shall notify him or her accordingly.

(e) An employee shall have the right to appeal from the determination of the amount of sickness benefits recoverable for the settlement or judgment.

An employee shall also have the right to appeal the termination of his or her sickness benefits after the report of a settlement or final judgment made in accordance with the procedures provided in paragraphs (b), (c) and (d) of this section. Such appeals shall be filed and processed in accordance with Part 320 of these regulations.

§ 341.9 Board as a party; attorney's fee.

(a) The Board shall not participate in the prosecution of a personal-injury claim of an employee eligible for sickness benefits and shall neither encourage nor discourage such employee with respect to the pursuit of a claim for damages.

(b) The Board shall not be a party in any action for damages brought by an employee claiming sickness benefits under the Railroad Unemployment Insurance Act. The Board's right of reimbursement under section 12(o) of the Railroad Unemployment Insurance Act shall not be construed as giving the Board a right of subrogation or other cause of action for damages against an alleged tortfeasor. The Board shall intervene in such an action only when it is apparent that intervention may be required to protect its right of reimbursement.

(c) The Board shall not be liable for the payment of any attorney's fee or other expenses incurred in connection with such a claim for damages.

By Authority of the Board.

Dated: December 1, 1983.

For the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 84-17 Filed 1-4-84; 8:45 am]

BILLING CODE 7905-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Imports

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority relating to imports to redelegate additional authorities to the delegates.

EFFECTIVE DATE: January 5, 1984.

FOR FURTHER INFORMATION CONTACT: Robert L. Miller, Office of Management and Operations (HFA–340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4976.

SUPPLEMENTARY INFORMATION: Section 5.45(a) and (b) (21 CFR 5.45(a) and (b)) is being amended to authorize the officials delegated authority under those paragraphs to designate officials to determine whether food, drugs (including biological products), devices, or cosmetics imported or offered for import are in compliance with Federal Food, Drug, and Cosmetic Act (FFDCA), to authorize relabeling or other compliance actions to bring articles into compliance under the FFDCA, to refuse admission of noncomplying electronic products and notify the Secretary of the Treasury of such refusal under the Public Health Service Act (PHSA), and to refuse or grant permission and time extensions to bring noncomplying products into compliance with the PHSA.

Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 5 is amended by revising § 5.45(a) and (b) to read as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

§ 5.45 Imports and exports.

(a) The Regional Food and Drug Directors, District Directors, and Chiefs of Station Offices are authorized, under section 801 of the Federal Food, Drug, and Cosmetic Act (FFDCA), to perform the following functions or to designate officials to:

(1) Request from the Secretary of the Treasury samples of food, drugs (including biological products), devices, or cosmetics imported or offered for import.

(2) Determine whether such articles are in compliance with the FFDCA.

(3) Authorize relabeling or other compliance actions to bring articles into compliance under the FFDCA.

(4) Supervise such compliance actions.

(d) The Director and Deputy Director, National Center for Devices and Radiological Health (NCDRH:); the Director and Deputy Director, Office of Compliance, NCDRH; Regional Food and Drug Directors; District Directors; and Chiefs of Station Offices are authorized under section 360 of the Public Health Service Act (PHSA), to perform the following functions or to designate officials to:

(1) Request from the Secretary of the Treasury samples of electronic products imported or offered for import to determine whether such products are in compliance with the PHSA.

(2) Refuse admission of noncomplying products and notify the Secretary of the Treasury of such refusal.

(3) Supervise operations to bring noncomplying products into compliance under the PHSA.

(4) Refuse or grant permission and time extensions to bring noncomplying products into compliance with the PHSA in accordance with a corrective action plan approved by the Director, Office of Compliance, NCDRH.

* * * * *

Effective date. This regulation shall become effective January 5, 1984.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)).)

Dated: December 29, 1983.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–163 Filed 1–4–84; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Gentamicin Sulfate Pig Pump Oral Solution

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Schering Corp. providing for safe and effective use of gentamicin sulfate pig pump oral solution in neonatal swine for control and treatment of colibacillosis.

EFFECTIVE DATE: January 5, 1984.

FOR FURTHER INFORMATION CONTACT: Charles E. Haines, Bureau of Veterinary Medicine (HFV–133), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3410.

SUPPLEMENTARY INFORMATION: Schering Corp., Galloping Hill Rd., Kenilworth, NJ 07033, filed NADA 130–464 providing for use of gentamicin sulfate pig pump oral solution (4.35 milligrams of gentamicin per milliliter) for control and treatment of colibacillosis caused by strains of *E. coli* sensitive to gentamicin.

The NADA is approved and the regulations are amended to reflect this approval. The basis of approval is discussed in the freedom of information summary referred to below.

The Bureau of Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefor will not be prepared. The Bureau's finding of no significant impact and the evidence supporting this finding, contained in an environmental impact analysis report (pursuant to 21 CFR 25.1(j)), may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (address above).

List of Subjects in 21 CFR Part 520

Animal drugs, Oral.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended by redesignating § 520.1044 as § 520.1044a and by adding new §§ 520.1044 and 520.1044b, to read as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 520.1044 Gentamicin sulfate oral dosage forms.

§ 520.1044b Gentamicin sulfate pig pump oral solution.

(a) *Specifications.* Each milliliter of pig pump oral solution contains gentamicin sulfate equivalent to 4.35 milligrams of gentamicin.

(b) *Sponsor.* See No. 000085 in § 510.600(c) of this chapter.

(c) *Related tolerances.* See § 556.300 of this chapter.

(d) *Conditions of use*—(1) *Amount.* Administer 1.15 milliliters of pig pump oral solution (5 milligrams of gentamicin) orally per pig one time.

(2) *Indications for use.* In neonatal swine 1 to 3 days of age for control and treatment of colibacillosis caused by strains of *E. coli* sensitive to gentamicin.

(3) *Limitations.* For use in neonatal swine only. Do not slaughter treated swine for food for at least 14 days following treatment.

Effective date. January 5, 1984.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: December 28, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 84-156 Filed 1-3-84; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 876

[Docket No. 77P-0377]

Hedeco Health Development Corp.; Reclassification of Dissolvable Nasogastric Feed Tube Guide

AGENCY: Food and Drug Administration.

ACTION: Final rule; conforming amendment.

SUMMARY: The Food and Drug Administration (FDA) is announcing that it issued an order in the form of a letter to a petitioner reclassifying the dissolvable nasogastric feed tube guide from class III (premarket approval) into class I (general controls). FDA also is issuing a final regulation that codifies the reclassification of the device. The effect of reclassifying a device into class I is to require that the device meet only the general controls applicable to all devices. If the device had remained classified in class III, each manufacturer of the device would have been required to submit to FDA for its approval an application for premarket approval. FDA reclassified this device in response to a petition from Hedeco Health Development Corp.

EFFECTIVE DATES: The reclassification was effective on January 23, 1978. This rule becomes effective February 6, 1984.

FOR FURTHER INFORMATION CONTACT: Norman T. Welford, National Center for Devices and Radiological Health (HFK-420), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7750.

SUPPLEMENTARY INFORMATION: On April 27, 1977, Hedeco Health Development Corp., Mountain View, CA 94043, submitted to FDA, under section 513(f)(2) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c(f)(2)), a petition requesting that a new device with the brand name "Keo-feed™ Tube Guide" be reclassified from class III into class I. The statute classified the device into class III because it was not substantially equivalent to a device in commercial distribution before enactment of the Medical Device Amendments of 1976 (Pub. L. 94-295). See 21 U.S.C. 360c(f)(1). FDA referred the petition to the General and Plastic Surgery Device Section (the Section) of the Surgical and Rehabilitation Devices Panel for a recommendation. The Section, which named the device the "dissolvable nasogastric feeding tube guide," recommended that the device be reclassified from class III into class I. The Section did not recommend that the device be exempted from certain requirements of section 510, 519, or 520(f) of the act, as provided in section 513(f)(2)(B)(ii) of the act.

The recommendation was based on the Section's belief that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. In a notice published in the **Federal Register** of December 13, 1977 (42 FR 62548), FDA announced the Section's recommendation and provided a period of 30 days for interested persons to submit to FDA written comments on the recommendation. No comments were received. FDA agreed with the Section's recommendation. In accordance with section 513(f)(2)(C)(i) of the act and 21 CFR 860.134(b)(6) of the regulations, FDA approved the petition and, by order in the form of a letter dated January 23, 1978 and sent to the petitioner, reclassified the device from class III into class I without exemptions.

At the time of the reclassification order, FDA intended to include the regulation describing the device's classification in the regulations classifying the general and plastic surgery devices. However, FDA now believes that the classification of the device should be codified with the regulations classifying gastroenterology-urology devices. FDA is treating the device reclassified into class I in response to the petition as an accessory to the generic type of device identified in § 876.5980 *Gastrointestinal tube and accessories* (Docket No. 78N-2072). (See the **Federal Register** of November 23, 1983; 48 FR 53012). Hence, FDA is amending 21 CFR 876.5980(b), the regulation that will govern the reclassified device, to make it conform to the reclassification decision on the accessory in question.

Accordingly, as required by 21 CFR 860.134(b)(7) of the regulations, FDA is codifying in its regulations the reclassification of a generic type of device FDA calls a dissolvable nasogastric feed tube guide from class III into class I without exemptions. Any device that FDA determines to be substantially equivalent to the dissolvable nasogastric feed tube guide also has been reclassified from class III into class I without exemptions.

After considering the economic consequences of this final rule describing FDA's earlier reclassification, FDA certifies that the final rule requires neither a regulatory impact analysis, as specified in Executive Order 12291, nor a regulatory flexibility analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96-354). This rule will not have a significant economic impact on a substantial number of small entities. The petitioner, and all future manufacturers of a dissolvable nasogastric feed tube guide, will be relieved of the costs of complying with the premarket approval requirements in section 515 of the act. There are no off-setting costs that the petitioner or other manufacturers would incur from reclassification into class I. The magnitude of the economic savings from approval of this petition depends on the extent of premarket approval studies that the petitioner would have conducted and the number of future competitors satisfying the same requirements. Neither of these parameters can be reliably calculated to permit quantification of the economic savings.

List of Subjects in 21 CFR Part 876

Medical devices, Gastroenterology-urology devices.

Therefore, Under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 876 is amended by revising § 876.5980, to read as follows:

PART 876—GASTROENTEROLOGY-UROLOGY DEVICES

§ 876.5980 Gastrointestinal tube and accessories.

(a) *Identification.* A gastrointestinal tube and accessories is a device that consists of flexible or semi-rigid tubing used for instilling fluids into, withdrawing fluids from, splinting, or suppressing bleeding of the alimentary tract. This device may incorporate an

integral inflatable balloon for retention or hemostasis. This generic type of device includes the hemostatic bag, irrigation and aspiration catheter (gastric, colonic, etc.), rectal catheter, sterile infant gavage set, gastrointestinal string and tubes to locate internal bleeding, double lumen tube for intestinal decompression or intubation, feeding tube, gastroenterostomy tube, Levine tube, nasogastric tube, single lumen tube with mercury weight balloon for intestinal intubation or decompression, and gastro-urological irrigation tray (for gastrological use).

(b) *Classification.* (1) Class II (performance standards). (2) Class I (general controls) for the dissolvable nasogastric feed tube guide for the nasogastric tube.

Effective dates. This reclassification was effective January 23, 1978. This rule becomes effective on Febuary 6, 1984.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: December 12, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–157 Filed 1–4–84; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 1 and 153

[CGD 83–009]

Delegation of Authority Under CERCLA

AGENCY: Coast Guard, DOT.

ACTION: Final rules.

SUMMARY: These rules delegate authority to Coast Guard officials to perform pollution response functions under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). This law provides authority to respond to releases of hazardous substances, pollutants, and contaminants into the environment. These delegations will allow field commands to respond rapidly to releases from vessels and facilities in the coastal zone.

EFFECTIVE DATE: January 5, 1984.

FOR FURTHER INFORMATION CONTACT: Glenn A. Wiltshire; 202–426–9568.

SUPPLEMENTARY INFORMATION: Since these rules relate to agency management, procedure, and practice, notice and comment are unnecessary and they may be made effective upon publication in the **Federal Register.**

CERCLA (Pub. L. 96–510; 94 Stat. 2767; 42 U.S.C. 9601) provides authority to respond to releases of hazardous substances, pollutants, and contaminants into the environment. The President delegated to the Secretary of Transportation the authority under CERCLA to respond to releases in the coastal zone (E.O. 12316). The coastal zone is defined in the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) at 40 CFR 300.6 (47 FR 31203). This zone includes all U.S. waters subject to the tide, U.S. waters of the Great Lakes, specified ports and harbors on the inland rivers, waters of the contiguous zone, other waters of the high seas subject to the NCP, and the land surface and land substrata, ground waters, and ambient air proximal to those waters.

The Secretary of Transportation redelegated to the Commandant authority under CERCLA to respond to releases and threats of releases from vessels and to take immediate removal action at facilities other than hazardous waste management facilities (49 CFR 1.46(gg)). The Commandant, by internal directive dated September 24, 1982, redelegated most of this authority to District Commanders and predesignated On-Scene Coordinators. The rules in this document set out the details of the delegation.

The rules include one additional delegation not included in the directive of September 24, 1982. The Chief, Office of Marine Environment and Systems at Coast Guard Headquarters is delegated authority to take remedial action involving vessels. This authortity is being retained in Coast Guard Headquarters because of coordination required with the Environmental Protection Agency (EPA) when carrying out responsibilities under this delegation.

These rules also include one modification to the directive of September 24, 1982. That directive allowed OSCs to take action that constituted intervention as long as it did not involve destroying a vessel. "Intervention" means detrimental action taken against the interest of a vessel or its cargo without the consent of the vessel's owner or operator. Section 1.01–70(f) of these rules reserves all intervention authority to the Commandant. The Commandant is reserving intervention authority because of the severe impact that its exercise can have on specific private interests. Also, this authority is complex in that it can be exercised under laws other than CERCLA. The other laws include the Intervention on the High Seas Act (33 U.S.C. 1471 et seq.) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321).

The Commandant is retaining CERCLA authority to (1) deny entry to and detain in port vessels that do not have certification of financial responsibility, (2) enter into contracts and cooperative agreements with States and political subdivisions for response actions, and (3) utilize emergency procurement powers. These authorities are being retained pending development of implementing regulations and procedures.

List of Subjects

33 CFR Part 1

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of Information, Penalties.

33 CFR Part 153

Hazardous substances, Oil pollution.

In consideration of the foregoing, Title 33, Code of Federal Regulations, is amended as follows:

PART 1—GENERAL PROVISIONS

1. A new § 1.01–70 is added to read as follows:

§ 1.01–70 CERCLA delegations.

(a) For the purpose of this section, the definitions in Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Pub. L. 96–510) apply. The Act is referred to in this section as CERCLA.

(b) The Chief, Office of Marine Environment and Systems, is delegated authority to take remedial action involving vessels under Section 104 of CERCLA.

(c) Each District Commander is delegated—

(1) Contract authority for the purpose of carrying out response actions pursuant to CERCLA sections 104(a), 104(b), 104(f), and 104(g), and consistent with each memorandum of Understanding between the Coast Guard and the Environmental Protection Agency (EPA) regarding CERCLA funding mechanisms; and

(2) Authority, pursuant to CERCLA section 106(a), to determine an imminent and substantial endangerment to the public health or welfare or the environment because of an actual or threatened release of a hazardous substance from a facility, and to secure such relief as may be necessary to abate such danger or threat through the United

States Attorney in the District where the threat occurs.

(d) Subject to paragraph (f) of this section, the provisions of Executive Order 12316 of August 14, 1981, and the provisions of 49 CFR 1.46(gg), each Coast Guard official predesignated as an On-Scene Coordinator by the applicable Regional Contingency Plan is delegated authority—

(1) Pursuant to sections 104(a), 104(b), and 104(c) of CERCLA and consistent with the National Contingency Plan, to remove or arrange for the removal of releases and threatened releases of (i) hazardous substances, and (ii) pollutants or contaminants which may present an imminent and substantial danger to the public health or welfare.

(2) Pursuant to section 106(a) of CERCLA, to issue orders to protect the public health and welfare and the environment whenever they determine that a release or threatened release of a hazardous substance from a facility may present an imminent and substantial endangerment to the public health or welfare or the environment; and

(3) Pursuant to section 104(e) of CERCLA, except for section 104(e)(2)(C), to enter establishments or other places where hazardous substances are or have been generated, stored, treated, disposed of, or transported from to inspect and obtain records, reports, samples, and information in support of response actions delegated under paragraphs (d)(1) and (d)(2) of this section.

(e) Coast Guard officials to whom authority has been delegated may redelegate and authorize successive redelegations of that authority within commands under their jurisdiction with the following exceptions:

(1) The authorities granted in paragraphs (c)(2) and (d)(1) of this section shall not be redelegated.

(2) The authority granted in paragraph (d)(2) of this section shall only be redelegated to commissioned officers.

(f) The response authority described in paragraph (d)(1) of this section does not include authority to—

(1) Summarily remove or destroy a vessel; or

(2) Take any other action that constitutes intervention under CERCLA, the Intervention on the High Seas Act (33 U.S.C. 1471 et. seq.), or other applicable laws. "Intervention" means any detrimental action taken against the interest of a vessel or its cargo without the consent of the vessel's owner or operator.

2. An authority citation for § 1.01–70 is added to read as follows:

(Pub. L. 96–510, 94 Stat. 2796 (42 U.S.C. 9615); E.O. 12316 (46 FR 42237); and 49 CFR 1.46(gg))

PART 153—CONTROL OF POLLUTION BY OIL AND HAZARDOUS SUBSTANCES, DISCHARGE REMOVAL

3. A new § 153.109 is added to read as follows:

§ 153.109 CERCLA delegations.

The delegations under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) are published in § 1.01–70 of this chapter.

4. An authority citation for § 153.109 is added to read as follows:

(Pub. L. 96–510, 94 Stat. 2796 (42 U.S.C. 9615), E.O. 12316 (46 FR 42237); and 49 CFR 1.46(gg))

Dated: December 29, 1983.

J. S. Gracey,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 84–272, Filed 1–4–84; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD3 82–036]

Drawbridge Operation Regulations; Passaic River, New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of Bergen, Hudson, and Essex Counties, New Jersey, the Coast Guard is changing the regulations governing the Jackson Street, Bridge Street, Clay Street, and Avondale bridges at various locations across the Passaic River. Notice of opening must be given prior to 2:30 a.m. for an opening from 3 a.m. to 8:30 a.m., and prior to 2:30 p.m. for an opening from 4:30 p.m. to 7 p.m. This change is being made because of the minimal number of openings requested during the effective hours, and because of the overall decrease in bridge openings since 1976. This action will relieve the bridge owner of the burden of having a person constantly available to open the draw and will still provide for the reasonable needs of navigation.

EFFECTIVE DATE: This rule becomes effective on February 6, 1984.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, Third Coast Guard District (212) 668–7994.

SUPPLEMENTARY INFORMATION: On August 25, 1983, the Coast Guard published a proposed rule (48 FR 38654) concerning this amendment. The Commander Third Coast Guard District, also published this proposal as a Public Notice dated September 11, 1983. In each notice interested persons were given until October 11, 1983 to submit comments.

Drafting Information: The drafters of this rule are Ernest J. Feemster, project manager, and Mary Ann Arisman, project attorney.

Discussion of Comments: No comments were received in response to either the Notice of Proposed Rulemaking or public notice on this action. Minimal impact is expected to occur as a result of these regulations because provisions have been made for openings during all hours of the day. No draft or final evaluation has been prepared because of minimal economic impact of these regulations. This is because no economic impact on existing operations will occur.

Economic Assessment and Certification: These final regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be major rules. They are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 22 May 1980). As explained above, an economic evaluation has not been conducted since its impact is expected to be minimal. In accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Regulations: In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended by renumbering § 117.200(a)(4)(i) through (viii) as (a)(4)(ii) through (ix) respectively, and adding a new § 117.200(a)(4)(i) to read as follows:

§ 117.200 Newark Bay, Passaic and Hackensack Rivers, N.J., and their navigable tributaries; bridges

(a) * * *

(4) * * *

(i) Jackson Street Bridge, mile 4.6, Bridge Street Bridge, mile 5.6, Clay Street Bridge, mile 6.0 at Newark and Kearney, and Avondale Bridge, mile 10.7 at Lyndhurst, all crossing the Passaic River. The draws shall open on signal except that notice must be given prior to 2:30 a.m. for openings between 3:00 a.m. and 8:30 a.m., and notice must be given

prior to 2:30 p.m. for openings between 4:30 p.m. and 7:00 p.m. The bridges shall open at all times as soon as possible for passage of a public vessel of the United States.

* * * * *

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: December 19, 1983.

W. E. Caldwell,

Vice Admiral, Coast Guard Commander, Third Coast Guard District.

[FR Doc. 84–252 Filed 1–4–84; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 153

[CGD 83–009A]

Delegation of Authority Under the FWPCA

AGENCY: Coast Guard, DOT.

ACTION: Final rules.

SUMMARY: These rules delegate authority, with certain limitations, to designated Coast Guard officials to remove oil and hazardous substances that pose a substantial threat of discharge into U.S. waters, shorelines, or other prescribed areas. This authority was recently delegated to the Commandant. Existing rules provide delegated authority to respond only to actual discharges. This new delegation is needed to provide effective Coast Guard response to substantial threats of oil and hazardous substance discharges.

EFFECTIVE DATE: February 6, 1984.

FOR FURTHER INFORMATION CONTACT: Glenn A. Wiltshire; 202–426–9568.

SUPPLEMENTARY INFORMATION: Since these rules relate to agency management, procedure, and practice, notice and comment are unnecessary and they may be made effective upon publication in the **Federal Register.**

Section 311(c)(1) of the Federal Water Pollution Control Act (FWPCA), Pub. L. 92–500; 86 Stat. 862; 33 U.S.C. 1321, provides authority to respond to discharges of oil and hazardous substances into navigable waters of the United States, adjoining shorelines, and into or upon the waters of the contiguous zone. This authority was delegated to the Secretary of Transportation in Executive Order 11735, and redelegated to the Commandant in 49 CFR 1.46(m). The Commandant delegated certain FWPCA authority to designated Coast Guard officials. This authority is set out in 33 CFR 153.105.

Section 311(c)(1) of the FWPCA was amended in 1977 to:

a. Authorize response to substantial threats of oil or hazardous substance discharges; and

b. Extend the area of jurisdiction to include discharges and threats of discharge—

(1) in connection with activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974, or

(2) which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States, including resources under the Fishery Conservation and Management Act of 1976.

The President delegated this expanded Section 311(c)(1) authority to the Secretary of Transportation in Executive Order 12418 of May 5, 1983 (48 FR 20891). The Secretary of Transportation redelegated this authority to the Commandant in 49 CFR 1.46(m) on September 27, 1983 (48 FR 44080).

Paragraphs § 105.105 (c), (d)(1), and (d)(2) of these rules restate the existing delegation to respond to oil and hazardous substance discharges. The remaining portions of these rules redelegate to Coast Guard officials predesignated as On-Scene Coordinators the authority in Section 311(c)(1), as amended, to respond to substantial threats of discharge as well as actual discharges. Paragraph § 153.105(e) limits the exercise of this authority to actions that do not constitute intervention. "Intervention" means action detrimental to the interest of a vessel or its cargo that is taken without the consent of the vessel's owner or operator.

These rules also remove paragraph § 153.105(b)(1) which delegated Section 311(d) authority to summarily remove or destroy a vessel involved in a marine disaster that has created a substantial threat of a pollution hazard. This authority is being reserved to the Commandant. It was previously delegated to the Chief, Office of Marine Environment and Systems. Actions taken under this authority would normally constitute intervention.

The Commandant is reserving intervention authority because of the severe impact that its exercise can have on specific private interests. Also, this authority is complex in that it can be exercised under laws other than the FWPCA. The other laws include the Intervention on the High Seas Act (33 U.S.C. 1471 et seq.) and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (46 U.S.C. 9601 et seq.).

List of Subjects in 33 CFR Part 153

Hazardous substances, Oil pollution.

PART 153—CONTROL OF POLLUTION BY OIL AND HAZARDOUS SUBSTANCES, DISCHARGE REMOVAL

In consideration of the foregoing, Part 153 of Title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 153 is revised to read as follows:

AUTHORITY: Sec. 311 (j)(1)(A) and (m), 86 Stat. 862 (33 U.S.C. 1321 (j)(1)(A) and (m)); secs. 2, 5, and 7, E.O. 11735 (38 FR 21243) as amended by E.O. 12418 (48 FR 20891); 49 CFR 1.45(b) and 1.46 (l) and (m) (48 FR 44080), unless otherwise noted.

2. Section 153.105 of Part 153 of Title 33, Code of Federal Regulations, is amended by removing paragraph (b)(1), revising paragraph (c), and adding new paragraphs (d) and (e) to read as follows:

§ 153.105 Delegations.

* * * * *

(b) * * *

(1) Reserved

(2) * * *

(3) * * *

(c) Pursuant to paragraph (d) of this section and Section 311(c)(1) of the Act, each Coast Guard official predesignated as On-Scene Coordinator by the applicable Regional Contingency Plan is delegated authority, subject to paragraph (e) of this section, to remove or arrange for the removal of any oil or hazardous substance unless the official determines that the removal is being done properly by the owner of the vessel or facility from which the discharge or threat of discharge occurs.

(d) The authority in paragraph (c) may be exercised whenever any oil or hazardous substance is discharged, or there is a substantial threat of such discharge—

(1) Into or upon the navigable waters of the United States or adjoining shorelines;

(2) Into or upon the waters of the contiguous zone;

(3) In connection with activities under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) or the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.); or

(4) Which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States, including resources under the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.).

(e) The authority described in paragraphs (c) and (d) of this section does not include the authority to—

(1) Summarily remove or destroy a vessel; or

(2) Take any other action that constitutes intervention under the Act, the Intervention on the High Seas Act (33 U.S.C. 1471 et seq.), or other applicable laws. "Intervention" means any detrimental action taken against the interest of a vessel or its cargo without the consent of the vessel's owner or operator.

Dated: December 29, 1983.

J. S. Gracey,

Admiral, Coast Guard Commandant.

[FR Doc. 84-253 Filed 1-4-84; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD3 82-023]

Drawbridge Operation Regulations; Great Channel, New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of Cape May County, New Jersey, the Coast Guard is changing the regulations governing the Stone Harbor Boulevard drawbridge at Stone Harbor, New Jersey by requiring that advance notice of opening be given October through March from 10 p.m. to 6 a.m. This change is being made because of a steady decrease in requests for opening the draw during this period. This action will relieve the bridge owner of the burden of having a person constantly available to open the draw during this period, and will still provide for the reasonable needs of navigation.

EFFECTIVE DATE: This rule becomes effective on February 6, 1984.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, Third Coast Guard District (212) 668-7994.

SUPPLEMENTARY INFORMATION: On August 25, 1983, the Coast Guard published a proposed rule (48 FR 38653) concerning this amendment. The Commander Third Coast Guard District, also published this proposal as a Public Notice dated September 11, 1983. In each notice interested persons were given until October 11, 1983 to submit comments.

Drafting Information

The drafters of this rule are Ernest J. Feemster, project manager, and Mary Ann Arisman, project attorney.

Discussion of Comments

No comment was received in response to the Notice of Proposed Rulemaking or the Public Notice. The bridge spans the New Jersey Intracoastal Waterway System and opens principally for vessels during the spring and summer boating season. No draft or final economic evaluation has been prepared because of minimal economic impact.

Economic Assessment and Certification

These final regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be major rules. They are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 22 May 1980). As explained above, an economic evaluation has not been conducted since its impact is expected to be minimal. In accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities. This is because no small entity will be adversely affected by this action.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended by revising § 117.220(r) to read as follows:

§ 117.220 New Jersey Intracoastal Waterway and tributaries; bridges.

* * * * *

(r) Stone Harbor Boulevard Bridge across Great Channel, mile 102.0 at Stone Harbor. The draw shall open on signal except as provided below:

(1) From October 1 through March 31 between 10 p.m. and 6 a.m. the draw need only open if at least eight hours notice is given.

(2) From Memorial Day through Labor Day, 8 a.m. to 6 p.m., on Saturday, Sunday, and holidays, the draw need only open for waiting vessels on the hour, 20 minutes after the hour, and 20 minutes before the hour.

(3) The draw shall be opened at all times as soon as possible for a vessel with a tow, a public vessel of the United States, or a vessel in distress.

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05-1(g)(3))

Dated: December 14, 1983.

W. E. Caldwell,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 84-247 Filed 1-4-84; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 161

[CGD 73-166]

Berwick Bay Vessel Traffic Service

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This final rule contains regulations for the vessel traffic service (VTS) at Berwick Bay (Morgan City, Louisiana). The majority of these regulations correspond with the requirements of the VTS presently in operation under a Coast Guard local order. These regulations will benefit the user by simplifying some requirements of the Coast Guard local order and arranging the regulations in a format that is common to other vessel traffic management measures.

DATE: Final rule effective February 6, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Edward J. LaRue, Jr., (202) 426-4958.

SUPPLEMENTARY INFORMATION: On August 16, 1982, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) regarding these regulations (47 FR 35523). A 45 day comment period was provided and interested persons were requested to submit comments during that period.

One letter, from the American Waterways Operators, Inc. (AWO), requested an extension of the comment period to allow the proposed rules to be considered at the AWO Coast Guard Liaison Committee meeting (October 5, 1982) and the Towing Safety Advisory Committee (TSAC) meeting (October 6 and 7, 1982). In response to this request, the Coast Guard published a notice in the **Federal Register** (47 FR 40185; September 13, 1982) extending the comment period for an additional 45 days. Five letters were received from businesses, professional organizations, and other Federal agencies.

During the development of this rulemaking, an interval of extremely high water in the Berwick Bay area forced the Coast Guard to reevaluate the high water towing limitations then in effect in the area under a Coast Guard local order. In consultation with representatives of the towing industry and Southern Pacific Railroad, the Captain of the Port (COTP), New Orleans, modified the requirements for towing vessels during extreme high water. These requirements are contained in the most recent local order (Special Notice No. 1-83) and were recommended for inclusion in the regulations by the Towing Safety Advisory Committee (TSAC) at its

February 1983 meeting. In response to this change in the local order and the TSAC recommendations, the High Water Towing Limitations in these regulations have been amended to include, in new § 161.770, special requirements during periods of extreme high water. This has been defined as over 4.5 feet above mean sea level at the Morgan City River Gauge.

Discussion of Comments

Two comments fully supported the proposed regulations. One stressed the added hazard when the Atchafalaya River is at high flow.

One comment concerning § 161.703 suggested that the definition of "available horsepower" was quite clear without the phrase "except headboats and bow steering units". The Coast Guard agrees with this comment and the definition in § 161.703 is reworded to reflect this. In addition, all other references to headboats and bowsteering units have been removed from the regulations. The reasons for this are given in the discussion of §§ 161.768 and 161.769.

One comment concerning § 161.703 stated that the definition of "dangerous cargo" was too broad and suggested that the definition in the existing local order should be retained. The dangerous cargoes described in the existing local order are essentially the same as the "cargoes of particular hazard" listed in 33 CFR 126.10. Vessels bound for ports in the United States and carrying a "cargo of particular hazard" must give advance notice to the Coast Guard Captain of the Port (COTP). Referencing 33 CFR 126.10 reduces the burden on industry by using the same list of cargoes for similar reporting requirements and by requiring that only particularly hazardous cargoes be reported. For these reasons, the definition of "dangerous cargo" in § 161.703 has been replaced by the following: "'Cargo of particular hazard' means cargo consisting of a commodity listed in 33 CFR 126.10". The term "dangerous cargo" has been replaced throughout the text with "cargo of particular hazard".

One comment concerning § 161.703 stated that the term "operator" should be used in place of "master", because "master" is a term more closely associated with blue water operations than with the shallow draft industry. The Coast Guard purposely used the term "master" in order to maintain consistency with other vessel traffic management regulations. The term, as defined, includes those mariners customarily referred to as "operators". For this reason, the definition is issued as proposed.

One comment concerning § 161.709 urged the Coast Guard to submit the VTS Operating Manual to TSAC for approval. VTS manuals are developed in the District in which the VTS is located according to a prescribed formula and then reviewed at Coast Guard Headquarters. As the manuals are non-regulatory documents intended to assist the VTS user, comments on their content by any organization or individual are welcome at any time; however, the formal approval of these manuals by TSAC or any other organization is not appropriate.

One comment concerning § 161.715 requested that, in addition to the Captain of the Port, the vessel traffic service Commanding Officer (VTC) be given the authority to issue an authorization to deviate from any rule. The comment stated that, because the VTC had the authority to issue directions to control traffic (§ 161.711), the authority to relax the rule should also be delegated to the VTC. The COTP, however, is assigned to handle deviation requests because the VTC is not continuously staffed at a level which would permit it to evaluate written requests. As discussed in the preamble to the proposed rule, the deviations contemplated under § 161.715 are those that would lend themselves to consideration by means of a written request. On the other hand, VTC directions under § 161.711 arise from emergency or hazardous situations best handled at the VTC level.

One comment concerning § 161.743, movement reports, stated that the paragraph was too long and could be reduced to a statement that the reports are required upon passing the points listed in § 161.783. Section 161.743 specifies what information must be given because that information is different from that required for an initial or final report. Some of the information in the more lengthy initial report need not be repeated. Unnecessary repetition would cause additional radiotelephone congestion. For these reasons, § 161.743 is issued as proposed.

One comment concerning § 161.749 suggested the requirements contained in that section could be condensed into one short paragraph. However, because this section prescribes different procedures for emergency and non-emergency deviations from the reported route, the two provisions are treated in separate paragraphs for clarity.

A second comment on § 161.749 suggested that the use of the word "deviate" in that section was misleading because it was used in a different sense in § 161.715. Section 161.715 refers to deviations from these rules; whereas § 161.749 refers to deviations from the information provided by the master in the initial report. Because the use of the word is differentiated by the context and because both sections are consistent with other VTS regulations, § 161.749 is issued as proposed.

One comment concerning § 161.767(b) recommended replacing the proposed wording with the wording of the local notice. The Coast Guard agrees with this comment because the wording of proposed § 161.767(b)(1) is not entirely clear. In addition, § 161.767(b)(2), which refers to headboats, is deleted. This paragraph is essentially informational in nature and the Coast Guard has reconsidered including it in the regulations. For these reasons, § 161.767(b) is revised to reflect the wording of Special Notice 1–83.

One comment concerning § 167.767(c) questioned whether the 10% maximum variation of draft and beam of vessels making up an integrated tow was meant to apply to the towing vessel. This requirement applies only to the barges in an integrated tow. In order to avoid confusion, the wording of § 167.767(c) has been changed to state this more clearly.

Two comments concerning § 161.767(d) objected to the concept of a horsepower to length ratio for tows to ensure that towboats are adequately powered in proportion to the size of their tows. One comment argued that because of the many possible configurations of tows and barges, a strict horsepower to length ratio is of little value. The other comment stated that the horsepower to length ratio failed to reflect the maneuvering characteristics of tows which could be affected by draft or by single screw, multiple screw, or kort nozzle propulsion. The concept of a horsepower to length ratio for Berwick Bay was the result of a study completed for the Coast Guard in 1976 which recorded all tows passing through the railroad bridge from February 1975 to January 1976. Horsepower and towlength data were extracted from the records to establish the character of the safe passage population and for comparison with the casualty population. Casualties from 1970 to 1975 were classed by horsepower/length and compared to the safe passage population. Two conclusions were reached: the number of casualties was about proportional to the number of total transits for a given configuration (the more vessels of a particular size and horsepower that

made the transit, the more casualties in that class) and the majority (86%) of casualties occurred when vessels had less than a 3:1 horsepower to length ratio. In reviewing the study, it appears that the 3:1 ratio is somewhat questionable because the study did not determine what other factors (river stage, direction of travel, loaded or light condition, etc.) could also have had a profound effect. Nor does the study indicate satisfactorily that portion of the safe transit population which had a horsepower to length ratio of less than 3:1. Because of the comments and in order for the Coast Guard to further evaluate horsepower to length ratio as a vessel traffic management tool, the Coast Guard is revising the requirements for a horsepower to towlength ratio and substituting specified length/horsepower combinations which will apply only during extreme-high water periods. These requirements are presently in effect by local order and are endorsed by the towing industry. They should provide the safety factor that the horsepower to length ratio was meant to achieve. These requirements are discussed below.

One comment concerning §§ 161.768 and 161.769 recommended that the tows of towing vessels with less than 3,000 horsepower (whether northbound or southbound) should not exceed 600 feet in length. These requirements were addressed again when COTP, New Orleans, met with towing and railroad industry representatives to develop a solution to the extreme high water problem. As a result, a requirement similar to that recommended in the comment above was included in Special Notice 1–83 under the extreme high water limitations. Because a majority of the parties most affected support such a requirement, the Coast Guard is adding this provision, essentially as it appears in the special order, in a new § 161.770, extreme high water limitations.

In the NPRM, §§ 161.768 and 161.769 were patterned after the provisions of the local order in effect in 1982 (Special Notice 1–82). During the development of Special Notice 1–83, the Coast Guard and industry agreed that the provisions in these sections should be modified and split into relaxed high water requirements and additional requirements when the water stage is extremely high. In view of this, the Coast Guard is amending §§ 161.768 and 161.769 to agree with the provisions of Special Notice 1–83. The majority of the requirements in these sections remain the same; however, the amended rules differentiate tows based upon whether or not they are integrated without regard to whether or not they have a headboat or bow steering unit, as in the proposed provisions. One reason for this change is that towboat operators stated they did not feel that headboats and bow steering units were particularly helpful in controlling a tow in this area. In addition, some operators felt that personnel working at the forward end of a tow would be in extreme danger should the tow fail to clear the bridges in Berwick Bay. A bow steering unit, which is controlled remotely from the towboat, is a better alternative; however, few of these units are in use in the Berwick Bay area. For the purpose of the proposed regulations, this means that almost all bow steering would have to be done by headboat. For these reasons, §§ 161.768 and 161.769 have been revised to reflect the requirements of Special Notice 1–83.

Another factor considered was the increased likelihood of casualties when vessels operated at night during extreme high water. At this water level, a variable and unpredictable shear forces develop near the bridges. At night, indications of the force and direction of the current are extremely difficult to detect and the mariner is less able to quickly discern changing relationships with his or her surroundings. As a result, the extreme high water limitations are organized to reflect whether a vessel is operating during daylight or darkness.

The Coast Guard believes that these modifications will relax the burden on vessel operations during the high water conditions most frequently encountered while providing for safe operations during the relatively rare extreme conditions.

Public Participation

Two comments recommended that the Coast Guard should consult more with marine industry representatives and other interested parties while developing regulations of this nature. The Coast Guard agrees that such consultation is neccessary and has actively sought, and obtained, substantial input from interested parties. The Public Participation section in the preamble to the NPRM (47 FR 35527; August 16, 1982) outlines early efforts to involve industry. The comment period on the notice was specifically extended for 45 additional days to permit the proposed rules to be considered at TSAC and AWO meetings. Industry representatives were again consulted early this year when extreme high water conditions were encountered. The limitations (§ 161.770), were developed, in part, because of TSAC recommendations.

Because vessels navigating in Berwick Bay are subject to constantly changing conditions, the Coast Guard is planning to monitor the effect of these regulations, particularly through the next high water period. Comments or suggestions regarding safe navigation in the area are always helpful and can be addressed to COTP, New Orleans.

Regulatory Evaluation

These regulations are considered to be non-major under Executive Order 12291 and non-significant under the Department of Transportation Policies and Procedures for Simplification, Analysis, and Review of Regulations, (DOT Order 2100.5 of May 22, 1980).

A regulatory Impact Analysis under E.O. 12291 is not required. Because the economic impact is expected to be minimal, the Coast Guard has determined that no further evaluation is necessary. The equipment required by the regulations, a radiotelephone, is required only on vessels subject to the Vessel Bridge-to-Bridge Radiotelephone Regulations (33 CFR Part 26). Under the Bridge-to-Bridge regulations, these vessels already must have a radio telephone. Other vessels which have a report under the regulations (§ 161.701(d)) are permitted to use a telephone or other reasonable means in making their reports (§161.735(b)).

The various reports that are required by the regulations are for navigational safety purposes and call for information that is readily available or observable to vessel operators. This is information which operators would already know whether or not reporting was required. The time required for reporting on a typical voyage through the VTS Area is about five minutes for Bridge-to-Bridge vessels (5 reports) and 1 minute for other vessels (1 report).

A VTS Operating Manual is required to be on board Bridge-to-Bridge vessels operating in the VTS Area. However, this manual is available upon request (§ 161.709) and facilitates operations by combining all relevant information into one document.

Directions issued to control traffic (§ 161.711) restrict the movements of those affected, but the authority to issue these is already exercised by the Coast Guard. The regulations only permit the VTC, as well, to issue them.

Only during those periods when the High Water Towing Limitations are in effect does a potential burden arise. Because the limitations may restrict length, horsepower, and configuration of vessels with tows, certain changes may be necessitated for a particular operation to comply with the

requirements. For example, an operator may have to run fewer barges than usual to meet the length limitations. Most of these requirements, however, have been applied during high water since 1974 with no adverse comments.

The proposed general limitations dealing with a horsepower to length ratio have been deleted, never having been implemented. The proposed southbound and northbound limitations (§§ 161.768 and 161.769) have been amended to reflect the requirements of the existing local order. A section dealing with extreme high water limitations (§ 161.770) has been inserted in the rules in order to maintain a reasonable safety factor when the water is at a particularly dangerous level.

The net effect of these changes from the proposed rules is that the more stringent rules apply only when the water level is extremely high. Because the water reaches this stage infrequently, there should be less of a burden on the mariner who must adhere to the limitations. The rules which apply when the "high water" level is reached are a relaxation of those which were proposed. This also lessens the burden on the mariner.

Based on experience under the existing requirements, the Coast Guard is of the opinion that the costs imposed on vessel operators will not be burdensome. These requirements should reduce the incidence of vessels striking the bridges in the bay. Based on this, the proposed restrictions should result in a net benefit to both the maritime and railroad industries.

Regulatory Flexibility Analysis

For the reasons discussed above, the Coast Guard believes that these regulations will have a minimal economic effect. Therefore, pursuant to section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164, Pub. L. 96–354), it is certified that these regulations will not have a significant economic impact on a substantial number of small entities.

Reporting and Recordkeeping Requirements

This rulemaking contains no information collection or recordkeeping requirements.

Environmental Impact

This action has been thoroughly reviewed by the Coast Guard and it has been determined to be categorically excluded from further environmental documentation, in accordance with Section 2.B.3.(g) of Commandant Instruction (COMDTINST) M16475.1A.

List of Subjects in 33 CFR Part 161

Hazardous materials transportation, Navigation (water), Vessels.

PART 161—VESSEL TRAFFIC SERVICE

In consideration of the foregoing, Part 161 of Title 33 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 161 reads as follows:

Authority: Sec. 12 of Sec. 2, Pub. L. 95–474, 92 Stat. 1477 (33 U.S.C. 1231); 49 CFR 1.46(n)(4).

2. By amending the Table of Contents for Part 161 by adding the following new sections to the end thereof.

Berwick Bay Vessel Traffic Service

General Rules

Sec.
161.701 Purpose and applicability.
161.703 Definitions.
161.705 Vessel operation in the VTS Area.
161.707 Laws and regulations not affected.
161.709 VTS Operating Manual.
161.711 VTC directions.
161.713 Obstructing navigable channels.
161.715 Authorization to deviate from these rules.
161.717 Emergencies.

Communications Rules

161.721 Radiotelephone listening watch.
161.723 Radiotelephone reports.
161.725 English language.
161.729 Radiotelephone equipment failure.

Reporting Rules

161.735 Means of reporting.
161.739 Initial report.
161.743 Movement reports.
161.745 Final report.
161.747 Report of equipment impairment.
161.749 Deviation report.

High Water Towing Limitations

161.761 Applicability.
161.762 Precautionary notices.
161.764 When limitations are in effect.
161.765 Notice of when limitations are in effect.
161.767 General limitations.
161.768 Southbound limitations.
161.769 Northbound limitations.
161.770 Extreme high water limitations.

Descriptions and Geographic Coordinates

161.781 VTS Area.
161.783 Reporting points.

3. By adding new §§ 161.701 through 161.783 to Part 161 as follows:

* * * * *

Berwick Bay Vessel Traffic Service

General Rules

§ 161.701 Purpose and applicability.

(a) Sections 161.701 through 161.783 prescribe rules for vessel operations in the Berwick Bay (Morgan City, Louisiana) Vessel Traffic Service (VTS) Area to prevent collisions, rammings, and groundings and to protect the navigable waters of the VTS Area from environmental harm resulting from collisions, rammings, and groundings.

(b) The General Rules in §§ 161.701 through 161.717, except the requirement in § 161.709 to have a VTS operating manual, apply to the operations of all vessels.

(c) The requirements in § 161.709 to have a VTS operating manual, the Communications Rules in §§ 161.721 through 161.729, and the Reporting Rules in §§ 161.735 through 161.749 apply to the operation of all vessels subject to the Vessel Bridge-to-Bridge Radiotelephone Regulations in Part 26 of this chapter.

(d) In addition to the vessels under paragraph (c) of this section, § 161.725 on use of English language in reports, § 161.735 on means of reporting, § 161.739 on initial reports, and § 161.749 on deviations from the reported route apply to the operation of—

(1) Recreational vessels less than 300 gross tons intending to transit under the lift span of the Southern Pacific Railroad (SPRR) bridge; and

(2) Commerical vessels not subject to the Vessel Bridge-to-Bridge Radiotelephone Regulations in Part 26 of this chapter.

§ 161.703 Definitions.

As used in §§ 161.701 through 161.783:

"Available horsepower" means the total horsepower output of all operating propulsion equipment on all vessels engaged in a single towing operation.

"Cargo of particular hazard" means cargo consisting of a commodity listed in 33 CFR 126.10.

"Integrated tow" means a tow consisting of specially designed barges that fit to each other and to the towing vessel as one unit.

"Master" means licensed master or operator or, on vessels not required to have a licensed master or operator, the person in command of the vessel.

"Overall length" means the combined length in feet of the towing vessel or vessels and the tow.

"Person" includes an individual, firm, corporation, association, partnership, or government entity.

"SPRR bridge" means the Southern Pacific Railroad bridge across Berwick Bay between the cities of Berwick and Morgan City, Louisiana.

"Vessel Traffic Center" or "VTC" means the shore based facility that operates the Berwick Bay Vessel Traffic Service or the Commanding Officer of the facility, or that person's authorized

representative, depending upon the context in which the term is used.

"Vessel Traffic Service Area" or "VTS Area" means the area described in § 161.781.

§ 161.705 Vessel operations in the VTS Area.

Except under § 161.715 (authorized deviations) and § 161.717 (emergencies), no person may cause or authorize the operation of a vessel in the VTS Area contrary to the rules in §§ 161.701 through 161.783.

§ 161.707 Laws and regulations not affected.

Nothing in §§ 161.701 through 161.783 is intended to relieve any person from complying with—

(a) The Inland Navigational Rules Act of 1980 (33 U.S.C. 2001 through 2072);

(b) The technical annexes to the Inland Navigational Rules (Parts 84 through 88 of this chapter);

(c) Vessel Bridge-to-Bridge Radiotelephone Regulations (Part 26 of this chapter);

(d) Subtitle II of Title 46, United States Code, "Shipping"; and

(e) Any other law or regulation.

§ 161.709 VTS Operating Manual.

The master of a vessel shall ensure that a copy of the current edition of the Berwick Bay Vessel Traffic Service Operating Manual is available on board the vessel when it is in the VTS Area.

Note.—"Berwick Bay VTS Operating Manual" includes the VTS regulations and navigation information. The manual is available from the Commander, Eighth Coast Guard District (m), Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130 or from the Commanding Officer, Berwick Bay Vessel Traffic Service, 800 David Dr., Rm. 255, Morgan City, Louisiana 70380.

§ 161.711 VTC directions.

(a) During conditions of vessel congestion, adverse weather, reduced visibility, or other hazardous circumstances in the VTS Area, the VTC may issue directions to control and supervise traffic and may specify times when vessels may enter, move within or through, or depart from ports, harbors, or other waters in the VTS Area.

(b) Whenever the VTC determines that a vessel in the VTS Area is navigating in an unsafe manner or with improperly functioning equipment, the VTC may direct the vessel's movement or direct it to anchor or moor.

(c) The master of a vessel in the VTS Area shall comply with each direction issued to the vessel under this section.

§ 161.713 Obstructing navigable channels.

Mooring in, anchoring in, or otherwise obstructing a navigable channel in any way is prohibited without first obtaining permission to do so from the VTC.

§ 161.715 Authorization to deviate from these rules.

The Captain of the Port, New Orleans, may, upon written request, issue an authorization to deviate from any rule in §§ 161.701 through 161.783 if that officer finds that the proposed operation can be done safely. A request for an authorization must state the need for the deviation and describe the proposed operation.

§ 161.717 Emergencies.

In an emergency, any master may deviate from any rule in §§ 161.701 through 161.783 to the extent necessary to avoid endangering persons, property, or the marine environment.

Communications Rules

§ 161.721 Radiotelephone listening watch.

The master of a vessel required to make the reports under §§ 161.739 through 161.749 only by radiotelephone shall ensure that a continuous listening watch is maintained on the frequency designated in the current edition of the Berwick Bay VTS Operating Manual, except when transmitting on that frequency.

§ 161.723 Radiotelephone reports.

Each report under §§ 161.739 through 161.749 made by radiotelephone must be made on the frequency designated in the current edition of the Berwick Bay VTS Operating Manual.

§ 161.725 English language.

Each report required by §§161.701 through 161.783 must be made in the English language.

§ 161.729 Radiotelephone equipment failure.

(a) Whenever a vessel's radiotelephone equipment fails, compliance with the following is not required:

(1) Section 161.721 on maintaining a listening watch.

(2) Sections 161.739 through 161.749 on reporting, unless those reports can be made by other reasonable means.

(b) Whenever a vessel's radiotelephone equipment fails, permission to proceed must first be obtained from the VTC if the vessel is:

(1) Intending to transit the lift span of the SPRR bridge;

(2) Getting underway from within the VTS Area; or

(3) Transiting any portion of the Intracoastal Waterway between Mile 93 West of Harvey Lock (WHL) and Mile 99 WHL.

(c) The master of a vessel shall ensure that the radiotelephone equipment is restored to operating condition as soon as possible.

Reporting Rules

§ 161.735 Means of reporting.

(a) Reports under §§ 161.739 through 161.749 must be made only by radiotelephone, except as provided under paragraph (b) of this section.

(b) Vessels not subject to the Vessel Bridge-to-Bridge Radiotelephone regulations in Part 26 of this chapter may make initial reports under § 161.739 and deviation reports under § 161.749 by radiotelephone, telephone ((504) 385–2462), or other reasonable means.

§ 161.739 Initial report.

When a vessel enters or begins to navigate in the VTS Area, the master of the vessel shall report the following information to the VTC:

(a) Name of the vessel.

(b) Type of vessel (towing, fishing, supply, etc.).

(c) Location of the vessel.

(d) Route within the VTS Area.

(e) Any cargo of particular hazard that is on board the vessel or any vessel being towed.

(f) Any impairment to the operation of the vessel as described in § 161.747.

(g) If towing is involved, available horsepower and overall length of the vessels.

§ 161.743 Movement reports.

(a) When a vessel passes a reporting point listed in § 161.783, other than when entering or leaving the VTS Area, the master of the vessel shall report the following information to the VTC:

(1) Name of the vessel.

(2) Name of the reporting point.

(3) If towing is involved, any revision to the available horsepower and overall length information given in the initial report under § 161.739(g).

(b) A movement report is required at the Berwick Lock Reporting Point only for vessels passing through the lock.

§ 161.745 Final report.

When a vessel anchors in, moors in, or departs from the VTS Area, the master shall report to the VTC the name of the vessel and place of anchoring, mooring, or departure.

§ 161.747 Report of equipment impairment.

The master of a vessel in the VTS Area shall report to the VTC as soon as possible—

(a) Any condition on the vessel that may impair its safe navigation, such as fire or a defect in propulsion machinery, steering equipment, radar, or gyrocompass;

(b) Any tow that the towing vessel is unable to control or can control only with difficulty;

(c) When involved in a collision, ramming, or grounding; and

(d) Any radiotelephone equipment failure.

§ 161.749 Deviation report.

(a) Except in an emergency, the master of a vessel in the VTS Area shall report each deviation from the route reported in the initial report under § 161.739(d) before making the deviation.

(b) Whenever a vessel in the VTS Area deviates, because of an emergency, from the route reported in the initial report under § 161.739(d) or from any provision in §§ 161.701 through 161.783, the master of the vessel shall report the deviations to the VTC as soon as possible.

High Water Towing Limitations

§ 161.761 Applicability.

The high water towing limitations (§§ 161.761 through 161.770) apply to the operation of vessels with tows intending to transit under the lift span of the SPRR bridge, or through the navigational openings of either of the two U.S. 90 highway bridges to the north of the SPRR bridge, when those limitations are in effect.

§ 161.762 Precautionary notices.

(a) Whenever the Morgan City River Gauge reads 2.5 feet above mean sea level and the Coast Guard Captain of the Port, New Orleans, or that person's authorized representative, anticipates that the water level will rise to 3 or more feet above mean sea level, the VTC issues precautionary notices that the high water towing limitations may soon go into effect.

(b) Precautionary notices are—

(1) Announced during Coast Guard Marine Information Broadcasts;

(2) Published in Coast Guard Local Notices to Mariners;

(3) Announced by the VTC in response to initial reports; and

(4) Available by calling the VTC at (504) 385–2462 or on the frequency designated in the current edition of the Berwick Bay VTS Operating Manual.

(c) Precautionary notices are given throughout the period during which the conditions in paragraph (a) of this section exist.

(d) During the period when the water level falls below 3 feet above mean sea level on the Morgan City River Gauge but remains at or above 2.5 feet, precautionary notices are issued only if the Coast Guard Captain of the Port, New Orleans, or that person's authorized representative, anticipates that the decrease in the level below 3 feet is only temporary.

§ 161.764 When limitations are in effect.

(a) The high water towing limitations are in effect when two vertically arranged red balls by day and two vertically arranged flashing white lights by night are displayed on top of the SPRR bridge.

(b) The VTC posts the visual displays under paragraph (a) of this section when the Morgan City River Gauge reads 3 or more feet above mean sea level.

(c) The VTC discontinues the visual displays under paragraph (a) of this section when the Morgan City River Gauge reads less than 3 feet above mean sea level.

§ 161.765 Notice of when limitations are in effect.

(a) In addition to the notice provided by the visual displays under § 161.764(a), notice of when limitations are in effect is—

(1) Announced during Coast Guard Marine Information Broadcasts;

(2) Published in Coast Guard Local Notices to Mariners;

(3) Announced by the VTC in response to initial reports; and

(4) Available by calling the VTC at (504) 385–2462 or on the frequency designated in the current edition of the Berwick Bay VTS Operating Manual.

(b) The notices under paragraph (a) of this section are given throughout the period when the limitations are in effect.

§ 161.767 General limitations.

The following general rules apply to all towing operations:

(a) Towing on a hawser in either direction is prohibited, with the exception of one self-propelled vessel towing one other vessel in a northbound direction.

(b) Barges and towing vessels must be arranged in tandem with the exception of one vessel towing one other vessel alongside.

(c) The variation in draft and beam of the barges that make up an integrated tow must not exceed 10% of the draft of the barge drawing the most water and 10% of the beam of the widest barge.

(d) All tows carrying any cargo of particular hazard must have at least 1,000 available horsepower.

§ 161.768 Southbound limitations.

In addition to the general limitations in § 161.767, the following rules apply to southbound towing operations:

(a) A towing vessel or vessels and tow which are integrated must not exceed an overall length of 1,180 feet.

(b) A towing vessel or vessels and tow which are not integrated must not exceed an overall length of 300 feet.

§ 161.769 Northbound limitations.

In addition to the general limitations in § 161.767, the following rules apply to northbound towing operations:

(a) A towing vessel or vessels and tow which are integrated must not exceed an overall length of 1,180 feet.

(b) A towing vessel or vessels and tow which are not integrated must not consist of more than two barges.

§ 161.770 Extreme high water limitations.

In addition to the general limitations in § 161.767, when the Morgan City River Gauge reads 4.5 or more feet above mean sea level, the following rules apply to all towing operations:

(a) Between sunrise and sunset:

(1) A towing vessel or vessels and tow greater than 600 feet but no greater than 1,180 feet in overall length must have at least 3,000 available horsepower.

(2) A towing vessel or vessels and tow greater than 400 feet but no greater than 600 feet in overall length must have at least 1,200 available horsepower.

(3) A towing vessel or vessels and tow no greater than 400 feet in overall length and carrying no cargo of particular hazard must have at least 600 available horsepower.

(4) A single barge tow carrying no cargo of particular hazard must have at least 400 available horsepower.

(b) Between sunset and sunrise:

(1) A multiple barge tow must be no greater than 400 feet in overall length and must have at least 1,200 available horsepower.

(2) A single barge tow carrying no cargo of particular hazard must have at least 600 available horsepower.

Descriptions and Geographic Coordinates

§ 161.781 VTS Area.

The VTS Area consists of the following segments of waterways:

(a) The Intracoastal Waterway Morgan City to Port Allen Alternate Route from Mile 0 to Mile 5.

(b) The Intracoastal Waterway from Mile 93 West of Harvey Lock (WHL) to Mile 99 WHL.

(3) The Atchafalaya River Route from Mile 113 to Mile 122.

(d) From Bayou Boeuf (Intracoastal Waterway Mile 94.5 West of Harvey Lock) south one statute mile along Bayou Shaffer.

(e) From Berwick Lock northwest one statute mile along the Lower Atchafalaya River.

§ 161.783 Reporting points.

The reporting points are as follows:

Name	Location
Stouts Point Light	Mile 113 Atchafalaya River (AR) Route.
Long Island	Southern tip of Long Island; Mile 5 Intracoastal Waterway (ICW) Morgan City to Port Allen (MC/PA) Alternate Route.
Stouts Pass	Mile 115 AR Route.
Light "18"	Swift Ship Light; Mile 3 ICW MC/PA Alternate Route.
Bayou Teche	One mile above Berwick Lock on Lower Atchafalaya River (Bayou Teche).
Berwick Lock	Near Berwick Bay on the Lower Atchafalaya River (Report only if transiting the lock).
Conrad's Point	Mile 1.5 ICW MC/PA Alternate Route.
20 Grand Point	Mile 95.5 ICW West of Harvey Lock (WHL).
Shaffer Junction	Mile 94.5 ICW(WHL) at junction with Bayou Shaffer.
Bayou Shaffer	On Bayou Shaffer, one mile south of junction with Bayou Boeuf.
Bayou Boeuf Lock	Mile 93 ICW(WHL).
Overhead Cable	Mile 119 AR Route; Mile 96.5 ICW(WHL).
Floodway Gas Processing Plant.	Mile 99 ICW(WHL)
Atchafalaya River	Mile 122 AR Route.

Dated: November 30, 1983.

B. F. Hollingsworth,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc. 84-246 Filed 1-4-84; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

Ice Navigation Season; Northern Portion of Chesapeake Bay and Tributaries

AGENCY: Coast Guard, DOT.

ACTION: Notice of Ice Navigation Season.

SUMMARY: The Ice Navigation Season Regulated Navigation Area (RNA) on the northern portion of Chesapeake Bay and its tributaries, including the Chesapeake and Delaware Canal will be placed in effect on January 5, 1984. The regulations for this Regulated Navigation Area, found in 33 CFR 165.503, published in the **Federal Register** May 19, 1983 (48 FR 22543), state that they are placed in effect and terminated at the direction of the Captain of the Port, Baltimore, MD by notice in the **Federal Register**. The purpose of this Regulated Navigation Area is to enhance the safety of navigation in the affected waters. It requires operators of certain vessels to be aware, during their vessel's transit of the Regulated Navigation Area, of currently effective Ice Navigation Season Captain of the Port Orders issued by the Captain of the Port, Baltimore, Maryland.

EFFECTIVE DATE: January 5, 1984.

FOR FURTHER INFORMATION CONTACT: LCDR L. H. Gibson, Port Operations Officer, USCG MSO Baltimore, Maryland at (301) 962-5105.

Nov. 25, 1983.

J. C. Carlton,

Captain, Coast Guard, Captain of the Port, Coast Guard Marine Safety Office U.S. Customhouse, 40 South Gay Street, Baltimore, Maryland 21202.

[FR Doc. 84-268 Filed 1-4-84; 8:45 am]

BILLING CODE 4910-14-M

POSTAL SERVICE

39 CFR Part 10

International Express Mail Service to Egypt

AGENCY: Postal Service.

ACTION: Final action on International Express Mail Service to Egypt.

SUMMARY: Pursuant to an agreement with the postal administration of Egypt, the Postal Service intends to begin International Express Mail Service with Egypt at postage rates indicated in the table below Service is scheduled to begin on February 4, 1984.

EFFECTIVE DATE: February 4, 1984.

FOR FURTHER INFORMATION CONTACT: Leon W. Perlinn (202) 245-4414.

SUPPLEMENTARY INFORMATION: By a notice published in the **Federal Register** on November 29, 1983 (48 FR 53720), the Postal Service announced that it was proposing to begin International Express Mail Service to Egypt. Comments were invited on published rate tables, which were proposed amendments to the International Mail Manual (incorporated by reference in the Code of Federal Regulations, 39 CFR 10.1), and which were to become effective on the date service began. No comments were received.

Accordingly, the Postal Service states that it intends to begin International Express Mail Service with Egypt on February 4, 1984 at the rates indicated in the table below.

List of Subjects in 39 CFR Part 10.

Postal Service, Foreign relations

EGYPT—INTERNATIONAL EXPRESS MAIL

Custom designed service [1] [2]		On Demand Service [2]	
Up to and including		Up to and including	
Pounds	Rate	Pounds	Rate
1	$28.00	1	$30.00
2	31.70	2	23.70
3	35.40	3	27.40
4	39.10	4	31.10
5	42.80	5	34.80
6	46.50	6	38.50
7	50.20	7	42.20
8	53.90	8	45.90
9	57.60	9	49.60
10	61.30	10	53.30
11	65.00	11	57.00
12	68.70	12	60.70
13	72.40	13	64.40
14	76.10	14	68.10
15	79.80	15	71.80
16	83.50	16	75.50
17	87.20	17	79.20
18	90.90	18	82.90
19	94.60	19	86.60
20	98.30	20	90.30
21	102.00	21	94.00
22	105.70	22	97.70

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

A transmittal letter making these changes in the pages of the International Mail Manual will be published in the **Federal Register** as provided in 39 CFR 10.3 and will be transmitted to subscribers automatically.

(39 U.S.C. 401, 404, 407)

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 84-158 Filed 1-4-84; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-2502-5]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: EPA is approving the deletion of certain stack height provisions in the Indiana State Implementation Plan (SIP) for sulfur dioxide (SO_2). In EPA's March 12, 1982 (47 FR 10813) conditional approval of parts of Indiana's SO_2 plan, it approved stack height increases for three emissions sources in Marion County. These are Indianapolis Power and Light Company's (IPALCO) Stout Generating Station, the National Starch and Chemicals Company, and Detroit

Diesel Allison's Plant #8. Subsequently, EPA determined that the stack height increases were not formally adopted by the State of Indiana as part of its SO_2 control strategy for Marion County. EPA, therefore, proposed on February 4, 1983 to rescind its approval of the stack height increases (48 FR 5282). One comment was received in response to this proposal. Today, EPA is removing the stack height requirement from the Marion County SO_2 SIP and adding a stack height condition to its previous conditional approval of the Part D plan.

EFFECTIVE DATE: This final rulemaking becomes effective on February 6, 1984.

ADDRESSES: Copies of this revision to the Indiana SIP are available for inspection at: The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408.

Copies of the public comment on the notice of proposed rulemaking and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Robert B. Miller at (312) 886–6031 before visiting the Region V Office).

Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, D.C. 20460

Indiana Air Pollution Control Division, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, Indiana 46206

FOR FURTHER INFORMATION CONTACT: Robert B. Miller, Air and Radiation Branch (5AR–26), Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886–6031.

SUPPLEMENTARY INFORMATION: Under section 107 of the Act, EPA designated a portion of Marion County, Indiana, as not attaining National Ambient Air Quality Standards (NAAQS) for SO_2. See 43 FR 8962 (March 3, 1978) and 43 FR 45993 (October 5, 1978). Under these circumstances, Part D of the Act requires that a state revise its SIP to provide for attaining the primary NAAQS by December 31, 1982. These SIP revisions must also provide for attaining the secondary NAAQS as soon as practicable. The requirements for an approvable SIP are described in a "General Preamble" for Part D rulemakings published at 44 FR 20372 (April 4, 1979), 44 FR 38583 (July 2, 1979), 44 FR 50371 (August 28, 1979), 44 FR 53761 (September 17, 1979), and 44 FR 67182 (November 23, 1979).

In response to Part D of the Act, Indiana submitted to EPA a revision to the Marion County Indiana SO_2 SIP on June 26, 1979. This submittal included a revised SO_2 control strategy for attaining the NAAQS in Marion County and was based on computer dispersion modeling. The strategy consisted of site-specific SO_2 emission limits for a number of point sources in Marion County and required stack height increases for IPALCO's Stout Generating Station, the National Starch and Chemicals Company, and Detroit Diesel Allison's Plant #8.

The June 26, 1979 submittal also contained a revised SO_2 regulation, entitled APC–13. This regulation which was developed to implement the Marion County strategy, among all other counties in Indiana, included a generally applicable emission limitation of 6.0 pounds SO_2 per million British Thermal Units (lbs/MMBTU) and certain more stringent source specific limits for critical sources in nonattainment areas. The regulation itself did not address the stack height requirements in Marion County. Indiana subsequently recodified Regulation APC–13 as 325 IAC 7–1. On March 12, 1982, EPA conditionally approved [1] the Marion County SO_2 plan, including 325 IAC 7–1, as meeting the requirements of Part D of the Clean Air Act (47 FR 10813).

EPA's March 12, 1982 conditional approval of the Marion County strategy was based on the requirement that the State submit additional data to rectify deficiencies in its modeling analysis; including a determination that the strategy for the 24-hour standard is constraining, a justification of the background SO_2 levels used, a revised emissions inventory, and an adequate meteorological base and receptor network. In response to EPA's conditional approval, Indiana informed EPA that the modeling analysis would be completely revised to meet the above conditions.

Subsequent to EPA's March 12, 1982 conditional approval of the Marion County SO_2 plan, EPA re-examined the rulemaking record pertaining to the Marion County Plan. This review indicates that although the State formally adopted the site specific emission limits from the strategy document as part of Regulation 325 IAC 7–1, the State did not formally adopt the stack height increases for these sources. Because of this, the stack height provisions do not meet the requirements of Section 110(a) of the Act and the implementing regulations at 40 CFR Part 51, Subpart B.

Because the State failed to formally adopt the stack height requirements and because, therefore, the stack height requirements did not meet the requirements of 40 CFR 51.22; EPA proposed on February 4, 1983 (48 FR 5282) to rescind its approval of the stack height increases at: IPALCO's Stout Plant, the National Starch and Chemicals Plant, and Detroit Diesel Allison's #8 Plant. EPA noted that its action on these stack heights will not affect its conditional approval of the emission limitations for these plants contained in Indiana's SO_2 regulation 325 IAC 7–1. However, EPA stated that Indiana must correct the stack height deficiency in its submittal of the revised Marion County SO_2 plan. EPA noted that Indiana had not corrected the deficiencies in the Marion County SO_2 plan in a timely manner as the State had committed itself to do and EPA would address this deficiency in a **Federal Register** notice. In fact, on the previous day, February 3, 1983 (48 FR 4972), EPA had proposed possible sanctions which may be appropriate in areas where conditions on EPA's conditional approvals have not been met in a timely manner. EPA noted in this notice that the conditions on its approval of the Marion County SO_2 SIP had not been met.

EPA received one comment in response to the February 4, 1983 notice of proposed rulemaking.[2] This commenter stated that without the stack height requirement, the Marion County SO_2 strategy may no longer assure attainment and maintenance of the NAAQS. Because of this, the commenter urged EPA to withdraw its March 12, 1983 conditional approval of the Marion County SO_2 plan. This recommendation appears to be based on the assumption that EPA's withdrawal of its conditional approval would cause the SIP to revert to the strategy approved by EPA for Marion County on August 24, 1976 (41 FR 35677).

EPA agrees that the plan without the required stack height increases may no longer provide for attainment and maintenance of the SO_2 NAAQS in Marion County. However, the United States Court of Appeals for the Seventh Circuit has recently found that all of the previous Indiana SO_2 regulations are not

[1] For a discussion of conditional approvals and their practical effect, see 44 FR 38583 (July 2, 1979) and 43 FR 67182 (November 23, 1979).

[2] EPA received many comments in response to its February 3, 1983 notice of proposed rulemaking. On November 2, 1983 (48 FR 50686), EPA responded to some of these comments in its notice of final rulemaking on post-1983 SIPs. Other comments will be responded to in further EPA rulemaking on the February 3, 1983 proposal. EPA is not responding to any comments on the February 3, 1983 rulemaking today, but directs the reader to EPA's final rulemakings on the February 3, 1983 proposal.

enforceable at the Federal level [3] because an Indiana Court has invalidated these same regulations at the State level. The Indiana Court of Appeals [4] invalidated these regulations because it found that they were improperly adopted at the State level. Accordingly, removal of the March 12, 1982 conditional approval of the overall Marion County plan, including 325 IAC Article 7, would leave the County without any federally enforceable SO_2 emission limits or SIP.

Because 325 IAC Article 7 does include some federally enforceable control requirements which may limit, or possibly prevent, violations of the NAAQS in Marion County, EPA has decided not to withdraw its approval in part of 325 IAC Article 7 for Marion County. However, in today's rulemaking, EPA is adding a condition to its previous conditional approval requiring any stack height changes which are used to meet the NAAQS in Marion County to be enforceable by the State. This should assure that future SIP revisions in Marion County based on stack height revisions will contain enforceable stack height requirements. Additionally, EPA's November 2, 1983 rulemaking clarified the Agency's position that when EPA conditionally approves a SIP, such as when it conditionally approved the Marion County SO_2 SIP on March 12, 1982, this conditional approval consititutes a notification to the state under section 110(a)(2)(H) that the SIP issubstantially inadequate to attain and maintain the NAAQS. The November 2, 1983 rulemaking also stated that EPA will consider whether it is appropriate to impose sanctions in specific areas with outstanding conditions and may in the future rulemake imposing such sanctions.[5]

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA, and any EPA response, are available for public inspection at the EPA Region V office listed above.

[3] *Sierra Club v. Indiana-Kentucky Electric Corporation and Indiana & Michigan Electric Company*, Slip Opinion dated August 30, 1983, Cases Nos 81–1822 and 81–2173.

[4] *Indiana Environmental Management Board v. Indiana-Kentucky Electric Corp.*, 393 N.E. 2d 213 (Ind. App. 1979).

[5] On November 16, 1983 EPA proposed rulemaking to revise emission limitations and to redesignate to attainment five townships in Marion County—Franklin, Lawrence, Pike, Warren, and Washington (48 FR 52094). Therefore, any such sanctions will only apply to the remaining townships, i.e., Center, Decatur, Perry, and Wayne, if EPA takes final rulemaking as proposed.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit within 60 days from today. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

(Secs. 110 and 172, Clean Air Act, as amended (42 U.S.C. 7410 and 7502))

Dated: December 29, 1983.

Alvin L. Alm,

Acting Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart P—Indiana

Title 40 of the Code of Federal Regulations, Chapter I, Part 52 is amended as follows:

§ 52.770 [Amended]

1. Section 52.770 is amended by removing within paragraph (c)(19) the phrase "* * *and (3) the Mitchell Station stack height provision in the Lake County SO_2 strategy." and replacing this phrase with the revised phrase "* * * (3) the stack height provision for NIPSCO's Mitchell Station in the Lake County SO_2 strategy, and (4) the stack height provisions for IPALCO's Stout Generating Station, the National Starch and Chemicals Company, and Detroit Diesel Allison's Plant #8 in the Marion County SO_2 strategy."

2. Section 52.795 is amended by revising paragraph (e)(3) as follows:

§ 52.795 Control strategy: Sulfur dioxide.

* * * * *

(e) * * *

(3) Marion County. The plan must either contain an acceptable demonstration that the 24-hour standard is the constraining standard or 3-hour and annual attainment analyses must be provided. The plan must justify appropriate background level for all averaging periods. These must be used in all analyses. The plan must justify the adequacy of the resolution in the computer modeling receptor network. The plan must contain a complete emission inventory, including process sources. This inventory must be appropriately used in all analyses. If the plan is based on changes in existing stack heights, these revised stack heights must be State-enforceable requirements and must be submitted as revisions to the SIP. If revisions to the emission limitations are necessary, they must be submitted as revisions to the SIP.

* * * * *

[FR Doc. 84–183 Filed 1–4–84; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 271

[WH–FRL–2503–4]

Hazardous Waste Management Program, Maryland; Request for Extension of Application Deadline for Interim Authorization

AGENCY: Environmental Protection Agency.

ACTION: Notice of extension of application submission and interim authorization period.

SUMMARY: The State of Maryland recently requested a further extension beyond the January 1, 1984 deadline, previously granted, for submission of their application for Phase II Interim Authorization under the Resource Conservation and Recovery Act (RCRA), as amended (48 FR 33869, July 26, 1983). A delay in adopting necessary regulations to support Maryland's hazardous waste program under Phase II, Components B and C has resulted in the State missing the January 1, 1984 deadline for submitting its application by a few weeks. The State is still committed to obtaining Interim Authorization of Phase II, Components B and C while concurrently pursuing the receipt of Final Authorization for its entire hazardous waste program.

EPA is granting an extension to February 1, 1984 for submission of a complete application for Interim Authorization of Phase II, Components B and C. This extension allows Maryland to retain Phase I and Phase II, Component A Interim Authorization pending submission of a complete application for Interim Authorization of Phase II, Components B and C.

EFFECTIVE DATE: December 30, 1983.

FOR FURTHER INFORMATION CONTACT: Anthony J. Donatoni, Chief, State Programs Section, Environmental Protection Agency, Region III, Sixth & Walnut Streets, Philadelphia, PA 19106, Telephone: (215) 597–7937.

SUPPLEMENTARY INFORMATION:

Background

40 CFR 271.122(c)(4) (formerly § 123.122(c)(4); 47 FR 32377, July 26,

1982) requires that States which have received any but not all Phases/Components of Interim Authorization amend their original submissions by July 26, 1983, to include all Components of Phase II. Further, 40 CFR 271.137(a) (formerly § 123.137(a); 47 FR 32378, July 26, 1982) provides that on July 26, 1983, Interim Authorization terminates except where the State has submitted by that date an application for all Phases/Components of Interim Authorization.

Where the authorization (approval) of the State program terminates, EPA is to administer and enforce the Federal program in that State. However, the Agency extended the July 26, 1983 deadline for the submission of an application and termination of the EPA approved State program to allow Maryland to examine and expand on EPA's Components B and C regulations where the State considered it was necessary.

Note.—40 CFR Part 123, including the July 26, 1982 amendments (47 FR 32373), was recodified on April 1, 1983 as 40 CFR Part 271 (48 FR 14248).

Anticipating the final adoption of necessary regulations for Phase II, Components B and C in January 1984, Maryland has committed to the following schedule for applying for Interim and Final Authorization:

- February 1, 1984—Submit complete application for Phase II, Components B and C.
- January 1984—Submit draft Final Authorization application.
- July 1984—Submit complete Final Authorization application.

Decision

In consideration of the above schedule and Maryland's continued efforts to obtain Interim Authorization, the immediate reversion of Phase I and Phase II, Component A, because of failure to meet the previous deadline, is not in the best interest of the State, this Agency, the regulated community, or the citizens of Maryland. I, therefore, find good cause to grant the State's request for a further extension beyond the January 1, 1984 deadline previously granted for applying for Interim Authorization. Maryland must now officially submit a complete application for Phase II, Components B and C on or before February 1, 1984. If the State fails to submit a complete application by February 1, 1984, the EPA approved State program will terminate automatically and administration of the RCRA hazardous waste management program will revert to EPA.

Compliance with Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this extension will not have a significant economic impact on a substantial number of small entities. The extension effectively suspends the applicability of certain Federal regulations in favor of Maryland's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Hazardous materials, Indian-lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business information.

Authority: This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926 and 6974(b).

Dated: December 23, 1983.

Thomas P. Eichler,

Regional Administrator.

[FR Doc. 84-180 Filed 1-4-84; 8:45 am]

BILLING CODE 6560-50-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Fifty-Third Revised Service Order No. 1473]

Various Railroads Authorized To use Tracks and/or Facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Fifty-third Revised Service Order No. 1473.

SUMMARY: Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Public Law 96-254, this order authorizes various railroads to provide interim service over the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE: 12:01 a.m., January 4, 1984, and continuing in effect until 11:59 p.m., March 31, 1984, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275-7840 or 275-1559.

SUPPLEMENTARY INFORMATION:

Decided: December 29, 1983.

Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Public Law 96-254 (RITEA), the Commission is authorizing various railroads to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), (RI) and to use such tracks and facilities as are necessary for those operations.

In view of the urgent need for continued rail service over RI's lines pending the implementation of long-range solutions, this order permits carriers to provide service to shippers which may otherwise be deprived of essential rail transportation.

Appendix A, to the previous order, is revised by deleting at Item 6., the authority for the Missouri Pacific Railroad Company (MP), to operate certain Rock Island lines near Little Rock, Arkansas, and at Item 19., the authority for the South Central Arkansas Railway to operate between Eldorado, Arkansas, and Dubach, Louisiana. These authorities were deleted at the request of the involved carriers and the Rock Island Trustee, and in the case of the MP, represents an acquisition of the Rock Island property. Remaining items in Appendix A are renumbered accordingly.

This order is further revised, by adding at Item 22., the authority for the East Camden and Highland Railroad Company (ECHR) to operate between Eldorado, Arkansas, and Lillie, Louisiana.

Appendix B, of the previous order, is amended by removing line 30, which authority was also contained in the MP's purchase.

It is the opinion of the Commission that an emergency exists requiring that the railroads named in the appendices be authorized to conduct operations using RI tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1473 Service Order No. 1473.

Various railroads authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee).

(a) Various railroads are authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company (RI), as listed in Appendix A to this order, in order to provide interim service over the RI; and as listed in Appendix B to this order, to provide for continuation of joint or common use facility agreements essential to the operations of these carriers.

(b) The Trustee shall permit the affected carriers to enter upon the property of the RI to conduct service as authorized in paragraph (a).

(c) The Trustee will be compensated on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 122(a) Public Law 96–254.

(d) Interim operators, authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced or the expected commencement date of those operations. Termination of interim operations will require at least (30) thirty days notice to the Railroad Service Board and affected shippers.

(e) Interim operators, authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the RI Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of the operations over the RI lines authorized in paragraph (a), operators shall be responsible for preserving the value of the lines, associated with each operation, to the RI estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

1. In those instances where more than one railroad is involved in the joint use of RI tracks and/or facilities described in Appendix B, one of the affected carriers will perform the maintenance and have supervision over the operations in behalf of all the carriers as may be agreed to among themselves, or in the absence of such agreement, as may be decided by the Commission.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties or, failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(j) *Rate applicable.* Inasmuch as the operations described in Appendix A by interim operators over tracks previously operated by the RI are deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable become effective.

(k) In transporting traffic over these lines, all interim operators described in Appendix A shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(l) To the maximum extent practicable, carriers providing service under this order shall use the employees who normally would have performed the work in connection with traffic moving over the lines subject to this Order.

(m) *Effective date.* This order shall become effective at 12:01 a.m., January 4, 1984.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 31, 1984, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C 10304, 10305, and Section 122, Public Law 96–254.

List of Subjects in 49 CFR Part 1033

Railroad.

This order shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien, J. Warren McFarland not participating.

James H. Bayne,

Acting Secretary.

Appendix A—RI Lines Authorized To Be Operated by Interim Operators

1. *Peoria and Pekin Union Railway Company (PPU):*

A. Mossville, Illinois (milepost 148.23) to Peoria, Illinois (milepost 161.0) including the Keller Branch (milepost 1.55 to 6.15).

2. *Union Pacific Railroad Company (UP):*

A. Beatrice, Nebraska.

B. approximately 36.5 miles of trackage extending from Fairbury, Nebraska, to RI Milepost 581.5 north of Hallam, Nebraska.

3. *Toledo, Peoria and Western Railroad Company (TPW):*

A. Peoria Terminal Company trackage from Hollis to Iowa Junction, Illinois.

4. *Chicago and North Western Transportation Company (CNW):*

A. at Omaha, Nebraska, 0.1 miles of industrial trackage in the vicinity of 19th and Pierce Streets.

5. *Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW):*

A. from Newport, Minnesota to a point near the east bank of the Mississippi River, sufficient to serve Northwest Oil Refinery, at St. Paul Park, Minnesota.

B. from Davenport (milepost 182.35) to Iowa City, Iowa (milepost 237.01).

6. *Norfolk and Western Railway Company (NW):* is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company running southerly from Pullman Junction, Chicago, Illinois, along the western shore of Lake Calumet approximately four plus miles to the point, approximately 2,500 feet beyond the railroad bridge over the Calumet Expressway, at which point the RI track connects to Chicago Regional Port District track, for the purpose of serving industries located adjacent to such tracks. Any trackage rights arrangements which existed between the Chicago, Rock Island and Pacific Railroad Company and other carriers, and which extend to the Chicago

Regional Port District Lake Calumet Harbor, West Side, will be continued so that shippers at the port can have NW rates and routes regardless of which carrier performs switching services.

7. *Cadillac and Lake City Railway Company (CLK):*

A. from Limon, Colorado (milepost 530.75) to Caruso, Kansas (milepost 430.0) a distance of 100.75 miles.

B. over-head rights from Caruso, Kansas (milepost 430.0) to Colby, Kansas (milepost 387.0), a distance of approximately 43 miles, in order to effect interchange with the Union Pacific Railroad.

8. *Baltimore and Ohio Railroad Company (BO):*

A. from Blue Island, Illinois (milepost 15.7) to Bureau, Illinois (milepost 114.2), a distance of 98.5 miles.

B. from Bureau, Illinois (milepost 114.12) to Henry, Illinois (milepost 126.94) a distance of approximately 12.8 miles.

9. *Keota Washington Transportation Company (KWTR):*

A. from Keota to Washington, Iowa; to effect interchange with the Chicago, Milwaukee, St. Paul and Pacific Railroad Company at Washington, Iowa, and to serve any industries on the former RI which are not being served presently.

B. at Vinton, Iowa (milepost 120.0 to 123.0).

C. from Vinton Junction, Iowa (milepost 23.4) to Iowa Falls, Iowa (milepost 97.4).

10. *The La Salle and Bureau County Railroad Company (LSBC):*

A. from Chicago (milepost 0.60) to Blue Island, Illinois (milepost 16.61), and yard tracks 6, 9 and 10; and crossover 115 to effect interchange at Blue Island, Illinois.

B. from Blue Island, Illinois (milepost 16.61), to Mokena, Illinois (milepost 29.6).

C. from Western Avenue (Subdivision 1A, milepost 16.6) to 119th Street (subdivision 1A, milepost 14.8), at Blue Island, Illinois.

D. from Gresham (subdivision 1, milepost 10.0) to South Chicago (subdivision 1B, milepost 14.5) at Chicago, Illinois.

E. from Pullman Junction, Chicago, Illinois, (milepost 13.2) running southerly to the entrance of the Chicago International Port, a distance of approximately five miles, for the purpose of bridge rights and to effect interchange at the Kensington and Eastern Yard.

11. *The Atchison, Topeka and Santa Fe Railway Company (ATSF):*

A. at Alva, Oklahoma.

B. at St. Joseph, Missouri.

12. *Iowa Northern Railroad Company (IANR):*

A. from Cedar Rapids, Iowa (milepost 100.5), to Manly, Iowa, (milepost 225.1).

B. at Vinton, Iowa (milepost 23.4), and west on the Iowa Falls Line to Dysart, Iowa (milepost 40.37).

13. *Iowa Railroad Company (IRRC):*

A. from Council Bluffs (milepost 490.15) to West Des Moines, Iowa (milepost 364.34) a distance of approximately 126.81 miles.

B. from Audubon Junction (milepost 440.7) to Audubon, Iowa (milepost 465.1) a distance of approximately 24.4 miles.

C. from Hancock, Iowa (milepost 6.4) to Oakland, Iowa (milepost 12.3) a distance of approximately 5.9 miles.

D. Overhead rights from West Des Moines, Iowa (milepost 364.34) to East Des Moines, Iowa (milepost 350.8). (This trackage was sold to CNW, however, the RI trustee holds rights for overhead use.)

E. from East Des Moines, Iowa (milepost 350.8) to Iowa City, Iowa (milepost 237.01) a distance 113.79 miles.

F. Overhead rights from Iowa City, Iowa (milepost 237.01) to Davenport, Iowa (milepost 182.35), including interchange with the Cedar Rapids and Iowa City Railway. (This trackage is currently leased to the MILW, see Item 5.B.)

G. from Bureau, Illinois (milepost 114.2) to Davenport, Iowa (milepost 182.35)

H. from Rock Island, Illinois through Milan, Illinois, to a point west of Milan sufficient to serve the Rock Island Industrial Complex.

I. at Rock Island, Illinois including 26th Street Yard.

J. from Altoona to Pella, Iowa.

14. *Missouri-Kansas-Texas Railroad Company (MKT):*

A. from Oklahoma City, Oklahoma (milepost 496.4) to McAlester, Oklahoma (milepost 365.0), a distance of approximately 131.4 miles.

15. *Chicago Short Line Railway Company (CLS):*

A. from Pullman Junction easterly for approximately 1000 feet to serve Clear-View Plastics, Inc., all in the vicinity of the Calumet switching district.

B. from Rock Island Junction westerly for approximately 3000 feet to Irondale Wye.

16. *Kyle Railroad Company (Kyle):*

A. from Belleville (milepost 187.0) to Caruso, Kansas (milepost 430.0), a distance of approximately 243 miles. KYLE will be responsible for the maintenance of the jointly used track between Colby and Caruso as mutually agreed upon with CLK, and for coordinating operations.

B. from Belleville (milepost 187.0) to Mahaska, Kansas (milepost 170.0) a distance of approximately 17 miles.

C. from Belleville (milepost 225.34) to Clay Center, Kansas (milepost 178.37) a distance of approximately 47 miles.

17. *North Central Oklahoma Railway, Inc. (NCOK)*

A. from Mangum, Oklahoma (milepost 97.2) to Anadarko, Oklahoma (milepost 18.14).

B. from El Reno, Oklahoma (milepost 515.0) to Hydro, Oklahoma (milepost 553.0) a distance of approximately 38 miles.

C. from Geary, Oklahoma (milepost 0.0) to Homestead, Oklahoma (milepost 42.8) a distance of approximately 43 miles.

D. from North Enid, Oklahoma (milepost 0.30) to Ponca City, Oklahoma (Milepost 54.8) a distance of approximately 54.5 miles.

18. *Burlington Northern Railroad Company (BN):*

A. at Burlington, Iowa (milepost 0 to milepost 2.06).

19. *Omaha, Lincoln and Beatrice Railway Company (OLB):*

A. at Lincoln, Nebraska (milepost 559.16 to milepost 561.37).

20. *Texas North Western Railway Company (TNW):*

A. from Hardesty, Oklahoma (milepost 119.20) to Liberal, Kansas (milepost 152.35) a distance of approximately 33.15 miles.

21. *Farmrail Corporation (FMRC):*

A. from west of ELK City (milepost 615.0) to west of Erick, Oklahoma (milepost 642.0), a distance of approximately 27 miles.

22. *East Camden and Highland Railroad Company (ECHR):* [1]

A. from Eldorado, Arkansas (milepost 100.50) to Lillie, Louisiana (milepost 125.28) a distance of approximately 24.78 miles.

APPENDIX B

Line No	Location to be operated	Railroads using	Rock Island functions to be performed
1	Rock Island Jct., IL. switches	CO/BO, CWPS, CR, CSL	Track maintenance

[1] Added.

APPENDIX B—Continued

Line No.	Location to be operated	Railroads using	Rock Island functions to be performed
2	To ICG connection, Cottage Ave., Chicago, IL.	CWPS	Track maintenance.
3	Irondale Branch, Chicago, IL	CWPS, CR	Track maintenance.
4	Chicago, IL: Regonal Port, District Lake, Calument Harbor, West Side.	ICG, CR, CSSB	Track maintenance.
5	Chicago (LaSalle St. Station)-Joliet, IL	RTA	Dispatching performed at Des Moines, IA (Suburban train operation).
5a	Joliet, IL-16th and Clark Streets	ICG, RTA	Interlocking Towers.
6	Moline-East Moline, IL crossing signals.	BN, DRINW	Highway crossing signal maintenance.
7	Rock Island, IL, 28th Street	BN	Switchtender handles crossing and BN switches.
8	West Davenport-Muscatine, IA	MILW	Track and signal maintenance dispatching performed at Des Moines, IA, which controls entry switch at West Davenport (Automatic Block Signal).
9	Burlington-Mediapolis, IA	BN	Track maintenance; dispatching performed at Des Moines. Highway crossing signals maintenance on BN trackage.
10	Eddyville-Beacon, IA	CNW	Track maintenance.
11	Cedar Rapids, IA, 4th Street trackage.	ICG	Track maintenance.
12	Cedar Rapids, IA, 9th Avenue crossing.	CNW	Control of CNW-RI crossing and highway crossing signal maintenance.
13	Waterloo, IA, McKinley Street crossing signals.	CNW	Highway crossing signal maintenance.
14	Iowa Jct., Hollis, IL (Peoria Terminal Co.).	TPW	Track maintenance; dispatching performed by Peoria yardmaster.
15	Des Moines (Easton Blvd.) West Des Moines, IA.	CNW	Track and signal maintenance; operate and maintain RI and CNW tracks; signals-switches controlled at Short Line Tower (Automatic Block Signal).
16	Almena Jct.-CB&Q Jct. KS (Oronoque).	BN	Track maintenance; dispatching performed at Des Moines, IA; hand thrown switches; (Automatic Block Signal).
17	Colorado Springs, Roswell Industrial District, CO.	ATSF	Track maintenance.
18	Council Bluffs, IA, 6th, 7th, 8th St. crossing signals.	BN	Highway crossing signal maintenance.
18a	Council Bluffs, IA, vicinity BN of 14th Street.	BN	Diamond crossing maintenance. Interlocking plant maintenance and operation.
19	Albert Lea-Glenville, MN	CNW-ICG	Track and signal maintenance; dispatching performed at Des Moines, IA which controls CTC.
20	Glenville, MN, Manly, IA	CNW	Operator at Manly.
21	Inver Grove, South St. Paul, MN	CNW, SOO	Track and signal maintenance; dispatching performed at Des Moines, IA which controls CTC.
22	Limon, CO	UP	Operator.
23	Polo-Airline Jct., MO	MILW	Track and signal maintenance; dispatching performed at Des Moines, IA which controls CTC from Polo to Birmingham. (Birmingham to Airline Jct. CTC controlled by MILW at Truman Bridge under RI dispatcher's direction.)
24	Atchison, KS-St. Joseph, MO	ATSF	Track and signal maintenance; dispatching performed at El Reno, OK.
25	Wathena-Troy, KS	UP	Track and signal maintenance; dispatching at El Reno, OK.
26	Hennigton, KSMP crossing interlocking.	MP	Interlocking controlled by RI operator (cannot be lined for MP and left unattended—signaling on MP cleared directionally).
27	Dodge City, KS	ATSF	Between Dodge City and ATSF Jct. over Arkansas River bridge track and bridge maintenance only (Line not in service at present).
28	McAlester-Shawnee, OK	MKT	Track and signal maintenance.
29	Shawnee-Oklahoma City, OK	ATSF-MKT	Track and signal maintenance.
31	Dallas, TX, Right of District (formerly Dallas Union Terminal).	MP, MKT, FWD, ATSF, SP, SSW, SLSF.	Track and signal maintenance; maintain and control operation from towers. Supervision and maintenance to be provided by Missouri Pacific Railroad Company.
32	Saginaw, TX	FWD, ATSF	Track and signal maintenance; interlocking controls, switches, and signals.
33	Memphis, TN, Section "A" trackage (1,460 feet) owned by LN.	ICG, LN, SOU	Track maintenance.
34	Briark, West Memphis, AR	SSW-MP	Track and signal maintenance; dispatching performed at El Reno, OK; CTC controlled from Kentucky St.
35	West Memphis-Brinkley, AR	SSW	Track and signal maintenance; dispatching performed at El Reno, OK ABS—Block signals operator at Brinkley.
36	Irving-Carrollton, TX	SLSF	Maintenance, dispatching (all functions performed by SLSF at present).
37	Iowa Falls, IA	ICG	Interlocking towers.
38	Rock Island Junction, AR to Hermitage, AR.	WSR	Maintenance.
39	Thompson, NE	BN	Diamond crossing maintenance.
40	Beatrice, NE	BN	Diamond crossing maintenance.
41	Centerville, IA	BN	Interlocking plant maintenance and operation.
42	La Salle, IL	BN	Diamond crossing maintenance.
43	Ottawa, IL	BN	Interlocking plant maintenance.
44	Colona, IL	BN	Interlocking plant maintenance.

APPENDIX B—Continued

Line No	Location to be operated	Railroads using	Rock Island functions to be performed
45	St. Joseph, MO	BN	Diamond crossing maintenance.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

Export of Alaskan Gray Wolf, Alaskan Brown or Grizzly Bear, Bobcat, Lynx, and River Otter Taken in 1983–84 and Subsequent Seasons

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final findings and rule.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) regulates international trade in certain animal and plant species. As a general rule, exports of animals and plants listed in Appendix II of CITES may occur only if a Scientific Authority (SA) has advised a permit-issuing Management Authority (MA) that such exports will not be detrimental to the survival of the species, and if the MA is satisfied that the animals or plants were not obtained in violation of laws for their protection. This notice announces final findings by the SA and MA of the United States on the export of certain Appendix II animal species native to this country. Previously, such findings were made each year on a State-by-State basis. Beginning this year, the Service is making such findings to span a period not limited to a single harvest season.

EFFECTIVE DATE: These findings are effective on January 5, 1984.

ADDRESS: Please send correspondence concerning this notice to the Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Materials received will be available for public inspection from 7:45 a.m. to 4:15 p.m., Monday through Friday, at the Office of the Scientific Authority, room 537, 1717 H Street, N.W., Washington, D.C. or at the Federal Wildlife Permit Office, room 621, 1000 N. Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT:

Scientific Authority Finding—Dr. Richard L. Jachowski, Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (202) 653–5950

Management Authority Finding—Mr. S. Ronald Singer, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (703) 235–2418

Export Permits—Mr. Richard K. Robinson, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (703) 235–1903

SUPPLEMENTARY INFORMATION: In this notice, the Service issues a final rule based on CITES Scientific Authority (SA) advice and Management Authority (MA) decisions about the export of certain animal species taken during 1983–84 and subsequent harvest seasons. The species covered by this rule are listed in CITES Appendix II: the gray wolf (*Canis lupus*) and brown or grizzly bear (*Ursus arctos*) (Alaskan populations only), and the bobcat (*Lynx rufus*), lynx (*Lynx canadensis*), and river otter (*Lutra canadensis*) (United States populations).

Under the terms of CITES Article IV, export of specimens of these species may occur only if a permit has been issued. Export permits may be issued only when (a) the SA has advised that such export will not be detrimental to the survival of that species, and (b) the MA is satisfied that the specimen was not obtained in contravention of laws for the protection of fauna and flora. The Service carries out both SA and MA responsibilities for the United States.

The previous notice on this subject (48 FR 37494; August 18, 1983) invited public participation in the development of SA and MA determinations on the export of these species. In that notice, the service announced the decision from a review of listed species concluded at the Fourth Meeting of the Conference of the Parties in Botswana that each of the species or geographically separate populations addressed in these export findings should be regarded as listed in Appendix II because of its similarity in appearance to other listed species or populations. As indicated in that notice, the Conference of the Parties adopted a resolution accepting the report of the Central Committee on the 10-year review of species listed in Appendices I and II. The report included recommendations that these populations or species should be considered as listed in Appendix II only because of similarity in appearance, if they were to be retained in that appendix.

The August 18 notice described how the Service, as SA, planned to monitor the status of these species and their trade on an annual basis so that it could detect any significant downward trends in populations and, where necessary, institute more restrictive export controls in response to them. The notice also described how the Service, as MA, would determine if specimens had been lawfully acquired on the basis of tagging requirements.

Comments and Information Received

The Service received comments from 40 State wildlife conservation agencies, 3 Indian Nations, and 6 nongovernmental organizations (Defenders of Wildlife, Inc., joined by the Humane Society of the United States; Fur Conservation Institute of America; International Association of Fish and Wildlife Agencies; Tennessee Valley Authority; the American Fur Resources Institute, and the Wildlife Legislative Fund of America).

Comments from wildlife conservation agencies of the States and Indian Nations were generally as follows: (1) The agencies supported the treatment of the bobcat, lynx, and river otter as being listed for reasons of similarity in appearance under Article II.2(b) of CITES, and (2) the agencies informed the Service that harvest and subsequent export during the 1983–84 seasons of Appendix II furbearers from the respective States and Indian Nations would not be detrimental to the survival of these species. The agencies indicated that their conclusions that export of listed furbearers will not be detrimental were based on the best available biological information derived from professionally accepted wildlife management practices.

Defenders of Wildlife, Inc., submitted extensive comments. In summary, they were as follows: (1) Treating the furbearers in questions as listed only because of similarity in appearance does not alter the export standard to be applied; (2) the data do not justify treating the species in question as listed only because of similarity in appearance; (3) the Service may not alter the treatment of species as listed either for reasons of potential threat or similarity in appearance without prior notice and comment; and (4) the State tagging systems and the MA export guidelines are seriously flawed and, therefore, provide an inadequate basis for the Service to be satisfied that bobcat pelts are legally obtained.

The Fur Conservation Institute of America concurred with the Service's SA conclusion that the data support the position that it is more effective to issue non-detriment findings on a multi-year rather than an annual basis. The Institute requested the Service to allow the export of pelts without affixed tags when the processing of pelts made it necessary to remove tags to avoid damage to pelts or to machinery.

The International Association of Fish and Wildlife Agencies commented that the proposed regulations represented an acceptable and workable package, and that they incorporated most of the views of the Association.

The Tennessee Valley Authority stated that the proposed rule regarding the export of the Appendix II species under the terms of CITES was sound and biologically appropriate, and that the rule appeared to contain adequate safeguards against detrimental effects of the export of "look-alike species" by the required tagging procedure.

The American Fur Resources Institute questioned whether the proposed tagging system is necessary and must be employed to meet the criteria of CITES. They further questioned whether the Federal Government must have the State governments do the tagging to certify legal taking as set forth in the proposal, and as practiced since the Service began to implement CITES in 1977.

The Wildlife Legislative Fund of America strongly supported the proposed findings, including the move to multi-year export findings. They also stated that the tagging system proposed by the Service has been tested over several years, and no problems have been found with it. They, therefore, urged that the findings and rule be adopted as proposed.

All of the comments summarized above were considered by the Service in developing this notice of final findings and rule. The Service's responses to these comments are discussed in the following sections of the notice concerning SA advice and MA determinations, with particular reference to the critical comments from Defenders of Wildlife, Inc., and the American Fur Resources Institute.

Scientific Authority Advice

Article IV of CITES requires that an export permit for any specimen of a species included in Appendix II shall only be granted when certain findings have been made by the SA and MA of the exporting country. The SA must advise "that such export will not be detrimental to the survival of that species" before a permit can be granted. The SA for the United States must develop such advice for the export of Appendix II animals in accordance with Section 8A of the Endangered Species Act of 1973, as amended in 1982. The Act states that the Secretary of the Interior is "required to base export determinations and advice upon the best available biological information derived from professionally accepted practices used in wildlife management, but is not required to make, nor may he require any State to make, estimates of population size in making such determinations or giving such advice." The Service hereby announces its decisions on implementing the SA responsibilities for certain species.

The U.S. delegation to the fourth meeting of the Conference of the Parties to CITES (Botswana, April 19–30, 1983) introduced proposals to remove Alaskan and Canadian populations of gray wolf, and U.S. and Canadian populations of bobcat and lynx from Appendix II. The delegation also introduced a proposal to establish that the river otter is listed in Appendix II only because of its similarity in appearance to other otters. The Canadian delegation submitted similar proposals. Comments from the CITES authorities of other Parties in response to the proposals clearly showed that importing countries in Europe felt there was a lookalike problem between these animals and others, even though it was generally understood that the populations or species addressed by the proposals were not potentially threatened with extinction. The Parties and the CITES Secretariat indicated that the United States had the latitude and competence to treat bobcats or the other species in question as lookalikes in making its export findings, noting that the original proposals to list these species in Appendix II did not specify the reasons for placing each species in that appendix, and noting that decisions on export permits are to be made by authorities of the exporting nation, who are in the best position to assess the status of the species. Given the consensus of the Parties on these points, the U.S. and Canadian delegations withdrew the proposals mentioned above.

Data accumulated in the course of implementing CITES for bobcats, lynx, and river otter provide scientific evidence that similarity in appearance is the only reason why CITES should presently apply to these species or geographically separate populations. Since 1979, the SA and MA for the United States have treated the Alaskan gray wolf and Alaskan brown or grizzly bear as listed for reasons of similarity in appearance under Article II.2(b) of CITES, and have issued export findings in accordance with this treatment. Information presented to the Parties in proposals from the United States in 1982 showed that none of these five species or geographically separate populations can reasonably be considered as potentially threatened with extinction because of trade, and that trade under existing State controls would not jeopardize their survival. Information gathered more recently supports these conclusions.

For the past seven years, beginning in 1977, the SA has reviewed information on population status, management, and trade for these animals in every State where they are harvested. The Service has analyzed these data and has summarized this information in documents that detail the basis for SA advice for each State. The following information, based on data for bobcats from 1976–1982, helps to illustrate that export under current State programs is not detrimental to the survival of the species on a national level.

The nationwide population of breeding adult bobcats, not including the annual increment of young, has been conservatively estimated at 754,000-780,000 animals in 1982. The individual States involved have indicated that there have been no significant changes in the size of their bobcat populations in recent years (stable population trends). The annual harvest over the years 1976–82 averaged 88,840 animals. This is between 11 and 12 percent of the estimated population. It is less than the combined harvest level objectives of States that allow a harvest, which added up to 102,510 animals or between 13 and 14 percent of the estimated population in 1982. It also is less than the conservative 20 percent level used by the Service in evaluating State harvest level objectives last year (see 48 FR 16494, April 18, 1983).

There are professionally-run management and research programs for the species discussed in this notice in each State where a harvest is allowed. Ongoing research projects and management programs will serve to indicate whether similarity in appearance treatment remains suitable in the future. If problems arise for a geographic population of any one of these species, the Service will afford that population more restrictive treatment. The Service will maintain its export requirements in order to monitor the trade, to limit it where necessary to avoid detriment to the species involved, and to address problems of similarity in appearance. Although the national

populations of these animals are not now potentially threatened because of international trade, monitoring will enable the SA to detect any significant downward trends in the population of a given species and, where necessary, advise on more restrictive export controls in response to them. To aid the SA in monitoring the status of all species addressed in this notice, annual certification is requested from each State in which the species are harvested as to whether the best available biological information derived from professional accepted wildlife management practices indicates that harvest during the forthcoming season will not be detrimental in the survival of the species.

Apart from this routine monitoring, whenever available information from the States or other sources indicates a possible problem in any particular State, the SA will conduct a comprehensive review of accumulated information to determine whether conclusions about the treatment of these species as listed for similarity in appearance need to be adjusted in that State. When conducting such a review, the Service will analyze the best available accumulated information bearing directly on the population status and trend for the species in question. This includes the results of any recent research on distribution, abundance, and population dynamics, and any other data that have been generated for use by States to manage the species. In analyzing the potential for commercial trade, the Service will evaluate available data on harvest size, distribution, and trend in each State, together with information on the price of pelts, number of pelts exported, and any other indications of harvest pressure.

The comment from Defenders of Wildlife that the data do not justify shifting these furbearing species from potentially threatened to similarity-in-appearance status is contradicted by extensive biological information generated through wildlife research. The CITES Parties viewed the summary of this information presented to them as a sufficient basis for treating the animals in question as listed only for reasons of similarity in appearance (see CITES documents Doc. 4.37 Annex 1 and Conf. 4.26).

The Service followed a rulemaking procedure in developing proposals to remove the bobcat and lynx from Appendix II and to establish that the river otter should be listed only because of similarity in appearance (46 FR 33534; June 30, 1981; 46 FR 45652, September 14, 1981; 47 FR 1242, January 11, 1982; 47 FR 7190, February 17, 1982; 47 FR 51772, November 17, 1982; 48 FR 30732, July 5, 1983). The Service received and considered comments from Defenders of Wildlife, among others, in making decisions on these proposals. Defenders' comment that there was no opportunity for prior comment on the shift to similarity-in-appearance for these species overlooks their participation in decisionmaking prior to the CITES meeting at which such treatment was established through negotiation by the U.S. and Canadian delegations.

Defenders of Wildlife's comments on the present rulemaking also addressed the export standard to be applied to the species in question. Defenders expressed the view that the same non-detriment test must be applied regardless of the reason for listing a species in Appendix II, and that the finding should consider the effects of export both on the species itself and on other look-alike species. This view was based on the language in CITES Article IV paragraph 2, which requires nondetriment advice as a precondition for export regardless of the reason why a species was listed in Appendix II. Defenders expressed this as follows: "The rationale for this uniform treatment, which the Parties have considered and upheld, is simple: The II.2(b) species is protected under Article IV in the same way as the II.2(a) species precisely because it looks like the II.2(a) species." Further, Defenders stated that "A unitary standard for both II.2(a) and II.2(b) species recognizes the fact that, under circumstances where two species look alike, both are potentially threatened. . . ."

In response, the Service notes that CITES Article II paragraph 2(b) gives strong support for the view that nondetriment findings should address the regulation of trade in a species listed under these provisions because of similarity in appearance so as to enable trade in certain other species that are or may become endangered to be brought under effective control. This interpretation gives meaning to the nondetriment finding and achieves the purpose for which species are listed under Article II paragraph 2(b).

Although the Service does not adopt the view of Defenders on the export standard to be applied to the species in question, it should be emphasized that the actual processs of developing SA advice on species addressed in this notice accommodates the concerns that Defenders raised. A review of the best available biological information has led the Service to conclude that the species or geographically separate populations addressed here are not potentially threatened with extinction because of international trade. Comments from Defenders and others were invited and considered in making this decision (see **Federal Register** notices cited above). The determination that these animals are not potentially threatened with extinction through trade encompasses a finding that their export will not be detrimental to the survival of the species involved.

The procedure for monitoring and review that the Service will follow to establish if this determination remains correct in the future is described above. It includes a provision for limiting trade where necessary to avoid detriment to the species involved. However, the best available biological information presently leads the Service to conclude (1) that export will not be detrimental to the survival of the species or geographically separate populations involved, and (2) that with tagging of pelts as described below, the export of of these animals will not reduce the effectiveness of CITES in controlling trade in other listed species. Documents summarizing the biological information used in making these decisions are available for public inspection at the Service's Office of the Scientific Authority (see address above).

Management Authority (MA) Determinations

Exports of Appendix II species are to be allowed under CITES only if the MA is satisfied that the specimens were not obtained in contravention of laws for the protection of wildlife or plants. The Service, therefore, must be satisfied that the pelts, hides, or products of the furbearers in question were not obtained in violation of State or Federal law, in order to allow export. Evidence of legal taking for Alaskan gray wolf, Alaskan brown or grizzly bear, bobcat, lynx, and river otter is provided by State tagging systems. For the 1982–83 season, the Service required the use of locking plastic strip tags with embossed legends and arranged for the manufacture of such tags for the majority of States. Some States already use similar tags. These were allowed to use a non-complying tag style for the 1983–84 season due to early ordering requirements mandated by State law. However, these States are being notified that they will be required to use Service-approved tags in subsequent years. The Service will supply tags free of charge for these species to all States in which they are harvested during the period covered by these findings. States may

use their own tags if they meet the requirements below.

The Service is adopting the following Management Authority export guidelines for the 1983–84 and subsequent taking seasons, as indicated in the notice of proposed findings:

(1) Current State hunting, trapping, and tagging regulations and sample tags must be on file with the Service (Wildlife Permit Office);

(2) The tags must be durable and permanently locking, and must show State of origin, year of take, species, and be serially unique;

(3) The tag must be applied to all pelts within a minimum time after take, as specified by the State, and such time should be as short as possible to minimize movement of untagged pelts;

(4) The tag must be permanently attached as authorized and prescribed by the State. Tag application must be by State official, State-registered dealers, or State-licensed takers;

(5) State-registered dealers or State-licensed takers allowed by the State to attach tags must account for tags received and must return unused tags to the State within a specified time after taking season closes; and

(6) For the 1983-84 and previous exporting seasons, finished furs and fully manufactured fur products may be exported from the United States when accompanied by State tags removed from the pelts contained in the products; such tags must be removed by cutting the tag strap on the female side next to the locking socket of the tag so that the locking socket and locking tip remain joined. These tags must be surrendered to Service personnel at the point of export.

In response to comment by the Fur Conservation Institute of America, and after observing the fur tanning and manufacturing processes, it has been determined that it is necessary to allow removal of current-style export tags from raw skins to avoid damage to workers, pelts and equipment. Therefore, finished furs and fully manufactured fur products from skins harvested in the 1983–84 and previous seasons may be exported from the United States when accompanied by State export tags that have been removed in the prescribed manner from the skins that are then finished furs or contained in finished fur products. These State export tags must have been removed from the skins at time of manufacture by cutting the tag strap next to the locking socket of the tag so that the locking socket and the locking tip remained joined. These tags will be collected by the Service at the point of export from the United States.

Defenders of Wildlife commented that the Management Authority export guidelines are seriously flawed because they do not require either possession tagging or the application of permanent tags by State personnel. The American Fur Resources Institute, on the other hand, commented that the application of possession tags by State personnel does not increase the validity of the tagged pelt. In response, it should be recognized that the tagging of pelts serves two purposes under CITES. First, the tag assures that the tagged pelt being exported from the United States has been taken in a Service-approved State and in a Service-approved year. Secondly, the tag identifies the species of the pelt for purposes of addressing problems of similarity of appearance, as discussed previously in the Section on Scientific Authority advice.

While the Service and State wildlife management agencies recognize the limitations inherent in a tagging system, it remains the best available method of identifying exportable pelts of CITES listed species. The Service has required that approved export tags be attached to legally taken skins by State personnel or State registered fur dealers or State-regulated trappers. In 1983, State personnel will apply the export tag in 40 of the 45 States receiving 1983–84 Service export approval for listed fur species. State-registered fur dealers attach export tags in three States while State regulated trappers tag the pelts in two States. These five States require dealers or trappers to account for pelt tags assigned to them and the dealers must also report on their commerce in all fur skins to the State.

As reported earlier, 43 of the 45 States have official personnel or State-registered and controlled dealers apply export tags after they are assured of the origin and legality of the skin. The Service will and continue to work toward implementation of this procedure by the two remaining States that allow the State regulated trappers to tag their own pelts.

While the Defenders of Wildlife has commented upon the failure of the Service to require the use of possession tags, it offers no reason for its use. The Service believes that management of resident species of wildlife is the responsibility of the States and has developed a Federal CITES Export Program based upon State law and certification of legal take. This certification is evidenced by the export tag applied at the State level. Without at least this level of control by the State, the Service cannot be assured that a skin being exported was legally taken, and attachment of tags at the point of export as suggested by the American Fur Resources Institute is not a viable option.

Comments received from the Florida Game and Freshwater Fish Commission relate that Florida's tagging program does not warrant a State-possession tagging program. The Missouri Department of Conservation and the Colorado Division of Wildlife commented that attachment of a possession tag prior to attaching an export tag will be of very little advantage in monitoring take, but will increase the cost and administrative problems. Also, the American Fur Resources Institute stated that use of both possession tags and export tags is "clearly unnecessary and financially burdensome." Finally, the International Association of Fish and Wildlife Agencies proposed that while no bobcat skin should be exported untagged from the United States, "no possession tag should be required."

Fourteen States use a possession tag in one form or another for the involved species, but have not commented upon the use of this system. Other States believe that such a system is burdensome, costly, and unwarranted as its use would not significantly impact the effectiveness of monitoring the harvest. Available information does not indicate that requiring States to use possession tags is justified and its use should remain a decision of State program managers.

Export Approval

The Service approves exports of animals harvested in the 1983–84 and subsequent taking seasons in the following State and Indian nations on the grounds that both the SA and MA criteria have been met:

Alaskan brown or grizzly bear: Alaska.

Alaskan gray wolf: Alaska.

Bobcat: Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Kansas, Klamath Tribe, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Navajo Nation, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Oregon, Penobscot Nation, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

Lynx: Alaska, Idaho, Minnesota, Montana, and Washington.

River otter: Alabama, Alaska, Arkansas, Connecticut, Delaware, Florida, Georgia, Louisiana, Maine, Maryland, Massachusetts, Michigan,

Minnesota, Mississippi, Montana, New Hampshire, New Jersey, New York, North Carolina, Oregon, Penobscot Nation, South Carolina, Vermont, Virginia, Washington, and Wisconsin.

This approval is subject to revision prior to any subsequent taking season in any particular State or Indian Nation if a review of information reveals that MA or SA findings in favor of export must be changed. The Service does not grant general approval for export of specimens of these species originating in any State or Indian Nation not named above because for one or more of the following reasons: (1) The species do not occur there, (2) no harvest of the species is allowed by the State or Indian Nation, or (3) the Service does not have current information needed for SA or MA findings.

This rule is issued under authority of the Endangered Species Act of 1973 (16 U.S.C. 1531, et seq.; 87 Stat. 884 as amended). It was prepared by Drs. Richard L. Jachowski and Richard M. Mitchell, Office of the Scientific Authority, and Mr. S. Ronald Singer, Federal Wildlife Permit Office.

The Department has determined that good cause exists, within the meaning of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, for making these findings and rule effective immediately. This notice represents the final administrative step in authorizing the export of bobcats and certain other species in accordance with CITES. This action has been delayed because of the need to gather and evaluate the best available biological information on these species. It is the Department's opinion that a delay in the effective date of the regulations after this rulemaking is published could affect the harvest season that already has begun in several States. It could adversely affect the species by reducing compliance with State documentation and tagging requirements. Good cause also exists for making these findings effective as soon as possible to avoid economic injury to individual trappers, dealers, or other small entities that are directly affected by the findings. It should be noted that making these findings and rule effective immediately will not adversely affect the species involved, in view of the findings on nondetriment contained herein.

Note.—The Department has determined that the final findings on the export of certain Appendix II animals taken in the 1983–84 and subsequent harvest seasons are not a major Federal action that would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act and, therefore, the preparation of an Environmental Impact Statement is not required. The Department also has determined that this is not a major rule under Executive Order 12291 and does not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601). The findings will allow a continuation of the export of specimens taken in accordance with State programs that have operated for several years without adversely affecting the resource. The findings do not contain any information collection or recordkeeping requirements as defined by the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 23

Endangered and threatened wildlife, Exports, Fish, imports, Plants (agriculture), Treaties.

Regulation Promulgation

Accordingly, Part 23 of Title 50, Code of Federal Regulations, is amended as set forth below:

PART 23—ENDANGERED SPECIES CONVENTION

1. The authority citation for Part 23 reads as follows:

Authority: Convention on International Trade in Endangered Species of Wild Fauna and Flora, TIAS 8249, and Endangered Species Act of 1973, 87 Stat. 884, 16 U.S.C. 1531–43.

Subpart F—Export of Certain Species

2. In § 23.52, add new paragraph (h) as follows:

§ 23.52 Bobcat (Lynx rufus).

* * * * *

(h) 1983–84 and subsequent harvests: Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Kansas, Klamath Tribe, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Navajo Nation, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Oregon, Penobscot Nation, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

Condition on export: Each pelt must be clearly identified as to species, State of origin and season of taking by a permanently attached, serially numbered tag of a type approved and attached under conditions established by the Service. Exception to tagging requirement: for the 1983–84 and previous seasons, finished furs and fully manufactured fur products may be exported from the U.S. when accompanied by the State tags removed in a manner described by the Service from pelts contained in the products, such tags must be removed by cutting the tag strap on the female side next to the locking socket of the tag so that the locking socket and locking tip remain joined, and such tags must be surrendered to the Service prior to export.

3. In § 23.52, add new paragraph (g) as follows:

§ 23.53 River otter (Lutra canadensis).

* * * * *

(g) *1983–84 and subsequent harvests:* Alabama, Alaska, Arkansas, Connecticut, Delaware, Florida, Georgia, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Montana, New Hampshire, New Jersey, New York, North Carolina, Oregon, Penobscot Nation, South Carolina, Vermont, Virginia, Washington, and Wisconsin.

Condition on export: Each pelt must be clearly identified as to species, State of origin and season of taking by a permanently attached, serially numbered tag of a type approved by the Service and attached under conditions established by the Service. Exception to tagging requirement: for the 1983–84 and previous seasons, finished furs and fully manufactured fur products may be exported from the U.S. when accompanied by the State tags removed in a manner described by the Service from pelts contained in the products, such tags must be removed by cutting the tag strap on the female side next to the locking socket of the tag so that the locking socket and locking tip remain joined, and such tags must be surrendered to the Service prior to export.

4. In § 23.54, add new paragraph (g) as follows:

§ 23.54 Lynx (Lynx canadensis).

* * * * *

(g) 1983–84 and subsequent harvests: Alaska, Idaho, Minnesota, Montana, and Washington.

Condition on export: Each pelt must be clearly identified as to species, State of origin and season of taking by a permanently attached, serially numbered tag of a type approved by the Service and attached under conditions established by the Service. Exception to tagging requirement: for the 1983–84 and previous seasons, finished furs and fully manufactured fur products may be exported from the U.S. when accompanied by the State tags removed in a manner described by the Service from pelts contained in the products, such tags must be removed by cutting the tag strap on the female side next to the locking socket of the tag so that the locking socket and locking tip remain joined, and such tags must be surrendered to the Service prior to export.

5. In § 23.55, add new paragraph (g) as follows:

§ 23.55 Gray wolf (Canis lupus).

* * * * *

(g) 1983–84 and subsequent harvests: Alaska.

Condition on export: Each pelt must be clearly identified as to species, State of origin and season of taking by a permanently attached, serially numbered State tag of a type approved and attached under conditions established by the Service. Exception to tagging requirement: for the 1983–84 and previous seasons, finished furs and fully manufactured fur products may be exported from the U.S. when accompanied by the State tags removed in a manner described by the Service from pelts contained in the products, such tags must be removed by cutting the tag strap on the female side next to the locking socket of the tag so that the locking socket and locking tip remain joined, and such tags must be surrendered to the Service prior to export.

6. In § 23.56, add new paragraph (g) as follows:

§ 23.56 Brown bear (Ursus arctos).

* * * * *

(g) 1983–84 and subsequent harvests: Alaska.

Condition on export: Each pelt must be clearly identified as to species, State of origin and season of taking by a permanently attached, serially numbered State tag of a type approved by the Service and attached under conditions established by the Service.

Dated: December 21, 1983.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84–274 Filed 1–4–84; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 31215–238]

Foreign Fishing; Poundage Fee Schedule

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NOAA implements the 1984 poundage fee schedule for foreign vessels fishing in the fishery conservation zone. Under this fee schedule, foreign vessels will pay for 26 percent of the FY 1983 Magnuson Fishery Conservation and Management Act costs. This rule is needed to comply with section 204(b)(10) of the Magnuson Fishery Conservation and Management Act.

EFFECTIVE DATE: January 1, 1984.

FOR FURTHER INFORMATION CONTACT: John D. Kelly or Susan E. Jelley, 202–634–7432.

SUPPLEMENTARY INFORMATION: NOAA implements a schedule of fees for fishing during 1984 by foreign vessels in the U.S. fishery conservation zone (FCZ). The new schedule should result in collections of about $44.5 million. As in previous years, no fee will be collected by the Federal government for U.S.-caught fish received at sea by foreign flag processing vessels (joint ventures).

Background

Section 204(b)(10) of the Magnuson Fishery Conservation and Management Act (Magnuson Act) (16 U.S.C. 1801 *et seq.*) states, in part, "The fees * * * shall be at least in an amount sufficient to return to the United States an amount which bears to the total cost of carrying out the provisions of this Act * * * during (FY 1983) the same ratio as the aggregate quantity of fish harvested by foreign fishing vessels within the fishery conservation zone during (1982) bears to the aggregate quantity of fish harvested by both foreign and domestic fishing vessels within such zone and the territorial waters of the United States during (1982)."

Foreign fee schedules are established for each calendar year following the provisions of section 204(b)(10). On October 27, 1983, NOAA published at 48 FR 49669 a proposed schedule of poundage fees for foreign fishing in 1984. Under this proposal, NOAA estimated the FY 1983 costs of carrying out the purposes of the Magnuson Act as $172.805 million. Of this amount, at least $45.102 million was proposed to be recovered from foreign fishing fees. This portion of the total costs is calculated from the ratio of the foreign catch in 1982 to the total catch that year in the FCZ and territorial waters, which was 26.1 percent. NOAA estimated that about $0.1 million would be recovered by permit fees and therefore proposed that the balance of $45.0 million be recovered by poundage fees. The poundage fees were apportioned by species based on proposed exvessel values subsequently adjusted for certain management considerations. The adjusted values were called management values and estimates of the catch of each species in 1984 were used to determine the management value of the total estimated foreign catch in 1984. The ratio of $45.0 million to be recovered by poundage fees to the total management value of the estimated 1984 foreign catch determined a proposed fee rate of 15.8 percent of the adopted management value of each species. NOAA received public comments on this proposal until November 28, 1983, and now adopts this final rule to set the 1984 foreign fishing poundage fee. Readers should refer to 48 FR 49669 and the documents referenced therein for detailed explanation of the proposed rule.

Comments

NOAA received comments from nine parties and organizations. The following summarizes the comments received and NOAA's responses to these comments.

1. *Comment.* The prices of wahoo, mahi mahi, and Pacific sharks should be revised to reflect recent prices.

Response. More recent prices were provided by the Honolulu Laboratory of the Southwest Fisheries Center. These recent prices in the fresh market for sales in American Samoa, Guam, Northern Mariana Islands, and Hawaii are those for the last calendar year (1982). The prices are lowered by assuming a 50 percent mark-up between the market price and exvessel price. The estimated exvessel prices for wahoo and mahi mahi are changed to $2,000 per metric ton (mt) from the proposed $1,500 per mt for mahi mahi and $2,251 per mt for wahoo. The price for sharks is raised to $1,000 per mt from the proposed $123 per mt. The final fees are $312, $312, and $156, respectively.

New preliminary estimates of the market values of alfonsin and armorhead ("seamount groundfish") are $1,214 to $2,756 per mt. However, more documentation is needed to substantiate these prices. NOAA notes that although the TALFF for seamount groundfish is 2,000 mt, the 1982 foreign harvest was only 20% of that. To encourage fuller utilization of the TALFF, the management factor is reduced to 0.5, and the final fee is reduced from the proposed fee in the final rule.

2. *Comment.* The prices of Alaska flatfish, Pacific ocean perch, Pacific cod, Atka mackerel, and "other Alaskan groundfish" are too high.

Response. The management factor for "other groundfish (Alaska)" was erroneously shown in the proposed rule as 1.0. Table 3 of the supplementary material describing the methods used to develop the schedule shows that the correct factor is 0.5. However, the exvessel value listed in the proposed rule was half the intended exvessel value shown in the supplementary material. Therefore, because of these compensatory errors the proposed fee was correct.

In response to the contention that the exvessel value is too high, NOAA looked at the actual composition of the foreign catch of "other species"; this was 25% skates, and 75% sculpins. Using this composition, NOAA calculates a weighted average price of $799 per mt.

The management value becomes $400 per mt. The expected revenues from "other groundfish" will be less than 4% of the total expected revenues from Alaska, which NOAA believes is relatively insignificant. To evaluate the comments on other fees in Alaska, NOAA compared Japanese prices from June 1982 through June 1983 for flatfish, Atka mackerel, pollock, Pacific ocean perch, rockfish, Pacific cod, swordfish, and marlin. The prices were converted from yen into dollars at each month's exchange rate. Then the mean price was calculated:

Product	Dollars per metric ton	Price as a multiple of pollock	Proposed 1984 fee	Fee as a multiple of pollock	Fee as percent of Japanese price
Fresh Alaska pollock	264	1	28	1	10.6
Fresh atka mackerel	484	1.83	42	1.5	8.7
Fresh ocean perch	3,451	13.07	90	3.2	2.6
Fresh rockfish	3,501	13.26	69	2.5	2.0
Fresh flatfish	1,599	6.06	60	2.1	3.7
Frozen cod	1,150	4.36	66	1.32	5.7
Fresh broadbill swordfish	3,050	11.55	369	21.02	12.1
Fresh striped marlin	4,142	15.69	593	[illegible]	14.3

The U.S. exvessel atka mackerel price was derived from the prices paid by foreign flag vessels to U.S. fishermen delivering the mackerel at sea. The U.S. value of $267 per mt is half its value in Japanese markets, and the proposed fee is only 9% of the value. NOAA feels that 9 percent is a reasonable fee, so the proposed fee for atka mackerel will become the final fee.

The fees for Pacific ocean perch, flatfish and Pacific cod are very small percentages of the Japanese prices. The proposed Pacific ocean perch fee is $3 less per metric ton than that in 1983. NOAA does not believe the proposed fees will make foreign fishing for these species in the FCZ unprofitable, so no changes in these fees are made as a result of this comment.

3. *Comment.* The proposed fee for Atlantic mackerel ($51) is too high.

Response. To date, only two countries have applied for joint ventures and directed harvests of mackerel. NOAA believes that U.S. fishermen may benefit if the management factor for mackerel is changed to 0.5. This is the same philosophy used to set the management factor for Pacific whiting at 0.5. Therefore, the management factor is reduced to 0.5 for Atlantic mackerel.

4. *Comment.* Fees should not be calculated using management factors.

Response. This procedure has been followed since implementation of the fee schedule for 1981. It is a mechanism that allows NOAA to be flexible enough to consider the economics of different fisheries and to minimize the disruption of historical fishing patterns, to encourage the harvest of those species that might not otherwise be caught, yet to encourage the U.S. commercial fishing industry to grow and to offer it a degree of protection as mandated by the Magnuson Act. The management factors may be reevaluated each year and adjusted if warranted by changes in the markets. (See criteria for establishing fees, 46 FR 55731, November 12, 1981).

A nation need not catch high-priced species even if those species are allocated to that nation. A country pays only for the species that are caught. Furthermore, the highest management factor of 1.43 is assigned not to "penalize" foreign vessels, but to acknowledge the relatively higher value of certain species to the U.S. commercial fleet and to make U.S. fish products developed from those species more competitive on the world market with fish caught in the U.S. FCZ by foreign fleets. Furthermore, the species that have a management factor of 1.43 usually have higher profit margins overseas and thus can better absorb proportionately higher fees.

5. *Comment.* The ratio of U.S. to foreign catch is based on data two years out of date.

Response. Section 204(b)(10) of the Magnuson Act requires that catch data from the prior year be used to determine the ratio. It is true that the final fee schedule uses a ratio of the catch data which is two years old. However, catch data for a calendar year are not compiled and published until the subsequent April. NOAA begins preparing the proposed rule after these data are available and a final rulemaking on the fee schedule for the upcoming year before more current catch data are available. Therefore, NOAA is using the most timely published catch data available.

6. *Comment.* Increased fees will have an adverse impact on joint ventures with U.S. fishermen.

Response. The table in response number 2, above, implies that U.S. fees are not a very large proportion of the price of fish in Japan. The proportion falls even further when one compares the fee to the retail price of processed fish products rather than fresh fish (which have little or no value-added). Commenters did not supply any financial data to show how increased fees would reduce revenues for U.S. fishermen engaged in joint ventures.

7. *Comment.* There is no clear methodology to account for the costs of the Magnuson Act. There is no way foreign fleet managers can forecast U.S. fees when projecting future operating costs, since the procedure NMFS uses is subjective rather than objective. The Independent Offices Appropriations Act (IOAA) applies. NOAA's estimates of the costs of carrying out the purposes of the Magnuson Act consistently exceed Congressional authorizations.

Response. These comments were closely evaluated last year. Please see 48 FR 27076–27077, June 13, 1983, responses to comments numbered 2, 3, 4, 5, and 6. NOAA's position on these comments is not changed.

8. *Comment.* The U.S. Coast Guard estimates of costs attributable to the Magnuson Act appear over-stated, particularly since "overhead" is included, as well as activities within the territorial sea.

Response. NOAA decided last year that overhead costs of NOAA and Department of Commerce are appropriate to include in recoverable costs. It is logical to extend this conclusion to the USCG costs. Please see 48 FR 27078, June 13, 1983, responses to comments numbered 10 to 12 for further discussion of how USCG costs are calculated.

9. *Comment.* Ship costs are excessive. Observer costs have been included in the Northeast Region. Pacific shrimp studies outside the United States and menhaden studies within the territorial sea are included.

Response. As a result of comments on the 1983 fee schedule, NOAA reviewed the estimates of research vessel costs. Corrected FY 1982 costs were used to reasonably estimate FY 83 costs in the schedule proposed for 1984. Actual FY 83 costs were not available at that time. The method used to compute vessel costs was as follows: The actual expenditures for each vessel during FY 1982 were compiled and then multiplied by the percentage of total ship days expended supporting the MARMAP (Marine Resources Monitoring, Assessment and Prediction) Program. [Even though the MARMAP program was operating before the Magnuson Act was implemented, the goals of the program clearly meet the criteria in section 204(b)(10), which includes "the total cost of carrying out * * * fisheries research * * *."] This method corrected the method used to calculate ship costs for the 1983 fee schedule. In calculating ship costs for the proposed 1984 fee schedule, the FY 83 expenditures for MARMAP were assumed to be about the same as in FY 82. The $6.6 million increase between the FY 1982 ship costs used for the 1983 fees and the FY 82 costs used in the 1984 fee calculations is a correction. In FY 1982, these costs were actually $9.5 million, not the $2.9

million used in the calculations for the 1983 fee schedule.

A breakdown of ship costs by vessel is available upon request.

NOAA reviewed the other disputed costs and deducted $900,000 for observer fees in the Northeast Region, $37,000 for shrimp research outside the FCZ, and $1,045,800 for menhaden research.

Summary

As a result of evaluation of these comments, the overall costs are reduced from $172,805,700 to $170,822,900. The fee collection target is 26.1% times $170,822,900 or $44.6 million. After deducting anticipated revenues for 1984 permit fees from this target, the poundage fee collection target is $44.5 million. Using the same procedures applied in the proposed rule, NOAA will set species fee at 15.6 percent of the final management values. The final fees are in table 1 at the end of this rulemaking.

Classification

NOAA prepared a draft regulatory impact review (RIR) that discussed the economic consequences and impacts of the proposed fee schedule and its alternatives. Copies of the RIR are available at the above address. Based on the RIR, the Administrator, NOAA, determined that the proposed schedule does not constitute a major rule under E.O. 12291. The regulatory impact review demonstrates that the fee schedule complies with the requirements of section 2 of E.O. 12291.

The General Counsel for the Department of Commerce certified that the proposed fee schedule will not have a significant economic impact upon a substantial number of small entities for purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* This certification was forwarded to the Chief Counsel for Advocacy of the Small Business Administration. Because the fee schedule will not have a significant economic impact upon a substantial number of small entities, a regulatory flexibility analysis was not prepared.

NOAA Directive 02–10 published at 45 FR 49312 (July 24, 1980) adopts internal procedures to implement the National Environmental Policy Act (NEPA), as amended (42 U.S.C. 4321 *et seq.*). Under those procedures, programmatic functions with no potential for significant environmental impacts are generally excluded from NEPA requirements.

The proposed fee schedule has no direct impact on the fishery resources in the FCZ. At the most, a fee schedule might affect the harvesting strategy of foreign fishing vessels and result in a different species mix being removed from the environment; however, the schedule meets the criterion that fees should minimize disruption of traditional fishing patterns on target species. The schedule is not a significant change from the 1983 fee schedule. Since this fee schedule will not prevent the harvesting of the total allowable level of foreign fishing (TALFF), and the environmental impact of harvesting the TALFF is described for each fishery management plan, no further environmental assessment is necessary.

Part of the 30-day delay in implementation required by the Administrative Procedures Act is waived so that the fee schedule can be in place on January 1, 1984. If no schedule is in place, foreign fishing vessels will not be allowed to harvest fish, and the U.S. Treasury consequently will lose revenues. Furthermore, an interruption in fishing for foreign vessels already in the FCZ would be costly to the foreign fishing companies, since their vessels would be incurring fixed operating costs while being forced to sit idle until the 30-day period elapsed.

List of Subjects in 50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting requirements.

December 30, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

PART 611—[AMENDED]

For the reasons above, 50 CFR Part 611 is amended as follows:

1. The authority citation for 611.22 is:

Authority: 16 U.S.C. 1801 et seq.

2. Table 1 of § 611.22(a)(2) is revised to read as follows:

§ 611.22 Fee Schedule for foreign fishing.

* * * * *

TABLE 1.—SPECIES AND POUNDAGE FEE

[Dollars per metric ton, unless otherwise noted]

Species	Poundage fee
1. Butterfish	156
2. Hake, red	29
3. Hake, silver	31
4. Herring, river	[illegible]
5. Mackerel, Atlantic	25
6. Other finfish (Atlantic)	146
7. Sharks (Atlantic)	[illegible]
8. Squid, illex	[illegible]
9. Squid, Loligo	134
10. Shrimp, royal red	(1)
11. Atka mackerel	[illegible]
12. Cod, Pacific	66
13. Flatfish (Alaska)	[illegible]
14. Flounders (Pacific)	59
15. Jack mackerel	15

TABLE 1.—SPECIES AND POUNDAGE FEE—Continued

[Dollars per metric ton, unless otherwise noted]

Species	Poundage fee
16. Pacific ocean perch	[illegible]
17. Other groundfish (Alaska)	[illegible]
18. Other fish (Pacific)	[illegible]
19. Pollock, Alaska	[illegible]
20. Sablefish (Alaska)	148
21. Sablefish (Pacific)	157
22. Rockfish	[illegible]
23. Snails	[illegible]
24. Squid (Pacific)	23
25. Whiting (Pacific)	14
26. Western Pacific corals	(2) 79
27. Seamount groundfish	31
28. Dolphinfish (mahi mahi)	312
29. Wahoo	312
30. Sharks (Pacific)	156
31. Swordfish (Pacific)	[illegible]
32. Striped marlin (Pacific)	585
33. Other Pacific billfish	234

[1] Reserved.
[2] Per kilogram.

[FR Doc. 83-34854 Filed 12-30-83; 4:38 pm]
BILLING CODE 3510-22-M

50 CFR Part 663

[Docket No. 31230-249]

Pacific Coast Groundfish Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Rule-related notice; fishing restrictions and request for comments.

SUMMARY: NOAA issues this notice establishing restrictions to reduce the levels of fishing for widow rockfish, the *Sebastes* complex (all rockfish except Pacific ocean perch, widow, shortbelly, and *Sebastolobus* rockfishes), and sablefish taken off the coasts of Washington, Oregon, and California, and seeks public comment on these actions. These actions are authorized under regulations implementing the Pacific Coast Groundfish Fishery Management Plan and are necessary because of biological stress to these stocks has been identified or is projected to occur before the end of 1984. These actions are intended to lower fishing rates, reduce biological stress, and avoid, or at least reduce the probability of, a fishery closure before the end of the year. This action supercedes fishing restrictions imposed in 1983 for widow rockfish, the *Sebastes* complex, and sablefish.

DATES: This notice is effective from 0001 (Pacific Standard Time) January 1, 1984, until modified, superceded, or rescinded. Comments will be accepted through January 19, 1984.

ADDRESSES: Send comments to T. E. (Gene) Kruse, Acting Director,

Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., Bin C15700, Seattle, Washington 98115 or Floyd S. Anders, Jr., Acting Director, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

FOR FURTHER INFORMATION CONTACT:
T. E. (Gene) Kruse at 206–527–6150 or Floyd S. Anders, Jr. at 213–548–2575.

SUPPLEMENTARY INFORMATION:

Background

The Pacific Coast Groundfish Fishery Management Plan (FMP) was approved on January 4, 1982, and final implementing regulations were published October 5, 1982 (47 FR 43964).

This action supercedes the **Federal Register** notices at 48 FR 30395 (July 1, 1983), which imposed size and landing limits on sablefish, and at 48 FR 41164 (September 14, 1983), which further restricted landings of widow rockfish and the *Sebastes* complex. It supplements the **Federal Register** notice at 48 FR 54671 (December 6, 1983), which announces the preliminary specifications for 1984 fisheries for Pacific groundfish species.

The FMP differentiates between numerical and non-numerical optimum yields (OY) for species. Those species which may be harvested fairly selectively have a numerical OY, which is the maximum amount of that species which may be landed in a year; landings in excess of OY are prohibited. Widow rockfish (*Sebastes entomelas*) and sablefish (*Anoplopoma fimbria*) have numerical OYs. Species which are not harvested selectively, which are of very little commercial interest, or about which there is little scientific data are part of the non-numerical OY group and are managed most commonly by gear, area, and landing restrictions. An estimate of the acceptable biological catch (ABC), the annual catch that could be taken without jeopardizing a resource's productivity, has been made for most species in this group. Some species in the non-numerical OY group may be fished above the ABC. However, when a species in the group is stressed, or will be before the end of the year, the Council must determine whether harvest of the group as a whole should be reduced even though some species in the group may not be stressed. The *Sebastes* complex (all species of rockfish managed under the FMP except Pacific ocean perch, shortbelly, widow, and *Sebastolobus* rockfishes) is included in this non-numerical OY group.

The regulations allow the Secretary of Commerce (Secretary) to reduce fishing levels if it is determined that continued fishing at current levels would cause biological stress to any species. Throughout 1982 and 1983, the Pacific Fishery Management Council (Council) documented biological stress on widow rockfish and at least one species within the multi-species *Sebastes* complex. It also acknowledged the increased likelihood of biological stress occurring in other species if fishing levels were not reduced. Management regimes were implemented for widow rockfish, the *Sebastes* complex, and sablefish, all regulated by quotas in 1983, with the intent of avoiding the closure of these fisheries which must be imposed if a quota is exceeded before the end of the year.

The Council considered advice from its Groundfish Management Team (State and Federal fishery and social scientists), Groundfish Advisory Subpanel (fishing industry and consumer representatives), Scientific and Statistical Committee (State, Federal, and university scientists), the concerned public, and an *ad hoc* Task Force created by the Council for the purpose of recommending methods of reducing fishing levels with minimal disruption to the fishing industry. The Task Force included representatives from the Council, Groundfish Management Team, fishing industry, and State fishery agencies.

At its June 8–9, 1983, meeting when it tightened the restrictions for widow rockfish and the *Sebastes* complex for 1983, the Council recognized that management measures affecting fisheries for these resources would probably become more restrictive in 1984. The Council recommended harvest guidelines for 1984 for the *Sebastes* complex in the Vancouver-Columbia area and for all flatfish managed under the FMP, not to exceed 130 percent of the summed ABCs. The harvest limit on flatfish was recommended to prevent an excessive shift of the fishery to flatfish when the landings of the *Sebastes* complex are further curtailed. The Secretary concurred with the 1984 recommendations of the Council and published a notice to this effect on July 1, 1983 (48 FR 30395).

At its November 9–10, 1983, meeting in Boise, Idaho, the Council again reviewed the latest data and considered management measures intended to limit landings of groundfish in 1984, thereby minimizing the likelihood or intensity of biological stress on groundfish stocks, and reducing the chances of having to close a fishery before the end of the year. In each case, the Council recommended some kind of trip limit. The Council's recommendations for 1984 and Secretarial actions on those recommendations are presented below. These actions supersede the intent notice published at 48 FR 30395.

The Council expressed concern over the potential difficulty of enforcing its recommended restrictions if a vessel fished in the territorial waters (0–3 nautical miles offshore) of one State and landed its catch in another State or fished in an area where the restrictions applied but landed in an area where they did not apply. To avoid this problem, the Council recommended that the restrictions apply to all groundfish taken and retained or landed in ocean waters off Washington, Oregon, and California regardless of the place of taking. Because the vast majority of groundfish landed off those three states is taken from the fishery conservation zone (FCZ), 3–200 nautical miles offshore, the Council concluded that it would be reasonable to treat all groundfish taken and retained or landed in violation of these restrictions as though they were taken in the FCZ.

Widow Rockfish

Council Recommendation: The Council recommended a trip limit of 50,000 pounds on widow rockfish, with only one landing allowed above 3,000 pounds per vessel per week. These limits would be applied coastwide and are subject to inseason adjustment so that the OY is not exceeded before the end of 1984.

Rationale: Signs of stress were documented for widow rockfish in 1982 and a coastwide trip limit of 75,000 pounds was imposed in October of that year (47 FR 46287, October 18, 1982). For 1983, the ABC and OY were reduced to 10,500 metric tons (mt), less than half the 1982 levels, and in March the trip limit was decreased to 30,000 pounds (48 FR 8283, February 28, 1983). It appeared in June that this trip limit would support the fishery throughout the year, but data available in subsequent months showed that this was not the case. Even though the average landing of widow rockfish per trip in 1983 was about half the 1982 level, OY was approached rapidly, and an early closure of the fishery was projected if further action were not taken. A trip limit of 1,000 pounds, designed to inhibit target fishing but allow incidental catches to be landed, was imposed in September (48 FR 41164). As a result landings are not expected to exceed OY in 1983.

Further stress on widow rockfish stocks was documented in 1983. Increasing juvenescence (a higher proportion of small fish) has been observed since the last half of 1981. Although some juvenescence is

expected when a virgin stock is exploited, current data forewarn of recruitment overfishing in some areas. In 1981, less than 10 percent of the female widow rockfish landed from the Columbia area were smaller than 38 centimeters (cm), the length at which half are mature. By 1983, the proportion of small females landed increased to over 60 percent. Similar trends are noted for males landed from the Columbia area. Landings of immature widow rockfish clearly are increasing. If fish are heavily harvested before becoming mature, fishing and natural mortality deplete the spawning stock and there are insufficient juveniles eventually to replace them. In a severe situation, reproductive capability of the stock declines and MSY cannot be sustained. MSY for widow rockfish recently was lowered to 10,714 mt, resulting in a reduced ABC and OY of 9,300 mt for 1984.

Because of the biological stress and lower ABC and OY for widow rockfish, the Council acknowledged that more effective management measures would be needed in 1984. Thus, although the Council recommended liberalizing the trip limit to 50,000 pounds (from 30,000 pounds), it also proposed a restriction of one landing per week above 3,000 pounds at the beginning of the season to control the number of trips, with the possibility of inseason adjustments. No limitation on trip frequency was placed on this fishery in 1983, and the 30,000-pound trip limit was not effective until March of that year.

The present action is seen as a reasonable compromise to accommodate the large vessels affected most by landing limits and the small vessels impacted most by frequency limitations.

Secretarial Action: The Secretary concurs with the Council's recommendation and hereby announces:

(1) No more than 50,000 pounds of widow rockfish may be taken and retained or landed per vessel per fishing trip.

(2) Only one landing above 3,000 pounds of widow rockfish may be made per vessel per week. A "week" is defined as seven consecutive days beginning 0001 hours Sunday and ending 2400 hours Saturday, local time.

(3) Restrictions (1) and (2) above apply to all widow rockfish taken and retained in ocean waters offshore of, or landed in, Washington, Oregon, and California, regardless of the place of taking.

Landings of widow rockfish in the pink shrimp and spot and ridgeback prawn fisheries are governed by the regulations at 50 CFR 663.28. Landings of widow rockfish in excess of OY are prohibited by 50 CFR 663.21(b).

Sebastes Complex

Council Recommendation: The Council recommended that the harvest guideline for the *Sebastes* complex (all rockfish managed under the FMP except Pacific ocean perch, shortbelly and widow rockfishes, and *Sebastolobus* species) should be 110 percent of the sum of the ABCs for those species taken in the Vancouver-Columbia subarea, which equals 10,100 mt. To achieve this, the Council recommended a trip limit of 30,000 pounds on the *Sebastes* complex taken from the Vancouver-Columbia area, with only one landing above 3,000 pounds allowed per vessel per week, to be enforced by a Federal landing law. (Incidental catches less than 3,000 pounds may be landed.) It also recommended maintaining the 40,000-pound trip limit for landings of the *Sebastes* complex caught in the Eureka, Monterey, and Point Conception areas, with no limit on the number of landings allowed per week.

A harvest guideline represents the annual level of fishing the Council hopes to achieve with its management measures. A harvest guideline may be, but is not necessarily, a quota which prohibits further landings once it is reached. The 10,100 mt harvest guideline established for the *Sebastes* complex in the Vancouver-Columbia subarea is not now but may be made a quota during the 1984 fishing year.

Rationale: Biological stress of yellowtail rockfish (*Sebastes flavidus*) was documented early in 1983. At that time, landings in the Columbia area already were equal to twice the ABC for each of the past five years. Similarly, landings of canary rockfish (*S. pinniger*) exceeded ABC in the Columbia area for four of the five previous years. Although stress was not identified for canary rockfish, the Council was concerned that such a level of fishing, if continued, would stress that stock. Yellowtail and canary rockfish contributed about 70 percent of the landings of the *Sebastes* complex from the Vancouver-Columbia area in 1982 and were almost as dominant in 1983. Acknowledging that these species are part of a multispecies complex whose components are not often segregated, and considering that some other species in the complex are likely to be harvested at levels above MSY, the Council recommended reducing fishing pressure on the *Sebastes* complex as a whole in the Vancouver-Columbia area. A coastwide trip limit of 40,000 pounds imposed in March (48 FR 8283) was limited further in July to one landing above 3,000 pounds per week (48 FR 30395). At the same time, in an attempt to avoid immediate and severe disruption of the fishing industry, the Council agreed to raise the harvest guideline to 18,500 mt, nearly twice the summed ABC (9,500 mt) for the complex, with the understanding that all landings would be prohibited if this harvest guideline (quota) were reached. This guideline compares with the 18,510 mt harvested during 1982. Landings were not curtailed sufficiently, and in fact increased in parts of the area, in spite of the more severe one-trip-per-week restriction. In early September, the trip limit was reduced from 40,000 to 3,000 pounds (48 FR 41164) in an attempt to preclude target fishing but allow incidental catches to be landed as long as possible throughout 1983.

Even with the trip frequency and landing limits imposed in 1983, landings remained almost the same as in 1981 and 1982. This persistence is attributed partly to the attraction of new vessels. Pink shrimp and other coastal fisheries were declining or were restricted in 1983 and *Sebastes* provided an alternate fishery. Also, in order to maintain a constant supply of product to the market, some previously uninvolved vessels were encouraged to harvest groundfish. There is no way of knowing what landings would have been without the trip limits imposed in 1983. Nonetheless, the high landings, combined with new evidence of juvenescence in yellowtail rockfish, indicate that more restrictive management measures are needed in 1984.

The Council's recommendation (stated above) is intended to reduce landings in several ways. The harvest guideline is set at 110 percent of ABC, slightly over half of the 1983 level of 18,500 mt. The trip limit is lowered from 40,000 pounds in 1983 to 30,000 pounds in 1984 and only one landing above 3,000 pounds is allowed per vessel per week. These actions will be implemented near the beginning of 1984, whereas in 1983 the trip limit became effective in March and the trip frequency restriction in July.

The Council saw no reason to change the 40,000-pound trip limit imposed on the *Sebastes* complex taken from the Eureka, Monterey, or Conception areas. This limit is not severely restrictive yet should not encourage large shifts of effort into these areas which might occur if no limit were in place.

Secretarial Action: The Secretary concurs with the Council's recommendation and hereby announces:

(1) No more than 30,000 pounds (round weight) of the *Sebastes* complex may be

taken and retained or landed in the Vancouver-Columbia area (from 43°00′ N. latitude to the U.S.-Canada border) per vessel per fishing trip.

(2) Only one landing above 3,000 pounds of the *Sebastes* complex may be made in the Vancouver-Columbia area per vessel per week. A "week" is defined as seven consecutive days beginning 0001 hours Sunday and ending 2400 hours Saturday, local time.

(3) The 1984 harvest guideline for the *Sebastes* complex in the Vancouver-Columbia area is 10,100 mt, 110 percent of the summed ABCs (9,200 mt) of the species in this complex. This harvest guideline is not a quota.

(4) No more than 40,000 pounds (round weight) of the *Sebastes* complex may be taken and retained or landed in the Eureka, Monterey, and Point Conception areas (from 43°00′ N. latitude to the U.S.-Mexico border) per vessel per fishing trip. There is no limit on the number of landings allowed per week.

(5) The above restrictions apply to all fish of the *Sebastes* complex taken and retained in ocean waters offshore of, or landed in, Washington, Oregon, and California, regardless of the place of taking.

Landings of the *Sebastes* complex in the pink shrimp and spot and ridgeback prawn fisheries are governed by regulations at 50 CFR 663.28.

Sablefish

Council Recommendation: The Council recommended that the 1983 management measures for sablefish (imposed in March 1983 at 48 FR 8283 and amended in July 1983 at 48 FR 30395) should be continued in 1984. This measure sets a trip limit of 5,000 pound on sablefish smaller than 22 inches (fork length) taken north of Point Conception (34°27′ N. latitude) and excluding Monterey Bay (37°00′ to 36°30′ N. latitude). No size limit is imposed south of Point Conception or within Monterey Bay.

Rationale: The 1984 ABC for sablefish of 13,400 mt is the same as in 1983, 4,000 mt below the 17,400 mt OY. A minimum size limit of 22 inches was imposed in 1983 in conjunction with various tolerances (333 fish, 1,000 pounds, or 10 percent by round weight of all sablefish retained, whichever was greatest) for fish smaller than 22 inches. A more liberal allowance for small fish of 5,000 pounds was granted in July. As a result, 1983 landings are projected to be near 14,000 mt, slightly above ABC. The Council found that the provisions in effect since July 1983 were familiar and acceptable to many segments of the fishing industry and contributed to keeping 1983 landings from exceeding OY. Thus, landings may approach OY more closely in 1984 if the 1983 management regime and fishing patterns continue. (More detailed discussions of the rationale for the size and trip limits for sablefish appear in the **Federal Register** at 48 FR 8283 and 48 FR 30395.)

Secretarial Action: The Secretary concurs with the Council's recommendation. The trip and size limits imposed on February 28, 1983 (48 FR 8283), as modified on July 1, 1983 (48 FR 30395), remain in effect and are repeated below:

(1) No more than 5,000 pounds of sablefish smaller than 22 inches (total length) may be taken and retained or landed per vessel per fishing trip in the area north of Point Conception (34°27′ N. latitude) to the U.S.-Canada border, excluding Monterey Bay (37°00′ to 36°30′ N. latitude).

(2) Total length is measured from the tip of the snout (mouth closed) to the tip of the tail (pinched together) without resort to mutilation of the fish or the use of additional force to extend the length of the fish.

(3) For sablefish which have been "headed," the minimum size limit is 16 inches measured from the origin of the first dorsal fin (where the front dorsal fin meets the dorsal surface of the body closest to the head) to the tip of the upper lobe of the tail; the dorsal fin and tail must be left intact.

(4) No sablefish may be retained which is in such a condition that its length has been extended or cannot be determined by the methods stated above.

(5) The above restrictions apply to all sablefish taken and retained in ocean waters offshore of, or landed in, Washington, Oregon, and California, regardless of the place of taking, except no trip or size limits are imposed on sablefish taken, retained, and landed south of Point Conception.

These provisions will be reviewed and adjusted as necessary according to the regulations at 50 CFR 663.27(b)(3), the following paragraph on inseason adjustments in this notice, or in response to a finding of further biological stress under 50 CFR 663.22(a). Landings of sablefish in excess of OY are prohibited by 50 CFR 663.21(b).

Inseason Adjustments

At its April, 1984, meeting the Council will review the data available through March and recommend modifications to these management measures if appropriate. The Council intends to examine the progress of these fisheries at least twice during the year in order to avoid severe overfishing and to extend the fisheries as long as possible throughout the year.

Other Fisheries

These limits for sablefish, widow rockfish, and the *Sebastes* complex apply to vessels of the United States, including those vessels delivering groundfish to foreign processors. For vessels delivering groundfish to foreign processors, the specified trip limits apply on a haul-by-haul basis. The one-trip-per-week limitation for landings above 3,000 pounds of rockfish also applies but is not expected to cause any hardship. The average receipt of rockfish (excluding Pacific ocean perch) by the entire joint venture processing fleet was 7,400 pounds a week in 1983, delivered most weeks by about 15 U.S. trawlers.

The limits are not applicable to foreign trawlers or joint venture processors operating in the Pacific whiting fishery because current foreign regulations are more restrictive than the limits announced in this notice. Sablefish and rockfish are taken incidentally in these operations.

Foreign trawlers operating in the directed fishery for Pacific whiting are limited by incidental catch levels of 0.173 percent sablefish and 0.738 percent rockfish (excluding Pacific ocean perch) based on their nation's allocation of whiting. In 1983 no whiting were allocated. In 1984, TALFF is preliminarily set at 30,500 mt with incidental catches of sablefish not to exceed 53 mt and rockfish not to exceed 225 mt. If the foreign trawl fleet of any nation exceeds its incidental catch limit for any species, that foreign fishery will be terminated. Foreign incidental catches are not used in computation of OY and thus will not accelerate closure of the domestic fishery.

Joint venture processors are limited by incidental retention allowances of 0.173 percent sablefish and 0.738 percent rockfish (excluding Pacific ocean perch) based on the total allotment of whiting for joint venture processing (preliminarily set at 100,000 mt in 1984, the same as in 1983). In 1983, retention of sablefish and rockfish in the joint venture fisheries was far below allowed levels; an average of about 50 pounds of sablefish and 1050 pounds of rockfish (excluding Pacific ocean perch), most of which were discarded, were received per vessel per day by joint venture processors. Even in the worst possible case (if all the sablefish were smaller than 22 inches and all the rockfish were either widow rockfish or in the *Sebastes* complex), the 1983 catches were lower than could be taken per vessel per day

under the trip limits set in this notice. Because U.S. fishermen are not paid for species that cannot be retained by the foreign processors, there is an economic incentive to avoid incidentally-caught species. Joint venture incidental catches have not been used in computation of OY and thus will not accelerate closure of the shore-based domestic fishery.

U.S. vessels operating under an experimental fishing permit issued under 50 CFR 663.10 also must comply with these restrictions.

Classification

The determination to impose these fishing restrictions is based on the most recent data available. The aggregate data upon which the determination is based are available for public inspection at the Office of the Director, Northwest Region, at the address above, during business hours until the end of the comment period.

These actions are taken under the authority of 50 CFR 663.22 and 663.23, and are in compliance with Executive Order 12291. The actions are covered by the Regulatory Flexibility Analysis prepared for the authorizing regulations.

Section 663.23 of the groundfish regulations states that the Secretary will publish a notice of action reducing fishing levels in proposed form unless he determines that prior notice and public review are impracticable, unnecessary, or contrary to the public interest. Because of the immediate need to limit the harvest of widow rockfish, the *Sebastes* complex, and sablefish and thereby reduce catch levels which could otherwise result in overharvest and closure of the fisheries, further delay of these actions is impracticable and contrary to the public interest. Anticipated fishing rates at the high levels experienced in 1983 will unquestionably result in several ABCs being exceeded. Prompt action to reduce those fishing rates is necessary to protect the resource and alleviate the necessity for year-end closures. Consequently, these actions are taken in final form effective January 1, 1984.

The public has had opportunity to comment on these management measures. The public participated in the Task Force, the Groundfish Advisory Subpanel, and Council meetings in September and November that generated most of the management actions endorsed by the Council and the Secretary. Further public comments will be accepted for 15 days after publication of this notice in the Federal Register.

(16 U.S.C. 1801 *et seq.*)

List of Subjects in 50 CFR Part 663

Administrative practice and procedure, Fish, Fisheries, Fishing.

Dated: December 30, 1983.

Joseph W. Angelovic,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-242 Filed 1-4-84; 8:45 am]

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Proposed Rules

Federal Register
Vol. 49, No. 3
Thursday, January 5, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

Prevailing Rate Systems

AGENCY: Office of Personnel Management.

ACTION: Proposed Rulemaking.

SUMMARY: The Office of Personnel Management is proposing to revise its regulations to add a new section on payment of premium pay for Federal Wage System (FWS) employees, other than Nonappropriated Fund employees of the Armed Forces, working flexible and compressed work schedules. The revision will also modify existing regulations to clarify creditable service entitlements for within-grade purposes and clarify the circumstances under which environmental differential pay is considered part of basic pay. These revisions are editorial changes to put into regulation those provisions of the Federal Employees Flexible and Compressed Work Schedules Act of 1982 which pertain to FWS employees and to clarify those sections of the wage regulations thought to be vague or inconsistent by reason of agency comments.

DATES: Comments must be submitted on or before March 5, 1984.

ADDRESS: Send to Mr. Reginald M. Jones, Jr., Assistant Director for Pay Programs, Compensation Group, Room 3353, 1900 E Street, NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Richard Newbold, (202) 632–5454.

SUPPLEMENTARY INFORMATION: Agencies have asked the Office of Personnel Management to update its 5 CFR Part 532 regulations to clarify certain provisions and to bring others into conformance with existing law. OPM is proposing to modify its regulations accordingly as explained below.

Flexible and Compressed Work Schedules

Congress has enacted Pub. L. 97–221, the Federal Employees Flexible and Compressed Work Schedules Act of 1982, which authorizes the Alternate Work Schedules (AWS) program for another three years. The AWS was previously an experimental program, but has been replaced by this non-experimental three year program. On September 27, 1983, OPM published final regulations (48 FR 44059) for the administration of flexible and compressed work schedules established under subchapter II of chapter 61 of title 5, United states Code. Those regulations provided requirements for time accounting, treatment of holidays for full-time and part-time employees, and leave accrual for part-time employees. A new section is now being added to Part 532 to document that FWS employees may be authorized to work flexible and compressed work schedules and are authorized premium pay under the provisions of subchapter II of chapter 61 of title 5, United States Code, rather than under sections 5343 and 5544 of title 5, United States Code. Nonappropriated Fund employees of the Armed Forces, as defined in 5 U.S.C. 2105(c), are not covered by Pub. L. 97–221.

Creditable Service for Within-Grades

The regulations have been revised to provide credit for all military services as defined in 5 U.S.C. 8331(13), for all service as a volunteer under 5 U.S.C 8332(b) (5) or (7), and for temporary service with another agency. These revisions bring the regulations into conformance with existing laws and parallels, except where differentiated by law, regulations in Part 531—Pay Under the General Schedule, Title 5, Code of Federal Regulations.

Environmental Differential

Agencies feel the environmental differential regulations are vague because they do not specify the purposes for which environmental differential are considered part of basic pay and are not as precise as the guidance material in FPM Supplements 532–1 and 2. Accordingly, the regulations are being modified to specify that environmental differential pay is part of basic pay for purposes of computing premium pay, the amount from which retirement deductions are made, and the amount on which group life insurance is based. These are long held FWS entitlements under the Coordinated Federal Wage System in 1972. The revision also sets in regulation the long held guidance that loss of environmental differential pay is not adverse action.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they are editorial changes which will affect only employees of the Federal Government.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Government employees, Wages.

U.S. Office of Personnel Management.

Donald J. Devine,

Director.

PART 532—[AMENDED]

Accordingly, OPM proposes to amend Part 532 of Title 5 of the Code of Federal Regulations as follows:

1. Section 532.417 is amended by revising paragraphs (c)(4), (c)(6), and adding (c)(9) to read as follows:

§ 532.417 Within-grade increases.

* * * * *

(c) * * *

(4) A period of military service when:

(i) An employee is on leave of absence to perform such service and returns to pay status through the exercise of a restoration right provided by law, Executive order, or regulation, or

(ii) A former employee is reemployed with the Federal Service not later than 52 calendar weeks after separation from such service or hospitalization continuing thereafter for a period of not more than one year. Military service means honorable active service in the armed forces, in the Regular or Reserve Corps of the Public Health Service after June 30, 1960, or as a commissioned officer of the Environmental Science Services Administration after June 30,

1961, but does not include service in the National Guard except when ordered to active duty in the service of the United States.

* * * * *

(6) Time during which an employee is performing service which is creditable under section 8332(b) (5) or (7) of title 5, United States Code;

* * * * *

(9) Time during which an employee is temporarily employed by another agency in a position covered by this subpart.

2. In § 532.511, paragraph (c) is revised to read as follows:

§ 532.511 Environmental differentials.

* * * * *

(c) *Basic pay.* Environmental differential pay is part of basic pay and shall be used to compute premium pay (pay for overtime, holiday, or Sunday work), the amount from which retirement deductions are made, and the amount on which group life insurance is based. It is not part of basic pay for purposes of lump-sum annual leave payments and severance pay nor is its loss an adverse action.

3. Section 532.513 is added to Part 532 to read as follows:

§ 532.513 Flexible and compressed work schedules.

Federal Wage System employees, other than Nonappropriated Fund employees of the Armed Forces, as defined in 5 U.S.C. 2105(c), who are authorized to work flexible and compressed work schedules under section 6122 and section 6127 of title 5, United States Code, shall be paid premium pay in accordance with the provisions of subchapter II of chapter 61 of title 5, United States Code. Subpart D of Part 610 of this title, supplements that subchapter and must be read together with it.

Authority: 5 U.S.C. 5343.

[FR Doc. 84-171 Filed 1-4-84; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

United States Standards for Grades of Carrots for Processing

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) proposes to revise the voluntary U.S. Standards for Grades of Carrots for Processing. Industry has requested that the standards be revised to bring them in line with current cultural and processing practices. This proposal takes into account new technology used to harvest and prepare raw carrots for processing.

AMS has the responsibility, in cooperation with industry, to maintain the currency of its grade standards.

DATE: Comments must be received on or before March 16, 1984.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Wasington, D.C. 20250. Comments should reference the date and page number of this issue of the Federal Register and will be made available for public inspection in the Office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Michael V. Morrelli, Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202)447-2011.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA Procedures and Executive Order 12191 and has been designated as "nonmajor". It will not result in an annual effect of $100 million or more. There will be no major increase in cost or prices for consumers; individual industries; Federal, State or local government agencies; or geographic regions. It will not result in significant effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impart on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because it reflects current marketing practices.

The voluntary United States Standards for Grades of Carrots for Processing became effective in 1944. Cultural and processing practices have changed to the extent that the current standards no longer provide growers and processors with an up-to-date means of determining quality or negotiating contracts. In early 1982 the Wisconsin Carrot Growers' Association requested that the standards be revised to bring them in line with current cultural and processing practices. With their cooperation a "Market Survey" outlining a possible revision of the standards was developed. It was widely distributed for review and comment to growers and processors in September 1982 with a period for comment ending January 28, 1983. Comments, with suggested changes in certain sections, were generally favorable.

This proposed revision would make the following changes and additions:

(1) When the current standards became effective it was common practice to harvest carrots without removing all of the leafy green tops. Tops, along with the upper portion of the crown, were manually removed during the course of processing. Since that time machines have been developed that remove both tops and crowns before the carrots are harvested. This revision would make the standards applicable to either practice by having separate requirements for carrots delivered in either crowned or topped form.

(2) Both manual and mechanical means are used to prepare raw carrots for processing. In order to reduce the amount of manual labor required to trim individual defective carrots, many grower-processor contacts now require the individual carrots may not be affected by more than 15 percent unusable material. The U.S. No. 2 grade in the current standards allows 25 percent unusable material to affect an individual carrot. This proposal would bring the standards in line with current contractural arrangements by reducing from 25 to 15 percent the amount of unusable material allowed in the U.S. No. 2 grade for carrots that are badly misshapen, excessively rough or seriously damaged by any other cause.

(3) The current definitions for damage and serious damage are too general in nature for scoring certain defects. This proposal would provide specific definitions for watercore, oil spray, growth cracks, freezing, and soft rot.

(4) Update the format of the standards.

List of Subjects in 7 CFR Part 51

Agricultural commodities.

PART 51—[AMENDED]

Accordingly, it is proposed that Subpart—United States Standards for Grades of Carrots for Processing (7 CFR 51.4140 through 51.4145 be revised to read as follows:

Subpart—United States Standards for Grades of Carrots for Processing

Sec.
51.4140 General.
51.4141 Grades.
51.4142 Crowning or topping requirements.
51.4143 Size.
51.4144 Tolerances.
51.4145 Definitions.

Authority: Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended, 7 U.S.C. 1622, 1624.

Subpart—United States Standards for Grades of Carrots for Processing

§ 51.4140 General.

(a) Compliance with the provisions of these standards shall not excuse failure to comply with provisions of applicable Federal or State laws.

(b) The accompanying grades for carrots are intended to facilitate transactions between growers and processors who may wish to use a purchasing system based upon the quality of carrots delivered.

(c) In the application of these standards it is assumed that in most instances sellers will not sort their carrots into lots of U.S. No. 1 and U.S. No. 2 grades before delivery to the buyer. Upon delivery, the inspector will select representative samples and determine the percentage of each grade. Under such a procedure, there is no need for tolerances.

§ 51.4141 Grades.

(a) "U.S. No. 1" consists of carrots which meet the following requirements:
(1) Basic requirements:
(i) Similar varietal characteristics;
(ii) Firm;
(iii) Fairly well colored;
(iv) Fairly well formed;
(v) Fairly smooth; and,
(vi) Not woody.
(2) Free from: Unusable material.
(3) Free from damage by:
(i) Soft rot;
(ii) Growth cracks;
(iii) Sunburn;
(iv) Green core;
(v) Pithy core;
(vi) Watercore;
(vii) Internal discoloration;
(viii) Oil spray;
(ix) Freezing;
(x) Dry rot;
(xi) Other disease;
(xii) Insects; and,
(xiii) Mechanical or other means.
(4) Free from serious damage by: Soft rot.

(b) "U.S. No. 2" consists of carrots which meet the following requirements:
(1) Basic requirements:
(i) Similar varietal characteristics;
(ii) Firm;
(iii) Fairly well colored;
(iv) Not badly misshapen;
(v) Not excessively rough; and,
(vi) Not woody.
(2) Free from: Unusable material.
(3) Free from damage by: Soft rot.
(4) Free from serious damage by:
(i) Soft rot; and,
(ii) Any other cause.
(c) For crowning and topping requirements see § 51.4142.
(d) For size requirements see § 51.4143.
(e) For tolorances see § 51.4144.

§ 51.4142 Crowning or topping requirements.

(a) Carrots shall be specified as crowned or topped.

(1) Crowned carrots shall have the crowns cut off the root reasonably perpendicular to the longitudinal axis. In making grade determinations, unless otherwise specified, all portions of crown remaining attached to the carrot shall be removed from the carrot and scored as unusable material (§ 51.4145).

(2) Topped carrots shall have the tops or sprouts cut, snapped, or twisted off to within three-fourths inch of the crown of the root, or to any other specified length. In making grade determinations, all portions of leaf stems or sprouts over three-fourths inch long, or any other specified length, shall be removed from the carrot and scored as unusable material (§ 51.4145).

§ 51.4143 Size.

(a) Unless otherwise specified, the minimum length shall be not less than 3 inches.

(b) The minimum and maximum diameters for U.S. No. 1 and U.S. No. 2 grades may be specified by agreement between the buyer and the seller. Roots which fail to meet size specifications shall be considered as unusable material (§ 51.4145).

§ 51.4144 Tolerances.

(a) In the application of these standards to determine the percentages of carrots in the lot which meet the requirements of the respective grades, no tolerances apply. However, for the purpose of determining compliance with one of the foregoing grades the following tolerances, by weight, are provided in order to allow for variations incident to proper grading and handling:

(1) For defects. Ten percent for carrots in any lot which fail to meet the requirements of the specified grade, including therein not more than 3 percent for carrots which are damaged by soft rot and included in this latter amount not more than 1 percent for carrots which are seriously damaged by soft rot.

(2) For unusable material. Two percent in any lot.

(3) For size. Ten percent for carrots in any lot which fail to meet the specified size requirements, included therein not more than 5 percent for carrots which fail to meet the specified minimum diameter or length.

§ 51.4145 Definitions.

(a) "Similar varietal characteristics" means that the carrots are of the same general type.

(b) "Firm" means that the carrot is not soft, flabby or shriveled.

(c) "Fairly well colored" means that the outside and inside color of the carrot is orange, orange red, or orange scarlet but not a pale orange or distinct yellow color.

(d) "Fairly well formed" means that the carrot is not forked, or materially crooked, or otherwise misshapen to the extent that, in the process of trimming, a loss of over 5 percent, by weight, or the root is incurred in excess of that which would occur if the root were perfect.

(e) "Fairly smooth" means the carrot is not rough, ridged, or covered with secondary rootlets to the extent that, in the process of trimming, a loss of over 5 percent, by weight, of the root is incurred in excess of that which would occur if the root were perfect.

(f) "Woody" means that the flesh of the carrot is tough and fibrous.

(g) "Unusable material" means carrots which fail to meet the requirements of either of the foregoing grade and size specifications loose dirt, adhering caked dirt, weeds or other foreign matter, portions of attached tops or sprouts in excess of the specified length or, unless otherwise specified, attached crowns or portions of crowns. Corrots with adhering caked dirt, tops or sprouts longer than the required or specified length, or, unless otherwise specified, attached crowns or portions of crowns, shall not be scored against U.S. No. 1 or U.S. No. 2 grades, but such material shall be removed from the carrot and scored as unusable material

(h) "Diameter" means the greatest dimension of the root taken at right angles to the longitudinal axis.

(i) "Badly misshapen" means that the carrot is forked or misshapen to the extent that, in the process of trimming, a loss of over 15 percent, by weight, of the root is incurred in excess of that which

would occur if the root were perfect.

(j) "Excessively rough" means that the carrot is rough or ridged to the extent that in the process of trimming, a loss of over 15 percent, by weight, of the root is incurred in excess of that which would occur if the root were perfect.

(k) "Damage" means any specific defect defined in this section; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the processing quality of the corrot, or which cannot be removed in the process of trimming without a loss of more than 5 percent, by weight, in excess of that which would occur if the root were perfect.

The following specific defects shall be considered as damage:

(i) Watercore when moderately discolored.

(ii) Oil spray when materially detracting from the processing quality of the carrot, or causing an oily flavor.

(iii) Growth cracks when not smooth or not shallow, or when materially detracting from the processing quality of the carrot, or, unless otherwise specified, when more than one-eighth inch in width.

(iv) Freezing when any amount affects the root.

(v) Soft rot when any amount affects the root.

(l) "Serious damage" means any specific defect defined in this section; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which seriously detracts from the processing quality of the carrot, or which cannot be removed in the process of trimming without a loss of more than 15 percent, by weight, in excess of that which would occur if the root were perfect. The following specific defects shall be considered as serious damage:

(i) Watercore when severely discolored

(ii) Oil spray when seriously detracting from the processing quality of the carrot, or causing an oily flavor.

(iii) Freezing when any amount affects the root.

(iv) Soft rot when affecting more than 15 percent of the total weight of the root.

Done at Washington, D.C. on: December 29, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 84-131 Filed 1-3-84; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

DEPARTMENT OF THE INTERIOR

Office of Territorial and International Affairs

15 CFR Part 303

Watch Duty-Exemption Program

AGENCY: International Trade Administration, Commerce; Office of Territorial and International Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: This document sets forth proposed revisions to 15 CFR Part 303, which governs the allocation of duty-free benefits among watch producers in the U.S. insular possessions—the Virgin Islands, Guam, and American Samoa.

The revision of 15 CFR Part 303 is necessary because of the enactment in January, 1983, of major amendments of the law providing these benefits. The agencies also wish to take advantage of the opportunity presented by this requirement and place all program rules and regulations into a single codification and to incorporate a number of regulatory amendments which, while not strictly required by the legislative amendment, reflect the agencies' recent experience with the program.

The intended effect, therefore, is to produce a single body of regulations governing all aspects of the program and, in particular, to establish regulations to govern the agencies' new authorities to:

- Establish the annual amount of the benefits and distribute the total among the various territories;
- Issue production incentive certificates; and
- Establish minimum assembly requirements.

DATE: Comments must be received on or before February 6, 1984.

ADDRESS: Address comments to: Statutory Import Programs Staff, Rm. 1523, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Frank Creel (202) 377-1660.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12291 dated February 17, 1981, the Departments of Commerce and the Interior have determined that these rules do not consitute a "major rule" as defined by Section 1(b) of the Order. They are not likely to result in:

(1) Annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices in either the public or private sector; or

(3) Significant adverse impact on the domestic economy or on the ability of U.S. enterprises to compete with foreign enterprises.

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the General Counsel of the Department of Commerce has certified that this action will not have a significant economic impact on a substantial number of small entities. Fewer than ten entities are directly affected by this action. The commercial benefits of the program governed by these regulations, for entities both directly and indirectly affected, are less than $10 million per year.

Pursuant to the requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, the Departments have determined that publication of this rule will increase the information collection burden on the public.

On December 21, 1982, the 97th Congress passed Pub. L. 97-446. The President signed the law on January 12, 1983. The new law establishes an incentive designed further to stimulate watch assembly activity in the U.S. insular possessions and eliminates the foreign content limitation on insular watches and watch movements in general headnote 3(a). The law also forbids the extension of headnote 3(a) privileges and benefits to articles containing materials to which Column 2 rates of duty apply and limits the size of the 1983 calendar year allocation to 3,000,000 units in the Virgin Islands, 1,200,000 units in Guam, and 600,000 units in American Samoa. The law requires the Departments to adopt minimum assembly requirements in their regulations, and Conference language added to the Senate Finance Committee Report (97-564) states that it is the intention of the Congress in this regard to "ensure that substantial and meaningful work be performed."

The new incentive created by the legislation is in the form of a production incentive certificate. Certificate holders can obtain duty refunds on specified watch, watch movement, and component imports.

The principal proposed changes in 15 CFR Part 303 are discussed below.

Reorganization of Sections

We propose to reorganize the legislative sections of the regulations in the following manner:

(1) Sections 303.1 and 303.2, although amended, will remain.

(2) Section 303.3 (Publication of annual rules) will be eliminated. Regulations subject to frequent modification will be relocated in § 303.14. In the future, proposed regulatory changes will be published as necessary rather than annually.

(3) New §§ 303.3 and 303.4 discuss new authorities given the Secretaries by Pub. L. 97–446 (see below).

(4) Proposed §§ 303.5 and 303.6 correspond with the existing Sections 303.4 and 303.5, respectively.

(5) Proposed § 303.7 consolidates §§ 303.6 and 303.7 into one section.

(6) The existing § 303.8 moves to § 303.11.

(7) Sections 303.9 and 303.10 will be redesignated §§ 303.8 and 303.9 respectively.

(8) Proposed § 303.10 will consolidate various restrictions and requirements and add new ones in a single section.

(9) See (6), above.

(10) Proposed § 303.12 sets forth the provisions governing the new production incentive system.

(11) Proposed § 303.13 (appeals) corresponds with existing § 303.11.

(12) See (2), above.

Proposed New Provisions

Section 303.1: This section states the authorities, purposes and limitations of the law as amended by Pub. L. 97–446.

Section 303.2: This section would amend existing regulations by, among other things, substituting "duty-exemption" for "quota"; clarifying the distinction between territorial and producer distributions of the exemption; and by revising the definition of "non-headnote 3(a)" merchandise to reflect legislative changes. The two forms required to administer the new production incentive system are included. The quarterly report form (ITA–321P, which was suspended in 1982 and eliminated last year) is included and proposed for reinstitution, below, in accordance with OMB requirements. We are proposing to give partial credit for non-headnote 3(a) repair activities by changing the definition of "creditable wages." See 48 FR 17580 for clarification of our intention to do this.

Section 303.3 would establish procedures and standards under the Secretaries' new authority to set the overall size of the annual exemption. The public notice procedures in (a) are designed to afford affected producers advance notice, for business planning purposes, of the Secretaries' preliminary determination.

The standards for this determination in paragraph (b) exactly reflect the new law.

Paragraph (c) establishes coordinating requirements with the International Trade Commission with regard to the annual amount of the exemption.

Section 303.4 sets forth procedures and standards for determining the territorial shares of the overall exemption (also a new authority). Paragraph (b)(4) provides standby authority for adjustment of the shares outside the normal procedure. This flexibility will allow the Departments to promote the maximum use of the benefit by all three territories. Otherwise, the standards accurately mirror legislative criteria.

Section 303.10 incorporates both existing and new provisions. Paragraph (a) restates a limitation contained in the 1983 rules (48 FR 17579, Section 10). The specific value limitations are shown in Section 303.14 because these values need periodic adjustment. Paragraph (b), for the same reason, establishes general requirements and refers to section 303.14 for the specific requirements. These differ from those established in the 1983 rules (see Section 303.14 below). The specific content of paragraph (c) is also given in Section 303.14, but these values do not differ from the 1983 provisions.

Paragraph (d) of this section introduces new provisions. Since 1967, the Departments have had and administratively applied a policy of assuring that supply relationships are conducted impartially and equitably among all producers (the "arm's-length policy"). No explicit regulatory provision comprehensively prohibiting preferential supply relationships has yet been adopted. Accordingly, we urge affected producers to give special attention to this paragraph.

Section 303.12 duplicates the provisions published earlier this year (48 FR 17579), except that the formula for calculating the value of the production incentive certificates has been removed to Section 303.14 for the reasons discussed above.

Section 303.14 provides the specific content for a variety of general provisions—the allocation formula, minimum assembly and wage criteria, and the formula for calculating the value of the certificates. Paragraph (d) contains a new entrant invitation for all three territories (all of the American Samoa share, 500,000 units of the Guam share, and 1,000,000 units of the Virgin Islands share. Paragraph (b) (1) and (2) establishes minimum assembly requirements for conventional and quartz analog movements which differ from past requirements. We solicit comments in particular on the technical suitability of these proposals.

Proposed Forms

As noted above, the Departments propose to resume use of Form ITA–321P, "Quarterly Report on Watch Assembly Operations of Firms Granted a Duty-free Watch Allocation." With this form, the Departments can determine the actual and probable use of the duty-free benefit by the various producers in the course of a calendar year. This information enables them to reallocate duty-exemptions and encourage greater overall use by the industry in each territory. Before Pub. L. 97–446, the amount of the annual benefit depended on variations in the domestic consumption of watches, and in the 1979–82 period decreasing percentages of the benefit were used by the industry. These circumstances removed the need for the information provided by the form, and the Departments suspended its use in calendar years 1982 and 1983. At the end of 1982, we discontinued the form.

With the enactment of the new law, the Departments anticipate that by exercising their discretion to adjust the amount of the benefit they will promote conditions in which the information provided by the form will again be necessary and useful. In compliance with Section 1320.12 of the OMB regulations, we are seeking OMB approval of this form.

Immediately after enactment of the new law, Departments developed two additional forms (ITA–360 and ITA–361) required to administer the new production incentive system. The information collection applied to fewer than ten respondents.

OMB published, effective May 2, 1983, a new Part 1320 to Title 5 of the Code of Federal Regulations implementing the provisions of the Paperwork Reduction Act. Section 1320.7(u)(1) of the new regulations states that "Any recordkeeping or reporting requirement contained in a rule of general applicability is deemed to involve ten or more persons."

Forms may be reviewed at the address shown above. Copies may be requested by phoning or writing the Forms Clearance Officer, International Trade Administration, Department of Commerce (Room 4102, Washington, D.C. 20230; (202) 377–3031). Any comments on the forms should be addressed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for International Trade Administration, Executive Office of the President, Washington, D.C. 20503.

List of Subjects in 15 CFR Part 303

Imports, Customs duties and inspection, Watches and jewelry, Marketing quotas, Administrative practice and procedure, Reporting and recordkeeping requirements, American Samoa, Guam, Virgin Islands.

PART 303—[AMENDED]

For reasons set forth in the preamble, Part 303 of Title 15 of the Code of Federal Regulations is proposed to be revised as follows:

PART 303—WATCHES AND WATCH MOVEMENTS

Sec.

303.1 Purpose.
303.2 Definitions and forms.
303.3 Determination of total annual duty-exemption.
303.4 Determination of territorial distribution.
303.5 Application for annual allocations of duty-exemptions.
303.6 Allocation and reallocation of exemptions among producers.
303.7 Issuance of licenses and shipment permits.
303.8 Maintenance of duty-exemption entitlements.
303.9 Restrictions on the transfer of duty-exemptions.
303.10 Limitations, requirements, restrictions, and prohibitions.
303.11 Quarterly reporting requirements.
303.12 Issuance and use of production incentive certificates.
303.13 Appeals.
303.14 Allocation factors.

Authority: Pub. L. 97–446; 96 Stat. 2329 (19 U.S.C. 1202).

§ 303.1 Purpose.

(a) This part implements the responsibilities of the Secretaries of Commerce and the Interior ("the Secretaries") under Pub. L. 97–446, enacted on 12 January 1983, which substantially amended Pub. L. 89–805, enacted 10 November 1966, amended by Pub. L. 94–88, enacted 8 August 1975. The law provides for exemption from duty of watches and watch movements produced or manufactured in a United States insular possession, without regard to the value of the foreign materials they contain, if they conform with the provisions of Headnote 6, Schedule 7, Part 2, Subpart E of the Tariff Schedules of the United States ("Headnote 6"). Headnote 6 denies this benefit to articles containing any material which is the product of any country with respect to which Column 2 rates of duty apply; establishes the total quantity of such articles at not more than 4,800,000 units in 1983; authorizes the Secretaries to establish in subsequent years the total quantity of such articles, provided that the quantity so established does not exceed 10,000,000 units one-ninth of apparent domestic consumption, whichever is greater, and provided also that the quantity is not decreased by more than ten percent nor increased by more than twenty percent (or to more than 7,000,000 units, whichever is greater) of the quantity established in the previous year.

(b) The law directs the International Trade Commission to determine apparent domestic consumption for the preceding calendar year in the first year U.S. insular imports of watches and watch movements exceed 9,000,000 units. Headnote 6 establishes the territorial shares of the 1983 quantity at 3,000,000 for the Virgin Islands, 1,200,000 for Guam and 600,000 for American Samoa; authorizes the Secretaries to establish new territorial shares in subsequent years within specified limits; and provides for the annual allocation of the duty-exemptions among insular watch producers equitably and on the basis of allocation criteria, including minimum assembly requirements, that will reasonably maximize the net amount of direct economic benefits to the insular possessions.

(c) The amended law also provides for the issuance to producers of certificates entitling the holder (or any transferee) to obtain duty refunds on watches and watch movements and parts (except discrete watchcases) imported into the customs territory of the United States. The amounts of these certificates may not exceed specified percentages of the producers' verified creditable wages in the insular possessions (90% of wages paid for the production of the first 300,000 units and declining percentages, established by the Secretaries, of wages paid for incremental production up to 750,000 units by each producer) nor an aggregate annual amount for all certificates exceeding $5,000,000 adjusted for growth by the ratio of the previous year's gross national product to the gross national product in 1982. Refund requests are governed by regulations issued by the Department of the Treasury. The Secretaries are authorized to issue regulations necessary to carry out their duties under Headnote 6 and may cancel or restrict the license or certificate of any insular manufacturer found violating the regulations.

§ 303.2 Definitions and forms.

(a) *Definitions.* Unless the context indicates otherwise:

(1) "*Act*" means Pub. L. 97–446, enacted January 12, 1983 (19 U.S.C. 1202), 96 Stat. 2329.

(2) "*Secretaries*" means the Secretary of Commerce and the Secretary of Interior or their delegates, acting jointly.

(3) "*Director*" means the Director of the Statutory Import Programs Staff, International Trade Administration, U.S. Department of Commerce.

(4) "*Sale or transfer of a business*" means the sale or transfer of control, whether temporary or permanent, over a firm to which a duty-exemption has been allocated, to any other firm, corporation, partnership, person or other legal entity by any means whatsoever, including, but not limited to, merger and transfer of stock, assets or voting trusts.

(5) "*New firm*" means an entity which is completely separate from and unassociated with (by way of ownership or control) any duty-exemption recipient in any territory. A "*new entrant*" is a new firm which has received an allocation.

(6) "*Producer*" means a duty-exemption holder which has maintained its eligibility for further allocations by complying with these regulations.

(7) "*Established industry*" means all producers, including new entrants, that have maintained their eligibility for further allocations.

(8) "*Territories,*" "*territorial,*" and "*insular possessions*" refer to the insular possessions of the United States, i.e., the U.S. Virgin Islands, Guam and American Samoa.

(9) "*Duty-exemption*" refers to the authorization of duty-free entry of a specified number of watches and watch movements into the Customs Territory of the United States.

(10) "*Total annual duty-exemption*" refers to the entire quantity of watches or watch components which may enter duty-free into the customs territory of the United States from the territories under headnote 3(a) in a calendar year, as determined by the Secretaries or by the International Trade Commission in accordance with the Act.

(11) "*Territorial distribution*" refers to the apportionment by the Secretaries of the total annual duty-exemption among the separate territories; "*Territorial share*" means the portion consigned to each territory by this apportionment.

(12) "*Allocation*" refers to the distribution of all parts of a territorial share, or a portion thereof, among the several producers in a territory.

(13) "*Creditable Wages*" means all wages—up to an amount per person periodically established by the Secretaries—paid to residents of the territories employed in a firm's headnote

3(a) watch and watch movement assembly operations, plus any wages paid for the repair of non-headnote 3(a) watches and watch movements up to an amount equal to 25 percent of the firm's other creditable wages. Excluded however, are wages paid: (i) for special services rendered to the firm by accountants, lawyers, or other professional personnel, (ii) for the assembly of non-headnote 3(a) watches and watch movements, and (iii) for the repair of non-headnote 3(a) watches and watch movements to the extent that such wages exceed the ratio set forth above. Wages paid to persons engaged in both creditable and non-creditable assembly and repair activities may be credited proportionately provided the firm maintains production and payroll records adequate for the Department's verification of the creditable portion.

(14) *"Non-headnote 3(a) watches and watch movements"* include, but are not limited to, watches and movements which are liquidated as dutiable by the U.S. Customs Service; contain any material which is the product of any country with respect to which Column 2 rates of duty apply; are ineligible for duty-free treatment pursuant to law or regulations; or are units the assembly of which the Department has determined not to involve substantial and meaningful work in the insular possession (as elsewhere defined in these regulations).

(15) *"Discrete movements and components"* means screws, parts, components and subassemblies not assembled together with another part, component or subassembly at the time of importation into the territory. (A mainplate containing set jewels or shock devises, together with other parts, would be considered a single discrete component, as would a barrel bridge subassembly.)

(b) *Forms.*—(1) *ITA–334P "Application for License to Enter Watches and Watch Movements into the Customs Territory of the United States"* (OMB Approval *0625–0040). This form must be completed annually by all producers desiring to receive an annual allocation. It is also used, with appropriate special instructions for its completion, by new firms applying for duty-exemptions.

(2) *ITA–333 "License to Enter Watches and Watch Movements into the Customs Territory of the United States."* This form is issued by the Director to producers who have received an allocation and constitutes authorization for issuing specific shipment permits by the territorial governments. It is also used to record the balance of a producer's remaining duty-exemptions after each shipment permit is issued.

(3) *ITA–340 "Permit to Enter Watches and Watch Movements into the Customs Territory of the United States."* This form is issued by the territorial government to producers holding a valid license and authorizes duty-free entry of a specified amount of watches or watch movements at a specified U.S. Customs port.

(4) *ITA–321P "Quarterly Report on Watch Assembly Operations of Firms Granted a Duty-free Watch Allocation"* (OMB approval pending). This form provides the Secretaries with data on a producer's purchase, assembly and shipment activity during the quarterly report period, and scheduled delivery of components and finished movements for the remainder of the calendar year. These data are used by the Secretaries for program evaluations and planning purposes. Each producer is required to return to the completed form to the Director on or before April 15, July 15, and October 15 of each calendar year.

(5) *ITA–360P "Certificate of Entitlement to Secure the Refund of Duties on Watches and Watch Movements"* (OMB approval pending). This document authorizes an insular producer to request the refund of duties on imports of watches, watch movements and parts therefor, with certain exceptions up to a specified value. Certificates may be used to obtain duty refunds only when presented with a properly executed Form ITA–361P.

(6) *ITA–361P "Request for Refund of Duties on Watches and Watch Movements"* (OMB approval pending). This form must be completed to obtain the refund of duties authorized by the Director through Form ITA–360P. After authentication by the Department of Commerce, it may be used for the refund of duties on items which were entered into the customs territory of the United States during a specified time period. Copies of the appropriate Customs entries must be provided with this form to establish a basis for issuing the claimed amounts. The forms may also be used to transfer all or part of the producer's entitlement to another party. (See Section 303.12.)

§ 303.3 Determination of the Total Annual Duty-Exemption

(a) *Procedure for Determination.* Not later than October 31 of each year the Secretaries shall publish in the **Federal Register** a proposed limit on the quantity of watch units which may enter duty-free into the customs territory of the United States the following year. After considering comments on the proposed limit, they shall establish the limit by **Federal Register** notice not later than December 31.

(b) *Standards for Determination.* (1) The limit established for 1984 shall not exceed 7,000,000 units.

(2) Subject to paragraph (b)(1) of this section, and paragraph (c) of this section, the total annual duty-exemption shall not be decreased by more than 10% of the quantity established for the preceding calendar year; or increased, if the resultant total is larger than 7,000,000, by more than 20% of the quantity established for the calendar year immediately preceding.

(3) The Secretaries shall determine the limit after considering the interests of the insular possessions; the domestic or international trade policy objectives of the United States; the need to maintain the competitive nature of the territorial industry; the total contribution of the industry to the economic well-being of the territories; and the territorial industry's utilization of the total duty-exemption established in the preceding year.

(c) *Determinations based on consumption.* (1) The Secretaries shall notify the International Trade Commission whenever they have reason to believe duty-free watch imports from the insular possessions will exceed 9,000,000 units, or whenever they make a preliminary determination that the total annual duty-exemption should exceed 10,000,000 units.

(2) In addition to the limitations in paragraph (b), of this section, the Secretaries shall not establish a limit exceeding one-ninth of apparent domestic consumption if such consumption, as determined by International Trade Commission, exceeds 90 million units.

§ 303.4 Determination of territorial distribution.

(a) *Procedure for determination.* The Secretaries shall determine the territorial shares concurrently with their determination of the total annual duty exemption, and in the same manner (see Section 303.3, above).

(b) *Standards for determination.*—(1) *Limitations*: A territorial share may not be reduced by more than 200,000 units in calendar year 1984 and 1985, or by more than 500,000 units in any calendar year thereafter. No territorial share shall be less than 500,000 units.

(2) *Criteria for setting precise quantities:* The Secretaries shall determine the precise quantities after considering, *inter alia,* the territorial capacity to produce and ship watch units. The Secretaries shall further bear

in mind the aggregate benefits to the territories, such as creiditable wages paid, creditable wages per unit exported, and corporate income tax payments.

(3) *Limitations on reduction of share.* The Secretaries shall not reduce a territory's share if its producers use 85 percent or more of the quantity distributed to that territory in the immediately preceding year, except in the case of a major increase or decrease in the number of producers in a territory or if they believe that a territorial industry will decrease production by more than 15 percent from the total of the preceding year.

(4) *Standby redistribution authority.* The Secretaries may redistribute territorial shares if such action is warranted by circumstances unforeseen at the time of the initial distributions, such as that a territory will use less than 80 percent of its total by the end of a calendar year, or if a redistribution is necessary to maintain the competitive nature of the territorial industries.

§ 303.5 Application for annual allocations of duty-exemptions.

(a) Application forms (ITA–334P) shall be furnished to producers by January 1, and must be completed and returned to the Director no later than January 15, of each calendar year.

(b) All data supplied are subject to verification by the Secretaries and no allocation shall be made to a producer until the Secretaries are satisfied that the data are accurate. To verify the data, representatives of the Secretaries shall have access to relevant company records including,

(1) Work sheets used to answer all questions on the application form;

(2) Original records from which such data are derived;

(3) Records pertaining to ownership and control of the company and to the satisfaction of eligibility requirements of duty-free treatment of its product by the U.S. Customs Service;

(4) Records pertaining to corporate income taxes, gross receipts taxes and excise taxes paid by each producer in the territories on the basis of which a portion of each producer's annual allocation is or may be predicated;

(5) Customs, bank, payroll, and production records;

(6) Records on purchases of components and sales of movements, including proof of payment; and

(7) Any other records in the possession of the parent or affiliated companies outside the insular possession pertaining to any aspect of the producer's headnote 3(a) watch assembly operation.

(c) Data verification shall be performed in the territories, unless other arrangements satisfactory to the Departments are made in advance, by the Secretaries' representatives by the end of February of each calendar year. In the event a company cannot substantiate the data in its application before allocations must be calculated, the Secretaries shall determine which data will be used.

§ 303.6 Allocation and reallocation of exemptions among producers.

(a) *Interim allocations.* As soon as practicable after January 1 of each year the Secretaries shall make an interim allocation to each producer equaling 70 percent of the number of watch units it has entered duty-free into the customs territory of the United States during the first eight months of the preceding calendar year, or any lesser amount requested in writing by the producer. The Secretaries may also issue a lesser amount if, in their judgment, the producer might otherwise receive an interim allocation in an amount greater than the producer's probable annual allocation. In calculating the interim allocations, the Director shall count only duty-free watches and watch movements verified by the U.S. Customs Service as having been entered on or before August 31 of the preceding year. Interim allocations shall not be published.

(b) *Annual allocations.* (1) By March 1 of each year the Secretaries shall make annual allocations to the producers in accordance with the allocation formula based on data supplied in their annual application (Form ITA–334P) and verified by the Secretaries.

(2) The excess of a producer's duty-exemption earned under the allocation criteria over the amount formally requested by the producer shall be considered to have been relinquished voluntarily (see paragraph (f) of this section). A producer's request may be modified by written communication received by the Secretaries by February 28, or, at the discretion of the Secretaries, before the annual allocations are made. An allocation notice shall be published in the **Federal Register.**

(c) *Supplemental allocations.* At the request of a producer, the Secretaries may supplement a producer's initial allocation if the Secretaries determine the producer's initial allocation will be used before the Secretaries can issue the annual allocation. Allocations to supplement a producer's annual allocation shall be made under the reallocation provisions prescribed below.

(d) *Allocations to new entrants.* In making initial and annual allocations to producers selected the preceding year as new entrants, the Secretaries shall take into account that such producers will not have had a full year's operation as a basis for computation of its duty-exemption. The Secretaries may make an initial or annual allocation to a new entrant even if the firm did not operate during the preceding calendar year.

(e) *Special allocations.* A producer may request a special allocation if unusual circumstances kept it from making duty-free shipments at a level comparable with its past record. In considering such requests, the Secretaries shall take into account the firm's proposed assembly operations; its record in contributing to the territorial economy; and its intentions and capacity to make meaningful contributions to the territory. They shall also first determine that the amount of the special allocation requested will not significantly affect the amounts allocated to other producers pursuant to Section 303.6(b)(1).

(f) *Reallocations.* Duty-exemptions may become available for reallocation as a result of cancellation or reduction for cause, voluntary relinquishment or nonplacement of duty-exemption set aside for new entrants. The Secretaries may reallocate such duty-exemptions among the remaining producers who can use additional quantities in a manner judged best for the economy of the territories. The Secretaries shall consider such factors as the wage and income tax contributions of the respective producers during the preceding year and the nature of the producer's present assembly operations. In addition, the Secretaries may consider other factors which, in their judgment, are relevant to determining that applications from new firms, in lieu of reallocations, should be invited for part or all of unused portions of the total duty exemptions. Such factors may include:

(1) The ability of the established industry to use the duty-exemption;

(2) Whether the duty-exemption is sufficient to support new entrant operations;

(3) The impact upon the established industry if new entrants are selected, particularly with respect to the effect on local employment, tax contributions to the territorial government, and the ability of the established industry to maintain satisfactory production levels; and

(4) Whether additional new entrants offer the best prospect for adding economic benefits to the territory.

After considering these factors, the Secretaries may set aside all or a portion of the allocation available for reallocation and invite applications from new entrants by publishing a notice in the **Federal Register**. If the Secretaries determine that inviting applications from new firms would be in the best interest of the territory, they shall set forth their reasons for doing so and describe the information new firms will be required to submit in applying for an allocation, including but not limited to the applicant's financial capacity, production and marketing experience, proposed source of parts and components, affiliation with other business entities in the watchmaking and watch-marketing industry, proposed degree of assembly, proposed wage rates by job classification, and the applicant's intentions with regard to the number of units to be assembled and shipped duty-free into the customs territory, establishing or acquiring a local production facility, and seeking territorial tax exemptions or other local industrial incentive benefits.

(g) Section 303.14 of this part contains the criteria and formulae used by the Secretaries in calculating each watch producer's annual watch duty-exemption allocation, and other special rules or provisions the Secretaries may periodically adopt to carry out their responsibilities in a timely manner while taking into account changing circumstances. References to duty-exemptions, unless otherwise indicated, are to the amount available for allocation or reallocation in the current calendar year. Specifications of or references to data or bases used in the calculation of current year allocations (e.g., economic contributions and shipments) are, unless indicated otherwise, those which were generated in the previous year.

(h) The Secretaries may propose changes to Section 303.14 at any time they consider it necessary to fulfill their responsibilities. Normally, such changes will be proposed towards the end of each calendar year. Interested parties shall be given an opportunity to submit written comments on proposed changes.

§ 303.7 Issuance of licenses and shipment permits.

(a) *Issuance of licenses (ITA–333).* (1) Concurrently with annual allocations under Section 303.5 the Director shall issue a non-transferable license (Form ITA–333) to each producer. The Director shall also issue a replacement license if a producer's allocation is reduced pursuant to Section 303.6.

(2) Annual duty-exemption licenses shall be for only that portion of a producer's annual duty-exemption not previously licensed.

(3) If a producer's duty-exemption has been reduced, the Director shall not issue a replacement license for the reduced amount until the producer's previous license has been received for cancellation by the Director.

(4) A producer's licenses shall be used in their entirety, except when they expire or are cancelled, in order of their date of issuance, i.e., an interim license must be completely used before shipment permits can be issued against an interim supplemental license.

(5) Outstanding licenses issued by the Director automatically expire at midnight, December 31, of each calendar year. No unused allocation of duty-exemption may be carried over into the subsequent calendar year.

(6) The Director shall ensure that all licenses issued are conspicuously marked to show the type of license issued, the identity of the producer, and the year for which the license is valid. All licenses shall bear the signature of the Director.

(7) Each producer is responsible for the security of its licenses. The loss of a license shall be reported immediately to the Director. Defacing, tampering with, and unauthorized use of a license are forbidden.

(b) *Issuance of Shipment Permits (ITA–340).* (1) The Governors of the respective insular possessions are authorized to issue shipment permits against producers' duty-exemption licenses. The Governors may delegate this authority to responsible government officials by providing the name, official title and sample signature of the designated official(s) to the Director. Such delegations of authority shall become effective upon their receipt by the Director unless the Director, on behalf of the Secretaries, withholds concurrence with a written statement of the reasons therefor.

(2) Each permit must specify the number of watches and watch movements included in the shipment, the unused balance remaining on the producer's license, and pertinent shipping information.

(3) Except when commercial hardship may result, producers shall request a shipment permit for each separate shipment or consignment.

(4) Shipment permits shall be valid in the calendar year in which issued. To accomplish duty-free entry, the importer of record or his broker must present the merchandise and the original form ITA–340 and other required documents to the District Director of Customs at the port of entry by midnight, December 31, of the year in which the shipment permit is issued.

(5) If a shipment permit expires before the shipment can be presented to Customs officials due to transportation delays, carrier mishandling or other circumstances beyond the control of the shipper, the shipment may be entered duty-free upon presentation of a new shipment permit issued against a currently valid license, provided there is compliance with all Customs regulations and procedures. In such cases the expired shipment permit must be forwarded to the Director with a letter explaining the pertinent circumstances. Such entries shall be counted as a shipment in the year of entry for purposes of calculating the producer's annual allocation the following year.

(6) For purposes calculating calendar year allocations as prescribed in the annual rules, any watches or watch movements shipped by a producer for duty-free entry into the customs territory of the United States and lost prior to entry into the customs territory of the United States shall, nevertheless, be considered as having been entered into the customs territory during the year in which they were shipped, provided the Secretaries are satisfied that shipment occurred but was lost before entering the customs territory. If the producer is able to assemble and ship a replacement shipment before the end of the calendar year, the Director will, upon written request of the producer, direct the issuing office in the territory to issue a replacement permit without charging the producer's license. In such cases, credit for the purpose of calculating allocations will be accorded the replacement shipment but not the lost shipment.

(7) If a shipment permit has been issued and not used, the holder of the license shall notify the office which issued the shipment permit and present the permit for cancellation. The issuing office shall correct the balance shown on the producer's license and notify the Director of the action taken. If a shipment permit is lost, the shipper shall immediately notify both the issuing office and the Director.

§ 303.8 Maintenance of duty-exemption entitlements.

(a) The Secretaries may order a producer to show cause within 30 days of receipt of the order why the duty-exemption to which the firm would otherwise be entitled should not be cancelled, in whole or in part, if:

(1) At any time after June 30 of the calendar year:

(i) A producer's assembly and shipment record provides a reasonable

basis to conclude that the producer will-use less than 80 percent of its total allocation by the end of the calendar year, *and,*

(ii) the producer refuses a request from the Departments to relinquish that portion of its allocation which they conclude will not be used; *or*

(2) A producer fails to satisfy or fulfill any term, condition or representation, whether undertaken by itself or prescribed by the Departments, upon which receipt of allocation has been predicated or upon which the Departments have relied in connection with the sale or transfer of a business together with its allocation; *or*

(3) A producer, in the judgment of the Secretaries, has failed to make a meaningful contribution to the territory for a period of two or more consecutive calendar years, when compared with the performance of the duty-free watch assembly industry in the territory as a whole. This comparison shall include the producer's quantitative use of its allocations, amount of direct labor employed in the assembly of watches and watch movements, and the net amount of corporate income taxes paid to the government of the territory. If the producer fails to satisfy the Secretaries as to why such action should not be taken, the firm's allocation shall be reduced or cancelled, whichever is appropriate under the show-cause order. The eligibility of a firm whose allocation has been cancelled to receive further allocations may also be terminated.

(b) The Secretaries may also issue a show-cause order to reduce or cancel a producer's allocation or production incentive certificate (see Section 303.12, below), as appropriate, or to declare the producer ineligible to receive an allocation or certificate if it violates any regulation in this part, uses a form, license, permit, or certificate in an unauthorized manner, or fails to provide information or data required by these regulations or requested by the Secetaries or their delegates in the performance of their responsibilities.

(c) If a firm's allocation is reduced or cancelled, or if a firm voluntarily relinquishes a part of its allocation, the Secretaries may:

(1) Reallocate the allocation involved among the remaining producers in a manner best suited to contribute to the economy of the territory;

(2) Invite applications from new firms in accordance with § 303.6(f); or

(3) Do neither of the above if deemed in the best interest of the territories and the established industry.

§ 303.9 Restrictions on the transfer of duty-exemptions.

(a) The sale or transfer of a duty-exemption from one firm to another shall not be permitted.

(b) The sale or transfer of a business together with its duty-exemption shall be permitted with prior written notification to the Departments. Such notification shall be accompanied by certifications and representations, as appropriate, that:

(1) If the transferee is a subsidiary of or in any way affiliated with any other company engaged in the production of watch movements components being offered for sale to any territorial producer, the related company or companies will continue to offer such watch and watch movement components on equal terms and conditions to all willing buyers and shall not engage in any practice, in regard to the sale of components, that competitively disadvantages the non-affiliated territorial producers *vis-a-vis* the territorial subsidiary;

(2) The sale or transfer price for the business together with its duty-exemption does not include the capitalization of the duty-exemption *per se;*

(3) The transferee is neither directly or indirectly affiliated with any other territorial duty-exemption holder in any territory;

(4) The transferee will not modify the watch assembly operations of the duty-exemption firm in a manner that will significantly diminish its economic contributions to the insular possession.

(c) At the request of the Departments, the transferee shall permit representatives of the Departments to inspect whatever records are necessary to establish to their satisfaction that the certifications and representations contained in paragraph (b) of this section have been or are being met.

(d) Any transferee who is either unwilling or unable to make the certifications and representations specified in paragraph (b) of this section shall secure the Departments' approval in advance of the sale or transfer of the business together with its duty-exemption. The request for approval shall specify which of the certifications specified in paragraph (b) of this section the firm is unable or unwilling to make, and give reasons why such fact should not constitute a basis for the Departments' disapproval of the sale or transfer.

§ 303.10 Limitations, requirements, restrictions, and prohibitions.

(a) *Limitation on value of components.* (1) Watch movements and watches assembled from components with a value of more than the maximum values set forth, respectively, in Section 303.14(b)(3) shall not be eligible for duty-exemptions into the U.S. Customs territory.

(2) As used in paragraph (a) of this section, "value" means the value of the merchandise plus all charges and costs incurred up to the last point of shipment (i.e., prior to entry of the parts and components into the insular possession).

(b) *Minimum assembly requirements.* No insular watch or watch component may be entered free of duty into the customs territory of the United States unless it meets the requirements of this paragraph.

(1) Conventional watch movements must be assembled from no fewer than a certain number of discrete parts and components and conventional watches from no fewer than another number, both designated in § 303.14(b)(1).

(2) Quartz analog movements and watches must be assembled as prescribed in § 303.14(b)(2).

(3) The disassembly of components or movements following their manufacture or assembly, whether in the country of origin, in the territory, or in an in-transit site, shall constitute a violation of the requirements of their paragraph.

(c) *Minimum labor input criteria.* (1) No insular watch or watch component may be entered free of duty into the customs territory of the United States unless it meets the requirements of this paragraph.

(2) Firms assembling watches or watch components shall make wage payments in the territory averaging not less than the amounts set forth in § 303.14(b)(4), respectively, per watch and watch movement assembled and shipped into the customs area of the United States. In applying this criterion, the Departments may make appropriate data adjustments to take into account wages paid for units assembled during the calendar year prior to the year of the allocation.

(d) *Prohibition of preferential supply relationships.* (1) With the exceptions shown below, no producer shall accept from any watch parts and components supplier advantages and preferences which might result in a more favorable competitive position for itself *vis-a-vis* other territorial producers relying on the same supplier. This probition shall apply whether or not the supplier is affiliated with a territorial producer.

(2) A producer may accept a price differential provided it is based solely on volume considerations usual and customary in the trade and provided the supplier's prices for the line and model

in question reflect such volume-based differentials and have previously been published in a manner which could reasonably be considered to have made them easily accessible to any other territorial producer.

(3) A producer may purchase parts and components from a supplier on credit extended by the supplier, even though the supplier may not be willing to extend similar credit to all other territorial producers, provided that the denial of such credit is impartially based on the purchaser's credit history.

(4) *Limited production runs.* (i) Any territorial producer which is affiliated with a supplier shall attach the following clause to each purchase order (excepting purchase orders described in paragraph (d)(4)(iv), of this section) to that supplier:

In the event this order is for parts and components which are in short supply in your inventory, whether because of sales from a production run of a line or model for which no further production run is scheduled or because these parts and components were produced in a limited run, my firm is prohibited by regulation from placing an order for such line or model if filling it would deplete its inventory by more than 50%. Accordingly, we expressly exclude from this purchase order any portion of the total quantity exceeding this fraction of your inventory and request that you confirm your acceptance of such excess only after 90 days have elapsed after your acceptance of the allowable portion. We understand that your receipt of an order for such merchandise from another territorial producer within that 90-day period will receive precedence over our order.

(ii) If, in compliance with the clause shown in paragraph (d)(4)(i) of this section, above, a watch parts and components supplier does not accept a purchase order, the affiliated producer shall immediately report to the Departments in writing:

(A) The total amount (in equivalent units) of its purchase order;

(B) The line and model ordered;

(C) The date the supplier accepted the order for the allowable portion; and

(D) What amount of the order was not accepted.

(iii) Each territorial producer unable to receive confirmation for the entire amount of any purchase order it places with a supplier known to be affiliated with another territorial producer shall immediately report to the Departments in writing:

(A) The total amount (in equivalent units) of its purchase order;

(B) The line and model ordered;

(C) The date it placed the order; and

(D) What portion of the amount it ordered was not confirmed.

(iv) These provisions do not apply to purchase orders by an affiliated territorial producer for the same line or model from the same supplier which are made more than 120 days following the supplier's partial acceptance of such an order in compliance with the affiliated territorial producer's request.

(5) *Introduction of new lines and models.* (i) If a territorial producer is affiliated with a supplier planning to introduce a new line or model, the territorial producer may (subject to the restrictions governing limited production runs, above) order, assemble, ship, and market the line or model without restriction during a period 60 days before and 60 days after the public introduction of the line or model.

(ii) Thereafter, the affiliated territorial producer shall treat the new line or model as any other established line or model subject to all the restrictions and prohibitions of this paragraph.

§ 303.11 Quarterly reporting requirements.

(a) Each producer is required to file a report (Form ITA– 321P) on April 15, July 15, and October 15 of each year covering the periods January 1 to March 31, April 1 to June 30, and July 1 to September 30 respectively. No report is required for the fourth quarter (October 1 to December 31) as these data will be reflected on Form ITA–334P at the time the producer applies for an annual watch quota allocation. Copies of Form ITA–321P will be forwarded by the Director to each producer at the territorial address of record at least 15 days prior to the required reporting date. The Form ITA– 321P must be returned to the Director by registered mail.

(b) In addition to providing the Director with specific information on the producer's watch movement assembly operations during the reporting period and projected operations for the remainder of the calendar year, Form ITA–321P is also used to report changes in ownership, interest and control occurring during the reporting period. (See also § 303.9 regarding restrictions on the transfer of duty-exemptions.)

§ 303.12 Issuance and use of Production incentive certificates.

(a) *Issuance of certificates.* (1) Certificates of Entitlement, Form ITA–360, shall be issued before March 1 of the current year after receipt of the producer's certification that it intends and shall be able to sustain operations beyond the current calander year.

(2) Certificates shall not be issued to more than one company in the territories owned or controlled by the same corporate entity.

(b) *Security and handling of certificates.* (1) Certificate holders are responsible for the security of the certificates. The certificates shall be kept at the territorial address of the insular producer or at another location having the advance approval of the Departments.

(2) All refund requests made pursuant to the certificates shall be entered on the reverse side of the certificate.

(3) Certificates shall be returned by registered mail to the Departments when:

(i) A refund is requested which exhausts the entitlement on the face of the certificate,

(ii) The Certificate expires, or

(iii) The Departments request their return with good cause.

(4) Certificate entitlements may be transferred according to the procedures described in paragraph (c) of this section.

(c) *The use and transfer of certificate entitlements.* (1) Insular producers issued a certificate may request a refund by executing a Form ITA–361 (see Section 303.2(b)(6) and the instructions on the form). After authentication by the Department of Commerce, the Form ITA.361 may be used to obtain duty refunds on watch movements, watches, and parts therefor. Duties on watchcases not containing a movement and on articles containing any material which is the product of a country with respect to which Column 2 rates of duty apply may be refunded. Articles for which duty refunds are claimed must have entered the customs territory of the United States during the two-year period prior to the issue date of the certificate or during the one-year period the certificate remains valid. Copies of the appropriate Customs entries must be provided with the refund request in order to establish a basis for issuing the claimed amounts. Certification regarding drawback claims and liquidated refunds relating to the presented entries is required from the claimant on the form.

(2) Regulations issued by the U.S. Customs Service, U.S. Department of the Treasury govern the refund of duties under Pub. L. 97–446. If the Departments receive information from the Customs Service that a producer has made unauthorized use of any official form, they shall cancel the affected certificate.

(3) The insular producer may transfer a portion of all its certificate entitlement to another party by entering in block C of Form ITA–361 the name and address of the party.

(4) After a Form ITA–361 transferring a certificate entitlement to a party other than the certificate holder has been

authenticated by the Department of Commerce, the form may be exchanged for any consideration safisfactory to the two parties. In all cases, authenticated forms shall be transmitted to the certificate holder or its authorized custodian for disposition (see paragraph (b) of this section).

(5) All disputes concerning the use of an authenticated Form ITA–361 shall be referred to the Departments for resolution. Any party named on an authenticated Form ITA–361 shall be considered an "interested party" within the meaning of Section 303.13 of the Part.

(d) *Calculation of value.* (1) The Departments shall verify total creditable wages paid by each producer during the calendar year and divide by the total units it shipped during the calendar year to derive its average creditable wage per unit shipped (APS). The Departments may make adjustments for these data in the manner set forth in § 303.10(c)(2).

(2) The value of each producer's certificate shall equal the producer's APS multiplied by a figure based on the number of units shipped, as determined by the Secretaries in accordance with § 303.14(c).

§ 303.13 Appeals.

(a) Any official decision or action relating to the allocation of duty-exemptions may be appealed to the Secretaries by any interested party. Such appeals must be received within 30 days of the date on which the decision was made or the action taken in accordance with the procedures set forth in paragraph (b) of this section. Interested parties may petition for the issuance of a rule, or amendment or repeal of a rule issued by the Secretaries. Interested parties may also petition for relief from the application of any rule on the basis of hardship or extraordinary circumstances resulting in the inability of the petitioner to comply with the rule.

(b) Petitions shall bear the name and post office address of the petitioner and the name and address of the principal attorney or authorized representative (if any) for the party concerned. They shall be addressed to the Secretaries and filed in one original and two copies with the U.S. Department of Commerce, Import Administration, International Trade Administration, Washington, D.C. 20230, Attention: Statutory Import Programs Staff. Petitions shall contain the following:

(1) A reference to the decision, action or rule which is the subject of the petition;

(2) A short statement of the interest of the petitioner;

(3) A statement of the facts as seen by the petitioner;

(4) The petitioner's argument as to the points of law, policy or fact. In cases where policy error is contended, the alleged error together with the policy the submitting party advocates as the correct one should be described in full;

(5) A conclusion specifying the action that the petitioner believes the Secretaries should take.

(c) The Secretaries may at their discretion schedule a hearing and invite the participation of other interested parties.

(d) The Secretaries shall communicate their decision, which shall be final, to the petitioner by registered mail.

(e) If the outcome of any petition materially affects the amount of the petitioner's allocation and if the Secretaries' consideration of the petition continues during the calculation of the annual allocations, the Secretaries shall set aside a portion of the affected territorial share in an amount which, in their judgment, protects the petitioner's interest and shall allocate the remainder among the other producers.

§ 303.14 Allocation factors and miscellaneous provisions.

(a) *The allocation formula.* (1) Except as provided in paragraph (a)(2) of this section, the territorial shares shall be allocated among the several producers in each territory in accordance with the following formula:

(i) Eighty percent of the territorial share shall be allocated on the basis of the net dollar amount of economic contributions to the territory consisting of the dollar amount of wages, up to a maximum of $28,000 per person, paid by each producer to territorial residents and attributable to each producer's headnote 3(a) watch and watch movement assembly operations, *plus* the dollar amount of income taxes attributable to its headnote 3(a) watch and watch movement assembly operations (excluding penalty and interest payments and deducting any income tax refunds and subsidies paid by the territorial government), and

(ii) Twenty percent of the territorial share shall be allocated on the basis of the number of units of watches and watch movements assembled in the territory and entered by each producer duty-free into the customs territory of the United States.

(2) If there is only one producer in a territory, the entire territorial share, excluding any amount set aside for possible new entrants, may be allocated without recourse to any distributive formula.

(b) *Minimum assembly and wage contribution requirements.* (1) The minimum number of discrete parts and components, referred to in Section 303.10(b)(2), for conventional watch movements is 30 and for conventional watches 33.

(2) Quartz analog watch movements must be assembled from parts knocked down to the maximum degree possible for the technical capabilities of the insular industry as a whole. The greatest degree of disassembly specified, for each brand and model, by any producer in any territory purchasing such brands and models shall constitute the disassembly required as a minimum for the industry as a whole. In no event, however, shall a quartz analog kit qualify for duty-free treatment if it does not permit complete assembly in the insular possession of the setting mechanism and train assemblies.

(3) The maximum value of components referred to in Section 303.10(a)(1) shall be $20 for watch movements and $40 for watches.

(4) The average wage payments referred to in Section 303.10(c)(2) are $0.75 for watch movements and $0.95 for watches.

(c) *Calculation of the value of production incentive certificates.* The value of each producer's certificate shall equal the producer's average creditable wages per unit shipped (APS) multiplied by the sum of:

(1) The number of units shipped up to 300,000 units times a factor of 90%; plus

(2) incremental units shipped up to 450,000 units times a factor of 85%; plus

(3) incremental units shipped up to 600,000 times a factor of 80%; plus

(4) incremental shipments up to 750,000 units times a factor of 65%.

(d) *New entrant invitations.* (1) Applications from new firms are invited for American Samoa's territorial share.

(2) Applications from new firms are invited for 500,000 units of the Guam territorial share.

(3) Applications from new firms are invited for 1,000,000 units of the Virgin Islands territorial share.

John L. Evans,

Deputy to the Deputy Assistant Secretary for Import Administration, Department of Commerce.

Richard T. Montoya,

Deputy Assistant Secretary, Territorial and International Affairs, Department of the Interior.

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230, 239, 270, and 274

[Release Nos. 33-6502; IC-13689; File No. S7-1007]

Registration Forms for Insurance Company Separate Accounts That Offer Variable Annuity Contracts

AGENCY: Securities and Exchange Commission.

ACTION: Proposed forms, form amendments, rule amendments, and guidelines.

SUMMARY: The Commission is publishing for comment two registration forms for use by certain separate accounts offering variable annuity contracts to register under the Securities Act of 1933 and, where appropriate, the Investment Company Act of 1940. Specifically, the Commission is proposing for comment: (1) Form N–3, a new registration form for certain separate accounts registered under the Investment Company Act of 1940 as management investment companies and certain other separate accounts; (2) Form N–4, a new registration form for certain separate accounts registered under the Investment Company Act of 1940 as unit investment trusts and certain other separate accounts; and (3) related rule and form amendments. The Commission is publishing and requesting comment on staff guidelines for the preparation of Forms N–3 and N–4. The purposes of the proposals are to integrate and codify disclosure requirements applicable to insurance company separate accounts that offer variable annuity contracts and to shorten and simplify the prospectus provided to investors, while providing more extensive information to those who desire it.

DATES: Comments must be received on or before April 1, 1984.

ADDRESS: Persons wishing to submit written comments should file five copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Jane A. Kanter, Special Counsel (202–272–2107) or Mary K. Bellamy, Attorney (202–272–2147), Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission is today proposing for comment:

(1) Form N–3, a registration form that would replace both Form N–1 (17 CFR 239.15, 274.11) under the Securities Act of 1933 (15 U.S.C. 77a et seq.) (the "1933 Act") and the Investment Company Act of 1940 (15 U.S.C. 80a et seq.) (the "1940 Act"), for use by separate accounts registered under the 1940 Act as management investment companies offering variable annuity contracts, and Form S–1 (17 CFR 239.11) under the 1933 Act for certain non-registered separate accounts offering variable annuity contracts (collectively, "management accounts"). Form N–3 would be in three parts: (i) Part A would be the prospectus required by Section 10(a) of the 1933 Act (15 U.S.C. 77j(a)); (ii) Part B would be the "Statement of Additional Information" which would contain additional information that would have to be provided upon request to recipients of the prospectus; and (iii) Part C would contain other information that would be required to be in the registration statement. The text of Form N–3 is Appendix A to this release.

(2) Form N–4, a registration form that would replace Form S–6 (17 CFR 239.16) under the 1933 Act and Form N–8B–2 (17 CFR 274.12) under the 1940 Act, for use by separate accounts registered under the 1940 Act as unit investment trusts offering variable annuity contracts, and Form S–1 under the 1933 Act for certain non-registered separate accounts offering variable annuity contracts (collectively "trust accounts"). Form N–4 would be in three parts: (i) Part A would be the prospectus required by Section 10(a) of the 1933 Act; (ii) Part B would be the "Statement of Additional Information" which would contain additional information that would have to be provided upon request to recipients of the prospectus; and (iii) Part C would contain other information that would be required to be in the registration statement. The text of Form N–4 is Appendix B to this release.

(3) Amendments to form N–1A (17 CFR 239.15A, 274.11A), the registration form under the 1933 and 1940 Acts used by, among others, open-end investment companies that sell their shares exclusively to trust accounts ("captive funds"). The amendments to Form N–1A would permit captive funds to delete any otherwise required yield disclosure, if the corresponding trust account prospectus included certain required yield disclosure.

(4) Amendments to rules 482 (17 CFR 230.482), 486 (17 CFR 230.486), 495 (17 CFR 230.495), 496 (17 CFR 230.496), and 497 (17 CFR 230.497) of Regulation C under the 1933 Act (17 CFR 230.400 et seq.). Rule 486 would be amended to reflect the three-part formats of Forms N–3 and N–4. The amendments to rules 482, 495, 496, and 497 would add Forms N–3 and N–4 to the registration forms specified in those rules.

(5) Amendments to Rules 8b–11A (17 CFR 270.8b–11A), 8b–12A (17 CFR 270.12A), and 30d–1 (17 CFR 270.30d–1) under the 1940 Act. Rules 8b–11A and 8b–12A would be amended to add Forms N–3 and N–4 to the registration form specified in those rules. Rules 30d–1 would be amended to add an item of Form N–3 to the items specified in that rule.

The Commission is requesting comment on staff guidelines [1] for the preparation of Forms N–3 and N–4 which are Appendices C and D to this release, respectively, and may be obtained directly from the Commission through the above-mentioned contact persons. In addition, the staff guidelines will be published in the SEC Docket. All comments and suggestions on the staff guidelines will be considered in the development of this proposal.

Background and Purpose

When proposed Form N–1A, the two-part registration form for open-end investment companies ("mutual funds"), was published for comment, the Commission stated its intention to develop a simplified prospectus form for other types of investment companies, including separate accounts of insurance companies,[2] taking into consideration comments received on Form N–1A.

Representatives of the insurance company industry who commented on Form N–1A stated that the concepts embodied in the form would be beneficial for both separate accounts organized as management investment companies that offer variable annuity contracts ("management accounts" and separate accounts organized as unit investment trusts that offer variable annuity contracts ("trust accounts").

Form N–1A was adopted by the Commission on August 12, 1983 for use by mutual funds.[3] Since the Commission

[1] Staff guidelines for the preparation of Forms N–3 and N–4 are filed as a part of the original document and will not be published in the **Federal Register**.

[2] The term "separate account" is defined in Section 2(a)(37) of the 1940 Act to mean: an account established and maintained by an insurance company . . . under which income, gains and losses, whether or not realized from assets allocated to such accounts, are, in accordance with the applicable contract, credited to or charged against such account without regard to other income, gains, or losses of the insurance company.

[3] Securities Act Release No. 6479 (August 12, 1983) [48 FR 37928 (August 22, 1983)] (adoption of Form N–1A).

was developing simplified, integrated registration forms for all registered and most non-registered [4] separate accounts offering variable annuity contracts ("separate accounts"), the Commission did not make Form N–1A available for use by separate accounts.

Currently insurance company separate accounts that register under the 1940 Act and register their securities under the 1933 Act must do so on registration forms designed primarily for other kinds of investment companies.[5] While much of the required disclosure is useful, some items request disclosure that is not important to a prospective purchaser of a variable annuity contract. Moreover, many matters that would be material to a prospective purchaser are not addressed at all by the forms. Consequently, using the currently available forms, the staff of the Commission has developed disclosure standards for separate accounts offering variable annuity contracts that call for a description of the material features of the variable annuity contract and the separate account. The Commission believes that these disclosure standards should be codified in more appropriately designed forms. The Commission also believes that the benefits of the prospectus simplification initiative should be extended to separate accounts offering variable annuity contract.[6]

The Commission has developed proposed Form N–3 for management accounts and proposed Form N–4, for trust accounts. Proposed Forms N–3 and N–4, if adopted would provide several significant benefits for separate account registrants and investors. First, proposed Form N–4 for trust accounts would integrate the reporting and disclosure requirements of both the 1933 Act and 1940 Act into one form, thereby eliminating unnecessary paperwork and duplicative reporting.[7] Second, proposed Form N–3 and N–4 would codify the disclosure standards that have been developed for separate accounts. Finally, both proposed Forms N–3 and N–4 would permit shorter and simpler prospectuses than are required under current practice, by adopting the two-part disclosure format that was first proposed in connection with Form N–1A, and by incorporating many of the reduced disclosure requirements of Form N–1A. Separate account disclosure requirements that experience has shown are unnecessary also would be eliminated,[8] as well as certain disclosure requirements that are holdovers from the requirements applicable to non-separate account unit investment trust.[9]

Synopsis of the Forms

Proposed Forms N–3 and N–4 would have the same two-part disclosure format that the Commission adopted for mutual funds in Form N–1A. Both registration forms would contain three parts: a simplified prospectus meeting the requirements of Section 10(a) under the 1933 Act (15 U.S.C. 77j(a)) and whose delivery satisfies the prospectus delivery requirements of section 5(b)(2) of the 1933 Act; a Statement of Additional Information available to prospective purchasers upon request and without charge; and other information (required only in the registration statement). The prospectus would contain a concise presentation of material information about the separate account and the variable annuity contracts. The Statement of Additional Information would contain more detailed discussions of matters required to be in the prospectus, as well as other information which might interest some investors.

Financial Information

Currently separate account prospectuses contain the full finanical statements of both the separate account and the sponsoring insurance company, as well as condensed financial information for a management account. The Commission is proposing several changes in this financial disclosure and is requesting comment on several other possible changes.

Because the separate account operates during the accumulation period in much the same manner as a mutual fund, the Commission is proposing that the financial information required about a management or trust account should be the same as that required for a mutual fund registering on Form N–1A, and should be allocated in the same manner between the prospectus and the Statement of Additional Information. Therefore, the prospectus for a management or trust account would contain the condensed financial information of that separate account and a yield quotation for any separate account having a money market component.[10] All other financial information about the separate account would be in the Statement of Additional Information.

The Commission believes, however, that contractowners or annuitants may not have the same interest in the financial condition of the sponsoring insurance company as they have in the separate account. During the accumulation period; the income, gains, and losses of the separate account are credited to or charged against the separate account without regard to the other income, gains, or losses of the sponsoring insurance company.[11] During the annuity period, however, although the annuitant's investment return is tied to the performance of the separate account, his receipt of annuity payments may be dependent upon the solvency of the insurance company.[12] Consequently, contractowners, participants, and annuitants may not want or need disclosure about the investment performance of the insurance company, and instead may be interested *only* in the sponsor's

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[4] Some separate accounts are not investment companies because of the investments they make or the nature of their contractowners. *See* sections 3(a) and 3(c)(11) of the 1940 Act. Therefore, these separate accounts do not register under the 1940 Act.

[5] Trust accounts that register under the 1940 Act use Form N–8B–2 to register under that Act and register their securities under the 1933 Act on Form S–6. Both forms were designed for non-separate account unit investment trusts and were adopted before the establishment of the first separate account to fund variable annuity contracts. Management accounts that register under the 1940 Act use Form N–1, the general registration form for open-end investment companies, for both kinds of registration.

Insurance company separate accounts that do not register under the 1940 Act register their securities under the 1933 Act on Form S–1, the residual 1933 Act registration form.

[6] Registered separate accounts which fund variable life insurance contracts ("life accounts") would continue to use Forms N–1, N–8B–2, and S–6. The Commission does not expect to propose separate registration forms for life accounts until it has acquired more experience with these contracts and the various changes in the product which currently are being considered by the insurance industry

For a description of the non-registered separate accounts that would use proposed Forms N–3 and N–4, see "Non-registered Separate Accounts," *infra*.

[7] *See* Securities Act Release No. 5964 (August 28, 1978) [43 FR 39548 (September 5, 1978)] (adoption of Form N–1), regarding integration of 1940 Act and 1933 Act reporting and disclosure requirements.

[8] For example, the requirement that the financial statements of the sponsoring insurance company be presented in the prospectus. *See* the description of Item 25 of proposed Form N–3, *infra*.

[9] For example, the requirement that the members of the board of directors of the depositor be identified.

[10] *See* "Condensed Financial Information" and "Yield Quotations" *infra*, for a fuller discussion of these requirements for trust accounts.

[11] Nevertheless, during the accumulation period, the sponsoring insurance company may guarantee that fees for certain services will not increase even if the cost of providing the services increases and that the annuity purchase rates available at the time the contractowner (or participant) annuitizes will not be less favorable to him than the annuity purchase rates in his variable annuity contract.

[12] The reserves out of which the annuity payments are paid are based upon assumptions about the longevity of annuitants as a group and the cost of administering the contracts. If those assumptions are wrong, the sponsoring insurance company may have to contribute funds sufficient to make annuity payments.

solvency. Therefore, the Commission is not proposing to require that financial statements of the sponsoring insurance company, other than a two-year comparative balance sheet, be included in the Statement of Additional Information, if the financial statements are in Part C of the registration statement and available to investors upon request and without change.

This proposed change is intended to ensure disclosure of pertinent financial information about the sponsoring insurance company to investors who wish to have it, while reducing the disclosure burden on the insurance company. However, because most investors would receive less financial information about the sponsoring insurance company, the Commission is also requesting comment on whether other information about the financial condition of the sponsoring insurance company should be contained in the prospectus.[13]

Finally, certain registrants have asserted that stock life insurance companies that are required to prepare financial statements in accordance with generally accepted accounting principles solely for the purpose of including such statements in a separate account registration statement should be permitted instead to include financial statements prepared in accordance with the applicable state statutory requirements. While the Commission has not been persuaded thus far that a change in Rule 7-02(b) of Regulation S-X [17 CFR 210.7-02(b)] to permit such substitution is appropriate, comment is requested on this question.

Proposed Form N-3

1. Part A: Prospectus

Part A of proposed Form N-3 contains instructions for preparation of the prospectus. (The General Instructions, particularly General Instruction H, contain additional guidance.)

Item 1—Cover Page

Certain technical requirements are applicable to prospectus cover pages for all issuers and these requirements have not been altered for Item 1 of proposed Form N-3.[14] The cover page must also include specific identifying information such as the name of the registrant,[15] its basic investment objectives, the name of the sponsor,[16] the types of variable annuity contracts [17] offered by means of the prospectus, and the types of qualified plans, if any, with which the contracts may be used. Additionally, the cover page must disclose the availability, without charge, of the Statement of Additional Information and the date of the Statement of Additional Information. Although the cover page may contain additional information, it should not be so detailed or complex as to prevent understanding of the basic required information.

Item 2—Definitions

Proposed from N-3 requires a glossary of all special terms used in the prospectus. If a special term is used in only one section of the prospectus, it may be defined there instead.

Item 3—Synopsis

Item 3 calls for a summary of the prospectus "when the prospectus is long or complex." Normally, a synoposis would not be necessary if the prospectus were twelve pages or less. In addition, the item requires a registrant to highlight, on the cover page, in a synopsis, or otherwise, any of the following characteristics: a revocation right;[18] a possible tax penalty on premature withdrawals;[19] or a deferred sales load.[20]

Item 4—Condensed Financial Information

Item 4 of proposed Form N-3 requires essentially the same condensed financial and yield information for management accounts as Form N-1A requires for mutual funds. Proposed Item 4 also requires registrants to state, under a separate caption, where financial statements of the registrant and the sponsor that are not in the prospectus may be found.

Item 5—General Description of Registrant and Sponsor

Item 5 requires a concise discussion of the organization and operation of the registrant, including a brief description of the sponsor and the registrant. The item calls for (i) basic identifying information about the sponsor; (ii) its date, form, and state of organization; and (iii) the identity of any persons who control the sponsor. The item also calls for (i) the registrant's date and form of organization including the registrant's subclassification under the 1940 Act; (ii) a description of the relationship between the registrant and the sponsoring insurance company, (iii) whether there are any sub-accounts of the registrant; and (iv) the name and address of any contractowner of a variable annuity contract to which 10 percent or more of the assets of any sub-account are attributable, and the specific amount of assets attributable to the contract.

Item 5 also calls for a concise description of the significant investment objectives and policies of the registrant, including: (i) whether those investment objectives may be changed without the approval of a majority of votes; (ii) how the registrant proposes to achieve its objectives, noting in particular the types of securities and special investment practices or techniques that will be used and the identity of any industry or group of industries in which the registrant proposes to concentrate; (iii) the identity of any other policies of the registrant that may be changed only with the approval of a majority of votes; and (iv)

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[13] For example, the A.M. Best Co. gives life insurance companies alphabetical ratings that attempt to quantify the stability of the companies and their long-term ability to discharge their obligations to policyholders. In Securities Act Release No. 6378 (January 11, 1982) [47 FR 3130 (January 22, 1983)], concerning revised procedures for processing post-effective amendments of insurance company separate accounts, the Commission requested comment on whether policyholder ratings should be treated similarly to security ratings in registration statements (i.e., whether to provide that a policyholder rating is not a part of a registration statement prepared or certified by a person within the meanings of Sections 7 and 11 of the 1933 Act). The comment letters received were divided on the issue: one stating that the ratings "are of substantial benefit to potential investors," and two stating that the ratings are not relevant and may be misleading. The Commission decided to defer action on the question, rather than delay the adoption of Rule 486. *See* Securities Act Release No. 6402 (May 14, 1982) [47 FR 22356 (May 24, 1982)].

[14] All prospectus cover pages must include: 1) the date of the prospectus; 2) a legend warning that the securities have not been approved by the Commission; and 3) other information that may be required by the Commission or by any other governmental agency.

[15] The term "Registrant" is defined in General Instruction C to mean "the separate account . . . which offers the variable annuity contracts." The term "separate account" is defined in Section 2(a)(37) of the 1940 Act [15 U.S.C. 80a-2(a)(37)].

[16] The term "sponsor" is defined in General Instruction C to mean "the sponsoring insurance company of the Registrant."

[17] The term "variable annuity contract" is defined in General Instruction C to include: any accumulation or annuity contract, any portion thereof, or any unit of interest or participation therein pursuant to which the value of the contract, either before or after annuitization, or both, varies according to the investment experience of the separate account in which the contract participates.

[18] Most states require variable annuity contracts to contain a revocation right permitting a purchaser to return a variable annuity contract during a certain period after the purchase date without the imposition of any charges.

[19] The Tax Equity and Fiscal Responsibility Act, Pub. L. No. 97-284, 96 Stat. 324 (1982) imposed a five percent penalty tax on premature withdrawals under a variable annuity contract.

[20] Many separate accounts impose a deferred sales load on redemption or annuitization of contract values. The deferred sales loads may be as high as nine percent of the withdrawn amount, although most are below eight and one half percent. In July of this year the Commission codified the relief necessary to permit this type of sales load in 1940 Act Rule 6c-8 [17 CFR 270. 6c-8].

any other significant investment policies or techniques of the registrant not otherwise described.

Item 6—Management

Item 6 of proposed Form N–3 requires essentially the same disclosure about the registrant's board of managers, investment adviser, transfer agent, and brokerage practices as Item 5 of Form N–1A.

Item 7—Deductions and Expenses

Item 7 requires a brief description of all deductions from purchase payments, contractowner accounts, or the assets of the registrant. Specifically, the item calls for the amount of any such deduction as a percentage or dollar figure, its recipient, the services provided in consideration for the deduction, and an explanation of the extent to which the deduction can be modified.

In addition, the item requires a statement about the registrant's expenses. If the organization expenses of the registrant are to be paid for out of the assets of the management account, registrant must disclose in the prospectus the amount of any organization expenses to be amortized and the period of amortization. If the investment adviser is compensated for its services to the registrant by someone other than the registrant, that person must be identified as well as the amount paid by him.

Item 8—General Description of Variable Annuity Contracts

Item 8 requires identification of all persons who have rights, including voting rights, under the variable annuity contracts and a brief description of the nature of those rights, during (i) the accumulation period, (ii) annuity period, and (iii) after the death of the annuitant or contractowner. The item also specifically requires a brief description of any provisions for allocation of purchase payment among sub-accounts of the registrant, transfer of contract values between such sub-accounts, and exchanges of variable annuity contracts.

In addition, the item requires a brief description of the changes that can be made in the variable annuity contract or the operations of the registrant by the registrant or its sponsor, including: (i) why a change may be made; (ii) who must approve any change; and (iii) who must be notified of any change. The instruction to Item 8(c) specifically restricts the information that must be provided in response to this item to changes that would be material to a purchaser of the variable annuity contracts, such as a reservation of the right to deregister the registrant under the 1940 Act. Finally, the item requires a registrant to describe how contractowner inquiries should be made.

Item 9—Annuity Period

Item 9 requires a brief explanation of how the dollar amounts of initial and subsequent annuity payments are determined. The response to this item should be sufficiently precise so that the lengthy illustrations of the computation of annuity unit value and annuity payments contained in most current separate account prospectuses would not be necessary.

The prospectus must also provide a concise explanation of the choices available to a prospective annuitant, and the effect of not specifying a choice, concerning: (i) the annuity date; (ii) annuity options; (iii) frequency of annuity payments; and (iv) assumed interest rates.

Item 10—Death Benefit

This item calls for a description of the death benefit available under the variable annuity contracts during both the accumulation and annuity periods. The prospectus should include disclosure concerning when the death benefit is calculated and payable and the forms the benefit may take. Specifically, the registrant is required to identify in the prospectus the effect, if any, of the choice of an annuity option on the time when the death benefit is calculated, the effect of not choosing a payment option, and the period during which payments must commence under any annuity option.

Item 11—Purchases

Item 11 requires a brief description of how to purchase a variable annuity contract, including the minimum initial and subsequent purchase payments required, the manner in which the value of an accumulation unit [21] is determined, and when initial and subsequent purchase payments are credited. The item also requires disclosure in the prospectus of the name and address of any principal underwriter (other than the sponsor) of the variable annuity contracts and, if the principal underwriter is an affiliated person of the registrant, the sponsor, or any affiliated person thereof, how it is affiliated.

Item 12—Redemptions

Item 12 requires a brief description of the procedures by which a contractowner or annuitant (if the annuity option does not contain a life contingency) [22] may redeem in full or in part including a description of how the proceeds are calculated and when they are payable. If a registrant offers its variable annuity contracts in connection with the Texas Optional Retirement Program, Item 12 requires disclosure regarding the restrictions on redemption that apply. Item 12 also requires brief discussions in the prospectus of any provisions or plans for lapse or involuntary redemptions, delays in redemptions, redemptions in kind, or revocation rights (e.g., a "ten-day free look" provision).

Item 13—Taxes

Three areas of disclosure are called for by Item 13. First, the prospectus should briefly describe the tax consequences to an investor of an investment in a variable annuity contract prior and subsequent to annuitization, including a discussion of any tax penalties on early withdrawals. Second, Item 13 calls for disclosure of the types of qualified plans [23] with which the variable annuity contracts can be used. The instructions to this item specifically provide that the prospectus must identify the types of persons who may use the plans and must disclose whether the terms of the plans govern the rights of any person to benefits, regardless of the terms of the variable annuity contract. However, the instructions state that the requirements for qualification of plans for benefits under the Internal Revenue Code and the non-annuity tax consequences of qualification need not be described in the prospectus. The third area of disclosure called for by Item 13 is the taxation of the operations of the registrant, including any provisions for accumulating funds in the registrant for federal income taxes and the rate at which the taxes are expected to be computed. The circumstances under which amount would be transferred to or from the sponsor as a result of federal income taxation also should be briefly described.

Item 14—Legal Proceedings

Item 14 calls for information that is essentially the same as Item 9 of Form N–1(A), except for the addition of the sponsor to the list of persons about

[21] An accumulation units is the unit of measure used to calculate contract value prior to annuitization.

[22] Rule 22e–1 under the 1940 Act [17 CFR 270.22e–1] only provides an exemption from the redemption requirements of Section 22(e) [15 U.S.C. 80a–22(e)] for "contracts under which payments are being made based upon life contingencies."

[23] Variable annuity contracts are used to fund a number of different kinds of plans which qualify for special treatment under the Internal Revenue Code, such as simplified employee pension plans and state and local government deferred compensation plans.

whom disclosure must be made. Accordingly, the registrant need not discuss pending legal proceedings unless those proceedings were likely to have a materially adverse effect on the registrant, or impair the ability of the investment adviser, principal underwriter, or sponsor to perform its contractual obligations.

2. Part B: Statement of Additional Information

Part B of proposed Form N–3 generally calls for additional information about the matters discussed in the prospectus. The items also provide guidance as to what is not required in the prospectus. Most of the items are essentially the same as items in Part B of Form N–1A and therefore are not discussed in this release. However, two items merit separate attention.

Item 17. General Information and History

This item requires disclosure of any prior names of the sponsor during the past five years; whether sales of contracts by the sponsor (including sales through the registrant) have been suspended at the specific request of any governmental entity and the reasons for and results of the suspension; and the identity of jurisdictions in which the sponsor is authorized to do business. In addition, the item calls for disclosure of any block of assets in the management account (other than assets attributable to a variable annuity contract, accumulated deductions, or reserves) to which more than 10% of the assets of the account are attributable.

Item 25. Financial Statements

The financial statements of the registrant required by Item 25 are the same as the financial statements required by Item 23 of Form N–1A. Under the proposed form, the condensed financial information for the registrant and yield information required by Item 4 will be the only financial information in the prospectus. The full financial statements of the registrant will be in the Statement of Additional Information. With regard to the sponsor, the only financial information required to be in the Statement of Additional Information will be comparative balance sheets for the last two fiscal years and, in certain cases, a more current interim balance sheet of the sponsor.[24] The other financial statements of the sponsor are required to be included in the registration statement and to be made available to investors upon request, free of charge, but they are not required to be included in the Statement of Additional Information. The Commission believes this will allow a shorter Statement of Additional Information, while still providing investors with adequate information about the solvency of the insurance company.

3. Part C: Other Information

Part C of proposed Form N–3 concerns information that is required in the registration statement but is not required to be in the prospectus or Statement of Additional Information. Except for the undertakings, Part C requires information that is essentially the same as that required in Part C of Form N–1A with the following exceptions. The exhibit requirements have been modified to include exhibits concerning the sponsor, the variable annuity contract, and any contract of reinsurance. Also, the item regarding security holders has been replaced by an item requiring information about contractowners. Finally, an item requiring disclosure about officers and directors of the sponsor has been added.

Three undertaking requirements have been included in proposed Form N–3 that are not found in Form–1A. Proposed Form N–3 requires an undertaking to file post-effective amendments to update the financial statements contained in the registration statement.[25] Also, because many investors have short-lived revocation rights, proposed Form N–3 requires two undertakings that should foster the delivery of the Statement of Additional Information by the beginning of the revocation period.

In addition, the instructions to the undertaking requirements regarding filing a post-effective amendment within four to six months after the effective date of the registration statement under the 1933 Act have been modified to facilitate the use of the same financial statements in the post-effective amendment and a registrant's annual or semi-annual report to secruity holders.[26]

Signatures

If the registration statement is being filed only under the 1940 Act, the instructions to the signature requirement indicate that only the registrant must sign the registration statement. However, if the registration statement is being filed under the 1933 Act, or both the 1933 Act and the 1940 Act, the registration statement must be signed by both the registrant and the sponsor.

Proposed Form N–4

Most of the disclosure requirements of proposed Form N–4 are the same as disclosure requirements contained in proposed Form N–3. However, because of the different characteristics of trust and management accounts, many of the requirements of proposed Form N–3 have not been included in proposed Form N–4. Additionally, there are a few disclosure requirements in proposed Form N–4 that raise different issues than the requirements of proposed Form N–3. These are discussed below.

Portfolio Companies

Item 5 of proposed Form N–4 ("General Description of Registrant, Depositer, and Portfolio Companies") requires a brief description of each company in which the trust account invests ("portfolio company" [27]), including (i) the name of each company, (ii) an identification of the type of fund or a brief statement of each company's investment objectives; and (iii) identification of each company's investment adviser. Item 5 also requires a discussion of rights of contractowners, annuitants, participants, or beneficiaries to instruct the registrant on the voting of the portfolio company securities underlying their interest in the registrant.

Similarly, Item 6 ("deductions") requires a registrant to state that there are deductions from an expenses paid out of the assets of portfolio companies that are described in the accompanying prospectuses of the portfolio companies.

[24] The sponsor is only required to provide an interim balance sheet if (i) the sponsor's financial statements have never been included in an effective registration statement under the 1933 Act relating to variable annuity contracts or variable life insurance contracts, or (ii) the sponsor does not have a combined capital and surplus, if a stock company, or an unassigned surplus, if a mutual company, of $1,000,000 or more on one of three dates specified in the instructions to Item 25.

[25] The financal statements of the registrant would have to be updated even without the required undertaking because the condensed financial information regarding the registrant in the prospectus is subject to Section 10(a) of the 1933 Act.

[26] *Compare* footnote 33, *infra*.

[27] Ordinarily, trust accounts invest in one or more mutual funds. However, a trust account might invest in other segregable assets (e.g., a bank account or another unit investment trust). The definition of "portfolio company" in Instruction C is broad enough to cover any assets in which the trust account invests. It includes "any company in which th [r]egistrant invests." The term "company in which ithe [r]egistrant invests." The term "company" is defined in section 2(a)(8) of the 1940 Act [15 U.S.C. 80a–2(a) (8)] to include, among others, "a corporation, a partnership, an association, a joint-stock company, a trust, a fund, or any organized group of persons whether incorporated or not . . ."

Prospectus Delivery Legend

Item 1 requires a registrant to state that the prospectus is not valid unless accompanied by the prospectuses of the portfolio companies in which a purchaser may invest. The purposes of this requirement is to ensure that a prospective investor will receive prospectuses of all of the portfolio companies by the trust account prospectus.

Condensed Financial Information

Trust account prospectuses do not currently provide condensed financial information, although they may provide historical information that is similar to the condensed financial information provided by a management account. Each portfolio company of the trust account also currently provides its own condensed financial information. To increase the comparability of management account and trust account prospectuses, the Commission is proposing in Item 4 to require that trust accounts provide those portions of the condensed financial information provided by managment accounts as are relevant for trust accounts. Specifically, Item 4 requires that all trust accounts disclose the accumulation unit value at the beginning and the end of each period, and the number of accumulation units outstanding at the end of each period.

Yield Quotations

Currently trust accounts do not provide yield quotations for their sub-accounts investing in money market funds,[28] although the money market fund themselves do currently provide yield quotations in their prospectuses. Because it is the prospectus of the money market fund that provides yield quotations to investors of the trust account, those yield quotations reflect charges of the money market fund, but *not* the charges of the trust account. The Commission believes that a prospective investor should be able to obtain yield quotations for all separate account money market portfolios (no matter how the separate accounts are classified under the 1940 Act) that accurately reflect the performance of those separate accounts. Therefore, proposed Item 4(a) of Form N–4 requires trust accounts to provide in the prospectus a standardized yield quotation for their money market sub-accounts, which reflects all charges. Item 20 of the registration form requires a description of the method of calculating the yield quotation to be included in the Statement of Additional Information.

We believe that requiring trust accounts to provide yield quotations in their prospectuses will permit investors to compare more accurately the performance of the different kinds of separate accounts that have money market portfolios.

Because trust account yield quotations will be available to all prospective investors in a captive fund, the Commission does not believe that a captive fund should be required to provide yield quotation disclosure. Therefore, the Commission is proposing to amend Form N–1A to delete the requirements that captive funds provide yield quotations in response to Item 3(c) of that form and that they describe the method of computing yield quotations in response to Item 22.

Non-Registered Separate Accounts

Some separate accounts are not investment companies because of the investments they make or the nature of their contractowners.[29] Securities, funded by separate accounts that are not required to be registered under the 1940 Act, currently are registered under the 1933 Act on Form S–1.[30] The Commission believes that proposed Forms N–3 and N–4 should be made available to those non-registered separate accounts that are most similar to registered separate accounts. Consequently, if the separate account would be required to be registered under the 1940 Act except for the exclusion in section 3(c)(11) of the 1940 Act,[31] then the securities would be registered on either Form N–3 or Form N–4. Separate accounts relying on Section 3(c)(11) that otherwise would be management accounts would be permitted to use Form N–3. Similarly, separate accounts that otherwise would be trust accounts would be permited to use Form N–4. Other non-registered separate accounts (e.g., "real estate" separate accounts) would continue to use Form S–1. However, where the disclosure requirements of Form N–3 or N–4 would be more appropriate (e.g., items requiring disclosure about the variable annuity contract), separate account registrants on Form S–1 should use those requirements as a guide to appropriate disclosure.[32]

Staff Guidelines

Over the years numerous releases have described the views of the Commission and the staff on matters affecting investment company disclosure. In addition, the staff has developed certain policies that have not been formally announced. The Commission has recently issued guidelines for use in preparing Form N–1A [33] that bring together and update many of these positions. In order to assist registrants in preparing Form N–3 and Form N–4, the Commission is proposing additional guidelines that are applicable to disclosure by separate accounts, and is publishing these proposed guidelines as Appendices C and D to this release. Comment is invited on these and other subjects not covered by the guidelines in order to assist the Commission and the staff in developing appropriate guidelines for proposed Forms N–3 and N–4.

Amended Rules

The disclosure format of proposed Forms N–3 and N–4 was first utilized in connection with Form N–1A. At the time Form N–1A was adopted the Commission also adopted rules 495, 496, and 497 under the 1933 Act and rules 8b–11A and 8b–12A under the 1940 Act and amended rule 30d-1 under the 1940 Act [34] to implement the new disclosure

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[28] Sub-accounts represent segregated assets within a separate account. There will be at least one sub-account for each portfolio company of a trust account (two if the account offers both variable annuity contracts that qualify for special tax treatment under the Internal Revenue Code and contracts that do not qualify for special tax treatment). Similarly, a management account organized as a series company will have at least one sub-account per portfolio.

A money market sub-account of a trust account would be any sub-account funded by a money market fund. If a management account were not organized as a series company, it might have a money market sub-account funded by a money market portfolio. If a management account were organized as a series company, any money market portfolio would be its only portfolio (i.e., it would be a "money market account").

[29] *See* Sections 3(a) [15 U.S.C. 80a–3(a)] and 3(c)(11) of the 1940 Act [15 U.S.C. 80a–3(c)(11)].

[30] *See* Securities Act Release No. 5074 (July 21, 1970).

[31] Section 3(c)(11) of the 1940 Act excludes from the definition of investment company . . . any separate account the assets of which are derived solely from (A) contributions under pension or profitsharing plans which meet the requirements of section 401 of the Internal Revenue Code of 1954 or the requirements for deduction of the employer's contribution under section 404(a)(2) of such Code, (B) contributions under governmental plans in connection with which interests, participations, or securities are exempted from the registration provisions of Section 5 of the Securities Act of 1933 by section 3(a)(2)(C) of such Act, and (C) advances made by an insurance company in connection with the operation of such separate account.

[32] *Compare* Securities Act Release No. 5074 (July 21, 1970).

[33] See Securities Act Release No. 6479 (August 12, 1983).

[34] The Commission also amended rule 485 under the 1933 Act [17 CFR 230.485] and rules 18f–1, 22d–1, and 22d–2 under the 1940 Act [17 CFR 270.18f–1, 270.22d–1, and 270.22d–2]. Rule 485 does not apply to separate accounts. Rules 18f-1, 22d–1, and 22–2 can accommodate proposed Forms N–3 and N–4 without being amended.

format. The Commission is now proposing for comment amendments to rules 8b–11A, 8b–12A, and 30d–1[35] under the 1940 Act and rules 482, 495, 496, and 497 [36] under the 1933 Act in order to add Form N–3 or Form N–4 to the registration form or forms specified therein.

Additionally, the Commission is proposing to amend rule 486, the automatic effectiveness rule for post-effective amendments of registered separate accounts, to reflect the format of Forms N–3 and N–4 and to require a post-effective amendment filed to convert to Form N–3 or Form N–4 to be filed under paragraph (a) of that rule.

Transition Period

If the Commission adopts proposed Forms N–3 and N–4 on a permanent basis, as proposed or modified, those forms would eventually supplant Forms N–1, N–8B–2, and S–6 for separate accounts. However, in order to permit both the Commission and the industry to adjust to the new forms in an orderly way, the Commision would expect to provide for a transition period of one year during which all registrants could use either the existing forms or the new forms. After the expiration of any one year transition period, Forms N–1, N–8B–2, and S–6 would be retained for use by registered separate accounts which fund variable life insurance contracts until revised registration forms for such separte accounts are adopted.

Costs and Benefits

The proposed registration forms released for public comment today are intended to shorten and simplify the prospectus available to investors. Although implementation of these reporting systems might initially result in additional costs to both the Commission and the insurance industry, the Commission believes that their potential benefits to the Commission, the industry, and investors would in time exceed those additional initial costs. The Commission would, however, like to develop, if possible, cost data. Therefore, the Commission is requesting comment and data concerning the cost savings or cost burdens to insurance companies and separate accounts of all sizes affected by this proposal.

List of Subjects

17 CFR Parts 230 and 239

Reporting and recordkeeping requirements, and Securities.

17 CFR Parts 270 and 274

Investment companies, Reporting and recordkeeping requirements, and Securities.

Text of Rules and Forms

The Commission is proposing to amend Chapter II, Title 17 of the Code of Federal Regulations as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. By proposing to revise paragraph (d) of § 230.482 as follows:

§ 230.482 Advertising by an investment company as satisfying requirements of section 10.

* * * * *

(d) In the case of an investment company which holds itself out to be a "money market" fund or has an investment policy calling for investment of at least 80% of its assets in debt securities maturing in 13 months or less, any quotation of such company's yield contained in such advertisement shall be: (1) a quotation of current yield based on the method of computation prescribed in Form N–1 (set forth in §§ 239.15 and 274.11 of this chapter), Form N–1A (set forth in §§ 239.15A and 274.11A of this chapter), Form N–3 (set forth in §§ 239.17a and 274.11b of this chapter), or Form N–4 (set forth in §§ 239.17b and 274.11c of this chapter) and identifying the length of and the date of the last day in the base period used in computing that quotation, or (2) a quotation of current yield described in clause (1) above and a corresponding quotation of effective yield determined in accordance with the instructions as to the calculation of effective yield quotations contained in Forms N–1, N–1A, N–3, or N–4.

* * * * *

2. By proposing to revise paragraphs (b)(2) introductory text, (b)(3) and (b)(4) of § 230.486 and to add paragraph (b)(5) to § 230.486 as follows:

§ 230.486 Effective date of post-effective amendments filed by registered separate accounts of insurance companies.

* * * * *

(b) * * *

(2) Any prospectus or Statement of Additional Information filed as a part of such amendment does not include disclosure relating to any of the following events to the extent that such events have occurred since the effective date of the registrant's registration statement or the effective date of its most recent post-effective amendment thereto which included a prospectus or Statement of Additional Information, whichever is later, unless such events are disclosed in a post-effective amendment filed pursuant to paragraph (a) of this section which has not yet become effective:

* * * * *

(3) The registrant represents that no material event requiring disclosure in the prospectus, other than one listed in paragraph (b)(1) of this section, has occurred since the latest of three dates: (i) the effective date of the separate account's registration statement; (ii) the effective date of its most recent post-effective amendment to its registration statement which included a prospectus; or (iii) the filing date of a post-effective amendment filed pursuant to paragraph (a) of this section which has not yet become effective;

(4) Such amendment recites on the facing sheet thereof that the registrant proposes that the amendment will become effective pursuant to paragraph (b) of this section; and

(5) The amendment is not the first amendment containing a prospectus prepared on Form N–3 or N–4 to a registration statement initially prepared on Form S–1, S–5, S–6, or N–1.

* * * * *

3. By proposing to revise paragraphs (a), (c), and (d) of § 230.495 as follows:

§ 230.495 Preparation of registration statement.

(a) A registration statement on Form N–1A, Form N–3, or Form N–4 shall consist of the facing sheet of the applicable form; cross-reference sheet; a prospectus containing the information called for by such form; the information; list of exhibits; undertakings and signatures required to be set forth in such form; financial statements and schedules; exhibits; any other information or documents filed as part of the registration statement; and all documents or information incorporated

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[35] The proposed amendments to rule 8b–11A concern the number of copies of registration statements filed on Form N–3 or N–4. That must be filed with the Commission, signature requirements, and requirements for binding the registration statement. The proposed amendments to rule 8b–12A concern the quality of paper, printing, and language requirements for registration statements filed on Form N–3 or N–4. The proposed amendments to rule 30d–1 concern, among other things, the transmission to security holders of a copy of a management account's currently effective prospectus or Statement of Additional Information, or both, as the equivalent of the annual and semi-annual reports required by the rule.

[36] The proposed amendments to rule 495 concern the preparation of registration statements on Form N–3 or N–4. The proposed amendments to rule 496 concern the contents of a prospectus or Statement of Additional Information used more than nine months after the effective date of a registration statement filed on Form N–3 or N–4. The proposed amendments to rule 497 concern the filing of copies of the prospectus as well as the Statement of Additional Information.

by reference in the foregoing (whether or not required to be filed).

* * * * *

(c) In the case of a registration statement filed on Form N–1A, Form N–3, or Form N–4, Parts A and B shall contain the information called for by each of the items of the applicable Part, except that unless otherwise specified, no reference need be made to inapplicable items, and negative answers to any item may be omitted. Copies of Parts A and B may be filed as part of the registration statement in lieu of furnishing the information in item-and-answer form. Wherever such copies are filed in lieu of information in item-and-answer form, the text of the items of the form is to be omitted from the registration statement, as well as from Parts A and B, except to the extent provided in paragraph (d) of this rule.

(d) In the case of a registration statement filed on Form N–1A, Form N–3, or Form N–4, where any item of those forms calls for information not required to be included in Parts A and B, (generally Part C of such form) the text of such items, including the numbers and captions thereof, together with answers thereto shall be filed with Parts A and B under cover of the facing sheet of the form as a part of the registration statement. However, the text of such items may be omitted provided the answers are so prepared as to indicate the coverage of the item without the necessity of reference to the text of the item. If any such item is inapplicable, or the answer thereto is in the negative, a statement to that effect shall be made. Any financial statements not required to be included in Parts A or B shall also be filed as part of the registration proper, unless incorporated by reference pursuant to Rule 411 (§ 230.411 of this chapter).

4. By proposing to revise § 230.496 as follows:

§ 230.496 Contents of prospectus used after nine months.

In the case of a registration statement filed on Form N–1A, Form N–3, or Form N–4 there may be omitted from any prospectus after the effective date of the registration statement any information previously required to be contained in the prospectus or the Statement of Additional Information insofar as later information covering the same subjects, including the latest available certified financial statements, as of a date not more than 16 months prior to the use of the prospectus or the Statement of Additional Information is contained therein.

5. By proposing to revise paragraphs (c) and (e) of § 230.497 as follows:

§ 230.497 Filing of prospectuses—number of copies.

* * * * *

(c) For investment companies filing on Form N–1A (§ 239.12A and § 274.11A of this chapter), Form N–3 (§ 239.17a and § 274.11b of this chapter), or Form N–4 (§ 239.17b and § 274.11c of this chapter), within five days after the effective date of a registration statement or the commencement of a public offering after the effective date of a registration statement, whichever occurs later, ten copies of each form of prospectus and Statement of Additional Information used after the effective date in connection with such offering shall be filed with the Commission in the exact form in which it was used.

* * * * *

(e) For investment companies filing on Form N–1A, Form N–3, or Form N–4, after the effective date of a registration statement no prospectus which purports to comply with section 10 of the Act or Statement of Additional Information which varies from any form of prospectus or Statement of Additional Information filed pursuant to paragraph (b) of this rule shall be used until copies thereof have been filed with, or mailed for filing to, the Commission, together with five copies of a cross reference sheet similar to that previously filed, if changed.

* * * * *

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

6. By proposing to add § 239.17a to read as follows:

§ 239.17a Form N–3, registration statement for separate accounts organized as management investment companies.

Form N–3 shall be used for the registration under the Securities Act of 1933 of securities of separate accounts that offer variable annuity contracts and register under the Investment Company Act of 1940 as management investment companies and certain other separate accounts. This form is also to be used for the registration statement of such separate accounts pursuant to Section 8(b) of the Investment Company Act of 1940 (§ 274.11b of this chapter).

7. By proposing to add § 239.17b to read as follows:

§ 239.17b Form N–4, registration statement for separate accounts organized as unit investment trusts.

Form N–4 shall be used for the registration under the Securities Act of 1933 of securities of separate accounts that offer variable annuity contracts and register under the Investment Company Act of 1940 as unit investment trusts and certain other separate accounts. This form is also to be used for the registration statement of such separate accounts pursuant to Section 8(b) of the Investment Company Act of 1940 (§ 274.11c of this chapter).

8. By proposing to revise the first clause of paragraph (c) of Item 3 of Form N–1A in § 239.15A and § 274.11A to read as follows (Form N–1A does not appear in the Code of Federal Regulations):

§§ 239.15A, 274.11A Form N–1A [Amended]

* * * * *

Item 3. *Condensed Financial Information.*

* * * * *

(c) For a Registrant which holds itself out to be a "money market" fund or has an investment policy calling for investment of at least 80% of its assets in debt securities maturing in thirteen months or less, other than a Registrant that sells its shares exclusively to separate accounts which prepare registration statements on Form N–4, furnish: . . .

* * * * *

9. By proposing to revise Item 22 of Form N–1A in § 239.15A and § 274.11A to read as follows (Form N–1A does not appear in the Code of Federal Regulations):

§§ 239.15A, 274.11A Form N–1A [Amended]

* * * * *

Item 22. *Calculations of Yield Quotations of Money Market Funds.*

For a Registrant which holds itself out to be a "money market" fund or has an investment policy calling for investment of at least 80 percent of its assets in debt securities maturing in thirteen months or less, other than a Registrant that sells its shares exclusively to separate accounts which prepare registration statements on Form N–4, furnish a description of the method by which the yield quotation provided in the prospectus pursuant to Item 3(c) is computed.

* * * * *

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

10. By proposing to revise paragraph (a) of § 270.8b–11A as follows:

§ 270.8b–11A Number of copies-signatures-binding.

(a) In the case of a registration statement filed on Form N–1A, Form N–3, or Form N–4, three complete copies of each part of the registration statement (including exhibits and all other papers and documents filed as part of Part C of the registration statement) shall be filed with the Commission.

* * * * *

11. By proposing to revise paragraph (a) of § 270.8b–12A as follows:

§ 270.8b–12A Requirements as to paper, printing and language.

(a) In the case of a registration statement filed on Form N–1A, Form N–3, or Form N–4, Part C of the registration statement shall be filed on good quality, unglazed, white paper, no larger than 8½ by 11 inches in size, insofar as practicable. The prospectus and Statement of Additional Information, however, may be filed on smaller-sized paper provided that the size of paper used in each document is uniform.

* * * * *

12. By proposing to revised paragraph (a) of § 270.30d–1 as follows:

§ 270.30d–1 Reports to stockholders of management companies.

(a) Every registered management company shall transmit to each stockholder of record, at least semi-annually, a report containing the financial statements required to be included in such reports by the company's registration statement form under the 1940 Act (instructions E and F of Item 18 of Form N–1, instructions 5 and 6 of Item 23 of Form N–1A, Item 20 of Form N–2, or Item 25(a) of Form N–3 except that the initial report of a newly registered company shall be made as of a date not later than the close of the fiscal year or half-year occurring on or after the date on which the company's notification of registration under the 1940 Act is filed with the Commission.

* * * * *

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

13. By proposing to add § 274.11b to read as follows:

§ 274.11b Form N–3, registration statement of separate accounts organized as management investment companies.

Form N–3 shall be used as the registration statement to be filed pursuant ot Section 8(b) of the Investment Company Act of 1940 by separate accounts that offer variable annuity contracts to register as management investment companies. This form shall also be used for registration under the Securities Act of 1933 of the securities of such separate accounts (§ 239.17a of this chapter).

14. By proposing to add § 274.11c to read as follows:

§ 274.11c Form N–4, registration statement of separate accounts organized as unit investment trusts.

Form N–4 shall be used as the registration statement to be filed pursuant to Section 8(b) of the Investment Company Act of 1940 by separate accounts that offer variable annuity contracts to register as unit investment trusts. This form shall also be used for registration under the Securities Act of 1933 of the securities of such separate accounts (§ 239.17b of this chapter).

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman of the Commission has certified that proposed Form N–3, proposed Form N–4, the proposed amendments to Form N–1A, and the proposed amendments to rules 482, 486, 495, 496, and 497 under the 1933 Act and 8b–11a, 8b–12A, and 30d–1 under the 1940 Act, if adopted, will not have a significant economic impact on a substantial number of small entities. This certification, including the reasons therefore is attached to this release.

Paperwork Reduction Act

The information collection required by these registration forms has been submitted to the Office of Management and Budget.

Statutory Authority

The Commission hereby proposes for comment Form N–3, Form N–4 amendments to Form N–1A, amendment to rules 482, 486, 495, 496, and 497 under the Securities Act of 1933, and amendments to rules 8b–11A, 8b–12A, and 30d–1 under the Investment Company Act of 1940 pursuant to the provisions of sections 7, 10, and 19 of the Securities Act of 1933 [15 U.S.C. 77g, 77j, and 77s] and sections 8, 30, and 38 of the Investment Company Act of 1940 [15 U.S.C. 80a–8, 80a–29, and 80a–37].

By the Commission.
December 23, 1983.
Shirley E. Hollis,
Assistant Secretary.

Regulatory Flexibility Certification

I, John S. R. Shad, Chairman of the Securities and Exchange Commission, hereby certify pursuant to 5 U.S.C. 605(b) that proposed forms N–3 and N–4 and the proposed amendments to form N–1A, rules 482, 486, 495, 496, and 497 under the Securities Act of 1933 ("1933 Act"), and rules 8b–11A, 8b–12A, and 30d–1 under the Investment Company Act of 1940 ("1940 Act"), if adopted, will not have a significant economic impact on a substantial number of small entities. The reason for this certification is that there are few, if any, registered insurance company separate accounts, when considered as a part or product of their sponsoring insurance companies, that qualify as "small entities," as that term has been defined in the Commission's rules.

Dated: December 22, 1983.
John S. R. Shad,
Chairman.

Form N–3

Securities and Exchange Commission

Washington, D.C. 20549

Form N–3

Registration Statement Under the Securities Act of 1933 ☐

Pre-Effective Amendment No. —— ☐
Post-Effective Amendment No. —— ☐
and/or

Registration Statement Under the Investment Company Act of 1940 ☐

Amendment No. ——
(Check appropriate box or boxes.)
(Exact Name of Registrant) ——————
(Name of Sponsor) ——————
(Address of Sponsor's Principal Executive Offices) ——————
(Zip Code) ——————
Sponsor's Telephone Number, including Area Code ——————
(Name and Address of Agent for Service) ——
Approximate Date of Proposed Public Offering ——————

It is proposed that this filing will become effective (check appropriate space)

——Immediately upon filing pursuant to paragraph (b)
——on (date) pursuant to paragraph (b)
——60 days after filing pursuant to paragraph (a)
7——on (date) pursuant to paragraph (a) of rule 486

CALCULATION OF REGISTRATION FEE UNDER THE SECURITIES ACT OF 1933

Title of securities being registered	Amount being registered	Proposed maximum offering price per unit	Proposed maximum aggregate offering price	Amount of registration fee

The "Approximate Date of Proposed Public Offering" and the table showing the calculation of the registration fee under the Securities Act of 1933 should be included only where securities are being registered under the Securities

Act. Registrants that are registering an indefinite number of securities under the Securities Act pursuant to Investment Company Act Rule 24f–2 [17 CFR 270.24f–2] should include the declaration required by Rule 24f–2(a)(1) on the facing sheet, instead of or in addition to the Securities Act registration fee table

Contents of Form N–3

General Instructions
- A. Rule as to Use of Form N–3
- B. Registration Fees
- C. Special Terms
- D. Application of General Rules and Regulations
- E. Amendments
- F. Incorporation by Reference
- G. Documents Comprising the Registration Statement or Amendment
- H. Preparation of the Registration Statement or Amendment

Part A. Information Required in a Prospectus
- Item 1. Cover Page
- Item 2. Definitions
- Item 3. Synopsis or Highlights
- Item 4. Condensed Financial Information
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- Item 6. Management
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- Item 8. General Description of Variable Annunity Contracts
- Item 9. Annunity Period
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- Item 11. Purchases
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- Item 14. Legal Proceedings

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- Item 15. Cover Page
- Item 16. Table of Contents
- Item 17. General Information and History
- Item 18. Investment Objectives and Policies
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- Item 24. Calculation of Yield Quotations of Money Market Sub-Accounts
- Item 25. Financial Statements

Part C. Other Information
- Item 26. Financial Statements and Exhibits
- Item 27. Directors and Officers of the Sponsor
- Item 28. Persons Controlled by or Under Common Control with the Sponsor or Registrant
- Item 29. Number of Contractowners
- Item 30. Indemnification
- Item 31. Business and Other Connections of Investment Adviser
- Item 32. Principal Underwriters
- Item 33. Location of Accounts and Records
- Item 34. Management Services
- Item 35. Undertakings

Signatures

General Instructions

A. Rule as To Use of Form N–3

Form N–3 shall be used by all separate accounts offering variable annuity contracts which are registered under the Investment Company Act of 1940 ("1940 Act") as management investment companies for: (1) an initial registration statement required by Section 8(b) of the 1940 Act [15 U.S.C. 80a–8(b)] and any amendments thereto; (2) a registration statement required under the Securities Act of 1933 ("1933 Act") and any amendments thereto; or (3) any combination of these 1940 Act and 1933 Act filings.

Form N–3 shall also be used to file a registration statement under the 1933 Act, and any amendments thereto, for variable annuity contracts funded by separate accounts which would be required to be registered under the 1940 Act as management investment companies except for the exclusion provided by Section 3(c)(11) of the 1940 Act.

B. Registration Fees

Section 6(b) of the 1933 Act [15 U.S.C. 77(f)(b)] and Rule 457 [17 CFR 230.457] set forth the fee requirements under the 1933 Act. Rule 8b–6 under the 1940 Act [17 CFR 270.8b–6] sets forth the fee for filing an initial registration statement under that Act. The 1940 Act fee is in addition to the fee required under the 1933 Act. Registrants that are increasing the number or amount of securities registered or registering an indefinite number of their securities are also directed to Rules 24e–2 and 24f–2, respectively, under the 1940 Act [17 CFR 270.24e–2 and 270.24f–2] to compute the filing fee.

C. Special Terms

The following terms, when used in Form N–3, shall mean:

Registrant. The term "Registrant" means the separate account (as defined in Section 2(a)(37) of the 1940 Act [15 U.S.C. 80a–2(a)(37)]) which offers the variable annuity contracts.

Sponsor. The term "sponsor" means the sponsoring insurance company of the Registrant.

Variable Annuity Contract. The term "variable annuity contract" means any accumulation or annunity contract, any portion thereof, or any unit of interest or participation therein pursuant to which the value of the contract, either before or after annunitization, or both, varies according to the investment experience of the separate account in which the contract participates. Unless the context otherwise requires, the term refers to the variable annuity contracts being offered pursuant to the Registration Statement prepared on this Form.

Contractowner Account. The term "contractowner account" means any account of any contractowner, participant, annuitant, or beneficiary to which (net) purchase payments under a variable annuity contract are credited and from which administrative or transaction charges may be debited.

D. Application of General Rules and Regulations

If the registration statement is being filed under both the 1933 and 1940 Acts or under only the 1933 Act, the General Rules and Regulations under the 1933 Act, particularly Regulation C [17 CFR 230.400–497], shall apply, and compliance with them will be deemed to meet the Rules for 1940 Act Registration Statements. However, if the registration statement is being filed only under the 1940 Act, the General Rules and Regulations under that Act, particularly Regulation 8(b) [17 CFR 270.8b–1 to 8b–32], shall apply, except as noted in General Instruction E below.

E. Amendments

Attention is specifically directed to Rule 8b–16 under the 1940 Act [17 CFR 270.8b–16] which requires the annual amendment of Registration Statements filed pursuant to Section 8(b) of the 1940 Act. Where Form N–3 has been used to file a registration statement under both the 1933 and 1940 Acts, any amendment of that registration statement shall be deemed to be filed under both Acts unless otherwise indicated on the facing sheet.

Filings of amendments on Form N–3 should contain the number of copies specified in 1933 Act Rule 472 [17 CFR 230.472].

F. Incorporation by Reference

A Registrant may, at its discretion, incorporate all or part of the Statement of Additional Information into the prospectus, without physically delivering the Statement of Additional Information to investors with the prospectus. But the Statement of Additional Information must be available to the investor upon request at no charge and any information or documents incorporated by reference into the Statement of Additional Information must be provided along with the Statement of Additional Information.

Rule 411 under the 1933 Act [17 CFR 230.411], and Rules 0–4, 8b–23, 8b–24, and 8b–32 under the 1940 Act [17 CFR 270.0–4, 270.8b–23, 270.3b–24, and 270.8b–32] contain guidance on

incorporating information or documents by reference into a registration statement filed on Form N–3. In general, a Registrant may incorporate by reference, in the answer to any item of Form N–3 not required to be in the prospectus, any information elsewhere in the registration statement or in other statements, applications, or reports filed with the Commission.

The rules on incorporation by reference under both the 1933 Act and the 1940 Act are subject to the limitations of Rule 24 of the Commission's Rules of Practice [17 CFR 201.24]. Since Rule 24 may be amended from time to time, Registrants are advised to review the Rule before incorporating by reference any documents as an exhibit to a registration statement.

Subject to these rules, a Registrant may incorporate by reference into the prospectus or the Statement of Additional Information in response to Items 4(a) or 25 of Form N-3 the information in any report meeting the requirements of Sections 30(d) of the 1940 Act [15 U.S.C. 80a-29(d)] and Rule 30d-1 [17 CFR 270.30d-1], provided:

1. The material incorporated by reference is prepared in accordance with, and covers the periods specified by, this Form;

2. The Registrant states in the prospectus or the Statement of Additional Information, at the place where the information would normally appear, that the information is incorporated by reference from a report to securityholders. The Registrant may also describe, in either the prospectus, the Statement of Additional Information, or Part C of the Registration Statement (in response to Item 26(a)), any parts of the report to securityholders that are not incorporated by reference and are not a part of the Registration Statement; and

3. The material incorporated by reference is provided with the prospectus or the Statement of Additional Information to each person to whom the prospectus or the Statement of Additional Information is given, unless the person holds securities of the Registrant and otherwise has received a copy of the material. However, Registant must state in the prospectus or the Statement of Additional Information that it will furnish, without charge, another copy of such report on request and the name, address, and telephone number of the person to contact.

G. Documents Comprising Registration Statement or Amendment

1. A registration statement or an amendment to it filed under both the 1933 and 1940 Acts, except for an amendment described in paragraph 5 below, shall consist of the facing sheet of the Form, the cross-reference sheet required by Rule 495(a) under the 1933 Act [17 CFR 230.495(a)], Part A, Part B, Part C, required signatures, and all other documents filed as a part of the registration statement.

2. A registration statement or an amendment to it which is filed under only the 1933 Act shall contain all the information and documents specified in paragraph 1 of this Instruction G, except for an amendment filed only under Sections 24 (e) or (f) of the 1940 Act [15 U.S.C. 80a–24(e), 80a–24(f)].

3. An amendment to a 1933 Act registration statement filed only to register additional securities under Section 24(e) or 24(f) of the 1940 Act need only consist of the facing sheet of the Form, required signatures, and, if filed pursuant to Section 24(e) of the 1940 Act, an opinion of counsel as to the legality of the securities being registered. Registrants are reminded that an opinion of counsel must accompany a Rule 24f–2 notice filed by Registrants that have registered an indefinite number of their shares.

4. A registration statement or an amendment to it which is filed under only the 1940 Act shall consist of the facing sheet of the Form, a cross-reference sheet, responses to all items of Parts A and B except Items 1, 2, 9, and 10, responses to all items of Part C except Items 26(b) (5), (12), (13), and (14), required signatures, and all other documents filed as part of the registration statement.

5. An amendment permitted by paragraph (d)(2) of Rule 486 under the 1933 Act [17 CFR 230.486], which is filed under paragraph (b) of that Rule to change the disclosure in an amendment filed under paragraph (a), shall consist of the facing sheet of the Form, a cross-reference sheet, responses to any items of Part A, Part B, or Part C that are amended or supplemented by the amendment, required signatures, and all other documents filed as part of the registration statement.

H. Preparation of the Registration Statement or Amendment

The instructions for Form N–3 are in three parts. Part A relates to the prospectus required by Section 10(a) of the 1933 Act; Part B relates to the Statement of Additional Information that must be provided upon request to recipients of the prospectus; Part C relates to other information that is required to be in the registration statement.

Part A: The Prospectus—The purpose of the prospectus is to provide essential information about the Registrant in a way that will help investors decide whether to purchase the securities being offered. The prospectus should be clear, concise, and understandable.

Avoid the use of technical or legal terms, complex language, or excessive detail.

1. Responses to the items of Part A should be as simple and direct as possible and include only information needed to understand the fundamental characteristics of the Registrant.

2. Descriptions of practices that are required by law generally should not include detailed discussions of the law itself.

3. Responses to items that use terms such as "list" or "identify" should include only a short explanation or description.

Part B: Statement of Additional Information—The items in Part B call for additional information about Registants which is not required in the prospectus, but which may be of interest to some investors. In addition, Part B gives Registants an opportunity to provide information about matters that they believe may interest investors.

In most cases, Registrants should not repeat in Part B information that is in the prospectus. However, the prospectus and the Statement of Additional Information, Part B of this Form N–3, are independent documents. Therefore, the Statement of Additional Information should be understandable by itself.

General Instructions for Parts A and B—1. The information in the prospectus and the Statement of Additional Information should be organized to make it easy to understand the organization and operation of the Registrant and the variable annuity contracts. The information need not be in any particular order, with the following exceptions:

(a) Items 1, 2, 3, and 4 (a) and (b) must be in numerical order in the prospectus and may not be preceded or separated by any other item, except as permitted by the instructions to Item 3.

(b) Item 4, "Condensed Financial Information," should not be preceded by any other chart or table (except for the table of contents required by Rule 481(c) under the 1933 Act [17 CFR 230.481(c)]).

(c) All of the information required by Item 7(a), "Deductions and and Expenses," should be in one place in the prospectus.

2. The prospectus or the Statement of Additional Information may contain information in addition to what is called for by this Form, provided that the

information is not incomplete, inaccurate, or misleading and does not, because of its nature, quantity, or manner of presentation, obscure, or impede understanding of required information.

3. The statutory provisions relating to the dating of the prospectus apply equally to the dating of the Statement of Additional Information for purposes of Rule 423 under the 1933 Act [17 CFR 230.423]. Furthermore, the Statement of Additional Information should be made available at the same time that the prospectus becomes available for purposes of Rules 430 and 460 under the 1933 Act [17 CFR 230.430, 230.460].

4. Instructions for charts, graphs, tables, and sales literature:

(a) A Registration Statement on this Form may include any chart, graph, or table that is not misleading; however, no chart, graph, or table should precede the condensed financial information specified in Items 4 (a) and (b).

(b) If "sales literature" is included in the prospectus, (1) the literature should not significantly lengthen the prospectus, and it should not obscure essential disclosure and (2) members of the National Association of Securities Dealers, Inc. (NASD) are not relieved of the filing and other requirements of the NASD for investment company sales literature (See Securities Act Release No. 5359, January 26, 1973 [38 FR 7220 (March 19, 1973)]).

Part A. Information Required in a Prospectus

Item 1. *Cover Page*

(a) The outside cover page must contain the following information:

(i) the Registrant's name;

(ii) the sponsor's name;

(iii) the types of variable annuity contracts offered by the prospectus (e.g., single premium immediate, flexible premium deferred);

(iv) the types of qualified plans, if any, with which the contracts may be used (e.g., individual retirement annuities, simplified employee pension plans);

(iv) identification of the type of separate account (e.g., money market account, bond account) or a brief statement of the Registrant's investment objectives;

(vi) a statement or statements that (A) the prospectus sets forth information about the Registrant that a prospective investor ought to know before investing; (B) the prospectus should be retained for future reference; (C) additional information about the Registrant has been filed with the Commission and is available upon request and without charge (This statement should explain how to obtain the Statement of Additional Information and whether any of it has been incorporated by reference into the prospectus.);

(vii) the date of the prospectus, and the date of the Statement of Additional Information;

(viii) the statement required by Rule 481(b)(1) under the 1933 Act [17 CFR 230.481(b)(1)]; and

(ix) such other information as is required by rules of the Commission or of any other governmental authority having jurisdiction over the Registrant for the issuance of its securities.

(b) The cover page may include other information, provided that it does not, by its nature, quantity, or manner of presentation, impede understanding of the required information.

Item 2. *Definitions*

Define the special terms used in the prospectus (e.g., accumulation unit, contractowner, participant, sub-account, etc.).

Instruction: Only special terms used throughout the prospectus must be defined in the glossary required by this Item. If a special term, e.g., net investment factor, is used in only one section of the prospectus, it may be defined there. However, all special terms used in the prospectus must be defined.

Item 3. *Synopsis or Highlights*

(a) The Registrant should include a synopsis of the information contained in the prospectus when the prospectus is long or complex. Normally, a synopsis should not be provided where the prospectus is not more than twelve printed pages.

(b) The synopsis should be a clear and concise description of the key features of the offering and the Registrant, with cross-references to relevant disclosures elsewhere in the prospectus.

(c) If the prospectus does not include a synopsis and the variable annuity contract contains any of the following characteristics, they must be highlighted:

(i) any portion of the sales load is assessed upon redemption or annuitization;

Instruction: If any portion of the sales load is assessed upon redemption or annuitization, the response to this Item need only state the maximum percentage load that may be assessed against any given amount redeemed or annutized and a cross reference to more complete description of the sales load in the prospectus.

(ii) a penalty tax may be assessed pursuant to Section 72(q) of the Internal Revenue Code [26 U.S.C. 72(q)] upon withdrawal of amounts accumulated under any variable annuity contract; or

(iii) the variable annuity contract contains a revocation right (e.g., a "ten-day free look" provision).

Instruction: The highlighted information may not be preceded by the response to any Item except 1 or 2. It may precede Item 2 or be on the cover page. The information does not have to appear under a separate caption.

Item 4. *Condensed Financial Information*

(a) Furnish the following information for each class of accumulation units of the Registrant, or for the Registrant and its subsidiaries consolidated as prescribed in Rule 6–03 of Regulation S–X [17 CFR 210.6–03].

Per Accumulation Unit Income and Capital Changes

(for an accumulation unit outstanding throughout the period)

1. investment income;
2. expenses;
3. net investment income;
4. net realized and unrealized gains (losses) on securities;
5. net increase (decrease) in accumulation unit value;
6. accumulation unit value at beginning of period;
7. accumulation unit value at end of period;
8. expenses to average net assets;
9. net investment income to average net assets;
10. portfolio turnover rate;
11. number of accumulation units outstanding at end of period.

Instructions: 1. The information shall be presented in comparative columnar form for each of the last ten fiscal years of the Registrant (or for the life of the Registrant and its immediate predecessors, if less) but only for periods subsequent to the effective date of Registrant's first 1933 Act Registration Statement. In addition, the information shall be presented for the period between the end of the latest fiscal year and the date of the latest balance sheet or statement of assets and liabilities furnished.

2. Per accumulation unit amounts shall be given at least to the nearest cent. If the computation of the offering price is extended to tenths of a cent or more, then the amounts on the table shall be given in tenths of a cent.

3. Per accumulation unit income and capital changes should only be given for sub-accounts that fund obligations of the Registrant under variable annuity contracts offered by means of this prospectus.

4. If the investment adviser has been changed during the period covered by this Item, the date(s) of such change(s) should be shown in a footnote.

5. The condensed financial information for not less than the latest five fiscal years shall be audited. The auditor's statement pertaining to the condensed financial information need not be included in the prospectus.

6. The amount to be shown at caption 3 may be derived from the difference between the per accumulation unit figures obtained by dividing the amount of undistributed net income attributable to an accumulation unit at the beginning and end of the year by the number of accumulation units outstanding on those respective dates. (Other acceptable methods may be used. If another method is used, the method should be explained in a footnote to this table.) The amounts to be shown at captions 1 and 2 are derived by applying to the net investment income on a per accumulation unit basis the ratio of such items, as shown in the financial statement prepared under Rule 6-04 of Regulation S-X [17 CFR 210.6-04], to the net income as shown in such statements.

7. "Expenses," as used in caption 2 above, include the expenses described in caption 2 of Rule 6-07 of Regulation S-X. If there were income deductions such as those described in captions 3 and 5 of that Rule, compute the per accumulation unit amounts thereof and state them separately immediately after caption 2 above.

8. The amount to be shown at caption 4, while mathematically determinable by the summation of amounts computed for as many periods during the year as the number of accumulation units increased or decreased is also the balancing figure derived from the other figures in the statement and should be so computed. The amount shown at this caption for an accumulation unit outstanding throughout the year may not accord with the change in the aggregate gains and losses in the portfolio securities for the year because of the timing of increases and decreases in the number of accumulation units in relation to fluctuating market values for the portfolio.

9. The "average net assets," as used in captions 8 and 9, shall be computed upon the basis of the value of the net assets determined no less frequently than as of the end of each month.

10. The portfolio turnover rate to be shown at caption 10 shall be calculated as follows:

a. The rate of portfolio turnover shall be calculated by dividing (A) The lesser of purchases or sales of portfolio securities for the particular fiscal year by (B) the monthly average of the value of the portfolio securities owned by the Registrant during the particular fiscal year. Such monthly average shall be calculated by totaling the values of the portfolio securities as of the beginning and end of the first month of the particular fiscal year and as of the end of each of the succeeding eleven months, and dividing the sum by 13.

b. For the purposes of this Item, there shall be excluded from both the numerator and the deonominator all U.S. Government securities (short-term and long-term) and all other securities, including options, whose maturities or expiraton dates at the time of acquisition were one year or less. Purchases shall include any cash paid upon the conversion of one portfolio security into another. Purchases shall also include the cost of rights or warrants purchased. Sales shall include the net proceeds of the sale of rights or warrants. Sales shall also include the net proceeds of portfolio securities which have been called, or for which payment has been made through redemption or maturity

c. If during the fiscal year the Registrant acquired the assets of another separate account in exchange for its own accumulation units, it shall exclude from purchases the value of securities so acquired, and from sales all sales of such securities made following a purchase-of-assets transaction to realign the Registrant's portfolio. In such event, the Registrant shall also make appropriate adjustment in the denominator of the portfolio turnover computation. The Registrant must disclose such exclusions and adjustments in its answer to this Item.

d. Short sales, and put and call options expiring more than one year from date of acquisition, are included in purchases and sales for purposes of this Item. A short sale should be treated as an increase in sales and the covering of a short sale should be treated as an increase in purchases.

11. The number of accumulation units outstanding at the end of each period may be shown to the nearest thousand (000 omitted), provided it is indicated that such has been done.

(b) Give the following information as of the end of each of the Registrant's last ten fiscal years for each class of senior securities (including bank loans) of the Registrant. If consolidated statements were prepared as of any of the dates specified, the information shall be furnished on a consolidated basis:

Year	Amount of [redacted] outstanding at end of period	Average amount of debt outstanding during the period	Average number of registrant's units outstanding during the period	Average amount of debt per unit during the period
(1)	(2)	(3)	(4)	(5)

Instructions: 1. Instructions 1, 2, and 5 to Item 4(a) also apply here.

2. The method used to determine the averages shown above (e.g., weighted, monthly, daily, etc.) must be described.

3. Column 5 is derived by dividing the amount shown in column 3 by the number shown in column 4.

(c) For each sub-account that is held out to be a "money market" sub-account or has policies calling for investment of at least 80% of its assets in debt securities maturing in thirteen months or less, furnish: (1) a yield quotation based on the seven days ended on either (A) the date of the most recent financial statements of the Registrant included in the prospectus or (B) the last day of the most recent month for which it is practicable both to make the required calculation and to include the results in the prospectus, computed by determing the net change, exclusive of capital changes, in the value of a hypothetical pre-existing account having a balance of one accumulation unit of the sub-account at the beginning of the period, dividing the net change in account value by the value of the account at the beginning of the base period to obtain the base period return, subtracting a hypothetical charge reflecting deductions from contractowner accounts, and multiplying the difference by (365/7) with the resulting yield figure carried to at least the nearest hundredth of one percent; and (2) the length of and the date of the last day in the base period used in computing that quotation

Instructions: 1. When calculating the yield quotation required in subsection (c) above, the determination of net change in account value must reflect all deductions that are charged to all contractowner accounts in proportion to the length of the base period and the sub-account's average account size.

2. Deductions from purchase payments and sales loads assessed at the time of redemption or annuitization should not be reflected in the computation of current yield.

3. The capital changes to be excluded from the calculation of yield required by this Item are realized gains and losses from the sale of securities and unrealized appreciation and depreciation.

4. With the presentation of the yield quotation, the Registrant must disclose any material net change that would result from the inclusion of capital changes that are excluded in the computation pursuant to this Item.

5. The Registrant need not furnish a yield figure for both an accumulation unit of a sub-account for qualified contracts and an accumulation unit for a sub-account for non-qualified contracts funded by the same portfolio, if the two yield figures would not be materially different.

6. The Registrant may furnish separate yield figures for individual and group contracts.

7. In addition to the yield quotation required by this Item, the Registrant may also include a quotation of effective yield, carried to at least the nearest hundredth of one percent, computed by compounding the unannualized base period return by adding 1 to the base period return, raising the sum to a power equal to 365 divided by 7, and substracting 1 from the result, according to the following formula: Effective yield = (Base Period Return + 1) $365/7 - 1$.

8. When calculating the yield quotation required in subsection (c) above, Registrants that choose to make such an election on an annual basis may use a median account size in place of an average account size in determining the base period return.

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(d) If all the required financial statements of the Registrant and the sponsor (see Item 25) are not in the prospectus, state, under a separate caption, where the financial statements may be found. Briefly explain how any financial statements not in the Statement of Additional Information may be obtained.

Item 5. *General Description of Registrant and Sponsor*

Concisely discuss the organization and operation or proposed operation of the Registrant. Include the information specified below.

(a) Briefly describe the sponsor, including:

(i) its name, address, and a description of the general nature of its business;

Instruction: The description of the sponsor's business should be short and need not list all of the businesses in which the sponsor engages or identify the jurisdictions where it does business, if a general description (e.g., "life insurance" or "reinsurance") is provided.

(ii) the date and form of organization of the sponsor and the name of the state or other jurisdiction under whose laws it is organized; and

(iii) if the sponsor is controlled by another person, the name of that person and the general nature of its business (If the sponsor is subject to more than one level of control, simply give the name of the ultimate control person.).

(b) Briefly describe the Registrant, including:

(i) the date form of organization of the Registrant (i.e., open-end investment company);

(ii) the subclassification of the Registrant pursuant to Section 5(b) of the 1940 Act (15 U.S.C. 80a-5(b);

(iii) a statement that although income, gains, and losses, whether or not realized, from assets allocated to the Registrant, are, in accordance with the applicable variable annuity contracts, credited to or charged against the Registrant without regard to other income, gains, or losses of the sponsor, all obligations arising under the variable annuity contracts are general corporate obligations of the sponsor;

(iv) whether there are sub-accounts of the Registrant (i.e., for qualified and non-qualified contracts or for different portfolios of the Registrant); and

(v) if 10 percent or more of the assets of any sub-account are attributable to one variable annuity contract, the name and address of the contract owner of, and the percentage of assets attributable to, the variable annuity contract.

Instruction: Sub-accounts that fund obligations of the Registrant under contracts that are not offered by means of this prospectus need not be described.

(c) Concisely describe the investment objectives and policies of the Registrant, including:

(i) whether those objectives may be changed without the approval of a majority of votes;

(ii) how the Registrant proposes to achieve its objectives including:

(A) the types of securities in which Registrant invests or will invest principally and any special investment practices or techniques that will be used and

(B) the identity of any particular industry or group of industries in which the Registrant proposes to concentrate. (Concentration, for purposes of this Item, is deemed to be investment of 25% or more of the value of Registrant's total assets in a particular industry or group of industries. The policy on concentration should be consistent with Registrant's name.);

(iii) subject to subparagraph (d) of this Item, the identity of other policies of Registrant that may be changed only with the approval of a majority of votes, including those policies which Registrant deems to be fundamental within the meaning of Section 8(b) of the 1940 Act; and

(iv) subject to subparagraph (d) of this Item, the significant investment policies or techniques (such as risk arbitrage, repurchase agreements, forward delivery contracts, investing for control or management) that are not described pursuant to subparagraphs (B) or (C) above that Registrant employs or intends to employ in the foreseeable future.

(d) Discussion of types of investments that will not be Registrant's principal portfolio emphasis, and of related policies or practices, should generally receive less emphasis in the prospectus, and under the circumstances set forth below may be omitted or limited to information necessary to identify the type of investment, policy, or practice. Specifically,

(i) do not disclose a policy which prohibits a particular practice, or one which permits a particular practice but which the Registrant has not used within the past year and does not intend to use in the foreseeable future, and

(ii) if a policy limits a particular practice so that no more than 5% of Registrant's net assets are at risk, or if Registrant has not followed that practice within the last year, and does not intend to follow such practice in the foreseeable future, so that more than 5% of Registrant's net assets are at risk, simply identify the practice.

(e) Discuss briefly the principal risk factors associated with investment in Registrant, including factors peculiar to the Registrant as well as those generally associated with investment in a company with investment policies and objectives similar to Registrant's.

Item 6. *Management*

Describe concisely how the business of the Registrant is managed, including:

(a) the responsibilities of the board of managers (In responding to this Item, simply give a general statement as to the responsibilities of a board of directors under the applicable laws of the sponsor's jurisdiction of organization.);

(b) for each investment adviser of the Registrant:

(i) its name and address and a brief description of its experience as an investment adviser, and, if the investment adviser is controlled by another person, the name of that person and the general nature of its business (If the investment adviser is subject to more than one level of control, simply give the name of the ultimate control person.) and

(ii) the services provided by the investment adviser (If, in addition to providing investment advice, the investment adviser or persons employed by or associated with the investment adviser are, subject to the authority of the board of managers, responsible for overall management of registrant's business affairs, simply state that fact instead of listing all services provided.);

(c) the identity of any other person who provides significant administrative or business affairs management services (e.g., an "Administrator"), and the services provided;

Instruction: Information need not be given about any services described in response to Item 7(a).

(d) the name and principal business address of any transfer agent; and

(e) if Registrant engages in any of the following practices, a statement to that effect:

(i) paying brokerage commissions to any broker

(A) which is an affiliated person of the Registrant or its sponsor, or

(B) which is an affiliated person of such person, or

(C) an affiliated person of which is an affiliated person of the Registrant, its sponsor, its investment adviser, or its principal underwriter; and

(ii) allocating brokerage transactions in a manner that takes into account the sale of investment company securities.

Item 7. *Deductions and Expenses*

(a) Briefly describe all deduction from purchase payments, contractowner accounts, or assets of the Registrant (e.g., investment advisory fees, sales loads, administrative and transaction charges, risk charges, and premium taxes). Specify the amount of any such deduction as a percentage of dollar figure (e.g., .95% of the average daily net assets or $5 per exchange). Except for the deduction for premium taxes, identify the person who receives the amount deducted, briefly describe the services provided in consideration for the deduction, and explain the extent to which the deduction can be modified.

Instructions: 1. Identification of the range of current premium taxes is sufficient.

2. If any deduction other than the sales load may be used for distribution expenses, identify it.

3. If the Registrant has been in operation for a full fiscal year, provide the compensation paid to the adviser for the most recent fiscal year as a percentage of average net assets. No further information about the amount of the deduction is required in response to this Item if the adviser is paid on the basis of a percentage of net assets and if the Registrant has neither changed investment advisers nor changed the basis on which the adviser compensated during the most recent fiscal year. If the fee is paid in some manner other than on the basis of average net assets, briefly describe the basis of payment. If the Registrant has not been in operation for a full fiscal year, state generally what the investment adviser's fee will be as a percentage of average net assets, including any break-points, but it is not necessary to include precise details as to how the fee is computed or paid.

(b) State the commissions paid to dealers as a percentage of the public offering price.

(c) State the sales load as a percentage of the public offering price if it is and as a percentage of the net amount invested for each breakpoint. The percentages should be shown in a table.

(d) Provide a statement as to the Registrant's expenses. (If the Registrant has been in existence for a full year, simply set forth the Registrant's total expenses for the most recent full fiscal year as a percentage of average net assets unless the Registrant expects to incur a material amount of extraordinary expenses in the next year. If the Registrant has not been in operation for a full year, list the types of expenses for which Registrant will be responsible.)

(e) If organization expenses of the Registrant are to be paid out of its assets, explain how the expenses will be amortized, including the amount to be amortized and the period over which the amortization will occur.

(f) If the investment adviser is compensated for its services to the Registrant by someone other than the Registrant, identify the person who provides the compensation and specify the amount.

Item 8. *General Description of Variable Annuity Contracts*

(a) Identify the person of persons (e.g., the contractowner, participant, annuitant, or beneficiary) who have rights, including voting rights, under the variable annuity contracts, and briefly describe the nature of those rights, during the (1) accumulation period, (2) annuity period, or (3) after the death of the annuitant or contractowner.

Instruction: When describing voting rights, indicate how the rights will be allocated.

(b) Briefly describe any provisions for:

(i) allocation of purchase payments among sub-accounts of the Registrant;

(ii) transfer of contract values between sub-accounts of the Registrant; and

(iii) exchanges of variable annuity contracts, including interests or participations therein.

(c) Briefly describe the changes that can be made in the variable annuity contract or the operations of the Registrant by the Registrant or the sponsor, including:

(i) why a change may be made (e.g., changes in applicable law or interpretations of law);

(ii) who, if anyone, must approve any change (e.g., the contractowner or the Securities and Exchange Commission); and

(iii) who, if anyone, must be notified of any change.

Instruction: Describe only those changes that would be material to a purchaser of the variable annuity contracts, such as a reservation of the right to deregister the separate account under the 1940 Act. Do not describe possible non-material changes, such as changing the time of day at which accumulation unit values are determined.

(d) Describe how contractowner inquires should be made.

Item 9. *Annuity Period*

Briefly describe the operation or proposed operation of the Registrant during a variable annuity contract's annuity period. Include a concise explanation of:

(a) how the amount of the first annuity payment is determined;

(b) how subsequent changes in the amount of annuity payments are determined; and

(c) the choices available to a prospective annuitant in the following areas, including the effect of not specifying a choice:

(i) the annuity date (give the earliest and latest possible dates);

(ii) annuity options;

(iii) frequency of annuity payments (including the effect, if any, of the frequency of payments on the level of payments); and

(iv) assumed interest rates.

Item 10. *Death Benefit*

Briefly describe the death benefit available under a variable annuity contract during the accumulation and the annuity periods. Include:

(a) when the death benefit is calculated and payable and the effect of choosing a specific method of payment on calculation of the death benefit, and

(b) the forms the benefit may take, including the effect of not choosing a payment option, and the period during which payments must begin under any annuity option.

Item 11. *Purchases*

(a) Briefly describe the procedures for purchasing a variable annuity contract. Include a concise explanation of:

(i) the minimum initial and subsequent purchase payments required and any limitations on the amount of purchase payments that will be accepted (If there are separate limits for each sub-account, state these limits.);

(ii) the way in which the public offering price is determined, including: (A) that the price is based on the value of an accumulation unit, (B) that changes in accumulation unit value reflect the investment performance of the assets of the Registrant, expenses, and the deduction of certain charges (which should be specified), (C) identification of the method used to value the assets of the Registrant (e.g., market value, good faith determination, amortized cost), and (D) a statement of when calculations of accumulation unit

value are made and that the price at which a purchase is effected is based on the next calculation of accumulation unit value after the order is accepted;

(iii) a statement of when initial and subsequent purchase payment are credited.

(b) Identify each principal underwriter (other than the sponsor) of the variable annuity contracts and state its principal business address.

(c) If the principal underwriter is affiliated with the Registrant, the sponsor, or any affiliated person of the Registrant or the sponsor, identify how they are affiliated (e.g., the principal underwriter is controlled by the sponsor).

Item 12. *Redemptions*

(a) Briefly describe how a contractowner or annuitant (if the annuity option chosen by the annuitant does not contain a life contingency) can redeem a variable annuity contract, including how the proceeds are calculated and when they are payable.

(b) If the Registrant offers the variable annuity contracts in connection with the Texas Optional Retirement Program, describe the restrictions on redemption that apply.

(c) If a request for redemption may not be honored for a certain period of time after a contractowner's investment, describe briefly.

(d) Briefly describe any provision for lapse or involuntary redemptions under the contract and the reasons for it, such as size of the account or infrequency of purchase payments.

(e) Briefly describe any revocation rights (e.g., "ten-day free look" provisions).

(f) If Registrant, under normal circumstances, intends to redeem in kind, that fact should be disclosed.

Item 13. *Taxes*

(a) Describe briefly the tax consequences to investors of an investment in the variable annuity contracts.

Instruction: The discussion should include the taxation of annuity payments, death proceeds, periodic and non-periodic withdrawals, pledges and assignments of the contract (if permitted), and any other method by which taxable income may be received by the investor under the variable annuity contract, as well as the tax benefits accorded annuities during the accumulation period. If the tax consequences vary depending on the use of the variable annuity contract (e.g., to fund an individual retirement annuity or corporate plan), the variations should be briefly described.

(b) Briefly describe the types of qualified plans with which the variable annuity contracts can be used.

Instructions: 1. Identify the types of persons who may use the plans (e.g., corporations, self-employed individuals) and state whether the terms of the plans govern the rights to benefits, regardless of the terms of the variable annuity contract.

2. Do not describe the Internal Revenue Code requirements for qualification of plans or the non-annuity tax consequences of qualification (e.g., the effect on employer taxation).

(c) Briefly describe the taxation of the operations of Registrant.

Instruction: State that Registrant's operations will not be taxed separately from those of the sponsor and briefly describe any provision for accumulating funds in the Registrant for federal income taxes and the rate at which the taxes are expected to be computed. The circumstances under which amounts will be transferred to or from the sponsor as a result of federal income taxation should be briefly described.

Item 14. *Legal Proceedings*

Briefly describe any material pending legal proceedings, other than ordinary routine litigation incidental to the business, to which the Registrant, any subsidiary of the Registrant, or Registrant's investment adviser, principal underwriter, or sponsor is a party. Include the name of the court where the case is pending, the date filed, and the principal parties. Include similar information for any proceedings instituted by governmental authorities.

Instruction: Legal proceedings are meterial only to the extent that they are likely to have a material adverse effect upon: (1) the ability of the investment adviser or principal underwriter to perform its contract with the Registrant or of the sponsor to meet its obligations under the variable annuity contracts or (2) the Registrant.

Part B—Information Required in a Statement of Additional Information

Item 15. *Cover Page*

(a) The outside cover page must contain the following information:

(i) the Registrant's name;

(ii) the sponsor's name;

(iii) a statement or statements (A) that the Statement of Additional Information is not a prospectus; (B) that the Statement of Additional Information should be read with the prospectus; and (C) how a copy of the prospectus may be obtained;

(iv) the date of the Statement of Additional Information; and

(v) the date of the related prospectus and any other identifying information that the Registrant deems appropriate.

(b) The cover page may include other information, provided that it does not, by its nature, quantity, or manner of presentation, inpede understanding of required information.

Item 16. *Table of Contents*

List the contents of the Statement of Additional Information and, where useful, provide cross-references to the prospectus.

Item 17. *General Information and History*

(a) If the sponsor's name was changed during the past five years, state its former name and the approximate date on which it was changed. If sales of contracts offered by the Registrant or its sponsor have been suspended at the request of any state, briefly describe the reasons for and results of the suspension.

(b) Identify the jurisdictions in which the sponsor is authorized to do business.

(c) If 10 percent of more of the assets of any sub-account are not attributable to variable annuity contracts or to accumulated deductions or reserves (e.g., initial capital contributed by the sponsor), state what percentage those assets are of the total assets of the separate account. If the sponsor, or any other person controlling the assets, has any present intention of removing the assets from the sub-account, so state.

Item 18. *Investment Objectives and Policies*

(a) Describe clearly the investment policies of the Registrant. It is not necessary to repeat information contained in the prospectus, but, in augmenting the disclosure about those types of investments, policies, or practices that are briefly discussed or identified in the prospectus, Registrant should refer to the prospectus when necessary to clarify the additional information called for by this Item.

(b) Describe any fundamental policy of the Registrant not described in the prospectus with respect to each of the following activities:

(i) the issuance of senior securities;

(ii) short sales, purchases on margin, and the writing of put and call options;

(iii) the borrowing of money (Describe any fundamental policy which limits Registrant's borrowings of money and state the purpose for which borrowing may be used.);

(iv) the underwriting of securities of other issuers (Include any fundamental policy concerning the acquisition of restricted securities, i.e., securities that must be registered under the 1933 Act before they may be offered or sold to the public.);

(v) the concentration of investments in a particular industry or group of industries;

(vi) the purchase or sale of real estate and real estate mortgage loans;

(vii) purchase or sale of commodities or commodity contracts including futures contracts;

(viii) the making of loans (For purposes of this Item, the term "loans" does not include the purchase of a portion of an issue of publicly distributed bonds, debentures, or other securities, whether or not the purchase was made upon the original issuance of the securities. However, the term "loan" includes the loaning of cash or portfolio securities to any person.); and

(ix) any other policy which the Registrant deems fundamental.

Instructions: 1. For purposes of this Item,the term "fundamental policy" is defined as any policy which the Registrant has deemed to be fundamental or which may not be changed without the approval of a majority of the votes available to eligible voters.

2. The Registrant may reserve freedom of action with respect to any of the foregoing activities, but shall express definitely, in terms of a percentage of assets to be devoted to the particular activity, the maximum extent to which the Registrant intends to engage in it. For purposes of (vii) above, see the Commodity Exchange Act (7 U.S.C. 1 et seq.).

(c) Describe fully any significant investment policies of the Registrant not described in the prospectus which are not deemed fundamental and which may be changed without the approval of the majority of votes available to eligible voters (for example, investing for control of management, investing in foreign securities, or arbitrage activities).

Instruction: Registrant should disclose the extent to which it may engage in the above policies and the risks inherent in them.

(d) Explain any significant change in the Registrant's portfolio turnover rates over the last two fiscal years. If the Registrant anticipates a significant change in the portfolio turnover rate from that reported for its most recent fiscal year in Item 4(a)(10), so state. In the case of a new registration, the Registrant should state its policy with respect to portfolio turnover.

Item 19. *Management*

(a) Give the following information about each member of the board of managers and officer of the Registrant, and if Registrant has an advisory board, each member of such board. Also state the nature of any family relationship between persons listed.

Name and address	Position(s) held with registrant	Principal occupation(s) during past 5 years
(1)	(2)	(3)

Instructions: 1. The term "officer" means the president, vice-president, secretary, treasurer, controller, and any other officers who perform policy-making functions for the Registrant. The term "family relationship" means any relationship by blood, marriage, or adoption, not more remote than first cousin.

2. The principal business of any corporation or other organization listed under column (3) should be stated unless implicit in its name.

3. If the Registrant has an executive or investment advisory committee, identify the members and state the duties and functions of the committee.

4. Identify by asterisk the members of the board of managers who are interested persons as defined in Section 2(a)(19) of the 1940 Act [15 U.S.C. 80a–2(a)(19)].

(b) For each individual listed in column (1) of the table required by paragraph (a) of this Item describe any positions held with affiliated persons or principal underwriters of the Registrant.

(c) Give the following information about each person specified below who received from the Registrant or its subsidiaries during the Registrant's last fiscal year aggregate remuneration in excess of $60,000 for services in all capacities:

(i) each member of the board of managers, each of the three highest paid officers, and each advisory board member of the Registrant;

(ii) each affiliated person of the Registrant not included in subparagraph (i) except investment advisers;

(iii) each affiliated person of an affiliate or principal underwriter of the Registrant; and

(iv) all members of the board of managers officers, and members of the advisory board of the Registrant as a group without naming them.

Name of person	Capacities in which remuneration received	Aggregate remuneration	Pension or retirement benefits accrued during regstrant's last fiscal year	Estimated annual benefits upon retirement
(1)	(2)	(3)	(4)	(5)

Instructions: 1. This item applies to any person who was a member of the board of managers, officer, or member of the advisory board of the Registrant at any time during the last fiscal year. Give information on an accrual basis if practicable.

2. If the Registrant has not completed its first full fiscal year since its organization, give information for the current fiscal year, estimating future payments that would be made pursuant to an existing agreement or understanding.

3. Columns (4) and (5) should be answered only for those persons named in response to paragraph (a) of this Item and should include all pension or retirement benefits proposed to be paid under any existing plan in the event of retirement at normal retirement date, directly or indirectly, by the Registrant or any of its subsidiaries to each such person.

4. Column (4) need not be answered with respect to payments computed on an actuarial basis pursuant to any plan which provides for fixed benefits in the event of retirement at a specified age or after a specified number of years of service.

5. The information called for by column (5) may be given in a table showing the annual benefits payable upon retirement to persons in specified salary classifications.

6. In the case of any plan (other than those specified in instruction 3) where the amount set aside each year depends upon the amount of earnings of the issuer or its subsidiaries for such year or a prior year, or where it is otherwise impracticable to state the estimated annual benefits upon retirement, instead of the information called for by column (5), give the total amount set aside or accrued to date, unless it is impracticable to do so, in which case state the method of computing such benefits.

Item 20. *Investment Advisory and Other Services*

(a) Give the following information about each investment adviser:

(i) the names of all controlling persons of the investment adviser and the basis of such control; and if material, the business history of any organization that controls the adviser;

(ii) the name of any affiliated person of the Registrant or the sponsor who is also an affiliated person of the investment adviser and a list of all capacities in which the person named is affiliated with the Registrant or the sponsor and with the investment adviser; and

Instruction: If an affiliated person of the Registrant or the sponsor either alone or together with others is a controlling person of the investment adviser, Registrant must disclose such fact but need not supply the specific amount or percentage of the outstanding voting securities of the investment adviser which is owned by the controlling person.

(iii) the method of computing the advisory fee payable by the Registrant including:

(A) the total dollar amounts paid to the adviser by the Registrant or its sponsor under the investment advisory contract for the last three fiscal years;

(B) if applicable, any credits which reduced the advisory fee for any of the last three fiscal years; and

(C) any expense limitation provision.

Instructions: 1. If the advisory fee payable by the Registrant or its sponsor varies depending on the Registrant's investment performance in relation to some standard, set forth the standard along with a fee schedule in tabular form. Registrant may include examples showing the fees the adviser would earn at various levels of performance, but such examples must include calculations showing the maximum and minimum fee percentages that could be earned under the contract.

2. State each type of credit or offset separately.

3. Describe only the most restrictive expense limitation provision.

4. If Registrant is organized as a "series" account the response to paragraph (a)(3) of this Item should describe the methods of allocation and payment of advisory fees for each class or series.

(b) Describe all services performed for or on behalf of the Registrant, which are supplied or paid for wholly or substantially by the investment adviser in connection with the investment advisory contract.

(c) Describe all fees, expenses, and costs of the Registrant that are to be paid by persons other than the investment adviser, the sponsor, or the Registrant, and identify such persons.

(d) Give a summary of any contract for the provision of management-related services to the Registrant, which may be of interest to a purchaser of Registrant's securities, unless the contract is described in response to some other item of this form. Show the parties to the contract and the total dollars paid and by whom, for the past three years. If the services under any management-related service contract are paid for by a deduction from contract-owner accounts disclose whether the Registrant or the sponsor may contract with a different service provider in future years and briefly describe the considerations which would affect the choice of service provider.

Instructions: 1. A contract for "management-related services" includes any agreement whereby another person agrees to keep, prepare, or file such accounts, books, records, or other documents as the Registrant may be required to keep under federal or state law, or to provide any similar services with respect to the daily administration of the Registrant, but does not include the following: (i) any contract to provide investment advice to the Registrant; (ii) any agreement to act as custodian or transfer agent for the Registrant; or (iii) bona fide contracts for outside legal or auditing services, or bona fide contracts for personal employment entered into in the ordinary course of business.

2. Information need not be given about the services of mailing proxies or periodic reports of the Registrant.

3. In summarizing a management-related servicer contract, include the name of the person providing the service; any direct or indirect relationships between such person and the Registrant, its investment adviser, its sponsor, or its principal underwriter; the nature of the services provided; and the basis of the compensation paid for the last three fiscal years.

(e) If any person (other than a bona fide member of the board of managers, officer, member of an advisory board, or employee of the Registrant, as such, or a person named as an investment advisor in response to paragraph (a) above), pursuant to any understanding, whether formal or informal, regularly furnishes advice to the Registrant or to the investment adviser of the Registrant about the desirability of the Registrant's investing in, purchasing, or selling securities or other property, or is empowered to determine what securities or other property should be purchased or sold by the Registrant, and receives direct or indirect remuneration, give the following information:

(i) the name of such person;

(ii) a description of the nature of the arrangement, and the advice or information given; and

(iii) any remuneration (including, for example, participation, directly or indirectly, in commissions or other compensation paid in connection with transactions in Registrant's portfolio securities) paid for such advice or information, and a statement of how and by whom such remuneration was paid for the last three fiscal years.

Instruction: Do not describe any of the following: (i) persons whose advice was given solely through uniform publications distributed to subscribers; (ii) persons who gave only statistical and other factual information, advice regarding economic factors and trends, or advice as to occasional transactions in specific securities, but without generally furnishing advice or making recommendations regarding the purchase of sale of securities by the Registrant; (iii) a company which is excluded from the definition of "investment adviser" of an investment company by reason of Section 2(a)(2)(iii) of the 1940 Act [15 U.S.C. 80a-2(a)(20)(iii)]; (iv) any person the character and amount of whose compensation for such service must be approved by a court; or (v) such other persons as the Commission has by rules and regulations or order determined not to be an "investment adviser" of an investment company.

(f) Give the name and principal business address of the Registrant's custodian and independent public accountant and provide a general description of the services they perform.

(g) If the portfolio securities of the Registrant are held by a person other than the sponsor, a commercial bank, trust company, or depository registered with the Commission as custodian, state the nature of the business of each such person.

(h) If an affiliated person of the Registrant or an affiliated person of such an affiliated person acts as transfer agent for the Registrant, describe the services performed by such person and the basis for remuneration.

Instruction: Information need not be given about a transfer agent who is also the sponsor.

Item 21. *Brokerage Allocation*

(a) Describe how transactions in portfolio securities are effected including a general statement about brokerage commissions and mark-ups on principal transactions and the aggregate amount of any brokerage commissions paid by the Registrant during the three most recent fiscal years. Explain any material increase in brokerage commissions paid by the Registrant during the most recent fiscal year as compared to the two prior fiscal years.

(b) (i) State the total dollar amount, if any, of brokerage commissions paid by the Registrant during the three most recent fiscal years to any broker which: (A) is an affiliated person of the Registrant; (B) is an affiliated person of an affiliated person of the Registrant; or (C) has an affiliated person that is an affiliated person of the Registrant, its sponsor, investment adviser, or principal underwriter, and the identity of each such broker and the relationships that cause the broker to be identified in this Item.

(ii) State for each broker identified in response to paragraph (b)(i) of this Item:

(A) the percentage of Registrant's aggregate brokerage commissions paid to each broker during the most recent fiscal year and

(B) the percentage of Registrant's aggregate dollar amount of transactions involving the payment of commissions effected through such broker during the most recent fiscal year.

(iii) Where there is a material difference in the percentage of brokerage commissions paid to, and the percentage of transactions effected through, any broker identified in response to paragraph (b)(i) of this Item, state the reasons for such difference.

(c) Describe how brokers will be selected to effect securities transactions for Registrant and how evaluations will

be made of the overall reasonableness of brokerage commissions paid, including the factors considered.

Instruction: 1. If the receipt products or services other than brokerage or research services is a factor in the selection of brokers, specify such products and services.

2. If the receipt of research services is a factor in selecting brokers, identify the nature of such research services.

3. State whether persons acting on behalf of Registrant are authorized to pay a broker a commission in excess of that which another broker might have charged for the same transaction, because of the value of (a) brokerage or (b) research services provided by the broker.

4. If applicable, explain that research services furnished by brokers through whom Registrant effects securities transactions may be used by Registrant's investment adviser in servicing all of its accounts and that not all such services may be used by the investment adviser in connection with the Registrant; or, if other policies or practices are applicable to Registrant with respect to the allocation of research services provided by brokers such policies and practices should be explained.

(d). If, during the last fiscal year, Registrant, its sponsor, or its investment adviser, pursuant to an agreement or understanding with a broker or otherwise through an internal allocation procedures, directed Registrant's brokerage transactions to a broker because of research services provided, state the amount of such transactions and related commission.

Item 22. *Purchase and Pricing of Securities Being Offered*

(a) Describe the method that will be used to determine the total offering price at which the variable annuity contracts may be offered to the public and the methods used to value the Registrant's assets.

Instructions: 1. Describe the valuation procedure used to determine accumulation unit value and public offering price.

2. Explain fully any difference in the price at which variable annuity contracts are offered to members of the public, as individuals and as groups, or to officers, directors, members of the board of managers, or employees of the Registrant, its sponsor, its adviser, or underwriter.

3. If the Registrant uses the amortized cost valuation method, describe, in the response to paragraph (a)(1), the nature, extent, and effect of the exemption.

(b) If the Registrant has received an order of exemption from Section 18(f) of the 1940 Act [15 U.S.C. 80a–18(f)] from the Commission or has filed a notice of election pursuant to Rule 18f–1 under the Act [17 CFR 270.18f–1] which has not been withdrawn, fully describe the nature, extent, and effect of the exemptive relief in the Statement of Additional Information if the information is not in the prospectus.

Item 23. *Underwriters*

(a) If the sponsor is the principal underwriter of the variable annuity contracts, so state.

(b) State whether the offering is continuous.

(c) If during the Registrant's last fiscal year any payments were made by the Registrant to an unaffiliated underwriter or dealer in the variable annuity contracts other than: (i) payments made through deduction from the offering price at the time of sale of the variable annuity contracts, (ii) payments representing the purchase price of portfolio securities acquired by the Registrant, (iii) commissions on any purchase or sale of portfolio securities by the Registrant, or (iv) payments for investment advisory services pursuant to an investment advisory contract, give the following information:

(A) the name and address of the underwriter of dealer;

(B) the circumstances surrounding payments;

(C) the amount paid; and

(D) how the amount of the payment was determined and the consideration received for it.

Instructions: 1. Information need not be given about the service of mailing proxies or periodic reports of the Registrant.

2. Information need not be given about any service for which total payments of less than $5,000 were made during each of the last three fiscal years.

3. Information need not be given about payments made under any contract to provide investment advice or to act as custodian or transfer agent.

4. Information need not be given about bona fide contracts for outside legal or auditing services or for personal employment entered into in the ordinary course of business.

5. If the payments were made under an arrangement or policy applicable to dealers generally, simply describe the arrangement or policy.

Item 24. *Calculation of Yield Quotations of Money Market Sub-Accounts*

If a Registrant has any sub-accounts that are held out to be "money market" sub-accounts or have policies calling for investment of at least 80% of their assets in debt securities maturing in thirteen months or less, describe each method by which a yield quotation provided in the prospectus pursuant to Item 4(c) is computed.

Instructions: 1. For purposes of the description of the method by which the yield quotation required in the prospectus is computed the determination of net change in account value must reflect all deductions that are charged to all contractowner accounts in proportion to the length of the base period and the sub-account's average account size.

2. Deductions from purchase payments and sales loads assessed at the time of redemption or annuitization should not be reflected in the computation of current yield.

3. The capital changes to be excluded from the calculation of yield described pursuant to this Item are realized gains and losses from the sale of securities and unrealized appreciation and depreciation.

4. When calculating the yield quotation required in Item 4(c), Registrants that choose to make such an election on an annual basis may use a median account size in place of an average account size in determining the base period return.

Item 25. *Financial Statements*

(a) Provide financial statements of the Registrant.

Instructions: 1. The financial statements and schedules required by Regulation S–X (17 CFR Part 210) shall be provided in a separate section.

2. Notwithstanding Instruction 1 above, the following statements and schedules required by Regulation S–X may be omitted from Part B and instead included in Part C of the Registration Statement:

(i) the statements of any subsidiary which is not a majority-owned subsidiary and

(ii) the following schedules in support of the most recent balance sheet (a) columns C and D of Schedule III (17 CFR 210.12–03); and (b) Schedule VI (17 CFR 210.12–04).

3. In addition to the requirements of Rule 3–18 of Regulation S–X (17 CFR 210.3–18), any separate account registered under the 1940 Act which has not previously had an effective Registration Statement under the 1933 Act shall include in its initial Registration Statement under the 1933 Act such additional financial statements and condensed financial information (which need not be audited) as is necessary to make the financial statements and condensed financial information included in the Registration Statement as of a date within 90 days prior to the date of filing.

4. Every annual report required by Section 30(d) of the 1940 Act and Rule 30d–1 under it (17 CFR 270.30d–1) shall contain the following information:

(i) the audited financial statements required by Regulation S–X, as modified by Instruction 2, for the periods specified by Regulation S–X;

(ii) the condensed financial information required by Item 4(a) of this Form, for the five most recent fiscal years, with at least the most recent year audited; and

(iii) unless shown elsewhere in the report as part of the financial statements required by (i) above, the aggregate remuneration paid by the separate account during the period covered by the report (A) to all members of the board of managers and to all members of any advisory board for regular compensation; (B) to each member of the board of managers and to each member of an advisory board for special compensation; (C) to all officers; and (D) to each person of whom any officer or member of the board of managers of the separate account is an affiliated person.

5. Every report required by Section 30(d) of the 1940 Act and Rule 30d–1 under it (17 CFR 270.30d–1), except the annual report, shall contain the following information (which need not be audited):

(i) the financial statements required by Regulation S–X, as modified by Instruction 2 above, for the period commencing either with (A) the beginning of the separate account's fiscal year (or date of organization, if newly organized) or (B) a date not later than the date after the close of period included in the last report conforming with the requirements of Rule 30d–1 and the most recent preceding fiscal year;

(ii) the condensed financial information required by Item 4(a) of this Form, for the period of the report as specified by (i) above, and the most recent preceding fiscal year; and

(iii) unless shown elsewhere in the report as part of the financial statements required by (i) above, the aggregate remuneration paid by the separate account during the period covered by the report (A) to all members of the board of managers and to all members of any advisory board for regular compensation; (B) to each member of the board of managers and to each member of an advisory board for special compensation; (C) to all officers; and (D) to each person of whom any officer or member of the board of managers of the separate account is an affiliated person.

6. See General Instruction F regarding incorporation by reference.

(b) Provide financial statements of the sponsor.

Instructions: 1. The financial statements and schedules of the sponsor required by Regulation S–X shall be provided in a separate section following the response to paragraph (a) of this Item.

2. Notwithstanding Instruction 1 above, all statements and schedules required by Regulation S–X, except for the consolidated balance sheets described in Rule 3–01 of Regulation S–X (17 CFR 210.3–01), may be omitted from Part B of the Registration Statement and included in Part C of such Registration Statement.

3. Notwithstanding Rule 3–12 of Regulation S–X (17 CFR 210.3–12), the financial statements of the sponsor need not be more current than as of the end of the most recent fiscal year of the sponsor unless:

(i) the sponsor's financial statements have never been included in an effective registration statement under the Securities Act of 1933 of a separate account which offers variable annuity contracts or funds variable life insurance contracts; or

(ii) the balance sheet of the sponsor at the end of either of the two most recent fiscal years included in response to this Item shows a combined capital and surplus, if a stock company, or an unassigned surplus, if a mutual company, of less than $1,000,000; or

(iii) the balance sheet of the sponsor at the end of a fiscal quarter within 135 days of the expected date of effectiveness under the 1933 Act (or a fiscal quarter within 90 days of filing if the registration statement is filed solely under the 1940 Act) would show a combined capital and surplus, if a stock company, or an unassigned suplus, if a mutual company, of less than $1,000,000. If two fiscal quarters end within the 135 day period, the sponsor may choose either for purposes of this test.

Any interim financial statements required by this Item need not be comparative with financial statements for the same interim period of an earlier year.

Part C. Other Information

Item 26. *Financial Statements and Exhibits*

List all financial statements and exhibits filed as part of the Registration Statement.

(a) Financial statements.

Instruction: Designate those financial statements which are included in Part A and Part B of the Registration Statement.

(b) Exhibits:

Copies of the resolution of the board of directors of the sponsor authorizing the establishment of the Registrant;

(2) copies of the existing bylaws or instruments corresponding thereto;

(3) copies of all custodian agreements and depository contracts under Section 17(f) of the 1940 Act [15 U.S.C. 80a–17(f)] with respect to securities and similar investments of the Registant, including the schedule of remuneration;

(4) copies of all investment advisory contracts relating to the management of the assest of the Registrant;

(5) copies of each underwriting or distribution contract between the Registrant and the principal underwriter or the sponsor and the principal underwriter, and specimens or copies of all agreements between principal underwriters and dealers;

(6) the form of each variable annunity contract;

(7) the form of application used with any variable annuity contract provided in response to (6) above;

(8) copies of the certificate of incorporation or other instrument of organization and the by-laws of the sponsor;

(9) a copy of any contract of reinsurance;

(10) copies of all bonus, profit sharing, pension, or other similar contracts or arrangements wholly or partly for the benefit of members of the board of managers or officers of the Registrant in their capacity as such; any such plan that is not set forth in a formal document, furnish a reasonably detailed description thereof;

(11) copies of all other material contracts not made in the ordinary course of business which are to be performed in whole or in part at or after the date of filing the Registration Statement;

(12) an opinion of counsel and consent to its use as to the legality of the securities being registered, indicating whether they will, when sold, be legally issued, fully paid, and non-assessable;

(13) copies of any other opinions, appraisals, or rulings, and consents to their use relied on in preparing this Registration Statement and required by Section 7 of the 1933 Act;

(14) all financial statements omitted from Item 25; and

(15) copies of any agreements or understandings made in consideration for providing the initial capital between or among the Registrant, the sponsor, underwriter, adviser, or initial contractowners and written assurances from the sponsor or initial contractowners that the purchases were made for investment purposes without any present intention of redeeming.

Instruction: Subject to the Rules on incorporation by reference, the foregoing exhibits shall be filed as a part of the Registration Statement. Exhibits numbered 5 and 12–14 above need to be filed only as part of a 1933 Act Registration Statement. Exhibits shall be lettered or numbered for convenient reference. Exhibits incorporated by reference may bear the designation given in a previous filing. Where exhibits are incorporated by reference, the reference shall be made in the list of exhibits.

Item 27. *Directors and Officers of the Sponsor*

Give the following information about each director or officer of the sponsor:

Name and principal business address	Positions and offices with [illegible]	Positions and offices with registrant
(1)		

Item 28. *Persons Controlled by or Under Common Control with the Sponsor or Registrant*

Provide a list or diagram of all persons directly or indirectly controlled by or under common control with the sponsor or Registrant and as to each such person indicate (1) if a company, the state or other sovereign power under whose laws it is organized, (2) the percentage of voting securities owned or other basis of control by the person, if any, immediately controlling it, and (3) its principal business unless such

principal business is implicit in its name.

Instructions: 1. The list or diagram shall include the Registrant and the sponsor and shall show clearly the relationship between each company named. If the company is controlled by the direct ownership of its securities by two or more persons, so indicate by appropriate cross-reference.

2. Designate (i) subsidiaries for which separate financial statements are filed; (ii) subsidiaries included in the respective consolidated financial statements; (iii) subsidiaries included in the respective group financial statements filed for unconsolidated subsidiaries; and (iv) other subsidiaries, indicating briefly why statements of such subsidiaries are not filed.

Item 29. *Number of Contractowners*

State as of a specified date within 90 days prior to the date of filing the number of owners of qualified and non-qualified contracts offered by Registrant.

Item 30. *Indemnification*

State the general effect of any contract, arrangements, or statute under which any member of the board of managers, officer, underwriter, or affiliated person of the Registrant is insured or indemnified in any manner against any liability which may be incurred in such capacity, other than insurance provided by any member of the board of managers, officer, underwriter, or affiliated person for their own protection.

Instruction: In responding to this Item, the Registrant should note the requirements of Rules 461 and 484 under the 1933 Act [17 CFR 230.461, 230.484] and Section 17 of the 1940 Act [15 U.S.C. 80a–17].

Item 31. *Business and Other Connections of Investment Adviser*

Describe any other business, profession, vocation, or employment of a substantial nature in which each investment adviser of the Registrant, and each director, officer, or partner of any such investment adviser, is or has been, at any time during the past two fiscal years, engaged for his own account or as director, officer, employee, partner, or trustee.

Instructions: 1. State the name and principal business address of any company of which any person specified above is a director, officer, employee, partner, or trustee, and the nature of such connection.

2. The names of investment advisory clients need not be given.

Item 32. *Principal Underwriters*

(a) Give the name of each investment company (other than the Registrant) for which each principal underwriter currently distributing securities of the Registrant also acts as a principal underwriter, depositor, sponsor, or investment adviser.

(b) Give the following information about each director, officer, or partner of each principal underwriter named in the answer to item 11(b):

Name and principal business address	Positions and offices with underwriter	Positions and offices with registrant
(1)	(2)	(3)

(c) State the aggregate dollar amount of underwriting commissions and the amount retained by the principal underwriter for each of the last three fiscal years.

(d) Give the following information about all commissions and other compensation received by each principal underwriter, directly or indirectly, from the Registrant during the registrant's last fiscal year:

Name of principal underwriter	Net underwriting discounts and commissions	Compensation on redemption	Brokerage commissions	Other compensation
(1)	(2)	(3)	(4)	(5)

Instructions: 1. Show in a note, or otherwise, the nature of the services provided in return for the compensation shown in column (5). Include any compensation received by an underwriter for keeping the registrant's securities in the hands of the public.

2. Information need not be given about the service of mailing proxies or periodic reports of the Registrant.

3. Information need not be given about any service for which total payments of less than $5,000 were made during each of the last three fiscal years.

4. Information need not be given about payments made under any agreement whereby another person contracts with the Registrant or its sponsor to provide investment advice or to act as custodian or transfer agent.

Item 33. *Location of Accounts and Records*

Give the name and address of each person who maintains physical possession of each account, book, or other document required to be maintained by Section 31(a) of the 1940 Act (15 U.S.C 80a–30(a)) and the Rules under it (17 CFR 270.31a–1 to 31a–3).

Item 34. *Management Services*

Give a summary of any contract not discussed in Part A or Part B of this Form under which services are provided to the Registrant, indicating the parties to the contract, the total dollars paid and by whom, for the last three fiscal years.

Instructions: 1. The instructions to Item 20(d) of this Form shall also apply to this Item.

2. Information need not be given about any service for which total payments of less than $5,000 were made during each of the last three fiscal years.

Item 35. *Undertakings*

Give the following undertakings in substantially this form in all initial registration statements filed under the 1933 Act:

(a) An undertaking to file an amendment to the Registration Statement with certified financial statements showing the initial capital received before accepting subscriptions from any person in excess of 25 if Registrant proposes to raise its initial capital pursuant to Section 14(a)(3) of the 1940 Act (15 U.S.C. 80a–14(a)(3));

(b) An undertaking to file a post-effective amendment, using financial statements for the Registrant which need not be certified, within four to six months from the effective date of the Registrant's 1933 Act registration statement;

Instructions: 1. Such amendment may be filed earlier only if at least one-half the dollar amount of securities registered has been raised from a public offering and has been substantially invested pursuant to Registrant's investment objectives.

2. Such amendment may be filed later only if the financial statements required by the undertaking are also going to be used in the next semi-annual or annual report to security holders required pursuant to Section 30(d) of the 1940 Act and Rule 30d-1 thereunder, the amendment is filed no later than 40 days after the end of the six month period specified in the undertaking, and acceleration of the amendment is requested to a date no later than 60 days after the end of that six month period.

3. The financial statements included in such post-effective amendment should be as of and for the time period reasonably close or as soon as practicable to the date of the amendment, but in no event more than 60 days prior to the date of filing.

(c) An undertaking to file a post-effective amendment to this registration statement as frequently as is necessary to ensure that the audited financial statements in the registration statement are never more than 16 months old;

(d) An undertaking to include, as part of any application used to purchase a variable annuity contract offered by the prospectus prepared on this Form, a space where applicant can request a Statement of Additional Information; and

Instruction: This can be either in the application itself or attached to it.

(e) An undertaking to deliver any Statement of Additional Information requested as part of the purchase application no late than the delivery of the contract purchased.

Signatures

As required by (the securities Act of 1933 and) the Investment Company Act of 1940 the Registrant (certifies that it meets the requirements of Securities Act rule 486(b) for effectiveness of this Registration Statement and) has caused this Registration Statement to be signed on its behalf, in the City of ——, and State of——on the—day of——, 19—.

(Registrant) ——
By (Signature and Title)——
(Sponsor) ——
By (Name of officer of sponsor) ——
(Title)——
Attest: (Name) ——
(Title)——

Instruction: If the registration statement is being filed only under the Securities Act or under both the Securities Act and the Investment Company Act, it should be signed by both the Registrant and its sponsor. If the registration statement is being filed only under the Investment Company Act, it should be signed only by the Registrant.

As required by Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

(Signature) ——
(Title)——
(Date)——

Form N–4

Securities and Exchange Commission

Washington, D.C. 20549

Form N–4

Registration Statement under the Securities Act of 1933 ☐

Pre-Effective Amendment No. —☐
Post-Effective Amendment No. —☐
and/or

Registration Statement Under the Investment Company Act of 1940 ☐

Amendment No. ——
(Check appropriate box or boxes.)

(Exact Name of Registrant) ——
(Name of Depositor) ——
(Address of Depositor's Principal Executive Offices) ——
(Zip Code) ——
Depositor's Telephone Number, including Area Code——
(Name and Address of Agent for Service)——
Approximate Date of Proposed Public Offering ——

It is proposed that this filing will become effective (check appropriate space)

——immediately upon filing pursuant to paragraph (b)
——on (date) pursuant to paragraph (b)
——60 days after filing pursuant to paragraph (a)
——on (date) pursuant to paragraph (a) of rule 486

CALCULATION OF REGISTRATION FEE UNDER THE SECURITIES ACT OF 1933

Title of securities being registered	Amount being registered	Proposed maximum offering price per unit	Proposed maximum aggregate offering price	Amount of registration fee

The "Approximate Date of Proposed Public Offering" and the table showing the calculation of the registration fee under the Securities Act of 1933 should be included only where securities are being registered under the Securities Act. Registrants that are registering an indefinite number of securities under the Securities Act pursuant to Investment Company Act Rule 24f–2 (17 CFR 270.24f–2) should include the declaration required by Rule 24f–2(a)(1) on the facing sheet, instead of or in addition to the Securities Act registration fee table.

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General Instructions

A. Rule as to Use of Form N–4

Form N–4 shall be used by all separate accounts offering variable annuity contracts which are registered under the Investment Company Act of 1940 ("1949 Act") as unit investment trusts for: (1) an initial registration statement required by Section 8(b) of the 1940 Act [15 U.S.C. 80a–8(b)] and any amendments thereto; (2) a registration statement required under the Securities Act of 1933 ("1933 Act") and any amendments thereto; or (3) any combination of these 1940 Act and 1933 Act filings.

Form N–4 shall also be used to file a registration statement under the 1933 Act and any amendments thereto for variable annuity contracts funded by separate accounts which would be required to be registered under the 1940 Act as unit investment trusts except for the exclusion provided by Section 3(c)(11) of the 1940 Act (15 U.S.C. 80a–3(c)(11)).

B. Registration Fees

Section 6(b) of the 1933 Act (15 U.S.C. 77(f)(b)) and Rule 457 (17 CFR 230.457) set forth the fee requirements under the 1933 Act. Rule 8b–6 under the 1940 Act [17 CFR 270.8b–6] sets forth the fee for filing an initial registration statement under that Act. The 1940 Act fee is in addition to the fee required under the 1933 Act. Registrants that are increasing the number or amount of securities registered or registering an indefinite number of their securities are also directed to Rules 24e–2 and 24f–2, respectively under the 1940 Act (17 CFR 270.24e–2 and 270.24f–2) to compute the filing fee.

C. Special Terms

The following terms, when used in Form N–4, shall mean:

Registrant. The term "Registrant" means the separate account (as defined in Section 2(a)(37) of the 1940 Act (15 U.S.C. 80a–2 (a)(37)) which offers the variable annuity contracts.

Depositor. The term "depositor" means the person primarily responsible for the organization of the Registrant and the person who has continuing functions or responsibilities with respect to the administration of the affairs of the Registrant other than the trustee or custodian. The term includes the sponsoring insurance company of the Registrant. If there is more than one such person the information called for in this Form about the depositor shall be provided for each such person.

Variable Annuity Contract. The term "variable annuity contracts" means any accumulation or annuity contract, any portion thereof, or any unit of interest or participation therein pursuant to which the value of the contract, either before or after annuitization, or both, varies according to the investment experience of the separate account in which the contract participates. Unless the context otherwise requires, the term refers to the variable annuity contracts being offered pursuant to the Registration Statement prepared on this Form.

Contractowner Account. The term "contractowner account" means any account of a contractowner, participant, annuitant, or beneficiary to which (net) purchase payments under a variable annuity contract are added and from which administrative or transaction charges may be subtracted.

Portfolio Company. The term "portfolio company" means any company in which the Registrant invests.

D. Applications of General Rules and Regulations

If the registration statement is being filed under both the 1933 and 1940 Acts, or under only the 1933 Act, the General Rules and Regulations under the 1933 Act, particularly Regulation C (17 CFR 230.400–497), shall apply, and compliance with them will be deemed to meet the Rules for 1940 Act Registration Statements. However, if the registration statement is being filed only under the 1940 Act, the General Rules and Regulations under that Act, particularly Regulation 8(b) (17 CFR 270.8b–1 to 8b–32), shall apply, except as noted in General Instruction E below.

E. Amendments

Where Form N–4 has been used to file a registration statement under both the 1933 and 1940 Acts, any amendment of that registration statement shall be deemed to be filed under both Acts unless otherwise indicated on the facing sheet.

Filings of amendments on Form N–4 should contain the number of copies specified in 1933 Act Rule 472 (17 CFR 230.472).

F. Incorporation by Reference

A Registrant may, at its discretion, incorporate all or part of the Statement of Additional Information into the prospectus, without physically delivering the Statement of Additional Information to investors with the prospectus. But the Statement of Additional Information must be available to the investor upon request at no charge and any information or documents incorporated by reference into the Statement of Additional Information must be provided along with the Statement of Additional Information.

Rule 411 under the 1933 Act [17 CFR 230.411], and rules 0–4, 8b–23, 8b–24, and 8b–32 under the 1940 Act [17 CFR 270.0–4, 270.8b–23, 270.8b–24, and 270.8b–32] contain guidance on incorporating information or documents by reference into a registration statement filed on Form N–4. In general, a Registrant may incorporate by reference, in the answer to any item of Form N–4 not required to be in the prospectus, any information elsewhere in the registration statement or in other statements, applications, or reports filed with the Commission.

The rules on incorporation by reference under both the 1933 Act and the 1940 Act are subject to the limitations of Rule 24 of the Commission's Rules of Practice [17 CFR 201.24]. Since Rule 24 may be amended from time to time, Registrants are advised to review the rule prior to incorporating by reference any document as an exhibit to a registration statement.

G. Documents Comprising Registration Statement or Amendment

1. A registration statement or an amendment to it filed under both 1933 and 1940 Acts, except for an amendment described in paragraph 5 below, shall consist of the facing sheet of the Form, the cross-reference sheet required by Rule 495(a) under the 1933 Act [17 CFR 230.495(a)], Part A, Part B, Part C, required signatures, and all other documents filed as a part of the registration statement.

2. A registration statement or an amendment to it which is filed under only the 1933 Act shall contain all the information and documents specified in paragraph 1 of this Instruction G, except for an amendment to a 1933 Act registration statement filed only under Sections 24(e) or (f) of the 1940 Act [15 U.S.C. 80a–24(e), 80a–24(f)].

3. An amendment of a 1933 Act registration statement filed only to register additional securities under Section 24(e) or 24(f) of the 1940 Act need only consist of the facing sheet of the Form, required signatures, and, if filed pursuant to Section 24(e) of the 1940 Act, an opinion of counsel as to the legality of the securities being registered. Registrants are reminded that an opinion of counsel must accompany a Rule 24f–2 notice filed by Registrants that have registered an indefinite number of their shares.

4. A registration statement or an amendment to it which is filed under only the 1940 Act shall consist of the facing sheet of the Form, a cross-reference sheet, responses to all items of Part A and B except Items 1, 2, 8, and 9, responses to all items of Part C except Items 21(b)(3), (9), (10), and (11), required signatures, and all other documents filed as part of the registration statement.

5. An amendment permitted by paragraph (d)(2) of 1933 Act Rule 486 [17 CFR 230.486], which is filed under paragraph (b) of that Rule to change the disclosure in an amendment filed under paragraph (a), shall consist of the facing sheet of the Form, a cross-reference sheet, responses to any items of Part A, Part B, or Part C that are amended or supplemented by the amendment, required signatures, and all other documents filed as part of the registration statement.

H. Preparation of the Registration Statement or Amendment

The instructions for Form N–4 are in three parts. Part A relates to the prospectus required by Section 10(a) of the 1933 Act; Part B relates to the Statement of Additional Information that must be provided upon request to recipients of the prospectus; Part C relates to other information that is required to be in the registration statement.

Part A: The Prospectus—The purpose of the prospectus is to provide essential information about the Registrant in a way that will help investors decide whether to purchase the securities being offered. The prospectus should be clear, concise, and understandable. Avoid the use of technical or legal terms, complex language, or excessive detail.

1. Responses to the items of Part A should be as simple and direct as possible and include only information needed to understand the fundamental characteristics of the Registrant.

2. Descriptions of practices that are required by law generally should not include detailed discussions of the law itself.

3. Responses to items that use terms such as "list" or "identify" should include only a short explanation or description.

Part B: Statement of Additional Information—The items in Part B call for additional information about Registrant which is not required in the prospectus, but which may be of interest to some investors. In addition, Part B gives Registrants an opportunity to provide information about matters that they believe may interest investors.

In most cases, Registrants should not repeat in Part B information that is in the prospectus. However, the prospectus and the Statement of Additional Information, Part B of this Form N-4, are independent documents. Therefore, the Statement of Additional Information should be understandable by itself.

General Instructions for Parts A and B—1. The information in the prospectus and Statement of Additional Information should be organized to make it easy to understand the organization and operation of the Registrant and the variable annuity contracts. The information need not be in any particular order, with the following exceptions:

(a) Items 1, 2, 3, and 4(a) must be in numerical order in the prospectus and may not be preceded or separated by any other item, except as permitted by the instructions to Item 3.

(b) Item 4, "Condensed Financial Information," should not be preceded by any other chart or table (except for the table of contents required by Rule 481(c) under the 1933 Act [17 CFR 230.481(c)]).

(c) All of the information required by Item 6(a), "Deductions," should be in one place in the prospectus.

2. The prospectus or the Statement of Additional Information may contain information in addition to what is called for by this Form, provided that the information is not incomplete, inaccurate, or misleading and does not, because of its nature, quantity, or manner of presentation, obscure or impede understanding of required information.

3. The statutory provisions relating to the dating of the prospectus apply equally to the dating of the Statement of Additional Information for purposes of Rule 423 under the 1933 Act [17 CFR 230.423]. Futhermore, the Statement of Additional Information should be made available at the same time that the prospectus becomes available for purposes of Rules 430 and 460 under the 1933 Act [17 CFR 230.430, 230.460].

4. Instructions for charts, graphs, tables, and sales literature:

(a) A Registration Statement on this Form may include any chart, graph, or table that is not misleading.

(b) If "sales literature" is included in the prospectus, (1) the literature should not significantly lengthen the prospectus, and it should not obscure essential disclosure and (2) members of the National Association of Securities Dealers, Inc. (NASD) are not relieved of the filing and other requirements of the NASD for investment company sales literature (See Securities Act Release No. 5359, January 26, 1973 [38 FR 7220 (March 19, 1973)]).

Part A. Information Required in a Prospectus

Item 1. *Cover Page*

(a) The outside cover page must contain the following information:

(i) the Registrant's name;

(ii) the depositor's name;

(iii) the types of variable annuity contracts offered by the prospectus (e.g., single premium immediate, flexible premium deferred);

(iv) the types of qualified plans, if any, with which the contracts may be used (e.g., individual retirement annuities, simplified employee pension plans);

(v) a statement or statements that (A) the prospectus sets forth the information about the Registrant that a prospective investor ought to know before investing; (B) the prospectus should be retained for future reference; (C) additional information about the Registrant has been filed with the Commission and is available upon request and without charge (This statement should explain how to obtain the Statement of Additional Information and whether any of it has been incorporated by reference into the prospectus.);

(vi) the date of the prospectus, and the date of the Statement of Additional Information;

(vii) the statement required by Rule 481(b)(1) under the 1933 Act [17 CFR 230.481(b)(1)];

(viii) the names of the portfolio companies and a statement that the prospectus is not valid unless preceded or accompanied by the prospectuses of the underlying funds in which a purchaser may invest; and

(ix) such other information as is required by rules of the Commission or of any other governmental authority having jurisdiction over the Registrant for the issuance of its securities.

(b) The cover page may include other information, provided that it does not, by its nature, quantity, or manner of presentation, impede understanding of required information.

Item 2. *Definitions*

Define the special terms used in the prospectus (e.g., accumulation unit, contractowner, participant, sub-account, etc.).

Instruction: Only special terms used throughout the prospectus must be defined in the glossary required by this Item. If a special term, e.g., net investment factor, is used in only one section of the prospectus, it may be defined there. However, all special terms used in the prospectus must be defined.

Item 3. *Synopsis or Highlights*

(a) The Registrant should include a synopsis of the information in the prospectus when the prospectus is long or complex. Normally, a synopsis should not be provided where the prospectus is not more than twelve printed pages.

(b) The synopsis should be a clear and concise description of the key features of the offering and the Registrant, with cross-references to relevant disclosures elsewhere in the prospectus.

(c) If the prospectus does not include a synopsis and the variable annuity contract contains any of the following characteristics, they must by highlighted:

(i) any portion of the sales load is assessed upon redemption or annuitization:

Instruction: If any portion of the sales load is assessed upon redemption or annuitization, the response to this Item need only state the maximum percentage load that may be assessed against any given amount redeemed or annuitized and a cross-reference to a more

complete description of the sales load in the prospectus.

(ii) a penalty tax may be assessed pursuant to Section 72(q) of the Internal Revenue Code [26 U.S.C. 72(q)] upon withdrawal of amounts accumulated under any variable annuity contract; or

(iii) the variable annuity contract contains a revocation right (e.g., a "ten-day free look" provision).

Instruction: The highlighted information may not be preceded by the response to any Item except 1 or 2. It may precede Item 2 or be on th cover page. The information does not have to appear under a separate caption.

Item 4. *Financial Information*

(a) Furnish the following information for each class of accumulation units of the Registrant.

Accumulation Unit Values

(for an accumulation unit outstanding throughout the period)

1. accumulation unit value at beginning of period;
2. accumulation unit value at end of period;
3. number of accumulation units outstanding at the end of period.

Instructions: 1. The information shall be presented in comparative columnar form for each of the last ten fiscal years of the Registrant (or for life of the Registrant and its immediate predecessors, if less) but only from the later of the effective date of Registrant's or the relevant portfolio company's first 1933 Act Registration Statement. In addition the information shall be presented for the period between the end of the latest fiscal year and the date of the latest balance sheet of statement of assets and liabilities furnished.

2. Accumulation unit amounts shall be given at least to the nearest cent. If the computation of the offering price is extended to tenths of a cent or more, then the amounts on the table should be given in tenths of a cent.

3. Accumulation unit values should only be given for sub-accounts that fund obligations of the Registrant under variable annuity contracts offered by means of this prospectus.

(b) For each sub-account that is funded by a "money market" fund or portfolio company with policies calling for investment of at least 80% of its assets in debt securities maturing in thirteen months or less, furnish: (1) a yield quotation based on the seven days ended on either (A) the date of the most recent financial statements of the Registrant included in the prospectus or (B) the last day of the most recent month for which it is practicable both to make the required calculation and to include the results in the prospectus, computed by determining the net change, exclusive of capital changes, in the value of a hypothetical pre-existing account having a balance of one accumulation unit of the sub-account at the beginning of the period, dividing the net change in account value by the value of the account at the beginning of the base period to obtain the base period return, and multiplying the difference by (365/7) with the resulting figure carried to at least the nearest hundredth of one percent and (2) the length of and the date of the last day in the base period used in computing that quotation.

Instructions: 1. When calculating the yield quotation required in subsection (b) above, the determination of net change in account value must reflect all deductions that are charged to all contractowner accounts in proportion to the length of the base period and the sub-account's average account size.

2. Deductions from purchase payments and sales loads assessed at the time of redemption or annuitization should not be reflected in the computation of current yield.

3. The capital changes to be excluded from the calculation of yield required by this Item are realized gains and losses from the sale of securities and unrealized appreciation and depreciation of the sub-account and the portfolio company.

4. With the presentation of the yield quotation, Registrant must disclose any material net change that would result from the inclusion of capital changes that are excluded in the computation pursuant to this Item.

5. The Registrant need not furnish a yield figure for both an accumulation unit of a sub-account for qualified contracts by the same portfolio company, if the two yield figures would not be materially different.

6. The Registrant may furnish separate yield figures for individual and group contracts.

7. In addition to the yield quotation required by this Item, the Registrant may also include a quotation of effective yield, carried to at least the nearest hundredth of one percent, computed by compounding the unannualized base period return be adding 1 to the base period return, raising the sum to a power equal to 365 divided by 7, and subtracting one from the result according to the following formula: Effective yield = (Base Period Return + 1)$^{365/7}$ − 1.

8. When calculating the yield quotation required i subsection (b) above, registrants that choose to make such an election on an annual basis may use a median account size in place of an average account size in determining the base period return.

(c) If all the required financial statements of the Registrant and the depositor (see Item 20) are not in the prospectus, state, under a separate caption, where the financial statements may be found. Briefly explain how any financial statements not in the Statement of Additional Information may be obtained.

Item 5. *General Description of Registrant, Depositor, and Portfolio Companies*

Concisely discuss the organization and operation or proposed operation of the Registrant. Include the information specified below.

(a) Briefly describe each depositor, including:

(i) its name, address, and a description of the general nature of its business;

Instruction: The description of the depositor's business should be short and need not list all of the businesses in which the depositor engages or identify the jurisdictions where it does business, if a general description (e.g., "life insurance" or "reinsurance") is provided.

(ii) the date and form of organization of the depositor and the name of the state or other jurisdiction under whose laws it is organized; and

(iii) if the depositor is controlled by another person, the name of that person and the general nature of its business (If the depositor is subject to more than one level of control, simply give the name of the ultimate control person.).

(b) Briefly describe the Registrant, including:

(i) the date and form of organization of the Registrant (i.e., unit investment trust);

(ii) a statement that although income, gains, and losses, whether or not realized, from assets allocated to the Registrant, are, in accordance with the applicable variable annuity contracts, credited to or charged against the Registrant without regard to other income, gains, or losses of the depositor, all obligations arising under the variable annuity contracts are general corporate obligations of the depositor; and

(iii) whether there are sub-accounts of the Registrant (i.e., for qualified and non-qualified contracts or for different portfolio companies).

Instruction: Sub-accounts that fund obligations of the registrant under contracts that are not offered by means of this prospectus need not be described.

(c) Briefly describe each portfolio company, including:

(i) its name;

(ii) the type of fund which the company is (e.g., money market fund, bond fund, balanced fund, etc.) or a brief statement concerning its investment objectives; and

(iii) its investment adviser.

(d) Concisely discuss the rights of contractowners, annuitants, participants, or beneficiaries to instruct the Registrant on the voting of portfolio company securities underlying their

interest in the Registrant, including the manner in which votes will be allocated.

(e) Identify any person who provides significant administrative or business affairs management services (e.g., an "Administrator"), and briefly describe the services provided.

Instruction: Information need not be given in response to this Item about any services described in response to Item 6(a).

(f) Provide the name and principal business address of any transfer agent.

Item 6. *Deductions*

(a) Briefly describe all deductions from purchase payments, contractowner accounts, or assets of the Registrant (e.g., sales loads, administrative and transaction charges, risk charges, and premium taxes). Specify the amount of any such deduction as a percentage or dollar figure (e.g., .95% of the average daily net assets or $5 per exchange). Except for the deduction for premium taxes, identify the person who receives the amount deducted, briefly describe the services provided in consideration for the deduction, and explain the extent to which the deduction can be modified.

Instruction: 1. Identification of the range of current premium taxes is sufficient.

2. If any deduction other than the sales load may be used for distribution expenses, identify it.

(b) State the commissions paid to dealers as a percentage of the public offering price.

(c) State the sales load as a percentage of the public offering price (if it is), and as a percentage of the net amount invested for each breakpoint. The percentages should be shown in a table.

(d) State that there are deductions from and expenses paid out of the assets of the portfolio companies that are described in the accompanying prospectuses.

Item 7. *General Description of Variable Annuity Contracts*

(a) Identify the person or persons (e.g., the contractowner, participant, annuitant, or beneficiary) who have rights under the variable annuity contracts, and the nature of those rights, during the (1) accumulation period, (2) annuity period, or (3) after the death of the annuitant or contractowner.

(b) Briefly describe any provisions for:

(i) allocation of purchase payments amoung sub-accounts of the Registrant;

(ii) transfer of contract values between sub-accounts of the Registrant in either the accumulation or the annuity period; and

(iii) exchanges of variable annuity contracts, including interests or participations therein.

(c) Briefly describe the changes that can be made in the variable annuity contracts or the operations of the Registrant by the Registrant or the depositor, including:

(i) why a change may be made (e.g., changes in applicable law or interpretations of law);

(ii) who, if anyone, must approve any change (e.g., the contractowner or the Securities and Exchange Commission); and

(iii) who, if anyone, must be notified of any change.

Instruction: Describe only those changes that would be material to a purchaser of the variable annuity contracts, such as a reservation of the right to deregister the separate account under the 1940 Act. Do not describe possible non-material changes, such as changing the time of day at which accumulation unit values are determined.

(d) Describe how contractowner inquiries should be made.

Item 8. *Annuity Period*

Briefly describe the operation or proposed operation of the Registrant during a variable annuity contract's annuity period. Include a concise explanation of:

(a) how the amount of the first annuity payment is determined;

(b) how subsequent changes in the amount of annuity payments are determined; and

(c) the choices available to a prospective annuitant in the following areas, including the effect of not specifying a choice:

(i) the annuity date (give the earliest and latest possible dates);

(ii) annuity options;

(iii) frequency of annuity payments (including the effect, if any, of the frequency of payments on the level of payments); and

(iv) assumed interest rates.

Item 9. *Death Benefit*

Briefly describe the death benefit available under a variable annuity contract during the accumulation and the annuity periods. Include:

(a) when the death benefit is calculated and payable and the effect of choosing a specific method of payment on calculation of the death benefit, and

(b) the forms the benefit may take, including the effect of not choosing a payment option and the period during which payments must begin under any annuity option.

Item 10. *Purchases*

(a) Briefly describe the procedures for purchasing a variable annuity contract. Include a concise explanation of:

(i) the minimum initial and subsequent purchase payments required and any limitation on the amount of purchase payments that will be accepted (If there are separate limits for each sub-account, state these limits.);

(ii) the way in which the public offering price is determined, including: (A) that the price is based on accumulation unit value; (B) that changes in accumulation unit value reflect changes in the net asset value of the shares of the portfolio companies, dividends or other distributions, and the deduction of certain charges (which should be specified) and (C) a statement of when calculations of accumulation unit value are made and that the price at which a purchase is effected is based on the next calculation of accumulation unit value after the order is accepted; and

(iii) a statement of when initial and subsequent purchase payments are credited.

(b) Identify each principal underwriter (other than depositor) of the variable annuity contracts and state its principal business address. If the principal underwriter is affiliated with the Registrant, the depositor, or any affiliated person of the Registrant or the depositor, identify how they affiliated (e.g., the principal underwriter is controlled by the depositor).

Item 11. *Redemptions*

(a) Briefly describe how a contractowner or annuitant (if the annuity option chosen by the annuitant does not contain a life contingency) can redeem a variable annuity contract, including how the proceeds are calculated and when they are payable.

(b) If the Registrant offers the variable annuity contracts in connection with the Texas Optional Retirement Program, describe the restrictions on redemption that apply.

(c) If a request for redemption may not be honored for a period of time after a contractowner's investment, describe briefly.

(d) Briefly describe any provision for lapse or involuntary redemptions under the contract and the reasons for it, such as the size of the account or infrequency of purchase payments.

(e) Briefly describe any revocation rights (e.g., "ten-day free look" provisions).

Item 12. *Taxes*

(a) Describe briefly the tax consequences to investors of an investment in the variable annuity contracts.

Instruction: The discussion should include the taxation of annuity payments, death proceeds, periodic and non-periodic withdrawals, pledges and assignments of the contract (if permitted), and any other method by which taxable income may be received by the investor under the variable annuity contract, as well as the tax benefits accorded annuities during the accumulation period. If the tax consequences vary depending on the use of the variable annuity contract (i.e., to fund an individual retirement annuity or corporate plan), the variations should be briefly described.

(b) Briefly describe the types of qualified plans with which the variable annuity contracts can be used.

Instructions: 1. Identify the types of persons who may use the plans (e.g., corporations, self-employed individuals) and state whether the terms of the plans govern the right to benefits, regardless of the terms of the variable annuity contract.

2. Do not describe the Internal Revenue Code requirements for qualifications of plans or the non-annuity tax consequences of qualification (e.g., the effect on employer taxation).

(c) Briefly describe the taxation of the operations of Registrant.

Instruction: State that Registrant's operations will not be taxed separately from those of the depositor, and briefly describe any provision for accumulating funds in the Registrant for federal income taxes and the rate at which the taxes expected to be computed. The circumstances under which amounts will be transferred to or from the depositor as a result of federal income taxation should be briefly described.

Item 13. *Legal Proceedings*

Briefly describe any material pending legal proceedings, other than ordinary routine litigation incidential to the businees, to which the Registrant, any subsidiary of the Registrant, or the Registrant's principal underwriter or depositor is a party. Include the name of the court where the cases is pending, the date filed, and the principal parties. Include similar information for many proceedings instituted by governmental authorities.

Instruction: Legal proceedings are material only to the extent that they are likely to have a material adverse effect upon: (1) the ability of the principal underwriter to perform its contract with the Registrant or of the depositor to meet its obligations under the variable annuity contracts; or (2) the Registrant.

Part B—Information Required in a Statement of Additional Information

Item 14. *Cover Page*

(a) The outside cover page must contain the following information:

(i) the Registrant's name;

(ii) the depositor's name;

(iii) a statement or statements (A) that the Statement of Additional Information is not a prospectus; (B) that the Statement of Additional Information should be read with the prospectus; and (C) how a copy of the prospectus may be obtained;

(iv) the date of the Statement of Additional Information; and

(v) the date of the related prospectus and any other identifying information that the Registrant deems appropriate.

(b) The cover page may include other information, provided that it does not by its nature, quantity, or manner or presentation, impede understanding of required information.

Item 15. *Table of Contents*

List the contents of the Statement of Additional Information and, where useful, provide cross-references to the prospectus.

Item 16. *General Information and History*

(a) If the depositor's name was changed during the past five years, state its former name and the approximate date on which it was changed. If sales of contracts offered by the Registrant or its depositor have been suspended at the request of any state, briefly describe the reasons for and results of the suspension.

(b) Identify the jurisdictions in which the depositor is authorized to do business.

(c) State whether the offering is continuous.

Item 17. *Services*

(a) Give a description of all fees, expenses, and costs of the Registrant which are to be paid by persons other than the depositor or the Registrant, and identify such persons.

(b) Give a summary of any contract for the provision of management-related services to the Registrant that may be of interest to a purchaser of Registrant's securities, unless the contract is described in response to some other item of this form.

(c) Give the name and principal business address of the Registrant's custodian and independent public accountant and provide a general description of the services they perform.

(d) If the assets of the Registrant are held by a person other than the depositor, a commercial bank, trust company, or depository registered with the Commission as custodian, state the nature of the business of each such person.

(e) If an affiliated person of the Registrant or the depositor or an affiliated person of such an affiliated person acts as transfer agent for the Registrant, furnish a description of the services performed by that person and the basis for remuneration.

Instruction: No disclosure need be given in response to paragraph (e) of this Item for a transfer agent who is also the depositor.

(f) If the depositor is the principal underwriter of the variable annuity contracts, so state.

Item 18. *Purchase of Securities Being Offered*

Describe the method that will be used to determine the total offering price at which the variable annuity contracts may be offered to the public.

Instruction: Explain fully any difference in the price at which variable annuity contracts are offered to members of the public, as individuals or as groups, or to officers, directors, or employees of the depositor or underwriter.

Item 19. *Calculation of Yield Quotations of Money Market Sub-accounts*

If a Registrant has sub-accounts that are funded by "money market" funds or portfolio companies with policies calling for investment of at least 80% of their assets in debt securities maturing in thirteen months or less, describe the method used to compute each yield quotation provided in the prospectus pursuant to Item 4(b).

Instructions: 1. For purposes of the description of the method by which the yield quotation required in the prospectus is computed, the determination of net change in account value must reflect all deductions that are charged to all contract-owner accounts in proportion to the lenght of the base period and the sub-account's average account size.

2. Deductions from purchase payments and sales loads assessed at the time of redemption or annuitization should not be reflected in the computation of current yield.

3. The capital changes to be excluded from the calculation of yield described pursuant to this Item are realized gains and losses from the sale of securities and unrealized appreciation and depreciation of the sub-account and the portfolio company.

4. When calculating the yield quotation required in Item 4(b), Registrants that choose to make such an election on an annual basis may use a median account size in place of an average account size in determining the base period return.

Item 20. *Financial Statements*

(a) Provide financial statements of the Registrant.

Instruction: The financial statements and schedules required by Regulation S–X [17 CFR Part 210] shall be provided in a separate section. Financial statements of the Registrant may be limited to:

(i) An audited balance sheet or statement of assets and liabilities as of the end of the most recent fiscal year;

(ii) An audited statement of operations for the most recent fiscal year conforming to the requirements of Rule 6–07 of Regulation S–X [17 CFR 210 210.6–07]; and

(iii) Audited statements of changes in net assets conforming to the requirements of Rule 6–08 of Regulation S–X [17 CFR 210.6–08] for the two most recent fiscal years.

(b) Provide financial statements of the depositor.

Instructions: 1. The financial statements and schedules of the depositor required by Regulation S–X shall be provided in a separate section following the response to paragraph (a) of this Item.

2. Notwithstanding Instruction 1 above, all statements and schedules required by Regulation S–X, except for the consolidated balance sheets described in Rule 3–01 of Regulations S–X [17 CFR 210.3–01], may be omitted from Part B and instead included in Part C of the Registration Statement.

3. Notwithstanding Rule 3–12 of Regulation S–X [17 CFR 210.3–12], the financial statements of the depositor need not be more current than as of the end of the most recent fiscal year of the depositor unless:

(i) the depositor's financial statements have never been included in an effective registration statement under the Securities Act of 1933 of a seperate account which offers variable annuity contracts or funds variable life insurance contracts; or

(ii) the balance sheet of the depositor at the end of either of the two most recent fiscal years included in response to this Item shows a combined captial and surplus, if a stock company, or an unassigned surplus, if a mutual company, of less than $1,000,000; or

(iii) the balance sheet of the depositor at the end of a fiscal quarter within 135 days of the expected date of effectiveness under the 1933 Act (or a fiscal quarter within 90 days of filing if the registration statement is filed solely under the 1940 Act) would show a combined captial and surplus, if a stock company, or an unassigned surplus, if a mutual company, of less than $1,000,000. If two fiscal quarters end within the 135 day period, the depositor may choose either for purposes of this test.

Any interim financial statements required by this Item need not be comparative with financial statements for the same interim period of an earlier year.

Part C. Other Information

Item 21. *Financial Statements and Exhibits*

List all financial statements and exhibits filed as part of the Registration Statement.

(a) Financial statements.

Instruction: Designate those financial statements which are included in Part A and Part B of the Registration Statement.

(b) Exhibits:

(1) copies of the resolution of the board of directors of the depositor authorizing the establishment of the Registrant;

(2) copies of all agreements for custody of securities and similar investments of the Registrant, including the schedule of remuneration;

(3) copies of each underwriting or distribution contract between the Registrant and the principal underwriter or the depositor and the principal underwriter, and specimens or copies of all agreements between principal underwriters and dealers;

(4) the form of each variable annuity contract;

(5) the form of application used with any variable annuity contract provided in response to (4) above;

(6) copies of the certificate of incorporation or other instrument of organization and the by-laws of the depositor;

(7) a copy of any contract of reinsurance;

(8) copies of all other material contracts not made in the ordinary course of business which are to be performed in whole or in part on or after the date of filing the Registration Statement;

(9) an opinion of counsel and consent to its use as to the legality of the securities being registered, indicating whether they will, when sold, be legally issued, fully paid, and non-assessable;

(10) copies of any other opinions, appraisals, or rulings, and consents to their use relied on in preparing this Registration Statement and required by Section 7 of the 1933 Act;

(11) all financial statements omitted from Item 20; and

(12) copies of any agreements or understandings made in consideration for providing the initial capital between or among the Registrant, the depositor, underwiter, or initial contractowners and written assurances from the depositor or initial contractowners that the purchases were made for investment purposes without any present intention of redeeming.

Instruction: Subject to the Rules on incorportion by reference, the foregoing exhibits shall be filed as a part of the Registration Statement. Exhibits numbered 3 and 9–11 above need be filed only as part of a 1933 Act Registration Statement. Exhibits shall be lettered or numbered for convenient reference. Exhibits incorporated by reference may bear the designation given in a previous filing. Where exhibits are incorporated by reference, the reference shall be made in the list of exhibits.

Item 22. *Directors and Officers of the Depositor*

Give the following information about each director or officer of the depositor:

Name and principal business address	Positions and offices with depositor	Positions and offices with registrant

Item 23. *Persons Controlled by or Under Common Control with the Depositor or Registrant*

Provide a list or diagram of all persons directly or indirectly controlled by or under common control with the depositor or Registrant and for each such person indicate (1) if a company, the state or other sovereign power under whose laws it is organized, (2) the percentage of voting securities owned or other basis of control by the person, if any, immediately controlling it, and (3) its principal business unless such principal business is implicit in its name.

Instructions: 1. The list or diagram shall include the Registrant and the depositor and shall show clearly the relationships between each company named. If a company is controlled by direct ownership of its securities by two or more persons, so indicate by appropriate cross-reference.

2. Designate (i) subsidiaries for which separate financial statements are filed; (ii) subsidiaries included in the respective consolidated financial statements; (iii) subsidiaries included in the respective group financial statements filed for unconsolidated subsidiaries; and (iv) other subsidiaries, indicating briefly why statements of such subsidiaries are not filed.

Item 24. *Number of Contractowners*

State as of a specified date within 90 days prior to the date of filing the number of owners of qualified and non-qualified contracts offered by Registrant.

Item 25. *Indemnification*

State the general effect of any contract, arrangements, or statute under which any underwriter or affiliated person of the Registrant is insured or indemnified in any manner against any liability which may be incurred in such capacity, other than insurance provided by any underwriter or affiliated person for his own protection.

Instruction: In responding to this Item the Registrant should note the requirements of Rules 461 and 484 under the 1933 Act (17 CFR 230.461, 230.484) and Section 17 of the 1940 Act (15 U.S.C. 80a–17).

Item 26. *Principal Underwriters*

(a) Give the name of each investment company (other than the Registrant) for which each principal underwriter currently distributing securities of the Registrant also acts as a principal underwriter, depositor, sponsor, or investment adviser.

(b) Give the information required by the following table with respect to each director, officer, or partner of each principal underwriter named in the answer to Item 10(b):

Name and principal business address	Positions and offices with underwriter	Positions and offices with registrant
(1)	(2)	(3)

(c) State the aggregate dollar amount of underwriting commissions and the amount retained by the principal underwriter for each of the last three fiscal years.

(d) Give the following information about all commissions and other compensation received by each principal underwriter, directly or indirectly, from the Registrant during the Registrant's last fiscal year:

Name of principal underwriter	Net underwriting discounts and commissions	Compensation on redemption	Brokerage commissions	Compensation
(1)	(2)	(3)	(4)	(5)

Instructions: 1. Show in a note, or otherwise, the nature of the services provided in return for the compensation shown in column (5).

2. Information need not be given about bona fide contracts with the Registrant or its depositor for outside legal or auditing services, or bona fide contracts for personal employment entered into with the Registrant or its depositor in the ordinary course of business.

3. Information need not be given about any service for which total payments of less than $5,000 were made during each of the last three fiscal years.

4. Information need not be given about payments made under any agreement whereby another person contracts with the Registrant or its depositor to perform as custodian or transfer agent.

(e) If any payments were made by the Registrant during its last fiscal year to an unaffiliated underwriter or dealer in the variable annuity contracts other than payments made through deduction from the offering price at the time of sale, furnish the following information:

(i) the name and address of the underwriter or dealer;

(ii) a description of the circumstances surrounding payments;

(iii) the amount paid; and

(iv) how the amount paid was determined and the consideration received for it.

Instruction: 1. Do not repeat information furnished in answer to Item 26(d) above.

2. Instructions 2–4 to Item 26(d) above also apply here.

Item 27. *Location of Accounts and Records*

Give the name and address of each person who maintains physical possession of each account, book, or other document, required to be maintained by Section 31(a) of the 1940 Act (15 U.S.C. 80a–30(a)) and the Rules under it (17 CFR 270.31a–1 to 31a–3).

Item 28. *Management Services*

Give a summary of any contract not discussed in Part A or Part B of this Form under which management-related services are provided to the Registrant, showing the parties to the contract and the total dollars paid and by whom, for the last three fiscal years.

Instructions: 1. A contract for "management related services" includes any agreement whereby another person agrees to keep, prepare, or file such accounts, books, records, or other documents as the Registrant may be required to keep under federal or state law, or to provide any similar services with respect to the daily administration of the Registrant, but does not include: (i) any agreement to act as custodian or transfer agent for the Registrant or (ii) bona fide contracts for outside legal or auditing services, or bona fide contracts for personal employment entered into in the ordinary course of business.

2. In summarizing a management-related service contract, include: the name of the person providing the service; any direct or indirect relationships between such person and the Registrant, its depositor, or its principal underwriter; the nature of the services provided; and the basis of the compensation paid for the last three fiscal years.

3. Information need not be given about any service for which total payments of less than $5,000 were made during each of the last three fiscal years.

Item 29. *Undertakings*

Give the following undertakings in substantially this form in all initial registration statements filed under the 1933 Act:

(a) An undertaking to file an amendment to the Registration Statement with certified financial statements showing the initial capital received before accepting subscriptions from any person in excess of 25 if Registrant proposes to raise its initial capital pursuant to Section 14(a)(3) of the 1940 Act (15 U.S.C. 80a–14(a)(3));

(b) An undertaking to file a post-effective amendment to this registration statement as frequently as is necessary to ensure that the audited financial statements in the registration statement are never more than 16 months old;

(c) An undertaking to include, as part of any application used to purchase a variable annuity contract offered by the prospectus prepared on this Form, a space where applicant can request a Statement of Additional Information; and

Instruction: This can be either in the application itself or attached to it.

(d) An undertaking to deliver any Statement of Additional Information requested as part of the purchase application no later than the delivery of the contract purchased.

Signatures

As required by (the Securities Act of 1933 and) the Investment Company Act of 1940, the Registrant (certifies that it meets the requirements of Securities Act Rule 486(b) for effectiveness of this Registration Statement and) has caused this Registration Statement to be signed on its behalf, in the City of———, and State of——on this—day of——,19—.

(Registrant) ———
By (Signature and Title)———
(Depositor) ———
By (Name of officer of depositor)———
(Title) ———
Attest: (Name) ———
(Title) ———

Instruction: If the registration statement is being filed only under the Securities Act or under both the Securities Act and the Investment Company Act, it should be signed by both the Registrant and its depositor. If the registration statement is being filed only under the Investment Company Act, it should be signed only by the Registrant.

As required by the Securities Act of 1933, this Registration Statement has

been signed by the following persons in the capacities and on the dates indicated.

(Signature) _____
(Title) _____
(Date) _____

[FR Doc. 84-11 Filed 1-4-84; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 3

[Docket No. RM84-1-000]

Fees Relating to Freedom of Information Act Requests and to Other Public Information Requests

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) proposes to amend its regulations governing the fees to be charged for search and duplication of documents requested under the Freedom of Information Act and the Commission's general regulations on public information. The proposal would amend the current rules to set fees for microform and hard copy computer printouts; clarify that the Commission will charge for copies of public information extracted from all its computer files; permit the Executive Director to establish minimum fees below which no charges will be collected; and specify that the Commission may select the method of duplication and medium of the duplicated documents.

The Commission expects the proposed amendments to permit efficient and cost-effective distribution of public documents generated by its recently installed automated record management system. The changes will enable the Commission to sell microform and hardcopy computer printouts rather than limit, as it currently does, the public's access to such documents to inspection on Commission premises.

DATES: Comments must be received on or before February 6, 1984.

ADDRESSES: Comments must be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 and should refer to Docket No. RM84-1-000. An original and 14 copies must be filed.

FOR FURTHER INFORMATION CONTACT: Donna Siegel Moffa, Office of the General Counsel, Federal Energy Regulatory Commission, Washington, D.C. 20426, (202) 357-5737.

SUPPLEMENTARY INFORMATION:

Notice of Proposed Rulemaking

Issued: December 29, 1983.

The Federal Energy Regulatory Commission (Commission) proposes to amend §§ 3.8(b) and 3.8(k) of its regulations. Section 3.8(k) sets the fees to be charged for search and duplication of all documents requested pursuant to the Freedom of Information Act (FOIA) (5 U.S.C. 552).[1] The proposal would amend § 3.8(k) to set fees for microform and hard copy computer printouts; permit the Executive Director to establish minimum fees below which no charges are collected; and specify that the Commission may select the method of duplication and medium of the duplicated documents. Section 3.8(b) governs the availability of certain public documents. The proposal would modify this rule to clarify that the Commission will charge for copies of public data extracted from all computer files, not just from the magnetic tape computer files already listed in § 3.8(b).

I. Background

In May 1982, the Commission promulgated 18 CFR 3.8(k) setting fees to be charged for search and duplication performed by the Commission staff in response to requests from the public under the FOIA.[2] Since then, the Commission has installed the Records and Information Management System (RIMS), an automated record management system that will eventually contain all of the Commission's active files on microfilm, indexed and accessible by computer. Those records are retrievable in microform and, to a limited extent, on paper. In addition, various indexes to these records are available on hard copy computer printout. RIMS generated documents have been available to the public since March 1983. However, because the current rule does not provide prices for the sale of duplicates in microform and/or hard copy computer printout, the public has been allowed only to inspect documents in these media and has been required to return them after use.

[1] 5 U.S.C. 552(a)(4)(A) directs agencies to promulgate regulations specifying the fees that they will charge for duplication and search costs of processing FOIA requests.

[2] Fees relating to Freedom on Information Act Requests, 47 FR 23, 148 (May 27, 1982) (Final Rule, Docket No. RM81-40-000, Order No. 233, issued May 19, 1982). The related provision in § 3.8(b) also enables the public to purchase copies of public documents from the Office of Public Information. Section 3.8(b) was promulgated in 1977.

II. The Proposed Amendments

The proposed amendment to § 3.8(k)(3)(i) establishes prices for the microform and hard copy computer printouts generated by RIMS. The prices set, 10 cents per page on microform or per page of computer printout, are consistent with the 10 cents per page of photocopy in the current rule and will enable the Commission to recover marginal costs (in terms of staff time, paper, fiche or film) or document reproduction.

This NOPR also proposes to eliminate the current blanket waiver for FOIA fee assessments of $5 or less (§ 3.8(k)(4)) and to provide, instead, that fee thresholds would be set by the Executive Director. The rationale for the current minimum was predicated on the assumption that the costs of billing and collection exceed $5 when the request and response were handled by mail. However, many documents are provided over the counter in response to walk-in requests in the Office of Public Information. Most RIMS documents for example, will be provided in response to such requests, so the Commission will incur no billing costs. Moreover, the Commission estimates that 90 percent of the requests for RIMS documents would fall below the current $5 threshold. Thus, the Commission itself would bear the bulk of the document reproduction costs if the $5 minimum were retained, and it could become too costly to distribute RIMS documents.

Proposed § 3.8(k)(4) gives the Commission the flexibility necessary to set fee thresholds in a manner that allows reproduction costs to be recouped while also ensuring that the collection process remains cost-effective. It enables the Executive Director to establish separate standard thresholds for requests that are handled by mail and requests that are handled over the counter based on the actual costs and volume of each. Fee thresholds would be posted or otherwise available in the Office of Public Information.

The proposed § 3.8(k)(3)(iii) would specify that the Commission may select the method of duplication and nature of the duplicate when responding to a FOIA request. While the FOIA places no burden upon the Commission to do so, Commission staff will normally provide documents in the medium preferred by the requester. However, where it is impossible or unduly burdensome to do so, an alternative medium will be used. Section 3.8(k)(3)(iii) makes it clear that production of duplicates in a medium other than that preferred by the

requesters is permissible and satisfies the Commission's obligations under the FOIA.[3]

Section 3.8(b) currently provides that "[c]opies of data extracted from the Commission's magnetic tape computer files are available on a reimbursable basis." The proposed amendment would eliminate the words "magnetic tape" to clarify that the Commission may charge for reproducing any computerized data, including RIMS documents.

II. Certification of No Significant Impact

The Regulatory Flexibility Act (RFA)[4] requires certain statements, descriptions and analyses of proposed rules that will have "a significant impact on a substantial number of small entities."

Pursuant to Section 605(b) of the RFA, the Commission finds that the proposed amendments will not, if promulgated, have a significant economic impact on a significant number of small entities. Specifically, because the Commission estimates that 90 percent of the requests will amount to less than $5, the amendments are unlikely to create significant economic impact on entities no matter how small. Moreover, while the amendments make RIMS documents available for purchase, requesters may still choose to inspect rather than buy those documents.

III. Public Comment Procedures

The Commission invites interested persons to submit written comments on the matter proposed in this notice. An original and 14 conformed copies of such comments should be filed with the Commission on or before February 6, 1984. Comments submitted by mail should be addressed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. All comments should refer to Docket No. RM84–1–000.

Written comments will be placed in the Commission's public files and will be available for inspection in the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C.

List of Subjects in 18 CFR Part 3

Administrative practice and procedures, Freedom of information, Organization and functions (Government agencies).

[3] The FOIA requires only that records be "made available" and not that they be provided in a particular medium. *See* 5 U.S.C. 552(a). Accordingly, as long as an accurate and usable copy is provided, the Commission has satisfied its obligations under the FOIA.

[4] 5 U.S.C. 601–612 (Pub. L. 96–354, September 19, 1980).

In consideration of the foregoing, the Commission proposes to amend Chapter 1, Title 18 of the Code of Federal Regulations, as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

PART 3—ORGANIZATION; OPERATION; INFORMATION AND REQUESTS

1. In the sixth sentence of § 3.8(b) following the word "Commission's", the words "magnetic tape" are removed.

2. In § 3.8(k), paragraph (3)(i) is revised, a new paragraph (3)(iii) is added and paragraph (4) is revised to read as follows:

§ 3.8 Public information and submittals.

* * * * *

(k) * * *

(3) * * *

(i) If the duplication is done by Commission staff, the requester will be charged 10 cents per photocopy, per page on microform, or per page of computer printout, plus postage; or

(ii) * * *

(iii) The Commission may select the method of duplication and the nature of the duplicated copy, such as paper, microform, or some other medium.

(4) *No fees charged below minimum.* The Executive Director may establish minimum fees below which no charges will be collected. If total fees assessed by Commission staff for a Freedom of Information Act request or series of related requests are less than the appropriate threshold, the Commission will not charge the requester.

3. The authority citation for § 3.8 is revised to read as follows:

(Administrative Procedure Act, 5 U.S.C. 551–557 (1976); Department of Energy Organization Act, 42 U.S.C. 7101–7352 (Supp. V. 1981); Exec. Order 12009, 3 CFR 142 (1978); Freedom of Information Act, 5 U.S.C. 552 (1976); Federal Power Act, 16 U.S.C. 825h (1976 & Supp. V. 1981); Natural Gas Act, 15 U.S.C. 717o (1976 & Supp. V. 1981)).

[FR Doc. 84–218 Filed 1–4–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RM79–76–221; Louisiana—5 Addition]

18 CFR Part 271

High-Cost Gas Produced From Tight Formations; Louisiana

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (Supp V. 1981), to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Louisiana that an additional area of the Smackover "C" Zone be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on February 13, 1984.

Public hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on January 16, 1984.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Walter W. Lawson, (202) 357–8556.

SUPPLEMENTARY INFORMATION:

Notice of Proposed Rulemaking by Director, Oppr

Issued December 30, 1983.

I. Background

On November 9, 1983, the State of Louisiana Office Conservation (Louisiana) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (18 CFR 271.703 (1983)), that an additional portion of the Smackover "C" Zone in Webster Parish, Louisiana be designated as a tight formation. On February 22, 1982, the Commission issued Order No. 211, in Docket No. RM79–76 (Louisiana—5) in which the Commission designated portions of the Smackover "C" Zone in Claiborne and Webster Parishes as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Louisiana's recommendation that an additional area of the Smackover "C"

Zone be designated a tight formation should be adopted. Louisiana's recommendation and supporting data are on file with Commission and are available for public inspection.

II. Description of recommendation

Louisiana recommends that an additional area of the Smackover "C" Zone, underlying portions of the East Dykesville Field in Webster Parish, Louisiana, be designated as a tight formation. The recommended area consists of sections 4 through 9, 16, 17, and 18, Township 22 North, Range 9 West, and sections 28 through 33, Township 23 North, Range 9 West.

There are no data wells within the recommended area. However, the Smackover "C" Zone is defined as being that gas and condensate bearing zone encountered between the depths of 11,534 feet and 11,568 feet (electric log measurements) in the Cities Service Oil and Gas Corporation Hearn A No. 1 well, located adjacent to the recommended area in section 3, Township 22 North, Range 9 West, Webster Parish, Louisiana.

III. Discussion of Recommendation

Louisiana claims in its submission that evidence gathered through information and testimony presented at a public hearing in support of this recommendation demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

It is asserted that development of the formation within the recommended area will not adversely affect any fresh water aquifers that are or are expected to be used as a domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, [Reg. Preambles 1977–1981] FERC Stats. and Regs. ¶ 30,180 (1980), notice is hereby given of the proposal submitted by Louisiana that the additional area of the Smackover "C" Zone, as described and delineated in Louisiana's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before February 13, 1984. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–221 (Louisiana—5 Addition) and should give reasons including supporting data for any recommendation. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An orginal and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than January 16, 1984.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, *Code of Federal Regulations*, as set forth below, in the event Louisiana's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

1. The authority citation for Part 271 read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703 is amended by revising paragraph (d)(68) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(68) *Smackover C Zone in Louisiana.* RM79–76 (Louisiana—5)

(i) *Delineation of formation.* The Smackover C Zone is found within the East Dykesville Field in Claiborne and Webster Parishes, Louisiana, in the area of Township 22 North, Range 8 West, Sections 3–10, 15–18; Township 22 North, Range 9 West, Sections 1–18; Township 23 North, Range 8 West, Sections 30–34; and Township 23 North, Range 9 West, Sections 25–36.

(ii) *Depth.* The Smackover C Zone occurs between the measured depths of 11,290 feet and 11,340 feet on the induction electrical log of the Wheless Industries—Pelto Oil—Guy Lewis *et al.* No. 1 well and between 11,534 feet and 11,568 feet on the electric log of the Cities Service Oil and Gas Corporation—Hearn A No. 1 well.

[FR Doc. 84–221 Filed 1–4–84; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR–201–83]

Information Returns on Broker Transactions; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations published elsewhere in this issue of the **Federal Register** relating to information returns of brokers. The proposed regulations would clarify the provisions under current regulations that require brokers to make information returns on sales of commodities effected for customers.

DATES: The public hearing will be held on Wednesday, March 28, 1984, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by Wednesday, March 14, 1984.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, Attn:

CC:LR:T (LR–201–83), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Lou Ann Craner of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, telephone 202–566–3935 (not a toll-free call).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 6045 of the Internal Revenue Code of 1954. The proposed regulations appear in this issue of the **Federal Register** (see FR Doc. 83–34850).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit, not later than March 14, 1984, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

George H. Jelly,

Director, Legislation and Regulations Division.

[FR Doc. 83–34851 Filed 12–30–83; 4:23 pm]

BILLING CODE 4830–01–M

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26 CFR Part 1

Information Returns of Brokers

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments to the regulations relating to information returns of brokers. The proposed regulations would clarify the information reporting requirements applicable to sales (including short sales) of commodities and permit the Secretary to exempt from the broker reporting requirements, by notice published in the **Federal Register**, a minimum gross proceeds amount on sales of commodities. The proposed regulations would affect brokers effecting sales (including short sales) of commodities.

DATES: Written comments and request to speak at the public hearing must be delivered by March 5, 1984. A notice of public hearing on this proposed rule is published simultaneously with this notice in the **Federal Register**. The amendments are proposed to be effective on the date they are published in the **Federal Register** as final regulations. In general, the proposed amendments would apply to sales made on or after July 1, 1983, but no report would be required with respect to sales of a commodity (other than lead, palm oil, rapeseed, tea, or tin) that is not deliverable in satisfaction of a regulated futures contract by reason of its form or quality if the sale occurs before the date the amendments are published in the **Federal Register** as final regulations. The deadline to apply for an undue hardship exemption from magnetic media reporting for a broker or barter exchange in existence on or before July 1, 1983, is proposed to be extended to February 4, 1984.

ADDRESS: Send comments and request to speak at the public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–201–83), Washington, D.C. 20224. Application for exemption from magnetic media reporting should be sent to the Internal Revenue Service Center with which the taxpayer normally files a return; no such application will be processed through the National Office in Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Bruce H. Jurist of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T), 202–566–3918, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 6045 of the Internal Revenue Code of 1954, relating to information returns of brokers. These proposed amendments clarify information reporting requirements for brokers effecting sales (including short sales) of commodities. The amendments are to be issued under the authority of sections 6045 and 7805 of the Internal Revenue Code of 1954 (68A Stat. 747, 917; 26 U.S.C. 6045, 7805).

Explanation of Provisions

The current regulations under section 6045 generally require brokers to make returns of information on sales (including short sales) of commodities effected for customers. It is unclear under these regulations whether certain forms of personal property are commodities. The proposed regulations provide rules for determining whether personal property (including gold and silver) is a commodity. In general, the term "commodity" is defined as personal property that is deliverable in satisfaction of a regulated futures contract, certain specified personal property, personal property that the Secretary determines is to be treated as a commodity, or any form or quality of or any interest in such personal property. The term "commodity" does not include a security, regulated futures contract, forward contract, or a form of tangible personal property if the gross proceeds from its sale exceed by more than 15 percent its value as a commodity. It should be noted that this rule and the alternative methods of tangible personal property valuation set out in the proposed regulations (the "exact" and "approximate" methods) represent the Service's preliminary attempt to distinguish commodities from other property. The Service encourages public comment on the proposed approach and is particularly interested in suggestions for more precise distinctions between commodities and other property.

The proposed regulations also permit the Secretary to exempt sales of small amounts of a commodity from the broker reporting requirements. The Secretary would permit the exemption by prescribing a minimum gross proceeds reporting amount in a rule-related notice published in the **Federal Register**.

Under these proposed regulations, no report would be required with respect to a sale of a commodity (other than lead, palm oil, rapeseed, tea, or tin) that is not deliverable in satisfaction of a regulated futures contract by reason of its form or quality if the sale occurs before the date the amendments are published in the **Federal Register** as final regulations.

CFTC Approved Commodities

Personal property is deliverable in satisfaction of a regulated futures contract if such property is deliverable in satisfaction of a futures contract that has been approved for trading by the Commodities Futures Trading Commission (CFTC). The CFTC has approved that trading of futures

contracts in the following types of property:

Barley
Belgian francs
British pounds
Butter
Canadian dollars
Cattle
Certificates of deposit
Cocoa
Coconut oil
Coffee
Commercial paper
Copper
Corn
Cotton
Crude oil
Deutschmarks
Dutch guilders
Eggs
Flaxseed
Franch francs
Frozen boneless beef
Frozen pork bellies
Gasoline
Gold
Grain sorghums
Heating oil
Hogs
Iced broilers
Idaho potatoes
Industrial fuel oil
Italian lira
Japanese yen
Liquefied propane
Live hogs
Lumber
Maine potatoes
Mexican pesos
Mortgages
Natural rubber
Oats
Orange juice
Palladium
Palm oil
Platinum
Plywood
Rice
Rubber
Rye
Silver
Skinned hams
Soybean meal
Soybean oil
Soybeans
Stock index
Stud lumber
Sugar
Sunflower seeds
Swiss francs
Turkeys
U.S. silver coins
U.S. Treasury bills
U.S. Treasury bonds
Wheat
Wool

Comments and Notice of a public Hearing

Before adopting these proposed regulations consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A notice of public hearing on this proposed rule is being published simultaneously in the **Federal Register** with this notice.

Special Analyses

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required.

Although this document is a notice of proposed rulemaking that solicits public comment, the Internal Revenue Service has concluded that the notice and public procedure requirements of 5 U.S.C. 553 do not apply because the rules proposed are interpretative and provide an exemption. Accordingly, a Regulatory Flexibility Analysis is not required.

Drafting Information

The principal author of these proposed regulations is Bruce H. Jurist of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, on matters of both substance and style.

List of Subjects in 26 CFR 1.6001–1 through 1.6109–2

Income taxes, Administrative practice and procedure, Filing requirements.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

PART 1—[AMENDED]

Section 1.6045–1 is amended by revising paragraph (a)(5), revising Example (5) of paragraph (b), adding Examples (9) through (17) to paragraph (b), redesignating paragraphs (c)(3)(v) (*a*), (*b*), and (*c*) as (c)(3)(v) (A), (B), and (C), respectively, revising paragraph (c)(3)(vii), adding paragraph (c)(3)(x), adding Examples (4) and (5) to paragraph (c)(4), and revising paragraph (l)(2)(ii). The revised and added provisions read as follows:

§ 1.6045–1 Returns of information of brokers and barter exchanges.

(a) *Meaning of terms.* * * *

(5)(i) Except as otherwise provided in paragraph (a)(5)(ii) of this section, the term "commodity" means—

(A) Any form or quality of personal property that is deliverable (whether or not subject to price adjustment for form or quality) in satisfaction of a regulated futures contract that has been approved for trading by the Commodity Futures Trading Commission (whether or not the regulated futures contract is actually traded);

(B) Any form or quality of lead, palm oil, rapeseed, tea, or tin;

(C) Any form or quality of personal property that the Secretary determines is to be treated as a "commodity" under this section, from and after the date specified in a rule-related notice of such determination published in the **Federal Register**;

(D) Any form or quality of personal property a form or quality of which is described in paragraph (a)(5)(i)(A) of this section; or

(E) Any interest in personal property that is described in paragraph (a)(5)(i) (A), (B), (C), or (D) of this section.

(ii) The term "commodity" does not include—

(A) A security as defined in paragraph (a)(3) of this section;

(B) A regulated futures contract as defined in paragraph (a)(6) of this section;

(C) A forward contract as defined in paragraph (a)(7) of this section;

(D) A form of tangible personal property, or an interest therein, gross proceeds from the sale of which exceed by more than 15 percent the value on the date of sale of the underlying personal property determined, at the election of the broker, by either exact valuation or approximate valuation (as defined in paragraph (a)(5)(iii) of this section); or

(E) A form or quality of tangible personal property or an interest therein if no single type of tangible personal property described in paragraph (a)(5)(i) of this section comprises at least 30 percent of the weight or volume of the underlying personal property and the gross proceeds from the sale of such property are less than three thousand dollars ($3,000).

(iii) For purposes of paragraph (a)(5)(ii)(D) of this section—

(A) The term "exact valuation" means to determine the value of the underlying personal property—

(*1*) By separately determining the value of each type of tangible personal property described in paragraph (a)(5)(i) of this section of which the underlying personal property is composed at the price at which each such type of tangible personal property is bought and sold in the ordinary course of the buyer's business, or a similarly situated business if such price cannot be determined for the buyer's business; and

(*2*) Aggregating all such separately determined values; and

(B) The term "approximate valuation" means to determine the value of the underlying personal property—

(*1*) Solely with reference to its weight or volume;

(*2*) As if such weight or volume were composed entirely of a single type of tangible personal property described in paragraph (a)(5)(i) of this section identical in kind and quality to the most valuable type of tangible personal property described in paragraph (a)(5)(i) of this section that comprises at least 30 percent of such weight or volume (or if no type of tangible personal property described in paragraph (a)(5)(i) of this section comprises at least 30 percent of such weight or volume, the most valuable type of tangible personal property described in paragraph (a)(5)(i) of this section that comprises any portion of the underlying personal property);

(*3*) At the price at which tangible personal property treated as composing the entire weight or volume is bought and sold in the ordinary course of the buyer's business, or a similarly situated business if such price cannot be determined for the buyer's business.

(iv) For purposes of paragraphs (a)(5)(ii)(E) and (iii) of this section, "type of tangible personal property" means any tangible personal property described in paragraph (a)(5)(i) (A), (B), or (C) of this section and any other tangible personal property that cannot be commercially reduced into two or more elements.

(b) Examples. * * *

Example (5). A warehouse receipt is an interest in personal property for purposes of paragraph (a) of this section. Consequently, a warehouse receipt for a quantity of lead is a commodity under paragraph (a)(5)(i)(E) of this section. Similarly, an executory contract that requires delivery of a warehouse receipt for a quantity of lead is a forward contract under paragraph (a)(7)(i) of this section.

* * * * *

Example (9). If the gross proceeds from the sale of a gold coin (such as a Krugerrand, Maple Leaf, 50 Peso coin, or 100 Crown coin) do not exceed by more than 15 percent the bullion value of the gold in the coin, the coin is a commodity under paragraph (a)(5)(i)(D) of this section and is not excluded by paragraph (a)(5)(ii)(D) of this section.

Example (10). U.S. silver dimes, quarters, and half dollars minted before 1965 are personal property deliverable in satisfaction of a regulated futures contract approved by the Commodity Futures Trading Commission. The coins are a commodity under paragraph (a)(5)(i)(A) of this section. If, however, the gross proceeds from the sale of an individual coin exceed by more than 15 percent the bullion value of the silver in the coin, the coin is not a commodity under paragraph (a)(5)(ii)(D) of this section. If the gross proceeds from the sale of coins as a unit do not exceed by more than 15 percent the bullion value of the silver in the entire unit, all the coins in the unit are a commodity under paragraph (a)(5)(i)(A) of this section notwithstanding the possibility that the gross proceeds from the sale of one or more individual coins in the unit might exceed by more than 15 percent the bullion value of the silver in such individual coins.

Example (11). If the gross proceeds from the sale of a U.S. silver dollar minted before 1970 do not exceed by more than 15 percent the bullion value of the silver in the coin, the coin is a commodity under paragraph (a)(5)(i)(D) of this section and not excluded by paragraph (a)(5)(ii)(D) of this section.

Example (12). Customer E sells to jewelry store S, a broker, a gold necklace. The gross proceeds from the sale of the necklace do not exceed by more than 15 percent the value of the gold as bullion. Consequently, the old necklace is a commodity under paragraph (a)(5)(i)(D) of this section and not excluded under paragraph (a)(5)(ii)(D) of this section.

Example (13). Customer F sells to jewelry store T, a broker, a diamond ring. The diamond ring (composed of a gold band and gem) weighs 0.5 troy ounces. The gold in the ring comprises more than 30 percent of the total weight of the ring, and the gross proceeds from the sale of the diamond ring exceed by more than 15 percent the value of 0.5 troy ounces of gold as bullion. Consequently, the diamond ring is not a commodity under paragraph (a)(5)(i)(D) of this section because of its exclusion under paragraph (a)(5)(ii)(D) of this section.

Example (14). Customer G sells to smelter U, a broker, a gold and silver goblet. More than 30 percent of the weight or volume of the goblet is gold. Assume that the broker chooses to use the "approximate valuation" method described in paragraph (a)(5)(iii)(B) of this section and the goblet weighs 10 troy ounces. If the gross proceeds from the sale of the goblet do not exceed by more than 15 percent the value of 10 troy ounces of gold as bullion, the goblet is a commodity under paragraph (a)(5)(i)(D) of this section and not excluded under paragraph (a)(5)(ii)(D) of this section.

Example (15). V, a jeweler, generally purchases inventory (that is a commodity under paragraph (a)(5) of this section) from wholesalers and purchases inventory from the general public only when sufficient inventory cannot be secured from wholesalers. V does not accept offers for sale, but seeks out sellers when inventory is needed. Since V does not stand to effect sales to be made by others, V is not a broker.

Example (16). W, a coin dealer, regularly advertises that it will purchase gold items for their bullion value. Since W stands ready to effect sales to be made by others, W is a broker.

Example (17). X, a coin dealer, regularly buys gold items when they are offered for sale and this is known to sellers of such items. Since X stands ready to effect sales to be made by others, X is a broker whether or not it advertises.

(c) *Reporting by brokers*—* * *

(3) *Exceptions.* * * *

(vii) *Foreign currency.* No return of information is required with respect to a sale of foreign currency unless—

(A) Such sale is pursuant to a regulated futures contract or forward contract that requires or permits delivery of foreign currency; or

(B) Such foreign currency is a form or quality of or interest in gold or silver not described in paragraph (a)(5)(ii)(D) of this section.

* * * * *

(x) *Minimum gross proceeds.* No return of information is required with respect to a sale of a commodity effected by a broker for a customer if the aggregate gross proceeds from all sales of commodities effected by the broker for the customer on the date of such sale are less than the minimum gross proceeds reporting amount applicable on such date. For this purpose, the minimum gross proceeds reporting amount is the amount prescribed as such by the Secretary in a rule-related notice published in the **Federal Register**.

(4) *Examples.* The following examples illustrate the application of the reporting requirements.

* * * * *

Example (4). X, an individual, exchanges at bank N British pounds, in paper currency form, for U.S. dollars. Even though the exchange is a sale of a commodity under paragraph (a)(5)(i)(A) of this section, such sale is exempt from reporting under paragraph (c)(3)(vii) of this section.

Example (5). Y, an individual, sells goods to Company P, a British corporation. In payment for those goods Company P tenders to Y a check in the amount of 1000 pounds sterling. Y cashes the check at bank M and receives U.S. dollars. Even though the transaction is a sale of a commodity under paragraph (a)(5)(i)(E) of this section, such sale is exempt from reporting under paragraph (c)(3)(vii) of this section.

* * * * *

(l) *Use of magnetic media.* * * *

(2) *Exception for undue hardship.* * * *

(ii) In the case of a person who is a broker or barter exchange on July 1, 1983, an application to file returns of information on Form 1099 must be filed on or before February 6, 1984. In the case of a person who becomes a broker or barter exchange after July 1, 1983, such application must be filed by the later of February 6, 1984 or the end of the second month following the month in

which such person becomes a broker or barter exchange.

* * * * *

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

[FR Doc. 83-34850 Filed 12-30-83; 4:23 pm]
BILLING CODE 4830-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD7 83-15]

Anchorage Grounds/Special Anchorage Area, Charleston, SC

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is considering a proposal to modify the anchorage regulations for Charleston, SC harbor. This rulemaking is needed to provide anchorages within the harbor for commercial vessels by redefining the existing anchorages for current port needs.

DATES: Comments must be received on or before February 21, 1984.

ADDRESSES: Comments should be mailed to Commander (mps), Seventh Coast Guard District, 51 S.W. First Avenue, Miami, FL 33130. The comments will be available for inspection and copying at 51 S.W. First Avenue, Room 1231, telephone (305) 350-5651. Normal office hours are between 7:30 a.m. and 4:00 p.m., Monday through Friday, except federal holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Lieutenant (J.G.) Harry Craig at (305) 350-5651.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD7-83-15) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed.

The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this notice are Lieutenant (J.G.) Harry Craig, project officer, Seventh Coast Guard District Port Safety Branch, and Lieutenant Commander Kenneth E. Gray, project attorney, Seventh Coast Guard District Legal Office.

Discussion of Proposed Regulation

The current anchorage regulations, established in 1967, provide for two special anchorage areas within the harbor. Areas where anchoring is prohibited are also defined in the regulations. No area for commercial vessel anchoring is provided for. Currently few small craft use the special anchorage areas; therefore these areas can be reduced in size. There is a substantial demand by large vessels for anchorage areas within the harbor, and defined anchorage grounds would enhance the safety of these vessels at anchor. The Captain of the Port, Charleston, has proposed redefining the anchorage grounds within the port to accommodate current demand.

Economic Assessment and Certification

This proposed regulation is considered to be nonsignificant in accordance with DOT Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5). Its economic impact is expected to be minimal because it permits local practices to continue, but with existing conditions defined within the federal regulations.

Based upon this assessment it is certified in accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, the regulation has been reviewed in accordance with Executive Order 12291 of February 17, 1981, on Federal Regulation and has been determined not to be a major rule under the terms of that order.

List of Subjects in 33 CFR Part 110

Anchorages.

PART 110—[AMENDED]

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend Part 110 of Title 33, Code of Federal Regulations, by revising § 110.173(a) and by adding § 110.72d to read as follows:

§ 110.173 Port of Charleston, SC

(a) *The anchorage grounds.* (1) *Commercial Anchorage A.* This anchorage is located adjacent to the western edge of Folly Island Channel and southwest of Rebellion Reach and is bounded by the following coordinates:
32°45'34" N., 79°52'12" W.; to
32°46'17" N., 79°53'21" W.; to
32°45'51" N., 79°53'23" W.; to
32°45'34" N., 79°52'55" W.; thence back to
32°45'34" N., 79°52'12" W.

(2) *Commercial Anchorage B.* This anchorage is located adjacent to the south side of South Channel and bounded by the following coordinates:
32°45'28" N., 79°53'40" W.; to
32°45'28" N., 79°54'46" W.; to
32°45'19" N., 79°54'46" W.; to
32°45'12" N., 79°54'06" W.; to
32°45'16" N., 79°53'40" W.; thence back to
32°45'28" N., 79°53'40" W.

(3) *Commercial Anchorage C.* This anchorage is located 1800 yards, 118° T from St. Michaels Church Spire and has a radius of 250 yards. Vessels using this anchorage must anchor in the center.

(4) *Commercial Anchorage D.* This anchorage is located 37°00' 2017 yards from the tank atop the Fort Sumter Hotel on the Battery at Charleston, diameter of anchorage 1400 feet. The use of this anchorage is limited to loaded vessels for a period of not more than 24 hours.

(b) *The regulations.* (1) Except in cases of great emergency, no vessel shall be anchored in the main ship channels as defined by broken lines marking their boundaries on NOAA Chart 11524, nor shall a vessel be so anchored that it can swing within 400 feet of any wharf of pier on the eastern waterfront of Charleston. Vessels must be anchored in such a way as not to interfere with the free navigation of channels in the port, including Cooper, Ashley, Wando Rivers, and Town Creek, or to obstruct the approach to any pier or entrance to any slip, or to impede the movement of any vessel or craft.

(2) Vessels using the anchorages opposite the eastern waterfront of Charleston shall place their anchors as near as possible in the center of the anchorage. Vessels not using a designated commercial anchorage shall not place their anchors within the main ship channels, but vessels may be so anchored as to swing into these areas: Provided, That they are so placed, with reference to the customary winds, tides, and currents of the harbor, that they will

swing only during slack water, and at this period there shall remain in the waters adjacent to the channel an area providing sufficient depth so as to permit the safe passage of loaded vessels.

(3) No vessel may anchor within the designated anchorages for more than 72 hours without the prior approval of the Captain of the Port.

(4) No vessel may anchor unless it maintains a bridge watch, guards and answers Channel 16 FM, and maintains an accurate position plot.

(5) If any anchored vessel is so close to another that a collision is probable, each vessel must communicate with the other vessel and the Captain of the Port on Channel 16 FM and shall act to eliminate the close proximity situation.

(6) No vessel may anchor unless it maintains the capability to get underway within 4 hours.

(7) No vessel may anchor in a "dead ship" status (propulsion or control unavailable for normal operations) without the prior approval of the Captain of the Port.

(8) Dragging of anchors in or across main ship channels and cable areas is prohibited.

(9) Vessels which, through force of great emergency, are anchored contrary to the foregoing regulations in this section shall be shifted to new berths in accordance with such regulations at the earliest opportunity.

(10) A vessel, upon notification from the Captain of the Port to shift its position in anchorage grounds must get underway at once or signal for a tug, and must change position as directed with reasonable promptness.

(11) No vessel may conduct lightering operations in an anchorage without permission from the Captain of the Port.

(12) When the use of an anchorage is required by naval vessels, the vessels anchored therein shall move when the Captain of the Port directs them.

(13) Nothing in this section shall be construed as relieving the owner or person in charge of any vessel from the penalties of law for obstructing navigation, or for obstructing or interfering with range lights, or for not complying with the navigation laws in regard to lights, fog signals, etc.

* * * * *

§ 110.72d Ashley River, Charleston, SC.

The waters lying within an area bounded by the outer end of Municipal Marina Bulkhead latitude 32°46′30″ N., longitude 79°57′57″ W.; thence 129° T to latitude 32°46′30″ N., longitude 79°56′57″ W.; thence 090° T to the shoreline; thence northwest along the shoreline to the shore end of City Marina bulkhead.

(33 U.S.C. 471, 2030, 2035, 2071; 49 U.S.C. 1655 (g)(1)(B); 49 CFR 1.46 (c)(2)); and 33 CFR 1.05–1(g))

Dated December 16, 1983.

Rear Adm. D. C. Thompson,

Commander, Seventh Coast Guard District.

[FR Doc. 84–271: Filed 1–4–84: 8:45 am]

BILLING CODE 4910–14–M

Notices

Federal Register
Vol. 49, No. 3
Thursday, January 5, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Forms Under Review by Office of Management and Budget

December 30, 1983.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from:

Department Clearance Officer, USDA, OIRM, Room 108–W Admin. Bldg., Washington, D.C. 20250, (202) 447–4414.

Comments on any of the items listed should be submitted directly to:

Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, ATTN: Desk Officer of USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

New

• Farmers Home Administration
7 CFR 1965–B Security Services for Multiple Housing Loans
On Occasion
Individuals or Households, State or Local Government, Farms, Businesses, Non-Profit Institutions: 794 responses; 1,922 hours; not applicable under 3504(h)
Dean Creenwalt, (202) 382–1615.

• Economic Research Service
Agricultural Land Values
Annually
Farms: 16,015 responses; 2,675 hours; not applicable under 3504(h)
Charles Barnard, (202) 447–9179.

• Animal and Plant Health Inspection Service
List of Plant Pests for Export Certification
Annually
State or Local Governments, Non-Profit Institutions: 50 responses; 3,600 hours; not applicable under 3504(h)
Douglas Barnett, (301) 436–8078.

• Forest Service
Free Use Permits—Timber
FS–2400–8
Recordkeeping and on Occasion
Individuals or Households, Federal Agencies or Employees: 340,000 responses; 68,000 hours; not applicable under 3504(h)
Rex Baumback, (703) 475–3757.

Revised

• Agricultural Stabilization and Conservation Service
Part 1421—General Regulations Governing Price Support for the 1978 and Subsequent crops
30 various forms
On Occasion, Annually
Farms: 1,769,400 responses; 442,350 hours; not applicable under 3504(h)
Steve Gill, (202) 447–7988.

Reinstatement

• Farmers Home Administration
7 CFR 1933–I, Self-Help Technical Assistance Grants
On Occasion and Recordkeeping
State or Local Government, Non-Profit Institutions: 1,787 responses; 2,537 hours; not applicable under 3504(h)
Cliff Herron, (202) 382–1484.

Larry K. Roberson,
Acting Department Clearance Officer.

[FR Doc. 84–248 Filed 1–4–84; 8:45 am]
BILLING CODE 3410–01–M

Agricultural Marketing Service

Hop Marketing Advisory Board; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–436; 86 Stat. 770), notice is given of a meeting of the Hop Marketing Advisory Board at 8:15 a.m., local time, January 20, 1984, in Boise, Idaho, at the Red Lion Motor Inn.

The purpose of the meeting is to discuss marketing policy, and related matters. The meeting will be open to the public.

The Hop Marketing Advisory Board is established under Marketing Order No. 991, as amended (7 CFR Part 991), regulating the handling of hops of domestic production. The marketing order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

The names of Board members, agenda, summary of the meeting, and other information pertaining to the meeting may be obtained from Robert H. Eaton, Hop Administrative Committee, Room 1002, Corbett Building, 430 S.W. Morrison Street, Portland, Oregon, 97204, telephone (503) 224–1823.

Dated: December 29, 1983.
Issued:

William T. Manley,
Deputy Administrator, Marketing Program Operations.

[FR Doc. 84–169 Filed 1–4–84; 8:45 am]
BILLING CODE 3410–02–M

CIVIL AERONAUTICS BOARD

Fitness Determination of Huachuca Airlines, Inc.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 83–12–121, Order to Show Cause.

SUMMARY: The Board is proposing to find that Huachuca Airlines, Inc. is fit, willing, and able to provide commuter air carrier service under section

419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service conform to applicable safety standards. The complete text of this order is available, as noted below.

DATES: Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed below no later than January 18, 1984, together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

ADDRESSES: Responses or additional data should be filed with the Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and with all persons listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Mary Catherine Terry, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428 (202) 673–5088.

SUPPLEMENTARY INFORMATION: The complete text of Order 83–12–121 is available from the Distribution Section, Room 100, 1825 Commecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitian area may send a postcard request for Order 83–12–121 to that address.

By the Civil Aeronautics Board: December 23, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-283 Filed 1-4-84; 8:45 am]

BILLING CODE 6320-01-M

Reporting Required for International Civil Aviation Organization

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Collection of Information under the Provisions of the Paperwork Reduction Act (44 U.S.C. 35).

SUMMARY: The Civil Aeronautics Board is requesting the Office of Management and Budget's approval to collect certain supplemental U.S. air carrier data that are required to be submitted to the international Civil Aviation Organization under a U.S. Treaty obligation. OMB approval is required under the Paperwork Reduction Act of 1980.

DATED: December 29, 1983.

FOR FURTHER INFORMATION CONTACT: M. Clay Moritz, Jr., Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–6042.

SUPPLEMENTARY INFORMATION: Agency Clearance Officer from Whom a Copy of the Collection of Information and Supporting Documents is Available: Robin A. Caldwell (202) 673–5922

How Often the Collection of Information Must Be Filed: Monthly, Quarterly and Annually

Who is Asked or Required to Report: U.S. Certificated Air Carriers

Estimate of Number of Annual Responses: 188

Estimate of Number of Annual Hours Needed to Complete the Collection of Information: 427.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-283 Filed 1-4-84; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41909]

Complaint of Pan American World Airways, Inc., Against the Government of the United Kingdom and British Airways, Ltd.

Order

On December 28, 1983, Pan American World Airways, Inc. filed a complaint against the Government of the United Kingdom and British Airways, Ltd. The complainant alleges that the Government of the United Kingdom has engaged in an unreasonable and unfair practice by subsidizing British Airways' costs in operating its Concorde service.

In support of its complaint, Pan American alleges that, because British Airways incurs no capital costs in owning its Concorde aircraft, British Airways is able to offer fares which are significantly below its costs. Pan American asserts that these fares have resulted in substantial diversion of first-class traffic from Pan American and other U.S. flag carriers to British Airways' Concorde service. Pan American maintains that this practice has put it at a competitive disadvantage which, when coupled with its recent forced "agreement" to suspend a portion of its New York-London flights, will have a "highly disruptive impact" on Pan American and will "unravel much of the operation" Pan American has built at London.[1] The complaint asserts that the United Kingdom's actions run counter to section 402(f) of the Federal Aviation Act and section 2 of the International Air Transportation Fair Competitive Practices Act (IATFCPA). Pan American states that, unless British Airways raises its Concorde fares to a level at least 50 per cent in excess of the prevailing New York-London and Washington-London first class fares, we should issue an order direction British Airways to show cause why the current Concorde fare should not be suspended pending a full investigation designed to establish the true cost of the Concorde service.

The International Air Transportation Competition Act of 1979 (IATCA) substantially expanded our ability to deal with allegations of unfairly restrictive and discriminatory practices by foreign governments and foreign airlines. We now possess power to respond quickly to such practices through amendments to section 402 of the Federal Aviation Act and section 2 of IATFCPA which permit us to deny, alter, amend, modify, suspend, cancel, limit or condition any foreign air carrier permit or tariff if we find such action to be in the public interest. They also enable us to act without any hearing or to dispense with oral evidentiary hearings and base our decision on written evidence and arguments submitted by interested parties in appropriate circumstances. Furthermore, to ensure that complaints filed under this legislation receive prompt attention, section 2 of the IATFCPA provides that we shall approve, deny, dismiss or set a complaint for hearing, or institute other proceedings proposing remedial action, within 60 days after receipt of the complaint. We may extend the period for taking action in increments of 30 days up to 180 days, if we conclude that it is likely that the complaint can be satisfactorily resolved through negotiations.

With these considerations in mind, we have decided to invite all interested persons to answer the complaint of Pan American in this docket. Answers shall include all data, evidence, and argument upon which persons rely to support their position, and shall cover all substantive and procedural issues they wish the Board to consider. We will also provide an opportunity to reply to these answers.

Answers shall be filed no later than fourteen calendar days from the service date of this order, and replies no later than seven calendar days from that answer date.[2]

After receipt and consideration of these pleadings and any evidence submitted, we will issue a further order in this proceeding. As indicated above, we may either provide for further procedures, defer action for 30 days, or

[1] Complaint at 10.

[2] We delegate to the Director, Bureau of International Aviation, the authority to dispose of all procedural questions arising in this proceeding, except for requests for oral evidentiary hearings, until further Board order.

grant, dismiss, or deny the complaint in whole or in part.

Accordingly, 1. We invite any interested person to file and serve upon persons named in paragraph 3, below, no later than January 12, 1983, answers to the complaint of Pan American in Docket 41909. If comments are filed, replies may be filed, and must be served as above, but no later than January 19, 1983;

2. If timely and properly supported requests are filed, we will give consideration to the matters and issues raised by the requests before we take further action, provided that we may order further procedure within the statutorily determined time period; and

3. We are serving this order upon Pan American World Airways, Inc., British Airways, Ltd., the Ambassador in Washington, D.C. of the United Kingdom and the Department of State and Transportation.

We shall publish this order in the **Federal Register.**

All Members concurred except Member Morales who was not present and did not vote.

By the Civil Aeronautics Board.

[FR Doc. 84-280 Filed 1-4-84; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Application for Approval To Transfer Ownership of a U.S. Fishing Vessel to a U.S. Corporation Under Foreign Control

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of proposed fishing vessel transfer and request for comments.

SUMMARY: Application has been received by the Maritime Administration (MarAd), Department of Transportation, for approval to transfer to Thanh, Inc., ownership of the vessel PINE CONE. The contemplated transfer would subject the vessel to foreign control since Thanh Ngoc Nguyen, a Vietnamese citizen, owns 100 percent of the stock of the Lam Van Nguyen Corporation. Comments are requested.

DATE: All comments must be postmarked no later than February 6, 1984.

ADDRESSES: Interested persons are invited to send written comments to Michael L. Grable, Chief, Financial Services Division, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: John A. Kelly, Jr., (Financial Assistance Specialist), (202) 634-7496.

SUPPLEMENTARY INFORMATION: Application for approval of the transfer of ownership of the vessel PINE CONE (O.N. 519832, built 1968, reg. length 36.3') owned by Ron Abercrombie, P.O. Box 27, Matagorda, Texas 77457, was received by MarAd November 11, 1983. The vessel would remain documented in the fisheries of the United States and be operated primarily for shrimp in Louisiana coastal waters. Finfish would also be taken. Approval of the transfer is required by Section 9 of the Shipping Act, 1916 as amended (46 U.S.C. 808) because although Thanh, Inc., a Louisiana Corporation, 4353 Field Street, New Orleans, LA 70114, meets the citizenship requirements for documentation of a vessel, it is not a citizen of the United States within the meaning of Section 2 of the Act. The Maritime Administration is the Federal agency responsible for the approval or disapproval of applications submitted under the Shipping Act. Where a foreign transfer involves a fishing vessel, MarAd customarily requests the National Marine Fisheries Service (NMFS) to review the application.

Accordingly, we are soliciting the views of interested persons in this regard and will convey them to MarAd with our recommendation. Generally, a recommendation will be favorable unless it is concluded that the transfer will adversely affect the particular segment(s) of the U.S. commercial fishery industry involved. No public hearing is contemplated at this time.

Dated: December 29, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-174 Filed 1-4-83; 8:45 am]
BILLING CODE 3510-22-M

Issuance of General Permits; Japan Deep Sea Trawlers Association, et al.

On December 14, 1983, general permits to incidentally take marine mammals during commercial fishing operations in 1984 were issued to:

1. The Japan Deep Sea Trawlers Association, No. 601 Daito Building, 3-6, Kandaogawacho, Chiyodaku, Tokyo, Japan, in Category 1: Towed and Dragged Gear to take 120 northern sea lions, 10 northern fur seals, 15 harbor seals, and 4 small cetaceans.

2. The Hokuten Trawlers Association, Toranomon Chuo Building, 1-16, Toranomon, 1, Minatoku, Tokyo, Japan, in Category 1: Towed and Dragged Gear, to take 55 northern sea lions, 5 northern fur seals, and 5 harbor seals.

3. The North Pacific Longline-Gillnet Association, Zenkeiren Building, 2-7-2, Hirakawa-cho, Chiyodaku, Tokyo, Japan, in Category 5: Other Gear to take by harassment only.

All takings are incidental to commercial fishing operations within the United States Fishery Conservation Zone, pursuant to 50 CFR 216.24 (45 FR 72187-72196).

These general permits are available for public review in the Office of the Assistant Administrator for Fisheries, 3300 Whitehaven Street, NW., Washington, D.C.

Dated: December 29, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-175 Filed 1-4-84; 8:45 am]
BILLING CODE 3510-22-M

Issuance of Permit; Marineland, Inc.

On October 19, 1983, Notice was published in the **Federal Register** (48 FR 48492) that an application had been filed with the National Marine Fisheries Service by Marineland, Inc., St. Augustine, Florida 32086 for a permit to take two (2) short-finned pilot whales (*Globicephala macrorhynchus*) for public display.

Notice is hereby given that on December 28, 1983, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a permit for the above taking to Marineland, Inc., subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: December 29, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-176 Filed 1-4-84; 8:45 am]
BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Soliciting Public Comment on Bilateral Textile Consultations with Taiwan to Review Trade in Categories 318, 359, 369, 442, 459, 649 and 669 pt.

December 29, 1983.

On December 23, 1983, the American Institute in Taiwan requested consultations with the Government of the Coordination Council for North American Affairs concerning exports from Taiwan in Categories 318 (Other Yarn-Dyed Fabrics), 359 (Other Cotton Apparel), 369 (Other Cotton Manufacturers), 442 (Skirts), 459 (Other Wool Apparel), 649 (Brassieres) and 669 pt. (Other than Fishnets, Polypropylene Bags and Tents). These requests were made on the basis of the agreement of November 18, 1982, concerning trade in cotton, wool and man-made fiber textiles and textile products from Taiwan.

The purpose of this notice is to advise the public that if no solution is agreed upon in consultations with Taiwan, the Committee for the Implementation of Textile Agreements may later establish limits for the entry and withdrawal from warehouse for consumption of textile products in Categories 318, 359, 369, 442, 459, 649 and 669 pt., produced or manufactured in Taiwan and exported to the United States during the twelve-month period which began on January 1, 1983 and extended through December 31, 1983.

Any party wishing to comment or provide data or information regarding the treatment of the foregoing categories under the bilateral agreement, or any other aspect thereof, or to comment on domestic production or availability of textile products included in these categories, is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, it is requested that comments be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreements or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-34236 Filed 12-30-83; 9:50 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

1984 Medical Reimbursement Rate for Dependents of Military Personnel

Notice is hereby given that the Assistant Secretary of Defense (Comptroller) on December 28, 1983 issued the following memorandum to the Assistant Secretary of Defense (Health Affairs), the Assistant Secretaries of the Army (IL&FM) and Air Force (FM), and the Comptroller of the Navy:

The charge for inpatient and dental care given to dependents of military personnel shall be $6.80 per day, effective January 1, 1984.

Dated: December 30, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 84-172 Filed 1-4-84; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 83-08-NG]

Natural Gas Imports; Midwestern Gas Transmission Company and Great Lakes Gas Transmission Company; Joint Petition To Amend Authorizations To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of joint petition to amend natural gas import authorizations by extending the term of the authorizations.

SUMMARY: The Economic Regulatory Administration (ERA) gives notice of receipt on December 1, 1983, of a joint petition from Midwestern Gas Transmission Company (Midwestern) and Great Lakes Gas Transmission Company (Great Lakes) to amend their authorizations to import certain volumes of natural gas purchased from TransCanada Pipelines Limited (TransCanada) by extending the term of those authorizations through October 31, 1984.

The joint petition is filed with ERA pursuant to Section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-54. Protests or petitions to intervene are invited.

DATE: Protests or petitions to intervene are to be filed no later than 4:30 p.m. on January 20, 1984.

FOR FURTHER INFORMATION CONTACT:

Robert M. Stronach (Natural Gas Division, Office of Fuels Programs), Economic Regulatory Administration, Forrestal Building, Room GA-007, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-9622

Michael T. Skinker (Office of General Counsel, Natural Gas and Mineral Leasing), U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-6667

SUPPLEMENTARY INFORMATION: By an unnumbered order issued on August 9, 1979 (ERA Docket No. 79-04-NG), Midwestern was authorized to import on a best efforts' basis through October 31, 1980, up to 114 Bcf of natural gas purchased from TransCanada. This authorization was extended to October 31, 1981, by Opinion and Order No. 20 (ERA Docket No. 80-17-NG) issued October 16, 1980; extended to October 31, 1982, by Opinion and Order No. 36 (ERA Docket No. 81-28-NG) issued October 26, 1981; and extended to October 31, 1983, by Opinion and Order No. 47 (ERA Docket No. 82-14-NG) issued November 1, 1982. Midwestern purchases the natural gas under a contract with no take-or-pay requirements and intends to resell any imported volumes taken under the extended authorization to Tennessee Gas Pipeline Company (Tennessee) on the basis of need. Under past authorizations, Midwestern also resold such imported volumes to Northern Natural Gas Company and Natural Gas Pipeline Company of America, but these companies did not wish to extend the arrangement.

By an unnumbered order issued on July 11, 1979 (ERA Docket No. 78-011-NG), Great Lakes was authorized to import on an interruptible basis through October 31, 1980, up to 18 Bcf of natural

gas purchased from TransCanada. This authorization was extended to October 31, 1981, by Opinion and Order No. 21 (ERA Docket No. 80–16–NG) issued October 20, 1980; extended to October 31, 1982, by Opinion and Order No. 35 (ERA Docket No. 81–27–NG) issued October 23, 1981; and extended to October 31, 1983, by Opinion and Order No. 47 (ERA Docket No. 82–14–NG) issued November 1, 1982. Great Lakes purchases the natural gas under a contract with no take-or-pay requirements and intends to sell the imported volumes taken under the extended authorization to Midwestern for resale to Tennessee on the basis of need. Opinion and Order No. 21 and subsequent orders also authorized Great Lakes to import additional volumes, charged to the account of Midwestern, to be used by Great Lakes, as necessary, for transporting the authorized volumes to Midwestern.

On December 1, 1983, Midwestern and Great Lakes (applicants) jointly filed a petition for an extension of their authorizations through October 31, 1984, at the current international border price of U.S. $4.40 per MMBtu, in order to permit the import of the remaining volumes previously authorized through October 31, 1983. The applicants state that they have imported aproximately 67 Bcf of the 132 Bcf previously authorized. In support of their joint petition, the applicants state that the availability of this supply with no take-or-pay requirements will provide flexibility for Tennessee to meet unusually heavy winter demand or to cope with emergency conditions which might interrupt normal sources of supply or impair operations. The applicants assert that their application is in the public interest, and request expedited consideration to ensure that these import volumes will be available to Tennessee during the 1983–84 winter season.

Other Information: Any person wishing to become a party to the proceeding, and thus to participate as a party in any conference or hearing which might be convened, must file a petition to intervene. Any person may file a protest with respect to this joint petition. The filing of a protest will not serve to make the protestant a party to the proceeding. Protests will be considered in determining the appropriate action to be taken on the petition.

All protests and petitions to intervene must meet the requirements that are specified by the regulations that were in effect on October 1, 1977, in 18 CFR 1.8 and 1.10. They should be filed with the Natural Gas Division, Economic Regulatory Administration, Room GA–007, RG–43, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585.

All protests and petitions to intervene must be filed no later than 4:30 p.m., on January 20, 1984.

A hearing will not be held unless a motion is made by a party or person seeking intervention and is granted by the ERA, or if the ERA on its own motion believes that a hearing is necessary or required. A person filing a motion must demonstrate how a hearing will advance the proceedings. If a hearing is scheduled, the ERA will provide notice to all parties and persons whose petitions to intervene are pending.

A copy of the petition is available for inspection and copying in the Natural Gas Division Docket Room, located in Room GA–007, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on December 29, 1983.

Robert L. Davies,

Director, Coal and Electricity Division, Economic Regulatory Administration.

[FR Doc. 84–168 Filed 1–4–84; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. QF84–88–000]

BASF Wyandotte Corp.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

December 30, 1983.

On December 9, 1983, BASF Wyandotte Corporation (Applicant), of 100 Cherry Hill Road, P.O. Box 181, Parsippany, New Jersey 07054, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located at the Applicant's Geismar Works, Geismar, Ascension Parish, Louisiana. The primary energy source of the facility will be natural gas. The facility will consist of a combustion gas turbine, an electric generator, and a waste heat recovery boiler. The useful thermal energy output, which will be in the form of process steam, will be utilized in the production of chemicals. The electric power production capacity of the facility will be 36.6 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–222 Filed 1–4–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP84–23–001 and TA84–1–22–001]

Consolidated Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

December 30, 1983.

Take notice that Consolidated Gas Supply Corporation (Consolidated) on December 21, 1983 tendered for filing proposed changes to its FERC Gas Tariff, Third Revised Volume No. 1. The proposed changes shown on Substitute Thirty-Fifth Revised Sheet No. 16 and Substitute Thirty-Sixth Revised Sheet No. 16 are proposed to be effective November 10, 1983 and January 1, 1984, respectively. Substitute Thirty-Fifth Revised Sheet No. 16 corrects a computational error in the initial filing in Docket No. RP84–23 made November 10, 1983.

Substitute Thirty-Sixth Revised Sheet No. 16 provides for the 1984 GRI Funding Unit to be included in Rate Schedules T and TI.

Consolidated requested a waiver of the Commission's Rules and Regulations, specifically Section 154.22 Notice Requirements. Additionally, Consolidated requested a waiver of any other of the Commission's Rules and Regulations as may be deemed necessary to permit the revised tariff sheets to become effective as proposed.

Copies of the filing were served upon Consolidated's jurisdictional customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR Sections 385.214 and 385.211). All petitions or protests should be filed on or before January 6, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-223 Filed 1-4-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3117-002]

Dodge Falls Hydro Associates; Surrender of Exemption

December 30, 1983.

Take notice that Dodge Falls Hydro Associates (Dodge Falls), Exemptee for the Dodge Falls Project No. 3117, has requested that its exemption be terminated. The project would have been located on the Connecticut River in Grafton County, New Hampshire and Caledonia County, Vermont.

Dodge Falls filed its request on November 18, 1983, and the surrender of its exemption for Project No. 3117 is deemed effective 30 days after the issuance date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-224 Filed 1-4-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. IR000-799]

Town of Fremont; Request for Waiver

December 30, 1983.

On October 4, 1983 notice was given, 48 FR 45285, that a group of nonregulated utilities, FERC Dockets IR000-799, et al. had filed pursuant to §292.403(a) of the Commission's regulations for waiver of certain requirements established by the Commission under section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA). These entities seek a waiver of the requirement that they implement certain provisions of section 292.303-292.308 of the Commission's regulations. (18 CFR Part 292, Subpart C.)

This renotice correctly identifies the location of the Town of Fremont, Docket No. IR000-799 as North Carolina.

The Town of Fremont, a nonregulated electric utility, has provided public notice in its service area and held a hearing to solicit public comment regarding its obligations under the Commission's regulations. The applicant has indicated that this hearing demonstrated a lack of potential for development of cogeneration and small power production facilities within its service territory. The applicant, therefore, believes that implementation of regulation on a generic basis will not encourage the development of cogeneration and small power production facilities to any greater degree than implementation of the Commission's regulations on a case-by-case basis if, and when, proponents of such facilities approach the utility.

The Town of Fremont has requested a waiver from any of the Commission's regulations under 18 CFR Part 292, Subpart C which would require the development of standard rates, terms or conditions. The Town has adopted a resolution indicating its intent to otherwise implement the Commission's regulations on a case-by-case basis.

Any person desiring to be heard or to protest any of the above filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFC 385.211 and 385.214). All such motions or protests should be filed with thirty (30) days of publication of notice in the **Federal Register**, and should reference the applicable docket number or numbers. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to be proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-233 Filed 1-4-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-449-000]

Gas Systems Engineering, Inc.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

December 30, 1983.

On September 29, 1983, Gas Systems Engineering, Inc. (Applicant), of 13329 Stuebner Airline Drive, Suite T, Houston, Texas 77014, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules. On December 12, 1983, supplemental information was filed to complete the application.

The topping-cycle cogeneration facility will be located in the Rothwood Field in North Harris County, Texas. The facility will consist of an induction engine generator unit. The waste heat from the exhaust gases will be routed into a "heater treater" to supplement the natural gas now being used to treat the crude oil and natural gas. The primary energy source for the facility will be natural gas. The electric power production capacity of the facility will be 171.6 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-225 Filed 1-4-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-94-000]

Getty Oil Co., Lost Hills Field; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

December 30, 1983.

On December 12, 1983, Getty Oil Compay (Applicant), of P.O. Box 10269, Bakersfield, California 93389-0269, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located in the Lost Hills Field, Kern County, California. The primary energy source for the facility will be natural gas. The facility will be comprised of three units. Each unit will consist of a combustion turbine, an electric generator, and a heat recovery steam generator. The useful thermal energy output will be usd for enhanced oil recovery. The electric power production capacity of the facility will be 11.2 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-226 Filed 1-4-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-95-000]

Getty Oil Co., North Midway Field; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

December 30, 1983.

On December 12, 1983, Getty Oil Company (Applicant), of P.O. Box 10269, Bakersfield, California 93389-0269, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located in the North Midway Field, Kern County, California. The primary energy source for the facility will be natural gas. The facility will be comprised of three units. Each unit will consist of a combustion turbine, an electric generator, and a heat recovery steam generator. The useful thermal energy output will be used for enhanced oil recovery. The electric power production capacity of the facility will be 11.2 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-227 Filed 1-4-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA84-5-000]

Gulf Oil Co.; Petition for Adjustment

December 30, 1983.

On November 25, 1983 Gulf Oil Corporation (Gulf), P.O. Box 2100, Houston, Texas 77252, filed with the Federal Energy Regulatory Commission (Commission) a petition for adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3432 (Supp. V 1981), and 18 CFR 385.1101-385.1117 of the Commission's Rules of Practice and Procedure. Gulf seeks a waiver of the 30-day filing requirement for rate change filings found in § 154.94(h)(2)(iii) of the Commission's regulations (18 CFR 154.94(h)(2)(iii)).

Under § 154.94(h)(2)(iii), a producer receiving a well category determination under NGPA sections 102(d) or section 108 must make a rate change filing within 30 days of the date the determination becomes final in order to collect the applicable maximum lawful price from the date of such final determination or the date of initial deliveries, whichever is later. Since the producer's interim collection authority terminates under § 273.203(2)(b) when the determination becomes final, a producer filing out of time (more than 30 days after the determination becomes final) may receive no more than the previously applicable maximum lawful price for gas sales between the date the determination becomes final and the 31st day after the notice of rate change is filed.

In its petition, Gulf states that it filed out of time under § 154.94(h)(2)(iii) six rate change statements to establish the section 108 price. Gulf asserts that it, along with other producers, has experienced difficulty in meeting the 30-day filing requirement of § 154.94(h)(2)(iii) due to difficulty in keeping abreast of final determinations for wells which the producers do not operate themselves, confusion as to the filing requirements, difficulty in monitoring a large number of determinations, and inadequacies in the notice produre for final determinations. Gulf contends that it is experiencing a special hardship that will result in a loss of revenues if § 154.94(h)(2)(iii) is not waived.[1]

The procedures applicable to the conduct of this adjustment proceeding are found in Rules 1101-1117 of the Commission's Rules of Practice and Procedure, 18 CFR 385.1101-385.1117. Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of Rule 214 (18 CFR 385.214). All petitions to intervene must be filed within 15 days after publication of this notice in the Federal Register.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-228 Filed 1-4-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-87-000]

Imperial Energy Corp.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

December 30, 1983.

On December 8, 1983, Imperial Energy Corporation (Applicant), of 2049 Century Park East, Suite 1100, Los Angeles

[1] Gulf points out that the Commission has granted waivers to § 154.94(h)(2)(iii) on three previous occasions. *See* Notice of Proposed Rulemaking, Docket No. RM83-50-000, FERC Stats. and Regs. ¶ 30,506 at 32,756 (October 17, 1983).

California 90067, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The small power production facility will be a three (3) megawatt (nominal) geothermal power plant located on 27 acres in Section 36 of Township 11S, Range 13E of Imperial County, California. The geothermal energy will be provided by a single 10,000 foot well configured as a downhole heat exchanger.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-229 Filed 1-4-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-7645-003, *et al.*]

Natural Gas Companies; Mobil Oil Corporation, et al.; Applications for Certificates, Abandonments of Service and Petitions to Amend Certificates [1]

December 30, 1983.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before January 16, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petition to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G-7645-003, D, Dec. 7, 1983	Mobil Oil Corporation, Nine Greenway Plaza, Suite 2700, Houston, Tex. 77046.	Northwest Central Pipeline Corp., Guymon-Hugoton Field, Texas County, Okla.	(1)	
CI77-735-001, Dec. 13, 1983	Odeco Oil & Gas Company, P.O. Box 61780, New Orleans, La. 70161.	Trunkline Gas Company, South Timbalier Block 86 Field, In the Gulf of Mexico, Offshore La. (Federal Domain).	(2)	
CI65-739-001, D, Dec. 12, 1983	Shell Oil Company, One Shell Plaza, P.O. Box 2463, Houston, Tex. 77001.	Michigan Wisconsin Pipe Line Company, Kings Bayou Field, Cameron Parish, La.	(3)	
CI69-816-001, D, Dec. 8, 1983	Chevron U.S.A. Inc., P.O. Box 7309, San Francisco, Calif 94120.	Texas Eastern Transmission Corporation, Blocks 160 and 245 Field, East Cameron Area, Offshore La.	(4)	
CI82-196-001, C, Dec. 8, 1983	Texaco Inc., P.O. Box 3756, Los Angeles, Calif 90051.	Pacific Interstate Offshore Company, Pitas Field, Leases [5]OCS P-0233 and P-0234, Offshore Calif.	(5)	14.73
CI82-197-001, C, Dec. 8, 1983	do	Pacific Interstate Offshore Company, Pitas Point Field, Lease [5]OCS P-0348, Offshore Calif.	(5)	14.73
CI182-199-001, Dec. 9, 1983	Union Oil Company of California, Union Oil Center, P.O. Box 7600, Los Angeles, Calif 90051.	Pacific Interstate Offshore Company, OCS-P-0233 and OCS-P-0234, Pitas Point Field, Offshore Calif.	(6)	14.73
CI82-200-001, Dec. 9, 1983	do	Pacific Interstate Offshore Company, OCS-P-0348, Pitas Point Field, Offshore Calif	(6)	14.73
CI84-128-000, (CI76-678), B, Dec. 9, 1983.	Tenneco Oil Company, P.O. Box 2511, Houston, Tex. 77001.	Tennessee Gas Pipeline Company, West Cameron Block 638, Offshore La.	(7)	
CI84-129-000, A, Dec. 12, 1983	Matagorda Island Development Corporation, P.O. Box 1330, Houston, Tex. 77251	Amoco Gas Company, Matagorda Island Block 623, Offshore Tex.	(8)	14.73
CI84-130-000, (CI66-4), B, Dec. 12, 1983.	Exxon Corporation, P.O. Box 2180, Houston, Tex. 77252-2180.	Natural Gas Pipeline Company of America, Putnam Field, Dewey County, Okla.	(9)	
CI84-134-131-000, A, Dec. 12, 1983	The Superior Oil Company, Post Office Box 1521, Houston, Tex. 77001	Texas Eastern Transmission Corporation, Blocks 243, and 244, South Marsh Island Area, Offshore La., Federal Domain.	(10)	15.025
CI84-132-000, B, Dec. 12, 1983	ARCO Oil and Gas Company, Division Of Atlantic Richfield Company, Post Office Box 2819, Dallas, Tex. 75221.	Getty Oil Company, McCree "C" Lease, S/2 SE/4 Sec. 24, Block A-39, Andrews County, Tex.	(11)	
CI84-133-000, B, Dec. 12, 1983	Natomas Offshore Exploration Inc., 1155 Dairy Ashford, Suite 100, Suite 100, Houston, Tex. 77079.	Transcontinental Gas Pipe Line Corporation, Galveston Area Block A-156 and A-157, Offshore Tex.	(12)	
CI84-134-000, B, Dec. 12, 1983	Dry Run Oil and Gas Co., Term Energy Corp., Agent, 110 N. Spring Street, Harrisville, W. Va. 26362.	Consolidated Gas Supply Corp., Murphy District, Ritchie County, W. Va.	(13)	
CI84-135-000, B, Dec. 12, 1983	Ruby Davisson Oil & Gas Co	Consolidated Gas Supply Corp., Union District, Ritchie County, W. Va.	(13)	
CI84-136-000, B, Dec. 12, 1983	Overfield Oil & Gas Co	do	(13)	
CI84-137-000, B, Dec. 12, 1983	Andy Bird Oil & Gas Co	do	(13)	
CI84-138-000, B, Dec. 12, 1983	Hurst Oil & Gas Co	Consolidated Gas Supply Co., Freeman's Creek District, Lewis County, W. Va.	(13)	
CI84-139-000, B, Dec. 12, 1983	Grose Oil & Gas Co	Consolidated Gas Supply Corp., Union District, Ritchie County, W. Va.	(13)	
CI84-140-000, B, Dec. 12, 1983	Hoover Oil & Gas Co	Consolidated Gas Supply Corp., Murphy District, Ritchie County, W. Va.	(13)	
CI84-146-000, A, Dec. 13, 1983	Texas Eastern Exploration Co., P.O. Box 2521, Houston, Tex. 77252.	Columbia Gas Transmission Corporation, USA Henry Bach Unit, Accident Field, Garrett County, Md.	(14)	

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI84-142-000 (CI61-1360), B, Dec. 12, 1983	Exxon Company, U.S.A., Post Office Box 2180 Houston, Tex. 77001	United Gas Pipe Line Company, Normanna Gas Unit No. 1 Field, Bee County, Tex.	(18)	
CI84-143-000, B, Dec. 13, 1983	Grace Petroleum Corporation, 6501 North Broadway, Oklahoma City, Okla. 73116.	El Paso Natural Gas Company, Andrews, South Field, Andrews, South Field, Andrews County, Tex.	(18)	
CI84-144-000, A, Dec. 13, 1983	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, Post Office Box 2819, Dallas, Tex. 75221	Michigan Wisconsin Pipe Line Company, West Cameron Block 239, Offshore, La.	(17)	15.025
CI84-145-000, (G-15347), B, Dec. 13, 1983.	Phillips Petroleum Company, 336 Home Savings and Loan Building, Bartlesville, Okla. 74004.	West Lake Natural Gas Company, Chrome Lease, Section 135, Block 1-A, H&TC Survey, Nolan County, Texas; Spree "A" Lease, Section 124, Block 1-A, H&TC Survey, Nolan County, Texas; and Spree "B" Lease, Section 131, Block 1-A, H&TC Survey, Nolan County, Tex.	(19)	
CI84-147-000, A, Dec. 15, 1983	Chevron U.S.A. Inc., Post Office 7643, San Francisco, Calif. 94120	Natural Gas Pipeline Company of America, West Cameron Block 81, Offshore La.	(19)	15.025

[1] To release gas for CO2 tertiary recovery project in the Morrow Oil Reservoir. Estimated fuel requirement is 32.85 bcf.
[2] Applicant is filing under Gas Purchase Agreement dated May 25, 1977, amended by amendment dated November 28, 1983 to produce gas from deeper horizons.
[3] Due to lessor demand, Shell released Lease L-28733.
[4] By paragraph 4 of Article III of the Basic Contract, Seller reserved the right to elect to have up to 25% of the reserves covered under the contract transported by Buyer for use in Seller's plants, or plants of a corporate affiliate, as feedstock and/or plant fuel.
[5] Applicant is filing under Gas Sales and Purchase Agreement dated December 29, 1981, amended by Letter Amendment dated October 25, 1983 to add additional acreage.
[6] Applicant is filing under Gas Sale and Purchase Agreement dated October 1, 1981, amended by Amendatory Agreement dated November 9, 1983 for additional dedication of reservoirs.
[7] Only for purposes of retiring the rate schedule subsequent to depletion of reserves under the respective contract which covers the West Cameron Block 638. There is to be continued development and production from the West Cameron.
[8] Applicant is filing under Gas Purchase Contract dated October 12, 1983.
[9] The well was plugged and abandoned on April 5, 1979 and Exxon's lease covering subject property was canceled in July 1979. The contract expired by its own terms on July 2, 1983.
[10] Applicant is filing under Gas Purchase Contract dated December 1, 1983.
[11] Primary term of contract will expire January 26, 1984. The McCrea C #1 Well, last well holding the lease, ceased producing in August, 1982. The lease has expired and there are no plans for future production.
[12] Reserves depleted; wells plugged and abandoned; and leases have expired.
[13] Gas will continue to be sold under contract with same purchaser on adjoining lease.
[14] Applicant is filing under Gas Purchase Contract dated November 26, 1954, as amended, amended by Assignment and Conveyance dated July 30, 1982, and the Assignment of Oil and Gas Leases dated August 30, 1983.
[15] The well was plugged and abandoned on August 13, 1980 and the leases were cancelled August 14, 1980. The contract expired by its own terms on May 9, 1981.
[16] Depletion; uneconomical.
[17] Applicant is filing under Gas Purchase Contract dated December 8, 1983.
[18] Contract payment is based on a percentage of proceeds.
[19] Applicant is filing under Gas Purchase Contract dated October 27, 1983.

Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 84-230 Filed 1-4-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP84-78-000]

Northwest Central Pipeline Corp.; Request Under Blanket Authorization

December 30, 1983.

Take notice that on November 18, 1983, Northwest Central Pipeline Corporation (Northwest Central), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP84-78-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Northwest Central proposes to add two new delivery points in Washington County, Oklahoma, for the sale and delivery of gas to Lucas Gas, Inc. (Lucas Gas), under the authorization issued in Docket No. CP82-479-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northwest Central proposes at two points to tap into its 16-inch pipeline in Washington County, Oklahoma, and construct measuring, regulating and appurtenant facilities in order to add two points of delivery of natural gas to Lucas Gas, a local distributor, for resale and distribution to customers in rural areas near the cities of Bartlesville and Dewey, Washington County, Oklahoma. Maximum deliverability from each new delivery point is estimated to be 18,000 Mcf per year.

Northwest Central estimates the cost of facilities to be $40,190 which would be paid from available funds. It is submitted that the proposed facilities are necessary for Northwest Central to meet additional demands in the above-mentioned rural areas.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no portest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-231 Filed 1-4-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER84-168-000]

Puget Sound Power & Light Co.; Filing

December 30, 1983.

Take notice that on December 19, 1983, Puget Sound Power & Light Company (Puget) submitted for filing Second Revised exhibit A and Second Revised Exhibit B to FPC No. 55.

Puget states that Second Revised Exhibit A and B do not represent a change in rate design, but rather, reflect Puget's current actual cost of providing service under FPC No. 55.

Puget requests that these changes become effective immediately.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 13, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-232 Filed 1-4-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-36-000]

West Lake Arthur Corp.; FERC Gas Tariff

December 30, 1983.

Take notice that on December 22, 1983, West Lake Arthur Corporation (WLAC) tendered for filing a proposed FERC Gas Tariff, First Revised Sheet No. 4, Superceding Original Sheet No. 4. The proposed rates are based on the period ending September 30, 1983, annualized for jurisdictional revenues of $57,490,436.

WLAC states that the proposed rates will permit it to recover its jurisdictional cost of service for the test period ended September 30, 1983, annualized. The cost of service reflects rates as contained on First Revised Sheet No. 4, Superceding Original Sheet No. 4 of WLAC's proposed FERC Gas Tariff.

Copies of this filing have been served upon WLAC's jurisdictional customer, the Public Service Commission of the State of Louisiana, and the Department of Natural Resources Office of Conservation of the State of Louisiana.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 6, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-234 Filed 1-4-84; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Objection to Proposed Remedial Order Filed; Week of November 21 Through November 25, 1983

During the week of November 21 through November 25, 1983, the notice of objection to a proposed remedial order listed in the Appendix to this Notice was filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

December 22, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

MARTIN EXPLORATION COMPANY, METAIRIE, LOUISIANA HRO-021

On November 21, 1983 Martin Exploration Company, 3501 North Causeway Boulevard, Metairie, Louisiana filed a Notice of Objection to a Proposed Remedial Order (PRO) which the Houston Office of the Economic Regulatory Administration (ERA) issued to the firm on October 18, 1983. In the PRO, the ERA found that during February 1, 1976 to May 31, 1979 the firm priced crude oil in violation of 10 CFR 212.73 and 212.74. According to the PRO, the violations resulted in $92,291.56 in overcharges.

[FR Doc. 84-167 Filed 1-4-84; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed; Week of November 25 Through December 2, 1983

During the Week of November 25 through December 2, 1983, the appeals and applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service to notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

George B. Breznay,

Director, Office of Hearings and Appeals.

December 20, 1983.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of November 25 through December 2, 1983]

Date	Name and location of applicant	Case No	Type of submission
September 23, 1983.	A. V. Wright, Newport Beach, California	HRZ-0184	Interlocutory order. If granted: A. V. Wright and A. V. Wright & Associates, a former sole proprietorship operated by A. V. Wright, would be dismissed as a party in the Petroex Energy Corporation Proposed Remedial Order proceeding (Case No. HRO-0186), and certain portions of the Proposed Remedial Order would be stricken.
September 28, 1983.	Bassman & Mitchell, Washington, D.C.	HFA-0199	Appeal of an information request denial. If granted: The October 27, 1983, Freedom of Information Request Denial issued by the Office of Oil & Gas would be rescinded, and Bassman & Mitchell would receive access to copies of Form FEA-P302-M-1/EIA-460, containing petroleum product price information collected by the DOE.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of November 25 through December 2, 1983]

Date	Name and location of applicant	Case No.	Type of submission
October 28, 1983	Kellermyer, Inc., Fort Wayne, Indiana	RR7-5	Request for modification/rescission in the Tenneco refund proceeding. If granted: The March 30, 1983, Decision and Order (Case No. RF7-104) issued to Kellermyer, Inc. would be modified regarding the firm's application for refund submitted in the Tenneco Oil Company refund proceeding.
September 29, 1983.	Economic Regulatory Administration/Office of General Counsel, Houston, Texas.	HRZ-0180	Interlocutory order. If granted: The May 13, 1983, Proposed Remedial Order issued to Hydrocarbons Group, Inc. (Case No. HRO-0164) would be amended to join four additional parties.
November 30, 1983.	Economic Regulatory Administration/RFB Petroleum, Inc., Washington, D.C.	HRJ-0043	Request for protective order. If granted: RFB Petroleum, Inc. would enter into a Protective Order with the Economic Regulatory Administration regarding the release of proprietary information to RFB Petroleum, Inc. in connection with the firm's Statement to Objections submitted in response to a Proposed Remedial Order (Case No. HRO-0135)
December 1, 1983.	MAPCO International, Inc., Tulsa, Oklahoma	HRD-0193 & HRH-0193	Motion for discovery and request for evidentiary hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by MAPCO International, Inc. in response to the Proposed Remedial Order (Case No. HRO-0193) issued to the firm.
December 1, 1983.	Marathon Oil Company, Washington, D.C.	HRZ-0098	Supplemental order. If granted: The Office of Hearings and Appeals would review the supplemental privilege index submitted by Marathon Oil Company pursuant to the November 18, 1983, Decision & Order (Case No. HARD-0031).
December 1, 1983.	Prosper Energy Corporation, Washington, D.C.	HEF-0485	Implementation of special refund procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V in connection with the July 20, 1983 court decision involving Prosper Energy Corporation.

REFUND APPLICATIONS RECEIVED

[Week of November 25 through December 2, 1983]

Date	Name of refund proceeding/name of refund applicant	Case No.
Oct. 25, 1983	Amoco/Robert D. Duerkop	RF21-12239.
Oct. 28, 1983	Amoco/Steven's Standard Service	RF21-12241.
Oct. 28, 1983	Amoco/Steve's Standard Service	RF21-12242.
Oct. 28, 1983	Amoco/Tripp Oil Company	RF21-12240.
Oct. 28, 1983	Nordstrom Oil/Iowa	RQ22-32
Oct. 30, 1983	Amoco/Doug Asker Oil Co., Inc.	RF21-12243.

[FR Doc. 84-166 Filed 1-4-84; 8:45 am]
BILLING CODE 6450-01-M

Western Area Power Administration

Proposal To Establish Additional Designated Federal Points of Delivery for Power From the Colorado River Storage Project

AGENCY: Western Area Power Administration, Department of Energy.

ACTION: Intent to Establish Additional Designated Federal Points of Delivery.

SUMMARY: On February 9, 1978, the Salt Lake City Area Office of the Western Area Power Administration (Western) published in the **Federal Register** general power marketing criteria relating to the sale of power from the Colorado River Storage Project (CRSP). Section 9, entitled Delivery Conditions, included a list of designated or equivalent Federal points of delivery, tap points, and voltages at which normal delivery of storage project power will be available. Western now proposes to add the following designated Federal points of delivery and voltages in the State of New Mexico at which normal delivery will be available:

Four Corners—230-kV

Elephant Butte—115-kV

DATES: Written comments on the proposal are due in the office of the Area Manager at the address given below, no later than 30 days from the publication of this notice in the **Federal Register**. This proposal will become final 30 days from its publication in the **Federal Register** unless Western publishes another **Federal Register** notice reflecting any differences between this original proposal and any amended final determination.

FOR FURTHER INFORMATION CONTACT:

Mr. Al Gabiola, Area Manager, Salt Lake City Area Office, Western Area Power Administration, P.O. Box 11606, Salt Lake City, UT 84147, (801) 524-5493

Mr. John DiNucci, Director, Division of Marketing and Rates, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401, (801) 231-1545

SUPPLEMENTARY INFORMATION: Western proposes to establish these additional designated Federal points of delivery to benefit both the United States and its customers, by offering additional points at which power may be delivered to CRSP customers.

Issued in Golden, Colorado, December 12, 1983.

William H. Clagett,

Deputy Administrator.

[FR Doc. 84-164 Filed 1-4-84; 8:45 am]
BILLING CODE 6450-01-M

Floodplain/Wetlands Statement of Findings for Reconstruction of the Bill Williams River Crossing of the Parker-Planet Transmission Line Access Road in Mohave and Yuma Counties, Arizona

AGENCY: Western Area Power Administration, Energy.

ACTION: Foodplain/Wetlands Statement of Findings.

SUMMARY: The Western Area Power Administration (Western) has prepared a floodplain/wetlands assessment for reconstruction of the Bill Williams River crossing of the Parker-Planet 69-kV transmission line access road. The assessment was prepared pursuant to requirements of the Department of Energy's "Compliance with Floodplain/Wetlands Environmental Review Requirements" (10 CFR Part 1022). Based on the floodplain/wetlands assessment and consistent with the policy set forth in Executive Order

(E.O.) 11988—Floodplain Management, Western has determined that there is no practicable alternative to locating in the floodplain. Consistent with E.O. 11990—Protection of Wetlands, the proposed action includes all practicable measures to minimize harm to wetlands.

DATES: No action shall be taken prior to January 20, 1984.

FOR FURTHER INFORMATION CONTACT: Copies of the floodplain/wetlands assessment, which includes a location map and further information, is available from the addresses below.

Mr. Gary W. Frey, Director, Division of Environmental Affairs, Western Area Power Administration, Department of Energy, P.O. Box 3402, Golden, Colorado 80401, (303) 231–1527, FTS 327–1527.

Mr. James G. Hartman, Environmental Specialist, Boulder City Area Office, Western Area Power Administration, Department of Energy, P.O. Box 200, Boulder City, Nevada 89005, (702) 293–8844, FTS 598–7844.

SUPPLEMENTARY INFORMATION: Western proposes to reconstruct a transmission line access road crossing of the Bill Williams River in Mohave and Yuma Counties, Arizona. The crossing is located within the boundaries of the Lake Havasu National Wildlife Refuge; T. 11N., R. 17W., sec. 28, NE¼, SE¼, SE¼. The culverted, raised crossing of a transmission line access road was washed out by high river flows. Western proposes to replace this crossing to provide for routine operation and maintenance and emergency repair of transmission lines.

The new crossing would be constructed by digging a 3-foot deep, 14-foot wide, 100-foot long trench across the river channel. The trench would be backfilled with riprap and topped with 3 inches of gravel. Minor riprapping of the access road in the vicinity of the crossing would be done to control erosion. All actions would be restricted to the existing access road.

A floodplain/wetlands involvement determination for the proposed action was published in the **Federal Register** on November 10, 1983 (48 FR 51681). No comments were received during the comment period.

The effects of the proposed action on the natural action of the floodplain would be insignificant since waterflow would not be restricted and the natural contour of the riverbed would not be changed after construction has been completed. The river naturally has a high sediment load and construction would not contribute to noticeable deterioration of water quality. The proposed action would not result in any action which would endanger human life or safety nor would any structure be placed in the floodplain which, if destroyed by flooding, would result in any harmful effect on human life or safety.

Effects of the proposed action on wetlands and riparian vegetation would be insignificant. Impacts would be confined to the previously developed crossing area and access road, would include trampling of less than 0.10 acres (0.04 ha) of riparian/wetland vegetation which has invaded the access road, and would not affect sediment loads in the river to the point of significantly affecting vegetation or wildlife downstream from the construction site.

Three alternatives to the proposed action are discussed in the floodplain/wetlands assessment. These are the no action alternative, relocation of the crossing and an alternative access route which would not involve the floodplain.

The no action alternative would result in a potentially hazardous situation in which emergency conditions could not be handled effectively. The floodplain impacts of the proposed action would be so minor that the no action scenario presented relatively greater potential impacts to public safety and convenience.

Relocation of the crossing was not practical because of the greater impacts associated with it and due to the nature of the local topography. A new access road would be required for this alternative. Construction of a new road would require clearing of floodplain and upland vegetation resulting in increased erosion and wildlife habitat destruction in the Lake Havasu National Wildlife Refuge. The topography in the area consists of rugged, rocky terrain and canyons on the floodplain periphery. Access to the floodplain is limited to the present location of the access road.

An alternative access route which would not involve the floodplain would not be practical because extensive areas of vegetation would be cleared in order to construct an access road and the rugged topography restricts reasonable access road site locations.

The proposed action conforms to recommendations made by the U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service. The State of Arizona has commented on the project. Their recommendation that a gabion be incorporated into the crossing design has been complied with. The proposed action conforms to applicable state and local floodplain protection standards.

The following steps will be taken in order to minimize potential harm to or within the floodplain/wetlands.

1. In order to comply with requirements of both Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clear Water Act of 1977, all conditions for the nationwide permit as listed in 33 CFR 330.5(a)(14) and (b) and management practices listed in 33 CFR 330.6 would be complied with.

2. Excessive vegetation clearing or trampling would be avoided.

3. Activity within the floodplain would be kept to the minimum required to efficiently reconstruct the crossing.

4. Construction activities and vehicular traffic would be confined to the right-of-way for Western's access road whenever possible.

5. disturbed areas would be restored to their original contours to minimize erosion.

Based on the findings of the floodplain/wetlands assessment and consistent with the policy set forth in E.O. 11988 and E.O. 11990, Western has determined that there is no practicable alternative to reconstruction of the river crossing at the present location and that the proposed action includes all practicable measures to minimize harm to wetlands.

Issued at Golden, Colorado, December 22, 1983.

Robert L. McPhail,

Administrator.

[FR Doc. 84–164 Filed 1–4–84; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–2503–2]

Science Advisory Board, Biological Effects of Radiofrequency Radiation Subcommittee; Open Meeting

Under Public Law 92–463, notice is hereby given of a two-day meeting of the Science Advisory Board's Subcommittee on the Biological Effects of Radiofrequency Radiation. The meeting will be held on January 24 and 25, 1984, in the main auditorium of the U.S. Environmental Protection Agency's Environmental Research Center in Research Triangle Park, North Carolina, located at the intersection of Highway 54 and Alexander Drive. The meeting will begin at 9:00 a.m. and will adjourn at approximately 4:30 p.m. on both days.

The Subcommittee was formed by the Science Advisory Board at the request of EPA's Office of Research and Development and Office of Radiation Programs to review and evaluate the available scientific information on the biological effects of radiofrequency

radiation as it is assessed in EPA's review draft entitled "Biological Effects of Radiofrequency Radiation."

This review draft (available from National Technological Information Service, Springfield, Va. 22161; order #PB83161550 at $43.00 in hard copy or $4.50 in microfiche) is presently being revised as a result of an earlier meeting (September 22 and 23, 1983) of the Subcommittee. It is expected to be in essentially its final draft when presented at this meeting and that this will be the last meeting of the Subcommittee.

The meeting is open to the public. Any member of the public wishing to attend, obtain information or submit comments to the Subcommittee should contact Dr. Terry F. Yosie, Director, Science Advisory Board (202) 382–4126 or Dr. Douglas B. Seba, Executive Secretary, Science Advisory Board (202) 382–2552 by close of business January 20, 1983.

Dated: December 29, 1983.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 84–161 Filed 1–4–84; 8:45 am]

BILLING CODE 6560–50–M

[Docket No. ECAO–HA–79–3; FRL 2502–7]

Draft Health Assessment Document for Methylene Chloride; Availability of Second External Review Draft

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of second external review draft.

SUMMARY: Methylene chloride, one of a number of solvents and associated compounds which are emitted to the ambient air, is currently being studied by the Environmental Protection Agency to determine whether it should be regulated as an air pollutant under the Clean Air Act. One of the factors in the Agency's study of this compound is the evaluation of available information pertaining to human health effects. The evaluation for the compound is contained in a draft health assessment document prepared by the Environmental Criteria and Assessment Office and other components of EPA's Office of Health and Environmental Assessment. As part of the thorough review of the scientific aspects of this document, an earlier external review draft was made available for public review and comment in April 1982 (47 FR 17860) and transmitted to the Agency's Science Advisory Board (SAB) which reviewed that draft in September 1982.

This document has been extensively revised since that time and is being made available again for public review and comment. The title and publication number of this second external review draft is: *Health Assessment Document for Methylene Chloride,* EPA–600/8–82–004B. The second external review draft document on methylene chloride will be available for public review on January 16, 1984 and the Agency will accept public comments until March 16, 1984.

FOR FURTHER INFORMATION CONTACT: Ms. Diane Chappell, telephone: 919/541–3637. Those persons interested in commenting on the scientific merit of the second external review draft of the *Health Assessment Document for Methylene Chloride* will be able to obtain a copy as follows:

(1) The document will be available in single copy quantity from EPA at the following address: ORD Publications—CERI–FRN, U.S. Environmental Protection Agency, 26 W. St. Clair, Cincinnati, Ohio 45268. Tel (513) 684–7562.

Requesters should be sure to cite the EPA number assigned to the document. To receive the document, requesters should send their names and addresses to CERI at this time.

(2) The document will also be available for public inspection and copying at the EPA Library at Waterside Mall, 401 M Street, SW., Washington, D.C. 20460.

Commenters must submit comments in writing, addressed to: Project Officer for Methylene Chloride, Environmental Criteria and Assessment Office (MD–52), U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711.

Dated: December 29, 1983.

Donald J. Ehreth,

Deputy Assistant Administrator for Research and Development (RD–672).

[FR Doc. 84–187 Filed 1–4–84; 8:45 am]

BILLING CODE 6560–50–M

[AAA–FRL–2502–8]

EPA Master List of Debarred, Suspended or Voluntarily Excluded Persons

AGENCY: Environmental Protection Agency.

ACTION: EPA Master List of Debarred, Suspended, or Voluntarily Excluded Persons.

SUMMARY: 40 CFR 32.400 requires the Director, Grants Administration Division, to publish in the **Federal Register** each calendar quarter the names of, and other information concerning, those parties debarred, suspended, or voluntarily excluded from participation in EPA assisted programs by EPA action under Part 32. Assistance (grant and cooperative agreement) recipients and contractors under EPA assistance awards may not initiate new business with these firms or individuals on any EPA funded activity during the period of suspension, debarment, or voluntary exclusion.

This short list contains the names of those persons who have been listed as a result of EPA actions only. It is provided for general informational purposes only and is not to be relied on in determining a person's current eligibility status. A comprehensive list, updated weekly, is available in each Regional Office. Inquiries concerning the status of any individual, organization, or firm should be directed to EPA's Regional or Headquarters office for grants administration that normally serves you.

DATE: This short list is current as of December 19, 1983.

FOR FURTHER INFORMATION CONTACT: Frank Dawkins, of the EPA Compliance Staff, Grants Administration Division, at (202) 475–8025.

Dated: December 30, 1983.

Harvey G. Pippen, Jr.,

Director, Grants Administration Division (PM–216).

EPA Master List of Debarred, Suspended, and Voluntarily Excluded Persons

Name and jurisdiction	File No.	Status [1]	From	To	Exclusion
Anderson, John A. (Kearney, NE)	83–0032–01	D	11–02–83	05–01–84	§ 32.200 (a), (f)
Anderson, Scott (Walnut Creek, CA)	83–0004–01	D	06–17–83	06–16–86	§ 32.200 (a), (b), (e), (f)
Ashland-Warren, Inc. (McMinnville, TN)	82–0401	D	[illegible]	05–06–85	§ 32.200 (a), (e)
Atlas Prestressing Corp. (Panorama City, CA)	83–0050–00	D	08–02–83	08–01–86	§ 32.200(a).
Avenil, Ernest Jr. (Fort Myers, FL)	[illegible]	S	12–02–83	([2])	§ 32.200(b)
Boozer, Wharton, and Zeigler, Inc. (Sumter, SC).	83–0045–00	S	07–15–83	([2])	§ 32.200(a)
Bowe, Walsh and Associates, Inc. (Melville, NY).	83–0040–00	D	04–14–83	04–13–86	§ 32.200 (a), (e).
Bowers Excavating and Fencing, Inc. (Klamath Falls, OR).	83–0058–00	S	06–27–83	([2])	§ 32.200 (b), (e), (i)
Bowers, Joe (Klamath Falls, OR)	83–0058–01	S	06–27–83	([2])	§ 32.200 (b), (e), (i)
Bowers, John (Klamath Falls, OR)	83–0058–02	S	06–27–83	([2])	§ 32.200 (b), (e), (i).
Carpenter, Frank (Monroe, NC)	82–0403	VE	09–23–82	03–01–84	§ 32.200 (a), (b)
Christian, Burl Gene (Denver, CO)	83–0050–02	VE	11–03–83	11–02–84	§ 32.200(a).

EPA Master List of Debarred, Suspended, and Voluntarily Excluded Persons—Continued

Name and jurisdiction	File No.	Status [1]	From	To	Grounds
Errichetti, Angelo J. (Camden, NJ)	83-0040-04	D	04-14-83	04-13-86	§ 32.200 (a), (b).
Gabey, Martin (Northport, NY)	83-0040-02	D	12-16-83	12-15-86	§ 32.200(a).
Harry Johnson Plumbing Company, Inc. (Walla Walla, WA).	83-0090-00	D	07-22-83	07-21-86	§ 32.200 (b), (c), (e), (i).
Herbert G. Whyte, Associates, Inc.	82-0501	D	10-20-82	10-19-85	§ 32.200 (b), (e).
Hunter, James C. (Gardena, CA)	83-0002-02	D	07-07-83	07-06-86	§ 32.200(a).
Jackson, Manly (San Jose, CA)	83-0048-02	D	06-27-83	06-26-86	§ 32.200(a).
Johnson, Mark (Walla Walla, WA)	83-0060-01	D	07-22-83	07-21-86	§ 32.200 (b), (c), (e), (i).
Keller, John (Timonium, MD)	83-0048-01	D	06-09-83	06-08-85	§ 32.200(a).
L.A. Reynolds Company (Winston Salem, NC).	83-0036-00	D	07-01-83	06-30-86	§ 32.200(a).
Long, Harold Delmar (Los Gatos, CA)	83-0050-01	D	07-07-83	07-06-86	§ 32.200(a).
Municipal & Industrial Pipe Services, Ltd. (Douglasville, GA).	82-0601, 82-0408	S	10-07-82	(2)	§ 32.200 (b), (c), (e), (i).
Newman, Fred M. (Vienna, VA)	83-0072-01	S	05-30-86	(2)	§ 32.300.
Newman, Richard Gordon, (Pierre, SD)	83-0041-00	D	11-29-83	11-28-86	§ 32.200(a).
Post-Tensioning Service Corporation (Saratoga, CA).	83-0001-00	D	07-08-83	07-07-86	§ 32.200(a).
Reynolds, Jon R. (Winston Salem, NC)	83-0036-01	D	07-01-83	06-30-86	§ 32.200(a).
Rhoades, R. Michael (Newton, KS)	83-0035-01	VE	10-21-83	04-20-84	§ 32.200(a).
Richmond, Elwood P. (Grand Forks, ND).	83-0006-01	D	06-06-83	06-05-86	§ 32.200 (a), (f).
Richmond Engineering, Inc. (Grand Forks, ND).	83-0006-00	D	06-06-83	06-05-86	§ 32.200 (a), (f).
Richmond, Lloyde W., Jr. (Grand Forks, ND).	83-0006-02	D	06-06-83	06-05-86	§ 32.200 (a), (f).
Shepherd, Frank A. (Savannah, TN)	83-0046-01	S	07-15-83	(2)	§ 32.200(a).
Stramaglia, Louis Vito (Utica, MI)	83-0066-00	S	12-02-83	(2)	§ 32.300
Stresssteel Corporation (Wilkes-Barre, PA).	83-0051-00	D	02-02-83	02-01-85	§ 32.200(a).
Suburban Grading & Utilities, Inc. (Norfolk, VA).	83-0022-00	D	03-29-83	03-28-85	§ 32.200(a).
Swanson, David (Los Gatos, CA)	83-0003-02	VE	11-03-83	11-02-84	§ 32.200 (a), (f).
Vanderhurst, William (Saratoga, CA)	83-0001-01	D	07-08-83	07-07-86	§ 32.200(a).
Vito's Trucking & Excavating Co. (Fort Myers, FL).	83-0066-02	S	12-02-83	(2)	§ 32.3200.
Walsh, Charles T (Huntington Bay, NY)	83-0040-01	D	04-14-83	04-13-86	§ 32.200(a).
Walstad, Merrill (Huntington Beach, CA).	83-0003-03	D	06-27-83	06-26-86	§ 32.200(a).
Watts, Richard (Los Gatos, CA)	83-0003-04	VE	11-03-83	11-02-84	§ 32.200(a)
Whyte, Herbert G (Gary, IN)	82-0501	D	10-20-82	10-19-85	§ 32.200 (b), (e).
Wirt, David (Douglasville, GA)	82-0601, 82-0408	S	10-07-82	(2)	§ 32.200 (b), (c), (e), (i).
Wirt, Gordon D (Douglasville, GA)	82-0408	S	12-07-82	(2)	§ 32.200 (c), (e).
Wirt, Judith C. (Douglasville, GA)	82-0408	S	12-07-82	(2)	§ 32.200 (c), (e).
Wm. Anderson Co., Inc. (Kearney, NE)	83-0032-00	D	11-02-83	05-01-84	§ 32.200 (a), (f).
Womack, Jerry T. (Norfolk, VA)	83-0022-01	D	03-29-83	03-28-85	§ 32.200(a).
Young, Frederick M. (Fayetteville, TN)	83-0025-01	S	07-19-83	(2)	§ 32.200(a)
Zeigler, Beaty Stevens	83-0045-01	S	07-15-83	(2)	§ 32.200(a).

[1] D=Debarred; S=Suspended; VE=Voluntarily Excluded.
[2] Open.

[FR Doc. 84-182 Filed 1-4-84; 8:45 am]
BILLING CODE 6560-50-M

[Docket Nos. ECAO-83-4 (Beryllium); ECAO-HA-83-3 (Mercury) FRL-2502-6]

Workshop Draft Health Assessment Update Documents for Beryllium and Mercury

AGENCY: Environmental Protection Agency.

ACTION: Notice of Public Meetings.

SUMMARY: The U.S. Environmental Protection Agency's (EPA) Environmental Criteria and Assessment Office (ECAO) will hold workshops at the Velvet Cloak Inn in Raleigh, NC, for beryllium on February 7–8, 1984, and for mercury on February 9–10, 1984, to facilitate preparation of the *Draft Health Assessment Update Documents for Beryllium* and *Mercury*. The workshops will begin each day at 9:00 a.m. and will end at about 5:00 p.m.

DATES: Pre-registration is required. The deadline for pre-registration is February 3, 1984.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Y. Cooper, Northrop Services, Inc., P.O. Box 12313, Research Triangle Park, NC, 27709 [(919) 549-0652]. She is in charge of pre-registration and hotel reservations.

SUPPLEMENTARY INFORMATION: In March 1973, EPA's Office of Air Quality Planning and Standards (OAQPS) published the document *Background Information on the Development of National Emission Standards for Hazardous Air Pollutants: Asbestos, Beryllium, and Mercury* (APTD-1503). On April 6, 1973, EPA promulgated national emission standards for these substances (38 FR 8820).

ECAO's documents on beryllium and mercury, now in preparation, will review and evaluate new health effects information available since 1973 for these two substances. These two documents will, in turn, become part of the decisionmaking process to review and revise as appropriate the current regulations for beryllium and mercury under section 112 of the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*

As part of this document preparation, a panel of consulting authors and contributors, EPA scientists, and non-EPA scientific experts will discuss the drafts and ways of resolving outstanding scientific issues at these public workshops. Peer-review comments received at the workshop will be taken into account in further revisions of the drafts. Copies of the drafts will be provided to all attendees and observers at the meetings. Observers will have an opportunity to make brief oral statements should they desire.

Dated: December 29, 1983.

Donald J. Ehreth,

Deputy Assistant Administrator for Research and Development.

[FR Doc. 84-184 Filed 1-5-84; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Pub. L. 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR 540):

Maritime Enterprise (1981) Ltd., Mantica Holdings, Inc. and Paquet Cruises, Inc., c/o Paquet Cruises, Inc., 1007 N. America Way, Miami, Florida 33132

Dated: December 29, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 84-159 Filed 1-4-84; 8:45 am]
BILLING CODE 6730-01-M

Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Pub. L. 89-777 (80 Stat. 1357, 1358) and

Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Maritime Enterprises (1881) Ltd., Mantica Holdings, Inc. and Paquet Cruises, Inc., c/o Paquet Cruises, Inc., 1007 N. America Way, Miami, Florida 33132

Dated: December 29, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 84-160 Filed 1-4-84; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

CoreStates Financial Corp, et al.; Proposed De Novo Activities by Bank Holding Companies

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C.) 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *CoreStates Financial Corp,* Philadelphia, Pennsylvania (mortgage lending activities; Oklahoma): to engage, through its direct subsidiary Colonial Mortgage Service Company Associates, Inc. in the origination of FHA, VA and conventional residential mortgage loans and second mortgage loans. These activities would be conducted from an office in Oklahoma City, Oklahoma, serving the State of Oklahoma. Comments on this application must be received not later than January 30, 1984.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *BankAmerica Corporation,* San Francisco, California (data processing activities; United States): to engage through its subsidiary, Decimus Corporation, a California corporation, in providing data processing and transmission services, facilities or data bases by any technologically feasible means for financial, banking or economic data and other activities incidental thereto. These activities will be conducted from a *de novo* office located in: Bellevue, Washington, serving the entire United States. Comments on this application must be received not later than January 30, 1984.

2. *BankAmerica Corporation,* San Francisco, California (underwriting insurance activities; Arkansas and North Dakota): To continue to engage, through its indirect subsidiary, BA Insurance Company, Inc., in the activity of underwriting, as reinsurer, to the extent permitted by relevant state law, credit-related life insurance and credit-related accident and health insurance which is directly related to extensions of credit by BankAmerica Corporation and its nonbank subsidiaries, as permitted pursuant to section 601(A) of the Garn-St Germain Depository Institutions Act of 1982. These activities would be conducted from an existing office located in San Francisco, California, serving the States of Arkansas and North Dakota. Comments on this application must be received not later than January 30, 1984.

3. *Wells Fargo & Company,* San Francisco, California (finance, servicing, leasing, and insurance activities; the United States): To engage, through its subsidiary, Wells Fargo Credit Corporation, in making or acquiring loans and other extensions of credit, including or acquiring loans and other extensions of credit, including consumer installment loans originated by others and commerical loans secured by a borrower's or guarantor's assets; servicing loans for the account of others; making full pay-out leases of personal property; and acting as agent for credit life and credit accident and health insurance related to its extensions of credit in accordance with the Board's Regulation Y and Title VI of the Garn-St Germain Depository Insitutions Act of 1982. These activities would be conducted from an existing office in Scottsdale, Arizona, service the entire United States except Washington, D.C., and the states of Colorado, Maryland, Oklahoma, Texas, and Virginia. Comments on this application must be received not later than January 30, 1984.

Board of Governors of the Federal Reserve System, December 29, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-150 Filed 1-4-84; 8:45 am]

BILLING CODE 6210-01-M

Midwest Bancshares, Inc.; Formation of a Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Midwest Bancshares, Inc.,* Edina, Minnesota; to become a bank holding company by acquiring 91.8 percent of the voting shares of State Bank of Sleepy Eye, Sleepy Eye, Minnesota. Comments on this application must be received not later than January 30, 1984.

Board of Governors of the Federal Reserve System, December 29, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-149 Filed 1-4-84; 8:45 am]

BILLING CODE 6210-01-M

Unicorp Bancshares, Inc.; Merger of Bank Holding Companies

Unicorp Bancshares, Inc., Houston, Texas, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with Unicorp Bancshares-Houston, Inc., Houston, Texas (Unitedbank-Metro, Houston, Texas and Unitedbank-Houston, Houston, Texas). The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to be received by the Reserve Bank not later than January 23, 1984. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 29, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-148 Filed 1-4-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Medicaid Program; Notice of Hearing: Reconsideration of Disapproval of an Illinois State Plan Amendment

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on February 14, 1984 in Chicago, Illinois, to reconsider our decision to disapprove Illinois State Plan Amendment 83-12.

Closing Date: Requests to participate in the hearing as a party must be received by January 20, 1984.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, Bureau of Eligibility, Reimbursement and Coverage, 365 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207. Telephone: (301) 594-8261.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove an Illinois State Plan Amendment.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid Agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues which will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this noitce, in accordance with the requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins, in accordance with the requirements contained in 45 CFR 213.15(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The issue in this matter is whether Illinois' proposal to have the Department of Children and Family Services make eligibility determinations for children for which that agency has responsibility under the Adoption Assistance and Child Welfare Act of 1980 violates section 1902(a)(5) of the Social Security Act and regulations at 42 CFR 431.10(c). Section 1902(a)(5) of the Social Security Act provides that the State must utilize the State agency which administers the title I, IV-A, or XVI program as the agency to make Medicaid eligibility determinations. Regulations at 42 CFR 431.10(c) provide that for individuals under age 21, the State must utilize either the single State agency for Medicaid or the single State agency for the title IV-A program as the agency responsible for Medicaid eligibility determinations. Illinois has designated an agency other than the title XIX or the title IV-A agency to make Medicaid eligibility determinations for individuals under age 21. Therefore, HCFA has determined that Illinois' proposed plan violated the requirements at section 1902(a)(5) and 42 CFR 431.10(c).

The notice to Illinois announcing an administrative hearing to reconsider our disapproval of its State plan amendment reads as follows:

Gregory L. Coler,
Director, Illinois Department of Public Aid, 316 South Second Street, Springfield, Illinois.

Dear Mr. Coler: This is to advise you that your request for reconsideration of the decision to disapprove Illinois State Plan Amendment 83-12 was received on December 2, 1983. You have requested a reconsideration of whether this plan amendment, which provides that the State's title IV-E Agency, the Illinois Department of Children and Family Services, will make eligibility determinations for children for which that agency has responsibility under the Adoption Assistance and Child Welfare Act of 1980, conforms to the requirements for approval under the Social Security Act and pertinent Federal requirements.

I am scheduling a hearing on your request to be held on February 14, 1984, at 10 a.m., in the 8th Floor Conference Room, 175 West Jackson Boulevard, Chicago, Illinois. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties.

I am designating Mr. Albert Miller as the presiding official. If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (301) 594-8261.

Sincerely yours,

Carolyne K. Davis, Ph. D.

(Sec. 1116, Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: December 29, 1983.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 84-270 Filed 1-4-84; 8:45 am]

BILLING CODE 4120-03-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-6987-A]

Alaska Native Claims Selection; Yak-Tat Kwaan, Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 16 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1615(b) (ANCSA), will be issued to Yak-Tat Kwaan, Incorporated for approximately 289 acres. The lands involved are within the Copper River Meridian, Alaska.

T. 27 S. R. 34 E.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the SOUTHEAST

ALASKA EMPIRE upon issuance of the decision. For information on how to obtain copies, contact the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by the decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until February 6, 1984 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of apppeal are:

U.S. Forest Service, P.O. Box 1628, Juneau, Alaska 99802

Yak-Tat Kwaan Incorporated, P.O. Box 416, Yakutat, Alaska 99689

Sealaska Corporation, One Sealaska Plaza, Suite 400, Juneau, Alaska 99801

Ruth Stockie,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 84-179 Filed 1-4-84; 8:45 am]

Billing Code 4310-JA-M

Minerals Management Service

Offshore Polymetallic Sulfide Minerals Lease Offering in the Gorda Ridge Area; Availability of Draft Environmental Impact Statement and Location and Dates of Public Hearings Regarding Proposed Polymetallic Sulfide Minerals Lease Offering in the Gorda Ridge Area

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Minerals Management Service has prepared a draft environmental impact statement (EIS) relating to a proposed lease offering of tracts consisting of 180,000 square kilometers of submerged lands on the Outer Continental Shelf (OCS) in the Gorda Ridge area offshore California and Oregon.

Single copies of the draft EIS can be obtained from the Regional Manager, Pacific Region, Minerals Management Service, 1340 West 6th Street, Los Angeles, California 90017.

Copies of the draft EIS will also be available for review in the following public libraries:

Main Library, 421 "I" Street, Eureka, CA 95501

University of California Library, Santa Barbara Campus, Santa Barbara, CA 93102

Library, San Francisco State University, 1600 Holloway Avenue, San Francisco, CA 94037

San Mateo County Library, 25 Tower Road, Belmont, CA 94002

Library, University of Oregon, Eugene, OR 97403

Canada College Library, 4200 Farm Hill Road, Redwood City, CA 94061

San Mateo County Library, Hillor Way and Palmetto, Pacifica, CA 94044

Engineering Library, FH-15, University of Washington, Seattle, WA 98195

Library, U.S. Geological Survey, 345 Middlefield Road, Menlo Park, CA 94025

Coos Bay Public Library, 525 West Anderson, Coos Bay, OR 97420

Newport Public Library, 125 West Olive, Newport, OR 97365

W. H. Abel Memorial Library, 125 Main, South, Montesano, WA 98563

Oregon State University, Gifts and Exchange, Corvallis, OR 97331

IMC, 301 W. Washington Blvd., Crescent City, CA 95531

Ft. Bragg Library, Attn: Nan Wood, 353 North Main, Ft. Bragg, CA 95437

Oakland Public Library, 125 14th Street, Oakland, CA 94612

Astoria Public Library, 450 10th Street, Astoria, OR 97103

Longview Public Library, 1600 Louisiana, Longview, WA 98632

Portland Central Library, 801 SW 10th, Portland, OR 97205

In accordance with 43 CFR 3314.1, public hearings will be held on February 14, 1984, at the Pony Village Lodge in the Ocean View Room, Virginia Avenue, North Bend, Oregon, and on February 16, 1984, at the Eureka Inn in the Colonade Room, 7th and F Streets, Eureka, California, for the purpose of receiving comments regarding the Gorda Ridge area leasing proposal. The hearings will begin at 9:00 a.m., p.s.t., and an evening session may be held if interest warrants.

The hearings will provide the Secretary of the Interior with additional information from both public and private sectors to help evaluate fully the potential effects of leasing tracts in the Gorda Ridge area. In addition, the proceedings will give the Secretary the opportunity to receive further comments and views of concerned Federal, State, and local agencies.

Interested individuals, representatives of organizations, and public officials who wish to testify at the hearing are requested to contact Dena Winham, Pacific Region, Minerals Management Service, 1340 West 6th Street, Los Angeles, California 90017, telephone (213) 688-2034, by 4:00 p.m., February 6, 1984. Written comments from those unable to attend the hearing also should be addressed to the Regional Manager, Pacific Region, at the above address. The Minerals Management Service will accept written testimony and comments on the draft EIS until February 29, 1984. Time limitation makes it necessary to limit the length of oral presentations to ten minutes. An oral statement may be supplemented, however, by a more complete written statement which may be submitted to the hearing officer at the time of presentation of the oral statement. Written statements presented in person at the hearing will be considered as part of the hearing record. To the extent that time is available after presentation of oral statements by those who have given advance notice, the hearing officer will allow others who wish to testify to be heard.

After testimony and comments have been received and analyzed, a final EIS Will be prepared.

William D. Bettenburg,

Director, Minerals Management Service.

December 29, 1983.

Approved:

[FR Doc. 84-151 Filed 1-4-84; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-163 (Preliminary)]

Import Investigations; Certain Cell-Site Radio Apparatus and Subassemblies Thereof From Japan

AGENCY: United States International Trade Commission.

ACTION: Institution of a preliminary antidumping investigation and scheduling of a conference to be held in connection with the investigation.

EFFECTIVE DATE: December 29, 1983.

SUMMARY: The United States International Trade Commission hereby gives notice of the institution of investigation No. 731-TA-163 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of certain cell-site radio apparatus and subassemblies thereof, provided for in items 685.24 or 685.29 of the Tariff Schedules of the United States (1983), which are alleged to be sold in the United States at less than fair value.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Schechter (telephone 202-523-0300), U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed in proper form on December 29, 1983, by counsel for E.F. Johnson Co., Waseca, Minn. The Commission must make its determination in this investigation within 45 days after the date of the filing of the petition, or by February 13, 1984 (19 CFR 207.17).

Participation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided for in section 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than seven (7) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the notice.

Service of documents

The Secretary will compile a service list from the entries of appearance filed in this investigation. Any party submitting a document in connection with the investigation shall, in addition to complying with § 201.8 of the Commission's rules (19 CFR 201.8), serve a copy of each such document on all other parties to the investigation. Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 CFR 201.16(b), as amended by 47 FR 33682, Aug. 4, 1982).

In addition to the foregoing, each document filed with the Commission in the course of this investigation must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certificate of service will not be accepted by the Secretary.

Written submissions

Any person may submit to the Commission on or before January 25, 1984, a written statement of information pertinent to the subject matter of this investigation (19 CFR 207.15). A signed original and fourteen (14) copies of such statements must be submitted (19 CFR 201.8).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference.—The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m. on January 20, 1984, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Parties wishing to participate in the conference should contact Mr. Bill Schechter (202-523-0300) not later than January 16, 1984, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Public inspection.—A copy of the petition and all written submissions, except for confidential business data, will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR part 207, as amended by 47 FR 33682, Aug. 4, 1982), and part 201, subparts A through E (19 CFR part 201, as amended by 47 FR 33682, Aug. 4, 1982). Further information concerning the conduct of the conference will be provided by Mr. Bill Schechter.

This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: December 30, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-249 Filed 1-4-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-137]

Heavy-Duty Staple Gun Tackers; Commission Decision Not To Review Initial Determination; Deadline for Filing Written Submissions on Remedy, the Public Interest, and Bonding

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined not to review the presiding officer's initial determination that there is a violation of section 337 in the above-captioned investigation. The parties to the investigation and interested Government agencies are requested to file written submissions on the issues of remedy, the public interest, and bonding.

Authority: The authority for the Commission's disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in §§ 210.53-210.58 of the Commission's Rules of Practice and Procedure (47 FR 25134 (June 10, 1982) as amended by 48 FR 20225 (May 5, 1983) and 48

FR 21115 (May 11, 1983); to be codified at 19 CFR 210.53–210.56).

SUPPLEMENTARY INFORMATION: On November 28, 1983, the presiding officer issued an initial determination that there is a violation of section 337 in the unauthorized importation and sale of certain heavy-duty staple gun tackers. No petitions for review of the initial determination were filed by any party and no written comments were filed by any Government agency. The initial determination has now become the Commission determination on violation of section 337 in this investigation.

Written Submissions

Inasmuch as the Commission has found that a violation of section 337 has occurred, it may issue (1) an order which could result in the exclusion of the subject articles from entry into the United States and/or (2) cease and desist orders which could result in one or more respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions which address the form of relief, if any, which should be ordered.

If the Commission contemplates some form of relief, it must consider the effect of that relief upon the public interest. The factors which the Commission will consider include the effect that an exclusion order and/or a cease and desist order would have upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the U.S. production of articles which are like or directly competitive with those which are the subject of the investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions concerning the effect, if any, that granting relief would have on the public interest.

If the Commission orders some form of relief, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving written submissions concerning the amount of bond, if any, which should be imposed.

The parties to the investigation and interested Government agencies are requested to file written submissions on the issues of remedy, the public interest, and bonding. The complainant and the Commission investigative attorney are also requested to submit a proposed exclusion order and/or a proposed cease and desist order for the Commission's consideration. Persons other than the parties and Government agencies may file written submissions addressing the issues of remedy, the public interest, and bonding. Written submissions on remedy, the public interest, and bonding must be filed not later than the close of business on the day which is twenty-one (21) days from the date this notice appears in the **Federal Register**.

Commission Hearing

The Commission does not plan to hold a public hearing in connection with final disposition of this investigation.

Additional Information

Persons submitting written submissions must file the original document and 14 true copies thereof with the Office of the Secretary on or before the deadline stated above. Any person desiring to submit a document (or a portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment by the presiding officer. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. Documents containing confidential information approved by the Commission for confidential treatment will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Secretary's Office.

Notice of this investigation was published in the **Federal Register** of February 24, 1983 (48 FR 7826).

Copies of the public version of presiding officer's initial determination of Novembe- 28, 1983, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Jane Albrecht, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–1627.

By order of the Commission.

Issued: December 29, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–250 Filed 1–4–84; 8:45 am]

BILLING CODE 7020–02–M

[332–162]

Cancellation of Hearing on Foreign Industrial Targeting

AGENCY: United States International Trade Commission.

ACTION: Cancellation of Hearing.

EFFECTIVE DATE: December 30, 1983.

SUPPLEMENTARY INFORMATION:

Background

The Commission instituted the present investigation on its own motion under section 332(b) of the Tariff Act of 1930 (10 U.S.C. 1332(b)) on April 19, 1983, at the request of the Subcommittee on Trade of the House Committee on Ways and Means. The original notice of investigation, published in the **Federal Register** of May 11, 1983, (48 FR 21210), announced that the investigation would be divided into three phases: the first to consider Japanese industrial targeting, the second to consider the European Community's industrial targeting, and the third to consider industrial targeting of other major U.S. trading partners. The first phase of the study has been completed and a report was published, (USITC Publication 1437), in October 1983. The second phase of the study was initiated on October 18, 1983, and a notice was published in the **Federal Register** of October 26, 1983, (48 FR 49559).

Public Hearing

A public hearing was scheduled to be held in the Commission Hearing Room in Washington, D.C., beginning at 10 a.m. on January 4, 1984. Because there were no witnesses requesting an opportunity to testify, the Commission, on its own motion, has canceled the hearing.

Written Submissions

In lieu of or in addition to appearance at the public hearing, interested persons were invited to submit written statements concerning the investigation, no later than December 16, 1983. Because of the cancellation of the hearing, written submissions concerning the investigation will be received until January 15, 1983.

By order of the Commission.

Issued: December 30, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–251 Filed 1–4–84; 8:45 am]

BILLING CODE 7020–02–M

Agency Form Submitted for OMB Review

AGENCY: International Trade Commission.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Commission has submitted a proposal for the collection of information to the Office of Management and Budget for review.

Purpose of information collection: The proposed information collection is for use by the Commission in connection with investigation No. 332–172, Changes in the U.S. Telecommunications Industry and the Impact of U.S. Telecommunications Trade, instituted under the authority of section 332(g) of the Tariff Act of 1930 (19 U.S.C. 332(g)).

Summary of proposals: (1) Number of forms submitted: Four

(2) Title of form: Changes in the U.S. Telecommunications Industry and the Impact on U.S. Telecommunications Trade—Questionnaires for U.S. Producers, Purchasers, Prospective Purchasers, and Importers

(3) Type of request: New

(4) Frequency of use: Nonrecurring

(5) Description of respondents: Firms manufacturing, firms purchasing, firms which may purchase, and importers of telecommunications equipment

(6) Estimated number of respondents: 200

(7) Estimated total number of hours to complete the forms: 5,000

(8) Information obtained from the form that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

Additional information or comment: Copies of the proposed forms and supporting documents may be obtained from Charles Ervin, the USITC agency clearance officer (tel. no. 202–523–4463). Comments about the proposals should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Francine Picoult, Desk Officer for U.S. International Trade Commission. If you anticipate commenting on a form but find that time to prepare comments will prevent you from submitting them promptly you should advise OMB of your intent as soon as possible. Copies of any comments should be provided to Charles Ervin (United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436).

By order of the Commission.

Issued: December 29, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–256 Filed 1–4–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigations Nos. 701–TA–205 through 207 (Preliminary) and 731–TA–153 and 154 (Preliminary)]

Import Investigations; Certain Carbon Steel Products From Brazil

Determinations

On the basis of the record[1] developed in the subject investigation, the Commission determines, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is a reasonable indication that an industry in the United States is materially injured[2] by reason of imports from Brazil of the following products which are alleged to be subsidized by the Government of Brazil: certain carbon steel products in coils (investigation No. 701–TA–205 (Preliminary)),[3] hot-rolled carbon steel sheet (investigation No. 701–TA–206 (Preliminary)),[4] and cold-rolled carbon steel sheet (investigation No. 701–TA–207 (Preliminary)).[5]

The Commission also determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured[2] by reason of imports from Brazil of the following products which allegedly are being, or are likely to be, sold in the United States at less than fair value: hot-rolled carbon steel sheet (investigation No. 731–TA–153 (Preliminary)),[4] and cold-rolled carbon steel sheet (investigation No. 731–TA–154 (Preliminary)).[5]

Background

On November 10, 1983, petitions were filed with the Commission and the Department of Commerce by the United States Steel Corp. alleging that imports of certain carbon steel products from Brazil are being subsidized by the Brazilian Government and/or sold in the United States at less than fair value. Accordingly, effective November 10, 1983, the Commission instituted preliminary countervailing duty and antidumping investigations under sections 701(a) and 733(a), respectively, of the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise.

Notice of the institution of the Commission's investigations and of a conference to be held in connection therewith was given by posting copies of the notice of the Office of the Secretary, U.S. Intenational Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** of November 22, 1983 (48 FR 52782). The conference was held in Washington, D.C., on December 7, 1983, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its report on these investigations to the Secretary of Commerce on December 27, 1983. A public version of the Commission's report, Certain Carbon Steel Products from Brazil (investigations Nos. 701–TA–205 through 207 (Preliminary) and 731–TA–153 and 154 (Preliminary)), USITC Publication 1470, December 1983) contains the views of the Commission and information developed during the investigations.

By Order of the Commission.

Issued: December 27, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–257 Filed 1–4–84; 8:45 am]

BILLING CODE 7020–02–M

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[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Commissioner Stern determines that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of such merchandise from Brazil.

[3] For purposes of this investigation, carbon steel products in coils are those provided for in item 607.8610 of the Tariff Schedules of the United States Annotated (TSUSA).

[4] For purposes of this investigation, hot-rolled carbon steel sheet are those products provided for in items 607.8710, 607.8720, 607.8730, 607.8740, 607.8320, or 607.8342 of the TSUSA.

[5] For purposes of this investigation, cold-rolled carbon steel sheet are those products provided for in items 607.8320, 607.8350, 607.8355, or 607.8360 of the TSUSA.

[Investigation No. 337–TA–139]

Certain Caulking Guns; Commission Decision Not To Review Initial Determination; Deadline for Filing Written Submissions on Remedy, the Public Interest, and Bonding

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined not to review the presiding officer's initial determination that there is a violation of section 337 in the above-captioned investigation. The parties to the investigation and interested Government agencies are requested to

file written submissions on the issues of remedy, the public interest, and bonding.

Authority: The authority for the Commission's disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in §§ 210.53–210.56 of the Commission's Rules of Practice and Procedure (47 FR 25134 (June 10, 1982) as amended by 48 FR 20225 (May 5, 1983) and 48 FR 21115 (May 11, 1983); to be codified at 19 CFR 210–53–210.56).

SUPPLEMENTARY INFORMATION: On November 25, 1983, the presiding officer issued an initial determination that there is a violation of section 337 in the unauthorized importation and sale of certain caulking guns. Pursuant to § 210.54(a) of the Commission's Rules of Practice and Procedure, the Commission investigative attorney filed a petition for review of the ALJ's determination that complainant's patent (U.S. Letters Patent 4,081,112) is not invalid as obvious in light of prior art. Having examined the record in this investigation, including the initial determination of the presiding officer, the petition for review, and the response thereto, the Commission on December 27, 1983, determined not to review the initial determination. Consequently, the initial determination has become the Commission determination on violation of section 337 in this investigation.

Written Submissions

Inasmuch as the Commission has found that a violation of section 337 has occurred, it may issue (1) an order which could result in the exclusion of the subject articles from entry into the United States and/or (2) cease and desist orders which could result in one or more respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions which address the form of relief, if any, which should be ordered.

If the Commission contemplates some form of relief, it must consider the effect of that relief upon the public interest. The factors which the Commission will consider include the effect that an exclusion order and/or a cease and desist order would have upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the U.S. production of articles which are like or directly competitive with those which are the subject of the investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions concerning the effect, if any, that granting relief would have on the public interest.

If the Commission orders some form of relief, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving written submissions concerning the amount of the bond, if any, which should be imposed.

The parties to the investigation and interested Government agencies are requested to file written submissions on the issues of remedy, the public interest, and bonding. The complainant and the Commission investigative attorney are also requested to submit a proposed exclusion order and/or a proposed cease and desist order for the Commission's consideration. Persons other than the parties and Government agencies may file written submissions addressing the issues of remedy, the public interest, and bonding. Written submissions on remedy, the public interest, and bonding must be filed not later than the close of business on the day which is twenty-one (21) days after publication of this notice in the **Federal Register**.

Commission Hearing

The Commission does not plan to hold a public hearing in connection with final disposition of this investigation.

Additional Information

Persons submitting written submissions must file the original document and 14 true copies thereof with the Office of the Secretary on or before the deadline stated above. Any person desiring to submit a document (or a portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment by the presiding officer. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. Documents containing confidential information approved by the Commission for confidential treatment will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Secretary's Office.

Notice of this investigation was published in the **Federal Register** of February 24, 1983 (48 FR 7821–22).

Copies of the presiding officer's initial determination of November 25, 1983, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: William E. Perry, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0499.

By order of the Commission.

Issued: December 28, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–254 Filed 1–4–84; 8:45 am]

BILLING CODE 7020–02–M

DEPARTMENT OF JUSTICE

Antitrust Division

Proposed Termination of Final Judgment; Arthur Murray Inc., et al.

Notice is hereby given that Arthur Murray International, Inc. ("AMI") and Educational Credit Business, Inc. ("ECB") have asked the United States District Court for the Western District of Missouri to terminate the Final Judgment in *United States v. Arthur Murray, Inc., et al.*, Civil Action No. 12146. The United States has tentatively consented to termination. The Complaint in this case, filed on November 21, 1958, alleged that AMI had required its dance studio licensees to finance dance student loan contracts only through the defendant financial institutions in violation of Section 1 of the Sherman Act. The Judgment, entered the same day the Complaint was filed, among other things: (1) Required AMI (and certain individuals, who agreed to be bound by the terms of the judgment) to divest any interest held in the defendant financial institutions; (2) enjoined AMI and the consenting individuals from continuing, beyond certain stated periods, any outstanding loans to the defendant financial institutions; and (3) cancelled the clauses in the licensees' contracts that restricted their freedom to choose financial institutions, and prohibited AMI from so restricting its licensees in the future. The United States has filed a memorandum with the Court setting forth why it believes termination of the Judgment to be in the public interest. Copies of the Complaint, the Final Judgment, AMI's and ECB's motion papers, the stipulation containing the Government's consent, the United States

memorandum and all further related papers filed with the Court will be available for inspection in the Legal Procedure Unit of the Antitrust Division, Room 7416, Department of Justice, 10th Street and Pennsylvania Avenue, NW., Washington, D.C. 20530 (telephone: 202–633–2481), and at the Office of the Clerk of the United States District Court for the Western District of Missouri, Kansas City Division, 445 U.S. Courthouse, 811 Grand Avenue, Kansas City, Missouri 64106. Interested persons may submit comments regarding the proposed Judgment termination to the Department. Such comments must be received within sixty days. They should be addressed to Stanley M. Gorinson, Chief, Special Regulated Industries Section, Antitrust Division, Department of Justice, Washington, D.C. 20530 (telephone 202–724–6693).

Joseph H. Widmar,

Antitrust Division, Director of Operations.

[FR Doc. 84–258 Filed 1–4–84; 8:45 am]

BILLING CODE 4410–01–M

Proposed Termination of Final Judgment; National Ice and Cold Storage Co. of Calif. et al.

Notice is hereby given that The Union Ice Company has asked the United States District Court for the Central District of California to terminate the Final Judgment in *United States v. National Ice and Cold Storage Company of California, et al.*, Civil No. 14229. The United States has tentatively consented to termination. The Final Judgment prohibits the defendant corporations from conspiring to restrain or monopolize the production or distribution of ice or the furnishing of icing services and from, among other things: (1) Dividing or allocating customers, territories, or the production, sale or distribution of ice or icing services; (2) refraining from competition or leaving any ice company free from competition; (3) selling ice to or purchasing ice from another ice company, except in an unanticipated emergency; (4) fixing prices and exchanging information relating to terms of sale; (5) employing any ice distributor which manufactures ice or which also distributes ice for another ice company; and (6) selling ice on the condition that the purchaser refuse to deal with others. Both the complaint and the consent decree were directed at the sale and distribution of block ice used in the preservation, processing and transportation of perishable food. While block ice is still used today, most ice is now sold as party ice for home consumption to large supermarket chains. The ice industry generally, and the markets for both block ice and party ice, are unconcentrated, competitive and entered easily by new firms. Copies of the complaint, Final Judgment, motion papers, all comments submitted and all further papers filed with the court in connection with this motion will be available for inspection in the Legal Procedure Unit of the Antitrust Division, Room 7416, Department of Justice, Tenth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530 (telephone: 202–633–2481), and at the Office of the Clerk of the United States District Court for the Central District of California, United States Courthouse, 312 North Spring Street, Los Angeles, California 90012. Interested persons may submit comments regarding the proposed Judgment termination to the Department. They should be addressed to Gary R. Spratling, Assistant Chief, Antitrust Division, Department of Justice, 450 Golden Gate Avenue, P.O. Box 36046, San Francisco, CA 94102 (telephone: 415–556–6300). Such comments must be received within 60 days.

Joseph H. Widmar,

Antitrust Division, Director of Operations.

[FR Doc. 84–259 Filed 1–4–84; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

Bomag (U.S.A.); Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period December 19, 1983–December 23, 1983.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separation at the firm.

Affirmative Determination

TA–W–14,772; Bomag (U.S.A.), A Unit of AMCA International, Springfield, OH

A certification was issued covering all workers separated on or after July 1, 1982 and before September 1, 1983.

I hereby certify that the aforementioned determination was issued during the period December 19, 1983–December 23, 1983. Copies of this determination is available for inspection in Room 9120, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons to write to the above address.

Dated: December 27, 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 84–213 Filed 1–4–84; 8:45 am]

BILLING CODE 4510–30–M

Machine Works, Inc., et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (the "Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 16, 1984.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 16, 1984.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 23rd day of December 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Alten Foundry & Machine Works, Inc. (IAMAW)	Lancaster, OH	12/15/83	12/5/83	TA-W-15,140	Gray and ductile iron castings.
Comdial (workers)	Charlottesville, VA	12/13/83	12/7/83	TA-W-15,141	Telephone systems.
G.H. Bass & Co. (company)	Rumford, ME	12/12/83	12/6/83	TA-W-15,142	Shoes—women.
G.H. Bass & Co. (company)	North Jay, ME	12/12/83	12/6/83	TA-W-15,143	Shoes—women.
G.H. Bass & Co. (company)	Wilton, ME	12/9/83	12/6/83	TA-W-15,144	Shoes—women.
Hercules, Inc. (teamsters)	Hattiesburg, MS	12/9/83	12/6/83	TA-W-15,145	Diversified chemicals and resins.
Melville Footwear Manufacturing (wkrs)	Boone, NC	12/20/83	12/16/83	TA-W-15,146	men's and women's casual shoes
Nilok Chemicals, Inc. (workers)	Memphis, TN	12/20/83	12/12/83	TA-W-15,147	Cyanuric chloride, hydorcyanic acid and chlorine.
Northeast Shoe Div. of Penbscot Shoe (workers)	Pittsfield, ME	12/19/83	12/6/83	TA-W-15,148	Men's and women's shoes.
Selvin Shoe Co. (company)	Baltimore, MD	12/20/83	12/10/83	TA-W-15,149	Childrens, infants, and teens leather shoes and boots.
The Torrington Co. (UAW)	So. Bend, IN	12/19/83	12/13/83	TA-W-15,150	Anti friction bearings.
U.S. Steel Corp., Gary Works (USWA)	Gary, IN	12/8/83	12/2/83	TA-W-15,151	Sheet and tin, finishing mill.

[FR Doc. 84-215 Filed 1-4-84; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-15,071]

Milwaukee Solvay Coke Company, Milwaukee, Wisconsin; Termination of Investigation

The petitioning group of workers are subject to an ongoing investigation for which a determination has not yet been issued (TA-W-15,016). Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C. this 27th day of December 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 84-214 Filed 1-4-84; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-83-25-M]

American Gilsonite Co.; Petition for Modification of Application of Mandatory Safety Standard

American Gilsonite Company, 1150 Kennecott Building, Salt Lake City, Utah 84133 has filed a petition to modify the application of 30 CFR 57.19-56 (automatic hoisting) to its #I-9 Gilsonite Mine, Bonanza Mining Operations (I.D. No. 42-01783) located in Uintah County, Utah. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that when automatic hoisting is used, a competent operator of the hoist shall be readily available at or near the hoisting device while any person is underground.

2. Petitioner operates seven gilsonite mines in the Bonanza area. There is a permanent camp with several staff and operating personnel in residence, as well as processing facilities on location.

3. The hoist has been equipped with extra safety devices in addition to those incorporated in its design, and operates under limited and controlled conditions. Extra communications equipment for the underground miners has been provided to arrange for prompt assistance from underground personnel in the event of a hoist malfunction or emergency. The hoist is examined daily and a thorough mechanical and electrical inspection is performed once a month.

4. As an alternate method of compliance, petitioner proposes that in the event of an emergency of hoist failure, the miners can exit the conveyance at any point in the shaft and either call for assistance or climb the manway to the surface. The phone system at the mine is an extension of the company's direct dial system which permits calls to any extension on the property to obtain assistance. The miners can also be contacted at their underground work area through this telephone system. In addition, petitioner will install other devices to amplify the signals from underground personnel (audibly or visually, or both) so that any request for assistance can be seen and/or heard over a large area, enabling a person to reach the surface controls of the hoist from his or her location in a matter of minutes. Specifically trained personnel will be available to operate the hoist in an emergency.

5. Petitioner states that the proposed alternate method of compliance will provide the same measure of protection for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petition are available for inspection at that address.

Dated: December 29, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-193 Filed 1-4-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-144-C]

Angus Mining Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Angus Mining Co., Inc., Box 266, Caretta, WV 24821 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Angus Mine (I.D. No. 46-01659) located in McDowell County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The coal height varies from 43 to 50 inches.

3. Petitioner states that the use of canopies on the mine's shuttle cars would result in a diminution of safety for the miners affected because the canopies can strike the roof, roof support devices, and overhanging cables, increasing the chances of an accident or injury.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petition are available for inspection at that address.

Dated: December 28, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-202 Filed 1-4-83 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-130-C]

Barnes & Tucker Co.; Petition for Modification of Application of Mandatory Safety Standard

Barnes & Tucker Company, 1912 Chestnut Avenue, Barnesboro, Pennsylvania 15714 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Lancashire No. 20 Mine (I.D. No. 36-00836) located in Cambria County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that intake and return aircourses be examined in their entirety on a weekly basis.

2. The petition concerns all main return entries located between the Portal shaft and the K-7 shaft. These return entries were primarily developed prior to 1970. These entries have deteriorated due to numerous roof falls, rendering these areas inaccessible. No active section return air passes through these entries.

3. Petitioner states that rehabilitation of these entries would expose miners to extremely hazardous conditions.

4. As an alternate method, petitioner proposes to evaluate and control the air entering the affected area by regulators at the inlet monitoring stations. Air exiting the affected areas will be evaluated and controlled at the outlet monitoring stations. Examination of the monitoring stations will be weekly.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petition are available for inspection at that address.

Dated: December 28, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-203 Filed 1-4-84: 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-133-C]

Blue Pond Mining Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Blue Pond Mining Co., Inc., 109 Broadbottom Road, Pikeville, Kentucky 41501 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 1 Mine (I.D. No. 15-14222) located in Pike County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The coal height varies from 45 to 48 inches, with consistent ascending and descending grades creating dips in the coalbed. Roof support lowers the travel height to 43 inches at the present time.

3. Petitioner states that the canopies restrict the equipment operator's visibility and cramp the operator's seating position, increasing the chances of an accident. The canopy can also become jammed against the roof, dislodging roof supports.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petition are available for inspection at that address.

Dated: December 28, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-207 Filed 1-4-84: 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-135-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the appliction of 30 CFR 75.326 (aircourses and belt haulage entries) to its Buchanan No. 1 Mine (I.D. No. 44-04856) located in Buchanan County, Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that the belt haulage entries not be used to ventilate active working places.

2. Petitioner is now mining in virgin coal and developing this area for future longwall retreat mining; a minimum number of airways or entries will be developed.

3. As an alternate method, petitioner proposes to use the air conducted through the belt haulage entries at the working places to maximize the effectiveness of the entries. In addition, petitioner will install an early warning fire and telemetry system. Carbon monoxide monitors will be used in each belt flight to monitor the air with specific safeguards. A heat-actuated automatic sprinkler system will also be installed.

4. Petitioner states that the proposed alternate method will provide the same

degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petition are available for inspection at that address.

Dated: December 29, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-194 Filed 1-4-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-136-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.1103-4 (automatic fire sensor and warning device systems; installations; minimum requirements) to its Buchanan No. 1 Mine (I.D. No. 44-04856) located in Buchanan County, Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that automatic fire sensor and warning device systems provide identification of fire within each belt flight.

2. Petitioner is now mining in virgin coal and developing this area for future longwall retreat mining; a minimum number of airways or entries will be developed.

3. As an alternate method, petitioner proposes to use the air conducted through the belt haulage entries at the working places to maximize the effectiveness of the entries. In addition, petitioner will install an early fire and telemetry system. Carbon monoxide monitors will be used in each belt flight to monitor the air with specific safeguards. A heat-actuated automatic sprinkler system will also be installed.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Adminstration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petitoin are available for inspection at that address.

Dated: December 28, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-200 Filed 1-4-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-124-C]

Eastern Mingo Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Eastern Mingo Coal Company, P.O. Box 119, Naugatuck, WV 25685 has filed a petition to modify the application of 30 CFR 75.326 (air-courses and belt haulage entries) to its No. 1 Mine (I.D. No. 46-05978) located in Mingo County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that entries used as intake and return aircourses be separated from belt haulage entries, and that belt air not be used to ventilate active working places.

2. Petitioner uses the split-tail system of face ventilation with seven entries. Entries one and seven are returns with each split of air being pulled by a separate fan. Entries two, three, five and six are intakes. The belt is in the number four entry, with the neutral air headed toward the working sections from the portals. This belt air is diverted into the return through a ventilation tube usually located within 1,500 feet of the working section.

3. As an alternate method, petitioner proposes to use the air from the belt entry to ventilate the working face. In support of this request, petitioner proposes to install an automatic fire detection system based on carbon monoxide (CO) monitoring on the underground belt conveyors as follows:

a. Sensors will be installed which will give early warning automatically when a fire occurs in the belt entry, and provide both audible and visual signals that permit rapid location of the fire;

b. The detection system will be calibrated to activate the warning signals should CO concentration reach 10 parts per million (p.p.m.) above ambient;

c. Petitioner proposes to locate a sensor at every belt drive, at the section loading point, and at intervals not to exceed 2,000 feet along the belt. The locations will be submitted for approval in the mine's ventilation system and methane and dust control plan;

d. Upon activation, the detection system will provide an effective warning signal at a manned location on the surface where personnel have an assigned post of duty and have telephone or equivalent communication with all persons who may be endangered. The detector located at or near the section loading point will activate when CO is detected and give a warning signal that may be heard on the working section. All persons, except those required to investigate and take appropriate action in the event of a fire, will be immediately withdrawn from the area affected to a safe area;

e. Should the automatic fire detection system be affected by a power interruption or other malfunction, petitioner proposes that the belt conveyors be allowed to continue to operate only if a qualified person begins immediate and continuous monitoring for CO at each section loading point inby the malfunctioning sensor;

f. Each CO monitor and sensor will be visually examined at least once each day during production periods to ensure proper functioning. The monitors will be calibrated with a known concentration of CO at least every 30 days and calibrated as necessary. A record will be kept of these tests and made available.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petition are available for inspection at that address.

Dated: December 28, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-209 Filed 1-4-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-33-M]

Dravo-Soda Springs; Petition for Modification of Application of Mandatory Safety Standard

Dravo-Soda Springs, Box 975, Soda Springs, Idaho 83276 has filed a petition to modify the application of 30 CFR 55.9-22 (berms or guards) to its Henry Phosphate Mine (I.D. No. 10-00091) located in Caribou County, Idaho. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that berms or guards be provided on the outer bank of elevated roadways.

2. There are seventeen miles of paved haul road which are at least 32 feet wide with 34 feet width on all curves. The roadway is posted at all entrances "closed to all private traffic" and through radio contact, any traffic entering the roadway immediately alerts all drivers of that traffic. Maximum grade point on the road does not exceed 3 percent. At the edge of the paved roadway is designed a 5 foot wide gravel shoulder on a 3 to 1 slope.

3. The hauling units are equipped with 2-way radios and have mandatory reporting points all along the roadway. Inclement weather restrictions are observed. Heavy rain on the roadway will cause the haul to be shut down because of traction concerns. In addition, any light snowfall automatically closes the haul down. Average speed on the haul road never exceeds 30 miles per hour. The haul season is from May to October; no operations are on the haul road during winter months or during very inclement weather.

4. Petitioner states that the installation of berms on the outer bank of the roadways would place a wheel-catching obstruction at the roadway edge, reducing the driver's chance to pull back on the roadway. When a wheel is pulled into the berm, the vehicles will have a tendency to jack-knife, forcing the trailing units on top of the truck unit. In addition, the berms cause any rain on the roadway to stay in the roadway, creating a traction hazard for breaking and steering. The berms will also render the ditches useless. Material sluff from the berms will be scattered on the roadway, making additional driving hazards.

5. Petitioner states that berms will add a substantial hazard to the roadway haul trucks and will expose the truck operations to unsafe conditions.

6. For these reasons, petitioner requests a modification of the standard.

Requests for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petition are available for inspection at that address.

Dated: December 28, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-210 Filed 1-4-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-28-M]

Elk Creek Gold Mines Co.; Petition for Modification of Application of Mandatory Safety Standard

Elk Creek Gold Mines Company, 851 Kendall Street, Lakewood, Colorado 80214 has filed a petition to modify the application of 30 CFR 57.6-1 (explosives storage) to its Mackey Mine (I.D. No. 05-03890) located in Gilpin County, Colorado. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that detonators and explosives other than blasting agents be stored in magazines.

2. Petitioner states that limited space on the surface of the mine does not allow for separation of magazines. Petitioner intends to provide an underground magazine as soon as the tunnel is completed.

3. As an alternate method, petitioner proposes to store the detonators in a steel-clad building which was once a refrigerated trailer van located 50 feet from the regulation magazine. A special wooden box with padlock and hasp is located on the floor of the van, which is also padlocked.

4. For these reasons, petitioner requests a modificaition of the standards.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petition are available for inspection at that address.

Dated: December 29, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-198 Filed 1-4-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-121-C]

Emerald Mines Corp.; Petition for Modification of Application of Mandatory Safety Standard

Emerald Mines Corporation, c/o Amoco Minerals Company, 7000 South Yosemite Street, P.O. Box 3299, Englewood, Colorado 80155 has filed a petition to modify the application of 30 CFR 75.1700 (oil and gas wells) to its Emerald Mine No. 1 (I.D. No. 36-05466) located in Greene County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that barriers be established and maintained around oil and gas wells penetrating coal beds.

2. The large majority of oil and gas wells passing through the Pittsburgh coal seam were drilled, and many were also abandoned, between 1900 and 1950. The boreholes of the wells penetrate and pass through the coal seam.

3. As an alternate method to establishing and maintaining barriers around the oil and gas wells, petitioner proposes the following method for plugging an oil or gas well:

a. A diligent effort will be made to clean out the wellbore to at least 200 feet below the lowest workable coalbed. In the case of an active gas or oil well, an attempt will be made to clean to the total depth of the hole. If old casing is found in the old wellbore in the area of plugging, an attempt will be made to remove such casing. If after reasonable effort to remove such casing is unsuccessful, this casing will be

extensively perforated to allow for plugging;

b. A bridge plug, brush plug, or suitable substitute as determined by the District Manager, will be set a minimum 200 feet below the lowest workable coalbed;

c. The wellbore will be filled with fluid from a point approximately 200 feet below the lowest workable coalbed to the surface so that an overbalanced condition will exist in the wellbore;

d. An expanding cement plug will be set in the wellbore through tubing from the top of the plug, to a point at least 100 feet above the plug. After the cement has had adequate time to harden, the plug will be tagged to verify its location and condition.

e. A 4 and ½ inch outside diameter vent pipe (or larger) will be run into the wellbore to a depth of approximately 100 feet below the lowest workable coalbed. This coal protection string of casing will be cemented by circulation with expanding cement from the bottom of the casing to the surface using standard cementing practices;

f. A directional survey and geophysical logs may be run to determine the location of the Pittsburgh coal seam and the location of the well bore in that coal seam;

g. In order to determine the effectiveness of the sealing project, all fluid will be evacuated from the well-bore. A vent will be installed on top of the casing to prevent liquids and solids from entering the well but will permit ready access to the full internal diameter of the coal protection string when required;

h. At such time when a gas or oil well is found at a location, the well may be used to vent gob gas to the surface. If the well is planned to be used as a gob ventilation borehole, 150 to 200 feet of casing above the Pittsburgh coal seam will be perforated beginning approximately 30 feet above the seam. This perforated casing segment will not be cemented into place in the wellbore. The entire remaining portion of this vent pipe, both above and below the perforated casing, will be cemented in the wellbore;

i. If the vent pipe cannot be installed as outlined in paragraph (e) above, petitioner will plug the wellbore solid from a depth of not less than 200 feet below the lowest workable coalbed to the surface. When plugging in this manner, expanding cement plugs will be installed in the area of each workable coalbed.

4. Petitioner proposes the following procedures to be followed when mining through a plugged oil or gas well:

a. Mining through a plugged well will be done on a shift determined by the District or Subdistrict Manager after a joint meeting between the operator, representative of the miners, the State Department of Mines and MSHA. A mining plan for each well intersection will be submitted to the District Manager for approval;

b. MSHA will be notified prior to mining within 300 feet of a well;

c. The mining through operation will be under the direct supervision of a certified official. Orders concerning the mining through operation will be issued by the certified official in charge;

d. When using a continuous miner, a drivage sight will be installed at the last breakthough to ensure intersection of the well and again if necessary to ensure that the last sight is not further than 50 feet from the well;

e. The methane monitor on the continuous mining machine will be calibrated on the shift prior to the mining through;

f. Tests for methane will be made with a hand-held methane detector at least every 10 minutes from the time that mining is wifhin 10 feet of a well until the well is intersected;

g. When the wellbore has been intersected, all equipment will be deenergized and the place thoroughly examined and determined safe before mining is resumed;

h. After a well has been intersected and the working place determined safe, mining shall continue in by the well a sufficient distance to permit adequate ventilation around the area of the wellbore; and

i. MSHA personnel may interrupt or halt the mining through operation when it is necessary to ensure the safety of the miners.

5. Petitioner states that the proposed alternate method will provide the same measure of protection to the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petition are available for inspection at that address.

Dated: December 28, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-204 Filed 1-4-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-30-M]

International Minerals & Chemical Corp.; Petition for Modification of Application of Mandatory Safety Standard

International Minerals & Chemical Corporation, IMC Fertilizer Group, P.O. Box 71, Carlsbad, New Mexico 88220 has filed a petition to modify the application of 30 CFR 57.4-61A (ventilation doors) to its Carlsbad Mine (I.D. No. 29-00802) located in Eddy County, New Mexico. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that ventilation doors be installed at or near shaft stations of intake shafts and at any shaft designated as an escapeway in order to prevent the spread of smoke or gas in the event of a fire.

2. The mine is a very large potash mine about 900 feet deep and excavated entirely in salt with some clay beds present. The mine is non-gassy and exposed rock is non-combustible.

3. Petitioner seeks a modification of the standard for the mine's new number 5 shaft; which is to be an 18-foot diameter personnel and materials and ventilation intake shaft. It is concrete lined the entire length, except for the stations and sump, which are in-salt. This shaft will have all steel dividers and furnishings with wood guides. The surface buildings are constructed of non-combustible materials, with only some interior partitions of the changehouse constructed of wood. This shaft will have stations open to mine workings on the 700 and 850 foot levels.

4. The mine is divided into two independent ventilation systems. Only shaft numbers 3, 4 and 5 will connect with the number 5 shaft's ventilation system.

5. Petitioner states that the ventilation doors would be used only to prevent the introduction of smoke and toxic gases into the mine ventilation system. The doors would be closed only in the event of a fire located in the number 5 shaft or located upstream from the first working area. The doors would serve only to stop the flow of air, keeping the smoke from entering the working areas, but would

also trap the smoke and gases in the mine, hindering any firefighting activities.

6. As an alternate method, petitioner proposes to install a reversible fan on the surface at the number 3 shaft. Emergency switches would be installed at five specified locations. These switches would reverse the fan creating, within ten minutes, a positive flow of air up the number 5 shaft. Warning alarms and lights would notify personnel at both number 5 shaft stations and at the number 5 main shop that the fan has been reversed. Personnel would then escape to fresh air through a door less than 600 feet away. Reversing the fans provides a means of exhausting any smoke that has already been introduced into the mine and any smoke being produced in the mine directly to the surface. Upon fan reversal, the computer would instruct the dispatcher to notify the mine manager, mine production superintendent and safety manager. The dispatcher's station and the number 3 shaft surface fan location are the only locations where the fan can be switched back for normal air flow.

7. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petition are available for inspection at that address.

Dated: December 29, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-195 Filed 1-4-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-35-M]

International Minerals & Chemical Corp.; Petition for Modification of Application of Mandatory Safety Standard

International Minerals & Chemical Corporation, IMC Fertilizer Group, P.O. Box 71, Carlsbad, New Mexico 88220 has filed a petition to modify the application of 30 CFR 57.4-61(B) (fire doors) to its Carlsbad Mine (I.D. No. 29-00802) located in Eddy County, New Mexico. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that fire doors be constructed in each opening of an underground shop to prevent the spread of toxic gases from a fire originating there.

2. The mine is a very large potash mine about 900 feet deep and excavated entirely in salt with some clay beds present. The mine is non-gassy and exposed rock is non-combustible.

3. The "back" in the number 5 shop is 12 to 20 feet high, excavated entirely in salt and clay beds on the 850 foot level. Work areas in the shop will have concrete floors and adequate fire extinguishers will be provided in the working and storage areas of the shop. A portion of the air brought down the number 5 shaft will be directed through the number 5 main shop, then recombined with the intake air to the remaining areas. The air is then routed to the number 3 shaft and exhausted to the surface.

4. Petitioner states that the standard requires the fire doors to be closed in the event of a fire in the main shop. Although the amount of smoke introduced to the mine would be greatly reduced, some smoke would still be released due to the expanding gases released during combustion. Were the doors closed, petitioner states that the shop atmosphere would quickly become hazardous, severely hampering firefighting activities.

5. As an alternate method, petitioner proposes to install a reversible fan on the surface at the number 3 shaft. An emergency switch would be installed in the number 5 main shop. This switch would reverse the fan creating, within ten minutes, A positive flow of air up the number 5 shaft. Warning alarms and lights would notify personnel at both number 5 shaft stations and at the number 5 main shop that the fan has been reversed. Personnel would then escape to fresh air through a door less than 600 feet away. Reversing the fans provides a means of exhausting any smoke that has already been introduced into the mine and any smoke being produced in the mine directly to the surface.

6. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petition are available for inspection at that address.

Dated: December 28, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-201 Filed 1-4-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-26-M]

Lane Mt. Silica Co.; Petition for Modification of Application of Mandatory Safety Standard

Lane Mt. Silica Co., P.O. Box 236, Valley, Washington 99181 has filed a petition to modify the application of 30 CFR 55.9-22 (berms or guards) to its Lane Mt. Silica Mine (I.D. No. 45-00983) located in Stevens County, Washington. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that berms or guards be provided on the outer bank of elevated roadways.

2. Petitioner states that the roads are built on land controlled by the Department of Natural Resources, Bureau of Land Management, and Boise Cascade, Inc. The roads are two-way and well maintained at all times.

3. Petitioner states that installing berms on these roads would narrow the roads to a point that becomes unsafe. Berms would also restrict snow removal and water drainage after rain.

4. As an alternate method, petitioner proposes to use a traffic control system to ensure that all loaded trucks and downhill traffic would travel the inboard side of the roadway, regardless of whether it be on the left or right side of the roadway. The road is well marked with signs at all corners and switchbacks advising of this unique travel flow.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and

Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petition are available for inspection at that address.

Dated: December 28, 1983.

Patricia W. Silvey, *Director,*

Office of Standards, Regulations and Variances.

[FR Doc. 84-197 Filed 1-4-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-108-C]

Little Egypt Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Little Egypt Coal Co., Inc., P.O. Box 187, Raven, Virginia 24639 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Mine No. 2 (I.D. No. 44-05541) located in Buchanan County, Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. Petitioner states that the use of canopies on the mine's electric face equipment will result in a diminution of safety for the miners affected because the canopy causes a cramped operator compartment, forcing the operator to lean out from under the canopy, exposing body parts to potential injury. The canopies strike the roofbolts and cables, increasing the chances of a roof fall and/or electrical shock.

3. For these reasons, petitioner requests a modification of the standard.

Requests for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petition are available for inspection at that address.

Dated: December 28, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-208 Filed 1-4-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-142-C]

Maple Leaf Mining; Petition for Modification of Application of Mandatory Safety Standard

Maple Leaf Mining, R.D. No. 1, Box 182B, Lykens, Pennsylvania 17048 has filed a petition to modify the application of 30 CFR 75.1714 (self-contained self-rescue devices) to its Little Vein Slope (I.D. No. 36-02000) located in Dauphin County, Pennsylvania. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that each operator make available to each person who goes underground a self-rescue device or devices approved by the Secretary which is adequate to protect the person for one hour or longer.

2. The mine is wet and virtually dust free. The upper area of the mine was deep and strip mined, leaving ventilation to the surface by means of abandoned slopes, cracks, fissures and strip pits. This creates a natural draft that would sweep noxious fumes to the surface away from the miners.

3. Petitioner states that the mine geology, undulation, thin coal and varying pitches make it impossible to wear the device while working. Sections of the mine are subject to freezing temperatures, making constant availability of the devices questionable. In addition, the wet conditions of the mine make it difficult to locate a suitable dry storage location for the self-rescuers.

4. Petitioner proposes to continue using the present filter-type self-rescuers as an alternative to providing self-contained self-rescuers.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petition are available for inspection at that address.

Dated: December 29, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-196 Filed 1-4-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-143-C]

Masteller Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Masteller Coal Company P.O. Box 370, Keyser, West Virginia 26726 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its J.T. No. 2 Mine (I.D. No. 46-05948) located in Mineral County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The coal seam ranges from 0 to 60 inches, with an average of 54 inches. Inconsistent mining heights have been encountered where seam heights are much lower.

3. Petitioner states that the use of canopies on the mine's shuttle cars would obstruct the vision of the equipment operator, increasing the chances of an accident. The canopies could also strike the roof and rib, damaging the steering controls, the lighting system and the roof support system.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petition are available for inspection at that address.

Dated: December 28, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-211 Filed 1-4-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-125-C]

Southern Mingo Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Southern Mingo Coal Company, P.O. Box 119, Naugatuck, WV 25685 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its No. 1 Mine (I.D. No. 46-06278) located in Mingo County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that entries used as intake and return aircourses be separated from belt haulage entries, and that belt air not be used to ventilate active working places.

2. Petitioner uses the split-tail system of face ventilation with seven entries. Entries one and seven are returns with each split of air being pulled by a separate fan. Entries two, three, five and six are intakes. The belt is in the number four entry, with the neutral air headed toward the working sections from the portals. This belt air is diverted into the return through a ventilation tube usually located within 1,500 feet of the working section.

3. As an alternate method, petitioner proposes to use the air from the belt entry to ventilate the working face. In support of this request, petitioner proposes to install an automatic fire detection system based on carbon monoxide (CO) monitoring on the underground belt conveyors as follows:

a. Sensors will be installed which will give early warning automatically when a fire occurs in the belt entry, and provide both audible and visual signals that permit rapid location of the fire;

b. The detection system will be calibrated to activate the warning signals should the CO concentration reach 10 parts per million (p.p.m.) above ambient;

c. Petitioner proposes to locate a sensor at every belt drive, at the section loading point, and at intervals not to exceed 2,000 feet along the belt. The locations will be submitted for approval in the mine's ventilation system and methane and dust control plan;

d. Upon activation, the detection system will provide an effective warning signal at a manned location on the surface where personnel have an assigned post of duty and have telephone or equivalent communication with all persons who may be endangered. It will also provide identification of any activated sensor. The detector located at or near the section loading point will activate when CO is detected and give a warning signal that may be heard on the working section. All persons, except those required to investigate and take appropriate action in the event of a fire, will be immediately withdrawn from the area affected to a safe area;

e. Should the automatic fire detection system be affected by a power interruption or other malfunction, petitioner proposes that the belt conveyors be allowed to continue to operate only if a qualified person begins immediate and continuous monitoring for CO at each section loading point inby the malfunctioning sensor;

f. Each CO monitor and sensor will be visually examined at least once each day during production periods to ensure proper functioning. The monitors will be calibrated with a known concentration of CO at least every 30 days and calibrated as necessary. A record will be kept of these tests and made available.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petition are available for inspection at that address.

Dated: December 29, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-199 Filed 1-4-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-123-C]

Triple Jr. Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Triple Jr. Coal Co., Inc., Rt. 1, Box 219, Elkhorn City, Kentucky 41522 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 1 Mine (I.D. No. 15-12096) located in Pike County, Kentucky. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The mine is in the Lower Peach Orchard seam ranging from 34 to 54 inches in height with ascending and descending elevations, roof irregularities and rolls.

3. Petitioner states that the installation of a canopy on the mine's roof bolter would cause a cramped deck for the equipment operator and restrict the operator's visibility, increasing the chances of an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petition are available for inspection at that address.

Dated: December 28, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-206 Filed 1-4-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-140-C]

Turris Coal; Petition for Modification of Application of Mandatory Safety Standard

Turris Coal Company, P.O. Box 21, Elkhart, Illinois 62634 has filed a petition to modify the application of 30 CFR 77.216-3(a) (water, sediment, or slurry impoundments and impounding structures; inspection requirements) to its Elkhart Mine (I.D. No. 11-02664) located in Logan County, Illinois. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that all water, sediment, or slurry impoundments which meet the requirements of § 77.216(a) be examined by a qualified person at intervals not exceeding seven days for appearance of structural weakness and other hazardous conditions, and that all instruments be monitored by a qualified

person at intervals not exceeding seven days.

2. The Slurry Pond is being constructed in stages to allow for gradual settlement of underclays. Tests performed indicate that consolidation of the underlying soil and dissipation of pore pressures will generally occur during the construction period such that undrained soil strength should increase sufficiently to maintain the stability. The Freshwater Pond, unlike the Slurry Pond, will not be changed in terms of elevation or size. It is presently sized to its intended capacity, has good vegetative cover established on the inside and outside dikes, and has an established reedgrass cover above and below the water line. This pond has been riprapped above and below the water line with three rows of tires tied and staked along the entire length of the inside dike.

3. As an alternate method, petitioner proposes to inspect the Slurry Pond and the Freshwater Pond on a monthly basis, and to monitor the instruments for the Slurry Pond on a quarterly basis, as follows:

a. Instrument readings will be taken every seven days during the first month of operation of any new stage of the Slurry Pond. If, after one month, the readings do not fluctuate to a great extend, readings from the new piezometers will be taken on a quarterly basis along with readings taken from instruments located in previously-constructed stages;

b. Both the Slurry Pond and the Freshwater Pond will be visually inspected on a monthly basis during normal weather conditions. After a major rain the ponds will be inspected, regardless of when the last inspection was performed.

4. Petitioner states that inspections performed monthly would suffice to monitor any changes in the stability of the embankment. Petitioner believes that a more thorough inspection will be conducted monthly because inspectors will be more likely to note major changes. Petitioner further believes that the monthly and quarterly inspections will supply the necessary information to ensure the stability of these impoundments.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petition are available for inspection at that address.

Dated: December 28, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-212 Filed 1-4-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-126-C]

Western Mingo Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Western Mingo Coal Company, P.O. Box 119, Naugatuck, WV 25685 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entires) to its No. 1 Mine (I.D. No. 46-05055) located in Mingo County, West Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that entries used as intake and return aircourses be separated from belt haulage entries, and that belt air not be used to ventilate active working places.

2. Petitioner uses the split-tail system of face ventilation with seven entries. Entries one and seven are returns with each split of air being pulled by a separate fan. Entries two, three, five and six are intakes. The belt is in the number four entry, with the neutral air headed toward the working sections from the portals. This belt air is diverted into the return through a ventilation tube usually located within 1,500 feet of the working section.

3. As an alternate method, petitioner proposes to use the air from the belt entry to ventilate the working face. In support of this request, petitioner proposes to install and automatic fire detection system based on carbon monoxide (CO) monitoring on the underground conveyors as follows:

a. Sensors will be installed which will give early warning automatically when a fire occurs in the belt entry, and provide both audible and visual signals that permit rapid location of the fire;

b. The detection system will be calibrated to activate the warning signals should the CO concentration reach 10 parts per million (p.p.m.) above ambient;

c. Petitioner proposes to locate a sensor at every belt drive, at the section loading point, and at intervals not to exceed 2,000 feet along the belt. The locations will be submitted for approval in the mine's ventilation system and methane and dust control plan;

d. Upon activation, the detection system will provide an effective warning signal at a manned location on the surface where personnel have an assigned post of duty and have telephone or equivalent communication with all persons who may be endangered. It will also provide identification of an activated sensor. The detector located at or near the section loading point will activate when CO is detected and give a warning signal that may be heard on the working section. All persons, except those required to investigate and take appropriate action in the event of a fire, will be immediately withdrawn from the area affected to a safe area;

e. Should the automatic fire system be affected by a power interruption or other malfunction, petitioner proposes that the belt conveyors be allowed to continue to operate only if a qualified person begins immediate and continuous monitoring for CO at each section loading point inby the malfunctioning sensor;

f. Each CO monitor and sensor will be visually examined at least once each day during production periods to ensure proper functioning. The monitors will be calibrated with a known concentration of CO at least every 30 days and calibrated as necessary. A record will be kept of these tests and made available.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petition are available for inspection at that address.

Dated: December 28, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-192 Filed 1-4-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-83-138-C]

Westmoreland Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Westmoreland Coal Company, P.O. Drawers A & B, Big Stone Gap, Virginia 2419–0916 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Prescott No. 2 Mine (I.D. No. 44–01689) located in Wise County, Virginia. The petition is filed under Section 101(c) of the Federal Mine Safety and Health Act of 177.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that intake and return aircourses be separated from belt haulage entries, and that intake air coursed through belt haulage entries not be used to ventilate active workings.

2. As an alternate method, petitioner proposes to use the intake air which is coursed through the belt haulage and/or track entries to ventilate active working places. In support of this request, petitioner proposes to:

a. Install an MSHA-approved carbon monoxide (CO) fire detection system. This will include CO monitoring devices installed in all belt haulage entries used as intake aircourses. The monitoring system will be capable of giving an automatic warning (visual or audible) at a manned station when the CO level reashes 56 ppm above the ambient level for the mine. It will also be capable of giving an automatic fire alarm signal when the CO level reaches 10 ppm above the warning level described above. The fire alarm signal will trigger mine evacuation procedures;

b. Locate the monitors at or near each belt drive and tailpiece, and at intervals not to exceed 3,000 feet on those belts where these monitors will replace the existing point sensor system;

c. Locate the monitors at or near each belt drve and tailpiece on those belts where the proposed detection system will not replace the existing point sensor system;

d. Ensure that the detection system is capable of identifying any activated sensor(s), whether warning or alarm. A mine map can then be used to further identify the activated monitor(s) and belt flight location(s);

e. Train at least one person at each manned location in the operation procedures of the detection system and mine emergency procedures;

f. Allow the belt, in the event that the monitoring system or any portion of it is deenergized, to continue to operate in the area affected by such deenergization only when it is continuously patrolled and physically monitored by a qualified person with CO detecting tubes or equivalent methods;

g. Visually examine the monitors daily when belts are operating. Monitors and sensors will be inspected by a qualified person at least weekly and calibrated at least monthly; and

h. Include technical specifications and details of the detection system as part of the mine's ventilation system and methane and dust control plan.

3. Petitioner states that the proposed alternate method would increase the differential pressure between its intake and return entries which would provide for more effective ventilation of the entire mine. This includes an increased capability of the ventilation system to dilute, render harmless and carry away methane gas, coal dust and other potentially dangerous or harmful gases and/or contaminants, and it will provide better ventilation of the active workings of the mine.

4. Petitioner further states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before February 6, 1984. Copies of the petition are available for inspection at that address.

Dated: December 28, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84–205 Filed 1–4–84; 8:45 am]

BILLING CODE 4510–43–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: Extension.

2. The title of the information collection: 10 CFR Part 75 Safeguards on Nuclear Material—Implementation of US/IAEA Agreement.

3. The form number if applicable: Not applicable.

4. How often the collection is required: Installation information is submitted upon written notification from the Commission. Changes are submitted as occurring. Nuclear material accounting and control information is submitted in accordance with specified instructions.

5. Who will be required or asked to report: All persons licensed by the Commission or Agreement States to possess source or special nuclear material at an installation specified on the U.S. eligible list as determined by the Secretary of State or his designee and filed with the Commission, as well as holders of construction permits and persons who intend to receive source material.

6. An estimate of the number of responses: 10.

7. An estimate of the total number of hours needed to complete the requirement or request: 4,756.

8. An indication of whether Section 3504(h), Pub. L. 96–511 applies: Not applicable.

9. Abstract: 10 CFR Part 75 establishes a system of nuclear material accounting and control to implement the Agreement between the United States and the International Atomic Energy Agency.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street, NW., Washington, DC 20555.

Comments and questions should be directed to the OMB reviewer, Jefferson B. Hill, (202) 395–7340.

The NRC Clearance Officer is R. Stephen Scott, (301) 492–8585.

Dated at Bethesda, Maryland, this 29th day of December 1983.

For the Nuclear Regulatory Commission.

M. L. Springer,

Deputy Director, Office of Administration.

[FR Doc. 84–240 Filed 1–4–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50-454A]

Commonwealth Edison Co.; Finding of No Significant Antitrust Changes and Time for Filing of Requests for Reevaluation

The Director of Nuclear Reactor Regulation has made an initial finding in accordance with Section 105c(2) of the Atomic Energy Act of 1954, as amended, that no significant (antitrust) changes in the licensee's activities or proposed activities have occurred subsequent to the previous construction permit review of Byron Station, Unit 1, by the Attorney General and the Commission. The finding is as follows:

Section 105c(2) of the Atomic Energy Act of 1954, as amended, provides for an antitrust review of an application for an operating license, if the Commission determines that significant changes in the licensee's activities or proposed activities have occurred subsequent to the previous construction permit review. The Commission has delegated the authority to make the "significant change" determination with respect to nuclear reactors to the Director, Office of Nuclear Reactor Regulation.

Based upon examination of events since issuance of the Byron Station Unit 1 construction permit to the Commonwealth Edison Company, the staffs of the Office of Nuclear Reactor Regulation and the Office of the Executive Legal Director, hereafter referred to as the "staff", have jointly concluded, after consulting with the Department of Justice, that the changes that have occurred since the antitrust construction permit review are not of the nature to require a second formal antitrust review at the operating license stage of the license application. Staff has concluded that those changes which have occurred either are not reasonably attributable to the licensee or do not have antitrust implications that would likely warrant some Commission remedy. In reaching this conclusion, the staff considered the events relevant to the Byron Station and Carroll County Station construction permit antitrust reviews, the events relevant to the LaSalle 1 and 2 operating license antitrust analysis, and other events that have occurred subsequent to those reviews and that analysis.

The Conclusion of the staff's analysis is as follows:

Commonwealth Edison Company has applied for an operating license for the Byron 1 nuclear unit. Pursuant to the Commission's "significant change" criteria, the staff has conducted an antitrust analysis of the applicant's activities and proposed activities since the Byron construction permit antitrust review was completed in April, 1974. In perfqrming this analysis, staff has examined the applicant's compliance with license conditions attached to the Byron and LaSalle construction permits, issues raised in judicial proceedings and the Federal Energy Regulatory Commission (FERC) regulatory proceedings and activities undertaken by the applicant with respect to coordination and wholesale services. In the staff's view, none of the applicant's actions since the Byron construciton permit antitrust review was completed are inconsistent with the intent of the Byron and LaSalle construction permit license conditions. The price-squeeze issue raised at FERC and in a U.S. District Court antitrust proceeding appears capable of resolution in those forums. Other antitrust issues considered in the judicial proceeding appear to have been raised in a historical context in a period prior to the issuance of the Byron construction permit. Further, the Byron and LaSalle license conditions appear to have rendered those issues moot. Finally, applicant's activities with respect to changes in its interconnection and wholesale agreements and to responses to requests for coordination services do not suggest any antitrust consequences.

"Thus, the changes in the activities of the Commonwealth Edison Company since the completion of the Byron 1 construction permit antitrust review do not represent significant changes of an antitrust nature and, therefore, do not require a further, formal antitrust review at the operating license stage."

Based on the staff's analysis, it is my finding that a formal operating license antitrust review of the licensee with respect to the Byron Station, Unit 1, is not required.

Signed on December 20, 1983, by Harold R. Denton, Director, Office of Nuclear Reactor Regulation.

Any person whose interest may be affected pursuant to this initial determination may file with full particulars a request for reevaluation with the Director of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 by (30 days). Requests for a reevaluation of the no significant changes determination shall be accepted after the date when the Director's finding becomes final but before the issuance of the OL only if they contain new information, such as information about facts or events of antitrust significance that have occurred since that date, or information that could not reasonably have been submitted prior to that date.

For the Nuclear Regulatory Commission.

Wm. H. Regan, Jr.,

Chief, Site Analysis Branch, Office of Nuclear Reactor Regulation.

[FR Doc. 84-237 Filed 1-4-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-320]

General Public Utilities; Availability of Draft Supplement to the Programmatic Environmental Impact Statement Related to Decontamination and Disposal of Wastes From March 28, 1979 Accident—Three Mile Island Nuclear Station Union 2

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Supplement to the Programmatic Environmental Impact Statement (NUREG-0638, Supplement 1) prepared by the Commission's Office of Nuclear Reactor Regulation related to decontaminated disposal of radioactive wastes resulting from March 28, 1979, accident, Three Mile Island, is available for inspection by the public in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and in the NRC TMI Program Office, 100 Brown Street, Middletown, PA 17057. Requests for copies of the Draft Supplement should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control.

Pursuant to 10 CFR Part 51, interested persons may submit comments on the Draft Supplement to the Programmatic Environmental Impact Statement (PEIS) for the Commission's consideration. Federal, State, and Local agencies are being provided with copies of the Draft Supplement to the PEIS. Comments are due by February 29, 1984. Comments by Federal, State and Local officials, or other persons received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C., and the NRC TMI Program Office, 100 Brown Street, Middletown, PA 17057. Upon consideration of comments submitted with respect to the Draft Supplement to the PEIS, the Commission's staff will prepare a Final Supplement to the PEIS, the availability of which will be published in the **Federal Register.**

Comments on the Draft Supplement to the PEIS from interested persons of the public should be addressed to Dr. Bernard J. Snyder, Program Director, Three Mile Island Program Office, Office of Nuclear Reactor Regulation, U.S.

Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Bethesda, Maryland, this 22nd day of December, 1983.

For the Nuclear Regulatory Commission

Michael T. Masnik,

Acting Program Director, Three Mile Island Program Office, Office of Nuclear Reactor Regulation.

[FR Doc. 84-238 Filed 1-4-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-354-OL]

Public Service Electric and Gas Company, et al. (Hope Creek Generating Station, Unit 1); Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this operating license proceeding:

Alan S. Rosenthal, Chairman
Thomas S. Moore
Dr. Reginald L. Gotchy

Dated: December 29, 1983.

C. Jean Shoemaker,

Secretary of the Appeal Board.

[FR Doc. 84-239 Filed 1-4-84; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review By Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon written request copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, 450 5th Street, NW., Washington, D.C. 20549.

New

Proposed Form N-3, File No. 270-281
Proposed Form N-4, File No. 270-282

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for clearance proposed Forms N-3 and N-4 to be used for registration under the Securities Act of 1933 and, where appropriate, the Investment Company Act of 1940 by insurance company separate accounts that offer variable annuity contracts.

Comments should be submitted to Ms. Katie Lewin, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503.

Dated: December 27, 1983.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 84-173 Filed 1-4-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13694; (812-5655)]

First Midwest Capital Corp.; Application

December 29, 1983.

Notice is hereby given that First Midwest Capital Corporation ("Applicant"), 1010 Plymouth Building, 12 South Sixth Street, Minneapolis, Minnesota 55402, a non-diversified, closed-end managment investment company registered under the Investment Company Act of 1940 (the "Act"), and a federal licensee under the Small Business Investment Act of 1958, filed an application on September 22, 1983, pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder, for an order of the Commission permitting Applicant to invest up to $87,831 in Applied Spectrum Technologies, Inc. ("Applied Spectrum"). Applicant is a wholly-owned subsidiary of First Midwest Corporation, also a closed-end, non-diversified management investment compnay registered under the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the provisions cited in the application.

Applicant states that it is engaged in the business of providing long-term equity funding to eligible small businesses to assist them in their growth and development. According to the application, Applicant along with eleven other companies (with Applicant, the "Venture Capital Investors") provided debt and equity financing to Applied Spectrum in the total amount of $2,250,000 (the "Financing"). Applied Spectrum is a privately held corporation with 2,761,926 shares of common stock outstanding held by thirty-one shareholders. Applicant's participation in the Financing consisted of purchasing $150,000 of eight-year subordianted debentures bearing interestat a rate of 14% per annum, and 211,267 shares of voting common stock for an aggregate price of $150,000. Subsequently, Applicant and four other Venture Capital Investors acquired a total of 60,000 shares of Applied Spectrum's voting common stock from a former emploree of the company at a price of $.71 per share. Applicant states that its total purchase was 25,590 shares at an aggregate purchase price of $18,169. Accordingly, Applicant's total voting percentage of Applied Spectrum is 8.58% and its total investment in Applied Spectrum is $318,169. It is stated that Applicant, The Centennial Fund Ltd., EAB Venture Corp. FBS Venture Capital Co., and Minnesota Seed Capital Fund, Inc. (the "Affiliates") are all Venture Capital Investors and are holders of more than 5% of the outstanding voting rights of Applied Spectrum. The Affiliates are affiliated persons of Applied Spectrum, within the meaning of Section 2(a)(3) of the Act, and Applied Spectrum is an affiliated person of the Affiliates.

Applicant states that the Venture Capital Investors now propose to provide additional financing to Applied Spectrum ("Additional Financing"). Applicant states that, although the final terms of the Additional Financing have not been determined, it is expected that such financing will consist of a purchase of Applied Spectrum's convertible voting preferred stock. The purchase price per share is expected to be approximately $1.20 and it is expected that the Additional Financing will total $1,200,000. In any event the terms of the arrangement under which the Addional Financing will be provided, including the per share purchase price, will be the same for all parties to the transaction. Applicant represents that its share of the Additional Financing will be a maximum of $87,831. Applicant states that any commitment in excess of $6,831 would bring its total investment in Applied Spectrum over its Small Business Administration ("SBA") regulated investment limit of 20% of its paid-in capital and surplus of $325,000. Applicant has requested and received written permission from the SBA to exceed its investment limit.

Applicant states that the Additional Financing is needed by Applied Spectrum for emergency working capital. Applicant asserts that Applied Spectrum's business operations have been increasing at a steady pace. Applicant further asserts that the proposed investment has potential for producing a substantial return.

Applicant describes the Additional Financing arrangement as a joint enterprise between an investment company (Applicant), an affiliate of that investment company (Applied Spectrum), and affiliates of an affiliate of that investment company (the Affiliates except Applicant). The Additional Financing is, therefore, a joint transaction within the meaning of Section 17(d) of the Act. Applicant asserts that Rule 17d-1(d)(5) would

exempt the Additional Financing from the requirements of Section 17(d) of the Act and Rule 17d–1 thereunder except for the fact that Applicant proposes to commit in excess of 20% of its paid-in capital and surplus to investments in Applied Spectrum. Applicant further assets that, while the Additional Financing involves the sale of securities by an affiliate of a registered investment company to such registered company, the transaction is exempted from the prohibitions of Section 17(a) of the Act by Rule 17a–6 thereunder.

Applicant asserts that it is participating in the Additional Financing on a basis which is exactly the same and no less advantageous than that of any other participant in the transaction. Applicant represents that the terms of the proposed transaction are fair to all parties. Applicant also contends that its participation in the Additional Financing is consistent with the general purposes and policies of the Act and, therefore, requests, pursuant to Section 17(d) of the Act and Rule 17d–1 thereunder, and order of the Commission permitting Applicant to participate in the Additional Financing.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than January 23, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 84–264 Filed 1–4–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 13695; (812–5702)]

Security Bond Fund, et al.; Filing of Application

December 29, 1983.

Notice is hereby given that Security Bond Fund ("Bond"), Security Equity Fund ("Equity"), Security Investment Fund ("Investment"), Security Ultra Fund ("Ultra"), Security Cash Fund ("Cash"), Security Tax-Exempt Fund ("Tax Exempt"), other funds which may from time to time be advised by Security Management Company ("Security Management") or distributed by Security Distributors, Inc. ("Distributors"), Security Benefit Life Building, 700 Harrison Street, Topeka, KS 66636, (collectively, "Funds"), Security Management and Distributors (collectively with the Funds, "Applicants"), filed an application on November 22, 1983, for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicants from the provisions of Section 22(d) of the Act and Rules 22d–1 and 22d–2 thereunder to the extent necessary to permit certain exchanges, and pursuant to Section 11(a) of the Act approving the terms of those exchanges. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for the text of the applicable sections and rules.

According to the application, each Fund is registered as an open-end investment company under the Act and is advised by Security Management. Distributors which serves as principal underwriter for each Fund except Cash, maintains a continuous public offering of Fund Shares at their respective net asset values plus a sales load. Shares of Cash are sold to the public with no load.

Applicants state that two prior Commission orders, Investment Company Act Release Nos. 8621 (December 19, 1974) and 11619 (February 13, 1981), already provide Distributors and each of the Funds except Tax-Exempt (which was not then in existence) exemptive relief from the provisions of Section 22(d) of the Act and Rules 22d–1 and 22d–2 thereunder to permit certain exchanges described in the respective applications. The orders also approved the exchanges described pursuant to Section 11(a) of the Act. Applicants further state that the terms of the exchanges proposed in the present application are the same as the terms approved in the above-mentioned orders except that the proposed terms in the present application are stated generically to cover additional funds, without reference to specific sales loads of specific funds. Applicants seek to extend the exchange privilege, according to the previously approved terms, to cover Tax-Exempt and funds which may in the future be advised by Security Management or retain Distributors as their principal underwriter.

Applicants propose the following: (1) Shares of any Fund which have been owned thirty days or more may be exchanged for shares of any other Fund (a) with an equivalent, lower, or no sales load on the basis of relative net asset value per share at the time of exchange, without payment of any sales load; (b) with a higher sales load on the basis of relative net asset value at the time of exchange plus any difference between the sales load applicable to the Fund whose shares are being acquired and the sales load already paid on shares being exchanged, except as provided below. (2) Shares acquired through capital gains distributions or income dividends reinvested with no sales load, or shares of any Fund held for not less than six consecutive months prior to the exchange, may be exchanged for shares of any other Funds at relative net asset value at the time of the exchange, with no additional sales load. (3) Shares acquired by previous exchanges (except those acquired by reinvested dividends or distributions) may be exchanged for shares of any of the other Funds at relative net asset value plus the difference between the sales load imposed on the shares being acquired and the shares being exchanged. (4) Where fewer than all of a stockholder's shares are to be exchanged, those for which no or a lesser additional sales load would be due will be exchanged first. (5) Stockholders eligible for the one-time privilege to reinstate or exchange proceeds of shares redeemed within the preceding 30 days may purchase shares of any Fund according to the same conditions which would have been applicable to an exchange of their shares if not redeemed. (6) Purchases pursuant to any reduced sales schedule (such as that currently applicable to Individual Retirement Account purchases of Equity, Investment and Ultra) would be based on the above principles, giving recognition to sales loads actually paid.

Applicants state that any stockholder wishing to exchange shares will be obligated to inform Distributors or the Fund to be acquired (if shares of that Fund are not distributed by Distributors) that he is entitled to exchange his shares at net asset value with no load or that he qualifies for a reduction in the sales load. Applicants state that the purpose of the proposed exchange offers is to permit a stockholder of any one of the Funds to transfer his investment to a different Fund in the event that his investment objectives change, and to receive credit for any sales load already paid.

Applicants submit that without Commission approval, some of the proposed exchanges would violate Section 11(a) of the Act since they would be completed on a basis other than relative net asset value. Applicants further submit that although they believe that the proposed exchanges are consistent and compatible with the intent and spirit of Section 22(d) of the Act and Rules 22d–1 and 22d–2 thereunder, they may be interpreted to be in violation of this section and the rules thereunder absent an exemptive order under Section 6(c) of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than January 23, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 84–273 Filed 1–4–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 13692; 812–5700]

European Development Capital Limited Partnership; Application

December 29, 1983.

Notice is hereby given that European Development Capital Limited Partnership ("Applicant"), 767 Third Avenue, New York, NY 10017, a limited partnership under the laws of New York, filed an application on November 18, 1983, for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of all applicable sections.

According to the application Applicant will be the successor to two small business investment companies ("SBIC's"), European Development Capital Corporation ("EDCC") and Van Reitschoten Capital Corporation ("VRCC"). Applicant states that the regulations of the Small Business Administration ("SBA") which licenses SBIC's, permit the conversion of an SBIC from corporate to partnership form. Applicant further states that the necessary application has been made to the SBA to permit Applicant to continue the business operations of EDCC and VRCC as a registered SBIC in partnership form.

Applicant represents that (i) EDCC and VRCC are currently exempt from the Act under Section 3(c)(1) of the Act; (ii) all of EDCC's outstanding shares are beneficially owned by 25 Dutch citizens, none of whom owns more than ten percent of EDCC's shares nor resides in the United States; and (iii) VRCC is beneficially owned by one Dutch citizen who does not reside in the United States.

According to the application the proposed transaction will occur as follows: (1) EDCC and VRCC will contribute substantially all of their assets to Applicant pursuant to a transaction in which European Development Capital Corporation, N.V. ("EDCC, N.V.") a newly formed Netherlands Antilles corporation, will acquire all of the limited partnership interest in Applicant and the current shareholders of EDCC and VRCC will acquire all the outstanding shares of EDCC, N.V. shareholders (i.e., the 26 shareholders of EDCC and VRCC) will then contribute all of their EDCC, N.V. shares to European Development Capital Corporation, B.V. ("EDCC, B.V.") a Dutch corporation, in exchange for all of EDCC, B.V.'s Common Stock; and (3) EDCC, B.V. will then conduct an initial public offering in the Dutch over-the-counter market. Applicant represents that EDCC, B.V. proposes to sell approximately $5 million of newly-issued primary shares and approximately $2.6 million of secondary shares owned by the 26 shareholders of EDCC and VRCC. Applicant states that the new public shareholders will pay approximately $7.6 million for approximately 33% of EDCC, B.V. and that these new shareholders, who may number in excess of 100 persons, along with the 26 shareholders of EDCC and VRCC, will indirectly own Applicant.

Applicant represents that the public offering of EDCC, B.V. shares will be planned and executed solely overseas, will not involve the direct or indirect use of any means of United States interstate commerce to offer for sale, sell or deliver for sale any securities pursuant to the offering and no United States residents or citizens will participate in the offering. Applicant further represents that no EDCC, B.V. securities will be offered or sold to United States citizens or residents or entities organized or having their principal place of business in the United States. Applicant represents that neither EDCC, B.V. nor EDCC, N.V. will have any officers, directors or employees who are United States citizens or residents nor will they maintain any offices or conduct business on a regular basis in the United States.

Applicant represents that the only United States citizens involved in the entire chain of affiliated entities will be three general partners of Applicant who are also the Managing Directors of Harvest Ventures, Inc. ("Harvest") a New York corporation which manages EDCC and VRCC and will continue to manage Applicant. Applicant states that the three general partners may own up to 3% of EDCC, B.V.'s total outstanding shares. Applicant also states that the general partners will have full authority and responsibility for the conduct of Applicant's business which will consist of investing the proceeds of EDCC, B.V.'s public offering and other assets of EDCC, B.V. and EDCC, N.V. principally in securities of United States issuers.

Applicant submits that it may be deemed subject to the Act because EDCC, N.V. will initially hold a 99% interest in Applicant and this interest would represent most of EDCC, B.V.'s assets. Since the sole shareholder of EDCC, N.V. will be EDCC, B.V., which will have approximately 72% of its assets represented by its interest in Applicant and may have in excess of 100 shareholders, the attribution provisions of Section 3(c)(1) may cause Applicant to be unable to avail itself of the Section 3(c)(1) exclusion from the Act's definition of an "investment company."

The application states that neither Applicant, EDCC, N.V. or EDCC, B.V. (collectively "Companies") will initially have any United States citizens as securityholders. In regard to this statement Applicant represents as follows: (1) upon completion of the proposed public offering by EDCC, B.V., no beneficial owners of Applicant's securities will be United States investors, except the SBA and the general partners; (2) thereafter, no other United States investors will ever become beneficial owners of Applicant's securities (other than short-term paper as defined in Section 2(a)(38) of the Act),

except to the extent that subsequent transfers of EDCC, B.V. shares may have that result; (3) EDCC, B.V. will at no time issue any securities under circumstances where the United States investor would thereby become a beneficial owner of the Applicant's securities and no EDCC, B.V. securities will at any time be transferred by the general partners, by any entity or person who controls, is controlled by or is under common control with any of the companies, or by any officer, director or employee of any such person or equity or company if any United States investor would thereby become a beneficial owner of the Applicant's securities; (4) EDCC, B.V. shares will not be traded on United States exchanges and quotes on these shares will not be available from United States broker-dealers. Applicant further represents that since the shares of EDCC, B.V. will be in bearer form, it will notify the Commission promptly following the end of any calendar quarter in which it becomes aware that any shares of EDCC, B.V. stock have been transferred under circumstances where any United States investors became benefical owners of Applicant's securities.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than January 23, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 84-284 Filed 1-4-84; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Privacy Act of 1974; Proposed Systems of Records and other Privacy Act Matters

The Department of Transportation cancels six systems of records and publishes two new systems or records. The Family Case Advocacy Record System of the U.S. Coast Guard has been modified slightly during its early proposal stage to accommodate suggestions from Congress and the Office of Management and Budget. DOT/NHTSA Systems 406, 410, 412, 461, 465, and 468 are cancelled because of discontinued programs.

DOT/CG 634, the U.S. Coast Guard Family Advocacy Case Record System, is a new system. It contains information relating to individual cases of child and spouse abuse or neglect. These records consist of information concerning individuals involved in incidences of family violence as reported in investigative data, medical or dental records, or reports from local, state and federal agencies involved in the case. The USCG is the last of the informed services to establish such a system of records which is required by a Joint Services Directive of the Department of Defense.

DOT/OST 064, the Mobility Assignment Candidate File is a new system, used to record applicants who are interested in temporary assignments outside their organization, on overseas or foreign duty and many other specialized assignments. It will contain personal and personnel data about the applicants, and will be renewed annually or destroyed.

Any person or agency may submit written comments on the proposals to the Privacy Act Officer (M-30), Room 7109, U.S. Department of Transportation, 400 7th St., SW., Washington, D.C. 20590. Comments must be received by February 5, 1984, to be considered.

If no comments are received, the proposed deletions and new systems become effective on February 12, 1984. If comments are received, the comments will be considered and where adopted, the document will be republished with the changes.

Issued in Washington, D.C. on December 30, 1983.

Jon H. Seymour,

Acting Deputy Assistant Secretary for Administration.

DOT/CG 631

SYSTEM NAME:

Family Advocacy Case Record System.

SYSTEM LOCATION:

Commandant (G-PS), U.S. Coast Guard Headquarters, 2100 2nd Street, SW., Washington, D.C. 20593.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All beneficiaries entitled to care at Coast Guard medical and dental facilities whose abuse or neglect is brought to the attention of appropriate authorities, and all persons suspected of abusing or neglecting such beneficiaries.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical records of suspected and confirmed cases of family member abuse or neglect; investigative reports, correspondence, family advocacy committee reports, follow up and evaluative reports, and any other supportive data assembled relevant to individual family advocacy program files.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

May be used by officials and employees having duties relating to health and medical treatment of members and former members of the uniformed services, civilians, and dependents receiving medical care under Coast Guard auspices; for determining qualifications and suitability of Coast Guard personnel for various programs, duty assignments, and fitness for continued military service; and performance of research studies and compilation of statistical data.

Officials and employees of other components of the Department of Transportation and other Departments and agencies and the Executive Branch of government, in the performance of their official duties relating to the coordination of family advocacy programs, medical care, and research concerning family member abuse and neglect.

Federal, state or local government agencies when it is deemed appropriate to utilize civilian resources in the counseling and treatment of individuals of families involved in abuse or neglect or when it is deemed appropriate or necessary to refer a case to civilian authorities for civil or criminal law enforcement.

Authorized officials and employees of the National Academy of Sciences, and private organizations and individuals for authorized health research in the interest of the Federal Government and the public; and authorized surveying bodies for professional certification and accreditation, government and the public; and authorized surveying bodies for professional certification and accreditation. See Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEMS:

STORAGE:

Records may be stored in file folders, microfilm, magnetic tape, punched cards, machine lists, discs, and other computerized or machine readable media.

RETRIEVABILITY:

Records are retrieved through indices and cross indices of all individuals and relevant incident data. Types of indices used include, but are not limited to: names, social security numbers, and types of incidents.

SAFEGUARDS:

Records are maintained in various kinds of filing equipment in specified monitored or controlled access rooms or areas. Public access is not permitted. Records are accessible only to authorized personnel who are properly screened and trained, and on a need-to-know basis, only.

Computer terminals are located in supervised areas with access controlled by password or other user code system.

RETENTION AND DISPOSAL:

Family advocacy case records are maintained at the activity cognizant of the case. If the case remains open upon transfer of military sponsor, the case record is transferred to the military sponsor's new command. The original case record is transferred to the System Manager upon closure of the case or separation of the military sponsor; the records are then destroyed after 5 years from date case record was opened. Central registry records are permanently retained under the control of Commandant (G–PS).

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Office of Personnel, Department of Transportation, U.S. Coast Guard Headquarters, 2100 2nd Street, SW., Washington, D.C. 20593.

NOTIFICATION PROCEDURES:

Informational requests should be directed to the cognizant system manager(s). Requests should contain the full name of the individual and social security number of the military or civilian sponsor or guardian, date and place of treatment, and alleged reporting of incident. The requestor may visit the Office of the Commandant (G–PS), U.S. Coast Guard, 2100 2nd Street, SW., Washington, D.C., and the commanding officers of the individual and the medical treatment facilities to obtain information on whether or not the system contains records pertaining to him or her. Armed Forces I.D. card or other type of identification bearing the picture and signature of the requestor will be considered adequate proof of identity.

RECORD ACCESS PROCEDURES:

Procedures may be obtained by writing to or visiting Commandant (G–CMA) at the address in Notification Procedures or the local Coast Guard District or unit office for the area in which an individual's duty station is located. Proof of identity will be required prior to affording an individual access to records. A military identification card will be considered suitable identification.

CONTESTING RECORD PROCEDURES:

Same as "Record Access Procedures."

RECORD SOURCE CATEGORIES:

Reports from physicians and other medical department personnel regarding the results of physical, dental, mental, and other examinations, treatment, evaluation, consultation, laboratory, x-ray, and special studies; reports and information from other sources, including educational institutions, medical institutions, law enforcement agencies, public and private health and welfare agencies, and witnesses.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Part of this system may be exempt under 5 U.S.C 552a(k) (2) and (5), as applicable. For additional information, contact the system manager(s).

DOT/OST 064

SYSTEM NAME:

Mobility Assignment Candidate File.

SYSTEM LOCATION:

Office of the Secretary/Office of Personnel and Training.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Department who apply for listing in the file.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records will consist of an SF–171, Personal Qualifications Statement, a copy of the employee's most recent performance appraisal, a statement of interest and availability, and an endorsement by the immediate supervisor.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

1. By agency officials to consider employees for temporary assignments.
2. Preparation of analytical and statistical studies and reports.
3. See prefatory statement of general routine uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING:

STORAGE:

Records are maintained in file folders or magnetic disks.

RETRIEVABILITY:

These records are retrieved by name or by category of use.

SAFEGUARDS (ACCESS CONTROLS):

Access to and use of these records are limited to agency personnel whose official duties require such access. Safeguards including locked buildings, guard service, and locked file cabinets. Statistical information from these records may be made available to other agencies or to the interested public.

RETENTION AND DISPOSAL:

These records are destroyed after one year.

SYSTEM MANAGER AND ADDRESS:

The Chief, Special Programs Staff, Office of Personnel and Training, Office of the Assistant Secretary for Administration, U.S. Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590.

NOTIFICATION PROCEDURE:

Inquiries should be directed to the System Manager.

RECORD ACCESS PROCEDURE:

Contact or write the System Manager to arrange for access to the record.

CONTESTING RECORDS PROCEDURES:

Contact or write the System Manager. Reasonably identify the record and specify the information be contested. If

error is found, the record will be corrected.

RECORD SOURCE CATEGORIES:

Federal employees and supervisors.

[FR Doc. 84-190 Filed 1-4-84; 8:45 am]

BILLING CODE 4910-62-M

Coast Guard

[CGD 83-073]

Towing Safety Advisory Committee; Boundary Lines Working Group; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of The Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Towing Safety Advisory Committee (TSAC) Working Group on Boundary Lines. The meeting will be held on Tuesday, January 17, 1984 in room 6303, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. The meeting is scheduled to begin at 2:00 p.m. The agenda for the meeting will consist of the following item:

Supplementary Notice of Proposed Rulemaking CGD-81-058, Boundary Lines, (48 FR 41454).

In response to a request from the working group, the Coast Guard will make a presentation on the proposed rules and will illustrate the proposed boundary lines. Attendance is open to the public to the extent that facilities permit.

FOR FURTHER INFORMATION CONTACT: Captain C. M. Holland, Executive Secretary, Towing Safety Advisory Committee, U.S. Coast Guard (G-CMC/44), Washington, D.C. 20593, (202) 426-1477.

Dated: December 30, 1983.

T. F. Tutwiler,

Captain, U.S. Coast Guard, Acting Deputy Chief, Office of Merchant Marine Safety.

[FR Doc. 84-285 Filed 1-4-84; 8:45 am]

BILLING CODE 4910-14-M

[CGD 83-072]

Towing Safety Advisory Committee; Personnel Manning and Licensing Subcommittee; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of The Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Towing Safety Advisory Committee (TSAC) Subcommittee on Personnel Manning and Licensing. The meeting will be held on Wednesday, January 18, 1984 in room 6319, U.S. Coast Guard Headquarters, 2100 Second Street S.W., Washington, D.C. The meeting is scheduled to begin at 9:30 a.m. and end at 4:00 p.m. The agenda for the meeting will consist of the following items:

Notice of Proposed Rulemaking CGD 81-059, Licensing of Operators and Registration of Staff Officers (48 FR 35920).

The Coast Guard will make a presentation on the proposed rule. Attendance is open to the public to the extent that facilities permit.

FOR FURTHER INFORMATION CONTACT: Captain C. M. Holland, Executive Secretary, Towing Safety Advisory Committee, U.S. Coast Guard (G-CMC/44), Washington, D.C. 20593, (202) 426-1477.

Dated: December 30, 1983.

C. M. Holland,

Captain, Coast Guard, Executive Secretary, Marine Safety Council.

[FR Doc. 84-287 Filed 1-4-84; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE TREASURY

[Supplement to Department Circular; Public Debt Series—No. 39-83]

Notes of Series D-1991, Interest Rates

The Secretary announced on December 28, 1983, that the interest rate on the notes designated Series D-1991, described in Department Circular—Public Debt Series—No. 39-83 dated December 21, 1983, will be 11¾ percent. Interest on the notes will be payable at the rate of 11¾ percent per annum.

Carole J. Dineen,

Fiscal Assistant Secretary.

[FR Doc. 84-268 Filed 1-4-84; 8:45 am]

BILLING CODE 4810-40-M

[Supplement to Department Circular; Public Debt Series—No. 38-83]

Notes of Series L-1987; Interest Rates

The Secretary announced on December 27, 1983, that the interest rate on the notes designated Series L-1987, described in Department Circular—Public Debt Series—No. 38-83 dated December 21, 1983, will be 11¼ percent. Interest on the notes will be payable at the rate of 11¼ percent per annum.

Carole J. Dineen,

Fiscal Assistant Secretary.

[FR Doc. 84-269 Filed 1-4-84; 8:45 am]

BILLING CODE 4810-40-M

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 499]

Winegrape Varietal Names Advisory Committee; Open Meeting

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Winegrape Varietal Names Advisory Committee will be held at 9:00 am on February 9, 1984, in Room 2575, 525 Market Street, San Francisco, California.

SUPPLEMENTARY INFORMATION: The Committee will continue its review of the working list of varietal names, and discussions on (a) the Riesling issue, (b) the use of multiple names ("prime" and "acceptable alternative") for a single variety; and (c) guidelines or procedures for the future addition of names to the varietal list.

The meeting will be open to the public. Any person who wishes to furnish written information or to address the Committee should submit the information or the request to appear to the Committee Manager at the address shown below. Requests to appear before the Committee should specify the purpose of the presentation, the subject matter to be covered, and the amount of time desired.

FOR FURTHER INFORMATION CONTACT: Melvin T. Bruce, Manager, Winegrape Varietal Names Advisory Committee, Room 6213, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226 (202-566-7568).

Signed: December 23, 1983.

Stephen E. Higgins,

Director.

[FR Doc. 84-22 Filed 1-4-84; 8:45 am]

BILLING CODE 4810-31-M

VETERANS' ADMINISTRATION

Computer Matching Program

AGENCY: Veterans' Administration.

ACTION: Notice.

SUMMARY: Notice is hereby given that the VA OIG (Veterans' Administration Office of Inspector General) is conducting a computer matching program using VA records containing limited identification data concerning VA pension and compensation recipients with records maintained by State and municipal governments which

include employment records, wage records and tax records.

The goals of this match are: (1) To detect unwarranted benefit payment under title 38, United States Code, which results when income from earnings exceed allowable limits for the benefit received; and (2) to assess the effectiveness of Annual Income Questionnaires as an accurate self-reporting-of-income mechanism for beneficiaries. For the information of all concerned, the text of the VA matching program report, describing the computer match, follows. In accordance with the OMB matching guidelines, dated May 11, 1982, copies of this report are being sent to OMB and both houses of Congress.

FOR FURTHER INFORMATION CONTACT: Robert Hincken, Office of Inspector General (51), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420, (202) 389–3093 or 3094.

Dated: December 22, 1983.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

Office of Inspector General—Computer Matching Program

Authority for and Purpose of the Program

The VA Office of Inspector General (OIG), pursuant to the authority granted by the Inspector General Act of 1978 (Public Law 95–452), has initiated a computer matching program. This program is designed to identify the unwarranted payment of VA pension and certain compensation benefits which result when beneficiaries underreport or fail to report earned income.

Description of the Matching Program

This matching program involves computer matches of State employment records, wage records, and tax records and VA compensation and pension records. The social security numbers of VA pension and compensation recipients will be released to State and municipal departments for matching with State and municipal employment records, wage records and tax records. The information obtained through these matches and returned to the VA by the States and municipalities will be verified by VA with beneficiaries and employers, and by reviewing VA claim records. In those cases where the evidence indicates that income was inaccurately reported, the beneficiary will be notified and, when appropriate, adjustments will be made in benefit payments. Cases involving potential criminal acts will be referred for prosecutive consideration. These matches may be conducted on a recurring basis at the direction of the Inspector General. Matches are planned in the States of California, New York, Massachusetts, Idaho, Illinois, Indiana, Missouri, New Hampshire, Texas, Michigan, Mississippi, Arkansas, North Carolina, Alabama, Florida, Georgia, Virginia, Washington, Kentucky and the District of Columbia.

Files To Be Used in This Matching Program Are

a. Veterans' Administration: Compensation, Pension, Education and Rehabilitation Records—VA (58 VA 21/22/28), 47 FR 372.

b. State and Municipal Departments/bureau/divisions files.

Objectives To Be Met by the Matching Program

The objectives of this matching program are to identify beneficiaries who have received, but do not qualify for, certain VA pension payments or benefits based on individual unemployability. Ineligibility for income dependent benefits occurs when income exceeds allowable limits or levels for the benefits received. Ineligibility for benefits based on unemployability arises when the evidence indicates the beneficiary is, or could be, substantially and gainfully employed.

Procedures of Matching Program

Step 1. Development of Data Files. Selected data are to be extracted from the VA Compensation and Pension master records to allow identification of the payee, current award information and estimated and actual income reported by the payee in support of the pension or compensation claims.

Step 2. Computer Processing. Social security numbers will be released and matched with the identification data in states & municipalities. No names or addresses will be released. Future matching with states and muncipalities may include release of other identifying data such as date of birth and sex, but in no case will names and address be released. A printout and/or magnetic tape record file of the matches and related employer/wage data will be returned to the OIG. Further computer processing of the matches will associate the income reported to the VA by the payee with the wages reported by employers to the states or municipalities.

Step 3. Verification of Wages Reported Paid by Employers. Employers may be contacted to verify the identity of the employee, the period of employment and the wages paid. Employers will be contacted only if wages reported by the employer to the states or municipalities indicate that the beneficiary's income exceeds the maximum allowable for the benefit received (e.g., improved law pension, protected pension) or would affect the amount of entitlement (improved law pension). In service-connected unemployability cases, earnings will be verified when substantial ($2000.00 per quarter) and/or continuous employment is indicated. (Continuous employment is the critical element)

If the employer is contacted, he/she will be informed that the information is to be used in connection with the administration of benefits under Title 38, U.S.C. If the employer fails or refuses to respond to the request, the case will be referred to the VA Regional Office having jurisdiction for followup with the beneficiary, including field examination if necessary, and appropriate disposition.

Step 4. Analysis of Data and Adjudication of Claims. Discrepancies between earned income reported by the payee in support of a VA claim and earned income reported by employers will be analyzed. Pension cases showing discrepancies in earned income which would affect the beneficiary's entitlement or award will be referred to the Department of Veterans Benefits (DVB) for review. Where income exceeds allowable limits or levels for the benefit received, appropriate adjustments will be made in benefit payments. In service-connected unemployability cases, earnings and employment will be analyzed to determine if continued unemployability benefits are warranted.

Step 5. Litigation. Where there are reasonable grounds to believe there has been a violation of criminal law, the matter will be investigated and referred for prosecutive consideration.

Step 6. Records Maintained by DVB. Any manual records resulting from the match will be maintained by DVB. As claims are settled or repaid, the various files will be updated to reflect these changes.

Date of Matching Program

In accordance with OMB Matching Guidelines, the computer match was initiated after the publication of the routine use notice for the system of records involved in the matching program. As each State and municipality is matched, VA verification and adjudication actions should be completed by the end of FY 84.

Disclosure of Records

a. VA System of Records Extracts to OIG. The transfer of extracts from the VA Compensation, Pension, Education and Rehabilitation Records to the OIG for performing the matches is an intra-agency "need-to-know" disclosure permitted under 5 U.S.C. 552a(b)(1) and is consistent with the statutory language creating the OIG which is found in Section 6(a)(1) of Pub. L. 95–452.

b. Disclosure of Identification Data to States. Disclosure of identification data from VA system of records 58 VA 21/22/28 will be made pursuant to Routine Use Number 43. This routine use was published in the **Federal Register** of September 15, 1982. Under this routine use, except for name and address of a beneficiary, the Inspector General may disclose social security number, date of birth, and such other identifying information for which disclosure is deemed necessary by the Inspector General of the VA.

The matching departments or bureaus will agree, prior to disclosure, to certain conditions governing the use of the matching file records including: that the matching records disclosed by the VA will remain the property of the VA and be returned at the end of the matching program (or destroyed as appropriate); that the records will be used and accessed only to match the files previously agreed to; and that the VA Records will not be duplicated or disseminated within or outside the State and municipal departments or bureaus unless authorized in writing by the VA.

c. Disclosure of Identification Data to Employers. Disclosure of identifying data to employers may be necessary to verify the accuracy of the matches and wages paid. Disclosure of this information will be made pursuant to Routine Use Number 9 in VA system of records 58 VA 21/22/28.

d. Transfer of Match Products From OIG to DVB. The transfer of the products of the match (i.e., name, SSN, wages reported paid by employers, etc.) from the VA OIG to DVB is an intra-agency "need-to-know" disclosure permitted under 5 U.S.C. 552a(b)(1). Valid match information will become a part of the appropriate VA system of records. Invalid match information will be erased or destroyed.

Efforts Taken To Protect Against Unauthorized Access to or Dislosure of Personal Records

All records will be safeguarded in accordance with the National Bureau of Standards' *Federal Information Processing Standards 41 and 31.* All information collected by the VA in this matching program will be acquired, controlled, and used in compliance with the Privacy Act of 1974 (5 U.S.C. Section 552a), 38 U.S.C. Sections 3301 and 4132, implementing VA regulations, and the OMB Matching Guidelines dated May 11, 1982. Printed listings will be maintained in locked file cabinets with access limited to those VA staff with a need to know. If fraud is suspected among cases identified by the match, information obtained through the match and followup verifications will be disclosed to the appropriate prosecuting authority. Computerized records generated by this match will be destroyed after all adjuticative and/or legal proceedings are completed.

[FR Doc. 84–147 Filed 1–4–84; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 3
Thursday, January 5, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:50 p.m. on Wednesday, December 28, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider a recommendation with respect to an administrative enforcement proceeding against an insured bank (name and location of bank authorized to be exempt from disclosure pursuant to subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Mr. Doyle L. Arnold, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), and (c)(8), and (c)(9)(A)(ii)).

Dated: December 29, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-84-358 Filed 1-3-84; 3:56 pm]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, January 9, 1984, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: December 30, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-84-359 Filed 1-3-84; 3:56 p.m.]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, January 9, 1984, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Application for consent to purchase assets and assume liabilities and establish one branch:

Bank of Keystone, Keystone, Nebraska, an insured State nonmember bank, for consent to purchase certain assets of and assume the liability to pay certain deposits made in Arthur County Co-operative Credit Association, Arthur, Nebraska, and for consent to establish the sole office of Arthur County Co-operative Credit Association as a branch of Bank of Keystone.

Personel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: December 30, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–84–360 Filed 1–4–84; 3:56 pm]

BILLING CODE 6714–01–M

4

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, January 10, 1984, 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance. Litigation. Audits. Personnel.

* * * * *

DATE AND TIME: Thursday, January 12, 1984, 10 a.m.

PLACE: 1325 K Street, NW., Washington, D.C. (Fifth Floor)

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates of future meeting
Correction and approval of minutes
Eligibility report for candidates to receive Presidential primary matching funds
Draft advisory opinion #1983–36; J. Curtis Herge, on behalf of NCPAC
FCC Order interpreting equal opportunities requirement of § 315 of the Communications Act and its impact on FEC candidate debate regulations
Testing the waters regulations—draft advance notice of proposed rulemaking
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, telephone: 202–523–4065.

Mary W. Dove,

Administrative Secretary.

[S–89–331 Filed 1–3–84; 2:36 pm]

BILLING CODE 6715–01–M

5

NUCLEAR REGULATORY COMMISSION

DATE: Week of January 2, 1984 (Revised).

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE DISCUSSED:

Wednesday, January 4

2:00 p.m.
Discussion of NRC Enforcement Policy (Public Meeting) (As Announced)

Friday, January 6

10:00 a.m.
Discussion/Possible Vote on Equipment Qualification Policy Statement and Proposed Rule; NRC Response to Court of Appeals Decision (Open/Closed—Ex. 10) (Title Change—See Below)
2:00 p.m. Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 and 6) (As Announced)

ADDITIONAL INFORMATION:

Briefing on Criminal vs. Civil Investigations scheduled 1/4/84 is *cancelled.*

The Equipment Qualification meeting will be held in two parts: Part A (30 min) will be an Open Meeting in which the EDO staff will discuss the history and status of the equipment qualification effort, and the history and status of staff review of the justifications for continued plant operation; Part B (1 hr.) will be closed to public attendance (Exemption 10—Litigation) in which OGC and ELD will discuss the Commission's response to the D.C. Circuit—the proposed policy statement and rule (see SECY–83–457/457A). The EDO staff may attend the closed portion of this meeting since no *ex parte* considerations apply.

TO VERIFY THE STATUS OF MEETINGS CALL: (Recording)—(202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee—(202) 634–1410.

Walter Magee,

Office of the Secretary.

[S–1813–83 Filed 12–30–83; 4:50 pm]

BILLING CODE 7590–01

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Thursday
January 5, 1984

Part II

Department of Health and Human Services

National Institutes of Health

Recombinant DNA Advisory Committee; Meeting; Notice

Recombinant DNA Research; Proposed Actions Under Guidelines; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Recombinant DNA Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the Recombinant DNA Advisory Committee at the National Institutes of Health, Building 31C, Conference Room 6, 9000 Rockville Pike, Bethesda, Maryland 20205, on February 6, 1984, from 9:00 a.m. to recess at approximately 5:00 p.m., and on February 7, 1984, from 9:00 a.m. to adjournment at approximately 12:00 noon. This meeting will be open to the public on February 6 from 9:00 a.m. to approximately 11:00 a.m. and again from 1:00 p.m. to recess, and on February 7 from 9:00 a.m. to adjournment to discuss:

Report of the Working Group on Social and Ethical Issues;
Amendment of Guidelines; and
Other matters requiring necessary action by the Committee.

Attendance by the public will be limited to space available.

In accordance with provisions set forth in Section 552b(c)(4), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public for approximately one hour and a half for the review, discussion, and evaluation of proposal(s) from a commercial concern(s) for field testing of recombinant organisms. It is anticipated that this will occur from approximately 11:00 a.m. to 12:30 p.m. on February 6. The proposals and the discussion could reveal confidential trade secrets or commercial property such as patentable material.

Dr. William J. Gartland, Jr., Executive Secretary, Recombinant DNA Advisory Committee, National Institutes of Health, Building 31, Room 3B10, telephone (301) 496–6051, will provide materials to be discussed at the meeting, rosters of committee members, and substantive program information. A summary of the meeting will be available at a later date.

In addition, notice is hereby given of a meeting of the Large-Scale Review Working Group sponsored by the Recombinant DNA Advisory Committee at the National Institutes of Health, Building 31C, Conference Room 6, 9000 Rockville Pike, Bethesda, Maryland 20205, on February 7, 1983. The call to order will be dependent upon the adjournment of the Recombinant DNA Advisory Committee. If the RAC has no business to conduct on February 7, 1983, the Large-Scale Review Working Group will meet from 9:00 a.m. to approximately 12:00 noon. If the RAC meets on February 7, the Large-Scale Review Working Group will meet from 1:00 p.m. to approximately 4:00 p.m. The meeting will be open to the public. Attendance will be limited to space available.

The Large-Scale Review Working Group is soliciting data or other technical information concerning (1) viability of *E. coli* K–12, *Bacillus subtilis*, and *Saccharomyces cerevisiae* in aerosols, and (2) containment systems for fermentors, e.g., exhaust air treatment data.

Further information may be obtained from Dr. Elizabeth Milewski, Executive Secretary, Large-Scale Review Working Group, NIAID, Building 31, Room 3B10, Bethesda, Maryland, telephone (301) 496–6051.

Dated: December 8, 1983.

Betty J. Beveridge,

Committee Management Officer, NIH.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance*. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every federal program would be included as many federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

[FR Doc. 84–4 Filed 1–4–84; 8:45 am]

BILLING CODE 4140–01–M

Recombinant DNA Research; Proposed Actions Under Guidelines

AGENCY: National Institutes of Health, PHS, DHHS.

ACTION: Notice of proposed actions under NIH Guidelines for Research Involving Recombinant DNA Molecules.

SUMMARY: This notice sets forth proposed actions to be taken under the NIH Guidelines for Research Involving Recombinant DNA Molecules. Interested parties are invited to submit comments concerning these proposals. After consideration of these proposals and comments by the NIH Recombinant DNA Advisory Committee (RAC) at its meeting on February 6–7, 1984, the Director of the National Institute of Allergy and Infectious Diseases will issue decisions on these proposals in accord with the Guidelines.

DATE: Comments must be received by February 6, 1984.

ADDRESS: Written comments and recommendations should be submitted to the Director, Office of Recombinant DNA Activities, Building 31, Room 3B10, National Institutes of Health, Bethesda, Maryland 20205. All comments received in timely response to this notice will be considered and will be available for public inspection in the above office on weekdays between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Background documentation and additional information can be obtained from Drs. Stanley Barban and Elizabeth Milewski, Office of Recombinant DNA Activities, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–6051.

SUPPLEMENTARY INFORMATION: The National Institutes of Health will consider the following actions under the Guidelines for Research Involving Recombinant DNA Molecules.

I. Proposed Amendments of the NIH Guidelines and Comments by the Director, NIAID.

A. Amendments Proposed by Messrs. Jeremy Rifkin and Edward Rogers

Messrs. Jeremy Rifkin and Edward Lee Rogers, on behalf of the Foundation on Economic Trends, Michael W. Fox, Environmental Action, Inc., and Environmental Task Force, in a letter dated November 7, 1983, propose the following amendments to the NIH Guidelines.

1. *Amendment of the Section III.* The title of Section III of the Guidelines would be changed from "Containment Guidelines for Covered Experiments" to "Guidelines for Covered Experiments."

Messrs. Rifkin and Rogers argue that the current title of Section III reflects an orientation towards experiments contained within a laboratory. However, the RAC is reviewing experiments involving the deliberate release into the environment of certain organisms containing recombinant DNA. Messrs. Rifkin and Rogers state that:

Accordingly, the focus should no longer be on the concept of containment alone, but rather on guidelines to assure safety for all experiments, whether through containment procedures or other techniques.

2. *Amendment of Section III–A.* Section III–A would be amended by adding at the end thereof the following paragraph:

A programmatic environmental impact statement (EIS) is required under the National Environmental Policy Act (NEPA), 42 U.S.C. 4332, and the Council on Environmental Quality Regulations (CEQ Regs) implementing NEPA, 40 CFR 1502.1–1520.25, for the program involving deliberate releases into the environment of recombinant DNA molecules.

Messrs. Rifkin and Rogers, in their submission, provide a detailed explanation for this proposed modification.

3. *Additional Amendment of Section III–A.* Section III–A would be further amended by adding after the material set forth in the prior amendment the following paragraph:

Individual experiments involving deliberate releases into the environment of an organism containing recombinant DNA require the preparation of either an environmental impact statement or an environmental assessment.

In explanation of this proposed change, Messrs. Rifkin and Rogers state:

Where it is uncertain whether a particular experiment may or may not have a significant impact on the environment, then, at the least, an environmental assessment (EA) must be prepared explaining the conclusion reached on the question of significant impact, and the relevant environmental agencies must be involved in that assessment process. See CEQ Regs. §§ 1501.3, 1501.4, and 1506.9. At issue here are the great variety of deliberate-release experiments that have potential environmental impacts.

B. Comments by the Director, National Institute of Allergy and Infectious Diseases, on the Amendments Proposed by Messrs. Rifkin and Rogers

The NIH Recombinant DNA Advisory Committee (RAC) does not have the responsibility to determine, and it is not appropriate for the NIH Guidelines for Recombinant DNA Research to state, what is, or is not, required by the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) and the regulations (40 CFR Part 1500) promulgated by the Council on Environmental Quality (CEQ) to assure the uniform implementation of that Act. It is not the function of the RAC to determine what NEPA and the CEQ regulations require. The RAC is not constituted to interpret points of law and the requirements of NEPA. Specifically, it is not a function of RAC to determine when an environmental impact statement or an environmental assessment is required by NEPA.

Furthermore, the Foundation on Economics Trends, Jeremy Rifkin, Michael W. Fox, Environmental Action, Inc., and the Environmental Task Force have raised these issues in a lawsuit against the Department of Health and Human Services, the National Institutes of Health, and the National Institute of Allergy and Infectious Diseases. The suit (Civil Action No. 83–2714) seeks to have the United States District Court for the District of Columbia decide if additional environmental review is required by NEPA and the CEQ guidelines with respect to the procedures in the Guidelines for NIH approval of releases into the environment of organisms containing recombinant DNA and specific approvals given under those procedures. The decision of the District Court, or a higher court if an appeal is taken, will be binding on all the parties.

It should also be noted that a proposal similar to that now proposed by Messrs. Rifkin and Rogers was considered and rejected by the Director, NIH, at the time of the revision of the NIH Guidelines in December 1978. NIH Director Donald Fredrickson wrote in the **Federal Register** (43 FR 60083, December 22, 1978), "Another commentator urged that for waiver of the prohibition of deliberate release into the environment, the Guidelines explicitly require compliance with the National Environmental Policy Act (NEPA) and any additional safeguards to be stipulated by EPA. Others urged that full Environmental Impact Statements be filed on most exceptions to the prohibitions. As I noted in my Decision accompanying the PRG on July 28, 1978, all waiver decisions will include a careful consideration of the potential environmental impact. Some decisions may be accompanied by a formal assessment or statement—a determination, however, that can only be made on a case-by-case basis."

II. Questions Concerning Boundaries for NIH and RAC Oversight

Dr. Bernard Talbot, Deputy Director of the National Institute of Allergy and Infectious Diseases, has requested that a series of questions be issued for public comment and placed on the agenda for the next RAC meeting. He wrote:

The NIH Guidelines for Research Involving Recombinant DNA Molecules were originally written to deal with NIH grantees, doing biomedical research, in the laboratory. They were subsequently adopted by other Federal agencies. Most of the meetings of the NIH Recombinant DNA Advisory Committee (RAC) have been entirely open to the public. At the last RAC meeting, a portion of the meeting was closed (not open) to deal with a request to field test (not confine in the laboratory) an agricultural (not biomedical) submission from an industrial company (not an NIH grantee). Questions have been raised as to whether NIH should not redefine more circumscribed boundaries for NIH and RAC oversight, and possibly encourage other Federal agencies to provide oversight and/or regulation beyond these boundaries.

I request that the following questions be issued for public comment, and placed on the agenda of the next RAC meeting. NIH would benefit from the views of the public and of the RAC before formulating an agency position on NIH's proper future rule and steps to be taken before promulagating any changes form the current role.

1. Should the NIH Guidelines be limited strictly to work done in the laboratory? In this case, "release to the environment" including field tests would fall outside the jurisdiction of the Guidelines.

2. Should NIH accept for review only individual proposals funded by NIH or only proposals funded by the Federal government? In this case, review of individual proposals from industry would fall outside the Guidelines.

3. Should all portions of all RAC meetings be open to the public? In this case, NIH would cease to accept any proprietary data for review and such would fall outside the boundaries of the Guidelines.

4. Should the NIH Guidelines be limited strictly to biomedical research? In this case, agricultural and other studies would fall outside the jurisdiction of the Guidelines.

Each of these proposals would create a new "boundary" for the NIH Guidelines. It should be noted that an unusual "boundary" already exists, since two pieces of DNA spliced together outside living cells constitute "recombinant DNA" and fall under the Guidelines, but if the same two pieces of DNA were spliced together within a living cell they would not be considered "recombinant DNA" and, therefore, would not currently fall under the Guidelines.

III. Request for Permission to Lower Containment Conditions for the Cloning of the Gene for Shiga-Like Toxin From E. Coli

Dr. Alison O'Brien of the Uniformed Services University of the Health Sciences (USUHS) requested permission, in collaboration with Dr. Randall Holmes (USUHS), to clone in *Escherichia coli* K–12 the structural gene of the Shiga-like toxin from clinically isolated strains of *E. coli*. The *E coli*. Shiga-like toxin has activity similar to the activity of *Shigella dysenteriae* toxin. The investigators proposed to clone the Shiga-like toxin gene in *E. coli* EK1 host-vector systems using plasmid, cosmid, or lambda cloning vectors. In support of their proposal, Drs. O'Brien and Holmes offered the following arguments:

1. Clinical isolates of *E. coli* have already been demonstrated to elaborate large amounts of toxin indistinguishable from that produced by *Shigella dysenteriae* 1 (Shiga). Therefore, the

genes for Shiga-like toxin production are present in the *E. coli* gene pool found in nature.

2. Human volunteers fed large numbers of *Shigella dysenteriae* 1 organisms that produced Shiga toxin but could not colonize the bowel did not become ill. Therefore, any accidental ingestion of the organism to be manufactured, a toxin-producing *E. coli* K–12 strain that cannot colonize the human intestine tract, would pose little hazard to man.

3. Purification of Shiga toxin in several laboratories and *E. coli* Shiga-like toxin in the investigators' laboratory has not identified any excessive risk from the aerosolizatioin of toxin that probably occurs during the process of toxin preparation. In one laboratory, toxin was isolated from 500 liters of culture with only P1 physical containment.

4. Shiga toxin is a potent cytotoxin for a subline of HeLa cells (a human cervical carcinoma tissue culture cell line); but the toxin has no effect on many other human, monkey, and rodent tissue culture cells. Therefore, the toxin is quite cell-type specific, and this limited spectrum of activity suggests that it would be non-toxic for most cells in the human body.

5. Contrary to the old literature, Shiga toxin is not a neurotizxin. By 1955, it was established that the paralysis observed in rabbits and mice (but not monkeys, guinea pigs, hamsters, or rats) when toxin is given intravenously is a reflection of the effect of toxin on the endothelium of small blood vessels, not a direct effect on nerve cells.

The request was summarized in tbe **Federal Register** of September 22, 1982 (47 FR 41924). One comment on a related issue was received during the comment period. Dr. K. N. Timmis of the Universite de Geneve suggested that the NIH Guidelines for Research Involving Recombinant DNA Molecules as they relate to the cloning of the Shiga toxin gene be revised. DR. Timmis argued that *Sigella* and *Escherichia* closely related, and that the NIH recognizes the high degree of relatedness by including these two genera in Sublist A, Appendix A, of the Guidelines. Dr. Timmis, therefore, argued that no NIH review should be required (as now specified by Section III–A and Appendix F) when the Shiga toxin gene is to be cloned in *E. coli* K–12.

The RAC discussed the request submitted by Dr. O'Brien at the October 25, 1982, meeting. During that meeting, it was stated that taxonomically *Shigella* and *Escherichia coli* are so closely related that in the future they may be classified as the same organism. The toxin administered intravenously to rabbits and monkeys is very toxic; it is not very toxic to mice when administered intravenously. Many *E. coli* isolates, both pathogenic and nonpathogenic, express some toxin; therefore, shotgun cloning of *E. coli* into *E. coli* has undoubtly already resulted in cloning of the toxin gene. One RAC member pointed out that in *Shigella* the Shiga toxin gene is chromosomal, and he questioned what effect introducing that gene into a high copy number plasmid would have. Finally questions were raised concerning the relationship of invasiveness to pathogenicity and to toxin toxicity. Most of these questions could not be answered as inadequate data exist. However, there was general agreement that P4 containment would be adequate. After hearing the arguments, the committee by a vote of twelve in favor, none opposed, and one abstention, recommended that the initial experiments be performed under P4 + EK1 containment conditions. A motion to approve the experiments at P3 + EK1 failed by a vote of five in favor, seven opposed, and one abstention. A motion to approve the experiments using P3 laboratory practices and containment equipment in a P4 facility failed to pass by a vote of five in favor, seven opposed, and one abstention.

The NIH accepted the RAC recommendation that P4 + EK1 containment is adequate to contain safely the experiments proposed by Drs. O'Brien and Holmes and appropriate language was added to Appendix F of the Guidelines. The language stipulated that if the investigators wish to proceed with the experiments in the NIH P4 facility a prior review would be conducted to advise NIH whether the proposal had sufficient scientific merit to justify the use of the NIH P4 facility. A subsequent review by the Bacteriology and Mycology Study Section of the NIH indicated that the proposal had sufficient scientific merit.

Drs. O'Brien and Holmes have now requested reconsideration of containment levels in view of information which has recently become available. They are requesting approval at the P2 level of physical containment for the following reasons:

1. Epidemiology studies have been performed on over 150 *E. coli* strains isolated from human and animal stools. These studies have shown that the majority (80%) of the strains made detectable levels of Shiga-like toxin. Moreover, four of four substrains of the well-characterized bacterium *E. coli* K–12 were shown to make low levels of the toxin. Thus, cloning of the Shiga-like toxin gene from clinical isolates of *E. coli* into laboratory strains of *E. coli* K–12 will not involve the introductions of a "foreign" toxin into the organism.

2. Production of low levels of Shiga-like toxin was observed in 2 of 15 normal human gut flora *E. coli* strains from asymptomatic infants.

3. Strains of *Vibrio cholerae* and *Vibrio parahaemolyticus* were tested and shown to produce Shiga-like toxin. Thus, the gene(s) for Shiga-like toxin are present in naturally occurring isolates of the family *Vibrionaceae* and are not restricted to the *Enterobacteriaceae*. In volunteer studies, some of the strains of *V. cholerae* that produce Shiga-like toxin did not cause disease. Therefore, the ability to produce Shiga-like toxin is not equivalent with virulence in humans challenged by the oral route.

4. Phages from two clinical isolates of *E. coli* have been shown to control high-level production of Shiga-like toxin in *E. coli* K–12 host strains by phage conversion. Thus, either the structural gene(s) for the Shiga-like toxin or regulatory genes that control high-level production of the toxin are present on wild-type phages from clinical isolates of *E. coli*. In this sense, "cloning" of genes that affect production of Shiga-like toxin onto phage genames has already occurred in nature.

Based on the occurrence of the gene(s) for Shiga-like toxin in several different bacterial genera, the avirulence of some bacterial strains that produce Shiga-like toxin in human subjects challenged orally, and occurrence of converting phages in clinical isolates of *E. coli* that control high-level production of Shiga-like toxin, the investigators believe there is little justification to require the maximum possible level of physical containment for the proposed studies of cloned genes for Shiga-like toxin in laboratory strains of *E. coli* that lack the ability to colonize or invade the intestinal mucosa in man.

In addition, the U.S. Cholera Panel of the National Institute of Allergy and Infectious Disease (NIAID) in a meeting on October 16, 1983, reviewed and critiqued the Microbiology and Infectious Diseases Program dealing with cholera and *E. coli* (ETEC) vaccine development. It was the consensus of the Panel that it be recommended that NIH reconsider the ban "on shiga toxin cloning experiments in containment facilities other than P4. This strict requirement will prevent most laboratories from deleting the Shiga gene from candidate *V. cholera* and ETEC vaccine strains. Shiga toxin is now found in many nonpathogenic *E. coli*, including the common vector host, *E. coli* K–12."

IV. Proposal to Add a New Section III–A–4 to the Guidelines and to Devise Mechanisms to Review Proposals Involving Genetic Engineering in Humans

At its April 11, 1983, meeting, the Recombinant DNA Advisory Comittee (RAC) endorsed a proposal to form a working group to comment and report to RAC on the "Report on the Social and Ethical Issues of Genetic Engineering with Human Beings," issued by the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research. The President's Commission began its study in September 1980 in response to a request of the President's Science Advisor. Concern has been expressed earlier that year by the Nation's three major religious associations that no governmental body was "exercising adequate oversight or control, nor addressing the fundamental ethical questions in a major way." The Commission's report, issued in November 1982, concluded that continuing oversight of the field is desirable and suggested that one possible mechanism could be revising the responsibilities of the RAC.

The RAC Working Group for Development of Response to President's Commission's Report on Ethical and Social Issues met at NIH on June 24, 1983, and prepared a proposal for consideration by the full RAC on September 19, 1983.

The working group's primary recommendations were:

1. The membership of the RAC be modified to include adequate representation to deal credibly with these issues.

2. Procedures should be developed for the coordinate consideration of experiments involving the use of recombinant DNA technology in humans by Institutional Review Boards (IRBs), the Office of Protection from Research Risks (OPRR), the Food and Drug Administration (FDA), Institutional Biosafety Committees (IBCs), the Office of Recombinant DNA Activities (ORDA), and the Recombinant DNA Advisory Committee (RAC).

3. The NIH Guidelines for Research Involving Recombinant DNA Molecules should be reviewed for their adequacy and clarity in dealing with human experimentation.

The RAC discussed this proposal at its September 19, 1983, meeting. It was noted that the recommendations were based on several premises. These are: (1) There is currently no other national body that deals with ethical issues in the biomedical field; (2) RAC's expertise would be supplemented by adding experts in the ethical issues of using human subjects; and (3) RAC would review proposals on a case-by-case basis in response to investigator-initiated research. RAC's review would supplement review by IBCs and IRBs.

The RAC unanimously accepted the working group's recommendation. Questions such as whether the language of the Guidelines as currently written is adequate or how the review procedures would function were to be discussed at subsequent meetings of the Working Group.

The Working Group on Social and Ethical Issues (formerly the Working Group for Development of Response to President's Commission's Report on Ethical and Social Issues) met at the NIH on December 13, 1983. The working group requested that the following modifications to the Guidelines be published for comment, and be considered by the RAC at their February 1984 meeting.

A. A new Section III–A–4 would be added to Section III–A, *Experiments that Require RAC Review and NIH and IBC Approval Before Initiation*, of the Guidelines:

> III–A–4. Deliberate transfer of recombinant DNA or DNA derived from recombinant DNA into human subjects. The requirement for RAC review should not be considered to preempt any other required review of experiments with human subjects. IRB review of the proposal should be completed before submission to NIH.

B. Section III–B–~~4~~–b of Section III–B–4, *Recombinant DNA Experiments Involving Whole Animals or Plants*, would be footnoted. Section III–B–~~4~~–b reads as follows:

> III–B–~~4~~–b. For all experiments involving whole animals and plants and not covered by III–B–~~4~~–a, the appropriate containment will be determined by the IBC.

C. A footnote concerning Section III–B–~~4~~–b of Section III–B–~~4~~, *Recombinant DNA Experiments Involving Whole Animals or Plants* would be added to Section V, *Footnotes and Reference of Sections I–IV*, as follows:

> For recombinant DNA experiments involving human subjects, see Section III–A–4.

In addition, the Working Group on Social and Ethical Issues suggested that a working group, composed of 9 members (including chairperson), be formed to conduct initial review of proposals submitted to the RAC. Individuals with expertise in basic science, clinical medicine, law, and ethics would be appointed to the working group. Liaison members from FDA and the Office of Protection from Research Risks would also be appointed. The working group might use as resource material reports such as "Splicing Life" prepared by the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research.

V. Proposed Exemption for Certain Experiments Involving Nonpathogenic Streptomyces

Dr. Jack Manis of The Upjohn Company requests that under Appendix C of the Guidelines that "the Director of NIH and the RAC consider exemption from the Guidelines of any recombinant DNA experiments which involves only non-pathogenic *Streptomyces* species and their indigenous plasmids and viruses."

Dr. Manis also requests that "the Director of the NIH and the RAC consider exempting from regulation by the Guidelines any scale-up of recombinant *Streptomyces* cultures which are derived from nonpathogenic streptomycetes and which use as the basic host organisms *Streptomyces* species which have routinely been used in large-scale antibiotic fermentations without medical or ecological incident (e.g., *S. lincolnensis, S. fradiae, S. Erythreus*, etc.)."

VI. P1 Growth Conditions for Plants

Sereral inquiries concerning the specifications for contained growth conditions for plants have been received. In order to facilitate understanding of these requirements, the U.S. Department of Agriculture representative to the RAC suggested that language describing the specifications for contained growth conditions for plants be added to the Guidelines. One mechanism by which to include such a description in the Guidelines would be for Section III–B–~~4~~–b to be footnoted.

Section III–B–~~4~~–b reads as follows:

> II–B–~~4~~–b. For all experiments involving whole animals and plants and not covered by III–B–~~4~~–a, the appropriate containment will be determined by the IBC.

A footnote concerning P1 growth conditions for plants would be added to Section V, *Footnotes and Reference of Section I–IV, as follows:*

> If the IBC wishes to require Pl growth conditions for plants, this can be met by either (1) a limited access greenhouse, or (2) a plant growth chamber, which are insect-restrictive and in which a pest control regime is maintained. The greenhouse or growth chamber should be under positive air pressure unless airborne propagules are generated (e.g., fungal spores) in which case negative air pressure should be employed.

Sterilization of run-off water is required only where this is a plausible route for dissemination of viable microorganisms containing recombinant DNA. Soil, plant parts, and unwanted plant materials shall be sterilized before disposal. Plant materials which have to be removed from the greenhouse or cabinet for further research shall be maintained under good laboratory practices as applied to plants. Plants can be transported locally, e.g., between laboratory, growth chamber, and greenhouse, at physically separated locations provided: (1) Plants are in a vegetative condition, i.e., no reproductive organs or structures (e.g., pollen, flowers, seeds) are present; (2) plants are kept in an enclosed area or container (i.e., waterproof, insect-restrictive); and (3) plants are essentially "hand-couriered" between locations.

VII. Request to Field Test Genetically Engineered Pseudomonas

Advanced Genetics Sciences, Inc., of Greenwich, Connecticut, requests permission to field test genetically engineered *Pseudomonas* strains.

Dated: December 23, 1983.

Bernard Talbot,

Acting Director, National Institute of Allergy and Infectious Diseases, National Institutes of Health.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance.* Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every federal research program in which DNA recombinant molecule techiques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every federal program would be included as many federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

[FR Doc. 84-5 Filed 1-4-84; 8:45 am]

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Federal Register

Thursday
January 5, 1984

Part III

Department of Defense

Department of the Air Force

Privacy Act of 1974; Deletions, Amendments and Republication of Systems of Records Notices

DEPARTMENT OF DEFENSE

Department of the Air Force

Privacy Act of 1974; Deletions, Amendments and Republication of Systems of Records Notices

AGENCY: Department of the Air Force (DAF), DOD.

ACTION: Deletions, amendments and republication of systems notices.

SUMMARY: The Department of the Air Force is systematically republishing all its notices for systems of records subject to the Privacy Act of 1974. Each system notice is being rejustified, rewritten and renumbered in the interest of accuracy, simplicity, and clarity.

This notice deletes 27 notices and amends 126 others. The deleted systems are listed below. The changes to the systems notices that are to be amended are set forth below and are followed in their entirety by the amended notices. This represents the third and final submission in this republication project.

DATES: All deletions are effective January 5, 1984. All other changes will be effective February 6, 1984.

ADDRESS: Send comments to Mr. Jon Updike, HQ USAF/DAQD(S), The Pentagon, Washington, DC 20301. Telephone: (202) 694–3431.

FOR FURTHER INFORMATION CONTACT: Mr. Updike at the address and telephone number listed above.

SUPPLEMENTARY INFORMATION: The two previous notices in this project were published by the Department of the Air Force in the **Federal Register** at FR Doc. 82–30348 (47 FR 50004), November 4, 1982 and FR Doc. 83–1956 (48 FR 4106), January 28, 1983. System notices effected by this notice also appeared in the **Federal Register:**

FR Doc. 81–897 (46 FR 6443), January 21, 1981

FR DOC. 82–675 (47 FR 2544), January 18, 1982

FR Doc. 82–2886 (47 FR 5295), February 4, 1982

FR Doc. 82–4481 (47 FR 7478), February 19, 1982

FR Doc. 82–9886 (47 FR 14936), April 7, 1982

FR Doc. 82–10593 (47 FR 16827), April 20, 1982

The three notices in this project taken together represent a complete republication of all of the Department of the Air Force notices for systems of records subject to the Privacy Act of 1974, as amended, (Title 5 United States Code Section 552a).

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

December 21, 1983.

DELETIONS

The following deletions are effective January 5, 1984.

F01101 DPXJC C

System Name:

USAF Reconstruction Requirements for Office of JCS and HQ USAF (44 FR 74155)

Reason:

This is not a system of records under the Privacy Act of 1974.

F01101 OSAWUBB

System Name:

Source Support-Control Data (44 FR 74159)

Reason:

These transitory records are used to record test results which are transferred to permanent records. They are part of the several training and evaluation systems.

F01102 OMUHHZB

Sytem Name:

General/Colonel Status Board (44 FR 74165)

Reason:

These records are not a system of records under the Privacy Act.

F02503 DPCXP A

System Name:

Committee Management Records (44 FR 74170)

Reason:

These records are not retrieved by any personal identifier.

F02503 NB A

System:

Biographical Information File (44 FR 74170)

Reason:

These records are included under system F190 AF PA A, Official Biographies and F035 AF MP O, Unit Assigned Personnel Information File.

F03501 OMUHHZB

System Name:

Curriculum Vitae (44 FR 74214)

Reason:

These records are properly covered by system F110 AF SG B, Medical Professional Staffing Records.

F03502 OBXOPCE

System Name:

Master Cadet Personnel Records (RR)/Active (44 FR 74230)

Reason:

This system is merged with F03502 OBXQPCD to form F035 AFA B, Master Cadet Personnel Records (RR)/Active/ Historical.

F03502 OMUHHZA

System Name:

Manning Specialist Evaluation (44 FR 74230)

Reason:

This system has been discontinued.

F03504 AA A

System Name:

Secretary of the Air Force Military Personnel Administration (44 FR 74233)

Reason:

These records are covered by system notice F035 AF MP O, Unit Assigned Personnel Information File.

F03504 XOXXE A

System Name:

Air Force Advisory Personnel in Latin America (44 FR 74239)

Reason:

These records are part of system F035 AF MP C, Military Personnel Records System.

F03504AAFSS S

System Name:

Office Personnel Data Information Files (44 FR 74243)

Reason:

These records are covered by system notice F035 AF MPO Unit Assigned Personnel Information File for military members, and OPM/Govt-1, 2, and 3 for civilians.

F04501 OIACYVC

System Name:

Professional Officer Course (POC) and Financial Assistance Program Cadets. (44 FR 74263)

Reason:

This system has been discontinued

F05002 OOJUBJB

System Name:

Maintenance Management Information and Conmtrol System (MMICS) (44 FR 74281)

Reason:

This is not a system of records subject to the Privacy Act of 1974.

F05302 OBXOPCB

System Name:

Air Force Academy Candidate System (44 FR 74290)

Reason:

These records have been merged with system F03501BXQPOCAB, Admission and Registrar Records to form system F053 AFA A, Admission and Registrar Records.

F06608 OOJUBJC

System Name:

Exception Time Accounting (ETA) System (44 FR 74294)

Reason:

These records are not a system or records subject to the Privacy Act.

F06711 OOJUBJA

System Name:

Tool Kit Control Card (44 FR 74295)

Reason:

This system has been discontinued.

F12702 02SCEYA

System Name:

Aircraft Accidents and Incidents Computer File (44 FR 74326)

Reason:

These records are not retrieved by any personal identifier.

F12702 02SCEYB

System Name:

Human Factors in Aircraft Accident/ Incident Computer File (44 FR 74327)

Reason:

These records are not retrieved by any personal identifier.

F12702 02SCEYC

System Name:

United States Air Force (USAF) Ground Accident Fatality File (44 FR 74327)

Reason:

These records cover only deceased individuals and are not subject to the Privacy Act.

F16401 GHXO S

System Name:

Patient Evacuation Manifest (44 FR 74339)

Reason:

These records are filed chronologically and are not a system of records subject to the Privacy Act.

F16802 CSGH R

System Name:

MAMS–R (Medical Administrative Management System-Revision) (44 FR 74340)

Reason:

These records are part of system F168 AF SG A, Automated Medical/Dental Records System.

F17701 NGBJA A

System Name:

Confidential Statement of Employment and Financial Interest (44 FR 74354)

Reason:

These records are properly part of system F030 AF JA A, Confidential Statement of Employment and Financial Interest.

F17721 ADPMSNA

System Name:

Employee Group Life and Health Insurance Plan (44 FR 74362)

Reason:

This system has been discontinued.

F182 AF A

System Name:

Air Force Postal Directory File (44 FR 4208)

Reason:

These records are properly part of system F011 AF A, Locator, Registration and Postal Directory Files which has been revised and republished below.

F18202 HC A

System Name:

Current Official Active Duty Chaplains (44 FR 74373) Mailing List.

Reason:

These records are properly part of F011 AF A, Locator, Registration and Postal Directory Files which has been revised and republished below.

F20505 OOVDYDA

System Name:

Clearance Certificate Records (44 FR 74383)

Reason:

These records are properly part of system F205 SCO C, Personnel Security Clearance and Investigation Records.

F26501 HC C

System Name:

Directory of Active Duty and Retired Chaplains (44 FR 74390)

Reason:

These records are properly part of system F011 AF A, Locator Registration and Postal Directory Files which has been revised and republished below.

AMENDMENTS

The following major changes have been made to the systems notices published as amended below. These notices have also been substantially rewritten in the interest of clarity and accuracy.

FO1001 CVAE A

System Name:

Secretary of the Air Force Historical Records (44 FR 74148)

Changes:

System Identification:

Change to, "F010 CVAE A."

F01001 REPX A

System Name:

Inquiries (Presidential, Congressional). (44 FR 74149)

Change:

System Identification:

Change to, "F010 RE A."

F01001 SAFPC A

System Name:

Air Force Discharge Review Board Retain Files (44 FR 74149)

Change:

System Identification:

Change to, "F035 SAFPC A."

F01003 OIACYVA

System Name:

Background Material (46 FR 6535)

Changes:

System Identification:

Change to, "F010 ARPC A."

Storage:

Change to, "Maintained in file folders."

F011 AF A

System Name:

Military and Civilian Personnel Locator and Registration Files (48 FR 4116)

Changes:

System Name:

Change to, "Locator, Registration and Postal Directory Files."

Routine Uses of Records Maintained in the System, Including Categories of Users and the Purpose of Such Uses:

Add after the first sentence, "Portions of the System are used to Directorize and forward individual personal mail received by Air Force postal activities, and for assignment of individual mail boxed. Other parts of the system are used to create listings used to send official and unofficial material to or to contact present and former members or retirees."

Retention and Disposal:

Add, "Postal directory files are maintained for six months after reassignment, separation on departure from the servicing activity. Contact listings are retained until no longer needed."

F01101 PRES A

System Name:

Check Cashing Privilege File (44 FR 74156)

Change:

System Identification:

Change to, "F011 AF B."

F01102 LLI A

System Name:

Mircofilm Records Congressional/ Executive Inquiries (44 FR 74162)

Changes:

System Identification:

Change to, "F011 LLI A."

System Name:

Delete, "Microfilm Records."

F01102 SGPS F

System Name:

High Level Inquiry File (44 FR 74164)

Change:

System Identification:

Change to, "F011 AFSG A."

F01103 OBXOPCC

System Name:

Faculty Biographical Sketch (44 FR 74167)

Change:

System Identification:

Change to, "F011 AFA B."

F01103X0BXOPCD

System Name:

Class Committee Products. (44 FR 74167)

Change:

System Identification:

Change to, "F011 AFA A."

F03001X0BXOPCB

System Name:

Military, Leadership, and Basic Cadet Training Order of Merit System (46 FR 6540)

Changes:

System Identification:

Change to "F050 AFA A."

System Name:

Change to, "Military Performance Average."

Exemption:

Add, "This exemption will be withdrawn after 31 July 1983."

F03001 DPXVV A

System Name:

File Designation, Drug Abuse Waiver Requests (46 FR 6539)

Changes:

System Identification:

Change to, "F030 AF MP E."

System Name:

Delete, "File Designation."

F030040BXOPCAB

System Name:

Military Personnel Administrative Records (44 FR 74190)

Changes:

System Identification:

Change to, "F900 AFA B."

System Name:

Change to, "Thomas D. White Defense Award."

F03005 PRENC A

System Name:

Equal Opportunity in Off-Base Housing (44 FR 74192)

Change:

System Identification:

Change to, "F030 AF LE A."

F03005 PRENC B

System Name:

Off-Base Housing Referral Service (44 FR 74192)

Change:

System Identification:

Change to, "F030 AF LE B."

F03005 PRENC C

System Name:

Base Housing Management (46 FR 6549)

Change:

System Identification:

Change to, "F030 AF LE C."

F03005 02 ALSA

System Name:

On/Off-Base Housing Records (46 FR 6550)

Change:

System Identification:

Change to, "F030 AF LE D."

F03007 OOPTFLB

System Name:

Visiting Officer Quarters-Transient Airman Quarters Reservations (44 FR 74194)

Change:

System Identification:

Change to, "F090 AF A."

F03501 AFDPG Z

System Name:

General Officer Personnel Data Systems (46 FR 6551)

Change:

System Identification:

Change to, "F035 AF MP P."

F03501 AFREP T

System Name:

Files on General Officers and Colonels Assigned to General Officer Positions (44 FR 74196)

Change:

System Identification:

Change to, "F035 AF MP A."

F03501 DPMAK J

System Name:

Separation Case Files (Officer and Airman) (46 FR 6553)

Change:

System Identification:

Change to, "F035 MPC U."

F03501 HC A

System Name:

Chaplain Personnel Record (44 FR 74207)

Changes:

System Identification:

Change to, "F035 HC B."

Authority for Maintenance of the System:

Change to, "10 USC 8032, General duties, and 8067(g), Designation: officers to perform certain professional functions [Chaplains]."

F03501 HC B

System Name:

Chaplain Information Sheet (44 FR 74208)

Changes:

System Identification:

Change to, "F035 HC A."

Authority for Maintenance of the System:

Change to, "10 USC 8032, General duties, and 8067(g), Designation: officers to perform certain professional functions [Chaplains]."

F03501 REP A

System Name:

Personnel Files on Statutory Tour Officers (44 FR 74209)

Changes:

System Identification:

Change to, "F035 RE A."

Authority for Maintenance of the System:

Change to, "10 USC 265, Policies and regulations: participation of reserve officers in preparation and administration."

F03501 REP B

System Name:

Files on AF Reserve General Officers; Colonels Assigned to General Officer Positions (44 FR 74209)

Change:

System Identification:

Change to, "F035 RE B."

F03501 SAFCB A

System Name:

Military Records Processed by the Air Force Corrections Board (44 FR 74209)

Change:

System Identification:

Change to, "F035 SAFCB A."

F03501 SAFOI B

System Name:

Mobilization Augmentee Training Folders (44 FR 73210)

Change:

System Identification:

Change to, "F035 SAFPA A."

F03501 OMUHHZA

System Name:

Personnel Interview Record (46 FR 6557)

Change:

System Identification:

Change to, "F035 AFRES A."

F03501 07YLNGA

System Name:

Informational Personnel Record (44 FR 74221)

Change:

System Identification:

Change to, "F035 AFOSI C."

F03501 07YLNGB

System Name:

Internal Personnel Data System (44 FR 74221)

Change:

System Identification:

Change to, "F035 AFOSI D."

F03501FSFPC A

System Name:

Air Force Discharge Review Board Original Case Files (44 FR 74223)

Change:

System Identification:

Change to, "F035 SAFPC B."

F03501XOBXOPCB

System Name:

Prospective Instructor Files (44 FR 74223)

Change:

System Identification:

Change to, "F035 AFA C."

F035010BXOPCAB

System Name:

Admission and Registrar Records (44 FR 74226)

Change:

System Identification:

Change to, "F053 AFA C."

F03502 AFA A

System Name:

Cadet Personnel Management System (44 FR 74226)

Change:

System Identification:

Change to, "F035 AFA A."

F03502 OBXOPCD

System Name:

Master Cadet Personnel Record (RR)/ Historical (44 FR 74229)

Change:

System Identification:

Change to, "F035 AFA B."

System Name:

Change, "Historical," to, "Active/ Historical."

F03503 AFRES A

System Name:

Recruiters Automated Program (47 FR 14936)

Change:

System Identification:

Change to, "F035 AFRES B."

F03503 OMUHHZA

System Name:

Reserve Manning Report (46 FR 6560)

Change:

System Identification:

Change to, "F035 AFRES C."

F03504 DPMHC A

System Name:

Chaplain Personnel Action Folder (46 FR 6560)

Change:

System Identification:

Change to, "F035 HC C."

F03509 OIACYVA

System Name:

Requests for Discharge From the Air Force Reserve (46 FR 6565)

Change:

System Identification:

Change to, "F035 ARPC I."

F04001 DPCX A

System Name:

Non-Appropriated Fund (NAF) Civilian Personnel Records (44 FR 74253)

Change:

System Identification:

Change to, "F040 AF NAFI A."

F04001 1PTAYZC

System Name:

Civilian Pay-Personnel-Manpower (Paperman) (44 FR 74255)

Change:

System Identification:

Change to, "F040 ASG A."

F04002 DPCMS A

System Name:

Civilian Personnel Applicant Supply Files (44 FR 74255)

Change:

System Identification:

Change to, "F040 AF MP D."

F04002 DPCMS B

System Name:

Civilian Personnel Test Score Record (44 FR 74255)

Change:

System Identification:

Change to, "F040 AF MP B."

F04002 DPCMS C

System Name:

Job Element Questionnaires for Civilian Trades and Labor Occupations (44 FR 74256)

Change:

System Identification:

Change to, "F040 AF MP C."

F04002 DPCMS D

System Name:

Civilian Personnel Occupational and Suitability Employment Examinations (44 FR 74256)

Change:

System Identification:

Change to, "F040 AF MP A."

F04002 OMUHHZA

System Name:

Air Reserve Technician (ART) Officer Selection Folders (44 FR 74257)

Change:

System Identification:

Change to, "F040 AFRES A."

F04003 DPCMT A

System Name:

Training and Employee Development Record Systems (44 FR 74257)

Change:

System Identification:

Change to, "F040 AF MP E."

F04004 DPCE B

System Name:

Civilian Personnel Performance Awards and Outstanding Performance Ratings (44 FR 74259)

Change:

System Identification:

Change to, "F040 AF MP F."

F04004 DPCE C

System Name:

Labor Management Relations Records System (44 FR 74259)

Change:

System Identification:

Change to, "F040 AF MP G."

F04004 DPCMS A

System Name:

Employee Assistance Program Case Records (44 FR 74260)

Change:

System Identification:

Change to, "F040 AF MP H."

F04008 AA A

System Name:

Civilian Personnel Files (44 FR 74260)

Change:

System Identification:

Change to, "F040 AA A."

F04008 DPCE A

System Name:

Supervisor's Records of Civilian Employee (44 FR 74261)

Changes:

System Identification:

Change to, "F040 AF MP I."

Authority for Maintenance of the System:

Change to, "10 USC 8012, Secretary of the Air Force: powers and duties; delegation by."

F04501XOMUHHZA

System Name:

Reserve Medical Service Corps Officer Appointments (44 FR 74266)

Change:

System Identification:

Change to, "F045 AFRES A. "

F05001 AFA A

System Name:

Faculty Academic Records (44 FR 74267)

Change:

System Identification:

Change to, "F050 AFA B."

F05001 SAFOPI B

System Name:

Information Officer Short Course Eligibility File (44 FR 74268)

Changes:

System Identification:

Change to, "F050 SAFPA B."

System Name:

Change to, "Public Affairs Officer Short Course Eligibility File."

F05001 OBXOPBB

System Name:

USAF Academy Cadet/Nominee/ Applicant Athletic Records (44 FR 74269)

Changes:

System Identification:

Change to, "F050 AFA C."

System Name:

Change to, "USAF Academy Athletic Records."

F05001 OMUHHZA

System Name:

Undergraduate Pilot and Navigator Training (44 FR 74270)

Change:

System Identification:

Change to, "F050 AFRES A."

F05002 OI A

System Name:

Graduates of Air Forces Short Course in Communications (Oklahoma University) (44 FR 74276)

Change:

System Identification:

Change to, "F050 SAFPA A."

F05002 OTMUHJA

System Name:

Student Record File (44 FR 74282)

Change:

System Identification:

Change to, "F050 TAC A."

F05301 DPP A

System Name:

Air Force Academy Appointment and Separation Records (44 74289)

Change:

System Identification:

Change to, "F053 MP A."

F05301XOBXOPCB

System Name:

Educational Research Data Base (46 FR 6574)

Change:

System Identification:

Change to, "F053 AFA A."

F05303OBXOPCAB

System Name:

Preparatory School Records (44 FR 74291)

Change:

System Identification:

Change to, "F053 AFA B."

F06003 ANGXOB

System Name:

Progress Report, Undergraduate Pilot Training (44 FR 74291)

Change:

System Identification:

Change to, "F060 ANG A."

F06703 USAFE A

System Name:

Government Furnishings Issue Record (47 FR 16827)

Change:

System Identification:

Change to, "F067 AF A."

F06711 LGYPS A

System Name:

Personal Clothing and Equipment Record (44 FR 74295)

Change:

System Identification:

Change to, "F067 AF LE A."

F07001 OEACYVA

System Name:

Accounts Payable Records (44 FR 74296)

Change:

System Identification:

Change, "F070 AF AFO A."

F07502 USAFE A

System Name:

Custom Control Records (47 FR 16827)

Change:

System Identification:

Change to, "F075 USAFE A."

F07503 AA A

System Name:

Office, Secretary of the Air Force Travel Files. (44 FR 74297)

Change:

System Identification:

Change to, "F075 AA A."

F075031LGTT A

System Name:

Personnel Property Movement Records (44 FR 74297)

Change:

System Identification:

Change to, "F075 AF LE B."

F07503100JUBJH

System Name:

Household Goods Nontemporary Storage Accounts System (NOTEMPS) (44 FR 74297)

Change:

System Identification:

Change to, "F075 AF LE A."

F07702 LGTN A

System Name:

Motor Vehicle Operator's Records (44 FR 74299)

Change:

System Identification:

Change to, "F077 AF LE A."

F08003 OBXOPCA

System Name:

Minnesota Multiphase Personality Inventory Research Program. (44 FR 74300)

Change:

System Identification:

Change to, "F080 AF A."

F09003 SAC A

System Name:

Unaccompanied Personnel Quarters Assignment/Termination (47 FR 2615)

Change:

System Identification:

Change to, "F090 SAC A."

F11001 IGO A

System Name:

Inspector General Records: Freedom of Information Act (44 FR 74303)

Change:

System Identification:

Change to, "F120 AF IG A."

F11001 SAFPC A

System Name:

Air Force Discharge Review Board Voting Cards (46 FR 6574)

Change:

System Identification:

Change to, "F035 SAFPC C."

F11001 SAFPC B

System Name:

Air Force Discharge Review Board Case Control/Locator Cards (44 FR 74304)

Change:

System Identification:

Change to, "F035 SAFPC D."

F11001 OEACYVA

System Name:

Legal Administration Records of the Staff Judge Advocate (44 FR 74305)

Change:

System Identification:

Change to, "F110 AFAFC H."

F11001 XOMUHHZA

System Name:

Reserve Judge Advocate Training Report (44 FR 74307)

Change:

System Identification:

Change to, "F110 AFRES A."

F12001 IGO A

System Name:

Inspector General Records (44 FR 74312)

Change:

System Identification:

Change to, "F120 AF IG B."

F12301 02SCEYA

System Name:

United States Air Force (USAF) Inspection Scheduling System (44 FR 74313)

Change:

System Identification:

Change to, "F123 AFISC A."

F12701 02SCEYA

System Name:

Safety Education File (44 FR 74326)

Change:

System Identification:

Change to, "F127 AFISC A."

F16001 AFA A

System Name:

Cadet Hospital/Clinic Records (46 FR 6575)

Change:

System Identification:

Change to, "F160 AFA A."

F16002 SGPS A

Change:

System Name:

Department of Defense Medical Examination Review Board Medical Examination Files (44 FR 74329)

Change:

System Identification:

Change to, "F160 DODMERB A."

F16006 SGPC A

System Name:

Medical Treatment Facility Tumor Registry (44 FR 74333)

Change:

System Identification:

Change to, "F160 AF SG C."

F16007 SGPA A

System Name:

Drug Abuse Rehabilitation Report System (44 FR 74333)

Change:

System Identification:

Change to, "F160 AF SG D."

F17602 OEACYVA

System Name:

Nonappropriated Funds Standard Payroll System (44 FR 74351)

Changes:

System Identification:

Change to, "F176 AF MP D."

System Manager(s) and Address:

Delete, "Director, Accounting and Finance, United States Air Force."

F17603 AA A

System Name:

Accounts Receivable (44 FR 74352)

Change:

System Identification:

Change to, "F176 AA A."

F17603 HC

System Name:

Chaplain Fund Service Contract File (44 FR 74352)

Change:

System Identification:

Change to, "F176 AF HC A."

F17607 DPM A

System Name:

Morale, Welfare, and Recreation (MWR) Participation/Membership/ Training Records (44 FR 74353)

Change:

System Identification:

Change to, "F176 AF MP C."

F17701 OBXOPCA

System Name:

Cadet Accounting and Finance System (46 FR 6579)

Change:

System Identification:

Change to, "F177 AFA A."

F17705 OEACYVA

System Name:

Accounting and Finance Officer Accounts and Substantiating Documents (44 FR 74355)

Change:

System Identification:

Change to, "F177 AFAFC A."

F17707 OEACYVA

System Name:

Loss of Funds Case Files (44 FR 74356)

Change:

System Identification:

Change to, "F177 AFAFC I."

F17708 OEACYVA

System Name:

Claims Case File—Corrected Military Pay and Allowances (44 FR 74356)

Change:

System Identification:

Change to, "F177 AFAFC E."

F17708 OEACYVB

System Name:

Claims Case Files—Missing in Action Data (44 FR 74357)

Change:

System Identification:

Change to, "F177 AFAFC F."

F17708 OEACYVC

System Name:

Claims Case File—Death Gratuity Records (44 FR 74358)

Change:

System Identification:

Change to, "F177 AFAFC D."

System Name:

Change to, "Claims Case File—Active Duty Casualty Case Records."

F17708 OEACYVD

System Name:

Indebtedness and Claims (46 FR 6580)

System Identification:

Change to, "F177 AFAFC M."

F17709 OEACYVA

System Name:

Report of Survey (44 FR 74359)

Change:

System Identification:

Change to, "F177 AF AFC E."

F17718 OEACYVA

System Name:

Accounts Receivable Records Maintained by Accounting & Finance (44 FR 74360)

Change:

System Identification:

Change to, "F177 AF AFC A."

F17720 OEACYVA

System Name:

Travel Records (46 FR 6580)

Change:

System Identification:

Change to, "F177 AF AFC B."

F17721 OEACYVA

System Name:

Civilian Pay Records (46 FR 6581)

Change:

System Identification:

Change to, "F177 AF AFC F."

F17722 OEACYVA

System Name:

Accrued Military Pay System, Discontinued (44 FR 74364)

Change:

System Identification:

Change to, "F177 AFAFC B."

F17722 OEACYVC

System Name:

Military Pay Records (44 FR 74364)

Change:

System Identification:

Change to, "F177 AFAFC J."

F17722 OEACYVD

System Name:

Uniformed Services Savings Deposit Program (USSDP) (44 FR 74366)

Change:

System Identification:

Change to, "F177 AFAFC C."

F17725 OEACYVA

System Name:

Air Reserve Pay and Allowance System (ARPAS) (46 FR 6582)

Change:

System Identification:

Change to, "F177 AF AFC C."

F17726 OEACYVA

System Name:

Pay and Allotment Records (46 FR 6583)

Change:

System Identification:

Change to, "F177 AFAFC K."

F17730 OEACYVA

System Name:

Joint Uniform Military Pay System (JUMPS) (44 FR 74368)

Change:

System Identification:

Change to, "F177 AF AFC D."

F17734 OEACYVA

System Name:

USAF Retired Pay System (46 FR 6584)

Change:

System Identification:

Change to, "F177 AFAFC L."

F17801 OHFREZA

System Name:

Rome Air Development Center (RADC) Manpower Resource Expenditure System (44 FR 74371)

Change:

System Identification:

Change to, "F178 AFSC A."

F17801 OHZHTVA

System Name:

Integrated Management Information and Control System (IMICS) (44 FR 74372)

Change:

System Identification:

Change to, "F178 AFSC C."

F19001 OI AB

System Name:

Official Biographies (44 FR 74375)

Change:

System Identification:

Change to, "F190 SAFPA B."

F19001 OI AB

System Name:

Biographies of Officers and Key Civilians Assigned to SAF/OI (44 FR 74374)

Changes:

System Identification:

Change to, "F190 SAFPA A."

System Name:

Change "SAF/OI" to "SAFPA."

F19001 SAFOI

System Name:

Special Events Planning-Protocol (44 FR 74376)

Change:

System Identification:

Change to, "F190 AF PA A."

F19002 A58WWYK

System Name:

Home Town News Release Background Data File (44 FR 74376)

Change:

System Identification:

Change to, "F190 AF PA B."

F20501 SPI A

System Name:

Requests for Access to Classified Information by Historical Researchers (44 FR 74378)

Change:

System Identification:

Change to, "F205 AFSP A."

F20503 DAI A

System Name:

Personnel Security Case Files (44 FR 74379)

Changes:

System Identification:

Change to, "F205 AFSCO A."

System Name:

Change "Personnel" to "Special."

F20503 DAI C

System Name:

Presidential Support Files (44 FR 74380)

Change:

System Identification:

Change to, "F205 AFSCO B."

F20505 SPI A

System Name:

Personnel Security Clearance Investigation Records (44 FR 74381)

Changes:

System Identification:

Change to, "F205 AFSCO C."

System Name:

Add, "and," after "Clearance."

Note: This notice has been extensively revised to reflect realignments of the clearance function in the Air Force Security Clearance Office. There are no changes to the records or record keeping practices.

F20505 SPI B

System Name:

Personnel Security Assess Records (44 FR 74382)

Changes:

System Identification:

Change to, "F205 AF A."

F20505 SPI C

System Name:

Special Security Files (44 FR 74383)

Changes:

System Identification:

Change to, "F205 AF SP A."

Note: This notice has been extensively revised to reflect realignments of the clearance function in the Air Force Security Clearance Office. There are no changes to the records or record keeping practices.

F21201BXOPCAB

System Name:

Library/Special Collections Records (44 FR 74385)

Changes:

System Identification:

Change to, "F212 AFA."

F21206XOBOPCE

System Name:

Library Authorized Patron File (44 FR 74385)

Changes:

System Identification:

Change to, "F212 AFA B"

F21301 DPMSS A

System Name:

Air Force Educational Assistance Loans (44 FR 74385)

Changes:

System Identification:

Change to, "F213 MPC A."

F26501 AFA A

System Name:

Cadet Chaplain Records (44 FR 74389)

Changes:

System Identification:

Change to, "F265 AFA A."

F26501 HC A

System Name:

Non-Chaplain Ecclesiastical Endorsement Files (44 FR 74389)

Changes:

System Identification:

Change to, "F265 HC A."

F26501 HC B

System Name:

Chaplain Personnel Roster (44 FR 74389)

Changes:

System Identification:

Change to, "F265 HC B."

F26501XHC A

System Name:

Records on Baptisms, Marriages and Funerals by Air Force Chaplains (44 FR 74390)

Changes:

System Identification:

Change to, "F265 HC D."

Authority for Maintenance of the System:

Change to, "10 USC 8012, Secretary of the Air Force: powers and duties; delegation by."

F26501XHC A

System Name:

Cadet Awards Files (44 FR 74393)

Changes:

System Identification:

Change to, "F900 AFA A."

UNITED STATES AIR FORCE

F010 ARPC A

SYSTEM NAME:

010 ARPC A Background Material

SYSTEM LOCATION:

Air Reserve Personnel Center, Denver, CO 80280.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Reserve personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Letter request for orders, amendments, including justification on files on special authorizations when required by order publishing activity.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 1162, Reserves: discharge.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information on form is utilized for publication of discharge orders used by military personnel and AF civilian employees within the office and verify that discharge orders were published.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name, and Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files for 1 year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Air Reserve Personnel Center (ARPC), Denver, CO 80280.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the Documentation Management Officer, ARPC/DADP, Denver, Colorado 80280. Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC. Records may be reviewed in the Records Review Room, Air Reserve Personnel Center, Denver, Colorado between 8:00 am and 3:00 pm on normal work days. Visitors wishing to see their records should provide a current Reserve identification card and/or driving license and some verbal information that could verify the person's SSN at time of discharge.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the Documentation Management Officer, ARPC/DADP, Denver CO 80280; telephone (303) 394-4667.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from medical institutions, police and investigating

officers, witnesses and source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F010 CVAE A

SYSTEM NAME:

010 CVAE A Secretary of the Air Force Historical Records

SYSTEM LOCATION:

Washington National Records Center, Washington DC 20409. Modern Military Branch Military Archives Division National Archives and Records Service, Washington DC 20408.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and former employees of the Secretary of the Air Force, and anyone who has corresponded with the Secretary of the Air Force.

CATEGORIES OF RECORDS IN THE SYSTEM:

Secretary of the Air Force correspondence files covering calendar years 1947 through March, 1972, most of which does not contain personal information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used for research by Air Force Historian, other government agencies and private institutions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Access is authorized by the Secretary of the Air Force only. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Staff, Headquarters United States Air Force, Washington, D.C. 20330

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from previous employers, educational institutions, medical institutions, police and investigating officer, the public media, a corporation, and source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F010 RE A

SYSTEM NAME:

010 RE A Inquiries (Presidential, Congressional)

SYSTEM LOCATION:

Headquarters United States Air Force, Washington DC 20330, Personnel Division, Office of Air Force Reserve (AF REPX).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former Air Force civilian employees, Air Force Reserve and Air National Guard personnel, and Retired Air Force military personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual inquiries, research material and replies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by the Office of Secretary of Air Force and Air Reserve Personnel Center to reply to inquiries.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets.

RETENTION AND DISPOSAL:

Retained in office files for one year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Air Force Reserve, Personnel Division, Headquarters USAF, Washington DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the Systems Manager. Requests should include the full name and SSN. Individuals may visit the Personnel Division, Office of the Air Force Reserve, Pentagon, Washington DC and should provide military identification card or driver's license as means of identification.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F011 AF A

SYSTEM NAME:

011 AF A Locator, Registration and Postal Directory Files

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SYSTEM LOCATION:

At Headquarters, United States Air Force, and at Air Force Installations, to include bases, units, offices, and functions. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty military personnel; Air Force Reserve and National Guard Personnel; Air Force civilian employees; dependents may be included at the option of the installation, unit, or organization.

CATEGORIES OF RECORDS IN THE SYSTEM:

Cards or listings may contain the individuals name, grade, military service identification number, Social Security Number, duty location, office telephone number, residence address and residence telephone number, and similiar type personnel data determined to be necessary by the local authority.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to locate or identify personnel assigned to, attached to, tenanted on, or on temporary duty at the specific installation, office, base, unit, function, and/or organization in response to specific inquiries from authorized users for the conduct of business. Portion of the system are used to directorize and forward individual personal mail received by Air Force postal activities, and for assignment of individual mail boxes. Files may be used locally to support official and unofficial programs which require minimal locator information or membership or user listings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper records in card or form media in visible file binders/ cabinets card files or on computer and computer products.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance oftheir official duties. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until reassignment or separation, or when superseded or no longer needed for reference, then destroyed by tearing into pieces,shredding, pulping, macerating, or burning or by overwriting magnetic media. Postal directory files are maintained for six months after reassignment, separation or departure from servicing acivity.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Administration, Headquarters, US Air Force, Washington, DC. Local System Managers: Privacy officer of the installation, base, unit, organization, office or function to which the individual is assigned, attached, tenanted on or on temporary duty. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the local System Manager or custodian of the records. Individual must furnish full name and the names of dependents to the Air Force installation, unit and organization, office, or function to which assigned, attached, tenanted on or on temporary duty at, including the calendar years of such service. The individual may visit the Locator Office or Privacy Officer at the place of assignment. No identification is required to determine if the system contains records pertaining to a specific individual.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the local System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from automated system interfaces or from individuals or personnel records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F011 AF B

SYSTEM NAME:

011 AF B Check Cashing Privilege Files

SYSTEM LOCATION:

Commissaries, Services, Clothing Sales Stores and any other check cashing facilities at Air Force installations. Official mailing addresses are in the Department of Defense Directory in the Appendix to the Air Force's system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons whose checks, presented at these facilities, have been dishonored and or whose check cashing privileges have been suspended or revoked.

CATEGORIES OF RECORDS IN THE SYSTEM:

Letters, cards and listings on individuals who have cashed bad checks at base facilities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Identify individuals whose check cashing privileges are suspended or revoked and to refuse check cashing services to such individuals.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper records in card or listing media. Documents are filed in folders or card boxes and posted in or near the cashier's cage or cash register box at the check cashing facility.

RETRIEVABILITY:

By name and/or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and stored in locked cabinets, containers, or rooms.

RETENTION AND DISPOSAL:

Retained until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

For commissaries and clothing sales stores; Director, Engineering and

Services, Deputy Chief of Staff, Programs and Resources, Headquarters United States Air Force, Wash, DC, 20330; and Chief, Services Division at the installation having jurisdiction over commissary or clothing sales store. For all other check cashing facilities; Chief of the activity having the check cashing facility.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information received from check cashing sources.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F011 AFA A

SYSTEM NAME:

011 AFA A Class Committee Products

SYSTEM LOCATION:

United States Air Force Academy, USAF Academy CO 80840.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Academy cadets.

CATEGORIES OF RECORDS IN THE SYSTEM:

List of cadets academically deficient at progress reports; provides grades, military order of merit and other military and entrance data on cadets meeting committees; reports committee decisions and includes worksheets with coded recommendations to the Academy Board.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC Chapter 903, United States Air Force Academy.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Provides data on academically deficient cadets to Class Committees and Academy Board. Used by class committee to make recommendations to the Academy Board.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/ cabinets and on computer paper printouts.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know.

RETENTION AND DISPOSAL:

Destroy one year after graduation or when purpose has been served, whichever is sooner.

SYSTEM MANAGER(S) AND ADDRESS:

Dean of Faculty USAF Academy CO 80840.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Records are compiled from cadet grading and rating cycles.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under 5 USC 552a(k)(7). This exemption does not apply to records created in or after July 1980. For additional information, contact the System Manager.

F011 AFA B

SYSTEM NAME:

011 AFA B Faculty Biographical Sketch

SYSTEM LOCATION:

United States Air Force Academy, USAF Academy CO 80840.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Academy faculty officers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical information on education, job assignments, teaching experience, publications, membership in professional societies and exit interview.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC Chapter 903, UNITED STATES AIR FORCE ACADEMY.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used on a daily basis as the primary source for academic information on officers assigned to the faculty and as a sole source for academic information on officers who have left the faculty due to reassignment, separation, or retirement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/ cabinets.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are controlled by personnel screening. Stored in locked cabinets or rooms

RETENTION AND DISPOSAL:

Retained for 10 years after instructor's departure and then forwarded to the Library (Special Collections Branch), where it is microfilmed. The paper copy is destroyed and microfilm is retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Dean of the Faculty, USAF Academy, CO 80840.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the

individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information is obtained from individual and department head.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F011 AFSG A

SYSTEM NAME:

011 AFSG A High Level Inquiry File

SYSTEM LOCATION:

HQ USAF, Surgeon General, (SGPS), Washington, DC 20330.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who make high level inquiries regarding medical criteria for Air Force accession; separation; retirement; continued active duty; and medical waivers for flying duty.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical opinions generated as a result of high level inquiries regarding Air Force accession, separation, retirement, continued active duty, and medical waivers for flying duty.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used as a cross reference to determine if action has been taken in response to high level inquiry.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by Name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Surgeon General, USAF, Washington DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from medical institutions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F011 LLI A

SYSTEM NAME:

011 LLI A Congressional/Executive Inquiries

SYSTEM LOCATION:

Office of the Secretary of the Air Force, Washington DC 20330.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty and retired military personnel, present and former civilian employees, Air Force Reserve and Air National Guard personnel, Air Force Academy nominees/applicants and cadets, Senior and Junior Air Force Reserve Officers, dependents of military personnel, and anyone who has written to the President or a Member of Congress regarding an Air Force issue.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of applicable Congressional/Executive correspondence and Air Force replies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information is used as a reference base in the case of similar inquiries from other Members of Congress, in behalf of the same Air Force issue and/or follow-up by the same Member. Information may also be used by appropriate Air Force offices as a basis for corrective action and for statistical purposes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in card files and on aperture cards.

RETRIEVABILITY:

Filed by Name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties whi are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Current year plus 2 years of microfilm records will be retained in the office, then destroyed by tearing, shredding, macerating, pulping or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Legislative Liaison, Office of the Secretary of the Air Force, Headquarters United States Air Force, Washington DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and is published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Personnel Records. Congressional and Executive inquiries and information from Air Force offices and organizations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F030 AF LE A

SYSTEM NAME:

030 AF LE A Equal Opportunity in Off-Base Housing

SYSTEM LOCATION:

Each base level Housing Referral Office; Major Command (MAJCOM)/ Assistant for Family Housing Management. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military member, Department of Defense(DOD) civilian employee, and adult dependent acting for military member submitting a housing discrimination complaint.

CATEGORIES OF RECORDS IN THE SYSTEM:

Consists of Complaint in Discrimination of off base housing and supporting documents submitted to the base level housing referral office alleging a housing discrimination complaint, case files, reports of investigation, and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by; 42 USC 1982, Property rights of citizens; and 10 USC 133, Secretary of Defense: appointment; powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information copies held at base, MAJCOM, and Headquarters United States Air Force (HQ USAF) as a historical record of all actions taken in response to each housing discrimination complaint. Information used by Air Force officials, at all levels, to respond to Congressional, HUD, Department of Justice (DOJ), or related inquiries pertaining to the housing discrimination complaint. Original record sent to HUD with an information copy to DOJ for their action in support of existing laws.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/ cabinets.

RETRIEVABILITY:

By Installation and Name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Logistics and Engineering, Headquarters United States Air Force.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the Systems Manager. Individuals may contact agency officials at the respective base level housing referral office in order to exercise their rights under the Act.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Individuals may contact agency officials at the respective base level housing referral office in order to exercise their rights under the Act.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Individual's voluntary application, witnesses of alleged incident, and other sources pertinent to alledged incident.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under 5 U.S.C. 552a (k)(2). For additional information, contact the System Manager.

F030 AF LE B

SYSTEM NAME:

030 AF LE B Off-Base Housing Referral Service

SYSTEM LOCATION:

Base Level Housing Referral Offices; Major Command/DEHH. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military member, Department of Defense (DOD) civilian employee requesting off-base housing, and civilian landowner or agent listing facilities for rent.

CATEGORIES OF RECORDS IN THE SYSTEM:

Off-Base Housing Application, and Notification of Housing Selection. Data includes: name, grade, address, family composition, age, housing requirements, and housing selected. Detailed Sales/ Rental Listing. Form completed by civilian landowner or agent. Dataincludes: name, address, details on rentals listed, and nondiscriminatory assurances.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U S C 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to match housing desires with rentals listed. Used by base housing officials, military personnel and authorized civilians to locate housing matching needs/desires. Identifies type of housing selected by incoming personnel and used by base housing officials to monitor availability of off-base housing, housing selected, and individual's satisfaction with housing referral service provided. Referred to DOJ and HUD, if required by them in processing a housing discrimination complaint. Used by AF officials to respond to inquiries on individual member's housing situation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/ cabinets.

RETRIEVABILITY:

Filed by name and installation

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Logistics and Engineering, Headquarters United States Air Force.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Or individuals can contact the Housing Referral Office at the base at which they completed the applicable forms in order to exercise their rights under the Act.

RECORD ACCESS PROCEDURES:

Same procedures as for notification above.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Individual voluntary application.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F030 AF LE C

SYSTEM NAME:

030 AF LE C Base Housing Management

SYSTEM LOCATION:

Headquarters United States Air Force, Washington DC 20330. Headquarters of major commands and at all levels down to and including Air Force installations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Military members desiring base family housing and eligible Department of Defense (DOD) civilian employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application for andAssignment to Military Family Housing, contains the following data: name, address, rank, Social Security Number (SSN),service data, family composition, and other information such as health problems. Other supporting documents-quarters condition inspection reports, assignment orders, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to apply for family housing and provide information upon which eligibility can bedetermined. Used by base housing officials to respond to Congressional, InspectorGeneral, and other inquiries on an individual basis pertaining to family member's housing situation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/ cabinets, computer and computer output products.

RETRIEVABILITY:

Filed by Name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official dutieswho are properly screened and cleared forneed-to-know. Records are stored in locked cabinets or rooms. Records are controlled by personnel screening.

RETENTION AND DISPOSAL:

Advance applications are retained by losing activity and destroyed after six months. Applications received by gaining activities are destroyed one year after termination of quarters. Applications are destroyed by tearing, burning, pulping, shredding or macerating. Supporting records are destroyed when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Programs and Resources, Headquarters United States Air Force, Washington, DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Individuals may contact agency officials at the Base Housing Office at the installation at which he completed the applicable form or the installation which will be providing military family housing.

RECORD ACCESS PROCEDURES:

Same procedures as for notification above.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtain from individual's voluntary application.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F030 AF LE D

SYSTEM NAME:

030 AF LE D On/Off-Base Housing Records.

SYSTEM LOCATION:

Air Force installations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military members seeking advance applications for housing both incoming and outgoing.

CATEGORIES OF RECORDS IN THE SYSTEM:

Record contains Quarters Condition Inspection Report, Real Property Maintenance Request, and Application for and assignment to military housing.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 9775, Quarters assignment guidance.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To record data required to assign and terminate family housing, report noted deficiencies in area of housing occupants responsibility, status of waiting list, and listing of personnel occupying quarters.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, computer and computer output products and in card files.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties.

RETENTION AND DISPOSAL:

Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Logistics and Engineering, Headquarters United States Air Force, Washington DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Send full name.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information derived from member's Permanent Change of Station Orders, Quad Leaders reports, and any other information voluntarily given by each applicant.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F030 AF MP E

SYSTEM NAME:

030 AF MP E Drug Abuse Waiver Requests.

SYSTEM LOCATION:

Directorate of Student Resources, USAF Recruiting Service, Air Training Command, Randolph Air Force Base, Texas 78148 (ATC/RSS, Randolph AFB TX 78148); 3700 Personnel Processing Group, Lackland AFB, Texas 78236 (3700 PPG, Lackland AFB, Texas 78236); USAF Recruiting Service Detachment Headquarters; USAF Recruiting Service Offices; Deputy Chief of Staff, Education, Headquarters Air University, Maxwell AFB, Alabama 36112) (AU/ED, Maxwell AFB AL 36112); Directorate of Senior Programs, Headquarters Air Force Reserve Officer Training Corps (AFROTC), Maxwell AFB, Alabama 36112 (AFROTC/SD, Maxwell AFB, Alabama 36112); AFROTC Detachments; Directorate of Admissions and Registrar, United States Air Force Academy, USAF Academy, Colorado 80840 (USAFA/RR, USAF Academy, Colorado 80840);

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for enlistment or commissioning who have a history of pre-service drug abuse and who have requested a waiver of their disqualification.

CATEGORIES OF RECORDS IN THE SYSTEM:

A Copy of the USAF Drug Abuse Certificate and Drug Abuse Circumstances, Recommendation of Intermediate commands, and cover letter containing HQ USAF decision on waiver request are maintained

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 504, Persons not qualified.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This record is not released outside the Air Force. Records are maintained for future reference in the case of further inquiries relative to approval or disapproval of the request for waiver of pre-service drug abuse.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Filed by Name and Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in safes and locked cabinets or rooms.

RETENTION AND DISPOSAL:

After action on the request, the paper record is filed in secured file cabinets, retained for no more than six months, and destroyed by tearing into pieces.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Records maintained in the system are provided by either Air Training Command, Air University, or the USAF Academy.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F035 AF MP P

SYSTEM NAME:

035 AF MP P General Officer Personnel Data Systems

SYSTEM LOCATION:

Headquarters United States Air Force, Washington DC 20330; Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Retired Active Duty General Officers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Promotion board data; 'Career Brief' data/cards; Forms 11; photographs, biographies; retirement letters; dependent data; education data; promotion orders; assignment orders; demotion data; frocking letters; case studies; language data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC, Chapter 805, The Air Staff.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Individual queries; precedent actions; statistical analyses of historical nature; assignment nominations/worksheets; Congressional inquiries and responses; memorandums for record affecting actions taken on General Officers; career profiles; vacancy lists; array of General Officers by temporary/permanent grade and mandatory retirement data; seniority lists; retirement lists.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets/card files.

RETRIEVABILITY:

Most records are retrieved by last name and/or grade. Case studies, statistical analyses, promotion board results, Congressional inquiries and responses are retrieved by topic by year of action.

SAFEGUARDS:

Access to these records is given only to the Chief of Staff, Deputy Chief of

Staff (DCS)/Manpower and Personnel, Assistant for General Officer Matters, Chief of Air Force Reserve, Chief National Guard Bureau, and Rand Corporation, and the assigned officers/noncommissioned officers (NCOs) and civilian and clerical help, totaling approximately 20 people. Assistant for General Officer Matters (MPG), Manpower and Personnel Center/Records Maintenance Branch (MPC/DPMDRR) is the only office in the Air Force where this data could be maintained. Security procedures employed by MPG are equivalent to the security required for Confidential and Secret data.

RETENTION AND DISPOSAL:

Retired 4-star General Officer records are maintained indefinitely; Retired 1, 2 and 3-star General Officer records are retained for 3 years, reviewed to determine if there are any materials of historical value which warrant indefinite retention—if not, they are destroyed by tearing into pieces, shredding, pulping or macerating.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. An individual's full name, Social Security Number (SSN), and active duty grade will be needed to process written requests. An individual may visit the Pentagon, Room 4E212, The Office of the Assistant for General Officer Matters, to obtain the information. A requester must present Military Identification (ID) card when appearing in person and requesting information. When requesting personal information in writing, the requester must have request notarized.

RECORD ACCESS PROCEDURES:

An individual may obtain access to records by either writing Headquarters United States Air Force/Assistant for General Officer Matters (HQ USAF/MPG), The Pentagon, or by appearing in person and requesting the information. Most records will be released upon request; however, any record, the release of which is questionable in the view of the Assistant for General Officer Matters, will be cleared for release by the HQ USAF/DCS Manpower and Personnel before it is finally released to the individual. See Exemption.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Personnel Data Base; Member; Inspector General (IG) Investigations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under 5 USC 552a(k)(7). For additional information, contact the System Manager.

F035 AFA A

SYSTEM NAME:

035 AFA A Cadet Personnel Management System

SYSTEM LOCATION:

United States Air Force Academy, CO 80840.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The Air Force Academy Cadets.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Cadet Personnel Record (CPR) consisting of temporary and permanent forms and documents including the CPR-1 which contains Oath of allegiance, Cadet Acceptance Record, Statement of Consent, paternity, maternity, birth certificates; appointment orders; summer training orders; special orders; awards and decorations; requests for insurance; insurance program letters; applications for identification cards; training certificates; data for parachutist rating (LRA); individual jump records; aeronautical orders; records of personnel security investigation and clearance; statements of personal history; LPT scores; drug abuse certificates; small arms marksmanship training data; personnel data sheet; cadet biographical data; cadet personnel information; statements of travel; Academy/Commandant Board actions; Class Committee actions; legal reexamination letters; course completion/retake letters; cadet performance reports; basic cadet evaluation reports; letters of appreciation; Commandant's letters for placement, continuation, removal from aptitude, conditional probation; academic probation notifications; final clearances (graduates); reports of separation from active duty; records of disenrollment from officer candidate type training; (2) Offenses; referrals of offenses, awards and punishments; disciplinary board actions; squadron punishment lists; (3) special orders; (4) Cadet aptitude briefing; (5) Evidence and statements gathered by the Honor Committee which have been used to determine if accused cadets were guilty of violating the Honor Code and includes a summary of the Honor Board proceedings; (6) Course exams; answer sheets; flight mission grade sheets; (7) Prior summer training completion records of programs attended; current summer assignments and training program preferences; (8) Mandatory nonacademic appointments; (9) Board case files (proceedings, inquiries, investigations); (10) Outgoing clearance forms to assist cadet in outprocessing from the Academy.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012 Secretary of the Air Force: powers and duties; delegation by; 10 USC 9349 Cadets: organization; service; instruction.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) For use in controlling and regulating cadet activity at the USAF Academy; (2) To report offenses committed by cadets, to reflect Commandant Disciplinary Board actions and conduct probationary cases to Commandant of Cadets for his approval, to provide a format for reporting completion of punishments; (3) To announce cadet rank and position (duty) to be held. Cadet Rank Cards are used to input the necessary data; (4) Monthly aptitude briefings completed by both cadets and AOCs are used when a cadet is referred to the Commandant's Board; (5) Case files are used by Cadet Honor Representatives to investigate possible violations of the Honor Code and as evidence at Cadet Honor Hearings. The case summaries are used for statistical record keeping and training in each squadron of Honor Committee activities; (6) Exams and grade sheets are used by assigned officers and secretarial staff of the Navigation Division to resolve any questions of validity of cadet grades and as an evaluation tool to measure cadet performance; (7) Maintain record of summer training accomplishments and assign cadets to summer training program; (8) Schedule cadets for mandatory nonacademic appointments during free periods; (9) Used as a case file in board (disenrollment) actions initiated against cadets. Reviewed by the Office of the Secretary of the Air Force in making final decisions on disenrollment action. Reviewed by

Superintendent, USAF Academy in making a decision to refer to Board of Officers; (10) Accomplish required outprocessing actions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets, on computer and computer output products, file folders, and notebooks/binders.

RETRIEVABILITY:

Filed by name, social security number, other identification number or system identifier, military service number.

SAFEGUARDS:

Records are stored in locked cabinets, rooms, or safes. Computer records are controlled by computer system software. Manual records are accessed by custodians or persons who are responsible for servicing the record system in performance of official duties.

RETENTION AND DISPOSAL:

(1) Stored for one year after graduation, then merged with the personnel records maintained by Registrar, Cadet Records Section, USAF Academy, CO 80840; (2) Destroyed 30 days after final action. Upon disenrollment or graduation, forwarded to Registrar, where they are microfilmed one year after graduation and retained permanently. Paper copy then destroyed; (3) Destroyed after 30 days after final action. Retained in office files for one year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning; (4) Maintained as part of personnel record (Permanent). Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning; (5) Information is retained for one year in the case of first class cadets and six months in the case of underclass cadets, or until graduation or elimination from training, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. AF Form 525 will be submitted for summaries; (6) All material retained for 30 days after the end of the semester in which administered except for final exam answer sheets which are destroyed after one yar. All material to be destroyed is boxed and pulverized in accordance with the aforementioned time frame; (7) Retained in office files until graduation or elimination from training, then destroyed by tearing into pieces, shredding, pulping, macerating or burning; (8) Retained in office files for one year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning; (9) & (10) Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, maceration or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Commandant of Cadets, USAF Academy, CO 80840.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the Systems Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

RECORD SOURCE CATEGORIES:

Information obtained from Commandant of Cadets Personnel. Information obtained from individual. Information obtained from coach. Information obtained from Educational Institutions. Information obtained from automated system interfaces. Information obtained from source documents (such as reports) prepared on behalf of the AF by boards, committees, panels, auditors, etc. Information obtained from civilian instructors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F035 AFA B

SYSTEM NAME:

035 AFA B Master Cadet Personnel Record (Active/Historical)

SYSTEM LOCATION:

United States Air Force Academy, USAF Academy CO 80840.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former Air Force Academy cadets.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Active: Letter of acceptance and appointment, high school record, admissions test scores, physical aptitude examination score, evidence of participation in high school extracurricular activities and medical qualification status, personnel data records, letter of recommendation and evaluation, and other personnel data to include address, telephone number, Social Security Number, population or ethnic group selections, height, weight, citizenship, statements of reasons for attending the Academy and preparatory school and college records, if applicable. Invitation to travel letter, transfer/validation credit information, Academy Board action, computer generated products containing academic grade information, parental addresses by state roster and verification of independent studies, computer listings of minority students by population or ethnic group, listings of foreign cadets, special order assigning cadets to the Cadet Wing; Cadet Wing, squadron and class alpha rosters, and matriculation rosters. (2) Historical: Selected special orders (appointment, assignment, awards, separation, etc.), letters and records of resignation/separation actions, details of Honor violation (if applicable), selected letters to or from parents, Permanent Record Card, decisions of committees, boards, and investigations (if applicable), high school and college transcripts, College Entrance Examination Board test scores, personnel data records and biographical data, computer generated products reflecting academic grade information, graduation data, majors awarded, types of degrees conferred, and documents pertaining to awards, academic and military honors.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 9331, Establishment; superintendent: faculty.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Active: These records are used to record applications and appointments to the Academy and to record the academic, athletic and military training histories of cadets who attend the Academy. They provide a means of checking the performance of each cadet, recording all grades for completed courses, computing grade point averages, identifying deficiencies, and insuring all requirements for graduation are met. Grade information is released to cadets and to Academy instructors, counselors and advisors in assisting cadets in selecting majors, determining academic requirements for specific majors, and scheduling courses. Computer listings are also used by faculty and staff members to readily

identify cadets by squadron, class, and population or ethnic group. Class Committees and the Academy Board use these records to evaluate cadet performance and to determine eligibility for continuance at the Academy. Academic and personnel information is released to nominating officials and to the Western Athletic Association (WAC) officials on cadets participating in WAC-sponsored intercollegiate athletics. (2) Historical: These records form a complete history of each cadet who attended the Academy. They record the academic, athletic, and military performance of each cadet. Files are reviewed by organizations within the Department of Defense in determining qualifications for assignments, by Air Force Reserve Officer Training Corps (AFROTC), recruiting and medical services units in judging qualifications and eligibility for training programs and for military service, by the Air Force Manpower and Personnel Center (AFMPC) to confirm or recreate a military service record. Files are reviewed by investigative agencies, such as the Federal Bureau of Investigation (FBI), Office of Special Investigations (OSI), and Defense Investigative Service (DIS) in conducting background investigations for security clearances and by the Veterans Administration (VA) in determining eligibility for benefits.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, on computer and computer output products and on microfilm.

RETRIEVABILITY:

By name and Social Security Number.

SAFEGUARDS:

Records are accessed by custodian of the record system, by person(s) responsible for servicing the record system in performance of their official duties, who are properly screened and cleared for need-to-know. Records are stored in locked file containers, cabinets, vaults or rooms, and in computerized data storage devices controlled by computer system software.

RETENTION AND DISPOSAL:

Temporary documents are destroyed 90 days after disenrollment or graduation. Permanent documents are microfilmed one year after graduation. The microfilm is retained permanently by the Registrar. The paper copy of the Permanent Record Card is forwarded to the Washington National Record Center, Washington, DC 20409. Paper copy of all other permanent record is destroyed after 6 years.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Admissions and Registrar USAF Academy Co 80840.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individuals can obtain assistance from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information is obtained from interviews with the individual and from forms the individual fills out during the admissions process. Information is also obtained from other educational institutions; grades and tests, and examinations taken at the Academy, from his school and college transcripts, and from actions taken by the Academy Board.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under 5 U.S.C. 552a(k)(7). For additional information, contact the System Manager.

F035 AFA C

SYSTEM NAME:

035 AFA C Prospective Instructor Files

SYSTEM LOCATION:

United States Air Force Academy, USAF Academy CO 80840.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military personnel applying for instructor duty with the faculty.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copy of Application for Instructor Duty, college transcripts, past Officer Effectiveness Reports, Officer Uniform Assignment Brief which contains information such as prior assignment information, aeronautical rating information, general personnel data including security clearance, date of birth, marital status, promotion dates; correspondence between individual and department, evaluations on individual's suitability and record of personal interview.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 9331, Establishment; Superintendent; faculty.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by Dean of Faculty, Commandant of Cadets, Commander of Preparatory School and Director of Atheletics to determine qualification, availability and location of potential instructors.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets and in locked cabinets or rooms, and controlled by personnel screening.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Personnel, USAF Academy, CO 80840.Dean of the Faculty.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from the individual, previous employers,

educational institutions and source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F035 AFOSI C

SYSTEM NAME:

035 AFOSI C Informational Personnel Records.

SYSTEM LOCATION:

Air Force Office of Special Investigations, Washington DC 20314.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All fraud, criminal, polygraph, technical services, and counterintelligence trained Air Force Office of Special Investigations (AFOSI) and USAF Defense Investigative Service (DIS) special agents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records for each special agent listing investigative schools attended and experience level attained, polygraph examiner training and performance records, records indicating personnel who have volunteered for the Counterintelligence Program and special agents in the program, and technical services training records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by the Director of Fraud Investigations to program personnel for advanced fraud training and to identify personnel for assignment as fraud specialists, used by the Director of Criminal Investigations to evaluate polygraph examiner performance and to select polygraph examiners. Also used to determine polygraph examiner qualification for retention or termination as a certified Department of Defense polygraph examiner, used by the Director of Special Operations to program personnel for counterintelligence training and to identify volunteers for training in that area, and used by the Director of Technical Services to program personnel for advanced technical training and to identify personnel for assignment as technical services specialists.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and in card files.

RETRIEVABILITY:

Filed by Name and Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in security file containers/cabinets, safes and in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Air Force Office of Special Investigations Washington, DC 20314

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Data is extracted from individual training and military/ civilian personnel records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F035 AFOSI D

SYSTEM NAME:

035 AFOSI D Internal Personnel Data System

SYSTEM LOCATION:

Air Force Office of Special Investigations, Washington DC 20314.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All personnel assigned to the Air Force Office of Special Investigations (AFOSI) and all Air Force military personnel assigned to the Defense Investigative Service (DIS).

CATEGORIES OF RECORDS IN THE SYSTEM:

Records reflecting Unit authorized positions and Unit assigned personnel.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by personnel specialists in all assignment and manning actions to monitor special agent experience level at each operating installation and to publish strength accounting reports. Used by the Director of Fraud Investigations to manage fraud coded positions and personnel assigned to fraud operations, and to program personnel for advanced fraud training. Used by the Director of Criminal Investigations to manage criminal coded positions, to identify personnel for assignment as criminal specialists and to program personnel for advanced criminal training. Used by the Director of Special Operations to manage counterintelligence and counterespionage positions, to identify personnel for assignment as specialists in these areas and to program personnel for advanced training in these areas. Used by Budget and Accounting Specialists for tracking anticipated personnel travel funds associated with permanent change of station moves. Used by the Commander for locator purposes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer and computer output products.

RETRIEVABILITY:

Filed by name or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are

stored in security file containers/ cabinets.

RETENTION AND DISPOSAL:

Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Air Force Office of Special Investigations, Washington, DC 20314.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Data is extracted from individual military/civilian personnel records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F035 AFRES A

SYSTEM NAME:

035 AFRES A Personnel Interview Record.

SYSTEM LOCATION:

Reserve units located on Andrews AFB DC 20331; Barksdale AFB LA 71110; Bergstrom AFB TX 78743; Carswell AFB TX 76217; Charleston AFB SC 29404; Dobbins AFB GA 30069; Dover AFB DE 19902; Eglin AF Aux Fld 3 FL 32542; Gen Billy Mitchell Fld WI 53207; Greater Pittsburgh IAP PA 15231; Grissom AFB IN 46971; Hill AFB UT 84056; Homestead AFB FL 33039; Kessler AFB MS 39534; Kelly AFB TX 78241; March AFB CA 92508; Mather AFB CA 95655; Maxwell AFB AL 36112; McChord AFB WA 98438; McGuire AFB NJ 08641; Minneapolis-St Paul IAP MN 55450; Naval Air Station, New Orleans LA 70146; Niagra Falls IAP NY 14304; Norton AFB CA 92409; O'Hare Air Reserve Forces Facility IL 60666; Petterson AFB CO 80914; Richards-Gebaur AFB MO 64030; Rickenbacker ANG Base OH 43217; Scott AFB IL 62225; Selfridge ANG Base MI 48045; Tinker AFB OK 73145; Travis AFB CA 94535; Westover AFB MA 01022; Willow Grove Air Reserve Facility PA 19090; Wright-Patterson AFB OH 45433; and Youngstown Municiple Aprt OH 44473.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All USAF Reserve non prior service & prior service applicants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Data on military and civilian history for interviewing and tentatively qualifying a prospect.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used for interviewing.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on roll microfilm.

RETRIEVABILITY:

Filed by name and Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system.

RETENTION AND DISPOSAL:

Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

HQ AFRES/RS, Robins AFB, GA 31098

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F035 AFRES B

SYSTEM NAME:

035 AFRES B Recruiters Automated Program (RAP)

SYSTEM LOCATION:

HQ Air Force Reserve, Robins AFB, GA 31098

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force officers and enlisted personnel from all military services entering the Air Force Reserve; individuals tested and processed for Air Force Reserve enlistment; potential Air Force Reserve enlistees qualified through the Armed Services Vocational Aptitude Battery (ASVAB) high school testing program; Applicants for Officer Training School to fill vacancies in the Air Force Reserve program; Air Force personnel on Reserve recruiting duty.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records for high school seniors who are ASVAB tested and meet the basic Air Force Reserve enlistment criteria showing name, mailing address, test scores, and location of high school. Enlistment processing records for prior service Air Force and other military services showing name, SSN, mailing address, ZIP Code, educational level, processing date, recruiter ID code, lead source code, and other personal data such as date of birth, sex, phone number, number of years of prior service, MOS or AFSC held, duty AFSC, and date of enlistment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 503, Enlistments: recruiting campaigns.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To furnish leads to the field recruiters derived from the high school ASVAB testing program, and from various advertising campaigns, and other sources of leads. To track leads to ensure follow-up by recruiters. To provide recruiter with management tools to follow-up on leads. To determine which sources of leads produce the greatest number of accessions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on computer and computer output products.

RETRIEVABILITY:

Filed by name, SSN, or nonpersonal identifier.

SAFEGUARDS:

Records are accessed through computer run scheduling arrangements by persons responsible for servicing the system in performance of their official duties. Computer paper printouts are distributed only to authorized users. Records are physically safeguarded by controlled access to the computer facility, secured buildings, and locked rooms.

RETENTION AND DISPOSAL:

Enlistment processing records are retained until no longer needed for recruiting purposes; recruiter records are retained for one year after individual is removed from recruiter production status. These retentions are built into the computer system program with automatic software controlled deletions from the machine-readable record.

SYSTEM MANAGER(S) AND ADDRESS:

HQ AFRES/RS, Robins AFB, GA 31098.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Requests must contain full name and current mailing address.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

The source of all records in the system are from automated system interfaces and individuals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 AFRES C

SYSTEM NAME:

035 AFRES C Reserve Manning Report

SYSTEM LOCATION:

4 AF/RS, McClellan AFB, CA 95652; 10 AF/RS, Bergstrom AFB TX 78743; and 14 AF/RS, Dobbins AFB GA 30060OB.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Manning specialists.

CATEGORIES OF RECORDS IN THE SYSTEM:

Data pertaining to nonprior and prior enlistments and accessions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Standardize statistical data.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties.

RETENTION AND DISPOSAL:

Retained in office files for 2 years after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

HQ AFRES/RS, Robins AFB GA 31098.

1 Requests from individuals should be addressed to the parent Reserve Numbered Air Force NAF/RS.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the parent NAF/RS.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Department of Defense (DD) Form 4, Department of Defense Form 1644 Interservice Transfer.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F035 ARPC I

SYSTEM NAME:

035 ARPC I Requests for Discharge from the Air Force Reserve

SYSTEM LOCATION:

Headquarters Air Force Reserve, Robins Air Force Base, GA 31098.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Reserve personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications and other documents related to discharge or separation by reason of dependency or hardship or for the convenience of the government.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 1074, Personnel records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To track each action taken until computer action is complete, reservist is informed and file copy is in Master Personnel Record.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name and Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are protected by guards and stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files for one year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. HQ AFRES forwards copies of actions resulting in discharge to the Air Reserve Personnel Center, Denver CO 80280 for inclusion in the individual's Master Personnel Record Group.

SYSTEM MANAGER(S) AND ADDRESS:

Vice Commander, Headquarters Air Force Reserve, Robins Air Force Base, GA 31098.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the Chief, Personnel Actions Division, HQ AFRES/DPAA, Robins Air Force Base, GA 31098 (AFRES unit assigned personnel). Written requests for information should contain full name, SSN, current mailing address and, if known, the case (control) number on correspondence received from ARPC or HQ AFRES. Records may be reviewed in Headquarters Air Force Reserve, DPAA, Building 210, Robins Air Force Base, GA between 8:00 a.m. and 4:45 p.m. on normal workdays. Visitors wishing to see their records should provide a current Reserve identification card and/or drivers license and some verbal information that could verify the person's identification.

RECORD ACCESS PROCEDURES:

Individuals can obtain assistance in gaining access from AFRES/DPAA, Bldg 210, HQ AFRES, Robins Air Force Base, GA 31098, telephone (912) 926-3107.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information from source documents prepared on behalf of the Personnel Data System or supplied by reservist.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F035 HC A

SYSTEM NAME:

035 HC A Chaplain Information Sheet

SYSTEM LOCATION:

Office Chief of Chaplains, Headquarters United States Air Force, Washington DC 20330.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty Chaplains.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, addresses, phone numbers of Chaplain and two next of kin; permanent home address of record, name and mailing address of denominational endorsing agency

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8032, General duties, and 8067(g), Designation: officers to perform certain professional functions Chaplains.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by the Chief of Chaplains as single manager in maintaining pastoral contact with Chaplains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in note books/binders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Chaplains, Headquarters United States Air Force. Washington DC 20330

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Obtained from individual Chaplain.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F035 HC B

SYSTEM NAME:

035 HC B Chaplain Personnel Record

SYSTEM LOCATION:

Office of the Chief of Chaplains, Headquarters United States Air Force, Washington DC 20330.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty and retired, and Air Force Reserve Chaplains.

CATEGORIES OF RECORDS IN THE SYSTEM:

Chronological record of permanent change of station, promotion dates of rank, service schools attended, permanent address, martial status, number of dependents, name, grade, SSN/service number, Air Force Specialty Code, religious denomination, date of birth, release date.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8032, General duties, and 8067(g), Designation: officers to perform certain professional functions Chaplains.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To manageme the Active Duty Chaplain force, to location Marriage and Baptism Records through former Active Duty assignment records in cases of separated Chaplains when requested by former Parishoners.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in card files.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Chaplains, Headquarters United States Air Force, Washington DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from automated system interfaces, from Assignment Action Documents and from individual member

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F035 HC C

SYSTEM NAME:

035 HC C Chaplain Personnel Action Folder.

SYSTEM LOCATION:

Headquarters United States Air Force, Washington DC 20330.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active Duty Chaplains.

CATEGORIES OF RECORDS IN THE SYSTEM:

This is a grouping of information for each United States Air Force (USAF) chaplain. Items of information in these folders included the following: current official photograph, current career brief, summary of education, Officer Career Objective Statement, Chaplain Services Personnel Evaluation, copy of chaplain's Ecclesiastical Endorsement, copy of Appointment orders, copy of initial Extended Active Duty Orders, Application for Extended Active Duty with the United States Air Force USAF, Application for Appointment as Reserve of the Air Force, student information sheets prepared while attending USAF Chaplain School Courses, copies of assignment action documents, correspondence between the chaplains and Headquarters USAF/Chief of Chaplains and requests for special personnel actions and dispositions curtailments, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by and 8067(g), Designation: officers to perform certain professional functions Chaplains.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The documents maintained in these folders are utilized by the Resource Manager in Headquarters United States Air Force/Chief of Chaplains, Personnel Division for assignment selection of chaplains. Because of the necessity to insure an equitable denominational spread of chaplains on an installation and to insure the proper placement of specially qualified chaplains, it is necessary to maintain current information on each chaplain. Records may be disclosed to endorsing agents concerning the qualifications of their chaplains for continued duty as representatives of their denominations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/ cabinets.

RETRIEVABILITY:

Filed by Name.

SAFEGUARDS:

Records are accessed by custodian of the record system, and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained for 2 years after separation then destroyed by macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Chaplains, Headquarters United States Air Force.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the Systems Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the Systems Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager.

RECORD SOURCE CATEGORIES:

Member's personnel action requests/ preferences and information retrieved from the Advanced Personnel Data System (ADPS).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F035 MP A

SYSTEM NAME:

035 MP A Files on General Officers and Colonels Assigned to General Officer Position

SYSTEM LOCATION:

Headquarters United States Air Force, Washington DC 20330.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Reserve General Officers and Reserve Colonels assigned to General Officer positions.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains resume of civilian and military experience, correspondence and orders, records Reserve participation, and listings with personnel data. Data includes: name, grade, Social Security Number (SSN), date of birth, current address, telephone numbers, education, professional military education, and civilian occupation. An assignment folder is also used for initial review for a GO position. This file contains a copy of the Air Force (AF) Form 11, last five Officer Effectiveness Reports (OERs). When reviewed by the Chief of Air Force Reserve, a record of the personal interview and assignment recommendations are included with the file.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These documents are maintained for initial assignments, reassignment and participation of officers assigned to Reserve GO positions, and to determine qualifications for initial and continued assignment to Reserve GO positions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/ cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and person(s) responsible for servicing the record system in performance of their official duties who are properly screened and

cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Files are maintained until no longer required for actions relating to the Reserve GO program and are then destroyed by tearing to pieces, shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force.

NOTIFICATION PROCEDURE:

See exemption.

RECORD ACCESS PROCEDURES:

See exemption.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Air Force forms, military personnel records, and correspondence generated or received in Personnel Division, Air Force Reserve, Headquarters United States Air Force (HQ USAF/REP).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under 5 USC 552a(k)(7). For additional information, contact the System Manager.

F035 MPC U

SYSTEM NAME:

035 MPC U Separation Case Files (Officer and Airman)

SYSTEM LOCATION:

Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150. National Personnel Records Center, Military Personnel Records, 9700 Page Boulevard, St. Louis, MO 63132. Duplicate copies may be retained temporarily at each level requiring review or action on the case.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Officers and airmen who have requested voluntary separation, who have been recommended or identified for involuntary separation under 10 USC 617(b) (including Reserve officers as a matter of Air Force Policy). Individuals who, under P.L. 95-202, Sec 401, have requested review of service performed with the Army Air Force or U.S. Air Force to determine if such service was equivalent to 'active duty' for purposes of laws administered by the Veteran's Administration.

CATEGORIES OF RECORDS IN THE SYSTEM:

Member's application, letter from commander initiating separation action with indorsements, supporting documents, or documents pertaining to actions authorized by 10 USC 617(b) and record of final action taken. If congressional inquiry involved, request for information and reply provided is also filed by those offices involved.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC Chapter 59, Separations and 38 USC, Veteran's Benefits, 10 USC 617(b), Reports of selection boards; as implemented by Air Force Regulation 36-2, Administrative Discharge Procedures (Unfitness, Unacceptable Conduct, or in the Interest of National Security); 36-3, Administrative Discharge Procedures (Substandard Performance of Duty); 36-12, Administrative Separation of Commissioned Officers and Warrant Officers of the Air Force; and 39-10, Separation Upon Expiration of Term of Service for Convenience of Government, Minority, Dependency and Hardships.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The original document is retained as a permanent record of action taken. The duplicate copies are retained to provide a temporary record of actions being taken for responding to inquiries concerning the status of a particular case. Occasionally, a case file is retained as a precedence file for later reference in revising separation directives.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Filed by name. At National Personnel Records Center. Cases and correspondence initiated under the provisions of 10 USC 617(b) are filed with Master Personnel Records. Transitory copies are filed alphabetically by general subject categories, i.e., involuntary officer separations, involuntary airman separations, etc.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms. File cabinets and power files are secured during non-duty hours.

RETENTION AND DISPOSAL:

Master copies are retained permanently. Temporary files are disposed of within three years after final action is taken. Files are disposed of by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/Manpower and Personnel for Military Personnel, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Member's application, correspondence from unit commander's initiating separation action pertaining to actions provided for in 10 USC 617(b).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F035 RE A

SYSTEM NAME:

035 RE A Personnel Files on Statutory Tour Officers

SYSTEM LOCATION:

Personnel Division, Office of Air Force Reserve (AF/REP) HQ USAF Washington DC 20330. Air Force Military Personnel Center (DPMYR), Randolph AFB TX 78148 (USAFR and ANG Personnel).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

United States Air Force Reserve Officers applying for or selected for assignment as statutory tour officer.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application for extended active duty with United States Air Force, military career brief, resume of prior military and civilian experience, officer effectiveness report overall rating, correspondence and special orders relative to the tour.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 265, Policies and regulations: participation of reserve officers in preparation and administration.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Documentary support of tour applications; approval/disapproval; initiation, termination and extension of statutory tours; historical reference not to exceed two years after tour termination; used by Air Force Manpower and Personnel Center/ Assistant for Personnel Plans, Programs and Analysis, Reserve Forces Division (AFMPC/DPMYR); used for AFMPC/ DPMYR as record of approval/ disapproval, authority to issue Department of the Air Force Special Orders (DAFSOs); by Office of the Air Force Reserve (AF/RE), Director Air National Guard, National Guard Bureau (NGB/CF) and SAF/MRR as record of approval/disapproval.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by Name.

SAFEGUARDS:

Records are accessed by authorized personnel who are properly screened and cleared for need-to-know and stored in security file containers/ cabinets.

RETENTION AND DISPOSAL:

Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Air Force Reserve, Headquarters United States Air Force, Washington DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Include full name and Social Security Number. Individuals may visit the Personnel Division, Office of Air Force Reserve, Pentagon, Washington DC 20330. Military identification card or driver's license required for identification.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F035 RE B

SYSTEM NAME:

035 RE B Files on Reserve General Officers; Colonels Assigned to General Officer Positions

SYSTEM LOCATION:

Headquarters United States Air Force, Washington DC 20330 and Personnel Division Office of Air Force Reserve.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

United States Air Force Reserve General Officers and Colonels assigned to General Officer positions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Resume of prior military and civilian experience, correspondence and Special Orders, Record of Reserve participation, personnel data listings, last five officer effectiveness reports, record of personal interview and assignment recommendation made by Chief, Air Force Reserve.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To determine qualifications for initial/ continued assignment to General Officer positions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by Name.

SAFEGUARDS:

Records are accessed by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in security file containers/ cabinets.

RETENTION AND DISPOSAL:

Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Air Force Reserve, Headquarters United States Air Force, Washington DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Full name Social Security Number must be provided. Individuals may visit the Personnel Division Office of Air Force Reserve, Pentagon, Washington DC 20330.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from source documents such as reports from individual officers, and from personnel records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F035 SAFCB A

SYSTEM NAME:

035 SAFCB A Military Records Processed by the Air Force Correction Board

SYSTEM LOCATION:

Office of the Secretary of the Air Force, Washington DC 20330; Washington National Records Center, Suitland, MD.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All members or former members of the Air Force; Army Air Forces, Air Corps, United States Army; Air Service, United States Navy; and Aviation Section, Signal Corps, United States Army, who have applied to the Air Force Board for the Correction of Military Records (SAFCB)

CATEGORIES OF RECORDS IN THE SYSTEM:

Case folders consist of applications to SAFCB, with supporting evidence, staff advisory opinions and final determinations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC Chapter 79 - Correction of Military Records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Case folders are permanent records of all applications and are subjected to review only by an applicant and/or his designated representative, the SAFCB and the Secretary of the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Records are accessed by authorized personnel who are properly screened and cleared for need-to-know.

RETENTION AND DISPOSAL:

Case folders are maintained within SAFCB until conclusion of a calendar year, then permanently retired to Washington National Records Center, Suitland, MD.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Secretary, SAFCB, Headquarters United States Air Force, Washington DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Request for review must provide applicant's full name, service number, and SAFCB docket number (if known). Reviews are held in Room 5C860, the Pentagon, between the hours of 0900 to 1600. An applicant must present a personal identification document. A designated representative must present a letter of authorization from the applicant.

RECORD ACCESS PROCEDURES:

Request for access may be obtained by letter addressed to the Executive Secretary, SAFCB, Headquarters United States Air Force, Washington DC 20330.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Forece Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information is obtained from applicants, Air Force offices and/or other Government agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F035 SAFPA A

SYSTEM NAME:

035 SAFPA A Mobilization Augmentee Training Folders

SYSTEM LOCATION:

Office for Resources and Projects, Secretary of the Air Force Office of Public Affairs (SAF/PAX),Room 5C941, The Pentagon, Washington DC 20330; Washington National Records Center, Washington, DC 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the Air Force Reserve assigned to Mobilization Augmentation (MA) positions within the Secretary of the Air Force Office of Public Affairs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications for mobilization augmentee status, training, or assignment; orders to training or active duty; copies of effectiveness reports, training completion certificates; pertinent correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Serves as a training record for, 'Participation and Assignment Within the Reserve Components;' used by supervisory personnel to determine eligibility for promotion or reassignment.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in safes.

RETENTION AND DISPOSAL:

Retained in office files for two years after the individual completes or discontinues a training course, then retired to Washington National Records Center, Washington DC 20409,and, after 28 additional years, they are then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of public Affairs, Office of the Secretary of the Air Force (SAF/PA), Washington DC 20330

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the Reserve Forces Liaison Officer, Office for Resources and Projects, Secretary of the Air Force Office of Public Affairs (SAF/PAX), Room 5C941, The Pentagon, Washington, DC 20330, telephone (202) 697-6240. Individuals inquiring by mail should furnish their name and service number. Individuals making personal visits to the Office for Resources and Projects should have in their possession a valid identification card (DD Form 2AF(RES).

RECORD ACCESS PROCEDURES:

Individuals can obtain assistance in gaining access by contacting the Reserve Forces Liaison Officer, Office for Resources and Projects, Secretary of the Air Force Office of public Affairs (SAF/PAX) Washington DC, 20330.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F035 SAFPC B

SYSTEM NAME:

035 SAFPC B Air Force Discharge Review Board Original Case Files

SYSTEM LOCATION:

National Personnel Records Center, Military Personnel Records, 9700 Page Boulevard, St. Louis, MO 63132.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Former Air Force Personnel who submit applications for review of discharge/ separation/dismissal.

CATEGORIES OF RECORDS IN THE SYSTEM:

Original copy of summary of board proceedings, individual's application form, order appointing Discharge Review Board members, summary of applicant's military personnel record, correspondence between applicant and Discharge Review Board and magnetic recording of hearing (if required).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 1553, Review of discharge or dismissal.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Documents are created and placed in the applicant's military personnel file as a permanent record of the Board's action in the performance of its statutory function. Files are used by the Air Force Manpower and Personnel Center to create new discharge documents if required and to notify the applicant of the outcome of his case.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and recording.

RETRIEVABILITY:

Filed by name, Social Security Number (SSN) or Military Service Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms and controlled by personnel screening.

RETENTION AND DISPOSAL:

Retained permanently at the National Personnel Records Center (Military Personnel Records), 9700 Page Blvd, St Louis, MO 63132.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Secretary of the Air Force Personnel Council, Washington, DC 20030.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Written requests should contain the full name service number and Social Security Number of the requester. Personal visits may be made to room 920, Commonwealth Building, 1300 Wilson Blvd, Arlington, VA. Visiters must supply full name, service number, Social Security Number and some form of identification such as driver's license, credit cards, etc.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Individual's military personnel record.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F035 SAFPC C

SYSTEM NAME:

035 SAFPC C Air Force Discharge Review Board Voting Cards

SYSTEM LOCATION:

Office of the Secretary of the Air Force, Washington DC 20330.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Former Air Force Personnel who submit applications for review of discharge/separation/dismissal.

CATEGORIES OF RECORDS IN THE SYSTEM:

Voting cards.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 1553, Review of Discharge or Dismissal.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by the Air Force Discharge Review Board to record votes of board members on individual cases.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in card files.

RETRIEVABILITY:

Filed by name, Social Security Number (SSN) or Military Service Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and, by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files for one year from date of hearing and then destroyed by burning or shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Secretary of the Air Force Personnel Council, Washington, DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Written requests should contain the full name and Military Service Number or Social Security Number of the requester. Personal visits may be made to room 920, Commonwealth Building, 1300 Wilson Blvd, Arlington, VA. Personal visitors must supply full name and Military Service Number or Social Security Number and some form of identification such as driver's license, credit cards, etc.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Individual's military personnel record.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F035 SAFPC D

SYSTEM NAME:

035 SAFPC D Air Force Discharge Review Board Case Control/Locator Cards

SYSTEM LOCATION:

Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Former Air Force personnel who submit applications for review of discharge/separation/dismissal.

CATEGORIES OF RECORDS IN THE SYSTEM:

Case control/locator cards.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 1553, Review of discharge or dismissal.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by personnel at the Air Force Manpower and Personnel Center who are responsible for servicing the Air Force Discharge Review Board to keep track of cases and to record the daily activity relating to each case.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in card files.

RETRIEVABILITY:

Filed by name, Social Security Number (SSN) or Military Service Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are controlled by personnel screening.

RETENTION AND DISPOSAL:

Retained permanently at the Air Force Manpower and Personnel Center.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Secretary of the Air Force Personnel Council, Washington, DC 20330.

NOTIFICATION PROCEDURE:

Written requests should be addressed to: AFMPC/DPMDRAl, Randolph Air Force Base TX 78150. Such requests should contain individual's full name and Military Service Number or Social Security Number. Personal visits may be made to the Air Force Manpower and Personnel Center, Systems Management Division, Randolph Air Force Base, TX. Visitors must supply their full name and Military Service Number or Social Security Number and provide some form of identification such as driver's license or credit card.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Individual's application form and military personnel record.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F035 SAFPC A

SYSTEM NAME:

035 SAFPC A Air Force Discharge Review Board Retain Files

SYSTEM LOCATION:

Office of the Secretary of the Air Force, Washington DC 20330.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Former Air Force Personnel who submit applications for review of discharge/separation/dismissal.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of correspondence between applicant and Discharge Review Board; duplicates of summary of board proceedings and summary of applicant's military record; and miscellaneous control records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 1553, Review of discharge or dismissal.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by the Air Force Discharge Review Board as a temporary reference file.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name, Social Security Number (SSN) or Military Service Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in safes.

RETENTION AND DISPOSAL:

Retained in office files for one year from date of hearing and then destroyed by burning or shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Secretary of the Air Force Personnel Council, Washington, DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Written requests should contain the full name, service number and Social Security Number of the requester. Personal visits may be made to room 920, Commonwealth Building, 1300 Wilson Blvd, Arlington, VA. Personal vistors must supply full name, service number, Social Security Number and some form of identification such as driver's license.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and

appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Individual's military personnel record.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F040 AA A

SYSTEM NAME:

040 AA A Civilian Personnel Files

SYSTEM LOCATION:

Office of the Secretary of the Air Force, Washington DC 20330.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former civilains, statutories, consultants, and Summer Hires employed in the Office of the Secretary of the Air Force only.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employment applications and records; award recommendations; Personnel actions; Position descriptions, training; Process sheets.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To provide information and services to employees and offices within the Office of the Secretary of the Air Force

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, note books/ binders and card files.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms. Access controlled by Assistant Manager and to Restricted authorized personnel.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Assistant to The Secretary of the Air Force.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Rgulation 12-35.

RECORD SOURCE CATEGORIES:

Information from Air Force Civilian Personnel Offices and from financial institutions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F040 AF MP A

SYSTEM NAME:

040 AF MP A Civilian Personnel Occupational and Suitability Employment Examinations

SYSTEM LOCATION:

At Civilian Personnel Offices only. Official mailing addressea re in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employment applicants and Air Force civilian employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Replies to occupational and suitability inquiries, testing and examination material.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC Chapter 33 - Examination, Certification and Appointment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To verify and determine qualifications and suitability for appointment and promotion to Civil Service positions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by authorized personnel who are properly screened and cleared for need-to-know.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force.

NOTIFICATION PROCEDURE:

Contact Civilian Personnel Offices filling vacant positions.

RECORD ACCESS PROCEDURES:

Contact Civilian Personnel Offices filling vacant positions. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from previous employers, educational institutions, automated system interfaces, police and investigating officers, state or local governments, or corporations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under 5 USC 552a(k)(5). For additional information, contact the System Manager.

F040 AF MP B

SYSTEM NAME:

040 AF MP B Civilian Personnel Test Score Record

SYSTEM LOCATION:

At Civilian Personnel Offices only. Official mailing addresses are in the

Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force civilian employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Test or examination scores.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC Chapter 33 - Examination, Certification and Appointment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by Civilian Personnel Office personnel and management personnel to determine qualification for appointment or promotion.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in card files, and computer and computer output products.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in security file containers/ cabinets.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff, Manpower and Personnel, Headquarters United States Air Force.

NOTIFICATION PROCEDURE:

Contact the Civilian Personnel Office at employing activity maintaining individuals record.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Managerand are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F040 AF MP C

SYSTEM NAME:

040 AF MPC C Job Element Questionnaires for Civilian Trades and Labor Occupations

SYSTEM LOCATION:

At Civilian Personnel Offices only. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force civilian employees and former employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Questionnaires prepared by civilian employees to reflect skills and knowledges for wage grade positions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC Chapter 33 - Examination, Certification and Appointment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Inspection and verification of personnel actions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/ cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are controlled by personnel screening.

RETENTION AND DISPOSAL:

Retained in office files for two years after annual cut-off, then destoyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force.

NOTIFICATION PROCEDURE:

Contact the Civilian Personnel Office at Air Force Base maintaining record.

RECORD ACCESS PROCEDURES:

Contact the Civilian Personnel Office at Air Force Base maintaining record. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F040 AF MP D

SYSTEM NAME:

040 AF MP D Civilian Personnel Applicant Supply Files

SYSTEM LOCATION:

At servicing Civilian Personnel Offices at activities and installations, and Directorates of Civilian Personnal at Headquarters, United States Air Force Major Commands Separate Operating Agencies and independent offices. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Experience and training qualifications record of applicants.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC Chapter 33 - Examination, Certification and Appointment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To identify and refer qualified applicants to management officials to staff vacant positions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and on computer paper printouts.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets.

RETENTION AND DISPOSAL:

If employed, records are placed in Official Personnel Folder. If not employed, retained until no longer needed, then destroyed by tearing into pieces, shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force.

NOTIFICATION PROCEDURE:

Contact the Civilian Personnel Office maintaining individuals application.

RECORD ACCESS PROCEDURES:

Contact the Civilian Personnel Office maintaining applications. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from automated system interfaces.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F040 AF MP E

SYSTEM NAME:

040 AF MP E Training and Employee Development Record Systems

SYSTEM LOCATION:

Consolidated Civilian Personnel Offices only. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force civilian employees, full-time and part-time, U.S. citizens and foreign national direct hires receiving training supported by the Federal Government, paid from appropriated funds. Military personnel may be included in the automated training information system, and non-appropriated funded personnel may be included in some of the installation manual records.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employees identification, Social Security Number, occupational status (series, grade level, and supervisory status), course identification, course length, category and purpose of training received, date on which training was completed, associated costs, pre-post test results, et al. Input documents for the systems include, but are not limited to completed automated forms, training reports, authorization and record, keypunched cards. The manual files are maintained in paper folders containing employee's registration and/or record of training documents. Under the Apprentice on-the-job Training Program, and similar trainee intake program manual and automated records are maintained, reflecting information pertaining to subject employee's identification, date of birth, entrance date to program, dates and nature of personnel actions which occurred during fiscal year, student progress, and statistical data which effects the numbers of apprentices in training as of a given date. Nomination forms and documents (non-automated) for centrally-administered education and training programs are maintained. The manual files contain the candidate's nomination documents, training request, enrollment and registration and other documents related to training. Manual files are maintained at Headquarter's levels and Air Force installations regarding courses conducted on their premises, or for which they sponsor, listing such things as completion dates, and course participants. Additionally, manual files are typically found at the field activities containing information regarding an employee's supervisory status, an indication as to whether or not he/she has participated in supervisory training. Files are often maintained regarding an employee's certification/recertification or demonstrated proficiency in one or more skills areas; an activity-wide annual training plan should also be maintained, as well as individual training plans. Files are also maintained regarding professional licenses held by installation personnel.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 4103, Establishment of training programs; 4115, Collection of training information; 4118, Regulations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Officials and employees in the performance of their official duties related to the management of the civilian employee training programs, the design, development, maintenance and operation of the manual and automated system of record keeping and reporting; the screening and selection of candidates for centrally administered programs; and administration of grievance, appeals, complaints, and litigation involving the disclosure of records of the training programs. Representatives of the Office of Personnel Management (OPM) on matters relating to the inspection, survey, audit or evaluation of civilian training programs, or such other matters under the jurisdiction of OPM. Officials and employees of other departments and agencies of the Executive Branch of government upon request in the performance of their official duties related to the screening and selection of candidates for programs sponsored by their organization. Representatives of the United States Department of Labor on matters relating to the inspection, survey, audit or evaluation of the Defense Components Apprentice training programs or on other such matters under the jurisdiction of the Labor Department. Representatives of the Veterans Administration on matters relating to the inspection, survey, audit or evaluation of the Defense Components apprentice and on-the-job training programs. The Computer Systems Group Contractor (or other such contractor) and its employees for the purpose of card punch recording of data from employee training documents. A duly appointed Hearing Examiner or Arbitrator (an employee of another Federal Agency) for the purpose of conducting a hearing in connection with an employee's grievance involving the disclosure of the records of the training programs. An arbitrator who is given a contract pursuant to a negotiated labor agreement to hear an employee's grievance involving the disclosure of the records of the Defense Component's Training and Employee Development Record system. Representatives of Education Institutions which have been awarded contracts to conduct training for Defense Components create and

maintain individual training records of those who attend.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and on computer and computer output products.

RETRIEVABILITY:

Filed by name or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by authorized personnel who are properly screened and cleared for need-to-know.

RETENTION AND DISPOSAL:

For the apprentice programs the computer magnetic tapes are permanent. Manual records are maintained on a fiscal year basis and are retained for varying periods from 1 to 5 fiscal years. For the centrally-administered programs, files on selected candidates are maintained for five years (from date selection process is completed). Records of non-selected candidates are retained only for that period of time sufficient to permit appropriate review (usually less than 60 days). Some installation records are maintained for varying periods. Destroyed by tearing into pieces, shredding, pulping, macerating or burining.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Civilian Personnel or comparable official of the Civilian Personnel Office servicing Air Force activity/installation.

NOTIFICATION PROCEDURE:

Request by correspondence should be addressed to offices of civilian personnel, headquarters or field activities employing civilians. The letter should contain the full name and Social Security Number of the requester and signature. Proof of identification for visits will consist of a building pass, identification badge, driver's license, or by other types of identification bearing an employee picture and signature.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Employee's official personnel record folder, supervisory appraisals and evaluations, training records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F040 AF MP F

SYSTEM NAME:

040 AF MP F Civilian Personnel Performance Awards and Outstanding Performance Ratings

SYSTEM LOCATION:

Directorate of Civilian Personnel, Headquarters United States Air Force, Washington, DC 20330; major commands and major subordinate commands; headquarters of the major commands and separate operating agencies and at all levels down to and including Air Force installations, and Air National Guard activities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force civilian employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files include recommendations for outetanding performance ratings and rating forms. Also include recommendations for cash or honorary performance awards; nominations for awards sponsored by non-Federal organizations; records of Award Committee Actions and correspondence; annual reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 4301 through 4308 cover performance ratings. 5 USC 4501 through 4506 cover performance awards.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Files are originated when a manager or supervisor recommends an outstanding performance rating or a cash or honorary performance award in recognition of superior achievement. Case files are reviewed by local award program manager in Civilian Personnel Office and are referred to the Local Incentive Awards Committee for review. If the Committee approves, the case is recommended to the approval authority who authorizes granting the award. Individual name files are retained for one year after close of year in which final action was taken. Records of Committee actions are retained for three years. Copy of approved award is filed in employee's official personnel file.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know.

RETENTION AND DISPOSAL:

Retained for two years after end of year in which the case was closed, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force, and Executive Secretary, Air Force Incentive Awards Board, Directorate of Civilian Personnel, Headquarters US Air Force, Washington, DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Sources of information for awards are supervisors' records of performance, and employees' official personnel folders from which Social Security Number, job title, and grade are obtained.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F040 AF MP G

SYSTEM NAME:

040AF MP G Labor Management Relations Records Systems

SYSTEM LOCATION:

Headquarters United States Air Force, Washington DC 20330 and headquarters of the major commands and separate operating agencies, and consolidated civilian personnel offices. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian employees paid from appropriated and non-appropriated funds, who are involved in a grievance which has been referred to an arbitrator for resolution; civilian employees involved in the filing of an Unfair Labor Practice complaint which has been referred to the Assistant Secretary of Labor-Management Relations; union officials; union stewards; and representatives.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information pertaining to a specific arbitration case or specific Unfair Labor Practice field activities maintain manual roster of local union officials and union stewards.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 11491, as amended 'Labor-Management Relations in the Federal Service.'

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used for administration/ implementation of arbitration awards, interpretation of the Executive Order through third party case decisions; National Consultation and other dealing with the recognized unions by representatives of the Office of Personnel Management on matters relating to the inspection, survey, audit, or evaluation of Civilian Personnel Management Programs by the Comptroller General or any of his authorized representatives, in the course of the performance of duties of the General Accounting Office relating to the Labor Management Relations Program and by a duly appointed hearing examiner or arbitrator for the purpose of conducting a hearing in connection with an employee's grievance.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Manual records are retrieved by case subject, case number, and/or individual employee names.

SAFEGUARDS:

Records are accessed by authorized personnel who are properly screened and cleared for need-to-know.

RETENTION AND DISPOSAL:

Case files are permanently maintained. Union official rosters are normally destroyed after a new roster has been established.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force.

NOTIFICATION PROCEDURE:

Request by correspondence should be addressed to civilian personnel office of the Air Force activity/installation. The letter should contain the full name, Social Security Number, and signature of the requester. The individual may visit the activity at which he or she is employed.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Servicing civilian personnel offices, arbitrator's offices, Office of the Assistant Secretary of Labor for Labor Management Relations, and Unions headquarters offices.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F040 AF MP H

SYSTEM NAME:

040 AF MP H Employee Assistance Program Case Record Systems

SYSTEM LOCATION:

Consolidated civilian personnel offices. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices. Copies are maintained by supervisors and other Air Force installation offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All civilian employees in appropriated and non-appropriated fund activities who are referred by management for, or voluntarily request, counselling assistance.

CATEGORIES OF RECORDS IN THE SYSTEM:

Case records on employees which are maintained by counselors, supervisors, civilian personnel offices and Social Action offices and consist of information on condition, current status, and progress of employees or dependents who have alcohol, drug, emotional, or other job performance problems.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Drug Abuse Office and Treatment Act of 1972, as amended by Public Law 93-282 (21 USC 1175); Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, as amended by Public Law 93-282 (42 USC 4582); Subchapter A of Chapter I, Title 42, Code of Federal Regulations; 5 USC Chapter 43, Performance Rating.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by the counselor in the execution of his/her counselling function as it applies to the individual employee. With specific written authority of the employee, selected information may be provided to and used by other counselors or medical personnel, research personnel, employers, representatives such as legal counsel, and to other agencies or individuals when disclosure is to the employee's benefit, such as for processing retirement applications.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by authorized personnel who are properly screened

and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Records are purged of identifying information within five years after termination of counselling or destroyed when they are no longer useful. Destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force or comparable official of the Civilian Personnel Office servicing the Air Force activity/installation.

NOTIFICATION PROCEDURE:

Request by correspondence should be addressed to servicing civilian personnel office or to the appropriate Employee Assistance Program administrator at the activity. The letter should contain the full name and signature of the requester and the approximate period of time, by date, during which the case record was developed.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the same address as above. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Counselors, other officials, individuals or practitioners, and other agencies both in and outside of Government.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F040 AF MP I

SYSTEM NAME:

040 AF MP I Supervisor's Record of Civilian Employee

SYSTEM LOCATION:

All Air Force installations and offices. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Air Force civilian employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files include a record for each civilian employee assigned to the supervisor; debt letters; letters of caution, warning, admonishment, reprimand, and similar disciplinary papers; employee career appraisal prepared for employees in Civilian Career Program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Supervision of civilian employees.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and note books/binders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know.

RETENTION AND DISPOSAL:

Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information from employee, personnel office, and supervisor.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F040 AF NAFI A

SYSTEM NAME:

040 AF NAFI A Non-Appropriated Fund (NAF) Civilian Personnel Records

SYSTEM LOCATION:

Civilian personnel offices. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices. AFMPC/DPMS, Randolph Air Force Base, TX.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force civilian employees paid from nonappropriated funds.

CATEGORIES OF RECORDS IN THE SYSTEM:

Life cycle personnel actions and related documents related to employment and pay of NAF employees including documents related to employees benefits.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To document and record personnel action on individual employees and to determine pay and other benefit entitlements.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/ cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by authorized personnel who are properly screened and cleared for need-to-know.

RETENTION AND DISPOSAL:

Retired to National Personnel Records Center upon separation of individual from employment.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force.

NOTIFICATION PROCEDURE:

Contact the servicing Civilian personnel office. Identifying information is required to satisfy custodian of record.

RECORD ACCESS PROCEDURES:

Contact the servicing Civilian personnel office maintaining record. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from previous employers, financial institutions, educational institutions, police and investigating officers, personnel documents requesting and appointing and paying individual, and from documents related to designation of benefits and beneficiaries.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F040 AFRES A

SYSTEM NAME:

040 AFRES A Air Reserve Technician (ART) Officer Selection Folders

SYSTEM LOCATION:

Headquarters Air Force Reserve/DPC Robins Air Force Base, GA 31098.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All civilian employees who apply and are eligible for promotion to ART officer positions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Qualification statement, training and testing record, appraisal and ranking records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To evaluate and rank individuals for merit promotion to ART officer level positions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Personnel, Headquarters Air Force Reserve.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

information obtained from official personnel folders, supervisory appraisals, tests, evaluations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F040 ASG A

SYSTEM NAME:

040 ASG A Civilian Pay-Personnel-Manpower (Paperman)

SYSTEM LOCATION:

1947th Administrative Support Group (HQ 1947 ASG/DPD), Washington, DC 20330.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Pending, current, and former Air Force appropriated fund civilian employees assigned to HQ USAF civilian certain personnel of Air Force intelligence service, Air Force Communications Command, National Guard Bureau, US Air Force Manpower and Personnel Center and Air Force Data Services Center in the Washington, DC area.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employment information including position authorization position, personnel date, suspense information, position control information, projected information and historical information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC Chapter 33, Examination, Selection and Placement.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To provide system support to HQ US Air Force and other serviced activities in that part of Office of Personnel Management and Air Force requirements to maintain a personnel management and records keeping system that pertains to evaluation, authorization and position control, Position management, staffing skills inventory, career management, training, retirement, Employee Services, rights and benefits and the suspensing and processing of personnel actions; to provide individual records and reports to HQ, US Air Force and the Civil Service Commission; to provide information required by the Office of Personnel Management for the transfer between USAF and other federal activities; to provide reports of military reserve status to other Armed Services for contingency planning; and to provide information to employee unions as prescribed by negotiated contract.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer and computer output products.

RETRIEVABILITY:

Normally data are retrieved by use of nonpersonal information such as organizational unit, type Of employment, occupation, functional area or other workforce characteristics, or name, Social Security Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and

cleared for need-to-know. Records are protected by guards, and controlled by personnel screening and computer system software.

RETENTION AND DISPOSAL:

Coding Forms, punch cards, on-line terminal message sheets and system quality control products are destroyed after use by tearing into pieces, shredding, pulping, macerating or burning; master personnel records for pending employees are transferred to the active file upon appointment of the employee; master personnel records for active employees are transferred to the separated employee history file where they are retained for two years subsequent to separation and then destroyed by degaussing. Computer printouts are retained until they are microfilmed, then destroyed by tearing into pieces, shredding, pulping, macerating or burning. Microforms are retained until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, macerating, burning or chemical dissolution of the images. The Notification of Personnel Action, Standard Form 50 is disposed of as directed by the Office of Personnel Management. Work files and records, such as the employee career brief, position survey worksheet, retention register, alphabetical and Social Security Number locator files, and personnel and position control register are destroyed after use by tearing into pieces, shredding, pulping, macerating, or burning. Worksheets pertaining to qualifications and retention registers are disposed of as directed by the OPM. Transitory files such as the pending file and recovery files are destroyed after use by degaussing. Files and records retrieved through general retrieval systems are destroyed after use by tearing into pieces, shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Civilian Personnel Officer, 1947th ASG/DPC, Washington, DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information received from the employee and the Office of Personnel Management's Official Personnel Folder

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F045 AFRES A

SYSTEM NAME:

045 AFRES A Reserve Medical Service Corps Officer Appointments

SYSTEM LOCATION:

Headquarters Air Force Reserve (AFRES) Robins Air Force Base, GA 31098.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Reserve medical service officer applicants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Status and actions taken during the processing of applications for appointment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 591, Reserve components: qualifications; 2104, Advanced Training; eligibility for; 2107 Financial Assistance Program for Specially Selected Members; 8067, Designation: officers to perform certain professional functions; and 9411, Establishment: purpose.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Provides a ready reference and status of all applications and the actions accomplished during the processing of each.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in card files/folders.

RETRIEVABILITY:

Filed by Name.

SAFEGUARDS:

Records are accessed by commanders of medical centers and hospitals and by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Command Surgeon, HQ AFRES, Robins AFB, GA 31098.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the Systems Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the Systems Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F05 AFRES A

SYSTEM NAME:

05 AFRES A Undergraduate Pilot and Navigator Training.

SYSTEM LOCATION:

Headquarters Air Force Reserve (AFRES), Robins Air Force Base GA 31098.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Personnel selected for Officer Training School, undergraduate pilot training, initial navigator training.

CATEGORIES OF RECORDS IN THE SYSTEM:

Data contained in standard AF military personnel file.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To provide class number reporting date class starting date graduation date and unit of assignment upon completion of training.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in card files.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff Personnel, HQ AFRES, Robins AFB GA 31098.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F050 AFA A

SYSTEM NAME:

050 AFA A Military Performance Average

SYSTEM LOCATION:

United States Air Force Academy, USAF Academy CO 80840.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Academy cadets.

CATEGORIES OF RECORDS IN THE SYSTEM:

Rating forms used to compute Military Performance Average (MPA). Performance reports, rating forms and listings remaining from the superseded Military, Leadership and Basic Cadet Order of Merit System.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC Chapter 903, United States Air Force Academy.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to determine the semester and cumulative MPA for USAFA Cadets as an input to the overall performance average. Identifies cadets for the Commandant's List and deficient cadets to be placed on aptitude probation. Remaining records from the Military, Leadership, and Basic Cadet Training Order of Merit are used to record attendance and course grades, and to compute cadet standings under that system. Military performance information is released to the nominating official upon request in order to evaluate nominating procedures.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in note books/binders, on computer and computer output products.

RETRIEVABILITY:

Filed by name, Cadet Number, and Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms and on computer storage devices protected by computer system software.

RETENTION AND DISPOSAL:

All MPA forms prepared by coaches, Officers in Charge (OICs), academic instructors and Air Officers Commanding (AOCs) are destroyed one year after close of rating cycle. MPA forms prepared by cadets are transferred to the Cadet Personnel Record where they are destroyed 90 days after graduation. Military, Leadership, and Basic Cadet Training Order of Merit records are destroyed 90 days after graduation and none of these will exist after July 1983. Destruction is by tearing in pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Commandant of Cadets, USAF Academy CO 80840.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

MPA - Information is obtained from coaches, OICs of cadet intercollegiate and extracurricular clubs and teams, academic instructors, AOCs, and the cadet chain of command. Military, Leadership, and Basic Cadet Training Order of Merit System - See exemption.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

MPA-None. Military, Leadership, and Basic Cadet Training Order of Merit System-Parts may be exempt under 5 U.S.C. 552a(k)(7). For additional information, contact the System Manager. This exemption will be withdrawn after 31 July 1983.

F050 AFA B

SYSTEM NAME:

050 AFA B Faculty Academic Records.

SYSTEM LOCATION:

United States Air Force Academy CO 80840.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

AF Academy cadets and graduates.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Cadet information card. (2) Listings of all cadet academic schedules including final examination schedules; rosters of cadets, by course, taking final examinations; extra instruction or hospital instruction schedules; rosters of cadets requesting permission to enroll in independent study, or authorized to drop or add course; listings of course rosters prepared for current semester showing individual's enrollment by course section; reports of reasons for cadet absences or lateness for academic causes; listings of cadets improperly registered in classes. (3) Themes, research papers, graded recitations, grade reviews, other graded work.

laboratory reports, case studies, final and midterm examinations, turnout examinations, validation examinations, and graded reviews of courses in which no final examination is given. (4) Copies of academic schedules and grades, requests for academic waivers, documentation of academic difficulty, plans outlining courses that must be taken in order to graduate. (5) Graduate record examination scores, orders of merit scores, cumulative GPA scores, and panel commentaries. (6) Various cadet grade reports, cards and sheets used in auditing and distributing academic grades.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC Chapter 903, UNITED STATES AIR FORCE ACADEMY.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Individual cards on cadets listing name, date of birth, SSN, admission examination scores, course grades and instructor evaluations concerning aptitude, attitude, and performance are used by faculty to evaluate potential cadets for commissioned service and to evaluate potential cadets as future instructors. (2) Provides both cadets and instructors of schedules of classes and classrooms and an explanation for any deviation from these schedules and is used by the cadets and Dean of the Faculty staff to provide locator and scheduling information and to provide course offering information, to change current and future semester course enrollments, to reschedule cadets and establish criteria for resectioning cadets in their courses during the academic year. (3) Used in assigning grade scores to monitor progress of cadets throughout the academic year and to determine grades. (4) Used for counseling cadets on academic performance by the counselors and advisors. Assists the cadet in planning an academic program that will satisfy graduation requirements. (5) Used in the applications of graduates competing for the various fellowships and other various graduate scholarships by Graduate Scholarship Committee. (6) Used in auditing and distributing academic grades and are complied to determine a letter grade for each student in each course.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in card files, on computer magnetic tapes and printouts, and in file folders/notebooks/binders/visible files.

RETRIEVABILITY:

By name or Social Security Number of cadet.

SAFEGUARDS:

Records are accessed by authorized person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked safes, file containers, cabinets or rooms and on computer storage devices protected by computer storage devices.

RETENTION AND DISPOSAL:

(1) Destroy after purpose has been served or 10 years after graudation, whichever is sooner. (2) Destroy at end of academic year or upon completed action, whichever is sooner. (3) Destroy 3 months after end of the semester in which administered or at the discretion of the course director, return to the cadet for retention as reference and study materials. (4) Same as (2) above. (5) Destroy when no longer needed. (6) Destroy when superseded or when purpose has been served, whichever is sooner.

SYSTEM MANAGER(S) AND ADDRESS:

Dean of Faculty, Director of Athletics, and Commandant of Cadets, United States Air Force Academy, CO 80840.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from source documents such as reports prepared on behalf of the AF by boards, committees, panels, auditors, and educational institutions, individual, instructors, automated system interfaces from course requisites.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F050 AFA C

SYSTEM NAME:

050 AFA C USAF Academy Athletic Records

SYSTEM LOCATION:

United States Air Force Academy, CO 80840.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Academy applicants, nominees and cadets; members of coaches intercollegiate booster clubs; users of Academy athletic facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Applicants/Nominees: High school transcript, athletic questionnaire, correspondence, test scores. (2) Cadets: (a) Athletic performance tests, (b) Counseling record, (c) Intramural record, (d) Physical education record, (e) Physical fitness test, (f) Sports publicity information. (3) Physical fitness and endurance research. (4) Reservation forms and mailing lists.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC Chapter 903, United States Air Force Academy.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Varify and evaluate athletic and academic background for possible appointment to the Air Force Academy. (2) Monitor cadet participation and progress in physical education/intramural programs; for news releases. (3) Establish standards and improve athletic programs. (4) Contact booster club members and individuals who reserve Academy athletic facilities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, card files, computer and computer output products, and microfiche.

RETRIEVABILITY:

By name and/or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official

duties. Records are stored in security file containers/cabinets, locked rooms and on computer storage devices protected by computer system software..

RETENTION AND DISPOSAL:

(1) Destroy one year after graduation or one year after cadet would have graduated. (2) (a) Destroy 30 days after end of academic year. (b) Destroy upon graduation. (c) Destroy after 1 year. (d) Destroy when no longer needed. (e) Destroy after four academic years. (f) Destroy when no longer needed. (3) Destroy when no longer needed. (4) Destroy when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Athletics, USAF Academy, Co. 80840.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Individual applicant, nominee or cadet; coaches, instructors and squadron athletic officers; educational institutions; the media; officers in charge of individual sports; Registrar's Office, and Curriculum and Scheduling Office; Stone Human Performance Laboratory; DOD agencies; individuals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F050 SAFPA A

SYSTEM NAME:

050 SAFPA A Graduates of Air Force Short Course in Communication (Oklahoma University)

SYSTEM LOCATION:

Academic Detachment, Secretary of the Air Force Office of Public Affairs (SAF/PAOL), 780 Van Vleet Oval, Room 334, Norman, OK 73069.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are scheduled to attend, are attending, or have attended the Air Force Short Course in Communication at the University of Oklahoma.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, current active duty grade, and Social Security Number; class dates, copies of orders; copy of application to the University of Oklahoma; copies of transcripts from prior education; copies of final grades in the Short Course in Communication.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Provides the Academic Detachment Liaison Non-Commissioned Officer in Charge and the Chief, Office for Resources and Projects, Secretary of the Air Force Office of Public Affairs (SAF/PAX) with historical background on the conduct of the course; serves as a ready reference for students to verify or resolve questions concerning their attendance at the Short Course.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in safes.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Public Affairs, Office of the Secretary of the Air Force (SAF/PA).

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the Academic Detachment Liaison Non-Commissioned Officer (SAF/PAOL), 780 Van Vleet Oval, Room 334, University of Oklahoma, Norman, OK 73069. Telephone: (405) 325-1804.

RECORD ACCESS PROCEDURES:

Individuals can obtain assistance from the Academic Detachment Liaison Non-Commissioned Officer or the Chief, Office for Resources and Projects, Secretary of the Air Force Office of Public Affairs (SAF/PAX), Washington DC 20330.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from educational institutions, especially the Office of Admissions and Records, University of Oklahoma; Information obtained from source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F050 SAFPA B

SYSTEM NAME:

050 SAFPA B Information Officer Short Course Eligibility File

SYSTEM LOCATION:

Academic Detachment, Secretary of the Air Force Office of Public Affairs (SAF/PAOL), 780 Van Vleet Oval, Room 334, Norman, OK 73069.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty Air Force Public Affairs Officers in the grades of 2nd Lieutenant through Colonel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Brief service history (including current grade and duty location), educational background, and information on previous attendance at the Air Force Short Course in Communication.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by the Public Affairs Career Management Staff Officer, Air Force Manpower and Personnel Center (AFMPC/DPMROS4D), Randolph Air Force Base, TX 78150, and by the Chief, Office for Resources and Projects, Secretary of the Air Force Office of Public Affairs (SAF/PAX), Washington DC 20330, to determine eligibility of Public Affairs Officers to attend future classes in the Air Force Short Course in Communication.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in card files.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Public Affairs, Office of the Secretary of the Air Force (SAF/OI).

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the Academic Detachment Liaison Non-Commissioned Officer (SAF/PAOL), 780 Van Vleet Oval, Room 334, University of OK, Norman, OK 73069. Telephone: (405) 325-1804.

RECORD ACCESS PROCEDURES:

Individuals can obtain assistance from the Academic Detachment Liaison Non-Commissioned Officer or from the Chief, Office for Resources and Projects, Secretary of the Air Force Office of Public Affairs, addresses as given.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Data extracted from surveys of all Public Affairs Officers provided by major commands and separate operating agencies on all assigned Public Affairs Officers. Updated annually.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F050 TAC A

SYSTEM NAME:

050 TAC A Student Record File

SYSTEM LOCATION:

Headquarters Tactical Air Command (TAC) Non-Commissioned Officer (NCO) Academy, Bergstrom Air Force Base, TX 78743.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All active duty enlisted military personnel assigned to the academy.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual student evaluation record.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to monitor the academic progress of Academy students and as a history file.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in card files.

RETRIEVABILITY:

Filed by class and by name.

SAFEGUARDS:

Records are stored in security file containers/cabinets.

RETENTION AND DISPOSAL:

Retained in office files for 10 years, then destroyed by tearing into pieces, shredding, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Education, TAC NCO Academy, Bergstrom AFB TX 78743.

NOTIFICATION PROCEDURE:

Contact Commandant, TAC NCO Academy, Bergstrom AFB TX 78743 for assistance.

RECORD ACCESS PROCEDURES:

Contact Commandant, TAC NCO Academy, Bergstrom AFB TX 78743 for assistance.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from automated system interfaces and from student performance evaluations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F053 AFA A

SYSTEM NAME:

053 AFA A Educational Research Data Base

SYSTEM LOCATION:

United States Air Force Academy, USAF Academy, CO 80840.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active, retired and separated Air Force officers who received their commissions through the USAF Academy.

CATEGORIES OF RECORDS IN THE SYSTEM:

High school, college and USAF career information including military performance, academic performance, certain medical, disciplinary and personal facts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To provide readily available information on Academy graduates for use by the faculty and staff to complete various analyses and inquiries concerning how Academy graduates are competing with their contemporaries.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer magnetic tapes.

RETRIEVABILITY:

Filed by name and by Social Security Number and date of birth.

SAFEGUARDS:

Records are accessed by custodian of the record system, and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Admissions and Registrar, United States Air Force Academy, CO 80840.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from educational institutions, medical institutions, automated system interfaces, and source documents.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F053 AFA B

SYSTEM NAME:

053 AFA B Preparatory School Records

SYSTEM LOCATION:

United States Air Force Academy, CO 80840.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Preparatory School Students.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains Social Security Number, admissions data including college board test scores and uniform size, academic performance, counseling, disenrollment, and physical fitness information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC Chapter 903, United States Air Force Academy 8012.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data is used to measure student performance, progress and potential, for counseling purposes and for possible disciplinary or disenrollment action. Information contained on the record card consisting of grade, performance, and personal information pertaining to the student is used to provide transcripts when requested, to inform parents/guardians concerning student placement on academic advisement or probation and other pertinent information as required, when authorized by the cadet, and used by Preparatory School administrative personnel for management purposes such as emergency data, i.e. blood type, etc. Physical fitness test scores are furnished to the Registrar's Office for use in verification when considering student for nomination to the USAF Academy.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders card files, and on computer and computer output products.

RETRIEVABILITY:

Filed by name, year of enrollment and Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties,and stored in locked cabinets or rooms and computer storage devices are protected by computer system software.

RETENTION AND DISPOSAL:

Forms and other records for administration of the Preparatory School such as Student Enrollment Questionnaires, Military Training Worksheets, Instructor's Comments, Instructor Grade Sheets, Physical Fitness Program, Report of Offense, Medical Status Reports, Flight Evaluations, Sign In/Out Registers are destroyed at the end of the academic year or when purpose has been served, whichever is sooner. Correspondence and forms in the student folder documenting academic history and related activities are destroyed 1 year after graduation or when student would have graduated. The Student Records Card is retained at the USAF Academy for 30 years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Preparatory School, USAF Academy, CO 80840.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information from the academic departments within Preparatory School, based on performance of students, Preparatory School Commander, from tests administered to students, from student.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F053 AFA C

SYSTEM NAME:

053 AFA C Admissions and Registrar Records

SYSTEM LOCATION:

At United States Air Force Academy, CO 80840.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Academy nominees/ appointees, cadets, graduates and Air Force Reserve Officers not on active duty.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1)All data used in the candidate selection process for the USAF Academy. Includes high school records, admissions test scores, physical aptitude examination scores, high school extra curricular activities, medical qualification status, personal data records, letters of recommendation, address, phone number, Social Security Number, race, height, weight, citizenship, statement of reasons for attending Academy, nomination, and Preparatory School or college record if applicable. (2) Minority Affairs retention counseling record. (3) Service academies precandidate questionnaries, computerized report by congressional districts. (4) Pertinent information on assigned Liaison Officers, reports of individual Liaison Officer activity and copies of general correspondence. (5) Grade and quality point averages, course grade distributions, general and academic orders of merit, military dependents on merit lists, squadron assignments. (6) USAFA Preparatory School computer listings, selection data on new classes, medical qualification at entry, cadet high school rank and class size, fourth class squadron assignments, special rosters with all scores

(acceptees, declinations, minorities, recruited athletes, and Preparatory School), rosters from biographical data sheets (Protestant, Catholic, Jewish, and other religions, military parents, USAFA Preparatory School graduates, other Preparatory School graduates, Civil Air Patrol, former ROTC members, Boy Scouts, Girl Scouts, Camp fire Girls, cadets whose fathers are general officers, former Boys State, Girls State, and Boys Nation delegates and cadets with private pilot licenses), computer listings of high school activities and general information, admissions computer listings (all candidates, qualified candidates, selectees, athletes, minorities, ex-cadets and state status reports), and related data. (7) Combined information from above to Air Force Reserve Officer Training Corps. (8) Candidate Evaluation Records, Liaison Officer Evaluations, letters of evaluation from high school or colleges, and drug abuse certificates.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC Chapter 903, United States Air Force Academy.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Records are used by Admissions Office, selection panels, Academy Board, Athletic Department and Preparatory School personnel for selection of cadets to attend the Preparatory School and USAF Academy, to evaluate candidates for recommendation for civilian preparatory school scholarships, and to form the nucleus of the cadet record for candidates selected to attend the Academy. (2) Used by Minority Affairs Office for counseling and improving the retention of minority candidates. (3) Used by Admissions Office to prepare evaluation of candidates' potential for submission to Members of Congress and to schedule for medical examinations. Liaison Officers and advise persons interested in the Academy of the name, address, and of their nearest Liasion Officer. (5) Used to evaluate cadet academic and military achievement and to coordinate statistics relating to cadet strength and attrition. (6) Used to evaluate selection procedures of AF Academy cadets, to assure that criteria for entering cadets are met and to procure various biographical information on incoming cadets for press releases. (7) Used by Air Force Reserve Officer Training Corps (AFROTC) for possible AFROTC scholarship participation. (8) Same as (1) above.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, computer and computer output products, microform and notebooks/binders.

RETRIEVABILITY:

By name and/or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms, safes or vaults and on computer storage devices protected by computer system software, and controlled by visitor registers.

RETENTION AND DISPOSAL:

(1) Records on candidates who are appointed are forwarded to Cadet Exams and Records to be included in the Master Cadet Personnel Records. Records on candidates who are not appointed are destroyed after one year. (2) Destroyed one year after graduation. (3) Same as (1) above. (4) Destroyed upon separation or reassignment. (5) Destroyed when no longer needed. (6) Same as (1) and (5) above. (7) Destroyed after one year. (8) Same as (1) and (2) above.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Admissions and Registrar, USAF Academy, CO 80840.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from educational institutions from automated system interfaces, from the individual on forms filled out as a candidate, College Entrance Examination Board and American College Testing scores, Air Force Medical examinations, individual letters of recommendation, from individual and personnel records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under 5 USC 552a(k)(5). For additional information, contact the System Manager.

F053 MP A

SYSTEM NAME:

053 MP A Air Force Academy Appointment and Separation Records

SYSTEM LOCATION:

Headquarters United States Air Force, Washington DC 20330.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Nominees for Air Force Academy appointment and cadets in training at the Air Force Academy for each Member of Congress, the Vice President, Governors of Territories, and all other nominating sources.

CATEGORIES OF RECORDS IN THE SYSTEM:

DD Form 1870 - 'Nomination for Appointment to the United States Air Force Academy, Military Academy, Naval Academy' containing nominee's name, address, date of birth, Social Security number, telephone number, temporary address (if any), type of nomination (principal or competitive), numbered vacancy, and date submitted, name and signature of Member of Congress or other authorized nominating source submitting the nomination; AFHQ Form 0-339 - 'Air Force Academy Nominee Record' containing the names of the nominees of each Member of Congress, the Vice President, and other authorized nominating sources. (Each Member may nominate a total of ten for each vacancy available.) The card also indicates whether a nominee withdraws from consideration for Academy appointment or is medically disqualified and the nominating system used by the nominating authority; 'Chargeable and Nonchargeable Air Force Academy Appointment Record' listing the names of the cadets entering each year for each Member of Congress and other nominating sources showing charged or not charged to their quota (5 allowed at any one time - 10 USC 9342, year of scheduled graduation or separation date and reason, and reapportionment actions; - 'Report of Separation from the United States Air Force Academy' showing name, cadet number, scheduled graduation date, reason for separation, name of congressional sponsor and whether the separation action provides

an additional vacancy for the Congressional sponsor; 'Report of United States Air Force Academy' containing spaces to insert names of cadets in training who are charged to the quota of a Member of Congress.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC Chapter 903, United States Air Force Academy; and Senate Resolution 154, 10 June 1963.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

When a cadet separates from the Academy, the Cadet Branch Personnel uses the system to determine who nominated the cadet so that notification of the separation can be made to the Congressional sponsor. Also used in making reply to any Member of Congress who requests information concerning who nominated a cadet for Academy entrance (10 USC 9342(h)). A form is maintained annually on each Member of Congress, the Vice President, and other authorized nominating sources. Upon receipt of nominations from Members of Congress, only the name of the nominee is entered on the Form and the nominating system used by the member. The form is used to show withdrawal of a nominee or medical disqualification in order to determine the number of active candidates at any given time (10 allowed per vacancy (10 USC 9342)). Cadet Branch uses the system to answer inquiries from nominating sources. AFHQ Form 0-851 (card) is maintained on each Member of Congress, the Vice President, and other authorized nominating sources. Upon entrance of each new class to the Air Force Academy, the names of the cadets entering for each Member of Congress, etc. is posted to the individual Congressional sponsor's card. This record card is used by Cadet Branch to determine the number of vacancies available to all authorized nominating sources so that notification of vacancy information can be furnished to Members of Congress annually. Upon separation of an Academy cadet, the name is crossed out and a notation made of the date of graduation/separation and reason for separation. Another form is used as an attachment to a letter of notification to the Congressional sponsor when a cadet is separated. Upon special request from Member of Congress, another form is used to provide the names of charge cadets (principals) to their authorized quota and the year of scheduled graduation. Also used to notify new Members of Congress of the chargeable cadets upon entering Congress. Cadet Separation Case Files - A cadet separation case file is maintained on every cadet separated for the period of time his class is in training and for one year after class graduates from the Air Force Academy. The case files are maintained since this office is the responsible staff office for implementing the Secretary of the Air Force instrument of separation/discharge action. The case files are further used to reply to Congressional inquiries concerning separation actions. The data contained in the separation case file are: copy of cadet's resignation/separation action; copy of Academy Superintendent's letter to Secretary of the Air Force containing recommendation on type of separation action; copy of Secretary of the Air Force Memorandum directing type of separation; copy of 'Report of Separation from United States Air Force Academy'; copy AF/DPPA notification letter to Congressional sponsor concerning separation; copy of AF/MPPA notification letter to United States Air Force Academy Commandant of Cadets effecting the decision of the Secretary of the Air Force; copy of, 'Disenrollment From Officer Candidate-Type Training.' (Prepared by Commandant, Air Force Academy); copy of, 'Armed Forces of the United States Report of Transfer or Discharge.' (Prepared by Commandant, Air Force Academy); copy of Special Orders effecting separation/discharge action. Information in the record/records system is used to provide information to Members of Congress, the Vice President, DC Delegate, Governors of Territories and South American Republic countries and the Philippines on candidate nominations, cadet vacancies, appointments, and separations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Upon entry of the class each year, forms are destroyed on unsuccessful candidates by tearing into pieces, shredding, pulping, macerating, or burning. The forms on selected cadets are maintained for one year after graduation. One copy is maintained permanently at the Air Force Academy.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Members of Congress, the Vice President and other nominating sources.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F060 ANG A

SYSTEM NAME:

060 ANG A Progress Report, Undergraduate Pilot Training

SYSTEM LOCATION:

Office of Director, Air National Guard, Washington, DC 20330.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air National Guard Undergraduate Pilot Trainees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Evaluation of pilot training progress.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 275, Personnel records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used at National Guard Bureau level to determine individual capability to perform safely in home unit weapons systems.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are stored in safes.

RETENTION AND DISPOSAL:

Retained in office files until graduation or elimination from training, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Air National Guard, Headquarters United States Air Force, Washington, DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from UPT Flying Training DCO.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F067 AF A

SYSTEM NAME:

067 AF A Government Furnishings Issue Record

SYSTEM LOCATION:

Housing Supply Offices at all Air Force installation which issue furnishings. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty military and DOD civilians to whom government furnishings are issued.

CATEGORIES OF RECORDS IN THE SYSTEM:

PCS orders, rental agreement, receipt for furnishings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 9832, Property accountability: regulations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To maintain authority for issue and accountability of Government furnishings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records stored in vertical file folders, and computer and computer output products.

RETRIEVABILITY:

Filed by name in manual file systems. Filed by SSN in computer storage.

SAFEGUARDS:

Stored in file cabinets in locked rooms. Records are accessed by custodian of the record system and by persons responsible for servicing the record system in performance of their official duties.

RETENTION AND DISPOSAL:

Retained in file until furnishings are returned and then destroyed or returned to the individual.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Logistics, headquarters of each major command which issues furnishing or Chief of Housing Supply Office at issuing base.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determination may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F067 AF LE A

SYSTEM NAME:

067 AF LE A Personal Clothing and Equipment Record

SYSTEM LOCATION:

Equipmnent Management Offices at Air Force installations. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty and reserve military and civilian personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Expendable and non-expendable individual personal clothing and equipment records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 9832, Property Accountability Regulations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Accounting for authorized clothing and equipment issued to members and employees. Periodically reviewed by supply personnel and certified by the individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained as paper records and stored in vertical file folders.

RETRIEVABILITY:

Filed by last name, first initial and last four digits of Social Security Number.

SAFEGUARDS:

Stored in file cabinets in locked rooms. Records are accessed by person(s) responsible for servicing the record system in performance of their official duties.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. When individual is reassigned, original records are transferred to the new installation. The copy retained at the previous station is destroyed after six months. When the individual is discharged, the signed copy of the record is forwarded to the Consolidated

Base Personnel Office for disposition. The originals are retained by Equipment Management function and destroyed after the turn-in of all equipment by the individual. Records are then destroyed by tearing into pieces, shredding, macerating, pulping or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Logistics and Engineering, Headquarters United States Air Force, Washington, DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F070 AF AFO A

SYSTEM NAME:

070 AF AFO A Accounts Payable Records

SYSTEM LOCATION:

At Accounting and Finance Offices at Air Force bases, Air National Guard activities, Air Force Reserve units, and Air Force components listed in the Department of Defense Directory in the appendix to the Air Force systems notices; some records are stored at the Denver Federal Archives and Record Center, Bldg 48, Denver Federal Center, Denver, CO 80225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have monies owing to them by the Air Force or who have performed an official function resulting in a valid debt payable by the Air Force to a third party. Such individuals include contractors, military and civilian personnel and their dependents, assignees, trustees, guardians, survivors, claimants having tort or compensation claims against the Air Force for personal injuries or property damage.

CATEGORIES OF RECORDS IN THE SYSTEM:

Include, but are not limited to, contracts; purchase orders; temporary duty and permanent change of station orders; transportation requests; government bills of lading; tort claims; compensation claims; correspondence with creditors; dependents of military personnel and civilian employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 USC 66c, Receipts, retention and disbursement of public funds; 82e, Travel and transportation allowances: dependents: baggage and household effects; 492, Disbursing officers; 37 USC 404, Travel and transportation allowances: general; 406, Disbursing officers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records are used to support payments to creditors who may include military personnel and civilian employees, their dependents, survivors, guardians and trustees, contractors, vendors, claimants in tort and compensation claims and assignees. When authorized, records may be disclosed to creditors, dependents, claimants, Internal Revenue Service (for tax purposes, including assessments, levy action, employer/employee Social Security taxes), Social Security Administration and Veterans Administration (for verification of claims and eligibility for benefits administered by such agencies), and state and local authorities (for matters pertaining to taxation, welfare, and criminal and civil litigation within the jurisdiction of such authorities).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, visible file binders/cabinets, card files, computer and computer output products, magnetic cards, and microform.

RETRIEVABILITY:

Filed by name or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, locked cabinets or rooms, protected by guards and controlled by personnel screening and by visitor registers.

RETENTION AND DISPOSAL:

Retention periods of various types of documents vary from one month to permanent. Some records are destroyed by the Base Accounting and Finance Offices at base level by tearing, shredding, pulping, macerating, or burning; others are retired to the Denver Federal Archives and Record Center and destroyed after varying retention periods by sale to salvage paper companies for shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director Accounting and Finance United States Air Force (USAF). Accounting and Finance Officers at Air Force installations.

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtained from AFAFC/RMAD, Denver, CO 80279, telephone (303) 825-1161, extension 6341. Information pertaining to geographically dispersed elements of the record system may be obtained from documentation managers at the applicable Air Force component listed in the Department of Defense Directory in the appendix to the Air Force systems notices. The requester should be able to provide sufficient proof of identity, such as name, Social Security Number, service number, military status, duty station or place of employment, or other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to AFAFC/RMAD, Denver, CO 80279, telephone (303) 825-1161, extension 6341. Information pertaining to geographically dispersed elements of the record system may be obtained from documentation managers at the applicable Air Force component listed in the Department of Defense Directory in the appendix to the Air Force systems notices. The requester should be able to provide sufficient proof of identity, such as name, Social Security Number, service number, military status, duty station or place of employment, or other information verifiable from the record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Sources include, but are not limited to, information obtained from automated

system interfaces, corporations and from source documents such as reports, contractors, vendors, claimants, trustees, assignees, Air Force and other Department of Defense components, carriers, General Accounting Office, Comptroller General, and Veterans Administration.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F075 AA A

SYSTEM NAME:

075 AA A Office, Secretary of Air Force Travel Files

SYSTEM LOCATION:

Office of the Secretary of the Air Force, Washington DC 20330.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military, civilian, statutory, Congressional and others sponsored by Secretaries of Air Force and/or Defense.

CATEGORIES OF RECORDS IN THE SYSTEM:

Travel orders and transportation authorizations, paying agent orders, passport information, and travel vouchers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To provide reference in response to individual and/or offices requests for actual purposes of travel, costs and records used for future planning. Copies of orders on file in Director of Administration, Headquarters U. S. Air Force, Washington DC 20330, for record of authentication. Copies of paying agent orders on file Director of Administration, Headquarters U.S. Air Force Washington DC 20330 for record of payments. Travel on file at US Air Force Accounting and Finance Center, Denver CO record of Air Force expenses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders/note books/ binders/card files.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms. Access controlled by assistant manager and restricted to authorized personnel.

RETENTION AND DISPOSAL:

Records on currently assigned personnel are retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed. Transportation authorization and Invitational orders are retained in office files for one year after annual cut-off then destroyed. Paying agent orders are retained in office files for two years after annual cut-off, then destoyed. Records contained in this system are destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Assistant to the Secretary of the Air Force, the Pentagon, Washington DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Air Force channels from agencies and individuals requesting Air Force travel.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F075 AF LE A

SYSTEM NAME:

075 AF LE A Household Goods Nontemporary Storage System (NOTEMPS)

SYSTEM LOCATION:

At all Air Force bases having personal property responsibility. Official mailing addresses are contained in the Air Force Address Directory.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty and retired military personnel or their dependents, and civilian employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications for storage, travel orders, substantiating documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 133, Secretary of Defense: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by base level traffic management offices (TMO), finance offices (AFO) and local commercial contractors in managing, controlling and payment of contractors for services rendered for storage services. Information used by TMO to maintain, identify lots, determine excess cost and perform payment actions for storage accounts. AFO will use information to process invoices for payment. Contractors will use data to verify and certify invoices for payment for services rendered against individual storage lots.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, card files, or computer and computer output products.

RETRIEVABILITY:

Filed by name and/or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms and controlled by personnel screening.

RETENTION AND DISPOSAL:

Files are retained for 6 months to 3 years, depending on type, and destroyed by tearing, shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff, Logistics and Engineering, Headquarters United States Air Force, Washington DC 20330.

NOTIFICATION PROCEDURE:

Individual requests should be addressed to the System Manager. Base traffic management offices have individual record. Visits must provide name, grade, SSN and identification card.

RECORD ACCESS PROCEDURES:

Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information from individuals, applications for storage of household goods, travel orders, and substantiating documents.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F075 AF LE B

SYSTEM NAME:

075 AF LE B Personal Property Movement Records

SYSTEM LOCATION:

Traffic Management Office or Air Force controlled Joint Personal Property Shipping Offices at Air Force Activities. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who shipped personal property through an Air Force controlled activity.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application, orders, inventory, Government Bill of Lading, shipping documents, Certificates of Approval or Disapproval, Power of Attorney, carrier and/or contractor documentation, Inspection Report, and Counseling Checklist.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Traffic Management Officer uses these record to determine shipment eligibility and lawful entitlements, and as a basis for expenditure of public funds and contracts with commercial carriers.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are stored in locked cabinets or rooms and are accessed by person(s) responsible for servicing the record system in performance of their official duties.

RETENTION AND DISPOSAL:

Retained in office files for three years after annual cutoff; transferred to Regional Federal Records Center for indefinite retention.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff, Logistics and Engineering, Headquarters United States Air Force, Washington DC 20330.

NOTIFICATION PROCEDURE:

Request from individual should be addressed to the System Manager. Include Individual's name, service, Social Security Number, type of shipment, origin, destination, and the date of application. Any means of positive identification is acceptable.

RECORD ACCESS PROCEDURES:

Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Government Inspector's Quality Control Report. Information also obtained from the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F075 USAFE A

SYSTEM NAME:

075 USAFE A Customs Control Records

SYSTEM LOCATION:

Customs Control Office of the Transportation Branch, 7206 Air Base Group/LGTTG, APO NY 09223. Selected sub-elements are at the Investigation Section of the Security Police Division, 7206 ABG/SPI, APO NY 09223, and the Judge Advocate Office, 7206 ABG/JA, APO NY 09223.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Personnel assigned to duty in Greece qualifying for tax-free privileges under Article I of the North Atlantic Treaty Organization Status of Forces Agreement.

CATEGORIES OF RECORDS IN THE SYSTEM:

Certificates of understanding and accountability; purchase records; importation documents; vehicle registration and duty-free customs certificates; customs control card roster; Greek customs tax receipts; copies of military orders; certificates of dependency; currency conversion records; military and Greek police reports concerning theft, loss or destruction of personal property; records of imports and exports via postal systems; personal property inventories for incoming and outgoing shipments of household goods; and reports of investigation concerning possible or actual customs violations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

North Atlantic Treaty Organization Status of Forces Agreement and 10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This system of records is used to control the tax-free acquisition of personal property by U.S. Forces entered into Greece in tax and duty exempt status under the provisions of the NATO Status of Forces Agreement. This agreement, and others which supplement it, require the U.S. to limit the tax-free import and use of items required by the U.S. Forces to only those members with bona fide entitlements and to assist the Greek government in collecting evidence and securing payment of any applicable taxes. Users of the information in the customs control system include U.S. Air Force, Navy, Army, and State Department transportation and customs activities who compile and maintain the records; military security, investigative, and law enforcement activities who screen records to collect evidence where

possible wrongdoing is indicated; military justice officials who review evidence and advise commanders on possible legal actions; and Air Force Accounting and Finance Offices to control legal conversion of U.S. and host nation currency and to report excess profit from legal sales of property to Internal Revenue Service where appropriate. The system is used to document property imported tax-free into Greece and any purchases made by individuals in the military tax-free sales outlets. The information is used to prove compliance by the U.S. Forces with U.S. treaty obligations and to identify and correct black-marketeering or other unauthorized activities which evade Greek customs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored in file folders.

RETRIEVABILITY:

Files are maintained in numerical sequence using a locally established individual customs control number given upon application to each member entitled to tax-free privileges in Greece. The customs control number is cross-referenced to the member's name, Social Security Number, permanent reassignment date, and employer. Dependents of entitled members are listed under their sponsor's customs control number and record file. An electronic data processing card file is used in the U.S. Air Force Customs Control Office to correlate customs control number, name, unit of assignment, and expiration date of privileges.

SAFEGUARDS:

Records are safeguarded in locked file cabinets, locked rooms, and locked buildings. Records may be reviewed only by the person to whom they apply or competent investigative authority based on a verified need to know.

RETENTION AND DISPOSAL:

Records are maintained in active use until the members clear their accounts in preparation for departure from Greece. The records are then removed to an inactive file within the U.S. Air Force Customs Control Office for one additional year and then transferred to a records staging area for two more years. Three years after closeout, files are destroyed by shredding, burning, pulping, or macerating.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Transportation, 7206 Air Base Group, APO NY 09223.

NOTIFICATION PROCEDURE:

Individuals may request information from the Systems Manager concerning their personal customs account at any time. Requesters must apply either personally or in writing providing their full name (and name of sponsor if in dependent status when the record was created), unit of assignment while in Greece, and period of stay in Greece. Requesters may visit the Customs Control Office of the Chief of Transportation, 7206 Air Base Group, Hellenikon Air Base, Greece, to review their personal customs records or seek information. Requesters must present identification cards issued by U.S. Forces in Greece to gain access to their personal records.

RECORD ACCESS PROCEDURES:

Access to personal records or data concerning an individual covered under the system can be obtained only from the Systems Manager or the customs liaison clerks in the Customs Control Section of the Office of Chief of Transportation, 7206 ABG/LGT, APO NY 09223.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Systems Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Individually prepared applications for duty-free entry of private property and automobiles; individually prepared applications for customs control cards; certificates of understanding and liability; bills of sale; Army and Air Force Exchange Service purchase records; Air Force Commissary Service purchase records; Air Force Accounting and Finance Office records of individual currency conversions; US Postal Service parcel receipt records; international mail parcel receipt information; USAF Security Police investigation reports concerning loss, theft, damage or property or alleged unauthorized disposition (black-marketeering); Defense Logistic Agency Property Disposal Office turn-in records; household goods carriers' inventories of personal property imported and re-exported to and from Greece by each member subject to the system; employer's certification of eligibility to tax-free privileges; official assignment orders; letters of eligibility from non-appropriated fund employers and USAF Procurement Office for eligible contractor personal, determinations of eligibility rendered by the Staff Judge Advocate's office.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F077 AF LE A

SYSTEM NAME:

077 AF LE A Motor Vehicle Operators' Records

SYSTEM LOCATION:

Base Drivers Training and Qualification Section, Air Force Reserve units and Air National Guard activities. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All military and civilian personnel issued a United States Government Motor Vehicle Operator's Identification Card.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application, test results, medical evaluation, accident history, traffic citations and driver awards.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 133, Secretary of Defense; appointment; powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Determination of operator eligibility by Vehicle Operations Officer. Used as basis for issue of a Government motor vehicle operator's identification card. Releasable to Safety and Law Enforcement authorities for investigation and possible criminal prosecution or civil court action.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are stored in locked cabinets or rooms and accessed by person(s) responsible for servicing the record

system in performance of their official duties.

RETENTION AND DISPOSAL:

Retained in office files until discharge, separation, or reassignment of the individual, then returned to servicing consolidated base personnel office for destruction by tearing, shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff, Logistics and Engineering, Headquarters United States Air Force, Washington DC 20330.

NOTIFICATION PROCEDURE:

Request should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from medical institutions, police and investigating officers, motor vehicles bureaus, state or local governments, witnesses, Department of Transportation.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F080 AFA A

SYSTEM NAME:

080 AFA A Minnesota Multiphase Personality Inventory Research Program

SYSTEM LOCATION:

United States Air Force Academy, USAF Academy CO 80840.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Academy and Preparatory School cadets.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personality tests results, group data analyses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC Chapter 903, United States Air Force Academy.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used in research analyses concerning relationships, personality and personality and performance.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer and computer output products.

RETRIEVABILITY:

Cadet Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference.

SYSTEM MANAGER(S) AND ADDRESS:

Dean of Faculty at United States Air Force Academy, Co 80840.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

The individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35

RECORD SOURCE CATEGORIES:

Individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F090 AF A

SYSTEM NAME:

090 AF A Visiting Officer Quarters-Transient Airman Quarters Reservation.

SYSTEM LOCATION:

Air Force installations. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Personnel registering to obtain a room for the duration of visit.

CATEGORIES OF RECORDS IN THE SYSTEM:

Registration of transient personnel into quarters.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To register occupants of base transient quarters and charge for billeting.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/ cabinets.

RETRIEVABILITY:

Filed by Name.

SAFEGUARDS:

Records are accessed by custodian of the record system and are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files for three months after monthly cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force, Washington DC. 22030.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Full name and Social Security Number required for inquiries.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

From individual registering.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F090 SAC A

SYSTEM NAME:

090 SAC A Unaccompanied Personnel Quarters Assignment/Termination

SYSTEM LOCATION:

All Strategic Air Command bases. Located in the Base Billeting Operations Office and in the respective Squadron Orderly Room. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Unaccompanied military personnel who: (1) apply for or who are entitled to occupy unaccompanied quarters, (2) accept or decline unaccompanied on-base quarters, (3) reside off-base at their own expense, (4) accept inadequate quarters, and/or (5) are identified as authorized to reside off-base with prescribed quarters allowance.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records related to application, assignment, acceptance, declination, or termination of unaccompanied quarters; authorization for unaccompanied personnel to reside off-base at their own expense; voluntary acceptance of inadequate quarters; and/or authorization to reside off-base with prescribed quarters allowance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: power and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To effectively manage unaccompanied personnel quarters; establish and maintain a record of application for unaccompanied personnel quarters assignment; terminate assignment to unaccompanied quarters; and grant authorization to reside off-base with or without specified quarters allowance.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Retrieved by name.

SAFEGUARDS:

Records are accessed by custodian of unit files and by personnel responsible for servicing the record system in performance of official duties. File folders are stored in locked rooms and drawers.

RETENTION AND DISPOSAL:

Records are destroyed by tearing into pieces, shredding, burning, macerating, or pulping when superseded or when individual is reassigned.

SYSTEM MANAGER(S) AND ADDRESS:

Base Billeting Manager and Commanders of Strategic Air Command Squadron on SAC bases.

NOTIFICATION PROCEDURE:

Individuals may contact the Base Billeting Manager or Commanders of Strategic Command Squadrons on SAC bases. Requests to determine existence of record should include full name and grade and approximate dates individual was assigned to or serviced by the Billeting Operation function on Strategic Air Command bases, subsequent to 1 July 1981.

RECORD ACCESS PROCEDURES:

Access is controlled by Base Billeting Manager at base level or by Squadron Commanders at squadron level.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information is obtained from individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F110 AFAFC H

SYSTEM NAME:

110 AFAFC H Legal Administration Records of the Staff Judge Advocate

SYSTEM LOCATION:

Air Force Accounting and Finance Center, Denver CO 80279.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty and retired military personnel, present and former Air Force civilian employees, Air Force Reserve and Air National Guard personnel dependents of military personnel, and Air Force Academy Cadets.

CATEGORIES OF RECORDS IN THE SYSTEM:

Legal opinions and supporting documents including, but not limited to, opinions on losses of Air Force funds; reports of survey on loss or damage of Air Force equipment, remission of indebtedness of active duty Air Force members; waiver of claims of the United States arising out of erroneous payments of pay and allowances; legal assistance; garnishment of wages of active duty, reserve and retired pay of Air Force military and civilian personnel; Freedom of Information Act and Privacy Act interpretations and opinions; and correspondence relating to the above subjects with other Air Force and Department of Defense components, United States attorneys, attorneys, Air Force officers and members (and dependents thereof), former spouses of Air Force officers and members, and federal, state and local agencies, including, but not limited to, the Federal Bureau of Investigation (FBI), Internal Revenue Service, Social Security Administration, and state and local welfare agencies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 5512, Witholding pay: individuals in arrears, and 5584, Claims for overpayment; 10 USC 2774, Claims for overpayment, 9832, Property accountability: regulations and 9835, reports of survey; 31 USC 82a-1, Relief of accountable officers, 95a, Relief of disbursing officers of military departments, and 492a-c, Disbursing officers; 32 USC 710, Report of survey, and 716, Claims of overpayment; Title 37 USC, Pay and Allowances of the uniformed Services; 39 USC 406, Postal Services at Armed Forces installations; 40 USC Chapter 15 - Government Losses in Shipment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to review and make recommendations in cases including but not limited to cases involving losses of funds; reports of survey; remission and waiver of indebtedness; garnishment of pay; Freedom of Information and Privacy Acts; and legal assistance. Used by the Air Force Accounting and Finance Center (AFAFC); other Air Force and Department of Defense (DOD) components; individual Air Force officers and members and their dependents, former spouses of Air Force officers and members; attorneys; United States Attorneys; Internal Revenue Service; Social Security Administration and state and local agencies. All users

of the record system use information from the record system to obtain information, advice and recommendations in the areas of losses of Air Force funds, reports of survey, remission and waiver of indebtedness, garnishment of pay, and Freedom of Information and Privacy Acts. Disclosure of legal assistance records is limited in accordance with the attorney-client privilege.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, visible file binders/cabinets and in card files.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, protected by guards, and controlled by personnel screening and visitor registers.

RETENTION AND DISPOSAL:

Records are maintained at office of Staff Judge Advocate, Air Force Accounting and Finance Center (AFAFC/JA) for two years, or whenever their purpose has been served, whichever is later, and then destroyed by tearing or shredding. Significant cases involving legal opinions establishing precedent are transferred to subject files after two years and retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

The Staff Judge Advocate, United States Air Force; Staff Judge Advocate, Air Force Accounting and Finance Center.

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtained from AFAFC/RMAD, Denver CO 80279, telephone (303) 825-1161, ext. 6341. The requester should be able to provide sufficient proof of identity, such as name, Social Security Number, military status, duty station or place of employment, or other information verifiable in the record itself.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to AFAFC/RMAD, Denver CO 80279 telephone (303) 825-1161, ext. 6341. The requester should be able to provide sufficient proof of identity, such as name, Social Security Number, military status or place of employment, or other information verifiable in the record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from previous employers, financial institutions, educational institutions, police and investigating officers, state or local governments, witnesses, source documents such as reports. Information from other DOD components; information from other federal agencies, including, but not limited to, the FBI, Internal Revenue Service, Social Security Administration, Veterans Administration; applications by and correspondence with active duty, reserve and retired Air Force personnel and their dependents, former spouses, and guardians, applications by and correspondence with Air Force current and former civilian employees, their dependents, spouses, and guardians; correspondence with attorneys, records of courts-martial, interfaces with other record systems maintained at AFAFC, and correspondence with United States.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F110 AFRES A

SYSTEM NAME:

110 AFRES A Reserve Judge Advocate Training Report

SYSTEM LOCATION:

Headquarters, Air Force Reserve (AFRES), Robins Air Force Base, GA 31098.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Reserve Judge Advocates (JAGs).

CATEGORIES OF RECORDS IN THE SYSTEM:

Information pertaining to individual training.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To provide Air Force Reserve Staff Judge Advocate Training File on all Reserve JAGs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system.

RETENTION AND DISPOSAL:

Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Staff Judge Advocate, Air Force Reserve, Robins Air Force Base, GA 31098.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from educational institutions, from State Bar Association and from individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F120 AF IG A

SYSTEM NAME:

120 A IG A Inspector General Records - Freedom of Information Act

SYSTEM LOCATION:

Office of the Inspectors General and Base Inspectors.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All those who have requested information from the Inspectors General or Base Inspectors under the Freedom of Information Act on matters related to the Department of the Air Force.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reports, forms, letters, messages, witness statements and miscellaneous documents. Some records are classified.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 552, Public information; agency rules, opinions, orders, records, and proceedings.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information is collected to insure just, thorough, and timely resolution and response to complaints or queries, and a means of improving morale, welfare, and efficiency of organizations, units, and personnel by providing an outlet for redress. Used by the Inspectors General and Base Inspector in the resolution of complaints and response to queries involving the Department of the Air Force and in some instances the Department of Defense. Used by the correction board for the correction of records. Used by members of Congress and their staffs to conduct research and prepare replies in response to constituent inquiries. Used by commanders and their staffs to resolve issues, take action and provide information where applicable. Used by the General Accounting Office and its officers and employees to conduct audits and other statutory functions. Used by those who request information releasable as a summary, statement of facts, or reply to query considered not exempt. In these cases, requester should apply to office where complaint was filed.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name and Social Security Number (SSN) and year and office where complaint was filed.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in safes and locked cabinets or rooms and are controlled by personnel screening.

RETENTION AND DISPOSAL:

Retained in files for five years then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

The Inspector General, Headquarters United States Air Force, Washington, DC 20330.

NOTIFICATION PROCEDURE:

Request from individuals should be addressed to the office where the complaint or query was filed or to the Base Inspector.

RECORD ACCESS PROCEDURES:

Individual can obtain access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Records are obtained from the individual requester, witnesses, complainants, Department of the Air Force organizations, and agencies of Federal, state, or local governments, as applicable or appropriate, for processing the case.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F120 AF IG B

SYSTEM NAME:

120 AF IG B Inspector General Records

SYSTEM LOCATION:

Office of the Inspectors General, Headquarters United States Air Force, Washington DC 20330. Official mailing addresses are contained in the Department of Defense directory in the appendix to the Air Force systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All those who have registered a complaint or query with the Inspector General or Base Inspector on matters related to the Department of the Air Force.

CATEGORIES OF RECORDS IN THE SYSTEM:

Forms, letters, messages, reports, surveys, photographs, medical, finance, personnel, administrative and technical reports, and witness statements.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to insure just, thorough, and timely resolution and response to complaints or queries, and a means of improving morale, welfare, and efficiency of organizations, units, and personnel by providing an outlet for redress. Used by the Inspectors General and Base Inspectors in the resolution of complaints and responding to queries involving matters concerning the Department of the Air Force and in some instances the Department of Defense.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name, Social Security Number (SSN) and year and office where complaint was filed.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in safes and in locked cabinets or rooms, controlled by personnel screening.

RETENTION AND DISPOSAL:

Retained in office files for two years after annual cut-off, then destoyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

The Inspector General, Headquarters United States Air Force, Washington DC 20330.

NOTIFICATION PROCEDURE:

See Exemption.

RECORD ACCESS PROCEDURES:

See Exemption.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

See Exemption.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under 5 USC 552a(k)(2). For additional information, contact the System Manager.

F123 AFISC A

SYSTEM NAME:

123 AFISC A United States Air Force (USAF) Inspection Scheduling System

SYSTEM LOCATION:

Air Force Inspection and Safety Center, Norton Air Force Base, CA 92409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

USAF Inspection and Safety Center (AFISC) personnel/augmentors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, rank, SSN, security clearance, speciality code, duty and travel restrictions, inspection dates/types/locations, date of birth, office symbol, rotation date, title, address.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force; powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to monitor and schedule AFISC inspection teams and efforts; publish official travel orders for safety and inspection personnel, and count AFISC mandays. This is trusted agent information; access is extremely limited and controlled when inspections are no-notice type. Portions are used to publish periodic rosters of all personnel assigned to AFISC.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer and computer output products, and and on microfiche.

RETRIEVABILITY:

Filed by Name or by Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in safes, locked cabinets or rooms, and controlled by personnel screening and controlled by computer system software.

RETENTION AND DISPOSAL:

Retained for three years and then destroyed by tearing into pieces or erasing tapes/discs.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Scheduling, Air Force Inspection and Safety Center, Norton AFB, CA 92409.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F127 AFISC A

SYSTEM NAME:

127 AFISC A Safety Education File

SYSTEM LOCATION:

Air Force Inspection and Safety Center, Norton Air Force Base, CA 92409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

United States Air Force (USAF) personnel who have received formal safety training.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, rank, SSN, command of assignment, address, safety course name, class number. Individual training records, letters, memoranda, messages and other material pertaining to training.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to identify and provide a record of USAF personnel who have received formal safety training.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and on computer and computer output products.

RETRIEVABILITY:

Filed by name or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are controlled by personnel screening, stored in locked cabinets or rooms and controlled by visitor registers.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning or by erasing computer tapes.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Aerospace Safety, Air Force Inspection and Safety Center, Norton Air Force Base, CA 92409.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from educational institutions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F160 AF SG C

SYSTEM NAME:

160 AF SG C Medical Treatment Facility Tumor Registry

SYSTEM LOCATION:

Air Force medical centers, hospitals, and clinics.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals who were diagnosed as having or were treated for cancer in an armed forces medical treatment facility.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain summaries of treatment provided cancer patients, to include tumor board evaluations, comprehensive chronological summaries of care rendered, a locator system, suspense files for required follow-up treatment and/or evaluation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC Chapter 55. Medical and Dental Care.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by the military departments for clinical and statistical analysis of designated medical and dental cases, their treatment and results. The files serve as the repository of clinical information relating to individuals evaluated and/or treated in Air Force medical facilities. It is used to conduct statistical analysis and to provide clinical information to other federal medical services, scientific institutions and qualified members of the medical and dental professions (information identifiable by name is released only with permission of the patient). Information may be provided to other hospital tumor registries, physicians, scientific institutions. Information is used by the medical facilities to promote education programs and to develop statistics designed to be used as a basis for developing improved diagnostic and therapeutic standards. Used by the individual physician or scientist to develop and write professional papers, and is used by hospital tumor registries to update their case records as to status and quality of survival of individual patients.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, card files, on computer and computer paper printouts, roll microfilm or microfiche.

RETRIEVABILITY:

Filed by name or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of record system and by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms and controlled by computer system software.

RETENTION AND DISPOSAL:

Records located at medical facilities are retained in the office files until inactivation of the tumor board or the facility, then forwarded to facility assuming patient responsibility.

SYSTEM MANAGER(S) AND ADDRESS:

Commanders of armed forces medical facilities.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Requests must include full name, Social Security Number of sponsor, accession number.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from medical institutions and from source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F160 AF SG D

SYSTEM NAME:

160 AF SG D Drug Abuse Rehabilitation Report System

SYSTEM LOCATION:

Headquarters United States Air Force and major command headquarters. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notice.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any active duty military personnel who are confirmed as drug abusers as a result of drug abuse urinalysis testing.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains Drug Abuse Rehabilitation Reports in Electrical Message Form in which demographic data, urine testing results and abuser disposition are detailed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 91-513 as applied to Federal agencies by Section 2b of Executive Order 11599, 17 June 1971, Comprehensive Drug Abuse Prevention and Control Act of 1970.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

At HQ USAF to provide statistical data for required reports to Department of Defense (DOD) and to the Special Action Office on Drug Abuse Prevention, White House; to perform epidemiologic and statistical studies for use in evaluating the effectiveness of Air Force urinalysis testing programs; to provide information for answering congressional inquiries.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and card files.

RETRIEVABILITY:

Filed by Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and are controlled by personnel screening.

RETENTION AND DISPOSAL:

Retained in office files for five years after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

The Surgeon General, Headquarters United States Air Force, Washington DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from medical institutions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F160 AFA A

SYSTEM NAME:

160 AFA A Cadet Hospital/Clinic Records

SYSTEM LOCATION:

USAF Academy CO 80840.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

AF Academy Cadets.

CATEGORIES OF RECORDS IN THE SYSTEM:

Daily roster of cadets hospitalized and report of cadet visits to the cadet clinic.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Used to notify concerned individuals of status of cadets hospitalized. Information is provided to the Superintendent, Commandant of Cadets and Hospital Commander and staff. The Superintendent receives a daily report of number and status of cadets hospitalized; the Hospital Commander and staff receive a daily report of status of cadets hospitalized; the Commandant and staff receive a daily report of number and status of cadets hospitalized; the Air Officer Commanding receives information in order to notify parents as required when their child is hospitalized more than three days; concerned personnel can note trends in hospitalization in terms of numbers of cadets hospitalized, length of hospital stay, and nature of medical problems being treated. (2) Report of visits to cadet clinics; record the time a cadet enters the clinic, nature of complaint and explanation of excusals and time of departure from the clinic. Distribution of this info is made to Cadet Wing Airmanships Division, Athletics and individual concerned. Cadet Wing Airmanships Division uses it to monitor cadet activity for ground safety program. Athletics uses to monitor excusals from physical education and to evaluate injury rates. The individual uses it to justify time away from classes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

(1) Records are accessed by the custodian, by person(s) responsible for servicing the record system, and authorized personnel who are properly screened and have a need-to-know. Records are stored in locked cabinets or rooms. (2) Clinic copy is under the direct control of Non-Commissioned Office in Charge (NCOIC) of Administrative Services. Distribution is made only to authorized representatives of Cadet Wing Airmanship Division and Athletics.

RETENTION AND DISPOSAL:

(1) Retained in office files for one year after annual cut-off then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. (2) Retained in office files for three months or until purpose has been served, whichever is sooner; then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, USAF Academy Hospital, USAF Academy, CO 80840.

NOTIFICATION PROCEDURE:

Requests should be addressed to the Registrar, USAF Academy Hospital Cadet Liaison, and should include full name, and date of hospital admission.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from medical institutions, the individual, a physical and/or medical technicians.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F160 DODMERB A

SYSTEM NAME:

160 DODMERB A Department of Defense Medical Examination Review Board Medical Examination Files

SYSTEM LOCATION:

Department of Defense Medical Examination Review Board (DODMERB) US Air Force Academy CO 80840.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All applicants to the five service academies, the Four Year Reserve Officer Training Corps (ROTC) Scholarship Program, Uniform University of Health Sciences (USUHS), Airman Scholarship Commissioning Program (ASCP), College Scholarship program (CSP), and the Primary Officer Corps (POC) Program of the Air Force ROTC.

CATEGORIES OF RECORDS IN THE SYSTEM:

The record system is maintained in three forms: The original hard copy report of medical examination, report of medical history, narrative summary and any associated civilian forms or tests that may have been accomplished; may also contain personal correspondence between the DODMERB and the applicant and/or parental/guardian consultation concerning applicant's medical history or status; the second portion is microform copy of the hard copy file; the third portion is in computer storage.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 133, Executive department.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The paper copy is used to determine medical acceptability for one or more of the service academies or the ROTC, USUHS, ASCR, CSP, and/or POC Program for Air Force ROTC. The

microform portion is used for historical retrieval of previous actions; The · ·,' computer form is used to advise the program managers of initial medical status any update actions on an applicant. Statistical summaries are extracted from the computer bank. Consultations concerning medical conditions may be necessary with parent/guardian to clarify/explain applicant's medical status. Examinations may be accomplished by military medical facilities personnel, civilian contract agents of the government and/or private physicians.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored in file folders, microfilm jackets and on computer disks or tapes.

RETRIEVABILITY:

Filed by Name andby Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms and controlled by computer system software.

RETENTION AND DISPOSAL:

Paper copies of records of successful applicants is forwarded to the Academy, ROTC, or USUHS program for which the applicant was accepted; papers copies of records of unsuccessful applicants to these programs are destroyed at the end of the current year cycle: paper copies of records of applicants for ASCP, CSP and POC Program for Air Force ROTC are returned to the appropriate detachment; microfilm copy is kept five years and computer file is kept for two years after current year cycle.

SYSTEM MANAGER(S) AND ADDRESS:

Department of Defense Medical Examination Review Board, US Air Force Academy CO 80840.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from medical institutions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F176 AA A

SYSTEM NAME:

176 AA A Accounts Receivable

SYSTEM LOCATION:

Office of the Secretary of the Air Force, Washington DC 20330.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Air Force employees authorized to use Air Force Mess Number One.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records all charges or purchases by members of Air Force Mess Number One.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to bill members authorized use of the Mess.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in note books/binders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms. Access controlled by Manager and restricted to authorized personnel.

RETENTION AND DISPOSAL:

Records are retained until Official Audit and then destroyed through shredding, macerating, burning, pulping, tearing into pieces.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Assistant to the Secretary of the Air Force, The Pentagon, Washington, DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Charges.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F176 AF HC A

SYSTEM NAME:

176 AF HC A Chaplain Fund Service Contract File

SYSTEM LOCATION:

Air Force installations only. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Contracting officers and representatives.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contract between local chaplain fund and an individual for provision of specified services not available through other funds.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Record of terms of contracts.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official

duties. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Chaplains, Headquarters United States Air Force.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from contractor.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F176 AF MP C

SYSTEM NAME:

176 AF MP C Morale, Welfare, and Recreation (MWR) Participation/ Membership/Training Records

SYSTEM LOCATION:

Air Force Military Personnel Center, Randolph Air Force Base, TX 78150; major command headquarters; all levels down to and including Air Force installations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty and retired military members and their dependents; members of Reserve components while on inactive duty for training and DOD civilians and their dependents; certain other categories for individuals identified by authorized personnel who directly support Air Force mission requirements. Following additional categories apply for specific activities as indicated: Air Force Aero Clubs; Air Force, Army or Naval Academy Cadets; military members of foreign governments on duty with the DOD; members elected to the US Congress or a statutory appointee of the Federal Government; Federal Government employees working on military installations and conducting various recreation programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Volunteer, membership, attendance, training, and participation/competition records and supporting data relative to Air Force MWR activities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Determine membership/participation eligibility; maintain patron attendance; conduct contests; monitor training and currency of members; and serve as data base for designing and conducting various recreation programs. Used by personnel responsible for conducting Air Force MWR activities. May be provided to commercial or non-profit concerns conducting activities in support of, similar to, or in furtherance of, the Air Force programs involved.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file cabinets.

RETRIEVABILITY:

Filed by name and/or Social Security Number (SSN).

SAFEGUARDS:

Records are maintained in secured buildings. Access is controlled by authorized personnel and limited to those requiring access in the performance of their duties.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning, or surrender to member upon termination, as applicable.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff, Manpower and Personnel for Military Personnel (DPMSO), Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Request from individual should be addressed to the Chief, Morale, Welfare, and Recreation Division at the appropriate Air Force installation or the System Manager giving the individual's full name and SSN.

RECORD ACCESS PROCEDURES:

Request from individuals should be addressed to the Chief, Morale, Welfare, and Recreation Division at the appropriate Air Force installation or the System Manager to exercise their rights under the Act. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Individual applications for membership/participation in MWR activities and offices of primary responsibility for MWR activities.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F176 AF MP D

SYSTEM NAME:

176 AF MP D Nonappropriated Funds Standard Payroll System

SYSTEM LOCATION:

Fiscal control offices at Air Force installations, the addresses of which are provided in the Department of Defense Directory in the appendix to the Air Force systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force nonappropriated fund employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Time and attendance cards; personal payroll data listings and or cards; correspondence; combined payroll checks and employee leave and earnings statements; Federal, state, and city tax reports and or tapes; individual pay and leave records; personnel action forms covering pay changes and deductions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records are used to compute employees' pay entitlements and

deductions and issue payroll checks for amounts due; to withhold amounts due for Federal, state, and city taxes, to remit withholdings to the taxing authorities, and to report earnings and tax collections; and upon request of employees, to deduct specified amounts from earnings for charity, union dues, and for allotments to financial organizations. Users and uses include but are not limited to the following nonappropriated fund employees. Uses include receipt of pay and pay data covering hours worked, entitlements and deductions for taxes, insurance, retirement, union dues, and charity contributions. Records are also available to respond to specific inquiries by employees regarding their pay history. Internal Revenue Service, state and city taxing authorities, which use the records to establish the amount of earnings and tax liability of individual employees and to record remittances of payroll withholdings against tax liabilities. State employment agencies use the information to determine eligibility for unemployment compensation. Office of Personnel Management uses the records for personnel management functions. Director, Non Appropriated Fund Personnel, Air Force Manpower and Personnel Center, Randolph Air Force Base, TX, uses the records to monitor and manage employee group life and health insurance and retirement programs. Financial organizations, employee unions, and community fund charitable organizations use the records to credit remittances to accounts of members or contributions from deduction records provided each organization.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, card files, on computer and computer output products.

RETRIEVABILITY:

Filed by name and/or Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/ cabinets and safes, protected by guards, and controlled by personnel screening, visitor registers and computer system software.

RETENTION AND DISPOSAL:

Retained in office files for two years after annual cut-off, then destoyed by tearing into pieces, shredding, pulping, macerating, or burning. Exception: records pertaining to tax data are retained for four years rather than two.

SYSTEM MANAGER(S) AND ADDRESS:

Comptroller of the Air Force, Headquarters United States Air Force. Assistant Comptroller for Non Appropriated Funds at Air Force installations.

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtained from documentation managers at the applicable Air Force component listed in the Department of Defense Directory in the appendix to the Air Force systems notices. The local Fiscal Control Officer (FCO) maintains the record system at installation level. Requester should be able to provide sufficient proof of identity such as name, Social Security Number, place of employment or other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to AFAFC/RMAD, Denver, CO 80279, telephone (303) 825-1161, extension 6341. Information pertaining to geographically dispersed elements of the record system may be obtained from documentation managers at the applicable Air Force component listed in the Department of Defense Directory in the appendix to the Air Force systems notices. The local FCO maintains the record system at installation level. Requester should be able to provide sufficient proof of identity such as name, Social Security Number, place of employment or other information verifiable from the record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information is obtained from source documents originating from Civilian Personnel Offices at Air Force installations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F177 AF AFC A

SYSTEM NAME:

177 AF AFC A Accounts Receivable Records Maintained by Accounting & Finance

SYSTEM LOCATION:

Accounting and Finance Offices at Air Force bases, Air National Guard activities and Air Force Reserve units. Mailing addresses are in the appendix to the Air Force's systems notices. Denver Federal Archives and Record Center, Bldg 48, Denver Federal Center, Denver, CO 80225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty and retired military personnel, Air Force civilian employees and former employees, Air Force Reserve and Air National Guard personnel, Union or Association management personnel, contracting officers and representatives, Air Force Academy cadets, dependents of military personnel, Foreign Nationals residing in the United States, American Red Cross personnel, Peace Corps and State Department personnel, Exchange Officers, and other individuals who may be indebted to the Air Force.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained by the system include but are not limited to documentation pertaining to telephone bills, utility bills, check issue discrepancies, dishonored checks, postal fund losses, reports of survey, freight losses in shipments, involuntary collections, erroneous payments, property losses and damages, administratively ascertained indebtedness of airmen, withholding for subsistence and other supplies, losses of funds, government losses in shipments, unauthorized allotment payments, setoff of final pay, detentions of pay by reason of courts martial or forfiture or fines documentation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 5512-5514, Withholding pay; 10 USC 856, Article 56 (UCMJ) Maximum levels; 9832, Property accountability: regulations; 9837(b), Settlement of accounts: deductions from pay; and 9840, Final settlement of officer's accounts; 31 USC 71, Public accounts to be settled in the General Accounting Office; 82(a), Listing of persons receiving periodic payments; vouchers; 95, Settlement of accounts of Army officers; 492(a)-(c), Disbursing Officers; 37 USC 1007(b),(e),(f),(g), Deductions from pay; 40 USC Chapter 15 - Government Losses

in Shipment; 49 USC 1 et. Seq., Transportation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records are used to support customer billings and collections. Recipients of information from the record system include, but are not limited to, credit bureaus (for credit investigations); Internal Revenue Service (for determination of tax liabilities); Veterans Administration (for its administration of laws pertaining to veterans' benefits); correspondence with all of the above and their dependents and survivors.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, in note books/binders, in visible file binders/cabinets, in card files and on computer magnetic tapes.

RETRIEVABILITY:

Filed by name, Social Security Number (SSN), Military Service Number or Civilian Payroll Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets or locked cabinets or rooms, protected by guards, and controlled by personnel screening and by visitor registers.

RETENTION AND DISPOSAL:

Retention is for up to five years or until discrepancies are cleared. Destruction is accomplished by tearing, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Accounting and Finance USAF; Accounting and Finance Officers at Air Force installations.

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Denver CO 80279, telephone (303) 370-7553. Information pertaining to geographically dispersed elements of the record system may be obtained from Documentation Managers at the applicable Air Force component listed in the Department of Defense directory to the Air Force systems notices. The requester should be able to provide sufficient proof of identity, such as name, Social Security Number, service number, military status, duty station or place of employment, or other information which may be verified from the record itself.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to AFAFC/DAD, Denver CO 80279, telephone (303) 370-7553. Information pertaining to geographically dispersed elements of the record system may be obtained from Documentation Managers at the applicable Air Force component listed in the Department of Defense directory to the Air Force systems notices. The requester should be able to provide sufficient proof of identity, such as name, Social Security Number, service number, military status, duty station or place of employment, or other information which may be verified from the record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from previous employers, financial institutions, educational institutions, medical institutions, trade associations, police and investigating officers, the bureau of motor vehicles, state or local governments, international organizations, corporations, witnesses, source documents such as reports, charges and invoices from other Air Force and Department of Defense components at Headquarters, major command and base levels; Internal Revenue Service; Social Security Administration; and Veteran's Administration.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F177 AF AFC B

SYSTEM NAME:

177 AF AFC B Travel Records

SYSTEM LOCATION:

Air Force Accounting and Finance Center, Lowry Air Force Base, Denver, CO 80279; accounting and finance offices at Air Force bases the addresses of which are listed in the Department of Defense directory in the appendix to the Air Force systems notices; Denver Federal Archives and Records Center, Denver Federal Center, Bldg 48, Denver, CO, 80225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty and retired Air Force military personnel, Air Force civilian employees and former employees, Air Force Reserve and Air National Guard personnel, Air Force Academy nominees/applicants/cadets, Senior and Junior Air Force Reserve Officers, Dependents of military personnel, Foreign Nationals residing in the United States, Exchange Officers, and any other individual in receipt of competent travel orders.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents include but are not limited to travel vouchers and subvouchers; travel allowance payment lists; travel voucher or subvoucher continuation sheets; vouchers and claims for dependent travel and dislocation or trailer allowance; certificate of nonavailability government quarters and mess; multiple travel payments list; travel payment card; requests for fiscal information concerning transportation requests, bills of lading, and meal tickets; public vouchers for fees and mileage of witnesses; claims for reimbursement for expenditures on official business; claims for fees and mileage of witness; certifications for travel under classified orders; travel card envelopes; statements of adverse effect-utilization of government facilities; and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

37 USC 404-412, Travel and transportation allowances; 5 USC 2105, Employee; 2106, Member of Congress; 5561, Definitions; 5564,Travel and transportation; 5701-5708, Travel and Subsistence Expenses; 5721-5730, Travel and Transportation Expenses; and 5742, Transportation of remains.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to pay travel entitlements and supporting the payment of travel entitlements to military and civilian personnel. Uses made of the records by the paying Accounting and Finance Office, other Air Force and Dept of Defense components include but are not limited to the following: payment of advances; payment of per diem at temporary duty stations; settlement payments upon completion of travel; payment of mileage upon separation or release from active duty; consolidation

of payments; payment of dependents: travel; payment of dislocation or trailer allowance; to support a traveler's entitlement to a specific rate of per diem; to list multiple payments for travel and temporary duty performed under like conditions and circumstances; as a control record of all travel payments made to an individual; to query the United States Army Finance and Accounting Center for information contained on transportation requests, bills of lading, and meal tickets; payment of fees and allowances to civilian witnesses who are not U.S. Government employees; payment of expenses incurred within and around duty stations; supports the travel voucher in lieu of classified orders; updates leave records. Other users and specific uses made by them include but are not limited to Accounting and Finance Officers, who use travel records to pay travel entitlements to military and civilian personnel who perform official travel; traffic management Officers, who use travel orders to support the issuance of transportation requests and to support the movement of household goods or house trailer; Internal Revenue Service, which receives and records information concerning the payment of travel allowances which are subject to federal income tax; General Accounting Office (GAO), which uses travel records for auditing activities and for the settlement of questionable travel claims.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, note books/binders, visible file binders/cabinets, card files, and at Aeronautical Systems Division (AFSC), Wright-Patterson Air Force Base, OH, Sacramento Air Logistics Center (AFLC), and McClellan Air Force Base, CA, on computer magnetic tape, disks and printouts.

RETRIEVABILITY:

Filed by name and Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, safes, vaults, and locked cabinets or rooms. Records are controlled by personnel screening and by visitor registers, and by computer software in the case of machine readable records.

RETENTION AND DISPOSAL:

The original voucher and related supporting documents are stored at the Air Force Accounting and Finance Center, Denver, CO, for 18 months and then moved to the Denver Federal Archives and Records Center for 4 years and 9 months after which they are shredded. Copies of the original voucher and related supporting documents are maintained by field accounting and finance offices for 3 years and then destroyed by burning, shredding, tearing, pulping or macerating. Computer tapes are destroyed by overwriting 90 days after member or employee is transferred.

SYSTEM MANAGER(S) AND ADDRESS:

Director Accounting and Finance United States Air Force. At base level the System Manager is the local Accounting and Finance Officer.

NOTIFICATION PROCEDURE:

Information may be obtained from AFAFC/DAD, Lowry Air Force Base, Denver, CO 80279, telephone (303) 370-7553. Requester should be able to provide sufficient proof of identity, such as name, Social Security Number, duty station, place of employment, and specify the accounting and disbursing station number, voucher number, date of voucher, or other information verifiable in the record itself.

RECORD ACCESS PROCEDURES:

Request from individuals should be addressed to AFAFC/DAD, Lowry Air Force Base, Denver, CO 80279, telephone (303) 370-7553. Requester should be able to provide sufficient proof of identity, such as name, Social Security Number, duty station, place of employment, and specify the accounting and disbursing station number, voucher number, date of voucher, or other information verifiable from the record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information is acquired from but not limited to the individual traveler; related voucher documents such as those described above in the description of categories of records; Office of the Judge Advocate; the Comptroller; General Accounting Office; Congress; Accounting and Finance Officers; Traffic Management Officers; Consolidated Base Personnel Officers; the Air Force Accounting and Finance Center; and other Air Force and Department of Defense components.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F177 AF AFC C

SYSTEM NAME:

177 AF AFC C Air Reserve Pay and Allowance System (ARPAS)

SYSTEM LOCATION:

Primary system location: Air Force Accounting and Finance Center, Lowry Air Force Base CO 80279; decentralized supporting segments are located at: Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150; Air Reserve Personnel Center, Denver, CO 80280; National Personnel Records Center, Military Personnel Records, 9700 Page Boulevard, St. Louis, MO 63132; Air National Guard activities and air Force Reserve units; Accounting and Finance Offices at Air Force bases Servicing individual Air Reserve Forces members; Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices; Denver Federal Archives and Record Center, Bldg 48, Denver Federal Center, Denver, CO 80225; and Records Center Annex GSA, P.O. Box 141, Neosho, MO 64850 (system backup storage).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active Air Reserve Forces members in a military pay status and dependents of military personnel except Air Reserve Forces members on extended active duty and members of the Air Force Reserve Officer Training Corps.

CATEGORIES OF RECORDS IN THE SYSTEM:

Military pay account computer records and supporting documentations relating to Air Reserve Forces military pay and allowance entitlements, deductions, and collections. Military pay computer records, including but not limited to, master individual pay account files (containing essential check and member identification data, military pay entitlement and allowance data, accounting data, tax withholding rate and amount data, collection and indebtedness data, and performance data); wage and tax withholding records; records of Air Reserve Forces calendar day performance; check issue, control and cancellations records; transaction input, system reject, and

system recycle records; disbursement and collection report records; accounting report records; and other generated records supporting, substantiating, or authorizing Air Reserve Forces military pay and allowance entitlement, deduction, or collection actions. Military pay documentation records include, but are not limited to, travel orders, requests and performance records; active military duty performance records; statements of tours or performance of military duty; payroll attendance lists and rosters; document records establishing, supporting, reducing, or cancelling entitlements to basic pay; special compensations (such as medical, dental, veterinary, and optometry); special pays (such as foreign duty, hostile fire); allowances (such as basic allowance for subsistence, basic allowance for quarters, family separations, clothing maintenance and monetary allowances); incentive pays; and other entitlements in accordance with the Department of Defense Pay and Allowance Entitlement Manual; certificates and statements changing address, name, military assignment, and other individual data necessary to identify and provide accurate and timely Air Reserve Forces military pay and performance credit; allotment start, stop, or change records; declarations of benefits and waivers; military pay and personnel orders; medical certifications and determinations; death and disability documents; check issuing and cancellation records and schedules; payroll vouchers; money lists and accounting records; pay adjustment authorization records; system input certifications; member indebtedness and tax levy documentation; earnings statements; employees wage and tax reports and statements; casual payment authorization and control logs; punch card transcripts; and other documentation supporting, authorizing, or substantiating Air Reserve Forces military pay and allowance entitlement, deduction, or collection. Inquiry files, sundry lists, reports, letters, correspondence, and rosters including, but not limited to, Congressional inquiries, Internal Revenue Service notices and reports, state tax and insurance reports, Social Security Administration reports, Veterans Administration reports, inter-Department of Defense requests, treasury reports, and health education and institution inquiries.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 37 USC, Pay and Allowances of the Uniformed Services.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to ensure accurate and timely military pay and allowances to supported Air Reserve Forces members; provide timely, complete master individual pay account review; document and account for Air Reserve Force military pay and allowance disbursements and collections; and provide account inquiry research response capability. Records are used to determine net military pay and allowances check issues to Air Reserve Force members; or payment to a Financial organization through Direct Deposit/Electronic Fund Transfer Program; to verify and account for system input transactions; to identify, correct, and collect overpayments; to establish, control, and collect member collection and indebtedness notices and levies; to maintain complete accounting records for Air Reserve Forces military pay and allowance disbursements, collections, refunds, and reimbursement actions; and to provide internal and external managers with statistical and monetary reports. Other users and uses include, but are not limited to, record transfers to components of the Department of Defense for system transaction validity and accuracy audit, accounting, and documentation utilization; other federal agencies such as the Internal Revenue Service for wage and tax withholding reporting, accounting, tax audits or levies; Social Security Administration for wage and tax withholding reporting, accounting, or tax audit; Office of Personnel Management for personnel management functions; Veterans Administration for compensation and waiver reporting and audits, life insurance accounting, disbursement and benefit determinations; or local Governmental agencies for reports and accounting utilization; state and local governments for tax and welfare information; educational institutions for verifying scholarship qualifications and performance; charitable institutions and military associations to render recognition for meritorious service; and financial institutions for deposits (checks to banks) and credit references. Pay data is released to computer and accounting service centers upon request of financial organizations designated by individuals to receive money due them. Pay data is also released to Federal Reserve Banks under procedures specified in 31 CFR 210 for Federal recurring payments by means other than by checks. The American Red Cross and Air Force Aid Society use this information to determine needs of a member of his or her dependents in emergency situations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, note books/binders, card files, on computer and computer output products, and microform.

RETRIEVABILITY:

Filed by name and Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets/safes/vaults, protected by guards, and controlled by personnel screening, visitor registers and computer system software requiring special random input entry identifiers.

RETENTION AND DISPOSAL:

The system contains differing types of records subject to varied retention of from 6 months to 56 years. Records are retired to the Denver Federal Archives and Record Center, and also are stored at the Records Center annex GSA at Neosho, MO for backup storage. Final destruction of records is by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director Accounting and Finance, United States Air Force (USAF); managers for geographically dispersed supporting elements to the system are Chief of Air Force Reserve, Headquarters United States Air Force; Director of Air National Guard, Headquarters United States Air Force, Accounting and Finance Officers, Consolidated Base Personnel Officers, Air National Guard Base Comptrollers, Consolidated Reserve Personnel Officers, ARPAS Payroll Officers, and designated representatives thereof.

NOTIFICATION PROCEDURE:

Information as to whether the record system contains Information on an individual may be obtained from AFAFC/DAD, Lowry Air Force Base, Denver, CO 80279, telephone (303) 370-7553. Information pertaining to geographically dispersed elements of the record system may be obtained from Documentation Managers at the applicable Air Force component listed in the Department of Defense Directory in

the appendix to the Air Force systems notices. Requesters should be able to provide sufficient proof of identity, such as name, Social Security Number, military status, last Air Reserve Forces unit of assignment, duty status or place of employment, or other information verifiable from the system record itself.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to AFAFC/DAD, Lowry Air Force Base, Denver, CO 80279, telephone (303) 370-7553. Information pertaining to geographically dispersed elements of the record system may be obtained from Documentation Managers at the Air Force component listed in the Department of Defense Directory in the appendix to the Air Force systems notices. Requesters should be able to provide sufficient proof of identity, such as name, Social Security Number, military status, last Air Reserve Force unit of assignment, duty status, or place of employment, or other information verifiable from the system record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Record system sources for information include, but are not limited to: Headquarters USAF, Air Force major commands and Air Force installations, Consolidated Base Personnel Offices and Consolidated Reserve Personnel Offices, Air National Guard Base Comptrollers, ARPAS Payroll Offices, other DOD components; the Internal Revenue Service, Social Security Administration, Veterans Administration, and other federal agencies; financial institutions, educational institutions, medical institutions, automated system interfaces, and state and local agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F177 AF AFC D

SYSTEM NAME:

177 AF AFC D Joint Uniform Military Pay System (JUMPS)

SYSTEM LOCATION:

Air Force Accounting and Finance Center, Denver, CO 80279. Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150. consolidated base personnel offices at Air Force installations, accounting and finance offices at Air Force bases. At Air Force Data Systems Design Center, Gunter Air Force Station, AL 36114 (for research and test only), Denver Federal Archives and Records Center, Denver, CO 80225 (storage), Records Center Annex GSA, PO Box 141, Neosho, MO 64850 (back-up storage). Information pertaining to geographically dispersed elements of the record system (CBPO's and AFO's) may be obtained from Documentation Managers at the applicable Air Force component listed in the Department of Defense Directory in the appendix to the Air Force system notice.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty military personnel and dependents, retired and separated Air Force military personnel, officers of the Air Reserve and Air National Guard on extended active duty, officers and airmen of the Air Reserve and Air National Guard on active duty where strength accountability remains with the reserve component, and individuals to whom active duty military personnel authorize a direct payment of a portion of their pay.

CATEGORIES OF RECORDS IN THE SYSTEM:

Military pay records and files including but not limited to; master military pay accounts, immediate access storage, six-months history, leave and earnings statements, federal insurance contribution act tax and federal income tax withholding pay authorization control files, central pay authorization file, deferred transaction file, reject suspense file and daily transaction record. Military pay supporting documents and vouchers including but not limited to basic pay; special compensation positions such as medical, dental, veterinary and optometry; special pay such as foreign duty, proficiency, hostile fire and diving duty; status adjustments relating to entrance on active duty, absent-without-leave, confinement, desertion, sick or injured, leave, mentally incompetent, missing, interned, permanent change of station, promotions and demotions; separation, reenlistment bonus; incentive pay such as flying duty, stress duty, demolition duty, parachute jumping duty and submarine duty; allowances, such as basic allowance for subsistence, basic allowance for quarters, family separation allowances, overseas station allowances, clothing monetary allowance; separation payments, death gratuities, time-in-service; allotments of pay; checks-to-banks; federal and state withholding taxes; court-martial sentences and non-judicial punishment; indebtedness resulting from but not limited to overpayment of pay and allowances and allotments, other debts to United States, certain non-government debts, and correspondence pertaining to all of the above. Inquiries files, personal financial records and sundry lists, reports and rosters including but not limited to Internal Revenue reports, state tax reports, Veterans Administration reports, Social Security Administration reports, and Treasury reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 37 USC, Pay and Allowances of the Uniformed Services; 10 USC 265, Policies and regulations: participation of Reserve officers in preparation and administration; 8033, Reserve components of the Air Force; policies and functions for government of: functions of National Guard Bureau with respect to Air National Guard; 8496, Air National Guard of the United States: commissioned officers; duty in; 9837(d), Settlement of accounts: deductions from pay; 32 USC 708, Property and fiscal officers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to pay members of the Air Force, to their checking and savings accounts, and their allotments either directly to financial institutions or through Direct Deposit/Electronic Fund Transfer Program, provide members periodic comprehensive statements of their accounts, and to respond to inquiries concerning their accounts at any time. US Air Force components such as Headquarters, Air Force Accounting and Finance Center, Major Commands and Air Force installations use these records to determine pay due military members, to verify pay affecting information, to collect overpayments made to military members, to provide accrual accounting for each covered entitlement of military pay and allowances, and to provide fund manager reports, internal manager reports and external reports. Other users include but are not limited to other components of Department of Defense such as Army and Navy which may pay Air Force members and initiate claims; other federal agencies such as the Internal Revenue Service for tax information on members, Social Security Administration for information regarding Federal Insurance Contribution Act tax deducted from members, Veterans Administration for

information regarding premiums on serviceman's group life insurance, state and local governments for tax and welfare information, insurance companies for allotments made to them by military members, financial institutions for deposits (checks-to-banks) and/or payments, the American Red Cross and the Air Force Aid Society. American Red Cross uses this information to determine needs of a member or his dependents in emergency situations. The Air Force Aid Society uses this information to determine needs of a member or his dependents in emergency situations and for verification of loan applications. The name, rank and Social Security Number of each member of the Armed Services on active duty may be disclosed as a routine use to the Department of Health and Human Services (DHHS). This information shall be extracted from systems of records used for making payment to military personnel on active duty. This information may be sumbitted to the Inspector General of DHHS upon request of that department only for comparison with appropriate rolls reflecting recipients of Aid to Families with Dependent Children (AFDC).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, note books, binders, visible file binders, cabinets, card files, computer magnetic tapes and computer paper printouts, and on roll mircrofilm and microfiche.

RETRIEVABILITY:

Filed by name, Social Security Number (SSN), or Military Service Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers, cabinets, locked cabinets or rooms, protected by guards, and controlled by personnel screening, visitor registers and computer system software.

RETENTION AND DISPOSAL:

Local retention varies from 3 to 6 years, After that time, records are either destroyed by tearing, shredding, pulping, macerating or burning or transferred by the Air Force Accounting and Finance Center to the Denver Federal Archives and Records Center for varying retention periods up to 56 years. Destroyed by shredding. Back-up records for emergency reconstruction in the event of primary record destruction are retained by the Federal Records Center Annex GSA at Neosho MO. Destruction is by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Accounting and Finance, United States Air Force.

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Lowry Air Force Base, Denver, CO, 80279, telephone (303) 370-7553. Information pertaining to geographically dispersed elements of the record system may be obtained from Documentation Managers at the applicable Air Force component listed in the Department of Defense Directory in the appendix to the Air Force's systems notices. Requester should be able to provide sufficient proof of identity, such as name, Social Security Number, military status, duty status or place of employment or other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Request from individuals should be addressed to AFAFC/DAD, Lowry Air Force Base, Denver, CO, 80279 Denver, CO, 80279, telephone (303) 370-7553. the record system may be obtained from Documentation Managers at the applicable Air Force component listed in the Department of Defense Directory in the appendix to the Air Force system notice. Requester should be able to provide sufficient proof of identity, such as name, Social Security Number, military status, duty status or place of employment or other information verifiable from the record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from financial institutions, automated system interfaces, a state or local government, source doeuments such as reports, military pay information originating from telephone inquiries telegraph messages and correspondence information from federal agencies and other DOD components and information from Air Force installations, Major Commands and USAF Headquarters.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F177 AF AFC E

SYSTEM NAME:

177 AF AFC E Reports of Survey

SYSTEM LOCATION:

At Air Force Accounting and Finance Center Lowry Air Force Base, Denver CO 80279, Headquarters, of the United States Air Force, major commands and major subordinate commands and Air Force installations. Mailing addresses are listed in the directory following the systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty and retired officer and enlisted personnel, present and former Air Force civilian employees, Air Force Reserve and Air National Guard personnel, Air Force Academy cadets, and Exchange Officers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include but are not limited to documentation of facts developed and liability ascertained pertaining to loss of, or damage to, Air Force owned or controlled property. Records are reports of survey; government property lost, damaged (GPLD) survey certificate; reports of survey register, survey officers' reports of investigation, depositions, affidavits, exhibits such as appraisals, reports, record copies, records of property maintenance, historical and other inspection reports, procurement records, security forces investigation reports, fire department and community and state police reports, and Judge Advocate General opinions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 9832, Property accountability: regulations; and 9835, Reports of survey; 37 USC 1007, Deductions from pay; 32 USC 710, Reports of survey.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to determine responsibility and pecuniary liability and to adjust accountability for the loss, damage, or destruction of public property under Air Force control. Users include but are not limited to: Department of Defense and Air Force components; other federal agencies, such as Department of Justice for criminal prosecution, civil litigation, or investigations; the and the Internal Revenue Service for tax determinations resulting from Air Force adjudications of

pecuniary responsibility; the Office of Personnel Management for personnel management functions. The report of survey is used to record and present facts in support of a determination of pecuniary liability and to serve as, or support, a property adjustment voucher. The GPLD Survey certificate is used to authorize adjustment of property records of government property when a report of survey is not required. The facts recorded may be used in establishing cause of loss or damage to private or government property.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, in note books/binders, in visible file binders/cabinets, in card files.

RETRIEVABILITY:

Filed by other identification number or system identifier. Conventional indices are keyed to name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, in safes, vaults, locked cabinets or rooms. Records are protected by guards. Records are controlled by personnel screening and by visitor registers. Files are given the same protection as the property accountability records with which they are associated.

RETENTION AND DISPOSAL:

Files are destroyed three years after final action if pecuniary liability is not assessed, and three years after collection or ten years after final action, whichever is sooner. Destruction is by shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Accounting and Finance, United States Air Force.

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Denver, CO 80279, telephone (303) 370-7553. Information pertaining to geographically dispersed elements of the record system may be obtained from the documentation manager at the applicable Air Force component listed in the Department of Defense directory in the appendix to the Air Force systems notices. Requester must present sufficient proof of identity, such as full name, Social Security Number (SSN), military or civilian status and grade, and approximate date and location of incident involving report of survey or other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Requests should be addressed to AFAFC/DAD, Denver, CO 80279, telephone (303) 370-7553. Requester must present sufficient proof of identity, such as full name, SSN, military or civilian status and grade, and approximate date and location of incident involving report of survey or other information verifiable from the record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from police and investigating officers, the public media, the bureau of motor vehicles, a state or local government, an international organization, a corporation, witnesses, or source documents such as reports from Air Force property records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F177 AF AFC F

SYSTEM NAME:

177 AF AFC F Civilian Pay Records.

SYSTEM LOCATION:

Accounting and Finance Offices at Air Force bases; Air Force Reserve units and Air National Guard Activities. Addresses are in the appendix to the Air Force's systems notices. Addresses of geographically dispersed units may be obtained by reference to Air Force components listed in the Department of Defense directory in the appendix to the Air Force notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force civilian employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual pay records; Individual leave records; source documents for posting leave and attendance; individual retirement deduction records; source documents maintained in connection with retirement deduction records and control files thereon; wage and separation information files; health benefit records; income tax withholding records; allowance and differential eligibility files, such as, but not limited to clothing allowances and night rate differentials; withholding and deduction authorization files, such as, but not limited to federal income tax withholding, insurance and retirement deductions; accounting document files; input data posting media, such as, but not limited to time and attendance cards and reports and personnel actions affecting pay; accounting and statistical reports and computer edit listings; claims and waivers affecting pay; control logs and collection/disbursement vouchers; listings for administrative purposes, such as, but not limited to health insurance, life insurance, bonds, locator files and checks to financial institutions; correspondence with the Civilian Personnel Office, dependents, attorneys, survivors, insurance companies, financial institutions, other governmental agencies and others; leave and earnings statements; travel records; and separation documents; official correspondence; federal, state and tax reports and/or tapes; forms covering pay changes and deductions, and documentation pertaining to garnishment of wages.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Chapters 53, 55 and 81.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records are used to accurately compute individual employee's pay entitlements and to withhold required and authorized deductions and issue payroll checks for amounts due. Output products are forwarded as required to other subject matter areas to ensure accurate accounting and recording of pay to civilian employees. These records and related products are also used to verify and balance in the civilian pay office and other applicable subject matter areas and to report information to recipients, other government, and nongovernment agencies. Such recipients and agencies include, but are not limited to, the individual employee; banks which credit the employee's account if the employee has requested his check to be sent to the bank; financial organizations which credit the employee's account if the employee has requested a savings allotment; other approved organizations which an employee has designated for an allotment; computer and accounting

service centers upon request of financial organizations designated by individuals to receive monies due them; Federal Reserve Banks under procedures specified in 31 CFR 210 for health benefit carriers to ensure proper credit for the employee authorized health benefit deductions; employee organizations for which the employee has requested a dues deduction (reasons for nondeduction of dues will be benefit deductions; disclosed to officials of labor organizations recognized under Executive Orders 11636 and 11491, as amended, when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices and matters affecting working conditions (including disclosure of reasons for nondeduction of dues, if applicable); the US Treasury, which maintains cash accountability; the Internal Revenue Service for recording withholding and social security information; the Social Security Administration and Office of Personnel Management which credits the employee's account for Federal Insurance Contributions Act or Civil Service Retirement withheld; State revenue departments which credit employee's state tax withholding; State employment agencies which require wage information to determine eligibility for unemployment compensation benefits of former employees; city revenue departments of appropriate cities which credit employees for city tax withheld; any agency or component thereof that needs the information for proper accounting of funds, such as, but not limited to, for-others listings; Office of Personnel Management for assistance in resolving complaints, grievances, etc. Information is also supplied to the Office of Personnel Management for computation of Civil service retirement annuity. Records are also used for extraction or compilation of data and reports for management studies and statistical analyses for use internally or externally as required by the Department of Defense or other Government agencies.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, in note books/binders, in visible file binders/ cabinets, in card files, on computer and on computer output products, on roll microfilm, on microfiche, and in microfilm jackets.

RETRIEVABILITY:

Filed by name, Social Security Number (SSN), Civilian Payroll Number, Vehicle Registration or License Number, or other identification number or system identifier.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms, protected by guards, and controlled by personnel screening, visitor registers, and computer system software.

RETENTION AND DISPOSAL:

Records are retained for periods ranging up to 56 years.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Accounting and Finance United States Air Force (USAF); and commanders of Air Force installations.

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Lowry AFB, Denver, CO 80279 telephone (303) 320-7553. Information pertaining to geographically dispersed elements of the record system maybe obtained from Documentation Managers at the applicable Air Force component listed in the Department of Defense directory in the appendix to Air Force system notices. Requester should be able to provide sufficient proof of identity, such as name, Social Security Number, drivers license, civilian identity card, duty station or place of employment or other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to AFAFC/DAD, Lowry AFB, Denver, CO 80279, telephone (303) 320-7553. Information pertaining to geographically dispersed elements of the record system maybe obtained from Documentation Managers at the applicable Air Force component listed in the Department of Defense directory in the Air Force system notices. Requester should be able to provide sufficient proof of identity, such as name, Social Security Number, drivers license, civilian identity card, duty station or place of employment, or other information verifiable from the record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from previous employers, financial institutions, medical institutions, automated system interfaces, state or local governments, from source documents such as reports, and from other Department of Defense components and other federal agencies such as, but not limited to Social Security Administration, Internal Revenue Service, State Revenue Departments, Department of the Army, Navy or State Department. Correspondence with attorneys, dependents, survivors or guardians may also furnish data for the system.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F177 AFA A

SYSTEM NAME:

177 AFA A Cadet Accounting and Finance System.

SYSTEM LOCATION:

United States Air Force Academy, USAF Academy CO 80840. Air Force Accounting and Finance Center, Denver, CO 80279.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Academy Cadets.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual computerized files containing pay data for all USAF Academy Cadets including Establishment/Change in Personal Checking Account, Monthly Report of Contingency Fund Status, Contingency Fund Loan Request, Cadet Pay Order, Document Control Log, Recapitulation of Cadet Pay Account, Cadet Pay Authorization, Cadet Pay Monthly Statement, Cadet Pay Record, Payment/ Collection Vouchers, Separation Control Log, Electronic Data Processing Sheets, Microfilm File, Cadet Pay Disk File, Quarterly FICA Report, Transmittal Letter.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC Chapter 903, United States Air Force Academy and 37 USC 201, Pay grade: assignment to; general rules.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This system is used to accumulate cadet pay entitlements (basic pay and subsistence), deductions (federal tax, social security, insurance premiums) in order to properly monitor the payments disbursed to the Air Force Cadet Wing (TAFCW). The information is used to determine the correct monthly net pay to be disbursed to each cadet and to charge the cadets for clothing issues and other services from authorized Academy sources. Information is used teo prepare Forms W2 for the Intrnal Revenue Service, report deductions for the Federal Insurance Contribution Act to the Social Security Administration, prepare Standard Form 1049 for release of tax information to the states and to report all expenditures to charges from authorized USAF Academy sources, and the reporting of all expenditures to the Air the Air Force Accounting and Finance Center.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, in visible file binders/cabinets, in card files, on computer and computer output products, and on roll microform.

RETRIEVABILITY:

By Cadet Number or Social Security Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms and in computer storage devices protected by computer system software.

RETENTION AND DISPOSAL:

The original copy of Cadet Pay Record, Cadet Pay Order, Substantiating Pay Documents and Transmittal Letter are forwarded to AFAFC, Denver, CO 80279. Copies of of Cadet Pay Orders are retained one year after annual cutoff in current files area and then destroyed. Document Control Records are destroyed 90 days after close of FY to which they pertain. W-2 listings, quarterly FICA reports and CPITF interest distribution records are retained by Cadet Pay Section six years after CY to which they pertain. Audit registers are destroyed after one academic year. Financial statements, schedules and supporting data is destroyed after 4 years. Pay inquiries are destroyed after two years.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Accounting and Finance, United States Air Force Academy, Colorado, 80840.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F177 AFAFC A

SYSTEM NAME:

177 AFAFC A Accounting and Finance Officer Accounts and Substantiating Documents

SYSTEM LOCATION:

Air Force Accounting and Finance Center, Lowry Air Force Base, Denver, CO 80279. Denver Federal Archives and Records Center, Bldg 48, Denver Federal Center, Denver, CO 80225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty and retired military personnel and other allotees, Air Force Reserve and Air National Guard personnel, civilian personnel employed at or paid by AF Installations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual military pay records; substantiating documents, such as certificates for deductions and retained military pay orders, records of travel payments, financial record data folders, miscellaneous military vouchers and statements, copies of morning or strength reports and personal financial records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 USC 67(b), Retention by executive agencies...of accounts of accountable officers, contracts, vouchers or other documents.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The system serves as a repository from which information may be retrieved to support claims for or against the government. The categories of users and uses are federal agencies including, but not limited to, the Federal Bureau of Investigation; Internal Revenue Service; and the Office of Personnel Management. Also used by state, local and city governments to substantiate pay, eligibility for welfare and unemployment; for personnel management functions; the general public for garnishment of pay, employment purposes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and note books/binders, on computer an computer output products and in microform.

RETRIEVABILITY:

Filed by name, Social Security Number (SSN) or Military Service Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms, protected by guards and controlled by personnel screening.

RETENTION AND DISPOSAL:

Records are stored at Air Force Accounting and Finance Center, updated and accessible for 18 months after receipt from Air Force Accounting and Finance Officers world-wide; then retired to the Denver Federal Archives and Records Center where they are retained for a period of 4 years, 9 months. Destruction is accomplished by sale to a salvage company for shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Comptroller of the Air Force, Headquarters United States Air Force and Director Accounting and Finance United States Air Force.

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an

individual may be obtained from AFAFC/DAD Lowry Air Force Base, Denver, CO 80279, telephone (303) 370-7553. Requester should be able to provide sufficient proof of identity, such as name, Social Security number, duty station, place of employment or other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to AFAFC/DAD Lowry Air Force Base, Denver, CO 80279, telephone (303) 370-7553. Requester should be able to provide sufficient proof of identity, such as name, Social Security number, duty station, place of employment or other information verifiable from the record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information from Air Force Accounting and Finance Officers.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F177 AFAFC B

SYSTEM NAME:

177 AFAFC B Accrued Military Pay System, Discontinued

SYSTEM LOCATION:

Air Force Accounting and Finance Center, Lowry Air Force Base, Denver, CO 80279. and at Denver Federal Archives and Record Center Bldg 48 Denver Federal Center, Denver, CO 80225 (back-up storage).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty and retired military personnel, and separated Air Force Personnel Officers of Air Reserve and Air National Guard on extended active duty.

CATEGORIES OF RECORDS IN THE SYSTEM:

Military pay records and related documentation including but not limited to monthly and cumulative six-months histories of pay transactions, wage and tax data, Uniformed Services Savings Deposit Program Records and Federal Insurance Contribution Act tax data contained on hard coy and/or microfilm. Military pay supporting documents and vouchers including but not limited to basic pay, special compensation positions, special pay, status adjustments, separation, reenlistment, reenlistment bonus, incentive pay, allowances, death gratuities, allotments of pay, court-martial sentences, indebtedness, and correspondence pertaining to all of the above. Sundry lists, reports and rosters including but not limited to Internal Revenue reports, Social Security reports, Veterans Administration reports and Treasury reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 37 USC, Pay and Allowances of the Uniformed Services; 10 USC 265, Policies and regulations: participation of Reserve officers in preparation and administration; 8033, Reserve components of Air Force; policies and regulations for government of: functions of National Guard Bureau with respect to Air National Guard; 8496, Air National Guard of the United States: commissioned officers; duty in National Guard Bureau; 9837(d), Settlement of accounts: deductions from pay; 32 USC 708, Property and fiscal officers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Provides an audit trail for audit purposes and historical information for inquiries pertaining to past pay record data. It is used primarily by all components of the Air Force for answering inquiries pertaining to information contained in these discontinued records, and for reviews by the Air Force audit agency and Inspector General. Other users may include Internal Revenue Service for tax information on members, Social Security Administration for information regarding tax deducted from members and Social Security entitlements, Veterans Administration for information regarding premiums on servicemens group life insurance, and financial institutions for deposits and/or payments.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders/visible file binders/cabinets and on roll microfilm.

RETRIEVABILITY:

Filed by name and Social Security Number (SSN) or Military Service Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are protected by guards and controlled by personnel screening.

RETENTION AND DISPOSAL:

Local retention varies from 6 months to 10 years; records are either destroyed by tearing shredding, pulping, macerating or burning, or transferred by the Air Force Accounting and Finance Center to the Denver Federal Archives and Records Center where they may be retained for a period up to 56 years. Back-up records for emergency reconstitution in the event of destruction of primary records are stored at the Federal Records Center Annex, GSA, Neosho, MO. Destruction is by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Accounting and Finance United States Air Force.

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Lowry Air Force Base, Denver, CO 80205, telephone (303) 370-7553. Requester should be able to provide sufficient proof of identity such as name, Social Security Number, military status, duty status or place of employment or other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Request from individuals should be addressed to AFAFC/DAD, Lowry Air Force Base, Denver, CO 80279, telephone (303) 370-7553. Requesters should be able to provide sufficient proof of identity, such as Social Security Number, military status, duty status or place of employment, or other information verifiable from the record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from previous employers, financial and medical institutions, state or local governments, corporations, source documents such as reports, Accounting and Finance Offices (AFO), and Consolidated Base Personnel Offices (CBPO).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F177 AFAFC C

SYSTEM NAME:

177 AFAFC C Uniformed Services Savings Deposit Program (USSDP)

SYSTEM LOCATION:

Air Force Accounting and Finance Center, Lowry Air Force Base, Denver, CO 80279 and Denver Federal Archives and Record Center, Bldg 48, Denver Federal Center, Denver, CO 80225 and Record Center Annex GSA, P.O. Box 141, Neosho, MO 64850 (backup storage).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This notice covers both the discontinued portion of USSDP and the remaining active part of the system. Effective 30 June 1974 the USSDP program was discontinued except for those members declared missing in action (MIA) during the Vietnam conflict. Prior to 30 June 1974, the record system serviced Air Force active duty officers and enlisted personnel serving on a permanent duty assignment outside the United States or its possessions. Effective 1 July 1974, the record system services only Air Force active duty officers and enlisted personnel who have been declared MIA as a result of the Vietnam conflict. Dependents, next of kin, survivors and former spouses of USSDP participants may be included.

CATEGORIES OF RECORDS IN THE SYSTEM:

Includes but is not limited to the master account records for each depositor; transaction records of monetary data (deposits, withdrawals and adjustments); allotment records; name and Social Security number (SSN) change record; settled records; checkwriting and voucher register data records; interest paid records; quarterly statements records; supplemental address for interest refund records. Also includes correspondence files covering requests for information from members, federal agencies, spouses, former spouses, dependents, survivors, widows or widowers, next of kin, the American Red Cross, Congress, and other Air Force and DOD components.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 1035, Deposits of savings.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Provides mechanized and manual account maintenance including updating for deposits, withdrawals, interest accruals, adjustments and summary data for quarterly processing; capability of responding to inquiries regarding the status of each depositors account; capability to settle accounts, issue settlement statements and checks; quarterly statements to depositors showing detailed activity for the current quarters and cumulative balances for prior periods; reconciliation between the Accounting and Finance Officers (AFO) accounts and cash control reports with appropriate audit trails; controls to insure compliance with statutory limitations on amounts deposited, desertion status and conditions under which withdrawals are permitted; and records for storage of historical data on each depositors' account. The users and uses made of the information include but are not limited to the following United States Air Force components use these records to maintain, update, settle, and report on individual members account balances. Other DOD components use various account balances information to process withdrawal requests. Veterans Administration (VA) and Social Security use this information to determine eligibility, entitlements, and addresses of and for USSDP members. Federal Housing Agency (FHA) uses this information in their loan programs. Internal Revenue Service (IRS) uses the information for tax purposes and for levy action in the collection of taxes owed. American Red Cross uses this information to determine needs of a member or his dependents in emergency situations. Widow or widower, dependent, or next of kin of deceased members use this information in settling the affairs of the former member

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in, visible file binders/cabinets/card files, on computer magnetic tapes and computer paper printouts, and on mircrofiche.

RETRIEVABILITY:

Filed by name and Social Security Number (SSN) or Military Service Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, protected by guards and controlled by personnel screening, visitor registers and computer system software.

RETENTION AND DISPOSAL:

All records except correspondence and balancing data (deposit, adjustment, and withdrawal) are retained for 6 years after final settlement. Correspondence is kept for 90 days; balancing data is kept for 1 year after in balance status is reached. Records are stored at Air Force Accounting and Finance Center, at the Denver Federal Archives and Record Center, and at the Record Center Annex, Neosho, MO. Destruction is by sale to salvage company for shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director Accounting and Finance, United States Air Force (USAF).

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Lowry Air Force Base, Denver CO 80279, telephone (303) 370-7553. The requester should be able to provide sufficient proof of identity, such as name, Social Security Number, date of final settlement, duty station or place of employment, or other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Request from individuals should be addressed to AFAFC/DAD, Lowry Air Force Base, Denver, CO 80279, telephone (303) 370-7553. The requester should be able to provide sufficient proof of identity, such as name, Social Security Number, date of final settlement, duty station or place of employment, or other information verifiable from the record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and is published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from automated system interfaces other Air Force and DOD components and dependents, next of kin, survivors, and former spouses of USSDP members.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F177 AFAFC D

SYSTEM NAME:

177 AFAFC D Claims Case File - Active Duty Casualty Case Records

SYSTEM LOCATION:

Air Force Accounting and Finance Center, Lowry Air Force Base, Denver, CO 80279 and at the Denver Federal Archives and Record Center, Building 48, Denver Federal Center, Denver, CO 80225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Deceased active duty and former active duty Air Force members; dependents, beneficiaries, and next-of-kin of deceased Air Force members.

CATEGORIES OF RECORDS IN THE SYSTEM:

Includes but not limited to the following: claim certification and vouchers for death gratuity payments; claim for unpaid compensation of deceased members of the uniformed services; reports of casualty; travel vouchers; travel orders; military pay and allowance vouchers; wage and tax statements; miscellaneous income statements; divorce decrees; guardianship papers; death certificates; birth certificates; military pay records; statements of service; military pay orders; employees' exemption for dependents certificates; authorizations to start, stop or change allotments; mailing address payment options for Joint Uniform Military Pay System (JUMPS); authorizations to start or stop basic allowance for quarters credit; document transmittals (JUMPS); military pay orders transfer in; requests and authorizations to pay basic allowance subsistence and separate rations; records of emergency data; records of accounting and finance office authorized payments, JUMPS; assignments of assistance responsibility; leave and earnings statements; acknowledgments and/or transfers of casualty assistance cases; records of travel payments; special orders; record of courts-martial; per diem work sheets; marriage licenses; proceedings of homicide trials; court records; promotion orders; personal letters from deceased member to claimant; applications for commercial insurance; pay and allotment information on deceased members; affidavits in support of in local parentis relationships; pay adjustment authorizations; bills of lading; affidavits by natural custodian for claim on behalf of minor children; tax certificate statements; paternity admissions statements; Social Security wage adjustment data; leave records; claims for unpaid pay and allowances of deceased member of the uniformed services where there is no designated beneficiary of the claimant; returned check records; allotment reports; proof of adoption; and public vouchers for purchases and services.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 1475-1480, Death gratuity...; and 2771, Final settlement of accounts: deceased members.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to compute death gratuity payments and payments of unpaid pay and allowances and to determine the proper beneficiaries thereof. Copies of records or requested information are furnished to other agencies, such as but not limited to Internal Revenue Service (IRS), Social Security Administration (SSA), and the Veterans Administration (VA), and to state and local agencies. Information is used by such entities to determine any obligations, benefits and privileges under their jurisdiction. Certified copies of past pay records are furnished to attorneys representing potential beneficiaries.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name and Social Security Number (SSN) or military Service Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, protected by guards and controlled by personnel screening and visitor registers.

RETENTION AND DISPOSAL:

Retained at Air Force Accounting and Finance Center for one year after closing date, then forwarded to Denver Federal Archives and Records Center and destroyed six years from final closing date. Destruction is by shredding, tearing, mascerating, pulping, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director Accounting and Finance, United States Air Force (USAF).

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Lowry Air Force Base, Denver, CO 80279, telephone (303) 329-7553. The requester should be able to provide sufficient proof of identity, such as name, Social Security Number, drivers license, military status, duty station or place of employment or other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Request from individuals should be addressed to AFAFC/DAD, Lowry Air Force Base, Denver, CO 80279, telephone (303) 370-7553. The requester should be able to provide sufficient proof of identity, such as name, Social Security Number, drivers license, military status, duty station or place of employment or other information verifiable from the record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from educational and medical institutions, automated system interfaces, police and investigating officers, the public media, state or local governments, witnesses, and source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F177 AFAFC E

SYSTEM NAME:

177 AFAFC E Claims Case File - Corrected Military Records

SYSTEM LOCATION:

Air Force Accounting and Finance Center, Lowry Air Force Base, Denver, CO 80279 and at the Denver Federal Archives and Records Center, Denver Federal Center, Building 48, Denver CO 80225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty officers and enlisted personnel, and former active duty military personnel; Air Force Reserve and Air National Guard personnel; retired Air Force military personnel; Air Force Academy cadets; surviving dependents of military personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Includes but not limited to: retired pay information; reserve pay information; statement of service; travel orders; travel vouchers; leave records; individual military pay records; discharge document; civilian earning statements; civilian earnings, wage and tax statement; income tax returns when provided by individuals to support a claim; copies of court martials; copies of non-judicial punishment, application for correction of military or naval records; requests, authorizations and pay orders for basic allowance for subsistence (BAS), separate rations; record of travel payments; military pay and allowances voucher; bills of lading; supplemental wage and tax statement; dependents: address and name; Social Security Number of deceased retired Air Force members; pay adjustment authorization; medical bills and receipts; correspondence pertaining to above subject matters.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 1552, Correction of military records: claims incident thereto.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to determine the proper payment due based on the correction of military records. Users include, but are not limited to the following: when claimant has his records changed to receive back pay for a period he was drawing unemployment, the amount of the payment is reported to the applicable state unemployment office. The various state unemployment offices may use the information to either institute collection process from the member or to adjust their records. Pay adjustment data and supporting documentation is submitted to the accounting and finance office for payment, and also to the Joint Uniform Military Pay System (JUMPS) for memorandum type entry on master military pay account. Disclosures may also be made to the Internal Revenue Service and to the Social Security Administration for their determination of tax liabilities and Social Security entitlements flowing from corrections of military pay and allowances.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name, Social Security Number (SSN) or Military Service Number

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, protected by guards, and controlled by personnel screening and visitor registers.

RETENTION AND DISPOSAL:

Folder is retained at Air Force Accounting and Finance Center for one year, after which time it is sent to Denver Federal Archives and Record Center and destroyed six years from final closing date. Destruction is by shredding, mascerating, pulping, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Comptroller of the Air Force, Headquarters United States Air Force. Director Accounting and Finance, United States Air Force.

NOTIFICATION PROCEDURE:

Information as to whether the records system contains information on an individual may be obtained from AFAFC/DAD, Lowry Air Force Base, Denver, CO 80279, telephone (303) 370-7553. The requester should be able to provide sufficient proof of identity, such as name, Social Security Number, driver's license, military status, duty station or place of employment or other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to AFAFC/DAD, Lowry Air Force Base, Denver, CO 80279, telephone (303) 370-7553. The requester should be able to provide sufficient proof of identity, such as name, Social Security Number, driver's license, military status, duty station or place of employment or other information verifiable from the record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from previous employers, automated system interfaces, and source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F177 AFAFC F

SYSTEM NAME:

177 AFAFC F Claims Case File - Missing in Action Data

SYSTEM LOCATION:

Air Force Accounting and Finance Center, Lowry Air Force Base, Denver, CO 80279 and at the Federal Archives and Record Center, Building 48, Denver Federal Center, Denver CO 80225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Missing-in-action Air Force members; dependents and next-of-kin of missing Air Force members; and former spouses of missing Air Force members.

CATEGORIES OF RECORDS IN THE SYSTEM:

Includes, but not limited to the following: statements of dependent's expenses; Air Force Office of Special Investigation reports; correspondence requests for dependency determination; travel vouchers; travel orders; marriage certificates; birth certificates; annulments; divorce decrees; adoption papers; allotment documents (starts, stops, and changes); military pay and allowance vouchers; promotion orders; military pay orders; financial statements; reports of casualty; wage and tax statements; guardianship papers; statements of service; records of emergency data; assignments of assistance responsibility; leave and earnings statements; acknowledgments and/or transfers of casualty assistance; records of travel payments; per diem work sheets; pay adjustment authorizations; bills of lading; tax certificate statements; returned check records; public vouchers for purchases and services; notice of premium due from commercial insurance companies; car titles; Judge Advocate General opinions and interpretative memoranda; car insurance policy statements; requests for verification of deposits in Uniformed Services Savings Deposit program; public vouchers for refunds; military pay vouchers; letters of notification of pay increases and decreases; copies of missing member's last will and testament; Uniformed Services Savings Deposit statements; change of mailing address forms; copies of personal checks; breakdown of

expenditures for investment purposes; military pay records of missing member; medical history on dependents; and newspaper clippings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

37 USC Chapter 10 - Payments to Missing Persons.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used for adjudication and distribution of missing member's funds, and to make determinations of dependent's eligibility and entitlement to pay allowances for parents, wives and children. Data is also disclosed through correspondence with member's dependents pertaining to distribution of monies. Copies of records may on occasion be furnished to other agencies, such as but not limited to Internal Revenue Service (IRS), Social Security Administration (SSA), and the Veterans Administration (VA), and to state and local agencies for their determination for any obligations, benefits and privileges under their respective jurisdictions. Vouchers are provided to the Automated Uniformed Services Savings Deposit Program (USSDP).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name, Social Security Number (SSN), or Military Service Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/ cabinets, protected by guards, and controlled by personnel screening and visitor registers.

RETENTION AND DISPOSAL:

Records are retained for the entire time member is in a missing or prisoner status. If member is returned to military control, files are returned to military pay jacket (active duty). If member is declared killed-in-action, file is processed as death case, retained at AFAFC for one year, then retired to Denver Federal Archives and Record Center, and destroyed six years after final closing date. Destruction is by shredding, mascerating, pulping, tearing, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Comptroller of the Air Force, Headquarters United States Air Force. Director Accounting and Finance, United States Air Force (USAF).

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Lowry Air Force Base, Denver, CO 80279, telephone (303) 370-7553. The requester should be able to provide sufficient proof of identity, such as name, Social Security Number, drivers license, military status, duty station or place of employment or other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to AFAFC/DAD, Lowry Air Force Base, Denver, CO 80279, telephone (303) 370-7553. The requester should be able to provide sufficient proof of identity such as name, Social Security number, drivers license, military status, duty station or place of employment, or other information verifiable from the record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from financial, educational and medical institutions; automated system interfaces; police and investigating officers; the public media; and bureaus of motor vehicles.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F177 AFAFC I

SYSTEM NAME:

177 AFAFC I Loss of Funds Case Files

SYSTEM LOCATION:

Air Force Accounting and Finance Center, Lowry Air Force Base, Denver, CO 80279.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force, Army, Navy and Marine Corps active duty military personnel, Air Force civilian employees and former employees, Air Force Reserve and Air National Guard personnel. Retired Air Force military personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information source documents, reports of investigating officer(s) on losses in Air Force accounting and finance offices: (AFOS) accountability, loss of funds settlement vouchers, material to determine cause of the loss, identification of personnel concerned in the loss, determinations of pecuniary liability, opinions from Judge Advocate General offices, opinions from the Comptroller General and from the General Accounting Office, and final determinations by the Secretary of the Air Force.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 USC 95a, Relief of disbursing officers of military departments; 492b, Gains and losses resulting from exchange transactions; offsetting of deficiencies in accounts against gains; and 40 USC Chapter 15 - Government Losses in Shipment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Loss of funds case files record the chronological history of losses or deficiencies in AFOS money accounts. Data contained in these files are used to prepare reports and statistics, and to develop facts necessary for administrative adjudications of pecuniary responsibility. Users of the records system include, but are not limited to, attorneys, surety companies, and individuals for internal Air Force processing and outside litigation by those named in the case.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/ cabinets and in safes, protected by guards, and controlled by personnel screening and visitor registers.

RETENTION AND DISPOSAL:

Whenever relief from pecuniary responsibility for a loss is recommended and granted, records are retained at AFAFC for four years and then destroyed by tearing into pieces, shredding, pulping or macerating. Whenever one or more persons are held liable for a loss, and the loss is completely recovered, records are retained in AFAFC files for six years and then destroyed by tearing into pieces, shredding, pulping, or macerating.

SYSTEM MANAGER(S) AND ADDRESS:

Comptroller of the Air Force, Headquarters United States Air Force. Director of Accounting and Finance, United States Air Force (USAF).

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Lowry Air Force Base, Denver, CO 80279, telephone (303) 370-7553. The requester should be able to provide sufficient proof of identity, such as name, Social Security number, military or civilian status, duty station or place of employment, or other information verifiable in the record itself.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to AFAFC/DAD, Lowry Air Force Base, Denver, CO 80279, telephone (303) 370-7553. The requester should be able to provide sufficient proof of identity, such as name, Social Security Number, military or civilian status, duty station or place of employment, or other information verifiable in the record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from financial institutions, police and investigating officers, witnesses and source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F177 AFAFC J

SYSTEM NAME:

177 AFAFC J Military Pay Records

SYSTEM LOCATION:

Air Force Accounting and Finance Center, Lowry Air Force Base, Denver, CO 80279; Denver Federal Archives and Records Center, Building 48, Denver Federal Center, Denver CO 80225; Federal Records Center Annex, GSA, PO Box 141, Neosho, MO 64850.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty and separated military personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Microfilm of Military Pay Records of individual Air Force personnel on active duty or separated. Military pay records and related documentation including but not limited to monthly and cumulative six-months histories of pay transactions, Federal Income Tax withholding data, Federal Insurance Contribution Act tax data contained on hard copy and/or microfilm. Military pay supporting documents and vouchers including but not limited to basic pay, special compensation positions, special pay, status adjustments, separation, reenlistment, reenlistment bonus, incentive pay, allowances, death gratuities, allotments of pay, court-martial sentences, indebtedness, and correspondence pertaining to all of the above. Sundry lists, reports and rosters including but not limited to Internal Revenue reports, Social Security reports, Veteran's Administration reports, and Treasury reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

37 USC 401-403, Allowances; 551-558, Payments to Missing Persons; 10 USC 1475-1480, Death Benefits; 1552, Correction of military records: claims incident thereto; 2771, Final settlement of accounts: deceased members.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purposes are to furnish pay information from microfilm of Military Pay Records when hard copies of pay records cannot be located in Military Pay Record file. Used as back-up of hard copies of Military Pay Records which are also filed at this location. The purpose of the record system is to retain historical pay data on Air Force and former Air Force members, and to furnish pay information and/or related information to Accounting and Finance Offices (AFOS) and Consolidated Base Personnel Offices (CBPOs), who use this information in answering inquiries and in determining current administrative adjustments. Copies of certified pay records and related documents are disclosed to military courts for court-martial action, and to Civil Courts. Furnish wage and tax statement (Form W-2) for tax purposes to State Revenue Service, Internal Revenue Service, individual members misplacing original form W-2, widows of deceased members, or to verify Air Force service on request from other services.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and on roll microfilm.

RETRIEVABILITY:

Filed by name and Social Security Number or Military Service Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, protected by guards, and controlled by personnel screening and visitor registers.

RETENTION AND DISPOSAL:

Military Pay Records, hard copies, are retained at Denver Federal Archives and Records Center where they are sold to paper salvage companies and destroyed by shredding after a total of ten years after member's separation, or date of final action, whichever is later. Microfilm of Military Pay Records is retained at Air Force Accounting and Finance Center for six years then destroyed by shredding or burning. Copies of microfilm are retained for fifty-six years at Federal Records Center Annex, GSA at Neosho, MO and then destroyed by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director Accounting and Finance, USAF.

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Lowry Air Force Base, Denver, CO 80279, telephone (303) 370-7553. The requester should be able to provide sufficient proof of identity, such as name, Social Security Number, service number, military status, duty station or place of employment, or other information which may be determined from the record itself.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to AFAFC/DAD, Lowry Air Force Base, Denver, CO 80205 telephone (303) 370-7553. The requester should be able to provide sufficient proof of identity, such as name, Social Security Number, service number, military status, duty station or place of employment, or other information which may be determined from the record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from previous employers, financial and medical institutions, automated system interfaces; police and investigating officers; state or local governments; corporations; source documents such as reports; Air Force installation Accounting and Finance Pay Offices; Joint Uniform Military System (JUMPS); state agencies; state revenue services; veterans organizations; federal agencies; Internal Revenue Service; Veteran's Administration; attorneys; widows of former members; parents of members; dependents, trustees, and guardians; and other Department of Defense components.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F177 AFAFC K

SYSTEM NAME:

177 AFAFC K Pay and Allotment Records

SYSTEM LOCATION:

Air Force Accounting and Finance Center, Denver CO 80279; Denver Federal Archives and Record Center, Building 48, Denver Federal Center, Denver, CO, 80225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty and retired military personnel Air Force Reserve and Air National Guard personnel, and Air Force Academy cadets.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications for Basic Allowance for Quarters (BAQ); request for dependency determinations for benefits; copies of marriage certificates, birth certificates, annulments, divorce decrees and adoption papers; certificate of residence forms; allotment documents (starts, changes and stops); special pay authorizations; copies of allotment vouchers; change of address forms; parent dependency affidavits; correspondence between the Air Force Accounting and Finance Center (AFAFC) and members and their dependents pertaining to allotments (pay information) and determinations of dependency; Comptroller General decisions; General Accounting Office opinions; Judge Advocate General opinions and interpretative memoranda; Air Force Office of Special Investigation (OSI) reports, interpretative memoranda from plans and systems (XS) at AFAFC; status request from office of civilian health and medical program of the uniformed services (CHAMPUS) regarding medical care for children over age 21; correspondence with state and local agencies; American Red Cross; and other material related to dependency determination and eligibility of dependents for pay and allowance purposes and benefits.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

37 USC 401, Definitions; 403, Basic allowance for quarters; 10 USC 1072, Definitions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records are used to make final determinations of dependency and or relationship eligibility entitlement to pay allowances for parents, step-children and adopted children who have income in their own right, illegitimate children and all cases where relationship or dependency is questionable; make determinations of dependency and or eligibility entitlement to benefits for parents, parents-in-law, illegitimate children and children over age 21. Copies of affidavits, documents, related correspondence and/or information contained therein may be furnished to the service member, the claimed dependent and/or the person who furnish such information. Copies of affidavits, statements and related correspondence may be furnished OSI to verify information submitted by or in behalf of the claimed dependent. Copies of records may on occasion be furnished to Internal Revenue Service (IRS), Social Security Administration (SSA), Office of Personnel Management, and the Veterans Administration (VA), and to state and local agencies for their own determinations for any obligations, benefits and privileges that come under their jurisdiction. Notify other services (Army, Navy, Marine Corps, Coast Guard) on approvals of BAQ in behalf of parents and illegitimate children to prevent duplicate claims. Notify the American Red Cross of status of claims to inform the member and/or their dependents. On occasion may disclose information to the Air Force Aid Society.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name and Social Security Number or Military Service Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, protected by guards and controlled by personnel screening and visitor registers.

RETENTION AND DISPOSAL:

Records for members who have been separated from the service are purged annually and retired to the Federal Archives and Records Center at Denver Federal Center with one exception. Records for which claims are received and/or a dependency determination is made after separation, are retained at the AFAFC for six years after last determination and then sent to the Denver Federal Archives and Records Center. Records are destroyed six years after member's separation from the service or last determination, whichever is later. Destruction is by shredding, tearing or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director Accounting and Finance, United States Air Force, Wash DC 20330

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Denver CO 80279, telephone (303) 370-7553. The requester should be able to provide sufficient proof of identity, such as name, Social Security number, service number, military status, duty station or place of employment.

RECORD ACCESS PROCEDURES:

Request from individuals should be addressed to AFAFC/DAD, Denver CO 80279, telephone (303) 370-7553. The

requester should be able to provide sufficient proof of identity, such as name, Social Security Number, service number, military status, duty station or place of employment.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from previous employers, financial and medical institutions, automated system interfaces, police and investigating officers, state or local governments, source documents such as reports; applications and correspondence from members for dependency determination, COLA, and medical care; correspondence from parents, guardians and custodians of dependents, attorneys and the American Red Cross pertaining to dependency determination and support of dependents; information from other components of the Department of Defense.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F177 AFAFC L

SYSTEM NAME:

177 AFAFC L United States Air Force Retired Pay System

SYSTEM LOCATION:

Air Force Accounting and Finance Center, Lowry Air Force Base, Denver CO 80279; Federal Archives and Records Center, Building 48, Denver Federal Center, Denver, CO 80225; Records Center Annex, GSA, P.O. Box 141, Neosho, MO 64850 (backup storage only); Air Reserve Personnel Center and Personal Affairs offices at Air Force installations. Official mailing addresses are in the Department of Defense Directory in the Appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty and retired military personnel, Air Force Reserve and Air National Guard personnel, dependents and survivors of military personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include, but are not limited to retired pay and annuitant pay master files with supporting documentation relating to entitlements, deductions, collections and alotments Supporting documents include but are not limited to Retirement Orders, retirement pay orders, gross pay statements, statements of employment, employees' withholding exemption certificates, records of emergency data, retired pay allotment authorizations, retirees: United States savings bond authorizations, Air Reserve Forces retirement credit summaries, divorce decrees, computation of retired pay, death certificates, claims for unpaid pay and allowances of deceased members, marriage certificates, adoption papers, guardian papers, birth certificates, election certificates for retired servicemens' family protection plan (RSFPP), election certificates for survivor benefit plan (SBP), documents pertaining to status of childrens' schooling, and income tax withholding statements. Also included are listings of bonds, allotments, retired pay and annuitant pay checks, debts owed the government and direct remittances made by retirees for the costs of the RSFPP and SBP plans, records from dependents of retired military personnel, correspondence related to retirement entitlements such as reports from hospitals and medical review boards, print-outs of members' active duty military pay accounts from the joint uniform military pay system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC Chapters 61, Retirement or Separation for Physical Disability; 63, Retirement for Age; 65, Retirement for Length of Service; 67, Retired Pay for Non-Regular Service; 69, Retired Grade; 71, Computation of Retired Pay; 73, and 79, Correction of Military Records; 5 USC Chapter 83, Retirement; Title 37 USC, Pay and Allowances of the Uniformed Services; 38 USC 410, Deaths entitling survisors to dependency and indemnity compensation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to accurately and timely pay the retired members of the Air Force and their survivors; provide members periodic statements of pay; document and account for all disbursements and collections; and to respond to inquiries concerning the retiree and annuitant accounts. Records are used to establish, maintain and close retiree and annuitant pay accounts and prepare related reports; compute retired and annuitant pay and initiate actions for monthly pay and allotment transactions; casualty cases are established upon the death of a member and arrears of pay are computed and disbursed to survivors; upon the death of a retired member, RSFPP and/or SBP accounts are established and survival annuities are paid. Other users include, but are not limited to, any component of the Department of Defense for inquiries, audit and document utilization; other federal agencies such as the Internal Revenue Service for normal wage and tax withholding reporting, accounting, tax audits and levies; Comptroller General and the General Accounting Office for legal interpretations and audits. Disclosures are made to the Veteran's Administration regarding establishments, changes and discontinuances of VA compensation to retirees and annuitants; disclosures are made to the Social Security Administration regarding wages and Federal Insurance Contributions Act Tax withholding; information is furnished the American Red Cross and the Air Force Aid Society for their use in assisting retirees and their survivors. Information is supplied to state and local governments for use as follow-up data in welfare cases and for tax purposes. Also, there is an automated interface with the joint uniform military pay system for data used to compute annuitant payments; retiree's pay and their allotment (checking and savings accounts) payments as well as annuitant's pay are sent either directly to financial organizations or through the Direct Deposit/Electronic Fund Transfer Program. Information is also supplied to the Office of Personnel Management when a retiree waives his military retired pay in order to use his military service for computing his Civil Service Retirement Annuity. Information is supplied to the courts regarding retiree pay in garnishment cases. Disclosures are also made to attorneys, law firms, and other parties acting as executors or administrators of retirees estates and information is provided to trustees of mentally incompetent members and guardians of survivors (children).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders/note books/binders/visible file binders/cabinets/card files, computer magnetic tapes and paper printouts, and on roll microfilm and microfiche.

RETRIEVABILITY:

Filed by name and Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets/vaults/locked cabinets or rooms, protected by guards, and controlled by personnel screening, visitor registers and computer system software.

RETENTION AND DISPOSAL:

The records are retained for varied periods up to 56 years. Destruction of records is by shredding. Records are maintained at the Denver Federal Archives and Records Center. Duplicate records are maintained at the alternate site at Neosho, MO for storage where destruction is by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Accounting and Finance, United States Air Force, Washington DC 20330 (USAF). Assistant Deputy Chief of Staff Personnel for Military Personnel, Randolph Air Force Base, TX 78150 for Survivor Benefit Plans Briefing records and spouse notification letters.

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Lowry Air Force Base, Denver, CO 80279, telephone (303) 370-7553. The requester should be able to provide sufficient proof of identity, such as name, Social Security Number, duty station or place of employment, military status, military grade or other information verifiable from the record itself. For Survivor Benefits Plans Briefing records and spouse notification data, contact the System Manager specified in the preceding category or Personal Affairs officials at the servicing Air Force installation. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to AFAFC/DAD, Lowry Air Force Base, Denver, CO 80279, telephone (303) 370-7553. The requester should be able to provide sufficient proof of identity, such as name, Social Security Number, duty station or place of employment, military status, military grade or other information verifiable from the record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from previous employers, financial, educational, and medical institutions, automated system interfaces, state or local governments, source documents such such as reports. Also record sources include but are not limited to, the following: members' survivors, trustees of mentally incompetent members, guardians of survivors (children), private law firms which are executors of estates in casualty cases, the Air Force Manpower and Personnel Center at Randolph Air Force Base, TX, and other government agencies such as the Veterans Administration and the Social Security Administration. Information also obtained from the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F177 AFAFC M

SYSTEM NAME:

177 AFAFC M Indebtedness and Claims.

SYSTEM LOCATION:

Air Force Accounting and Finance Center, Lowry AFB, Denver, CO 80279; Denver Federal Archives and Record Center Bldg 48 Denver Federal Center, Denver, Colorado 80225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty and retired Air Force military personnel and present and former Air Force civilian employees, Air Force Reserve and Air National Guard personnel, Air Force Academy cadets, Dependents of military personnel, Exchange Officers, Foreign nationals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of current and former military members and civilian employees pay accounts showing entitlements, deductions, payments made, and any indebtedness resulting from deductions and payments exceeding entitlements. These records include, but are not limited to, individual military pay records, substantiating documents such as military pay orders, pay adjustment authorizations, military master pay account print out from Joint Uniform Military Pay System (JUMPS), records of travel payments, financial record data folders, miscellaneous vouchers, personal financial records, credit reports, promissory notes, individual financial statements, and correspondence. Applications for waiver of erroneous payments or for remission of indebtedness with supporting documents, including but not limited to, statements of financial status (personal income and expenses), statements of commanders, statements of Accounting and Finance Officers, correspondence with members and employees. Claims of individuals requesting additional payments for services rendered with supporting documents including, but not limited to, time and attendance reports, leave and earnings statements, travel orders, travel vouchers, statements of non-availability of quarters and mess, paid receipts, and correspondence with members and employees. Delinquent accounts receivable from base Accounting and Finance Officers including, but not limited to, returned checks, medical services billings, collection records, and summaries of the Air Force Office of Special Investigation and Federal Bureau of Investigation reports. Reports from probate courts regarding estates of deceased debtors. Reports from bankruptcy courts regarding claims of the US against debtors.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 USC Chapter 18-Compromise and Collection of Federal Claims; 10 USC 2774, Claims for overpayment of pay and allowances, other than travel and transportation claims and 9837 (d), Settlement of accounts: remission or cancellation of indebtedness of enlisted members; 5 USC 5584, Claims for overpayment of pay and allowances, other than travel and transportation expenses and allowances and relocation expenses; 12 USC 1715m, Mortgage insurance for servicemen .

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information is collected to determine eligibility for waiver of erroneous payments and remission of indebtedness or additional payments for services rendered. Also, information is required to attempt collection of all claims of the United States for money or property arising out of the activities of the United States Air Force. Data necessary to identify the individual involved is disclosed to commercial credit agencies whenever a financial status report is requested for use in the administration of the Federal Claims Collection Act. Claims of the United States may be compromised, terminated, or suspended when warranted by

information collected. The records are used by, but not limited to, Air Force Accounting and Finance Center (AFAFC) Director of Accounting and Finance and Deputy Director of Accounting and Finance (HQ USAF/ACF), Assistant Secretary of the Air Force for Manpower and Reserve Personnel (SAF/MR), United States Air Force Comptroller (HQ USAF/AC), and the Comptroller General. AFAFC/CC uses the information to make final determinations or recommendations to SAF/MR, HQ USAF/AC, or the Comptroller General; to furnish legal advice to operating officials; to establish debts and respond to letters received from individuals. After action is completed, files are closed and filed in individual records. SAF/MR, HQ USAF/AC and the Comptroller General use the files for making final determinations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and in machine - readable form.

RETRIEVABILITY:

Filed by Name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, protected by guards, and controlled by personnel screening and visitor registers.

RETENTION AND DISPOSAL:

Retained in office files for one year after annual cut-off, transferred to the Denver Federal Archives and Record Center for nine additional years, and then sold to salvage paper companies to be destroyed by shredding, tearing, mascerating, pulping or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director Accounting and Finance United States Air Force (USAF).

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Denver, CO 80279, telephone (303) 320-7553. Requester should be able to provide sufficient proof of identity, such as name, Social Security Number, military status, duty station or place of employment, or other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to AFAFC/DAD, Denver, CO 80279, telephone (303) 320-7553. Requester should be able to provide sufficient proof of identity, such as name, Social Security Number, military status, duty station or place of employment, or other information verifiable from the record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from financial and medical institutions; automated system interfaces; police and investigating officers; the public media, a state or local government; and source documents such as reports; credit bureaus; Bureau of Employees Compensation, Veterans Administration; Social Security; Internal Revenue Service; Federal Housing Administration; health insurance companies; U.S. Army Finance and Accounting Center; Navy Finance Center; Base Accounting and Finance Officers, Major Commands; Comptroller General; and correspondence with individual concerned or his representative.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F178 AFSC A

SYSTEM NAME:

178 AFSC A Rome Air Developement Center (RADC) Manpower Resources Expenditure System

SYSTEM LOCATION:

Rome Air Development Center (RADC), Griffiss AFB NY 13441.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian and military personnel assigned to RADC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel identification and job classification data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to compile statistical reports and for support of manpower and cost accounting systems.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer and computer output products.

RETRIEVABILITY:

Filed by name and Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the records system in the course of their official duties who are properly screened and cleared for need-to-know.

RETENTION AND DISPOSAL:

Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Comptroller, Rome Air Development Center, Griffiss Air Force Base, NY.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager or from RADC/Department of Administration Griffis Air Force Base NY.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35

RECORD SOURCE CATEGORIES:

Obtained from individual and personnel record.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F178 AFSC C

SYSTEM NAME:

178 AFSC C Integrated Management Information and Control System (IMICS)

SYSTEM LOCATION:

Foreign Technology Division (FTD), Wright-Patterson Air Force Base, Ohio 45433.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All personnel assigned to Foreign Technology Division (FTD).

CATEGORIES OF RECORDS IN THE SYSTEM:

Identification data such as name, SSN, address, security access, grade.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Verify security clearances and manpower accounting.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer and computer output products.

RETRIEVABILITY:

Filed by name and Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Foreign Technology Division (FTD), Wright-Patterson Air Force Base OH 45433.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the Systems Manager; FTD Director of Administration, Wright-Patterson Air Force Base OH 45433.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from individual and verified from file.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F190 AF PA A

SYSTEM NAME:

190 AF PA A Special Events Planning - Protocol

SYSTEM LOCATION:

Office of the Secretary of the Air Force (SAF/PAC). At Air Force installations and USAF Recruiting Service offices. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Non-Air Force civilians, generally, but not limited to civilian leaders of the local community. Segments of the system may be specialized; e.g. active and retired military persons identified by special interests, teachers or other persons in governmental agencies qualified or considered to lecture in Air Force training courses, winners of AF-sponsored Science Fairs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical data usually including, but not limited to: name; business and home address and telephone numbers; name of spouse and family; description of positions in business and community affiliations with Air Force-oriented civic organizations; photographs. For Science Fair winners; name/date of fairs; name of school; year in school; name of project; judging category; previous selection as Air Force winner with year and name of fair. May include summaries of circumstances of visits to the installation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by Public Affairs Officers, Executive Officers, Protocol Officers, or Commanders, as reference for planning official functions, reporting to higher headquarters, selecting lecturers for training courses, and submitting nominations for Air Force or Department of Defense conferences or other functions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and in note books/binders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Secretary of the Air Force (SAF/PAC), Washington, DC 20330 or Commander of the Air Force installation concerned. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the Office of Public Affairs, for public affairs planning, or the Executive Officer or Office for Protocol, for protocol system segments. Requests regarding systems for selection of lecturer should be addressed to the particular school or training unit, e.g. USAF Special Operations School (EDPT), Eglin AAF 9, FL 32544.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained

from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from the public media, a state or local government, source documents such as reports, Federal agencies staff recommendations, and Science Fair questionaires.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F190 AF PA B

SYSTEM NAME:

190 AF PA B Home Town News Release Background Data File

SYSTEM LOCATION:

United States Air Force Home Town News Center, Tinker Air Force Base, OK 73145. Subsystems of the main system may be located at the Information Office of the Air Force base, or Air National Guard or Air Force Reserve or similar installation to which an individual is assigned.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Air Force active duty military personnel, Air Reserve or Air National Guard personnel recently selected for promotion, reassigned, awarded a medal or decoration, or who otherwise participated in a newsworthy event.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical information including, but not necessarily limited to name, current grade, marital status, local address, name and address of parents, educational background and military history, photographs. Information is usually, but not necessarily, contained in a USAF Home Town News Release Form or similar form.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Preparation of news releases for distribution to newspapers and broadcast stations throughout the United States.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and visible file binders/cabinets.

RETRIEVABILITY:

Filed by name within date of release.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in Home Town News Center files until 90 days after monthly cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. Local files may be retained for one year and are then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Public Affairs, Office of the Secretary of the Air Force, Washington, DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to Commander, USAF Home Town News Center, Tinker Air Force Base, OK 73145. Inquiries about a subsystem should be addressed to the Information Officer at the base or installation of the individual's assignment. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force systems notices.

RECORD ACCESS PROCEDURES:

Individuals can obtain assistance in gaining access from the Commander, USAF Home Town News Center or the installation Information Officer.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35

RECORD SOURCE CATEGORIES:

Information obtained from the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F190 SAFPA A

SYSTEM NAME:

190 SAFPA A Biographies of Officers and Key Civilians Assigned to SAF/PA

SYSTEM LOCATION:

Secretary of the Air Force Office of Public Affairs (SAF/PA), Room 4D926, Washington DC 20330.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Officers and key civilians (grade GS-10 or higher) currently assigned to positions in the Secretary of the Air Force Office of Public Affairs and its component divisions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical information including summary of military service, educational background, marital status and special interests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Serves as a ready reference of assigned personnel for the Director of Public Affairs, Office of the Secretary of the Air Force; used in preliminary personnel evaluations for reassignment within the Secretary of the Air Force Office of Public Affairs and throughout the Public Affairs field.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in safes.

RETENTION AND DISPOSAL:

Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Public Affairs, Office of the Secretary of the Air Force (SAF/PA).

NOTIFICATION PROCEDURE:

Requests for information should be addressed to the Executive, Secretary of the Air Force Office of Public Affairs (SAF/PA), Washington DC 20330, telephone (202) 695-5227. Personal visit may be made to the system location in

room 4D926, The Pentagon, Washington DC.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance from the Executive, Secretary of the Air Force Office of Public Affairs, address as above.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from previous employers, financial institutions, trade associations, automated system interfaces and from the public media.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F190 SAFPA B

SYSTEM NAME:

190 SAFPA B Official Biographies

SYSTEM LOCATION:

Biographies of active duty general officers and high-level civilian personnel of the Department of the Air Force: Air Force Service Information and News Center, Kelly Air Force Base, TX 78241 (AFSINC/IIB). Record system segments or duplicates pertaining to active duty general officers may be found at the Office of Public Affairs, Office of the Secretary of the Air Force, Washington, DC 20330; Headquarters of major commands and at all levels down to and including Air Force installations. Also at Air Force libraries, offices of air attaches to United States Embassies, Air Force sections of Military Assistance Advisory Groups and missions, unified activities and unified commands. Additional locations include the Air Force Chief Historian (AF/CHO), Washington, DC 20330; Assistant for General Officer Matters (AF/MPG) Washington, DC 20330; and the Aerospace Historical Foundation, University of KS. Biographies of retired Air Force general officers are located at the Media Relations Division, Secretary of the Air Force Office of Public Affairs (SAF/PAM), Room 5C879, The Pentagon, Washington, DC 20330, and at the Retired Activities Section, Assistant DCS/Personnel, Air Force Manpower and Personnel Center (AFMPC/AFPMSDMI), Randolph Air Force Base, TX 78150. Biographies of key civilian employees of the Office of the Secretary of the Air Force and of Headquarters, United States Air Force, are located at the Director of Civilian Personnel, Washington, DC 20330. Biographies of key civilian employees at subordinate organizational levels may be found at the office of the Director of Civilian Personnel. Biographies of Air Reserve general officers are at Headquarters USAF/REL, Washington, DC 20330. Record segments or duplicates may be found at the Office of Public Affairs, Headquarters, of the United States Air Force, major commands and major subordinate commands. Air Force Manpower and Personnel Center (AFMPC/DPMYR), Randolph Air Force Base, TX 78150; Headquarters, Air Force Reserve (Commander and Public Information Office), Robins Air Force Base, GA 31098; Air Reserve Personnel Center (Commander and Public Affairs Office), Denver, CO 80280; Headquarters, Military Airlift Command (CSB), Scott Air Force Base, IL 62225; Secretary of the Air Force, Manpower and Reserve Affairs (MRR), Washington, DC 20330; the Reserve Forces Policy Board, Washington, DC 20330; and the offices of all Air Reserve general officers. Biographies of Air National Guard general officers are located at the National Guard Bureau, Washington, DC 20310. Records system segments of duplicates may be found at Department of the Army major divisions and installations. Headquarters of the major commands and separate operating agencies. Army readiness regions; the offices of Army Guard and Air National Guard Liaison Officers; the Aerospace Audio-Visual Service, Norton Air Force Base, CA 92404; the Office of the Secretary of Defense; the Office of the Secretary of the Navy; the Library of Congress; the Air Force Association; the Army Association; the Reserve Officers Association; Air Force libraries; the Air War College, the offices of all National Guard and Air National Guard general officers, and the offices of state Adjutants General. Specific addresses may be obtained from the National Guard Bureau. Biographies prepared under the official biographies program for key military and civilian personnel of other Air Force organizations may be found at the Office of Public Affairs. Headquarters of major commands and at all levels down to and including Air Force installations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The Secretary of the Air Force, Under Secretary and assistant secretaries of the Air Force, Air Force general officers on active duty or retired, Air Reserve and Air National Guard general officers, Air Force personnel assigned as pilots to the Manned Space Program, and key military and civilian personnel at all Air Force organizations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Includes, but not limited to, summary of military service (including dates and locations of assignments and dates of promotions), military honors and awards, educational background, date and place of birth, marital status, name of spouse and family, and any additional personal information provided by the individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Biographies are prepared to support the Air Force policy to keep its members and the public informed about the Air Force and its leaders. In their final form the biographies are considered published, public domain material and may be released to any requester on an as needed or as requested basis. Biographies may be used as resource documents in preparing news releases or other public information material and are included in the official personnel records of all general officers.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

No specific safeguards required.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Air Force Service Information and News Center (AFSINC/CC), Kelly Air Force Base, TX 78241.

NOTIFICATION PROCEDURE:

Requests from individuals should be directed to Commander, Air Force Service Information and News Center (AFSINC/CC), Kelly Air Force Base, TX 78241, telephone (512) 925-6161 for all

biographies of active duty general officers and key civilians assigned to the Office of the Secretary of the Air Force or to Headquarters Air Force. Biographies for Air Reserve general officers at Headquarters USAF/REL; Air National Guard general officers at the National Guard Bureau, and retired officers from the Media Relations Division (SAF/PAM), mailing addresses in the Department of Defense directory in the appendix to the Air Force's systems notices. All other biographies: Office of Public Affairs at the appropriate level

RECORD ACCESS PROCEDURES:

Individual can obtain assistance from the Commander, Air Force Service Information and News Center, the National Guard Bureau, Headquarters USAF/REL, Media Relations Division (SAF/PAM) or the Office of Public Affairs at the appropriate level. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from the public media and Information obtained from source documents such as reports. Subject to final review by the individual concerned before publication.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F205 AF A

SYSTEM NAME:

205 AF A Personnel Security Access Records

SYSTEM LOCATION:

Records are normally located at organizational units where individuals are currently assigned or employed. They may be located at offices of installation Chiefs of Security Police and for non-immigrant aliens at headquarters of major commands and major subordinate commands or at the National Personnel Records Center, Military Personnel Records, 9700 Page Blvd, St Louis, Mo., 63132, or Civilian Personnel Records, 111 Winnebago St., St Louis, Mo. 63118. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's Systems Notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty military and civilian personnel, Air Force Reserve and Air National Guard personnel, Air Force Academy cadets, American Red Cross Personnel, Exchange Officers, and Foreign National.

CATEGORIES OF RECORDS IN THE SYSTEM:

System includes documentation requesting, granting and terminating access to classified information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records are used to record level of security clearance and level of access to classified information that has been authorized. Information is used by commanders, supervisors, and security managers to insure that individuals who receive classified information have been properly investigated, cleared, have a definite need-to-know, and have been properly debriefed.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, note books/binders, visible file binders/cabinets or card files.

RETRIEVABILITY:

Filed by Name and/or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, safes or vaults, or in locked cabinets or rooms, protected by guards, and controlled by personnel screening.

RETENTION AND DISPOSAL:

Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. (Exception: Records on non-immigrant aliens are retained for two years after termination of access or employment, then destroyed, as above.) Security Termination Statements are retired one year after termination of service or employment to the National Personnel Records Center, Military Personnel Records, 9700 Page Blvd, St Louis, Mo 63132, or Civilian Personnel Records, 111 Winnebago St, St Louis, Mo, 63118. Records indicating that access to classified information has been withdrawn for cause are forwarded to installation Chief of Security Police for disposition.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Security Police, Headquarters United States Air Force. Commanders of organization units and the Director National Personnel Records Center Military Personn Records, 9700 Page Blvd, St Louis, Mo 63132 or Civilian Personnel Records, 111 Winnebago St, St Louis, Mo 63118.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Write or visit the organizational unit where currently assigned or employed. Written requests must be notarized; personal visits require positive identification. Provide full name, SSN, and military rank or civilian rating.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from medical institutions, from police and investigating officers, or from source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F205 AF SP A

SYSTEM NAME:

205 AF SP A Special Security Files

SYSTEM LOCATION:

Commanders or Chiefs of Security Police at Air Force installations or units.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force military and civilian personnel including Air Force Reserves and Air National Guard; Air Force

Academy and Air Force ROTC Cadets; Air Force Contractor personnel requiring unescorted entry, Nonappropriated Fund Instrumentality personnel in sensitive positions at Air Force installations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Investigative report, some of which are exempt under the Privacy Act of 1974, incident reports, police and law enforcement reports and records, reports of audit, medical evaluation records and reports, personnel record data or reports, disciplinary or administrative action data, records and reports, correspondence among local Air Force officials and between officials and other Air Force agencies or higher headquarters and/or the Air Force Security Clearance Office.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Files are temporary records used to collect and record data and documentation of actions taken on cases where the individual's security clearance status may be affected. Portions of the records may be referred to investigative agencies for further inquiry; to personnel officials for administrative action to legal personnel for disciplinary or judicial actions; to medical personnel for evaluation, testing or treatment; to commanders for denial or suspension of access to classified information or restricted areas; to other local Air Force officials for review, recommendation, advice, or assistance for resolution of the case file.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name and by Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know, and by commanders of medical centers and hospitals. Records are stored in security file containers/cabinets, safes or vaults, protected by guards and controlled by personnel screening.

RETENTION AND DISPOSAL:

Records are temporary and are either sent to the Air Force Security Clearance Office for conversion to Special Security Case Files or are destroyed locally upon favorable determination by tearing into pieces, shredding, pulping or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Security Police, Headquarters Air Force Office of Security Police, Kirtland, Air Force Base, New Mexico 87117.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the Chief of Security Police or the Commander at the installation of current employment or assignment. Write or visit the installation where currently employed or assigned. Written requests must be notorized and must provide the full name, SSN, military or civilian grade or status. Personal visits require positive identification.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager or from the Chief of Security Police or Commander of the installation. Mailing addresses are in the Department of Defense directory in the Appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from investigative reports; incident reports; police, law enforcement and audit reports and records; financial institutions; employers,; local government agencies; legal and judicial reports and records; individuals; witnesses, commanders and local officials.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under 5 U.S.C. 552a(k)(5). For additional information, contact the System Manager.

F205 AFSCO A

SYSTEM NAME:

205 AFSCO A Special Security Case Files

SYSTEM LOCATION:

Air Force Security Clearance Office, Washington, DC 20330. Decentralized segments at the Washington National Records Center.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force civilian employees and applicants, and Air Force military members and prospective members, including Air Force Reserve and Air National Guard, Air Force contractor employees requiring unescorted access, Air Force Academy and ROTC Cadets and applicants, overseas educators involved in the education and orientation of military personnel, Nonappropriated Fund Instrumentality personnel and applicants for sensitive positions, personnel requiring DOD building passes, whose personnel security investigations contain significant unfavorable information, whose cases were previously processed or adjudicated under the Air Force Military or Civilian Security Programs, or who are the subject of Special Security Files initiated by commanders..

CATEGORIES OF RECORDS IN THE SYSTEM:

Files may include (1) requests for clearance, investigation, or waiver of investigative requirements, (2) determinations of eligibility for assignment to sensitive or nonsensitive positions, (3) medical records checks and evaluations, (4) personnel records information, (5) personnel security questionnaires, (6) correspondence between the Air Force Security Clearance Office and the individual, office of assignment, commanders, medical facilities and installations, personnel offices, investigative agencies, Air Staff offices, or offices of the Secretary of the Air Force, (7) clearance records, and (8) summaries, evaluations, recommendations and records of adjudication.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC 7531, Definitions; 7532, Suspension and removal; 7533, Effect on other statutes; 10 USC 8012, Secretary of the Air Force: powers and duties; delegation by; Executive Order 10450, Security requirements for government employment; implemented by Department of Defense Regulation 5200-2R, DOD Personnel Security Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Files are established to evaluate the security acceptability of Air Force military and civilian and contractor personnel, applicants, enlistees and nominees for appointment, assignment or retention in sensitive positions with

access to classified defense information or to restricted areas and locations in the interest of national security. Files are used to record clearance adjudicative actions, eligibility determinations and investigative data. Investigative case file information may be reviewed by Air Force installation commanders, supervisors, personnel officers, medical, security, and investigative personnel, personnel of Air Staff offices and offices of the Secretary of the Air Force. Case files and cards are also used to answer inquiries from other Air Force offices and agencies, and from investigative, security and personnel representatives of other Federal agencies concerning the clearance status of individuals. Case records are maintained to prepare statistical accounting and to measure the effectiveness of the adjudicative programs and procedures.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and microfiche maintained in file folders, card files, visible file binders/cabinets and notebooks/binders.

RETRIEVABILITY:

Filed alphabetically by name.

SAFEGUARDS:

Records are stored in vaults, safes and security file containers/cabinets. All records are stored, processed, transmitted and protected as the equivalent of classified information. Records are accessed by the custodian of the records system, by persons responsible for servicing the system in the performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know.

RETENTION AND DISPOSAL:

Case files which result in a final, favorable adjudicative determination are retained in the office files for one year after annual cut-off then are destroyed by tearing into pieces, shredding, pulping, or burning. Case files resulting in an adverse adjudicative determination are retained in office files for two years after annual cut-off, then are retired to the Washington National Records Center, Washington, DC 20409.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Air Force Security Clearance Office, Washington, DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager, and should contain the full name, including any former names, grade, date of birth and Social Security Number.

RECORD ACCESS PROCEDURES:

Individuals can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information is received from investigative reports from federal investigative agencies, personnel and medical records, board reports, correspondence from offices and organizations of assignment, and from commanders, supervisors, witnesses and individuals, from security, and investigative personnel and from Air Staff offices, offices of the Secretary of the Air Force.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under 5 USC 552a(k)(5). For additional information, contact the System Manager.

F205 AFSCO B

SYSTEM NAME:

205 AFSCO B Presidential Support Files.

SYSTEM LOCATION:

Primary System at the Air Force Security Clearance Office, Washington, DC 20330. Decentralized segments are located at security police offices for units having a Presidential Support mission and those units from which personnel are nominated or assigned to Presidential Support duties.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Those Air Force military and civilian personnel who are nominated or assigned to authorized, designated positions involving Presidential Support duties on either a full or part-time basis.

CATEGORIES OF RECORDS IN THE SYSTEM:

Nomination Files include reports of investigation by the Defense Investigative Service and by other Federal investigative agencies; correspondence between the Air Force Security Clearance Office and units, installations, contractors and major commands, investigative agencies, security offices, Air Staff offices and offices of the Secretary of the Air Force, the office of the Military Assistant to the Special Assistant to the Secretary and Deputy Secretary of Defense, the Office of the Director, White House Military Office, medical evaluations, statements by nominees, summaries and evaluations of investigative information. Assignment Record Files include letters of notification of selection and quarterly rosters of all assigned personnel listed alphabetically by organization.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by; implementing Department of Defense Directive 5210.55, Selection of DOD Military and Civilian Personnel and Contractor Employees for Assignment duties; and Department of Defense Regulation 5200-2R, DOD Personnel Security Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Nomination files are temporary files used to evaluate the background, character, suitability and qualifications of nominees being considered for selection to positions requiring regular or frequent contact with the President or access to Presidential facilities or modes of transportation. Files are reviewed and evaluated by staff members at each level in the selection process, by medical facility staff members, by the Air Force Security Clearance Office, and and other appropriate Air Staff office, by the Office of the Administrative Assistant to the Secretary of the Air Force, and by the Office of the Military Assistant to the Special Assistant to the Secretary and Deputy Secretary of Defense. Files are reviewed by the Office of the Director, White House Military Office and contractor personnel files may be reviewed by the contractor and by the U.S. Secret Service. Assignment Record Files are originated from data in the Nomination Files to locate, identify, control, manage, and administer individuals selected for assignment to Presidential Support duties, to initiate assignment actions after final selection, to notify medical facilities, and to prepare the quarterly listing of individuals assigned to the program for submission to the Office of the Military Assistant to the Special Assistant to the Secretary and Deputy Secretary of Defense, to major command and units and Security Police offices

having a Presidential support mission, and submission to the Office of the Director, White House Military Office and to contractors. Presidential Support mission. Assignment Record Files at locations other than the Air Force Security Clearance Office are merely duplicate copies of the file copy. File copies are retained at the Air Force Security Clearance Office to permit record access and to record the accountability of disclosures of the Nomination Files.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records maintained in file folders and on computer paper output products.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system, by person responsible for servicing the record system in performance of their official duties, and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, in safes and vaults.

RETENTION AND DISPOSAL:

Upon completion of final favorable determination of selection, Nomination Files are destroyed by tearing into pieces, shredding, pulping, or burning and are replaced by Assignment Record Files. Assignment Record Files for individuals are retained during the period of assignment or for five years, whichever is longer, as the disclosure accountability record, then are destroyed by tearing into pieces, shredding, pulping, or burning except for the file copy which is kept by the System Manager for five years for disclosure accounting. Assignment Record Files in quarterly roster listing form are destroyed when superseded by the next quarterly roster by tearing into pieces, shredding, pulping, or burning. Nomination Files for personnel not selected are retained in the office of nonselection or at the Air Force Security Clearance Office for one year after the date of nonselection, at which time they are destroyed by tearing into pieces, shredding, pulping, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Presidential Support Security Specialist, Air Force Security Clearance Office, Washington, DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Requests should contain the full name, military or civilian grade, date of birth, position in unit or contracting firm, the date of nomination or nonselection, or the unit or organization to which assigned, location and period of assignment.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information from the individual, from reports from Federal investigative agencies, military and civilian contractor personnel records, and military medical records, correspondence from military and civilian law enforcement and Security Police offices, major command staff offices, Air Staff offices, offices of the Secretary of the Air Force, the Office of the Military Assistant to the Special Assistant to the Secretary and Deputy Secretary of Defense, Office of the Director, White House Military Office and other Federal agencies and office of the Executive and Legislative Branches.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F205 AFSCO C

SYSTEM NAME:

205 AFSCO C Personnel Security Clearance and Investigation Records

SYSTEM LOCATION:

Air Force Security Clearance Office, Washington, DC 20330, Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150, Air Force units, personnel offices, Security Police elements at all Air Force installations, Air Force Academy, CO, and Air Force ROTC Headquarters, Maxwell Air Force Base, AL.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force military and civilian personnel and applicants including Air Force Reserve and Air National Guard personnel, Air Force Academy and Air Force ROTC Cadets, Air Force contractors requiring unescorted entry or special access, Nonappropriated Fund Instrumentality personnel at Air Force installations and overseas educators at Air Force installations.

CATEGORIES OF RECORDS IN THE SYSTEM:

System includes clearance status and eligibility records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Orders 9838; 10450; and 11652; 10 USC 8012 Secretary of the Air Force: powers and duties; delegation by: as implemented by DOD Regulation 5200.2R, DOD Personnel Security Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records are used to grant access to classified information or unescorted entry to restricted areas; to record completion of investigative requirements for enlistment, induction, appointment, commissioning, assignment to sensitive positions, duty or training; to grant special access for special programs or projects; to determine investigative requirements needed for assignment; to record status of investigative actions; to record date of separation; to record adjudicative determinations of ineligibility for enlistment, induction, commissioning, retention, appointment, assignment, clearance or access.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and on computer and computer output products.

RETRIEVABILITY:

Filed by name and Social Security Number..

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms or in security file containers/cabinets or vaults, and controlled by computer system software and personnel screening.

RETENTION AND DISPOSAL:

Records are retained in computer systems for two years after separation, deleted. Paper records in file folders are destroyed upon separation. A Reserve commitment are retained until

commitment is fulfilled, then Computer printouts are temporary records and are destroyed when replaced by more recent listing. Paper records are destroyed by tearing into pieces, shredding, pulping or burning. Computer storage devices are overwritten or erased.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Air Force Security Clearance Office, Washington, DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Provide full name, including maiden name if applicable, and Social Security Number.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from the individual, investigative reports, medical facilities, police and law enforcement offices, personnel documents, Air Force Special Security Files and Special Security Case Files.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F205 AFSP A

SYSTEM NAME:

205 AFSP A Requests for Access to Classified Information by Historical Researchers

SYSTEM LOCATION:

SAFPA Pentagon, Room 4C-914, Washington DC 20330

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons outside the Executive Branch of the United States Government who request access to classified information for historical research purposes.

CATEGORIES OF RECORDS IN THE SYSTEM:

Basic biographical data on the requestor, letters of requests, letters granting access or denial and statement signed by the requestor explaining the conditions governing access.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to determine the trustworthiness of individuals for whom access is requested, authorize or deny access based on this determination and prescribe locations, schedules and circumstances in which research may be conducted. Biographical data is disseminated to the Defense Investigative Service, the Department of Justice, the Air Force Office of Special Investigations and the Air Force Security Clearance Office.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly cleared for need to know. Records are stored in safes.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Security Police, Headquarters United States Air Force. Chief Magazine and Book Branch Secretary of the Air Force Office of Public Affairs.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Chief Magazine and Book Branch Secretary of the Air Force Office of Public Affairs. Written requests should be notarized. Personal visits require positive identification such as Military ID card, drivers license, SSN, date of birth, etc.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from the individual, police and investigating officers, and the Department of Justice.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F212 AFA A

SYSTEM NAME:

212 AFA A Library/Special Collections Records

SYSTEM LOCATION:

USAF Academy Library, United States Air Force Academy, CO 80840.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Cadets, Air Force active duty personnel, members of boards and committees associated with Academy operations (Board of Visitors, General Officer Advisory Committee, etc.), faculty, staff and graduates of USAF Academy.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of the following categories of information or subsystems: (l) Index by name to persons in historical photographs and on official officer rosters; (2) historical rosters of cadet wing, cadet class rosters, files of orders, grade lists contained in historical course materials, athletic squad rosters; (3) index by name, date of service on each board or committee; (4) dissertations, theses, books, articles, published reports furnished by individual concerned.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC Chapter 903, United States Air Force Academy.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) To identify an individual with his period of service at the academy and his connection with historic Academy events as recorded in photographs and/or biographical data. (2) Used by faculty, staff and cadets working on history and operation of the Academy. (3) To identify an individual's service on official Academy boards and committees. (4) Publication collection is

a traditional library function to indicate scholarly achievements of an institute of higher education, for use in accreditation reports, and as a central reference resource.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in card files, photographs, file folders, visible file binders/cabinets and on roll microfilm.

RETRIEVABILITY:

Card catalog by individual's name is maintained. Historical files: No direct name access is available from a library catalog. Individual would have to know his name is in a particular roster.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Catalog is not available when staff or branch personnel are not present.

RETENTION AND DISPOSAL:

Permanent Library Collection, USAF Academy Library, USAF Academy, CO 80840.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Academy Libraries, USAF Academy, CO 80840.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Card catalog is prepared manually by Library personnel from photograph identification captions, officer rosters, historical materials and records. Materials generated by Superintendent, Dean of Faculty agencies, Commandant of Cadet agencies, Director of Athletics, Registrar, Staff Agencies. Publications are supplied by individuals concerned.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F212 AFA B

SYSTEM NAME:

212 AFA B Library Authorized Patron File

SYSTEM LOCATION:

USAF Academy Library (DPSLB), United States Air Force Academy, CO 80840.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Academy military and civilian personnel and cadets, specially authorized non-base library patrons.

CATEGORIES OF RECORDS IN THE SYSTEM:

Social Security Number, name, base or home address, type of patron code, expiration date for special borrower privileges.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC Chapter 903, United States Air Force Academy.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by Library personnel to fully identify patron to whom library material is charged in operation of the Library's automated circulation control system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Will be used by Library staff to identify person to whom material is charged, to follow up on delinquent borrowers by generation of overdue notices, and to clear departing patrons and delete their name from the authorized borrower file. Issue library cards. Maintained in computer.

RETRIEVABILITY:

Filed by Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for library circulation control operation in the performance of their office duties. Microfiche printout is stored in locked room when not in use by circulation desk staff during hours when the Library is open.

RETENTION AND DISPOSAL:

Patron data is deleted from master files maintained on computer when outgoing clearance is accomplished. Microfiche lists of patrons are destroyed by tearing into pieces, shredding, pulping, macerating, burning or burial, when update is received.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Academy Libraries, USAF Academy, CO 80840.

NOTIFICATION PROCEDURE:

Request from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Individual input on library circulation authorization form.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F213 MPC A

SYSTEM NAME:

213 MPC A Air Force Educational Assistance Loans

SYSTEM LOCATION:

Air Force Military Personnel Center, Randolph Air Force Base, TX 78150.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

1961, 1962 and 1963 dependents of active duty Air Force military members who received educational assistance loans.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain loan agreement documents made with loan recipients, related documentation between Air Force Manpower and Personnel Center (AFMPC/Executive Secretariat/Air Force Welfare Board (DPMSS)) and college/university registrars, retained copies of documents and correspondence received from or sent to loan recipients; and individual ledger cards reflecting accounting data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used for loan follow-up action.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/ cabinets.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Files are retained until paid in full at which time the original loan agreement is returned to the loan recipient.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff/ Manpower and Personnel for Military Personnel, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Original loan agreements generated by the loan recipient; correspondence received from or sent to loan recipients; certifications from college/university registrars as to receipt of payment for tuition, school supplies and other educational expenses.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F265 AFA A

SYSTEM NAME:

265 AFA A Cadet Chaplain Records

SYSTEM LOCATION:

United States Air Force Academy, CO 80840.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force Academy Cadets.

CATEGORIES OF RECORDS IN THE SYSTEM:

Religious affiliation, background and religious interests and choir audition consisting of musical capabilities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 9331, Establishment; Superintendent; faculty, and 9337, Chaplain.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Identify incoming Fourth Class Cadets religious affiliation, religious background data and religious interests. Cadet Chaplains use this information to organize cadet lay participation as ushers, choir members, lay readers, lectors, commentators, and religious education teachers. Cadet Chaplains and Chapel Managers assigned to the USAF Academy Cadet Chaplain's Office use this information. (2) Choir audition record identifies incoming Cadet's musical capabilities and the music directors use this information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer and computer output products and in card files.

RETRIEVABILITY:

Filed by name and Social Security Number .

SAFEGUARDS:

Records are accessed by the custodian, by person(s) responsible for servicing the record system in the course of their official duties, and by authorized personnel who are properly cleared for need to know. Records are stored in locked rooms and on computer storage devices protected by computer system software.

RETENTION AND DISPOSAL:

Retained in offices for one year after graduation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

USAF Academy Command Chaplain.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from individual cadet.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F265 HC A

SYSTEM NAME:

265 HC D Non-Chaplain Ecclesiastical Endorsement Files

SYSTEM LOCATION:

Records maintained at the Office of the Chaplain for the installation where employed. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military/civilians authorized to function as Lay Leaders, Auxiliary Chaplains, Ushers, Lectors, etc.

CATEGORIES OF RECORDS IN THE SYSTEM:

Certification from religious denomination that the indivisual is qualified to function as Lay Leader or Auxiliary Chaplain.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Determining qualifications of individuals to serve as Lay Leader or Auxiliary Chaplain.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. Returned to issuing denomination if requested.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Chaplains, Headquarters United States Air Force, Washington DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Request access from Senior Installation Chaplain.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Denominational agency endorsing individual to function.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F265 HC B

SYSTEM NAME:

265 HC B Chaplain Personnel Roster

SYSTEM LOCATION:

Headquarters United States Air Force, Washington DC 20330. Air Reserve Personnel Center, Denver, CO 80280. Headquarters of the major commands and separate operating agencies. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's sytems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force civilian employees, Air Force Reserve and Air National Guard personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Organization and station, manpower authorization records, statistical grade codes, Air Force specialty codes, name, Social Security Number, current rank, date of current rank, religious denomination code symbol, date of separation or service commitment, date of birth, effective date of current assignment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Insuring adequate manning of Reserve, Air National Guard, and civilian auxiliary authorizations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and note books/binders.

RETRIEVABILITY:

Filed by name. Filed by Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Chaplains, Headquarters United States Air Force, Washington DC 20330.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Request for access may be made to the Major Command Chaplain of the nearest major command. Mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from automated system interfaces and from individuals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F265 HC D

SYSTEM NAME:

265 HC D Records on Baptisms, Marriages and Funerals by Air Force Chaplains

SYSTEM LOCATION:

Washington National Records Center, Washington DC 20409. 1955 to 1958 Records Group, Modern Military Branch, Military Archives Division, National Archives Service, Washington, DC 20408; 1949 to 1955 Records Group.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military and civilian personnel, marriages, military and dependent personnel, baptisms, military and dependent personnel, funerals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Record of baptisms, marriages and funerals performed by Air Force Chaplains.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records of rites performed by Air Force Chaplains used to verify rites performed for individuals.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in card files.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Fifty-year retention 1955 to 1958, Washington National Records Center, Washington, DC 20409; Year Group 1949 to 1955 retained at Modern Military Branch, Military Archives Division,

National Archives Service, Washington, DC 20408; system discontinued after 1958.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Chaplains, Headquarters United States Air Force.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information from individuals and Air Force Chaplains reporting rites.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F900 AFA A

SYSTEM NAME:

900 AFA A Cadet Awards Files

SYSTEM LOCATION:

United States Air Force Academy, USAF Academy CO 80840.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Relatives of deceased persons who are memorialized through cadet awards and any former USAF Academy cadet who has been honorably discharged because of being crippled, disabled, or blinded while enrolled at the USAF Academy, or because of the discovery of a physical defect after entering the USAF Academy.

CATEGORIES OF RECORDS IN THE SYSTEM:

Cadet Awards files by award area, including background on person memorialized, donor financial arrangements, record of award winners and administrative history and military, academic and medical information on individual considered for award, financial status of parents or guardian and/or candidate.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC Chapter 903, United States Air Force Academy.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

For continuing award sponsorship business with donors, which consist of private individuals, patriotic and veteran organizations, and major air command and used by Cadet Awards Council to aid in their selection of individuals to receive annual award presented to disabled former cadets.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in security file containers/cabinets. Awards Council Chairman and appointed project officer are only persons reviewing financial statements.

RETENTION AND DISPOSAL:

Records are maintained five year in office area before retiring to base staging area for 45 additional years.

SYSTEM MANAGER(S) AND ADDRESS:

Dean of Faculty, USAF Academy, CO 80840.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from educational institutions, from individual or next of kin.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

F900 AFA B

SYSTEM NAME:

900 AFA B Thomas D. White Defense Award

SYSTEM LOCATION:

United States Air Force Academy, CO 80840.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Living U.S. citizens who have contributed significantly to the National Defense and security of the United States.

CATEGORIES OF RECORDS IN THE SYSTEM:

Nominations and supporting biographical information on nominees for the Thomas D. White Defense Award.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U S C 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data pertaining to the Thomas D. White Defense Award is used by a selection board in identifying an appropriate recipient for the award.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and on microfiche.

RETRIEVABILITY:

By Name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets and in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Personnel, USAF Academy, CO 80840.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from previous employers and from the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

NONE

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Part IV

Federal Reserve System

12 CFR Part 225

Bank Holding Companies and Change in Bank Control; Revision of Regulation Y

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FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Docket No. R-0470]

Bank Holding Companies and Change in Bank Control; Revision of Regulation Y

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: On May 19, 1983, the Board proposed for comment a revision of 12 CFR Part 225, Regulation Y, its regulation implementing the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841 *et seq.*) and the Change in Bank Control Act of 1978 (12 U.S.C. 1817(j)). The Bank Holding Company Act requires prior Board approval for a company to become a bank holding company or for a bank holding company to acquire more than five percent of the voting shares of a bank or a bank holding company. The Act also regulates the nonbanking activities of bank holding companies and of foreign banking organizations that control U.S. banks or have U.S. offices. The Change in Bank Control Act requires generally that persons and certain companies give notice to the Board prior to acquiring shares representing control of a bank holding company or state member bank.

After considering the comments received, the Board is adopting the revision of Regulation Y with some significant modifications. The final regulation reduces regulatory burden by eliminating various application requirements, particularly in the nonbanking area, and by accelerating the processing schedules for all applications. In addition, the final regulation incorporates Board interpretations of significant provisions of the Bank Holding Company Act and Change in Bank Control Act to improve understanding of the Board's policies. The regulation also has been comprehensively reorganized and rewritten for clarity in order to enhance the usefulness of the regulation to the reader.

Finally, the Board has amended the regulation to add five nonbanking activities to the list of those permissible for bank holding companies. The Board will publish a separate **Federal Register** notice seeking public comment on amendments to Regulation Y regarding the scope of permissible insurance activities for bank holding companies under Title VI of the Garn-St Germain Depository Institutions Act of 1982 (Pub. L. 97-320, 96 Stat. 1469, 1536-38). The Board will also seek comment on a number of other nonbanking activities that were suggested by commenters on the proposed revision.

EFFECTIVE DATE: February 6, 1984, except for the procedural provisions of §§ 225.14 and 225.23, which will be effective for all applications and notices submitted to the Board on and after January 1, 1984.

FOR FURTHER INFORMATION CONTACT: J. Virgil Mattingly, Associate General Counsel (202/452-3430), Bronwen Mason Chaiffetz, Senior Counsel (202/452-3564), or Carl V. Howard, Senior Counsel (202/452-3786), Legal Division; David Kulig, Senior Counsel (202/452-2347) or Lily T. Pilgrim, Senior Attorney (202/452-2421) Regulatory Improvement Project; Don E. Kline, Associate Director (202/452-3421), or Sidney M. Sussan, Assistant Director (202/452-2638), Division of Banking Supervision and Regulation.

SUPPLEMENTARY INFORMATION: The Bank Holding Company Act of 1956, as amended ("BHC Act"), governs the acquisition of control of banks by companies and regulates the nonbanking activities of bank holding companies or covered foreign banking organizations. It was enacted to prevent the undue concentration of banking resources, to separate banking and commerce, and to ensure that the performance of nonbanking activities of bank holding companies is consistent with certain basic prudential limitations in the Act regarding risk, safety and soundness, conflicts of interest, and the maintenance of impartiality in the granting of credit. Section 5(b) of the BHC Act (12 U.S.C. 1844(b)) authorizes the Board to adopt regulations to effect the purposes of the BHC Act and to prevent evasions of its provisions.

The Change in Bank Control Act of 1978 ("Bank Control Act") imposes a 60-day prior notice requirement on persons seeking to acquire control of a bank holding company or an insured state-chartered bank that is a member of the Federal Reserve System ("state member bank"). The Board is authorized to adopt regulations to implement the Bank Control Act (12 U.S.C. 1817(j)(13)).

I. Background and Summary

The proposed revision of Regulation Y was issued under the Board's Regulatory Improvement Project, which conducts periodic reviews of the Board's regulations (See Statement of Policy Regarding Expanded Rulemaking Procedures. 44 *Fed. Reg.* 3957 (1979)), and under the Financial Regulation Simplification Act of 1980 (12 U.S.C. 3521). The review of Regulation Y focused on reducing regulatory burden and on clarifying and simplifying the regulation consistent with the terms and purposes of the BHC Act and the Bank Control Act. Specifically, the Board reexamined all of its current requirements concerning transactions for which applications must be filed to identify those application requirements that could be eliminated from the current regulation. In addition, the Board's formal and informal procedures and schedules for processing applications were reviewed to determine ways in which applications might be acted on more promptly and processing delays eliminated. Finally, the current regulation, which was initially adopted in 1971 and has been amended only infrequently since that time, was reviewed to determine whether it accurately reflected the Board's current interpretations of the provisions of the BHC Act.

As a result of this analysis, the proposed revision contained a number of provisions that were designed to reduce or eliminate regulatory burden. The regulation was also reorganized to reflect the provisions of the BHC Act, and a number of Board interpretations of provisions of the Act were incorporated in the regulation, including the terms "deposits that a depositor has the legal right to withdraw on demand" and "commercial loan" contained in the definition of "bank" in section 2(c) of the BHC Act. The Board requested comment on the proposed revision of Regulation Y, including the definitions of terms, as well as five proposed new nonbanking activities for addition to the Regulation Y list of permissible nonbanking activities. The Board also requested suggestions for other nonbanking activities that might be considered to be closely related to banking and that should be added to the Regulation Y list of permissible nonbanking activities.

The Board has also reviewed its application forms to simplify them by eliminating duplicative information and information already available to the Board. The Board expects these measures to reduce by 40 to 60 percent the number of pages contained in applications required under this regulation.

The comments generally favored the procedural aspects of the proposed revision designed to reduce burden, eliminate unnecessary applications and avoid duplication and delay. Commenters particularly favored the provisions: a) eliminating most applications for *de novo* expansion of approved nonbanking activities; b)

exempting certain nonbank asset acquisitions from prior approval under the Act; c) providing a 15-day notice procedure for small acquisitions of nonbanking concerns; d) establishing expedited processing schedules for all applications; and e) adding the five proposed new nonbanking activities. The commenters urged the Board to implement these improvements as rapidly as possible.

The Board agrees with the commenters that the procedural changes would result in substantial benefits and should be implemented immediately. Accordingly, the provisions of section 553 of the Administrative Procedure Act (5 U.S.C. 553) relating to deferred effective date have not been followed in connection with adoption of the procedures set forth in sections 225.14 and 225.23. Most of the procedures, particularly the new processing schedules contained in §§ 225.14 and 225.23, will become effective for applications and notices submitted to the Board on and after January 1, 1984, while the remainder of the provisions will become effective within 30 days of publication of this notice in the **Federal Register.**

On the other hand, a number of commenters opposed the incorporation into the proposed regulation of the Board's interpretation of the terms "demand deposit", "commercial loan", and "voting securities" in the BHC Act; the proposed revised interpretation of the servicing exemption in section 4 of the Act; the proposed revision of the stock redemption rules; the reaffirmation of the provisions governing the nonbanking activities of subsidiary banks of a bank holding company and the nonbank subsidiaries of such banks; and certain other provisions of the proposed regulation.

The issues raised by the commenters together with the changes made in the final regulation (except for technical and editorial changes) are discussed later in this notice under the relevant provisions of the revised regulation. The following is a summary of the major issues that were raised and the Board's determination on each issue:

(1) *De novo expansion of nonbanking activities.* The current Regulation Y requires prior Board approval each time a bank holding company seeks to open a new office of a nonbank subsidiary or to expand the service area of such a subsidiary. The Board proposed two alternative approaches with respect to *de novo* expansion of nonbanking activities. Under the first approach, a bank holding company would be allowed to open offices *de novo* without the Board's prior approval within any state or states where the company had previously received approval to engage in the specified nonbanking activity. Alternatively, the Board proposed to eliminate all application requirements for *de novo* expansion in the United States once the bank holding company received initial Board approval to engage in the nonbanking activity. Most comments favored the alternative proposal, although there were objections to both proposals.

The Board's experience with the administration of the BHC Act and Regulation Y has indicated that *de novo* expansion is procompetitive and that there is no evidence of any significant adverse effects associated with *de novo* expansion. Accordingly, and in view of the absence of any requirement in the BHC Act for an application in such cases, the Board is adopting the alternative to eliminate all applications for *de novo* expansion of previously approved nonbanking activities in the United States. Thus, once a bank holding company has received approval to engage in a nonbanking activity, it may expand that activity anywhere in the United States by opening new offices or expanding its service area without further Board approval. (See section 225.23(b)). The Board, however, is retaining the authority to require an application where, for example, a bank holding company is not in sound financial condition and expansion may not be consistent with sound banking practice.

Because prior Board approvals under section 4(c)(8) were limited to the geographic area stated in the application, and potential opponents may have withheld protest because they were not affected by the limited geographic scope of the application, bank holding companies will be required to file a one-time notice to expand a nonbanking activity beyond the geographic areas previously approved by the Board under the current Regulation Y. These notices may be processed under the 30-day notice procedure for *de novo* expansion.

(2) *Notice for De Novo Entry.* The Board is retaining the present procedure of the regulation that allows a bank holding company to file a simple notice with the Reserve Bank to engage in a permissible nonbanking activity. The applicant may engage in the activity 30 days after filing the notice unless a substantive adverse comment is received or the Reserve Bank finds that the proposal is inconsistent with the statutory criteria. The notice period has been reduced from the present 45 days to 30 days. (Section 225.23(a)(1)).

(3) *Notice procedure for small nonbanking acquisitions.* The proposed revision contained an expedited 15-day notice procedure for small acquisitions of going concerns engaged in permissible nonbanking activities. The commenters generally favored this proposal as substantially remedying unnecessary delays imposed by the section 4(c)(8) prior approval requirement that place bank holding companies at a competitive disadvantage with respect to their nonbank competitors. Some suggestions were made to broaden the criteria for use of this procedure and to provide notice in the **Federal Register** rather than in a newspaper. The Board has incorporated these suggestions in the final regulation and has also clarified that the expedited procedure may not be used, and a full application is required, where the applicant bank holding company is not in sound financial condition and does not meet the Board's Capital Adequacy Guidelines. (See section 225.23(f)).

(4) *Exempt nonbanking asset acquisitions.* Most commenters favored the Board's proposal to exempt from prior approval requirements under the BHC Act acquisitions of offices and other assets of consumer finance and mortgage companies. They stated that this would enhance competitive equality between bank holding companies and their nonbank consumer finance and mortgage company competitors. Several suggestions were made to modify the provision to broaden its applicability and to include the acquisition of the assets by an industrial banking office. The Board is adopting a number of these suggestions in the final regulation, but is making the procedure available only if the acquiring bank holding company meets the Board's Capital Adequacy Guidelines. (See § 225.22(c)(8)).

(5) *List of permissible nonbanking activities.* The Board proposed to add five new activities to the Regulation Y list of permissible nonbanking activities: issuing money orders, arranging commercial real estate equity financing, underwriting and dealing in government obligations and certain money market obligations, providing foreign exchange advisory and transaction services, and acting as a futures commission merchant. The Board has previously approved these activities by order in a number of cases. The commenters supported these activities, and the Board is adding them to the list of permissible activities in the final regulation. The Board had adopted the suggestions of the commenters to eliminate a number of the conditions

from the regulation proposed with respect to the conduct of these activities. (See § 225.25(14) and(18)).

In addition, there was support for a substantial expansion of the Regulation Y list of nonbanking activities permissible for bank holding companies. Several bank holding companies suggested that the Board defer action on the revision until proposals for new activities were developed. However, most of these commenters also urged prompt implementation of the procedural improvements in the proposed revision. In view of the expected benefits from the procedural improvements, the Board does not believe that it should delay final adoption of the regulation.

The Board made four decisions with respect to adding new nonbanking activities suggested for addition to the Regulation Y list in response to the Board's proposal to revise Regulation Y. First, the Board will publish a separate **Federal Register** notice seeking comment on an amendment to Regulation Y that defines the scope of insurance activities that are permissible under the authority of Title VI of the Garn-St Germain Depository Institutions Act of 1982 (Pub. L. 97–320, 96 Stat. 1469, 1536–38) ("Garn-St Germain Act"). Second, certain of the suggested activities, particularly certain securities and real estate activities, the operation of a thrift institution and certain activities of a financial nature, are the subject of or related to bills currently pending in Congress, particularly, the Administration's proposed Financial Institutions Deregulation Act (S. 2181), the proposed Financial Services Competitive Equity Act introduced by Senator Garn (S. 2134), and the proposed Depository Institutions Holding Company Act Amendments introduced by Senator Proxmire (S. 2134). The Board does not believe that it is appropriate to commence a regulatory proceeding that would overlap with Congressional consideration of whether these activities should be performed by bank holding companies and, accordingly, it is not publishing these activities for comment at this time. Third, the Board will publish a separate **Federal Register** notice seeking public comment on a number of activities that the Board has previously approved by order in individual cases or that are similar to approved activities. Fourth, the Board will consider in the near future publishing for comment an additional number of activities that were suggested by commenters, have not previously been considered by the Board, and are not the subject of pending Congressional consideration.

(6) *Expedited processing schedules for all applications.* The proposed revision contained regulatory deadlines for each step of the applications process, including pre-acceptance review, acceptance, publication of notice, and final action. These deadlines represent a substantial reduction in the current informal schedules for processing applications—from 45 to 30 days for delegated applications and from 90 to 60 days for Board action on applications. The deadline for pre-acceptance review by the Reserve Banks has also been shortened to a maximum period of 30 days.

The comments supported the expedited processing schedules and the Board is adopting them as proposed. Under current procedures, more than 90 percent of all applications are processed under delegated authority. Based on this experience, the Board expects that, under the new procedures, most cases will be acted on under delegated authority within 30 days from acceptance. In this regard, the Board's decision to publish notice of receipt of the application immediately upon its submission to the Reserve Bank (rather than after acceptance of the application) will allow for approval of many cases within a few days of the acceptance of the application. (See §§ 225.14 and 225.23).

(7) *Stock redemptions.* More than 600 of the comments addressed the proposed changes concerning the redemption by a bank holding company of its own securities. The comments uniformly opposed the Board's proposed amendment, stating that it would adversely affect the transferability of ownership of small one-bank holding companies. The Board has decided to retain the current stock redemption notice procedures, including the rule that no notice is required unless redemptions within a 12-month period amount to 10 percent or more of the company's net worth. The Board has modified the regulation to specify the standards under which the Board will review a proposed redemption transaction for which notice is given. These standards are those generally applied by the Board in applications filed under the BHC Act, including the Board's Capital Adequacy Guidelines and the Board's standards for small one-bank holding companies. However, stock redemptions should not be made that would substantially impair an institution's capital or prevent the attainment of the capital and debt projections submitted in connection with bank holding company formations. (See § 225.4(b).)

(8) *Servicing subsidiaries of bank holding companies.* The Board proposed to modify its existing interpretations of sections 4(a)(2) and 4(c)(1)(C) of the BHC Act, which permit a holding company to own a servicing subsidiary that acts as agent for the holding company and its bank or nonbank subsidiaries in providing their services to the public. Under the proposed amendment, servicing subsidiaries would have been limited to providing services for the internal operations of the holding company and its subsidiaries. This provision was designed to address situations in which bank holding companies had used the servicing exemption to purchase nonbank companies and, in effect, to engage as principal in providing nonbank services to the public without complying with section 4(c)(8) of the BHC Act.

A number of comments were received objecting to the proposal as contrary to the Board's longstanding interpretations on which many companies had relied. Accordingly, the Board is modifying the proposed provision to reaffirm its longstanding interpretation that, although a servicing subsidiary may not act as principal in providing nonbank services to the public, it may act as agent for its affiliates in furnishing services to the public. The Board will rely on its supervisory authority under the Act to address problems in this area. (See § 225.22(a).)

(9) *Definition of "voting securities."* A number of the comments objected to the proposed definition of "voting securities," stating that it would include preferred shares, partnership interests, and shares with contingent voting rights. The Board has previously determined that preferred shares do not constitute voting securities if the voting rights are limited, generally by state law, to those necessary to protect the investment and do not otherwise provide the holder with control. The Board is clarifying the proposed definition to reflect this position. (See § 225.2(1).)

(10) *Definition of "bank."* The Board proposed to include in the revision its existing interpretations of the terms "deposits that the depositor has a legal right to withdraw on demand" and "commercial loans," the two essential elements of the definition of "bank" for the purpose of establishing coverage under the BHC Act. (See *First Bancorporation (Beehive Thrift and Loan)*, 68 *Federal Reserve Bulletin* 253 (1982) and Board ruling of December 10, 1982, regarding the Dreyfus Corporation.

Federal Reserve Regulatory Service 4–363.2.)

A number of commenters opposed the definitions. The Independent Bankers Association supported the definition of bank, as interpreted by the Board, and the American Bankers Association supported the definition of "commercial loan."

After careful consideration of the comments and for the reasons set out in Supplementary Information Appendix A to this notice, which follows the text of the regulation, the Board has determined to adopt the "bank" definition with minor modifications, including the definitions of "demand deposit" and "commercial loan." The Board believes these interpretations are consistent with the terms and legislative history of the Act, and reflect the equivalency between demand deposits and NOW accounts and between commercial loans and commercial paper and the other instruments referred to in the definition. In the Board's judgment, any other interpretation of these important terms would produce a result that is plainly at variance with the purposes of the BHC Act and would preempt Congressional discretion to determine the proper delineation between banking and commerce in this country as well as the permissible limits for interstate banking.

(11) *Permissible activities for subsidiaries of banks.* The proposed revision included the current provision of section 225.4(e) of Regulation Y that generally permits a subsidiary state bank of a bank holding company to acquire or retain the shares of a nonbank subsidiary engaged in activities that the bank may perform directly, subject to all limitations applicable to the bank. A number of comments were received challenging the Board's authority to adopt this provision. The Board plans to consider the comments on this issue separately in connection with certain pending bank holding company applications that directly raise the issue of the appropriateness of this provision and the scope of the Board's authority to adopt it. The Board believes that implementation of the other provisions of the regulation, which reduce regulatory burden and have widespread support, should not be delayed pending resolution of this issue. Until the rulemaking on this provision is complete, the provisions of former § 225.4(e) of Regulation Y remain in effect and have been reprinted as § 225.22(d) of the final regulation.

Revision of current interpretations

It will be necessary to revise some of the Board's published interpretations to reflect the changes being made in the regulation; and, in that connection, the Board will try to accommodate the views of those who favor a commentary or other format that would make other Board positions readily available. In the interim, the Board will republish this **Federal Register** notice in the Federal Reserve Regulatory Service to provide a convenient source of guidance on the final regulation.

Regulatory Flexibility Act

The Board certifies that none of the proposed changes will have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). A number of commenters asserted that the amendments regarding bank holding company redemption of securities would have a disproportionate impact on a large number of small entities. However, as noted above, the Board is modifying its proposed amendments to the bank holding company stock redemption provisions. Thus, the Board believes that no further analysis under the Regulatory Flexibility Act is necessary with respect to these amendments to Regulation Y.

Some commenters objected that there was no analysis under the Regulatory Flexibility Act regarding the impact of the definition of "bank" on small entities. In this regard, the Board notes that the bank definition incorporated by the Board in the final regulation represents the Boards's existing interpretations of terms in the BHC Act and would be applicable even if the definitions were not included in Regulation Y. The BHC Act contains no exemption from the bank definition for small institutions, and indeed such an exemption was affirmatively rejected by Congress when it amended the statute in 1970. Thus, the Board believes it would be inconsistent with legislative intent and the prudential policies of the Act to attempt to exempt some identifiable class of small institutions. Unlike some other statutes that the Board administers, the BHC Act does not generally give the Board discretionary authority to make adjustments and exceptions in the statutory coverage for particular classes of institutions so as to relieve compliance burdens.

Since the Board concludes that the definition is required to carry out the purposes and to prevent evasions of the BHC Act and that an exemption for small entities is not consistent with the BHC Act, an analysis of the impact on small entities is unnecessary. Nonetheless, to the extent it has been argued that some institutions covered by the definition would not be considered "banks" if the Board adopted another interpretation, the Board has considered the impact of the regulation on this group of institutions.

The impact of the definition would be felt in two ways: (1) eligibility for ownership of the institution would be affected; and (2) the institution itself would be required to obtain FDIC insurance if it is owned by a company.

For the most part, the organizations that will be affected by the Board's commercial loan definition are the large commercial, industrial, insurance, and securities companies that have recently acquired so called "nonbank banks" based upon a narrow reading of the bank definition in the Act or that may wish to do so in the future. These companies would become bank holding companies and would have to terminate nonconforming activities or divest the bank (or terminate the bank's demand deposit and NOW accounts or commercial lending activity). To date, such organizations have been large and do not include a "substantial number of small entities" within the meaning of the Regulatory Flexibility Act. Most of the banks that have been acquired by such large organizations already have FDIC insurance.

With respect to the FDIC insurance requirement, it appears that the impact would be primarily on industrial banks and similar institutions. Of course, these institutions would be affected only if the are subsidiaries of other companies. Moreover, the Board notes that the impact of this definition on such institutions results not from the definition *per se*, but from recent changes in state laws or interpretations thereof that have authorized these institutions to offer NOW accounts or other checking accounts and to make commercial loans. Prior to 1980, industrial banks did not typically offer checking accounts or make commercial loans, and data provided by trade associations indicate that only a few states authorize industrial banks to offer NOW accounts. Indeed, the legislative history of the BHC Act is clear that when Congress acted to exempt such institutions from the Act in 1966, it did so on the basis of testimony from the industrial banking industry that industrial banks did not offer checking accounts or make commercial loans. (See Supplementary Information Appendix A to this notice). The effect of these changes in state laws, which have rendered industrial banks "banks" for purposes of the statute, may be avoided if the institution in question discontinues either the commercial lending or NOW

account activities that were recently commenced.

The Board notes that there are approximately 1,200 industrial banks or industrial loan companies operating in about 21 States. However, only about 100 of these institutions accept NOW or other checking accounts. In addition, about half of the states that authorized industrial banks or industrial loan companies do not permit them to offer transaction accounts, limiting the institution to the issuance of thrift notes, investment certificates and similar instruments or passbook savings accounts. The Board also notes that in some states that industrial bank must obtain FDIC insurance in order to offer NOW accounts. The Board received specific comments concerning the impact of the proposal in the States of Hawaii, where NOW accounts are not authorized, and Rhode Island, where eleven industrial loan companies operate, of which approximately 5 accept NOW accounts. No specific comment was received regarding the impact in any other State, although there were a number or comments regarding the impact of the rule generally. In view of the limited number of institutions engaged in accepting NOW accounts, it does not appear that the regulation would leave a significant economic impact on a substantial number of small entities.

Companies that control such banks would have 180 days to register with the Board and the institutions owned by such companies would have two years to obtain Federal Deposit Insurance. This two year period would lessen the impact of the regulation of these institutions and provides an opportunity for Congress to consider amending section 3(e) of the BHC Act to provide for other types of insurance as an alternative to FDIC insurance.

Finally, as discussed in § 225.2(a) below, the Board is adopting a procedure to exempt from the nonbanking prohibitions of the BHC Act and certain other requirements of this regulation companies that acquired a "bank", as defined in this final regulation, on or before December 10, 1982, on the basis of a narrow interpretation of the term "demand deposit" or "commercial loan." This provision will significantly reduce the burden of this regulation on companies that qualify for this exemption.

For these reasons, the Board believes that no further analysis under the Regulatory Flexibility Act is necessary with respect to the "demand deposit" or "commercial loan" definitions in Regulation Y.

II. Subpart A—General Provisions

No significant comments were received regarding § 225.1 ("Authority, purpose, and scope"), § 225.3 ("Administration"), § 225.5 ("Registration, reports, and inspections"), and § 225.6 ("Penalties for violations"). In § 225.2(e) of the final regulation the Board has incorporated the definitions of the terms "foreign banking organization" and "qualifying foreign banking organization" from § 211.23 of its Regulation K (12 CFR 211.23). In addition, the definition of "United States" contained in § 225.2(a)(1)(iii) of the proposed regulation appears at § 225.2(k) of the final regulation. Finally, the Board has clarified in paragraph (a) of § 225.5, that a company that has obtained the Board's prior approval to become a bank holding company may complete the registration process by filing its first annual report with the Board.

The remaining paragraphs in this subpart, § 225.2 ("Definitions") and § 225.4 ("Corporate Practices") were the subject of numerous comments, as discussed below.

Section 225.2—Definitions

The following definitions received comments:

Section 225.2(a) "Bank". Section 2(c) of the BHC Act defines "bank" as "any institution * * * which (1) accepts deposits that the depositor has a legal right to withdraw on demand, and (2) engages in the business of making commercial loans." In its proposed revision, the Board interpreted the demand deposit aspect of the "bank" definition as including NOW accounts and other transaction accounts and the commercial loan aspect as including the purchase of commercial paper, certificates of deposit and bankers acceptances, the sale of federal funds and similar transactions. For the reasons set out in detail in the Supplementary Information Appendix A, the Board is adopting, with some modifications, the definitions of these two aspects of the bank definition as proposed in the revision, and in addition, is incorporating in the "commercial loan" definition the purchase of retail installment loans.

As is explained in the Supplementary Information Appendix A, the Board has clarified the scope of the regulation it is adopting since it has determined that at present it is unnecessary to regard as demand deposits such accounts as money market deposit accounts, preauthorized transfer accounts, telephone transfer accounts, savings accounts that do not have checking capability, accounts accessible through ATM machines, bill-payer accounts, and credit balance accounts accessible by negotiable check or draft. Also as is explained in the Supplementary Information Appendix A, the Board does not at this time believe repurchase transactions involving government securities or non-interest bearing demand deposits should be regarded as within the meaning of the term "commercial loan."

The Board received and has considered requests for hearings to explore the extent of the Board's authority to adopt the bank definition, the appropriateness of such action in light of pending judicial and Congressional actions, and the consistency of the definition with the terms of the Act. The Board believes that the opportunity presented for comment on the definitions through the submission of written materials provided as adequate method for interested persons to express their views regarding the legal issues and other matters raised by the proposed revision and that hearings on these issues are neither required nor appropriate.

The Board also has considered requests that the Board republish notice of the proposal providing greater specificity regarding the proposed definitions and the reasons for the definitions. In publishing the revision for comment, the Board stated that it was proposing to incorporate its interpretations of the BHC Act's provisions into Regulation Y to prevent evasions of the Act and specifically referred to its decisions in *First Bancorporation* and *The Dreyfus Corporation*, which contain detailed discussions of the basis for the Board's interpretations of the demand deposit and commercial loan aspects of the bank definition. Accordingly, the Board believes that adequate notice of the proposal has been given and has decided not to republish for comment the definitions of demand deposit or commercial loan.

The Board received several comments urging the Board to delay inclusion of the demand deposit and commercial loan definitions in Regulation Y in view of pending litigation regarding the Board's *First Bancorporation* decision and Congressional consideration of the types of institutions that should be subject to the Act. The Board emphasizes, however, that its decision to incorporate these definitions into Regulation Y is intended to bring the regulation into conformity with previous orders of the Board interpreting the Act

and to carry out the purposes and prevent evasion of the Act. Amendments will be made as necessary in the light of any legislative or judicial action.

The Board notes that, under section 5 of the BHC Act, any company that controls an institution that is a bank under the BHC Act must, within 180 days of becoming a bank holding company, register with the Board and, under section 4 of the Act, must within two years either conform its activities to those permissible under section 4 of the Act or divest its subsidiary bank or cause the bank to cease being a "bank" under the Act. In the future, any company that seeks to acquire a "bank" must, in compliance with section 3 of the Act, file an application and obtain the Board's prior approval for the acquisition.

The Board recognizes that some companies may have prior to December 10, 1982, acquired banks on the basis of a narrow interpretation of the terms "demand deposit" or "commercial loan" and without objection by the Board. Accordingly, the Board has adopted a provision in the final regulation (section 225.21(b)(4)) under which the Board will consider grandfather rights for acquisitions accomplished, or banking operations commenced, prior to December 10, 1982, the date the Board issued its commercial loan interpretation in connection with the *Dreyfus* proposal. The Board will consider modifying the effect of the regulation on the basis of petitions from such companies that demonstrate that application of the regulation without a transition period to permit compliance would be unfair or represent an unreasonable hardship and that exclusion from coverage as a bank holding company would be consistent with the purposes of the BHC Act and the Bank Holding Company Act Amendments of 1970. The Board will promptly act on such petitions upon receipt of all necessary information regarding the petition.

The basis for the Board's actions is further described in detail in Supplementary Information Appendix A to this statement. Supplementary Information Appendix A is not part of the regulation, and is not codified in CFR.

Section 225.2(c) "Company". One commenter objected to including limited partnerships in the definition of "company," arguing that the regulation exceeds the scope of section 2(b) of the BHC Act. The statute defines "company" as "any corporation, partnership, business trust, association, or similar organization." (12 U.S.C. 1841(b).) The legislative history of the BHC Act indicates that limited partnerships as well as general partnerships are covered as companies under the Act. (H.R. Rep. No. 91–387, 91st Cong., 1st Sess. 22 (1969).) Accordingly, the Board is adopting the definition of "company" as proposed.

Section 225.2(d) "Control" of bank or company. Among other things, the definition of "control" in section 225.2(d) of the proposed regulation specifies that the Board may determine that a company controls another company if it finds that the company has the "power to exercise a controlling influence." This definition is based on sections 2(a)(2)(C) and 2(d)(3) of the BHC Act.

Some commenters objected to this provision on the basis that section 2(a)(2)(C) of the BHC Act defines control as the *actual* exercise of a controlling influence, rather than the *power* to exercise a controlling influence. However, section 2(d) of the Act in defining subsidiary for the purposes of the BHC Act, defines control to include the power to exercise a controlling influence. The proposed revision reconciles these two sections of the BHC Act. The Board notes that, because section 2(d) establishes the test for when a bank or company is a subsidiary of a bank holding company, the test in that section would be applicable when a bank holding company seeks to acquire a bank or other company. Thus, the proposed definition of control does not impose a more stringent standard on companies that are bank holding companies.

In addition, as indicated in its previous decisions regarding this matter, the Board believes that, to a large extent, this debate is one of semantics and not substance. (See, *e.g., Patagonia Corporation,* 63 *Federal Reserve Bulletin* 288 (1977).) The critical question is whether the Board may determine in advance that, as a result of a particular transaction, a company would be able to exercise a controlling influence over a bank or other company. It is the Board's belief that it may make such determinations in advance, and that it need not wait until a transaction is consummated in a manner that would frustrate the Act's purposes. Such advance determinations would also enable companies to avoid expending substantial resources on transactions that may ultimately be determined to be unlawful under the controlling influence provisions.

Based on the foregoing discussion, the definition of control is being adopted as proposed. The Board is also adopting the suggestion of a number of commenters to include in the regulation the presumptions of non-control in sections 2(a) (3) and (4) of the BHC Act. These presumptions have been included in section 225.31 of Subpart D of the final regulation.

Section 225.2(f) "Management official". The proposed definition of "management official," which is relevant to control and divestiture determinations under Subpart D, included advisory and honorary directors, as well as all officers. The Board's proposed definition was derived from its interpretation concerning the presumption of continued control under section 2(g)(3) of the BHC Act in divestiture situations. (12 CFR 225.139.)

Some comments suggested that the definition of management official specified in Regulation L (12 CFR Part 212) should be adopted in Regulation Y. The Board does not believe that the Regulation L definition of management official should be used here because it is derived from the Depository Institutions Management Interlocks Act (12 U.S.C. 3201), which has different purposes from the control provisions of the BHC Act.

A number of commenters objected to the proposal on the grounds that advisory and honorary directors do not have voting rights, and that not all officers have policy-making functions. Section 2(g)(3) of the BHC Act relating to divestitures and the presumptions of control in Regulation Y covers all officers and directors, regardless of whether they exercise policy-making functions. The Board's interpretation of section 2(g)(3) explicitly covers honorary and advisory directors. The Board does not believe this coverage should be limited because the divestiture and control provisions of the BHC Act are designed to prevent a control situation from developing or continuing and, in any event, are presumptions that may be rebutted upon a showing that control does not, in fact, exist.

One comment also objected to including employees with policy-making functions in the definition because the presumptions of control for use in control determinations do not now specifically include such employees. The Board does not believe this represents a substantive change in the current provisions because the Board regards an employee of a company with policy-making functions as an officer of the company even if the employee is not designated as an officer. (12 CFR 225.139(a)(2).)

Based on the foregoing, the Board is adopting the definition of management official as proposed.

Section 225.2(l) "Voting securities". The Board proposed to define "voting

securities" as common and preferred stock, partnership interests, and other similar interests, if the holders are entitled (under statute, charter, or in any manner) to vote for or select directors, trustees, or partners, or to vote on significant corporate matters. A number of commenters objected to the inclusion of preferred stock and limited partnership interests in the definition of voting securities.

With respect to limited partnership interests, commenters stressed that limited partners do not have voting rights comparable to those of common stock, and that the business of a limited partnership is managed by the general partner and not by the limited partners who may only be passive investors. Commenters also pointed out that in order to preserve their limited liability status, limited partners may not actively participate in the business affairs of the partnership.

In 1970, the BHC Act was amended to include partnerships within the definition of the term "company." Accordingly, when the BHC Act refers to shares of a company throughout section 4, the term includes partnership interests. The Board has previously recognized that the term shares as used in section 2(g)(3) of the Act includes general as well as limited partnership interests. (12 CFR 225.139 (c)(3) (1983).)

Many commenters also objected to including in the definition nonvoting preferred stock that has limited or contingent voting rights, pointing out that such preferred stock does not have the right to vote regularly for election of directors or on other corporate matters. The commenters did not believe that nonvoting preferred stock should be defined as a voting security under the BHC Act merely because it often has limited voting rights. For example, under some state corporate statutes, preferred stock often has the right to vote as a class on dissolution, mergers, the payment of dividends, or the issuance of additional preferred stock. Similarly, to qualify under New York Stock Exchange rules, preferred stock as a class must have the right to elect two directors if six quarterly dividends are not paid.

The Board continues to believe that the term "voting shares" in the BHC Act includes equity securities, partnership interests, or similar interests that entitle the holder to vote for or select directors, trustees, or partners or to vote on or direct the management of company affairs. However, the Board has modified the proposed definition to meet some of the concerns of the commenters. Under the modified definition, preferred stock, limited partnership interests and similar interests will not be considered voting securities if they have limited voting rights that: (i) Are of the type customarily provided by statute solely with regard to matters that adversely and significantly affect the rights or preference of the stock or other interest; (ii) do not select or vote for the election of directors, general partners, or trustees; and (iii) do not otherwise constitute control. For example, preferred stock would not be viewed as a voting security if it may vote on a merger that would adversely affect its rights or preference or that involves the issuance of additional amounts or classes of senior securities, or the alteration of charter or by-laws that would adversely affect the preferred stock. On the other hand, preferred stock that may vote on any merger regardless of whether its preferred status would be affected, could be viewed as a voting security. Similarly, arrangements under which the limited partner may select the general partner or control the investments or policies of the partnership could constitute the partnership interest as a voting security.

With respect to nonvoting preferred stock that has the right to elect directors upon failure to pay preferred dividends, the **Federal Register** notice accompanying the proposed revision stated that such nonvoting stock would be considered a voting security only at the time the right to vote arises. Moreover, in a number of cases where the holders have committed that they will not exercise the right, or will only do so after obtaining the Board's prior approval, the Board has indicated that such action is appropriate to ensure compliance with the BHC Act. The Board, however, emphasizes that this position applies only in this particular circumstance. The Board has consistently held that a company may not purchase voting common stock on the basis that it will not exercise the voting rights associated with these securities or where the voting rights are extinguished while the company holds the securities. (*See, e.g.*, Policy Statement on Nonvoting Equity Investments by Bank Holding Companies, 12 CFR 225.143(d)(6)(iii); Board letter dated, August 30, 1974, Federal Reserve Regulatory Service ("FRRS") 4–550.)

Finally, investments in nonvoting preferred stock and limited partnership interests that are not voting securities under the terms of the regulation may raise issues under the Board's Policy Statement on Nonvoting Equity Investments by Bank Holding Companies (12 CFR 225.143). The Board has taken the position that such investments generally should not exceed 25 percent of the equity of the company issuing the securities. (12 CFR 225.143(d)(4) and (5); *Security Bancorp., Inc.*, 66 *Fed. Res. Bull.* 977 (1980); *United Midwest Bankshares, Inc.*, 68 *Fed. Res. Bull.* 774 (1982).) The foregoing rules are not intended to prevent bank holding companies from making venture capital investments that are consistent with these rules. As a result of the numerous inquiries on this subject, the Board is preparing an interpretation of these rules as they apply to venture capital investments.

Section 225.4—Corporate Practices

There were no substantive comments from the public on paragraph (a) ("Bank holding company policy and operations"), paragraph (d) ("Tie-in arrangements"), or paragraph (e) ("Acting as transfer agent, municipal securities dealer, or clearing agent"). The only comments on paragraph (c) ("Deposit insurance") were based on objections to the scope of the definition of "bank," which is discussed in § 225.2(a). The comments on paragraph (b) ("Purchase or redemption by a bank holding company of its own securities") are discussed below.

Section 225.4(b) Purchase or redemption by a bank holding company of its own securities. The proposed revision prohibited purchases and redemptions by a bank holding company of its own securities unless, after giving effect to the transaction, the holding company and subsidiary banks meet the minimum primary capital-to-total-assets ratios (based on size) contained in the Board's Capital Adequacy Guidelines. In addition, a bank holding company with banking assets of $150 million or less must have a consolidated debt-to-equity ratio of less than 30 percent after the redemption. There would be an exception to the prohibition for *de minimis* redemptions totalling less than one percent of the holding company's net worth. Also, a bank holding company could seek the Board's prior approval for a proposed redemption on the basis of unusual circumstances.

The current regulation requires a bank holding company to give 45 days' notice to the Board of a proposed redemption if the purchase price would exceed 10 percent of the holding company's net worth, or would exceed that amount when aggregated with all redemptions made in the previous twelve-month period. Under this procedure, the Board may institute cease and desist proceedings to present the redemption if the Board finds it would be unsafe or unsound.

More than 600 comments objected to the removal of the exemption for purchases totalling 10 percent or less of net worth in a twelve-month period on the grounds that it would discourage local ownership of small banks and would interfere with the use of bank holding companies as estate planning vehicles. They stated that a small bank holding company often provides a market for its securities where no other market exists, and that under the proposed redemption provisions, bank holding companies would effectively be prevented from performing this function, resulting in the sale of the stock of small banks to larger banking organizations or other persons outside the local community.

Based on the comments, the Board has determined to modify the proposal in the following manner. First, the 10 percent exemption contained in the current regulation will be retained, and no notice will be required for redemptions involving less than 10 percent of net worth in any twelve-month period. This modification will significantly reduce the burdens associated with the proposed revision because it would exempt a large number of transactions.

Bank holding companies are cautioned, however, against the use of this exemption for repeated redemptions that do not require notice but undermine the capital position of the banking organization. Such situations will be closely examined by the Board to ensure that they do not constitute an unsafe or unsound practice. Also, the exemption should not be used by companies that do not meet the Board's capital guidelines for redemptions that would significantly reduce their capital, and by a small one-bank holding company to increase it debt-to-equity ratios significantly from the projections relied on by the Board in approving its application to become a bank holding company.

Two other modifications will also reduce the burden associated with these provisions. The final regulation reflects the modification of both the standards used in judging a proposed redemption transaction and the procedure for objecting to such transactions. Under the current regulation, a bank holding company is notified if it is determined that a proposed redemption is unsafe or unsound, or would violate any applicable law, rule, regulation, order, or any written agreement with the Board. The Board may then commence a cease-and-desist proceeding to prevent the transaction. The Board is modifying this provision to provide that, prior to the end of the notice period, the Board will advise the bank holding company that the proposed purchase or redemption has been approved or disapproved.

The standards for disapproval will be the same as those set forth in the current regulation; however, the final regulation provides that the safety and soundness of a proposed redemption transaction will be judged under the Board's Capital Adequacy Guidelines. The Board's Capital Adequacy Guidelines are contained in Appendix A to the final regulation. With respect to bank holding companies with banking assets of $150 million or less, if debt is incurred in connection with a proposed redemption, the amount and repayment of such indebtedness generally will be governed by the Board's standards for small one-bank holding company formations. (Policy Statement for Formation of Small One-Bank Holding Companies, FRRS 4–855 and FRRS 4–856.) This policy statement is contained in Appendix B to the final regulation.

The Board is authorized by the Financial Institutions Supervisory Act to issue rules prescribing practices that are unsafe or unsound, (12 U.S.C. 1818(b), (n)), and the courts have confirmed this authority. (*Independent Banker Association* v. *Heimann*, 613 F. 2d 1164 (D.C. Cir. 1979).) The Board has similar authority under section 5(b) of the BHC Act to issue rules to carry out the purposes of the Act, one of which is to assure that bank holding companies maintain adequate financial resources. Finally, section 908 of the recently enacted International Lending Supervision Act of 1983 (Title IX of Pub. L. 98–181), authorizes the appropriate federal banking agency to establish minimum levels of capital for banking institutions and to require institutions to achieve and maintain such minimum levels. The Board is also authorized under that provision to consider the impact of a holding company's proposals on its subsidiary bank's progress in achieving its minimum capital level and, under section 910(a)(2) of that statute, to apply the provisions of the statute to bank holding companies in order to promote uniform application of the statute and to prevent evasions thereof.

The information to be provided in connection with prior notice to the Board of a proposed redemption is being consolidated from eight to three items. In addition, the period for reviewing the notice is being reduced from 45 to 30 days, unless the notice is referred to the Board for decision, in which case the review period will be 60 days, in order to conform to the processing requirements for applications under the BHC Act.

III. Subpart B—Acquisition of Bank Securities or Assets

Section 225.11—Transactions Requiring Board Approval

This section of the proposed regulation, which is based on section 3(d) of the BHC Act, sets out the following transactions for which prior Board approval is required: (a) formation of a bank holding company; (b) acquisition of a subsidiary bank; (c) acquisition by a bank holding company of control of more than 5 percent of the voting securitites of a bank or a bank holding company; (d) acquisition of bank assets; (e) merger or consolidation of bank holding companies; and (f) any other transaction that the Board determines in a particular case requires prior approval under the BHC Act. The majority of the comments on this section addressed paragraphs (c), (d) and (f), as discussed below.

Generally, the acquisition by a bank or bank holding company of its own voting securities or those of its parent bank holding company would not require the Board's prior approval under this section of the regulation, unless there is an evasion of the BHC Act or other adverse effects. Such an acquisition may, however, require notice under section 225.4(b).

In the **Federal Register** notice accompanying the proposed revision, the Board stated that a redemption of securities by a bank or bank holding company that increases the proportional interest of a holder of such securities will be regarded as an "acquisition" of bank securities and will require the holder to file an application for prior Board approval under paragraph (a) or (c) of this section. For example, an application would be required under this section if the redemption results in the holder becoming a bank holding company because its proportional interest has increased to 25 percent or more of any class of voting securities of a bank or bank holding company.

Some commenters objected that there might not be sufficient time to obtain the Board's approval in advance when a redemption increases a shareholder's percentage ownership beyond a regulatory threshold. They suggested that the regulation specifically permit the filing of retention applications within a reasonable period after the redemption has occurred. The Board is not amending the regulation as suggested, because section 3 of the BHC Act specifies that the Board's approval

is required prior to acquisitions of bank and bank holding company stock under that section. However, the Board has in similar situations accepted applications to retain shares acquired by a company for which it was impossible to obtain approval in advance. In the redemption situation, where the holder does not cause the redemption and does not have sufficient prior notice of it to file an application, the Board would consider 90 days after the redemption as an appropriate period within which to file an application (or to divest the necessary number of shares to bring it into compliance with the Act).

Section 225.11(c) Acquisition of control of bank or bank holding company securities. Under this provision, a bank holding company must apply for the Board's prior approval to acquire voting securities of a bank or bank holding company if, after the acquisition, the bank holding company would hold more than 5 percent of any class of voting securities of the bank or holding company.

Several commenters objected to applying this prior approval requirement to acquisitions of the voting securities of a bank holding company. The commenters argue that if a bank holding company does not acquire 25 percent or more of the voting shares of the other bank holding company, it cannot be presumed to indirectly control any of the bank shares held by the other bank holding company because the acquiring holding company would not control the acquired holding company under the BHC Act.

It is the Board's view that the same rationale that prompted Congress to require an application when a bank holding seeks to acquire more than 5 percent of a bank's shares, whether or not the interest acquired provides the holder with control, supports a similar rule when a bank holding company seeks to acquire more than 5 percent of the voting shares of another bank holding company. The Board has consistently required an application in such circumstances. Accordingly, the Board is adopting the proposed provision requiring an application for the acquisition by a bank holding company of voting securities of another bank holding company that would result in it holding more than 5 percent of the voting securities of the other bank holding company.

Commenters also objected to the requirement of prior approval where a bank holding company acquires more than 5 percent of any class of voting securities. They point out that section 3(a)(3) of the BHC Act only requires prior approval for the acquisition of more than 5 percent of the outstanding voting securities. Thus, they suggest that all voting securities should be aggregated to determine whether the five percent limitation has been met. The Board does not agree with this interpretation.

The requirement for an application in such a circumstance is intended to reconcile section 3(a)(3) with the control provisions of section 2(a)(2)(A) of the BHC Act. The 1970 Amendments to the BHC Act added the concept of a class of voting securities to the definition of control in section 2(a) of the BHC Act. The Board believes that, while corresponding changes were not made in all other sections of the BHC Act, such changes were intended and are necessary. Any other interpretation would allow a bank holding company to acquire 25 percent or more of a class of voting securities, and thereby to acquire control of a bank as defined in section 2(a)(2)(A) of the BHC Act without filing an application under section 3 of the BHC Act, whereas under section 3(a)(1) of the BHC Act a company that is not a bank holding company would have to file an application for the same acquisition. Such a result would produce an anamolous situation, imposing less stringent controls on bank holding company acquisitions of additional banks than on bank holding company formations under section 3(a)(1) of the BHC Act.

In addition, the Board believes that, because under corporate law various classes of stock may be given different voting rights, control of shares of a particular class of voting securities may provide a holder with disproportionate influence in the affairs of the target company or bank, and may present the concerns that the prior approval requirement of section 3(a)(3) of the BHC Act was meant to address, even though the amount of shares acquired may be less than 5 percent of all classes of voting securities of the target company or bank. The Board also believes that its clarification of the definition of "voting securities" to exclude preferred stock with only limited voting rights addresses in major part the concerns of the commenters about imposing the prior approval requirement on the acquisition by a bank holding company of more than 5 percent of a class of voting securities of a bank or bank holding company, because no application would be required if the preferred or other shares are not "voting securities."

Accordingly, the Board is adopting in the final regulation the proposed provision requiring an application for the acquisition of more than 5 percent of any class of voting securities of a bank or bank holding company.

Section 225.11(d) Acquisition of bank assets. This provision requires the Board's prior approval for an acquisition by a bank holding company or a nonbank subsidiary of all or substantially all the assets of a bank. Although several commenters requested the Board to quantify the percentage of assets that would require an application, in view of the absence of any questions arising concerning the interpretation of this provision in the almost 30 years it has been in place, the Board is adopting the provision as proposed.

Section 225.11(f) Other acquisitions. Under this provision, the Board proposed a procedure for determining when other acquisitions of securities of a bank or bank holding company require the Board's prior approval under section 3 of the BHC Act, after notice to the acquiring company. This proposal was based on the Board's responsibility for administration of the BHC Act, and its purpose was to avoid unnecessary filings with other agencies under the Bank Control Act and differing and conflicting interpretations of the BHC Act. Several commenters objected that adoption of the provision would exceed the Board's authority because there is no comparable provision in section 3 of the BHC Act. In view of the Board's action in adopting the definition of "bank," which specifies by regulation those institutions the acquisition of which require prior approval under the BHC Act, the Board does not believe that adoption of this provision is necessary to ensure compliance with and prevent evasions of the Act. Thus, the Board is not adopting this provision in the final regulation.

Section 225.12—Transactions Not Requiring Board Approval

This section specifies transactions for which prior Board approval is not required under section 3(a) of the BHC Act. No substantive comments were received concerning paragraph (c) ("Acquisition of securities by a bank holding company with majority control"); and paragraph (e) ("Holding securities in escrow"). Paragraphs (a), (b) and (d) are discussed below.

Section 225.12(a) Acquisition of securities in fiduciary capacity. This paragraph provides that Board approval is not required for a company (including a bank) to acquire voting securities of a bank or bank holding company in good faith in a fiduciary capacity, unless (1) the company has sole discretionary authority to vote the securities and will retain that authority for more than two

years, or (2) the acquisition is for the benefit of the company, its shareholders, employees, or subsidiaries.

Under section 3(a) of the BHC Act, a company must apply to retain voting securities of a bank or bank holding company acquired in a fiduciary capacity with sole discretionary voting authority within 90 days of receiving such shares. The proposes regulation specified that no application is required unless the company proposed to retain the shares with sole discretionary voting authority beyond the two-year grace period provided in section 3(a) of the BHC Act. The Board is reaffirming the position reflected in the proposed regulation.

There was a request for an extension of the two-year grace period to file an application when the acquiring bank or company decides belatedly that it wishes to retain the shares in a fiduciary capacity. The BHC Act specifies a maximum grace period of two years, and the Board believes that if a company has any doubts about its plans regarding retention of fiduciary shares, it should file an application in time for Board action before the expiration of the grace period.

One commenter objected to excluding from the fiduciary exemption voting securities held in a fiduciary capacity for the employees of a company's subsidiaries. However, authority for this exclusion is clearly set forth in section 3(a)(A)(i) of the BHC Act, which excludes from the fiduciary exemption in that section, shares acquired as provided in section 2(g)(2) of the Act. Section 2(g)(2) provides that shares held by trustees for the benefit of the employees of a company are controlled by the company. Section 2(g)(1) of the BHC Act provides that shares owned or controlled by a subsidiary of a bank holding company are controlled by the bank holding company.

While the exception contained in section 3 of the BHC Act for the acquisition of bank or bank holding company securities or assets in a fiduciary capacity is limited to such acquisitions made by a bank, the regulation extends the exception for fiduciary acquisition of bank and bank holding company securities to those made by a nonbank company. This interpretation recognizes the fact that there are nonbank companies, including nonbank subsidiaries of bank holding companies, that are engaged in fiduciary activities and would receive securities or assets in a fiduciary capacity.

The fiduciary exemption in the BHC Act and the regulation does not exempt the acquisition of bank or bank holding company shares or assets by a bank as fiduciary for a trust that is a "company" as defined in § 225.2(c) of Subpart A. Thus, an application must be filed by such a trust if it proposes to make an acquisition of bank or bank holding company securities or assets covered under § 225.11 of the proposed regulation. In this situation, however, an application would not also be required from the fiduciary or its parent, if the fiduciary meets the requirements for the exemption described in § 225.12(a) of the proposed regulation.

The BHC Act also does not provide an exemption where the fiduciary receives shares from a selling company that is deemed to continue to control the shares after the diverstiture under section 2(g)(3) of the BHC Act.

Based on the foregoing, the Board is adopting the provision as proposed.

Section 225.12(b) Acquisition of securities in satisfaction of debts previously contracted. This paragraph exempts from prior approval under the BHC Act the acquisition by a bank or other company of voting securities of a bank or bank holding company in the regular course of securing or collecting a debt previously contracted in good faith so long as the company divests the securities within two years of acquisition.

Several commenters sought clarification about when the holding period begins to run. While the Board is adopting this provision as proposed, it believes clarification is appropriate. For example, in the Board's view, the pledge of more than 5 percent of the voting securities of a bank as collateral for a loan does not represent an acquisition that would start the holding period if the lender does not acquire voting rights to the pledged securities. On the other hand, if the lender acquires ownership or control of pledged voting securities as a result of a default on the loan, the transaction would be an acquisition under this paragraph and the two-year holding period would commence, regardless of whether the lender votes the securities.

While the statutory exception is limited to acquisitions made by banks, the final regulation extends the exception to any company that acquires bank securities in good faith in satisfaction of a debt previously contracted.

Section 225.12(d) Transactions subject to Bank Merger Act. This paragraph generally exempts from prior approval under the BHC Act a merger involving a subsidiary bank of a bank holding company if the merger is subject to approval under the Bank Merger Act. This exemption was proposed to implement section 3(a)(4) of the BHC Act, which does not require Board approval for the acquisition of bank assets by a bank. However, as one commenter noted, the Board would continue to retain jurisdiction over a transaction subject to the Bank Merger Act if the transaction would have a significantly adverse financial or other impact on the parent bank holding company. The Board has not found it necessary to exercise its authority in such cases, but the regulation has been clarified to reserve the Board's authority to do so when appropriate to effect the purposes of the Act. The Board has also clarified that a merger or consolidation of bank holding companies, which requires the Board's prior approval under section 3(a)(5) of the BHC Act, is not exempted from that requirement by this paragraph.

Section 225.13—Factors Considered in Deciding Applications Under Subpart B

Section 225.13(a) Prohibited anticompetitive transactions. Paragraph (a) of this section incorporates the antitrust standards in section 3(c) of the BHC Act, and paragraph (c) contains the prohibition against interstate bank acquisitions of section 3(d) of the Act. There were no significant comments regarding either of these provisions, and they are being adopted substantially as proposed with technical changes to conform to the language of the BHC Act. The comments on paragraph (b) ("Other factors considered") are discussed below.

Section 225.13(b) Other factors considered. This paragraph, which is based on section 3(c) of the BHC Act, outlines the factors considered by the Board in acting on all applications for acquisitions of banks and bank holding companies under this subpart. The factors include financial and managerial resources and the convenience and needs of the communities to be served. In view of objections raised by the commenters to including competitive considerations under the convenience and needs standard, the Board is deleting the reference in that provision to "existing and potential competition and the concentration of banking resources."

Several commenters objected to consideration of the financial and managerial resources of the subsidiaries of an applicant in connection with an application under section 3 to acquire an additional bank. They urge the Board to consider only the financial and managerial resources of the applicant and the bank to be acquired. Under section 3(c) of the BHC Act, the Board is directed to consider the financial and

managerial resources of "the banks concerned." In a proposed acquisition by a bank holding company to acquire an additional bank, the Board believes that each of its existing subsidiaries is necessarily affected by the proposal, particularly since the bank holding company would be diverting financial and managerial resources from existing subsidiaries to the proposed new subsidiary.

Section 225.14—Procedures for Applications, Notices, and Hearings

This section sets forth the procedures for applications, notices, and hearings with respect to applications for the Board's prior approval of acquisitions of bank securities and assets. In an effort to expedite the processing of applications, the proposed regulation established time constraints for: (i) Accepting an application for processing or notifying the applicant that the application is incomplete and seeking additional information; (ii) publishing notice of the application in the **Federal Register**; and (iii) acting on the application. Similar provisions appear in section 225.23 with respect to applications for nonbanking activities under section 4(c)(8) of the BHC Act.

The procedural changes reflected in this section were favored by most commenters. Some commenters suggested that these procedural rules not be included in the regulation or that they be included elsewhere, such as the Board's Rules of Procedure (12 CFR Part 262). The Board believes that it is appropriate to include the procedural rules in Regulation Y, rather than the Rules of Procedure, because they relate specifically to applications under the BHC Act. Thus, incorporation of the procedural rules in Regulation Y will provide a more convenient source of guidance to those referring to the application provisions of the regulation. Accordingly, the Board is adopting the procedural rules as proposed with some modifications discussed below.

There were no significant comments on paragraph (a) ("Filing application"), paragraph (e) ("Hearings"), and paragraph (g) ("Exceptions to notice and hearing requirements"), and these provisions are being adopted as proposed. A new paragraph (e) has been added reflecting the statutory requirement that the Board notify the United States Attorney General of approval of an application under section 3 of the BHC Act. Accordingly, paragraphs (e), (f), (g) and (h) of section 225.14 of the proposed revision are renumbered as paragraphs (f), (g), (h) and (i) in the final regulation. The comments on the other paragraphs are discussed below.

Section 225.14(b) Notice. The majority of commenters favored the proposed prompt publication of the notice. Several commenters expressed concern that the provision in the proposed revision that calls for publication of notice in the **Federal Register** upon receipt of the application, rather than upon acceptance, would result in **Federal Register** publication of an application that ultimately may not be processed.

The object of the early notice provision was to allow an adequate **Federal Register** comment period (25 to 30 days), while at the same time enabling Reserve Banks to meet the 30-day processing schedule for delegated applications. Based on its experience with newspaper notices, which are published in advance of acceptance of the application, the Board does not believe that publication of **Federal Register** notice prior to acceptance of the application will result in any significant difficulties. Accordingly, the Board is adopting the notice provision as proposed in the revision.

Section 225.14(c) Accepting application for processing. Under the proposed revision, the Reserve Banks are allowed 10 calendar days from the date an application is filed to review the application and either to accept it, or if the application is found to be incomplete, to seek additional information. A number of commenters objected to beginning the time schedule for substantive review of an application from the date that the application is accepted by the Reserve Bank rather than from the date the application is filed, arguing that this delay will create uncertainty about the deadline for action on an application. Some commenters maintained that an application should be accepted immediately if it is responsive to each item on the application form, and that if additional information is needed, it can be obtained later.

In the Board's experience, many applications require additional information, and the time within which this information is furnished depends on the applicant. The time period for the pre-acceptance review process has been substantially shortened. Moreover, under the new application processing procedures, a Reserve Bank may only seek additional information once, and must review such information within 5 business days. If the application is not complete at that point, the application will be returned as incomplete. Establishing an earlier date for the processing schedule for an application would not reduce the processing time but would, instead, create uncertainty in processing deadlines, since the deadlines would often have to be extended in order to request additional information. Therefore the pre-acceptance review period is being retained in the final regulation. However, a modification is being made, at the suggestion of Reserve Banks, to state the time period for acceptance in business days, rather than calendar days, to ensure uniformity in the review process.

There were also requests for the Board to define the circumstances under which an application may be considered incomplete by the Reserve Bank. Because of the diversity of proposals made in applications to the Board under the BHC Act, the Board believes the better approach is to continue a case-by-case review of the information submitted in response to application forms, and to establish and adhere to very short time frames for the review of applications and supplemental material prior to acceptance.

Section 225.14(d) Action on applications. There was general approval of the proposed reduction in the processing time for applications to 60 days for those acted on by the Board and 30 days for those approved by the Reserve Banks. One commenter suggested that the Board processing period should be reduced to 45 days and that a special expedited schedule should be provided for tender offers. Another commenter questioned whether 60 days would allow sufficient time to develop the issues on an application for Board consideration.

The Board believes that the reduction of processing time by 33 percent represents the maximum reduction consistent with the Board's responsibility under the BHC Act to evaluate each application under the statutory factors, without resorting to frequent extensions of the processing periods. Also, the Board notes that the proposed timeframe for Board action is consistent with recent legislation, such as the Bank Control Act and the Bank Export Services Act (12 U.S.C. 1843(c)(14)). Of course, if a particular application can be processed more quickly than the period provided, it will be. A few applications that present protested or significant issues will take more than 60 days to process, but under the new procedures, the Board is required to advise the applicant in such cases of the reason for delay. The decision to extend the 60 day period for

Board action on an application will be made by an appropriate Board member.

Under the proposed revision, the Reserve Bank could, after giving notice to the applicant, extend the 30-day period for acting on an application for an additional 15 days, for a total processing period of 45 days. Several Reserve Banks expressed concern that this limited extension period may not provide sufficient time to obtain necessary information from the applicant, another regulator, or a protestant. Some recommended authorizing them to extend the processing period for an indefinite time pending receipt of needed information. As noted above, one of the purposes of incorporating processing periods into the regulation is to provide more certainty concerning the date of final action on an application. An indefinite extension may interfere with this objective. However, the Board also agrees that the 15-day extension may not be sufficient where the Reserve Bank is awaiting receipt of information necessary to its decision. Accordingly, the extension provision is being clarified to indicate that where the Reserve Bank is waiting for requested information, the 15-day period does not begin to run until the date the information is received by the Reserve Bank.

Section 225.14(g) Approval through failure to act. This provision incorporates judicial constructions of the 91-day rule in the BHC Act, which provides that an application shall be deemed approved if the Board fails to act within 91 days after the date that the record on the application is complete. A number of commenters favored the inclusion in Regulation Y of a provision explaining the 91-day rule, since it would clarify a confusing subject. The Board is adopting this provision as proposed with minor modifications, as discussed below.

The 91-day rule is the legal maximum for the Board to make its decision on an application. More than 90 percent of all applications filed with the Board currently are approved in less than 46 days. Under the procedures set forth in the regulation, it is expected that most applications will be acted upon within 30 days of acceptance.

In conformity with established rules for computing time periods, such as the Federal Rules of Civil Procedure, the first day of the 91-day period is the day following completion of the record. Under this method of computations, the date the record is completed is day zero and the Board must act within 91 days thereafter. The regulation also specifies that Board act includes issuance of an order stating that the Board has approved or denied the application, reflecting the votes of the Board members, and indicating that a statement of the reasons for the action will follow.

The regulation specifies that the record on an application will not be considered complete before: (1) The date the Board receives an application accepted for processing by a Reserve Bank; (2) the last day of the formal comment period specified in any notice required under the regulation; (3) the date of the receipt of the last relevant, noncumulative information needed for the Board's decision on the application from a source outside the Federal Reserve System; or (4) the completion of any hearing required on the application.

Information from a source outside the Federal Reserve System includes any information submitted by the applicant in response to a request by the Board during the processing period as well as information from a government agency. If the Board has requested information that the Board believes is necessary for its decision, the record is not complete until the Board receives that information.[1] Similarly, the Board has previously stated that if it is awaiting the results of an examination of any bank involved in the application, or if issues raised by the application are the subject of pending litigation, legislation or rulemaking, the Board may appropriately suspend decision on an application. In such cases the record on the application is not deemed to be complete until the results of the examination are received or the collateral proceeding has been terminated. The purpose of the 91-day rule is, in the Board's view, to guard against unjustified delay resulting from inefficiency in the processing of applications, and is not to prevent the Board from withholding decision on an application when compelling reasons lead the Board to conclude that the public interest would be served by doing so. S-letter No. 2299, dated December 1, 1975, *reprinted in* [1978–1979 Transfer Binder] *Fed. Banking L. Rep.* (CCH), paragraph 96, 708.

Some commenters asserted that the 91-day period should start with the acceptance of the application by the Reserve Banks rather than the close of the comment period. However, this view of the statute is inconsistent with the legislative history, judicial precedent, and the Board's established construction of the 91-day rule. Thus, the Board is not accepting this suggestion. The notes, however, that the requirement for publication of notice in the **Federal Register** upon submission of the application (rather than acceptance) means that in many cases the 91-day period will in fact commence upon or shortly after acceptance of the application.

One commenter suggested that the Board notify an applicant when it receives information that would restart the 91-day period. The Board's procedures already provide that an applicant is to receive copies of materials from outside parties. Moreover, an applicant or other interested person may ask Board staff for advice on the calculation of the 91-day period in a particular application. Board staff will inform the applicant or other party of the last date provided in any notice for comment on the application and the last date that any relevant information concerning the application has been received from outside the Federal Reserve System.

There were objections to the provision that allows the Board to issue a statement of reasons for its action after the 91st day, if it issues an order by the 91st day. These commenters contend that parties adversely affected by an action of the Board would be deprived of the full 30 days to pursue judicial review of a Board action under the BHC Act. However, judicial decisions of similar statutory review provisions indicate that the period for judicial review does not commence until the statement of reasons in issued. *Airline Pilots Association* v. *C.A.B.*, 509 F. 2d 964 (D.C. Cir. 1975).)

There were also suggestions that the Board incorporate in the regulation the rules governing protests and the treatment of late comments. The Board's policy regarding comments and protests are set forth in the Board's Rules of Procedure (12 CFR Part 262). Since comments and protests are received on applications other than those under the BHC Act, the Board believes that its protest rules should remain in the Rules of Procedure, which apply to all types of applications the Board considers.

Section 225.14(i) Waiting period. Under section 11(b) of the BHC Act, a transaction that has been approved under section 3 of the Act, either as a result of Board approval or the 91-day rule, may not be consummated until 30 days after approval of the application. Emergency and failing bank acquisitions are generally exempt from the 30-day waiting period. The purpose of the

[1] See *Tri-State Bancorporation, Inc.* v. *Board of Governors*, 524 F.2d 562 (7th Cir. 1975); *North Lawndale Economic Development Corp.* v. *Board of Governors*, 553 F.2d 23 (7th Cir. 1977); *Central Wisconsin Bankshares, Inc.* v. *Board of Governors*, 583 F.2d 294 (7th Cir. 1978); *Republic of Texas Corp.* v. *Board of Governors*, 649 F.2d 1026 (5th Cir. 1981).

waiting period is to afford the United States Department of Justice an opportunity to review the proposal and determine whether it conforms to the antitrust laws.

The Board requested comment on the desirability of an amendment to Regulation Y that would allow this waiting period to be reduced with the concurrence of the Department of Justice where the proposal does not present any anticompetitive effects. For example, one-bank holding company formations generally do not present anticompetitive effects and are not the type of proposals for which the 30-day waiting period was designed. This proposal was favored by a large number of commenters. The Department of Justice endorsed the Board's suggestion in principle, but took the position that an amendment to the BHC Act would be necessary to implement the proposal. Accordingly, the Board will recommend such a proposal to the Congress.

IV. Subpart C—Nonbanking Activities and Acquisitions By Bank Holding Companies

Section 4 of the BHC Act, which embodies one of the primary purposes of the BHC Act, the separation of banking and commerce, limits the nonbanking activities in which a bank holding company and its subsidiaries may engage and prohibits the acquisition of voting shares of nonbanking entities unless the acquisition is specifically exempted. This subpart of the regulation implements section 4 and applies to any bank holding company as defined in Subpart A (including certain foreign banking organizations).

The subpart sets forth the limitations on nonbanking activities and describes the major exemptions contained in the BHC Act. It does not include the statutory exemption in section 4(a)(2) of the BHC Act (relating to retention of real estate holdings acquired prior to 1970), and the limited exemption in section 4(c)(10) (for a bank that is a bank holding company) because of their limited applicability. Also not included are (i) the provisions of section 4(c)(12) of the BHC Act which pertain to the expansion of nonbanking activities that were required to be divested by 1980; and (ii) the statutory exemptions in sections 4(c) (9), (13) and (14) of the BHC Act, which generally pertain to international banking and export trading company activities and which are implemented in various provisions of Regulation K ("International Bank Operations," 12 CFR Part 211).

Section 225.21—Prohibited Nonbanking Activities and Acquisitions; Exempt Bank Holding Companies

There were no substantive comments concering paragraph (b) ("Exempt bank holding companies"). As noted above, the Board has added a new paragraph (b)(4) to his section, which provides a procedure to exempt certain companies that acquired a so-called "nonbank bank" prior to December 10, 1982, on the basis of a narrow interpretation of the term "demand deposit" or "commercial loan" in the definition of "bank" in section 2(c) of the BHC Act. The comments on paragraph (a) are discussed below:

Section 225.21(a) Prohibited nonbanking activities and acquisitions. This paragraph contains the prohibitions of section 4(a) of the BHC Act that a bank holding company may not (i) acquire or retain the voting securities or assets of a company that is not a bank unless the company qualifies for one of the exemptions to the Act or (ii) engage in any activity other than those of banking or managing or controlling banks or activities otherwise deemed permissible under the BHC Act. The statutory exemptions to this prohibition, including the authorization for activities determined by the Board to be closely related to banking, are set forth in §§ 225.22 and 225.25 of Regulation Y, respectively.

This paragraph also sets forth the principal exception to the nonbanking prohibitions of section 4 of the BHC Act, under which a bank holding company may, with the prior approval of the Board, engage in, or acquire or control voting securities or assets of a company engaged in, activities that the Board has determined by order or regulation to be so closely related to banking or managing or controlling banks as to be a proper incident thereto.

Section 4(c)(8) of the BHC Act imposes a "two-step" test for determining the permissibility of nonbanking activities for bank holding companies, that is, whether the activity is closely related to banking and a "proper incident" to banking; and whether the benefits of a particular bank holding company engaging in a specific nonbanking activity outweigh the possible adverse effects. (*Board of Governors* v. *Investment Co. Institute*, 450 U.S. 46 (1981); *Nat'l Courier Ass'n.* v. *Board of Governors*, 516 F.2d 1229 (D.C. Cir. 1975).) The factors considered by the Board under the net public benefits test are set out in § 225.24 of the final regulation.

The **Federal Register** notice accompanying the proposed revision stated that the Board has found the guidelines set forth by the court in *National Courier* to be useful in determining whether an activity is closely related to banking. Several commenters asked the Board to expand the criteria beyond the *National Courier* tests, arguing that those guidelines do not allow sufficient flexibility and limit holding companies essentially to activities that have been traditional for banks. They urge the Board to look to other factors in evaluating activities under section 4(c)(8), including the changing competitive environment, particularly the expanded services offered by unregulated financial organizations.

The Board notes that the *National Courier* criteria are not considered exclusive, and the **Federal Register** notice accompanying the proposed revision stated that the Board has wide discretion under section 4(c)(8) of the BHC Act in making its closely related to banking determinations. The notice referred to judicial decisions stating that the Board may consider other factors in determining whether activities are closely related to banking. (*Alabama Ass'n of Ins. Agents* v. *Board of Governors*, 533 F.2d 224, 241 (5th Cir. 1976), *cert. denied*, 435 U.S. 904 (1978); *Board of Governors* v. *Investment Co. Institute*, 450 U.S. 46, 55 (1981).) In acting on a request to engage in a new nonbanking activity, the Board will consider, in addition to the *National Courier* criteria, any other factor that an applicant may advance to demonstrate a reasonable or close connection or relationship of the activity to banking or managing and controlling banks. Moreover, the Board agrees that the banking environment is changing and has indicated that it will reconsider any activity previously denied if it is demonstrated that circumstances have changed.

One commenter objected that section 4(a)(1) of the BHC Act does not require Board approval for acquisitions of assets. The Board has indicated, in its discussion of § 225.22 below, the circumstances under which an aquisition of assets will not be subject to the prior approval requirement of this section of the regulation. The Board believes that prior approval is required for the acquisition of assets to prevent a company from engaging in an impermissible nonbanking activity represented by the acquired assets in violation of section 4(a) of the BHC Act. Moreover, the Board views the acquisition of all or substantially all of the assets of a company as being equivalent to the acquisition of voting

securities, a transaction that would be prohibited without prior approval under section 4(c)(8) of the BHC Act.

The **Federal Register** notice accompanying the proposed revision stated that the prohibition against engaging in a nonbanking activity also applies to a bank holding company or subsidiary becoming a partner in a partnership (or acquiring voting securities in a partnership) that is engaged in nonbanking activities. (See *Central Colorado Co. & C.C.B., Inc.*, 66 *Federal Reserve Bulletin* 665 (1980).) Similarly, the prohibition applies to acquiring an interest in a joint venture (either in corporate or partnership form) where the joint venture is engaged in a nonbanking activity.

Several commenters objected to the statement that section 4(a) of the BHC Act prohibits a bank holding company from becoming a partner in a firm engaged in impermissible nonbanking activities, arguing that a limited partnership interest is not a voting security, that only the acquisition of voting securities is prohibited under section 4(a), and that a finding of control of the partnership is necessary for a nonbanking partnership interest to be prohibited under section 4(a).

The Board believes that these objections are addressed in its clarification of the definition of "voting securities," (see section 225.2(1)), which would not include preferred stock or similar interests with certain limited voting rights. However, the Board notes that a bank holding company may be presumed to be engaged in the business of a partnership, or may have established a control relationship over the partnership, because of (i) the size of its equity investment in the partnership (ii) its selection, or ability to select or to vote for the selection, of the general partner; (iii) limitations imposed on the management discretion of the general partner over the affairs or assets of the partnership; or (iv) the particular facts and circumstances of a case. In addition, the Board believes that a bank holding company that is a general partner in a partnership should be regarded as engaging in the activities of the partnership.

Commenters questioned the meaning of paragraph (a)(1) of this section regarding "banking" activities of bank holding companies. One commenter suggested that nonbanking activities (such as making loans) may also be "banking" functions and could be performed under section 4(c)(8) of the BHC Act or § 225.23 of the regulation without prior Board approval. Another commenter suggested that paragraph (a)(1) empowers bank holding companies to engage in banking.

The Board has previously limited the exception now contained in paragraph (a)(1) by interpreting it to mean that a bank, which is or becomes a bank holding company, may continue to function as a bank (FRRS 4–510). Thus, paragraph (a)(1) does not authorize a bank holding company to become a bank, nor does it authorize a bank holding company that is not a bank to perform any bank functions.

One commenter asked whether paragraph (a) of this section prohibits the holding of shares of a namesaver company. It does not because a namesaver company is not engaged in any activity and is merely a corporate shell.

Based on the foregiong, the Board is adopting section 225.21(a) substantially as proposed with some editorial amendments.

Section 225.22—Exempt Nonbanking Activities and Acquisitions

A bank holding company may engage in an activity or acquire shares of a nonbanking company without prior Board approval, if the activity or acquisition falls within one of the exemptions set forth in this section. The exemptions are derived from those set forth in section 4(c) of the BHC Act, and from interpretations issued by the Board.

There were no substantive comments concerning paragraph (b) ("Safe deposit business"), paragraph (c)(2) ("Securities or assets required to be divested by subsidiary"), paragraph (c)(3) ("Fiduciary investments"), paragraph (e) ("Activities and securities of new bank holding companies"), and paragraph (g) ("Securities or activities exempt under Regulation K"), and these paragraphs are being adopted as proposed. Comments were received on the following paragraphs:

Section 225.22(a) Servicing activities. This section of the proposed regulation interpreted sections 4(a)(2) and 4(c)(1)(C) of the BHC Act, which allow a bank holding company to furnish services to and perform services for its subsidiaries. The provision also reflected sections 4(c)(1) (A) and (D) of the BHC Act, which allow a bank holding company to form or acquire a company to hold and operate properties for the use of the bank holding company and its subsidiary banks, and to liquidate assets acquired from the bank holding company and its subsidiary banks, respectively. The proposed servicing provision limited a bank holding company to providing services only for the internal operations of the bank holding company and its subsidiaries, and enumerates the services that could be provided under this exemption, such as insurance, accounting, advertising and data processing. Under the proposal, a servicing subsidiary could not act as agent for the holding company or its subsidiaries in providing services to the public. The proposed limitation was intended to prevent the use of servicing subsidiaries to circumvent the requirements of section 4(c)(8) of the BHC Act by acquiring going concerns or providing services for customers as principal.

The Board received numerous comments on this provision, which objected to the proposed limitation as reversing the Board's longstanding position regarding section 4(c)(1)(C) subsidiaries, and not accurately reflecting the language and legislative history of the servicing exemptions in sections 4(a)(2) and 4(c)(1)(C) of the BHC Act. In light of these concerns, the Board is modifying the proposed provision and is reaffirming and clarifying its longstanding position that servicing subsidiaries may not deal with the public as principal, but may deal with outside parties provided they are acting only as agent for the holding company or its subsidiaries. (12 CFR 225.104, 225.109, 225.118, 225.122, 225.123, 224.141.) The Board believes its supervisory authority is sufficient to prevent abuse of the servicing exemption and that the proposed modification is not necessary. In this regard, bank holding companies that seek to acquire going concerns to furnish services under this exemption should consult with the appropriate Reserve Bank to ensure that the acquisition is exempt under this paragraph.

Several commenters objected to the requirement that the holding company own all the shares of the servicing subsidiary, as is the case under the Board's operations subsidiary ruling (12 CFR 225.141). The Board agrees that section 4(c)(1)(C) of the BHC Act, which authorizes a bank holding company to form or acquire a company to furnish services to its subsidiary banks, does not require the ownership of all the shares of a servicing subsidiary. However, section 4(a)(2) of the BHC Act, which permits a bank holding company to provide services for both its bank and nonbank subsidiaries, does not specifically authorize a bank holding company to establish or acquire shares of a company to perform such services. The Board has interpreted section 4(a)(2) to allow a bank holding company to establish a subsidiary to provide

services to the holding company's bank and nonbank subsidiaries under section 4(a)(2) of the BHC Act if the servicing subsidiary is wholly-owned (12 CFR 225.141). This requirement is based in part on the Board's interpretation under section 9 of the Federal Reserve Act (12 U.S.C. 335) that a state member bank may establish and hold shares of operations subsidiaries to perform activities that the member bank could perform directly or through a department or division of the bank (12 CFR 250.141).

In response to comments, the Board is deleting the requirement in the regulation that a servicing subsidiary must be wholly-owned. However, in accordance with 12 CFR 225.141, the ownership requirement continues to apply to a subsidiary that provides services to nonbank subsidiaries of the bank holding company. The Board will continue to review whether a similar requirement should be imposed on servicing subsidiaries established under section 4(c)(1)(C) to provide services exclusively to bank subsidiaries of the holding company, and will amend the regulation and its interpretation accordingly.

In connection with the question of the ownership requirement for servicing subsidiaries, the Board notes that a servicing subsidiary may not engage in impermissible nonbanking activities in addition to its servicing functions. For example, a holding company may not acquire on the basis of the servicing exemption a 10 per cent interest in a data processing company that, in addition to serving the internal needs of the holding company and acting as agent for the banking subsidiaries, offers data processing services to others. Thus, the regulation specifies that a servicing subsidiary may engage solely in permissible servicing functions.

The Board also notes that there is an exemption from the lending restrictions of section 23A of the Federal Reserve Act (12 U.S.C. 371c) for loans by a member bank to affiliates organized under section 4(c)(1) of the BHC Act. Thus, a servicing subsidiary exempt under § 225.22(a) of this regulation that provides services exclusively to the holding company or its subsidiary banks is not subject to the lending restrictions of section 23A. However, a servicing subsidiary exempt under this provision of the regulation that provides services in whole or part to or for the nonbanking subsidiaries of the bank holding company is subject to the lending restrictions of section 23A of the Federal Reserve Act.

A number of commenters stated that the list of activities servicing subsidiaries are authorized to perform for the internal operations of the bank holding company should not be exhaustive. Although the list was preceded by the word "include," and was clearly meant to be illustrative, the provision has been modified to make this clearer. At the suggestion of some commenters, the Board is also expanding the list of servicing activities to include activities identified in the legislative history of section 4(c)(1)(C), such as auditing, appraising, advertising and public relations. The Board is also incorporating in the list data processing and courier services for the internal operations of the bank holding company, which are permissible servicing activities contained in § 225.23 (b)(7)(i) and (b)(10)(i) of the proposed revision. The commenters favored this change, which clarifies that there is no prior approval requirement to engage in these servicing activities. The Board emphasizes that, these activities may be provided only for the internal operations of the holding company, unless the activities are authorized for the nonbanking subsidiaries of a bank holding company under section 4(c)(8) or for its banking subsidiaries under appropriate banking laws.

The only activity on the proposed list of permissible servicing activities that drew significant comment was insurance. Some commenters contended that the only authority for bank holding company insurance activities is section 4(c)(8) of the BHC Act, and objected to allowing bank holding companies under the servicing exemption to act as agent or to underwrite insurance on their own risks (*e.g.*, blanket bond insurance or employee group insurance plans).

The Board believes that sections 4(a)(2) and 4(c)(1)(C) provide general authority for bank holding companies to engage in activities necessary for their internal operations. While the legislative history indicates that the Congress did not intend servicing subsidiaries to be used as a means of supplanting section 4(c)(8), that section is relevant only when a bank holding company provides services to the public. The prohibition on insurance activities now contained in section 4(c)(8) as a result of the Garn-St Germain Act has no bearing on the internal operations of a bank holding company.

The purchase of group health insurance for a company's employees or property and casualty insurance for a company's buildings and equipment is a normal internal operating activity for most businesses, including bank holding companies. If the most economical or efficient way for a bank holding company to secure such insurance is to act as agent or underwriter, the Board believes that this is authorized under the servicing exemption. Accordingly, the Board is retaining this activity on the list of permissible servicing activities.

Section 225.22(c) Nonbanking acquisitions not requiring prior Board approval. This paragraph sets forth a number of exemptions to the prohibition of section 4 of the BHC Act against the acquisition of the voting securities or assets of a company engaged in nonbanking activities. In some situations, more than one exemption may apply to a particular acquisition. A bank holding company is entitled to rely on any applicable exemption. Thus, a bank holding company that acquires voting securities in satisfaction of a debt previously contracted is entitled to retain up to five percent of these securities under section 225.22(c)(5) of this regulation, notwithstanding the requirement of section 225.22(c)(1) of this regulation to divest DPC property within 2 years.

Section 225.22(c)(1) DPC acquisitions. The proposed regulation exempted from the prior approval requirement of section 4(c)(8) of the BHC Act a holding company's acquisition of securities and real or personal property in satisfaction of debts previously contracted ("DPC property"), so long as the company disposes of such property within two years of acquisition. The Board may extend the two-year period upon request for three additional one-year periods, for a total holding period of five years. Also, with regard to real property the Board may grant an additional five-year holding period, for a total of 10 years. The proposed regulation was based on the Board's published interpretation that while acquisitions of assets "dpc" may be regarded as necessary and incidental to the business of lending, prudent banking practice and the BHC Act require that such assets be liquidated and not held for an extended period of time (12 CFR 225.140).

Some commenters objected that this provision should apply only to voting shares, and that the BHC Act does not prohibit the ownership or control of assets. The Board's longstanding position has been that the nonbanking prohibitions of the BHC Act cover certain assets held by a bank holding company, such as real estate. (Liberty National Corporation, 38 FR 31054 (1973).) Moreover, in exempting certain real estate from the nonbanking prohibitions of section 4(a) of the BHC Act, section 4(a)(2) of the BHC Act expressly recognizes that real estate, or interests in real estate, held by bank

holding companies is covered by the nonbanking prohibition of the Act. The applicability of the nonbanking prohibitions of the BHC Act to the ownership of particular property depends upon whether that ownership constitutes engaging in an activity, which is a question resolved on the basis of the facts and circumstances of the particular case. The Board believes it is necessary to retain the reference to property in this paragraph in order to allow holding companies an appropriate period of time to comply with section 4 of the Act and effect a divestiture where the holding of DPC property would constitute engaging in an impermissible activity.

One commenter requested that the Board also allow extensions beyond 5 years for the holding of personal property, as well as for real estate. The Board's interpretation provides a maximum 5-year holding period for property other than real estate. The Board does, however, believe that where personal property has value and marketability characteristics similar to real estate, an additional extension for up to five years may be appropriate. The Board is adopting the proposed paragraph with this modification.

Another commenter suggested specifying that the divestiture period commences only when the bank holding company acquires title to and possession of the property. The Board believes that such questions depend on the facts and circumstances of a particular case, and companies with such questions should consult the appropriate Reserve Bank.

Section 225.22(c)(4) Securities eligible for investment by a national bank. This exemptive provision, which is derived from section 4(c)(5) of the BHC Act, permits a bank holding company to own securities of the kinds and amounts that are explicitly eligible by federal statute for investment by a national bank. The Board proposed to limit this exemption by excluding investments in companies authorized under the Bank Services Corporation Act ("BSCA") (12 U.S.C. 1861 *et seq.*). Under the BSCA, banks may invest in bank service corporations, which may, with the prior approval of the Board, engage in nonbanking activities on the Regulation Y list of activities permissible for bank holding companies. Under the proposed provision, a bank holding company would have to obtain the Board's prior approval under section 4(c)(8) of the BHC Act to invest in a bank service corporation just as a bank must now obtain prior approval to invest in such a corporation. If investments authorized under the BSCA were not excluded from the section 4(c)(5) exemption, bank holding companies would be permitted to make such investments and engage in nonbanking activities without complying with either the section 4(c)(8) or BSCA prior approval requirements. In order to ensure that the exemption in section 4(c)(5) does not supplant the requirements of section 4(c)(8) and the BSCA, the limitation as proposed is necessary and is being adopted.

A question was raised as to the status of bank service corporations owned by bank holding companies under the provisions of the BSCA prior to the amendments made by the Garn-St Germain Act. An earlier Board interpretation (12 CFR 225.115) stated that section 4(c)(5) could be used as authority for a bank holding company to own such a corporation. The types of activities authorized in the earlier Bank Service Corporation Act are now contained in section 3 of the amended BSCA, which is codified at 12 U.S.C. 1863. The Board has determined that bank holding companies may, on the basis of section 4(c)(5) of the BHC Act and without the Board's prior approval, invest in a bank service corporation whose activities are limited to those allowed under section 3 of the BSCA. However, the Board notes that in using this authority the other requirements of the BSCA with respect to notice, services, and prices would apply. Of course, a bank holding company may also apply under section 4(c)(8) of the BHC Act to invest in a bank service corporation engaged in activities under section 4 of the BSCA (12 U.S.C. 1864).

Section 225.22(c)(5) Securities or property representing 5 percent or less of a company. This paragraph implements section 4(c)(6) of the BHC Act, which allows a bank holding company to acquire and retain shares in a nonbanking company that do not exceed 5 percent of its outstanding voting shares. There were three objections to the Board's proposed interpretation of section 4(c)(6) as discussed below.

First, some commenters objected to limiting the exemption to ownership of 5 percent of any *class* of voting securities, whereas section 4(c)(6) of the BHC Act does not specifically impose such a limit. As discussed in § 225.11(c) of this notice regarding the acquisition of bank shares, the Board believes that the concept of a class of voting securities was intended to be incorporated in all the sections of the BHC Act dealing with acquisitions of voting securities. The Board has previously so construed this section.

Second, there was an objection to including property in the exemption on the ground that the nonbanking prohibitions of section 4 of the BHC Act do not extend to real estate or other assets, and thus there is no need for a 5 percent exemption for property. As explained with regard to DPC acquisitions (section 225.22(c)(1)), the Board believes the BHC Act encompasses interests in property in some circumstances. Moreover, the Board believes that section 4(c)(6) of the BHC Act reflects the concept found elsewhere in the Act that a 5 percent or less interest generally does not constitute engaging in an activity. Since this is a regulatory exemption to the general prohibition against acquiring nonbank shares or engaging in nonbank activities, it does not necessarily prohibit larger nonvoting interests that (i) are passive; (ii) do not involve engaging in an activity; and (iii) do not establish a control relationship. (*See* discussion of section 225.21(a).) If the ownership of property constitutes engaging in an activity, the holding company is limited to a 5 percent interest, as it would be if it were investing in voting securities of a company that is engaged in nonbanking activities.

Third, some commenters objected to including the requirement, derived from a current Board interpretation, that the investment be held as a "passive investment," arguing that such a requirement is not in section 4(c)(6) and creates uncertainty because it is subjective in nature. The Board agrees that there have been few problems in this area, and that the Board's interpretation (12 CFR 225.137) and the control provisions of the BHC Act are sufficient to address any problems that may arise. Accordingly, the Board is replacing this requirement in the final regulation, with a reference to its interpretation of section 4(c)(6) of the BHC Act.

Section 225.22(c)(6) Securities of investment company. The only substantive comments on this paragraph concerned the requirement that an exempt investment company may not hold more than 5 percent of any *class* of voting securities. The Board is retaining this requirement for the reasons discussed in sections 225.11(c) and 225.22(c)(5) of this notice.

Section 225.22(c)(7) Assets acquired in the ordinary course of business. This paragraph incorporates a Board interpretation (12 CFR 225.132) of the BHC Act as not requiring prior approval for certain acquisitions of assets in the ordinary course of business, as long as

the acquisition is not of all or of substantially all of the assets of a going concern, or of a subsidiary, division, department or office of the company, and provided that the assets acquired relate to activities previously approved by the Board. The primary comments on this provision asked that the regulation quantify or clarify the meaning of "all or substantially all of the assets of a company."

The Board's interpretation provides flexibility to determine whether an acquisition of assets constitutes an exempt acquisition in the ordinary course of business or whether it constitutes the acquisition of all or substantially all the assets of a company. A primary consideration in determining if an application is required would be whether there is a purchase of a substantial portion of the assets in the particular line of nonbanking activity in which the seller is engaged. There are other equally important considerations outlined in the Board's interpretation, including the size of the proposed acquisition in terms of the acquiror's assets, whether the acquisition of assets is for resale and the resale would not be a normal business activity of the acquiror, and whether the purpose of the acquisition is to hire employees or gain expertise. The Board believes that establishing an arbitrary number to define the phrase "substantially all the assets" is not appropriate. In addition, the following paragraph of Regulation Y, § 225.22(c)(8), which exempts from prior approval requirements certain asset acquisitions by consumer finance or mortgage companies, addresses in substantial part the concerns expressed by the commenters.

Finally, the Board believes its interpretation provides the Reserve Banks with sufficient flexibility to review, on a prompt basis, asset acquisition proposals with due regard for the purposes of the Act and the competitive situation of bank holding companies with respect to nonbank competitors in this area. Accordingly, the Board is modifying the proposed language of this regulatory provision in favor of the more flexible procedures of the Board's interpretation.

Section 225.22(c)(8) Asset acquisitions by a consumer finance or mortgage company. Under this paragraph, an application for prior approval is not required under section 4(c)(8) of the BHC Act for acquisitions of all or substantially all of the assets of an office that relate solely to consumer and residential mortgage finance activities and that do not involve the acquisition of voting securities. The comments generally favored this provision, but suggested a number of changes. The Board is adopting the provision as proposed with some modifications as discussed below.

Several commenters suggested expanding this exemption to include all nonbanking activities on the Regulation Y list of those permissible for bank holding companies. This provision was designed for those industries where asset acquisitions are a normal part of the business operations, and where bank holding companies have indicated they are at a particular competitive disadvantage because of the section 4(c)(8) prior approval requirement. Based on the Board's experience, it appears that, with the exception of industrial banking, which the Board is adding to this provision, there are no other permissible activities where asset acquisitions are a normal part of business operations. The Board will consider including other nonbanking activities in this provision if it is demonstrated to be appropriate.

A number of commenters stated that exempting acquisitions only where the assets acquired relate "solely" to making, acquiring, or servicing consumer or residential mortgage loans limits the usefulness of the exemption because in many cases a company will also have nonconforming assets such as commercial loans among the qualifying assets. To address this issue, the Board is modifying the provision to require that substantially all of the assets (rather than all of the assets) relate to qualifying loans. Thus, a nonconforming asset acquired pursuant to this provision may be held until it is repaid in accordance with its terms. This modification does not authorize a bank holding company to expand the activity represented by the nonconforming assets and thereby engage in a nonbanking activity for which the company does not have approval under section 4(c)(8).

Some commenters stated that the amount of assets that may be purchased under the exemption should be increased. The limitations in the proposed revision (10 percent of the acquiring company's assets or $10 million, whichever is less) were based in part on a 1971 provision regarding asset acquisitions. The Board agrees with the commenters that these limits should be increased to 25 percent of the acquiring bank holding company's assets or $25 million, whichever is less. The Board believes that this increase is appropriate in view of provision (v) of this paragraph, under which the Board may notify a bank holding company that it may not acquire assets under this section, if, for example, it is experiencing financial problems or has expanded too rapidly. In addition, the regulation is being clarified to indicate that the percentage and dollar limits are annual limits on aggregate purchases from all companies, rather than limits on purchases from any single company during the year.

The proposed exemption limits the assets acquired to no more than 50 percent of the assets of the seller. Some commenters recommended the elimination of this condition, arguing that the proportion of the seller's assets that are acquired should not concern the Board. This provision was designed to ensure that the acquisition does not represent the acquisition or elimination of a competitor, and is being retained in the final regulation.

Some commenters noted that, in some cases, one or more offices of the selling company may be separately incorporated and thus, the acquisition of the office represents the acquisition of 100 percent of the assets of a company. To address this problem, the Board is modifying this condition to clarify that it refers to the consolidated assets of the ultimate selling company engaged in the line of the business being acquired, rather than the assets of a separately incorporated office.

It should also be noted that under a current Board interpretation, (12 CFR 225.140), a company that has obtained the Board's approval to engage in a nonbanking activity in a particular geographic area may form and acquire a shell corporation for the purpose of acquiring assets, the direct acquisition of which would be permissible under this paragraph. Similarly, a bank holding company may acquire assets under this provision and then form and acquire a subsidiary to hold the assets without prior approval if the bank holding company previously received the Board's approval to engage in the activity. If, however, the seller holds the assets to be acquired in a separate subsidiary corporation, and the bank holding company proposes to acquire the shares of the subsidiary corporation, an application for prior Board approval is required under section 4(c)(8) of the BHC Act. Several commenters suggested that the exemption be expanded to permit "asset acquisitions" effected by stock purchases. However, the Board does not believe acquisitions of voting shares are exempt from the prior approval requirements of section 4(c)(8) of the BHC Act. The Board has addressed the issue of small acquisitions by providing the expedited

15-day notice procedures in § 225.23(f) of the proposed revision, which would be available in the case of an acquisition of the voting securities of a going concern.

Several commenters objected to the provision reserving the right to revoke, upon notice, a bank holding company's authority to make acquisitions under this provision and to require applications for such acquisitions, on the ground that the regulation does not set forth standards for the Board's use of this revocation authority. As discussed below (in § 225.23(a)(1)), the Board intends to exercise this authority only where, for example, the holding company is not in sound financial condition. In this regard, the Board believes that this exemption should only be available where the bank holding company meets the Board's Capital Adequacy Guidelines, and is so modifying the final regulation.

Section 225.22(d) Acquisition of securities by subsidiary banks. This paragraph restates § 225.4(e) of the current regulation, which was adopted in 1971, and provides an exemption (set out in paragraph (d)(2) of the revision) from the prohibitions of section 4 of the BHC Act for a state-chartered bank that is a subsidiary of a bank holding company to make the same kinds of investments explicitly eligible for national banks. In addition, the paragraph authorizes the state bank to acquire or retain shares of a company that engages solely in activities in which the parent bank may engage directly, at the same locations and subject to the same limitations as if the bank were engaged in the activity directly. Paragraph (d)(1) of the proposed revision provides that national bank subsidiaries of holding companies may acquire or retain subsidiaries in accordance with the rules of the Comptroller of the Currency.

The Board received numerous comments urging the Board not to adopt paragraph (d)(2) of this provision. These comments were based on conflicting theories, with some commenters contending the Board has no authority to exempt the nonbank subsidiaries of a bank from the nonbanking provisions of section 4 of the BHC Act, while others asserted that the Board has no authority to regulate the nonbanking activities or subsidiaries of a subsidiary bank of a bank holding company.

The provision regarding nonbank subsidiaries of state banks, which has not presented any substantive issues since its addition to the current regulation in 1971, has assumed major importance as a result of state legislation being enacted or considered that would authorize state-chartered banks to engage directly or through subsidiaries in nonbanking activities that are not permissible for bank holding companies under the Act. For example, the State of South Dakota has authorized banks chartered under its laws to engage in all facets of the insurance business. As noted, Title VI of the Garn-St Germain Act generally prohibits bank holding companies from engaging in insurance agency and underwriting activities under section 4(c)(8) of the BHC Act.

There are pending before the Board applications by a number of bank holding companies to acquire state banks in South Dakota that raise the issue of the scope of the nonbanking restrictions of the BHC Act relative to nonbank subsidiaries of state banks that are owned by bank holding companies. The Board has received requests for hearing on these applications and, as noted above, believes it appropriate to consider this provision of the proposed revision and the comments thereon in connection with its consideration of these applications and hearing requests. The Board does not wish to delay final action on Regulation Y and, accordingly, is postponing further consideration of paragraph (d) of this provision at this time. The provisions of § 225.4(e) of Regulation Y, which have been reprinted in this section, will continue in effect pending completion of the rulemaking on this provision.

Section 225.22(f) Grandfathered activities and securities. This paragraph reflects the Board's interpretation of sections 4(a)(2) and 4(c)(11) of the BHC Act, which provide grandfather privileges to a "company covered in 1970" (i.e., a company that become a bank holding company as a result of the 1970 Amendments to the BHC Act and would have been a bank holding company on June 30, 1968, if the amendments had been in effect then). Generally, such a company may hold interests and engage in activities that it held or engaged in continuously since June 30, 1968, and may expand such activities *de novo*, including the formation of new subsidiaries to engage in such activities.

One comment asserted lack of authority to permit unlimited *de novo* expansion of grandfathered activities, including the formation of new subsidiaries. The provision is being adopted as proposed because the legislative history of the BHC Act clearly indicates that it was the intent of Congress that the Board limit grandfathered activities only when it determines, after notice and opportunity for a hearing, that it is necessary to prevent undue concentration of resources or other specified adverse effects.

Section 225.23—Procedures for Applications, Notices, and Hearings

This section sets out the procedures for the filing of notices and applications, the acceptance of notices and applications, and action with regard to notices and applications to engage in nonbanking activities. In the final regulation, the Board is eliminating the provision of proposed § 225.23(a), ("Nonbanking activities requiring Board approval") because that section was redundant of the provisions of § 225.21(a) ("Prohibited nonbanking activities and acquisitions"). The Board is also moving the list of permissible nonbanking activities from § 225.23(b) of the proposed regulation to § 225.25 of the final regulation.

The comments regarding the following paragraphs, which parallel provisions of § 225.14 of Subpart B relating to acquisition of banks, have been discussed in connection with that section: paragraph (c) ("Accepting application for processing"), paragraph (d)(1) ("**Federal Register** notice—listed activities"), paragraph (e) ("Action on applications"), and paragraph (h) ("Approval through failure to act; 91-day rule"). No significant substantive comments were received regarding paragraph (i) ("Emergency thrift institution acquisitions"). The remaining paragraphs in this section are discussed below.

Section 225.25(a) Application or notice required for nonbanking activities. This paragraph sets out the circumstances and procedures under which a bank holding company may apply for the Board's prior approval to engage in, or acquire or control the voting securities or assets of a company engaged in, nonbanking activities that the Board determines are so closely related to banking or managing or controlling banks as to be a proper incident thereto. An application is generally required to acquire a company engaged in activities that the Board has previously added to the list of permissible nonbanking activities for bank holding companies (section 225.23(a)(2)), or to engage *de novo*, or to acquire a company engaged, in activities that the Board has not added to the list of permissible activities (section 225.23(a)(3)). In the latter case, the application must contain evidence demonstrating that the activity is so closely related to banking as to be a proper incident thereto.

The Department of Justice recommended that the Board use "notice" procedures for initial entry by a particular company into an activity previously determined to be closely related to banking. Thus, instead of a full application, a notice would be required that would be considered approved if the Board failed to disapprove it within a fixed period of time.

The Department's recommendation is essentially contained in the present § 225.4(b)(1) of the Board's Regulation Y. Under this provision, a bank holding company is permitted to engage *de novo* in a nonbanking activity that is on the Board's list of permissible activities in Regulation Y, 45 days after filing a notice with the appropriate Reserve Bank unless within that period the company is advised that it may not consummate the proposal because of the receipt of adverse comments of a substantive nature or because the proposal is not appropriate under the Board's Rules Regarding Delegation of Authority. The Board proposed to omit this provision in the revision because it did not appear to have any practical effect in view of the Board's current and proposed operating procedures. However, based on the Department's comments, the Board is retaining the notice procedure in such cases, and is also reducing the notice period from 45 to 30 days. The Board is authorizing the Reserve Banks to extend for 15 days this 30-day notice period (§ 225.23(a)(1)).

Section 225.23(b) Notice to expand or alter nonbanking activities. In this paragraph, the Board proposed to modify the requirement of the current regulation that a bank holding company obtain the Board's prior approval each time it opens a new office of a nonbanking activity or expands the service area for that activity on a *de novo* basis.

The Board proposed two alternative approaches with respect to such *de novo* expansion. Under the first approach, a bank holding company would be allowed to open offices *de novo* without the Board's prior approval within any state or states where it had previously received approval to engage in the specified nonbanking activity. Alternatively, the Board proposed to eliminate all application requirements for *de novo* expansion once the bank holding company received initial Board approval to engage in the activity. Under the latter approach, a bank holding company that wished to engage in consumer finance activities, for example, would be required to file a one-time application to engage in the activity. Once the bank holding company received Board approval for that activity, no further applications to the Board under section 4 of the Act would be required to expand that activity *de novo* through the opening of new offices, the expansion of the service area of the activity, or the incorporation of new subsidiaries to engage in the activity. Under both approaches, the Board reserved the right, upon notice, to require applications for *de novo* expansion under certain circumstances as discussed below. Expansion through the acquisition of a going concern engaged in a nonbanking activity would continue to require an application, although the Board also has proposed expedited notice procedures for certain small acquisitions (§ 225.23(f)).

This paragraph of the proposed revision received a large number of comments, almost all of which urged the Board to adopt the alternative eliminating all applications for *de novo* expansion. In view of the comments and the Board's experience with applications involving *de novo* expansion, the Board is adopting the alternative to eliminate any requirement for an application for *de novo* expansion by a bank holding company in an activity in which it has previously received Board approval to engage. In the Board's view, this approach will substantially reduce regulatory burden.

The Board imposed the office-by-office approval requirement in 1971 to monitor the significant expansion authorized by the 1970 Amendments to the BHC Act, both with respect to the new types of nonbanking activities permitted for bank holding companies and the interstate scope of such activities. In the more than 5,000 applications involving *de novo* expansion decided since 1971, not one application has been denied on the merits. Based on its experience, the Board believes the requirement for an application for *de novo* expansion is no longer warranted except, perhaps, in certain cases where the holding company is experiencing financial problems. The Board will continue to monitor *de novo* expansion in connection with its ongoing supervision of each bank holding company.

Some comments objected that adoption of this alternative is inconsistent with the requirements of section 4(c)(8) of the BHC Act, contending that the Board is required to consider the public benefits and adverse effects associated with each *de novo* office. Section 4 of the BHC Act requires that the Board's prior approval be obtained by a bank holding company to engage in, or acquire shares of a company engaged in, nonbanking activities that the Board has determined to be closely related to banking. The courts have interpreted this provision as a two-step test: first, that the Board determine, after notice and opportunity for hearing, that a nonbanking activity is closely related to banking and a proper incident thereto; and second, that the Board determine whether performance of a particular nonbanking activity by a particular bank holding company will result in net public benefits.

The Board believes that the alternative being adopted is consistent with the requirements of section 4(c)(8). The provision allowing geographic *de novo* expansion of nonbanking activities applies only to activities listed in Regulation Y that the Board has already determined are closely related to banking and a proper incident thereto. Second, this provision does not eliminate the requirement of section 4(c)(8) of the BHC Act, as interpreted by the courts, that a bank holding company apply to the Board to engage in a particular nonbanking activity. However, once a bank holding company has obtained approval to engage in an activity determined to be closely related to banking, and the Board has found that the public benefits associated with the performance of that specific activity by the bank holding company outweigh any reasonably likely adverse effects, the Board does not believe that separate approval for individual offices is specifically required under section 4(c)(8) of the BHC Act. In this regard, section 4(c)(8) specifically provides that in regulations issued under that section, the Board may distinguish between nonbanking activities commenced *de novo* and those commenced by the acquisition of a going concern. The United States Department of Justice, in its comment on the proposed revision, also noted that prior approval is not required under section 4(c)(8) for individual new offices.

The proposed regulation requires that a holding company must exercise its authority to engage in an activity within two years. If it fails to consummate the proposal within this time period, a new application would be required. Several commenters suggested allowing periods longer than two years. The Board believes that a proposal should be consummated within a relatively short period of time in order to preserve the factual situation on which the approval was based. The Board is eliminating the two-year period from the regulation in favor of a case-by-case determination by the appropriate Reserve Bank of the

time within which a proposal should be consummated. Under current practice, this period is normally 90 days. Because the Board has eliminated the requirement for *de novo* expansion in most cases, this should not impose an undue burden on applicants.

The modification of the regulation to allow *de novo* expansion without further applications is prospective only. Consequently, holding companies that have received approval to engage in a particular activity within a limited geographic area (e.g., a particular state or local market) may not expand *de novo* outside of that geographic area without filing an additional notice, which will be processed on an expedited basis under the *de novo* notice procedure in this regulation. Once the additional notice to expand throughout the country is approved, no further notice or application would be required for new offices. A holding company that previously received approval to solicit business on a nationwide basis from any office engaged in the relevant activity could open additional offices nationwide without a further notice, on the basis of the geographic area authorized previously. This requirement is contained in § 225.23(b)(1) of the final regulation.

Under the amended provision, the Board may notify a company that it must file an application for prior approval of *de novo* expansion. Some commenters requested the Board to establish guidelines indicating when it might withdraw the authority of a company to rely on this provision of the regulation to expand *de novo*. As discussed in connection with a similar provision in § 225.22(c)(8) concerning asset acquisitions, the Board expects that its authority under this provision will be used sparingly, and that guidelines in the regulation would not be practicable or desirable. In general, the authority will be invoked when the Board believes that the holding company is not in sound financial condition or does not meet the Board's Capital Adequacy Guidelines; or where the Board wishes to monitor the expansion of a particular activity more closely.

The Board is also transferring § 225.25(f) of the proposed regulation regarding nonbanking activities conducted outside of the United States, to § 225.23(b)(2) of the final regulation.

Section 225.23(b)(3)—Alteration of nonbanking activity. The proposed revision specified that "nonbanking activities shall not be altered in any significant respect from those considered by the Board in acting on the application, nor provided in any states other than those specified in the notice published with respect to such application." The Board is clarifying that an application or notice is required only where the alteration would represent a material, rather than significant, change from the activity as approved by the Board. This provision is also being modified to reflect the Board's decision not to require applications for *de novo* expansion on a state by state basis.

One commenter asked the Board to clarify that if a bank holding company or any nonbanking subsidiary has permission to engage in an activity, then the holding company may engage in that activity through any other nonbanking subsidiary. An outstanding Board interpretation of section 4(c)(8) of the BHC Act states that a holding company may shift authorized activities from one subsidiary to another without any additional approval (12 CFR 225.123), and the Board does not believe it is necessary to modify the regulation. The Board notes, however, that in some instances, the activities of different subsidiaries could not be combined where such combination would otherwise be inconsistent with the BHC Act or the Board's regulations.

Section 225.23(d)(2) Federal Register notice—unlisted activities. This paragraph sets forth the procedures for publication in the **Federal Register** of proposals by bank holding companies to engage in nonbanking activities that have not previously been found by the Board to be closely related to banking. Under the current regulation, the Board will publish notice of a new nonbanking activity only if the applicant demonstrates a reasonable basis for believing that the activity is closely related to banking. No time period is specified for publishing notice of a proposal to engage in a new nonbanking activity, and the decision whether to publish notice of an unlisted activity is currently made in every case by the Board at a formal Board meeting. As a result, processing of such proposals has at times been delayed.

The Board asked for comment on two alternative procedures, both of which were designed to expedite publication of notice of applications for new activities not on the Regulation Y list. Under the procedure in the proposed regulation, the Board would publish notice in the **Federal Register** of every such application, within 10 business days, unless there is no basis to believe that the activity is closely related to banking. Alternatively, the Board suggested in the **Federal Register** notice accompanying the proposed revision that it retain discretion to extend the 10-day period for an additional 30 days to allow the Board to decide whether to publish notice of the application. If the Board decides not to publish notice of the proposal, the Board will notify the applicant of the reasons for its decision. Under either procedure, the Board expects that a prompt decision will be made whether to publish notice of an application for a new activity.

Most of the commenters favored the procedure for automatic publication of notice of applications to engage in new activities. The Board, however, believes that it should retain the discretion to review applications for proposed new activities in order to determine whether there is a reasonable basis for believing that the activity is closely related to banking. The proposed alternate procedure addresses the concern of the commenters for more expeditious publication of new nonbanking activities by requiring a Board decision on publication within a maximum of 40 days as well as the concerns regarding the desirability of publishing an activity for comment whether or not there is any prospect for its adoption under the standards of section 4(c)(8) of the BHC Act.

Some commenters questioned whether an application is necessary in order for the Board to consider adding a new activity to the list of new activities in the regulation. Under the Administrative Procedure Act, any party may petition for amendment of a regulation at any time (5 U.S.C 552(b)), although the time frames specified in this section for processing applications to engage in new activities would not apply to a petition for rulemaking.

Section 225.23(f) Expedited procedure for small acquisitions. In response to requests that the Board reinstitute the simplified procedures contained in the current regulation (which were suspended in 1971) and to establish a procedure for expedited consideration of small acquisitions that raise no significant issues, the Board proposed in this paragraph to adopt an expedited 15-day notice procedure for small acquisitions involving permissible nonbanking activities.

Under this paragraph of the proposed revision, a bank holding company may acquire voting securities or assets of a company engaged in nonbanking activities on the Regulation Y list by filing with the Reserve Bank a brief description of the proposed transaction and a notice of the proposed acquisition that appeared in a newspaper of general circulation in the area(s) to be served as a result of the acquisition. As proposed, the procedure would apply only to an

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acquisition where the book value of the assets acquired or the gross consideration paid for the securities or assets is $10 million or less, and the bank holding company had previously received approval to engage in the activity in the relevant State. Within five business days after the close of the comment period, the Reserve Bank would notify the bank holding company that the proposed acquisition has been approved pursuant to delegated authority, or that the application has been referred to the Board because the application is not eligible for action under delegated authority.

While this proposal was supported by bank holding companies as well as the Department of Justice, a number of commenters suggested modifications to the provision. Some commenters objected to publishing notice of a proposal in a newspaper of general circulation, since in 1978 the Board eliminated that method of giving notice under section 4(c)(8) of the BHC Act in favor of **Federal Register** notice. However, one commenter recognized that the use of newspaper notice might be the only way for the Board to adopt an expedited application procedure and at the same time satisfy the notice requirement of the BHC Act, because publication of a notice in the **Federal Register** is more time-consuming and may not be feasible on the proposed expedited basis.

To address the concerns of the commenters, the Board is amending the provision to provide for notice in the **Federal Register** as an alternative to newspaper notice. Thus, an applicant may choose the type of notice most suitable to its needs and objectives. The Board notes that publication of notice in the **Federal Register** will extend the application process under the expedited procedure by about 15 additional days.

There were a variety of suggestions for raising the maximum limit on acquistitions that may be made under the expedited procedures. On the other hand, some commenters suggested that a percentage limitation also be applied because an absolute dollar limitation may represent a significant investment for many bank holding companies.

The Board is responding to these suggestions by raising the maximum amount from $10 million to $15 million, the amount suggested by most commenters. The Board does not believe that a percentage limitation is necessary, because in the case of an application filed under the expedited procedure that raises financial or other issues, the Reserve Bank is authorized to require a full application and to refer the application to the Board for decision. In this regard, the Board is also specifying in the regulation that this procedure may not be used unless the bank holding company meets the Board's Capital Adequacy Guidelines.

Finally, in view of the fact that the Board is not adopting the proposal to require bank holding companies to file applications for new offices of previously-approved nonbanking activities on a state by state basis, there is no reason to require, as a condition of eligibility for the expedited notice procedures, that the company have received prior authority from the Board to engage in the particular activity in the area served by the company to be acquired. Accordingly, the final regulation is being modified to require only that the acquiring company previously must have received Board approval to engage in the particular activity. While some commenters favored use of expedited procedures for a bank holding company's entry into a new nonbanking activity by acquisition of a going concern, the Board does not believe that the 15-day notice period would allow sufficient time to consider the financial, managerial and other factors specified in the BHC Act.

Section 225.23(g) Hearing. This paragraph indicates that the Board may order a hearing or other proceeding in connection with an application. Several commenters suggested that in order to avoid delay, requests for hearing should be presented to the Board for decision as soon as they are received, rather than when the staff completes its analysis of the application. In view of the shortened processing schedules that are being adopted by the Board, the suggested procedure would not save much time in most cases and in fact might unduly lengthen the application process. Accordingly, the Board believes that it is more efficient under the new processing schedules to evaluate the merits of the protest and hearing request in the context of the evaluation of the application. The Board will, however, take the opportunity in applications raising major issues in which a hearing is required to order the hearing at the earliest possible time.

Some commenters objected that the proposed revision did not include detailed procedures for handling protests. They argued that such procedures are necessary to avoid substantial delays in deciding protested cases. The Board's procedures for handling protested applications are already set forth in its Rules of Procedure (12 CFR Part 262), and there appears to be no reason to transfer them to Regulation Y, since the protest procedures also apply to other types of applications. The Board notes that adoption in 1980 of revised protest procedures have been useful in reducing delays in processing protested applications. In addition, the Board is continuing to study improvements that may be made in processing protested applications.

Section 225.24—Factors Considered in Acting on Nonbanking Applications

This section describes the factors the Board considers in deciding applications under section 4(c)(8) of the BHC Act to engage in nonbanking activities. The Board has consolidated the three paragraphs of this section in the proposed regulation into one paragraph in the final regulation.

This section incorporates the statutory test in section 4(c)(8) of the BHC Act, which requires the Board, in its consideration of an application, to weigh the public benefits against the possible adverse effects that are likely to result from a bank holding company's proposal to engage in a specific nonbanking activity. This paragraph also reflects the general finding of the Board that performance of an activity by a bank holding company on a *de novo* basis is likely to yield public benefits, which is based on section 4(c)(8) of the BHC Act, allowing the Board to differentiate between nonbanking activities commenced *de novo* and those commenced through the acquisition of a going concern.

The comments supported the presumption in the regulation that *de novo* entry will result in benefits to the public through increased competition. The provision is being adopted as proposed.

This section also reflects the Board's practice in acting on applications under section 4(c)(8) of the BHC Act to consider the financial and managerial resources of the bank holding company, its subsidiaries, and the company to be acquired, and the effect of the transaction on their resources. For example, a proposal that may detract from the financial condition of the applicant bank holding company would be weighed as an adverse factor in the Board's overall evaluation of the application under section 4(c)(8).

Some commenters urged deleting these criteria because section 4(c)(8) of the BHC Act does not explicitly list financial and managerial considerations among the factors the Board is required to consider. Section 4(c)(8) specifically mentions "unsound banking practices" under the adverse effects to be considered, and the list of adverse effects and public benefits in section

4(c)(8) is illustrative rather than exhaustive. The Board regards consideration of financial and managerial factors in connection with applications for nonbanking activities as included within the required net public benefits analysis under section 4(c)(8) of the BHC Act.

Section 225.25—List of Permissible Nonbanking Activities

This section, which was proposed as § 225.23(b) of the revision, lists the nonbanking activities that the Board has determined by regulation to be closely related to banking under the BHC Act. Generally, an application involving a listed activity may be acted on by the Reserve Banks under delegated authority, whereas an application involving an unlisted activity is considered by the Board. In addition, an applicant may file a simple notice under a 30-day procedure to engage *de novo* in a listed activity, whereas a full application is required for an unlisted activity.

This section, as proposed, essentially restated the current list of permissible activities, but combined two of the activities (making and servicing loans), and expanded one activity to include issuing money orders. Four new activities were proposed to be added to the list, all of which the commenters favored.

The Board is adopting a list of 18 activities, including five proposed new activities that the Board, on the basis of the record in this proceeding, has determined to be closely related to banking within the meaning of section 4(c)(8) of the BHC Act. The final regulation also includes securities brokerage (§ 225.25(b)(15)), which the Board recently adopted in a separate rulemaking proceeding (48 FR 37003 (1983)). There were no significant comments regarding activity (6) community development, and activity (13) real estate appraising. Activities receiving substantive comments or requests for clarification are discussed below.

(1) Making and servicing loans. In considering applications to engage in this activity, the Board requires a bank holding company to specify the type of loans it is proposing to make or the type of finance company to be acquired (e.g., consumer finance, factor, etc.). Some commenters suggested that approval be granted to bank holding companies for all types of lending without specification. The Board believes that, because of the section 4(c)(8) requirement of notice of competitors and opportuniy for hearing, the specification of the type of lending activities should be retained.

Commenters questioned whether, in combining the activities of making loans with servicing loans, the Board intended to confer servicing authority on companies that currently have lending authority. The Board did not intend to confer such authority, and companies that wish to acquire loan servicing authority must apply for it specifically. However, as a practical matter, the Board notes that generally companies that have obtained approval for various lending activities have also applied for and received authority for servicing such loans.

(2) Industrial banking. A banking holding company may acquire or retain an industrial bank under this section only if the industrial bank is not a "bank" within the meaning of section 225.2(a) of this regulation. Otherwise, the application would have to be filed under section 3 of the Act and Subpart B of this regulation relating to the acquisition of "banks." The acquisition of an industrial bank or loan company under section 3 of the BHC Act may also raise issues under the interstate prohibition of § 225.13(c), as well as the deposit insurance requirement of § 225.4(c) of the final regulation.

The only comments on this section were incidential to comments on the definition of "bank" in § 225.2(a) of the regulation. Commenters noted that, under that definition, many industrial banks would be regarded as banks.

In acting on applications to acquire industrial banks under section 4(c)(8) of the BHC Act and § 255.4(a)(2) of the current regulation, the Board has required that such institutions not engage both in taking NOW accounts and making commercial loans, as those terms have been defined by the Board. In light of the Board's definition of bank in this regulation, a bank holding company may acquire or retain an industrial bank under this section only where the bank either does not accept demand deposit or NOW accounts or does not make commercial loans, as defined in this regulation.

(3) Trust company functions. The Board has clarified that a trust company that functions as a bank may not be acquired under this subpart, but rather under section 3 of the BHC Act and subpart B of this regulation.

(4) Investment or financial advice. In the final regulation, the Board is including the footnote in the current regulation that distinguishes investment advice from management consulting. The substance of this footnote was included in the notice accompanying the proposed revision.

(5) Leasing personal or real property. The **Federal Register** notice accompanying the proposed revision inadvertently failed to discuss the addition of the following limitation to permissible leasing activities not contained in the current regulation: "provided, that in the aggregate the amount derived from estimated residual value under subparagraph C and any unconditional guarantee shall not exceed 60 percent of the acquisition cost of the property."

Although this limitation reflects staff advice that has consistently been given in response to inquiries regarding the conditions of permissible leasing activities, the Board is not adopting the limitation in the final regulation. The Board agrees with the objections of commenters that the limitation is more restrictive than the current provision, and will have serious adverse effects in terms of the ability of holding companies to compete on an equitable basis with their nonbank competitors.

(7) Data processing. The proposed revision reflected the amendments to this activity that the Board adopted in 1982. Several commenters urged deletion of the requirement that the data to be processed must be limited to "banking, economic or financial data." However, as noted, the Board has recently completed an extensive formal rulemaking proceeding with respect to the type of data processing permissible for bank holding companies. This rulemaking resulted in a substantial broadening of the scope of this activity consistent with the requirements of section 4(c)(8) of the BHC Act. That rule is currently being challenged in the U.S. Court of Appeals for the District of Columbia, and the Board believes that it would not be appropriate to commence another rulemaking proceeding until that matter is resolved.

As discussed above with respect to § 225.22(a), the provision by a bank holding company of data processing services for the internal operations of the holding company system is considered an exempt servicing activity and has been deleted from this paragraph.

(8) Insurance sales. The proposed revision reflected the enactment of Title VI of the Garn-St Germain Act without delineating the changes it effected in the scope of permissible bank holding company insurance activities, pending review and resolution of the issues raised by the changes.

A number of comments, particularly from holding companies with insurance

activities grandfathered or otherwise exempt under the Garn-St Germain Act, expressed the view that the regulation should be explicit in defining the scope of permissible activities and in recognizing grandfather rights. Since the proposed revision, the Board has considered a number of issues raised with regard to the proper scope and interpretation of Title VI of the Garn-St Germain Act. Based on that review, the Board will publish for comment in the near future in a separate **Federal Register** notice an amendment to this section to define the scope of permissible insurance activities under Title IV of the Garn-St Germain Act.

(9) Underwriting credit life, accident and health insurance. Commenters suggested deleting the footnote and related interpretation that require a bank holding company to provide and maintain the public benefits of engaging in this activity by, for example, reducing rates or increasing policy benefits. On November 25, 1983, the Board sought public comment on a proposal to delete this requirement. (48 FR 53125 (1983)).

(10) Courier services. As discussed above with respect to § 225.22(a), the provision by a bank holding company of courier services for the internal operations of the holding company system is regarded as an exempt servicing activity and has been deleted from this paragraph.

The **Federal Register** notice accompanying the proposed revision indicated that applications to provide courier services would not be acted on by the Reserve Banks under delegated authority, but would be forwarded to the Board for action. In response to comments, the Board is deleting this restriction.

(11) Management consulting to depository institutions. There were requests to expand this activity to permit bank holding companies to offer general managment consulting. For the reasons set out in its decision in *First Commerce Corp.*, 58 *Federal Reserve Bulletin* 674 (1972), the Board is not seeking public comment on whether to add this activity to the Regulation Y list of permissible activities.

(12) Money orders, savings bonds, and travelers checks. The Board received no objections to its proposal to include in this activity the issuance of money orders with a face value of no more than $1,000. Several commenters suggested that the $1,000 dollar limitation on the issuance and sale of money orders be raised to at least $5,000, or, alternatively, be eliminated. In a notice dated November 23, 1983 (48 FR 52977) (1983)), the Board sought public comments on a proposal to raise the dollar limit for the sale or issuance of money orders to $10,000.

(14) Arranging commercial real estate equity financing. The commenters generally favored the Board's proposal to add this activity to the list of nonbanking activities permissible for bank holding companies, but objected to inclusion in the regulation of conditions on performance of the activity, which they contend were voluntarily undertaken by the applicants in particular cases, are not necessary to determine that the activity is closely related to banking, and should be imposed on a case-by-case basis.

The Board has reviewed the conditions and believes that they are necessary for the conduct of equity financing by bank holding companies under the standards in section 4(c)(8) of the BHC Act. The Board believes that imposing conditions on a case-by-case basis as suggested would defeat the major purpose of placing equity financing on the Regulation Y list, because it would prevent approval by the Reserve Banks under delegated authority within a shorter time period. The Board notes that the Office of the Comptroller of the Currency has recently authorized a subsidiary of a national bank to provide equity financing services subject to all the conditions imposed by the Board, with the exception of the retirement that an affiliate of the equity financing subsidiary may not finance the investor's purchase of the property. The Board imposed this requirement to prevent unsafe and unsound banking practices and conflicts of interest, as required under section 4(c)(8) of the BHC Act. The Board is, however, evaluating the possibility of an alternative to this requirement that would address the Board's concerns with these adverse effects and will consider the modification of this restriction if a satisfactory alternative is developed.

For the reasons set out in *BankAmerica Corporation*, 68 *Federal Reserve Bulletin* 647 (1982), the Board concludes that the activity of arranging commercial real estate equity financing, subject to the conditions and limitations proposed, is closely related to banking, and the Board is hereby adding that activity to its Regulation Y list of nonbanking activities permissible for bank holding companies.

(16) Underwriting and dealing in government obligations and money market instruments. The commenters favored adding this proposed new nonbanking activity to the Regulation Y list. For the reasons set out in *Citicorp* (*Citicorp Government Securities, Inc.*), 68 *Federal Reserve Bulletin* 249 (1982), the Board concludes that the activity of underwriting and dealing in government securities and money market instruments is closely related to banking and is hereby adding that activity to its Regulation Y list of nonbanking activities permissible for bank holding companies. The applicant is subject to the same limitations that would be applicable if the activity were performed by the applicant's subsidiary member bank or by its subsidiary nonmember banks as if they were member banks.

(17) Foreign exchange advisory and transactional services. The commenters generally favored the Board's proposal to add foreign exchange services to the list of permissible activities for bank holding companies, but objected to inclusion in the regulation of conditions for engaging in the activity. The Board has reviewed the conditions and believes that they are necessary for the conduct of this activity in accordance with the standards of section 4(c)(8) of the BHC Act. For the reasons set out in its decision in *Hongkong and Shanghai Banking Corporation*, 69 *Federal Reserve Bulletin* 221 (1983), the Board concludes that the activity of foreign exchange advisory and transactional services, subject to the conditions and limitations proposed, is closely related to banking, and the Board is hereby adding that activity to its Regulation Y list of permissible activities. In response to comments, the Board is also specifying that arranging for the execution of foreign exchange transactions is included within the activity because the Board found this facet of foreign exchange transactional services to be closely related to banking in its *Hongkong and Shanghai Banking Corporation* decision.

(18) Futures commission merchant. The commenters generally favored adding this activity to the list of permissible activities, but objected to including conditions in the regulation, which they contend are not necessary for conduct of the activity and should be imposed on a case-by-case basis. The Board has reviewed each of these conditions, most of which are designed to ensure safety and soundness and avoid conflicts of interest, and continues to believe that the conditions appearing in paragraphs (i), (ii), (iii), (iv), (vi) and (vii) of the activity as proposed are necessary for the conduct of the activity in accordance with the standards of section 4(c)(8) of the BHC Act.

The activities of a futures commission merchant are highly specialized, and require well defined parameters to ensure that their conduct is consistent

with the BHC Act. For example, one of the more important conditions is that relating to capitalization. The Board regards this as a critical factor in its analysis, and has required substantial capitalization in each application to engage in this activity. By retaining the conditions in the regulation, the Board believes it will facilitate the prompt processing of applications by specifying the threshold criteria that must be met.

However, the conditions appearing in paragraphs (v), (viii) and (ix) of the activity as proposed have been deleted because the substance of those requirements can be monitored and evaluated in other ways. In addition, conditions (i) and (ii) have been shortened and combined. The Board is also modifying the condition regarding capitalization to require fully adequate capital rather than capital in substantial excess of that required by the CFTC.

For the reasons set forth in its decision in *J.P. Morgan & Co., Inc.*, 68 *Federal Reserve Bulletin* 514 (1982), the Board concludes that the activity of acting as a futures commission merchant is closely related to banking, and is hereby adding that activity to its Regulation Y list of permissible activities. In addition, the Board is including in this activity the execution and clearance of options on futures contracts for bullion, U.S. Government securities and money market instruments, which the Board authorized by order after proposing the revision of Regulation Y for comment. (*J.P. Morgan & Co. Inc.*, 69 *Federal Reserve Bulletin* 733 (1983); *Security Pacific Corp.*, 69 *Federal Reserve Bulletin* —— (1983)). In so doing, the Board found that an option on a futures contract is functionally and operationally similar to a futures contract on the same commodity, and in view of this close relationship, the Board believes that its initial proposal to place the execution and clearance of futures contracts on the list of permissible activities is sufficiently broad to encompass the execution and clearance of options on these contracts.

V. Subpart D—Control and Divestiture Proceedings

This subpart consists of two sections: the first covers control proceedings (§ 225.2 of the current regulation); the second covers divestiture proceedings and is based on a published Board interpretation (12 CFR 225.139). There were no substantive comments regarding § 225.32 ("Divestiture proceedings").

Section 225.31—Control Proceedings

Under sections 2(a)(2)(C) and 2(d)(3) of the BHC Act, the Board may determine, after notice and opportunity for hearing, that a company exercises or has the power to exercise a controlling influence over the management or policies of a bank or other company, even though the company may not otherwise have control over 25 percent of the voting securities or the power to elect a majority of the directors of the other company. Sections 225.2 (b) and (c) of the current regulation describe circumstances and procedures under which control determinations may be made. While these provisions were reorganized and simplified in the proposed revision, the basic approach of the current provisions has not been altered. Where facts and circumstances are present or information is received to indicate that a company exercises a controlling influence over the management or policies of a bank or another company, the Reserve Bank will review the relationship to determine if it would be appropriate for the Board to issue a preliminary determination of control.

It is anticipated that most situations involving possible control relationships will be handled informally. However, where discussion does not resolve the issue, the Board may institute a formal proceeding by issuing a preliminary determination of control under the procedures described in this section. In those situations where a preliminary determination of control is issued, the company will be given notice of the facts and the circumstances on which the determination is based and provided an opportunity to contest the determination.

There were objections to paragraph (c) of this section in which the Board reserves the discretion to order a hearing when the company contests a preliminary determination of control. The commenters assert that under section 2(a)(2)(C) of the BHC Act, a company has the right to a hearing in a controlling influence proceeding. The Board agrees that a company is entitled to a hearing with respect to controlling influence determinations under section 2(a)(2)(C), but not with respect to control of shares under section 2(a)(2)(A) of the BHC Act. The regulation is being clarified accordingly.

With respect to the rebuttable presumptions of control in paragraph (d) of this section, there were several comments contending that substantive changes had been made in the proposed revision, notwithstanding the statement in the **Federal Register** notice that no changes had been proposed. Since the Board did not intend to make substantive changes, the paragraphs in question are being modified in the final regulation to follow the language of the current regulation more closely. In this regard, one commenter claimed that the current presumptions do not apply to an employee with policy-making factors. However, the Board believes that such an individual would qualify as an officer under the current regulation and that this clarification effects no substantive change (compare § 225.2(f) in the revision and existing § 225.2(b)(1)).

Finally, the Board is adopting the suggestion of commenters to include in this section of the final regulation the presumption in section 2(a) of the BHC Act that a company that controls less than 5 percent of any class of voting securities of another company or bank does not control it.

VI. Subpart E—Change in Bank Control

This subpart reorganizes § 225.7 of the current regulation relating to notices filed with the Board under the Bank Control Act involving State member banks and bank holding companies. (See also the Board's Policy Statement on Change in Bank Control Act of 1978, FRRS 4–801). In general, a description of the specific provisions of this subpart is contained in the **Federal Register** notice accompanying the proposed revision. The only change proposed was the addition of paragraph (d) in § 225.43 of the proposed revision to clarify the lack of standing of third parties who submit information during the investigation of a Bank Control Act notice. No substantive comments were received regarding the proposed provisions of this subpart, and the Board is adopting the subpart as proposed with some editorial changes.

It was suggested that the Board add a provision to define "acting in concert," although the commenters did not offer a specific proposal in this regard. The Board does not believe that it has enough regulatory experience with respect to this issue to propose a reguatory definition at this time, although the **Federal Register** notice accompanying the proposed revision contained some guidance concerning the term. It was stated in that notice that the Board regards two or more persons (which may also include a corporation or other entity) as acting in concert when they have joined together formally or informally for the purpose of acquiring voting securities of a bank or bank holding company. For example, a group of persons who have identified themselves as a group for purpose of the Federal securities laws may constitute persons "acting in concert" for purposes of this section.

List of Subjects in 12 CFR Part 225

Banks, Bankings, Federal Reserve Systems, Holding companies, Reporting and recordkeeping requirements, Securities.

For the reasons set out in this notice, and pursuant to the Board's authority under section 5(b) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1844(b)); sections 8 and 13(a) of the International Banking Act of 1978 (12 U.S.C. 3106 and 3108); Title IX of the International Lending Supervision Act of 1983 (Pub. L. 98–181, Title IX); the Financial Institutions Supervisory Act of 1966, as amended (12 U.S.C. 1818(b) *et seq.*); and section 7(j)(13) of the Federal Deposit Insurance Act, as amended by the Change in Bank Control Act of 1978 (12 U.S.C. 1817(j)(13)), the Board is amending 12 CFR Part 225 by: (1) Removing §§ 225.1 through 225.7 and § 225.51, except § 225.4(e), which is redesignated § 225.22(d) as set forth below (§§ 225.101 through 225.143 remain in effect); and (2) adding the following Subparts A through E and the Appendices to Subparts A through E to Part 225:

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

Subpart A—General Provisions

Sec.

225.1 Authority, purpose, and scope.
225.2 Definitions.
225.3 Administration.
225.4 Corporate practices.
225.5 Registration, reports, and inspections.
225.6 Penalties for violations.

Subpart B—Acquisition of Bank Securities or Assets

225.11 Transactions requiring Board approval.
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225.13 Factors considered in acting on bank applications.
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Subpart C—Nonbanking Activities and Acquisitions by Bank Holding Companies

225.21 Prohibited nonbanking activities and acquisitions; exempt bank holding companies.
225.22 Exempt nonbanking activities and acquisitions.
225.23 Procedures for applications, notices, and hearings.
225.24 Factors considered in acting on nonbanking applications.
225.25 List of permissible nonbanking activities.

Subpart D—Control and Divestiture Proceedings

225.31 Control proceedings.
225.32 Divestiture proceedings.

Subpart E—Change in Bank Control

225.41 Transactions requiring prior notice.
225.42 Transactions not requiring prior notice.
225.43 Procedures for filing, processing and acting on notices.

Appendices to Subparts A through E

Appendix A—Capital Adequacy Guidelines
Appendix B—Policy Statement for Formation of Small One-Bank Holding Companies

* * * * *

Authority: 12 U.S.C. 1844(b), 3106, 3108, 1817(j)(13), 1818(b); and Pub L. 98–181, Title IX.

Subpart A—General Provisions

§ 225.1 Authority, purpose, and scope.

(a) *Authority.* This Part (Regulation Y) is issued by the Board of Governors of the Federal Reserve System ("Board") under section 5(b) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1844(b)) ("BHC Act"); sections 8 and 13(a) of the International Banking Act of 1978 (12 U.S.C. 3106 and 3108); section 7(j)(13) of the Federal Deposit Insurance Act, as amended by the Change in Bank Control Act of 1978 (12 U.S.C. 1817(j)(13) ("Bank Control Act"); section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)); and the International Lending Supervision Act of 1983 (Pub. L. 98–181, Title IX). The BHC codified at 12 U.S.C. 1841, *et seq.*

(b) *Purpose.* The principal purposes of this Part are to regulate the acquisition of control of banks by companies and individuals, to define and regulate the nonbanking activities in which bank holding companies and foreign banking organizations with United States operations may engage, and to set forth the procedures for securing approval for such transactions and activities.

(c) *Scope.* (1) Subpart A contains general provisions and definitions of terms used in this regulation.

(2) Subpart B governs acquisitions of bank or bank holding company securities and assets by bank holding companies or by any company that will become a bank holding company as a result of the acquisition.

(3) Subpart C defines and regulates the nonbanking activities in which bank holding companies and foreign banking organizations may engage directly or through a subsidiary. In addition, certain nonbanking activities conducted by foreign banking organizations and certain foreign activities conducted by bank holding companies are governed by the Board's Regulation K (12 CFR Part 211, International Banking Operations).

(4) Subpart D specifies situations in which a company is presumed to control voting securities or to have the power to exercise a controlling influence over the management or policies of a bank or other company, sets forth the procedures for making a control determination, and provides rules governing the effectiveness of divestitures by bank holding companies.

(5) Subpart E governs changes in bank control resulting from the acquisition by individuals or companies (other than bank holding companies) of voting securities of a bank holding company or state member bank of the Federal Reserve System.

(6) Appendix A to the regulation contains the Board's Capital Adequacy Guidelines for bank holding companies and for state member banks.

(7) Appendix B to the regulation contains the Board's Policy Statement for Formation of Small One-Bank Holding Companies.

§ 225.2 Definitions.

Except as modified in this section or unless the context otherwise requires, the terms used in this regulation have the same meanings as set forth in the relevant statutes.

(a)(1) "Bank" means any institution organized under the laws of the United States that: (i) accepts deposits that the depositor has a legal right to withdraw on demand and (ii) engages in the business of making commercial loans. For the purposes of this definition:

(A) "Deposits that the depositor has a legal right to withdraw on demand" (hereinafter "demand deposits") means any deposit with transactional capability that, as a matter of practice, is payable on demand and that is withdrawable by check, draft, negotiable order of withdrawal, or other similar instrument; and

(B) "Commercial loans" means any loan other than a loan to an individual for personal, family, household, or charitable purposes, and includes the purchase of retail installment loans or commercial paper, certificates of deposit, bankers' acceptances, and similar money market instruments, the extension of broker call loans, the sale of federal funds, and the deposit of interest-bearing funds.

(2) "Bank" includes any state-chartered bank or national banking association that (i) is owned exclusively (except to the extent directors' qualifying shares are required by law) by other depository institutions, or by a bank holding company owned exclusively by other depository institutions; and (ii) is organized to engage exclusively in providing services for other depository institutions and their officers, directors, and employees.

(3) "Bank" does not include:

(i) Any institution that does not do business in the United States except as an incident to its activities outside the United States;

(ii) Any institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation or any institution chartered by the Federal Home Loan Bank Board; or

(iii) "Agreement" or "Edge" corporations operating under sections 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601–604(a), 611–631).

(b)(1) "Bank holding company" means any company (including a bank) that has direct or indirect control of a bank, other than control that results from the ownership or control of:

(i) Voting securities held in good faith in a fiduciary capacity (other than as provided in paragraphs (d)(2)(ii) and (iii) of this section) without sole discretionary voting authority, or as otherwise exempted under section 2(a)(5)(A) of the BHC Act;

(ii) Voting securities acquired and held only for a reasonable period of time in connection with the underwriting of securities, as provided in section 2(a)(5)(B) of the BHC Act;

(iii) Voting rights to voting securities acquired for the sole purpose and in the course of participating in a proxy solicitation, as provided in section 2(a)(5)(C) of the BHC Act;

(iv) Voting securities acquired in satisfaction of debts previously contracted in good faith, as provided in section 2(a)(5)(D) of the BHC Act, if the securities are divested within two years of acquisition (or such later period as the Board may permit by order); or

(v) Voting securities of certain institutions owned by a thrift institution or a trust company, as provided in sections 2(a)(5)(E) and (F) of the BHC Act.

(2) Except for the purposes of section 225.4(b) of this subpart and Subpart E of this regulation or as otherwise provided in this regulation, the term "bank holding company" includes a foreign banking organization. For the purposes of Subpart B, the term "bank holding company" includes a foreign banking organization only if it owns or controls a bank in the United States.

(c)(1) "Company" includes any bank, corporation, general or limited partnership, association or similar organization, business trust, or any other trust unless by its terms it must terminate either within 25 years, or within 21 years and 10 months after the death of individuals living on the effective date of the trust.

(2) "Company" does not include any organization, the majority of the voting securities of which are owned by the United States or any state.

(d)(1) "Control" of a bank or other company means (except for the purposes of Subpart E):

(i) Ownership, control, or power to vote 25 percent or more of the outstanding shares of any class of voting securities of the bank or other company, directly or indirectly or acting through one or more other persons;

(ii) Control in any manner over the election of a majority of the directors, trustees, or general partners (or individuals exercising similar functions) of the bank or other company;

(iii) The power to exercise, directly or indirectly, a controlling influence over the management or policies of the bank or other company, as determined by the Board after notice and opportunity for hearing in accordance with § 225.31 of Subpart D of this regulation; or

(iv) Conditioning in any manner the transfer of 25 percent or more of the outstanding shares of any class of voting securities of a bank or other company upon the transfer of 25 percent or more of the outstanding shares of any class of voting securities of another bank or other company.

(2) A bank or other company is deemed to control voting securities or assets owned, controlled, or held, directly or indirectly:

(i) By any subsidiary of the bank or other company;

(ii) In a fiduciary capacity (including by pension and profit-sharing trusts) for the benefit of the shareholders, members, or employees (or individuals serving in similar capacities) of the bank or other company or of any of its subsidiaries; or

(iii) In a fiduciary capacity for the benefit of the bank or other company or any of its subsidiaries.

(e) "Foreign banking organization" and "qualifying foreign banking organization" shall have the same meanings as provided in § 211.23 of the Board's Regulation K (12 CFR 211.23).

(f) "Management official" means any officer, director (including honorary or advisory directors), partner, or trustee of a bank or other company, or any employee of the bank or other company with policy-making functions.

(g) "Outstanding shares" means any voting securities, but does not include securities owned by the United States or by a company wholly-owned by the United States.

(h) "Person" includes an individual, bank, corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, or any other form of entity.

(i) "Principal shareholder" means a person that owns or controls, directly or indirectly, 25 percent or more of any class of voting securities of a bank or other company.

(j) "Subsidiary" means a bank or other company that is controlled by another company, and refers to a direct or indirect subsidiary of a bank holding company. An indirect subsidiary is a bank or other company that is controlled by a subsidiary of the bank holding company.

(k) "United States" means the United States and includes any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, and the Virgin Islands.

(l) (1) "Voting securities" means shares of common or preferred stock, general or limited partnership shares or interests, or similar interests if the shares or interest, by statue, charter, or in any manner, entitle the holder: (i) to vote for or to select directors, trustees, or partners (or persons exercising similar functions of the issuing company); or (ii) to vote on or to direct the conduct of the operations or other significant policies of the issuing company.

(2) Preferred shares, limited partnership shares or interests, or similar interests are not "voting securities" if: (i) any voting rights associated with the shares or interest are limited solely to the type customarily provided by statute with regard to matters that would significantly and adversely affect the rights or preference of the security or other interest, such as the issuance of additional amounts or classes of senior securities, the modification of the terms of the security or interest, the dissolution of the issuing company, or the payment of dividends by the issuing company when preferred dividends are in arrears; (ii) the shares or interest represent an essentially passive investment or financing device and do not otherwise provide the holder with control over the issuing company; and (iii) the shares or interest do not entitle the holder, by statute, charter, or in any manner, to select or to vote for the selection of directors, trustees, or partners (or persons exercising similar functions) of the issuing company.

§ 225.3 Administration.

(a) *Delegation of authority.* Designated Board members and officers and the Federal Reserve Banks are authorized by the Board to exercise

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various functions prescribed in this regulation and in the Board's Rules Regarding Delegation of Authority (12 CFR Part 265) and the Board's Rules of Procedure (12 CFR Part 262).

(b) *Appropriate Federal Reserve Bank.* In administering this regulation, the appropriate Federal Reserve Bank is as follows:

(1) For a bank holding company (or a company applying to become a bank holding company): the Reserve Bank of the Federal Reserve district in which the company's banking operations are principally conducted, as measured by total domestic deposits in its subsidiary banks on the date it became (or will become) a bank holding company;

(2) For a foreign banking organization that has no subsidiary bank and is not subject to paragraph (b)(1) of this section: the Reserve Bank of the Federal Reserve district in which the total assets of the organization's United States branches, agencies, and commercial lending companies are the largest as of the later of January 1, 1980, or the date it becomes a foreign banking organization;

(3) For an individual or company submitting a notice under Subpart E of this regulation: the Reserve Bank of the Federal Reserve district in which the banking operations of the bank holding company or State member bank to be acquired are principally conducted, as measured by total domestic deposits on the date the notice is filed.

§ 225.4 Corporate practices.

(a) *Bank holding company policy and operations.* (1) A bank holding company shall serve as a source of financial and mangerial strength to its subsidiary banks and shall not contuct its operations in an unsafe or unsound manner.

(2) Whenever the Board believes an activity of a bank holding company or control of a nonbank subsidiary (other than a nonbank subsidiary of a bank) constitutes a serious risk to the financial safety, soundness, or stability of a subsidiary bank of the bank holding company and is inconsistent with sound banking principles or the purposes of the BHC Act or the Financial Institutions Superisory Act of 1966, as amended (12 U.S.C. 1818(b) *et seq.*), the Board may require the bank holding company to terminate the activity or to terminate control of the subsidiary, as provided in section 5(e) of the BHC Act.

(b) *Purchase or redemption by a bank holding company of its own securities.*— (1) *Filing notice.* A bank holding company shall give the Board prior written notice before purchasing or redeeming its equity securities, if the gross consideration for the purchase or redemption, when aggregated with the net consideration paid by the company for all such purchases or redemptions during the preceding 12 months, is equal to 10 percent or more of the company's consolidated net worth. For the purposes of this section, "net consideration" is the gross consideration paid by the company for all of its equity securities purchased or redeemed during the period minus the gross consideration received for all of its equity securities sold during the period other than as part of a new issue.

(2) *Content of notice.* Any notice under this section shall be filed with the appropriate Reserve Bank and shall contain the following information:

(i) The purpose of the transaction, a description of the securities to be purchased or redeemed, the total number of each class outstanding, the gross consideration to be paid, and the terms of any debt incurred in connection with the transaction;

(ii) A description of all equity securities redeemed within the preceding 12 months, the net consideration paid, and the terms of any debt incurred in connection with those transactions; and

(iii) A current and *pro forma* consolidated balance sheet if the bank holding company has total assets of over $150 million, or a current and *pro forma* parent company only balance sheet if the bank holding company has total assets of $150 million or less.

(3) *Acting on notice.* Within 30 calendar days of receipt of a notice under this section, the appropriate Reserve Bank shall either approve the transaction proposed in the notice or refer the notice to the Board for decision. If the notice is referred to the Board for decision, the Board shall act on the notice within 60 calendar days after the Reserve Bank receives the notice.

(4) *Factors considered in acting on notice.* The Board may disapprove a proposed purchase or redemption if it finds that the proposal would constitute an unsafe or unsound practice, or would violate any law, regulation, Board order, directive, or any condition imposed by, or written agreement with, the Board. In determining whether a proposal constitutes an unsafe or unsound practice, the Board will consider whether the bank holding company's financial condition, after giving effect to the proposed purchase or redemption, meets the financial standards applied by the Board under section 3 of the BHC Act, including the Board's Capital Adequacy Guidelines (Appendix A to Subparts A through E) and the Board's Policy Statement for Formation of Small One-Bank Holding Companies (Appendix B to Subparts A through E).

(5) *Disapproval and hearing.* The Board shall notify the bank holding company in writing of the reasons for a decision to disapprove any proposed purchase or redemption. Within 10 calendar days of receipt of a notice of disapproval by the Board, the bank holding company may submit a written request for a hearing. The Board will order a hearing within 10 calendar days of receipt of that request if it finds that material facts are in dispute or if it otherwise appears appropriate. Any hearing conducted under this paragraph shall be held in accordance with the Board's Rules of Practice for Formal Hearings (12 CFR Part 263). At the conclusion of the hearing, the Board shall by order approve or disapprove the proposed purchase or redemption on the basis of the record of the hearing.

(c) *Deposit insurance.* Every bank that is a bank holding company or a subsidiary of a bank holding company shall obtain Federal Deposit Insurance and shall remain an "insured bank" as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)).

(d) *Tie-in arrangements.* A bank holding company and any nonbanking subsidiary conducting an activity authorized under section 225.23 of this regulation may not in any manner extend credit, lease or sell property of any kind, provide any service, or fix or vary the consideration for any of these transactions subject to any condition or requirement that, if imposed by a bank, would constitute an unlawful tie-in arrangement under section 106 of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1971, 1972(1)).

(e) *Acting as transfer agent, municipal securities dealer, or clearing agent.* A bank holding company or any nonbanking subsidiary that is a "bank," as defined in section 3(a)(6) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(6)), and that is a transfer agent of securities, a municipal securities dealer, a clearing agency, or a participant in a clearing agency (as those terms are defined in section 3(a) of the Securities Exchange Act, (12 U.S.C. 78c(a)), shall be subject to sections 208.8(f)-(j) of the Board's Regulation H (12 CFR 208.8(f)-(j)) as if it were a state member bank.

§ 225.5 Registration, reports, and inspections.

(a) *Registration of bank holding companies.* Each company shall register within 180 days after becoming a bank

holding company by furnishing information in the manner and form prescribed by the Board. A company that receives the Board's prior approval under subpart B of this regulation to become a bank holding company may complete this registration requirement through submission of its first annual report to the Board as required by paragraph (b) of this section.

(b) *Reports of bank holding companies.* Each bank holding company shall furnish, in the manner and form prescribed by the Board, an annual report of the company's operations for the fiscal year in which it becomes a bank holding company, and for each fiscal year during which it remains a bank holding company. Additional information and reports shall be furnished as the Board may require.

(c) *Examinations and inspections.* The Board may examine or inspect any bank holding company and each of its subsidiaries and prepare a report of their operations and activities. With respect to a foreign banking organization, the Board may also examine any branch or agency of a foreign bank in any state of the United States and may examine or inspect each of the organization's subsidiaries in the United States and prepare reports of their operations and activities. The Board will rely as far as possible on the reports of examination made by the primary federal or state supervisor of the subsidiary bank of a bank holding company or of the branch or agency of the foreign bank.

§ 225.6 Penalties for violations.

(a) *Criminal and civil penalties.* Section 8 of the BHC Act provides criminal penalties for willful violation, and civil penalties for violation, by any company or individual of the BHC Act or any regulation or order issued under it, or for making a false entry in any book, report, or statement of a bank holding company. Civil money penalty assessments for violations of the BHC Act shall be made in accordance with subpart B of the Board's Rules of Practice for Hearings (12 CFR 263, Subpart B). For any willful violation of the Bank Control Act or any regulation or order issued under it, the Board may assess a civil penalty as provided in 12 U.S.C. 1817(j)(15).

(b) *Cease and desist proceedings.* For any violation of the BHC Act, the Bank Control Act, this regulation, or any order or notice issued thereunder, the Board may institute a cease and desist proceeding in accordance with the Financial Institutions Supervisory Act of 1966, as amended (12 U.S.C. 1818(b) *et seq.*).

Subpart B—Acquisition of Bank Securities or Assets

§ 225.11 Transactions requiring Board approval.

The following transactions require an application for the Board's prior approval under section 3 of the BHC Act unless otherwise exempted under § 225.12 of this subpart:

(a) *Formation of bank holding company.* Any action that causes a bank or other company to become a bank holding company.

(b) *Acquisition of subsidiary bank.* Any action that causes a bank to become a subsidiary of a bank holding company.

(c) *Acquisition of control of bank or bank holding company securities.* The acquisition by a bank holding company of direct or indirect ownership or control of any voting securities of a bank or bank holding company, if the acquisition results in the company's control of more than 5 percent of the outstanding shares of any class of voting securities of the bank or bank holding company. An acquisition includes the purchase of additional securities through the exercise of preemptive rights, but does not include securities received in a stock dividend or stock split that does not alter the bank holding company's proportional share of any class of voting securities.

(d) *Acquisition of bank assets.* The acquisition by a bank holding company or by a subsidiary thereof (other than a bank) of all or substantially all of the assets of a bank.

(e) *Merger of bank holding companies.* The merger or consolidation of bank holding companies, including a merger through the purchase of assets and assumption of liabilities.

§ 225.12 Transactions not requiring Board approval.

The following transactions do not require the Board's approval under § 225.11 of this subpart:

(a) *Acquisition of securities in fiduciary capacity.* The acquisition by a bank or other company (other than a trust that is a company) of control of voting securities of a bank or bank holding company in good faith in a fiduciary capacity, unless:

(1) The acquiring bank or other company has sole discretionary authority to vote the securities and retains the authority for more than two years; or

(2) The acquisition is for the benefit of the acquiring bank or other company, or its shareholders, employees, or subsidiaries.

(b) *Acquisition of securities in satisfaction of debts previously contracted.* The acquisition by a bank or other company of control of voting securities of a bank or bank holding company in the regular course of securing or collecting a debt previously contracted in good faith, if the acquiring bank or other company divests the securities within two years of acquisition. The Board or Reserve Bank may grant requests for up to three one-year extensions.

(c) *Acquisition of securities by a bank holding company with majority control.* The acquisition by a bank holding company of additional voting securities of a bank or bank holding company if more than 50 percent of the outstanding voting securities of the bank or bank holding company is lawfully controlled by the acquiring bank holding company prior to the acquisition.

(d) *Transactions subject to Bank Merger Act.* The merger or consolidation of a subsidiary bank of a bank holding company with another bank, or the purchase of assets by such a subsidiary bank, or a similar transaction involving subsidiary banks of a bank holding company, if the transaction requires the prior approval of a Federal supervisory agency under the Bank Merger Act (12 U.S.C. 1828(c)). This exception does not include: (1) the merger of a nonsubsidiary bank and a nonoperating subsidiary bank formed by a company for the purpose of acquiring the nonsubsidiary bank; and (2) any transaction requiring the Board's prior approval under section 225.11(e) of this subpart. The Board may require an application under this subpart if it determines that the merger or consolidation would have a significant adverse impact on the financial condition of the bank holding company or otherwise requires approval under section 3 of the BHC Act.

(e) *Holding securities in escrow.* The holding of any voting securities of a bank or bank holding company in an escrow arrangement for the benefit of an applicant pending the Board's action on an application for approval of the proposed acquisition, if title to the securities and the voting rights remain with the seller and payment for the securities has not been made to the seller.

§ 225.13 Factors considered in acting on bank applications.

(a) *Prohibited anticompetitive transactions.* As specified in sections 3(c) (1) and (2) of the BHC Act, the Board may not approve any application under this subpart if:

(1) The transaction would result in a monopoly or would further any combination or conspiracy to monopolize, or to attempt to monopolize, the business of banking in any part of the United States; or

(2) The effect of the transaction may be substantially to lessen competition in any section of the country, tend to create a monopoly, or in any other manner be in restraint of trade, unless the Board finds that the transaction's anticompetitive effects are clearly outweighed by its probable effect in meeting the convenience and needs of the community.

(b) *Other factors.* In deciding applications under this subpart, the Board also considers the following factors with respect to the applicant, its subsidiaries, any banks related to the applicant through common ownership or management, and the bank or banks to be acquired:

(1) *Financial condition.* Their financial condition and future prospects, including whether current and projected capital positions and levels of indebtedness conform to standards and policies established by the Board.

(2) *Management.* The competence and character of the principals of the applicant and banks or bank holding companies concerned; their record of compliance with laws and regulations; and applicant's record of fulfilling any commitments to, and any conditions imposed by, the Board in connection with prior applications.

(3) *Convenience and needs of the community.* The convenience and needs of the communities to be served, including the record of performance under the Community Reinvestment Act of 1977 (12 U.S.C. 2901 *et seq.*) and regulations issued thereunder, including the Board's Regulation BB (12 CFR Part 228).

(c)(1) *Interstate transactions.* The Board may not approve any application under this subpart that would permit:

(i) The formation of a bank holding company that controls more than 5 percent of the outstanding shares of any class of voting securities of two or more banks located in different states; or

(ii) The acquisition by a bank holding company or by any of its subsidiaries of any voting securities of, any interest in, or substantially all of the assets of, an additional bank located in a state other than the state in which the operations of the banking subsidiaries of the bank holding company were principally conducted (as measured by total deposits) on July 1, 1966, or on the date on which the company became a bank holding company, whichever date is later.

(2) *Exceptions.* The prohibitions of this paragraph do not apply if:

(i) The Bank is located in a state that by statute expressly authorizes the acquisition of securities of, an interest in, or substantially all of the assets of, a bank within the state by an out-of-state bank holding company; or

(ii) The acquisition involves a closed or failing bank with assets of at least $500,000,000, and has been authorized under section 13(f) of the Federal Deposit Insurance Act (12 U.S.C. 1823(f)).

§ 225.14 Procedures for applications, notices, and hearings.

(a) *Filing application.* An application for the Board's prior approval under this subpart shall be filed with the appropriate Reserve Bank on the designated form and shall comply with § 262.3 of the Rules of Procedure (12 CFR 262.3), which requires the applicant to publish newspaper notice of the application.

(b) *Notice.*—(1) *Notice to primary banning supervisor.* Upon receipt of an application under this subpart, the Reserve Bank shall promptly furnish notice and a copy of the application to the primary banking supervisor of the bank to be acquired. The primary supervisor shall have 30 calendar days from the date of the letter giving notice in which to submit its views and recommendations to the Board.

(2) *Federal Register notice.* Upon receipt by the Reserve Bank of an application under this section, notice of the application shall be promptly sent to the Federal Register for publication. The Federal Register notice shall invite comment on the application for a period of no more than 30 days.

(c) *Accepting application for processing.* Within 10 business days after the Reserve Bank receives an application under this section, the Reserve Bank shall accept it for processing, request additional information to complete the application, or return the application if it is substantially incomplete. If additional information is requested, the Reserve Bank shall, within 5 business days of receipt of the requested information, either accept the application for processing or return it to the applicant if it is still incomplete. Upon accepting an application, the Reserve Bank shall immediately send copies to the Board.

(d) *Action on applications.*—(1) *Action under delegated authority.* The Reserve Bank shall approve an application under this section within 30 calendar days after it has accepted the application, unless the Reserve Bank, upon notice to the applicant, refers the application to the Board for decision because action under delegated authority is not appropriate. Upon written notice to the applicant, the Reserve Bank may extend the 30-day period for 15 days. If the extension of time is to request necessary additional information, the 15-day period does not commence until after the Reserve Bank receives the requested information.

(2) *Board action.* The Board shall act on an application under this subpart that is referred to it for decision within 60 calendar days after the Reserve Bank has accepted the application, unless the Board notifies the applicant that the 60-day period is being extended for a specified period and states the reasons for the extension. In no event may the extension exceed the 91-day period provided in paragraph (g) of this section. The Board may request additional information that it believes is necessary for its decision.

(e) *Notice to Attorney General.* The Board or Reserve Bank shall immediately notify the Attorney General of approval of any application under this section.

(f) *Hearings.* As provided in section 3(b) of the Act, the Board shall order a hearing if it receives from the primary supervisor of the bank to be acquired, within the 30-day period specified in paragraph (b)(1) of this section, a written recommendation of disapproval of an application. The Board may order a formal or informal hearing or other proceeding on the application, as provided in section 262.3(i)(2) of the Board's Rules of Procedure. Any request for hearing (other than from the primary supervisor) shall comply with section 262.3(e) of the Rules of Procedure (12 CFR 262.3(e)).

(g) *Approval through failure to act.*—(1) *Ninety-one day rule.* An application under this subpart shall be deemed approved if the Board fails to act on the application within 91 calendar days after the date of submission to the Board of the complete record on the application. For this purpose, the Board acts when it issues an order stating that the Board has approved or denied the application, reflecting the votes of the members of the Board, and indicating that a statement of the reasons for the decision will follow promptly.

(2) *Complete record.* For the purpose of computing the commencement of the 91-day period, the record is complete on the latest of:

(i) The date of receipt by the Board of an application that has been accepted by the Reserve Bank;

(ii) The last day provided in any notice for receipt of comments and hearing requests on the application;

(iii) The date of receipt by the Board of the last relevant material regarding the application that is needed for the Board's decision, if the material is received from a source outside of the Federal Reserve System; or

(iv) The date of completion of any hearing or other proceeding.

(h) *Exceptions to notice and hearing requirements.*—(1) *Probable bank failure.* If the Board finds it must act immediately on an application in order to prevent the probable failure of a bank or bank holding company, the Board may modify or dispense with the notice and hearing requirements provided in this section.

(2) *Emergency.* If the Board finds that, although immediate action on an application is not necessary, an emergency exists requiring expeditious action, the Board shall provide the primary supervisor ten days to submit its recommendation. The Board may act on such an application without a hearing and may modify or dispense with the other notice and hearing requirements provided in this section.

(i) *Waiting period.* A transaction approved under this subpart shall not be consummated until thirty days after the date of approval of the application, unless the Board has determined under paragraph (h) of this section that: (1) the application involves a probable bank failure, in which case the transaction may be consummated immediately upon approval; or (2) an emergency exists requiring expeditious action, in which case the transaction may be consummated on or after the fifth calendar day following approval.

Subpart C—Nonbanking Activities and Acquisitions by Bank Holding Companies

§ 225.21 Prohibited nonbanking activities and acquisitions; exempt bank holding companies.

(a) *Prohibited nonbanking activities and acquisitions.* Except as provided in § 225.22 of this subpart, a bank holding company or a subsidiary may not engage in, or acquire or control, directly or indirectly, voting securities or assets of a company engaged in, any activity other than:

(1) Banking or managing or controlling banks and other subsidiaries authorized under the BHC Act; and

(2) An activity that the Board determines to be so closely related to banking or managing or controlling banks as to be a proper incident thereto, including any incidental activities that are necessary to carry on such an activity, if the bank holding company has obtained the prior approval of the Board for that activity in accordance with and subject to the requirements of this regulation.

(b) *Exempt bank holding companies.* The following bank holding companies are exempt from the provisions of this subpart:

(1) *Family-owned companies.* Any company that is a "company covered in 1970," as defined in section 2(b) of the BHC Act, more than 85 percent of the voting securities of which was collectively owned on June 30, 1968, and continuously thereafter, by members of the same family (or their spouses) who are lineal descendants of common ancestors.

(2) *Labor, agricultural, and horticultural organizations.* Any company that was on January 4, 1977, both a bank holding company and a labor, agricultural, or horticultural organization exempt from taxation under section 501 of the Internal Revenue Code (26 U.S.C. 501(c)).

(3) *Companies granted hardship exemption.* Any bank holding company that has controlled only one bank since before July 1, 1968, and that has been granted an exemption by the Board under section 4(d) of the BHC Act, subject to any conditions inposed by the Board.

(4) *Companies granted exemption on other grounds.* Any company that acquired control of a bank before December 10, 1982, without the Board's prior approval under section 3 of the BHC Act, on the basis of a narrow interpretation of the term "demand deposit" or "commercial loan" if the Board has determined that: (i) coverage of the company as a bank holding company under this subpart would be unfair or represent an unreasonable hardship; and (ii) exclusion of the company from coverage under this regulation is consistent with the purposes of the BHC Act and section 106 of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1971, 1972(1)). The provisions of section 225.4 of subpart A of this regulation are not applicable to a company exempt under this paragraph.

§ 225.22 Exempt nonbanking activities and acquisitions.

(a) *Servicing activities.* A bank holding company may, without the Board's prior approval under this subpart, furnish services to or perform services for, or establish or acquire a company that engages solely in furnishing services to or performing services for:

(1) The bank holding company or its subsidiaries in connection with their activities as authorized by law, including services that are necessary to fulfill commitments entered into by the subsidiaries with third parties, if the bank holding company or servicing company complies with the Board's published interpretations and does not act as principal in dealing with third parties; and

(2) The internal operations of the bank holding company or its subsidiaries. Services for the internal operations of the bank holding company or its subsidiaries include, but are not limited to: (i) accounting, auditing, and appraising; (ii) advertising and public relations; (iii) data processing and data transmission services, data bases or facilities; (iv) personnel services; (v) courier services; (vi) holding or operating property used wholly or substantially by a subsidiary in its operations or for its future use; (vii) liquidating property acquired from a subsidiary; (viii) liquidating property acquired from any sources either prior to May 9, 1956, or the date on which the company became a bank holding company, whichever is later; and (ix) selling, purchasing, or underwriting insurance such as blanket bond insurance, group insurance for employees, and property and casualty insurance.

(b) *Safe deposit business.* A bank holding company or nonbank subsidiary may, without the Board's prior approval, conduct a safe deposit business, or acquire voting securities of a company that conducts such a business.

(c) *Nonbanking acquisitions not requiring prior Board approval.* The Board's prior approval is not required under this subpart for the following acquisitions:

(1) *DPC acquisitions.* (i) Voting securities or assets, acquired by foreclosure or otherwise, in the ordinary course of collecting a debt previously contracted ("DPC property") in good faith, if the DPC property is divested within two years of acquisition.

(ii) The Board may, upon request, extend this two-year period for up to three additional one-year periods. The Board may permit additional extensions for up to 5 years (for a total of 10 years), for real estate or other assets that are demonstrated by the bank holding company to have value and marketability characteristics similar to real estate.

(iii) Transfers of DPC property within the bank holding company system do not extend any period for divestiture of the property.

(2) *Securities or assets required to be divested by subsidiary.* Voting securities or assets required to be divested by a subsidiary at the request of an examining federal or state authority (except by the Board under the BHC Act or this regulation), if the bank holding company divests the securities or assets within two years from the date acquired from the subsidiary.

(3) *Fiduciary investments.* Voting securities or assets acquired by a bank or other company (other than a trust that is a company) in good faith in a fiduciary capacity, if the voting securities or assets are:

(i) Held in the ordinary course of business; and

(ii) Not acquired for the benefit of the company or its shareholders, employees, or subsidiaries.

(4) *Securities eligible for investment by a national bank.* Voting securities of the kinds and amounts explicitly eligible by federal statute (other than section 4 of the Bank Service Corporation Act, 12 U.S.C. 1864) for investment by a national bank, and voting securities acquired prior to June 30, 1971, in reliance on section 4(c)(5) of the BHC Act and interpretations of the Comptroller of the Currency under section 5136 of the Revised Statutes (12 U.S.C. 24(7)).

(5) *Securities or property representing 5 percent or less of a company.* Voting securities of a company or property that, in the aggregate, represent 5 percent or less of the outstanding shares of any class of voting securities of a company or a 5 :percent interest or less in the property, subject to the provisions of 12 CFR 225.137.

(6) *Securities of investment company.* Voting securities of an investment company that is solely engaged in investing in securities and that does not own or control more than 5 percent of the outstanding shares of any class of voting securities of any company.

(7) *Assets acquired in the ordinary course of business.* Assets of a company acquired in the ordinary course of business, subject to the provisions of 12 CFR 225.132, if the assets relate to activities in which the acquiring company has previously received Board approval under this regulation to engage in the geographic areas to be served.

(8) *Asset acquisitions by consumer finance or mortgage company or industrial bank.* Assets of an office(s) of a company, all or substantially all of which relate to making, acquiring, or servicing loans for personal, family, or household purposes, if:

(i) The acquiring company has previously received Board approval under this regulation to engage in consumer finance, residential mortgage banking, or industrial banking activities in the geographic areas to be served by the acquired office(s);

(ii) The assets acquired during any twelve-month period do not represent more than 25 percent of the assets (on a consolidated basis) of the acquiring consumer finance company, mortgage company or industrial bank, or more than $25 million, whichever amount is less;

(iii) The assets acquired do not represent more than 50 percent of the selling company's consolidated assets that are devoted to the consumer finance, residential mortgage banking, or industrial banking business;

(iv) The acquiring company notifies the Reserve Bank of the acquisition within 30 days after the acquisition; and

(v) The acquiring company, after giving effect to the transaction, meets the Board's Capital Adequacy Guidelines (Appendix A to Subparts A through E) and the Board has not previously notified the acquiring company that it may not acquire assets under the exemption in this paragraph.

(d) *Acquisition of securities by subsidiary banks.*—(1) *National bank.* A national bank or its subsidiary may, without the Board's approval under this subpart, acquire or retain securities on the basis of section 4(c)(5) of the BHC Act in accordance with the regulations of the Comptroller of the Currency.

(2) *State bank.* A state-chartered bank or its subsidiary may, insofar as federal law is concerned and without the Board's prior approval under this subpart: (i) acquire or retain securities, on the basis of section 4(c)(5) of the BHC Act, of the kinds and amounts explicitly eligible by federal statute for investment by a national bank; or (ii) acquire or retain all (but, except for directors' qualifying shares, not less than all) of the securities of a company that engages solely in activities in which the parent bank may engage, at locations at which the bank may engage in the activity, and subject to the same limitations as if the bank were engaging in the activity directly.

(e) *Activities and securities of new bank holding companies.* A company that becomes a bank holding company may, for a period of two years, engage in nonbanking activities and control voting securities or assets of a nonbank subsidiary, if the bank holding company engaged in such activities or controlled such voting securities or assets on the date it became a bank holding company. The Board may grant requests for up to three one-year extensions of the two-year period.

(f) *Grandfathered activities and securities.* Unless the Board orders divestiture or termination under section 4(a)(2) of the BHC Act, a "company covered in 1970," as defined in section 2(b) of the BHC Act, may:

(1) Retain voting securities or assets and engage in activities that it has lawfully held or engaged in continuously since June 30, 1968; and

(2) Acquire voting securities of any newly-formed company to engage in such activities.

(g) *Securities or activities exempt under Regulation K.* A bank holding company may acquire voting securities or assets and engage in activities as authorized in Regulation K (12 CFR Part 211).

§ 225.23 Procedures for applications, notices, and hearings.

(a) *Application or notice required for nonbanking activities.* An application or notice for the Board's prior approval under § 225.21(a) of this subpart for the following transactions shall be filed by a bank holding company with the appropriate Reserve Bank on the designated form in accordance with the Board's Rules of Procedure (12 CFR 262.2):

(1) *Engaging de novo in listed nonbanking activities.* A notice is required to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity listed in § 225.25 of this subpart. The applicant may commence the activity 30 days after receipt by the Reserve Bank of the notice unless the Reserve Bank within the 30-day period:

(i) Returns the notice because it is incomplete or requires an application under paragraph (a) (2) or (3) of this section;

(ii) Notifies the company that it may consummate the transaction at an earlier date;

(iii) Extends the 30-day period for an additional 15 days; or

(iv) Refers the notice to the Board for decision because substantive adverse comment is received or it otherwise appears appropriate.

If the 30-day period is extended by the Reserve Bank to request necessary additional information, the 15-day period does not commence until after the Reserve Bank receives the requested information. The Reserve Bank shall promptly send a copy of any notice received under this paragraph to the Board.

(2) *Acquiring a company engaged in listed nonbanking activities.* An application is required to acquire or control voting securities or assets of a company engaged in a permissible

nonbanking activity listed in § 225.25 of this subpart.

(3) *Engaging in or acquiring a company to engage in unlisted nonbanking activities.* An application is required to commence or to engage *de novo,* or to acquire or control voting securities or assets of a company engaged in, any activity not listed in § 225.25 of this subpart. The application shall contain evidence that the proposed activity is so closely related to banking or managing or controlling banks as to be a proper incident thereto.

(b) *Notice to expand or alter nonbanking activities.*—(1) *De novo expansion.* A notice under paragraph (a)(1) of this section is required to open a new office or to form a subsidiary to engage in, or to relocate an existing office engaged in, a nonbanking activitiy that the Board has previously approved for the bank holding company under this regulation, only if:

(i) The Board's prior approval was limited geographically;

(ii) The activity is to be conducted in a country outside of the United States and the bank holding company has not previously received prior Board approval under this regulation to engage in the activity in that country; or

(iii) The Board or appropriate Reserve Bank has notified the company that a notice under paragraph (a)(1) of this section is required.

The Board may require an application under paragraph (a)(2) or (a)(3) of this section instead of a notice.

(2) *Activities outside United States.* With respect to activities to be engaged in outside the United States that require approval under this subpart, the procedures of this section apply only to activities to be engaged in directly by a bank holding company that is not a qualifying foreign banking organization or by a nonbank subsidiary of a bank holding company approved under this subpart. Regulation K (12 CFR Part 211) governs other international operations of bank holding companies.

(3) *Alteration of nonbanking activity.* A notice under paragraph (a)(1) of this section is required to alter a nonbanking activity in any material respect from that considered by the Board in acting on the application or notice to engage in the activity. The Board may require an application under paragraph (a) (2) or (3) of this section instead of a notice.

(c) *Accepting application for processing.* Withing 10 business days after the Reserve Bank receives an application under this section, the Reserve Bank shall accept it for processing, request additional information to complete the application, or return the application to the applicant if it is substantially incomplete. If additional information is requested, the Reserve Bank shall, within 5 business days of receipt of the requested information, either accept the application for processing or return the application to the applicant if it is still incomplete. Upon accepting an application, the Reserve Bank shall immediately send copies to the Board.

(d) *Federal Register notice.*—(1) *Listed activities.* Upon receipt by the Reserve Bank of an application or notice involving an activity listed in § 225.25 of this subpart, notice of the application or proposal shall be promptly sent to the **Federal Register** for publication. The **Federal Register** notice shall invite comment for a period of not more than 30 days.

(2) *Unlisted activities.* In the case of an application under this section involving an activity not listed in § 225.25 of this subpart, the Board shall, within 10 business days of acceptance by the Reserve Bank, send notice of the application to the **Federal Register** for publication, unless the Board determines that the applicant has not demonstrated that the activity is so closely related to banking or to managing or controlling banks as to be a proper incident thereto. The Board may extend the 10-day period for an additional 30 calendar days upon notice to the applicant. In the event notice of an application is not published for comment, the Board shall inform the applicant of the reasons for the decision. The **Federal Register** notice shall invite comment on the proposal for a reasonable period of time, generally for 30 days.

(e) *Action on applications.*—(1) *Action under delegated authority.* The Reserve Bank shall approve an application under paragraph (a)(2) of this section within 30 calendar days after it has accepted the application, unless the Reserve Bank, upon notice to the applicant, refers the application to the Board for decision because action under delegated authority is not appropriate. Upon written notice to the applicant, the Reserve Bank may extend the 30-day period for 15 days. If the extension of time is to request necessary additional information, the 15-day period does not commence until the Reserve Bank receives the requested information.

(2) *Board action.* The Board shall act on an application or notice under this secton that is referred to it for decision within 60 calendar days after the Reserve Bank has accepted the application or received the notice, unless the Board notifies the applicant that the 60-day period is being extended for a specified period and explains the reasons for the extension. In no event may the extension exceed the 91-day period specified in paragraph (h) of this section. The Board may request additional information that it believes is necessary for its decision.

(f) *Expedited procedure for small acquisitions.*—(1) *Filing notice.* As an alternative to the application procedure of paragraph (a)(2) of this section, a bank holding company may apply to acquire voting securities or assets of a company engaged in an activity listed in § 225.25 of this subpart by: (i) providing the appropriate Reserve Bank with a description of the transaction; and either (ii) submitting a copy of a newspaper notice in the form prescribed by the Board; or (iii) requesting the Board to publish notice of the application in the **Federal Register**. The newspaper notice shall be published in a newspaper of general circulation in the areas to be served as a result of the acquisition and shall provide an opportunity for interested persons to comment on the application for a period of at least 10 calendar days. If the applicant elects **Federal Register** notice, the notice shall provide an opportunity for interested persons to comment for a period of at least 15 calendar days.

(2) *Criteria for use of expedited procedure.* The procedure in this paragraph is available only if:

(i) Neither the book value of the assets to be acquired nor the gross consideration to be paid for the securities or assets exceeds $15 million;

(ii) The bank holding company has previously received Board approval to engage in the activity involved in the acquisition; and

(iii) The bank holding company meets the Board's Capital Adequacy Guidelines (Appendix A to Subparts A through E).

(3) *Action on application.* Within 5 business days after the close of the comment period specified in the **Federal Register** notice or within 15 calendar days after receipt by the Reserve Bank of the newspaper notice, the Reserve Bank shall either approve the application or refer it to the Board for decision if action under delegated authority is not appropriate. The Board shall act on an application under this paragraph that is referred to it for decision in accordance with paragraph (e)(2) of this section. The Reserve Bank, upon written notice to the applicant, may extend the time period for approval under this paragraph for a reasonable period of time not to exceed 30 days. The Reserve Bank or the Board may require an application under paragraph (a)(2) of this section.

(g) *Hearing.* Any request for a hearing on an application or notice under this section shall comply with the provisions of § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)). The Board may order a formal or informal hearing or other proceeding on an application, as provided in § 262.3(i)(2) of the Rules of Procedure (12 CFR 262.3(i)(2)). The Board shall order a hearing only if there are disputed issues of material fact that cannot be resolved in some other manner.

(h) *Approval through failure to act; 91-day rule.* An application or notice under this subpart shall be deemed approved if the Board fails to act on the application or notice within 91 calendar days after the date of submission to the Board of the complete record on the application or notice. The procedures for computation of the 91-day rule as set forth in § 225.14(g) of Subpart B of this regulation apply to applications and notices under this subpart.

(i) *Emergency thrift institution acquisitions.* In the case of an application to acquire a thrift institution, the Board may modify or dispense with the notice and hearing requirements of this section if the Board finds that an emergency exists that requires the Board to act immediately and the primary Federal regulator of the institution concurs.

§ 225.24 Factors considered in acting on nonbanking applications.

In evaluating an application or notice under section 225.23 of this subpart, the Board shall consider whether the performance by the applicant of the activity can reasonably be expected to produce benefits to the public (such as greater convenience, increased competition, the gains in efficiency) that outweigh possible adverse effects (such as undue concentration of resources, decreased or unfair competition, conflicts of interest, and unsound banking practices). This consideration includes an evaluation of the financial and managerial resources of the applicant, including its subsidiaries, and any company to be acquired, and the effect of the proposed transaction on those resources. Unless the record demonstrates otherwise, the commencement or expansion of a nonbanking activity *de novo* is presumed to result in benefits to the public through increased competition.

§ 225.25 List of permissible nonbanking activities.

(a) *Closely related nonbanking activities.* The activities listed below are so closely related to banking or managing or controlling banks as to be a proper incident thereto and may be engaged in by a bank holding company or a subsidiary thereof in accordance with and subject to the requirements of this regulation.

(b)(1) *Making and servicing loans.* Making, acquiring, or servicing loans or other extensions of credit (including issuing letters of credit and accepting drafts) for the company's account or for the account of others, such as would be made, for example, by the following types of companies: (i) consumer finance; (ii) credit card; (iii) mortgage; (iv) commercial finance; and (v) factoring.

(2) *Industrial banking.* Operating an industrial bank, Morris Plan bank, or industrial loan company, as authorized under state law, so long as the institution is not a bank.

(3) *Trust company functions.* Performing functions or activities that may be performed by a trust company (including activities of a fiduciary, agency, or custodial nature), in the manner authorized by federal or state law, so long as the institution is not a bank and does not make loans or investments or accept deposits other than:

(i) Deposits that are generated from trust funds not currently invested and that are properly secured to the extent required by law;

(ii) Deposits representing funds received for a special use in the capacity of managing agent or custodian for an owner of, or investor in, real property, securities, or other personal property; or for such owner or investor as agent or custodian of funds held for investment or as escrow agent; or for an issuer of, or broker or dealer in securities, in a capacity such as a paying agent, dividend disbursing agent, or securities clearing agent; provided such deposits are not employed by or for the account of the customer in the manner of a general purpose checking account or interest-bearing account; or

(iii) Making call loans to securities dealers or purchasing money market instruments such as certificates of deposit, commercial paper, government or municipal securities, and bankers acceptances. (Such authorized loans and investments, however, may not be used as a method of channeling funds to nonbanking affiliates of the trust company.)

(4) *Investment or financial advice.* Acting as investment or financial advisor to the extent of:

(i) Serving as the advisory company for a mortgage or a real estate investment trust;

(ii) Serving as investment adviser (as defined in section 2(a)(20) of the Investment Company Act of 1940, 15 U.S.C. 80a–2(a)(20)), to an investment company registered under that act, including sponsoring, organizing, and managing a closed-end investment company;

(iii) Providing portfolio investment advice [1] to any other person;

(iv) Furnishing general economic information and advice, general economic statistical forecasting services and industry studies; [2] and

(v) Providing financial advice to state and local governments, such as with respect to the issuance of their securities.

(5) *Leasing personal or real property.* Leasing personal or real property or acting as agent, broker, or adviser in leasing such property if:

(i) The lease is to serve as the functional equivalent of an extension of credit to the lessee of the property;

(ii) The property to be leased is acquired specifically for the leasing transaction under consideration or was acquired specifically for an earlier leasing transaction;

(iii) The lease is on a nonoperating basis;[3]

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[1] The term "portfolio investment" is intended to refer generally to the investment of funds in a "security" as defined in section 2(1) of the Securities Act of 1933 (15 U.S.C. 77b) or in real property interests, except where the real property is to be used in the trade or business of the person being advised. In furnishing portfolio investment advice, bank holding companies and their subsidiaries shall observe the standards of care and conduct applicable to fiduciaries.

[2] This is to be contrasted with "management consulting," which the Board views as including, but not limited to, the provision of analysis or advice as to a firm's (A) purchasing operations, such as inventory control, sources of supply, and cost minimization subject to constraints; (B) production operations, such as quality control, work measurement, product methods, scheduling shifts, time and motion studies, and safety standards; (C) marketing operations, such as market testing, advertising programs, market development, packaging, and brand development; (D) planning operations, such as demand and cost projections, plant location, program planning, corporate acquisitions and mergers, and determination of long-term and short-term goals; (E) personnel operations, such as recruitment, training, incentive programs, employee compensation, and management-personnel relations; (F) internal operations, such as taxes, corporate organization, budgeting systems, budget control, data processing systems evaluation, and efficiency evaluation; or (G) research operations, such as product development, basic research, and product design and innovation. The Board has determined that "management consulting" is not an activity that is so closely related to banking or managing or controlling banks as to be a proper incident thereto.

[3] For purposes of the leasing of automobiles, the requirement that the lease be on a nonoperating basis means that the bank holding company may not, directly or indirectly: (A) provide for the servicing, repair, or maintenance of the leased vehicle during the lease term; (B) purchase parts and accessories in bulk or for an individual vehicle

Continued

(iv) At the inception of the initial lease the effect of the transaction (and, with respect to governmental entities only, reasonably anticipated future transactions[4]) will yield a return that will compensate the lessor for not less than the lessor's full investment in the property plus the estimated total cost of financing the property over the term of the lease,[5] from:

(A) Rentals;

(B) Estimated tax benefits (investment tax credit, net economic gain from tax deferral from accelerated depreciation, and other tax benefits with a substantially similar effect);

(C) The estimated residual value of the property at the expiration of the initial term of the lease, which in no case shall exceed 20 percent of the acquisition cost of the property to the lessor; and

(D) In the case of a lease of personal property of not more than seven years in duration, such additional amount, which shall not exceed 60 percent of the acquisition cost of the property, as may be provided by an unconditional guarantee by a lessee, independent third party, or manufacturer, which has been determined by the lessor to have the financial resources to meet such obligation, that will assure the lessor of recovery of its investment and cost of financing;

(v) The maximum lease term during which the lessor must recover the lessor's full investment in the property, plus the estimated total cost of financing the property, shall be 40 years; and

(vi) At the expiration of the lease (including any renewals or extensions with the same lessee), all interest in the property shall be either liquidated or released on a nonoperating basis as soon as practicable but in no event later than two years from the expiration of the lease;[6] however, in no case shall the lessor retain any interest in the property beyond 50 years after its acquisition of the property.

(6) *Community development.* Making equity and debt investments in corporations or projects designed primarily to promote community welfare, such as the economic rehabilitation and development of low-income areas by providing housing, services, or jobs for residents.

(7) *Data processing.* Providing to others data processing and data transmission services, facilities (including data processing and data transmission hardware, software, documentation or operating personnel), data bases, or access to such services, facilities, or data bases by any technological means, if:

(i) The data to be processed or furnished are financial, banking, or economic, and the services are provided pursuant to a written agreement so describing and limiting the services;

(ii) The facilities are designed, marketed, and operated for the processing and transmission of financial, banking, or economic data; and

(iii) The hardware provided in connection therewith is offered only in conjunction with software designed and marketed for the processing and transmission of financial, banking, or economic data, and where the general purpose hardware does not constitute more than 30 percent of the cost of any packaged offering.

(8) *Insurance sales.* Except as prohibited in Title VI of the Garn-St Germain Depository Institutions Act of 1982 (12 U.S.C. 1843(c)(8)), acting as insurance agent or broker in offices at which the holding company or its subsidiaries are otherwise engaged in business (or in an office adjacent thereto) with respect to the following types of insurance:

(i) Any insurance that (A) is directly related to an extension of credit by a bank or bank-related firm of the kind described in this regulation, or (B) is directly related to the provision of other financial services by a bank or such a bank-related firm; and

(ii) Any insurance sold by a bank holding company or a nonbanking subsidiary in a community that has a population not exceeding 5,000 (as shown by the last preceding decennial census), if the principal place of banking business of the bank holding company is located in a community having a population not exceeding 5,000.

(9) *Underwriting Credit Life, Accident and Health Insurance.* Acting as underwriter for credit life insurance and credit accident and health insurance that is directly related to an extension of credit by the bank holding company system.[7]

(10) *Courier services.* Providing courier services for:

(i) Checks, commercial papers, documents, and written instruments (excluding currency or bearer-type negotiable instruments) that are exchanged among banks and financial institutions; and

(ii) Audit and accounting media of a banking or financial nature and other business records and documents used in processing such media.[8]

(11) *Management consulting to depository institutions.* Providing management consulting advice [9] to nonaffiliated bank and nonbank depository institutions, including commercial banks, savings and loan associations, mutual savings banks, credit unions, industrial banks, Morris Plan banks, cooperative banks, and industrial loan companies, if:

(i) Neither the bank holding company nor any of its subsidiaries own or control, directly or indirectly, any equity securities in the client institution;

(ii) No management official, as defined in 12 CFR 212.2(h), of the bank holding company or any of its subsidiaries serves as a management official of the client institution, except

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after the lessee has taken delivery of the vehicle; (C) provide for the loan of an automobile during servicing of the leased vehicle; (D) purchase insurance for the lessee; or (E) provide for the renewal of the vehicle's license merely as a service to the lessee where the lessee could renew the license without authorization from the lessor.

[4] The Board understands that some federal, state and local governmental entities may not enter into a lease for a period in excess of one year. Such an impediment does not prohibit a company authorized to conduct leasing activities under this paragraph from entering into a lease with such governmental entities if the company reasonably anticipates that the governmental entities will renew the lease annually until such time as the company is fully compensated for its investment in the leased property plus its costs of financing the property. Further, a company authorized to conduct personal property leasing activities under this paragraph may also engage in so-called "bridge" lease financing of personal property, but not real property, if the lease is short-term pending completion of long-term financing, by the same or another lender.

[5] The estimate by the lessor of the total cost of financing the property over the term of the lease should reflect, among other factors: the term of the lease, the modes of financing available to the lessor, the credit rating of the lessor and/or the lessee, if a factor in the financing, and prevailing rates in the money and capital markets.

[6] In the event of a default on a lease agreement prior to the expiration of the lease term, the lessor shall either release the property, subject to all the conditions of this paragraph, or liquidate the property as soon as practicable but in no event later than two years from the date of default on a lease agreement or such additional time as the Board may permit under section 225.22(c)(1) of this regulation, as if the property were DPC property.

[7] To assure that engaging in the underwriting of credit life and credit accident and health insurance can reasonably be expected to be in the public interest, the Board will only approve applications in which an applicant demonstrates that approval will benefit the consumer or result in other public benefits. Normally such a showing would be made by a projected reduction in rates or increase in policy benefits due to bank holding company performance of this service.

[8] See also the Board's interpretation on courier activities (12 CFR 225.129), which sets forth conditions for bank holding company entry into the activity.

[9] A bank holding company that has received the Board's prior approval to engage in offering management consulting advice to nonaffiliated commercial banks as of April 20, 1982, may offer such advice on a *de novo* basis to nonbank depository institutions pursuant to this paragraph without filing an application under section 225.23 of this subpart.

where such interlocking relationships are permitted pursuant to an exemption granted under 12 CFR 212.4(b);

(iii) The advice is rendered on an explicit fee basis without regard to correspondent balances maintained by the client institution at any depository institution subsidiary of the bank holding company; and

(iv) Disclosure is made to each potential client institution of (A) the names of all depository institutions that are affiliates of the consulting company, and (B) the names of all existing client institutions located in the same county(ies), Metropolitan Statistical Area, or Primary Metropolitan Statistical Area as the client institution.[10]

(12) *Money orders, savings bonds, and travelers checks.* The issuance and sale at retail of money orders and similar consumer-type payment instruments having a face value of not more than $1,000; the sale of U.S. savings bonds; and the issuance and sale of travelers checks.

(13) *Real estate appraising.* Performing appraisals of real estate.

(14) *Arranging commercial real estate equity financing.* Acting as intermediary for the financing of commercial or industrial income-producing real estate by arranging for the transfer of the title, control and risk of such a real estate project to one or more investors, if:

(i) The financing arranged exceeds $1 million;

(ii) The bank holding company and its affiliates do not provide financing to the investors to acquire a real estate project for which the bank holding company arranges equity financing;

(iii) The bank holding company and its affiliates do not have an interest in or participate in managing, developing or syndicating a real estate project for which it arranges equity financing, and do not promote or sponsor the development or syndication of such property; and

(iv) The fee received for arranging equity financing for a real estate project is not based on profits to be derived from the project and is not larger than the fee that would be charged by an unaffiliated intermediary.

(15) *Securities Brokerage.* Providing securities brokerage services, related securities credit activities pursuant to the Board's Regulation T (12 CFR Part 220), and incidental activities such as offering custodial services, individual retirement accounts, and cash management services, if the securities brokerage services are restricted to buying and selling securities solely as agent for the account of customers and do not include securities underwriting or dealing or investment advice or research services.

(16) *Underwriting and dealing in government obligations and money market instruments.* Underwriting and dealing in obligations of the United States, general obligations of states and their political subdivisions, and other obligations that state member banks of the Federal Reserve System may be authorized to underwrite and deal in under 12 U.S.C. 24 and 335, including bankers' acceptances and certificates of deposit, under the same limitations as would be applicable if the activity were performed by the bank holding company's subsidiary member banks or its subsidiary nonmember banks as if they were member banks.

(17) *Foreign exchange advisory and transactional services.* Providing, by any means, general information and statistical forecasting with respect to foreign exchange markets; advisory services designed to assist customers in monitoring, evaluating and managing their foreign exchange exposures; and transactional services with respect to foreign exchange by arranging for "swaps" among customers with complementary foreign exchange exposures and for the execution of foreign exchange transactions; provided the activity is conducted through a separately incorporated subsidiary of the bank holding company that:

(i) Does not take positions in foreign exchange for its own account;

(ii) Observes the standards of care and conduct applicable to fiduciaries with respect to its foreign exchange advisory and transactional services; and

(iii) Does not itself execute foreign exchange transactions.

(18) *Futures commission merchant.* Acting as a futures commission merchant for nonaffiliated persons in the execution and clearance on major commodity exchanges of futures contracts and options on futures contracts for bullion, foreign exchange, government securities, certificates of deposit and other money market instruments that a bank may buy or sell in the cash market for its own account, if the activity is conducted through a separately incorporated subsidiary of the bank holding company that:

(i) Does not become a clearing member of any exchange or clearing association that requires the parent corporation of the clearing member to also become a member of that exchange or clearing association unless a waiver of the requirement is obtained;

(ii) Does not trade for its own account except for the purpose of hedging a cash position in the related government security, bullion, foreign currency, or money market instrument;

(iii) Time stamps orders of all customers to the nearest minute, executes all orders strictly in chronological sequence to the extent consistent with the customers' specifications, and executes all orders with reasonable promptness with due regard to market conditions;

(iv) Does not extend credit to customers for the purpose of meeting initial or maintenance margins required of customers except for posting margin on behalf of customers in advance of prompt reimbursement; and

(v) Has and maintains capitalization fully adequate to meet its own commitments and those of its customers, including affiliates.

Subpart D—Control and Divestiture Proceedings

§ 225.31 Control proceedings.

(a) *Preliminary determination of control.* (1) The Board may issue a preliminary determination of control under the procedures set forth in this section in any case in which:

(i) Any of the presumptions of control set forth in paragraph (d) of this section is present; or

(ii) It otherwise appears that a company has the power to exercise a controlling influence over the management or policies of a bank or other company.

(2) If the Board makes a preliminary determination of control under this section, the Board shall send notice to the controlling company containing a statement of the facts upon which the preliminary determination is based.

(b) *Response to preliminary determination of control.* Within 30 calendar days of issuance by the Board of a preliminary determination of control or such longer period permitted by the Board, the company against whom the determination has been made shall:

(1) Submit for the Board's approval a specific plan for the prompt termination of the control relationship;

(2) File an application under subpart B or C of this regulation to retain the control relationship; or

[10] In performing this activity, bank holding companies are not authorized to perform tasks or operations or provide services to client institutions either on a daily or continuing basis, except as necessary to instruct the client institution on how to perform such services for itself. See also the Board's interpretation of bank management consulting advice (12 CFR 225.131). This interpretation shall apply to the performance of management consulting services for commercial banks and any other type of depository institution.

(3) Contest the preliminary determination by filing a response, setting forth the facts and circumstances in support of its position that no control exists, and, if desired, requesting a hearing or other proceeding.

(c) *Hearing and final determination.* (1) The Board shall order a formal hearing or other appropriate proceeding upon the request of a company that contests a preliminary determination that the company has the power to exercise a controlling influence over the management or policies of a bank or other company, if the Board finds that material facts are in dispute. The Board may also in its discretion order a formal hearing or other proceeding with respect to a preliminary determination that the company controls voting securities of the bank or other company under the presumptions in paragraph (d)(1) of this section.

(2) At a hearing or other proceeding, any applicable presumptions established by paragraph (d) of this section shall be considered in accordance with the Federal Rules of Evidence and the Board's Rules of Practice for Formal Hearings (12 CFR Part 263).

(3) After considering the submissions of the company and other evidence, including the record of any hearing or other proceeding, the Board shall issue a final order determining whether the company controls voting securities, or has the power to exercise a controlling influence over the management or policies, of the bank or other company. If a control relationship is found, the Board may direct the company to terminate the control relationship or to file an application for the Board's approval to retain the control relationship under subpart B or C of this regulation.

(d) *Rebuttable presumptions of control.* The following rebuttable presumptions shall be used in any proceeding under this section:

(1) *Control of voting securities.*—(i) *Securities convertible into voting securities.* A company that owns, controls, or holds securities that are immediately convertible, at the option of the holder or owner, into voting securities of a bank or other company, controls the voting securities.

(ii) *Option or restriction on voting securities.* A company that enters into an agreement or understanding under which the rights of a holder of voting securities of a bank or other company are restricted in any manner controls the securities. This presumption does not apply where the agreement or understanding:

(A) is a mutual agreement among shareholders granting to each other a right of first refusal with respect to their shares;

(B) Is incident to a *bona fide* loan transaction; or

(C) Relates to restrictions on transferability and continues only for the time necessary to obtain approval from the appropriate federal supervisory authority with respect to acquisition by the company of the securities.

(2) *Control over company.*—(i) *Management agreement.* A company that enters into any agreement or understanding with a bank or other company (other than an investment advisory agreement), such as a management contract, under which the first company or any of its subsidiaries directs or exercises significant influence over the general management or overall operations of the bank or other company controls the bank or other company.

(ii) *Shares controlled by company and associated individuals.* A company that, together with its management officials or principal shareholders (including members of the immediate families of either as defined in 12 CFR 206.2(k)), owns, controls, or holds with power to vote 25 percent or more of the outstanding shares of any class of voting securities of a bank or other company controls the bank or other company, if the first company owns, controls, or holds with power to vote more than 5 percent of the outstanding shares of any class of voting securities of the bank or other company.

(iii) *Common management officials.* A company that has one or more management officials in common with a bank or other company controls the bank or other company, if the first company owns, controls or holds with power to vote more than 5 percent of the outstanding shares of any class of voting securities of the bank or other company, and no other person controls as much as 5 percent of the outstanding shares of any class of voting securities of the bank or other company.

(iv) *Shares held as fiduciary.* The presumptions in paragraphs (d)(2) (ii) and (iii) of this section do not apply if the securities are held by the company in a fidicuary capacity without sole discretionary authority to exercise the voting rights.

(e) *Presumption of non-control.* (1) In any proceeding under this section, there is a presumption that any company that directly or indirectly owns, controls, or has power to vote less than 5 percent of the outstanding shares of any class of voting securities of a bank or other company does not have control over that bank or other company.

(2) In any proceeding under this section, or judicial proceeding under the BHC Act, other than a proceeding in which the Board has made a preliminary determination that a company has the power to exercise a controlling influence over the management or policies of the bank or other company, a company may not be held to have had control over the bank or other company at any given time, unless that company, at the time in question, directly or indirectly owned, controlled, or had power to vote 5 percent or more of the outstanding shares of any class of voting securities of the bank or other company, or had already been found to have control on the basis of the existence of a controlling influence relationship.

§ 225.32 Divestiture proceedings.

(a) *Ineffective divestitures.* (1) The divestiture of assets or voting securities by a bank holding company (or a company that would be a bank holding company but for the divestiture) is ineffective, and the divesting company shall be presumed to control the acquiring person or the divested assets or securities, if

(i) The acquiring person is indebted in any manner to the divesting company; or

(ii) The divesting company has any management official in common with the acquiring person.

(2) For the purposes of this section:

(i) "Indebtedness" does not include routine business or personal credit that is unrelated to the divestiture transaction and that is extended by the divesting company in the ordinary course of its lending business; and

(ii) "Divesting company" and "acquiring person" include their parent companies, subsidiaries, and, if the acquiring person is an individual, companies controlled by the individual.

(b) *Request for divestiture determination.* For any divestiture that is deemed ineffective under paragraph (a) of this section, the divesting company may request the Board to determine that the divestiture is in fact effective by submitting a letter that includes:

(1) A description of the divestiture transaction and the existing and prospective relationship between the divesting company and the acquiring person;

(2) Evidence and argument demonstrating that the divesting company is not capable of controlling the acquiring person or the divested assets or securities; and

(3) A request for a hearing, if desired.

(c) *Hearing.* The Board shall order a formal hearing or other appropriate proceeding upon the request of a divesting company under paragraph (b) of this section, if the Board finds that material facts are in dispute. The Board may also order a formal hearing or other proceeding if, in the Board's judgment, such a proceeding would be appropriate.

(d) *Standards for making divestiture determination.* In acting on the request of a divesting company under paragraph (b) of this section, the Board shall consider the following factors, among others, in determining whether the divesting company is capable of controlling the acquiring person or the divested assets or securities:

(1) *Indebtedness of acquiring person to divesting company.* (i) The terms of the indebtedness, including the amount of the indebtedness in relation to the total purchase price;

(ii) The ability of the acquiring person to repay the indebtedness; and

(iii) The manner in which the divesting company would dispose of the divested assets in the event it reacquires the assets as a result of default on the indebtedness.

(2) *Management official interlocks.* The extent of the involvement of the interlocking management official in the operations of the divesting company and the acquiring person, and the management official's relationship to the assets or securities being divested.

(e) *Final determination.* After considering the submission of the divesting company and other evidence, including the record of any hearing or other proceeding, the Board shall issue an order determining whether the company controls or is capable of controlling the acquiring person or the divested assets or securities.

(f) *Review of other divestitures.* In any divestiture of assets or securities by a company that is not covered under paragraph (a) of his section, the Board may review the divestiture to assure that the divesting company is not capable of controlling the acquiring person or the divested assets or securities.

Subpart E—Change in Bank Control

§ 225.41 Transactions requiring prior notice.

(a) *Prior notice requirement.* (1) Any person acting directly or indirectly, or through or in concert with one or more persons, shall give the Board 60 days' written notice, as specified in § 225.43 of this subpart, before acquiring control of a state member bank or bank holding company, unless the acquisition is exempt under § 225.42 of this subpart.

(2) For the purposes of this subpart, "acquisition" includes a purchase, assignment, transfer, or pledge of voting securities, or an increase in percentage ownership of a bank or other company resulting from a redemption of voting securities.

(b) *Acquistions requiring prior notice.* The following transactions constitute, or are presumed to constitute, the acquisition of control under the Bank Control Act, requiring prior notice to the Board:

(1) the acquisition of any voting securities of a state member bank or bank holding company if, after the transaction, the acquiring person (or persons acting in concert) owns, controls, or holds with power to vote 25 percent or more of any class of voting securities of the institution; or

(2) the acquisition of any voting securities of a state member bank or bank holding company if, after the transaction, the acquiring person (or persons acting in concert) owns, controls, or holds with power to vote 10 percent or more (but less than 25 percent) of any class of voting securities of the institution, and if:

(i) the institution has registered securities under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*); or

(ii) no other person will own a greater percentage of that class of voting securities immediately after the transaction.

(c) *Rebuttal of presumption of control.* Prior notice to the Board is not required for any acquisition of voting securities under the presumption set forth in paragraph (b)(2) of this section, if the Board finds that the acquisition will not result in control. The Board will afford the person seeking to rebut the presumption an opportunity to present views in writing or, if appropriate, orally before its designated representatives at an informal conference.

(d) *Other transactions.* Transactions other than those set forth in paragraph (b)(2) resulting in a person's control of less than 25 percent of a class of voting securities of a state member bank or bank holding company do not result in control for purposes of the Bank Control Act.

§ 225.42 Transactions not requiring prior notice.

The following transactions do not require prior notice to the Board under this subpart:

(a) *Increase of previously authorized acquisitions.* The acquisition of additional shares of a class of voting securities of a state member bank or bank holding company by any person who has lawfully acquired and maintained control of 25 percent or more of that class of voting securities after filing the notice required under § 225.41(b)(1) of this subpart.

(b) *Acquisitions subject to approval under BHC Act or Bank Merger Act.* Any acquisition of voting securities subject to approval under section 3 of the BHC Act (§ 225.11 of subpart B), or section 18(c) of the Federal Deposit Insurance Act (Bank Merger Act, 12 U.S.C. 1828(c)).

(c) *Transactions exempt under BHC Act.* Any acquisition described in sections 2(a)(5) or 3(a) (A) or (B) of the BHC Act (12 U.S.C. 1841(a)(5), 1842(a) (A) and (B)) by a person described in those provisions.

(d) *Grandfathered control relationships.* (1) The acquisition of additional voting securities of a state member bank or bank holding company by a person who continuously since March 9, 1979 (or since that institution commenced business, if later) held power to vote 25 percent or more of any class of voting securities of that institution; or

(2) the acquisition of additional voting securities of a state member bank or bank holding company by a person who is presumed under § 225.41(b)(2) of this subpart to have controlled the institution continuously since March 9, 1979, if the aggregate amount of voting securities held does not exceed 25 percent of any class of voting securities of the institution.

(e) *Acquisitions in satisfaction of debts previously contracted or through inheritance or gift.* Any acquisition of voting securities, which would otherwise require a notice under this subpart, in satisfaction of a debt previously contracted in good faith, or through inheritance or a *bona fide* gift, if the acquiring person notifies the appropriate Reserve Bank within 30 calendar days after the acquisition and provides any relevant information requested by the Reserve Bank.

(f) *Proxy solicitation.* The acquisition of the power to vote securities of a state member bank or bank holding company through receipt of a revocable proxy in connection with a proxy solicitation for the purpose of conducting business at a regular or special meeting of the institution, if the proxy terminates within a reasonable period after the meeting.

(g) *Stock dividends.* The receipt of voting securities of a state member bank or bank holding company through a stock dividend or stock split if the proportional interest of the recipient in

the institution remains substantially the same.

(h) *Acquisition of foreign banking organization.* The acquisition of voting securities of a qualifying foreign banking organization. (This exemption does not extend to the reports and information required under paragraphs 9, 10, and 12 of the Bank Control Act (12 U.S.C. 1817(j)(9), (10), and (12)).

§ 225.43 Procedures for filing, processing, and acting on notices.

(a) *Filing notice.* a notice required under this subpart shall be filed with the appropriate Reserve Bank and shall contain the information required by paragraph 6 of the Bank Control Act (12 U.S.C. 1817(j)(6)), or prescribed in the designated Board form. With respect to personal financial statements required by paragraph 5(B) of the Bank Control Act, an individual may include a statement of assets and liabilities as of a date within 90 days of filing the notice, a brief income summary, and a description of any subsequent material changes, subject to the authority of the Reserve Bank or the Board to require additional information.

(b) *Advice to bank supervisory agencies.*—(1) Upon accepting a notice relating to acquisition of securities of a state member bank, the Reserve Bank shall send a copy of the notice to the appropriate state bank supervisor, which shall have 30 calendar days from the date the notice is sent in which to submit its views and recommendations to the Board. The Reserve Bank shall also send a copy of any notice it accepts to the Comptroller of the Currency and the Federal Deposit Insurance Corporation.

(2) If the Board finds that it must act immediately in order to prevent the probable failure of the bank or bank holding company involved, the Board may dispense with or modify the requirements for notice to the state supervisor.

(c) *Time period for Board action.*—(1) *Consummation of acquisition.* (i) A proposed acquisition may be consummated 60 days after submission to the Reserve Bank of a complete notice under paragraph (a) of this section, unless within that period the Board disapproves the proposed acquisition or extends the 60-day period as provided under paragraph (c)(2) of this section.

(ii) A proposed acquisition for which notice has been filed under paragraph (a) of this section may be consummated before the expiration of the 60-day period if the Board notifies the acquiring person in writing of the Board's intention not to disapprove the acquisition.

(2) *Extensions of time period.* (i) The Board may extend the 60-day period in paragraph (c)(1) of this section for an additional 30 days by notifying the acquiring person.

(ii) The Board may further extend the period for disapproval or return the notice, if the Board finds that the acquiring person has not furnished all the information required under paragraph (a) of this section or has submitted material information that is substantially inaccurate. If the Board so extends the time period, it shall notify the acquiring person of the information that is incomplete or inaccurate.

(d) *Investigation of notice.* In investigating any notice accepted under this subpart, the Board or Reserve Bank may solicit information or views from any person (including any bank or bank holding company involved in the notice, and any appropriate state, federal or foreign governmental authority). No person (other than the acquiring person), whose views are solicited or who presents information, thereby becomes a party to the proceeding or acquires any standing or right to participate in the Board's consideration of the notice.

(e) *Factors considered in acting on notices.* In reviewing a notice filed under this subpart, the Board shall consider the information in the record, the views and recommendations of the appropriate bank supervisor, and any other relevant information obtained during any investigation of the notice. The Board may disapprove an acquisition if it finds adverse effects with respect to any of the factors set forth in paragraph 7 of the Bank Control Act (12 U.S.C. 1817(j)(7)) (*i.e.*, competitive, financial, managerial, banking or incompleteness of information).

(f) *Disapproval and hearing.* Within three days after its decision to issue a notice of intent to disapprove any proposed acquisition, the Board shall notify the acquiring person in writing of the reasons for the action. Within 10 calendar days of receipt of the notice of the Board's intent to disapprove, the acquiring person may submit a written request for a hearing. Any hearing conducted under this paragraph shall be in accordance with the Rules of Practice for Formal Hearings (12 CFR Part 263). At the conclusion of the hearing, the Board shall, by order, approve or disapprove the proposed acquisition on the basis of the record of the hearing. If the acquiring person does not request a hearing, the notice of intent to disapprove becomes final and unappealable.

Appendices to Subparts A Through E

Appendix A—Capital Adequacy Guidelines

Definition of Capital To Be Used in Determining Capital Adequacy of National and State Member Banks and Bank Holding Companies

Primary Components of Capital

The primary components of capital are:
—Common stock
—Perpetual preferred stock
—Surplus
—Undivided profits
—Contingency and other capital reserves
—Mandatory convertible instruments (capital instruments with covenants mandating conversion into common or perpetual preferred stock)
—Allowance for possible loan and lease losses
—Minority interest in equity accounts of consolidated subsidiaries

Secondary Components of Capital

It is recognized that other financial instruments can, with certain restrictions, be considered as part of capital because they possess some, though not all, of the features of capital. These instruments are:
—Limited-life preferred stock
—Bank subordinated notes and debentures and unsecured long-term debt of the parent company and its nonbank subsidiaries

Restrictions Relating to Secondary Components

The secondary components will be considered as capital under the conditions listed below:
—The issue must have an original weighted average maturity of at least seven years
—If the issue has a serial or installment repayment program, all scheduled repayments shall be made at least annually, once contractual repayment of principal begins, and the amount repaid in a given year shall be no less than the amount repaid in the previous year
—For banks only, the aggregate amount of limited-life preferred stock and subordinated debt qualifying as capital may not exceed 50 percent of the amount of the bank's primary capital
—As the secondary components approach maturity, redemption or payment, the outstanding balance of all such instruments—including those with serial note payments, sinking fund provisions, or an amortization schedule—will be amortized in accordance with the following schedule:

Years to maturity	Percent of issue considered capital
Greater than or equal to 5	100
Less than 5 but greater than or equal to 4	80
Less than 4 but greater than or equal to 3	[illegible]
Less than 3 but greater than or equal to 2	40
Less than 2 but greater than or equal to 1	20

Years to maturity	Percent of issue considered capital
Less than 1	0

(No adjustment in the book amount of the issue is required or expected by this schedule. Adjustment will be made by a memorandum account.)

Minimum Capital Guidelines

The Federal Reserve and the Office of the Comptroller of the Currency have developed minimum capital guidelines to provide a framework for assessing the capital of well-managed national banks, state member banks and bank holding companies.[1] The guidelines are used in the examination and supervisory process and will be reviewed from time to time for possible adjustment commensurate with changes in the economy, financial markets and banking practices.

Objectives of the minimum capital guidelines are to:

—Introduce greater uniformity, objectivity and consistency into the supervisory approach for assessing capital adequacy;

—Provide direction for capital and strategic planning to banks and bank holding companies and for the appraisal of this planning by the agencies; and

—Permit some reduction of existing disparities in capital ratios between banking organizations of different size.

Two principal ratio measurements of capital are used: (1) primary capital to total assets; and, (2) total capital to total assets. Primary capital consists of common stock, perpetual preferred stock, capital surplus, undivided profits, reserves for contingencies and other capital reserves, mandatory convertible instruments, the allowance for possible loan and lease losses, and any minority interest in the equity accounts of consolidated subsidiaries. Total capital includes the primary capital components plus limited-life preferred stock and qualifying notes and debentures.

The capital guidelines generally will be applied on a consolidated basis. However, for those bank holding companies with consolidated assets under $150 million, the capital guidelines will apply only to the bank if: (1) the company does not engage directly or indirectly in any nonbanking activity involving significant leverage; and, (2) no significant debt of the parent company is held by the general public.

Some bank holding companies are engaged in significant nonbanking activities that require capital ratios higher than those for the bank alone. In these cases, appropriate adjustments will be made in the application of the consolidated capital guidelines.

Institutions affected by the guidelines are categorized as either multinational organizations (as designated by their respective supervisory agency); regional organizations (all other institutions with assets in excess of $1 billion)[2]; or community organizations (less than $1 billion in total assets).

A minimum level of primary capital to total assets is established at 5 percent for multinational and regional organizations and 6 percent for community organizations. Generally, banking organizations are expected to operate above the minimum primary capital levels. Also, those banking organizations that have a higher than average percentage of their assets exposed to risk, or have a higher than average amount of off-balance sheet risk, may be expected to hold additional primary capital to compensate for this risk.

The agencies also have established capital guidelines for the total capital to total assets ratio. These guidelines consist of three broad zones:

	Multinational and regional	Community
Zone 1	Above 6.5 percent	Above 7.0 percent
Zone 2	5.5 percent to 6.5 percent	6.0 to 7.0 percent.
Zone 3	Below 5.5 percent	Below 6.0 percent.

Generally, the nature and intensity of supervisory action will be determined by the zone in which an institution falls. While an institution's position in the quantitative capital zones will normally trigger the below specified supervisory responses, qualitative analysis will continue to be used in determining minimum levels of capital for banking institutions.

For banking institutions operating in Zone 1, the agencies will:

—Presume that capital is adequate if the primary capital ratio is acceptable to the regulator and is above the minimum level;

—Intensify analysis and action when unwarranted declines in capital ratios occur.

For banking institions operating in Zone 2, the agencies will:

—Presume that the institution may be under-capitalized, particularly if the primary and total capital ratios are at or near the minimum guidelines;

—Engage in extensive contact and discussion with the management and require the submission of comprehensive capital plans acceptable to the regulator;

—Closely monitor the capital position over time.

The agencies' approach to insitutions operating in Zone 3 will include:

—A very strong presumption that the institutions is under-capitalized;

—Frequent contact with management and a requirement that the institution submit a comprehensive capital plan, including a capital augmentation program that is acceptable to the regulator;

—Continuous analysis, monitoring and supervision.

The guidelines will be applied in a flexible manner with exceptions as appropriate. The assessment of capital adequacy will continue to be made on a case-by-case basis considering various qualitative factors that affect an institution's overall financial condition. Thus, the agencies retain the flexibility to make appropriate adjustments in the application of the guidelines to individual institutions.

Appendix B—Policy Statement for Formation of Small One-Bank Holding Companies

Assessment of Financial Factors

In acting on applications filed under the Bank Holding Company Act, the Board has adopted, and continues to follow, the principle that bank holding companies should serve as a source of strength for their subsidiary banks. When bank holding companies incur debt and rely upon the earnings of their subsidiary banks as the means of repaying such debt, a question arises as to the probable effect upon the financial condition of the company and its subsidiary bank or banks.

The Board believes that a high level of debt at the parent holding company level impairs the ability of a bank holding company to provide financial assistance to its subsidiary bank and in some cases the servicing requirements on such debt may be a significant drain on the bank's resources. For these reasons, the Board has not favored the use of acquisition debt in the formation of bank holding companies. Nevertheless, the Board has recognized that the transfer of ownership of small banks often requires the use of acquisition debt. The Board therefore has permitted the formation of small one-bank holding companies with debt levels higher than would be permitted for larger or multibank holding companies. Approval of these applications has been given on the condition that the small one-bank holding companies demonstrate the ability to service the acquisition debt without straining the capital of their subsidiary bank and, further, that such companies restore their ability to serve as a source of strength for their subsidiary bank within a relatively short period of time.

In the interest of furthering its policy of facilitating the transfer of ownership in banks without diluting bank safety and soundness, the Board has reexamined the analytical framework and financial criteria it applies when considering the formation of small one-bank holding companies and has adopted certain revisions in its procedures and standards as described below.

The revised criteria shift the focus from debt repayment to the relationship between debt and equity at the parent holding company. The holding company will have the option of improving the relationship of debt to equity by repaying the principal amount of its debt or through the retention of earnings, or both. Under these procedures, newly organized small one-bank holding companies will be expected to reduce the relationship of their debt to equity over a reasonable period of time to a level comparable to that maintained by many large and multibank holding companies.

In general, this policy is intended to apply only to one-bank holding companies that would not have significant leveraged nonbank activities and whose subsidiary bank would have total assets of

[1] Institutions that are under special supervision and those that have been in operation for less than two years are not included in the program.

[2] May include some other institutions located money centers.

approximately $150 million or less at the time the application is filed. Small one-bank holding companies formed before the initial effective date of the Board's policy concerning formation of small one-bank holding companies and assessment of financial factors (March 28, 1980) may switch to a plan that adheres to the intent of this policy provided they comply with criteria 2, 3, and 4 set forth below.

The criteria are as follows:

General

In evaluating applications filed pursuant to section 3(a)(1) of the Bank Holding Company Act, as amended, when the applicant intends to incur debt to finance the acquisition of a small bank, the Board will take into account a full range of financial and other information, including the recent trend and stability of earnings of the bank, the past and prospective growth of the bank, the quality of the bank's assets, the ability of the applicant to meet debt servicing requirements without placing an undue strain on the bank's resources, and the record and competency of management of the applicant and the bank. In addition, the Board will require applicants to meet the minimum requirements set forth below. As a general rule, failure to meet any of these requirements will result in denial of the application; however, the Board reserves the right to make exceptions if the circumstances warrant.

1. *Minimum Down Payment.* The amount of acquisition debt should not exceed 75 percent of the purchase price of the bank to be acquired. When the owner(s) of the holding company incur debt to finance the purchase of the bank, such debt will be considered acquisition debt even though it does not represent an obligation of the bank holding company, unless the owner(s) can demonstrate that such debt can be serviced without reliance on the resources of the bank or bank holding company.

2. *Maintenance of Adequate Capital.* An applicant proposing to use acquisition debt must demonstrate to the satisfaction of the Board that any debt servicing requirements to which the bank holding company may be subject would not cause the subsidiary bank's ratio of gross capital to assets to fall below 6 percent during the 12-year period following consummation of the acquisition. Gross capital is defined as the sum of total stockholders' equity, the allowance for possible loan losses, and subordinated capital notes and debentures.

3. *Reduction in Parent Company Leverage.* The applicant must demonstrate to the satisfaction of the Board that the parent holding company's ratio of debt to equity will decline to 30 percent within 12 years after consummation of the acquisition. The holding company must also demonstrate that it will be able to safely meet debt servicing and other requirements imposed by its creditors.

The term "debt," as used in the ratio of debt to equity, means any borrowed funds (exclusive of short-term borrowings that arise out of current transactions, the proceeds of which are used for current transactions), and any securities issued by, or obligations of, the holding company that are the functional equivalent of borrowed funds.

The term "equity," as used in the ratio of debt to equity, means the total stockholders' equity of the bank holding company adjusted to reflect the periodic amortization of "goodwill" (defined as the excess of cost of any acquired company over the sum of the amounts assigned to identifiable assets acquired, less liabilities assumed) in accordance with generally accepted accounting principles. In determining the total amount of stockholders' equity, the bank holding company should account for its investments in the common stock of subsidiaries by the equity method of accounting.

Ordinarily the Board does not view redeemable preferred stock as a substitute for common stock in a one-bank holding company formation. Nevertheless, to a limited degree and under certain circumstances the Board will consider redeemable preferred stock as equity in the capital accounts of the holding company if the following conditions are met: (1) The preferred stock is redeemable only at the option of the issuer and (2) the debt to equity ratio of the holding company would be at or remain below 30 percent following the redemption or retirement of any preferred stock. Preferred stock that is convertible into common stock of the holding company may be treated as equity.

4. *Dividend Restrictions.* The bank holding company is not expected to pay any corporate dividends on common stock until such time as its debt to equity ratio is below 30 percent. However, some dividends may be permitted provided all of the following conditions are met: (a) The applicant has begun making scheduled repayments of principal on the acquisition debt; (b) such scheduled repayments of principal are reasonable in amount, will be made at least annually, and will allow for the retirement of the acquisition debt over a period not to exceed 25 years; and (c) the applicant can clearly demonstrate at the time the application is filed that such dividends will not jeopardize the ability of the holding company to reduce its debt to equity ratio to 30 percent within 12 years of consummation of the proposal or cause the gross capital to assets of the subsidiary bank to fall below 6 percent over the same period. Also, it is expected that dividends will be eliminated if the holding company is not meeting the projections made at the time the application was filed regarding the ability of the holding company to reduce the debt to equity ratio to 30 percent within 12 years of consummation of the proposal.

The requirements of this Policy Statement should be read in the context of the Board's Capital Adequacy Guidelines (Appendix A), including the definitions of capital and its components.

Effective date: This revision of Part 225 becomes effective February 6, 1984, except for section 225.14 and 225.23, which become effective for all applications and notices submitted to the Board on and after January 1, 1984.

By order of the Board of Governors of the Federal Reserve System, December 29, 1983.

William W. Wiles,

Secretary of the Board.

Supplementary Information, Appendix A

(Note.—This is an appendix to the Supplementary Information section in the preamble. This appendix will not appear in the Code of Federal Regulations.)

The proposed revision of Regulation Y included the following definition of "bank":

Any institution organized under the laws of the United States that accepts demand deposits and engages in the business of making commercial loans.

This definition essentially reiterates the two-pronged definition of bank in section 2(c) of the BHC Act, which defines a "bank" as "any organization * * * which (1) accepts deposits that the depositor has a legal right to withdraw on demand, and (2) engages in the business of making commercial loans." [1] The bank definition is the key to the Act because it supplies the basis for effecting the fundamental purposes for which the legislation was enacted: (1) the separation of the business of banking from commerce to assure impartiality in the granting of credit and avoidance of conflicts of interest; (2) the limitation of risk to the banking system inherent in the unlimited association of banking and commerce; and (3) the prevention of concentration of banking resources.

In order to clarify the coverage of the bank definition consistent with these policies, the Board has interpreted the terms "deposits that the depositor has a legal right to withdraw on demand" [2] and "commercial loans" in section 2(c) of the Act. In approving an application by a bank holding company under the Act to acquire an industrial loan company that offered NOW accounts and made commercial loans, the Board interpreted the phrase "deposits that the depositor has a legal right to withdraw on demand" in section 2(c) of the Act to include NOW accounts. *First Bancorporation (Beehive Thrift and Loan)*, 68 Federal Reserve Bulletin 253 (1982).

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[1] 12 U.S.C. 1841(c). There are a number of statutory exemptions to this definition, *e.g.*, for FSLIC insured thrift institutions.

[2] Hereinafter "demand deposit."

Similarly, in reviewing a proposal to acquire an FDIC insured state bank by The Dreyfus Corporation, a nonbanking organization engaged in the underwriting and sale of securities, the Board reiterated its view that the term commercial loan in section 2(c) of the Act means any loan the proceeds of which are used for other than personal, family, household, or charitable purposes. The Board also determined that, for this purpose, commercial loans include the purchase of commercial paper, bankers acceptances, and certificates of deposit, and the sale of federal funds and other transactions that establish a debtor-creditor relationship. Letter of December 10, 1982, to the FDIC.

The proposed amendments would incorporate the Board's interpretations into Regulation Y. A number of commenters opposed the definitions. The Independent Bankers Association favored the definitions, and the American Bankers Association supported the proposed definition of "commercial loan."

After careful consideration of the comments, the Board has determined to adopt the "bank" definition with minor modifications, including its interpretations of the terms demand deposit and commercial loan. The Board believes that these interpretations are both necessary and appropriate to carry out the fundamental purposes of the Act. In the Board's judgment, any other interpretation of these important terms would produce a result that is plainly at variance with the purposes of the Act and would preempt Congressional discretion to determine the proper delineation between banking and commerce in this country as well as the scope for interstate banking. The Board's interpretation of the bank definition is directed, towards this end, consistent with its authority under section 5(b) of the Act to issue rules and regulations.

As originally enacted, the BHC Act defined "bank" as "any national banking association, or any State bank, savings bank, or trust company. * * *" In 1966, Congress eliminated this charter test in favor of the functional demand deposit test. The legislative history of these amendments indicates that Congress intended to cover all checking accounts as demand deposits and did not intend to exempt from the definition of "bank" institutions that function like banks. Congress viewed the ability to offer checking accounts as critical in determining whether an institution meets the "demand deposit" portion of the Act's definition of bank and intended demand deposits to include all checking accounts.

In 1970, Congress again amended the Act by adding a second requirement for bank status: that the institution also be engaged in the business of making commercial loans. The Board did not propose the amendment in 1970, which limited the definition of bank to those institutions that accept demand deposits and make "commercial loans," although the Board offered no objection to the amendment because it was intended to be narrow in scope, possibly exempting only a single company—Boston Safe Deposit and Trust.[3] The Board's view is reflected in a letter from Federal Reserve Chairman Burns to Chairman Sparkman of the Senate Banking and Currency Committee:

"* * * S. 3823 would amend the definition of "bank" to exclude banks that make no commercial loans. To the best of our knowledge, this amendment would have very limited application at present, possibly affecting only one institution. Since there is less need for concern about preferential treatment in extending credit where no commercial loans are involved, and in view of the very limited application of this amendment, the Board would have no objection to its adoption.[4]

The House conferees agreed to the change of the definition of "bank" (not present in the House passed bill), but the majority of the House conferees cautioned that the Board should construe the 1970 exemptions from the Act "as narrowly as possible in order that all bank holding companies which should be covered under the Act in order to protect the public interest, will, in fact, be covered."[5]

These modifications to the definition of bank in the Act were designed to exclude from coverage under the Act savings banks, trust companies and industrial banks.[6] In both 1966 and 1970, savings banks, trust companies and industrial banks bore little resemblance to commercial banks because these three types of entities did not have bank charters or their activities were confined to fiduciary activities, the taking of savings and time deposits, and the making of home mortgages and consumer loans.

Between 1970 and 1981, the exemption remained within the narrow confines intended by Congress. However, since 1980, the powers of industrial banks have substantially expanded and they are eligible for FDIC insurance, making them for all intents and purposes banks. More importantly, a large number of insurance, securities, industrial and commercial organizations have acquired FDIC insured national or state banks.[7] These acquisitions have been accomplished through the device of divesting a portion of the acquired bank's commercial loan portfolio and continuing to accept demand deposits or through giving up the taking of demand deposits but continuing to make commercial loans. Both techniques are premised on a narrow interpretation of the terms demand deposits and commercial loans in section 2(c) of the Bank Holding Company Act.

These so-called "nonbank banks" acquired through this device continue to take deposits from the public, to make loans, to enjoy the benefits of discount window access and federal deposit insurance, and to have access to the payments system. They remain for all practical purposes banks, but are not subject to the prudential limitations that Congress deemed essential when banks are affiliated with commercial enterprises. Indeed, the charter powers of a "nonbank bank" are identical to those of a full service commercial bank—and it is only different to the extent that the nonbank bank *voluntarily* chooses not to offer commercial loans or demand deposits under a narrow definition of those terms.

Acquisitions of this nature and in the numbers that have occurred were not contemplated by the 1970 Amendments. As noted above, the Board advised Congress that it believed the exemption would be of "very limited application," and the House Conferees admonished the Board to construe the exemption "narrowly." Such a construction is consistent with the broad expansion of the Act's coverage accomplished by the 1970 Amendments to encompass partnerships, one bank holding companies, and control relationships based on a controlling influence. Indeed, the desire to prevent evasion of the Act's purposes in 1970 was sufficiently pervasive for Congress to reject a proposed exemption for very small banks which had no more than $3

[3] 116 Congressional Record S. 6908, 6911 (daily ed. May 11, 1970; 116 Congressional Record H. 7207 (daily ed. July 27, 1970; 116 Congressional Record S. 20642 (daily ed. December 18, 1970).

[4] One Bank Holding Company Legislation of 1970: Hearings on S. 1052, S. 1664, S. 3823; and H.R. 6778, before the Senate Committee on Banking & Currency, 91st Cong., 2d Sess. 137 (1970).

[5] Statement of the Managers on the Part of the House, H. Rep. No. 1747, 91st Congress, 2d Sess. 23 (1970).

[6] S. Rep. No. 1179, 89th Cong., 2d Sess. 7 (1966); S. Rep. No. 91-1084, 91st Cong. 2d Sess. 24 (1970).

[7] Since 1980, there have been a number of acquisitions of insured banks by insurance, securities, commercial and industrial companies.

million in net worth.[8] It is inconsistent with the Congressional intent as expressed in the Act to suggest that at the same time Congress substantially expanded the Act's coverage to ensure the separation of banking and commerce, it took the significant step, almost without debate, of creating a new class of depository institution that could be acquired by all types of nonbanking organizations.

The primary impetus for the 1970 Amendments were two events that occurred in the late 1960s. First, the largest banks in the nation sought to use the then existing one bank holding company exemption to form holding companies and commence various nonbanking activities, at times through the acquisition of going concerns such as large insurance companies. At the same time, large nonbanking organizations such as manufacturing firms, insurance companies, and retailers began to acquire single banks. Congress sought to block both of these trends through the 1970 Amendments.[9] The recent acquisition of banks by large commercial enterprises such as insurance, securities, and industrial companies is completely inconsistent with expressed Congressional intention to prevent such affiliations.[10]

In recognition of the unique and critical role that banks play in the nation's financial system and economy with respect to operation of the payments system, as custodians of the bulk of liquid savings, and as suppliers of credit, Congress has provided these institutions with access to the Federal Reserve as a lender of last resort, and access to federal deposit insurance. However, as a consequence of this special status, banks are subject to prudential limitations designed to limit risk, promote sound operations, assure impartiality in the credit granting process, and prevent excessive concentration of credit resources. The Bank Holding Company Act represents one of the principal mechanisms for accomplishing these goals through its limitations on the commingling of banking and commerce and the concentration of banking resources.

The framework of regulation created by the Bank Holding Company Act is frustrated, however, to the extent that institutions engaged in banking functions are allowed to secure the benefits of bank status while at the same time their corporate parents evade the prudential limitations on the scope of nonbanking activities that Congress established in the Bank Holding Company Act. Moreover, this situation threatens to undermine the system of bank holding company regulation as a whole since bank holding companies that are subject to the Act's prudential limitations are placed at an increasing competitive disadvantage with respect to the securities, insurance, manufacturing and retail companies that own "nonbank banks" and that are free to establish synergistic relationships between their banking and impermissible nonbanking operations.

It has been suggested that these nonbank bank institutions that are chartered as banks are not engaged in demand deposit taking or indirect commercial lending to customers or clients of the bank and therefore the nonbanking activities of their affiliates do not raise the policy concerns that the Act was intended to address. However, as indicated in more detail below, these banks raise the same prudential problems as other banks and, in fact, the operating techniques used by nonbank banks do amount to the taking of demand deposits and the making of commercial loans. Moreover, the Board is also concerned with the difficulty of assuring the enforcement of a self-imposed limitation on direct commercial lending where, for example, close links associated with the common control would be established between the demand deposit-taking function of the nonbank bank and commercial lending activities conducted through separate corporate subsidiaries of the parent organization.

The possibility of "understandings" involving the placing of funds derived from deposit taking by nonbank banks with banking institutions that would agree to take a favorable view toward lending to the nonbank bank's industrial or commercial affiliates would circumvent the purposes of the Act and pose serious enforcement problems. Similarly, as is discussed below, a nonbank bank could lend to consumers on terms aimed at furthering the purchase of goods or services from affiliates of the nonbank banks. The Act was designed to deal with the potential abuses that could result from concentration of resources and/or from conflicts of interest that inherently arise in the common ownership of banks and commercial organizations, and the potential for these abuses is clearly present in the relationship between nonbank banks and their corporate parents and affiliates.

The legislative history of the Act confirms the fact that Congress was concerned about the use of banking powers in tandem with other commercial and industrial enterprises even where these powers were used exclusively for so-called consumer lending. Congress believed that banks exercising these powers should be covered by the Act to assure impartiality in lending and prevent the cartelization of industry and commerce around banks. The 1970 report of the Senate Committee on Banking and Currency quotes, and indicates agreement with, the following remarks by former Federal Reserve Chairman Martin:

> If a holding company combines a bank with a typical business firm, there is a strong possibility that the bank's credit will be more readily available to the customers of the affiliated business than to customers of other businesses not so affiliated. Since credit has become increasingly essential to merchandising, the business firm that can offer an assured line of credit to finance its sales has a very real competitive advantage over one that cannot * * * [I]f we allow the line between banking and commerce to be eased, we run the risk of cartelizing our economy. Just as we have seen the country's largest banks join the new wave of one-bank holding companies, we could later see the country's business firms clustering about banks in holding company systems in the belief that such an affiliation would be advantageous, or perhaps even necessary to their survival.[11]

The Congressional concern that banks which were affiliated with other businesses might make loans designed to further the interests of those affiliates is also evidenced in section 4(d) of the Act. This section allows the Board to grant exemptions from the nonbanking prohibitions of the Act for certain companies, including those whose subsidiary banks are so small "as to minimize the likelihood that the bank's powers to grant or deny credit may be influenced by a desire to further the holding company's other interests." 12 U.S.C. § 1843(d). While Congress was prepared to concede that there could be cases where a bank was so small as not to create a situation that was inconsistent with the basic purposes of the Act, it deliberately avoided a blanket size exemption and instead

[8] Statement of The Managers on the Part of the House, *supra* at 23.

[9] Statement of the Managers on the Part of the House, *supra*, at 11; S. Rep. No. 1084, *supra*, at 2–3; Cong. Rec. S 1698 (1969) (Remarks of Sen. Proxmire); Cong. Rec. H 9776–77 (1969) (Remarks of Cong. Patman).

[10] Moreover, many of the "nonbank banks" that nonbanking companies have formed differ significantly from the institution for which the exemption was written, since Boston Safe was primarily engaged in trust company business in 1970.

[11] S. Rep. No. 1084, *supra*, at 3.

conferred the exemption judgment exclusively on the Board.

The nonbank bank device allows precisely the conflicts of interest and other adverse effects that Congress sought to prohibit in 1970. A nonbank bank is able to make commercial loans by purchasing such instruments as commercial affiliate bank. 12 CFR 225.4(c) (1983). Under the narrow interpretation of commercial loan relied on by nonbank banks, not only are the activities of the parent of the nonbank bank unlimited, but the nonbank bank itself is free to require that prospective borrowers buy insurance, securities or other goods and services from those affiliates in order to receive an extension of credit from the nonbank bank. The Board believes that the ability of nonbank banks to engage in such coercive practices in order to provide a competitive advantage for their affiliates creates serious competitive inequalities and significantly undermines the structure designed by Congress for the regulation of the nonbanking activities of banks and their holding company affiliates.

In addition, the proliferation of nonbank banks would allow for the expansion of banking across state lines without either state authorization or Congressional approval as is now required by law. While the Board has supported a Congressional reevaluation of the present ban on interstate acquisitions without state approval, interstate acquisitions of so-called nonbank banks would violate both the letter and clear intent of the Douglas Amendment.

In this context the Board has reexamined its interpretation of the terms demand deposits and commercial loan in light of the comments received from the public.

Definition of Demand Deposits. The final amendments interpret the phrase "deposits that the depositor has a legal right to withdraw on demand" in section 2(c) of the Act as "any deposit with transactional capability that as a matter of practice is payable on demand and that the depositor may withdraw by check, draft, negotiable order of withdrawal, or other similar instrument for payment to third parties."

Several commenters objected to the Board's definition of demand deposits as contrary to the traditional treatment of NOW accounts as savings deposits. These commenters argued that, because institutions offering NOW accounts are required to reserve the right to require 14 days' prior notice of withdrawals, the accounts are not in fact demand deposits. The commenters also objected to the proposed definition as inconsistent with legislative history indicating that certain institutions that currently offer NOW accounts, such as industrial banks and industrial loan companies, were not intended to be treated as banks.

The Board believes, however, that traditional interpretations of the term demand deposits, the regulatory treatment of accounts with transactional capability, the functional equivalency of demand deposits and NOW accounts, and the legislative history and purposes of the Bank Holding Company Act require that NOW and similar accounts be treated as demand deposits for purposes of the BHC Act. The legislative history and purposes demonstrate that the term demand deposits in section 2(c) of the Act cannot be interpreted to turn on the technicality of whether the account is subject to a notice of withdrawal requirement that in practice is never imposed. Such an interpretation would permit the fundamental purposes of the Act to be circumvented or rendered meaningless simply through the offering of checking accounts that perform the same function as demand deposits, that are advertised as checking accounts, and that for all intents and purposes are the equivalent of a conventional demand checking deposit, but that are not treated as demand checking deposits only because they are subject to a never exercised right of the depository institution to require prior notice of withdrawals. It is a fundamental principle of statutory construction that a statute must be interpreted to give effect to its purposes and to avoid an absurd or unreasonable result. *United States* v. *American Trucking Association*, 310 U.S. 534, 543 (1940).

Legislative History. As indicated, the legislative history of the Act reflects that, when Congress eliminated the charter test of "bank" status in 1966 in favor of the demand deposit test, it intended to cover checking accounts, like NOW accounts, as demand deposits and did not intend to exclude institutions that function as banks. In 1963, the Board issued an interpretation regarding the coverage of industrial banking organizations, such as industrial loan companies, under the charter test in the original Act. 49 Fed. Res. Bull. 186 (1963). The Board ruled that industrial banking organizations would be banks for purposes of the Act in two situations: (1) if they issued accounts subject to withdrawal by check; or (2) if in actual practice they permitted a withdrawal of deposits on demand. The second part of this test referred to ordinary passbook savings deposits, which are paid on demand but that are not freely withdrawable by check.

Subsequently, during Congressional hearings on the 1966 Amendments to the BHC Act, representatives of industrial banking organizations requested that certain of these institutions be exempted from the Act on the rationale that industrial banks and similar institutions only made loans to consumers, offered savings certificates, and did not accept checking accounts.[13] The Board endorsed this proposal on the basis that the BHC Act should cover only institutions that accept demand or checking accounts.[14] In effect, the Board favored repeal of the second part of its 1963 industrial bank interpretation that covered an industrial banking organization if such institutions limited their deposit taking activities to the offering of passbook savings accounts. The Board stressed, however, that the first part of this test should be retained and industrial banks should continue to be covered if they accepted checking accounts.

Congress adopted the Board's proposals by eliminating the charter test in favor of the demand deposit definition. The legislative history is clear that Congress did not intend to repudiate the first part of the Board's 1963 industrial bank interpretation, and that the authority to offer checking accounts was regarded as the fundamental characteristic of a "bank" under the Act. The Senate Report accompanying the amendments expressly stated that the bank definition was intended to include an institution that accepts deposits payable on demand, which the report described as checking accounts.[15] Senator Robertson, the sponsor of the bill, stated that the amendment covered only institutions that "accept demand deposits subject to check" and excluded industrial banks because they did not accept deposits subject to check. 112 Cong. Rec. 11,794 (1966). Nothing in the reports of the relevant committees or in the statements of the bill's sponsor ever refers to a notice of withdrawal requirement as a prime characteristic of the deposits covered by the Act.[16] Based on this

[13] *Amend the Bank Holding Company Act of 1956: Hearings on S. 2353, S. 2418, and H.R. 7371 before a Subcomm. of the Senate Comm. on Banking and Currency*, 89th Cong., 2d Sess. 155, 157 (1966) (testimony of Max A. Denney, American Industrial Bankers Association) (hereinafter "1966 Senate Hearings").

[14] *Id.* at 447.

[15] S. Rep. No. 1179, 89th Cong. 2d Sess. 7 (1966).

[16] While the language adopted in the 1966 Amendments differed from that proposed by the Board ("deposits payable on demand"), there is no

Continued

legislative history, the Board concludes that Congress did not intend to exclude from the concept of demand deposit checking accounts that are subject to a formal requirement of notice where the instrument functions in all other respects in the same manner as one that is not subject to such a formal notice.

Thus, following the 1966 Amendments, the Act continued to apply to institutions accepting deposits subject to withdrawal by check, but no longer applied to institutions offering deposits, such as passbook savings deposits, that are in practice paid on demand but which are not subject to withdrawal by check or similar device. The United States Court of Appeals for the Third Circuit has recently held that the retention of the right to require advance notice of withdrawal is *not* necessarily determinative of whether a particular type of deposit is a demand under the BHC Act:

> Congress did not choose the words "accepts deposits that the depositor has a legal right to withdraw on demand" because it was concerned with the distinction between a depositor's *legal* right to withdraw on demand and the ability *in practice* to withdraw on demand. The more reasonable interpretation of why Congress selected these terms is that stated in the [1966] Senate Report * * * Congress was merely adopting "the commonly accepted test of whether an institution is a commercial bank." [17]

Administrative Interpretations. The term "demand deposit" had been used in many earlier federal banking laws and over the years had uniformly been interpreted to include any deposit, such as a NOW acccunt, that is withdrawable by check regardless of whether the deposit is subject to a notice of withdrawal requirement. As early as 1915, the Board recognized the right of an institution to require advance notice of withdrawal as a distinguishing factor of a savings account, but made clear that, where a notice account was ordinarily subject to withdrawal by check, that account would be treated as a demand deposit and would be subject to the higher level of reserves applicable to demand deposits. 1 Fed. Res. Bull. 38 (1915).[18] In 1933, the Board, in defining demand deposit for purposes of the prohibition against the payment of interest on accounts payable on demand, included savings accounts subject to withdrawal by check, notwithstanding the fact that the savings account had an advance notice of withdrawal requirement. The Board explained that such action was necessary to prevent evasion of the statutory prohibition since accounts subject to a notice requirement typically pay interest and reflected the Board's view that checkable notice of withdrawal accounts were functionally demand deposits.[19] 21 Fed. Res. Bull. 792, 863 (1935).

Thus, at the time of the 1966 amendment of the "bank" definition to cover demand deposits, that term had a well-defined meaning under longstanding agency interpretation and included all checkable deposits, regardless of a notice of withdrawal requirement. The Board believes that, since the legislative history repeatedly refers to demand deposits as "checking accounts," it is likely that Congress meant to incorporate the longstanding agency interpretation into the statute.[20]

Function of NOW accounts as checking accounts. NOW accounts in practice perform the same function as conventional demand deposits, are advertised and used in a manner indistinguishable from conventional bank checking accounts, and are subject to the same reserve requirements as conventional demand deposits. It is uniformly recognized that NOW accounts operate as demand checking accounts and that checks drawn on these accounts are paid by the drawee institutions on demand, just like conventional checking accounts. *e.g., New York State Bankers Association* v. *Albright,* 38 N.Y. 2d 430, 381 N.Y.S. 2d 18, 343 N.E. 2d 735 (1975) ("Manifestly and unabashedly", the NOW account is intended to be the equivalent of a checking account); Kaplan, *Federal Legislative and Regulatory Treatment of NOW Accounts,* 91 Banking L.J. 439, 440 (1974) ("NOW accounts permit money transfers to third parties in much the same manner as conventional checking accounts").

Like a conventional checking account, the holder of a NOW account makes withdrawals by means of a demand draft that may be issued to a third party as a means of transferring funds to the third party from the depositor. The payee of the NOW draft deposits it in the payee's bank for collection from the drawee institution. The drawee institution then charges the depositor's NOW account to pay the draft. *See New York State Banker's Association* v. *Albright, supra.* NOW drafts are cleared through the Federal Reserve check collection facilities as demand items, exactly like conventional checks.

Because of the third party payment feature, NOW accounts are used by depositors to pay bills and to perform other financial transactions, the very function of a conventional demand deposit. A survey conducted by the American Bankers Association of the operation of NOW accounts in New England, where such accounts were first permitted on an experimental basis, concluded that:

> * * * a large number of depositors are using the NOW account as their *main transaction account.* Indeed, some New England banks report that usage of NOW accounts closely resembles the usage of demand deposit accounts.[21]

The Board notes that NOW accounts are uniformly advertised as checking accounts with little, if any, reference to the fact that they may be subject to a 14-day notice of withdrawal requirement. Not only is the right to require advance notice of withdrawal ordinarily not invoked with respect to such accounts, but it is apparent from the nature of a NOW account that, once a draft has been drawn on such an account, the funds in the account that cover the draft cannot effectively be made subject to a notice of withdrawal requirement. Because withdrawals from NOW accounts are made by demand drafts issued directly to third party payees, the drawee institution would face a serious

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indication in the legislative history that this change was intended to be substantive. Indeed, as noted, the Congress consistently referred to the change as encompassing "checking accounts."

[17] *Wilshire Oil Co.* v. *Board of Governors,* 668 F.2d 732, 737 (3d Cir. 1981), *cert. denied,* 457 U.S. 1132 (1982) (emphasis in original).

[18] *See* 1 Fed. Res. Bull. (1915) (savings deposits subject to check); 9 Fed. Res. Bull. 677 (1923) (special savings accounts against which an unlimited number of checks can be drawn); 13 Fed. Res. Bull. 609 (1927) (special reserve savings accounts that "in actual practice" are subject to check).

[19] In *United States League of Savings Associations* v. *Board of Governors,* 595 F.2d 888 (D.C. Cir.) (table), *cert. denied,* 444 U.S. 920 (1979), the District of Columbia Circuit obviously believed that a deposit arrangement that functions as a checking account should be treated as such regardless of the retention of a notice of withdrawal requirement. The Tenth Circuit has adopted the same view in invalidating a similar deposit arrangement offered by certain savings and loan associations. *Otero Savings & Loan Association* v. *Federal Home Loan Bank Board,* 665 F.2d 279 (10th Cir. 1981).

[20] *See Lorillard* v. *Pons,* 434 U.S. 575, 580–81 (1978) (When Congress incorporated prior statutory language in new statute, Congress is presumed to have incorporated longstanding administrative interpretations of earlier statutory language.)

[21] Hoffman and Herman, *NOW Accounts in New England* in American Bankers Association, Studies on the Payment of Interest on Checking Accounts 31 (1976) (emphasis added). *See also* Cates and Chase, *The Payment of Interest on Checking Accounts: A Report to the South Carolina Bankers Association* 29–30 (1976) (NOW experience in Massachusetts and New Hampshire indicates most holders of commercial bank NOW accounts use them as substitutes for regular demand deposit accounts); Simpson and Williams, *Recent Revisions in the Money Stock,* 67 Fed. Res. Bull. 539, 542 (1981) (70 to 80 percent of funds deposited in new-type checking accounts, *e.g.,* NOW accounts, opened in early 1981 were shifted from conventional demand deposits).

loss of good will if it attempted to invoke that right against drafts drawn against the NOW account.[23] The Board is aware of no instance in which the notice requirement has been invoked on a NOW account.[24]

The history of the federal NOW account authorization legislation evidences the Congressional understanding of such accounts as demand deposits. The 1974 prohibition of NOW accounts (except in certain New England states) was a direct response to and recognition of the fact that the ability to make withdrawals by check converted the traditional interest-bearing savings account into a demand deposit and represented a device to circumvent Congress' 1933 ban on the payment of interest on demand deposits.[25] In effect, the legislation codified the Board's longstanding view that a checking account is functionally a demand deposit.[26] Indeed, if NOW accounts are not demand deposits, there would have been no need at all for legislation authorizing NOW accounts, since the prohibition on payment of interest applies only to deposits *payable on demand* and not to ordinary savings accounts.[27]

Finally, the Monetary Control Act of 1980 requires depository institutions to maintain the same level of reserves against NOW accounts as are required to be maintained with respect to conventional demand deposits.[28] This requirement reflects the Congressional belief that these accounts are functionally equivalent and form the basis of our country's medium of exchange. H.R. Rep. No. 263, 96th Cong., 1st Sess. 4 (1979). Thus, the Monetary Control Act also in effect codified the Board's early administrative rule that imposed on *checkable* accounts (whether or not subject to a notice of withdrawal requirement) the same reserve requirements applicable to conventional demand deposits.

Several commenters stated that the proposed definition of demand deposit is overly broad and could cover some types of institutions that should not be covered. The Board is aware that, under its interpretation, industrial banks and similar institutions that may currently offer NOW accounts and make commercial loans will be covered as "banks" under the Act. As noted, the legislative history of the Act manifests a Congressional intent not to cover such institutions as they operated in 1966. That intent was premised upon the belief and the testimony of the industrial banking industry before Congress that such institutions did not offer checking accounts or engage in the commercial loan business. In recent years, industrial banks and similar organizations have been authorized to offer NOW checking accounts and to make commercial loans. Clearly, in light of this significant departure from the traditional and commonly accepted functions of industrial banking organizations, these institutions, which function essentially as banks, are not the type of institution Congress intended to exclude from the Act in 1966. Indeed, in the Garn-St Germain Act of 1982, Congress recognized the essential bank-like functioning of industrial banks and specifically made them eligible for FDIC insurance.[29]

The Board believes that institutions that both offer NOW accounts, or other accounts that clearly are the funcitional equivalent of a demand deposit, and make commercial loans must be treated as banks in the interests of competitive equity and to prevent evasion of the Act and to ensure that its fundamental purposes are effected.

Some commenters stated that the proposed definition of demand deposit could call into question the status of certain types of accounts, such as money market deposit accounts, preauthorized transfer accounts, telephone transfer accounts, accounts accessible through ATM machines, various types of bill-payer accounts, and credit balance accounts accessible by negotiable check or draft. Under certain circumstances, it is possible that some of these accounts may fall into the category of deposits that the Board regards as demand deposits, especially if they function as checking accounts or the equivalent thereof. However, the Board does not believe it is necessary to treat such accounts as demand deposits for purposes of the regulation as currently written, since it is unlikely that there would be a significant number of depository institutions offering these accounts that do not also offer NOW or other checking accounts.

In this regard, the inclusion of the definition of demand deposits in Regulation Y should not be interpreted as effecting the present status of credit balances offered by investment companies chartered under Article XII of New York's banking law, which the Board has previously determined are not demand deposits for purposes of the Act. *European-American Bancorp*, 63 Federal Reserve Bulletin 595 (1977). The Board may determine to review the status of such credit balances at some future date upon request or upon the Board's own initiative, but does not intend by this action to address these types of accounts. Similarly, the Board's interpretation of demand deposits does not affect the status of deposits accepted in a *bona fide* fiduciary capacity, which the Board has determined are not demand deposits for purposes of the Act.

In the comments, concern also was expressed that the definition of demand deposit would result in the forced divestiture of some industrial loan company subsidiaries of bank holding companies that do not meet the eligibility requirements for FDIC insurance. Section 3(e) of the BHC Act requires that every bank that is a subsidiary of a bank holding company be insured by the FDIC. 12 U.S.C. 1842(e). This provision was added to the BHC Act at the Board's suggestion

[23] By refusing temporarily to pay NOW drafts on demand, the institution would refuse payment, not to the holder of the NOW account, but to a third party payee, such as a merchant, who has no necessary relationship with the institution and who has given value for the NOW draft. Payees would thereafter refuse to accept NOW drafts drawn on that institution. NOW account depositors would thus be forced to withdraw the NOW account funds and place them in a more acceptable payment vehicle. Also, under federal law, an institution that wishes to invoke the notice of withdrawal requirement is obligated to impose such a requirement on every other account of a similar nature. 12 C.F.R. § 217.5(a).

[24] The notice requirement on occasion has been invoked with respect to ordinary savings accounts, which do not contain funds used to pay bills and are not checkable. *See* American Banker, June 22, 1976, p. 1, col. 2. Because the Board's interpretation concerns only accounts subject to the notice of withdrawal requirement that are *withdrawable by check*, it does not cover savings deposits, which are subject to the notice of withdrawal requirement but may not be withdrawn by negotiable order and thus that do not have transactional capability. *See* 22 C.F.R. § 217.5(c)(1).

[25] 119 Cong. Rec. 16,071 (1973) (Remarks of Senator Brock stating, "Failure to ban "NOW" accounts infringes on a *40-year old statutory prohibition on the payment of interest on checking accounts.*"); *Id.* at 15,005 (Remarks of Cong. Johnson stating, unless NOW accounts are limited, "the net result will be nationwide, all banks will pay interest on *checking accounts.*"); *Id.* at 15,002 (remarks of Rep. Patman, characterizing NOW accounts as permitting interest on *demand deposits*); *Id.* at 16,486 (remarks of Sen. Proxmire to the effect that NOW accounts permit "one to earn interest on his *demand* deposits").

[26] S. Rep. No. 368, 96th Cong., 1st Sess. 5 (1979). "[NOW accounts] are the functional equivalent of interest bearing checking accounts." *Accord* 125 Cong. Rec. H7613 (daily ed. Sept. 10, 1979) (Remarks of Cong. St Germain).

[27] 12 U.S.C. 461(b)(1)(C). In contrast, Congress mandated *no reserve requirement for* traditional savings deposits. *See* 12 C.F.R. § 204.9(a).

[28] Pub L. No. 97-320, § 708, 96 Stat. 1469, 1538-39, S. Rep. No. 536, 97th Cong., 2d Sess. 43 (1982).

[29] The fact that NOW accounts are limited to consumers has no significance under the BHC Act, in which the definition of "bank" depends on the *demand checking feature of deposits*, not on the commercial or consumer nature of the depositor (unlike the loan part of the "bank" definition).

based on the Board's belief that the value of federal deposit insurance to the public is such that all banks should offer this service to their coustomers. *See Mercantile Bankshares Corporation*, 56 Federal Reserve Bulletin 596 (1970). The Board notes that, under that Act, an institution that qualifies as a bank under the Board's interpretation and that is owned by a company would be allowed two years to obtain FDIC insurance. This will provide time for Congress to consider amending section 3(e) of the Act to allow other types of qualified insurance as a alternative to FDIC insurance.

Concern also was expressed in the comments that, if NOW accounts are deemed to be demand deposits, banks would no longer be permitted to pay interest on such accounts. The Board stresses, however, that a determination that NOW accounts are demand deposits for purposes of the BHC Act does not affect their status under other federal statutes. In particular, the Board's interpretation does not prevent institutions from continuing to pay interest on NOW accounts.

For the above reasons, the Board concludes that demand deposits in the bank definition include NOW accounts and similar deposits that the depositor may withdraw by check, draft, negotiable order of withdrawal, or similar instrument. Accordingly, the Board is adopting in Regulation Y the definition of the term demand deposit as proposed, with certain technical modificaions.

Definiton of Commercial Loan. In order to qualify as a bank under the BHC Act, an institution must, in addition to accepting demand deposits, be engaged in the business of making commercial loans. The final regulation reflects the Board's definition of commercial loan as a loan the proceeds of which are used other than for personal, family, household or charitable purposes. Moreover, as noted above, even consumer loans, when made to further a commercial purpose, such as to promote an affiliate's business, would be considered a commercial loan under the Act.

The final regulation includes as a commercial loan the purchase of such instruments as commercial paper, bankers acceptances and certificates of deposit, the extension of broker call loans, the sale of federal funds, and similar transactions. Some commenters have objected to the proposed inclusion of commercial paper, certificates of deposit, bankers acceptances and federal funds as commercial loans as beyond the scope of the Board's authority under the Act and contrary to the terms of the Act and established Board interpretations thereof. The commenters state that these transactions are not loans, but rather passive investment, which typically are short term and effected through a secondary market as a means of investing idle funds or maintaining liquidity, and that these transactions do not present the evils of credit abuse and concentration of economic power at which the Act is aimed. These commenters also state that the definition would bring under the Act many institutions that were not intended to be covered.

The Board has considered these comments and, for the reasons set out below, has determined to adopt the definitions as proposed with certain modifications.

In the Board's judgment, these instruments as a matter of law establish a debtor-creditor relationship and constitute an extension of credit or loan. Since these loans result in the provision of funds to commercial enterprises, including banks, which are also commercial enterprises, and since they are not made for personal, family, household or charitable purposes, these loans are commercial loans for purposes of the bank definition in the Act.[29] Moreover, as set forth above, the Board believes this interpretation to be consistent with and necessary to ensure implementation of the Act, prevent evasions of its fundamental purposes, and carry out expressed legislative policies.

Some commenters argue that the term commercial loan must be applied to encompass only those transactions traditionally denominated "commercial loans" by the parties to the transactions. There is nothing in the legislative history that supports such a proposition. On the contrary, the thrust of the 1970 Amendments was to cover all banking institutions regardless of size because such action was necessary to prevent the potential for the abuses about which Congress was concerned—conflicts of interest, risk, partiality in the granting of credit, and concentration of resources. In fact, the instruments covered by the Board's definition are loans to commercial enterprises, and institutions which engage in banking functions by accepting demand deposits and making such commercial loans are subject to the potential abuses which Congress sought to prevent through a broadly applicable Bank Holding Company Act.

Moreover, the interpretation proposed by the commenters would deny to the Board any authority to prevent evasion of the Act by covering instruments that are in fact loans to commercial enterprises but take non-traditional forms. This approach would permit banks to structure their lending transactions to avoid the coverage of the Act and to circumvent its purposes. The courts, however, have recognized the authority of the Board to look beyond form to the substance of a transaction in order to prevent an evasion of the purposes of the Act.[30]

As a first and preliminary matter, all of the instruments covered by the Board's definition are in a technical legal sense "loans" since a debtor-creditor relationship is created in each. The term "loan" is generally defined as any transaction as a result of which a party advances money and obtains an absolute promise to repay, and generally involves the following elements: a principal sum placed with a borrower, an agreement that interest is to be paid on that sum, and a recognition by the receiver of the money of a liability for the return of the principal amount with interest. *See e.g.* Black's Law Dictionary 1085 (4th rev. ed. 1968). As explained in detail below, each of the instruments creates a debtor-creditor relationship meeting these standards and thus falls within the term "loan" in section 2(c) of the Act.

Second, the definition in section 2(c) requires that the loan be "commercial." The Supreme Court has stated that "[c]ommercial loans, generally speaking, are relatively short-term loans to business enterprises of all sizes, usually for purposes of inventory or working capital." *United States* v. *Connecticut National Bank*, 418 U.S. 656, 665 (1974). As indicated, the instruments listed in the regulation provide funds to commercial organizations, as in the case of commercial paper and bankers acceptances, or, as in the case of certificates of deposit or federal funds, to banks, which also are commercial enterprises.[31] Moreover, the maturity, interest rate, and credit risk of all of these instruments is generally comparable to that of a short-term, prime quality commercial loan.[32] Each of

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[29] Federal, state and local governments and their agencies are not regarded as commercial enterprises by the Board, and their debt obligations therefore would not be regarded as commercial loans.

[30] *See Wilshire Oil Co., supra* at 739–40. Indeed, the court agreed that section 5(b) of the Act enables the Board to prohibit activities that are technically outside the literal terms of the Act in order to prevent a clear evasion of the purposes of the Act. *Id.* at 740.

[31] *See United States* v. *Philadelphia National Bank*, 374 U.S. 321, 343 (1963).

[32] Although some commercial loans are of medium term, the traditionally commercial loan is a short

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these instruments typically provides short-term funding for working capital or current operations such as the financing of inventory. In addition, for each of these instruments, the lender generally will not extend funds unless it or a third party has accomplished a credit analysis to demonstrate that the borrower is capable of repaying the extension of credit from current income. In short, the instruments described in the Board's definition are loans for a commercial purpose—in other words, commercial loans.

The following discussion demonstrates that, both in terms of function and in terms of the legal obligation created, the instruments covered by the regulation are commercial loans for purposes of the BHC Act.

Commercial Paper. Commercial paper is a prime quality, short-term unsecured promissory note establishing a debtor-creditor relationship between lender and borrower. It is generally used as a financial device by large, financially strong corporate borrowers to obtain funds for seasonal or working capital purposes such as the financing of inventory. The maturity of commercial paper is generally 60 days or less, although it can have a maturity of up to 270 days. Commercial paper is generally sold in denominations of $100,000 or more. Although it is negotiable, it is generally held to maturity and interest rates are fixed.[33]

It is uniformly agreed that the purchase of commercial paper by a bank is a commercial lending transaction. Indeed, the Comptroller of the Currency has taken the position that the purchase of commercial paper is "after all nothing but [a] loan to industrial corporations" and thus qualifies as a loan under the lending limitations in the National Bank Act and under the Glass-Steagall Act. Letters of February 24, 1972, and November 19, 1971. The term and denomination of commercial paper, its status as a promissory note, the uses to which the funds are put, and the type of credit analysis involved, all mean that commercial paper is a commercial loan for purposes of the BHC Act.[34]

Certificates of Deposit. A certificate of deposit ("CD") is an instrument evidencing a deposit with a bank for a specified period of time, generally at a fixed rate of interest. The legal relationship established between the purchaser of a certificate of deposit and the bank that issues it is that of creditor and debtor, and the loan that the purchaser of the instrument effectively makes to the bank is an unsecured loan.[35] As is the case with commercial paper, large denomination CDs that are traded in the money market are usually short-term, negotiable instruments, and typically have a maturity of from one to six months. The minimum denomination of such CDs is usually $1 million.[36]

The use of large denomination CDs with negotiable rates and maturities was originated by large banks in the 1960s as a method of providing additional funding for their operations, and has now become a key funding source for banks.[37] Banks use large denomination CDs to provide short term funding for their commercial operations in the same manner that other business organizations use commercial paper to raise working capital.[38] Moreover, as is the case with purchasers of commercial paper, purchasers of large denomination CDs engage in credit analysis of the issuers of these instruments, and establish limits for the amount that they are prepared to purchase from any particular issuer.[39] In sum, for purposes of the Bank Holding Company Act, a large denomination certificate of deposit is a commercial loan.

Some banks purchase CDs in denominations as small as $100,000. Since such CDs are fully insured by the FDIC, they involve no credit risk. In all other respects, however, such CDs function as commercial loans to other banks, presenting the same potential for conflicts of interest and concentration of resources as other commercial loans. When a bank regularly purchases CDs of other banks, or otherwise makes interest bearing deposits on a regular basis, the Board believes the purchasing bank is engaged in the business of making commercial loans.[40] The Board's commercial loan definition therefore encompasses the regular purchase of smaller CDs or other interest bearing deposits.[41]

Federal funds transactions. Federal funds transactions represent interest bearing loans by one depository institution of its deposits with a Federal Reserve Bank to another depository institution, generally on an overnight basis.[42] The so-called "sale" of federal funds in not only legally the making of an unsecured loan to the purchasing bank, but it is so regarded by bankers.[43] Consequently, banks assess the credit risk associated with these transactions, and they will normally lend federal funds only to banks to which they have granted a line of credit.[44] Indeed, the Board has stated that the sale of federal funds is an unsecured loan from one depository institution to another.[45]

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term instrument. *United States* v. *Connecticut National Bank*, 418 U.S. 656, 665 (1974); Munn and Garcia, *Encyclopedia of Banking and Finance* 572 (8th rev. ed. 1983); Stigum, *The Money Market* 76 (1983).

[33] Stigum, supra, at 625–41; Hurley, *The Commercial Paper Market*, 63 Federal Reserve Bulletin 525 (1977); Munn and Garcia, *supra* at 196. Interest is usually paid on commercial paper on a discount basis.

[34] Morover, in terms of function, commercial paper is an important substitute for commercial loans from banks, and the amount of such paper outstanding often increases or decreases as a result of changes in the cost and availability of bank loans. Hurley, *supra*, at 525. Indeed, the origins of commercial paper in the early 19th century can be traced directly to the inability of the U.S. banking system to provide sufficient credit for larger corporations that experienced significant seasonal swings in their need for credit. Stigum, *supra*, at 626.

[35] Bankers Desk Reference 84 (1978). *See Sutter* v. *Groen*, 687 F.2d 197, 200 (7th Cir. 1982) (certificate of deposit issued by bank and insured by FDIC is "a type of promissory note"); *Wightman* v. *American National Bank*, 610 P. 2d 1001, 1004 (Wyo. 1980) ("a certificate of deposit is simply a commercially glamorous name for a promissory note"); 2 *Anderson on the Uniform Commercial Code* 615 (1971) ("The differences between a certificate of deposit and a promissory note are merely formal. In substance and legal effect the two instruments are the same. . . .").

[36] Stigum, *supra* at 525–26; Munn and Garcia, *supra*, at 606.

[37] Stigum, *supra* at 107. By 1960, the demand for loans at large New York City banks significantly exceeded the ability of those banks to fund loans from traditional sources such as savings deposits. At the same time, many large corporations had money they would be prepared to lend to large banks if the instrument evidencing the loan provided a relatively high rate of return and was negotiable. The large denomination CD satisfied this need. *Stigum, supra* at 35–36, 107–08.

[38] Controlling the amount of CDs that it issues is one of the principal devices by which a bank can make short term adjustments to the volume of loans it has outstanding. Thus, when loan demand is up, bank issue more CDs is in order to make more loans. Stigum, *supra* at 36, 107.

[39] Stigum, *supra* at 530. As a result of this fact, even the largest banks can experience difficulty in issuing CDs if their performance raises market concerns.

[40] The Board regards this construction of the term "engaged in the business" as being necessary to prevent evasion of the statute. It is also consistent with judicial construction of similar language in other statutes. *SEC v. Fifth Avenue Coach Lines*, 289 F. Supp. 3, 30–31 (S.D.N.Y. 1968). *Cf. Buckley v. New York Times*, 215 F. Supp. 894 (E.D. La. 1963). Although the Board used a somewhat higher threshold with regard to Boston Safe, and certain savings and loan associations, the status of Boston Safe as a trust company and the independent regulatory scheme for savings and loan associations distinguishes those prior decisions.

[41] On the basis of existing evidence, however, the Board does not believe that a non-interest bearing demand deposit is likely to function as a commercial loan, and such deposits are not covered by the definition of commercial loan.

[42] *Bankers Desk Reference*, 301–02, 367 (1978); Stigum, *supra* at 33–34, 105.

[43] Stigum, *supra* at 105.

[44] *Id.*

[45] Letter of June 8, 1972, to Laurence H. Stone regarding Boston Safe Deposit and Trust Company. In the context of Boston Safe's trust company activities, the Board concluded that sales of federal funds by Boston Safe were loans but were not commercial loans.

Moreover, the purchase of Federal funds in substantial amounts on a regular basis is viewed by large financial institutions (which are themselves commercial enterprises) as a method of satisfying their basic funding needs.[46] In view of these facts, the Board concludes that Federal funds should be regarded as commercial loans for purposes of the Act.

Bankers' Acceptances. A bankers' acceptance is an interest bearing loan—a debtor-creditor relationship—in the form of a draft with a payment date several months in the future that is drawn by a business on a specified bank, and that has been accepted for payment by that bank.[47] The use of bankers acceptances provides an alternative to a direct extension of commercial credit for the business which initially secures the letter of credit under which the draft is drawn.[48] By accepting the draft, the issuing bank has made the draft a primary obligation of the bank. After creating the acceptance, the bank may discount it and retain the instrument until maturity as part of its commercial loan portfolio. Alternatively, in order to raise funds to be used in the bank's current business, it may sell the acceptance in the money market. The buyer of the acceptance receives an unconditional promise from the selling/accepting bank that it will pay the draft at maturity. In turn, the accepting bank looks to the business that is the account party on the draft for repayment; the purchaser of the acceptance may also recover from the account party if the accepting bank defaults.

The direct effect of purchasing a bankers' acceptance is to provide funds to the accepting bank, which is itself a commercial enterprise.[49] Moreover, in view of the liability of the business that is the account party on the draft, the purchase of a banker's acceptance from the accepting bank or any other party is the functional equivalent of purchasing a commercial loan that is guaranteed by the accepting bank. On the basis of the preceding discussion, the Board concludes that the purchase of a bankers' acceptance should also be regarded as a commercial loan.

Some commenters have objected to the inclusion of these money market instruments as commercial loans on the basis that they are often purchased through brokers with no direct negotiation with the issuer, and should therefore be classified as passive investments rather than commercial loans.[50] However, a substantial portion of the transactions in all of these instruments occurs through direct negotiations between lenders and borrowers and, even when purchased through brokers, the lender knows the borrower's identity. Based on its experience, the Broad is aware that holders of large amounts of so-called money market instruments relative to the size of the borrower are in a position to influence the conduct of the borrower, and do at times exercise this influence.[51] Moreover, a "nonbank bank" could, for example, favor its affiliates by purchasing the CDs or commercial paper of those affiliates, or by purchasing such instruments from customers of its affiliates. Similarly, it could refuse to purchase such instruments from competitors of its affiliates and, as noted above, "understandings" could well develop that would lead to commercial lending by indirect means, *e.g.*, through affiliated commercial finance companies or other reciprocal lending arrangements.

Thus the Board finds that the financial instruments discussed above are, in fact, properly categorized as loans providing for the extension of credit from one commercial enterprise to another. Moreover, the Board believes it is proper to include these instruments within the scope of the term commercial loan as used in the Act in order to carry out the Act's basic purposes: to maintain the impartiality of banks in providing credit to business, to prevent conflicts of interest, and to avoid concentration of control of credit. As noted above, the proliferation of nonbank banks owned by companies of very substantial size outside the prudential rules of the Bank Holding Company Act suggests that the dangers of evasion of the Act are real and that action to remedy potential abuses is both necessary and desirable.

Several commenters asserted that commercial paper, certificates of deposit and other money market instruments are merely passive investments having the characteristics of a security rather than a loan. Although an occasional purchase of commercial paper, a certificate of deposit or other money market instrument would not mean that the purchaser is engaged in the business of making commercial loans, this has little relevance for a bank that regularly purchases such instruments as one of its basic business operations.[52] Moreover, a commercial loan may be characterized as an investment and vice versa.[53]

Although for purposes of the Bank Holding Company Act, the distinction between a commercial loan and an investment appears largely irrelevant, the distinction has been made for the purposes of certain Federal securities laws.[54] The cases interpreting these statutes have set forth certain criteria for distinguishing a transaction that is essentially a commercial loan from a transaction that is essentially an investment embodied in a security regulated by the Federal securities laws. Under the criteria employed in these cases, the purchase by a financial institution of commercial paper, certificates of deposit, bankers acceptances or the sale of Federal funds possesses the qualities primarily associated with a loan rather than these qualities associated with a security.[55]

Some commenters asserted that the purchase of retail installment loans by bank should not be regarded as

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[46] Stigum, *supra* at 374–76.

[47] *Bankers Desk Reference* 304 (1978); Munn and Garcia, *supra* at 69–71. Interest is paid on a discount basis.

[48] Stigum, *supra* at 39.

[49] The purchase of a bankers acceptance from a dealer in such instruments similarly provides funds to the dealer, which is a commercial enterprise.

[50] The absence of direct negotiation with the borrower is a characteristic of the purchase of a participation interest in a direct extension of commercial credit, a technique commonly used by commercial banks to spread the risk of default and increase the total amount of funds that may be loaned to one customer. It is only the "lead" bank in a participated lending transaction that typically negotiates directly with the borrower. However, most courts that have considered the issue have concluded that a bank that purchases a participation in a commercial loan is purchasing a commercial loan rather than a security. *E.g., Union Planters National Bank* v. *Commercial Credit Business Loans, Inc.*, 651 F.2d 1174 (6th Cir.), *Cert. denied*, 45 U.S. 1124 (1981).

[51] For the most part, the influence that any lender has over a borrower in an arms-length transaction is likely to be an influence that encourages moderation and prudence. It is the potential for abuse of this relationship, however, that prompted Congress to enact the bank Holding Company Act. Indeed, in deciding to extend the Acts' coverage to one-bank holding companies, Congress stated that there had been "no major abuses effectuated through the one-bank holding company device . . . the legislation is to prevent possible future problems rather than to solve existing ones." S. Rep. No. 1084, *supra*, at 4.

[52] The Board regards an institution that engages in such transactions on anything more than an occasional basis as being engaged in the business of making commercial loans. See n. 40, *supra*.

[53] In *C.N.S. Enterprises, Inc.* v. *G & G Enterprises, Inc.*, 508 F.2d. 1354, 1359, *cert. denied*, 423 U.S. 825 (1975), the U.S. Court of Appeals for the Seventh Circuit made precisely this point when it stated: "In one sense every lender of money is an investor since he places his money at risk in anticipation of a profit in the form of interest. Also in a broad sense every investor lends his money to a borrower who uses it for a price and is expected to return it one day."

[54] *See, e.g., American Bank & Trust Company* v. *Wallace*, 702 F.2d 93 (6th Cir. 1983); *Bellah* v. *First National Bank of Hereford, Texas*, 495 F.2d 1109 (5th Cir. 1974); *Great Western Bank & Trust*, v. *Kotz*, 532 F.2d 1252 (9th Cir. 1976). *Cf. Marine Bank* v. *Weaver*, 455 U.S. 551 (1981); *Exchange Nat. Bank* v. *Touche Ross & Co.* 544 F.2d 1126 (2d Cir. 1976)

[55] *Id.*

involving commercial lending, because the ultimate recipient of the funds are consumers. However, the effect of purchasing an installment loan is to finance the day-to-day operations of the retailer involved, and to provide funds with which the retailer may purchase additional inventory or finance retail sales. Thus, the effect of the purchase is to promote the retailer's commercial business. Moreover, if the retailer is an affiliate of the lending bank, the purchase of its retail installment paper by the bank is precisely the type of transaction criticized in the legislative history of the Act, as discussed above—the retail affiliate has an assured line of credit to finance its sales, thereby giving it an advantage over its competitors. Even though a purchase of such loans may not involve an affiliate, and may be without recourse, the bank is supplying funds to a commercial enterprise, and the retailer generally maintains an ongoing business relationship with the bank, which provides the bank with an opportunity to influence the retailer's affairs through its willingness to continue to provide or deny additional credit. Thus, consistent with a 1976 Board staff opinion, the Board regards the purchase of retail installment loans as a commercial lending transaction, and is so modifying its commercial loan definition in the regulation.

One other type of loan specified as a commercial loan in the regulation adopted by the Board is a broker call loan. A broker call loan is a loan to a securities broker or dealer that is payable on demand and is made for the purchase or carrying of securities. Munn and Garcia, *supra*, at 137, 154. The Board's staff issued an opinion in 1976 that such loans are not commercial loans on the basis that such loans are a passive medium of investment that do not involve a close lender-borrower relationship. Letter of January 26, 1976.

However, broker call loans are loans; they are clearly made for commercial purposes; and they thus fall within the Bank Holding Company Act's definition of commercial loan. While the staff's interpretation may have been appropriate in a different factual context, in view of the rapidly expanding use of the nonbank bank loophole to evade the BHC Act as described above, the Board believes it is appropriate to regard broker call loans as commercial loans.[56]

Several commenters asserted that the Board's proposed commercial loan definition represented an abrupt and unwarranted reversal of prior positions taken by the Board. The fundamental rule which the Board established in 1971 is that the term "commercial loan" should encompass all loans other than a loan the proceeds of which are used to acquire property or services used by the borrower for his own personal, family, or household purposes, or for charitable purposes. Letter of July 1, 1971, to Greater Providence Deposit Corporation. In only three subsequent cases[57] over a ten-year period was the Board prepared to allow companies that could not qualify as bank holding companies to engage in demand deposit-taking while placing those deposits in money market commercial loans. The decisions in these cases represented a willingness by the Board to refrain from applying the full scope of the Act in conditions that did not appear to generate the potential for its evasion. Now that conditions have changed so that widespread evasion of the statute has developed through the combination of demand deposit-taking and the placing of the funds thus generated in money market commercial loans, regulatory action to apply the Act to all kinds of demand deposits and commercial loans is necessary.

The courts have held that an agency may alter its interpretations in response to changing circumstances if it provides a reasoned explanation for its action. In *American Trucking Association, Inc.* v. *Atchinson, Topeka & Santa Fe Railway Co.*, 387 U.S. 397, 416 (1967), the Supreme Court ruled that:

> Regulatory agencies do not establish rules of conduct to last forever; they are supposed, within the limits of the law and of fair and prudent administration, to adopt their rules and practices to the nation's needs in a volatile, changing economy.

In its *Dreyfus* decision and in this notice, the Board has detailed the factors and considerations that underlie its interpretation and believes that its action, as explained herein, is both appropriate and necessary in light of the purposes of the Act and is within the Board's express authority under section 5(b) of the BHC Act. Moreover, the Act clearly contemplates changes in interpretation to address changes in market conditions in order that the fundamental purposes of the Act be maintained and to prevent a serious competitive imbalance between competing institutions fostered by the change in market conditions. The definition of demand deposit and commercial loan that the Board has adopted will accomplish these objectives.

The Board's action on the definition of the term "bank" as used in the Act is also intended for the purpose of maintaining the structure established by Congress for limiting the association of banking and commercial enterprises in order to avoid the preemption of Congressional discretion through actions that have the effect of evading the Act. Various proposals to confirm or change the present structure are now before the Congress and the ability of Congress to act on these proposals would be limited by rapid expansion of the use of nonbank banks. Changes in the basic framework established by Congress are properly a matter for Congressional decision and the Board looks to legislative action in the near future to clarify both the proper dividing line between commerce and banking and to establish the proper scope of bank holding company powers to deal with changed market conditions.

Accordingly, for the reasons set out above, the Board is adopting in Regulation Y, with certain technical modifications, the definition of the term "commercial loan" as proposed, and in addition is incorporating in that definition the purchase of retail installment loans.

[FR Doc. 84-34848 Filed 12-30-83; 12:33 pm]

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[56] Trust company subsidiaries of bank holding companies are permitted to make broker call loans and purchase money market instruments. However, such subsidiaries are not permitted to accept general purpose demand deposits, and therefore are not "banks" under the bank definition.

[57] Letters of June 8, 1972, to Laurence H. Stone; March 11, 1981 to Mr. Robert C. Zimmer; and May 28, 1981, to Mr. R. S. Miller, Jr

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Part V

Department of Labor

Occupational Safety and Health Administration

Environmental Protection Agency

29 CFR Part 1910

Occupational Exposure to 1,3-Butadiene; Proposed Rule

Initiation of Accelerated Review; 1,3-Butadiene; Notice

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

Occupational Exposure to 1,3-Butadiene

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for information.

SUMMARY: This notice announces that OSHA Is joining with the Environmental Protection Agency (EPA) in its request for information on 1,3-butadiene. An EPA Notice announcing the initiation of a review of 1,3-butadiene is published in this issue of the **Federal Register** in a separate notice. The two Agencies are inviting interested parties to submit data and comments relevant to the determination of risks associated with potential adverse health effects of 1,3-butadiene exposure.

DATES: Comments should be submitted by March 5, 1984.

ADDRESSES: One copy of written comments should be submitted to the Docket Office, Occupational Safety and Health Administration, Docket No. H–041, Room S–6212, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, Telephone (202) 523–7894. Since the Environmental Protection Agency is also reviewing 1,3-butadiene, comments should also be sent in triplicate to the Document Control Officer (TS–793), Docket No. 48502, Office of Toxic Substances, Environmental Protection Agency, Room E–409, 401 M Street, SW., Washington, D.C. 20460, Telephone (202) 382–3749.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, Occupational Safety and Health Administration, Room N–3637, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, Telephone (202) 523–8148.

SUPPLEMENTARY INFORMATION: The present OSHA standard for 1,3-butadiene is an 8-hour time-weighted average of 1000 parts per million parts of air. It is codified at 29 CFR 1910.1000, Table Z–1, and was adopted in 1971 under authority of section 6(a) of the Occupational Safety and Health Act.

Two recent animal studies have demonstrated the potential for 1,3-butadiene to cause cancer in rodents.

There is also a report of a retrospective mortality study of white and black workers in production plants in the United States and Canada during the period 1943-1979. Study results were reported to show all cancer mortality to be less than for the general population. The study also reported no statistically significant elevation in standardized mortality ratios for specific cancers. No attempt was made to include work environment exposure information in the analysis because information was not reliable or not available.

The primary worker populations exposed to 1,3-butadiene are chemical and rubber workers. 1,3-butadiene is used as a chemical intermediate in the development of acrylonitrile-butadiene-styrene (ABS) rubber, styrene-butadiene rubber, and at least 14 other polymers, co-polymers, and other nitrile-type synthetic rubber compounds that are used in the manufacture of tires, tubes, bladders, plastics, and many other consumer products.

The NIOSH National Occupational Hazard Survey estimates that there are approximately 70,000 workers potentially exposed to 1,3-butadiene.

Information relating to the above is presently contained in the OSHA 1,3-butadiene docket, Docket H–041, and may be reviewed at the location and times indicated below.

Public Participation

OSHA requests that interested persons submit information concerning the health effects of 1,3-butadiene, its toxicologic properties, estimates of risk presented, current occupational exposure levels, control technologies and costs of reducing exposures and their cost-effectiveness, and health effects research in progress and planned. The information should be submitted by March 5, 1984. One copy of comments should be sent to the Docket Officer, OSHA, Docket H–041, Room S–6212, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210. Three copies should be sent to the Docket Control Officer (TS–793), Docket No. 48502, Office of Toxic Substances, Environmental Protection Agency, Room E–409, 401 M Street, SW., Washington, D.C. 20460. All written comments submitted in response to this notice will be available for inspection and copying at the Docket Offices on weekdays between 8:15 am and 4:15 PM. All such written submissions as well as other information will be considered by the Agencies in making their determinations.

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 29th day of December, 1983.

Thorne G. Auchter,

Assistant Secretary for Occupational Safety and Health.

[FR Doc. 84–186 Filed 1–4–84; 8:45 am]

BILLING CODE 450–26–M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS 48502; TSH-FRL 2477-1]

1,3-Butadiene; Initiation of Accelerated Review

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: This notice announces initiation of a 180-day review of 1,3-butadiene under section 4(f) of the Toxic Substnces Control Act (TSCA), 15 U.S.C. 2803. Information relevant to this review may be submitted to EPA and will receive consideration in the Agency's determination whether to initiate appropriate action to prevent or reduce risk from the chemical or to find that the risk is not unreasonable.

DATES: Information for review must be submitted on or before March 5, 1984.

ADDRESS: Since some information may contain confidential business information, three copies of submitted information should be sent to: Document Control Officer (TS-793), Office of Toxic Substances, Rm. E-409, 401 M St., SW., Washington, D.C. 20460.

One copy of the information should be sent to: Department of Labor, Occupational Safety and Health Administration, Docket Office, Rm. S-6212, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Submissions should include the docket numbers OPTS 48502, and H-041. Submissions received on this notice will be available for reviewing and copying from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays, in Rm. E-107 at the EPA address given above and in Rm. S-6212 at the OSHA address given above.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Environmental Protection Agency, Rm. E-543, Washington, D.C. 20460, Toll Free: (800-424-9065), In Washington, D.C.: (544-1404), Outside the USA: (Operator—202-554-1404).

SUPPLEMENTARY INFORMATION: A 180-day review of 1,3-butadiene has been initiated under section 4(f) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2603. The Administrator's decision to initiate appropriate action to prevent or reduce risk from the chemical or, alternatively, that the risk is not unreasonable will be published in the **Federal Register** on or before May 7, 1984. Review may be extended for up to 90 days for good cause. If extended review is necessary, a notice will be published in the **Federal Register**.

Because the Occupational Safety and Health Administration (OSHA) is also currently reviewing 1,3-butadiene, it is requested that a copy of the information submitted to EPA be sent to OSHA at the address given above.

Dated: December 20, 1983.

William D. Ruckelshaus,

Administrator.

[FR Doc. 84-185 Filed 1-4-84; 8:45 am]

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Part VI

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 907

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling; Final Rules

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 587; Navel Orange Reg. 586, Amdt. 1; Navel Orange Reg. 585, Amdt. 1]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period January 6–12, 1984, increases the quantity of such oranges that may be shipped during the periods December 30, 1983–January 5, 1984, and December 23–29, 1983. Such action is needed to provide for the orderly marketing of fresh navel oranges for the period specified due to the marketing situation confronting the orange industry.

EFFECTIVE DATES: This regulation becomes effective January 6, 1984 (§ 907.887), and the amendments are effective for the periods December 23–29, 1983 (§ 907.885), and December 30, 1983–January 5, 1984 (§ 907.886).

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This regulation and amendments are issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that these actions will tend to effectuate the declared policy of the Act.

These actions are consistent with the marketing policy for 1983–84. The marketing policy was recommended by the committee following discussion at a public meeting on September 27, 1983. The committee met again publicly on December 27, 1983 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendments are based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information on views on the regulation at an open meeting, and the amendments relieve restrictions on the handling of navel oranges. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (Navel).

PART 907—[AMENDED]

1. Section 907.887 is added as follows:

§ 907.887 Navel Orange Regulation 587.

The quantities of navel oranges grown in California and Arizona which may be handled during the period January 6, 1984, through January 12, 1984, are established as follows:

(a) District 1: 1,200,000 cartons;
(b) District 2: 28 cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

2. In § 907.886 Navel Orange Regulation 586 (48 FR 57260; December 29, 1983), paragraphs (a) through (d) are hereby revised to read:

§ 907.886 Navel Orange Regulation 586.

(a) District 1: 1,00,000 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

3. In § 907.885 Navel Orange Regulation 585 (48 FR 56732; see also FR Doc. 84–243 appearing elsewhere in this issue), paragraphs (a) through (d) are hereby revised to read:

§ 907.885 Navel Orange Regulation 585.

(a) District 1: 900,000 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 29, 1983.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84–244 Filed 1–4–84; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 907

[Navel Orange Reg. 585, Amdt. 2]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quanity of fresh California-Arizona navel oranges that may be shipped to market during the period December 23–29, 1983. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATES: The amendment is effective for the period December 23–29, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This amendment is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby

found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1983–84. The committee met by telephone on December 28, 1983, to consider the current and prospective conditions of supply and demand and recommended an increase in the quantity of oranges deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of navel oranges. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provision and the effective time.

Lits of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (Navel).

PART 907—[AMENDED]

In § 907.885 (originally published at 48 FR 56732; December 23, 1983, and amended in FR Doc. 84–244 published elsewhere in this issue), paragraphs (a) through (d) are hereby revised to read as follows:

§ 907.885 Navel Orange Regulation 585

(a) District 1: 1,100,000 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C 601–674)

Dated: December 29, 1983.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84–243 Filed 1–4–84; 8:45 am]

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Part VII

Department of the Treasury

Customs Service

19 CFR Part 10

Caribbean Basin Initiative; Interim Rule

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DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 10

[T.D. 84-14]

Caribbean Basin Initiative

AGENCY: Customs Service, Treasury.

ACTION: Interim Regulations.

SUMMARY: The Caribbean Basin Economic Recovery Act implements an economic recovery program for nations of the Caribbean and Central America. The Act provides for the waiver of duties until September 1995 on most products imported from any of 27 Caribbean and Central American countries designated as beneficiary countries.

This document amends the Customs Regulations to implement the duty-free aspects of the Caribbean Basin Economic Recovery Act, commonly referred to as the Caribbean Basin Initiative.

EFFECTIVE DATE: January 1, 1984.

Comments: The amendments contained in this document are being published as interim regulations in order to extend the benefits of the Caribbean Basin Recovery Act to designated beneficiary countries at the earliest possible date. However, written comments received on or before March 5, 1984 will be considered in determining whether any changes to the interim regulations are required before a final rule is published.

ADDRESS: Comments may be submitted to and inspected at the Regulations Control Branch, U.S. Customs Service Headquarters, Room 2426, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Operational Aspects: William L. Marchi, Duty Assessment Division (202–566–2957); Legal Aspects: Francis W. Foote, Classification and Value Division (202–566–2938; U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

Subtitle A, Title II, Pub. L. 98–67, the Caribbean Basin Economic Recovery Act (the "Act"), commonly referred to as the Caribbean Basin Initiative (CBI), implements an economic recovery program for nations of the Caribbean and Central America announced by the President on February 24, 1982, in an address to the Organization of American States.

The Act provides for the waiver of duties until September 30, 1985, on most products imported from any of 27 Caribbean and Central American countries designated as beneficiary countries. Beneficiary countries must meet several criteria before the President is authorized to designate them as eligible under the CBI. Further, certain products cannot be declared duty free. Under other provisions of law, duty-free treatment can be withdrawn for articles imported in such quantities as to cause injury to a competing U.S. industry. A rule of origin specifies under what conditions articles will be considered products of a beneficiary country, and, therefore, entitled to duty-free entry.

Pursuant to Presidential Proclamation 5133 dated November 30, 1983 (48 FR 54453), the President designated the countries and territories or successor political entities set forth in the Annex to the Proclamation as "beneficiary countries", thus conferring duty-free treatment for all eligible articles from those beneficiary countries. This action, is effective with respect to all articles that are entered, or withdrawn from warehouse for consumption, on or after January 1, 1984, and on or before September 30, 1995.

Certain products originating in all of the beneficiary countries are currently eligible for preferential, duty-free entry into the U.S. pursuant to the Generalized System of Preferences (GSP) (19 U.S.C. 2461–2465). The GSP imposes several restrictions on the types and total value of imports of articles that are entitled to its benefits.

In view of the similarity between duty-free treatment under the CBI and the duty-free treatment provided under the GSP, the Customs Regulations relating to the CBI contained in this document are generally based on the Customs Regulations relating to the GSP found in § 10.171 through § 10.178, Customs Regulations (19 CFR 10.171 *et seq.*). However, in addition to the specific differences identified in the section-by-section analysis set forth below, the following general points should be noted regarding those areas where a different approach has been taken in the CBI regulations:

(1) Although the Customs Regulations relating to the CBI consist of eight sections as in the case of the GSP, the order of the sections has been changed to present a more logical sequence.

(2) Except in § 10.191, the word "article" is used throughout rather than "eligible article" since, in the context of an individual section setting forth only a portion of the requirements for duty-free eligibility, a reference to an "eligible article" appears to be inappropriate.

(3) No mention is made of an association of countries treated as one country for purposes of duty-free treatment since no such language appears in the Act.

(4) The term "beneficiary country" is used rather than "beneficiary developing country" since the Act does not contain the word "developing."

(5) In most cases the word "a" or "any" is used before "beneficiary country" rather than the word "the", for the reasons set forth in the discussion of § 10.193.

With the foregoing in mind, a section-by-section analysis of the interim Customs Regulations relating to the CBI is set forth below.

Section-By-Section Analysis

Section 10.191—General Provisions

In addition to a statement of the statutory authority for the CBI, certain definitions are set forth in subsection (b):

(1) *Beneficiary country.* As in the case of § 10.171(b), Customs Regulations (19 CFR 10.171(b)), relating to the GSP, it seems appropriate to define "beneficiary country" in general terms for purposes of the CBI. The definition is taken from the wording in sections 212 (a)(1)(A) and (b) of the Act. The stated exception relates to the Commonwealth of Puerto Rico and the United States Virgin Islands which may be considered beneficiary countries for purposes of the 35 percent value-added requirement (see the discussion of § 10.195(b) below).

(2) *Eligible articles.* Although no corresponding definition appears in the Customs Regulations relating to the GSP, contrary to the GSP under which the President must specifically designate the articles to be accorded duty-free treatment which are so identified in the GSP column within the Tariff Schedules of the United States (TSUS), under the CBI, duty-free treatment may be given to all articles without specific designation thereof by the President. Given the broader scope under the CBI as concerns what may be considered an eligible article and since TSUS will not contain a CBI column so as to identify CBI-eligible articles as such, it is appropriate to define in this provision the articles which may be subject to duty-free treatment under the CBI. The first part of the definition is derived from the basic requirements of section 213(a)(1) of the Act, and the second part is intended to ensure that the definition is complete by listing the five exceptions set forth in section 213(b) of the Act and

the two additional exceptions set forth in the Presidential Proclamation and by referring to those provisions in the Act under which the President may suspend or withdraw duty-free treatment.

(3) *Wholly the growth, product, or manufacture of a beneficiary country.* This definition is intended, in part, to clarify the distinction made in section 213(a)(2) of the Act between articles "wholly" the growth, product, or manufacture of a beneficiary country and other articles not entirely grown, produced, or manufactured in the beneficiary country of origin. This definition is based on the position of Customs concerning the interpretation of similar language in § 10.176 and § 10.177, Customs Regulations (19 CFR 10.176, 10.177), relating to the GSP.

(4) Entered. This definition is taken directly from section 212(a)(1)(B) of the Act.

Section 10.192—Claim for Exemption From Duty Under the CBI

This section is based on § 10.172, Customs Regulations (19 CFR 10.172), relating to the GSP. In addition to minor editorial amendments, this text differs from the GSP provision only in that (1) the prefix "C" will be used in a CBI context as distinguished from the prefix "A" used for the GSP, and (2) for the reasons stated in the discussion of § 10.198 below, reference is made to the declaration of the manufacturer or exporter and the endorsement by the importer or consignee rather than to a Certificate of Origin.

Section 10.193—Imported Directly

It should be noted that although under both the GSP and the CBI an article must be "imported directly" in order to qualify for duty-free treatment, the CBI differs from the GSP in that the country of exportation and the country where the article was grown, produced, or manufactured (i.e., the country of origin of the article) do not necessarily have to be the same. This is due to the fact that while in the GSP statute (19 U.S.C. 2463(b)) reference is made to an article which is imported directly from "a beneficiary developing country" and to the cost or value of materials produced in "the beneficiary developing country" and to the direct costs of processing operations performed in "such beneficiary developing country," the corresponding language in section 213(a)(1) of the Act refers in each case simply to "a beneficiary country." Thus, for purposes of the CBI the "imported directly" requirement is not, technically speaking, part of the country of origin criteria. For this reason the "imported directly" requirement is specifically set forth in this section rather than in § 10.195 which deals with the country of origin criteria.

The text of this section is based on section 10.175, Customs Regulations (19 CFR 10.175), relating to the GSP, as amended by T.D. 83-144 published in the **Federal Register** on June 28, 1983 (48 FR 29683). However, in addition to various editorial amendments to conform to a CBI context, this text differs from the GSP provision in the following respects: (1) In subsection (a) reference is made to direct shipment from "any" beneficiary country to clarify that under the Act direct importation is not restricted to any specific beneficiary country; (2) various references are made to articles shipped through a "non-beneficiary" country, again to clarify that shipment through any beneficiary country would meet the direct importation requirement; (3) a provision similar to § 10.175(c), Customs Regulations, relating to the GSP, has not been included since shipment through a free trade zone in a beneficiary country is in effect covered by subsection (a); and (4) in subsection (c)(5) (§ 10.175(d)(5), Customs Regulations, relating to the GSP), reference is made to the declaration of the manufacturer or exporter and the endorsement of the importer or consignee rather than to a Certificate of Origin Form A in order to align on the provisions of § 10.198.

Section 10.194—Evidence of Direct Shipment

Subject to several minor editorial amendments, this section corresponds exactly to § 10.174, Customs Regulations (19 CFR 10.174), relating to the GSP.

Section 10.195—Country of Origin Criteria

Although this section corresponds to § 10.176, Customs Regulations (19 CFR 10.176), relating to the GSP, there are a number of differences between the two sections which are discussed below.

Subsection (a). The first and second sentences are based on the provisions specifically required to be inserted in the regulations under section 213(a)(2) of the Act. The second sentence has been drafted to clarify that the statutory limitation concerning combining, packaging, or diluting operations has reference to the origin of the article or material rather than to entitlement to duty-free treatment as such. Given the statutory reference to "no article or material," this interpretation is important insofar as the distinction between articles and materials is concerned (see the discussion of § 10.196 below) and is supported by the following statement found on page 34 of Senate Report No. 98-58 of the Committee on Finance:

> These rules shall provide that the article must be wholly the growth, product, or manufacture of a beneficiary country, or a new or different article of commerce produced in it. Specifically, this formulation excludes products merely packaged or combined in the country, or merely diluted by a liquid that does not materially alter the article's essential character.

The third sentence merely sets forth the 35 percent value-added requirement contained in section 213(a)(1)(B) of the Act which is essentially the same as the value-added requirement set forth in the GSP statute and in the Customs Regulations relating to the GSP. For the reasons set forth in the discussion of § 10.193 above, no reference is made to the "imported directly" requirement in this subsection.

Subsection (b). This subsection has no counterpart in the Customs Regulations relating to the GSP and is based on a provision contained in section 213(a)(1) of the Act. Although the second sentence is not based on the Act itself, this provision is deemed necessary to clarify that in the case of the United States Virgin Islands it would be necessary to return the article to a beneficiary country prior to its importation into the United States in order to comply with the imported directly requirement. Since Puerto Rico is within the customs territory of the United States, the imported directly requirement would be satisfied even though value is added in Puerto Rico after final exportation of the article from a beneficiary country (see the discussion § 10.198(a)(3) below). Thus, Puerto Rico is not mentioned in this context.

Subsection (c). As is the case with subsection (b), this subsection has no counterpart in the Customs Regulations relating to the GSP and is based on a provision contained in section 213(a)(1) of the Act.

Subsection (d). This provision is based on § 10.176(c), Customs Regulations (19 CFR 10.176(c)). Although this text is somewhat shorter in order to correspond to a CBI context, the effect is entirely the same as that of the GSP provision.

Section 10.196—Cost or Value of Materials Produced in a Beneficiary Country or Countries

This section corresponds to § 10.177, Customs Regulations (19 CFR 10.177). However, the text departs from the GSP provision as explained below.

Subsection (a). This subsection represents a considerable expansion of § 10.177(a), Customs Regulations,

relating to the GSP and is specifically intended to incorporate the basic provisions of T.D. 76–100, published in the **Federal Register** on April 6, 1976 (41 FR 14547). This T.D. sets forth the principles that Customs has consistently applied for purposes of determining compliance with the 35 percent value-added requirement under the GSP. The inclusion of the principles set forth in T.D. 76–100 is believed to be necessary in order to avoid interpretative difficulties which have arisen in connection with the GSP provisions. This approach appears to be appropriate since the Senate and House Committee Reports make clear that the origin requirements under the CBI are intended to be the same as the origin requirements as administered under the GSP. The reference in this subsection to "materials" produced in a beneficiary country or countries is intended to clarify the distinction, also made in section 213(a)(2) of the Act, between, on the one hand, imported articles to which duty-free treatment may apply and, on the other hand, those materials incorporated in such an article which may be counted toward the 35 percent value-added requirement (see also the discussion of § 10.195(a) above). The specific reference to only § 10.195 at the beginning of this subsection is intended to put this subsection in the proper context, since the provisions of this subsection relate specifically to one element of the country of origin criteria set forth in § 10.195(a).

The four examples included are intended to demonstrate application of the provisions of this subsection and are based on positions taken by Customs in numerous rulings issued under the GSP. The first example shows a case falling within subsection (a)(1) and is intended to indicate that the origin of a material may be cumulated between two or more beneficiary countries. The second example sets forth a case where the material does not fall within either subsection (a)(1) or subsection (a)(2). The third example is an extension of the second example and shows how further processing will cause a material to fall within subsection (a)(2). It should also be noted that the cutting and sewing operations preceding the assembly operation in the example are sufficient to take the material beyond the "simple combining" operations mentioned in § 10.195(a) and discussed at page 13 of House Report No. 98–266 of the Committee on Ways and Means. The fourth example covers another case falling within subsection (a)(1) and is specifically intended to show the relationship between § 10.195(b) and this subsection.

Subsection (b). Although this provision is based on § 10.177(b), Customs Regulations, the word "article" appearing in the GSP provision has been changed to read "material" since in this context a reference to an "article" appears to be inappropriate.

Subsection (c). Subject to several editorial amendments to correspond to a CBI context, this subsection is equivalent to § 10.177(c), Customs Regulations. The only amendment of consequence concerns subsection (c)(2)(i) from which the word "assembly" has been deleted in order to reflect the limitation set forth in section 213(a)(2) of the Act and in § 10.195(a).

Section 10.197—Direct Costs of Processing Operations Performed in a Beneficiary Country or Countries

In consideration of the fact that section 213(a)(3) of the Act was taken directly from § 10.178, Customs Regulations (19 CFR 10.178), this section incorporates the entire text of the GSP provision. Although subsections (a) (3) and (4) of the GSP provisions were not incorporated in the Act, they have been retained in the regulation relating to the CBI, since the statutory provision is not all inclusive and those subsections appear to fall within the intent of the statutory language. The only departure from the GSP provision concerns the inclusion in this text of the words which appear in the second sentence of subsection (a) immediately after the words "but are not limited to". This qualification appears necessary to avoid an anomolous situation under which certain costs falling within one of the specific items in the regulation would nevertheless not be includable in the appraised value of the imported article, thereby leaving open the possiblility that costs countable toward the 35 percent value-added requirement would bear a disproportionately high relationship to the appraised value of the article.

Section 10.198—Evidence of Country of Origin

Although this section is intended to serve the same purpose as § 10.173, Customs Regulations (19 CFR 10.173), relating to the GSP, it should be noted that use of a Certificate of Origin Form A is not contemplated for purposes of the CBI. The Form A is used for the GSP primarily for the reason that it had already been accepted by other countries applying a GSP program when the United States adopted the GSP. There is no similar direct precedent in the case of the CBI which is purely an American program. Moreover, Customs is of the opinion that the GSP Form A approach should not be adopted for the CBI since a procedure involving a certification by a governmental authority and a declaration by the exporter does not provide Customs with a sufficient basis for undertaking enforcement proceedings against the importer for an intentional or negligent misstatement of material facts. It has therefore been determined that a better approach would be to require a declaration of the manufacturer or exporter in conjunction with an endorsement thereof by the importer or consignee, similar to the approach taken in § 10.24(a), Customs Regulations (19 CFR 10.24(a)), relating to the entry of merchandise under item 807.00, TSUS. It is noted that this approach is consistent with the terms of the Presidential Proclamation implementing duty-free treatment under the CBI.

The declaration of the manufacturer or exporter, as set forth in subsection (a), has been drafted to ensure that all information will be provided with the entry to establish compliance with the country of origin criteria. As a practical matter, in most cases only the manufacturer or exporter would be able to supply this information. The text has been drafted so that the case of articles wholly the growth, product, or manufacture of one beneficiary country, it will merely be necessary to insert the name of the country in the first part of the text and to complete the first two columns below. The "P" designation for such articles in the second column has been adopted from the GSP Form A. All other articles for which duty-free treatment is claimed will require insertion of the name of the country of production or manufacture in the second part of the text and, in most cases, completion of all six columns. The "Y" designation to be included in the second column in such cases is also adopted from the GSP Form A. It will be noted that the first four columns relate to the imported article. The third column is intended both to ensure that the article is in fact a product of that country within the meaning of § 10.195(a) and to describe processing operations, if any, performed on the article in any other beneficiary countries. The fourth column is intended to reflect all costs of such processing operations so that they may be counted toward the 35 percent value-added requirement. The fifth and sixth columns have reference to the requirements set forth in § 10.196 concerning materials incorporated in the imported article whose costs may be counted toward the 35 percent value-

added requirement. As concerns the fourth and sixth columns, it is assumed that it would be easier for the manufacturer or exporter to insert a monetary figure rather than the percentage required on the GSP Form A since he would not in all cases know the appraised value of the article at the time of importation. It would then be the responsibility of Customs to total the costs from those two columns and to compare that total to the appraised value of the article in order to determine compliance with the 35 percent value-added requirement. The declaration has been designed to allow different articles to be included therein, whether or not they are wholly the growth, product, or manufacture of the country in question. However, in any case where a shipment covers articles which are products of different countries, a separate declaration will have to be prepared for each country of origin unless there are only two such countries and one can be named in the first part of the text and the other in the second part.

The text of the endorsement by the importer or consignee is based on the text contained in § 10.24(a)(2), Customs Regulations (19 CFR 10.24(a)(2)), as well as on the declaration by the exporter set forth in box 12 of the GSP Form A. It is intended that a separate endorsement shall accompany each declaration.

It should be noted that in subsections (a) and (b) reference is made to "formal" and "informal" entries rather than to shipments valued in excess of "250" dollars or valued at "250" dollars or less as contained in the corresponding GSP provisions. Although the net effect is the same, this approach appears preferable in order to avoid the need for amending the regulations at a later date in the event that the line of demarcation between formal and informal entries, as set forth in § 143.21, Customs Regulations (19 CFR 143.21), is changed at a future date. Subsection (a)(3), which has no counterpart in the GSP provisions, has been inserted to ensure that all information pertaining to the 35 percent value-added requirement is included since such information in the situation described therein could not be included in the declaration accompanying the goods when they are exported from the beneficiary country (see the discussion of § 10.195(b) above). Subsections (a)(4) through (a)(7) are identical to § 10.173(a)(2) through (a)(5) of the GSP provisions. Finally, except as indicated above, the first sentence of subsection (b) is identical to § 10.173(b), Customs Regulations, relating to the GSP. The second sentence has been added to clarify that entries under the CBI may be subject to the provisions of section 143.22, Customs Regulations (19 CFR 143.22).

Comments

Before adopting the interim regulations as a final rule, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on normal business days between the hours of 9:00 a.m. to 4:30 p.m. at the Regulations Control Branch, U.S. Customs Service Headquarters, Room 2426, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Inapplicability of Notice and Delayed Effective Date Provisions

Pursuant to the provisions of 5 U.S.C. 553(a) public notice is inapplicable to this regulation because it is within the foreign affairs function of the United States. Not having regulations implementing the duty-free aspects of the CBI in effect on the effective date of the Presidential Proclamation extending benefits of the Act to beneficiary Caribbean and Central American countries would provoke undesirable international consequences. For the above reason it is also believed that pursuant to 5 U.S.C. 553(b)(B), notice and public procedure are impracticable, unnecessary, and contrary to the public interest.

Further, for the reason set forth above, and because the regulations implement procedures granting duty-free treatment for certain articles, thus conferring substantial benefits upon the beneficiary countries and public in general, it is believed good cause exists under the provisions of 5 U.S.C. 553(d)(1) and (d)(3) for dispensing with the normal 30 day delayed effective date requirement.

Executive Order 12291

This interim regulation is not a "major rule" as defined by section 1(b) of Executive Order 12291. Accordingly a regulatory impact analysis is not required under E.O. 12291.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this document because the regulation will not have a significant economic impact on a substantial number of small entities. Any economic impact flows directly from the Caribbean Basin Economic Recovery Act and not from the implementing regulations. The regulations are not expected to: have significant secondary or incidental effects on a substantial number of small entities; impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities; or generate significant interest or attention from entities through comments.

Accordingly, it is hereby certified under the provisions of section 3, Regulatory Flexibility Act, that the interim regulations will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The interim regulation is subject to the Paperwork Reduction Act of 1980, Pub. L. 96-511. Accordingly, applicable sections of the interim regulation have been cleared by the Office of Management and Budget and assigned control number 1515-0112.

Drafting Information

The principal author of this document was John Elkins, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices and the Office of the United States Trade Representative participated in its development.

List of Subjects in 19 CFR Part 10

Caribbean Basin initiative, Customs duties and inspection, Imports.

Amendments to the Regulations

Part 10, Customs Regulations (10 CFR Part 10), is amended as set forth below.

Approved: December 23, 1983.

William Von Raab,

Commissioner of Customs.

J. M. Walker, Jr.,

Assistant Secretary of the Treasury.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. The authority citation for these provisions reads as follows:

Authority: R. S. 251, as amended, secs. 623, 624, 46 Stat. 759, 211 *et seq.*, 97 Stat. 384 *et seq.* (19 U.S.C. 66, 1523, 1624, 2701 *et seq.*)

2. Part 10, Customs Regulations, is amended by adding new §§ 10.191 through 10.198 and the Centerheading "Caribbean Basin Initiative" to read as follows:

Caribbean Basin Initiative

Sec.

10.191 General.
10.192 Claims for exemption from duty under the CBI.

Sec.
10.193 Imported directly.
10.194 Evidence of direct shipment.
10.195 Country of origin criteria.
10.196 Cost or value of materials produced in a beneficiary country or countries.
10.197 Direct costs of processing operations performed in a beneficiary country or countries.
10.198 Evidence of country of origin.

Part 10, Customs Regulations, is amended by adding new §§ 10.191 through 10.198 to read as follows:

Caribbean Basin Initiative

§ 10.191 General.

(a) *Statutory authority.* Subtitle A, Title II, Pub. L. 98–67, entitled the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701–2706) and referred to as the Caribbean Basin Initiative (CBI), authorizes the President to proclaim duty-free treatment for all eligible articles from any beneficiary country.

(b) *Definitions.*— (1) *Beneficiary country.* For purposes of § 10.191 through § 10.198 and except as otherwise provided in § 10.195(b), the term "beneficiary country" means any country or territory or successor political entity with respect to which there is in effect a proclamation by the President designating such country, territory or successor political entity as a beneficiary country in accordance with section 212(a)(1)(A) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(a)(1)(A)).

(2) *Eligible articles.* For purposes of § 10.191(a), the term "eligible articles" means any merchandise which is imported directly from a beneficiary country as provided in § 10.193 and which meets the country of origin criteria set forth in § 10.195. However, the following merchandise shall not be considered eligible articles entitled to duty-free treatment under the CBI:

(i) Textile and apparel articles which are subject to textile agreements.

(ii) Footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel not designated on August 5, 1983, as eligible articles for the purpose of the Generalized System of Preferences under Title V, Trade Act of 1974, as amended (19 U.S.C. 2461–1465).

(iii) Tuna, prepared or preserved in any manner, in airtight containers.

(iv) Petroleum, or any product derived from petroleum, provided for in Part 10, Schedule 4, Tariff Schedules of the United States (TSUS).

(v) Watches and watch parts (including cases, bracelets and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which TSUS column 2 rates of duty apply.

(vi) Sugars, sirups, and molasses, provided for in item 155.20 or item 155.30, TSUS, to the extent that importation and duty-free treatment of such articles are limited by Headnote 4, Schedule A, Part 10, Schedule 1, TSUS.

(vii) Articles subject to the provisions of Subpart A, Part 2, Appendix, TSUS, to the extent that such provisions have not been modified or terminated by the President pursuant to section 213(e)(5) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(e)(5)).

(viii) Merchandise for which duty-free treatment under the CBI is suspended or withdrawn by the President pursuant to sections 213 (c)(2), (e)(1), or (f)(3) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703 (c)(2), (e)(1), or (f)(3)).

(3) *Wholly the growth, product, or manufacture of a beneficiary country.* For purposes of § 10.191 through § 10.198, the expression "wholly the growth, product, or manufacture of a beneficiary country" refers both to any article which has been entirely grown, produced, or manufactured in a beneficiary country or two or more beneficiary countries and to all materials incorporated in an article which have been entirely grown, produced, or manufactured in any beneficiary country or two or more beneficiary countries, as distinguished from articles or materials imported into a beneficiary country from a non-beneficiary country whether or not such articles or materials were substantially transformed into new or different articles of commerce after their importation into the beneficiary country.

(4) *Entered.* For purposes of § 10.191 through § 10.198, the term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

§ 10.192 Claim for exemption from duty under the CBI.

A claim for an exemption from duty on the ground that the CBI applies shall be allowed by the appropriate district director only if he is satisfied that the requirements set forth in this section and § 10.193 through § 10.198 have been met. Duty-free treatment may be claimed at the time of filing the entry summary by placing the symbol "C" as a prefix to the TSUS item number for each article for which such treatment is claimed. If duty-free treatment is claimed subsequent to the time of filing the entry summary but before liquidation becomes final, the filing of the declaration and endorsement as required in § 10.198 shall constitute the written claim.

§ 10.193 Imported directly.

To qualify for treatment under the CBI, an article shall be imported directly from a beneficiary country into the customs territory of the United States. For purposes of § 10.191 through § 10.198 the words "imported directly" means:

(a) Direct shipment from any beneficiary country to the United States without passing through the territory of any other country; or

(b) Except as provided in paragraph (c) of this section, if shipped from any beneficiary country to the United States through the territory of any non-beneficiary country, the article shall not have entered into the commerce of any non-beneficiary country while en route to the United States, and the invoices, bills of lading, and other documents connected with the shipment shall show the United States as the final destination; or

(c) If shipped from any beneficiary country to the United States through the territory of any non-beneficiary country, provided that the article:

(1) Is wholly the growth, product, or manufacture of a beneficiary country;

(2) Remains under the control of the customs authorities of the intermediate country;

(3) Does not enter into the commerce of the intermediate country except for sale other than at retail, and the district director is satisfied that the importation results from the original commercial transaction between the importer and the producer or the latter's sales agent;

(4) Has not been subjected to operations other than loading and unloading, and other activities necessary to preserve the article in good condition; and

(5) Complies with the origin requirements for goods exported to the United States under the CBI, as stated in the declaration of the manufacturer or exporter and in the endorsement of the importer or consignee required under § 10.198.

In addition, the importer shall provide, upon request, evidence sufficient to satisfy the appropriate Customs official that the shipment complies with the requirements of this paragraph.

§ 10.194 Evidence of direct shipment.

(a) *Documents constituting evidence of direct shipment.* The district director may require that appropriate shipping papers, invoices, or other documents be

submitted within 60 days of the date of entry as evidence that the articles were "imported directly", as that term is defined in § 10.193. Any evidence of direct shipment required shall be subject to such verification as deemed necessary by the district director.

(b) *Waiver of evidence of direct shipment.* The district director may waive the submission of evidence of direct shipment when otherwise satisfied, taking into consideration the kind and value of the merchandise, that the merchandise clearly qualifies for treatment under the CBI.

§ 10.195 Country of origin criteria.

(a) *Articles produced in a beneficiary country.* Any article which is either (1) wholly the growth, product, or manufacture of a beneficiary country or (2) a new or different article of commerce which has been grown, produced, or manufactured in a beneficiary country, may qualify for duty-free entry under the CBI. However, no article or material shall be considered to have been grown, produced, or manufactured in a beneficiary country by virtue of having merely undergone (i) simple combining or packaging operations, or (ii) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article. Moreover, duty-free entry under the CBI may be accorded to an article only if the sum of the cost or value of the materials produced in a beneficiary country or countries, plus the direct costs of processing operations performed in a beneficiary country or countries, is not less than 35 percent of the appraised value of the article at the time it is entered.

(b) *Commonwealth of Puerto Rico and United States Virgin Islands.* For purposes of determining the percentage referred to in paragraph (a) of this section, the term "beneficiary country" includes the Commonwealth of Puerto Rico and the United States Virgin Islands. However, any cost or value of materials or direct costs of processing operations attributable to the Virgin Islands must be included in the article prior to its final exportation from a beneficiary country to the United States.

(c) *Materials produced in the United States.* For purposes of determining the percentage referred to in paragraph (a) of this section, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered may be attributed to the cost or value of materials produced in the customs territory of the United States (other than the Commonwealth of Puerto Rico).

(d) *Articles wholly grown, produced, or manufactured in a beneficiary country.* Any article which is wholly the growth, product, or manufacture of a beneficiary country, including articles produced or manufactured in a beneficiary country exclusively from materials which are wholly the growth, product, or manufacture of a beneficiary country or countries, shall normally be presumed to meet the requirements set forth in paragraph (a) of this section.

§ 10.196 Cost or value of materials produced in a beneficiary country or countries.

(a) *"Materials produced in a beneficiary country or countries" defined.* For purposes of § 10.195, the words "Materials produced in a beneficiary country or countries" refer to those materials incorporated in an article which are either:

(1) Wholly the growth, product, or manufacture of a beneficiary country or two or more beneficiary countries; or

(2) Subject to the limitations set forth in § 10.195(a), substantially transformed in any beneficiary country or two or more beneficiary countries into a new or different article of commerce which is then used in any beneficiary country in the production or manufacture of a new or different article which is imported directly into the United States.

Example 1. A raw, perishable skin of an animal grown in one beneficiary country is sent to another beneficiary country where it is tanned to create nonperishable "crust leather"; the tanned product is then imported directly into the United States. Since the material of which the imported article is composed is wholly the growth, product, or manufacture of one of more beneficiary countries, the entire cost or value of that material may be counted toward the 35 percent value requirement set forth in section 10.195.

Example 2. A raw, perishable skin of an animal grown in a non-beneficiary country is sent to another beneficiary country where it is tanned to create nonperishable "crust leather"; the tanned skin is then imported directly into the United States. Although the tanned skin represents a new or different article of commerce produced in a beneficiary country within the meaning of § 10.195(a), the cost or value of the tanned skin may not be counted toward the 35 percent value requirement since (1) the tanned material of which the imported article is composed is not wholly the growth, product, or manufacture of a beneficiary country and (2) the tanning operation creates the imported article itself rather than an intermediate article which is then used in the beneficiary country in the production or manufacture of an article imported into the United States.

Example 3. A raw, perishable skin of an animal grown in a non-beneficiary country is sent to a beneficiary country where it is tanned to create nonperishable "crust leather"; the tanned material is then cut, sewn and assembled with a metal buckle imported from a non-beneficiary country to create a finished belt which is imported directly into the United States. Since the operations performed in the beneficiary country involve both the substantial transformation of the raw skin into a new or different article and the use of that intermediate article in the production or manufacture of a new or different article imported into the United States, the cost or value of the tanned material used to make the imported article may be counted toward the 35 percent value requirement. However, the cost or value of the metal buckle imported into the beneficiary country may not be counted toward the 35 percent value requirement since the buckle was not substantially transformed in the beneficiary country into a new or different article prior to its incorporation in the finished belt.

Example 4. A raw, perishable skin of an animal grown in United States Virgin Islands is sent to a beneficiary country where it is tanned to create nonperishable "crust leather"; which is then imported directly into the United States. The tanned skin represents a new or different article of commerce produced in a beneficiary country within the meaning of § 10.195(a), and under § 10.195(b) the raw skin from which the tanned product was made is considered to have been grown in a beneficiary country for the purpose of applying the 35 percent value requirement. Therefore, the tanned material of which the imported article is composed is considered to be wholly the growth, product, or manufacture of one of more beneficiary countries with the result that the entire cost or value of that material may be counted toward the 35 percent value requirement.

(b) *Questionable origin.* When the origin of a material either is not ascertainable or is not satisfactorily demonstrated to the appropriate district director, the material shall not be considered to have been grown, produced, or manufactured in a beneficiary country.

(c) *Determination of cost or value of materials produced in a beneficiary country.* (1) The cost or value of materials produced in a beneficiary country or countries includes:

(i) The manufacturer's actual cost for the materials;

(ii) When not included in the manufacturer's actual cost for the materials, the freight, insurance, packing, and all other costs incurred in transporting the materials to the manufacturer's plant;

(iii) The actual cost of waste or spoilage (material list), less the value of recoverable scrap; and

(iv) Taxes and/or duties imposed on the materials by any beneficiary country, provided they are not remitted upon exportation.

(2) Where a material is provided to the manufacturer without charge, or at less than fair market value, its cost or value shall be determined by computing the sum of:

(i) All expenses incurred in the growth, production, or manufacture of the material, including general expenses;

(ii) An amount for profit; and

(iii) Freight, insurance, packing, and all other costs incurred in transporting the material to the manufacturer's plant.

If the pertinent information needed to compute the cost or value of a material is not available, the appraising officer may ascertain or estimate the value thereof using all reasonable ways and means at his disposal.

§ 10.197 Direct costs of processing operations performed in a beneficiary country or countries.

(a) *Items included in the direct costs of processing operations.* As used in § 10.195 and § 10.198, the words "direct costs of processing operations" mean those costs either directly incurred in, or which can be reasonably allocated to, the growth, production, manufacture, or assembly of the specific merchandise under consideration. Such costs include, but are not limited to, the following to the extent that they are includable in the appraised value of the imported merchandise:

(1) All actual labor costs involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe beneifts, on-the-job training, and the cost of engineering, supervisory, quality control, and similar personnel;

(2) Dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise;

(3) Research, development, design, engineering, and blueprint costs insofar as they are allocable to the specific merchandise and;

(4) Costs of inspecting and testing the specific merchandise.

(b) *Items not included in the direct costs of processing operations.* Those items which are not included within the meaning of the words "direct costs of processing operations" are those which are not directly attributable to the merchandise under consideration or are not "costs" of manufacturing the product. These include, but are not limited to:

(1) Profit; and

(2) General expenses of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, and salemen's salaries, commissions, or expenses.

§ 10.198 Evidence of country of origin.

(a) *Shipments covered by a formal entry—(1) Declaration of manufacturer or exporter.* Except as provided in paragraph (a)(7) of this section, the importer or consignee of a shipment of merchandise covered by a formal entry for which treatment under the CBI is claimed shall file with the district director with the entry summary a declaration of the manufacturer or exporter in substantially the following form:

Declaration of Manufacturer or Exporter

I, ——— (name), hereby declare (1) that the articles described below and identified by the letter P are wholly the growth, product, or manufacture of ——— (country), and/or (2) that the articles described below and identified by the letter Y (a) were produced or manufactured in ——— (country) by means of processing operations performed in that country as set forth below and were also subjected to processing operations in the other beneficiary country or countries (including the Commonwealth of Puerto Rico and the United States Virgin Islands) as set forth below and (b) incorporate materials produced in the country named above or in any other beneficiary country or countries (including the Commonwealth of Puerto Rico and the United States Virgin Islands) or in the United States (other than the Commonwealth of Puerto Rico) as set forth below:

Marks of identification, numbers	Description of article and quantity	Processing operations		Materials produced in a beneficiary country or in the United States	
		Description of processing operations and country of processing	Direct costs of processing operations	Description of material and country of production	Cost or value of material

Date ———
Address ———
Signature ———
Title ———

(2) *Endorsement by importer or consignee.* Except as provided in paragraph (a)(7) of this section, the importer or consignee of a shipment shall attach to the declaration described above an endorsement in substantially the following form:

Endorsement by Importer or Consignee

I declare that to the best of my knowledge and belief the attached declaration, and any other information submitted herewith, or otherwise supplied or referenced to, is correct in every respect and there has been compliance with all requirements specified for those goods for duty-free treatment under the Caribbean Basin Initiative.

Date ———
Address ———
Signature ———
Title ———

(3) *Value added in Puerto Rico.* In a case involving materials incorporated in, or processing operations performed on, an article in the Commonwealth of Puerto Rico after final exportation of the article from a beneficiary country, a separate declaration and endorsement prepared by the appropriate parties shall be filed with the entry summary setting forth all details concerning the nature of, and cost or value of, such materials and processing operations.

(4) *Duplicate declaration or endorsement.* In the event of the loss, theft, or destruction of a declaration or endorsement, the district director shall accept in connection with the entry summary a duplicate declaration or endorsement prepared and signed by the appropriate party and marked with the word "duplicate" at the top thereof. The duplicate shall bear the date of issue of the original declaration or endorsement and will be effective from that date.

(5) *Release under bond.* If the required declaration or endorsement properly completed, or a duplicate thereof as described in subparagraph (4) of this paragraph, is not filed with the entry summary, the entry summary shall be accepted, subject to compliance with the requirements set forth in § 10.192 through § 10.197, only if the importer or consignee gives a bond on Customs Form 7551, 7553, or 7595 for the production of the declaration or endorsement. The bond shall be in the amount required under § 113.14 of this chapter. Within 60 days after filing the entry summary, or such additional period as the district director may allow for good cause shown, the importer or consignee shall deliver to the district director the declaration or endorsement. If the declaration or endorsement is not delivered to the district director within 60 days of the date of filing the entry summary or such additional period as

the district director, for good cause, may allow, the district director shall treat the entry as dutiable and may cancel the bond or the charge against the bond, as appropriate, in accordance with § 172.22(c) of this chapter.

(6) *Verification of evidence.* Evidence of the country of origin required under this paragraph shall be subject to such verification as the district director deems necessary.

(7) *Waiver of declaration and endorsement.* The district director may waive production of the declaration and endorsement when he is otherwise satisfied that the merchandise qualifies for duty-free entry under the CBI.

(b) *Shipments covered by an informal entry.* Although the filing of a declaration and endorsement is not required for shipments covered by an informal entry, the district director may require such other evidence of the country of origin as deemed necessary. However, the filing of a declaration and endorsement may be required in a case involving consolidation of individual shipments under § 143.22 of this chapter. (Approved by the Office of Management and Budget under control number 1515–0112)

[FR Doc. 84–245 Filed 1–4–84; 8:45 am]

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Title 3—

The President

Proclamation 5144 of January 3, 1984

National Consumers Week, 1984

By the President of the United States of America

A Proclamation

The American consumer has been blessed by the freedom to participate in a social, economic, and governmental system that is unparalleled in any other land. Since the founding of this country, Americans have benefitted from the fruits of a free society. We are free to learn, free to choose a vocation, free to produce, and free to purchase. These fundamental freedoms and the willingness of our people to work hard have helped make America great. Americans are prosperous and enjoy a standard of living that is the envy of the world. It is appropriate to focus special attention on consumers and the important role they play in our economic and social system.

We have emerged from a recession on a wave of consumer optimism that dramatically proves the truth of this year's slogan—"Consumers Mean Business." Our economic recovery program has dramatically lowered inflation and interest rates, giving buyers more disposable income. Consumers are reacting to the Nation's resurgent economy by purchasing homes, automobiles, durable goods, and those products or services which enhance the quality of life. With greater purchasing power, it is important that consumers have access to the latest information.

Consumers need to understand the market economy, both here and abroad, and their options for earning, spending, saving, and investing income. Increased consumer and economic education in schools, workshops, the media, and the distribution of informative materials from government and business give consumers a greater appreciation of their rights and responsibilities in our incomparable American economy.

Those who are sensitive to consumer needs and services and recognize that well-informed consumers mean business—repeat sales and sound market relationships—can expect to be rewarded with continuing opportunities to serve and profit. Wise consumers, properly informed and working with business representatives at all levels, can assure that our marketplace operates on mutual trust and fairness.

By working together in the voluntary spirit that has always distinguished the character of Americans in all walks of life, we strengthen our free enterprise system and secure basic consumer rights for all.

Let us show appreciation during National Consumers Week for our many freedoms and work together to enhance the consumer's economic equity in the marketplace.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning April 23, 1984, as National Consumer's Week.

IN WITNESS WHEREOF, I have hereunto set my hand this 3rd day of Jan., in the year of our Lord nineteen hundred and eighty–4, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 84–397
Filed 1–4–84; 11:24 am]
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Proclamation 5145 of January 3, 1984

Small Business Week, 1984

By the President of the United States of America

A Proclamation

America's strength lies in the ingenuity and perseverance of its people. No other group of Americans better exemplifies these qualities than the Nation's small business owners, who contribute daily to our economic well-being.

The willingness of these individuals to embrace the challenges of competition and independence ensures that our lives are enriched with new opportunities and innovations. When their resourcefulness and resilience are melded with an economic system that allows them to pursue their goals and harness the dynamic forces of the marketplace, new products and technologies are developed, jobs are created, and the young and unskilled are trained for more productive lives. With each new opportunity our commitment to liberty is strengthened; with each new accomplishment our faith in ourselves is reaffirmed.

Entrepreneurs are the standard-bearers of economic progress and the stalwarts of the energizing forces of the free market. As we embark upon a new era of economic growth and development, we should encourage small business owners by acknowledging their tremendous importance as the mainsprings of continued economic and individual progress for our Nation.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning May 6, 1984, as Small Business Week. I call upon the American people to join with me in saluting the small business owners of our Nation during this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 3rd day of Jan., in the year of our Lord nineteen hundred and eighty-4, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 84-398
Filed 1-4-84; 11:25 am]
Billing code 3195-01-M

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Presidential Documents

Executive Order 12457 of January 3, 1934

President's Commission on Industrial Competitiveness

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), and in order to increase the membership and extend the life of the President's Commission on Industrial Competitiveness, it is hereby ordered that Executive Order No. 12428 of June 28, 1983, as amended, is further amended as follows:

(a) The second sentence of Section 1(a) shall read: "The Commission shall be composed of no more than thirty-five members appointed or designated by the President.".

(b) Section 4(b) shall read: "The Commission shall terminate on December 31, 1984, unless sooner extended.".

Ronald Reagan

THE WHITE HOUSE,
January 3, 1984.

[FR Doc. 84-447
Filed 1-4-84; 2:28 pm]
Billing code 3195-01-M

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Rules and Regulations

Federal Register
Vol. 49, No. 4
Friday, January 6, 1984

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 413

[Amendment No. 2]

Texas Citrus Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Texas Citrus Crop Insurance Regulations (7 CFR Part 413), effective for the 1984 and succeeding crop years, by (1) changing the policy to make it easier to read; (2) providing that damage due to fire is only insurable where good grove management practices relating to weed control and tree prunings are carried out; (3) permitting determination of indemnities based on the acreage report rather than at loss adjustment time; (4) providing a coverage if the insured does not select one; (5) adding a 60-day claim for indemnity provision; (6) adding a section regarding appraisals following the end of the insurance policy for unharvested acreage; (7) adding a hail/fire provision for uninsured causes; (8) changing the cancellation/termination dates to conform to farming practices; (9) providing that any change in the policy will be available in the service office by a certain date; (10) providing for unit determination when the acreage report is filed; and (11) adding three sections concerning "descriptive headings," "determinations," and "notices."

In addition, FCIC issues a new subsection in the Texas citrus crop insurance regulations to contain the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The intended effect of this rule is to update the policy for insuring Texas citrus in accordance with Secretary's Memorandum No. 1512–1, requiring a review of the regulations as to need, currency, clarity, and effectiveness, and to comply with OMB regulations requiring publication of OMB control numbers assigned to information collection requirements in these regulations.

EFFECTIVE DATE: January 6, 1984.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981). This action constitutes a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that (1) this action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established by Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

On Thursday, August 4, 1983, FCIC published a notice of proposed rulemaking in the **Federal Register** at 48 FR 35427, amending the policy for insuring citrus in Texas in accordance with the provisions of Secretary's Memorandum No. 1512–1, and issuing a new subsection to contain control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The public was given 60 days in which is submit written comments, data, and opinions on the proposed rule, but none were received. Therefore, with the exception of minor and non-substantive corrections to language, the proposed rule as published at 48 FR 35427 is hereby issued as a final rule to be effective beginning with the 1984 crop year.

List of Subjects in 7 CFR Part 413

Crop insurance, Texas citrus.

Final Rule

PART 413—[AMENDED]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Texas Citrus Corp Insurance Regulations, effective for the 1984 and succeeding crop years, in the following instances:

1. The Authority citation for 7 CFR Part 413 is:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77 as amended (7 U.S.C. 1506, 1516).

2. 7 CFR Part 413 is amended in the Table of Contents thereof by removing the word "Reserved" from § 413.3 and inserting, in its place, the words "OMB control numbers."

3. 7 CFR 413.3 is amended by removing the word "Reserved" in the title thereof and inserting, in its place, the following:

§ 413.3 OMB control numbers.

The information collection requirements contained in these regulations (7 U.S.C. Part 413) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

§ 413.7 [Amended]

4. 7 CFR § 413.7(d) is amended by removing the Texas Citrus Crop

Insurance Policy therein and inserting the following:

Texas Citrus Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

Agreement to insure: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss. a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) adverse weather conditions;

(2) fire;

(3) wildlife;

(4) earthquake;

(5) volcanic eruption; or

(6) direct Mediterranean Fruit Fly damage;

unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(9). Direct Mediterranean Fruit Fly damage shall be actual physical damage to the citrus on the unit which causes such citrus to be unmarketable and shall not include unmarketability of such citrus as a direct result of a quarantine, boycott, or refusal to accept the citrus by and entity without regard to actual physical damage to such citrus.

b. We shall not insure any loss of production due to:

(1) fire, where weeds and other forms of undergrowth have not been controlled or tree pruning debris has not been removed from the grove;

(2) the neglect or malfeasance of you, any member of your household, your tenants or employees;

(3) the failure to follow recognized good citrus grove practices;

(4) damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project; or

(5) any cause not specified in section 1a as an insured loss.

2. Crop, acreage, and share insured. a. The crop insured shall be any of the citrus types listed below which you elect:

Type I—Early and midseason oranges;

Type II—Late oranges (including Temples);

Type III—Grapefruit, except the Star Ruby and Ruby Red varieties;

Type IV—Star Ruby variety of grapefruit; or

Type V—Ruby Red variety of grapefruit;

which are grown on insured acreage and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year shall be that acreage of citrus located on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we shall elect.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured citrus on the date insurance attaches.

d. We do not insure any acreage:

(1) which has not produced an average of 3 tons of oranges or grapefruit per acre the previous year;

(2) which does not have the potential of 3 tons per acre of oranges or grapefruit the crop year following a crop year in which substantial damage occurred;

(3) which does not have acceptable records of production, unless inspected by us and considered acceptable and we agree in writing to insure such acreage;

(4) where the practices carried out are not in accordance with the practices for which the premium rates have been established; or

(5) which is irrigated and an irrigated practice is not provided for in the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3.

e. Insurance shall not attach or be considered to have attached to any acreage of the crop, for the crop year the application is filed until the acreage has been inspected and accepted by us.

f. Where insurance is provided for an irrigated practice:

(1) you shall report as irrigated only the acreage for which you have adequate facilities and water to carry out a good citrus irrigation practice on the date insurance attaches; and

(2) any loss of production caused by failure to carry out a good citrus irrigation practice, except failure of the water supply from an unavoidable cause occurring after the date insurance attaches, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

g. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to the date insurance attaches.

3. Report of acreage, share, number of trees, yield, and practice. You shall report on our form:

a. all the acreage of citrus in the county in which you have a share;

b. the practice;

c. your share on the date insurance attaches;

d. the number of bearing trees;

e. the number of trees topped; and

f. the most recent year's production records for insurable acreage on each unit.

You shall designate separately any acreage that is not insurable and the records of any production from such acreage. You shall report if you do not have a share in any citrus grown in the county. This report shall be submitted annually on or before June 30. We may determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by June 30 we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production guarantees, coverage levels, and prices for computing indemnities. a. The production guarantees, coverage levels, and prices for computing indemnities are in the actuarial table.

b. Coverage level 2 will apply if you do not elect a coverage level.

c. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual premium. a. The annual premium is earned and payable on the date insurance attaches. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time insurance attaches, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.00	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	156	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.
[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest shall accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract shall be transferred to:

(1) the contract of your estate or surviving spouse in case of your death;

(2) the contract of the person who succeeds you if such person had previously participated in the grove operation; or

(3) your contract if you stop grove operations in one county and start grove operations in another county.

d. If participation is not continuous, any premium shall be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a shall be applicable.

6. Deductions for debt. Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period. a. Insurance attaches on December 1 prior to the crop year, except that for the first crop year if we accept the application after that date, insurance shall attach on the tenth day after you sign the application.

b. Insurance ends at the earliest of:

(1) total destruction of the citrus;

(2) harvest;

(3) final adjustment of a loss; or

(4) May 31 of the calendar year following the normal year of bloom.

8. Notice of damage or loss. a. In case of damage or probable loss:

(1) You must give us written notice promptly:

(a) after insured damage to the citrus becomes apparent, giving the date(s) and cause(s) of such damage; or

(b) if you decide not to further care for or harvest any part of the citrus on the unit.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined, immediate notice shall be given. If harvest will begin after the end of the insurance period, notice shall be given on or before the calendar date for the end of the insurance period (see section 7b(4)).

b. You must obtain written consent from us before you destroy any of the citrus which is not to be harvested.

c. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity. a. Any claim for indemnity on a unit shall be submitted to us on our form not later than 60 days after the earliest of:

(1) total destruction of the citrus on the unit;

(2) harvest of the unit; or

(3) the calendar date for the end of the insurance period (see section 7b(4)).

b. We shall not pay any indemnity unless you:

(1) establish the total production of citrus on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit by:

(1) multiplying the insured acreage by the production guarantee;

(2) subtracting therefrom the total production of citrus to be counted (see section 9e);

(3) multiplying the remainder by the price election; and

(4) multiplying this product by your share.

d. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity shall be reduced proportionately.

e. The total production to be counted for a unit shall include all harvested and appraised production.

(1) Any citrus production which is not marketed as fresh fruit and due to insurable causes does not contain 120 or more gallons of juice per ton, shall be adjusted by:

(a) dividing the gallons of juice per ton obtained from damaged citrus by 120; and

(b) multiplying the result by the number of tons of such citrus. If individual records are not available, an average juice content shall be used.

(2) Where the actuarial table provides for and you elect the fresh fruit option, citrus production which is not marketable as fresh fruit due to insurable causes shall be adjusted by:

(a) dividing the value per ton of the damaged citrus by the price of undamaged citrus; and

(b) multiplying the results by the number of tons of such citrus. The applicable price for undamaged citrus shall be: (i) the local market price the week before damage occurred, or (ii) the contract price if the contract was entered into between the producer and buyer before damage occurred.

(3) Any production shall be considered marketed or marketable as fresh fruit unless due to insurable causes, such production was not marketed as fresh fruit.

(4) In the absence of acceptable records to determine the disposition of harvested citrus, we shall determine such disposition and the amount of such production to be counted for the unit.

(5) Any citrus on the ground which is not picked up and marketed shall be considered lost if the damage was due to an insured cause.

(6) Appraised production to be counted shall include:

(a) unharvested production, and potential production lost due to uninsured causes and failure to follow recognized good citrus grove practices;

(b) not less than the guarantee for any acreage which is abandoned, damaged solely by an uninsured cause or destroyed by you without our consent.

(7) Any appraisal we have made on insured acreage shall be considered production to count unless the appraised production:

(a) is not harvested before the harvest of the insured citrus type becomes general in the county;

(b) is harvested; or

(c) is further damaged by an insured cause.

(8) We may determine the amount of production of any unharvested citrus on the basis of field appraisals conducted after the end of the insurance period.

(9) When you have elected to exclude hail and fire as insured causes of loss and the citrus is damaged by hail or fire, appraisals for uninsured causes shall be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire".

(10) The commingled production of units shall be allocated to such units in proportion to our liability on the harvested acreage of each unit.

f. You shall not abandon any acreage to us.

g. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

h. We shall pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no event shall we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the date insurance attaches for any crop year, any indemnity shall be paid to the person(s) we determine to be beneficially entitled thereto.

j. If you have other fire insurance and fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we shall be liable for loss due to fire only for the smaller of:

(1) the amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) the amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud. We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share. If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall have all rights and responsibilities under the contract.

12. Assignment of indemnity. You may only assign to another party your right to an indemnity for the crop year on our form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.) Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery at our option shall belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. Records and access to grove. You shall keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all citrus produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us shall have access to such records and the grove for purposes related to the contract.

15. Life of contract: Cancellation and termination. a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) if deducted from an indemnity claim shall be the date you sign the claim; or

(2) if deducted from payment under another program administered by the United States Department of Agriculture shall be the date such payment was approved.

d. The cancellation and termination dates are November 30.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However*, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

f. The contract shall terminate if no premium is earned for five consecutive years.

16. Contract changes. We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you shall be deemed to have elected. All contract changes shall be available at your service office by August 31 preceding the cancellation date. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms. For the purposes of Texas citrus crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding citrus insurance in the county.

b. "Contiguous land" means land which is touching at any point except that land which is separated by only a public or private right-of-way shall be considered contiguous.

c. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

d. "Crop year" means the period beginning with the date insurance attaches to the citrus crop and extending through normal harvest time, and shall be designated by the calendar year following the year in which the bloom is normally set.

e. "Harvest" means the severance of mature citrus from the tree either by pulling, picking, or severing by mechanical or chemical means, or picking up the marketable fruit from the ground.

f. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

g. "Insured" means the person who submitted the application accepted by us.

h. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

i. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

j. "Tenant" means a person who rents land from another person for a share of the citrus or a share of the proceeds therefrom.

k. "Unit" means all insurable acreage of any one of the citrus types referred to in section 2 of this policy, located on contiguous land, on the date insurance attaches for the crop year:

(1) in which you have a 100 percent share; or

(2) which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the citrus on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement between you and us. Units will be determined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss and we may consider any acreage and share of or reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive headings. The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations. All determinations required by the policy shall be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. Notices. All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Appendix—A

Counties Designated for Texas Citrus Crop Insurance—7 CFR Part 413

The following counties are designated for Texas Citrus Crop Insurance under the provisions of 7 CFR 413.1.

Crop: Citrus—State: Texas

Cameron
Hidalgo
Willacy

Approved by the Board of Directors on April 26, 1983.

Dated: December 28, 1983.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Edward Hews,

Acting Manager.

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7 CFR Part 421

[Amdt. No. 3]

Cotton Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Cotton Crop Insurance Regulations as contained in 7 CFR Part 421, effective for the 1984 and succeeding crop years to make certain changes in the policy for insuring cotton and to issue a new section containing the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The intended effect of this rule is to update the policy for insuring cotton in accordance with Secretary's Memorandum No. 1512–1, requiring a review of the regulations as to the need, currency, clarity, and effectiveness.

EFFECTIVE DATE: These regulations become effective on February 6, 1984.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981), and constitutes a review as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that (1) this action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action will not increase the Federal paperwork burden for individuals, small businesses or other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501, *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established by Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

On Thursday, August 4, 1983, FCIC published a notice of proposed rulemaking in the **Federal Register** at 48 FR 35435. The public was given until September 19, 1983, to submit comments on the proposed rule. FCIC, on October 25, 1983, published a supplemental notice of policy rulemaking at 48 FR 49250, and extended the comment period until November 9, 1983. The purpose of the supplemental notice was to propose additional changes in the cotton crop insurance policy to provide insurance coverage for cotton based solely on actual production records of the producer instead of the previous method of establishing coverage based on area data. There were no comments received.

The method of determining coverages based on actual production records has been strongly urged in recent years by producers and commodity groups who feel that basing yield guarantees for cotton insurance on actual production will assure that those yields reflect the true production capacity of each producer. On June 21, 1983, the Board of Directors of FCIC approved making the actual yield production history a basis for yield guarantees beginning in the 1984 crop year. Prior to that date several meetings were held with producers and commodity groups discussing these changes. The method of using the actual production history also addresses a common complaint among insured producers that their individual yields are far superior to the area yield data on which present guarantees are based.

FCIC also implements a new premium adjustment table in the cotton crop insurance policy to shift the emphasis from premium adjustment based on severity (loss ratio) to frequency of loss. A premium adjustment factor is determined by (a) computing the average yield by using the individual production record, either actual or established, for a base period, (b) multiplying the average yield times the elected level of coverage to establish the guarantee, and (c) comparing the actual yield by year to the guarantee. Any year in which the actual yield falls below the guarantee is considered a "loss year." The number of loss years occurring determines the premium adjustment factor. FCIC also revises the definition for "county," "new ground," and "unit".

For the 1984 crop year, FCIC will determine the premium adjustment factor on a 5-year period (1978–1982). Determining the actual yields for comparison purposes prior to 1978 is considered to be impractical. Using the 5-year period, the maximum number of loss years would be 5. After the 1984 crop year 1978 will continue to be the first year of the base period until a base period of ten years has been reached.

The policy as revised with the changes proposed on August 4, 1983, at 48 FR 35435, and the additional changes proposed on October 25, 1983, at 48 FR 49250, is published herein in its entirety.

List of Subjects in 7 CFR Part 421

Crop insurance, Cotton.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501, *et seq.*), the Federal Crop Insurance Corporation hereby amends the Cotton Crop Insurance Regulations (7 CFR Part 421), effective for the 1984 and succeeding crop years in the following instances:

PART 421—[AMENDED]

1. The Authority citation for 7 CFR Part 421 is:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. 7 CFR Part 421 is amended in the Table of Contents thereof by removing the word "Reserved" from § 421.3, and

inserting, in its place, the words "OMB control numbers assigned pursuant to the Paperwork Reduction Act."

3. 7 CFR Part 421.3 is revised to read as follows:

§ 421.3 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in these regulations (7 CFR Part 421) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

§ 421.7 [Amended]

4. 7 CFR 421.7(d) is amended by removing the Cotton Crop Insurance Policy therein, and substituting the following:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Cotton—Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

AGREEMENT TO INSURE: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;
(2) Fire;
(3) Insects;
(4) Plant disease;
(5) Wildlife;
(6) Earthquake; or
(7) Volcanic eruption;

Unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(6).

b. We shall not insure against any loss of production due to:

(1) The neglect or malfeasance of you, any member of your household, your tenants or employees;

(2) The failure to follow recognized good cotton farming practices;

(3) Damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project; or

(4) Any cause not specified in section 1a as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured shall be American Upland lint cotton which is grown on insured acreage and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year shall be cotton planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we shall elect. The acreage insured of skip-row cotton shall be the acreage occupied by the rows of cotton after eliminating the skipped-row portions, unless other acreage determinations are provided by the actuarial table.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured cotton at the time of planting.

d. We do not insure any acreage:

(1) Which is non-irrigated and from which a hay crop was harvested or on which a small grain crop reached the heading stage in the same calendar year;

(2) Planted in excess of the limitations established by any program administered by the United States Department of Agriculture;

(3) Which is new ground acreage;

(4) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(5) Which is irrigated and an irrigated practice is not provided for by the actuarial table, unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(6) Which is destroyed and we determine it is practical to replant to cotton, and such acreage is not replanted;

(7) Initially planted after the final planting date contained in the actuarial table, unless you agree in writing on our form to coverage reduction;

(8) Planted to a type or variety of cotton not established as adapted to the area or excluded by the actuarial table; or

(9) Which you have elected to exclude, (the exclusion must be by unit, in writing, on our form, and made before the closing date for submitting applications as established by the actuarial table), except that, if a unit is acquired after such date, an exclusion may be filed up to 15 days after the acquisition but not later than the acreage reporting date (see section 3).

e. Where insurance is provided for an irrigated practice:

(1) You shall report as irrigated only the acreage for which you have adequate facilities and water to carry out a good cotton irrigation practice at the time of planting; and

(2) Any loss of production caused by failure to carry out a good cotton irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

f. Acreage which is planted for the development or production of hybrid seed or for experimental purposes is not insured unless we agree, in writing, to insure such acreage.

g. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. Report of acreage, share, and practice.

You shall report on our form:

a. All the acreage of cotton in the county in which you have a share;

b. The practice; and

c. Your share at the time of planting.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any cotton planted in the county. This report shall be submitted annually on or before the reporting date established by the actuarial table. We may determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine, by unit, the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production guarantees, coverage levels, and prices for computing indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities are in the actuarial table.

b. The production guarantees in the actuarial table are the second stage guarantees. The first stage guarantee is 60 percent of the second stage guarantee. The stages are:

(1) First Stage—From planting until 50 days after the final planting date or until the shedding of the first blooms, whichever occurs first (we may limit the liability to the first stage if the cotton was damaged during this period to the extent that farmers generally would not further care for the cotton); or

(2) Second Stage—all insured cotton after the first stage.

c. Coverage level 2 will apply if you do not elect a coverage level.

d. You may change the coverage level and price election before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

Number of loss years [2]	0	1	2	3	4	5+
Percentage adjustment.....	80	100	115	135	165	200

[1] The Experience Period used for determining the number of "loss years" for the 1984 crop year shall be the period beginning with the 1978 crop year and extending through the 1982 crop year for the 1984 policy. The experience period will expand each year (the first year of the base period being 1978) until a 10-year base period is reached.

[2] A "Loss Year" is defined as a year in which the yield, actual or established, is below the production guarantee for the unit or practice (where the unit consists of more than one practice).

b. Interest shall accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered

by the United States Department of Agriculture or its Agencies

7. Insurance period.

Insurance attaches when the cotton is planted and ends at the earliest of:

a. Total destruction of the cotton;

b. Removal of the cotton from the field;

c. Final adjustment of a loss; or

d. The date immediately following planting as follows:

(1) Arizona, California, New Mexico, Oklahoma and all Texas counties except those listed in (2).	January 31.
(2) Jackson, Victoria, Goliad, Bee, Live Oak, McMullen, La Salle, Dimmit Counties, Texas and all Texas counties south thereof.	September 30.
(3) All other states	December 31.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) During the period before harvest, the cotton on any unit is damaged and you decide not to further care for or harvest any part of it;

(b) You want our consent to put the acreage to another use; or

(c) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the cotton and given written consent. We shall not consent to another use until it is too late to replant. You must notify us when such acreage is put to another use.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined, immediate notice shall be given and a representative sample of unharvested cotton (at least 10 feet wide and the entire length of the field) shall be left for a period of 15 days from the date of the notice, unless we give you written consent to harvest the sample.

4. In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) Total destruction of the cotton on the unit;

(b) Harvest of the unit; or

(c) The calendar date for the end of the insurance period (see section 7d).

b. You may not destroy any cotton on which an indemnity shall be claimed until we give consent.

c. You must obtain written consent from us before you destroy any of the cotton which is not to be harvested.

d. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit shall be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the cotton on the unit:

(2) Harvest of the unit; or

(3) The calendar date for the end of the insurance period.

b. We shall not pay any indemnity unless you:

(1) Establish the total production of cotton on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of cotton to be counted (see section 9e);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this product by your share.

d. If the information reported by you results in a lower premium than the premium determined to be due, the indemnity shall be reduced proportionately.

e. The total production to be counted for a unit shall include all harvested and appraised production.

(1) When mature cotton (harvested or unharvested) has been damaged solely by insured causes, the production to count shall be reduced if, on the date the final notice of loss is given by the insured, the price quotation for cotton of like quality (price quotation "A") at the applicable spot market is less than 75 percent of price quotation "B". Price quotation "B" shall be that day's spot market price quotation at the same market for cotton of the grade, staple length, and micronaire reading shown by the actuarial table for this purpose. The pounds of production to be counted shall be determined by multiplying the number of pounds (harvested and appraised) of mature cotton by price quotation "A" and dividing the result by 75 percent of price quotation "B".

(2) Appraised production to be counted shall include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good cotton farming practices;

(b) Not less than the applicable guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause;

(c) Only the appraised production in excess of the difference between the first and second stage production guarantee for acreage not covered by (a) and (b) above and which does not qualify for the second stage guarantee will be counted except as provided in (d) below; and

(d) The entire appraisal for uninsured causes shall be counted.

(3) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use shall be considered production unless such acreage:

(a) Is not put to another use before harvest of cotton becomes general in the county;

(b) Is harvested; or

(c) Is further damaged by an insured cause before the acreage is put to another use.

(4) The cotton stalks shall not be destroyed on any acreage for which an indemnity is claimed, until we give consent. An appraisal of not less than the second stage guarantee may be made on acreage where the stalks have been destroyed without our consent.

(5) We may determine the amount of production of any unharvested cotton on the basis of field appraisals conducted after the end of the insurance period.

(6) When you have elected to exclude hail and fire as insured causes of loss and the cotton is damaged by hail or fire, appraisals for uninsured causes shall be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire".

(7) The commingled production of units shall be allocated to such units in proportion to our liability on the harvested acreage of each unit.

f. You shall not abandon any acreage to us.

g. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

h. We shall pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no event shall we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the cotton is planted for any crop year, any indemnity shall be paid to the person(s) we determine to be beneficially entitled thereto.

j. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we shall be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or Fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occured.

11. Transfer of right of indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may only assign to another party your right to an indemnity for the crop year on our form and with our approval. The assignee

shall have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery shall at our option belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. Records and access to farm.

You shall keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all cotton produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us shall have access to such records and the farm for purposes related to the contract.

15. Life of contract: Cancellation and termination.

a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity claim shall be the date you sign the claim; or

(2) If deducted from payment under another program administered by United States Department of Agriculture shall be the date such payment was approved.

d. The cancellation and termination dates are:

State and county	Cancellation and termination dates
Jackson, Victoria, Goliad, Bee, Live Oak, McMullen, La Salle, Dimmit Counties, Texas and all Texas counties lying south thereof.	February 15.
Alabama; Arizona; Arkansas; California; Florida; Georgia; Louisiana; Mississippi; Nevada; North Carolina; South Carolina and Winkler, Ector, Upton, Reagan, Sterling, Coke, Concho, McCulloch, San Saba, Mills, Hamilton, Bosque, Johnson, Tarrant, Wise, Cooke Counties, Texas and all Texas counties lying south thereof to and including Maverick, Zavalla, Frio, Atascosa, Karnes, Gonzales, Lavaca, Wharton and Matagorda Counties, Texas.	March 31.
All other Texas counties and all other states.	April 15.

e. If you die or are judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However,* if such event occurs after insurance attaches for any crop year, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

f. The contract shall terminate if no premium is earned for five consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you shall be deemed to have elected. All contract changes shall be available at your service office by December 31 preceding the cancellation date for counties with an April 15 cancellation date and by November 30 preceding the cancellation date for all other counties. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of cotton crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding cotton insurance in the county.

b. "ASCS" means the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

c. "Cotton" means only American Upland Cotton.

d. "County" means the county shown on the application and:

(1) Any additional land located in a local producing area bordering on the county, as shown by the actuarial table; and

(2) Any land identified by an ASCS farm serial number for the county but physically located in another county.

e. "Crop year" means the period within which the cotton is normally grown and shall be designated by the calendar year in which the cotton is normally harvested.

f. "Final Notice of Loss" means the date you give "Final Notice" as shown on the FCI–74, Claim for Indemnity.

g. "Harvest" means the removal of the seed cotton from the open cotton boll or the severance of the open cotton boll from the stalk by either manual or mechanical means.

h. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

i. "Insured" means the person who submitted the application accepted by us.

j. "Mature Cotton" means cotton which can be harvested either manually or mechanically and shall include both unharvested and harvested cotton.

k. "New ground acreage" means any acreage which has not been planted to a crop in any one of the previous three crop years, except that acreage in tame hay or rotation pasture during the previous crop year shall not be considered new ground acreage.

l. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

m. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

n. "Skip-row" means planting patterns consisting of alternating rows of cotton and fallow rows (or rows of another crop) as defined by ASCS.

o. "Spot market" means a market so designated by the Secretary of Agriculture by Regulation (7 CFR 27.93) pursuant to 28 U.S.C. 4862.

p. "Tenant" means a person who rents land from another person for a share of the cotton or a share of the proceeds therefrom.

q. "Unit" means that acreage of insurable cotton identified by a single ASCS Farm Serial Number, in which you have a share, at the time insurance first attaches under this policy for the crop year. Units will be determined when the acreage is reported. Errors in reporting such units may be corrected by us when adjusting a loss. FCIC may reject or modify any ASCS constitution or reconstitution for the purpose of unit definition, if FCIC determines that the constitution or reconstitution was made in whole or in part to defeat the purpose of the Federal Corp Insurance Program or to gain unfair or disproportionate advantage under this policy.

r. "Yield" means (1) the actual yield as reported to ASCS or (2) the yield as established by ASCS or us.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy shall be made by us. If you disagree with our determinations you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Appendix A—Counties Designated for Cotton Crop Insurance—7 CFR Part 421

The following counties are designated for Cotton Crop Insurance under the provisions of 7 CFR 421.1.

Crop: Cotton, State: Alabama

Autauga	Dekalb	Marion
Baldwin	Elmore	Marshall
Barbour	Escambia	Monroe
Bibb	Etowah	Montgomery
Blount	Fayette	Morgan
Bullock	Franklin	Perry
Butler	Geneva	Pickens
Calhoun	Greene	Pike
Chambers	Hale	Randolph
Cherokee	Henry	Russell
Chilton	Houston	Shelby
Choctaw	Jackson	Sumter
Clarke	Lamar	Talladega
Coffee	Lauderdale	Tallapoosa
Colbert	Lawrence	Tuscaloosa
Conecuh	Lee	Walker
Covington	Limestone	Washington
Crenshaw	Lowndes	Wilcox
Cullman	Macon	Winston
Dale	Madison	
Dallas	Marengo	

Crop: Cotton, State: Arizona

Cochise	La Paz	Pima
Graham	Maricopa	Pinal
Greenlee	Mohave	Yuma

Crop: Cotton, State: Arkansas

Arkansas	Drew	Ouachita
Ashley	Greene	Phillips
Bradley	Hempstead	Poinsett
Calhoun	Jackson	Prairie
Chicot	Jefferson	Pulaski
Clark	Lafayette	Randolph
Clay	Lawrence	St. Francis
Cleveland	Lee	Sevier
Columbia	Lincoln	Sharp
Conway	Little River	Washington
Craighead	Logan	White
Crittenden	Lonoke	Woodruff
Cross	Miller	Yell
Dallas	Mississippi	
Desha	Monroe	

Crop: Cotton, State: California

Butte	Kings	San Bernardino
Colusa	Madera	Stanislaus
Fresno	Merced	Tulare
Imperial	Riverside	
Kern	San Benito	

Crop: Cotton, State: Florida

Escambia	Jackson	Santa Rosa
Gulf	Jefferson	Walton
Hamilton	Madison	
Holmes	Okaloosa	

Crop: Cotton, State: Georgia

Bacon	Crisp	Lamar
Baker	Decatur	Lanier
Baldwin	Dodge	Laurens
Barrow	Dooly	Lee
Bartow	Early	Lowndes
Ben Hill	Echols	McDuffie
Berrien	Elbert	Macon
Bleckley	Emanuel	Madison
Brooks	Evans	Marion
Bryan	Floyd	Meriwether
Bulloch	Franklin	Miller
Burke	Glascock	Mitchell
Butts	Grady	Montgomery
Calhoun	Hancock	Morgan
Candler	Harris	Newton
Chattooga	Hart	Oconee
Clay	Henry	Oglethorpe
Clinch	Houston	Peach
Coffee	Irwin	Polk
Colquitt	Jackson	Pulaski
Columbia	Jasper	Putman
Cook	Jefferson	Quitman
Coweta	Jenkins	Randolph
Crawford	Johnson	Richmond
Schley	Telfair	Walton
Screven	Terrell	Warren
Seminole	Thomas	Washington
Stephens	Tift	Webster
Stewart	Toombs	Wheeler
Sumter	Treutlen	Wilcox
Talbot	Turner	Wilkes
Tattnall	Twiggs	Wilkinson
Taylor	Walker	Worth

Crop: Cotton, State: Kansas

Reno	Rice

Crop: Cotton, State: Louisiana

Avoyelles	Franklin	Richland
Bossier	Grant	St. Landry
Caddo	La Salle	Tensas
Caldwell	Madison	Union
Catahoula	Morehouse	Washington
Claiborne	Natchitoches	Webster
Concordia	Ouachita	West Carroll
Desoto	Pointe Coupee	West Feliciana
East Carroll	Rapides	Winn
Evangeline	Red River	

Crop: Cotton, State: Mississippi

Adams	Jefferson	Prentiss
Alcorn	Jefferson Davis	Quitman
Attala	Jones	Rankin
Benton	Kemper	Scott
Bolivar	Lafayette	Sharkey
Calhoun	Lauderdale	Simpson
Carroll	Lawrence	Smith
Chickasaw	Leake	Sunflower
Choctaw	Lee	Tallahatchie
Claiborne	Leflore	Tate
Clarke	Lincoln	Tippah
Clay	Lowndes	Tishomingo
Coahoma	Madison	Tunica
Copiah	Marshall	Union
Covington	Monroe	Walthall
Desoto	Montgomery	Warren
Forrest	Neshoba	Washington
Franklin	Newton	Wayne
Grenada	Noxubee	Webster
Hinds	Oktibbeha	Winston
Holmes	Panola	Yalobusha
Humphreys	Perry	Yazoo
Issaquena	Pike	
Itawamba	Pontotoc	

Crop: Cotton, State: Missouri

Butler	New Madrid	Stoddard
Dunklin	Pemiscot	
Mississippi	Scott	

Crop: Cotton, State: Nevada

Nye

Crop: Cotton, State: New Mexico

Chaves	Eddy	Otero
Curry	Hidalgo	Quay
De Baca	Lea	Roosevelt
Dona Ana	Luna	Sierra

Crop: Cotton, State: North Carolina

Alamance	Gates	Northampton
Anson	Granville	Perquimans
Bertie	Halifax	Pitt
Bladen	Harnett	Robeson
Cabarrus	Hertford	Rutherford
Chatham	Hoke	Sampson
Chowan	Iredell	Scotland
Cleveland	Johnston	Union
Cumberland	Lincoln	Vance
Currituck	Martin	Wake
Edgecombe	Mecklenburg	Washington
Franklin	Montgomery	Wayne
Gaston	Nash	Wilson

Crop: Cotton, State: Oklahoma

Beckham	Bryan	Canadian
Blaine	Caddo	Cleveland
Coal	Jefferson	Oklahoma
Comanche	Johnston	Pawnee
Cotton	Kiowa	Payne
Custer	Le Flore	Pittsburg
Dewey	Lincoln	Pontotoc
Garfield	Logan	Pottawatomie
Garvin	Love	Roger Mills
Grady	McClain	Stephens
Greer	McCurtain	Tillman
Harmon	Marshall	Washita
Hughes	Noble	
Jackson	Okfuskee	

Crop: Cotton, State: South Carolina

Abbeville	Colleton	McCormick
Aiken	Darlington	Marion
Allendale	Dillon	Marlboro
Anderson	Edgefield	Oconee
Bamberg	Florence	Orangeburg
Barnwell	Greenville	Richland
Berkeley	Greenwood	Saluda
Calhoun	Hampton	Spartanburg
Cherokee	Kershaw	Sumter
Chester	Laurens	Williamsburg
Chesterfield	Lee	York
Clarendon	Lexington	

Crop: Cotton, State: Tennessee

Carroll	Hardeman	McNairy
Chester	Hardin	Madison
Crockett	Haywood	Obion
Dyer	Henderson	Rutherford
Fayette	Lake	Shelby
Franklin	Lauderdale	Tipton
Gibson	Lawrence	Wayne
Giles	Lincoln	Weakley

Crop: Cotton, State: Texas

Anderson	Dawson	Howard
Andrews	Deaf Smith	Hudspeth
Angelina	Delta	Hunt
Aransas	Denton	Hutchinson
Archer	Dickens	Irion
Armstrong	Dimmit	Jack
Atascosa	Donley	Jackson
Austin	Duval	Jim Wells
Bailey	Eastland	Johnson
Bastrop	Ector	Jones
Baylor	Ellis	Karnes
Bee	El Paso	Kaufman
Bell	Erath	Kenedy
Borden	Falls	Kent
Bosque	Fannin	King
Bowie	Fayette	Kinney
Brazoria	Fisher	Kleberg
Brazos	Floyd	Knox
Briscoe	Foard	Lamar
Brooks	Fort Bend	Lamb
Brown	Freestone	Lampasas
Burleson	Frio	La Salle
Burnet	Gaines	Lavaca
Caldwell	Garza	Lee
Calhoun	Gillespie	Leon
Callahan	Glasscock	Liberty
Cameron	Goliad	Limestone
Carson	Gray	Live Oak
Castro	Grayson	Lubbock
Childress	Grimes	Lynn
Clay	Guadalupe	McCulloch
Cochran	Hale	McLennan
Coke	Hall	Madison
Coleman	Hamilton	Martin
Collin	Hardeman	Mason
Collingsworth	Harris	Matagorda
Colorado	Hartley	Maverick
Comanche	Haskell	Medina
Concho	Hays	Midland
Cooke	Hemphill	Milan
Coryell	Henderson	Mills
Cottle	Hidalgo	Mitchell
Crosby	Hill	Montague
Culberson	Hockley	Moore
Dallam	Hopkins	Motley
Dallas	Houston	Nacogdoches

Navarro	Schleicher	Walker
Nolan	Scurry	Waller
Nueces	Schakelford	Ward
Palo Pinto	Sherman	Washington
Parker	Starr	Webb
Parmer	Stephens	Wharton
Pecos	Sterling	Wheeler
Presido	Stonewall	Wichita
Rains	Swisher	Wilbarger
Randall	Tarrant	Willacy
Reagan	Taylor	Williamson
Red River	Terry	Wilson
Reeves	Throckmorton	Wise
Refugio	Tom Green	Yoakum
Robertson	Travis	Young
Rockwall	Upton	Zapata
Runnels	Uvalde	Zavala
Rusk	Van Zandt	
San Patricio	Victoria	

Crop: Cotton, State: Virginia

Brunswick	Greensville	Southampton

Done in Washington, D.C., on September 15, 1983.

Peter F. Cole,

Secretary, Federal Corp Insurance Corporation.

Approved December 28, 1983.

Edward Hews,

Acting Manager.

[FR Doc. 84-289 Filed 1-5-84; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 432

Corn Crop Insurance Regulations; Corrections

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule; correction.

SUMMARY: The final rulemaking for the Corn Crop Insurance Regulations, published in the **Federal Register** on April 24, 1981, at 46 FR 23213, contained an error in inadvertently omitting a county in Texas where such insurance is otherwise authorized to be offered. This notice is being published to correct that error.

EFFECTIVE DATE: January 6, 1984.

ADDRESS: Any suggestions or inquiries on this notice should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447-3325.

PART—432 [CORRECTED]

7 CFR Part 432 is corrected in Appendix B under the listing of counties for corn crop insurance in Texas, found at 46 FR 23216 in the center column thereof, by inserting the word "Glasscock" immediately below the word "Frio" and immediately above the word "Gray."

Issued in Washington, D.C., on December 22, 1983.

Dated: December 27, 1983.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Glen V. Bjorklund,

Acting Manager.

[FR Doc. 84-291 Filed 1-5-84; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regs. 445 and 444, Amdt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period January 8–14, 1984, and increases the quantity of lemons that may be shipped during the period January 1–7, 1984. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

DATES: The regulation becomes effective January 8, 1984, and the amendment is effective for the period January 1–7, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy currently in effect. The committee met publicly on January 3, 1984, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons is steady.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

1. Section 910.745 is added as follows:

§ 910.745 Lemon regulation 445.

The quantity of lemons grown in California and Arizona which may be handled during the period January 8, 1984, through January 14, 1984, is established at 210,000 cartons.

2. Section 910.744 Lemon Regulation 444 (48 FR 57468) is revised to read as follows:

§ 910.744 Lemon regulation 444.

The quantity of lemons grown in California and Arizona which may be handled during the period January 1, 1984, through January 7, 1984 is established at 230,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 5, 1984.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84-532 Filed 1-5-84; 11:30 am]

BILLING CODE 3410-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 51

[Docket No. R-83-774; FR-1187]

Siting of HUD Assisted Projects in Runway Clear Zones at Civil Airports and Clear Zones and Accident Potential Zones at Military Airfields

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This rule clarifies and expands current HUD policy governing properties exposed to unusual hazards in the vicinity of civil and military airports. The effect of the rule is to limit the HUD financial assistance given to projects that are not compatible with land use plans around civil airports and military airfields. This rule makes HUD policy consistent with existing Department of Defense (DOD) and Federal Aviation Administration (FAA) policies and programs, and with Office of Management and Budget directives.

EFFECTIVE DATE: Upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, but not before further notice of the effective date is published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: James F. Miller or Gretchen Van Hyning, Office of Environment and Energy, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410; (202) 755-7225. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Effect of the Rule

This regulation amends 24 CFR Part 51 to add a new Subpart D which establishes a specific Departmental policy on siting HUD assisted projects in Runway Clear Zones, Clear Zones and Accident Potential Zones. The regulation applies principally to new construction or substantial or major modernization and rehabilitation. In cases of the purchase or sale of an existing property in a Runway Clear Zone or Clear Zone there is a requirement that the buyer be provided with information regarding the location of the property in a Runway Clear Zone or Clear Zone. The regulation applies to most HUD programs including Community Development Block Grants and Urban Development Action Grants. The regulation applies to all military airfields and to civil commercial service airports.

In general, HUD will not provide assistance for actions to take place in Runway Clear Zones at civil airports or Clear Zones at military airfields. A Runway Clear Zone typically includes about 80 acres and a Clear Zone includes about 200 acres. There are Runway Clear Zones and Clear Zones at each end of each active runway at the airport or airfield. Assistance may be provided if the proposed project or facility is one which is not frequently used or occupied by people and the airport operator will provide written assurances that the land is not planned for acquisition as part of a clear zone acquisition program.

HUD will only provide assistance for projects in Accident Potential Zones at military airfields if the project is basically consistent with the recommendations of the Department of Defense's *Land Use Compatibility Guidelines For Accident Potential Zones* contained in 32 CFR Part 256. This policy only applies to military airfields as there are no Accident Potential Zones at civil airports.

Background

The problem of preventing incompatible development around our civil airports and military airfields is a long-standing one. As centers of economic activity, civil airports and military airfields naturally attract development. At the same time the noise and accident potential problems that are inevitable side effects of aircraft operations make many types of development unsuitable for locations in the immediate vicinity of the airports and airfields. While these problems have existed for quite some time, the record of local, state and Federal response has been spotty and uneven.

In the early 1970's, the General Services Administration looked at the issue of compatible development around Federal airfields and found that the general increase of development surrounding Federal airfields had not always considered the noise levels and safety factors of flight operations. In order to increase the level of consideration given to noise and safety by at least the Federal agencies whose decisions affected land use around Federal airfields, the General Services Administration issued, in 1975, a Federal Management Circular (FMC 75-2 *Compatible Land Uses At Federal Airfields*) which specifically directed all Federal agencies to make sure that their actions were compatible with the land use recommendations prepared by the operating agencies for Federally owned airports and airfields.

As background justification for this policy, GSA concluded:

> Federal airfields are employment centers. Nearby land holdings are attractive investments for housing developments, supportive business activities, and service industries. The general increase of development surrounding Federal airfields has not always considered noise levels and safety factors of flight operations. Complaints from residential and business owners have in some instances caused such actions as reduced takeoff weight, restriction of hours of operation, reduction of the number of flights, changes in takeoff and landing patterns, and noise abatement procedures. This type of action results in declining operating efficiencies which sometimes lead to closure or reduction in mission capability of multimillion dollar installations. (40 FR 48346 (Oct. 15, 1975), 34 CFR 236.2(b))

The Circular required the Department of Defense and other Federal agencies that hold and/or operate airfields to develop and update airfield land use plans for each Federal airfield.

> Each plan shall contain an analysis of land use compatibility problems and potential solutions which can serve as the basis for Federal real property acquisition and disposal decisions. (40 FR 48347, 34 CFR 236.4(a))

GSA recognized that other Federal agencies that do not hold and/or operate Federal airports administer programs that affect land uses near such airports. Their actions could significantly affect the safety of airport operations and of those using the facilities assisted by these agencies. The Circular placed an affirmative obligation on these agencies to adjust their policies to be consistent with the mandate of the Circular:

> All Federal agencies (in addition to those operating airfields) having programs which affect or may affect the use of land near Federal airfields shall ensure that their programs serve to foster compatible land use in accordance with the plans developed by the operating agencies. (40 FR 48347, 34 CFR Part 236.5(c))

The safety problem has been documented by the United States Air Force which conducted a study of all major accidents that occurred within a 10 nautical mile radius of Air Force installations during the period 1968 through 1972 and which found that a very high percentage of all aircraft accidents took place in the immediate

area beyond the runway. Of the 369 accidents studied, over 73% occurred either on the runway or within 15,000 feet of the end of the runway. The remaining 26% were scattered throughout the 10 nautical mile radius area. Similar data for civilian aircraft crashes show that over 80% of all air carrier accidents over the past 20 plus years have occurred within 3,000 feet of the end of the runway (approximately the area that would normally be defined as the Runway Clear Zone). (Air Line Pilots Association, *ALPA Rescue and Fire Committee Position Papers*, Washington, D.C., April 1981, p. 12) Thus, while it is impossible to predict if or when an accident may occur at a given airport or airfield, it is possible to predict where an accident is most likely to take place.

Both the Department of Defense and the Federal Aviation Administration have programs designed to bring the highest risk areas, called Runway Clear Zones at civil airports and Clear Zones at military airfields, under the control of the airport operator, thus ensuring that no incompatible development takes place. Even though these programs have been in existence for a number of years, however, there are still areas that are not controlled by the airport operators. In addition, at military airfields there are two other areas of significant accident potential, known as Accident Potential Zones, that are not part of any purchase program.

HUD's Regulatory Response

At the time Federal Management Circular 75-2 was issued, HUD already had in place a policy which addressed the noise issue. This policy established standards of acceptability for noise levels at sites proposed for HUD assistance, subsidy or insurance. The policy also established requirements for noise attenuation. Under this policy, noise sensitive projects in the highest noise areas would not normally be approved for HUD assistance, subsidy or insurance. This policy has been updated as a regulation and to reflect improved techniques for describing the noise environment. The current HUD noise policy is contained in the Code of Federal Regulations, Title 24 Part 51, Subpart B.

For many years HUD assumed that its noise policy, in combination with guidance on unusual hazards that was contained in Housing valuation handbooks, was adequate to prevent HUD funds from being used to promote development in these high accident potential areas. Since these areas were so close to the ends of the runways, it was assumed that they would also be exposed to high noise levels. Over the past few years, however, HUD has discovered that there are some instances where portions of Runway Clear Zones, Clear Zones and Accident Potential Zones are not in the highest noise level areas and as a result HUD funds could be used to assist in the development of incompatible uses. (For example, HUD recently reviewed an environmental assessment for a project proposed at an Air Force installation where almost the entire Accident Potential Zone was in an area that was completely acceptable on the basis of noise alone.) In addition it was found that the guidance on unusual hazards in the Housing handbooks was not specific enough to cover Runway Clear Zones, Clear Zones and Accident Potential Zones. HUD regulations, therefore, were not totally in compliance with the Federal Management Circular and additional guidance for the field was necessary. Thus it was determined that this regulation should be issued.

Public Comment

On December 18, 1980 HUD published in the **Federal Register**, at 45 FR 83261, a proposal to add a new Subpart D to 24 CFR Part 51. Sixteen comments were received from a variety of organizations and public agencies. Seven, including letters from the Department of the Navy, the Department of the Air Force, the Aviation Department of Kansas City, the Air Line Pilots Association, the City of San Antonio, the Public Health Service and the Columbus Metropolitan Airport of Columbus, Georgia, supported the regulation.

Four others (including comments from the Air Transport Association and the Santa Barbara Airport Land Use Commission) raised concerns over the possible application of Accident Potential Zones to civil airports. HUD never intended to define Accident Potential Zones around civil airports since it would be inappropriate to make such an extrapolation from the military experience. The final regulation is revised to make it clear that the Accident Potential Zone will apply only to military, not civil, airports. The only areas around civil airports that the regulation will affect are those contained within the Runway Clear Zones as defined by FAA regulation 14 CFR Part 152.

Two comments which raised questions about the applicability of the regulation seemed to indicate that there was some confusion as to which airports were affected. One commentor, for example, was unclear as to whether the regulation would apply to privately owned airports, or to heliports or rotorcraft facilities. To avoid ambiguity as to whether the policy applies to an area near a given airport, HUD has limited the applicability of the regulation to those existing airports listed as commercial service airports in the *National Plan of Integrated Airport Systems*. (The National Plan of Integrated Airport Systems is prepared by the Federal Aviation Administration as required by the Airport and Airway Improvement Act of 1982.) The current Plan lists 566 airports as air carrier airports. While this change is more limited than the coverage originally proposed, the Department considers the severity of the problem to be greatest at these airports because of the size and type of aircraft flown and the size of the Runway Clear Zones involved. These airports are also a readily identifiable group, thus preventing problems from arising over whether a given airport is or is not affected by this regulation.

At this point, it should be noted that the Federal Management Circular itself only addresses those civil airports owned or operated by the Federal government. (The Federally owned airports are Washington National Airport and Dulles International Airport, both in the Washington, D.C. area.) All commercial service airports, however, whether Federally owned or not, generate economic activity and attract growth and therefore experience the same problems discussed in the Circular. The Air Line Pilots Association's findings, discussed above, on the pattern of accidents was based on a survey of all commercial service airports, not just the Federally owned ones. This situation accounts, in part, for the broad reach of the FAA requirements for airport operators to identify and, if at all possible, control the Runway Clear Zones at all air carrier airports. (14 CFR Part 152) Since the problems identified in the Federal Management Circular are common to civil airports not covered by the Circular, the Department finds it appropriate to apply this regulation to all commercial service airports and not just the Federally owned or operated ones specifically covered by the Federal Management Circular.

The remaining-comments touched on a variety of points. First, the Federal Aviation Administration indicated that while they certainly supported compatible land use planning, they did not agree with the use of phrases such as high risk areas or Accident Potential Zones. HUD has deleted the phrase high risk areas from the regulation, however the term Accident Potential Zone is a specific Department of Defense term

which must be used relative to military airports to insure accuracy. This term does not apply to civil airports. In another comment the Environmental Protection Agency urged HUD to strengthen the policy on Clear Zones and Runway Clear Zones and to limit the authority of block grant city certifying officers to approve projects in the Accident Potential Zones. HUD believes that the policy as proposed adequately addresses the concern and that to make the policy much more stringent would create a regulatory burden that is disproportionate to the problem. Finally, an engineering firm from Illinois commented that they felt the regulation would jeopardize the redevelopment and rehabilitation of many buildings currently located in either Runway Clear Zones or in Clear Zones and Accident Potential Zones. While there will be an impact upon some existing structures, the number will be fairly small. Most Runway Clear Zones, Clear Zones and Accident Potential Zones do not currently contain extensive development. The purpose of the regulation is to help ensure that further development does not take place. Existing programs should not encourage the continued location of people in Accident Potential Zones.

Implementation

The following discussion clarifies several implementation issues.

First, the regulation provides discretion for approval of projects in the Accident Potential Zones at military airfields. This discretion is limited by guidance provided to HUD field offices and Community Block Grant recipients. Section 51.303(b) states that, to be approved, projects in the Accident Potential Zones must be consistent with the recommendations in the *Land Use Compatibility Guidelines for Accident Potential Zones* contained in DOD Instruction 4165.57, 32 CFR Part 256. These guidelines were developed during the Air Force study of Air Force aircraft accidents and provide fairly detailed recommendations for an extensive list of land uses. They will give field staff sufficient guidance to make sure that there is a reasonably consistent pattern of approvals.

Second, the regulation states that the only Runway Clear Zones, Clear Zones and Accident Potential Zones that will be used to implement this part will be those prepared in accordance with the appropriate FAA or DOD regulation. In most cases the dimensions of the Runway Clear Zone, Clear Zone or Accident Potential Zone will have been published as part of a public report such as an Environmental Impact Statement or an Air Installation Compatible Use Zone (AICUZ) report. Many field offices already have these documents on file, particularly the military's AICUZ reports. HUD will continue its coordination with the FAA and the military to make sure that field offices have ready access to the reports.

Finally, it is the environmental officers in the HUD field offices who will bear the primary responsibility for implementing this rule. They will do so as part of the normal project review process, using existing forms and procedures. As part of the Department's overall environmental regulations, 24 CFR Part 50, forms were developed to document compliance with a variety of environmental standards including all Departmental standards for the general category of hazards. Part 51 is cited as the general reference for this category and as a subpart to Part 51, this rule would automatically be included. The forms contained in Part 50 were designed for use for all types of Departmental actions, including those exempted from the environmental assessment requirements of the National Environmental Policy Act of 1969.

Other Supplementary Information

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk, Room 10278, Department of HUD, 451 Seventh Street, SW., Washington, DC 20410.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities because it only affects a limited number of airports and airfields. The number of civil airports and military airfields covered totals less than 1000 nationally, therefore the potential for significant impact is small.

The Department has also determined that this regulation represents the most cost effective way to help prevent incompatible development in the Runway Clear Zones, Clear Zones and Accident Potential Zones and that the potential benefits to society outweigh any potential costs.

The basic benefit of this regulation will be to reduce the chances for people and property to be exposed to the hazards associated with aircraft operations. The people who receive the benefit will be the public at large. A secondary benefit is to protect the investments of HUD and local governments by limiting the number and type of projects located in these hazardous areas. A final benefit is to protect the investments of the Department of Defense, the Federal Aviation Administration and local aviation authorities. The presence of incompatible development in the Runway Clear Zones, Clear Zones or Accident Potential Zones often is a basis for pressure for airports and airfields to close or to cease or limit operations.

Since this regulation is not the type of regulation which requires local government, private industry or individuals to actually do something, it does not generate any direct costs to local government, private industry or individuals. The regulation may, however, generate some indirect costs, or reduce expected profits in that it would limit the types of development that could occur with HUD assistance in these areas. It is impossible to predict whether this would ever actually be a problem. There are too many other local variables which would be at work. Factors such as local markets for various types of land use, the suitability of the land for the various uses, and local planning and zoning would all influence the value of the land.

HUD does not, however, anticipate that the indirect costs would be significant on a nationwide basis because: (a) The amount of land where HUD participation would be most severely limited is not really all that great, about 80 acres at civil airports and 200 acres at military airfields, and (b) in the other areas, not all uses are prohibited from HUD assistance, thus the land can still be productively used, it simply may not be the use the owner or local government originally had in mind.

This rule is listed at 48 FR 18089 as item CPD–20–79 in the Department's Semiannual Agenda of Regulations published on April 25, 1983 pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 51

Noise control, Quiet Communities Act.

PART 51—[AMENDED]

Accordingly, Title 24, Part 51 of the CFR is amended by adding a new Subpart D to read as follows:

Subpart D—Siting of HUD Assisted Projects in Runway Clear Zones at Civil Airports and Clear Zones and Accident Potential Zones at Military Airfields

Sec.
51.300 Purpose.
51.301 Definitions.
51.302 Coverage.
51.303 General policy.
51.304 Responsibilities.
51.305 Implementation.

Authority: Section 2 of the Housing Act of 1949 as amended, 42 U.S.C. 1441, affirmed by Section 2 of the Housing and Urban Development Act of 1969, Pub. L. No. 90–448; Section 7(d) of the Department of Housing and Urban Development Act of 1965, 42 U.S.C. 3535(d); Office of Management and Budget, Federal Management Circular 75–2: Compatible Land Uses At Federal Airfields.

Subpart D—Siting of HUD Assisted Projects in Runway Clear Zones at Civil Airports and Clear Zones and Accident Potential Zones at Military Airfields

§ 51.300 Purpose.

(a) The Department of Housing and Urban Development finds that HUD assisted or insured projects and their occupants in Runway Clear Zones, Clear Zones and Accident Potential Zones are exposed to a significant risk of personal injury or property damage from aircraft accidents.

(b) It is the purpose of this Subpart to promote compatible land uses around civil airports and military airfields by identifying suitable land uses for Runway Clear Zones at civil airports and Clear Zones and Accident Potential Zones at military airfields and by establishing them as standards for providing HUD assistance, subsidy or insurance.

§ 51.301 Definitions.

For the purposes of this regulation, the following definitions apply:

(a) Accident Potential Zone. An area at military airfields which is beyond the Clear Zone. The standards for the Accident Potential Zones are set out in Department of Defense Instruction 4165.57, "Air Installations Compatible Use Zones," November 8, 1977, 32 CFR Part 256. There are no Accident Potential Zones at civil airports.

(b) Airport Operator. The civilian or military agency, group or individual which exercises control over the operations of the civil airport or military airfield.

(c) Civil Airport. An existing commercial service airport as designated in the National Plan of Integrated Airport Systems prepared by the Federal Aviation Administration in accordance with Section 504 of the Airport and Airway Improvement Act of 1982.

(d) Runway Clear Zones and Clear Zones. Areas immediately beyond the ends of a runway. The standards for Runway Clear Zones for civil airports are established by FAA regulation 14 CFR Part 152. The standards for Clear Zones for military airfields are established by DOD Instruction 4165.57, 32 CFR Part 256.

§ 51.302 Coverage.

(a) These policies apply to HUD programs which provide assistance, subsidy or insurance for construction, land development, new communities, community development or redevelopment or any other provision of facilities and services which are designed to make land available for construction. When the HUD assistance, subsidy or insurance is used to make land available for construction rather than for the actual construction, the provision of the HUD assistance, subsidy or insurance shall be dependent upon whether the facility to be built is itself acceptable in accordance with the standards in § 51.303.

(b) These policies apply not only to new construction but also to substantial or major modernization and rehabilitation and to any other program which significantly prolongs the physical or economic life of existing facilities or which, in the case of Accident Potential Zones:

(1) Changes the use of the facility so that it becomes one which is no longer acceptable in accordance with the standards contained in § 51.303(b);

(2) Significantly increases the density or number of people at the site; or

(3) Introduces explosive, flammable or toxic materials to the area.

(c) Except as noted in § 51.303(a)(3), these policies do not apply to HUD programs where the action only involves the purchase, sale or rental of an existing property without significantly prolonging the physical or economic life of the property.

(d) The policies do not apply to research or demonstration projects which do not result in new construction or reconstruction, to interstate land sales registration, or to any action or emergency assistance which is provided to save lives, protect property, protect public health and safety, or remove debris and wreckage.

§ 51.303 General policy.

It is HUD's general policy to apply standards to prevent incompatible development around civil airports and military airfields.

(a) HUD policy for actions in Runway Clear Zones and Clear Zones.

(1) HUD policy is not to provide any assistance, subsidy or insurance for projects and actions covered by this part except as stated in § 51.303(a)(2) below.

(2) If a project proposed for HUD assistance, subsidy or insurance is one which will not be frequently used or occupied by people, HUD policy is to provide assistance, subsidy or insurance only when written assurances are provided to HUD by the airport operator to the effect that there are no plans to purchase the land involved with such facilities as part of a Runway Clear Zone or Clear Zone acquisition program.

(3) Special notification requirements for Runway Clear Zones and Clear Zones. In all cases involving HUD assistance, subsidy, or insurance for the purchase or sale of an existing property in a Runway Clear Zone or Clear Zone, HUD (or the Grant Recipient under Title I of the Housing and Community Development Act of 1974, as amended, 42 U.S.C. 5301 *et seq.*) shall advise the buyer that the property is in a Runway Clear Zone or Clear Zone, what the implications of such a location are, and that there is a possibility that the property may, at a later date, be acquired by the airport operator. The buyer must sign a statement acknowledging receipt of this information.

(b) HUD policy for actions in Accident Potential Zones at Military Airfields. HUD policy is to discourage the provision of any assistance, subsidy or insurance for projects and actions in the Accident Potential Zones. To be approved, projects must be generally consistent with the recommendations in the *Land Use Compatibility Guidelines For Accident Potential Zones* chart contained in DOD Instruction 4165.57, 32 CFR Part 256.

§ 51.304 Responsibilities.

(a) The following persons have the authority to approve actions in Accident Potential Zones:

(1) For Title I of the Housing and Community Development Act of 1974, as

amended, 42 U.S.C. 5301 *et seq*: the certifying officer of the grant recipient as defined in Part 58 of this Title.

(2) For all other HUD programs: the program personnel having approval authority for the project.

(b) The following persons have the authority to approve actions in Runway Clear Zones and Clear Zones:

(1) For Title I of the Housing and Community Development Act of 1974, as amended, 42 U.S.C. 5301 *et seq*: The certifying officer of the grant recipient as defined in Part 58 of this Title.

(2) For all other HUD programs: the Regional Administrator.

§ 51.305 Implementation.

(a) Projects already approved for assistance. This regulation does not apply to any project approved for assistance prior to the effective date of the regulation whether the project was actually under construction at that date or not.

(b) Acceptable data on Runway Clear Zones, Clear Zones and Accident Potential Zones. The only Runway Clear Zones, Clear Zones and Accident Potential Zones which will be recognized in applying this part are those provided by the airport operators and which for civil airports are defined in accordance with FAA regulations 14 CFR Part 152 or for military airfields, DOD Instruction 4165.57, 32 CFR Part 256. All data, including changes, related to the dimensions of Runway Clear Zones for civil airports shall be verified with the nearest FAA Airports District Office before use by HUD.

(c) Changes in Runway Clear Zones, Clear Zones, and Accident Potential Zones. If changes in the Runway Clear Zones, Clear Zones or Accident Potential Zones are made, the field offices shall immediately adopt these revised zones for use in reviewing proposed projects.

(d) The decision to approve projects in the Runway Clear Zones, Clear Zones and Accident Potential Zones must be documented as part of the environmental assessment or, when no assessment is required, as part of the project file.

Dated: December 30, 1983.

Samuel R. Pierce, Jr.,

Secretary of Housing and Urban Development.

[FR Doc. 84-376 Filed 1-5-84; 8:45 am]

BILLING CODE 4210-32-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

Commercial Diving Operations

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Deletion of rules vacated by court decision.

SUMMARY: Section 1910.411, Medical Requirements, contained in the standard for commercial diving operations, Subpart T of Part 1910, was vacated by the U.S. Court of Appeals for the Fifth Circuit. In accordance with the Court's decision, the section is being removed from Title 29 of the Code of Federal Regulations.

EFFECTIVE DATE: The deletion is effective January 6, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, Room N3641, Office of Public Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210 (202) 523-8151.

SUPPLEMENTARY INFORMATION: The Occupational Safety and Health Administration published a final standard for commercial diving operations, 29 CFR §§ 1910.401–1910.441, at 42 FR 37650 on July 22, 1977. The regulation was effective on October 20, 1977.

Within the 60-day period provided by section 6(f) of the Occupational Safety and Health Act of 1970, a petition for review was filed in the United States Court of Appeals for the Fifth Circuit challenging among other things, the validity of § 1910.411, the medical requirements section. The Court, in *Taylor Diving and Salvage v. U.S. Department of Labor* (599 F.2d 622) (5th Cir., 1979), held § 1910.411 to be invalid and vacated that section.

In accordance with the decision of the United States Court of Appeals for the Fifth Circuit, the section on medical requirements in the commercial diving standard, § 1910.411, is deleted in its entirety.

List of Subjects in 29 CFR Part 1910

Diving, Occupational safety and health.

PART 1910—[AMENDED]

Accordingly, pursuant to sections 6 and 8(g) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 1600, 29 U.S.C. 655, 657), Secretary of Labor's Order No. 9–83 (48 FR 35736), and 29 CFR Part 1911, Part 1910 of Title 29, Code of Federal Regulations is amended as follows:

§ 1910.411 [Removed]

Section 1910.411 is removed.

Signed at Washington, D.C., this 3d day of January 1984.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 84-375 Filed 1-5-84; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 885

Appointment of Officers in the Regular Air Force

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is amending its regulations by removing Part 885—Appointment of officers in the regular Air Force, of Chapter VII, Title 32. The source document, Air Force Regulation (AFR) 36–5 has been revised. It is intended for internal guidance and has no applicability to the general public. This action is a result of departmental review in an effort to insure that only regulations which substantially affect the public are maintained in the Air Force portion of the Code of Federal Regulations.

EFFECTIVE DATE: January 6, 1984.

FOR FURTHER INFORMATION CONTACT: Maj Isaacs, HQ AFMPC/MPCAJB2, Randolph AFB, TX 78150, Telephone (512) 652–2975.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 885

Military personnel, Armed Forces Reserves.

PART 885—[REMOVED]

Accordingly, 32 CFR is amended by removing Part 885

Authority: 10 U.S.C. 8012.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 84-283 Filed 1-5-84; 8:45 am]

BILLING CODE 3910-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 3E2880/R632; PH-FRL 2504-1]

Pesticide Programs; Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Paraquat

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the desiccant, defoliant, and herbicide paraquat in or on the raw agricultural commodity acerola. This regulation to establish a maximum permissible level for residues of the pesticide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on January 6, 1984.

ADDRESS: Written objections may be submitted to the Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Registration Support and Emergency Response Branch, Registration Division (TS-767C), Environmental Protection Agency, Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1192).

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of November 9, 1983 (48 FR 51492), which announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition 3E2880 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Florida and Puerto Rico proposing that 40 CFR 180.205 be amended by establishing a tolerance for residues of the pesticide paraquat (1,1'-dimethyl-4,4'-bipyridinium ion) derived from application of either the *bis* (methyl sulfate) or the dichloride salt (both calculated as the cation) in or on the raw agricultural commodity acerola at 0.05 part per million.

There were no comments received in response to the proposed rule.

The data submitted in the petition and other relevant material have been evaluated and discussed in the proposed rule. The pesticide is considered useful for the purpose for which the tolerance is sought. It is concluded that the tolerance would protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291. (Sec. 408(e), 68 Stat. 512 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: December 23, 1983.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.205 is amended by adding, and alphabetically inserting, the raw agricultural commodity acerola, to read as follows:

§ 180.205 Paraquat; tolerances for residues.

* * * * *

Commodities	Parts per million
Acerola	0.05

* * * * *

[FR Doc. 84-466 Filed 1-5-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. 1

[CC Docket No. 83-372; FCC 83-598]

Deregulation of Mobile Customer Premises Equipment

AGENCY: Federal Communications Commission.

ACTION: Memorandum Opinion and Order on Reconsideration.

SUMMARY: The Order was adopted in response to an Emergency Petition for Reconsideration submitted by American Telephone and Telegraph Company regarding *Deregulation of Mobile Customer Premises Equipment*, CC Docket No. 83-372, Report and Order, FCC 83-507, 48 FR 54618 (released Nov. 7, 1983). The Order requires AT&T to transfer to AT&T Information Systems embedded customer premises equipment (CPE) used in mobile telephone service and received from the Bell Operating Companies pursuant to the divestiture of the Bell System. The Order is necessary to prevent unnecessary costs which would be incurred by AT&T, and which would be borne by AT&T ratepayers, if this CPE were to remain under tariff regulation after divestiture. The intended effect of the Order is to remove this equipment from tariff regulation, and to require AT&T to transfer this equipment to AT&T Information Systems, as of January 1, 1984, thus avoiding costs which would result if AT&T were required to place this equipment under tariff.

EFFECTIVE DATE: December 30, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: John Cimko, Jr., (202) 632-9342.

Memorandum Opinion and Order on Reconstruction

Adopted: December 22, 1983.

Released: December 29, 1983.

By the Commission: Commissioner Patrick not participating.

In the Matter of Deregulation of Mobile Customer Premises Equipment; CC Docket No. 83-372; FCC 83-598.

I. Introduction

1. We have before us an Emergency Petition for Reconsideration submitted by American Telephone and Telegraph Company (AT&T) on December 2, 1983 (AT&T Petition).[1] AT&T argues generally that there is no need to delay the detariffing of embedded mobile customer premises equipment (CPE),[2] that there is sufficient competition in the mobile CPE marketplace to support detariffing at this time, that continued tariffing after divestiture of the Bell

[1] AT&T also filed a Motion for Expedited Briefing Schedule on the same date. That motion was granted with modifications by the Chief, Common Carrier Bureau, acting under delegated authority. Deregulation of Mobile Customer Premises Equipment, CC Docket No. 83-372, Order, Mimeo No. 1233, 48 FR 55465 (released Dec. 6, 1983).

[2] For purposes of this proceeding, mobile CPE includes all equipment used in connection with services licensed under Part 22 of the Rules and Regulations of the Commission. These services are domestic public land mobile radio service (including airborne service), rural radio service, and offshore telecommunications service.

System[3] would incur unwarranted costs associated with the establishment and operation of an embedded base organization (EBO) for the embedded mobile equipment, and that AT&T would fully satisfy Commission concerns regarding the detariffing of this equipment by applying sale and price predictability requirements recently established by the Commission[4] to the embedded mobile equipment after its transfer to AT&T Information Systems (ATTIS).

2. For the reasons discussed in Part IV, *infra*, we shall grant the AT&T Petition, subject to the limitations and conditions we establish in this Order. As a result of our action in adopting this Order, AT&T shall be required to transfer embedded mobile CPE to ATTIS at the time of divestiture.

II. Background

3. The Commission, in *Second Computer Inquiry*,[5] decided to exclude mobile CPE from the procedures established in that proceeding for the deregulation of telephone equipment.[6] This approach was taken in *Second Computer Inquiry* in part because the Commission was addressing the regulation of mobile CPE in a separate proceeding, *Cellular Communications Systems*.[7] In a subsequent action in that separate proceeding, we ordered that mobile telephone equipment used in connection with cellular systems must be deregulated. *Cellular Communications Systems*, CC Docket No. 79–318, Report and Order, 86 FCC 2d 469 (1981).

4. On April 7, 1983, we adopted a *Notice of Proposed Rulemaking* in this proceeding,[8] noting that "[a]t this point, the mobile telephone used in conventional common carrier mobile radio services constitutes the only piece of two-way voice terminal equipment that is accorded disparate treatment * * *" under *Second Computer Inquiry*. *Notice* at para. 3. We proposed to deregulate mobile telephone equipment, "thereby conforming our treatment of it with our treatment of all other CPE." *Id.* We also indicated that we would preempt state authority to the extent necessary to achieve this deregulation. *Id.*

5. Most parties filing comments regarding the *Notice* supported complete deregulation of mobile CPE. *See Deregulation of Mobile Customer Premises Equipment*, CC Docket No. 83–372, Report and Order, FCC 83–507, 48 FR 54618, at para. 2 & n.3 (released Nov. 7, 1983) (hereinafter *Order*). Most commenters argued that the Commission should detariff mobile CPE on a bifurcated basis similar to the approach taken in *Second Computer Inquiry*. It was suggested that new mobile CPE could be detariffed as of January 1, 1984, while a transition period could be established for the detariffing of embedded mobile CPE. *See id.* at para. 5. AT&T, however, favored completed deregulation in one step, without any distinction between new and embedded equipment.[9]

6. In the *Order*, which we adopted on November 7, 1983, we decided to include mobile CPE within the general policies of *Second Computer Inquiry* and we preempted state authority to achieve this result. *Order* at para. 7. We also required that mobile CPE be detariffed on a phased basis; new mobile CPE would be detariffed as of January 1, 1984, but embedded CPE "will remain subject to tariff until the manner of detariffing it is determined." *Id.* at para. 9. We indicated that these determinations would be made in a separate proceeding.[10] We noted that the separate proceeding specifically would resolve issues relating to capital recovery and accounting methodologies which had been raised by an Independent telephone company in commenting on the *Notice*. *Id.* at para. 10 n.9.

III. Positions of the Parties

A. AT&T Petition for Reconsideration

7. In asking the Commission to reconsider its decision to delay the detariffing of embedded mobile CPE, AT&T makes the following arguments. First, there is no need for continued tariff regulation of this equipment. AT&T argues that the concern expressed in *Second Computer Inquiry* that CPE be disassociated from a carrier's utility service and removed from the separations process already has been satisfied with regard to embedded mobile CPE because this equipment has been excluded from the interstate jurisdictional separations allocation process. AT&T Petition at 4; *see* AT&T Reply Comments at 3. AT&T further argues that valuation issues relating to embedded mobile CPE can easily be resolved by applying the valuation principles established by the Commission in *CPE Detariffing Order*. AT&T endorses the valuation approach we followed in that proceeding. AT&T Petition at 4–5. AT&T also argues that bifurcation is unnecessary because there already is adequate competition in mobile telephone equipment, citing the number of manufacturers and suppliers of this equipment, AT&T's non-dominant position and its declining share of sales of this equipment, and the fact that Western Electric does not manufacture the mobile CPE currently in the embedded base. *Id.* at 6–7. AT&T also notes that, as a further guarantee, it "will apply its price predictability and sale program to this [embedded mobile]

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[3] The Bell Operating Companies (BOCs) will be divested from the Bell System as of January 1, 1984, in accordance with a decision rendered by the United States District Court for the District of Columbia in United States v. American Tel. & Tel. Co., 552 F.Supp. 131 (D.D.C. 1982), *aff'd sub nom.* Maryland v. United States, 103 S.Ct. 1240 (1983).

[4] *See* Procedures for Implementing the Detariffing of Customer Premises Equipment and Enhanced Services (Second Computer Inquiry), CC Docket No. 81–893, and American Telephone and Telegraph Company, Request for Approval To Supplement the Capitalization of AT&T Information Systems in Connection with the Transfers of Embedded Customer Premises Equipment, File No. ENF 83–16 (hereinafter CPE Detariffing Proceeding), Report and Order, FCC 83–551 (released Dec. 15, 1983) (hereinafter CPE Detariffing Order).

[5] Amendment of Section 64.702 of the Commission's Rules and Regulations (Second Computer Inquiry), 77 FCC 2d 384 (Final Decision), *reconsideration*, 84 FCC 2d 50 (1980) (Reconsideration Order), *further reconsideration*, 86 FCC 2d 512 (1981) (Further Reconsideration Order), *aff'd sub nom.* Computer & Communications Industry Ass'n v. FCC, 693 F.2d 198 (D.C.Cir. 1982), *cert. denied sub nom.* Louisiana Pub. Serv. Comm'n v. FCC, 103 S.Ct. 2109 (1983).

[6] *See* Final Decision, 77 FCC 2d at 447 n.57; Reconsideration Order, 84 FCC 2d at 70; Further Reconsideration Order, 86 FCC 2d at 513 n.1.

[7] An inquiry into the Use of the Bands 825–845 MHz and 870–890 MHz for Cellular Communications Systems, and Amendment of Parts 2 and 22 of the Commission's Rules Relative to Cellular Communications Systems, CC Docket No. 79–318, Notice of Inquiry and Notice of Proposed Rulemaking, 78 FCC 2d 984 (1980), Report and Order, 86 FCC 2d 469 (1981), *reconsideration*, 89 FCC 2d 58, *further reconsideration*, 90 FCC 2d 571 (1982) (Cellular Communications Systems).

[8] Deregulation of Mobile Customer Premises Equipment, CC Docket No. 83–372, Notice of Proposed Rulemaking, FCC 83–141, 48 FR 20952 (released Apr. 28, 1983) (hereinafter Notice).

[9] AT&T indicated that:

> The ambiguity surrounding the regulatory status of the equipment under consideration has made it difficult for some carriers to plan for the future. Accordingly, AT&T suggests that the Commission follow the approach taken in the Second Computer Inquiry and make deregulation of this CPE effective at some future date, (*e.g.*, January 1, 1984). This will enable carriers to develop their long range plans in a more certain environment.

AT&T Comments on Notice, June 6, 1983, at 3.

[10] The separate proceeding was instituted on the same date. *See* CPE Detariffing Proceeding, CC Docket No. 81–893, Further Notice of Proposed Rulemaking, FCC 83–506 (released Nov. 7, 1983) (hereinafter CPE Detariffing Further Notice). In that action, we sought comment regarding (1) the accounting methods which should be adopted for removing embedded mobile CPE for regulated books of account; (2) rules for valuing embedded mobile CPE to be removed from regulated service; (3) the role of the states in establishing procedures for deregulating mobile CPE; and (4) the length of a transition period for detariffing this equipment. CPE Detariffing Further Notice at para. 2. We tentatively concluded that December 31, 1987, should be the deadline for the complete detariffing of embedded mobile equipment. *Id.*

CPE in the same manner as approved by the FCC for AT&T embedded CPE" in *CPE Detariffing Order*. *Id.* at 7. This action by AT&T would begin immediately at the time of detariffing. *Id.*

8. Second, AT&T argues that "if embedded mobile CPE is not detariffed by the date of divestiture, AT&T will be required to create an embedded base operation to maintain this equipment under tariff." *Id.* at 8. AT&T estimates that $1.3 million in start-up costs and $2.3 million annual incremental costs would be incurred as a result of establishing an EBO to maintain the embedded base for mobile CPE. *Id.*[11] AT&T further contends that costs under continued tariff regulation would increase with the decline in the size of the embedded base because the costs of the EBO organization would be spread over a diminishing number of customers. *Id.* at 9–10.

9. Third, AT&T maintains that we can detariff embedded mobile CPE offered by the Bell System as of January 1, 1984, and still go forward with our rulemaking to implement *Second Computer Inquiry* principles regarding this equipment. AT&T notes that "[d]uring the interim period [from January 1, 1984, until the completion of the implementation rulemaking proceeding] AT&T would agree to freeze the price of all embedded mobile CPE at existing tariff rates so that the Commission's final decision in that proceeding would not be prejudiced." *Id.* at 10–11.

B. Comments

10. Several parties filed comments regarding the AT&T Petition,[12] and none of the commenters addressing the issue object to the detariffing of Bell System embedded mobile equipment at the time of divestiture.[13] California indicates that it would not oppose immediate transfer of embedded mobile equipment to ATTIS if an appropriate sale and price predictability program were established. California Comments at 1. GTE argues that expedited detariffing should be limited to AT&T, favoring a transitional approach for other carriers which "would allow telephone companies which made investments under regulation to recover such investments under regulation." GTE Comments at 2–3. Telocator endorses the AT&T Petition and argues that embedded mobile CPE owned by radio common carriers also should be detariffed as of January 1, 1984. Telocator Comments at 2 *passim*. USTA does not oppose immediate detariffing in the case of AT&T, but "strongly opposes such a 'flashcut' scheme for the Independents." USTA Comments at 1.

IV. Discussion

11. A common theme of our decisions in *Second Computer Inquiry* has been our view that tariff regulation of embedded customer premises equipment is no longer warranted.[14] We have further emphasized this view in *CPE Detariffing Order*, concluding that "continued regulation of CPE is not necessary and in fact could impede the further growth of * * * competition." [15] We also have taken note of the fact that the divestiture of the Bell System has created special problems regarding the embedded CPE base of the Bell System and has made it important for us to attempt to resolve issues relating to this embedded base contemporaneously with divestiture.[16]

12. In addressing mobile CPE in this proceeding, we have concluded that "the provision of mobile telephone CPE should be deregulated." *Order* at para. 7. We also have noted that "there is no substantial reason to treat conventional mobile CPE differently from cellular and landline CPE." *Id.* We indicated in the *Order* that a primary reason for our delaying the detariffing of embedded CPE used in mobile service is "to afford the public the opportunity to comment on whether specific procedures proposed in Docket No. 81–893 should also be applied to embedded mobile CPE." *Id.* at para. 10 (footnote omitted). We adopted *CPE Detariffing Further Notice* in order to solicit public comment before resolving issues related to the embedded base used in mobile service.

13. Upon reviewing the AT&T Petition and other comments in this proceeding, we now are convinced that permitting AT&T to transfer embedded mobile CPE to ATTIS as of the date of divestiture will serve the public interest and will not in any way prejudice our further consideration of issues relating to this equipment in *CPE Detariffing Proceeding*. Under AT&T's proposal, which we are accepting to the extent reflected in this Order, valuation questions and issues relating to the terms and conditions of a sale and price predictability program for embedded mobile CPE will not be decided with any finality here, but rather will be decided in *CPE Detariffing Proceeding*. The fact that we now are permitting immediate transfer of this equipment to ATTIS will not have a bearing upon our subsequent resolution of these issues because our approval of the AT&T Petition does not in any way limit or constrict our authority to impose valuation requirements, to fix the duration of the price predictability period, to impose terms and conditions for the sale and lease of embedded mobile CPE during the transition period, and to address other matters relating to the deregulation of this equipment.[17]

14. In short, ratepayers and current customers using embedded mobile CPE provided by the BOCs will not be disadvantaged by our action in this Order. Protecting the interests of

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[11] AT&T asserts that these costs are not justified in view of the fact that the Bell System embedded base is comprised of only approximately 20,000 telephones nationwide. This means, according to AT&T, that the expense of maintaining an EBO for embedded mobile CPE would result in costs to be recovered from mobile CPE customers of approximately $115 more per mobile telephone annually compared to providing the CPE on a detariffed basis. AT&T Petition at 9.

[12] Comments were filed by People of the State of California and the Public Utilities Commission of the State of California (California), GTE Service Corporation (GTE), Telocator Network of America (Telocator), United States Telephone Association (USTA), and United Telephone System, Inc. (UTS).

[13] See California Comments at 1; GTE Comments at 2; Telocator Comments at 2; USTA Comments at 1. UTS takes no position regarding whether embedded mobile CPE should be transferred to ATTIS at the time of divestiture. UTS Comments at 1.

[14] *See* Final Decision, 77 FCC 2d at 388, 439, 441; Reconsideration Order, 84 FCC 2d at 65; Further Reconsideration Order, 88 FCC 2d at 513.

[15] CPE Detariffing Order at para. 3; *see* CPE Detariffing Proceeding, Notice of Proposed Rulemaking, FCC 83–181, 48 FR 29891, at para. 84 (released June 21, 1983) (hereinafter CPE Detariffing Notice).

[16] *See* CPE Detariffing Order at para. 6; CPE Detariffing Notice at para. 84.

[17] We have concluded that embedded mobile CPE provided by the Independent telephone companies shall not be affected by our action in this Order. There is no need to authorize or require the immediate detariffing of embedded mobile CPE provided by the Independents because this CPE is not affected by divestiture. Hence, the factors which make it advisable for us to permit AT&T to transfer embedded mobile CPE to ATTIS at the time of divestiture have no application to the Independents. Issues regarding the provision of embedded mobile CPE by the Independents will be resolved in our subsequent action in CPE Detariffing Proceeding. Further, AT&T notes that its Petition was not directed toward mobile CPE owned by the Independents. *See* AT&T Reply Comments at 2.

For similar reasons, we conclude that our action in this Order shall not apply to embedded mobile CPE owned by the radio common carriers. We reject Telocator's assertion that, since the radio common carriers generally have not participated in separations and settlements, "[t]his fact alone is sufficient justification for the flash-cut deregulation of [their] mobile CPE." Telocator Comments at 3. Our subsequent proceeding will address issues relating to the proper valuation of embedded mobile CPE and the establishment of transitional requirements which properly balance the interests of ratepayers, customers, and investors. In the case of the radio common carriers, there is no need to be deflected from our initial course of delaying the detariffing of embedded equipment until these issues are resolved. This is particularly true because divestiture, which has created exigencies warranting expedited action regarding mobile CPE owned by the Bell System, has no such impact upon the radio common carriers.

ratepayers and in-place customers will be a major concern in our application of the principles of *Second Computer Inquiry* to this embedded mobile CPE in our subsequent proceeding. The protection of ratepayers and in-place customers during the interim period, before we complete action in that proceeding, is ensured by the fact that rates established in current state tariffs for embedded mobile CPE will remain in effect until we take such action. Thus, in-place customers will not be subject to any dislocation as a result of our authorizing the immediate transfer of this equipment to ATTIS.

15. We further conclude that the transfer of embedded mobile CPE to ATTIS at the time of divestiture will not have any adverse impact upon competition in the marketplace for this equipment. There is ample evidence that strong competition already exists for this equipment [18] and that AT&T does not command a dominant position regarding sales of this equipment.[19] This evidence argues in favor of expediting the detariffing of AT&T's embedded mobile equipment. Moreover, our subsequent action in *CPE Detariffing Proceeding* will provide us with an opportunity to fashion a transition to full deregulation of this equipment which ensures that competition will continue to be promoted. Throughout our proceedings regarding embedded CPE we have sought to extend to consumers the benefits of a competitive marketplace.[20] We are confident that our action in this Order, together with our subsequent action in resolving issues regarding embedded mobile CPE, will continue to foster the growth of competition regarding sales of this equipment.

16. In addition to the fact that ratepayers, in-place customers, and competition will not be harmed by the expedited transfer of embedded mobile CPE to ATTIS, we conclude that the impending Bell System divestiture creates an additional overriding justification for permitting this transfer to take place. As we have discussed,[21] divestiture has created special problems regarding the embedded base of the Bell System. The principal problem involves the fact that, in the absence of our intervening action, AT&T would be required to offer embedded CPE under tariff beginning in 1984 after this equipment is transferred from the BOCs in connection with divestiture. We have avoided this problem in the case of landline embedded CPE by establishing a transitional framework for the deregulation of this equipment. *See CPE Detariffing Order.*

17. Although we have authority to disapprove the transfer of embedded mobile CPE from the BOCs to AT&T, we do not need to exercise this authority here because we agree with the District Court in the divestiture proceeding that transferring this equipment to AT&T is consistent with the public interest. Our concern here involves devising the best means of implementing this transfer. If we were to fail to take action in this proceeding authorizing the immediate transfer of embedded mobile CPE to ATTIS, AT&T would be forced to establish an EBO to offer this equipment under tariff until we disposed of issues involving this equipment in *CPE Detariffing Proceeding.* We already have noted, in connection with our treatment of landline embedded CPE, that the establishment and operation of an EBO would generate substantial costs and that these costs would be borne by ratepayers. *CPE Detariffing Order* at para. 44. As we have indicated,[22] costs associated with setting up and operating an EBO for embedded mobile equipment also would be substantial, in relation to the amount of this equipment owned by the Bell System. AT&T has indicated that:

> To establish an embedded base organization for mobile CPE will necessarily involve a myriad of activities, most of which will involve professional personnel, or personnel with specialized expertise. Although it is difficult precisely to state all the activities needed to establish such an organization, those activities would include at least the following: negotiation of the billing, installation, maintenance and accounting contracts.

AT&T Petition, Affidavit of Richard J. Lombardi, at 2. We conclude that the avoidance of these costs is sufficient reason for us to authorize the transfer of embedded mobile CPE to ATTIS at the time of divestiture, particularly since these costs would ultimately be borne by ratepayers, and such a transfer is consistent with the deregulatory goals we have pursued in *Second Computer Inquiry* and will not jeopardize the interests of ratepayers and in-place customers.

18. In summary, under our action in this Order, AT&T shall transfer to ATTIS at the time of divestiture embedded mobile CPE received from the BOCs as a result of the divestiture. This transfer shall be made at adjusted net book value, consistent with the principles we established in *CPE Detariffing Order.* ATTIS shall continue to lease this equipment to current customers at rates which are equivalent to state tariff rates currently in effect. These lease rates shall remain in effect until we take subsequent action in *CPE Detariffing Proceeding* to implement *Second Computer Inquiry* principles with regard to embedded mobile CPE. In that subsequent proceeding, we will make any further adjustments to net book value which are necessary in connection with the transfer of the embedded equipment (together with any other arrangements we consider necessary), and we will make any necessary adjustments in the sale program and price predictability period for this equipment, patterned after the action we have taken in *CPE Detariffing Order.* We also will address embedded mobile equipment owned by the Independent telephone companies and the radio common carriers, since that equipment is not affected by the action we are taking today.

19. We shall require the provisions of this Order to take effect on the day following the date of the release of this Order. The Administrative Procedure Act generally requires the effective date of rules to occur at least 30 days following publication in the **Federal Register**, but permits exceptions "as otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. 553(d). We hereby find good cause for an earlier effective date to exist because of the need for the provisions of this Order to be in place a sufficient time before the divestiture of the Bell System.[23] Such an early effective date will assist in minimizing costs which otherwise would be generated by divestiture, and also will reduce uncertainty regarding the manner in which embedded mobile CPE will be provided during the period immediately following divestiture. AT&T, its customers, and state commissions need to know what ground rules will be in effect regarding embedded mobile CPE, and the urgent nature of this need justifies our

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[18] AT&T has pointed out that "[t]here are at least twenty-five manufacturers of mobile CPE—including substantial firms such as General Electric, Motorola, NEC America, Hitachi and OKI Communications * * *." AT&T Petition at 6; see People of the State of California and the Public Utilities Commission of the State of California Comments on Notice, June 2, 1983, at 1.

[19] AT&T's share of mobile CPE sales has been estimated to be 36.2 percent. AT&T Petition at 7.

[20] See, e.g., CPE Detariffing Order at para. 217.

[21] See para. 11, *supra.*

[22] See para. 8 & n.11, *supra.*

[23] We have made a similar finding with regard to actions we recently have taken which affect landline embedded CPE. CPE Detariffing Order at paras. 222–223.

providing for an early effective date for the action we are taking today.

V. Ordering Clauses

20. Accordingly, it is ordered That, pursuant to Sections 4(i), 4(j), 201–205, 213, 218, 220, 303(r), and 403 of the Communications Act of 1934, 47 U.S.C. 154(i), 154(j), 201–205, 213, 218, 220, 303(r), and 403, the policies, rules, and requirements set forth herein are adopted, effective on December 30, 1983.

21. It is further ordered, That the Secretary of the Commission shall provide for the publication of this Order in the **Federal Register.**

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 84-338 Filed 1-5-84; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Parts 43, 51 and 52

[CC Docket No. 83-666; FCC 83-599]

Elimination of Parts 51 and 52 of the Commission's Rules and Amendment of Annual Report Forms R and O

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission is eliminating Part 51 and Part 52 of its Rules and Regulations which prescribe the recordkeeping and reporting requirements for the classification and compensation of employees of telephone and telegraph companies. We are also eliminating two related Schedules of Annual Report Forms R and O. These recordkeeping and reporting requirements are being eliminated because it has been decided that they are no longer needed for the Commission's regulatory purposes. The elimination of these requirements will reduce common carrier recordkeeping and reporting burdens.

DATE: Effective February 6, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Gerald P. Vaughan, Chief, Accounting and Audits Division, Common Carrier Bureau, (202) 634–1861.

List of Subjects in 47 CFR Parts 43, 51 and 52

Communications common carriers, Compensation.

Report and Order

In the matter of Elimination of Part 51 and Part 52 of the Commission's Rules and Regulations and the Amendment of Annual Report Forms R and O; CC Docket No. 83-666.

Adopted: December 22, 1983.
Released: December 28, 1983.

By the Commission.

I. Introduction

1. In a Notice of Proposed Rulemaking (NPRM) released on July 11, 1983, 48 FR 32612, we proposed to eliminate Part 51 and Part 52 of our Rules and Regulations and to eliminate Schedule 408A and Schedule 408B of Annual Report Forms R and O, respectively. We received no comments opposing our proposals, and this Report and Order eliminates the recordkeeping and reporting requirements as proposed.

2. Part 51 prescribes the recordkeeping requirements for telephone companies regarding the compensation, classification, and counting of employees and describes other related information which should be maintained.[1] Part 52 prescribes a similar recordkeeping and other requirements for wire-telegraph companies.[2] [3]

3. Annual Report Form R is a report to be filed by radiotelegraph carriers [4] whose accounting is prescribed in Part 34 of our Rules; and

Annual Report Form O is a report which is required to be filed by wire-telegraph and ocean-cable carriers [5] whose accounting is prescribed in Part 35 of our Rules. These reports, which are filed in accordance with Section 43.21 and Section 1.787 of the Rules, provide information on the stock and stockholders; officers and directors; funded debt; property, franchises and equipment; and financial operations of the reporting companies.

4. We proposed to eliminate the recordkeeping requirements in Part 51 and Part 52 and the related reporting requirements in Forms R and O because we saw no current FCC regulatory purpose being served by these data, we have no statutory mandate to collect these data, and we have been advised by several carriers that similar data are filed with the Bureau of Labor Statistics. We also noted that similar reporting requirements for telephone companies had already been eliminated from Form M by *Amendment of Annual Report Form M*, Docket 82-680, 48 FR 19373 (1983).

II. Comments

5. Interested parties were invited to file comments on or before August 10, 1983, and reply comments on or before August 25, 1983. Comments were received from the American Telephone and Telegraph Company, for itself and on behalf of the associated Bell System Operating Companies (AT&T), and RCA Global Communications, Inc. (RCAG). Reply comments were received from Western Union Telegraph Company (Western Union), and GTE Service Corporation and its affiliated domestic telephone companies (GTE).

6. AT&T and GTE support our proposal. They state that the maintenance of records in the specific form required by Part 51 causes unnecessary administrative expenses. In addition, they assert that there is no public interest justification to continue the recordkeeping requirements and that this information is not required to meet any regulatory purpose under the Communications Act. Finally, they believe that continuing the recordkeeping requirements would be contrary to the intent of the Paperwork Reduction Act of 1980. Western Union, in reply comments, also supports the proposal.

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[1] Part 51 requires each telephone company to record and include in its annual report to the Commission each year, its employees categorized according to the occupational classifications specified. These classifications include (1) number of male employees; (2) number of female employees; (3) total number of employees; (4) number of scheduled weekly hours; (5) amount of scheduled weekly compensation; and (6) number of employees, other than managerial assistants. Each classification is grouped according to hourly rate of pay.

[2] Part 52 requires each wire-telegraph carrier to classify and count its male and female employees separately each year as of the end of October. Each carrier is also required to maintain records, by classification, indicating the scheduled weekly hours, scheduled weekly compensation, and hourly rate of pay. Further, the carriers are required to classify employees on the basis of character of service. Character of service classifies employees in occupations that are primarily concerned with responsible policy-making, planning, supervising, coordinating, or guiding the work activities of others. These classifications include officials and managerial assistants, professional and semiprofessional employees, telegraph operators and messengers.

[3] Rules governing the classification of telephone employees were first adopted by the Interstate Commerce Commission effective July 1, 1917. These rules remained in effect until they were revised and reissued by the Federal Communications Commission effective July 25, 1944. Part 52, Classification of wire-telegraph employees, was issued by this Commission effective July 11, 1944. These rules did not state how the data would be used for regulatory purposes.

[4] Currently, carriers that report on Annual Report Form R are ITT World Communications, Inc., RCA Global Communications, Inc., TRT Telecommunications, and U.S.-Liberia Radio Corporation.

[5] Currently, carriers that report on Annual Report Form O are Western Union Telegraph Company; WUI Caribbean, Inc.; Western Union International, Inc., and FTC Communications, Inc.

7. Two comments were submitted in support of our proposal to eliminate Schedules 408A and 408B. RCAG states that it fully supports the Commission's efforts to eliminate the reporting requirements. It states that the proposal to eliminate the reporting requirements is consistent with the Commission's decision in *Amendment of Annual Report Form M, supra,* and accomplishes the purposes of the Paperwork Reduction Act of 1980. AT&T points out that the Commission eliminated the related Form M schedules since it found that the Annual Report Form M reporting requirements relating to employee data were not required to meet the regulatory obligations of either the Commission or the states. AT&T says that similar data are filed with the Bureau of Labor Statistics, the agency with the primary interest in these data.

III. Discussion

8. Our objective in this proceeding, as stated in the NPRM, is to eliminate certain recordkeeping and reporting requirements, thereby reducing the administrative burden on the regulated companies. This reduction in burden is in the public interest in that any cost savings should ultimately inure to the ratepayer.

9. The NPRM proposed to eliminate Part 51 and Part 52 because of our changing regulatory information needs. The primary purposes of Part 51 and Part 52 are to define and specify how the regulated companies must classify and count employees and also to describe other employee information which must be maintained in order to support certain schedules which are filed with the annual report forms. We have again reviewed our statutory obligations and current needs and see no current or future regulatory purpose for maintaining these data. We agree with AT&T and GTE that the recordkeeping requirements of Part 51 and Part 52 cause the regulated carriers to incur unnecessary recordkeeping expenditures. Also, we concur that the information collection requirements are not imposed to meet any regulatory purpose under Section 219 of the Communications Act which could mandate the continued maintenance of these data. Finally, we agree with the commenting parties that eliminating the requirements of Part 51 and Part 52 would be in furtherance of the Paperwork Reduction Act of 1980 and the Commission's goal of eliminating unnecessary regulations and policies. Therefore, we find that the public interest requires the elimination of Part 51 and Part 52.

10. We tentatively found that the employee classification data are no longer required to meet the regulatory obligations of this Commission. In addition, we pointed out in the NPRM that similar information is reported directly to the Bureau of Labor Statistics, the agency with the primary interest therein, on BLS Form 790 Dtp. This duplication of information gathering among government agencies was also noted by AT&T and GTE. Further, RCAG agrees with our contention that this action is consistent with the Commission's decision to eliminate similar reporting requirements for telephone carriers who filed Annual Report Form M. By eliminating the recordkeeping requirements contained in Part 51 and Part 52, it follows logically that the affected reporting requirements contained in Annual Report Forms R and O should be eliminated. Therefore, we are eliminating Schedule 408A of Annual Report Form R and Schedule 408B of Annual Report Form O.

11. In compliance with the provisions of section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), we certify that the elimination of Part 51 and Part 52 of the Commission's Rules and Regulations and the amendment of Annual Report Forms R and O will not have a significant economic impact on a substantial number of small entities. The rule change will, however, have a beneficial economic impact and will ease the recordkeeping and reporting requirements of large and small carriers.

PARTS 51 AND 52—[REMOVED]

12. Accordingly, it is ordered, That pursuant to Sections 4(i), 219 and 220 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 219 and 220, 47 CFR Parts 51 and 52 are hereby removed effective thirty days after publication of this Order in the **Federal Register**.

PART 43—[AMENDED]

13. It is further ordered, That Annual Report Forms R and O are amended in that Schedules 408A and 408B are hereby eliminated effective with the Form R and O Reports for Calendar Year 1983.

14. It is further ordered, That the Secretary shall mail a copy of this *Report and Order* to each state commission.

15. It is further ordered, That this proceeding is terminated.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 84-345 Filed 1-5-84; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 71

[OST Docket No. 9; Amdt. 71-20]

Standard Time Zone Boundaries; Technical Amendments

Correction

In FR Doc. 83-32837 appearing on page 55289 in the issue of Monday, December 12, 1983, make the following corrections:

1. In the middle column, first complete paragraph, fourteenth line, "AKST" should have read "AkST".

2. In the same column, second complete paragraph, in the sixteenth and seventeenth lines, "AIST/AIDT" should have read "AlST/AlDT".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 22

Eagle Permits; Permits for Falconry Purposes

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service hereby amends 50 CFR Part 22 to allow golden eagles (*Aquila chrysaetos*) to be possessed and transported by qualified individuals for purposes of falconry. These regulations allow golden eagles live captured during depredation control activities, or otherwise legally possessed by permit under 50 CFR Part 22 to be used by holders of master or equivalent falconry permits who have applied for, and received, a Federal permit to possess and transport golden eagles for falconry. Permits will be issued only after all appropriate Federal and State regulations have been complied with. Nothing in this rulemaking prevents any State from imposing and/or enforcing more restrictive State laws and regulations regarding the use of golden eagles in falconry than are contained herein. The Service projects that 30–50 golden eagles

will be required initially to fulfill demand with an additional 5–10 golden eagles required per year thereafter.

EFFECTIVE DATE: These regulations will become effective on February 6, 1984.

FOR FURTHER INFORMATION CONTACT: William C. Reffalt, Chief, Division of Wildlife Management, Telephone: 202/632–2202.

SUPPLEMENTARY INFORMATION: On October 21, 1982, (47 FR 46866), under authority of the Bald and Golden Eagles Protection Act, as amended (16 U.S.C. 668a), the Service proposed to amend 50 CFR Part 22 to allow for the use of golden eagles in falconry. At that time, background information related to golden eagle biology and Service involvement with depredating golden eagles was presented. The 60 day comment period on the proposed rule expired on December 20, 1982. This final rule implements the 1972 amendment to the Bald and Golden Eagles Protection Act (hereafter referred to as the Act).

Summary of Public Comments and Service Responses. Written comments concerning the proposed regulations were considered from 22 respondents as follows: State Fish and Game Departments (2); U.S. Fish and Wildlife Service (1); individuals (12); and organizations (7). Of all respondents, six opposed and sixteen supported the proposed rule. After carefully reviewing the comments along with the best available information, the Service has determined that the rule is warranted. Objections to the proposal and Service responses to the objections are listed below.

One individual held that use of golden eagles in falconry was objectionable because of traditional spiritual values held by native Americans. We respect the spiritual values of all individuals and regret that the use of these birds by others for falconry may run counter to these values. However, the Service does not consider this adequate justification to withdraw the proposal since the rule reflects Congressional intent.

Several respondents felt that golden eagles are too powerful and their use in falconry will be hazardous to humans, individual eagles and/or the species. The Service agrees that golden eagles in the hands of falconers may present some risk regarding human safety. However, such risks are primarily to the falconer and not unlike those posed by the handling of any large raptor. Golden eagles are flown in falconry regularly in Europe with no reported safety problems occurring. As regards harmful effects to individual birds and the species, the Service feels that the limited numbers of eagles removed from the wild—estimated at 30 to 50 initially and 5 to 10 per year thereafter—will have miniscule and transient effect on the golden eagle population which, in the West, is thought to number approximately 60,000 wintering birds. Furthermore, we feel the criteria restricting the use of golden eagles to qualified falconers will ensure, to the maximum extent possible, that individual birds will be properly handled and cared for.

One respondent felt that the use of any wildlife—especially eagles—for personal pleasure is objectionable and does not promote attitudes essential to wildlife preservation. This same individual suggested that the use of captured eagles be restricted to scientific or educational endeavors only. The Service recognizes that some individuals will be offended by the use of these birds in falconry. As previously stated, however, this action simply implements the Act as amended in 1972 which authorizes the use in falconry of depredating golden eagles. In addition, it is felt that this action will provide an opportunity to learn more of the basic biology of golden eagles. For example, golden eagles trained and flown using falconry techniques were extremely valuable in research to develop utility pole design to reduce raptor electrocution problems. The Service also believes that, contrary to the claims of the commentor, golden eagles possessed by falconers will likely provide excellent opportunities for public education and thus promote attitudes and understanding ultimately beneficial to golden eagles. As regards restricting the use of golden eagles for scientific or educational purposes, such uses are already authorized by permit under existing laws and regulations contained in 50 CFR 22.21.

This same respondent also offered that, in the event the proposal was adopted, the final rule be modified to allow no trapping by applicants and further, that permit tenure be limited to five years. Absent any biological or other evidence to the contrary, the Service feels that limiting the duration of permits to five years would provide no useful function. Rather, the Service believes that the regulation as now written provides sufficient safeguards for the health and welfare of eagles maintained under this rule. We do feel that the trapping of eagles should be conducted only by experienced Service employees or by qualified individuals under direct Service supervision and the final rule has been revised to reflect this change. The final rule has also been amended to set forth, in detail, requirements for obtaining permission to trap for falconry purposes, including requirements of concurrence by State Animal Damage Control officers, demonstration of qualifications to properly trap, mandatory supervision and limited tenure of the permission.

One commentor held that falconers do not have the facilities, ability or interest to maintain golden eagles and should not be authorized to do so. Applications for permits must include a description of the facilities in which the golden eagles will be housed; such facilities must meet minimum Federal falconry standards for facilities and equipment as specified in 50 CFR 21.29. As regards ability, we reiterate that golden eagles are flown regularly in Europe, and, it is felt, falconers in the United States will be equally capable of handling and maintaining these birds. The level of interest among falconers will be evidenced by the number of applications for permits.

One individual expressed the belief that the proposal would allow a few individuals with the necessary financial means to obtain a resource that belongs to all Americans. It is our opinion that the removal from the wild of a minimal number of golden eagles as predicted will have essentially no effect on the golden eagle population in the western United States; all Americans, as they have in the past, will still be able to enjoy this wildlife resource in its natural habitat.

This same person offered that the proposal would lead to abuses such as already occur in falconry. We believe that such a statement could be made for any activity subject to laws and regulations and is not sufficient justification to withdraw the proposal. Furthermore, the conditions, criteria and level of expertise that must be met by applicants to obtain a permit will demonstrate their qualifications, sincerity and previous compliance with wildlife laws and minimize the occurrence of such abuses.

Lastly, this same respondent suggested as an alternative that captured golden eagles should be used to reestablish breeding populations in certain areas of the Great Plains. Such a proposal goes beyond the scope of this rulemaking and will be addressed in the Service's golden eagle resource management document.

One respondent felt the use of golden eagles in falconry is poor wildlife management and will do nothing to solve the basic problem of eagle depredations. Further, it was felt that confusion and possible violations of more restrictive State regulations might result from a dual Federal/State

permitting system for golden eagles and other raptors and suggested that the Service specify which States do or do not allow the use of golden eagles in falconry (whether such birds were trapped within, or imported into, a State). We do not contend that this rule will solve the basic problem of unwanted eagle depredations. This rulemaking simply implements provisions of the amended Act to provide the means by which qualified falconers may obtain golden eagles for use in falconry which, in the past, have been captured and translocated in order to temporarily alleviate depredations; such capture and translocation activities will continue in the future while further efforts will also seek to provide long-term solutions. The Service believes that any such confusion and/or violation of more restrictive State laws will be minimized because no permit to possess and transport golden eagles for falconry will be issued unless and until there is joint concurrence between the Service and an appropriate official of a State listed in paragraph (k) of 50 CFR 21.29. This will assure full Federal/State cooperation and negate the need for the Service to list those States which do or do not allow use of golden eagles in falconry. We have, moreover expressly recognized in the final rule as adopted that nothing in this rule is to be taken as preempting stricter State laws or regulations, and inserted compliance with State law as a condition of permit issuance. We also believe that it is the responsibility of falconers to be aware of State and Federal regulations regarding the use of golden eagles in falconry, and that this awareness will minimize inadvertent violations of these regulations.

Of sixteen respondents favoring the proposal, most provided at least one suggestion they felt would improve the final rule. These suggestions and Service comments are as follows:

A number of respondents, while concurring that a master falconers permit was appropriate, expressed the belief that an additional five years experience at that level would do little to prepare falconers to handle golden eagles and should be eliminated. Experience necessary to become familiar with golden eagle behavior and biology, they stated, could only be gained by actually possessing and handling eagles. The Service agrees that five years' experience as a master falconer is excessive and unwarranted. Appropriately, this requirement has been stricken from the final rule. However, in lieu of this requirement, the Service will place increased reliance on letters of reference as important indicators of an applicant's capability and suitability to receive golden eagles for falconry purposes. Therefore, it has been determined that all applications must be accompanied by at least two (2) letters of reference rather than one (1) as initially proposed. Additional specifications as to the content of those letters have also been added to the final rule. These letters will be used by the Service to assist in evaluating an applicant's qualifications.

A number of respondents also opposed the type of experience required of individuals submitting letters of reference for applicants. Such eagle experience, they felt, would be more appropriate if it took the form of eagle flying experience irrespective of the species of eagle. We have reconsidered this point and concluded that both flying and handling experience are important in this regard and merit equal consideration. Appropriately, letters of reference that must be submitted with each application may be from individuals with recognized eagle flying experience and/or eagle handling experience. Eagle handling experience as used herein refers, but is not necessarily limited, to experience related to handling pre-Act birds, zoological specimens, rehabilitating eagles or the use of eagles in scientific studies.

Our initial proposal was to allow the use in falconry of golden eagles captured during depredation control activities and/or captive-reared golden eagles. One respondent felt that the use of golden eagles in falconry should be limited to fledged eagles captured during depredation control activities; this, it was felt, would minimize threats to humans and individual birds resulting from the use of imprinted eagles and would eliminate the possibility that non-native golden eagles, through escapes, would contaminate the native gene pool with "foreign" genes. The Service recognizes that golden eagles, casually reared from wild-bred and captive-bred stocks and imprinted to humans, may present certain risks. As previously stated, however, such risks are primarily to the falconer and not unlike those posed by the handling of any large raptor. Golden eagles are flown in falconry regularly in Europe with no reported safety problems. As regards contamination of native gene pools, the Bald Eagle Protection Act was amended in 1962 to prohibit, among a number of other activities, the importation of live golden eagles. Because no golden eagles have been legally imported since that time, therefore, we believe that introduction of foreign golden eagle genes into the native gene pool is a highly remote possibility of no significant concern or consequence.

Conversely, several respondents felt the final rule should be expanded to also allow the use of, for example, rehabilitated, salvaged and confiscated golden eagles. We agree that some rehabilitated or other legally possessed golden eagles may not be suitable for return to the wild and should be considered for use in falconry. Appropriately, we have expanded the final rule to allow the use in falconry not only of golden eagles taken to resolve livestock depredations but also of golden eagles otherwise legally possessed for which no restrictions exist specifically prohibiting their use for such purposes. The final rule requires documentation of the legality of any currently possessed eagles which are to be qualified under this provision. It is important to reiterate that the primary intent of our original proposal to implement the 1972 amendment to the Act was to provide qualified falconers with depredating golden eagles for use in falconry. Therefore, only eagles taken as independent, free-flying birds will ordinarily be approved for use in falconry. Persons desiring to use for falconry purposes golden eagles lawfully taken and possessed for reasons other than the control of depredations must specifically request this authority; since these may pose special problems, all applicants must state the procedures to be used to prevent such eagles from becoming a hazard.

One respondent felt that authorization should be granted for the sale to falconers of captive-bred and captive-reared eagles as a means of offsetting costs of captive breeding programs. The Act, 16 U.S.C. 668, prohibits the sale of any golden eagle; while the 1972 amendments establish an exception for taking, possession or transportation for falconry, they establish no exception for sale, purchase or barter. Commercialization involves concerns and risks to the species beyond those which we have considered here. Clearly, this proposed activity is beyond Service authority and has not been given further consideration.

This same respondent felt that master falconer's licenses should be issued to individuals with demonstrated pioneering experience in training birds of prey without having to fulfill the minimum time requirement now needed. The Service believes that the mechanism now exists in 50 CFR 21.29 whereby such individuals may be able

to obtain a master falconer's permit provided they pass a State examination, have approved facilities and demonstrate their falconry experience. The Service believes that issuance of "pioneer" falconry permits is the individual State's responsibility. Otherwise, this proposal goes beyond the scope of this rulemaking and need not be given further consideration herein.

One individual suggested that the proposed rule did not specify what housing facilities were acceptable for maintaining eagles. As stated in the proposed rule (see *Issuance Criteria* listed under 50 CFR 22.24(d)), golden eagles legally possessed for falconry under this rulemaking shall be maintained in accordance with Federal falconry standards for facilities and equipment described in 50 CFR 21.29.

One commentor felt the Service should develop and maintain a list of individuals deemed qualified to write letters of reference. The Service considers the creation and maintenance of such a list to be undesirable. Any such list would imply that the Service is unwilling to consider the opinions of unlisted persons, and might be considered an excessive delegation of authority. Rather, the letters of reference from individuals with recognized eagle experience, and of the applicants' choosing, will provide an additional means of evaluating each application while avoiding questions of impropriety.

One respondent felt the final rule should be expanded to allow general falconers, with an eagle sponsor, to possess golden eagles. This, it was stated, was preferable to eagles being destroyed due to a lack of qualified recipients. We believe the requirement that applicants possess, at a minimum, a master falconer or equivalent permit is not excessive and provides reasonable assurance that eagles will be properly handled and maintained. In the event there are more eagles available than falconers qualified to possess them, the Service intends to translocate excess birds as in the past.

Expressing concern for the remnant golden eagle population in the eastern United States, one respondent felt the final rule should specify that only golden eagles captured west of the Mississippi River to resolve depredation problems be authorized for use in falconry; eagles captured east of the Mississippi River should be translocated as per current Service policy. We agree with the assessment that the eastern golden eagle population at present can ill afford the removal from the wild of any birds for use in falconry or any other purpose; appropriate policy will be developed within the Service at some future time if and when golden eagle depredations in the East become a problem and we initiate trapping efforts. Such a policy, which would take into full consideration this respondent's concerns, would likely specify that priorities be assigned to the possible dispositions of such birds where, for example, the highest priority would be their translocation and release back into the wild and the lowest priority would be their use in falconry. At the present time, however, the trapping and translocation of golden eagles to resolve depredations occurs only in western States. Golden eagles only infrequently cause depredation problems in the East (likely due to various factors including low numbers of golden eagles, sheep and goats, and different land use patterns and livestock husbandry practices from those used in the West). It was and still remains our purpose that golden eagles used in falconry pursuant to this rulemaking be birds that were trapped from western States to resolve depredations. In light of these considerations, we have not felt it necessary to modify the final rule to specifically identify and authorize only western golden eagles for use in falconry.

Comments were received from several respondents that the final rule include a provision that all eagles be banded with removal resistant bands to facilitate identification of individual birds.

The Service agrees and the final rule has been appropriately modified. While we are not presently aware of any bird band for fledgling or adult eagles totally impervious to removal efforts, all bands so issued will be of such materials and construction to minimize removal by individual birds while also minimizing leg damage as a result of these efforts.

One respondent held that the final rule should include a provision for reporting the injury, death or loss of eagles as well as a provision for annual reports on prey taken, especially including protected species or species of concern. The need for reports is recognized. However, the Service believes that such reporting requirements are best addressed and included as conditions of the permit. Furthermore, the Service considers the possibility to be remote that the few golden eagles predicted to be used in falconry will utilize protected species as prey. Appropriately, an annual report on prey species taken cannot be justified and has not been included.

The following listed modifications to the proposed rule were neither addressed in the proposed rule nor mentioned by any respondent, but are now considered necessary and justified after review of public comments in consultation with Service and Departmental representatives.

The proposed rule referred to authorizations as "letters of authorization." This has been changed to "permit" in the final rule, to conform with general usage in Title 50, CFR.

A permit condition prohibiting the captive breeding of golden eagles possessed for falconry purposes has been added. This stipulation should reduce problems resulting from the use of golden eagles imprinted to humans.

Authority to trap golden eagles from the wild by qualified applicants pursuant to 50 CFR Part 22 Subpart D has been removed as a permitted activity but authority to trap has been included as an action requiring, among other things, special permission from a State Animal Damage Control Supervisor subsequent to issuance of a permit to possess and transport golden eagles for falconry purposes. This rectifies problems which might be caused by unintentional inclusion in the proposed rule of eagles taken under the provision authorizing the trapping of golden eagles by applicants under authority of 50 CFR Part 22 Subpart D, "Depredation Control Orders on Golden Eagles." Under this Subpart, eagles may be taken without a permit when authority is requested by, and issued to, a State governor. A careful examination of the conditions of Subpart D revealed that the Service would lack any control over golden eagles taken pursuant to Subpart D for use in falconry. This lack of authority was never our intention. In addition, addressing the activity of trapping separately from the permitted activities of possession and transport simplifies the language of the final rule and should reduce future confusion while concurrently providing qualified individuals with the necessary authorization to trap golden eagles.

Two permit conditions have been added as a means to further protect the health and welfare of golden eagles possessed pursuant to this rulemaking. These conditions: (1) require notification of the appropriate special agent in charge within a reasonable time period upon the death of a permittee; and (2) require written approval from the appropriate regional director to transfer or dispose of any golden eagles by any means in the event that permittees at some future time become incapable, ineligible or otherwise unwilling to possess and maintain golden eagles. While permittees may provide suggestions for such transfers or disposals, the Service, after considering such suggestions and consulting with

appropriate officials of State agencies, will be solely responsible for final decisions regarding the disposition of such birds.

Required Determinations: An assessment of the environmental effects of this rule has been prepared as required by the National Environmental Policy Act of 1969. A determination has been made that this rulemaking action is not a major Federal action significantly affecting the quality of the human environment.

The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). As golden eagles are not now a subject of commerce, and under this rule their sale or barter will still be prohibited, any economic effort and impact upon small entities will likely be too small to measure. It is highly unlikely that over fifty persons, all of them already practicing falconers, will initially apply for permits under this rule.

The Environmental Assessment and the Determination of Effects of Rule are available for public inspection, as are all supporting documents, during regular business hours (7:45 am to 4:15 pm) in the Division of Wildlife Management, 1717 H Street, NW., Room 514, Washington, D.C.

Information Collection Requirements: This rule allows qualified individuals who possess master or equivalent falconry permits to possess and transport golden eagles for purposes of falconry. Since the information collection requirements associated with falconry permits are cleared under the Paperwork Reduction Act of 1980 (Office of Management and Budget (OMB) approval number 1018–0022) and no further changes in the duties of respondents or burden are anticipated, this rule does not contain information collection requirements which require additional approval from OMB under 44 U.S.C. 3501 *et seq.*

The author of this rule is Jeffrey L. Horwath, Wildlife Biologist, Division of Wildlife Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

List of Subjects in 50 CFR Part 22

Exports, Imports, Reporting and recordkeeping requirements, Wildlife.

Final Falconry Regulations for Use of Golden Eagles

PART 22—[AMENDED]

1. The authority citation for 50 CFR Part 22 reads as follows:

Authority: Section 2, Eagle Protection Act of June 8, 1940, Chapter 278, 54 Stat. 251; Pub. L. 87–884, 76 Stat. 1246; section 2, Pub. L. 92–535, 86 Stat. 1065; section 9, Pub. L. 95–616, 92 Stat. 3114 (16 U.S.C. 668a).

2. Amend Table of Contents for 50 CFR 22 by removing the "[Reserved]" after the title for § 22.24.

3. Part 22 of 50 CFR is amended by adding a new § 22.24, which reads as follows:

§ 22.24 Permits for falconry purposes.

The Director may, upon receipt of an application and in accordance with the issuance criteria of this section, issue a permit authorizing the possession and transportation of golden eagles for falconry purposes.

Note.—The information collections contained in this § 22.24 are cleared by the Office of Management and Budget under the Paperwork Reduction Act of 1980 and assigned approval number 1018–0022. The information is necessary to determine potential permittee's qualifications and is required to obtain a permit.

(a) *Application procedure.* Applications for permits to possess and transport golden eagles for falconry purposes shall be submitted to the appropriate special agent in charge (see § 13.11(b) of this subchapter). Each application must contain the general information and certification required by § 13.12(a) of this subchapter plus the following additional information:

(1) A copy of the applicant's master (or equivalent) class permit issued in accordance with 50 CFR 21.28.

(2) A statement of the applicant's experience in handling large raptors, including the species, type of experience and duration of the activity in which the experience was acquired.

(3) At least two (2) letters of reference from individuals with recognized experience in handling and/or flying eagles. Each letter must contain a concise history of the author's experience with eagles. Eagle handling experience is defined as, but is not limited to, the handling of pre-Act birds, zoological specimens, rehabilitating eagles, or scientific studies involving eagles. Each letter must also assess the applicant's capability to properly care for the fly golden eagles in falconry, and recommend the issuance or denial of the permit.

(4) A description of the facilities in which golden eagles will be housed.

(5) If requesting an eagle(s) from the Service, applicants must specify the sex, age and condition of the eagle(s) they will accept.

(6) For eagles already legally possessed, a copy of the permit or other documentation authorizing possession of said birds, and the procedures to be used to minimize or eliminate hazards associated with the use of imprinted birds in falconry.

(7) Name, address, age and experience in handling raptors of any person the applicant proposes to act as an authorized agent in taking possession of golden eagles provided by the Service.

(8) To obtain additional or replacement golden eagles, a request in writing to the appropriate special agent in charge must be tendered, identifying the existing permit and, for replacement eagles, the reason for such replacement.

(b) *Permit conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, permits to possess and transport golden eagles for falconry purposes are subject to the following conditions:

(1) Golden eagles possessed for falconry purposes are considered as raptors and must be maintained in accordance with Federal falconry standards described in §§ 21.28 and 21.29 of this subchapter.

(2) Only golden eagles legally obtained may be possessed and transported for falconry purposes.

(3) Captive breeding of golden eagles possessed for falconry purposes is prohibited.

(4) The applicant, or authorized agent, must agree to take possession of a requested golden eagle(s) within 72 hours of notification of availability. Expenses incurred by the applicant in taking possession of said eagle(s) will be the applicant's responsibility.

(5) The golden eagle(s) must be banded with a numbered eagle marker provided by the Service.

(6) All permits issued pursuant to this section shall state on their face that eagles possessed for falconry purposes under authority of this permit may not be transferred or otherwise intentionally disposed of by any means, including release to the wild, without written approval from the appropriate regional director.

(7) All permits issued pursuant to this section shall state on their face that the appropriate special agent in charge must be notified no later than ten (10) days after the death of a permit holder.

(c) *More restrictive State laws.* Nothing in this section shall be construed to prevent a State from making and/or enforcing more

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restrictive laws and regulations as regards the use of golden eagles in falconry.

(d) *Issuance criteria.* The Director shall conduct an investigation and shall not issue a permit to possess and transport golden eagles for falconry purposes unless he has determined: that such possession and transportation is compatible with the preservation of golden eagles; that the proposed possession and transportation of golden eagles for falconry is not otherwise prohibited by laws and regulations within the State where the activity is proposed; and that the applicant is qualified to possess and transport golden eagles for falconry purposes. In making the latter determination, the Director shall consider, but shall not necessarily be limited to, the following:

(1) The applicant's cumulative falconry experience.

(2) The applicant's demonstrated ability to handle and care for large raptors.

(3) Information contained in the applicant's letters of reference.

(e) *Tenure of permits.* Any permit to possess and transport golden eagles for falconry purposes is valid for as long as the holder maintains a valid master (or equivalent) class falconry permit or until revoked in writing by the Service.

(f) *Permission to trap golden eagles for falconry purposes.* Applicants desiring to trap golden eagles from the wild for use in falconry must request and obtain permission from the Service prior to exercising this privilege. The following applies to requests:

(1) Only golden eagles from a specified depredation area may be trapped for falconry purposes.

(2) Permission to trap golden eagles must be requested in writing from the appropriate State Animal Damage Control (ADC) supervisor subsequent to issuance of the permit to possess and transport golden eagles for falconry purposes.

(3) Permission to trap will not be granted until the permittee suitably demonstrates to the State ADC supervisor or a designated project leader his/her qualifications and capabilities to trap golden eagles from the wild.

(4) All such trapping must be conducted under the direct supervision of the State ADC supervisor or designated project leader in the specified depredation area.

(5) Any permission to trap golden eagles from the wild pursuant to this section shall in no case extend more than 90 days from the date of issue.

(6) Upon issuance of permission to trap in accordance with the above conditions, the appropriate special agent in charge will be notified in writing by the State ADC supervisor of the individual's name, address, location of the specified depredation area and tenure of permission to trap golden eagles.

Dated: December 12, 1983.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84-276 Filed 1-5-84; 8:45 am]

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Proposed Rules

Federal Register
Vol. 49, No. 4
Friday, January 6, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 5

[Docket No. 83-60]

Rules, Policies and Procedures for Corporate Activities; Organization of a National Bank

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency (Office) is proposing to amend its policies and procedures on chartering national banks. The amendments expedite the application process for certain organizers, eliminate a dual publication requirement for bank holding companies and clarify certain Office policies. The proposal is intended to benefit organizers of national banks by more clearly defining Office policy and by removing burdensome and costly regulatory requirements.

DATE: Written comments must be submitted on or before February 6, 1984.

ADDRESSES: Comments should be directed to: Docket No. 83-60, Communications Division, 3rd Floor, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, SW., Washington, D.C. 20219, Attention: Lynnette Carter. Comments will be available for public inspection and photocopying at the same location.

FOR FURTHER INFORMATION CONTACT: Randall J. Miller, Manager, Policy, or Joseph W. Malott, National Bank Examiner/Policy Analyst, Bank Organization and Structure, Office of the Comptroller of the Currency (202) 447-1184.

SUPPLEMENTARY INFORMATION:

Purpose

The purpose of this proposal is to minimize costs and burdens on bank organizers and the Office by clarifying policies and streamlining the procedures to establish a national bank.

Background

This proposal is part of the Office's Corporate Activities Review and Evaluation (CARE) Program. That program is described in the **Federal Register** (45 FR 68586), dated October 15, 1980, and involves a comprehensive review of Office rules, policies, procedures, and forms governing filings for corporate expansion and structural changes for national banks. The goals of the CARE Program are to minimize the costs and burdens on applicants, the agency and the public; to provide a better understanding of policies; to modify or eliminate rules, policies, procedures, and forms which are unnecessary or lead to inefficiencies; and to remove barriers to competition.

Proposal

The Office is proposing to amend those portions of 12 CFR 5.20 which prescribe Office policies and procedures for an applicant to obtain approval to establish a national bank.

The Office is proposing to streamline its application procedures by eliminating the publication requirements of § 5.8 for charter applications sponsored by existing bank holding companies. Holding company applications to establish new banks are subject to Federal Reserve Board public notice requirements. Therefore, the additional notice required by the Office under § 5.8(a) is considered unnecessary and is eliminated.

Presently under § 5.20(c)(1)(iii) an agent is the person named in the application to represent the organizing group. In the future the Office will correspond with a spokesperson who will be designated in the application to represent the organizing group. The spokesperson must be a member of the organizing group and a director of the proposed bank. This change is made because the Office desires to correspond directly with at least one member of the organizing group. This change does not preclude the organizing group from using an agent; however, Office correspondence will be with the organizing group's spokesperson and not with the organizing group's agent.

The Office is amending § 5.20(c)(1)(iv) to streamline its approval process by exempting bank holding companies, individuals the Office considers experienced in banking, and individuals affiliated with other banking institutions from filing certain portions of the application. Additionally, the Office may waive some procedural steps for a qualified organizing group. These organizing groups may submit less detailed market analyses, financial information, and information on organizers, shareholders, and management. The Office will retain the authority to request more detailed information or to terminate the streamlined process at any time.

For the purposes of exempting a qualified organizing group from filing certain parts of the application the Office will consider an individual experienced in banking if the individual has three or more years of significant involvement in policymaking decisions as a director or as an executive officer in a federally-insured financial institution that, in the opinion of the Office, has operated in a satisfactory manner. Executive officer positions normally will be vice presidents and above as defined by 12 CFR Part 215 (Regulation O). The majority of persons in an organizing group must meet the definition of experienced in banking for the group to be considered experienced in banking. Likewise, bank holding companies may be exempt from certain parts of the application process. Presently the Office considers a holding company eligible for exemption if it has controlled another bank for at least three years prior to submitting the application, will own 25 percent or more of the voting stock of the proposed bank, and in the opinion of the Office the holding company and its subsidiaries have operated in a satisfactory manner.

The Office is proposing to amend its standard procedures on the employment of executive officers for new banks. At present, following preliminary approval for a new national bank charter, applicants must comply with several procedural actions to be granted a charter (§ 5.20(g) and § 5.20(i)(1) CC 7020-19). One of these is to receive the Office's approval to hire or dismiss executive officers prior to the granting of the charter and for two years after. Under the amended procedures, the Office will not approve or sanction managerial choices of organizers, but will retain the right to object to the employment of officers who might have an adverse effect upon the new bank.

The Office's right to object to the hiring of executive officers during a two year period from the date the bank commences business will be included as a condition of approval. Also, the Office will no longer review a bank's decision to dismiss an officer. Accordingly, references to the Office's prior written approval of a proposed executive officer's dismissal will be deleted from § 5.20(c)(3)(ii)(D).

The Office is amending its policy on capital to state that capital must be raised within one year from the date of preliminary approval. The Office will consider extending this period but only under unusual circumstances. The Office believes that one year from the date of preliminary approval is ample time for a new bank to raise capital and that the ability to raise capital within the time period will indicate whether the marketplace will support the proposed institution.

Regulatory Flexibility Act

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612) the Secretary of the Treasury has certified that this regulation does not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

This rule is not classified as a "major rule" and therefore does not require a regulatory impact analysis.

List of Subjects in 12 CFR Part 5

National banks, Procedures for corporate activities.

Authority and Issuance

Accordingly, the Comptroller of the Currency proposes to amend 12 CFR Part 5 as follows:

PART 5—[AMENDED]

1. The authority citation for Part 5—Rules, Policies, and Procedures for Corporate Activities reads as follows:

Authority: 12 U.S.C. 1 *et seq.*

2. Section 5.20 is amended by revising (c)(1)(iii), (c)(1)(iv), (c)(3)(ii)(C), (c)(3)(ii)(D), and (c)(3)(iii) as follows:

§ 5.20 Organization of a national bank.

* * * * *

(c) * * *

(1) * * *

(iii) When an application is disapproved, the Office sends a letter containing the basis for the disapproval to the spokesperson (a member of the organizing group and a director of the proposed bank who is designated to correspond with the Office) and other interested parties to the application. When an application is satisfactory, the Office sends a preliminary approval letter to the spokesperson. The preliminary approval letter contains the conditions and procedural requirements (see § 5.20(h) Other Procedures) that the organizing group must fulfill before the Office grants final approval for the bank to open for business.

(iv) Applications sponsored by established bank holding companies, individuals affiliated with other banking institutions, or individuals experienced in banking present a different set of circumstances from applications filed by organizing groups without substantial banking experience. The record of past performance of bank holding companies or directors, management, or individual shareholders of an existing bank which will be affiliated with the proposed bank facilitates Office appraisal of the prospects for success of the proposed bank. The Office evaluates that record of past performance through a review of the holding company's and/or affiliated institution's reports of examination, financial statements, and other information available as a result of its supervisory responsibilities. The Office also reviews the holding company's overall philosophy and plans (strategic, capital, management, profitability, etc.) for consistency and compatibility with the new bank's operating plan. When an established record facilitates analysis, the Office may permit omission of certain parts of the application. However, the record may or may not provide an advantage to the organizing group. In those instances where the proposed bank will be affiliated with a company or institution which is subject to special supervisory concern, the Office may require a full application, approve the application subject to a condition that the affiliate's problems be corrected prior to granting the charter, or deny the application. On the other hand, where the holding company or affiliated institution serves as a substantial source of strength, the Office is likely to approve the application even in markets where economic and competitive conditions are minimally hospitable.

* * * * *

(3) * * *

(ii) * * *

(C) The identification of competent executive officers (chief executive officer and/or president, cashier or similar position, and other senior personnel) at an early date is beneficial and reflects positively on the appraisal of the organizing group and its operating plan. As a condition of the charter approval, the Office retains the right to object to and preclude the hiring of any officer for a two year period from the date the bank commences business.

(D) Because various statutory provisions require documents to be executed by either the president or the cashier, or both, a president must be employed prior to solicitation of stock subscriptions and a cashier must be hired prior to the granting of the charter and the commencement of business.

(iii) *Adequacy of capital.* The organizing group should propose initial capital (net of organizational expenses) that is sufficient to support the projected volume and type of business. In determining the adequacy of capital, the Office will consider earnings prospects, economic and competitive conditions in the community to be served, experience and competence of management, risks inherent in the expected assets and liabilities, amount of fixed asset investment, and the dependability of plans to raise, or ability of directors to supply, additional capital when needed. Initial capital should normally be in excess of $1,000,000, net of any organizational expenses that will be charged to the bank's capital after it commences business. The Office may grant preliminary approval if the proposed initial capital is inadequate, but on balance the application would warrant approval had capital been adequate. Such preliminary approval would be conditional upon the bank raising additional capital prior to the commencement of business. The bank must raise its capital within one year from the date of preliminary approval or preliminary approval will be withdrawn. The Office may grant an extension of this condition under unusual circumstances.

* * * * *

3. Section 5.20 is further amended by redesignating paragraphs (c) through (i) as (d) through (j) and by adding a new paragraph (c) to read as follows:

§ 5.20 Organization of a national bank.

* * * * *

(c) *Rules of general applicability.* Section 5.8(a) does not apply to an application to organize a national bank sponsored by an existing bank holding company if the holding company provides notice of its application to acquire a bank under the rules of the Federal Reserve Board.

Dated: December 8, 1983.

C. T. Conover,

Comptroller of the Currency.

[FR Doc. 84-170 Filed 1-5-84; 8:45 am]

BILLING CODE 4810-33-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83-AAL-6]

Proposed Expansion of Control 1487, Additional Control Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice purposes to expand the western boundary of Control, 1487, Additional Control Area, so that it will coincide with the revised boundaries for the Oakland and Anchorage Oceanic Control Areas. This action would allow the Anchorage Air Route Traffic Control Center to utilize domestic air traffic control procedures, which are more efficient than oceanic procedures, in the proposed airspace designation.

DATE: Comments must be received on or before February 20, 1984.

ADDRESS: Send comments on the proposal in triplicate to: Director, FAA, Alaskan Region, Attention: Manager, Air Traffic Division, Docket No. 83-AAL-6, Federal Aviation Administration, 701 C Street, Box 14, Anchorage, AK 99513.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: William C. Davis, Airspace and Air Traffic Rules Branch (AAT-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83-AAL-6." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affiars, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.163 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to expand Control 1487, Additional Control Area, westward to a revised common boundary of the Oakland and Anchorage Oceanic Control Areas that will be effective January 19, 1984. Incorporating this airspace as additional control area airspace would enable the FAA to more efficiently utilize the navigable airspace by applying domestic, rather than oceanic, air traffic control procedures. The proposed additional control area airspace is within the air traffic control radar coverage of the Anchorage Air Route Traffic Control Center and facilitates the use of domestic air traffic control procedures. Section 71.163 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

ICAO Considerations

As part of this proposal relates to navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of, and Annex 11 to, the Convention on International Civil Aviation, which pertains to the establishment of air navigational facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to ensure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommeded Practices in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator is consulting with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

List of Subjects in 14 CFR Part 71

Additional control area, Aviation safety.

The proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.163 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Control 1487 [Amended]

By deleting the words "a line beginning at" and substituting the words "a line beginning at lat. 58°20'00"N., long. 148°55'00"W.; to". By deleting the word "VORTAC"and substituting the word "VOR/DME". By deleting the words "thence along the eastern boundary of the Anchorage Oceanic CTA/FIR boundary" and substituting the words "to lat. 54°00'00"N., long. 136°00'00"W.; to lat. 58°39'00"N., long. 143°07'00"W.;"

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); Executive Order 10854 (24 FR 9565); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a rountine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued In Washington, D.C., on December 28, 1983.

B. Keith Potts,

Manager, Airspace Rules and Aeronautical Information Division.

[FR Doc. 84-332 Filed 1-5-84; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 25

Transitional Rule for Increased Annual Gift Tax Exclusion and Unlimited Exclusion for Certain Transfers

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the annual gift tax exclusion and the unlimited exclusion for certain medical and educational transfers. Changes to the applicable law were made by the Economic Recovery Tax Act of 1981. The regulations would provide the public with the guidance needed to comply with that Act.

DATES: Written comments and requests for a public hearing must be delivered or mailed by March 6, 1984. The amendments are proposed to be effective for gifts made after December 31, 1981.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, 1111 Constitution Avenue, NW., Attention: CC:LR:T (LR-211-81) Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Ada S. Rousso of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T: LR-211-81 (202-566-4336), not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Gift Tax Regulations (26 CFR Part 25) under section 2503 of the Internal Revenue Code of 1954 (Code). These amendments are proposed to conform the regulations to section 441 of the Economic Recovery Tax of 1981 (Pub. L. 97-34, 95 Stat. 319) and are to be issued under the authority contained in section 7805 of the Code (68A Stat. 917, 26 U.S.C. 7805).

In General

Section 441(a) of the Economic Recovery Tax Act of 1981 increased the annual gift tax exclusion to $10,000 per donee for gifts made during calendar year 1982 and subsequent years. See § 25.2503-2(a) and 48 FR 40373.

Although the increased exclusion generally applies to transfers made after 1981, many existing instruments provide powers of appointment specifically defined in terms of the section 2503(b) annual gift tax exclusion. To ensure that grantors who did not wish to provide powers in excess of $3,000 will not be providing powers subject to the increased exclusion because of the reference to section 2503(b), the proposed regulations include a transitional rule which provides that the increased exclusion does not apply to powers granted under certain instruments created before September 12, 1981.

Finally, section 441(b) of the Act added section 2503(e) to the Code, which generally provides that amounts paid on behalf of any individual as tuition to certain educational organizations or as payment for medical care to any person who provides medical care with respect to that individual will not be considered transfers subject to the gift tax. This exclusion is permitted without regard to the relationship between the donor and donee. Enactment of the new exclusion did not change the rule of prior law that there is no gift if the person paying tuition or medical expenses is discharging a legal obligation of support imposed under applicable local law.

Tuition Payment

Under the proposed regulations, the tuition payment must be made directly to the qualifying educational organization. A payment made directly to the individual for tuition expenses does not qualify for the unlimited exclusion from the gift tax.

Medical Payments

New section 2503(e) exempts from the gift tax amounts paid directly to a medical care provider for qualifying medical expenses on behalf of another individual. However, amounts that are reimbursed by the donee's insurance company are not excluded from the gift tax. Thus, if a donor pays the qualifying medical care expenses of a donee, the unlimited exclusion from the gift tax applies only to that part of the payment which is not reimbursed by the donee's insurance company. To the extent of the reimbursement by the donee's insurance company, the gift is treated as having been made on the date the reimbursement is received by the donee.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Special Analyses

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required. The Internal Revenue Service has concluded that although this document is a notice of

proposed rulemaking that solicits public comment, the regulations proposed herein are interpretative and the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, no Regulatory Flexibility Analysis is required for this rule.

Drafting Information

The principal author of these proposed regulations is Ada S. Rousso of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations both on matters of substance and style.

List of Subjects in 26 CFR Part 25

Gift taxes.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 25 are as follows:

PART 25—[AMENDED]

Paragraph 1. Section 25.2503–2 is amended by adding paragraphs (d) and (e), immediately after paragraph (c), to read as set forth below.

§ 25.2503–2 Exclusions from gifts.

* * * * *

(d) *Transitional rule.* The increased annual gift tax exclusion as defined in section 2503(b) shall not apply to any gift subject to a power of appointment granted under an instrument executed before September 12, 1981, and not amended on or after that date, provided that: (1) The power is exercisable after December 31, 1981, (2) the power is expressly defined in terms of, or by reference to, the amount of the gift tax exclusion under section 2503(b) (or the corresponding provision of prior law), and (3) there is not enacted a State law applicable to such instrument which construes the power of appointment as referring to the increased annual gift tax exclusion provided by the Economic Recovery Tax Act of 1981.

(e) *Examples.* The provisions of paragraph (d) of this section may be illustrated by the following examples:

Example (1). A executed an instrument to create a trust for the benefit of B on July 2, 1981. The trust granted to B the power, for a period of 90 days after any transfer of cash to the trust, to withdraw from the trust the lesser of the amount of the transferred cash or the amount equal to the section 2503(b) annual gift tax exclusion. The trust was not amended on or after September 12, 1981. No state statute has been enacted which construes the power of appointment as referring to the increased annual gift tax exclusion provided by the Economic Recovery Tax Act of 1981. Accordingly, the maximum annual gift tax exclusion applicable to any gift subject to the exercise of the power of appointment is $3,000.

Example (2). Assume the same facts as in example (1) except that the power of appointment granted in the trust refers to section 2503(b) as amended at any time.The maximum annual gift tax exclusion applicable to any gift subject to the exercise of the power of appointment is $10,000.

Par. 2. Section 25.2503–6 is added to read as follows:

§ 25.2503–6 Exclusion for certain qualified transfers for tuition or medical expenses.

(a) *In general.* Section 2503(e) provides that any qualified transfer after December 31, 1981, shall not be treated as a transfer of property by gift for purposes of chapter 12 of subtitle B of the Code. Thus, a qualified transfer on behalf of any individual is excluded in determining the total amount of gifts in calendar year 1982 and subsequent years. This exclusion is available in addition to the $10,000 annual gift tax exclusion. Furthermore, an exclusion for a qualified transfer is permitted without regard to the relationship between the donor and the donee.

(b) *Qualified transfers*—(1) *Definition.* For purposes of this paragraph, the term "qualified transfer" means any amount paid on behalf of an individual—

(i) As tuition to a qualifying educational organization for the education or training of that individual, or

(ii) To any person who provides medical care with respect to that individual as payment for the qualifying medical expenses arising from such medical care.

(2) *Tuition expenses.* For purposes of paragraph (b)(1)(i) of this section, a qualifying educational organization is one which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on. See section 170(b)(1)(A)(ii) and the regulations thereunder. Theunlimited exclusion is permitted for tuition expenses of full or part-time students paid directly to the qualifying educational organization providing the education. No exclusion is permitted for amounts paid for books, supplies, dormitory fees, board, or other similar expenses which do not constitute direct tuition costs.

(3) *Medical expenses.* For purposes of paragraph (b)(1)(ii) of this section, qualifying medical expenses are limited to those expenses listed in section 213(d)(1) (section 213(e)(1) prior to January 1, 1984) and include expenses incurred essentially for the diagnosis, cure, mitigation, treatment or prevention of disease, or forthe purpose of affecting any structure or function of the body. In addition, the unlimited exclusion from the gift tax includes amounts paid for medical insurance on behalf of any individual. The unlimited exclusion from the gift tax does not apply to amounts paid for medical care that are reimbursed by the donee's insurance. Thus, if payment for a medical expense is reimbursed by the donee's insurance company, the donor's payment for that expense, to the extent of the reimbursed amount, is not eligible for the unlimited exclusion from the gift tax and the gift is treated as having been made on the date the reimbursement is received by the donee.

(c) *Examples.* The provisions of paragraph (b) of this section may be illustrated by the following examples.

Example (1). In 1982, A made a tuition payment directly to a foreign university on behalf of B. A had no legal obligation to make this payment. The foreign university is described in section 170(b)(1)(A)(ii) of the Code. A's tuition payment is exempt from the gift tax under section 2503(e) of the Code.

Example (2). C was seriously injured in an automobile accident in 1982. D, who is unrelated to C, paid C's various medical expenses by checks made payable to the physician. D also paid the hospital for C's hospital bills. These medical and hospital expenses were types described in section 213 of the Code and were not reimbursed by insurance or otherwise. Because the medical and hospital bills paid in 1982 for C were medical expenses within the meaning of section 213 of the Code, and since they were paid directly by D to the person rendering the medical care, they are not treated as transfers subject to the gift tax.

Example (3). Assume the same facts as in example (2) except that instead of making the payments directly to the medical service provider, D reimbursed C for the medical expenses which C had previously paid. The payments made by (e) of the Code and are subject to the gift tax to the extent they exceed the $10,000 annual exclusion provided in section 2503(b).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 84–236 Filed 1–5–84; 8:45 am]

BILLING CODE 4830–01–M

POSTAL SERVICE

39 CFR Part 233

Proposed Regulations on Postal Service Authority to Purchase Articles or Services Offered for Sale by Mail Directly From Mail-Order Merchants

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The Postal Service proposes this rule to implement the "test purchase" authority authorized by the Mail Order Consumer Protection Amendments of 1983 for use in investigations of possible violations of the postal false representation statute. It sets forth the procedures to be followed by representatives of the Postal Service in tendering, in person, the price of any item or service offered for sale through the mails.

DATE: Comments must be submitted on or before February 6, 1984.

ADDRESSES: Written comments should be directed to the Assistant General Counsel, Consumer Protection Division, Law Department, United States Postal Service, Washington, D.C. 20260–1100. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m. Monday through Friday, in Room 1P613, United States Postal Service Headquarters, 475 L'Enfant Plaza West, S.W., Washington, D.C..

FOR FURTHER INFORMATION CONTACT: George C. Davis (202) 245–4385.

SUPPLEMENTARY INFORMATION: Section 3005(e)(1) of title 39, enacted by Pub. L. 98–186, is intended to facilitate and expedite the Postal Service's investigation of suspected violations of the false representation statute, 39 U.S.C. 3005, by authorizing the Postal Service to purchase directly from a merchant, at the advertised price, a sample of an article or service offered for sale by mail. Section 3005(e)(2) provides that if a merchant fails to supply a requested article or service, such failure and any reasons for it may be considered by a federal court in deciding whether to issue a temporary restraining order and preliminary injunction to withhold delivery of an advertiser's mail under section 3007 of title 39.

In accordance with section 3005(e)(3), the proposed regulation set forth below requires any individual making a test purchase on behalf of the Postal Service to identify himself as an employee or authorized agent of the Postal Service; to state the nature of the conduct under investigation; and to inform the person to whom the tender offer is made that a failure to complete the transaction may be considered in a section 3007 proceeding. The Postal Service proposes to include this information in a written "Test Purchase Request" which will be delivered, along with a check or money order for the purchase price, to the person, firm, or corporation to whom the tender offer is made or to his or its representative. In addition, the Postal Service proposes to include a description of the requested article or service, a verbatim statement of the content of 39 U.S.C. 3005, 3007, and directions as to when and where the requested article or service should be provided.

The Postal Service also proposes to require postal representatives making the test purchase to make a record of service, noting the date and place of service and the identity of the person served. Alternatively, the proposed regulations provide that service of the "Test Purchase Request" may be made by certified mail.

The Postal Service believes this proposed implementing regulation provides the best means of meeting the statute's requirement that mail/order merchants be informed of the purpose behind a "Test Purchase Reguest" as well as the possible consequences hat may result from failing to comply with a valid request.

In view of the above considerations, the Postal service invites public comment on the following proposed amendment of 39 CFR Part 233.

List of Subjects in 39 CFR Part 233

Postal Service.

PART 233—INSPECTION SERVICE AUTHORITY

In part 233 of 39 CFR, add new § 233.6 reading as follows:

§ 233.6 Test Purchases Under 39 U.S.C. 3005(e).

(a) *Scope.* This section, which implements 39 U.S.C. 3005(e), supplements any postal regulations or instructions regarding test purchases or test purchase procedures. It is limited to test purchases conducted according to 39 U.S.C. 3005(e).

(b) *Definitions.*

(1) *Test Purchase.* The acquisition of any article or service, for which money or property are sought through the mails, from the person or representative offering the article or service. The purpose is to investigate possible violations of postal laws.

(2) *Test Purchase Request.* A written document requesting the sale of an article or service pursuant to 39 U.S.C. 3005(e) and containing the following information:

(i) The name and address of the person, firm, or corporation to whom the request is directed;

(ii) The name, title, signature, office mailing address, and office telephone number of the person making the request;

(iii) a description of the article or service requested which is sufficient to enable the person to whom the request is made to identify the article or service being sought;

(iv) A statement of the nature of the conduct under investigation;

(v) A statement that the article or service must be tendered at the time and place stated in the purchase request, unless the person making the request and the person to whom it is made agree otherwise in writing;

(vi) A verbatim statement of 39 U.S.C. 3005, 3007; and

(vii) A statement that failure to provide the requested article or service may be considered in a proceeding under 39 U.S.C. 3007 to determine whether probable cause exists to believe that 39 U.S.C. 3005 is being violated.

(c) *Service of Test Purchase Request.*

(1) The original of the Test Purchase Request must be delivered to the person, firm, or corporation to whom the request is made or to his or its representative. It must be accompanied by a check or money order in the amount for which the article or service is offered for sale, made payable to the person, firm or corporation making the offer.

(2) The person serving the Test Purchase Request must make and sign a record, stating the date and place of service and the name of the person served. The person making the request must retain a copy of the Test Purchase Request, the record of service, and the money order receipt or cancelled check. Alternatively, the request may be made by certified mail.

(d) *Authorizations.* The Chief Postal Inspector is the principal officer of the Postal Service for the administration of all matters governing test purchases under this section. The Chief Inspector may delegate any or all authority in this regard to any or all postal inspectors.

(39 U.S.C. §§ 401(2), 404(a)(7), 3005(e)(1))

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 84–275 Filed 1–5–84; 8:45 am]

BILLING CODE 7710–12–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 799

[OPTS-24043; TSH-FRL 2477-6]

1,2-Dichloropropane; Proposed Test Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Under section 4 of The Toxic Substances Control Act (TSCA), EPA is proposing that manufacturers and processors conduct health and environmental effects tests for 1,2-dichloropropane. The proposed health effects tests include neurotoxicity, mutagenicity, teratogenicity, and reproductive effects tests. The proposed environmental effects tests include acute and chronic toxicity tests for aquatic invertebrates, and an aquatic plant test. The testing being proposed will be performed according to protocols submitted by the test sponsor and approved by the Agency in a subsequent rulemaking. This notice constitutes EPA's response to the interagency Testing Committee's (ITC) designation of 1,2-dichloropropane for priority consideration for testing.

DATE: Submit written comments on or before March 6, 1984. If persons request time for oral comment by February 21, 1984, EPA will hold a public meeting on March 21, 1984 on this rule in Washington, D.C. For further information on arranging to speak at the meeting see Unit VI of this preamble.

ADDRESS: Submit written comments identified by the document control number (OPTS-42043) in triplicate to: TSCA Public Information Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-108, 401 M St. SW., Washington, D.C. 20460.

Include the document control number (OPTS-42043) on all submissions.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director TSCA Assistance Office (TS-799), Office of Toxic Substances, Rm. E-543, 401 M St., SW., Washington, D.C. 20460, toll free: (800-424-9065), in Washington, D.C.: (554-1404), outside the USA: (Operator 202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 4(e) of TSCA (Pub. L. 94-469, 90 Stat. 2003 *et seq.;* 15 U.S.C. 2601 *et seq.)* established an Interagency Testing Committee (ITC) to recommend to EPA a list of chemicals to be considered for testing under section 4(a) of the Act. The ITC may designate substances on the list for priority consideration for requiring testing by EPA.

The ITC designated 1,2-dichloropropane (DCP) for priority consideration for environmental and health effects tests in its Third Report, published in the **Federal Register** on October 30, 1978 (43 FR 50630). The ITC recommended that 1,2-dichloropropane be tested for the following health effects: carcinogenicity, mutagenicity, teratogenicity, and other toxic effects (with emphasis on reproductive and neurological effects). The ITC also recommended that an epidemiological study be performed. Also, the following environmental effects tests were recommended by the ITC: chronic toxicity to fish and invertebrates, effects on avian and mammalian reproduction and behavior, and effects on soil invertebrates and terrestrial insects.

The ITC's testing recommendations were based upon a production volume in 1976 of 71 million pounds, widespread use as a solvent and a potentially high occupational exposure (over 1 million workers). According to the ITC, there is either insufficient information or the available information is unreliable to characterize the carcinogenic, mutagenic, and teratogenic potential of 1,2-dichloropropane. Also, because of a stated structural similarity to 1,2-dibromo-3-chloropropane (DBCP), the ITC recommended that reproductive and neurological effects testing be emphasized in considering testing for the other toxic effects of 1,2-dichloropropane. An epidemiologic study was recommended for 1,2-dichloropropane because of insufficient information about the chemical's human health effects and a potentially large exposure pattern. The ITC recommended environmental effects tests for 1,2-dichloropropane because the chemical's volatility and high specific gravity may result in localized impacts on those environments receiving continuous exposure associated with this chemical's use and disposal. Also, according to the ITC, the potential for DCP to bioaccumulate suggested the need for environmental effects testing to determine the biological significance of exposure.

Under section 4(a)(1) of TSCA, EPA must require testing of a chemical substance to develop appropriate test data if the Administrator finds that:

(A)(i) the manufacture, distribution in commerce, processing, use, or disposal of a chemical substance or mixture, or that any combination of such activities, may present an unreasonable risk of injury to health or the environment,

(ii) there are insufficient data and experience upon which the effects of such manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data; or

(B) (i) a chemical substance or mixture is or will be produced in substantial quantities, and (I) it enters or may reasonably be anticipated to enter the environment in substantial quantities or (II) there is or may be significant or substantial human exposure to such substance or mixture,

(ii) there are insufficient data and experience upon which the effects of the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data.

EPA uses a weight of evidence approach in making section 4(a)(1)(A)(i) findings, in which both exposure and toxicity information are considered to make the finding that the chemical may present an unreasonable risk. For the finding under section 4(a)(1)(B)(i), EPA considers only production, exposure and release information to determine if there is substantial exposure or release. For the findings under sections 4(a)(1)(A)(ii) and 4(a)(1)(B)(ii), EPA examines toxicity and fate studies to determine if existing information is adequate to reasonably determine or predict the effects of human exposure to or environmental release of the chemical. In making the finding under section 4(a)(1)(A)(iii) or 4(a)(1)(B)(iii) that testing is necessary, EPA considers whether ongoing testing will satisfy the information needs for the chemical and whether testing which the Agency might require would be capable of developing the necessary information.

EPA's process for determining when these findings can be made is described in detail in EPA's first and second proposed test rules as published in the **Federal Register** of July 18, 1980 (45 FR 48528) and June 5, 1981 (46 FR 30300). The section 4(a)(1)(A) finding is discussed in 45 FR 48528, and the section 4(a)(1)(B) finding is discussed in 46 FR 30300.

In evaluating the ITC's testing recommendations concerning 1,2-dichloropropane, EPA considered all available relevant information including the following: Information presented in the ITC's report recommending testing consideration; production volume, use, exposure, and release information reported by manufacturers of 1,2-

dicholoropropane under the TSCA section 8(a) Preliminary Assessment Information Rule (40 CFR Part 712); health and safety studies submitted under the TSCA section 8(d) Health and Safety Data Reporting Rule (40 CFR Part 716) concerning 1,2-dichloropropane; and published and unpublished data available to the Agency. Based on its evaluation, as described in this proposed rule and the accompanying technical support document, EPA is proposing health and environmental effects testing requirements for 1,2-dichloropropane under section 4(a)(1)(B). By these actions, EPA is responding to the ITC's designation of 1,2-dichloropropane for testing consideration.

II. 1,2-Dichloropropane

A. Profile

1,2-Dichloropropane (CAS No. 78-87-5) is a colorless, stable liquid with a chloroform-like odor. The uses of 1,2-dichloropropane are as a solvent for the manufacture of ion exchange resins, as a feedstock for the manufacture of perchlorethylene, in metal degreasing agents, as a component of furniture finish removers and paint removers and as a lead scavenger for fuel anti-knock fluids. The Dow Chemical Company is the only manufacturer of 1,2-dichloropropane in the United States. According to the Dow Chemical Company, three million pounds of 1,2-dichloropropane were marketed in 1982 (Letter from Carlos Bowman to Steven D. Newburg-Rinn, June 3, 1983). 1,2-Dichloropropane is isolated during the manufacture of propylene oxide. Based on propylene oxide production capacity, the annual production capacity of 1,2-dichloropropane is estimated to be between 41–144 million pounds.

B. Findings

EPA is basing its proposed testing of 1,2-dichloropropane on the authority of section 4(a)(1)(B) of TSCA.

EPA finds that 1,2-dichloropropane is manufactured, processed, and used in substantial quantities, which activities may result in substantial human exposure. Also 1,2-dichloropropane enters or may reasonably be anticipated to enter the environment in substantial quantities. Furthermore, EPA finds that there are insufficient data available to either reasonably determine or predict the result of this exposure and release in the areas of mutagenic, teratogenic, reproductive, and neurotoxic effects, and acute and chronic toxicity for aquatic invertebrates and aquatic plants. Finally, EPA finds that testing is necessary to develop the data needed to evaluate the potential for 1,2-dichloropropane (DCP's) exposure and release to cause these effects. These findings are based on the following information:

1. Although Dow Chemical Company is the only manufacturer of 1,2-dichloropropane in the United States, the marketing production volume (3 million pounds in 1982), the 1,2-dichloropropane production volume (an estimated 41 million pounds in 1981) and the 1,2-dichloropropane production capacity (41–144 million pounds, based on propylene oxide production capacity) are substantial.

2. Currently available information indicates that a substantial number of people are potentially exposed to 1,2-dichloropropane. Recent consumer product information, for example, indicates that 1,2-dichloropropane is a component of 10 products currently available as paints, varnishes and furniture finish removers produced by 9 manufacturers. There are a large number of consumers that use paint, varnish or furniture finish removers. Also, a large number of workers in various occupations are potentially exposed to 1,2-dichloropropane. According to a recent National Occupational Hazard Survey, there are over 700,000 workers exposed to 1,2-dichloropropane resulting from its manufacture. This conclusion is based on the National Institute for Occupational Safety and Health's identification of 18 occupations in 17 industries, involving over 9,000 workers using 1,2-dichloropropane in non-agricultural applications. Furthermore, 1,2-dichloropropane has been identified as a contaminant of ground water and drinking water. The Suffolk County Department of Health Services, Long Island, New York, has identified 1,2-dichloropropane from non-pesticidal sources in ground water. Also, the Philadelphia Water Department has identified 1,2-dichloropropane in finished drinking water. (6.1/μg/L). The estimated total annual load of 1,2-dichloropropane to the aquatic environment would be approximately 4.9 million pounds. Thus, a large portion of the general population may be exposed to 1,2-dichloropropane, considering the following: the large number of consumers coming into contact with products that contain 1,2-dichloropropane; the large number of workers exposed to 1,2-dichloropropane in various occupations; and the number of people drinking water or coming into contact with water that is contaminated with 1,2-dichloropropane. EPA has concluded that this exposure pattern constitutes "substantial exposure" as that term is used in section 4 of TSCA.

3. There are insufficient data on the teratogenic, reproductive, mutagenic, and neurotoxic effects upon which to reasonably determine or predict the effects of exposure. Health effects testing, therefore, is necessary to develop these data.

4. Acute, subchronic, and chronic effects tests and an oncogenicity test are not being proposed at this time for 1,2-dichloropropane. The Dow Chemical Company has conducted tests to determine the acute and subchronic effects of 1,2-dichloropropane by the inhalation route of exposure in rats, mice, and rabbits. Also, an NTP 2-year bioassay has been performed to determine the oncogenic potential of 1,2-dichloropropane. The results of this study are still being evaluated. An epidemiologic study is not being proposed because the exposure pattern to 1,2-dichloropropane is so general it is doubtful that an exposed population could be identified that is not exposed to this chemical and other chemicals simultaneously.

5. There are substantial quantities of 1,2-dichloropropane released to the environment. The atmospheric compartment is readily contaminated with 1,2-dichloropropane because 1,2-dichloropropane is very volatile (50 mmHg at 25°C). Total atmospheric releases of 1,2-dichloropropane are estimated to be approximately 1.4×10^5 pounds per year. Also, quantities of 1,2-dichloropropane are released to the aquatic environment (4.9 million pounds annually). 1,2-Dichloropropane is used as a solvent for the manufacture of ion exchange resins. One manufacturer of ion exchange resins annually discharges about 500,000 lbs. of 1,2-dichloropropane to the aquatic environment. There are four ion exchange manufacturers in the United States with potentially similar release patterns.

6. There are insufficient data to characterize the effects of 1,2 dichloropropane on aquatic invertebrates and aquatic plants. EPA is proposing studies on acute and chronic toxicity to aquatic invertebrates and effects on algae. There are sufficient data to characterize the effects of 1,2-dichloropropane on soil invertebrates, terrestrial insects and fish.

7. The Agency is not proposing an avian reproduction test for 1,2-dichloropropane because recent unpublished research at ERL-Corvallis has shown that a chemical as volatile as 1,2-dichloropropane is very unlikely to yield useful results if tested for avian

toxicity according to available methodology.

The analysis on which the above findings are based is presented in the 1,2-Dichloropropane Support Document which is available from the TSCA Assistance Office (TAO). The ITC's testing recommendations and EPA's proposed tests are summarized in the table below.

TABLE 1.—PROPOSED TESTS FOR 1,2-DICHLOROPROPANE

Test or study	ITC recommendations	EPA proposed testing
Health Effects		
Acute		No testing.
Subchronic		No testing
Chronic		No testing.
Neurotoxicity	X	X.
Teratogenicity	X	X.
Mutagenicity	X	X.
Reproductive Effects	X	X.
Oncogenicity	X	No testing.
Epidemiology	X	No study requirement.
Environmental Effects		
Soil Invertebrates	X	No testing.
Terrestrial Insects	X	No testing.
Chronic Toxicity to Fish and invertebrates.	X	Acute and Chronic. Toxicity to Aquatic. invertebrates.
Aquatic Plants		Algal Bioassay.
Chronic Effects on Avian and mammalian reproduction and behavior.	X	No testing.

NOTE.—X = testing recommended or proposed.

C. Test Substance

EPA is proposing that a relatively pure grade of 1,2-dichloropropane be used as the test substance. A purity of 99 percent is specified in this rule so that any chemically induced effects can be more likely attributable to DCP and not chemical contaminants. 1,2-Dichloropropane is currently available with this purity.

D. Persons Required to Test

Section 4(b)(3)(B) specifies that the activities for which the Administrator makes section 4(a) findings (manufacture, processing, distribution, use, and/or disposal) determine who bears the responsibility for testing. Manufacturers are required to test if the findings are based on manufacturing ("manufacture" is defined in section 3(7) of TSCA to include "import"). Processors are required to test if the findings are based on processing. Both manufacturers and processors are required to test if the exposures or releases providing the basis for the finding occur during use, distribution, or disposal. Because EPA has found that the manufacturing, processing, and use of 1,2–dichloropropane give rise to substantial exposure and substantial release, EPA is proposing that persons who manufacture or process, or who intend to manufacture or process, 1,2–dichloropropane at any time from the effective date of this test rule to the end of the reimbursement period be subject to the rule. The end of the reimbursement period ordinarily will be 5 years after the final report is submitted. As discussed in Unit II F., EPA expects that manufacturers will conduct testing and that processors will ordinarily be exempted from testing.

Because TSCA contains provisions to avoid duplicative testing, not every person subject to this rule must individually conduct testing. Section 4(b)(3)(A) of TSCA provides that EPA may permit two or more manufacturers or processors who are subject to the rule to designate one such person or a qualified third person to conduct the tests and submit data on their behalf. Section 4(c) provides that any person required to test may apply to EPA for an exemption from that requirement.

E. Approach to Adoption of Test Rules

1. *General Process.* On March 26, 1982, EPA announced a new approach to adoption of test rules (47 FR 13102). EPA intends to promulgate a general procedural rule in 40 CFR Part 770 which will contain the procedural requirements of this new approach. However, since that procedural rule is not in effect, this proposed rule contains specific procedures for adoption of this test rule. If the general rule is promulgated before this proposal becomes final, the 1,2-dichloropropane rule will be modified to comport with the general procedural provisions.

Under the new approach, test rule development will be a two-phase process. In phase I, EPA will propose that specific testing be required for 1,2-dichloropropane. This phase of the rulemaking will allow the public to comment on the decision to require testing and the specific types of tests to be required. Phase II begins after promulgation of the phase I rule. In phase II, EPA will receive proposed study plans for the specific tests adopted in the phase I rule. EPA will propose those study plans for public comment. After comment, the Agency will adopt the study plans, as proposed or modified, as specific test standards for the tests required by the phase I rule. Persons who submit the study plans will be obligated to perform the tests in accordance with the test standards adopted.

2. *Letter of Intent to Test or Exemption Application.* The proposed rule would require manufacturers and processors of 1,2-dichloropropane to perform certain tests. Once the rule is in effect, 30 days after publication of the final rule in the **Federal Register**, each current manufacturer would have 30 days to submit, for each required test set, either a letter of intent to perform the test or an application for exemption. Each manufacturer who submitted a letter of intent to perform a specific test would be obligated, first, to submit, within 90 days of the effective date, a proposed study plan for the test set and, ultimately, to perform the testing.

If manufacturers of 1,2-dichloropropane performed all the required test sets, processors of 1,2-dichloropropane would not be required to test or to submit exemption applications. EPA would automatically grant them exemptions from the requirements of the rule.

If no manufacturer of 1,2-dichloropropane submitted a letter of intent to perform a particular test set within the 30-day period, EPA would publish a notice in the **Federal Register** to notify all processors of 1,2-dichloropropane. The notice would state that EPA had not received letters of intent to perform certain test sets and that current processors would have 30 days to submit, for each test set remaining, either a letter of intent to perform the test set or an exemption application for that test set. Each processor who submitted a letter of intent to perform a specific test set would be obligated, first, to submit, within 90 days of the publication of the **Federal Register** notice, a proposed study plan for the test set and, ultimately, to perform the testing.

If no manufacturer or processor submitted a letter of intent to perform a particular test set, EPA would notify all manufacturers and porcessors, by letter or through the **Federal Register**, that all exemption applications would be denied and that within 30 days all manufacturers and processors would be in violation of the rule until a proposed study plan is submitted for that test set.

Any person not manufacturing 1,2-dichloropropane at the time the rule goes into effect, who later begins manufacturing before the end of the reimbursement period (40 CFR Part 791), would be required to submit a letter of intent to test or an exemption application for each required test set by the day the person begins manufacture. If EPA has published a notice in the **Federal Register** telling processors to submit letters of intent or exemption applications for certain test sets, any person not processing 1,2-dichloropropane at the time the rule goes into effect, who later begins

processing before the end of the reimbursement period, would be required to submit a letter of intent to test or an exemption application for each test specific in the **Federal Register** notice by the day the person begins processing.

3. *Submission and Adoption of Study Plans.* Any manufacturer of 1,2-dichloropropane who submitted a letter of intent to perform a test set would have to submit, within 90 days after the effective date of the rule, a proposed study plan for that test set. In the event manufacturers do not submit letters of intent for all the required test sets, any processor who submits a letter of intent to perform a specific test set would have to submit, within 90 days of the publication of the **Federal Register** notice which notified processors, a proposed study plan for that test set. Paragraph (e) of the rule describes the contents of a proposed study plan.

EPA proposed generic test methodology requirements (generic test standards) for various health effects in the **Federal Register** of May 9, 1979 (44 FR 27334), July 26, 1979 (44 FR 44054) and November 21, 1980 (45 FR 77332). In response to concerns about rigid generic test methodology requirements, EPA changed its approach for providing test standards for TSCA section 4 test rules and, instead, issued generic test methodology guidelines to replace the previously proposed generic test methodology requirements. The TSCA guidelines have been published by the National Technical Information Service (NTIS) for health effects (PB 82–232984), environmental effects (PB 82–232992) and chemical fate (PB 82–233008). Good Laboratory Practice (GLP) standards for development of data on physical and chemical properties, persistence, and ecological effects of chemical substances were proposed in the **Federal Register** of November 21, 1980 (45 FR 77353). Good Laboratory Practice standards for development of data on health effects of chemical substances under TSCA were proposed in the **Federal Register** on May 9, 1979 (44 FR 27334) and July 26, 1979 (44 FR 44054). These GLP standards will be promulgated as generic requirements. The final TSCA GLP regulations will apply to the 1,2-dichloropropane test rule.

For guidance in preparing study plans, EPA recommends that test sponsors consult the TSCA Test Guidelines and the TSCA GLP standards as referenced above; the Organization for Economic Cooperation and Development's (OECD) Guidelines, as adopted by the OECD Council on May 12, 1981; or the FIFRA Pesticide Registration Guidelines: Proposed Data Requirements published by the National Technical Information Services (see the **Federal Register** of November 24, 1982 (47 FR 53192), for a list of these guidelines).

Failure to submit a study plan would be a violation of the rule.

EPA would review the proposed study plans. If they are incomplete, the manufacturer or processor would be notified of the deficiency and would have 15 days to provide appropriate information to make the plan complete. If the information is not provided in 15 days, the manufacturer or processor would be in violation of the rule. In addition, EPA would return to the appropriate stage of the process and require manufacturers or processors, as appropriate, to submit letters of intent, exemption applications, and study plans.

If the proposed study plan is complete, EPA will propose the study plan for public comment. In particular, the request for comments would focus on whether the study plan will ensure that data from the test or test set will be reliable and adequate. There would be a 45-day comment period and the opportunity to present views orally upon request. After considering the public comment, EPA would adopt the study plan as proposed, or as modified in response to comment, as the test standard for the required test set.

The person who submitted the proposed study plan would be required to perform the testing according to that standard. Failure to perform the testing would be a violation of the rule.

F. Exemptions

EPA's proposed policy on application for exemptions from section 4 testing requirements was published in the **Federal Register** of July 18, 1980 (45 FR 48512). EPA intends to promulgate its final procedures for exemptions in 40 CFR Part 770. The exemption procedures described below and included in the proposed rule language are consistent with EPA's current thinking on exemption procedures. If the general rule is promulgated before this proposal becomes final, the 1,2-dichloropropane rule will be modified to comport with the general procedural provisions.

Any manufacturer or processors of 1,2-dichloropropane would be able to apply for an exemption. Any person who has applied for an exemption would not be in violation of the rule until such time as EPA denies the application.

If manufacturers perform all the required testing, processors would be granted exemptions automatically without having to file applications.

When EPA has received a proposed study plan for a test set and has adopted the plan as the test standard, EPA would conditionally grant all exemption applications for that test set. If the test sponsor later fails to perform the testing, EPA would notify all persons who had submitted exemption applications for that test set that the exemptions would be denied unless within 30 days a manufacturer or processor notified EPA of its intent to perform the testing in accordance with the adopted test standards.

EPA is not proposing to require the submission of equivalence data as a condition for exemption from the proposed testing for 1,2-dichloropropane. As noted in Unit II.C. above, EPA is interested in evaluating the effects attributable to 1,2-dichloropropane itself and has specified a relatively pure substance for testing.

G. Reporting Requirements

EPA is proposing that all data be reported in accordance with TSCA Good Laboratory Practice (GLP) standards. Such standards were proposed in the **Federal Register** of May 9, 1979 (44 FR 28369) and November 21, 1980 (45 FR 77332) and will be included in 40 CFR Part 792. EPA has reviewed public comments on the proposed GLP standards and is now developing final GLP standards. The final GLP standards will apply to this rule.

EPA is required by TSCA section 4(b)(1)(C) to specify the time period during which persons subject to a test rule must submit test data. These deadlines will be established in the phase II rulemaking in which study plans are approved.

TSCA section 14(b) governs Agency disclosure of all test data submitted pursuant to section 4 of TSCA. Upon receipt of data required by this rule, the Agency will publish a notice of receipt in the **Federal Register** as required by section 4(d).

H. Enforcement Provisions

Section 15(1) of TSCA makes it unlawful for any person to fail or refuse to comply with any rule issued under section 4. Section 15(3) of TSCA makes it unlawful for any person to fail or refuse to: (1) Establish or maintain records, (2) submit reports, notices, or other information, or (3) permit access to or copying of records required by the Act or any rule issued under TSCA. The Agency considers that failure to comply with any aspect of a section 4 rule may

be judged to be a violation of sections 15(1) and 15(3) of TSCA.

Additionally, TSCA section 15(4) makes it ulawful for any person to fail or refuse to permit entry or inspection as required by section 11. Section 11 applies to any "establishment, facility or other premises in which chemical substances or mixtures are manufactured, processed, stored, or held before or after their distribution in commerce . . ." The Agency considers a testing facility to be a place where the chemical is held or stored and, therefore, subject to inspection. Laboratory audits/inspections will be periodically conducted in accordance with the procedures outlined in TSCA section 11 by authorized representatives of the EPA for the purpose of determining compliance with any final rule for 1,2-dichloropropane. These inspections may be conducted for purposes which include verification that testing has begun, that schedules are being met, that reports accurately reflect the underlying raw data and interpretations and evaluations thereof, and that the studies are being conducted according to TSCA GLP standards and the protocols established in the phase II rule.

EPA's authority to inspect a testing facility also derives from section 4(b)(1) of TSCA, which directs EPA to promulgate standards for the development of test data. These standards are defined in section 3(12)(B) of TSCA to include those requirements necessary to assure that data developed under testing rules are reliable and adequate, and such other requirements as are necessary to provide such assurance. The Agency maintains that laboratory inspections are necessary to provide this assurance.

Violators of TSCA are subject to criminal and civil liability. Persons who submit materially misleading or false information in connection with the requirement of any provision of this rule may be subject to penalties calculated as if they never submitted their data. Under the penalty provision of section 16 of TSCA, any person who violates section 15 could be subject to a civil penalty of up to $25,000 per day for each violation, with each day of operation in violation constituting a separate violation. This provision would also be applicable primarily to manufacturers or processors who fail to submit a letter of intent to perform testing or an exemption request and who continue manufacturing or processing after the deadlines for such submissions. Knowing or willful violations could lead to the imposition of criminal penalties of up to $25,000 for each day of violation and imprisonment for up to 1 year. In determining the amount of penalty, EPA will take into account the seriousness of the violation and the degree of culpability of the violator as well as all the other factors listed in section 16. Other remedies are available to EPA under sections 7 and 17 of TSCA, such as seeking an injunction to restrain violations of TSCA section 4 and the seizure of chemical substances manufactured or processed in violation of the rule.

Individuals, as well as corporations, could be subject to enforcement actions. Sections 15 and 16 of TSCA apply to "any person" who violates various provisions of TSCA. EPA may, at its discretion, proceed against individuals as well as companies themselves. In particular, this includes individuals who report false information or who cause it to be reported. In addition, the submission of false, ficitious, or fraudulent statements is a violation under 18 U.S.C. 1001.

I. Issues

A site-specific and non site-specific environmental modeling analysis is in the process of being performed by the Agency. The Agency believes, at this time, that environmental effects testing is necessary. However, the Agency is continuing its environmental exposure analysis and is soliciting public comment concerning the need for its proposed testing and the appropriateness of the tests selected.

III. Economic Analysis of Proposed Rule

To assess the potential economic impact of this proposed rule, EPA has prepared a Level I economic evaluation that estimates the costs of the required testing and assesses the potential for economic impact by evaluating four market characteristics of the chemical: (1) Demand sensitivity, (2) cost characteristics, (3) industry structure, and (4) market expectations.

Based on a total testing cost of $144,800 to $435,600 and an annualized testing cost for 1,2-dichloropropane of $37,500 to $112,900, the Level I analysis of 1,2-dichloropropane indicates that the potential for adverse economic effects due to estimated testing costs is low. This conclusion is based on the following observations: (1) 1,2-dichloropropane, a by-product of propylene oxide production, is used mainly as a captive intermediate and has a relatively inelastic demand; (2) the market expectations for propylene oxide and many of its derivatives are favorable (i.e., greater than GNP), assuming economic recovery; (3) Dow manufactures 1,2-dichloropropane and propylene oxide at two highly integrated plants where minor cost increases can be dispersed over numerous end products; and (4) the estimated total unit test costs (i.e, the test costs for 1,2-dichloropropane and propylene oxide) are negligible, or 0.014 cents per pound or 0.03 percent of the propylene oxide price (46.5 cents per pound) in the upper bound case.

Because the Level I analysis indicates no potential for an adverse economic impact, EPA has determined that a more comprehensive and detailed Level II economic evaluation is not needed for 1,2-dichloropropane.

IV. Availablility of Test Facilities and Personnel

Section 4(b)(1) requires EPA to consider "the reasonably foreseeable availability of the facilities and personnel needed to perform the testing required under the rule." Therefore, EPA conducted a study to assess the availability of test facilities and personnel to handle the additional demand for testing services created by section 4 test rules and test programs negotiated with industry in place of rulemaking. Copies of the study "Chemical Testing Industry; Profile of Toxicology Testing, October, 1981," can be obtained from NTIS (PB 82–140773).

The tentative conclusions reached in the laboratory availabiity study were: (1) The chemical testing industry's anticipation of increased testing requirements has prompted the rapid expansion of testing facilities in recent years. (2) Currently, excess capacity exists in all major testing areas, and surveyed laboratories indicated they could perform about 20 percent more testing. (3) Measurable industry concentration exists, but it is not enough to restrict market entry or control key resources. (4) Currently, capital and professional personnel are the most costraining resources on industry expansion. Capital is understandably a cyclical constraint. However, the constraint imposed by a shortage of professional personnel can be long term because of the lengthy period required for professional preparation. (5) Current personnel numbers appear adequate relative to present testing levels.

On the basis of this study, the Agency believes that there will be available resources to perform the testing in this proposed rule.

V. Environmental Impact Statement

EPA is not required to prepare environmental impact statements (EIS), under the National Environmental Policy

Act (NEPA), 41 U.S.C. 4321, for test rules. EPA has determined that voluntary preparation for an EIS is not appropriate for regulations issued under section 4 of TSCA. See the preamble to the Agency's rules for compliance with NEPA published in the **Federal Register** of November 6, 1979 (44 FR 64174).

VI. Public Meetings

If persons wish to present comments on this proposed rule to the EPA officials who are directly responsible for developing the rule and supporting analyses, EPA will hold a public meeting in Washington, D.C., 75 days after the proposed rule publication in the **Federal Register**. This meeting is scheduled after the deadline for submission of written comments, so that issues raised in the written comments can be discussed by EPA and the public commenters. Information on the exact time and place of the meeting is available from the TSCA Assistance Office.

Persons who wish to attend or present comments at the meeting should call the TSCA Assistance Office by 45 days after publication of this notice in the **Federal Register**. While the meeting will be open to the public, active participation will be limited to those persons who arranged to present comments and designated EPA participants. Attendees should call the TSCA Assistance Office before making travel plans because the meeting will not be held if members of the public do not request an opportunity to make oral comments.

The Agency will transcribe the meeting and include the written transcript in the public record. Participants are invited, but not required, to submit copies of their statements prior to or on the day of the meeting. All such written materials will become part of the EPA's record for this rulemaking.

VII. Rulemaking Record

EPA has established a public record for this proposed rulemaking, docket number (OPTS–42043), which is available for inspection in the OPTS Reading Room, Rm. E–107, 401 M St., SW., Washington, D.C., from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. This record includes basic information the Agency considered in developing this proposal, and appropriate **Federal Register** notices. The Agency will supplement the record with additional information as it is received. This record includes the following information:

(1) **Federal Register** notices pertaining to this rule consisting of:

(a) Notice of proposed rule making on 1,2–dichloropropane.

(b) Notice containing the ITC designation of 1,2–dichloropropane to the Priority List (43 FR 50630, October 30, 1978).

(c) Notices relating to EPA's health and environmental effects test guidelines and Good Laboratory Practice standards.

(d) Notice of proposed rule making on exemption policy and procedures.

(e) Notice of final rule on reimbursement policy and procedures.

(2) Support Documents: consisting of:

(a) 1,2–Dichloropropane support document.

(b) Economic analysis support document.

(3) Communications before proposal consisting of:

(a) Written public and intra- or interagency memoranda and comments.

(b) Summaries of telephone conversations.

(c) Meeting summaries.

(4) Reports—published and unpublished factual materials, including contractors' reports.

Confidential business information (CBI), while part of the record, is not available for public review.

VIII. Classification of Rule

Under Executive Order 12291, EPA must judge whether a regulation is "major " and therefore subject to the requirement of a Regulatory Impact Analysis. This proposed test rule is not major because it does not meet any of the criteria set forth in section 1(b) of the Order. First, the actual annual cost of the testing prescribed for 1,2-dichloropropane is less than $984,600 over the testing and reimbursement period. Second, because the cost of the required testing will be distributed over a large production volume, the rule will have only very minor effects (less than 0.7 percent a year) on producers' cost or users' prices for this chemical. Finally, taking into account the nature of the market for this substance, the low level of costs involved, and the expected nature of the mechanisms for sharing the costs of the required testing, EPA concludes that there will be no significant adverse economic effects of any type as a result of this rule.

This proposed regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA, and any EPA response to those comments, will be included in the public record.

IX. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, (15 U.S.C. 601, *et seq.*, Pub. L. 96–354, Setember 19, 1980), EPA is certifying that this test rule, if promulgated, will not have a significant impact on a substantial number of small businesses for the following reasons:

1. Small processors will not perform testing themselves, or will not participate in the organization of the testing effort.

2. Small processors will experience only minor costs in securing exemption from testing requirements.

3. Small processors are unlikely to be affected by reimbursement requirements.

4. There is one manufacturer of 1,2-dichloropropane in the United States that is a large international chemical corporation.

X. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, the information provisions in test rules are subject to OMB review and are not effective until OMB approves them. OMB is currently reviewing information requirements under section 4 test rules. A notice concerning the results of that review will be published in the **Federal Register.**

XI. Guidelines and Study Plans

The following guidelines and/or study plans cited in this proposed test rulemaking are available from the: National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, (703–487–4650).

NTIS publication No.	Title	Price
PB 82–140773	Chemical Testing Industry: Profile of Toxicological Testing.	$16.00
PB 82–232984	TSCA Guidelines—Health Effects	40.00
PB 82–232992	TSCA Guidelines—Environmental Effects.	60.00
PB 83–153908	OECD Guidelines for Aquatic Invertebrae Acute Toxicity Testing, and the FIFRA Guidelines for Hazard Evaluation; Wildlife and Aquatic Organisms.	11.50
PB 83–153916	Pesticide Assessment Guidelines	11.50

List of Subjects in 40 CFR Part 799

Testing, Environmental protection, Hazardous materials, Chemicals.

(Sec. 4, Pub. L. 94–469, 90 Stat. 2003; (15 U.S.C. 2601))

Dated: December 23, 1983.

Alvin L. Alm,

Acting Administrator.

PART 799—[AMENDED]

Therefore, it is proposed that a new § 799.1550 be added to Subpart B of proposed Part 799 to read as follows:

§ 799.1550 1,2-Dichloropropane.

(a) *Identification of test substance.* (1) 1,2-Dichloropropane (CAS No. 78–87–5), shall be tested in accordance with this section.

(2) 1,2-Dichloropropane of at least 99 percent purity shall be used as the test substance.

(b) *Persons required to submit study plans, conduct tests and submit data.* (1) All persons who manufacture or process 1,2-dichloropropane from the effective date of this rule (30 days from the publication date of the rule in the **Federal Register** to the end of the reimbursement period shall submit letters of intent to test, exemption applications and study plans and shall conduct tests and submit data as specified in paragraphs (c), (d), (e), (h), (i), and (j) of this section.

(2) Any person subject to the requirements of this section may apply to EPA for an exemption from study plan submission and testing requirements. Any such application shall be in accordance with paragraph (h) of this section.

(c) *Submission of notice of intent to test or exemption application.* (1) No later than 30 days after the effective date of this rule, each person manufacturing 1,2-dichloropropane as of the effective date of this rule must, for each test set required by paragraphs (i) and (j) of this section, either notify EPA by letter of its intent to perform the test set or submit an application for an exemption from the study plan submission and testing requirements for the test set.

(2) If, by the date specified in paragraph (c)(1) of this section, no manufacturer of 1,2-dichloropropane has notified EPA of its intent to perform testing for a test required by paragraph (i) and (j) of this section, EPA will publish a notice in the **Federal Register** of this fact specifying the test sets for which no notice of intent has been submitted. No later than 30 days after publication of such a notice, each person processing 1,2-dichloropropane as of the effective date of this rule must, for each test set specified in the **Federal Register** notice, either notify EPA by letter of its intent to perform the test set or submit an application for an exemption from the study plan submission and testing requirements for the test set.

(3) Any person not manufacturing 1,2-dichloropropane as of the effective date of this rule who, before the end of the reimbursement period, manufactures 1,2-dichloropropane must comply with the requirements of paragraphs (c)(1) and (d)(1) of this section. For purposes of paragraph (c) of this section, the manufacturer must submit the notice of intent to test or exemption application required by paragraph (c)(1) of this section by the date manufacture begins and must submit any proposed study plan required by paragraph (d)(1) of this section within 60 days of the date manufacture begins.

(4) If a **Federal Register** notice has been published under paragraphs (c)(2) or (d)(4) of this section, any person not processing 1,2-dichloropropane as of the effective date of this rule who, before the end of the reimbursement period, processes 1,2-dichloropropane, must comply with the requirements of paragraphs (c)(2) and (d)(2) of this section. For purposes of paragraph (c) of this section, the processor must submit the notice of intent to test or exemption application required by paragraph (c)(2) of this section by the date processing begins and must submit any proposed study plan required by paragraph (d)(2) of this section within 60 days of the date processing begins.

(5) Any manufacturer or processor of 1,2-dichloropropane which has notified EPA under paragraphs (c)(1), (c)(2), (c)(3), or (c)(4) of this section of its intent to perform testing for a test set required by paragraphs (i) and (j) of this section must submit a proposed study plan for the test set and must perform that test set in accordance with the test standards in paragraph (k) of this section.

(d) *Submission of proposed study plans.* (1) Manufacturers of 1,2-dichloropropane which notify EPA under paragraph (c)(1) of this section that they intend to perform a test set must submit a proposed study plan for the test set in accordance with paragraph (e) of this rule no later than 90 days after the effective date of this rule. Manufacturers may jointly submit a single proposed study plan if they plan to sponsor or perform the test set jointly. Any manufacturer which, having notified EPA of its intent to perform a test set, fails to submit a proposed study plan for that test set will have been in violation of this section as if no letter of intent to perform the test had been submitted.

(2) Processors of 1,2-dichloropropane which notify EPA under paragraph (c)(2) of this section that they intend to perform a test set must submit a proposed study plan for the test set in accordance with paragraph (e) of this section no later than 90 days after the publication of the notice specified in paragraph (c)(2) of this section. Processors may jointly submit a single proposed study plan if they plan to sponsor or perform the test set jointly. Any processor which, having notified EPA of its intent to perform a test set, fails to submit a proposed study plan for that test set will have been in violation of this section as if no letter of intent to perform the test set had been submitted.

(3) If EPA determines in accordance with paragraph (f)(1)(i) of this section that a proposed study plan is incomplete and the manufacturer or processor has not, after notice from EPA, submitted appropriate information to make the study plan complete within 15 days, the manufacturer or processor will have been in violation of this section as if no letter of intent to perform the test had been submitted.

(4) If either (i) by the date specified in paragraph (d)(1) of this section a manufacturer of 1,2-dichloropropane, which notified EPA of its intent to perform a test set, has failed to submit a proposed study plan for that test set, or

(ii) A proposed study plan submitted under paragraph (d)(1) of this section has been found to be incomplete under paragraph (f)(1)(i) of this section and the manufacturer has not submitted appropriate information to make the study plan complete within 15 days, EPA will publish a notice in the **Federal Register** of this fact specifying the test set. The requirements of paragraphs (c)(2) and (d)(2) of this section for processors to submit letters of intent to perform testing, applications for exemption and proposed study plans will apply.

(5) If either (i) by the date specified in paragraph (c)(2) of this section no processor of 1,2-dichloropropane has notified EPA of its intent to perform testing for any test set identified in a **Federal Register** notice published under paragraphs (c)(2) or (d)(4) of this section,

(ii) By the date specified in paragraph (d)(2) of this section any processor of 1,2-dichloropropane, which notified EPA of its intent to perform a test set, has failed to submit a proposed study plan for that test set, or

(iii) A proposed study plan submitted under paragraph (d)(2) of this section has been found to be incomplete under paragraph (f)(1)(i) of this section and the processor has not submitted appropriate information to make the study plan complete within 15 days, all applications for exemption from the requirements to

submit study plans and to perform tests for the specific test set involved will automatically be denied. EPA will notify every manufacturer and processor of 1,2-dichloropropane that applied for an exemption for the specific test involved of this automatic denial either by letter or by notice in the **Federal Register**. Each manufacturer or processor of 1,2-dichloropropane for whom an exemption application has been automatically denied will be in violation of this section 30 days from the time that it receives the notice letter or 30 days from the time that the notice is published in the **Federal Register**, whichever comes first. The violation will continue until a manufacturer or processor of 1,2-dichloropropane submits a proposed study plan for each test set involved.

(6) Any manufacturer or processor of 1,2-dichloropropane may submit a proposed study plan for any test set required by this section at any time, regardless of whether the manufacturer or processor previously submitted an application for exemption from testing for that test set.

(e) *Content of study plans.* (1) All study plans are required to contain the following information:

(i) Identity of the test rule.

(ii) The specific test set covered by the study plan.

(iii) (A) The names and addresses of the test sponsors.

(B) The names, addresses, and telephone numbers of the responsible administrative officials and project manager(s) in the principal sponsor's organization.

(C) The name, address, and telephone number of the appropriate individual(s) for oral and written communications with EPA.

(D) (*1*) The name and address of the testing facility(ies), including the names(s), address(es) and telephone number(s) of the testing facility(ies), administrative officials and project manager(s) responsible for this testing.

(*2*) Brief summaries of the training and experience of each professional involved in the study, including study director, veterinarian(s), toxicologist(s), pathologist(s) and laboratory assistants.

(iv) Identity and data on the substances being tested, including appropriate physical constants, spectral data, chemical analysis and stability under test and storage conditions.

(v) Study protocol, including rationale for: Species/strain selection; dose selection (and supporting data); route(s) or method(s) of exposure; a description of diet to be used and its source, including nutrients and contaminants and their concentrations; for *in vitro* test systems, a description of culture medium and its source; and a summary of expected spontaneous chronic disease (including tumors), genealogy, and life span.

(vi) Schedule for initiation and completion of major phases of long term tests; schedule for submission of interim progress and final reports to EPA.

(2) Information specified under paragraph (e)(1)(iii)(D) of this section is not required in proposed study plans if the information is not available at the time of submission; however, the information must be submitted before the initiation of testing.

(f) *Review and adoption of study plans.* (1) Upon receipt of a proposed study plan, EPA will review the study plan to determine whether it complies with paragraph (e) of this section.

(i) If EPA determines that the proposed study plan does not comply with paragraph (e) of this section, EPA will notify the submitter that the submission is incomplete and identify the deficiencies and the steps necessary to complete the submission. The submitter will have 15 days from the day it receives this notice to submit appropriate information to make the study plan complete. If the submitter fails to provide appropriate information to complete the study plan within this time, the submitter will have been in violation of this section as if no study plan had been submitted.

(ii) If EPA determines the proposed study plan complies with paragraph (e) of this section, EPA will publish a notice in the **Federal Register** requesting comments on the ability of the study plan to ensure that data from the test set will be reliable and adequate. EPA will provide a 45-day comment period and will provide an opportunity for an oral presentation upon request of any person. EPA may extend the comment period if it appears from the nature of the issues raised by EPA's review or from public comments that further comment is warranted.

(2) After receiving and considering public comment, EPA will adopt the study plan, including time deadlines and reporting schedules, as proposed or as modified in response to EPA review and public comments, as test standards for the testing of 1,2-dichloropropane in paragraph (j) of this section.

(g) *Modification of study plans during conduct of study*—(1) *Application.* Any test set sponsor who wishes to modify the adopted study plan for any test set or study required under this section must submit an application in accordance with this paragraph. Application for modification shall be made in writing to the Chief, Test Rules Development Branch, Office of Toxic Substances, or by phone, with written confirmation to follow within 10 working days. Applications must include an appropriate explanation of why the modification is necessary.

(2) *Adoption.* To the extent feasible, EPA will seek comment on all substantive changes in study plans. EPA will issue a notice in the **Federal Register** requesting comments on requested modifications. However, EPA will act on the requested modification without seeking public comment:

(i) if EPA believes that an immediate modification to a study plan is necessary in order to preserve the accuracy or validity of an ongoing study; or

(ii) if EPA determines that a modification clearly does not pose any significant substantive issues. EPA will notify the sponsor of the Agency's approval or disapproval. When the Agency approves a modification, it will publish a notice in the **Federal Register** indicating that the study plan has been modified.

(h) *Exemption applications.* (1) Any manufacturer or processor of 1,2-dichloropropane may submit an application to EPA for an exemption from submitting proposed study plans for and from performing any or all of the tests sets specified in paragraphs (i) and (j) of this section. The application must include the name and address of the manufacturer or processor and must identify the specific requirements of this section from which the exemption is sought.

(2) No manufacturer or processor of 1,2-dichloropropane will be in violation of the requirement to perform a specific test set under paragraphs (i) and (j) of this section if it has submitted a timely application for an exemption for that test set and the application has not been denied by EPA.

(3) EPA will conditionally grant any requested exemption for a specific test set required by paragraphs (i) and (j) of this section if EPA has received a complete proposed study plan for that test set in accordance with paragraph (e) of this section and has adopted the study plan in accordance with paragraph (f)(2) of this section.

(4) EPA will deny any exemption for a specific test set in paragraphs (i) and (j) of this section if the study sponsor fails to perform the test set or to submit data as required in the test standards adopted under paragraph (k) of this section.

(5) If manufacturers of 1,2-dichloropropane perform all the tests required by paragraphs (i) and (j) of this section, processors of 1,2-

dichloropropane will automatically be granted an exemption from the study plan submission and testing requirements without the need to file an application for exemption.

(i) *Health effects testing*—(1) *Neurotoxicity*—(i) *Required testing.* The following neurotoxicity test battery shall be performed with 1,2-dicholoropropane by inhalation.

(A) A neuropathology test shall be conducted with 1,2-dichloropropane.

(B) A motor activity test shall be conducted with 1,2-dichloropropane.

(C) A functional observation battery shall be conducted with 1,2-dichloropropane.

(ii) *Study plans.* For guidance in preparing study plans, it is recommended that the TSCA Health Effects Test Guidelines for Neurotoxicity, published by NTIS (PB 82–232984), be consulted. Additional guidance may be obtained from the FIFRA Pesticide Registration Guidelines; Proposed Data Requirements for Hazard Evaluation: Human and Domestic Animals, published by NTIS (PB 83–153916).

(2) *Mutagenic effects—Chromosomal aberrations*—(i) *Required testing.* (A) A dominant lethal assay shall be conducted for 1,2-dichloropropane.

(B) A heritable translocation assay shall be conducted if 1,2-dichloropropane produces a positive result in the dominant lethal assay.

(C) Further testing for chromosomal aberrations is not required if 1,2-dichloropropane produces a negative result in the dominant lethal assay.

(ii) *Study plans.* For guidance in preparing study plans, it is recommended that the TSCA Health Effects Test Guidelines for Chromosomal Effects, published by NTIS (PB 82–232984), be consulted. Additional guidance may be obtained from the OECD Test Guidelines for Genetic Toxicology and the FIFRA Pesticide Registration Guidelines; Proposed Data Requirements for Hazard Evaluation: Human and Domestic Animals, published by NTIS (PB 83–153916).

(3) *Mutagenic effects—Gene mutation*—(i) *Required testing.*

(A) 1,2-Dichloropropane shall be tested in a *Drosophila* sex-linked recessive lethal (SLRL) test because of positive results in *Salmonella* microsomal assays.

(B) A mouse specific locus assay shall be conducted if 1,2-dichloropropane produces a positive result in the *Drosophila* SLRL.

(C) Further testing for gene mutations is not required if 1,2-dichloropropane produces a negative result in the *Drosophila* SLRL.

(ii) *Study plans.* For guidance in preparing study plans, it is recommended that the TSCA Health Effects Test Guidelines for Gene Mutations and DNA Effects, published by NTIS (PB 82–232984), be consulted. Additional guidance may be obtained from the OECD Test Guidelines for Genetic Toxicology and the FIFRA Pesticide Registration Guidelines; Proposed Data Requirements for Hazard Evaluation: Human and Domestic Animals, published by NTIS (PB 83–153916).

(4) *Teratogenicity*—(i) *Required testing.* Teratogenicity studies shall be conducted with 1,2-dichloropropane. Inhalation shall be the route of administration of the test substance in these studies.

(ii) *Study plans.* For guidance in preparing study plans, it is recommended that the TSCA Health Effects Test Guidelines for Specific Organ/Tissue Toxicity-Teratogenicity, published by NTIS (PB 82–232984), be consulted. Additional guidance may be obtained from the OECD Test Guidelines for Health Effects and the FIFRA Pesticide Registration Guidelines; Proposed Data Requirements for Hazard Evaluation: Human and Domestic Animals, published by NTIS (PB 83–153916).

(5) *Reproductive effects*—(i) *Required testing.* Two-generation reproductive effects studies shall be conducted with 1,2-dichloropropane. Inhalation shall be the route of administration of the test substance in these studies.

(ii) *Study plans.* For guidance in preparing study plans, it is recommended that the TSCA Health Effects Test Guidelines for Specific Organ/Tissue Toxicity—Reproduction/Fertility Effects, published by NTIS (PB 82–232984), be consulted. Additional guidance may be obtained from the FIFRA Pesticide Registration Guidelines; Proposed Data Requirements for Hazard Evaluation: Human and Domestic Animals, published by NTIS (PB 83–153916).

(j) *Environmental effects testing*—(1) *Mysid shrimp acute toxicity test*—(i) *Required testing.* Testing using flow-through systems and measured concentrations shall be conducted with mysid shrimp to develop data on the acute toxicity of 1,2 dichloropropane to aquatic invertebrates.

(ii) *Study plans.* For guidance in preparing study plans, it is recommended that the TSCA Environmental Effects Test Guidelines for the mysid shrimp acute toxicity tests (EG–4) published by NTIS (PB 82–232992), be consulted. Additional guidance may be obtained by consulting the OECD Guidelines for Aquatic Invertebrate Acute Toxicity Testing, and the FIFRA Guidelines for Hazard Evaluation: Wildlife and Aquatic Organisms (PB 82–153908).

(2) *Algal Toxicity Testing*—(i) *Required testing.* Testing using systems that control for 1,2-dichloropropane evaporation shall be conducted with marine and freshwater algae.

(ii) *Study plans.* For guidance in preparing study plans, it is recommended that the TSCA Environmental Effects Test Guidelines for Algal Toxicity Tests (EG–8), published by NTIS (PB 82–232992), be consulted. Additional guidance may be obtained by consulting the OECO Guidelines for Aquatic Invertebrate Acute Toxicity Testing and the FIFRA Guidelines for Hazard Evaluation: Wildlife and Aquatic Organisms (PB 83–153908).

(3) *Daphnid and Mysid Chronic Toxicity Test*—(i) *Required testing.* Testing shall be conducted with *D. magna* and the mysid shrimp to develop data on the chronic toxicity of 1,2-dichloropropane to aquatic invertebrates.

(ii) *Study plans.* For guidance in preparing study plans, it is recommended that the TSCA Environmental Effects Test Guidelines for the *D. magna* Chronic Toxicity Test (EG–2) and the Mysid Shrimp Chronic Toxicity Test (EG–4) published by NTIS (PB 82–232992) be consulted. Additional guidance may be obtained by consulting the OECD Guidelines for Aquatic Invertebrates Toxicity Testing, and the FIFRA Guidelines for Hazard Evaluation: Wildlife and Aquatic Organisms (PB 83–153908).

(k) *Test standards.* (1) All data must be developed and reported in accordance with the EPA Good Laboratory Practice Regulations in 40 CFR 792

(2) [Reserved].

(l) *Enforcement* (1) If a manufacturer or processor, which notified EPA under paragraph (c) (1) or (2) of this section of its intent to perform testing for a test set required by paragraphs (i) and (j) of this section, fails to perform the test set in accordance with the test standards in paragraph (k) of this section, that failure will be a violation of this section.

(2) EPA will publish a notice in the **Federal Register** to inform all manufacturers and processors that all exemptions for performamce of that test set will be denied unless, within 30 days of the publication of the notice, a manufacturer or processor of 1,2-

dichloropropane notifies EPA by letter that it intends to perform that test set in accordance with the test standards in paragraph (k) of this section.

(3) Any person who fails or refuses to comply with any aspect of this rule is in violation of section 15 of TSCA.

(m) *Availability of study plans.* The various study plans given in this proposed rule are available from the: National Technical Information Service, 5285 Port Royal Road, Springfield, Va 22161, (703–487–4650).

[FR Doc. 84-328 Filed 1-5-84; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 7

[CGD 81-058]

Boundary Lines

AGENCY: Coast Guard, DOT.

ACTION: Reopening of comment period.

SUMMARY: In the **Federal Register** of September 15, 1983 (48 FR 41454), the Coast Guard proposed regulations which would establish boundary lines for the Seagoing Barge Act and more clearly define existing Boundary Lines. The public comment period closed on December 15, 1983. This notice reopens the comment period until March 1, 1984. The comment period is being reopened to allow the public further input. It is also anticipated that the Towing Advisory Safety Committee (TSAC) will comment on the proposed regulations at their Meeting on February 16, 1984.

DATE: Comment on the proposed regulations must be received on or before March 1, 1984.

ADDRESSES: Comments should be mailed to Commandant (G–CMC/44) (CGD 81–058) U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593. Comments received by the Coast Guard will be available for examination and copying between 8 am and 4 pm, Monday through Friday, except holidays, at the Marine Safety Council (G–CMC/44) room 4402, Coast Guard Headquarters, 2100 2nd Street SW, Washington, D.C. 20593. Comments may also be hand delivered to this address.

FOR FURTHER INFORMATION CONTACT: LCDR Patrick A. Turlo (202) 426–1464.

SUPPLEMENTARY INFORMATION: The proposed regulations were published in a supplemental notice of proposed rulemaking (SNPRM) in the **Federal Register** on September 15, 1983 (48 FR 41454). As stated in the SNPRM, the proposed regulations would establish boundary lines for the Seagoing Barge Act and other statutes. The Towing Safety Advisory Committee (TSAC) is anticipated to comment on the proposed regulations at their meeting on February 16, 1984. The Coast Guard is reopening the comment period until March 1, 1984 to allow the public to provide further input to this rulemaking.

(Sec. 2, Stat. 672 as amended (33 U.S.C. 151); Sec. 6(b)(1) 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b))

Dated: December 30, 1983.

T. F. Tutwiler,

Captain, U.S. Coast Guard, Acting Deputy Chief, Office of Merchant Marine Safety.

[FR Doc. 84-361 Filed 1-5-84; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 74

[MM Docket No. 83-1350; FCC 83-593]

Low Power Television and Television Translator Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Communications Commission is seeking comments on proposed rule changes for low power television and television translator service which would modify the present cut-off procedures and eliminate the requirement to file financial information with applications. Comments are also sought on creating a priority class of service for television translator applications. This action is based on the Commission's ongoing review and reevaluation of its rules and policies, and will contribute to providing service to the public in the most efficient, expeditious manner possible.

DATE: Comments must be received on or before January 30, 1984. Reply comments must be received on or before February 14, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Larry Miller, Mass Media Bureau, (202) 632–3894.

List of Subjects

47 CFR Part 73

Television.

47 CFR Part 74

Low power television and television translators.

Proposed Rule Making

In the matter of Low Power Television and Television Translator Service; MM Docket No. 83–1350.

Adopted: December 14, 1983.
Released: December 23, 1983.

By the Commission.

Introduction and Background

1. The Commission submits for comment several proposals for changes in the processing procedures for low power television and television translator applications. These proposals include: (1) Modification of the cut-off rules to provide for a "window" or date certain for filing applications; (2) elimination of the requirement of filing financial information or certification with applications; and (3) the designation of television translators or certain types of translators as a priority or separate class of service for processing purposes with low power television secondary to it. Since they affect basic processing procedures, the rule changes proposed would apply prospectively to new applications filed. All pending applications and applications which are mutually exclusive with them would be processed pursuant to the present rules. However, in the case of the financial requirements, since compliance is only monitored post-lottery, it would appear to be in the public interest to make the changes apply retroactively to all pending as well as new applicants.

2. The low power television service began with a *Notice of Inquiry* in 1978, 68 FCC 2d 1525 (1978). In September, 1980, the Commission established procedures for processing translator and low power television applications pending the outcome of the inquiry and rule making. *Notice of Interim Processing*, 45 FR 62004, published September 17, 1980. The *Notice of Proposed Rule Making* was adopted at about the same time.[1] Under the interim processing rules, approximately 5,000 applications were received by April of 1981. Due to lack of computer capability necessary to process the applications, the Commission ordered a freeze on the acceptance of new applications, except for several specified exceptions. *Order Imposing Freeze*, 46 FR 2602, published May 11, 1981.

3. Upon the adoption of the *Report and Order*, 51 RR 2d 476, 47 FR 21488, published May 18, 1982 (hereinafter referred to as *"LPTV Report and Order"*) applications were grouped into categories or "Tiers" based on location. Those applicants proposing to locate

[1] 45 FR 69178, published October 17, 1980.

their transmitting antennas more than 55.5 miles from any of 212 ranked television markets were placed in Tier I. Tier II was defined as applicants proposing to locate their stations within 55.5 miles of the reference coordinates of ranked markets 101 through 212. Tier III included all remaining applicants proposing a station location within 55.5 miles of the reference coordinates of ranked markets one to 100, inclusive.

4. By the time the *LPTV Report and Order* was adopted, the Commission had received a total of 6,500 applications. Under the tiered system adopted in the *LPTV Report and Order*, applicants proposing to serve Tier I markets were exempted from the freeze. Thus, now an additional 5,500 Tier I applications have been filed bringing the total number of pending applications to 12,000. The need to reevaluate the Commission's processing procedures in view of the number of pending and anticipated applications precipitated a further freeze on the acceptance of new or major change low power television and television translator applications. See *Order*, FCC 83-423, adopted September 15, 1983.

5. The Commission has now conducted a revew of its procedures for processing low power television and television translator applications with a view toward simplifying and expediting the procedures. The proposals set forth below are designed to meet this goal. The public is invited to comment on these proposals.

Modification of Cut-Off Rules Applicable To Low Power Television and Television Translator Applications

6. The Commission has under consideration a proposal to change the cut-off procedure for low power television and television translator applications. The proposal would establish a series of "windows", opening 30 days or less after Public Notice of the "window" is given. New applicants would then have a limited period, generally five work days or less, in which to file complete and sufficient applications. Acceptance of applications may or may not be restricted to certain tiers or other application groupings. After the limited "window" for filing has passed, new or major change applications in conflict with those already filed would not be accepted. After applications filed during a window are processed, another window will open for the filing of additional applications for channels that then remain available. Applications which are filed pursuant to the proposed rules, if adopted, would not be placed on an A cut-off list, subject to competing applications, as is the current practice. Instead, all applicants wishing to provide service to any community would need to file during the open window in order to be considered with any other mutually exclusive application filed during the same open window time period. The proposed changes would modify § 73.3572 of the Commission's Rules. The applications would still appear on a lottery public notice pursuant to § 73.3572(f)(2) or a pregrant public notice pursuant to § 73.3572(f)(4).

7. There is substantial precedent for the establishment of firm filing dates for applications. The Supreme Court in *Ashbacker* v. *FCC*, 326 U.S. 327, 333, n.9 (1945) recognized that the Commission could establish dates for the filing of conflicting applications. See also *Radio Athens, Inc.* v. *FCC*, 401 F2d 398 (D.C. Cir. 1968). In *Century Broadcasting Corp.* v. *FCC*, 310 F2d 864, (D.C. Cir. 1962), the flexibility of the Commisson in fashioning procedural "housekeeping" rules was recognized. The Courts have traditionally required the Commission's cut-off dates to "fairly advise prospective applicants of what is being cut-off by the notice." *Ridge Radio Corp.* v. *FCC*, 292 F2d 770, 773 (D.C. Cir. 1961). The proposed rules would comply with this requirement for equal and fair treatment, since all potential applicants would be given adequate notice of the opening of a filing window.

8. Similar open "window" or "date certain" application filing cut-off dates have been adopted for use by the Commission. In relation to applications for cellular communications systems, the Commission adopted a date certain by which all applications for cellular communications systems in the top thirty Standard Metropolitan Statistical Areas had to be filed. *Memorandum Opinion and Order on Reconsideration*, 89 FCC 2d 58 (1982). The Commission subsequently extended this "date certain" one day filing period to markets 31-60 and markets 61-90. *Memorandum Opinion and Order on Further Reconsideration*, 90 FCC 2d 571 (1982).

9. Additionally, in the 900 MHz One-Way Paging System, *First Report and Order*, 89 FCC 2d 1337 (1982), the Commission established an initial 60 days "window" which began 90 days after the *Report and Order* was published in the **Federal Register**, in which applicants could file for 900 MHz paging authorizations. Upon reconsideration this window approach was extended to the three 900 MHz nationwide paging frequencies by *Memorandum Opinion and Order on Reconsideration (Part 2)*, 53 RR 2d 1238 (1983), *appeal docketed, sub nom., National Association of Regulatory Utility Commissioners* v. *FCC*, No. 83-1485, D.C. Cir., May 5, 1983. After those applications were processed, the Common Carrier Bureau could reopen the "window" for additional filings for any remaining frequencies. In the Private Radio Bureau a "window" has also been used. See *Second Report and Order* in PR Docket No. 79-191, 90 FCC 2d 1281 (1982) at para. 205. Most recently in the Instructional Television Fixed Service—Multipoint Distribution Service Reallocation (ITFS-MDS) proceeding, General Docket No. 80-112, *Report and Order*, 48 FR 33873, adopted May 26, 1983, the Commission established a "date certain" application filing approach for the newly created multi-channel MDS systems. The date set was the 45th day after publication of the Order in the **Federal Register**. The Commission, by Public Notice released August 4, 1983, later clarified this Order to allow applications to be filed during a six day "window."

10. The "date certain" or "window" filing period eliminates the practice of "misappropriating information," which occurs when one applicant copies another applicant's proposals. *Cellular Further Reconsideration, supra* at n. 3. As stated in the ITFS-MDS *Report and Order, supra* at p. 33898:

> Our experience with both MDS and the more recently authorized Digital Electronic Message Service (DEMS) has taught us that some applicants merely copy applications that have previously been filed and resubmit them with the names changed. We believe that this kind of activity does smack of the "land rush" or "gold rush" mentality that concerned many of the commentators in this proceeding. Our experience with single channel MDS applications is that in many instances a local entity will perceive the need for service in its community and file the appropriate application only to have another entity file a competing application on the final day allowed by our Rules thereby delaying the introduction of service to the public. We do not believe that such activity is in the public interest.

11. These problems are also evident in the low power television and television translator service, where local entities will file for a service in their community only to have an average of four competing applications filed on the A cut-off date. This practice has seriously retarded the processing of applications and implementation of the low power television service.

12. Considering all of the foregoing, the Commission now seeks comments on whether it would be appropriate to use periodic "windows" for filing low power television and television translator applications. Comments are

invited as to appropriate groupings for a given window period. Specifically, groupings by tier, geographic location, market size, and channel number should be addressed. Each of these approaches to segmenting the universe of potential applications appears to present problems due to the potential for creating a daisy chain effect or prejudicing other applicants. For instance, acceptance or grant of an application for a community in State A may prejudice or preclude consideration of an application in an adjacent community in State B. Likewise, acceptance or grant of an application for Channel A may prejudice or preclude consideration of an application on adjacent Channel B. In addition, specific comments are sought as to whether the procedure should allow for the unrestricted filing of applications nationwide during a "window" period. Comments are also invited as to any other procedures that would effectively expedite consideration of low power television and television translator applications.

Elimination of Financial Showing Required for Low Power Television and Television Translator Applications

13. The Commission is now proposing to eliminate the requirement that applicants for low power television and television translator authorizations file any information, or certification, concerning their financial qualifications. We believe that the public interest can be protected by strictly enforcing the one year construction period. Thus, the applicant would not need to have the financial ability at the time the application is filed. Financial ability will not be determined *a priori*.

14. The Commission historically has requested various types of information from broadcast applicants concerning their costs to construct and operate proposed stations and the financing available to meet these costs. These financial requirements have changed over the years based on the Commission's interpretation as to what is in the public interest, convenience or necessity. The Communications Act of 1934, as amended, has been held to provide judicially enforceable constraints on the Commission's exercise of authority as well as entitling the Commission to considerable judicial deference in determining what the public interest entails. *Office of Communications of the United Church of Christ* v. *FCC*, —— F2d ——, 53 RR 2d 1371 (D.C. Cir. 1983); See also *FCC* v. *WNCN Listeners Guild*, 450 U.S. 582 (1981); *FCC* v. *National Citizens Committee for Broadcasting*, 436 U.S. 775 (1978); *FCC* v. *WOKO, Inc.*, 329 U.S. 223 (1946). Pursuant to Section 308(b) "all applications for station licenses * * * shall set forth such facts as the Commission by regulation *may* prescribe as to the citizenship, character, and financial, technical, and other qualifications of the applicant to operate the station * * *." [3] (Emphasis added.) Thus, we believe that the Commission's inquiry into the financial qualifications of its applicants is discretionary. The United States Court of Appeals for the District of Columbia Circuit stated:

> Also, the provisions of 47 U.S.C. 308(b) authorizing consideration of factors of 'citizenship, character, and financial, technical and other qualifications' is not violated because it does not require scrutiny of an applicant's financial fitness. That section leaves it within the discretion of the Commission to decide which facts relating to such factors it wishes to have set forth in applications. Since this leaves the Commission free to have no facts set forth on any of these matters, if it finds such action appropriate, it follows necessarily that the Commission is not required to consider financial fitness if it deems it irrelevant to its regulatory scheme. [*National Association of Regulatory Utility Commissioners* v. *FCC*, 525 F2d 630, 645 (D.C. Cir. 1976). (Hereinafter *"NARUC I"*.)]

15. In *NARUC I* the court upheld the Commission's action in creating Specialized Mobile Radio Systems ("SMRS"), Cellular Radio Systems and reserving spectrum in the 900 MHz band for Land Mobile Service, *Memorandum Opinion and Order* in Docket No. 18262, 51 FCC 2d 945 (1975). In that docket the Commission had determined that competition would assure that the frequencies allocated for SMRS would best be utilized in the public interest. The Commission determined that its new SMRS rules did not violate the Communications Act. In meeting the obligations of Section 308(b), the Commission detailed all of the requirements for obtaining an authorization for an SMR system. Information was requested for applicants on legal, character, technical, operational and frequency loading factors. The Commission, however, did not require the applicants to show that they had the financial qualifications to construct the proposed facilities. Instead, strict construction deadlines for the authorized facilities were established. Authorized trunked SMR systems were required to begin construction within six months and complete construction within one year from the date of grant. Specific "loading" standards were set forth in the rules. If the licensee did not meet the construction or loading requirements the frequency would be made available for use by other qualified applicants. "This method, in our view, is preferable to the examination of a financial statement to ensure the frequencies assigned will be used effectively. The Communications Act gives us ample flexibility in this area to adopt measures most conducive '. . . to the proper dispatch of [our] business and to the ends of justice.' Section 4(i) of the Act. See *FCC* v. *Pottsville Broadcasting Co.*, 309 U.S. 134 (1940)." *Memorandum Opinion and Order* in Docket No. 18262, *supra* at 960. The Commission subsequently followed the reasoning of *NARUC I* in its decision to eliminate the financial qualifications requirement in the Public Mobile Radio Service under Part 22 of the Commission's Rules. *Public Mobile Radio Service*, 82 FCC 2d 152 (1980).

16. The Commission now requires that an applicant for a low power television or television translator construction permit certify that it is financially qualified.[3] However, the Commission retained the option of requesting additional information if circumstances warranted. The Commission noted that in its experience, actual operation was rarely effectuated as itemized in the application which required a detailed listing of projected expenditures and sources of funds. The strict financial requirements therefore were of little help to the Commission in making a public interest determination. We also noted that our "get tough" policy on not extending construction permits for applicants who are either financially unwilling or unable to construct was being enforced. After consideration of all relevant factors we determined that use of the financial certification process would cause no siginificant harm when balanced against expedited processing and prompt institution of service to the public.

17. There are several reasons why elimination of financial information concerning low power television and television translator applications is particularly appropriate. First, a strict construction period of one year is applied to all low power television and television translator permittees. Therefore, a post-lottery enforcement mechanism is in place that will provide for the termination of authorizations won without appropriate financial backing. Second, because low power television is a new service, financial

[3] 47 U.S.C. 308(b)(1981).

[3] Financial certification was extended to Low Power Television service in *LPTV Report and Order*, *supra*.

commitments may not be available until after construction permits are granted. Moreover, the financing actually used to construct the facility may, and often does, differ from that originally proposed. Finally, elimination of financial information in applications may also make it easier for minorities and women to enter this new service. Interested parties are invited to comment on this proposal.

Separation of Processing Procedures for Low Power Television and Television Translators

18. Television translator service was traditionally designed to "provide a means whereby the signals of television broadcast stations may be retransmitted to areas in which direct reception of such television broadcast stations is unsatisfactory due to distance or intervening terrain barriers". See § 74.731 of the Commission's Rules. Translators are used by state public television and educational organizations to rebroadcast the signals of non-commercial television stations throughout their state jurisdictions. Further, television translators are used by full service stations to provide service to shadowed areas within the Grade B contour. Service to these areas may also be necessary to the economic viability of some of the full service television stations. Translators also act as an extension of the full service facilities by bringing that programming to the rural and underserved markets.

19. When the Commission established the low power television service, it hoped to balance two principal goals for television service. One of these goals was to recognize the contribution that the traditional translator had played in the past. Therefore we attempted not to adopt rules that would make translator service more difficult to provide, especially in isolated rural areas where the need for television service is greatest. A second goal was to provide maximum flexibility for new originating services to come into being, easily and at low cost, and to provide for expansion of existing translator service. *Notice of Proposed Rule Making, supra* at paragraph 6.

20. Among the 12,000 low power television applications that have been filed, there are only about 1,000 television translator applicants. Because both television translator and low power television applicants compete for the same frequencies, with the *Low Power Television Report and Order* and *Lottery Report and Order* the Commission effectively combined them for purposes of application processing. Although there is a legitimate technical basis for combining low power television and television translators, applicants for traditional translator service have now been delayed by the onslaught of thousands of applications for low power television. Based on the experience the Commission has gained since the implementation of the low power television rules, the Commission is seeking comment on whether the balance between the two goals needs some adjustment. The rules have created an environment of substantial flexibility for low power television applicants. However, this flexbility may be at the expense of our goal to provide conventional television service to isolated rural areas. Accordingly, a remedy may be required. Thus, while we recognize and still support the substantial interests in providing opportunities for entry by new telecommunications participants offering new local programming alternatives, we believe that we should at least ask in this notice whether an alternative processing scheme would better serve these goals. Therefore, we request comments on several alternatives directed toward reaching these goals and seek comment on whether any of these alternatives or any remedy at all is desirable.

21. First, unlike our present processing procedures, the window cut-off approach, which would not highlight any specific application, should diminish the likelihood of competing applications in userved or underserved areas. Secondly, even in those instances where mutually exclusive applications are filed and the translator applicant loses in the lottery, in many cases the television translator applicant will be able to file a new application during a subsequent open window after reengineering its proposed facilities to avoid conflict. If commentors do not believe that the window approach will be sufficient to meet our goals, other alternatives include according translators a higher priority than low power television stations.[4] Pursuant to this proposal if a new or major change low power television application and a new or major change television translator application were mutually exclusive, the low power television application would not be accepted for filing. If there were mutually exclusive television translator applications the licensee would be determined by use of a lottery.

22. Other alternatives include giving a priority only to those television translators necessary to fill in a full service facility's city grade, Grade A or Grade B contours. Another option is to permit separate open filing windows for translators. Pursuant to this proposal there would be alternating filing windows for television translators and low power television applications.

23. With respect to the alternatives set forth above, it is important to recognize that many low power television stations actually function during part of their respective operations as translators.[5] The low power television service was established to permit more flexible use of low cost television equipment in order to provide a variety of market program offerings. The proposed translator priority struction would prejudice these stations with resulting disadvantage to both services. For example, the proposal to define the change from a translator to a low power station as a major change increases the burdens on those translators wishing to become low power stations and to provide local programming. In order to avoid abuse of any priorities accorded to television translators, some means would be required to prohibit the filing of applications for translators that are intended for conversion to low power stations at a later date. Further, low power television provides a local origination service. It is not clear that the unmet needs for basic translators outweigh the benefits of a more flexible, market oriented low power television service. By awarding a blank priority to television translators we may find ourselves authorizing the rebroadcast of the programs of a distant television station in a well-served market over programming tailored to the local community. Considering all of the foregoing, comments on the various alternatives proposed or any other possible alternatives are solicited. Adoption of the changes proposed herein may affect certain of the Commission's Rules, including §§ 73.3564, 73.3572, 73.3591 and 74.732.

24. The rules proposed herein are intended to apply to the low power television and television translator service. While not the subject of this proceeding, the public may wish to file separate comments on the feasibility of the elimination of cut-off rules and financial qualifications in the other broadcast services. However, rule

[4] If television translators are made a priority for processing purposes, any change from translator service to low power television service will then become an application for major change as defined in § 73.3572 of the Commission's Rules.

[5] Section 74.701(f) of the Commission's Rules defines a low power television station as "A station authorized under the provisions of this Subpart that may retransmit the programs and signals of a televison broadcast station and that may originate programming in any amount greater than 30 seconds per hour and/or operates a subscription service."

changes in the other broadcast services, if any, will be initiated through a separate notice of proposed rule making.

Administrative Matters

25. Authority for this proposed rulemaking is contained in section 1, 3, 4 (i) and (j), 303, 308, 309 and 403 of the Communications Act of 1934, as amended. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, interested parties may file comments on or before January 30, 1984 and reply comments on or before February 14, 1984. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

26. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation on the day of oral presentation. That written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231.

27. As required by section 603 of the Regulatory Flexibility Act. The FCC has prepared an initial regulatory flexibility analysis (IRFA) of the expected impact of these proposed policies and rules on small entities. The IRFA is set forth in Appendix A. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the *Notice*, but they must have a separate and distinct heading designating them as responses to the regulatory flexibility analysis. The Secretary shall cause a copy of this *Notice*, including the initial regulatory flexibility analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act (Pub. L. No. 96–354, 94 Stat. 1164, 50 U.S.C. 601 *et seq.*) (1981).

28. To file formally in this proceeding, participants must file an original and five copies of all comments, reply comments, and supporting documents. If participants want each Commissioner to receive a personal copy of their comments, an original plus eleven copies must be filed. Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the Dockets Reference Room (Room 239) of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554. For information on this proceeding, contact Larry A. Miller, Mass Media Bureau, (202) 632–3894.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A—Initial Regulatory Flexibility Analysis

I. Reason for Action

In this proceeding, we seek to develop a record and to elicit comments on proposed rules. The proposed rules are part of the Commission's ongoing review and reevaluation of its rules and policies.

II. Objective

The proceeding will elicit comments on the public interest benefits and costs of the proposed rule changes in accordance with fulfilling the mandate of Section 308(b) of the Communications Act of 1934, as amended.

III. Legal Basis

The legal basis for eliciting comments on these proposals to change our rules is found in Sections 4 and 303 of the Communications Act.

IV. Description, Potential Impact, and Number of Small Facilities Affected

The time and costs involved in proceedings concerning parties seeking authorizations for new low power television or television translator stations would be reduced. Small entities could benefit from not having to expend the time and incur the costs involved in the application stage relating to financial showings.

V. Recording, Record Keeping and Other Compliance Requirements

There is no additional impact.

VI. Federal Rules Which Overlap, Duplicate or Conflict With the Proposed Rules

There is no overlap, duplication or conflict.

VII. Any Significant Alternative Minimizing Impact on Small Entities and Consistent With Stated Objectives

There is no significant alternative.

[FR Doc. 84–336 Filed 1–5–84; 8:45 am]
BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 49, No. 4
Friday, January 6, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Black Hills National Forest Grazing Advisory Board; Notice of Meeting

The Black Hills National Forest Grazing Advisory Board will meet at 1:00 p.m. on February 9, 1984 at the Helitack Base located approximately one mile south of Hill City, South Dakota. The purpose of this meeting is to announce new board members, acquaint the new members with the allotment management plans and range betterment funds, review the comments on the 1984 Range Betterment Fund Program and to obtain views on the Board's functions for the coming year.

The meeting will be open to the public. Persons who wish to attend should notify Craig Whittekiend, Black Hills National Forest, phone 605/673–2251.

Dated: December 22, 1983.

James R. Mathers,

Forest Supervisor.

[FR Doc. 84–353 Filed 1–5–84; 8:45 am]
BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Office of the Secretary

Privacy Act of 1974

AGENCY: Office of the Secretary, Commerce.

ACTION: Revision of system of records to provide for disclosures to consumer reporting agencies.

SUMMARY: This notice revises the information which the Department of Commerce has published describing eight systems of records maintained which are subject to the Debt Collection Act of 1982 (Pub. L. 97–365). They are DEPT–1, DEPT–2, DEPT–9, DEPT–13, DEPT–16, DEPT–17, DEPT–18, and NTIS–1.

Except for the addition of the provision for disclosures to consumer reporting agencies, all other changes being published are editorial in nature, and reflect organization changes and other minor administrative revisions which have occurred since the publication of the notices in the **Federal Register** on December 31, 1981 (46 FR 63498).

The eight revised systems notices are published in their entirety below. This notice does not require a public comment period.

EFFECTIVE DATE: January 6, 1984.

FOR FURTHER INFORMATION CONTACT: Roger Mallett, Department of Commerce, Washington, D.C. 20230, telephone 202–377–2324 for debt collection matters, or Lester G. Welch, Department of Commerce, Washington, D.C. 20230, telephone 202–377–4217, for Privacy Act matters.

Dated: December 30, 1983.

Marilyn S. McLennan,

Chief, Information Management Division, Department of Commerce.

COMMERCE/DEPT–1

SYSTEM NAME:

Attendance, Leave, and Payroll Records of Employees and Certain Other Persons—COMMERCE/DEPT–1

SYSTEM LOCATION:

For employees of Departmental Offices, BEA, BIE, Census, EDA, ITA, MBDA, NBS, NOAA, NTIA, NTIS, PAT-TM, USTS, Offices of Federal Cochairmen, RAPCs, and ARC: Management Sercice Center, U.S. Department of Commerce, Caller Service No. 6025, Gaithersburg, Maryland 20878.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Commerce Department employees and certain other persons as categorized by organizational component above.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, date of birth, social security number and employee number, service computation date, grade, step, and salary; organization (code), retirement of FICA date as applicable; Federal, state, and local tax deductions, as appropriate; IRS tax lien data; savings bond and charity deductions; regular and optional Government life insurance deduction(s), health insurance deduction and plan of code; cash award data; jury duty data; military leave data; pay differentials; union dues deductions; allotments, by type and amount; financial institution code and employee account number, type of account; leave status and leave data of all types (including annual, compensatory, jury duty, maternity, military, retirement disability, sick, transferred, absence without leave, and without pay); time and attendance records, including number of regular, overtime, holiday, Sunday, and other hours worked; pay period number and ending date; cost of living allowances; mailing address; coowner and/or beneficiary of bonds, martial status and number of dependents; and "Notification of Personnel Action". The individual records listed herein are included only as pertinent or applicable to the individual employee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5 U.S.C., Title 31 U.S.C. 66a, 492, Title 44 U.S.C. 3101, 3309.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Transmittal of data to U.S. Treasury and employee-designated financial institutions to effect issuance of paycheck to employees and distribution of pay according to employee directions for savings bonds, allotments, alimony, child support, and other authorized purposes.

Reporting: tax withholding to Internal Revenue Service and appropriate State and local taxing authorities; FICA deductions to the Social Security Administration; dues deductions to labor unions; withholdings for health and life insurance to the insurance carriers and the U.S. Office of Personnel Management; charity contribution deductions to agaents of charitable institutions; annual W–2 statements to taxing authorities and the individual; wage, employment, and separation information to state enemployment compensation ageancies, to the Department of Labor to determine elegibility for unemployment compensation, and to housing authorities for low-cost housing applications; and NOAA Corps data to U.S. Office of Personnel Management for

preparation of statistical mataerials. Also, see routine use paragraphs 1–5 and 8–13 of Prefactor Statement.

DISCLOSURE OF CONSUMER REPORTING AGAENCIES:

Disclosures pursuant to 5 U.S.C. 522a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a (f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Both manual and machine-readable.

RETRIEVABILITY:

By name and/or employee or social security number.

SAFEGUARDS:

Physical, technical and administrative security is maintained, with all storage equipment and/or rooms locked when not in use. Admittance, when open, is restricted to authorized personnel only. All payroll personnel and computer operators and programmers are instructed and cautioned on the confidentiality of the records.

RETENTION AND DISPOSAL:

Retained on site until after GAO audit, then disposed of, or transferred either to Federal Records Storage Centers in accordance with the fiscal records program approval by GAO, as appropriate, or general Record Schedules of GSA.

SYSTEM MANAGER(S) AND ADDRESS:

Management Service Center, U.S. Department of Commerce, Caller Service No. 6025, Gaithersburg, Maryland 20878.

NOTIFICATION PROCEDURE:

For BEA records, information may be obtained from: Chief, Management and Organization Branch, BEA, Tower Building, 1401 K Street, N.W., Washington, D.C. 20230.

For BIE records, information may be obtained from: Administrative Officer, BIE, Room 4845 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

For Census records, information may be obtained from: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For EDA records, information may be obtained from: Director, Office of Public Affairs, EDA, U.S. Department of Commerce, Washington, D.C. 20230.

For ITA records, information may be obtained from: Director, Office of Management and Systems. ITA, U.S. Department of Commerce, Washington, D.C. 20230.

For MBDA records, information may be obtained from: Privacy Officer, Office of Chief Counsel, MBDA, U.S. Department of Commerce, Washington, D.C. 20230.

For NBS and NTIS records, information may be obtained from: Deputy Director for Information Systems. Room A1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234.

For NOAA records, information may be obtained from: Director, Administrative and Technical Services, National Oceanic and Atmospheric Administration, Room 4213 Herbert C. Hoover Bldg., 14th and Constitution Avenue, NW., Washington, D.C. 20230.

For NTIA records, information may be obtained from: Privacy Officer, NTIA, U.S. Department of Commerce, Washington, D.C. 20504;

For PAT—TM records, information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231;

For USTS records, information may be obtained from: Director, Office of Administration, USTS, U.S. Department of Commerce, Washington, D.C. 20230; and

For all other records, information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

Requester should provide name, social security number, and time or organization unit of employment pursuant to the inquiry provisions of the Department's Rules which appear in 15 CFR Part 4b.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: same address of the desired location as stated in the Notification section above.

CONTESTING RECORD PROCEDURES:

The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address for desired location.

RECORD SOURCE CATEGORIES:

Subject individuals, those authorized by the individual to furnish informaion, supervisors, timekeepers, official personnel records, and IRS.

COMMERCE/DEPT-2

SYSTEM NAME:

Accounts Receivable—COMMERCE/DEPT–2.

SYSTEM LOCATION:

a. For Departmental offices, BEA, BIE, ITA, USTS, MBDA, Offices of Federal Cochairmen, RAPCs, and ARC: Office of Financial Operations, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

b. For NBS and NTIA: National Bureau of Standards, Office of the Comptroller, Administration Building, Washington, D.C. 20234.

c. For NOAA: Office of Budget and Finance, National Oceanic and Atmospheric Administration, Room 6811 Herbert C. Hoover Bldg., 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

d. For PAT-TM: Office of Finance, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

e. For CENSUS: Finance Division, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

f. For NTIS: Accounting Division, National Technical Information Service, Springfield, Virginia 22161.

g. For EDA: Accounting Division, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Debtors owing money to organizational components identified in a through g including employees, former employees, business firms, general public, and institutions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and address; amount owed, and service, overpayment or other accounting therefor, invoice number, if any.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5701–09; 31 U.S.C. 951–953, 4 CFR 102.4, FPMR 101–7; Treasury Fiscal Requirements Manual.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Billing debtors, reporting delinquent debts to credit bureaus, reporting to Office of Personnel Management for liquidating debts from retirement and other benefits, and routine uses 1–5 and 8–13 of the Prefatory Statement.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Both manual and machine-readable records.

RETRIEVABILITY:

By name, and invoice number as appropriate.

SAFEGUARDS:

Physical security, handling by authorized personnel only.

RETENTION AND DISPOSAL:

Retained until payment is received and account is audited, then disposed of in accordance with Records Control Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

For records at location a.: Director, Office of Financial Operations, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b.: Comptroller, Office of the Comptroller, National Bureau of Standards, Administration Building, Washington, D.C. 20234.

For records at location c.: Director, Office of Budget and Finance, NOAA, Room 6811, Herbert C. Hoover Bldg., 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

For records at location e.: Director, Office of Finance, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location e.: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location f.: Chief, Accounting Division, National Technical Information Service, Springfield, Virginia 22161.

For records at location g.: Chief, Accounting Division, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

NOTIFICATION PROCEDURE:

For BIE records at location a., information may be obtained from: Administrative Officer, BIE, Room 4845, 14th and Constitution Avenue, N.W., Washington, D.C. 20230;

For ITA records at location a., information may be obtained from: Director, Office of Management and Systems, ITA, U.S. Department of Commerce, Washington, D.C. 20230;

For USTS records at location a., information may be obtained from: Director, Office of Administration, USTS, U.S. Department of Commerce, Washington, D.C. 20230; and

For all other records at location a., information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

For NBS records at location b., information may be obtained from: Deputy Director of Administration, Room A1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234;

For NTIA records at location b., information may be obtained from: Privacy Officer, NTIA, U.S. Department of Commerce, Washington, D.C. 20504;

For records at location c., information may be obtained from: Director, Administrative and Technical Services, National Oceanic and Atmospheric Administration, Room 4213 Herbert C. Hoover Bldg., 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

For records at location d., information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231; and

For records at location e., information may be obtained from: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location f., information may be obtained from: Associate Director for Financial and Administrative Management, National Technical Information Service, Springfield, Virginia 22161.

For records at location g., information may be obtained from: Director, Office of Public Affairs, EDA, U.S. Department of Commerce, Washington, D.C. 20230.

Requester should provide name and address, and invoice number as appropriate, pursuant to the inquiry provisions of the Department's Rules which appear in 15 CFR Part 4b.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: same address as stated in the Notification section above.

CONTESTING RECORD PROCEDURES:

The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:

Subject individual, those authorized by the individual to furnish information, contracting officer as appropriate, accounting records.

COMMERCE/DEPT-9

SYSTEM NAME:

Travel Records (Domestic and Foreign) of Employees and Certain Other Persons—COMMERCE/DEPT-9.

SYSTEM LOCATION:

a. For employees of Departmental Offices, BEA, BIE, Census (for travel paid on or after July 1, 1982), EDA, ITA, MBDA, NBS, NOAA (except employees of NOAA regional offices listed in c. below), NTIA, NTIS, PAT-TM, USTS, Offices of Federal Cochairmen, and RAPCs; members of DOC Advisory Committees; employees and certain other persons associated with ARC; and private citizens invited to visit the Department: Management Service Center, U.S. Department of Commerce, Caller Service No. 6025, Gaithersburg, Maryland 20878.

b. For employees of CENSUS (for travel paid prior to July 1, 1982): Finance Division, Bureau of the Census, Federal Building 3, Washington, D.C. 20233 and the following Regional Offices for intermittent CENSUS employees: 1365 Peachtree Street, N.E., Atlanta, Georgia 30309; 441 Stuart Street, Boston, Massachusetts 02116; 230 South Tryon Street, Charlotte, North Carolina 28202; 55 East Jackson Boulevard, Chicago, Illinois 60604; 1100 Commerce Street, Dallas, Texas 75242; 7655 W. Mississippi Avenue (P.O. Box 26750), Denver, Colorado 80226; 231 W. Lafayette, Detroit, Michigan 48226; One Gateway Center, 4th and State Streets, Kansas City, Kansas 66101; 11777 San Vicente Boulevard, Los Angeles, California 90049; 26 Federal Plaza, New York City, New York 10278; 600 Arch Street, Philadelphia, Pennsylvania 19106; and 1700 Westlake Avenue, Seattle, Washington 98109.

c. For employees of NOAA regional offices: DOC/NOAA/EASC, RAS/EC5, 235 Monticello Avenue, Norfolk, Virginia 23510; DOC/NOAA/MASC, RAS/MC7, Room 5524, 325 Broadway, Boulder, Colorado 80303; DOC/NOAA/WASC, RAS/WC5, Operations Building, 7600 Sand Point Way, N.E., Seattle, Washington 98115; and DOC/NOAA/CASC, RAS/CC5, Federal Building, Room 1758, 601 E. 12th Street, Kansas City, Missouri 64106.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, Advisory Committee Members, State Representatives of ARC, and official guests of the Department.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, social security number; destination, itinerary, mode and purpose of travel; dates; expenses including amounts advanced (if any), amounts claimed, and amounts reimbursed; travel orders, travel vouchers, receipts, and passport record card.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Budget and Accounting Act of 1921; Accounting and Auditing Act of 1950; and Federal Claim Collection Act of 1966.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Transmittal to U.S. Treasury for payment, to State Department for passports, and see paragraphs 1–5 and 9–13 of the Prefatory Statement.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "comsumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual and machine-readable.

RETRIEVABILITY:

Filed by name, social security number, or travel order number.

SAFEGUARDS:

Records are located in lockable metal file cabinets or in secured rooms or secured premises with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

Retained according to GSA Federal Travel Regulations, and then disposed of according to unit's Records Control Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

For records at location a., Director, Management Service Center, U.S. Department of Commerce, Caller Service No. 8025, Gaithersburg, Maryland 20878.

For records at location b., Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233 and the Director of the particular Regional Office listed above.

For records at location c., the Director of the particular Administrative Support Center listed above.

NOTIFICATION PROCEDURE:

For BEA records at location a., information may be obtained from: Chief, Management and Organization Branch, BEA, Tower Building, 1401 K Street, N.W., Washington, D.C. 20230;

For BIE records at location a., information may be obtained from: Administrative Officer, BIE, Room 4845, 14th and Constitution Avenue, N.W., Washington, D.C. 20230;

For Census records at locations a. and b., information may be obtained from: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233;

For EDA records at location a., information may be obtained from: Director, Office of Public Affairs, EDA, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230;

For ITA records at location a., information may be obtained from: Director, Office of Management and Systems, ITA, U.S. Department of Commerce, Washington, D.C. 20230;

For MBDA records at location a., information may be obtained from: Privacy Office, Office of Chief Counsel, MBDA, U.S. Department of Commerce, Washington, D.C. 20230;

For NBS records at location a., information may be obtained from: Deputy Director of Administration, Room A1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234.

For NOAA records at locations a. and c., information may be obtained from: Director, Administrative and Technical Services, National Oceanic and Atmospheric Administration, Room 4213, Herbert C. Hoover Bldg., 14th and Constitution Avenue, N.W., Washington, D.C. 20230;

For NTIA records at location a., information may be obtained from: Privacy Officer, NTIA, U.S. Department of Commerce, Washington, D.C. 20504.

For PAT–TM records at location a., information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For USTS records at location a., information may be obtained from: Director, Office of Administration, USTS, U.S. Department of Commerce, Washington, D.C. 20230; and

For all other records at location a., information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

Requester should provide name, travel order number, if known, and date of travel, in accordance with the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: same address as stated in the Notification section above.

CONTESTING RECORD PROCEDURES:

The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:

Subject individual, those authorized by the individual to furnish information, supervisors, and finance (or accounting) office standard references.

COMMERCE/DEPT–13

SYSTEM NAME:

Investigative and Security Records—COMMERCE/DEPT–13.

SYSTEM LOCATION:

Departmental Office of Investigations and Security, OS, Main Commerce Bldg., Washington, D.C. 20230.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Nominees, members, and former members of public advisory committees, trade missions, and export councils; employees, former employees, and prospective employees; research associates; and guest workers. Employees of contractors used, or which may be used, by the Department on national security classified projects. Principal officers of some contractors used, or which may be used by the Department. Principal officers and some employees of organizations, firms, or institutions which were recipients or beneficiaries, or prospective recipients or beneficiaries, of grants, loans, or loan guarantee programs of the Department prior to May 9, 1980.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name; address; date and place of birth; Social Security Number; citizenship; physical characteristics; employment and military service history; credit references and credit records; education; medical history;

arrest records; Federal employee relatives; dates and purpose of visits to foreign countries; passport numbers; names of spouses, relatives, references, and personal associates; activities; and security; and suitability materials. This system does not include records of EEO investigations. Such records are covered in a government-wide system noticed by the then Office of Personnel Management and now the responsibility of the Equal Employment Opportunity Commission. For assistance contact the Privacy Officer for the Office of the Secretary.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Orders 10450, 11478, 12065, 5 U.S.C. 301 and 7531–332; 15 U.S.C. 1501 et. seq.; 28 U.S.C. 533–535; 44 U.S.C. 3101; and Equal Employment Act of 1972.

ROUTINE USED OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information concerning nominees, members and former members of public advisory committees may be disclosed: (a) To OMB in connection with its committee management responsibilities; (b) to other Federal agencies which have joint responsibility for advisory committees or which receive or utilize advice of the committees; and (c) to a Federal, state or local agency, private organization or individual as necessary to obtain information in connection with a decision concerning appointment or reappointment of an individual to committee membership.

Information concerning (1) nominees, members, and former members of trade missions and export councils; (2) current employees, former employees, and prospective employees; (3) research associates; (4) guest workers; (5) employees of contractors used, or which may be used, by the Department on national security classified projects; (6) principal officers of some contractors used, or which may be used, by the Department; and (7) principal officers and some employees of organizations, firms or institutions which are recipients or beneficiaries or prospective recipients or beneficiaries of grants, loans, guarantee or other assistance programs of the Depatment;— may be disclosed to a private organization or individual as necessary to obtain information in connection with a decision concerning the assignment, hiring, or retention of an individual, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit. See routine use paragraphs in Prefatory Statement.

DISCLOSURE TO CONSUMER REPORTING AGENCIES

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by name.

SAFEGUARDS:

Locked cabinets in secure rooms in guarded buildings, and used only by authorized secreened personnel.

RETENTION AND DISPOSAL:

When cases are closed, records are disposed of in accordance with the unit's Records Control Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Investigations and Security, OS, Main Commerce Building, Washington, D.C. 20230.

NOTIFICATION PROCEDURE:

Information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230. Requester should provide name and association with the Department, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: Same address as stated in the Notification section above.

CONTESTING RECORD PROCEDURES:

The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:

Subject individuals; OPM, FBI and other Federal, state, and local agencies; individuals and organizations that have pertinent knowledge about the subject; and, those authorized by the individual to furnish information.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(1), (k)(2) and (k)(5), all information and material in the record which meets the criteria of these subsections are exempted from the notice, access, and contest requirements under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of the agency regulations because of the necessity to exempt this information and material in order to accomplish this law enforcement function of the agency, to prevent disclosure of classified information as required by Executive Order 12065, to assure the protection of the President, to prevent subjects of investigation from frustrating the investigatory process, to prevent the disclosure of investigative techniques, to fulfill commitments made to protect the confidentiality of information, and to avoid endangering these sources and law enforcement personnel.

COMMERCE/DEPT–16

SYSTEM NAME:

Property Accountability Files—COMMERCE/DEPT–16

SYSTEM LOCATION:

a. For all libraries of the Department. For listing, see Directory of Libraries in the United States Department of Commerce, 1972, Department of Commerce, Washington, D.C.; or American Library Directory, biennial, R.R. Bowker Company, New York City.

b. For employees of CENSUS: Administrative Service Division, Bureau of the Census, Federal Building 4, Washington, D.C. 20233, and the following Census Regional Offices: 1365 Peachtree Street, NE., Atlanta, Georgia 30309; 441 Stuart Street, Boston, Massachusetts 02116; 230 South Tryon Street, Charlotte, North Carolina 28202; 55 East Jackson Boulevard, Chicago, Illinois 60604; 1100 Commerce Street, Dallas, Texas 75242; 7655 W. Mississippi Avenue (P.O. Box 26750), Denver, Colorado 80226; 231 W. Lafayette, Detroit, Michigan 48226; One Gateway Center, 4th and State Streets, Kansas City, Kansas 66101; 11777 San Vicente Boulevard, Los Angeles, California 90049; 26 Federal Plaza, New York City, New York 10278; 600 Arch Street, Philadelphia, Pennsylvania 19106; and 1700 Westlake Avenue, Seattle, Washington 98109.

c. For employees of NBS: Security Office, National Bureau of Standards, Administration Building, Washington, D.C. 20234. Instrument Shops Division, Shops Building, NBS, Washington, D.C. 20234; and Security Office, Radio Building, NBS, Boulder, Colorado 80302.

d. For employees of PAT–TM: Users Services Section, Scientific Library, U.S. Patent and Trademark Office, Washington, D.C. 20231.

e. For NTLA: Office of Administration, National Telecommunications and Information Administration, 1800 G Street, N.W., Washington, D.C. 20504.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, general public, institutions, and anyone who charges out or signs for books or other materials.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name: telephone number, title of book; identification of property or equipment; home and business address; employee I.D. number, position, job title; grade; organization; explanations for items not accounted for, correspondence; clearance; and, key number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 44 U.S.C. 3101; 40 U.S.C. 481–92; 15 U.S.C. 1518.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See routine use paragraphs 1–5 and 9–13 of Prefatory Statement.

DISCLOSURE OF CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(1)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper copy in file folders and trays and machine-readable media.

RETRIEVABILITY:

Filed alphabetically by name.

SAFEGUARDS:

Records are located in lockable metal file cabinets, or lockable desks, or in metal file cabinets in secured rooms or secured premises with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

Retained until property is accounted for, then disposed of in accordance with unit's Record Control Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

For records at location a.: The head of the respective library.

For records at location b.: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233, and the Director of the particular Regional Office listed above.

For records at location c.: Security Officer, National Bureau of Standards, Administration Building, Washington, D.C. 20234.

For records at location d.: Program Manager, Scientific Library, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location e.: Director of Administration, National Telecommunications and Information Administration, U.S. Department of Commerce, 1800 G Street, NW., Washington, D.C. 20504.

NOTIFICATION PROCEDURE:

For records at location a.: Address communication to the library's parent organization (e.g., National Bureau of Standards) Attention: Privacy Officer, or use the Privacy Officer's Official position title and address as listed in Appendix B to the Department's rules which appear in 15 CFR Part 4b.

For records at location b.: Information may be obtained from: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location c.: Information may be obtained from: Deputy Director of Administration, Room A1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234.

For records at location d.: Information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, D.C. 20231.

For records at location e.: Information may be obtained from: Privacy Officer, National Telecommunications and Information Administration, U.S. Department of Commerce, 1800 G Street, NW., Washington, D.C. 20504.

Requester should provide name and address pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: same address as stated in the Notification section above.

CONTESTING RECORD PROCEDURES:

The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:

Subject individual, those authorized by the individual to furnish information, book cards, and supply person providing the equipment.

COMMERCE/DEPT–17

SYSTEM NAME:

Records of Cash Receipts—COMMERCE/DEPT–17.

SYSTEM LOCATION:

a. For Departmental offices, BEA, BIE, ITA, MBDA, USTS, Offices of Federal Cochairmen, RAPCs, and ARC; Office of Financial Operations, OS, U.S. Department of Commerce, 14th and Constitution Ave., N.W., Washington, D.C. 20230.

b. For NTIS: Accounting Division, National Technical Information Service, Springfield, Virginia 22161.

c. For PAT–TM: Office of Finance, U.S. Patent and Trademark Office, 2021 Jefferson Davis Highway, Arlington, Virginia 22202.

d. For Census: Finance Division, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

e. For NTIA: Office of Administration, National Telecommunications and Information Adminstration, 1800 G Street, N.W., Washington, D.C. 20504

f. For EDA: Accounting Division, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals paying for goods or services, reimbursing overpayments, or otherwise delivering cash to the Department.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, the goods or service purchased, amount, date, check number, division or office, bank deposit, treasury deposit number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 66(a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See routine use paragraphs 1–5 and 9–13 of the Prefatory Statement.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual and machine-readable.

RETRIEVABILITY:

Name and/or account or case number.

SAFEGUARDS:

Records are located in lockable metal file cabinets or in secured rooms or secured premises with access limited to those whose official duties require access.

RETENTION AND DISPOSAL:

Permanently maintained.

SYSTEM MANAGER(S) AND ADDRESSES:

For records at location a.: Director, Office of Financial Operations, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b.: Chief, Accounting Division, National Technical Information Service, Springfield, Virginia 22161.

For records at location c.: Director, Office of Finance, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location d.: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location e.: Director of Administration, National Telecommunications and Information Administration, 1800 G Street, N.W., Washington, D.C. 20504.

For records at location f.: Chief, Accounting Division, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

NOTIFICATION PROCEDURE:

For BEA records at location a., information may be obtained from: Chief, Management and Organization Branch, BEA, Tower Building, 1401 K Street, N.W., Washington, D.C. 20230;

For BIE records at location a., information may be obtained from: Administration Officer, BIE, Room 4845, 14th and Constitution Avenue, N.W., Washington, D.C. 20230;

For ITA records at location a., information may be obtained from: Director, Office of Management and Systems, ITA, U.S. Department of Commerce, Washington, D.C. 20230;

For MBDA records at location a., information may be obtained from: Privacy Officer, Office of Chief Counsel, MBDA, U.S. Department of Commerce, Washington, D.C. 20230;

For USTS record at location a., information may be obtained from: Director, Office of Administration, USTS, U.S. Department of Commerce, Washington, D.C. 20230; and

For all other records at location a., information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230.

For records at location b., information may be obtained from: Associate Director for Financial and Administrative Management, National Technical Information Service, Springfield, Virginia 22161.

For records at location c., information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231.

For records at location d., information may be obtained from: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233.

For records at location e., information may be obtained from: Privacy Officer, National Telecommunications and Information Administration, U.S. Department of Commerce, Washington, D.C. 20504.

For records at location f., information may be obtained from: Director, Office of Public Affairs, EDA, U.S. Department of Commerce, Washington, D.C. 20230.

Requester should provide name, address, date of receipt, and check number or case number pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to; same address as stated in the Notification section above.

CONTESTING RECORD PROCEDURES:

The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:

Subject individual and those authorized by the individual to furnish information.

COMMERCE/DEPT-18

SYSTEM NAME:

Employees Personnel Files Not Covered By Notices of Other Agencies—COMMERCE/DEPT–18.

SYSTEM LOCATION:

a. For all Departmental employees: Departmental Office of Personnel, Room 15001, U.S. Department of Commerce. Washington, D.C. 20230 (for automated records and for selected records relating to Senior Executive Sevice and Departmental Honor Awards).

b. For employees of Departmental Offices, Offices of Federal Cochairmen. RAPC's, ARC, BEA, BIE, NTIA, NTIS, MBDA, and USTS: Departmental Office of Personnel Operations, Room 5008, U.S. Department of Commerce, Washington, D.C. 20230; Washington, D.C. 20230;

c. For employees of the CENSUS: Office of Personnel, Bureau of Census, Federal Building 3, Room 3280, Washington, D.C. 20233;

d. For employees of ITA: Office of Personnel, International Trade Administration, Room 3512, U.S. Department of Commerce, Washington. D.C. 20230;

e. For employees of NBS: Office of Personnel, National Bureau of Standards, Administration Building Room A123, Washington, D.C. 20334;

f. For employees of NOAA: Office of Personnel, National Oceanic and Atmospheric Administration, Rockville. Maryland 20852, and the following Administrative Support Centers: DOC/NOAA/EASC, RAS/EC5, 235 Monticello Avenue, Norfolk, Virginia 23510; DOC/NOAA/MASC, RAS/MC7, Room 5524, 325 Broadway, Boulder, Colorado 80303; DOC/NOAA/WASC, RAS/WC5, Operations Building, 7600 Sand Point Way, N.E., Seattle, Washington 98115; and DOC/NOAA/CASC, RAS/CC5, Federal Building, Room 1758, 601 E. 12th Street, Kansas City, Missouri 64106.

g. For employees of PAT-TM: Office of Personnel, U.S. Patent and Trademark Office, U.S. Department of Commerce. Room 9C06, Crystal Plaza 2, Arlington, Virginia 22202;

h. For employees of EDA: Personnel Management Division, Economic Development Administration. Room 7089. U.S. Department of Commerce, Washington, D.C. 20230; and

i. For any Department employee: The immediate office of an employee's supervisor(s), for records which have been disclosed to someone else.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

All personnel records in the Department which are subject to the Privacy Act but are not covered in the notices of systems of records published by other agencies with influence upon personnel management in the Department, such as the Office of Personnel Management. Merit System Protection Board, Equal Employment Opportunity Commission, Department of State or Department of Labor. The records of this system may include, but are not limited to: Employee Development; Incentive Awards; Employee Relations; Grievance Records; Medical; Work-related Injury or Illness Claims; Grievance Records; Medical; Career Management Program; Ship Personnel; Employee Overseas Assignments; Minority Group Statistics Program; Work Performance and Appraisal Records; including supervisory records which have been disclosed; Re-employment and Priority Placement Programs; Executive Assignments and Merit Pay Actions; Merit Assignment Programs; Retirements Within-Grade Denials (Reconsideration File); and, Automated Employee Information System.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 44 U.S.C. 3101; 5 U.S.C. 4101 et seq., 5 U.S.C. 1302, 3301, 3302, E.O. 10577, 3 CFR 1954–1958 Comp. p218, E.O. 12107, 3 CFR 1978 Comp. p264; and Federal Personnel Manual and related directives of the agencies cited above.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. Information concerning current or former employees may be disclosed to a private organization or individual as necessary to obtain information in connection with a decision concerning the assignment, hiring, or retention of an individual, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

b. To disclose information to any source from which additional information is requested in the course of processing a grievance to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and identify the type of information requested.

c. To disclose information to officials of the Office of Personnel Management, Merit Systems Protection Board, including the Office of the Special Counsel, the Federal Labor Relations Authority and its General Counsel, or the Equal Employment Opportunity Commission, the Department of State, or the Department of Labor when requested in performance of their authorized duties.

d. To disclose in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

e. To provide information to officials or labor organizations reorganized under the Civil Service Reform Act when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting work conditions.

f. See routine uses paragraphs in the Prefatory Statement.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1968 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual and machine-readable.

RETRIEVABILITY:

Filed by name and/or social security number.

SAFEGUARDS:

Records are located in lockable metal file cabinets or in secured rooms or secured premises with access limited to those official duties require access.

RETENTION AND DISPOSAL:

Retained according to Unit's Records Control Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

For records at location a.: Director, Office of Personnel, Room 5001, U.S. Department of Commerce, Washington, D.C. 20230;

For records at location b.: Director, Office of Personnel Operations, Room 5008, U.S. Department of Commerce, Washington, D.C. 20230;

For records at location c.: Chief of Personnel, Bureau of the Census, Federal Building 3, Room 3260, Washington, D.C. 20233;

For records at location d.: Director, Office of Personnel, International Trade Administration, U.S. Department of Commerce, Room 3512, Washington, D.C. 20230;

For records at location e.: Chief, Personnel Division, National Bureau of Standards, Administration Building, Room A123, Washington, D.C. 20234;

For records at location f.: Chief, Personnel Division, WSC5, National Oceanic and Atmospheric Administration, NBOC2, Rockville, Maryland 20852, and the Director of the particular Administrative Support Center listed above;

For records at location g.: Personnel Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Room 9C06, Crystal Plaza 2, Arlington, Virginia 22202;

For records at location h.: Personnel Management Division, Economic Development Administration, Room 7089, Washington, D.C. 20230; and

For records at location i.: Employee's supervisor(s).

NOTIFICATION PROCEDURE:

For BEA records at locations a. and b., information may be obtained from: Chief, Management and Organization Branch, BEA, Tower Building, 1401 K Street, N.W., Washington, D.C. 20230;

For BIE records at locations a. and b., information may be obtained from: Administrative Officer, BIE, Room 4845, 14th & Constitution Avenue, N.W., Washington, D.C. 20230;

For NTIA records at locations a. and b., information may be obtained from: Privacy Officer, NTIA, U.S. Department of Commerce, Washington, D.C. 20504;

For NTIS records at locations a. and b., information may be obtained from: Privacy Officer, NTIS, U.S. Department of Commerce, Washington, D.C. 20230;

For MBDA records at locations a. and b., information may be obtained from: Privacy Officer, Office of Chief Counsel, MBDA, U.S. Department of Commerce, Washington, D.C. 20230;

For USTS records at locations a. and b., information may be obtained from: Director, Office of Administration, USTS, U.S. Department of Commerce, Washington, D.C. 20230;

For all other records at locations a. and b., information may be obtained from: Director, Office of Organization and Management Systems, U.S. Department of Commerce, Washington, D.C. 20230;

For records at location c., information may be obtained from: Associate Director for Administration, Bureau of the Census, Federal Building 3, Washington, D.C. 20233;

For records at location d., information may be obtained from: Privacy Act Officer, Office of Management and Systems, International Trade Administration, Room 3102, U.S. Department of Commerce, Washington, D.C. 20230;

For records at location e., information may be obtained from: Deputy Director of Administration, Room A1105, Administration Building, National Bureau of Standards, Washington, D.C. 20234;

For records at location f., information may be obtained from: Director, Administrative and Technical Services, National Oceanic and Atomospheric Administration, Room 4213, Herbert C. Hoover Bldg., 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

For records at location g., information may be obtained from: Assistant Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231;

For the records at location h., information may be obtained from: Personnel Management Division, Economic Development Administration, Room 7089, U.S. Department of Commerce, Washington, D.C. 20230; and

For records at location i., information may be obtained from: Privacy office for employee's unit.

Requester should provide name, social security number, and time or organization unit of employment pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

RECORD ACCESS PROCEDURE:

Request from individuals should be addressed to: same address as stated in the Notification section above.

CONTESTING RECORD PROCEDURES:

The department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:

Subject individual and those authorized by the individual to furnish information; others involved in references of the individual; physicians; employee's supervisor; for grievance records information is also provided by the testimony of witnesses, by agency officials, and from related correspondence from organizations or persons.

COMMERCE/NTIS–1

SYSTEM NAME:

Individuals interested in NTIS Publications, Shipped Order Addresses, Customer Account Records, and Subcriber Files—COMMERCE/NITS–1.

SYSTEM LOCATION:

(Automated Data Processing Division & Document Distribution and Reproduction Division,) OFFICE OF COMPUTER AND COMMUNICATIONS SERVICE AND DOCUMENT SERVICES DIVISIONS, NTIS 5285 Port Royal Road, Springfield, Va. 22161

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals who order and/or purchase products and services from NTIS and all individuals who have requested (that they be placed on the NTIS promotional mailing list) NTIS PROMOTIONAL LITERATURE.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name; address; nine-digit taxpayer identification number; items ordered; items sent; amount of purchases, date order received; date order mailed; NTIS deposit account or customer code number; total charge to date; whether account collectible or not; categories of publications ordered by each purchaser; when subscription expired; amount on deposit.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. 1151–57; 41 U.S.C. 104, 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records maintained in the system are disclosed to NTIS sales agents; and to individuals, organizations, Federal agencies, and State and local governments contributing publications to NTIS for their market research and sales accounting purposes, through the mechanism of providing them the names and addresses of individuals (and others) who have purchased their publications. Also see general routine uses (#1 through 6, #8 through 10, and #12 of Prefatory Statement noticed in the **Federal Register** on October 2, 1975 (40 FR 45635), and amended on November 7, 1975 (40 FR 52074) and August 17, 1976 (41 FR 34805), #4, #5, #9 and #13 OF PREFATORY STATEMENT.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1968 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, film files, magnetic tape and disc files.

RETRIEVABILITY:

Filed by individual identifier such as deposit account number or credit card account number.

SAFEGUARDS:

Records are located in lockable metal file cabinets or in metal tape vaults in secured rooms or premises with access limited to those whose official duties require access. THE DATA CAN ALSO BE OBTAINED AT IN-HOUSE COMPUTER TERMINALS USED BY THOSE WHOSE OFFICIAL NTIS DUTIES REQUIRE ACCESS.

RETENTION AND DISPOSAL:

Records are updated regularly and maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, (Automated Data Processing Division) OFFICE OF COMPUTER AND COMMUNICATIONS SERVICES, NTIS, (5285 Port Royal Road.) Springfield, Va. 22161.

NOTIFICATION PROCEDURE:

Information may be obtained from: Director, Office of Administrative Management, NTIS, ((Sills Building.)) Springfield, Va. 22161. Requester should provide name and address in accordance with the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: same address as stated in the notification section above.

CONTESTING RECORD PROCEDURES:

The Department rules for access, for contesting contents and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

RECORD SOURCE CATEGORIES:

Subject individuals and NTIS transaction files.

[FR Doc. 84–287 Filed 1–5–84; 8:45 am]

BILLING CODE 3510–BP–M

International Trade Administration

Application for Duty-Free Entry of Scientific Articles; Correction

In FR Doc. 83–31746 appearing at page 53589 in the **Federal Register** of November 28, 1983, Docket Number 83–350 is correct to read: INSTRUMENT:

Patch Clamp System, Model L/M–EPC–7.

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

[FR Doc. 84–282 Filed 1–5–84; 8:45 am]

BILLING CODE 3510–DS–M

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Docket No. 84–18. Applicant: Rockefeller University, 1230 York Avenue, New York, NY 10021. Instrument: Gas Chromatograph/Mass Spectrometer/Data System, Model VG 70–250. Manufacturer: VG Instruments, United Kingdom. Intended Use: Determination of mass spectra at both high and low resolution, involving both positive and negative ionization and utilizing electron ionization, chemical ionization and fast atom bombardment methods of ionization. The low resolution spectra will be obtained for qualitative identification of the samples and/or the components thereof, and the high resolution measurements will be made for the same purposes and also to determine the atomic compositions of the samples. A second type of measurement will involve quantitative measurements of the amounts of various materials present using the technique of multiple ion monitoring. Application received by Commissioner of Customs: December 7, 1983.

Docket No. 84–19. Applicant: Department of the Interior, U.S. Geological Survey/Branch of Geophysics, Box 25046, Mail Stop 964, Denver, CO 80225. Instrument: Terrain Conductivity Meter, Model EM 34–3. Manufacturer: Geonics Ltd., Canada. Intended use: Study of soils and rock and their distribution from the surface to depths of about 200 feet. The primary objectives of these studies are to develop geophysical methods and strategies employing more than one method for locating buried waste dumps and plumes from underground injection of fluids. Secondary objectives are to develop geophysical methods which are useful in the assessment of mineral resources. Application received by Commissioner of Customs: December 7, 1983.

Docket No. 84–20. Applicant: U.S. Environment Protection Agency, Environmental Research Laboratory, 6201 Congdon Boulevard, Duluth, MN 55804. Instrument: Electron Microscope, Model JEM–1200EX with Accessories. Manufacturer: JEOL, USA, Inc., Japan. Intended use: Tissues from aquatic organisms exposed to toxicants will be examined for evidence of cellular damage. Microscopic particles isolated from tissues or environmental samples will be charaterized. Investigations will be conducted to determine toxicity, bioaccumulation and bioavailability of pollutants. Application received by Commissioner of Customs: December 7, 1983.

Docket No. 84–21. Applicant: University of Illinois at Urbana-Champaign, Purchasing Division, 506 S. Wright Street, Urbana, IL 61801. Instrument: Electron Microscope, Model EM 430 with Accessories. Manufacturer: N.V. Philips Gloeilampenfabrieken, The Netherlands. Intended use: Studies on semiconductors, ceramics, metals and alloys, coal and other minerals. The aim of the investigations will be varied but, in general, the objective will be "microcharacterization". Application received by Commissioner of Customs: December 7, 1983.

Docket No. 84–22. Applicant: The University of Iowa Hospitals & Clinics, Department of Hospital Dentistry, Iowa City, IA 52242. Instrument: Installation Kit Components for use in Osseointegration. Manufacturer: AB Bofors Nebelpharma, Sweden. Intended use: Clinical study of the principle of Osseointegration which provides a new and unique system of anchoring dental prothesis to the jaws. Application received by Commissioner of Customs: December 7, 1983.

Docket No. 84–23. Applicant: Emory University School of Medicine, Atlanta, GA 30322. Instrument: Electron Microscope, Model JEM 100CX with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use: Studies on the relationship of structure to function in excitable and secretory cells. Materials to be examined will include primarily thin sections and heavy metal replicas of central nervous system neurons, retinal photoreceptors, cardiac myocytes, gastric mucosa cells and pancreatic cells. Education—Instruction of medical students, graduate students and postdoctoral trainees in electron microscopic techniques. Application received by Commissioner of Customs: December 7, 1983.

Docket No. 84–25. Applicant: University of California, Lawrence Livermore National Laboratory, P.O. Box 5012, Livermore, CA 94550. Instrument: Ion Microanalyzer, Model IMS.3f with Accessories. Manufacturer: Cameca, France. Intended use: Research involving the study of three-dimensional trace element and isotopic variations in a variety of naturally occurring terrestrial materials, materials of meteoritic origin and samples synthesized in a number of research efforts designed to simulate geochemical and cosmochemical phenomenon. Application received by Commissioner of Customs: December 7, 1983.

Docket No. 84–26. Applicant: Emory University, Yerkes Primate Research Center, Atlanta, GA 30322. Instrument: Scanning Electron Microscope, Model DS–130, with Accessories. Manufacturer: Akashi-Seisakusho Ltd., Japan. Intended use: Study of the structure of biological cells and tissues and macromolecular structures of biological origin in a system allowing SEM, STEM and analytical capabilities. Two of the prime research endeavors will be the study of the ultrastructure of the spermatozoa head and of chromosome banding. Application received by Commissioner of Customs: December 7, 1983.

Docket No. 84–27. Applicant: University of Southern California, University Park, Los Angeles, CA 90089. Instrument: Electron Microscope, Model JEM 100CXII with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use: Studies of bacterial and eukaryotic DNA and RNA molecules, both natural and cloned variants; DNA replicating forms; tissue sections from mammalian lung and muscle; tissue sections of synapses and neuromuscular junctions; replicas of freeze-fractured specimens. Education—Demonstrations in the courses—Biological Sciences 466L-Micro-technique and Biological Sciences 571L-Electron Microscopy II to familiarize students with the capabilities of electron microscopy, with methods of specimen preparation and proper techniques for use and maintenance of electron microscopes and ancillary instrumentation. Application received by Commissioner of Customs: December 7, 1983.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84–281 Filed 1–5–84; 8:45 am]

BILLING CODE 3510–DS–M

Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from the following firms: (1) Hitchcock Chain Company, 49 Freeway Drive, Cranston, Rhode Island 02920, producer of jewelry chains (accepted November 28, 1983); (2) New England Transformer Company, Inc., 1172 Walnut Street, Newton, Massachusetts 02161, producer of electronic transformers (accepted November 28, 1983); (3) Vanguard Glass Fabricators, Inc., 600 N. Centennial Street, Zeeland, Michigan 49464, producer of mirrors and other fabricated glass (accepted November 30, 1983); (4) Buck Stove Corporation, P.O. Drawer 8789, Asheville, North Carolina 28814, producer of stoves and accessories (accepted November 30, 1983); (5) Tri-City Sportswear, Inc., 523 5th Avenue, Troy, New York 12181, producer of women's jackets, skirts and dresses (accepted December 1, 1983); (6) Faulkner Land & Livestock, Inc., Route 2, Gooding, Idaho 83330, producer of cattle, lambs, wool, and other agricultural products (accepted December 1, 1983); (7) Airway Industries, Inc., Airway Park, Ellwood City, Pennsylvania 16117, producer of luggage and briefcases (accepted December 1, 1983); (8) Key Marine, Inc., 4401 E. 11th Avenue, Hialeah, Florida 33012, producer of marine hardware and exhaust systems and other metal castings and fabrications (accepted December 2, 1983); (9) ElextroSyn Corporation, 480 Neponset Street, Canton, Massachusetts 02021, producer of pressure and vacuum calibrators and transmitters (gauges) (accepted December 5, 1983); (10) Berger Industries, Inc., P.O. Box 31, Metuchen, New Jersey 08840, producer of tubing and tubing products (accepted December 5, 1983); (11) Mid-Hudson Leather Goods Company, Inc., 118 Ann Street, Newburgh, New York 12550, producer of handbags (accepted December 6, 1983); (12) Carolere Jewelers, Inc., 69 Sprague Street, Providence, Rhode Island 02907, producer of jewelry (accepted December 6, 1983); (13) Cedar Point Packing Company, 723 South Sound, Coos Bay, Oregon 97420, processor of meat (accepted December 6, 1983); (14) Automatic Screw Machine Products Company, 240 West 83rd Street, Hinsdale, Illinois 60521, producer of industrial fasteners (accepted December 6, 1983); (15) Lowery Handbags, 37–11 48th Avenue, Sunnyside, New York 11101, producer of women's handbags (accepted December 6, 1983); (16) Centre Luggage Manufacturing Corporation, 128 32nd Street, Brooklyn, New York 11232, producer of luggage, tote bags and portfolios (accepted December 6, 1983); (17) Lummus Industries, Inc., P.O. Box 1260, Columbus, Georgia 31994, producer of textile machinery and parts (accepted December 8, 1983); (18) Paradise Wholesale Fence, Inc., 134–11 Hillside Avenue, Jamaica, New York 11413, producer of fencing and gates (accedpted December 8, 1983); (19) Wire Rope Corporation of America, Inc., 609 North 2nd Street, St. Joseph, Missouri 64501, producer of wire rope and slings (accepted December 9, 1983); (20) Namsco, Inc., 333 31st Avenue, Bellwood, Illinois 60104, producer of automotive wheel covers (accepted December 9, 1983); (21) Hull Corporation, Davisville Road, Hatboro, Pennsylvania 19040, producer of plastic molding and pharmaceutical machinery (accepted December 9, 1983); (22) Henry Mann, Inc., Mann Road, Huntingdon Valley, Pennsylvania 19006, producer of electronic production equipment (accepted December 9, 1983); (23) Deister Concentrator Company, Inc., 901 Glasgow Avenue, Fort Wayne, Indiana 46803, producer of mining equipment (accepted December 12, 1983); (24) Samic Manufacturing Company, Victoria Mount, Johnston, Rhode Island 02919, producer of jewelry findings (accepted December 12, 1983); (25) Fort Lock Corporation, 3000 N. River Road, River Grove, Illinois 60171, producer of locks and locking devices (accepted December 12, 1983); (26) Climatic Control Systems & Engineering, Inc., P.O. Box 1836, Harrison, Arkansas 72601, producer of cooling systems for greenhouses and poultry houses (accepted December 12, 1983); (27) All Minerals Corporation, P.O. Box 7680, Murray, Utah 84107, producer of barite and bentonite (accepted December 12, 1983); (28) Meloni Tool Company, Inc., 25 Oakdale Avenue, Johnston, Rhode Island 02919, producer of jewelry findings (accepted December 12, 1983); (29) Botticelli, Inc., Nine Warren Avenue, North Providence, Rhode Island 02911, producer of jewelry (accepted December 12, 1983); (30) Chester Apparel, Inc., 1117 Walnut Street, Chester, Pennsylvania 19013, producer of women's dresses (accepted December 13, 1983); (31) M.J.L. Manufacturing Company, Inc., 222 Varet Street, Brooklyn, New York 11206, producer of apparel trim (accepted December 13, 1983); (32) Marva Industries, Inc., 1460 Broadway, New York, New York 10036, producer of textiles (accepted December 13, 1983); (33) Goodall Rubber Company, P.O. Box 8237, Trenton, New Jersey 08650, producer of hose, belting and other rubber and plastic products (accepted December 13, 1983); (34) Pedersons Unlimited, Inc., 114 Washbourne Avenue, Paynesville, Minnesota 56362, producer of men's and women's shirts and warm-up suits (accepted December 14, 1983); (35) Electric Silver Company, Inc., 10024 Cochiti, S.E., Albuquerque, New Mexico 87123, producer of lighter cases, jewelry and jewelry findings (accepted December 14, 1983); (36) Gim Metal Products, Inc., 164 Glem Cone Road, Carle Place, New York 11514, producer of lighting fixtures, lamp parts and fan components (accepted December 14, 1983); (37) Hampton Industries, Inc., P.O. Box 614, Kinston, North Carolina 28501, producer of men's, women's and children's shirts, pajamas and robes (accepted December 15, 1983); (38) Standard Tool and Manufacturing Company, 738 Schuyler Avenue, Lyndhurst, New Jersey 07071, producer of injection molding machines, other machines and parts (accepted December 16, 1983); (39) Medonca's Candies, Ltd., 2829 Kilihau Street, Honolulu, Hawaii 96819, producer of coconut food products (accepted December 20, 1983); (40) Fermented Products, Inc., P.O. Box 1483, Mason City, Iowa 50401, producer of animal feed and fertilizer ingredients (accepted December 20, 1983); (41) Mountain States Metal Products, Inc., 4975–A Miller Street, Wheatridge, Colorado 80033, producer of metal stampings (accepted December 22, 1983); (42) EFCO, Inc., 1253 West 12th Street, Erie, Pennsylvania 16512, producer of metal-forming machinery (accepted December 23, 1983); (43) Manistee Forge Corporation, 159 Brickyard Road, Manistee, Michigan 49660, producer of steel forgings (accepted December 23, 1983); and (40) Kunzmann Chain Company, 180 Service Avenue, Warwick, Rhode Island 02886, producer of jewelry chains (accepted December 23, 1983).

The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93–618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Director, Cerufication Division, Office of Trade Adjustment Assistance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.309, Trade Adjustment Assistance. Inasfar as this notice involves petitions for the determination of eligibility under the Trade Act of 1974, the requirements of Office of Management and Budget Circular No. A–95 regarding review by clearinghouses do not apply.

Jack W. Osburn, Jr.,

Director, Certification Division, Office of Trade Adjustment Assistance.

[FR Doc. 84–280. Filed 1–5–84; 8:45 am]

BILLING CODE 3510–DN–M

[A–588–019]

Cyanuric Acid and Its Chlorinated Derivatives; Postponement of Final Antidumping Determination and Postponement of Hearing

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: This notice informs the public that the Department of Commerce (the Department) has received a request from counsel for a respondent who accounts for a significant proportion of exports of the merchandise which is the subject of this investigation, that the final determination be postponed until not later than 105 days after the date of publication of the preliminary determination, as provided for in section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)(2)(A)); and, that the Department has determined to postpone its final determination as to whether sales of cyanuric acid and its chlorinated derivatives have occurred at less than fair value, until not later than February 23, 1984.

EFFECTIVE DATE: January 6, 1984.

FOR FURTHER INFORMATION CONTACT: Mary Martin, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377–1778.

SUPPLEMENTARY INFORMATION: On June 20, 1983, the Department of Commerce (the Department) published notice in the **Federal Register** (48 FR 29037) that it was initiating under section 732(b) of the Act (19 U.S.C. 1673a(b)), an antidumping investigation to determine whether cyanuric acid and its chlorinated derivatives were being or were likely to be, sold at less than fair value. On November 18, 1983, the Department published a preliminary determination of sales at less than fair value with respect to this merchandise (48 FR 52497). The notice stated that if this investigation proceeded normally we would make our final determination by January 24, 1983.

On December 9, 1983, counsel for a respondent who accounts for a significant proportion of the exports of the merchandise which is the subject of this investigation requested that the Department extend the period for the final determination until not later than 105 days after the date of publication of the preliminary determination, in accordance with section 735(a)(2)(A) of the Act. Section 735(a)(2)(A) of the Act provides that the Department may postpone its final determination if an exporter who accounts for a significant proportion of the merchandise which is the subject of the investigation requests an extension after an affirmative preliminary determination.

Accordingly, the Department will issue a final determination in this case not later than February 23, 1984.

The hearing originally scheduled for December 20, 1983, at 10:00 a.m. has been postponed. The new hearing date is January 23, 1984, at 10:00 a.m., in room 3092, Department of Commerce, 14th Street and Constitution Avenue, NW., Washingotn, D.C. 20230. Interested parties who requested to participate in the December 20, 1983, hearing must now submit prehearing briefs in at least 10 copies to the Deputy Assistant Secretary by January 16, 1984. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of the notice's publication, at the above address and in at least 10 copies.

This notice is published pursuant to section 735(d) of the Act.

C. Christopher Parlin,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 84–283 Filed 1–5–84; 8:45 am]

BILLING CODE 3510–DS–M

[C–580–064]

Fresh Cut Roses From Israel; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of Administrative Review of Countervailing Duty Order.

SUMMARY: On October 31, 1983, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on fresh cut roses from Israel. The review covers the period October 1, 1980 through September 30, 1981.

We gave interested parties an opportunity to comment on the preliminary results. After our review of the one comment received, the final results of the review are the same as the preliminary results.

EFFECTIVE DATE: January 6, 1984.

FOR FURTHER INFORMATION CONTACT: Alan Long or Laura Kneale, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On October 31, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 50140) the preliminary results of its administrative review of the countervailing duty order on fresh cut roses from Israel (45 FR 58516, September 4, 1980). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of Israeli fresh cut roses. Such merchandise is currently classifiable under item 192.1800 of the Tariff Schedules of the United States Annotated. The review covers the period October 1, 1980 through September 30, 1981 and ten programs: (1) The Encouragement of Capital Investment Law ("the ECIL"); (2) Government-Guaranteed Minimum Price program; (3) preferential short-term financing; (4) government funding of AGREXCO; (5) cash payments to growers for greenhouses; (6) cash payments to packing houses; (7) cash payments from the Export Promotion Fund; (8) fuel grants to rose growers; (9)

long-term loans granted to AGREXCO; and (10) a capital fund for AGREXCO.

Analysis of Comment Received

We gave interested parties an opportunity to comment on the preliminary results. We received a comment from the Government of Israel.

Comment: The Ministry of Finance of the Government of Israel contends that the Department erred in calculating the estimated subsidy from the Export Production Fund, one of the three funds for preferential short-term financing. The Department calculated the benefit from this fund in dollars. The correct method of calculating the subsidy is to use lira, since loans granted under this fund are denominated in lira. To calculate a best evidence estimate of credit eligibility, the Department should multiply the dollar value of the prior period's exports by the exchange rate prevailing at the commencement of the growing year, when the credit was received, and multiply this lira value of exports by the rate of credit formula for loan eligibility. Then, based on that amount of principal, in calculating the subsidy, the Department should divide the lira amount of interest savings by the exchange rate prevailing at the end of the growing year, when the loans are repaid, and divide this dollar value of the benefit by the dollar value of exports during the year. This methodology would eliminate any inflationary effect and take into account the real interest.

Department's Position: In administering this fund, the Bank of Israel adjusts quarterly credit eligibility, including the exchange rate used in the rate of credit formula. Therefore, calculating eligibility by using the dollar/lira exchange rate prevailing at the commencement of the growing season would underestimate the amount of credit available to exporters. Furthermore, the Ministry of Finance is assuming that all loans under this fund are received at the beginning of the growing year and repaid at the end of the growing year. However, firms may borrow at any time during the year, up to their line of credit. In the absence of actual loan information, it is the Department's practice to assume uniform borrowing over the course of the year. *See* "Final Results of Administrative Review of Countervailing Duty Order" regarding Spanish ferroalloys (48 FR 34493, July 29, 1983). Therefore, it is more appropriate to use the average exchange rate, weighted by days, during the period of review to calculate both credit eligibility and the *ad valorem* subsidy. Since these two currency conversions calculations cancel each other out when the same exchange rate is used for both, we have estimated the amount of interest savings in dollars. If we calculate the interest saved in lira, using an average exchange rate, we would obtain identical results.

Final Results of the Review

After review of the comment received, the final results of the review are the same as the preliminary results. We determine the aggregate net subsidy to be 27.94 percent for the period October 1, 1980 through September 30, 1981.

The Department will instruct the Customs Service to assess countervailing duties of 27.94 percent of the f.o.b. invoice price on any shipments exported on or after October 1, 1980 and entered, or withdrawn from warehouse, for consumption on or before September 31, 1981.

The Department will instruct the Customs Service to collect a cash deposit of estimated countervailing duties, as provided for in section 751(a)(1) of the Tariff Act, of 22.56 percent of the entered value on any shipment of Israeli fresh cut roses entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department intends to begin immediately the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders as early as possible after the Department's receipt of the requested information. This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: December 28, 1983.

C. Christopher Parlin,

Acting Deputy Assistant Secretary, Import Administration.

[FR Doc. 84-384 Filed 1-5-84; 8:45 am]
BILLING CODE 3510-25-M

[Case No. 648]

Sven Olof Hakanson (Hakansson), Hagtornsvagen 2-4, Taby, Sweden; Order Temporarily Denying Export Privileges

The Department of Commerce (the Department), pursuant to the provisions of § 388.19 of the Export Administration Regulations (15 CFR Parts 367-399 (1983)) (the Regulations), has petitioned the Hearing Commissioner for an order temporarily denying all export privileges to Sven Olof Hakanson (Hakansson), of Taby, Sweden (the respondent).

The Department states that the respondent is under investigation by the Department's Office of Export Enforcement and that the investigation gives it reason to believe: (1) That, without obtaining specific authorization from the Department, the respondent engaged in transactions involving U.S.-origin commodities with Richard Mueller, a person previously denied all U.S. export privileges until May 31, 2001, by Order dated August 6, 1981; (2) that the respondent engaged in other transactions involving U.S.-origin commodities without authorization from the Department, and (3) that the respondent may in the future attempt to engage in transactions involving U.S.-origin commodities or technical data without the required authorization from the Department, including transactions with persons denied all U.S. export privileges, unless appropriate action is taken to preclude such attempts.

Based on the showing made by the Department, I find that an order temporarily denying all export privileges to Sven Olof Hakanson (Hakansson) and to parties related to him is required in the public interest to facilitate enforcement of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (Supp. V 1981)), and the Regulations, and to permit completion of the Department's investigation.

Anyone who is now or may in the future be dealing with the above-named respondent or any related party in transactions that in any way involve U.S.-origin commodities or technical data is specifically alerted to the provisions of Paragraph IV below.

Accordingly, it is hereby ordered:

I. All outstanding validated export licenses in which respondent or any related party appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Administration for cancellation.

II. The respondent, his successors or assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States

or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to a validated export license application, (b) in the preparation or filing of any export license application or reexport authorization, or of any document to be submitted therewith, (c) in the obtaining or using of any validated or general export license or other export control document, (d) in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported, and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondent, but also to his agents and employees and to any successors. After notice and opportunity for comment, such denial may also be made applicable to any person, firm, corporation, or business organization with which the respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or related services. Those parties now known to be affiliated with the respondent, and which are accordingly subject to the provisions of this order, are:

Kerstin Ingegard Kakanson (Hakansson), Hagtornsvagen 2–4, Taby, Sweden;
Sunitron AB, Hagtornsvagen 2–4, Taby, Sweden; and
Solec AB (Solek AB), Hagtornsvagen 2–4, Taby, Sweden.

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Administration, shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with the respondent or any related party, or whereby the respondent or any related party may obtain any benefit therefrom or have any interest in or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for the respondent or any related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. In accordance with the provisions of § 388.19(b) of the Regulations, the respondent or any related party may move at any time to vacate or modify this temporary denial order by filing with the Hearing Commissioner, International Trade Administration, U.S. Department of Commerce, Room 6716, 14th and Constitution Avenue, N.W., Washington, D.C. 20230, an appropriate motion for relief and may also request an oral hearing thereon, which, if requested, shall be held before the Hearing Commissioner at the earliest convenient date.

VI. This order is effective immediately. It remains in effect until the final disposition of any administrative or judicial proceedings initiated against the respondent as a result of the ongoing investigation. A copy of this order and Parts 387 and 388 of the Regulations shall be served upon the respondent and the above-named related parties.

Dated: December 29, 1983, 4:30 p.m. EST.

Thomas W. Hoya,

Hearing Commissioner.

[FR Doc. 84-383 Filed 1-5-84; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Soliciting Public Comment on Bilateral Textile Consultations With the Government of the Republic of Indonesia on Categories 331 (Gloves), 341 (Woven Blouses), and 604 (Non-Cellulosic Spun Yarn)

January 3, 1984

On December 29 and 30, 1983 the United States Government, under Article 3 of the Arrangement Regarding International Trade in Textiles, requested the Government of the Republic of Indonesia to enter into consultations concerning exports to the United States in Categories 331, 341 and 604, produced or manufactured in Indonesia.

The purpose of this notice is to advise that, if no solution is agreed upon between the two governments within sixty days of the date of delivery of the aforementioned notes, entry and withdrawal from warehouse for consumption of textile products in Categories 331, 341 and 604, produced or manufactured in Indonesia and exported to the United States during the indicated twelve-month periods may be restrained at the following amounts:

Category	12-month level of restraint
331	246,582 dozen pairs (Dec. 29, 1983–Dec. 28, 1984).
341	234,064 dozen (Dec. 30, 1983–Dec. 29, 1984).
604	474,639 pounds (Dec. 29, 1983–Dec. 28, 1984).

Anyone wishing to comment or provide data or information regarding the treatment of Categories 331, 341 and 604, is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, it is requested that comments be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreements or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-380 Filed 1-5-84; 8:45 am]

BILLING CODE 3510-DR-M

Announcing Import Limits for Certain Cotton, Wool, and Man-Made Fiber Textile Products, Produced or Manufactured in Taiwan

December 30, 1983

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on January 9,

1984. For further information contact William Boyd, International Trade Specialist (202/377–4212).

Background

Under the terms of the bilateral agreement of November 18, 1982, as amended, concerning cotton, wool and man-made fiber textile products, produced or manufactured in Taiwan, the United States Government has decided to convert to specific limits in 1984 the levels for textile products in Categories 314, 315, 317, 319, 320, 336, 342, 350, 433, 434, 444, 447, 448, 612, 613, part of 631, 636, 637, 642, 643, 644, 650, and parts of 669, which are exported during 1984. The letter to the Commissioner of Customs which follows this notice establishes the new specific limits.

A decription of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924), and December 14, 1983 (48 FR 55607).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

December 30, 1983

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1978, as extended on December 15, 1977 and December 22, 1981; pursuant to the bilateral textile agreement of November 18, 1982, concerning cotton, wool and man-made fiber textile products from Taiwan; and in accordance with the provisions in Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 9, 1984, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, and man-made fiber textile products in the following categories, produced or manufactured in Taiwan, and exported during 1984, in excess of the indicated levels of restraint:

Category	12-month level of restraint
314	3,274,848 square yards.
315	27,069,100 square yards.
317	16,395,462 square yards.
319	18,550,458 square yards.
320	81,813,524 square yards.
336	80,443 dozen.
342	179,449 dozen.
350	92,395 dozen.
433	12,342 dozen.
434	9,113 dozen.
444	14,497 dozen.
447	5,314 dozen.
448	11,675 dozen.
612	9,225,000 square yards.
613	27,491,872 square yards.
631 [1]	200,000 dozen pairs.
636	302,375 dozen.
637	337,780 dozen.
642	574,023 dozen.
643	43,495 dozen.
644	156,046 dozen.
650	43,014 dozen.
669 pt.[2]	512,500 pounds.
669 pt.[3]	1,020,282 pounds.
669 pt.[4]	1,665,734 pounds.

[1] In Category 631, only TSUSA numbers 704.3215, 704.8525, and 704.9000.
[2] In Category 669, only TSUSA No. 385.5300.
[3] In Category 669, only TSUSA number 355.4520 and 355.4530
[4] In Category 669, only TSUSA numbers 386.1105 and 389.6210

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of November 18, 1982, which provide, in part, that: (1) Specific limits or sublimits may be exceeded by certain designated percentages, provided a corresponding reduction in equivalent square yards is made in one or more specific limits or sublimits during the same agreement year; (2) certain specific limits and sublimits may be increased for carryforward, if agreed in consultations; (3) and administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement, referred to above, will be made to you by letter.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the authorities in Taiwan and with respect to imports of cotton, wool and man-made fiber textile products from Taiwan has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 533. This letter will be published in the **Federal Register**.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements

[FR Doc. 84-381 Filed 1-5-84; 8:45 am]

BILLING CODE 3510-DR-M

Solicitation of Public Comment on Bilateral Textile Consultations With the Government of the People's Republic of China

CITA is Soliciting of Public Comment on Bilateral Textile Consultations With the Government of the People's Republic of China to include a Review of Trade in Categories 317, 435, 438, and 669 and Controlling Imports in these Categories:

(1) Soliciting public comment on bilateral textile consultations with the Government of the People's Republic of China concerning trade in Categories 317 (Twill and Sateen), 435 (Women's, Girls' and Infants' Coats), 438 (Knit Shirts and Blouses), and 669 (Other Manufacturers of Man-Made Fibers); and

(2) Controlling imports of Categories 317, 435, 438, and 669, produced or manufactured in the People's Republic of China and exported during the ninety-day period which began on December 30, 1983 and extends through March 28, 1984.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), and December 14, 1983 (48 FR 55697).

Summary

On December 30, 1983, pursuant to the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of August 19, 1983 between the Governments of the United States and the People's Republic of China, the Government of the United States requested consultations concerning import into the United States of textile products in Categories 317, 435, 438, and 669, exported from the People's Republic of China.

Anyone wishing to comment or provide data or information regarding the treatment of these categories under the agreement with the People's Republic of China, or on any other aspect thereof, or to comment on domestic production or availability of textiles and apparel included in this category, is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, it is requested that comments be submitted promptly. Comments or information submitted in response to this notice will

be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreements or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Under the terms of the bilateral agreement, the People's Republic of China is obligated under the consultation provision to limit its exports to the United States of these products during the ninety-day period to the following amounts:

Category	90-day level of restraint (Dec. 30, 1983–Mar. 28, 1984)
317	3,045,735 square yards.
435	6,051 dozen.
438	8,507 dozen.
669	500,234 pounds.

The People's Republic of China is also obligated under the bilateral agreement, if no mutually satisfactory solution is reached during consultations, to limit its exports to the United States during the twelve-months following the ninety-day consultation period to the following amounts:

Category	12-month level of restraint (Mar. 29, 1984–Mar. 28, 1985)
317	6,706,249 square yards.
435	13,893 dozen.
438	12,074 dozen.
669	1,270,811 pounds.

The United States Government has decided, pending a mutually satisfactory solution, to control imports of textile products in Categories 317, 435, 438, and 669, for the ninety-day period, at the levels described above. The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of the People's Republic of China, further notice will be published in the **Federal Register.**

In the event the limits established for Categories 317, 435, 438, and 669 for the ninety-day period are exceeded, such excess amounts, if allowed to enter at the end of the restraint period, shall be charged to the levels (described above) defind in the agreement for the subsequent twelve-month period.

Effective Date: January 9, 1984.

For Further Information Contact: Diana Bass, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

Supplementary Information: On August 19, 1983 there was published in the **Federal Register** (48 FR 37685) a letter to the Commissioner of Customs from the Chairman of the Committee for the Implementation of Textile Agreements which established levels of restraint for certain categories of cotton, wool and man-made fiber textile products, produced or manufactured in the People's Republic of China and exported during the twevle-month period which began on January 1, 1983. The notice document which preceded that letter referred to the consultation mechanism which applies to categories of textile products under the bilateral agreement, such as Categories 317, 435, 438, and 669 which are not subject to specific ceilings and for which levels may be established during the year. In the letter published below, pursuant to the bilateral agreement, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of textile products in Categories 317, 435, 438, and 669, produced or manufactured in the People's Republic of China and exported during the indicated ninety-day period, in excess of the designated levels.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

December 30, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of August 19, 1983, between the Governments of the United States and the People's Republic of China; and in accordance with the provisions in Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 9, 1984, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in Categories 317, 435, 438 and 669, produced or manufactured in the People's Republic of China, and exported during the ninety-day period which began on December 30, 1983 and extends through March 28, 1984, in excess of the indicated levels of restraint:

Category	90-day levels of restraint [1]
317	3,045,735 square yards.
435	6,051 dozen.
438	8,507 dozen.
669	500,234 pounds.

[1] The levels of restraint have not been adjusted to reflect any imports exported after December 29, 1983.

Textile products in Categories 317, 435, 438 and 669, which have been exported to the United States prior to December 30, 1983 shall not be subject to this directive.

Textile products in Categories 317, 435, 438 and 669, which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), and December 14, 1983 (48 FR 55607).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of the People's Republic of China and with respect to imports of cotton, wool and man-made fiber textile products from the People's Republic of China have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 533. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84–379 Filed 1–5–84; 8:45 am]

BILLING CODE 3510–02–M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1984; Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to Procurement List 1984 a commodity to be produced by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: January 6, 1984.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On July 22, 1983, the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (48 FR 33513) of proposed addition to Procurement List 1984, October 18, 1983 (48 FR 48415).

After consideration of the relevant matter presented, the Committee has determined that the commodity listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The action will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The action will not have a serious economic impact on any contractor for the commodity listed.

c. The action will result in authorizing small entities to produce a commodity procured by the Government.

Accordingly, the following commodity is hereby added to Procurement List 1984:

Class 8115

Box, Shipping, Vertical Star Packs: 8115–00–192–1603, 8115–00–192–1604, 8115–00–192–1605

C. W. Fletcher,

Executive Director.

[FR Doc. 84–340 Filed 1–5–84; 8:45 am]

BILLING CODE 6820–33–M

Procurement List 1984; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1984 a commodity to be produced by and a service to be provided by workshops for the blind and other severely handicapped.

Comments must be received on or before: February 8, 1984.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodity and service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity and service to Procurement List 1984, October 18, 1983 (48 FR 48415):

Class 8340

Shelter, Half, Tent, Complete: 8340–01–026–6096

SIC 7349

Janitorial Service, Federal Center South, 4735 E. Marginal Way, Seattle, Washington

C. W. Fletcher,

Executive Director.

[FR Doc. 84–339 Filed 1–5–84; 8:45 am]

BILLING CODE 6820–33–M

DEPARTMENT OF EDUCATION

National Advisory Council on Indian Education; Meeting

AGENCY: National Advisory Council on Indian Education, Ed.

ACTION: Notice of closed meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Search Committee of the National Advisory Council on Indian Education. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATE: January 19–20, 1984.

ADDRESS: National Advisory Council on Indian Education, 425 13th Street NW., Suite 326, Washington D.C. 20004.

FOR FURTHER INFORMATION CONTACT: Lincoln C. White, Executive Director, National Advisory Council on Indian Education, 425 13th Street NW., Suite 326, Washington D.C. 20004. 202/376–8882.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Indian Education is established under Section 442 of the Indian Education Act (20 U.S.C. 1221g). The Council is established to assist the Secretary in carrying out responsibilities under Section 441(a) of the Indian Education Act (Title IV of Pub. L. 92–318), through advising Congress, the Secretary of Education, the Under Secretary of Education and the Assistant Secretary for Elementary and Secondary Education with regard to programs benefiting Indian Children and adults.

On January 19, 1984, from 9:00 A.M. until conclusion of business, the Search Committee will be reviewing personnel credentials of the candidates to be interviewed for the position of Director, Indian Education Programs. On January 20, 1984, from 9:00 A.M. until conclusion of business, the Search Committee will be inverviewing candidates for the position of Director, Indian Education Programs. The entire meeting of the Search Committee will be closed to the public. These interviews will touch upon matters that would disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session. Such matters are protected by exemption (6) of Section 552b(c) of Title 5 U.S.C.

The public is being given less than fifteen days notice of this meeting due to difficulty in arranging single interview times for all candidates.

A summary of the activities of the closed meeting and related matters which would be informative to the public consistent with the policy of Section 552b(c) of Title 5 U.S.C. will be available to the public within 14 days of the meeting at the Council's office, 425 13th Street, NW., Suite 326, Washington, D.C. 20004.

Dated: January 3, 1984. Signed at Washington, D.C.

Lincoln C. White,

Executive Director, National Advisory Council on Indian Education.

[FR Doc. 84–295 Filed 1–5–84; 8:45 am]

BILLING CODE 4000–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–59142; OTS–FRL–2500–7]

Copolymer of Acrylic Acid with Alkyl Methacrylates and an Alkyl Acrylate; Premanufacture Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA.

Requirements for test marketing exemption (Time) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice, issued under section 5(h)(6) of TSCA, announces receipt of one application for exemption, provides a summary, and requests comments on the appropriateness of granting of the exemption.

DATE: Written comments by: January 23, 1984.

ADDRESS: Written comments, identified by the document control number "[OPTS-59142]" and the specific TME number should be sent to: Document Control Officer (TS-793), Information Management Division, Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M Street, SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Margaret Stasikowski, Acting Chief, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M Street, SW, Washington, D.C. 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address.

TME 84-17

Close of Review Period. February 2, 1984.

Manufacturer. Confidential.

Chemical. (G) Copolymer of acrylic acid with alkyl methacrylates and an alkyl acrylate.

Use/Production. (G) A dispersive use as an industrially applied coating. Prod. range: 2,000 kg/yr, 3 mos.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 15 workers, up to 2 hrs/da, up to 16 da/yr.

Environmental Release/Disposal. 3 kg/batch released to land. Disposal by incineration and approved landfill.

Dated: December 23, 1983

Linda A. Travers,

Acting Director, Information Management Division.

[FR Doc. 84-10 Filed 1-5-84; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51500; BH-FRL 2503-7]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of twenty-six PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 84-283, 84-284, 84-285, 84-286, 84-287, 84-288, 84-289 and 84-290—March 21, 1984.

PMN 84-291, 84-292, 84-293, 84-294, 84-295, 84-296, 84-297, 84-298, 84-299, 84-300, 84-301, 84-302, 84-303 and 84-304—March 26, 1984.

PMN 84-305, 84-306, 84-307 and 84-308—March 27, 1984.

Written comments by:

PMN 84-283, 84-284, 84-285, 84-286, 84-287, 84-288, 84-289 and 84-290—February 20, 1984.

PMN 84-291, 84-292, 84-293, 84-294, 84-295, 84-296, 84-297, 84-298, 84-299, 84-300, 84-301, 84-302, 84-303 and 84-304—February 25, 1984.

PMN 84-305, 84-306, 84-307 and 84-308—February 26, 1984.

ADDRESS: Written comments, identified by the document control number "[OPTS-51500]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Information Management Division, Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Margaret Stasikowski, Acting Chief, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, DC 20460, (202-382-3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address.

PMN 84-283

Manufacturer. E. I. du Pont de Nemours & Company, Inc.

Chemical. (G) Polymer of substituted alkyl acrylates.

Use/Production. (G) Fabric finish, industrial use, non-dispersive. Prod. range: 8,000-50,000 kg/yr.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal, a total of 2 workers, up to 4 hrs/da, up to 100 da/yr.

Environmental Release/Disposal. 10 kg/batch released. Disposal by on-site waste water treatment.

PMN 84-284

Manufacturer. Confidential.

Chemical. (G) Mercapto carboxylic acid ester reaction product with olefin.

Use/Production. (G) Plastic additive. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal.

Environmental Release/Disposal. No release.

PMN 84-285

Manufacturer. Confidential.

Chemical. (G) Methyl-oxo-ethyl-disubstituted heteromonocycle.

Use/Production. (G) Destructive use. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84-286

Importer. Confidential.

Chemical. (G) 3-methyl substituted aliphatic nitrile.

Use/Import. (S) Industrial commercial, and consumer perfumery material for use in compounding of perfumes. Import range: Confidential.

Toxicity Data. Acute oral: > 10 ml/kg; Irritation: Skin—Slight to moderate, Eye—Slight to moderate; Ames Test: Non-mutagenic; Skin sensitization: Non-sensitizer.

Exposure. Import: dermal.

Environmental Release/Disposal. No release.

PMN 84-287

Importer. Confidential.

Chemical. (G) 3-methyl substituted aliphatic nitrile.

Use/Import. (S) Industrial, commercial, and consumer perfumery

material for use in compounding of perfumes. Import range: Confidential.

Toxicity Data. Acute oral: Between 2 and 5 ml/kg; Irritation: Skin—Slight to moderate, Eye—Slight to strong; Ames Test: Non-mutagenic; Skin sensitization: Non-sensitizer.

Exposure. Import: dermal.

Environmental Release/Disposal. No release.

PMN 84–288

Importer. Confidential.

Chemical. (G) 2-methyl substituted aliphatic nitrile.

Use/Import. (S) Industrial, commercial, and consumer perfumery material for use in compounding of perfumes. Import range: Confidential.

Toxicity Data. Acute oral: > 2 ml/kg; Irritation: Skin—Slight to moderate, Eye—Slight to moderate; Ames Test: Non-mutagenic; Skin sensitization: Weak sensitizer.

Exposure. Import: dermal.

Environmental Release/Disposal. No release.

PMN 84–289

Manufacturer. Shell Oil Company.

Chemical. (G) Alkylated onium salt, substituted sulfur compound, substituted sulfide.

Use/Production. (G) Catalyst for amine cured epoxy resins. Prod. range: Confidential.

Toxicity Data. 14 Day dermal application study—Severe irritation.

Exposure. Confidential.

Environmental Release/Disposal. 0.5–1.0 kg/day released to land. Disposal by incineration, landfill and navigable waterway.

PMN 84–290

Manufacturer. Confidential.

Chemical. (G) Reaction product of glycerin, ethylene oxide and hydrocarbyl halide.

Use/Production. (G) Reactive additive for plastic. Prod. range: Confidential.

Toxicity Data. Acute oral: > 5.0 gm/kg; Acute dermal: > 2.0 g/kg; Irritation: Skin—Essentially non-irritant, Eye—Mild and transient; Inhalation: Slight; Skin sensitization: Negative.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–291

Manufacturer. Confidential.

Chemical. (G) Reaction product of alkenylsuccinic anhydride and substituted alcohol.

Use/Production. (G) Destructive use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Release to land. Disposal by incineration and landfill.

PMN 84–292

Manufacturer. King Industries, Inc.

Chemical. (S) Naphthalene sulfonic acid, diisononyl-, compound with morpholine.

Use/Production. (S) Industrial catalyst for thermosetting coatings for metal surfaces. Prod. range: Confidential.

Toxicity Data. Acute oral: > 5.0 g/kg; Acute dermal: > 2.0 g/kg; Irritation: Skin—Moderate, Eye—Severe; Inhalation LC_{50}: 40.56 mg/1/hr.

Exposure. Manufacture: dermal, a total of 3 workers, up to 2 hrs/da, up to 12 da/yr.

Environmental Release/Disposal. 1 kg/batch released to land. Disposal by incineration and landfill.

PMN 84–293

Manufacturer. Confidential.

Chemical. (G) Di-alkyl methyl amine.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–294

Manufacturer. Confidential.

Chemical. (S) 1-cyclopentylidene-4-ethoxycarbonylpiperazinium tetrafluoroborate.

Use/Production. (G) Chemical intermediate. Prod. range: 12–24 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: a total of 2 workers, up to 1.2 hrs/da, up to 8 da/yr.

Environmental Release/Disposal. Less than 0.1—0.8 kg/batch released into control technology only.

PMN 84–295

Manufacturer. Confidential.

Chemical. (G) Disubstituted piperazine salt.

Use/Production. (G) Chemical intermediate. Prod. range: 8–16 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, total of 2 workers, up to 0.8 hr/da, up to 9 da/yr.

Environmental Release/Disposal. 0.1 kg/batch released into control technology only.

PMN 84–296

Manufacturer. Confidential.

Chemical. (S) 2-methyl-3-(3-sulfopropyl)naphtho(2,3-d)thiazolium hydroxide inner salt.

Use/Production. (G) Chemical intermediate. Prod. range: 5–9 kg/yr.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal, a total of 2 workers, up to 1.0 hr/da, up to 3 da/yr.

Environmental Release/Disposal. Less than 0.1—0.2 kg/batch released into control technology only.

PMN 84–297

Manufacturer. Confidential.

Chemical. (G) Polyurethane polymer.

Use/Production. (G) Non-dispersive formulation adhesive. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–298

Manufacturer. Confidential.

Chemical. (G) Polyurethane polymer.

Use/Production. (G) Non-dispersive formulation adhesive. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–299

Manufacturer. Confidential.

Chemical. (G) Polyurethane polymer.

Use/Production. (G) Non-dispersive formulation adhesive. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–300

Manufacturer. Confidential.

Chemical. (G) Polyurethane polymer.

Use/Production. (G) Non-dispersive formulation adhesive. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–301

Manufacturer. Confidential.

Chemical. (G) Polyurethane polymer.

Use/Production. (G) Non-dispersive formulation adhesive. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–302

Manufacturer. Confidential.

Chemical. (G) Polyurethane polymer.

Use/Production. (G) Non-dispersive formulation adhesive. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–303

Manufacturer. Confidential.

Chemical. (G) Polyurethane polymer.

Use/Production. (G) Non-dispersive formulation adhesive. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–304

Manufacturer. Confidential.

Chemical. (G) Benzyl di-alkyl methyl quaternary ammonium chloride.

Use/Production. (G) Paint thickener. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 84–305

Manufacturer. The Dow Chemical Company.

Chemical. (S) 2-propenoic acid, 2-methyl-,2-(((((1-methyl-propylidene)amino)oxy)carbonyl)amino) ethyl ester.

Use/Production. (S) Industrial and commercial polymerizable blocked isocyanate for crosslinking in polymers. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal and inhalation, a total of < 16 workers, up to 2 hrs/da, up to 30 da/yr.

Environmental Release/Disposal. Confidential.

PMN 84–306

Manufacturer. The Dow Chemical Company.

Chemical. (S) Benzoic acid, 2-((((2-((2-methyl-1-oxo-2-propenyl)oxy)ethyl)amino)carbonyl)oxy-, methyl ester.

Use/Production. (S) Industrial and commercial polymerizable blocked isocyanate for crosslinking in polymers. Prod. range: Confidential.

Toxicity Data. Acute oral. Moderate.

Exposure. Manufacture: dermal and inhalation, a total of < 16 workers, up to 2 hrs/da, up to 30 da/yr.

Environmental Release/Disposal. Confidential.

PMN 84–307

Manufacturer. The Dow Chemical Company.

Chemical. (S) 2-propenoic acid, 2-methyl-, 2-((hexahydro 2-oxo-1H-azepin-1-yl)carbonyl)amino)ethyl ester.

Use/Production. (S) Industrial and commercial polymerizable blocked isocyanate for crosslinking in polymers. Prod. range: Confidential.

Toxicity Data. Acute oral: > 5,000 mg/kg; Irritation: Skin—Slight to moderate, Eye—Moderate.

Exposure. Manufacture: dermal and inhalation, a total of < 16 workers, up to 2 hrs/da, up to 30 da/yr.

Environmental Release/Disposal. Confidential.

PMN 84–308

Manufacturer. Confidential.

Chemical. (G) Benzenamine, 2-substituted-4-[2-(5-substituted-2,3-dihydro-1,3,3-trialkyl-1H-indol-2-yl)ethenyl]-.

Use/Production. (G) Coating for commerical use article. Import range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Import: a total of 15 workers.

Environmental Release/Disposal. 0.4 kg/batch released to land. Disposal by incineration and landfill.

Dated: December 30, 1983.

V. Paul Fuschini,

Acting Director, Information Management Division.

[FR Doc. 84–327 Filed 1–5–84; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–59143; BH–FRL 2503–8]

Certain Chemicals; Premanufacture Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722. This notice, issued under section 5(h)(6) of TSCA, announces receipt of five applications for exemptions, provides a summary, and requests comments on the appropriateness of granting each of the exemptions.

DATE: Writen comments by January 23, 1984.

ADDRESS: Written comments, identified by the document control number "[OPTS–59143]" and the specific TME number should be sent to: Document Control Officer (TS–793), Information Management Division, Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Margaret Stasikowski, Acting Chief, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M Street, SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The complete non-confidential document is available in the Public Reading Room E–107 at the above address.

TME 84–18

Close of Review Period. February 2, 1984.

Manufacturer. CasChem, Inc.

Chemical. (G) Castor oil polymer.

Use/Production. (S) Used for industrial applications. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal and inhalation, a total of 20–40 workers, up to 20 mins/da.

Environmental Release/Disposal. No release.

TME 84–19

Close of Review Period. February 5, 1984.

Manufacturer. American Hoechst Corporation.

Chemical. (S) Benzendiazonium, 2-methoxy-4-(phenylamino)-, sulfate

Use/Production. (S) Diazo photoresist produced to improve photospeed. Prod. range: < 1 kg.

Toxicity Data. No data on the TME substance submitted.

Exposure. Manufacture: inhalation, a total of 1 worker, less than ½ hr.

Environmental Release/Disposal. No release.

TME 84–20

Manufacturer. Confidential.

Chemical. (G) Further clarification needed before information can be released to the Public Files.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data on the TME substance submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

TME 84–21

Manufacturer. Confidential.
Chemical. (G) Further clarification needed before information can be released to the Public Files.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data on the TME substance submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

TME 84–22

Manufacturer. Confidential.
Chemical. (G) Further clarification needed before information can be released to the Public Files.
Use/Production. Confidential. Prod. range: Confidential.
Toxicity Data. No data on the TME substance submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

Dated: December 30, 1983.

V. Paul Fuschini,

Acting Director, Information Management Division.

[FR Doc. 84–328 Filed 1–5–84; 8:45 am]
BILLING CODE 6560–50–M

[ER–FRL–2503–6]

Availability of Environmental Impact Statements Filed December 27 Through December 30, 1983 Pursuant to 40 CFR 1506.9

Responsible Agency

Office of Federal Activities, General Information (202) 382–5073 or (202) 382–5075.

EIS No. 830676, draft, EPA, MD, Parkway Wastewater Treatment Facilities, upgrading, grant, Prince Georges Co., due: Feb. 20, 1984.
EIS No. 830677, draft, AFS, APH, SEV, PRO, gypsy moth suppression and eradication projects, due: Feb. 25, 1984.
EIS No. 830678, report, COE, MI, Sault Ste, Marie Federal facilities, O/M, Soo Locks closure, Chippewa County.
EIS No. 830679, draft, SCS, TN, MS, Tuscumbia River watershed, flood control plan, due: Feb. 20, 1984.
EIS No. 830680, draft, EPA, MD, Western Branch WWT Facilities, upgrading, grant, Prince Georges County, due: Feb. 20, 1984.
EIS No. 830681, draft, FAA, WI, Austin Staubel Field Airport, runway ext., Brown Co., due: Feb. 20, 1984.
EIS No. 830682, draft, SCS, MO, IA, West Fork of Big Creek watershed, multipurpose and flood control plan, due: Feb. 20, 1984.
EIS No. 830683, draft, FHW, AL, Talladega Scenic Dr., completion, Bulls Gap to Piedmont, Talladega National Forest, due: Feb. 20, 1984.
EIS No. 830684, draft, DOE, MD, Brandon Shores Generating Station, units 1 & 2, coal conversion, prohibition orders, Anne Arundel Co., due: Feb. 20, 1984.
EIS No. 830685, final, BLM, NV, Wells Resource Area, multiple use resource mgmt. plan, Elko District, Elko Co., due: Feb. 2, 1984.
EIS No. 830686, draft, MMS, OR, CA, PAC, Gorda Ridge Area, polymetallic sulfide minerals, exploration, development and production, lease offering, due: Feb. 29, 1984.
EIS No. 830687, draft, EPA, WI, Geneva Lake Area WWT Facilities, const./upgrading/expansion, grant, Walworth County, due: Feb. 20, 1984.

Amended Notices

EIS No. 830630, final, CDB, MA, North Station urban renewal project, CDB grant, Suffolk Co., due: Jan. 23, 1984. Published FR 12–09–83—Review extended.
EIS No. 830652, final, COE, MS, Hattiesburg-Petal flood control, Leaf River, Forrest Co., due: Jan. 30, 1984. Published FR 12–23–84—Review period reestablished.
EIS No. 830666, final, AFS, AK, Alaska regional plan, standards/guidelines, due: Jan. 30, 1984. Published FR 12–30–83—incorrect due date.

Dated: January 3, 1984.

John Meagher,

Acting Director, Office of Federal Activities.

[FR Doc. 84–382 Filed 1–5–84; 8:45 am]
BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Industry Advisory Committee on Technical Standards for DBS Service; Subcommittee Meetings

There will be meetings of the three subcommittees of the Advisory Committee on DBS Standards, in January 1984. The pertinent information is as follows:

• Encryption Standards: Chairman—J. Krauss (301 258–8164) January 18, 1984 @ 10:00 AM RCA D. Sarnoff Research Center Princeton, New Jersey Lab Phone No.: (609) 734–2000

• Transmission Standards: Chairman—J. Ramasastry (212 975–1727) January 19, 1984 @ 9:30 AM NBC–TV, 30 Rockefeller Plaza; NY, NY (6th Avenue at 48th Street) Room 980, (use studio elevators) (D. Musson, NBC, (212) 644–3548)

• Receiver Standards: Chairman—P. Heinerscheid (612 642–4580) January 19, 1984 @ 2:00 PM NBC, 30 Rockerfeller Plaza; NY, NY Room 980 (use studio elevators)

The general agenda for the three meetings is as follows:

1. Approval of minutes of previous meeting.
2. Approval of agenda.
3. Discussion of reports of working groups.
4. Other business.
5. Date of next meeting.

Those seeking further information may contact the above or Bruno Pattan FCC/OST (202) 653–9098.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84–349 Filed 1–5–84; 8:45 am]
BILLING CODE 6712–01–M

[Report No. 1438]

Petitions for Reconsideration of Actions in Rulemaking Proceedings

December 27, 1983.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the **Federal Register**. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor. (CC Docket No. 79–252)

Filed by: Herbert E. Marks, Laurel R. Bergold & Diane J. Cornell, Attorneys for The State of Hawaii on 12–19–83. Lloyd D. Young, Regulatory Counsel for TRT Telecommunications Corporation on 12–19–83. F. Thomas Tuttle & Donald J. Elardo for Satellite Business Systems on 12–19–83. Randall B. Lowe, Attorney for Allnet Communications Services, Inc., on 12–19–83. Francine J. Berry & George Finkelstein, Attorneys for American Telephone and Telegraph Company on 12–19–83.

Subject: Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Cabo Rojo and Hormigueros, Puerto Rico). (BC Docket No. 82–729)

Filed by: Robert A. DePont, Attorney for David Ortiz Radio Corporation on 12–12–83.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84–348 Filed 1–5–84; 8:45 am]

BILLING CODE 6712–01–M

TIAG Auditing and Regulatory Subcommittee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a two day meeting of the Telecommunications Industry Advisory Group's (TIAG) Auditing and Regulatory Subcommittee scheduled to meet on Monday, January 23, 1984 and Tuesday, January 24, 1984. The meeting will be held at 10:00 a.m. in Room 1276, 12th Floor of Arthur Andersen & Co. offices located at 1345 Avenue of the Americas, New York, New York, and will be open to the public. The agenda is as follows:

I. General Administrative Matters
II. Discussion of Comments of Steering Committee on Tax Paper
III. Comments on Proposed Tax Accounts
IV. Presentation of Oral Statements
V. Adjournment

With prior approval of Subcommittee Chairman Hugh A. Gower, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of the Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Gower (404/658–1776) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84–347 Filed 1–5–84; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Filing and Approval of Agreement

The Federal Maritime Commission hereby gives notice that on December 23, 1983, the following agreement was filed with the Commission pursuant to section 15 of the Shipping Act, 1916, as amended by section 4 of the Maritime Labor Agreements Act of 1980, Pub. L. 96–325, 94 Stat. 1021, and was deemed approved that date, to the extent it constitutes an assessment agreement as described in the fifth paragraph of section 15, Shipping Act, 1916.

Agreement No.: LM–81–2
Title: Pacific Maritime Association Assessment Agreement
Synopsis: This agreement amends the basis Agreement LM–81 (CFS Program Fund/Implementation Procedures). The amendment reflects certain changes in the method which provide for collection of container tonnage assessments based on container revenue units.
Filing agent: Lillick, McHose & Charles, Two Embarcadero Center, San Francisco, California 94111

The Federal Maritime Commission hereby gives notice that on December 22, 1983, the following agreement was filed with the Commission pursuant to section 15 of the Shipping Act, 1916, as amended by section 4 of the Maritime Labor Agreements Act of 1980, Pub. L. 96–325, 94 Stat. 1021, and was deemed approved that date, to the extent it constitutes an assessment agreement as described in the fifth paragraph of section 15, Shipping Act, 1916.

Agreement No.: LM–84
Title: Pacific Maritime Association Assessment Agreement
Synopsis: Agreement No. LM–84 is an agreement among the members of Pacific Maritime Association concerning assessments to pay International Longshoremen's and Warehousemen's Union and Pacific Maritime Association Employee Benefit Costs.
Filing agent: Lillick, McHose & Charles, Two Embarcadero Center, San Francisco, California 94111

By Order of the Federal Maritime Commission.

Dated: January 3, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84–325 Filed 1–5–84; 8:45 am]

BILLING CODE 6730–01–M

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 522.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 57–131
Title: Pacific Westbound Conference.
Parties:
American President Lines, Ltd.
Japan Line, Ltd.
Kawasaki Kisen Kaisha. Ltd.
Korea Marine Transport Co., Ltd.
Mitsui O.S.K. Lines, Ltd.
Moller-Maersk Line, A.P.
Nippon Yusen Kaisha
Orient Overseas Container Line, Inc.
Sea-Land Service, Inc.
Showa Line Ltd.
United States Lines, Inc.
Yamashita-Shinnihon Steamship Co., Ltd.

Synopsis: Agreement No. 57–131 would amend the basic agreement to clarify that the Chairman (who is not an Owners' representative and is therefore not included automatically as an ex officio member of the PWC Owners' Management Committee) is consistently treated on "such other permanent or ad hoc committees as Owners may from time to time establish".

Filing Party: R. Frederic Fisher, Esquire, Lillick, McHose & Charles, Two Embarcadero Center, San Francisco, California 94111.

Agreement No.: 8900–23.
Title: The 8900 Lines.
Parties:
Barber Blue Sea Line
Hellenic Lines Ltd.
A.P. Moller-Maersk Line
Nedlloyd Lines
Sea-Land Service Inc.
The National Shipping Company of Saudi Arabia
United Arab Shipping Co.
Waterman-Isthmian Line

Synopsis: The proposed amendment would enlarge the scope of the "8900" Lines Agreement so as to include cargo originating either at U.S. inland points or at U.S. Pacific coastal points and moving the Arabian Gulf ports and points, via Atlantic and Gulf coast ports already

served by the Agreement. This would provide the "8900" Lines with both "microbridge and minibridge authority."

Filing Party: Marc J. Fink, Esq., Billing, Sher & Jones, 2033 K Street—Suite 300, Washington, D.C. 20006.

By Order of the Federal Maritime Commission.

Dated: December 30, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84-294 Filed 1-5-84 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Mercantile Texas Corp.; Acquisition of Bank Shares by a Bank Holding Company

Mercantile Texas Corporation, Dallas, Texas, has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to acquire Southwest Bancshares, Inc., Houston, Texas, and its banking subsidiaries: Bank of the Southwest, N.A., Houston, Texas; The First National Bank of Longview, Longview, Texas; The Village National Bank, Houston, Texas; Long Point National Bank, Houston, Texas; Continental National Bank of Fort Worth, Forth Worth, Texas; First Denton County National Bank, Denton, Texas; Bank of the Southwest, N.A., Brownsville, Texas; The First National Bank of Port Arthur, Port Arthur, Texas; Westchase National Bank, Houston, Texas; Westbury National Bank, Houston, Texas; Intercontinental Bank, N.A., Houston, Texas; Houston Southwest Bank, Houston, Texas; Arlington Bank of Commerce, Arlington, Texas; Citizens Bank, Irving, Texas; Baybrook National Bank, Friendswood, Texas; Gulf Freeway National Bank, Houston, Texas; Lewisville National Bank, Lewisville, Texas; Dallas Bank and Trust Company, Dallas, Texas; Century Bank and Trust Company, Garland, Texas; The Woodlands National Bank, The Woodlands, Texas; County National Bank of Orange, Orange, Texas; Bank of San Felipe Green, N.A., Houston, Texas; Texas Bank of Beaumont, Beaumont, Texas; American National Bank of Garland, Garland, Texas; Fort Worth Bank and Trust, Fort Worth, Texas; Mansfield State Bank, Mansfield, Texas; The First National Bank of Euless, Euless, Texas; Copperfield National Bank, Houston, Texas; The Mercantile National Bank of Corpus Christi, Corpus Christi, Texas; First Pasadena State Bank, Pasadena, Texas; Republic State Bank, Houston, Texas; Preston State Bank, Dallas, Texas; Bank of the Southwest, N.A., Harlingen, Texas; The First National Bank of Brenham, Brenham, Texas; The Marshall National Bank, Marshall, Texas; Bank of the Southwest, N.A., Odessa, Texas; Westhollow National Bank, Houston, Texas; San Antonio Bank and Trust Company, San Antonio, Texas; and Bank of the Southwest, N.A., Las Colinas, Irving, Texas. In addition, Mercantile Southwest Financial Corporation, Dallas, Texas, a wholly-owned subsidiary of Mercantile Texas Corporation, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring all of the subsidiary banks of Mercantile Texas Corporation and Southwest Bancshares, Inc. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Mercantile Texas Corporation, Dallas, Texas, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843 (c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Southwest Bancshares Life Insurance Company, Houston, Texas.

Applicant states that the proposed subsidiary would engage in the activities of underwriting credit life and credit accident and health insurance in connection with extensions of credit by Southwest Bancshares' subsidiary banks, and the geographic area to be served is the State of Texas. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas.

Any views or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., not later than January 27, 1984.

Board of Governors of the Federal Reserve System, December 30, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-321 Filed 1-5-84 8:45 am]

BILLING CODE 6210-01-M

Nevada First Thrift and Nevada First Development Corp.; Formation of Bank Holding Companies

Nevada First Thrift, Reno, Nevada, and its subsidiary, Nevada First Development Corporation, Reno, Nevada, have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring 99.7 percent of the voting shares of Nevada First Bank, Reno, Nevada, a proposed new bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Nevada First Thrift and its subsidiary, Nevada First Development Corporation, have also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to retain certain nonbanking activities and the following nonbanking subsidiaries: Silver State Thrift and Loan Association, Reno, Nevada ("Silver State"), and Lori Insurance Company, Ltd., Grand Turk, Turks & Caicos Islands, British West Indies ("Lori").

Applicants state that these subsidiaries would engage in the following activities: Silver State would make loans for its own account, operate as a thrift company (an entity similar to an industrial loan company) in the manner authorized by Nevada law, perform the escrow agent activities that may be performed by a trust company, act as agent for the sale of credit life and credit health and accident insurance, and sell credit-related property insurance as permitted for finance company subsidiaries of bank holding companies; and Lori would engage in the activity of reinsuring credit life insurance. In addition, Applicant Nevada First Thrift would engage directly in all activities engaged

in by Silver State, and would also lease personal property where the lease is equivalent to an extension of credit and perform appraisals of real estate in support of credit requests. These activities would be performed from offices of Applicant Nevada First Thrift in Reno, Nevada, and from offices of Applicants' subsidiaries in Reno, Nevada, and Grand Turk, Turks and Caicos Islands, British West Indies. The geographic areas to be served are: by Applicant Nevada First Thrift and by Lori, the State of Nevada ; and by Silver State, the Reno/Sparks, Nevada, Ranally Metropolitan Area. The above activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of rsources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. not later than January 27, 1984.

Board of Governors of the Federal Reserve System, December 30, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-322 Filed 1-5-84; 8:45 am]

BILLING CODE 6210-01-M

North Central Financial Corp., et al., Proposed de Novo Nonbank Activities by Bank Holding Companies

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicted.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *North Central Financial Corporation,* Emporium, Pennsylvania (data processing activities; Pennsylvania, New York): To engage, through its subsidiary, Provision Software Sevices, Inc., in the processing of financial, banking or economic data and the sale of related software programs for financial institutions, hospitals and local municipalities. This activity will take place in Emporium, Pennsylvania, serving the entire United States. Comments on this application must be received not later than January 30, 1984.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *NBD Bancorp, Inc.,* Detroit, Michigan (mortgage banking activities; Kentucky): To engage, through its subsidiary, NBD Mortgage Company, in mortgage banking activities, including the making and acquiring of mortgage loans for its own account and for the account of others and such other extensions of credit as would be made by a mortgage company. These activities would be conducted from an office in Lexington, Kentucky, serving the State of Kentucky. Comments on this application must be received not later than January 25, 1984.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Security Pacific Corporation,* Los Angeles, California (financing, leasing and servicing activities; United States): To engage through its subsidiary, Security Pacific Leasing Corporation in financing, leasing and servicing activities with respect to personal property and equipment and real property. These activities would be conducted from an office of Security Pacific Leasing Corporation located in Cincinnati, Ohio, serving the United States. Comments on this application must be received not later than January 30, 1984.

2. *Viejo Bancorp,* Mission Viejo, California (escrow activities; California): To engage through its subsidiary, Viejo Escrow Corporation, in providing services as an escrow agent in escrow transactions as permitted by Regulation Y (12 CFR 225.4(a)(4)). These activities will be conducted in Mission Viejo, California, and Viejo Escrow Corporation will serve the entire State of California. Comments on this application must be receivd not later than January 30, 1984.

Board of Governors of the Federal Reserve System, January 3, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-364 Filed 1-5-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on December 30.

Public Health Service

National Institutes of Health

Subject: Audiovisual Selection-Acquisition Study—new
Respondents: Individuals
OMB Desk Officer: Fay S. Iudicello

Centers for Disease Control

Subject: National Nosocomial Infections Study (0920–0012)—revision
Respondents: Hospitals
OMB Desk Officer: Fay S. Iudicello

Health Resources and Services Administration

Subject: Health Education Assistance Loan Promissory Note (Variable and Fixed Rates)—existing collection
Respondents: Individuals, schools, and loan institutions
OMB Desk Officer: Fay S. Iudicello

Food and Drug Administration

Subject: Request for Certification of an Insulin Batch—existing collection
Respondents: Businesses
Subject: Use of Impact-Resistant Lenses in Eye-glasses and Sun-glasses—new
Respondents: Manufacturers of Impact-Resistant Lenses
OMB Desk Officer: Bruce Artim

Health Care Financing Administration

Subject: 1984 Long-term Care Survey—new
Respondents: Likely candidates of long-term care
Subject: Demonstration Project for Calculating Adjusted Average Per Capita Costs (0938–0092)—extension/no change
Respondents: Nursing homes in project service areas
Subject: Clinical Social Workers Questionnaire—new
Respondents: A sample of clinical social workers
OMB Desk Officer: Fay S. Iudicello

Office of Human Development Services

Subject: Head Start Program Information Report (PIR) (0980–0017)—revision
Respondents: Head Start Programs
OMB Desk Officer: Milo Sunderhauf

Office of the Secretary

Subject: Self-evaluation and Recordkeeping Required by the Regulation Implementing section 504 of the Rehabilitation Act of 1973 (45 CFR 84.6(c))—existing collection
Respondents: State and local governments, businesses, and not-for-profit institutions
OMB Desk Officer: Milo Sunderhauf

Social Security Administration

Subject: Statement of Death by Funeral Director (0960–0142)—revision
Respondents: Selective funeral directors
Subject: Statement for Determining Continuing Eligibility for supplemental Security Income Payments (SSA–8203)—new
Respondents: A sample of SSI recipients
OMB Desk Officer: Milo Sunderhauf

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202–245–6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, Attn: (name of OMB Desk Officer).

Dated: December 29, 1983.

Wallace O. Keene

Acting Deputy Assistant Secretary for Management Analysis and Systems

[FR Doc. 84–155 Filed 1–5–84; 8:45 am]
BILLING CODE 4150–04–M

Food and Drug Administration

[Docket No. 82F–0337]

Air Products and Chemicals, Inc.; Withdrawal of Petition for Food Additive

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the withdrawal without prejudice of a petition (FAP 2B3660) proposing that the food additive regulations be amended to provide for the safe use of the ethylene oxide adduct of 2,4,7,9-tetramethyl-5-decyn-4,7-diol as an adjuvant in paper and paperboard for food contact.

FOR FURTHER INFORMATION CONTACT: James H. Maryanski, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786 (21 U.S.C. 348(b))), the following notice is issued.

In accordance with § 171.7 *Withdrawal of petition without prejudice* of the procedural food additive regulations (21 CFR 171.7), Air Products and Chemicals, Inc., Box 358, Allentown, PA 18105, has withdrawn its petition (FAP 2B3660), notice of which was published in the **Federal Register** of December 3, 1982 (47 FR 54547).

December 27, 1983.

Richard J. Ronk,

Acting Director, Bureau of Foods.

[FR Doc. 84–312 Filed 1–5–84; 8:45 am]
BILLING CODE 4160–01–M

[Docket No. 83C–0310]

Paragon Optical, Inc.; Amended Filing of Color Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is amending the notice of filing of a Paragon Optical, Inc., petition proposing that the color additive regulations be amended to provide for the safe use of D&C Red No. 17 for coloring contact lenses. This notice announces that the petition also proposes that the color additive regulations be amended to provide for the safe use of D&C Yellow No. 10.

FOR FURTHER INFORMATION CONTACT: Mary W. Lipien, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C. St. SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 706(d), 74 Stat. 402–403 (21 U.S.C. 376(d))), notice was given in the **Federal Register** of October 21, 1983 (48 FR 48870) that a petition (CAP 3C0162) had been filed by Paragon Optical, Inc., Mesa, AZ 85201, proposing that the color additive regulations be amended to provide for the safe use of D&C Red No. 17 for coloring contact lenses. Notice is now given that the petition proposes that the color additive regulations be amended to provide for the safe use of D&C Yellow No. 10, in addition to D&C Red No. 17 for coloring contact lenses.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The Agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 27, 1983.

Richard J. Ronk,

Acting Director, Bureau of Foods.

[FR Doc. 84–313 Filed 1–5–84; 8:45 am]
BILLING CODE 4160–01–M

Public Health Service

National Toxicology Program, Ad Hoc Panel on Chemical Carcinogenesis Testing and Evaluation; Meeting

Notice is hereby given of a meeting of the Ad Hoc Panel on Chemical Carcinogenesis Testing and Evaluation, National Toxicology Program (NTP) Board of Scientific Counselors, U.S. Public Health Service, to be held on January 13, 1984, Hubert Humphrey Building, Room 337–339A, 200 Independence Avenue, S.W., Washington, D.C. The meeting will begin at 9:00 a.m. and end at approximately 4:00 p.m.

The meeting will be held to review the progress of the Ad Hoc Panel's preliminary draft report, to remove duplication as necessary, and to generally prepare the report for public distribution. No public comments will be taken at this meeting nor will any documents be distributed.

Due to an administrative oversight, this meeting was not published in the **Federal Register** for the full 15-day period normally required. Therefore, a copy of this notice has been mailed to everyone on the Ad Hoc Panel Mailing List. Attendance is limited only by space available. For further information regarding the meeting, please contact the Panel Secretary, Ms. Riley, at the address below or telephone 919–541–7621 or FTS 629–7621. The official Government representative for this meeting will be Dr. David P. Rall, NTP.

Dr. John Doull Chairman, Ad Hoc Panel on Chemical Carcinogenesis Testing & Evaluation, c/o Ms. Janet Riley, Secretary to the Panel, P.O. Box 12233, Research Triangle Park, North Carolina 27709.

Dated: January 4, 1984.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 84–524 Filed 1–5–84; 10:57 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D–83–722; FR–1836]

Office of the Manager, New Orleans Office; Designation

AGENCY: Department of Housing and Urban Development.

ACTION: Designation of order of succession.

SUMMARY: The Manager is designating officials who may serve as Acting Manager during the absence, disability, or vacancy in the position of the Manager.

EFFECTIVE DATE: This designation is effective September 8, 1983.

FOR FURTHER INFORMATION CONTACT: Ann Hallan, Chief, Management and Budget Branch, Comptroller Division, Office of Administration, Fort Worth Regional Office, Department of Housing and Urban Development, 221 W. Lancaster, P.O. Box 2905, Fort Worth, Texas 76113, Telephone (817) 870–5451 (this is not a toll-free number).

Designation

Each of the officials appointed to the following positions is designated to serve as Acting Manager during the absence, disability, or vacancy in the position of the Manager, with all the powers, functions, and duties redelegated or assigned to the Manager: Provided that no official is authorized to serve as Acting Manager unless all preceding listed officials in this designation are unavailable to act by reason of absence, disability, or vacancy in the position:

1. Deputy Manager;
2. Director, Community Planning and Development Division;
3. Chief, Counsel;
4. Director, Housing Development Division;
5. Director, Housing Management Division;
6. Director, Fair Housing and Equal Opportunity Division; and
7. Director, Administrative Division.

This designation supersedes the designation effective July 13, 1983.

Authority: Delegation of Authority by the Secretary effective October 1, 1970; 36 FR 3389, February 23, 1971.

Richard J. Franco,

Manager, New Orleans Office.

Dick Eudaly,

Regional Administrator—Regional Housing Commissioner, Region VI.

[FR Doc. 84–376 Filed 1–5–84; 8:45 am]

BILLING CODE 4210–32–M

Office of the Secretary

[Docket No. D–83–721; FR–1909]

Delegation of Concurrent Authority to the General Deputy Assistant Secretary for Public and Indian Housing

AGENCY: Office of the Secretary, HUD.

ACTION: Delegation of concurrent authority.

SUMMARY: The Secretary of Housing and Urban Development is delegating to the General Deputy Assistant Secretary for Public and Indian Housing all authority vested in the position of Assistant Secretary for Public and Indian Housing.

EFFECTIVE DATE: December 30, 1983.

FOR FURTHER INFORMATION CONTACT: David D. White, Assistant General Counsel for Administrative Law, Room 10254, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Telephone (202) 755–7137. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: The Secretary of Housing and Urban Development recently established within the Department a new position of Assistant Secretary for Public and Indian Housing to carry out the Department's programs relating to public housing and Indian housing. On September 7, 1983, the Secretary of the Department delegated to the Assistant Secretary for Public and Indian Housing all authority necessary to carry out the responsibilities of the Office. (See the Delegation of Authority published in the **Federal Register** on September 13, 1983, 48 FR 41097.)

In the Delegation of Authority issued today, the Secretary is delegating concurrent authority for implementation of the Department's public housing and Indian housing programs to the General Deputy Assistant Secretary for Public and Indian Housing.

The General Deputy Assistant Secretary for Public and Indian Housing is hereby delegated, concurrently with the Assistant Secretary for Public and Indian Housing, all authority currently delegated to the Assistant Secretary for Public and Indian Housing.

Authority: Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 30, 1983.

Samuel R. Pierce, Jr.,

Secretary, Department of Housing and Urban Development.

[FR Doc. 84–377 Filed 1–5–84; 8:45 am]

BILLING CODE 4210–32–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Irrigation Operation and Maintenance Charges; Water Charges and Related Information on the Wapato Irrigation Project, Washington

This notice of proposed operation and maintenance rates and related information is published under the authority delegated to the Assistant Secretary—Indian Affairs by the Secretary of the Interior in 230 DM 1 and redelegated by the Assistant

Secretary—Indian Affairs to the Area Director in 10 BIAM 3.

This notice is given in accordance with § 171.1(e) of Part 171, Subchapter I, Chapter I. of Title 25 of the Code of Federal Regulations, which provides for the Area Director to fix and announce the rates for annual operation and maintenance assessments and related information on the Wapato Irrigation Project for Calendar Year 1984 and subsequent years. This notice is proposed pursuant to the authority contained in the Acts of August 1, 1914 (38 Stat. 583) and March 7, 1938 (45 Stat. 210).

The purpose of this notice is to announce an increase in the assessment rates commensurate with actual operation and maintenance costs on the Wapato Irrigation Project. The proposed assessment increases for 1984 amount to $2.00 per acre on the Wapato-Status Unit and $0.75 per acre on the Ahtanum and Toppenish Simcoe Units.

The public is welcome to participate in the rule making process of the Department of the Interior. Accordingly, interested persons may submit written comments, views or arguments with respect to the proposed rates and related regulations to the Area Director, Portland Area Office, Bureau of Indian Affairs, Post Office Box 3785, Portland, Oregon 97208, within 30 calendar days of this publication.

Wapato Irrigation Project—General

The Wapato Irrigation Project, which consists of the Ahtanum Unit, Toppenish-Simcoe Unit, and Wapato-Satus Unit within the Yakima Indian Reservation, Washington, is administered by the Bureau of Indian Affairs. The Project Engineer of the Wapato Irrigation Project is the Officer-in-Charge and is fully authorized to carry out and enforce the regulations, either directly or through employees designated by him. The general regulations are contained in Part 171, Operation and Maintenance, Title 25—Indians, Code of Federal Regulations (42 FR 30362, June 14, 1977).

Irrigation Season

Water will be available for irrigation purposes from April 1 to September 30 each year. These dates may be varied as much as 20 days when weather conditions and the necessity for doing maintenance work warrants doing so.

Request for Water Delivery and Changes

Requests for water delivery and changes will be made at least 24 hours in advance. Not more than one change will be made per day. Changes will be made only during the ditchrider's regular tour. Pump shut-down, regardless of duration, without the required notice will result in the delivery being closed and locked. Repeated violations of this rule will result in strict enforcement of rotation schedules. Water users will change their sprinkler lines without shutting off more than one-half of their lines at one time. Sudden and unexpected changes in ditch flow results in operating difficulties and waste of water.

Time for Payment of Water Charges

The assessments fixed by these regulations shall become due April 1 of each year and are payable on or before that date. To all charges assessed against lands in patent in fee ownership, and those paid by lessees of Indian lands direct to the project office, remaining unpaid on July 1 following the due date, there shall be added a penalty of one and one-half percent for each month, or fraction thereof, from the due date until the charges are paid.

Charges for Special Services

Charges will be collected for various special services requested by the general public, water users and other organizations during the Calendar Year 1984 and subsequent years until further notice, as detailed below:

(1) Requests for Irrigation Accounts and Status Reports, Per Report	$15.00
(2) Requests for Verification of Account Delinquency Status, Per report	10.00
(3) Requests for Splitting of Operation and Maintenance Bills (in addition to minimum billing fee), Per Bill	10.00
(4) Requests for Billing of Operation and Maintenance to Other than Owner or Lessee of Record (in addition to minimum billing fee), Per Bill	10.00
(5) Requests for Other Special Services Similar to the above, when apropriate, Per Report	10.00
(6) Requests for elimination of lands from the Project: In the event that the elimination is approved, a portion of the fee will be used to pay the Yakima County Recording Fee	(10.00)

Ahtanum Unit

Charges

(a) The operation and maintenance rate on lands of the Ahtanum Irrigation Unit for the Calendar Year 1984 and subsequent years until further notice, is fixed at $7.00 per acre per annum for land to which water can be delivered from the project works.

(b) In addition to the foregoing charges there shall be collected a billing charge of $5 for each tract of land for which operation and maintenance bills are prepared. The bill issued for any tract will, therefore, be the basic rate per acre times the number of acres plus $5. A one acre charge shall be levied on all tracts of less than one acre.

Toppenish-Simcoe Unit

Charges

(a) The operation and maintenance rate for the lands under the Toppenish-Simcoe Irrigation Unit for the Calendar Year 1984 and subsequent years until further notice, is fixed at $7.00 per acre per annum for land for which an application for water is approved by the Project Engineer.

(b) In addition to the foregoing charges there shall be collected a billing charge of $5 for each tract of land for which operation and maintenance bills are prepared. The bill issued for any tract will, therefore, be the basic rate per acre times the number of acres plus $5. A one acre charge shall be levied on all tracts of less than one acre.

Wapato-Satus Unit

Charges

(a) The basic operation and maintenance rates on assessable lands under the Wapato-Satus Unit are fixed for the Calendar Year 1984 and subsequent years unitl further notice as follows:

(1) Minimum charge for all tracts	$22.50
(2) Basic rate upon all farm units or tracts for each assessable acre except Additional Works Lands	22.50
(3) Rate per assessable acre for all lands with a storage water rights, known as "B" lands, in addition to other charges per acre	2.20
(4) Basic rate upon all farm units or tracts for each assessable acre of Additional Works Lands	23.60

(b) In addition to the foregoing charges there shall be collected a billing charge of $5 for each tract of land for which operation and maintenance bills are prepared. The bill issued for any tract will, therefore, be the basic rate per acre times the number of acres plus $5. A one acre charge shall be levied against all tracts of less than one acre.

Accessable Lands

The assessable lands of the Wapato-Status Unit are classified under these regulations as follows:

(a) All Indian trust (A and B) land designated as assessable by the Secretary of the Interior, except land which has never been cultivated if in the opinion of the Project Engineer the cost of preparing such land for irrigation is so high as to preclude its being leased at this time for agricultural purposes.

(b) All Indian trust (A or B) land not designated as assessable by the Secretary of the Interior for which application for water is pending or on which assessments had been charged the preceding year.

(c) All patent in fee land covered by a water right contract, except on land that because of inadequate drainage is no longer productive. The adequacy of the drainage is determined by the Project Engineer.

(d) At the discretion of Project Engineer and upon the payment of charges, patent in fee land for which an application for a water right or modification of a water right contract is pending.

Jack Hunt,

Area Director.

[FR Doc. 84-286 Filed 1-5-84; 8:45 am]

BILLING CODE 4310-02-M

Sault Ste. Marie Indian Reservation, Michigan; Addition of Land to the Sault Ste. Marie Indian Reservation

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.1. On December 20, 1983, pursuant to the authority contained in Section 7 of the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 467), the following described land, located in Chippewa County, Michigan, was added to and made a part of the Sault Ste. Marie Indian Reservation for the exclusive use of Indians entitled by enrollment or by tribal membership to residence on such reservation.

That part of the N½ of Section 16, Township 47 North, Range 1 East, lying West of the Methodist Mission Reserve, and

That part of the N½SW¼, of Section 16, Township 47 North, Range 1 East, lying West of the Methodist Mission Reserve.

Subject to all valid existing easements, reservations, and rights-of-way of record.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 84-308 Filed 1-5-84; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[A 9052]

Arizona; Conveyance of Public Land

December 27, 1983.

Notice is hereby given that the following described land has been transferred out of Federal ownership pursuant to section 206 of the Federal Land Policy and Management Act of 1976 in exchange for privately owned land. The land transferred to private ownership is described as:

Gila and Salt River Meridian, Arizona

T. 16 N., R. 21 W.,
Sec. 14, lots 3, 6, NW¼NE¼, N½N½S W¼NE¼, E½NW¼, SW¼SW¼,

Comprising 212.74 acres in Mohave County.

Land acquired by the United States is described as:

T. 12 N., R. 19 W.,
Sec. 4, SW¼,
Sec. 11, N½,

Comprising 480 acres in Mohave County.

The exchange was based on equal values.

The purpose of this notice is to inform the public and interested State and local government officials of the transfer of public land and acquisition of private land by the Federal Government.

The land acquired by the Federal Government in this exchange will not be opened to acquisition or entry unless and until an appropriate opening order is issued by the Bureau of Land Management authorized officer.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-316 Filed 1-5-84; 8:45 am]

BILLING CODE 4210-32-M

Surprise Resource Area, Susanville, District Office, California; Completion of Land Use Plan Amendment

The Susanville District, Surprise Resource Area has completed the amendment of the Land Use Plans for 1.5 million acres of public land in the Surprise Resoruce area. The Surprise Resource Area is located in northeastern California in Lassen and Modoc Counties and in northwestern Nevada in Washoe and Humboldt Counties. The majority of the lands are well blocked and occur primarily around the communities of Cedarville, Eagleville, Lake City, and Fort Bidwell.

Decisions

Tuledad/Home Camp MFP

1. Amend the Tuledad/Home Camp MFP III to contain the following: "Designate 2,059 acres of public land as potentially suitable for disposal and consider an additional 280 acres as potentially suitable for disposal if the public sector indicates that there is an interest for these parcels at fair market value. An additional 539 acres will be deferred from consideration for disposal until monitoring by the Nevada Department of Wildlife determines the value of these lands for migrating antelope. If they do serve migrating antelope they will not be considered potentially suitable for disposal, but if they are not used by antelope they will be designated as potentially suitable for disposal."

2. Continue with present grazing management systems in Selic and Alaska Canyons that are providing protection and improvement to crucial aspen, riparian, and mountain brush fields. (Replaces existing MFP Range Management Decision Number 4.)

Cowhead/Massacre MFP

1. Amend the Cowhead/Massacre MFP III to contain the following: "Designate 2,080 acres of public land in Subunits 3 and 4 as potentially suitable for disposal and consider an additional 960 acres as potentially suitable for disposal if the public sector indicates that there is an interest for these parcels at fair market value."

2. Combine the Little High Rock and Massacre Mountain Allotments into one allotment, hereafter to be referred to as the Grassy Canyon Allotment (Existing decision being effected Subunit 1, Decision Number 2.)

3. Allocate forage among both consumptive and nonconsumptive resources, as shown in Table A, Forage Allocation for Subunit 1. As additional forage becomes available as determined by monitoring, allocations will be made to livestock, wildlife, and nonconsumptive uses for the area west of High Rock Canyon. Allocations will only be made to wildlife and nonconsumptive uses for the canyon bottoms and east of the canyon. (Existing decisions to be effected Subunit 1, Decision Number 3.)

4. Allow for a change in class of livestock from sheep to cattle in the entire subunit. Allow livestock to graze west of High Rock Canyon and north of Little High Rock Canyon and designate this area for intensive livestock grazing. Allow cattle to graze in the canyon bottoms and east of High Rock Canyon on a prescriptive basis only. (Grazing will be scheduled when it provides a benefit to other resource values. This area will not be grazed on an annual or

regular basis. Existing decision to be effected Subunit 1, Decision Number 4.)

5. Drop decision giving preference to Bunyard's livestock operation over Earp's livestock operation. (Exisiting decision to be effected, General Decisions, Decision Number 1.)

6. Designate High Rock and Little High Rock Canyon propers as a special management area (ACEC). (New decision.)

7. Modify the Massacre Lakes Wild Horse Herd Management Area to include Sagehen Allotment. Maintain a total population of 10 to 20 horses in the Massacre Lakes HMA. (Decision being effected Subunit 2, Decision Number 15.)

8. Combine Mosquito, Little Valley and Holy Allotments into one allotment hereafter to be called the Mosquito Valley Allotment. Also, include a portion (equal to satisfy Leininger's proportionate share of AUMs) of Horse Lake Allotment to be fenced in and be a park of the Mosquito Valley Allotment. (New decision.)

For further information regarding the decisions, contact: Lee Delaney, Area Manager, Surprise Resource Area, P.O. Box 460, Cedarville, California 96104.

Supplementary Information

The amendment process was started with the publication of the Notice of Intent in the January 27, 1983 **Federal Register**. The Notice of Availability to review planning criteria was published in the April 28, 1983 issue of the **Federal Register**. A public meeting was held on February 15, 1983 in Cedarville.

The decisions will be implemented 30 days after this date of publication with the exception of the ACEC decision. This decision will be implemented 60 days after this date of publication.

Protests to these plan amendment decisions will be accepted up to 30 days after this date of publication.

All parts of this plan amendment may be protested. Protests should be sent to the Director, Department of the Interior, Bureau of Land Management, 18th and C Streets, NW., Washington, D.C. 20240, prior to the end of the 30-day protest period, and should include the following information.

—The name, mailing address, telephone number, and interest of the person filing the protest

—A Statement of the issue or issues being protested.

—A Statement of the part or parts being protested.

—A copy of all documents addressing the issue or issues that were submitted during the planning process by the protesting party or an indication of the date the issue or issues were discussed for the records

—A short concise statement explaining why the BLM State Director's proposed decision (Preferred Alternative) is wrong.

C. Rex Cleary,

Susanville District Manager.

[FR Doc. 84-299 Filed 1-5-84; 8:45 am]

BILLING CODE 4310-84-M

Intent to Prepare an Environmental Impact Statement and Conduct Mail-Out Scoping; Shute Creek Natural Gas Treatment Plant

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Prepare an environmental impact statement (EIS) and conduct mail-out scoping on the construction and operation of a carbon dioxide (CO_2) pipeline from Exxon's proposed Shute Creek natural gas treatment plant site near Opal, Wyoming, to Chevron's Rangely Unit oil field near Rangely, Colorado. The CO_2 would be used for tertiary oil revovery. Oil recovery is not expected to be part of the action under analysis.

The pipeline and associated ancillary facilities would pass through Sweetwater and Lincoln Counties, Wyoming; Moffat and Rio Blanco Counties, Colorado; and Dagget and Uintah Counties, Utah.

SUMMARY: This notice describes the action to be analyzed in the EIS; the geographic area that would be affected; the preliminary list of issues and concerns; the scoping process to be used; the locations of offices that have information for public review, both during and at the completion of the process; and the BLM contact for further information.

The action to be analyzed in the EIS consists of the construction and operation of a 180-mile-long, 16-inch diameter CO_2 pipeline. The CO_2 would be produced as a by-product in the natural gas treatment plant proposed for construction by Exxon, and would be carried to Chevron's Rangely Unit oil field, where it would be injected into the oil-bearing strata for tertiary oil recovery. Ancillary facilities would include block valves, a metering terminal, four to seven microwave repeater stations for communications, and a booster pump station near Rock Springs and another in the Rangely Unit oil field. Exxon's proposed natural gas treatment plant is the Shute Creek plant site analyzed in the Riley Ridge Natural Gas Project EIS, Draft and Final, 1983.

BLM will be preparing the EIS on the Rangely CO_2 Pipeline Project. Other agencies have been queried as to their interest in becoming cooperating agencies.

Geographic Area: The geographic area to be analyzed for effects is generally in southwest Wyoming, northeast Utah, and northwest Colorado. A CO_2 pipeline would extend 180 miles from the proposed Exxon natural gas treatment plant near Opal, Wyoming, past Rock Springs, to Rangely, Colorado. Alternate routes would be in the same general vicinity. The proposed and alternate routes would be located in Lincoln and Sweetwater Counties in Wyoming, Dagget and Uintah Counties in Utah, and in Moffat and Rio Blanco Counties in Colorado. Regional and cumulative impacts may extend somewhat beyond these geographic areas.

Issues and Concerns: The following important issues and concerns have been indentified to date:

1. Tight construction areas, including Jesse Ewing Canyon, Red Creek Escarpment, and the head of Rye Grass Draw.

DATES: The scoping packets will be available after December 27, 1983. Responses and comments will be accepted through January 18, 1984.

The packet is being mailed to interested persons selected in part, from the mailing lists for the Chevron Phosphate Pipeline and the Riley Ridge Natural Gas Project Draft EISs.

ADDRESSES: Information and scoping main-out packets for the proposed CO_2 pipeline and the EIS can be obtained by writing or visiting the following offices:

BLM, Wyoming State Office, 2515 Warren Avenue, P. O. Box 1828, Cheyenne, Wyoming 82003;

BLM, Rock Springs District Office, P. O. Box 1869 Rock Springs, Wyoming 82901–1869;

BLM, Big Sandy/Salt Wells Resource Areas, P. O. Box 1170, 79 Winston Drive, Gateway Building, Rock Springs, Wyoming 82902–1170;

BLM, Kemmerer Resource Area, P. O. Box 632, Kemmerer, Wyoming 83101;

BLM, Utah State Office, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111;

BLM, Vernal District Office, 170 South 500 East, Vernal, Utah 84078;

2. The sensitivity of the Red Creek Badlands Area of Critical Environmental Concern to potential impact.

3. Three crossings of the Green River.

4. The concept of yet another pipeline in the corridors.

5. The economic and social impact of construction on the communities near the proposed and alternative pipeline

routes and cumulative impacts due to interrelationships with other planned or proposed actions.

6. Potential impacts to wildlife and habitat, to recreation, to visual resources, and to land uses.

7. Potential impacts form unauthorized, unregulated occupancy of public lands outside the community (i.e unauthorized camping, camping on livestock waters, littering, etc).

8. Historical trail crossings and cultural resource impacts.

9. Potential impacts to Trona mining operations.

10. Potential impacts to livestock trailing and wildlife migration due to pipeline trench openings.

The public is encouraged to present their ideas and views on these and other issues and concerns. All issues and concerns will be considered in preparing the EIS.

The scoping process used to collect issues and concerns on the proposed activities will involve a mail-out packet, which individuals may request, fill out, and return to the BLM Division of EIS Services at the following address:

BLM Division of EIS Services, 555 Zang Street, First Floor East, Denver, Colorado 80228. Attention: Janis VanWyhe, Project Leader.

BLM, Colorado State Office, 1037 20th Street, Denver, Colorado 80202;

BLM, Craig District Office, P. O. Box 248, Craig, Colorado 81625; and

BLM, White River Resource Area, P. O. Box 928, Meeker, Colorado 8164.

Scoping comments should be sent to the BLM Division of EIS Services office in Denver.

FOR FURTHER INFORMATION CONTACT: Janis VanWyhe, Bureau of Land Management, Division of EIS Services, 555 Zang Street, First Floor East, Denver, Colorado 80228.

If at any time during the EIS process, any person wishing to raise issues for consideration in the EIS he/she should feel free to do so by contacting any of the above BLM offices.

Hillary A. Oden,

State Director, Wyoming.

[FR Doc. 84-357 Filed 1-5-84; 8:45 am]

BILLING CODE 4310-22-M

[Colorado 35522]

Proposed Reinstatement; Colorado

Notice is hereby given that a petition for reinstatement of oil and gas lease C-35522 for lands in Huerfano County, Colorado was timely filed and was accompanied by all the required rentals and royalties accruing from October 1, 1983, the date of termination.

The lessee has agreed to new lease terms for rentals and royalties at rates of $5.00 and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee for the lease and has reimbursed the Bureau of Land Management for the estimated cost of this Federal Register notice.

Having met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Minerals Lands Leasing Act of 1920, as amended, (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective October 1, 1983, subject to the original terms and conditions of the leases and the increased rental and royalty rates cited above.

Questions concerning this notice may be directed to Barbara Benz of the Colorado State Office at (303) 837-5551.

Evelyn W. Axelson,

Acting Chief, Mineral Leasing Section.

[FR Doc. 84-298 Filed 1-5-84; 8:45 am]

BILLING CODE 4310-JB-M

Worland District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with Pub. L. 91-463, Pub. L. 94-579, Pub. L. 95-514, and 43 CFR Part 1780, that a meeting of the Worland District Advisory Council will be held on February 15, 1984, at 9:30 a.m. Agenda for the meeting will include the following:

1. Introduction and Opening Comments.
2. Cooperative Management Agreements.
3. Outfitter Permits.
4. Status of the BLM/Minerals Management Merger Service (MMS) merger.
5. North Fork Well EIS and the environmental review of the Dick Creek oil and gas development proposal.
6. Westside Irrigation Project Proposal.
7. Known Geologic Structures Project.
8. Arrangements for next meeting.

The meeting is open to the public. Interested persons may make oral statements to the Council between 11:30 a.m. and 12 noon, or file written statements for the Council's consideration. Anyone wanting to make an oral statement must notify the District Manager by February 10, 1984. Depending on the number of persons wanting to make oral statements, a per-person limit may be established.

DATE: February 15, 1984.

ADDRESS: Bureau of Land Management Office, Conference Room, 1700 Robertson Avenue, Worland, Wyoming 82401.

FOR FURTHER INFORMATION CONTACT: Ed Fisk, Associate District Manager, Bureau of Land Management, 1700 Robertson Avenue, Worland, Wyoming 82401 (307/347-6151).

SUPPLEMENTARY INFORMATION: Summary minutes of the meeting will be maintained in the District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

Chester E. Conard,

District Manager.

[FR Doc. 84-292 Filed 1-5-84; 8:45 am]

BILLING CODE 4310-22-M

[W-69372; W-78858]

Wyoming; Proposed Reinstatement of Terminated Oil and Gas Leases

Pursuant to the provisions of Pub. L. 31-245 and Title 43 Code of Federal Regulations, Section 3108-2-1(c), and Pub. L. 97-451, petitions for reinstatment of oil and gas lease W-69372 for lands in Johnson County, Wyoming, and oil and gas lease W-78858 for lands in Johnson County, Wyoming, were timely filed and accompanied by all the required rentals accruing from the dates of termination. The lessees have agreed to new lease terms for rentals and royalties at rates of $5.00 per acre, and 16⅔ percent, respectively.

The lessees have paid the required $500.00 administrative fee and will reimburse the Department for the cost of this Federal Register notice. The lessees having met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate lease W-69372 effective November 1, 1982, lease W-78858 effective November 1, 1983, subject to the original terms and conditions of the leases and the increased rental and royalty rates cited above.

Harold G. Stinchcomb,

Chief, Branch of Fluid Minerals.

[FR Doc. 84-297 Filed 1-5-84; 8:45 am]

BILLING CODE 4310-22-M

[I-19669, I-19670, I-19675]

Realty Action, Sale of Public Lands in Power County Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following lands have been examined and, through land use planning which included public input, it has been determined that the sale of these parcels is consistent with section 203(a)(1) of the Federal Land Policy and Management Act of 1976 (FLPMA). None of the parcels are presently available for livestock grazing; therefore, no cancellation of grazing preference is required under the regulations in 43 CFR 4110.4–2(a). The lands will be offered for sale using competitive and modified competitive bidding procedures (43 CFR 2711.3–1,2) for no less than the appraised fair market value. Any bids for less than such value will be rejected as required by FLPMA. The appraised fair market value will be available upon request from the Burley BLM District Office. Only sealed bids will be accepted. A bid will also constitute an application for conveyance of the mineral rights, except oil and gas. The mineral interests being offered for conveyance have no known monetary value. Each bidder must submit a fifty dollar ($50) non-returnable filing fee for the mineral conveyance (43 CFR 2720.1–2(c)) and one-fifth of the full bid price (43 CFR 2711.3–1(d)), with the bid. Failure to deposit these sums will result in disqualification as the high bidder. The authorized officer shall then determine whether to accept the next highest bid, withdraw the public lands from the market or re-offer them for sale at a later date.

BOISE MERIDIAN, IDAHO

Name	Legal description	Acreage	Type bidding
Parcel I-19669 (Bradley Mountain)	T. 10 S., R. 34 E., Sec. 3, lot 1	[illegible]	Modified.
Parcel I-19670 (Boundary)	T. 7 S., R.32 E., Sec. 29, lot 4; Sec. 32, Lot 1	55.06	Competitive.
Parcel I-19675 (G.K.)	T. 6 S., R. 32 E., Sec. 8, NE¼NW¼	40.00	Modified

On parcel I–19669 the bidding will be modified to allow only designated bidders the right to bid. This right is offered to prevent inequities to adjoining landowners. The designated bidders for parcel I–19669 are George Bradley of Arbon, Idaho, John McNabb of Pocatello, Idaho, and the Marsh Valley Cattle Corporation of Arimo, Idaho.

On parcel I–19675 the bidding will be modified to allow a designated bidder the right to meet the high bid. This right is offered to protect existing uses and prevent inequities to adjoining landowners. The designated bidder on I–19675 is George Kopp of American Falls, Idaho.

The patents when issued will contain the following reservations to the United States:

1. A right-of-way for ditches and canals constructed under the act of August 30, 1890 (43 U.S.C. 945).

2. All oil and gas rights (43 U.S.C. 1719).

In addition, the patents will be subject to the following conditions:

1. All valid existing rights and reservations of record.

The patent for parcel I–19670 will also contain the following condition:

2. A 60 foot (30 feet each side of center) road right-of-way to Power County for the road crossing Lot 1 of Section 32, T. 7 S., R. 32 E., B.M. as shown on the 1971 Wheatgrass Bench, Idaho 7.1 Minute Quadrangle published by the U.S. Geologic Survey.

DATE: All sealed bids must be received by 1:30 p.m. on March 21, 1984. At this time all bids will be opened at the Burley District Office.

ADDRESSES: Sealed bids will be accepted at the Burley District Office, Rt. 3, Box 1, 200 South Oakley Highway, Burley, Idaho, 83318. Additional information concerning the land, terms and conditions of the sale, and bidding instructions may be obtained from Curt Krambeer, Deep Creek Realty Specialist, at the above address, or by calling (208) 678–5514.

SUPPLEMENTARY INFORMATION: For a period of 45 days from the date of this notice, interested parties may submit comments regarding the proposed action. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

The BLM reserves the right to accept or reject any and all offers, or withdraw any land or interest in land from sale if, in the opinion of the authorized officer, consummation of the sales would not be fully consistent with sec. 203(g) of FLPMA or other applicable laws.

Dated: December 28, 1983.

Ronnie Y. Yokota,

Acting District Manager.

[FR Doc. 84–310 Filed 1–5–84; 8:45 am]

BILLING CODE 4310-GG-M

[N–38784, N–38785, N–38786]

Nevada; Conveyance

December 27, 1983.

Notice is hereby given that, pursuant to the Act of December 23, 1980 (94 Stat. 3381; 43 U.S.C. 1701), Foothill Investment Company, Las Vegas, Nevada, has purchased, by competitive sale, public lands in Clark County described as:

Mount Diablo Meridian, Nevada

T. 20 S., R. 60 E.,
Sec. 27, NE¼SE¼SE¼SW¼, SW¼NW¼SW¼SE¼, NW¼SW¼SW¼SE¼.

Containing 7.5 acres.

The purpose of this notice is to inform the public and interested State and local governmental officials of the issuance of a conveyance document to Foothill Investment Company.

Wm. J. Malencik,

Deputy State Director, Operations.

[FR Doc. 84–308 Filed 1–5–84; 8:45 am]

BILLING CODE 4310-HC-M

[A–18932]

Arizona; Conveyance

December 30, 1983.

Notice is hereby given that the following described land has been sold pursuant to sections 203 and 209 of the Federal Land Policy and Management Act of 1976 for $57,050 at public auction held at Prescott, Arizona, on September 29, 1983.

Gila and Salt River Meridian, Arizona

T. 11 N., R. 2 E.,
Sec. 9, NE¼SE¼.

Comprising 40 acres in Yavapai County.

The purpose of this notice is to inform the public and interested State and local government officials of the transfer of the land out of Federal ownership.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84–352 Filed 1–5–84; 8:45 am]

BILLING CODE 4210-32-M

Battle Mountain District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Grazing Advisory Board meeting.

SUMMARY: In accordance with Pub. L. 94–579, a meeting of the Battle Mountain District Grazing Advisory Board will be held.

DATE: February 15, 1984, begin at 9:00 a.m. in the Battle Mountain District Office conference room at North 2nd and Scott Streets, Battle Mountain, Nevada.

FOR FURTHER INFORMATION CONTACT: H. James Fox, District Manager, P.O. Box 1420, Battle Mountain, Nevada 89820, or phone (702) 635–5181.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will include:

1. Election of grazing advisory board chairperson and vice-chairperson.
2. An update on range improvement projects to be completed in fiscal year 1984,
3. A review of the investment analysis procedures for range improvement projects,
4. An update on the Tonopah Experimental Stewardship program,
5. A review of Shoshone-Eureka Resource Area's emphasis in the monitoring program,
6. A discussion on the effects of adding Esmeralda County to the Tonopah Resource Area, and
7. Recommendations from the grazing advisory board concerning BLM's rangeland management program.

The meeting is open to the public. Interested persons may make oral statements to the board between 3:30 and 4:00 p.m. on February 15, 1984 or file written statements for the Board's consideration. If you wish to make oral comments, please contact H. James Fox by February 8, 1984.

Dated: December 29, 1984.

H. James Fox,

District Manager, Battle Mountain, Nevada.

[FR Doc. 84–351 Filed 1–5–84; 8:45 am]

BILLING CODE 4310–84–M

[CA 7004 WR, CA 7006 WR, CA 7019 WR, CA 7020 WR, CA 7061 WR, CA 7072 WR, and CA 7562 WR]

California; Proposed Continuation of Withdrawals of Land; Opportunity for Public Hearing

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action provides notice and opportunity for public hearing of the proposed continuation of seven withdrawals affecting a total of 4,045.36 acres of public land and 1,276.05 acres of mineral estate withdrawn for the Friant Unit of the Central Valley Project. The lands remain closed to surface entry and mining, including the mineral estate from operation of the mining laws. The lands, including the mineral estate, have been and will remain open to mineral leasing.

FOR FURTHER INFORMATION CONTACT: Dianna Storey, California State Office, (916) 484–4431.

SUPPLEMENTARY INFORMATION: Pursuant to the provisions of Section 204(*l*) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754; 43 U.S.C. 1714, the Bureau of Reclamation, Mid-Pacific Region, proposes to continue seven existing withdrawals of land for a period of 50 years. The withdrawals are described as follows:

Mount Diablo Meridian

CA 7019 WR

Secretarial Order of July 7, 1936

T. 10 S., R. 21 E.,
Sec. 24, lots 3, 4, and W½SE¼;
Sec. 25, lot 1 and SW¼NW¼;
Sec. 26, SE¼NE¼;
Sec. 35, NE¼SE¼;
T. 10 S., R. 22 E.,
Sec. 7, SE¼SW¼ and SW¼SE¼;
Sec. 8, lots 10 through 15, inclusive;
Sec. 9, lots 19, 20, 21, 22, 23, 25, 26, 27, and 30;
Sec. 17, lots 4, 11, 19, and NE¼NW¼;
Sec. 18, E½NW¼ and NE¼SW¼;
Sec. 19, lot 4 and NE¼SW¼;
Sec. 30, lots 1, 14, and 15.

The areas described aggregate 1,485.80 acres in Fresno and Madera Counties.

CA 7562 WR

Secretarial Order of November 16, 1932

T. 10 S., R. 22 E.,
Sec. 3, NE¼SW¼.

The area described contains 40 acres in Madera County.

CA 7072 WR

Secretarial Order of March 17, 1949

T. 10 S., R. 22 E.,
Sec. 3, lot 13, S½NE¼, and N½SE¼.

The area described contains 203.94 acres in Fresno and Madera Counties.

CA 7020 WR

Secretarial Order of July 29, 1936

T. 10 S., R. 22 E.,
Sec. 7, NE¼SE¼;
Sec. 9, lot 24.

The area described aggregate 82.23 acres in Madera Counties.

CA 7006 WR

Secretarial Order of July 29, 1936

T. 10 S., R. 22 E.,
Sec. 7, SE¼SE¼;
Sec. 17, lot 20 and NW¼NW¼;
Sec. 19, lots 7, 8, and SE¼SE¼;
Sec. 30, lots 8, 9, and 10.

The areas described aggregate 362.49 acres in Fresno and Madera Counties.

CA 7061 WR

Secretarial Order of June 30, 1920

T. 10 S., R. 21 E.,
Sec. 24, NE¼SW¼;
Sec. 25, lots 5, 6, NW¼NW¼, SE¼NW¼, NW¼SW¼, and SW¼SE¼;
Sec. 26, NE¼NE¼;
Sec. 27, lots 5 and 6;
Sec. 34, N½NE¼;
Sec. 35, NE¼NW¼ and W½SE¼.
T. 10 S., R. 21 E.,
Sec. 2, lot 5.
T. 10 S., R. 22 E.,
Sec. 3, lots 11 and 12;
Sec. 8, lots 16 through 22, inclusive;
Sec. 9, lots 28 and 29;
Sec. 10, S½SW¼;
Sec. 17, lots 3, 17, and 18;
Sec. 18, lots 5 through 11, inclusive, NE¼NE¼, and SE¼SW¼;
Sec. 19, NE¼NW¼ and SW¼SW¼;
Sec. 30, lots 3, 4, 7, 13, E½NW¼, and NE¼SW¼.

The areas described aggregate 1,870.90 acres in Fresno and Madera Counties.

The following described lands were patented pursuant to the provisions and limitations of the Act of December 29, 1916 (39 Stat. 862); therefore, the withdrawal pertains only to the mineral estate:

T. 10 S., R. 21 E.,
Sec. 14, SE¼NW¼, NE¼SW¼, and NW¼SE¼;
Sec. 26, lots 1 through 4, inclusive, and E½W½;
Sec. 35, SW¼NE¼.

The areas described aggregate 472.88 acres in Fresno and Madera Counties.

CA 7004 WR

Secretarial Order of May 19, 1936

The following described lands were patented pursuant to the provisions and limitations of the Act of December 29, 1916 (39 Stat. 862); therefore, the withdrawal pertains only to the mineral estate:

T. 10 S., R. 21 E.,
Sec. 14, SW¼NE¼, SW¼NW¼, and NW¼SW¼;
Sec. 26, SE¼;
Sec. 35, N½NE¼ and SE¼NE¼.
T. 11 S., R. 21 E.,
Sec. 2, lots 1, 2, 3, 6, 7, 8, and SE¼NE¼.
T. 10 S., R. 22 E.,
Sec. 18, lots 3 and 4;
Sec. 19, lot 1;
Sec. 30, lots 11 and 12.

The areas described aggregate 803.17 acres in Fresno and Madera Counties.

1. The purpose of the withdrawals is to protect lands around Millerton Lake, Friant Unit of the Central Valley Project. The mineral estates of those lands patented pursuant to the Act of December 29, 1916 (36 Stat. 862), are

segregated from operation of the mining laws. Otherwise, the withdrawals segregate the lands from operation of the public land laws generally, including the mining laws. No change in the segregative effect of the withdrawals or use of the land is proposed.

2. Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal continuations. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal continuations must submit a written request to the Chief, Branch of Lands and Minerals Operations within 90 days from the date of publication of this notice. If the State Director, Bureau of Land Management, in his discretion, determines that a public hearing is justified, a notice of the time and place will be published in the **Federal Register** at least 30 days prior to the scheduled date of the meeting.

3. In addition, for a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuations may present their views in writing to the Chief, Branch of Lands and Minerals Operations, California State Office.

4. The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources, and will review the withdrawal rejustification to ensure that, (1) continuation would be consistent with the statutory objectives of the programs for which the lands are dedicated; (2) the areas involved are the minimum essential to meet the desired needs; (3) the maximum concurrent utilization of the lands is provided for; and (4) an agreement is reached on the concurrent management of the lands and their resources.

5. The authorized officer will be also prepare a report for consideration by the Secretary of the Interior, the President, and the Congress who will determine whether or not the withdrawals will be continued, and if so, for how long. The determination on the continuation of the withdrawals will be published in the **Federal Register**. The existing withdrawals will continue until such final determination is made.

All communications in connection with the proposed withdrawal continuations and opportunity for public hearing should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, California State Office, Room E–2841, 2800 Cottage Way, Sacramento, California 95825.

Eleanor Wilkinson,

Chief, Lands and Locatable Minerals Section, Branch of Lands and Minerals Operations.

[FR Doc. 84–311 Filed 1–5–84; 8:45 am]

BILLING CODE 4310–84–M

[N–38114]

Nevada; Conveyance

December 27, 1983.

Notice is hereby given that, pursuant to the Act of December 23, 1980 (94 Stat. 3381; 43 U.S.C. 1701), Robert Gregory Stuart, Las Vegas, Nevada, has purchased, by competitive sale, public lands in Clark County described as:

Mount Diablo Meridian, Nevada

T. 21 S., R. 60 E.,
Sec. 9, W½NE¼SE¼NE¼;
containing 5 acres.

The purpose of this notice is to inform the public and interested State and local governmental officials of the issuance of a conveyance document to Robert Gregory Stuart.

Wm. J. Malencik,

Deputy State Director, Operations.

[FR Doc. 84–355 Filed 1–5–84; 8:45 am]

BILLING CODE 4310–84–M

Vale District Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Vale District Grazing Advisory Board will be held January 25, 1984.

The meeting will begin at 9:00 a.m. in the conference room of the Vale district office, 100 East Oregon Street, Vale, Oregon 97918.

The advisory board will discuss the Rangeland Program Summary for the Southern Malheur EIS area and will review proposed allotment boundary adjustments and allotment management plans for the EIS area. The board will also consider a policy regarding livestock shifts in case of wildfire.

The meeting is open to the public. Interested persons may make oral statements to the board or may file written statement for the board's consideration. Anyone wishing to make oral statements may do so at 3:00 p.m. the day of the meeting.

Summary of the board meeting will be maintained in the district office and be available during regular business hours for public inspection, for the cost of duplication, within 30 days following the meeting.

December 21, 1983.

David Lodzinski,

Associate District Manager.

[FR Doc. 84–356 Filed 1–5–84; 8:45 am]

BILLING CODE 4310–84–M

[INT RMP/FEIS 84–1]

Availability of the Proposed Resource Management Plan/Final Environmental Impact Statement for the Wells Resource Area, Nevada

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of availability of the Proposed Resource Management Plan/ Final Environmental Impact Statement for the Wells Resource Area, Elko District, Elko, Nevada.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 and section 202 of the Federal Land Policy and Management Act of 1976, the BLM, Elko District has prepared a combined Proposed Resource Management Plan/Final Environmental Impact Statement for the Wells Resource Area, Elko District, Elko, Nevada.

SUPPLEMENTARY INFORMATION: The Proposed Wells Resource Management Plan/Final Environmental Impact Statement is a comprehensive land use planning document which establishes management actions and objectives for resource condition and use levels, the standards for monitoring and evaluating the plans' effectiveness, and the need for more detailed management plan(s) and support actions. It also is an environmental impact statement which analyzes the effects of implementing a multiple use resource management plan on 4.1 million acres of public land in the east half of Elko County in northeastern Nevada. Four alternatives were considered along the Proposed Action. They were the No Action, Resource Production, Midrange, and Resource Protection Alternatives.

A protest may be made on this proposed resource management plan within 30 days from release. Any such protest must be in writing to the Director, Bureau of Land Management, 18th and C Streets N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Wells Area Manager, Elko District Office, P.O. Box 831, Elko, Nevada 89801 (702) 738–4071.

Copies of the RMP/FEIS are available for review at the following locations:

Bureau of Land Management, Office of Public Affairs, 18th and "C" Streets NW., Washington, D.C. 20240
Bureau of Land Management, Nevada State Office, P.O. Box 12000, 300 Booth Street, Reno, NV 89520
Bureau of Land Management, Las Vegas District Office, 4765 W. Vegas Drive, Las Vegas, NV 89102, (702) 385–6403
Bureau of Land Management, Winnemucca District Office 705 E. 4th Street, Winnemucca, NV 89445, (702) 623–3676
Bureau of Land Management, Elko District Office, 2002 Idaho Street, Elko, Nevada 89801
Bureau of Land Management, Ely District Office, Star Route 5, Box 1 Ely, NV 89301 (702) 289–4965
Bureau of Land Management, Carson City District Office 1050 E. Williams Street Carson City, NV 89701 (702) 882–1631
Bureau of Land Management, Battle Mountain District Office North 2nd & Scott Streets Battle Mountain, NV 89820 (702) 635–5181

Also, copies are available for review at the following public libraries:

Elko County Library, 720 Court Street, Elko, NV 89801
Government Publications Dept., University of Nevada, Reno, Library, Reno, NV 89557
Nevada State Library, Library Building, Carson City, NV 89701
University of Nevada, Las Vegas, James R. Dickensen Library, 4505 Maryland Parkway, Las Vegas, NV 89154
Wells Branch Library, Wells, NV 89835
White Pine County Library, Campton Street, Ely, NV 89301

A copy of the RMP/FEIS will be sent to all individuals, agencies, and groups who have expressed interest in the Wells Resource Area planning process, and a limited number of copies are available upon request to the District Manager at the above address.

Dated: December 28, 1983.

[FR Doc. 84-389 Filed 1-5-84; 8:45 am]
BILLING CODE 4310-84-M

[NM 012273]

New Mexico; Proposed Continuation of Withdrawal; Public Land Order

Date: December 27, 1983.

In accordance with the provisions of section 204 of the Federal Land Policy and Management Act of 1976, the Department of the Army has filed a statement of justification for the continuation of Public Land Order 995 dated August 19, 1954. The Public Land Order withdrew the following lands from all forms of appropriation under the public land laws, including the mining and mineral leasing laws for use of the Department of the Army in connection with Sandia Base, New Mexico:

New Mexico Principal Meridian

T. 8 N., R. 4 E.,
Sec. 1, lots 5 to 12, inclusive;
Sec. 3, lots 5 to 16, inclusive;
Sec. 4, lots 5 to 16, inclusive;
Sec. 5, lots 5 to 16, inclusive;
Sec. 6, lots 6 to 17, inclusive;
T. 9 N., R. 4 E.,
Sec. 33, N½N½;
T. 9 N., R. 4½ E.,
Secs. 13, 24, 25, and 26;
T. 8 N., R. 5 E.,
Secs. 1 to 5, inclusive, those parts north of Isleta Pueblo Grant;
Sec. 6, lots 1 to 8, inclusive, and S½N½;
T. 9 N., R. 5 E.,
Secs. 13 to 36, inclusive.

The areas described aggregate 21,163.11 acres.

The Bureau of Land Management proposes continuation of the withdrawal in its entirety for 25 years. The purpose of the withdrawal is for research and development projects and testing. No change in the segregative effect or use of the lands would be affected by the continuation.

Notice is hereby given that a public hearing may be afforded in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned within 90 days of the publication of this notice. Upon a determination by the State Director, BLM, that a public hearing should be held, a notice will be published in the **Federal Register** giving the time and place of such hearing. Public hearings will be scheduled and conducted in accordance with BLM Manual 2351.16B. Additionally, all persons who wish to submit comments, suggestions or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned authorized officer of the BLM within 90 days of the date of publication of this notice.

The authorized officer of the BLM will undertake such investigations as are necessary and prepare a report for consideration by the Office of the Secretary of the Interior. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

All communications in connection with the proposed withdrawal continuation should be addressed to the undersigned officer, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501.

Dennis R. Erhart,
Acting Deputy State Director, Operations.

[FR Doc. 84-290 Filed 1-5-84; 8:45 am]
BILLING CODE 4310-FB-M

Minerals Management Service

Outer Continental Shelf; Proposed Development and Production Plan; Availability of Draft Environmental Impact Statement and Intent to Hold Public Hearings

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of Availability for Environmental Impact Statement/ Environmental Impact Report; Amendment.

SUMMARY: Joint Federal/State/County public hearings scheduled to receive oral and written testimony regarding the draft environmental impact statement/ environmental impact report being prepared for the Exxon Santa Ynez Unit/Las Flores Canyon Development and Production Plan have been expanded. Public hearings are now scheduled from 9:00 a.m. to 12:00 noon, 1:00 p.m. to 5:00 p.m. and 7:00 p.m. to 10:00 p.m. on January 10, 1984 at the Santa Barbara County Board of Supervisors Hearing Room, Fourth Floor, 101 East Anapamu Street, Santa Barbara, California.

Robert G. Paul,
Acting Regional Manager, Pacific OCS Region.

December 30, 1983.

[FR Doc. 84-320 Filed 1-5-84; 8:45 am]
BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Texaco U.S.A. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 0310, Block 217, South Marsh Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at

the Office of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 838–0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 30, 1983.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84–350 Filed 1–5–84; 8:45 am]

BILLING CODE 4310–MR–M

Bureau of Reclamation

Colorado River Water Quality Improvement Program; Dirty Devil River Salinity Control Unit, Utah; Notice of Intent To Prepare a Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior proposes to prepare a draft environmental statement integrated with a planning report for the Dirty Devil River Salinity Control Unit, Utah, of the Colorado River Water Quality Improvement Program. The purpose of the unit is to control salt picked up by surface and ground water within the Dirty Devil River Basin by preventing the salt from entering the Colorado River where it causes economic problems for municipal, industrial, agricultural, and water users downstream. Approximately 140,000 tons of salt annually enter the Colorado River from the Dirty Devil River.

Alternatives being evaluated include: pumping saline water from shallow wells and disposing of it by injection into deeper wells, or by pumping it into evaporation ponds; using saline water for cooling purposes on coal-fired powerplants; processing tar sands with saline water; generating power in a solar gradient pond; and preventing seasonal canal seepage from entering ground water by piping winter canal flows. The best plan could include a combination of these alternatives.

This investigation has been underway since 1982. During the intervening time, interested agencies and individuals have been informed of the study's progress and have contributed much information. Future scoping activities will include: Distributing newsletters to provide and solicit information from interested individuals and agencies; setting up public displays; use of a telephone line to solicit comment and information; providing newspapers with information; presentations at area meetings (announced in the local media and Bureau of Reclamation newsletters) to obtain comment and information; and interviews with individuals in the unit area.

Interested public entities and individuals may receive information on the unit and provide input to the planning report/draft environmental statement. The draft should be available for review and comment in the spring of 1987.

To obtain information or provide input, please contact Mr. Rege Leach at the Durango Projects Office, Bureau of Reclamation, 835 Second Avenue, Suite 400, Durango, Colorado 81301; or telephone collect (303) 247–0247.

Dated: December 30, 1983.

Darrell D. Mach,

Acting Commissioner of Reclamation.

[FR Doc. 84–333 Filed 1–5–84; 8:45 am]

BILLING CODE 4310–09–M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Notice of Proposed Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notices of proposed exemptions.

SUMMARY: The motor carriers shown below seek exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343,* 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

DATES: Comments must be received within 30 days after the date of publication in the I.C.C. Register.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood (202) 275–7977.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: December 30, 1983.

By the Commission, Lewis E. Gitomer, Acting Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

MC–F–15542, filed December 6, 1983. RED & TAN ENTERPRISES (Red & Tan) (126 North Washington Ave., Bergenfield, NJ 07621)—Continuance in Control—RED & TAN TOURS (R&TT) (437 Tonnele Ave., Jersey City, NJ 07306). Representative: Michael J. Marzano, 99 Kinderkamack Rd., Westwood, NJ 07675.

Red & Tan, a non carrier, seeks to continue in control of R&TT, upon institution of operations by R&TT in interstate or foreign commerce under certificate No. MC–162174 (Sub-No. 2). Ernest Capitani, Ernest A. Capitani, Jr., Amelia Capitani Gerace, Richard A. Capitani, Ronald Gerace, Janis Gerace, Lóri Finley, Arleen Schmidt, and Mildred Capitani, who control Red & Tan, seek authority to continue in control of R&TT through the transaction.

Through authority granted in previous Commission proceedings, Red & Tan controls Rockland Coaches, Inc., Hudson Bus Transportation Co., Inc., and North Boulevard Transportation Co., all of which are common carriers.

Rockland is a motor common carrier under a certificate in No. MC–29890 and sub numbers thereunder which authorize generally the transportation of passengers and their baggage, and express, and newspapers over regular and irregular routes, between named points in New Jersey and New York.

By certificates issued under Nos. MC–129854 and MC–13492 and subnumbers thereunder, Hudson and North Boulevard, respectively, were granted authority as common carriers to transport (a) passengers and their baggage, over regular routes, between named points in New Jersey and New York, and (b) passengers, in charter and special operations, over irregular routes, between points in the U.S. (except Alaska and Hawaii).

By a decision served October 7, 1983, R&TT was granted authority to transport passengers, over regular routes, between named points in New York and New Jersey.

Note.—R&TT filed a common carrier application in MC–162174 (Sub-No. 2) which was published in the **Federal Register** on August 4, 1983. As a condition to a grant of that authority, applicant was required to file

this continuance in control application or submit an affidavit indicating why such approval is unnecessary.

[FR Doc. 84-307 Filed 1-5-84; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Intent to Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: NYNEX Corporation, 335 Madison Avenue, New York City, New York 10017 (incp. in DE).

2. Directly or indirectly owned wholly-owned subsidiaries which will participate in the operations and address of their respective principal offices:

a. New York Telephone Company, 1095 Avenue of the Americas, New York, New York 10036 (incp. in NY).

b. New England Telephone and Telegraph Company, 185 Franklin Street, Boston, Massachusetts 02107 (incp. in NY).

c. NYNEX Mobile Communications Company, One Blue Hill Plaza, Pearl River, New York 10965 (incp. in DE).

d. NYNEX Mobile Communications Retail Company, One Blue Hill Plaza, Pearl River, New York 10965 (incp. in DE).

e. New York CGSA, Inc., One Blue Hill Plaza, Pearl River, New York 10965 (incp. in DE).

f. Buffalo CGSA, Inc., One Blue Hill Plaza, Pearl River, New York 10965 (incp. in DE).

g. Springwich CGSA, Inc., One Blue Hill Plaza, Pearl River, New York 10965 (incp. in DE).

h. Boston CGSA, Inc., One Blue Hill Plaza, Pearl River, New York 10965 (incp. in DE).

i. NYNEX Materiel Enterprises Company, 441 Ninth Avenue, New York, New York 10001 (incp. in DE).

j. NYNEX Business Information Systems Company, 400 Westchester Avenue, White Plains, New York 10604 (incp. in DE).

k. Empire City Subway Company Limited, 140 West Street, New York, New York 10007 (incp. in NY).

l. NYNEX Network Services Company, One Blue Hill Plaza, Pearl River, New York 10965 (incp. in DE).

m. NYNEX Information Resources Company, 195 Market Street, Lynn, Massachusetts 01901 (incp. in DE).

1. Parent corporation and address of principal office: UNR Industries, Inc., 332 S. Michigan Avenue, Chicago, IL 60604.

2. Wholly-owned subsidiaries which will participate in the operations, and States of incorporation:

(i) Midwest Corporation, a West Virginia corporation.

(ii) Midwest Telecommunications Corp., a Florida corporation.

(iii) Midwest Corporation (NC), a North Carolina corporation.

(iv) Midwest Texas Corp., a Texas corporation.

(v) Buddy's Discount Centers, Inc., a West Virigina corporation.

(vi) UNR-Rohn, Inc. (AL), an Alabama corporation.

(vii) UNR-Rohn, Inc. (IN), an Indiana corporation.

(viii) UNR-Rohn, Inc. (TX), a Texas corporation.

(ix) Rack Systems, Inc., an Illinois corporation.

(x) SBM Corporation, a Delaware corporation.

(xi) UNR International, Inc., a Delaware corporation.

(xii) National Plastics, Inc., an Illinois corporation.

(xiii) Dart, Inc., an Illinois corporation.

(xiv) Leavitt Structural Tubing Co., a Delaware corporation.

(xv) Unarco Industries, Inc., a Delaware corporation.

Unarco Industries, Inc.—
Transportation Equipment Division
Unarco Industries, Inc.—Materials Storage Division
Unarco Industries, Inc.—Commercial Products Division
Unarco Industries, Inc.—Food Handling Division
Unarco Industries, Inc.—Rubber Products Division

(xvi) UNR, Inc., a Delaware Corporation.

UNR, Inc.—Leavitt Division
UNR, Inc.—Home Products Division
UNR, Inc.—Lighting Division
UNR, Inc.—Rohn Division

(xvii) UNR Products, Inc., a Delaware corporation.

(xviii) UNR Freight, Inc., an Illinois corporation.

James H. Bayne,
Acting Secretary.

[FR Doc. 84-306 Filed 1-5-84; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-6; Sub-173F]

Railroads; Burlington Northern Railroad Co.; Abandonment in Sherburne and Mille Lacs Counties, MN; Findings

The Commission has issued a certificate authorizing the Burlington Northern Railroad Company to abandon a portion of railroad extending from railroad milepost 0.08 near Elk River to milepost 18.80 at the end of the line near Princeton, MN, a total distance of 18.72 miles in Sherburne and Mille Lacs Counties, MN. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower lefthand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

James H. Bayne,
Acting Secretary.

[FR Doc. 84-305 Filed 1-5-84; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 30358]

Railroads; Delaware Otsego Corporation, et al.; Exemption From 49 U.S.C. 11301

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 11301 the issuance or issuance and guaranty of notes not exceeding $7,379,000.

DATES: This exemption is effective December 30, 1983. Petitions for reopening must be filed by January 26, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 30358 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423;
(2) Petitioner's representatives:
Lawrence C. Malski, One Railroad Avenue, Cooperstown, NY 13326
and
William P. Quinn, 1600 Penn Mutual Tower, 510 Walnut Street, Philadelphia, PA 19106.

FOR FURTHER INFORMATION CONTACT:
Louis E. Gitomer (202) 275–7245.

SUPPLEMENTARY INFORMATION:
Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: December 30, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Vice Chairman Sterrett did not participate.

James H. Bayne,

Acting Secretary.

[FR Doc. 84–304 Filed 1–5–84; 8:45 am]
BILLING CODE 7035–01–M

[Docket No. AB–33 (Sub-23X)]

Railroads; Union Pacific Railroad Co.; Abandonment; Greeley County; NE; Exemption

Union Pacific Railroad Company (UP) has filed a notice of exemption for an abandonment under 49 CFR Part 1152 Subpart F—*Exempt Abandonments.* The line to be abandoned is the Scotia Branch between milepost 44.574 and milepost 45.943, a distance of approximately 1.369 miles in Greeley County, NE.

UP has certified (1) that no local traffic has moved over the line for at least 2 years and overhead traffic is not moved over the line, and (2) that no formal complaint filed by a user of rail service on the line regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in Nebraska has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines,* 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen,* 360 I.C.C. 91 (1979).

The exemption will be effective on February 5, 1984 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by January 16, 1984, and petitions for reconsideration, including environmental, energy and public use concerns, must be filed January 26, 1984, with:

Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

A copy of any petition filed with the Commission should be sent to applicant's representatives:

Jeanna L. Regier, Union Pacific Railroad Company, 1416 Dodge Street, Omaha, NE 68179

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio.*

A notice to the parties will be issued if the exemption is conditioned upon environmental or public use conditions.

Decided: January 3, 1984.

By the Commission, Richard Lewis, Acting Director, Office of Proceedings.

James H. Bayne

Acting Secretary.

[FR Doc. 84–446 Filed 1–5–84; 8:45 am]
BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to Clean Water Act; American Fabricators, Inc.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on December 20, 1983 a proposed consent decree in *United States* v. *American Metal Fabricators, Inc.,* Civil Action No. 83–609–L was lodged with the United States District Court for the District of New Hampshire. The proposed consent decree requires American Metal Fabricators of Hudson, New Hampshire to comply with final effluent limitations to be established pursuant to a NPDES permit and interim effluent limitations and requires payment of a civil penalty.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *American Metal Fabricators, Inc.,* D.J. Ref. 90–5–1–1–1986.

The proposed consent decree may be examined at the office of the United States Attorney, 55 Pleasant Street, Concord, New Hampshire, at the Region 1 Office of the Environmental Protection Agency, JFK Federal Building, Boston, Massachusetts and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy of the proposed consent decree, refer to the case, proposed consent decree and D.J. reference number.

F. Henry Habicht, II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 84–286 Filed 1–5–84; 8:45 am]
BILLING CODE 4410–01–M

Drug Enforcement Administration

[Docket No. 83–25]

Arthur J. Grahl, M.D.; Denial of Application

On July 14, 1983, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) directed an Order to Show Cause to Arthur J. Grahl, M.D., 57 West 57th Street, New York, New York 10019 (Respondent). The order sought to deny an application for registration as a practitioner under 21 U.S.C. 824 executed by Respondent on November 29, 1982. The statutory predicate for the order was Respondent's conviction on December 31, 1980, in the United States District Court for the Southern District of New York of one count of dispensing and distributing Tuinal, a Schedule II controlled substance and Valium, a Schedule IV controlled substance, in violation of 21 U.S.C. 841(a)(1). Respondent, through counsel, requested an extension of time in which to reply to the Order to Show Cause. The matter was placed on the docket of Administrative Law Judge Francis L. Young, who granted a two-week extension September 19, 1983, under 21 CFR 316.47(b) finding that there was good cause shown for the request.

Respondent did not file a request for a hearing despite the extension of time and, on September 23, 1983, Judge Young terminated the proceedings before him. The Administrator finds that Respondent has waived his opportunity for a hearing by failing to request a hearing within the time ordered by the Administrative Law Judge, and enters this final order based on the investigative file and the record as it now appears.

Having examined the investigative file, the Administrator finds that Respondent worked as a physician at the Unity Health Care Clinic in the Bronx, New York in 1978 and 1979. Unity was a notorious source of prescriptions for controlled substances which

appeared throughout New York City. The type of medical practice at Unity is captured by the discussion of the court in *United States* v. *Krasanoff*, 480 F. Supp. 723 (S.D. N.Y. 1979), a motion for suppression of evidence. DEA Special Agent Gerald Franciosa was the affiant for a search warrant issued for the premises at Unity. The court rejected the defense argument that the evidence seized should be suppressed since SA Franciosa was not a physician and therefore unable to testify whether practices at Unity were medically proper. The court said: "However upon careful review of Agent Franciosa's affidavit, complaint and accompanying exhibits, it is clear that it was unnecessary for the affiant to be versed in the practice of medicine to have reason to believe that the prescriptions were issued for other than legitimate medical purposes and that the records would reflect criminal activity. There were sufficient indicia of nonmedical criminal activity upon which Agent Franciosa could base his affidavit. For example, Special DEA Agents went to the facility and were given pills 'without the benefit of physical examination, medical history, or any other meaningful inquiry into their reason for requiring these drugs'. In all, 13 agents made at least 45 visits to the clinic and with one exception received the prescriptions within three to five minutes time with no physical examination, no psychiatric treatment and without meaningful inquiry into their need for such medication." *Id.* at 278.

Dr. Grahl was an active participant in the activity at the Unity Health Clinic. On January 29, 1979, Special Agent George Papantoniou and a cooperating individual proceeded to the Clinic where SA Papantoniou used the file of another individual, Ballard Edwards. The receptionist called the name "Ballard Edwards" and SA Papantoniou was directed to a room in which Respondent was seated. The file indicated that Edwards had not been to the clinic since the previous August. Respondent then asked SA Papantoniou why he was at the clinic and SA Papantoniou responded that he was interested in Tuinal. Respondent asked the Agent in a very leading manner if he had any changes recently in his home which could be affecting him. SA Papantoniou shruggged his shoulders and stated, "Well, if you say so I guess so." Respondent then wrote a prescription for 50 Valium and a prescription for 28 Tuinal. There was no physical examination of SA Papantoniou and no psychiatric consultation. The Administrator notes that Dr. Grahl was hired by Unity as a psychiatrist and that his medical specialty there was supposedly psychiatry.

Respondent also maintained a private medical practice separate from Unity. On February 27, 1980, a DEA informant purchased a prescription for 14 Valium tablets and 28 Tuinal capsules from Respondent at his medical practice at 130 W. 57th Street, New York. The informant was wearing a body recorder at the time and Respondent conducted no physical examination or psychiatric consultation with this individual.

An examination of the records seized at Unity and of records of Respondent's private medical practice shows that these were not isolated incidents. Between December 1978 and February 1979, Respondent saw almost 1,400 patients at Unity. Although he only worked there part time, he saw an average of 24 patients per day in December, 17 per day in January, and 20 per day in February. In late September and early October, 1979, Dr. Grahl saw an average of 17 patients a day, spending roughly 11 minutes with each patient. A comparison of names at Unity and names at Respondent's private medical practice show that at least 44 people who were receiving controlled substances at Unity were also receiving controlled substances from Respondent at his private practice. When Dr. Grahl was arrested, DEA Agents seized from him 66 prescription forms made out alternately for Tuinal and Valium. None of these forms bore the name of a patient. The Agents also seized a second batch of 63 prescription forms made out alternately for 28 Tuinal, Valium and Elavil. Again, none of these prescription forms bore the name of a patient.

Respondent was convicted following a bench trial and sentenced to six months incarceration, two years special parole term under 21 U.S.C. 841 and a $5,000 fine. In an unreported decision, the United States Court of Appeals for the Second Circuit upheld Respondent's conviction. *United States* v. *Grahl*, 81-1114 (filed June 16, 1981). The court concluded that Respondent had falsified a medical chart, attempted to adduce responses that would justify prescribing Tuinal and Valium, and despite failing to obtain the appropriate answers, prescribed those drugs nevertheless. The court concluded that such action on the part of a medical practitioner amply supports the trial court's conclusion that Dr. Grahl's conduct "exceeded the bounds of professional practice," citing *United States* v. *Moore*, 423 U.S. 122, 142 (1975).

On October 5, 1981, subsequent to Respondent's conviction, the Administrator of the Drug Enforcement Administration directed an Order to Show Cause seeking to revoke DEA Certificate of Registration AG1782069 previously issued to Dr. Grahl. Respondent did not reply to that Order to Show Cause, and his registration certificate was revoked effective November 13, 1981.

With his current application, Respondent submitted a letter of explanation in which he stated that he practiced at Unity for a very brief time, only 10 weeks, and that the only crime of which he was convicted was renewing a prescription for Tuinal and Valium for Agent Papantoniou, whom Respondent believed to be registered in the "detox program." The facts recited above clearly refute Respondent's contention that he was an "ethical and caring physician." Respondent stated that he acted in good faith, trying to help a patient break a bad habit. He goes on to state that the fact that he was deceived by "an overzealous nonpatient pretending to be a real patient is irrelevant. I do not feel I broke any law." Respondent's subjective feelings have no merit in this proceeding when viewed against the facts established by the trial court and cited by the Court of Appeals in affirming Respondent's conviction. It is manifestly clear that Arthur Grahl, M.D. should not possess DEA registration.

The Administrator concludes that there is a lawful basis for the denial of Respondent's application for DEA registration and further concludes that under the facts and circumstances presented, this application should be denied. The Administrator of the Drug Enforcement Administration, under the authority vested in him by 21 U.S.C. 823 and 824 and 21 CFR 0.100(b) hereby denies the application for DEA registration executed on November 29, 1982, by Arthur J. Grahl, M.D. and further denies any other pending applications executed by Dr. Grahl.

Dated: December 29, 1983.

Francis M. Mullen, Jr.,

Administrator.

[FR Doc. 84-343 Filed 1-5-84; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 83-1]

Roger Lee Palmer, D.M.D.; Denial of Application

On November 24, 1982, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued to Roger Lee Palmer, D.M.D. (Respondent), 1871

High Street, Lakeport, California 95453 an Order to Show Cause proposing to deny the Respondent's pending application for registration as a practitioner under 21 U.S.C. 823(f). By letter dated December 15, 1982, the Respondent requested a hearing on the issues raised by the Order to Show Cause.

The hearing in this matter was held in San Francisco, California on May 10, 1983. Administrative Law Judge Francis L. Young presided. On September 16, 1983, Judge Young issued his opinion and recommended findings of fact, conclusions of law, ruling and decision. Respondent filed exceptions to the Administrative Law Judge's opinion and recommended decision. On October 13, 1983, Judge Young transmitted the record of these proceedings, including Respondent's exceptions to the Administrator. The Administrator has considered this record in its entirety and, pursuant to 21 CFR 1316.67, hereby issues his final order in this matter based upon findings of fact and conclusions of law as hereinafter set forth.

Respondent is a dentist practicing in sparsely populated Lake County, a resort area in northern California. An investigation of Respondent revealed that he had ordered and obtained 29 ounces of pharmaceutical cocaine from several pharmaceutical suppliers from January 5, 1977 to April 15, 1980. At not time during this period did Respondent have more than 150 active patient files in his office.

The Administrative Law Judge found that from January, 1977 to April, 1980 cocaine was no longer commonly used in the practice of dentistry or dental surgery. However, there were three accepted uses for cocaine in dentistry; one, in attempting to diagnose a specific type of neuralgia; two, inside the nose for biopsy and small lesions within the nose; three, a topical anesthetic agent of gum tissue prior to injection of a local anesthetic. For all of these purposes there are other agents available which are used much more frequently than cocaine and are considerably less expensive than pharmaceutical cocaine.

As a topical anesthetic agent, the normal amount of cocaine used in a single patient application is from five to ten milligrams. From the 29 ounces obtained by Respondent between January, 1977 and April, 1980, there would be 90,000 patient applications. It is not feasible that Respondent, in his dental practice in Lake County, California, could have used pharmaceutical cocaine for legitimate purposes at a rate requiring the purchase of the quantities he obtained.

The Administrative Law Judge also found that Respondent and one Peter J. Cecchin, who lived in Lakeport for about six weeks, abused cocaine together for their personal enjoyment on an almost daily basis. They used Respondent's pharmaceutical cocaine 15 to 20 times during a single day. Mylan Hopkins, M.S., a physician in the Lakeport area, who testified on Respondent's behalf at the hearing, also received or used cocaine from Respondent in Mr. Cecchin's presence.

About the time of Respondent's arrest police found a cocaine snorting tube in Respondent's motorcycle saddlebags during a search of his automobile. The search was ruled illegal. Despite that ruling, the prosecutor at the trial was permitted to confront Respondent with the tube on cross-examination after Respondent had testified that he had used all of the pharmaceutical cocaine he had purchased from pharmaceutical supply houses for legitimate medical purposes. The trial court ruled that it was proper to show the finding of the snorting tube to impeach Respondent's implicit testimony that he had not personally used any of the medical cocaine for his own pleasure, citing *United States* v. *Havens*, 446 U.S. 620 (1980).

On December 4, 1981, Respondent was convicted in the United States District Court for the Northern District of California of four counts of obtaining pharmaceutical cocaine, a Schedule II controlled substance, by misrepresentation, fraud, deception or subterfuge in violation of 21 U.S.C. 843(a)(3). These are felony offenses related to controlled substances. The sentencing judge ordered the Respondent to enter a drug counseling program.

On appeal, the United States Court of Appeals for the Ninth Circuit affirmed Respondent's conviction and held that the lower court properly admitted the snorting tube to impeach Dr. Palmer's cross-examination testimony. *United States* v. *Palmer*, 691 F. 2d 921 (9th Cir. 1982). There is a lawful basis for denial of Respondent's application for registration. *Serling Drug Co.*, Docket No. 74–12, 40 FR 11918 (1975); *Raphael C. Cilento, M.D.*, Docket No. 79–2, 44 FR 30468 (1979); and *Aaron A. Moss, D.D.S.*, Docket No. 80–2, 45 FR 72850 (1980).

At the hearing in this matter before Judge Young, the Government sought to use testimony about the snorting tube in a manner similar to the way the prosecutor at the criminal trial introduced it. During cross-examination Respondent denined personally using cocaine. The Administrative Law Judge followed the holding of the Court of Appeals in the criminal appeal and ruled that the testimony as to the findings of the coke snorting tube in Respondent's saddlebag was admissible to impeach Respondent's denial of personally using cocaine.

The Administrative Law Judge recommended to the Administrator that Respondent's application for registration be denied. Respondent's exceptions to Judge Young's opinion stated that the Administrative Law Judge did not adequately take into account the needs of the small community; that no evidence was given that Respondent diverted cocaine into the illicit market; and that Respondent should at least be granted a registration with some restriction rather than denying Respondent's application completely.

The Administrator concludes that there was sufficient testimony, including expert testimony from a prominent local dentist, to conclude that alternative dental services are available to members of the Lakeport community. The Administrator also finds that there was an overwhelming amount of evidence to support Judge Young's conclusion that Respondent was diverting cocaine into illicit channels. The huge quantity of cocaine involved clearly shows that it was not being used for legitimate medical purposes. Additionally, the testimony of Peter Cecchin illustrated that Respondent not only supplied Mr. Cecchin with cocaine but also abused the cocaine himself. Finally, the Administrator concludes that given the facts in this case, denial of Respondent's application for registration is a reasonable choice of remedy. The Ninth Circuit held in *Berwick* v. *Drug Enforcement Administration*, No. 78–2176, memorandum (9th Cir. June 16, 1980) that the mere fact of conviction is enough for denial of an application for registration. In this case there is more than the mere fact of conviction. Respondent was ordered to participate in a drug counseling program. Judge Young found and the Administrator agrees that nothing in Respondent's testimoney at the hearing indicated that Respondent's meetings with his counsellor constituted a meaningful and effective drug counseling program. Therefore, there is not enough persuasive evidence to justify granting the Respondent a DEA certificate of registration.

Having concluded that there is a lawful basis for the denial of the Respondent's application for registration and having further concluded that under the facts and circumstances presented in his case the application should be

denied, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that the application of Roger Lee Palmer, D.M.D., for registration under the Controlled Substances Act, be, and it hereby is, denied.

Dated: December 29, 1983.

Francis M. Mullen, Jr.,

Adminintrator.

[FR Doc. 84-341 Filed 1-5-84; 8:45 am]

BILLING CODE 4410-09-M

Winfield Pharmacy; Revocation of Registration

On October 28, 1983, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) directed an Order to Show Cause to Winfield Pharmacy, 1190 Ocean Avenue, Jersey City, New Jersey 07306 seeking to revoke DEA Certificate of Registration AZ8525846 previously issued to Winfield Pharmacy. The statutory predicate for the order under 21 U.S.C. 824(a)(2) was the conviction on April 28, 1983, of Victor Zapico, R.Ph., the owner and managing pharmacist of Winfield Pharmacy, in the Superior Court of New Jersey, Hudson County (Law Division—Criminal) of two counts of unlawful dispensing or distribution of a controlled dangerous substance, to wit, Dilaudid, in violation of a New Jersey Revised Statute 24:2119(a)(1), a felony conviction relating to controlled substances. The Order to Show Cause was sent registered mail, return receipt requested, and according to the reply card Winfield Pharmacy received the Order to Show Cause on November 2, 1983. Thirty days have elapsed and DEA has received no response from the registrant. Therefore, the Administrator finds pursuant to 21 CFR 1301.54 (d) and (e) that the registrant has waived its opportunity for a hearing and enters his final order based on the investigative file and the record of this proceeding as it appears.

Victor Zapico was indicted on July 2, 1982, by the Hudson County Grand Jury on 29 counts of felonies relating to controlled substances. The indictment of Zapico stems from an investigation conducted by the Diversion Group of the DEA Newark Field Division. A controlled substance wholesaler informed the DEA office in Newark that Winfield Pharmacy was purchasing an excessive quantity of Dilaudid tablets. Dilaudid is a heavily abused Schedule II narcotic.

DEA Diversion Investigators conducted an audit of the pharmacy's records pertaining to Dilaudid. The audit revealed that the pharmacy could not account for 400 Dilaudid 4 mg. tablets and 800 Dilaudid 3 mg. tablets. Zapico told the investigators that the Schedule II prescriptions were not in his possession but were rather at his home. Initially, he told the investigators that he kept the prescriptions at his home because he was "closing out his books for the tax year." He then told the investigators that the prescriptions were at his home because he believed they might be forged and he did not want them in the store where they might be discovered by State of New Jersey Pharmacy Board inspectors. After the investigators informed Zapico of his right against self-incrimination, he told them he filled the prescriptions even though he knew they were forged so that he could obtain money. He told the investigators that he charged $10 more for Dilaudid prescriptions than he did for his normal prescriptions, and that in November, 1981, he made over $2,000 on these type of prescriptions.

On December 30, 1981, the day following the DEA audit of Winfield Pharmacy, Zapico appeared at the DEA Newark District Office where he produced 27 prescriptions for Dilaudid 4 mg. (100 tablets each). All of the prescriptions were allegedly written by two physicians in northern New Jersey. A check of the DEA registration numbers on the prescriptions revealed that one was issued to a veterinarian in Bayonne, New Jersey, and the other DEA number was found to be invalid.

DEA Diversion Investigators interviewed the two physicians the following day. One physician told them that some prescription forms had been stolen from his office in Elizabeth, New Jersey in late May, 1981. Shortly thereafter he discontinued his practice of medicine and retired. When shown the prescriptions that Zapico claimed were written by him, the physician stated that he had never written such a strength narcotic in such a large quantity in 50 years of medical practice. He also told the investigators that the prescriptions were not in his writing and these were not his prescriptions. The physician believed that the prescriptions came from the stolen prescription pad. Similarly, on January 5, 1982, the investigators interviewed the other physician, who told them he had not been in practice at the office indicated on the prescriptions since 1971. Both physicians gave statements to the investigators that they did not write the prescriptions in question.

During his jury trial, Zapico retracted his plea of not guilty and entered a guilty plea to two of the counts of the indictment. The court sentenced him to five years probation and required that he attend a full time drug clinic. The court found that Zapico was dependent on controlled substances and that he took advantage of a position of trust, that of pharmacist, to commit the offense. The court also stated the need to deter Zapico and others from violating the drug laws of New Jersey. The Administrator notes that Zapico has been indicted by a grand jury in Essex County, New Jersey for attempting to distribute Empirin #4 and Doriden.

The registrant has not come forward with any evidence to explain or mitigate the actions of Victor Zapico as owner and manager of Winfield Pharmacy. It is clear to the Administrator that Zapico abused the DEA Certificate of Registration issued to the pharmacy of which he is owner and managing pharmacist to divert substantial quantities of a very heavily abused narcotic into illegitimate channels. The fact that he was addicted to narcotics shows even more clearly that Victor Zapico should not have access to controlled substances. It is clear to the Administrator that the public health and safety would be best served by the revocation of the DEA Certificate of Registration previously issued to Winfield Pharmacy.

The Administrator concludes that there is a lawful basis for the revocation of the registrant's Certificate of Registration. He further concludes that under the facts and circumstances in this case the Certificate of Registration should be revoked. Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) hereby orders that DEA Certificate of Registration AZ8525846, previously issued to Winfield Pharmacy, be revoked, and any pending applications for registration be denied.

Francis M. Mullen, Jr.,

Administrator.

Dated: December 29, 1983.

[FR Doc. 84-342 Filed 1-5-84; 8:45 am]

BILLING CODE 4410-09-M

Office of Juvenile Justice and Delinquency Prevention

Private Sector Corrections Initiative for the Chronic Serious Juvenile Offender

AGENCY: Office of Juvenile Justice and Delinquency Prevention (OJJDP), Justice.

ACTION: Notice of issuance of guideline for a new program initiative.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP), pursuant to section 224(a)(12) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, is sponsoring a private sector correctional initiative for chronic serious juvenile offenders.

Private not-for-profit and for-profit organizations are invited to submit pre-applications which establish the capacity and capability to manage an experimental correctional program for chronic serious juvenile offenders and outline their proposed program approach.

OJJDP will then select 5 to 8 projects and negotiate specific program and research requirements. From this group, approximately 4 projects that best meet program and research objectives will be selected for funding. Applicants representing a variety of program approaches will be selected.

Guideline—Private Sector Corrections Initiative for Chronic Serious Juvenile Offenders

I. Problem Addressed

Juvenile offenders account for about forty percent of the serious and violent crimes in this country. According to several studies, a small percentage, perhaps six to seven percent, of juveniles are responsible for a majority of the serious and violent juvenile crime. When a delinquent has been arrested three or four times, the studies show further, there is as much as an 80% certainty that he will continue committing offenses regularly. These offenders are those who are most often committed to secure public or private institutions.

Unfortunately, very little is known about approaches in either the public or private sector that reduce recidivism. However, several private sector correctional programs with innovative approaches have emerged over the past few years. OJJDP is sponsoring this private sector correctional initiative in an effort to test and document the impact of these programmatic approaches.

Organizations selected for participation in this program should have a track record of at least two years in administering private sector juvenile or adult correctional programs. They must demonstrate an appropriate administrative and fiscal structure that permits effective management. In addition, proposed projects must incorporate certain program elements which are based on the most strongly supported theories of juvenile involvement in serious crime. (See paragraph III.D. for a description of these generic elements.) Finally, they must be committed to undertaking a research and development effort.

II. Objectives

A. To document the impact of innovative sector corrections projects vs. more traditional correctional programs.

B. To document current impediments to the utilization of innovative private programs.

C. To identify effective management and/or progarmming techniques being utilized by private contractors.

III. Program Strategy

A. Projects funded under this initiative are expected to represent a cross-section of program types, geographic diversity, and different stages of development. In addition, programs will be selected on the basis of their potential to become self-sustaining.

B. The correctional approaches must be designed to deal with and reduce the recidivism of serious and violent juvenile offenders. Consequently, projects should focus on large metropolitan areas or combinations of adjacent jurisdictions where there will be sufficient numbers of adjudicated serious and violent juvenile offenders.

C. Applicants should select and enter into tentative negotiations with jurisdictions (other than those in which they are currently operating) which are aimed at eventually reaching firm agreement with regard to the referral of youth and payment of fees for services.

D. Projects are expected to incorporate the following elements:

1. A diagnostic process to determine each youth's unique medical, emotional and educational needs.

2. A phased program including an individualized plan, with components that provide a mix of program settings, ranging from facilities that are fairly isolated or secure to those enabling reentry back into the original community. All youths need not be exposed to every component; in fact, individualized programming is probably desirable, but the full range of settings should be available.

3. A low ward-to-staff ratio, with limited investment in security hardware.

4. A case management system should be developed which provides for program continuity and a single point of accountability across the project phases.

5. Intensely supervised reentry into the community.

6. Staff members chosen to represent a wide range of social backgrounds and work experience so they can serve as effective role models for the wards.

7. The teaching of work-related habits to juveniles through hands-on experience.

8. During any isolated or secure residential phase of the program, juveniles and staff should live and work together as an integrated community.

9. Efforts should be made to work with each juvenile's family as part of the program.

10. Goal-oriented interventions with specific rewards and sanctions.

11. Education services including remedial or special educations.

E. Evaluation Requirements. The major purpose of this initiative is *to test* the capability of private organizations to operate effective correctional programs for chronic serious juvenile offenders. Therefore, the implementing organization must be prepared to:

1. Assist the evaluator in implementing an experimental evaluation design which will probably require random assignment of experimental and control youth.

2. Assist the evaluator by maintaining required information on program activities. (This includes data on the operations of the program and on the experiences of youth both during and after program participation.)

3. Assist the evaulator in obtaining data on a comparison group of youth (who receive the disposition they would have received in the absence of the experimental program).

IV. Eligibility

Applications are invited from private for-profit and not-for-profit agencies/organizations. They should have at least a two-year history of implementing a juvenile or adult correctional program.

V. Application Requirements

All applications must include the following information in Part IV of the application (Standard Form 424):

A. A complete but concise description of the current program of the agency, including a history of the agency's experience in administering such programs.

B. A description of the funding resources that support the agency.

C. A review of administrative and staff capabilities (including resumes). This should include capability to participate in a program evaluation.

D. Letters of reference from state or local authorities where projects have been administered.

E. A concise concept paper which describes the proposed project and includes the following:

1. Each program element should be identified and briefly described. (Concept papers should be no more than 15 pages.) The program description should include an explanation of the features of a research and development program as distinct from a demonstration or service program.

2. The jurisdiction in which the new project will be implemented must be described, in terms of:

a. A profile of the juvenile crime problem, including arrests, petitions, adjudications and/or dispositions, which focus on commitments. This should be supported by charts in an appendix.

b. A brief description of the juvenile court(s) and their jurisdiction and dispositional procedures, including a brief description of the laws that govern both, e.g., waiver, determinant sentencing.

c. A brief description of the current juvenile correcional system which should include data relating to its capacity, the level of its current population, and the record-keeping system (what type of data is maintained and by whom).

d. Letters of intent from the Chief Juvenile Court Judge indicating that the court will, if the law permits, commit youth to the project. If the law only permits commitment to a juvenile authority but does not permit designation of program or facility, a letter of intent to refer committed youth to the project will be required from the appropriate correctional authority. During the final negotiations, firm memoranda of understanding will have to be negotiated with the juvenile court and/or correctional authority.

e. Financial management capability must also be demonstrated by briefly describing the accounting system and methodology used and providing copies of an audit conducted in the last two years.

VI. Target population

The target population will be chronic serious juvenile offenders who receive a commitment to the state youth authority or institution. Serious violent crimes are:

* * * criminal homicide, forcible rape, mayhem, kidnapping, aggravated assault, robbery, larceny or theft punishable as a felony, motor vehicle theft, burglary or breaking and entering, extortion accompanied by threats of violence, and arson punishable as a felony. Sec. 103, (14) Juvenile Justice and Delinquency Prevention Act of 1974 as amended, (42 U.S.C. 5603).

Each project must develop a specific target population definition and must seek the most chronic serious juvenile offenders within that jurisdiction as the target population. This can be documented by profiling the adjudicated juvenile offenders who have committed the serious crimes listed in the previous paragraph.

VII. Criteria for Selection

A. Capability to manage a correctional project for chronic serious juvenile offenders.

B. The extent to which the applicant has an operational program for dealing with chronic serious and violent juvenile offenders.

C. Willingness of project and jurisdiction to cooperate with the evaluator and implement an experimental evaluation design.

D. The extent to which there is a serious and violent juvenile crime problem in the jurisdiction selected for the program and evidence that there are sufficient numbers of the proposed target population to warrant the project.

E. Documented intent to cooperate and refer youth from juvenile courts and/or juvenile correctional authorities.

F. The extent to which there is strong staff capability to manage the project programmatically and fiscally.

G. Extent to which the jurisdiction is willing to commit resources to the placement of youth in the program.

VIII. Dollar Range and Duration

A. The award of up to 4 cooperative agreements is anticipated.

B. The project period for this program is three years. The initial award will be for eighteen months. Projects may receive a continuation grant award if performance during the first eighteen months is determined to be successful.

C. Cooperative Agreements (grants) to for-profit or not-for-profit organizations will be in the range of $500,000 for the initial eighteen-month period. It is expected that each project will serve a total of seventy-five youth during each eighteen-month budget period. In accordance with OMB Circulars, for-profit firms must waive any profit or management fee under a cooperative agreement.

IX. Deadline for Submission of Application

A. One original and two copies of the application must be delivered to the Office of Juvenile Justice and Delinquency Prevention (OJJDP), Room 786, 633 Indiana Avenue, N.W., Washington, D.C. 20531, by 5:30 pm on February 17, 1984, or applications may be mailed to the above address by either certified or registered mail, return receipt, by February 10, 1984. Date of receipt is evidenced by the U.S. Postal Service postmark. The necessary forms for applications may be secured by writing to OJJDP.

B. Intergovernmental Review of Federal Programs: On July 14, 1982, the President signed Executive Order 12372, "Intergovernmental Review of Federal Programs," to provide State and local governments increased and more effective opportunities to influence Federal actions affecting their jurisdictions. Final regulations (28 CFR Part 30) implementing the Order for the Department of Justice were published in the **Federal Register** on June 24, 1983 (48 FR 29238). The Order and the regulations, which became effective September 30, 1983, permit States to establish a state process for the review of Federal programs and activities, to select which programs (from a previously published list) they wish to review and to make their views known to the Department through a State "Single Point of Contact" (SPOC). The Order and the implementing regulations revoke the former A–95 clearance process.

Applicants for this program must submit a copy of their application to the State "Single Point of Contact," if one has been established and if the State has selected this program to be covered in its review process. Applications must be submitted to the SPOC for review and comment at the same time they are submitted to OJJDP. Under the regulations, the State agency has up to sixty (60) days to review and comment. The review period shall begin on the date the application is due to OJJDP.

The identification of the State Single Point of Contact for your State may be obtained by writing Douglas C. Dodge, OJJDP, 633 Indiana Avenue, NW., Washington, D.C. 20531.

X. Civil Rights Compliance

A. All recipients of LEAA assistance must comply with:

1. Section 815(c) of the Justice System Improvements Act (JSIA) and its implementing regulations, found at 28 CFR 42.201, et seq.;

2. Title VI of the Civil Rights Act of 1964, and its implementing regulation, found at 28 CFR 42.101, et seq.;

3. Section 504 of the Rehabilitation Act of 1973, as amended, and its implementing regulations;

4. The Age of Discrimination Act of 1975, as amended, and its implementing regulations; and

5. Executive Order 12138, 44 FR 29637 (May 22, 1979), requiring recipients of

Federal financial assistance to take appropriate affirmative action in support of women's business enterprise.

B. Each recipient of LEAA assistance within the criminal justice system that has 50 or more employees and that has received grants or subgrants totaling $25,000 or more since the enactment of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and that has a service population with a minority representation of 3% or more is required to formulate, implement and maintain an Equal Employment Opportunity Program (EEOP). Where a recipient has 50 or more employees, and has received grants or subgrants of $25,000 or more, and has a service population with a minority representation of less than 3%, such recipient is required to formulate, implement and maintain an EEOP relating to employment practices affecting women. This requirement shall be satisfied prior to the award. An applicant for LEAA assistance of $500,000 or more must submit its EEOP with the application. The EEOP must be approved by OJARS' Office of Civil Rights Compliance prior to award. Failure to address this requirement will result in rejection of the proposal.

C. Applicants that do not meet any of the criteria in (2) above, educational institutions and private not-for-profit organizations shall maintain such records and submit to the OJJDP upon request timely, complete and accurate data establishing the fact that no person or persons will be or have been denied or prohibited from participation in, benefits of, or denied or prohibited from obtaining employment in connection with any program activity funded in whole or in part with funds made available under this program because of their race, national origin, sex, religion, handicap or age. In the case of any program under which a primary recipient of Federal funds extends financial assistance to any other recipient or contracts with any other person(s) or group(s), such other recipient, person(s) or group(s) shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to assure its civil rights compliance obligations under any grant award.

Alfred S. Regnery,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 84-354 Filed 1-5-84; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Summary of Decisions Granting in Whole or in Part Petitions for Modification

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice of affirmative decisions issued by the Administrators for Coal Mine Safety and Health and Metal and Nonmetal Mine Safety and Health on petitions for modification of the application of mandatory safety standards.

SUMMARY: Under Section 101(c) of the Federal Mine Safety and Health Act of 1977, the Secretary of Labor may modify the application of a mandatory safety standard to a mine if the Secretary determines either or both of the following: That an alternate method exists at the petitioner's mine that will guarantee no less protection for the miners affected than that provided by the standard, or that the application of the standard to the petitioner's mine will result in a diminution of safety to the affected miners.

Summaries of petitions received by the Secretary appear periodically in the **Federal Register.** Final decisions on these petitions are based upon the petitioner's statement, comments and information submitted by interested persons and a field investigation of the conditions at the petitioner's mine. The Secretary has granted or partially granted the requests for modification submitted by the petitioners listed below. In some instances the decisions are conditioned upon the petitioner's compliance with stipulations stated in the decision.

FOR FURTHER INFORMATION CONTACT: The petitions and copies of the final decisions are available for examination by the public in the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Dated: December 28, 1983.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

AFFIRMATIVE DECISIONS ON PETITIONS FOR MODIFICATION

Docket No.	FEDERAL REGISTER notice	Petitioner	Regulations affected	Summary of findings
M-80-54-M	45 FR 45733	Flintkote Co	30 CFR 56.13-20	Use of compressed air below 10 p.s.i. with specific safety precautions considered acceptable alternate method. Granted with conditions.
M-82-75-C	47 FR 44897	Emerald Mines Corp	30 CFR 75.326	Petitioner's proposal to use the air in the belt entry to ventilate active working places with specified safeguards considered acceptable alternate method of compliance. Granted with conditions.
M-82-78-C	47 FR 55541	TAS Coal Corp	30 CFR 75.1710	Use of cabs or canopies on specific electric face equipment in specified low mining heights would result in a diminution of safety. Granted in part with conditions.
M-82-97-C	47 FR 56071	Glory Coal Co	30 CFR 75.305	Due to numerous roof falls, petitioner's proposal to establish and maintain air measurement stations considered acceptable alternate method of compliance. Granted with conditions.
M-82-105-C	48 FR 892	Cannelton Industries, Inc	30 CFR 75.305	Petitioner's proposal to establish and maintain air monitoring stations at specified locations along the airway considered acceptable alternate method. Granted with conditions.
M-82-106-C	48 FR 893	Jewell Ridge Coal Corporation.	30 CFR 75.1710	Use of cabs or canopies in specified low mining heights on the mine's electric face equipment would result in a diminution of safety. Granted with conditions.
M-82-116-C	47 FR 55542	Westmoreland Coal Co	30 CFR 75.1105	Installation of dry chemical fire suppression devices on each pump installation with specified safeguards considered acceptable alternate method of compliance. Granted with conditions.
M-82-122-C	48 FR 11535	Three L Coal Co	30 CFR 75.301	Proposed airflow reduction which would maintain a safe and healthful atmosphere considered acceptable alternate method. Granted with conditions.
M-82-125-C	48 FR 4575	Morgan Mining Co., Inc	30 CFR 75.1710	Use of cabs or canopies on specific electric face equipment in specified low mining heights would result in a diminution of safety. Granted in part with conditions.
M-82-126-C	48 FR 5394	Snowmass Coal Co	30 CFR 75.1100-2(b)	Petitioner's proposal to store at least 500 feet of firehose and to install a point-type heat sensor and fire detection system with specified safeguards at strategic locations considered acceptable alternate method. Granted with conditions.

AFFIRMATIVE DECISIONS ON PETITIONS FOR MODIFICATION—Continued

Docket No.	FEDERAL REGISTER notice	Petitioner	Regulations affected	Summary of findings
M-82-129-C	48 FR 16781	Amax Coal Co	30 CFR 77.216-5	Petitioner's proposal that the water impoundment continue to impound water after abandonment with specified safeguards and provisions considered acceptable alternate method of compliance. Granted.
M-82-132-C	48 FR 1847	Rapoca Energy Co	30 CFR 77.214(a)	Petitioner's proposal to cover existing abandoned mine openings with refuse material considered acceptable alternate method. Granted.
M-82-136-C	48 FR 9399	Neece Creek Coal Co., Inc	30 CFR 75.305	Petitioner's proposal to establish and maintain specified checkpoint monitoring stations to ensure adequate ventilation considered acceptable alternate method of compliance. Granted with conditions.
M-82-137-C	48 FR 9399	Peabody Coal Co	30 CFR 75.503	Spring-loaded, self-locking metal swivel snaps considered acceptable alternate to padlocks for the purpose of locking battery plugs to machine-mounted battery receptacles on permissible mobile battery-powered machines. Granted with conditions.
M-83-4-C	48 FR 9399	Laurel Run Mining Co	30 CFR 77.1605(k)	Installation of berms or guards at least axle high to the largest piece of equipment using the roadway, with openings at intervals to permit snow removal, considered acceptable alternate method. Granted with conditions.
M-83-8-C	48 FR 16782	Peabody Coal Co	30 CFR 75.503	Spring-loaded, self-looking metal swivel snap or a spring-loaded self-locking metal hair pin considered acceptable alternate to padlocks for the purpose of locking battery plugs to machine-mounted battery receptacles on permissible, mobile, battery-powered machines. Granted with conditions.
M-83-9-C	48 FR 16782	Lick Fork Elkhorn Coal Co	30 CFR 75.1710	Use of cabs or canopies in specified low mining heights would result in a diminution of safety. Granted with conditions.
M-83-12-C	48 FR 52788	Rob-Rob Mining Co., Inc	30 CFR 77.214(a)	Placing coal process waste over three known abandoned mine entries of the completely removed coal seam with specified safeguards considered acceptable alternate method. Granted with conditions.
M-83-15-C	48 FR 16782	G.M.&W. Coal Co., Inc	30 CFR 75.1100-2(e)(2)	Petitioner's proposal to provide two 2A10 BC or higher rating fire extinguishers or one with twice the minimum rating required at each temporary electrical installation considered acceptable alternate method. Granted.
M-83-16-C	48 FR 15753	Consolidation Coal Co	30 CFR 75.305	Petitioner's proposal to establish and maintain specific checkpoints to measure pressure differential and take air and methane readings on a daily basis considered acceptable alternate method. Granted with conditions.
M-83-17-C	48 FR 16781	Consolidation Coal Co	30 CFR 75.1105	Enclosing pumps in fireproof housings with fireproof doors and the installation of an automatic fire suppression device in the pump house activated by heat sensors considered acceptable alternate method of compliance. Granted with conditions.
M-83-18-C	48 FR 15349	Eastern Associated Coal Corporation.	30 CFR 75.1105	Petitioner's proposal to use a positive pressure (blowing) system considered acceptable alternate method. Granted with conditions.
M-83-26-C	48 FR 16781	Consolidation Coal Co	30 CFR 75.305	Petitioner's proposal to establish and maintain air monitoring stations at specified locations in the returns and on the surface considered acceptable alternate method of compliance. Granted with conditions.
M-83-27-C	48 FR 28363	Donaldson Creek Mining Co., Inc.	30 CFR 75.1710	Use of cabs or canopies in specified low mining heights would result in a diminution of safety for the miners affected. Granted with conditions.
M-83-28-C	48 FR 22827	Saginaw Mining Co	30 CFR 75.1100-2(e)(2)	Petitioner's proposal to provide two portable fire extinguishers or one extinguisher having at least twice the minimum capacity required at each temporary electrical installation considered acceptable alternate method. Granted with conditions.
M-83-60-C	48 FR 32412	Inland Steel Coal Co	30 CFR 75.1100-2(e)(2)	Petitioner's proposal to provide two portable extinguishers or one extinguisher having at least twice the minimum capacity in lieu of providing one portable fire extinguisher and 240 pounds of rock dust considered acceptable alternate method. Granted.
M-83-62-C	48 FR 32412	Southmountain Coal Co., Inc	30 CFR 75.1710	Use of cabs or canopies in specified low mining heights would result in a diminution of safety. Granted with conditions.
M-83-65-C	48 FR 31928	Action Energies, Inc	30 CFR 75.1710	Use of cabs or canopies on specified equipment in specified low mining heights would result in a diminution of safety for the miners affected. Granted with conditions.

[FR Doc. 84-216 Filed 1-5-84; 8:45 am]
BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Federal Advisory Council on Occupational Safety and Health; Postponement of Meeting

Notice is hereby given that the meeting of the Federal Advisory Council on Occupational Safety and Health, scheduled for January 11, 1984, (December 23, 1983; 48 FR 56870) is postponed until a later date.

All communications regarding this Advisory Council should be addressed to Mr. John E. Plummer, Director, Office of Federal Agency Programs, Department of Labor, OSHA, Frances Perkins Building, 200 Constitution Avenue, NW., Room N3613, Washington, D.C. 20210, telephone (202) 523-9329.

Signed at Washington, D.C. this 3rd day of January, 1984.

Thorne G. Auchter,

Assistant Secretary.

[FR Doc. 84-386 Filed 1-5-84; 8:45 am]
BILLING CODE 4510-26-M

Office of Pension and Welfare Benefit Programs

[Application No. D-2388]

Alaska Electrical Pension Plan (the Plan) Located in Anchorage, Alaska; Proposed Exemption

AGENCY: Department of Labor, Office of Pension and Welfare Benefit Programs.

ACTION: Notice of Proposed Exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and

Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. Attention: Application Number stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register.** Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

The Alaska Electrical Pension Plan (the Plan) Located in Anchorage, Alaska

[Application No. D–2388]

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722. If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to Carr-Gottstein Properties, Inc. (CGP), by reason of the Plan's participation in a mortgage loan made by Washington Mortgage Company (WMC) to CGP on August 16, 1976.

Effective Date: If the proposed exemption is granted, it will be effective August 16, 1976.

Limited Scope of Exemption: Based upon the record submitted, the Department is proposing an exemption from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, with respect to CGP. Thus, CGP would be relieved of its excise tax liability arising as a result of this transaction. The Department is not proposing exemptive relief for any other aspect of the transaction, or for any other parties to the extent such parties may have engaged in prohibited transactions. In this connection, the Department is not providing exemptive relief from the restrictions of Title I of the Act to any fiduciary who caused the Plan to enter the transaction, nor is the Department herein providing any exemptive relief from Title I or Title II of the Act for any financial institution which may have sold the participation in the mortgage loan to the Plan.

Summary of Facts and Representations

1. The Plan was founded in 1968 to provide pension and retirement benefits for members of the International Brotherhood of Electrical Workers Local Union No. 1547. The Plan has engaged an independent investment counseling firm, Kennedy Associates, Inc. (KA), to manage and supervise investment of the Plan's assets.

2. In 1976, CGP applied to WMC for a loan to finance improvements on existing buildings. The improvements were to add a total of six bays, containing approximately 3,000 square feet each and including 450 square feet of office space. The buildings, located at Old Seward Highway and Huffman Road in Anchorage, are used for commercial purposes and have gross rentable space of 17,508 square feet on a 66,650 square foot site. The buildings had an appraised value of $789,224 as of May 11, 1976.

3. The loan closed on August 16, 1976. The Plan's participation in the mortgage is $350,000, which is 65% of the amount loaned to CGP. KA approved the investment on behalf of the Plan. The interest rate to the Plan is 10% net of a .125% servicing fee to WMC. All loan payments have been made on schedule.

4. Alaska Catering Company (ACC) was a contributing employer to the Plan from 1975 until 1980. ACC is 100% owned by Production Services, Inc., which is 50% owned by Rim, Inc. Rim, Inc. is 50% owned by CGP, the borrower in this transaction. CGP and its principals have never been trustees of the Plan, nor have they occupied any other fiduciary relationship to the Plan.

5. In summary, the applicant represents that the subject transaction meets the criteria of section 4975(c)(2) of the Code because: (1) all loan payments have been made in full and on schedule; and (2) CGP had no influence or control over the investment by the Plan in the mortgage loan which CGP sought and obtained from WMC.

Notice to Interested Persons: Within 30 days of the publication of this proposed exemption in the **Federal Register**, notice of the proposed exemption will be provided to all interested persons in the manner agreed upon by the applicant and the Department. Comments are due within 60 days of the date of publication.

For Further Information Contact: Gary H. Lefkowitz of the Department of Labor, telephone (202) 523–8881. (This is not a toll-free number.)

The Alaska Laborers Employer Pension Trust (the Plan) Located in Anchorage, Alaska

[Application No. D–3309]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722. If the exemption is granted the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to Ray W. Strand and Strand, Inc. by reason of the Plan's participation in a mortgage loan originated by the National Bank of Alaska (the Bank) to a partnership (the Partnership) composed of Strand, Inc. and G&A Associates, for the period beginning April 5, 1976 through December 30, 1980.

Effective Date: If the proposed exemption is granted, it will be effective from April 5, 1976 through December 30, 1980.

Limited Scope of Exemption: Based upon the record submitted, the Department is proposing an exemption from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, with respect to Ray W. Strand and Strand, Inc. Thus, Ray W. Strand and Strand, Inc. would be relieved of their excise tax liability

arising as a result of this transaction. The Department is not proposing exemptive relief for any other aspect of the transaction, or for any other parties to the extent such parties may have engaged in prohibited transactions. In this connection, the Department is not providing exemptive relief from the restrictions of Title I of the Act to any fiduciary who caused the Plan to enter into the transaction, nor is the Department herein providing any exemptive relief from Title I or Title II of the Act for any financial institution which may have sold the participation in the mortgage loan to the Plan.

Summary of Facts and Representations

1. The Partnership was formed on March 31, 1975 for the purpose of purchasing, developing, constructing and managing a 24 unit apartment complex in Fairbanks, Alaska known as Hamilton Acres. Strand, Inc. had a 25 percent interest in the profits and losses of the Partnership. The interim financing necessary to complete the acquisition of the property and the construction of the apartment complex thereon was obtained by the Partnership from Washington Mortgage Co., Inc. of Seattle, Washington. The principal amount of the construction financing was $667,500.

2. The Partnership obtained permanent financing from the Bank. The loan was for $655,000, and was closed on April 5, 1976. The loan provided for interest at a rate of 10⅛ percent per annum, to be amortized in equal monthly installments over a 25 year period with a call provision at the end of 15 years. All loan payments have been made in full throughout the history of the loan. The note executed with the loan was signed by the Partners as well as by Ray Strand in his individual capacity. Mr. Strand is the owner of Strand, Inc.

3. Prior to the closing of the permanent financing, the Partnership submitted certain information to the Bank in order to document the adequacy of the proposed security for the repayment of the loan, including an appraisal of the Hamilton Acres Project as prepared by Keith M. Riely, M.A.I., an independent appraiser. The appraisal indicated a fair market value for the property of $935,000.

4. Strand, Inc. was a contributing employer to the Plan at the time the loan was closed. The Plan acquired a 40% undivided interest in the loan, amounting to $262,000.

5. All negotiations and other matters in connection with the processing and closing of the loan were conducted between the partnership and the Bank. At no time prior to the closing of the loan did the Bank indicate that the Plan would be acquiring any interest in the loan. Mr. Strand is not and has never been a trustee of the Plan, nor has he ever occupied any other fiduciary relationship with respect to the Plan. Mr. Strand represents that he has been unable to ascertain who caused the Plan to make its investment in the subject loan.

6. On December 30, 1980, the Bank repurchased the loan from the Plan as a part of a Settlement Order between the Bank and the Department.

7. In summary, the applicants represent that the subject transaction meets the criteria of section 4975(c)(2) of the Code because: (1) all loan payments have been made in full; (2) the applicants had no influence or control over the Plan's involvement in the transaction; and (3) the applicants were unaware at the time of the making of the loan of the possible prohibited nature of the transaction.

Notice to Interested Persons: Within 30 days of the publication of this proposed exemption in the **Federal Register**, notice of the proposed exemption will be provided to all interested persons in the manner agreed upon by the applicants and the Department. Comments are due within 60 days of the date of publication.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

The Alaska Teamsters Employer Pension Trust (the Plan) Located in Anchorage, Alaska

[Application No. D–3328]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722. If the exemption is granted the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to Central Office Building, Ltd. (COB) and Thomas J. and Helen B. Miklautsch by reason of the Plan's participation in a mortgage loan originated on September 8, 1976, by Washington Mortgage Co., Inc. (WMC) to COB, and by reason of the assignment to the Plan of certain leases with Thomas Miklautsch and related parties as security for the loan.

Effective Date: If the proposed exemption is granted, it will be effective September 8, 1976.

Limited Scope of Exemption: Based on the record submitted, the Department is proposing an exemption from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, with respect to COB and Thomas and Helen B. Miklautsch. Thus, these parties would be relieved of their excise tax liability arising as a result of this transaction. The Department is not proposing exemptive relief for any other aspect of the transaction, or for any other parties to the extent such parties may have engaged in prohibited transactions. In this connection, the Department is not providing exemptive relief from the restrictions of Title I of the Act to any fiduciary who caused the Plan to enter the transaction, nor is the Department herein providing any exemptive relief from Title I or Title II of the Act for any financial institution which may have sold the participation in the mortgage loan to the Plan.

Summary of Facts and Representations

1. Thomas J. Miklautsch (Miklautsch) is an individual who has owned directly and indirectly between 75% and 90% of COB from its inception to date. COB is an Alaska limited partnership which owns and leases the building located at 1001 Noble Street, Fairbanks, Alaska (the Building). The Building was built between September 1976 and May 1977.

2. COB obtained a $5,000,000 construction loan in September, 1976 from WMC, an unrelated mortgage company. WMC's commitment for the construction loan was based in part on a September 8, 1976 commitment to WMC from the Plan for 75% of the permanent financing. The balance of the permanent financing was provided by the National Bank of Alaska for itself and other participants. The note was signed by COB, Miklautsch and his wife Helen.

3. Modern Construction, Inc. (MCI) is a corporation which was the general contractor for the construction of the Building. From 1975 through the present, Miklautsch has owned 41.67% of MCI. in 1976 and 1977, MCI was a contributing employer to the Plan.

4. Miklautsch and related entities initially leased a portion of the Building as a requirement of the lender, WMC. They continue to lease approximately 6% of the net rentable space in the Building. The leases for the Building were assigned to WMC as security for the loan. WMC's interest in such leases may have been assigned, in part, to the Plan. The loan is also secured by a deed of trust on the Building.

5. The permanent loan is for a stated term of 25 years, at 10½% interest per

annum, with a 15 year call requirement. All loan payments have been current throughout the history of the loan. At the time of the loan, Miklautsch was not aware that MCI employed 3 participants in the Plan out of its approximately 200 employees, nor was he aware that MCI had made contributions to the Plan. Miklautsch is not and has never been a trustee of the Plan, nor has he occupied any other fiduciary relationship with respect to the Plan. The applicants represent that they have no information regarding who made the decision on behalf of the Plan to participate in the subject loan.

6. In summary, the applicants represent that the subject transaction meets the criteria of section 4975(c)(2) of the Code because: (1) All loan payments have been made in full and on schedule; (2) the applicants had no influence or control over the Plan's involvement in the transaction; and (3) the applicants were unaware of the possible prohibited nature of the transaction.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Alaska Electrical Pension Trust (the Plan) Located in Anchorage, Alaska

[Application No. D–3380]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722. If the exemption is granted the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to Skoglund Company, Inc. (SCI) and Mr. and Mrs. Paul K. Skoglund (the Skoglunds) by reason of the Plan's participation in a mortgage loan originated by Alaska Pacific Bank (the Bank) to the Skoglunds for the period beginning March 17, 1977 through September 27, 1979.

Effective Date: If the proposed exemption is granted, it will be effective from March 17, 1977 through September 27, 1979.

Limited Scope of Exemption: Based upon the record submitted, the Department is proposing an exemption from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, with respect to SCI and the Skoglunds. Thus, these parties would be relieved of their excise tax liability arising as a result of this transaction. The Department is not proposing exemptive relief for any other aspect of the transaction, or for any other parties to the extent such parties may have engaged in prohibited transactions. In this connection, the Department is not providing exemptive relief from the restrictions of Title I of the Act to any fiduciary who caused the Plan to enter the transaction, nor is the Department herein providing any exemptive relief from Title I or Title II of the Act for any financial institution which may have sold the participation in the mortgage loan to the Plan.

Summary of Facts and Representations

1. SCI is a mechanical subcontractor specializing in the installation and maintenance of heating, ventilating and air conditioning systems. SCI was incorporated on May 2, 1974. Paul K. Skoglund (Skoglund) owns outright or is deemed to own 100% of the issued and outstanding shares of SCI, and he is also the President of SCI.

2. In 1977, SCI constructed a new shop and office building to house its own operations. Skoglund and his wife applied for interim and permanent financing at the Bank. On March 17, 1977, the Bank loaned $577,000 to the Skoglunds. The loan provided for interest at the annual rate of 10.5%. All loan payments have been current throughout the history of the loan.

3. The Bank performed the underwriting function for the loan at arm's-length. The Bank sought investors for the loan and selected the Plan as the primary lender. The Plan was one of several participants in the loan to the Skoglunds. The value of the participating interest by the Plan was $519,300, or 90% of the loan. Skoglund was not consulted on this decision, nor was he aware of the existence or identity of the Plan as a participant until the loan closed. At this time, however, there were no electrical workers on SCI's payroll, and SCI was not a contributing employer to the Plan.

4. During the summer of 1977, SCI was hired to perform a substantial amount of work with electrical, low voltage thermostats on an unrelated project. SCI employed one union electrician on its service crew for the period from June 2, 1977 to October 21, 1977. During this period, SCI contributed to the Plan on behalf of this one employee.

5. At the time of the closing of the loan, Skoglund did not anticipate that SCI would ever make contributions to the Plan. Skoglund is not and has never been a trustee of the Plan, nor has he ever occupied any other fiduciary relationship with respect to the Plan. Skoglund represents that he has no way of determining who was the Plan fiduciary that caused the Plan to enter the subject transaction.

6. On September 27, 1979, the entire loan of $577,000 (with the Plan's investment of $519,300) was transferred to the International Brotherhood of Painters and Allied Trusts, thus terminating the subject transaction.

7. The applicants represent that the subject transaction meets the criteria of section 4975(c)(2) of the Code because: (1) all loan payments have been made in full and on schedule; (2) the applicants had no influence or control over the Plan's involvement in the transaction; and (3) the applicants were unaware of the possible prohibited nature of the transaction.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Wooley Tool and Manufacturing Division, Employees' Profit Sharing Plan and Trust (the Plan) Located in Odessa, Texas

[Application No. D–4490]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed cash sale by the Plan of a certain parcel of improved real property to Wooley Tool and Manufacturing Division (the Employer) for $175,000, provided that the terms and conditions of sale are not less favorable to the Plan than those obtainable in an arm's length transaction with an unrelated party.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with 240 participants and total assets of $3,264,090.10 as of December 31, 1982. Interfirst Bank Odessa, N.A. is the Plan's trustee.

2. On October 23, 1975, the Plan purchased a parcel of unimproved real property (the Property) for $90,000 from CPI, Inc., an unrelated party. The Property is located at 5407 Andrews Highway, Odessa, Texas. The Plan

leased the Property to the Employer effective January 1, 1976.[1]

3. The Plan proposes to sell the Property to the Employer for $175,000 in cash. The Plan will pay no real estate commissions or fees in connection with the proposed sale. The applicant represents that the cost basis of the Property is $98,730.

4. Several appraisals have been performed on the Property, with the most recent appraisal being performed on May 1, 1983 by Mr. Milton D. Shirley, Jr., M.A.I. (Mr. Shirley), of M.D. Shirley Associates Inc., Mr. Shirley valued the Property at $150,960. The Plan trustee after reviewing the current and prior appraisals and the condition of the Property, represents that based on its knowledge of the area and its expertise in appraising, that the Plan should receive $175,000 for the Property because of its unique value to the Employer.

5. The Plan trustee represents that the proposed sale of the Property is in the best interest of the Plan because the buildings located on the Property are old and in poor condition. Furthermore, the economic conditions in Odessa, Texas are bad with a 30% vacancy rate in commercial buildings.

6. The applicant recognizes that the leases with the Employer constitute prohibited transactions under the Act and Code. Accordingly, the Employer represents that it will pay within 60 days of the final grant of the exemption any excise tax penalties owing due to the prior lease transactions.

7. In summary, the applicant represents that the proposed transaction meets the statutory criteria for an exemption under section 408(a) of the Act because:

(a) the Plan trustee represents that the sale of the Property would be in the Plan's best interest;

(b) it will be a one time transaction for cash;

(c) the Plan will not pay any real estate commissions or fees in connection with the proposed sale;

(d) with respect to the prohibited leases with the Employer, any excise taxes due will be paid within 60 days of the granting of an exemption; and

(e) the price to be paid to the Plan was decided by the Plan trustee based upon its expertise after considering all prior appraisals and the unique value of the Property to the Employer.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

[1] Between June 1, 1977 and March 1982 three other companies (all unrelated) leased office space on the Property from the Plan. As of this date, the Employer is the sole tenant on the Property.

East Side Electric Supply, Inc. Pension Plan and Retirement Trust (the Plan) Located in Phoenix, Arizona

[Application No. D-4230]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to (1) the proposed purchase by the Plan of certain unimproved real property (the Land) from Strupp Brothers Investments (the Partnership), a party in interest with respect to the Plan, provided that the purchase price of the Land is not more than its fair market value on the date of transfer; (2) the proposed ground lease (the Ground Lease) of the Land by the Plan to the Partnership; (3) the subsequent sublease of the Land by the Partnership to East Side Electric Supply, Inc. (the Employer), the sponsor of the Plan; (4) the possible resale of the Land by the Plan to the Partnership pursuant to a put option in the Ground Lease exercisable solely by the Plan; and (5) the personal guarantees by the partners in the Partnership of the rental payments due the Plan under the Ground Lease as well as any payments that may be due the Plan under the Plan's right to exercise the put option in the Ground Lease; provided that the terms and conditions of such transactions are at least as favorable to the Plan as those obtainable by the Plan in arm's-length transactions with unrelated parties.

Summary of Facts and Representations

1. The Plan is a money purchase pension plan which had seven participants and net assets of approximately $743,903 on March 31, 1983. Messrs. Robert A. Strupp and Peter A. Strupp (collectively, the Strupps) are the trustees of the Plan. The Strupps are also the two principal officers and sole shareholders of the Employer, and the only partners in the Partnership, a general partnership organized under Arizona law.

2. The Plan proposes to purchase the Land from the Partnership. The Land, which is located at the northeast corner of Thirty-fifth and West Virginia Avenues in Phoenix, Arizona, was purchased by the Partnership from unrelated parties on May 5, 1983 with the intent that it would be sold to the Plan, but was held by the Partnership pending the outcome of a zoning hearing which was resolved in favor of the applicants. The Plan will purchase the Land for cash in the amount of $152,000, which is the amount paid for the Land by the Partnership. This amount represents approximately 20.4% of the Plan's current assets. Mr. Veldon Naylor (Mr. Naylor), an independent M.A.I. appraiser located in Mesa, Arizona, appraised the Land on August 16, 1983 and determined its fair market value on that date to be $162,000.

3. Following the purchase of the Land, the Plan will enter into the Ground Lease with the Partnership. The Ground Lease, which is triple net, will extend for a term of fifty-five years and will grant the Partnership five successive options to extend the Ground Lease for five consecutive ten year periods, for a total of one hundred and five years, the exercise of such renewal options being subject to the approval of an independent fiduciary acting on behalf of the Plan. The Ground Lease will provide initially for a monthly rental payment of $1,620, which is 1% of the appraised fair market value of the Land, and will be readjusted every five years to a monthly rental which is 1% of the then-current fair market value of the Land as determined by an independent, M.A.I. appraiser satisfactory to the independent fiduciary for the Plan. In no event will the rental rate for the Land be less than $1,620 per month, regardless of any future decreases in the appraised value of the Land. Mr. Naylor has reviewed the proposed initial rental rate and the formula for determining future rental rates and states that these amounts accurately represent the fair market rental values based on those charged for similar commercial properties in the Phoenix, Arizona metropolitan area. The Plan will have the right to assign its interest in the Ground Lease should the Plan decide to sell its interest in the Land to a party other than the Partnership. In addition, the Ground Lease will provide the Plan with a put option permitting the Plan to sell the Land to the Partnership for its then current appraised fair market value upon one year's notice to the Partnership. Any costs incurred by the Plan as a result of its exercise of the put option will be paid by the Partnership. The put option will be exercisable solely by the independent fiduciary for the Plan and will provide the Plan with the means to dispose of the Land if it is

expedient for the Plan to do so. The rental payments due under the Ground Lease, as well as any payments that may become due under the Plan's right to exercise the put option, will be personally guaranteed by the partners of the Partnership. Mr. Peter A. Strupp represents that he has a net worth in excess of $1.5 million and Mr. Robert A. Strupp represents that his net worth exceeds $800,000.

4. Upon execution of the Ground Lease, the Partnership will construct a building (the Building) which is expected to cost between $350,000 and $400,000. The costs of construction will be financed by a construction or permanent lender through a loan to the Partnership which will be secured by a security interest on the improvements only. The Plan's interest in the Ground Lease will not be subordinated to the interest of the construction or permanent lender. Following construction of the Building, the Land will be subleased (the Sublease) and the Building will be leased by the Partnership to the Employer. The applicants represent that the rental paid for the Land by the Employer to the Partnership under the Sublease will not at any time exceed the rental paid by the Partnership to the Plan under the Ground Lease.

5. First Interstate Bank of Arizona, N.A. (the Bank) will act as the independent fiduciary for the Plan with respect to the subject transactions. The Bank represents that it has had substantial experience in dealing with employee benefit plans and that it has heretofore maintained no relationship of any kind with the Employer or with its shareholders or officers. The Bank has reviewed the investment portfolio of the Plan as well as the terms and conditions of the subject transactions and has determined that the transactions are prudent, consistent with the Plan's overall investment policy and in the best interest of the Plan's participants and beneficiaries. Specifically, the Bank states that the Partnership will not realize any gain on the sale of the Land to the Plan; the rental value over the term of the Ground Lease will be the fair market rental value of the Land and will be readjusted every five years in accordance with reappraisals by an independent M.A.I. appraiser; the put option in the Ground Lease will provide a means for the Plan to dispose of the Land in the event that the investment needs of the Plan change over a period of time or if Plan assets could be used in a more productive manner; and the personal guarantees by the partners of the Partnership of the rental payments as well as any payments that may be due the Plan under the Plan's right to exercise its put option, backed by substantial assets, will make these transactions a secure investment for the Plan. The Bank will monitor the rental amounts due under the Ground Lease and the rental payments, determine whether the renewal options may be exercised and will periodically review the status of the Ground Lease to determine whether the Plan should sell its interest in the Land and/or exercise its put option. Additionally, the Bank will take any steps necessary to protect and enforce the rights of the Plan with respect to the subject transactions.

6. In summary, the applicants represent that the proposed transactions meet the statutory criteria for an exemption under section 408(a) of the Act because: (1) the purchase price of the Land to be paid by the Plan is less than the fair market value of the Land as stated by an independent, M.A.I. appraiser; (2) the rental to be paid to the Plan under the Ground Lease has been determined to be the fair market rental value by an independent, M.A.I. appraiser and will be readjusted every five years to reflect the then-current fair market rental value; (3) any renewals of the Ground Lease must be approved by the independent fiduciary for the Plan; (4) the assignability of the Plan's interest in the Ground Lease and the Plan's put option will permit the Plan to dispose of the Land if it appears to be in the best interest of the Plan to do so as determined by the independent fiduciary; (5) the rental payments under the Ground Lease as well as any payments that may be due the Plan under its right to exercise the put option have been personally guaranteed by the partners of the Partnership; (6) the rental paid by the Employer to the Partnership under the Sublease will not at any time exceed the rental paid by the Partnership to the Plan under the Ground Lease; and (7) the Bank, as the independent fiduciary for the Plan, has represented that the proposed transactions are in the best interest of the Plan and its participants, and that it will monitor the subject transactions and take any steps necessary to protect and enforce the rights of the Plan and its participants and beneficiaries.

For Further Information Contact: Ms. Katherine D. Lewis of the Department, telephone (202) 523–8972. (This is not a toll-free number.)

United Precision Machine & Engineering Company Profit Sharing Plan (the Plan) Located in Salt Lake City, Utah

[Application No. D–4527]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed loan by the Plan of $200,000 (the Loan) to United Precision Machine & Engineering Company (the Employer), the sponsor of the Plan, provided that the terms and conditions of the Loan are not less favorable to the Plan than those obtainable in a similar transaction with an unrelated party.

Summary of Facts and Representations

1. The Plan is a defined contribution plan with 26 participants. As of September 30, 1982, the Plan had assets of $1,961,817. Messrs. Jay Rydalch, Floyd M. Childs, John Nieuwland, Louis Timm, and Sam Dalton serve as the trustees (the Trustees) of the Plan, and, except for Mr. Dalton, serve as officers, directors, shareholders and/or employees of the Employer. the Trustees constitute the Plan's investment and administrative committee which is responsible for making decisions regarding Plan investments.

2. The Employer is a corporation engaged in the machinery and machine tool business. As of February 28, 1983, the Employer had a total net worth of $1,474,725.

3. The applicant is requesting an exemption for the Plan to engage in the Loan with the Employer. Pursuant to a prior administrative exemption granted by the Department (PTE 79–80, 44 FR 76877, December 30, 1979) the Plan loaned $120,000 to the Employer collateralized with a perfected first security interest in heavy equipment owned by the Employer. This loan currently has a balance of $30,951, and the Employer is current on all payments due under the loan.

4. The proposed Loan will be represented by a promissory note payable in 48 equal monthly consecutive installments of $5,415 each with interest on the unpaid principal balance at 13.5% per annum. The Loan will be secured by

a perfected first security interest in heavy equipment (the Collateral) (a lathe and a machining center) recently purchased by the Employer. The New West Machine Tool Corporation (New West), located in Salt Lake City, Utah, conducted an appraisal of the Collateral and determined, as of July 14, 1983, that the Collateral had a total fair market value of $323,000. New West analyzed the marketability of the Collateral and determined that present marketability is fair to good. New West represents that because of the origin, manufacturer, and design of the Collateral the marketability for it in four years will be good to excellent. New West estimates that the predicted value of the Collateral in July, 1987, will be $172,000. New West is a corporation which has been engaged in selling and servicing machine tools for 13–15 years. New West represents that it has been familiar with the particular manufacturer of the Collateral (Mori Seki) for 20 years.

5. The Loan will represent approximately 10.2% of the assets of the Plan. When aggregated with other outstanding extensions of credit by the Plan to the Employer, the PTE 79–80 loan, and a loan entered into by the Plan to the Employer in June, 1974, with a current outstanding balance of $10,252,[1] the total outstanding indebtedness owed to the Plan will be less than 12.5% of the Plan's assets.

6. The Valley Bank and Trust Company (the Bank) located in Salt Lake City, Utah, has been appointed to serve as the independent fiduciary with respect to the Loan. The Bank maintains no commercial or business relationship with the Employer. The Bank has examined the terms and conditions of the Loan and has initially determined that the Loan is appropriate and suitable for the Plan and its participants and beneficiaries. The Bank considered the overall investment portfolio of the Plan and the diversification of its asset in rendering this determination. This same determination will be made immediately prior to, and as a condition of, the consummation of the Loan.

7. In rendering its determination the Bank reviewed the appraisal (and prior appraisals done in November-December 1982) and has determined that the Collateral has a fair market value in excess of 150% of the Loan. The Bank has determined that because the proposed Loan will be repaid over a short period of time, the Collateral will remain at least equal to 150% of the outstanding Loan balance throughout the Loan's term despite the possibility of depreciation of the Collateral. In the event that the value of the Collateral drops below 150% of the Loan's balance, the Bank will require the Employer to add additional collateral to insure that its value is at least 150% of the outstanding balance of the Loan, or alternatively, will require the Employer to accelerate its payments on the Loan. The Employer will insure the Collateral against fire or other loss, and the Plan will be the named insured under such insurance policy.

8. With respect to the Loan's terms, the Bank represents that the interest rate is 3% higher than the current prime loan rate, 2% higher than the current yield on treasury notes, and at least 1% higher than corporate bonds of similar maturity. The Bank believes that the Plan will be receiving a higher than market yield from the Loan, and thus it is an appropriate and profitable investment for the Plan. The First Security Bank of Utah, located in Salt Lake City, Utah, stated in a letter dated April 19, 1983, that, secured by the Collateral, it would lend $200,000 to the Employer secured by a note bearing interest at 13½% for four years.

9. The Bank will completely monitor the terms and conditions of the Loan and will be empowered to enforce the terms of the Loan, including making demand for timely payment, bringing suit, or other appropriate process against the Employer in the event of default.

10. In summary, the applicant represents that the proposed Loan will satisfy the statutory criteria of section 408(a) of the Act because (a) the Loan will be secured by a perfected first security interest in insured collateral which will at all times throughout the term of the Loan have a value not less than 150% of the Loan's outstanding balance; (b) the Bank, an independent, qualified party, will serve as the fiduciary of the Plan with regard to the Loan, and has determined that the Loan is an appropriate and suitable investment for the Plan; and (c) the Bank will completely monitor the Loan and enforce the performance of the Employer's obligations under the applicable Loan documents.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

[1] The Department expresses no opinion as to whether this loan is covered under any statutory exemption or transitional rule as contained in the Act.

Tri-State Optical, Inc. Profit Sharing Plan (the Plan) Located in Fort Wayne, Indiana

[Application No. D–4531]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to: (1) the proposed purchase (the Purchase) of a building (the Building) by the Plan from Fort Wayne National Bank as Trustee of the Betty Pollak Trust (the Seller), a party unrelated to the Plan, provided that the purchase price is not more than the fair market value of the Building on the date of sale; and (2) the proposed lease (the Lease) of the Building to Tri-State Optical, Inc., (the Employer), a party-in-interest with respect to the Plan, provided that the terms and conditions of the Lease are at least as favorable to the Plan as those obtainable from an unrelated party.

Summary of Facts and Representations

1. The Plan is a defined contribution plan with approximately 47 participants. As of June 1, 1983, the Plan's assets were valued at $983,188. There are no Plan assets currently invested in real estate. Lincoln National Bank (the Bank) serves as trustee of the Plan. The Bank has sole discretion with respect to all investments made by the Plan. The Bank represents that it is an independent trustee for the Plan, having no banking relationship with the Employer and only a de minimus banking relationship with the principals of the Employer, consisting of a passbook account and a mortgage which represent substantially less than one percent of the total assets of the Bank. The Bank further represents that neither the Employer nor the principals of the Employer has an equity interest in the Bank.

2. On April 13, 1983, the Plan entered into a purchase agreement with the Seller to purchase the Building. The purchase agreement was made contingent to a grant of an exemption from the prohibited transaction rules of the Act by the Department, for the Purchase of the Building by the Plan and for the subsequent Lease to the Employer. Portions of the Building are currently leased by the Seller to the

Employer. Those portions serve as the principal headquarters and none of three retail outlets of the Employer.

3. The applicant requests an exemption to permit the Purchase of the Building by the Plan from the Seller and to permit the Lease of the Building, in its entirely, to the Employer. The purchase price agreed to between the Plan and the Seller is $160,000. Mr. Lowell K. Griffin, MAI, an independent appraiser, valued the building at $178,000 as of May 12, 1983. Mr. Griffin represents that the fair market rental rate for the entire Building on a "triple net" basis is $21,360 per annum or $1,780 per month.

4. The applicant represents that immediately upon completion of the Purchase, the current lease of the Employer will be terminated and replaced by the new Lease. The Lease will be a "triple net" lease for an initial five year term with an option to extend the Lease for another five years, which option can be exercised only by the Plan. The initial rent will be $21,360 per annum, payable in equal monthly installments and will be fixed for an initial three year term. Each three years the Bank will have the Building reappraised by an independent, MAI certified appraiser. The rent will be adjusted upon the reappraisal to reflect the fair market rental. The rent will never be reduced by reason of the reappraisal to a rate below the original rental amount. The Bank will approve the purchase of the Building prior to its execution and will continually monitor the Lease and enforce the rights of the Plan under the terms and conditions of the Lease.

5. The Bank, which is the independent trustee of the Plan, represents that the Purchase from the Seller and the subsequent Lease to the Employer are in the best interests of the Plan, its participants and beneficiaries because (a) the purchase price is below the appraised value; (b) the terms and conditions of the Lease were negotiated solely by the Bank on behalf of the Plan; (c) the Building is a multi-use structure and could be redesigned to accommodate different types of tenants with only a minimum expenditures; (d) the proposed investment is reasonable and prudent and allows for a diversification of Plan assets: (e) the Plan will not sell any of the existing assets earning more than the projected return on the Building in order to fund the Purchase; and (f) the Bank will approve the Purchase prior to its execution, will receive the monthly Lease payments on behalf of the Plan and will continually monitor the Lease.

6. In summary, the applicant represents that the proposed transactions meet the statutory criteria of section 408(a) of the Act because (a) the Bank, an independent party, has reviewed the Purchase and negotiated the terms and conditions of the Lease and has determined that the proposed transactions are in the best interest of the Plan; (b) the purchase price is below the appraised value as determined by a qualified, independent appraiser; (c) the Bank will approve the Purchase and monitor the terms of the Lease; (d) rentals will be adjusted every three years after an appraisal of the Building by a qualified, independent appraiser; and (e) at the termination of the initial five year Lease, the Plan has an option to renew the Lease for another five years.

For Further Information Contact: David M. Cohen of the Department, telephone (202) 523–8671. (This is not a toll-free number.)

Omar Associates, Inc. Defined Benefit Pension Plan (the Plan) Located in Livonia, Michigan

[Application No. D–4543]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the December 31, 1983 contribution of a parcel of real property located at Lot 128 in the Southbay Yacht and Racquet Club, Sarasota, Florida (the Property) by Omar Associates, Inc. (the Employer) to the Plan, provided that: (1) The Employer's federal tax deduction for the contribution of the Property to the Plan is not greater than the Employer's equity in the Property on the date of contribution; and (2) the contribution is valued at its fair market value by the Plan on the date of contribution.

Effective Date: If the proposed exemption is granted, it will be effective December 31, 1983.

Summary of Facts and Representations

1. The Plan is a defined benefit plan with two participants, Mr. Omar Mette and his son Edward. As of June 30, 1983, the Plan had total assets of approximately $334,000. Omar Mette is the sole shareholder of the Employer.

2. In April of 1980, the Employer purchased two parcels of real property in Sarasota, Florida for investment purposes. The Employer purchased Lot 77 in the Southbay Yacht and Racquet Club (Lot 77) for $43,155. The Employer paid $11,000 down, and a mortgage of $32,155 was taken on Lot 77. The Employer also purchased the Property, which was Lot 128 in the same development, for a purchase price of $41,355. The Employer paid $11,000 down, and a mortgage of $30,355 was taken against the Property.

3. The Employer is a manufacturers' representative. In 1980, the Employer was informed by a principal manufacturing concern that its principal purchaser required its sales operation to become an in-house account. This represented a loss of approximately $100,000 in receipts for the Employer, and created a severe economic hardship. The Employer has filed with the Internal Revenue Service a request for a waiver of its minimum funding requirements under the Plan for its Plan years ending December 31, 1981 and December 31, 1982. That request is still pending.

4. Because the Employer was also required to meet a funding deficiency for the year 1980 and it did not have adequate cash, the Employer contributed Lot 77 to the Plan on September 15, 1982. The Employer recognizes that the contribution of Lot 77 to the Plan constitutes a prohibited transaction, and has represented that it will pay all excise taxes due as a result of that prohibited transaction under section 4975 of the Code within 60 days of the granting of the exemption proposed herein. On November 8, 1983, the Plan sold Lot 77 to an unrelated third party for $62,000. Lot 77 had been appraised for purposes of the contribution at $60,700. The purchaser will assume the existing mortgage and pay the balance in cash.

5. Because the Employer cannot meet its funding requirements for the Plan for the year 1983, it now wishes to contribute the Property to the Plan. The Property was appraised on September 10, 1982 by Mr. Thomas H. Chapman, an independent appraiser in Sarasota, Florida, as having a value of $71,700. As such, the Property would constitute approximately 17.8% of Plan assets.

6. On May 18, 1983, Comerica Bank-Detroit (the Bank) agreed to become the independent trustee for the Plan. The Bank currently manages approximately $1.7 billion in employee benefit trust assets for some 800 corporate plans. The Bank has reviewed the proposed contribution of the Property to the Plan and has determined that the proposed transaction is appropriate for the Plan

and in the best interests of its participants and beneficiaries. The Bank has reviewed the Plan's investment portfolio and believes that the presence of real estate in the portfolio is appropriate given the overall objectives of the Plan. In addition, the Bank represents that the acceptance of the contribution of the Property is in the Plan's best interests due to the fact that the Employer has experienced financial difficulties and is unable to make a cash contribution.

7. In summary, the applicants represent that the proposed transaction meets the criteria of section 408(a) of the Act because: (1) the Property represents only about 17.8% of Plan assets; and (2) the Plan's independent fiduciary has determined that the proposed transaction is appropriate for the Plan and in the best interests of the Plan's participants and beneficiaries.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 3rd day of January, 1984.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 84–372 Filed 1–5–84; 8:45 am]

BILLING CODE 4510–29–M

C. W. Alban & Co., Inc., et al.; Grant of Individual Exemptions

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

C. W. Alban & Co., Inc. Employees Profit Sharing Trust Fund (the Plan) Located in St. Louis, Missouri

[Exemption Application No. D–2882; Prohibited Transaction Exemption 84–1]

Exemption

The restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to: (1) the past lease (the 1974 Lease) of a parcel of real property by the Plan to C. W. Alban & Co., Inc. (the Employer), the Plan sponsor. The 1974 Lease was entered into before the effective date of the Act but after July 1, 1974, the date specified in the transition rules contained in sections 414 and 2003 of the Act; (2) the proposed lease (the Lease) of three contiguous parcels of real property (the Properties) by the Plan to the Employer; (3) the possible purchase of the Properties from the Plan by the Employer pursuant to a right of first refusal given the Employer by the Plan; and (4) the Employer's agreement to reimburse the Plan for any loss suffered upon sale of any of the Properties.

Effective Dates: The effective date for transaction number (1) above is January 1, 1975. The effective date for transaction numbers (2) and (3) above is the date of grant.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on October 14, 1983 at 48 FR 46877.

For Further Information Contact: Richard Small of the Department,

telephone (202) 523–7222. (This is not a toll-free number.)

International Medical Prosthetics Research Associates Profit Sharing and Pension Plans (the Plans) Located in Phoenix, Arizona

[Exemption Application No. D–4314; Prohibited Transaction Exemption 84–2]

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the loan of $50,000 by the Plans to the International Prosthetics Research Associates, Inc. for a one-year period, renewable for up to four additional one-year periods, provided the terms of the loan are at least as favorable to the Plans as those obtainable in an arm's-length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on October 14, 1983 at 48 FR 46890.

For Further Information Contact: Ms. Linda M. Hamilton of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Chemical New York Corporation (Chemical) Located in New York, New York

[Exemption Application No. D–4725; Prohibited Transaction Exemption 84–3]

Exemption

The restrictions of section 406 (a) and (b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (F) of the Code, shall not apply, effective October 1, 1983, to the reinsurance of risks and the receipt of premiums therefrom by Sun States Life Insurance Company from the insurance contracts sold by Metropolitan Life Insurance Company to Chemical's Group Life Insurance Plan and from the annuity contracts sold by Credit Life Insurance Company (Credit Life) to the Sunamerica Corporation Retirement Plan (the Retirement Plan), provided the conditions set forth in the notice of proposed exemption are satisfied.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on November 1, 1983 at 48 FR 50425.

Effective Date: This exemption is effective October 1, 1983.

Written Comments and Hearing Requests: The only comment received by the Department was submitted by the applicants, who were seeking to correct errors of fact contained in their original application. The application states that the benefits under the Retirement Plan are currently funded by Credit Life. The applicants have corrected this to state that retired participants of the Retirement Plan are presently receiving their benefits directly from the trustee, The National City Bank of Cleveland, Ohio. Up to this time, no insurance policies have been purchased by the Retirement Plan to provide these benefits. It is the applicants' intention to direct the trustee to purchase annuities from Credit Life to provide benefits to retired participants upon the granting of this exemption. The applicants have selected Credit Life based upon their favorable experience in approximately 30 years of doing business with Credit Life, and their evaluation of the competitiveness of Credit Life's rates. The original application also stated that Credit Life currently has no reinsurance agreements in existence. The applicants corrected this to state that Credit Life currently has no reinsurance agreements in existence with respect to any retirement plan sponsored by Chemical or any of its affiliates. In addition, the applicants originally represented that the Retirement Plan was not subject to section 401(a) of the Code and to Title IV of the Act. The applicants corrected this to state that the Retirement Plan is subject to Title IV of the Act and is tax qualified under section 401(a) of the Code.

No hearing requests were recieved by the Department. Based upon the entire record, the Department has determined to grant the exemption as it was proposed.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does in affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 3rd day of January, 1984.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 84–371 Filed 1–5–84; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL SCIENCE FOUNDATION

Committee Management; Advisory Committee for Advanced Scientific Computing; Establishment

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), it is hereby determined that the establishment of the Advisory Committee for Advanced Scientific Computing is necessary, appropriate, and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF), and other applicable law. This determination follows consultation with the Committee Management Secretariat, General Services Administration, pursuant to Section 9(a) of the Federal Advisory Committee Act and other applicable issuances.

Name of committee: Advisory Committee for Advanced Scientific Computing.

Purpose: To provide advice, recommendations, and oversight concerning the directions for and impacts of the

Foundation's initiative to enhance the advanced scientific computing resources available to university based scientists and engineers in the United States.

Effective date of establishment and duration: This establishment is effective upon filing the charter with the Director, NSF, and with the standing committees of Congress having legislative jurisdiction of the Foundation. The Committee will operate for an initial period of two years.

Membership: The membership of this Committee shall be fairly balanced in terms of the points of view represented and the Committee's function. Members will be chosen so as to be reasonably representative of the scientific and engineering communities supported by the research directorates of the Foundation. Due consideration will be given to achieving representation from women and monority scholars, the handicapped, and different geographical regions of the country.

Operation: The Committee will operate in accordance with provisions of the Federal Advisory Committee Act (Pub. L. 92–436), Foundation policy and procedures, GSA Interim Rule on Federal Advisory Committee Management, and other directives and instructions issued in implementation of the Act.

Edward A. Knapp,

Director.

[FR Doc. 84–323 Filed 1–5–84; 8:45 am]

BILLING CODE 7555–01–M

Behavorial and Neural Sciences Advisory Panel; Subpanel on Neurobiology Group "B"; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subpanel on Neurobiology of the Advisory Panel for Behavioral and Neural Sciences.

Date and time: January 23, 1984: 9:00 a.m. to 5:00 p.m.

Place: The Board Room, Village Sheraton Hotel, Steamboat Springs, Colorado.

Type of meeting: Closed.

Contact person: Dr. Nathaniel G. Pitts, Associate Program Director, Neurobiology Program, Room 320, National Science Foundation, Washington, D.C. 20550, telephone 202/357–7471.

Purpose of panel: To provide advice and recommendations concerning support for research in neurobiology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: January 3, 1984.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 84–324 Filed 1–5–84; 8:45 am]

BILLING CODE 7555–01–M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Fish Propagation Panel; Meeting

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council)

ACTION: Notice of meeting of the Fish Propagaton Panel to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1–4. Activities will include:

- Aproval of minutes
- Staff update
- Scheduling of panel activities
- Prioritization
- Willamette Basin study plan
- Other
- Public comment

Status: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its Fish Propagation Panel.

DATE: Janaury 10, 1984. 9:00 a.m.

ADDRESS: The meeting will be held in Conference Room A of the Hyatt SeaTac, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mark Schneider, 503–222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 84–472 Filed 1–5–84; 8:45 am]

BILLING CODE 6000–00–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 20519; File No. SR–DTC–76–8 (Amdt. No. 2), et. al.]

Depository Trust Co., et al.; Order Approving Proposed Rule Changes

December 30, 1983.

In the matter of Depository Trust Company (File No. SR–DTC–76–8 (Amendment No. 2)); Midwest Securities Trust Company (File No. SR–MSTC–77–9); Midwest Clearing Corporation (File No. SR–MCC–77–4); and Philadelphia Depository Trust Company (File No. SR–Philadep–83–3).

I. Introduction

This order concerns several similar proposed rule changes that establish electronic clearing agency communication systems. These systems generally permit direct communication between participants and their clearing agencies, enabling participants to effect book-entry movements and other account-related activity via a remote terminal. The proposed rule changes were filed at various times from 1976–1983;[1] each clearing agency, subsequent to filing, offered participants communication system facilities and services on a pilot basis.

Comment respecting these rule changes generally supported the proposed systems. In light of this support and the record of safety and efficiency resulting from use of these systems, the Commission has determined to approve the proposed rule changes.[2]

II. Description

Each proposed rule change establishes an electronic communication system linking the particular clearing agency to its members. Under these systems each participant has a display station—usually a cathode ray terminal with an attached printer for paper copies (or "hard copies")—that is linked with the participant's clearing agency. Participants, under each terminal system, must either purchase or lease a terminal and an attached printer.

Through its office terminal, a participant may accomplish three types of activities. First, a participant may inquire about its securities positions, its settling securities obligations, and its projected money payment obligations. Second, a participant can input instructions to deliver securities from its account to another participant's account via book-entry (Miscellaneous Delivery Orders ("MDO"); withdraw securities certificates from its account and arrange to pick up those certificates at the clearing agency (Certificate on Demand ("COD")); pledge securities to

[1] *See*, Securities Exchange Act Release No. 19911 (June 24, 1983), 48 FR 30506 (July 1, 1983) (Philadep); Securities Exchange Act Release No. 13879 (August 19, 1977), 42 FR 45400 (September 9, 1977) (MCC); Securities Exchange Act Release No. 13741 (July 12, 1977), 42 FR 37082 (July 19, 1977) (MSTC); Securities Exchange Act Release No. 13706 (June 30, 1977), 42 FR 35715 (July 11, 1977) (DTC).

[2] The system operated by MSTC and DTC are being finally approved. Philadep's electronic communication system, however, was filed as a pilot program and is being approved as such. *See* discussion, *infra*.

participating lenders; and, as part of the National Institutional Delivery System (("NIDS"), transmit confirmations of trades to their institutional customers, receive affirmations of those trades and effect securities-side settlement of those trades by book-entry.[3] A hard copy of each instruction is generated by the printer attached to the terminal. Finally, a participant may use the system to send to and receive information from the clearing agency and other clearing agency participants.[4] Thus, participants can receive hard copy reports of all transactions affecting their accouunts as well as certain trade-comparison and NIDS trade-settlement reports. DTC and MSTC/MCC participants that have full access (*i.e.*, capability to perform all of the three basic activities) must have a direct link, via a dedicated telephone line,[5] from the participant terminal to the clearing agency.[6] In contrast, Philadep's pilot program allows participants to perform all three basic activities either via a dedicated telephone line or by dialing up Philadep.

All of the clearing agencies employ multiple layers of safeguards to protect the integrity of the system. Each system routinely monitors and polls terminals that are in use to insure that access originates from the member's authorized terminal. The systems also monitor participant terminals to ensure that only functions authorized by the participant for the particular terminal are performed on that terminal. Each clearing agency further assigns confidential and unique passwords to each authorized participant-user of its communication system. A hard copy of every terminal transaction is produced at both the participant terminal station and at the clearing agency to insure accurate and complete records for audit purposes. If the terminal at the participant's office is unavailable for printing, the system stores the documents and transmits them when the printer is available. If the terminal is unavailable for an extended period of time, the participant receives a copy of the transaction directly from the clearing agency.

III. Discussion

DTC, MSTC, MCC and Philadep believe their terminal systems are consistent with the requirements and purposes of the Act because, among other things, routine use of these systems dramatically increases industry automation, enhances processing safety and improves participants' ability to manage funds and securities efficiently. Because the terminal systems permit direct communications with the dispository from the participant's office, costs related to preparing and delivering routine settlement instructions, trade confirmations and other documents are substantially reduced. Since notice of deliveries reach a participant's office through it terminal instead of its message box at the depository, participants have more time to coordinate turnaround of securities.

DTC and MSTC/MCC believe that there are sufficient safeguards in the various communications systems to assure the safeguarding of securities and funds. System safeguards include use of multiple passwords; limited access to particular functions; system identification of each terminal before data is accepted; and use of dedicated lines, rather than open telephone lines, to connect participants' terminals to each clearing agency. Each system contains a number of internal accounting controls that are designed to prevent misuse of the system, and each system is subject to internal and external audits and control studies that are designed to assure that any material misuse or irregularity will be timely detected and corrected.

The Commission has carefully reviewed the program of safeguards of each clearing agency terminal system and the Commission believes that these systems have sufficient safeguards to satisfy the requirements of the Act. An important consideration in reaching this conclusion is the operational and safety record of these systems during the last six years.[7]

As noted above, two commenters questioned the use of dedicated lines to link participant terminals to clearing agencies. These commenters asserted that a participant in more than one clearing agency should be able to assess all of its clearing agencies through one terminal because the cost of duplicate facilities may discourage multiple clearing agency participation. These commenters, however, did not suggest that alternative, effectively-interfaced, communication systems could be developed to provide multiple clearing agency access at the same price and level of security. Neither did the commenters suggest that any participant had decided against multiple clearing agency participation just because they needed to use multiple terminals.

The Commission believes that use of dedicated lines reflects an appropriate balance at this stage of terminal system development between, on the one hand, safeguarding participant funds and securities and, on the other hand, creating cost economies for dual clearing agency participants.[8] The Commission believes that DTC and MSTC/MCC have appropriately focussed on system security in designing their systems. In view of increasing public familiarity with computer systems, the Commission does not believe that the fixed and variable costs of duplicate terminal equipment, even at $750 per month, reflect an unnecessary cost burden for the small percentage of dual clearing agency participants. Terminal equipment expenses, moreover, are not the only expenses dual participants must pay. Measured against those other expenses, such as clearing fund contributions and account maintenance fees, terminal equipment expenses, at least at their current levels, are a relatively insignificant factor affecting participation decisions.

This conclusion with respect to DTC and MSTC/MCC, however, does not mean that all clearing agency terminal systems must use dedicated lines. Indeed, as indicated above, Philadep's electronic communication system does not require use of dedicated lines. Despite that feature, the Commission is approving Philadep's proposed rule change because that rule change seeks to establish a limited pilot program rather than permanent implementation of the system for all Philadep participants. The Commission recognizes that Philadep's system

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[3] For example, a participant issuing a MDO instruction causes the delivery of securities from its account to another participant's account via book-entry. Provided the delivering participant has sufficient securities on deposit, the securities depository reduces the delivering participant's security account, increases the receiving participant's account as directed, and debits or credits the particpants' money accounts for settlement purposes as appropriate. Following the delivery, a delivery confirmation is printed at the delivering and receiving participant's terminal.

[4] While the Philadep pilot program presently only provides its participants the capacity to inquire and input data, Philadep hopes to expand its electronic communication system to include the information-broadcast function over the next several months.

[5] A dedicated line is a telephone line connecting the participant's terminal directly to the clearing agency on a continuous basis. It allows participants, through their terminals, to easily access information from or send information to the clearing agency without having to dial-up the clearing agency to establish the telephone connection.

[6] While DTC allows dial-up communication linkages, DTC limits use of such links to the inquiry function. DTC's PTS will not accept any instruction or input data except through a dedicated line.

[7] The Commission is unaware of any reported clearing agency or participant financial loss resulting from unauthorized use of DTC's or MSTC/MCC's systems.

[8] The dedicated line is an added safeguard in that it links directly a participant's terminal to the clearing agency and, thereby, prevents access to the system from locations other than the participant's office. A dial-up communication linkage allows a participant, over any telephone line, to connect to the system.

employs many other safeguards, that Philadep only recently began offering system services to a limited number of participants, and that Philadep plans to reconsider all aspects of its communication system in light of Philadep's and Philadep's participants' experience with the system. Accordingly, the Commission expects that Philadep's management will assess the risk of unauthorized access and will consider the need for mandatory use of dedicated lines as a precondition to, for instance, participant instruction input activity.

The Commission plans to monitor Philadep's limited pilot program and, if the findings support the proposition that a dial-up linkage with appropriate safeguards is safe and efficient, the Commission may then review DTC's and MSTC/MCC's policy of mandatory dedicated lines. The Commission expects DTC, MSTC/MCC and Philadep to continue to adapt their systems to meet participant demand for additional uses, including interfaced clearing agency services. In addition, the Commission expects these clearing agencies, consistent with their registration orders, to continue to review and revise their system safeguards as necessary to protect against unauthorized access to participant funds, securities and commercial data.

IV. Conclusion

The Commission finds that the proposed rule changes are consistent with the requirements of the Act. The Commission also finds that the proposed rule changes will not impose a burden on competition among clearing agencies that is either unnecessary or inappropriate under the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule changes be, and they hereby are, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 84-318 Filed 1-5-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20521; File No. SR-OCC-83-20]

Order Approving Proposed Rule Change of the Options Clearing Corporation

December 30, 1983.

On August 26, 1983, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), the Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change discussed below. The proposal changes OCC's By-laws and Rules by adding or amending several provisions regarding the rights and obligations of OCC, its clearing members, and third parties under OCC's By-laws and Rules and the Uniform Commercial Code. The Commission published notice of the proposed rule change in Securities Exchane Act Release No. 20251 (October 3, 1983), 48 FR 46123 (October 11, 1983). The Commission did not receive any comments on the proposal.

Background

In 1977, the National Conference of Commissioners on Uniform State Laws (the "Conference") substantially revised Article 8 of the Uniform Commercial Code ("UCC" or "Code") relating to investment securities ("1977 Amendments") and made conforming changes to other UCC Articles. Prompted by the "Paperwork Crisis" of the 1960's and enactment of Section 17A of the Act, the Conference and other responsible organizations took the initiative to reduce the prevalence of securities certificates.[1] Consequently, the primary purpose of the 1977 Amendments was to provide an integrated body of law governing the issuance, registration, transfer and pledge of uncertificated securities.[2]

On January 1, 1984, OCC will be affected by the 1977 Amendments because on that day, they will become effective in Delaware, OCC's state of organization.[3] While the drafters seem not to have designed provisions for standardized options, it appears that options are included in UCC's definition of "uncertificated security." [4]

The 1977 Amendments and the related drafters' comments do not refer to standardized options contracts, expressly address the unique features of options issuance, trading, clearance and settlement,[5] or include a transition provision for existing securiites. Standardized options are unique among securities in general respects: (1) a single national issuer (OCC) also functioning as a guarantor clearing corporation [6] and "financial intermediary" [7]; (2) several registered options exchanges trading those options; (3) nationwide participation of broker-dealers and investors in those markets; and (4) attempted perfection of security interests in pledged uncertificated options contracts by banks and other financial institutions from many jurisdictions. Furthermore, the absence of transitional provisions [8] makes it clear that inadequate focus was given to the effect of the 1977 amendments on existing securities such as standardized options.

Although the Commission believes that application of the 1977 Amendments in Delaware will benefit OCC and the national clearance and settlement system, the omission of special provisions for options or for transitional provisions in OCCS's view requires OCC to develop special modifications to the 1977 Amendments. Such modification is expressly authorized, within certain specified limits, by the Code [9] and the official comments to revised Article 8.[10]

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[1] The 1977 Amendments are an outgrowth of the work of the Committee on Stock Certificates of the Section of Corporation Banking and Business Law of the American Bar Association.

[2] The Reporter of the 1977 Amendments commented that the revisions' purpose is "to set forth a coherent group of rules for the issuers, buyers, sellers and other persons dealing with uncertificated securities, to the same extent that present Article 8 deals with these matters with respect to certificated securities." Appendix I: *1977 Official Text Showing Changes Made in Former Text of Article 8, Investment Securities and of Related Sections and Reasons for Change: Reporter's Introductory Comments* ("Reporter's Comments").

[3] Delaware is only the sixth state to adopt the 1977 Amendments. The other states are: Colorado, Connecticut, Minnesota, New York, and West Virginia.

[4] UCC section 8-102(1):

(b) *An 'uncertificated security' is a share, participation, or other interest in property or an enterprise of the issuer or an obligation of the issuer which is—*

(i) *not represented by an instrument and the transfer of which is registered upon books maintained for that purpose by or on behalf of the issuer;*

(ii) *of a type commonly dealt in on securities exchanges or markets; and*

(iii) *either one of a class or series or by its terms divisible into a class or series of shares, participations, interests, or obligations.*

[5] In discussing the focus of the Article 8 revisions, the Reporter's comments stated that "[a]lthough the primary focus of the inquiry regarding the possible elimination of certificates has been on corporate stock, the revision is broad enough to cover uncertificated debt securities, should such be issued in the future."

[6] *See* UCC section 8-102(3).

[7] *See* UCC section 8-313(4) and note *infra.*

[8] *Compare* Articles 10 and 11 of the Code, proposed in connection with the 1962 and the 1972 amendments, respectively. At the suggestion of OCC, transitional provisions were included in the Delaware Act adopting the 1977 Amendments.

[9] *See* UCC section 1-103(3).

[10] "As is true with respect to all other Articles of the Code, parties may by agreement create rights and duties between themselves that vary from those set forth in the Article. Section 1-102(3). But prejudice to the rights of those not party to the agreement is limited by Code provisions (*e.g.*, Sections 8-313 and 9-321) as well as by general legal principles that supplment the Code." *See*, UCC section 1-103 and Comment 2 to section 1-102. OCC's proposed rule change is intended to modify Article 8's effects on options to the extent lawful.

Description and OCC's Rationale

OCC's proposed rule change provides that, subject to OCC's By-laws and Rules, the rights and obligations of OCC and its clearing members will be governed by the revised Articles 8 and 9 of the UCC of Delaware (as effective January 1, 1984), including its conflict of laws rules. In its proposal, OCC states its intention to make the appropriate provisions of Articles 8 and 9 of the revised Delaware UCC govern the rights and obligations of OCC and its clearing members, to the greatest extent possible, unless the matter is specifically covered by OCC's By-laws and Rules. Because OCC is organized in Delaware, this provision is consistent with the conflict of laws provisions of the 1977 Amendments.[11]

OCC's proposed rule change also specifies that pursuant to Delaware's revised Articles 8 and 9, Delaware's conflict of laws rules would apply to the full extent lawful. OCC believes that this change is needed to address a *renvoi* problem caused by the omission of transitional provisions in the 1977 Amendments. Under UCC section 9–103(b) of Delaware's Code, the law of the issuer's jurisdiction of organization governs the perfection of security interests in uncertificated securities. On the other hand, OCC believes that options may well be "general intangibles" under UCC section 9–103(3)(b) of the pre-1977 Code. Consequently, the law of the jurisdiction in which the debtor is located, including that jurisdiction's conflict of laws rules, would apply to the perfection of security interests. UCC section 1–105(2) frustrates resolution of this conflict by declaring ineffective provisions in private contracts that designate the law to govern perfection of security interests, unless permitted by applicable choice of law rules. Consequently, the law of the issuer's jurisdiction of organization governs perfection of security interests in uncertificated securities in states that adopt the 1977 Amendments and the law of the debtor's location controls in other jurisdictions.[12]

OCC's provision in its proposed rule change designating Delaware law (including its conflict of laws rules) reflects OCC's intent to have Delaware law applied to the full extent possible.

In response to this *renvoi* problem, OCC has added a cautionary provision, Interpretation and Policy .01 to Article VI, § 9(c) of OCC's By-laws, for the benefit of clearing members and other interested persons. That Interpretation warns clearing members that, notwithstanding OCC's statement in Article VI, Section 9(c) that Delaware law is to apply, the pre-1977 Code may control in states that have not adopted the 1977 Amendments. The Interpretation further cautions persons desiring to perfect security interests in options to obtain advice of counsel on the matter. OCC believes that such explicit warning should help alert clearing members and others interested persons that in some states the pre-1977 version of the UCC and related case law may apply despite OCC's desire to minimize potential conflict of laws problems and to establish uniform procedures for perfecting security interests in options pursuant to the revised Delaware UCC.

OCC's proposed rule change contains a number of technical amendments either to change rights and liabilities under the Code or to conform certain OCC By-laws and Rules to the 1977 Amendments. For example, the proposed rule change would clarify that only an OCC clearing member could be a "registered owner" of an option, within the meaning of Article 8 of the Code. OCC does not know the identities of its clearing members' customers and has no direct contractual or settlement relationship with those customers. Accordingly, by this provision, OCC seeks to avoid creating new obligations to persons other than clearing members. OCC believes that this provision will ensure that existing relationships among OCC, its clearing members, and the public will be maintained after the 1977 Amendments become effective.

Finally, proposed Article VI, Section 9(c) would provide that options may be transferred or pledged only pursuant to OCC's pledge program under OCC Rule 614.[13] OCC's pledge program includes special procedures that are tailored to accommodate the unique characteristics of standardized options and the respective interests of pledgor clearing members, and participating pledgee banks and clearing members, as well as OCC's interests as issuer and creditor clearing agency.

Proposed Article VI, Section 10(a) expressly declares that the provisions of OCC's By-laws and Rules, including OCC's liens and liquidation rights, are incorporated into the terms of each OCC option contract. OCC believes that this incorporation which is currently implicit in OCC's By-laws,[14] is essential under the revised Delaware UCC for OCC legally to prescribe by contract the rights and responsibilities of parties to OCC's options contracts.

OCC's proposal also amends OCC Rule 614(m) to reflect that the pledge of an option would not be a "registered pledge" under Article 8 of the Revised Code, and that OCC, pledgors and pledgees would be subject solely to obligations under OCC's By-laws and Rules. OCC is amending this provision to retain the current rights and obligations of parties to option pledges pursuant to Rule 614. In addition, Rule 614(m) would be changed to state explicitly that pledgees under OCC's Option Pledge Program do not have the different rights provided "registered pledgees" under Article 8.

The proposed rule change also specifically identifies OCC as a "financial intermediary" under new UCC 8–313(4). OCC believes that by ensuring that OCC is a "financial intermediary" under the UCC, OCC's role in facilitating pledges under Rule 614 will be clarified. By being a financial intermediary, OCC can transfer security interests by book-entry under Section 8–313 of the revised UCC. That section deems the transfer of a pledgee's security interest to occur when the issuer receives notice of the transfer from the appropriate party. No financing statements need be filed to perfect that interest.

In sum, OCC believes that the proposed rule change is required (1) to conform OCC's By-laws and Rules to the new Delaware law; (2) to apply the 1977 Amendments to standardized options contracts issued by OCC; and (3) to clarify the nature of conflicts between OCC's By-laws and Rules, the 1977 Amendments as adopted by Delaware, and the pre-1977 version of the UCC applied by other states.

OCC states that the proposed rule change is consistent with the requirements of the Act in that it would protect investors and the public interest by clarifying the application of the 1977 Amendments to the unique aspects of standardized options. In addition, to the extent that the proposed rule change

[11] *See* UCC sections 8–106 and 9–103(b).

[12] To illustrate the problem, assume that a creditor wants to perfect its security interest in an option issued by OCC and held by a clearing member that has its chief executive office in Illinois (which has not yet adopted the 1977 Amendments). Under Illinois law, the creditor would be required to file a financing statement. But if the debtor's chief executive office were instead located in New York, the New York choice of law provision in § 9–103(6) would apply Delaware law; the filing of a financing statement would be unnecessary (as well as ineffective); and the creditor would instead be required to comply with amended Article 8 (*cf.* sections 8–321 and 8–332 (1977)).

[13] The Commission approved OCC's pledge program in Securities Exchange Act Release No. 19956 (July 19, 1983), 48 FR 33956 (July 26, 1983).

[14] *See* Article V, § 3 of OCC's By-laws.

would make the mechanism, rules, and procedures for creating and perfecting security interests options uniform in all states, it would remove impediments to the establishment of a national system for the clearance and settlement of options transactions. OCC also states in its filing that the proposed rule change will not affect adversely OCC's system of financial and operational safeguards.

Discussion

The Commission is approving OCC's proposal for the reasons discussed below. First, the proposed rule change will tailor the 1977 Amendments to OCC's unique needs as an issuer of options and as a registered clearing agency. While the Commission believes that the 1977 Amendments in many respects facilitate the potential for uniformity in regulation of uncertificated securities,[15] those amendments were not tailored to the unique aspects of the clearance and settlement of options. The Commission agrees with OCC that it must tailor Articles 8 and 9 of the revised Delaware UCC to OCC's systems and procedures. To do so, among other things, OCC must provide that its By-laws and Rules are part of every options contract.

Second, the Commission believes that it is appropriate and necessary for OCC to do what it can to remedy the *renvoi* problem caused by the interaction of UCC section 1–105 with section 8–106 (1977 version) and section 9–103 (pre-1977 version). The Commission hopes that the proposal will reduce the confusion caused by the conflicting provisions and result in uniform interpretation and effect in as many cases as possible. OCC's statement in its proposed rule change that Delaware law owuld apply (1) reflects the intent of OCC and (2) shows the law that the contracting parties would have chosen if permitted by UCC 1–105 to stipulate their choice of law. The Commission hopes that OCC's intention will be given due regard by courts deciding choice of law issues in states that have not adopted the 1977 Amendments. The Commission also hopes that those courts would look to the beneficial effects of the 1977 Amendments on the national options markets and the national clearance and settlement system. Moreover, we believe that OCC's new Interpretation .01 to Article VI, section 9(c) of OCC's By-laws will help to ensure that OCC's clearing members and other interested persons understand that OCC's By-law applying Delaware law to their relationships with OCC may not be effective in states that have not adopted the 1977 Amendments.

Conclusion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to clearing agencies and in particular, the requirements of Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 84–317 Filed 1–5–84; 8:45 am]

BILLING CODE 8010–01–M

[15] The 1977 Amendments were drafted in response to the Paperwork Crisis and Congress's enactment of Section 17A of the Act. The 1977 Amendments' scheme for the mechanism for issuance, registration, transfer and pledge of uncertificated securities is consistent with the Commission's securities processing goals of reducing paperwork and facilitating the acceptance of uncertificated securities under the Act.

[Release No. 20520; File No. SR–Phlx–83–25]

Filing and Immediate Effectiveness of Proposed Rule Change by Philadelphia Stock Exchange, Inc.

December 30, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 15, 1983, the Philadelphia Stock Exchange, Inc. ("Phlx") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would set a new charge for services performed by the Phlx on behalf of subscribing member organizations. The Exchange currently offers without charge a special service to requesting member organizations which provides them with mailgram notification of Phlx option class and series changes. Pursuant to Phlx by-law 4-4, the Exchange is proposing to charge subscribing member organizations, beginning on January 2, 1984, a monthly service charge for the mailgram on a pro rata basis in order to recover the costs of providing the service. The Exchange notes in its filing that non-subscribing member organizations will continue to receive notification of options class and series changes through Phlx information circulars which are distributed directly on the options trading floor and by regular mail to all member organizations. The Phlx states in its filing that the basis for the proposed rule change is Section 6(b)(4) of the Act which requires that reasonable fees be equitably allocated.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 under the Act. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR–Phlx–83–25.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 84–319 Filed 1–5–84; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-0350]

Quidnet Capital Corp.; License Surrender

Notice is hereby given that Quidnet Capital Corporation, 909 State Street, Princeton, New Jersey 08540 has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). Quidnet Capital Corporation was licensed by the Small Business Administration on June 30, 1978.

Under the Authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender of the license was accepted on December 20, 1983, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: December 27, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-366 Filed 1-5-84; 8:45 am]

BILLING CODE 8025-01-M

Reporting and Recordkeeping Requirement Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirement to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATE: Comments must be received on or before February 13, 1984. If you anticipate commenting on a submission but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the agency clearance officer of your intent as early as possible.

Copies: Copies of the proposed forms, the request for clearance (S.F. 83), supporting statement, instructions, transmittal letter, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the item listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Elizabeth M. Zaic, Small Business Administration, 1441 L St., N.W., Room 200, Washington, D.C. 20416, Telephone: (202) 653-8538

OMB Reviewer: J. Timothy Sprehe, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, Washington, D.C. 20503, Telephone: (202) 395-4814.

Forms Submitted for Review

Title: Stockholder Confirmation
Frequency: On occasion
Description of Respondents: New licensees
Annual Response: 160
Annual Burden Hours: 27
Type of Request: New
Title: Statement of Personal History
Form No. 912
Frequency: On occasion
Description of Respondents: Disaster applicants and employees
Annual Responses: 87,100
Annual Burden Hours: 7,258
Type of Request: Revision

Dated: December 30, 1983.

Richard Vizachero,

Acting Chief, Paperwork Management Branch, Small Business Administration.

[FR Doc. 84-368 Filed 1-5-84; 8:45 am]

BILLING CODE 8025-01-M

Threshold Ventures, Inc.; Application for a License as a Small Business Investment Company

[Application No. 05/05-0183]

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of the SBA Regulations (13 CFR 107.102 (1983)) by Threshold Ventures, Inc., 430 Oak Grove Street, Suite #303, Minneapolis, Minnesota 55402, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 *et. seq.*).

The proposed officers, directors, and sole shareholder are:

Names and Addresses	Title	Percent of Ownership
Thomas Denny Sanford, 201 Old Mill Pond Road, Palm Harbor, Florida 33563.	Chairman/Director	100
Michael J. Meyer, 4605 Garfield Avenue South, Minneapolis, Minnesota 55409.	President/Treasurer & Director	.....
Steven L. Ross, 9977 Valley View Road, Suite 250, Eden Prairie, Minnesota 55344.	Secretary/Director	.....

The Applicant will begin operations with a capitalization of $549,000 and will be a source of equity and long term loan funds for qualified small business concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owner and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in Minneapolis, Minnesota.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 27, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-367 Filed 1-5-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Jefferson County, Alabama

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Withdrawal of notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that it has been determined that this project was improperly classified and will now be processed as an Environmental Assessment. This proposed project, APD-471(7), is to build a four-lane highway from near Snowtown, west of U.S. Highway 78 in the vicinity of the

Walker-Jefferson County line to U.S. Highway 31 in the Metropolitan area of Birmingham. The notice of intent was published December 19, 1983 (48 FR 56132).

FOR FURTHER INFORMATION CONTACT: Mr. R. W. Evers, District Engineer, Federal Highway Administration, 441 High Street, Montgomery, Alabama 36104–4684, Telephone: (205) 832–7379. Mr. Ray D. Bass, State of Alabama Highway Department, 1409 Coliseum Boulevard, Montgomery, Alabama 36130, Telephone: (205) 261–6311.

Issued: December 28, 1983.

Bill H. Boydston,

Assistant Division Administrator.

[FR Doc. 84-298 Filed 1-5-84; 8:45 am]

BILLING CODE 4910-22-M

Maritime Administration

Change of Status and Name of Approved Trustee; AmeriTrust Co.

Notice is hereby given that effective December 13, 1983, AmeriTrust Company, Cleveland, Ohio, converted from a state into a national banking association and changed its name to AmeriTrust Company National Association.

Dated: December 29, 1983.

By Order of the Maritime Administrator.

Georgia P. Stamas,

Secretary.

[FR Doc. 84-315 Filed 1-5-84; 8:45 am]

BILLING CODE 4910-81-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Public Information Collection Requirements Submitted to OMB for Review

On December 28, 1983 the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 535–6020. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7227, 1201 Constitution Avenue, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545–
Form Number: None
Type of Review: Existing Collection
Title: Consent to Disclosure of Return and Return Information to Designee (Preparer) of Taxpayer 26 CFR 301.7216–3 (b) & (c)

OMB Number: 1545–
Form Number: None
Type of Review: Existing Collection
Title: Public Inspection of Information Required of Exempt Organization and Trusts 26 CFR 301.6104

OMB Number: 1545–
Form Number: None
Type of Review: Existing Collection
Title: Instructions for Requesting Rulings and Determination Letters 26 CFR 601.201

OMB Number: 1545–
Form Number: None
Type of Review: Existing Collection
Title: Place for Filing Returns 1.6091–1 (a) & (b), 1.6091–4 (a) & (b) and 31.6091–1 (a) & (b)

OMB Number: 1545–0190
Form Number: Form 4876
Type of Review: Revision
Title: Election to be Treated as a DISC

OMB Number: 1545–0710
Form Number: Forms 5500, 5500–C, 5500–K, and 5500–R
Type of Review: Existing Regulation
Title: Employee Benefits Plan

OMB Number: 1545–
Form Number: None
Type of Review: New
Title: Taxpayer Diary Study

OMB Reviewer: Norman Frumkin (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

U.S. Customs Service

OMB Number: 1515–
Form Number: None
Type of Review: Existing Collection
Title: Certificate of Payment of Tonnage Tax

OMB Reviewer: Judy McIntosh (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Dated: December 28, 1983.

James V. Nasche, Jr.,

Departmental Reports, Management Office.

[FR Doc. 84-279 Filed 1-5-84; 8:45 am]

BILLING CODE 4810-25-M

GENERAL SERVICES ADMINISTRATION

Office of the Administrator

Advisory Board; Meeting

Notice is hereby given that the GSA Advisory Board will meet on January 17, 1984 from 10:00 a.m. to 4:30 p.m. in room 6120, GSA Central Office, 18th and F Streets, NW., Washington, D.C. This meeting will be devoted to discussions relating the Board's subcommittee activities, the agency's management priorities during 1984, progress with regard to various presidential initiatives, including the government-wide space management program, and the use of "creative financing" techniques with regard to real property sales. This meeting will be open to the public.

Less than fifteen days notice of this meeting is being provided due to scheduling difficulties.

Dated: January 4, 1984.

Roger C. Dierman,

Deputy Associate Administrator.

[FR Doc. 84-533 Filed 1-5-84; 12:31 pm]

BILLING CODE 6820-26-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 4
Friday, January 6, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Tuesday, January 10, 1984, 9:30 a.m. (Eastern Time).

PLACE: Commission Conference Room No. 200–C on the 2nd Floor of the Columbia Plaza Office Building, 2401 "E" Street, NW., Washington, D.C. 20507.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Votes.
2. A Report on Commission Operations (optional).
3. Freedom of Information Act Appeal Request No. 83–08–FOIA–183–CH, concerning a request for materials in an age discrimination charge file.
4. Freedom of Information Act Appeal Request No. 83–10–FOIA–274–CH, concerning whether the charging party should be granted access to a particular document in a charge file.
5. Briefing on EEOC Training Plan for 1984.

Closed

1. Discussion of an ORA Decision.
2. Litigation Authorizing; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission Meetings in the **Federal Register**, the Commission also provides recorded announcements a full week in advance on future Commission sessions. Please telephone (202) 634–6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Secretary to the Commission at (202) 634–6748.

This Notice Issued January 3, 1984.

Andrelia C. James,

Acting Executive Secretary to the Commission.

January 4, 1984.

[S–84–411 Filed 1–4–84; 11:51 am]

BILLING CODE 6750–06–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:30 a.m. on Friday, December 30, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider the following matter:

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,883–L—Pan American National Bank, Union City, New Jersey

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Doyle L. Arnold, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting pursuant to subsection (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(9)(B)).

Dated: January 4, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–84–460 Filed 1–4–84; 3:59 pm]

BILLING CODE 6714–01–M

3

FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 11:00 a.m., Wednesday, January 11, 1984, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: January 3, 1984.

James McAfee,

Associate Secretary of the Board.

[S–84–373 Filed 1–4–84; 10:04 am]

BILLING CODE 6210–01–M

4

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, January 11, 1984.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st streets, NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be voted on without discussion unless a member of the Board requests that an item be moved to the discussion agenda.

1. Proposed amendment to Regulation T (Credit by Brokers and Dealers) to expand permissible deposits at options clearing agencies.
2. Proposed amendment to the Board's Rules Regarding Delegation of Authority concerning preemption determinations under Regulation B (Equal Credit Opportunity) and Regulation C (Home Mortgage Disclosure).

Discussion Agenda

3. Publication for comment of proposed amendments to Regulation E (Electronic Fund Transfers) to cover certain fund transfers resulting from point-of-sale transactions.
4. Publication for comment of a proposed amendment to Regulation Z (Truth in Lending) regarding the regulation's coverage

of credit cards used for certain exempt transactions.

5. Publication for comment of fees for Federal Reserve electronic payments services, and implementation of off-line surcharges for wire transfers and net settlement services.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: January 3, 1984.

James McAfee,

Associate Secretary of the Board.

[S–84–374 Filed 1–4–84; 10:04 am]

BILLING CODE 6210–01–M

5

FOREIGN CLAIMS SETTLEMENT COMMISSION

[F.C.S.C. Meeting Notice No. 10–83]

Announcement in Regard to Commission Meetings and Hearings; Notice of Meetings

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date, Time, and Subject Matter

Monday, January 23, 1984 at 10 a.m.

Consideration of Proposed Decisions in the Second Czechoslovakian Claims Program and Final Decisions on hearings on the record.

Oral Hearings on objections to decisions issued under the second Czechoslovakian Claims Program:

Monday, January 23, 1984 at 10 a.m.
- CZ–2–1488—Margarete Cuzick
- CZ–2–0568—Vera Travlejev
- CZ–2–1548—George Imrij
- CZ–2–0363—Henry J. Roubicek

Monday, January 23, 1984 at 2 p.m.
- CZ–2–1180—Bela J. Blumenfeld; Atty Borchardt
- CZ–2–1181—David Blumenfeld
- CZ–2–1071—Eugene Ickovic
- CZ–2–0689—Deena Viboch
- CZ–2–1227—Stephen Csepło
- CZ–2–0306—Gabriel Sarkanich, et al.
- CZ–2–0576—Matthew A. Zubak & Albert P. Zubak

Tuesday, January 24, 1984 at 9 a.m.
- CZ–2–0347, CZ–2–0348—Alena Polak
- CZ–2–0264—Charles Janik, et al.
- CZ–2–0870—Agnes S. Vojtko
- CZ–2–0059—Marie Schultheis
- CZ–2–0913—Olga Radkovsky
- CZ–2–0677, CZ–2–0678—Ann Klimko

Tuesday, January 24, 1984 at 2 p.m.
- CZ–2–0742—Libby J. Wilson
- CZ–2–0430—Herbert B. Handelsman
- CZ–2–0097—Paul Hirsch; Atty Ganzglass
- CZ–2–1141—Paul Webster
- CZ–2–0565—Peter O. Cervenka
- CZ–2–1400—Bernard Klein, et al.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111—20th Street, NW., Washington, DC. Requests for information, or advance notices of intention to observe a meeting may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 1111—20th Street, NW., Room 409, Washington, DC 20579. Telephone: (202) 653–6155.

Dated at Washington, DC on January 3, 1984

Judith H. Lock,

Administrative Officer.

[S–84–452 Filed 1–4–84; 3:12 pm]

BILLING CODE 4410–01–M

6

MOTOR CARRIER RATEMAKING STUDY COMMISSION

Notice of Public Meeting

DATE: Wednesday, January 18, 1984.

PLACE: Russell Senate Office Building, Room SR253 (old 235), Constitution Avenue and First Street, NE., Washington, D.C. 20510.

TIME: 9:00 a.m.

PURPOSE: To provide the opportunity for the Study Commission to discuss and consider the draft report, findings, and recommendations; to direct issuance of the final document with its findings and recommendations to the Congress and President; and to consider other business as appropriate.

The Study Commission is giving notice of 15 calendar days, rather than the customary 15 working days, because of its tight schedule. This will not prejudice anyone's interests, as interested parties have previously been informed of the meeting date, and public input is not being solicited for this meeting.

FOR FURTHER INFORMATION CONTACT: Gary D. Dunbar, Executive Director, Motor Carrier Ratemaking Study Commission, 100 Indiana Avenue, NW., Washington, D.C. 20001, Phone No.: (202) 724–9600.

Submitted this, the 3rd day of January, 1984.

Gary D. Dunbar,

Executive Director.

[S–84–363 Filed 1–3–84; 4:30 pm]

BILLING CODE 6820–BD–M

7

NUCLEAR REGULATORY COMMISSION

DATE: Week of January 9, 1984.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE DISCUSSED:

Tuesday, January 10

10:00 a.m.
- Investigations and Enforcement Matters Involving TMI Units 1 and 2 and Their Impact on TMI–1 Restart (Closed—Ex. 5, 7, and 10)

2:00 p.m.
- Discussion/Possible Vote on TMI Steam Generators (Public Meeting)

Wednesday, January 11

9:30 a.m.
- Oral Presentations on NRC Concurrence/Non-Concurrence in DOE Waste Repository Siting Guidelines (Public Meeting)

1:30 p.m.
- Oral Presentations on NRC Concurrence/Non-Concurrence in DOE Waste Repository Siting Guidelines (Continued) (Public Meeting)

Thursday, January 12

10:00 a.m.
- Briefing on BWR Pipe Crack Issues (Public Meeting)

3:30 p.m.
- Affirmation/Discussion and Vote (Public Meeting)
  - a. NRC Response to Court Decision Vacating Interim Rule on Environmental Qualification Deadlines (Tentative)
  - b. 10 CFR Part 1 Statement on Functions of Office of Investigations (Tentative)
  - c. Diablo Canyon Stay Request (Tentative)

Friday, January 13

10:00 a.m.
- Briefing on Steam Generator Generic Requirements (Public Meeting)

TO VERIFY THE STATUS OF MEETINGS CALL: (Recording)—(202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410

Walter Magee,

Office of the Secretary.

[S–84–362 Filed 1–3–84; 4:30 pm]

BILLING CODE 7590–01–M

8

LEGAL SERVICES CORPORATION

Board of Directors Meeting

PREVIOUSLY ISSUED: December 22, 1983 (Published December 27, 1983).

PREVIOUSLY ANNOUNCED TIME AND DATE: It will commence at 1 p.m. and continue until all official business is completed; Friday, January 6, 1984.

CHANGE IN NOTICE: Additions under **MATTERS TO BE CONSIDERED:**

7. Report from the Office of Field Services
   —Establishment of Native American Desk
   —Board Resolution on Native American Programs
8. Board Resolution Reaffirming Staff Authority

CONTACT PERSON FOR MORE INFORMATION: LeaAnne Bernstein, Office of the President, (202) 272–4040.

Dated: January 4, 1984.

Donald P. Bogard,

President.

[S–84–476 Filed 1–4–84; 5:14 pm]

BILLING CODE 6820–35–M

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federal register

Friday
January 6, 1984

Part II

Nuclear Regulatory Commission

State of Utah; Staff Assessment of Proposed Agreement Between the NRC and the State of Utah; Notice

NUCLEAR REGULATORY COMMISSION

State of Utah; Staff Assessment of Proposed Agreement Between the NRC and the State of Utah

Note.—This document was originally published on Friday, December 30, 1983 at 48 FR 57674. It is reprinted at the request of the Nuclear Regulatory Commission.

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Proposed Agreement with State of Utah.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission is publishing for public comment the NRC staff assessment of a proposed agreement received from the Governor of the State of Utah for the assumption of certain of the Commission's regulatory authority pursuant to Section 274 of the Atomic Energy Act of 1954, as amended.

A staff assessment of the State's proposed program for control over sources of radiation is set forth below as supplementary information to this notice. A copy of the program narrative, including the referenced appendices, appropriate State legislation and Utah regulations, is available for public inspection in the Commission's public document room at 1717 H Street, NW., Washington, D.C. Exemptions from the Commission's regulatory authority, which would implement this proposed agreement, have been published in the **Federal Register** and codified as Part 150 of the Commission's regulations in Title 10 of the Code of Federal Regulations.

DATE: Comments must be received on or before January 30, 1984.

ADDRESSES: All interested persons desiring to submit comments and suggestions for consideration by the Commission in connection with the proposed agreement should send them to the Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

FOR FURTHER INFORMATION CONTACT: John R. McGrath, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone: 301–492–9889, or Robert J. Doda, U.S. Nuclear Regulatory Commission, Region IV, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas, 76011, telephone 817–860–8139.

SUPPLEMENTARY INFORMATION:

Assessment of Proposed Utah Program to Regulate Certain Radioactive Materials Pursuant to Section 274 of the Atomic Energy Act of 1954, as amended.

The Commission has received a proposal from the Governor of Utah for the State to enter into an agreement with the NRC whereby the NRC would relinquish and the State would assume certain regulatory authority pursuant to Section 274 of the Atomic Energy Act of 1954, as amended.

Section 274e of the Atomic Energy Act of 1954, as amended, requires that the terms of the proposed agreement be published for public comment once each week for four consecutive weeks. Accordingly, this notice will be published four times in the **Federal Register.**

I. Background

A. Section 274 of the Atomic Energy Act of 1954, as amended, provides a mechanism whereby the NRC may transfer to the States certain regulator authority over agreement materials [1] when a State desires to assume this authority and the Governor certifies that the State has an adequate regulatory program, and when the Commission finds that the State's program is compatible with that of the NRC and is adequate to protect the public health and safety. Section 274g directs the Commission to cooperate with the States in the formulation of standards for protection against radiation hazards to assure that State and Commission programs for radiation protection will be coordinated and compatible. Further, Section 274j provides that the Commission shall periodically review such agreements and actions taken by the States under the agreements to ensure compliance with the provisions of this section.

B. In a letter dated November 14, 1983, Governor Scott M. Matheson of the State of Utah requested that the Commission enter into an agreement with the State pursuant to Section 274 of the Atomic Energy Act of 1954, as amended, and proposed that the agreement become effective on April 1, 1984. The Governor certified that the State of Utah has a program for control of radiation hazards which is adequate to protect the public health and safety with respect to the materials within the State covered by the proposed agreement, and that the State of Utah desires to assume regulatory responsibility for such materials. The text of the proposed agreement is shown in Appendix A and the narrative portion of the program description is shown in Appendix B.

The specific authority requested is for (1) byproduct material as defined in Section 11e(1) of the Act, (2) source material and (3) special nuclear material in quantities not sufficient to form a critical mass. The State does not wish to assume authority over uranium milling activities nor the commercial disposal of low-level radioactive waste. The State, however, reserves the right to apply at a future date to NRC for an amended agreement to assume authority in these areas. The nine articles of the proposed agreement cover the following areas:

I. Lists the materials covered by the agreement.
II. Lists the Commission's continue authority and responsibility for certain activities.
III. Allows for future amendment of the agreement.
IV. Allows for certain regulatory changes by the Commission.
V. References the continued authority of the Commission for common defense and security for safeguards purposes.
VI. Pledges the best efforts of the Commission and the State to achieve coordinated and compatible programs.
VII. Recognizes reciprocity of licenses issued by the respective agencies.
VIII. Sets forth criteria for termination or suspension of the agreement.
IX. Specifies the effective date of the agreement.

C. Utah Code Annotated 26–1–27 through 26–1–29 authorizes the State Department of Health to issue licenses to, and perform inspections of, users of radioactive materials under the proposed agreement and otherwise carry out a total radiation control program. Utah Radiation Control Regulations URC–10 through URC–80 adopted November 8, 1982 under authority of 26–1–27 through 26–1–29 Utah Code annotated 1953, as amended, provides standards, licensing, inspection, enforcement and administrative procedures for agreement and non-agreement materials. Pursuant to URC–12–165, the regulations are not applicable to agreement materials until the effective date of the agreement. Since January 1, 1983, the State has been licensing and inspecting users of naturally occurring and accelerator produced radioactive materials.

D. The environmental radiation issues with which the Department has been involved include: monitoring assessment of the impact of radioactive fallout from nuclear weapons testing at the Nevada Test Site; monitoring uranium mill tailings, particularly at the Vitro uranium mill; and monitoring indoor radon in Salt Lake County.

[1] A. Byproduct materials as defined in 11e(1);
B. Byproduct materials as defined in 11e(2);
C. Source materials; and
D. Special nuclear materials in quantities not sufficient to form a critical mass.

The Department has also been involved in inspections of x-ray users since 1961 including involvement in the U.S. FDA studies Nationwide Evaluation of X-Ray Trends (NEXT) and Dental Exposure Normalization Technique (DENT).

II. NRC Staff Assessment of Proposed Utah Program for Control of Agreement Materials

Reference: Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement.[2]

Objectives

1. *Protection.* A State regulatory program shall be designed to protect the health and safety of the people against radiation hazards.

Based upon the analysis of the State's proposed regulatory program the staff believes the Utah proposed regulatory program for agreement materials is adequately designed to protect the health and safety of the public against radiation hazards.

Radiation Protection Standards

2. *Standards.* The State regulatory program shall adopt a set of standards for protection against radiation which shall apply to byproduct, source and special nuclear materials in quantities not sufficient to form a critical mass.

Statutory authority to formulate and promulgate rules for controlling exposure to sources of radiation is contained in Utah Code Annotated 26–1–5 and 26–1–27. In accordance with that authority, the State has adopted Radiation Control Regulations on November 8, 1982 which include radiation protection standards which would apply to by product, source and special nuclear naterials in quantities not sufficient to form a critical mass upon the effective date of an agreement between the State and the Commission pursuant to Section 274b of the Atomic Energy Act of 1954 as amended.

Reference: Utah Radiation Control Regulations URC–10 through 80.

3. *Uniformity in Radiation Standards.* It is important to strive for uniformity in technical definitions and terminology, particularly as related to such things as units of measurement and radiation dose. There shall be uniformity on maximum permissible doses and level of radiation and concentrations of radioactivity, as fixed by 10 CFR Part 20 of the NRC regulations based on officially approved radiation protection guides.

Technical definitions and terminology contained in the Utah Radiation Control Regulations including those related to units of measurement and radiation doses are uniform with those contained in 10 CFR Part 20, except that the definition of byproduct material conforms to that contained in the Atomic Energy Act prior to enactment by Congress of Pub. L. 95–604, 92 Stat. 3021 et seq., November 8, 1978, the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA). In view of the fact that the State does not wish to assume authority over uranium milling activities pursuant to UMTRCA the absence of a definition of byproduct material conforming to that contained in Section 11e(2) of the Atomic Energy Act of 1954, as amended, is not viewed as a significant departure and should not be considered an impediment towards signing of a Section 274b agreement for the materials requested.

Reference: URC–12, 24.

4. *Total Occupational Radiation Exposure.* The regulatory authority shall consider the total occupational radiation exposure of individuals, including that from sources which are not regulated by it.

The Utah regulations cover all sources of radiation within the State's jurisdiction and provide for consideration of the total radiation exposure of individuals from all sources of radiation in the possession of a licensee or registrant.

Reference: URC–24–010,020.

5. *Surveys, Monitoring.* Appropriate surveys and personnel monitoring under the close supervision of technically competent people are essential in achieving radiological protection and shall be made in determining compliance with safety regulations.

The Utah requirements for surveys to evaluate potential exposure from sources of radiation and the personnel monitoring requirements are uniform with those contained in 10 CFR Part 20.

References: URC–12–050 (36) and (62), URC–12–100, URC–24–070, and URC–24–085.

6. *Labels, Signs, Symbols.* It is desirable to achieve uniformity in labels, signs, and symbols, and the posting thereof. However, it is essential that there be uniformity in labels, signs, and symbols affixed to radioactive products which are transferred from person to person.

The prescribed radiation labels, signs, and symbols are uniform with those contained in 10 CFR Parts 20, 30 thru 32 and 34. The Utah posting requirements are also uniform with those of Part 20.

References: URC–22–110, URC–24–090, URC–24–095, and URC–48–020.

7. *Instruction.* Persons working in or frequenting restricted areas shall be instructed with respect to the health risks associated with exposure to radioactive materials and in precautions to minimize exposure. Workers shall have the right to request regulatory authority inspections as per 10 CFR 19, Section 19.16 and to be represented during inspections as specified in Section 19.14 of 10 CFR 19.

The Utah regulations contain requirements for instructions and notices to workers that are uniform with those of 10 CFR Part 19.

Reference: URC–48.

8. *Storage.* Licensed radioactive material in storage shall be secured against unauthorized removal.

The Utah regulations contain a requirement for security of stored radioactive material.

Reference: URC–24–120.

9. *Radioactive Waste Disposal.* (a) Waste disposal by material users. The standards for the disposal of radioactive material into the air, water and sewer, and burial in the soil shall be in accordance with 10 CFR Part 20. Holders of radioactive material desiring to release or dispose of quantities or concentrations of radioactive materials in excess of prescribed limits shall be required to obtain special permission from the appropriate regulatory authority.

Requirements for transfer of waste for the purpose of ultimate disposal at a land disposal facility (waste transfer and manifest system) shall be in accordance with 10 CFR 20.

The waste disposal standards shall include a waste classification scheme and provisions for waste form, applicable to waste generators, that is equivalent to that contained in 10 CFR Part 61.

(b) Land Disposal of waste received from other persons. The State shall promulgate regulations containing licensing requirements for land disposal of radioactive waste received from other persons which are compatible with the applicable technical definitions, performance objectives, technical requirements and applicable supporting sections set forth in 10 CFR Part 61. Adequate financial arrangements (under terms established by regulation) shall be required of each waste disposal site licensee to ensure sufficient funds for decontamination, closure and

[2] NRC Statement of Policy published in the **Federal Register** January 23, 1981 (46 FR 7540–7546), and revision of Criterion 9 published in the **Federal Register** July 21, 1983 (48 FR 33376).

stabilization of a disposal site. In addition, Agreement State financial arrangements for long-term monitoring and maintenance of a specific site must be reviewed and approved by the Commission prior to relieving the site operator of licensed responsibility (Section 151(a)(2), Pub. L. 97–425).

Utah Radiation Control Regulations contain provisions relating to the disposal of radioactive materials into the air, water and sewer and burial in soil which are uniform with those of 10 CFR Part 20. The current Utah regulations were adopted prior to the publication of 10 CFR Part 61 and the corresponding changes to § 20.311 of Part 20. The Utah regulations, therefore, have no equivalent to § 20.311 or the waste classification system included in Part 61. Governor Matheson's letter of November 14, 1983 indicated that the State's radiation control regulations will be revised through standard rulemaking procedures to conform to the Federal standard regarding the radioactive waste manifest system and the waste classification system.

Since the waste manifest system does not become effective until December 27, 1983 and Agreement States are normally given three years to formally adopt significant changes to NRC regulations, the absence of these provisions in Utah regulations is not viewed as a significant deficiency at this time and should not be considered an impediment to the proposed agreement. The waste manifest system will be implemented by amendments to the site operator licenses. Utah, as well as other Agreement State, licensees will be required to meet the provisions of the site operator's license if they wish to use the site after December 27, 1983.

References: URC–24–130, 135, 140, 145, 150 and 160.

10. *Regulation Governing Shipment of Radioactive Materials.* The State shall to the extent of its jurisdiction promulgate regulations applicable to the shipment of radioactive materials, such regulations to be compatible with those established by the U.S. Department of Transportation and other agencies of the United States whose jurisdiction over interstate shipment of such materials necessarily continues. State regulations regarding transportation of radioactive materials must be compatible with 10 CFR Part 71.

The Utah regulations conform to those contained in NRC regulations prior to the recent (August 5, 1983) publication of a final rule amending Part 71 to achieve compatibility with the transport regulations of the International Atomic Energy Agency (IAEA). The Agreement States have been notified that these changes are considered matters of compatibility. Utah, as well as the other Agreement States, will need to make corresponding changes to their regulations. The lack of these provisions in the current Utah regulations is not viewed as a significant departure at this time since Agreement States are normally given three years to adopt important NRC rule changes, and should not be considered an impediment to the proposed agreement.

References: URC–12-Appendix A and Appendix B; URC–19-400, 500 and 510.

11. *Records and Reports.* The State regulatory program shall require that holders and users of radioactive materials (a) maintain records covering personnel radiation exposures, radiation surveys, and disposals of materials; (b) keep records of the receipt and transfer of the materials; (c) report significant incidents involving the materials, as prescribed by the regulatory authority; (d) make available upon request of a former employee a report of the employee's exposure to radiation; (e) at request of an employee advise the employee of his or her annual radiation exposure; and (f) unform each employee in writing when the employee has received radiation exposure in excess of the prescribed limits.

The Utah regulations require the following records and reports by licensees and registrants:

(a) Records covering personnel radiation exposures, radiation surveys, and disposals of materials.

Reference: URC–24–170.

(b) Records of receipt and transfer of materials.

Reference: URC–12–080.

(c) Reports concerning incidents involving radioactive materials.

Reference: URC–24–180, 190, 200, and 205.

(d) Reports to former employees of their radiation exposure.

Reference: URC–48–040(3).

(e) Reports to employees of their annual radiation exposure.

Reference: URC–48–040(2).

(f) Reports to employees of radiation exposure in excess of prescribed limits.

Reference: URC–48–040(4).

12. *Additional Requirements and Exemptions.* Consistent with the overall criteria here enumerated and to accommodate special cases and circumstances, the State regulatory authority shall be authorized in individual cases to impose additional requirements to protect health and safety, or to grant necessary exemptions which will not jeopardize health and safety.

The Utah Bureau of Radiation Control is authorized to impose upon any licensee or registrant, by rule, regulation, or order such requirements in addition to those established in the regulations as it deems appropriate or necessary to minimize danger to public health and safety or property.

Reference: URC–12–100(2).

The Bureau may also grant such exemptions from the requirements of the regulations as it determines are authorized by law and will not result in undue hazard to public health and safety or property.

Reference: URC–12–125(1).

Prior Evaluation of Uses of Radioactive Materials

13. *Prior Evaluation of Hazards and Uses, Exceptions.* In the present state of knowledge, it is necessary in regulating the possession and use of byproduct, source and special nuclear materials that the State regulatory authority require the submission of information on, and evaluation of, the potential hazards and the capability of the user or possessor prior to his receipt of the materials. This criterion is subject to certain exceptions and to continuing reappraisal as knowledge and experience in the atomic energy field increase. Frequently there are, and increasingly in the future there may be, categories of materials and uses as to which there is sufficient knowledge to permit possession and use without prior evaluation of the hazards and the capability of possessor and user. These categories fall into two groups—those materials and uses which may be completely exempt from regulatory controls, and those materials and uses in which sanctions for misuse are maintained without pre-evaluation of the individual possession or use. In authorizing research and development or other activities involving multiple uses of radioactive materials, where an institution has people with extensive training and experience, the State regulatory authority may wish to provide a means for authorizing broad use of materials without evaluating each specific use.

Prior to the issuance of a specific license for the use of radioactive materials, the Utah Bureau of Radiation Control will require the submission of information on, and will make an evaluation of, the potential hazards of such uses, and the capability of the applicant.

References: URC–19–220 and URC–22–020. Utah Program Description Section III.F.

Provision is made for the issuance of general licenses for byproduct, source and special nuclear materials in situations where prior evaluation of the licensee's qualifications, facilities, equipment and procedures is not required. The regulations grant general licenses under the same circumstances as those under which general licenses are granted in the Commission's regulations.

References: URC–19–220 and URC–21.

14. *Evaluation Criteria.* In evaluating a proposal to use radioactive materials, the regulatory authority shall determine the adequacy of the applicant's facilities and safety equipment, his training and experience in the use of the materials for the purpose requested, and his proposed administrative controls. States should develop guidance documents for use by license applicants. This guidance should be consistent with NRC licensing and regulatory guides for various categories of licensed activities.

In evaluating a proposal to use agreement materials, the Utah Bureau of Radiation Control will determine that:

(1) The applicant is qualified by reason of training and experience to use the material in question for the purpose requested in accordance with the regulations in such a manner as to minimize danger to public health and safety or property;

(2) The applicant's proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property; and

(3) The issuance of the license will not be inimical to the health and safety of the public.

Other special requirements for the issuance of specific licenses are contained in the regulations.

References: URC–22–040, 070, 090, and 110.

15. *Human Use.* The use of radioactive materials and radiation on or in humans shall not be permitted except by properly qualified persons (normally licensed physicians) possessing prescribed minimum experience in the use of radioisotopes or radiation.

The Utah regulations require that the use of radioactive material (including sealed sources) on or in humans shall be by a physician having substantial experience in the handling and administration of radioactive material and, where applicable, the clinical management of radioactive patients.

Reference: URC–22–070

Inspection

16. *Purpose, Frequency.* The possession and use of radioactive materials shall be subject to inspection by the regulatory authority and shall be subject to the performance of tests, as required by the regulatory authority. Inspection and testing is conducted to determine and to assist in obtaining compliance with regulatory requirements. Frequency of inspection shall be related directly to the amount and kind of material and type of operation licensed, and it shall be adequate to insure compliance.

Utah materials licensees will be subject to inspection by the Bureau of Radiation Control. Upon instruction from the Bureau, licensees shall perform or permit the Bureau to perform such reasonable tests and surveys as the Bureau deems appropriate or necessary. The frequency of inspections is dependent upon the type and scope of the licensed activities and will be at least as frequent, and in most cases more frequent, as inspections of similar licenses by NRC.

References: URC–12–090 and 100; URC–48–050–060–070 and 080; Utah Program Description Section III.G

17. *Inspections Compulsory.* Licensees shall be under obligation by law to provide access to inspectors. **Folios** 807–809 %118.0

Utah regulations state that licensees shall afford the Bureau at all reasonable times opportunity to inspect sources of radiation and the premises and facilities wherein such sources of radiation are used or stored.

Reference: URC–12–090.

18. *Notification of Results of Inspection.* Licensees are entitled to be advised of the results of inspections and to notice as to whether or not they are in compliance.

Following Bureau inspections, each licensee will be notified by letter of the results of the inspection. The letters indicate if the licensee is in compliance and if not, list the areas of noncompliance.

Reference: Utah Program Description Section III.H.

Enforcement

19. *Enforcement.* Possession and use of radioactive materials should be amenable to enforcement through legal sanctions, and the regulatory authority shall be equipped or assisted by law with the necessary powers for prompt enforcement. This may include, as appropriate, administrative remedies looking toward issuance of orders requiring affirmative action or suspension or revocation of the right to possess and use materials, and the impounding of materials; the obtaining of injunctive relief; and the imposing of civil or criminal penalties.

The Bureau of Radiation Control is equipped with the necessary powers for prompt enforcement of the regulations. Where conditions exist that create a clear presence of a hazard to the public health that requires immediate action to protect human health and safety, the Bureau may issue orders to reduce, discontinue or eliminate such conditions. Such orders may be a written directive to modify, suspend or revoke a license, to cease and desist from a given practice or activity, or to take such other action as may be appropriate. License modification orders will be issued when some change in licensee equipment, procedures, or management controls is necessary. Suspension orders will be used to remove an immediate threat to the public health or when a licensee has not responded adequately to other enforcement action. Revocation orders will be used when a licensee is unable or unwilling to comply with Bureau requirements. Cease and desist orders will be used to stop an unauthorized activity that has continued despite notification by the Bureau that such activity is unauthorized. In addition, the State will request from the legislature authority to impose civil penalties for violation of the Utah Radiation Control Regulations.

References: URC–12–130 and 140, Utah Program Description Section III.H., and Governor Matheson's letter dated November 14, 1983.

Personnel

20. *Qualifications of Regulatory and Inspection Personnel.* The regulatory agency shall be staffed with sufficient trained personnel. Prior evaluation of applications for licenses or authorizations and inspection of licensees must be conducted by persons possessing the training and experience relevant to the type and level of radioactivity in the proposed use to be evaluated and inspected.

To perform the functions involved in evaluation and inspection, it is desirable that there be personnel educated and trained in the physical and/or life sciences, including biology, chemistry, physics and engineering, and that the personnel have had training and experience in radiation protection. The person who will be responsible for the actual performance of evaluation and inspection of all of the various uses of byproduct, source and special nuclear

material which might come to the regulatory body should have substantial training and extensive experience in the field of radiation protection.

It is recognized that there will also be persons in the program performing a more limited function in evaluation and inspection. These persons will perform the day-to-day work of the regulatory program and deal with both routine situations as well as some which will be out of the ordinary. These people should have a bachelor's degree or equivalent in the physical or life sciences, training in health physics, and approximately two years of actual work experience in the field of radiation protection.

The foregoing are considered desirable qualifications for the staff who will be responsible for the actual performance of evaluation and inspection. In addition, there will probably be trainees associated with the regulatory program who will have an academic background in the physical or life sciences as well as varying amounts of specific training in radiation protection but little or no actual work experience in this field. The background and specific training of these persons will indicate to some extent their potential role in the regulatory program. These trainees, of course, could be used initially to evaluate and inspect those applications of radioactive materials which are considered routine or more standardized from the radiation safety standpoint, for example, inspection of industrial gauges, small research programs, and diagnostic medical programs. As they gain experience and competence in the field, the trainees could be used progressively to deal with the more complex or difficult types of radioactive material applications. It is desirable that such trainees have a bachelor's degree or equivalent in the physical or life sciences and specific training in radiation protection. In determining the requirement for academic training of individuals in all of the foregoing categories, proper consideration should be given to equivalent competency which has been gained by appropriate technical and radiation protection experience.

It is recognized that radioactive materials and their uses are so varied that the evaluation and inspection functions will require skills and experience in the different disciplines which will not always reside in one person. The regulatory authority should have the composite of such skills either in its employ or at its command, not only for routine functions, but also for emergency cases.

a. *Number of Personnel.* There are approximately 150 NRC specific licenses in the State of Utah. Under the proposed agreement, the State would assume responsibility for about 135 of these licenses. The Bureau of Radiation Control is currently staffed with five professional persons. In addition, there is currently one vacancy in the program. Two individuals will be assigned full time to the materials program. Three others will be trained to provide backup. We estimate the State will need to apply a minimum of 1.4 to 2.0 staff-years of effort to the program. The present personnel together with their assigned responsibilities are as follows:

Larry F. Anderson: Director, Bureau of Radiation Control. Responsible for administration of Bureau programs. Estimated 0.2 staff-year in materials program.

Blaine Howard: Health Physicist. Responsible for licensing and inspection in materials program. Estimated 1.0 staff-year in materials program.

Arnold J. Peart: Radiation Specialist 23. Responsible for licensing and inspection in materials program. Estimated 1.0 staff-year in materials program.

Donald G. Mitchell: Health Physicist. Responsibilities primarily in x-ray program. Will receive training in licensing and inspection in materials program. Estimated 0.1 staff-year in materials program.

Gerald R. Ripley: Health Physicist. Responsibilities primarily in x-ray program. Will receive training in licensing and inspection in materials program. Estimated 0.1 staff-year in materials program.

b. *Training.* The academic and specialized short course training for those persons involved in the administration, licensing and inspection of radioactive materials is shown below.

Larry F. Anderson—B.S. Chemistry, MPA (Health), Brigham Young University.

NIOSH Course 549, *Recognition, Evaluation, and Control of Occupational Hazards.* October, 1972.

NIOSH Course 582, *Sampling and Evaluating Airborne Asbestos Dust.* April 10–12, 1973.

Utah State Division of Health, *Visible Emissions Evaluation Course.* June 19, 1973.

American Industrial Hygiene Association, *Industrial Toxicology Seminar.* A 24-hour course ending April 30, 1975.

OSHA, *Fundamentals of Occupational Injury Investigation.* Short course ending April 1, 1977.

United States Nuclear Regulatory Commission, *Radiological Emergency Response Operations Training Course.* A 64-hour course ending January 27, 1978.

U.S. Environmental Protection Agency, *Grants Administration Seminar.* A 16-hour course ending May 16, 1979.

Safety International Training Center, *Hydrogen Sulfide and Equipment for Instructors.* A 12-hour course ending June 19, 1979.

Rocky Mountain Center for Occupational and Environmental Health, University of Utah, *Health and Exposures in the Smelter Environment.* A 20-hour course ending March 29, 1980.

Blaine Howard—B.S. Math and Physics, Ricks College. M.S. Radiological Health, New York University. M.S. Physics and Math, Brigham Young University.

Medical X-Ray Protection—BRH Rockville, MD.—October 30–Nov. 10, 1972.

Radiological Emergency Response Operations (REPR), Las Vegas and Nevada Test Site, 1978.

"States Role in Radioactive Material Management." The National Legislative Conference, Las Vegas, Dec. 9–11, 1974.

Drinking Water Regulations and Radioanalytical workshop EPA, Denver, Jan. 10–12, 1978.

X-Ray Workshop, Richfield, Utah, Mar. 14–15, 1979.

Actinides in Man and Animals—Workshop, Snowbird, UT., Oct. 15–17, 1979.

Nuclear Medicine—NRC New York City, Sept. 8–12, 1980.

NWTS Annual Information Meeting—Columbus, Ohio, Dec. 8–10, 1980.

Waste Management 1981—American Nuclear Society, Tucson, AR, Feb. 23–27, 1981.

Orientation Course in "Licensing Practices and Procedures"—NRC, Silver Spring, MD., Sept. 14–25, 1981.

Inspection Procedures Course—NRC, Atlanta, GA, July 26–30, 1982.

Arnold J. Peart—B.S. Education, Utah State University (minor—chemistry and math).

Nuclear Regulatory Commission—Orientation Course in licensing practices and procedures, 1982.

Nuclear Regulatory Commission—Medical Use of Radionuclides, 1982.

Federal Emergency Management Agency—Radiological Emergency Response Course, 1982.

Nuclear Regulatory Commission—Radiochemistry for State Regulatory Personnel, 1983.

Dept. of Health and Human Services—Basic Course for Investigators, Diagnostic X-Ray Survey, 1983.

Nuclear Regulatory Commission—Safety Aspects of Industrial Radiography, 1983.

Donald G. Mitchell—B.A. Chemistry and Physics, Brigham Young University. M.S. Physics and Math, University of Wisconsin.

Oak Ridge Assoc. Univ.—Health Physics (10 weeks) 1976.

Reynolds Electrical and Engineering—Rad. Emergency Response, 1978.

Food and Drug Administration—Diagnostic X-Ray Survey, 1979.

U.S. Nuclear Regulatory Commission—Industrial Radiography, 1982.

Eastman Kodak Company—Radiological Imaging, 1982.

Gerald R. Ripley—B.S. Biology, University of Utah. B.S. Pharmacy, University of Utah.

c. *Experience.* Mr. Anderson has been with the Bureau since 1972 and has had supervisory and administration responsibilities since 1978. Mr. Howard has been a health physicist with the State since 1972 and has had experience in health physics since 1954. Mr. Howard was certified by the American

Board of Health Physics in 1978. Mr Peart has been employed by the State since 1975, from 1975 to 1982 as an industrial hygienist and from 1982 as a radiation specialist. Messrs. Howard and Peart have accompanied NRC inspectors on materials inspections in the State of Utah. Mr. Mitchell has been a health physicist with the State since 1975. Prior to 1975 Mr. Mitchell had experience as a radiochemist and a teacher of chemistry and physics. Mr. Ripley has been a health physicist and industrial hygienist with the State since 1979. Mr. Ripley has prior experience as a radiochemist and pharmacist.

Reference: Utah Program Description Section IV and Appendix B.

21. *Conditions Applicable to Special Nuclear Materials, Source Material and Tritium.* Nothing in the State's regulatory program shall interfere with the duties imposed on the holder of the materials by the NRC, for example, the duty to report to the NRC, on NRC prescribed forms (1) transfers of special nuclear material, source material and tritium and (2) periodic inventory data.

The State's regulations do not prohibit or interfere with the duties imposed by the NRC on holders of special nuclear material owned by the U.S. Department of Energy or licensed by NRC, such as the responsibility of licensees to supply to the NRC reports of transfer and inventory.

Reference: URC–12–040 and 125.

22. *Special Nuclear Material Defined.* The definition of special nuclear material in quantities not sufficient to form a critical mass, as contained in the Utah Radiation Control Regulations, is uniform with the definition in 10 CFR Part 150.

Reference URC–12–050, Definition (60).

Administration

23. *Fair and Impartial Administration.* The Utah Health Code provides for administrative and judicial review of actions taken by the Department of Health. Any person may, upon written request, be given an opportunity for an informal hearing before the Department. If the matter cannot be resolved at the informal hearing, the person may then request a hearing before an impartial hearing officer. The person may then file in the district court for judicial review of a final determination of the executive director of the Department.

Reference: Utah Health Code Section 26–23–2.

24. *State Agency Designation.* The Utah Department of Health has been designated as the State's radiation control agency.

References: Utah Health Code 26–1–2c. Governor's Matheson's letter dated November 14, 1983.

25. *Existing NRC Licenses and Pending Applications.* The Bureau has made provision to continue NRC licenses in effect temporarily after the transfer of jurisdiction. Such licenses will expire either 90 days after receipt from the Bureau of a notice of expiration or on the date of expiration specified in the federal license, whichever is earlier.

Reference: URC–12–165.

26. *Relations With Federal Government and Other States.* There should be an interchange of Federal and State information and assistance in connection with the issuance of regulations and licenses or authorizations, inspection of licensees, reporting of incidents and violations, and training and education problems.

The proposed agreement declares that the State will use its best efforts to cooperate with the NRC and other Agreement States in the formulation of standards and regulatory programs for the protection against hazards of radiation and to assure that the State's program will continue to be compatible with the Commission's program for the regulation of like materials.

Reference: Governor Matheson's letter dated November 14, 1983, Proposed Agreement Between the State of Utah and the Nuclear Regulatory Commission, Article VI.

27. *Coverage, Amendments, Reciprocity.* The proposed Utah agreement provides for the assumption of regulatory authority under the following categories of materials within the State:

(a) Byproduct materials, as defined by Section 11e(1) of the Atomic Energy Act, as amended.

(b) Source materials.

(c) Special nuclear materials in quantities not sufficient to form a critical mass.

Reference: Proposed Agreement, Article I.

Provision has been made by Utah for the reciprocal recognition of licenses to permit activities within Utah of persons licensed by other jurisdictions. This reciprocity is like that granted under 10 CFR Part 150.

Reference: URC–19–250.

28. *NRC and Department of Energy Contractors.* The State's regulations provide that certain NRC and DOE contractors or subcontractors are exempt from the State's requirements for licensing and registration of sources of radiation which such persons receive, possess, use, transfer, or acquire.

Reference: URC–12–125(2).

III. Staff Conclusion

Section 274d of the Atomic Energy Act of 1954, as amended, states: The Commission shall enter into an agreement under subsection b of this section with any State if:

(1) The Governor of that State certifies that the State has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the materials within the State covered by the proposed agreement, and that the State desires to assume regulatory responsibility for such materials; and

(2) The Commission finds that the State program is in accordance with the requirements of subsection o. and in all other respects compatiable with the Commission's program for the regulation of such materials, and that the State program is adequate to protect the public health and safety with respect to the materials covered by the proposed amendment.

The staff has concluded that the State of Utah meets the requirements of Section 274 of the Act. The State's statutes, regulations, personnel, licensing, inspection and administrative procedures are compatible with those of the Commission and adequate to protect the public health and safety with respect to the materials covered by the proposed agreement. Since the State is not seeking authority over uranium milling activities subsection o. is not applicable to the proposed Utah agreement.

Dated at Bethesda, Maryland, this 20th day of December 1983.

For the U.S. Nuclear Regulatory Commission.

G. Wayne Kerr,

Director, Office of State Programs.

Appendix A—Proposed Agreement Between the United States Nuclear Regulatory Commission and the State of Utah for Discontinuance of Certain Commission Regulatory Authority and Responsibility Within the State Pursuant to Section 274 of the Atomic Energy Act of 1954, As Amended

Whereas, The United States Nuclear Regulatory Commission (hereinafter referred to as the Commission) is authorized under Section 274 of the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act), to enter into agreements with the Governor of any State providing for discontinuance of the regulatory authority of the Commission within the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to by-product materials as defined in sections 11e. (1) and (2) of the Act, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and

Whereas, The Governor of the State of Utah is authorized under Utah Code Annotated 26–1–29 to enter into this Agreement with the Commission; and

Whereas, The Governor of the State of Utah certified on November 14, 1983 that the State of Utah (hereinafter referred to as the State) has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the

materials within the State covered by this Agreement, and that the State desires to assume regulatory responsibility for such materials; and

Whereas, The Commission found on ———, that the program of the State for the regulation of the materials covered by this Agreement is compatible with the Commission's program for the regulation of such materials and is adequate to protect the public health and safety; and

Whereas, The State and the Commission recognize the desirability and importance of cooperation between the Commission and the State in the formulation of standards for protection against hazards of radiation and in assuring that State and Commission programs for protection against hazards of radiation will be coordinated and compatible; and

Whereas, The Commission and the State recognize the desirability of reciprocal recognition of licenses and exemptions from licensing of those materials subject to this Agreement; and

Whereas, This Agreement is entered into pursuant to the provisions of the Atomic Energy Act of 1954, as amended;

Now, therefore, It is hereby agreed between the Commission and the Governor of the State, acting in behalf of the State, as follows:

Article I

Subject to the exceptions provided in Articles II, IV, and V, the Commission shall discontinue, as of the effective date of this Agreement, the regulatory authority of the Commission in the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to the following materials:

A. Byproduct materials as defined in section 11e.(1) of the Act;

B. Source materials; and

C. Special nuclear materials in quantities not sufficient to form a critical mass.

Article II

This Agreement does not provide for discontinuance of any authority and the Commission shall retain authority and responsibility with respect to regulation of:

A. The construction and operation of any production or utilization facility;

B. The export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;

C. The disposal into the ocean or sea of byproduct, source, or special nuclear waste materials as defined in regulations or orders of the Commission;

D. The disposal of such other byproduct, source, or special nuclear material as the Commission from time to time determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed of without a license from the Commission;

E. The land disposal of source, byproduct and special nuclear material received from other persons; and

F. The extraction or concentration of source material from source material ore and the management and disposal of the resulting byproduct material.

Article III

This Agreement may be amended, upon application by the State and approval by the Commission, to include the additional area(s) specified in Article II, paragraph E or F, whereby the State can exert regulatory control over the materials stated therein.

Article IV

Notwithstanding this Agreement, the Commission may from time to time by rule, regulation, or order, require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of such product except pursuant to a license or an exemption from licensing issued by the Commission.

Article V

This Agreement shall not affect the authority of the Commission under subsection 161 b. or i. of the Act to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data or to guard against the loss or diversion of special nuclear material.

Article VI

The Commission will use its best efforts to cooperate with the State and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that State and Commission programs for protection against hazards of radiation will be coordinated and compatible. The State will use its best efforts to cooperate with the Commission and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that the State's program will continue to be compatible with the program of the Commission for the regulation of like materials. The State and the Commission will use their best efforts to keep each other informed of proposed changes in their respective rules and regulations and licensing, inspection and enforcement policies and criteria, and to obtain the comments and assistance of the other party thereon.

Article VII

The Commission and the State agree that it is desirable to provide reciprocal recognition of licenses for the materials listed in Article I licensed by the other party or by any Agreement State. Accordingly, the Commission and the State agree to use their best efforts to develop appropriate rules, regulations, and procedures by which such reciprocity will be accorded.

Article VIII

The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State, or upon request of the Governor of the State, may terminate or suspend all or part of this agreement and reassert the licensing and regulatory authority vested in it under the Act if the Commission finds that (1) such termination or suspension is required to protect the public health and safety, or (2) the State has not complied with one or more of the requirements of section 274 of the Act. The Commission may also, pursuant to section 274j. of the Act, temporarily suspend all or part of this agreement if, in the judgment of the Commission, an emergency situation exists requiring immediate action to protect public health and safety and the State has failed to take necessary steps. The Commission shall periodically review this Agreement and actions taken by the State under this Agreement to ensure compliance with section 274 of the Act.

Article IX

This Agreement shall become effective on ———, 1984, and shall remain in effect unless and until such time as it is terminated pursuant to Article VIII.

Done at Salt Lake City, Utah, in triplicate, this ——— day of ———, 1984.

For the United States Nuclear Regulatory Commission.

Nunzio J. Palladino,

Chairman.

For the State of Utah.

Scott M. Matheson,

Governor.

Appendix B—Narrative Portion of Program Description

State of Utah Bureau of Radiation Control Radiation Regulatory Program

I. Foreword

The 1967 Utah Legislature passed the "Radiation Protection Act" which authorized the State Board of Health to require the registration of ionizing radiation sources and to adopt the necessary rules and regulations for controlling exposure to harmful ionizing radiation (26–1–27). The State Department of Health was designated to establish, carry out and enforce a radiation control program. (26–1–28). The governor was authorized to enter into agreements with the federal government to assume certain responsibilities with respect to sources of ionizing radiation. (26–1–29).

Upon a decision by the Utah Attorney General's office that the 1967 legislation was not sufficient to carry out these functions, the 1981 legislature passed a revised version which overcame the deficiencies by adding authority to license.

Copies of this legislation are enclosed as Appendix A. The Bureau of Radiation Control is now aggressively pursuing Agreement status.

II. History

Previous to 1961, radiation problems received limited attention. During this time attention was called to a proposal to use radioactive tailings from the Vitro uranium mill as fill material in the construction of an interstate highway. The Department of Health maintained its position which had been established earlier in refusing permission to move any of the material for any purpose. This position has continued as Utah sought help from federal agencies to

define the problems associated with uranium mill tailings.

In 1961, a chemist was added and assigned to work ¼ time in radiation related matters. He received training in x-ray from the U.S. Public Health Service and attended a 10 week course in Health Physics at Oak Ridge, Tennessee. He accompanied AEC inspectors as they visited licensees in Utah and inspected x-ray facilities upon request. In 1962 the U.S. Public Health Service assigned one of their staff to survey the x-ray facilities in Utah. He spent just over a year and surveyed all the x-ray facilities in Utah.

In 1962 high levels of radioactive contamination from the Sedan Atomic test at the Nevada Test Site were found in Utah milk. The Health Department diverted the most highly contaminated milk from human use until the Iodine-131 could decay. This called attention to the need for a radiological laboratory in Utah. With the assistance of the U.S. Public Health Service a laboratory was established in 1964 with both wet chemistry and instrumental analysis. The laboratory has been continually upgraded. A lithium drifted germanuim detector with computer electronics was added and, at present, the laboratory has provisional interim certification for drinking water analysis for gross alpha, gross beta, radium-226, radium-228 and tritium.

As a result of the Sedan contamination problem, a milk sampling network was established and weekly samples were analyzed for contamination until well after atmospheric testing was discontinued at the Nevada Test Site. Until 1972 medical and dental x-ray facilities were surveyed upon request and some industrial x-ray facilities were looked at.

In 1972, the Radiation and Occupational Health Section of the Division of Environmental Health was expanded by addition of three more professionals, one a full-time health physicist. Efforts were made to establish radiation control regulations but opposition was encountered and these efforts were unsuccessful. Inspections of x-ray facilities were performed using NCRP Recommendations as a standard. Letters were sent to the facilities specifying items of deficiency. The majority of the installations complied voluntarily with the recommendations. Bureau staff members have accompanied AEC (NRC) inspectors on numerous inspections of Utah licensees, contributing to the inspection report by invitation

In 1972, Bureau staff assisted the Environmental Protection Agency in sampling for radon and radon daughters on and near the Vitro uranium mill site. A network of samplers was set up and serviced by Radiation and Occupational Health personnel. In 1973, Utah cooperated with the Bureau of Radiological Health in its Nationwide Evaluations of X-ray Trends (NEXT) to gather statistical data about x-ray exposure to the public. This study (NEXT) was continued for a number of years.

In 1975, a second professional health physicist was employed full time in radiological health. With this additional help a dental x-ray program, Dental Exposure Normalization Technique (DENT) was carried out to reduce exposure to patients from dental x-rays. The new techniques which were selected by the dentists reflect a 49% reduction in dental x-ray exposure. Programs were conducted with practitioners of various disciplines to improve radiographic quality while reducing patient exposure. In 1978, radon daughter concentrations were measured in some Salt Lake County businesses which were more than 5 times the maximum continuous levels allowed in uranium mines. This gave additional impetus to bills being introduced into Congress by the Utah delegates which asked for federal assistance for the clean up of uranium mill tailings. These efforts and the efforts of other states culminated in the passage of Pub. L. 95–604 "The Uranium Mill Tailings Radiation Control Act of 1978".

In 1972, an E.P.A. study identified many locations throughout much of Utah where the use of uranium mill tailings as fill material was indicated. Beginning in 1978, indoor radon measurements were made by the Bureau of Radiation Control at those locations in Salt Lake County where uranium mill tailings were used near or under habitable buildings. Through the cooperation of the U.S. Department of Energy, aerial surveys were made to complete the identification of sites where tailings were used in a large part of Salt Lake County and other Utah communities. Some additional businesses were found with high radon concentrations.

In 1979, a third full time health physicist was added to the staff to work with uranium mill tailings remedial action and assist with a new contract with the Bureau of Radiological Health to make compliance surveys of new diagnostic x-ray machines.

In 1980, a fourth full time health physicist was added to the staff to provide technical support for the governor's "High Level Nuclear Waste Task Force". This task force was appointed on June 2, 1980 to oversee the U.S. DOE's field operations in Utah, make recommendations to the governor and communicate information to the people of Utah.

In 1981, a contract was signed with Mound Laboratory for the State to monitor properties near the Vitro Uranium mill. A health physics technician was added to the staff to fill the Mound contract requirements.

In July 1981, the occupational health functions were transferred to the Industrial Commission and the Bureau was renamed the Bureau of Radiation.

In January 1982, the Bureau of Radiation was divided to form the Bureau of Uranium Mill Tailings Management and the Bureau of Radiation Control. The Bureau of Radiation Control under a new director was given the task of preparing a complete radiation control program in preparation for entering an agreement with the U.S. Nuclear Regulatory Commission.

In December 1982, the Bureau of Uranium Mill Tailings Management was combined with the Bureau of Radiation Control with the new organization as indicated on the Function Chart in Appendix B.

The Utah Radiation Control Regulations were formally adopted and became effective on January 1, 1983. Since that date, the Bureau has been licensing and inspecting users of naturally occurring and accelerator produced radioactive materials (NARM). The regulations provide for a "Radiation Technical Advisory Committee" of eight (8) members to advise, comment and provide technical assistance to the Bureau Director.

III. Administrative Policy and Procedures

A. *Introduction and Purpose.* The following procedures are to assure uniformity, continuity and appropriate treatment in all licensing, registration and regulatory practices and to maintain radiation exposures to all persons in the State as low as is reasonably possible.

Procedures are also to assure that emergency response to radiological incidents is correlated with the appropriate government agencies and that the proper information is provided to the public.

Procedures shall also provide for feedback to the Bureau director from the staff on the status of activities in regard to regulatory actions, problem cases, inquiries and need for regulation revisions.

B. *Priority of Responsibilities.* The responsibilities for Radiation Control, after the program is established, shall be given priority in the following order:

1. Emergency response to radiological incidents.
2. Respond to request by workers for inspection.
3. Routine inspection of radiation sources.
4. Reinspection of non-compliant facility and enforcement procedures.
5. Registration or licensing of radiation sources.
6. Review plans as submitted under URC–28–032.
7. Assist licensee in developing program under URC–24–015.

C. *Emergency Response Procedures.* Emergency response to radiological incidents will take precedence over other duties and will require immediate response by one or more technical staff.

1. Names of emergency response team members will be left with the department operator during off duty hours.
2. Emergency response kits will be kept in the office ready for immediate response.
3. When an emergency situation is reported the following information will be obtained.
   a. Name and telephone number of caller.
   b. Alternate contact and telephone number.
   c. Company or agency of caller.
   d. Location of incident.
   e. Type and amount of radioactive material.
   f. Detailed account of the problem.
   g. Shipper address and telephone number.
   h. Consignee address and telephone number.
   i. Who has been called in.
4. The leader of the emergency response team will have successfully completed the NRC Radiological emergency response training course.
5. All questions by the news media will be referred to the Bureau Director.

D. *Procedure for Response to Workers Request for Inspection.* 1. The request for inspection shall be in writing and outline the alleged violations.

2. The request shall be reviewed by bureau personnel and compared to past inspection reports.

3. A copy of the alleged violations will be delivered to the licensee at the time of the inspection.

4. Response to the request by workers that an inspection be performed under URC–48–070 shall be made as soon as practicable, preferably no later than 7 working days from receipt of written request.

5. Following the inspection a written report will be furnished to the complianant of any violations of the Bureau of Radiation Control Regulations.

6. The identity of the individuals requesting the inspection shall be protected as provided for in URC–48–070.

E. *Procedure for Registration of Ionizing Radiation Machines.** The following outline describes the procedures for keeping track of the registration and survey program. In all cases, the registrant should submit a completed BRC Form 10 along with the registrant's signature. Once the secretary has received this application, a registration certificate will be typed on BRC Form 11 and issued to the applicant.

1. Registration.

a. On receipt of an application:

(1) Check to assure that applicant has not previously been registered.

(2) If not registered, obtain new registration number, county-discipline-sequential.

(3) Note if the appropriate fee is enclosed. If any discrepancies are noted, registration and fee is returned for corrective actions by registrant.

b. Initiate folder.

(1) Place application form and a copy of the registration certificate in the folder. Add any other correspondence concerning this registration.

(2) Original copy of registration certificate is sent to the registrant for his files.

c. Registrant's name, address, registration number, inspection due date, and inspection information will be entered on to the word processor.

d. Mail the original certificate to the registrant. If a new registrant, the following will be included with this certificate:

(1) Notice to Employee, BRC Form 4.

(2) Copy of those sections of the Bureau of Radiation Control Regulations that apply.

2. Change in Registration.

a. Address Change.

Change all registration sheets and update word processor and indicate date.

b. Equipment Change.

Change all registration sheets and update word processor and indicate date.

c. Deaths.

(1) Mark all registration sheets accordingly.

(2) Mark manila folder "inactive", only if (4) is completed.

(3) Do not re-issue number.

(4) Locate and maintain surveillance on equipment until it is properly disposed of.

d. Retirements.

(1) Mark all registration sheets accordingly.

(2) Mark manila folder "inactive", if (4) is completed.

(3) Do not re-issue number.

4. Make sure machine is properly disposed of.

3. Procedures for Handling Completed Survey Reports:

After an x-ray unit has been registered, staff members will perform a radiation survey to determine if the registrant meets the Bureau of Radiation Control regulations. During this survey, the staff member(s) will place data on "survey reports". All reporting documents will be held in registrant's file. A letter to the registrant will be issued from the Bureau informing him if he is in compliance or explain items of non-compliance.

a. File result sheet in manila folder. The letter indicating compliance or listing items of non-compliance will be issued within 15 days after completion of inspections. A copy of this will be filed with the survey result sheet in the manila folder.

b. Non-Compliance Survey Reports.

The non-compliance survey reports will be filed on the word processor, 30-day action is required.

4. Follow-up Procedure.

a. Pull non-compliant registrants from word processor on a monthly basis for follow-up. If installation becomes "in compliance" the data on the word processor will be corrected, if non-compliance continues further action will be taken.

b. Send follow-up letters to all appropriate registrants with non-compliances, note issuance of follow-up letter on word processor.

c. If answer is not received during second 30 day period, an additional 15-day notice will be written.

d. If answer is not received during 15-day period, file will be referred to the Attorney General's office for appropriate action.

5. Procedures When "Non-Compliance" Items are corrected.

a. We will accept a written notice with signature that items of non-compliance have been corrected.

b. Upon receiving such information the following will be done:

(1) The compliance action notice from the responsible person will be placed in the manila folder for future inspection and a corrective action letter will be issued by the Bureau.

(2) Result sheet will be marked compliance by indicating date information was received and by what route. The information will be left in the manila folder.

F. *Procedures for Licensing Radioactive Material:* The specific material to be licensed by the State will be: (a) By-product material (as defined under 11(a) of the Atomic Energy Act of 1954 as amended), (b) Source Material, (c) Special nuclear material in quantities not sufficient to form a critical mass. The United States Nuclear Regulatory Commission Guides will be used for evaluation of all radioactive material applications.

1. All applicants must submit a completed state form (e.g., BRC–01 or BRC—02) along with the application fee. Once the application is received, a file folder will be created and a sequence number given.

2. Applications will be reviewed in sequence by assigned staff. Staff reviewing license applications will have completed the NRC course on licensing practices and procedures.

3. Reviewing staff will determine if application is for a new license, renewal or an amended license. Renewal and amended license applications will be referred to the original file.

4. The reviewer shall determine if all requested material has been submitted and fees paid. If material is not complete or if fees have not been paid, the applicant will be notified that no processing of the application will take place until those items are rectified.

5. If the application is in order and fees paid, it will be reviewed using the following guide lines:

a. Does the application meet the requirements of the BRC regulations?

b. Is the applicant qualified by reasons of training and experience?

c. Are the facilites adequate to carry out the proposed activity? (This may include onsite inspections.)

6. If the application meets all the requirements a license will be issued using form BRC–03 and listing any special conditions or limitations which are applicable.

a. Included with the license mailed to the licensee will be a copy of "Notice to Employees" BRC Form–04 and a copy of Bureau of Radiation Control regulations that apply.

b. A copy of the license and the application will be placed in the applicants permanent file.

c. One file on the word processor will be completed for each license, including the name and address of applicant, the license number, the inspection due date, completed inspection date and remarks.

7. If the application does not meet the requirements, the applicant will be notified by letter of any deficiencies, or any additional information and changes which may be necessary.

G. *Inspection priority.*

Priority	Type of license or facility	Inspection frequency	
		Initial (months)	Routine (months)
I	Reserved		
II	Radiography (field), Medical-Broad, Academic Type A, Uranium-By-product.	6	10
III	Hospital x-ray, Orthopedic x-ray Clinics, Radiology x-ray Clinics, Therapeutic x-ray, Accelerators, Radiography (in-house).	6	12
IV	Waste collection, (prepackaged waste only) industrial, Industrial type B Broad.	6	15
V	Industrial Limited, Academic, Civil Defense, Soil Moisture and Density Gauges, Chiropractic x-ray, other medical x-ray.	6	18–24
VI	Medical limited, Eye Applicator, Gauge Repair, Gauge Use, Chromatography, Light Sources, Leak Test Services, Calibration Sources, Dental X-Ray.	6	12–36
VII	Veterinary x-ray	12	48
VIII	Teletherapy	6	24
IX	Walk-In Type Irradiater	6	12

*Note.—See Definition URC–12–050(43) in Utah Radiation Control Regulations.

*Note.—Other medical x-ray includes all diagnostic x-ray except hospitals, radiology clinics, orthopedic clinics, dental and veterinary x-ray.

H. *Enforcement Procedures.* The United States Nuclear Regulatory Commission Inspection Guides will be used to establish format for inspection procedures.

1. Following an inspection, the licensee will be notified by letter of (a) compliance including the results of the inspection, or (b) the areas of non-compliance and requesting written notification within 30-days describing:

a. Corrective steps which have been taken by the licensee and the results achieved.

b. Corrective steps which will be taken to prevent recurrence; and

c. The date when full compliance will be achieved.

2. If response in not received in 30 days, a second letter will be sent requiring response within 15 days to avoid issuance of an order or other legal proceedings.

3. An order is a written directive to modify, suspend or revoke a license; to cease and desist from a given practice or activity, or to take such other action as may be appropriate.

a. License modification order will be issued when some change in licensee equipment, procedures, or management controls is necessary.

b. Suspension Orders will be used:

(1) To remove a threat to the public health.

(2) When licensee has not responded adequately to other enforcement action.

(3) When the licensee interfers with the conduct of an inspection; or

(4) For any reason not mentioned above for which license revocation is legally authorized.

c. Revocation Orders will be used:

(1) When a licensee is unable or unwilling to comply with bureau requirements;

(2) When a licensee has refused to correct a violation;

(3) When a licensee does not pay a fee required by the bureau.

d. Cease and desist orders are used to stop an unauthorized activity that has continued despite notification by the Bureau that such activity is unauthorized.

e. Orders are made effective immediately, without prior opportunity for hearing, whenever it is determined that the public health, interest or safety so requires, or when the order is responding to a violation involving willfulness. Otherwise, a prior opportunity for a hearing on the modification is afforded.

4. If repetitive serious violations occur, BRC will consider issuing orders in conjunction with other enforcement actions to achieve immediate corrective actions and to deter further recurrence of serious violations.

5. Related administrative actions.

a. In addition to the formal enforcement mechanisms of notice of violation and orders, BRC will also use conferences, bulletins, circulars, information notices, notices of deviation, confirmatory action letters, defined as follows:

(1) Enforcement conferences are meetings held with licensee management to discuss safety, health and compliance with regulatory requirements.

(2) Bulletins, circulars and information notices are written notices to groups of licensees identifying specific problems and calling for or recommending specific actions on their part.

(3) Notice of Deviation are written notices describing a licensees failure to satisfy a commitment.

(4) Confirmatory action letters are letters confirming a licensee's agreement to take certain actions.

I. *Policy For Review of Plans Submitted Under URC-28-032 (Preconstruction Review of Shielding Plans).* 1. Plans should be submitted a minimum of 30 days before anticipated construction.

2. If it appears that additional shielding would be adviseable, this recommendation would be made in writing to those submitting the plans within 30 days of receiving the plans for review.

J. *Policy for Staff Assistance in Developing ALARA Programs in Accordance with URC-24-015 (This Section Requires Implementation of ALARA Programs and Offers Assistance by the Bureau When Requested).* 1. ALARA programs submitted to the Bureau shall be reviewed by the Staff. If the program is deficient, recommendations will be made to upgrade the program.

2. During each inspection, the ALARA program will be reviewed with the registrant or licensee.

3. A list of successful methods will be made and given to those requesting assistance.

K. *Staff Training Policy.* 1. Update training will be conducted on a regular basis to enhance technical proficiency. The goal of in-house training will be to maintain a basic understanding of the following topics:

a. Atomic structure and natural radioactivity.

b. Properties of Alpha and Beta Particles, Gamma Rays, X-Ray and Neutrons.

c. Radiation units and external dose determinations.

d. Biological effects of radiation.

e. Shielding.

f. Operation and calibrations of instruments for measurements of ionizing radiation.

g. Inspection procedures.

h. Special topics as needed.

2. The staff will be sent to national courses in all aspects of Radiation Control as federal or state funds are available.

3. Each staff member will be encouraged to devote some time to personal study and be working toward certification as a health physicist.

L. *Media Relations.* Media relations and the Bureau of Radiation Control can be divided into two general categories: the regular release of information and the information release following an incident involving radioactive material.

Regular Information Release. All information released to the media is to go through the Department of Health's public information officer. The policy for the Division of Environment Health has been to have the draft press release prepared by the bureau and then approved by the divisions director. This is then sent to the public information officer for release.

Telephone press inquiries are generally handled by the bureau director who then briefs the public information officer on the interview. Requests for television interviews are relayed to the public information officer with background as to the reason for the request.

The bureau director is to keep the public information officer current on any aspects of his programs which may attract media attention. This includes briefings on *potentially significant new stories.* The bureau director will also work with the public information officer on specific issues which could or should be brought up in the press. Such briefings are important to keep the public information officer current on concerns and programs of the bureau to give him the necessary background on the bureau's activities. The public information officer will make such arrangements as feature stories, interviews, press conference or other means best suited to the material to be disseminated. The spokesman for the Bureau of Radiation Control is the bureau director or the public information officer.

It is imperative in such situations that timely, accurate and current notices to the public through the press be maintained. Special attention is to be paid to stopping rumors, correcting misinformation and presenting an accurate assessment of the situation which the public can understand. Ignorance and fear can lead to panic. The press can be of great help in preventing panic and in helping make people aware of the real dangers involved, need to evacuate, etc.

A single spokesman for the Department of Health is to be established. Unless otherwise indicated by the Executive Director, Utah Department of Health, this spokesman is the public information officer. He will work closely with the bureau director and division director in his dealings with the press. There should be no unauthorized interviews by staff or others speaking for the Department of Health. Requests for statements or interviews should be directed to the public information officer, division director or bureau director.

The Media and "Incident" Coverage. The public information officer for the Department of Health should be notified immediately of any incident related to radioactivity which is a threat to the public health. Depending on the nature and extent of the incident, his activities will be coordinated with the Division of Comprehensive Emergency Management.

It is advantageous to establish a central press room if the scene of the incident is not accessible. This will make it possible for regular and timely updates.

Statements made on the scene of the incident should be limited to the known facts and not conjecture or possibilities. The press should be referred to the public information officer or bureau director by staff when they are approached by the press for interviews or comments.

IV. Organization, Staff and Equipment

The "Utah Health Code" adopted by the 1981 Utah Legislature created a "Department of Health" from the "Division of Health" of the Department of Social Services. The code gave unto the Department of Health authority to require the registration and licensing of hazardous sources of radiation and to adopt

necessary rules for controlling radiation exposure to such sources. The code also directed the Department of Health to establish, carry out, and enforce a radiation control program pursuant to the adopted rules and any federal-state agreement (The 1981 "Utah Health Code" is contained in Appendix A with pertinent statutes).

The Department of Health is divided into four Divisions. (1) The Division of Health Planning and Facilities; (2) The Division of Environmental Health; (3) The Division of Community Health Services; and (4) The Division of Family Health Services. The Division of Environmental Health is divided into six (6) Bureaus including the Bureau of Radiation Control which includes the functions of the Bureau of Uranium Mill Tailings Management. The Bureau is only concerned with title I UMTRPA activities. A chart showing the organization of the Department of Health and a function chart of the Bureau of Radiation Control are contained in Appendix B. Since this chart was drawn, a recombination of the Bureau of Radiation Control and the Bureau of Uranium Mill Tailings Management was effected with the structure as indicated in the function chart also included in Appendix B. The current staff includes one (1) health physicist certified by the American Board of Health Physics, two (2) health physicists one with extensive experience, and one (1) other staff member undergoing in-house training and attending NRC training courses.

Personnel working in Radioactive Materials Program:

Name	Time (percent)	Responsibilities
Larry F. Anderson	[illegible]	Administrative.
Blaine Howard	100	Licensing and Inspections.
Arnold J. Peart	100	Licensing and Inspections.
Donald G. Mitchell	[illegible]	Training in Licensing and Inspection.
Gerald R. Ripley	10	Training in Licensing and Inspection.
New Hire	10	Training in Licensing and Inspection.

Resume's of the current staff are included in Appendix B. The five categories of job descriptions included in the appendix will all be necessary to allow for promotion incentives for the in-house training program. This will allow hiring of individuals with limited experience and involving them in our training program with advancement available when training and experience requirements are reached.

Standard letters, standard forms, and license conditions have been prepared. Copies of the most recent versions of these materials have been included in Appendix C.

The Bureau has on hand sufficient equipment and instrumentation for the adequate conduct of the present Radiation Control Program. An inventory of this equipment is included in Appendix D.

The Utah Legislature has authorized appropriations to carry out the regulatory functions of the Bureau.

V. Emergency Response

All of the current technical staff have attended the training course in Radiological Emergency Response Operations for Radiological Emergency Response Teams of State and local governments formally sponsored by the Office of State Programs, U.S. Nuclear Regulatory Commission. The Bureau has developed a radiological comprehensive emergency management section with the Utah Highway Patrol.

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January 6, 1984

Part III

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions; Notice

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modification to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Kentucky:	
KY83–1062	Sept. 16, 1983.
KY83–1061	Sept. 16, 1983.
Ohio: OH83–5122	Nov. 25, 1983.
Pennsylvania: PA83–3002	Sept. 9,1983.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parthentheses following the numbers of the decisions being superseded.

Missouri: MO82–4047 (MO83–4086	Oct. 1, 1982.

Signed at Washington, D.C. this 30th day of December 1983.

James L. Valin,

Assistant Administrator.

BILLING CODE 4510–27–M

MODIFICATIONS

DECISION NO. KY83-1062	Basic Hourly Rates	Fringe Benefits
Mod # 2 (48 FR 41707 - September 16, 1983) Anderson...Woodford Cos., Kentucky		
CHANGE:		
POWER EQUIPMENT OPERATORS- HEAVY CONSTRUCTION PROJECTS INCLUDING BRIDGES ACROSS COMMERCIALLY NAVIGABLE RIVERS:		
CLASS A	$14.47	2.48
CLASS B	11.64	2.48
CLASS C	10.84	2.48
CLASS D (50¢ above CLASS A rate)		
POWER EQUIPMENT OPERATORS- HIGHWAY CONSTRUCTION:		
CLASS A	13.17	2.48
CLASS B	10.75	2.48
CLASS C	11.13	2.48
CLASS D	10.49	2.48

DECISION NO. KY83-1061	Basic Hourly Rates	Fringe Benefits
Mod # 2 (48 FR 41706 - September 16, 1983) Allen...Webster Counties, Kentucky		
CHANGE:		
POWER EQUIPMENT OPERATORS- HEAVY CONSTRUCTION PROJECTS INCLUDING BRIDGES ACROSS COMMERCIALLY NAVIGABLE RIVERS:		
CLASS A	$14.47	2.48
CLASS B	11.64	2.48
CLASS C	10.84	2.48
CLASS D (50¢ above CLASS A rate)		

DECISION NO. KY83-1061 Mod # 2 (Cont'd)	Basic Hourly Rates	Fringe Benefits
CHANGE: (Cont'd)		
POWER EQUIPMENT OPERATORS- HIGHWAY CONSTRUCTION:		
CLASS A	$13.17	2.48
CLASS B	10.75	2.48
CLASS C	11.13	2.48
CLASS D	10.49	2.48

MODIFICATIONS

DECISION NUMBER OH83-5122 - MOD. #1 (48 FR 53254 - November 25, 1983) Statewide, Ohio	Basic Hourly Rates	Fringe Benefits
Change:		
Line Construction:		
Area 15:		
Operators, Class 1	$15.78	$.85+1+ 8-1/2%
Operators, Class 2	13.98	.85+1+ 8-1/2%
Groundmen	11.98	.85+1+ 8-1/2%
Omit:		
Power Equipment Operators: Zones 2 & 3 Classifications		
Add:		
Carpenters:		
Area 9:		
Piledriverman	16.14	28%
Power Equipment Operators: Zones 2 & 3 Classifications		

CLASS A - Air compressor on Steel Erection; Boiler Operator on Compressor or Generator when mounted on a rig; Cableways; Combination Concrete Mixer & Tower; Concrete Plants (over 4 yd. capacity); Concrete Pumps; Cranes, including Boom Trucks, Cherry Pickers); Derricks Draglines; Dredge (dipper, Clam or suction); Elevating Grader or Euclid Loader; Floating Equipment; Helicopter Crew (operator-hoist or winch); Hoes; Hoisting Engines; Hoisting Engines on Shaft or Tunnel Work; Industrial-Type Tractor; Jet Engine Dryer (D8 or D9) Diesel Tractor; Locomotives (Standard Gauge); Maintenance Operator Class A; Mixer, Paving (Single or Double Drum); Mucking Machines; Multiple Scraper; Piledriving Machines; Power Shovels; Quad 9 (double pusher); Refrigerating Machine (Freezer Operation); Rotary Drill on Caisson Work; Side-Boom Dozer; Slip-Form Paver; Tower Derricks; Tree Shredder; Trench Machines (over 24" wide); Truck Mounted Concrete Pumps; Tug Boat; Tunnel Machine and/or Mining Machine; Wheel Excavator; Trailer Concrete Pump (without boom)

CLASS B - Asphalt Paver, Automatic Subgrader Machine, Self-propelled (CMI type); Boring Machine Operator (more than 48"); Bulldozer; End-loader; Kolman Loader (production type-Dirt); Lead Grease Man; Maintenance Operators Class B; Power Grader; Power Scrapers; Push Cat; Trench Machine (24" wide & under)

MODIFICATIONS

DECISION NUMBER OH83-5122 (Cont'd)

CLASS C - A-Frames; Air Compressor on Tunnel Work (low pressure); Asphalt Plant Engineer; Locomotive (narrow guage); Mixers, concrete (more than one bag capacity); Mixers, one bag capacity (side loader); Power Boilers over 15 lb. pressure; Pump Op. installing & operating Well Points; Pumps (4" & over discharge Rollers - Asphalt; Utility Operator (small equipment); Welding Machine & Generators

CLASS D - Back Fillers; Bar, Joint & Mesh Installing Machines; Batch Plant; Boring Machine Operators (48" or less) Bull Floats; Burlap & Curing Machines; Compressor (portable, sewer, heavy, & Highway); Concrete Plant (capacity 4 yd. & under); Concrete Saw (multiple); Conveyors (highway); Crushers; Deckhand; Drill, highway (with integral power); Farm-Type Tractor with attachments (highway); Finishing Machines; Fireman, Floating Equipment; Fork Lift (highway); Form Trenchers; Hydro Hammer; Hydro Seeders; Pavement Breaker; Plant Mixers; Post Driver; Post Hole Digger (power auger); Power Brush Burner; Power Form Handling Equipment; Road Widening Trencher; Rollers (brick, grade, macadam); Self-propelled Power Spreaders; Self-propelled Power Subgraders; Steam Fireman; Tractor (pulling sheepfoot roller or grader); Vibratory Compactors (with integral power)

CLASS E - Drum Fireman (asphalt plant); Forklift (masonry); Inboard-Outboard Motor Boat - Launch; Power Scrubber; Power Sweeper; Oil Heaters (asphalt plants); Oilers; Power Driven Heatens; Pumps (under 4" discharge); Tenders

DECISION #PA83-3002 - Mod. #1 (48 FR 40841 - September 9, 1983) Allegheny,..., Westmoreland Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CARPENTERS:		
ZONE I	$14.31	30%
ZONE II	14.12	30%
CARPENTERS - WELDERS:		
ZONE I	14.69	30%
ZONE II	14.50	30%
CARPENTERS - BURNERS:		
ZONE I	14.50	30%
ZONE II	14.31	30%
IRONWORKERS: Reinforcing		
ZONE I	11.31	3.19
PILEDRIVERMEN	15.15	30%
PILEDRIVERMEN - WELDERS	15.40	30%

	Basic Hourly Rates	Fringe Benefi

STATE: Missouri
DECISION NO.: MO83-4086
Supersedeas Decision No. MO82-4047 dated October 1, 1982 in 47 FR 43524.

COUNTY: Greene
DATE: Date of Publication

DECISION NO. MO83-4086

STATE: Missouri
DECISION NO.: MO83-4086
COUNTY: Greene
DATE: Date of Publication
Supersedeas Decision No. MO82-4047 dated October 1, 1982 in 47 FR 43524.
DESCRIPTION OF WORK: Building projects, (excluding single family homes and apartment up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits
Asbestos Workers	$16.92	2.25
Boilermakers	17.345	3.00
Bricklayers, Stonemasons & Tuck Pointers	13.37	1.45
Carpenters:		
Carpenters	13.13	1.43
Millwrights & Pile-driverman	13.38	1.43
Cement Mason	12.75	
Electricians:		
Electricians	14.55	9%+ 1.89
Cable Splicers	14.95	9%+ 1.89
Elevator Constructors:		
Elevator Constructors	16.53	a+ 2.465
Elevator Constructors, Prob. Helpers	70%JR	a+ 2.465
Glaziers, Outside	16.50	b
Ironworkers	16.125	4.25
Laborers:		
Group 1	9.55	2.35
Group 2	9.83	2.35
Group 3	9.98	2.35
Group 4	10.15	2.35
Marble Masons, Tile Layers & Terrazzo Workers	12.82	1.45
Painters:		
Brush & Roller	13.73	1.00
Spray, Sandblasting, Tapers, & paperhangers	14.23	1.00
Plasterers	12.75	
Plumbers & pipefitters	15.17	1.33
Roofers	12.00	.66
Sheet Metal Workers	16.18	1.95
Tile Finishers	10.85	
POWER EQUIPMENT OPERATORS:		
Group 1	$13.63	2.10
Group 2	13.15	2.10
Group 3	12.55	2.10
Group 4	11.95	2.10
TRUCK DRIVERS:		
Warehouseman, pickup driver, flatbed, single axle, dump truck-single & double axle, oiler, greaser	10.25	c+1.10
Flat bed-double axle, wheel tractor (when used for towing), semi-truck drivers and low boys	10.30	c+1.10
Heavy hauling, A-frame and winch trucks, fork trucks, hydro-lift, hydraulically operator aerial lifts	10.40	c+1.10
Mechanics	10.45	c+1.10

DECISION NO. MO83-4086

LABORERS CLASSIFICATION DEFINITIONS

Group 1 - Common labor, handling and carrying of reinforcing steel pumps of all types and heaters
Group 2 - Asphalt raker, crusher feederman, cement finisher tender, jackhammer and air tool operator, power tamper operator, pipe layer (concrete or clay), sand blast and gunnite nozzlemen, vibrator operator, wagon drill operator, cat-drill operator, and all work of a semi-skilled nature not listed
Group 3 - Mason tenders: Including plasterers tender, mortar mixer and fork lift operator
Group 4 - Powderman

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

Group 1 - Crane; dragline, derrick, drum or tower hoist (2 drum), power shovel or back hoe (on tracks), piledriver, power blade, motor patrol, mechanic, hydraulic, self-propelled crane, stinger or cherry picker crane
Group 2 - Bulldozer, dirt scoop or pan, elevating grader, drum or tower hoist (1-drum), loader (track or rubber tire), tractor pusher, roller (asphalt), tractor or backhoe (on rubber tires), tractor (compaction roller or pull blade track)
Group 3 - Fork lift, roller, tractor (compaction roller or pull blade-rubber tire), distributor, (bituminous), finishing machine (concrete paving), concrete saw (self-propelled), air compressor (600 cu. ft. or over)
Group 4 - Oiler, oiler-driver

FOOTNOTE: a - Employer contributes 8% of basic hourly rate for over 5 years' service, and 6% of basic hourly rate for 6 months to 5 years Vacation Pay Credit, also 7 Paid Holidays.

b - 1 Paid Holiday (Labor Day)

c - $51.00 per/week

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)".

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Part IV

Department of Labor

Occupational Safety and Health Administration

29 CFR Parts 1910 and 1917

Grain Handling Facilities; Safety Hazards; Proposed Rulemaking

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910 and 1917

[Docket H-117]

Grain Handling Facilities

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Proposed rulemaking.

SUMMARY: This notice contains proposed minimum requirements for the control of fires, grain dust explosions and other safety hazards associated with grain handling facilities. Employees in grain handling facilities have been exposed to and continue to be exposed to, fires and explosions. Additionally, employees are exposed to other safety hazards such as the dangers associated with entry into bins, silos and tanks. The proposed requirements in this notice are intended to decrease the number and mitigate the effects of fires and explosions, and to control other known safety hazards in grain handling facilities.

DATE: Comments and requests for a hearing must be postmarked by March 9, 1984.

ADDRESS: Comments, information and hearing requests should be submitted in quadruplicate to the Docket Officer, Docket H-117, U.S. Department of Labor, Occupational Safety and Health Administration, Room S6212, 200 Constitution Avenue, NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3637, 200 Constitution Avenue, NW., Washington, D.C. 20210, (292) 523-8151.

SUPPLEMENTARY INFORMATION:

I. Background

National attention was focused on the hazards associated with grain handling facilities as a result of a series of devastating explosions that occurred in these facilities in late 1977 and early 1978. During December 1977 alone, 59 deaths and 49 injuries resulted from explosions (Reference 1).

The U.S. Congress, the industry and its organizations, unions, federal agencies and other interested groups responded immediately to these tragedies. Responses included an examination of the history of explosions in grain handling facilities as well as the recent tragic occurrences, an evaluation of the causes and prevention of these explosions, and initiation of actions to contribute to the understanding and mitigation of explosions. The following discussion highlights some of the activities undertaken by the different groups identified above.

The U.S. Congress held several important hearings on the matter of fires and explosions in grain handling facilities. For example, in 1978 hearings were held by the Subcommittee on Compensation, Health and Safety of the House Committee on Education and Labor, to examine the causes of grain elevator explosions and to determine the action needed to prevent such occurrences (Reference 2).

As recently as July 1982, the Subcommittee on Wheat, Soybeans and Feed Grains of the House Committee on Agriculture held hearings to review research on methods of preventing dust explosions in grain elevators.

Additionally, as a result of several Congressional requests, the U.S. General Accounting Office conducted a study which was released in 1979 (Reference 3). The study scrutinized various aspects of grain dust explosions including the roles of certain federal agencies. One recommendation resulting from the study was that the Department of Labor evaluate the adequacy of coverage of grain elevators in the existing OSHA general industry standards (29 CFR Part 1910).

Trade associations in the grain handling industry also have been actively involved in educational efforts, scientific endeavors and dissemination of information to assist their members in minimizing the possibility of further explosions.

One major trade association, the National Grain and Feed Association (NGFA), issued guidelines in January 1978, to assist association members in improving fire and explosion safety. The guidelines addressed welding and cutting, safety training and fire drills, review of emergency procedure plans, safety communications, preventive maintenance, good housekeeping and enforcement of no-smoking rules (Reference 4).

NGFA has also held special industry conferences that have resulted in the publication of important documents relating to the design of grain elevator facilities (Reference 5) and dust control (Reference 6).

Another important step taken by NGFA was the creation of the Fire and Explosion Research Council (the Council) within the association. Funded and staffed by members of NGFA, the Council has maintained a continuing program of research activity (Reference 7). The Council's goals, as stated in a NGFA report to Congress (Reference 8, p.3), are:

1. To gather the best information possible on the technology available to control, prevent and eliminate grain dust fires and explosions.

2. To conduct an extensive research effort to learn more about how explosions are caused and ways to control and prevent them.

3. To disseminate written and oral information to all who are interested-information that will add to the knowledge and awareness of how explosions can be mitigated.

Another industry trade association, the Grain Elevator and Processing Society (GEAPS), has been actively emphasizing training and education within the grain handling industry. In 1980, GEAPS was awarded funds under OSHA's New Directions Program. (The goal of the New Directions Program is to assist non-profit groups in providing employer and employee training programs to complement and augment the effectiveness of OSHA standards.) With that assistance, GEAPS embarked on a study of the industry's safety and health training needs (Reference 9). This has led to the development of several excellent slide/tape presentations concerning safety in grain handling facilities. These slide/tape presentations are available from GEAPS and are also available in certain OSHA Area Offices (Reference 10).

Unions representing employees in grain handling facilities (the American Federation of Grain Millers and the Allied Industrial Workers of America—both of the AFL-CIO) have been very active, through training and education, in increasing the safety awareness of those employees they represent in grain handling facilities. The Food and Beverage Trades Department of the AFL-CIO received a New Directions grant to assist in the development of a training program for the American Federation of Grain Millers (Reference 11).

The U.S. Department of Agriculture (USDA), through its various agencies has been actively concerned with the fire and explosion hazards in grain handling facilities. One of these agencies, the Federal Grain Inspection Service (FGIS), is responsible for the quality, grading and weighing of grain that is exported. Thirteen FGIS inspectors lost their lives in grain elevator explosions in December 1977.

Based on its concern for the safety of its employees, USDA set up a special task force on grain elevator safety and explosions. The task force report was issued in 1979; it included a historical

overview of fire and explosion experience in grain elevators and feed mills and contained numerous recommendations that the task force believed would prevent dust explosions in elevators (Reference 1).

In addition, USDA has been a sponsor of two major symposia relating to grain handling facilities. In 1978, the *Symposium on Grain Elevator Explosions* was held on behalf of USDA by the National Academy of Sciences (Reference 12). This symposium will be discussed later in this notice. A second, *Symposium on Grain Dust,* was held in 1979 and was sponsored by USDA together with GEAPS, NGFA, and Kansas State University. Its purpose was to present the latest research on grain dust (Reference 13). In addition to these activities, USDA has since 1978, developed and implemented a system of tracking grain elevator and feed mill explosions.

OSHA undertook several important actions directed toward increasing the safety and health of employees in grain handling facilities. In January 1978, OSHA issued the *Grain Elevator Industry Hazard Alert* (the Alert) (Reference 14) which was distributed to over 10,000 grain handling facilities and other interested concerns. The purpose of the Alert was to provide employers, employees and other officials with available information on safety hazards, as well as health hazards, associated with the storage and distribution of grain. Additionally, a listing of free consultative services was included with the Alert.

In late 1978, OSHA initiated a contract with the National Academy of Sciences (the Academy) to study the causes and prevention of grain elevator fires and explosions. The scope of the study was later expanded to include mills. OSHA believed that this additional inquiry into fires and explosions in grain handling facilities was needed before the Agency could determine how best to address these hazards. Discussion of the Academy contract and reports appears later in this notice.

On February 15, 1980, OSHA published in the **Federal Register** (45 FR 10732) a request for comments and information, and notice of public meetings concerning the safety and health hazards in grain handling facilities. Although the contract efforts with the Academy were still underway, OSHA believed it was apppropriate to provide the public an early opportunity to submit views, data, and information regarding the possible development of a standard for grain handling facilities. Responses to the notice were to be received by May 5, 1980, but due to numerous requests, the comment period was extended to June 30, 1980 (45 FR 21265).

Over 225 comments were received in response to the notice. In addition, approximately 2000 pages of testimony were received at the three public meetings which were held in Superior, Wisconsin; New Orleans, Louisiana; and Kansas City, Missouri in April–May 1980. Several points were raised consistently throughout the comments and testimony, including the following:

1. OSHA should not develop a standard until the results of research projects were available (e.g., National Academy of Sciences).
2. If OSHA determines that there is a need for a standard, it should be performance-oriented and cost-effective.
3. OSHA should emphasize consultation, education and training.
4. If OSHA develops a standard it should address the known hazards.

Information received as a result of the notice has been invaluable in assisting to focus on those factors which OSHA believes have the greatest potential to mitigate fires and explosions in grain handling facilities.

In conjunction with these information-gathering activities, OSHA increased inspections of grain handling facilities. Since there are no specific standards for grain handling facilities, OSHA relied primarily on the application of housekeeping requirements and other existing general industry standards. In some cases OSHA issued citations under the general duty clause (section 5(a)(1) of the OSH Act, supported by various national consensus standards, such as the National Fire Protection Association's standard 61–B, Prevention of Fires and Explosions in Grain Elevators and Facilities Handling Bulk Raw Grain (Reference 15). Significant problems were encountered in attempting to apply the existing standards and national consensus standards (e.g., numerous contested citiations).

As indicated above, OSHA initiated a contract with the National Academy of Sciences to study the causes and prevention of grain elevator and mill explosions. OSHA believed it was important to increase the understanding of the problem of fires and explosions, as well as to obtain recommendations on corrective actions. OSHA chose to contract with the Academy for several reasons. First, the Academy was already working in related areas, such as the claassification of dusts present in hazardous locations. Additionally, as noted earlier, the Academy had held an international conference in 1978 on behalf of the OSHA, *Symposium on Grain Elevator Explosions,* for the purpose of developing a "common understanding of the state of the art and available courses of action regarding the grain dust hazard" (Reference 12). Finally, the Academy had the ability to gather noted scientists, engineers and other experts in related areas. Accordingly, upon initiation of the contract, the Academy established a special panel of experts to study the grain handling problem.

Subsequently, the contract effort was expanded and additional funding was contributed by the National Institute for Occupational Safety and Health (NIOSH) and USDA. The ultimate objectives of the contract are contained in the following reports:

1. An evaluation of OSHA's investigations of grain elevator disasters (Reference 16).
2. A comprehensive discussion of the major aspects of grain elevator and mill fires and explosion problems (Reference 17).
3. A manual including the design, installation and maintenance criteria for pneumatic dust control systems (Reference 18).
4. A report on investigations of explosions (Reference 19).

OSHA believes that the Academy reports are significant contributions to the literature on the safety of employees in grain handling facilities. In particular, the second report, *Prevention of Grain Elevator and Mill Explosions,* establishes corrective actions as first, second and third priority, based upon the Academy's assessment of their relative efficacy, feasibility, and cost-effectiveness (Reference 17, pp. 10–12).

The Academy's first priority actions (Reference 17, pp. 10–11) are set forth as follows:

1. Continue research on methods for reducing the dust concentration in legs to a level below the lower explosive limit.
2. Establish a housekeeping program involving a mechancial dust collection system supplemented by manual or other means.
3. Conduct rigorous preventive maintenance, especially on all parts of bucket elevators.
4. Use a pre-established and enforced permit procedure whenever welding, cutting, or other open flame work is to be done.
5. Incorporate a system to indicate belt slippage and misalignment.
6. Incorporate a method to check frequently the temperature and vibration of critical bearings.

7. Use devices to extract foreign materials from the incoming grain stream.

8. Ground all conveying and electrical equipment.

In an effort to share information resulting from the Academy contract, USDA and OSHA have distributed thousands of copies of the Academy's reports to interested persons and groups throughout the country.

Over the last several years, OSHA has received numerous communications regarding the inadequacy of current OSHA standards to deal with the hazards of grain handling facilities and requesting the development of a specific standard for grain handling facilities. In fulfulling its mission of assuring insofar as possible that the nation's employees have a safe and healthful workplace, OSHA believes that available evidence supports the need for a standard for grain handling facilities. However, OSHA also believes that it is important to provide a sound basis for the development of such a standard. It is for this reason that OSHA did not proceed with a proposed standard until it had reviewed all data and information submitted to the record, and until the Academy's reports had been published, widely distributed, and reviewed.

II. Agency Action

OSHA believes there is now sufficient data and information upon which a reasonable standard can be based to mitigate fire, explosion, and certain other known safety hazards associated with grain handling facilities. The standard being proposed by OSHA reflects this determination.

Employees in the grain handling industry are exposed to safety hazards associated with fires and explosions as well as those associated with confined spaces and the repair and maintenance of mechanical systems. There are approximately 200,000 employees exposed to these various hazards in this industry which has about 16,000 workplaces. The death and injury experience, which is described in References 1, 2, 3, 14, 17, and 21, is compelling evidence that OSHA needs to take action to reduce or eliminate these deaths and injuries. These reports clearly show that there is a significant risk to employees in this industry, and that mandatory standards are necessary. This proposal meets that need for mandatory standards.

The record indicates that fire and explosion hazards have existed in grain handling facilities for many years (e.g., Reference 20). USDA, in its task force report (Reference 1), evaluated grain elevator and feed mill explosion experience for the period 1958 through 1978 during which time there were at least 250 explosions. Based on data from USDA and OSHA for the four years since the task force report was prepared, there were at least 29 explosions in 1979; 47 in 1980; 23 in 1981; and 13 in 1982.

In addition to the explosion experience, USDA examined grain elevator and feed mill fire experience for the years 1958 through 1975 (the source used was the National Fire Protection Association). The totals reflect only reported fires and vary from 1800 to 5300 a year. USDA, based on its experience in export elevators, estimates that there may be as many as 11,000 fires in grain handling facilities each year.

Additionally, OSHA has conducted several special studies that have indicated the existence of other safety hazards in grain handling facilities such as entry into bins, silos and tanks, and the repair and maintenance of mechanical systems. One study (Reference 21) analyzed the fatality investigations made by the OSHA field staff between the years 1977 through 1981. Over 100 fatality investigations are discussed which accounted for 126 deaths that occurred in this industry. Thus, OSHA believes that a standard developed for grain handling facilities should contain criteria for other known safety hazards.

III. Summary and Explanation of the Proposal

In paragraph (a), OSHA identifies the scope for the proposed standard for grain handling facilities. The standard would contain requirements for the control of fires, grain dust explosions, and other safety hazards associated with grain handling facilities in general industry and maritime employments including marine terminals. It is the intent of OSHA that the scope of this standard include all grain handling facilities, specified in proposed paragraph (b) of this standard, whether such facilities are located inland or near water.

In paragraph (b), OSHA is proposing that the standard apply to grain elevators, dust pelletizing plants, feed mills, rice mills, flour mills, and corn and soybean milling operations. OSHA intends the proposed standard to apply to all grain elevators, including those which may be only a segment of a facility. For example, even though the proposed standard is not intended to apply to all portions of such facilities as breweries, or vegetable oil extraction plants, it is intended to apply to grain elevators which are segments of such facilities.

Thus, the proposed standard would cover many types of grain handling facilities of all sizes. OSHA invites interested parties to comment on the applicability of each of the provisions to various types of facilities and, in general, the appropriateness of covering the many diverse types of operations by a single standard. OSHA is particularly interested in comment, data and views on the appropriateness of coverage of small facilities. It has been suggested to OSHA that coverage not be extended to small elevator facilities under the standard or at least limited based upon the comparative risks found in large and small facilities. The possible limitation of coverage of small facilities based upon comparative risk data presents some extremely difficult issues, which OSHA anticipates will be fully addressed during the rulemaking process. On the one hand, a comparison of the incidence data for fatalities in large and small facilities reveals a considerably lower likelihood of death in the small facilities. However, the risks of injury and of fire and explosion—the principal causes of injuries and deaths in grain facilities—are very similar in small and large operations.

OSHA believes that it is important to explore the reasons for this apparent disparity in order to determine whether small facilities should be covered. OSHA also is concerned about the relatively heavy burdens of compliance imposed on small facilities by the proposal. For example, while large elevators have accounted for almost five times as many deaths from fires and explosions as country elevators between 1976 and 1982, the cost of compliance for all country elevators will be several times that for large facilities. OSHA seeks comment on ways to reduce the regulatory burdens on such facilities without reducing the protections afforded.

The proposed standard would not apply to seed plants or to those segments of facilities dedicated to oil extraction. The oil extraction process usually utilizes flammable liquids (such as hexane) which are currently covered by existing OSHA standards.

Not all grain handling facilities would have to comply with all of the paragraphs contained in the proposed standard. Paragraph (o) of the proposed standard would apply only to grain dryers which are associated with grain elevators. Paragraph (p) and (q) of the proposed standard would apply only to grain elevators which have inside or partially-inside bucket elevator legs.

The proposed standard is intended to focus on the most serious hazards in grain handling facilities. Information collected by OSHA indicates that the elevator leg is the most dangerous location with respect to initial or primary dust explosions (Reference 17). Therefore, as will be discussed below, OSHA believes it is appropriate to propose additional safeguards for those bucket elevators which are inside or partially-inside the grain elevator facility.

It has been suggested to OSHA that the proposed standard apply only to the elevator portion of a mill because the function, design, equipment, and conditions of other portions of a mill vary significantly from those of an elevator. It has also been asserted that while grain elevators and mills both handle agricultural commodities, they do not have the same history and potential for explosions.

On the other hand, the report from the National Academy of Sciences, *Prevention of Grain Elevator and Mill Explosions* (Reference 17), provides a separate Appendix entitled, "Explosions in Mills Handling Grain Products." The report states, "Mills of any type (feed, flour, soy, rice, etc.) are subject to the same dust explosion hazards as grain elevators since their input is grain and, before processing, it is handled in the same manner as in elevators. . . . Mills, however, are subject to additional dust explosion hazards because of the actual processing of the grain" (Pg. 123).

OSHA is proposing that the standard apply to mills, but the information it possesses on mill explosions is limited. To assist the Agency in determining the appropriate application of the standard, OSHA requests fire and explosion data pertaining to mills, and information on the following questions. Should OSHA apply the standard to any other grain processing facility? Should OSHA limit the application of the standard in mills, to the receipt of bulk raw grain (mill elevators) up to equipment such as hammer mills, grinders, and pulverizers? Which provisions of the standard should apply to mills, and why?

In paragraph (c), OSHA proposes definitions for the following terms: acute debilitating health effects, choked leg, fugitive grain dust, grain elevator, hot work, inside bucket elevator, jogging, lagging, partially-inside bucket elevator, and small elevator facility. These definitions would clarify the meaning and intent of certain terms contained in the proposed standard.

In paragraph (d), OSHA proposes that an emergency action plan be developed and implemented. The plan may be communicated orally to employees and the employer need not maintain a written plan. OSHA believes it is necessary that employees in grain handling facilities know what actions to take if an emergency occurs. Information and comments received by OSHA support the need for preplanning for emergencies. OSHA also proposes that the emergency action plan meet the requirements currently contained in § 1910.38(a), which specifies certain minimum elements to be addressed. These include the establishment of an employee alarm system, the development of evacuation procedures, the development of procedures to account for all employees after emergency evacuation has been completed, and for training employees in those actions they are to take during an emergency.

OSHA is proposing training requirements in paragraph (e). There is widespread agreement that the implementation of an effective training program is one of the most important steps that employers can take to enhance employee safety in grain handling facilities. OSHA believes that an effective training program will help employees understand the nature and causes of dust fires and explosions, and will increase employee awareness with respect to the other hazards associated with grain handling facilities.

OSHA realizes that there may be wide variability among grain handling facilities as to the details necessary for an effective training program. Therefore, the proposed training requirements contained in paragraph (e) are performance-oriented to provide the flexibility needed by employers to develop training programs which will reflect the needs of their own particular facility.

OSHA proposes in paragraph (e)(1) that employees be provided training at least annually and when job assignment changes will expose employees to new hazards. OSHA believes that annual training is the minimum frequency for providing employees with adequate training; more frequent training may be necessary to reflect the tasks that employees are to perform.

OSHA also proposes in paragraph (e)(1) that current employees, and new employees prior to starting work, be trained in at least the recognition of and preventive measures for the hazards associated with their work tasks, and the procedures and safety practices established by the employer. Additionally, OSHA is proposing that the training include where applicable, but not be limited to, clearing procedures for choked legs, housekeeping program procedures, hot work procedures, preventive maintenance program procedures, rules pertaining to smoking and other common ignition sources, and lock-out/-tag-out procedures.

OSHA also wants to assure that employees are aware of the hazards associated with any special or unique tasks that they may be assigned to perform. Accordingly, OSHA is proposing in paragraph (e)(2) that employees assigned special tasks such as bin entry or handling of flammable or toxic substances, be provided training to handle safely these materials and work tasks.

In paragraph (f), OSHA is proposing that a permit system be developed and implemented for hot work and for work requiring entry into bins, silos, and tanks. OSHA believes that a permit system is necessary to institute a systematic and consistent manner of evaluating and controlling hazards associated with these types of work tasks.

OSHA does not intend the permit to be a record which must be retained for a specific length of time. Instead, the permit would be a written authorization by the employer for employees to perform identified work operations subject to specified precautions.

It is not the intent of OSHA to require a hot work permit for those welding shops authorized by the employer.

In paragraph (g), OSHA is proposing that certain precautions be taken if employees are to enter bins, silos, and tanks. The hazards associated with entering and working in such confined spaces are not unique to the grain handling industry. However, incidence data obtained and evaluated by OSHA indicate that a number of deaths and injuries have resulted from employees entering and working in bins, silos, and tanks (e.g., Reference 20). Standing directly on the grain without taking necessary precautions, including the failure to wear personal protective equipment, has been responsible for many employee deaths and injuries. The most common cause of death in these incidents has been the suffocation of employees by the grain.

Consequently, the proposed requirements contained in paragraph (g) specify those precautions that OSHA believes are necessary to minimize the hazards associated with employees entering and working in bins, silos, and tanks.

OSHA proposes in paragraph (g)(1) that certain precautions be taken before employees enter bins, silos, or tanks. The precautions include: Assuring that

mechanical and electrical equipment which present a danger to employees inside bins, silos, or tanks, are disconnected or locked-out and tagged; testing the atmosphere within a bin, silo or tank for the presence of combustible gases, vapors, and toxic agents when there is reason to believe they may be present; and testing the atmosphere within a bin, silo, or tank for oxygen content, unless there is continuous forced-air ventilation.

OSHA is also proposing in paragraph (g)(1) that if the oxygen level is less than 19.5%, or if combustible gas or vapor is detected, or if toxic agents are present, that ventilation be provided until the unsafe condition is eliminated. If toxic conditions cannot be eliminated by ventilation, OSHA is proposing that employees wear an appropriate respirator when entering any such bin, silo, or tank.

In paragraph (g)(2), OSHA is proposing that a body harness with lifeline be worn by employees or a boatswain's chair be used when entering bins, silos, or tanks from the top. Information compiled by OSHA indicates that a number of employee deaths and injuries have occurred because adequate steps had not been taken to facilitate the quick removal of employees from inside bins, silos, and tanks when needed. OSHA believes that a body harness with lifeline or use of a boatswain's chair, along with appropriate planning procedures, will provide a necessary degree of safety for those employees who enter bins, silos, or tanks from the top.

OSHA is proposing in paragraph (g)(3) that an observer be stationed outside the bin, silo, or tank being entered by an employee, and that communications be maintained between the observer and employee entering the bin, silo, or tank. Communications may be visual, by voice, or by use of a signal line. The purpose of this requirement is to assure that an employee inside a bin, silo, or tank has an effective means of communication to request assistance when needed, and that an observer will be available and prepared to provide such assistance.

In paragraph (g)(4), OSHA proposes that equipment be provided for rescue operations and that such equipment be specifically suited for the bin, silo or tank being entered. OSHA realizes that employees may be assigned to work inside bins, silos, or tanks to perform various tasks in various situations, and will require different precautions. Accordingly, this proposed requirement is performance-oriented to permit the employer enough flexibility to provide the type of equipment necessary for the particular situation.

OSHA proposes in paragraph (g)(5) that the employee acting as observer be trained in resue procedures, inclusing notification methods for obtaining additional assistance. OSHA believes that the first priority of an observer is to obtain additional assistance in an emergency. OSHA also believes that proper trainig is necessary in order to conduct an effective rescue that will not jeopardize the safety of the employee needing to be rescued, and the employee making the rescue.

OSHA is proposing in paragraph (g)(6) that an employee trained in cardio-pulmonary resuscitation be available to provide assistance. Since suffocation is a major potential hazard to employees entering bins, silos, and tanks, OSHA believes it appropriate for an employee, trained in cardio-pulmonary resuscitation, to be available to provide such assistance.

In paragraph (g)(7), OSHA is proposing that employees not be permitted to enter a bin, silo, or tank underneath a bridging condition, or underneath a buildup of grain or grain products on the sides of a bin, silo, or tank. The intent of this proposed requirement is to address the hazard of large quantities of grain or grain products falling on employees and burying them.

OSHA is proposing in paragraph (h) that the employer inform contractors working at the facility of any potential fire and explosion hazards, and of a applicable safety rules of the facility. OSHA also proposes that the applicable provisions of the facility emergency action plan be explained to contractors. The purpose of these proposed requirement is to assure that contractors are aware of both the hazards associated with the work being preformed at the facility, and the actions to be taken during emergencies. Construction contractors would use this imformation is complying with the relevant provisions of Part 1926, such as Subpart J—Welding and Cutting.

Paragraph (i) contains proposed requirements for housekeeping. OSHA believes that dust control is the most effective and fundamental means of reducing the number of dust fires and explosions in grain handling facilities. OSHA also believes that a sound housekeeping program is the foundation for effective dust control. Accordingly, OSHA is proposing in paragraph (i)(1) that a housekeeping program be developed and implemented, consisting of a dust control and removal method, or combination of methods, that will minimize dust accumulations on ledges, floors, equipment, and other exposed surfaces.

Paragraph (i)(1) would not require ship, barge, and rail receiving and loadout areas to be addressed in the housekeeping program. Additionally, truck dumps which are open on two or more sides would not have to be addressed by the housekeeping program.

This proposed housekeeping provision is performance-oriented in that it does not require a specific method or freguency of dust control. Instead, the employer would have the flexibility to specify in the facility housekeeping program those methods which would be the most effective in controlling dust in that particular facility. However, the housekeeping program must specify the methods which will be used to control airborne dust emissions as well as the frequency and methods which will be used to remove dust accumulations.

Although OSHA is proposing a performance-oriented provision regarding methods and frequency of dust control, OSHA is interested in receiving information concerning what would constitute an adequate housekeeping program in order to provide guidance to employers.

There has been a great amount of controversy concerning the issue of what constitutes a "safe level" of dust accumulation. It has been suggested that dust accumulations should not even exceed 1/64 of an inch (0.4 mm). OSHA does not believe that any level of dust accumulation can be considered completely safe. However, OSHA also realizes it is not fesible, and may be impossible, to remove all dust accumulations at all times. Therefore, it is the intent of OSHA that dust accumulations be minimized through the use of an ongoing housekeeping program which utilizes the most efficient and feasible methods of dust removal.

OSHA is cognizant that there may be several types of housekeeping programs that will effect substantial reductions in the risks of fires and explosions in grain handling facilities. Therefore in paragraph (i)(2), OSHA is proposing to allow employers to choose among three different methods of achieving the goal of reduced dust accumulation and meeting the requirements of this proposed standard.

The first option would require immediate corrective action whenever dust accumulations reach a predetermined depth. The proposal terms this predetermined level of dust accumulation an "action level," rather than a level of dust accumulation considered to be "safe." Accordingly,

under this option, the employer would establish an action level not to exceed a ⅛ inch (3 mm) layer of fugitive dust when averaged over a 200 square foot (18.9 m²) floor area. OSHA realizes that dust accumulations near a dust emission source will be larger than those accumulations further away from the source. Consequently, dust may not normally be evenly distributed within any 200 square foot area. To allow for this, the proposal calls for the ⅛ inch action level to be determined as an average depth of the dust accumulation in the area.

OSHA is also proposing that, if employers select this method and dust accumulations reach the established action level, designated means or methods be initiated immediately to remove such accumulations to a safe location.

Sould the dust accumulations in a particular part of the facility exceed ⅛ inch, OSHA would consider the employers who have selected this option to be in compliance only if immediate action has been initiated to remove the dust accumulations. Conversely, if dust accumulations exceed ⅛ inch and efforts have not been initiated to remove the dust accumulations, this would constitute a violation of the standard.

Under the second option, the employer would remove hazardous accumulations of dust not less often than once per shift, when the facility is in operation. The program would also have to specify procedures for cleaning and dust disposal and what equipment the employer will use. The employer would, in addition, require training of employees and maintenance of equipment. This option would allow the operators of each facility the flexibility to determine how best to meet the regulatory goal of having a workplace environment free of the fire and explosion hazards of grain dust.

The final option would permit an employer to use an engineering approach to dust control. There is evidence that the installation and maintenance of a pneumatic dust control system would substantially reduce the grain dust hazards of fire and explosions, is the most technologically efficient approach to take in solving the safety problems associated with grain dust and would actually spur modernization and updating of grain handling facilities. The technology exists for implanting this option. A number of grain handling facilities have already installed such dust control systems. Although pneumatic dust control systems may not be practical or feasible for all grain handling facilities, many facilities could adopt, and are adopting, such systems. Adoption would both modernize the facility and eliminate the safety hazards associated with grain dust.

The Agency would also like those submitting comments to respond to questions concerning these options.

1. Do these options provide effective protection against the hazards associated with explosions and fires? If not, are there other options that would be appropriate?

2. Is the option economically feasible:

(a) For large facilities (elevators, mills),

(b) For small facilities (elevators, mills),

(c) For the industry as a whole (elevators, mills),

(d) For the long run, *i.e.*, should the options be phased in for all or part of the industry, and how long should the phase-in period be?

(e) What is the expected cost of compliance with these options?

3. Are these options technologically feasible:

(a) For large facilities (elevators, mills)?

(b) For small facilities (elevators, mills),

(c) For the industry as a whole (elevators, mills)?

4. What compliance problems do these options present?

5. How could these compliance problems be solved?

Please submit any data which support your answers, and indicate the source for such data.

As discussed further in the Regulatory Impact Analysis section of this Proposal, a preliminary assessment of the compliance costs associated with the Proposal indicates that proposed paragraph (i)(2) may have a greater economic impact on small grain elevator facilities than larger facilities. To mitigate compliance burdens, OSHA is proposing an extended period for compliance with paragraph (i)(2 for small grain elevator facilities.

Accordingly, OSHA is proposing that, effective July 1, 1985, paragraph (i)(2) apply to all grain handling facilities except small grain elevator facilities. Effective July 1, 1988, paragraph (i)(2) would also apply to small grain elevator facilities.

In paragraph (i)(3), OSHA is proposing that the use of compressed air to blow dust from ledges, walls, and other areas which may create a dust explosion hazard (i.e. result in dust concentrations above the lower exposive limit), be permitted only when all machinery that represent an ignition source in the area is shut-down, and all other sources of ignition are removed. OSHA realizes that the use of compressed air with long lances may sometimes be effective to blow down dust from inaccessible areas. The purpose of this proposed requirement is to assure that proper precautions are implemented before the blow down procedures are initiated. OSHA believes these precautions will mitigate potential hazards associated with any suspended dust concentrations resulting from the blow down procedures.

In paragraph (i)(4), OSHA is proposing that grain or product spills not be considered fugitive grain dust accumulations and, additionally, that the housekeeping program address procedures for removing such spills from the work area. Grain or product spills would not meet the definition that OSHA is proposing for the term "fugitive grain dust." Therefore, the purpose of this proposed requirement is to clarify OSHA's intent that the proposed action level requirements concerning fugitive grain dust accumulations would not apply to spills.

OSHA is proposing in paragraph (j) that receiving-pit feed openings, such as truck or railcar receiving pits, be covered by grates. OSHA is also proposing that the length and width of openings in the grates be a maximum of two and one-half inches (6.35 cm). OSHA believes that grates are essential for removing foreign objects from the grain stream. The size of openings permitted (2½") in this proposed paragraph should be large enough for the free-flow of most agricultural commodities. However, OSHA is aware that some facilities, handling ear corn and other commodities which are not free-flowing, may need larger grate openings that the 2½ inch openings specified in the proposed standard. Therefore, OSHA is proposing in paragraph (j) that larger grate openings would be permitted, provided that magnets are used to remove ferrous material from the stream.

OSHA is also considering, as alternatives to proposed paragraph (j), provisions that would afford some measure of regulatory flexibility to small grain handling facilities. This could be achieved by requiring small facilities to comply with paragraph (j) only upon the installation of new grates after the effective date of the standard. Another approach would be to permit such a "grandfathering" of existing grates only with respect to outside legs of small facilities. OSHA seeks comment generally on such alternatives and requests specific information concerning (1) any differences in the level of

protection that would result from such a change and (2) the comparative costs and regulatory burdens associated with the two alternatives.

In paragraph (k), OSHA is proposing requirements for fabric dust filter collectors which are a part of pneumatic dust collection systems. OSHA is proposing in paragraph (k)(l) that, effective January 1, 1985, all fabric dust filter collectors be equipped with a monitoring device that will indicate when the filter becomes blinded, and that such indication be observable at a designated inspection or work location. The purpose of this proposed requirement is to assure that a reliable instrument is provided to indicate when the filter is blinded, and to assure that the instrument can be read at an accessible location.

Filter collectors will contain a large amount of grain dust that can support a fire or an explosion. Therefore, OSHA believes that filter collectors should be located outside of the facility, or be located in a protected area inside the facility, to minimize exposure of employees from the potential hazards of filter collectors.

Accordingly, in paragraph (k)(2), OSHA is proposing that filter collectors installed after the effective date of this standard be located outside of the facility; or be located in an area inside the facility protected by a fire or explosion suppression system; or be located in an area inside the facility provided with explosion venting to the outside and separated from other areas of the facility by construction having at least a one hour fire-resistance rating.

Paragraph (l) contains proposed requirements concerning preventive maintenance. OSHA considers preventive maintenance to be a major and necessary function of a grain handling facility because of its importance in eliminating potential ignition sources. Equipment such as bearings, belts, milling machinery, and dryers are potential ignition sources. Periodic inspection and lubrication of such equipment through a scheduled preventive maintenance program is an effective method for keeping equipment functioning properly and safely. Therefore, OSHA is proposing in paragraph (l)(1) that the employer develop and implement a program of scheduled maintenance which includes inspection and lubrication of at least the mechanical and safety control equipment associated with dryers, removal of ferrous objects, dust collection systems, and grain elevator legs.

Although OSHA considers the inspection of all mechanical and safety control equipment to be equally important, it also believes that when certain potentially hazardous conditions are detected, prompt corrective action is necessary. Accordingly, OSHA is proposing in paragraph (l)(2) that prompt corrective action be taken when the following conditions are detected: overheated bearings and slipping or misaligned belts that are associated with inside bucket elevator legs; and, blinded filter collectors.

OSHA is not proposing a specific frequency for performing preventive maintenance. However, in paragraph (l)(3), OSHA is proposing that a system be implemented for identifying the date, maintenance performed and/or results of the equipment inspection. This information, along with manufacturers' recommendations for effective equipment operation, will assist the employer in determining the appropriate interval for preventive maintenance.

OSHA is aware of a number of instances where deaths and injuries have occurred to employees working on equipment because of the equipment being inadvertently started or energized. As a control measure for preventing these types of situations from occurring, OSHA is proposing in paragraph (l)(4), that the employer develop and implement procedures consisting of tags and locks which will prevent the inadvertent application of energy or motion to equipment being repaired, serviced, or adjusted, which could result in employee injury. OSHA is also proposing that such locks and tags be removed in accordance with established procedures and only by the employee installing them, or if unavailable, by his or her supervisor.

In paragraph (m), OSHA is proposing that grain stream processing equipment, such as hammer mills, grinders, and pulverizers, be equipped with an effective means of removing ferrous material from the incoming grain stream. The purpose of this proposed requirement is to prevent ferrous material from entering the processing equipment and creating an explosion hazard. It is the intent of OSHA that magnets installed in accordance with proposed paragraph (j) are acceptable as meeting proposed paragraph (m).

Currently, grain handling facilities must comply with 29 CFR Part 1910, Subpart E, with respect to means of egress. By definition, a means of egress consists of three separate and distinct parts: the way of exit access, the exit, and the way of exit discharge (§ 1910.35(a)). Additionally, fire-resistance rated enclosures are required for stairways used as exits (§ 1910.37(b)(1)). Most existing grain handling facilities have at least two means of escape, but these means of escape do not technically meet the requirements for means of egress. Therefore, OSHA is proposing, in paragraph (n), that at least two means of escape be provided from certain areas of the facility, and that the escape routes be separated from each other to the extent feasible. The intent of this proposed requirement is to recognize windows, emergency escape ladders, controlled descent devices, and other alternative measures, as acceptable means of escaping from certain areas of the facility during an emergency. Rather than requiring existing facilities to comply with the more stringent requirements for means of egress, OSHA believes that specifying two means of escape would provide adequate egress because these means of escape can safely handle the small number of employees using them as would systems meeting the more stringent requirements of §§ 1910.35 through 37.

Paragraph (o) contains proposed requirements pertaining to bulk raw grain dryers. These requirements are intended to apply only to those dryers directly asssociated with grain elevators and not to those dryers which are a part of the processing and milling segments of a facility, such as those used in the processing of rice.

Information obtained and evaluated by OSHA indicates that grain dryers are a major potential source of fires, and that implementation of certain precautions could potentially reduce the number of fires. Accordingly, OSHA is proposing in paragraph (o)(1) that direct-heat grain dryers be equipped with automatic controls that will shut-off the fuel supply in case of power of flame failure or interruption of air movement through the exhaust fan; and, that will stop the grain from being fed into the dryer if the grain discharge mechanism becomes clogged, or if excessive temperature occurs in the exhaust of the drying section. The purpose of the proposed requirement is to assure that dryers are equipped with devices which will activate automatically to control certain conditions which could potentially be hazardous.

OSHA is also considering, as an alternative to proposed paragraph (o)(1), a provision that would afford some measure of regulatory flexibility to small grain handling facilities. This could be achieved by requiring small facilities to comply with paragraph (o)(1) only upon the installation of new dryers after the effective date of the standard. OSHA seeks comment generally on such an alternative and requests specific

information concerning (1) any differences in the level of protection that would result from such a change and (2) the comparative costs and regulatory burdens associated with the alternative.

Because of the number of fires associated with grain dryers, OSHA believes they should be located outside of the facility, or located in a protected area inside of the facility. Therefore, OSHA is proposing in paragraph (o)(2) that direct-heat grain dryers, installed after the effective date of this standard, be located outside of the facility; or, be located in an area inside the facility protected by a fire or explosion suppression system; or be located in an area inside the facility which is separated from other areas of the facility by construction having at least a one hour fire-resistance rating.

Information available to OSHA indicates that hazards associated with inside bucket elevator legs are the source of many grain elevator fires and explosions (e.g., References 6 and 17).

To mitigate these hazards, OSHA is proposing several requirements in paragraph (p) which would only apply to grain elevators with inside legs. Additionally, OSHA is proposing a phase-in period for some of the requirements to provide employers the time necessary for planning and implementing these provisions.

OSHA recognizes that some of the proposed requirements of paragraph (p), particularly paragraphs (p)(5) and (p)(7), would entail significant burdens for small grain handling facilities. OSHA requests comment on whether more extended phase-in periods should be provided in order to reduce those burdens and whether alternatives to those provisions are available, in addition to proposed paragraph (p)(8), which would provide equivalent protection and be less burdensome.

In paragraph (p)(1), OSHA is proposing that elevator legs not be jogged to free a choked leg. The purpose of this proposed requirement is to assure that safer, alternative methods are utilized to clear a choked leg.

Paragraphs (p)(2) and (p)(3) contain proposed requirements concerning electrical grounding and conductivity to minimize the possibility of electrical arcs which can result from static electricity. In paragraph (p)(2), OSHA is proposing that effective January 1, 1985, the employer assure that elevator legs are electrically grounded.

OSHA is proposing in paragraph (p)(3) that belts and lagging installed after January 1, 1985, be conductive, and that belts have a surface electrical resistance which does not exceed 300 megohms.

OSHA is proposing in paragraph (p)(4) that, effective July 1, 1985, inspection doors be provided in the head pulley section. These doors would facilitate inspection of the head pulley lagging, belt, and discharge throat of the elevator leg. OSHA is also proposing in paragraph (p)(4) that boot sections be provided with doors to facilitate cleanout of the boot, and for inspection of the boot pulley and belt.

In paragraph (p)(5), OSHA is proposing that, effective July 1, 1985, elevator legs be equipped with a motion detection device which would initiate an alarm to employees when belt speed is reduced by no more than 15% of the normal operating speed, and would shut-down the leg when the belt speed is reduced by no more than 20% of the normal operating speed. OSHA is also proposing that conveyor equipment which feeds the leg be equipped with an interlock to shut-down these conveyors in the event that the leg they are serving is shut-down. The purpose of the proposed requirement is to assure that an early warning is provided, which will indicate that a potential problem exists, so that corrective action can be implemented before the potential problem becomes one of a more serious nature.

OSHA is aware that overheated bearings can be a potential ignition source, and if bearings are mounted inside the leg casing, it is difficult to inspect their condition. Accordingly, OSHA is proposing in paragraph (p)(6) that, effective July 1, 1985, bearings be mounted externally to the leg casing; or, that bearings mounted totally or partially inside leg casings be equipped with a temperature monitoring device that can be read at a designated inspection or work location.

OSHA is proposing in paragraph (p)(7) that, effective January 1, 1986, elevator legs be equipped with a belt alignment monitoring device that will initiate an alarm to designated employees when the belt is not tracking properly. The purpose of this proposed requirement is to assure that employees are alerted to the problem so that the corrective action specified in the preventive maintenance program can be implemented.

Information available to OSHA (e.g., Reference 7h) indicates that sufficient protection of the elevator leg can be provided by fire and explosion suppression devices. Additionally, OSHA is aware of the recent advances made with aspiration of the leg which maintains dust concentrations, inside the leg, at well below the lower explosive limit. Accordingly, in paragraph (p)(8), OSHA is proposing that the employer would not have to comply with paragraphs (p)(5), (p)(6), and (p)(7) if bucket elevators are equipped with an operational fire and explosion suppression system capable of protecting at least the head and boot section of the leg; or if bucket elevators are equipped with a pneumatic or other dust control system that keeps the dust concentration inside the leg casing below 50% of the lower explosive limit at all times during operation.

OSHA believes it is necessary to make a distinction between bucket elevator legs installed inside a grain elevator facility, and those installed only partially-inside a grain elevator facility. However, OSHA also believes that there are some potential hazards common to both types of installations, and that these can be addressed by the same proposed requirements, i.e., the proposed requirements pertaining to the installation of motion detection devices and the prohibition of jogging the leg.

Accordingly, OSHA is proposing in paragraph (q)(1) that partially-inside bucket elevators comply with the proposed requirement concerning the jogging of a choked leg, (p)(1), and the proposed requirement concerning the installation of a motion detection device, (p)(5).

OSHA invites comments on the appropriateness of this proposed requirement, and whether partially-inside legs should comply with other requirements contained in proposed paragraph (p).

In paragraph (q)(2), OSHA is proposing that when partially-inside bucket elevators meet the proposed requirements of paragraphs (p)(8)(i) or (p)(8)(ii), the employer would not have to comply with the proposed requirements of paragraph (p)(5).

IV. References

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V. Preliminary Regulatory Impact and Regulatory Flexibility Analysis and Environmental Assessment

A. *Preliminary Regulatory Impact Analysis.* The Occupational Safety and Health Administration (OSHA) is proposing a standard to protect workers from occupational exposure to fires, explosions, and other safety hazards in grain handling facilities. The following economic analysis has been prepared in accordance with the requirements of Executive Order 12291 (February 17, 1981), and the Regulatory Flexibility Act of 1980 (Pub. L. 96–354, 94 Stat. 1164 [5 U.S.C. 601 et seq.]). It is based in large measure on a report prepared for OSHA by Arthur D. Little, Inc. Due to the complexities of this proposal, OSHA has contracted with Booz-Allen, Inc. to scrutinize the ADL study's cost methodology and alternatives during the rulemaking. Booz-Allen will prepare a supplemental economic report that will be available to interested parties prior to the hearings.

Overview of Nonregulatory Environment

Nonregulatory alternatives (including insurance) to mitigate grain handling hazards have resulted in baseline risks of 25.7 explosions and 2,200 reported fires per year, causing an average 23.5 deaths and 950.5 injuries annually.

Other hazards, such as those where employees suffocate in bins and silos or get caught in augers or in machinery, account for an additional 41.3 deaths and 512.6 injuries annually. The most significant cause of death from such other hazards is worker suffocation in grain bins, which accounts for 15 deaths per year. The total annual baseline risk is therefore 64.8 deaths and 1,463.5 injuries on average, with the latter representing 30,040 lost workdays (Table 1).

In addition to the estimated 64.8 deaths and 1,463 injuries per year, the annual economic loss owing to property damage and business interruption is $170 million (1982 dollars).

Overview of the OSHA Proposal

The proposed standard would cover an estimated 16,164 facilities employing about 200,000 workers. The major Standard Industrial Classification (SIC) codes affected are Grain Elevators and Storage (0723, 4221, 5153), Prepared Feed and Feed Ingredients for Animals, and Fowls (20481), Wet Corn Milling (2046), Soybean Oil Mills (2075), Flour and Other Grain Mill Products (2041), Rice Milling (2044), Dog, Cat, and Other Pet Foods (2047), Cereal Breakfast Foods (2043), and Malt (2083).

The population at risk includes not only employees at grain handling facilities but also firefighters, federal grain inspectors, state and local goverment workers, contractors, farmers, and bystanders. All of these nongrain handling groups have suffered casualties as a result of fires and explosions at grain handling facilities.

TABLE 1.—BASELINE RISK OF VARIOUS HAZARDS IN GRAIN HANDLING INDUSTRIES

Segment	Number of facilities 1982	Type of hazard						Other hazards [a]		
		Explosions per year [a]			Reported fires per year [b]					
		Events	Deaths	Injuries	Events	Deaths	Injuries	Bin suffocation	Other deaths	Other injuries
Grain elevator and Storage	11,200	16.4	15.7	30.3	1,391	3.0	567.5	8.0	10.5	203.5
Country elevators	10,415	7.7	1.1	7.6	1,100	2.3	445.8	4.7	8.3	161.0
Inland terminals	460	6.4	1.3	7.6	194	.5	79.2	0.3	0.5	9.7
High throughput terminal elevators	325	2.3	13.3	15.1	97	.2	39.5	1.0	1.7	32.8
Export terminal elevators										
Prepared feeds and feed ingredients	4,070	4.7	1.3	8.1	129	.3	52.8	3.7	6.5	127.7
Small feed mills	3,030	3.1	0.7	3.8	97	.2	39.6	1.1	2.0	39.0
Large feed manufacturing	1,040	1.6	0.6	4.3	32	.1	13.2	2.6	4.5	88.7

TABLE 1.—BASELINE RISK OF VARIOUS HAZARDS IN GRAIN HANDLING INDUSTRIES—Continued

Segment	Number of facilities 1982	Type of hazard						Other hazards [c]		
		Explosions per year [a]			Reported fires per year [b]			Bin suffocation	Other deaths	Other injuries
		Events	Deaths	Injuries	Events	Deaths	Injuries			
Oilseed processing	216	1.0	0.2	0.4	129	.3	52.6	1.7	2.9	56.4
Flour and grain mills	368	1.8	0.2	13.5	259	.8	105.6	1.1	1.9	36.4
Rice mills	57	.8	0.2	0.2	65	.1	25.4	0.4	0.6	12.3
Other grain processing	253	1.0	1.1	1.5	226	.5	92.6	2.1	3.8	76.2
Total	16,164	25.7	18.7	54.0	2,203	4.8	848.5	15.0	26.3	512.8

[a] Based on 1977–1981 explosion frequency and distribution of events by segment 1971–81.
[b] Based on 1977–1981 for major fires and 1960–1973 for minor fires. Major fires had property damage in excess of $10,000, business interruption loss in excess of $5,000 and usually, casualties.
[c] Other injuries and deaths are based on employment. Deaths are based on averages for 1976–1981, and injuries on averages for 1974–1976 and 1979–1981.

Source: Arthur D. Little estimates are based on the analysis of NFPA Fire Incident Data; on U.S. Department of Agriculture data; on data in U.S. Department of Agriculture, *Prevention of Dust Explosions in Grain Elevators.*

The proposed standard has provisions for the following items, as identified by the appropriate paragraph of the standard (1910.272):

—Emergency action plan (d)
—Training (e)
—Permit system (f)
—Entering into bins, silos, and tanks (g)
—Contractors (h)
—Dust control (i)
—Grate openings (j)
—Filter collectors (k)
—Preventive maintenance (l)
—Grain stream processing equipment (m)
—Emergency escape (n)
—Bulk raw grain driers (o)
—Inside bucket elevator legs (p)
—Partially-inside, bucket elevator legs (q).

Most importantly, the proposed standard would establish several alternative methods that employers can undertake to substantially reduce dust levels in grain handling facilities. One alternative would set an action level for triggering a housekeeping program. The action level would not exceed a ⅛-inch layer of fugitive dust averaged over a 200 square-foot floor area. Alternatively, employers may meet the proposed dust control provision by installing pneumatic dust control systems or by cleaning up hazardous accumulations of dust not less than once-a-shift. Paragraphs (d) through (n) apply to grain elevators, dust pelletizing plants, feed mills, corn mills, rice mills, and flour mills. Paragraph (o) applies to grain driers associated with grain elevators. Paragraph (p) applies to inside elevator legs, and paragraph (q) applies to partially inside elevator legs.

Grain elevators that have less than a 1-million-bushel storage capacity and less than a 4-million-bushel throughput during the previous 12-month period, if they choose to comply with the ⅛-inch action level, would have a deferred effective date. The delayed effective date would also apply to small elevators that could meet the proposed dust control provision if they install a pneumatic dust control system or clean up the dust levels once-a-shift.

OSHA estimates that if fully implemented, the proposed standard could eliminate as many as 18 explosions and 1,617 fires annually. Based on a risk analysis performed by Arthur D. Little for OSHA, these accidents at present result in an average of 17 deaths and 697 injuries per year. In addition, as many as 21 deaths and 70 injuries could be prevented by controlling grain handling hazards other than fires and explosions. Thus, the proposal could prevent a total of approximately 38 deaths and 767 injuries annually (Table 2).

In addition, OSHA estimates that $98.31 million (1982 dollars) in annualized property damage and business interruption loss could be averted by the proposed standard.

It should be emphasized that these benefit estimates are based on the ⅛-inch proposed action level. OSHA invites interested parties to comment on the relative effectiveness of the alternatives proposed to comply with the dust control provisions.

TABLE 2.—REDUCTION IN DEATHS AND INJURIES FROM THE PROPOSED STANDARD IN GRAIN HANDLING INDUSTRIES

Segment	Averted explosions			Averted Fires			Averted other [1]		Total reduction in casualties	
	Events	Deaths	Injuries [2]	Events	Deaths	Injuries [3]	Deaths	Injuries	Deaths	Injuries
Grain Elevator & Storage:										
Country Elevators	5.5	0.8	5.3	809	1.7	329.0	5.8	22.0	7.6	256.5
Inland Terminals	4.5	0.9	5.3	143	0.4	56.2	.4	1.3	1.7	54.8
High-Throughput Terminal Elevators/Export Terminal Elevators	1.6	9.5	10.7	71	0.1	29.0	1.4	4.5	12.5	44.2
Proposed Feeds & Feed Ingredients:										
Small Feed Mills	2.1	0.5	2.7	71	0.1	29.0	1.6	5.4	2.2	37.1
Large Feed Manufacturing	1.1	0.4	3.0	24	0.1	9.6	3.6	12.1	4.1	24.7
Oilseed Processing	0.7	0.1	0.3	95	0.2	36.7	2.3	7.7	2.6	46.7
Flour & Grain Mills	1.3	0.1	9.5	190	0.4	78.5	1.5	5.0	1.6	93.0
Rice Mills	0.5	0.1	.2	48	0.1	19.2	0.5	1.7	0.7	21.1
Other Grain Processing	0.7	0.8	1.1	166	0.4	67.8	3.1	10.5	4.3	79.4
Total	18.1	13.2	38.1	1,617.0	3.5	659.0	21.0	70.2	37.7	761.8

Source: Estimates by Arthur D. Little, Inc., *Technical Feasibility and Economic Impact Analysis (EIA) for Various Standards Provisions.* Applicable to Hazards in Grain Handling Industries, Vol. 1, p. IV–83.

[1] Distribution according to employment in each segment (15 grain suffocation and 6 other deaths avoided).
[2] Of these injuries 74 percent are to employees; others are to firefighters, contractors, and other parties.
[3] Of these injuries 52 percent are to employees; others are to firefighters.

Overview Of Compliance Costs Of The Proposal

The cost impact analysis of the proposal is based on the ADL cost methodology. As noted above, Booz-Allen is currently examining alternative cost methodologies.

Industry conditions and practices in 1982 were used as the baseline to measure the costs of complying with the proposed standard. The unit cost and cost equations were combined with the estimated number of facilities and employees affected by the proposed regulation to estimate the total cost of compliance (in 1982 dollars). Several provisions of the proposed standard have deferred effective dates. As a consequence, capital expenditures and other initial costs associated with various provisions will occur in 1984, 1986, and, for small elevators, in 1988. Thus, the recurring costs associated with the standard do not reach a steady state until 1989. To capture the variations in cost during the first few years of the regulation, the costs of compliance are presented in several formats.

Assuming that all employers complied with the ⅛-inch dust action level alternative, the annualized costs over a 10-year period with a 10-percent discount rate are estimated at $122.5 million a year, of which $105.8 million or 86 percent represents dust control costs. If instead all employers installed pneumatic dust control systems, annualized costs are estimated at $950.7 million a year, of which dust control accounts for $933.8 million. This assumes that pneumatic dust control costs are roughly comparable to those estimated for the 1/64-inch dust level alternative described in the next section.

OSHA also calculated the number of annual labor hours required per facility to meet the once-a-shift alternative. The estimated dust control costs for the once-a-shift alternative range between $22.2 and $77.6 million, depending on the assumed cleaning rate. The lower cost for the sweeping requirement results largely from elimination of expensive capital equipment purchases such as vacuum cleaners and pneumatic control devices. In order to compare these costs directly to those associated with the ⅛-inch proposal, these labor costs must be annualized, taking into account discount rates, recovery factors and delayed effective dates of various provisions. Based on the calculations, the estimated annual cost of the proposed standard assuming all employers comply with the once-a-shift alternative ranges between $29.2 and $66.4 million compared to $122.5 million for the ⅛-inch action level alternative and $950.7 million for the pneumatic control alternative. Since employers may select some combination of these compliance alternatives, actual costs to the industry could fall in-between this range.

OSHA performed a cost effectiveness analysis on the ⅛-inch alternative. The first step is to subtract the $98.31 million in avoided property and business interruption loss from the $122.5 million annualized cost (Table 3). Using this $24 million in annualized costs, the estimated adjusted cost per death avoided is $642 thousand, $32 thousand per injury avoided, and $30 thousand per casualty (death and injuries) avoided.

TABLE 3.—COST PER CASUALTY AVOIDED FOR THE PROPOSED OSHA STANDARD

[One-eighth-inch action level]

	Annualized cost (1982 dollars in thousands)	Casualties avoided		
		Deaths	Injuries	Total
Total	122,521	37.7	767.3	805.0
Benefit related to property damage and business	(98,309)			
Net costs	24,212			
Costs/casualty avoided (1982 dollars in thousands)		642	32	30

Source: Arthur D. Little, Inc. and U.S. Department of Labor, Occupational Safety and Health Administration, Office of Regulatory Analysis.

The total annualized cost of the proposed standard for the ⅛-inch alternative is insignificant when compared to the value of grain traded. This cost is 0.24 percent of the value of grain traded in the United States. Also, the annualized cost of compliance is only 0.58 percent of the value of U.S. grain exported. This leads OSHA to conclude that domestic and international market structures would not be affected significantly by the proposed standard.

At present, most industry segments are experiencing a trend toward a reduction in the number of small grain handling facilities, while the number of larger facilities appears to be increasing slightly. The proposed standard would not affect this pattern of consolidation.

Average-size and large-size facilities would need a long-term revenue increase of about 1 percent to cover compliance costs for the ⅛-inch alternative. Revenue would need to increase from 1 to 3 percent to cover the costs of compliance for small firms.

The proposed standard does not force substitution of capital for labor. The proposed OSHA standard may, however, encourage the improvement of new dust control technologies for grain handling industries. It may also reinforce the trend in new facility design to use inclined belts instead of elevator legs. On balance, the proposed standards is not expected to reduce the demand for labor. In fact, additional labor will be required to comply with the dust control provisions. The relative increase in labor, in terms of full-time equivalents, would be the smallest for country elevators, because additional labor would only be needed at these elevators during the harvest season.

Overview of Other Alternatives Considered

A less comprehensive alternative than the proposed standard was also evaluated by OSHA. This alternative would have all of the provisions of the proposal but the scope would be limited to grain elevators. The restricted scope would not protect workers in mills associated with feed, soybean, corn, and other agricultural commodities. This alternative would prevent 13.7 fewer deaths and 264.9 fewer injuries annually than would the proposal.

OSHA also considered a more stringent alternative regulation. The more stringent alternative would have an action level for paragraph (i)(2) not to exceed 1/64 inch. All other provisions would be the same as the proposed standard. OSHA rejected this alternative on several grounds. For example, OSHA estimated that there are virtually no facilities currently in compliance with a 1/64-inch dust level requirement. OSHA concluded that even if the more stringent standard were technically feasible, economic feasibility constraints would prevail. The estimated annualized cost of the more stringent alternative would be 676 percent greater than the proposed ⅛-inch alternative.

B. *Regulatory Flexibility Analysis.* The Regulatory Flexibility Act of 1980 (Pub. L. 96–354, 94 Stat 1164, [5 U.S.C. 601 et seq.]) requires that special consideration be given to the mitigation of economics impacts of a proposed regulation on small entities. Those small business facilities affected include primarily grain elevator facilities, feed mills, and a few small grain processing plants. For purposes of this proposal, a small elevator facility is defined as having a capacity of less than 1 million bushels and a throughput of less than 4 million bushels during the previous 12-month period. The other small entities (mills and processing plants) are defined as those that have 10 or fewer employees. As indicated in Table 4, 13,756 of the 16,164 facilities affected by the proposed regulation are small facilities. Of these 13,756 small facilities,

12,232 are small elevators. The number of employees at work in the small facilities is 69,808.

TABLE 4.—NUMBER OF SMALL FACILITIES BY INDUSTRY SEGMENT, 1982

Grain handling industry/ segment (SIC code)	Total facilities	Facilities with under 10 employees	Small elevators	Number of employees at small facilities
Grain elevators and storage (4221, 5153):				
Country elevators	10,415	10,415	9,501	55,635
Inland elevator	460	NA		
High-throughout inland/river terminals	[illegible]			
Export terminal elevator	75			
Prepared feeds and feed ingredients for animals and fowls, NEC (2048, other):				
Small feed mill with/without country elevator (2048, other)	3,030	3,030	2,731	12,459
Large feed manufacturing plant (2048)	1,040			
Oilseed processing plants:				
Wet corn milling (2046)	39	[illegible]		[illegible]
Cottonseed oil mills (2074)	[illegible]	18		108
Soybean oil mills (2075)	94	20		120
Grain processing plants:				
Flour and other grain mill products (2041)	368	167		1,002
Rice milling (2044)	57	17		102
Malt (2083)	40	7		42
Cereal breakfast foods (2043)	24	[illegible]		24
Dog, cat, and other pet foods (2047)	145	57		[illegible]
Other (2082, 2085, other)	44	13		52
Total	16,164	13,756	12,232	[illegible]

Source: Arthur D. Little, Inc., Reference No. 88042, p. VIII-17.

OSHA examined various means of achieving adequate worker protection without unduly affecting small entities. In addition to other regulatory alternatives previously discussed, OSHA also evaluated selective exemptions, delayed implementation, and the use of performance language in terms of their potential impact on small entities. OSHA has concluded that today's proposal will not have a significant impact on small business. In fact the standard was designed with an eye toward lowering small firm impacts. To this end, the proposal contains a delayed effective date for some provisions. For example, small entities receive an extra three-year extention to comply with dust control provisions.

The compliance date for all grain handling facilities (except small elevator facilities), to meet the alternative housekeeping requirements would be July 1, 1985. For small entities, the compliance date would be extended to July 1, 1988. This deferral would save small entities adopting the ⅛-inch standard an estimated 43 percent in annualized costs. In addition, the once-a-shift alternative could reduce the compliance costs of dust control by over 60 percent for the small facilities involved.

Finally, some parts of the standard were written to require a level of performance rather than specific equipment. Consequently, the small facility could choose the combination of methods that would minimize costs. For example, the emergency action plan would require an alarm system, whereas compliance in the small facility would be achieved by a verbal alert. Under the provision for dust control, the small facility would satisfy the ⅛-inch action level alternative by increasing the number of housekeeping hours rather than undertaking the same capital investment that may be necessary for a larger facility to come into compliance.

The above discussion summarizes the key findings of the Preliminary Regulatory Impact and Regulatory Flexibility Analysis of the proposed grain handling facilities standard as prepared by OSHA. This analysis includes (1) a profile of the grain handling industry; (2) an assessment of technological feasibility; (3) estimates of compliance costs; risk reduction and benefits; and (4) an analysis of cost-effectiveness and of the effects on employment, market structure, and on small businesses.

OSHA's Preliminary Regulatory Impact and Regulatory Flexibility Analysis are available in the record of this rulemaking. OSHA solicits public comments, data, and arguments on the contents of both these documents. Also, Booz-Allen, Inc. will prepare a supplemental economic report that will be available in the docket prior to the hearings.

C. *Environmental Impact Assessment—Finding of No Significant Impact.* This proposed rule and its major alternatives have been reviewed in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321, et seq.), the Guidelines of the Council on Environmental Quality (CEQ) (40 CFR Part 1500), and OSHA's DOL NEPA Procedures (29 CFR Part 11). As a result of this review, the Assistant Secretary for OSHA has determined that the proposed rule will have no significant environmental impact.

Although safety standards rarely impact on air, water or soil quality, plant or animal life, the use of land or other aspects of the environment, it is appropriate to examine whether the reduction of dust in grain handling facilities might increase the industry's burden to comply with the Environmental Protection Agency's (EPA) air quality standards or otherwise alter the quality of the environment. Under the Clean Air Act (42 U.S.C. 1857 et seq.), EPA is responsible for maintaining ambient air quality by preventing or controlling air pollution. Grain dust emissions have been recognized as a significant contributor or air quality problem. Grain dust is therefore covered under EPA's National Ambient Air Quality Standards for Total Suspended Particulates. Although the removal of increased amounts of dust from the workplace air might seem to contribute to the pollution of ambient air surrounding grain handling facilities, this is not anticipated because direct exhaust to the external environment would be in violation of EPA air quality standards, and because direct capture systems are already in place to comply with these standards. Such controls include the use of baghouses—which can attain a 99.9 percent efficiency factor—cyclones, or induced-draft/ negative pressure systems to capture particulates vented from the workplace to the ambient atmosphere.

Finally, because wet control methods are not practical in controlling dust accumulations in grain handling facilities, it is therefore reasonable to assume that there will be no increased wastewater effluents or significant water quality impact generated as a result of the proposed standard.

Based on this discussion and other information presented in this notice, OSHA concludes that there will be no significant environmental impact as a result of this proposal. OSHA, of course, reserves the right to reevaluate this determination based on additional environmental data and evidence that may be presented in response to this proposed action. Interested persons are invited to submit written data, views, and comments on these or other environmental issues relevant to this Notice.

VI. Public Participation

Interested persons are invited to submit written data, views and arguments with respect to this proposal. These comments must be postmarked by March 9, 1984, and submitted in quadruplicate to the Docket Officer, Docket H–117, U.S. Department of Labor, Occupational Safety and Health Administration, Room S6212, 200

Constitution Avenue, N.W., Washington, D.C. 20210.

The data, views and arguments that are submitted will be available for public inspection and copying at the above address. All timely submissions received will be made a part of the record of proceeding.

Additionally, under section 6(b)(3) of the OSH Act and 29 CFR 1911.11, interested persons may file objections to the proposal and request an informal hearing. These objections and hearing requests should be submitted in quadruplicate to the Docket Officer at the address above and must comply with the following conditions:

1. The objection must include the name and address of the objector;

2. The objections must be postmarked by March 9, 1984;

3. The objections must specify with particularity the provisions of the proposed rule to which objection is taken and must state the grounds therefor;

4. Each objection must be separately stated and numbered; and

5. The objections must be accompanied by a detailed summary of the evidence proposed to be adduced at the requested hearing.

VII. List of Subjects

29 CFR Part 1910

Fire prevention, Grain handling, Occupational safety and health, Protective equipment, Safety, Welding.

29 CFR Part 1917

Longshoremen, Occupational safety and health.

VIII. State Plan Standards

The 24 States with their own OSHA-approved occupational safety and health plans must adopt a comparable standard within six months of the publication date of the final standard. These States are: Alaska, Arizona, California, Connecticut (for State and local government employees only), Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington, Wyoming. Until such time as a State standard is promulgated, Federal OSHA will provide interim enforcement assistance, as appropriate, in these States.

IX. Authority

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Accordingly, pursuant to sections 6(b) and 8 of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 1599; 29 U.S.C. 655, 657), Section 41 of the Longshoreman's and Harbor Workers' Compensation Act (44 Stat. 1444; 33 U.S.C. 941), Secretary of Labor's Order No. 9–83 (48 FR 35736), and 29 CFR Part 1911, it is proposed to amend 29 CFR Part 1917 and to add a new § 1910.272 to 29 CFR Part 1910, as set forth below.

Signed at Washington, D.C. this 28th day of December, 1983.

Thorne G. Auchter,

Assistant Secretary of Labor.

PART 1917—MARINE TERMINALS

Part 1917 of Title 29 of the Code of Federal Regulations is proposed to be amended as set forth below:

1. Section 1917.1 would be amended by adding a new paragraph (a)(2)(ix) to read as follows:

§ 1917.1 Scope and applicability.

(a) * * *

(2) * * *

(ix) *Grain handling facilities.* Subpart R, § 1910.272.

* * * * *

§ 1917.72 [Removed]

2. Section 1917.72 *Grain elevator terminals,* which is currently reserved would be removed.

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Part 1910 of Title 29 of the Code of Federal Regulations is proposed to be amended by adding a new §1910.272 and Appendices A, B, and C to § 1910.272 to read as follows:

§ 1910,272 Grain handling facilities.

(a) *Scope.* This section contains requirements for the control of fires, grain dust explosions, and other safety hazards associated with grain handling facilities in general industry and maritime employments.

(b) *Application.* (1) Paragraphs (d) through (n) of this section apply to grain elevators, dust pelletizing plants, feed mills, rice mills, flour mills, and corn, and soybean milling operations.

(2) Paragraph (o) of this section applies only to grain dryers associated with grain elevators.

(3) Paragraphs (p) and (q) of this section apply only to grain elevators which have inside or partially-inside bucket elevators respectively.

(c) *Definitions.* (1) "Acute debilitating health effects" means health effects resulting from toxic agents which are in such concentrations that exposed employees would not be able to effect self-rescue or communication to obtain assistance.

(2) "Choked leg" means a condition of material buildup in the bucket elevator that results in the stoppage of material flow and bucket movement.

(3) "Fugitive grain dust" means the dust particles which result from the breakage and handling of grain and grain products which are 400 microns in size or smaller and which are emitted from the stock handling system.

(4) "Grain elevator" means a facility engaged in the receipt, handling, storage, and shipment of bulk raw agricultural commodities such as corn, wheat, oats, barley, sunflower seeds, and soybeans.

(5) "Hot work" means work involving electric or gas welding, cutting, brazing, or similar flame producing operations.

(6) "Inside bucket elevator" means a bucket elevator inside the grain elevator structure and is the enclosed conveying device containing a series of equally spaced buckets which are attached to a continuous belt or chain. The buckets are loaded with grain or other stock at the boot, and then the material is elevated to the elevator head where it is emptied into a chute or spout. Inside bucket elevators include those elevators where only the head pulley is located inside the grain elevator structure.

(7) "Jogging" means repeated starting and stopping of drive motors in an attempt to clear choked legs.

(8) "Lagging" means a covering on drive pulleys used to increase the coefficient of friction between the pulley and the belt.

(9) "Partially-inside bucket elevator" means a bucket elevator which has no more than the boot section (and the portion of the leg casing in the rail or truck dump shed area) located inside the grain elevator facility, with the portion of the leg casing which is located outside the facility being constructed of materials which can vent a primary explosion.

(10) "Small elevator facility" menas a grain elevator which has less than one million bushel storage capacity and less than a four million bushel throughput during the previous 12 month period.

(d) *Emergency action plan.* The employer shall develop and implement an emergency action plan meeting the requirements contained in § 1910.38(a) except that the plan may be communicated orally to employees and need not be maintained in writing.

(e) *Training.* (1) The employer shall assure that employees are provided training at least annually and when changes in job assignment will expose

them to new hazards. Current employees, and new employees prior to starting work, shall be trained in at least the following:

(i) Recognition of and preventive measures for the safety hazards associated with their work tasks;

(ii) procedures and safety practices established by the employer including where applicable, but not limited to, clearing procedures for choked legs, housekeeping program procedures, hot work procedures, preventive maintenance program procedures, rules pertaining to smoking and other common ignition sources, and lock-out/tag-out procedures.

(2) The employer shall assure that employees assigned special tasks such as bin entry and handling of flammable, or toxic substances, are provided training to handle safely these materials and work tasks.

(f) *Permit system.* (1) The employer shall develop and implement a permit system for hot work, except for hot work performed in welding shops authorized by the employer, and for work requiring entry into bins, silos, and tanks.

(2) The permit shall be the written certification by the employer authorizing employees to perform identified work operations subject to at least the following precautions:

(i) Hot work operations must meet the requirements contained in § 1910.252(d);

(ii) Entry into bins, silos, and tanks must meet the requirements contained in paragraph (g) of this section.

(g) *Entry into bins, silos, and tanks.* (1) The employer shall assure that the following precautions have been taken before employees enter bins, silos, and tanks:

(i) Mechanical and electrical equipment which present a danger to employees inside bins, silos, or tanks, shall be disconnected or locked out and tagged.

(ii) The atmosphere within a bin, silo, or tank shall be tested for the presence of combustible gases, vapors, and toxic agents when there is reason to believe they may be present. Additionally, the atmosphere within a bin, silo, or tank, shall be tested for oxygen content unless there is continuous natural air movement or continuous forced-air ventilation before and during the period the employee(s) are inside.

(iii) If the oxygen level is less than 19.5% or if combustible gas or vapor is detected in excess of 10% of the lower flammable limit, or if toxic agents are present in excess of the ceiling levels listed in Subpart Z of this Part, or if toxic agents ar present in concentrations that will cause acute debilitating health effects, the following provisions apply.

(A) Ventilation shall be provided until the unsafe condition or conditions are eliminated, and the ventilation shall be continued as long as there is a possibility of recurrence of the unsafe condition while the bin, silo, or tank is occupied by employees.

(B) If toxic conditions cannot be eliminated by ventilation, the employer shall assure that any employee entering a bin, silo, or tank wears an appropriate respirator. Respirator use shall be in accordance with the requirements of § 1910.134.

(2) The employer shall assure that employees wear a body harness with lifeline, or that a boatswain's chair meeting the requirements of Subpart D of this Part is used, when employees enter bins, silos, or tanks from the top.

(3) The employer shall assure that an observer, equipped to provide assistance, is stationed outside the bin, silo, or tank being entered by an employee. Communications (visual, voice, or signal line) shall be maintained between the observer and employee entering the bin, silo, or tank.

(4) The employer shall assure that equipment is provided for rescue operations which is specifically suited for the bin, silo or tank being entered.

(5) The employee acting as observer shall be trained in rescue procedures including notification methods for obtaining additional assistance.

(6) The employer shall assure that an employee trained in cardio-pulmonary resuscitation is available to provide assistance.

(7) Employees shall not be permitted to enter bins, silos, or tanks underneath a bridging condition or a buildup of grain or grain products on the side which could bury them.

(h) *Contractors.* (1) The employer shall inform contractors performing work at the facility of any potential fire and explosion hazards. The employer shall also inform contractors of the applicable safety rules of the facility.

(2) The employer shall explain the applicable provisions of the facility emergency action plan to contractors.

(i) *Housekeeping.* (1) The employer shall develop and implement a housekeeping program consisting of a dust control and removal method or combination of methods which will minimize fugitive grain dust accumulations inside grain handling facilities on ledges, floors, equipment, and other exposed surfaces.

(2) Effective July 1, 1985, all grain handling facilities except small elevator facilities shall be required to implement one of the three following alternatives as part of the employer's housekeeping program; effective July 1, 1988, the following requirements shall also apply to small elevator facilities:

(i) *Action level.* (A) The employer shall establish an action level not to exceed a ⅛" layer of fugitive dust averaged over a 200 square foot floor area.

(B) If fugitive grain dust accumulations exceed the ⅛" level specified in paragraph (i)(2)(i) of this section, designated means or methods shall be initiated to remove immediately such accumulations to a safe location; or

(ii) *Once per shift cleaning.* The employer's housekeeping program shall ensure the removal of hazardous accumulations of dust. In setting up such a housekeeping program, the employer shall:

(A) Establish and implement a schedule of no less than once per shift for cleaning the workplace of dust, when the facility is in operation,

(B) Set out procedures for cleaning and disposal of the dust and what equipment is to be used,

(C) Alert employees as to where this equipment is stored, and train these employees in the use of the equipment,

(D) Maintain the equipment so that it is functional and operational; or

(iii) *Pneumatic dust control system.* The employer shall install and maintain in its facility a pneumatic dust control system, covering dust emission points from its stock handling system, such that there are no visible dust emissions coming from the stock handling system.

(3) The use of compressed air or other means to blow dust from ledges, walls, and other areas which may create a dust explosion hazard (i.e., result in dust concentrations above the lower explosive limit), shall only be permitted when all machinery that present an ignition source in the area is shut-down, and all other sources of ignition are removed.

(4) Grain or product spills shall not be considered fugitive grain dust accumulations. However, the housekeeping program shall address the procedures for removing such spills from the work area.

(j) *Grate openings.* The employer shall assure that receiving-pit feed openings, such as truck or railcar receiving pits, are covered by grates. The length and width of openings in the grates shall be a maximum of two and one-half inches (6.35 cm). If the required grate openings are too restrictive for an adequate flow of grain through the grating, larger openings in grates are permissible where magnets are used to remove ferrous material from the grain stream.

(k) *Filter collectors.* (1) Effective January 1, 1985, the employer shall equip

all fabric dust filter collectors, which are a part of a pneumatic dust collection system, with a monitoring device that indicates when the filter becomes blinded. Such indication shall be observable at a designated inspection or work location.

(2) Filter collectors installed after the effective date of this standard shall be:

(i) Located outside the facility; or

(ii) Located in an area inside the facility protected by a fire or explosion suppression system; or

(iii) Located in an area inside the facility provided with explosion venting to the outside and separated from other areas of the facility by construction having at least a one hour fire-resistance rating.

(l) *Preventive maintenance.* (1) The employer shall develop and implement a preventive maintenance program consisting of:

(i) Regularly scheduled inspection of at least the mechanical and safety control equipment associated with dryers, removal of ferrous objects, dust collection systems including filter collectors, and grain elevator legs; and,

(ii) Lubrication and other appropriate preventive maintenance of the equipment to assure continued, safe operation.

(2) The employer shall promptly correct the following conditions: overheated bearings and slipping or misaligned belts that are associated with inside bucket elevators, and blinded filter collectors.

(3) The employer shall implement a system for identifying the date, maintenance performed and/or results of the equipment inspection.

(4) The employer shall develop and implement procedures consisting of tags and locks which will prevent the inadvertent application of energy or motion to equipment being repaired, serviced, or adjusted, which could result in employee injury. Such locks and tags shall be removed in accordance with established procedures only by the employee installing them or, if unavailable, by his or her supervisor.

(m) *Grain stream processing equipment.* The employer shall assure that grain stream processing equipment (such as hammer mills, grinders, and pulverizers) is equipped with an effective means of removing ferrous material from the incoming grain stream.

(n) *Emergency escape.* (1) The employer shall provide at least two means of escape from tunnels, galleries, scale floors, and work areas normally occupied by employees.

(2) The employer shall assure that escape routes are separated from each other to the extent that a single event, such as a fire, will not reasonably prevent access to all means of escape.

(o) *Bulk raw grain dryers.* (1) Effective July 1, 1985, the employer shall assure that all direct-heat grain dryers are equipped with automatic controls that:

(i) Will shut-off the fuel supply in case of power or flame failure or interruption of air movement through the exhaust fan; and,

(ii) Will stop the grain from being fed into the dryer if the grain discharge mechanism becomes clogged, or excessive temperature occurs in the exhaust of the drying section.

(2) Direct-heat grain dryers installed after the effective date of this standard shall be:

(i) Located outside the facility; or

(ii) Located in an area inside the facility protected by a fire or explosion suppression system; or

(iii) Located in an area inside the facility which is separated from other areas of the facility by construction having at least a one hour fire-resistance rating.

(p) *Inside bucket elevators.* (1) The employer shall assure that elevator legs are not jogged to free a choked leg.

(2) Effective January 1, 1985, the employer shall assure that elevator legs are electrically grounded.

(3) The employer shall assure that belts and lagging installed after January 1, 1985, are conductive. Belts shall have a surface electrical resistance not to exceed 300 megohms.

(4) Effective July 1, 1985, the employer shall assure that inspection doors are provided in the head pulley section to allow inspection of the head pulley lagging, belt, and discharge throat of the elevator leg. Boot sections shall be provided with doors for cleanout of the boot and for inspection of the boot pulley and belt.

(5) Effective July 1, 1985, the employer shall equip elevator legs with a motion detection device which initiates an alarm to employees when belt speed is reduced by no more than 15% of the normal operating speed and which will shut-down the leg when the belt speed is reduced by no more than 20% of the normal operating speed. Conveyor equipment which feeds the leg shall be equipped with interlock to shut-down these conveyors in the event that the leg they are serving is shut-down.

(6) Effective July 1, 1985, the employer shall assure that:

(i) Bearings are mounted externally to the leg casing; or

(ii) Bearings mounted totally or partially inside leg casings are equipped with a temperature monitoring device which can be read at a designated inspection or work location.

(7) Effective January 1, 1986, the employer shall equip elevator legs with a belt alignment monitoring device which will initiate an alarm to employees when the belt is not tracking properly.

(8) The employer does not have to comply with paragraphs (p)(5), (p)(6), and (p)(7) of this section where:

(i) Bucket elevators are equipped with an operational fire and explosion suppression system capable of protecting at least the head and boot section of the leg; or

(ii) Bucket elevators are equipped with pneumatic or other dust control systems that keeps the dust concentration inside the leg casing below 50% of the lower explosive limit at all times during operations.

(q) *Partially-inside bucket elevators.* (1) All partially-inside bucket elevators shall comply with the requirements of paragraphs (p)(1) and (p)(5) of this section.

(2) When partially-inside bucket elevators meet the requirements of paragraph (p)(8)(i) or (p)(8)(ii) of this section, the employer does not have to comply with the requirements of (p)(5) of this section.

Note.—The following appendices to § 1910.272 serve as nonmandatory guidelines to assist employers and employees in complying with the requirements of this section in Subpart R, as well as to provide other helpful information.

Appendix A to § 1910.272 Grain handling facilities

1. *Scope.* The standard contains requirements for new and existing grain handling facilities in both general industry and maritime employments. Country, inland terminal, and export grain elevators are covered by this standard, as well as dust pelletizing plants and certain grain processing plants.

2. *Application.* All grain elevator facilities including those elevators that are a part of a mill must comply with all of the requirements contained in the standard including paragraphs (p) and (q) if appropriate. The standard does not apply to seed plants which handle and prepare seeds for planting of future crops.

3. *Emergency action plan.* The standard requires the employer to develop and implement an emergency action plan. There is an appendix to § 1910.38(a) which employers should review since it contains information that will be helpful in developing emergency action plans for grain handling facilities.

The emergency action plan (§ 1910.38(a)) covers those designated actions employers and employees are to take to ensure employee safety from fire and other emergencies. The plan specifies certain minimum elements which are to be addressed. These elements include the establishment of an employee alarm system.

the development of evacuation procedures, and training employees in those actions they are to take during an emergency.

The standard does not specify a particular method for notifying employees of an emergency. Public announcement systems, air horns, steam whistles, a standard fire alarm system, or other types of employee alarm may be used. However, employers should be aware that employees in a grain handling facility may have difficulty in hearing an emergency alarm, or distinguishing an emergency alarm from other audible signals at the facility, or both. Therefore, it is important that the type of employee alarm used be distinguishable and distinct.

The means of emergency escape from grain handling facilities may necessitate the use of controlled descent devices or emergency escape ladders, especially if escape must be made from bins, silos, or galleries. Employees are to know the location of the nearest escape routes. This is especially important for elevator employees working in tunnels, galleries, etc., where escape routes may be limited. The use of floor plans or workplace maps which clearly show the emergency escape routes should be included in the emergency action plan; color coding will aid employees in determining their route assignment. The employer should designate a safe area, outside the facility, where employees can congregate after evacuation, and implement procedures to account for all employees after emergency evacuation has been completed.

It is also recommended that employers seek the assistance of the local fire department for the purpose of preplanning for emergencies. Preplanning is encouraged to facilitate coordination and cooperation between facility personnel and those who may be called upon for assistance during an emergency. It is important for emergency service units to be aware of the usual work locations of employees in elevators or mills.

4. *Training.* It is important that employees be trained in the recognition and prevention of hazards associated with grain handling facilities, especially those hazards associated with their own work tasks. Employees should understand the factors which are necessary to produce a fire or explosion, i.e., fuel (such as grain dust), oxygen, ignition source, and (in the case of explosions) confinement. Employees should be made aware that any efforts they make to keep these factors from occurring simultaneously will be an important step in reducing the potential for fires and explosions.

The standard provides flexibility for the employer to design a training program which fulfills the needs of a facility. The type, amount, and frequency of training will need to reflect the tasks that employees are expected to perform. Although training is to be provided to employees at least annually, it is recommended that safety meetings or discussions and drills be conducted at frequent intervals, and the program varied to keep the interest of the employees.

The training program should include those topics applicable to the particular facility as well as topics such as: hot work procedures; lock-out/tag-out procedures; bin entry procedures; bin cleaning procedures; grain dust explosions; fire prevention; procedures for handling hot grain or other hot agricultural products; housekeeping procedures, including methods and frequency of dust removal; pesticide and fumigant usage; proper use and maintenance of personal protective equipment; and, preventive maintenance. The types of work clothing should also be considered in the program at least to caution against using polyester clothing that easily melts and increases the severity of burns as compared to wool or cotton.

In implementing the training program, it is recommended that the employer utilize films, slide-tape presentations, pamphlets, and other information which can be obtained from such sources as the Grain Elevator and Processing Society, The Cooperative Extension Service of the U.S. Department of Agriculture, Kansas State University's Extension Grain Science and Industry, and other state agriculture schools, industry associations, union organizations, and insurance groups.

5. *Permit system.* The permit system requirements are intended to assure that employers maintain control of operations involving hot work and entry into bins, silos, and tanks, and to assure that employees are aware of and utilize appropriate safeguards when conducting these activities.

Precautions for hot work operations are specified in 29 CFR 1910.252(d) and include such safeguards as relocating the hot work operation to a safe location if possible, relocating or covering combustible material in the vicinity, providing fire extinguishers, and provisions for establishing a fire watch. Permits are not required for hot work operations conducted in welding shops or when work is conducted outside and away from the grain handling facility.

Precautions for entry into bins, silos, and tanks are specified in paragraph (g) of the standard. The same permit system may be issued for hot work operations or entry into bins, silos, or tanks; two different types of permit forms are not required.

The permit should contain at least the following information: Date, time, duration, and location of work to be performed; nature of work to be performed; safety and health precautions to be implemented; personal protective equipment to be worn; fire suppression equipment needed; signature of person performing work; signature of person authorizing work to be performed; time that work was completed; and, time that work completion inspection was made.

It should be noted that the permit is not a record which must be retained for a predetermined length of time but, instead, is a written authorization of the employer for employees to perform identified work operations.

6. *Entry into bins, silos, and tanks.* Employees should have a thorough understanding of the hazards associated with entry into bins, silos, and tanks. Employees are not to be permitted to enter these spaces from the bottom when grain or other agricultural products are hung up or sticking to the sides which may fall on them and possibly bury them. Employees should be made aware that the atmosphere in bins, silos, and tanks can be oxygen deficient or toxic. Employees should be trained in the proper methods of testing the atmosphere, as well as in the appropriate procedures to be taken if the atmosphere is found to be oxygen deficient or toxic. Where fumigation has been recently applied in these areas and entry must be made, aeration fans should be running continuously to better assure a safe atmosphere for those inside. Periodic monitoring of toxic levels should be done by direct reading instruments to measure the levels, and, if there is an increase in these readings, appropriate actions should be promptly taken.

Employees have been buried, and suffocated in grain or other agricultural product because they sank into the material. It is suggested that employees not be permitted to walk or stand on the grain or other agricultural product where the depth is greater than waist high, but that they use a full body harness or bosun's chair with a lifeline. A winch system with mechanical advantage (either powered or manual) would allow better control of the employee than just using a hand held hoist line, and such a system would allow the observer to remove the employee easily without having to enter the space. Employees are not to be asked to clear a bridging condition or similar situation in bins, silos, or tanks from below.

It is important that employees be trained in the proper selection and use of any personal protective equipment which is to be worn. Equally important is the training of employees in the planned emergency rescue procedures. Employers should carefully read § 1910.134(e)(3) and assure that their procedures follow these requirements. The employee acting as observer is to be equipped to provide assistance and is to know procedures for obtaining additional assistance, including cardio-pulmonary resuscitation (CPR).

7. *Contractors.* These provisions of the standard are intended to ensure that outside contractors are cognizant of the hazards associated with grain handling facilities, particular in relation to the work they are to perform for the employer. Also, in the event of an emergency, contractors should be able to take appropriate action as a part of the overall facility emergency action plan. Contractors should also be aware of the employers permit systems. Contractors should develop specified procedures for performing hot work and for entry into bins, silos, and tanks, and these activities should be coordinated with the employer.

This coordination will help to ensure that employers know what work is being performed at the facility by contractors; where it is being performed; and, that it is being performed in a manner that will not endanger employees.

8. *Housekeeping.* The housekeeping program is to be designed to keep dust accumulations and emissions under control inside the grain handling facility. The housekeeping program is to specify the method(s) used to control airborne dust emissions as well as the frequency and method(s) used to remove dust accumulations. Ship, barge, and rail loadout

and receiving areas which are located outside the facility need not be addressed in the housekeeping program. Additionally, truck dumps which are open on two or more sides need not be addressed by the housekeeping program. Other truck dumps should be addressed in the housekeeping program to the extent that provision is made for regular cleaning during periods of receiving grain or agricultural products. The housekeeping program should provide coverage for all workspaces in the facility, including walls, beams, etc., especially in relation to the extent that fugitive dust could accumulate.

8A. *Dust accumulations.* Almost all facilities will require some level of manual housekeeping. Manual housekeeping methods, such as vacuuming or sweeping with soft bristle brooms, should be used which will minimize the possibility of layered dust being suspended in the air when it is being removed.

The housekeeping program should include a contingency plan to respond to situations where dust accumulates rapidly due to a failure of a dust enclosure hood, an unexpected breakdown of the dust control system, a dust-tight connection inadvertently knocked open, etc.

One of the alternatives for dust control is to specify an action level to cleanup and safely dispose of dust or otherwise control the condition. The standard specifies a maximum accumulation of ⅛ inch of dust, averaged over a 200 square foot area, as the upper limit for the action level. Any accumulation in excess of this amount and area, and where no action has been taken to implement cleaning, would constitute a violation of the standard. Employers should make every effort to minimize dust accumulations on exposed surfaces since dust is the fuel for a fire or explosion, and it is recognized that a ⅛ inch dust accumulation is more than enough to fuel such occurrances.

The housekeeping program should also specify the manner of handling grain or product spills, and the methods to be used for returning the grain or product back into the stock handling system. Grain and product spills are not considered to be fugitive dust accumulations.

A fully enclosed horizontal belt conveying system where the return belt is inside the enclosure should have inspection doors to permit checking of equipment, checking for dust accumulations and facilitate cleaning if needed.

8B. *Dust emissions.* Each employer needs to analyze the entire stock handling system to determine the location of dust emissions and effective methods to control or to eliminate them. The employer should make sure the holes in spouting, casings of bucket elevators, pneumatic conveying pipes, screw augers, or drag conveyor casings, are patched or otherwise properly repaired. Minimizing free falls of grain or grain products by using choke feeding techniques, and utilization of dust-tight enclosures at transfer points, can be effective in reducing dust emissions.

Each housekeeping program should specify the schedules and control measures which will be used to control dust emitted from the stock handling system. The housekeeping program should address the schedules to be used for cleaning dust accumulations from motors, critical bearings and other potential ignition sources in the working areas. Also, the areas around bucket elevator legs, milling machinery and similar equipment should be given priority in the cleaning schedule. The method of disposal of the dust which is swept or vacuumed should also be planned.

Dust may accumulate in somewhat inaccessible areas, such as those areas where ladders or scaffolds might be necessary to reach them. The employer may want to consider the use of compressed air and long lances to blow down these areas frequently. The employer may also want to consider the periodic use of water and hoselines to wash down these areas. If these methods are used, they are to be specified in the housekeeping program along with the appropriate safety precautions, including the use of personal protective equipment such as eyewear and dust respirators.

Several methods have been effective in controlling dust emissions. The most widely used method of controlling dust emissions is a pneumatic dust collection system. However, the installation of a poorly designed pneumatic dust collection system has fostered a false sense of security and has often led to an inappropriate reduction in manual housekeeping. Therefore, it is imperative that the system be designed properly and installed by a competent contractor. Those employers who have a pneumatic dust control system that is not working up to expectations should request the engineering design firm, or the manufacturer of the filter and related equipment, to conduct an evaluation of the system to determine the corrections necessary for proper operation of the system. If the design firm or manufacturer of the equipment is not known, employers should contact their trade association for recommendations of those competent designers of pneumatic dust control systems who could provide assistance.

When installing a new or upgraded pneumatic control system, the employer should insist on an acceptance test period of 30 to 45 days of operation to ensure that the system is operating as intended and designed. The employer should also obtain maintenance, testing, and inspection information from the manufacturer to ensure that the system will continue to operate as designed.

If the employer intends to return collected dust to the stock handling system, the dust should be returned at a point downstream from where it was collection. This will avoid rehandling the same dust twice or more. It is also safer not to reintroduce the collected dust until the loadout end of the stock handling system.

Aspiration of the leg, as part of a pneumatic dust collection system, is another effective method of controlling dust emissions. Aspiration of the leg consists of a flow of air across the entire boot, which entrains the liberated dust and carries it up the leg to take-off points. With proper aspiration, dust concentrations in the leg can be lowered below the lower explosive limit. Where a prototype leg installation has been instrumented and shown to be effective in keeping the dust level below 50% of the lower flammable limit during mormal operations for the various products handled, then other legs of similar size capacity and products being handled which have the same design criteria for the air aspiration would be acceptable to OSHA, provided the prototype test report is available on site.

Another method of controlling dust emissions is enclosing the conveying system, pressurizing the general work area, and providing a lower pressure inside the enclosed conveying system. Although this method is effective in controlling dust emissions from the conveying system, adequate access to the inside of the enclosure is necessary to facilitate frequent romoval of dust accumulations. This is also necessary for those systems called "self-cleaning."

The use of edible oil sprayed on or into a moving stream of grain is another method which has been used to control dust emissions. Tests performed using this method have shown that the oil treatment can reduce dust emissions. Repeated handling of the grain may necessitate additional oil treatment to prevent liberation of dust. However, before using this method, operators of grain handling facilities should be aware that the Food and Drug Administration must approve the specific oil treatment used on products for food or feed.

9. *Grates over receiving pits.* Grates are necessary to assist in the removal of foreign objects. Grate openings should be sized for the proper flow of the commodity through the grate that will prevent overflow. Those facilities which are handling ear corn or other non-free flowing commodity may need larger grate openings than the 2½ inch square openings specified in the standard. Larger grate openings are permitted if permanent or electromagenets are used the full width of the incoming commodity stream to remove ferrous objects. The maintenance required on the magnets is to be covered in the preventive maintenance program.

Where grate openings are larger than those needed or desired, the employer may also use an overlay grate, which can be welded or strapped to the existing grate, to achieve the desired size opening.

10. *Filter collectors.* Proper sizing of filter collectors for the pneumatic dust control system they serve is very important for the overall effectiveness of the system. The air to cloth ratio of the system should be in accordance with the manufacturer's recommendations. If higher ratios are used, it can result in more maintenance on the filter, shorter bag or sock life, increased differential pressure resulting in higher energy costs, and an increase in operational problems.

A photohelic gauge, magnehelic gauge, or manometer, may be used to indicate the pressure rise across the inlet and outlet of the filter. When the pressure exceeds the design value for the filter, the air volume will start to drop, and maintenance will be required. Anyone of these three monitoring devices is acceptable as meeting paragraph (k)(1) of the standard.

The employer should establish a level or target reading on his instrument which is consistent with the manufacturer's recommendations that will indicate when the filter should be serviced. This target reading on the instrument and the accompanying procedures should be in the preventive maintenance program. These efforts would minimize the blinding of the filter and the subsequent failure of the pneumatic dust control system.

There are other instruments that the employer may want to consider using to monitor the operation of the filter. One instrument is a zero motion switch for detecting a failure of motion by the rotary discharge valve on the hopper. If the rotary discharge valve stops turning, the dust released by the bag or sock will accumulate in the filter hopper until the filter becomes clogged. Another instrument is a level indicator which is installed in the hopper of the filter to detect the buildup of dust that would otherwise cause the filter hopper to be plugged. The installation of these instruments should be in accordance with the manufacturer's recommendations.

All of these monitoring devices and instruments are to be capable of being read at an accessible location and checked as frequently as specified in the preventive maintenance program.

Those filter collectors on portable vacuum cleaners, and those where fans are not part of the system, are not covered by these requirements.

11. *Preventive maintenance.* The control of dust and the control of ignition sources are the most effective means for reducing explosion hazards. Preventive maintenance is related to ignition sources in the same manner as housekeeping is related to dust control and should be treated as a major function in a facility. Equipment such as critical bearings, belts, buckets, pulleys, milling machinery are potential ignition sources, and periodic inspection and lubrication of such equipment through a scheduled preventive maintenance program is an effective method for keeping equipment functioning properly and safely. The use of heat sensitive tape or other heat detection methods that can be seen by the inspector or maintenance person will allow for a quick, accurate, and consistent evaluation of bearings and will help in the implementation of the program.

The standard does not require a specific frequency for preventive maintenance. The employer is permitted flexibility in determining the appropriate interval for maintenance. Scheduling of preventive maintenance should be based on manufacturer's recommendations for effective operation, as well as from the employer's previous experience with the equipment. However, the employer's schedule for preventive maintenance will need to be frequent enough both to minimize the possibility of failure or malfunction of the mechanical and safety control equipment associated with bucket elevators, dryers, filter collectors and magnets, and to allow for prompt identification and correction of any problems. A system of identifying the date, maintenance performed and/or results of equipment inspection will assist employers in continually refining their preventive maintenance schedules and identifying equipment problem areas. Open work orders where repair work or replacement is to be done at a designated future date as scheduled, would be an indication of an effective preventive maintenance program.

It is imperative that the prearranged schedule of maintenance be adhered to regardless of other facility constraints. The employer should give priority to the maintenance or repair work associated with safety control equipment, such as that on dryers, magnets, alarm and shut-down systems on bucket elevators, bearings on bucket elevators, and the filter collectors in the dust control system. Benefits of a strict preventive maintenance program can be a reduction of unplanned downtime, improved equipment performance, planned use of resources, more efficient operations, and, most importantly, safer operations.

The standard also requires the employer to develop and implement procedures consisting of locking out and tagging equipment to prevent the inadvertent application of energy or motion to equipment being repaired, serviced, or adjusted, which could result in employee injury. All employees who have responsibility for repairing or servicing equipment, as well as those who operate the equipment, are to be familiar with the employer's lock and tag procedures. A lock is to be used as the positive means to prevent operation of the disconnected equipment. Tags are to be used to inform employees why equipment is locked out. Tags are to meet the requirements in § 1910.145(f). Locks and tags may only be removed by employees that placed them or by their supervisor, to ensure the safety of the operation.

12 *Grain stream processing equipment.* The standard requires an effective means of removing ferrous material from grain streams so that such material does not enter equipment such as hammer mills, grinders and pulverizers. Large foreign objects, such as stones, should have been removed at the receiving pit. Introduction of foreign objects and ferrous material into such equipment can produce sparks which can create an explosion hazard. Acceptable means for removal of ferrous materials include the use of permanent or electromagnets. Means used to separate foreign objects and ferrous material should be cleaned regularly and kept in good repair as part of the preventive maintenance program in order to maximize their effectiveness.

13. *Emergency escape.* The standard specifies the minimum number of means of escape for the major work spaces in the facility and requires that they be separated from each other to the extent feasible. Small work platforms, elevated inspection station platforms, areas under receiving pits or similar small spaces do not have to have two ways out. A single ladder, ramp or stair is acceptable provided it is not obstructed. Means of emergency escape may include any available means of egress (consisting of three components, exit access, exit, and exit discharge as defined in § 1910.35), the use of controlled descent devices or emergency escape ladders from galleries, or the use of windows from tunnels that are located under bins, silos or tanks. Importantly, the means of emergency escape are to be addressed in the facility emergency action plan. Employees are to know the location of the nearest means of emergency escape and the action they must take during an emergency.

14. *Dryers.* The paragraph of the standard concerning dryers pertains only to those dryers handling bulk raw grain and which are associated with a grain elevator facility. The paragraph does not apply to those dryers which are a part of the processing and milling segments of a facility.

Liquefied petroleum gas fired dryers should have the vaporizers installed at least ten feet from the dryer. Also the gas piping system should be protected from mechanical damage. The employer should establish procedures for locating and repairing leaks when there is a strong odor of gas or other signs of a leak. An alarm device should sound when the dryer is automatically shut-down to alert employees at the facility.

15. *Inside bucket elevators.* Hazards associated with inside bucket elevator legs are the source of many grain elevator fires and explosions. Therefore, to mitigate these hazards, the standard requires the implementation of special safety precautions and procedures, as well as the installation of safety control devices. However, the standard also provides for a phase-in period for many of he requirements to provide the employer time for planning the implementation of the requirements.

The standard requires that belts have surface electrical resistance not to exceed 300 megohms. Test methods available regarding electrical resistance of belts are: The American Society for Testing and Materials D257–78, "Standard Test Methods for D-C Resistance or Conductance of Insulating Materials"; and, the International Standards Organization's #284, "Conveyor Belts-Electrical Conductivity-Specification and Method of Test." When an employer has written certification from the manfacturer that a belt has been tested using one of the above test methods, and meets the 300 megohm criteria, the belt is acceptable as meeting this standard. Employers should also consider purchasing new belts that are flame retardant or fire resistive. This test is contained in 30 CFR 18.65.

Appendix B to § 1910.272 Grain Handling Facilities

National Consensus Standards

The following table contains a cross-reference lising of those current national consensus standards which contain information and guidelines that would be considered acceptable in complying with the requirements of the appropriate provisions in § 1910.272.

Subject and National Consensus Standards

Grain elevators and facilities handling bulk raw agricultural commodities—ANSI/NFPA 61B
Feed mills—ANSI/NFPA 61C
Facilities handling agricultural commodities for human consumption—ANSI/NFPA 61D

Pneumatic conveying systems for agricultural commodities—ANSI/NFPA 66
Guide for explosion venting—ANSI/NFPA 68
Explosion prevention systems—ANSI/NFPA 69
Dust removal and exhaust system. ANSI/NFPA 91

Appendix C to § 1910.272 Grain Handling Facilities

References for Further Information

The following references provide information which can be helpful in understanding the requirements contained in various sections of the standard.

1. *Accident Prevention Manual for Industrial Operations;* National Safety Council, 425 North Michigan Avenue, Chicago, Illinois 60611.

2. *Practical Guide to Elevator Design;* National Grain and Feed Association, P.O. Box 28328, Washington, D.C. 20005.

3. *Dust Control for Grain Elevators;* National Grain and Feed Association, P.O. Box 28328, Washington, D.C. 20005.

4. *Prevention of Grain Elevator and Mill Explosions;* National Academy of Sciences, Washington, D.C. (Available from National Technical Information Service, Springfield, Virginia 22151.)

5. *Standard for the Prevention of Fires and Explosions in Grain Elevators and Facilities Handling Bulk Raw Agricultural Commodities,* NFPA 61B; National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269.

6. *Standard for the Prevention of Fire and Dust Explosions in Feed Mills,* NFPA 61C; National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269.

7. *Standard for the Prevention of Fire and Dust Explosions in the Milling of Agricultural Commodities for Human Consumption,* NFPA 61D, National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269.

8. *Standard for Pneumatic Conveying Systems for Handling Feed, Flour, Grain and Other Agricultural Dusts,* NFPA 66; National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269.

9. *Guide for Explosion Venting,* NFPA 68; National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269.

10. *Standard on Explosion Prevention Systems,* NFPA 69; National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269.

11. *Safety-Operations Plans;* U.S. Department of Agriculture, Washington, D.C. 20250.

12. *Hazard Alert;* Occupational Safety and Health Administration, U.S. Department of Labor, 2nd and Constitution Avenue, N.W., Washington, D.C. 20210.

13. *Inplant Fire Prevention Control Programs;* Mill Mutual Fire Prevention Bureau, 2 North Riverside Plaza, Chicago, Illinois 60606.

14. *Guidelines for Terminal Elevators;* Mill Mutual Fire Prevention Bureau, 2 North Riverside Plaza, Chicago, Illinois 60606.

15. *Standards for Preventing the Horizontal and Vertical Spread of Fires in Grain Handling Properties,* Mill Mutual Fire Prevention Bureau, 2 North Riverside Plaza, Chicago, Illinois 60606.

16. *Belt Conveyors for Bulk Materials,* Part I and Part II, Data Sheet 570, Revision A; National Safety Council, 425 North Michigan Avenue, Chicago, Illinois 60611.

17. *Suggestions for Precautions and Safety Practices in Welding and Cutting;* Mill Mutual Fire Prevention Bureau, 2 North Riverside Plaza, Chicago, Illinois 60606.

18. *Food Bins and Tanks,* Data Sheet 524; National Safety Council, 425 North Michigan Avenue, Chicago, Illinois 60611.

19. *Pneumatic Dust Control in Grain Elevators;* National Academy of Sciences, Washington, D.C. (Available from National Technical Information Service, Springfield, Virginia 22151.)

20. *Dust Control Analysis and Layout Procedures for Grain Storage and Processing Plants;* Mill Mutual Fire Prevention Bureau, 2 North Riverside Plaza, Chicago, Illinois 60606.

21. *Standard for the Installation of Blower and Exhaust Systems for Dust, Stock and Vapor Removal,* NFPA 91; National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269.

22. *Standards for the Installation of Direct Heat Grain Driers in Grain and Milling Properties;* Mill Mutual Fire Prevention Bureau, 2 North Riverside Plaza, Chicago, Illinois 60606.

23. *Guidelines for Lubrication and Bearing Maintenance;* Mill Mutual Fire Prevention Bureau, 2 North Riverside Plaza, Chicago, Illinois 60606.

24. *Organized Maintenance in Grain and Milling Properties;* Mill Mutual Fire Prevention Bureau, 2 North Riverside Plaza, Chicago, Illinois 60606.

25. *Safe and Efficient Elevator Legs for Grain and Milling Properties;* Mill Mutual Fire Prevention Bureau, 2 North Riverside Plaza, Chicago, Illinois 60606.

26. *Explosion Venting and Suppression of Bucket Elevators;* Natonal Grain and Feed Association, P. O. Box 28328, Washington, D.C. 20005.

27. *Lightning Protection Code,* NFPA 78; National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269.

(Sec. 6, 8, 84 Stat. 1593, 1599 (29 U.S.C. 655, 657,); Sec. 41, 44 stat. 1444 (33 U.S.C. 941); 29 CFR Part 1911, Secretary of Labor's Order No. 9–83 (48 FR 35736))

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Federal Register

Friday
January 6, 1984

Part V

Department of the Interior

Office of the Secretary

Department of Agriculture

Office of the Secretary

Tennessee Valley Authority

Department of Defense

Office of the Secretary

43 CFR Part 7
36 CFR Part 296
18 CFR Part 1312
32 CFR Part 229

Archaeological Resources Protection Act of 1979; Final Uniform Regulations

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 7

DEPARTMENT OF AGRICULTURE

36 CFR Part 296

TENNESSEE VALLEY AUTHORITY

18 CFR Part 1312

DEPARTMENT OF DEFENSE

32 CFR Part 229

Archaeological Resources Protection Act of 1979; Final Uniform Regulations

AGENCIES: Departments of the Interior, Agriculture, and Defense and Tennessee Valley Authority.

ACTION: Final rule.

SUMMARY: These final regulations establish uniform procedures for implementing provisions of the Archaeological Resources Protection Act of 1979 in response to direction in section 10(a) of the Act. These uniform regulations will serve as the foundation and basic policy standard for additional regulations which departments and other agencies of the Federal government may promulgate pursuant to section 10(b) of the Act. These regulations enable Federal land managers to protect archaeological resources on public lands and Indian lands, by issuing permits for authorized excavation and/or removal of archaeological resources, by imposing civil penalties for unauthorized excavation, removal, damage, alteration, or defacement of archaeological resources, by providing for the preservation of archaeological resource collections and data, and by ensuring confidentiality of information about archaeological resources when disclosure would threaten the resources.

DATES: These regulations were submitted on October 7, 1983, to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, and will take effect on February 6, 1984.

FOR FURTHER INFORMATION CONTACT: Bennie C. Keel, National Park Service, Department of the Interior, Washington, D.C., 202–343–4101; Barbara Levin, Office of the Solicitor, Department of the Interior, Washington, D.C., 202–343–7957; John G. Douglas, Bureau of Land Management, Department of the Interior, Washington, D.C., 202–343–9353; Evan I. DeBloois, U.S. Forest Service, Department of Agriculture, Washington, D.C., 202–382–9425; Garland P. Thompson, Army Corps of Engineers, Department of Defense, Washington, D.C., 202–272–0517; or Maxwell D. Ramsey, Office of Natural Resources, Tennessee Valley Authority, Norris, Tennessee, 615–632–6450.

SUPPLEMENTARY INFORMATION:

Background

These regulations implement provisions of the Archaeological Resources Protection Act of 1979 ("Act"; Pub. L. 96–95; 93 Stat. 721; 16 U.S.C. 470aa–*ll*). They were prepared by an interagency rulemaking task force composed of representatives of the Secretaries of the Interior, Agriculture, and Defense, and the Chairman of the Board of the Tennessee Valley Authority, as directed in section 10(a) of the Act.

The Act has two fundamental purposes: (1) To protect irreplaceable archaeological resources on public lands and Indian lands from unauthorized excavation, removal, damage, alteration, or defacement; and (2) to increase communication and exchange of information among governmental authorities, the professional archaeological community, and private individuals having collections of archaeological resources and data which were obtained prior to enactment of the Act.

Provisions of the Act which address the first purpose, protection, include requirements for a permit, to be issued by the appropriate Federal land manager to any qualified person who would make use of archaeological resources for the purpose of furthering archaeological knowledge in the public interest. For any person who would make unauthorized use of archaeological resources, without a permit, criminal and civil penalty and forfeiture provisions are prescribed in the Act. Basic government-wide standards for the issuance of permits and for the implementation of civil penalty provisions are a principal focus of these regulations. Also, preservation of collections and data, and protection of locational information, when its disclosure might result in harm to archaeological resources, are provided for in the Act and these regulations.

With regard to the second purpose, section 11 of the Act directs that the Secretary of the Interior shall take such action as may be necessary to foster and improve the communication, cooperation, and exchange of information among private individuals, Federal authorities responsible for the protection of archaeological resources on public lands and Indian lands, and professional archaeologists and archaeological organizations, in order to expand the archaeological data base for the archaeological resources of the United States. Because of the specific assignment, this purpose will be addressed separately.

Section 10(a) of the Act calls for the Secretaries of the Interior, Agriculture, and Defense, and the Chairman of the Board of the Tennessee Valley Authority, after consultation with other Federal land managers, Indian tribes, representatives of concerned State agencies, and after public notice and hearing, to promulgate such uniform rules and regulations as may be appropriate to carry out the purposes of the Act. Consideration of the provisions of the American Indian Religious Freedom Act is specified as a prerequisite to preparing such regulations. Specific reference to uniform regulations in the Act is included also in section 3(1) (definition of "archaeological resource"), section 4(a) (permit application requirements), section 4(b) (standards for permit application evaluation), section 4(d) (permit terms and conditions), and section 10(b) (agency-specific regulations consistent with uniform regulations).

Certain provisions, such as criminal prohibitions and criminal penalties, are outside the scope of this rulemaking. In order to be fully informed about the nature and extent of archaeological resource protection under the Archaeological Resources Protection Act of 1979, it is necessary to consult the Act as well as these regulations.

These regulations are designed to provide Federal land managers the ability to fully exercise their authority under the Act. However, because a variety of land management conditions exists among Federal agencies, supplemental detailed regulations may be promulgated under the authority of section 10(b) of the Act.

Public hearings were held during March and April 1980, in Denver, Colorado; Phoenix, Arizona; Portland, Oregon; and Knoxville, Tennessee, following publication of a notice of public hearings on March 19, 1980 (45 FR 17622). These hearings were held to provide an opportunity for early public input into the rulemaking process and to initiate an early dialogue among various groups interested in the use and/or protection of archaeological resources. Proposed uniform rules were published

on January 19, 1981 (46 FR 5566), as 36 CFR Part 1215. Public comment on the proposed rules was invited for a 60-day period, to end March 20, 1981. Public hearings were held during the comment period, in Chicago, Illinois; Atlanta, Georgia; Albuquerque, New Mexico; San Francisco, California; Anchorage, Alaska; and Denver, Colorado. Because of widespread interest expressed at the public hearings for additional time to submit written comments, the comment period was extended until April 30, 1981 (46 FR 22208), making a total of 101 days available for interested parties to submit comments on the proposed rules.

Comments were received from a broad array of private individuals, local, State, and Federal agencies, amateur and professional scholarly associations, hobbyist groups, Indian tribes, scientific and educational institutions, various industries, and others with interests in the use of public lands and resources. A total of 137 persons presented testimony during the six public hearings. Two hundred nineteen written responses were received before the end of the comment period, expressing a total of 418 comments. Three of the written responses were in the form of petitions. Comments were addressed to all but two of the 23 sections of the proposed rules, ranging from as few as two to as many as 66 comments on a given section. Sections 1215.3, 1215.6, 1215.4, and 1215.7 drew the greatest volume of comments, in that order, each receiving 45 or more. No other section drew more than 15 comments. There were 62 comments which did not pertain directly to specific sections, but rather addressed the Act or the regulations in more general terms.

Many of the public comments raised valid concerns with, or forced greater attention to, the substance of certain provisions of the proposed regulations, and the construction, concepts, and wording of affected sections were altered accordingly. Many other comments represented misunderstanding of basic issues, and these comments were also helpful in identifying needs for explanatory as well as procedural language. Some comments were critical of wording or provisions drawn directly from the Act, in most cases appearing to show a lack of awareness of the statutory basis for the proposed regulations. In the discussions which follow, reference is frequently made to the section of the Act involved in order to clarify the statutory-regulatory relationship.

Finally, given the volume of comments, it is impractical to respond in detail here to every question raised or suggestion offered. However, all comments were considered, and most contributed to the rulemaking process.

In the discussions which follow, section numbers given in the central headings refer to the proposed 36 CFR Part 1215, while numbers in the italicized paragraph headings refer to the final part.

Changes in Response to Public Comments

§ 1215.1 Purpose (Renumbered § —.1).

This section was expanded and reworded to make clearer the extent to which these regulations apply. Based on a number of general comments which show misunderstanding of the scope and effect of the proposed regulations, paragraph (a) was expanded to state explicitly that these regulations enable Federal land managers to protect archaeological resources through four mechanisms: permits, civil penalties, preservation of collections and data, and confidentiality of archaeological resource information. Also, specific reference to the American Indian Religious Freedom Act was incorporated in keeping with section 10(a) of the Act.

Several comments suggested greater specificity in paragraph (b). Wording was changed slightly to state more directly that no new restrictions on authorized uses of the public lands are created by these regulations. Comments from representatives of industries which have ongoing interests in the use of public lands and resources expressed concern that land-use applicants would be required to apply for permits under these regulations in addition to applications for use entitlements under other legal authorities. These comments were acknowledged by adding a paragraph (b)(1) to § —.5, "Permit requirements and exceptions," rather than by further expansion of the purpose statement. Permits may be required for archaeological consultants to land-use applicants, but not for the land-use applicants themselves. This does not represent any change from similar requirements applicable under other laws and regulations, primarily the American Antiquities Act of 1906 and 43 CFR Part 3.

§ 1215.2 Authorities (Renumbered § ——.2).

Several comments offered additional legal authorities to be added to this section. One comment pointed out that related authorities are listed at the head of the regulations and need not be listed again. Since the authority for promulgating these regulations is confined to the Archaeological Resources Protection Act of 1979, the section was shortened to follow this last comment. The two remaining paragraphs were reworded slightly to clarify the relationship of these and subsequent regulations to the provisions of section 10 of the Act; paragraph (b) is retained for informational purposes, so that the public may be informed that authorized agency regulations may add specificity to the general provisions of these uniform regulations.

§ 1215.3 Definition (Renumbered § —.3).

This section drew a heavier body of comment than any other section in the proposed regulations, with the majority of comments addressing the definition of "archaeological resource" (proposed § 1215.3(a)). This definition is central not only to the remainder of these regulations, but also to the enforcement of criminal provisions of the Act. Section —.3(a) retains the fundamental features of the definition of "archaeological resource" from the proposed regulations, but it has been restructured in important ways, making it a more precise tool for delimiting judgments about whether or not an item in question is an archaeological resource, and making it more clear that certain items excluded by the Act fall outside the scope of the definition.

The key conditioning provisions for determining what is an archaeological resource, taken from the statutory definition in section 3(1) of the Act, are stated in the base definition in § —.3(a) of the regulations: In order to be considered archaeological resources under these regulations, items must be material remains of human life or activities, at least 100 years of age, and of archaeological interest. Subdefinitions, defining "of archaeological interest" and "material remains," provide the standards for applying the base definition. Where classes of material remains and illustrative examples were included as part of the definition of "material remains" in the proposed rules, they are now assigned to a separate paragraph and are specified to be of archaeological interest, and therefore archaeological resources, unless conditions of ensuing paragraph (a)(4) or (a)(5) apply. This definite status responds to comments about residual uncertainties in the proposed definition. Several illustrative examples were added to material remains classes in response to comments

What is not an "archaeological resource" is included in a separate paragraph (a)(4), drawing on sections

3(1) and 12(b) of the Act and responding to comments that certain excluded items had been listed, apparently counter to direction in the Act. Because of the way the definition was structured in the proposed rules, inclusion was appropriate since those items might be "archaeological resources" under certain circumstances. In the revised structure, paleontological remains, coins, bullets, and unworked rocks and minerals are definitely stated not to be "archaeological resources" themselves, unless they are located in immediate association with archaeological resources.

Many commentors expressed concern that the proposed definition would not allow dislocated material remains, which had lost archaeological interest by reason of their dislocation, to be collected by hobbyists. This concern was directed primarily to items eroded from archaeological sites along the shores of artificial lakes and redeposited sufficiently out of context as to remove their information potential. Lakes specifically mentioned were those resulting from projects of the Army Corps of Engineers and the Tennessee Valley Authority. Commentors pointed out that collection of these remains may contribute more to their preservation than allowing them to be further dislocated due to human-caused or natural disturbance. In recognition of the fact that material remains can, in certain circumstances, lose their archaeological interest and that their collection by the public under these circumstances might not be adverse to the purposes of the Act, a new paragraph (a)(5) was added to the definition of "archaeological resource." This new provision is based on the premise that if the circumstances clearly warrant a determination that certain material remains in certain areas have lost archaeological interest because of dislocation or other causes, the protected status of the remains should be removed and the public so informed. In the absence of such a determination, the presumption of archaeological interest would be retained in order to protect the remains. The final regulations provide that Federal land managers may determine that certain material remains, in specified areas under their jurisdiction, and under specified circumstances, are not of archaeological interest. Any such determination would have to be documented and made public.

Under sections 6 and 7 of the Act, criminal and civil penalties are not to be applicable to removal of arrowheads located on the surface of the ground. "Arrowhead" was defined in a technical manner in § 1215.3(b) of the proposed regulations, generating many comments. Many professional archaeologists commented that distinctions between arrowheads and other tools and weapon projectiles of similar form would prove difficult if not impossible, regardless of how a technical definition might be written. One commentor provided a substantial body of documentation from the published literature which demonstrates the difficulty of relying on shape and size criteria for differentiating "arrowheads" from dart points, spear points, hafted knives, drills, and other tools. Several commentors recommeded that a lay definition be used. In light of the fact that the Congress had used the lay term "arrowhead" rather than alternative technical terms that might have been used, and that a stated congressional intent of the non-penalty provisions is to protect unwary recreationists from the heavy fines and other punishment that might be levied under the Act, it was determined that a lay definition for a lay term is appropriate. Such a definition was included as § —.3(b).

Neither the Act nor these regulations exclude arrowheads from the definition of archaeological resources. Arrowheads over 100 years of age and of archaeological interest are archaeological resources under section 3(1) of the Act and § —.3(a)(3)(iii) of these regulations. Their removal from public lands of Indian lands without a permit is prohibited, but is not punishable under the Act or these regulations. However, regulations under other authority which penalize their removal remain effective. Contrary to opinions frequently expressed in the comments and elsewhere, the Act does not legalize the collection of arrowheads from public lands or Indian lands.

Several commentors suggested that the definition of "Federal land manager," paragraph (c) in both proposed and final regulations, should show that a secretary of a department or other agency head may delegate management authority to other persons. A clause to this effect was added to the definition.

The "public lands" definition, paragraph (d) in both versions, received several comments with regard to the effect of "fee title" specification. Some commentors questioned whether the language would exclude certain lands in the public domain administered by the Bureau of Land Management in the Department of the Interior. All Bureau of Land Management lands, including those for which no title document as such exists, are covered in the fee-title concept as used in the Act. In response to comments, the definition was clarified by addition of the words "except Indian lands" at the end, since the fee-title provisions could be interpreted in a technical way to include certain Indian lands.

The definition of "Indian tribe," paragraph (f) in both versions, was expanded to include Alaska Native villages or tribes recognized as eligible for services provided by the Bureau of Indian Affairs. Related discussion touching on the definition of "Indian tribe" is found in the discussion of changes to § 1215.6 (new § —.7).

Several comments questioned the lack of mention of several trust territories and the Trust Territory of the Pacific Islands in the definition of "State" in paragraph (h) of both versions. The statutory language was retained unchanged since the requested changes are beyond the reach of rulemaking.

A number of comments asked that definitions be provided for certain terms, such as "bullet," "harm," "destruction," and others. The decision was to allow undefined terms to rest on common meaning and dictionary definitions. The extent of the meaning of "excavate" in these regulations was clarified in §—.5(b)(1) in response to one such comment.

§ 1215.4 Excavation or removal of Archaeological Resources (Renumbered §—.5; Retitled "Permit Requirements and Exceptions!").

In response to one comment on clarity of purpose, the title of this section was changed. The reason for its movement in the order of sections is explained below, under discussion of proposed rule §1215.14 (new §—.4).

This section also drew a substantial body of comment, must of it aimed at clarifying relationships between this section and other sections of the regulations.

Paragraph (a) in the proposed rules stated the permit requirement in passive construction, inadvertently departing from clear representation of statutory provisions that any person may apply for a permit, and that the Federal land manager may issue a permit if certain conditions are met. Rewording of the paragraph and reference to conditions guiding the Federal land manager's decision corrected this departure. One commentor noted that the word "wishing" was inappropriate, and the word "proposing" was substituted. Linkage to prohibitions, now in §—.4, was incorporated by adding a restraint

against beginning the proposed work before a permit has been issued.

The exceptions to the permit requirement were the subject of many comments. A new paragraph (b)(1) was added in response to concerns, on the part of representatives of mining, forestry product, and other land-use interests, that the statement in the Purpose section, §1215.1(b) (new §—.1(b)), did not fully exempt persons holding authorizations to use public lands or resources from having also to apply for and receive a permit under these regulations. The new paragraph (b)(1) states that land use authorized under permits, leases, licenses, or entitlements does not also require a permit under these regulations. To answer concerns expressed in several comments, it states that authorized earth-moving excavation does not constitute "excavation and/or removal" as used in these regulations. It concludes by pointing out that this exception does not exempt the Federal land manager from responsibilities under other authorities, and that excavation and/or removal pursuant to those authorities are subject to permit requirements of these regulations.

The relationship of the Act and these regulations, other archaeological preservation authorities, and uses of public lands and resources, requires some explanation. As part of the decisionmaking process prior to authorizing the use of public lands or resources, Federal land managers are to take into account the potential effects of the authorization on significant archaeological and historic properties, under provisions of section 106 of the National Historic Preservation Act. Other statutes, such as the National Environmental Policy Act, similarly may require pre-authorization review of potential environmental effects. In some cases, the Federal land manager may request a land-use applicant to retain the professional services of a qualified consulting archaeologist, historian, or other specialist in order to gather resource inventory data pertaining to the area where the proposed land use would occur. Depending on findings, the Federal land manager may also request that the land-use applicant implement measures to mitigate effects of the proposed land use. This might include the recovery of data through the scientific excavation of archaeological resources.

Consultants employed by the land-use applicant (or authorized land user) to perform inventory or mitigation tasks are required to possess a permit to do this work. This requirement is not new. Until the passage of the Act, such permits were issued under the authority of the American Antiquities Act of 1906 and uniform regulations at 43 CFR Part 3. Permit issuance is now being shifted to the Archaeological Resources Protection Act of 1979 and these regulations as provided in section 4(h) of the Act. As before, qualified persons conducting archaeological work on public lands and Indian lands are required to possess a permit.

Upon satisfaction of environmental review and other pertinent requirements, the Federal land manager may authorize the proposed land use, incorporating any necessary restrictions and stipulations in the authorization instrument. At that point, archaeological resource consideration will normally have been completed, and any further provisions, such as what action to take in the event of discovery of a buried archaeological resource, will be stipulated. At no time is the land-use applicant (or authorized land user), whose purpose is other than the excavation or removal of archaeological resources, required to hold a permit issued under these regulations.

The original paragraph (b)(1), pertaining to an Indian tribe or member thereof excavating or removing any archaeological resource on Indian lands, was moved to become § —.5(b)(3). One change was made in this paragraph. For the proposed rule, the statutory phrase "Indian lands of such Indian tribe" was interpreted to include both tribal lands and allotted lands of tribal members. Therefore, the words "or members of such tribe" were added. However, due to the complexity of this issue, it was decided that any clarification of the applicability of the regulations to allotted lands of tribal members should be addressed in Department of the Interior implementing regulations pursuant to section 10(b) of the Act. Accordingly, the final version adheres to the language of section 4(g)(1) of the Act.

Paragraph (b)(2), excluding from permit requirements the private collection of any rock, coin, bullet, or mineral which is not an archaeological resource, was reworded slightly for clarity. Determinations of whether or not a rock, coin, bullet, or mineral is an archaeological resource depends on § ——.3(a)(4) and other provisions of the definition of "archaeological resource."

Paragraphs (b)(3) and (b)(5) of the proposed rules are now paragraphs (b)(4) and (b)(5); they are slightly reworded, but are unchanged in substance.

Several comments were received on paragraph (b)(4) of the proposed rules, regarding the permit status of employees and agents of the Federal government. The provision in the proposed rules had two intents. The first was to prevent putting Federal land managers in the inappropriate position of being required to issue permits to their own employees, hired under the selection constraints of applicable personnel regulations, before allowing them to perform official duties connected with the Federal land manager's archaeological resource management responsibilities. The second intent was to avoid requiring the Federal land manager to duplicate the assessment of qualifications and the definition of work requirements for persons carrying out the Federal land manager's archaeological resource management responsibilities under a contract or similar instrument. The comments did not negate the desirability of these features, but they did point out that the Act provides no exception for employees and agents to the permit requirement and notification provisions. This is acknowledged to be the case. Persons carrying out official agency duties under the Federal land manager's direction cannot be excepted from the permit requirement. Rather, they are not required to apply for a permit, because their status represents an alternative kind of permit, subject to the same standards as permits issued under this part. This is made more explicit in the revised regulations. The former paragraph under exceptions has been elevated to a separate paragraph (c). Because use of the phrase "employees and agents" might inadvertently restrict the classes of persons who could be called on to perform the Federal land manager's duties, the phrase has been changed to "persons." "Official duties" was tightened to "official agency duties under the Federal land manager's direction." And a proviso was added that prior to authorizing a person to perform official agency duties, the Federal land manager shall document compliance with provisions of those sections of the regulations pertaining to professional qualifications appropriate to the work to be conducted, terms and conditions under which authorized work is to be performed, and notification of Indian tribes when official duties might affect an Indian cultural or religious site, as determined by the Federal land manager.

Paragraph (d), in both the proposed and final regulations, provides for the issuance of a permit in response to a request from the Governor of any State. One commentor asked if it is intended

that a Governor may request a permit, which the Federal land manager would be obligated to issue, for persons who would be found not qualified under normal application procedures. This question addresses the fact that qualifications are left to the Governor's determination under provision of section 4(j) of the Act. This possible outcome was clearly not the intent of the Congress, in light of other provisions within section 4(j) and in the broader context of a statute designed to protect archaeological resources. This provision is interpreted to apply to qualified persons acting on behalf of the State, such as a State Archaeologist, a member of the State Historic Preservation Officer's staff, or staff of a State educational institution such as a university or museum. Several other comments questioned whether permits requested by a Governor could be issued for Indian lands, and whether notification procedures with regard to Indian cultural or religious sites would apply. Permits for Indian lands may be issued in response to a Governor's request. However, such requests are subject to the consent provisions of section 4(g)(2) of the Act. Notification provisions of section 4(c) of the Act also apply. These provisions are incorporated in the regulations in §§ ——.8(a)(5) and —.7 respectively.

The proposed rules included information in § 1215.4(c) that permits other than those required in these regulations might be needed. The several comments addressing this paragraph indicated that more confusion than information was imparted. The proposed paragraph (c) was included to insure public awareness that there are other general and specific authorities answered to by various Federal land managers which might have prohibitions or permit requirements for certain activities or in regard to material items which do not meet the tests for "archaeological resource" under the Act or these regulations. The confusion was compounded by mention that special use permits might be required for non-collecting or non-disturbing activities, which was intended as an example, but which was interpreted in a number of different ways by commentors. The new § —.5(e) is a more straightforward expression of caution to the public to consider consulting with the Federal land manager before assuming that no permit is needed. The terminology which contributed to this confusion has been dropped.

§ 1215.5 Application for Permits (Renumbered § —.6; Retitled "Application for Permits and Information Collection).

This section received relatively little comment, and stands as proposed with only minor rewording. Several of the comments suggested adding specific provisions which are adequately covered in other sections of the regulations. Some recommended useful policy provisions which were considered more appropriate to agency-specific regulations under section 10(b) of the Act than to these uniform regulations. A few comments ran counter to provisions of the Act and were rejected. One comment recommended that "copies of" be inserted ahead of "records, data, photographs, and other documents," and this was done.

§ 1215.6 Consideration of Indian Tribal Religious and Cultural Concerns (Renumbered § —.7; Retitled "Notification to Indian Tribes of Possible Harm to, or Destruction of, Sites on Public Lands Having Religious or Cultural Importance).

This section received the second largest number of comments, and involved more of the task force's review and discussion time than any other section. Several of the proposed provisions proved very controversial, and while commentors' opinions were usually cleanly divided, evaluation was made more difficult by the frequent recognition that both sides in polar arguments had equal strength and validity. Upon review it was concluded that the proposed section had suffered from overspecification, and that the most satisfactory resolution of the consequent problems is to return to language more nearly tracking the Act, leaving the closer specification to agency regulations under section 10(b) of the Act.

Some general discussion of the Act's provisions is necessary before explaining the changes that were made in the final regulations. Section 4(c) of the Act provides that:

> If a permit issued under this section may result in harm to, or destruction of, any religious or cultural site, as determined by the Federal land manager, before issuing such permit, the Federal land manager shall notify any Indian tribe which may consider the site as having religious or cultural importance. Such notice shall not be deemed a disclosure to the public for purposes of section 9.

Section 10(a) of the Act, the statutory basis for these regulations, also specifies that "Such rules and regulations may be promulgated only after consideration of the provisions of the American Indian Religious Freedom Act (92 Stat. 469; 42 U.S.C. 1996)," a charge acknowledged in § —.1(a) of these regulations.

The American Indian Religious Freedom Act (AIRFA) established a Federal policy to protect and preserve for American Indians, Eskimos, Aleuts, and Native Hawaiians, their right of freedom to believe, express, and exercise their traditional religions. There are fundamental differences between traditional tribal religions and the more common religions of the larger American society. These differences are described in the report submitted by the President to the Congress pursuant to section 2 of AIRFA. One of the most important characteristics of traditional tribal religions is reverence for the natural world, upon which traditional tribal cultures depend. Specific places may have special religious significance for reasons such as the presence of shrines, cemeteries, vision quest sites, or plants and animals that have religious significance. In enacting AIRFA, the Congress recognized that infringements of religious freedom for traditional Native Americans have resulted in part from lack of knowledge and from the insensitive and inflexible enforcement of Federal policies and regulations. Section 4(c) of the Act and the reference to AIRFA are interpreted to seek to preclude lack of knowledge and insensitive policies and regulations with respect to issuance of permits under the Act.

Section —.7 of these regulations establishes a substantially revised process by which Federal land managers will provide the required notification and consider tribal religious and cultural concerns which may be affected by the issuance of permits under these regulations. In carrying out this process Federal land managers may meet with tribal representatives to discuss tribal interests. Opportunities for tribal representatives to present their views orally will generally result in better communication between tribes and Federal land managers than will exclusive reliance on written communication. Any mitigation or avoidance measures which are adopted as a result of such consultation will be incorporated into terms and conditions of permits.

A number of comments addressed the provisions in the proposed paragraph (a)(1) for providing notice to Indian tribes having a reservation within 200 miles of the proposed permit area, suggesting alternatively that the distance was too great, not great

enough, or irrelevant. The intent of the 200-mile radius was to improve the probability that affected tribes would receive notice. However, as comments pointed out, the provision would have been burdensome for Federal land managers to administer, and in some parts of the country it would have resulted in tribes routinely receiving notice for areas in which they have no particular interest, creating a burden also for them. As one commentor noted, in light of the removal of many Indian tribes to areas distant from their aboriginal territories, it might also have led inadvertently to failure to notify those tribes which have interests but presently reside more than 200 miles away, notwithstanding proposed paragraph (a)(2), which would have caused other Indian tribes known or believed to have interests to be notified.

The final regulations do not retain the 200-mile provision. Instead, paragraph (b)(1) requires the Federal land manager to identify those tribes which have aboriginal or historic ties to particular units of Federal land and to initiate communication with those tribes to determine the location and nature of sites of religious or cultural importance on those lands. Once such information is compiled, if an application for a permit is received for an area which a tribe has identified as important, and the Federal land manager determines that activities proposed in the application might affect religious or cultural sites, that tribe would received notice of the application.

Several commentors, including some Indian tribes, expressed support for the development of a national inventory of tribal religious and cultural sites on public lands. Paragraph (a)(5) of the proposed rules provided that any such central listing, which may be established by the Secretary of the Interior under the Act or under other authority, would be consulted for notification purposes. However, it was concluded that these uniform regulations are not the appropriate place to stimulate policy options on the part of any single agency. Moreover, reference to an as yet undeveloped program proved confusing. The provision was therefore dropped from the final regulation.

Several commentors pointed out that there are some cases of conflicts between archaeological interests and Indian tribal religious or cultural interests which are irreconcilable. Particular concern was expressed regarding the treatment of Native American graves, grave offerings, cemeteries, and cremation sites, since practices surrounding disposal of the dead are an integral part of Native American religion. A number of commentors recommended that conflicts between the conduct of archaeology and Native American religious concerns could be reduced by removing graves, human skeletal remains, and related items from the definition of "archaeological resource." This recommendation was rejected for two reasons. First, the Congress explicitly included graves and human skeletal remains in the statutory definition of "archaeological resource," in section 3(1) of the Act. Second, listing items in the definition of "archaeological resource" in these regulations is not done for the purpose of limiting what archaeologists may find to be of interest or the discipline of archaeology may choose as its subject matter. Rather, the definition supplies the basis for enforcing the penalty provisions of the Act. If graves and human skeletal remains were excluded from coverage under the Act, there would be no penalties under the act for their unpermitted disturbance. Because of the notification requirement of § —.7 and its relationship to terms and conditions under § —.9(c) of these regulations, tribal religious and cultural concerns relative to graves and human remains can have an important role in limiting permitted work to that which is not in conflict with religious beliefs or cultural practices.

Several commentors suggested that the Federal land manager should be required to exclude any site of tribal religious or cultural importance from the area embraced by a permit, on the basis of guarantees of religious freedom in the First Amendment and the American Religious Freedom Act. This recommendation is not adopted, since Federal land managers are bound by constitutional standards regardless of the wording of these regulations, and since the application of constitutional standards to specific cases depends on specific fact situations. These regulations set forth a mechanism for Federal land managers to make contact with Indian tribes, notifying them of possible conflicts arising from permit applications and responding to requests for consultation, and to incorporate in terms and conditions of the permit any mitigation or avoidance measures adopted as a result of consultation.

Several comments reflected concern about the confidentiality of information regarding the location of tribal religious and cultural sites. Desecration of sites has occurred in the past, and many Indians view disclosing the location of a site as inviting desecration. In some instances, disclosing the location of a site is prohibited by tribal religious teachings. Under provisions of the Act and these regulations, Indian tribes may find themselves in the uncomfortable position of having to act counter to their preferences or beliefs by confiding locational information to the Federal land manager, aware that the Federal land manager's legal authority to withhold information from the public may be limited, or to remain silent in the expectation of harm or destruction from activity authorized under a permit. The Federal land manager is bound by the Freedom of Information Act to disclose agency records formally requested, unless the information is subject to an exemption. Two exemptions may apply to some Indian religious or cultural sites. If such sites are also archaeological resources, or coincide in location with archaeological resources, the Federal land manager may hold their location and nature confidential under section 9 of the Act (and § —.18 of these regulations). If they are included in or eligible for inclusion in the National Register of Historic Places, the Federal land manager may withhold information under section 304 of the National Historic Preservation Act. But if neither of these exemptions applies, the Federal land manager may be required to disclose such information in response to a Freedom of Information Act request if it is part of the agency's records. Indian tribes must decide for themselves whether and how to participate in Federal land managers' attempts to determine whether lands under their jurisdiction contain sites of religious or cultural concern to Indian tribes.

Notification of Indian tribes depends to some degree on the definition of "Indian tribe" in the Act and the regulations. Several commentors disagreed with the proposed definition, which used Federal recognition as a determining criterion, because the Act did not refer to Federal recognition. The Act defines "Indian tribe," in part, as "any Indian tribe, band, nation, or other organized group or community." This definition leaves uncertainty as to which social groups of American Indian heritage a Federal land manager might determine to constitute an Indian tribe for purposes of notification. In general, "Indian tribe" as used by the Federal government is a term of art which implies a government-to-government relationship. For groups of Indians which have maintained tribal or other identity, but which are not federally recognized as Indian tribes, a process has been established by the Bureau of Indian Affairs by which they may attain

acknowledgment of tribal status. The definition of "Indian tribe" was expanded slightly, to include also Native Alaska villages or tribes eligible to receive services of the Bureau of Indian Affairs, but was otherwise not changed. The response to concerns that are recognized groups would not be included in notifications was to require the Federal land manager to identify and communicate with federally recognized tribes which have aboriginal or historic ties to involved Federal lands, and also to encourage the Federal land manager to identify and communicate with other groups with similar ties, even though they do not have recognition status. Further, unrecognized groups may identify themselves to and initiate communication with the Federal land manager.

Several commentors addressed a related issue, whether tribal governments are always capable of representing the interests of tribal members who practice traditional tribal religions. Factional divisions may exist among some Indian tribes, and some practitioners of traditional religions either may not recognize the legitimacy of tribal governments or may not view their tribal governments as being concerned for traditional religious interests. Notwithstanding these possibilities, the regulations must reflect the requirement of section 4(c) of the Act for the Federal land manager to provide notice to affected tribes. The most practical way for initial contact of this kind is through the government-to-government relationship discussed above, and it is appropriate that notice should be provided to the chief executive officer of the tribal governing body. The issue of adequate representation of religious views is a matter best addressed within the tribes themselves. The final regulations include language in § —.7(a)(1) encouraging Indian tribes to designate a tribal official who will be the focal point for any notification and discussion, and this may be a person well versed in the traditional tribal religion.

A number of comments addressed various parts of the Act and the proposed regulations which might be applied differently on Indian lands than they would be on public lands. For example, one commentor suggested that Indian tribes might be delegated the permitting role of the Federal land manager for archaeological work on Indian reservations. Another questioned the implications and applicability of the savings provisions in section 12 of the Act to Indian lands, and another noted that the Indian landowner consent provisions might be difficult to implement where a permit application involves allotted lands in which numerous persons hold fractional interests. Since these and similar Indian-related issues in need of clarification fall within the implementation responsibilities of the Secretary of the Interior, rather than applying to all Federal land managers, they would best be treated in the regulations to be prepared by the Secretary of the Interior under sections 5 and 10(b) of the Act.

Finally, several commentors suggested that the proposed 45-day period which tribes were to be allowed for responding to notices is too long and would unnecessarily delay issuance of permits. One tribe commented that 45 days is too short a period. In the final regulations the time period is revised to 30 days, which is considered to be a reasonable time period that will not cause unnecessary delay, and will give Indian tribes adequate opportunity to respond that they do have concerns. The specified time period does not require that the Federal land manager issue a permit 30 days after giving notice to an Indian tribe, whether or not concerns are raised, but rather requires that the Federal land manager allow 30 days for Indian tribes to respond. Any further consultation and consideration may occupy additional time without regard to the 30-day response period.

§ 1215.7 Issuance of Permits (Renumbered §—.8).

This section also drew a substantial volume of comments, many of them from archaeologists and others with professional interests in permit issuance under the Act. The section establishes the standards under which Federal land managers will exercise their discretion in determining whether or not to issue permits. It includes provisions for determining applicants' qualifications and the appropriateness of work proposed, and for insuring that collections and records will be cared for properly. It also provides that review of permit applications which overlap jurisdictional boundaries will be coordinated among the Federal land managers involved.

Paragraph (a) was expanded to include reference to the duration of permits. This change is addressed under discussion of proposed § 1215.8.

Paragraph (a)(1) was reworded slightly in response to one comment, changing "theoretical and methodological design" to "archaeological theory and methods," because the intent of the original phrasing was not clear. The revised wording is intended to incorporate all pertinent aspects of the art and science of archaeology. One commentor recommended that a paragraph be added, among minimum qualifications, to specify managerial capabilities not necessarily demonstrated through the proposed provisions. This suggestion was incorporated essentially as submitted, as paragraph (a)(1)(ii).

Several commentors addressed paragraph (a)(1)(i) of the proposed rules, which requires, alternatively, a graduate degree in anthropology or archaeology, or equivalent training and experience. A number of commentors took the viewpoint that historians should be specified as eligible to receive permits to conduct historical archaeological work. It is recognized that not all qualified persons practicing archaeology in the United States possess graduate degrees in anthropology or archaeology, and the provision was intentionally left open for persons who have attained qualifications through training and experience not leading to a graduate degree in anthropology or archaeology. Persons in this category may be historians, or they may represent any of a number of other educational backgrounds. The original provision was left unchanged. It should be noted that not all persons holding graduate degrees in anthropology or archaeology would meet the minimum qualifications for a permit under these regulations.

One comment suggested that a single authority in each State, such as the State Archaeologist, be established as the official who determines that individuals meet qualification requirements. Under section 4 of the Act, the Federal land manager has the responsibility for determining an applicant's qualifications, pursuant to uniform regulations. It would be an inappropriate delegation of authority for any Federal land manager to rely fully on an outside source for such judgments, but it is possible that such consultation could aid the Federal land manager in reaching decisions. The way that the Federal land manager carries out the responsibility to determine qualifications is open in the Act, and it is left open in these regulations.

Paragraph (a)(2), addressing the public interest purpose of proposed work, has been expanded to clarify that the public interest may be met under either of two general categories, scientific or scholarly research such as might be conducted under a research grant, or preservation or archaeological data such as might be required to mitigate the effects of a competing land use. Several comments expressed concern about the

limits of the "management plan" in paragraph (a)(3). One commentor pointed out that while "management plan" is apparently intended in a general sense, the phrase has different specific meanings among different federal agencies. The provision was expanded to make it clear that the phrase is not intended to apply in any narrow sense that would hamper the Federal land manager from following existing management commitments. A new paragraph (a)(4) provides that compliance with historic preservation law satisfies the requirements of paragraphs (a)(2) and (a)(3).

It should be noted that the language in paragraph (a)(5) differs somewhat from the language of the Act in section 4(g)(2), regarding Indian landowner consent. The wording used was suggested by the Bureau of Indian Affairs and the Office of the Solicitor, Department of the Interior, and appeared in the proposed rule. The reason for changing the statutory language is that allotted Indian land is, in most instances, subject to the regulatory authority of an Indian tribal government. In order to protect the interests of both Indian landowners and tribal governments, these regulations provide clear guidance that the consent of both the Indian landowner(s) and the tribal government having jurisdiction over such allotted lands will be required. In many cases in which there is not tribal government jurisdiction over specific allotted lands, only the consent of the Indian landowner(s) will be required. Further clarification of this issue will be provided in regulations issued by the Secretary of the Interior pursuant to section 10(b) of the Act.

A few comments were received on proposed paragraph (a)(6), which required certification that materials and records would be turned over to the repository not later than the date of submission of the final report to the Federal land manager. Several commentors suggested that a period of 90 days be allowed, which was done in the new paragraph (a)(7). One recommended that the regulations recognize that not all specialized samples should be kept at the same repository, and that some samples are destroyed or altered during analysis (such as pollen, dendrochronology, radiocarbon, and thermoluminescence samples). The validity of this recommendation is acknowledged, and the new paragraph (a)(6) has been changed slightly to allow that more than one repository might be proposed, substituting "any" for "the." This ties indirectly with a new provision in §—.13(d), mentioned below under discussion of proposed § 1215.13. Records accompanying the samples and other materials can satisfactorily account for destroyed or altered samples. Also, there is nothing in these regulations to bar Federal land managers and permittees from reaching agreement on special exceptions to the general provisions regarding preservation of materials and data.

Several commentors pointed out inappropriate differences between proposed paragraphs (a)(6)(i) and (ii). The differences were due to a proofreading oversight and have been corrected in the new paragraphs (a)(7)(i) and (ii).

Paragraph (b) was not clear to several commentors. The intent of the provision is to ensure that when permits would be required from more than one Federal land manager, the resulting permits would not be unnecessarily dissimilar. As a hypothetical example, an archaeologist might propose to carry out settlement and subsistence research by conducting survey and test excavations throughout the watershed area of a small tributary to a major river in the western United States, wherein the lower elevations are managed by one agency, and the higher ground is managed by another. The applicant would submit applications for two permits, making each agency aware of the other's involvement. In accordance with the reworded provision of paragraph (b), the Federal land managers involved would be required to coordinate the review and evaluation of the applications and the issuance of the permits. Because of the coordination, the terms and conditions of the permits should be similar or identical. While it is not provided for in these regulations, it might be within the discretionary latitude of the Federal land managers to agree to combine two (or more) permits which might be issued under such circumstances into a single permit issued jointly.

Several commentors suggested that the time between receipt of an application and a decision should be governed by a 30- or 60-day decision requirement placed on the Federal land manager. No time limits were imposed in these uniform regulations, because of the need to accommodate internal management requirements which vary from agency to agency. In addition, it is necessary to allow adequate time for Federal land managers to consider Indian tribal concerns pursuant to §—.7, when applicable. However, timeliness of action in response to permit applications is highly important, and Federal land managers should ensure that review and evaluation time are held to the minimum needed.

§ 1215.8 Time Limits of Permits—Deleted.

This section proposed that permits could be issued for up to a 3-year period, could be extended for up to 4 months, could be renewed, and would be reviewed annually if issued for a period greater than 1 year. Because specific time limits are most appropriately determined on a case by case basis, the maximum limit was changed to "a specified period of time appropriate to the work to be conducted" and inserted in §—.8(a). An extension provision was included as §—.9(f), and an annual review provision as §—.9(g). There is no limit on the number of times a permit can be extended, and thus there is no provision for renewal.

§ 1215.9 Terms and Conditions of Permits (Renumbered §—.9).

This section was the subject of relatively few comments, of which nearly half pertained to accounting for Indian concerns. Paragraph (c) dealt with terms and conditions requested by Indian tribes or Indian landowners for work on Indian lands. In response to comments, the paragraph was expanded to apply also to public lands, tying in with the consultation process under §—.7.

One comment recommended insertion of "and required" in paragraph (a)(1), which was done. One suggested that the type of security referenced in paragraph (d) should be specified. The permissive wording of paragraph (d), which would have allowed the Federal land manager to require security, was not drawn from provisions of the Act. Also, circumstances which might necessitate the posting of bond or other security would be rare. Although the provision was deleted from the final regulations, its deletion does not prevent Federal land managers from requiring security.

One commentor suggested new language to specify that individuals named in a permit would not be released from responsibility under a permit in the event of reassignment or separation until all outstanding obligations had been satisfied. A new paragraph (e) was inserted in response to the suggestion, with one important change. In some instances the individuals named in a permit, who are responsible for conducting the work and/or carrying out the permit's terms and conditions, are working on behalf of an institutional or corporate permittee. In such a case, it is the permittee, not named individuals, that is responsible to

the Federal land manager for meeting permit requirements. Accordingly, paragraph (e) requires that the permittee, rather than named individuals, not be released from terms and conditions until obligations have been satisfied, whether or not the permit remains in force. Roles of individuals named in a permit are integral parts of the terms and conditions of a permit, and any change in their involvement in the work authorized, without the Federal land manager's prior approval, might warrant suspension or revocation of the permit.

§ 1215.10 Suspension, Revocation and Termination of Permits (Renumbered §—.10; retitled "Suspension and revocation of permits").

Few comments were offered on this section. The section was restructured to clarify the "program purposes" provision in the original version, and to adhere more closely to the statutory language in section 4(f) of the Act.

§ 1215.11 Compliance With Regulations of the Advisory Council on Historic Preservation (36 CFR Part 800) (Renumbered §—.12; Retitled "Relationship to Section 106 of the National Historic Preservation Act").

The order of this section and the section on appeals was reversed, to move the latter into a logically more appropriate proximity to the sections addressed. This section was retitled, since it is not within the scope of these regulations to require compliance with any statute other than the Act or with regulations other than pertaining to the Act.

Section 4(i) of the Act provides: "Issuance of a permit in accordance with this section and applicable regulations shall not require compliance with section 106 of the Act of October 15, 1966." This simple statement has occasioned wide misunderstanding and overextension. Some commentors believed that issuance of a permit under this part would eliminate the requirement for section 106 compliance with respect to all land uses associated with the permit. Others felt that eliminating section 106 compliance in any way would be inappropriate. Some explanation is in order.

Permits under this part will be issued under essentially two sets of circumstances. The first is where the applicant proposes to conduct archaeological investigations for purely academic or research purposes. Under section 4(i) of the Act, issuance of a permit for this purpose will not require section 106 compliance. Since there is nothing in the Act or its legislative history which indicates a different intent, it is beyond the scope of this rulemaking to change the plain meaning of section 4(i).

The second set of circumstances under which permits may be issued pursuant to this part relates to archaeological work required by the Federal land manager under other resource protection statutes (see related discussion under proposed § 1215.14, below). On occasion, archaeological investigations may be required as part of the section 106 compliance process carried out by the Federal land manager prior to authorizing a land-use request. Such investigations will require a permit under this part. Issuance of the permit itself does not and should not require duplication of section 106 compliance procedures. However, the mere fact that a permit will be required as part of the process does not affect the applicability of section 106 to the Federal land manager's proposed authorization of the land use.

As a hypothetical example, utility company might apply for the grant of a right-of-way across public lands to construct an electrical power distribution line. Lacking availability of archaeological staff to respond in a timely manner, the Federal land manager might request the company to provide information about the presence or absence and significance of archaeological resources within the area of the proposed construction project. The company would then retain an archaeological consultant, who would apply to the Federal land manager for a permit, under the Act and these regulations, to conduct archaeological survey and test excavations in the project area. If the consultant met qualification requirements, the Federal land manager would issue a permit without considering this action, in and of itself, to be subject to section 106 compliance procedures. The consultant would conduct the permitted work and submit a report to the company, which would then submit the report to the Federal land manager as requested. If the report were to show that archaeological resources are present in the proposed project area, the Federal land manager would consider the applicability of section 106 before reaching a decision to authorize the right-of-way. The issuance of a permit under the Act and these regulations would be an action substantially independent from the larger requirement of section 106 compliance with regard to Federal authorization of the proposed right-of-way.

Alternatively, had the Federal land manager already possessed sufficient information, so that no request to the company would have been necessary, and had that information shown that an archaeological property, eligible for the National Register of Historic Places, would be intersected by the proposed right-of-way, there would be no question about the need to comply with section 106. Whether or not a permit is issued under the Act and these regulations, the Federal land manager's responsibility to determine the effects of a proposed undertaking on eligible or listed National Register properties remains unchanged.

§ 1215.12 Appeals Relating to Permits (Renumbered §—.11).

Very few comments addressed this section. It was revised slightly for clarity. Since many agencies already have appeal procedures, no attempt was made to establish standard appeal procedures in these uniform regulations.

§ 1215.13 Custody of Archaeological Resources (Renumbered §—.13).

Among the relatively few comments on this section several pertained to tightening or loosening the ownership provisions. Paragraphs (a) and (b) have an information function; ownership is not subject to regulation under the Act.

A new paragraph (d) was added to give Federal land managers the latitude to provide for exchange of materials among appropriate repositories until such time as the Secretary of the Interior may promulgate the regulations provided for in section 5 of the Act. This ties in with provisions mentioned above, under discussion of proposed § 1215.7, for allowing materials to be housed in more than one repository.

One commentor, representing a State museum, saw a need to protect reputable repositories from committing a technical violation of section 6 of the Act, through "receiving" archaeological resources which might have been removed illegally from public lands or Indian lands. Under the Act, receiving archaeological resources, removed from public lands or Indian lands in violation of the permit requirement in the Act or these regulations, is itself a violation. However, a university, museum, or other institution should be free to receive such resources, in the same sense of taking temporary custody on behalf of a Federal land manager or Indian tribe, so long as the appropriate Federal land manager or Indian tribe is given prompt notification. Such notification would be evidence of a lack of intent to violate the Act, thereby eliminating an essential element of a criminal violation. And although intent need not be established

for imposing civil penalties, Federal land managers would not be expected to seek civil penalties under such circumstances. Nevertheless, no provision has been added to extend the requested protection to museums. First, the regulations do not apply to criminal prosecutions; and second, with respect to civil penalties, it was deemed unwise to waive civil penalties by regulation for all persons who might return archaeological resources illegally removed or excavated from public lands or Indian lands, and unfair to waive penalties for certain institutions only. Such matters are best left to discretion, to be handled on a case-by-case basis.

§ 1215.14 Prohibited Acts (Renumbered §—.4).

In the proposed rules, this section included all prohibitions from section 6 of the Act. The final regulations include only those prohibitions relating to permit requirements or for which civil penalties are provided in these regulations. The application of civil penalties to persons engaged in trafficking in archaeological resources in interstate or foreign commerce in violation of State or local law is not practical or appropriate due to the manner in which civil penalties must be assessed. Consequently, the prohibition against such trafficking, proposed paragraph (c), was deleted. The section was moved to occupy a new place ahead of the permit sections, since its prohibitions are the basis for the permit sections.

§ 1215.15 Criminal Penalties—Deleted.

Because criminal prosecution will be pursued independently from these regulations, the criminal penalties section was dropped. The Act should be consulted for information on criminal penalties which the courts may impose.

§ 1215.16 Determination of Archaeological or Commercial Value and Cost of Restoration and Repair (Renumbered §—.14).

Under both the criminal penalty and civil penalty sections of the Act, sections 6 and 7, penalty amounts are to be established in reference to two factors, the archaeological and commercial value of the archaeological resources involved in the violation and costs of restoration and repair. Several commentors were critical of the idea of using commercial value, since the importance of fair market value in the assessment of penalty amounts tends to lend a false legitimacy to the marketing of archaeological resources, and might promote illicit trade. However, through the use of commercial value to set penalty amounts, persons who traffic in archaeological resources will find that their own price schedules are being used against them. In the long run, high prices translated into fines may be instrumental in discouraging illegal excavation, removal, and commerce. It is also important to have more than one measure for setting penalty amounts. Archaeological resources with very high dollar value might be removed under some circumstances without doing a great deal of damage to archaeological value, while conversely, extreme amounts of damage might be done to archaeological value for the sake of removing items which have very little market value. Archaeological value and commercial value as used in the Act and these regulations are enforcement tools; they are independent from concepts about the intrinsic worth of archaeological resources, whether those be based on scientific detachment, awe, aesthetics, or profit motive.

One commentor suggested application of cost-benefit analysis to costs of restoration and repair. This suggestion is inappropriate to determining a penalty amount. Such analysis might be used for management purposes, to help reach a decision about whether or not to proceed with restoration and repair, but to apply it to penalties could result in the least fine for the most destructive violation.

One comment proposed including the costs of reinterment of human remains according to tribal customs as part of the cost of restoration and repair. This proposal was incorporated in paragraph (c)(7).

§ 1215.17 Assessment of Civil Penalties (Renumbered §—.15).

Several changes were made to this section in response to comments and for purposes of clarification and simplification.

The proposed regulations provided for three notices, a "notice of violation" (§ 1215.17(b)), a "notice of assessment" (§ 1215.17(c)), and a "notice of penalty" (§ 1215.17(g)). The first two, the notice of violation and notice of assessment, were to have been served either separately or concurrently. The purpose for proposing these two distinct notices was twofold. First, the notice of violation was viewed as an educational tool. The proposed regulations called for its issuance in "minor" offenses where the Federal land manager had already determined not to assess a civil penalty. Comments focusing on the "minor" offenses led to the recognition that issuance of a notice of violation under the civil penalty provisions, with no intention to follow through with civil penalty proceedings, was inappropriate. If it is appropriate to use the civil penalty provisions in a non-punitive way, the proper procedure is to remit (i.e., cancel) or mitigate (i.e., lessen) the penalty assessed, as provided in the Act. References to remitting the penalty have therefore been inserted along with references to mitigation, and notices of violation in these final regulations are to be used only to initiate civil penalty proceedings.

The second purpose to be served by the two notices was to provide the Federal land manager a vehicle for serving a notice of violation before determination of the damages associated with the violation. However, the option of serving a notice of violation can be preserved by providing for a delayed notice of the proposed penalty amount, if necessary, without reference to a separate type of notice. Accordingly, the former notice of violation and notice of assessment have been combined into one notice, a "notice of violation," with an optional provision for a deferred notice of a proposed penalty amount. The former notice of penalty has been redesignated as the "notice of assessment."

The regulations were also restructured to de-emphasize the importance of the maximum penalty amount allowable. Using this amount to establish the initial proposed penalty amount in every violation was viewed as too inflexible and potentially too onerous on persons served with a notice of violation. The Federal land manager is therefore no longer required to determine the maximum penalty amount allowable for each violation, although care must be taken that no penalty assessed exceeds the statutory maximum.

§ 1215.18 Civil Penalty Amounts (Renumbered § —.16).

In keeping with the decision to place less emphasis on the maximum penalty amount, the requirement to determine the amount was removed from this section. The maximum penalty amount is simply stated in paragraph (a), and paragraph (b) was relabeled "Determination of penalty amount, mitigation, and remission."

Among the several comments addressed to this section, a few suggested that there be no mitigation or remission of penalty amounts without the consent of the affected Indian tribe, where the violation occurred on Indian lands or affected a tribal religious or cultural site on public lands. This suggestion was not accepted because the Act charges the Federal land manager with determining civil penalty amounts. However, the final regulations

include new paragraphs (b)(2) and (b)(3) which provide for consultation with affected Indian tribes before making a decision to mitigate or remit a penalty, in order to enable the Federal land manager to achieve a more just result.

One comment recommended that tribal religious or cultural values which can be quantified by the affected Indian tribe should be considered in setting penalty amounts. This recommendation was not incorporated in the regulations, since it is but one potential example of "other factors" the Federal land manager is directed to take into account under Section 7(a)(2) of the Act. It should be noted that there may be opportunity for an Indian tribe to make damages known through provisions in (§ —.16(b) (2) and (3) of these regulations.

One commentor suggested that a uniform fixed schedule of fines should be established to apply to most civil violations, not just minor offenses. Fines and applicability criteria would be based on broad and easily determined categories of damage. This would simplify the task of the Federal land manager, and would place the burden on the violator to demonstrate that the statutory limits of "fair market value of resources destroyed or not recovered" and "costs of restoration and repair" are less than the proposed penalty. While this suggestion has merit, establishment of fixed penalty amounts in accordance with the statutory criteria could be best accomplished by agency regulations issued pursuant to section 10(b) of the Act or by other administrative action, after some experience in assessing civil penalties under the Act has been acquired.

A new criterion, § —.16(b)(1)(vi), was added to allow reducing a proposed penalty determined to be excessive under the circumstances.

§ 1215.19 Forfeiture and Rewards (Renumbered § —.17; Retitled "Other Penalties and Rewards").

There were several comments offering suggestions for clarifying forfeiture provisions. These are statutory provisions, and were included for information only. In order to allow the public to be aware that other penalties besides those detailed in these regulations might apply, the revised section includes reference to the sections of the Act pertaining to criminal prohibitions, criminal penalties, and forfeiture provisions. Forfeiture regulations may be issued by individual agencies pursuant to section 10(b) of the Act.

The rewards provisions remain essentially the same, with the addition of a provision that persons who provide information in connection with having a civil penalty amount mitigated under (§ —.17(b)(3)(iii) shall not be eligible to receive a reward.

§ 1215.20 Confidentiality of Archaeological Resource Information (Renumbered § —.18).

This section closely follows the wording of section 9 of the Act. Several comments suggested changes which would have departed from statutory provisions. One commentor recommended that the wording be restated in a positive form, so as to encourage dissemination of knowledge, increase public appreciation, and promote a public conservation ethic. This is a very worthwhile suggestion, but it pertains more to the charge of the Secretary of the Interior under section 11 of the Act than to the protection of sensitive information. With some minor corrections, the section remains essentially as proposed.

§ 1215.21 (Reserved)—Deleted.

§ 1215.22 Report (Renumbered § —.19).

This section was left exactly as proposed. There were no comments.

§ 1215.23 Interpretive Rulings—Deleted.

The proposed section stated: "Each Federal land manager may publish from time to time, as an appendix to this part, statements of policy and legal opinions relating to the interpretation, enforcement, and implementation of the Act and this part." The section was deleted, since individual agency statements of policy or legal interpretation would not be binding on other agencies, and therefore should not be codified with these uniform regulations (see 44 U.S.C. 1510).

The Issue of Metal Detector Use

At the public hearings in March and April 1980 and during the commenting period, concern was expressed that the use of metal detectors and associated collector-hobbyist activities on public lands and Indian lands could be a major enforcement target of the Act and the regulations. Nothing in the Act or in these regulations addresses the use of metal detectors on public lands or Indian lands. In considering the legislation, Senator Dale Bumpers stated in the Congressional Record, "This legislation does not affect the use of metal detectors on public lands. If it is legal to use metal detectors currently, this act does not diminish that use. If it is illegal to use metal detectors, as in national parks, this act does not allow such use" (125 CR S14722, October 17, 1979). The same is true of these regulations. However, while the use of metal detectors is neither authorized nor prohibited by the Act and these regulations, unauthorized excavation of archaeological resources discovered while using metal detectors is prohibited on public lands and Indian lands. Also, it is important for users of metal detectors and others to be aware that there are other land management regulations and land use restrictions which govern activities on public lands and Indian lands.

Hobby collecting in various forms is engaged in by a large number of responsible persons, and such hobbyists are encouraged to work together with Federal land managers to deter resource destruction. To protect themselves from unintentionally violating any law or regulations, persons wanting to use public lands and Indian lands should obtain information regarding permissible activities from the Federal land manager's local representative. To the small percentage of collectors, treasure hunters, and metal detector users who destroy archaeological resources in violation of prohibitions, the Act and these regulations prescribe heavy criminal and civil penalties.

Authorship

These uniform rules were prepared by an interagency rulemaking task force composed of representatives of the Department of the Interior (Bureau of Indian Affairs, Bureau of Land Management, Bureau of Reclamation, Fish and Wildlife Service, National Park Service, Office of the Solicitor); Department of Agriculture (Forest Service, Office of the Secretary); Department of Defense (Departments of Army, Navy, Air Force); and the Tennessee Valley Authority.

Compliance With Other Authorities

Environmental Effects

The Secretary of the Interior has prepared an Environmental Assessment on this rulemaking and has made a Finding of No Significant Impact pursuant to regulations of the Council on Environmental Quality implementing the National Environmental Policy Act (42 U.S.C. 4332). Copies of the Environmental Assessment and Finding of No Significant Impact are available for public review in the National Park Service's Washington Office.

Economic Impact

The Secretary of the Interior has determined that this rulemaking is not a "major rule" within the meaning of Executive Order 12291 (46 FR 13193,

February 17, 1981), and would not have a "significant economic impact on a substantial number of small entities" within the meaning of the Regulatory Flexibility Act (5 W.S.C. 601 *et seq.*). These determinations are based on findings that the rulemaking is primarily directed toward the management of Federal resources, with negligible or no impact on the general public, and with cumulative economic impact of less than $100,000,000 per year.

Information Collection

The Office of Management and Budget has given approval for the information collection requirements in section—.6 of these regulations (Application for permits and information collection") pursuant to the Paperwork Reduction Act (44 U.S.C. 3507). The clearance number is 1024–0037.

Regulations Promulgation

The Departments of the Interior, Agriculture, and Defense and the Tennessee Valley Authority are promulgating identical regulations on protection of archaeological resources and are codifying these regulations in their respective titles of the Code of Federal Regulations. Since the regulations are identical, the text of the regulations is set out only once at the end of this document. The part heading, table of contents, and authority citation for the regulations as they will appear in each CFR title precede the text of the regulations.

Approval

These regulations have been approved by the Secretary of Agriculture, the Secretary of Defense, the Secretary of Interior, and the Chairman of the Board of the Tennessee Valley Authority.

Department of the Interior (43 CFR Part 7)

List of Subjects in 43 CFR Part 7

Historic preservation, Monuments and memorials, Antiquities, Archaeology.

Title 43 of the Code of Federal Regulations is amended by adding Part 7 to read as follows:

PART 7—PROTECTION OF ARCHAEOLOGICAL RESOURCES: UNIFORM REGULATIONS

Sec.
7.1 Purpose.
7.2 Authority.
7.3 Definitions.
7.4 Prohibited acts.
7.5 Permit requirements and exceptions.
7.6 Application for permits, and Information Collection.
7.7 Notification to Indian tribes of possible harm to, or destruction of, sites on public lands having religious or cultural importance.
7.8 Issuance of permits.
7.9 Terms and conditions of permits.
7.10 Suspension and revocation of permits.
7.11 Appeals relating to permits.
7.12 Relationship to section 106 of the National Historic Preservation Act.
7.13 Custody of archaeological resources.
7.14 Determination of archaeological or commercial value and cost of restoration and repair.
7.15 Assessment of civil penalties.
7.16 Civil penalty amounts.
7.17 Other penalties and rewards.
7.18 Confidentiality of archaeological resource information.
7.19 Report.

Authority: Pub. L. 96–95, 93 Stat. 721 (16 U.S.C. 470aa–*11*) (Sec. 10(a)). Related authority: Pub. L. 59–209, 34 Stat. 225 (16 U.S.C. 432, 433); Pub. L. 86–523, 74 Stat. 220, 221 (16 U.S.C. 469), as amended, 88 Stat. 174 (1974); Pub. L. 89–665, 80 Stat. 915 (16 U.S.C. 470a–t), as amended, 84 Stat. 204 (1970), 87 Stat. 139 (1973), 90 Stat. 1320 (1976), 92 Stat. 3467 (1978), 94 Stat. 2987 (1980); Pub. L. 95–341, 92 Stat. 469 (42 U.S.C. 1996).

(OMB Control No.: 1024–0037)

J. Craig Potter,

Acting Assistant Secretary, Fish and Wildlife and Parks.

Department of Agriculture, Forest Service (36 CFR Part 296)

List of Subjects in 36 CFR Part 296

Historic preservation, Monuments and memorials, Antiquities, Archaeology.

Title 36 of the Code of Federal Regulations is amended by adding Part 296 to read as follows:

PART 296—PROTECTION OF ARCHAEOLOGICAL RESOURCES: UNIFORM REGULATIONS

Sec.
296.1 Purpose.
296.2 Authority.
296.3 Definitions.
296.4 Prohibited acts.
296.5 Permit requirements and exceptions.
296.6 Application for permits and Information Collection.
296.7 Notification to Indian tribes of possible harm to, or destruction of, sites on public lands having religious or cultural importance.
296.8 Issuance of permits.
296.9 Terms and conditions of permits.
296.10 Suspension and revocation of permits.
296.11 Appeals relating to permits.
296.12 Relationship to section 106 of the National Historic Preservation Act.
296.13 Custody of archaeological resources.
296.14 Determination of archaeological or commercial value and cost of restoration and repair.
296.15 Assessment of civil penalties.
296.16 Civil penalty amounts.
296.17 Other penalties and rewards.
296.18 Confidentiality of archaeological resource information.
296.19 Report.

Authority: Pub. L. 96–95, 93 Stat. 721 (16 U.S.C. 470aa–11)(Sec. 10(a).) Related Authority: Pub. L. 59–209, 34 Stat. 225 (16 U.S.C. 432, 433); Pub. L. 86–523, 74 Stat. 220, 221 (16 U.S.C. 469), as amended, 88 Stat. 174 (1974); Pub. L. 89–665, 80 Stat. 915 (16 U.S.C. 470a–t), as amended, 84 Stat. 204 (1970), 87 Stat. 139 (1973), 90 Stat. 1320 (1976), 92 Stat. 3467 (1978), 94 Stat. 2987 (1980); Pub. L. 95–341, 92 Stat. 469 (42 U.S.C. 1996).

(OMB Control No.: 1024–0037)

Dated: October 24, 1983.

Douglas W. MacCleery,

Deputy Assistant Secretary for Natural Resources and Environment.

Department of Defense (32 CFR Part 229)

List of Subjects in 32 CFR Part 229

Historic preservation, Monuments and memorials, Antiquities, Archaeology.

Title 32 of the Code of Federal Regulations is amended by adding Part 229 to read as follows:

PART 229—PROTECTION OF ARCHAEOLOGICAL RESOURCES: UNIFORM REGULATIONS

Sec.
229.1 Purpose.
229.2 Authority.
229.3 Definitions.
229.4 Prohibited acts.
229.5 Permit requirements and exceptions.
229.6 Application for permits, and Information Collection.
229.7 Notification to Indian tribes of possible harm to, or destruction of, sites on public lands having religious or cultural importance.
229.8 Issuance of permits.
229.9 Terms and conditions of permits.
229.10 Suspension and revocation of permits.
229.11 Appeals relating to permits.
229.12 Relationship to section 106 of the National Historic Preservation Act.
229.13 Custody of archaeological resources.
229.14 Determination of archaeological or commercial value and cost of restoration and repair.
229.15 Assessment of civil penalties.
229.16 Civil penalty amounts.
229.17 Other penalties and rewards.
229.18 Confidentiality of archaeological resource information.
229.19 Report.

Authority: Pub. L. 96–95, 93 Stat. 721 (16 U.S.C. 470aa–*11*). (Sec. 10(a)). Related authority: Pub. L. 59–209, 34 Stat. 225 (16 U.S.C. 432, 433); Pub. L. 86–523, 74 Stat. 220, 221 (16 U.S.C. 469), as amended, 88 Stat. 174 (1974); Pub. L. 89–665, 80 Stat. 915 (16 U.S.C. 470a–t), as amended, 84 Stat. 204 (1970), 87 Stat. 139 (1973), 90 Stat. 1320 (1976), 92 Stat. 3467 (1978), 94 Stat. 2987 (1980); Pub. L. 95–341, 92 Stat. 469 (42 U.S.C. 1996).

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(OMB Control No.: 1024–0037)

M. S. Healy,

OSD Federal Register Liaison Officer. Department of Defense.

Tennessee Valley Authority (18 CFR Part 1312)

List of Subjects in 18 CFR Part 1312

Historic preservation, Monuments and memorials, Antiquities, Archaeology.

Title 18 of the Code of Federal Regulations is amended by adding Part 1312 to read as follows:

PART 1312—PROTECTION OF ARCHAEOLOGICAL RESOURCES: UNIFORM REGULATIONS

Sec.

1312.1 Purpose.
1312.2 Authority.
1312.3 Definitions.
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Authority: Pub. L. 96–95, 93 Stat. 721 (16 U.S.C. 470aa-11) (Sec. 10(a)). Related authority Pub. L. 59–209, 34 Stat. 225 (16 U.S.C. 432, 433); Pub. L. 86–523, 74 Stat. 220, 221 (16 U.S.C. 469), as amended, 88 Stat. 174 (1974); Pub. L. 89–665, 80 Stat. 915 (16 U.S.C. 470a-t), as amended, 84 Stat. 204 (1970), 87 Stat. 139 (1973), 90 Stat. 1320 (1976), 92 Stat. 3467 (1978), 94 Stat. 2987 (1980); Pub. L. 95–341, 92 Stat. 469 (42 U.S.C. 1996).

(OMB Control No.: 1024–0037)

Dated: December 15, 1983.

C. H. Dean, Jr.

Chairman.

§—.1 Purpose.

(a) The regulations in this part implement provisions of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa-*11*) by establishing the uniform definitions, standards, and procedures to be followed by all Federal land managers in providing protection for archaeological resources, located on public lands and Indian lands of the United States. These regulations enable Federal land managers to protect archaeological resources, taking into consideration provisions of the American Indian Religious Freedom Act (92 Stat. 469; 42 U.S.C. 1996), through permits authorizing excavation and/or removal of archaeological resources, through civil penalties for unauthorized excavation and/or removal, through provisions for the preservation of archaeological resource collections and data, and through provisions for ensuring confidentiality of information about archaeological resources when disclosure would threaten the archaeological resources.

(b) The regulations in this part do not impose any new restrictions on activities permitted under other laws, authorities, and regulations relating to mining, mineral leasing, reclamation, and other multiple uses of the public lands.

§—.2 Authority.

(a) The regulations in this part are promulgated pursuant to section 10(a) of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470ii), which requires that the Secretaries of the Interior, Agriculture and Defense and the Chairman of the Board of the Tennessee Valley Authority jointly develop uniform rules and regulations for carrying out the purposes of the Act.

(b) In addition to the regulations in this part, section 10(b) of the Act (16 U.S.C. 470ii) provides that each Federal land manager shall promulgate such rules and regulations, consistent with the uniform rules and regulations in this part, as may be necessary for carrying out the purposes of the Act.

§—.3 Definitions.

As used for purposes of this part:

(a) "Archaeological resource" means any material remains of human life or activities which are at least 100 years of age, and which are of archaeological interest.

(1) "Of archaeological interest" means capable of providing scientific or humanistic understandings of past human behavior, cultural adaptation, and related topics through the application of scientific or scholarly techniques such as controlled observation, contextual measurement, controlled collection, analysis, interpretation and explanation.

(2) "Material remains" means physical evidence of human habitation, occupation, use, or activity, including the site, location, or context in which such evidence is situated.

(3) The followiing classes of material remains (and illustrative examples), if they are at least 100 years of age, are of archaeological interest and shall be considered archaeological resources unless determined otherwise pursuant to paragraph (a)(4) or (a)(5) of this section:

(i) Surface or subsurface structures, shelters, facilities, or features (including, but not limited to, domestic structures, storage structures, cooking structures, ceremonial structures, artificial mounds, earthworks, fortifications, canals, reservoirs, horticultural/agricultural gardens or fields, bedrock mortars or grinding surfaces, rock alignments, cairns, trails, borrow pits, cooking pits, refuse pits, burial pits or graves, hearths, kilns, post molds, wall trenches, middens);

(ii) Surface or subsurface artifact concentrations or scatters;

(iii) Whole or fragmentary tools, implements, containers, weapons and weapon projectiles, clothing, and ornaments (including, but not limited to, pottery and other ceramics, cordage, basketry and other weaving, bottles and other glassware, bone, ivery, shell, metal, wood, hide, feathers, pigments, and flaked, ground, or pecked stone);

(iv) By-products, waste products, or debris resulting from manufacture or use of human-made or natural materials;

(v) Organic waste (including, but not limited to, vegetal and animal remains, coprolites);

(vi) Human remains (including, but not limited to, bone, teeth, mummified flesh, burials, cremations);

(vii) Rock carvings, rock paintings, intaglios and other works of artistic or symbolic representation;

(viii) Rockshelters and caves or portions thereof containing any of the above material remains;

(ix) All portions of shipwrecks (including, but not limited to, armaments, apparel, tackle, cargo);

(x) Any portion or piece of any of the foregoing.

(4) The following material remains shall not be considered of archaeological interest, and shall not be considered to be archaeological resources for purposes of the Act and this part, unless found in a direct physical relationship with archaeological resources as defined in this section:

(i) Paleontological remains;

(ii) Coins, bullets, and unworked minerals and rocks.

(5) The Federal land manager may determine that certain material remains, in specified areas under the Federal land manager's jurisdiction, and under specified circumstances, are not or are

no longer of archaeological interest and are not to be considered archaeological resources under this part. Any determination made pursuant to this subparagraph shall be documented. Such determination shall in no way affect the Federal land manager's obligations under other applicable laws or regulations.

(b) "Arrowhead" means any projectile point which appears to have been designed for use with an arrow.

(c) "Federal land manager" means:

(1) With respect to any public lands, the secretary of the department, or the head of any other agency or instrumentality of the United States, having primary management authority over such lands, including persons to whom such management authority has been officially delegated;

(2) In the case of Indian lands, or any public lands with respects to which no department, agency or instrumentality has primary management authority, such term means the Secretary of the Interior;

(3) The Secretary of the Interior, when the head of any other agency or instrumentality has, pursuant to section 3(2) of the Act and with the consent of the Secretary of the Interior, delegated to the Secretary of the Interior the responsibilities (in whole or in part) in this part.

(d) "Public lands" means:

(1) Lands which are owned and administered by the United States as part of the national park system, the national wildlife refuge system, or the national forest system; and

(2) All other lands the fee title to which is held by the United States, except lands on the Outer Continental Shelf, lands under the jurisdiction of the Smithsonian Institution, and Indian lands.

(e) "Indian lands" means lands of Indian tribes, or Indian individuals, which are either held in trust by the United States or subject to a restriction against alienation imposed by the United States, except for subsurface interests not owned or controlled by an Indian tribe or Indian individual.

(f) "Indian tribe" as defined in the Act means any Indian tribe, band, nation, or other organized group or community, including any Alaska village or regional or village corporation as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (85 Stat. 688). In order to clarify this statutory definition for purposes of this part, "Indian tribe" means:

(1) Any tribal entity which is included in the annual list of recognized tribes published in the **Federal Register** by the Secretary of the Interior pursuant to 25 CFR Part 54;

(2) Any other tribal entity acknowledged by the Secretary of the Interior pursuant to 25 CFR Part 54 since the most recent publication of the annual list; and

(3) Any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), and any Alaska Native village or tribe which is recognized by the Secretary of the Interior as eligible for services provided by the Bureau of Indian Affairs.

(g) "Person" means an individual, corporation, partnership, trust, institution, association, or any other private entity, or any officer, employee, agent, department, or instrumentality of the United States, or of any Indian tribe, or of any State or political subdivision thereof.

(h) "State" means any of the fifty states, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

(i) "Act" means the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa–*11*.).

§ —.4 Prohibited acts.

(a) No person may excavate, remove, damage, or otherwise alter or deface any archaeological resource located on public lands or Indian lands unless such activity is pursuant to a permit issued under § —.8 or exempted by § —.5(b) of this part.

(b) No person may sell, purchase, exchange, transport, or receive any archaeological resource, if such resource was excavated or removed in violation of:

(1) The prohibitions contained in paragraph (a) of this section; or

(2) Any provision, rule, regulation, ordinance, or permit in effect under any other provision of Federal law.

§ —.5 Permit requirements and exceptions.

(a) Any person proposing to excavate and/or remove archaeological resources from public lands or Indian lands, and to carry out activities associated with such excavation and/or removal, shall apply to the Federal land manager for a permit for the proposed work, and shall not begin the proposed work until a permit has been issued. The Federal land manager may issue a permit to any qualified person, subject to appropriate terms and conditions, provided that the person applying for a permit meets conditions in § —.8(a) of this part.

(b) Exceptions:

(1) No permit shall be required under this part for any person conducting activities on the public lands under other permits, leases, licenses, or entitlements for use, when those activities are exclusively for purposes other than the excavation and/or removal of archaeological resources, even though those activities might incidentally result in the disturbance of archaeological resources. General earth-moving excavation conducted under a permit or other authorization shall not be construed to mean excavation and/or removal as used in this part. This exception does not, however, affect the Federal land manager's responsibility to comply with other authorities which protect archaeological resources prior to approving permits, leases, licenses, or entitlements for use; any excavation and/or removal of archaeological resources required for compliance with those authorities shall be conducted in accordance with the permit requirements of this part.

(2) No permit shall be required under this part for any person collecting for private purposes any rock, coin, bullet, or mineral which is not an archaeological resource as defined in this part, provided that such collecting does not result in disturbance of any archaeological resource.

(3) No permit shall be required under this part or under section 3 of the Act of June 8, 1906 (16 U.S.C. 432), for the excavation or removal by any Indian tribe or member thereof of any archaeological resource located on Indian lands of such Indian tribe, except that in the absence of tribal law regulating the excavation or removal or archaeological resources on Indian lands, an individual tribal member shall be required to obtain a permit under this part;

(4) No permit shall be required under this part for any person to carry out any archaeological activity authorized by a permit issued under section 3 of the Act of June 8, 1906 (16 U.S.C. 432), before the enactment of the Archaeological Resources Protection Act of 1979. Such permit shall remain in effect according to its terms and conditions until expiration.

(5) No permit shall be required under section 3 of the Act of June 8, 1906 (16 U.S.C. 432) for any archaeological work for which a permit is issued under this part.

(c) Persons carrying out official agency duties under the Federal land manager's direction, associated with the management of archaeological resources, need not follow the permit application procedures of §—.6. However, the Federal land manager shall insure that provisions of §—.8 and

§—.9 have been met by other documented means, and that any official duties which might result in harm to or destruction of any Indian tribal religious or cultural site, as determined by the Federal land manager, have been the subject of consideration under §—.7.

(d) Upon the written request of the Governor of any State, on behalf of the State or its educational institutions, the Federal land manager shall issue a permit, subject to the provisions of §—.5(b)(5), §—.7, §—.8(a)(3), (4), (5), (6), and (7), §—.9, §—.10, §—.12, and §—.13(a) to such Governor or to such designee as the Governor deems qualified to carry out the intent of the Act, for purposes of conducting archaeological research, excavating and/or removing archaeological resources, and safeguarding and preserving any materials and data collected in a university, museum, or other scientific or educational institution approved by the Federal land manager.

(e) Under other statutory, regulatory, or administrative authorities governing the use of public lands and Indian lands, authorizations may be required for activities which do not require a permit under this part. Any person wishing to conduct on public lands or Indian lands any activities related to but believed to fall outside the scope of this part should consult with the Federal land manager, for the purpose of determining whether any authorization is required, prior to beginning such activities.

§—.8 Application for permits and information collection.

(a) Any person may apply to the appropriate Federal land manager for a permit to excavate and/or remove archaeological resources from public lands or Indian lands and to carry out activities associated with such excavation and/or removal.

(b) Each application for a permit shall include:

(1) The nature and extent of the work proposed, including how and why it is proposed to be conducted, proposed time of performance, locational maps, and proposed outlet for public written dissemination of the results.

(2) The name and address of the individual(s) proposed to be responsible for conducting the work, institutional affiliation, if any, and evidence of education, training, and experience in accord with the minimal qualifications listed in §—.8(a).

(3) The name and address of the individual(s), if different from the individual(s) named in paragraph (b)(2) of this section, proposed to be responsible for carrying out the terms and conditions of the permit.

(4) Evidence of the applicant's ability to initiate, conduct, and complete the proposed work, including evidence of logistical support and laboratory facilities.

(5) Where the application is for the excavation and/or removal of archaeological resources on public lands, the names of the university, museum, or other scientific or educational institution in which the applicant proposes to store all collections, and copies of records, data, photographs, and other documents derived from the proposed work. Applicants shall submit written certification, signed by an authorized official of the institution, of willingness to assume curatorial responsibility for the collections, records, data, photographs and other documents and to safeguard and preserve these materials as property of the United States.

(6) Where the application is for the excavation and/or removal of archaeological resources on Indian lands, the name of the university, museum, or other scientific or educational institution in which the applicant proposes to store copies of records, data, photographs, and other documents derived from the proposed work, and all collections in the event the Indian owners do not wish to take custody or otherwise dispose of the archaeological resources. Applicants shall submit written certification, signed by an authorized official of the institution, or willingness to assume curatorial responsibility for the collections, if applicable, and/or the records, data, photographs, and other documents derived from the proposed work.

(c) The Federal land manager may require additional information, pertinent to land management responsibilities, to be included in the application for permit and shall so inform the applicant.

(d) *Paperwork Reduction Act.* The information collection requirement contained in § —.6 of these regulations has been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1024–0037. The purpose of the information collection is to meet statutory and administrative requirements in the public interest. The information will be used to assist Federal land managers in determining that applicants for permits are qualified, that the work proposed would further archaeological knowledge, that archaeological resources and associated records and data will be properly preserved, and that the permitted activity would not conflict with the management of the public lands involved. Response to the information requirement is necessary in order for an applicant to obtain a benefit.

§ —.7 Notification to Indian tribes of possible harm to, or destruction of, sites on public lands having religious or cultural importance.

(a) If the issuance of a permit under this part may result in harm to, or destruction of, any Indian tribal religious or cultural site on public lands, as determined by the Federal land manager, at least 30 days before issuing such a permit the Federal land manager shall notify any Indian tribe which may consider the site as having religious or cultural importance. Such notice shall not be deemed a disclosure to the public for purposes of section 9 of the Act.

(1) Notice by the Federal land manager to any Indian tribe shall be sent to the chief executive officer or other designated official of the tribe. Indian tribes are encouraged to designate a tribal official to be the focal point for any notification and discussion between the tribe and the Federal land manager.

(2) The Federal land manager may provide notice to any other Native American group that is known by the Federal land manager to consider sites potentially affected as being of religious or cultural importance.

(3) Upon request during the 30-day period, the Federal land manager may meet with official representatives of any Indian tribe or group to discuss their interests, including ways to avoid or mitigate potential harm or destruction such as excluding sites from the permit area. Any mitigation measures which are adopted shall be incorporated into the terms and conditions of the permit under § —.9.

(4) When the Federal land manager detemines that a permit applied for under this part must be issued immediately because of an imminent threat of loss or destruction of an archaeological resource, the Federal land manager shall so notify the appropriate tribe.

(b)(1) In order to identify sites of religious or cultural importance, the Federal land manager shall seek to identify all Indian tribes having aboriginal or historic ties to the lands under the Federal land manager's jurisdiction and seek to determine, from the chief executive officer or other designated official of any such tribe, the location and nature of specific sites of religious or cultural importance so that such information may be on file for land management purposes. Information on

sites eligible for or included in the National Register of Historic Places may be withheld from public disclosure pursuant to section 304 of the Act of October 15, 1966, as amended (16 U.S.C. 470w–3).

(2) If the Federal land manager becomes aware of a Native American group that is not an Indian tribe as defined in this part but has aboriginal or historic ties to public lands under the Federal land manager's jurisdiction, the Federal land manager may seek to communicate with official representatives of that group to obtain information on sites they may consider to be of religious or cultural importance.

(3) The Federal land manager may enter into agreement with any Indian tribe or other Native American group for determining locations for which such tribe or group wishes to receive notice under this section.

§ —.8 Issuance of permits.

(a) The Federal land manager may issue a permit, for a specified period of time appropriate to the work to be conducted, upon determining that:

(1) The applicant is appropriately qualified, as evidenced by training, education, and/or experience, and possesses demonstrable competence in archaeological theory and methods, and in collecting, handling, analyzing, evaluating, and reporting archaeological data, relative to the type and scope of the work proposed, and also meets the following minimum qualifications:

(1) A graduate degree in anthropology or archaeology, or equivalent training and experience;

(ii) The demonstrated ability to plan, equip, staff, organize, and supervise activity of the type and scope proposed;

(iii) The demonstrated ability to carry research to completion, as evidenced by timely completion of theses, research reports, or similar documents;

(iv) Completion of at least 16 months of professional experience and/or specialized training in archaeological field, laboratory, or library research, administration, or management, including at least 4 months experience and/or specialized training in the kind of activity the individual proposes to conduct under authority of a permit; and

(v) Applicants proposing to engage in historical archaeology should have had at least one year of experience in research concerning archaeological resources of the historic period. Applicants proposing to engage in prehistoric archaeology should have had at least one year of experience in research concerning archaeological resources of the prehistoric period.

(2) The proposed work is to be undertaken for the purpose of furthering archaeological knowledge in the public interest, which may include but need not be limited to, scientific or scholarly research, and preservation of archaeological data;

(3) The proposed work, including time, scope, location, and purpose, is not inconsistent with any management plan or established policy, objectives, or requirements applicable to the management of the public lands concerned;

(4) Where the proposed work consists of archaeological survey and/or data recovery undertaken in accordance with other approved uses of the public lands or Indian lands, and the proposed work has been agreed to in writing by the Federal land manager pursuant to section 106 of the National Historic Preservation Act (16 U.S.C. 470f), paragraphs (a)(2) and (a)(3) shall be deeded satisfied by the prior approval.

(5) Written consent has been obtained, for work proposed on Indian lands, from the Indian landowner and the Indian tribe having jurisdiction over such lands;

(6) Evidence is submitted to the Federal land manager that any university, museum, or other scientific or educational institution proposed in the application as the repository possesses adequate curatorial capability for safeguarding and preserving the archaeological resources and all associated records; and

(7) The applicant has certified that, not later than 90 days after the date the final report is submitted to the Federal land manager, the following will be delivered to the appropriate official of the approved university, museum, or other scientific or educational institution, which shall be named in the permit:

(i) All artifacts, samples, collections, and copies of records, data, photographs, and other documents resulting from work conducted under the requested permit where the permit is for the excavation and/or removal of archaeological resources from public lands.

(ii) All artifacts, samples and collections resulting from work under the requested permit for which the custody or disposition is not undertaken by the Indian owners, and copies of records, data, photographs, and other documents resulting from work conducted under the requested permit, where the permit is for the excavation and/or removal of archaeological resources from Indian lands.

(b) When the area of the proposed work would cross jurisdictional boundaries, so that permit applications must be submitted to more than one Federal land manager, the Federal land manager shall coordinate the review and evaluation of applications and the issuance of permits.

§—.9 Terms and conditions of permits.

(a) In all permits issued, the Federal land manager shall specify:

(1) The nature and extent of work allowed and required under the permit, including the time, duration, scope, location, and purpose of the work;

(2) The name of the individual(s) responsible for conducting the work and, if different, the name of the individual(s) responsible for carrying out the terms and conditions of the permit;

(3) The name of any university, museum, or other scientific or educational insitutions in which any collected materials and data shall be deposited; and

(4) Reporting requirements.

(b) The Federal land manager may specify such terms and conditions as deemed necessary, consistent with this part, to protect public safety and other values and/or resources, to secure work areas, to safeguard other legitimate land uses, and to limit activities incidental to work authorized under a permit.

(c) The Federal land manager shall include in permits issued for archaeological work on Indian lands such terms and conditions as may be requested by the Indian landowner and the Indian tribe having jurisdiction over the lands, and for archaeological work on public lands shall include such terms and conditions as may have been developed pursuant to §—.7.

(d) Initiation of work or other activities under the authority of a permit signifies the permittee's acceptance of the terms and conditions of the permit.

(e) The permittee shall not be released from requirements of a permit until all outstanding obligations have been satisfied, whether or not the term of the permit has expired.

(f) The permittee may request that the Federal land manager extend or modify a permit.

(g) The permittee's performance under any permit issued for a period greater than 1 year shall be subject to review by the Federal land manager, at least annually.

§—.10 Suspension and revocation of permits.

(a) *Suspension or revocation for cause.* (1) The Federal land manager may suspend a permit issued pursuant to this part upon determining that the

permittee has failed to meet any of the terms and conditions of the permit or has violated any prohibition of the Act or §—.4. The Federal land manager shall provide written notice to the permittee of the suspension, the cause thereof, and the requirements which must be met before the suspension will be removed.

(2) The Federal land manager may revoke a permit upon assessment of a civil penalty under §—.15 upon the permittee's conviction under section 6 of the Act, or upon determining that the permittee has failed after notice under this section to correct the situation which led to suspension of the permit.

(b) *Suspension or revocation for management purposes.* The Federal land manager may suspend or revoke a permit, without liability to the United States, its agents, or employees, when continuation of work under the permit would be in conflict with management requirements in effect when the permit was issued. The Federal land manager shall provide written notice to the permittee stating the nature of and basis for the suspension or revocation.

§—.11 Appeals relating to permits.

Any affected person may appeal permit issuance, denial of permit issuance, suspension, revocation, and terms and conditions of a permit through existing administrative appeal procedures, or through procedures which may be established by the Federal land manager pursuant to section 10(b) of the Act and this part.

§ —.12 Relationship to Section 106 of the National Historic Preservation Act.

Issuance of a permit in accordance with the Act and this part does not constitute an undertaking requiring compliance with section 106 of the Act of October 15, 1966 (16 U.S.C. 470f). However, the mere issuance of such a permit does not excuse the Federal land manager from compliance with section 106 where otherwise required.

§ —.13 Custody of archaeological resources.

(a) Archaeological resources excavated or removed from the public lands remain the property of the United States.

(b) Archaeological resources excavated or removed from Indian lands remain the property of the Indian or Indian tribe having rights of ownership over such resources.

(c) The Secretary of the Interior may promulgate regulations providing for the exchange of archaeological resources among suitable universities, museums, or other scientific or educational institutions, for the ultimate disposition of archaeological resources, and for standards by which archaeological resources shall be preserved and maintained, when such resources have been excavated or removed from public lands and Indian lands.

(d) In the absence of regulations referenced in paragraph (c) of this section, the Federal land manager may provide for the exchange of archaeological resources among suitable universities, museums, or other scientific or educational institutions, when such resources have been excavated or removed from public lands under the authority of a permit issued by the Federal land manager.

§ —.14 Determination of archaeological or commercial value and cost of restoration and repair.

(a) *Archaeological value.* For purposes of this part, the archaeological value of any archaeological resource involved in a violation of the prohibitions in § —.4 of this part or conditions of a permit issued pursuant to this part shall be the value of the information associated with the archaeological resource. This value shall be appraised in terms of the costs of the retrieval of the scientific information which would have been obtainable prior to the violation. These costs may include, but need not be limited to, the cost of preparing a research design, conducting field work, carrying out laboratory analysis, and preparing reports as would be necessary to realize the information potential.

(b) *Commercial value.* For purposes of this part, the commercial value of any archaeological resource involved in a violation of the prohibitions in § —.4 of this part or conditions of a permit issued pursuant to this part shall be its fair market value. Where the violation has resulted in damage to the archaeological resource, the fair market value should be determined using the condition of the archaeological resource prior to the violation, to the extent that its prior condition can be ascertained.

(c) *Cost of restoration and repair.* For purposes of this part, the cost of restoration and repair of archaeological resources damaged as a result of a violation of prohibitions or conditions pursuant to this part, shall be the sum of the costs already incurred for emergency restoration or repair work, plus those costs projected to be necessary to complete restoration and repair, which may include, but need not be limited to, the costs of the following:

(1) Reconstruction of the archaeological resource;

(2) Stabilization of the archaeological resource;

(3) Ground contour reconstruction and surface stabilization;

(4) Research necessary to carry out reconstruction or stabilization;

(5) Physical barriers or other protective devices, necessitated by the disturbance of the archaeological resource, to protect it from further disturbance;

(6) Examination and analysis of the archaeological resource including recording remaining archaeological information, where necessitated by disturbance, in order to salvage remaining values which cannot be otherwise conserved;

(7) Reinterment of human remains in accordance with religious custom and State, local, or tribal law, where appropriate, as determined by the Federal land manager.

(8) Preparation of reports relating to any of the above activities.

§—.15 Assessment of civil penalties.

(a) The Federal land manager may assess a civil penalty against any person who has violated any prohibition contained in §—.4 or who has violated any term or condition included in a permit issued in accordance with the Act and this part.

(b) *Notice of violation.* The Federal land manager shall serve a notice of violation upon any person believed to be subject to a civil penalty, either in person or by registered or certified mail (return receipt requested). The Federal land manager shall include in the notice:

(1) A concise statement of the facts believed to show a violation;,

(2) A specific reference to the provision(s) of this part or to a permit issued pursuant to this part allegedly violated;

(3) The amount of penalty proposed to be assessed, including any initial proposal to mitigate or remit where appropriate, or a statement that notice of a proposed penalty amount will be served after the damages associated with the alleged violation have been ascertained;

(4) Notification of the right to file a petition for relief pursuant to paragraph (d) of this section, or to await the Federal land manager's notice of assessment, and to request a hearing in accordance with paragraph (g) of this section. The notice shall also inform the person of the right to seek judicial review of any final administrative decision assessing a civil penalty.

(c) The person served with a notice of violation shall have 45 calendar days from the date of its service (or the date of service of a proposed penalty amount,

if later) in which to respond. During this time the person may:

(1) Seek informal discussions with the Federal land manager;

(2) File a petition for relief in accordance with paragraph (d) of this section;

(3) Take no action and await the Federal land manager's notice of assessment;

(4) Accept in writing or by payment the proposed penalty, or any mitigation or remission offered in the notice. Acceptance of the proposed penalty or mitigation or remission shall be deemed a waiver of the notice of assessment and of the right to request a hearing under paragraph (g) of this section.

(d) *Petition for relief.* The person served with a notice of violation may request that no penalty be assessed or that the amount be reduced, by filing a petition for relief with the Federal land manager within 45 calendar days of the date of service of the notice of violation (or of a proposed penalty amount, if later). The petition shall be in writing and signed by the person served with the notice of violation. If the person is a corporation, the petition must be signed by an officer authorized to sign such documents. The petition shall set forth in full the legal or factual basis for the requested relief.

(e) *Assessment of penalty.* (1) The Federal land manager shall assess a civil penalty upon expiration of the period for filing a petition for relief, upon completion of review of any petition filed, or upon completion of informal discussions, whichever is later.

(2) The Federal land manager shall take into consideration all available information, including information provided pursuant to paragraphs (c) and (d) of this section or furnished upon further request by the Federal land manager.

(3) If the facts warrant a conclusion that no violation has occurred, the Federal land manager shall so notify the person served with a notice of violation, and no penalty shall be assessed.

(4) Where the facts warrant a conclusion that a violation has occurred, the Federal land manager shall determine a penalty amount in accordance with §—.16.

(f) *Notice of assessment.* The Federal land manager shall notify the person served with a notice of violation of the penalty amount assessed by serving a written notice of assessment, either in person or by registered or certified mail (return receipt requested). The Federal land manager shall include in the notice of assessment:

(1) The facts and conclusions from which it was determined that a violation did occur;

(2) The basis in §—.16 for determining the penalty amount assessed and/or any offer to mitigate or remit the penalty; and

(3) Notification of the right to request a hearing, including the procedures to be followed, and to seek judicial review of any final administrative decision assessing a civil penalty.

(g) *Hearings.* (1) Except where the right to request a hearing is deemed to have been waived as provided in paragraph (c)(4) of this section, the person served with a notice of assessment may file a written request for a hearing with the adjudicatory body specified in the notice. The person shall enclose with the request for hearing a copy of the notice of assessment, and shall deliver the request as specified in the notice of assessment, personally or by registered or certified mail (return receipt requested).

(2) Failure to deliver a written request for a hearing within 45 days of the date of service of the notice of assessment shall be deemed a waiver of the right to a hearing.

(3) Any hearing conducted pursuant to this section shall be held in accordance with 5 U.S.C. § 554. In any such hearing, the amount of civil penalty assessed shall be determined in accordance with this part, and shall not be limited by the amount assessed by the Federal land manager under paragraph (f) of this section or any offer of mitigation or remission made by the Federal land manager.

(h) *Final administrative decision.* (1) Where the person served with a notice of violation has accepted the penalty pursuant to paragraph (c)(4) of this section, the notice of violation shall constitute the final administrative decision;

(2) Where the person served with a notice of assessment has not filed a timely request for a hearing pursuant to paragraph (g)(1) of this section, the notice of assessment shall constitute the final administrative decision;

(3) Where the person served with a notice of assessment has filed a timely request for a hearing pursuant to paragraph (g)(1) of this section, the decision resulting from the hearing or any applicable administrative appeal therefrom shall constitute the final administrative decision.

(i) *Payment of penalty.* (1) The person assessed a civil penalty shall have 45 calendar days from the date of issuance of the final administrative decision in which to make full payment of the penalty assessed, unless a timely request for appeal has been filed with a United States District Court as provided in section 7(b)(1) of the Act.

(2) Upon failure to pay the penalty, the Federal land manager may request the Attorney General to institute a civil action to collect the penalty in a United States District Court for any district in which the person assessed a civil penalty is found, resides, or transacts business. Where the Federal land manager is not represented by the Attorney General, a civil action may be initiated directly by the Federal land manager.

(j) *Other remedies not waived.* Assessment of a penalty under this section shall not be deemed a waiver of the right to pursue other available legal or administrative remedies.

§—.16 Civil penalty amounts.

(a) *Maximum amount of penalty.* (1) Where the person being assessed a civil penalty has not committed any previous violation of any prohibition in §—.4 or of any term or condition included in a permit issued pursuant to this part, the maximum amount of the penalty shall be the full cost of restoration and repair of archaeological resources damaged plus the commercial value of archaeological resources destroyed or not recovered.

(2) Where the person being assessed a civil penalty has committed any previous violation of any prohibition in §—.4 or of any term or condition included in a permit issued pursuant to this part, the maximum amount of the penalty shall be double the cost of restoration and repair plus double the commercial value of archaeological resources destroyed or not recovered.

(3) Violations limited to the removal of arrowheads located on the surface of the ground shall not be subject to the penalties prescribed in this section.

(b) *Determination of penalty amount, mitigation, and remission.* The Federal land manager may assess a penalty amount less than the maximum amount of penalty and may offer to mitigate or remit the penalty.

(1) Determination of the penalty amount and/or a proposal to mitigate or remit the penalty may be based upon any of the following factors:

(i) Agreement by the person being assessed a civil penalty to return to the Federal land manager archaeological resources removed from public lands or Indian lands;

(ii) Agreement by the person being assessed a civil penalty to assist the Federal land manager in activity to preserve, restore, or otherwise contribute to the protection and study of

archaeological resources on public lands or Indian lands;

(iii) Agreement by the person being assessed a civil penalty to provide information which will assist in the detection, prevention, or prosecution of violations of the Act or this part;

(iv) Demonstration of hardship or inability to pay, provided that this factor shall only be considered when the person being assessed a civil penalty has not been found to have previously violated the regulations in this part;

(v) Determination that the person being assessed a civil penalty did not willfully commit the violation;

(vi) Determination that the proposed penalty would constitute excessive punishment under the circumstances;

(vii) Determination of other mitigating circumstances appropriate to consideration in reaching a fair and expeditious assessment.

(2) When the penalty is for a violation on Indian lands, the Federal land manager shall consult with and consider the interests of the Indian landowner and the Indian tribe having jurisdiction over the Indian lands prior to proposing to mitigate or remit the penalty.

(3) When the penalty is for a violation which may have had an effect on a known Indian tribal religious or cultural site on public lands, the Federal land manager should consult with and consider the interests of the affected tribe(s) prior to proposing to mitigate or remit the penalty.

§ —.17 Other penalties and rewards.

(a) Section 6 of the Act contains criminal prohibitions and provisions for criminal penalties. Section 8(b) of the Act provides that archaeological resources, vehicles, or equipment involved in a violation may be subject to forfeiture.

(b) Section 8(a) of the Act provides for rewards to be made to persons who furnish information which leads to conviction for a criminal violation or to assessment of a civil penalty. The Federal land manager may certify to the Secretary of the Treasury that a person is eligible to receive payment. Officers and employees of Federal, State, or local government who furnish information or render service in the performance of their official duties, and persons who have provided information under — .16(b)(1)(iii) shall not be certified eligible to receive payment of rewards.

(c) In cases involving Indian lands, all civil penalty monies and any item forfeited under the provisions of this section shall be transferred to the appropriate Indian or Indian tribe.

§ —.18 Confidentiality or archaeological resource information.

(a) The Federal land manager shall not make available to the public, under subchapter II of chapter 5 of title 5 of the United States Code or any other provision of law, information concerning the nature and location of any archaeological resource, with the following exceptions:

(1) The Federal land manager may make information available, provided that the disclosure will further the purposes of the Act and this part, or the Act of June 27, 1960, as amended (16 U.S.C. 469–469c), without risking harm to the archaeological resource or to the site in which it is located.

(2) The Federal land manager shall make information available, when the Governor of any State has submitted to the Federal land manager a written request for information, concerning the archaeological resources within the requesting Governor's State, provided that the request includes:

(i) The specific archaeological resource or area about which information is sought;

(ii) The purpose for which the information is sought; and

(iii) The Governor's written commitment to adequately protect the confidentiality of the information.

§ —.19 Report.

Each Federal land manager, when requested by the Secretary of the Interior, shall submit such information as is necessary to enable the Secretary to comply with section 13 of the Act.

[FR Doc. 84-346 Filed 1-5-84; 8:45 am]

BILLING CODES 4310-70-M, 3410-11, 3510-01, 8120-01-M

federal register

Friday
January 6, 1984

Part VI

Department of Commerce

National Oceanic and Atmospheric Administration

Department of Transportation

Coast Guard

15 CFR Part 904
50 CFR Part 620
Written Warnings; Interim Final Rule
15 CFR Part 904, et al.
50 CFR Part 215, et al.
Civil Procedures; Permit Sanctions and Denials; Interim Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

DEPARTMENT OF TRANSPORTATION

Coast Guard

15 CFR Part 904

50 CFR Part 620

[Docket No. 31031-214]

Written Warnings

AGENCIES: National Oceanic and Atmospheric Administration, Commerce; Coast Guard, Transportation.

ACTION: Interim final rule.

SUMMARY: The National Oceanic and Atmospheric Administration and the Coast Guard are establishing a standard policy and procedure for issuing a warning to one who commits a technical or minor violation of one of the laws that NOAA and the Coast Guard enforce. This rule supersedes 50 CFR Part 620 Citations.

EFFECTIVE DATE: These rules are effective February 6, 1984. Comments must be submitted on or before March 6, 1984.

ADDRESS: Interested persons are invited to submit written comments to NOAA Office of General Counsel [GCEL], Room 275, 2001 Wisconsin Avenue, NW., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

Amy Svoboda, Staff Attorney, (202) 254–8350.

SUPPLEMENTARY INFORMATION:

Discussion

NOAA may issue written warnings to persons committing minor or technical offenses, in lieu of commencing civil penalty actions or initiating criminal prosecutions. These regulations establish a written warning policy and procedure applicable to all statutes NOAA enforces (see list in § 904.400).

Insofar as the Act of August 4, 1949, 14 U.S.C. 2, grants the Coast Guard authority to enforce or assist in the enforcement of all federal laws upon the high seas and waters subject to the jurisdiction of the United States, these regulations apply to Coast Guard officers when they are enforcing NOAA-administered laws.

Two of the statutes that NOAA and the Coast Guard jointly enforce require the agencies to promulgate regulations jointly as a prerequisite to the issuance of citations. Regulations were jointly promulgated pursuant to section 1861(c) of the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*, on February 25, 1977, and codified at 50 CFR Part 620. The regulations at 50 CFR Part 620 are superseded by this Subpart E. No regulations concerning citations have previously been promulgated by NOAA and the Coast Guard pursuant to Section 773i(c) of the Northern Pacific Halibut Act of 1982, 16 U.S.C. 733 *et seq.* These regulations implement section 773i(c) of the Halibut Act. A citation under the Magnuson Act or the Halibut Act is considered a written warning under these regulations.

Section 904.410 gives notice that a written warning may be used as the basis for imposing a higher penalty for a later, similar offense.

Section 904.420 provides that, upon written request of the recipient of a warning, a warning will be reviewed by the Regional Attorney. If dissatisfied with the decision of the NOAA Regional Attorney, the violator may then appeal to the NOAA Assistant General Counsel for Enforcement and Litigation in Washington, D.C.

Effective Dates

Although we are requesting comment on the regulations and will review them in light of the comments, these interim rules will take effect in 30 days. Because the rules merely simplify and consolidate existing rules of agency procedure and practice, a notice and comment period is not required.

Classification

The National Oceanic and Atmospheric Administration (NOAA) and the Coast Guard have determined that these regulations are not major rules as defined by Executive Order 12291, "Federal Regulations." The Regulatory Flexibility Act does not apply because no notice of proposed rulemaking is required. These regulations are categorically excluded from preparation of an Environmental Analysis under the National Environmental Policy Act of 1969 by NOAA Directive 02–10. They do not require information to be collected, and therefore the Paperwork Reduction Act does not apply.

List of Subjects in 15 CFR Part 904

Administrative practice and procedure, Penalties, Fisheries, Fishing, Fishing vessels.

Dated: December 28, 1983.

Samuel A. Lawrence,

Director, Office of Administrative and Technical Services, NOAA.

Thomas H. Rutledge,

Captain, Office of Operations U.S. Coast Guard.

Title 50—Wildlife and Fisheries

PART 620—[AMENDED]

50 CFR Part 620 is amended by removing the table of contents, the authority citation, the source, and § 620.1 through § 620.7. The following is added: The policy and procedure governing citations issued under the Act may be found in Subpart E of 15 CFR Part 904.

Title 15—Commerce and Foreign Trade

PART 904—[AMENDED]

15 CFR Part 904 is amended by adding a new Subpart E to read as follows:

Subpart E—Written Warnings

Sec.

904.400 Purpose and scope.
904.405 Definition.
904.410 Written warning as a prior offense.
904.415 Procedures.
904.420 Review and appeal of a written warning.

Authority: Agricultural Marketing Act of 1946, 7 U.S.C. 1621–1627; Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801–1882; Endangered Species Act of 1973, 16 U.S.C. 1531–1543; Marine Mammal Protection Act of 1972, 16 U.S.C. 1361–1407; Lacey Act Amendments of 1981, 16 U.S.C. 3371–3372; Marine Protection, Research and Sanctuaries Act, 16 U.S.C. 1431–1434; Northern Pacific Halibut Act of 1982, 16 U.S.C. 773–773k; Tuna Conventions Act of 1950, 16 U.S.C. 951–961; North Pacific Fisheries Act of 1954, 16 U.S.C. 1021–1032; Sockeye Salmon or Pink Salmon Fishing Act of 1947, 16 U.S.C. 776–776f; Ocean Thermal Energy Conversion Act of 1980, 42 U.S.C. 9101 *et seq.*; Deep Seabed Hard Mineral Resources Act, 30 U.S.C. 1401 *et seq.*; Atlantic Tuna Conventions Act of 1975, 16 U.S.C. 971–971g; Sponge Act, 16 U.S.C. 781 *et seq.*; Antarctic Conservation Act of 1978, 16 U.S.C. 2401–2412; Whaling Convention Act of 1949, 16 U.S.C. 916–916*l*; Fur Seal Act of 1966, 16 U.S.C. 1158 *et seq.*; Atlantic Salmon Convention Act of 1982, 16 U.S.C. 3601 *et seq.*; and the Merchant Marine Act of 1936, 46 U.S.C. 1271–1279.

Subpart E—Written Warnings

§ 904.400 Purpose and scope.

These regulations provide a uniform policy and procedure regarding the issuance and use of written warnings by persons authorized to enforce the statutes administered by the National Oceanic and Atmospheric Administration (NOAA). A written warning may be issued in lieu of assessing a civil penalty or initiating

criminal prosecution for violation of any of the fishery or marine resource laws that NOAA administers, including the following:

Agricultural Marketing Act of 1946, 7 U.S.C. 1621–1627;
Antarctic Conservation Act of 1978, 16 U.S.C. 2401–2412;
Atlantic Tuna Conventions Act of 1975, 16 U.S.C. 971–971g;
Atlantic Salmon Convention Act of 1982, 16 U.S.C. 3601 *et seq.;*
Deep Seabed Hard Mineral Resources Act, 30 U.S.C. 1401 *et seq.;*
Endangered Species Act of 1973, 16 U.S.C. 1531–1543;
Fur Seal Act of 1966, 16 U.S.C. 1158 *et seq.;*
Lacey Act Amendments of 1981, 16 U.S.C. 3371–3378;
Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801–1882;
Marine Mammal Protection Act of 1972, 16 U.S.C. 1361–1407;
Marine Protection, Research and Sanctuaries Act, 16 U.S.C. 1431–1434;
Merchant Marine Act of 1936, 46 U.S.C. 1271–1279;
Northern Pacific Halibut Act of 1982, 16 U.S.C. 773–773k;
North Pacific Fisheries Act of 1954, 16 U.S.C. 1021–1032;
Ocean Thermal Energy Conversion Act of 1980, 42 U.S.C. 9101 *et seq.;*
Sockeye Salmon or Pink Salmon Fishing Act of 1947, 16 U.S.C. 776–776f;
Sponge Act, 16 U.S.C. 781 *et seq.;*
Tuna Conventions Act of 1950, 16 U.S.C. 951–961;
Whaling Convention Act of 1949, 16 U.S.C. 916–916*l*.

§ 904.405 Definitions.

A written warning is a notice in writing to a person that a violation of a minor or technical nature has been documented against the person or against the vessel which is owned or operated by the person. A "citation" under Section 311(c) of the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1861(c), and Section 11(c) of the Northern Pacific Halibut Act of 1982, 16 U.S.C. 773i(c), is considered a written warning under these regulations.

§ 904.410 Written warning as a prior offense.

A written warning may be used as a basis for dealing more severely with a subsequent offense, including, but not limited to, a violation of the same statute or an offense involving an activity that is related to the prior offense.

§ 904.415 Procedures.

(a) Any person authorized to enforce the laws listed in § 904.400 of this Subpart E who finds a violation of one of the laws may issue a written warning to a violator in lieu of other law enforcement action that could be taken under the applicable statute.

(b) The written warning will: (1) State that it is a "written warning"; (2) state the factual and statutory or regulatory basis for its issuance; (3) advise the violator of its effect in the event of a future violation; and (4) inform the violator of the right of review and appeal under § 904.420 of this Subpart E.

(c) NOAA will maintain a record of written warnings that are issued.

(d) If, within 120 days of the date of the written warning, further investigation indicates that the violation is more serious than realized at the time the written warning was issued, or that the violator previously committed a similar offense for which a written warning was issued or other enforcement action was taken, NOAA may withdraw the warning and commence other civil or criminal proceedings.

(e) For written warnings under the Magnuson Fishery Conservation and Management Act or the Northern Pacific Halibut Act of 1982, the enforcement officer will note the warning, its date, and reason for its issuance on the permit, if any, of the vessel used in the violation. If noting the warning on the permit of the vessel is impracticable, notice of the written warning will be served personally, or by registered or certified mail, return receipt requested, on the vessel's owner, operator, or designated agent for service of process, and such service will be deemed notation on the permit.

§ 904.420 Review and appeal of a written warning.

(a) If a person believes that he or she should not have been given a written warning, the person may, within 90 days of the date of receipt of the written warning, submit to the appropriate NOAA Regional Attorney in writing the facts and circumstances that explain or deny the violation described in the warning. The NOAA Regional Attorneys are located at:

Regional Counsel, Office of General Counsel, NOAA, 14 Elm Street, Federal Building, Gloucester, MA 01930
Regional Counsel, Office of General Counsel, NOAA, 9450 Koger Blvd., Suite 127, St. Petersburg, FL 33702
Regional Counsel, Office of General Counsel, NOAA, Bin C15700, 7600 Sandpoint Way, NE., Seattle, WA 98115
Regional Counsel, Office of General Counsel, NOAA, 300 South Ferry Street, Room 2020, Terminal Island, CA 90731
Regional Counsel, Office of General Counsel, NOAA, P.O. Box 1668, Juneau, AK 99802.

The Regional Attorney will review the information and notify the person of his or her decision.

(b) A person may appeal the decision of the Regional Attorney to the NOAA Assistant General Counsel for Enforcement and Litigation, Room 275, Page I Building, 2001 Wisconsin Avenue, NW., Washington, D.C. 20235. The appeal must be brought within 30 days of receipt of the decision of the Regional Attorney. The Assistant General Counsel for Enforcement and Litigation may, in his or her discretion, affirm, expunge, or modify the written warning and will notify the appellant of the decision. The decision constitutes the final agency action.

[FR Doc. 84-12 Filed 1-5-84; 8:45 am]
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15 CFR Parts 904, 924, 929, 935, 936, 937, and 938

50 CFR Parts 215, 216, 220, 222, 285, 611, 621, 649, 650, 651, 652, 655, 672, 674, 675, 680, and 681

[Docket No. 31031-215]

Civil Procedures; Permit Sanctions and Denials

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Interim rule with request for comments.

SUMMARY: NOAA issues this interim rule consolidating its procedural regulations for sanctioning permits issued under many of the statutes for which it has enforcement responsibility. The major statutes are the Magnuson Fishery Conservation and Management Act, the Marine Mammal Protection Act of 1972, the Endangered Species Act of 1973, and the Atlantic Tunas Convention Act of 1975. The intended effect is to consolidate, expand, and replace numerous procedural regulations. The regulations are added as Subpart D to NOAA's interim final regulations governing civil procedures.

DATES: These rules are effective January 6, 1984, as interim rules. Comments must be submitted on or before April 5, 1984.

ADDRESSES: Interested persons are invited to submit written comments to the NOAA Office of General Counsel (GCEL), Room 275, 2001 Wisconsin Avenue, NW., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Margaret Frailey or Linda Marks, (202) 254–8350 [Address above].

SUPPLEMENTARY INFORMATION: These regulations consolidate existing regulations that provide for suspension, revocation, modification, or denial of permits issued under the following statutes: Magnuson Fishery Conservation and Management Act; Marine Mammal Protection Act of 1972; Endangered Species Act of 1973; Atlantic Tunas Convention Act of 1975; Fur Seal Act of 1966; Marine Protection, Research and Sanctuaries Act; and Northern Pacific Halibut Act of 1982. They do not replace regulations governing permit sanctions or denials under the Deep Seabed Hard Mineral Resources Act, Ocean Thermal Energy Conversion Act of 1980, or Agricultural Marketing Act of 1946.

The regulations provide for a permit sanction or denial upon the commission of an offense prohibited by a NOAA-administered statute, or when a civil penalty or judicial assessment has not been paid. The regulations make clear that all of a permit holder's permits may be subject to sanction or denial because of a violation or nonpayment. Violation of a statute, regulation, or permit may be the basis of a sanction when committed by the actual permit holder or by an agent or employee of the permit holder.

These regulations are not intended to affect permits issued by a state, even though the administration of some fishery management plans relies on state permits.

The regulations provide for the issuance of a Notice of Permit Sanction (NOPS) that would set forth any opportunity for a hearing. The opportunity for a hearing is not given in all instances; no hearing will be granted if the permit holder was provided an earlier opportunity for a hearing on the matter forming the basis of the sanction (e.g., an unpaid civil penalty). However, the Administrator, on his or her own initiative, may order a hearing on a permit sanction. This does not expand a permit holder's right to a hearing, but merely gives the Administrator the discretion to hold a hearing. Hearing procedures governing permit sanction proceedings are already set forth in 15 CFR Part 904, Subpart C.

When no opportunity for a hearing is provided, the permit holder ordinarily will have 30 days to achieve compliance (e.g., pay the penalty) before the sanction takes effect.

After a hearing, the Administrative Law Judge (ALJ) makes a recommended decision to the Administrator on the matter. The Administrator (or designee) then issues the final agency decision on the sanction. Because a NOPS may be issued in conjunction with a Notice of Violation and Assessment (NOVA), and hearings on the two may be consolidated, the Administrator might wait to issue the permit sanction decision until the civil penalty matter is settled. For example, an ALJ's initial decision on a Magnuson Act civil penalty may be under review by the Administrator, while the ALJ's recommendation as to the permit sanction must be acted on by the Assistant Administrator for Fisheries. The Assistant Administrator might defer final action on the permit sanction, since the basis for the civil penalty and the NOPS is the same violation. This may also happen when a related case is being litigated in a federal court.

The regulations establish a new procedure not found in existing permit sanction regulations, the issuance of a Notice of Intent to Deny Permit (NIDP). An NIDP may be issued to a permit applicant if an administrative or judicial case is pending against the applicant and the violation warrants a permit sanction. An NIDP will be issued instead of a NOPS where there is no existing permit or where the previous permit has expired, or may be issued in combination with a NOPS. An NIDP, like a NOPS, may be issued in conjunction with a NOVA, and the hearings on the two consolidated.

NOAA is considering adding language at § 904.302(c) that would allow a vessel permit sanction to be linked to the vessel itself, so that a sale or other transfer would not extinguish the sanction. This would be particularly useful when suspending a permit for failure to pay a civil penalty. The sanction would not follow the transfer when the purchaser or transferee had no actual or constructive notice of the sanction. NOAA invites comments on this idea, including methods of providing notice.

Section 904.322 provides for emergency action to be taken in limited instances. NOAA would seek such action after a NOPS or NIDP is issued, but before a final decision is made on the sanction or denial. Interim action will be taken only after the ALJ finds there is probable cause to believe the violation(s) charged was committed. If ordered by the ALJ, the sanction will take effect immediately.

Request for Comments

These rules are effective on January 6, 1983, as interim rules. Although no notice and comment period is required for rules of agency procedure or practice, we are requesting comment on the regulations and will review them in light of the comments.

Classification

NOAA has determined that these regulations are not a major rule as defined by Executive Order 12291, "Federal Regulations." The Regulatory Flexibility Act does not apply because no notice of proposed rulemaking is required. These regulations are categorically excluded from preparation of an Environmental Analysis under the National Environmental Policy Act of 1969 by NOAA Directive 02-10. They do not require information to be collected, and therefore the Paperwork Reduction Act does not apply.

List of Subjects in 50 CFR Part 904

Administrative practice and procedure, Permits, Sanctions.

Dated: December 28, 1983.

Samuel A. Lawrence,

Director, Office of Administrative and Technical Services, National Oceanic and Atmospheric Administration.

1. The following new Subpart D is added to 15 CFR Part 904:

PART 904—CIVIL PROCEDURES

Subpart D—Permit Sanctions and Denials

General

Sec.

904.300 Scope and applicability.
904.301 Definitions.
904.302 Bases for sanctions or denials.
904.303 Notice of permit sanction.
904.304 Notice of intent to deny permit.
904.305 Opportunity for hearing.
904.306 Hearing and decision.
904.307–904.309 [Reserved]

Sanctions for Nonpayment of Penalties

904.310 Nature of sanctions.
904.311 Compliance.
904.312–904.319 [Reserved]

Sanctions for Violations

904.320 Nature of sanctions.
904.321 Reinstatement of permit.
904.322 Interim action.
904.323–904.399 [Reserved]

Authority: Atlantic Tunas Convention Act of 1975, 16 U.S.C. 971–971g; Endangered Species Act of 1973, 16 U.S.C. 1531–43; Fur Seal Act of 1966, 16 U.S.C. 1158 *et seq.*; Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*; Marine Mammal Protection Act of 1972, 16 U.S.C. 1361–1407; Marine Protection, Research and Sanctuaries Act, 16 U.S.C. 1431–34; Northern Pacific Halibut Act of 1982, 16 U.S.C. 773–773k.

General

§ 904.300 Scope and applicability.

(a) This Subpart establishes policies and procedures for the suspension, revocation, modification, and denial of

permits for reasons relating to enforcement of many of the statutes NOAA administers. These reasons include nonpayment of civil penalties or criminal fines, and violations of statutes, regulations, or permit conditions. Nothing in this Subpart precludes sanction or denial of a permit for reasons not relating to enforcement. As appropriate, and unless otherwise specified in this Subpart, the provisions of Subparts B and C apply to these regulations.

(b) These regulations cover sanctions and denials of permits issued under the following statutes:

(1) Atlantic Tunas Convention Act of 1975, 16 U.S.C. 971–971g;

(2) Endangered Species Act of 1973, 16 U.S.C. 1531–43;

(3) Fur Seal Act of 1966, 16 U.S.C. 1158 *et seq.;*

(4) Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.;*

(5) Marine Mammal Protection Act of 1972, 16 U.S.C. 1361–1407;

(6) Marine Protection, Research and Sanctuaries Act, 16 U.S.C. 1431–34;

(7) Northern Pacific Halibut Act of 1982, 16 U.S.C. 773–773k.

Regulations governing sanctions for permits under the Deep Seabed Hard Mineral Resources Act (30 U.S.C. 1401 *et seq.*) appear at 15 CFR Part 970; under the Ocean Thermal Energy Conversion Act of 1980 (42 U.S.C. 9101 *et seq.*), at 15 CFR Part 981; under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–27), at 50 CFR 260.50.

§ 904.301 Definitions.

Unless the context otherwise requires, terms in this Subpart have the meanings prescribed in the applicable statute or in Subparts B and C. In addition, the following definitions apply:

"Applicant"—means any person who applies or is expected to apply for a permit covered by this Subpart.

"NIDP"—means notice of intent to deny application or permit.

"NOPS"—means notice of permit sanction.

"Payment agreement"—means any promissory note, security agreement, or other contract specifying the terms according to which a permit holder agrees to pay a civil penalty.

"Permit holder"—means the holder of a permit or any agent or employee of the holder, and includes the owner and operator of a vessel for which the permit was issued.

"Sanction"—means suspension, revocation, or modification of a permit (see § 904.320).

§ 904.302 Bases for sanctions or denials.

(a) Unless otherwise specified in a settlement agreement, the Administrator may take action under this Subpart with respect to any permit issued under the statutes listed in § 904.300(b). The bases for an action to sanction or deny a permit are as follows:

(1) The commission of any offense prohibited by statutes administered by NOAA, including violation of any regulation promulgated or permit condition or restriction prescribed thereunder, by the permit holder or with the use of a permitted vessel;

(2) The failure to pay a civil penalty assessed under Subparts B and C of this Part; or

(3) The failure to pay a criminal fine imposed or any other liability incurred in a judicial proceeding under any of the statutes administered by NOAA.

(b) A sanction or denial of a permit under this Subpart is not limited to the particular permit pertaining to the offense or nonpayment, but may be applied to any NOAA permit held or sought by the permit holder, including permits for other activities or for other vessels. Examples of the application of this policy are the following:

(1) NOAA suspends Vessel A's fishing permit for nonpayment of a civil penalty pertaining to Vessel A. The owner of Vessel A buys Vessel B and applies for a permit for Vessel B to participate in a different fishery. NOAA may withhold that permit until the sanction against Vessel A is lifted.

(2) NOAA revokes a Marine Mammal Protection Act permit for violation of its conditions. The permit holder subsequently applies for a permit under the Endangered Species Act. NOAA may deny the ESA application.

(3) Captain X, an officer in Country Y's fishing fleet, is found guilty of assaulting an enforcement officer. NOAA may impose a condition on the permits of Country Y's vessels that they may not fish in the fishery conservation zone with Captain X aboard. (See § 904.320(c) of this Part 904.)

(c) Sanction not extinguished by sale. [Reserved]

§ 904.303 Notice of permit sanction.

(a) A NOPS will be served personally or by registered or certified mail, return receipt requested, on the permit holder. When a foreign fishing vessel is involved, service will be made on the agent authorized to receive and respond to any legal process for vessels of that country.

(b) The NOPS will set forth the sanction to be imposed, the bases for the sanction, and any opportunity for a hearing. It will state the effective date of the sanction, which will ordinarily not be earlier than 30 calendar days after the date of receipt of the NOPS (see § 904.322). If a hearing opportunity is provided and a hearing is requested in a timely manner, the sanction will take effect pursuant to § 904.306.

(c) Upon demand by an authorized enforcement officer, a permit holder shall surrender a permit against which a sanction has taken effect. The effectiveness of the sanction, however, does not depend on surrender of the permit.

§ 904.304 Notice of intent to deny permit.

(a) The Administrator may issue an NIDP if the applicant has been charged with a violation of a NOAA-administered statute, regulation, or permit.

(b) The NIDP will set forth the basis for its issuance and any opportunity for a hearing, and will be served in accordance with § 904.303(a).

(c) The Administrator will not refund any fee(s) submitted with a permit application if an NIDP is issued.

(d) An NIDP may be issued in conjunction with or independent of a NOPS. Nothing in this section should be interpreted to preclude NOAA from initiating a permit sanction action following issuance of the permit, or from withholding a permit pursuant to § 904.310(c) or § 904.320.

§ 904.305 Opportunity for hearing.

(a) Except as provided in paragraph (b) of this section, the recipient of a NOPS or NIDP will be provided an opportunity for a hearing. The hearing may be combined with any other hearing under this Part.

(b) There will be no opportunity for a hearing if, with respect to the violation that forms the basis for the NOPS or NIDP, the permit holder had a previous opportunity to participate as a party in a judicial or administrative hearing, whether or not the permit holder did participate, and whether or not such a hearing was held.

(c) If entitled to a hearing under this section, the recipient of a NOPS or NIDP will have 30 calendar days from receipt of the notice to request a hearing. A request for hearing must be dated and in writing. Failure to request a hearing within 30 days constitutes a waiver of the opportunity for a hearing.

(d) If no hearing is requested, the Administrator may nonetheless order a hearing if required in the interests of justice. This paragraph does not create any right to a hearing in addition to the right provided in paragraph (a) of this section.

§ 904.306 Hearing and decision.

(a) Except as provided in this section, hearing procedures are governed by Subpart C of this Part.

(b) After the close of a hearing and the submission of briefs in accordance with § 904.262, the Administrative Law Judge will issue a recommended decision to the Administrator. As soon as practicable, the Administrator will decide the matter and serve notice of the decision on the parties in the manner provided by § 904.303(a). The decision will be final and unappealable and not subject to § 904.272.

(c) In his or her discretion, the Administrator may refrain from issuing a decision on a NOPS or NIDP pending a decision on a related matter.

§§ 904.307–904.309 [Reserved]

Sanctions for Nonpayment of Penalties

§ 904.310 Nature of sanctions.

(a) The Administrator may suspend a permit if:

(1) A civil penalty has been assessed against the permit holder under Subparts B and C of this Part, but the permit holder has failed to pay the penalty, or has defaulted on a payment agreement; or

(2) A criminal fine or other liability for violation of any of the statutes administered by NOAA has been imposed against the permit holder in a judicial proceeding, but payment has not been made.

(b) Suspension of a permit under the circumstances set forth in paragraph (a) is mandatory if the permit is for a foreign fishing vessel under section 204(b) of the Magnuson Fishery Conservation and Management Act.

(c) The Administrator will withhold any other permit for which the permit holder applies if either condition in § 904.310(a) is applicable.

§ 904.311 Compliance.

If the permit holder pays the fine or penalty in full or agrees to terms satisfactory to the Administrator for payment:

(a) The suspension will not take effect;

(b) Any permit suspended under § 904.310 will be reinstated by affirmative order of the Administrator; or

(c) Any application by the permit holder may be granted if the permit holder is otherwise qualified to receive the permit.

§§ 904.313–904.319 [Reserved]

Sanctions for Violations

§ 904.320 Nature of sanctions.

Subject to the requirements of this Subpart, the Administrator may take any of the following actions or combination of actions if a permit holder or permitted vessel violates a statute administered by NOAA, or any regulation promulgated or permit condition prescribed thereunder:

(a) *Revocation.* A permit may be cancelled, with or without prejudice to issuance of the permit in the future. Additional requirements for issuance of any future permit may be imposed.

(b) *Suspension.* A permit may be suspended either for a specified period of time or until stated requirements are met, or both. If contingent on stated requirements being met, the suspension is with prejudice to issuance of the permit until the requirements are met.

(c) *Modification.* A permit may be modified, as by imposing additional conditions and restrictions. If the permit was issued for a foreign fishing vessel under section 204(b) of the Magnuson Fishery Conservation and Management Act, additional conditions and restrictions may be imposed on the application of the foreign nation involved and on any permits issued under such application.

§ 904.321 Reinstatement of permit.

(a) A permit suspended for a specified period of time will be reinstated automatically at the end of the period.

(b) A permit suspended until stated requirements are met will be reinstated only by affirmative order of the Administrator.

§ 904.322 Interim action.

(a) To prevent substantial harm to marine resources during the pendency of an action under this Subpart, or as otherwise required in the interest of public health, welfare, or safety, or in cases of willfulness, an Administrative Law Judge may order immediate suspension, modification, or withholding of a permit until a decision is made on the action proposed in a NOPS or NIDP.

(b) The Judge will order interim action under paragraph (a) only after finding that there exists probable cause to believe that the violation(s) charged in the NOPS or NIDP was committed. The Judge's finding of probable cause, which will be summarized in the order, may be made:

(1) After review of the factual basis of the alleged violation, following an opportunity for the parties to submit their views (orally or in writing, in the Judge's discretion); or

(2) By adoption of an equivalent finding of probable cause or an admission in any administrative or judicial proceeding to which the recipient of the NOPS or NIDP was a party, including, but not limited to, a hearing to arrest or set bond for a vessel in a civil forfeiture action or an arraignment or other hearing in a criminal action. Adoption of a finding or admission under this paragraph may be made only after the Judge reviews pertinent portions of the transcript or other records, documents, or pleadings from the other proceeding.

(c) An order for interim action under paragraph (a) of this section is unappealable and will remain in effect until a decision is made on the NOPS or NIDP. Where such interim action has been taken, the Administrator will expedite any hearing requested under § 904.305.

§§ 904.323–904.399 [Reserved]

PART 924—MONITOR MARINE SANCTUARY

2. In § 924.6, paragraph (g) is revised to read as follows:

§ 924.6 Permit procedures and criteria.

* * * * *

(g) The Administrator may suspend, revoke, modify, or deny a permit granted or sought pursuant to this section, in whole or in part, if it is determined that the applicant or permit holder has acted in violation of the terms of the permit or of these regulations, or for other good cause shown. Any such action shall be communicated in writing to the applicant or permit holder, and shall set forth the reason(s) for the action taken. Procedures governing permit sanctions and denials for enforcement reasons are found at Subpart D of 15 CFR Part 904.

3. In § 924.8, paragraph (a) is revised to read as follows:

§ 924.8 Appeals of administrative action.

(a) Except as provided in Subpart D of 15 CFR part 904, any interested person (the Appellant) may appeal the granting, denial, conditioning, or suspension of any permit under § 924.6 to the Administrator of NOAA. In order to be considered by the Administrator, such appeal must be in writing, must state the action(s) appealed, and the reasons therefore, and must be submitted within 30 days of the action(s) by the Assistant Administrator. The appellant may request an informal hearing on the appeal.

* * * * *

PART 929—KEY LARGO NATIONAL MARINE SANCTUARY

4. In § 929.10, paragraph (h) is revised to read as follows:

§ 929.10 Permit procedures and criteria.

* * * * *

(h) The Administrator may suspend, revoke, modify, or deny a permit granted or sought pursuant to this section, in whole or in part, if it is determined that the applicant or Permittee has acted in violation of the terms of the permit or of these regulations, or for other good cause shown. Any such action shall be communicated in writing to the applicant or Permittee, and shall set forth the reason(s) for the action taken. Procedures governing permit sanctions and denials for enforcement reasons are found at Subpart D of 15 CFR Part 904.

5. In § 929.11, paragraph (a) is revised to read as follows:

§ 929.11 Appeals of administrative action.

(a) Except as provided in Subpart D of 15 CFR Part 904, the applicant for a permit or the Permittee, or any other interested person (hereafter Appellant) may appeal the granting, denial, conditioning, or suspension of any permit under § 929.10 to the Administrator of NOAA. In order to be considered by the Administrator, such appeal must be in writing, must state the action(s) appealed, and the reasons therefore, and must be submitted within 30 days of the action(s) by the Assistant Administrator. The Appellant may request an informal hearing on the appeal.

* * * * *

PART 935—CHANNEL ISLANDS NATIONAL MARINE SANCTUARY

6. In § 935.9, paragraph (f) is revised to read as follows:

§ 935.9 Permit procedures and criteria.

* * * * *

(f) The Administrator may suspend, revoke, modify, or deny a permit granted or sought pursuant to this section, in whole or in part, if it is determined that the applicant or permit holder has acted in violation of the terms of the permit or of these regulations, or for other good cause shown. Any such action shall be communicated in writing to the applicant or permit holder, and shall set forth the reason(s) for the action taken. Procedures governing permit sanctions and denials for enforcement reasons are found at Subpart D of 15 CFR Part 904.

7. In § 935.11, paragraph (a) is revised to read as follows:

§ 935.11 Appeals of administrative action.

(a) Except as provided in Subpart D of 15 CFR Part 904, any interested person (the Appellant) may appeal the granting, denial, conditioning, or suspension of any permit under § 935.9 to the Administrator of NOAA. In order to be considered by the Administrator, such appeal must be in writing, must state the action(s) appealed, and the reasons therefore, and must be submitted within 30 days of the action(s) by the Assistant Administrator. The Appellant may request an informal hearing on the appeal.

* * * * * *

PART 936—THE POINT REYES/FARALLON ISLANDS MARINE SANCTUARY REGULATIONS

8. In § 936.6, paragraph (f) is revised to read as follows:

§ 936.6 Permit procedures and criteria.

* * * * *

(f) The Administrator may suspend, revoke, modify, or deny a permit granted or sought pursuant to this section, in whole or in part, if it is determined that the applicant or permit holder has acted in violation of the terms of the permit or of these regulations, or for other good cause shown. Any such action shall be communicated in writing to the applicant or permit holder, and shall set forth the reason(s) for the action taken. Procedures governing permit sanctions and denials for enforcement reasons are found at Subpart D of 15 CFR Part 904.

9. In § 936.10, paragraph (a) is revised to read as follows:

§ 936.10 Appeals of administrative action.

(a) Except as provided in Subpart D of 15 CFR Part 904, any interested person (the Appellant) may appeal the granting, denial, conditioning, or suspension of any permit under § 936.8 to the Administrator of NOAA. In order to be considered by the Administrator, such appeal must be in writing, must state the action(s) appealed, and the reasons therefore, and must be submitted within 30 days of the action(s) by the Assistant Administrator. The Appellant may request an informal hearing on the appeal.

* * * * *

PART 937—THE LOOE KEY NATIONAL MARINE SANCTUARY REGULATIONS

10. In § 937.8, paragraph (g) is revised to read as follows:

§ 937.8 Permit procedures and criteria.

* * * * *

(g) The Administrator may suspend, revoke, modify, or deny a permit granted or sought pursuant to this section, in whole or in part, if it is determined that the applicant or permit holder has acted in violation of the terms of the permit or of these regulations, or for other good cause shown. Any such action shall be communicated in writing to the applicant or permit holder, and shall set forth the reason(s) for the action taken. Procedures governing permit sanctions and denials for enforcement reasons are found at Subpart D of 15 CFR Part 904.

11. In § 937.10, paragraph (a) is revised to read as follows:

§ 937.10 Appeals from administrative action.

(a) Except as provided in Subpart D of 15 CFR Part 904, any interested person (the Appellant) may appeal the granting, denial, conditioning, or suspension of any permit under § 937.8 to the Administrator of NOAA. In order to be considered by the Administrator, such appeal must be in writing, must state the action(s) appealed, and the reasons therefore, and must be submitted within 30 days of the action(s) by the Assistant Administrator. The Appellant may request an informal hearing on the appeal.

* * * * *

PART 938—THE GRAY'S REEF NATIONAL MARINE SANCTUARY REGULATIONS

12. In § 938.8, paragraph (f) is revised to read as follows:

§ 938.8 Permit procedures and criteria.

* * * * *

(f) The Administrator may suspend, revoke, modify, or deny a permit granted or sought pursuant to this section, in whole or in part, if it is determined that the applicant or permit holder has acted in violation of the terms of the permit or of these regulations, or for other good cause shown. Any such action shall be communicated in writing to the applicant or permit holder, and shall set forth the reason(s) for the action taken. Procedures governing permit sanctions and denials for enforcement reasons are found at Subpart D of 15 CFR Part 904.

13. In § 938.10, paragraph (a) is revised to read as follows:

§ 938.10 Appeals from administrative action.

(a) Except as provided in Subpart D of 15 CFR Part 904, any interested person (the Appellant) may appeal the granting, denial, conditioning, or suspension of any permit under § 938.8 to the Administrator of NOAA. In order to be considered by the Administrator, such appeal must be in writing, must state the

action(s) appealed, and the reasons therefore, and must be submitted within 30 days of the action(s) by the Assistant Administrator. The Appellant may request an informal hearing on the appeal.

* * * * *

Title 50—Wildlife and Fisheries

PART 215—PRIBILOF ISLANDS

14. In § 215.13, the introductory text of paragraph (d) is revised to read as follows:

§ 215.13 Procedures for the issuance, modification, suspension or revocation of permits.

* * * * *

(d) Except as provided in Subpart D of 15 CFR Part 904, any permit shall be subject to modification, suspension or revocation by the Director in whole or in part in accordance with these regulations and the terms of such permits. The permittee shall be given written notice by registered mail, return receipt requested, of any proposed modification, suspension, or revocation. Such notice shall specify:

* * * * *

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

15. Section 216.24 is amended by revising paragraph (b)(4), adding paragraph (c)(8), and removing paragraphs (d)(1)(vi), (d)(2)(viii), (d)(3)(vi), (d)(4)(vi), and (d)(5)(vi), to read as follows:

§ 216.24 Taking and related acts incidental to commercial fishing operations.

* * * * *

(b) * * *

(4) A general permit shall be valid for the time period indicated on the face of the permit. General permits may contain terms and conditions prescribed in accordance with sec. 104(b)(2) of the Act, 16 U.S.C. 1374(b)(2). General permits may be suspended, revoked, modified, or denied. Procedures governing permit sanctions or denials for reasons relating to enforcement are found at Subpart D of 15 CFR Part 904.

* * * * *

(c) * * *

(8) Failure to comply with provisions of the general permit, certificate, or these regulations may lead to suspension, revocation, modification, or denial of a certificate of inclusion. It may also subject the certificate holder, vessel, vessel owner, operator, or master to the penalties provided under the Act. Procedures governing permit sanctions and denials are found at Subpart D of 15 CFR Part 904.

(d) * * *

(1) * * *

(vi) [Removed]

(2) * * *

(viii) [Removed]

(3) * * *

(vi) [Removed]

(4) * * *

(vi) [Removed]

(5) * * *

(vi) [Removed]

* * * * *

16. In § 216.31, paragraph (c) is revised to read as follows:

§ 216.31 Scientific research permits and public display permits.

* * * * *

(c) Except as provided in Subpart D of 15 CFR Part 904, permits applied for under this section shall be issued, suspended, modified and revoked pursuant to regulations contained in § 216.33. In determining whether to issue a scientific research permit, the Secretary shall, among other criteria, consider whether the proposed taking or importation will be consistent with the policies and purposes of the Act; and whether the granting of the permit is required to further a bona fide and necessary or desirable scientific purpose, taking into account the benefits anticipated to be derived from the scientific research contemplated and the effect of the proposed taking or importation on the population stock and the marine ecosystem. In determining whether to issue a public display permit, the Secretary shall, among other criteria, consider whether the proposed taking or importation will be consistent with the policies and purposes of the Act; whether the marine mammal in question is from a species listed as depleted under § 216.15 of this part; whether a substantial public benefit will be gained from the display contemplated, taking into account the manner of the display and the anticipated audience on the one hand, and the effect of the proposed taking or importation on the population stocks of the marine mammal in question and the marine ecosystem on the other; and the applicant's qualifications for the proper care and maintenance of the marine mammal or the marine mammal product, and the adequacy of his facilities.

* * * * *

PART 220—GENERAL PERMIT PROCEDURES

17. In § 220.21, paragraph (b)(1) is revised to read as follows:

§ 220.21 Issuance of permits.

* * * * *

(b) The Director shall issue the appropriate permit unless—

(1) Denial of a permit has been made pursuant to Subpart D of 15 CFR Part 904;

(2) * * *

(3) * * *

(4) * * *

(5) * * *

* * * * *

18. Section 220.22 is revised to read as follows:

§ 220.22 Duration of permit.

Permits shall entitle the person to whom issued to engage in the activity specified in the permit, within the limitations of the applicable statute and regulations contained in Parts 217–222 of this chapter for the period stated on the permit, unless sooner modified, suspended, or revoked pursuant to Subpart D of 15 CFR Part 904.

PART 222—ENDANGERED FISH OR WILDLIFE

19. Section 222.11–7 is revised to read as follows:

§ 222.11–7 Procedures for suspension, revocation, or modification of certificates of exemption.

Any violation of the applicable provisions of Parts 217–222 of this chapter, or of the Act, or of a condition of the certificate of exemption may subject the certificate holder to the following:

(a) The penalties provided in the Act; and

(b) Suspension, revocation, or modification of the certificate of exemption, as provided in Subpart D of 15 CFR Part 904.

20. In § 222.24, paragraph (c) is revised to read as follows:

§ 222.24 Procedures for issuance of permits.

* * * * *

(c) Except as provided in Subpart D of 15 CFR Part 904, as soon as practicable but not later than 30 days after the close of the hearing (or if no hearing is held, as soon as practicable after the end of the 30 days succeeding publication of the notice referred to in paragraph (a) of this section) the Director shall issue or deny issuance of the permit. Notice of the decision of the Director shall be published in the **Federal Register** within 10 days after the date of the issuance or denial and indicate where copies of the permit, if issued, may be obtained.

21. Section 222.27 is revised to read as follows:

§ 222.27 Procedures for suspension, revocation, or modification of certificates of exemption.

Any violation of the applicable provisions of Parts 217–222 of this chapter, or of the Act, or of a condition of the certificate of exemption may subject the certificate holder to the following:

(a) The penalties provided in the Act; and

(b) Suspension, revocation, or modification of the certificate of exemption, as provided in Subpart D of 15 CFR Part 904.

PART 285—ATLANTIC TUNA FISHERIES

22. In § 285.21, paragraphs (d)(1) and (j) are revised to read as follows:

§ 285.21 Vessel permits.

* * * * *

(d) *Issuance.* (1) Except as provided in Subpart D of 15 CFR Part 904, the Regional Director will issue a permit within 30 days of receipt of a completed application.

(2) * * *

* * * * *

(j) *Sanctions.* The Administrator may suspend, revoke, modify, or deny a permit issued or sought pursuant to this section. Procedures governing permit sanctions and denials are found at Subpart D of 15 CFR Part 904.

23. In § 285.22, paragraphs (c)(1) and (i) are revised to read as follows:

§ 285.22 Dealer permits.

* * * * *

(c) *Issuance.* (1) Except as provided in Subpart D of 15 CFR Part 904, the Regional Director shall issue a permit within 30 days of receipt of a completed application.

* * * * *

(i) *Sanctions.* The Administrator may suspend, revoke, modify, or deny a permit issued or sought pursuant to this section. Procedures governing permit sanctions and denials are found at Subpart D of 15 CFR Part 904.

PART 611—FOREIGN FISHING

24. In § 611.3, paragraph (g) is revised to read as follows:

§ 611.3 Permits for foreign fishing vessels.

* * * * *

(g) The Assistant Administrator may suspend, revoke, modify, or deny a permit issued under paragraph (c) of this section. Procedures governing permit sanctions and denials for reasons relating to enforcement are found at Subpart D of 15 CFR Part 904.

* * * * *

PART 621—CIVIL PROCEDURES

25. Subpart D, consisting of §§ 621.51 through 621.56, is removed and the subpart is reserved.

Subpart D—[Reserved]

§§ 621.51 through 621.56 [Removed]

PART 649—AMERICAN LOBSTER FISHERY

26. In § 649.4, paragraphs (c)(1), (e), and (j) are revised to read as follows:

§ 649.4 Vessel permits.

* * * * *

(c) *Issuance.* (1) Except as provided in Subpart D of 15 CFR Part 904, the Regional Director will issue a permit within 30 days.

(2) * * *

* * * * *

(e) *Duration.* A Federally-issued permit is valid until it expires or is revoked, suspended, or modified under Subpart D of 15 CFR Part 904.

* * * * *

(j) *Sanctions.* Subpart D of 15 CFR Part 904 governs the imposition of sanctions against a permit issued under this part. Procedures governing permit sanctions and denials are found at Subpart D of 15 CFR Part 904.

* * * * *

PART 650—ATLANTIC SEA SCALLOP FISHERY

27. In § 650.4, paragraphs (c)(1), (e), and (j) are revised to read as follows:

§ 650.4 Vessel permits.

* * * * *

(c) *Issuance.* (1) Except as provided in Subpart D of 15 CFR Part 904, upon receipt of a completed application, the Regional Director must issue a permit within 30 days.

(2) * * *

* * * * *

(e) *Duration.* A permit is valid until it expires or is revoked, suspended, or modified pursuant to Subpart D of 15 CFR Part 904.

* * * * *

(j) *Sanctions.* Procedures governing permit sanctions and denials are found at Subpart D of 15 CFR Part 904.

* * * * *

PART 651—ATLANTIC GROUNDFISH (COD, HADDOCK, AND YELLOWTAIL FLOUNDER)

28. In § 651.4, paragraphs (c)(1), (e), and (j) are revised to read as follows:

§ 651.4 Vessel permits.

* * * * *

(c) *Issuance.* (1) Except as provided in Subpart D of 15 CFR Part 904, upon receipt of a completed application, the Regional Director will issue a permit within 30 days.

(2) * * *

* * * * *

(e) *Duration.* A permit is valid until it expires or is revoked, suspended, or modified pursuant to Subpart D of 15 CFR Part 904.

* * * * *

(j) *Sanctions.* Procedures governing permit sanctions and denials are found at Subpart D of 15 CFR Part 904.

* * * * *

PART 652—ATLANTIC SURF CLAM AND OCEAN QUAHOG FISHERIES

29. In § 652.4, paragraphs (d) and (i) are revised to read as follows:

§ 652.4 Permits.

* * * * *

(d) *Issuance.* Except as provided in Subpart D of 15 CFR Part 904, the Regional Director will issue a permit to each eligible vessel for which an application is submitted. The eligibility of a vessel to fish for surf clams will be determined consistent with this section. There will be no fee for the permit.

* * * * *

(i) *Sanctions.* Procedures governing permit sanctions and denials are found at Subpart D of 15 CFR Part 904.

PART 655—ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FISHERIES

30. In § 655.4, paragraphs (e), (g), and (j) are revised to read as follows:

§ 655.4 Vessel permits and fees.

* * * * *

(e) *Issuance.* Except as provided in Subpart D of 15 CFR Part 904, upon receipt of a completed application, the Regional Director will issue a permit within 30 days.

* * * * *

(g) *Duration.* A permit is valid until it expires or is revoked, suspended, or modified pursuant to Subpart D of 15 CFR Part 904.

* * * * *

(j) *Sanctions.* Procedures governing permit sanctions and denials are found at Subpart D of 15 CFR Part 904.

PART 672—GROUNDFISH OF THE GULF OF ALASKA

31. In § 672.4, paragraphs (c)(1), (e), and (i) are revised to read as follows:

§ 672.4 Permits.

* * * * *

(c) *Issuance.* (1) Except as provided in Subpart D of 15 CFR Part 904, upon receipt of a properly completed application, the Regional Director will issue a permit.

(2) * * *

* * * * *

(e) *Duration.* A permit is valid until it expires or is revoked, suspended, or modified pursuant to Subpart D of 15 CFR Part 904.

* * * * *

(i) *Sanctions.* Procedures governing permit sanctions and denials are found at Subpart D of 15 CFR Part 904.

PART 674—HIGH SEAS SALMON FISHERY OFF ALASKA

32. In § 674.4, paragraph (b)(3)(i) is revised and new paragraph (b)(6) is added to read as follows:

§ 674.4 Permits.

* * * * *

(b) * * *

(3) *Issuance.* (i) Except as provided in Subpart D of 15 CFR Part 904, upon receipt of a properly completed application and any document required under paragraph (b)(2)(iv), the Regional Director will promptly determine whether permit eligibility conditions have been met, and if so, will issue a permit. If the permit is denied, the Regional Director will notify the applicant in accordance with paragraph (d) of this section.

(ii) * * *

* * * * *

(6) *Sanctions.* Procedures governing permit sanctions and denials are found at Subpart D of 15 CFR Part 904.

PART 675—GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS

33. In § 675.4, paragraphs (c)(1), (e), and (i) are revised to read as follows:

§ 675.4 Permits.

* * * * *

(c) *Issuance.* (1) Except as provided in Subpart D of 15 CFR Part 904, upon receipt of a properly completed application, the Regional Director will issue a permit required by paragraph (a) of this section.

(2) * * *

* * * * *

(e) *Duration.* A permit issued under this section shall authorize the permitted vessel to fish for groundfish in the Bering Sea and Aleutian Islands management area during a single specified year, and shall continue in full force and effect through December 31 of the year for which it was issued, or until it is revoked, suspended, or modified pursuant to Subpart D of 15 CFR 904.

* * * * *

(i) *Sanctions.* Procedures governing permit sanctions and denials are found at Subpart D of 15 CFR Part 904.

PART 680—WESTERN PACIFIC PRECIOUS CORALS

34. In § 680.4, paragraph (l) is revised to read as follows:

§680.4 Permits

* * * * *

(l) *Sanctions.* Procedures governing permit sanctions and denials are found at Subpart D of 15 CFR Part 904.

PART 681—WESTERN PACIFIC SPINY LOBSTER FISHERIES

35. In § 681.4, paragraph (l) is revised to read as follows:

§ 681.4 Permits

* * * * *

(l) *Sanctions.* Procedures governing permit sanctions and denials are found at Subpart D of 15 CFR Part 904.

Authority: Atlantic Tunas Convention Act of 1975, 16 U.S.C. 971–971g; Endangered Species Act of 1973, 16 U.S.C. 1531–43; Fur Seal Act of 1966, 16 U.S.C. 1158 *et seq.;* Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.;* Marine Mammal Protection Act of 1972, 16 U.S.C. 1361–1407; Marine Protection, Research and Sanctuaries Act, 16 U.S.C. 1431–34; Northern Pacific Halibut Act of 1982, 16 U.S.C. 773–773k.

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

Federal Employees Health Benefits Program; Miscellaneous Amendments

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is amending certain Federal Employees Health Benefits (FEHB) regulations to: (1) Correct several spelling, typographical and reference errors, (2) clarify several definitions, (3) delete sections which are no longer applicable, and (4) expand opportunities to enroll for certain eligible employees who lose coverage outside the FEHB Program.

EFFECTIVE DATE: February 8, 1984.

FOR FURTHER INFORMATION CONTACT: Barbara Myers (202) 632–9677.

SUPPLEMENTARY INFORMATION: On July 1, 1983, the Office of Personnel Management published proposed rules in the **Federal Register** (48 FR 30406–30407) with a request for comments from interested parties before publication as final regulations. Respondents included one Federal agency, 5 FEHB carriers, 2 associations of group practice prepayment health plans, and several individuals. All comments were considered in developing the final rule. The comments have been organized by subject area (in the order in which the regulations will appear when incorporated in the Code of Federal Regulations) and are addressed below.

Comprehensive Plan Networks (890.204)

Two commenters opposed the proposed deletion of this section and expressed the belief that it is the only clear authority for carriers to offer, and for OPM to contract with, HMO networks. They stated that the CMP network was developed on an experimental basis and has received special considerations which subsequent network proponents might not receive and that this regulation should be retained in order to assure the availability of the network contracting mechanism in the future. We maintain our position that this regulation is no longer necessary since new networks are currently contracted for under the requirements outlined in 890.201 through 890.203. These basic regulations are broad enough to apply to alternate delivery systems, such as comprehensive medical plan networks, whose fundamental benefits and rate structures are comparable to those of any other type of health benefit plan entering the FEHB program.

Opportunities to Enroll and Change Enrollment (890.301)

Paragraph (g) would be amended to allow any employee who loses coverage under any federally-sponsored health benefits program or under the Retired Federal Employees Health Benefits program to register to be enrolled within 31 days after termination of coverage for a reason other than death or within 60 days after termination of coverage because of death of the enrollee. One carrier suggested that the time limit for survivors enrolling as a result of an enrollee's death be limited to 31 days instead of 60 days. In recognition of the fact that the death of a family member is a stressful situation and generally requires settlement of numerous personal and financial matters, OPM has traditionally allowed an employee 60 days after the death of the enrollee to enroll and we do not believe that this time period should be shortened.

Paragraph (x) would permit certain changes in enrollment when an employee is required to relocate outside the commuting area. The employee would be permitted to enroll when he/she loses coverage under a spouse's non-Federal enrollment or change to self and family coverage when the spouse loses coverage under a non-Federal enrollment.

One carrier suggested permitting a change in plan in addition to a change from self only to self and family. Current regulations already assure a continuation of coverage by providing that an employee enrolled in a comprehensive plan may change plans upon relocation. Since an employee who is enrolled in a government-wide or employee organization plan would not suffer any loss of benefits upon relocation, we believe that this additional change is unnecessary.

Several commenters suggested expanding the provisions of this regulation to allow a Federal employee who is covered under a spouse's non-Federal enrollment to enroll or change enrollment whenever the spouse loses coverage. Such a large-scale expansion would be unacceptable for a number of reasons. However, in view of the Administration's efforts to alleviate the effects of unemployment, and to enable the Federal employee to maintain continuous health benefits coverage, we have added a new paragraph (y) which would allow the employee to enroll or change enrollment when coverage under the spouse's non-Federal plan is lost as a direct result of the spouse involuntarily separated from his/her employment because of a lay-off. Further information on this new provision will be issued through future FPM instructions.

Effective Dates (890.306)

Paragraph (d) would be revised to eliminate the requirement that the enrollee return to pay or annuity status before an enrollment change due to the birth or addition of a child can become effective.

Several carriers oppose this and suggest that OPM prohibit changes until the employee returns to pay status. They are concerned that although they will be required to provide coverage for the additional family member while the employee is in nonpay status, they will not be receiving premiums from the employee during this time period. Under current regulations, an employee is responsible for his/her share of the cost of enrollment for every pay period during which the enrollment continues. If this is not paid while the employee is in nonpay status, the indebtedness would be withheld from the employee's salary upon return to pay status. If the employee fails to return, it may be recovered from other sources normally available to the employing office for recovery of indebtedness due the United States. Consequently, carriers will receive premiums from employees for

these periods. In some cases, it is true that premiums will be delayed, but we do not believe that this change will have a significant effect on the carriers.

Withholdings and Contributions (890.502)

Paragraph (b) would be amended to provide that withholdings are not required for the period between the end of the pay period in which an individual separates from service and the commencing date of any annuity payments, if later. One carrier is opposed to this provision and suggests that separated employees be required to make contributions for this interim period. Another suggests the "reloading of rates" to compensate for the loss of income. Current regulations already permit a 31 day extension of coverage without cost upon termination of enrollment. Since the period between voluntary retirement and the commencing date of annuity would never exceed 30 days, and most employees now retire close to the end of the month, the cost to the carriers should be negligible. Furthermore, since the individual is neither an employee nor an annuitant during this time period, it is not practical to require agency or OPM contributions. Since no pay or annuity is received by the individual for this time, it would not be equitable to require contributions when none are required from the agency or OPM.

In consideration of the concerns of one commenter, we are changing the wording of this regulation from "commencement of an immediate annuity" to "commencing date of an immediate annuity". This should clarify that premiums will be due from the effective date of the annuity, and not from the date the annuity is paid.

Two additional editorial revisions will be made to correct minor technical errors in § 890.101(a)(11)(b) and § 890.301(c).

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they primarily affect Federal employees and annuitants.

List of Subjects in 5 CFR Part 890

Administrative practice and procedure, Claims, Government employees, Health Insurance, Retirement.

Office of Personnel Management.

Donald J. Devine,

Director.

Accordingly, OPM is amending Part 890 of Title 5 of Code of Federal Regulations as follows:

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

1. In § 890.101, paragraphs (a)(10) and (b) are revised to read as follows:

§ 890.101 Definitions; time computations.

(a) * * *

(10) "Register" means to file with the employing office a properly completed health benefits registration form, either electing to be enrolled in a health benefits plan or electing not to be enrolled. "Register to be enrolled" means to register an election to be enrolled. "Enrolled" means a valid registration form has been accepted by the employing office and the enrollment in a health benefits plan approved by OPM under this part has not been terminated or cancelled.

* * * * *

(b) Whenever, in this part, a period of time is stated as a number of days or a number of days from an event, the period is computed in calendar days, excluding the day of the event. Whenever, in this part, a period of time is defined by beginning and ending dates, the period includes the beginning and ending dates.

* * * * *

§ 890.204 [Removed]

§ 890.205 [Redesignated as § 890.204]

2. Section 890.204 is removed and 890.205 is redesignated as 890.204.

3. Section 890.301 is amended by revising paragraphs (c), (g)(1), (i) and (l), and new paragraphs (x) and (y) are added to read as follows:

§ 890.301 Opportunities to register to enroll and change enrollment.

* * * * *

(c) *Reregistration.* An employee whose enrollment was terminated under § 890.304(a)(4), or because he/she had a break in service of more than 3 days, shall register within 31 days after his/her return to pay status.

* * * * *

(g) *Loss of coverage under Federal programs.* (1) An employee who is not enrolled, but is covered by another federally-sponsored health benefits program or by an enrollment under Part 891 of this chapter, and whose coverage or enrollment terminates under the other federally-sponsored program or Part 891, may register to be enrolled:

(i) Within 31 days after termination of coverage for a reason other than death; or

(ii) Within 60 days after termination of coverage because of death of the enrollee.

* * * * *

(i) *Termination by employee organization plan.* An employee or annuitant who is enrolled in a health benefits plan sponsored or underwritten by an employee organization and whose membership in the employee organization is terminated, may register, if the plan terminates his/her enrollment, within 31 days after termination of his/her enrollment in the employee organization plan, to be enrolled in another health benefits plan. However, the employee or annuitant may not change his/her enrollment from self alone to self and family.

* * * * *

(l) *Loss of coverage under parent's non-Federal plan.* An employee who is not registered to be enrolled may register to be enrolled within 31 days after he/she loses coverage under his/her parent's non-Federal health plan for a reason other than death and within 60 days after loss of coverage because of the parent's death.

* * * * *

(x) *Directed reassignment from commuting area.* (1) An employee whose reassignment is directed out of the commuting area and who loses coverage under a spouse's non-Federal enrollment because the non-federally employed spouse terminates his/her employment to accompany the Federal employee, may register to enroll within the period beginning 31 days before the date he/she leaves employment in the old commuting area and ending 31 days after entry on duty at the place of employment in the new commuting area.

(2) An employee whose reassignment is directed out of the commuting area and whose spouse loses non-Federal coverage when he/she terminates non-Federal employment to accompany the Federal employee, may change enrollment from self only to self and family within the period beginning 31 days before the date he/she leaves employment in the old commuting area and ending 31 days after entry on duty at the place of employment in the new commuting area.

(y) *Loss of coverage under spouse's non-Federal plan.* (1) An employee who loses coverage under a spouse's non-Federal enrollment because the non-federally employed spouse was involuntarily separated from his/her employment because of a lay-off, may

register to enroll within the period beginning 31 days before and ending 31 days after the spouse's employment terminates.

(2) An employee whose spouse loses non-Federal coverage because the non-federally employed spouse was involuntarily separated from his/her employment because of a lay-off, may change enrollment from self only to self and family within the period beginning 31 days before and ending 31 days after the spouse's employment terminates.

4. In § 890.302, paragraph (g) is revised to read as follows:

§ 890.302 Coverage of family members.

* * * * * *

(g) *Meaning of unmarried.* A child who has never married or whose marriage has been annulled, or a child who is divorced or widowed is considered to be unmarried.

5. In § 890.306, paragraph (d) is revised to read as follows:

§ 890.306 Effective dates.

* * * * * *

(d) *Birth or addition of a child.* The effective date of a change in enrollment under § 890.301(e) made in conjunction with the birth of a child, or the addition of a child as a new family member in some other manner, is the first day of the pay period in which the child is born or becomes an eligible family member.

* * * * * *

6. In § 890.502, paragraph (b) is revised to read as follows:

§ 890.502 Employee withholdings and contributions.

* * * * * *

(b)(1) Except as provided in paragraph (b)(2) of this section, an employee or annuitant is responsible for payment of the employee share of the cost of enrollment for every pay period during which the enrollment continues. In each pay period for which health benefits withholdings are not made but during which the enrollment of an employee or annuitant continues, he/she will incur an indebtedness due the United States in the amount of the proper employee withholdings required for that pay period.

(2) Withholdings are not required for the period between the end of the pay period in which an individual separates from service and the commencing date of an immediate annuity, if later.

(3) The employing office shall establish a method for accepting direct payment for the indebtedness from the individual before initiation of a recovery action. An individual who incurs an indebtedness under this paragraph is deemed to consent to have the full amount of the indebtedness withheld from future salary, or from any other monies owed to the employee by the Federal Government, as an indebtedness due the United States. If the indebtedness cannot be withheld in full from salary, it may be recovered from other sources normally available to the employing office for the recovery of an indebtedness due the United States.

* * * * * *

(5 U.S.C. 8913)

[FR Doc. 84-479 Filed 1-6-84; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document revises the delegations of authority from the Secretary of Agriculture and general officers of the Department to reflect the assignment of authority to the Animal and Plant Health Inspection Service (APHIS) to conduct such diagnostic and related activities at the Plum Island Animal Disease Center (PIADC), Orient Point, New York, as may be proper to prevent, detect, control or eradicate any contagious, infectious or communicable disease of animals or live poultry not known to exist in the United States. Such diagnostic and related activities had previously been conducted at PIADC by the Agricultural Research Service (ARS). In addition, the authority for APHIS to administer the Anti-Hog-Cholera Serum and Hog-Cholera Virus Act of August 24, 1935 (7 U.S.C. 851–855) is removed since there is no further activity required under that Act.

EFFECTIVE DATE: January 9, 1984.

FOR FURTHER INFORMATION CONTACT: John C. Frey, Classification, Employment and Executive Resources Program, Human Resources Division, Animal and Plant Health Inspection Service, 6505 Belcrest Road, Hyattsville, MD 20782; (301–436–8466).

SUPPLEMENTARY INFORMATION: The Plum Island Animal Disease Center (PIADC) is a diagnostic and research facility devoted to preventing diseases of animals from endangering the livestock population of the United States. It is responsible for: (1) Developing diagnostic capabilities for animal diseases that are foreign to the United States; (2) Conducting a wide range of research endeavors on the causitive agents of these diseases; and (3) Developing procedures for the safe importation of animals and animal products.

The primary mission of ARS is to conduct problem-oriented research. The facilities of the PIADC are designed to work with exotic animal diseases, some of which can only be worked with on Plum Island because of legal limitations. For these reasons, the responsibility for diagnoses of foreign animal diseases was assigned to ARS in 1957 when the facility at Plum Island began operations.

This primary role in research has been compromised at times by demands of the needs for diagnostic services and training responsibilities. This has created an increased burden in recent years, due to a stronger emphasis on import demands for animal products and livestock. It has been determined that the assignment of the diagnostic services and related activities to APHIS at the PIADC could alleviate some administrative problems and provide working assignments more appropriate to the missions of the two agencies. The functions involved include diagnosis of foreign animal diseases, preparation of diagnostic reagents, diagnostic methods evaluation or adaptation, training of foreign animal disease diagnosticians, vaccine production and storage, and epizootiology and/or epidemiology testing.

Accordingly, the delegations of authority by the Secretary and general officers of the Department are being amended to delegate to the Assistant Secretary for Marketing and Inspection Services, and the Administrator, APHIS, the responsibility for diagnostic and related activities at PIADC. The Department believes that this delegation conforms to the mission of APHIS and that it will enable the agency to serve the public more efficiently.

In addition, the delegations to the Assistant Secretary for Marketing and Inspection Services and the Administrator, APHIS, to administer the Anti-Hog-Cholera Serum and the Hog-Cholera Virus Act of August 24, 1935 (7 U.S.C. 851–855) are removed since the production and sale of Anti-Hog-Cholera Serum and Hog-Cholera Virus in the United States is prohibited.

This rule relates to internal agency management and, therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after

publication in the **Federal Register**. Further, since rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Finally, this subject is not a rule as defined by Pub. L. 96–354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

PART 2—[AMENDED]

Accordingly, 7 CFR Part 2 is amended as follows:

1. The authority citation for Part 2 reads as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, unless otherwise noted.

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, the Under Secretary for Small Community and Rural Development, and Assistant Secretaries

2. Section 2.17 is amended by revising paragraph (b)(27) to read as follows:

§ 2.17 Delegations of authority to the Assistant Secretary for Marketing and Inspection Services.

* * * * *

(b) * * *

(27) Conduct diagnostic and related activities necessary to prevent, detect, control or eradicate foot-and-mouth disease and other foreign animal diseases (21 U.S.C. 113a).

* * * * *

Subpart F—Delegations of Authority by the Assistant Secretary for Marketing and Inspection Services

3. Section 2.51 is amended by revising paragraph (a)(27) to read as follows:

§ 2.51 Administrator, Animal and Plant Health Inspection Service.

(a) * * *

(27) Conduct diagnostic and related activities necessary to prevent, detect, control or eradicate foot-and-mouth disease and other foreign animal diseases (21 U.S.C. 113a).

* * * * *

Dated: December 30, 1983.

For Subpart C.

John R. Block,

Secretary of Agriculture.

Dated: December 19, 1983.

For Subpart F.

C. W. McMillan,

Assistant Secretary for Marketing and Inspection Services.

[FR Doc. 84–412 Filed 01–06–84; 8:45 am]

BILLING CODE 3410–01–M

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Regulation 586, Amdt. 2]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period December 30, 1983 through January 5, 1984. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

DATES: The amendment is effective for the period December 30, 1983 through January 5, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This amendment is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1983–84. The committee met by telephone on December 30, 1983, to consider the current and prospective conditions of supply and demand and recommended an increase in the quantity of oranges deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is very good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of navel oranges. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provision and the effective time.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (Navel).

PART 907—[AMENDED]

1. Section 907.886 (48 FR 57260, 49 FR 848) paragraphs (a) through (d) are hereby revised to read as follows:

§ 907.886 Navel Orange Regulation 586.

(a) District 1: 1,200,000 cartons;

(b) District 2: Unlimited cartons;

(c) District 3: Unlimited cartons;

(d) District 4: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 4, 1984.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84–477 Filed 1–6–84; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 915

Avocados Grown in South Florida; Container Regulation Amendment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule slightly modifies the dimensions of a currently authorized container used solely for export shipments of avocados and

slightly reduces the minimum net weight of avocados which must be packed in each such container. Such action is designed to assure that export shipments of avocados are in containers suitable for that purpose.

DATES: Effective date: January 9, 1984. Comments due: February 8, 1984.

ADDRESS: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This interim rule is issued under the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in South Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Avocado Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This interim rule modifies the inside dimensions of the only container currently authorized solely for export shipments of avocados from 14$^{5}/_{16}$ × 11$^{3}/_{16}$ × 4$^{3}/_{16}$ inches to 14½ × 11$^{1}/_{16}$ × 3$^{5}/_{16}$ inches. It also reduces the minimum net weight of avocados which must be packed in this container from 8.8 pounds to 8.5 pounds. This rule would continue to require that avocados packed in such container shall be placed in a single layer. Container dimensions, minimum net weight of avocados in containers, and pack specifications are designed to insure that avocados are not damaged during transit by reducing the amount of loose space. Thus, these particular requirements are necessary to protect the quality of shipments of avocados to export markets and thereby expand demand for avocados in such markets.

It is found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date of this interim rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because of insufficient time between the date when information became available upon which this rule is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on this rule at an open meeting. Handlers have been apprised of this rule's provisions and the effective time. The 1983–84 Florida avocado shipping season is currently in progress, and handlers need to make use of this rule's provisions as soon as possible. This rule slightly modifies container specifications to assure that export shipments of avocados are in containers suitable for that purpose, and it provides 30-day comment period. A longer comment period would be contrary to the public interest, as any comments on the effect of the rule need be received within 30 days, so that any necessary changes can be made promptly to enhance orderly marketing of Florida avocados. All comments received will be considered prior to finalization of this interim rule.

List of Subjects in 7 CFR Part 915

Marketing agreements and orders, Avocados, Florida.

Therefore, § 915.305 is amended by revising the introductory text in paragraph (a), and paragraphs (a)(2) and (a)(14), to read as follows:

§ 915.305 Florida Avocado Container Regulation.

(a) On and after January 9, 1984, no handler shall handle any avocados for the fresh market from the production area to any point outside thereof in containers having a capacity of more than 4 pounds of avocados unless the containers meet the requirements specified in this section: *Provided,* That the containers authorized in this section shall not be used for handling avocados for commercial processing into products pursuant to § 915.55(c).

* * * * *

(2) Containers with inside dimensions of 14½ × 11$^{1}/_{16}$ × 3$^{5}/_{16}$ inches: *Provided,* That such containers shall only be used for export shipments.

* * * * *

(14) With respect to the containers prescribed in paragraph (a)(2) of this section, all avocados packed in such containers shall be placed in one layer only and the net weight of all avocados in any such container shall not be less than 8.5 pounds: *Provided,* That not to exceed 5 percent, by count, of such containers in any lot may fail to meet such weight requirement.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 3, 1984.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84-478 Filed 1-6-84; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83–CE–79–AD; Amt. 39–4793]

Airworthiness Directives; DeHavilland DHC–6 Models 1, 100, 200 and 300 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to DeHavilland DHC–6 Models 1, 100, 200 and 300 airplanes, which requires inspection and replacement, if necessary, of the stabilizer to tailplane attachment brackets. Stress corrosion cracks have been found in these brackets which can develop and cause failure of the bracket and loss of the horizontal stabilzer. The required action will result in detection and replacement of cracked brackets before such a failure occurs.

DATES: Effective Date: January 13, 1984. Compliance: As prescribed in the body of the AD.

ADDRESS: DeHavilland Service Bulletin (SB) No. 6/438 dated August 12, 1983, applicable to this AD, may be obtained from DeHavilland Aircraft of Canada, Ltd., Downsview, Ontario, Canada MY31YK. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Vahan Barsamian, FAA, New York Aircraft Certification Office, ANE–172, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581, telephone (516) 791–6220.

SUPPLEMENTARY INFORMATION: There have been two instances of cracked rear attachment brackets on the DeHavilland DHC–6 tailplane rear spar. The cracks are attributed to stress corrosion initiated by an interference fit between the bracket and bushing. These cracks, if allowed to progress, will result in failure of the bracket and loss of the

horizontal stabilizer. As a result, DeHavilland has issued SB No. 6/438, which prescribes intitial and repetitive inspections of the presently installed brackets and replacement of cracked brackets. This bulletin also introduces Modifications 6/1808 and 6/1809 incorporating new brackets which, when installed, allow extension of the repetitive inspection intervals. The Department of Transport, who has responsibility and authority to maintain the continuing airworthiness of these airplanes in Canada, has issued Airworthiness Directive No. CF–83–21 dated August 29, 1983, making compliance with portions of DeHavilland SB No. 6/438 dated August 12, 1983, mandatory on airplanes operated in Canada. The FAA relies upon the certification of the Department of Transport combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA has examined the avilable information related to the issuance of Transport Canada AD No. CF–83–21 dated August 29, 1983. Based on the foregoing, the FAA has determined that the condition addressed by SB No. 6/438 is an unsafe condition that may exist on other products of the same type design certificated for operation in the United States.

Therefore, an AD is being issued requiring inspection and replacement of cracked tailplane attachment brackets on DeHavilland DHC–6 airplanes. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Regulations (14 CFR 39.13) is amended by adding the following new AD.

DeHavilland: Applies to Model DHC–6 airplanes certificated in any category.

Compliance: Required as indicated, unless already accomplished.

To prevent failure of tailplane front and rear attachment brackets, accomplish the following:

(a) Within 50 hours time-in-service after the effective date of this AD, unless previously accomplished within the last 750 hours time-in-service or 7½ months, whichever occurs later, and each 800 hours time-in-service or 8 months thereafter, whichever occurs first:

(1) Inspect the left and right side tailplane front (Part No. C6TPM1012–27) and rear (Part No. C6TPM1013–27) attachment brackets in accordance with the ACCOMPLISHMENT INSTRUCTIONS of DeHavilland SB 6/438 dated August 12, 1983.

(b) If cracks are found during the inspection per paragraph a):

(1) Replace brackets having a crack or cracks of combined length greater than 1 inch prior to further flight with a new bracket of the same part number or a comparable bracket from DeHavilland Modification No. 6/1808 or 6/1809.

(2) Replace brackets having a crack or cracks of combined length of 1 inch or less within 100 hours time-in-service, subject to findings of subparagraph (A) below, with a new bracket of the same part number or a comparable bracket from DeHavilland Modification No. 6/1808 or 6/1809.

(A) Within 50 hours time-in-service or 13 days, whichever occurs first, after a crack or cracks are found, reinspect the brackets in accordance with paragraph (a) of this AD and replace brackets having cracks of a combined length greater than 1 inch with a new bracket of the same part number or a comparable bracket from DeHavilland Modification No. 6/1808 or 6/1809 prior to further flight.

(c) Within 2400 hours time-in-service and each 2400 hours time-in-service thereafter, insect replacement brackets of Modification No. 6/1808 or 6/1809 in accordance with ACCOMPLISHMENT INSTRUCTIONS of DeHavilland SB 6/438 dated August 12, 1983, and replace cracked brackets in accordance with the criteria contained in paragraphs (a) and (b) above.

(d) Aircraft may be flown in accordance with Federal Aviation Regulation 21.197 to a location where this AD may be accomplished.

(e) Alternate means of compliance may be used if approved by the Manager, New York Aircraft Certification Office, Federal Aviation Administration, ANE–170, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581.

This amendment becomes effective on January 13, 1984.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449 January 12, 1983); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89)).

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption **ADDRESSES** at the location identified.

Issued in Kansas City, Missouri, on December 29, 1983.

Murray E. Smith,

Director, Central Region.

[FR Doc. 84–455 Filed 1–6–84; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 83–ASO–35]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Designation of Transition Area, Okolona, Mississippi

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates the Okolona, Mississippi, transition area in the vicinity of Okolona Municipal-Richard Stovall Field. This action, which will lower the base of controlled airspace from 1,200 to 700 feet above the surface, will provide controlled airspace for Instrument Flight Rule (IFR) operations in the vicinity of the airport. An instrument approach procedure, predicated on the Tupelo VOR/DME facility, had been developed to serve the airport and additional controlled airspace is required for protection of IFR operations.

EFFECTIVE DATE: 0901 G.m.t., March 15, 1984.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION:

History

On Friday, October 21, 1983, FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by designating a 700-foot transition area in the vicinity of Okolona, Mississippi. This transition area will provide controlled airspace for protection of instrument flight operations in the vicinity of Okolona Municipal-Richard Stovall Field (48 FR 48831). The operating status of the airport is changed to IFR. Interested parties were invited to participate in this rulemaking proceeding by submitting

written comments on the proposal to the FAA. All comments received were favorable. This amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3A dated January 3, 1983.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations designates the Okolona, Mississippi, transition area and lowers the base of controlled airspace in the vicinity of Okolona Municipal-Richard Stovall Field from 1,200 to 700 feet above the surface.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 G.m.t. March 15, 1984, by adding the following:

Okolona, MS—[New]

That airspace extending upwards from 700 feet above the surface within a 6.5-mile radius of Okolona Municipal-Richard Stovall Field (Lat. 34°00'57" N., Long. 88°43'34" W.); excluding that portion that coincides with the Tupelo, MS, transition area.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983.))

Note.—The FAA determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefor, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034: February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on December 30, 1984.

George R. LaCaille,

Acting Director, Southern Region

[FR Doc. 84-456 Filed 1-6-84; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 83-ASO-40]

Alteration of Transition Area, Andrews, South Carolina

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the Andrews, South Carolina, transition area by revising the geographical coordinates of Andrews Municipal Airport and the Punch radio beacon. The coordinates are improperly listed in the description and this amendment will correct the deficiencies so that the description is technically correct. In addition, the transition area arrival extension will be realigned two degrees to coincide with the instrument approach procedure serving the airport. No significant change in airspace is intended by these actions.

DATES: Effective Date: 0901 G.m.t. March 15, 1984. Comments must be received on or before February 10, 1984.

ADDRESSES: Send comments on the rule in triplicate to: Federal Aviation Administration, ATTN: Manager, Airspace and Procedures Branch, ASO–530, Air Traffic Division, P. O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763–7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves technical corrections to the description of the transition area, and was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to revise the coordinates of the Andrews Municipal Airport and Punch radio beacon and realign a transition area final approach course. The coordinates and final approach course specified in the present description are not correct and this action will correct the deficiencies. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3A dated January 3, 1983. Under the circumstances presented, the FAA concludes that there is a need to list the proper coordinates of the airport and radio beacon as well as the final approach course so that the description of the transition area is technically correct. The changes are so minor and nonsubstantive I find that notice or public procedure under 5 U.S.C. 553(b) is unnecessary.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Andrews, South Carolina, transition area under § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 G.m.t. March 15, 1984, as follows:

Andrews, South Carolina (Revised)

That airspace extending upward from 700 feet above the surface with a 6.5-mile radius of Andrews Municipal Airport (Lat. 33°27'05" N., Long. 79°31'36" W.); within 3 miles each side of the 169° bearing from Punch RBN (Lat. 33°27'06" N., Long. 79°31'39" W.), extending from the 6.5-mile radius area to 8.5 miles south of the RBN.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97–49, January 12, 1983))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine

matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on December 28, 1983.

George R. LaCaille,

Acting Director, Southern Region

[FR Doc. 84-456 Filed 1-6-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 23881; Amdt. No. 1259]

Standard Instrument Approach, Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFO-230), Air Transportation Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Aviation Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By Amending § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN SIAPs identified as follows:

** * * Effective March 1, 1984*

Burlington, WI—Burlington Muni, VOR RWY 29, Amdt. 4

** * * Effective February 16, 1984*

El Dorado, AR—Goodwin Field, VOR RWY 22, Amdt. 11
El Dorado, AR—Goodwin Field, VOR/DME RWY 4, Amt. 7
Chicago (West Chicago), IL—DuPage, VOR RWY 10, Amdt. 9
Pittsburg, KS—Atkinson Muni, VOR/DME RWY 3, Orig.
Wichita, KS—Beech Factory, VOR-B, Amdt. 1
Tupelo, MS—C.D. Lemons Muni, VOR RWY 4, Amdt. 7
Boonville, MO—Jesse Viertel Memorial, VOR-A, Amdt. 1
Hobbs, NM—Lea County (Hobbs), VOR or TACAN RWY 3, Amdt. 19
Hobbs, NM—Lea County (Hobbs), VOR/DME or TACAN RWY 21, Amdt. 6
Charleston, SC—Charleston Executive, VOR-A, Amdt. 6
Abilene, TX—Abilene Municipal, VOR-A, Amdt. 7

Abilene, TX—Abilene Municipal, VOR RWY 22, Amdt. 2
Dumas, TX—Dumas Muni, VOR/DME–A, Amdt. 3
Follett, TX—Follett/Lipscomb County, VOR/DME–A, Amdt. 1
Houston, TX—William P. Hobby, VOR/DME RWY 22, Amdt. 21
Saint George, UT—Saint George Muni, VOR–B, Amdt. 1
Saint George, UT—Saint George Muni, VOR–C, Amdt. 1
Saint George, UT—Saint George Muni, VOR/DME RWY 34, Amdt. 1

* * * *Effective December 23, 1983*

Goodland, KS—Renner Fld (Goodland Muni), VOR RWY 30, Amdt. 6
Goodland, KS—Renner Fld (Goodland Muni), VOR/DME RWY 30, Amdt. 4

2. By amending § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, and SDF/DME SIAPs identified as follows:

* * * *Effective February 16, 1984*

El Dorado, AR—Goodwin Field, LOC RWY 22, Amdt. 2
Springfield, MO—Springfield Regional, LOC BC RWY 19, Amdt. 14, Cancelled
Hobbs, NM—Lea County (Hobbs), LOC/DME BC RWY 21, Amdt. 4
Abilene, TX—Abilene Municipal, LOC BC RWY 17L, Amdt. 1
Houston, TX—Houston-Southwest, LOC/DME RWY 10, Amdt. 2

* * * *Effective January 19, 1984*

Denver, CO—Stapleton Intl, LDA/DME RWY 35R, Orig.
Elmira, NY—Elmira/Corning Regional, LOC BC RWY 6, Amdt. 1, Cancelled

3. By amending § 97.27 NDB and NDB/DME SIAPs identified as follows:

* * * *Effective February 16, 1984*

Arkadelphia, AR—Arkadelphia Muni, NDB RWY 4, Amdt. 5
Columbia, CA—Columbia Airport, NDB–A, Orig.
Greeley, CO—Weld County Muni, NDB RWY 9, Orig.
Lakeland, FL—Lakeland Muni, NDB RWY 5, Orig.
Flora, IL—Flora muni, NDB RWY 21, Amdt. 2
Iowa Falls, IA—Iowa falls Muni, NDB RWY 31, Amdt. 2
Sheldon, IA—Sheldon Muni, NDB RWY 33, Amdt. 4
South St. Paul, MN—South St. Paul Muni—Richard E. Fleming Fld, NDB–B, Amdt. 1
Boonville, MO—Jesse Viertel Memorial, NDB RWY 18, Amdt. 5
Andrews, SC—Andrews Muni, NDB RWY 36, Amdt. 2
Georgetown, SC—Georgetown County, NDB RWY 5, Amdt. 2
Abilene, TX—Abilene Muni, NDB RWY 35R, Amdt. 3
Dumas, TX—Dumas Muni, NDB RWY 1, Amdt. 1
Follett, TX—Follett/Lipscomb County, NDB RWY 35, Amdt. 1
Houston, TX—Houston-Southwest, NDB RWY 10, Amdt. 3
Houston, TX—Houston-Southwest, NDB RWY 28, Amdt. 2
Lamesa, TX—Lamesa Muni, NDB RWY 16, Orig.
Lamesa, TX—Lamesa Muni, NDB RWY 34, Amdt. 1

* * * *Effective December 23, 1983*

Goodland, KS—Renner Fld (Goodland Muni), NDB RWY 30, Amdt. 5

4. By amending § 97.29 ILS ILS/DME, ISMLS, MLS, MLS/DME and MLS/RNAV SIAPs identified as follows:

* * * *Effective February 16, 1984*

Denver, CO—Stapleton Intl, ILS RWY 35L, Amdt. 25
Greeley, CO—Weld County Muni, ILS RWY 9, Amdt. 1
Atlanta, GA—The William B. Hartsfield Atlanta Intl, ILS RWY 27L, Amdt. 10
Savannah, GA—Savannah International, ILS RWY 36, Amdt. 1
Chicago (West Chicago), IL—DuPage, ILS RWY 10, Amdt. 5
Tupelo, MS—C. D. Lemons Muni, ILS RWY 36, Amdt. 1
Hobbs, NM—Lea County (Hobbs), ILS RWY 3, Amdt. 4
Abilene, TX—Abilene Muni, ILS RWY 35R, Amdt. 2

* * * *Effective January 19, 1984*

Elmira, NY—Elmira/Corning Regional, ILS RWY 6, Orig.
Pittsburgh, PA—Allegheny County, ILS RWY 28, Amdt. 26

* * * *Effective December 23, 1983*

Goodland, KS—Renner Fld (Goodland Muni), ILS RWY 30, Amdt. 1

5. By amending § 97.31 RADAR SIAPs identified as follows:

* * * *Effective February 16, 1984*

Orlando, FL—Orlando Executive, RADAR–1, Amdt. 20
Tampa, FL—Tampa Intl, RADAR–1, Amdt. 10
Louisville, KY—Standiford Field, RADAR–1, Amdt. 22
White Plains, NY—Westchester County, RADAR–1, Amdt. 3, Cancelled
Charleston, SC—Charleston AFB/Intl, RADAR–2, Amdt. 13
Abilene, TX—Abilene Muni, RADAR–1, Amdt. 6

6. By amending § 97.33 RNAV SIAPs identified as follows:

* * * *Effective February 16, 1984*

Peoria, IL—Greater Peoria, RNAV RWY 22, Amdt. 6
Dumas, TX—Dumas Muni, RNAV RWY 19, Amdt. 1
Houston, TX—Houston-Southwest, RNAV RWY 28, Amdt. 1
Houston, TX—Houston-Southwest, RNAV RWY 10, Amdt. 1

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

Issued in Washington, D.C. on January 6, 1984.

Kenneth S. Hunt,

Director of Flight Operations.

[FR Doc. 84–459 Filed 1–6–84; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 876

[Docket No. 78N–1945]

Gastroenterology-Urology Devices; General Provisions and Classification of 56 Devices

Correction

In FR Doc. 83–31320 beginning on page 53012 of the issue of Wednesday, November 23, 1983, make the following corrections:

1. On page 53014, the first entry at the top of the second column, under "Section and device", the section number now reading "876.5230" should be "876.5320".

2. On page 53022, the sixth line from the bottom of the first column, "devices" should be inserted between "medical" and "whether".

3. On page 53023, the eleventh line from the top of the first column, the figure "360" should be "360c".

BILLING CODE 1505–01–M

21 CFR Part 890

[Docket No. 78N–1182]

Physical Medicine Devices; General Provisions and Classification of 82 Devices

Correction

In FR Doc. 83–31321, beginning on page 53032 of the issue of Wednesday,

November 23, 1983, make the following corrections:

1. On page 53033, thirteenth line from the bottom of the first column, "360(f)(2)" should be "360j(f)(2)".

2. On the same page, third column, in the table, under Respiratory and Nervous System Devices Panel, Anesthesiology Device Section "44 FR 63292–633426" should have read "44 FR 63292–63426".

3. On page 53034, the heading to the table at the top of the second column should read "Subpart D—Physical Medicine Prosthetic Devices—Continued".

4. On page 53036, first column, the second line of the paragraph following paragraph 5., the figure "50472" should be "50474".

5. On page 53037, second column, second line of paragraph 7., figure "119" should be "1196".

BILLING CODE 1505-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

706 Agencies; Employment Discrimination Charges

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule; amendment.

SUMMARY: The Equal Employment Opportunity Commission amends its regulations designating certain State and local fair employment practices agencies (706 Agencies) so that they may handle employment discrimination charges. Publication of this amendment rescinds the designation of the Wichita (KS) Commission on Civil Rights as a 706 Agency.

EFFECTIVE DATE: January 9, 1984.

FOR FURTHER INFORMATION CONTACT: Hollis Larkins, Equal Employment Opportunity Commission, Office of Program Operations, Special Services Staff, 2401 E Street NW., Washington, D.C. 20507, telephone 202/634–6526.

SUPPLEMENTARY INFORMATION: The EEOC was notified that the ordinance establishing the Wichita Commission on Civil Rights was amended, abolishing the Wichita Commission on Civil Rights. Consequently, the Director, Office of Program Operations, believed that the Wichita Commission on Civil Rights should not be considered a 706 Agency. In accordance with 29 CFR 1601.71(c) the Director, Office of Program Operations, has given the Wichita City Attorney 15 days in which to respond to the preliminary findings. Accordingly, the Director hereby makes a final determination that the Wichita Commission on Civil Rights should no longer be considered a 706 Agency.

Publication of this amendment to § 1601.74 rescinds the designation of the following agency as a designated 706 Agency: Wichita (KS) Commission on Civil Rights.

List of Subjects in 29 CFR Part 1601

Administrative practice and procedure, Equal employment opportunity, Intergovernmental relations.

PART 1601—[AMENDED]

§ 1601.74 [Amended]

Accordingly, 29 CFR Part 1601 is amended in § 1601.74(a) by removing the entry for the Wichita (KS) Commission on Civil Rights.

Signed at Washington, D.C. this 30th day of December, 1983.

For the Commission.

Odessa Shannon,

Director, Office of Program Operations.

[FR Doc. 84-480 Filed 1-6-84; 8:45 am]

BILLING CODE 6570-06-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2619

Valuation of Plan Benefits in Non-Multiemployer Plans

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This rule amends the Pension Benefit Guaranty Corporation's regulation on Valuation of Plan Benefits in Non-Multiemployer Plans, Part 2619, by adding a new table, Table I–84, to Appendix D. Table I–84 is to be used for plans covered under Title IV of the Employee Retirement Income Security Act of 1974, *as amended*, that terminate in 1984. The table is needed to determine an expected retirement age for certain plan participants in terminating pension plans that provide for an early retirement benefit. The expected retirement age is needed to calculate the value of the early retirement benefit and, thus, the total value of benefits under the plan.

EFFECTIVE DATE: January 1, 1984.

FOR FURTHER INFORMATION CONTACT: Renae R. Hubbard, Special Counsel., Legal Department, Code 250, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006, 202–254–6476 (not a toll-free number).

SUPPLEMENTARY INFORMATION: On January 28, 1981, the Pension Benefit Guaranty Corporation ("PBGC") published a final and interim rule on Valuation of Plan Benefits in Non-Multiemployer Plans, 29 CFR Part 2610 (46 FR 9492). Under Title IV of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001 *et seq.*, as amended, covered pension plans that terminate must determine the total value of benefits under the plan in order to determine if plan assets are sufficient to provide for those benefits. If plan assets are not sufficient to provide for all benefits guaranteed by PBGC, the employer is liable for the insufficiency up to a limit of 30% of the employer's "net worth" within the meaning of 29 U.S.C. 1362. The interim portion of the benefit valuation regulation, Subpart D and Appendices D and E, provided methods for determining an expected retirement age to be used with the rules in Subparts B and C of Part 2610 to determine the value of an early retirement benefit. Part 2610 was redesignated Part 2619 in a notice published June 24, 1981 (46 FR 32574). Subpart D and Appendices D and E of Part 2619, as amended December 31, 1981 (46 FR 63268), were promulgated as final rules on April 13, 1982 (47 FR 15780).

Appendix D contains two sets of tables to be used to determine an expected date of retirement for each participant entitled to early retirement. The first set of tables, Selection of Retirement Rate Category (I–79, I–80, I–81, I–82, and I–83), is used to determine whether a participant has a low, medium, or high probability of retiring early. The second set of tables, Expected Retirement Ages for Individuals in the Low/Medium/High Categories (II–A, II–B, and II–C), is used to determine the expected retirement age.

The first set of tables determines the probability of early retirement based on the year a participant would reach normal retirement age and the participant's monthly benefit at normal retirement age. The second set of tables establishes, by probability category, the expected retirement age based on both the earliest age a participant could retire and the normal retirement age under the plan. This expected retirement age is used to calculate the value of the early retirement benefit and, thus, the total value of benefits under the plan and the amount of employer liability, if any, owed to PBGC.

The first set of tables in Appendix D as originally published (46 FR at 9514)—the Selection of Retirement Rate Category—consists of three tables. The tables establish a retirement rate category for each of the calendar years 1979 through 1981, and each table applies only to plans terminating in that particular year. Table I–82 was added on December 31, 1981 (46 FR 63268) in order to update the correlation between the amount of a participant's benefit and the probability that he or she will elect early retirement. On December 22, 1982, a new table, I–83, was added (47 FR 57021) to further update Appendix D for use in valuing benefits in plans that terminated in calendar year 1983. Normally, a table remains in effect only for a calendar year. This rule amends Appendix D of Part 2619 to add Table I–84 for use in valuing benefits in plans that terminate during calendar year 1984.

The PBGC has determined that notice of and public comment on the addition of Table I–84 to Appendix D, Part 2619, are impracticable and contrary to the public interest. This determination is based on the need to issue the table promptly so the appendix will reflect, as accurately as possible, the relationship between a participant's benefit and his or her probability of retiring early. The PBGC has found that the public interest is best served by issuing this table without an opportunity for notice and comment so that plans can calculate the value of plan benefits before submitting a notice of intent to terminate. Also, plans will be able to predict employer liability more accurately prior to plan termination and can, therefore, lessen or avoid interest charges under 29 CFR § 2622.7 for late payment of employer liability. Moreover, because of the need to provide immediate guidance for the valuation of benefits under plans that will terminate on or after January 1, 1984, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making the table set forth in this amendment to the final regulation effective less than 30 days after publication.

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291 of February 17, 1981 (46 FR 13193) because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, or innovation.

Because no general notice of proposed rulemaking is required for this regulation, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

List of Subjects in 29 CFR Part 2619

Employee benefit plans, Pension insurance, and Pensions.

PART 2619—[AMENDED]

In consideration of the foregoing, Part 2619 of Chapter XXVI, of Title 29, Code of Federal Regulations is hereby amended by adding a new table and making corrections as follows:

1. The authority citation for Part 2619 reads as follows:

Authority: Sections 4002(b)(3), 4041(b), 4044, and 4062(b)(1)(A), Pub. L. 93–406, 88 Stat. 1004, 1020, 1025, 1029 (1974), as amended by Secs. 403(l), 403(d), and 402(a)(7), Pub. L. 96–364, 94 Stat. 1302, 1301, and 1299 (1980) (29 U.S.C. 1302, 1341, 1344, 1362).

2. Appendix D to Part 2619 is amended by the addition of Table I–84, as follows:

Appendix D.—Tables Used To Determine Expected Retirement Age

* * * * *

TABLE I–84.—SELECTION OF RETIREMENT RATE CATEGORY

[For plans with a valuation date after Dec. 31, 1983, and before Jan. 1, 1985]

Participant reaches NRA in year	If monthly benefit at NRA is			
	Less than—[1]	From—[2]	To—[2]	Greater than—[3]
1985	$264	$264	$1,110	$1,110
1986	276	276	1,161	1,161
1987	288	288	1,215	1,215
1988	301	301	1,269	1,269
1989	315	315	1,325	1,325
1990	328	328	1,383	1,383
1991	343	343	1,444	1,444
1992	358	358	1,508	1,508
1993	374	374	1,574	1,574
1994 or later	390	390	1,602	1,602

[1] Participant's retirement rate category is low (table II–A).
[2] Participant's retirement rate category is medium (table II–B).
[3] Participant's retirement rate category is high (table II–C).

David M. Walker,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 84–506 Filed 1–6–84; 8:45 am]

BILLING CODE 7708–01–M

29 CFR Part 2621

Limitation on Guaranteed Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This amendment to the Limitation on Guaranteed Benefits regulation contains the maximum guaranteeable pension benefit that may be paid by the Pension Benefit Guaranty Corporation under Title IV of the Employee Retirement Income Security Act of 1974, as amended, to a plan participant in a covered single-employer pension plan that terminates in 1984. Section 4022(b)(3)(B) of the Act provides that the maximum benefit guaranteeable by PBGC is based on the contribution and benefit base determined under section 230 of the Social Security Act. This amendement updates the regulation to include the dollar amount of the maximum guaranteeable benefit for 1984.

EFFECTIVE DATE: January 1, 1984.

FOR FURTHER INFORMATION CONTACT: Renae R. Hubbard, Special Counsel, Legal Department, Code 250, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006, 202–254–6476. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On February 11, 1976, the Pension Benefit Guaranty Corporation ("PBGC") published a final rule entitled Limitation on Guaranteed Benefits (29 CFR Part 2609, recodified as 29 CFR Part 2621 on June 24, 1981). That rule sets forth the method of calculating the maximum guaranteeable benefit under section 4022(bn)(3)(B) Under Title IV of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001 *et seq.* (1976), *as amended by* the Multiemployer Pension Plan Amendments Act of 1980, Pub. L. 96–364, 94 Stat. 1208 ("ERISA"). Section 2621.3(a)(2) provides that the maximum guaranteeable benefit is "$750 mulitplied by the fraction x/$13,200 where 'x' is the Social Security contribution and benefit base determined under section 230 of the Social Security Act in effect at the date of termination of the plan."

In the Social Security Amendments of 1977, special increases were added to the contribution and benfit base. However, the amended Social Security Act specifically states that, for the purpose of section 4022(b)(3)(B) of ERISA, the contribution and benefit base for each year after 1976 will be the base that would have been determined for each year if the law in effect immediately before the amendment had remained in effect without change. 42 U.S.C. 430(d) (1976 Ed., Supp. III).

On January 23, 1981, the PBGC published a final rule (46 FR 7323) which added an appendix to the Limitation on Guaranteed Benefits regulation. The appendix lists the maximum guaranteeable benefit payable by the PBGC to participants in single-employer plans that have terminated each year since ERISA went into effect. On

December 13, 1982, the PBGC published a final rule (47 FR 55672) amending the regulation to update the appendix for plans terminating in 1983. The PBGC published a correction to this final rule on December 28, 1982 (47 FR 57702). This amendment updates the appendix for plans that terminate in 1984.

The PBGC has been notified by the Social Security Administration that the contribution and benefit base for 1984 which is to be used to calculate the PBGC maximum guaranteeable benefit is $28,200. Accordingly, applying the formula under section 4022(b)(3)(B) of ERISA, the PBGC has determined that the maximum benefit guaranteeable by PBGC in 1984 will be $1,602.27 per month in the form of a life annuity commencing at age 65 or the actuarial equivalent of $1,602.27 payable in a different form or commencing at a different age.

Because the maximum guaranteeable benefit is determined according to the formula in section 4022(b)(3)(B) of ERISA, and this amendment makes no change in its method of calculation but simply lists the 1984 maximum guaranteeable benefit amount for the public's knowledge, general notice of proposed rulemaking is not required. Moreover, because the 1984 maximum guaranteeable benefit is effective, under the statute, at the time that the Social Security contribution and benefit base is effective, *i.e.*, January 1, 1984, and is not dependent on the issuance of this regulation, the PBGC finds that good cause exists for making this amendment effective before the 30 day period set forth in 5 U.S.C. 553.

The PBGC has determined that this amendment to the Limitation on Guaranteed Benefits Regulations is not a "major rule" under the criteria set forth in Executive Order 12291, February 17, 1981 (46 FR 13193 because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, or innovation.

Because no general notice of proposed rulemaking is required for this regulation, the Regulatory Flexibility act of 1980 does not apply (5 U.S.C. 601(2)).

List of Subjects in 29 CFR Part 2621

Employee benefit plans, Pension insurance, and Pensions.

PART 2621—[AMENDED]

In consideration of the foregoing, Part 2621 of Chapter XXVI, Code of Federal Regulations, is hereby amended to read as follows:

1. The authority citation for Part 2621 is revised to read ad follows:

Authority: Secs. 4002(b)(3), 4022(b), and 4022B, Pub. L. 93–406, 88 Stat. 829, 1004, and 1016, as amended by Secs. 403(1), 403(c), and 102, Pub. L. 96–364, 94 Stat. 1208, 1302, 1300, and 1215 (29 U.S.C. 1302, 1322, and 1322B).

2. Appendix A to Part 2621 is amended by adding a new entry to read as follows:

Appendix A to Part 2621—Maximum Guaranteeable Monthly Benefit

The following table lists by year the maximum guaranteeable monthly benefit payable in the form of a life annuity commencing at age 65 as described by § 2621.3(a)(2) to a participant in a plan that terminated in that year:

Year	Maximum guaranteeable monthly benefit
. . . . .	
1984	$1,602.27

Effective date: This regulation is effective January 1, 1984.

David M. Walker,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 84-505 Filed 1-6-84; 8:45 am]

BILLING CODE 7708-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 469

[FRL 2472-2]

Electrical and Electronic Components Point Source Category Pretreatment Standards, and New Source Performance Standards; (Phase II)

Correction

In FR Doc. 83–33165 beginning on page 55690 in the issue of Wednesday, December 14, 1983, make the following corrections:

The date "July 14, 1987" should have read "July 14, 1986" in the following places:

1. On page 55690, first column, under **DATES,** second paragraph, eighth and ninth lines.

2. On page 55702, middle column, in the table, under Compliance date.

3. Page 55704, first column, § 469.30, second line of paragraph (b).

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 82-470]

Elimination of Certain Restrictions on Non-Voice Operations in the Private Land Mobile Radio Services

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This action corrects the omission of certain text in the adopted rules regarding station identification.

FOR FURTHER INFORMATION CONTACT: Keith Plourd, Private Radio Bureau, Land Mobile and Microwave Division, (202) 634–2443.

Erratum

In the matter of amendment of Part 90 of the Commission's Rules and Regulations to eliminate certain restrictions on non-voice operations in the Private Land Mobile Radio Services; PR Docket No. 82–470.

Released: December 30, 1983.

The Report and Order, FCC 83–20, in the above-titled matter, released January 31, 1983, is corrected as follows:

Appendix, instruction 4: paragraph (a) of § 90.425 is corrected by adding the words, "or system," in the first sentence to read as follows:

§ 90.425 Station identification.

* * * * *

(a) Identification procedure. Except as provided for in paragraph (d) of this section, each station or system shall be identified by the transmission of the assigned call sign during each transmission or exchange of transmissions, or once each 15 minutes (30 minutes in the Public Safety and Special Emergency Radio Services) during periods of continuous operation. The call sign shall be transmitted by voice in the English language or by International Morse Code in accordance with paragraph (b) of this section. If the station is employing either analog or digital voice scrambling, or non-voice emission, transmission of the required identification shall be in the unscrambled mode using A3 or F3 emission, or International Morse, with all encoding disabled. Permissible

alternative identification procedures are as follows:

* * * * *

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-306 Filed 1-6-84; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Removal of Epioblasma (=Dysnomia) sampsoni, Sampson's Pearly Mussel, from the List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service is removing *Epioblasma* (=*Dysnomia*) *sampsoni* (Lea, 1861), Sampson's pearly mussel, from the U.S. List of Endangered and Threatened Wildlife. This action is based on a review of all available data, which indicate that this species is extinct. This mussel was restricted to portions of the Wabash River in Illinois and Indiana and the Ohio River near Cincinnati. No specimens have been collected in over 50 years despite repeated sampling within its range. Removing the species from the list recognizes its extinction and removes Federal protection under the Endangered Species Act.

DATE: This rule becomes effective on February 8, 1984.

ADDRESSES: Questions concerning this action may be addressed to the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Comments and materials received will be available for public inspection, by appointment, during normal business hours by contacting the Regional Endangered Species staff at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. James M. Engel, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111 (612/725-3276).

SUPPLEMENTARY INFORMATION:

Background

Epioblasma sampsoni was described by Lea (Lea, Isaac. 1861. Proceedings of the Academy of Natural Sciences of Philadelphia 13:392) and was originally listed as Endangered on June 14, 1976 (41 FR 24064). The Service's listing regulations at 50 CFR 424.20 state that, at least once every 5 years, the Director shall conduct a review of each listed species to determine whether it should be removed from the list, be changed from an Endangered to a Threatened status, or be changed from a Threatened to and Endangered status. As part of this review process, the Service contracted with Dr. Arthur Clarke to determine the present status of this species. The status review was initiated in 1981.

Dr. Clarke has recently completed a survey of the historic range of *Epioblasma sampsoni*. During the course of the survey, Dr. Clarke interviewed many commercial clammers and shell buyers. These individuals were shown specimens of *E. sampsoni* and illustrations of the species were given to the individuals. Mr. Virgil Carroll of Mt. Carmel, Illinois, Mr. Nelson Cohen of Terre Haute, Indiana, and Mr. David Nelson of Newport, Indiana, provided the most information. These individuals indicated that to their knowledge nothing ever resembling *E. sampsoni* has been seen from the Wabash or White Rivers for decades. Other clammers were consulted and together their combined expertise covered the Wabash River from its mouth to more than 350 miles upstream. A substantial reward was offered for information concerning *E. sampsoni* and this effort was also unsuccessful in discovering extant populations of the species. The gravel and sand bars, where this species was historically found, no longer exist in the Ohio River from the vicinity of Cinicinnati to the mouth of the Wabash. A series of dams have been constructed in this area, eliminating the gravel and sand bar habitat.

Records also exist from an unknown location in Tennessee. Dr. Clarke feels that, since this record is far out of the range otherwise known for the species, it is incorrect. Meyer (1974) and Clark (1976) did not find any *E. sampsoni* specimens during their surveys. Dr. Clarke was unable to find specimens or recent evidence of this species. He believes it to be extinct and has recommended that it should be removed from the List of Endangered and Threatened Wildlife. Based on this information, the Service proposed to remove Sampson's pearly mussel from the List (July 15, 1983; 48 FR 32534-32535).

Summary of Comments and Recommendations

In the July 15, 1983, Federal Register, the proposed rule to deregulate Sampson's pearly mussel asked all interested parties to submit their comments. All comments relating to the existence of Sampson's pearly mussel were considered in the present status determination. A total of three comments were received that dealt specifically with the delisting proposal.

Two of the three comments came from the state resource and conservation agencies of the two affected states, Illinois and Indiana. The third comment came from the Museum of Zoology of the Ohio State University. All supported the removal of Sampson's pearly mussel from the list. Both the Indiana Department of Natural Resources and the Illinois Department of Conservation reported that numerous surveys over the past 50 years have revealed no live specimens. The Ohio State University Museum of Zoology reported that a re-examination of nearly all major museum collections did not find any evidence of Sampson's pearly mussel being found alive or as a fresh shell during the twentieth century.

Summary of Status Findings

After a careful review and examination of all available data, the Service has determined that Sampson's pearly mussel is extinct and no longer requires protection pursuant to the Endangered Species Act of 1973, as amended. If evidence to the contrary is presented at a later date, Endangered or Threatened status may be reproposed.

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; under revision to accommodate 1982 amendments. cf. 48 FR 29990, June 29, 1983) set forth the criteria for determining whether any species is an Endangered or a Threatened species due to one or more of the five factors described in Section 4(a)(1) of the Act. The regulations state the factors for removing a species from the list. The data used to support such a removal must be the best scientific and commercial data available to substantiate that the species is neither Endangered or Threatened because of extinction, recovery of the species, or because the original data for classification were in error. The factors in Section 4(a)(1) of the Act and 50 FR 424.11(b), and their application to Sampson's pearly mussel are as follows:

A. *Present or threatened destruction, modification, or curtailment of its habitat or range.* This species has not been collected alive for over 50 years and is believed to be extinct. The gravel and sand bars that were the primary habitat of this species in the Ohio River have been destroyed by siltation that

resulted from the construction of a number of dams. Chemical pollutants have also contributed to a decrease in water quality in the Ohio and Wabash Rivers.

B. *Overutilization for commercial, recreational scientific, or educational purposes.* Not applicable.

C. *Disease or predation.* Not applicable.

D. *The inadequacy of existing regulatory mechanisms.* Not applicable.

E. *Other natural or manmade factors affecting its continued existence.* Not applicable.

Effects of the Rule

The rule removes Sampson's pearly mussel from the List of Endangered and Threatened Wildlife and discontinues all protections of the mussel and its habitat accorded by its listing as Endangered under provisions of the Endangered Species Act of 1973, as amended. Sampson's pearly mussel is listed in Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora. The Service will also consider proposing the removal of this species from Appendix I or annotation of the listing as "p.e." (possibly extinct):

National Environmental Policy Act

In accordance with a recommendation from the Council on Environmental Quality (CEQ), the Service has not prepared any NEPA documentation for this final rule. The recommendation from CEQ was based, in part, upon a decision in the Sixth Circuit Court of appeals, which held that the preparation of NEPA documentation was not required as a matter of law for Section-4 actions under the Endangered Species Act. *PLF v. Andrus* 657 F. 2d 829 (6th Cir. 1981).

References

Clark, C. F. 1976. The freshwater naiades of the lower end of the Wabash River, Mt. Carmel, Illinois to the south. Sterkiana, No. 61. pp 1–14.

Clarke, A. H. Determination of the precise geographical areas occupied by four endangered species of mollusks. Final Report to U.S. Fish and Wildlife Service on Contract No. 14–16003–81–019. December, 1981.

Meyer, E. R. 1974. Unionid mussels of the Wabash, White, and East Fork of the White Rivers, Indiana. *Virginia Journal of Science* 25(1):20–25.

Author

The primary author of this final rule is John G. Sidle, Office of Endangered Species, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111 (612/725–3276).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants, (agriculture).

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

§ 17.11 [Amended]

2. Amend § 17.11(h) by removing Sampson's pearly mussel (*Epioblasma* (=*Dysnomia*) *sampsoni*) under "Clams" from the list of Endangered and Threatened Wildlife.

Dated: December 12, 1983.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84–420 Filed 1–6–84; 8:45 am]

BILLING CODE 4310–55–M

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50 CFR Part 23

Export of American Alligators Taken in 1983–85 Harvest Seasons

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final findings and rule.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) regulates international trade in certain animal and plant species. As a general rule, exports of animals and plants listed in Appendix II of CITES may occur only if a Scientific Authority (SA) has advised a permit-issuing Management Authority (MA) that such exports will not be detrimental to the survival of the species, and if the MA is satisfied that the animals or plants were not obtained in violation of laws for their protection. This notice announces final findings by the SA and MA of the United States on the export of American alligators. Previously, such findings were made each year on a State-by-State basis. Beginning this year, the Service intends to make such findings to span a period of three harvest seasons (1983–85).

DATE: These findings are effective on January 9, 1984.

ADDRESS: Please send correspondence concerning this notice to the Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C., 20240. Materials received will be available for public inspection from 7:45 a.m. to 4:15 p.m., Monday through Friday, at the Office of the Scientific Authority, room 537, 1717 H Street, NW., Washington, D.C. or at the Federal Wildlife Permit Office, room 621, 1000 N. Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Scientific Authority Finding—Dr. Richard L. Jachowski, Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (202) 653–5950.

Management Authority Finding—Mr. S. Ronald Singer, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (703) 235–2418.

Export Permits—Mr. Richard K. Robinson, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (703) 235–1903.

SUPPLEMENTARY INFORMATION: This is the second of two notices concerning the Service's findings on export of American alligators taken in the 1983–85 seasons. The first notice (48 FR 37494; August 18, 1983) announced proposed findings by the SA and MA of the United States on the export of this species and certain other Appendix II animal species native to this country. The Service invited comments at that time on State-by-State export findings for various Appendix II species.

The present notice of final findings concerns only the alligator. Final export findings for other species addressed in the August 18, 1983, notice will be announced later in a separate notice.

Scientific Authority (SA) Findings

Article IV of CITES requires that an export permit for any specimen of a species included in Appendix II shall only be granted when certain findings have been made by the SA and MA of the exporting country. The SA must advise "that such export will not be detrimental to the survival of that species" before a permit can be granted.

The SA for the United States must develop such advice on nondetriment for the export of Appendix II animals in accordance with Section 8A of the Endangered Species Act of 1973, as amended in 1982. The Act states that the Secretary of the Interior "shall base the determinations and advice given by him under Article IV of the Convention with respect to wildlife upon the best available biological information derived from professionally accepted wildlife

management practices; but is not required to make, or require any State to make, estimates of population size in making such determinations or giving such advice."

The American alligator is considered to be listed in Appendix II to respond both to problems of potential threat to the survival of American alligators [CITES Article II 2(a)] and similarity in appearance to other crocodilians that are threatened with extinction [CITES Article II. 2(b)]. The recently concluded 10-year review of the appendices confirmed the suitability of this treatment, as set forth in the proposal that the Conference of the Parties adopted in 1979 to place this species in Appendix II. The Service will address the issue of similarity in appearance through tagging of hides and documentation of shipments, as it does with furbearers. Because the alligator is listed partly because of a potential threat to its survival (based on previous population declines that have been reversed in certain parts of the United States), the Service also must determine if exports will not be detrimental to the survival of the American alligator itself.

Guidelines developed for SA advice on exports of alligators under the provisions of CITES Article II.2(a) have been revised to conform with the 1982 amendments to the Endangered Species Act (see 48 FR 16494, April 18, 1983). They are as follows:

A. Minimum requirements for biological information:

(1) Information on the condition of the population, including trends (the method of determination to be a matter of State choice), and population estimates where such information is available.

(2) Information on total harvest of the species.

(3) Information on distribution of harvest.

(4) Habitat evaluation.

B. Minimum requirements for a management program:

(1) There should be a controlled harvest, methods and seasons to be a matter of State choice.

(2) All hides should be registered and marked.

(3) Harvest level objectives should be determined annually by the States.

The Service finds that current information on population status, management, and harvest submitted by the States of Florida and Louisiana, as well as that collected by the Service fully support a finding that the export of alligators taken in accordance with State regulations in Florida and Louisiana will not be detrimental to the survival of the species in those States. Tagging of hides by the States and documentation of shipments by the MA provide assurance that export will not reduce the effectiveness of CITES in controlling trade in other species of crocodilians. Documents containing information that provides the basis for SA advice for alligators in each of these States are available for public inspection at the Office of the Scientific Authority (address given above).

Management Authority (MA) Findings

Exports of Appendix II species are to be allowed under CITES only if the MA is satisfied that the specimens were not obtained in contravention of laws for the protection of wildlife or plants. The Service, therefore, must be satisfied the hides were not obtained in violation of State or Federal law, in order to allow export. Evidence of legal taking for American alligator is provided by State tagging systems. The Service requires that each alligator hide must be tagged by a permanently attached, serially numbered tag of a type approved by the Service that is attached under conditions established by the Service. Tags must clearly identify hides as to species, State of origin, and season of taking. MA export guidelines for the 1983–85 taking seasons are as follows:

(1) Current State hunting, trapping and tagging regulations and sample tags must be on file with the Service (Wildlife Permit Office);

(2) The tags must be durable and permanently locking, and must show State of origin, year of take, species and be serially unique;

(3) The tag must be applied to all hides taken within a minimum time after take, as specified by the State, and such time should be as short as possible to minimize movement of untagged hides.

(4) The tag must be permanently attached as authorized and prescribed by the State;

(5) State-registered dealers or State-licensed takers allowed by the State to attach tags must account for tags received and must return unused tags to State within a specified time after taking season closes; and

(6) Fully manufactured hide products may be exported from the U.S. when accompanied by State tags removed from hides contained in the products; such tags must be surrendered to the Service prior to export.

The Service has reviewed the alligator tagging programs of Florida and Louisiana and has found that they fully meet these guidelines.

Export Approval

The Service received no comments in response to the notice of proposed findings with particular reference to alligators with the exception of information provided by State wildlife agencies of Florida and Louisiana. Defenders of Wildlife, Inc., submitted comments on the proposed export findings as they pertained to certain mammal species. Their comments on MA guidelines, while directed at bobcats, might also apply to alligators. Defenders urged the Service to require possession tagging of all pelts taken, and permanent tagging by State officials as prerequisites of export approval. Florida and Louisiana have, in fact, used these tagging procedures together with other control measures. These control measures have been a model for crocodilian tagging programs elsewhere in the world. The Service has decided to approve the export of American alligators lawfully taken during the 1983–85 seasons in Florida and Louisiana on the grounds that both SA and MA criteria have been met.

For all other States not named above, either the taking of this species is not yet allowed by the State, the species does not occur in the State, or the State did not provide the Service with information on which to base SA and MA findings. The Service does not grant general approval for export of specimens of this species originating in such States.

The findings announced in this notice are effective immediately. It is the Service's opinion that a delay in the effective date of the regulations after this final rulemaking is published could adversely impact the species by preventing the international marketing of hides (where commercial harvest is an important part of the State conservation programs), and thereby reducing the incentive for takers or dealers to comply with State requirements in Florida and Louisiana. The 1983 harvest season already has passed in Louisiana, so that a delay in the effective date of this rule would penalize exporters of lawfully taken hides. The rule extends export approval for the same State that were approved for export in the previous five years without any adverse public comment. The Service, therefore, finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, for these regulations to take effect immediately upon publication. Further, because this rule relieves a restriction on export, it may take effect immediately under 5 U.S.C. 553(d)(1).

This rule is issued under authority of the Endangered Species Act of 1973 (16 U.S.C. 1531, et seq.; 87 Stat. 884 as amended). It was prepared by Dr.

Richard M. Mitchell, Office of the Scientific Authority, and Mr. S Ronald Singer, Federal Wildlife Permit Office.

Note.—The Department has determined that the final findings on the export of American alligator taken in the 1983–85 seasons are not a major Federal action that would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act and therefore the preparation of an Environmental Impact Statement is not required. The Department also has determined that this is not a major rule under Executive Order 12291 and does not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601). The findings will allow a continuation of the export of specimens taken in accordance with State programs that have operated for several years without adversely affecting the resource. The findings do not contain any information collection or recordkeeping requirements as defined by the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 23

Endangered and threatened wildlife, Exports, Fish, Imports, Plants (agriculture), Treaties.

Regulation Promulgation

Accordingly, Part 23 of Title 50, Code of Federal Regulations, is amended as set forth below:

PART 23—ENDANGERED SPECIES CONVENTION

1. The authority citation for Part 23 reads as follows:

Authority: Convention on International Trade in Endangered Species of Wild Fauna and Flora, TIAS 8249, and Endangered Species Act of 1973, 87 Stat. 884, 16 U.S.C. 1531–43.

2. In § 23.57, add new paragraph (e) as follows:

§ 23.57 American alligator (Alligator mississippiensis).

* * * * *

(e) 1983–85 harvest seasons (animals harvested on or before December 31, 1985): Florida, Louisiana. Condition on export: Each hide must be clearly identified as to species, state of origin and season of taking and must be tagged by a permanently attached, serially numbered tag of a type approved by the Service that is attached under conditions established by the Service.

Dated: December 15, 1983.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84-419 Filed 1-6-84; 8:45 am]
BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 40103-01]

Pacific Coast Groundfish Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Rule-related notice; fishery specifications for 1984.

SUMMARY: This notice announces the 1984 management specifications for Pacific whiting, sablefish, Pacific ocean perch, shortbelly rockfish, and widow rockfish caught in the fishery conservation zone (3–200 nautical miles from shore) and territorial waters (0–3 nautical miles from shore) off the coasts of Washington, Oregon, and California. This notice contains specifications for the acceptable biological catch as well as for optimum yield and its distribution among domestic and foreign fishing operations for goundfish species or species groups, as required in the regulations implementing the Pacific Coast Groundfish Fishery Management Plan.

EFFECTIVE DATE: January 1, 1984.

ADDRESSES: T. E. (Gene) Kruse, Deputy Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE, BIN C15700, Seattle, Washington 98115 or Floyd S. Anders, Jr., Acting Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island California, 90731.

FOR FURTHER INFORMATION CONTACT: T. E. (Gene) Kruse at 206–527–6150 or Floyd Anders, Jr. at 213–548–2575.

SUPPLEMENTARY INFORMATION:

Background

OMB Control Number 0648–0114. The Pacific Coast Groundfish Fishery Management Plan (FMP) was approved by the Assistant Administrator for Fisheries, NOAA, on January 4, 1982. The FMP and its implementing regulations at 50 CFR Part 663 (47 FR 43964, published on October 5, 1982) state that management specifications for groundfish included in the FMP will be evaluated each calendar year, that preliminary specifications will be published in the **Federal Register**, public comment will be requested, and final specifications for the succeeding calendar year will be published on December 1, or as soon as practicable thereafter. The management specifications for the acceptable biological catch (ABC), an estimate of the annual catch that could be taken without jeopardizing a resource's productivity, include all groundfish species. The specifications for the optimum yields (OYs), which are based on socioeconomic as well as biological factors thus are not necessarily equal to the ABC, are made only for Pacific whiting, sablefish, Pacific ocean perch, shortbelly rockfish, and widow rockfish. The OYs for these five species set the maximum amounts of fish (in round weight) that may be taken and retained or landed each year from the fishery conservation zone (3–200 nautical miles) and the territorial sea (0–3 nautical miles) off Washington, Oregon, and California.

The OY for each of these five species comprises several components that will be reassessed near July 1. The domestic annual harvest (DAH), which consists of estimates of domestic annual processing (DAP) and joint venture processing (JVP), is verified by surveys in November and June of the needs of the domestic fishing and processing industry. The total allowable level of foreign fishing (TALFF) is the remainder, if any, of OY after domestic needs (DAH) have been subtracted. A reserve is established for Pacific whiting to accommodate any underestimates in DAH.

The OYs and ABCs may be changed during the year under the procedures outlined in the regulations at 50 CFR 663.22.

The Pacific Fishery Management Council (Council) reviewed and approved the preliminary specifications for 1984 and received public comment at its November 9–10, 1983 meeting in Boise, Idaho. The preliminary specifications were announced in the **Federal Register** on December 6, 1983 (48 FR 54671) and public comment was invited through December 21, 1983. No comments were received. Accordingly, no changes have been made to the preliminary specifications. For a discussion of the specifications for each species with a numerical OY and changes made to the 1983 estimates, see the **Federal Register** notice announcing the preliminary specifications. The 1984 final management specifications are listed in Tables 1 and 2.

Classification

These preliminary specifications are made under the authority of 50 CFR 663.24. This action is in compliance with Executive Order 12291 and is covered by the Regulatory Flexibility Analysis prepared for the authorizing regulations.

(16 U.S.C. 1801 *et seq.*)

List of Subjects in 50 CFR Part 663

Administrative practice and procedure, Fish, Fisheries, Fishing.

Dated: January 3, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

TABLE 1.—1984 SPECIFICATIONS OF ABC

(In thousands of metric tons)

Species/areas	Vancouver [1]	Columbia	Eureka	Monterey	Conception	Total
Groundfish:						
Lingcod	1.0	4.0	0.5	1.1	0.4	7.0
Pacific cod	2.2	0.9	[2]	[2]	[2]	3.1
Pacific whiting						[3] 175.5
Sablefish				[4] 2.5		[3] 13.4
Rockfish:						
Pacific ocean perch	0.6	0.95	[2]	[2]	[2]	.1.55
Shortbelly						[3] 10.0
Widow	0.3	5.4	1.8	1.8	[2]	9.3
Other rockfish: [5]						
Bocaccio	[2]	[2]	[2]	4.1	2.0	6.1
Canary	0.8	1.3	[illegible]	[illegible]	[2]	2.7
Chilepepper	[2]	[2]	[2]	1.3	1.0	[illegible]
Yelloweye	1.4	1.5	0.3	[2]	[2]	3.2
Remaining rockfish	0.5	3.7	1.9	4.3	[illegible]	13.7
Flatfish:						
Dover sole	2.4	7.2	[illegible]	[illegible]	1.0	23.6
English sole	0.6	2.0	0.8	[illegible]	0.2	4.5
Petrale sole	0.6	1.1	0.5	[illegible]	0.2	[illegible]
Other flatfish (except arrowtooth flounder)	0.7	3.0	1.7	1.8	[illegible]	7.7
Other fish: [6]						
Jack mackeral [7]						12.0
Others	2.5	7.0	1.2	2.0	2.0	14.7

[1] U.S. portion.
[2] These species are not common or important in the area footnoted. Accordingly, for convenience, Pacific cod is included in the "other fish" category for the areas footnoted, and rockfish species are included in the "remaining rockfish" category for the areas footnoted.
[3] Total all areas.
[4] Monterey Bay only.
[5] "Other rockfish" means rockfish species listed in § 663.2 which do not have a numerical OY.
[6] "Other fish" includes sharks, skates, ratfish, monds, grenadiers, jack mackerel, "Other fish" is part of the "other species" category listed in § 663.2.
[7] North of 39°00' N. latitude.

TABLE 2.—1984 SPECIFICATIONS OF OY AND ITS COMPONENTS

(In thousands of metric tons)

Species	Total OY	DAP	JVP [1]	DAH	Reserve	TALFF [1]
Pacific whiting	175.5	10.0	100.0	110.0	[illegible]	[illegible]
Sablefish	[2] 17.4	17.4	0.0	17.4	0.0	0.0
Pacific ocean perch	[2] 1.55	1.55	0.0	1.55	0.0	[illegible]
Shortbelly rockfish	10.0	3.4	0.0	10.0	0.0	[illegible]
Widow rockfish	9.3	9.3	0.0	9.3	0.0	0.0
Other species	[3]					

[1] In the foreign trawl and joint venture fisheries for Pacific whiting, incidental catch allowance percentages (based on TALFF) and incidental retention allowance percentages (based on JVP) are: sablefish 0.173%, Pacific ocean perch 0.062%, Rockfish excluding Pacific ocean perch 0.738%, flatfish 0.1%, jack mackerel 3.0%, and other species 0.5%. In foreign trawl and joint venture fisheries, "other species" means all species, including non-groundfish species, except Pacific whiting, sablefish, Pacific ocean perch, rockfish excluding Pacific ocean perch, flatfish, jack mackerel, and prohibited species. In a foreign trawl or joint venture fishery for species other than Pacific whiting, incidental allowance percentages will be stated in the conditions and restrictions to the foreign fishing permit. See § 611.70(c)(2) for application of incidental retention allowance percentages to joint venture fisheries.
[2] Of this 17,400 metric tons, 2,500 metric tons is for part of the Monterey subarea. See § 663.21(a)(2).
[2] Of this 1,550 metric tons, 600 metric tons is for the Vancouver subarea and 950 metric tons is for the Columbia subarea. Pacific ocean perch from other subareas are included in the OY for "other species." See § 663.21(a)(3).
[3] The total OY for "other species" is that amount of fish that may be lawfully harvested and/or processed under § 611.70 and Part 663. See § 663.2 for species listing.

[FR Doc. 84-453 Filed 1-4-84; 3:20 pm]

BILLING CODE 3510-22-M

50 CFR Part 672

[Docket No. 31230-251]

Groundfish of the Gulf of Alaska

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: 1984 initial specifications.

SUMMARY: NOAA specifies 1984 initial apportionments of optimum yield (OY) for each species of groundfish in the Gulf of Alaska fishery among the domestic annual processing (DAP), joint venture processing (JVP), reserves, and total allowable level of foreign fishing (TALFF). This action is necessary to provide the public with the final determination of the amounts of initial apportionments. The 1984 apportionments are intended to provide for full utilization of the groundfish resources.

DATES: Effective on January 1, 1984. Comments on the reapportionment to TALFF of Pacific cod reserves in the Central Regulatory Area and sablefish reserves in the West Yakutat district are invited until January 23, 1984.

ADDRESS: Comments on the Pacific cod and sablefish reserve reapportionments may be sent to Janet Smoker, Fishery Biologist, Alaska Region, National Marine Fisheries Service (NMFS), P.O. Box 1668, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Janet Smoker, 907-586-7230.

SUPPLEMENTARY INFORMATION:

Background

Optimum yields for various groundfish species are established by the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). This FMP was developed under the Magnuson Fishery Conservation and Management Act (Magnuson Act) and is implemented by rules appearing at 50 CFR 611.92 and Part 672. The OYs are apportioned initially among DAP, JVP, reserves, and TALFF under 50 CFR 611.92(c) and 672.20.

DAP amounts are intented for harvest by United States (U.S.) fishermen for delivery and sale to U.S. processors. JVP amounts are intended for joint ventures in which U.S. fishermen deliver their catches to foreign processors at sea. The reserves are for reapportionment to DAP and/or to JVP if those amounts are underspecified. Reserves not reapportioned to DAP or JVP are reapportioned to TALFF.

Under § 672.20(a)(2), the Secretary of Commerce (Secretary) is required to publish this notice to establish the 1984 initial apportionments of the OYs among DAP, JVP, reserves, and TALFF. The initial apportionments of DAP and JVP are the amounts harvested during 1983 plus additional amounts the Secretary has determined will be harvested by the U.S. industry in 1984. These additional amounts reflect the projected increases in U.S. processing and harvesting capacity and expected level of U.S. processing and harvesting during the coming year.

Proposed initial amounts were first published in the **Federal Register** on November 1, 1983 (48 FR 50379). The proposed amounts were determined following a survey of the industry conducted by the Alaska Region of the National Marine Fisheries Service (NMFS). The results of the survey were studied by the North Pacific Fishery Management Council (Council), which

then recommended to the Secretary that the proposed amounts be published for comment.

Comments were invited on these proposed apportionments until December 8, 1983. One letter of comments was received by the Director, Alaska Region, NMFS (Regional Director). Tentative final specifications of initial DAP, JVP, reserves, and TALFF were presented to the Council for consideration at its December 7–9 meeting. At that meeting, further public comments were invited. After considering comments addressed to the Council and recommendations from the Council's Advisory Panel and Scientific and Statistical Committee, the Council approved the specifications and recommended them to the Secretary for implementation. A particular recommendation of the Council to the Secretary that had not been proposed previously was that 3,000 mt from the reserve of Pacific cod in the Central Regulatory Area should be reapportioned to TALFF to support a limited foreign longline fishery for Pacific cod.

The FMP specifies that 20 percent of the OY for each target species and the "other species" category be reserved for reapportionment on the basis of cumulative appraisals of DAH to foreign or domestic fisheries as the season progresses. Thus, initial apportionments to DAH normally do not exceed a maximum of 80 percent of OY. However, under 50 CFR 611.92(c)(ii)(A)(2) and 672.20(c)(1), reserves may be reapportioned to DAH or TALFF by the Secretary on such dates as he determines necessary. In the notice that proposed the initial apportionments on the basis of the NMFS survey results, the Secretary made the finding that: (1) The entire reserve for pollock in the Central Regulatory Area would be harvested by U.S. fishermen in joint ventures and therefore it was reapportioned to JVP effective January 1, 1984; (2) 140 mt of the reserve for Pacific ocean perch in the Western Regulatory Area would be harvested by U.S. fishermen and therefore it was reapportioned to JVP, effective January 1, 1984; and (3) reserves for sablefish in the East Yakutat and Southeast Outside districts are not applicable, because no foreign fishing is permitted in these districts.

After considering the Council's recommendations and public comments concerning the specifications for Pacific ocean perch, the Secretary rescinds the finding that 140 mt of the initial reserve needs to be allocated to JVP on January 1, 1984, and this amount is reapportioned to the reserve.

The Secretary concurs with the Council's determinations that additional amounts of Pacific cod and sablefish will be required by U.S. fishermen and processors than the estimates originally published at 48 FR 50379.

In the Central Regulatory Area, 26,300 mt of Pacific cod is apportioned to DAH. Of this amount, 3,000 mt is taken from the initial reserve of 20 percent of OY. The TALFF of 3,532 mt of Pacific cod in this area, in addition to supporting the foreign longline fishery, will provide an adequate bycatch level for the foreign pollock fisheries, thus promoting fuller utilization of groundfish resources.

In the Yakutat district, the entire initial 80 percent of OY, 1,344 mt, of sablefish is apportioned to DAH. To provide the bycatch necessary to support the foreign longline fishery for Pacific cod in this area, 40 mt of sablefish is apportioned to TALFF from the reserve, as of January 1, 1984.

The revised figures are set forth below in Table 1.

Additional Public Comments Requested

Under 50 CFR 611.92(c)(ii)(C)(4)(i) and 672.20(c)(iv)(A)(3), the Secretary finds that reapportionments of these reserves to TALFF are necessary to assure the orderly conduct of foreign fisheries starting January 1, 1984; that affording a prior opportunity for comment is impracticable and contrary to the public interest; and that the reapportionments should go into effect immediately. Comments are invited as specified under DATES of this notice. In light of any substantial comments, the Secretary may issue a subsequent notice to either affirm, amend, or rescind the reserve reapportionments.

Public Comments Received

The Regional Director received one letter of comments from the Fisheries Agency of the Government of Japan on the proposed initial apportionments. These comments are summarized and responded to below;

Comment 1. Optimum yields for pollock and Pacific cod should be increased and part of the OYs for Pacific cod and flounders should be transferred from the Eastern Regulatory Area, where they are underutilized, to the Central Regulatory Area. The OYs for Atka mackerel in the Western and Central Regulatory Areas should be distributed equally.

Response. Increasing or redistributing any OYs, which would require an amendment to the FMP, is beyond the scope of this action.

Comment 2. The expansion of joint ventures targeting on species with small OYs, e.g., Pacific ocean perch and sablefish, would prevent the rational utilization of the prime target species, and therefore JVP amounts should be held to the lowest possible levels.

Response. Under the Magnuson Act, the only legal constraint in setting JVP amounts is the consideration of the DAP amounts that will be harvested by U.S. fishermen and delivered to U.S. processors. Any portion of the OY that is surplus to DAP is fully available to JVP.

After considering recommendations from the Council and comments received, the Secretary publishes this final notice prescribing the initial apportionment of each OY among DAP, JVP, reserves, and TALFF. These amounts replace the corresponding amounts for 1983 in § 672.20, Table 1.

Other Matters

This action is taken under 50 CFR 611.92 and complies with Executive Order 12291. A revised version of § 672.20, Table 1, is published below as a part of this notice.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

(16 U.S.C. 1801 *et seq.*)

Dated: December 30, 1983.

Joseph W. Angelovic,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

For reasons set out in the preamble 50 CFR Part 672 is amended as follow:

PART 672—GROUNDFISH OF THE GULF OF ALASKA

1. The authority citation for Part 672 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In 672.20, Table 1 at paragraph (a) is revised to read as follows:

§ 672.20 Optimum yield.

* * * * *

TABLE 1.—INITIAL (AS OF JAN. 1, EACH YEAR) OPTIMUM YIELD (OY), DOMESTIC ANNUAL HARVEST (DAH), DOMESTIC ANNUAL PROCESSING (DAP), JOINT VENTURE PROCESSING (JVP), RESERVE, AND TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING (TALFF), METRIC TONS. OY=DAH+RESERVE + TALFF; DAH = DAP + JVP

Species	Species code	Area[1]	OY	DAH	DAP	JVP	Reserve	TALFF
Gulf of Alaska Groundfish Fishery:								
Pollock	701	Western	57,000	[illegible]	230	[illegible]	11,400	45,070
		Central	143,000	138,000	5,380	132,630	[illegible]	5,000
		Eastern	16,600	[illegible]	300	0	3,320	12,980
		Total	216,600	138,830	5,910	132,920	14,720	63,050
Pacific cod	[illegible]	Western	16,560	[illegible]	[illegible]	250	3,312	12,498
		Central	33,540	26,300	11,700	14,600	[illegible]	3,532
		Eastern	[illegible]	120	120	[illegible]	1,980	7,800
		Total	[illegible]	27,170	12,320	14,850	9,000	23,830
Flounders	129	Western	10,400	10	[illegible]	10	2,080	8,310
		Central	14,700	8,720	[illegible]	[illegible]	2,940	3,040
		Eastern	8,400	[illegible]	[illegible]	0	1,680	6,420
		Total	33,500	9,030	[illegible]	[illegible]	[illegible]	17,770
Pacific ocean perch[2]	780	Western	2,700	1,770	[illegible]	1,770	[illegible]	[illegible]
		Central	7,900	2,620	620	2,000	1,580	3,700
		Eastern	875	460	[illegible]	[illegible]	175	[illegible]
		Total	11,475	4,850	1,080	3,770	2,295	4,330
Other rockfish[3]	[illegible]	Total	7,600	[illegible]	[illegible]	500	1,520	5,185
Sablefish[4]	703	Western	1,670	[illegible]	100	[illegible]	334	1,036
		Central	3,060	1,650	1,360	[illegible]	612	[illegible]
		West Yakutat[5]	1,680	1,344	1,344	[illegible]	[illegible]	[illegible]
		East Yakutat[5]	[illegible]	[illegible]	850-	[illegible]	N/A	N/A
			1,135	1,135	1,135			
		Southeast Outside[5]	470–1,435	470–1,435	470–1,435	[illegible]	N/A	N/A
		Total	7,730	4,614	4,124–	490	1,282	1,834
			8,980	5,864	5,374			
Atka mackerel	207	Western	4,678	[illegible]	400	400	[illegible]	2,942
		Central	20,836	1,500	[illegible]	1,500	4,167	15,169
		Eastern	3,186	[illegible]	[illegible]	[illegible]	637	2,549
		Total	28,700	2,300	[illegible]	1,900	5,740	[illegible]
Squid	509	Total	5,000	110	100	10	1,000	3,890
Thornyhead rockfish	749	Total	3,750	200	150	[illegible]	750	2,800
Other Species[6]	[illegible]	Total	18,718	500	100	[illegible]	3,744	14,474

[1] See figure 1 of section 672.20 for description of regulatory areas and districts.
[2] The category "Pacific ocean perch" includes *Sebastes* species *S. alutus* (Pacific ocean perch), *S. polyspinus* (northern rockfish), *S. aleutianus* (rougheye rockfish), *S. borealis* (shortraker rockfish), and *S. zacentrus* (sharpchin rockfish).
[3] The category "other rockfish" includes all fish of the genus *Sebastes* except the category "Pacific ocean perch" as defined in footnote 2 above and *Sebastolobus* (thornyhead rockfish).
[4] Excludes values for the Southeast Inside District, which in not governed by these regulations.
[5] The category "other species" includes sculpins, sharks, skates, eulachon, smelts, capelin, and octopus. The OY is equal to 5% of the target species OYs.

* * * * *

[FR Doc. 84-241 Filed 1-6-84; 8:45 am]
BILLING CODE 3510-22-M

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50 CFR Part 675

[Docket No. 31230-250]

Foreign Fishing; Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: 1984 initial specifications.

SUMMARY: NOAA announces initial specifications for total allowable catch (TAC) amounts for the Bering Sea and Aleutian Islands area target groundfish species and the "other species" category and apportionments of those TACs between domestic annual harvest (DAH) and total allowable level of foreign fishing (TALFF) for the 1984 fishing year. NOAA also announces the apportionment of reserves to TALFF for specific target species. These actions are intended to ensure full use of groundfish resources, meet the anticipated needs of the U.S. fishing industry, and allow the foreign and domestic fisheries to proceed without unnecessary interruption.

DATE: Effective January 1, 1984. Comments on the apportionment of reserves to TALFF are invited until January 23, 1984.

ADDRESSES: Comments may be mailed to Robert W. McVey, Director, Alaska Region, NMFS, P.O. Box 1668, Juneau, Alaska 99802, or delivered to Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska. Copies of the resource assessment document upon which the TACs are based may be obtained from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, Alaska 99510; 907–274–4563.

FOR FURTHER INFORMATION CONTACT: Robert W. McVey, 907–586–7221; or Janet Smoker (Fishery Biologist), 907–586–7230.

SUPPLEMENTARY INFORMATION:

Background

The final rule implementing Amendment 1 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) was published in the **Federal Register** on January 4, 1984 (49 FR 396). Among other actions, the final rule sets forth the procedure by which TAC, DAH, and TALFF amounts are determined annually for each target species and the "other species" category. Consistent with this procedure, NOAA issued a proposed rule-related notice (48 FR 50586,

November 2, 1983) that solicited public comment on preliminary fishery specifications for 1984. At its December 7–9, 1983, meeting, the North Pacific Fishery Management Council (Council) reviewed public comments received on the preliminary specifications along with recent analyses of new resource surveys and commercial fishery data, and recommended to the Secretary of Commerce (Secretary) numerous changes to those specifications. The Secretary has adopted the Council's revised recommendations as the initial fishery specifications for 1984 (Table 1).

Amendment 1 to the FMP, at 50 CFR 611.93(a)(3), establishes the OY for target species and the "other species" category to be not less than 1.4 million metric tons (mt) and not more than 2.0 million mt. The Council approves the higher limit as the cumulative TAC for 1984.

The Council's final recommendations for the 1984 fishery specifications reflect revisions made to the proposed TAC amounts based on: (1) A November 1983 supplement to the Council's resource assessment document, which is available at the above address; (2) the effect of various TACs on the development of the U.S. groundfish fishery, prohibited species, and operations of major existing fisheries; and (3) the need to rebuild depressed groundfish stocks. Revisions to the amounts of groundfish specified as the domestic annual processing (DAP) and joint venture processing (JVP) components of DAH reflect updated information on the anticipated U.S. production and harvest of Bering Sea and Aleutian Islands area groundfish during 1984 by various sectors of the U.S. fishing industry. The TALFF amounts have also been adjusted according to the procedure set forth in thr final rule implementing Amendment 1, i.e., TALFF equals 0.85 times TAC minus DAH. When this procedure resulted in a zero or inadequate initial TALFF, portions of the pooled total reserve were apportioned to TALFF for specific species to avoid operational problems in the foreign fishery. As set forth in the final rule implementing Amendment 1, the initial total reserve amount equals 15 percent of the cumulative TAC for target species and the "other species" category and may be apportioned to any species or species group at any time of the year provided that overfishing does not result.

Specific changes to the proposed 1984 TACs and associated fishery apportionments and the rationale for those changes are as follows:

Pollock: The 1,200,000 mt TAC established for pollock in the eastern Bering Sea and the 100,000 mt TAC established for pollock in the Aleutian Islands area equal the estimated equilibrium yields (EY) for pollock in these areas and are increases over the proposed TACs of 1,067,710 mt and 88,980 mt, respectively. DAH is projected to increase significantly in 1984 and the Council found no reason why the TACs for pollock should not equal EY. Furthermore, a great proportion of Bering Sea pollock stocks consists of large fish from the 1978 year class and, according to ecosystem interaction considerations, such fish should be harvested to reduce cannibalism on juvenile pollock. The amount of pollock in the Bering Sea designated as DAP was increased from 14,762 mt to 18,200 mt and the JVP was decreased from 293,000 mt to 253,000 mt. Both of these latter changes were based on additional information submitted by the U.S. fishing industry on its projected harvest and/or production of pollock in 1984. The remainder of the pollock TACs in the Bering Sea and Aleutian Islands area available for initial apportionment to the fishery, or 748,800 mt and 81,500 mt, respectively, is apportioned to TALFF.

Pacific cod: The 210,000 mt TAC for Pacific cod is a 48,920 mt decrease from the 258,920 mt figure initially proposed. The Council's decision to reduce the TAC took into account the projected rapid decline of Pacific cod in immediate future years, the rapidly increasing development of a U.S. target fishery, and the amounts of Pacific cod necessary for a reasonable bycatch in the foreign pollock fishery. The U.S. fishery anticipates harvesting 131,600 mt of Pacific cod in 1984. A 210,000 mt TAC for this species will therefore provide the foreign fisheries with a 46,900 mt TALFF. This TALFF amount approximates the average 1977–1982 foreign Pacific cod catch of 50,400 mt and should provide a sufficient bycatch amount for the foreign pollock trawl fishery and a small amount for foreign longline target fisheries. The established TAC is an 81,300 mt reduction from EY which, if not harvested in 1984, will contribute an additional 36,700 mt (assuming a natural mortality rate of 0.6) to the Pacific cod biomass in 1985. In view of the anticipated decline in stocks, due to weak year classes entering the fishery in 1984 and 1985, and the increasing DAH, this additional biomass will likely be needed to serve the needs of both the domestic and foreign fisheries in 1985 and later.

Turbots: The TAC for turbots was unchanged from the proposed figure and remains at 59,610 mt, or 7,890 mt below the combined EY for this group. Setting the TAC at 59,610 mt may constrain the foreign target fishery for turbots, but this level of TAC is considered necessary in view of the declining recruitment levels of Greenland turbot. A directed U.S. fishery for turbots is not anticipated during 1984 and only a bycatch amount of 120 mt is apportioned to DAH. Initial TALFF, therefore, is 50,550 mt, or 8,250 mt less than the average 1977–1982 foreign catch of 58,800 mt.

Pacific Ocean perch: The TAC for Pacific ocean perch in the Bering Sea remains unchanged and is set at 1,780 mt, or slightly higher than the low end of the EY range (1,360 mt). The apportionment of TAC among its components differs from that proposed to allow a JVP of 150 mt and a TALFF of 810 mt. This TAC level is not likely to be additionally detrimental to the biological status of the resource, which is in a depressed state, and it will provide for limited U.S. production of Pacific ocean perch and for an adequate bycatch level in U.S. joint ventures and foreign trawl fisheries.

The 2,700 mt TAC established for Pacific ocean perch in the Aleutian Islands area is a 6,820 mt reduction from the proposed TAC of 9,520 mt. The reduced TAC will meet the directed needs of both U.S. processors and joint venture operations, but results in a zero TALFF. Therefore, 650 mt is apportioned to TALFF from the pooled reserve to provide an adequate bycatch amount for other foreign target fisheries. This reserve apportionment is not likely to be additionally detrimental to the biological status of the resource. The reduced TAC of Pacific ocean perch in the Aleutian Islands region will contribute to the rebuilding of the resource, which is relatively more desirable in this region because a U.S. target fishery for this species is more likely to develop here than in the eastern Bering Sea.

Other rockfish: As in the case of Pacific ocean perch, stocks of other rockfishes are generally not in good condition. Because limited U.S. target fisheries and foreign bycatch levels can be adequately provided for by setting TAC at 50 percent of EY in both the eastern Bering Sea and the Aleutian Islands area, the Council decided to reduce the TAC level for this species group in the Bering Sea from a proposed figure of 2,760 mt to 1,550 mt and in the Aleutian Islands area from 9,790 mt to 5,500 mt. The JVP amount for this species group has been significantly increased to 4,000 mt in the Aleutian Islands area to provide for the anticipated development of a limited U.S. target fishery in this area during

1984. The reduced TAC levels established for other rockfish will still allow the development of the U.S. fishery and provide sufficient TALFF for bycatch, while maintaining other major foreign target fisheries and promoting the rebuilding of the resource.

Sablefish, Atka mackerel, and Squid: The TACs established for these three species are unchanged from those proposed. The TACs were set below the respective EYs in proportion to the ratio of each EY to the overall EY of the groundfish complex so the aggregate TAC of the complex would not exceed the 2.0 million mt OY limit. The DAH amount for Atka mackerel has been increased and now equals 85 percent of the TAC, or 19,660 mt. Therefore, 1,000 mt of the pooled reserve is apportioned to TALFF to provide for a bycatch in other foreign target fisheries. The amount of Bering Sea sablefish that U.S. processors intend to utilize has also increased to the extent that initial TALFF is no longer sufficient to provide for a bycatch in the foreign trawl fisheries. Therefore, 360 mt from the pooled reserve is apportioned to TALFF for a total Bering Sea sablefish TALFF of 900 mt. These apportionments of reserves to Atka mackerel and sablefish will not have a detrimental effect on stocks because both the Atka mackerel and sablefish TACs were set initially below EY to accommodate the 2.0 million mt total OY limit, and the reserve apportionments to these species will not exceed EY.

Yellowfin sole, Other flatfish, and Other species: These species groups have surplus production that more than adequately serves the needs of the U.S. and foreign fisheries. However, because of the increases in the pollock TACs, their TACs are reduced from those proposed, so that the cumulative TAC of all species equals 2.0 million mt. On this basis, TACs were established as follows: 230,000 mt for yellowfin sole; 111,490 mt for other flatfish; and 40,000 mt for "other species." A further reduction in the TAC for yellowfin sole to accommodate foreign requests to increase TACs for other species groups is not desirable, because yellowfin sole is at a historic high level of abundance and is also increasing rapidly. Harvesting the increased surplus of the species should be encouraged. The DAH amounts for yellowfin sole, othe flatfish, and "other species" were either increased slightly or left unchanged from the amounts proposed. TALFF amounts were decreased to accommodate decreases in TACs.

Public Comments

The Council received and considered numerous comments on the proposed 1984 fishery apportionments prior to determining its final recommendations for the 1984 fishery. In addition, the Director, Alaska Region, received one letter of comments from the Fisheries Agency of the Government of Japan. This set of comments is summarized and responded to below:

Comment 1: Major fluctuations of various species' TACs from year to year based on socioeconomic and biological factors create operational and planning problems for foreign fleets.

Response: Annual changes to TACs for target species and the "other species" category will be made to accommodate status of stocks, other biological concerns, and the development of the U.S. fishing industry. The determination to make such changes, however, will take into account their effect on the existing operations of the major foreign fisheries.

Comment 2: The TACs for pollock, turbots, Pacific ocean perch, and sablefish should be increased and the TACs for yellowfin sole and other flatfish should be decreased as follows: the TACs for pollock in the Bering Sea and Aleutian Islands area should be set at EY levels, or 1,200,000 mt and 100,000 mt, respectively, in view of the good condition of the resource and the expanded U.S.-Japan joint venture target fishery. The TAC for turbots should also be increased to equal the combined EY for this species group, or 85,000 mt, because apparent recent reductions in CPUE are the result of fishery restrictions rather than a deterioration in resource abundance. The TAC for Pacific ocean perch in the Bering Sea should be increased to 2,600 mt due to a probable underestimation of stock abundance. Furthermore, an overly conservative TAC would preclude other foreign target fisheries and would impede the rational implementation of the FMP. In addition, DAP for Pacific ocean perch in the Bering Sea should not exceed 1,000 mt to avoid an overestimation of U.S. production in 1984. The TACs for sablefish should also be increased to equal the EYs, which are 4,430 mt in the Bering Sea and 1,755 mt in the Aleutian Islands area. Finally, in view of the above increases in TACs, there should be a compensating reduction in the TACs for yellowfin sole, other flatfishes, and "other species" to stay within the 2.0 million mt OY limit.

Response: As noted above, the proposed TACs for pollock have been increased to EY levels; however, the proposed TACs for Pacific ocean perch, turbots, and sablefish were either reduced or maintained at levels below EY. The rationale for establishing the TACs below the respective EYs and the resultant fishery apportionments has been presented above and primarily addresses the desire of both the Council and the Secretary to rebuild stocks, while providing for limited U.S. target fisheries and for adequate bycatch levels in other foreign target fisheries. Also, as stated above, the TACs established for yellowfin sole and other flatfishes were reduced to compensate for adjustment in other species' TACs while still maintaining a cumulative TAC of 2.0 million mt.

Comment 3: In view of the fact that 15 percent of the cumulative TAC is put in reserve, care should be taken to avoid excessive estimates of DAP and JVP.

Response: The intitial 1984 specifications for DAP and JVP are based on recent surveys of the U.S. industry and represent the best estimate available on the anticipated U.S. harvest of groundfish in 1984. If a subsequent determination is made by the Secretary that amounts of either DAP or JVP will not be harvested by U.S. fishermen during 1984, such amounts will be available for reapportionment to TALFF consistent with 50 CFR 611.93(b)(2) and 611.75(b).

Other Matters

This action is taken under 50 CFR 611.93(b) and 675.20 and complies with Executive Order 12291.

The Secretary has determined that the 2,010 mt of the pooled reserves apportioned by this notice to TALFF would not have been harvested by U.S. vessels during 1984 because the initial DAP and JVP amounts specified for 1984 are based on recent surveys of the U.S. industry and represent the best estimate available on the projected U.S. harvest of Bering Sea and Aleutian Islands area groundfish. The Secretary has also determined that this reserve apportionment needs to be effective by January 1, 1984, to avoid disruption and confusion in both the conduct and management of the foreign fisheries. The Secretary finds, therefore, that there is good cause for not providing a prior comment opportunity on the reserve apportionment to TALFF, but will accept comments on the apportionment as specified under DATES above. The Secretary will consider all timely comments in deciding whether or not to modify the reserve apportionment to

TALFF and will publish responses to any comments recieved as soon as it is practicable.

List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

(16 U.S.C. 1801 *et seq.*)

Dated: December 30, 1983.

Joseph W. Angelovic,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

PART 675—[AMENDED]

For reasons stated in the preamble, 50 CFR Part 675 is amended as follows:

1. The authority citation for Part 675 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 675.20, Table 1 for paragraph (a) is revised to read as follows:

§ 675.20 General limitations.

(a) * * *

TABLE 1.—INITIAL (AS OF JAN. 1, EACH YEAR) TOTAL ALLOWABLE CATCH (TAC), DOMESTIC ANNUAL HARVEST (DAH), DOMESTIC ANNUAL PROCESSING (DAP), JOINT VENTURE PROCESSING (JVP), RESERVE, AND TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING (TALFF), IN METRIC TONS (MT). TAC=DAH+RESERVE+TALFF: DAH=DAP+JVP

Species	Species code	Area	TAC	DAH	DAP	JVP	TALFF
Bering Sea and Aleutian Islands Groundfish Fishery:							
Pollock	701	Bering Sea	1,200,000	271,200	18,200	253,000	748,800
		Aleutians	100,000	3,500	500	3,000	81,500
Yellowfin sole	720		230,000	37,860	1,360	36,500	157,640
Turbots	721–118		59,610	120	20	100	50,550
Other flatfishes	129		111,490	23,360	1,360	22,000	71,410
Pacific cod	702		210,000	131,600	104,400	27,200	46,900
Pacific ocean perch	780	Bering Sea	1,780	700	550	150	810
		Aleutians	2,700	2,295	550	1,745	[1] 650
Other rockfish	849	Bering Sea	1,550	70	50	20	1,245
		Aleutians	5,500	4,050	50	4,000	625
Sablefish	703	Bering Sea	3,740	2,640	2,540	100	[2] 900
		Aleutians	1,600	150	50	100	1,210
Atka mackerel	207		23,130	19,860	230	19,430	[1] 1,000
Squid	509		8,900	40	20	20	7,525
Other Species	499		40,000	5,000	3,000	2,000	29,000
Totals			2,000,000	502,245	132,880	368,365	1,199,765

Fifteen percent of the total TAC, or 300,000 mt, is apportioned to the initial reserve and the remaining TAC is apportioned to DAP, JVP, and TALFF. The reserve may be apportioned to DAP, JVP, or TALFF as needed.[3]

[1] Apportioned from the initial 300,000 mt reserve.
[2] Includes 360 mt apportioned from the initial reserve.
[3] After apportioning the amounts shown in footnote references 1 and 2, the initial pooled reserve consists of 300,000 mt−650 mt−360 mt−1,000 mt=297,990 mt.

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Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 11 and 13

[Docket No. RM83-57-000]

Payments for Benefits From Headwater Improvements

Issued: December 29, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Proposed rule.

SUMMARY: This proposed rule sets forth a formula for determining an equitable apportionment of the annual charges for interest, maintenance, and depreciation for a storage reservoir or other headwater improvement owned by the United States or its licensee or permittee. Under section 10(f) of the Federal Power Act, the owners of non-Federal power projects which directly benefit from such a headwater improvement must pay an equitable portion of these annual charges. The proposal would provide for apportionment of these costs between the headwater project and downstream projects based on downstream energy gains. The rule proposes an equitable apportionment methodology that can be applied to all river basins in which headwater improvements are built.

DATES: Written comments must be received on or before March 9, 1984.

ADDRESS: Comments must be sent to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

An original and 14 copies must be submitted and should refer to Docket No. RM83-57-000.

FOR FURTHER INFORMATION CONTACT:
Jan Macpherson, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8033
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SUPPLEMENTARY INFORMATION: December 29, 1983.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is proposing to amend 18 CFR 11.25–11.31 and 13.1, which implement section 10(f) of the Federal Power Act (FPA).[1] Under section 10(f), the owners of non-Federal hydroelectric power projects that are directly benefited by headwater improvements constructed by the United States must pay an "equitable" portion of the annual costs of interest, maintenance, and depreciation of the Federal headwater improvements (hereinafter referred to as "10(f) costs"). This payment is called the headwater benefits charge.

The proposed rule sets forth a generic formula for determining the equitable apportionment of the 10(f) costs. Under the proposed rule, the Commission would calculate headwater benefits charges by apportioning certain annual 10(f) costs (those to be borne by power revenues) among the headwater and downstream projects based on the respective amounts of headwater project and downstream energy attributable to the joint use facilities at the headwater site. Joint use facilities are those which serve more than one purpose and may provide benefits both at the headwater project and at downstream projects. These facilities are primarily the dam and reservoir. In addition, other proposed provisions address the determination of headwater benefits charges on behalf of Federal licensees or permittees whose headwater projects provide direct benefits to downstream projects.

The proposed rule would also specify new procedural mechanisms for streamlining the assessment of headwater benefits charges.

[1] 16 U.S.C. 803(f) (1976 & Supp. V 1981). 18 CFR 11.28 and 11.29, which do not pertain to section 10(f), would merely be redesignated as §§ 11.30 and 11.31 without substantive change.

II. Background

A. Basic Considerations Related to Headwater Benefits Under Section 10(f) of the FPA

Section 10(f) of the FPA provides, in pertinent part, as follows:

> Whenever any licensee hereunder is directly benefited by the construction work of another licensee, a permittee, or of the United States of a storage reservoir or other headwater improvement, the Commission shall require as a condition of the license that the licensee so benefited shall reimburse the owner of such reservoir or other improvements for *such part of the annual charges for interest, maintenance, and depreciation thereon as the Commission may deem equitable.* The proportion of such charges to be paid by any licensee shall be determined by the Commission. The licensees or permittees affected shall pay to the United States the cost of making such determination as fixed by the Commission. (Emphasis added.)

Another portion of section 10(f) imposes a similar obligation to pay headwater benefits charges on unlicensed downstream beneficiaries. Money paid to the United States goes into a special fund for headwater improvements pursuant to section 17 of the FPA.

Upstream headwater improvements can directly benefit downstream power projects in several ways. Most importantly, a release of water from a headwater storage facility can make possible additional electric power generation at a downstream project at times of reduced river flow. This energy gain is the direct result of the operation of the upstream dam and reservoir facilities. As mentioned above, section 10(f) requires that an "equitable" portion of the interest, maintenance, and depreciation on these upstream facilities be borne by downstream beneficiaries.

Historically, the 10(f) costs have been equitable apportioned among the headwater project and downstream projects as follows. The first step is allocation [2] of the project costs among the various authorized functions of the project. When an upstream Federal project is completed, the constructing agency will first assign the costs of facilities that will serve only one function (specific facilities) to that

[2] In this discussion, "allocation" refers to assigning costs to different project functions, and "apportionment" refers to dividing costs to be borne by power among upstream and downstream beneficiaries.

function and then will usually allocate costs of the joint use facilities that can be accurately identified to each authorized project function. The cost allocation will include actual construction costs and anticipated costs of operation, maintenance, and replacements.

Some costs will be allocated to "joint use" power functions;[3] others, such as the cost of facilities related to irrigation, will not. This allocation generally establishes the portion of joint use investment costs (interest, amortization, and replacements) and the percentage of joint use annual costs (operation and maintenance) that are used to derive the annual costs to be borne by power and are the basis for the headwater benefits charge. If the legislation authorizing the project specifies that certain non-power costs are to be borne by power revenues, these costs would also be apportioned under section 10(f). These costs will be referred to as "headwater benefits costs" for the remainder of this Notice of Proposed Rulemaking. During the life of the project, the allocation ratio of the headwater benefits costs to the total costs will ordinarily not change unless a new project function is authorized or the project operation is significantly modified.

The second step in assessing headwater benefits charges is apportioning the headwater costs among the headwater and downstream parties, as described below.

B. Methods of Apportioning Headwater Benefits Costs

(1) *Value Method*

The Commission has used a variety of methods to determine how to equitably apportion these headwater benefits costs. Until recently, the "Allatoona" or "value" method of apportioning the costs has been used most frequently.[4] Under this method, headwater benefits costs are apportioned according to the monetary *value* of the power benefits (energy and dependable capacity) at the site and at downstream projects.[5]

The value for the headwater project (V_f) is considered to be the total annual cost of producing that power since Federal power is sold at cost under the Flood Control Act of 1944, 16 U.S.C. 825s (1982) and other legislation. The value for the downstream project (V_n) is determined by first computing the gains in energy and dependable capacity realized at that project, which are the difference between the amounts of each that would be realized with and without the headwater project. The monetary value of these energy and capacity gains is expressed as the incremental cost of obtaining an equivalent amount of energy and capacity from the most likely alternative source, which is generally a steam electric generating plant.

The "value" method of apportioning headwater benefits costs has been upheld in court as a reasonable exercise of the Commission's discretion, although the courts make it clear that other acceptable ways may exist for the Commission to equitably apportion these costs.[6]

Since 1974, however, the effect of using the "value" method has changed. This is because the cost of alternative fuels has increased dramatically, with a concomitant increase in the value of the energy and capacity gains realized at downstream projects. At the same time, the value for the headwater projects (that is, the cost of producing the power) has remained relatively stable.[7] Thus, downstream projects owners have been apportioned a larger and larger percentage of the headwater benefits costs even though the amount of power gains they receive has remained much the same.

(2) *Other Approaches*

Headwater benefits charges have been assessed based on a variety of other apportionment methods in different river basins. The critical period procedure, set forth in § 11.27(a) of the Commission's regulations, can be used where the downstream project is assured of scheduled water releases. Under that method, the headwater benefits charges are apportioned according to the value of the power benefits realized from storage during the "critical period."[8] This method was designed to take account of capacity and energy gains. However, the critical period method is applicable in only a few river basins.

There are several other apportionment formulas which could be used under the general language of the existing rule.[9] In addition, under §§ 11.25 and 13.1, non-Federal owners of headwater improvements (licensees and permittees) may arrive at settlements with downstream project owners, subject to Commission approval, in lieu of a Commission investigation and proceeding.

(3) *The Energy Gains Approach*

In *Virginia Electric and Power Co. and Dan River, Inc.*[10] (hereinafter referred to as the *Roanoke* case because it concerned the Roanoke River), the Commission decided that the headwater benefits costs should be apportioned based on the comparative energy produced at the headwater project and the energy gain at the downstream project rather than on the monetary value of those energy and dependable capacity amounts. Payments were based on actual energy gains for a portion of the study period and on average annual energy gains over the remainder of the period and for the future. The order provided that these payments (which

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[3] The term "joint use" facilities or functions means those facilities or functions of the headwater project that serve more than one purpose. These are facilities which can benefit both the headwater project and the downstream project. This term, therefore, refers primarily to the dam and reservoir at the headwater project and excludes facilities that benefit only the upstream project, such as its own powerhouse. There are, however, a few unique situations where, for example, a statutory provision directs non-power facilities, such as irrigation facilities, to be included with the power-related facilities and to be borne by power revenues. The 10(f) costs which must be equitably apportioned include *only* joint use costs that are assigned to or are to be borne by the power function of the headwater project.

[4] The method was first used to apportion headwater benefits costs from the Federal Allatoona project in Alabama Power Co., Determination of Proportion of Annual Charges Due for Headwater Benefits for Years 1950 through 1952, 13 F.P.C. 1317 (1954).

[5] The Allatoona formula reads as follows:

$$P_n = C_p \times \frac{V_n}{V_f + V_d}$$

in which P_n = annual payment to be made for headwater benefits received at a downstream non-federal plant (or group of plants),

C_p = total annual 10(f) costs of the dam and reservoir to be borne by power at site and downstream,

V_n = net annual monetary value of benefits received at a downstream non-Federal plant (or plants),

V_f = annual monetary value of the Federal headwater improvements to at-site power production, and

V_d = net annual monetary value of benefits received at all downstream plants.

[6] *Alabama Power Co.* v. *FPC*, 450 F.2d 716 (D.C. Cir. 1971); *South Carolina Electric and Gas Co.* v. *FPC*, 338 F.2d 898 (4th Cir. 1964).

[7] In other words, the V_n and V_d figures in the Allatoona formula have increased due to the increase in alternative fuel costs while the C_p and V_f figures have remained fairly constant.

[8] "Critical period" means the time during which all water storage at a reservoir would be released for power production, assuming recurrence of the most adverse stream flow conditions of record for the area (§ 11.25(b)(1)).

[9] Other apportionment formulas which could be used include using the value method with a "ceiling," the value method excluding consideration of capacity gains, the energy method (100% at site), and the energy method (50% at site). Under the energy method (100% at site), the joint power costs are apportioned using the ratio of energy gains at each downstream plant to total headwater project (at site) energy production plus energy gains at all downstream plants. Under the energy method (50% at site), the joint power costs are apportioned using the ratio of energy gains at each downstream plant to the total of 50% of the headwater project energy production plus energy gains at all downstream plants.

[10] Order Assessing Payments for Headwater Benefits, 22 FERC ¶61,351 (March 31, 1983) (Docket No. HB08-74-2-000).

were expressed as a percentage of the headwater costs) be continued until a new investigation is performed because of economic changes, changes in operations, or changes in the development of the river basin.

The *Roanoke* "energy" methodology is designed to achieve several goals: (1) an equitable apportionment of the headwater benefits costs that is not sensitive to unnecessarily volatile and uncontrollable economic factors, such as the price of oil and the rate of inflation; (2) expeditious assessment of payments for headwater benefits by making the methodology easier to apply; (3) providing predictability for developers and potential developers; and (4) reducing the costs of investigations. It also obviates the need to determine dependable capacity gains and to establish a monetary value for these gains, which has led to considerable controversy in Commission headwater benefits proceedings.

C. Need for a Generic Method to Determine Equitable Apportionment

There are 41 river basins with Federal reservoirs upstream from non-Federal hydropower projects. Payments in these river basins currently are as follows. In 19 basins, no assessments have been made because detailed investigations revealed that no payments were due or because preliminary studies indicated that further investigations were not warranted.[11] In the Columbia, Willamette, and Missouri basins, the critical period method is currently being used, although payments are presently interim.

Interim payments are also being made based on various methods in the Ouachita, Savannah, Alabama, Chattahoochee, and White (Arkansas) basins.[12] The Allatoona "value" method is the basis for assessment in the Alabama, Chattahoochee, and Mississippi basins and is the basis for settlements in the Colorado and White basins. In the Roanoke, Kern, and Clarion basins, the *Roanoke* energy method is the basis for the present assessment.[13] Eleven of the 41 river basins having Federal reservoirs also involve Federally licensed headwater projects. Nineteen basins contain only Federally licensed headwater improvements.

This proposed rule would apply the energy gains formula (which is described in more detail below) on a generic basis for determining the headwater benefits charges arising from all Federal headwater projects. It would also set forth procedures for the Commission to assess charges for benefits from headwater projects owned by Federal licensees or permittees where the licensee or permittee so requests. The application of one methodology for determining headwater benefits charges from Federal headwater projects would resolve the problem of varying headwater benefits charges in different basins based on different methodologies. One generic methodology is also expected to eliminate many hearings and lawsuits, thereby saving the Commission and affected parties time and expense. Moreover, numerous outstanding headwater benefits proceedings could be resolved more quickly and fairly under a generic rule.

III. The Proposed Rule

A. General Description

Under the proposed rule, the headwater benefits costs would be apportioned based on the energy gains for the upstream (headwater) and downstream plants unless (1) a settlement is reached by the parties and approved by the Commission, or (2) the owner of the downstream project demonstrates that the formula would result in charges which exceed the value of the energy gains. These exceptions are discussed in section III B below.

The headwater benefits costs would be apportioned among the headwater and downstream projects on the basis of the relative proportions of the amount of energy produced at the headwater project attributable to the joint use facilities versus the energy gains at downstream projects. The formula is:

$$P_n = C_p \times \frac{E_n}{E_j + E_d}$$

In which:

P_n = annual payment to be made for headwater benefits received during a specific year at a downtown plant,

C_p = annual 10(f) cost of headwater improvement to be borne by power both at the headwater project site and downstream,

E_n = annual energy gains received at a downstream plant, or group of plants if owned by one entity,

E_d = annual energy gains received at all downstream plants,[14]

E_j = portion of the annual energy at the headwater improvement attributable to the joint use power facilities.

$$E_j = E_t \times \frac{C_j}{C}$$

where:

E_t = total annual generation at the headwater project,

C_j = total investment costs assigned to the headwater joint use power facilities, and

C = total investment costs assigned to the headwater power facilities, including both joint use and specific facilities.

The energy method would be used to arrive at a percentage of the headwater benefits costs to be paid by each party rather than a fixed dollar amount. Thus, changes in the dollar amount of headwater benefits costs would be reflected in annual billings and would not require additional action.

Energy gains which total less than zero for an annual period would not be carried over to the following year. Such annual losses, however, would be offset by positive gains from the same reservoir at other downstream plants of the same ownership.

The "first-in-time" principle would also continue to be used. Under this principle, for example, where there are two upstream reservoirs, either of which alone could produce an energy gain of 20 percent at a downstream plant but which together produce an energy gain at that plant of only 26 percent (not 40 percent), the first reservoir to produce benefits is treated as producing a 20 percent benefit while the second is treated as producing a 6 percent benefit.

Finally, there are cases of headwater projects with no power but which cause direct benefits to downstream projects. For instance, a flood control project may benefit downstream power projects by preventing flooding which would interfere with their operation. Releases of water for irrigation may augment low flows to produce power gains. In these instances, the Commission will continue its practice of making an allocation to the power function for the headwater project based on the benefits related to the initial authorized purposes plus the energy benefits received by the downstream projects.

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[11] These basins are Clearwater, Deschutes, Gila, Guadalupe, Kansas, Klamath, Minnesota, Niobrara, Ogdene, Platte, Provo, Red Lake, Rio Grande, Rogue, Tennessee, Weber, Yadkin-Pee Dee, Des Moines, and Susquehanna.

[12] Interim payments are only temporary and can be revised retroactively by the Commission when it reaches a final determination of headwater benefits charges.

[13] Note that in the Mississippi and Clarion basins, where there are no power facilities at the headwater projects, an allocation of costs to the power function forms the basis for downstream payments.

[14] As under present practice, Federally owned downstream plants would be included in the E_d term of the apportionment formula although they would not actually be assessed a headwater benefits charge.

B. Application of Energy Gains Methodology

(1) *Time Periods Involved*

Generally, the energy method would be applied to all river basins and for all time periods, except where final headwater benefits payments have already been set by a Commission order or where the Commission has approved a settlement without reserving the possibility of later adjustment. In several river basins no headwater benefits assessment has yet been made, and downstream projects licenses generally state that the licensee is liable for any assessment the Commission makes. In eight other river basins, the Commission has assessed *final* payments for earlier years but has established only *interim* charges in recent years as a result of settlements or Commission adjudications. For these two types of situations, the proposed rule would apply before 1973 as well as afterwards except in years for which final payments have been made.

(2) *Limitation on Headwater Benefits Charges*

It was after 1973 that alternative fuel costs rose dramatically and application of the Allatoona value method led to downstream projects being apportioned a growing percentage of the 10(f) costs. Applying the energy method to pre-1973 years could, in some cases, lead to headwater benefits charges which are larger than the value of the gains for a project for an individual year. In order to avoid this inequitable result, the Commission proposes to allow the headwater benefits charge to be "capped" if a project owner demonstrates that the total payments under the energy method for the period being assessed would exceed the total value of the benefits for the period being assessed. This cap would be set at the value of the benefits for that period (see proposed §11.28(e)). There may be other situations in which applicaton of the energy method could lead to headwater benefits assessments which are greater than the value of the energy benefit received by a particular project.

(3) *Reallocation of Headwater Projects Without Power Where Number of Beneficiaries Changes*

When a new project is built downstream or one is retired, the Commission proposed that the allocation to the power function at the Federal headwater project be changed accordingly, since the original allocation to the power function for a headwater project without power constitutes the costs to be borne by the downstream owners. The amount apportioned to individual owners thus depends on the relative benefits to all downstream plants. Thus, construction of a new downstream plant, for instance, would result in a reduction of the payments to be made by the other downstream owners.

(4) *Settlements*

In some river basins there are settlements concerning the apportionment of headwater costs. Where the Commission has approved a settlement providing for definite and final payments for particular years, this proposed ruled would not disturb that agreement. However, some Commission orders approving settlements state that certain payments are to continue into the future until changes in conditions warrant a reappraisal.[15] Many of these payments have not reflected an equitable apportionment of 10(f) costs in recent years because of significant increases in these costs. The Commission believes that this change in headwater benefits costs with the passage of time constitutes a changed condition warranting reappraisal of these settlements and proposes to apply this proposal rule to those cases.

(5) *Relation to Other Annual Charges*

Under section 10(e) of the FPA, when a licensee uses a dam or other structure owned by the Federal government, the Commission is to fix a reasonable annual charge for that use. Some downstream power projects may be subject both to these 10(e) annual charges and 10(f) headwater benefits charges. This occurs when the downstream project uses a Government dam to develop head and also receives benefits from another upstream Federal dam and reservoir. In this situation, the Commission proposes to decrease the 10(e) charges by the amount of the 10(f) charges for any year for which 10(f) charges are assessed and paid.[16] Although the Commission is legally entitled to assess both 10(e) and 10(f) charges on a project under these circumstances, as a matter of policy the Commission proposes not to burden these projects with the full amount of both charges. However, the Commission requests comments on this issue, particularly with respect to the actual financial burden that might otherwise be imposed. The Commission may consider adopting other approaches in the final rule.

C. Procedures

The proposed rule would make several changes in the procedural aspects of headwater benefits determinations. First, it would provide that the Commission may perform a preliminary study to determine whether a detailed river basin investigation is justified. If the commission decides to perform such a detailed investigation, it will publish general notice and will notify the parties. A party will have 30 days to raise any affirmative defenses such as objections to the Commission's authority to asses headwater benefits charges. This is designed to prevent a possible waste of Commission resources in conducting an investigation that is later challenged solely on jurisdictional, rather than factual, grounds.

In some situations, the preliminary study may indicate that a more detailed investigation is justified, yet the amount of the headwater benefit charges likely to be involved may not justify as extensive or sophisticated a study as in other river basins, where higher charges are likely. The draft proposed rule provides that the parties may agree to a relatively less extensive investigation by the Commission. (The information obtained through this investigation would be used in applying the energy formula.) However, the Commission may perform the more extensive investigation if it believes it is necessary even where the parties have agreed to a more abbreviated investigation.

IV. Section-by-Section Description of Proposal

A. Section 11.25 (General Rule and Definitions)

Section 11.25(a) of the existing regulations incorporates the requirement of section 10(f) of the FPA that power projects which directly benefit from headwater improvements of the United States or its licensees or permittees must pay an equitable portion of the 10(f) costs of the headwater improvement. The proposed rule would make only minor word changes to the body of § 11.25(a) but would delete current footnote 1 as unnecessary (see discussion of § 11.31 below).

Section 11.25(b) of the existing rule sets forth definitions. The proposed rule would retain the definition of "party" as either the owner of a non-Federal downstream project which receives a

[15] *E.g.*, South Carolina Electric & Gas Co., *Savannah River, Headwater Benefits Determination*, Docket No. E–6468 (issued August 19, 1968); Arkansas Power & Light Co., *Determination of Charges for Headwater Benefits*, Docket No. E–6709 (issued December 20, 1963).

[16] If headwater benefits charges are assessed and paid at times different than annual charges (even though the year at issue is the same), the 10(e) annual charges billing would be adjusted as necessary to reflect any credit that is due.

direct benefit from an upstream reservoir or other improvement of the United States or its licensee or permittee, or the owner of such a headwater improvement, or a Federal power marketing agency with respect to Federal headwater improvements. Other definitions in the existing rule would be deleted as they would no longer be relevant.

The proposed rule would add several new definitions. "Energy gains" would mean the difference between the energy a downstream project would produce with the headwater project and the energy it would produce without that project, using a "first-in-time" priority (as discussed above under Section III A "General Description") to attribute gains to each headwater project. "Generation" would mean gross generation at the hydropower project measured in kilowatt-hours. "Headwater benefits costs" would be defined as the annual costs of interest, maintenance, and depreciation of the joint use facilities at a headwater project to be borne by power revenues. "Joint use facilities" would be defined as facilities at a headwater project (usually the dam and reservoir) which provide benefits to more than one function and may provide benefits both at the headwater project site and at downstream projects. "Specific facilities" are those providing benefits only to one function, generally at the headwater project site. "10(f) costs" would be defined as the annual costs of interest, maintenance, and depreciation of the joint use facilities.

B. Section 11.26 (Information To Be Submitted)

Section 11.26 would provide that the data necessary for an investigation of headwater benefits shall be supplied on a case-by-case basis, as the Commission requests. This information would also be provided to all other affected parties. The proposed rule contains a list of the information that will be required if the Commission performs an investigation. The list of information the owner of the headwater project would be required to submit includes identification of the project and the stream, a description of the power plant and the reservoir, area capacity and rule curves, information on the contents of the reservoir, the annual gross generation at the hydroelectric plant, the investment costs, and the annual costs (including information on allocation of these costs among the project functions). The list of information the owner of the downstream plant would be required to submit includes identification of the project and the stream, a description of the power plant, and information of the generation at the plant. The rule also notes that these lists of information are not exhaustive and that the Commission may require other information.

These proposed data requirements differ from the requirements in existing § 11.26 in two ways. First, and most importantly, the data is to be supplied as requested on a case-by-case basis rather than being required for every project for every year as under the existing rule. There is no need to require yearly submission of information for all projects since the Commission does not study every project or every year. The information is readily available to the project owners and could easily be gathered in response to a request from the Commission. Second, the existing rule contains a more extensive list of required information, some of which was needed for the critical period method. These items would be deleted in the proposed rule because the critical period method would be replaced by the energy gains method.

C. Section 11.27 (Preliminary Studies and Detailed Investigations)

Section 11.27(a) would provide for the Commission to perform a preliminary river basin study. The purpose of this preliminary study would be to determine whether a detailed investigation is warranted. This is designed to promote efficient use of the Commission's resources and to make the regulatory burden on affected parties commensurate with the nature of the river basin and the projects involved.

Under § 11.27(b), where the preliminary study indicates that a detailed investigation is warranted, the Commission will notify the parties and issue a public notice. In order to avoid a possible waste of resources the Commission intends that parties wishing to raise affirmative defenses such as jurisdictional issues do so within 30 days after publication of the notice.

D. Section 11.28 (Payments for Benefits Provided by Headwater Improvements Owned by the Federal Government)

Section 11.28 of the proposed rule sets forth the energy method of apportioning headwater benefits costs of Federal headwater projects. Subsection (a) establishes the applicability of the energy gains formula. Under subsection (a), unless the project is already subject to a final Commission order assessing headwater benefits payments which is not subject to change, or unless a downstream project owner demonstrates that the formula set forth in the rule would result in payments greater than the value of the energy gains to be received, charges would be fixed for downstream projects which exceed 2,000 horsepower [17] based on the general rule and formula in subsections (b)–(d). These provisions would replace existing § 11.27, which provides for payments to be determined differently in different circumstances. Thus, this section is central for achieving greater uniformity among river basins, one of the principal objectives of this rulemaking.

Subsection (b) sets forth the general principle for apportioning headwater benefits costs. The headwater benefits costs would be apportioned among the headwater project and the downstream projects on the basis of the relative proportions of the amount of energy produced at the headwater project attributable to the joint use facilities to be borne by power revenues versus the energy gains at downstream projects.

Subsection (c) explains how the amount of energy at the headwater project attributed to the joint use facilities is calculated.

Subsection (d) sets forth the mathematical formula for the energy method.

Under subsection (e), where the owner of a downstream project demonstrates that use of the formula would result in payments which exceed the value of the project's energy gains, the assessment will be limited to the dollar amount of that value.

Under proposed subsection (f), where a downstream project is subject to both an annual charge for use of a Government dam or other structure under section 10(e) as well as a headwater benefits charge under section 10(f) of the FPA, the Commission will decrease the 10(e) charge by the amount of the 10(f) charge for any year for which both charges are assessed. It is possible that a credit towards future 10(e) charges will be the appropriate adjustment mechanism depending on when the 10(f) charges are actually assessed.

Under proposed § 11.28(g), the cost of the investigation and the Commission's determination would be borne either by the downstream beneficiaries or where a Federal licensee or permittee owning a headwater project is involved by that licensee or permittee and the downstream beneficiaries. This is consistent with the Commission's decision in *Public Service Co. of Colorado*, Opinion Reversing Initial

[17] The rule carries forward the current exclusion found in 18 CFR 11.27 for hydropower projects of 2,000 horsepower or less. *See* section 10(i) of the FPA.

Decision, —— FERC ¶ (————, 1983) (Docket No. HB24–63–3–000).

The proposed rule also provides in subsection (h) that where determinations have been made for several years and where conditions appear to have stabilized, the Commission may establish future payments based on average annual energy amounts. This is similar to the provisions in existing § 11.30. Under subsection (i), where final future payments are not established, the Commission may assess interim payments until it reaches a final determination on the appropriate amount to assess.

Subsection (j) would govern the beginning date for which payments will be assessed. It also would provide that for river basins in which payments are current and annual billing procedures established, bills based on the established percentage of headwater benefits costs would be rendered annually until a revision is warranted because of a change in the operration of the project or an increase or decrease in the amount of hydro-electric development in the river basin.

Subsection (k) would provide that the Commission may initiate a new investigation on its own motion or at a party's request.

E. Section 11.29 (Where Benefits Are Provided by a Headwater Project Owned by a Federal Licensee or Permittee)

Proposed § 11.29 would govern the situation where a licensee or permittee owning a headwater improvement believes that it should be receiving payments from downstream projects. Under the proposed rule, that licensee has the responsibility to initiate action; the Commission will not begin an investigation unless requested. As under § 13.1 of the existing regulations, the proposed rule would provide that the owner of the headwater project and the downstream owners may reach a settlement agreement, subject to the Commission's approval.

Under proposed § 11.29(b), the owner of the headwater project may request the Commission to perform a study, and the Commission may perform a preliminary study. If the Commission determines that a detailed investigation is justified, it will perform such an investigation.

Under § 11.29(c), if as a result of the investigation the Commission concludes that the licensee or permittee should be paid for headwater benefits, the Commission will assess a headwater benefits charge against the owners of the downstream beneficiary projects. The Commission will use the formula set forth in § 11.28 to determine this charge.

F. Sections 11.30 and 11.31 (Effective Date and Adjustment of Annual Charges)

Proposed §§ 11.30 and 11.31 are merely redesignations of existing §§ 11.28 and 11.29. These sections do not apply to 10(f) charges but do relate to other charges covered by 18 CFR Part 11.

G. Section 11.32 (Procedures)

Section 11.31 of the existing regulations (redesignated as § 11.32 in the proposed rule) governs the time for paying annual charges and headwater benefits charges, billing procedures, protest and hearing procedures, accounting for payments made pending protests and requests for hearing, and penalties. This section would not be changed in substance except for the addition of a new subsection (f) concerning interest payments. Subsection (f) would provide that where a party protests a headwater benefits charge and requests a hearing or reconsideration, the penalty for failure to pay may be waived but interest on the unpaid balance of the amount finally determined will be assessed beginning 60 days after the initial bill. Interest would be computed in accordance with the Commission's regulation governing other refunds under the FPA (18 CFR 35.19a).

IV. Regulatory Flexibility Act Certification

Whenever the Commission is required by section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553, to publish a notice of proposed rulemaking, it is also required by section 603 of the Regulatory Flexibility Act (RFA), 5 U.S.C. 603, to prepare an initial regulatory flexibility analysis unless the Commission certifies pursuant to section 605(b) of the RFA that the proposed rule, if promulgated, would not have a significant economic impact on a substantial number of small entities.

Generally, many hydroelectric developers are not small entities as defined under the RFA.[18] In addition, the proposed rule would exempt projects under 2,000 horsepower, thereby further limiting the number of entities subject to the rule. Third, out of a total of 796 hydroelectric project licensees (of all sizes), only about 50 licensees are presently identified as potential beneficiaries of headwater improvements, and only 7 non-licensees are beneficiaries. Thus, this rule is not expected to affect a substantial number of small entities.

Moreover, the economic impact of this rule on those project owners who are affected is not likely to be significant in terms of RFA considerations. The charges resulting from the application of this rule are not expected to be significantly different because any difference is most likely to be a decrease rather than an increase. This is because the energy method proposed here is likely to result in downstream beneficiaries being apportioned a smaller share of the headwater costs than under the prevailing Allatoona "value" method. Furthermore, the proposed rule would alleviate some of the uncertainty which now faces downstream beneficiaries as to what approach the Commission will take in assessing headwater benefits. Some of the resources now spent by these entities on individual hearings should also be saved.

For these reasons, the Commission certifies pursuant to section 605(b) of the RFA that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

V. Paperwork Reduction Act Statement

The information collection provisions proposed in this notice are being submitted to the Office of Management and Budget (OMB) for its approval under the Paperwork Reduction Act, 44 U.S.C. 3501–3520 (Supp. V 1981) and OMB's regulations, 5 CFR 1320.13 (1983). Interested persons can obtain information on the information collection provisions by contacting the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 (Attention: Jan Macpherson (202) 357–8033). Comments on the information collection provisions can be sent to the Office of Information and Regulatory Affairs of OMB (Attention: Desk Office for the Federal Energy Regulatory Commission).

VI. Comment Procedures

The Commission invites interested persons to submit written comments, data, views, and other information concerning the matter set out in this notice. The Commission specifically invites all persons concerned with the preparation of information for investigations under this proposed rule

[18] 5 U.S.C. 601(d) citing to section 3 of the Small Business Act, 15 U.S.C. 632 (Supp. IV 1980). Section 3 of the Small Business Act defines a "small business concern" as a business which is independently owned and operated and which is not dominant in its field of operation. *See also* SBA's Small Business Size Standards, 13 CFR Part 121 (1983).

to comment on the number of work hours and cost incurred in preparing and submitting this information. An original and 14 copies of such comments should be filed with the Commission by 4:30 p.m. on or before March 9, 1984. Comments must be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol, NE., Washington, D.C. 20426, and should refer to Docket No. RM83–57–000.

All written submissions will be placed in the Commission's public files and will be available for public inspection in the Commission's Office of Public Information, Room 100, 825 North Capitol Street, NE., Washington, D.C. 20426, during regulatory business hours.

List of Subjects in 18 CFR Parts 11 and 13

Electric power.

In consideration of the foregoing, the Commission proposes to amend Parts 11 and 13, Chapter I, Title 18, Code of Federal Regulations, as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

18 CFR Part 11 is amended as follows:

1. The Table of Contents is amended by revising the entries for §§ 11.27–11.31 and adding a new entry for § 11.32 to read as follows:

PART 11—ANNUAL CHARGES UNDER PART I OF THE FEDERAL POWER ACT

* * * * *

Sec.

11.27 Preliminary studies and detailed investigations.
11.28 Payments for benefits provided by headwater improvements owned by the Federal government.
11.29 Where benefits are provided by headwater improvements owned by a Federal licensee or permittee.
11.30 Effective date.
11.31 Adjustment of annual charges.
11.32 Procedures.

2. The authority citation for Part 11 is revised to read as follows:

Authority: Federal Power Act, 16 U.S.C. 803 (1976 & Supp. V 1981), unless otherwise noted.

3. In Part 11, §§ 11.25 through 11.31 are revised and new § 11.32 is added to read as follows:

§ 11.25 Headwater benefits.

(a) *Headwater benefits charges.* As determined under §§ 11.28 and 11.29, the Commission will assess charges against the owners of non-Federal power projects larger than 2,000 horsepower which receive direct benefits from storage reservoirs or other headwater improvements of the United States for an equitable part of the annual costs of interest, maintenance, and depreciation on such headwater improvement.

(b) *Definitions.* When the following terms are used in §§ 11.25 through 11.31, the following definitions shall apply:

(1) "Energy gains" means the difference between the energy which would be produced at a downstream project with the headwater project and that which would be produced without the headwater project.

(2) "Generation" means gross generation at the hydropower project, including generation needed for station use or the equivalent for direct drive units, measured in kilowatt-hours. It does not include energy derived from pumping in a pumped storage project.

(3) "Headwater benefits costs" means the annual costs of interest, maintenance, and depreciation of the joint use facilities to be borne by power revenues.

(4) "Headwater costs" means the total annual costs of a headwater improvement project owned by the Federal government or its licensee or permittee.

(5) "Joint use facility" means the portion of a headwater improvement that serves more than one purpose and may provide benefits both at the headwater project site and at one or more downstream projects.

(6) "Party" means the owner of a non-Federal downstream power project which is directly benefited by an upstream reservoir of a licensee, a permittee, or the United States; the owner of such upstream reservoir; or, when the United States is an upstream reservoir owner, it may mean an operating and/or marketing agency of the United States.

(7) "Specific facility" means a facility associated with a headwater improvement which serves a single purpose, such as a headwater project powerhouse that provides power benefits only at the headwater facility.

(8) "10(f) costs" means the annual costs of interest, maintenance, and depreciation of the joint use facilities, including facilities used for all purposes, such as flood control and irrigation.

§ 11.26 Information to be submitted concerning headwater benefits.

The following data shall be supplied on a project-specific basis as requested by the Commission staff in conjunction with a study or investigation of headwater benefits. Copies of information submitted to the Commission under this section shall also be served on all other affected parties. Data that will be required if a study or investigation is performed include the following:

(a) *Data required from owner of the headwater project.* Data to be supplied by the licensee, permittee, or Federal agency for each storage reservoir upstream from a non-Federal power plan which exceeds 2,000 horsepower.

(1) *Project identification:* Name and location of the storage project, including the name of the stream on which it is located.

(2) *Power plant description:* Total nameplate rating of installed generating capacity of the project expressed in kilowatts.

(3) *Reservoir description:* Total storage capacity of the reservoir and a breakdown to show the capacity allocated to each of its functions, such as dead storage, power storage, irrigation storage, and flood control storage. Identify by reservoir elevation and portion of the reservoir assigned to each of its respective storage functions.

(4) *Capacity curves:* An elevation-capacity curve or a tabulation of reservoir pool elevations and corresponding reservoir storage capacities.

(5) *Rule curves:* Copy of rule curves, coordination contracts, agreements, or other relevant data governing the release of water from the reservoir, including a separate statement of their effective dates.

(6) *Reservoir contents:* A curve or tabulation showing actual reservoir pool evaluations throughout the immediately preceding fiscal period.

(7) *Generation data:* The total annual gross generation of the hydroelectric plant in kilowatt-hours.

(8) *Investment costs:* (i) The total investment costs of the headwater improvement project at the close of the fiscal period or at a specified date during the fiscal period.

(ii) The total investment costs of the specific facilities at the project at the close of the fiscal period or at a specified date during the fiscal period, showing the total costs of the specific facilities of each project purpose separately for the same date.

(iii) The investment costs of joint use facilities on the date specified in paragraph (a)(8)(i) above, identifying the items included as joint use facilities.

(iv) The allocation of such investment costs of joint use facilities to the power function and to each of the other project purposes, such as flood control, navigation, irrigation, and recreation.

(v) The cost of land included in the investment cost of joint use facilities allocated to the power function.

(9) *Annual costs:* Annual costs of interest, maintenance, and depreciation on the joint use facilities allocated to the power function (each item shown separately), identifying the annual interest rate and the method used to compute the depreciation charge, or the interest rate and period used to compute amortization if used in lieu of depreciation, including any differing interest rates used for major rehabilitation.

(b) *Data required from owners of downstream projects:* Data to be supplied by the owner of each hydropower project which exceeds 2,000 horsepower downstream from a storage reservoir owned by the United States or its licensee or permittee. Those items where data for the current fiscal period are the same as data furnished for a prior fiscal period should be noted along with identification of the fiscal year for which the data were reported.

(1) *Project identification:* Name and location of the hydropower plant, including the name of the stream on which located.

(2) *Power plant description:* Total nameplate rating of the installed generating capacity of the plant expressed in kilowatts.

(3) *Generation data:* Record of daily gross generation and unit outages which may have occurred.

(c) *Additional data:* Owners of headwater projects or downstream projects shall furnish any additional data requested by the Commission.

§ 11.27 Preliminary studies and detailed investigations.

(a) *Preliminary studies.* The Commission may conduct preliminary studies to determine whether the anticipated levels of payments or other factors warrant a detailed investigation under § 11.27(b).

(b) *Detailed investigations.* If the Commission determines that a detailed investigation is warranted, a public notice will be issued and the affected parties will be notified that a detailed investigation is being initiated. Any party wishing to raise affirmative defenses shall so notify the Commission within 30 days after the public notice is issued. The parties may reach an agreement concerning the detail and amount of data to be collected necessary to perform an apportionment under the formula in § 11.28. However, the Commission is not bound by any such agreement among the parties.

§ 11.28 Payments for benefits provided by headwater improvements owned by the Federal government.

(a) *Applicability.* Unless otherwise determined in an existing final Commission order which is not subject to change or unless the owner of a downstream project which receives benefits from a headwater project owned by the Federal government demonstrates that the formula set forth in this section would result in charges which exceed the value of the downstream project's energy gains, the Commission will assess headwater benefits charges for projects which are larger than 2,000 horsepower according to the provisions of this section.

(b) *General principle.* The headwater benefits costs are to be apportioned among the headwater project and the downstream projects on the basis of the relative proportion of the amount of energy produced at the headwater project considered attributable to the joint use power facilities and the amount of energy gains produced at the downstream projects.

(c) *Calculation of energy at headwater project site.* The ratio of (i) the amount of energy at the headwater project attributable to the joint use facilities to the total headwater project energy production shall be the same ratio of (ii) the allocated joint use power investment to (the total joint use and specific power investment. If, for example, the joint use power costs are 65 percent of the total power costs, including specific power costs, 65 percent of the headwater project generation would be used as the measure of headwater project benefits in apportioning headwater costs.

(d) *Formula.* Except where paragraph (e) of this section applies, the annual payments to be made for benefits received by each non-Federal downstream plant shall be determined by the following formula:

$$P_n = C_p \times \frac{E_n}{E_j + E_d}$$

In which:

P_n = annual payment to be made for headwater benefits received during a specific year at a downstream plant,

C_p = annual 10(f) cost of headwater improvement to be borne by power both at the headwater project site and downstream,

E_n = annual energy gains received at a downstream plant, or group of plants if owned by one entity,

E_d = annual energy gains received at all downstream plants,

E_j = portion of the annual energy at the headwater improvement attributable to the joint use power facilities.

$$E_j = E_t \times \frac{C_j}{C}$$

Where:

E_t = total annual generation at the headwater project site,

C_j = total investment costs assigned to the headwater project joint use power facilities, and

C = total investment costs assigned to the headwater project power facilities, including both joint use and specific facilities.

(e) *Limitation on headwater benefits charges.* Where the owner of a downstream project satisfactorily demonstrates that application of the formula in paragraph (d) would result in payments which exceed the value of the energy gains for the project for the period of study, the assessment will be limited to the value of the energy gains.

(f) *Relation to other annual charges.* When a project is subject to annual charges for use of Government dams or structures under section 10(e) of the FPA as well as under §§ 11.25—11.29 of this Part, the Commission will decrease the section 10(e) charges by the amount of the charge calculated under paragraph (d) of this section for those years for which both charges are assessed.

(g) *Determination costs.* The owners of downstream projects which benefit from a headwater improvement owned by the United States shall pay to the United States the cost of making the investigation, study and determination as fixed by the Commission. Where a Federal licensee or permittee owning a headwater project has requested that the Commission assess headwater benefits charges against downstream beneficiaries under § 11.29 of this Part, that licensee or permittee and the downstream beneficiaries will share the costs of making the investigation, study and determination in proportion to the benefits received by their projects.

(h) *Future payments.* In river basins in which determination of payments for several years have been made and where construction and operating conditions appear to have stabilized, the Commission may establish future annual payments based upon average annual energy amounts.

(i) *Interim payments.* In river basins in which a determination of payments has been made but where conditions are such that final future annual payments are not established, interim payments based on past determinations will be

assessed annually until the Commission makes a final determination.

(j) *Billings.* In situations where the headwater project is constructed after the downstream plant, the beginning date for which payments will be assessed will be the first full month after any energy losses at the downstream plant due to filling of the headwater reservoir have been offset by subsequent energy gains. When the headwater project is constructed prior to the downstream plant, payments will be assessed beginning with the first full month of benefits realized by the downstream plant. After payments for all past benefits are current and annual payments have been established, bills will be rendered annually until a revision is warranted by a change in the operation of the projects or in the development of the river basin or other changes.

(k) *Initiation of new study or investigation.* Upon a request by a party or on its own motion, the Commission may initiate a new study or investigation of a river basin to determine whether the headwater benefits charges should be changed.

§ 11.29 Where benefits are provided by headwater improvements owned by a Federal licensee or permittee.

(a) *Settlements.* Licensees and permittees with headwater improvements providing power benefits to downstream non-Federal power developers may file with the Commission ageements negotiated with these developers specifying the amount of payments for headwater benefits. The Commission will review these agreements and will approve them if they are fair and reasonable and in the public interest.

(b) *Request for Commission investigation.* If such a licensee or permittee files a request for an investigation by the Commission, the Commission will initiate a preliminary study under § 11.27(a). If the Commission concludes that a detailed investigation is appropriate, it will perform such an investigation under § 11.27(b).

(c) If the Commission concludes that the licensee or permittee is owned payments for headwater benefits, the Commission will calculate these payments according to the provisions of § 11.28.

§ 11.30 Effective date.

All annual charges except those imposed under section 10(f) shall begin on the effective date of the license unless some other date is fixed in the license.

§ 11.31 Adjustment of annual charges.

All annual charges except those imposed under section 10(f) shall continue in effect as fixed unless changed as authorized by law.

§ 11.32 Procedures.

(a) *Time for payment.* Annual charges shall be paid within 45 days of rendition of a bill by the Commission, except that annual headwater benefits charges shall be paid within 60 days of rendition of a bill.

(b) *Billing for headwater benefits.* Copies of bills rendered to downstream owners for annual charges for headwater benefits shall be served on all other parties in the area and shall specify the parties served. When a headwater benefits assessment is based on a detailed investigation under § 11.27(b), a copy of the Commission staff's technical report in support of the assessment will be enclosed with the order and bill.

(c) *Protest or request for hearing.* Any protest against an assessment for headwater benefits, or request for a hearing thereon, must be filed within 60 days from the date of the billing, and a copy thereof shall be served on all other parties to the docket. The Commission may order a hearing under Subpart E of 18 CFR Part 385. The burden of going forward with evidence at any hearing shall be on any party or parties requesting a hearing. At any hearing which is requested by the owner of a downstream plant in connection with annual headwater benefits charges, the burden of proof shall be on such owner to demonstrate that the amount billed or to be billed is in error or exceeds that value of the benefits received for power purposes.

(d) *Accounting for headwater benefit payments pending protests and requests for hearing.* All payments received for headwater benefits charges from billings rendered pursuant to this section will be retained by the Commission in a special account, and disbursements therefrom shall not be made until the expiration of the 90th day from the date of the billing. If a protest or request for hearing is filed by any party to the docket, no disbursements shall be made from payments received from parties in the area until directed by the Commission.

(e) *Penalties.* In case of failure on the part of any person to pay annual charges within the periods specified in paragraph (a) of this section, a penalty of 5 percent of the total amount so delinquent is assessed and added to the total charges which shall apply for the first month or part of month so delinquent with an additional penalty of 3 percent for each full month thereafter until the charges and penalties are satisfied in accordance with law; provided, however, that for good cause shown, the Commission may, by order, waive any penalty imposed by this subsection.

(f) *Interest.* If a party protests either an initial or subsequent charge for headwater benefits and requests a hearing or reconsideration, the penalty for failure to pay under paragraph (e) of this section may be waived, but interest on the unpaid balance of the amount finally determined shall be assessed commencing 60 days after rendition of the initial bill. Interest will be computed in accordance with § 35.19(a) of the Commission's regulations.

PART 13—[REMOVED]

4. 18 CFR Part 13 is removed.

[FR Doc. 84-161 Filed 1-6-84; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-246-76]

Taxation of DISC Income to Shareholders

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the taxation of DISC income to shareholders. Changes to the applicable tax law were made by the Tax Reform Act of 1976 and the Tax Equity and Fiscal Responsibility Act of 1982. In addition, amendments would also be made under section 993, one relating to the treatment of accrued interest on a producer's loan as a qualified export asset and another defining the term "trade receivables." A further amendment would be made under section 994 allowing treatment of a prior DISC dividend as an additional payment of transfer price or repayment of a commission by the DISC. The regulations would provide the public with the guidance needed to comply with these Acts and would affect all corporations which have elected to be treated as a DISC and their shareholders.

DATES: Written comments and requests for a public hearing must be delivered or mailed by March 9, 1984. The regulations are proposed to apply for taxable years beginning after December

31, 1975, except that the regulations under the Tax Equity and Fiscal Responsibility Act apply for taxable years of DISCs beginning after December 31, 1982.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–246–76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Jacob Feldman of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C., 20224, Attention: CC:LR:T, 202–566–3289, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 995 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 1101 of the Tax Reform Act of 1976 (90 Stat. 1655) and a portion of section 204(a) of the Tax Equity and Fiscal Responsibility Act of 1982 (96 Stat. 423), and are to be issued under the authority contained in sections 995(e)(7), (8) and 10, 995(g) and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1655, 90 Stat. 1659; 68A Stat. 917, respectively). Amendments would also be made under section 993, one relating to the treatment of accrued interest on a producer's loan and another defining trade receivables. An amendment would also be made under section 994 allowing treatment of a prior DISC dividend as an additional payment of transfer price or repayment of a commission by the DISC. An amendment would also be made to the regulations under section 996 to conform to changes made by the Tax Equity and Fiscal Responsibility Act of 1982.

Discussion; General Explanation of Changes

The tax law provides for a system of tax deferral for certain income earned by corporations known as domestic international sales corporations or "DISCs" and their shareholders. Under this system the profits of a DISC are not taxed to the DISC but are taxed to the shareholders of the DISC when distributed to them. However, each year a DISC is deemed to have distributed income representing at least 50 percent of its profits. The income deemed distributed is subject to current taxation to the shareholder of the DISC. Prior to the effective date of Tax Reform Act of 1976, there were, in addition to the deemed distribution of 50 percent of the DISC's profits, deemed distributions for the gross interest derived from producer's loans and certain gains from sales or exchanges. The Tax Reform Act added four additional deemed distributions. Two of these deemed distributions relate to participation in any international boycott and payment of foreign bribes or kickbacks and are the subject of other regulations projects. In addition, this regulations project covers a provision of the Tax Equity and Fiscal Responsibility Act which increased deemed distributions under section 995(b)(1)(F)(i) to corporate shareholders of DISCs from 50 percent to 57½ percent.

Taxable Income Attributable to Military Property

New § 1.995–6 provides rules with respect to taxable income attributable to military property described in section 995(b)(3). Under section 995(b)(1)(D) a DISC is deemed to distribute 50 percent of its taxable income for the taxable year attributable to military property. A DISC's taxable income from military sales is its gross income from the sales of military property reduced by the deductions properly allocable to that income. Military property is defined as arms, ammunition, or implements of war designated in the munitions list published pursuant to section 38 of the International Security Assistance and Arms Export Control Act of 1976 (22 U.S.C. 2778 which superseded 22 U.S.C. 1934) and the regulations thereunder (26 CFR 121.01). The deemed distribution of the DISC income from military sales is made prior to the deemed distribution of taxable income attributable to base period export gross receipts and the regular deemed distribution. In computing the taxable income attributable to base period export gross receipts, only half of the military sales are included in the ratio of the average export gross receipts for the base period to the export gross receipts for the taxable year.

Taxable Income Attributable to Base Period Export Gross Receipts

Section 995(b)(1)(E) provides for a deemed distribution with respect to taxable income attributable to base period export gross receipts (hereinafter referred to as nonincremental distribution) computed under rules contained in section 995(e). Section 1.995–7 of the proposed regulations provides rules for determining the amount of the deemed distribution. The general rule, stated in paragraph (b)(1), is that the nonincremental distribution is computed by multiplying the adjusted taxable income of a DISC for the current year by a fraction. The numerator of the fraction is the adjusted base period export gross receipts. The denominator of the fraction is the export gross receipts of the DISC for the current taxable year. Adjusted taxable income, as defined in paragraph (b)(2), is taxable income of the DISC in the current year reduced by the deemed distributions under section 995(b)(1) (A), (B), (C), and (D) (*i.e.*, gross interest derived from producer's loans, gain on the sale of certain property and 50 percent of the taxable income of the DISC for the taxable year attributable to military property).

The term "adjusted base period export gross receipts," defined in paragraph (b)(4), means 67 percent of the average of the export gross receipts of the DISC for taxable years during the base period.

Export gross receipts include those receipts which are received in the ordinary course of the export trade or business of the DISC. It is narrower than the term "qualified export receipts" (defined in section 993(a)) in that the term "export gross receipts" includes only income from the sale, exchange, lease or rental (including related subsidiary services) of export property for use outside the United States; engineering and architectural services for projects outside the United States; and managerial services for a DISC which relate to the sale, exchange, rental or other disposition of export property. The term "export gross receipts" does not include gross receipts from the sale of qualified export assets other than export property; dividends and deemed distributions from a related foreign export corporation; and interest on any obligation (such as Export-Import Bank obligations) which is a qualified export asset.

The base period for taxable years beginning in 1976, 1977, 1978, and 1979 is composed of the DISC's taxable years beginning in 1972, 1973, 1974, and 1975. For taxable years beginning in 1980 and later years, the base period becomes a 4-year moving base period which moves forward 1 year for each year beyond 1979. Thus, the base period years for any year after 1979 will be the taxable years beginning in the 4th, 5th, 6th, and 7th calendar years preceding such calendar year.

In general, the average export gross receipts for the base period is the sum of the export gross receipts for the 4 base period years divided by 4. If the taxpayer did not have a DISC in any year which would be included in the base period for the current year, the base period export gross receipts are computed by attributing a zero amount

of export gross receipts to that base period year. However, base period export gross receipts do not include gross receipts from property which would not qualify during the taxable year as export property by reason of section 993(c)(2). Therefore, since coal is treated as excluded property under section 993(c)(2)(C), gross receipts from the sale of coal during base period years are not to be included in computing base period export gross receipts. Such export gross receipts from the sale of excluded property would not be excluded from base period export gross receipts to the extent they are included in export gross receipts from the current year under the binding contract exception to excluded property. In addition, for taxable years of the DISC ending before November 15, 1982, base period export gross receipts do not include receipts attributable to property sold or leased to a WHTC or receipts which arose in the absence of a written supplier's agreement unless the receipts were treated as qualified export receipts by the taxpayer.

Paragraph (c)(1), (c)(2), and (c)(3) of § 1.995–7 provide rules to compute average base period export gross receipts which take into account the different lengths of base periods. Under paragraph (b)(3) a special rule is also used with respect to computing current export gross receipts when the current year is a short taxable year.

Paragraph (d) provides rules where more than one member of controlled group (as defined in section 993(a)(3)) qualifies as a DISC. In such cases, the adjusted base period export gross receipts and the current export gross receipts are aggregated to determine the fraction described in paragraph (b)(1). The adjusted taxable income of each member DISC is then multiplied by the fraction to determine its nonincremental distribution. A special rule is provided where member DISCs have different annual accounting periods including a provision enabling a DISC to change its annual accounting period without the approval of the Secretary.

Paragraph (e) provides rules for the separation of a DISC and the underlying trade or business which gives rise to the export gross receipts of the DISC. The effect of this provision is to provide a double attribution since the base period export gross receipts follow the trade or business and also remain with the DISC. Under paragraph (e)(3) a separation is deemed to occur if there is a lease of substantially all of the assets of a trade or business, or the licensing of a patent, trademark or copyright essential to the conduct of the trade or business. The disqualification of a DISC is treated under paragraph (e)(3) as a separation and the export gross receipts produced prior to disqualification are attributed to the separated trade or business. Therefore, a re-qualified DISC is treated as having additional gross receipts attributable to the separated trade or business.

Paragraph (f) provides rules with respect to DISC benefits attributed through 5 percent shareholders.

Paragraph (g) of § 1.995–7 provides rules with respect to the small DISC exception to the incremental rules. DISCs with adjusted taxable income of $100,000 or less are exempted from the incremental rules. The exemption is phased out on a 2-for-1 basis so that DISCs with taxable income of $150,000 or more receive no exemption. In computing adjusted taxable income for purposes of the small DISC exception to the incremental rules, if more than one member of a controlled group qualifies as a DISC, the small DISC exemption is computed by aggregating the adjusted taxable income of each DISC which is a member of that group.

Paragraph (h) relates to situations where the DISC's export gross receipts are derived from one or more trades or businesses and the taxpayer wants to sell a part of or a complete trade or business along with its related DISC assets in order to avoid double attribution under the separation rules of section 995(e)(9). Paragraph (h) liberalizes the reorganization rules to permit the transfer of the related DISC assets in a non-taxable transaction.

Amendments Under Sections 993, 994 and 996

Paragraph (f) of § 1.993–2 would be amended to treat accrued interest on a producer's loan as a qualified export asset if the interest is paid within 60 days after the close of the taxable year of accrual. This amendment is necessitated by the present uncertainty as to the treatment of accrued interest on a producer's loan. Although accrued interest on a producer's loan is clearly a qualified export receipt under section 993(a)(1)(F), the statute and legislative history are both silent as to whether the accrued interest on a producer's loan is to be treated as a qualified export asset. If the accrued interest is not treated as a qualified export asset, then the taxpayer might fail the 95 percent test under section 992(a)(1)(B). It is, therefore, proposed to treat accrued interest on a producer's loan as a qualified export asset if it is paid within 60 days after the close of the taxable year of accrual. The 60-day period is proposed since this is the same period applying under § 1.994–1(e)(3) with respect to the actual payment of the transfer price charged by a related supplier to a DISC and with respect to payment of sales commissions.

In addition, a 60-day limitation would allow an accrual basis taxpayer to be paid the interest in the normal course of business. A limitation was considered necessary since permitting accrued interest between related parties to qualify as a qualified export asset without any limitation might result in abuse since the interest might be accrued and never paid.

An amendment would also be made to paragraph (d)(1) of § 1.993–2 defining trade receivables. The amendment would add a definition of the term "trade receivables" to a section which had previously been reserved.

An additional amendment would be made to paragraph (e)(5) of § 1.994–1 with respect to a redetermination of the transfer price or repayment of a commission. Where a redetermination results in an additional amount owed by the DISC to its related supplier, the related supplier and DISC may treat all or part of any distribution from previously taxed income which was received from the DISC with respect to the year to which the redetermination relates as an additional payment of transfer price or repayment of a commission and not as a distribution.

Section 1.996–3 of the regulations would also be amended to conform to changes in the Tax Equity and Fiscal Responsibility Act of 1982 which increased the deemed distribution for corporate shareholders of a DISC to 57½ percent while leaving the deemed distribution with respect to noncorporate shareholders at 50 percent. A new paragraph (g) would be added to deal with the computation of accumulated DISC income and previously taxed income for a DISC owned by corporate and noncorporate taxpayers which is necessitated by the change under TEFRA.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Regulatory Flexibility Act and Executive Order 12291

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6). The Commissioner of Internal Revenue has determined that this proposed rule is not subject to Executive Order 12291.

Drafting Information

The principal author of these proposed regulations is Jacob Feldman of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other Offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR 1.861–1 through 1.997–1

Income taxes, Aliens, Exports, DISC, Foreign investments in U.S., Foreign tax credit, Source of income, United States investments abroad.

Proposed Amendments to the Regulations

Part 1—[AMENDED]

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. Section 1.993–2 is amended by adding paragraph (d)(1) and revising paragraph (f) to read as follows:

§ 1.993–2 Definition of qualified export assets.

* * * * *

(d) *Trade receivables*—(1) *In general.* For purposes of this section, trade receivables are accounts receivable and written evidences of indebtedness due the DISC (or, if it acts as an agent, due its principal) and held by the DISC.

* * * * *

(f) *Producer's loans.* For purposes of this section, a producer's loan is an evidence of indebtedness arising in connection with producer's loans which are made by a DISC and which meet the requirements of § 1.993–4. If a producer's loan is a qualified export asset, interest accrued with respect to the producer's loan will also be treated as a qualified export asset provided that payment is made in cash or property (valued at its fair market value on the date of transfer) no later than 60 days following the close of the taxable year of accrual of the interest.

* * * * *

Par. 2. Section 1.994–1(e) is amended as follows:

1. The last sentence of paragraph (e)(4) is revised to read as set forth below.

2. The last sentence of subdivision (i)(*a*) of paragraph (e)(5) is amended by adding the phrase "due the DISC" after the term "account receivable" the first time such term appears.

3. Subdivision (v) of paragraph (e)(5) is renumbered as subdivision (vi) and a new subdivision (v) is added to read as set forth below.

§ 1.994–1 Inter-company pricing rules for DISCs.

* * * * *

(e) *Methods of applying paragraph (c) and (d) of this section.*

* * * * *

(4) *Subsequent determination of transfer price or commission.* * * * Such a redetermination would include a redetermination by reason of an adjustment under section 482 and the regulations thereunder or section 861 and § 1.861–8 which affects the amounts which entered into the determination of the transfer price or commission.

(5) *Procedure for adjustments to transfer price or commission.*

* * * * *

(v) (*a*) In lieu of establishing an account receivable in accordance with subdivision (i) of this subparagraph for all or part of an amount due a related supplier, the related supplier and DISC are permitted to treat all or part of any distribution which was made by the DISC out of its previously taxed income with respect to the year to which the determination or redetermination relates as an additional payment of transfer price or repayment of commission (and not as a distribution) made as of the date the distribution was made. Any additional amount arising on the determination or redetermination due the related supplier after this treatment shall be represented by an account receivable established under subdivision (i) of this subparagraph. To the extent that a distribution is so treated under this subdivision (v), it shall cease to qualify as distribution for any Federal income tax purpose, and the DISC's account for previously taxed income shall be adjusted accordingly. If all or part of any distribution made to a shareholder other than the related supplier is a recharacterized under this subdivision (v), the related supplier shall establish an account receivable from that shareholder for the amount so recharacterized. Such account receivable shall be paid in the time and manner set forth in this paragraph (e)(5). In order to obtain the relief provided by this subdivision (v), the conditions and procedures prescribed by Revenue Procedure 84–3 must be met.

(*b*) If, for example, during 1982, a DISC commission from a related supplier with respect to a transaction completed in 1980 was redetermined to be $1,000 less than the commission actually charged by, and paid to, the DISC, the amount of distribution previously made by the DISC from its 1980 previously taxed income to the related supplier as a shareholder may, to the extent of $1,000, be treated not as a distribution but as a repayment of the commission.

* * * * *

Par. 3. Section 1.995–2 is amended by adding new paragraphs (a)(4) and (a)(5) and revising paragraph (a)(6)(i) as follows:

§ 1.995–2 Deemed distributions in qualified years.

(a) *General rule.*

* * * * *

(4) For taxable years beginning after December 31, 1975, an amount equal to 50 percent of the taxable income of the DISC for the taxable year attributable to military property (as defined in § 1.995–6).

(5) For taxable years beginning after December 31, 1975, the taxable income for the taxable year attributable to base period export gross receipts (as defined in § 1.995–7).

(6) The sum of—

(i) (A) In the case of a corporate share-holder, an amount equal to 57.5 percent of the excess (if any) (one-half for DISCs' taxable years beginning before January 1, 1983) of the taxable income of the DISC for such year (computed as provided in § 1.991–1(b)(1)) over the sum of the amounts deemed distributed for the taxable year in accordance with subparagraphs (1), (2), (3), (4) and (5) of this paragraph, or

(B) In the case of a non-corporate share-holder, an amount equal to one-half of the excess (if any) of the taxable income of the DISC for such year (computed as provided in § 1.991–1(b)(1)) over the sum of the amounts deemed distributed for the taxable year in accordance with subparagraphs (1), (2), (3), (4), and (5) of this paragraph.

* * * * *

Par. 4. The following §§ 1.995–6 and 1.995–7 are added immediately after § 1.995–5:

§ 1.995–6 Taxable income attributable to military property.

(a) *Gross income attributable to military property.* For purposes of section 995(b)(3)(A)(i), the term "gross income which is attributable to military property" includes income from the sale, exchange, lease, or rental of military property (as described in paragraph (c) of this section). The term also includes gross income from the performance of services which are related and subsidiary (as defined in § 1.993–1(d)) to any qualified sale, exchange, lease, or rental of military property. Where gross income cannot be determined on an item by item basis, the total gross income shall be apportioned. The apportionment shall be according to the fair market value of the property sold or exchanged, the fair rental value of any leaseholds granted, and the fair market value of any related and subsidiary services performed in connection with such sale or lease.

(b) *Deductions.* For purposes of section 995(b)(3)(A)(ii), deductions shall be properly allocated and apportioned to gross income, described in paragraph (a) of this section, in accordance with the rules of § 1.861–8. These deductions include all applicable deductions from gross income provided under part VI of subchapter B of chapter 1 of the Code.

(c) *Military property.* For purposes of this section, the term "military property" means any property which is an arm, ammunition, or implement of war designated in the munitions list published pursuant to section 38 of the International Security Assistance and Arms Export Control Act of 1976 (22 U.S.C. 2778 which superseded 22 U.S.C. 1934) and the regulations thereunder (22 CFR 121.01).

(d) *Illustration.* The principles of this section may be illustrated by the following example:

Example. X Corporation elects to be a DISC for the first time in 1976. X has taxable income of $50,000, of which $30,000 is attributable to military property and $10,000 to interest on producer's loans. The total deemed distributions with respect to X are as follows:

(1) Gross interest from Producer's loans in 1976	$10,000
(2) 50 percent of the taxable income of the DISC attributable to military property in 1976	15,000
(3) One-half of the excess of taxable income for 1976 over the sum of lines (1) and (2) (½ of ($50,000 minus $25,000))	12,500
(4) Total deemed distributions (sum of total lines (1), (2), and (3))	37,500

§ 1.995–7 Taxable income attributable to base period export gross receipts.

(a) *General rule.* This section provides rules for the computation of taxable income attributable to base period export gross receipts. Section 995(b)(1)(E) treats taxable income attributable to base period export gross receipts as a deemed distribution to a shareholder of a DISC for taxable years of a DISC beginning after December 31, 1975. The amount attributable to base period export gross receipts that must be included in income of a shareholder will be referred to as the nonincremental distribution. The nonincremental distribution must be computed for each taxable year of a DISC. Such year will be referred to as the computation year.

(b) *Nonincremental distribution*—(1) *General rule.* The nonincremental distribution for a computation year of a DISC is computed by multiplying the adjusted taxable income of the DISC by a fraction. The numerator of the fraction is the amount of the adjusted base period export gross receipts and the denominator is the amount of the export gross receipts of the DISC for the computation year.

(2) *Adjusted taxable income.* The "adjusted taxable income" is the taxable income of a DISC for the computation year reduced by the amounts described under section 995(b)(1)(A) through (D) and the regulations thereunder.

(3) *Export gross receipts.* The "export gross receipts" is the qualified export gross receipts described in section 993(a)(1) (A), (B), (C), (G), and (H) of a DISC for a taxable year reduced by 50 percent of those receipts which are attributable to military property (as defined under § 1.995–6). For purposes of determining the denominator described in this paragraph (b), if the computation year is a short taxable year, the amount of export gross receipts for that year is multiplied by a fraction. The numerator of the fraction is the number of days which would have been in the taxable year of the taxpayer if there had been a full taxable year and the denominator is the number of days in the short taxable year.

(4) *Adjusted base period export gross receipts.* The amount of adjusted base export gross receipts is 67 percent of the average of the base period export gross receipts.

(c) *Average base period export gross receipts*—(1) *Base period of 48 months or less.* If a DISC has a base period of 48 months or less, the amount of average base period export gross receipts is determined by dividing the base period export gross receipts by number four (4).

(2) *Base period of more than 48 months.* If a DISC has a base period of more than 48 months, the amount of average base period export gross receipts is determined by multiplying the base period export gross receipts by a fraction. The numerator of the fraction is the number 365.25 and the denominator is the total number of days in the base period.

(3) *Change of accounting period.* Notwithstanding paragraph (c)(1) of this section, if a corporation that is a DISC changes its annual accounting period (other than during the first taxable year of its existence), and the effect of such a change creates a base period of less than 48 months, the average base period export gross receipts are determined under paragraph (c)(2) of this section. This paragraph (c)(3) applies with respect to changes of accounting period permitted under § 1.995–7(d)(5).

(4) *Base period export gross receipts.* "Base period export gross receipts" means the aggregate export gross receipts of a DISC for all taxable years beginning during the base period reduced by the base period export gross receipts attributable to property that is excluded from export gross receipts during the computation year. Excluded property is property described in section 993(c)(2)(C) or (D) without regard to the fixed contract exception under § 1.993–3(g)(6). When the fixed contract exception applies, the amount of excluded property is multiplied by a fraction. The numerator of the fraction is the amount of the gross receipts in the computation year attributable to excluded property less the amount of the export gross receipts by reason of the fixed contract exception under § 1.993–3(g)(6). The denominator of the fraction is the total amount of gross receipts in the computation year attributable to excluded property. For taxable years of a DISC ending before November 15, 1982, base period export gross receipts do not include receipts attributable to property sold or leased to a WHTC or receipts which arose in the absence of a written supplier's agreement unless the receipts were treated as qualified export receipts by the taxpayers.

(5) *Illustration.* The following example illustrates the application of paragrph (c)(4) of this section:

Example. X Corporation, a DISC since 1972, derived $2000 from sales of coal and $3000 from sales of foodstuffs in 1976. In 19/5 gross reciepts form the sale of agricultural products

were $1000 and from the sale of coal were $3000. One thousand dollars of the $3000 was derived from sales prior to March 19, 1975, and $2000 from sales made after March 18, 1975, of which $500 of the latter sales were pursuant to a fixed contract. Assume that all gross receipts are qualified export receipts (and, therefore, export gross receipts as provided in paragraph (b) (3) of § 1.995–7) except to the extent that section 993 (c) (2) (C) (which treats natural resources such as coal as excluded property) is applicable. Assume further that the gross receipts for 1972, 1973, and 1974 were each $500, all derived entirely from the sale of foodstuffs and all qualifying as export gross receipts. Under these facts the adjusted base period export gross receipts are determined as follows:

(1) Export gross receipts for 1975:	
(i) Export gross receipts—agricultural products	$1,000
(ii) Export gross receipts—coal	$1,500
(*a*) Sales prior to March 19, 1975	$1,000
(*b*) Sales subsequent to March 18, 1975:	
(1) Fixed contract sales	$500
(2) Non-fixed contract sales	$1,500
Total	$2,000

$$\text{Excluded property receipts (\$2,000)} \times \frac{\text{Excluded property receipts (\$2,000)}}{\text{Excluded property receipts (\$2,000)}} - \text{Fixed contract receipts (\$500)}$$

Total export gross reciepts ($1,000 × 1,500)	$2,500
(2) Adjusted export gross receipts:	
1972 export gross receipts	$500
1973 export gross receipts	500
1974 export gross receipts	500
1975 export gross receipts	2,500
Base period export gross receipts	4,000
Average base period export gross receipts 1972–75	1,000
Adjusted base period export gross recipts (.67 × average for base years	670

(6) *Base years.* The base period is a 4-year period attributable to a computation year. For computation years of a DISC beginning before January 1, 1980, the base period calendar years are 1972, 1973, 1974, and 1975. For other computation years, the base period calendar years are the fourth, fifth, sixth, and seventh calendar years preceding the calendar year in which the compution year begins. If a DISC has taxable years beginning in every base period calendar year, the base period is the period which begins on the first day of the first taxable year beginning in the earliest base period calendar year and ends on the last day of the last taxable year beginning in the latest base period calendar year. A corporation that revoked its election to be treated as a DISC or failed to satisfy the conditions of section 992(a)(1) for a taxable year to be a DISC will, for purposes of cumputing its base period export gross receipts, be treated as a DISC newly established in such subsequent taxable year. However, see paragraph (e)(3) of this section, which treats a disqualification as a separation. This paragraph (c)(6) applies whether or not the DISC qualified (or was treated) as a DISC (within the meaning of section 992 (a)(1) and § 1.992–1) for all taxable years beginning in the base period calendar years. If a DISC does not have a taxable year beginning in every base period calendar year, the base period is the period which begins on the date during the earliest base period calendar year that corresponds to the date on which the first taxable year of the DISC begins, and ends on the last day of the last taxable year of the DISC beginning in the latest base period calendar year.

(7) *Illustrations.* The following examples illustrate the application of this paragraph (c):

Example (1). X Corporation, a DISC, was organized on March 1, 1972, and adopted a taxable year beginning on March 1. With respect to the computation year beginning on March 1, 1976, X's base period calendar years are 1972, 1973, 1974, and 1975. The base period is the period which begins on March 1, 1972, and ends on February 29, 1976.

Example (2). Y Corporation, a DISC, was organized on March 15, 1974, and adopted a taxable year beginning on October 1. With respect to the computation year beginning on October 1, 1977, Y's base period is the period which begins on March 15, 1972, and ends on September 30, 1976.

Example (3). Z Corporation, a DISC, was organized on December 10, 1974, and adopted a taxable year beginning on February 1. With respect to the computation year beginning on February 1, 1980, Z's base period calendar years are 1973, 1974, 1975, and 1976. The base period is the period which begins on December 10, 1973, and ends on January 31, 1977.

(d) *Controlled group*—(1) *General rule.* Where more than one member of a controlled group of corporations (as defined in section 993(a)(3) and § 1.993–1(k)) qualifies or is treated as a DISC, special rules are used to calculate the nonincremental distribution. In such a case, the fraction described in paragraph (d)(2) of this section to compute the nonincremental distribution is the aggregate of the adjusted base period export gross receipts over the aggregate of the computation year export gross receipts for the computation year of every member DISC within the controlled group. This fraction is multiplied by the aggregate adjusted taxable income of each member DISC within the controlled group. The computation of the nonincremental distribution described in this paragraph applies to shareholders of a DISC that is a member of a controlled group even though such shareholder is not a related person within the meaning of § 1.993–1(a)(6).

(2) *Aggregate adjusted base period export gross receipts.* If any DISC that is a member of the controlled group uses a taxable year that is different from another DISC that is a member of the same controlled group, the aggregate of the adjusted base period export gross receipts consists of the sum of the adjusted base period export gross receipts of each of the following DISCs:

(i) The DISC (primary DISC) with respect to which the nonincremental distribution is being determined; and

(ii) All other DISCs (secondary DISCs) that are members of the same controlled group (as defined in section 993(a)(3)) as the primary DISC and whose computation years end with or within the computation year of the primary DISC.

For purposes of this paragraph (d)(2), the base period calendar years of any secondary DISC is the base period calendar years of the primary DISC.

(3) *Aggregate current year export gross receipts.* If paragraph (d)(2) of this section applies, the aggregate of the export gross receipts for the computation year consists of the sum of the export gross receipts of the primary DISC and the export gross receipts of all secondary DISCs for their computation years described in paragraph (d)(2)(ii) of this section.

(4) *Illustrations.* The following examples illustrate the application of this paragraph (d):

Example (1). P Corporation owns all of the stock of V and X Corporations. V owns all of the stock of Y Corporation, a DISC. X owns all of the stock of Z Corporation, a DISC. P, V, X, Y, and Z are members of the same controlled group for all periods involved. V uses a fiscal year ending June 30 as its taxable year. X uses the calendar year as its taxable year. Y and Z both use the calendar year as their taxable years. For the computation year ending in 1980, Y has adjusted taxable income (as defined under paragraph (b)(2) of this section) of $3,000, adjusted base period export gross receipts (as defined under paragraph (b)(4) of this section) of $2,000, and export gross receipts (as defined under paragraph (b)(3) of this section) of $5,000. For the same year, Z has adjusted taxable income of $4,000, adjusted base period export gross receipts of $6,000 and export gross receipts of $5,000. The numerator of the fraction to determine the nonincremental distribution is $8,000, the aggregate of the adjusted base period export gross receipts of Y and Z. The denominator of the fraction is $10,000, the aggregate of the export gross receipts of Y and Z. The nonincremental distribution under paragraph (b)(1) of this section with respect to Y is $2,400 ($3,000 x 9/10), and with respect to Z is $3200 ($4,000 x 9/10).

Example (2). The facts are the same as in example (1) except that Y uses a fiscal year ending January 31 as its taxable year and the computation year ends in 1980. In computing the nonincremental distribution with respect to Z, a calendar year DISC, Z is the primary DISC described in paragraph (d)(2)(i) of this section. In computing the adjusted base period export gross receipts of Y, Y's base period is the same as that of Z even though Y's computation year begins in the calendar year 1979. The adjusted taxable income and current year export gross receipts of Z are for the calendar year beginning January 1, 1980, and the current year export gross receipts of Y are for Y's fiscal year ending January 31, 1980.

(5) *Change of annual accounting period.* Where more than one member of a controlled group of corporations (as defined in section 993(a)(3) and § 1.993–1(k)) qualifies or is treated as a DISC and where any two or more of the member DISCs have different annual accounting periods, the annual accounting periods of the member DISCs may be changed without the approval of the Secretary if, and only if

(i) All member DISCs have the same annual accounting period after the change; and

(ii) The period chosen is the annual accounting period of one of the member DISCs.

In the case of an existing controlled group with member DISCs having different annual accounting periods, the change may be made within one year after (the date of adoption of the regulations as a Treasury decision); and in the case of a newly acquired DISC, the accounting period of such DISC may be changed by adopting the period of any existing DISC within one year after acquisition.

(e) *Separation of DISC and trade or business*—(1) *General rule.* If, at any time after the beginning of the base period of a DISC, there has been a separation of the ownership of the stock in that DISC from the ownership of a trade or business that produced export gross receipts of the DISC, the persons who own the trade or business during the taxable year are treated as having in any DISC in which they have (or acquire) a direct or indirect interest additional export gross receipts attributable to the trade or business for purposes of computing base period export gross receipts. Notwithstanding the separation, the base period export gross receipts remain with the DISC after separation and are taken into account by shareholders of the DISC (whether or not there are new shareholders of the DISC as a result of the separation) in computing the adjusted base period export gross receipts of the DISC for taxable years beginning prior to the year in which the separation occurs.

(2) *Ownership.* A person will be treated as an owner of a trade or business which produced export gross receipts of a DISC if the person owns stock, directly or indirectly, in a corporation that conducts the trade or business. A person will also be treated as an owner of a trade or business if that person is, for example, a partner in a partnership that either conducts the business or owns stock, directly or indirectly, in a corporation that conducts it, a lessee of substantially all the assets of a trade or business, or a licensee of a patent, copyright, trademark, or similar property essential to the conduct of a trade or business. For purposes of this paragraph (e)(2), a person who owns indirectly less than 5 percent of the entity conducting the trade or business shall not be treated as the owner of the trade or business. For purposes of this paragraph (e)(2), stock owned, directly, or indirectly, by or for a corporation, partnership, trust, or estate shall be considered as being owned proportionately by its shareholders, partners, or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence may be treated as actually owned by such person.

(3) *Separation.* A separation occurs if the ratio of a person's percentage ownership interest in a DISC to his percentage ownership in the trade or business which produced export gross receipts of the DISC changes at any time during the year. Thus, if A Corporation owns all the stock of B, C, and D Corporations, and D is a DISC and B and C produced export gross receipts for D, the transfer of the stock of B and C will result in a separation. Similarly, the transfer of the stock of C and the stock of D will result in a separation as will the liquidation of D by A. The disqualification of a DISC by revocation of the election or by failing to satisfy the conditions of section 992(a)(1) for a taxable year shall be treated as a separation, and the export gross receipts produced prior to the disqualification will be attributed to the separated trade or business. A requalified DISC will be treated as having additional export gross receipts attributable to the separated trade or business. For purposes of this paragraph (e)(3), members of the same controlled group (as defined in section 993(a)(3)) will be treated as one person.

(4) *Amount of attribution.* If a separation described in paragraph (e)(3) of this section occurs, the additional amount referred to in paragraph (e)(1) of this section is the amount of the export gross receipts attributable to the separated trade or business.

(5) *Recapture of accumulated DISC income.* If a shareholder of a DISC recaptures accumulated DISC income (as defined in section 996(f)(1)) as a result of a disposition (as described in section 995(c)) of stock in a DISC or a disqualification which results in a separation, the base period export gross receipts of the DISC for base period years prior to the disposition are reduced on a pro rata basis to the extent of the recapture in the taxable year. This reduction does not apply for purposes of determining the amount described in paragraph (e) (1) and (4) of this section which is attributable to the owner of a trade or business after the separation.

(6) *Illustrations.* The principles of this paragraph (e) are illustrated by the following examples:

Example (1). A Corporation owns all the stock of B, C and D Corporations. D is a DISC and B and C each produced $5,000 of the export gross receipts of D. A sells the stock of B to Z, an unrelated party, which organizes P Corporation, a DISC, for which B produces export gross receipts. Under paragraph (e)(3) of § 1.995–7, the sale of the stock of B constitutes a separation and under paragraph (e)(1) and (4), $5,000 of export gross receipts is attributable to P. Under paragraph (e)(1) the export gross receipts of D are $10,000 unchanged by the separation. If D is liquidated by A and F Corporation, a new DISC, is organized, F will have export gross

receipts of $5,000. Under paragraph (3)(5), the export gross receipts of D are eliminated. However, paragraph (e)(5) does not apply to amounts attributable to the owner of the trade or business after the separation under paragraph (e)(4). Therefore, $5,000 is attributable to P (by B) and $5,000 is attributable to F (by C).

Example (2). G Corporation owns all the stock of H and I Corporations and H Corporation owns all the stock of J Corporation, a DISC. During the base period H produces all the export gross receipts of J, which amounts to $25,000. The sale of the stock of H to B does not constitute a separation within the meaning of paragraph (e)(3). If J is liquidated, there will be attributed to any future DISC organized with respect to H the export gross receipts attributable to the separate trade or business. Although the liquidation will result in a recapture of accumulated DISC income, paragraph (e)(5) does not apply for purposes of determining the amount attributable to the owner of the trade or business after the separation, and under paragraph (e)(1) such amount is attributed to any future DISC for which H produces export gross receipts.

Example (3). P Corporation owns several corporations including R Corporation, a DISC, and M Corporation, which has produced export gross receipts for R. P also owns several other DISC's. The stock of M is sold to W Corporation. Assuming That M produced $100,000 of export gross receipts during the base period and that those receipts were the only receipts produced with respect to R, there is a separation under paragraph (e)(3), and under paragraph (e)(1) $100,000 in export gross receipts will be attributable to any DISC that W organizes with respect to M. In addition, under paragraph (e)(1) the export gross receipts of R are unreduced and taken into account in computing base period export gross receipts under the controlled group rules of paragraph (d). If R is liquidated, there will be a recapture of accumulated DISC income and under paragraph (e)(5) a reduction of the export gross receipts of R, but no reduction with respect to any DISC that W organizes with respect to M.

(f) *DISC base period attributed through shareholders*—(1) *In general.* If—

(i) Any person owns 5 percent or more of the stock of a DISC (referred to as the "first DISC"), and

(ii) that person at any time during the base period of the first DISC owned 5 percent or more of the stock of a second DISC, and

(iii) Both DISCs derived export gross receipts from the sale of the same or similar property, or from the performance of the same or similar services,

then the base period export gross receipts of the first DISC are increased by the shareholder's pro rata portion of the base period export gross receipts of the second DISC.

(2) *Exception.* Paragraph (f)(1) of this section does not apply to the extent paragraph (d) or (e) of this section apply.

(3) *Ownership of stock.* For purposes of this paragraph (f), the ownership of stock is determined under section 318.

(4) *Recapture of accumulated DISC income.* The rules with respect to recapture of accumulated DISC income described in paragraph (e)(5) of this section apply with respect to base period attribution under this paragraph.

(5) *Illustration.* The following example illustrates the application of this paragraph.

Example. A Corporation owns all the stock of B and C Corporations and B owns all the stock of D Corporation, a DISC. B produced $10,000 of export gross receipts of D for the base period 1972–1975. On January 1, 1976, A sells all the stock of C to X Corporation, an unrelated corporation. Subsequently A purchases 50 percent of the stock of F Corporation, another DISC, and B conducts all of its export business through F with B as the related supplier. Neither the sale of C by A nor the purchase of F result in a separation with respect to A under paragraph (e) of this section. In addition, D and F are not members of the same controlled group within the meaning of section 993(a)(3), and paragraph (d) of this section does not apply. However, under paragraph (f)(1) of this section, the base period export gross receipts of F are increased by $10,000.

(g) *Small DISC exception*—(1) *Adjusted taxable income of $100,000 or less.* Except as provided in paragraph (g)(4) of this section, if a DISC has adjusted taxable income of $100,000 or less for the taxable year, section 995(b)(1)(E) and this section do not apply for that year.

(2) *Partial exception.* If, for a taxable year, a DISC has adjusted taxable income of more than $100,000 but less than $150,000, the nonincremental distribution under paragraph (b)(1) of this section is reduced (but not below zero) by an amount equal to twice the excess of $150,000 over the adjusted taxable income.

(3) *Short taxable year.* In computing a DISC's adjusted taxable income for purposes of this paragraph (g), when the current taxable year is a short taxable year, the adjusted taxable income for the year is multiplied by a fraction. The numerator of the fraction is the number of days in the full taxable year and the denominator is the number of days in the short taxable year.

(4) *Controlled groups.* If more than one member of a controlled group (as defined in section 993(a)(3)) qualifies, or is treated, as a DISC for the current taxable year, the adjusted taxable income of each member of the group is aggregated for purposes of determining the application of paragraph (g) (1) or (2) of this section. The adjusted taxable income of any DISC for purposes of this aggregation may not be less than zero. The aggregation is made in the same manner and with respect to those DISCs described in paragraph (d)(2) of this section. If the adjusted taxable income of the member DISCs is more than $100,000, but less than $150,000, the nonincremental distribution under paragraph (b)(1) of this section is determined in accordance with paragraph (d) of this section. The reduction determined under paragraph (g)(2) of this section is apportioned among the DISCs described in paragraph (d)(2) of this section in accordance with the ratio which the adjusted taxable income of each member DISC for the year bears to the total adjusted taxable income of all member DISCs for the year. This paragraph (g)(4) applies to a shareholder of a DISC even though the shareholder is not a related person as defined in § 1.993–1 (a)(6).

(h) *Certain transfer of DISC assets*—(1) *In general.* If—

(i) A corporation owns all the stock of a subsidiary and a DISC,

(ii) The corporation transfers (within the meaning of paragraph (h)(4) of this section) all the stock of the subsidiary,

(iii) The subsidiary has been engaged in the active conduct of a trade or business (within the meaning of section 355(b) and regulations thereunder) throughout the 5-year period ending on the date of the transfer, and continues to be so engaged thereafter,

(iv) During the taxable year of the subsidiary in which its stock is transferred, and its preceding taxable year, the trade or business produced qualified export receipts with respect to the subsidiary and the DISC,

(v) The DISC transfers all of its assets related to the conduct of the trade or business to a new DISC in exchange for all the stock of the new DISC, the DISC distributes the stock in the new DISC to the corporation and the corporation transfers the stock in the new DISC to the subsidiary, and

(vi) The transfers described in paragraph (h)(1)(v) of this section are undertaken for the sole purpose of avoiding the application of section 995(e)(9) and paragraph (e) of this section, and, therefore, preventing double attribution under paragraph (e)(1),

Then notwithstanding any other rule or regulation to the contrary, the transfer described in paragraph (h)(1)(v) will be a reorganization within the meaning of section 368(a)(1)(D) to which section 355 applies and an exchange of stock of the new DISC by the corporation for stock of the subsidiary to which section 351 applies.

(2) *Special rule.* If—

(i) A corporation owns, directly or indirectly, all the stock of a subsidiary and a DISC,

(ii) A transfer or transfers described in this paragraph (h)(2) of the stock or assets of the subsidiary and the DISC are for the purpose described in paragraph (h)(1)(vi) of this section, and

(iii) The transfer or transfers occur in a transaction other than one described in paragraph (h)(1)(v) of this section but which satisfies the requirements of paragraphs (h)(1) (iii) and (iv) of this section,

Then the transfer or transfers described in this paragraph (h)(2)(iii) will be a reorganization within the meaning of section 368, a transaction to which section 355 applies, an exchange of stock to which section 351 applies, or a combination of these, as the case may be, provided the transfer or transfers are consistent with the purpose and effect of these described in paragraph (h)(1)(v) of this section.

(3) *Ownership.* Stock owned, directly or indirectly, by a corporation shall be considered as owned proportionately by its shareholders.

(4) *Transfer.* The term "transfer" includes a sale, exchange, or other disposition of property.

(5) *Illustrations.* The following examples illustrate the application of this paragraph (h):

Example (1). P Corporation, which was organized on January 1, 1966, owns all the stock of X and Y Corporations, both also organized on January 1, 1966. X has been engaged in the manufacture of shoes. Y has been engaged in the manufacture of recreational equipment. On January 1, 1972, P organizes Z Corporation, a DISC. X and Y serve as the related suppliers of Z. On January 1, 1977, U Corporation offers to buy the stock of X. As part of an overall plan to section, Z transfers all the export assets that relate to the trade or business conducted by X to V Corporation in exchange for all of the stock of V. Z then distributes all the stock of V to P, which transfers all the V stock to X. Immediately after this series of transactions, P sells all of the X stock to U Corporation. Under paragraph (h)(1) of this section, the transfer and distribution by Z constitute a reorganization under section 368(a)(1)(D) to which section 355 applies, and the exchange by P constitutes an exchange to which section 351 applies. The result would be the same even if P sold less than all of the stock in X.

Example (2). The facts are the same as in example (1), except that Y organizes and owns all the stock of Z. Accordingly, after the transfer by Z, Z distributes the stock of V to Y, wich in turn distributes the stock to P. P transfers all the V stock to X. Under paragraph (h)(2) of this section, the transfers by Z to Y, and Y to P constitute a reorganization described in section 368(a)(1)(D) to which section 355 applies. The transfer by P to X constitutes an exchange to which section 351 applies.

* * * * *

Par. 5. Section 1.996–3 is amended by adding a new paragraph (g) as follows:

§ 1.996–3 Divisions of earnings and profits.

* * * * *

(g) *DISCs having corporate and noncorporate shareholders.* In the case of a DISC having one or more corporate shareholders but less than all of its shareholders subject to the special rules of section 291(a)(4), relating to certain deferred DISC income as a corporate preference item, accumulated DISC income and previously taxed income of the DISC are divided between the corporate shareholders, as a class, and the other shareholders, as a class, in proportion to amounts of DISC income not deemed distributed and amounts deemed distributed to each class. Subsequent taxation of actual and qualifying distributions shall be based upon this division. Thus, if a DISC is owned 50 percent by corporate shareholders and 50 percent by individual shareholders and has undistributed taxable income of $2,000 for its year, the division is made as follows:

Corporate shareholders:	
Previously taxed income (57.5% of $2,000 ÷ 2)	$575
Accumulated DISC income (42.5% of $2,000 ÷ 2)	425
Individual shareholders:	
Previously taxed income (50% of $2,000 ÷ 2)	500
Accumulated DISC income (50% of $2,000 ÷ 2)	500

* * * * *

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 84–519 Filed 1–6–84; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 140 and 142

[CGD 79–077]

Workplace Safety and Health Requirements for Facilities on the Outer Continental Shelf

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to issue regulations concerning personal protection equipment and general working conditions on facilities and mobile offshore drilling units engaged in Outer Continental Shelf (OCS) activities. This proposal addresses the need identified in the OCS Lands Act Amendments of 1978 to promote safe working conditions by regulating hazards in the workplace. This proposal is part of a continuing effort by the Coast Guard to improve safety of life and property on the OCS.

DATES: Comments must be received on or before February 23, 1984.

ADDRESSES: Comments should be submitted to Commandant (G–CMC/44) (CGD 79–077), U.S. Coast Guard, Washington, DC 20593. Comments will be available for inspection or copying from 7:30 am to 4:00 pm on Monday through Friday at the Marine Safety Council (G–CMC), Room 4402, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, D.C. 20593 (202) 426–1477.

FOR FURTHER INFORMATION CONTACT: LCDR Alan J. Cross, G–MVI–4 (202) 426–2307.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate by submitting written views, data, or arguments. Each comment should include the name and address of the person submitting the comment, reference the docket number (CG 79–077), and include sufficient detail to indicate the basis on which each comment is made. Persons desiring acknowledgment that their comment has been received should enclose a stamped self-addressed postcard or envelope.

The proposed rules may be changed in view of comments received. All comments received on or before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned but one may be held at a time and place to be set in a later notice in the **Federal Register** if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The principal persons involved in drafting this proposal are Lieutenant Dennis J. Cashman, G–MVI–4, Office of Merchant Marine Safety, and Mr. Stephen H. Barber, Project Counsel, Office of the Chief Counsel. Lt. Cashman has since been transferred from G–MVI–4.

Background

These proposals are part of a continuing program under authority of

the Outer Continental Shelf (OCS) Lands Act Amendments of 1978 (Pub. L. 95–372) to address hazardous working conditions on the OCS. This rulemaking is limited to personal protection equipment requirements and to certain general working conditions. Furthermore, this rulemaking is limited to OCS facilities as defined in 33 CFR 140.10. Under this definition, an "OCS facility" includes fixed and floating platforms and structures, as well as mobile offshore drilling units (MODU's) when attached to the seabed for the purpose of exploration and exploitation of subsea resources.

Existing Coast Guard regulations affecting OCS facilities are primarily concerned with design, equipment, operations, and inspections. This proposal constitutes an initial effort to address new areas, such as personal protection equipment and general working conditions. In the future, the Coast Guard will be proposing additional regulations concerning other problems of the workplace, such as training, but will do so under separate rulemaking projects.

On September 20, 1979, an Advance Notice of Proposed Rulemaking on unregulated hazardous working conditions on the OCS was published in the **Federal Register** (44 FR 54499). In response to the advance notice, many industry representatives stated that the Coast Guard should not develop new standards for the OCS because existing industry standards and practices are adequate. The Coast Guard recognizes that industry associations and conscientious companies have developed and implemented extensive safety standards and programs to reduce accidents and injuries occurring to personnel. However, these industry standards and programs are voluntary. The Coast Guard proposal would make the industry standards and practices addressed mandatory. This approach would provide new impetus for less conscientious companies, subcontracts, and workers to observe certain accepted workplace safety practices.

This initial proposed rulemaking attempts to focus on personal protection, a subject which benefits the worker most directly and which is covered by existing industry standards. This rulemaking is not intended to supplant existing industry safety programs. Ongoing safety efforts within industry are encouraged. Comments received to the advance notice concerning matters not addressed in this proposal will be considered under appropriate future rulemaking projects.

Discussion of the Proposed Amendments

This rulemaking would amend Part 142 of Subchapter N, Chapter I, Title 33 of the Code of Federal Regulations. Existing Part 142, entitled "Workplace Safety and Health," as published in the **Federal Register** on March 4, 1982 (47 FR 9366). The existing regulations in Part 142, §§ 142.1 and 142.5, specify the duties of lessees, permittees, and persons responsible for actual operations and prescribe the procedure for reporting unsafe working conditions. These sections would be incorporated into this rulemaking without change. Only the section numbers presently assigned to them would be changed for organizational purposes.

Part 140

Existing Part 140, containing general requirements applicable throughout Subchapter N (Parts 140 through 147), would be amended to include a new definition and several additions to the Incorporation by Reference section.

Section 140.7 would add five standards of the American National Standard Institute (ANSI) to the list of materials incorporated by reference. These standards specify industry accepted practices and equipment specifications concerning personal protection equipment. The Coast Guard is making an effort, where practical, to rely on existing industry standards for the purpose of brevity and uniformity.

Section 140.10 would be amended to add a definition of the term "personnel." This term would mean all persons on a unit by reason of their employment and would include not only those in the employment of the unit owner or unit lessee but also those of the oil company operator and of each of the subcontractors working on the unit.

Part 142

Subpart A

Proposed § 142.1 states the purpose for the entire Part 142, which is to promote workplace safety and health by regulating certain operations and equipment and requiring the use of specified personal protection devices.

Proposed §§ 142.4 and 142.7 are existing § 142.1 and 142.5 renumbered without further change.

Subpart B

Proposed Subpart B would apply only on OCS facilities which, by definition under § 140.10, include MODU's when in contact with the seabed for the purpose of exploration or exploitation of subsea resources.

Proposed § 142.24 would prescribe additional responsibilities for those persons listed in proposed § 142.4 (i.e. lessees, permittees, and persons responsible for actual operations). These persons would ensure that the safety equipment prescribed by this part is made available to personnel required to use the equipment.

Proposed § 142.27, eye and face protection, proposed § 142.30, head protection, and proposed § 142.33, foot protection, would establish requirements for the use of protection equipment that meets specifications established by the American National Standards Institute.

Proposed §142.36, protective clothing, is intended to be performance oriented. Persons exposed to flying particles, molten metal, radiant energy, heavy dust, toxic chemicals, or hazardous materials would be required to wear clothing recognized within the industry as providing protection against the hazard involved. For example, workers exposed to dusts, vapors, moisture, or corrosive liquids might wear clothing made of impervious material, such as rubber, neoprene, vinyl, or polypropylene. Leather clothing might be used for protection against heat or splashes of hot metal.

Proposed § 142.39, respiratory protection, incorporates the American National Standard Practices for Respiratory Protection, ANSI Z88.2–1980, for the proper selection, use, and care of respiratory protection devices used in hazardous environments. Persons listed in proposed § 142.4 (i.e. lessees, permittees, and persons responsible for actual operations) would be given the additional responsibility of ensuring that personnel using respiratory protection devices are properly trained in the use of the equipment and made aware of the health hazards should the worker fail to use the equipment.

Proposed §142.42 is intended to reduce the likelihood of falls greater than ten feet by requiring the use of safety belts and lifelines.

Proposed § 142.45, personal flotation devices, is intended to reduce the likelihood of personnel drowning after falling into water.

Proposed § 142.48 would require that eyewash equipment is maintained on the drill floor and in the mud rooms. These are the areas where the worker is most exposed to particulate matter in the atmosphere. The type of eyewash equipment is not specified and may include fountains, drench showers, hand-held drench hoses, portable eye/face wash units, or combination

showers. The main concern is that the equipment provides emergency relief and is immediately available. Continued treatment may be necessary elsewhere on the unit.

Subpart C

This proposed subpart concerns hazards of a general nature which may exist throughout the workplace. This proposed Subpart would apply only on OCS facilities which, by definition under § 140.10, includes MODU's when in contact with the seabed for the purpose of exploration or exploitation of subsea resources.

Proposed § 142.84, housekeeping, would prescribe requirements intended to reduce the incidence of workers slipping and tripping. Temporary padeyes, wire rope slings, air hoses, arc welding leads, and chain falls which are not removed after use and spills which are not cleaned up can become major causes of trips and falls.

Proposed § 142.87 would address the hazard of unguarded openings by requiring the installation of netting, planking, or other devices to prevent persons from falling through the openings.

Proposed § 142.90, lockout and tagout system, is intended to warn others that maintenance or repair work on machinery or equipment is being conducted.

Incorporation by Reference

This proposal would add five ANSI standards to the list of materials incorporated by reference in existing § 140.7. Approval by the Director, Office of the Federal Register, will be requested. Should this material be changed by ANSI at some later time, the changes may be considered for incorporation. However, before taking final action, the Coast Guard would publish a notice in the **Federal Register** for public comment.

The material incorporated by reference will be maintained on file at the Library of the Office of the Federal Register, Room 8301, 1100 T Street, NW., Washington, DC 20408 and available for inspection at Coast Guard Headquarters, Room 4407, 2100 2nd Street, SW., Washington, DC 20593. Copies of the materials may be purchased from the American National Standards Institute, Sales Department, 1430 Broadway, New York, N.Y. 10018.

Regulatory Evaluation

This proposed regulatory action is considered to be "non-major" under Executive Order 12291 (46 FR 13193; February 19, 1982) and classified as "non-significant" under the Department of Transportation Order 2100.5, "Policies and Procedures for Simplification, Analysis, and Review of Regulations," dated May 22, 1980. Though exempt from the requirement for Regulatory Impact Analysis under E.O. 12291, a draft Regulatory Evaluation has been prepared, copies of which are available for inspection or copying at the Office of the Marine Safety Council, Room 4402, U.S. Coast Guard Headquarters, 2100 2nd Street SW., Washington, DC 20593, (202) 426–1477.

These proposed requirements should not impose substantial costs on industry. Costs per facility would vary depending upon the number of persons on board, the nature of the activities conducted, and the degree to which the facility already complies with these proposals. The total initial cost for the proposed personal protection equipment, eyewash equipment, and respiratory protection training for a mobile drilling unit with a 50 person crew would be approximately $12,000. The total initial cost for a manned fixed facility with a 25 person crew would be $5,000. Based upon 200 mobile drilling units and 600 manned fixed facilities, the maximum industry cost would be $5,400,000. In actuality, these costs would most likely be substantially less. Discussions with industry representatives indicate that many offshore companies already include some personal protection equipment and training as elements of their safety program. Because of the level of compliance which already exists, industry should have minor difficulty adjusting to these proposed requirements. Additionally, compliance with these proposed requirements may reduce industry operating costs for insurance premiums and worker compensation by reducing the frequency and severity of injuries.

These rules would not impact state or local government and would have a negligible effect on costs to consumers.

Knowledgeable persons are requested to provide information on the economic impact of the proposed regulations.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601 through 612), the Coast Guard must consider whether the rule it is proposing is likely to have a significant economic impact on a substantial number of "small entities". "Small entities" include independently owned and operated small businesses which are not dominant in their field and which would otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

The economic impact of the proposed regulations would fall on the owners, operators, and subcontractors furnishing the personal protection equipment required by this proposal. Oil company operators and owners of OCS units are generally major corporations or subsidiaries of major corporations. However, the degree of impact on the numerous subcontractors providing specialized services offshore is not known. It appears, however, that the impact will be roughly proportional to the number of employees and that, therefore, the small entities will incur less cost. Comments on this point are requested.

Personal protection equipment manufacturers would be affected because only equipment meeting ANSI standards would be acceptable offshore. This may require certain manufacturers to redesign their equipment in order to remain competitive in the offshore market. However, the effect on manufacturers would not be substantial because most of the personal protection equipment being purchased for offshore use already meets ANSI standards.

For the above reasons, it is certified that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. If, however, you feel that your business may qualify as a small entity and that the proposed rules would have a significant economic impact on the business, please notify the Coast Guard (see **ADDRESSES**) and explain why you feel your business qualifies and in what way and to what degree the proposed regulations would have an economic effect on your business.

Paperwork Reduction Act

The information collection requirements contained in this regulation have been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

Environmental Assessment

The Coast Guard has considered the environmental impact of the regulations and concluded that the preparation of an environmental impact statement is not necessary. An environmental assessment with a finding of no significant impact has been prepared and is on file in the rulemaking docket.

List of Subjects in 33 CFR Parts 140 and 142

Continental shelf, Marine safety.

In consideration of the foregoing, Parts 140 and 142 of Subchapter N,

Chapter I, Title 33, Code of Federal Regulations, are amended as follows:

PART 140—GENERAL

1. The authority citation for Part 140 reads as follows:

Authority: Sec. 4, 67 Stat. 462 (43 U.S.C. 1333) as amended; sec. 22 of sec. 208, Pub. L. 95–372, 92 Stat. 655 (43 U.S.C. 1348); sec. 30 of sec. 208, Pub. L. 95–372, 92 Stat. 669 (43 U.S.C. 1356); 49 CFR 1.46(z).

2. In § 140.7, paragraph (b) is revised to read as follows:

§ 140.7 Incorporation by reference.

* * * * *

(b) The materials approved for incorporation by reference in this subchapter are:

American National Standards Institute (ANSI)

ANSI A10.14, Requirements for Safety Belts, Harnesses, Lanyards, Lifelines, and Drop Lines for Construction and Industrial Use.

ANSI Z41.1, Safety—Toe Footwear.

ANSI Z87.1, Practice for Occupational and Educational Eye and Face Protection.

ANSI Z88.2, Practices for Respiratory Protection.

ANSI Z89.1, Safety Requirements for Industrial Head Protection.

* * * * *

3. In § 140.10, a new term is added as follows:

§ 140.10 Definitions.

As used in this subchapter:

* * * * *

"Personnel" means individuals on a unit by reason of their employment.

* * * * *

4. By revising Part 142 to read as follows:

PART 142—WORKPLACE SAFETY AND HEALTH

Subpart A—General

Sec.

142.1 Purpose.
142.4 Duties of lessees, permittees, and persons responsible for actual operations.
142.7 Reports of unsafe working conditions.

Subpart B—Personal Protective Equipment

142.21 Purpose and applicability.
142.24 Availability of equipment.
142.27 Eye and face protection.
142.30 Head protection.
142.33 Foot protection.
142.36 Protective clothing.
142.39 Respiratory protection.
142.42 Safety belts and lifelines.
142.45 Personal flotation devices.
142.48 Eyewash equipment.

Subpart C—General Workplace Conditions

Sec.

142.81 Purpose and applicability.
142.84 Housekeeping.
142.87 Guarding of deck openings.
142.90 Lockout and tagout.

Authority: Sec. 4, 67 Stat. 462 (43 U.S.C. 1333) as amended; sec. 21 of sec. 208, Pub. L. 95–372, 92 Stat. 654 (43 U.S.C. 1347); sec. 22 of sec. 208, Pub. L. 95–372, 92 Stat. 655 (43 U.S.C. 1348); 49 CFR 1.46(z).

Subpart A—General

§ 142.1 Purpose.

This part is intended to promote workplace safety and health by establishing requirements relating to personnel, workplace activities and conditions, and equipment on the Outer Continental Shelf.

§ 142.4 Duties of lessees, permittees, and persons responsible for actual operations.

(a) Each holder of a lease or permit under the Act shall ensure that all places of employment within the lease area or within the area covered by the permit the OCS are maintained in compliance with workplace safety and health regulations of this part and, in addition, free from recognized hazards.

(b) Persons responsible for actual operations, including owners, operators, contractors, and subcontractors, shall ensure that those operations subject to their control are conducted in compliance with workplace safety and health regulations of this part and, in addition, free from recognized hazards.

(c) "Recognized hazards", in paragraphs (a) and (b) of this section, means conditions which are—

(1) Generally known among persons in the affected industry as causing or likely to cause death or serious physical harm to persons exposed to those conditions; and

(2) Routinely controlled in the affected industry.

§ 142.7 Reports of unsafe working conditions.

(a) Any person may report a possible violation of any regulation in this subchapter or any other hazardous or unsafe working condition on any unit engaged in OCS activities to an Officer in Charge, Marine Inspection.

(b) After reviewing the report and conducting any necessary investigation, the Officer in Charge, Marine Inspection, notifies the owner or operator of any deficiency or hazard and initiates enforcement measures as the circumstances warrant.

(c) The identity of any person making a report under paragraph (a) of this section is not made available, without the permission of the reporting person, to anyone other than those officers and employees of the Department of Transportation who have a need for the record in the performance of their official duties.

Subpart B—Personal Protective Equipment

§ 142.21 Purpose and applicability.

This subpart prescribes requirements concerning personal protection on OCS facilities.

§ 142.24 Availability of equipment.

(a) Each holder of a lease or permit under the Act shall ensure that the personal protection equipment specified by this subpart is made available to the personnel, within the lease area or the area covered by the permit, who are required under this subpart to use the equipment.

(b) Persons responsible for actual operations shall ensure that the personal protection equipment specified by this subpart is made available to the personnel engaged in the operation who are required under this subpart to use the equipment.

§ 142.27 Eye and face protection.

(a) Personnel engaged in welding, grinding, machining, chipping, handling chemicals, or acetylene burning or cutting shall wear the eye and face protector specified for the operation in Figure 8 of American National Standard Practice for Occupational and Educational Eye and Face Protection, ANSI Z87.1 and meeting the specifications of that standard.

(b) Eye and face protectors must be maintained in good condition.

(c) Each eye and face protector must be marked by the manufacturer with the information required by ANSI Z87.1 for that type of protector.

§ 142.30 Head protection.

(a) Personnel working in areas where there is a danger of falling objects or of contact with electrical conductors shall wear the head protector meeting the specifications of American National Standard Safety Requirements for Industrial Head Protection, ANSI Z89.1, for the danger involved.

(b) Each head protector must be marked by the manufacturer with the information specified by ANSI Z89.1 for that type of protector and for the danger involved.

§ 142.33 Foot protection.

(a) Except while in living quarters and offices, personnel shall wear footwear meeting the specifications of American National Standard for Safety-Toe Footwear, ANSI Z41.1.

(b) Each pair of footwear must be marked by the manufacturer with the information specified by ANSI Z41.1 for that type of footwear.

§ 14.236. Protective clothing.

Personnel in areas where there are flying particles, molten metal, radiant energy, heavy dust, or hazardous materials shall wear clothing and gloves providing protection against the danger involved.

§ 142.39 Respiratory protection.

(a) Personnel in an atmosphere specified under American National Standared Practices for Respiratory Protection, ANSI Z88.2, requiring the use of respiratory protection equipment shall wear the type of respiratory protection equipment specified in ANSI Z88.2 for that atmosphere.

(b) Before personnel enter an atmosphere specified under ANSI Z88.2 requiring the use of respiratory protection equipment, the persons listed in § 142.4 shall ensure that the personnel entering the atmqsphere—

(1) Follow the procedures stated in Section 6 of ANSI Z88.2 concerning the proper selection of a respirator and individual fit testing;

(2) Are trained in the matters set forth in Section 7 of ANSI Z88.2 concerning proper use of the equipment to be used; and

(3) Are made aware, in terminology understandable to the personnel entering the atmosphere, of the short and long term harmful effects of exposure to the atmosphere involved.

(c) All respiratory protection equipment must be approved, used, and maintained in accordance with ANSI Z88.2.

§ 142.42 Safety belts and lifelines.

(a) Personnel engaged in an activity where there is a danger of falling 10 or more feet must wear a safety belt or harness secured by a lanyard to a lifeline, drop line, or fixed anchorage.

(b) Each safety belt, harness, lanyard, lifeline, and drop line must meet the specifications of American National Standard Requirements for Safety Belts, Harnesses, Lanyards, Lifelines, and Drop Lines for Construction and Industrial Use, ANSI A10.14.

§ 142.45 Personal flotation devices.

When a person is working in a location such that, if the person fell, the person would likely fall into water, the person must wear either a unicellular plastic foam workvest that meets the requirements of 46 CFR 160.053 or a life preserver that meets the requirments of 46 CFR 160.002, 160.005, or 160.055.

§ 142.48 Eyewash equipment.

Portable or fixed eyewash equipment providing emergency relief must be immediately available on the drill floor and in each mudroom.

Subpart C—General Workplace Conditions

§ 142.81 Purpose and applicability.

This subpart prescribes requirements relating to general working conditions on OCS facilities.

§ 142.84 Housekeeping.

All staging, platforms, and other working surfaces and all ramps, stairways, and other walkways must be kept clear of tools, materials, and equipment not in use and be kept free of substances which create a slipping hazard.

§ 142.87 Guarding of deck openings.

Openings in decks must be covered or guarded in order to prevent a persons foot or body from passing through the opening.

§ 142.90 Lockout and tagout.

(a) While repair or other work is being performed on equipment powered from an external source, the equipment must be disconnected from the power source or otherwise deactivated, unless the nature of the work being performed necessitates that the power be connected or the equipment activated.

(b) A sign must be placed at the point where the equipment connects to a power source and at the activation control warning—

(1) That equipment is being worked on; and

(2) If then power source is disconnected or the equipment deactivated, that the power source must not be connected or the equipment activated.

(c) The signs must not be removed without the permission of either the person who placed them or that person's immediate supervisor.

(d) If the equipment has a lockout or other device designed to prevent unintentional activation of the equipment, the lockout or other device must be engaged while the work is being performed on the equipment, unless the nature of the work being performed necessitates that the equipment be activated.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

September 9, 1983.

[FR Doc. 84-469 Filed 1-6-84; 8:45 am]

BILLING CODE 4910-14-M

LEGAL SERVICES CORPORATION

45 CFR Part 1609

Fee-Generating Cases

AGENCY: Legal Services Corporation.

ACTION: Proposed rule.

SUMMARY: This proposed rule makes slight revisions to the Corporation's regulations governing acceptance by recipients of cases expected to general an award of attorneys' fees and adds a new section of accounting for attorneys' fees which are recieved. The revisions are needed to ensure that inappropriate cases are not accepted, and the accounting rules are needed to ensure proper accounting for and use of fees received.

DATES: Comments must be received on or before February 8, 1984.

ADDRESS: Comments may be submitted to Office of General Counsel, Legal Services Corporation, 733 Fifteenth Street, NW., Room 620, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: John C. Meyer, Deputy General Counsel, (202) 272-4010.

SUPPLEMENTARY INFORMATION: In addition to a technical update of the citations in § 1609.4(d), there are three changes in this regulation. The most important of these changes is the addition of a new § 1609.6 (the old § 1609.6 is renumbered § 1609.7) concerning accounting for attorneys' fees received by a recipient. This section requires these fees to be returned to the fund from which resources to litigate the case came and requires that the fee be recorded during the accounting period in which the program receives the award. The cash basis for accounting for attorney fees is adopted because attorney fees are often not collectible until months or even years after the original award, and, consequently, an accrual basis for accounting for attorney fees could result in unrealistically considering a program to have resources that are not in fact available.

Section 1609.4(a)(3) is deleted. It allowed a recipient to accept a fee-generating case if it was the type attorneys in the area generally do not accept. This deletion establishes a requirement that an actual, specific effort be made to refer each fee-generating case, except that such a case may still be initiated without such an effort in emergency circumstances, or if it falls into certain limited categories, such as a case seeking certain social security benefits.

Section 1609.8(c) (formerly 1609.7(c)) is amended by substituting the specific standard "when the case meets the standards set forth in § 1609.5" for the vague "when appropriate." This sets a specific standard for sharing fees with private counsel which is the same as the standard for accepting fee-generating cases.

List of Subjects in 45 CFR Part 1609

Legal Services

For the reasons set out in the preamble, 45 CFR Part 1609 is proposed to be revised as follows:

PART 1609—FEE-GENERATING CASES

Sec.
1609.1 Purpose.
1609.2 Definition.
1609.3 Prohibition.
1609.4 Authorized Representation in a Fee-Generating Case.
1609.5 Acceptance of Fees.
1609.6 Accounting for Attorneys' Fees.
1609.7 Acceptance of Reimbursement.
1609.8 Applicability.

Authority: Sec. 1007(b)(1) Legal Services Act of 1974, as amended (42 U.S.C. 2996f(b)(1)).

§ 1609.1 Purpose.

This part is designed to insure that recipients do not compete with private attorneys and, at the same time, to guarantee that eligible clients are able to obtain appropriate and effective legal assistance.

§ 1609.2 Definition.

"Fee-generating case" means any case or matter which, if undertaken on behalf of an eligible client by an attorney in private practice, reasonably may be expected to result in a fee for legal services from an award to a client, from public funds, or from the opposing party.

§ 1609.3 Prohibition.

No recipient shall use funds received from the Corporation to provide legal assistance in a fee-generating case unless other adequate representation is unavailable. All recipients shall establish procedures for the referral of fee-generating cases.

§ 1609.4 Authorized Representation in a Fee-Generating Case.

Other adequate representation is deemed to be unavailable when:

(a) The recipient has determined that free referral is not possible because:

(1) The case has been rejected by the local lawyer referral service, or by two private attorneys; or

(2) Neither the referral service nor any lawyer will consider the case without payment of a consultation fee; or

(3) Emergency circumstances compel immediate action before referral can be made, but the client is advised that if appropriate, and consistent with professional responsibility, referral will be attempted at a later time; or

(b) Recovery of damages is not the principal object of the case and a request for damages is merely ancillary to an action for equitable or other non-pecuniary relief, or inclusion of a counterclaim requesting damages is necessary for effective defense or because of applicable rules governing joinder of counterclaims; or

(c) A court appoints a recipient or an employee of a recipient pursuant to a statute or a court rule or practice of equal aplicability to all attorneys in the jurisdiction; or

(d) An eligible client is seeking benefits under subchapter II of the Social Security Act, 42 U.S.C. 401, *et seq.*, as amended, Federal Old Age, Survivors, and Disability Insurance Benefits; or subchapter XVI of the Social Security Act, 42 U.S.C. 1381, *et seq.*, as amended, Supplemental Security Income for Aged, Blind, and Disabled.

§ 1609.5 Acceptance of Fees.

A recipient may seek and accept a fee awarded or approved by a court or administrative body, or included in a settlement, if:

(a) The requirements of 1609.4 are met, and

(b) Funds received are not used for purposes prohibited by the Act, and are accounted for in the manner directed by the Corporation.

§ 1609.6 Accounting for Attorneys' Fees.

Fees awarded to a recipient represent compensation to the recipient for resources expended in litigating a particular matter. The revenue from such fees should be recorded in the same fund to which the related expenses have been charged. The revenue should be recorded during the accounting period in which the award is received.

§ 1609.7 Acceptance of Reimbursement.

When a case or matter subject to this part results in a recovery of damages, other than statutory benefits, a recipient may accept reimbursement from the client for out-of-pocket costs and expenses incurred in connection with the case or matter, if

(a) The requirements of 1609.4 are met, and

(b) The client has agreed in writing to reimburse the recipient for such costs and expenses.

§ 1609.8 Applicability.

Nothing in this part shall prevent a recipient from:

(a) Requiring a client to pay court fees when the client does not qualify to proceed in forma pauperis under the rules of the jurisdiction;

(b) Accepting a fee in a case that was initiated prior to adoption of this part; or

(c) Acting as co-counsel with a private attorney when the case meets the standards set forth in Section 1609.5, and accepting part of any fee that may result from a shared case.

Dated: January 3, 1984.

Alan R. Swendiman,

General Counsel.

[FR Doc. 84-440 Filed 1-6-84; 8:45 am]

BILLING CODE 6820-35-M

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45 CFR Part 1620

Priorities in Allocation of Resources

AGENCY: Legal Services Corporation.

ACTION: Proposed rule.

SUMMARY: This proposed rule revises the required recipient priority-setting process and adds two new sections to the rule. These changes and additions are needed to increase the range of participation in the priority setting process, make it more effective, and assure more equal access to services. The proposed rule mandates inclusion of the private bar, sets specific periodic time deadlines for completion of the priority-setting process, requires more equal access to services, and requires that a case acceptance schedule be set up to implement the priorities adopted.

DATE: Comments must be received on or before February 8, 1984.

ADDRESS: Comments may be submitted to Office of General Counsel, Legal Services Corporation, 733 Fifteenth Street, NW., Room 620, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: John C. Meyer, Deputy General Counsel, (202) 272-4010.

SUPPLEMENTARY INFORMATION:

General

In the course of its regular oversight and monitoring activities, the Corporation has found that the priority-setting process has not been implemented in a regular and timely fashion by all recipients, that it has not ensured equal access to similarly situated clients, and that priorities set have frequently not been reflected in the cases actually accepted. This proposed rule is designed to remedy these defects, make the priority-setting process more effective and broaden participation therein.

Equal Access

Section 1620.1, "Purpose," is revised by adding to the objectives stated therein, the objective of providing to all potentially eligible clients "substantially equal access to the same types of services and level of representation, unless differences in level of services are based on differences in financial resources." This language does not require that recipients rank clients on the basis of financial resources, but does allow differences in financial resources as a justification for differences in access. This amendment to the purpose section is made effective by the addition of a new Section 1620.3 entitled "Access" (the old § 1620.3, "Review," is renumbered 1620.4). Section 1620.3 specifically mandates that services be geographically distributed in reasonable proportion to the distribution of eligible clients.

Procedures and Time Deadlines

Section 1620.2(a) is revised to include the private bar among groups whose input is required in the assessment process. Section 1620.2(c) is revised to require an initial written report on priorities by June 30, 1984, to require this report to be submitted to the Corporation for approval, and to increase the scope of this report to include a case acceptance schedule and a report on composition, training and support of the recipient's personnel.

Section 1620.2(a) is further revised to require a full needs assessment at least once every two years and a new § 1620.2(d) is added requiring a needs assessment by December 31, 1984, for any recipient which has not carried out such assessment since January 1, 1982.

Section 1620.4 is revised to require a report to the Corporation on the recipient's review of priorities at least annually after the initial review required in § 1620.2(c) and to expand the scope of the report to cover all the matters listed in § 1620.2(c), the date of the most recent needs assessment, the timetable for the next one, and the mechanisms to be used to ensure effective client participation in priority-setting.

Case Acceptance and Priorities

A new § 1620.5 is added requiring that the governing body of each recipient establish policies and procedures that insure that cases accepted do in fact substantially comply with the priorities adopted by the recipient.

The list of factors which must be considered by a recipient in setting priorities (Section 1620.2(b)) is amended by deleting (7), consonant with the Corporation's current policy that priorities should be set based on the right of the individual client to legal assistance rather than a judgment as to what cases may have the most impact on eligible clients of a class.

List of Subjects in 45 CFR Part 1620

Legal Services

For the reasons set forth in the preamble, 45 CFR Part 1620 is proposed to be revised as follows:

PART 1620—PRIORITIES IN ALLOCATION OF RESOURCES

Sec.
1620.1 Purpose.
1620.2 Procedure.
1620.3 Access.
1620.4 Review.
1620.5 Case Acceptance.

Authority: Section 1007(a)(2) Legal Services Corporation Act of 1974, as amended (42 U.S.C. 2996f(a)(2)).

§ 1620.1 Purpose.

This part is designed to insure that a recipient, through policy and plans adopted by its governing body, takes into account the view of eligible clients, staff, the private bar and other interested persons in establishing priorities for allocating its resources in an economical and effective manner, consistent with the purposes and requirements of the Act and other provisions of Federal law; it is further designed to ensure that all potential eligible clients are provided substantially equal access to the same types of services and levels of representation, unless differences in level of services are based on differences in financial resources.

§ 1620.2 Procedure.

(a) A recipient shall adopt procedures for establishing priorities in the allocation of its resources. The procedures adopted shall:

(1) Include an effective assessment, conducted at least once every two years, of the needs of eligible clients in the geographic areas served by the recipient, and their relative importance, based on information received from potential or current eligible clients solicited in a manner reasonably calculated to obtain the attitude of all significant segments of the client population, as well as input from the recipient's employees, governing body members, the private bar, and other interested persons. In addition to substantive legal problems, the assessment shall address the need for outreach, training of the recipient's employees, and support services;

(2) Insure an opportunity for participation by all significant segments of the client community and the recipient's employees in the setting of priorities, in the development of the report required by Paragraph (c), and in the review required by Section 1602.4, and provide an opportunity for comment by interested members of the public.

(b) The following factors shall be among those considered by the recipient in establishing priorities:

(1) The assessment described in paragraph (a)(1) of this section;

(2) The population of eligible clients in the geographic areas served by the recipient, including all significant segments of that population with special legal problems or special difficulties of access to legal services;

(3) The resources of the recipient;

(4) The availability of another source of free or low-cost legal assistance in a particular category of cases or matters;

(5) The availability of other sources of training, support, and outreach services;

(6) The relative importance of particular legal problems of the clients of the recipient;

(7) The susceptibility of particular problems to solution through legal processes; and

(8) Whether legal efforts by the recipient will complement other efforts to solve particular problems in the area served.

(c) By June 30, 1984, each recipient shall prepare an initial written report describing its priorities, how they were developed, a resultant case acceptance schedule, and the implications of those priorities for the allocation of its resources and the composition, training, and support of its personnel. This report shall be submitted to the Corporation for approval and shall be available to the public.

(d) Any recipient which has not conducted a substantial needs assessment as a part of its priority-setting process since January 1, 1982, shall do so prior to December 31, 1984.

§ 1620.3 Access.

A recipient shall adopt priorities in the allocation of resources, consistent with the purposes and requirements of the Act, regulations, guidelines and instructions, which substantially provide that all potential eligible clients in the recipient's service area have equal access to the same types of services and level of representation. Availability of services should be reasonably proportional to the distribution of eligible clients by county or parish within the recipient's service area. Where a recipient serves an area that is not easily defined by parish or county

jurisdictions, other units of political subdivision should be utilized.

§ 1620.4 Review.

Priorities shall be reviewed at least annually. After the initial report described in Section 1620.2(c) each recipient shall submit to the Corporation an annual report summarizing the review of priorities, the date of the most recent needs assessment, the timetable for the future assessment of needs and evaluation of priorities, and mechanisms which will be utilized to ensure effective clieni participation in priority-setting, and any changes in priorities. The report shall also include a copy of a case acceptance plan or schedule adopted as a result of the priority review and an assessment of the changes made in current operations of the recipient as a result of the priority review. The following factors shall be among those considered in determining whether the recipient's priorities should be changed: (a) The extent to which the objectives of the recipient's priorities have been accomplished; (b) changes in the resources of the recipient; (c) changes in the size or needs of the eligible client population; and (d) implementation of Section 1620.3.

1620.5 Case Acceptance.

The governing body of a recipient shall establish policies and procedures that assure clients and the Corporation that cases which are accepted for representation of eligible clients substantially comply with the priorities adopted by the recipient.

Dated: January 3, 1984.

Alan R. Swendiman,

General Counsel.

[FR Doc. 84-441 Filed 1-6-84; 8:45 am]

BILLING CODE 6820-35-M

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45 CFR Part 1626

Restrictions on Legal Assistance to Aliens

AGENCY: Legal Services Corporation.

ACTION: Proposed rule.

SUMMARY: The 1984 appropriation for the Legal Services Corporation continues unchanged the restictions in the 1983 Continuing Resolution. This proposed rule amends the regulations the Corporation adopted pursuant to that Continuing Resolution (45 CFR Part 1626) so they continue to govern the use of funds under the 1984 appropriation. Thus, the current Corporation regulations restricting representation of aliens continue to apply to all recipients of 1984 funding.

DATES: Comments must be received on or before February 8, 1984.

ADDRESS: Comments may be submitted to Office of General Counsel, Legal Services Corporation, 733 Fifteenth Street, NW., Room 620, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: John C. Meyer, Deputy General Counsel, (202) 272-4010.

SUPPLEMENTARY INFORMATION:

List of Subjects in 45 CFR Part 1626

Privacy, Aliens, Legal services, Reporting and recordkeeping requirements.

For the reasons set out in the preamble 45 CFR Part 1626 is proposed to be amended as follows:

PART 1626—[AMENDED]

1. **Authority:** Section 1008(e) Legal Services Corporation Act of 1974, as amended (42 U.S.C. 2996g(e)); Pub. L. 97-377, 96 Stat. 1874; Pub. L. 98-166.

2. Section 1626.1 is amended by inserting at its end the word "or Public Law 98-166".

3. Section 1626.2 is amended by inserting at the end of paragraph (b) the words "or Public Law 98-166".

4. Section 1626.3 is amended by inserting in paragraph (a), after the words "or Public Law 97-377" the words "or Public Law 98-166; by inserting in paragraph (b)(1) in the third from last line, after the words "fiscal year 1983", the words "or 1984"; and by inserting in the last line of paragraph (b)(2), after the words "fiscal year 1983", the words "or 1984".

5. Section 1626.6 is amended by inserting in paragraph (a), after the words "Pub. L. 97-377", the words "or Pub. L. 98-166" and by inserting the next to last line of paragraph (b)(1), after the words "Pub. L. 97-377", the words "or Pub. L. 98-166".

6. Section 1626.7 is amended by inserting in paragraph (a), after the words "Pub. L. 97-377", the words "or Pub. L. 98-166" and by inserting in paragraph (b), after the words "Pub. L. 97-377", the words "or Pub. L. 98-166".

Dated: January 4, 1984.

Alan R. Swendiman,

General Counsel.

[FR Doc. 84-442 Filed 1-6-84; 8:45 am]

BILLING CODE 6820-35-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 81-893]

Procedures for Implementing the Detariffing of Customer Premises Equipment and Enhanced Services (Second Computer Inquiry); Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment/reply comment period.

SUMMARY: Order extends the deadline for comments and reply comments regarding a Further Notice of Proposed Rulemaking adopted by the Commission in Procedures for Implementing the Detariffing of Customer Premises Equipment and Enhanced Services (Second Computer Inquiry), CC Docket No. 81-893. The action taken in the Order is necessary to ensure that interested parties have sufficient time to analyze and comment upon other related actions recently taken by the Commission which may have a bearing upon this proceeding.

DATES: Comments regarding the Further Notice of Proposed Rulemaking are due January 30, 1984, and replies are due February 15, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: John Cimko, Jr., (202) 632-9342.

Order

In the matter of Procedures for Implementing The Detariffing of Customer Premises Equipment and Enhanced Services (Second Computer Inquiry); CC Docket No. 81-893, (12-6-83; 48 FR 54668).

Adopted: December 22, 1983.
Released: December 29, 1983.

By the Chief, Common Carrier Bureau.

1. We have before us a Motion for Extension of Time filed by Telocator Network of America with regard to the *Further Notice of Proposed Rulemaking* adopted by the Commission in this docket. *See Procedures for implementing the Detariffing of Customer Premises Equipment and Enhanced Services (Second Computer Inquiry),* CC Docket No. 81-893, Further Notice of Proposed Rulemaking, FCC 83-506 (released Nov. 7, 1983) (hereinafter *Further Notice*). The Commission provided in that action that comments would be due not later than December 29, 1983, and reply comments would be due not later than January 23, 1984.

Further Notice at para. 9. Telocator requests that the deadline for comments be extended to January 30, 1984, and the deadline for replies be extended to February 20, 1984.

2. On December 22, 1983, the Commission adopted a *Memorandum Opinion and Order on Reconsideration* in *Deregulation of Mobile Customer Premises Equipment,* CC Docket No. 83–372, permitting American Telephone and Telegraph Company to detariff and transfer embedded customer premises equipment used in mobile telephone service to AT&T Information Systems as of January 1, 1984. The Telocator motion, which was filed on December 14, 1983, anticipated Commission action on reconsideration in CC Docket No. 83–372 and argues that "[t]he nature and scope of the instant proceeding will be materially influenced by the Commission's decision on reconsideration * * *. [T]houghtful analysis of the issues raised by the [*Further Notice*] cannot usefully be pursued in advance of the Commission's decision on reconsideration * * *."

3. We agree with Telocator that parties in this proceeding need additional time to review the Commission's decision on reconsideration in CC Docket No. 83–372. A full examination of the issues by interested parties will aid the Commission in taking action with regard to the *Further Notice,* and it is important to ensure that parties have sufficient opportunity to present their views. We shall, therefore, grant the Telocator motion, but shall require that reply comments shall be due on February 15, 1984.

4. Accordingly, it is ordered, pursuant to §§ 0.91(h) and 0.291 of the Commission's Rules, That the Motion for Extension of Time is granted as modified herein.

Jack D. Smith,

Chief, Common Carrier Bureau.

[FR Doc. 84-404 Filed 1-6-84; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-1236; RM-4370]

TV Broadcast Station in Ventura, California; Order Extending Time for Filing Comments and Reply Comments.

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment/reply comment period.

SUMMARY: Action taken herein extends the time for filing comments and reply comments in MM Docket No. 83–1236 concerning a proposal to assign UHF television Channel 41 to Ventura, California. Counsel for petitioner states that additional time will be needed to formulate a proper response.

DATE: Comments must be filed on or before February 9, 1984, and reply comments on or before February 24, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: D. David Weston, Mass Media Bureau (202) 634–6530.

Order Extending Time For Filing Comments and Reply Comments

In the matter of Amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Ventura, California); MM Docket No. 83–1236, RM–4370.

Adopted: December 23, 1983.
Released: January 3, 1984.

By the Chief, Policy and Rules Division.

1. On November 2, 1983, the Commission adopted a *Notice of Proposed Rule Making,* 48 FR 53721, published November 29, 1983, in the above proceeding. Comments and reply comments are currently due January 9, 1984, respectively.

2. On December 21, 1983, counsel for California Broadcasting Corporation filed a request seeking additional time in which to file comments to and including February 9, 1984. Counsel states that initially the Commission's files in the referenced docket were incomplete and because of the intervening holidays additional time is needed to prepare comments.

3. We are of the view that, under the circumstances recited, an extension of time is warranted. It appears that no other party to the proceeding would be prejudiced by a grant of the instant request, such request was timely filed and such extension will assure development of a sound and comprehensive record on which to base a decision herein.

4. Accordingly, it is ordered, That the date for filing comments and reply comments in MM Docket No. 83–1236 (RM–4370) is extended to and including February 9, 1984, and February 24, 1984, respectively.

5. This action is taken pursuant to the authority contained in §§ 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0,204(b) and 0,283 of the Commission's Rules.

Federal Communications Commision.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-395 Filed 1-6-84; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 84-1; FCC 84-4]

Compensation for Expenses Incurred in Mitigating the Effects of Cuban Interference to Services Rendered by AM Radio Stations in the United States

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: The FCC invites comments on regulations that would govern the administration of a program of compensation to U.S. radio broadcasters for expense incurred for equipment and engineering necessary to mitigate the effects of interference received from Cuban stations. The FCC is directed by the recently enacted Radio Broadcasting to Cuba Act to issue such regulations. The proposed regulations would establish the requirements for eligibility to compensation, provide for the methods to be used in calculating the field strength of interfering Cuban signals, and in showing that specified threshold levels of Cuban interference are received, designate the kinds and amounts of expenses for which compensation would be payable, and establish procedures for the administration of the program either by the FCC alone, by the FCC with industry participation, or by industry alone. Industry participation is encouraged.

DATES: Comments are due by January 20, 1984 and reply comments by February 7, 1984..

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Louis C. Stephens, Mass Media Bureau, (202) 632–7792.

List of Subjects in 47 CFR Part 73

Radio and television Broadcasting.

Notice of Proposed Rule Making

In the matter of Compensation for Expenses Incurred in Mitigating the Effects of Cuban Interference to Services Rendered by AM Radio Stations in the United States; MM Docket No. 84–1; FCC 84–4.

Adopted: January 4, 1984.
Released: January 6, 1984.

By the Commission.

I. Introduction

1. The Commission herein initiates the captioned rule making proceeding as required by section 7 of the Radio Broadcasting to Cuba Act, Pub. L. No. 98–111, 97 Stat. 749 (1983). Section 7(a) of the Act reflects the intent of Congress that the Secretary of State "seek prompt and full settlement of United States claims against the Government of Cuba arising from Cuban interference with broadcasting in the United States." Pending settlement of these claims, the Act states that "it is appropriate to provide some interim assistance to U.S. broadcasters who are adversely affected by Cuban radio interference and who seek to assert their right to measures to counteract the effects of such interference." Accordingly, section 7(b) provides for the making of payments by the United States Information Agency to U.S. licensees for expenses incurred in mitigating the effects of activities by the Government of Cuba which directly interfere with the transmission or reception of broadcasts by these licensees.[1] Finally, section 7(c) provides that "the Federal Communications Commission shall issue such regulations and establish such procedures for carrying out this section as the Federal Communications Commission finds appropriate." Section 7 is set forth in full in Appendix A, hereto.

2. In order to implement the above-referenced program of compensation to U.S. licensees, it appears appropriate to establish standards in essentially three areas. The first standard would identify a threshold level of interference from Cuba to U.S. stations that would trigger eligibility for compensation. The second standard generally would specify the types of expenses incurred in mitigating the effects of such interference that would be compensable. The third standard would set forth the procedures to be followed by affected U.S. licensees to obtain compensation.

3. Some aspects of the compensation program clearly fall within the purview of the Commission's expertise and experience, such as issuance of Special Temporary Authorizations, and the definition and verification of interference. However, other aspects of the program present novel questions relating to monetary benefits. In this latter regard, our expertise in allocating, licensing and regulating the use of the electromagnetic spectrum provides us with little guidance to draw upon in structuring a benefits program.

4. In the discussing below, we have proposed certain procedures for administering the program after final rules are adopted that admittedly would require the Commission to play a substantial role in processing and evaluating individual applications for compensation, prior to their submission to USIA for payment. The total cost of Commission involvement in such day-to-day administration may well exceed two million dollars (2,000,000). In order to achieve greater efficiency and economy, it may be more desirable to adopt different procedures that contemplate a significant industry administrative role by, for example, an appropriate industry advisory group. The time constraints imposed by the legislation have precluded earlier discussions with industry experts regarding this matter. We therefore strongly desire comments from members of the broadcast industry and other interested parties on all aspects of this *Notice*. In particular, parties filing comments should not hesitate to recommend modification of any proposals discussed herein, or to set forth wholly new proposals.

II. Background

5. There is a long history of interference from Cuban stations to U.S. stations. Efforts so far have failed to achieve a resolution of this problem. Cuba technically remained a signatory to the North American Regional Broadcasting Agreement (NARBA) until November, 1981. However, in contravention of NARBA, Cuban stations caused increasing levels of interference to U.S. AM radio broadcasters during a period covering 10 to 13 years prior to 1981.[2] Moreover, Cuba withdrew from the 1981 Regional Administrative Radio Conference at Rio de Janeiro after the Conference refused to include certain AM assignment shifts proposed by the Cuban delegation in the new Region 2 (Western Hemisphere) AM radio broadcasting Plan. These shifts and other proposals made by the Cuban delegation would have caused additional, and in some cases severe, interference to U.S. stations. A study performed during 1982 by the National Association of Broadcasters concluded that over 200 AM broadcast stations in the United States would be subjected to objectionable interference if Cuba proceeded to install and operate stations corresponding to the assignments proposed by Cuba to the Rio Conference. NAB's study used domestic standards as the basis for calculation.

6. Monitoring performed since 1981 has revealed a growing and shifting pattern of Cuban interference. Attempts to negotiate solutions to these problems with Cuba so far have proved unsuccessful. Accordingly, the FCC has responded to the problem by issuing Special Temporary Authorizations to affected stations. These STAs permit stations to increase power and alter directional patterns in order to restore service to at least part of their normally protected interference-free areas lost to Cuban interference. The Radio Broadcasting to Cuba Act contemplates providing compensation to those licensees who must obtain STAs and incur expenses in order to mitigate the effects of such interference.

III. Discussion

A. Proposed Standards

7. *Interference Defined.* It appears appropriate to calculate interference in the manner prescribed for Western Hemisphere AM broadcasting stations in the Regional Agreement and Technical Annexes that form part of the Final Acts of the Regional Administrative Radio Conference, Rio de Janeiro, 1981. Accordingly, the skywave signal of a Cuban station would be treated as causing interference when its field strength is at a specified level with a time incidence of 50%, rather than the 10% incidence used in calculating domestic skywave interference. Comments are requested on this proposal.

8. *Threshold Level of Interference.* It appears that Congress intended the FCC to establish a threshold level of interference, below which no compensation would be provided. This is reflected, for example, in the section-by-section analysis placed in the Congressional Record by Representative Fascell when presenting S. 602 to the House of Representatives for its consideration and vote. That analysis states that "in issuing any regulations and establishing any procedures for carrying out this section [7], the FCC should establish criteria to evaluate the financial claims of affected licensees" and that such criteria may include "the duration, stability and extent of Cuban

[1] The text of section 7(b) is as follows: (b) Accordingly, the Agency shall make payments to the United States radio broadcasting station licensees upon their application for expenses which they have incurred before, on, or after the date of this Act in mitigating, pursuant to special temporary authority from the Federal Communications Commission, the effects of activities by the Government of Cuba which directly interfere with the transmission or reception of broadcasts by these licensees. Such expenses shall be limited to the costs of equipment (replaced less depreciation) and associated technical and engineering costs.

[2] The terms of NARBA require signatories to provide written notice one year in advance of the date that they plan to dissociate themselves from the requirements of the agreement. Cuba provided such notification in November, 1980.

interference, including establishment of a threshold loss of service prior to any compensation recommendation", 129 Cong. Rec. H 7683 (daily ed. Sept. 29, 1983).

9. A threshold level of interference can most conveniently be applied in the form of a percentage of a station's interference-free service area within which objectionable interference is received from Cuba, or a percentage of a station's population that would receive interference-free service in the absence of Cuban interference. For administrative purposes, it is easier to determine a straight percentage amount of service area lost to interference. However, application of such a procedure would fail to take cognizance of the fact that the interference may occur in relatively unpopulated areas, such as the Everglades in the case of stations in the southern part of Florida. Moreover, such a procedure could lead to compensation being paid to licensees receiving interference in generally unpopulated areas at the expense of licensees receiving interference to highly populated areas. Given the limited funds available for compensation and the potential for interference to a number of stations, such a result appears to be undesirable. Therefore, we propose to adopt a threshold level of interference that represents a percentage of a station's population directly affected by Cuban interference. Specifically, we propose that a licensee would meet the threshold level of eligibility if it shows that ten percent (10%) or more of its station's normally served population has lost interference-free service as a result of Cuban interference. We invite comments as to whether "10%" is appropriate or whether the percentage should be higher or lower.

10. *Duration of Interference.* Interference from Cuba could manifest itself in a variety of ways. It could be continuous for a protracted period of time. It could occur one or two days a week for several months. It could occur daily, but only for limited periods of time. It also could occur for one or two days, or other brief periods, and never recur.

11. The legislative history discussed at paragraph 8, *supra*, recognizes these possibilities and notes that the Commission should establish criteria to determine when interference has been continuous enough to warrant compensation. Therefore, we propose that interference to a station exist at least fifty percent (50%) of the time for a period of sixty continuous days before a licensee would be eligible for compensation. Comments are invited on this proposal.

12. *Alternative Methods of Determining Eligibility for Compensation.* As we noted in paragraph 8–11, *supra*, the legislative history mentions establishing a threshold level of interference and standards for determining interference duration as preconditions to compensation. We therefore have framed our proposals accordingly. However, it is possible that other methods of determining preconditions for compensation consistant with the statute also may be workable without the need for the somewhat detailed showing required under our proposals. We specifically urge commenters to address themselves to any such alternative methods.

13. *Secondary Effects.* Consistent with the language of section 7 (b) of the Act, we propose to limit compensation to stations "directly affected" by Cuban interference. Thus, no compensation would be permitted absent a showing of direct Cuban interference to the broadcast transmission or reception of the station filing a claim pursuant to the statute.

14. *Compensable Costs.* Although section 7 (b) authorizes the making of payments to U.S. licensees for expenses incurred in mitigating the effects of interference from Cuba, such payments are expressly limited to "the costs of equipment . . . and associated technical and engineering costs." The principal costs a broadcaster would incur for this purpose would include the capital outlays for designing, engineering, acquiring, installing, constructing and testing equipment such as transmitters, and facilities such as antenna towers. These costs would be necessary to mitigate loss of service and to avoid creating objectionable interference to other U.S. stations or to the stations of other foreign countries that the United States has agreed to protect. We propose to treat all of the above-mentioned expenses as compensable under the Act. Comments are requested on this proposal.

15. *Non-Compensable Costs.* Section 7 (b) does not authorize compensation for such consequences of Cuban interference as the loss of advertising revenues. When H.R. 2453, the House version of S. 602, was before the House Subcommittee on Telecommunications, Consumer Protection and Finance, the Subcommittee amended the Bill by adding a provision for compensation for lost advertising revenues. However, this was eliminated later when H.R. 2453 came before the full Committee on Energy and Commerce. The Bill finally adopted by both the House of Representatives and the Senate was an amended form of S. 602. When that Bill was before the Senate Committee on Foreign Relations, the Committee rejected an amendment that would similarly have provided compensation for loss of advertising revenues.

16. Also, we do not interpret section 7(b) as authorizing compensation for the cost of land to accommodate towers required for directionalization of a station's signal.[3] Similarly, it does not appear that compensation was intended for legal fees incurred in the preparation of applications for STAs or for other legal work associated with section 7.

17. Finally, the amount of compensation for equipment is limited by the following language in section 7(b): "equipment (replaced less depreciation)". The quoted language is understood to refer to depreciation taken for income tax purposes on equipment that is replaced by the new facilities. Depreciation on equipment replaced would thus be an offset against a licensee's compensable amount. The rationale for excluding depreciation already taken is apparent. To the extent that a licensee has taken a depreciation tax allowance, it has received a financial benefit. To provide compensation for replaced equipment without deducting depreciation taken on the equipment replaced would result in the licensee obtaining a double benefit. Accordingly, we propose to subtract from the otherwise qualifying cost of new equipment, the amount of depreciation already taken for tax purposes on the equipment that it replaces.

18. In addition to the foregoing, we seek comment on whether or not additional limits should be placed on the amount of money that any one licensee would be provided. Such a limitation may be desirable in order to ensure that as much money as possible is available to as many affected licensees as possible. We could, for example, limit compensation to a maximum of $250,000 per licensee. Alternatively, or in conjunction with such a limit, we could specify that no more than fifty percent (50%) of a licensee's otherwise qualifying costs would be compensable.

B. Procedures

19. The proposals discussed in this section of the *Notice* concern procedures for the performance of two

[3] We believe, however, that the antenna towers themselves, along with the footings to support them, are compensable.

kinds of functions. First, procedures must be established to govern the gathering and analysis of data needed to establish the underlying factual basis on which the program of compensation under section 7 will be administered. Such data will provide constantly updated information concerning Cuban AM signal transmissions that is needed to ascertain the extent and the duration of interference to individual U.S. stations. Second, procedures must be devised for processing and evaluating applications by individual station licensees for compensation under section 7.[4]

20. The two functions noted in paragraph 18 could be performed in several ways: (1) By the FCC exclusively; (2) partly by the FCC and partly by a suitable industry body or group; or (3) altogether by an industry body or group. We favor as much participation by industry as possible consistent with the mandate of the statute. We welcome comments as to how best to maximize industry participation both in the gathering and analysis of data, and in the processing and evaluation of individual applications for compensation.

21. *Data Gathering and Analysis to Show Cuban Signal Strength.* In order to determine whether or not a radio station meets a threshold requirement such as Cuban interference to at least 10% of the population within the station's normally interference-free service area, it will be necessary to calculate the field strengths of the interfering signals within that service area. Such calculations should be based on the best available indications as to the antenna characteristics and the locations and powers at which interfering Cuban stations may be presumed to be operating. One method of establishing such locations and powers would involve locating the Cuban stations with direction-finding bearings and measuring and recording field strengths of the signals of Cuban stations at suitable locations as close to Cuba as practicable. We believe that such measurements should be taken, at least semi-monthly, on all 107 AM channels. The presumed locations and powers of Cuban stations would be derived from baseline studies of those measurements. Such studies would be reviewed and revised, as necessary, in light of changes indicated by subsequently recorded measurements. The results of those studies would be published. Station licensees would use them in calculating and showing compliance with the threshold requirement as to the minimum extent of interference that would qualify them for compensation under section 7. Comments are invited on this approach, as well as any variants or alternatives the parties may wish to propose. Also, parties should comment on how it may be possible for industry members to participate in signal monitoring, and in the design, conduct, and updating of baseline studies.

22. *Data Gathering and Analysis to Show the Duration of Cuban Interference.* It appears desirable that showings of the duration of Cuban interference be based on measurements of the field strength of the interfering signal taken within the service contours of the affected station. We propose that licensees seeking compensation under section 7 would proceed as follows in monitoring their assigned channels for Cuban interference, and would report the methods and equipment used in conformance with good engineering practice. When monitoring Cuban groundwave interference to the groundwave service of the U.S. station, the field strength measurements by the affected licensee would be taken within the interference area located by calculations derived from the above-mentioned baseline studies. When monitoring Cuban nighttime skywave interference, the licensee's measurements of Cuban signals would be taken at the transmitter of the affected station, except that Class I stations would take these measurements within the interference area.

23. In considering the question of how best to make the showing mentioned in paragraph 11, that the Cuban interference occurs at least half the time, we have endeavored to develop an approach based on a sampling method.[5] Specifically, measurements by a station licensee claiming interference time to its daytime operations would be taken once a day for sixty consecutive days. Thirty such measurements could be taken usefully on alternate days during the morning hours between two hours after local sunrise and noon, and thirty measurements on the intervening days during the afternoon hours between noon and two hours before local sunset. This would avoid the intermixture of Cuban interference with other interference that could possibly occur during the "critical hours."[6] Stations seeking compensation for interference to nighttime services would record measurements taken on all sixty days between two hours after local sunset and midnight. The foregoing methods illustrate one possible way to show compliance with any interference duration requirement that ultimately may be adopted. We will also consider other approaches or methods that parties may wish to propose.

24. *Processing and Evaluating Applications for Compensation.* As noted in paragraph 20, above, applications for compensation could be processed and evaluated by the Commission, by the Commission and industry jointly, or by the industry alone.[7] Under the first approach, station licensees seeking compensation under section 7 would file their applications with the Federal Communications Commission. Under the second approach, applications would be filed simultaneously with the Commission and the appropriate industry body. Under the third approach applications would be filed only with the industry body. Such applications could be filed simultaneously with or after the filing of applications for the STAs covering the proposed new or changed facilities, but not before the effective date of the regulations adopted pursuant to this Notice.

25. The Commission or industry body, as the case may be, would as promptly as possible notify the applicant of the amount of compensation that it considers to be allowable. An ultimate finding of the amount of compensation that is considered to be allowable under Section 7 and the implementing regulations would be deferred until after the STA has been issued, the construction has been completed, and the applicant has provided the required cost documentation. This ultimate finding would be notified to the applicant, and transmitted to the USIA in the form of a recommendation that the USIA provide compensation in such amount.

26. We welcome proposals as to how the industry representatives who may participate in the processing and evaluation of individual applications

[4] This *Notice* does not address the procedures that the USIA will employ in performing its statutory functions related to the disbursement of funds to licensees that are found to qualify for section 7 compensation.

[5] This method presumes that Cuban signals detected by the station have the interference level predicted in accordance with the procedures proposed in paragraph 21. Thus, the proposed regulation would not require analysis of the field strength measurements performed by the station to show the duration of Cuban interference nor require a precise measurement of field strength.

[6] Critical hours are defined as the first tow hours after local sunrise and the last two hours before local sunset.

[7] It should be noted that STA's will continue to be processed by the FCC pursuant to the requirements of the Communications Act of 1934, as amended, and existing FCC rules.

under the second and third approach discussed above might best be chosen. Comments are also invited as to whether industry representatives performing any of the general functions indicated above, or those charged with analyzing and evaluating individual applications would have to be organized as an industry advisory committee pursuant to the requirements of the Industry Advisory Committee Act.

27. *Priorities.* It appears to be desirable, in view of the limitations of funds that will be made available for the payment of compensation under section 7, to establish the sequence in which applicants qualify for compensation, on some basis such as the following:

First Priority. A first priority would be given to station licensees whose STAs to mitigate Cuban interference were issued prior to October 4, 1983 (the date of the enactment of the Radio Broadcasting to Cuba Act) and whose applications for compensation are filed before October 1, 1984 (the date section 7 enters into effect). Within this first group, priority would be accorded in the order in which such STAs were granted:

Second Priority. A second priority would be given to station licensees whose STAs to mitigate Cuban interference were issued on or after October 4, 1983 but before the effective date of the regulations adopted hereunder, and whose applications for compensation are filed before October 1, 1984. Within this second group, priority would be accorded in the order in which the applications for such STAs are filed;

Third Priority. A third priority would be given to applicants who do not come within the first or second priority groups. Within this third group, priority would be accorded in the order of this filing of applications for compensation. Comments are invited on the foregoing methods of establishing priorities and on any alternatives that the parties may wish to propose.

28. *Documentation Supporting Applications.* The proposed regulations would include the requirement that applicants for compensation under section 7 provide such documentation as the Commission may prescribe generally, or as the processor of the applications may request in individual cases, as evidence that the costs sought to be compensated have been reasonably and prudently incurred for purposes for which compensation is allowable under the Act and the implementing regulations. Comments are requested on the types of documentation that should be required.

29. Pursuant to procedures set out in § 1.415 of the Commission's Rules, interested parties may file comments on or before January 20, 1984 and reply comments on or before February 7, 1984. The statutory requirement that the regulations governing the compensation program under Section 7 of the Act be issued no later than 180 days after its enactment (i.e., by April 1, 1984) will preclude extensions of time for the filing of comments or reply comments. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information is placed in the public file and provided that the fact of the Commission's reliance on such information is noted n the Report and Order.

30. In accordance with the provisions of § 1.419 of the Rules, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All timely comments will be considered regardless of the number of copies submitted. In any event, all comments must contain reference to the appropriate docket number (MM Docket No. 84–1). All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its Headquarters, 1919 "M" Street, NW., Washington, D.C. 20554. For general information on how to file comments, please contact the FCC Consumer Assistance and Information Division at (202) 632–7000.

31. As required by Section 603 of the Regulatory Flexibility Act, the FCC has prepared an initial regulatory flexibility analysis ("IRFA") of the expected impact on small entities of the proposals advanced herein. The IFRA is set forth in Appendix "B". Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the *Notice*, but they must have a separate and distinct heading designating them a responses to the regulatory flexibility analysis. The Secretary shall cause a copy of this *Notice*, including the initial regulatory flexibility analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration, as required by Section 603(a) of the Regulatory Flexibility Act (Pub. L. No. 96–354, 94 Stat. 1164, 50 U.S.C. 601 *et seq.*, (1981).

32. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the time a Public Notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments and formal oral arguments) addressing the merits of a pending proceeding and containing matters not fully covered in any previously filed written comments for the proceeding. Any person who submits a written *ex parte* presentation must submit a copy of that presentation to the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. *See generally*, § 1.231 of the Commission's rules.

33. For further information regarding this proceeding, contact Louis C. Stephens, Mass Media Bureau, (202) 632–7792.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Attachments: Appendices A and B.

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Appendix A

Text of Section 7 of the Act

Section 7 of the Radio Broadcasting to Cuba Act, Pub. L. 98-111, 97 Stat. 749, (1983) provides as follows:

> Sec. 7.(a) It is the intent of the Congress that the Secretary of State should seek prompt and full settlement of United States claims against the Government of Cuba arising from Cuban interference with broadcasting in the United States. Pending the settlement of these claims, it is appropriate to provide some interim assistance to the United States broadcasters who are adversely affected by Cuban radio interference and who seek to assert their right to measures to counteract the effects of such interference.
>
> (b) Accordingly, the Agency may make payments to the United States radio broadcasting station licensees upon their application for expenses which they have incurred before, on, or after the date of this Act in mitigating, pursuant to special temporary authority from the Federal Communications Commission, the effects of activities by the Government of Cuba which directly interfere with the transmission or reception of broadcasts by these licensees. Such expenses shall be limited to the costs of equipment (replaced less depreciation) and associated technical and engineering costs.
>
> (c) The Federal Communications Commission shall issue such regulations and establish such procedures for carrying out this section as the Federal Communications Commission finds appropriate. Such regulations shall be issued no later than one hundred and eighty days after enactment of this Act.
>
> (d) There are authorized to be appropriated to the Agency [United States Information Agency], $5,000,000 for use in compensating United States radio broadcasting licensees pursuant to this section. Amounts appropriated under this section are authorized to be available until expended.
>
> (e) Funds appropriated for implementation of this section shall be available for a period of no more than four years following the initial broadcast occurring as a result of programs described in this Act.
>
> (f) It is the sense of the Congress that the President should establish a task force to analyze the level of interference from the operation of Cuban stations experienced by broadcasters in the United States and to seek a practical political and technical solution to this problem.
>
> (g) This section shall enter into effect on October 1, 1984.

Appendix B

Initial Regulatory Flexibility Analysis

I. *Reason for Action.* The issuance by the Federal Communications Commission of regulations that will govern the administration of the program of compensation to U.S. broadcasters for allowable expenses incurred in mitigating the effects of Cuban interference is mandated by section 7 of the Radio Broadcasting to Cuba Act, Pub. L. No. 98-110, 97 Stat. 749 (1983).

II. *Objectives.* To establish standards and procedures that will permit the efficient and economical administration of the above-referenced program of compensation.

III. *Legal Basis.* The Radio Broadcasting to Cuba Act, *supra,* and the Administrative Procedure Act.

IV. *Description, Potential Impact and Number of Small Entities Affected.* The

entities affected are undetermined numbers of AM broadcasters serving communities in the United States. The potential impact upon them is to make available financial assistance with capital expenditures incurred in order to increase station power or modify or install directional antenna systems that will enable them to restore service to all or part of their normal service areas in which the reception of their signals is interfered with by signals transmitted by Cuban stations. The number affected will depend upon unpredictable actions by the Cuban government in changing the frequency assignments and operating powers of Cuban AM stations.

V. *Recording, Record Keeping and Other Compliance Requirements.* Broadcasters seeking compensation under section 7 would be required, under the rule making proposal, to submit applications showing that the Cuban interference which they seek to mitigate affects at least 10% of the population within their normally interference-free service contours, that the interference occurs at least half of the time, and that the compensation sought covers allowable expenses that were reasonably incurred.

VI. *Federal Rules which Overlap, Duplicate or Conflict with this Rule.* None.

VII. *Any Significant Alternatives Minimizing Impact on Small Entities and Consistent with the Stated Objectives.* None other than the alternative methods and procedures advanced in the *Notice*.

[FR Doc. 84-545 Filed 1-6-84; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 97

[PR Docket No. 83-28; FCC 83-584]

Establishment of a Class of Amateur Operator License Not Requiring a Demonstration of Proficiency in the International Morse Code; Withdrawal of Proposed Rule

AGENCY: Federal Communications Commission.

ACTION: Withdrawal of proposed rules; Report and Order.

SUMMARY: This document withdraws two alternative sets of proposed rules set forth in a *Notice of Proposed Rule Making*, 48 FR 4855 (February 3, 1983). These rules would have established an amateur radio operator license class which an individual could have obtained without first demonstrating a proficiency in the international Morse code. These rules are being withdrawn because: (1) The requirement for Morse code proficiency is not a significant barrier for those who want to get an amateur operator license; and (2) it is in the public interest to maintain a skilled pool of amateur operators for the safety of life and property and public emergencies and for the national defense.

FOR FURTHER INFORMATION CONTACT: John Borkowski, Private Radio Bureau, Washington, D.C. 20554 (202) 632-4964.

Report and Order

In the matter of establishment of a class of amateur Operator License not requiring a demonstration of proficiency in the International Morse Code; PR Docket No. 83-28.

Adopted: December 14, 1983.
Released: December 23, 1983.
By the Commission.

Introduction

1. In the *Notice of Proposed Rule Making*, 48 FR 4855 (February 3, 1983) in this proceeding, we proposed to establish an amateur radio operator license which an individual could obtain without first demonstrating a proficiency in the international Morse code. The proposal was intended to attract intelligent, disciplined persons to the Amateur Radio Service who could make a valuable contribution to the service without such a proficiency. It sought to remove any barrier the code requirement might place in the path of computer-oriented or handicapped individuals otherwise qualified to be amateur operators but for the code requirement.

2. The *Notice* proposed establishment of one of two kinds of "codeless" operator license classes. One proposal was to eliminate the five word-per-minute Morse code examination element (Element 1(A)) from the existing Technician class operator licensing requirements, with all authorized amateur privileges above 50 MHz. The alternative proposal involved creation of an entirely new license class with qualifications akin to those for the Canadian Digital Amateur Class Certificate.

Background

3. The issue of a codeless amateur operator license has been addressed in past Commission proceedings. In a *Notice of Proposed Rule Making* in Docket No. 20282, 39 FR 44042 (December 20, 1974), we noted that the Morse code requirement might be a significant barrier to Amateur Radio Service (ARS) entry. In a *Notice of Inquiry* in General Docket No. 78-250, 43 FR 37729 (August 24, 1978), we considered, among other possible improvements in administering Morse code examinations to handicapped applicants, creating a new class of amateur operator license without a Morse code proficiency requirement and with eligibility restricted to handicapped applicants. In the *Third Report and Order* in Docket No. 20282, 44 FR 16460 (March 19, 1979), we stated we would like to get fresh comments on the issue and would initiate a new proceeding to do so. The *Report and Order* terminating General Docket No. 78-250, 47 FR 14197 (April 2, 1982), also discussed the possibility of a class of amateur radio operator license without telegraphy requirements.

Comments

4. Almost 5,000 comments and reply comments were received.[1] The comments were overwhelmingly opposed to the establishment of any class of amateur operator license not requiring a demonstration of proficiency in the international Morse code. There were approximately twenty comments opposed to a codeless operator class for every comment in favor of such a class.[2]

5. Comments and reply comments in favor of some form of amateur license not requiring proficiency in the international Morse code included those of the Amateur Radio Research and Development Corporation (AMRAD), the Amecom Amateur Radio Club, the Capitol Hill Amateur Radio Society (CHARS), the Centralia Wireless Association, the Emerson Electric Amateur Radio Club (Emerson), the Garden State Amateur Radio Association, the Northern Illinois DX Association, the Okaw Valley Amateur Radio Club, the Southern Michigan Amateur Radio Team, the Sterling Park Amateur Radio Club, the Tennessee Council of Amateur Radio Clubs and the Willamette Valley DX Club.

6. Comments and reply comments opposed to any form of amateur license not requiring proficiency in the international Morse code included those

[1] The motion of the Capitol Hill Amateur Radio Society (CHARS) to accept its late-filed (August 1, 1983) reply comments is granted. The motion of the American Radio Relay League, Inc. (ARRL) for leave to submit supplemental reply comments on CHARS' late-filed reply comments is also granted.

[2] Many comments, such as those of Donald L. Stoner, which included "a proposal for the creation of a computer hobbyist license class," were alternative suggestions for the type of codeless license to be adopted should we decide to proceed with some sort of codeless license. We are treating these as comments on the proposal rather than as separate petitions for rule making. In view of the result reached herein, we would entertain future proposals for allocating spectrum separate and apart from amateur radio frequencies for a new computer hobbyist radio service.

of the Amateur Radio Association of the Tonawandas, Amateur Radio Post 380 (American Legion, Department of California), the Amateur Radio Transmitting Society of Louisville, the American Radio Relay League, Inc. (ARRL), the Athens Amateur Radio Club, the Bay Area Two-Twenty Group, the Bell Amateur Radio Club, the Beloit Amateur Radio Club, Inc., the Bemidji Amateur Radio Club, the Black Diamond Amateur Radio Club, the Brandon Amateur Radio Society, the Buffalo Amateur Radio Repeater Association, the Butte Amateur Radio Club, the Capeway Amateur Radio Club of Massachusetts, the Central Carolina Amateur Radio Society, the Cleveland Wireless Association, the Concord Brasspounders Amateur Radio Club, the East Bay Amateur Radio Club, the Eastern Shore Amateur Radio Club, the Elmore County Amateur Radio Club, the Emporia Amateur Radio Society, the Estero Amateur Radio Club, the Everglades Chapter of the Quarter Century Wireless Association (QCWA), the Fairfield Amateur Radio Association, the Falmouth Amateur Radio Association, Inc., the Findlay Radio Club, the Flathead Valley Amateur Radio Club, the Grande Ronde Radio Amateurs, the Great Circle Shortwave Society, the Greater Milwaukee DX Association, the Greater Toledo Amateur Radio Association, the Green Fox Amateur Radio Club, the Grumman Amateur Radio Club, Hancock Emergency Amateur Radio Services, Inc., the Hendricks County Ham Club, the Hoodview Amateur Radio Club, the Houston Echo Society, the Idaho Society of Radio Amateurs (Magic Valley Chapter), the Inter-City Amateur Radio Club, the Irwin Area Amateur Radio Association, the ITT Gilfillan Amateur Radio Club, the Jackson Amateur Radio Club, Inc., the Jefferson Amateur Radio Club, the Kettle Moraine Radio Amateur Club, the Lac Qui Parle Amateur Radio Club, the Lebanon Valley Society of Amateur Radio Club, the Liverpool Amateur Repeater Club, the McHenry County Wireless Association, the McMinnville Amateur Radio Club, the Madison Amateur Radio Club, the Metropolitan Amateur Radio Club, the Metuchen Amateur Radio Club, the Mid-Oklahoma Repeator, Inc., the Mike and Key Radio Club, the Milton Academy Amateur Radio Club, the Milwaukee Radio Amateur's Club, Inc., the Milwaukee School of Engineering Amateur Radio Club, the Monongalia Wireless Association, the Murray State University Amateur Radio Club, the Nashua Area Radio Club, Inc., NBS-Brass, the North Alta Loma Repeater Club, the Northrup Radio Club, the Old Post Amateur Society, Inc., the Old Pueblo Radio Club, Inc., the Ole Virginia Ham Amateur Radio Club, the Owensboro Amateur Radio Club, the Pentagon Amateur Radio Club, the Pentucket Radio Association, Inc., Pike Amateur Radio Emergency Services, the Port City Amateur Radio Club, the Portage Amateur Radio Club, the Potomac Valley Radio Club, QCWA, the Radio Amateur Teletypists Society of Minneapolis, the Radio Club of Tacoma, Inc., the Rock River Radio Club, the St. Barnabas Amateur Radio Club, the St. Cloud Amateur Radio Club, the St. Lawrence Valley Repeater Association, the San Antonio Repeater Organization, the Santa Rosa Amateur Radio Association, the Schenectady Amateur Radio Association, Inc., the Sharon Amateur Radio Association, the Shiawassee Amateur Radio Association, the Sierra Nevada Amateur Radio Society, Inc., the Sioux Falls Amateur Radio Club, Inc., Sonoma County Radio Amateurs, Inc., the South Georgia Amateur Radio Club, the South Texas Amateur Radio Society, Inc., the South Texas Amateur Repeater Club, Inc., the South Towns Amateur Radio Society, the Southeastern DX Club, the Southern California 220 Spectrum Management Association, the Southern California Repeater and Remote Base Association (SCRRBA), the Southern Oregon Amateur Radio Club, the Steubenville-Weirton Amateur Radio Club, the Story County Amateur Radio Club, the Suburban Amateur Repeater Association, Inc., the Texas DX Society, the Texas VHF-FM Society, the Thibodaux Amateur Radio Club, the Thumb Amateur Radio Club, the University of Minnesota Amateur Radio Club, the Valley Amateur Radio Association, the Valley of the Moon Amateur Radio Club, the Viking Amateur Radio Society, the West Valley Amateur Radio Association, the Western Piedmont Amateur Radio Club, the Wood County Amateur Radio Club, the Worthington Amateur Radio Club and the York Radio Club.[3]

Summary of Decision

7. For the reasons set forth in the discussion below, we have determined that it would not be in the public interest, convenience or necessity for the Commission to establish a class of amateur operator license not requiring a demonstration of proficiency in the international Morse code.[4] We reach this determination on the basis that: (1) A five word-per-minute (wpm) code requirement does not constitute a significant ARS entry barrier; (2) knowledge of the Morse code continues to be relevant to everyday usage in the ARS; and (3) a Morse code requirement for every license class is important to maintaining the traditional public service role of the ARS in emergencies involving public safety and the national defense.

Discussion

I. Morse code as an entry barrier.

A. *The general public.* 8. We received many comments from persons who indicated that the Morse code was a barrier for them in joining the ARS. For instance:

> I am not a licensed amateur radio operator. I have a technicians degree from the Cleveland Institute of Electronics and a Batchelor of Science degree in Electrical Engineering from the University of Tennessee. I know that I can pass the technical exams for amateur licensing. At this time the Morse code is the major obstacle between me and my amateur license. Comments of John D. Triplett.

Some commenters alleged personal learning barriers. Others indicated that they cannot find the time to learn the code.

9. To the extent a "code barrier" exists, it appears to be an attitudinal one. M. Hoshiko, faculty advisor and trustee of the Southern Illinois University Amateur Radio Club, said that very few electronics students are willing to study the code to become hams. The unwillingness to study Morse code may reflect a perception that it is an outmoded form of communication. Edward Novak commented that most individuals who will not study the code are refusing to submit to what they perceive as an obsolete "ritual" requirement that they feel will have no application for them beyond gaining them their ham licenses. (See paragraphs 24–28, *infra*.)

10. Sometimes, a lack of willingness to study Morse code appears to be related to fear of its difficulty. One Morse code instructor stated that he has ". . . observed an initial apprehension of learing the international Morse code which usually accompanies the thought of learning something like an abstract

[3] Donald B. Nowakoski's Petition to Cancel or, in the alternative, Amend is denied as an invalid petition under § 1.773 of the Commission's Rules (this is not a petition for suspension or rejection of a new tariff filing). However, this petition will be treated as a comment in opposition to the proposed rule making.

[4] As a result of this determination, we do not reach the question of which type of "codeless" license would be most appropriate.

foreign language." Comments of Gary L. Crown.

11. Those who do study Morse code appear to have few problems with the five wpm requirement. Instructors of code and theory commenting in this proceeding agreed that anyone can, with study, establish Morse code 5 wpm proficiency. Several instructors told us that no successful electronics students in their classes who really wanted an amateur license had failed to learn and pass the code test.

12. Significantly, instructors of code and theory also agreed that younger students have little or no difficulty in mastering Morse code. John B. Mollan stated that younger students have difficulty with the "theory" rather than the code requirements. John C. Hallyburton, Sr. indicated that he has experienced no difficulty in training both Cub and Boy Scouts in Morse code. And Francis J. D'Auria said that his average student learns the code with fifteen hours of study and practice, and some youngsters learn the code in eight to ten hours.[5] Melvin C. Vye, an associate professor of electronic technology at the University of Akron, indicated that young people with an interest in computers—one of the groups targeted as a basis for the *Notice* in this proceeding—have the least problem of any group in mastering Morse code.

13. Many commenters hastened to point out that a Morse code requirement cannot be much of a barrier to ARS entry, because ". . . (s)everal hundred thousand licensed Amateurs have learned Morse code and successfully passed code examinations in order to achieve a license." Comments of Richard A. Stiern. Martin D. Shapiro correctly pointed out in his comments that over the past 50 years the number of licensed amateur operators has increased from 30,000 to in excess of 400,000, or roughly 1300%.

14. In disputing the *Notice's* reliance upon a 1971 study referred to in Docket No. 20282, the Pentucket Radio Association, Inc. stated that from 1976 to 1980 the number of ARS licensees grew by 35%, adding over 100,000 persons to the Service. The Radio Operators Association of New Bedford pointed to the growth in numbers of Licensed Amateurs between 1973 and 1980 of nearly 200% Novice, 27% Technician, 30% General, 38% Advanced and 100% Amateur Extra Class licensees as evidence that Morse code requirements are not deterring ARS expansion.

15. The most recent Commission statistics showed continued increase in the number of amateur operators in fiscal year (FY) 1983. In FY 1983, the total number of amateur operators grew to 410,767 for a net gain of 4,339 operators (20,940 new operators balanced against a loss of 16,601 operators). We conclude that the Amateur Radio Service is a healthy, growing service which has attracted large numbers of new licensees over the past decade. Its growth is continuing. The Morse code requirement does not appear to have critically affected the entry of new licensees into the Amateur Radio Service.

16. We conclude that a five wpm requirement for proficiency in the international Morse code is not an unreasonable burden upon license applicants. Members of the general public, particularly younger students with developing interests in electronic technology, radio and computers, are capable of learning the international Morse code at a proficiency of five wpm without undue difficulty. We conclude that to the extent a Morse code requirement acts as a bar to ARS entry for some, it is a necessary trade-off for the present nature of the Amateur Radio Service.

B. *Computer interests and the ARS.*

17. Bash Educational Services, Inc. (Bash) expressed the view that the implementation of a codeless Technician Class license would not greatly increase the ranks of amateur radio operators but would enhance the Service with the input from the more technically oriented youth in the United States. On the other hand, the Emerson Electric Amateur Radio Club (Emerson) acknowledged the affinity between home or personal (hobby) computing and amateur radio, as evidenced by packet radio, AMTOR, microprocessor RTTY, keyboard keyers, and code readers. But Emerson stated that the development of a body of pseudo-communicators who are little more than "appliance operators" would not be a sigificant step in merging the two interests.

18. Some commenters, such as William M. Pasternak (Pasternak), executive producer of Westlink Radio News, felt that while amateur radio and computer interests may overlap, most young computer users have no interest in amateur radio. Instead they pursue information retrieval and exchange through the use of modems interconnected with the public switched telephone network to access commercial computer networking organizations such as "The Source" and "Compunet."

19. After reviewing the comments, we conclude, as the ARRL stated, that:

> . . there is no evidence that younger, school-aged individuals whose primary interest is in computer technology will be attracted to amateur radio through the medium of such a license . . . . an interest in computer operation by no means connotes an interest in radio communications.

C. *Handicapped applicants.* 20. The vast majority of comments opposed implementation of a codeless license on the basis of a need to accommodate handicapped applicants. The only comments favoring any sort of special codeless license for the handicapped were the comments of some who, while generally opposed to a codeless license, acknowledged that they did not want to bar entry to the ARS on the basis of a person's handicap.

21. Comments from handicapped people themselves and from people who assist them in learning code and theory in order to successfully complete amateur operator examinations strongly opposed a codeless license for the handicapped. The Pentucket Radio Association, Inc. pointed out that in responding to PR Docket No. 78-250, handicapped Amateurs were not asking for a special license or elimination of requirements but instead sought acknowledgement of an individual's handicap and permission to use special techniques so that they may take the same examination as everyone else. Reo DePew expressed the view of a majority of handicapped amateurs when he stated that a "no-code" license would be unfair to them and rob them of some of their pride of accomplishment.

22. Perhaps the most telling and persuasive comments of all on this subject are those of the Courage HANDI–HAM System, an international non-profit service organization which provides amateur radio educational services, equipment and fraternity to people with physical, sight, speech and/or hearing handicaps. They stated:

> We must strenuously object to the argument that people with physical handicaps are prevented from being able to successfully complete a Morse code examination. Extensive experience in training over 5,000 severely handicapped people proves otherwise. In only six cases over the past 16 years have we encountered a situation where a *physical* (as opposed to mental) disability has absolutely prevented an individual from learning the code at the prescribed speeds! The Courage HANDI–HAM System has developed learning methods and transcription techniques which

[5] Daniel and Claire Rosenbaum referred to the Department of the Army Technical Manual TM 11–459 and the Department of the Air Force Technical Order TO 31–3–16, entitled *International Morse Code (Instructions).* According to this joint publication an average person can learn to send and receive Morse code with 15–22 hours of study, based on sending and receiving proficiencies tested at one continuous mistake-free minute.

bring the International Morse code well within the abilities of severely handicaped persons.

Of perhaps even greater significance is the reason WHY so many severely handicapped Radio Amateurs put forth tremendous effort to learn the code at speeds which permit fast and reliable on-the-air communications: for many, the Morse code is the ONLY means of communications available to them. You must realize that the very person who is so severely handicapped that he has a great deal of difficulty transcribing the code is precisely the person who, by reason of severe speech involvement with his physical handicap, NEEDS the code to communicate. Comments of the Courage HANDI-HAN System.

23. We conclude that physical disability, in other than extremely rare and exceptional circumstances, does not prevent handicapped persons from learning the Morse code and successfully completing Morse code examinations. We have made every effort to accommodate the handicapped in commission—administered amateur operator examinations. We have promulgated rules to assure that the handicapped will be similarly accommodated under the new amateur volunteer examiner program. *See e.g.* 47 CFR 97.26(g). Generally, the handicapped go to extraordinary lengths and are extremely resourceful in designing methods to achieve code proficiency. Handicapped applicants are justifiably proud when they master the Morse code. They wish to be treated as co-equals in the Amateur Radio Service; not as a special group needing a special license. Thus, considerations for handicapped applicants do not appear to warrant creation of a codeless license.

II. Relevance of Morse Code

24. Comments supporting the proposals in the *Notice* claimed that knowledge of the international Morse code is irrelevant in today's ARS. In its Reply Comments, CHARS stated that it is not even necessary to have any Morse code skills to utilize the code because inexpensive home computers interconnected with radio transmitters and receivers are generally capable of transmitting and receiving Morse code at speeds between 1 and 99 words per minute. Harold A. Wilson commented that with current technology almost all communication above 50 MHz on the amateur bands is FM. David A. Miller stated that at the Technician level "99% of UHF and VHF communication is voice communication."

25. The comments on this subject are conflicting, with a large preponderance of comments of the opposite view. Alfred G. Conte, Jr., stated that the proposal for a codeless license equates with a proposal to do away with the instruction of arithmetic in elementary schools due to the prevalence of inexpensive pocket calculators. Many commenters, like Charles E. Daum, pointed to the survey conducted by Florida State University's Institute for Social Research, cited in the *Notice*, in which 83% of the amateur operators responding said that a Morse code requirement is either essential or important for operator privileges below 30 MHz, and 64% said that such a requirement is essential or important for operator privileges above 30 MHz.

26. Emil Pocock commented that Morse code has many applications today above 50 MHz. He said that it is used for weak-signal communications, which is an important and widely pursued art in the VHF and UHF bands. Edgar Herbert Callaway, Jr., further explained that such weak signal work included:

> the use of low-noise transistors, power amplifiers, high gain antennas, stable narrow-band receivers, etc. . . . The first amateur EME (moonbounce) contact was made using Morse code. Also the first meteor-scatter contacts on 144, 220, and 432 MHz. The pioneering California-to-Hawaii 144 and 220 MHz contacts by W6NLZ and KH6UK (2540 miles, discovering truly long-haul tropospheric ducting in the tropics) were made via Morse code. . . . Most of these contributions to the amateur radio service and the radio art in general were made by operators with ability, yes, state-of-the-art equipment, yes, but they all *required* Morse code. The contemporary equipment did not allow for the extra 3- to 10-dB of signal strength needed for another mode. There would have been no breakthroughs without Morse. Comments of Edgar Herbert Callaway, Jr.

27. There is also much evidence that Morse code is used frequently above 144 MHz. Matthew V. Ellsworth commented that it is often used in the two-meter and 440 MHz bands for communications with earth-orbiting satellites. He also stated that most automatic repeating stations identify by using a code generating device. Geoffrey H. Krauss said that even recent VHF contests reflect substantial Morse code usage. Richard A. Stiern commented that the Morse Code is still used extensively by the Armed Forces and the Merchant Marine because of its reliability under any circumstances. Joseph M. Rice stated in his comment that 99% of the present OSCAR satellite work is done using Morse code.

28. We conclude that Morse code still occupies a significant place in day-to-day amateur operation, particularly in the HF bands. The Morse code is used normally on VHF and UHF frequencies in conjunction with weak signal communications. The Morse code is relied upon heavily for experimentation and the development of new technological advances. The Morse code, rather than being irrelevant or obsolete, continues to be an integral part of amateur radio.

III. Use of Morse Code in Civil Emergencies and for National Defense

29. In extensive comments, Donald Godward set forth the basic philosophy of those commenters who believe that Morse code is no longer needed for amateur responsiveness in civil or military emergencies. He stated that the advent of all solid state SSB transceivers, VHF-FM gear, and RTTY equipment has essentially eliminated the need for CW in emergency operations. He said that modern SSB/FM/RTTY equipment is so small and light that it is highly portable and its power requirements are so compatible with modern batteries and portable power generators that there is no longer any real advantage to CW in emergency operations, even in terms of being able to "get through." The Mississippi Emergency Management Agency said that modern digital techniques are preferable to code for getting a message through. CHARS stated that most emergency communications in fact utilize voice, either sideband or FM.

30. However, most individuals and groups involved in amateur emergency communications urged retention of a code requirement for all amateur operator licenses. Many amateur operators brought our attention to specific instances of emergency communications that were possible only with the use of Morse code, such as this year's tornado and floods in Southeast Missouri, life threatening emergencies at sea handled by the Maritime Mobile Service Net, the rescue of the crew of the *Jala Morari*, and the rescue of the crew of a sinking ship in the Straits of Juan de Fuca. Al Uvietta, Communications Support Group Coordinator for the City of San Antonio, Office of Emergency Management, and Hancock Emergency Amateur Radio Services, Inc., a group of about twenty-five amateur operators banded together by the need for emergency communications during tornadoes, floods and other disasters, commented that Morse code is more effective in getting through when communications are affected by weather, poor propagation and interference. Most commenters still view Morse code as the communications mode of last resort for the worst conditions. See, e.g.,

Comments of Ralph V. Anderson; Comments of James W. Partin.

31. Many commenters, including the Southern California Repeater and Remote Base Association (SCRRBA), were concerned that the anticipated growth of the ARS if we adopt a codeless license would adversely impact already-crowded repeater operation in large urban areas, with resultant detrimental effect upon emergency communications capability. The Story County Amateur Radio Club pointed out that a Morse code requirement for every amateur operator license assures maintenance of a pool of skilled amateur operators available to provide communications for the public in emergencies.

32. Several years ago, the U.S. military services "de-emphasized" the use of Morse code as a modern communications tool. Now there is a major push in the U.S. military services to re-train their radio operators in the proficient use of Morse code. In the Air Force, for example, all ground radio operators must be proficient at five words per minute before March 1, 1984. They have two years to reach ten words per minute and three years to reach 15 wpm. See the Comments of Gen. Kremin. Henry M. Wymbs, an Army Signal School graduate and former member of the Second Signal Service Battalion in World War II commented that amateurs having a knowledge of the international Morse code have always formed a trained cadre of communicators upon which the military has always depended.

33. A letter to the ARRL from Mr. Oscar A. Goldfarb, acting Deputy Assistant Secretary for Logistics and Communications, U.S. Air Force, stated that "(s)hould the Commission adopt the 'No-Code' proposal, we would establish a requirement for Morse code proficiency as a condition for becoming an Air Force MARS member." See the Reply Comments of the American Radio Relay League. The Central Intelligence Agency (CIA), in a full-page advertisement for Electronic Technicians, Communicators and Radio Operators published in the June 1983 issue of Signal Magazine and appended to the comments of Philip B. Petersen stated that "Morse code ability at 12 gpm [wpm] is preferred; other applicants will be tested for Morse aptitude."

34. We conclude that a proficiency in the international Morse code is still very useful for amateur responsiveness in civil and military emergencies. In such emergencies, it is the principal communications mode of last resort in the face of uncertain propagation characteristics or severe interference. Due to international language barriers, it is sometimes the only effective communications mode. It is in the public interest, convenience and necessity to maintain a pool of skilled amateur operators available to provide emergency communications for the public during disasters and for the national defense. Continuance of a requirement for proficiency in the international Morse code will contribute to continued maintenance of such a pool. Clearly, Morse code is a fundamental communications skill critical to the nature of the ARS.[6]

35. *Foreign Codeless Experience.* Many commenters, including Edward C. Simmons, stated that Canada has very few codeless class licensees because of a much more difficult examination than we proposed for either alternative U.S. codeless class license. On the other hand, a large number of commenters attributed the substantial growth of Japan's amateur radio service (from 70,000 licensees in 1965 to over 1,000,000 licenses in 1982) directly to Japan's easy-to-get codeless class license.[7] Our proposals fell somewhere between Canada's and Japan's codeless licenses. Neither country's experience appears directly applicable.

36. *Impact of a Codeless License Upon ARS Compliance.* Many comments opposing the proposal feared that a codeless amateur operator license would really be no more than another Citizens Band Radio Service, with what they perceived to be all its attendant problems. The Ozaukee Radio Club and the Inter-County Amateur Radio Club expressed concern that the amateur radio spectrum not be abused, as in Citizens Band. Pasternak commented that investigations by him and his news service reveal that such a license will initially be looked upon as an extension of Citizens Band Radio, to be mass marketed to the general public in a way similar to the way Citizens Band Radio was in the 1970's.

37. Coupled with this fear is a belief held by many commenters that rule compliance and dedication to public service in the ARS is a function of the time and effort a person must expend in obtaining a license. See, e.g., Comments of H. T. Hunt; Comments of the American Radio Relay League, Inc. The Honorable Lee H. Hamilton, U.S. House of Representatives, stated that the praiseworthy performance of ham operators during emergencies and their dedication to radio demonstrates a level of discipline which may be damaged by any relaxation of standards.

38. A contrary minority view, expressed in the comments of Frederick J. Glenn, is that the present written examination requires a sufficient demonstrated effort at learning. Corwin D. Moore expressed sentiments similar to those of Charles E. Cohn, who stated:

> Code lovers threaten us with CB-type chaos and insanity if the code requirement is dropped or loosened. The flaw in that argument can be readily seen if you note that a good many of the hams that have been disciplined for malicious interference have been Extra Class licensees, and thus have demonstrated code mastery, not just at 13 wpm, but at 20 wpm! Comments of Charles E. Cohn.

39. Nonetheless, the majority of commenters anticipated a large influx of undisciplined licensees as a result of either proposal in the *Notice*. The Pentagon Amateur Radio Club and others said that "weak signal" experimenters, such as those engaged in experimenting with extended range terrestrial modes of VHF/UHF communications and those involved in earth-moon-earth (EME) or "moonbounce" modes, and amateurs using satellites as relay platforms are justifiably concerned that a larger and potentially less well disciplined population of amateurs may not respect the up-to-now voluntarily imposed frequency management procedures necessary for these experiments to be conducted.

40. We are not persuaded that there is a relationship between the time and effort expended to successfully complete Element 1(A) (the Morse code 5 wpm examination) and the rule compliance or dedication to public service of a particular applicant. We believe it is not possible to predict reliably the behavior of prospective codeless licensees. Accordingly, we do not find this issue significant to our resolution of this proceeding.

Conclusion

41. The five word-per-minute slow speed Morse code requirement for the present entry-level Novice and Technician class licenses in the ARS does not appear to constitute a significant function barrier to potential

[6] In the Marine Radio Service we have granted an exemption from radiotelegraph requirements to large cargo vessels operating on U.S. coastwise voyages where such vessels carry an array of alternative communications equipment including a satellite ship earth station. *Report and Order*, PR Docket No. 79-336 (FCC 82-75), February 14, 1982]. ARS operators, on the other hand, generally provide emergency assistance to people in situations where other methods of communication are not available.

[7] Emerson commented that 95% of the Japanese amateur operators hold Telephony class (codeless) licenses. They also commented that one-third of England's amateur operators and 40% of Germany's amateur operators hold codeless licenses.

applicants. The amateur ranks are growing by thousands of licensees every year with the code requirement in effect. To the extent the Morse code requirement poses a barrier for a few, we are willing to accept that "trade-off" in light of the very substantial benefits it produces both for licensees and the public.

42. The five word-per-minute Morse code requirement poses no unacceptable burden for handicapped applicants. Ingenious devices, alternative methods of examination administration, and the laudable dedication and perseverance of handicapped applicants in combination usually result in successfully completion of the Morse code examination. Licensees in the ARS who are handicapped are proud of their achievement in mastering Morse code, and generally do not seek special treatment.

43. There is still substantial everyday use of the Morse code in the ARS. The international Morse code is essential to many aspects of technical advance and experimentation in the ARS today. It is a fundamental communications skill critical to the nature of the ARS.

44. A requirement for proficiency in the international Morse code is necessary in order to insure maintenance of a trained pool of amateur operators for emergencies involving the safety of life or property or for the national defense. Dropping this requirement for an entry-level license would adversely affect amateur emergency communications capabilities, which would adversely affect the public.

45. It is unusual to receive the volume of comments we have received in this proceeding. Almost five thousand people and organizations responded to the *Notice*. They were mostly people licensed in the ARS who use their privileges on a regular basis. They were people who, by a margin of roughly twenty to one, expressed an overwhelming sentiment to maintain the current nature and makeup of the service. They felt that Morse code is an integral feature of the ARS. These commenters are the people who have made the ARS what it is today—a service that is a model of public responsiveness in times of emergency and distress, and a service that is a model of self-enforcement and volunteerism. The strong sentiment they expressed in this docket about the nature of such a service is a critical factor in weighing the proposals.

46. For all the above reasons, we have decided to reject each of the proposals set forth in the *Notice* and to retain the present licensing structure of the Amateur Radio Service.

Procedural Matters

47. In the *Notice of Proposed Rule Making, supra*, in this proceeding, we previously determined that Sections 603 and 604 of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) do not apply to this rule making proceeding since this proposal would only have amended the operator license class structure of the Amateur Radio Service. There would have been no significant impact on small businesses, small organizations or small governmental jurisdictions. Of course, since we are terminating this proceeding without action, there is no impact at all.

48. It is further ordered that the Petition to Cancel or, in the alternative, Amend filed by Donald B. Nowakoski is denied.

49. It is further ordered that the Motion for Leave to File Reply Comments filed by the Capitol Hill Amateur Radio Society is granted.

50. It is further ordered that the Motion for Leave to Submit Supplemental Reply Comments filed by the American Radio Relay League, Inc., is granted.

51. It is further ordered that this proceeding is terminated.

52. It is further ordered that the Secretary shall cause a copy of this *Report and Order* to be served upon the Chief Counsel for Advocacy of the Small Business Administration and that the Secretary shall also cause a copy of this *Report and Order* to be published in the Federal Register.

53. For further information on this proceeding, contact John J. Borkowski, Federal Communications Commission, Private Radio Bureau, Washington, D.C. 20554, (202) 632–4964.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 84–334 Filed 1–6–84; 8:45 am]

BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 49, No. 5
Monday, January 9, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of ATBCB meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (ATBCB) has rescheduled its January 10, 1984, meeting. In accordance with Section II.A.4. of the ATBCB's Statement of Organization and Procedures, this meeting will take place on Friday, February 10, 1984, from 1:00 pm to 5:00 pm, in the Main Hall of the Disabled American Veterans (DAV) National Service and Legislative Headquarters, 807 Maine Avenue SW., Washington, D.C. 20024.

DATE: February 10, 1984,—1:00 pm–5:00 pm.

ADDRESS: Main Hall, Disabled American Veterans (DAV) National Service and Legislative Headquarters, 807 Maine Avenue SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Larry Allison, Special Assistant for External Affairs (202) 245–1591 (voice or TDD).

Committee meetings of the ATBCB will be held on Thursday, February 9 and Friday morning, February 10, in the Hubert Humphrey Building. Contact Larry Allison, Special Assistant for External Affairs (202) 245–1591 (voice or TDD), for further information.

Wm. Bradford Reynolds,
Chairperson.

[FR Doc. 84-406 Filed 1-6-84; 8:45 am]
BILLING CODE 6820-BP-M

CIVIL AERONAUTICS BOARD

[Order 83-12-107]

Fitness Determination; Pichel Air Service, Inc.; Order To Show Cause; Erratum

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 20th day of December, 1983.

Due to flooding conditions in the Office of the Secretary, this order was not served on the calculated date; therefore, the dates in ordering paragraph 2 on page 4 (48 FR 57146; December 28, 1983) should be January 18, 1984 for objections and January 30, 1984 for answers.

Dated: December 29, 1983.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 84-382 Filed 1-6-84; 8:45 am]
BILLING CODE 6320-01-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits; Week Ended December 23, 1983

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the board may process the application expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Dec. 19, 1983	41732	Armstrong Air Service, Inc., c/o Hank Myers & Company, P.O. Box 7341, Bellevue, Washington 98008. Amended Application of Armstrong Air Service, Inc., pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a certificate of public convenience and necessity for an indefinite term to perform scheduled interstate air transportation of persons, property and mail between the terminal point Dillingham and the terminal point New Stuyahok, Alaska. Answers may be filed by January 16, 1984.
Dec. 22, 1983	41904	Challenge Air Transport, Inc., c/o Emory N. Ellis, Fulbright & Jaworski, 1150 Connecticut Avenue NW., Washington, D.C. 20036 Application of Challenge Air Transport, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests the Board to issue it a certificate of public convenience and necessity so as to authorize it to engage in oversees and interstate scheduled air transportation of persons, property and mail and for worldwide charter passenger authority. Conforming Applications, Motions to Modify Scope and Answers may be filed by January 19, 1984.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 84-402 Filed 01-06-84; 8:45 am]
BILLING CODE 6320-01-M

[Order 83-12-147, Docket 41919]

Applications of Airmark Corporation for Certificate Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order Instituting the *Airmark Corporation Fitness Investigation*, 83–12–147, Docket 41919.

SUMMARY: The Board is instituting an investigation to determine the fitness of Airmark Corporation to engage in interstate and overseas and foreign charter air transportation of persons, property, and mail.

DATE: Persons wishing to intervene and/or proposing to request additional evidence in the *Airmark Corporation Fitness Investigation* shall file their petitions in Docket 41919 by January 16, 1984.

ADDRESS: Requests for additional evidence and petitions to intervene should be filed in Docket 41919 and addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Joseph W. Bolognesi, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428. (202) 673–5333.

SUPPLEMENTARY INFORMATION: The complete text of Order 83–12–147 is available from our Distribution Section, Room 100, 1825 Connecticut Ave. NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 83–12–147 to that address.

By the Bureau of Domestic Aviation: December 30, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-463 Filed 1-6-84; 8:45 am]

BILLING CODE 6320-01-M

[Order 83-12-140]

Fitness Determination of Chitina Air Service

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Essential Air Service Carrier Fitness Determination—Order 83–12–140 Order to Show Cause.

SUMMARY: The Board is proposing to find that Chitina Air Service is fit, willing, and able to provide reliable essential air service at designated points in Alaska under section 419(c)(2) of the Federal Aviation Act, as amended; and that the aircraft used in this service conform to the applicable safety standards. The complete text of this order is available as noted below.

DATES: Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed below no later than January 24, 1984, together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

ADDRESSES: Responses or additional data should be filed with the Essential Air Services Division I, Room 918, Civil Aeronautics Board, Washington, D.C. 20428, and with all persons listed in Appendix D of the order.

FOR FURTHER INFORMATION CONTACT: Arthur Barnes, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, (202) 673–5343.

SUPPLEMENTARY INFORMATION: The complete text of Order 83–12–140 is available from the Distribution Section, Room 516, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 83–12–140 to Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: December 30, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-464 Filed 1-6-84; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41864]

United States-Venezuela All-Cargo Proceeding, Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter will be held on January 20, 1984 at 9:30 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned.

Dated at Washington, D.C., January 3, 1984.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 84-461 Filed 1-6-84; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Annual Wholesale Trade; Determination

In accordance with Title 13, United States Code, Sections 182, 224, and 225, and due Notice of Consideration having been published December 2, 1983 (48 FR 54388), I have determined that data covering year-end inventories and annual sales are needed to provide a sound statistical basis for the formation of policy by various governmental agencies and that these data also are applicable to a variety of public and business needs. This annual survey is a continuation of similar surveys conducted each year since 1978. It provides, on a comparable classification basis, annual sales for 1983, year-end inventories for 1982 and 1983, and purchases for 1983. These data are not available publicly on a timely basis from nongovernmental or other governmental sources.

The Bureau will require a selected sample of firms operating merchant wholesale establishments in the United States (with sales size determining the probability of selection) to report in the 1983 Annual Wholesale Trade Survey. The sample will provide, with measurable reliability, statistics on the subjects specified above.

We will furnish report forms to the firms covered by this survey and will require their submission within 20 days after receipt. Copies of the forms are available upon written request to the Director, Bureau of the Census, Washington, D.C. 20233.

I have directed, therefore, that an annual survey be conducted for the purpose of collecting these data.

Dated: December 21, 1983.

C L. Kincannon,

Deputy Director, Bureau of the Census.

[FR Doc. 84-471 Filed 1-6-84; 8:45 am]

BILLING CODE 3510-07-M

Service Annual Survey; Determination

In accordance with Title 13, United States Code, Sections 182, 224, and 225, and due Notice of Consideration having been published December 2, 1983 (48 FR 54388), I have determined that data covering 1983 operating receipts of selected service industries are needed to provide a sound statistical basis for the formation of policy by various governmental agencies and that these data also are applicable to a variety of public and business needs. This survey will provide data on annual operating receipts and sales taxes for 1983 for selected service industries. These data are not available publicly from nongovernmental or other governmental sources on a continuing basis.

The Bureau will require a selected sample of firms operating service establishments in the United States (with receipts size determining the probability of selection) to report in the 1983 Service Annual Survey. The sample

will provide, with measurable reliability, statistics on the subjects specified above.

We will furnish report forms to the firms covered by this survey and will require their submission within 15 days after receipt. Copies of the forms are available upon written request to the Director, Bureau of the Census, Washington, D.C. 20233.

I have directed, therefore, that an annual survey be conducted for the purpose of collecting these data.

Dated: December 20, 1983.

C. L. Kincannon,

Deputy Director, Bureau of the Census.

[FR Doc. 84-470 Filed 1-6-84; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

NBS; Decision of Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No.: 83-110. Applicant: NBS, Washington, D.C. 20234. Instrument: Fourier Transform Spectrophotometer System, Model DA3.002I with Accessories. Manufacturer: Bomem, Inc., Canada. Intended use: See notice at 48 FR 53589.

Comments: None received.

Decision: Approved. No instrument system or apparatus of equivalent scientific value to the foreign system, for such purposes as this system is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument system provides, *inter alia*, a resolution of 0.0020 cm $^{-1}$ or better in the infrared at wavelengths of 2000 nanometers or greater and full wavelength coverage from 200 nanometers in the ultraviolet to 1 millimeter in the far infrared. The National Institutes of Health advises in its memorandum dated June 24, 1983 that (1) the capabilities of the foreign system described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic system or apparatus of equivalent scientific value to the foreign system for the applicant's intended use.

The Department of Commerce knows of no other instrument system or apparatus of equivalent scientific value of the foreign system, for such purposes as this system is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-448 Filed 1-6-84; 8:45 am]

BILLING CODE 3510-DS-M

National Bureau of Standards

National Bureau of Standards' Visiting Committee; Meeting

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that the National Bureau of Standards' Visiting Committee will meet on Tuesday, January 31, 1984, from 8:00 a.m. to 5:15 p.m. in Lecture Room 1107, Radio Building, National Bureau of Standards, 325 Broadway, Boulder, Colorado 80303.

The NBS Visiting committee is composed of five members prominent in the fields of science and technology and appointed by the Secretary of Commerce.

The purpose of the meeting is to review the efficiency of the Bureau's scientific work and the condition of its equipment in order to assist the Committee in reporting to the Secretary of Commerce as required by law.

The public is invited to attend, and the Chairman will entertain comments or questions at an appropriate time during the meeting.

Any person wishing to attend the meeting should inform Mrs. Carolyn A. Goodfellow, Office of the Director, National Bureau of Standards, Washington, D.C. 20234, telephone (301) 921-2226.

Dated: January 3, 1984.

Ernest Ambler,

Director.

[FR Doc. 84-445 Filed 1-6-84; 8:45 am]

BILLING CODE 3510-13-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the total number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Revision

Department of Defense, Federal Acquisition Regulation Supplement

The DoD issues approximately 13 million contractual actions annually. Information Collection from the Public in support of the DoD Acquisition Process is necessary for the Government to evaluate contract(s) and supplier(s) approach to support contractual actions for services, supplies and hardware in conformance with the requirements of the Armed Services Procurement Act Title 10, U.S.C.

Contractors: 13,000,000 responses; 187,940 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DoD Clearance Officer, WHS/DIOR, Room 1C535, Pentagon, Washington, D.C. 20301, telephone (202) 694-0187.

A copy of the information collection proposal may be obtained from Fred J. Kohout, OUSDRE(AM)DARS, Room RE840, 400 Army-Navy Drive, Washington, D.C. 20301, telephone: (202) 697-7267.

Dated: January 4, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-443 Filed 1-6-84; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

Armed Forces Epidemiological Board; Open Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following committee meeting:

Name of Committee: Armed Forces Epidemiological Board.

Date of Meeting: February 3, 1984.

Time: 0800-1600.

Place: Lecture Hall Room Number 2.030, University of Texas Health Science Center, San Antonio, Texas.

Proposed Agenda: Microassay of malaria sporozoites in mosquitoes, results of Doxycycline prophylaxis in leptospirosis—compliance and side effect study, Mayo Clinic—Army Preventive Medicine follow-up regarding swine influenza, military application regarding coccidioidomycosis, Air Force Medical Service experience with acquired immunodeficiency syndrome, Navy Medical Service experience in meningococcal typing in recruits, asbestos review material at the Armed Forces Institute of Pathology, United States Navy Asbestos Medical Surveillance Program, preventive medicine activities in Grenada, and respective military preventive medicine officer reports.

2. This meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG–AFEB, Room 2D455, Pentagon, Washington, DC 20310; (202) 695–9115.

Dated: December 28, 1983.

Robert F. Nikolewski,

Col, USAF, BSC; Executive Secretary.

[FR Doc. 84-449 Filed 1-6-84; 8:45 am]

BILLING CODE 3710-08-M

Armed Forced Epidemiological Board; Open Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) announcement is made of the following committee meeting:

Name of Committee: Armed Forces Epidemiological Board Subcommittee on Disease Control.

Date of Meeting: February 2, 1984.

Time: 0830–1200.

Place: Lecture Hall Room Number 2.030, University of Texas Health Science Center, San Antonio, Texas.

Proposed Agenda: Review of future availability of smallpox vaccine for military personnel; rubella immunization for Army medical and dental personnel; 1984–1985 influenza immunization program.

2. This meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG–AFEB, Room 2D455, Pentagon, Washington, DC 20310; (202) 695–9115.

Dated: December 28, 1983.

Robert F. Nikolewski,

Col., USAF, BSC; Executive Secretary.

[FR Doc. 84-450 Filed 1-6-84; 8:45 am]

BILLING CODE 3710-08-M

Armed Forces Epidemiological Board; Open Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) announcement is made of the following committee meeting:

Name of Committee: Armed Forces Epidemiological Board Subcommittees on Environmental Quality and Health Maintenance.

Date of Meeting: February 2, 1984.

Time: 1300–1600.

Place: Lecture Hall Room Number 2.030, University of Texas Health Science Center, San Antonio, Texas.

Proposed Agenda: Review of the Navy Asbestos Medical Surveillance Program Data Analysis.

2. This meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG–AFEB, Room 2D455, Pentagon, Washington, DC 20310; (202) 695–9115.

Dated: December 28, 1983.

Robert F. Nikolewski,

Col, USAF, BSC, Executive Secretary.

[FR Doc. 84-451 Filed 1-6-84; 8:45 am]

BILLING CODE 3710-08-M

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C Chapter 35). Each entry contains the following: (1) Type of Submission; (2) Title of Information Collection and Form Number, if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension

Contractor's Request for ADPS Output

It is DOD and Air Force policy to provide contractors and Defense manufacturers, having a valid need, raw data tapes from Air Force data systems as established in AFR 65–110 and AFMs 66–1 and 400–1 subject to considerations of security, proprietary agreements and fair competition. AFSC/AFLC Regulation 178–6 requires use of AFLC/AFSC Form 13 as the contractor's request for such raw data tapes.

All contractors and manufacturers, including small businesses, who request raw data tapes for product improvement: 40 responses, 20 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB Washington, DC 20503, and John V. Wenderoth, DOD Clearance Officer, WHS/DIOR, Room 1–C–535, Pentagon, Washington, DC 20301, telephone 202/694–0187.

A copy of the information collection proposal may be obtained from Mrs Betty Fitzgerald, HQ AFSC/ACX, Andrews AFB, DC 20334, telephone 301/981–5961.

Dated: January 4, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-444 Filed 1-6-84; 8:45 am]

BILLING CODE 3910-01-M

Department of the Navy

Determination to Construct a Replacement Naval Hospital in the Base Coastal Flood Plain at Naval Base Philadelphia, Pennsylvania

I. Background

The Naval Medical Command is proposing to construct a new 144-bed hospital to replace the existing naval hospital located in South Philadelphia, Pennsylvania. A site selection survey was conducted for six sites; one within the existing hospital compound and five sites on the Naval Base Philadelphia. All five sites on the naval base are within the 500 year flood plain.

A Preliminary Environmental Assessment was prepared for the proposed project. The assessment concluded that the preferred location for the new hospital was on the Naval Base Philadelphia and that the construction/operation of the hospital will not pose "significant effect on the quality of the human environment."

II. Alternatives Evaluated in the Preliminary Environmental Assessment

A. No action.
B. Renovation of existing facilities.
C. Alternative site locations.

III. Statement of Conformity to State and Local Flood Plain Protection Standards

It has been determined that the proposed action is consistent with the State of Pennsylvania's Coastal Zone Management Plan to the maximum extent practicable.

IV. Reasons Action is Proposed to be Located in Flood Plain

A. Military Readiness and Cost

The major advantage to be realized from construction of a new hospital will be a more efficient organization of functional relationships, and therefore, a more effective use of staff. A new facility will also provide an improved capability for efficient expansion in the future. This translates directly into a savings in dollars and manpower. Finally, the cost of a new facility is estimated to be approximately eight million dollars less than the estimated cost of rehabilitation of the existing facility.

B. Security

Proximity of the proposed facility within the existing naval installation will assure proper security is maintained.

C. General

Consideration of economic, environmental and operational factors led to selection of one of five sites on the main base—all of which are within the 500 year flood plain. The preferred site is approximately 4 feet below the 500 year flood elevation, but above the 100 year flood elevation. This action is therefore subject to the provisions and requirements of Executive Order 11988, the stated objective of which is to reduce the risk of flood loss and to minimize the impact of floods on human safety, health and welfare.

V. Determination

Based on the Preliminary Environmental Assessment and for the reasons cited above, the Department of the Navy has determined that location of the proposed replacement naval hospital in the base coastal flood plain is the only practicable alternative to the Navy.

Dated: January 4, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 84-439 Filed 1-6-84; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

[PON No. DE-PNO4-84AL25034]

Availability of Program Opportunity Notice for Small Community Solar Experiments

AGENCY: Department of Energy (DOE), Albuquerque Operations Office.

ACTION: Availability of Program Opportunity Notice (PON) for Small Community Solar Experiments [PON No. DE-PNO4-84AL25034]

SUMMARY: DOE intends to issue an unrestricted PON which will solicit proposals for the development of technologies for low-cost, long-life solar thermal systems for electrical power generation applications using focus point collectors and Brayton, Stirling, and/or Organic Rankine Cycle heat engines mounted at the collector focal point. Issuance is planned for January 1984.

Authority: DOE Organization Act, Pub. L. 95-91, 42 U.S.C. 7101; Federal Non-nuclear Energy Research and Development Act of 1974, Pub. L. 93-577, 42, U.S.C. 5901 *et seq.;* DOE Financial Assistance Regulations, 10 CFR Part 600, Subparts A and C.

This activity is part of the Solar Thermal Power System Program for Parabolic Dish systems to demonstrate technology for parabolic dish-heat engine electric power generation modules for small utility markets. The objectives of the program are: (1) To verify a parabolic dish solar thermal electrical power generating module system using existing Brayton, Stirling or Organic Rankine Cycle heat engines technology; and (2) to design, construct and operate experimental multi-module solar thermal electrical power generating plants using verified modules at locations in Osage City, Kansas, and on the island of Molokai, Hawaii. Each plant will have a rated electrical power output of at least 100 KWe.

Pursuant to the DOE Assistance Regulations (10 CFR Part 600), DOE anticipates awarding a Cooperative Agreement for each project location subject to the availability of funds. The participants are expected to contribute financially to the effort which is expected to commence in mid-1984 and be completed in 1987. DOE's maximum contribution for each project location is $4,000,000. It is requested that all interested parties provide written notification of their interest in receiving a copy of the PON to the below listed point of contact not later than twenty (20) days from the date of publication of this notice. Telephone inquiries will not be accepted.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Albuquerque Operations Office, Contracts and Industrial Relations Division, ATTN: O. W. Wehlander, P.O. Box 5400, Albuquerque, NM 87115.

Issued in Washington, D.C., on December 28, 1983.

Berton J. Roth,

Director, Procurement and Assistance, Management Directorate.

[FR Doc. 84-436 Filed 1-6-84; 8:45 am]

BILLING CODE 6450-01-M

Office of Civilian Radioactive Waste Management; Advisory Panel on Alternative Means of Financing and Managing (AMFM) Radioactive Waste Facilities; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Advisory Panel on Alternative Means of Financing and Managing (AMFM) Radioactive Waste Facilities.

Date and Time: January 24, 1984, 9:00 a.m.-5:00 p.m.; January 25, 1984, 9:00 a.m.-1:00 p.m.

Place: U.S. Department of Energy, Forrestal Building, Room 1E-245, 1000 Independence Avenue SW., Washington, D.C. 20585.

Contact: Howard Perry, U.S. Departement of Energy, Office of Civilian Radioactive Waste Management, 1000 Independence Avenue SW., Washington, D.C. 20585, Telephone: 202/252-5316.

Purpose of the Panel

To study and report to the Department of Energy on alternative approaches to managing the construction and operation of civilian radioactive waste facilities, pursuant to Section 303 of the Nuclear Waste Policy Act of 1982 (Pub. L. 97-425). The panel's report will include a thorough and objective analysis of the advantages and disadvantages of each alternative approach.

Tentative Agenda

January 24, 1984:

- Committee Charter
- Nuclear Waste Policy Act
- Program Status
- Industry and State Perspectives
- Committee Priorities and Products
- Public Comment (10 minute rule).

January 25,1984:

- Committee schedule and Assignments
- Staff Support Needs
- Budget
- Public Comment (10 minute rule).

Public Participation

The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Howard Perry at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts

The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C., between 8:30 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on January 4, 1984.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 84–475 Filed 1–6–84; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

[Docket No. ERA–R–79–43B]

Electric and Gas Utilities Covered in 1984 by Tities I and III of the Public Utility Regulatory Policies Act of 1978 and Titles II and VII of the National Energy Conservation Policy Act of 1978 and Requirements for State Regulatory Authorities To Notify the Department of Energy

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice.

SUMMARY: Sections 102(c) and 301(d) of the Public Utility Regulatory Policies Act of 1978 (PURPA) and section 211(b) of the National Energy Conservation Policy Act (NECPA) require the Secretary of Energy to publish a list before the beginning of each calendar year, identifying each electric utility and gas utility to which Titles I and III of PURPA and Titles II and VII of NECPA apply during such calendar year. The 1984 list is published here as two separate tabulations. Appendix A lists the covered utilities by State, and Appendix B lists them alphabetically.

Each State regulatory authority is required, pursuant to sections 102(c) and 301(d) of PURPA and section 211(b) of NECPA, to notify the Secretary of Energy of each electric utility and gas utility on the list for which such State regulatory authority has ratemaking authority. In addition, written comments are requested on the accuracy of the list of electric utilities and gas utilities.

DATE: Notifications by State regulatory authorities and written comments must be received by no later than 4:30 p.m. on February 14, 1984.

ADDRESS: Notifications and written comments should be forwarded to: Department of Energy, Coal and Electricity Division, 1000 Independence Avenue, S.W. (Room GA–033), Docket No. ERA–R–79–43B, Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Steven Mintz, Coal and Electricity Division, Economic Regulatory Administration, Department of Energy, 1000 Independence Avenue, S.W., Room GA–033, Washington, D.C. 20585, 202/252–1657.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to sections 102(c) and 301(d) of the Public Utility Regulatory Policies Act of 1978 (PURPA), Pub. L. 95–617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*), and section 211(b) of the National Energy Conservation Policy Act (NECPA), Pub. L. 95–619, 92 Stat. 3206 *et seq.*, (42 U.S.C. 8211 *et seq.*) hereinafter referred to as the "Acts," the Department of Energy (DOE) is required to publish a list of utilities to which Titles I and III of PURPA and Titles II and VII of NECPA apply in 1984.

State regulatory authorities are required by the above cited Acts to notify the Secretary of Energy as to their ratemaking authority over the listed utilities. The inclusion or exclusion of any utility on or from the list does not affect the legal obligations of such utility or the responsible authority under the Acts.

The term "State regulatory authority" means any State, including the District of Columbia and Puerto Rico, or a political subdivision thereof, and any agency or instrumentality, either of which has authority to fix, modify, approve, or disapprove rates with respect to the sale of electric energy or natural gas by any utility (other than such State agency) and in the case of a utility for which the Tennessee Valley Authority (TVA) has ratemaking authority, the term "State regulatory authority" means the TVA.

Title I of PURPA sets forth ratemaking and regulatory policy standards with respect to electric utilities. Section 102(c) requires the Secretary of Energy to publish a list, before the beginning of each calendar year, identifying each electric utility to which Title I applies during such calendar year. An electric utility is defined as any person, State agency or Federal agency which sells electric energy. An electric utility is covered by Title I for any calendar year if it had total sales of electric energy for purposes other than resale in excess of 500 million kilowatt-hours during any calendar year beginning after December 31,1975, and before the immediately preceding calendar year. An electric utility is covered in 1984 if it exceeded the threshold in 1976, 1977, 1978, 1979, 1980, 1981, or 1982.

Title III of PURPA addresses ratemaking and other regulatory policy standards with respect to natural gas utilities. Section 301(d) of Title III requires the Secretary of Energy to publish a list, before the beginning of each calendar year, identifying each gas utility to which Title III applies during such calendar year. A gas utility is defined as any person, State agency or Federal agency, engaged in the local distribution of natural gas and the sale of natural gas to any ultimate consumer of natural gas. A gas utility is covered by Title III if it had total sales of natural gas for purposes other than resale in excess of 10 billion cubic feet during any calendar year beginning after December 31, 1975, and before the immediately preceding calendar year. A gas utility is covered in 1984 if it exceeded the threshold in 1976, 1977, 1978, 1979, 1980, 1981, or 1982.

Title II, Part 1, of NECPA, addresses residential conservation programs, and Title VII of NECPA, enacted as part of the Energy Security Act, Pub. L. 96–294, 94 Stat. 611 *et seq.* (42 U.S.C. 8701 *et seq.*), addresses commercial building and multifamily dwelling conservation programs. Section 211(b) contains a requirement, similar to that of PURPA, that the Secretary of Energy publish a list of electric and gas utilities to which Titles II and VII apply. The NECPA requirements for coverage of electric utilities and gas utilities differ from the PURPA requirements in only three respects:

(1) The threshold for electric utilities is 750 million kilowatt-hours for purposes other than resale;

(2) a utility is covered for any calendar year if it exceeded the threshold during the second preceding

calendar year. A utility is covered in 1984 if it exceeded the threshold in 1982; and

(3) only utilities which have residential sales are covered by Title II and only utilities which have sales to commercial buildings or multifamily dwellings are covered by Title VII.

In compiling the list published today, DOE revised the 1983 list (48 FR 1653, January 13, 1983), upon the assumption that all entities included on the 1983 list are properly included on the 1984 list unless DOE has information to the contrary. In doing this, DOE took into account information which was received from the Rural Electrification Agency, or included in public documents, regarding entities which exceeded the PURPA and NECPA thresholds for the first time in 1982. DOE believes that it will become aware of any errors or omissions in the list published today by means of the comment process called for by this notice. DOE will, after consideration of any comment and other information available to DOE, provide written notice of any further additions or deletions to the list.

II. Notification and Comment Procedures

No later than 4:30 p.m. on February 14, 1984, each State regulatory authority must notify the Department of Energy in writing of each utility on the list over which it has ratemaking authority. Fifteen copies of such notification should be submitted to the address indicated in the "**ADDRESS**" section of this Notice and should be identified on the outside of the envelope and on the document with the designation "Docket No. ERA–R–79–43B." Such notification should include:

1. A complete list of electric utilities and gas utilities over which the State regulatory authority has ratemaking authority;

2. legal citations pertaining to the ratemaking authority of the State regulatory authority; and

3. for any listed utility known to be subject to other ratemaking authorities within the State for portions of its service area, a precise description of the portion to which such notification applies.

All interested persons, including State regulatory authorities, are invited to comment in writing, no later than 4:30 p.m. on February 14, 1984, on any errors or omissions with respect to the list. Five copies of such comments should be sent to the address indicated in the "ADDRESS" section of this Notice and should be identified on the outside of the envelope and on the document with the designation "Docket No. ERA–R–79–43B." Written comments should include the commenter's name, address and telephone number.

All notifications and comments received by DOE will be available for public inspection in the ERA Reading Room, Room 1E–190, 1000 Independence Avenue, SW., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

III. List of Electric Utilities and Gas Utilities

DOE is publishing in Appendix A and Appendix B, two different tabulations of the list of utilities which meet both PURPA and NECPA coverage requirements. In both appendices, the listed utilities not covered by NECPA are noted. As stated above, the inclusion or exclusion of any utility on or from the lists does not affect its legal obligations or those of the responsible State regulatory authority under PURPA and NECPA.

Appendix A is a tabulation of utilities which separately identifies, by State, and each State regulatory authority, the covered utilities it regulates, and other covered utilities in the State which are not regulated by the State regulatory authority. This tabulation, including explanatory notes, is based on information provided to DOE by State regulatory authorities in response to the January 13, 1983 **Federal Register** Notice (48 FR 1653) requiring each State regulatory authority to notify DOE of each utility on the list over which it has ratemaking authority, comments received with respect to that notice, and information subsequently available to DOE.

The utilities classified in Appendix A as not regulated by the state regulatory authority may in fact be regulated by local municipal authorities. These municipal authorities would be State agencies as defined by PURPA, and thus have responsibilities under PURPA identical to those of the State regulatory authority. Therefore, each such municipality is to notify DOE of each utility on the list over which it has ratemaking authority.

In Appendix B, the utilities are listed alphabetically, subdivided into electric utilities and gas utilities, and further subdivided by type of ownership: investor-owned utilities, publicly-owned utilities, and rural cooperatives.

The changes to the 1983 list of electric and gas utilities are as follows:

Additions:

*Alabama-Tennessee Natural Gas Company
Battle Creek Gas Company
Concord Natural Gas Corporation
Corning Natural Gas Corporation
*Guadalupe Valley Electric Cooperative
Midwest Natural Gas Corporation
Northwest Alabama Gas Dist.
*Sam Houston Electric Cooperative

Deletions:

Citizens Utilities Company
Kokomo Gas and Fuel Company

Modifications:

Change—Alaska Gas and Service Company to—Enstar Natural Gas Company
Change—Central Kansas Power Company to—Midwest Energy Incorporated (merger)
Change—Community Public Service Company to—Trans New Mexico Power Company
Change—Hartford Electric Light Company to—Connecticut Light and Power Company (merger)
Change—Pioneer Natural Gas Company to—Energas Company

Asterisk (*) Removed:

Carolina Pipeline Company (NC)
Moon Lake Electric Association (UT)
Pedernales Electric Cooperative (TX)
Tri-County Electric Association (WY)

Erroneously Listed in 1983 List:

Blue Ridge Electric Membership Corporation
Fort Pierce Utility Authority
Maine Public Service Company
Trans Louisiana Gas Company
Vero Beach Municipal Authority

(Public Utility Regulatory Policies Act of 1978, Pub. L. 95–617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*); National Energy Conservation Policy Act, Pub. L. 95–619, 92 Stat. 3206 *et seq.*, (42 U.S.C. 8211 *et seq.*))

Issued in Washington, D.C. on December 23, 1983.

Robert L. Davies,

Director, Coal and Electricity Division, Economic Regulatory Administration.

Appendix A

All gas utilities listed below had natural gas sales, for purposes other than resale, in excess of 10 billion cubic feet in 1976, 1977, 1978, 1979, 1980, 1981 or 1982. All except those marked (*) are covered by PURPA Title III and NECPA Titles II and VII. Utilities marked (*) are not covered by NECPA Titles II and VII because they either do not exceed the NECPA threshold of 10 billion cubic feet in 1982 for purposes other than resale, or do not have residential or commercial sales.

All electric utilities listed below had electric energy sales, for purposes other than resale, in excess of 500 million kilowatt-hours in 1976, 1977, 1978, 1979, 1980, 1981 or 1982. All, except those marked (*) are covered by PURPA Title I and NECPA Titles II and VII. Utilities marked (*) are not covered by NECPA Titles II and VII because they either do not exceed the NECPA threshold of 750 million kilowatt-hours in 1982 for purposes other than resale, or do not have residential or commercial sales.

State: Alabama

Regulatory Authority: Alabama Public Service Commission.

Gas Utilities

Investor-Owned:
Alabama Gas Corporation
*Alabama-Tennessee Natural Gas Company
Mobile Gas Service Corporation
Northwest Alabama Gas Dist.

Electric Utilities

Investor-Owned:
Alabama Power Company:
The following covered utilities within the State of Alabama are not regulated by the Alabama Public Service Commission:

Electric Utilities

Publicly-Owned:
Decatur Electric Department
*Dothan Electric Department
*Florence Electricity Department
Huntsville Electric System
Rural Electric Cooperatives:
*Rural Electric System

State: Alaska

Regulatory Authority: Alaska Public Utilities Commission.

Gas Utilities

Investor-Owned:
Enstar Natural Gas Company

Electric Utilities

Rural Electric Cooperatives:
Chugach Electric Association
Publicly-Owned:
Anchorage Municipal Light & Power Department

State: Arizona

Regulatory Authority: Arizona Corporation Commission.

Gas Utilities

Investor-Owened:
Arizona Public Service Company
Southern Union Gas Company
Southwest Gas Corporation

Electric Utilities

Investor-Owned:
Arizona Public Service Company
Tucson Electric Power Company
The following covered utilities within the State of Arizona are not regulated by the Arizona Corporation Commission:

Electric Utilities

Publicly-Owned:
Salt River Project Agricultural Improvement and Power District
*Trico Electric Cooperative, Inc.

State: Arkansas

Regulatory Authority: Arkansas Public Service Commission.

Gas Utilities

Investor-Owned:
Arkansas-Louisiana Gas Company
Arkansas-Oklahoma Gas Corporation
Arkansas Western Gas Company
Associated Natural Gas Company

Electric Utilities

Investor-Owned:
Arkansas-Missouri Power Company
Arkansas Power and Light Company
Empire District Electric Company
Oklahoma Gas and Electric Company
Southwestern Electric and Power Company
Rural Electric Cooperatives:
*First Electric Cooperative Corporation
The following covered utility within the State of Arkansas is not regulated by the Arkansas Public Service Commission:
Publicly-Owned:
*North Little Rock Electric Department

State: California

Regulatory Authority: California Public Utilities Commission.

Gas Utilities

Investor-Owned:
Pacific Gas and Electric Company
San Diego Gas and Electric Company
Southern California Gas Company
Southwest Gas Corporation

Electric Utilities

Investor-Owned:
Pacific Gas and Electric Company
Pacific Power and Light Company
San Diego Gas and Electric Company
Sierra Pacific Power Company
Southern California Edison Company
The following covered utilities within the State of California are not regulated by the California Public Utilities Commission.

Electric Utilities

Publicly-Owned:
Anaheim Public Utilities Department
Burbank Public Service Department
*Glendale Public Service Department
Imperial Irrigation District
Los Angeles Department of Water and Power
Modesto Irrigation District
Palo Alto Electric Utility
Pasadena Water and Power Department
Riverside Public Utilities
Sacramento Municipal Utility District
Santa Clara Electric Department
*Turlock Irrigation District
Vernon Municipal Light Department

Gas Utilities

Publicly-Owned:
Long Beach Gas Department

State: Colorado

Regulatory Authority: Colorado Public Utilities Commission.

Gas Utilities

Investor-Owned:
Greeley Gas Company
Iowa Electric Light and Power Company
Kansas-Nebraska Natural Gas Company
Peoples Natural Gas Company, Division of Internorth, Inc.
Public Service Company of Colorado
Publicy-Owned:
Colorado Springs Department of Public Utilities (Jurisdiction only outside city limits)

Electric Utilities

Investor-Owned:
Public Service Company of Colorado Western Power Division of Centel
Publicly-Owned:
Colorado Springs Department of Public Utilities (Jurisdiction only outside city limits)

The following covered utilities within the State of Colorado are not regulated by the Colorado Public Utilities Commission:

Gas Utilities

Publicly-Owned:
Colorado Springs Department of Public Utilities (within city limits)

Electric Utilities

Publicy-Owned:
Colorado Springs Department of Public Utilities (within city limits)

State: Connecticut

Regulatory Authority: Connecticut Division of Public Utility Control

Gas Utilities

Investor-Owned:
Connecticut Light and Power Company
Connecticut Natural Gas Corporation
Northest Utilities
Southern Connecticut Gas Company

Electric Utilities

Investor-Owned:
Citizens Utilities Company
Connecticut Light and Power Company
United Illuminating Company
Publicly-Owned:
*Groton Public Utilities

State: Delaware

Regulatory Authority: Delaware Public Service Commission.

Gas Utilities

Investor-Owned:
Delmarva Power and Light Company

Electric Utilities

Investor-Owned:
Delmarva Power and Light Company

State: District of Columbia

Regulatory Authority: Public Service Commission of the District of Columbia.

Gas Utilities

Investor-Owned:
Washington Gas Light Company

Electric Utilities

Investor-Owned:
Potomac Electric Power Company

State: Florida

Regulatory Authority: Florida Public Service Commission.

Gas Utilities

Investor-Owned:
City Gas Company of Florida
Peoples Gas System

Electric Utilities

Investor-Owned:
Florida Power Corporation
Florida Power and Light Company
Gulf Power Company

Tampa Electric Company
Publicly-Owned: The Florida Public Service Commission has rate structure jurisdiction over the following utilities—
Gainesville Regional Utilities
Jacksonville Electric Authority
Lakeland Department of Electricity and Water
*Ocala Utilities
Orlando Utilities Commission
Tallahassee, City of
Rural Electric Cooperatives: The Florida Public Service Commission has rate structure jurisdiction over the following utilities—
Clay Electric Cooperative
Lee County Electric Cooperative
Withlacoochee River Electric Cooperative

State: Georgia

Regulatory Authority: Georgia Public Service Commission.

Gas Utilities

Investor-Owned:
Atlanta Gas Light Company
Chattanooga Gas Company
Gas Light Company of Columbus

Electric Utilities

Investor-Owned:
Georgia Power Company
Savannah Electric and Power Company

The following utilities within the State of Georgia are not regulated by the Georgia Public Service Commission.

Electric Utilities

Publicly-Owned:
*Albany Water, Gas & Light Commission
*Dalton Water, Light & Sink
Rural Electric Cooperatives:
*Cobb Electric Membership Corporation
*Flint Electric Membership Corporation
*Jackson Electric Membership Corporation
North Georgia Electric Membership Corporation
*Walton Electric Membership Corporation

State: Hawaii

Regulatory Authority: Hawaii Public Utilities Commission.

Gas Utilities

None.

Electric Utilities

Investor-Owned:
Hawaiian Electric Company, Inc.

State: Idaho

Regulatory Authority: Idaho Public Utilities Commission.

Gas Utilities

Investor-Owned:
Intermountain Gas Company
Washington Water Power Company

Electric Utilities

Investor-Owned:
Idaho Power Company
Pacific Power and Light Company
Utah Power and Light Company
Washington Water Power Company

State: Illinois

Regulatory Authority: Illinois Commerce Commission.

Gas Utilities

Investor-Owned:
Central Illinois Light Company
Central Illinois Public Service Company
Illinois Power Company
Iowa-Illinois Gas and Electric Company
North Shore Gas Company
Northern Illinois Gas Company
Panhandle Eastern Pipeline Company
Peoples Gas, Light and Coke Company

Electric Utilities

Investor-Owned:
Central Illinois Light Company
Central Illinois Public Service Company
Commonwealth Edison Company
Illinois Power Company
Interstate Power Company
Iowa-Illinois Gas and Electric Company
Union Electric Company

The following covered utility within the State of Illinois is not regulated by the Illinois Commerce Commission:

Electric Utilities

Publicly-Owned:
Springfield Water, Light and Power Department

State: Indiana

Regulatory Authority: Indiana Public Service Commission.

Gas Utilities

Investor-Owned:
Indiana Gas Company
Midwest Natural Gas Corporation
Northern Indiana Public Service Company
Southern Indiana Gas and Electric Company
Terre Haute Gas Corporation
Publicly-Owned:
Citizens Gas and Coke Utility

Electric Utilities

Investor-Owned:
Indiana and Michigan Electric Company
Indianapolis Power and Light Company
Northern Indiana Public Service Company
Public Service Company of Indiana
Southern Indiana Gas and Electric Company

Publicly-Owned:

*Richmond Power and Light

State: Iowa

Regulatory Authority: Iowa Commerce Commission.

Gas Utilities

Investor-Owned:
Interstate Power Company
Iowa Electric Light and Power Company
Iowa-Illinois Gas and Electric Company
Iowa Power and Light Company
Iowa Public Service Company
Iowa Southern Utilities Company
North Central Public Service Company
Peoples Natural Gas Company, Division of Internorth, Inc.

Electric Utilities

Investor-Owned:
Interstate Power Company
Iowa Electric Light and Power Company
Iowa-Illinois Gas and Electric Company
Iowa Power and Light Company
Iowa Public Service Company
Iowa Southern Utilities Company
Union Electric Company
Publicy-Owned: The Iowa Commerce Commission has service and safety regulation over the following utilities—
Muscatine Power and Water
Omaha Public Power District

State: Kansas

Regulatory Authority: Kansas State Corporation Commission.

Gas Utilities

Investor-Owned:
Anadarko Production Company
Arkansas-Louisiana Gas Company
Gas Service Company
Greeley Gas Company
Kansas-Nebraska Natural Gas Company
Kansas Power and Light Company
Northern Natural Gas Company
Panhandle Eastern Pipeline Company
Peoples Natural Gas Company, Division of Internorth, Inc.
Union Gas System Inc.

Electric Utilities

Investor-Owned:
Empire District Electric Company
Kansas City Power and Light Company
Kansas Gas and Electric Company
Kansas Power and Light Company
Southerwestern Public Service Company
Western Power Division of Centel
Rural Electric Cooperatives:
*Midwest Energy Incorporated

The following covered utility within the State of Kansas is not regulated by the Kansas State Corporation Commission:

Electric Utilities

Public-Owned:
Kansas City Board of Public Utilities

State: Kentucky

Regulatory Authority: Kentucky Energy Regulatory Commission.

Gas Utilities

Investor-Owned:
Columbia Gas of Kentucky, Inc.
Equitable Gas Company
Inland Gas Company
Louisville Gas and Electric Company
Union Light, Heat and Power Company
Western Kentucky Gas Company

Electric Utilities

Investor-Owned:
Kentucky Power Company
Kentucky Utilities Company
Louisville Gas and Electric Company
Union Light, Heat and Power Company
Rural Electric Cooperatives:
Green River Electric Corporation
Henderson-Union Rural Electric Cooperative Corporation

The following covered utilities within the State of Kentucky are not regulated by the Kentucky Energy Regulatory Commission:
*Bowling Green Municipal Utilities
*Owensboro Municipal Utilities
*Pennyrile Rural Electric Cooperative Corporation
*Warren Rural Electric Cooperative Corporation
*West Kentucky Rural Electric Cooperative Corporation

State: Louisiana

Regulatory Authority: Louisiana Public Service Commission.

Gas Utilities

Investor-Owned:
Arkansas-Louisiana Gas Company
Entex, Inc.
Gulf States Utilities Company
Louisiana Gas Service Company

Electric Utilities

Investor-Owned:
Arkansas Power and Light
Central Louisiana Electric Company
Gulf States Utilities Company
Louisiana Power and Light Company (jurisdiction only outside of the Parish of Orleans)
Southwestern Electric Power Company
The following covered utilities within the State of Louisiana are not regulated by the Louisiana Public Service Commission:

Gas Utilities

Investor-Owned:
New Orleans Public Service, Inc.

Electric Utilities

Investor-Owned:
New Orleans Public Services, Inc.
Louisiana Power and Light Company (within the Parish of Orleans)
Publicly-Owned:
Lafayette Utilities System
Rural Electric Cooperatives:
*Dixie Electric Membership Corporation
Southwest Louisiana Electric Membership Corporation

State: Maine

Regulatory Authority: Maine Public Utilities Commission.

Gas Utilities

None.

Electric Utilities

Investor-Owned:
Bangor Hydro-Electric Company Central Maine Power Company

State: Maryland

Regulatory Authority: Maryland Public Service Commission.

Gas Utilities

Investor-Owned:
Baltimore Gas and Electric Company
Washington Gas Light Company

Electric Utilities

Investor-Owned:
Baltimore Gas and Electric Company
*Conowingo Power Company
Delmarva Power and Light Company of Maryland
Potomac Edison Company
Potomac Electric Power Company
Rural Electric Cooperatives:
Southern Maryland Electric Cooperative, Inc.

State: Massachusetts

Regulatory Authority: Massachusetts Department of Public Utilities

Gas Utilities

Investor-Owned:
Bay State Gas Company
Boston Gas Company
Colonial Gas Energy System
Commonwealth Gas Company
Lowell Gas Company
New Bedford Gas and Edison Light Company

Electric Utilities

Investor-Owned:
Boston Edison Company
Cambridge Electric Light Company
Commonwealth Electric Company
Eastern Edison Company
Massachusetts Electric Company
Western Massachusetts Electric Company

State: Michigan

Regulatory Authority: Michigan Public Service Commission.

Gas Utilities

Investor-Owned:
Battle Creek Gas Company
Consumers Power Company
Michigan Consolidated Gas Company
Michigan Gas Utilities Company
Michigan Power Company
Southeastern Michigan Gas Company
Wisconsin Public Service Corporation

Electric Utilities

Investor-Owned:
Consumers Power Company
Detroit Edison Company
Indiana and Michigan Electric Company
*Lake Superior District Power Company
*Michigan Power Company
Upper Peninsula Power Company
Wisconsin Electric Power Company
Wisconsin Public Service Corporation
The following covered utilities within the State of Michigan are not regulated by the Michigan Public Service Commission:

Electric Utilities

Publicly-Owned:
Lansing Board of Water and Light

State: Minnesota

Regulatory Authority: Minnesota Public Utility Commission.

Gas Utilities

Investor-Owned:
Inter City Gas Company
Interstate Power Company
Iowa Electric Light and Power Company
Minnesota Gas Company
Montana-Dakota Utilities Company
North Central Public Service Company
Northern States Power Company
Peoples Natural Gas Company-Division of Internorth Inc.

Electric Utilities

Investor-Owned:
Interstate Power Company
Minnesota Power and Light Company
Northern States Power Company
Otter Tail Power Company
The following covered utility within the State of Minnesota is not regulated by the Minnesota Public Service Commission:

Electric Utilities

Publicly-Owned:
*Rochester Department of Public Utilities
Rural Electric Cooperative
*Anoka Electric Cooperative

State: Mississippi

Regulatory Authority: Mississippi Public Service Commission.

Gas Utilities

Investor-Owned:
Entex, Inc.
Mississippi Valley Gas Company

Electric Utilities

Investor-Owned:
Mississippi Power and Light Company
Mississippi Power Company
The following covered utilities within the State of Mississippi are not regulated by the Mississippi Public Service Commission.

Electric Utilities

Rural Electric Cooperatives:
*4-County Electric Power Association
*Singing River Electric Power Association
*Southern Pine Electric Power Association

State: Missouri

Regulatory Authority: Missouri Public Service Commission

Gas Utilities

Investor-Owned:
Associated Natural Gas Company
Gas Service Company
Laclede Gas Company Consolidated
Missouri Public Service Company
Peoples Natural Gas Company, Division of Internorth, Inc.

Electric Utilities

Investor-Owned:
Arkansas-Missouri Power Company
Empire District Electric Company
Kansas City Power and Light Company
Missouri Edison Company
Missouri Power and Light Company
Missouri Public Service Company
Missouri Utilities Company
St. Joseph Light and Power Company
Union Electric Company
The following covered utilities within the State of Missouri are not regulated by Missouri Public Service Commission.

Gas Utilities

Investor-Owned:
Cities Service Gas Company
Publicly-Owned:
Springfield City Utilities

Electric Utilities

Publicly-Owned:

*Independence Power and Light Department
Springfield City Utilities

State: Montana

Regulatory Authority: Montana Public Service Commission.

Gas Utilities

Investor-Owned:
Montana-Dakota Utilities Company
Montana Power Company

Electric Utilities

Investor-Owned:
Black Hills Power and Light Company
Montana-Dakota Utilities Company
Montana Power Company
Pacific Power and Light Company
Washington Water Power Company

State: Nebraska

Regulatory Authority: Nebraska Public Service Commission.

The Commission does not regulate the rates and service of the gas and electric utilities of the State of Nebraska

The following covered utilities within the State of Nebraska are not regulated by the Nebraska Public Service Commission.

Electric Utilities

Publicly-Owned:
Lincoln Electric System
Nebraska Public Power District
Omaha Public Power District

Gas Utilities

Investor-Owned:
Gas Service Company
Iowa Electric Light and Power Company
Iowa Public Service Company
Kansas-Nebraska Natural Gas Company
Minnesota Gas Company
Northern Natural Gas Company
Northwestern Public Service Company
Peoples Natural Gas Company, Division of Internorth, Inc.

The governing body of each Nebraska municipality exercises ratemaking jurisdiction over gas ultility rates, operations and services provided by a gas utility within its city or town limits. These municipal authorities would be State agencies as defined by PURPA, and thus have responsibilities under PURPA identical to those of the State regulatory authority.

Publicly-Owned:
Metropolitan Utilities District of Omaha

State: Nevada

Regulatory Authority: Nevada Public Service Commission.

Gas Utilities

Investor-Owned:
Southwest Gas Corporation

Electric Utilities

Investor-Owned:
Idaho Power Company
Nevada Power Company
Sierre Pacific Power Company

State: New Hampshire

Regulatory Authority: New Hampshire Public Utilities Commission.

Gas Utilities

Investor-Owned:
Concord Natural Gas Corporation

Electric Utilities

Investor Owned:
Public Service Company of New Hampshire

State: New Jersey

Regulatory Authority: New Jersey Department of Energy Board of Public Utilities

Gas Utilities

Investor Owned:
Elizabethtown Gas Company
New Jersey Natural Gas Company
Public Service Electric and Gas Company
South Jersey Gas Company

Electric Utilities

Investor-Owned:
Atlantic City Electric Company
Jersey Central Power and Light Company
Public Service Electric and Gas Company
Rockland Electric Company

State: New Mexico

Regulatory Authority: New Mexico Public Service Commission.

Gas Utilities

Gas Company of New Mexico
Southern Union Gas Company

Electric Utilities

Investor Owned:
Community Public Service Company
El Paso Electric Company
*New Mexico Electric Service Company
Public Service Company of New Mexico
Southwestern Public Service Company

State: New York

Regulatory Authority: New York Public Service Commission.

Gas Utilites

Investor-Owned:
Brooklyn Union Gas Company
Columbia Gas of New York, Inc.
Consolidated Edison Company of New York, Inc.
Corning Natural Gas Corporation
Long Island Lighting Company
National Fuel Gas Distribution Corporation
New York State Electric and Gas Corporation
Niagara Mohawk Power Corporation
Orange and Rockland Utilities
Rochester Gas and Electric Corporation

Electric Utilities

Investor Owned:
Central Hudson Gas and Electric Corporation
Consolidated Edison Company of New York
Long Island Lighting Company
New York State Electric and Gas Corporation
Niagara Mohawk Power Corporation
Orange and Rockland Utilities
Rochester Gas and Electric Corporation

The following covered utility within the State of New York is not regulated by the New York Public Service Commission:

Electric Utilities

Publicly-Owned:
Power Authority of New York

State: North Carolina

Regulatory Authority: North Carolina Utilities Commission.

Gas Utilities

Investor-Owned:
North Carolina Natural Gas Corporation
Piedmont Natural Gas Company
Public Service Company, Inc. of North Carolina

Electric Utilities

Investor-Owned:
Carolina Power and Light Company
Duke Power Company
*Nantahala Power & Light Company
Virginia Electric and Power Company

The following covered utilities within the State of North Carolina are not regulated by the North Carolina Utilities Commission:

Electric Utilities

Publicly-Owned:
Fayetteville Public Works Commission
*Greenville Utilities Commission
*High Point Electric Utility Department
*Rocky Mount Public Utilities
*Wilson Utilities Department

State: North Dakota

Regulatory Authority: North Dakota Public Service Commission.

Gas Utilities

Investor-Owned:
Montana Dakota Utilities Company

Electric Utilities

Investor-Owned:
Montana Dakota Utilities Company
Northern States Power Company
Otter Tail Power Company

State: Ohio

Regulatory Authority: Ohio Public Utilities Commission.

Gas Utilities

Investor-Owned:
Cincinnati Gas and Electric Company
Columbia Gas of Ohio, Inc.
Dayton Power and Light Company
East Ohio Gas Company
National Gas and Oil Company
West Ohio Gas Company

Electric Utilities

Investor-Owned:
Cincinnati Gas and Electric Company
Cleveland Electric Illuminating Company
Columbus and Southern Ohio Electric Company
Dayton Power and Light Company
Monongahela Power Company
Ohio Edison Company
Ohio Power Company
Toledo Edison Company

The following covered utilities within the State of Ohio are not regulated by the Ohio Public Utilities Commission:

Electric Utilities

Publicly-Owned:
*Cleveland Division of Light and Power
Rural Electric Cooperatives:
*South Central Power Company

State: Oklahoma

Regulatory Authority: Oklahoma Corporation Commission.

Gas Utilities

Investor-Owned:
Arkansas-Louisiana Gas Company
Arkansas-Oklahoma Gas Corporation
Gas Service Company
Lone Star Gas Company
Oklahoma Natural Gas Company
Southern Union Gas Company
Union Gas System Inc.

Electric Utilities

Investor-Owned:
Empire District Electric Company
Oklahoma Gas and Electric Company
Public Service Company of Oklahoma
Southwestern Public Service Company
Rural Electric Cooperatives:
*Cotton Electric Cooperative

Gas Utilities

Investor-Owned:
Cities Service Gas Company

State: Oregon

Regulatory Authority: Public Utility Commissioner of Oregon.

Gas Utilities

Investor-Owned:
Cascade Natural Gas Corporation
Northwest Natural Gas Company

Electric Utilities

Investor-Owned:
Idaho Power Company
Pacific Power and Light Company
Portland General Electric Company
The following covered utilities within the State of Oregon are not regulated by the Public Utility Commissioner or Oregon:

Electric Utilites

Pulicly-Owened:
Central Lincoln People's Utility District
*Clatskanie People's Utility District
Eugene Water and Electric Board
*Springfield Utilities Board
Rural Electric Cooperatives:
*Umatilla Electric Cooperative Association

State: Pennsylvania

Regulatory Authority: Pennsylvania Public Utility Commission.

Gas Utilities

Investor-Owned:
Carnegie Natural Gas Company
Columbia Gas of Pennsylvania, Inc.
Equitable Gas Company
National Fuel Gas Distrubution Corporation
North Penn Gas Company
Pennsylvania Gas and Water Copmpany
Peoples Natural Gas Company
Philadelphia Electric Company
T.W. Phillips Gas and Oil Company
UGI Corporation

Electric Utilities

Investor-Owned:
Duquesne Light Company
Metropolitan Edison Company
Pennsylvania Electric Company
Pennsylvania Power Company
Pennsylvania Power and Light Company
Philadelphia Electric Company
*UGI—Luzerne Electric Division
West Penn Power Company

The following covered utility within the State of Pennsylvania is not regulated by the Pennsylvania Public Utility Commission:

Gas Utilities

Publicly-Owened:
Philadelphia Gas Works

State: Puerto Rico

Regulatory Authority: Puerto Rico Public Service Commission.

Gas Utilites

None.

Electric Utilites

None.

The following covered utility within Puerto Rico is not regulated by the Puerto Rico Public Servcie Commission:

Electric Utitities

Publicly-Owened:
Puerto Rico Electric Power Authority

State: Rhode Island

Regulatory Authority: Rhode Island Public Utilities Commission.

Gas Utilities

Investor-Owned:
Providence Gas Company

Electric Utilities

Investor-Owned:
Blackstone Valley Electric Company
Narragansett Electric Company

State: South Carolina

Regulatory Authority: South Carolina Public Service Commission.

Gas Utilities

Investor-Owned:
Carolina Pipeline Company
Piedmont Natural Gas Company
South Carolina Electric and Gas Company

Electric Utilities

Investor-Owned:
Carolina Power and Light Company
Duke Power Company
South Carolina Electric and Gas Company

The following covered utility within the State of South Carolina is not regulated by the South Carolina Public Service Commission:

Electric Utilities

Publicly-Owned:
South Carolina Public Service Authority

State: South Dakota

Regulatory Authority: South Dakota Public Utilities Commission.

Gas Utilities

Investor-Owned:
Iowa Public Service Company
Minnesota Gas Company
Montana-Dakota Utilities Company
Northwestern Public Service Company

Electric Utilities

Investor-Owned:
Black Hills Power and Light Company
Iowa Public Service Company
Montana-Dakota Utilities Company
Northern States Power Company
*Northwestern Public Service Company
Otter Tail Power Company

The following covered utility within the State of South Dakota is not regulated by the South Dakota Public Service Commission:

Electric Utilities

Publicly-Owned:
Nebraska Public Power District

State: Tennessee

Regulatory Authority: Tennessee Public Service Commission.

Gas Utilities

Investor-Owned:
Chattanooga Gas Company
Nashville Gas Company

Electric Utilities

Investor-Owned:
Kingsport Power Company

The following covered utilities within the State of Tennessee are not regulated by the Tennessee Public Service Commission:

Electric Utilities

Publicly-Owned:
*Bristol Tennessee Electric System
Chattanooga Electric Power Board
*Clarksville Department of Electricity
*Cleveland Utilities
*Greensville Light and Power System
*Jackson Utility Division—Electric Department
Johnson City Power Board
Knoxville Utilities Board
*Lenoir City Utilities Board
Memphis Light, Gas and Water Division
*Murfreesboro Electric Department
*Nashville Electric Services
Rural Electric Cooperatives:
*Appalachian Electric Cooperative
Cumberland Electric Membership Corporation
*Duck River Electric Membership Corporation
*Gibson County Electric Membership Corporation
*Meriweather Lewis Electric Cooprative
Middle Tennessee Electric Membership Corporation
*Southwest Tennessee Electric Membership Corporation
*Tri-County Electric Membership Corporation
*Upper Cumberland Electric Membership Corporation
Volunteer Electric Cooperative

Gas Utilities

Publicly-Owned:
Memphis Light, Gas and Water Division

State: Tennessee

Regulatory Authority: Tennessee Valley Authority.

Gas Utilities

None.

Electric Utilities

Publicly-Owned:
*Bristol Tennessee Electric System
Chattanooga Electric Power Board
*Clarksville Department of Electricity
*Cleveland Utilities
Decatur Electric Department
*Florence Electricity Department
*Greeneville Light and Power System
Huntsville Electric System
Jackson Utility Divisoion—Electric Department
Johnson City Power Board
Knoxville Utilities Board
*Lenoir City Utilities Board
Memphis Light, Gas and Water Division
*Murfreesboro Electric Department
Nashville Electric Service
Rural Electric Cooperatives:
*Appalachian Electric Cooperative
Cumberland Electric Membership Corporation
*Duck River Electric Membership Corporation
*Four-County Electric Power Association
*Gibson County Electric Membership Corporation
*Meriweather Lewis Electric Cooperative
Middle Tennessee Electric Membership Corporation
North Georgia Electric Membership Corporation
*Pennyrile Rural Electric Cooperative Corporation
*Southwest Tennessee Electric Membership Corporation
* Tri-County Electric Membership Corporation
* Upper Cumberland Electric Membership Corporation
Volunteer Electric Cooperative
* Warren Rural Electric Cooperative Corporation
* West Kentucky Rural Electric Cooperative Corporation

State: Texas

Regulatory Authority: Texas Public Utility Commission.

Gas Utilities

Investor-Owned:
None.

Electric Utilities

Investor-Owned:
Central Power and Light Company
Dallas Power and Light Company
El Paso Electric Company
Gulf States Utilities
Houston Lighting and Power Company
Southwestern Electric Power Company
* Southwestern Electric Service Company
Southwestern Public Service Company
Texas Electric Service Company
Texas New Mexico Power Company
Texas Power and Light Company
West Texas Utilities Company
Publicly-Owned
* Lower Colorado River Authority
Rural Electric Cooperatives:
* Guadalupe Valley Electric Cooperative
Pedernales Electric Cooperative
Sam Houston Electric Cooperative

The governing body of each Texas municipality exercises exclusive original jurisdiction over electric utility rates, operations and services provided by an electric utility (whether privately owned or publicly owned) within is city or town limits, unless the municipality has surrendered this jurisdiction to the Texas Public Utility Commission. The Commission bears *de novo* appeals from the decisions of such municipalities. These municipal authorities would be State agencies as defined by PURPA, and thus have responsibilities under PURPA identical to those of a State regulatory authority.

The municipally-owned electric utilities listed below are not under the commission's original ratemaking jurisdiction.

Electric Utilities

Publicly-Owned
Austin Electric Department
Garland Electric Department
* Lubbock Power and Light
San Antonio City Public Service Board

State: Texas

Regulatory Authority: Railroad Commission of Texas.

Gas Utilities

Investor-Owned:
Arkansas-Louisiana Gas Company
Energas Company
Entex, Inc.
Lone Star Gas Company
Peoples Natural Gas Division of Northern Natural Gas Company
Southern Union Gas Company

The Railroad Commission of Texas has special appellate jurisdiction over ratemaking decisions of the governing body of any municipality which affect the rates of a municipally-owned gas utility as provided by State statute. The governing body of each Texas municipality exercises exclusive original ratemaking jurisdiction over gas utility rates, operations, and services provided by a gas utility within its city or town limits. These municipal authorities would be State agencies as defined by PURPA and thus have responsibilities under PURPA identical to those of a State regulatory authority.

The following covered utilities within the State of Texas are not regulated by the Railroad Commission of Texas:

Gas Utilities

Investor-Owned:
City Service Gas Company
Public-Owned:
City Public Service Board (San Antonio)

State: Utah

Regulatory Authority: Utah Public Service Commission.

Gas Utilities

Investor-Owned:
Mountain Fuel Supply Company

Electric Utilities

Investor-Owned:
Utah Power and Light Company
Rural Electric Cooperatives:
Moon Lake Electric Association

State: Vermont

Regulatory Authority: Vermont Public Service Board.

Gas Utilities

None.

Electric Utilities

Investor-Owned:
Central Vermont Public Service Corporation
Green Mountain Power Corporation
Public Service Company of New Hampshire

State: Virginia

Regulatory Authority: Virginia State Corporation Commission.

Gas Utilities

Investor-Owned:
Columbia Gas of Virginia Inc.
Virginia Natural Gas
Washington Gas Light Company

Electric Utilities

Investor-Owned:
Appalachian Power Company
Delmarva Power and Light Company
*Old Dominion Power Company
Potomac Edision Company
Potomac Electric and Power Company
Virginia Electric and Power Company
Publicly-Owned:
*Danville Water, Gas & Electric

Rural Electric Cooperatives:

*Prince William Electric Cooperative
Rappahannock Electric Cooperative
The following covered utility within the State of Virginia is not regulated by the Virginia State Corporation Commission.

Gas Utilities

Publicly-Owned:
City of Richmond, Virginia, Department of Public Utilities

State: Washington

Regulatory Authority: Washington Utilities and Transportation Commission.

Gas Utilities

Investor-Owned:
Cascade Natural Gas Corporation
Northwest Natural Gas Company
Washington Natural Gas Company
Washington Water Power Company

Electric Utilities

Investor-Owned:
Pacific Power and Light Company
Puget Sound Power and Light Company
Washington Water Power Company
The following covered utilities within the State of Washington are not regulated by the

Washington Utilities and Transportation Commission.

Electric Utilities

Publicly-Owned:
*Port Angeles Light and Water Department
Public Utility District No. 1 of Benton County
Public Utility District No. 1 of Chelan County
Public Utility District No. 1 of Clark County
Public Utility District No. 1 of Cowlitz County
*Public Utility District No. 1 of Douglas County
*Public Utility District No. 1 of Franklin County
Public Utility District of Grant County
Public Utility District No. 1 of Grays Harbor County
*Public Utility District No. 1 of Lewis County
Public Utility District No. 1 of Snohomish County
*Richland Energy Services Department
Seattle City Light Department
Tacoma Public Utility—Light Division

State: West Virginia

Regulatory Authority: West Virginia Public Service Commission.

Gas Utilities

Investor-Owned:
Columbia Gas of West Virginia, Inc.
Consolidated Gas Supply Corporation
Equitable Gas Company

Electric Utilities

Investor-Owned:
Appalachian Power Company
Monongahela Power Company
Potomac Edison Company
Virginia Electric and Power Company
Wheeling Electric Company

State: Wisconsin

Regulatory Authority: Wisconsin Public Service Commission

Gas Utilities

Investor-Owned:
Madison Gas and Electric Company
Northern States Power Company
Wisconsin Fuel and Light Company
Wisconsin Gas Company
Wisconsin Natural Gas Company
Wisconsin Power and Light Company
Wisconsin Public Service Corporation

Electric Utilities

Investor-Owned:
*Lake Superior District Power Company
Madison Gas and Electric Company
Northern States Power Company
Wisconsin Electric Power Company
Wisconsin Power and Light Company
Wisconsin Public Service Corporation

State: Wyoming

Regulatory Authority: Wyoming Public Service Commission.

Gas Utilities

Investor-Owned:
Cheyenne Light Fuel and Power Company
Kansas-Nebraska Natural Gas Company
Montana-Dakota Utilities Company
Mountain Fuel Supply Company

Electric Utilities

Investor-Owned:
Black Hills Power and Light Company
Montana-Dakota Utilities Company
Pacific Power and Light Company
Utah Power and Light Company
Rural Electric Cooperative:
Tri-County Electric Association, Inc.

Appendix B

Electric Utilities

All utilities listed below had electric energy sales, for purposes other than resale, in excess of 500 million kilowatt hours in 1976, 1977, 1978, 1979, 1980, 1981 or 1982. All except those marked (*) are covered by PURPA Title I and NECPA Title II and VII. Utilities marked (*) either did not exceed the NECPA threshold of 750 million kilowatt-hour in 1982 for purposes other than resale, or do not have residential or commercial sales and therefore, are not covered by NECPA Titles II and VII. The utilities listed more than once have sales in more than one State, and those States are indicated by abbreviations in parentheses.

Investor-Owned:
Alabama Power Company
Appalachian Power Company (VA)
Appalachian Power Company (WV)
Arizona Public Service Company
Arkansas-Missouri Power Company (AR)
Arkansas-Missouri Power Company (MO)
Arkansas Power & Light Company (AR)
Arkansas Power & Light Company (LA)
Atlantic City Electric Company
Baltimore Gas & Electric Company
Bangor Hydro-Electric Company
Black Hills Power & Light Company (MT)
Black Hills Power & Light Company (SD)
Black Hills Power & Light Company (WY)
Blackstone Valley Electric Company
Boston Edison Company
Cambridge Electric Light Company
Carolina Power & Light Company (NC)
Carolina Power & Light Company (SC)
Central Hudson Gas & Electric Corporation
Central Illinois Light Company
Central Illinois Public Service Company
Central Louisiana Electric Company
Central Maine Power Company
Central Power & Light Company
Central Vermont Public Service Corporation
Cincinnati Gas & Electric Company
Cleveland Electric Illuminating Company
Columbus and Southern Ohio Electric Company
Commonwealth Edison Company
Commonwealth Electric Company
Community Public Service Company (NM)
Connecticut Light & Power Company
*Conowingo Power Company
Consolidated Edison Company of New York
Consumer Power Company
Dallas Power & Light Company
Dayton Power & Light Company
Delmarva Power & Light Company (DE)
Delmarva Power & Light Company (VA)
Delmarva Power & Light Company of Maryland
Detroit Edison Company
Duke Power Company (NC)
Duke Power Company (SC)
Duquesne Light Company
Eastern Edison Company
El Paso Electric Company (NM)
El Paso Electric Company (TX)
Empire District Electric Company (AR)
Empire District Electric Company (KS)
Empire District Electric Company (MO)
Empire District Electric Company (OK)
Florida Power Corporation
Florida Power & Light Company
Georgia Power Company
Green Mountain Power Corporation
Gulf Power Company
Gulf States Utilities Company (LA)
Gulf States Company (TX)
Hawaiian Electric Company Inc.
Houston Lighting & Power Company
Idaho Power Company (ID)
Idaho Power Company (NV)
Idaho Power Company (OR)
Illinois Power Company
Indiana & Michigan Electric Company (IN)
Indiana & Michigan Electric Company (MI)
Indianapolis Power & Light Company
Interstate Power Company (IA)
Interstate Power Company (IL)
Interstate Power Company (MN)
Iowa Electric Light & Power Company
Iowa-Illinois Gas & Electric Company (IA)
Iowa-Illinois Gas & Electric Company (IL)
Iowa Power & Light Company
Iowa Public Service Company (IA)
Iowa Public Service Company (SD)
Iowa Southern Utilities Company
Jersey Central Power & Light Company
Kansas City Power & Light Company (KS)
Kansas City Power & Light Company (MO)
Kansas Gas & Electric Company
Kansas Power & Light Company
Kentucky Power Company
Kentucky Utilities Company
Kingsport Power Company
*Lake Superior District Power Company (MI)
Lake Superior District Power Company (WI)
Long Island Lighting Company
Louisiana Power & Light Company
Louisville Gas & Electric Company
Madison Gas & Electric Company
Massachusetts Electric Company
Metropolitan Edison Company
*Michigan Power Company
Minnesota Power & Light Company
Mississippi Power Company
Mississippi Power & Light Company
Missouri Edison Company
Missouri Power & Light Company
Missouri Public Service Company
Missouri Utilities Company
Monongahela Power Company (OH)
Monongahela Power Company (WV)
Montana-Dakota Utilities Company (MT)
Montana-Dakota Utilites Company (ND)
Montana-Dakota Utilites Company (SD)
Montana-Dakota Utilites Company (WY)
Montana-Dakota Power Company
*Nantahala Power & Light Company
Narragansett Electric Company
Nevada Power Company
*New Mexico Electric Service Company
New Orleans Public Service Inc.
New York State Electric & Gas Corporation
Niagara Mohawk Power Company
Northern Indiana Public Service Company

Northern States Power Company (MN)
Northern States Power Company (ND)
Northern States Power Company (SD)
Northern States Power Company (WI)
Northwestern Public Service Company
Ohio Edison Company
Ohio Power Company
Oklahoma Gas & Electic Company (AR)
Oklahoma Gas & Electric Company (OK)I24*Old Dominion Power Company
Orange & Rockland Utilities
Otter Tall Power Company (MN)
Otter Tall Power Company (ND)
Otter Tall Power Company (SD)
Pacific Gas & Electric Company
Pacific Power Light Company (CA)
Pacific Power Light Company (ID)
Pacific Power Light Company (MT)
Pacific Power Light Company (OR)
Pacific Power Light Company (WA)
Pacific Power Light Company (WY)
Pennsylvania Electric Company
Pennsylvania Power & Light Company
Pennsylvania Power Company
Philadelphia Electric Company
Portland General Electric Company
Porland General Electric Company
Potomac Edison Company (MD)
Potomac Edison Company (VA)
Potomac Edison Company (WV)
Potomac Edison Power Company (DC)
Potomac Edison Power Company (MD)
Potomac Edison Power Company (VA)
Public Service Company of Colorado
Public Service Company of Indiana
Public Service Company of New Hampshire (NH)
Public Service Company of New Hampshire (VT)
Public Service Company of New Mexico
Public Service Company of Oklahoma
Public Service Electric and Gas Company
Puget Sound Power & Light Company
Rochester Gas & Electric Corporation
Rockland Electric Company
St. Joseph Light & Power Company
San Diego Gas & Electric Company
Savannah Electric & Power Company
Sierra Pacific Power Company (CA)
Sierra Pacific Power Company (NV)
South Carolina Electric & Gas Company
Southern California Edison Company
Southern Indiana Gas & Electric Company
Southwestern Electric Power Company (AR)
Southwestern Electric Power Company (LA)
Southwestern Electric Power Company (TX)
*Southwestern Electric Service Company
Southwestern Public Service Company (KS)
Southwestern Public Service Company (NM)
Southwestern Public Service Company (OK)
Southwestern Public Service Company (TX)
Tampa Electric Company
Texas Electric Service Company
Texas New Mexico Power Company
Texas Power & Light Company
Toledo Edison Company
Tucson Electric Power Company
*UGI-Luzerne Electric Division
Union Electric Company (LA)
Union Electric Company (IL)
Union Electric Company (MO)
Union Light, Heat & Power Company
United Illuminating Company
*Upper Peninsula Power Company
Utah Power & Light Company (ID)
Utah Power & Light Company (UT)
Utah Power & Light Company (WY)
Virginia Electric & Power Company (NC)
Virginia Electric & Power Company (VA)
Virginia Electric & Power Company (WV)
Washington Water Power Company (ID)
Washington Water Power Company (MT)
Washington Water Power Company (WA)
West Penn Power Company
West Texas Utilities Company
Western Massachusetts Electric Company
Western Power Division of Centel (CO)
Western Power Division of Centel (KS)
Wheeling Electric Company
Wisconsin Electric Power Company (MI)
Wisconsin Electric Power Company (WI)
Wisconsin Power & Light Company
Wisconsin Public Service Corporation (MI)
Wisconsin Public Service Corporation (WI)

Publicly-Owned:

*Albany Water, Gas & Light Commission (GA)
Anaheim Public Utilities Department (CA)
*Anchorage Municipal Light & Power Department (AK)
Austin Electric Department (TX)
*Bowling Green Municipal Utilities (KY)
*Bristol Tennessee Electric System (TN)
*Brownsville Public Utility Board (TX)
*Bryan Municipal Electric System (TX)
Burbank Public Service Department (CA)
Central Lincoln People's Utility District (OR)
Chattanooga Electric Power Board (TN)
*Clarksville Department of Electricity (TN)
*Clatskanie People's Utility District (OR)
*Cleveland Division of Light & Power (OH)
*Cleveland Utilities (TN)
Colorado Springs Department of Public Utilities (CO)
*Dalton Water, Light & Sink (GA)
*Danville Water, Gas & Electric (VA)
Decatur Electric Department (AL)
*Dothan Electric Department (AL)
Eugene Water & Electric Board (OR)
Fayetteville Public Works Commission (NC)
*Forence Electricity Department (AL)
Gainesville Regional Utilities (FL)
Garland Electric Department (TX)
Glendale Public Service Department (CA)
*Greeneville Light & Power System (TN)
*Greenville Utilities Commission (NC)
*Groton Public Utilities (CT)
*High Point Electric Utility Dept. (NC)
Huntsville Electric System (AL)
Imperial Irrigation District (CA)
*Independence Power & Light Department (MO)
Jackson Utility Division—Electric Department (TN)
Jacksonville Electric Authority (TN)
Johnson City Power Board (TN)
Kansas City Board of Public Utilities (KS)
Knoxville Utilities Board (TN)
Lafayette Utilities System (LA)
Lakeland Department of Electricity and Water (FL)
Lansing Board of Water & Light (MI)
*Lenoir City Utilities Board (TN)
Lincoln Electric System (NE)
Los Angeles Department of Water and Power (CA)
*Lower Colorado River Authority (TX)
*Lubbock Power & Light (TX)
Memphis Light, Gas & Water Division (TN)
Modesto Irrigation District (CA)
*Murfreesboro Electric Dept. (TN)
*Muscatine Power & Water (LA)
Nashville Electric Service (TN)
Nebraska Public Power District (NE)
Nebraska Public Power District (SD)
*North Little Rock Electric Department (AR)
*Ocala Utilities (FL)
Omaha Public Power District (LA)
Omaha Public Power District (NE)
Orlando Utilities Commission (FL)
*Owensboro Municipal Utilities (KY)
Palo Alto Electric Utility (CA)
Pasadena Water & Power Department (CA)
*Power Authority of New York (NY)
*Port Angeles Light & Water Department (WA)
Public Utility District No. 1 of Benton County (WA)
Public Utility District No. 1 of Chelan County (WA)
Public Utility District No. 1 of Clark County (WA)
Public Utility District No. 1 of Cowlitz County (WA)
*Public Utility District No. 1 of Douglas County (WA)
*Public Utility District No. 1 of Franklin County (WA)
Public Utility District No. 1 of Grant County (WA)
Public Utility District No. 1 of Grays Harbor County (WA)
Public Utility District No. 1 of Lewis County (WA)
Public Utility District No. 1 of Snohomish County (WA)
Puerto Rico Electric Power Authority
*Richland Energy Services Department (WA)
*Richmond Power & Light (IN)
Riverside Public Utilities (CA)
*Rochester Department of Public Utilities (MN)
*Rocky Mount Public Utilities (NC)
Sacramento Municipal Utility District (CA)
Salt River Project Agricultural Improvement and Power District (AZ)
San Antonio City Public Service Board (TX)
Santa Clara Electric Department (CA)
Seattle City Light Department (WA)
South Carolina Public Service Authority
*Springfield City Utilities (MO)
*Springfield Utilities Board (OR)
Springfield Water, Light & Power Department (IL)
Tacoma Public Utilities—Light Division (WA)
Tallahassee, City of (FL)
*Turlock Irrigation District (CA)
Vernon Municipal Light Department (CA)
*Wilson Utilities Department (NC)

Rural Electric Cooperatives

*Anoka Electric Cooperative (MN)
*Applachian Electric Cooperative (TN)
Chugach Electric Association (AK)
Clay Electric Cooperative (FL)

*Cobb Electric Membership Corporation (GA)
*Cotton Electric Cooperative (OK)
Cumberland Electric Membership Corporation (TN)
*Duck River Electric Membership Corporation (TN)
*Dixie Electric Membership Corporation (LA)
*First Electric Cooperative Corporation (AR)
*Flint Electric Membership Corporation (GA)
*Four County Electric Power Association (MS)
*Gibson County Electric Membership Corporation (TN)
Green River Electric Corporation (KY)
*Guadalupe Valley Electric Cooperative (TX)
Henderson-Union Rural Electric Cooperative Corporation (KY)
*Jackson Electric Membership Corporation (GA)
Lee County Electric Cooperative (FL)
*Meriweather Lewis Electric Cooperative (TN)
Middle Tennessee Electric Membership Corporation (TN)
*Midwest Energy Incorporated (KS)
Moon Lake Electric Association (UT)
North Georgia Electric Membership Corporation (GA)
Pedernales Electric Cooperative Corporation (KY)
*Pennyrile Rural Electric Cooperative Corporation (KY)
*Prince William Electric Cooperative (VA)
Rappahannock Electric Cooperative (VA)
*Rural Electric System (AL)
*Sam Houston Electric Cooperative (TX)
*Singing River Electric Power Association (MS)
*South Central Power Company (OH)
Southern Maryland Electric Cooperative, Inc. (MD)
*Southern Pine Electric Power Association (MS)
Southwest Louisiana Electric Membership Corporation (LA)
*Southwest Tennessee Electric Membership Corporation (TN)
*Trico Electric Cooperative, Inc. (AZ)
Tri-County Electric Association, Inc. (WY)
*Tri-County Electric Membership Corporation (TN)
*Umatilla Electric Cooperative Association (OR)
*Upper Cumberland Electric Membership Corporation (TN)
Volunteer Electric Cooperative (TN)
*Walton Electric Membership Corporation (GA)
*Warren Rural Electric Cooperative Corporation (KY)
*West Kentucky Rural Electric Cooperative Corporation (KY)
Withlacoochee River Electric Cooperative (FL)

Federal Agencies

*Bonneville Power Administration (OR)
*Tennessee Valley Authority (TN)
*Western Area Power Administration (CO)

Gas Utilities

All gas utilities listed below had natural gas sales, for purposes other than resale, in excess of 10 billion cubic feet in 1976, 1977, 1978, 1979, 1980, 1981 or 1982. All except those marked (*) are covered by PURPA Title III and NECPA Titles II and VII. Utilities marked (*) are not covered by NECPA Titles II and VII because they either do not exceed the NECPA threshold of 10 billion cubic feet in 1982 for purposes other than resale, or do not have residential or commercial sales. The utilities listed more than once have sales in more than one State and those States are indicated by abbreviations in parentheses.Investor-Owned

Alabama Gas Corporation
*Alabama-Tennessee Natural Gas Company
Anadarko Production Company
Arizona Public Service Company
Arkansas-Louisiana Gas Company (AR)
Arkansas-Louisiana Gas Company (KS)
Arkansas-Louisiana Gas Company (LA)
Arkansas-Louisiana Gas Company (OK)
Arkansas-Louisiana Gas Company (TX)
Arkansas-Oklahoma Gas Corporation (AR)
Arkansas-Oklahoma Gas Corporation (OK)
Arkansas Western Gas Company
Associated Natural Gas Company (AR)
Associated Natural Gas Company (MO)
Atlanta Gas Light Company
Baltimore Gas & Electric Company
Battle Creek Gas Company
Bay State Gas Company
Boston Gas Company
Brooklyn Union Gas Company
Carnegie Natural Gas Company
Carolina Pipeline Company
Cascade Natural Gas Corporation (OR)
Cascade Natural Gas Corporation (WA)
Central Illinois Light Company
Central Illinois Public Service Company
Chattanooga Gas Company (GA)
Chattanooga Gas Company (TN)
Cheyenne Light, Fuel and Power Company
Cincinnati Gas and Electric Company
Cities Service Gas Company (covered by NECPA only)
City Gas Company of Florida
City Service Gas Company
Colonial Gas Energy System
Columbia Gas of Kentucky, Inc.
Columbia Gas of New York, Inc.
Columbia Gas of Ohio, Inc.
Columbia Gas of Pennsylvania, Inc.
Columbia Gas of Virginia, Inc.
Columbia Gas of West Virginia, Inc.
Commonwealth Gas Company
Commonwealth Gas Service Incorporated
Concord Natural Gas Corporation
Connecticut Light & Power Company
Connecticut Natural Gas Corporation
Consolidated Edison Company of New York, Inc.
Consolidated Gas Supply Corporation
Consumers Power Company
Corning Natural Gas Corporation
Dayton Power & Light Company
Delmarva Power & Light Company (DE)
East Ohio Gas Company
Elizabethtown Gas Company
Energas Company
Enstar Natural Gas Company
Entex Inc. (LA)
Entex Inc. (MS)
Entex Inc. (TX)
Equitable Gas Company (KY)
Equitable Gas Company (PA)
Equitable Gas Company (WV)
Gas Company of New Mexico
Gas Light Company of Columbus
Gas Service Company (KS)
Gas Service Company (MO)
Gas Service Company (NE)
Gas Service Company (OK)
Greeley Gas Company (CO)
Greeley Gas Company (KS)
Gulf States Utilities Company
Illinois Power Company
Indiana Gas Company
Inland Gas Company
Inter City Gas Company
Intermountain Gas Company
Interstate Power Company (IA)
Interstate Power Company (MN)
Iowa Electric Light & Power Company (CO)
Iowa Electric Light & Power Company (IA)
Iowa Electric Light & Power Company (MN)
Iowa Electric Light & Power Company (NE)
Iowa-Illinois Gas & Electric Company (IA)
Iowa-Illinois Gas & Electric Company (IL)
Iowa Power & Light Company
Iowa Public Service Company (IA)
Iowa Public Service Company (NE)
Iowa Public Service Company (SD)
Iowa Southern Utilities Company
Kansas-Nebraska Natural Gas Company (CO)
Kansas-Nebraska Natural Gas Company (KS)
Kansas-Nebraska Natural Gas Company (NE)
Kansas-Nebraska Natural Gas Company (WY)
Kansas Power & Light Company
Laclede Gas Company Consolidated
Lone Star Gas Company (OK)
Lone Star Gas Company (TX)
Long Island Lighting Company
Louisiana Gas Service Company
Louisville Gas & Electric Company
Lowell Gas Company
Madison Gas & Electric Company
Michigan Consolidated Gas Company
Michigan Gas Utilities Company
Michigan Power Company
Midwest Natural Gas Corporation
Minnesota Gas Company (MN)
Minnesota Gas Company (NE)
Minnesota Gas Company (SD)
Mississippi Valley Gas Company
Missouri Public Service Company
Mobile Gas Service Corporation
Montana-Dakota Utilities Company (MN)
Montana-Dakota Utilities Company (MT)
Montana-Dakota Utilities Company (ND)
Montana-Dakota Utilities Company (SD)
Montana-Dakota Utilities Company (WY)
Montana Power Company
Mountain Fuel Supply Company (UT)
Mountain Fuel Supply Company (WY)
Nashville Gas Company
National Fuel Gas Distribution Corporation (NY)
National Fuel Gas Distribution Corporation (PA)
National Gas and Oil Company
New Bedford Gas and Edison Light Company

New Jersey Natural Gas Company
New Orleans Public Service, Inc.
New York State Electric & Gas Corporation
Niagara Mohawk Power Company
North Carolina Natural Gas Corporation
North Central Public Service Company (IA)
North Central Public Service Company (MN)
North Shore Gas Company
Northeast Utilities (CT)
Northern Illinois Gas Company
Northern Indiana Public Service Company
Northern Natural Gas Company (KS)
Northern Natural Gas Company (NE)
Northern States Power Company (MN)
Northern States Power Company (WI)
North Penn Gas Company
Northwest Alabama Gas District
Northwest Natural Gas Company (OR)
Northwest Natural Gas Company (WA)
Northwestern Public Service Company (NE)
Northwestern Public Service Company (SD)
Oklahoma Natural Gas Company
Orange & Rockland Utilities
Pacific Gas & Electric Company
Panhandle Eastern Pipeline Company (IL)
Panhandle Eastern Pipeline Company (KS)
Pennsylvania Gas & Water Company
Peoples Gas, Light and Coke Company
Peoples Gas System
Peoples Natural Gas Company
Peoples Natural Gas Company, Division of Internorth, Inc. (CO)
Peoples Natural Gas Company, Division of Internorth, Inc. (IA)
Peoples Natural Gas Company, Division of Internorth, Inc. (KS)
Peoples Natural Gas Company, Division of Internorth, Inc. (MN)
Peoples Natural Gas Company, Division of Internorth, Inc. (MO)
Peoples Natural Gas Company, Division of Internorth, Inc. (NE)
Peoples Natural Gas Company, Division of Internorth, Inc. (TX)
Philadelphia Electric Company
Piedmont Natural Gas Company (NC)
Piedmont Natural Gas Company (SC)
Providence Gas Company
Public Service Company of Colorado
Public Service Company, Inc. of North Carolina
Public Service Electric and Gas Company
Rochester Gas & Electric Corporation
San Diego Gas & Electric Company
South Carolina Gas & Electric Company
South Jersey Gas Company
Southeastern Michigan Gas Company
Southern California Gas Company
Southern Connecticut Gas Company
Southern Indiana Gas & Electric Company
Southern Union Gas Company (AZ)
Southern Union Gas Company (NM)
Southern Union Gas Company (OK)
Southern Union Gas Company (TX)
Southwest Gas Corporation (AZ)
Southwest Gas Corporation (CA)
Southwest Gas Corporation (NV)
Terre Haute Gas Corporation
T.W. Phillips Gas and Oil Company
UGI Corporation
Union Gas System, Inc. (KS)
Union Gas System, Inc. (OK)
Union Light, Heat & Power Company (KY)
Virginia Natural Gas
Washington Gas Light Company (DC)
Washington Gas Light Company (MD)
Washington Gas Light Company (VA)
Washington Natural Gas Company
Washington Water Power Company (ID)
Washington Water Power Company (WA)
West Ohio Gas Company
Western Kentucky Gas Company
Wisconsin Fuel & Light Company
Wisconsin Gas Company
Wisconsin Natural Gas Company
Wisconsin Power & Light Company
Wisconsin Public Service Corporation (MI)
Wisconsin Public Service Corporation (WI)

Public-Owned

Citizens Gas & Coke Utility (IN)
City of Richmond, Virginia, Department of Public Utilities (VA)
City Public Services Board (San Antonio) (TX)
Colorado Springs, Department of Public Utilities (CO)
Long Beach Gas Department (CA)
Memphis Light, Gas & Water Division (TN)
Metropolitan Utilities District of Omaha (NE)
Philadelphia Gas Works (PA)
Springfield City Utilities (MO)

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BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

Kansas Power and Light; Order Accepting for Filing and Suspending Rates, Noting Interventions, Consolidating Dockets, Granting Waiver in Part, and Establishing Hearing Procedures

Issued: December 30, 1983.

[Docket Nos. ER84-79-000, ER84-80-000, ER84-81-000, and ER83-418-000]

On November 10, 1983, Kansas Power and Light Company (KPL) submitted for filing executed agreements and proposed service schedules providing for partial requirements and wheeling service to Kaw Valley Electric Cooperative, Inc., Nemaha-Marshall Electric Cooperative Association, Inc., and Doniphan Electric Cooperative Association, Inc. (collectively, the Cooperatives) in Docket Nos. ER84-79-000, ER84-80-000, and ER84-81-000, respectively.[1] Each of these customers currently receives full requirements service from KPL. Under the proposed rate schedules, KPL will sell power and energy to the Cooperatives and will wheel hydroelectric power and energy purchased by the Cooperatives from the Southwestern Power Administration (SWPA). KPL characterizes its proposed wheeling rate as an "initial rate" filing. The wheeling service is expected to commence on or about January 1, 1984, when SWPA power becomes available to the Cooperatives. However, KPL proposes that the rate schedules become effective as of June 1, 1983, the effective date of the contracts between KPL and the Cooperatives. In order to accomplish this result, KPL requests waiver of the notice requirements.

Notice of KPL's filing was published in the **Federal Register** with comments due on or before December 5, 1983 (48 FR 53597-598 (1983)). On November 30, 1983, the Cooperatives filed a motion to intervene, a motion for consolidation of dockets, and a request that the Commission suspend KPL's wheeling rate for one day. The Cooperatives note that the currently proposed wheeling rate is based on the cost of service at issue is a pending KPL rate case (Docket No. ER83-418-000) and that the partial requirements rate now proposed by KPL is also at issue in the earlier proceedings. They therefore request that the Commission not decide the issue of the justness or reasonableness of KPL's rates until the proceedings in Docket No. ER83-418-000 have been resolved. However, the Cooperatives request that the Commission promptly accept the current submittal for filing, suspend it for one day in order to provide refund protection, and consolidate this case with Docket No. ER83-418-000. Even if KPL's characterization of its wheeling rate as an initial rate is accepted, the Cooperatives contend that the filing can and should be suspended [2] or, at least, set for hearing pursuant to Section 206 of the Federal Power Act. Despite their concerns with respect to the proposed rate levels, the Cooperatives "strongly support" KPL's request for waiver of notice and an effective date of June 1, 1983. If this request is not granted, they ask that the rates be made effective no later than January 1, 1984.

On December 15, 1983, KPL filed an answer to the Cooperatives' pleading. KPL objects to the requested suspension of the proposed wheeling rate based on its contention that the Commission lacks the authority to suspend initial rates. Alternatively, KPL claims that even if the Commission asserted such authority over initial rates, this is not the type of case in which such action would be appropriate. KPL also objects to the request for consolidation on the grounds that such action is unnecessary and would unduly burden KPL.

[1] *See* Attachment for rate schedule designations.

[2] The Cooperatives base their position on the Commission's Order No. 303, Docket No. RM83-21-000, "Interpretation of Authority to Suspend Initial Rate Schedules," Final Rule, III *FERC Statutes and Regulations*, ¶ 30,456 (1983); and *Middle South Energy, Inc.*, 23 FERC ¶ 61,277 (1983).

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the timely motion to intervene serves to make the Cooperatives parties to this proceeding.

Under the proposed agreements, KPL is clearly changing the character of service provided to existing customers and providing for a separate transmission rate. Such change cannot be accomplished except in the form of amendments and supplements to existing rate schedules. As a result, KPL's filings constitute changes in rates rather than initial rate filings.[3]

Our preliminary review of the instant filing and the Cooperatives' pleading indicates that the rates proposed by KPL have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. We note that the proposed partial requirements rate is identical to the rate accepted for filing, suspended for one day, and set for hearing in Docket No. ER83–418–000,[4] and that the proposed wheeling rate is based on the same cost of service as that at issue in Docket No. ER83–418–000. Accordingly, we shall accept KPL's currently proposed rates for filing and suspend them as ordered below.

In *West Texas Utilities Company*, Docket No. ER82–23–000, 18 FERC ¶ 61, 189 (1982), we explained that where our preliminary examination indicates that proposed rates may be unjust and unreasonable, but may not be substantially excessive, as defined in *West Texas*, we would generally impose a nominal suspension. In the instant proceeding, our review suggests that KPL's proposed rates may not produce substantially excessive revenues. In view of the fact that both the Cooperatives and KPL request waiver of notice and in order to have the rates in place at such time as SWPA power becomes available to the Cooperatives (January 1, 1984), we find that good cause exists to waive the notice requirements. However, we shall not allow KPL's proposed rates to go into effect retroactively as of June 1, 1983. Since service cannot and has not been intended to commence until a future date, we do not find good cause to grant this request. Therefore, we shall suspend the proposed rates, to become effective on January 1, 1984, subject to refund.

Given the close relationship between the currently proposed rates and those at issue in Docket No. ER83–418–000, we find that common questions of law and fact may be presented. Thus, we shall consolidate these dockets for puposes of hearing and decision. We note that the hearing in Docket No. ER83–418–000 is not currently scheduled to commence until the end of February, 1984, and we are not persuaded by KPL's arguments that consolidation will result in undue delay or inconvenience.

The Commission orders: (A) Waiver of the notice rrequirements is hereby granted as noted in the body of this order.

(B) KPL's proposed rates are hereby accepted for filing and suspended, to become effective, subject to refund, on January 1, 1984.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of KPL's rates.

(D) Docket Nos. ER84–79–000, ER84–80–000 and ER84–81–000 are hereby consolidated with Docket No. ER83–418–000 for purpose of hearing and decision.

(E) The administrative law judge designated to preside in Docket No. ER83–418–000 shall determine the procedures best suited for resolution of the consolidated proceeding.

(F) The Secretary shall promptly publish this order in **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

The Kansas Power and Light Company, Rate Schedule Designations, Docket Nos. ER84–79–000, ER84–80–000, and ER84–81–000

Filing Date: November 10, 1983.

Effective Date: January 1, 1984, subject to refund.

Designation	Description	Other Party
(1) Rate Schedule FERC No. 218 (Supersedes Rate Schedule FERC No. 215, as supplemented).	Agreement dated November 2, 1983	Kaw Valley Electric Cooperative, Inc.
(2) Supplement No. 1 to Rate Schedule FERC No. 218	SWPA/WRC–83	Do.
(3) Supplement No. 2 to Rate Schedule FERC No. 218	RCW–83	Do
(4) Rate Schedule FERC No. 219 (Supersedes Rate Schedule FERC No. 216, as supplemented).	Agreement dated November 2, 1983.	Nemaha-Marshall Electric Cooperative Association, Inc.
(5) Supplement No. 1 to Rate Schedule FERC No. 219	SWPA/WRC–83	Do.
(6) Supplement No. 2 to Rate Schedule FERC No. 219	RCW–83	Do
(7) Rate Schedule FERC No. 220 (Supersedes Rate Schedule FERC No. 214, as supplemented).	Agreement dated November 2, 1983	Doniphan Electric Cooperative Association, Inc.
(8) Supplement No. 1 to Rate Schedule FERC No. 220	SWPA/WRC–83	Do.
(9) Supplement No. 2 to Rate Schedule FERC No. 220	RCW–83	Do.

[FR Doc. 84–414 Filed 1–6–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER84–62–000]

New England Power Co.; Order Accepting for Filing and Suspending Rates, Noting Intervention, and Establishing Hearing Procedures

Issued December 30, 1983.

On November 1, 1983, New England Power Company ("NEP") tendered for filing amendments to its unit power contracts with Massachusetts Municipal Wholesale Electric Company (MMWEC) and the Town of Templeton, Massachusetts ("Templeton"), revising the rate for the sale of unit power from NEP's coal-burning Salem Harbor Units 1, 2, and 3.[1] The proposed amendments would decrease the composite rate for power from Units 1, 2, and 3 from $152.38/kW/year to $140.00/kW/year. The cumulative effect of the proposed rate change represents an overall decrease in revenues of approximately $950,000 for the calendar year 1984 test period.[2] NEP requests that the proposed rates become effective on January 1, 1984, subject to refund, as specified in the agreements between NEP and the affected customers.

[3] *See*, 18 CFR 35.1(c). We note, however, that in our view, the characterization of KPL's filing as an initial rate filing would not put such filing beyond the scope of the Commission's authority to suspend rates since the Commission can suspend initial rates also. Order No. 303, *supra*; *Middle South*, *supra*.

[4] 23 FERC ¶61, 330 (1983).

[1] *See* Attachment for rate schedule designations.

[2] NEP incorrectly states that the proposed rate would increase revenues associated with Unit No. 3 capacity by $587,420 (2.8%) during the test period by increasing the unit charge from $117.00 to $140.00/kW/year, and that the rate applicable to Units Nos. 1 and 2 would remain unchanged at $140.00/kW/year. However, we note that the present rate for *each* unit (pursuant to a settlement agreement in Docket No. ER82–703–000) is $152.38/kW/year. As a result, NEP's filing will result in a decrease as compared to present revenues.

Notice of the filing was published in the **Federal Register**, with comments due by November 23, 1983. [3] On November 23, 1983, MMWEC and Templeton (jointly referred to as "Customers") filed a timely protest and motion to intervene. The Customers challenge NEP's claimed return on common equity, depreciation rates, and allocation of property taxes. They also indicate that there may be additional issues in dispute, but they decline to identify such further issues, noting that settlement negotiations are expected to result in a resolution of the disputes. The Customers request that the rates be made effective, subject to refund, on January 1, 1984, as contemplated by their contracts with NEP.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the Customers' unopposed motion to intervene serves to make them parties to this proceeding.

Our preliminary review of NEP's submittal and the pleadings indicates that the proposed rates have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. We shall therefore accept NEP's rates for filing and suspend them as ordered below.

In *West Texas Utilities Company*, Docket No. ER82–23–000, 18 FERC ¶ 61,189 (1982), we explained the Commission's suspension policy and noted that rate filings would ordinarily be suspended for one day where preliminary review indicates that the proposed rates may be unjust and unreasonable but may not produce substantially excessive revenues, as defined in *West Texas*. Here, our review suggests that the rates proposed by NEP may not yield excessive revenues. Further, the Customers' contracts with NEP specifically provide that the rates will become effective, subject to refund, with the Customers to have an opportunity to pursue their objections before the Commission. Accordingly, we shall suspend the rates to become effective, subject to refund, on January 1, 1984.

The Commission orders: (A) NEP's proposed rates are hereby accepted for filing and are suspended to become effective, subject to refund, on January 1, 1984.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of NEP's rates.

(C) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately twenty (20) days of the date of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Such conference shall be held for purposes of pursuing settlement and setting a procedural schedule. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions of dismiss) as provided in the Commission's Rules of Practice and Procedure.

(D) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment

New England Power Company Docket, No. ER84–62–000, Rate Schedule Designations

Designation and Description

(1) Supplement No. 5 to Rate Schedule FERC No. 310—Revised Pages 1, 4, 6, 7 and 8 of Appendix A/MMWEC
(2) Supplement No. 6 to Rate Schedule FERC No. 310—Transmittal letter dated November 1, 1983
(3) Supplement No. 5 to Rate Schedule FERC No. 311—Revised Pages 1, 4, 6, 7 and 8 of Appendix A/ Templeton
(4) Supplement No. 6 to Rate Schedule FERC No. 311—Transmittal letter dated November 1, 1983

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BILLING CODE 6717–01–M

[3] The form of notice supplied by NEP contained an incorrect explanation of the proposed amendments. A corrected notice was therefore published in the **Federal Register** on December 6, 1983, with comments due by December 20, 1983. No additional comments have been received in response to the second notice.

[Docket No. ER84–63–000]

Southern Company Services, Inc.; Order Accepting for Filing and Suspending Rates, Granting Waiver, Granting Interventions, and Establishing Procedures

Issued December 30, 1983.

On November 1, 1983, Southern Company Services, Inc. (SCS), on behalf of is wholly-owned operating companies, Alabama Power Company, Georgia Power Company, Gulf Power Company, and Mississippi Power Company (the Operating Companies), tendered for filing a superseding Intercompany Interchange Contract (the "Contract"),[1] together with a revised Allocation Methodology and Periodic Rate Computation Manual (the "Manual") and informational schedules setting forth the charges and rate component derivation to be used during calendar year 1984. Together, the Contract and Manual govern the accounting and payment for all interchanges of capacity and energy between the Operating Companies. The Contract provides for certain power pooling transactions which include, *inter alia*, the exchange of interchange energy and the sale and purchase of capacity. SCS requests a January 1, 1984 effective date and waiver of those portions of § 35.13(a)(2) of the Commission's regulations not specifically satisfied by the instant filing.[2]

Background

The proposed Contract would replace the currently effective Intercompany Interchange Contract dated October 28, 1981, and accepted for filing by order dated May 27, 1982, in Docket No. ER82–544–000.[3] Pursuant to a settlement in that proceeding, SCS agreed to file by November 1, 1983, a new contract applicable for the 1984 calendar year and subsequent years, to become effective on January 1984, subject to refund if a hearing became necessary. The basic accounting, payment, and transaction concepts are the same in the 1984 Contracts as those reflected in the 1982 Contract. The 1984 Contract continues to use a formulary rate to calculate charges for capacity and energy transactions between the Operating Companies. The Manual contains the formulary rate methodology

[1] *See* Attachment for rate schedule designations.

[2] Specifically, SCS requests waiver of that portion of § 35.13(a)(2) which requires compliance with § 35.13(c) and (h)(37) and any other portion of § 35.13(a)(2) not otherwise satisfied.

[3] *Southern Company Services, Inc.*, Docket No. ER82–54–000, 19 FERC ¶ 62,478 (1982) (Letter Order).

used to calculate charges for service provided under the Contract. Application of the formulary rate is to be shown on informational schedules which are to be revised yearly. SCS asserts that these yearly informational filings are not rate changes which would permit suspension under the Federal Power Act.[4]

The 1984 formula methodology contains a number of minor clarifications and three significant revisions. Those three amendments are as follows: (1) The Operating Companies' peak period load ratios used to calculate reserve equalization payments would be determined based upon a three-year historical average rather than on the prior year's monthly peak demands; (2) the income tax calculation would be revised to reflect the effects of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA); and (3) the calculation of the embedded capacity cost would include pumped storage hydroelectric capacity.

Notice of SCS's filing was published in the Federal Register with comments due by November 23, 1983. On that date, a group of Alabama Municipalities [5] and the Alabama Municipal Electric Authority ("Municipalities") jointly moved to intervene. As wholesale customers of Alabama Power Company, the Municipalities assert that they may be adversely affected by a Commission order in this docket. In particular, the Municipalities challenge the rate of return on common equity reflected in the formula rates. The Municipalities request that the filing be permitted to take effect only if subject to refund and that the filing be set forth for hearing.

On November 30, 1983, Oglethorpe Power Corporation (Oglethorpe) filed an untimely motion to intervene.[6] Oglethorpe is an electric membership corporation with 39 members, each of which is an electric membership cooperative operating in Georgia. Oglethorpe furnishes power to its members through several generating resources that it owns jointly with Georgia Power Company (GPC), and through partial requirements purchases from GPC. Oglethorpe asserts that the interchance transactions covered by the proposed Contract directly affect the rates charges by GPC to Oglethorpe and thus may adversely affect Oglethorpe. It is Oglethorpe's position that the proposed formula methodology will produce unreasonable rates and charges.

On December 7, 1983, the Municipal Electric Authority of Georgia (MEAG) also filed an untimely motion to intervene.[7] MEAG supplies bulk electric power to its 47 members[8] from its ownership interest in certain nuclear and coal-fired generating resources, as well as from supplemental partial requirements purchases from GPC. MEAG states that costs incurred by GPC as to its pool and non-pool transactions will be determined by the proposed Contract. If the Contract serves to increase costs to GPC, MEAG will be directly affected as GPC seeks to pass such increased costs on to its partial requirements customers. Accordingly, if this proceeding is set for hearing, MEAG request that it be permitted to intervene. However, MEAG further requests that the Municipalities' motion for a hearing be denied on the grounds that no showing of facts or law supporting the motion has been advanced, as required by the Commission's Rules. MEAG suggests that the Municipalities more appropriately should have requested an extension of time to permit sufficient review of the SCS filing. Alternatively, MEAG requests that the Commission convene a conference of all intervenors, SCS, and the Commission's trial staff in order to identify the grounds upon which a hearing should be granted.

Discussion

Pursuant to Rule 214(c) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the timely motion to intervene serves to make the Municipalities parties to this proceeding. In addition, we find, although not without some reservations, that good cause exists to grant the untimely interventions by Oglethorpe and MEAG. While we do not wish to discourage settlement negotiations at any stage, we cannot condone a situation in which a potential intervenor disregards an established deadline in anticipation of an ultimate settlement or the absence of other interventions. The period provided for public comments is established in recognition of the limited time available for the Commission to evaluate a filing as well as the need to adequately review such comments as are received. The responsibility must be on a would-be intervenor to preserve his or her rights in a timely manner. Nonetheless, given the relatively short delay in filing and the early stage of this proceeding, the late interventions should not prejudice any party or unduly delay this case.

We initially note that waiver of certain portions of § 35.13 of the regulations was previously granted with regard to SCS's prior submittal in Docket No. ER82-54-000. In the instant case, none of the intervening parties has objected to the requested waiver. Given the fact that the outstanding information required by § 35.13(a)(2) has limited application to interchange transactions and pricing mechanisms such as those contemplated under the proposed Contract, we find that good cause exists to waive those portions of § 35.13 not fully complied with. However, we take this opportunity to advise the filing parties that, until the revised formulas are determined to be just and reasonable, any future changes resulting from operation of the formulas (including changes in the capacity charges and the variable energy charge components other than fuel costs) must be filed as rate schedule changes. In any event, as acknowledged by the Operating Companies, any change in the fixed components of the formulary rate or in the formulary methodology will constitute a change in rate, requiring a timely filing with the Commission.

Notwithstanding MEAG's opposition to a hearing, our preliminary review of SCS's submittal and the pleadings indicates that the filing has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the submittal for filing and

[4] The Operating Companies acknowledge, however, that under section 205 of the Federal Power Act, changes in the formula or fixed components of the formula, such as return on common equity, do constitute rate changes which require appropriate filings with the Commission.

[5] The Municipalties consist of the following Alabama Cities and Utility Boards: Alexandria City, Dothan, Fairhope, Foley, Lafayette, Lanett, Luverne, Opelika, Piedmont, Sylacauga, Troy, and Tuskegee.

[6] Oglethorpe explains that its motion to intervene was untimely because it believed that an agreement with SCS settling the matters at issue in this docket could be reached and because it believed that there would be no other intervenors in this proceeding.

[7] MEAG states that its motion to intervene was untimely because it had relied upon an informal agreement with SCS and the wholesale customers of the Operating Companies that none of them would seek intervention or protest the new Contract. Upon learning of the Municipalities' motion to intervene and the possibility that a hearing would result in modifications to the Contract, MEAG intervened in order to protect its interests.

[8] MEAG is comprised of the Cities of Adel, Albany, Barnesville, Blakely, Brinson, Buford, Cairo, Calhoun, Camilla, Cartersville, College Park, Commerce, Covington, Doerun, Douglas, East Point, Elberton, Ellavill, Fairburn, Fitzgerald, Forsyth, Fort Valley, Grantville, Griffin, Hogansville, Jackson, LaFayette, LaGrange, Lawrenceville, Mansfield, Marietta, Monroe, Monticello, Moultrie, Newnan, Norcross, Palmetto, Quitman, Sandersville, Sylvania, Sylvester, Thomaston, Thomasville, Washington, West Point, and Whigham, Georgia, as well as the Crisp County Power Commission, Crisp County, Georgia.

we shall suspend its operation as noted below.[9]

In *West Texas Utilities Company*, 18 FERC ¶ 61,189 (1982), we explained that rate filings would ordinarily be suspended for one day where preliminary review indicates that the rates may be unjust and unreasonable but may not produce substantially excessive revenues as defined in *West Texas*. Our review of SCS's filing indicates that it may not produce substantially excessive revenues. Furthermore, Article IV of the settlement agreement previously approved in Docket No. ER82–54–000 provides that charges under this new Contract would become effective as of January 1, 1984, subject to refund if a hearing was determined to be necessary. As a result, we shall suspend the instant submittal to become effective, subject to refund, on January 1, 1984.

The Commission orders: (A) SCA's request for waiver of outstanding cost support requirements of Part 35 of the Commission's regulations is hereby granted.

(B) SCS's proposed Interchange Contract is hereby accepted for filing and suspended to become effective, subject to refund, on January 1, 1984.

(C) The untimely motions to intervene of Oglethorpe and MEAG are hereby granted.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the proposed Interchange Contract.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days of the date of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. This conference shall be held for purposes of pursuing settlement, defining the scope of this proceeding, and establishing a procedural schedule. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in Commission's Rules of Practice and Procedure.

(F) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment

Southern Company Services, Inc., Rate Schedule Designation, Docket No. ER84–63–000

Designation and Description

Southern Company Services, Inc.
(1) Rate Schedule FERC No. 63 (Supersedes Rate Schedule FERC No. 55, as supplemented)—Intercompany Interchange Contract
(2) Supplement No. 1 to Rate Schedule FERC No. 63—Allocation Methodology and and Periodic Rate Computation Manual
(3) Supplement No. 2 to Rate Schedule FERC No. 63—Informational Schedules

Alabama Power Company
Rate Schedule FERC No. 162 (Supersedes Rate Schedule FERC No. 154) (Concurs in (1)–(3) above)

Georgia Power Company
Rate Schedule FERC No. 818 (Supersedes Rate Schedule FERC No. 808) (Concurs in (1)–(3) above)

Gulf Power Company
Rate Schedule FERC No. 80 (Supersedes Rate Schedule FERC No. 72) (Concurs in (1)–(3) above)

Mississippi Power Company
Rate Schedule FERC No. 140 (Supersedes Rate Schedule FERC No. 130) (Concurs in (1)–(3) above)

[FR Doc. 84-415 Filed 1-6-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ES84–24–000]

Boston Edison Co.; Application

January 4, 1984.

Take notice that on December 23, 1983, Boston Edison Company (Applicant) filed an application, pursuant to section 204 of the Federal Power Act, seeking an order authorizing the issuance of $140,000,000 of short-term debt securities with a maturity of not later than December 31, 1986.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 23, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-483 Filed 1-6-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP84–150–000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

January 4, 1984.

Take notice that on December 23, 1983, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP84–150–000 a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to transport natural gas on behalf of Eastern Stainless Steel Company, Division of Eastmet Corporation (Eastern Stainless) under the authorization issued in Docket No. CP83–76–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Columbia proposes to transport up to 4.1 billion Btu of natural gas per day for Eastern Stainless for a term of one year. Columbia states that the gas to be transported would be purchased from POI Energy, Inc. (POI), by Eastern Stainless and would be used primarily for process manufacturing of stainless steel in Eastern Stainless' Baltimore, Maryland plant.

Columbia states that it has released certain gas supplies of POI's which Eastern Stainless has purchased from POI. Columbia states that these supplies are subject to the ceiling price provisions of section 102, 103 and 107 of the Natural Gas Policy Act of 1978. Columbia indicates that it would receive the gas at existing delivery points in Holmes, Trumbull, Monroe, Medina, Washington, Wayne and Knox counties, Ohio, Indiana County, Pennsylvania, and Raleigh County, West Virginia, and redeliver such gas to Baltimore Gas and Electric Company, the distribution company serving Eastern Stainless.

Further, Columbia states that depending upon whether its gathering facilities are involved, it would charge

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[9] There is insufficient time or reason to grant MEAG's request to convene a post-filing conference before initial Commission action must be taken in this docket. However, at the first prehearing conference convened pursuant to Ordering Paragraph (E) below, the presiding judge may entertain discussion or argument concerning the feasibility of settlement of the appropriate scope of a hearing.

either (1) its average system-wide storage and transmission charge, currently 40.11 cents per dt, exclusive of company-use and unaccounted-for gas, or (2) its average system-wide storage, transmission and gathering charge, currently 44.93 cents per dt, exclusive of company-use and unaccounted-for gas. Columbia states that it would retain 2.85 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-484 Filed 1-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-96-000]

Hy-Tech Co.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 4, 1984.

On December 12, 1983, Hy-Tech Co., c/o Mr. Carl W. Haywood, 2109 Broadview Drive, Lewiston, Idaho 83501, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations.

The hydroelectric facility will be located in Valley County, Idaho. The power production capacity of the facility will be 3,170 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-485 Filed 1-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-37-000]

East Tennessee Natural Gas Co.; Tariff Filing

January 3, 1984.

Take notice that on December 22, 1983, East Tennessee Natural Gas Company (East Tennessee) tendered for filing the following tariff sheet to Original Volume No. 1 of its FERC Gas Tariff to be effective on January 1, 1984:

Original Sheet No. 53

East Tennessee states that the sole purpose of the tariff sheet is to implement the ETS Rate Schedule, applicable to transportation of gas on behalf of East Tennessee's system sales customers pursuant to §§ 157.45 *et seq.*, which gas has been purchased from East Tennessee. The proposed effective date is January 1, 1984.

East Tennessee states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 11, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-486 Filed 1-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA84-1-53-002 (PGA84-1) and TA84-1-53-001 (GRI84-1)]

K N Energy, Inc.; Filing

January 3, 1984.

Take notice that on December 23, 1983, K N Energy, Inc. (K N) tendered for filing, in compliance with Ordering Paragraphs (B)(1) and (B)(2) of the Commission's Order issued November 29, 1983, the following:

(1) Substitute Eighteenth Revised Sheet No. 4;

(2) Revised Schedule 1, Revised Schedule 2 page 1 of 5, and Revised Schedule 2 page 5 of 5;

(3) New Schedule 1A; and,

(4) Exhibits A through I providing the additional information requested by the Commission in Ordering Paragraph (B)(2).

On November 29, 1983, the Commission issued an "Order Accepting For Filing And Suspending Proposed Tariff Sheets, Subject To Refund And Conditions, And Ordering Consolidation" in Docket No. TA84-1-53-000 (PGA84-1). K N has filed a Request for Rehearing asking the Commission to delete Ordering Paragraph (B)(1)(b) so as to allow K N to amortize the balance associated with revalued company-owned production over 31 months, as requested in its application, rather than 12 months as ordered by the Commission in its November 29, 1983 Order.

Pending action on K N's Request for Rehearing and in compliance with Ordering Paragraph (B)(1) and (B)(2) of the Commission's Order issued November 29, 1983, K N submitted for filing under protest the information listed above.

K N states that this revised filing reflects an additional increase of 39.82¢ to comply with the Commission's Order requiring a 12 month, rather than a 31 month, amortization period associated with revalued company-owned production and a decrease of (0.19¢) per Mcf in projected gas cost due to certain NGPA well classification adjustments. In compliance with the Commission's

November 29, 1983 Order, K N re-examined its company-owned production to determine current well status qualifications for purposes of NGPA pricing classification. Pursuant to that examination, certain minor adjustments were made to the well classifications for company-owned production, as described in the exhibits attached to the filing, resulting in a net reduction in projected gas cost of (0.19¢) per Mcf. The combined tariff revisions implementing the 12 month amortization period and the various well classification adjustments result in a total additional net increase in rates under this compliance filing of 39.63¢ per Mcf.

Also submitted for filing under protest is Substitute Nineteenth Revised Sheet No. 4, reflecting the increase in the GRI surcharge from $0.0072 per Mcf to $0.0125 per Mcf effective January 1, 1984, as original filed in Docket No. TA84–1–53–001 (GRI84–1).

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 12, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–497 Filed 1–6–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. QF–84–97–000]

McDonalds' Corp.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

January 4, 1984.

On December 12, 1983, McDonalds' Corporation of McDonalds' Plaza, Oak Brook, Illinois 60521, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations.

The topping-cycle cogeneration facility will be located at 619 Broadway, Chula Vista, California 92010. The primary energy source will be natural gas. The power production capacity will be 65 kilowatts. Heat recovered from the exhaust and water jacket of the spark ignition engine will be used to heat hot water, and to provide space heating or cooling.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–498 Filed 1–6–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. OF84–103–000]

Metropolitan Denver Sewage Disposal District No. 1; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 4, 1984.

On December 15, 1983, Metropolitan Denver Sewage Disposal District No. 1 of 6450 York Street, Denver, Colorado 80229, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations.

The facility will be located in Commerce City, Colorado. The primary energy source will be biomass, in the form of digester gas produced as a by-product of the anaerobic digestion of municipal wastewater sludges. The power production capacity will be 5,520 kilowatts, initially, and may be expanded to a total capacity of 8,280 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–467 Filed 1–6–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP81–61–014 and RP82–80–012]

Michigan Wisconsin Pipe Line Co.; Service Agreement Filing

January 3, 1984.

Take notice that on December 22, 1983, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) tendered for filing a revised Service Agreement with one of its customers, Wisconsin Fuel and Light Company (Wisconsin Fuel), to be substituted for that filed herein on December 2, 1983, together with service agreements with fifty-four other customers.

Michigan Wisconsin states that the substitute service agreement does not reflect the increase in the Wisconsin Fuel Annual Contract Quantity which Wisconsin Fuel had earlier requested, because Wisconsin Fuel no longer desires such increase, due to changed marketing conditions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 11, 1984. Protests will be considerd by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to

become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-488 Filed 1-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-15-000 (PGA84-1 and IPR84-1)]

Mid Louisiana Gas Co.; Proposed Change in Rates

January 3, 1984.

Take notice that on December 23, 1983, Mid Louisiana Gas Company (Mid Louisiana) tendered for filing as part of First Revised Volume No. 1 of its FERC Gas Tariff, Forty-eighth Revised Sheet No. 3a and Ninth Revised Sheet No. 3c to become effective February 1, 1984.

Mid Louisiana states that the purpose of the filing of Forty-eighth Revised Sheet No. 3a is to reflect a Purchased Gas Cost Current Adjustment and a Purchased Gas Cost Surcharge resulting in a rate after current adjustment of 477.25 cents. The filing is being made in accordance with Section 19 of Mid Louisiana's FERC Gas Tariff, and the Purchased Gas Cost Current Adjustment reflects rates payable to Mid Louisiana's suppliers during the period February 1, 1984 through July 31, 1984.

Copies of the filing have been mailed to Mid Louisiana's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 12, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-489 Filed 1-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-85-000]

National Fuel Gas Supply Corp.; Request Under Blanket Authorization

January 4, 1984.

Take notice that on November 22, 1983, National Fuel Gas Supply Corporation (Supply), 10 Lafayette Square, Buffalo, New York 14303, filed in Docket No. CP84-85-000, a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Supply proposes to transport natural gas for an eligible end user under the authorization issued in Docket No. CP83-4-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Supply proposes to transport up to 3,300 Mcf of gas per day and 1,204,500 Mcf of gas per year, for the account of AIRCO Carbon Company (AIRCO), to National Gas Distribution Corporation (Distribution) which, in turn, would deliver the gas to AIRCO at AIRCO's facilities in St. Marys, Pennsylvania, pursuant to the terms of the gas transportation agreement dated September 19, 1983 (transportation agreement). Supply states the current transportation rate is 29.14 cents per Mcf plus 2.0 percent retainage for shrinkage which is in accordance with its transportation Rate Schedule T-1.

Supply states that currently the transportation agreement does not provide for an added incentive charge (AIC); however, during the term of this service an AIC of 5.0 cents per Mcf would be applicable to it. It is indicated that at such time, the transportation charge by Supply for this service would be in accordance with its T-2 transportation rate schedule, which is presently 34.14 cents per Mcf plus 2.0 percent retainage for shrinkage. AIRCO would use the gas transported by Supply for any eligible end use as set forth in § 157.209(e)(2) of the Regulations, it is asserted. Supply states that no new facilities are necessary to effectuate the proposed transportation which would commence on January 17, 1984, and terminate at 11:59 p.m. on June 30, 1985, or upon termination of the contract which term is for 3 months, effective September 19, 1983, and month to month thereafter, whichever occurs first.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-488 Filed 1-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-101-000]

National Fuel Gas Supply Corp.; Request Under Blanket Authorization

January 4, 1984.

Take notice that on November 29, 1983, National Fuel Gas Supply Corporation (Supply), 10 Lafayette Square, Buffalo, New York 14303, filed in Docket No. CP84-101-000, a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Supply proposes to transport natural gas for an eligible end user under the authorization issued in Docket No. CP83-4-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Supply proposes to transport up to 1,500 Mcf of gas per day and 547,500 Mcf of gas per year, for the account of Goodyear Tire and Rubber Company (Goodyear), to National Fuel Gas Distribution Corporation (Distribution) which, in turn, would deliver the gas to Goodyear at Goodyear's facilities in Niagara Falls, New York, pursuant to the terms of the gas transportation agreement dated September 13, 1983 (transportation agreement). Supply states that the current transportation rate is 29.14 cents per Mcf plus 2.0 percent retainage for shrinkage which is in accordance with its transportation Rate Schedule T-1. In addition, the current transportation rate charged by Distribution is currently 0.88 cent per Mcf plus the surcharge to reflect the tax rates applicable within the municipality where Goodyear is taking service plus 2.5 percent of the gas for loss allowance in accordance with Distribution's New York Tariff (P.S.C. No. 7-Gas), it is asserted.

Supply states that currently the transportation agreement does not provide for an added incentive charge

(AIC); however, during the term of this service an AIC of 5.0 cents per Mcf would be applicable to it. It is indicated that at such time, the transportation charge by Supply for this service would be in accordance with its T–2 transportation rate schedule, which is presently 34.14 cents per Mcf plus 2.0 percent retainage for shrinkage. Goodyear would use the gas transported by Supply for any eligible end use as set forth in § 157.209(e)(2) of the Regulations, it is asserted. Supply states that no new facilities are necessary to effectuate the proposed transportation. It is stated that the proposed transportation would commence on January 11, 1983, and terminate at 11:59 p.m. on June 30, 1985, or upon termination of the contract which term is for 3 months, effective September 13, 1983, and month to month thereafter, whichever occurs first.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–480; Filed 1–6–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP84–135–000]

National Fuel Gas Supply Corp.; Request Under Blanket Authorization

January 4, 1984.

Take notice that on December 15, 1983, National Fuel Gas Supply Corporation (Supply), 10 Lafayette Square, Buffalo, New York 14303, filed in Docket No. CP84–135–000, a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Supply proposes to transport natural gas for an eligible end user under the authorization issued in Docket No. CP83–4–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Supply proposes to transport up to 280 Mcf of gas per day and 102,200 Mcf of gas per year, for the account of Darling and Company (Darling), to National Fuel Gas Distribution Corporation (Distribution) which, in turn, would deliver the gas to Darling at Darling's facilities in Cheektowaga, New York, pursuant to the terms of the gas transportation agreement dated October 10, 1983 (transporation agreement). Supply states that the current transportation rate is 29.14 cents per Mcf plus 2.0 percent retainage for shrinkage which is in accordance with its transportation Rate Schedule T–1. In addition, the current transportation rate charged by Distribution is currently 0.88 cent per Mcf plus the surcharge to reflect the tax rates applicable within the municipality where Darling is taking service plus 2.5 percent of the gas for loss allowance in accordance with Distribution's New York Tariff (P.S.C. No. 7—Gas), it is asserted.

Supply states that currently the transportation agreement does not provide for an added incentive charge (AIC); however, during the term of this service an AIC of 5.0 cents per Mcf would be applicable to it. It is indicated that at such time, the transportation charge by Supply for this service would be in accordance with its T–2 transportation rate schedule, which is presently 34.14 cents per Mcf plus 2.0 percent retainage for shrinkage. Darling would use the gas transported by Supply for boiler fuel, which is a qualified end use pursuant to Section 157.209(e)(2) of the Regulations, it is asserted. Supply states that no new facilities are necessary to effectuate the proposed transportation. It is stated that the proposed transportation would commence on February 8, 1984, and terminate at 11:59 p.m. on June 30, 1985, or upon termination of the contract which term is for 3 months, effective October 10, 1983, and month to month thereafter, whichever occurs first.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–490 Filed 1–6–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP84–136–000]

National Fuel Gas Supply Corp.; Request Under Blanket Authorization

January 4, 1984.

Take notice that on December 15, 1983, National Fuel Gas Supply Corporation (Supply), 10 Lafayette Square, Buffalo, New York 14303, filed in Docket No. CP84–136–000, a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Supply proposes to transport natural gas for an eligible end user under the authorization issued in Docket No. CP84–4–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Supply proposes to transport up to 760 Mcf of gas per day and 277,400 Mcf of gas per year, for the account of Sorrento Cheese Company, Inc. (Sorrento), to National Fuel Gas Distribution Corporation (Distribution) which, in turn, would deliver the gas to Sorrento at Sorrento's facilities in Buffalo, New York, pursuant to the terms of the gas transportation agreement dated as of October 10, 1983 (transportation agreement). Supply states that the current transportation rate is 29.14 cents per Mcf plus 2.0 percent retainage for shrinkage which is in accordance with its transportation Rate Schedule T–1. In addition, the current transportation rate charged by Distribution is currently 0.88 cent per Mcf plus the surcharge to reflect the tax rates applicable within the municipality where Sorrento is taking service plus 2.5 percent of the gas for loss allowance in accordance with Distribution's New York Tariff (P.S.C. No. 7–Gas), it is asserted.

Supply states that currently the transportation agreement does not provide for an added incentive charge (AIC); however, during the term of this service an AIC of 5.0 cents per Mcf would be applicable to it. It is indicated that at such time, the transportation charge by Supply for this service would be in accordance with its T–2 transportation rate schedule, which is presently 34.14 cents per Mcf plus 2.0 percent retainage for shrinkage.

Sorrento would use the gas transported by Supply for boiler fuel, which is a qualified end use pursuant to § 157.209(e)(2) of the Regulations, it is asserted. Supply states that no new facilities are necessary to effectuate the proposed transportation. It is stated that the proposed transportation would commence on February 7, 1984, and terminate at 11:59 p.m. on June 30, 1985, or upon termination of the contract which term is for 3 months, effective October 10, 1983, and month to month thereafter, whichever occurs first.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-491 Filed 1-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-170-000]

Puget Sound Power & Light Co.; Tariff Change

January 4, 1984.

The filing Company submits the following:

Take notice that Puget Sound Power & Light Company of Bellevue, Washington (Puget Power), on December 21, 1983, tendered for filing a change in rates applicable to electric service rendered to nine wholesale customers under its existing Wholesale for Resale Power Contracts. Puget's filing would change both of its wholesale rate schedules, one for large customers and the other for small customers. Puget Power states that the proposed changes would increase revenues from the nine wholesale customers by $235,014 based on the twelve-month period ending June 30, 1983.

Puget Power states that the reason for the proposed rate increase is that the earned rate of return of the wholesale customers for the 12 months ended June 30, 1983, test year was only .5 per cent, which is far below the level of 12.62 per cent authorized in Docket No. ER83-92-000.

Copies of the filing were served upon Puget's wholesale customers.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 19, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-494 Filed 1-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-169-000]

Southern California Edison Co.; Filing

January 4, 1984.

The filing Company submits the following:

Take notice that on December 20, 1983, Southern California Edison Company (Edison) tendered for filing a notice of change of rates for transmission service as embodied in Edison's agreements with the following entities:

	Rate schedules FERC No.
1. City of Anaheim	130
2. City of Riverside	129

Edison is requesting authorization to refund certain overcollections under these rate schedules:

	Rate schedule FERC No.	Effective date
1. City of Anaheim	130	Jan. 1, 1983.
2. City of Riverside	129	Jan. 1, 1983.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Any person desiring to be heard or to protest this filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 19, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-495 Filed 1-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP79-28-001]

Texas Gas Transmission Corp.; Filing

January 3, 1984.

Take notice that on December 23, 1983, Texas Gas Transmission Corporation (Texas Gas) tendered for filing the following tariff sheets to its FPC Gas Tariff:

Third Revised Volume No. 1

Forty-Fourth Revised Sheet No. 7
Seventh Revised Sheet No. 7-A

Original Volume No. 2

Eighteenth Revised Sheet No. 333
Sixteenth Revised Sheet No. 362
Seventeenth Revised Sheet No. 363
Sixteenth Revised Sheet No. 365
Seventh Revised Sheet No. 643
Sixth Revised Sheet No. 959
Fifth Revised Sheet No. 982
Fourth Revised Sheet No. 1005

Texas Gas states that the revised tariff sheets are being submitted pursuant to the Commission's order modifying and approving stipulation and agreement (Order) issued October 4, 1983 in Docket No. RP79-28. The Order prescribes the rate and accounting treatment to be followed by interstate pipelines for amounts received pursuant to the Stipulation and Agreement in Docket No. RP79-28 which resolves the *Marine Construction Antitrust Litigation* M.D.L., Docket No. 417 (E.D. La).

The Order requires Texas Gas to reduce rate base for amounts received by crediting Account 108 and to implement the related reduction in rates through a separate filing in conjunction with its next change in rates within six

months following the date of rate base reduction. Texas Gas received $421,763.39 and made the appropriate rate base reduction on November 30, 1983.

The rate reduction proposed in the filing is applied to Texas Gas' currently effective base tariff sales and transportation rates. The currently effective base tariff rates are based on the settlement cost of service in Docket No. RP82-74 effective November 1, 1982, reduced for the tracking of advance payments in Texas Gas' August 1983 PGA filing.

Texas Gas requests that the revised tariff sheets become effective February 1, 1984, which date is approximately thirty (30) days after receipt of the filing by the Commission, and which coincides with the proposed effective date of Texas Gas' next semiannual purchased gas adjustment filing.

Attached to the filing are schedules showing the computation of the changes in the rates and the effect of such changes upon the jurisdictional customers of Texas Gas.

Copies of the filing are being mailed to all of Texas Gas' jurisdictional customers and interested state commissions. A copy of the filing is available for public inspection in the office of Texas Gas at Owensboro, Kentucky.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 12, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-500 Filed 1-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-18-003]

Texas Gas Transmission Corp.; Proposed Changes in FPC Tariff

January 3, 1984

Take notice that Texas Gas Transmission Corporation, on December 23, 1983, tendered for filing Forty-fifth Revised Sheet No. 7 and Ninth Revised Sheet No. 7-B to its FBC Gas Tariff, Third Revised Volume No. 1. These sheets are being issued to reflect changes in the cost of purchased gas pursuant to Texas Gas's Purchased Gas Adjustment Clause.

Copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protect said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 2.11 and 2.14 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before January 12, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-501 Filed 1-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. OF84-73-000]

Turbo Gas and Electric, Ltd.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

January 4, 1984.

On November 28, 1983, Turbo Gas and Electric, Ltd., (Applicant) of 91 Newbury Street, 3rd floor, Boston, Massachusetts 02116, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The Applicant proposes an internal combustion engine, topping cycle cogeneration facility to be located at Moss Landing, California. The primary energy source to the facility will be natural gas. The electric power production capacity will be 730 kilowatts. Heat recovered from engine jacket water and exhaust gases will be used to preheat gas entering a turbo expander facility. The turbo expander will drive a generator to produce electric power. Installation of the facility will begin in 1984.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considerd by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-492 Filed 1-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. OF84-75-000]

Turbo Gas and Electric, Ltd.—Project I; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 4, 1984.

On November 28, 1983, Turbo Gas and Electric, Ltd. (Applicant) of 91 Newbury Street, 3rd Floor, Boston, Massachusetts 02116, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

Applicant proposes to construct a 1000 kilowatt turbo expander facility which will use as its primary energy source the energy made available by depressurization of high pressure transmission gas to low pressure distribution gas. The high pressure gas will be expanded in a turbine driving an induction generator. Applicant characterizes the energy source as "waste." The facility will burn some natural gas to preheat the high pressure gas prior to entering the expander, in order to prevent freezing of pipes and the formation of hydrates. According to the Applicant, the energy input to the facility from the natural gas burned represents no more than 25% of the total energy input to the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and

214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considerd by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-493 Filed 1-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP72-133-022 (TA84-1-11-000)]

United Gas Pipe Line Co.; Change in Rates

January 3, 1984.

Take notice that on December 21, 1983, United Gas Pipe Line Company (United) tendered for filing Substitute Alternate Sixty-fourth Revised Sheet No. 4.

On November 30, 1983, United filed in the captioned docket Sixty-fourth Revised Sheet No. 4, Alternate Sixty-fourth Revised Sheet No. 4, Eighth Revised Sheet Nos. 4–A and 4–B, Twelfth Revised Sheet No. 4–C and Revised Original Sheet No. 4–D to its FERC Gas Tariff, First Revised Volume No. 1, Reflecting PGA increases and surcharge adjustments to become effective on January 1, 1984.

United has now discovered that Alternate Sixty-fourth Revised Sheet No. 4 incorrectly stated the Current Effective Rate, and therefore requests that Substitute Alternate Sixty-fourth Revised Sheet No. 4 be substituted for Alternate Sixty-fourth Revised No. 4 with United's November 30, 1983 filing. United states that this tariff sheet does not propose any change to United's tariff sheet other than the substitution of the revised sheet.

Also enclosed in the filing are Alternate Twelfth Revised Sheet No. 4–C and Alternate Revised Original Sheet No. 4–D, an alternate position for United's transportation rates which was omitted in United's filing of November 30, 1983. United requests any waivers be granted to permit these alternate transportation rates to become effective concurrently with Substitute Alternate Sixty-fourth Revised Sheet No. 4.

United states that the Base Tariff Rate on Substitute Alternate Sixty-fourth Revised Sheet No. 4, Alternate Twelfth Revised Sheet No. 4–C and Alternate Revised Original Sheet No. 4–D would be applicable under the Stipulation and Agreement for the period commencing October 1, 1983, and pending action on such agreement would be effective on an interim basis, subject to refund, under the Intérim Settlement submitted by United on October 30, 1983. These rates incorporate the rates reported on Appendix F, page 1 of 9, of the Rate Report dated November 14, 1983, pursuant to Article I and Article II of the Stipulation and Agreement filed October 31, 1983, in Docket Nos. RP82–57 and RP83–52, and the gas cost and surcharge components underlying United's PGA in the captioned docket. United states that copies of the filing are being served on each of its customers and on interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 11, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-502 Filed 1-6-84; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Implementation of Special Refund Procedures and Solicitation of Comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding $160,000 (plus accrued interest) in settlement agreement funds to members of the public. The funds are being held in escrow following the settlement of administrative and judicial proceedings involving New York Petroleum, Inc., an operator of crude oil producing properties located in Louisiana and Mississippi.

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the Federal Register and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585. All comments should conspicuously display a reference to case number HEF–0023.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–2860.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision relates to a settlement agreement entered into by New York Petroleum, Inc. (NYP), which settled possible pricing violations in the firm's sales of crude oil during the period September 1, 1973 through November 1, 1982.

The Proposed Decision sets forth the procedures and standards that the DOE has tentatively formulated to distribute the contents of an escrow account funded by NYP pursuant to the settlement. The DOE has tentatively decided that the funds should be distributed in a two-stage refund procedure of the type implemented by the DOE with respect to certain other crude oil settlement funds. Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the **Federal Register**, and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1:00 to 5:00 p.m., Monday through Friday, except federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room 1E–234, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Dated: December 19, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals.

December 19, 1983.

Proposed Decision and Order of the Department of Energy

Special Refund Procedures

Name of Case: New York Petroleum, Inc.
Date of Filing: August 1, 1983.
Case Number: HEF-0023.

Under the procedural regulations of the Department of Energy (DOE), the Office of Special Counsel (OSC) of the Economic Regulatory Administration (ERA) may request the Office of Hearings and Appeals to formulate and implement special procedures to make refunds in order to remedy the effects of alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V.

In accordance with these regulatory provisions, the OSC has filed a Petition for the Implementation of Special Refund Procedures in connection with a judicially sanctioned settlement between the DOE and New York Petroleum, Inc. (NYP). Under the terms of the settlement, NYP remitted to the DOE the sum of $160,000 which, with accrued interest, is now being held in an escrow account under the DOE's jurisdiction. The OSC's present petition requests the Office of Hearings and Appeals to institute proceedings for the appropriate distribution of the escrowed funds.

I. Background

During the period October 1973 through December 1975, NYP was the operator of crude oil producing properties located in Adams County, Mississippi and Point Coupee Parish, Louisiana. NYP was therefore a "producer" of crude oil as that term was defined in 10 CFR 212.31 of the DOE Mandatory Petroleum Price Regulations and was subject to the provisions of 10 CFR Part 212, Subpart D, which governed the first sale of domestic crude oil.[1]

On July 29, 1977, the Federal Energy Administration (FEA), a predecessor of the DOE, issued a Remedial Order to NYP in which it concluded that during the period October 1973 through December 1975 NYP had violated the crude oil producer price regulations at 10 CFR Part 212, Subpart D. Specifically, the FEA found that NYP had miscertified crude oil that it sold to Ashland Oil, Inc. (Ashland) and Koch Oil Company (Koch) and as a result overcharged those two firms by a total of $283,130.43 in sales of crude oil.[2]

The NYP Remedial Order was substantially affirmed by the Office of Hearing and Appeals in a Decision and Order issued on January 19, 1979. *New York Petroleum Corp.*, 3 DOE ¶80,111 (1979).[3] Shortly thereafter, NYP filed suit against the DOE, Ashland, and Koch in the United States District Court for the Southern District of Mississippi seeking to overturn the Remedial Order. *New York Petroleum, Inc.* v. *DOE*, Civil Action No. W79-0019(B) (S.D. Miss.). Prior to any action by the court on the merits of the suit, DOE and NYP negotiated a proposed consent agreement in which NYP agreed to remit the sum of $160,000 to the DOE in settlement of the violations alleged in the Remedial Order. The proposed settlement also relieved NYP of any potential liability for any and all violations of the DOE regulations in connection with the production and sale of crude oil from the Mississippi and Louisiana properties specified in the Remedial Order during the period September 1, 1973 through November 1, 1982 (the Settlement agreement period). On December 9, 1982, a federal magistrate dismissed the DOE as a party in the district court proceeding after finding that the proposed settlement was in the best interests of all the parties and in the public interest. The Order of Dismissal issued by the magistrate required NYP to remit to the DOE the sum of $160,000, to be held in escrow for ultimate disposition by the DOE.[4] Payment of the $160,000 was made to the Controller of the DOE for deposit in an escrow account in January 1983.

On August 1, 1983 the OSC filed its petition with this Office to establish a Subpart V proceeding. The OSC asserts in its petition that, although Ashland and Koch were originally contemplated as recipients of the refunds under the Remedial Order, this remedy would now be inappropriate in light of the decontrol of crude oil and refined petroleum products on January 28, 1981. The OSC further asserts that, as refiners, Ashland and Koch received benefits under the DOE Crude Oil Entitlements Program.[5]

[1] Prior to February 1, 1976, the provisions of 10 CFR Part 212, Subpart D generally required crude oil producers to determine the first sale price of domestic crude oil from a particular property in accordance with the base production control level (BPCL) for that property, i.e., the total number of barrels of crude oil produced and sold from the property in the same month of 1972. Crude oil production from a property which did not exceed the BPCL (referred to as "old" oil) was generally subject to the ceiling price rule set forth in 10 CFR 212.73, whereas crude oil production which exceeded the sum of the BPCL and any deficiency which had accumulated was deemed "new" oil which could be sold without regard to the ceiling price rule. In addition, if new oil was sold from a property in a particular month, additional volumes of crude oil could be sold as "released" oil at prices in excess of the applicable ceiling price level. The term "property" for the purpose of computing the BPCL was defined in 10 CFR 212.72 as the "right to produce crude oil which arises from a lease or a fee interest."

Furthermore, during the period November 10, 1973 to January 31, 1976, the first sale of domestic crude oil produced from a stripper well property was exempt from the ceiling price rule. Under the applicable regulatory provisions, a "stripper well lease" was defined as "a 'property' whose average daily production of crude petroleum and petroleum condensates, including natural gas liquids, per well did not exceed 10 barrels per day during the preceding calendar year." *See* 6 CFR 150.54(s)(2) and 10 CFR 210.32.

[2] In the Remedial Order issued to NYP, the FEA determined that during the period from October 1973 through December 1975, NYP erroneously classified four crude oil producing wells located in the H.B. Drane area of Mississippi as four separate properties. As a result of that erroneous classification, FEA determined that NYP sold crude oil to Ashland from the H.B. Drane property as either stripper well crude oil or "new" and "released" crude oil when in fact that crude oil was subject to the ceiling price rule. The FEA also found that during 1974 and 1975 NYP sold crude oil produced from the Adam and J. C. Bergeron properties to Koch at market prices, notwithstanding the fact that during those years those properties did not qualify as stripper well properties and their production did not qualify as "new" oil. Finally, FEA found that, during certain portions of the period between December 1973 and February 1975, NYP sold crude oil from the Wilson Estate, D. D. Angelloz and Stella Bertoniere properties as "new" and "released" crude oil without regard to the cumulative deficiencies which existed for those properties.

[3] In that Decision, we found that beginning in 1974 the J. C. Bergeron property qualified as a stripper well lease and that the amount of the violation found in the Remedial Order should be reduced accordingly by $16,367.43. *New York Petroleum Corp.*, 3 DOE at 80,568-9. In all other respects, the NYP Appeal was denied.

[4] In February 1983, Ashland and Koch filed a motion with the court asserting a counterclaim against NYP. In addition, they brought a separate suit against the DOE seeking payment of the settlement funds to them. The firms' motion was subsequently denied on the grounds of untimeliness and the suit against the DOE was dismissed on the grounds that the two refiners had not exhausted their administrative remedies. *New York Petroleum, Inc.* v. *Ashland Oil, Inc.*, 3 Fed. Energy Guidelines ¶26,441 (S.D. Miss. 1983).

[5] The Entitlements Program, 10 CFR 211.67, was part of the comprehensive program administered by the DOE for the mandatory pricing and allocation of crude oil, residual fuel oil and refined petroleum products. Subsequent to the imposition of petroleum price controls, there developed a price disparity between foreign crude and uncontrolled domestic crude oil, and price-controlled "old" oil, which had an unequal effect on refiners because some refiners had greater access to the inexpensive old oil than others. Firms which had little or no access to price-controlled oil were forced to purchase uncontrolled domestic or similarly expensive foreign crude oil. As a result, many small, independent refiners, with little or no access to price-controlled domestic reserves, suffered crude oil acquisition costs so high relative to the industry as a whole that those costs threatened to put them out of business. To remedy these imbalances, the DOE established the Entitlements Program. 39 FR 31650 (1974); 39 FR 39740 (1974). The Entitlements Program required refiners with proportionately greater access to old oil to make cash payments, in the form of the

Continued

that mitigated the effects of any crude oil overcharges, and that in any case Ashland and Koch were in a position to pass through to their customers any increased costs they incurred. Thus, according to the OSC, the parties actually injured and the amount of their injury cannot be readily determined and, under 10 CFR 295.281, a Subpart V petition requesting the Office of Hearings and Appeals to implement special refund proceedings is appropriate.

II. Jurisdiction

In previous Decisions, we have discussed the jurisdictional prerequisites for petitions for the implementation of special refund procedures. *See, e.g., Office of Enforcement,* 8 DOE ¶ 82,515 (1981); *Office of Enforcement,* 8 DOE ¶ 82,597 (1981) (hereinafter cited as *Vickers*); *Office of Special Counsel,* 9 DOE ¶ 82,538 (1982) (hereinafter cited as *Tenneco*). The Subpart V process is to be used in situations where DOE is unable to readily identify persons who are entitled to refunds or to readily ascertain the amounts that such persons are entitled to receive as a result of enforcement proceedings. 10 CFR 205.280.

Subpart V authorizes the Office of Hearings and Appeals, upon request by the appropriate enforcement official, to fashion special procedures to distribute moneys obtained as part of settlement agreements. 10 CFR 205.281, 205.282. This special refund process was established as part of an overall regulatory program which was intended to implement several different statutes. Congress provided for mandatory allocation and price regulations for crude oil, residual fuel oil, and refined petroleum products in the Emergency Petroleum Allocation Act of 1973 (EPAA), 15 U.S.C. 751 *et seq.* (1976). The authority to enforce regulations issued under the EPAA was granted by Section 5 of the EPAA, which incorporated enforcement authorities established in the Economic Stabilization Act (ESA), 12 U.S.C. 1904 note (1970); EPAA, 5(a), 15 U.S.C. 754(a). The statutory authority to enforce the regulations governing the allocation and pricing of petroleum products was delegated to the Administrator of the Federal Energy Administration, and subsequently to the Secretary of Energy. Federal Energy Administration Act (FEAA), 5, 15 U.S.C. 765 (1974); Department of Energy Organization Act (DOE Act), 301(a), 42 U.S.C. 7151(a) (1979). To carry out these statutory mandates, the regulations of the Cost of Living Council, the Federal Energy Office, the Federal Energy Administration, and the DOE provided throughout the existence of the price control program for the issuance of remedial orders "requiring a person to cease a violation or to eliminate or compensate for the effects of a violation, or both." 6 CFR 155.81(b) (1973); 10 CFR 205.2 (1974) (defining "remedial order"). A settlement agreement of the type entered into by the OSC and NYP and approved by the magistrate in his Order of Dismissal is in effect a consent order and thus has the same force and effect as a remedial order, except that there is no finding of liability for regulatory violations. *See* 10 CFR 205.199J.

As we have noted in previous Subpart V Decisions, restitution is designated to accomplish two purposes: Disgorgement of the fruits of a regulatory violation from the wrongdoer, and distribution of refunds to persons injured by the regulatory violation. *See generally Vickers; see also Saunder* v. *DOE,* 648 F. 2d 1341 (Temp. Emer. Ct. App. 1981). The latter objective—the distribution of refunds to overcharged persons—furthers the specific EPAA goal of providing for the "equitable distribution of * * * refined petroleum products at equitable prices * * * among all users." 15 U.S.C. 753(b)(1)(F). Subpart V offers a means of compensating parties who, because they either lack the resources or do not have a sufficient financial stake in the outcome to institute private lawsuits under Section 210 of the ESA, have suffered injuries which would otherwise go unredressed. The Subpart V process is also an efficient administrative mechanism for returning alleged overcharges to injured parties because it eliminates the need for long and costly court actions.

After reviewing the administrative and judicial record developed in this case, we have concluded that the implementation of a Subpart V proceeding is appropriate here. The NYP enforcement proceedings which preceded the judicially approved settlement concerned specific violations over periods of time extending from October 1973 through December 1975 with respect to NYP's crude oil sales from specified properties to two first purchasers (Ashland and Koch). While the two first purchasers of NYP crude oil have been identified, there nevertheless remains a significant degree of difficulty in identifying the parties who were ultimately injured and ascertaining the level of refunds which they should receive. We have explained the reasons for this finding in earlier Subpart V proceedings involving settlements of alleged crude oil violations. In *Office of Enforcement,* 9 DOE ¶ 82,521 (1982) (hereinafter cited as *Alkek*), we observed that the effects of regulatory violations involving the miscertification of crude oil were spread equally among all domestic refiners and arguably to consumers nationwide due to the operation of the DOE's Crude Oil Entitlements Program, 10 CFR 211.67. *See Alkek,* 9 DOE at 85,133. In the present case this would be true whether Koch and Ashland refined the allegedly miscertified crude oil themselves or sold it to other refiners. In either event, the ultimate refiner would report in its monthly reports to the DOE the improperly certified crude oil, and that incorrect figure would then have been used to calculate the domestic old oil supply ratio ("DOSR") and the reporting refiner's entitlements position. *See generally* 10 CFR 211.67.

Furthermore, until January 28, 1981, crude oil and refined petroleum products were subject to a comprehensive price regulation scheme which could be utilized to facilitate the channeling of refunds to adversely affected purchasers through price rollbacks. However, on that date the President exempted crude oil and all refined petroleum products from the DOE regulatory program. Exec. Order No. 12287, 46 FR 9909 (January 30, 1981). As a result of decontrol, price rollbacks can no longer be used to refund moneys to purchasers who were overcharged in the past. Therefore, to refund money to those parties who were affected adversely by violations of the regulations, a determination must generally be made regarding the extent to which the first purchasers absorbed any overcharges or passed the higher costs through to their customers by raising their own sales prices. Under these circumstances, we believe that Subpart V provides the most useful mechanism to refund money to persons who were likely to have been injured by pricing violations. The Office of Hearings and Appeals therefore has decided to exercise jurisdiction over the funds which are the subject of the OSC's Petition for Implementation of Special Refund Procedures in the case of NYP.

III. Proposed Refund Procedures

In view of the objectives expressed in the statutes and regulations discussed above, the procedures to be implemented in this case should, to the maximum extent practicable, provide for the distribution of the settlement funds

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purchase of entitlements, to refiners with less access to price-controlled oil. The program was designed to restore the competitive viability of the refining industry by generally equalizing among all domestic refiners the benefit associated with access to the lower-priced domestic crude oil.

to parties who were adversely affected by any regulatory violations that may have occurred. With this in mind, we have concluded that in evaluating claims for refunds that are based upon purchases of crude oil from NYP, we should adopt a two-stage special refund procedure of the type implemented with respect to the 24 crude oil settlement funds in the *Alkek* proceeding and the 33 crude oil settlement funds in a related proceeding. *Office of Enforcement*, 9 DOE ¶ 82,553 (1982) (hereinafter cited as *Adams*). Under the two-stage refund procedure we propose to implement, the settlement funds will first be distributed among applicants who successfully establish in their Applications for Refund that they suffered a particularized injury that was not redressed by the regulatory system. For example, a firm that purchased and refined NYP crude oil prior to November 1, 1974, the first month of the Entitlements Program, could be a claimant. *See Alkek*, 9 DOE at 85,137. In addition, a successful applicant must demonstrate actual injury—i.e., that the effects of the alleged regulatory infraction were not simply passed through to its customers in the form of higher prices for its refined products. *See Tenneco Oil Co./Plateau, Inc.*, 10 DOE ¶ 85,015 (1982) (demonstration of injury required to qualify for refund above threshold level).

We also propose to establish a rebuttable presumption that spot purchasers of crude oil from NYP were not injured by NYP's pricing practices. *See Office of Special Counsel*, 10 DOE ¶ 85,048 at 88,200 (1982) (*Amoco*). In that Decision, we observed that spot purchasers tend to have considerable discretion in making purchases and are therefore not likely to make spot market purchases at higher prices were they not able to pass through those higher prices to their own customers. We believe that the same rationale is applicable to this proceeding, and we therefore propose to require spot purchasers to submit additional evidence sufficient to establish that they were unable to recover the prices they paid to NYP.

To the extent that funds remain in the refund pool after all successful applicants are paid in the first stage, various mechanisms could be utilized. For example, the residual funds could be distributed among state governments along with and for the same purposes as the residual funds in other crude oil-related special refund cases such as *Alkek* and *Adams*.[6] In this second stage, the funds would be apportioned among state governments to reflect the level of petroleum consumption in each state during the settlement agreement period. All states, not only those in which NYP sold crude oil, would share in this distribution because, as noted above, the DOE Entitlements Program spread the effects of crude oil violations to all consumers of refined products nationwide. As in the cases involved in other crude oil consent order refund proceedings, we are unable to determine conclusively what should be done with the residual funds because the amount remaining after the first stage affects the appropriateness of the second-stage distribution scheme. *See Alkek*, 9 DOE at 85,138. If the sum remaining after the first-stage distribution is so small as to render a second-stage distribution inefficient or impractical, we may then direct the deposit of the remainder of this portion into the miscellaneous receipts account of the United States Treasury. *See* 10 CFR 205.287(c).

We are soliciting comments concerning these proposed procedures for distribution of the funds remitted to the DOE by NYP. This Proposed Decision and Order will be sent to those parties which, based on the record thus far, appear to have an interest in the proceeding, and will be published in the **Federal Register**. Comments should be submitted within 30 days after the publication of this Proposed Decision in the **Federal Register**. All comments will be made available for public inspection in the Public Docket Room of the Office of Hearings and Appeals, Room 1E–234, 1000 Independence Avenue, SW., Washington, D.C. 20585, between the hours of 1:00 and 5:00 p.m., Monday through Friday, except federal holidays. After all comments have been received, we may hold a public hearing concerning this matter, notice of which will be provided to all parties and published in the **Federal Register**.

It is therefore ordered that:

The Petition for Implementation of Special Refund Procedures filed by the Office of Special Counsel in the Matter of New York Petroleum, Inc. (NYP) is hereby granted. The settlement amount supplied by NYP, plus accrued interest, will be distributed in accordance with the foregoing Decision.

[FR Doc. 84-437 Filed 01-06-84; 8:45 am]

BILLING CODE 6540-01-M

[6] In *Standard Oil Co. (Irdiana)*, 11 DOE ¶ ——No. HQF-0020 (November 16, 1983), we recently indicated that American Indian tribes might also be appropriate recipients of a portion of second-stage refund pools. We will consider this alternative for second-stage refund distributions in this case also.

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59140A TSH-FRL 2504-2]

Napthoquinone-(1,2)-Diazide-(1)-Sulfonic-(5)-Acid Ester; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of TM–84–15, and application for a test marketing exemption (TME), under section 5(h)(6) of the Toxic Substances Control Act (TSCA). The test marketing conditions are described below.

EFFECTIVE DATE: December 30, 1983.

FOR FURTHER INFORMATION CONTACT: June Thompson, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–201, 401 M St. SW., Washington, D.C. 20460; (202–382–3737).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and to permit them to manufacture or import new chemcial substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities.

EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the application, and for the time period specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, number of workers exposed to the new chemical, and the levels and duration of exposure must not exceed that specified in the application. All other conditions described in the applications must be

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met. The following additional restrictions apply:

1. If the substance is shipped, the applicant must maintain records of the date(s) of shipment(s) to each customer and the quantities supplied in each shipment, and must make these records available to EPA upon request.

2. A bill of lading accompanying each shipment must state that use of the substance is restricted to that approved in the TME.

TME 84-15

Date of Receipt: November 21, 1983.

Notice of Receipt: December 2, 1983 (48 FR 54395).

Applicant: Molecular Rearrangement, Inc.

Chemical: (Generic) Napthoquinone-(1,2)-diazide-(1)-sulfonic-(5)-acid ester.

Use: In production of film for printing applications for industrial use.

Production Volume: Confidential.

Number of Customers: Confidential.

Exposure Information: During processing, workers could be exposed to the TME substance while weighing solids and during coating activities. Additional workers will have potential exposure from cutting film and from quality control testing activities. Routes of potential exposure are dermal and via inhalation. There will be no consumer exposure.

Test Marketing Period: 90 days.

Commencing on: (Insert signature date.)

Risk Assessment: Exposure to the new TME substance might result in irritation. However, under the conditions of use and limited duration of the test marketing activity, potential for worker exposure to the TME substance will be very low. During processing, workers will be required to wear respirators while mixing dry solids and to wear protective clothing and gloves during processing and use operations. No significant environmental effects were identified, and releases are expected to be negligible.

Public Comments: None.

The Agency reserves the right to rescind approval of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk to health or the environment.

Dated: December 30, 1983.

Marcia E. Williams,

Acting Director, Office of Toxic Substances.

[FR Doc. 84-421 Filed 1-6-84; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL COMMUNICATIONS COMMISSION

American Telephone and Telegraph Co.; Revisions to Tariff F.C.C. Nos. 258 and 260, and the Establishment of Tariff F.C.C. No. 259, for Series 7000 Terrestrial Television Transmission Services; Memorandum Opinion and Order

[CC Docket No. 81-351; Transmittal Nos. 14362 and 14393; 6-17-81; 46 FR 31747]

Adopted December 28, 1983.
Released: December 30, 1983.
By the Common Carrier Bureau.

1. In 1981, the Commission instituted this investigation into the rate structure for American Telephone and Telegraph Company's (AT&T) terrestrial television transmission services.[1] This investigation has focused on whether the disparity between part-time and full-time interexchange channel (IXC) rates for this service unreasonably discriminates against part-time users. As part of its investigation, the Commission solicited comments as to whether prescription of a Series 7000 rate structure might be necessary.[2] Before that pleading cycle was completed, however, the major full-time and part-time Series 7000 users submitted a proposal to retain the existing part-time/full-time rate structure with minor modifications. In commenting on the proposal, AT&T largely agreed that the rate structure proposed by the user parties could be workable for the future. Finding that a Series 7000 rate structure on which the different classes of customers agree is not likely to be unreasonably discriminatory, the Commission deferred the date for filing reply comments on the prescription issue and approved the proposal, in principle, as reasonable for future AT&T filings. *Memorandum Opinion and Order*, FCC 83-289, released June 28, 1983, 48 FR 30439 (July 1, 1983) *(MO&O)*. Moreover, in the *MO&O*, the Commission anticipated that a future AT&T Series 7000 tariff filing incorporating that rate structure methodology would resolve the core issue of this investigation and thus would be likely to provide a sufficient basis for its termination.

2. AT&T recently filed IXC rate revisions to its Series 7000 tariff offering increasing full-time IXC rates and decreasing part-time rates in a manner consistent with the agreed upon rate structure.[3] As we see no further need to pursue the rate structure issues, we are terminating the investigation.

3. Accordingly, it is ordered, that CC Docket No. 81-351 is terminated.

4. It is further ordered, that the petitions filed against AT&T's Transmittal No. 14362 by American Broadcasting Companies, Inc., CBS, Inc., National Broadcasting Company, Inc., Hughes Television Network, the Association of Independent Television Stations, Inc., and the Commissioner of Baseball are dismissed as moot.

5. It is further ordered that the Secretary shall cause a copy of this order to be published in the **Federal Register.**

Federal Communications Commission.

Jack D. Smith,

Chief, Common Carrier Bureau.

[FR Doc. 84-403 Filed 1-6-84; 8:45 am]

BILLING CODE 6712-01-M

[1] AT&T Series 7000, Docket No. 81-351, 86 FCC 2d 861 (1981).

[2] AT&T Series 7000, Docket No. 81-351, 88 FCC 2d 1656 (1982).

[3] *See* Transmittal No. 14393, filed on November 4, 1983. AT&T originally proposed revisions to its Series 7000 service in Transmittal No. 14362, dated September 23, 1983. Petitions seeking rejection or suspension and investigation of these revisions were filed by American Broadcasting Companies, Inc., CBS, Inc., National Broadcasting Company, Inc., Hughes Television Network, the Association of Independent Television Stations, Inc., and the Commissioner of Baseball. Petitioners objected to these revisions on grounds that AT&T did not correctly apply the rate structure approved by the Commission in the *MO&O)*. Moreover, petitioners complained that AT&T sought to make unreasonable changes in the terms governing cancellation charges for this service. On October 24, 1983, the Bureau granted AT&T Special Permission No. 83-830, to file IXC rate revisions corresponding to those unanimously endorsed by the petitioners in their pleadings. AT&T and the users later agreed upon cancellation charge terms, and on November 3, 1983, the Bureau granted AT&T Special Permission No. 83-960 to file revisions incorporating that agreement as well. Both sets of revisions were filed in Transmittal No. 14393. Therefore, we are dismissing the petitions as moot.

New FM Stations; Applications for Consolidated Hearing; Performing Arts Network of New Jersey, and American Institute for Jewish Education

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant and city/State	File No.	MM Docket No.
A. Performing Arts Network of New Jersey; Dover Township, New Jersey.	BPED-821221AP	83-1330
B. American Institute for Jewish Education; Lakewood, New Jersey.	BPED-830215A0	83-1331

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been

standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. (See Appendix—B.
2. Air Hazard—A, B.
3. (See Appendix)—A, B.
4. (See Appendix)—A, B.
5. (See Appendix)—A, B.
6. (See Appendix)—A, B.
7. Ultimate—A, B.

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632–6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix

Issue(s)

1. To determine with respect to the following applicant(s) whether, in light of the evidence adduced concerning the deficiency set forth above in paragraph 8*; the applicant(s) is financially qualified: B (AIJE)

3. To determine, the number of other primary noncommercial educational FM services (1.0 mV/m or greater) available in the proposed service areas, and the areas and populations served thereby.

4. To determine, whether a share-time arrangement between the applicants would result in the most effective use of the channel and thus better serve the public interest, and, if so, the terms and conditions thereof.

5. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service.

6. To determine, in the event it is concluded that a choice between applications should not be based solely on considerations relating to Section 307(b), the extent to which each of the proposed operations will be integrated into the overall educational operations and objectives of the respective applicants; or whether other factors in the record demonstrate that one applicant will provide a superior FM educational broadcast service.

[FR Doc. 84-402 Filed 1-6-84; 8:45 am]

BILLING CODE 6712-01-M

*Paragraph 8 reads as follows:

The material submitted by the applicant(s) below does not demonstrate its financial qualifications. Accordingly, an issue will be specified concerning the following deficiency:

Applicant(s) and Deficiency

B (AIJE): No operating budget or balance sheet for applicant. No balance sheets for Interface International, Inc. or New Jersey American Leasing, Inc. indicating their ability to lend all funds required for construction and operation for three months.

TIAG Separations and Costing Subcommittee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a two day meeting of the Telecommunications Industry Advisory Group's (TIAG) Separations and Costing Subcommittee scheduled to meet on Monday, January 19, and Tuesday, January 20, 1984. The meeting will be held at 10:00 a.m. in Room 215 of Coopers & Lybrand offices at 1251 Avenue of the Americas, New York, New York, and will be open to the public. The agenda is as follow:

I. General Administrative Matters
II. Review of revised expense accounts for Part 67
III. Review of revised plant accounts for Part 69
IV. Adjournment

With prior approval of Subcommittee Chairman Eric Leighton, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of the Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Leighton (518/462–2030) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-393 Filed 1-6-84; 8:45 am]

BILLING CODE 6712-01-M

Telecommunications Industry Advisory Group Income and Other Accounts Subcommittee

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act Pub. L. 92–463), notice is hereby given of a meeting of the Telecommunications Advisory Group (TIAG) Income and Other Accounts Subcommittee scheduled for Wednesday and Thursday, January 18 and 19, 1984. The meeting will begin on January 18 at 9:30 a.m. in the offices of the Central Services Organization, 2101 L St., NW (sixth floor Small Conference Room), Washington, DC, and will be open to the public. The agenda is as follows:

I. General Administrative Matters
II. Discussion of Assignments
III. Other Business
IV. Presentation of Oral Statements
V. Adjournment

With prior approval of subcommittee Chairman Glenn L. Griffin, oral statements, while not favored or encouraged, may be allowed at the meeting if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of subcommittee objectives. Anyone not a member of the subcommittee and wishing to make an oral presentation should contact Mr. Griffin (214/659–3484) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-401 Filed 1-6-84; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Notice of Proposed Rulemaking (NPRM).
Title: Public Safety Officer Awards.
Abstract: FEMA and DOJ, under the revised regulation, will ask the officials of States and locals to submit nominations of public officers to receive awards from the President, Attorney General or Director of FEMA for services in law enforcement, fire fighting or civil defense.
Type of respondents: Individuals or Households, State or local Governments.
Number of respondents: 200
Burden hours: 200.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 287–9906, 500 C. Street, SW, Washington, D.C. 20472.

Comments should be directed to Ken Allen, Desk Officer for FEMA, Office of Information and Regulatory Affairs, OMB, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Wesley C. Moore,

Acting Director, Administrative Support.

[FR Doc. 84-418 Filed 1-6-84; 8:45 am]

BILLING CODE 6718-01-M

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Existing Regulation.
Title: Project Performance—Project Report.
Abstract: Report consists essentially of standard construction progress schedule. No format is prescribed.
Type of respondents: State or Local Governments, Non-Profit Institutions.
Number of respondents: 10.
Burden hours: 10.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA clearance Officer, Linda Shiley, (202) 287–9906, 500 C. St., SW, Washington, D.C. 20472.

Comments should be directed to Ken Allen, Desk Officer for FEMA, Office of Information and Regulatory Affairs, OMB, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Wesley C. Moore,

Acting Director, Administrative Support.

[FR Doc. 84-417 Filed 1-6-84; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL RESERVE SYSTEM

BancOhio Corp.; Proposed de Novo Nonbank Activities by a Bank Holding Company

The organization identified in this notice has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely realted to banking.

With respect to the application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment on the application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. Federal Reserve Bank of Cleveland (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *BancOhio Corporation*, Columbus, Ohio (financing and servicing activities; Ohio and Kentucky): To engage, through its subsidiary, BancOhio Mortgage Company, in making, acquiring or servicing for its own account or for the account of others, all types of residential and commerical mortgage loans and other extensions of credit (including issuing letters of credit and accpeting drafts) and other such activities as are incidential thereto. These activities will be conducted from a new branch office in Cincinnati, Ohio, serving the States of Ohio and Kentucky. Comments on this application must be received not later than January 24, 1984.

Board of Governors of the Federal Reserve System, January 3, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-428 Filed 1-6-84; 8:45 am]

BILLING CODE 6210-01-M

Bovey Financial Corp.; Proposed Acquisition of Bovey Insurance Service

Bovey Financial Corporation, Bovey, Minnesota, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Bovey Insurance Service, Bovey, Minnesota.

Applicant states that the proposed subsidiary would engage in general insurance agency activities in a town with a population of less than 5,000. These activities would be performed from offices of Applicant's subsidiary in Bovey, Minnesota and the geographic area to be served is the area within a 20-mile radius of Bovey, Minnesota. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking priactices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 2, 1984.

Board of Governors of the Federal Reserve System, January 3, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-424 Filed 1-6-84; 8:45 am]

BILLING CODE 6210-01-M

Coronado, Inc.; Proposal To Engage in General Insurance Activities

Coronado, Inc., Sterling, Kansas, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire the general insurance business of Landmark Federal Savings Association, Dodge City, Kansas.

Applicant states that the proposed subsidiary would engage in the activities of a general insurance agency in a town of less than 5,000 in population. These activities would be performed from offices of Applicant's subsidiary in Sterling, Kansas and the geographic areas to be served are Rice and Reno Counties in Kansas. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 3, 1984.

Board of Governors of the Federal Reserve System, January 3, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-425 Filed 1-6-84; 8:45 am]

BILLING CODE 6210-01-M

First Banc Securities, Inc., et al.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *First Banc Securities, Inc.*, Morgantown, West Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Morgantown, West Virginia. Comments on this application must be received not later than February 1, 1984.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Eden Valley Bancshares, Inc.*, Eden, Valley, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of State Bank in Eden Valley, Eden Valley, Minnesota. Comments on this application must be received not later than February 1, 1984.

2. *First National Corporation*, Grand Forks, North Dakota; to become a bank holding company by acquiring 100 percent of the voting shares of Frist National Bank in Grand Forks, Grand Forks, North Dakota. Comments on this application must be received not later than January 25, 1984.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Independent Financial, Inc.*, Lubbock, Texas; to become a bank holding company by acquiring at least 80 percent of the voting shares of Whisperwood National Bank, Lubbock, Texas. Comments on this application must be received not later than February 1, 1984.

Board of Governors of the Federal System, January 3, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-426 Filed 1-6-84; 8:45 am]

BILLING CODE 6210-01-M

Second National Corp.; Acquisition of Bank Shares by a Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Second National Corporation*, Richmond, Indiana; to acquire 24.89 percent of the voting shares or assets of Bentonville State Bank, Bentonville, Indiana. Comments on this application must be received not later than January 25, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-427 Filed 1-6-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 83D-0414]

Action Levels for Total Volatile N-Nitrosamines in Rubber Baby Bottle Nipples; Availability of Compliance Policy Guide

Correction

In FR Doc. 83-34324, beginning on page 57014, in the issue of Tuesday,

December 27, 1983, make the following corrections:

1. On page 57014, in the second column, in the "**summary**" paragraph, in the fifth line "N-nitrosamines" should read "*N*-nitrosamines".

2. Also on page 57014, in the third column, in the fourth line from the bottom, "anine-containing" should read "amine-containing".

BILLING CODE 1505-01-M

Advisory Committees; Meetings

Correction

In FR Doc. 83-34428, beginning on page 57172, in the issue of Wednesday, December 28, 1983, make the following corrections:

1. On page 57172, in the third column, in the eleventh line from the bottom, "markets" should read "markers"

2. On page 57173, in the first column, in the sixth line from the top, "markets" should read "Markers".

BILLING CODE 1505-01-M

[Docket No. 83N-0363]

Biological Products; In Vitro or In Vivo Monoclonal Antibodies, Products Made Using Recombinant DNA Technology, or Interferon; Availability of Draft Criteria for New Technologies; Request for Comments, Data, and Recommendations

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of four separate sets of draft criteria for new technologies: in vitro monoclonal antibody products; in vivo monoclonal antibody products; recombinant DNA products; and interferon products. FDA also is requesting comments, data, and recommendations from the public on each of the documents. The agency eventually may develop these documents into guidelines or regulations to ensure the safety, purity, potency, and effectiveness of these kinds of biological products subject to licensure under the Public Health Service Act as well as for nonbiological new drugs made by recombinant DNA technology and subject to approval under the Federal Food, Drug, and Cosmetic Act.

ADDRESS: Written comments or a request for a copy of the draft documents to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. A copy of each of the four documents is on public display at the Dockets Management Branch.

FOR FURTHER INFORMATION CONTACT: For monoclonal antibody products: Bruce Merchant, National Center for Drugs and Biologics (HFN-838), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-496-4538.

For recombinant DNA products: Darrell Liu, National Center for Drugs and Biologics (HFN-870), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-496-2893.

For interferon: Kathryn Zoon, National Center for Drugs and Biologics (HFN-870), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-496-2893.

SUPPLEMENTARY INFORMATION: Biological monoclonal antibody products prepared by hybridoma technology, drugs and biological products produced by recombinant DNA technology, and interferon intended for investigational use in humans currently present a potential for major advances in medical diagnosis or therapy. These new technologies pose unique quality control and safety problems that must be thoroughly considered and overcome before any such products are licensed and commercially marketed. FDA's National Center for Drugs and Biologics has developed the following four draft documents to assist manufacturers in developing and submitting to FDA applications for approval of such products for investigation or marketing:

1. Points to consider in the Manufacture of In Vitro Monoclonal Antibody Products Subject to Licensure (draft of June 20, 1983);

2. Points to Consider in the Manufacture of Monoclonal Antibody Products for Human Use (draft of July 25, 1983);

3. Points to Consider in the Production and Testing of New Drugs and Biologicals Produced by Recombinant DNA Technology (draft of November 18, 1983); and

4. Interferon Test Procedures: Points to be Considered in the Production and Testing of Interferon Intended for Investigational Use in Humans (draft of July 28, 1983).

FDA requests comments, data, and recommendations concerning each of the four draft documents. FDA may develop each of these documents into guidelines under 21 CFR 10.90(b)(1) or into regulations as needed to ensure the safety, purity, potency, and effectiveness of any licensed biological product prepared by any of these new technologies or to ensure the safety and effectiveness of new drugs or other products regulated under the Federal Food, Drug, and Cosmetic Act and produced by recombinant DNA technology. Because these new technologies are changing and improving constantly, FDA may revise the draft documents several times and place the revisions on display. However, rather than publish a notice of availability with each such revision, FDA will send a copy of any revised draft document to any person who has requested updated versions of the documents in accordance with the procedure described below.

FDA has already provided each manufacturer of monoclonal antibody products, recombinant DNA products, and interferon with a copy of the four draft documents. Other persons interested in obtaining a copy of the documents and any future revisions may write to the Dockets Management Branch (address above). Requests should include the docket number found in brackets in the heading of this document and the specific title of the documents of interest to the person submitting the request.

Interested persons may submit written comments on the documents to the Dockets Management Branch. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 3, 1984.

Mark Novitch,

Acting Commissioner of Foods and Drugs.

[FR Doc. 84-490 Filed 1-6-84; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

National Digestive Diseases Advisory Board; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Digestive Diseases Advisory Board on January 31, 1984, 8:30 a.m. to adjournment, at Wilson Hall, Building 1, National Institutes of Health, Bethesda, Maryland 20205. The meeting, which will be open to the public, is being held to discuss the Board's activities and to continue the evaluation of the implementation of current digestive diseases plan. Attendance by the public will be limited to space available.

Dr. Ralph Bain, Executive Director, National Digestive Diseases Advisory Board, P.O. Box 30377, Bethesda, Maryland 20084, (301) 496-2232, will

provide an agenda and roster of members. Summaries of the meeting may be obtained by contacting Carole A. Frank, Committee Management Office, NIADDK, National Institutes of Health, Room 9A46, Building 31, Bethesda, Maryland 20205, (301) 496–6917.

Dated: January 4, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84–409 Filed 1–6–84; 8:45 am]

BILLING CODE 4140–01–M

Clinical Applications and Prevention Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Clinical Applications and Prevention Advisory Committee, Division of Heart and Vascular Diseases, National Heart, Lung, and Blood Institute, National Institutes of Health, March 21–22, 1984. The meeting will be held in Conference Room B119, Federal Building, 7550 Wisconsin Avenue, Bethesda, Maryland 20205.

This meeting will be open to the public on March 21 from 9:00 a.m. to recess and from 8:30 a.m. to adjournment on March 22 to discuss new initiatives, program policies and issues. Attendance by the public is limited to space available.

Ms. Terry Bellicha, Chief, Public Inquiry Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–4236, will provide a summary of the meeting and a roster of committee members upon request. Dr. William Friedewald, Executive Secretary of the Committee, Federal Building, Room 212 Bethesda, Maryland 20205, phone (301) 496–2533, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health.)

Dated: January 4, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84–408 Filed 1–6–84; 8:45 am]

BILLING CODE 4140–01–M

Biomedical Research Support Subcommittee of the General Research Support Review Committee; meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Biomedical Research Support Subcommittee of the General Research Support Review Committee, Division of Research Resources, National Institutes of Health, February 24, 1984, Building 31C, Conference Room 8, Bethesda, Maryland 20205, from 9:30 a.m. to adjournment.

The meeting will be open to the public on February 24, from 9:30 a.m. to adjournment to discuss program policies and planning for the Biomedical Research Support Grant Program, the Biomedical Research Support Shared Instrumentation Grant Program and the Minority High School Student Research Apprentice Program. Attendance by the public will be limited to space available.

Mr. James Augustine, Information Officer, Division of Research Resources, Room 5B10, Building 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–5545, will provide summaries of the meeting and rosters of the Committee members. Dr. Marjorie A. Tingle, Executive Secretary, Biomedical Research Support Subcommittee of the General Research Support Review Committee will furnish substantive program information and will receive any comments pertaining to this announcement.

(Catalogue of Federal Domestic Assistance Program No. 13.337, Biomedical Research Support, National Institutes of Health)

Dated: January 4, 1984.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 84–407 Filed 1–6–84; 8:45 am]

BILLING CODE 4140–01–M

Pulmonary Diseases Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Pulmonary Diseases Advisory Committee, National Heart, Lung, and Blood Institute, on February 16–17, 1984 at the National Institutes of Health, Building 31, Conference Room 7, 9000 Rockville Pike, Bethesda, Maryland 20205.

The entire meeting, from 8:30 a.m. on February 16 to adjournment on February 17, will be open to the public. The Committee will discuss the plans for fiscal year 1985. Attendance by the public will be limited to the space available.

Ms. Terry Bellicha, Chief, Public Inquiry Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A–21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–4236, will provide summaries of the meeting and rosters of the Committee members.

Dr. Suzanne S. Hurd, Acting Executive Secretary of the Committee, Westwood Building, Room 6A16, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–7208, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.838, Lung Diseases Research, National Institutes of Health)

Dated: January 4, 1984.

Betty J. Beveridge,

Committee Management Officer.

[FR Doc. 84–406 Filed 1–6–84; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

National Toxicology Program; Chemicals (13) Nominated for Toxicological Testing; Request for Comments

SUMMARY: On November 8, 1983, the Chemical Evaluation Committee of the National Toxicology Program (NTP) met to review 12 chemicals and one group of substances nominated for toxicology testing and to recommend the types of testing to be performed. With this notice, the NTP solicits public comment on the 13 chemicals listed herein.

For Further Information and Submission on Comments, Contact: Dr. Dorothy Canter, Assistant to the Director, National Toxicology Program, Room 2B55, Building 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–3511.

SUPPLEMENTARY INFORMATION: As part of the chemical selection process of the National Toxicology Program, nominated chemicals which have been reviewed by the NTP Chemical Evaluation Committee (CEC) are published with request for comment in the **Federal Register** and *NTP Technical Bulletin*. This encourages outside individuals and groups to participate in the NTP chemical evaluation process thereby helping the NTP to make better informed decisions as to whether to select, reject or defer chemicals for testing.

Relevant comments and data submitted in response to this request are reviewed and summarized by NTP technical staff and then forwarded to the NTP Board of Scientific Counselors for its evaluation of the nominated chemicals and to the NTP Executive Committee for its decision-making about testing. The NTP chemical selection process is summarized in the **Federal Register**, April 14, 1981 (46 FR 21818), and also in the NTP FY 1983 Annual Plan, pages 213–215.

On November 8, 1983, the CEC evaluated 12 chemicals and one group of substances nominated to the NTP for toxicological testing. The table below lists the chemicals and the group of substances, the Chemical Abstracts Service (CAS) registry numbers, where applicable, and the types of testing recommended by the CEC.

Chemical	CAS No.	Committee recommendation
1. Arsine	7784-42-1	Comparative study of chemical disposition of arsine and arsenic trioxide.
2. Black newsprint inks		Skin painting carcinogenicity of two types of ink and of their petroleum pitch and petroleum oil vehicle components. Chemical analyses of inks and their components to be performed prior to initiation of carcinogenicity studies.
3. Cinquasia red	1047-16-1	Inhalational chemical disposition study.
4. C.I. Acid Yellow 151	12715-61-6	No testing.
5. C.I. Basic Red 18	14097-03-1	Dermal chemical disposition study.
6. C.I. Direct Red 80	2610-10-8	No testing.
7. C.I. Direct Yellow 4	3051-11-4	Chemical disposition study. Carcinogenicity study if absorption demonstrated.
8. C.I. Disperse Brown 1	23355-64-8	No testing.
9. D&C Yellow No. 11	8003-22-3	Salmonella assay. Dermal chemical disposition study. Oral carcinogenicity study.
10. Luminol	521-31-3	Salmonella assay. Dermal chemical disposition study.
11. Malathion	121-75-5	Defer pending receipt of reproductive studies from EPA.
12. Picloram	1918-02-1	Defer pending receipt of data from EPA.
13. Stannous flouride	7783-47-3	No testing.

The chemicals malathion and picloram were previously tested by the NTP in various toxicology test systems. Malathion was negative for carcinogenicity in feeding studies in male and female rats and mice. The chemical was also negative in the *Salmonella* microsomal assay when tested in four strains of the bacteria both with and without metabolic activation. Malathion was positive for both chromosomal aberrations and sister chromatid exchanges when tested in cultured Chinese hamster ovary cells.

In an NCI/NTP feeding study of picloram in male and female rats and mice, an increased incidence of neoplastic nodules of the liver in female rats was associated with treatment with picloram. No tumors were observed in male or female mice or male rats at incidences that could be significantly associated with treatment. On the basis of these results, it was judged that there is equivocal evidence of carcinogenicity for picloram. The chemical ws negative in the *Salmonella* assay in all four strains tested both with and without metabolic activation. Picloram did not induce sexlinked recessive lethal mutations when tested in Drosophila. It currently is being tested in cultured Chinese hamster ovary cells for its ability to induce chromosomal aberrations and sister chromatid exchanges.

Although stannous fluoride has not previously been selected for testing by the NTP, two related compounds, namely stannous chloride and sodium fluoride, have been. There was no evidence of carcinogenesis when stannous chloride was tested in a feed study in male and female rats and mice. The chemical was also negative in the *Salmonella* assay in all four strains tested with and without activation. Sodium fluoride is currently being administered in the water to rats and mice in a carcinogenesis study. It was negative in all four strains tested in the *Salmonella* assay but yielded positive results in the L5178Y mouse lymphoma assay.

None of the other chemicals evaluated for testing at the November 8, 1983 meeting have previously been selected by the NTP for any type of toxicological testing.

Interested parties are requested to submit pertinent information. The following types of data are of particular relevance:

(1) Completed, ongoing and/or planned toxicological testing in the private sector including detailed experimental protocols and, in the case of completed studies, resultant data.

(2) Modes of production, present production levels, and occupational exposure potential.

(3) Uses and resulting exposure levels, where known.

(4) Results of toxicological studies of structurally related compounds.

Please submit all information in writing by (thirty days after date of publication). Any submissions received after the above date will be accepted and utilized where possible.

Dated: January 3, 1984.

David P. Rall,

M.D., Ph. D., Director, National Toxicology Program.

[FR Doc. 84-406 Filed 1-6-84; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Under Secretary

[Docket No. N-83-1328]

Advisory Committee on Contract Document Reform; Meeting

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of meeting of the Advisory Committee on Contract Document Reform.

SUMMARY: The second meeting of the Committee on Contract Document Reform will be held on January 31, 1984 at 9:30 a.m. in the Under Secretary's Conference Room (10106) at the Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410.

The purpose of the meeting is to discuss the Committee members' written comments on the contract documents used in connection with the Department's insured housing programs.

This meeting is open to the public. Any interested persons may attend, appear before, or file statements with the Committee. Oral statements may be made at the meeting at the time and in the manner permitted by the committee.

FOR FURTHER INFORMATION CONTACT: Joseph R. Lupica, Special Assistant to the Secretary, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, Telephone: (202) 755-5713. [This is not a toll-free number.]

Dated: December 30, 1983.

Philip Abrams,

Under Secretary, Department of Housing and Urban Development.

[FR Doc. 84-473 Filed 1-6-84; 8:45 am]

BILLING CODE 4210-32-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Big Sandy Rancheria, California; Distribution Plan

December 30, 1983.

This notice is published pursuant to the order issued June 13, 1983, in *San Joaquin or Big Sandy Band of Indians, et al.* v. *Watt, et al.*, Civil No. C-80-3787-MHP, by the United States District Court for the Northern District of California. Plaintiffs and class members in that lawsuit retain their status as Indians under the laws of the United States. The Distribution Plan for the Big Sandy Rancheria which was approved

February 17, 1965, and amended January 24, 1967, is of no further force and effect and shall not be further implemented, *provided,* however, that this provision shall not affect any vested rights created under the Distribution Plan, the validity of any conveyances authorized and affected thereunder or the rights of any subsequent bona fide purchaser for value.

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 84-388 Filed 1-6-84; 8:45 am]

BILLING CODE 4310-02-M

Table Mountain Rancheria; Distribution Plan

December 30, 1983.

This notice is published pursuant to the order issued June 13, 1983, in *Table Mountain Rancheria Association, et al.* v. *Watt, et al.,* Civil No. C-80-4595-MHP, by the United States District Court for the Northern District of California. Plaintiffs and class members in that lawsuit retain their status as Indians under the laws of the United States. The Distribution Plan for the Table Mountain Rancheria which was approved July 16, 1959, is of no further force and effect and shall not be further implemented, *provided,* however, that this provision shall not affect any vested rights created under the Distribution Plan, the validity of any conveyances authorized and affected thereunder or the rights of any subsequent bona fide purchaser for value.

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 84-389 Filed 1-6-84; 8:45 am]

BILLING CODE 4310-02-M

Federal Acknowledgment of the Poarch Band of Creeks; Proposed Finding

December 30, 1983.

This notice is published in the excise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.9(f), notice is hereby given that the Assistant Secretary proposes to acknowledge that the

Poarch Band of Creeks, c/o Mr. Eddie L. Tullis, Route 3, Box 243-A, Atmore, Alabama 36502

exists as an Indian tribe within the meaning of Federal law. This notice is based on a determination that the group satisfies the criteria set forth in 25 CFR 83.7 and, therefore, meets the requirements necessary for a government-to-government relationship with the United States.

The preliminary determination is that the contemporary Poarch Band of Creeks is a successor of the Creek Nation of Alabama prior to its removal to Indian Territory. The Creek Nation has a documented history back to 1540. Ancestors of the Poarch Band of Creeks began as an autonomous town of half-bloods in the late 1700's with a continuing political connection to the Creek Nation. The Poarch Band remained in Alabama after the Creek Removal of the 1830's, and shifted within a small geographic area until it settled permanently near present-day Atmore, Alabama.

The Band has existed as a distinct political unit since before the Creek War of 1813-14. It was governed by a succession of military leaders and prominent men in the 19th century. From the late 1800's through 1950, leadership was clear but informal. A formal leader was elected in 1950.

The group's bylaws describe how membership is determined and how the group governs its affairs and its members. Virtually all of the Band's 1,470 members can document descendancy from the historic Creek Nation and appear to meet the group's membership requirements. Intermarriage within the group has occurred to such an extent over the years that family lines present in the Poarch community are now extremely intertwined and many members trace their ancestry to more than one established Creek ancestor.

No evidence was found that the members of the Poarch Band of Creeks are members of any other Indian tribes or that the tribe or its members have been the subject of Congressional legislation which has expressly terminated or forbidden a relationship with the Federal Government.

Based on this preliminary factual determination, it is concluded that the Poarch Band of Creeks meets criteria a through g of § 83.7 of the Acknowledgment regulations.

Under § 83.9(f) of the Federal regulations, a report summarizing the evidence for the proposed decision is available to the petitioner and interested parties upon written request.

Section 83.9(g) of the regulations provides that any individual or organization wishing to challenge the proposed finding may submit factual or legal arguments and evidence to rebut the evidence relied upon. This material must be submitted by May 8, 1984. Comments and requests for a copy of the report should be addressed to the Office of the Assistant Secretary—Indian Affairs, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20245, Attention: Branch of Federal Acknowledgment.

After consideration of the written arguments and evidence rebutting the proposed finding and within 60 days after the expiration of the response period, the Assistant Secretary will publish his determination regarding the petitioner's status in the **Federal Register** as provided in § 83.9(h).

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 84-387 Filed 1-6-84; 8:45 am]

BILLING CODE 4310-02-M

Conveyance of Public Lands in Cheyenne, Custer, Eagle, and Yuma Counties, Colorado

Correction

In FR Doc. 83-33895 appearing on page 56651 in the issue of Thursday, December 22, 1983, make the following corrections:

1. In the tabular text, under BLM Serial No., "C-5210-PS" should have read "C-35210-PS".

2. Under Patentee(s), "Roades Brothers, Inc." should have read "Rhoades Brothers, Inc."

BILLING CODE 1505-01-M

Bureau of Land Management

Craig District, Little Snake Resource Area, Colorado; Notice of Intent To Amend the Management Framework Plan, Redelineate the Fish Creek Tract, and Consider Additional Area for Leasing in the Green River-Hams Fork Region

AGENCY: Bureau of Land Management, Interior.

ACTION: Amendment to Williams Fork Management Framework Plan.

SUMMARY: In accordance with 43 CFR Part 1600 and Pub. L. 94-579, Section 603, the Bureau of Land Management, Craig District, Colorado, is beginning the process of amending the Williams Fork Management Framework Plan. The purpose of the MFP amendment is to determine if the area listed below is suitable for further consideration for competitive coal leasing. The effects of designating areas as suitable or unsuitable for further consideration for coal development will be assessed in an environmental assessment. Following the determination of areas which are suitable, BLM will analyze the impacts of leasing and development of any

suitable areas in the Green River-Hams Fork II EIS.

DATE: The scoping period runs for 30 days from the date of this notice. Written comments must be submitted within this 30-day period.

ADDRESS: Comments should be addressed to Carol MacDonald, Team Leader, Bureau of Land Management, Little Snake Resource Area, P.O. Box 1136, Craig, Colorado 81626.

SUPPLEMENTARY INFORMATION: The geographic area for the Williams Fork MFP coal amendment will be approximately 604 acres of land in Routt County, Colorado, within the Little Snake Resource Area. The study area lies approximately 20 miles southwest of Steamboat Springs, Colorado. Following is a legal description of the study area:

Sixth Principal Meridian

T. 5N., R. 86 W.,
Sec. 31, lots 1, 2, 3, and 4, W½E½, E½W½.
T. 5 N., R. 87 W.,
Sec. 25, lots 1, 2, 3, and 4.

Issues to be addressed in the plan amendment include cultural resources, wildlife, threatened or endangered species, floodplains, and alluvial valley floors.

Planning criteria will involve application of the unsuitability criteria (43 CFR 3460) and an analysis of multiple use decisions. A mineral analysis has determined this land only has potential for subsurface mining.

The plan amendment will be prepared through the use of an interdisciplinary team with experience and knowledge in the following areas: lands, minerals, hydrology, soils, wildlife, recreation, cultural resources, visual resources, and vegetation.

The following land use alternatives will be considered in the plan amendment and environmental assessment:

1. Determination of acceptability for further consideration for coal leasing.
2. Determination of non-acceptability for further consideration for coal leasing.
3. No action.

The scoping process will consist of a 30-day written comment period. Public meetings will be held if there is sufficient demand.

If this MFP amendment determines any part of the area acceptable for further consideration, BLM will include the acceptable area in the Fish Creek tract of the Green River-Hams Fork II EIS. In order to add the area, BLM intends to take the following steps in addition to amending the MFP:

1. A redelineation of the Fish Creek tract to include the acceptable area;
2. Preparation of a supplement to the Fish Greek SSA to identify and analyze the impacts of leasing additional area; and
3. Inclusion of all impacts, both site specific and regional, in the FEIS for the Green River-Hams Fork Region.

Through these steps, BLM will complete required land use planning and environmental analysis in order to be able to ensure timely consideration of leasing the area. Existing information on the area indicates that it is unlikely the area could ever be leased or mined if it were not included as part of the Fish Creek tract.

FOR FURTHER INFORMATION CONTACT: Carol MacDonald, (303) 824–4441.

Cecil Roberts,

Acting State Director.

[FR Doc. 84–457 Filed 1–6–84; 8:45 am]

BILLING CODE 4310–84–M

National Park Service

Intention To Negotiate Concession Contract; Kettle Falls Hotel, Inc.

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Kettle Falls Hotel, Inc., authorizing it to provide overnight accommodations, food and beverage service, boat rental, fuel sales, mechanical portage, general merchandise sales, courtesy dock operations, and water transportation of lodging guests at Voyageurs National Park, Minnesota, for a period of ten (10) years from January 1, 1984, through December 31, 1993.

This contract has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing permit which expires by limitation of time on December 31, 1983, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of a permit and in the negotiation of a new contract. This provision, in effect, grants Kettle Falls Hotel, Inc., the opportunity to meet the terms and conditions of any other proposal submitted in response to this notice which the Secretary may consider better than the proposal submitted by Kettle Falls Hotel, Inc. If Kettle Falls Hotel, Inc., amends its proposal and the amended proposal is substantially equal to the better offer, then the proposed new contrct will be negotiated with Kettle Falls Hotel, Inc.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the thirtieth (30th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Regional Director, Midwest Region, National Park Service, 1709 Jackson Street, Omaha, Nebraska 68102, for information as to the requirements of the proposed contract.

Dated: November 23, 1983.

James L. Ryan,

Acting Regional Director, Midwest Region.

[FR Doc. 84–423 Filed 1–6–84; 8:45 am]

BILLING CODE 4310–70–M

Intention To Negotiate Concession Contract; Whispering Pines of Kabetogama, Inc.

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, though the Director of the National Park Service, proposes to negotiate a concession contract with Whispering Pines of Kabetogama, Inc., authorizing it to provide overnight accommodations, boat and motor rental, launch ramp, boat storage, fuel sales, general merchandise, and courtesy dock operations for the public at Voyageurs National Park, Minnesota, for a period of ten (10) years from January 1, 1984, through December 31, 1993.

This contract has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing permit which expires by limitation of time on December 31, 1983, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of a permit and in the negotiation of a new contract. This provision, in effect, grants Whispering Pines of Kabetogama, Inc., the

opportunity to meet the terms and conditions of any other proposal submitted in response to this notice which the Secretary may consider better than the proposal submitted by Whispering Pines of Kabetogama, Inc. If Whispering Pines of Kabetogama, Inc., amends its proposal and the amended proposal is substantially equal to the better offer, than the proposed new contract will be negotiated with Whispering Pines of Kabetogama, Inc.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the thirtieth (30th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Regional Director, Midwest Region, National Park Service, 1709 Jackson Street, Omaha, Nebraska 68102, for information as to the requirements of the proposed contract.

Dated: November 23, 1983.

James L. Ryan,

Acting Regional Director, Midwest Region.

[FR Doc. 84-422 Filed 1-6-84; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30381]

The Bloomer Shippers Railway Redevelopment League; Operations and Construction Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 10901 the Bloomer Shippers Railway Redevelopment League to: (1) Operate or have a separate operating company operate a 63-mile line of track known as the Bloomer Line located between a point west of Herscher, Kankakee County, IL, and a point east of Barnes, McLean County, IL; (2) construct connecting tracks with the Norfolk and Western Railway at Risk (Strawn) IL, and with the Atchison, Topeka and Santa Fe Railway at Chatsworth, IL; and (3) operate the line beginning with a central segment running from milepost 88 (north of Cullom) to milepost 120 (west of Colfax) and including the two above-mentioned track connections. In addition, the Commission exempts petitioner from the requirements of 49 U.S.C. Subtitle IV, (a) from any immediate common carrier obligation to provide transportation outside a 32-mile central portion of the Bloomer Line (outside the line between milepost 88 and milepost 120) and (b) from any provision which might prohibit the League from imposing a capital contribution requirement and/or separate local charge on prospective rail service users as a precondition to providing transportation.

DATES: These exemptions will be effective on December 30, 1983. Petitions to reopen must be filed by January 30, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 30381 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.
(2) Petitioners' representative: Kevin B. McCarthy, 710 South Second Street, Second Floor, Springfield, IL 62704.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC metropolitan area) or toll free (800) 424-5403.

Decided: December 30, 1983.

By The Commission, Division 2, Commissioners Gradison, Taylor, and Sterrett. Commissioner Sterrett did not participate.

James H. Bayne

Acting Secretary.

[FR Doc. 84-431 Filed 1-6-84; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30328]

Chicago and North Western Transportation Company—Abandonment Exemption—In Kane County, IL

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 10903 *et seq.*, the abandonment by Chicago and North Western Transportation Company of a 0.7-mile segment of track between milepost 35.8 and milepost 36.5, in Kane County, IL, subject to standard labor protection.

DATES: This exemption will be effective on February 8, 1984. Petitions to stay must be filed by January 19, 1984, and petitions for reconsideration must be filed by January 30, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 30328 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423.
(2) Petitioner's representative: Robert T. Opal, One North Western Center, Chicago, IL 60606.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC Metroplitan area) or toll free (800) 424-5403.

Decided: December 30, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison

James H Bayne,

Acting Secretary.

[FR Doc. 84-434 Filed 1-6-84; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30354]

Delware and Hudson Railway Company—Securities Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of 49 U.S.C. 11301 the issuance by Delaware and Hudson Railway Company, of $3.6 million in secured notes.

DATE: This exemption will be effective on December 30, 1983. Petitions to reopen this decision must be filed by January 30, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 30354 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.
(2) Petitioner's representative: James E. Howard, 1500 Oliver Building, Pittsburgh, PA 15222.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC

Metropolitan area) or toll free (800) 424–5403.

Decided: December 30, 1983.

By the Commission, Division 2, Commissioners Gradison, Taylor, and Sterrett. Commissioner Sterrett did not participate.

James H. Bayne,

Acting Secretary.

[FR Doc. 84–432 Filed 1–6–84; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 447]

Petition To Delay Application of Direct Connector Requirement to Joint Rail Rates in General Increases

AGENCY: Interstate Commerce Commission.

ACTION: Final decision.

SUMMARY: The Commission finds that petitioners failed to show that it is not feasible for railroads to implement without delay and put into effect on January 1, 1984, the "direct connector" standard of 49 U.S.C. 10706(a)(3)(B) for joint rail rates in general rate increases. The petition for an extension of antitrust immunity is denied.

DATES: The decision is effective on January 1, 1984.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the complete decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Authority: 49 U.S.C. 10321 and 10706; and 5 U.S.C. 553.

Decided: December 28, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Commissioner Andre dissented with a separate expression.

James H. Bayne,

Acting Secretary.

[FR Doc. 84–433 Filed 1–6–84; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–55 (Sub-92)

Seaboard System Railroad, Inc.; Abandonment in Jefferson County, AL; Findings

The Commission has issued a certificate authorizing the Seaboard System Railroad, Inc. (SBD) to abandon its 6.7 mile rail line between milepost WR–374.2 near Monmouth and milepost WR–380.9 near Kimberly in Jefferson County, AL. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB–OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

James H. Bayne,

Acting Secretary.

[FR Doc. 84–429 Filed 1–6–84; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–55 (Sub-90)]

Seaboard System Railroad, Inc.; Abandonment in Sumter County, FL; Findings

The Commission has issued a certificate authorizing Seaboard System Railroad, Inc. to abandon its 5.48 mile rail line known as the Tarrytown Spur of the Tampa Division, between milepost AT–826.52, near Mabel, FL, and milepost AT–832.0, near Tarrytown, FL, in Sumter County. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person had offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicnt no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left hand corner of the envelope containing the offer: "Rail Section, AB–OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR Part 1152.

James H. Bayne,

Acting Secretary.

[FR Doc. 84–430 Filed 1–6–84; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 83–2]

Hawkins Rexall Drug Inc.; Revocation of Registration

On December 6, 1982, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) directed an Order to Show Cause to Hawkins Rexall Drug, Inc. (Respondent), 113 South Market Street, Madison, North Carolina 27025, seeking to revoke DEA Certificate of Registration AH3165962 issued to Respondent under 21 U.S.C. 823. The statutory predicate for the order under 21 U.S.C. 824(a)(2) was the conviction of Clayburn Irvin Hawkins, R.Ph., the owner and manager of Respondent pharmacy, on September 21, 1982, in the United States District Court for the Middle District of North Carolina of one count of unlawfully distributing a Schedule IV controlled substance in violation of 21 U.S.C. 841(a)(1). This is a felony conviction relating to controlled substances. Respondent, through counsel, requested a hearing on the issues raised by the Order to Show Cause.

The hearing in this matter was held May 24 and 25, 1983, in Greensboro, North Carolina. Administrative Law Judge Francis L. Young presided. On October 28, 1983, Judge Young issued his opinion and recommended ruling, findings of fact, conclusions of law and decision, which were duly served on counsel for the Government and Respondent. The Government filed exceptions to Judge Young's recommended ruling. On November 23, 1983, the Administrative Law Judge transmitted the record of these proceedings, including the Government's exceptions, to the Administrator. Having considered this record in its entirety, the Administrator under 21 CFR 1316.67 hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth.

The investigation of Clayburn Hawkins began in early November, 1981 when campus police at the University of North Carolina-Greensboro reported to DEA that diverted controlled substances were appearing on campus. DEA

Diversion Investigator (DI) John Anthony and North Carolina State Bureau of Investigation (SBI) Agent Fred Tucker went to the University and interviewed three students about the report. One student said that on October 26, 1981, she and two other students drove with one Linwood Chapman to the Respondent pharmacy, about 20 miles from Greensboro. Chapman entered the pharmacy about 7:00 p.m. and shortly thereafter the lights were turned off. About 20 or 30 minutes later Chapman returned to the car with Clayburn Hawkins. Chapman had eight or ten various sized bottles of controlled substances with him. Similarly, on October 28, 1981, the student drove with Chapman to the pharmacy where Chapman again obtained controlled substances from Hawkins.

One of the students volunteered to aid in the investigation. He told the investigators that he had been engaged in a homosexual relationship with Chapman during which Chapman told the student he was receiving controlled substances from Hawkins. The student also said that during their relationship Chapman was in possession of substantial quantities of controlled substances. The student told Investigator Anthony that he believed that he, the student, could obtain controlled substances from Hawkins.

On December 3, 1981, Agent Tucker, another SBI agent and the student went to Respondent pharmacy. The student wore a body tape recorder and a recording was made of his conversation with Hawkins, who gave him a vial containing six dosage units of Placidyl 750 mg. and four dosage units of Placidyl 500 mg. This was an illegal distribution made without a prescription with respect to which Hawkins pled guilty.

The student telephoned Hawkins on December 9, 1981, to discuss a convenient time for the student to come to the pharmacy to pick up some "hits of speed" the following day. On December 10, 1981, Agent Tucker and the student proceeded to the pharmacy where, again, Hawkins unlawfully distributed 54 phentermine to the student.

On December 16, 1981, the student called Hawkins to tell him that the student and Agent Tucker might come to the pharmacy later that day to get some Placidyl. During the recorded conversation Hawkins said of Agent Tucker, "Tell him I might reach down and feel of him."

Later that day Agent Tucker went to the pharmacy. Hawkins gave him a bag bearing the student's name and Agent Tucker asked if he might have a few things for himself. Hawkins instructed the Agent to go to an office area behind the prescription counter out of sight of the public and other employees. Hawkins gave Tucker another bag. While they were talking, Hawkins made some sexual gestures and touched Agent Tucker in the groin area and said: "Where did he get a handsome stud like you?" The bag first given by Hawkins contained eight Placidyl 500 mg; two Placidyl 750 mg; two Quaalude 300 mg; and 28 phentermine. The second bag contained 18 Placidyl 500 mg.

Agent Tucker telephoned Hawkins on January 20, 1982. He asked Hawkins if he could obtain some Quaalude and Placidyl. Hawkins told him there was no way he could give Agent Tucker Quaalude, saying he needed a prescription and he could not take a prescription over the phone for that. Hawkins said he could get Agent Tucker a few Placidyl. Later that day, Agent Tucker went to the pharmacy and picked up a bottle of 24 Placidyl 500 mg. and 46 phentermine. As at each of his previous encounters with Hawkins, Agent Tucker did not present a prescription or pay any money.

On February 1, 1982, Agent Tucker again telephoned Hawkins at the pharmacy. He asked Hawkins if he could obtain Dilaudid 4 mg. or Quaalude. Dilaudid (hydromorphone) is a Schedule II narcotic that is heavily abused. Quaalude (methaqualone) is a Schedule II nonnarcotic that is also very heavily abused. Hawkins replied that there was "no way" he could help Agent Tucker with the Dilaudid and that he would need a prescription for the Quaalude. Agent Tucker asked Hawkins if he would fill a Quaalude prescription from a physician and Hawkins agreed.

Agent Tucker visited the pharmacy on February 2, 1982. Hawkins motioned Agent Tucker to the back room, saying he "couldn't do anything with the druggist out there." Hawkins told the agent to return at 8:00 that evening, again saying that he could not give him any drugs when "the other druggist is there." Agent Tucker asked Hawkins if Chapman ever paid for the controlled substances he obtained from Hawkins. Hawkins said that Chapman did not pay and that Chapman had stolen controlled substances from Respondent pharmacy. Agent Tucker also asked how Hawkins covered the controlled substances he was giving the student, Agent Tucker and Chapman. Hawkins said he simply acted as though it was a call-in prescription and would make up a name and sign a physician's name to it. This procedure would not work for Schedule II controlled substances, such as Dilaudid, according to Hawkins. They discussed Dilaudid and Hawkins said he could obtain six for Agent Tucker, who tendered a blank presciption from a cooperating dentist. Hawkins told the agent to "just hold the prescription."

The next day, February 3, 1982, Agent Tucker went to the pharmacy. Hawkins motioned the agent to the office area. He again told Agent Tucker he could not do anything with the other pharmacist present. After some discussion, Agent Tucker left and returned 15 minutes later at Hawkins's instruction. Hawkins gave Agent Tucker a vial containing six Dilaudid 4 mg. Dilaudid was selling for about $50 a tablet on the street in North Carolina at that time.

DI Anthony conducted an audit of the pharmacy in February, 1982. The audit revealed significant recordkeeping violations, including failure to take a required biennial inventory of several substances including Placidyl. At least 1,442 dosage units of phentermine and 230 dosage units of Quaalude 300 mg. could not be accounted for in Respondent pharmacy's records. The figure for Quaalude represents 47% of the quantity for which the pharmacy was accountable. DI Anthony found 34 suspicious prescriptions for controlled substances presumably "written" by area physicians. The physicians denied signing the prescriptions. They also did not recognize the patients' names on the prescriptions.

Jerry Welch, the Chief of Police in Madison, North Carolina, the town in which Respondent pharmacy is located, testified that he visited the home of Linwood Chapman's mother, Mrs. Gates, in a rural area outside Madison while Chapman was a fugitive. Mrs. Gates gave Chief Welch permission to look in the bedroom formerly occupied by her son where the Chief found an envelope on which was drawn an accurate diagram of Respondent pharmacy. The diagram gave directions on how to find controlled substances at the pharmacy and also showed the location of money, a lock box, and the alarm system. Only an individual who had unrestricted access to the interior of the pharmacy would have been able to draw such a diagram.

Chief Welch further testified that the pharmacy was broken into on February 5, 1983, and that a large quantity of controlled substances, as well as blank money orders and a money order writing machine were stolen. An individual in Durham, North Carolina, was arrested for passing a money order stolen from the pharmacy. When Chapman was brought back to North Carolina, he had been incarcerated at a facility in Durham with an associate of the individual arrested for passing the stolen money order. The Administrator

believes that the break-in and theft after Chapman was in jail in Durham were more than mere coincidence and finds, as did the Administrative Law Judge, that Chapman had free access to the pharmacy area and that Hawkins could not control Chapman's movements for fear that Chapman would expose the nature of their relationship.

Chapman was convicted on March 17, 1983, of distributing controlled substances. Following his sentencing and at his request, he spoke with Agent Tucker. Chapman stated that he and Hawkins had had a homosexual relationship for approximately one year and that Hawkins had provided him with money and controlled substances, including Placidyl and Talwin. The Administrative Law Judge found, as does the Administrator, that Hawkins provided Chapman with controlled substances and money in return for sexual favors. Hawkins was clearly culpable not only for the quantities of controlled substances he unlawfully distributed to the student and Agent Tucker, but also for those diverted from the pharmacy by Chapman.

On September 21, 1982, Clayburn Hawkins was convicted of unlawfully distributing a controlled substance in violation of 21 U.S.C. 841(a)(1). Hawkins was sentenced to a one-year term of imprisonment which was suspended. He was ordered to enter a community treatment center for 120 days and to pay a fine of $15,000.

The Administrator finds that there is a lawful or statutory basis for the revocation of the Respondent's DEA registration as a result of the felony conviction of the pharmacy's owner and Manager, Clayburn Hawkins. See, *S & S Pharmacy, Inc.*, (no docket number), 46 FR 13052 (1981); *Big-T Pharmacy, Inc.*, Docket No. 80.34, 47 FR 51830 (1982); *Lawson & Sons Pharmacy and Fenwick Pharmacy*, (no docket number), 48 FR 16140 (1983), and cases cited therein. The Administrator further finds that there are compelling reasons for revoking the registration Hawkins so blatantly abused.

Having determined that Respondent's registration may be revoked, the Administrator must now determine whether the Respondent has produced sufficient evidence to mitigate against revocation. In deciding whether to leave a controlled substance registration in the hands of a convicted felon there is one overriding consideration—protection of the public health and safety. To leave a registration in the possession of a person who has previously abandoned his professional responsibilities and violated a public trust by diverting controlled substances requires that the Administrator be convinced that there is no likelihood of diversion again occurring at the hands of this individual. If there is any real doubt, then the Administrator, who is responsible for protecting the public interest, cannot again entrust such an individual to properly handle the very instrumentality of his crime. The burden on a convicted applicant or registrant who must show sufficient mitigation is great. However, the dangers inherent in the diversion and misuse of controlled substances are much greater and the public should not be required to endure the risk of future diversion where such risk can be totally avoided by denial of registration to an individual such as Clayburn Hawkins. While the Administrator does not want to unnecessarily restrict the professional or business activity of any registrant, the public interest in the effective enforcement of the laws relating to controlled substances must outweigh an individual's interest in securing or retaining a registration to handle those substances.

A number of witnesses, including Mr. Hawkins' psychiatric counsellor, his pastor, a local physician, two co-workers and the Sheriff of Rockingham County, North Carolina, testified on behalf of Mr. Hawkins and the Respondent pharmacy. Since his arrest and plea of guilty in the criminal case, Mr. Hawkins has sought psychiatric counselling. Marty Rosser, his counsellor testified that Hawkins' relationship with Chapman was an aberration brought on by loneliness, significant personal stress, childhood traits and martial difficulties. Nevertheless, both Ms. Rosser and Dr. Larry Bennett, Hawkins' clergyman, felt that there was little likelihood of similar occurrences in Hawkins' life in the future. The Administrative Law Judge noted that Hawkins had been less than honest with Ms. Rosser with respect to the duration and type of his homosexual conduct. For example, Hawkins had never told his counsellor that he had fondled Agent Tucker.

Alexander Cox, M.D., a now-retired physician who practiced in Madison, North Carolina, testified as to Mr. Hawkins' excellent character and reputation in the community. Although Dr. Cox had testified three times on behalf of Mr. Hawkins, he had always been sequestered and had never heard the testimony of the witnesses who appeared to testify against Mr. Hawkins. Furthermore, Mr. Hawkins frequently filled prescriptions for Schedule II controlled substances which were telephoned in to the Respondent pharmacy by Dr. Cox. The two co-workers who testified on behalf of Mr. Hawkins and the Respondent pharmacy were Virginia Sharpe and Oscar Mills. Ms. Sharpe is a part owner of the Respondent corporation and is also employed there. Mr. Mills is a registered pharmacist employed by the Respondent pharmacy. Both of these individuals have a significant financial stake in the Respondent pharmacy. The Administrator does not find their testimony to be persuasive.

The religious leader of Mr. Hawkins' church and the Sheriff of Rockingham County also testified for the Respondent. While the clergyman's testimony is accepted as sincerely given, the Sheriff's testimony is not particularly credible. Sheriff Vernon testified that Mr. Hawkins' character and reputation in the community were good. Later, however, the Sheriff admitted that he had no personal knowledge of the criminal activity of Mr. Hawkins and that he really did not know what the public opinion concerning Hawkins was. The Administrator is disturbed that cross-examination of Sheriff Vernon was severely limited and that portions of that testimony were physically expunged from the record. The Administrator fully supports the idea that the Respondent in proceedings such as this should be able to present testimony relevant to mitigation. In fairness to the public interest, such testimony should be subject to all proper cross-examination with respect to the witness' motivation and ties to the Respondent. Furthermore, expungement denies the Administrator the opportunity to review a complete record of the proceeding. While the weight of all other evidence in the record of this case rendered the expungement harmless, such might not be the case under other circumstances.

Although the Administrative Law Judge found that there was a lawful basis for revocation in this case, he recommended against imposition of that remedy. The judge concluded that Hawkins was a community leader who enjoys the support of the community and that Hawkins enjoyed an outstanding reputation in the community prior to the previously discussed incidents. He also found that Hawkins had already suffered great humiliation and anguish as a result of his conduct and that he was unlikely to violate the law again.

The Administrator does not accept these conclusions. The evidence in this case clearly shows that Clayburn Hawkins illegally distributed controlled substances and then falsified pharmacy records to conceal those distributions. These were not isolated incidents, they

continued over a period of time. As recently as February 1982, Hawkins was illegally distributing drugs to Agent Tucker. He knew that he was committing illegal acts when he gave drugs to young men in return for sexual favors, actual or potential. Hawkins did not voluntarily put a stop to this diversion. He did not notify law enforcement authorities about Chapman, admit his problems with homosexuality or reveal his illicit distribution of controlled substances until after he was caught. While the Administrator is hopeful that Hawkins will continue to seek psychiatric counselling, he is unconvinced that Hawkins is unlikely to again violate the law with respect to controlled substances. The appearance of a few employees, political and religious witnesses on behalf of the Respondent is not persuasive. The Controlled Substances Act applies in Madison, North Carolina, as it does throughout the United States. Its mandate must be followed by all registrants, regardless of their status in the community and their apparent contrition.

It is unusual for the Administrator to reject a recommendation of the Administrative Law Judge, but it is not unknown. See **Lincoln Eramo, M.D.**, 42 FR 61336 (1977). In *Sokoloff v. Saxbe*, 501 F.2d 571 (2nd Cir. 1974), the Administrator rejected a recommendation of a two-year suspension and revoked a practitioner's registration. Similarly, in *River Forest Pharmacy v. Drug Enforcement Administration*, 501 F.2d 1202 (7th Cir. 1974), the Administrator suspended a pharmacy's DEA registration for two years even though the Administrative Law Judge had recommended a suspension of six months. Both courts held the action of the Administrator was proper as long as the action is a reasonable choice of remedy.

The Administrator concludes that under all of the facts and circumstances presented in this case the Respondent's registration must be revoked. Having concluded that the facts herein require revocation and having determined that there is a lawful basis for such revocation, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration AH3165962 be, and it hereby is, revoked, and that any pending applications for renewal of such registration be denied.

Francis M. Mullen, Jr.,

Administrator.

[FR Doc. 84-509 Filed 1-6-84; 8:45 am]

BILLING CODE 4410-09-M

[Hydromorphone Docket No. 83-36]

Manufacture of a Controlled Substance; Objections, Request for Hearing, and Hearing; Mallinckrodt, Inc.

On November 3, 1983, at 48 FR 50806, notice was given that Mallinckrodt, Inc., Dept. CB, Mallinckrodt and Second Streets, St. Louis, Missouri 63147, had made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of Hydromorphone, a basis class of controlled substance listed in Schedule II of the Controlled Substances Act of 1970.

Opportunity was given in the notice for the filing of comments and objections to this application and for the filing of requests for hearing with respect to it. A request for an extension of the time period for the filing of these papers was requested by Knoll Pharmaceutical Company. The request was granted by the Deputy Assistant Administrator, Office of Diversion Control.

Knoll Pharmaceutical Company subsequently filed objections to Mallinckrodt's application and a request for hearing. Knoll is presently registered by DEA as a bulk manufacturer of hydromorphone.

Knoll states its desire to be heard with respect to the issue of whether the registration of Mallinckrodt as an additional bulk manufacturer of hydromorphone would be consistent with the public interest under the criteria set forth in the Controlled Substances Act and applicable regulations and with U.S. obligations under international treaties, conventions, or protocols as required by 21 U.S.C. 823(a). Knoll believes that the Administrator of DEA cannot make this determination on the basis of the information presently available to him.

Knoll states its belief that there is presently an adequate and uninterrupted supply of hydromorphone, produced under what it feels are adequately competitive conditions existing in the relevant market, and that the relevant market in which hydromorphone competes also includes other substances used for the same or similar medical, scientific, research and industrial purposes.

Knoll believes that the public interest in adequately competitive conditions and in maintaining effective controls against the diversion of hydromorphone would not be served by the registration of Mallinckrodt.

Accordingly, notice is hereby given pursuant to 21 U.S.C. 1301.43 that a hearing will be held on the aforesaid application for registration commencing at 10:00 a.m. on Thursday, February 9, 1984, in Courtroom No. 10, Third Floor, U.S. Court of Claims, 717 Madison Place, NW., Washington, D.C., the proceedings on that day to be limited to a preliminary discussion to identify proper parties and issues, and to determine procedures and set dates and locations for further proceedings. Any person entitled to participate in said hearing and desiring to do so must file a Notice Of Appearance pursuant to 21 CFR 1301.54 and 1316.48 within thirty days of the date of publication of this notice. A person who has filed a request for hearing need not also file a Notice Of Appearance.

Dated: January 4, 1984.

Francis M. Mullen, Jr.,

Administrator, Drug Enforcement Administration.

[FR Doc. 84-507 Filed 1-6-84; 8:45 am]

BILLING CODE 4410-09-M

[Levorphanol Docket No. 83-37]

Manufacture of a Controlled Substance; Objections, Request for Hearing, and Hearing; Mallinckrodt, Inc.

On November 3, 1983, at 48 FR 50806, notice was given that Mallinckrodt, Inc., Dept. CB, Mallinckrodt and Second Streets, St. Louis, Missouri 63147, had made applicaion to the Drug Enforcement Administration to be registered as a bulk manufacturer of levorphanol, a basic class of controlled substance listed in Schedule II of the Controlled Substances Act of 1970.

Opportunity was given in the notice for the filing of comments and objections to this application and for the filing of requests for hearing with respect to it. A request for an extension of the time period for the filing of these papers was requested by Hoffmann-LaRoche, Inc. (Roche). The request was granted by the Deputy Assistant Administrator, Office of Diversion Control.

Roche subsequently filed objections to Mallinckrodt's application and a request for hearing. Roche is presently registered by DEA as a bulk manufacturer of levorphanol.

Roche states its desire to be heard with respect to a number of issues.

Roche asserts that Mallinckrodt has no legitimate medical, scientific, research or industrial outlets for levorphanol and wishes to be heard on whether, in light of this, it is consistent with the public interest to register Mallinckrodt. Because of this Roche contends that DEA can and should summarily dismiss Mallinckrodt's application. Roche goes on to state that FDA has ruled that levorphanol is a "new drug" under the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321(p)) and therefore, it may not be distributed in interstate commerce unless it is subject to an approved New Drug Application (NDA) which names the specific product for which approval is sought. NDA's have not been approved for any levorphanol product other than the brand produced by Roche. Therefore, Roche contends that no one other than Roche may lawfully distribute levorphanol in interstate commerce for routine medical use at this time and that registration of Mallinckrodt under these circumstances would be contrary to the puboic health and safety. Roche goes on to state objections and issues on which it wishes to be heard but believes that its first stated objection is dispositive and that DEA should summarily dismiss Mallinckrodt's application.

The second issue Roche states is whether Mallinckrodt's application should be denied in order to maintain effective controls against diversion by limiting the bulk manufacture of controlled substances to a number of companies which can produce an adequare and uninterrupted supply under adequately competitive conditions. Roche asserts that adequate competition and supply for levorphanol and its close product substitutes presently exist and, further, that it believes that U.S. obligations under various international treaties as well as statutory obligations require DEA to limit registrations to a minimal number of companies that are capable of producting an adequate and uninterrupted supply under adequately competitive conditions. Roche asserts that DEA's interpretation of the governing statute as stated in an earlier proceeding (McNeilab, Inc., Docket No. 78–13, 46 FR 22089) was contrary to law and inconsistent with legislative history. Roche also feels that the facts surrounding the application of Mallinckrodt in this proceeding are so distinguishable from those in *McNeilab* that the holding in that case is inapplicable here.

Roche also asserts that the registration of Mallinckrodt would likely result in conditions for the production of levorphanol that are not adequately competitive or which would lead to inadequate or interrupted supplies and wishes to be heard as to whether granting Mallinckrodt's application would therefore be contrary to the public interest. Roche states that the only legitimate use for bulk levorphanol at the present time is to supply holders of NDA's for use in preparing finished pharmaceutical products. According to Roche, if Mallinckrodt is reigstered and receives a significant portion of the aggregate production quota set by DEA, then Roche, as the only present holder of an approved NDA for levorphanol, will be dependent on Mallinckrodt for part of its supply. Because the ability of Mallinckrodt to produce levorphanol in sufficient quantities and at approved quality levels on time and at a reasonable cost is unknown, Roche feels that the registration of Mallinckrodt would likely result in disruption in the supply of finished levorphanol products from Roche to the medical community.

Roche also wishes to be heard with respect to whether, to be consistent with the public interest, the number of firms producing levorphanol should be limited to one until such time as the demand for levorphanol significantly exceeds an efficient batch size or the likelihood develops that the single bulk manufacturer cannot or will not produce an adequate or uninterrupted supply at prices consistent with adequate competition. Roche feels that the present demand for levorphanol is too small to warrant the registration of more than one producer and that the entry of a second bulk manufacturer will result in an inefficient scale of production for all producers.

Another issue on which Roche wishes to be heard is whether the registration of Mallinckrodt would lead to a situation where there are too many registered firms for DEA to moniotr adequately. Roche states that levorphanol presently has little demand or notoriety in the illicit market but that the entry of new formulators into the market, which would result from Mallinckrodt's requested registration, will change this situation and may lead to a significant illicit demand for the drug and, therefore, new pressures for diversion.

Roche also desires to be heard with respect to whether the registration of Mallinckrodt is consistent with U.S. obligations and policies under international treaties. Roche feels that the registration of Mallinckrodt may be seen by the international community as inconsistent with long-standing policies of the U.S. in that DEA would be permitting the proliferation of domestic narcotic raw material suppliers and implicity encouraging the substitution of synthetic drugs for opium derivatives. In recent years, the U.S. has assured nations producing narcotic raw materials that they could rely on long term access to and stability in the U.S. market for these materials. According to Roche, the registration of Mallinckrodt would potentially reduce American demand for narcotic raw materials from these traditional supply countries and would create an incentive to them to lessen or end their existing voluntary restraints and controls on narcotic production.

Another issue Roche states is whether the registration of Mallinckrodt is contrary to the public interest because it would be a disincentive to the development of technical advances in the art of manufacturing levorphanol and to the development of new substances. Roche feels that it is a recognized leader in the discovery and development of new drugs to treat human and animal diseases and that its record in this regard is far superior to that of Mallinckrodt. Therefore, if, as Roche contends, the market for levorphanol can adequately accommodate only one supplier of the drug, then Roche feels that the public interest would be better served by the registration of Roche rather than Mallinckrodt.

Roche also wishes to be heard as to whether registration of Mallinckrodt is contrary to the public interest because it would act as a disincentive for Roche to continue providing the level of continuing medical education regarding levorphanol which Roche asserts is desired by practitioners. The entry of Mallinckrodt into the market could present practical difficulties to Roche's ability to maintain the expense of its efforts in this regard. In addition, Roche feels that there is no precedent or assurance that Mallinckrodt will support these educational activities.

Accordingly, notice is hereby given pursuant to 21 CFR 1301.43 that a hearing will be held on the aforesaid application for registration commencing at 2:00 p.m. on Thursday, February 9, 1984, in Courtroom No. 10, Third Floor, U.S. Claims Court, 717 Madison Place, NW., Washington, D.C., the proceedings on that day to be limited to a preliminary discussion to identify proper parties and issues, and to determine procedures and set dates and locations for further proceedings. Any person entitled to participate in said hearing

and desiring to do so must file a Notice of Appearance pursuant to 21 CFR 1301.54 and 1316.48 within thirty days of the date of publication of this notice. A person who has filed a request for hearing need not also file a Notice of Appearance.

Dated: January 4, 1984.

Francis M. Mullen, Jr.,

Administrator, Drug Enforcement Administration.

[FR Doc. 84-508 Filed 1-6-84; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506:

Date: January 19-20, 1984
Time: 8:30 a.m. to 5:00 p.m.
Room: 315
Program: This meeting will review applications submitted to Basic Research: Conferences Panel, Division of Research Programs, for projects beginning after April 1, 1984.

Date: February 2-3, 1984.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315
Program: This meeting will review applications in the areas of lexicography and linguistics submitted to the Reference Works Programs: Research Tools, Division of Research Programs, for projects beginning after July 1, 1984.

Date: February 6-7, 1984.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315
Program: This meeting will review applications submitted to the Basic Research Program, Division of Research Programs, for projects beginning after July 1, 1984.

Date: February 10, 1984.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315
Program: This meeting will review applications in the areas of European history, philosophy, theology, and medieval studies, submitted to the Reference Works Program: Editions, Division of Research Programs, for projects beginning after July 1, 1984.

Date: February 13, 1984.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315
Program: This meeting will review applications in the field of the arts submitted to the Reference Works Program: Research Tools, Division of Research Programs, for projects beginning after July 1, 1984.

The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 786-0322.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 84-438 Filed 1-6-84; 8:45 am]

BILLING CODE 7536-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirement Under OMB Review

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirement to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the agency has made such a submission.

DATE: Comments must be received on or before February 13, 1984. If you anticipate commenting on a submission but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the agency clearance officer of your intent as early as possible.

Copies of the proposed forms, the request for clearance (S.F. 83), supporting statement, instructions, transmittal letter, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the item listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Elizabeth M. Zaic, Small Business Administration, 1441 L St., NW., Room 200, Washington, D.C. 20416, Telephone: (202) 653-8538.

OMB Reviewer: J. Timothy Sprehe, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3225, New Executive Office Building, Washington, D.C. 20503, Telephone: (202) 395-4814.

Forms Submitted for Review

Title: SBA Field Office Evaluation of SBIC Applicants
Frequency: On Occasion
Description of Respondents: SBIC Companies
Annual Response: 230
Annual Burden Hours: 1,265
Type of Request: New

Title: Loan Inquiry Record
Form No. 149
Frequency: On Occasion
Description of Respondents: Loan applicants
Annual Responses: 240,000
Annual Burden Hours: 60,000
Type of Request: New

Title: Financial Statements of Borrowers
Frequency: Annually
Description of Respondents: Business borrowers
Annual Responses: 285,452
Annual Burden Hours: 71,363
Type of Request: New

Title: Liquidation Activities
Frequency: On occasion
Description of Respondents: Auctioneer contractor
Annual Responses: 3,400
Annual Burden Hours: 34,000
Type of Request: New

Title: Other Borrower Reports, Records, and Request
Frequency: On Occasion
Description of Respondents: Borrowers
Annual Responses: 216,000
Annual Burden Hours: 216,000
Type of Request: New

Title: Debt Collection Activities
Frequency: On occasion
Description of Respondents: Borrowers
Annual Responses: 4,680,000
Annual Burden Hours: 195,000

Type of Request: New
Title: Loan Servicing Field Visit Report
Form No. SBA 712
Frequency: On Occasion
Description of Respondents: Borrowers
Annual Responses: 70,000
Annual Burden Hours: 70,000
Type of Request: New
Title: Lender Field Visit Report
Form No. SBA 1183
Frequency: On occasion
Description of Respondents: Lenders
Annual Responses: 20,000
Annual Burden Hours: 20,000
Type of Request: New
Title: Nominate a Small Business Person or Advocate of the Year
Frequency: Annually
Description of Respondents: Trade associations, chambers of commerce and small business organizations
Annual Responses: 250
Annual Burden Hours: 600
Type of Request: New
Title: Small Business Week Media Contacts
Frequency: Annually
Description of Respondents: Publishers
Annual Responses: 512
Annual Burden Hours: 128
Type of Request: New

Dated: December 30, 1983.

Richard Vizachero,

Acting Chief, Paperwork Management Branch, Small Business Administration.

[FR Doc. 84-304 Filed 1-6-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/702]

Shipping Coordinating Committee, Committee on Ocean Dumping; Meeting

The Committee on Ocean Dumping, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 9:30 a.m. on Tuesday, February 7, 1984, in room 3906-3908 (Mall) Waterside Mall, Environmental Protection Agency, 401 M Street SW., Washington, D.C.

The purpose of the meeting is to review and discuss the draft U.S. position documents for the Eighth Consultative Meeting of Contracting Parties to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (London Dumping Convention), to be held in London on February 20-24, 1984. The agenda will also include discussions on the outcome of the December 12-14, 1983 meeting of the Ad Hoc Group of Legal Experts on Dumping.

Members of the public may attend up to the seating capacity of the room.

For further information contact Ms. Norma Hughes, Executive Secretary, Committee on Ocean Dumping (WH-585), Environmental Protection Agency, Washington, D.C. 20460. Telephone: (202) 755-2927.

The Chairman will entertain comments from the public as time permits.

Dated: December 21, 1983.

Samuel V. Smith,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 84-302 Filed 1-6-84; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/701]

Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative committee (CCITT) will meet on January 30, 1984, at 10:30 a.m., in Room 1406, Department of State, 2201 C Street, NW, Washington, D.C.

Study Group A deals with U.S. Government aspects of international telegram and telephone operations and tariffs. The Study Group will discuss international telecommunications questions relating to telegraph, telex, new record services, data transmission and leased channel services in order to develop U.S. positions to be taken at international CCITT Study Group meetings, with particular interest in the upcoming February meeting of CCITT Joint Working Party on Maritime Mobile Service and future meetings of Study Groups I and III.

Members of the general public may attend the meeting and join in the discussion subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the department of State building is controlled. All persons wishing to attend the meeting should contact the office of Earl Barbely, Department of State, Washington, D.C.; telephone (202) 632-3405. All attendees must use the C Street entrance to the building.

Dated: December 21, 1983.

Earl S. Barbely,

Chairman, U.S. CCITT National Committee.

[FR Doc. 84-301 Filed 1-6-84; 8:45 am]

BILLING CODE 4710-07-M

Advisory Committee on International Investment, Technology, and Development; Closed Meeting

The Department of State will hold a meeting of the Working Group on Treatment of Investment and Special Investment Problems of the Advisory Committee on International Investment, Technology and Development on Tuesday, January 24, 1984, from 2:00 p.m. to 4:00 p.m. in Room 1406, Department of State, 2201 C Street, NW., Washington, D.C.

This meeting will be closed to the public, pursuant to Section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b(C)(9)(B) because the Working Group will discuss the status of ongoing diplomatic negotiations, premature disclosure of which could adversely affect U.S. interests.

Dated: December 29, 1983.

Richard W. Behrend,

Economist, Office of Investment Affairs.

[FR Doc. 84-390 Filed 1-6-84; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 84-001]

Houston/Galveston Navigation Safety Advisory Committee; Applications for Membership

AGENCY: Coast Guard, DOT.

ACTION: Request for applications.

SUMMARY: The U.S. Coast Guard is seeking applications for appointment to membership on the Houston/Galveston Navigation Safety Advisory Committee. This Advisory Committee was established under the authority of the Federal Advisory Committee Act (Pub. L. 92-463) and consults with, advises and provides recommendations to the Commander, Eighth Coast Guard District on areas of maritime safety in the Houston/Galveston area. The Committee was established on 16 September 1982 for a term of two years unless sooner terminated or extended.

In September of 1984 the Coast Guard anticipates that approximately 24 vacancies will occur on the Advisory Committee and that approximately 24 appointments will be made by the Secretary of Transportation. The Coast Guard will make recommendations to the Secretary from all applications on file as of 15 May 1984. The members chosen will include a balanced representation insofar as practical from the following groups: (1) Pilot

associations, (2) representatives of owners and operators of vessels (deep draft, fishing, and towboats), (3) professional mariners, (4) recreational boaters, (5) environmentalists, (6) port authorities, (7) federal & state officials with responsibility for vessel and port safety.

Since its establishment, the Advisory Committee has met five times, alternating between Houston and Galveston. The Committee has three scheduled meetings a year, with the provision for additional meetings on an as needed basis.

The appointments made during 1984 will expire two years from the date of appointment.

DATES: Requests for applications should be received no later than 28 February 1984. The applications must be completed and returned to the Coast Guard no later than 31 March 1984.

ADDRESSES: Persons interested in applying should write to Commander, Eighth Coast Guard District (mps), Rm. 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130.

FOR FURTHER INFORMATION CONTACT: Commander R. A. Brunell, Executive Secretary, Houston/Galveston Navigation Safety Advisory Committee, c/o Commander, Eighth Coast Guard District, Rm. 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130, (504) 589–6901.

Dated: December 30, 1983.

W. H. Stewart,

Rear Admiral, U.S. Coast Guard.

[FR Doc. 84–467 Filed 1–6–84; 8:45 am]

BILLING CODE 4910–14–M

[CGD 84–002]

Lower Mississippi River Waterway Safety Advisory Committee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App I) Notice is hereby given of the second meeting of the Lower Mississippi River Waterway Safety Advisory Committee. The meeting will be held on Tuesday, January 24, 1984 in the 29th Floor Boardroom of the International Trade Mart Building, 2 Canal Street, New Orleans, LA. The meeting is scheduled to begin at 9 a.m. and end at 4 p.m. The Agenda for the meeting consists of the following items:

1. Call to Order
2. Reports of Subcommittees
   a. Siting
   b. Auxiliary Waterways
   c. Lower Mississippi River
3. Discussion of Subcommittee Reports
4. Presentation of any additional items for consideration to the Committee
5. Adjournment.

Attendance is open to the public. With advance notice, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should notify the Executive Secretary no later than the day before the meeting. Any member of the public may present a written statement to the Advisory Committee at any time.

Additional information may be obtained from Commander R. A. Brunell, Executive Secretary, Lower Mississippi River Waterway Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (mps), Room 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130, Telephone number (504) 589–6901.

Dated: December 30, 1983.

W. H. Stewart,

Rear Admiral, U.S. Coast Guard.

[FR Doc. 84–466 Filed 1–6–84; 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

National Airspace Review; Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1) notice is hereby given of a meeting of Task Group 1–3 of the Federal Aviation Administration (FAA) National Airspace Review Advisory Committee. The agenda for this meeting is as follows: FAR Part 75 should be reviewed and considered for possible exclusion from the regulatory process.

DATE: Beginning Monday, January 30, 1984, at 11 a.m., continuing daily, except Saturdays, Sundays, and holidays, not to exceed two weeks.

ADDRESS: The meeting will be held at the Federal Aviation Administration, conference room 7 A/B, 800 Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: National Airspace Review Program Management Staff, room 1005, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, (202) 426–3560. Attendance is open to the interested public, but limited to the space available. To insure consideration, persons desiring to make statements at the meeting should submit them in writing to the Executive Director, National Airspace Review Advisory Committee, Air Traffic Service, AAT–1, 800 Independence Avenue, SW., Washington, D.C. 20591, by January 20, 1984. Time permitting and subject to the approval of the chairman, these individuals may make oral presentations of their previously submitted statements.

Issued in Washington, D.C. on December 29, 1983.

Karl D. Trautmann,

Manager, Special Projects Staff, Air Traffic Service.

[FR Doc. 84–454 Filed 1–6–84; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Debt Management Advisory Committee; Meeting

Notice is hereby given, pursuant to section 10 of Pub. L. 92–463, that a meeting will be held at the U.S. Treasury Department in Washington, D.C. on January 31 and February 1, 1984, of the following debt management advisory committee:

Public Securities Association, U.S. Government and Federal Agencies Securities Committee

The agenda for the Public Securities Association U.S. Government and Federal Agencies Securities Committee meeting provides for a working session on January 31 and the preparation of a written report to the Secretary of the Treasury on February 1, 1984.

Pursuant to the authority placed in Heads of Departments by section 10(d) of Pub. L. 92–463, and vested in me by Treasury Department Order 101–5, I hereby determine that this meeting is concerned with information exempt from disclosure under section 552b(c)(4) and (9)(A) of Title 5 of the United States Code, and that the public interest requires that such meetings be closed to the public.

My reasons for this determination are as follows. The Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community, which committees have been utilized by the department at meetings called by representatives of the Secretary. When so utilized, such a committee is recognized to be an

advisory committee under Pub. L. 92–463. The advice provided consists of commercial and financial information given and received in confidence. As such debt management advisory committee activities concern matters which fall within the exemption covered by section 552b(c)(4) of Title 5 of the United States Code for matters which are "trade secrets and commercial or financial information obtained from a person and privileged or confidential."

Although the Treasury's final announcement of financing plans may not reflect the recommendations provided in reports of an advisory committee, premature disclosure of these reports would lead to significant financial speculation in the securities market. Thus, these meetings also fall within the exemption covered by section 552b(c)(9)(A) of Title 5 of the United States Code.

The Assistant Secretary (Domestic Finance) shall be responsible for maintaining records of debt management advisory committee hearings and for providing annual reports setting forth a summary of committee activities and such other matters as may be informative to the public consistent with the policy of section 552b of Title 5 of the United States Code.

Dated: January 3, 1984.

Thomas J. Healy,

Assistant Secretary (Domestic Finance).

[FR Doc. 84-416 Filed 1-6-84; 8:45 am]

BILLING CODE 4810-25-M

Internal Revenue Service

[Delegation Order No. 205]

Delegation of Authority; Criminal Investigation and Inspection Officials

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Provides the authority to approve requests for consensual monitoring of telephone and non-telephone communications by Criminal Investigation and Inspection officials as delegated by the Commissioner. The text of the delegation order appears below.

EFFECTIVE DATE: December 16, 1983.

FOR FURTHER INFORMATION CONTACT:

Charles A. Gibb, OP:CI:P, Room 2427, Washington, D.C. 20224; (202) 566–3700, and

Joseph Reinbold, I:IS:M, 1111 Constitution Ave., NW., Room 6309, Washington, D.C. 20224; (202) 566–4701.

This document dos not meet the criteria for significant regulation set forth in paragraph 8 of the Treasury directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

John M. Rankin,

Acting Assistant Commissioner (Criminal Investigation).

Robert L. Rebein,

Assistant Commissioner (Inspection).

Consenual Monitoring of Wire and Non-Wire Conversations in Criminal Investigations

Pursuant to the Authority vested in the Commissioner of Internal Revenue by Department of the Treasury Order No. 150–37 and in accordance with Memorandums (dated September 22, 1980 and November 7, 1983) to the Heads and Inspectors General of Executive Departments and Agencies, from the Attorney General, the authority to approve the inteception of verbal wire and non-wire communications, where at least one of the parties consents to the interception, is hereby delegated as follows:

1. The Assistant Commissioner (Inspection), Deputy Assistant Commissioner (Inspection), Director, Internal Security Division, Assistant Commissioner (Criminal Investigation) and Deputy Assistant Commissioner (Criminal Investigation) are authorized to approve the interception of non-telephone conversations with the consent of at least one party to the conversation in all criminal investigations conducted by the Internal Revenue Service except those specified by the Attorney General in the above memorandum dated November 7, 1983. This authority is contingent on prior approval by a local Department of Justice Attorney as defined in the above memorandum dated November 7, 1983. This authority may not be redelegated and may not be exercised by anyone acting on behalf of the delegated officials.

2. The Assistant Commissioner (Inspection), Deputy Assistant Commissioner (Inspection), Director, Internal Security Division, Assistant Commissioner (Criminal Investigation) and Deputy Assistant Commissioner (Criminal Investigation) are authorized to approve requests to intercept non-telephone communications with the consent of at least one party to the communication in those criminal investigations conducted by the Internal Revenue Service requiring prior written consent of the Attorney General or his/her designee. This authority is contingent on prior approval by a local Department of Justice Attorney as defined in the above memorandum dated November 7, 1983. This authority may not be redelegated and may not be exercised by anyone acting on behalf of the delegated officials.

3. The Assistant Commissioner (Inspection), Deputy Assistant Commissioner (Inspection), Director, Internal Security Division, Regional Inspections, Assistant Commissioner (Criminal Investigation) and Deputy Assistant Commissioner (Criminal Investigation) are authorized to approve interception of non-telephone conversations with the consent of at least one party to the conversation in all criminal investigations conducted by the Internal Revenue Service when exigent circumstances preclude obtaining prior written approval from the otherwise designated official. This authority may not be redelegated and may not be exercised by anyone acting on behalf of the delegated officials.

4. The Assistant Commissioner (Inspection), Deputy Assistant Commissioner (Inspection), Director, Internal Security Division, Chief, Investigations Branch, National Office (Internal Security), Regional Inspectors, Assistant Regional Inspectors (Internal Security), Chief, Criminal Investigation Division, District Director in streamlined Districts, and Director, Office of Intelligence, National Office (Criminal Investigation), are authorized to approve the interception of telephone conversations with the consent of at least one party to the conversation in all criminal investigations conducted by the Internal Revenue Service. This authority may not be redelegated.

5. Criminal Investigators (GS–1811 series) of the Internal Security Division or Criminal Investigation function, or persons acting under the direction of Criminal Investigators, are authorized to use monitoring equipment to intercept verbal wire and non-wire communications when approved by delegated officials in this Delegation Order. This authority may not be redelegated.

Dated: December 16, 1983.

James I. Owens,

Deputy Commissioner.

[FR Doc. 84-503 Filed 1-6-84; 8:45 am]

BILLING CODE 4830-01-M

UNITED STATES INFORMATION AGENCY

Bureau of Educational and Cultural Affairs, University Affiliation Program; Application Notice for Fiscal Year 1984

Correction

In FR Doc. 83–33653 beginning on page 56301 in the issue of Tuesday, December 20, 1983, make the following correction: In column three, paragraph three, line five, "and non-U.S." should appear between "U.S." and "colleges".

BILLING CODE 1505–01–M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 5
Monday, January 9, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

[M-397; January 3, 1984]

TIME AND DATE: 10:00 a.m., January 10, 1984.

PLACE: Room 1027 (Open), Room 1012 (Closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of Items Adopted by Notation.
2. Docket 40201, *Employee Protection Program, Application on Behalf of Employees of Mackey International Airlines for determination of qualifying dislocation;* Order Denying Motion to Make Audit Reports Public. (Memo 501-I, OGC, BCAA)
3. Docket 41390, *California—Toronto/Montreal Service Case,* Opinion and Order on Review. (Memo 1834-A, OGC)
4. Final Rule on pre-certification sales by applicants for certificate authority. (OGC, BDA, OCCCA)
5. Delegation of authority to the Comptroller perform several ministerial functions related to the Debt Collection Act and Contract Disputes Act. (Memo 2162, OGC, MD, OC)
6. Docket 41723, Revision of Japan Charter Procedures. (OGC, BIA, BDA, OCCCA)
7. Docket 41757, Royale's 90-day notice of intent to suspend service at Greenwood and University/Oxford, Mississippi. (BDA, OCCCA)
8. Dockets 38503 and 38504, Tentative re-selection of American Central Airlines, Inc. to provide essential air service to Clinton and Ottumwa, Iowa for a one-year period and establishment of a rate of compensation. (Memo 473-F, BDA, OCCCA)
9. Docket 41029, Six mainline points in Alaska on notice by Wien Air Alaska for which the Board by Order 83-3-117, dated March 24, 1983, requested interested carriers to submit proposals, with or without subsidy requests. (BDA, OCCCA)
10. Spantax, S.A.—petition for review of staff action denying a waiver of the financial security requirements of Part 212. (Memo 2121, BDA, BIA, OGC)
11. Docket 41665, Application of Pacific American Air Lines, Inc. for a two-year fitness review. (Memo 2157, BDA)
12. Commuter carrier fitness determination of Fort Worth Airlines, Inc. (Memo 2159, BDA)
13. Docket 40966, Application of Bidzy Ta Hot' Aana d/b/a Tanana Air Service under Subpart Q for a certificate authorizing scheduled air transportation of persons, property and mail in Alaska. (Memo 2114-A, BDA)
14. Docket 41758, Agreement CAB 29106, Agreement Among Members of the Air Traffic Conference of America (ATC) relating to reduced rate transportation for proceedings before the IATA Travel Agent Commissioner. (Memo 2154, BDA, OGC)
15. Docket 35634, Agreement CAB 29145 and Docket 38823, Agreement CAB 29144 IATA agreements proposing U.K.-U.S. cargo rate revisions and U.S.-Ethiopia fare increases. (Memo 2160, BIA)
16. Docket 41664, Application of Air National Aircraft Sales and Service, Inc. for issuance of a certificate of public convenience and necessity to engage in scheduled foreign air transportation. (Memo 2158, BIA, OGC, BALJ)
17. Docket 41190, Application of Trans Carib Air, Inc. for amendment of its certificate to engage in foreign air transportation. (Memo 2058-A, BIA, OGC, BALJ)
18. Scandinavian Aviation Issues. (BIA)
19. Canada Route Exchange. (BIA)
20. Charter Service to/from Ireland. (BIA)
21. Luxembourg Aviation Issues. (BIA)
22. Dockets 41830, 41831 and 41832; Agreement CAB 27693-A6, Applications of Pan American World Airways and Saudi Arabian Airlines Corporation for approval of an extension of their blocked-space agreement and renewal of their exemption authorities to permit the carriers to continue to jointly provide combination New York-Dhahran service. (BIA).
23. Discussion on Japan. (BIA)

STATUS: 1-17 Open, 18-23 Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary, (202) 673-5068.

[S-84-510 Filed 1-5-84; 10:10 am]

BILLING CODE 6320-01-M

2

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 56304.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Wednesday, January 11, 1984.

CHANGES IN THE MEETING: Add to the agenda—Chicago Mercantile Exchange's Application to trade Standard and Poors Energy Index Futures.

Jane K. Stuckey,
Secretary of the Commission.

[S-84-512 Filed 1-5-84; 10:20 am]

BILLING CODE 6351-01-M

3

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, Janaury 11, 1984.

LOCATION: Third Floor Hearing Room 1111 18th Street, NW., Washington, D.C.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. *Children's Sleepwear: Final Labeling Amendment*
   The Commission will consider final rules to amend requirements for children's sleepwear to permit manufacturers, under certain conditions, to place precautionary care instructions, required by regulations, on the reverse side of the label.
2. *Expandable Enclosures: Final 30(d) Rule*
   The Commission will consider whether to publish a final 30(d) rule allowing expandable enclosures to be regulated under the Consumer Product Safety Act rather than the Federal Hazardous Substances Act.
3. *Squeeze Toys: 30(d) Rule*
   The staff will brief the Commission on issuance of a final rule under provisions of section 30(d) of the Consumer Product Safety Act to transfer regulation of risks of choking and suffocation injuries associated with these toys from the Federal Hazardous Substances Act to the Consumer Product Safety Act.
4. *Bassinets: 30(d) Rule*
   The staff will brief the Commission on issuance of a proposed rule under section 30(d) of the Consumer Product Safety Act in order to transfer regulation of risks of injury associated with collapse of baby bassinets from the Federal Hazardous Substances Act to the Consumer Product Safety Act.

For a recorded message containing the latest agenda information, call: 301-492-5709

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office

of the Secretary, 5401 Westbard Avenue, Bethesda, Md. 20207, 301–492–6800.

January 4, 1984.

Sadye E. Dunn,

Secretary.

[S–84–544 Filed 1–5–84; 3:21 pm]

BILLING CODE 6355–01–M

4

CONSUMER PRODUCT SAFETY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 49 FR 187 January 3, 1984.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Thursday, January 5, 1984.

STATUS: Open/Closed.

MATTER TO BE CONSIDERED:

Open to the public:

1. Fiscal Year 1985 Budget: The Commission will consider issues related to the budget for fiscal year 1985.

Closed to the public:

2. Policy on Release on Consumer Complainant Data: The Commission will consider issues related to the release of consumer complainant data.

3. Enforcement Matter OS #5067: The staff will brief the Commission on issues related to enforcement matter OS #5067.

For a recorded message containing the latest agenda information: Call 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207; 301–492–6800.

Dated: January 4, 1984.

Secretary, Sadye E. Dunn,

Consumer Product Safety Commission.

[S–84–583 Filed 1–5–84; 3:21 pm]

BILLING CODE 6355–01–M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 9:30 a.m. on Wednesday, January 4, 1984, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider the following matters:

Application of Bank of Commerce, Morristown, Tennessee, an insured State nonmember bank, for consent to merge, under its charter and title, with City and County Bank of Jefferson County, White Pine, Tennessee, and Southern Industrial Banking Corporation, Knoxville, Tennessee, and for consent to establish the sole office of City and County Bank of Jefferson County and the nine offices of Southern Industrial Banking Corporation as branches of Bank of Commerce.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,847–L (Amended)—United American Bank in Hamilton County, Chattanooga, Tennessee, and United American Bank in Knoxville, Knoxville, Tennessee

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. H. Joe Selby, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: January 4, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–84–584: Filed 1–5–84; 3:21 pm]

BILLING CODE 6714–01–M

6

FEDERAL ENERGY REGULATORY COMMISSION

Notice

January 4, 1984.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552b:

TIME AND DATE: 10:00 a.m., January 11, 1984.

PLACE: 825 North Capitol Street, NE., Room 9306, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357–8400.

This is a list of matters to be considered by the Commission, it does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Consent Power Agenda

783rd Meeting—January 11, 1984

Regular Meeting (10:00 a.m.)

CAP–1: Project No. 7532–000, Farmers Irrigation District

CAP–2: Project No. 7390–000, Harder Farms, Inc. and Scott Ranch

CAP–3: Project No. 7548–000, Geo-Bon #2 Hydro Project

CAP–4: Project No. 7530–000, Little Wood Ranch Hydro Project

CAP–5: Project No. 7437–000, Capital Development Company

CAP–6: Project No. 2545–011 (Phase II), the Washington Water Power Company

CAP–7: Project No. 199–024, South Carolina Public Service Authority

CAP–8: Project No. 7570–003, Calaveras Public Utility District

CAP–9:

- Project No. 3524–004, Western Water Power, Inc.
- Project No. 3950–001, Energenics Systems, Inc.
- Project No. 4399–001, Yuma County Water Users' Association
- Project No. 4411–002, City of McFarland, California
- Project No. 4420–001, Imperial Irrigation District

CAP–10: Project No. 6566–004, Aquenergy Systems, Inc.

CAP–11: Project No. 2725–012, Georgia Power Company

CAP–12:

- Project No. 6986–000, Tranquillity Irrigation District
- Project No. 7356–001, Calaveras County Water District, Tuolumne Regional Water District and Tuolumne County, California

CAP–13:

- Project No. 2787–003, White Current Corporation
- Project No. 2816–001, Vermont Electric Generation & Transmission Cooperative, Inc.

CAP–14:

- Project Nos. 5867–003 and 004, Long Lake Energy Corporation
- Project No. 4696–001, New York State Electric and Gas Corporation
- Project No. 5665–001, Essex County Industrial Development Agency

CAP–15: Project No. 7258–001, China Flat Company

CAP–16: Omitted

CAP–17:

- Project No. 935–000, Pacific Power and Light Company
- Project No. 2791–000, Clark-Cowlitz Joint Operating Agency

CAP–18: Docket No. ER80–363–005, Delmarva Power and Light Company

CAP–19: Docket No. ER82–673–006, Kentucky Utilities Company

CAP–20: Docket No. ER83–765–000, Carolina Power & Light Company

CAP–21: Docket No. ER83–420–000, Northern States Power Company (Wisconsin)

CAP–22: Docket No. ER83–658–002, Kentucky Utilities Company

Consent Miscellaneous Agenda

CAM–1: Docket No. FA84–4–000, Connecticut Yankee Atomic Power Company
CAM–2: Docket Nos. RM83–73–001, 002, 003, 004 and 005, Standard Form for Purchased Gas Adjustment Filing Submitted by Natural Gas Pipeline Companies FERC Form No. 542–PGA
CAM–3: Docket No. RM79–78–212 (Texas–38), High-Cost Gas Produced From Tight Formations
CAM–4: Docket No. GP82–46–001, Getty Oil Company

Consent Gas Agenda

CAG–1: Docket No. RP84–34–000, Midwestern Gas Transmission Company
CAG–2: Docket Nos. RP84–11–001 and 003, Columbia Gas Transmission Corporation
CAG–3: Docket No. RP84–14–001, Northwest Central Pipeline Corporation
CAG–4: Docket No. RP83–68–004, Natural Gas Pipeline Company of America
CAG–5: Docket No. RP82–56–009, Northwest Pipeline Corporation
CAG–6: Docket No. TA83–2–31–001 (PGA83–2, IPR83–2), Arkansas Louisiana Gas Company, a Division of Arkla, Inc.
CAG–7: Docket Nos. RP77–68–016 and RP78–78–000, Natural Gas Pipeline Company of America
CAG–8: Docket No. RP78–62–000 (Reserved Issues), Panhandle Eastern Pipe Line Company
CAG–9: Docket No. RP80–97–000, et al., Tennessee Gas Pipeline Company
CAG–10: Docket No. RP82–56–000, Northwest Pipeline Corporation
CAG–11: Docket No. RP82–80–000, RP83–79–000, CP82–542–000, TA81–2–48–000, TA82–1–48–000, TA82–2–48–000, TA83–1–48–000, TA83–2–48–000 and TA84–1–48–000, Michigan Wisconsin Pipe Line Company
CAG–12: Docket No. RI83–8–007, Mobil Oil Corporation and Northern Natural Gas Producing Company
CAG–13:
  Docket No. CI83–287–001, Texaco Producing Inc.
  Docket No. G–11229–002, Arco Oil and Gas Company, Division of Atlantic Richfield Company
CAG–14:
  (A) Docket No. CS68–48–001, Maruch-Foster Corporation and BFO Energy, Inc. (Baruch-Foster Corporation)
  Docket No. CS71–515–002, Howell Petroleum Corporation, (Petro-Search, Inc.)
  (B) Docket No. CS84–3–001, Park Oil & Gas, Inc.
CAG–15:
  Docket No. CI84–12–001, Mesa Petroleum Company
  Docket No. CI84–7–001, Southland Royalty Company
  Docket No. CI84–11–001, Odeco Oil & Gas Company
  Docket No. CI83–448–001, McMoran Offshore Exploration Company
  Docket No. CI84–37–001, Tenneco Oil Company, Manager for Houston Oil & Minerals Corporation
  Docket No. CI77–210–005, Arco Oil and Gas Company, Division of Atlantic Richfield Company
  Docket No. CI83–443–002, Texaco Inc.
CAG–16: Docket Nos. CI83–297–000 and 001, Eastern American Energy Corporation
CAG–17: Docket No. CI83–219–000 and CI74–577–000, Phillips Petroleum Company
CAG–18: Docket No. RI74–188–003, RI74–188–004 and RI75–21–002, Independent Oil & Gas Association of West Virginia
CAG–19: Docket No. RI74–188–019 and RI75–21–014, Independent Oil & Gas Association of West Virginia
CAG–20: Docket No. CP81–302–003, CP81–302–005, CP81–302–006, CP81–303–006, CP81–303–008, CP81–303–009, CP81–494–003, CP81–494–004, CP82–392–001, CP82–392–002, CP82–392–004 and CP83–429–000, Natural Gas Pipeline Company of America
CAG–21: Docket No. CP83–209–001, Natural Gas Pipeline Company of America
CAG–22:
  Docket No. CP76–362–009, Texas Eastern Transmission Corporation, et al.
  Docket No. CP82–255–004, Transcontinental Gas Pipe Line Corporation
CAG–23: Docket No. CP81–330–003, United Gas Pipe Line Company, Columbia Gulf Transmission Company and Southern Natural Gas Company
CAG–24: Omitted
CAG–24:
  Docket No. CP74–147–003, Michigan Wisconsin Pipe Line Company and Midwestern Gas Transmission Company
  Docket No. CP75–155–002, Wisconsin Gas Company
  Docket No. CP76–84–001, Northern States Power Company (Wisconsin)
CAG–26: Docket Nos. CP82–379–000 and 001, Delhi Gas Pipeline Company
CAG–27: Docket No. CP83–380–000, Lone Star Gas Company, a Division of Enserch Corporation
CAG–28:
  Docket No. CP83–377–000, West Texas Gas, Inc. and Peoples Natural Gas Company, Division of Internorth, Inc.
  Docket No. CP83–487–000, Colorado Interstate Gas Company
CAG–29: Docket No. CP83–447–000, Valero Transmission Company
CAG–30: Docket No. CP83–492–000, the Inland Gas Company, Inc.
CAG–31:
  Docket Nos. CP82–79–001, CP82–241–001 and CP82–282–001, Mountain Fuel Supply Company
  Docket No. CP83–387–000, Columbia Gulf Transmission Company
CAG–32: Docket No. CP82–479–001, Northwest Central Pipeline Corporation
CAG–33:
  Docket Nos. CP70–119–000, et al., and CP75–274–001, Natural Gas Pipeline Company of America
  Docket Nos. CP72–185–000 and 002, Michigan Wisconsin Pipeline Company
CAG–34: Docket No. St83–627–000, Producer's Gas Company
CAG–35: Docket No. ST80–109–002, Cranberry Pipeline Corporation
CAG–36: Docket No. RP84–36–000, West Lake Arthur Corporation

Power Agenda

I. Licensed Project Matters

P–1:
  Project No. 5838–000, Picket Hydro Associates
  Project No. 8517–000, Blackstone, Virginia
P–2: Omitted

II. Electric Rate Matters

ER–1: Docket No. ER84–102–000, Montaup Electric Company
ER–2: Docket No. ER84–91–000, Delmarva Power and Light Company
ER–3: Docket No. ER81–779–004, Pennsylvania Power Company
ER–4: Docket Nos. ER81–450–000 and ER81–461–000 (Consolidated) Union Electric Company and Missouri Edison Company
ER–5:
  Docket Nos. ER77–485–000 and ER77–551–000, Carolina Power & Light Company
  Docket No. E–9606–000, North Carolina Electric Membership Corporation, Four County Electric Membership Corporation, Electriccities of North Carolina, and cities of Bennetsville and Camden, South Carolina
ER–6: Docket No. E–9206–003, McDowell County Consumers Council, Inc. v. American Electric Power Company, et al.
ER–7: Docket Nos. ER83–694–001 and 002, West Texas Utilities Company
ER–8: Docket Nos. EF84–2011–002, EF82–2011–003, EF84–2011–004, EF84–2011–005, EF84–2021–002, EF84–2021–003, EF84–2021–004, and EF84–2021–005, U.S. Department of Energy—Bonneville Power Administration
ER–9: Docket No. EL83–11–000, Virginia Electric & Power Company

Miscellaneous Agenda

M–1: Docket No. RM83–56–000, Application for License, Permit and Exemption From Licensing for Water Power Projects
Docket No. RM83–76–000, Ratemaking Treatment of Investment Tax Credits for Electric Utilities
M–3: Reserved
M–4: Reserved
M–5:
  (A) Docket No. RM80–33–001, Final Rule for Btu Measurement Standard Under the Natural Gas Policy Act of 1978
  (B) Docket No. RM84–6–000, Refunds Resulting From Btu Measurement Adjustments
  (C) Docket Nos. TA82–2–21–000 and TA83–1–21–002, et al., Columbia Gas Transmission Corporation
  Docket No. RM80–33–000, Final Rules For Part 270, Subpart B, Section 270.201, 270.202 and 270.204
  Docket Nos. TA82–2–29–001 and TA83–2–29–000, et al., Transcontinental Gas Pipe Line Corporation
  Docket Nos. TA82–2–17–000 and TA83–1–17–003, et al., Texas Eastern Transmission Corporation
  Docket No. TA82–2–9–000, et al., Tennessee Gas Pipeline Company, a Division of Tenneco Inc.
M–6: Omitted
M–7: Omitted

M–8: Docket No. RM83–78–000, Transfer of Oil Pipeline Regulations
M–9: RM83–71–000, Elimination of Variable Costs From Certain Natural Gas Pipeline Minimum Commodity Bill Provisions
M–10: RM5–7–000, Competitive Impacts of Industrial Sales Programs

Gas Agenda

I. Pipeline Rate Matters

RP–1:
Docket Nos. TA81–1–21–001, TA81–2–21–001, and RP82–120–006, Columbia Gas Transmission Corporation
Docket Nos. RP82–119–003, Columbia Gas Transmission Company
RP–2: Docket Nos. TA82–1–21–001, TA82–2–21–000, TA83–1–21–000 and 002, TA83–2–31–000, RP82–120–000 and 004, and RP82–119–000, Columbia Gas Transmission Corporation and Columbia Gulf Transmission Company
RP–3: Docket No. RP83–12–000, Columbia Gas Transmission v. Kentucky West Virginia Gas Company
RP–4:
Docket No. RP83–106–001, Transwestern Pipeline Company
Docket No. RP81–130–007, et al., Transwestern Pipeline Company
Docket No. RP83–113–001, Pacific Gas Transmission Company
Docket No. RP83–135–001 and 005, Pacific Interstate Transmission Company
Docket No. RP83–136–001 and 005, Pacific Offshore Production Company
Docket No. RP84–28–000, Pacific Interstate Offshore Company
RP–5: Docket No. RP83–85–000, Northwest Central Pipeline Corporation v. Arkansas Louisiana Gas Company, A Division of Arkla, Inc.
RP–6:
Docket No. RP83–10–000, the Inland Gas Company, Inc. v. Tennessee Gas Pipeline Company
Docket No. RP83–20–000, Tennessee Gas Pipeline Company v. the Inland Gas Company, Inc.
Docket No. RP83–8–000, Columbia Gas Transmission Corporation V. Tennessee Gas Pipeline Company
Docket No. RP83–19–000, Tennessee Gas Pipeline Company v. Columbia Gas Transmission Corporation
RP–7: Docket Nos. RP81–130–004, RP83–25–006, TA82–2–42–010 and TA83–1–42–002, Transwestern Pipeline Company
RP–8: Docket No. RP80–136–000, Southern Natural Gas Company
RP–9: Docket No. RP83–22–000, EL Paso Natural Gas Company
RP–10: Docket Nos. RP83–139–001 and 002, El Paso Natural Gas Company
RP–11: Docket Nos. RP79–23–016, 017, RP79–24–010 and RP81–34–005, Distrigas of Massachusetts Corporation
RP–12: Omitted
RP–13:
Docket Nos. RP83–11–004 Through 013 and RP83–30–000 Through 010, Transcontinental Gas Pipe Line Corporation
Docket Nos. CP83–279–003 Through 008, Producer-Suppliers of Transcontinental Gas Pipe Line Corporation
Docket Nos. CP83–340–003 Through 009, Producer-Suppliers of Transco Gas Supply Company
Docket Nos. CP83–428–001 Through 008, Producer-Suppliers of Transco Gas Supply Company and Transcontinental Gas Pipe Line Corporation
RP–14: Docket No. CP83–452–001, et al., Columbia Gas Transmission Corporation and Columbia Gulf Transmission Company
RP–15: Docket No. OR78–1–013 (Quality Bank), Trans Alaska Pipeline System

II. Producers Matters

CI–1: Docket NoCI83–269–000 Through 010, Tenneco Oil Company, Houston Oil & Minerals Corporation, Tenneco Exploration, Ltd., Tennco Exploration II, Ltd., and Tinco, Ltd.
CI–2: Docket No. CI83–257–000, MGF Oil Corporation

III. Pipeline Certificate Matters

CP–1: Docket Nos. CP80–17–000, CP80–17–001 and CP80–17–002 (Phase I), Trans-Anadarko Pipeline System
CP–2: Docket No. CP83–410–003, Consolidated Gas Supply Corporation
CP–3: Docket Nos. CP79–80–006, Consolidated Gas Supply Corporation
CP–3:
Docket No. CP79–80–006 and 018, Trailblazer Pipeline Company
Docket No. CP82–555–000, Natural Gas Pipeline Company of America, Northern Natural Gas Company, Division of Internorth, Inc., and Columbia Gas Transmission Corporation
Docket Nos. CP79–80–007 and 019, Overthrust Pipeline Company
Docket No. CP80–7–002, Mountain Fuel Supply Company
Docket No. CP82–450–002, Colorado Interstate Gas Company
CP–4:
Docket No. CP83–131–000 and CP83–131–001, Northern Natural Gas Company, a Division of Internorth, Inc.
Docket No. CI83–179–000, Amoco Production Company
CP–5: Docket No. CP83–370–000, United Gas Pipe Line Company
CP–6: Docket No. CP75–23–020 and CP75–120–013, Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

Kenneth F. Plumb,
Secretary.

[S–84–585 Filed 1–5–84; 3:21 pm]
BILLING CODE 6717–01–M

7

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9:00 a.m., January 11, 1984.

PLACE: Hearing Room One—1100 L Street, NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portion open to the public:
1. Sea-Land Service, Inc. 13.5% General Rate Increase in Trades between U.S. Atlantic and Gulf Ports and Puerto Rico.

Portion closed to the public:
1. Docket No. 82–3: South Atlantic-North Europe Rate Agreement (Agreement No. 9984–23)—Gulf European Freight Association (Agreement No. 10270–2)—Consideration of the Record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523–5725.

[S–84–511 Filed 1–5–84; 10:15 am]
BILLING CODE 6730–01–M

8

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

January 4, 1984.

TIME AND DATE: Wednesday, January 11, 1984 10:00 a.m.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Allied Chemical Corporation, Docket No. WEST 81–353–M, (Issues include consideration of the administrative law judge's motion to permit his entry of an amended decision approving a settlement.)
2. Allied Chemical Corporation, Docket No. WEST 81–362, (Issues include consideration of the administrative law judge's motion to permit his entry of an amended decision approving a settlement.)
3. A. H. Smith Co., Docket No. YORK 81–67–M (Issues include whether the administrative law judge erred in concluding that the operator violated 30 C.F.R. § 56.5–50, a mandatory standard that regulates miners' exposure to noise.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, agenda clerk (202) 653–5632.

[S–84–586; Filed 1–5–84; 3:21 pm]
BILLING CODE 6735–01–M

9

NATIONAL TRANSPORTATION SAFETY BOARD

[NM–84–2]

A majority of the Board determined by recorded vote that the business of the Board required holding this meeting on less-than-normal notice and that no earlier announcement was possible.

TIME AND DATE: 9 a.m., Tuesday, January 10, 1984.

PLACE: NTSB Board Room, 8th Floor, 800 Independence Ave., SW., Washington, D.C. 20594.

STATUS: Open.

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MATTERS TO BE CONSIDERED:

1. *Highway Accident Report:* Multiple Vehicle Collisions and Fires Under Limited Visibility Conditions, Interstate Route 75, Ocala, Florida, February 28, 1983.
2. *Regulations*—Revision of Appendix (Fee Schedule) to 49 CFR Part 801.
3. *Reconsideration of Probable Cause:* File No. 3–3509; Galena, Alaska, March 27, 1981.
4. *Reconsideration of Probable Cause:* Airplane Accident; Cessna 441, N36941, Butte, Montana, April 1, 1980.
5. *Aviation Brief of Accident:* File No. 1652, N27524, Bell 206B, Larkspur, Colorado, December 7, 1982.
6. *Briefs of Major Field Aviation Accident Investigation:* Rockport, Texas; Glendale, Arizona; and Bevand, N.C.).
7. *Marine Summary Reports*
8. *Recommendation* regarding the ignition of ammonium nitrate during repairs to a box car at the Norfolk and Portsmouth Beltline Railroad Yard in Portsmouth, Virginia, October 4, 1983.
9. *Recommendations* to the Governor of Alaska, Mayor of the Municipality of Anchorage, the Anchorage Area Utility Association, and the Enstar Natural Gas Company concerning natural gas pipeline accidents at Anchorage, Alaska, on October 7, 1982, and June 15, 1983.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, (202) 382–6525.

H. Ray Smith, Jr.,
Federal Register Liaison Officer.
January 5, 1984.

[FR Doc. 84–581 Filed 1–5–84; 3:21 pm]
BILLING CODE 4910–58–M

10

NATIONAL TRANSPORTATION SAFETY BOARD

[NM–84–3]

TIME AND DATE: 9 a.m., Thursday, January 19, 1984.

PLACE: NTSB Board Room, 8th Floor, 800 Independence Ave., SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Marine Accident Report:* U.S. Bulk Carrier MARINE ELECTRIC Capsizing and Sinking, about 30 nautical miles east of Chincoteague, Virginia, February 12, 1983.
2. *Recommendations* to the American Bureau of Shipping, the U.S. Coast Guard, and the Federal Communications Commission re Capsizing and Sinking of the U.S. Bulk Carrier MARINE ELECTRIC.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, (202) 382–6525.

H. Ray Smith, Jr.,
Federal Register Liaison Officer.
January 5, 1984.

[S–84–582 Filed 1–5–84; 3:21 pm]
BILLING CODE 4910–58–M

federal register

Monday
January 9, 1984

Part II

Department of Agriculture

Office of the Secretary

Special and Alcohol Fuels Research Grants Programs for Fiscal Year 1984, Solicitation of Applications; Notice

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DEPARTMENT OF AGRICULTURE

Office of the Secretary

Special and Alcohol Fuels Research Grants Programs for Fiscal Year 1984, Solicitation of Applications

Special Research Grants Program

Notice is hereby given that under the authority of section 2(c)(1) of the Act of August 4, 1965, Pub. L. 89–106, as amended (7 U.S.C. 450i(c)(1)), the Cooperative State Research Service (CSRS) of the U.S. Department of Agriculture (USDA) will award project grants for certain areas of research. Fundamental and innovative approaches will be sought for the resolution of program problem areas. The total amount available for this program during the Fiscal Year 1984 is approximately $7,898,562. This solicitation is being announced to allow adequate time for potential recipients to prepare and submit applications. See Appendix I for application procedures. The research to be supported is the following areas:

Soybean Research, $499,445
CSRS Contact: Dr. C. B. Rumburg;
Telephone (202) 447–6074
Animal Health Research, $6,899,672
CSRS Contact: Dr. Earl Splitter;
Telephone (202) 447–5007
Aquaculture Research, $499,445
CSRS Contact: Dr. Howard S. Teague;
Telephone (202) 447–3847

As outlined by OMB Circular No. A–89, the official program number and title for the Special Research grants are: 10.200, Grants for Agricultural Research, Special Research Grants.

Alcohol Fuels Research Grants Program

In addition, notice is hereby given that pursuant to the authority of section 1419 of the Food and Agriculture Act of 1977, Pub. L. 95–113, as amended (7 U.S.C. 3154), CSRS, USDA, will award project grants for research in the area of alcohols and industrial hydrocarbons from agricultural commodities and forest products and agricultural chemicals. The total amount available for this program during Fiscal Year 1984 is approximately $520,657. This solicitation is being announced to allow adequate time for potential recipients to prepare and submit applications. See Appendix I for application procedures. The research to be supported is in the following area:

Alcohol Research, $520,657
CSRS Contact: Dr. Wayne K. Murphey;
Telephone (202) 447–2044

The Alcohol program funds are intended to stimulate and support energy-related research. Such research is national in scope, is not designed to meet the needs or address the problems of a particular State, area or locality, does not include demonstration or pilot research projects, and does not involve capital construction.

As outlined by OMB Circular No. A–89, the official program number and title for the Alcohol Research grants are 10.208, Alcohol Fuels Research.

Proposals submitted in response to this notice will be evaluated in competition with proposals from other institutions. Grants will be awarded for research proposals selected by CSRS, utilizing recommendations of Peer Panels, from funds appropriated for Fiscal Year 1984 (October 1, 1983 through September 30, 1984). Projects may be up to 5 years' duration unless a shorter duration is specified.

Subject Matter Guidelines for Fiscal Year 1984, Grants Under section 2(c)(1) of Pub. L. 89–106 as amended and section 1419 of Pub. L. 95–113, as amended

A. The applicable program should be indicated in Block 7 and the applicable program area and specific area of inquiry should be indicated in Block 8 of Form S&E–661 provided in the Research Grant Application Kit. Select one program and one program area only. The final determination of the program and program area will be made by the program staff and/or the appropriate panel. The number assigned to the specific area of inquiry must also be cited, if applicable (e.g., 2.1, 2.2), in Block 8 of Form S&E–661.

B. Information concerning the selection of proposals for funding is included in Appendix II. The appropriate format for preparation of the proposal is described in Appendix III. Appendix IV shows the scoring form which will be utilized by peer panel members and Appendix IV–A provides general information concerning proposal evaluation and grant administration. Detailed descriptions of the program areas to be supported follow.

Special Research Grants Program: Program Areas

1.0 Soybean Research. The total amount expected to be available for soybean research during Fiscal Year 1984 is $499,445. Grant awards will be limited to a maximum of $100,000 for the support of any project in this program area. proposals requesting in excess of $100,000 will not be evaluated. Proposals submitted for funding should address the following specific areas of inquiry.

1.1 Soybean production research to sustain or increase yields and conserve natural resources. Preference will be given to strategies with broad or national implications.

1.2 Research on soybean genetic mechanisms contributing to tolerance to biotic and abiotic stress.

2.0 Animal Health. The total amount expected to be available for this area during Fiscal Year 1984 is $6,899,672. These funds will be awarded to support research seeking solutions to health problems of livestock and poultry and major aquaculture species. Grant awards will be limited to a maximum of $150,000 for the support of any project in this program area. Proposals requesting in excess of $150,000 will not be evaluated. The overall objective of this research is to develop and/or refine abiotic and biotic methodologies for suppression of animal losses due to infectious and noninfectious diseases and internal and external parasites of livestock, poultry, and major aquaculture species.

Research should be directed toward (1) basic and applied studies to clarify infectious and noninfectious diseases and parasites or their interactive effects on animal health; and (2) development of practical implementable management systems for the producer to prevent or alleviate these causes of animal losses. Research may include clarification of complex or unknown etiologies including nutritional genetic and environmental interactions; development of improved methods of detecting disease agents or antibiodies in animals, animal products, tissues, etc.; clarification of disease pathogenesis; determination of methods of disease transmission including transmission by embryo transfer, artificial insemination and importation of animal products—such studies should mimic as close as possible the normal conditions of collection, preparation and use of these items; development of improved methods of immunization against disease agents that will provide solid and persistent protection without compromising diagnosis; development of alternative pest eradication methods so as to limit the use and dependence on biotoxic substances—such alternatives may include biologic methods, sterile male techniques, artificial pheromones, etc.; and development of other disease prevention, control and eradication technology.

The specific areas of inquiry in which projects will be funded are listed below. The areas are broken down into subcategories which will be funded in the approximate amounts listed. In the event that there are insufficient meritorious proposals recommended by peer panels to utilize all funds in each

specific area of inquiry or in each subcategory, the balance of any such funds will be awarded to meritorious proposals recommended by peer panels under the other subcategories within the specific area of inquiry or the other specific areas of inquiry. Utilizing the recommendations of the peer panels, the Administrator of CSRS will make the final determination on specific grants to be awarded. Only proposals dealing with the following specific areas of inquiry will be selected for funding:

2.1 Beef Cattle. (1) Respiratory diseases complex. (Approximately 17 percent of available funds).

(2) Reproductive diseases, especially brucellosis and including but not limited to anestrus, leptospirosis and vibriosis. (Approximately 12 percent of available funds).

(3) Enteric diseases, including but not limited to Johne's Disease. (Approximately 8 percent of available funds).

(4) Parasites (internal and external), including but not limited to anaplasmosis, ticks, flukes, nematodes and interactive effects of internal and external parasites. Metabolic diseases, especially bloat, grass tetany and mineral imbalance. (Approximately 4 percent of available funds).

2.2 Diary Cattle. (1) Mastitis. (Approximately 6 percent of available funds).

(2) Reproductive diseases, including but not limited to brucellosis and nondetected estrus. (Approximately 5 percent of available funds).

(3) Respiratory diseases. (Approximately 3 percent of available funds).

(4) Digestive and enteric diseases, including but not limited to Johne's Disease. (Approximately 2 percent of available funds).

(5) Foot Rot. (Approximately 2 percent of available funds).

2.3 Swine. (1) Enteric diseases. Viral enteritis, coccidiosis, salmonellosis, colibacillosis and proliferative enteritis. (Approximately 5 percent of available funds).

(2) Respiratory diseases. Hemophilus pleuropneumonia, mycoplasma pneumonia, atrophic rhinitis, and *Pasteurella multocida*. (Approximately 5 percent of available funds).

(3) Reproductive diseases. Parvovirus, Mastitis-metritis-agalactia, pregnancy loss and anestrus. (Approximately 4 percent of available funds).

(4) Other swine diseases. Trichinosis, pseudorabies, parasites, mycotoxicosis, and lameness. (Approximately 4 percent of available funds).

2.4 Poultry. (1) Respiratory diseases. (Approximately 5 percent of available funds).

(2) Metabolic and immunologic diseases. (Approximately 4 percent of available funds).

(3) Enteric disorders. (Approximately 4 percent of available funds).

2.5 Sheep and Goats. Bluetongue, foot rot, chlamydial polyarthritis, gastrointestinal parasites, caseous lymphadenitis, pneumonia, mastitis, bacterial scours, ram epididymitis and predator control. (Approximately 5 percent of available funds).

2.6 Horses. Especially respiratory diseases, and including but not limited to enteric diseases, reproductive diseases, and musculoskeletal diseases (especially laminitis and lameness). (Approximately 3 percent of available funds).

2.7 Aquaculture. Infectious diseases and parasites. (Approximately 2 percent of available funds).

3.0 Aquaculture Research. The total amount expected to be available for this area during Fiscal Year 1984 is $499,445. Grant awards will be limited to a maximum of $80,000 for the support of any project in this program area. Proposals requesting in excess of $80,000 will not be evaluated. The objective of this research is to provide and improve upon the scientific and technical base needed by the aquaculture industry.

Increased production of commercially important species such as catfish, trout, bait minnows, crawfish and freshwater shrimp will be included. Proposals focused on aquaculture production in the following specific areas of inquiry will be considered:

3.1 Improved production efficiency in diet formulation, reproduction and breeding, and disease and parasite control.

3.2 Improved water quality for production and factors affecting the quality of water discharge.

Alcohol Fuels Research Grants Program

4.0 Alcohol Research. The total amount expected to be available for this program during Fiscal Year 1984 is $520,657. Grant awards will be limited to a maximum of $80,000 for the support of any project in this program area of 2 or 3 years' duration. Proposals requesting in excess of $80,000 or proposing a project period of more than 3 years will not be evaluated. This program will cover research on the evaluation (including economic), treatment, and conversion of biomass resources for manufacture of alcohol.

At least 25 percent of these funds shall be made available for research relating to the production of alcohol, to identify and develop agricultural commodities (including alfalfa, sweet sorghum, black locust and cheese whey) which may be suitable for such production. At least 25 percent of these funds shall be made available for research relating to the development of technologies for increasing the energy efficiency and commercial feasibility of alcohol production, including processes of cellulose conversion and cell membrane technology.

It has been determined that, because of the need to implement these programs so that research relating to plant production can be initiated in the spring of 1984, compliance with the Notice and public procedure provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest. Further, this action has been reviewed under Executive Order 12291 and it has been determined that this is not a major rule. Although this Notice establishes the procedures and criteria under which the recipients of Special and Alcohol Fuels Research grants in Fiscal Year 1984 will be selected, and the terms and conditions under which such grants will be administered, it does not involve a substantial or major impact on the Nation's economy or large numbers of individuals or businesses. There will be no major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

Done at Washington, D.C., this 16th day of December 1983.

Orville G. Bentley,

Assistant Secretary for Science and Education.

Appendix I—Application Procedures

1. Eligible Institutions

Special Research Grants Program. Grants under section 2(c)(1) of Pub. L. 89–106, as amended, may be made to land-grant colleges and universities, research foundations established by land-grant colleges and universities, State agricultural experiment stations, and to all college and universities having a demonstrable capacity in food and agricultural research.

Alcohol Fuels Research Grants Programs. Grants under section 1419 of Pub. L. 95–113, as amended, may be made to any college, university, Government corporation or Federal laboratory. Research foundations are not eligible to receive research grants under section 1419 of Pub. L. 95–113 unless they independently meet the definition of college and university as set out in section 1404 of Pub. L. 95–113, as amended.

Section 1404 of Pub. L. 95–113, as amended (7 U.S.C. 3103) defines "college" and "university" as an educational institution in any State which (A) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (B) is legally authorized within such State to provide a program of education beyond secondary education, (C) provides an educational program for which a bachelor's degree or any other higher degree is awarded, (D) is a public or other nonprofit institution, and (E) is accredited by a nationally recognized accrediting agency or association.

Foreign universities or colleges are not eligible under either of the above programs.

2. Proposal Submission

A. Before submission, write or call the Grants Administrative Management office (address and telephone number below) for a copy(ies) of the Research Grant Application Kit.

Proposals should be submitted to the Grant Administrative Management office at the address shown below. Your submission should include an orginal and 19 copies of the proposal and Form S&E–661, Grant Application, which is included in the Research Grant Application Kit. The Form S&E–661 submitted with the original proposal should have original signatures of the principal investigator(s) and the authorized organizational representative. CSRS must have original signatures on file for each application. A principal investigator whose signature does not appear on the Grant Application will not be listed as a principal investigator in the event of an award.

Grants Administrative Management, Office of Grants and Program Systems, U.S. Department of Agriculture, West Auditors Building, Room 010, 15th & Independence Ave., SW., Washington, D.C. 20251, Telephone: (202) 475–5049

All copies of the proposal should be mailed in one package, if at all possible. Due to the volume of proposals received, proposals submitted in several packages are very difficult to identify. If copies of the proposal *are* mailed in more than one package, the number of packages should be marked on the outside of each. It is important that *all packages be mailed at the same time.* The acknowledgement of receipt of the proposal will contain a proposal number and title. Later inquiries, addenda, etc., should include this information. However, every effort should be made to *ensure* that the proposal *contains all pertinent information when initially submitted.* Prior to mailing, compare your proposal with the Application Requirements checklist contained in the Research Grant Application Kit and the format cited in Appendix III of this announcement.

B. To be considered for award, proposals must be prepared in the format prescribed in Appendix III and must be *received* in the Grants Administrative Management office (GAM) by the *close of business* on the date specified for each program area as listed below:

Soybean Research—deadline is March 2, 1984
Animal Health Research—deadline is March 16, 1984
Aquaculture Research—deadline is March 30, 1984
Alcohol Research—deadline is April 6, 1984

Proposals should not exceed 10 pages (single spaced) excluding the literature citation, vitae appendices, and required forms from the Research Grant Application Kit.

When proposals exceed 10 pages in total, only the first 10 pages, excluding the pages referenced in the above paragraph, will be evaluated. (Please print on one side only; it is difficult to review material that is printed back-to-back. Also, please staple proposals securely; but do not bind. The clips come off of unstapled proposals and pages come apart. Binding must be removed to facilitate processing.)

C. Research Involving Special Consideration. A number of situations frequently encountered in the conduct of research require special information and supporting documentation before funding can be approved for the project. If special information or supporting documentation is involved, the proposal should so indicate. Since some types of research targeted for CSRS support have a high probability of involving either recombinant deoxyribonucleic acid (DNA) or human subjects, special instructions follow:

Recombinant DNA. Principal investigators and endorsing performing organization officials must comply with the guidelines of the National Institutes of Health (see NIH "Guidelines for Research Involving Recombinant DNA Molecules" (43 FR 60108–60131) and subsequent revisions).

Human Subjects. Safeguarding the rights and welfare of human subjects used in research supported by CSRS grants is the responsibility of the performing organization. The informed consent of the human subject is a vital element in this process. Guidance is contained in Pub. L. 93–348, as implemented by Part 46, Subtitle A of Title 45 of the Code of Federal Regulations, as amended (45 CFR Part 46).

If a grant is recommended for award and the project involves human subjects at risk, the grantee must furnish CSRS with a statement that the research plan has been reviewed and approved by the appropriate Institutional Review Board at the grantee organization and that the grantee is in compliance with Department of Health and Human Services (DHHS) policies, as amended, regarding the use of human subjects. Form S&E–84, Protection of Human Subjects, may be used for this purpose.

3. Budget and Report Requirements

The following items apply only to those proposals that are selected for funding:

A. The grant will be awarded on the basis of all financial support, from any source, that is shown in the proposal budget (Form S&E–55). While cost sharing is encouraged, it is not required and will not be a factor in the selection process.

B. Annual financial reports (Standard Form 269) will be required.

C. An annual progress report not to exceed 2 pages will be required in addition to a shorter summary for insertion into a computerized research information service. Annual reports will be organized around the objectives and research timetable as specified in the project proposal.

D. Comprehensive (performance and financial) final reports must be submitted to CSRS within 90 calendar days after the termination date of the grant.

Appendix II—Selection of Proposals for Funding

A. Selection Criteria. A panel of peer scientists for each specific area of inquiry will evaluate the proposals utilizing selection criteria listed in Appendices IV and IV–A. The peer panel, when appropriate, can recommend a reduced level of funding for a proposal or that the research be confined to certain objectives for proposals under review. Utilizing the recommendations of peer panels, CSRS will select the proposals to be funded within the amount available for each program area.

B. When the peer panel recommends that the amount of award be reduced below the amount proposed for a project or where the panel recommends that

only research dealing with selected objectives be funded, these changes will be discussed with the submitting institution. If the institution elects not to make these changes as a condition of the award, the proposal will be dropped from the area of inquiry and another proposal selected from those recommended by the peer panel will be funded. A copy of the summary evaluation made by the peer panel will be provided for each unfunded proposal.

C. Disposition of Proposals. After the grants are awarded, the CSRS program manager will retain one copy of unfunded proposals on file for 5 years. The remaining copies will be destroyed. Confidential business information in applications will be protected to the extent allowable by law from disclosure under the Freedom of Information Act, Pub. L. 93–502 (5 U.S.C. 552).

D. Grant Award. The applicants submitting proposals judged most meritorious under criteria in Appendix IV will be awarded grants for periods not to exceed five years, within the limitations of available funds.

Appendix III—Format for Research Proposal

The Research Grant Application Kit (available from the Grants Administrative Management office) includes forms, instructions, and other information to be used in applying for research grants which will be awarded in the areas described earlier.

Additional information and/or instructions relating to the format and content of the Research Proposal follow:

1. Grant Application (Form S&E–661). A Grant Application with all relevant original signatures must be included with the proposal. All other copies of the proposal should also contain a Grant Application, but facsimile or photocopied signatures will be accepted.

2. Title of Proposal. A brief, clear, specific designation of the subject of the research. The title (80 characters maximum) will be used for the USDA Current Research Information System (CRIS), for information to Congress, and for press releases. Therefore, it should not contain highly technical words. Phrases such as "Investigation of" or "Research on" should not be used.

3. Approval Signatures of Appropriate Officials. All proposals from a university, college, or institution must be signed by an authorized official.

4. Objectives. A clear, concise, complete, and logically arranged statement of the specific aims of the research.

5. Procedures. A statement of the essential working plans and methods to be used in attaining each of the stated objectives. Procedures should correspond to the objectives and follow the same order. Procedures should include items such as the sampling plan, experimental design, and analyses anticipated.

6. Justification. This should describe (1) the importance of the problem to the needs of the Department of Agriculture and to the Nation, being sure to include estimates of the magnitude of the problem; (2) the importance of starting the work now; and (3) reasons for the work being performed in your particular institution.

7. Literature Review. A summary of pertinent publications with emphasis on their relationship to the research. Cite important and recent publications from other institutions, as well as your own institution. Citations should be accurate and complete including the title of the article. Literature citations should be appended to the proposal and are not included in the 10-page limit.

8. Current Research. Describe the relevancy of the proposed research to ongoing and as yet unpublished research at your own and at other institutions. Show other grants or support in this and related areas.

9. Facilities and Equipment. The location of the work and the needed and available facilities and equipment should be clearly indicated. This section may be combined with Section 5, Procedures, but the combination must clearly show needed and available facilities and equipment.

10. Research timetable. Show all important research phases as a function of time, year by year.

11. Personnel Support. Identify clearly all personnel who will be involved in the research. For each scientist involved, include (1) and estimate of the time commitments necessary and (2) vitae of the principal investigator, senior associates, and other professional personnel to assist reviewers in evaluating the competence and experience of the project staff. This section should include curricula vitae of all key persons who will work on the project, whether or not Federal funds are sought for their support. The vitae also can be provided as an appendix and will not be included in the 10-page limit. The vitae are to be no more than 2 pages each in length excluding publication listings. Provided for each person a chronological list of the most recent representative publications during the preceding 5 years, including those in press. List the authors in the same order as they appear on the paper, the full title, and the complete reference as they usually appear in journals.

12. Budget. Instructions for completion of the Proposal Budget (Form S&E 55) are contained in the Research Grant Application Kit. Please be sure that your total budget request does not exceed the maximum amount specified for the program or program area under which you are applying.

13. Additions to Project Description (if any). Each project description is expected by the members of review committees and the program staffs to be complete in itself. Distribution of additional materials, other than for the records, will be limited to the principal reviewers. In those instances in which the submission of additional material is necessary (e.g., photographs which do not reproduce well, and reprints or other especially pertinent material which are not suitable for inclusion in the proposal), 8 copies or sets, identified by title of the research project and name of the principal investigator(s), should accompany the proposal.

Appendix IV—Peer Panel Scoring Form

Proposal Identification No. _____
Institution and Project Title _____

_____

_____

_____

I. Basic Requirement:

Proposal falls within guidelines? —— yes —— no. If no, explain why proposal does not meet guidelines under comment section of this form.

II. Selection Criteria:

	Score 1–10	Weight factor	Score X weight factor	Comments
1. Scientific and technical quality of the idea		8		
2. Scientific and technological quality of the approach		8		
3. Relevance and importance of proposed research to solution of specific areas of inquiry		6		
4. Feasibility of attaining objectives during life of proposed research		5		
5. Adequacy of professional training or research experience of research team in essential disciplines needed to conduct the proposed research		5		
6. Adequacy of facilities, equipment, and professional and technical staffing		5		

Score ——————————
Summary Comments: ——————————

Appendix IV–A—Evaluation of Proposals

The peer panel, subject to final determination by the Administrator of CSRS, will determine whether a proposal falls within the guidelines. If the proposal does not meet the guidelines, the proposal will be eliminated from competition and returned to the institution submitting the proposal. Proposals not meeting the guidelines will not be scored on selection criteria be the peer panel.

Proposals reflecting a total budget which exceeds the maximum budget allowed for a particular program area will be considered outside the guidelines.

Proposals satisfactorily meeting the guidelines will be evaluated and scored by the peer panel for each criterion utilizing a scale of 1 to 10. A score a one is low for the selection criterion. A score of 10 is high for the selection criterion. A weighting factor is used for each criterion.

Grant Administration and Allowable Costs

The grants awarded will be administered in accordance with the USDA Uniform Federal Assistance Regulations (7 CFR Part 3015, as amended), and applicable OMB Circulars.

The determination of allowable costs shall be made in accordance with the following applicable Federal Cost Principles in effect on the effective date of the Agreement:

Educational Institutions—OMB Circular No. A–21.
State and Local Governments—OMB Circular No. A–87.
Nonprofit Organizations—OMB Circular No. A–122.
Commercial Firms—FPR 1–15.2.

Information collection requirements contained in this document have been approved under OMB Document No. 0524–0010.

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Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Experimental Populations; Proposed Rule

VOL 49 ISS 5 JA 9 1984 UMI

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Experimental Populations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service proposes to amend Part 17 of Title 50 of the Code of Federal Regulations in order to comply with changes made in the Endangered Species Act of 1973 (Act) by the Endangered Species Act Amendments of 1982 (Amendments). Part 17 would be amended to establish procedures for: (1) The establishment and/or designation of certain populations of species otherwise listed as Endangered or Threatened as experimental populations; (2) the determination of such populations as "essential" or nonessential"; and (3) the promulgation of appropriate protective measures for such populations.

DATES: Comments must be received by February 8, 1984.

ADDRESSES: Interested persons or organizations are requested to submit comments to: Associate Director—Federal Assistance, U.S. Fish and Wildlife Service, Washington, D.C. 20240, Attention: Experimental populations. Comments should refer to individual sections of the proposed rules being addressed. Comments and other materials relating to these rules will be available for public inspection by appointment during normal business hours (7:45–4:15 p.m.) at the Service's Office of Endangered Species, 1000 North Glebe Road, Suite 500, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–2771).

SUPPLEMENTARY INFORMATION: The Endangered Species Act Amendments of 1982, Pub. L. 97–304, became law on October 13, 1982. Among the significant changes made by the 1982 Amendments was the creation of a new Section 10(j), which established procedures for the designation of specific populations of listed species as an "experimental population". Prior to the 1982 Amendments, the Service was authorized to translocated listed species into unoccupied portions of their historic range in order to aid in the recovery of the species. Significant local opposition to translocation efforts often occurred, however, due to concerns over the rigid protection and prohibitions surrounding listed species under the Act. Section 10(j) of the 1982 Amendments was designed to resolve this dilemma by providing new administrative flexibility for selectively applying the prohibitions of the Act.

In particular, the provisions of Section 7 and Section 9 may now be discretionarily applied to an experimental population. Section 9 stringently prohibits the taking of endangered species. The 1982 Amendments provide new flexibility under that section by authorizing the treatment of an experimental population as "threatened" even though the donor population from which the experimental population came is currently listed as endangered. Treatment of the experimental population as threatened enables the Secretary to impose less restrictive taking prohibitions under the authority of Section 4(d) of the Act. As for Section 7, Subsection 7(a)(2) of that Section prohibits Federal agencies from authorizing, funding, or carrying out any activity which would be likely to jeopardize the continued existence of an endangered or threatened species or adversely modify their critical habitats. Under the 1982 Amendments, however, experimental populations that are not "essential" to the continued existence of a species in the wild (and not located within a unit of the National Park System or National Wildlife Refuge System) may be excluded from protection under Section 7(a)(2) of the Act. For such species, Federal agencies would only be required under the Act to informally confer with the Fish and Wildlife Service and treat the species as if they were proposed species under Section 7(a)(4). On the other hand, experimental populations determined to be "essential" to the survival of a species would remain subject to all of the provisions of Section 7. The individual organisms comprising the designated experimental population would be removed from an existent source or "donor" population only after it has been determined that their removal would not violate Section 7(a)(2) of the act and would comply with the permit requirements of Section 19(a)(1)(A) and (d). This proposal would add a new subpart to 50 CFR Part 17 governing designations of experimental populations and would allow for the identification of the special rules govening experimental populations in the lists of endangered and threatened wildlife and plants.

The 1982 Amendments specified a regulatory procedure to be followed for the designation of experimental populations of listed species. In addition, the Conference Report accompanying the Amendments also provides for the conservation of experimental populations by means of written agreements or memoranda of understanding (MOU's) between the Service and other Federal land managing agencies. The Conference Report indicates, however, that MOU's, which may be used to address special managment concerns, cannot be used as a substitute for the rulemaking process outlined in this proposal to identify the location of an experimental population and to determine its essentiality. The use of MOU's without the promulgation of Section 10(j) regulations and appropriate special rules under Section 4(d) of the Act would not relieve any of the restrictions under Section 7 and 9 otherwise applicable to the species.

The designation of an experimental population would include the development of special rules to identify geographically the location of the experimental population and identify procedures to be utilized in its management. The special rule for each experimental population would be developed on a case-by-case basis. It is expected that some regulations to designate an experimental population may also authorize special activities designed to contain the population within the original boundaries set out in the regulation. This will avoid law enforcement problems stemming from the inability to distinguish between fully protected specimens of the donor population from lesser protected specimens of the experimental population.

Regulations for the establishment or designation of experimental populations will be issued in compliance with the Administrative Procedure Act (APA), 5 U.S.C. 553, in order to secure the benefit of public comment and address the needs of each particular population propposed for experimental designations. A rulemaking under Section 10(j) will provide a minimum 30 day comment period. A Section 10(j) rulemaking, because it does not involve an actual determination of endangered or threatened biological status for a species, need not follow the usual Section 4 process for listings. (However, if critical habitat is proposed, then Section 4 would apply.) An experimental populations is by statue given the classification of "Threatened," and the Section 10(j) process is primarily involved with the promulgation of "special rules" that can be issued under the informal rulemaking process of the APA.

Specific changes proposed to be made in Part 17 are set out below.

Section-by-Section Analysis

Subpart B—Lists

Section 17.11 Endangered and Threatened Wildlife: This section would be amended to allow identification of experimental populations in the List of Endangered and Threatened wildlife.

Section 17.12 Endangered and Threatened plants: This section would be amended to allow identification of experimental populations in the List of Endangered and Threatended plants.

Subpart H—Experimental Populations.

Section 17.80 Definitions: Subsection (a) explains the critical features that must exist for a particular population of a listed species to be treated as an "experimental population." The proposed regulatory definition parallels the statue. Subsection (b) distinguishes between "essential" and "nonessential" experimental populations.

Section 17.81 Listing: This section would set out the regulatory steps under which experimental populations may be established and determined to be "essential" or "non-essential." The conditions are intended to assure that experimental populations are released only when their establishment contributes to the overall recovery of a species and that determinations concerning the essentiality of such populations conform to the standards set by the Act. Technical guidance is also provided regarding the content of rules implementing designations of experimental populations. In addition, this Section would allow captive-bred or translocated populations released before passage of the 1982 Amendments to be formally designated as experimental under the procedures of this Subpart H if the requirements of § 17.81(c) are met. Further, this section would provide a procedure for designating the special rules relating to specific experimental populations in the lists at 50 CFR 17.11(h) and 17.12(h). Also noted is the Service's obligation to consult with affected agencies and individuals throughout the experimental population designation process. Subsection (d) of Section 17.81 reflects Congressional intent behind the enactment of Section 10(j):

> "Regulations (to establish or designate experimental populations) should be viewed as an agreement among the Federal agencies, the State fish and wildlife agencies and any landowners involved. Changes in the regulations should only be made after close consultation with all of the affected parties." H. Rept. No. 567, 97th Cong., 2d Sess. 34 (1982).

Section 17.82 Prohibitions: This section would recognize that experimental populations are treated as threatened species for purposes of Sections 4 and 9 of the Act. Therefore, all prohibitions applicable to an experimental population must be established by a special rule promulgated under Section 4(d) of the Act. Because each experimental population will be identified by special rule, all pertinent prohibitions and exceptions applicable to the population will be included in the text of the special rule itself and codified in §§ 17.84–17.86, as appropriate.

Section 17.83 Interagency cooperation: This section would provide flexibility in the application of Section 7 of the Act to experimental populations, as called for by the 1982 Amendments. Those Amendments require, however, that experimental populations deterimed to be "essential" to the survival of a species and/or those found on National Park System or National Wildlife Refuge System lands remain subject to the "jeopardy" prohibitions of Section 7(a)(2). Other experimental populations (i.e., those determined not be be essential to a species' survival and not occurring within the National Park System or the National Wildlife Refuge System) are covered only by the provisions of Section 7(a)(1) authorizing Federal agencies to establish conservation programs for listed species and the provisions of Section 7(a)(4) requiring Federal agencies to informally confer with the Secretary regarding actions likely to jeopardize the experimental population's continued existence.

Public Comments Solicited

The Service intends that any rule finally adopted be as effective as possible in implementing the Act, as amended. Therefore, comments or recommendations concerning any aspect of this proposed rule are hereby invited from the public, concerned government agencies, the scientific community, industry, private interests, or any other interested party. Comments should be as specific as possible and refer to sections and paragraphs involved.

Final promulgation of a rule to implement this proposed action will take into consideration any comments or additional information received by the Service. Such communications may lead to the adoption of a final rule that differs from this proposal.

Executive Order 12291, Paperwork Reduction Act, and Regulatory Flexibility Act

The U.S. Fish and Wildlife Service has determined that this is not a major rule as defined by Executive Order 12291; that the rule would not have a significant economic effect on a substantial number of small entities as described in the Regulatory Flexibility Act (Pub. L. 96–354); and that the rule as proposed does not contain any information collection or recordkeeping requirements as defined in the Paperwork Act of 1980 (Pub. L. 96–511).

The rule contained in this proposal is procedural in nature and principally implements the 1982 Amendments to the Endangered Species Act. In so doing, the proposal seeks to conform to new requirements of the Amendments. Any potential effects of such compliance stem directely from legislation and cannot be evaluated as independent effects of the proposal.

National Environmental Policy Act (NEPA)

A draft Environmental Assessment under NEPA has been prepared and is available to the public at the Office of Endangered Species, U.S. Fish and Wildlife Service at the address listed above. A decision will be made prior to the issuance of a final rule on whether the preparation of an Environmental Impact Statement is required for this action. Further information on this matter is hereby solicited.

Author

The principal author of this proposal is Peter G. Poulos, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. (703/235–2760).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

Accordingly, it is proposed to amend Part 17 of Chapter I of Title 50 of the Code of Federal Regulations as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Part 17 is proposed to be amended by adding to the table of contents the following:

* * * * *

Subpart H—Experimental Populations

Sec.
17.80 Definitions.
17.81 Listings.
17.82 Prohibitions.
17.83 Interagency cooperation.
17.84 Special rules—vertebrates. [Reserved]
17.85 Special rules—invertebrates. [Reserved]
17.86 Special rules—plants. [Reserved]

3. Part 17 is proposed to be amended by revising §17.11(f)(2) to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(f) * * *

(2) The "Special Rules" and "Critical Habitat" columns provide a cross reference to other sections in Parts 17, 222, 226, or 227. The "Special Rules" column will also be used to cite the special rules that describe experimental populations and determine if they are essential or non-essential. Separate listings will be made for experimental populations, and the status column will include the following symbols: "XE" for an essential experimental population and "XN" for a non-essential experimental population. The term "NA" (not applicable) appearing in either of these two columns indicates that there are no special rules and/or Critical Habitat for that particular species. However, all other appropriate rules in Parts 17, 217–227, and 402 still apply to that species. In addition, there may be other rules in this Title that relate to such wildlife, e.g., port-of-entry requirements. It is not intended that the references in the "Species Rules" column list all the regulations of the two Services which might apply to the species or to the regulations of other Federal agencies or State or local governments.

4. Part 17 is further proposed to be amended by revising § 17.12(f)(2) to read as follows:

§ 17.12 Endangered and threatened plants.

(f)* * * *

(2) The "Special Rules" and "Critical Habitat" columns provide a cross reference to other sections in Parts 17, 222, 226, or 227. The "Special Rules" column will also be used to cite the special rules which describe experimental populations and determine if they are essential or non-essential. Separate listings will be made for experimental populations, and the status column will include the following symbols: "XE" for an essential experimental population and "XN" for a non-essential experimental population. The term "NA" (not applicable) appearing in either of these two columns indicates that there are no special rules and/or Critical Habitat for that particular species. However, all other appropriate rules in Parts 17, 217–227, and 402 still apply to that species. In addition, there may be other rules in this Title that relate to such plants, e.g., port-of-entry requirements. It is not intended that the references in the "Specia Rules" column list all the regulations of the two Services which might apply to the species or to the regulations of other Federal agencies or State of local governments.

5. Part 17 is further proposed to be amended by adding a new Subpart H as follows:

Subpart H—Experimental Populations

§ 17.80 Definitions.

(a) The term "experimental population" means an introduced and/or designated population (including any off-spring arising solely therefrom) that has been established in accordance with the procedures of this subpart and is wholly separate geographically from non-experimental populations of the same species during specific periods of time. Where part of an experimental population overlaps with natural populations of the same species during a portion of the year, but is wholly separate at other times, specimens of the experimental population will not be recognized as such while in the area of overlap. That is, experimental status will only be recognized outside the areas of overlap. Thus such a population shall be treated as experimental only when the times of geographic separation are reasonable predictable *e.g.,* fixed migration patterns, natural or man-made barriers. A population is not experimental if total separation will occur solely as a result of random and unpredictable events.

(b) The term "essential experimental population" means an experimental population whose loss would appreciably reduce the likelihood of the survival of that species in th wild. All other experimental populations are to be classified as "nonessential."

§ 17.81 Listing.

(a) The Secretary may, by regulation adopted in accordance with 5 U.S.C. 553 and the requirements of this Subpart, designate as an experimental population a population of endangered or threatened species that has been or will be released outside the species' current natural range but within its probable historic range, subject to the further conditions specified in this Section.

(b) Before authorizing the release as an experimental population of any population (including eggs, propagules, or individuals) of an endangered or threatened species, and before authorizing any necessary transportation to conduct the release, the Secretary must find by regulation that such release will furhter the conservation of the species.

In making such a finding the Secretary shall consider:

(1) Any possible adverse effects on extant populations of a species as a result of removal of individuals, eggs, or propagules for introduction elsewhere;

(2) The likelihood that any such experimental population will become established and survive in the foreseeable future; and

(3) The relative effects that establishment of an experimental population will have on the recovery of the species.

The Secretary may issue a permit under Section 10(a)(1)(A) of the Act, if appropriate under the standards set out in subsections 10(d) and (j) of the Act, to allow acts necessary for the establishment and maintenance of an experimental population.

(c) Any regulation promulgated under paragraph (a) of this section shall provide:

(1) Appropriate means to identify the experimental population, including, but not limited to, its actual or proposed location, actual or anticipated migration, number of specimens released or to be released, and other criteria appropriate to identify the experimental population(s);

(2) A finding, and the supporting factual basis, on whether the experimental population is, or is not, essential to the continued existence of the species; and

(3) Management restrictions, protective measures, or other special concerns of that population, including, but not limited to, measures necessary to contain the experimental population within the boundaries designated in the regulation.

(d) The Fish and Wildlife Service shall consult with appropriate State fish and game agencies, local governmental entities, affected Federal agencies, and affected private landowners throughout the process of developing and implementing experimental population rules.

(e) Any population of an Endangered species or a Threatened species

determined by the Secretary to be an experimental population in accordance with this subject shall be identified by special rule in § 17.84—§ 17.86 as appropriate and separately listed in § 17.11(h) (wildlife) or § 17.12(h) (plants) as appropriate.

(f) The Secretary may designate Critical Habitat for an experimental population of a listed species only if such population has been determined pursuant to paragraph (c)(2) of this section to be essential to the survival of that species. The requirements of Section 4 of the Act must be met for the designation or revision of critical habitat. In those situations where a portion of all of an essential experimental population overlaps with a natural population of the species during certain periods of the year, no critical habitat shall be designated for the area of overlap unless implemented as a revision to critical habitat of the natural population for reasons unrelated to the overlap itself.

§ 17.82 Prohibitions.

Any population determined by the Secretary to be an experimental population shall be treated as if it were listed as a Threatened species for purposes of establishing protective regulations under Section 4(d) of the Act with respect to such population. The special rules (protective regulations) adopted for an experimental population by regulation under § 17.81 will contain all the applicable prohibitions and exceptions for that population.

§ 17.83 Interagency cooperation.

(a) Any experimental population of a listed species (1) determined pursuant to § 17.81(c)(2) of this Subpart not to be essential to the survival of that species and (2) not occurring within the National Park System or the National Wildlife Refuge System, shall be treated for purposes of 50 CFR Part 402 (implementing Section 7 of the Act) as a species proposed to be listed under the Act as a Threatened species.

(b) Any experimental population of a listed species that either (1) has been determined pursuant to § 17.81(c)(2) of this Subpart to be essential to the survival of that species, or (2) occurs within the National Park System or the National Wildlife Refuge System, shall be treated for purposes of 50 CFR Part 402 (implementing Section 7 of the Act) as a Threatened species.

§ 17.84 Special rules—vertebrates. [Reserved]

§ 17.85 Special rules—invertebrates. [Reserved]

17.86 Special rules—plants. [Reserved]

Dated: November 15, 1983.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84-435 Filed 1-6-84; 8:45 am]

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EFFECT

Rules and Regulations

Federal Register
Vol. 49, No. 6
Tuesday, January 10, 1984

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 201

Federal Seed Act Regulations; Lawn and Turf Seed Mixtures, Germination Test Dates, and Certain Labeling Requirements

AGENCY: Agricultural Marketing Service (AMS), USDA.

ACTION: Final rule

SUMMARY: These amendments to Part 201—Federal Seed Act (FSA) Regulations (7 CFR Part 201) implement the interstate provisions of the FSA Amendments of 1982 (Pub. L. 97–439, 96 Stat. 2287). Specifically, this rule will require agricultural seed mixtures intended for lawn and turf purposes to be designated as a "Mixture" on the label, the mixture components to be listed in the order of predominance, and the oldest calendar month and year germination test date among the component germination test dates to be shown on the label of all agricultural seed mixtures. Also, the rule will require bentgrass, Kentucky bluegrass, chewings fescue, hard fescue, red fescue, tall fescue, annual ryegrass, and perennial ryegrass seeds to be tested within 15 months prior to interstate shipment rather than within 5 months as previously required. A proposed rule was published in the August 4, 1983, **Federal Register** (48 FR 35417). A hearing on the proposed rule was held in Washington, D.C., August 30, 1983, at which time interested persons and organizations were given an opportunity to participate in the rulemaking through presentation of data and/or views concerning the proposal. Interested parties also submitted written comments by mail.

EFFECTIVE DATE: February 9, 1984.

ADDRESS: Copies of the final rule may be obtained from the Seed Branch, Warehouse Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2603–S, 1400 Independence Avenue, SW., Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Donald W. Ator, Chief, Seed Branch, Warehouse Division, AMS, USDA, Washington, D.C. 20250, (202) 447–9340.

SUPPLEMENTARY INFORMATION: This action has been determined not to be a "major" rule as defined in the Executive Order 12291 and Secretary's Memorandum 1512–1 in that it does not meet the criteria for a major rule.

In compliance with Office of Management and Budget (OMB) regulations, 5 CFR 1320, Controlling Paperwork Burdens on the Public, under the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the information collection requirements contained in 7 CFR Part 201, including the labeling requirements contained in this rule, were submitted to OMB for review as prescribed in § 1320.13 (48 FR 13666), Clearance of Collection of Information Requirements in Proposed Rules, under section 3504(h) of the Paperwork Reduction Act. OMB approved the information collection requirements for use through August 31, 1986, identifying such action with OMB No. 0581–0026. This number and expiration date must appear in the upper right-hand corner of the first page of the regulation, manual, or other document incorporating the information collection.

William T. Manley, Deputy Administrator, AMS, has certified that this action will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because there are no increase in recordkeeping or paperwork requirements, no increase of direct or indirect cost of compliance with the rule, no effect on the competitive position of small entities in relation to larger entities, no effect on small entity's cash flow and liquidity, no effect on the ability of a small entity to remain in the market, and imposes no need for and therefore no cost of obtaining professional assistance for compliance. Further, the changes to the regulations are made to implement the interstate provisions of the FSA Amendments of 1982. A letter and certification to this effect have been sent to the Small Business Administration.

Background

The Federal Seed Act of 1939 (7 U.S.C. 1551 *et seq.*) (hereinafter "the Act") and the regulations promulgated thereunder (7 CFR Part 201) contained prior to January 1983 certain requirements relating to lawn and turf seed mixtures and germination test dates. Congress enacted the "Federal Seed Act Amendments of 1982" (Pub. L. 97–439, hereinafter "the 1982 Amendments"). Based upon the 1982 Amendments, changes are being made to the regulations to make necessary conforming amendments.

Sections 2 (a) and (c) of the 1982 Amendments repealed section 201(j) of the Act (7 U.S.C. 1571(j), provided that lawn and turf seed dealers are no longer required to distinguish between "Fine-Textured Grasses" and "Coarse Kinds" on lawn seed labels, and deleted other specific labeling requirements in section 201(j). Because of the development of improved varieties of grass seed, it has become virtually impossible to distinguish between these categories. The Association of American Seed Control Officials had previously adopted a change in the Recommended Uniform State Seed Law to eliminate the labeling requirement for these categories, and a number of States have enacted that recommendation. In the 1982 Amendments, Congress also eliminated this labeling requirement.

Further section 2(b) of the 1982 Amendments amends section 201(a) of the Act (7 U.S.C. 1571(a)) to require lawn and turf seed mixtures to be labeled as such, with each component of the mixture listed in the order of predominance. This labeling standard provides seed regulatory officials and consumers adequate information and avoids the risk that producers will misclassify a seed by attempting to distinguish between fine textured and coarse. Also, the labeling requirements of section 201 were made applicable to lawn and turf seeds. Accordingly, USDA proposed to delete 7 CFR 201.12a, which defined coarse and fine kinds of lawn and turf seeds. This rule substitutes for the current language of 7 CFR 201.12a a simple mixture labeling standard which provides that seed mixtures be designated as a mixture on the label and

that each seed component be listed on the label in the order of predominance.

Section 3 of the 1982 Amendments inserts a new clause in section 201(a)(8) of the Act (7 U.S.C. 1571(a)(8)) which simplifies the listing of germination dates. A germination test required by section 201(a)(8) of the Act is now required by § 201.22 of the regulations for each kind or variety of seed contained in a seed mixture, but the 1982 Amendments require the label to list only the earliest test date for a given mixture. This rule revises 7 CFR 201.22 to reflect this change.

Section 4 of the 1982 Amendments changes section 201(c) of the Act (7 U.S.C. 1571(c)) to permit the Secretary to extend for agricultural seeds the 5-month period between the germination test and introduction of such seeds into interstate commerce when it is found that such seeds will maintain a percentage of germination within the limits established by the Act under ordinary conditions of handling. Therefore, 7 CFR 201.22 is amended accordingly.

Finally, the Secretary has determined, based upon test and data available to the Department of Agriculture, that certain categories of agricultural seeds will maintain the required germination percentage beyond 5 months and specifically has found that certain categories of lawn and turf seeds or mixtures thereof will maintain the required germination percentage for at least 15 months or longer. Therefore, the 5-month period is extended to 15 months for these certain categories of seeds and mixtures thereof. Such seeds are bentgrass, Kentucky bluegrass, chewings fescue, hard fescue, red fescue, tall fescue, annual ryegrass, and perennial ryegrass. Also, information was invited with respect to the maintenance of germination under ordinary conditions of handling for other categories of seed.

Comments on the Proposed Rule

Section 201.12a. All comments supported the proposed revision to require seed mixtures intended for lawn and turf purposes be designated as a mixture with each seed component listed on the label in the order of predominance.

Section 201.22(b). All comments supported the proposed revision to require in the case of seed mixtures the calendar month and year of the test (germination) for the kind or variety or type of agricultural seed contained in such mixture which has the oldest calendar month and year test date among the tests conducted on all the kinds or varieties or types of agricultural seed contained in such mixture.

Section 201.22(c). All comments except one supported the proposed revision to require the kinds of agricultural seed named in the proposal be tested within 15 months instead of the previous requirement to test within 5 months of interstate shipment. The kinds considered for this change are bentgrass, Kentucky bluegrass, chewings fescue, hard fescue, red fescue, tall fescue, annual ryegrass, and perennial ryegrass. The opposing comment referred to some individual State seed law requirements for a date of test within 6 to 12 months (varying according to individual State preference) of offering or exposure for sale. The writer offered as an example Kentucky bluegrass under the 15-month test requirement could be correctly labeled for interstate shipment but subject to a "Stop Sale Order" if the date of test was not in compliance with the State's requirements to show a date of test within 12 months of offer for sale. (State requirements vary from State to State with a range from 5 to 18 months.) The FSA regulations require the shipper to have a test completed within the specified time prior to shipment in interstate commerce, whereas State seed laws and regulations generally require the test within a specified time prior to offering for sale. Both Federal and State seed laws and regulations require truthful labeling of the germination percentage and the calendar month and year such germination test was completed. The opposing comment stated that the adverse effect for intrastate seed dealers or retailers would be an additional expense of retesting and relabeling the seed lot plus withholding the seed from sale until the test is completed. However, no significant difference should exist between intrastate and interstate seed dealers with respect to testing costs or testing time.

The opposing comment further stated that chewings fescue and red fescue should be deleted entirely from the list of kinds required to be tested within 15 months. The writer referred to experience with these two kinds and claimed that seed of these kinds which is not sold in the same year in which it is harvested is notorious for losing viability at a very rapid and increasing rate. However, no data was submitted to support the claim. Also, carryover seed from the previous year's harvest is often superior in germinability and ability to maintain its germination level over seed produced in a year with unfavorable weather during seed crop maturation and harvesting.

One comment recommended centipedegrass for consideration as a kind which testing within 15 months prior to interstate shipment should be fully adequate. However, centipedegrass is not listed in the regulations as a kind subject to the FSA, therefore, it is not eligible for consideration in this rulemaking.

List of Subjects in 7 CFR Part 201

Agricultural commodities, Labeling.

PART 201—FEDERAL SEED ACT REGULATIONS

Authority: Sec. 402, 53 Stat. 1285 (7 U.S.C. 1592).

For the reasons set out herein, Part 201, Subchapter K, Chapter I of Title 7, Code of Federal Regulations, is amended as follows:

1. Section 201.12a is revised to read:

§ 201.12a Lawn and turf seed mixtures.

Seed mixtures intended for lawn and turf purposes shall be designated as a mixture on the label and each seed component shall be listed on the label in the order of predominance.

2. Section 201.22 is amended by designating the existing paragraph as (a) and by adding paragraphs (b) and (c) to read as follows:

§ 201.22 Date of test.

(a) * * *

(b) In the case of a seed mixture, it is only necessary to state the calendar month and year of such test for the kind or variety or type of agricultural seed contained in such mixture which has the oldest calendar month and year test date among the test conducted on all the kinds or varieties or types of agricultural seed contained in such mixture.

(c) The following kinds shall be tested within the indicated time before interstate shipment:

Agricultural seeds and mixtures thereof	Months from test date to shipment
Bentgrass: Agrostis tenuis and palustris	15
Bluegrass, Kentucky: Poa pratensis	15
Fescue, Chewings: Festuca rubra var. commutata	15
Fescue Hard: Festuca longifolia Thuill	15
Fescue, Red: Festuca rubra	15
Fescue, Tall: Festuca arundinacea	15
Ryegrass, Annual: Lolium multiflorum	15
Ryegrass, Perennial: Lolium perenne	15

Done at Washington, D.C., on January 3 1984.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 84-642 Filed 1-9-84; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

7 CFR Part 354

[Docket No. 83-355]

Overtime Work at Border Ports, Seaports, and Airports

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the regulations which establishes charges for overtime work at border ports, seaports, and airports. Agricultural quarantine inspectors of the U.S. Department of Agriculture are charged with performing inspection duties relating to imports and exports at border ports, seaports, and airports. Such services may be performed outside the regular tour of duty of the inspector when requested by a person, firm, or corporation and the charge for such overtime is recoverable from those requesting the services. The following document amends the regulation entitled, "Overtime Work at Border Ports, Seaports, and Airports," by increasing the hourly rates for such services performed on a Sunday or holiday, or at any other time outside the regular tour of duty. These increases are commensurate with salary increases provided Federal employees in accordance with the Federal Pay Comparability Act of 1970 (Pub. L. 91-656), and Executive Order 12456 dated December 30, 1983.

EFFECTIVE DATE: January 8, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. James R. Reynolds, Coordinator, National Administrative Planning Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 614, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-7250.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This amendment has been issued in conformance with Executive Order 12291 and Secretary's Memorandum 1512-1, and has been determined to be not a "major rule." Further, based on information compiled by the Department, it has been determined that this amendment will have an effect on the economy of less than $100,000,000; will not cause a major increase in costs or prices for consumers; individual industries, Federal, State or local government agencies, or geographic regions; and will not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the availability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Certification Under the Regulatory Flexibility Act

Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant impact on a substantial number of small entities. Specifically, this amendment affects only those entities that require the services of an inspector on a Sunday, holiday, or during certain other hours of a day. Services of an inspector during a regular tour of duty are still provided free of any charge to those requesting the service. Further, this amendment increases the costs of obtaining the services of an inspector by only $2.08 per hour for services on a Sunday and by only $2.44 per hour for services on a holiday or any other period outside the regular tour of duty. Further, based on information available to the Department, it is estimated that PPQ provided an average of 5,140 hours per week of services for which charges were assessed during 1983, and these services were requested by thousands of entities. The number of hours of service for which charges will be imposed are not expected to increase significantly in 1984.

The hourly rate for overtime services and of the commuted traveltime allowances depends entirely upon facts within the knowledge of the Department of Agriculture. The Agency has no alternatives to raising the overtime rate. By law, importers/exporters are required to reimburse the Agency for its costs associated with services rendered. Unless the rate is raised, it will not cover the pay raise which commences January 8, 1984.

Accordingly, pursuant to the administrative provisions in 5 U.S.C. 553, it is found upon good cause that notice and public procedure on these amendments are impracticable, unnecessary, and contrary to the public interest and good cause is found for making these amendments effective less than 30 days after publication in the **Federal Register.**

List of Subjects in 7 CFR Part 354

Agricultural commodities, Exports, Government employees, Imports, Plants (Agriculture), Quarantine, Transportation.

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Pursuant to the authority conferred by the Act of August 28, 1950 (64 Stat. 561; 7 U.S.C. 2260), and the Airport and Airways Development Act Amendments of July 12, 1976 (90 Stat. 882; 49 U.S.C. 1741), § 354.1 of Part 354 Title 7, Code of Federal Regulations, is revised as set forth below:

§ 354.1 Overtime work at border ports, seaports, and airports.

(a)(1) Any person, firm, or corporation having ownership, custody, or control of plants, plant products, animals, animal products, or other commodities or articles subject to inspection, laboratory testing, certification, or quarantine under this chapter and Subchapter D of Chapter I, Title 9 CFR, who requires the services of an employee of Plant Protection and Quarantine on a Sunday or holiday, or at any other time outside the regular tour of duty of such employee, shall sufficiently in advance of the period of Sunday or holiday or overtime service request the Plant Protection and Quarantine inspector in charge to furnish inspection, laboratory testing, certification, or quarantine service during such overtime, or Sunday or holiday period, and shall pay the Government therefor at the rate of $28.92 per work-hour per employee on a Sunday and at the rate of $21.84 per work-hour per employee for holiday or any other period; except that for any services performed on a Sunday or holiday, or at any time after 5 p.m. or before 6 a.m. on a weekday, in connection with the arrival in or departure from the United States of a private aircraft or vessel, the total amount payable shall not exceed $25 for all inspectional services performed by the Customs Service, Immigration and Naturalization Service, Public Health Service, and the Department of Agriculture; and except that owners and operators of aircraft will be provide service without reimbursement during regularly established hours of service on a Sunday or holiday; and except that the overtime rate to be charged owners and operators of aircraft at airports of entry or other places of inspection as a consequence of the operation of aircraft, for work performed outside of the

regularly established hours of service on a Sunday will be $23.68 and for work performed outside of the regularly established hours of service for holiday or any other period will be $16.64 per hour, which charges exclude administrative overhead costs.

(2) A minimum charge of 2 hours shall be made for any Sunday or holiday or unscheduled overtime duty performed by an employee on a day when no work was scheduled for such employee or which is performed by an employee on a regular workday beginning either at least 1 hour before his/her scheduled tour of duty or which is not in direct continuation of the employee's regular tour of duty. In addition, each such period of Sunday or holiday or unscheduled overtime work to which the 2-hour minimum charge provision applies which requires the emplolyee involved to perform additional travel may include a commuted traveltime period the amount of which shall be prescribed in administrative instructions to be issued by the Deputy Administrator, Plant Protection and Quarantine, for the areas in which the Sunday or holiday or overtime work is performed and such period shall be established as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which the employee performs such Sunday or holiday or overtime duty if such travel is performed solely on account of such Sunday or holiday or overtime service. With respect to places of duty within the metropolitan area of the employee's headquarters, such commuted travel period shall not exceed 3 hours. When inspection, laboratory testing, certification, or quarantine services are performed at locations outside the metropolitan area in which the empoloyee's headquarters is located, one-half of the commuted travel period aplicable to the point at which the services are performed shall be charged when duties involve overtime that begins less than 1 hour before the beginning of the regular tour and/or is the continuation of the regular tour of duty. It will be administratively determined from time to time which days constitute holidays.

(b) The Plant Protection and Quarantine inspector in charge of honoring a request to furnish inspection, laboratory testing, quarantine or certification service, shall assign employees to such Sunday or holiday or overtime duty with due regard to the work program and availability of employees for duty.

(c) As used in this section—

(1) The term "private aircraft" means any civilian aircraft not being used to transport persons or property for compensation or hire, and

(2) The term "private vessel" means any civilian vessel not being used (i) to transport persons or property for compensation or hire, or (ii) in fishing operations or in processing of fish or fish products.

(64 Stat. 561 (7 U.S.C. 2260); (Sec. 15 of Pub. L. 94–353, 90 Stat. 882) (49 U.S.C. 1741))

Done at Washington, D.C., this 6th day of January 1984.

Harvey L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 84-740, Filed 1-9-84; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Stabilization and Conservation Service

7 CFR Part 701

Conservation and Environmental Programs

AGENCY: Agricultural Stabilization and Conservation Service (ASCS) Agriculture, (USDA).

ACTION: Final rule.

SUMMARY: The interim rule governing the Conservation and Environmental Programs, which was published in the **Federal Register** on July 26, 1983 (48 FR 33846), is adopted as a final rule. The interim rule authorized the recovery of cost-share assistance under various conservation programs when a practice had been terminated before its designated lifespan, as the result of the voluntary loss or control of the land on which the practice had been installed. In addition, the interim rule provided for the recordable encumbrances to be filed under certain circumstances with respect to land on which conservation practices are installed in designated Salinity Control Project Areas.

EFFECTIVE DATE: January 10, 1984.

FOR FURTHER INFORMATION CONTACT: Gordell A. Brown, Director, Conservation and Environmental Protection Division, ASCS, USDA, P.O. Box 2415, Washington, D.C. 20013, telephone 202–447–6221. The Final Regulatory Impact Analysis describing the options considered in developing this rule will be available from Gordell A. Brown.

SUPPLEMENTARY INFORMATION: Information collection requirements contained in this regulations (7 CFR Part 701) have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB number 0560–112.

This final rule has been reviewed for compliance with Executive Order 12291 and Secretary's Memorandum No. 1211–1 and has been classified as "not major." It has been determined that these program provisions will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-base enterprises in domestic or export markets.

The titles and numbers of the Federal Assistance Program to which this rule applies are: Title—Agricultural Conservation Program; Number—10.063; Title—Emergency Conservation Program, Number—10.054; Title—Forestry Incentives Program, Number—10.064; as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

The Agricultural Conservation Program (ACP) is authorized generally by sections 7–17 of the Soil Conservation and Domestic Allotment Act of 1936, as amended (16 U.S.C. 590g *et seq.*). The program provides financial incentives and technical assistance to encourage agricultural producers to voluntarily perform enduring soil and water conservation and pollution abatement measures, including practices or programs which are deemed essential to maintain soil productivity, prevent soil depletion, or prevent increased cost of production. The purpose of the program is to assure a continuous supply of food and fiber necessary for the maintenance of strong and healthy people.

The Emergency Conservation Program (ECP) is authorized by the Agricultural Credit Act of 1978 (16 U.S.C. 2201 *et seq.*). This program is designed to provide cost-share assistance for emergency work to meet only the critical needs of agricultural producers due to severe drought or other natural disaster.

The Forestry Incentives Program (FIP) is authorized by section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103) and is designed to increase the Nation's supply of timber products from private nonindustrial forest lands. The purpose of FIP is to encourage private landowners to apply forestry practices that will provide for afforestation of suitable open lands and reforestation of cut-over or other nonstocked forest lands, and to encourage intensive multipurpose forest resource management and protection so as to provide for cost-effective timber production and other related forest resources needs.

On July 26, 1983, an interim rule was published in the **Federal Register** (48 FR 33846) amending the regulations set forth at 7 CFR Part 701 which govern the Conservation and Environmental Programs administered by ASCS. The interim rule authorized ASCS to recover, under certain conditions, amounts of cost-share assistance which have been paid to participants to carry out practices under the Agricultural Conservation Program (ACP), Emergency Conservation Program (ECP) and the Forestry Incentives Program (FIP). A paricipant in any of the programs would be liable for a refund of all cost-share assistance received under such program when a practice is terminated prior to the expiration of the lifespan of the practice as the result of a voluntary loss of title or possession of the land on which the practice has been installed. In addition, a producer would be required to agree, as a condition of eligibility for receiving cost-share assistance, that a recordable encumbrance may be fined by the county ASC committee with respect to land on which the practices were installed in designated Salinity Control Project Areas. This requirement, however, could be waived by the county ASC committee under certain circumstances. A comment period was provided through September 26, 1983.

ASCS received a total of three comments with respect to the interim rule. One comment was received from the Nevada State ASC Committee. Another was received from the Churchill-Storey-Washoe, County ASC Committee in Nevada. A third comment was received from the Vernon County ASC Committee in Wisconsin.

While not objecting to the substance of the interim rule, all three respondents felt that implementing the interim rule would increase the personnel and administrative costs and burdens of county ASCS offices. However, the provisions of this rule will not require county ASCS offices to perform any additional work in counties outside of the Colorado River Salinity Control Project Areas. Even though there may be minor increases in the workloads of county ASCS offices which lie within the Colorado River Salinity Control Project Areas, it has been determined that the benefits to the effectiveness of the program far outweigh any increased administrative burden.

List of Subjects in 7 CFR Part 701

Disaster assistance, Forests and forest products, Grant programs, Agriculture grant programs, Natural resanding rural areas, Soil conservation, Water resources, Wildlife.

Final rule.

PART 701—[AMENDED]

Accordingly, it has been determined that the interim rule published at (48 FR 33846) amending 7 CFR Part 701 is hereby adopted as a final rule without change.

Signed at Washington, D.C. on January 5, 1984.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 84-558 Filed 1-9-84; 8:45 am]

BILLING CODE 3410-05-M

Animal and Plant Health Inspection Service

9 CFR Part 97

[Docket No. 83-143]

Overtime Work at Laboratories, Border Ports, Ocean Ports, and Airports

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the regulation which establishes charges for overtime work at laboratories, border ports, ocean ports, and airports. Veterinary Services inspectors of the United States Department of Agriculture are charged with performing inspection duties relating to imports and exports at laboratories, border ports, ocean ports, and airports. Such services may be performed outside the regular tour of duty of the inspector when requested by a person, firm, or corporation and the charge for such overtime is recoverable from those requesting the services. The following amendments increase the hourly rates for such services performed on a Sunday or holiday, or at any other time outside the regular tour of duty. These increases are commensurate with salary increases provided Federal employees in accordance with the Federal Pay Comparability Act of 1970 (Pub. L. 91-656), and Executive Order 12456 dated December 30, 1983.

EFFECTIVE DATE: January 8, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. J. L. Ellis, Executive Officer, Veterinary Services, APHIS, USDA, Federal Building, 6505 Belcrest Road, Room 857, Hyattsville, MD 20782, 301-436-8511.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This amendment has been issued in conformance with Executive Order 12291 and Secretary's Memorandum 1512-1, and has been determined to be not a "major rule." Further, based on information compiled by the Department, it has been determined that this amendment will have an effect on the economy of less than $100,000,000; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the availability of Unted States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Certification Under the Regulatory Flexibility Act

Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant impact on a substantial number of small entities. Specifically, this amendment affects only those entities that require the services of an inspector on a Sunday, holiday, or during certain other hours of a day. Services of an inspector during a regular tour of duty are still provided free of any charge to those requesting the service. Further, this amendment increases the costs of obtaining the services of an inspector by only $2.08 per hour for services on a Sunday and by only $2.44 per hour for services on a holiday or any other period outside the regular tour of duty. Further, based on information available to the Department, it is estimated that VS provides an average of 654 hours per week of services for which charges were assessed during 1983 and these services were requested by thousands of entities. The number of hours of service for which charges will be imposed are not

expected to increase significantly in 1984.

The hourly rate for overtime services and of the commuted traveltime allowances depends entirely upon facts within the knowledge of the Department of Agriculture. The Agency has no alternatives to raising the overtime rate. By law, importers/exporters are required to reimburse the Agency for its costs associated with services rendered. Unless the rate is raised, it will not cover the pay raise which commences January 8, 1984.

Accordingly, pursuant to the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure on these amendments are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making these amendments effective less than 30 days after publication in the Federal Register.

List of Subjects in 9 CFR Part 97

Exports, Government employees, Imports, Livestock and livestock products, Poultry and poultry products, Transportation.

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Pursuant to the authority conferred by the Act of August 28, 1950 (64 Stat. 561; 7 U.S.C. 2260), and the Airports and Airways Development Act Amendments of July 12, 1976 (90 Stat. 882; 49 U.S.C. 1741), the first sentence of § 97.1(a) and the last sentence of § 97.1(b) are amended to read:

§ 97.1 Overtime work at laboratories, border ports, ocean ports, and airports.[1]

(a) Any person, firm, or corporation having ownership, custody or control of animals, animal byproducts, or other commodities subject to inspection, laboratory testing, certification, or quarantine under this subchapter and subchapter G of this chapter, and who requires the services of an employee of Veterinary Services on a holiday or Sunday or at any other time outside the regular tour of duty of such employee, shall sufficiently in advance of the period of overtime or holiday or Sunday service request the Veterinary Services inspector in charge to furnish inspection, laboratory testing, certification or quarantine service during such overtime or holiday or Sunday period, except as provided in paragraph (b) of this section, shall pay the Administrator of the Animal and Plant Health Inspection Service at a rate of $28.92 per man hour per employee on a Sunday and at a rate of $21.84 per man hour per employee for holiday or any other period; except that for any services performed on a Sunday or holiday, except as provided in paragraph (b) of this section for inspection or quarantine services requested by an owner or operator of an aircraft at an airport on a Sunday or holiday which are performed within regularly established hours of service, or at any time after 5 p.m. or before 8 a.m. on a weekday, in connection with the arrival in or departure from the United States of a private aircraft or vessel, the total amount payable shall not exceed $25 for all inspectional services performed by the Customs Service, Immigration and Naturalization Service, Public Health Service, and the Department of Agriculture. * * *

(b) * * * When services are performed outside of the regularly established hours of service on a Sunday or holiday or any other day, the rate to be charged owners or operators of aircraft shall be $23.68 per hour on a Sunday and $16.64 per hour on a holiday or any other day, which charges exclude administrative overhead costs.

(64 Stat. 561 (7 U.S.C. 2260))

Done at Washington, D.C., this 6th day of January, 1984.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 84-739 Filed 1-9-84; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 349

Forms, Instructions, and Reports; Reports and Public Disclosure of Indebtedness of Executive Officers and Principal Shareholders to a State Nonmember Bank and Its Correspondent Banks

Correction

In FR Doc. 83-34372 beginning on page 57110 in the issue of Wednesday, December 28, 1983, make the following correction:

On page 57115, first column, in § 349.4, paragraph (a) should have been set forth as follows:

(a) Upon receipt of a written request, an insured State nonmember bank shall disclose to the requester the name of each executive officer or principal shareholder of the bank whose aggregate indebtedness, including the indebtedness of related interests of such person.

(1) At the bank itself as of the end of the latest calendar quarter; or

(2) At the correspondent banks of the disclosing bank at any time during the previous calendar year equals or exceeds the lesser of five percent (5%) of the disclosing bank's capital stock and unimpaired surplus or $500,000, but in no event shall an insured State nonmember bank be required to make such disclosure where the aggregate indebtedness of an executive officer or principal shareholder is less than $25,000.

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83-ASO-29]

Alteration of VOR Federal Airways V-53 and V-311; South Carolina

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment realigns VOR Federal Airways V-53 and V-311 located in the vicinity of Columbia, SC. The realignment of these airways improves traffic flow between Charleston, SC, and Columbia, SC. This action increases safety and improves traffic.

EFFECTIVE DATE: March 15, 1984.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (AAT-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8628.

SUPPLEMENTARY INFORMATION:

History

On October 18, 1983, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the descriptions of VOR Federal Airways V-53, in part, between Columbia, SC, and Charleston, SC, and realign V-311, in part, between Columbia, SC, and Charleston, SC (48 FR 48244). The realignment permits increased use of tower en route air traffic control procedures, thereby reducing controller workload, expedite traffic and reduce en route and terminal delays. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal

were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3A dated January 3, 1983.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations realigns V–53, in part, between Columbia, SC, and Charleston, SC, and realigns V–311, in part, between Columbia, SC, and Charleston, SC. The realignment enhances air traffic control procedures by reducing controller workload and expediting traffic in that area.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

Adoption of the Amendment

§ 71.123 [Amended]

Accordingly, pursuant to the authority delegated to me, § 71,123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT, March 15, 1984, as follows:

V–53 [Amended]

By deleting the words "From Charleston, SC, INT Charleston 296° and Columbia, SC, 153° radials; Columbia;" and substituting the words "From Charleston, SC, via Columbia, SC;"

V–311 [Amended]

By deleting the words "Columbia, SC." and substituting the words "Columbia, SC; INT Columbia 153° and Charleston, SC, 296° radials; Charleston."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983)); and 14 CFR 11.69.)

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on January 3, 1984.

B. Keith Potts,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 84–541 Filed 1–9–84; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 35 and 301

[Docket No. RM81–41–000]

Sales of Electric Power to Bonneville Power Administration, Methodology and Filing Requirements; Effective Date and OMB Control Numbers

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of effective date and OMB control number for final rule.

SUMMARY: On October 6, 1983, the Federal Energy Regulatory Commission issued a final rule in Docket No. RM81–41–000, relating to methodology and filing requirements for sales of electric power to the Bonneville Power Administration (Order No. 337, 48 FR 46970, October 17, 1983). This document gives notice of the effective date and OMB control number for the information collection provisions in that final rule.

EFFECTIVE DATE: The rule in this docket is effective January 10, 1984.

FOR FURTHER INFORMATION CONTACT: Jan Macpherson, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–8033.

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act, 44 U.S.C. 3501–3520 (Supp. IV 1980) and the Office of Management and Budget's (OMB) regulations implementing that statute, 5 CFR Part 1320, require that OMB approve certain information collection requirements imposed by agency rule. On December 19, 1983, OMB approved the information collection requirements of this rule and issued control number 1902–0096 for the rule. Therefore, the rule is now in effect.

The following technical change is made in FR Doc. 83–28163, appearing on page 46977 of the issue of October 17, 1983:

PART 35—[AMENDED]

1. On page 46977, column 1, "(OMB Control Number 1902–0096)" is added at the end of the text of § 35.31.

PART 301—[AMENDED]

2. On page 46977, column 3, "(OMB Control Number 1902–0096)" is added at the end of the appendix following § 301.1.

Dated: January 5, 1984.

Lois D. Cashell,

Acting Secretary,

[FR Doc. 84–628 Filed 1–9–84; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Regulations No. 16]

Supplemental Security Income; Burial Spaces and Certain Funds Set Aside for Burial Expenses

Correction

In FR Doc. 83–34360 beginning on page 57125 in the issue of Wednesday, December 28, 1983, the effective date on that page which read "December 28, 1984" should read "December 28, 1983".

BILLING CODE 1505–01–M

Food and Drug Administration

21 CFR Part 895

[Docket No. 80N–0301]

Banned Devices; Final Rule To Make Prosthetic Hair Fibers a Banned Device

AGENCY: Food and Drug Administration.

ACTION: Final rule; affirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is affirming the effective date of June 3, 1983, for a rule that made prosthetic hair fibers a banned device.

DATE: Effective date affirmed: June 3, 1983.

FOR FURTHER INFORMATION CONTACT: Les Weinstein, National Center for Devices and Radiological Health (HFX–460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4874.

SUPPLEMENTARY INFORMATION: In an immediately effective proposed rule published in the **Federal Register** of June 3, 1983 (48 FR 25126), FDA made prosthetic hair fibers intended for implantation into the human scalp to simulate natural hair or conceal

baldness a banned device. FDA determined that such prosthetic hair fibers present substantial deception and an unreasonable and substantial risk of illness or injury, that the deception or risk could not be corrected or eliminated by labeling or a change in labeling, and that the deception or risk associated with use of the device presents an unreasonable, direct, and substantial danger to the health of individuals. Therefore, FDA proposed that prosthetic hair fibers be made a banned device and, in accordance with section 516(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360f(b)) and § 895.30 (21 CFR 895.30) of the regulations on banned devices, declared the proposed rule to be effective June 3, 1983, pending final action on the rule. The immediately effective proposed rule amended 21 CFR Part 895 by adding new Subpart B consisting of § 895.101 to list prosthetic hair fibers as a banned device.

FDA gave interested persons until August 2, 1983, to submit written comments and any additional available data and information regarding the proposed rule. By notice published in the **Federal Register** of June 3, 1983 (48 FR 25137), FDA also gave interested persons an opportunity to request, by July 5, 1983, an informal regulatory hearing on the proposed rule. The agency did not receive any comments or requests for a hearing on the proposed rule, nor did the agency receive any additional information or data to show that the proposed rule should be modified or revoked. Thus, under § 895.30(d), FDA has concluded that the immediately effective proposed rule published in the **Federal Register** of June 3, 1983, making prosthetic hair fibers a banned device, should be affirmed.

List of Subjects in 21 CFR Part 895

Administrative practice and procedure, Banned devices, Labeling, Medical devices.

PART 895—BANNED DEVICES

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502(r), 516, 518, 519, 701(a) 52 Stat. 1055, 90 Stat. 560, 562–565, 577–578 (21 U.S.C. 352(r), 360f, 360h, 360i, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), notice is given that no comments were submitted in response to the proposed rule of June 3, 1983, and no requests for a hearing were submitted in response to the notice of opportunity for a hearing of June 3, 1983.

Accordingly, the proposed rule adding new Subpart B consisting of § 895.101 *Prosthetic hair fibers* to make prosthetic hair fibers a banned device became effective June 3, 1983.

Dated: December 29, 1983.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 84-530 Filed 1-9-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1316

Delegation of Authority to DEA Officials

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: As a result of the Drug Enforcement Administration establishing an Asset Forfeiture Unit in the Office of Chief Counsel in DEA Headquarters, this final rule delegates to that Unit the authority in Administrative and Judicial forfeitures to process advertisements, claims and bonds, Declarations of Forfeiture, referrals to U.S. Attorneys, and petitions.

EFFECTIVE DATE: January 1, 1984.

FOR FURTHER INFORMATION CONTACT: William M. Lenck, Associate Chief Counsel, Drug Enforcement Administration, Department of Justice 20537, (202–633–1404).

SUPPLEMENTARY INFORMATION: On December 16, 1983, I approved the establishment of an Asset Forfeiture Unit in the Office of Chief Counsel in DEA Headquarters. The establishment of such a unit to centralize, expedite, and monitor asset forefeiture activities in DEA was recommended by recent studies of the General Accounting Office, the Justice Management Division of the Department of Justice and the Planning and Inspection Division of DEA. The Asset Forfeiture Unit has assumed the responsibility for the processing of assets in two DEA Field Divisions (the Washington and Miami Divisions) and it is anticipated that such processing for all DEA Field Divisions will be assumed by the Unit before October of 1984. This final rule amends the regulations applicable to such forfeitures to facilitate the Unit processing advertisements, claims and bonds, Declarations of Forfeiture, referrals to U.S. Attorneys, and petitions for remission or mitigation of forfeiture.

It has been determined that this is an internal management matter not requiring consultation with the Office of Management and Budget under E.O. 12291. Moreover, I hereby certify that this matter will have no impact upon small entities within the meaning and intent of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

By virtue of the authority vested in me as Administrator of DEA by 28 CFR 0.100 and § 0.104 and 21 U.S.C. 871(b), the following amendments are made to Title 21, §§ 1316.75, 1316.76(a), 1316.77, 1316.78(a), 1316.79, and 1316.81, of the Code of Federal Regulations:

List of Subjects in 21 CFR Part 1316

Administrative practice and procedures, Drug traffic control and research.

PART 1316—ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES

* * * * *

Subpart E—Seizure, Forfeiture, and Disposition of Property

§§ 1316.75, 1316.76, 1316.78, 1316.81 [Amended]

1. Section 1316.75, paragraph 1316.76(a), § 1316.78, and § 1316.81 are amended by inserting the words "or DEA Asset Forfeiture Unit" after the word "custodian" each time it appears.

§ 1316.77 [Amended]

2. Paragraph 1316.77(a) is amended by inserting the words "or DEA Asset Forfeiture Unit" after the word "Charge" each time it appears.

§ 1316.79 [Amended]

3. Paragraph 1316.79(a) is amended by inserting the words "DEA Asset Forfeiture Unit or" between the words "the" and "Special" in the second sentence of the paragraph.

Dated: January 3, 1984.

Francis M. Mullen, Jr.,

Administrator, Drug Enforcement Administration.

[FR Doc. 84-537 Filed 1-9-84; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 650

Bridges, Structures, and Hydraulics; Concrete Bridge Decks

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA is amending its regulation which prescribes policies and

procedures for the construction, rehabilitation, and reconstruction of concrete bridge decks. The final rule will allow the States the flexibility to select a protective system and reconstruction method based on local conditions and experience. The existing provision, which provides for the inclusion of a protective system as an eligible item for interstate construction funds, is deleted to conform with recently enacted statutory requirements. In addition, procedural requirements which are no longer considered necessary are eliminated.

EFFECTIVE DATE: February 9, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. David S. Gendell, Director, Office of Highway Operations, (202) 426–0340, or Mr. Michael Laska, Office of the Chief Counsel, (202) 426–0762, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday.

SUPPLEMENTARY INFORMATION: A significant factor contributing to the deterioration of the Nation's highway bridges is the corrosion of the reinforcing steel induced by deicing chemicals and saltwater. In order to address this problem and to protect the Federal investment in highway bridges, the Federal Highway Administration issued in 1976 the current regulations which are set forth in 23 CFR Part 650 Subpart F, and are the subject of this final rule.

Although the current regulations and policies do not exclude any particular protective system or reconstruction procedure from use on a Federal-aid project, they do provide preferential treatment to certain protective systems and reconstruction procedures because of the extensive evaluation and documentation required for experimental installations. Acceptable protective systems specified in current regulations include epoxy-coated rebars, dense concrete (Iowa System), latex modified concrete, membranes, and cathodic protection.

The restrictive policies and procedures were reviewed because an increasing amount of research and performance data on protective systems has become available from many sources. The current regulations were also reviewed with the purpose of eliminating unnecessary requirements whenever applicable. Particular attention was given to decisionmaking areas which could be delegated to the States if warranted. Consequently, the FHWA published a notice of proposed rulemaking (NPRM) (48 FR 6552) on February 14, 1983, and requested comments to FHWA Docket No. 83–1. The comments have been reviewed and analyzed as a representation of interested parties, particulary by State highway agencies who are charged with program compliance.

Discussion of Comments

Thirty-two comments were received in response to the NPRM issued on February 14, 1983. Comments were submitted by representatives from the following interest groups: 15 State highway agencies, 4 local highway agencies, 4 trade associations, 5 private organizations, and 4 other interested parties. The responses varied, with the majority of the commenters (19) expressing agreement with the rule, and 5 commenters expressing complete opposition to the rule by requesting it be reconsidered or deferred. The following is a summary of the comments received.

The primary issue addressed by those submitting comments dealt with the concept of deregulation at the Federal Government level which reinforces the authority of the State highway agencies who are charged with program compliance. Nineteen respondents indicated their support to allow States the flexibility to select a protective system and reconstruction method based on local conditions and experience. This group included 17 governmental agencies and two trade associations. A total of five commenters expressed opposition to allowing the States the flexibility to select a protective system and reconstruction method. This group included four private organizations and one other interested party.

Those opposing the proposal stated that the revised regulation could open the door to political manipulation, "favorite son" treatment and a "buddy" system which would result in an uncoordinated use of "experimental" products and a move away from assuring cost-effective construction of concrete bridge decks. Four of the five commenters who opposed the final rule further emphasized the need for a national body to develop and disseminate performance criteria upon which cost-effectiveness is evaluated and urged the Federal Highway Administration to assume that role.

The revised regulation eliminates a list of approved protective systems and provides for the individual States to share in the decisionmaking process. However, it does not relieve FHWA of its responsibility to protect the Federal investment in the Nation's highway bridges. The FHWA will remain the focal point for the development and dissemination of performance data on the various protective systems and will continue to conduct an aggressive research program in the areas of bridge deck protective systems. Finally, FHWA field offices will continue to have final approval authority on the criteria submitted by the State highway agencies.

Two of the commenters stated that if the goal is to provide more flexibility to the State highway agencies, FHWA could accomplish this goal by updating and expanding Appendix A. They stated that this would also assure the cost-effective construction, reconstruction, and/or rehabilitation of concrete bridge decks. An analysis of the research performed to date indicates a lack of consensus regarding the effectiveness of certain protective systems. Factors such as varying applications of deicing salts from State to State will contribute to the difficulty of recommending, on a national level, protective systems. Also, the administrative cost to update and expand Appendix A would be prohibitive. New or improved protective systems are continuously entering the marketplace and to keep the list current, it would have to be updated monthly or even weekly. This additional administrative burden would also discourage industry from introducing new technology.

Another area requiring discussion is that of deck rehabilitation. Five commenters stated that the proposed regulation seems to disregard FHWA's own research findings which conclude that waterproof membranes, sealants, and concrete overlays do not stop corrosion of salt contaminated bridge decks. Under the revised regulation these systems may now be considered acceptable and permanent reconstruction techniques. They further stated that this regulation does not require implementation of cathodic protection, which is the only rehabilitation technique that has been proven to stop corrosion in salt contaminated bridge decks. FHWA is well aware of the advantages of cathodic protection and during the past nine years, through its Demonstration Projects Division, has promoted the use of this technology as a means of preserving existing unprotected reinforced concrete bridge decks. Technical training, as well as funding assistance, has been provided to approximately 25 highway agencies for the construction and evaluation of more than 40 cathodic protection installations. Our intention in issuing this regulation is to give the States greater flexibility in selecting a cost-effective protective system based on their own experiences,

while considering the various systems available. Also, under any given set of criteria or design condition, such as a substandard structure with a remaining life of 20 years or less, cathodic protection may not always prove to be the most cost-effective system.

Six commenters stated that these changes will severely delay the time frame in which cathodic protection will be recognized by all highway engineers because it will promote the use of other systems that while less expensive, have not been proven to stop corrosion on a salt contaminated structure. We do not believe this statement to be true. It is our opinion that this regulation should enhance the use of cathodic protection since it is the only system proven to stop corrosion in salt contaminated concrete. The service life of the deck structure can, therefore, be greatly extended in comparison to other systems.

Discussion of Final Rule

Based upon the aforementioned analysis and discussion of comments made to the docket, the allowance of the flexibility for the States to select a protective system and reconstruction method to protect a bridge deck from chemical corrosion based on local conditions and experience is retained in the regulation. Although a number of changes are being made to eliminate unnecessary or duplicative requirements, there are three which are considered significant with regard to bridge deck construction, reconstruction, and rehabilitation.

The first major change concerns the provisions which require the installation of a protective system for bridge decks that are likely to be subject to a salt environment. The revised regulation retains this requirement, but the list of suggested protective systems is deleted in its entirety. This action allows the States the flexibility to select a protective system based on local conditions and experience. The FHWA retains control over the installation of protective systems in order to protect the Federal investment by requiring durable concrete as well as a protective system that is cost effective. Approval of the protective system will be required as part of the approval of the plans, specifications, and estimate. Approval of protective systems for which the performance and cost effectiveness cannot be adequately demonstrated to the FHWA reviewing officials, can be subject to experimental conditions.

FHWA believes that the State interest in bridge decks is compatible with the Federal interest as far as sharing costs, finances, maintenance, and contending with traffic disruption caused by the deterioration of bridge decks. In fact, the States are capable and can make prudent engineering decisions concerning bridge deck protective systems.

Another major change concerns the provisions which require specific bridge deck reconstruction procedures. This regulation eliminates the strict provisions requiring removal of all contaminated bridge deck elements (concrete, rebars, etc.) for permanent reconstruction, as well as deletes the provisions detailing experimental reconstruction procedures. FHWA believes that the restrictive reconstruction procedures are no longer considered necessary. Several of the protective systems and the accompanying reconstruction and/or rehabilitation methods can be demonstrated to be effective without the removal of all contaminated concrete and rebars under certain environmental conditions. The States, with access to a vast quantity of reconstruction data and with experience gained from actual bridge reconstruction, are in a better position to select and justify an appropriate reconstruction method.

The last major change concerns the eligibility of installing a protective system using Interstate construction funds pursuant to section 108(b) of the Federal-Aid Highway Act of 1956. If the installation of a protective system is required and had not been contemplated during the initial construction phase, then the cost thereof was considered an additional stage of construction and thus eligible for Interstate construction funds. However, section 4(b) of the Federal-Aid Highway Act of 1981 (Pub. L. 97–134, 95 Stat. 1700) which redefined eligible items for Interstate construction funds states that the installation of a protective system not contemplated when the bridge was initially constructed is no longer eligible for Interstate construction funds. For this reason, the provisions relating to the eligibility of an additional stage of construction are deleted in their entirety. The installation costs will be eligible for Interstate 4R funds or from another appropriate funding category.

In addition to the major revisions, the FHWA is also making a number of other changes to Subpart F. The revised regulation would be reduced in length and detail by deleting unnecessary and duplicative requirements. The revised language is also clarified to reflect updated terminology so as to permit an easier understanding of compliance procedures.

The current provision in § 650.613, which requires existing protective systems that are proven effective based on field experience to be reported under the National Experimental and Evaluation Program conducted by FHWA is deleted. As a result of the experience gained and the research data reported, there is no longer a need for this requirement. However, projects which are currently under evaluation should continue to be reported. Those protective systems which cannot be demonstrated to be cost-effective will be approved only under the FHWA Experimental and Evaluation Program.

The current requirements for concrete which are included in § 650.605 are deleted to eliminate duplicative requirements. The concrete requirements included in this section are also specified in the design standards and specifications for Federal-aid highways and bridges as set forth in 23 CFR Part 625.

The final revision clarifies the terminology used in the existing regulation to reflect current statutory language. The terms "construction," "additional stage of construction," and "reconstruction" are replaced by the terms "construction," "reconstruction," and "rehabilitation." The new terms are defined to conform with current statutory definitions included in the Highway Bridge Replacement and Rehabilitation Program (23 U.S.C. 144), the Interstate Resurfacing, Restoration, Rehabilitation, and Reconstruction Program (23 U.S.C. 119), as well as the Interstate construction redefinition pursuant to section 4(b) of the Federal-Aid Highway Act of 1981.

The FHWA is also making the following change to the proposed rule published on February 14, 1983, based on comments received and a further review. The proposed rule required the adoption of AASHTO design standards for the reconstruction and rehabilitation of concrete bridge decks. FHWA recognizes that there are occasions in which it would not be cost effective to apply these standards to the reconstruction and rehabilitation of concrete bridge decks and has, therefore, rewritten this regulation to provide for an exception in accordance with 23 CFR 625.5.

Regulatory Impact

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under the regulatory policies and procedures of the Department of Transportation.

It is anticipated that this regulation will have a positive economic impact by eliminating certain requirements, simplifying compliance language, and

providing increased flexibility to the States. Potential benefits include: savings in the cost of bridge deck protection due to a more competitive market; savings associated with States not having to install systems on an experimental basis which have been proven effective; and increased business for suppliers of products determined to be most cost-effective in a deregulated market. While such benefits are not expected to be large, they would outweight the costs of allowing greater flexibility which potentially include somewhat higher administrative costs associated with seeking approval for systems that have not been preapproved by regulation. It is also unlikely that States will make significant changes in their selection of protective systems and reconstruction techniques. Federal-aid eligibility requirements are being changed to the extent that statutory provisions mandate.

Based upon an assessment of the impacts of regulatory alternatives and an evaluation of comments submitted to the docket, FHWA certifies that this regulation will not result in a significant economic impact on a substantial number of small entities. Small firms are involved in producing protective systems and this rule affords those firms greater opportunity to compete for Federal-aid highway contracts to rehabilitate and protect bridge decks. A more detailed assessment of regulatory impacts are included in a regulatory evaluation/regulation flexibility analysis which has been prepared and is available for inspection in the public docket. A copy may be obtained by contacting Mr. David Gendell at the address provided above.

In consideration of the foregoing and under the authority of 23 U.S.C. 109(a), 144, and 315; 49 CFR 1.48(b), the FHWA hereby amends Part 650, Subpart F, of Title 23, Code of Federal Regulations, to read as set forth below.

List of Subjects in 23 CFR Part 650

Bridges, Grant programs—transportation, Highways and roads.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing E.O. 12372 regarding intergovernmental consultation of Federal programs and activities apply to this program)

Issued on: January 4, 1984.

L. P. Lamm,

Deputy Administrator, Federal Highway Administration.

Part 650, Subpart F is revised to read as follows:

PART 650—BRIDGES, STRUCTURES AND HYDRAULICS

* * * * *

Subpart F—Concrete Bridge Decks

Sec.
650.601 Purpose.
650.603 Definitions.
650.605 Construction, reconstruction, and rehabilitation.
650.607 Maintenance.
650.609 Protective system.

Authority: 23 U.S.C. 109(a), 144, 315; 49 CFR 1.48(b).

Subpart F—Concrete Bridge Decks

§ 650.601 Purpose.

The purpose of this subject is to prescribe policies and procedures for the construction, rehabilitation, and reconstruction of concrete bridge decks with special emphasis on protective systems within the existing controls on the expenditures of Federal-aid funds.

§ 650.603 Definitions.

(a) *Construction* means the initial construction of any specific bridge deck.

(b) *Maintenance* means routine or incidental work necessary to keep a bridge deck functioning in a safe and efficient manner.

(c) *Protective system* means a system used to protect bridge decks from deterioration induced by highway deicing chemicals, salt water, or other hostile environments.

(d) *Reconstruction* means the restoration of the structural integrity of a concrete bridge deck by complete removal and replacement of the existing deteriorated bridge deck.

(e) *Rehabilitation* means the work necessary to restore the structural integrity of portions of the original bridge deck as well as the installation of a deck protective system.

§ 650.605 Construction, reconstruction, and rehabilitation.

The following policies are established for all bridge decks to be constructed, rehabilitated, or reconstructed with Federal-aid funds.

(a) *Standard specifications.* States shall adopt design and construction specifications which are equal to or better than those specified in 23 CFR Part 625, Design Standards for Highways. Exceptions. Approval in accordance with 23 CFR 625.5 and within the delegated authority provided by FHWA may be given to designs on a project basis which do not conform to the minimum design criteria set forth in 23 CFR 625.3.

(b) *Protective system.* When a bridge deck is likely to be exposed to potentially damaging applications of deicing chemicals, salt water, or other hostile environment, a cost effective protective system is required.

(1) Approval of the type of protective system is made in accordance with the provisions of § 650.609.

(2) The installation of a protective system not contemplated when the bridge deck was initially constructed is not eligible for Interstate construction funds.

(3) The installation of a protective system is eligible for Interstate 4R funds or from another appropriate category.

(c) *Eligible work.* Reconstruction and rehabilitation procedures necessary to assure acceptable performance of existing structures are set forth below and are eligible for Federal-aid participation from the appropriate category. Reconstruction and rehabilitation shall include all work required to assure satisfactory performance of the concrete deck, as well as the supporting superstructure and substructure units.

(1) This may include items such as the removal of existing overlays, removal and replacement of all deteriorated components or the complete removal and replacement of the entire bridge deck if necessary.

(2) This work may also include repair or removal and replacement of deteriorated concrete curbs, sidewalks, parapets, as well as rail, deck joints, bearings, or similar incidental items which are associated with proper functional restoration of the structure.

(3) Consistent with 23 CFR Part 924, safety improvements should be undertaken with the above described work when such improvements eliminate an established hazardous condition. Such safety improvements may include widening, elimination of hazardous walks, and substandard safety hardware, removal of hazardous fixed objects or the installation of an energy absorbing barrier system, and any other features that are consistent with current safety standards.

§ 650.607 Maintenance.

The following policies are established for the use of Federal-aid funds as related to maintenance activities.

(a) Maintenance work is considered an obligation of the State and is not eligible for Federal-aid funding.

(b) Spot patching of a bridge deck is maintenance unless it is done as work incidental to the rehabilitation or reconstruction of the concrete bridge deck.

(c) The resurfacing of a bridge deck is considered maintenance when such

work only restores the general condition of the riding surface and will not significantly affect the structural integrity and durability characteristics of the original deck.

§ 650.609 Protective system.

In view of the recognized need for protective systems, the following policies have been established for Federal-aid participation.

(a) The contract plans, specifications, and estimate (PS&E) for the construction, rehabilitation, and/or reconstruction of all concrete bridge decks that are likely to be subjected to potentially damaging applications of deicing salts, saltwater, or other hostile environments shall provide for durable concrete as well as a protective system that is cost effective.

(b) *Federal-aid approval.* Approval of the protective system will be required as part of the approval of the PS&E.

(1) Protective systems which, based on local field experience, have not been demonstrated to be cost effective must be considered experimental. These systems are to be surveyed and evaluated on an experimental basis under the Federal Highway Administration (FHWA) Experimental Projects Program.

(2) Proprietary products, when used as bridge deck protective systems, must be used in accordance with Federal regulations on the use of proprietary products.

[FR Doc. 84-536 Filed 1-9-84; 8:45 am]
BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7934; EE-11-78]

Income Tax; Taxable Years Beginning After December 31, 1953; Early Termination of Qualified Plans

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the limitation on benefits in the event of the early termination of certain tax qualified retirement plans providing defined benefits for employees. Changes in the applicable law were made by the Employee Retirement Income Security Act of 1974. The regulations would provide the public with additional guidance needed to comply with that Act and would affect employers maintaining such plans and employees covered by such plans subject to Title IV of that Act.

DATES: The regulations are effective for plan terminations occurring on or after March 12, 1984.

FOR FURTHER INFORMATION CONTACT: Marjorie Hoffman of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3430) (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On January 26, 1982, the **Federal Register** published a proposed amendment to the Income Tax Regulations (26 CFR Part 1) under section 401 of the Internal Revenue Code of 1954 (47 FR 3562). The amendment reflects certain provisions of Title IV of the Employee Retirement Income Security Act of 1974 (ERISA) (88 Stat. 1003) related to plan termination insurance. No public hearing was requested or held. After consideration of all comments regarding the proposed amendment, that amendment is adopted as revised by this Treasury decision.

Statutory Provisions

Section 401(a)(4) of the Code prescribes certain discrimination standards which are qualification requirements for employee retirement plans (and related trusts) described in sections 401(a), 403(a), and 405 of the Code. Section 411 (d)(2) and (d)(3) of the Code prescribe additional vesting-discrimination standards which are also qualification standards for these retirement plans.

Specific Rules Concerning Plan Provisions

In general, this amendment, which is applicable to certain retirement plans covered by section 4021(a) of ERISA, raises the limits on the amount of employer contributions to such plans which can be used for the benefit of each of the 25 highest paid employees without violating the provisions of section 401(a)(4) of the Code. As a result of the interaction of sections 401(a) and 411, these new limits for plans, allowing additional employee benefits attributable to employer contributions, must be used where applicable in order for the plan to remain qualified. The limits on the use of employer contributions for the benefit of the 25 highest paid employees are an exception to the requirements of section 411(a) which prohibit the forfeiture of vested benefits. Section 411(d)(2) provides that section 411(a) does not apply to benefits which may not be provided for designated employees in the event of early termination of the plan under provisions of the plan adopted pursuant to regulations prescribed by the Secretary to preclude the discrimination prohibited by section 401(a)(4). This amendment is such a regulation. By implication, any vested benefits that may be provided based on this amendment must be nonforfeitable in accordance with section 411(a).

The increased amount available to substantial owners from plans covered by section 4021(a) of ERISA is equal to the present value of the benefit guaranteed for substantial owners under section 4022 of ERISA upon termination of the plan or, if the plan has not terminated, the present value of the benefit that would be guaranteed if the plan terminated on the date the benefit commenced. The increased amount available to employees of such plans other than substantial owners is equal to the present value of the maximum benefit described in section 4022(b)(3)(B) of ERISA. These new limits are only to be used when they produce an amount higher than the old limit in § 1.401-4(c)(2)(iii) of the regulations.

In response to the comments received, certain revisions have been made to the amendment proposed. First, the effective date has been clarified. These new limits are effective for plans terminating on or after March 12, 1984. Plan amendments would be required for these terminating plans. For plans not terminating, plan amendments incorporating these new limits must be adopted that are effective for plan years beginning after December 31, 1983. However, in the interim these new limits may be elected without a plan amendment on or after [the date final regulations are published in the Federal Register]. No formal election need be filed with the Service. An election will be deemed to have been made if the new limits are used in an applicable distribution.

Also, the regulation is clarified to specify that the present value of the maximum benefit described in section 4022(b)(3)(B) of ERISA is to be determined in accordance with the regulations of the Pension Benefit Guaranty Corporation (PBGC).

Some commentators inquired as to the effect of the regulation on Rev. Rul. 80-229, 1980-2 C.B. 133, regarding distribution upon termination of assets in a plan in which the value of plan assets as of the date of termination is not less than the present value of all

accrued benefits (whether or not forfeitable). Those guidelines may still be applied as indicated in that revenue ruling, whether or not the termination would otherwise invoke the early termination restrictions of this amendment.

It should also be noted that nonforfeitable benefits for purposes of Title IV of ERISA are determined under the definition of that term in Title IV and implementing PBGC regulations.

Drafting Information

The principal author of these final regulations was Marjorie Hoffman of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Non-Applicability of Executive Order 12291

The Treasury Department has determined that this regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 29, 1983.

Regulatory Flexibility Act

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for interpretative regulations. Accordingly, the Regulatory Flexibility Act (5 U.S.C. Chapter 6) does not apply and no Regulatory Flexibility Analysis is required for this rule.

Lists of Subjects in 26 CFR 1.401–0—1.425–1

Income taxes, Employee benefit plans, Pensions.

PART 1—[AMENDED]

Adoption of Amendments to the Regulations

Accordingly, the proposed amendment to 26 CFR Part 1 is hereby adopted subject to the changes set forth below:

Section 1.401–4(c)(7) (iii) and (vi) as set forth in the notice of proposed rulemaking, is amended to read as follows:

§ 1.401–4 Discrimination as to contributions or benefits.

* * * * *

(c) * * *

(7) * * *

(iii) A plan satisfies this paragraph (c)(7) by providing that employer contributions which may be used for the benefit of all employees described in paragraph (c)(2) (other than an employee who is a substantial owner as defined in section 4022(b)(5) of ERISA) shall not exceed the greater of the dollar amount described in paragraph (c)(2)(iii) or a dollar amount which equals the present value of the maximum benefit described in section 4022(b)(3)(B) of ERISA (determined on the date the plan terminates or on the date benefits commence, whichever is earlier, and determined in accordance with regulations of PBGC) without regard to any other limitations in section 4022 of ERISA.

* * * * *

(vi) Paragraph (c)(7) of this section applies to plan terminations occurring on or after March 12, 1984. For distributions not on account of plan terminations, paragraph (c)(7) applies to distributions in plan years beginning after December 31, 1983. However, a plan may elect to apply that paragraph to distributions not on account of plan termination on or after January 10, 1984.

This Treasury decision is issued under the authority contained in sections 411(d) (2) and (3) and 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 88 Stat. 912; 26 U.S.C. 411(d) (2) and (3) and 7805).

Philip E. Coates,

Acting Commissioner of Internal Revenue.

Approved: December 19, 1983.

John E. Chapoton,

Assistant Secretary of the Treasury.

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Section 1.401–4 is amended by adding three new sentences at the end of paragraph (c)(1) and by adding a new paragraph (c)(7). These added provisions read as follows:

§ 1.401–4 Discrimination as to contributions or benefits.

* * * * *

(c)(1) * * * Any pension plan containing a provision described in this paragraph shall not fail to satisfy section 411(a), (d)(2) and (d)(3) merely by reason of such a plan provision. Paragraph (c)(7) of this section sets forth special early termination rules applicable to certain qualified defined benefit plans for plan years affected by the Employee Retirement Income Security Act of 1974 ("ERISA"). Paragraph (c)(7) of this section does not contain all the rules required by the enactment of ERISA.

* * * * *

(7)(i) A qualified defined benefit plan subject to section 412 (without regard to section 412(b)(2)) shall not be required to contain the restriction described in paragraph (c)(2)(ii)(*c*) of this section applicable to an employee in a plan whose full current costs for the first 10 years have not been funded.

(ii) A qualified defined benefit plan covered by section 4021(a) of ERISA ("qualified Title IV plan") shall satisfy the restrictions in paragraph (c)(2) of this section only if the plan satisfies this paragraph (c)(7). A plan satisfies this paragraph (c)(7) by providing that employer contributions which may be used for the benefit of an employee described in paragraph (c)(2) of this section who is a substantial owner, as defined in section 4022(b)(5) of ERISA, shall not exceed the greater of the dollar amount described in paragraph (c)(2)(iii) of this section or a dollar amount which equals the present value of the benefit guaranteed for such employee under section 4022 of ERISA, or if the plan has not terminated, the present value of the benefit that would be guaranteed if the plan terminated on the date the benefit commences, determined in accordance with regulations of the Pension Benefit Guaranty Corporation ("PBGC").

(iii) A plan satisfies this paragraph (c)(7) by providing that employer contributions which may be used for the benefit of all employees described in paragraph (c)(2) of this section (other than an employee who is a substantial owner as defined in section 4022(b)(5) of ERISA) shall not exceed the greater of the dollar amount described in paragraph (c)(2)(iii) of this section or a dollar amount which equals the present value of the maximum benefit described in section 4022(b)(3)(B) of ERISA (determined on the date the plan terminates or on the date benefits commence, whichever is earlier and determined in accordance with regulations of PBGC) without regard to any other limitations in section 4022 of ERISA.

(iv) A plan provision satisfying this paragraph (c)(7) may be adopted by amendment or by incorporation at the time of establishment. Any allocation of assets attributable to employer contributions to an employee which exceeds the dollar limitation in this paragraph (c)(7) may be reallocated to prevent prohibited discrimination.

(v) The early termination rules in the preceding subparagraphs (1) through (6) apply to a qualified Title IV plan except where such rules are determined by the Commissioner to be inconsistent with the rules of this paragraph (c)(7), § 1.411(d)–2, and section 4044(b)(4) of ERISA. The early termination rules of this paragraph (c)(7) contain some of the rules under section 401(a)(4) and (a)(7), as in effect on September 2, 1974, and section 411(d) (2) and (3). Section 1.411(d)–2 also contains certain discrimination and vesting rules which are applicable to plan terminations.

(vi) Paragraph (c)(7) of this section applies to plan terminations occurring on or after March 12, 1984. For distributions not on account of plan terminations, paragraph (c)(7) applies to distributions in plan years beginning after December 31, 1983. However, a plan may elect to apply that paragraph to distributions not on account of plan termination on or after January 10, 1984.

[FR Doc. 84-643 Filed 1-9-84; 8:45 am]
BILLING CODE 4830-01-M

PANAMA CANAL COMMISSION

35 CFR Part 111

Revised Shipping and Navigation Rules for the Panama Canal

Correction

In FR Doc. 83-31205 beginning on page 52703 in the issue of Tuesday, November 22, 1983, make the following correction:

On page 52711, § 111.37(a)(4) in the third line from the top of the middle column of the page, the Morse Code should have read ".....".

BILLING CODE 1505-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 254

Conveyance of Small Tracts

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: These regulations establish standards and procedures for implementing the Act of January 12, 1983 (96 Stat. 2535), commonly known as the Small Tracts Act, which enables the Secretary of Agriculture to sell, exchange, or interchange certain limited and specific categories of National Forest System lands. The proposed regulations will help resolve title conflicts for small parcels of land, facilitate the rapid resolution of certain encroachment problems, reduce the number of decisionmaking levels previously involved in resolving title claims problems, and provide for more efficient management of the National Forests. In addition, the regulation provides for disposal of narrow strips of land held for right-of-way purposes, but no longer needed, and disposal of small, irregular-shaped parcels of National Forest System lands intermingled with patented mining claims.

EFFECTIVE DATE: February 9, 1984.

FOR FURTHER INFORMATION CONTACT: George Liddicoatt, Jerry Sutherland, or Paul Haarala, USDA, Forest Service, Lands Staff, (703) 235-8188.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking to implement the Small Tracts Act was published on May 19, 1983, 48 FR 22589-91. By notice of July 29, 1983, 48 FR 34481, the public comment period was extended to September 16, 1983. Comments were received from 33 sources including individuals, businesses, and local governments. The major comments and actions taken in response to these comments are summarized below and keyed to section headings of the proposed rule.

Response to Public Comments

Section 254.30 Purpose.

No comments were received on this section; however, on advice of counsel, the section has been amended to clarify that application of these regulations does not constitute authorization of, or consent to, adverse possession of lands administered by the Secretary of Agriculture.

Section 254.31 Definitions.

This section received the largest number of comments, most of which concerned a better definition of "color and claim of title", "the applicant", and "improvements". In response, we have redefined the terms "claim of title" and "applicant" to clarify their meaning. The term "improvements" has many meanings. The one proposed is considered to be the most inclusive of those meanings; therefore, it has not been changed. Other respondents suggested adding definitions for the terms "survey" and "actual and constructive notice." Survey, as used by these respondents, was more restrictive than that intended in the enabling legislation; therefore, those comments were not adopted. We have deleted the words "actual and constructive notice" to eliminate the problems with their meaning. Other minor changes were also made to these definitions to adopt language used in the enabling legislation and to clarify or create a more precise definition. These changes included replacing the word "person" for "landowner" in the definition of applicant, and the use of "person" in other definitions; "very" replaces "substantially" and the word "adjacent" was deleted in the definition of "Approximately Equal Value"; "odd-shape" is deleted in the definition of "mineral survey fractions", and "business entity" was added in the definition of "person". The definition of "Lands" was considered not necessary to the regulations and was deleted.

Section 254.32 Encroachments.

Section 254.33 Road Rights-of-Way.

No Major comments were received on these sections. Minor changes were made from the proposed rule to improve sentence structure and the noted deletion of the words "actual or constructive" in § 254.32(b)(3).

Section 254.34 Mineral Survey Fractions.

Several comments were made concerning the consistency of language in this section with the language of the Small Tracts Act, and concerning how interests of unpatented mining claims would be protected. In response to those comments, we have made minor word changes to incorporate language of the Small Tracts Act. The other concerns are procedural in nature and where instructions are not already in place to protect valid third party interests, such as grazing permittees and holders of unpatented mining claims, instructions will be issued in the Forest Service Manual. The Small Tracts Act does authorize the Secretary of Agriculture to sell mineral interests. The coordination of these actions with the Bureau of Land Management and their record system is recognized.

Section 254.35 Limitations

Most respondent's comments on this section dealt with granting the abutting landowner the first right of acquisition. Questions were raised about the procedure to be followed, and the basis for granting first right of acquisition to abutting landowners. It was also suggested that local governments should have first right of acquisition. There are simply too many different situations involving abutting landowners to attempt to define a single set of simple procedures to be applied in all situations; therefore, procedures for handling multiple abutting landowner situations will be left to local Forest Service personnel to work out with abutting owners. The primary use of the mineral survey fraction sales authority will be directed at disposing of small parcels of land that create management problems for both the federal land manager and the adjoining private party owners. It should also be recognized that the Small Tracts Act is not a general disposal authority but is to be used only in those limited and specific categories of cases for which it has been designed.

Section 254.36 Determining Public Interest

Most respondents commenting on this section suggested adding "other land use rules and regulations" to item (g). That time was rewritten to include the suggested meaning. Other comments suggested a lead-in paragraph, and the expansion of items (b), (c), and (e). We agree with these suggestions and have rewritten and added to items (a), (b), and (c) to clarify this section.

Section 254.40 Applications

No major comments were received. Minor changes were made in sentence structure. Item (d) was deleted as unnecessary and "administrative" in item (c) was changed to "incidental" to be consistent with language in the Act.

Section 254.41 Public Sale or Exchange in Absence of Application

Most comments addressed the need to clarify or define reasonable notice. We have rewritten this provision to more fully describe the public notice and sale procedure.

Section 254.42 Valuation of Tracts

Some changes in wording were made to clarify this section. One respondent suggested that value be established as of the date the encroachment began. This suggestion is not consistent with the intent of the Small Tracts Act. The date of value will be current with the date of sale or exchange under this authority. This has been clarified in the final regulation.

Section 254.43 Surveys

Some changes were made to this section to clarify survey standards and requirements.

Section 254.44 Document of Conveyance

Several comments made either a recommendation to add or delete the need for terms and convenants in the deed; others concerned clarifying the recording process. It is our intent to keep the conveyance document as free as possible of terms, conditions, and convenants; however, we cannot eliminate the opportunity for their use if necessary. Changes were made to clarify the recording process and to provide a more descriptive title.

Regulatory Impact

This final rule has been reviewed under USDA procedures and Executive Order 12291, and it has been determined this is not a major rule. The result from this regulation will have little or no effect on the economy. The proposed procedures provide a streamlined, simplified mechanism of resolving small claims and disputes over small parcels of land, which will significantly reduce time and costs to the Federal Government and private parties in resolving these cases. There are no alternatives to issuance of these regulations which are required by the Small Tracts Act.

The Assistant Secretary of Agriculture for Natural Resources and Environment has determined this action will not have a significant economic impact on a substantial number of small entities. Furthermore, it does not directly result in additional procedures or paperwork. The regulation does not significantly affect the environment; therefore, an environmental impact statement is not required under the National Environmental Policy Act of 1969. Individual environmental assessment reports will be made on a case-by-case basis.

List of Subjects in 36 CFR Part 254

National forests, Public lands—acquisitions and exchanges, Permits, Sales.

PART 254—LANDOWNERSHIP ADJUSTMENTS

Therefore, for the reasons set forth in the preamble, Part 254 of Title 36 of the Code of Federal Regulations is amended as follows:

(1) Change the title of Part 254 from "LANDOWNERSHIP" to "LANDOWNERSHIP ADJUSTMENTS";

(2) Add a new Subpart C to read as follows:

Subpart C—Conveyance of Small Tracts

Sec.
254.30 Purpose.
254.31 Definitions.
254.32 Encroachments.
254.33 Road rights-of-way.
254.34 Mineral survey fractions.
254.35 Limitations.
254.36 Determining public interest.
254.37–254.39 [Reserved]
254.40 Applications.
254.41 Public sale or exchange in absence of application.
254.42 Valuation of tracts.
254.43 Surveys.
254.44 Document of conveyance.

Authority: Pub. L. 97–465; 96 Stat. 2535.

Subpart C—Conveyance of Small Tracts

§ 254.30 Purpose.

These regulations set forth procedures by which the Secretary of Agriculture may resolve land disputes and management problems pursuant to Pub. L. 97–465, commonly called the Small Tracts Act, by conveying, through sale, exchange, or interchange, three categories of tracts of land: Parcels encroached on, road rights-of-way, and mineral survey fractions. Implementation of these regulations does not constitute authorization of nor consent to adverse possession against lands administered by the Secretary of Agriculture.

§ 254.31 Definitions.

For the purpose of this subpart,

An "applicant" is a person who occupies or has improvements on National Forest System land under claim of title or color of title, or who owns land abutting or underlying a road right-of-way, or who owns land interspersed with or adjacent to mineral survey fractions.

"Approximately Equal Value" is a comparative estimate of value of lands involved in an interchange where elements of value, such as physical characteristics and other amenities, are readily apparent and substantially similar.

"Claim of Title" is a claim of land as a person's own, based on any reasonable evidence which establishes the person's actual use of the land as though the person had full title thereto from the time the person obtained ownership of abutting land.

"Color of Title" arises from an instrument purporting to convey title to a tract of land.

"Encroachments" are improvements occupied or used on National Forest System land under claim of title or color of title.

"Exchange" is a discretionary, voluntary transaction involving mutual transfers of land or interests in land between the Secretary of Agriculture acting by and through the Forest Service and a nonfederal entity.

"Good Faith" is honesty of intention and freedom from knowledge of circumstances which ought to put a prudent person upon inquiry.

"Improvements" mean an addition to property costing labor or capital which affects its value. The term generally includes fixtures, structures and attendant facilities, or buildings.

"Interchange" is a land transfer in which the Secretary and another person exchange lands or interests in lands of approximately equal value without a formal appraisal.

"Mineral survey fractions" are small parcels of National Forest System lands interspersed with or adjacent to lands transferred out of Federal ownership under the mining laws.

"Person" includes any nonfederal entity such as a State or any political

subdivision as well as any individual or business entity.

"Secretary" refers to the Secretary of the United States Department of Agriculture.

§ 254.32 Encroachments.

(a) Conveyances under this subpart are limited to tracts of 10 acres or less to resolve encroachments by persons:

(1) To whom no advance notice was given that the improvements encroached or would encroach, and

(2) Who in good faith relied on an erroneous survey, title search, or other land description which did not reveal such encroachment.

(b) Forest Service officials shall consider the following factors when determining whether to convey lands upon which encroachments exist:

(1) The location of the property boundaries based on historical location and continued acceptance and maintenance,

(2) Factual evidence of claim of title or color of title,

(3) Notice given to persons encroaching on National Forest System lands,

(4) Degree of development in the encroached upon area, and

(5) Creation of an uneconomic remnant.

§ 254.33 Road rights-of-way.

(a) Reserved or acquired road right-of-way parcels subject to conveyance under this subpart are limited to those which are substantially surrounded by lands not owned by the United States.

(b) Forest Service officials shall consider public road system right-of-way needs based on National Forest transportation planning and State and local law before making any conveyance of rights-of-way.

(c) Reimbursement will be required for the value of any improvements made by the United States or other highway authorities, unless waived by the Chief of the Forest Service.

§ 254.34 Mineral survey fractions.

(a) Mineral survey fractions subject to conveyance under this subpart are limited to those tracts which:

(1) Cannot be efficiently administered because of size, shape, or location;

(2) Are occupied or could be occupied or used by adjoining owners; and

(3) When sold separately or aggregated in one transaction, do not exceed 40 acres.

(b) Forest Service officials shall consider the following criteria in determining whether to convey mineral survey fractions under this subpart:

(1) The mineral survey fractions are interspersed among and are more or less an integral part of private land holdings;

(2) The feasibility and cost of surveying the parcels in order to manage them effectively;

(3) The size, shape, and location of the parcels as they affect management, utility, access, occupancy or use of the parcels or the lands with which they are interspersed.

§ 254.35 Limitations.

(a) Lands within the National Wilderness Preservation System, the National Wild and Scenic Rivers System, the National Trails System, and National Monuments are excluded from any conveyance under these provisions.

(b) Lands within National Recreation Areas may not be conveyed by sale under this subpart.

(c) The value of Federal lands conveyed in any transaction, pursuant to this subpart, shall not exceed $150,000.

(d) Compensation for loans conveyed shall be of at least equal value, or in the case of interchange, of approximately equal value, and may be in the form of land, interest in land (including minerals), or cash, or any combination thereof.

(e) The sale, exchange, or interchange of lands or interest in lands under these rules are discretionary and shall be made only if found to be in the public interest.

(f) The abutting landowner(s) shall have the first right of acquisition.

(g) The area of land conveyed shall be limited to the minimum necessary to resolve encroachment or land management problems.

§ 254.36 Determining public interest.

(a) The requirements of § 254.35 and of one of §§ 254.32, 254.33, or 254.34 must be met before a determination of public interest can be made.

(b) Before a conveyance is made under this subpart, such conveyance must be determined to be in the public interest.

(c) Forest Service officials shall consider the following criteria in determining when the public interest will be served:

(1) Sale, exchange, or interchange of the affected lands is not practicable under any other authority of the Secretary;

(2) Administration and management of National Forest System lands will be more efficient and will result in improved utilization;

(3) Access to and use and enjoyment of National Forest System lands by the general public will not be unduly impeded or restricted;

(4) New or extensive inholdings which would create management problems will not be established;

(5) Scenic, wildlife, environmental, historical, archaeological, or cultural values will not be substantially affected or impaired;

(6) Existence of structures authorized under a special use permit or easement, and

(7) Applicable Federal, State, and local laws, rules, regulations, and zoning ordinances will not be violated.

§§ 254.37–254.39 [Reserved]

§ 254.40 Applications.

(a) A request for conveyance of National Forest System land must be made in writing to the District Ranger or the Forest Supervisor who has administrative jurisdiction over the land.

(b) The applicant shall bear all reasonable costs of administration, survey, and appraisal incidental to the conveyance.

(c) Costs incidental to the conveyance may be waived at the discretion of the Chief of the Forest Service.

§ 254.41 Public sale or exchange in absence of application.

(a) Mineral survey fractions or road rights-of-way which have not been applied for by an abutting landowner may be offered to the public for sale or exchange at not less than fair market value.

(b) Public notice of a proposed sale of land for which there is no applicant shall be published once a week for four consecutive weeks in a local newspaper prior to the date of sale.

(c) The public notice shall describe the lands to be sold, minimum acceptable price, conditions of sale, sealed or oral bid procedures, date and location of sale.

§ 254.42 Valuation of tracts.

(a) Approximately equal value shall be determined by comparing and evaluating the elements of value on the lands or interest in lands to be interchanged. Elements of value to be considered include size, shape, location, physical attributes, functional utility, proximity of other similar sites, and amenities in the immediate environs of the parcel. Findings that tracts are approximately equal in value shall be documented. An applicant must signify acceptance of the value determination by signing the documented findings prior to the interchange.

(b) Equal value in sale or exchange transactions shall be developed by recognized appraisal methods following Forest Service appraisal procedures and the Uniform Appraisal Standards for Federal Land Acquisition. The date of the value estimate will be current with the date of sale or exchange.

(c) Improvements to National Forest System land made by any persons other than the Government may be excluded from the property value determinations.

§ 254.43 Surveys.

All necessary tract surveys of National Forest System land shall be conducted by a licensed private surveyor under Forest Service instructions, contracted by the person applying for the conveyance, or by a Forest Service surveyor. The person will also be required to have all Federal property boundaries resulting from a conveyance marked and posted to Forest Service standards.

§ 254.44 Document of conveyance.

(a) Title to the United States may be conveyed by quitclaim or warranty deed. The United States will convey title only by quitclaim deed.

(b) Deeds shall be free of terms, conditions, and convenants except those deemed necessary to ensure protection of the public interest.

(c) A copy of all documents of conveyance will be transmitted after recordation, where applicable, to the appropriate State Office of the Bureau of Land Management.

John B. Crowell, Jr.,

Assistant Secretary for Natural Resources and Environment.

December 16, 1983.

[FR Doc. 84-535 Filed 1-9-84; 8:45 am]

BILLING CODE 3410-11-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket No. MA-936; A-1-FRL 2504-6]

Approval and Promulgation of Implementation Plans; Massachusetts New Source Review Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving in part a revision to the Massachusetts State Implementation Plan (SIP) which incorporates into the Massachusetts SIP preconstruction review requirements for major new sources locating in an area where the air quality is worse than levels set to protect public health and welfare. These new Massachusetts regulations meet the Clean Air Act requirements for review of new sources and modifications in nonattainment areas.

EFFECTIVE DATE: February 9, 1984.

ADDRESSES: Copies of the submittal are available for public inspection at Room 2111, JFK Federal Building, Boston, MA 02203; Public Information Reference Unit, EPA Library, 401 M Street, SW., Washington, D.C. 20460; Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408 and Department of Environmental Quality Engineering, Division of Air Quality Control, One Winter Street, Boston, Massachusetts 02108.

FOR FURTHER INFORMATION CONTACT: Margaret McDonough, State Air Programs Branch, EPA, Region I, Room 2111, JFK Federal Building, Boston, Massachusetts 02203, (617) 223-5130.

SUPPLEMENTARY INFORMATION: On May 9, 1983 (48 FR 20766) we published a Notice of Proposed Rulemaking (NPR) on revisions to the Massachusetts SIP submitted on May 27, 1982 and September 9, 1982 by the Massachusetts Department of Environmental Quality Engineering (DEQE). The revisions contain changes to preconstruction review requirements for new major sources or modifications locating in a nonattainment area. We received one letter of comment on our proposed approval. Except as noted below, the revisions and the rationale for EPA's proposed action are explained in the May 9, 1983 proposed rulemaking, and will not be restated here.

I. Changes Since Publication of Proposed Rulemaking

In the NPR EPA proposed to take no action on the definition of source and the provision for granting emission reduction credits for source shutdowns and production curtailments submitted by the DEQE. These two provisions are affected by a court decision and settlement agreement, respectively. We have not changed our decision to take no action on these two provisions in this final rulemaking. Recent developments, explained below, may affect our decision in the future, however.

Plantwide v. Dual Definition of Source

DEQE submitted for EPA approval, a definition of source consistent with EPA's October 14, 1981 (44 FR 50766) rulemaking in which source was redefined to mean an entire plant rather than as both an entire plant and an identifiable piece of process equipment (the "dual" definition). The dual definition of source is currently in effect in the Massachusetts SIP. On August 17, 1982 the U.S. Court of Appeals for the Washington, D.C. Circuit issued an opinion in *Natural Resources Defense Council* v. *Gorsuch*, 685 F.2d 718 (D.C. Circuit, 1982) which, if finalized, will vacate EPA's October 14, 1981 rulemaking. After we published our proposed action on the DEQE new source review plan, the Supreme Court granted review of the Court of Appeals decision. The Supreme Court will hear the case sometime next year. Thus, the definition of source as it applies to new source review in nonattainment areas will be uncertain until the Supreme Court renders its decision. Because of the uncertainty regarding the definition of source, we are taking no action on the plantwide definition of source submitted by the DEQE. The dual definition already in the Massachusetts SIP will remain in effect.

Emission Reduction Credit for Source Shutdowns and Production Curtailments

As explained in the NPR, the DEQE provision regarding emission reduction credits for source shutdowns and production curtailment does not meet current federal requirements because it does not limit such credits to replacement units. On August 25, 1983 (48 FR 38751) EPA proposed a regulation which would remove the replacement unit restriction. If this regulation is finalized, we will determine if the DEQE provision is approvable.

II. Renumbering of 310 CMR 7.02(2)(b)(5) and 7.02(2)(b)(6)

DEQE revised Regulations 7.02(2)(b)(5) and 7.02(2)(b)(6) to replace references to the Emission Offset Interpretative Ruling with references to 310 CMR Appendix A in its May 27, 1982 submittal. In its September 9, 1982 submittal DEQE removed Regulation 7.04(2)(b)(4), which is not related to new source review, and renumbered subsequent regulations accordingly. At the time of our proposed approval of the new source review plan it was uncertain if we would approve the removal of Regulation 7.02(2)(b)(4). Therefore, we proposed approval of the numbering in the May 27, 1982 submittal.

On July 7, 1983 (48 FR 31197) EPA approved the removal of Regulation 7.02(2)(b)(4) in an action unrelated to new source review. In today's final action we are approving the renumbering of Regulations 7.02(2)(b)(5) and 7.02(2)(b)(6) to 7.02(2)(b)(4) and 7.02(2)(b)(5).

III. Comments

The Monsanto Company commented on EPA's proposed decision to take no action on the plantwide definition of source and the provision submitted by the DEQE regarding emission reduction credits from source shutdowns and production curtailments.

Comment on Definition of Source

The Monsanto Company (Monsanto) believes that EPA should approve the plantwide definition of source because the October 14, 1981 rulemaking is technically still in effect and because EPA continues to support the validity of that rulemaking. Monsanto stated that the plantwide definition should be removed only at such time as the Supreme Court renders a decision upholding the Court of Appeals decision. Monsanto also urged EPA to include a "grandfather" provision for the use of the plantwide definition in the Massachusetts SIP which would allow sources which applied for a permit on the basis of the plantwide definition to proceed with its construction or modification even if the "dual" definition is reinstituted.

Response

Massachusetts now has a federally approved definition of source for nonattainment areas—the dual definition contained in the Emission Offset Interpretative Ruling of January 16, 1979. Because the Supreme Court granted review of the Court of Appeals decision, which ruled against the use of a plantwide definition of source in nonattainment areas, it is uncertain which definition, dual or plantwide, will eventually be in effect. We believe that it is best to make no changes to the definition of source contained in the SIP until the Supreme Court renders its decision. If the Supreme Court rules in favor of the plantwide definition, Region I will initiate action to approve the definition submitted by the DEQE.

Comment on Emission Reduction Credits From Source Shutdowns or Production Curtailments

The Monsanto Company does not believe that it is necessary for EPA to wait for final implementation of the settlement agreement reached in *EPA* v. *CMA* to approve 310 CMR Appendix A, Paragraph 5(q).

Response

As stated above EPA proposed regulations on August 25, 1983 to implement the settlement agreement reached in *EPA* v. *CMA*. Until these regulations are finalized, the requirement found at 40 CFR 51.18(j)(3)(ii)(*c*) limiting the use of emission credit from prior shutdowns or curtailments to replacement facilities will remain in effect. EPA will determine whether the DEQE provision regarding emission reduction credit from source shutdowns to production curtailments is approvable when the implementation of the setttlement agreement is finalized.

Final Action

EPA is approving:

1. The renumbering of Regulations 310 CMR 7.02(2)(b)(5) and 7.02(2)(b)(6) to 7.02(2)(b)(4) and 7.02(2)(b)(5).
2. The addition of 310 CMR, Appendix A, "Emission Offsets and Nonattainment Review" to the Massachusetts SIP.
3. Revisions to 310 CMR 7.00 "General Definitions" with the exception of the definitions of "source" and "building, structure, facility or installation" insofar as they apply to 310 CMR, Appendix A.
4. A revision to 310 CMR 7.02(2)(b)(4) which states that major sources locating in a nonattainment area must meet the requirements of 310 CMR, Appendix A, "Emission Offsets and Nonattainment Review" with the exceptions noted below.

Exceptions:

(a) The definitions of "source", "facility", "reconstruction" and "fixed capital cost" now in the Massachusetts SIP will remain in effect.

(b) The provision limiting the use of emissions reduction credit resulting from source shutdowns or curtailments in production or operating hours, Paragraph IV(c)(3) of the Emission Offset Interpretative Ruling, published on January 16, 1979 (44 FR 3274), will remain in effect.

5. A revision to 310 CMR 7.02(2)(b)(5) which replaces the reference to the EOIR with a reference to 310 CMR, Appendix A.

EPA is taking no action on:

1. The definitions of "source" and "building, structure, facility or installation" found at 310 CMR 7.00, "General Definitions" insofar as these definitions apply to the review of new sources in nonattainment areas.
2. Paragraph 4 of 310 CMR Appendix A which requires the installation of RACT at modifications at sources in nonattainment areas where there is no overall increase in emissions. This provision is unnecessary because the dual definition of source applies.
3. Paragraph 5(q) of 310 CMR Appendix A which pertains to source shutdowns and production curtailments.

Under Executive Order 12291, today's action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA, and any EPA response, are available for public inspection at Room 2111, JFK Federal Building, Boston, MA 02203.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons and Intergovernmental relations.

Authority: Sections 110(a) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)).

Dated: January 4, 1984.

William D. Ruckelshaus,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Massachusetts was approved by the Director of the Federal Register on July 1, 1982.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart W—Massachusetts

Section 52.1120, paragraph (c) is amended by adding paragraph (60) as follows:

§ 52.1120 Identification of plan.

* * * * *

(c) * * *

(60) On May 27, 1982 and September 9, 1982 the Commissioner of the Massachusetts Department of Environmental Quality Engineering submitted a revised plan for new source review in nonattainment areas. The submittal included 310 CMR Appendix A, "Emission Offsets and Nonattainment Review," additions to 310 CMR 7.00, "General Definitions," and revisions to 310 CMR 7.02(2)(b)(4) and 7.02(2)(b)(5), "Plan Approval and Emission Limitations."

[FR Doc. 84-539 Filed 1-9-84 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Parts 66 and 67

[FRL 2479-4]

Air Pollution; Interpretive Rulemaking

AGENCY: Environmental Protection Agency.

ACTION: Final interpretive rulemaking.

SUMMARY: This notice announces the Agency's final interpretation and policy on the relationship between Section 120(g) and Section 172(a)(2) of the Clean Air Act. It states that EPA considers Section 172 to be the controlling provision. In the cases of SIP requirements within the scope of Section 172(a)(2) that properly require compliance more than three years after they are approved or promulgated, EPA therefore will only seek Section 120 penalites for a violation after a source is required to be in compliance.

This policy represents a reversal of the Agency's analysis described in the final preamble in 1980 and a return to the Agency's analysis described in the Section 120 rules as proposed (see 44 FR 17310).

DATE: This interpretation is effective January 10, 1984.

FOR FURTHER INFORMATION CONTACT: Christopher Herman, (202) 382–7630.

SUPPLEMENTARY INFORMATION: On July 28, 1980, the Environmental Protection Agency ("EPA") promulgated rules for the assessment and collection of noncompliance penalties pursuant to Section 120 of the Clean Air Act, 42 U.S.C. 7420. (See 45 FR 50086.) One of the issues discussed in the preamble to the final regulations concerned the relationship between Section 120(g) and Section 172(a)(2) of the Clean Air Act. Section 120(g) provides that new or more stringent state implementation plan requirements become enforceable for Section 120 purposes no later than three years after they are approved or promulgated. Section 172(a)(2) allows such plans in some circumstances to provide for final compliance as late as 1987 (if approved) as long as the implementing regulations are submitted by July 1982. If such a revision were approved in 1982, Section 120(g) would appear to require enforcement of such revision in 1985 even against sources which are not required to comply until 1987. This anomaly was described but not resolved in the 1980 rulemaking. The preamble to the final Section 120 rules stated that EPA would separately announce a final interpretation and policy on this question.

By proposed interpretive rulemaking dated June 2, 1983 and subsequently published in the **Federal Register** (48 FR 26627 June 9, 1983), EPA solicited public comment on its proposed interpretation.

Section 120 of the Clean Air Act, added in 1977, authorizes EPA to assess and collect a penalty from designated sources no less than the economic value of delaying compliance with applicable legal requirements. Section 120(g) states that with respect to emission limitations which become final after the effective date of the 1977 amendments (August, 1977), the penalty shall be imposed on the later of two dates—either July 1, 1979 or the date on which a source is required to be in compliance. Section 120(g) adds that in no event is imposition to be delayed more than three years from the date the new limitations become final.

Section 172 of the Clean Air Act, also added in 1977, deals with state implementation plans to achieve and maintain national ambient air quality standards (NAAQS). It was designed to address the problems of states which did not achieve primary NAAQS by the statutory attainment date, generally 1975. Such nonattainment areas were allowed an extension to December 1982. Areas which could not achieve the NAAQS for ozone and carbon monoxide by that date could request an attainment date extension to not later than December 1987. Areas seeking extensions are required to submit a plan by July 1982 containing enforceable measures which provide for attainment no later than December 1987, Section 172(c).

The provisions of Section 120(g) and 172(a)(2) appear to be in conflict. Strict application of Section 120(g) could create anomalous results for some sources in areas receiving extensions beyond 1982. For example, a SIP revision for an extension area could contain compliance dates as late as December 1987. If that plan has been submitted by July 1, 1982, it could have been approved and in effect by December 31, 1982. Section 120(g) would seem to require EPA to enforce the Section 120 penalty against sources subject to more stringent new SIP revisions no later than three years after the SIP revisions became final, which in this example would be December 31, 1985, i.e., two years prior to the date on which the source is required to be in compliance under the applicable SIP.

In its proposed rulemaking on Section 120, EPA stated that it believed no penalty could be imposed until the compliance date specified in the approved SIP. 44 FR 17310. In its final rulemaking, the Agency discussed the question further. It stated that the provisions may mean that (i) no major source regulated under a July 1982 SIP for an extension area may legally have a compliance date later than three years from SIP approval or promulgation; (ii) a source may have a lengthier compliance schedule but must be assessed the value of savings accruing after the third year; or (iii) penalties may not be imposed against a source three years after the SIP becomes final if a source has a lengthier SIP compliance schedule, provided the source is in compliance with any interim requirements. 45 FR 50086.

Upon further consideration, EPA had decided that, where SIPs in extension areas include compliance schedules extending beyond 1982 which are more than three years in length, Section 120 penalties should not be imposed until after the compliance date as long as the source complies with any interim requirements. Such sources will not be liable for a Section 120 penalty merely by virtue of the fact that a SIP requirement approved or promulgated under Section 172(c) allows compliance more than three years after approval or promulgation.

EPA sees no basis for imposing a penalty where no plan requirement has been violated. This reconciliation avoids inappropriate reference to Section 120(g) in developing compliance schedules for plans submitted for extension areas under Section 172(a)(2). This does not, of course, in any way alter the liability of sources subject to SIP requirements after the final compliance date required in the SIP whether more or less than three years from the date the requirement becomes final.

Summary and Analysis of Public Comment

EPA received seven comments on its proposed interpretation. All commenters supported EPA's interpretation.

This final interpretation is a final action subject to the review provisions of Section 307(d)(7)(B) of the Clean Air Act.

Dated: December 12, 1983.

Alvin L. Alm,

Deputy Administrator.

List of Subjects

40 CFR Part 66

Administrative practices and procedures, Air pollution control, Penalties.

40 CFR Part 67

Air pollution control, Intergovernmental relations, Penalties.

[FR Doc. 84–330 Filed 1–9–84; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 439

[OW-FRL-2504-4]

Pharmaceutical Manufacturing Point Source Category; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: EPA is correcting coding and typographical errors that appeared in the final regulation for the pharmaceutical manufacturing point source category that was published on October 27, 1983 (48 FR 49808). The purpose of this action is to ensure that the final regulations are properly applied in issuing permits and pretreatment requirements applicable to wastewater discharges from the pharmaceutical industry.

FOR FURTHER INFORMATION CONTACT: Dr. Frank H. Hund, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, or by calling (202) 382-7182.

Corrections

I. Preamble

In the preamble to the final regulation published in the **Federal Register** on October 27, 1983 (48 FR 49808-49831), the following corrections are required.

1. On page 49810, column 1 line 8 delete "trichlorofuloromethane" and insert "trichlorofluoromethane".

2. On page 49812, column 3 line 48 delete "three" and insert "there".

3. On page 49814, column 1 line 6 delete "choloroform" and insert "chloroform".

4. On page 49814 column 3 line 30 delete "$.65 million" and insert "$0.67 million".

5. On page 49815 column 1 line 15 delete "$0.39 million" and insert "$0.41 million".

6. On page 49821 column 1, after line 24, under

"carbon tetrachloride.....2", insert
"chlorobenzene.....1"
"1,2-dichlorobenzene.....2"

7. On page 49821 column 3 line 12 delete "benzene", and insert "*benzene".

8. On page 49821 column 3 line 15 delete "methyl chloride" and insert "*methyl chloride".

9. On page 49821 column 3 line 25 delete "toluene" and insert "*toluene".

II. Regulations

§ 439.12 [Corrected]

On page 49823 column 1 line 22, delete "loans" and insert "loads".

Dated: January 3, 1984.

Jack E. Ravan,

Assistant Administrator for Water.

[FR Doc. 84-538 Filed 1-9-84; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

43 CFR Subtitle A

Coastal Barrier Resources Act; Advisory Guidelines

AGENCY: Fish and Wildlife Services, Interior.

ACTION: Rule-related notice, Correction.

SUMMARY: The Coastal Barrier Resources Act bans all Federal expenditures and subsidies on units of the Coastal Barriers Resources System except for a very few activities listed under Section 6. Included in this list are certain energy development activities. The Office of Coastal Zone Management's Coastal Energy Improvement Program was inadvertently included in the list of Federal Programs totally banned which was published on October 6, 1983 (48 FR 45664). Grants under this program can be used for energy development after consultation with the Department of the Interior. Therefore, this correction is necessary.

FOR FURTHER INFORMATION CONTACT: Frank McGilvrey, Coastal Barriers Coordinator, Fish and Wildlife Service, Washington, D.C. 20240, (202) 343-2618.

SUPPLEMENTARY INFORMATION: In FR Doc. 83-27262 on page 45665 in the issue of Thursday, October 6, 1983, in column three under Department of Commerce, remove: "Office of Coastal Zone Management CEIP grants (Coastal Energy Improvement Program)." This activity can be considered as an exception to the ban on Federal expenditures under Section 6(a)(1) of the Coastal Barrier Resources Act.

Dated: December 27, 1983.

Ronald E. Lambertson,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 84-278 Filed 1-9-84; 8:45 am]

BILLING CODE 4310-07-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 83-115; ENF 83-5; FCC 83-552]

Furnishing of Customer Premises Equipment, Enhanced Services and Cellular Communications Services by the Bell Operating Companies

AGENCY: Federal Communications Commission.

ACTION: Final Order Applying Rules to Divested Bell Operating Companies.

SUMMARY: Commission adopts order applying some of the structural separation conditions in the *Second Computer Inquiry*, 47 CFR 64.702 to the Bell Operating Companies (BOCs) after their divestiture from AT&T. This order requires that, by June 30, 1984, the BOCs provide customer premises equipment (CPE) and enhanced services through an entity separate from regulated operations. This action was taken to reduce the potential for the BOCs to employ revenues for regulated service to cross-subsidize competitive product expenses and to prevent other anticompetitive conduct.

DATES: Permanent capitalization plans for the formation of the separate entities must be filed with the Commission by June 30, 1984. In addition, the order continues the requirement that the BOCs provide cellular mobile services through a cellular subsidiary pursuant to 47 CFR 22.901.

FOR FURTHER INFORMATION CONTACT: Larry Povich, Common Carrier Bureau, Washington, D.C. 20554. Telephone No. (202) 632-6363.

Report and Order

In the matter of policy and rules concerning the furnishing of customer premises equipment, enhanced services and cellular communications services by the Bell Operating Companies (CC Docket No. 83-115); North American Telephone Association; Petition for declaratory ruling on the requirement for sale of customer premises equipment by the Bell Operating Companies (ENF 83-5).

Adopted: November 23, 1983.
Released: December 30, 1983.

By the Commission: Commissioner Dawson concurring in the result.

I. Introduction

1. On February 17, 1983, the Commission adopted a Notice of Proposed Rulemaking (Notice), 48 FR 13056 (March 29, 1983), concerning whether the separate subsidiary requirements set forth in the Computer II

decisions [1] and the Cellular Mobile decisions [2] are applicable to the Bell Operating Companies (BOCs) [3] after they are divested by the American Telephone and Telegraph Co. (AT&T) pursuant to the Modification of Final Judgment (MFJ).[4] In our Brief as Amicus Curiae filed in the MFJ proceedings we stated that we did not believe the separation conditions of Computer II would be applicable to the divested BOCs, although we stated that such a requirement could be imposed on them.[5] The North American Telephone Association (NATA) subsequently sought a declaratory ruling that the separate subsidiary requirements of Computer II applied to the divested BOCs.[6] Because we wished to evaluate whether the Cellular and the Computer II separation conditions should be applied to the divested BOCs, we initiated this proceeding and incorporated the NATA petition for declaratory ruling within it.

2. The Notice sought comments from interested parties concerning whether the BOCs' provision of customer premises equipment (CPE) or enhanced services should be conducted only through a separate subsidiary established pursuant to the Computer II rules and whether their offer of cellular services should continue to be conducted through a cellular subsidiary pursuant to the Cellular rules. The Notice identified the four criteria we used in the Computer II decisions to determine whether to impose separate structure on AT&T's provision of CPE and enhanced services: (1) Control of bottleneck facilities, (2) opportunity for cross-subsidization, (3) integrated nature of company and (4) ability to enter competitive markets through a separate subsidiary. Parties were asked to analyze the post-diverstiture circumstances of the divested BOCs, indicating whether the BOCs met the four criteria. Furthermore, we requested comments with respect to whether modification to the rules is necessary in their application to the RBOCs. Finally, we requested comments on whether there were any enhanced services that the BOCs could provide, given that they were prohibited from offering information services under the MFJ. Comments were filed by numerous parties including the BOCs, equipment manufacturers, enhanced service providers, cellular service providers, federal agencies, and state public utility commissions.[7] Eighteen commenting parties, including the Department of Justice, favored imposition of some form of structural separation by this Commission; four parties urged the Commission not to require structural separation. State public utility commissions believed that whether to require separate structure should be within their discretion.

3. We conclude in this Order that the benefits to ratepayers and competition which can result from the requirement that CPE, enhanced services and cellular services be offered through a limited form of separation outweigh the costs to the RBOCs of forming and operating through separate subsidiaries. Ratepayers will benefit not only through the reduction of common costs between regulated and unregulated operations, but also by the increased detection of any misallocation of costs between the two operations. In addition, competition should benefit since separate structure can reduce opportunities for anticompetitive conduct. Competition should also benefit since regulatory intrusion into CPE and enhanced services businesses will be significantly reduced because auditing accounting systems is more intrusive than is monitoring compliance with structural separation conditions.

4. We recognize, however, that the BOC's positions in CPE markets have been significantly changed by the operation of the MFJ. They will reenter CPE markets with virtually no market share. They will no longer be associated with Western Electric and they will not provide interexchange services. Because of these differences between the divested BOCs and pre-divestiture AT&T we do not apply the full panoply of the Computer II rules. Thus, we permit (1) joint billing for CPE for four years following divestiture, (2) the referral of dial tone customers to the

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[1] Amendment of § 64.702 of the Commission's Rules and Regulations (Computer II), 77 FCC 2d 384 (1980) (Final Decision), *reconsideration*, 84 FCC 2d 512 (1981) *further reconsideration*, 88 FCC 2d 512 (1981), *aff'd sub nom. Computer & Communications Industry Ass'n v. FCC*, 693 F.2d 198 (D.C. Cir. 1982), *cert. denied*, 103 S. Ct. 2109 (1983).

[2] Cellular Communications Systems (Cellular Order), 86 FCC 2d 469 (1981), *reconsideration*, 89 FCC 2d 58 (Cellular Reconsideration), *further reconsideration*, 90 FCC 2d 571 (1982), *appeal dismissed sub nom.* United States v. FCC, Civ. No. 82-1526 (D.C. Cir., Mar. 3, 1983).

[3] Throughout this order the term BOC is used interchangeably with the term Regional Bell Operating Company (RBOC) unless otherwise noted. Although Cincinnati Bell, Inc. (CBI) and Southern New England Telephone Co. (SNET) are AT&T operating subsidiaries, the MFJ excludes them from the requirement that the operating companies be divested. Therefore, the term BOCs will not be used to refer to CBI and SNET. The Commission has already determined not to require CBI and SNET to structurally separate their unregulated CPE and enhanced services activities from their regulated activities. See In re Motion of Cincinnati Bell Inc. for Declaratory Ruling to Remove Uncertainty of its Status under the Commission Decisions in the Second Computer Inquiry, FCC 83-74 (released February 25, 1983). The seven RBOCs are: NYNEX, which encompasses New England Telephone & Telegraph Co. and New York Telephone Co.; Bell Atlantic, which encompasses Diamond State Telephone Co.; Bell Telephone Co. of Pennsylvania, and the Chesapeake & Potomac Telephone Companies; BellSouth, which includes Southern Bell Telephone & Telegraph Co. and South Central Bell Telephone Co.; American Information Technology Corp. (Ameritech), which includes Ohio Bell Telephone Co., Michigan Bell Telephone Co., Indiana Bell Telephone Co., Inc., Illinois Bell Telephone Co. and Wisconsin Telephone Co.; U.S. West, which encompasses Northwestern Bell Telephone Co., Mountain States Telephone & Telegraph Co. and Pacific Northwest Bell Telephone Co.; Southwestern Bell Corp., which includes Southwestern Bell Telephone Co.; and Pacific Telesis Group, which includes Pacific Telephone and Telegraph Co. and Bell Telephone Company of Nevada. A map of the intended geographic boundaries of the RBOCs is in Appendix A to the Notice.

[4] *United States v. American Telephone & Telegraph Co.*, 552 F Supp. 131 (D.D.C. 1982), *aff'd sub nom. Maryland v. United States*, 103 S. Ct. 1240 (1983). AT&T's application with this Commissioin for authority to transfer ownership of facilities in accordance with the Plan of Reorganization is currently under review. *See* File No. W-P-C-4955.

[5] Federal Communications Commission Brief on Question No. 2, at 9 n.3 (filed June 14, 1982), United States v. American Telephone & Telegraph Co., 552 F. Supp. 131 (D.D.C. 1982).

[6] NATA's pleading is summarized in Attachment A. (Attachment A is filed as part of the original document).

[7] Comments were filed by the Associated Bell System Companies (BOCs); Alabama Public Service Commission (Alabama); Association of Data Processing Service Organizations, Inc. (ADAPSO); Associated Telephone Answering Exchanges, Inc. (ATAE); People of the State of California and Public Utilities Commission of the State of California (California); Communications Workers of America (CWA); Computer & Business Equipment Manufacturers Association (CBEMA); Computer & Communications Industry Association (CCIA); Public Service Commission of the District of Columbia (D.C.); Federal Executive Agencies (FEA); Graphic Scanning Corp. (Graphic); Independent Data Communications Manufacturers Association, Inc. (IDCMA); Department of Justice (DOJ); MCI Telecommunications Corp. (MCI); Michigan Public Service Commission Staff (Michigan); National Association of Regulatory Utility Commissioners (NARUC); National Cable Television Association (NCTA); National Telecommunications and Information Administration (NTIA); New York State Department of Public Service (New York); North American Telephone Association (NATA); Pennsylvania Public Utility Commission (Pennsylvania); RCA Cylix Communications Network, Inc. (RCA); Rolm Corp. (Rolm); Satellite Business Systems (SBS); Southern Pacific Communications Co. (SPCC); Tandy Corp. (Tandy); Telocator Network of America (Telocator); Tymnet, Inc. (Tymnet); United Technologies Communications Co. (UTCC); Utelcom, Inc. (Utelcom); Warner Amex Cable Communications Inc. (Warner Amex); and Western Union Telegraph Co. (WU). These comments are summarized in Appendix A. Reply Comments were filed by ATAE; BOCs; California; CCIA; CompuServe, Inc. (CompuServe); CBEMA; Consumers Union (CU); DOJ; FEA; Graphic; IDCMA; MCI; NARUC; NATA; NCTA; NTIA; Rogers U.S. Cablesystems, Inc. (Rogers); Rolm; SPCC; Telocator; and WU. These reply comments are summarized in Appendix B. (Appendix B is filed as part of the original document).

separate subsidiary provided that the customer is informed that alternate CPE vendors exist, (3) joint installation and maintenance for residential and single-line business telephones, and (4) the sharing of administrative services. We also permit the BOCs the opportunity to demonstrate that some other organizational structure, such as a separate unincorporated division, will meet the same goals as would a subsidiary. Finally, we have adopted interim procedures to permit the RBOCs to reenter CPE markets without delay, while providing us the opportunity to review capitalization plans. We give the BOCs permission for six months after the divestiture to conduct unregulated operations without structural separation to provide them adequate time to bring themselves into compliance with this order. Our procedures also permit the RBOCs to meet their obligations under the MFJ to provide for the communications needs of national defense and emergency preparedness concerns. Our decision reflects the difficult balancing we must perform. We seek to promote the provision of efficient, reasonably-priced telecommunications services and equipment to consumers. While we apply regulatory constraints on the BOCs so that they are less able to interfere with achievement of this goal through unreasonable rates or exclusionary conduct, we also look to the BOCs to provide benefits to consumers through their untariffed activities. We may revise our balancing in the future in light of market developments.

A. Background

1. *Computer II and Cellular Separation Requirements*

5. In the Computer II decisions, we determined that the provision of CPE and enhanced services would not be regulated under Title II of the Communications Act. In order for common carriers to participate in these unregulated markets, we placed safeguards on a carrier's offering of unregulated CPE and enhanced services to protect ratepayers from absorbing costs incurred by carriers in the provision of CPE and enhanced services and to prevent anticompetitive abuses. A mechanism to meet these goals was the requirement that CPE and enhanced services offerings by carriers should be provided through a separate subsidiary. The Commission determined that only in the case of AT&T did the benefits to be derived from structural separation outweigh the costs imposed in forming and operating through such a subsidiary. Nevertheless, the Commission determined that it might impose the structural separation requirement on other carriers in the future if circumstances warranted. *Final Decision*, 77 FCC 2d 470; *Further Reconsideration*, 88 FCC 2d at 541.

6. In the Cellular Rulemaking we further determined that AT&T should be permitted to offer cellular mobile radio services only through a separate subsidiary, and not through the same subsidiary formed to offer CPE and enhanced services. The cellular separate structure requirement was imposed in order to help assure disclosure to outsiders of arrangements between AT&T's cellular operation and network services operations and to prevent anticompetitive abuses originating from AT&T's dominant control over wireline services, which competitive nonwireline cellular service providers also must access to offer cellular services.[8]

7. The structural separation requirements of the Computer II rules and the cellular rules were adopted at a time when AT&T comprised a nationwide system of both interexchange and local exchange service providers that serviced virtually 100 percent of all interstate telephone users and approximately 80 percent of all local exchange telephone users. AT&T also possessed a significant headstart in the development of cellular services technology. The annual revenues of the Bell System, the largest corporation in the world, were over $65 billion.

2. *Modification of Final Judgement*

8. On January 8, 1982, following the adoption of the Computer II and Cellular rules, AT&T entered an agreement with the Department of Justice to terminate antitrust proceedings. The agreement called for AT&T to divest itself of the BOCs. The Court has approved the spin off of 22 wholly-owned operating companies and their consolidation into seven regional BOCs (RBOCs).[9] The MFJ removes the line-of-business retrictions which were imposed on AT&T as a result of the Consent Decree entered in 1956 between AT&T and the Justice Department. On the other hand, the MFJ imposes line-of-business restrictions on the RBOCs in order to prevent them from utilizing their control of monopoly telecommunications facilities to provide an unfair advantage in competitive markets. The divested BOCs are limited to providing exchange telecommunications, exchange access, information service access, Yellow Pages directory services and CPE.[10] The BOCs may also provide other products and services if the Court approves. The Court stated that the question of whether there should be structural separation between the activities of the RBOCs was a matter for resolution by regulators. 552 F. Supp. at 193 n.251.

9. The seven RBOCs will range in size from $15.1 to $20.8 billion in assets and from 10.3 to 14.2 million network access lines.[11] At least with respect to the provision of exchange telecommunications services, exchange access and information service access, the RBOCs will operate only within their own geographic territories. The MFJ does not prohibit the BOCs from offering CPE outside of the geographic area in which they provide exchange telecommunications services.

10. The Computer II decisions have not barred the BOCs from providing CPE and enhanced services during 1983 through their own separate subsidiaries. Rather, AT&T has made a corporate decision that unregulated CPE and enhanced services would be marketed

[8] The cellular rules, 47 CFR 22.901, are almost identical to the Computer II rules, 47 CFR 64.702. Significantly, however, the cellular rules, unlike the Computer II rules, permit the sharing of computer facilities used for tariffed service by the landline carrier and its cellular subsidiary if the carrier is adequately compensated for the use. Furthermore, unlike the Computer II rules, the Cellular rules permit joint advertising and promotional efforts on behalf of cellular services between the landline carrier and its cellular subsidiary.

[9] The Court approved the MFJ as submitted by the Department of Justice with certain modifications and made its approval expressly subject to the submission by AT&T and Justice of a plan of reorganization to implement the provisions of the MFJ. On April 21, 1983, the Court approved, again with modifications, a plan which established approximately 170 Local Access and Transport Areas (LATAs). After divestiture AT&T would perform interLATA telecommunications, whereas the BOCs would perform intraLATA telecommunications functions. On July 8, 1983, the Court approved with certain altered requirements AT&T's Plan of Reorganization which described how the divestiture was to take place. These plans were finally approved by order dated August 23, 1983, subject to the outcome of a few minor remaining proceedings.

[10] The MFJ prohibits the BOCs from offering "information services." Information services under the MFJ are basically the offering of the capability of generating, storing, transforming of processing or making available information which may be conveyed over the network. It is unclear whether Computer II's definition of enhanced services is equivalent to the MFJ's term information services. The BOCs would be able to offer an enhanced service which is not an information service and which is an exchange telecommunications service, and exchange access service or an information access service. *See* discussion in section II.B., *infra*.

[11] Asset figures are provided in AT&T's Information Statement and Prospectus, filed with the Securities & Exchange Commission (dated November 8, 1983), as of June 30, 1983 as if the asset transfers required by the MFJ had been made on that date. Network access lines are estimated as of January 1, 1984. *Id.*

exclusively by AT&T Information Systems (ATTIS), formerly American Bell Inc. As a result, the BOCs did not provide new CPE after January 1, 1983.[12] The BOCs, however, have been providing embedded CPE [13] and have been supporting this equipment during 1983. At the time of divestiture, the BOCs must transfer their CPE and related support operations to AT&T, but, pursuant to the MFJ, may then reenter that market.[14]

11. Pursuant to the MFJ, the BOCs will establish a Central Services Organization (CSO). The MFJ requires that the CSO provide a central point of contact for the provision of telecommunications services for national security and emergency preparedness. The RBOCs will each own one-seventh of the stock of the CSO and will pay for the costs incurred by the CSO. Therefore, the CSO will serve as part of the operations of the RBOCs. Nevertheless, despite the fact that the CSO is permitted to provide such support, the BOCs have represented that the CSO will not provide CPE support. The CSO may perform research and development for network operations, plan the network and provide procurement and marketing support to the BOCs in their provision of both exchange telecommunications services and CPE. The CSO may also provide general administrative support for the BOCs, such as financial, accounting, legal, executive and regulatory and legislative affairs assistance. The Court has not limited the ability of the CSO to perform other functions, or to grow or shrink in size, but has made it clear that the CSO should not actually procure products for the BOCs and that both the Court and the Department of Justice would remain alert for anticompetitive conduct by the CSO. *See* July 8 Order, at 139 n.263, 140 n.266. The Plan of Reorganization at page 339 disclosed that the CSO will begin operations with 8,800 employees. Of these, 6,600 will be technical personnel, and there will be 700 procurement support personnel. The remaining 1,500 personnel will be involved in ensuring adequate responses by the RBOCs to national security and emergency preparedness and in providing marketing and other nontechnical management support to the RBOCs.

12. The Plan of Reorganization approved by the Court and AT&T's capitalization plan for the provision of cellular services as approved by this Commission require AT&T to divest its cellular service operations to the BOCs. Each BOC will provide cellular services through individual separate subsidiaries pursuant to the Cellular rules. As noted, the Plan of Reorganization also provides for a separate Cellular Central Staff Organization (CCSO) for the support of cellular services. The CCSO will provide technology oversight capability to ensure that the regional cellular service companies have the ability to provide modern cellular technology. That oversight includes providing support, such as system design, new product and service requirements, technical support for procurement, field support, operating support and cellular technology planning and maintenance. AT&T stated in the Plan of Reorganization that at some time in the future the RBOCs might merge the functions of the CCSO into the CSO.

13. The MFJ, as modified by the Court, gives the RBOCs certain advantages in marketing CPE. In addition, the approved Plan of Reorganization gives the RBOCs certain advantages in providing cellular services. For seven years after the divestiture, the BOCs, in addition to receiving support from the CSO, will have priority access to AT&T, Western Electric and Bell Telephone Laboratories facilities for research, development, manufacturing and other support services to enable them to carry out the provisions of the MFJ. The Court has given the BOCs the right to sublicense Bell System patents not only to other manufacturers of network equipment and services, but also to CPE manufacturers, as well.[15] The Court has also granted to the RBOCs the exclusive use of the Bell System logo and other related trademarks.

B. Issues Before the Commission

14. In the Notice we invited comment on whether the divested BOCs should be required to form separate subsidiaries in order to provide CPE, enhanced services, and cellular services. Specifically, we invited comment on the following issues:

(a) Whether a divested BOC should be subject to a separate subsidiary requirement for the provision of enhanced services.

(b) Whether a divested BOC should be subject to a separate subsidiary requirement for the provision of CPE.

(c) Whether a divested BOC should be subject to a separate subsidiary requirement for the provision of cellular communications services.

(d) If structural separation is required for the BOC's provision of either enhanced services, CPE, or cellular communications services or all of these, what separation requirements should govern the relationship between the subsidiary and affiliated entities in each case?

Notice at para. 26. The Notice stated that we would consider whether any alterations to the structural separation conditions might be warranted due to the individual circumstances of the divested BOCs.

II. Separate Structure

A. Policies Underlying Computer II and the Cellular Separation Requirements

15. We adopted the Computer II rules in order to replace tariff regulation of CPE with market forces and to ensure that ratepayers using AT&T's regulated services did not absorb costs from its unregulated activities. In refusing to regulate enhanced services as common carrier offerings, we found that the marketplace for enhanced services was fully competitive. *Final Decision* at 426. With respect to CPE we concluded that competition was growing and that the Computer II rules contained safeguards which would further the goal of making the CPE market fully competitive. *Id.* at 440–47.

16. Although we determined that market forces would better ensure low-cost, innovative enhanced services and CPE offerings, we recognized that the provision of enhanced services and CPE by AT&T could interfere with proper marketplace functioning. We stated:

In relying on a structural approach to address our regulatory concerns, the primary benefits of the policy are protection for regulated market ratepayers against costs transferred from the competitive market by the parent corporation, and protection for the general public against such anticompetitive

[12] Certain exceptions exist. For example, the BOCs have been permitted to provide new CPE for disabled customers, *see* American Telephone & Telegraph Co., 92 FCC 2d 1208 (1983), and centrex equipment. *See* Letter from Chief, Common Carrier Bureau to Alfred A. Green, AT&T (July 14, 1983). The BOCs have also been able to provide equipment necessary for the Department of Defense and other federal agencies to meet critical national security and emergency preparedness communications requirements, American Telephone & Telegraph Co., FCC 83–143 (released April 12, 1983), and to provide emergency E–911 equipment. *See* Letter from Chief, Common Carrier Bureau to Alfred A. Green, AT&T (December 30, 1982).

[13] Embedded CPE is that equipment which was subject to the jurisdictional separations and settlements process as of January 1, 1983, which included CPE located on customers' premises or in telephone company inventory as of that date. *See Further Reconsideration*, 88 FCC 2d at 525–26.

[14] The Commission today decided that CPE may be transferred to ATTIS, AT&T's Computer II subsidiary, for provision to the public on a detariffed basis. *See Implementation Proceeding*, CC Docket No. 81–893, FCC 83–551 (adopted November 23, 1983).

[15] The Court was careful to note that the right to sublicense patents rested with the individual RBOCs and not with the CSO.

activities as denial of access and predatory pricing.

Id. at 463. Requiring separation reduces joint and common costs and places a structural check on the allocation of costs between regulated and unregulated operations. *Id.* at 464. Although accounting has been a fundamental regulatory tool employed by the Commission, it was never viewed as a substitute for structural separation. "We view separation and accounting as part and parcel of a single regulatory mechanism." *Id.* at 464.

17. We also recognized that, for some carriers, another way to protect ratepayers for overpricing was to require that competitive costs and revenues be placed in separate books of account from those associated with regulated services. We were aware that, absent structural separation, some cross-subsidization could go undetected. We found that structural separation is more effective than accounting separation in protecting ratepayers against improper cost-shifting. In the case of AT&T, we determined that the costs of maintaining separate structure were outweighed by other public interest considerations. *Reconsideration* at 75.

18. Another major goal we sought to achieve in the Computer II decisions was to prevent uncertainty regarding the provision of competitive CPE and enhanced services which could arise if there were a threat that regulation by this or other agencies might inhibit unregualted providers or create impediments to innovation by carriers and others. *Final Decision* at 423, 427. Relying on accounting separation alone may lead to regulatory intrusion because business practices often change swiftly to meet management objectives.

19. In addition, we acted in Computer II to prevent anticompetitive conduct by carriers which could disrupt the development of competitive markets; carriers should not use their control over monopoly network facilities to provide them an unfair advantage in marketing CPE and enhanced services. *Final Decision* at 463–64. We recognized that certain of the Computer II provisions, such as network information disclosure requirements, should be applicable to all carriers to protect the public.

20. In the Cellular rulemaking we were primarily concerned with promoting the use of new cellular communications technology. In establishing a regulatory framework which would promote development and deployment of cellular services we were concerned that a landline carrier's participation in cellular markets could forestall competitors from entering cellular services markets, *Cellular Order* at 493, and that any cross-subsidization, particularly resulting in predatory pricing, be prevented. *Cellular Reconsideration* at 78. We found that "a separate cellular entity greatly simplifies the opportunity of other cellular operators to gain interconnection rights to the landline network on the same basis as the telephone subsidiary offering the underlying basic cellular transmission facilities." *Cellular Order* at 494.

B. Enhanced Services and Information Services

21. Prior to determining whether the structural separation conditions are applicable to the divested BOCs' unregulated activities, we will address the question raised by the Notice with respect to the scope of the activities in which the BOCs may engage. The Notice asked the extent to which the BOCs will be permitted to offer enhanced services consistent with the MFJ's prohibition against the BOCs' offer of information services. It is unclear whether the scope of enhanced services [16] is congruent to that of information services.[17] The Computer II rules permit carriers to offer enhanced services, but not on a regulated basis. On the other hand, the MFJ permits the BOCs only to offer exchange telecommunications services, exchange access, information access, CPE and Yellow Pages directory services. The BOCs are not permitted to provide information services. In analyzing the application of the MFJ to AT&T, the Court noted that enhanced services "are essentially the equivalent of the 'information services' described in the proposed decree * * *." 552 F. Supp. at 178 n.198. Despite this apparent conclusion by the Court that the BOCs could not provide enhanced services because those services are equivalent to information services, both the BOCs and DOJ argue in this proceeding that there are some enhanced services which the BOCs may offer.

22. We find it unnecessary to resolve the definitional question at the present time. This is particularly the case since the BOCs have not yet announced which enhanced services, if any, they will offer after divestiture and, consequently, have not stated whether, in their view, such offerings would be permitted under the MFJ. We will assume throughout this opinion that the BOCs may offer some enhanced services. Since we do not regulate enhanced services, the decision is for the Court whether any enhanced services may be offered by the BOCs under the MFJ. The Court will be apprised that any such services the BOCs offer will be subject to the additional safeguards of a separate subsidiary. We shall resolve questions of whether a particular offering by a BOC is an enhanced or basic service on a case-by-case basis.[18] Of course, as we develop more of a record on potential BOC enhanced service offerings we will be prepared to refine our separation requirements to be no broader than are necessary to accomplish our policy objectives of assuring unencumbered and nondiscriminatory availability of basic transmission services, fair dealing, and safeguards against improper cost-shifting.

C. Costs and Benefits of Requiring Formation of a Separate Organization

23. In Computer II the Commission discussed four criteria useful in determining whether a carrier should be required to offer CPE and enhanced services through a separate subsidiary rather than only to maintain separate books of account:

(a) a carrier's ability to engage in anticompetitive activity through control over "bottleneck" facilities, i.e., local exchange and toll transmission facilities, on a broad national geographic basis; (b) a carrier's ability to engage in cross-subsaidization to the detriment of the communications ratepayer; (c) the integrated nature of the carrier and affiliated entities, with special emphasis upon research and development and manufacturing capabilities that are used in conjunction with,

[16] The Computer II rules define enhanced services as follows: "For the purpose of this subpart, the term 'enhanced service' shall refer to services, offered over common carrier transmission facilities used in interstate communications, which employ facilities used in interstate communications, which employ computer processing applications that act on the format, content, code, protocol or similar aspects of the subscriber's transmitted information; provide the subscriber additional, different or restructured information; or involve subscriber interaction with stored information." 47 CFR 64.702(a).

[17] "'Information service' means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information which may be conveyed via telecommunications, except that such service does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service." MFJ, para. IV.J.

[18] *See, e.g.*, Request of IBM for a Declaratory Ruling, ENF File No. 83–34 (filed June 27, 1983). This request seeks a Commission determination whether Southern Bell Telephone and Telegraph may offer pursuant to tariff Local Area Data Transport Service. With respect to enhanced services which involve code and protocol conversion, we are prepared to be flexible. Specifically, we shall follow the waiver procedures outlined in Communications Protocols under § 64.702 of the Commission's Rules and Regulations, Gen. Docket 80–756, FCC 83–510 (released November 21, 1983), Custom Calling II, 88 FCC 2d 1, 6 (1981), and the *Reconsideration*, 84 FCC 2d at 58.

or are supported by, communications derived revenues; and (d) the carrier's possession of sufficient resources to enter the competitive market through a separate subsidiary.

Reconsideration at 72

24. We determined in the Cellular proceeding that only AT&T should form a separate subsidiary. In relieving other wireline carriers from the structural separation conditions, we stated:

> In determining whether a particular carrier should be required to operate through a separate subsidiary, the decision must be based, to the extent possible, on how such a requirement will affect the likelihood that the carrier would otherwise engage in the practices that the requirement is designed to guard against and the ability of the carrier to withstand the costs associated with the requirement.

Cellular Reconsideration at 79. Our determination weighed the costs and benefits of the separate subsidiary requirement. In the following sections, we evaluate the benefits and costs of requiring the BOCs and the CSO to utilize separate subsidiaries for CPE distribution, enhanced services and cellular services.

1. *Benefits to Ratepayers*

25. The question to be addressed here is whether there is potential for cross-subsidization and, if so, whether accounting separation alone will adequately protect against that cross-subsidization. The BOCs argue that the opportunities for cross-subsidization will be minimized because state regulators will assure that monopoly revenues are not used to subsidize competitive offerings. They argue that accounting separation alone will prevent cross-subsidization. They also argue that the number of activities which will produce opportunities for cross-subsidy are limited to retail sales, service operations and administrative costs, which will entail only small costs not justifying the stricter requirement of structural separation.

26. NATA and IDCMA, among others, contend that significant opportunities for cross-subsidization will continue after diverstiture. Rolm states that these opportunities will entail substantial costs when compared to competitive CPE providers' revenues. Consumers Union argues that this Commission has recognized in the past the inadequacies of accounting in detecting and preventing cross-subsidization. Both DOJ and ADAPSO argue that joint marketing, installation, maintenance, research and development and general administrative activities will create opportunities for the BOCs improperly to shift costs to the regulated side of operations.

27. The Department of Justice correctly points out in its comments that a limited definition of cross-subsidization, where competitive costs are subsidized with monopoly revenues to reduce the price charged for competitive products, is not the only type of cost-shifting with which we should be concerned. In Computer II we were also concerned with other detrimental cost-shifting arrangements, which include situations where costs that are common to regulated and unregulated operations, such as where the same personnel market regulated and unregulated products and services, are improperly allocated between regulated and unregulated operations. A further problem arises where all costs of an activity should be billed to unregulated operations, such as advertising for specific unregulated products or services. All of these cost-shifting techniques are of concern to the Commission in fulfilling its duty to protect ratepayers from overcharges. Whenever the term cross-subsidization is used in this order it is intended to refer to all cost-shifting situations.

28. We find that, if the RBOCs are permitted to market CPE, cellular services or enhanced services on an unseparated basis, there are opportunities to engage in cross-subsidization. The BOCs have argued that cross-subsidization will be less likely after divestiture than it was before because they will own no manufacturing facilities. The BOCs are correct that the absence of manufacturing facilities reduces the opportunities to cross-subsidize. In addition, state commissions can be expected to control, to a certain extent, the potential for cross-subsidization through regulation of rates for basic services. Nevertheless, potential cross-subsidization opportunities would exist which could adversely affect ratepayers of regulated services. For instance, if joint marketing were permitted, the personnel who contact customers to market regulated services could be selling CPE and enhanced services at the same time. Difficult, sometimes impossible, problems of fairly allocating the costs of marketing between regulated and unregulated accounts would again occur.

29. Also, if the same technicians who perform installation and maintenance of network facilities are also installing and maintaining CPE, additional allocation problems could occur. Especially if the customer experiences trouble both on the network side of the demarcation point and on the CPE side, accurate allocation of the relative costs between regulated and unregulated accounts may well be impossible. Another miscosting situation could arise if billing, service order entry, or other operational systems were shared between regulated and unregulated operations. It would be difficult to allocate properly the costs associated with these operational systems because the functions performed for and time spent on each type of regulated and unregulated service would not always be comparable.

30. Separation of enhanced services costs could create similar problems if they were offered on an unseparated basis. The provision of enhanced services could entail reliance on the same marketing, installation and maintenance, and operations support organizations that the provision of CPE would. There would be opportunities to place service enhancing software and equipment within the network. Identifying these costs would be very difficult. Furthermore, allowing excess network computer capacity to be used for enhanced services could burden ratepayers. See Final Decision at 478–79. On the other hand, we recognize that not permitting enhanced services to be provided as part of the basic network creates inefficiencies. The Commission acknowledged this in Computer II, but determined that these inefficiencies should be tolerated in light of the public interest benefits which could be derived from compliance with separation conditions. *But see* Section II.B., *supra*.

31. We believe the RBOCs will have the incentive, and should have some ability absent separation, to engage in cross-subsidization to the detriment of ratepayers for regulated services. Shifting costs from unregulated to regulated activities may inflate the revenue requirement for regulated services and lead to higher rates for those services. They type of cross-subsidy allows the RBOCs to increase their profits from competitive activities at any level of prices for those products and services. Yet, if the cross-sudsidies go undetected, they do not impair the RBOCs' profits from regulated activities and, thereby, increase their overall profits.

32. As we have stated previously, accounting alone cannot provide the public as much protection against improper cost-shifting as structural separation can. With separate structure, the existence of joint and common operations is limited, reducing the opportunities to shift costs. In addition, separate structure increases the

detectability of any cross-subsidization which does occur.

33. The BOCs contend that their integration of operations will be significantly reduced following divestiture since they may not own or control manufacturing or interLATA facilities. They argue that the absence of these operations will reduce the opportunities for cross-subsidization. They state that there are no present plans to perform research and development for CPE by the CSO. NATA, on the other hand, argues that the operation of the CSO provides the greatest opportunity for cross-subsidization.

34. The state public utility commissions which filed comments in this proceeding argue that the FCC should leave to state commissions the decision whether to impose separate structure on the BOC's offer of unregulated products and services. They argue that the states, due to their experience regulating BOCs, will be in the best position to determine the necessity and required operations of a separate subsidiary. Although there is some merit to the states' position, we conclude that leaving the determination to state commissions has a significant potential for disrupting competitive provision of products and services. The RBOCs will operate on an integrated multistate, regional basis. If some states within an RBOCs' area of operation require separate structure and others do not, this could confuse BOC business procedures and compound the states' problems in controlling improper cost-shifting. Those difficulties could exist even if all states required separate structure but with different conditions.

35. What is more, this Commission has an interest in preventing RBOC cross-subsidies since significant cross-subsidization may hinder the goal of cost-based access charges for interexchange carrier interconnection with local exchange facilities. Therefore, we do not follow the suggestion that state commissions be left with the discretion whether to require separate subsidiaries. Our action herein to apply separate structure to the divested BOCs forecloses to the states the option to increase or decrease the separation conditions imposed in this Order.

36. We agree with the BOCs that the absence of manufacturing and interLATA facilities reduces the opportunities for cross-subsidization and the potential for anticompetitive conduct. Nonetheless, the MFJ permits the RBOCs to perform research and development not only for their regulated services but also for permissible enhanced services and CPE as well. July 8 Opinion at 140 n.266. The CSO may conduct such research and development as well. Clearly, there is nothing in the Computer II rules which would preclude joint research and development as long as this joint research and development does not involve nongeneric software. 47 CFR 64.702(c)(4). If research and development activities for regulated equipment or services become integrated with research for unregulated activities, there may be opportunities for cost-shifting. The Computer II rules should facilitate the control of these costs by requiring the separate organization to enter a written agreement, which should be filed with this Commission, and which states terms sufficiently specific that this Commission can determine whether the agreement provides for adequate compensation.

37. With cellular services, as with unregulated products and services, the cellular central staff will provide an integrating circumstance which will increase the opportunities for cross-subsidization. The CCSO, as it is presently contemplated, will provide a significant variety of functions in support of the BOCs' cellular services operations, including research and development, procurement support, field and operating support, and planning and maintenance functions. These activities are currently anticipated to be provided separate from CSO network operations. The BOCs, however, have represented that they may merge the CCSO with the CSO. If such a merger were to occur, additional opportunities for cross-subsidization may arise. If a merger were to occur, we can address issues related to the merger at that time.

2. *Benefits to Competition*

38. As we recognized in Computer II, promoting competition is also beneficial to customers of unregulated CPE and enhance services insofar as they are used in conjunction with the basic transmission network. The BOCs argue that they will control bottleneck facilities only in limited geographic territories. They assert that other mechanisms, such as the Commission's Part 68 registration program and the MFJ's equal access requirements, will ensure that the BOCs may not effectively use control over bottleneck facilities to disadvantage competitive providers of CPE and enhanced services. The BOCs also assert that since they will control the actions of the CSO, there will be no national control of bottleneck facilities.

39. DOJ and Rolm argue, on the other hand, that the BOCs will have concentrated bottleneck control in large geographic regions. They point out that the BOCs will have bottleneck control in nearly all metropolitan areas, the major markets for most CPE and enhanced services. NATA, as well as other parties, put forward a statistical showing that each of the RBOCs has within its operating territory a much greater portion of PBXs and telephone sets than even the largest of the independents, GTE. NATA Comments at 12–20. In addition, DOJ argues that it is local, rather than national, control of bottleneck facilities which should govern our decision whether to impose structural separation.

40. Our review of the relevant facts shows that the RBOCs will control substantial local exchange and intrastate-intraLATA facilities in large geographic regions. Each RBOC will serve from 20 to 30 million people within its territory. These figures represent from 70 to 92 percent of the population in the states in which the RBOCs will operate. In addition, the RBOCs will control from 9.7 million to 13.9 million access lines in their respective territories. We agree with the BOCs that NATA's reliance on pre-divestiture statistics with respect to the number of PBXs and telephones in areas served by the BOCs is misleading since the BOCs will be stripped of their embedded base holdings upon divestiture. Nonetheless, these figures do demonstrate the numbers and types of customers which will be served by the BOCs after divestiture.

41. The BOCs argue that in the *Reconsideration Order* the Commission found that nationwide control of bottleneck facilities was necessary to impose separate structure. It is true that, in the context of deciding whether to impose the structural separation conditions in the Computer II decisions, we did identify that nationwide control of bottleneck facilities was a circumstance which characterized AT&T. Nevertheless, we did not mean to imply that nationwide control was a prerequisite to employing separate structure as a condition on other carriers' offer of CPE or enhanced services. Bottleneck facility control in a broad geographic area can raise sufficient interest in the benefits to competition from structural separation.[19]

[19] Under antitrust analysis, a firm's market power is determined in a relevant market, which is the geographic territory of effective competition. A finding of anticompetitive conduct can be sustained if a firm markets products in an area which is less than nationwide. *See, e.g.*, United States v. Griffith, 334 U.S. 100 (1948); United States v. Yellow Cab Co., 332 U.S. 218 (1947); Case-Swayne Co. v. Sunkist Growers, Inc., 389 F.2d 449 (9th Cir. 1966), *cert. denied*, 387 U.S. 932 (1967).

Indeed, we recognized this in our ruling which relieved Cincinnati Bell and Southern New England Telephone Co. from the separation conditions. *See In re Motion of Cincinnati Bell Inc. for Declaratory Ruling to Remove Uncertainty of its Status and the Commission Decisions in the Second Computer Inquiry*, FCC 83–74 (released February 25, 1983).

42. As the Notice made clear, even with effective bottleneck control on a broad geographic basis, such control would be unimportant by itself if the ability and incentives to use those facilities to engage in anticompetitive activities were not sufficient to cause substantial concern. It is true that the BOCs' ability to do so is somewhat curtailed by current regulations. The Commission's policies as enforced through tariff regulation, the complaint process and its Part 68 registration program require that carriers permit registered CPE to be connected to the network. In addition, the network proprietary information disclosure rule of Computer II, § 64.702(d)(2), inhibits any carrier's ability to prevent access to technical information if it designed the network to favor only its own CPE. Finally, the MFJ's equal access requirements for the BOCs also serve to prevent denial of access to the network to any competing enhanced service provider upon request.

43. Although these three provisions do promote equal access to the network, there may be additional, substantial benefits to competition from the BOCs' entry into unregulated markets through separation. The Commission's Part 68 registration program was in existence when structural separation was imposed on AT&T. Similarly, the network disclosure requirements were adopted as part of the Computer II decisions. Adoption of structural separation in addition to these measures reflects our belief that these measures are not sufficient to ensure fair competition. For instance, structural separation strengthens the network disclosure requirement by making any improper disclosure from regulated to unregulated operations easier to detect. Also, these provisions do not prevent all of the types of anticompetitive abuses which might be prevented through the application of separate structure. For instance, ready access to customer proprietary information, which is not controlled by Part 68 or network disclosure requirements, may provide the carrier's competitive operations with an unfair advantage in marketing unregulated products and services. In addition, none of these provisions does anything to control improper cost-shifting, an important goal of the structural separation conditions. *See* section III.B.1., *supra*. Finally, it is significant to note that under the MFJ, the BOCs are obliged to provide equal access to interexchange and information service providers, but are not required to provide equal access for CPE obtained from BOC competitors. The MFJ's equal access requirement also does not require that the BOCs provide access to others which is equal to the access they provide their own operations. Rather it requires only that other entities be accorded equal access among themselves. Thus, the BOCs, under the MFJ, could provide superior access to the network to themselves to the disadvantage of other CPE or enhanced service providers.

44. In Computer II, it was AT&T's widespread control over local exchange and toll facilities that led the Commission to decide that separate structure should be imposed. *Final Decision* at 468. In fact, the types of potential abuses in which the BOCs may engage are some of the same types of anticompetitive practices which were of concern when structural separation was imposed on AT&T. It is true that the BOCs will reenter CPE markets with a zero percent market share since the MFJ requires BOC CPE to be transferred to AT&T. In addition, CPE markets have become increasingly competitive. Nevertheless, even though the BOCs will be entering increasingly competitive CPE markets with little installed base, we find that the potential for use of control of monopoly bottleneck facilities is significant enough at present to require some form of structural separation.

45. Control over local exchange services provides an opportunity for anticompetitive conduct. A carrier could use its position as a supplier of exchange services to promote its own CPE or inhibit the use of a third party's CPE; it could through its control of installation and maintenance forces for network facilities provide discriminatorily superior installation and maintenance services for customers of its own CPE. Another competitive danger might arise if BOC regulated operations conditioned the availability of transmission services upon the purchase or lease of RBOC CPE or enhanced services. Such a tie-in could raise entry barriers in the CPE market and inhibit competition. It should be noted that we are not only concerned with actual tie-ins which might violate antitrust laws, but also with more subtle arrangements, such as those described above, which achieve the same result as a tie-in.

46. Furthermore, a BOC could design or alter network technical specifications to favor its own CPE or enhanced services. Although design changes must be disclosed under Computer II to competitors even by those carriers which are not required to form separate subsidiaries, the existence of structural separation makes more enforceable the early revelation to competitors of these technical changes. In addition, equal access to the network is more easily enforced with separation conditions since the separate organization must obtain network transmission facilities pursuant to tariff. If unseparated operations were permitted, it would be easier for the BOCs to withhold a basic transmission service by offering it only as part of an enhanced service. This could prevent enhanced service suppliers from using new transmission technologies until they could obtain redress from this Commission. Even if the BOC did permit a competitor to obtain access to the basic transmission service, whether a competitive service provider is paying the same as the BOC for that service would be very difficult to determine. The structure separation conditions require that the subsidiary obtain the transmission services under tariff, thereby enabling a competitor to know the terms and conditions of obtaining interconnection from the provisions of that tariff.

47. While we recognize that there is uncertainty as to what types of enhanced services may be provided by the RBOCs, the integration of enhanced services with local exchange switches was an important consideration in adopting Computer II. The separate organization requirement should alleviate most concerns about anti-competitive practices by the BOCs against suppliers of enhanced services since the BOCs would enter, if at all, on the same terms and conditions as other suppliers. Anticompetitive conduct directed against enhanced service providers can be controlled by structural separation in a manner that may not be effective with accounting separation alone. If a BOC's separate entity is required to obtain access to the network in the same fashion as would a competing supplier, the provision of inferior access to a BOC rival would be much easier to detect.[20] In addition, the

[20] We of course expect that BOC regulated operations will give identical treatment to competitors of the RBOC Computer II organization. Each RBOC shall maintain documentatioin of its compliance with this equal treatment condition of

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design of the network to favor the BOC's own enhanced services would be easier to detect since separate structure could help to reveal any illegal information transfers. Accounting controls, of course, would do nothing to detect or remedy this situation.

48. Cellular services are somewhat distinguishable from CPE or enhanced services because cellular services remain subject to regulation at the state level. Nevertheless, the potential for anticompetitive abuse against cellular carriers will also exist after divestiture. Again, due to the BOCs control over local exchange facilities and, hence, control of access to the network, there is the potential that the BOCs could inhibit access on the same terms and conditions to the nonwireline carrier which competes in the same market. This potential is heightened by the BOCs' authority under the cellular separation rules to share local exchanges switches with its cellular operations. The separate subsidiary structure serves to highlight arrangements between wireline and cellular operations so that discrimination can be more easily detected and corrected.

49. We find an additional benefit to competition to be the reduction that accompanies structural separation of unnecessary regulatory intrusion into unregulated operations. Accounting separation can often be more difficult to oversee, and can require far more intrusive monitoring efforts than does the monitoring of structural separation conditions. This intrusive regulation decreases certainty in unregulated markets since there would be a threat of regulatory interference. This regulatory interference could also arise when a state commission would have to investigate possible cost-shifting from the unregulated side of unseparated operations to the regulated side in fulfilling its duties to protect ratepayers from unjustified rate increases. Regulatory examination of potential cost-shifting may delay or reverse BOC efforts to design and price unregulated offerings flexibly and quickly in response to competition.

50. Furthermore, the regulatory burdens faced by this agency are also borne in part by carriers who must provide detailed documentation of their procedures to aid the Commission in its monitoring efforts. Policing compliance with separation conditions requires only a narrowly defined disclosure of information regarding the business procedures of the separated entity. On the other hand, in order to evaluate compliance with accounting separation, the Commission often must acquire detailed information from carriers on how the company operates and at times must institute operational changes and reporting mechanisms to determine adequately compliance with accounting separation.[21]

51. Some parties argue that unregulated communications offerings can be protected from any anticompetitive abuses through private enforcement of the antitrust laws or enforcement of the MFJ by the Department of Justice. We believe that private and public enforcement of the antitrust laws can achieve complementary goals to this Commission's efforts to monitor compliance with the separation conditions of Computer II and the Cellular rules by the divested BOCs. The Commission serves as a primary and readily accessible forum to remedy anticompetitive abuses. In addition, the prophylactic measure of structural separation has the potential to prevent abuses from occuring in the first place. We note that the Department of Justice argues that the BOC's history of using their monopoly power to gain leverage in unregulated markets supports its conclusion that separate structure should be required.

52. We find that the BOCs will have effective control over bottleneck facilities in large geographic areas with large numbers of subscribers. In addition, we find that at present the BOCs will continue to have both the ability and incentive to engage in anticompetitive practices after divestiture. Structural separation can go far in ensuring that such anticompetitive practices are limited and, in any event, more easily detectable.

3. *Costs of Forming and Operating through Subsidiaries*

53. The BOCs argue that forming separate subsidiaries entails substantial costs. They assert that, due to the diseconomies of scale which result from operating through a separate subsidiary, they may be unable to operate efficiently in unregulated markets. It is primarily for this reason that the FEA and NTIA argue that separate structure should not be imposed. DOJ, on the other hand, observes that the costs of forming separate subsidiaries will be low since the BOCs will be starting new operations rather than having to disentangle existing regulated businesses to form unregulated ones. CCIA notes that each of the BOCs will be among the top 30 Fortune 500 companies after divestiture. NATA states that smaller companies than the BOCs have established separate subsidiaries, apparently at reasonable costs.

54. The BOC's position further is grounded on their argument that there are economies of scale in permitting joint operations. With respect to CPE operations we are unaware of significant economies which could be achieved due to the inherently separate nature of CPE and basic network operations. For example, installation and maintenance personnel must have different skills and expertise to install and maintain sophisticated PBX equipment than to repair network facilities. In addition, there is no reason to believe that significant economies would be lost in requiring separate marketing personnel, for in most geographic areas with substantial residential or business CPE sales, there would be ample business to make separate personnel efficient marketers.

55. Joint operations may allow the BOCs to prosper for reasons other than (1) that they provide a price and quality combination for unregulated products and services that is more attractive than what other suppliers provide, or (2) that they have lower costs. The BOCs could employ their monopoly position in network services to promote their own CPE and enhanced services. These activities involve a danger of anticompetitive practices (e.g., delayed service connection for subscribers purchasing a rival's CPE) and cost shifting (*e.g.*, overallocation toward monopoly services of a sales representative marketing both monopoly services and CPE). Certain types of costs from structural separation will be reduced by the provisions discussed in Section IV, *infra*.

56. With respect to financial resources to form cellular subsidiaries, as Telocator and WU point out, these subsidiaries have already been formed and will be divested intact from AT&T Cellular Co. to the BOCs at divestiture. As with unregulated products and services, we must conclude that the BOCs will have the financial resources to operate through cellular separate subsidiaries.

Computer II in such a form that it may be provided upon request to the Commission. Any unjustified service delays or other impediments to obtaining local service experienced by interconnect companies or enhanced service providers are viewed with disfavor by this Commission.

[21] Although state commissions can be expected to be concerned with BOC accounting practices, as they are with all telephone company providers of local exchange services, accounting regulation by state commissions may be hindered on account of the multistate character and size of the RBOCs.

4. *Application of Separate Structure to BOCs.*

. 57. Some of the parties argue that the BOCs are similar in size and financial strength to GTE and other independent telephone companies, which were exempted from Computer II's structural separation conditions. We must point out that this proceeding is limited to the question of applying structural separation to the BOCs and this question should be decided on the basis of the factual circumstances of the BOCs alone.

58. We believe that the divested BOCs are distinguishable from GTE at the time it was relieved of the structural separation conditions in Computer II and are distinguishable from GTE and other independent telephone companies at the time they were not required to form cellular subsidiaries in our Cellular decisions. As we previously noted, the RBOCs will possess concentrated control over monopoly bottleneck facilities in large, contiguous geographic areas. The RBOCs will own bottleneck facilities in virtually every major and medium-sized metropolitan and industrial area in the country. In contrast, even the largest of the independents, GTE, controls bottleneck facilities in mostly rural, widely scattered areas. Of course, it is in the metropolitan and industrial areas in which the vast majority of CPE and enhanced services market activity will take place. This disparity between the RBOCs' and GTE's potential customer base is demonstrated by statistics cited in NATA's comments, in which it points out that every one of the BOCs placed more PBXs and telephones in their respective regions during 1981 than did GTE nationally. This disparity would be much more dramatic if another independent were compared to the RBOCs.

59. In addition, to form a separate organization, any of the independents would have to disentangle their unregulated and cellular operations from their wireline operations. The BOCs do not have nearly the same disentanglement costs since they will be starting anew in their provision of unregulated CPE and enhanced services. What is more, presently before a district court is a consent decree agreed to by GTE and the Department of Justice in settlement of a lawsuit in which Justice attempted to challenge the legality under the antitrust laws of the purchase of GTE of the assets and some stock of Southern Pacific Communications Company. According to the terms of that Decree, GTE would be required to form a separate subsidiary to provide interexchange telecommunications and may also provide CPE through that subsidiary. The separation conditions of the Decree, with some exceptions, appear to resemble those contained in Computer II. That Decree also requires GTE to place the enhanced services operations of GTE Telenet in a separate subsidiary which would resemble that required of the BOCs.[22] Therefore, if that Decree is entered by the court, GTE may be placed on a more equal footing with the RBOCs in any event.

III. Limitations on Separation Conditions

60. We have determined that following the planned divestiture the separate structure approach is the most cost-effective regulatory tool to protect ratepayers from bearing the costs of providing competitive products and services and to promote competition. The further question remains whether any of the structural conditions under which the BOCs operate today as part of the integrated Bell System should be modified or eliminated in the post-divestiture environment. At the outset we note that there may be advantages to the BOCs in employing some other form of organizational structure, such as an unincorporated division, rather than a subsidiary. Although the Computer II rules speak in terms of a separate corporation which may provide CPE and enhanced services, other structural arrangements may also be acceptable as long as structural separation conditions are otherwise met. We note that regardless of the structure employed, the RBOCs must comply with the separation conditions contained in the Computer II rules as modified in this order. Therefore, in the context of capitalization plans we will evaluate the propriety of proposed structural arrangements other than a separate subsidiary as long as the RBOC desiring such an arrangement demonstrates that the arrangement is consistent with our Rules and policies and the advantages which would accrue on account of the alternative organizational structure. The RBOC should particularly address how ratepayers can be legally or practically insulated from the financial losses or debts of the entity marketing CPE and enhanced services.[23]

61. Furthermore, the BOCs have proposed that five of the requirements be eliminated. First, the BOCs argue that they should be permitted to share various operational and administrative services between the separate subsidiary and regulated operations. Second, the BOCs argue that the separate subsidiary should be permitted to engage in joint marketing with regulated operations. Third, they argue that the separate subsidiary should be permitted to obtain installation and maintenance services from regulated operations pursuant to contract. Fourth, the BOCs argue that the rule which requires the separate subsidiary to conduct transactions with an affiliated manufacturing entity at arm's length should be eliminated. Fifth, the BOCs request the elimination of the rule which requires capitalization plans for the formation of a separate subsidiary to be presented for Commission approval 180 days prior to the time the separate subsidiary commences operations. We believe that several modifications to the Computer II rules are appropriate in light of the significantly changed circumstances of the BOCs after divestiture. In addition, we intend to review the appropriateness of the separation conditions within two years following the BOCs compliance with the Computer II structural separation conditions, as modified in this order, in light of prevailing circumstances.

A. Joint Operational Activities

62. First, the BOCs request that they be permitted to provide joint services, such as billing, payroll, accounting, legal, personnel recruitment and management, finance, tax, insurance, and pension services. Section 64.702(c)(1) of our Rules specifically prohibits the sharing of billing facilities or personnel between the separate subsidiary and regulated operations. The rule against joint billing is grounded in the concern that the costs of providing billing services cannot be properly allocated between unregulated and regulated operations. This allocation difficulty arises because a myriad of activities included in the billing function, e.g., customer inquiries, order-taking, and collection, must be identified and the costs associated with providing these services for CPE and enhanced services must be segregated on some basis. Opportunities for cross-subsidization would thus arise. In addition, the customer data which is needed properly to compute and send bills includes sensitive customer proprietary information which should not be accessed by personnel providing

[22] *See* United States v. GTE Corp., 1983–2 Trade Cas. ¶ 50,833, at 56,812–13 (sections IV.A.6 & IV.D.2). *See also,* Competitive Impact Statement filed by the U.S. Department of Justice at 34–39 (May 4, 1983) in United States v. GTE Corp., *supra.*

[23] Regardless of what organizational structure the RBOC employs for enhanced services, the separate organization is required to obtain basic transmission services pursuant to tariff.

unregulated products and services. *See American Telephone & Telegraph Co.*, ENF File No. 83–38 (released September 2, 1983). In addition, particularly with business customers, the activities surrounding billing, such as bill dispute resolution, are integrally related to promoting a continuing relationship with existing customers. Therefore, if the RBOCs CPE and enhanced services marketing personnel have access to billing records for transmission facilities, they could use this information to the disadvantage of competitors. To permit rapid reentry by the BOCs into CPE markets, however, we do permit joint billing for four years following divestiture.

63. Nevertheless, we believe that an exception to the Computer II joint billing restrictions is in order to prevent cutomer confusion caused by the MFJ. Customers may suffer confusion once their embedded CPE is transferred from the BOCs to ATTIs as required in the *Implementation Proceeding*, while the BOCs may provide new CPE to them, but only through a separate bill. This confusion might be compounded since we have permitted the BOCs to provide billing services to ATTIS for transferred CPOE. Regardless, customer confusion after divestiture is likely to persist even if we do not permit the BOCs to bill for ATTIS CPE. Therefore, during this four-year period we will permit the BOCs to send bills to customers which contain charges for CPE provided by the RBOCs' separate organizations. The bill should contain the CPE provider's telephone number of the customer to contact regarding billing problems with CPE charges. BOC operations for regulated service may not provide bill dispute resolution or collection services for CPE charges and all partial payments of bills shall first be applied against charges for transmission services. In addition, a BOC may not terminate transmission service if an RBOC's separate organization cannot collect from a customer. Since a competing CPE provider, such as Sears, Roebuck & Co., may not have transmission service terminated if its customers do not pay their bills, we find no reason to permit an RBOC separate organization to have transmission services terminated either. The term billing services, as used herein, includes only the physical rendering of the bill to the customer and the receipt of remitted amounts. An RBOC's separate subsidiary may only transfer computer tapes containing information needed by the RBOC's unregulated operations to produce the bill. The separate organizations shall pay for all direct and indirect costs of producing those bills pursuant to Commission-approved contracts which shall describe necessary accounting plans; RBOCs wanting to engage in joint billing must file their plans with this Commission within 60 days of the release of this decision. We will review these contracts to determine whether the charges to the separate organization for the billing services are equivalent to the charges ATTIS pays the BOCs for similar services. This joint billing permission should not be used in any way to market or promote the separate organization's unregulated products and services.

64. Other operational services, however, which are characterized as administrative services, including financial, accounting, and legal services, are of the variety which this Commission has permitted AT&T to share with ATTIS. Like AT&T, however, the RBOCs may share only those administrative services contained in an RBOC's Commission-approved administrative plan. *See* section IV.E., *infra*.

B. Marketing

65. The BOCs next argue that there should be no prohibition of joint marketing, subject to appropriate accounting controls. The BOCs argue that, due to their diminished market power after divestiture, they should not be constrained with the joint marketing prohibition. They argue that customers should be able to obtain at one time both network services and CPE. We must reject these arguments, with one exception. The BOCs have failed to identify convincing reasons why accounting controls effectively can be employed to segregate competitive and regulated costs. As stated previously, reliance on accounting systems alone to allocate common costs is often unsatisfactory. By requiring the total separation of marketing forces, including advertising costs in the case of unregulated products and services, we can more effectively ensure that ratepayers do not bear costs which should be borne by the competitive sector.

66. Furthermore, joint marketing may give the BOCs' marketing operations for unregulated products and services an important competitive advantage. Mixing the marketing of network facilities and unregulated products creates the potential for abuses which the Computer II rules sought to prevent, i.e., the monopoly network facility provider's use of monopoly-derived revenues and its monopoly position to gain unfair leverage in unregulated markets. After divestiture, this control over local bottleneck facilities will continue with the RBOCs in a similar fashion as the bottleneck control which existed with AT&T when the separation conditions were first imposed on AT&T. Nevertheless, we do permit joint marketing for six months after January 1, 1984, to provide the BOCs time to comply with this order.

67. Despite this general prohibition against joint marketing, we find that an exception is warranted to permit BOC operations for regulated services to refer residential and business customers to the RBOC separation organization for CPE, provided that the contact person informs customers that CPE can be obtained from other vendors as well as the separate organization. This exception is warranted because the BOCs will reenter CPE markets with a zero percent market share in an increasingly competitive market. In addition, this referral will serve to reduce the likely customer confusion when they are informed that the transmission service sales force no longer handles CPE. The BOCs should be able to inform customers of the impact of Computer II and the planned divestiture and that there are alternate suppliers of CPE, among which is the RBOC subsidiary. Furthermore, this exception, in the greater context of the structural separation required in this order, poses only limited opportunities for cross-subsidization which will have a de minimis impact on ratepayers.

68. Thus, the customer contact person for network services may state in a neutral fashion that the company does not provide CPE any longer pursuant to an FCC order, but that CPE is provided both by other vendors and its separate operating arm. The contact person may then ask the customer if he or she wishes to be transferred to the separate organization's marketing personnel and complete the transfer of the call if the customer desires. The BOCs shall, however, bill all direct and indirect costs of providing such referrals to the separate organization pursuant to a Commission-approved marketing plan; RBOCs wanting to engage in dial tone referral should file their accounting plans with this Commission within 60 days of the release of this order. Included within these accounting plans should be a description of the proposed operating procedures in connection with these referrals, including the nature and extent of customer contact by network personnel. In addition, we will continue to evaluate the impact upon ratepayers and competition from this referral approach and whether, due to an RBOC's increased market share of some other factor, the referral is no longer

warranted. If the referral approach becomes the vehicle for direct marketing of CPE by network personnel or otherwise is abused, *e.g.*, where a competitor's products are derogated, we will require its termination.[23]

C. Installation and Maintenance Services

69 The BOCs argue that the separate subsidiary should be able to contract with regulated operations for the provision of engineering, installation and maintenance, and similar services, subject to appropriate accounting controls. Indeed, pursuant to Commission waiver, for the eighteen month period following January 1, 1983, the BOCs have been permitted to provide installation and maintenance services in support of ATTIS complex business CPE pursuant to an accounting plan approved by the Commision.[24] This transitional waiver was granted because the bifurcated approach to deregulating CPE created two classes of equipment, one embedded and regulated, and one new and unregulated. We recognized at that time that it was unnecessarily wasteful to create two installation and maintenance forces to meet that temporary, bifurcated environment.

70. The circumstances which justified our grant of permission to AT&T to share installation and maintenance services for complex business CPE during a transmission period do not apply to the divested BOCs' offer of business CPE. First, the BOCs will not have two sets of CPE, one embedded and one unregulated, since under the terms of the MFJ embedded CPE must be transferred to AT&T. Second, the personnel who have the sophisticated training necessary to maintain and install business CPE need not be the same personnel who perform network installation and maintenance. Thus, we do not believe that the creation of BOC accounting plans similar to the one under which AT&T presently operates would be in the public interest in the present factual circumstances.[25] We reject installation and maintenance sharing because excessive, costly and burdensome regulatory involvement in the operation, plans and day-to-day activities of the carrier would be necessary to audit and monitor the accounting plans necessary for such sharing to take place. Nonetheless, to ease the transition to compliance with the structural conditions enunciated in our rules, as modified by this order, joint installation and maintenance is permitted until June 30, 1984.

71. With respect to installation and maintenance of residential and single line business telephones, however, different considerations may be involved. First, since these products involve simple installation and maintenance procedures, craftspersons for network facilities may be employed to provide support for residential and single-line business telephones. Second, because the installation and maintenance procedures required for residential and single-line business telephones may be more simplified than for complex business CPE there may be fewer costs which need allocating between regulated and unregulated operations. Given these factors, separation of these functions may not be warranted under our cost-benefit analysis. Thus, we will permit, but will not require, the RBOCs' network installation and maintenance operations to provide support under contract to the separate organizations' provision of residential and single-line business telephones. These contracts, including a description of how costs are to be allocated, must be filed within 60 days of the release of this order and should describe the accounting plans to be established to allocate all direct and indirect costs of providing those services to the CPE organizations.

D. Arm's Length Bargaining with Manufacturing Affiliate

72. The BOCs contend we should delete the Computer II requirement that the separate subsidiary deal with an affiliated manufacturer only on an arm's length basis. The MFJ prohibits the BOCs from owning manufacturing facilities and it imposes non-discriminatory procurement obligations on the BOCs. Therefore, immediately after divestiture this rule is of no consequence to the BOCs. If, however, manufacturing operations were permitted by the Court in the future and were placed within the separate subsidiary for CPE and enhanced services or if manufacturing capabilities are procured by the separate organization itself, rather than the regulated operation, by contract or other means, it would appear that, due to reduced opportunities for cross-subsidization and anticompetitive conduct with regard to the offering of regulated transmission services, waiving the restriction might be in order. Presently, there is an insufficient record upon which to waive the manufacturing rule. Since the BOCs will not own manufacturing facilities at present, there is no need to resolve this question at this time. We will resolve this issue if and when the MFJ's manufacturing bar is lifted.

E. 180-Day Filing Requirement for Capitalization Plan

73. The BOCs request that we waive the requirement that capitalization plans for the forming of separate organizations be filed for Commission approval 180 days prior to the time of formation.

Because the time before the scheduled date of divestiture is short, we find that it is appropriate to waive the requirement that they obtain Commission approval of capitalization plans prior to the commencement of unregulated operations. The BOCs should not be delayed from entering the CPE and enhanced services marketplaces. AT&T decided that ATTIS would be the sole Bell System provider of new CPE and enhanced services, and that the BOCs would not participate in unregulated markets until divestiture. In order that the Commission can review the BOCs' capitalization plans, permit their rapid reentry into the CPE market, and permit the BOCs time to comply with this order, we will permit the BOCs to offer regulated and unregulated products and services without structural separation for six months until June 30, 1984, at which time full compliance with this order should be achieved. All direct and indirect costs associated with providing CPE and enhanced services should be separately accounted for and not charged to ratepayers.

74. Each RBOC shall file an interim capitalization plan for the formation of a separate organization within 30 days of

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[23] Provision of simple telephones for use with party-line service may present special "customization," installation and maintenance problems, *see*, Amendment of Part 68, 92 FCC2d 1, 32–39 (1982). In view of the limited amount of this equipment, its continuing numeric decline, and these special problems, we shall grant the BOCs the flexibility to market such equipment directly from their unseparated operations, provided that proper accounting separation of the costs of this activity is ensured in the accounting plans to be filed with this Commission. This option may prove particularly appropriate if a given BOC chooses otherwise not to market simple telephone equipment.

[24] AT&T plan was approved by the Bureau pursuant to delegated authority. *See*, letter from Chief, Common Carrier Bureau to Alfred A. Green (July 26, 1982); letter from Chief, Common Carrier Bureau to D. J. Culkin (Aug. 30, 1982); letter from Chief, Common Carrier Bureau to Alfred A. Green (Dec. 16, 1982); letter from Chief, Common Carrier Bureau to D. J. Culkin (Feb. 16, 1983).

[25] The accounting requirements are contained in letters from the Chief, Common Carrier Bureau to Alfred A. Green and D. J. Culkin, dated Dec. 16, 1982 and Feb. 16, 1983, respectively. These require that the same reporting procedures that ATTIS planned to employ for BOC field forces to bill their time spend on installation and maintenance work for ATTIS CPE be used when performing similar work for BOC embedded CPE.

the release of this Order.[26] The RBOCs may commence unregulated operations as of January 1, 1984.[27] Those plans should provide information as to the amount and type of assets and personnel each RBOC will transfer to its separate organization to support its first year of operations; the operational plans which they will institute to ensure compliance with the Computer II rules; and the timetable for full compliance with the Computer II rules, which must be completed within six months of the time interim plans are filed.[28] These plans will be effective for only the first year of the RBOCs' operations in order that we may have the opportunity to comport with the Computer II rules or to ensure adequate safeguards for the protection of ratepayers. These plans will identify the methodology to be employed for recording preoperational expenses from August 11, 1982, the date the Court permitted the BOCs to reenter CPE markets, to the date on which full compliance with this order is attained. The plan shall provide that the separate entity will be organized or incorporated as of January 1, 1984. The plan shall also identify the steps each RBOC will take and the timetable for bringing itself into full compliance with the Computer II rules as modified in this order and shall indicate that the separate subsidiary shall have the capability of independent operations within six months of the filing of the interim plan. The deadline for filing initial capitalization plans should not be burdensome since the initial capitalization plan is intended to be only a framework of the capitalization and operations of the RBOC subsidiaries. We note that even AT&T's permanent capitalization plans have been relatively short in length. In addition, we have accorded some information provided by AT&T with respect to financial projections confidential treatment.

75. On or before June 30, 1984, the RBOCs shall file their formal plans for capitalizing the separate organizations to assure that they are capable of independent operations. Those permanent plans shall indicate the RBOC's compliance with Computer II rules and shall contain any changes which have been required as a result of the staff's review of the RBOC's initial capitalization plans. Each RBOC should be aware that, if its plan does not comport with with Computer II, it will be required either to modify procedures or to terminate the offer of CPE and enhanced services until it is in full compliance with our Rules.[29]

76. Different issues are implicated, however, with respect to the separation of regulated and unregulated operations in the CSO. The BOCs have provided us with very little information with respect to the planned operations for the provision of marketing and procurement support for RBOC CPE operations. The BOCs have represented that they will perform no support functions related to CPE. Nevertheless, BOC descriptions of CSO activities have not been explicit and the CSO is empowered to provide such support. Therefore, within sixty days from the release of this Order the RBOCs shall file with the Commission a report describing in detail the planned operation and functions of the CSO, particularly indicating any activities to be provided in support of RBOC CPE or enhanced services businesses, if any, and any services it will provide AT&T and its affiliates, if any. Until this report has been filed, the CSO should not provide support for CPE or enhanced services businesses.[30] This report should not prove burdensome since it is intended to be only a framework of the intended operations. In addition, since the CSO will assume many of the network planning functions that AT&T has performed in the past, the CSO is obliged to disclosed network information as required in *Computer & Business Manufacturers Association*, FCC 83–182 (released May 9, 1983).

77. Although we have approved in principle the proposition that there are some services which the BOCs should be permitted to share, a delineation of any specific services must await the filing of shared administrative service plans by each of the RBOCs as to the types of services they propose to share

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[26] Immediately after the planned divestiture the BOCs will each have a separate subsidiary for the provision of cellular services. The manner in which these subsidiaries have been formed has already been approved by this Commission pursuant to the Cellular Capitalization Plan filed by AT&T. *See* American Telephone & Telegraph Co., FCC 83–126 (released April 15, 1983), *recon. pending, appeal dismissed*, MCI Cellular Telephone Co. v. FCC, No. 83–1158 (D.C. Cir. September 12, 1983). In its plan, AT&T proposed to form AT&T Cellular Co., which would place in subsidiaries the cellular facilities and personnel necessary to provide cellular service and equipment in each of the seven regions comprising the seven RBOCs. AT&T Cellular Co. provides support services to those seven subsidiaries. After divestiture the seven subsidiaries will be divested to the appropriate RBOCs or BOCs. The cellular support staff will form the CCSO. In these circumstances, there is no further reason to require Commission approval of these subsidiaries.

[27] Thus, the RBOCs will be able to begin all operations in furnishing CPE, including submitting bid proposals, procuring products for resale and distribution products as of January 1, 1984. *See* Petition for Reconsideration filed by Ohio Bell Telephone Co., dated July 22, 1983, of the Common Carrier Bureau Letter-Order, dated June 28, 1983; Letter from Illinois Bell Telephone Co. to Chief, Common Carrier Bureau, dated June 24, 1983.

[28] In formulating these plans, the RBOCs should be guided by the Computer II decisions and the Commission decisions approving AT&T's four capitalizations plans for ATTIS's provisions of unregulated CPE and enhanced services. *See* American Telephone & Telegraph Co., 90 FCC 2d 404 (1982), *recon. granted in part and denied in part*, 91 FCC 2d 578 (1982), *further recon. denied*, FCC 83–424 (released September 20, 1983) (enhanced services capitalization plan); American Telephone & Telegraph Co., 91 FCC 2d 578 (1982), *recon. denied*, FCC 83–424 (released September 20, 1983) (new CPE capitalization plan); American Telephone & Telegraph Co., Mimeo No. 1600 (released December 30, 1982) (Picturephone Meeting Service capitalization plan); American Telephone & Telegraph Co., FCC 83–123 (released April 13, 1983) (report and order concerning new CPE capitalization plan re preoperational expenses and structural separation condition compliance); *recon. pending, appeal dismissed*, MCI Cellular Telephone Co. v. FCC No. 83–1158 (D.C. Cir. September 12, 1983) (cellular services capitalization plan); Procedures for Implementing the Detariffing of Embedded Customer Premises Equipment and Enhancing Services (Second Computer Inquiry), CC Docket 81–893, FCC 83–551 (adopted November 23, 1983) (embedded CPE capitalization plan).

[29] At present it is unclear what products and services the BOCs will offer. The record with respect to where Yellow Pages operations are to be located is incomplete. If Yellow Pages are regulated by state commissions it may be inappropriate to locate those operations within the Computer II subsidiary. Therefore, within sixty days of the release of this order the RBOCs should file with the Commission their description of where Yellow Pages operations will be located in the various states, whether such operations are in any way regulated by the states and whether Yellow Pages revenues are available to offset rates for regulated services. Due to the particular circumstances of the cellular services marketplace, it may be reasonable to allow the BOCs to offer cellular CPE through the cellular subsidiary. The present record, however, is inadequate to resolve this question. Therefore, in the near future, we shall commence a proceeding regarding how cellular CPE should be provided. Pending its outcome however, deregulated cellular CPE may be offered through the Computer II separate subsidiary but not the cellular subsidiary. Tymnet requests that we require the BOCs' to offer Digital Electronic Message Service only through a separate subsidiary. Since this question is beyond the scope of the Notice we decline to consider this question at this time. With respect to other unregulated products and services, it is arguable that all unregulated products and services should be offered through the Computer II subsidiary. This question is currently subject to a Notice of Inquiry with respect to AT&T's offer of unregulated products and services other than CPE and enhanced services. *See* In re Long-Run Regulation of AT&T's Domestic Interstate Services, CC Docket No. 83–1147, FCC 83–482, at ¶ 44, (released October 27, 1983). After evaluating the comments in that docket, we shall determine what treatment is appropriate in the case of the divested BOCs.

[30] This requirement does not apply to any CPE for which there is a current waiver in effect. In addition, there is no impediment to the CSO providing on an unseparated basis CPE necessary for the Department of Defense and other federal agenices to meet critical national security and emergency preparedness communications requirements. This CPE, however, may not be tariffed. *See* American Telephone & Telegraph Co., FCC 83–143 (released April 12, 1983). Indeed, the RBOCs have the duty under the MFJ to provide through a centralized organization a central point of contact to meet defense and emergency preparedness needs. MFJ, para. I.B

with their separate organizations, if any, their operational plans for sharing administrative services, and the accounting plans which they will employ to ensure that all direct and indirect costs incurred in support of the separate entities' operations are billed to the separate organizations.[31] These plans should be filed within 60 days of the release of this Order and should contain information which is similar with regard both to the kinds of services to the shared and the related accounting systems and information which is contained in the plans filed by AT&T for sharing administrative services and approved by this Commission. *See General Departments Order*, 90 FCC 2d 184 (1981), *Shared Services Order*, 92 FCC 2d 676 (1982), *recon. denied*, FCC 83–355 (released July 29, 1983).[32]

78. After these plans have been analyzed by the staff, we shall make a determination whether the extent of sharing and the operation and the accounting plans are in the circumstances of the individual parties. To the extent that it is feasible to do so, the RBOCs may submit a joint plan for sharing administrative services, although such a joint filing must identify and justify any individual differences in accounting and operational procedures in the various companies included within the plan. After January 1, 1984, the RBOCs may on an interim basis share the same administrative services as AT&T may share provided that unregulated operations are charged with all costs of providing those services. All allocative formulae for distributing joint and common costs between regulated and unregulated operations are subject to modification and true up procedures any time after these procedures are established.

79. We have fashioned these interim procedures in order to provide the RBOCs with sufficient time to organize and make plans to bring themselves into compliance with our Rules. By our order we intend that the RBOCs be provided every opportunity to rapidly reenter CPE markets. Therefore, the RBOCs may pursue regulated and unregulated businesses without structural separation until June 30, 1984. The RBOCs should utilize this six-month period to take any interim steps necessary to comply with this order by June 30. We do require, however, that during this period the BOCs should in a neutral fashion inform every customer to whom it provides CPE that other vendors sell CPE. It would seem that many of the separation conditions in Computer II will be easier to comply with initially, rather than to start unseparated operations and have to split regulated and unregulated functions later. For instance, there appears to be little reason to begin a joint billing system for business CPE. Sales for unregulated products and services will initially be quite small and a number of supporting services can conveniently be performed on a separated basis or obtained through third parties. In addition, joint installation and maintenance appears unnecessary at the outset since installation activity will be quite small, and there exist third parties from whom such services may be obtained. We will not make the decision for the BOCs as to which of these separation conditions with which they will initially comply. Nevertheless, interim sharing must be fully concluded by June 30, 1984.

IV. Conclusion and ordering clauses

80. We have determined in this proceeding that structural separation should be imposed on the divested BOCs in their offering of CPE and enhanced services, although modifications to the Computer II separation conditions have been made to accommodate the particular circumstances of the divested BOCs. It is evident that we will engage in less regulation of the competitive provision of products and services than if we were to rely solely on accounting to prevent improper cost-shifting. We have found that the benefits, in the ability to detect and prevent improper cost-shifting and other anticompetitive practices, outweigh the costs imposed on the BOCs in forming and operating through separate organizations. We have also concluded that the BOCs have failed to demonstrate that most of the separation conditions should not be applied to them at this time. In this order, however, we do adopt interim arrangements so that the BOCs may begin unregulated operations as of January 1, 1984.

81. Accordingly, it is ordered that pursuant to sections 4(i), 4(j), 201–205, 214, 220, 221 and 403 of the Communications Act of 1934, as amended (47 U.S.C. sections 154 (i), (j), 201–205, 214, 220, 221 and 403), section 553 of the Administrative Procedure Act (5 U.S.C. section 553), and sections 1.411, *et. seq.*, of the Commission's Rules (47 CFR sections 1.411, *et. seq.*), we hereby order that the provisions of § 64.702 of the Commission's Rules (47 CFR 64.702), are applicable to NYNEX, Atlantic Bell Companies, Bell South, Southwestern Bell, American Information Technology Corp., U.S. West, Pacific Telesis Group and to all successors in interest to those companies as stated herein.

82. It is further ordered that the Petition for Declaratory Ruling filed by North American Telephone Association filed November 30, 1982 is Granted as described herein.

83. It is further ordered that all motions to accept late file pleadings are hereby granted.

84. It is further ordered that NYNEX, Atlantic Bell Companies, Bell South, Southwestern Bell, American Information Technology Corp., U.S. West, and Pacific Telesis Group shall file interim capitalization plans for the formation of separate subsidiaries which comply with the Computer II rules and decisions rendered pursuant to those rules within 30 days of the release of this order if they intend to enter unregulated markets by January 1, 1984 and formal capitalization plans no later than June 30, 1984. The RBOCs should be in compliance with the Computer II rules as modified in this order within six months of the release of this order.

85. It is further ordered that if an RBOC wishes to provide billing services for CPE customers pursuant to this order it shall file its accounting plan with the Commission within 60 days of the release of this order.

86. It is further ordered that if an RBOC wishes to refer customers to its Computer II subsidiary pursuant to this order it shall file its accounting and operational plan with the Commission within 60 days of the release of this order.

87. It is further ordered that if an RBOC wishes to provide installation and maintenance services for residential and single-line business telephones

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[31] Presently pending, however is a Petition for Declaratory Ruling filed by IBM seeking to determine whether an offering of Southern Telephone & Telegraph Co.; Local Area Data Transport Services, is an enhanced service and, hence, should not be offered pursuant to tariff. See n.18, *supra*. In addition, presently pending before the Commission is a request for waiver filed by Michigan Bell Telephone Co. in order to provide Miss Dig, an enhanced service which permits a caller who wishes to dig into the ground to discover the location of any nearby utility lines. ENF File No. 83–30.

[32] AT&T presently plans to hold separate the CCSO staff for the support of cellular services from that of the CSO. This planned separation should include the use of accounting which is separate from that utilized to collect costs of other CSO operations. Within 60 days of the date of this order the CCSO shall file a description of the separation conditions it plans to adhere to and the accounting plan it proposes to use to hold cellular costs separate from other regulated costs. AT&T states that at some time in the future it may decide to merge the staff of the CCSO with that of the CSO. At least six months prior to the time any such modification is planned to take place, the CSO must present its plans to the Commission describing the merger and identifying where in the CSO the CCSO staff will be transferred and present its plan with respect to how these services are to be provided consistent with the Cellular rules.

pursuant to this order it shall file its accounting and operational plan with the Commission within 60 days of the release of this order.

88. It is further ordered that if an RBOC or the CSO propose to share administrative services between the Computer II subsidiary and other portions of the company, it shall file a shared administrative services plan with the Commission within 60 days of the release of this order.

89. It is further ordered that the RBOCs shall file with this Commission within 60 days of the release of this order a report describing the activities of the Central Services Organization as required herein and a report describing Yellow Pages operations as required herein. These two reports may be consolidated into one.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Note.—Due to the continuing effort to minimize publishing costs, Appendices A and B, Summaries of Comments, of this document will not be printed herein. However, these comments may be viewed in the FCC Dockets Branch, Rm. 239, 1919 M St. NW., Washington, D.C. 20554.

[FR Doc. 84-554 Filed 1-9-84; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-712; RM-4476]

FM Broadcast Station in Lawton, Oklahoma; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 232A to Lawton, Oklahoma, as that community's fourth FM assignment, in response to a request filed by James L. Gardner.

DATE: Effective March 12, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Lawton, Oklahoma), MM Docket No. 83-712; RM-4476.

Adopted: December 14, 1983.
Released: January 5, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration the *Notice of Proposed Rule Making*, 48 FR 34778, published August 1, 1983, proposing the assignment of Channel 232A to Lawton, Oklahoma, as that community's fourth FM allocation, in response to a petition filed by James L. Gardner ("petitioner"). Supporting comments were filed by the petitioner reiterating his intention to apply for the channel, if assigned. No oppositions to the proposal were received.

2. The Commission has determined that the public interest would be served by assigning Channel 232A to Lawton. An interest has been shown for its use, and such assignment could provide a fourth local FM service to that community.

3. As explained in the *Notice*, in order to comply with the minimum distance separation requirements of § 73.207 of the Commission's Rules, the instant proposal requires a site restriction 4.2 miles northwest of Lawton to avoid short-spacing to Station KDNG-FM (Channel 233), Gainesville, Texas.

§ 73.202 [Amended]

4. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective March 12, 1984, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended with respect to the community listed below, as follows:

City	Channel No.
Lawton, Oklahoma	232A, 237A, 251, and 268.

5. It is further ordered, that this proceeding is terminated.

6. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-555 Filed 1-9-84; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 49, No. 6
Tuesday, January 10, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 20

Improved Personnel Dosimetry Processing

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: Tests have indicated that a significant percentage of personnel dosimetry processors may not be performing with a reasonable degree of accuracy. Current regulations do not address the competency of these processors. The Nuclear Regulatory Commission (NRC) is proposing amendments that would require its licensees to utilize the specified services of processors that have been accredited by the National Voluntary Laboratory Accreditation Program of the National Bureau of Standards.

DATES: Comments must be received on or before March 12, 1984. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Interested persons are invited to submit written comments and suggestions on the proposed rule, the supporting Regulatory Analysis and the Initial Regulatory Flexibility Analysis to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Comments may also be delivered to Room 1121, 1717 H Street NW., Washington, DC, between 8:15 a.m. and 5:00 p.m. Copies of the Regulatory Analysis, the Initial Regulatory Flexibility Analysis, and of comments received by the Commission regarding this rulemaking may be examined in the Commission's Public Document Room at 1717 H Street NW., Washington, DC. Single copies of the Regulatory Analysis and Initial Regulatory Flexibility Analysis may be obtained on request from Margaret V. Federline, Occupational Radiation Protection Branch, Division of Facility Operations, Office of Nuclear Regulatory Research, Mail Stop NL 5650, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Margaret V. Federline, Division of Facility Operations, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Mail Stop NL 5650, Washington, DC 20555, telephone (301) 443–7686; inquiries regarding the Laboratory Accreditation Program for Personnel Dosimetry Processors at the National Bureau of Standards should be addressed to Robert L. Gladhill, Office of Laboratory Accreditation, National Voluntary Laboratory Accreditation Program, National Bureau of Standards, Technology B–141, Washington, DC 20234, telephone (301) 921–3431.

SUPPLEMENTARY INFORMATION:

Personnel dosimeters are devices worn by workers to monitor their exposure to radiation. NRC licensees are required to perform personnel monitoring as specified in 10 CFR Part 20, § 20.202, and to record and maintain radiation exposure records as specified in § 20.401.

Several types of personnel monitoring devices are available:

1. Whole body or whole body and skin personnel dosimeters, such as film badges including track-etch type dosimeters, and thermoluminescent dosimeters (TLDs) including albedo dosimeters;

2. Extremity dosimeters for assessing dose equivalent to hand and forearms, feet and ankles; and

3. Pocket ionization chambers, including direct-reading and indirect-reading dosimeters.

After being exposed to radiation, personnel dosimeters (with the exception of pocket ionization chambers) must be processed to estimate the radiation dose received by the individual while wearing the device. Dosimeters are collected from workers at various prescribed time intervals and processed either by the licensee in-house or by a commercial dosimetry processor(s). Personnel dosimeters appear to be capable of providing consistently accurate information on the amount of radiation received, provided the dose recorded by the dosimeter is above the detection threshold, e.g., about 20 mrems for photons. However, personnel dosimeters must be processed accurately and consistently, and interpreted correctly to provide adequate dose estimates. Data from the processing of personnel dosimeters are the basis for licensee and NRC records of external doses to workers.

Several dosimetry processor performance studies conducted between 1967 and 1976 indicated poor performance (excessive bias and variance) of processor's dosimeters when tested against a number of early performance standards; [1] these studies clearly demonstrated the need for common performance criteria for both film and thermoluminescent dosimeter (TLD) processor testing. As a result of these studies and strong encouragement by the Task Force on Personnel Dosimetry of the Conference of Radiation Control Program Directors (which represents the States), the NRC, the Bureau of Radiological Health (now the National Center for Devices and Radiological Health), and the Energy Research and Development Administration (now the Department of Energy) jointly conducted a public meeting in 1976 at which the personnel dosimetry performance problem was discussed in an open forum by personnel dosimetry processors, dosimetry users, and representatives of State Governments and Federal agencies. These discussions revealed general agreement that a personnel dosimetry problem does exist and that the problem is sufficiently broad in scope that it should be adddressed by the Federal government, since voluntary standards programs for personnel dosimetry processors have historically failed to achieve wide participation and acceptance from the personnel dosimetry processing industry. Also, copies of a draft performance standard,

[1] C. M. Unruh, et al., "The Establishment of and Utilization of Film Dosimeter Performance Criteria," BNWL–542, (1967), Battelle Northwest Laboratories, Richland, Washington.

L. Nichols and C. Newton, Jr., "Performance Tests of Commercial Personnel Monitoring Services," July 25, 1974–January 25, 1975, Battelle Northwest Laboratory, Richland, Washington. Unpublished Report—Available NRC Public Document Room, 1717 H Street NW., Washington, DC 20555.

L. L. Nichols, "A Test of the Performance of Personnel Dosimeters," BNWL–2159 (1977), Battelle Northwest Laboratory, Richland, Washington.

which designed to establish uniform criteria for testing the performance of film and TLD dosimetry processors, were distributed at the meeting. The draft standard was written by a working group of the Health Physics Society Standards Committee (HPSSC) and was subsequently published in draft form by the American National Standards Institute (ANSI) as ANSI Standard N13.11.

Many of the 1976 public meeting attendees cautioned against precipitious action by any Government agency and strongly recommended a pilot study (1) to evaluate the newly formulated draft HPSSC/ANSI Standard N13.11, and (2) to provide processors the opportunity to take any necessary corrective actions in their operations prior to the implementation of new Federal regulations on the dosimetry performance problem.

As a result of these recommendations, two rounds of personnel dosimetry processor proficiency testing were conducted for NRC by the University of Michigan (UM) from 1977–1979.[2] Fifty-nine personnel dosimetry processors, who provide dosimetry services for approximately 90% of the nuclear worker population in the U.S., voluntarily participated in these tests. Proficiency testing was conducted in accordance with the draft HPSSC/ANSI standard.

The HPSSC/ANSI Standard, "Criteria for Testing Personnel Dosimetry Performance," includes criteria for performance testing of personnel dosimetry processors who provide whole body or whole body and skin dosimetry services in eight radiation categories including x-ray, gamma, beta, neutron, and mixtures of these radiations. Criteria for testing the performance of extremity dosimeter processors and for use in evaluating the performance of pocket ionization chambers were specifically excluded from the scope of the HPSSC/ANSI Standard by the working group who wrote the Standard.

Results of the two rounds of proficiency testing of dosimetry processors indicated that improvement is needed on the part of many processors and that a significant percentage of the processors are not performing with a degree of accuracy acceptable to the NRC. Criteria for dosimetry processor performance acceptable to the NRC are specified in ANSI Standard N13.11. Results also indicated that the whole body or whole body and skin dose received by occupationally exposed personnel may often be considerably different from the dose recorded.

Because of the importance of personnel dosimetry measurements and the apparent poor performance of some processors, NRC considers that there is a need to evaluate the performance of personnel dosimetry processors periodically and to make a specific determination of competency.

Interagency coordination and cooperation was initiated very early in the program with the formation of the Interagency Policy Committee on Personnel Dosimetry (IPCPD) in 1977 to guide and coordinate correction of the dosimetry processor performance problem. NRC staff members have participated and reported to the IPCPD on the progress of this rulemaking action at all meetings. The IPCPD Committee includes representatives from: The National Center for Devices and Radiological Health [3] which is a part of Health and Human Services (HHS), the Department of Defense (DOD), the Department of Energy (DOE), the Environmental Protection Agency (EPA), the National Bureau of Standards (NBS), the NRC, the Occupational Safety and Health Administration which is a part of the Department of Labor (DOL), and the Conference of Radiation Control Program Directors which represents the States.[4] The representatives of these agencies consider the NRC to be the lead agency for the overall problem, and they plan to recommend to their various agencies that similar programs be adopted.

Industry coordination and cooperation from personnel dosimetry processors has been sought since 1977 when the Industry Overview Committee on Personnel Dosimetry was formed to monitor the progress and development of this program and to ensure that any regulatory action would be effective and appropriate to the need.

The NRC published in the **Federal Register** (45 FR 20493) an Advance Notice of Rulemaking (ANR) on March 28, 1980. The ANR fully described the results of the UM tests, discussed the need for improved dosimetry processing through rulemaking, and presented and requested comments on four methods for the operation of a proficiency testing laboratory (PTL) that would conduct performance testing against the criteria in the HPSSC/ANSI Standard. Any PTL established in accordance with one of these methods would be monitored for technical competency by the National Bureau of Standards (NBS). Licensees would be required to obtain or provide dosimetry services which satisfied criteria as established by the NRC and administrated by the PTL. The four methods for PTL operation as described in the ANR are:

1. NRC would not specify the PTL; processors and licensees would be left to their own initiatives to establish one or more PTL(s) to administer proficiency testing against the standard.

2. The PTL would be a Federal government facility managed and operated by NRC.

3. NRC would contract the services of a PTL and utilize the contractor's facilities.

4. Other government agencies experienced in laboratory testing would operate a PTL in Federal government-owned facilities.

Of the forty-six letters of comment received in response to the ANR, twenty-one letters did not state a preference for a method of operating the PTL. Three commenters felt no program at all was necessary. In the remaining 22 comment letters, one or more preferences were expressed as being acceptable for the operation of the PTL. Twenty preferences were for the various types of Federal government-controlled laboratories (methods 2, 3, or 4). Comments asked questions and commented on who should control the testing laboratory and on procedures to be used in the regulatory program, as addressed in the ANR. Other commenters discussed potential administrative, contractual, and legal problems that could result from a processor failing to achieve accredited status. These problems have been investigated by the NRC staff. There was concern regarding the values and impacts of this regulatory program. Many commenters discussed the importance of defining and requiring minimum elements of a generic quality assurance program that should be established. Several dosimetry processors who replied requested that a third round of performance testing be conducted to allow processors to be tested against the revised standard before a program becomes effective. (Such testing has been conducted, and is discussed later in this notice.) The major technical questions raised concerned the

[2] Plato, P. and G. Hudson, "Performance Testing of Personnel Dosimetry Services: Final Report of a Two-year Pilot Study, October 1977–September 1979," NUREG/CR 1064, January, 1980 University of Michigan, Ann Arbor, Michigan.

[3] Formerly the Bureau of Radiological Health (BRH).

[4] The Conference of Radiation Control Program Directors has strongly supported the development of this rule since 1973. The Conference recently advised the States of the current status of this program and encouraged individual letters to the Commission urging their strong endorsement for this rule. Several such letters have already been received.

selection of dose conversion factors within the standard and the appropriateness of currently required dose measurements at three tissue depths described in NRC Form 5. These comments were examined, and a response is contained within the summary analysis of comments, which is available for review at the Commission Public Document Room (see Addresses section of this notice).

Subsequently, on April 15, 1980, the NRC staff briefed the Commission on interim actions that could be taken by NRC staff to improve personnel dosimetry processing prior to the date of the effective rule. The Commission discussed the importance of examining a processor's routine processing activities to ensure appropriate quality assurance techniques were being utilized and to determine that routine dosimetry processing was being conducted with the same processing protocols that a processor might use when participating in performance testing.

On May 28 and 29, 1980, the NRC held a two-day public meeting with personnel dosimetry processors and other interested persons to discuss alternative methods for the operation of a PTL as stated in the ANR and to obtain comments from the dosimetry processing industry on the appropriate elements of a quality assurance (QA) program for personnel dosimetry processing.

During the comment period, a fifth method for PTL operation was identified by the National Bureau of Standards (NBS) which would be part of the National Voluntary Laboratory Accreditation Program (NVLAP) of the NBS which is a part of the Department of Commerce (DOC). The NBS, through NVLAP, could contract the services of a PTL to administer proficiency testing of processors which would utilize the contractor's facilities under currently existing NVLAP procedures. The NVLAP method would include a thorough examination of each participating processor's routine dosimetry processing and quality assurance activities through an on-site review. The NVLAP method would essentially offer a system of third party accreditation by a Federal government agency, the DOC, through the NBS.

In a letter dated December 23, 1980, the NRC staff requested the DOC to work together with NRC to establish a Laboratory Accreditation Program for Personnel Dosimetry Processors. The DOC, in accordance with NVLAP procedures and authority, stated in 15 CFR Part 7b, published NRC's request for the development of such a Laboratory Accreditation Program (LAP) in the **Federal Register** on January 29, 1981 (46 FR 9689) and requested public comment. The NRC sent a copy of the DOC's **Federal Register** Notice and a description of the NVLAP method to all known dosimetry processors, and known interested persons on February 6, 1981.

Nineteen letters of comment were received on the NVLAP method for operating the PTL as part of an accreditation program. The 19 letters were unanimous in favoring this method for operating a program for improved dosimetry. These comments are available for review at the Commission's Public Document Room (see Addresses section of this notice).

The HPSSC, which developed the draft standard that was used in the UM personnel dosimetry performance testing studies, has completed and adopted the final Health Physics Society Standard which has also recently been accepted as a final American National Standard, ANSI N13.11, by the Board of Standards Review of ANSI. Provisions will be made in the program associated with this rulemaking action to allow for changes in the ANSI standard as research or practical experience shows the need for revision.

Since the draft HPSSC/ANSI standard was significantly revised following the UM pilot study, the NRC staff authorized the UM to conduct a third round of performance testing of processors against the revised standard. This round of testing has been completed.[5] Essentially the same conditions under which processors were tested in rounds 1 and 2 were also present for this final round of testing.

Seventy dosimetry processors voluntarily participated in the third round of testing. It is estimated that these 70 dosimetry processing services develop and/or process more than 90% of the dosimeters worn by radiation workers in the U.S. Fifty-four of the 70 dosimetry processors completed these tests; seven processors dropped completely from the program during the testing period while the other nine processors submitted dosimeters but failed to return reported doses for these dosimeters to the proficiency testing laboratory at the UM. The accuracy of the irradiations performed by the UM for all radiation categories was verified by the NBS. All pilot study results have been maintained confidential by the University, and results of the pilot study are coded so that processors' names and results remain anonymous, even to the NRC.

Processors chose the categories in which they were tested. The standard provides for tests to be conducted from a total of six radiation protection categories and two radiation accident categories. The radiation protection categories include high-energy photons, low-energy photons, beta particles, neutrons plus high-energy photons, mixtures of high- and low-energy photons, and beta particles plus high-energy photons. Radiation accident categories are for high- and low-energy photons.

Participants sent the prescribed number of dosimeters to the UM where they were irradiated to doses known only to the UM and returned to the processor. The processor then determined the dose for each dosimeter and reported the results back to the UM.

The ANSI standard evaluates a processor's ability to determine the dose within a specific tolerance limit, L. Statistical criteria used in the standard include bias and precision terms. For each category, the average performance index (bias term), $\bar{P}$, and its standard deviation (precision term), S, are calculated. The performance index for a single dosimeter, P, is calculated by:

$$P = \frac{H' - H}{H}$$

where:
H = delivered quantity
H' = reported quantity

For each category, an average performance index, $\bar{P}$, and its standard deviation, S, are calculated.

A processor passes a category if

$\bar{P} + S < L$

where
a: L = 0.3 (accident categories)
b: L = 0.5 (protection categories)

The standard deviation, S, for a set of dosimeters is a measure of how results are scattered. It should be noted that the individual results can be very scattered and still have an average result very near, or even equal to, the true value. Widely scattered results have a large value of S; if the individual results are all very near the true value, S is very small.

Results from the third round of tests have been analyzed. Several dosimetry processors submitted more than one model of dosimeter for performance testing. Of the models submitted for testing, 75% of all catergories attempted were passed; thus, 25% of all category

[5] Plato, P. and J. Kiklos, "Performance Testing of Personnel Dosimetry Services: Final Report of Test ±8," NUREG/CR-2891, November 1982, University of Michigan, Ann Arbor, Michigan.

tests attempted were failed. In total, 86 different models of dosimeters were submitted for these tests. Six percent of all models of dosimeters failed every category attempted and 44% passed every category attempted. Therefore 50% of all models submitted for testing did not successfully pass all categories for which they were tested. The highest overall passing rate for all models of dosimeters among the eight radiation categories was 94% for high-energy photons in the protection dose range, and the lowest passing rate of 55% was achieved for low-energy photons in the protection dose range.

An alternative method of examining the overall performance of dosimetry processors would be to examine the performance index, P, of each of the dosimeters irradiated without regard to S. When the reported dose estimate is compared with the delivered dose, 78% of the dosimeters tested during the third round were within ±30% of the correct delivered dose. When the individual results are evaluated using criteria of ±50% of the correct delivered dose, 89% of all processed dosimeters met this criterion.

Although the identity and individual results of the dosimeter test data are confidential to the UM, the contractor reports that the categories failed in this round of testing are evenly distributed among large and small, commercial and in-house processors. NRC considers that improvement on the part of most dosimetry processors is needed and that the regulations should be amended to include competency requirements to improve the quality of dose measurements.

Regulatory Approaches Considered for the Proposed Rules

The Commission recognizes that any performance testing program can only test the ability of a processor to meet the criteria of a standard at a given point in time. A performance testing program, by itself, will not determine whether the processor actually treats its routine client's dosimeters with the same competency accorded to dosimeters received from the PTL. Therefore, it is necessary to supplement the performance testing program with checks of a processors quality assurance program regardless of the method chosen.

The Commission considered five alternative approaches for establishing a regulatory program intended to ensure improved personnel dosimetry processing. The following regulatory alternatives are presented by ranking these options from the least restrictive (no action necessary) to the most restrictive.

Alternative 1—No change in current requirements.

Alternative 2—Change in the regulation to require that licensees obtain personnel dosimetry processing from (1) processors who have successfully participated in dosimetry performance testing administered in accordance with the ANSI Standard N13.11, and (2) processors who have a documented quality assurance program. NRC would not specify the proficiency testing laboratory (PTL). The necessary elements of the QA program would be specified in the regulations. NRC inspectors would require from the licensee proof of successful performance testing and evidence that its processor's QA program complied with the regulation whether the dosimetry service was performed in-house or commercially.

Alternative 3—Change in the regulation to require that licensees obtain personnel dosimetry processing from (1) processors who have successfully participated in dosimetry performance testing administered in accordance with the ANSI Standard N13.11 by an NRC-specified testing laboratory, and (2) processors who have a documented QA program that contains necessary elements as specified in the regulation. This alternative differs from the previous alternative in that NRC would specify the PTL.

This alternative could be accomplished by either of the following approaches:

Alternative 3, Option A—NRC would obtain the services of a contractor laboratory through the competitive bidding process. NRC licensees would be required to obtain personnel dosimetry services from a processor who had successfully participated in performance testing by NRC's contractor PTL. NRC inspectors would, during licensee inspection, examine written proof provided by the licensee (1) that such performance testing was completed by the processor of licensee's personnel dosimetry, and (2) that the processor maintained a QA program that included the elements specified in the regulations.

Alternative 3, Option B—Third Party Accreditation: NRC would specify in the regulation that licensees utilize the services of personnel dosimetry processors accreditated under the National Voluntary Laboratory Accreditation Program (NVLAP) of the National Bureau of Standards (NBS) which is a part of the Department of Commerce (DOC). NVLAP accreditation for personnel dosimetry processors would be based on three primary elements: (1) Performance testing of personnel dosimetry processors in accordance with ANSI Standard N13.11 to be performed by a laboratory contracted by NBS, (2) information collected from the personnel dosimetry processor by questionnaire, and (3) on-site inspection of routine dosimetry processing and QA techniques by NVLAP contracted assessors. The NBS would establish with NRC's approval general and specific accreditation criteria for a laboratory accreditation program (LAP) for personnel dosimetry processors which are consistent with NVLAP's established general and specific criteria currently used in programs for assessing the competency of laboratories (44 FR 12982). As appropriate, any exceptions to NVLAP accreditation criteria would be published in the **Federal Register** for public comment, and the necessary procedural steps to complete the NVLAP accreditation process for this LAP based on NRC's recommendations and the public response would be taken. The NBS, as the DOC's designee, would grant certificates of accreditation to those processors complying with NVLAP criteria. NBS, which is responsible for the on-site evaluation of laboratories under NVLAP procedures, would identify and contract with dosimetry processing experts, and it would conduct training regarding NVLAP procedures to prepare these technical experts to assess compliance of dosimetry processors with NVLAP criteria to ensure that an acceptable QA program is documented as well as implemented.

Alternative 4—Since many dosimetry processors are not NRC licensees, and since dosimeters in themselves are not radioactive but are passive monitors which measure dose received by the worker, NRC would request from the Congress the authority to license personnel dosimetry processors directly. If this authority were granted, the regulations would be appropriately amended regarding proficiency testing and quality assurance criteria acceptable to the NRC.

Alternative 5—Change in the regulation to require that licensees obtain their personnel dosimetry services from an NRC-operated or NRC-contracted dosimetry service. NRC would issue, through its laboratory, dosimeters for licensee use, and the laboratory would perform all dosimetry processing. In addition, all processing would be performed in accordance with an NRC-specified quality assurance program.

A complete analysis of these alternatives is included in the Regulatory Analysis which is available from Margaret V. Federline (see section entitled, "For Further Information Contact"), or the analysis may be examined in the Commission's Public Document Room (see section entitled, "Addresses").

Conclusions

The Commission is proposing amendments which endorse Alternative 3-Option B, which would, by amendments to the regulations, require NRC licensees to utilize the services of personnel dosimetry processors accredited by the National Bureau of Standards under the NVLAP program. The laboratory accreditation program, as previously described, would be administered by another Federal agency, the NBS, in accordance with NVLAP procedures specified in 15 CFR Part 7b. The NBS has, through a competitive solicitation process, contracted with the University of Michigan to conduct performance testing of processors against criteria specified in ANSI Standard N13.11 and plans to contract the personal services of personnel dosimetry experts to conduct on-site review of an applicant processor's routine dosimetry processing and quality assurance activities. This alternative would help correct the personnel dosimetry processor performance problem with minimum NRC staffing and resources. This program has been designed to become self-supporting from processor fees and will biennially test and evaluate the technical competency of personnel dosimetry processors performing dosimetry services for NRC licensees. It would also establish uniform minimum quality assurance criteria for routine and special dosimetry processing.

The NRC and NBS signed an Interagency Agreement on July 17, 1981, for the establishment of a Laboratory Accreditation Program (LAP) for Personnel Dosimetry Processors and a revision to that agreement on June 18, 1982 (copy available upon request). The DOC/NBS NVLAP staffs have worked with the NRC staff to develop this program within an appropriate time frame.

The Interagency Policy Committee on Personnel Dosimetry has been kept abreast and consulted about the development of the laboratory accreditation program by NBS for NRC. Representatives on the Committee have expressed agreement with the NVLAP program.

The Industry Overview Committee has worked closely with NRC and NVLAP personnel (1) in reviewing and suggesting proposed accreditation criteria for use in the development of this laboratory accreditation program, (2) in providing guidance toward selecting, training, and defining the role of NVLAP assessors who will be responsible for conducting on-site review of personnel dosimetry processors' quality assurance programs, and (3) by participation in a recent two-day public workshop sponsored by NVLAP, which was held in Washington, D.C., April 12 and 13, 1982, at NBS to discuss technical benchmarks for determining compliance of personnel dosimetry processors with NVLAP accreditation criteria.

Copies of NVLAP general and specific criteria are available in 15 CFR part 7b, and single copies are available upon request from Robert L. Gladhill (see "**ADDRESSES**" section). NVLAP criteria address the operation of the laboratory by focusing on the organizational structure, technical management, professional and ethical business practices, and the system for assuring the quality of test results. The criteria also generically indicate those fundamental elements necessary for the successful performance of routine services by applicants including staff competence and training, laboratory facilities and equipment, test plans, equipment calibration procedures, laboratory records, data handling procedures, and quality control checks and audits.

The availability of the laboratory accreditation program was announced by NBS/DOC in the **Federal Register** on July 28, 1983 (48 FR 34316), and supplemental information has been provided to NVLAP program applicants which details, using dosimetry processing terminology, the way general and specific criteria apply to dosimetry processors. The NVLAP/NBS staffs have worked closely with the personnel dosimetry processors, the Industry Overview Committee on Personnel Dosimetry, the Interagency Policy Committee on Personnel Dosimetry, and the NRC in developing approriate supplemental information for this LAP which was used in writing the application booklet that provides the details of NVLAP accreditation. The criteria and supplemental information establish a framework for uniformly evaluating personnel dosimetry processors, for minimizing accreditation costs, and for administering the program.

Scope of Proposed Rules

These proposed rules are specifically applicable to the processing of personnel dosimeters used to satisfy NRC requirements for determining the whole body or whole body and skin dose from X-rays, gamma, beta, and neutrons, or mixtures of these radiations for which dosimeter processing is required including film, track-etch, thermoluminescent and albedo-type dosimeters.

While the NRC recognizes the importance of assessing the accuracy of extremity dose measurements made by dosimetry processors, performance criteria for testing processors for extremity dosimeters are not available at this time. The NRC has formally requested the HPSSC to form a working group to establish such performance and quality assurance criteria for extremity dosimeter processing testing. The Chairman of the HPSSC has acknowledged the NRC's request for development of such a standard and has announced that such a group has been formed. It is estimated that a minimum of two years will be required for development and publication of a final ANSI Standard after formation of the working group. If publication of a draft ANSI Standard for public trial and use is desirable, a minimum of one and a half years would be required after working group formation. The NRC will consider appropriate amendments to § 20.202(c) when such performance criteria are available, and it is expected that such criteria will subsequently be added to the LAP for personnel dosimetry processors at the NBS.

While the NRC recognizes that some licensees use pocket ionization chambers for the purposes of recording the official whole body dose of individual employees and that this is an acceptable method of providing dosimetry services in accordance with § 20.202 of the NRC regulations, pocket ionization chambers do not require the services of a personnel dosimetry processor for interpretation or dose assessment. Appropriate calibration of pocket ionization chambers is necessary for their correct utilization. Performance criteria and calibration guidance for appropriate use and selection of pocket ionization chambers are available in NRC's Regulatory Guide 8.4, "Direct-Reading and Indirect-Reading Pocket Dosimeters," and from ANSI standards; but since these dosimeters do not require processing, they are beyond the scope of these proposed rules.

Personnel dose determinations can also be derived from survey measurements and exposure time; but, these determinations are also not included in the scope of these proposed rules.

Proposed Implementation

Processors must request application materials, complete their application forms, and submit fees to NVLAP for proficiency testing and administration which includes on-site assessment by one or more NVLAP assessors. The operational LAP and proficiency testing is currently scheduled to begin by January 1984. Copies of the LAP availability notice have been sent to all known personnel dosimetry processors and known interested persons. Processors who wish to have full benefit of additional periods of proficiency testing before NRC's final rule becomes effective (to ensure that they pass the initial testing categories they attempt) should register immediately. According to current projections, the first accreditations could be announced as soon as six months after the beginning of proficiency testing. NRC's final rule will be scheduled to become effective approximately 26 months after proficiency testing begins (February 1986) to allow processors ample opportunity to participate in performance tests administered by NBS's contractor PTL. NRC plans to act on the final rule as soon as possible after analysis of comments to this Notice of Proposed Rulemaking.

With respect to Agreement States, this item will be made a matter of compatibility because it concerns basic radiation standards.

Paperwork Reduction Statement

The application, reporting, and recordkeeping requirements contained in this proposed rule have been approved by the Office of Management and Budget (OMB); OMB approval No: 3150–0014.

Initial Regulatory Flexibility Statement

The need for these rules has been described in the Regulatory Analysis which is available for copy at the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555 or from Margaret V. Federline (see section entitled "For Further Information Contact"). The Regulatory Analysis contains a complete analysis of all technical and procedural alternatives and a statement of statutory considerations.

These rules as proposed would require NRC licensees to utilize the services of personnel dosimetry processors who are accredited under the National Voluntary Laboratory Accreditation Program (NVLAP) of the National Bureau of Standards (NBS). Currently, NRC licensees are not required to obtain services of accredited processors because NRC does not have competency requirements for personnel dosimetry processors in its regulations. These rules are, however, being developed concomitantly with a Laboratory Accreditation Program for Personnel Dosimetry Processors being established for NRC by the NBS. It is important to note that all dosimetry processors are not NRC licensees but that nearly all commercial dosimetry processors do business with NRC licensees. It is further expected that the members of the Interagency Policy Committee on Personnel Dosimetry will recommend programs of the same nature for their respective agencies.

Approximately 4,500 licensees are currently performing personnel monitoring for their employees as prescribed in 10 CFR Part 20, § 20.202, and are maintaining radiation exposure records as specified in 10 CFR Part 20, § 20.401. NRC's contractor, the University of Michigan (UM), has estimated that there are about 90 personnel dosimetry processors in the United States who perform peronnel dosimetry services in-house or commercially. These processors were initially categorized in a June 13, 1981, letter which was updated in a November 6, 1982 letter from UM to NRC.[6] Eighty of these processors may be considered as large entities; they include seven large commercial processors, seven large private corporations, nine national laboratories, 31 nuclear power plants, 10 DOE contractors, eight military organizations, three large universities, four state public health departments, and one medical facility. These entities do not fall within the definition of "small entities," as set forth in section 601(3) of the Regulatory Flexibility Act, or within the definition of "small business" as found in section 3 of the Small Business Act, 15 U.S.C. 632, or the Small Business Size Standards in regulations issued by the Small Business Administration of 13 CFR Part 121. The remaining ten processors may, for purposes of this Regulatory Flexibility Statement, be considered "small entities" as defined in Section 601(3) of the Regulatory Flexibility Act. It was further estimated that as a group, these ten processors process only about 0.5% of all personnel dosimeters processed in the United States. It is estiamted that NRC licensees currently employ approximately 23% of the 1.4 million workers in the United States who require personnel monitoring as a result of their potential exposure to ionizing radiation.

The costs for participating in performance testing and the accreditation program, whether a processor is performing these services in-house or commercially and regardless of size, is for the purposes of this analysis approximately the same.

It has been estimated by processors that the average processor will spend approximately $7,800 on a one-time basis to prepare for the accreditation program. In most cases, the NRC believes these costs have already been incurred by processors because of the third round of testing at the UM against the revised standard and the frequent discussions and meetings that NRC staff has held with licensees and dosimetry processors in discussing the need for improved dosimetry processing and plans for NRC rules on this subject. Processors will also incur biennial costs for accreditation which include NVLAP administrative fees and costs associated with the proficiency testing administered by the PTL contracted by NBS to administer such tests in accordance with ANSI Standard N13.11. NVLAP administrative fees will include costs for (1) processing an application for accreditation, (2) conducting on-site inspection of an applicant processor's routine dosimetry processing and quality assurance techniques, and (3) for evaluating the competency and quality assurance efforts of the PTL. These biennial costs (which also include projected in-house costs to the processor) for the average processor which submits one model dosimeter for testing in eight radiation categories are estimated to be approximately $14,000 or $7,000 annually. Unlike the average dosimetry processor which participated in the third round of testing, the average "small entity" processor submitted one model of dosimeter for testing in 4 radiation categories. Projected costs for NVLAP accreditation fees, proficiency testing, and in-house costs for accreditation of a "small entity" processor total $11,800 for each 2 year accreditation period, or $5,900 annually. The Regulatory Analysis fully discusses the details of these estimates and projects that the individual processor costs could range from $6,200 to $17,200 every two years.

The total volume of business within the dosimetry processing industry is estimated at $34 million annually. The ten small personnel dosimetry processors which could be affected by this rule account for approximateiy 0.5%,

[6] Available at the Commission's Public Document Room (see section entitled Addresses) or Margaret V. Federline (see section entitled for Further Information Contact).

or $170,000 of the business annually.[7] While the NRC does not know the distribution of this volume of business amont the ten dosimetry processors, an even distribution would create an average annual business of $17,000. Thus, the estimated biennial accreditation costs of $11,800 ($5,900 annual cost) for the NVLAP program is likely to have a significant economic impact on their dosimetry processing business. Complete details of these estimated accreditation costs are available in the Regulatory Analysis and in the Initial Regulatory Flexibility Analysis (available as explained under the heading "Addresses" earlier in this notice).

It is the finding of the Commission in the Preliminary Regulatory Analysis that the only acceptable alternative procedure for solving this problem is by rulemaking action and that the particular alternative proposed, third party accreditation by the National Voluntary Laboratory Accreditation Program (NVLAP), offers equal benefits for small and large processors and will almost certainly guarantee improvements in the quality of reported dose estimates. The costs necessary for compliance with this proposed regulatory program are well justified and worth the health and safety benefits that will result from improved dosimetry. The Commission has carefully examined the elements of the proposed NVLAP accreditation program and finds that differing compliance, reporting requirements, or simplification of the accreditation program are not acceptable for evaluating a processor's ability to perform accurate and consistent personnel dosimetry for NRC licensees. The NRC and NVLAP staffs have taken actions to reduce the costs associated with the accreditation of processors. The ultimate effect of a dosimetry processor not gaining accreditation could mean that it would no longer be feasible for the processor to remain in business. The accreditation process, however, offers a participating dosimetry processor considerable opportunities for correction of identified inadequacies, for repeat performance testing, and for appeal of any accreditation decisions.

In summary, the Commission has considered the impact of the NVLAP accreditation program upon the small entities affected, and has concluded that the benefits gained by workers, licensees, the general public and the NRC from providing improved personnel dosimetry services that would result from the proposed accreditation requirement and program are necessary in spite of the program's possible economic impact upon a few small entities.

Any small entity subject to this regulation which determines that because of its size that it is likely to bear disproportionate, adverse, economic impact should apprise the Commission of this in a written comment that indicates:

(a) The processor and/or licensee's size in terms of annual receipts derived from service, number of employees, and the number of dosimeters processed annually;

(b) How the proposed regulations would result in a significant economic burden upon the licensee or processor as compared to larger licensees or processors;

(c) How the proposed regulations could be modified to take into account its differing needs or capabilities;

(d) The benefits that would accrue, or the detriments that would be avoided, if the proposed regulations were modified as suggested by the commenter; and

(e) How the regulations, as modified, would still adequately protect public health and safety and provide adequate radiation dosimetry services for U. S. nuclear workers.

List of Subjects in 10 CFR Part 20

Byproduct material, Licensed material, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Penalty, Radiation protection, Reporting and recordkeeping requirements, Special nuclear material, Source material, and Waste treatment and disposal.

Pursuant to the Atomic Energy Act of 1954, as amended, and sections 533 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Part 20 is contemplated.

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

1. The authority citation for Part 20 continues to read as follows:

Authority: Secs. 53, 63, 65, 81, 103, 104, 161, 68 Stat. 930, 933, 935, 936, 937, 948, as amended; 42 U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, 2201. For the purposes of sec. 223, 68 Stat. 938, as amended; 42 U.S.C. 2273, § 20.401–20.408 issued under sec. 161o., 68 Stat. 950, as amended; 42 U.S.C. 2201(o). Secs. 202, 206, Pub. L. 93–438, 88 Stat. 1244, 1246 (42 U.S.C. 5842), unless otherwise noted.

2. New paragraph (c) is added to § 20.202 to read as follows:

§ 20.202 Personnel monitoring.

* * * * *

(c) After February 1986, all personnel dosimeters, except extremity dosimeters and pocket ionization chambers, that require processing to yield a dose value and that are provided to comply with § 20.101, with the requirements of paragraph (a) of this section, or with the applicable terms and conditions of any license issued by the Nuclear Regulatory Commission:

(1) shall be processed by a processor currently accredited by the National Voluntary Laboratory Accreditation Program for Personnel Dosimetry Processors of the National Bureau of Standards in accordance with accreditation criteria established in 15 CFR Part 7b; and

(2) shall be approved in this accreditation process for the type of radiation or radiations for which the individual wearing the dosimeter is monitored.

* * * * *

3. New paragraph (d) is added to § 20.401 to read as follows:

§ 20.401 Records of surveys, radiation monitoring, and disposal.

* * * * *

(d) Each licensee subject to § 20.202(c) of this part, in addition to preserving personnel monitoring records in accordance with § 20.401(c)(1) of this part, shall also preserve with these records copies of pertinent personnel dosimetry processor accreditation certificates from the National Voluntary Laboratory Accreditation Program as necessary to demonstrate compliance with § 20.202(c) after February 1986.

Dated at Washington, D.C. this 4th day of January, 1984.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 84-570 Filed 1-9-84; 8:45 am]

BILLING CODE 7590-01-M

[7] It should be noted that only 4 of the 10 identified "small entity" processors participated in the third round of testing at the UM.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83-AAL-7]

Proposed Alteration to Control 1234, Additional Control Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to expand Control 1234, Additional Control Area, northward and westward to coincide with the newly established common boundary of the Oakland and Anchorage Oceanic Control Areas/Flight Information Regions. This action would facilitate the use of the more efficient domestic, rather than oceanic, air traffic control (ATC) procedures in the proposed designated airspace designation.

DATE: Comments must be received on or before February 24, 1984.

ADDRESSES: Send comments on the proposal in triplicate to:

Director, FAA, Alaskan Region, Attention: Manager, Air Traffic Division, Docket No. 83–AAL–7, Federal Aviation Administration, 701 C Street, Box 14, Anchorage, AK 99513.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: William C. Davis, Airspace and Air Traffic Rules Branch (AAT–230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83–AAL–7." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.163 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to expand Control 1234, Additional Control Area, westward and northward so that it would coincide with the newly established boundary of the Oakland and Anchorage Oceanic Control Areas/Flight Information Regions. Currently, the least efficient of ATC procedures (oceanic procedures) are applied by ATC in separating aircraft from each other in the proposed airspace designation. By incorporating this airspace into Control 1234, ATC would be authorized to apply the more efficient domestic ATC aircraft separation procedures. Section 71.163 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3A dated January 3, 1983.

ICAO Considerations

As part of this proposal relates to navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of, and Annex 11 to, the Convention on International Civil Aviation, which pertains to the establishment of air navigational facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to ensure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator is consulting with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

List of Subjects in 14 CFR Part 71

Additional control area, Aviation safety.

The Proposed Amendment

§ 71.163 [Amended]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.163 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Control 1234

By deleting the words "to lat. 54°49'00"N., long. 170°12'30"E.; to lat. 54°23'00"N., long. 174°30'00"E.; to lat. 53°36'00"N., long. 176°47'00"W.; to lat. 54°02'00"N., long. 174°00'00"W.; to lat. 60°00'00"N., long. 174°00'00"W.;" and substituting the words "to lat. 60°00'00"N., long. 180°00'00".W; to lat. 62°35'00"N., long. 175°00'00"W.;"

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a),

1354(a), and 1510); Executive Order 10854 (24 FR 9565); (49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983)); and 14 CFR 11.65.)

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on January 3, 1984.

B. Keith Potts,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 84–542 Filed 1–9–84; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

23 CFR Parts 625 and 655

[FHWA Docket No. 83–26]

National Standards for Traffic Control Devices; Request for Comments on Proposed Amendments to the Manual on Uniform Traffic Control Devices

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed amendments to the Manual on Uniform Traffic Control Devices; request for comments.

SUMMARY: The FHWA is inviting comments on proposed amendments to the Manual on Uniform Traffic Control Devices (MUTCD). The MUTCD is incorporated by reference in the design standards for Federal-aid highways found in Part 625 of Title 23, Code of Federal Regulations. It also recognized in 23 CFR Part 655 as the national standard for traffic control devices on all public roads.

The amendments affect various parts of the MUTCD and are intended to expedite traffic, improve safety, and provide a more uniform application of highway signs, signals, and markings.

DATE: Comments must be received on or before April 9, 1984.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket No. 83–26, Federal Highway Administration, Room 4205, HCC–10, 400 Seventh Street SW., Washington, D.C. 20950. all comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard. The MUTCD is available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D. It may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 ($20.00).

FOR FURTHER INFORMATION CONTACT: Mr. Philip O. Russell, Office of Traffic Operations, (202) 426–0411, or Mr. Michael J. Laska, Office of the Chief Counsel, (202) 426–0754, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The FHWA both receives and initiates requests for changes (i.e., amendments) to MUTCD. Each request is assigned an identification number which indicates, by Roman numeral, the organizational part of the MUTCD affected an, by Arabic numeral, the order in which the request was received.

This notice is being issued to provide the public an opportunity to participate in the processing of proposed amendments to the MUTCD. Based upon comments received in response to this notice and upon its own experience, the FHWA will consider final amendments for inclusion in the MUTCD which will be published in the **Federal Register** and incorporated by reference in the CFR.

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Copies of the proposed text changes to the MUTCD will be distributed to everyone currently appearing on the FHWA mailing list for MUTCD matters. Those wishing to be added to the mailing list or receive copies of the proposed text should write to the Federal Highway Administration

(FHWA), Office of Traffic Operations, 400 Seventh Street, SW., Washington, D.C. 20590 or contact Mr. Philip O. Russell (202) 426–0411.

Discussion of Requests

The FHWA proposes to act on the following requests for change to the MUTCD as noted below:

1. Signs (Part II)

(a) *Request II–1 (Chng.)—Specific Service Signs.* Specific service information signs are official traffic control devices that provide directional information and the business identification of a limited number of facilities offering gas, food, lodging, and camping to highway users. Standards for specific service information signs are presently codified in 23 CFR Part 655, Subpart C. The MUTCD is the vehicle for publishing and distributing the national standards for traffic control devices and since the MUTCD is incorporated by reference in the CFR, it is inappropriate for the specific service information standards to remain isolated in a separate, detailed regulation.

Incorporating these standards into the MUTCD will consolidate all traffic control device standards into the same publication and facilitate the rescission of 23 CFR Part 655 Subpart C and the Federal-Aid Highway Program Manual, Volume 6, Chapter 8, Section 3, Subsection 8, National Standards for Specific Information Signs.

The FHWA is proposing that the standards for specific service information signs be incorporated into the MUTCD as a separate Subpart of Part II. The language as contained in the CFR has been rewritten into a format usable in the MUTCD. The criteria for availability of services and the area where services may be signed has been relaxed.

This proposed change imposes no additional costs as the choice of using specific service information signs rests with the highway agency.

(b) *Request II–33 (Chng.)—Hazardous Material Routing Sign.* There is interest by some States in designating certain routes for vehicles transporting hazardous cargos and from carrying hazardous cargos on other routes.

A research study was conducted for FHWA to consider hazardous cargo routes and traffic control devices. Based on this study a symbol depicting the intials HC on the side view of a flat bed truck was recommended. This symbol would be circumscribed by a green circle to identify routes where hazardous cargos are permitted and a red prohibitive symbol to identify locations where hazardous cargos are prohibited. The FHWA asked the National Committee on Uniform Traffic Control Devices (NCUTCD) to informally consider these symbols with educational plaques, as a national standard. The NCUTCD suggested, instead of these symbols, that the symbol approved for use in Canada be used. The Canadian symbol is a black diamond circumscribed by a green circle for permitting hazardous cargos and a red circle for prohibiting hazardous cargos.

The NCUTCD is concerned that many of the ramifications of this problem are unknown and that some 1,000 commodities have been classified as hazardous. Many hazardous cargos are transported by means other than trucks as depicted in the FHWA proposed symbol. Vehicles transporting hazardous cargos are required to display a diamond shaped placard of varying color and companion symbol that connotes the type of hazardous material.

The FHWA proposes to standardize a hazardous material symbol sign and is requesting additional input and comment on the symbols discussed above.

(c) *Request II–60(c)—Preferential Lane Signing and Marking.* The MUTCD provides only general information on the use of signing and marking preferential lanes. The FHWA requested comments in Docket No. 81–5, 46 FR 32822, on the possibility of expanding Sections 2B–20 and 3B–19 to provide more specific guidance on the application of traffic control devices in conjunction with preferential lanes.

The FHWA has received additional information and is proposing to make additions to Sections 2B–20 and 3B–19 of the MUTCD that will provide guidance on the frequency of signs considering speeds, block lengths, and other considerations. Suggested spacing of signs and destination information needs are included. Placement should be such that a motorist will at all times be able to see at least one and preferably two signs.

This proposed change would not impose any additional costs, but provides highway agencies additional guidance for identifying preferential lanes.

(d) *Request II–65 (Chng.) Service Signing for Liquefied Petroleum Gas.* The MUTCD provides for the use of white on blue directional signs to indicate the availability of eligible motorist services at intersections and interchanges. Eligible motorist services are restricted by the MUTCD to Food, Gas, Lodging, Camping, Phone, Hospital, Diesel, and Tourist Information. The National LP-Gas Association has requested that the MUTCD be amended to include liquefied petroleum gas (LP-Gas) as an eligible motorist service.

The National LP-Gas Association has reported that the sale of LP-Gas carburetors in 1979 exceeded 256,000 units, an increase of 84 percent over the number of units sold in 1978, and that there are probably over 500,000 LP-Gas powered vehicles in use in the United States.

The FHWA concludes that the number of LP-Gas vehicles and other conditions, such as remote and/or recreation areas, justify consideration of the LP-Gas service sign.

The FHWA proposes that the MUTCD be amended to permit LP-Gas identification as an acceptable motorist service.

This proposed change imposes no additional costs but would make standard a symbol for identifying LP-Gas refilling facilities.

(e) *Request II–66 (Chng.) Lane Drop Symbol Sign.* The MUTCD provides for the use of the special black on yellow warning legend EXIT ONLY on overhead guide signs related to lane drops at interchanges, but does not provide a standard warning sign for use at lane drops at intersections. However, the MUTCD requires the use of regulatory signs such as the R3–7 sign (RIGHT LANE MUST TURN RIGHT) at lane drops at intersections.

The city of Phoenix, Arizona, has developed a symbol sign and has requested a change in the MUTCD to adopt this as a standard warning sign for optional use in advance of lane drops, primarily at intersections. The proposed sign has a black legend on a yellow background.

The city of Phoenix commented that the legend RIGHT LANE MUST TURN RIGHT is too long for a diamond shaped warning sign and suggested adoption of the proposed symbol sign as a counterpart to the MUTCD W4–3 warning sign (Added Lane Sign).

The FHWA does not find there is sufficient information or justification for an amendment.

(f) *Request II–67 (Chng.) Delete/Modify LIMITED SIGHT DISTANCE Sign.* Section 2C–39 of the MUTCD specifies that the LIMITED SIGHT DISTANCE Warning sign (W14–4) is designed for use on vertical curves which do not have adequate safe stopping sight distance available.

The New York State Department of Transportation (NYDOT) commented that lack of further criteria and restrictions in the MUTCD on the use of the W14–4 sign has resulted in a

proliferation of the signs on completed projects in that State. The NYDOT recently completed a study entitled "Evaluation of Limited Sight Distance Warning Signs" [1] which indicates that the sign is neither understood nor complied with by drivers included in the study.

The NYDOT requested that Section 2C–39 either be eliminated from the MUTCD or that the MUTCD be amended to restrict the use of the sign. The NYDOT suggested criteria for use if the sign is not eliminated. The FHWA proposes adding criteria for use of the sign to Section 2C–39.

This proposed change adds no cost, but provides more specific criteria for identifying locations where limited distance signs might be used.

(g) *Request II–71 (Chng.)—Narrow Bridge Symbol Sign.* The Narrow Bridge symbol sign (W5–2a) is a pictorial representation of a bridge using two edge lines. Each edge line has four angles and three separate stroke widths. The symbol also has a single broken centerline. The Pennsylvania Department of Transportation (PennDOT) commented that the sign lacks boldness and public acceptance and that the broken centerline is not correct since two-way narrow bridges should be stripped for no-passing.

The PennDOT requested that the present symbol be deleted and that a proposed simplified symbol without a centerline and bolder strokes be adopted in its place. The PennDOT also requested that the proposed symbol be authorized for use at narrow structures such as culverts and underpasses as well as at narrow bridges.

The proposed symbol is untested and its adoption is opposed by the NCUTCD. Therefore, the FHWA does not propose a change.

(h) *Request II–73 (Chng.)—Signing and Marketing Structures with Substandard Vertical Clearances.* The MUTCD provides limited information on locating low clearance signs upon a substandard vertical clearance structure and marking the point of vertical obstruction. Frequently, the point of low clearance may be on the shoulder portion of the roadway, especially in sections that are heavily superelevated or for arched structures.

It has been proposed that more specific information pertaining to traffic control for low clearances be incorporated into the MUTCD. The FHWA believes that the signing in the MUTCD allows adequate flexibility and each site requires special consideration and engineering. The FHWA is not proposing to amend Section 2C–34.

(i) *Request II–75 (Chng.)—Sign Requirements for Two Way Left Turn Only Lanes (TWLTL).* Section 2B–19 requires by a "shall" condition that Two Way Left Turn Only Signs (R3–9a, 9b) be used where a lane in the center of a highway is reserved for the exclusive use of left turning vehicles in either direction and is not used for passing and overtaking. These signs may be either overhead mounted (R3–9a) or post mounted (R3–9b) signs.

The city of Phoenix requested that the MUTCD be changed to allow the option of exercising engineering judgment to determine if, or how frequently signing needs to accompany TWLTL striping.

The FHWA is proposing to amend Sections 2B–19 and 3B–12 to change the "shall" condition to "should" in the use of TWLTL signs and provide guidance for posting signs: (1) On perimeter routes approaching a city or metropolitan area where the TWLTL concept is used, (2) on new sections of TWLTL installation for a 1 year period, (3) in areas where weather conditions inhibit visibility of pavement markings, and (4) in areas where TWLTL concept is new or rare.

This proposed change would relax the present requirement of the MUTCD while maintaining adequate means to inform the public of two way left turn lanes.

(j) *Request II–76 (Chng.)—Supplemental Guide Signs for Traffic Generators Adjacent to Freeways.* Section 2E–28 of the MUTCD contains information on supplemental guide signing. The MUTCD recommends that each State develop an appropriate policy for supplemental signing taking into consideration such items as population, traffic generator and distance from the route being signed, and the significance of the destination. The American Association of State Highway and Transportation Officials (AASHTO) has developed a policy which provides supplemental signing criteria that will serve as the basis for determining that those facilities which generate the greatest need for information will be the ones used on the supplemental guide signs.

AASHTO has proposed that its policy on supplemental guide signing be incorporated as a reference in the MUTCD for nationwide guidance.

Accordingly, the FHWA proposes to add to Section 1A–7 and Section 2E–28, second paragraph, a reference to the AASHTO Policy, Guidelines for Selection of Supplemental Guide Signs for Traffic Generators Adjacent to Freeways.

In conjunction with this change, the FHWA is proposing to relax the recommendation in Section 2E–28 for States to develop a supplemental signing policy and the requirement for installation of supplemental guide signs as an independent assembly.

This proposed change would not impose any additional costs, but provides a reference to a source of information that will promote more uniform implementation of supplemental signed destinations.

(k) *Request II–77 (Chng.—Guidelines for Selection of Control Cities.* Section 2F–7 states that control cities are major destinations on the freeway route, but does not further define major destinations.

The AASHTO has developed guidelines for selecting control cities which should be applied to new requests for signing control cities, but are not intended to be used as a basis for revising established signing. The AASHTO has requested the criteria be incorporated into the MUTCD.

The FHWA is proposing to amend Section 2F–7 to incorporate only a reference to the AASHTO criteria on selecting control cities.

This proposed change would not impose any additional costs, but provides better criteria for selection of major destinations for signing messages.

(l) *Request II–78 (Chng.)—Library Symbol Sign.* The American Library Association (ALA) has developed and tested a white on blue symbol for use to identify libraries and has proposed its use as an alternative to the library word message. Libraries are primarily a destination rather than a motorist service, therefore, the colors should be white on green background. The symbol is of a stylized person looking at an open book.

This symbol does not convey the intended specific meaning. Therefore, the FHWA is not proposing the adoption of the library symbol as a white on green General Information Sign (I Series).

(m) *Request II–81 (Chng.)—Symbol for CB Emergency Channel.* REACT International, Inc., has proposed the adoption of a symbol sign to indicate citizens band (CB) radio monitoring service by either official or volunteer personnel. The symbol depicts the hand held mike portion of a CB radio.

A recently approved addition to the MUTCD provides for signing, as needed, to identify areas where the emergency (CB) channel is monitored by an official

[1] Evaluation of Limited Sight Distance Warning Signs, 1981, Traffic and Safety Division, New York State Department of Transportation. Available for inspection and copying at the Federal Highway Administration, Office of Traffic Operations, Room 3419, 400 Seventh Street, SW., Washington, D.C. 20590.

government agency or its official designee. This approved sign contains the name of the monitoring agency and the words MONITORS CB CHANNEL 9.

The FHWA does not propose adoption of the mike symbol sign which would be accompanied with a supplemental plate identifying the official monitoring agency as an alternate to the Channel 9 Monitored Sign (D12–3).

(n) *Request II–83 (Chng.)—Memorial Signing for Highways.* At the outset of the Interstate highway program AASHTO developed a signing policy for the Interstate System. Included in that policy was a provision that prohibited signing Interstate highways as Memorial Highways. This policy was concurred in by the FHWA and subsequently incorporated into the MUTCD.

This policy and the subsequent standards have permitted recognition of the memorial names by allowing the placing of memorial plaques in rest areas, scenic overlooks, or other appropriate points inconspicuously located relative to vehicle operation along the highway.

The FHWA has received many requests for approval to memorialize highways with the intent of placing a sign along the route which so identifies that route. The naming of a public highway and the placing of signs is a State responsibility and there is a strong desire at the State level to permit installation of memorial signing. Accordingly, the FHWA proposes to amend Sections 2D–50 and 2F–2 to eliminate the prohibition to memorial signing.

This proposed amendment will not impose any additional costs on highway agencies but will allow States greater latitude in the installation of Memorial Highway signs.

(o) *Request II–84 (Chng.)—Trail Markers on Interstates.* Trail markers are informational plaques or shields that provide the public with route guidance in following a trail of particular cultural, historical, or educational significance. The MUTCD permits the use of such trail markers on conventional roads but specifically disallows this use on the Interstate system.

The FHWA is proposing to amend Section 2D–51 to eliminate the prohibition of trail markers on Interstate highways.

This proposed amendment will impose no additional costs on highway agencies but will permit the identification of an Interstate route as a part of a particular trail.

(p) *Request II–85 (Chng.)—Delete Word Message Alternates to Symbols.* Over the years, the trend set in the MUTCD has been toward broader use of symbols rather than word message signs. Symbols have several advantages over word messages. They provide instant communication with the traveling public, since they can be understood at a glance without having to be read. Also, they overcome language barriers. This is important in view of the growth of international travel. The gradual implementation of symbol signs over the past 10 years has helped promote public familiarity through uniform application.

Because of the above reasons, the FHWA is proposing that the following sections of the MUTCD be revised to eliminate the use of word message signs for the following signs having a standard symbol sign.

Section 2B–15—Turn Prohibition Signs
Section 2B–16—U-Turn Prohibition Signs
Section 2B–25—Keep Right Sign
Section 2B–36—No Hitchhiking
Section 2C–17—Signal Ahead
Section 2C–21—Narrow Bridge
Section 2C–23—Divided Highway (Road) Begins
Section 2C–24—Divided Highway (Road) Ends
Section 2C–25—Two-Way Traffic
Section 2C–26—Hill Sign
Section 2C–28—Pavement Ends
Section 6B–20—Advance Flagger
Section 6B–23—Worker Sign

This proposed change will impose some additional costs on highway agencies. The costs will be reduced to a neglible amount by providing an extended period for implementation.

2. Markings (Part III)

(a) *Request III–2 (Chng.)—Delineators on Tangent Freeway Sections Not Required.* The Texas State Department of Highways and Public Transportation requested that the MUTCD be changed to delete the requirement for delineators on tangent sections of freeways. The State feels that continuous delineators are not needed for motorist guidance where edge markings are used.

Research has shown that raised pavement markers serve well as both near and far delineation. Raised pavement markers present a more accurate prospective of the driving surface and they have a more significant effect on mean lateral placement than post mounted delineators. Drivers need some form of roadway delineation under all weather conditions, but with a minimum of redundancy.

In light of the experience of several States and the research findings, the FHWA is proposing to amend Section 3D–4 to allow the use of raised pavement markers as a substitute for delineators on tangents.

This proposed change would not impose any additional costs, but provide highway agencies with greater flexibility in the use of freeway delineation.

(b) *Request III–9 (Chng.)—Uses and Spacing of Raised Pavement Markers.* Although the MUTCD provides detailed guidance on the use of pavement marking lines, there is no guidance in the MUTCD on the placement of raised pavement markers used to supplement or simulate marking lines.

The Amerace Corporation of Niles, Illinois, has requested the addition of such guideline to the MUTCD.

The NCUTCD established a task force that worked on language for inclusion in the MUTCD. The FHWA agrees in general with the NCUTCD recommendation and included the guidance in the MUTCD Handbook. The proposed changes to the MUTCD are not necessary at this time.

(c) *Request III–26 (Chng.)—Delete Requirements for No-Passing Zone Markings.* The MUTCD requires the marking of no-passing zones where centerlines are installed.

The State of Missouri has established a policy of not marking no-passing zones on two-lane rural highways with traffic volume below 1,000 vehicles per day. This policy was developed from a University of Missouri at Rolla, report, "Simulation of Passing on Two-Lane Rural Highways."

Missouri has proposed that the MUTCD requirement for no-passing zone marking be relaxed by changing the "shall" to a "may" based upon the results of the reports and Missouri's favorable past experience with the present State policy.

When no-passing zones are not identified, the motorist is left with sole responsibility for determining where it is safe to pass. Such a responsibility is disconcerting to motorists especially in rolling terrain. Many traffic engineers believe that such a relaxation of this requirement would be a move away from motorist safety.

The FHWA is not proposing this change to the MUTCD.

(d) *Request III–27 (Chng.)—Skid Resistance of Marking Materials.* A recent research report [2] concluded that

[2] Skid Resistance of Pavement Marking Materials, 1980, Report No. FHWA/RD–80–199. Available for inspection and copying at the Federal Highway Administration, Office of Traffic Operations, Room 3419, 400 Seventh Street, SW., Washington, D.C. 20590. Available for purchase from the National Technical Information Service, Springfield, Virginia 22161.

pavement marking materials, when applied to pavements, cause a local reduction in skid resistence. The resulting differential frictions can create problems for drivers of automobiles and other four-wheel vehicle if applied to large areas, such as gores, legends, and stop bars. This research indicates that current marking practices and standards for the application of markings to large areas traversed by vehicles and pedestrians should be reviewed.

The FHWA proposes to add to the MUTCD Handbook language that will make highway agencies more cognizant to skidding problems associated with large painted areas. A change to the MUTCD is not necessary.

(e) *Request III–28 (Chng.)—Chevron Marker.* Section 3C–1 of the MUTCD specifies that object markers are used to mark obstructions within or adjacent to the roadway. In addition, Section 3C–3 indicates that in some cases there may not be a physical object involved; but other roadway conditions such as an abrupt change in roadway alignment may be identified by use of a Type 2 or Type 3 object marker. The Type 3 Object Marker (OM–3R and OM–3L) consists of a vertical rectangle approximately 1 foot by 3 feet in size with alternating black and reflectorized yellow stripes sloping downward at an angle of 45 degrees.

The city of Mesa, Arizona, believes that more emphasis and meaning could be given to those standard object marker patterns and initially proposed a modified Type 3 object marker depicting a chevron on a 1′ x 3′ panel for use as an alternate to the standard Type 3 object marker. The cities of Mesa and Phoenix, Arizona, conducted a 6-month evaluation of the experimental marker design. As a result of the evaluation,[3] [4] [5] the following conclusions were reached:

1. The proposed Chevron Marker *is not* appropriate for use in marking an object in or near the roadway, or in delineating a sharp curve.

2. The proposed Chevron Marker should not be used as a substitute for the black and yellow Chevron Alignment Warning Sign.

3. The proposed Chevron Marker does appear to have a definite use in straight taper sections. That is, in roadway sections where a lane is dropped in a taper section or the roadway alignment moves abruptly in a straight taper.

4. The proposed Chevron Marker has an extremely good target value for both day and night applications.

The FHWA is proposing use of the Chevron Markers along taper sections of pavement width transitions or lane reduction transitions. The Chevron Marker be identified as a new Type 4 marker for inclusion in Section 3C.

3. Signals (Part IV)

(a) *Request IV–20—Peak Hour Delay and Volume Warrants.* The original proposal was recommended by the NCUTCD to serve as an interim peak hour warrant until confirmed or modified by research. The proposal was based on several years of experience in Texas.

The FHWA decided to defer action on this request pending the completion of a National Cooperative Highway Research Program (NCHRP) research project to verify these peak hour warrants and peak hour warrants developed under a previous NCHRP research project 3–20.

The research has now been completed.

The FHWA proposes to amend the MUTCD by adding the NCUTCD's recommended Peak Hour Delay and Peak Hour Volume Warrants. These new warrants would be referred to as Warrant 10 and Warrant 11, respectively.

This proposed amendment increases the latitude for what should justify a signal installation, but does not impose any additional costs.

(b) *Request IV–34 (Chng.)—Traffic Signal Operation as a Flashing Device.* Section 4B–19 of the MUTCD states that "when a traffic signal is being operated as a flashing device, all signal faces on an approach shall be flashed." This requires that signal heads placed exclusively for left turn movements must also be flashed along the major roadway.

In the opinion of the Maryland Department of Transportation (MDOT) this results in a problem relative to exclusive left turn signals. If flashed RED for major road traffic, MDOT believes the indication is troublesome and provides a conflict with the flashing YELLOW indication displayed over the through lanes.

The Maryland DOT requested that Section 4B–19 of the MUTCD be changed to permit the several jurisdictions to operate traffic signals in the flashing mode in a manner consistent with their own experiences.

In the opinion of the FHWA the darkening of any signal would lead to driver confusion because the motorist would not know whether the signal was malfunctioning or operating as intended. Therefore, the FHWA is withdrawing further consideration of this request.

(c) *Request IV–38 (Chng.)—Bicycle Volume in Advance Engineering Data.* Section 4C–1 of the MUTCD requires a comprehensive investigation of traffic conditions and physical characteristics of a location to determine the necessity for a signal installation. Such data should include: vehicle volume, turning movement, pedestrian volume, speed, geometrics, and other data. Bicycles are considered to be an element of pedestrian traffic and, therefore, are represented in the listing of data for determining the warrant and design for signal system installations.

The Tennessee Department of Transportation requested that revisions to the MUTCD be made that would clarify this intent. Specifically, it requested that Section 4C–1 be revised by adding "and bicycle" after "pedestrian" in Item 3 on page 4C–1 and in Item 4 on page 4C–2.

In the opinion of the FHWA, current MUTCD language is broad enough to allow for bicycle counts. Therefore, the FHWA is withdrawing further consideration of this request.

(d) *Request IV–39 (Chng.)—"DONT ENTER" Pedestrian Phase.* Pedestrian signal indications are special types of signal indications intended for the exclusive purpose of controlling pedestrian traffic. These indications consist of the illuminated words WALK and DONT WALK or the illuminated symbols of a walking person (symbolizing WALK) and an UP RAISED PALM (symbolizing DONT WALK).

The Arizona Department of Transportation noted that pedestrians are often confused when the signal changes to flashing "DONT WALK" before they have completed crossing the street and proposed that the pedestrain signal indication be changed to read and "DONT ENTER X–WALK."

The FHWA does not have sufficient evidence of the alleged confusion caused by the WALK legend or evidence of less confusion with the proposed DONT ENTER legend. Therefore, the FHWA is withdrawing further consideration of the request.

(e) *Request IV–42—"Traffic Signal Design Configuration"* on the basis of NCHRP Project 3–23, "Guidelines for Uniformity in Traffic Control Design Configurations," the NCUTCD recommended numerous changes to the MUTCD. These changes are to Sections 4B–8, 4B–10, 4B–11, and 4B–12, and

[3] "Mesa Hazard Markers," July 1981, City of Phoenix, Arizona, Traffic Engineering Department.

[4] "Chevron Alignment Markers," December 1980, City of Mesa, Arizona, Transportation Department.

[5] "Chevron Alignment Marker," July 31, 1980, letter report. City of Mesa, Arizona, Transportation Department. Copies of these reports are available for inspection and copying at the FHWA, Office of Traffic Operations, Room 3419, 400 Seventh Street, SW., Washington, D.C. 20590.

concern signal lens design, lens illumination, visibility and shielding of signal faces, and the number and location of signal faces, respectively. The FHWA proposes to adopt this request as recommended, with only minor modifications, and to amend the MUTCD accordingly.

These proposed changes would impose some additional costs on State and local highway transportation agencies. To minimize these costs the FHWA proposes a 5-year implementation period.

(f) *Request IV–43—Four Hour Traffic Signal Warrant.* The NCUTCD has developed and is recommending that a Four Hour Warrant be added to the MUTCD. After experience has been gained with this new Warrant, the continuing need for Warrants 1, 2, and 8 can be evaluated.

The FHWA proposes to amend the MUTCD by adopting the request. This Warrant, would be labeled Warrant 9 and added to the MUTCD as Section 4C–10.1.

This proposed amendment increases the latitude for what should justify a signal installation, but does not impose any additional costs.

(g) *Request IV–44 (Chng.)—Use of Lane—Use Control Sign in Lieu of Left (or Right) Turn Signal Sign.* The city of West Palm Beach, Florida, requested that MUTCD Section 4B–12.4 be revised to allow use of the "Lane-Use Control" sign for a single signal face controlling an exclusive turn lane. The city believes that this usage would be in keeping with the intent to use symbol signs and would not seem to pose a problem for motorists.

The Signals Technical Committee of the NCUTCD considered this request and believes the use of the "Lane Use Control Signs," could lead to unnecessary driver confusion especially if the signal face controlling the exclusive turn is not mounted over that particular lane.

The FHWA, therefore, is withdrawing further consideration of the request.

(h) *Request IV–45 (Chng.)—Type "E" Signal Arrangement for the Stem Approach to a Tee Intersection.* The city of West Palm Beach, Florida, requested that Section 4B–12.1 be changed to allow use of the type "E" arrangement of lenses in signal faces (Figure 4–1 of the MUTCD) for controlling one of the turning movements on the stem approach to a "Tee" intersection. The city believes that the type "E" signal arrangement meets the intent of the MUTCD by providing the number of red indicators necessary for the critical turning movements.

It is the opinion of FHWA that the type "E" signal arrangement does not satisfy the dual indication requirements of Section 4B–12.1 since an 8-foot separation is required between signal heads.

Therefore, the FHWA is withdrawing further consideration of the request.

4. Traffic Control for Street and Highway Construction and Maintenance Operations (Part VI)

(a) *Request VI–20 (Chng.)—Delete Use of Hand Signaling Flags.* Part VI–F of the MUTCD provides for the use of either a red flag or a sign paddle with the legend STOP on the one side and SLOW on the other as hand signaling devices to control traffic through work areas. Section 6F–4 specifies the signaling procedures (1) to stop traffic, (2) to indicate that it is safe for traffic to proceed, and (3) to slow or alert traffic with these devices. These procedures are illustrated in Figure 6–15 on page 6F–3 of the MUTCD. A supplemental hand movement is either permitted or required for the three signaling procedures using either device except when using the flag to slow or alert traffic.

The Texas Transportation Institute (TTI) recently reported [6] on its study of motorists understanding of these and other hand signaling procedures.

The report reached conclusions that the red flag is relatively ineffective and the STOP/SLOW paddle is much more effective.

The FHWA agrees that sign paddles provide more positive guidance for the motorist. It is proposed that flags be limited to use only in emergency situations and that the sign paddle be the primary hand signaling device. It is proposed that Section 6F–4 be revised accordingly.

This proposed change would impose some additional costs, but will provide motorists with more positive guidance at work sites. The implementation period would be such that impact on highway agencies and contractors would be minimal.

(b) *Request VI–21 (Chng.)—Minimum Mounting Height of Barricade Warning Lights.* Section 6E–5 of the MUTCD specifies that warning lights on barricades shall be installed at a minimum mounting height of 36 inches to the bottom of the lens. Warning lights are usually mounted atop the top rail of a barricade. The MUTCD specifies that the height of the rail top of the most commonly used barricades (Type I and Type II) shall be at least 36 inches.

The C and A Companies, Inc., requested that the MUTCD be amended to permit a reduced mounting height which would permit the mounting of warning lights within the top rail of barricades.

The FHWA is proposing that warning lights be permitted in the top barricade rail if at least a minimum reflective area given by Table VI–1 (8 inch min. width x 2 feet min. length or 192 square inch) is provided in the top rail.

This proposed change will not impose any additional costs, but provides highway agencies greater flexibility for selection of barricades.

(c) *Request VI–23 (Chng.)—Color of Barricade Supports.* Section 6C–8 of the MUTCD specifies that the predominant color of barricade supports (the components other than the rails) shall be white except that unpainted galvanized metal or aluminum may be used. The South Dakota Department of Transportation (DOT) has requested an amendment to the MUTCD to delete this requirement. The South Dakota DOT commented that this requirement incurs a great deal of cost, time, and trouble to enforce without serving any useful purpose.

It is recognized that barricades are normally used in a position on the traveled way and, therefore, needs a high degree of visibility. However, the support system provides a very small portion of the area facing traffic and does not add significantly to the visibility of the device. The FHWA proposes deleting the last sentence of paragraph 7 in Section 6C–8.

This proposed amendment would reduce cost of some barricades while slightly reducing visibility.

(d) *Request VI–24 (Chng.)—Minimum Lamp Candlepower of Arrow Panels.* Table VI–3 in Part VI of the MUTCD provides some minimum criteria for Arrow Panels, but does not include criteria for minimum lamp candlepower. The American Traffic Services Association (ATSA) requested that the following data be added to Table VI–3:

Arrow Panel type	Initial minimum rated lamp candle-power
A	1,000
B	7,000
C	5,800

[6] Driver Understanding of Work Zone Flagger Signals and Signaling Devices, 1981, Texas Transportation Institute. Available for inspection and copying at the Federal Highway Administration, Office of Traffic Operations, Room 3419, 400 Seventh Street, SW., Washington, D.C. 20590.

The ATSA commented that these values are based on current industry practice and provide for devices that will meet the minimum legibility distance required.

The FHWA proposes adding to Table VI–3, the initial minimum rated lamp candlepower.

This proposed amendment would impose some additional costs but these costs will be mitigated by providing a reasonable period for implementation.

(e) *Request VI–25 (Chng.)—Use of 28 Inch Cones.* Section 6C–3 of the MUTCD provides that cones shall be at least 18 inches in height. Based on the National Cooperative Highway Research Project Report 236, "Evaluation of Traffic Controls for Highway Work Zones," [7] the ATSA requested that Section 6C–3 of the MUTCD be amended to recommend a minimum height of 28 inches for cones used on high-speed facilities (day and night) and for all facilities during the hours of darkness.

The FHWA proposes to revise the MUTCD to recommend a minimum height for cones used on high speed facilities.

This proposed amendment will not impose any additional cost.

(f) *Request VI–26 (Chng.)—Detour Signing.* Sections 6B–8 and 6B–9 provide that Road (Street) Closed signs shall be accompanied by appropriate detour signing. The Illinois Department of Transportation (DOT) believes that a mandatory requirement for signed detours on some less important streets is not needed. Illinois DOT suggested that the MUTCD language be revised to require detour signing where appropriate.

The FHWA in response to this proposal has stated that each detour should be treated separately. There may be situations where little, if any, signing is needed for detours. It is incumbent on the responsible city, county, or State highway agency to establish and sign appropriately an acceptable detour bearing in mind the likelihood of mortorists unfamiliar with the road network encountering the road closure. The FHWA is proposing the mandatory condition for detour signing in Section 6B–8 and 6B–9 be changed to a recommended condition.

This proposed amendment will not impose any additional costs on highway agencies. It will provide more engineering discretion in determining those less important roads that do not need detour signing.

[7] Copies available for inspection and copying at the Federal Highway Administration, Office of Traffic Operations, HTO–21, Room 3419, 400 Seventh Street, SW., Washington, D.C. 20590.

(g) *Request VI–28 (Chng.)—Identification of Channelizing Devices.* The ATSA has proposed that the MUTCD be amended to permit the name of the contractor agency or supplier on barricades to assist in identifying the barricade owner.

The ATSA states that the barricade identification helps personnel, especially law enforcement personnel, to know whom to contact for replacement, repair, or repositioning. The ATSA proposes the name be permitted only on nonreflectorized members.

The FHWA proposes to amend Section 6C–8 to allow channelizing device identification on the face of nonreflectorized barricade members.

This proposed change would not impose any additional costs.

This notice of proposed amendments to the MUTCD is issued under the authority of 23 U.S.C. 109(d), 315, and 402(a), and the delegation of authority in 49 CFR 1.48(b).

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant proposal under the regulatory policies and procedures of the Department of Transportation. For the reasons stated herein, under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities. Due to the preliminary nature of this inquiry, a regulatory evaluation has not been prepared at this time. The expected impact of the changes requested is so minimal that a full regulatory evaluation does not appear to be warranted. The need to further evaluate economic consequences will be reviewed on the basis of the comments submitted in response to this notice. List of Subjects in 23 CFR Parts 625 and 655.

Design standards, Grant programs-transportation, Highways and roads, Signs, Traffic regulations.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal program and activities apply to this program)

Issued on: January 4, 1984.

L. P. Lamm,

Deputy Administrator, Federal Highway Administration.

[FR Doc. 84–482 Filed 1–9–84; 8:45 am]

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23 CFR Part 645

[FHWA Docket No. 80–4, Notice 2]

Accommodation of Utilities

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FHWA proposes to revise its regulations on the accommodation of utility facilities and private lines on the rights-of-way of Federal-aid and direct Federal highway projects to clarify existing provisions and to eliminate unnecessary and duplicative requirements.

DATE: Comments must be received on or before March 12, 1984.

ADDRESS: Submit written comments, preferably in triplicate, to the Federal Highway Administration, HCC–10, FHWA Docket No. 80–4, Notice 2, Room 4205, 400 Seventh Street, SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. James A. Carney, Office of Engineering (202) 426–0450; or Mr. Michael J. Laska, Office of the Chief Counsel (202) 426–0762; Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

An advance notice of proposed rulemaking was published on September 27, 1976 (41 FR 42220), to request comments on a proposed updating of FHWA's regulation dealing with the accommodation of utility facilities on the rights-of-way of Federal and Federal-aid highway projects (23 CFR Part 645, Subpart B). Two comments were received on the advance notice of proposed rulemaking, one from a utility company and the other from the American Association of State Highway and Transportation Officials (AASHTO).

A notice of proposed rulemaking (initial NPRM), FHWA Docket 80–4 (45 FR 26280, April 17, 1980), presented the FHWA's proposals for updating its current regulations dealing with the utility facility and private line use and occupancy of the rights-of-way of Federal-aid and direct Federal highway

projects. There were 83 comments submitted to FHWA regarding the NPRM. Comments were received from State highway agencies, utility companies, public interest groups, safety organizations, the Rural Electrification Administration, and the American Society of Civil Engineers. Based on further review and on the nature and extent of the comments to the NPRM, FHWA is again proposing revisions to the utility accommodation regulations so as to solicit additional public input prior to preparation of a final rule.

Discussion of Comments

The following discussion addresses significant issues raised in comments to the initial NPRM:

Economic Impacts

The utility industry expressed concerns regarding how the proposed revisions would be interpreted and applied and the resulting economic impact. The utility company comments indicated a belief that the economic impact of the proposed revisions could well be very substantial and, as a consequence, the FHWA should proceed with caution and that a regulatory evaluation should be prepared. The initial NPRM, while containing language changes highlighting safety requirements, was not considered by the FHWA to be a significant change from existing regulations. The initial NPRM included references to other safety related requirements such as those found in 23 U.S.C. 109(1); 23 CFR Part 630, Subpart J; and the "Manual on Uniform Traffic Control Devices" (This publication is on file at the Office of the Federal Register in Washington, D.C. It is available for inspection and copying from the FHWA Washington Headquarters and FHWA Division and Regional Offices as prescribed in 49 CFR Part 7, Appendix D); however, these other safety requirements are contained in existing regulations and are not imposed by the proposed revisions. Further, the economic impacts mentioned by several commenters are fundamentally related to the terms of existing use and occupancy agreements between individual utilities and State highway agencies. The right and obligation to maintain a safe roadside environment is legitimately within a State's police power for preserving health and safety and does not occur as a result of the proposed revisions. A draft regulatory evaluation has been prepared reflecting the above discussion.

Safety Issues

Considerable concern was expressed with respect to the highway safety issues raised by the initial NPRM. In general, the commenters agreed that highway safety is important, but, as previously discussed, the utility industry focused their concerns on the potential economic impacts. One view expressed by a safety group emphasized that the revisions should be more explicit to adequately safeguard the motorist from the dangers of utility poles. The group called for a policy with more definitive requirements to promote a safer roadside environment. This general view was also expressed by one State highway agency. The basic premise of both the existing regulation and the initial NPRM was that utility installations must conform to the clear roadside policy applicable to the type of highway involved. Since a policy of maintaining a clear roadside should not be restricted to a specific utility accommodation regulation, no specific requirements were proposed.

This approach leaves some discretion for maintaining clear roadsides to the States and avoids establishing a restrictive Federal regulation detailing specific requirements. The FHWA proposes in this NPRM to continue this approach and to refine it further by defining the issues involved. A new definition of clear recovery area under § 645.207(b) is being proposed. Additionally, the American Association of State Highway and Transportation Official's (AASHTO) "Guide for Selecting, Locating, and Designing Traffic Barriers," 1977, is proposed to be incorporated under §§ 645.207(b) and 645.211 to aid in the FHWA review of the adequacy of the "State Utility Accommodation Policies." A new § 645.209(b) is also proposed to be added regarding requirements for new utility installations. (This AASHTO publication is on file at the Office of the Federal Register in Washington, D.C. It is available for inspection from the FHWA Washington Headquarters and FHWA Division and Regional Offices as prescribed in 49 CFR Part 7, Appendix D. Copies of current AASHTO publications are available for purchase from the American Association of State Highway and Transportation Officials, Suite 225, 444 North Capitol Street, N.W., Washington, D.C. 20001.)

Traffic Control Plans

There were several comments on this proposed requirement regarding traffic control plans. Although some were supportive of requiring utility traffic control plans, most had reservations. The traffic control plan concept is considered by the FHWA to be a necessary and appropriate requirement, and the requirement is retained in this document. Also, several commenters felt clarification of the plan's requirements was necessary. The FHWA agrees and has rewritten the proposed § 645.209(j). This section would require that the highway agencies establish procedures for the development of the traffic control plans.

Wetland Drainage

A public interest organization objected to the possible interpretation of the definition of utility which would include the installation, on Federal-aid rights-of-way, of structures to drain adjacent wetlands. In light of the concerns about wetland drainage, a new § 645.209(l) is proposed to prohibit the installation of privately owned lines on the right-of-way (i.e., into roadside ditches). This does not preclude making provisions for normal overland drainage, nor does it address the issue of publicly owned installations. In this respect, it must be noted that such entities as drainage districts are legally constituted activities which are generally considered a utility and the proposed wording would not limit their activities on or across the rights-of-way.

Right-of-way Widths

Several comments from the utility industry addressed difficulties utility companies have or may experience in obtaining their own rights-of-way. One utility company suggested that the highway agencies should be acquiring wider rights-of-way to enable the safer accommodation of utilities within the public rights-of-way. The AASHTO publications "Geometric Design Guide for Local Roads and Streets," 1970, and "A Policy of Design of Urban Highways and Arterial Streets," 1973, in discussing the rights-of-way needs for nonfreeway highway facilities, point to the desirability of providing border areas of sufficient width to accommodate utility facilities. (These publications are on file at the Office of the Federal Register in Washington, D.C. They are available for inspection from the FHWA Washington Headquarters and FHWA Division and Regional Offices as prescribed in 49 CFR Part 7, Appendix D. Copies of current AASHTO publications are available for purchase from the American Association of State Highway and Transportation Officials, Suite 225, 444 North Capitol Street, N.W., Washington, D.C. 20001.) To accommodate this suggestion, the FHWA proposes to revise § 645.209(a) to include a

statement that potential utility joint-use should be considered in determining rights-of-way for a proposed project.

Proposed Revisions

The majority of the proposed revisions are editorial or provide clarification. In addition to the proposed revisions discussed above in response to comments received on the NPRM, the following revisions to the existing regulation are proposed:

1. Section 113 of the Surface Transportation Assistance Act of 1978 (Pub. L. 95–599, 92 Stat. 2689) amended 23 U.S.C. 109 by adding a new subsection (1) relating to the Secretary of Transportation's approval of the use of Federal-aid highway rights-of-way by utility facilities. Further, 23 U.S.C. 109(1)(A) was amended by Pub. L. 96–109, 93 Stat. 796, which deleted the words "any aspect of" leaving the text to read, "which would adversely affect safety." The intent of this statutory amendment was not to deemphasize congressional concern with safety, but to clarify Federal policy on utility accommodations. Proposed implementing procedures for 23 U.S.C. 109(1) have been developed as part of this rulemaking process.

2. Appendix A, which refers to certain sections of the AASHTO publication entitled, "A Policy on the Accommodation of Utilities on Freeway Rights-of-Way," would be eliminated. The material contained in the appendix has been sufficiently referenced in the text of the proposed rule, making the appendix unnecessary.

3. The current regulations require a State highway authority to submit a statement to the FHWA on the authority of utilities to use and occupy the rights-of-way of State highways, the State's authority to regulate such use, and the policies the State highway authority employs, or proposes to employ, for accommodating utilities within the rights-of-way of Federal-aid highways under its jurisdiction. The proposed rule retains this requirement. Statements previously submitted and approved by the FHWA need not be resubmitted provided the statement adequately addresses the requirements in this regulation. If the revisions to the statements or new statements are necessary, the proposed rule establishes a 1-year target date for submittal of the revised or new statements to the FHWA.

4. The FHWA proposes to use the AASHTO publication "A Policy on the Accommodation of Utilities Within Freeway Rights-of-Way," 1982, for application on Federal-aid and direct Federal highway projects. The FHWA also proposes to use the AASHTO publications "A Guide for Accommodating Utilities Within Highway Rights-of-Way," 1981, and "Guide for Selecting, Locating, and Designing Traffic Barriers," 1977, when evaluating the adequacy of a State highway agency's utility accommodation policy. These AASHTO publications are proposed for incorporation by reference in the proposed rule.

Interested persons are invited to comment on these AASHTO publications and their use for controlling utilities on highway rights-of-way. These publications are on file with the Office of the Federal Register in Washington, D.C. They are available for inspection from the FHWA Washington Headquarters and FHWA Division and Regional Offices, as prescribed in 49 CFR Part 7, Appendix D. These publications may be purchased from the American Association of State Highway and Transportation Officials, Suite 225, 444 North Capitol Street, NW., Washington, D.C. 20001.

The FHWA has determined that the document contains neither a major rule under Executive Order 12291 nor a significant regulation under DOT regulatory policies and procedures. A draft regulatory evaluation (initial regulatory flexibility analysis) is available for inspection in the public docket and may be obtained by contacting Mr. James A. Carney at the address provided under the heading "For Further Information Contact." The FHWA has made a preliminary determination that these revisions are not likely to have a significant economic impact on a substantial number of small entities (i.e., small businesses, small organizations, and small governmental jurisdictions) pursuant to Pub. L. 96–354, the Regulatory Flexibility Act. Based on comments received in response to this notice, the FHWA will review the need for a regulatory flexibility analysis in conjunction with the preparation of a final rule.

In consideration of the foregoing and under the authority of 23 U.S.C. 109, 116, 23 CFR 1.23, 1.27 and 49 CFR 1.48(b), the FHWA proposes to amend Part 645 of title 23 of the Code of Federal Regulations as set forth below.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

List of Subjects in 23 CFR Part 645

Grant Programs—transportation, Highways and roads, Incorporation by reference, Utilities.

Issued on: January 4, 1984.

L. P. Lamm,

Deputy Administrator, Federal Highway Administration.

Part 645 is amended by revising Subpart B to read as follows:

PART 645—UTILITIES

* * * * *

Subpart B—Accommodation of Utilities

Sec.

645.201 Purpose.
645.203 Applicability.
645.205 Policy.
645.207 Definitions.
645.209 General requirements.
645.211 State highway agency accommodation policies.
645.213 Use and occupancy agreements (permits).
645.215 Approvals.

Authority: 23 U.S.C. 109, 116; 23 CFR 1.23 and 1.27; 49 CFR 1.48(b); Executive Order 11990, 42 FR 26961 (May 24, 1977).

Subpart B—Accommodation of Utilities

§ 645.201 Purpose.

To prescribe policies and procedures for accommodating utility facilities and private lines on the rights-of-way of Federal-aid or direct Federal highway projects.

§ 645.203 Applicability.

(a) This subpart applies to new utility installations within the rights-of-way of Federal-aid or direct Federal highway projects.

(b) This subpart applies to existing utility facilities which are to be retained, relocated, or adjusted within the rights-of-way of active projects under development or construction when Federal-aid or direct Federal highway funds are either being or have been used on the involved highway facility. Where existing utility installations are to remain the highway agency and utility are to enter into an appropriate agreement as discussed in § 645.213 of this part.

(c) This subpart also applies to existing utility facilities which are to be adjusted or relocated under the provisions of § 645.209(k).

§ 645.205 Policy.

(a) It is in the public interest for utility facilities to be accommodated on the rights-of-way of a Federal-aid or direct Federal highway project when such use

and occupancy of the highway rights-of-way do not adversely affect highway or traffic safety, or otherwise impair the highway or its aesthetic quality, and do not conflict with the provisions of Federal, State or local laws or regulations.

(b) The manner in which utilities cross or otherwise occupy the rights-of-way of a Federal or Federal-aid highway project can materially affect the highway, its safe operation, aesthetic quality, and maintenance. Therefore, it is necessary that such use and occupancy, where authorized, be regulated by highway agencies in a manner which preserves the operational safety and the functional and aesthetic quality of the highway facility. This subpart shall not be construed to alter the basic authority of utilities to install their facilities on public highways pursuant to law or franchise and reasonable regulation by highway agencies with respect to location and manner of installation.

§ 645.207 Definitions.

For the purpose of this regulation, the following definitions shall apply:

(a) *Aesthetic quality*—those desirable characteristics of the appearance of the highway and its environment, such as harmony between or blending of natural and manufactured objects in the environment, continuity of visual form without distracting interruptions, and simplicity of designs which are desirably functional in shape but without clutter.

(b) *Clear recovery area*—that portion of the roadside, within the highway rights-of-way as established by the highway agency, free of nontraversable hazards and fixed objects. The purpose of such areas is to provide drivers of errant vehicles which leave the traveled portion of the roadway a reasonable opportunity to stop safely or otherwise regain control of the vehicle. The clear recovery area may vary with the type of highway, terrain traversed, and road geometric and operating conditions. The American Association of State Highway and Transportation Officials (AASHTO) "Guide for Selecting, Locating, and Designing Traffic Barriers," 1977, (This publication is incorporated by reference and is on file at the Office of the Federal Register in Washington, D.C. It is available for inspection from the FHWA Washington Headquarters and all FHWA division and regional Offices as prescribed in 49 CFR Part 7, Apppendix D. Copies of current AASHTO publications are available for purchase from the American Association of State Highway and Transportation Officials, Suite 225, 444 North Capitol Street NW., Washington, D.C. 20001.) should be used as a guide for establishing clear recovery areas for various types of highways and operating conditions.

(c) *Clear roadside policy*—that policy employed by a highway agency to provide a clear recovery area in order to increase safety, improve traffic operations, and enhance the aesthetic quality of highways by designing, constructing and maintaining highway roadsides as wide, flat and rounded as practical and as free as practical from natural or manufactured hazards such as trees, drainage structures, non-yielding sign supports, highway lighting standards, and utility poles and other ground-mounted structures. The policy should address the removal of roadside obstacles which are likely to be associated with accident or injury to the highway user, or where such obstacles are essential, the policy should provide for appropriate countermeasures to reduce hazards, such as placement at a location which affords protection to an out-of-control vehicle, provision of breakaway features, protection by impact attenuation devices, or shielding. In all cases full consideration shall be given to sound engineering principles and economic factors.

(d) *Direct Federal highway projects*—those active or completed highway projects such as forest highways, public lands highways, etc., which are under the direct administration of the Federal Highway Administration (FHWA).

(e) *Federal-aid Highway projects*—those active or completed highway projects administered by or through a State highway agency which involve or have involved the use of Federal-aid highway funds for the development, acquisition of right-of-way, construction or improvement of the highway or related facilities, including highway beautification projects under 23 U.S.C. 319.

(f) *Freeway*—a divided arterial highway with full control of access.

(g) *Highway agency*—that department, agency, commission, board, or official of any State or political subdivision thereof, charged by its law with the responsibility for highway administration.

(h) *Highway*—any public way for vehicular travel, including the entire area within the rights-of-way and related facilities constructed or improved in whole or in part with Federal-aid or Federal highway funds.

(i) *Private lines*—privately owned facilities which convey or transmit the commodities outlined in paragraph (m) of this section, but devoted exclusively to private use.

(j) *Rights-of-way*—real property, or interests therein, acquired, dedicated or reserved for the construction, operation, and maintenance of a highway in which Federal-aid or Federal highway funds are or have been involved in any stage of development. Lands acquired under 23 U.S.C. 319, Landscaping and Scenic Enhancement, shall be considered to be highway rights-of-way.

(k) *State highway agency*—the highway agency of one of the 50 States, the District of Columbia, or Puerto Rico.

(l) *Use and occupancy agreement*—the document (written agreement or permit) by which the highway agency approves the use and occupancy of highway rights-of-way by utility facilities or private lines.

(m) *Utility facility*—privately, publicly or cooperatively owned line, facility, or system for producing, transmitting, or distributing communications, cable television, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, or any other similar commodity, including any fire or police signal system or street lighting system, which directly or indirectly serves the public. The term utility shall also mean the utility company inclusive of any wholly owned or controlled subsidiary.

§ 645.209 General requirements.

(a) Highway and traffic safety is of paramount, but not of sole importance, when accommodating utility facilities within highway rights-of-way. Utilities provide an essential public service to the general public. Traditionally, as a matter of sound economic public policy and law, utilities have used public road rights-of-way for tramsmitting and distributing their services. However, due to the nature and volume of highway traffic, the effect of such joint use on the traveling public must be carefully considered by highway agencies before approval of utility use of the rights-of-way of Federal-aid or direct Federal highway projects is given. Adjustments in the operating characteristics of the utility or the highway or other special efforts may be necessary to increase the compatability of utility-highway joint use. The possibility of this joint use should be a consideration in establishing right-of-way requirements for highway projects. In any event, the design, location, and manner in which utilities use and occupy the rights-of-way of Federal-aid or direct Federal highway projects must conform to the clear roadside policies for the highway involved and otherwise provide for a safe traveling environment as required by 23 U.S.C. 109(l)(1).

(b) On Federal-aid or direct Federal highway projects, new above ground

utility installations, where permitted, shall be located as far from the traveled way as possible, preferably along the right-of-way line. New above ground utility installations should be compatible with existing roadside conditions. Where it is necessary to locate above ground utility facilities within the clear recovery area of the highway they shall be of an approved breakaway design. Exceptions may be made to this requirement where (1) the use of a breakaway design is not practical, (2) protection to traffic is provided by impact attenuation devices or shielding, and (3) a determination has been made by the highway agency that placement underground is not feasible.

(c) Utility installations on freeway right-of-way shall conform to the provisions of the AASHTO publication, "A Policy on the Accommodation of Utilities Within Freeway Right-Of-Way," 1982, (This publication is incorporated by reference and is on file at the Office of the Federal Register in Washington, D.C. It is available for inspection from the FHWA Washington Headquarters and all FHWA Division and Regional Offices as prescribed in 49 CFR Part 7, Appendix D. Copies of current AASHTO Publications are available for purchase from the American Association of State Highway and Transportation Officials, Suite 225, 444 North Capitol Street NW., Washington, D.C. 20001.) However, the provisions of this subpart shall not be constructed to prohibit the installation on Federal-aid freeway rights-of-way of utility transmission facilities or justified utility installations warranted under the provisions of 23 U.S.C. 109(l)(1) (B) and (C) to mitigate damage to agricultural lands, provided (1) there is adequate right-of-way available which is not needed for planned highway expansion, and (2) such use does not adversely affect highway safety, highway operations or otherwise impair the highway, its aesthetic quality, or its maintenance, and (3) it can be shown that the installation on the freeway right-of-way is the most feasible and prudent location available. Where such installations are proposed, the access control line shall be relocated inward to create a utility strip precluding access to the utility facilities from the main traveled ways or ramps. Access to such installations shall conform to the aforementioned AASHTO policy.

(d) For a highway agency to fulfill its responsibilities to control utility use of Federal-aid highway rights-of-way within the State and its political subdivisions, it must exercise or cause to be exercised, adequate regulation over such use and occupancy through the establishment and enforcement of reasonably uniform policies and procedures for utility accomodation.

(e) Because there are circumstances where private lines may be allowed on the rights-of-way of Federal-aid projects, highway agencies shall establish uniform policies for properly controlling such permitted use.

(f) On direct Federal highway projects, the FWHA will apply, or cause to be applied, utility and private line accommodation policies similar to those required on Federal-aid highway projects. Where appropriate, agreements will be entered into between the FHWA and the highway agency or other government agencies to ensure adequate control and regulation of use by utilities and private lines of the rights-of-way on direct Federal highway projects.

(g) Where the State highway agency does not have legal authority to regulate highway use by utilities and private lines, the State highway agency must enter into formal agreements with those local officials who have such authority. The agreements must provide for a degree of protection to the highway at least equal to the protection provided by the State highway agency's utility accommodation policy approved under the provisions of § 645.215(b) of this part. The project agreement between the State highway agency and the FHWA on all such Federal-aid highway projects shall contain a special provision incorporating the formal agreements with the responsible local officials.

(h) New utility installations, including those needed for a highway purpose, such as for highway lighting or to serve a weigh station, rest area or recreation area, are not permitted to be installed on highway rights-of-way or other lands acquired or improved with federal-aid or direct Federal highway funds which are located within or adjacent to areas of scenic enhancement and natural beauty. Such areas include public park and recreational lands, wildlife and waterfowl refuges, historic sites as described in 23 U.S.C. 138, scenic strips, overlooks, rest areas and landscaped areas. The State highway agency may permit exceptions as follows:

(1) New underground or aerial installations may be permitted where they do not require extensive removal or alteration of trees or terrain features visible to the highway user or impair the aesthetic quality of the lands being traversed.

(2) In addition, aerial installations may be permitted only where:

(i) Other locations:

(A) Are not available or are usually difficult and unreasonably costly.

(B) Are less desirable from the standpoint of aesthetic quality.

(ii) Placement underground is not technically feasible or is unreasonably costly.

(iii) The proposed installation will be made at a location and will employ suitable designs and materials which give the greatest weight to the aesthetic qualities of the area being traversed. Suitable designs include, but are not limited to, self-supporting armless, single-pole construction with vertical configuration of conductors and cable.

(i) Where the utility has a compensable interest in the land occupied by its facilities and such land is to be jointly occupied and used for highway and utility purposes, the highway agency and utility shall agree in writing as to the obligations and responsibilities of each party. Such joint-use agreements shall incorporate the conditions of occupancy for each party, including the rights vested in the highway agency and the rights and privileges retained by the utility. In any event, the interest to be acquired by or vested in the highway agency in any portion of the rights-of-way of a Federal-aid or direct Federal highway project to be vacated, used or occupied by utilities or private lines, shall be adequate for the construction, safe operation, and maintenance of the highway project.

(j) Whenever a utility installation, adjustment or maintenance activity will affect the movement of traffic, the utility shall implement a traffic control plan and utilize traffic control devices as necessary to ensure the safe and expeditious movement of traffic around the work site and the safety of the utility work force in accordance with procedures established by the highway agency. The traffic control plan and the application of traffic control devices shall conform to the standards set forth in the "Manual on Uniform Traffic Control Devices" (MUTCD) (This publication is incorporated by reference and is on file at the Office of the Federal Register in Washington, D.C. It is available for inspection and copying from the FHWA Washington Headquarters and all FHWA Division and Regional Offices as prescribed in 49 CFR Part 7, Appendix D.) and 23 CFR Part 630, Subpart J.

(k) Where the highway agency determines that existing utility facilities are likely to be associated with injury or accident to the highway user, as indicated by accident history or safety studies, the highway agency shall initiate or cause to be initiated in

consultation with the affected utilities, corrective measures to provide for a safer traffic environment. The corrective measure should be prioritized to maximize safety benefits in the most cost effective manner. The scheduling of utility safety improvements should take into consideration planned utility replacement or upgrading schedules, accident potential, and the availability of resources. It is expected that the requirements of this paragraph will result in an orderly and positive process to address the identified utility hazard problems in a timely and reasonable manner with due regard to the effect of the corrective measures on both the utility consumer and the road user. The type of corrective measures are not prescribed. Any requests received involving Federal participation in the cost of adjusting or relocating utility facilities pursuant to the paragraph shall be subject to the provisions of 23 CFR Part 645, Subpart A, Utility Relocation and Adjustments, and 23 CFR Part 924, Highway Safety Improvement Program.

(l) The installation of privately owned lines or conduits on the rights-or-way of Federal-aid or direct Federal highway projects for the purpose of draining adjacent wetlands onto the highway rights-of-way is considered to be inconsistent with Executive Order 11990, Protection of Wetlands, dated May 24, 1977, and shall be prohibited.

§ 645.211 State highway agency accommodation policies.

The FHWA shall use the AASHTO publications, "A Guide for Accommodating Utilities Within Highway Right-of Way," 1981, and "Guide for Selecting, Locating and Designing Traffic Barriers," 1977, (These publications are incorporated by reference and are on file at the Office of the Federal Register in Washington, D.C. They are available for inspection from FHWA Washington Headquarters and all FWHA Division and Regional Offices as prescribed in 49 CFR Part 7, Appendix D. Copies of current AASHTO publications are available for purchase from the American Association of State Highway and Transportation Officials, Suite 225, 444 North Capitol Street NW., Washington, D.C. 20001.) to assist in the evaluation of adequacy of State highway agency utility accommodation policies. As a minimum, such policies shall make adequate provisions with respect to the following:

(a) Utilities must be accommodated and maintained in a manner which will not impair the highway or adversely affect highway or traffic safety.

(b) Consideration shall be given to the effect of utility installations in regard to safety, aesthetic quality, and the costs or difficulty of highway and utility construction and maintenance.

(c) The State highway agency's standards for regulating the use and occupancy of highway rights-of-way by utilities must include, but are not limited to, the following:

(1) The horizontal and vertical location requirements and clearances for the various types of utilities must be clearly stated. These must be adequate to ensure compliance with the clear roadside policies for the particular highway involved.

(2) The applicable provisions of government or industry codes required by law or regulation must be set forth or appropriately referenced, including highway design standards or other measures which the State highway agency deems necessary to provide adequate protection to the highway, its safe operation, aesthetic quality, and maintenance.

(3) Specification for and methods of installation; requirements for preservation and restoration of highway facilities, appurtenances, and natural features and vegetation on the rights-of-way; and limitations on the utility's activities within the rights-of-way including installation within areas set forth by § 645.209(h) of this part should be prescribed as necessary to protect highway interests.

(4) Measures necessary to protect traffic and its safe operation during and after installation of facilities, including control-of-access restrictions, provisions for rerouting or detouring traffic, traffic control measures to be employed, procedures for utility traffic control plans, limitations on vehicle parking and materials storage, protection of open excavations, and the like must be provided.

(5) In any case where the provisions of this part may result in the disapproval of a utility's request to use and occupy highway rights-of-way, measures must be provided to evaluate the direct and indirect environmental and economic effects of any loss of productive agricultural land or any impairment of the productively of any agricultural land that would result from the disapproval. The environmental and economic effects on productive agricultural land together with the possible interference with or impairment of the use of the highway and the effect on highway safety must be considered in the decision to disapprove any proposal by a utility to use such highways rights-of-way.

(d) Compliance with applicable State laws and approved State highway agency utility accommodation policies must be assured. The responsible State highway agency's file must contain evidence of the written arrangements which set forth the terms under which utility facilities are to cross or otherwise occupy highway rights-of-way. All utility installations made on highway rights-of-way shall be subject to written approval by the State Highway agency. However, such approval will not be required where so provided in the use and occupancy agreement for such matters as utility facility maintenance, installation of service connections on highways other than freeways, or emergency operations.

§ 645.213 Use and occupancy agreements (permits).

The written arrangements, generally in the form of use and occupancy agreements setting forth the terms under which the utility is to cross or otherwise occupy the highway rights-of-way, must include or incorporate by reference:

(a) The highway agency standards for accommodating utilities. Since all of the standards will not be applicable to each individual utility installation, the use and occupancy agreement must, as a minimum, describe the requirements for location, construction, protection of traffic, maintenance, access restriction, and any special conditions applicable to each installation.

(b) A general description of the size, type, nature, and extent of the utility facilities being located within the highway rights-of-way.

(c) Adequate drawings or sketches showing the existing and/or proposed location of the utility facilities within the highway rights-of-way with respect to the existing and/or planned highway improvements, the traveled way, the rights-of-way lines and, where applicable, the control of access lines and approved access points.

(d) The extent of liability and responsibilities associated with future adjustment of the utilities to accommodate highway improvements.

(e) The action to be taken in case of noncompliance with the highway agencies requirements.

(f) Other provisions as deemed necessary to comply with laws and regulations

§ 645.215 Approvals.

(a) Each State highway agency shall submit a statement to the FHWA on the authority of utilities to use and occupy the rights-of-way of State highways, the State highway agency's power to regulate such use, and the policies the State highway agency employs or proposes to employ for accommodating utilities within the rights-of-way of

Federal-aid highways under its jurisdiction. Statements previously submitted and approved by the FHWA need not be resubmitted provided the statement adequately addresses the requirements of this part. Where revisions are deemed necessary the changes to the previously approved statement may be submitted separately to the FHWA for approval. The State highway agency shall include similar information on the use and occupancy of such highways by private lines where permitted. The State shall identify those areas, if any, of the Federal-aid highway system within its borders where the State highway agency is without legal authority to regulate use by utilities. The statement shall address the nature of the formal agreements with local officials required by § 645.209(g) of this part. It is expected that the statements required by this part or necessary revisions to previously submitted and approved statements will be submitted to FHWA within 1 year of the effective date of this regulation.

(b) Upon determination by the FHWA that a State highway agency's policies satisfy the provisions of 23 U.S.C. 109 and 116, and 23 CFR 1.23 and 1.27, and meet the requirements of this regulation, the FHWA may approve their use on Federal-aid highway projects in that State.

(c) Any changes, additions or deletions the State highway agency proposes to the approved policies are subject to FHWA approval.

(d) When a utility files a notice or makes an individual application or request a State highway agency to use or occupy the rights-of-way of a Federal-aid highway project, the State highway agency is not required to submit the matter to the FHWA for prior concurrence, except under the following circumstances:

(1) The proposed installation is not in accordance with this regulation or the State highway agency's utility accommodation policy approved by the FHWA for use on Federal-aid highway projects.

(2) Installations on Federal-aid freeways involving special case exceptions, as described in AASHTO publication, "A Policy on the Accommodation of Utilities Within Freeway Right-of-Way," 1982, and § 645.209(c) of this part.

(e) The State highway agency's practices under the policies or agreements approved under § 645.215(b) of this part shall be periodically reviewed by the FHWA.

[FR Doc. 84-559 Filed 1-9-84; 8:45 am]
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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-130-76]

Simultaneous Liquidation of Parent and Subsidiary Corporations; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the nonrecognition of gain or loss in the case of certain sales that are followed by a corporate liquidation. Changes to the applicable tax law were made by the Tax Reform Act of 1976 and the Revenue Act of 1978. These regulations would provide the public with guidance needed to comply with the changes and would affect certain sales of corporate property when a parent and one or more subsidiary corporations liquidate within 12 months after the adoption of a plan of complete liquidation.

DATES: Written comments and requests for a public hearing must be delivered or mailed by March 12, 1984. The amendments are proposed to be effective for sales or exchanges made purusuant to a plan of complete liquidation adopted after December 31, 1975.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, (LR-130-76), Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Carolyn Swift of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T (202-566-3458, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 337 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 2118 of the Tax Reform Act of 1976 (90 Stat. 1912) and section 701 (i) of the Revenue Act of 1978 (92 Stat. 2904) and to clarify certain filing requirements under existing regulation § 1.337-6. The amendments are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Section 337 generally allows a corporation (the selling corporation) that adopts a plan of complete liquidation to recognize no gain or loss from the sale or exchange of certain of its property occurring within a 12-month period beginning on the date of the plan's adoption if the selling corporation liquidates completely within the 12-month period. In general, the rule does not apply (or is subject to certain limitations) if section 332 applies to the liquidation (that is, if the liquidating corporation is an 80-percent-or-more controlled subsidiary whose parent corporation recognizes no gain or loss on the liquidation.)

The Tax Reform Act of 1976 amended section 337 to permit the general nonrecognition rule of section 337(a) to apply to a selling corporation that is a controlled subsidiary in an affiliated chain of corporations. In order to obtain this nonrecognition treatment, the selling corporation and each member of the chain which received, within the 12-month period beginning on the date upon which the plan of liquidation is adopted by the selling corporation, a distribution in complete liquidation from another member of the chain must also liquidate within the 12-month period. The rule added by the amendment applies only if section 32 would apply to any distribution by the selling corporation. Under the proposed regulations, all distributee corporations are required to liquidate regardless of whether section 332 applies to the subsequent liquidations. The proposed regulations also provide that in determining whether a corporation is a member of the chain, ownership of stock is measured on the date on which any liquidating distribution is made to that corporation by its immediate transferor liquidating corporation, and not on the date upon which the plan of liquidation is adopted by the selling or transferor corporation, the date assets are sold, or the date on which the liquidating distribution is received. Changes in ownership of stock prior to the date of distribution will not affect this determination.

The Revenue Act of 1978 made technical corrections to the amendment made by the 1976 Act. Under the 1978 Act amendments, all of the liquidations required by the provisions of the 1976 Act must be liquidations to which section 333 does not apply. The 1978 Act also specified that the only corporations

required to liquidate are the selling corporation and any corporation in the chain which received distributions in complete liquidation from either the selling corporation or a corporation above the selling corporation in the chain of includible corporations. The proposed regulations provide that a corporation is a distributee corporation and, therefore, required to liquidate if it indirectly receives a liquidating distribution from the selling corporation. An indirect distribution occurs when any corporation in the chain receives a liquidating distribution from any other member of the chain that is required to liquidate under the provisions of section 337(c)(3).

Regulation § 1.337–6 requires corporations to which the nonrecognition provisions of section 337 apply to file certain information with "the return" but it does not specify to which return the required information must be attached. The clarifying amendment to the regulation provides that the information must be filed with either the return for the taxable year in which the 12-month period ends or for the last taxable year in which the corporation remains in existence, whichever is earlier.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Regulatory Flexibility Act and Executive Order 12291

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting Information

The principal author of these proposed regulations is Carolyn Swift of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the proposed regulations, both on matters of substance and style.

List of Subjects in 26 CFR 1.301–1—1.385–6

Income taxes, Corporations, Corporate distributions, Corporate adjustments, Reorganizations.

PART 1—[AMENDED]

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. Section 1.337–1 is amended by removing the next to the last sentence and inserting in lieu thereof:

§ 1.337–1 General.

* * * Likewise, section 337 does not apply to sales or exchanges made by a corporation (the selling corporation) if the selling corporation is liquidated in a transaction to which section 333 is applicable in any way. Moreover, section 337 generally does not apply if the selling corporation is liquidated in a transaction to which section 332 applies. There are two exceptions, however, to this general rule relating to liquidations to which section 332 applies. The first applies in certain cases in which the basis of the property distributed by the selling corporation in the hands of the corporation to which the distribution is made is determined under section 334(b)(2) (as in effect before the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA)). See section 337(c)(2)(B) (as in effect before TEFRA) and § 1.337–4. The second exception applies in certain cases involving affiliated corporations. See section 337(c)(3) and § 1.337–6. * * *

§ 1.337–6 [Redesignated as § 1.337–7]

Par. 2. Section 1.337–6 is redesignated § 1.337–7 and a new § 1.337–6 is to be added where appropriate to read as follows:

§ 1.337–6 Special rule for affiliated groups.

(a) *In general.* Section 337 (c)(2) does not apply to a sale or exchange of property by a corporation (the selling corporation) occurring within the 12-month period beginning on the date on which the selling corporation adopts a plan of complete liquidation (the 12-month period) if—

(1) The selling corporation and each distributee corporation (as defined in paragraph (b)(1) of this section) are completely liquidated within the 12-month period and

(2) None of the complete liquidations referred to in paragraph (a)(1) of this section is a liquidation to which section 333 is applicable in any way.

(b) *Distributee corporation.* (1)(i) For purposes of this section, the term "distributee corporation" means a corporation in the chain of includible corporations as defined in section 337(c)(3)(B)(ii) to which the selling corporation or a corporation above the selling corporation in the chain makes a direct or indirect distribution in complete liquidation within the 12-month period, whether or not section 332 applies to the distribution.

(ii) An indirect distribution occurs when a corporation in the chain of includible corporations receives a liquidating distribution from another member of the chain that is required to liquidate under the provisions of this section, regardless of whether the distributee corporation is above or below the selling corporation in the chain. See example (5) of paragraph (d) of this section.

(2) For purposes of determining whether a corporation is a member of the chain of includible corporations, as defined in section 337(c)(3)(B)(ii), ownership of stock is measured on the date on which any liquidating distribution is made to this corporation by the liquidating corporation and not on the date on which the plan of liquidation is adopted by the selling corporation, the date the assets are sold, or the date on which the liquidating distribution is received. Ownership of stock is measured on the date on which the liquidating distribution is made by the transferor whether or not changes in ownership of the stock have occurred before that date.

(c) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). Corporation P, all of whose stock is owned by individual shareholders, owns 100 percent of the stock of corporation S. On January 1, 1979, S adopts a plan of complete liquidation and sells all of its property on the same day. On March 1, 1979, S distributes all its property to its sole shareholder, P. To determine whether P is a member of the chain of includible corporations, its ownership of stock in S is measured on the date on which S made a distribution in complete liquidation (March 1, 1979). On March 1, 1979, P owned 100 percent of the stock in S. P is, therefore, a member of

the chain of includible corporations. Since S, the selling corporation, made a distribution in complete liquidation to P within the 12-month period and since on the date of the distribution, P and S are members of a chain of includible corporations, P is a distributee corporation. P adopts a plan of complete liquidation on April 1, 1979, and liquidates completely on June 15, 1979. Since both S and P liquidated within the 12-month period, S will recognize no gain or loss on the sale of its property.

Example (2). A group of individual shareholders owns 100 percent of the stock in S corporation which owns 100 percent of the stock in T corporation. On January 1, 1979, T adopts a plan of complete liquidation and sells all of its property on the same day. On March 3, 1979, T makes a distribution in complete liquidation to S. On April 9, 1979, corporation P, an unrelated corporation, buys for cash all of the stock in S from the individual shareholders. On May 15, 1979, S adopts a plan of complete liquidation. On June 11, 1979, S makes a distribution in complete liquidation to P. P is a distributee corporation even though P was not a member of the chain of includible corporations when T adopted its plan nor when T made its distribution in complete liquidation. P must, therefore, liquidate completely within the 12-month period in order for T not to recognize gain or loss on the sale of its property.

Example (3). The facts are the same as in Example (2) except that P purchases all of the stock of S on May 30, 1979. Section 332 will not apply to the liquidation of S into P because P did not own 80 percent of S when S adopted its plan. P is, nevertheless, a distributee corporation because it is a member of the chain of affiliated corporations when S, also a member of the chain and higher than the selling corporation in the chain, makes a liquidating distribution to P. P, therefore, must liquidate in order for T to avoid recognition of gain or loss on its sale of assets.

Example (4). P corporation, all of whose stock is owned by individual shareholders, owns 100% of the stock in S corporation. S owns 100% of the stock in T corporation. T owns 100% of the stock in U corporation. On March 9, 1979, T adopts a plan of complete liquidation and sells all of its assets except its stock in U on the same day. On March 25, 1979, T transfers all of its property (including all of its stock in U) as a distribution in complete liquidation to S. On March 30, 1979, S adopts a plan of liquidation, and, on the same day, transfers all of its property (including all of its stock in U corporation) to P as a distribution in complete must liquidation. P is a distributee corporation and must liquidate completely within the 12-month period. U, however, is not a distributee corporation since neither the selling corporation nor any corporation in the chain of includible corporations made a distribution in complete liquidation to U. U, therefore, need not liquidate in order for T not to recognize gain or loss on the sale of its property.

Example (5). Corporation P, all of whose stock is owned by individual shareholders, owns 80% of the only class of stock in corporation S. Corporation S owns 100% of the stock in corporation T. Corporation T owns 100% of the stock in corporation U. Corporation U owns 20% of the only class of stock in S. On February 13, 1979, S adopts a plan of complete liquidation and sells all its assets on February 15, 1979. On March 1, 1979, S makes a distribution in complete liquidation to P and U. On April 20, 1979, U makes a distribution in complete liquidation to T. T is a corporation below the selling corporation, S, in the chain of includible corporations. Since T received a liquidating distribution from U and U was required to liquidate under the provisions of this section, T is an indirect distributee corporation and must also liquidate within the 12-month period in order for S not to recognize gain or loss on the sale of its property.

(d) *Effective date.* This section applies to sales or exchanges made pursuant to a plan of complete liquidation adopted after December 31, 1975.

Par. 3. Redesignated § 1.337–7 is amended by adding a new paragraph (d) to read as follows:

§ 1.337–7 Information to be filed.

* * * * *

(d) *Return to which information must be attached.* For taxable years ending after [30 days after this notice is published as a Treasury decision in the **Federal Register**], the return referred to in paragraph (a) of this section is the return for either the taxable year in which the 12-month period ends or for the last taxable year in which the taxpayer filing the return is in existence, whichever is earlier.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 84–481 Filed 1–9–84; 8:45 am]

BILLING CODE 4830–01–M

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26 CFR Part 1

[LR–4–78]

Investment Credit for Cooperatives

Correction

In FR Doc. 83–34265 beginning on page 56965 in the issue of Tuesday, December 27, 1983, make the following corrections:

1. On page 56965, third column, under "DATES", sixth line, in place of "January 27, 1984" insert "[THE DATE THAT IS 30 DAYS AFTER PUBLICATION OF THESE PROPOSED AMENDMENTS AS A FINAL REGULATION]".

2. On page 56967, third column, in § 1.46–10(c)(3)(i), the fifth line should read "allocation as described in this".

3. On page 56967, same column, same paragraph, sixth line, "methid" should read "method".

BILLING CODE 1505–01–M

[LR–194–82]

26 CFR Part 1

Possessions Tax Credit: Definition of Product, Significant Business Presence Test, and Cost Sharing and Profit Split Elections

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: These proposed regulations are being issued to conform to changes made by the Tax Equity and Fiscal Responsibility Act of 1982 involving possessions corporations. The regulations provide rules for determining whether a possessions corporation has significant business presence in a possession with respect to a product. These regulations also provide rules which implement the cost sharing and profit split elections with respect to the possessions tax credit. A notice of a public hearing concerning these proposed regulations appears elsewhere in this issue of the **Federal Register**.

DATES: Written comments must be delivered or mailed by March 12, 1984. The regulations generally would be effective for taxable years of possessions corporations beginning on or after January 1, 1983.

ADDRESS: Send comments to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–194–82), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Jacob Feldman of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T (LR–194–82), 202–566–3289, concerning intangible property income in the absence of an election under section 936(h)(5), the cost sharing and profit split elections, and covered intangibles (§§ 1.936–4, 1.936–6, and 1.936–7); or Carol T. Doran of the same office concerning the definition of product, the significant business presence test, and contract manufacturing (§ 1.936–5).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 936(h) of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to changes made to the Internal Revenue Code by section 213 of the Tax Equity and Fiscal Responsibility Act of 1982 (the Act) (Pub. L. 97–248, 96 Stat. 452)

and are to be issued under the authority contained in section 936(h) (96 Stat. 452) and section 7805 of the Code (68A Stat. 917; 26 U.S.C. 7805). These regulations apply to taxable years beginning on or after January 1, 1983. Therefore, in particular, the rules concerning the definition of a product, the significant business presence test, and the attribution of income to a possessions corporation have no application for taxable years beginning before January 1, 1983.

Explanation of Provisions

Section 936(h) of the Code provides that the intangible property income of a possessions corporation generally is treated as income of the corporation's U.S. shareholders, with proration of income on the basis of shareholdings. If a shareholder is a foreign person or is not subject to U.S. tax on such income, the possessions corporation is taxable on that shareholder's pro rata amount of the intangible property income. Income attributable to intangible assets is defined in section 936(h)(3).

However, the taxpayer may elect out of the general rule and treat certain income attributable to intangible property as income of the possessions corporation eligible for the possessions tax credit if the possessions corporation has a significant business presence in a possession with respect to a product or type of service. The election out may be made under one of two options: the cost sharing option or the profit split option.

Section 936 provides that a possessions corporation has a significant business presence in a possession if it satisfies either the value added test or the direct labor test. The value added test is satisfied if total production costs incurred in a possession with respect to a product in a taxable year are not less than 25 percent of the difference between gross receipts from sales of the product by members of the affiliated group to third parties, and the direct material costs of the affiliated group for materials purchased for that product from third parties. The direct labor test is satisfied if no less than 65 percent of the direct labor costs of the affiliated group for units of the product produced or services rendered during the taxable year in whole or in part by the possessions corporation is incurred by the possessions corporation and is compensation for services performed in the possession.

The proposed regulations would provide an additional significant business presence test. A possessions corporation would satisfy this test if 50 percent of the direct labor costs of the affiliated group for units of the product produced, in whole or in part, during the taxable year by the possessions corporation is incurred by the possessions corporation as compensation for services performed in the possession; and if the sum of the direct labor costs incurred in the possession plus the base period construction costs incurred in the possession is no less than 70 percent of the sum of base period construction costs incurred in the possession and the direct labor costs of the affiliated group.

The proposed regulations would define the term "product." A product is any item of property which is the result of a manufacturing process. The term includes a component product, an integrated product, or an end-product form. A component product is a product which is subject to further transformation before sale to unrelated parties. An integrated product is a product which is not subject to further transformation before sale to unrelated parties and which includes all component products from which it is manufactured. An end-product form is a product which is not subject to futher transformation before sale to unrelated parties, which includes component products, but which is treated as not including certain of its component products for all purposes of section 936(h)(5).

The term "product" will have the same meaning for all purposes of section 936(h). Once the specific product is identified and the significant business presence test is satisfied with respect thereto, then it is that item with respect to which the possessions corporation will compute its return, if it uses the cost sharing option, or combined taxable income, if it uses the profit split option. Products whose manufacturing processes are similar may be grouped, provided that any grouping which materially distorts a taxpayer's income or the application of the significant business presence test may be disallowed.

Under the cost sharing option, the possessions corporation is requried to make a cost sharing payment with respect to manufacturing intangibles equal to a fraction of the current year's worldwide direct and indirect product area research expenditures of the affiliated group. The fraction is equal to the ratio of third party sales of units of the product produced or services rendered in whole or in part in the possession, to third party sales of all products produced or services rendered in the product area by the possessions corporation and all its U.S. and foreign affiliates. The cost sharing payment determined under the formula will reduce the amount of deductions otherwise allowable to the U.S. affiliates. The possessions corporation will be treated as the owner of manufacturing intangibles related to the units of the product produced or services rendered, in whole or in part, in the possession by the possessions corporation. Section 482 will be used for purposes of intercompany pricing.

If the profit split option is elected, 50 percent of the combined taxable income of the possessions corporation and its U.S. affiliates derived from units of the product produced or services rendered in whole or in part in the possession and sold to foreign affiliates or unrelated third parties will be allocated to the possessions corporation, and the remainder will be allocated to the U.S. affiliates. This method avoids section 482 uncertainties and permits the possessions corporation to obtain a return on both manufacturing and marketing intangibles.

Section 936(h) provides that an election to use the cost sharing or profit split method must cover all products within a broad product area, except that a different election may be made for export sales than domestic sales. Under this provision, a taxpayer may thus elect the cost sharing option for export sales even if it elects the profit split option for domestic sales. Export sales are defined as sales of a product or type of service for ultimate use or consumption outside the United States.

The proposed regulations are being issued in the form of questions and answers.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted [preferably seven copies] to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held on a date announced in the notice of public hearing appearing elsewhere in this issue of the **Federal Register**. Notwithstanding these proposed regulations, we invite additional submissions for our consideration with respect to possible inclusion in subsequent regulations; see 48 FR 34569.

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on these requirements should be sent to the

Office of information and Regulatory Affairs of OMB, Attention: Desk Officer for Internal Revenue Service, New Executive Office Building, Washington, D.C. 20503. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB also send copies of those comments to the Service.

Regulatory Flexibility Act and Executive Order 12291

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6), and a Regulatory Flexibility Analysis is not required. The Commissioner of Internal Revenue has determined that this proposed rule is not a major regulation as defined in Executive Order 12291, and therefore a regulatory impact analysis is not required.

Drafting Information

The principal authors of these proposed regulations are Jacob Feldman and Carol T. Doran of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects in 26 CFR 1.861 through 1.997–1

Income taxes, Aliens, Exports, DISC, Foreign investments in U.S., Foreign tax credit, Source of income, United States investment abroad.

Proposed Amendments to the Regulations

PART 1—[AMENDED]

26 CFR Part 1 is proposed to be amended by addition of the following new §§ 1.936–4–1.936–7 immediately after § 1.936–1.

Income Tax Regulations

§ 1.936–4 Intangible property income in the absence of an election out.

The rules in this section apply for purposes of section 936(h) and also for purposes of section 934(e), where applicable.

Question 1: If a possessions corporation and its affiliates do not make an election under either the cost sharing or 50/50 profit split option, what rules will govern the treatment of income attributable to intangible property owned or leased by the possessions corporation?

Answer 1: Intangible property income will be allocated to the possessions corporation's U.S. shareholders with the proration of income based on shareholdings. If a shareholder of the possessions corporation is a foreign person or a tax-exempt person, the possessions corporation will be taxable on that shareholder's pro rata amount of the intangible property income. For these purposes, a United States shareholder includes any shareholder who is a United States person as described under section 7701(a)(30). The term "intangible property income" means the gross income of a possessions corporation attributable to any intangible property other than intangible property which has been licensed to such corporation since prior to 1948 and which was in use by such corporation on September 3, 1982.

Question 2: What is the source of the intangible property income described in question 1?

Answer 2: The intangible property income is U.S. source, whether taxed to U.S. shareholders or taxed to the possessions corporation. Such intangible property income, if treated as income of the possessions corporation, does not enter into the calculation of the 80-percent possession source test or the 65-percent active trade or business test of section 936(a)(2) (A) and (B).

Question 3: How will the amount of income attributable to intangible property be measured?

Answer 3: Income attributable to intangible property includes the amount received by a possessions corporation from the sale, exchange, or other disposition of any product or from the rendering of a service which is in excess of the reasonable costs it incurs in manufacturing the product or rendering the service (other than costs incurred in connection with intangibles) plus a reasonable profit margin. A reasonable profit margin shall be computed with respect to direct and indirect costs other than (i) costs incurred in connection with intangibles, (ii) interest expense, and (iii) the cost of materials which are subject to processing or which are components in a product manufactured by the possessions corporation. Notwithstanding the above, certain taxpayers who have been permitted by the Internal Revenue Service in taxable years beginning before January 1, 1983, to use the cost-plus method of pricing without reflecting a return from intangibles, but including the cost of materials in the cost base, will not be precluded from doing so. (Sec. 3.02(3), Rev. Proc. 63–10, 1963–1 C.B. 490.) Thus, the Internal Revenue Service may continue in appropriate cases to permit such taxpayers to continue to report their income as they have been under existing procedures described in the previous sentence if it is appropriate under all the facts and circumstances and does not distort the income of the taxpayer.

Question 4: If there is no intangible property related to a product produced in whole or in part by a possessions corporation, what method may the possessions corporation use to compute its income?

Answer 4: The taxpayer may use the method described in this section or may elect the cost sharing or profit split method. No other method will be permitted.

§ 1.936–5 Intangible property income when an election out is made: Product, business presence, and contract manufacturing.

The rules in this section apply for purposes of section 936(h) and also for purposes of section 934(e), where applicable.

(a) *Definition of product.*

Question 1: What does the term "product" mean?

Answer 1: The term "product" means an item of property which is the result of a manufacturing process. The term "product" includes component products, integrated products, and end-product forms. A component product is a product which is subject to further transformation before sale to an unrelated party. A component product may be manufactured from other items of property, and if it is so manufactured, may be treated as including or not including (at the choice of the possessions corporation) such other items of property for all purposes of section 936(h)(5). An integrated product is a product which is not subject to any further transformation before sale to an unrelated party and which includes all component products from which it is manufactured. An end-product form is a product which—

(1) Is not subject to any further transformation before sale to an unrelated party;

(2) Is manufactured from a component product or products; and

(3) Is treated as not including certain component products for all purposes of section 936(h)(5).

Question 2: If a possessions corporation manufactures both a

component product and an integrated product (which by definition includes the end-product form), may the possessions corporation use the options under section 936(h)(5) to compute its income with respect to either the component product, the integrated product or the end-product form?

Answer 2: Yes. The possessions corporation may choose to treat the component product, the integrated product, or the end-product form as the product for purposes of determining whether the possessions corporation satisfies the significant business presence test. The possessions corporation must specify its choice on a statement attached to its return (Schedule P of Form 5735). Once a possessions corporation has determined which item of property it will treat as its product (the possession product) for purposes of the significant business presence test, then the possessions corporation must treat that item of property as its product for all purposes of section 936(h)(5) for that taxable year, including the possessions sales calculation under section 936(h)(5)(C)(i)(I), the determination of income under section 936(h)(5)(C)(i)(II), and the combined taxable income computations under section 936(h)(5)(C)(ii). Although the possessions corporation must treat the same item of property as its product for all purposes of section 936(h)(5) in a particular taxable year, its choice of the component product, integrated product or end-product form may be different from year to year.

Example (1). A possessions corporation, S, manufactures a bulk pharmaceutical in a possession. S transfers the bulk pharmaceutical to its U.S. parent, P, for encapsulation and sale by P to customers. S satisfies the significant business presence test with respect to the bulk pharmaceutical (the component product) and the combination of the bulk pharmaceutical and the capsule (the integrated product). S may use the cost sharing or profit split method to compute its income with respect to either the component product or the integrated product.

Example (2). The facts are the same as in example (1) except that S does not satisfy the significant business presence test with respect to the integrated product. S may use the cost sharing or profit split method to compute its income only with respect to the component product. However, if in a later taxable year S satisfies the significant business presence test with respect to the integrated product, then S may use the cost sharing or profit split method to compute its income with respect to that integrated product for that later taxable year.

Example (3). P, a domestic corporation, produces in bulk form in the United States the active ingredient for a pharmaceutical product. P transfers the bulk form to S, a wholly owned possessions corporation. S uses the bulk form to produce in Puerto Rico the finished dosage form Drug. S transfers the drug in finished dosage form to P, which sells the drug to unrelated customers in the U.S. The direct labor costs incurred in Puerto Rico by S during its taxable year in formulating, filling and finishing the dosage form are at least 65 percent of the total direct labor costs incurred by the affiliated group in producing the bulk and finished forms during that period. S manufactures (within the meaning of section 954(d)(1)(A)) the finished dosage form. S has elected out under section 936(h)(5) under the profit split option for the drug product area (SIC 283). P and S may treat the bulk and finished dosage forms as parts of an integrated product. Since S satisfies the significant business presence requirement with respect to the integrated product, it is entitled to 50 percent of the combined taxable income on the integrated product.

Example (4). A possessions corporation, S, produces the keyboard of an electric typewriter and incorporates the keyboard with components acquired from a related corporation into finished typewriters. S does not satisfy the significant business presence test with respect to the typewriters (the integrated product). Therefore, S may use the cost sharing or profit split method to compute its income only with respect to a compontent product or end-product form. For taxable year 1983, S specifies on a statement attached to its return (Schedule P of Form 5735) that the possession product is the end-product form. The statement indentifies the components—for example, the keyboard structure and frame—which are included in the possession product. S's definition of the possession product will apply to all units of the electric Trypwriters which S produces in whole or in part in the possession and which are sold in 1983. Thus, all units of a given component incorporated into such typewriters will be treated in the same way. For example, all keyboards and all frames will be included in the possession product, and all electric drive mechanisms and rollers will be excluded from the possession product.

Question 3: May an affiliated group establish groupings of items of property and treat the groupings as single products?

Answer 3: An affiliated group may establish reasonable groupings of items of property based on similarities in the manufacturing processes of such items. Any grouping which materially distorts a taxpayer's income or the application of the significant business presence test may be disallowed by the Commissioner. In addition, the Commissioner may require grouping of items of property based on similarities in the manufacturing processes when necessary to prevent a material distortion of the taxpayer's income or the application of the significant business presence test. The mere fact that a grouping, or a failure to group, results in an increased allocation of income to the possessions corporation does not, of itself, necessarily create a material distortion of income. The implementation of the above rules is illustrated by the following examples.

Example (1). The following are examples of items of property the processes of manufacture of which are sufficiently similar that they may be grouped and treated as a single product:

(A) Beverage bases or concentrates for different soft drinks or soft drink syrups, regardless of whether some include sweeteners and some do not;

(B) Different styles of clothing;

(C) Different styles of shoes;

(D) Equipment which relies on gravity to deliver solutions to patients intravenously;

(E) Equipment which relies on machines to deliver solutions to patients intravenously;

(F) Video game cartridges, even though the concept and design of each game title is, in part, protected against infringement by separate copyrights;

(G) All integrated circuits;

(H) All printed circuit boards; and

(I) Hardware and software, if software is sold only with the hardware and a purchaser of the hardware ordinarily will not purchase alternative software. In all other cases, hardware and software may not be grouped and treated as a single product.

Groupings (D) and (E) do not include any solutions which are delivered through the equipment described therein.

Example (2). A possessions corporation produces in Puerto Rico non-programmable, interactive cathode ray tube computer terminals that vary in price. These terminals all interact with a computer or controller to perform their functions of data entry, graphics word processing, and program development. The terminals can be purchased with options that include a built-in printer, different language keyboards, specialized cathode ray tubes, and different power supply features. All terminals are produced in one integrated process requiring the same skills and operations. The differences in the production of the terminals include differences in the number of printed circuit boards incorporated in each terminal, the use of unique keyboards, and the installation and testing of the built-in printer. Some difference in direct labor time to manufacture the terminals occurs, primarily due to the differing number and complexity of printed circuit boards incorporated into each terminal. Different model numbers are assigned to various computer terminals. A grouping by the taxpayer of all of the terminals as one product will be respected by the Service, unless the Service establishes that substantial distortion results. This grouping is proper because the processes of producing each of the terminals are similar.

Example (3). A possessions corporation, S, and its U.S. affiliate produce several models of serial matrix impact printers and teleprinters. These products have differing performance standards based on such factors as speed (in characters per second), numbers of columns, and cost. The manufacturing process performed by S and its U.S. affiliate

for all types of printers involves production of three basic elements: electronic circuitry, the printing head, and the mechanical parts. The process of manufacturing all the printers is similar. Thus, all printers could be grouped and treated as a single product. S purchases electronic circuitry and mechanical parts from its U.S. affiliate. S performs manufacturing functions relative to the printing head and assembles and tests the finished printers. S does not satisfy the significant business presence test with respect to the intergrated products. S therefore specifies on a statement attached to its return (Schedule P of Form 5735) that the possession product for both the serial matrix printers and the teleprinters is the end-product form. The statement identifies the components which are included in each possession product. S may group and treat as a single product the serial matrix printers and the teleprinters if both end-product forms include and exclude the same components. Thus, if the end-product form for both the serial matrix printers and the teleprinters includes the mechanical parts and excludes the electronic circuitry, then S may group and treat as a single product the two end-product forms. If, however, the end-product forms for the two items of property contain different components and as a result of this definition of the end-product forms the manufacturing processes involved in producing the two end-product forms are not similar, then S may not group the end-product forms.

Question 4: What factors should be disregarded in determining whether a particular grouping of similar items of property is reasonable?

Answer 4: In general, differences in the following factors will be disregarded in determining whether a particular grouping of items of property is reasonable:

(1) Differences in testing requirements (*e.g.*, some products sold for military use may require more extensive or different testing than products sold for commercial use);

(2) Differences in the product specifications that are designed to accommodate the product to its area of use or for conditions under which used (*e.g.*, electrical products designed for ultimate use in the United States differ from electrical products designed for ultimate use in Europe);

(3) Differences in packaging or labeling (*e.g.*, differences in the number of units of the items shipped in one package); and

(4) Minor differences in the operations of the items of property.

Question 5: Is an affiliated group permitted to group and treat as a single product drugs or medicinal preparations based on the active ingredient contained in the drug or based on both the active ingredient contained in the drug and the delivery form of the drug?

Answer 5: An affiliated group is permitted to group and treat as a single product drugs and medicinal preparations which contain the same active ingredient or ingredients. Alternatively, the affiliated group is permitted to group and treat as a single product drugs and medicinal preparations containing the same active ingredient or ingredients which are delivered in the same form if the manufacturing processes are similar. For purposes of the preceding sentence, each of the following groups of items shall be considered to be delivered in the same form:

(1) Capsules, tablets, and pills;

(2) Liquids, ointments, and creams; and

(3) Preparations for delivery through injection or intravenous equipment.

No distinctions should be based on packaging, list numbers, or size of dosage.

Question 6: Will the fact that a manufacturer of a drug must submit a New Drug Application ("NDA") or a supplemental NDA to the Food and Drug Administration have any effect on the definition or grouping of a product?

Answer 6: No.

Example (1). Company S manufactures pharmaceutical X in tablet form in Puerto Rico. The FDA has approved the tablet form of X. S subsequently plans to manufacture X in Puerto Rico in an injectable form. This will require an NDA. If S has elected to distinguish drugs on the basis of both the delivery form and the active ingredient, then the injectable form will be a separate product. If S has elected to distinguish drugs only on the basis of their containing the same active ingredient or ingredients, then the injectable form will not be a separate product. The fact that S must obtain an NDA for the injectable form is not relevant to the determination of whether the injectable constitutes a separate product.

Example (2). A possessions corporation, S, manufactures two active bulk chemicals, X and Y, and produces X in tablet and ointment form and Y in tablet and ointment form. S subsequently plans to manufacture X and Y separately in injectable form. This will require NDAs. If S has elected to distinguish separate products on the basis of both the delivery form of the end-product and the active ingredient, then the injectable forms of X and Y will each be separate products. If S has instead elected to distinguish separate products only on the basis of their containing the same active ingredient or ingredients, then the injectable forms of X and Y will not be separate products.

Question 7: A possessions corporation which produced a product or rendered a type of service in a possession on or before September 3, 1982, is not required to meet the significant business presence test in a possession with respect to such product or type of service for its taxable years beginning before January 1, 1986 (the interim period). During such interim period, how will the term "product" be defined for purposes of allocating income under the cost sharing or profit split methods?

Answer 7: During the interim period the product will be determined based on the activities performed by the possessions corporation within a possession on September 3, 1982. During the interim period the possessions corporation may compute its income under the cost sharing or profit split method only with respect to the product that is produced or manufactured within the meaning of section 954(d)(1)(A) within the possession. If the product is manufactured from a component or components produced by an affiliated corporation or a contract manufacturer, then the product will not be treated as including such component or components for purposes of the computation of income under the cost sharing or profit split methods. Thus, the possessions corporation is not entitled to any return on the intangibles associated with the component or components. Notwithstanding the preceding sentences, for taxable years beginning before January 1, 1986, a possessions corporation may compute its income under the cost sharing or profit split method with respect to a product which includes a component or components produced by an affiliated corporation or contract manufacturer if the possessions corporation satisfies with respect to such product the significant business presence test described in section 936(h)(5)(B)(ii) and the regulations thereunder.

Example (1). A possessions corporation, S, was manufacturing (within the meaning of section 954(d)(1)(A)) integrated circuits in a possession on September 3, 1982. S transferred those integrated circuits to related corporation P. P incorporated the integrated circuits into central processing units (CPUs in the United States) and sold the CPUs to unrelated parties. S continued to manufacture integrated circuits in the possession through January 1, 1986. For taxable years beginning before January 1, 1986, S may compute its income under the cost sharing or profit split method with respect to the integrated circuits regardless of whether S satisfies the significant business presence test. However, unless S satisfies the significant business presence test with respect to the central processing units, S may not compute its income under the cost sharing or profit split methods with respect to the CPUs, and thus, S is not entitled to any return on manufacturing intangibles associated with CPUs to the extent that they are not related to the integrated circuits produced by S, nor (except as provided in the profit split method) to any return on marketing intangibles.

Example (2). A possessions corporation, S, was engaged on September 3, 1982, in the manufacture (within the meaning of section 954(d)(1)(A)) of a bulk pharmaceutical in Puerto Rico from raw materials. S sold the bulk pharmaceutical to its U.S. parent, P, for encapsulation and sale by P to customers as the product X. Because S was not engaged in the encapsulation of X, S is not considered to have manufactured the integrated product, X, in Puerto Rico. During the interim period, S may compute its income under the cost sharing or profit split methods with respect to the integrated product, X, only if S satisfies the significant business presence test with respect to X. S may compute its income under the cost sharing or profit split methods with respect to the component product (the bulk pharmaceutical).

Example (3). P is a domestic corporation that is not a possessions corporation. P manufactures a bulk pharmaceutical in the United States. P transfers the bulk pharmaceutical to its wholly owned subsidiary, S, a possessions corporation. On September 3, 1982, S was engaged in the encapsulation of the bulk pharmaceutical in Puerto Rico in a manner which satisfies the test of section 954(d)(1)(A). For taxable years beginning before January 1, 1986, S may compute its income under the cost sharing or profit split methods with respect to the end-product form (the encapsulated drug) regardless of whether S meets the significant business presence test. However, unless S satisfies the significant business presence test with respect to the integrated product, S may not compute its income under the cost sharing or profit split methods with respect to the integrated product, and thus, S is not entitled to any return on the intangibles associated with the bulk pharmaceutical.

Question 8: On September 3, 1982, a possessions corporation, S, was engaged in the manufacture (within the meaning of section 954(d)(1)(A)) of X in a possession. During the interim period, after September 3, 1982, but before January 1, 1986, S produced Y, which differs from X in terms of minor design features. S did not produce Y in a possession on September 3, 1982. Will S be considered to have commenced production of a new product after September 3, 1982, for purposes of the application of the significant business presence test for the interim period?

Answer 8: No. X and Y will be considered to be a single product, and therefore S will not be required to satisfy the business presence test with respect to Y during the interim period. In all cases in which the items of property produced on or before September 3, 1982 and the items of property produced after that date could have been grouped together under the guidelines provided in § 1.936–5(a) questions and answers 3 through 5, the possessions corporation will not be considered to manufacture a new product after September 3, 1982.

Question 9: May the term "product" be defined differently for export sales than for domestic sales?

Answer 9: No.

(b) *Requirement of significant business presence.*

Question 1: In general, a possessions corporation may compute its income under the cost sharing or profit split methods with respect to a product or type of service only if the possessions corporation has a significant business presence in a possession with respect to such product or service. For purposes of the cost sharing method, the significant business presence test is met if the possessions corporation satisfies either a value added test or a direct labor test. For purposes of the profit split method, the possessions corporation must satisfy either a value added test or a direct labor test, and must manufacture the product in a possession within the meaning of section 954(d)(1)(A). To determine whether a possessions corporation satisfies the value added or direct labor test, the corporation must compute its total production costs, direct material costs, and direct labor costs with respect to the product. How are these terms defined?

Answer 1: The terms "total production costs," "direct material costs," and "direct labor costs" are defined in § 1.471–11, inventories of manufacturers. Total production costs include direct production costs and fixed and variable indirect production costs. Direct material costs include the cost of those materials which become an integral part of the specific product and those materials which are consumed in the ordinary course of manufacturing and can be identified or associated with particular units or groups of units of that product. See § 1.471–3 for the elements of direct material costs. Direct labor costs, as defined in § 1.471–11(b)(2)(i), include the cost of labor which can be identified or associated with particular units or groups of units of a specific product. The elements of direct labor costs include such items as basic compensation, overtime pay, vacation and holiday pay, sick leave pay (other than payments pursuant to a wage continuation plan under section 105(d)), shift differential, payroll taxes, and payments to a supplemental unemployment benefit plan paid or incurred on behalf of employees engaged in direct labor. The possessions corporation must file a separate Schedule P for each product to which the cost sharing or profit split method is applied. The taxpayer must attach to such schedule detailed computations indicating how the significant business presence test is satisfied with respect to the possession product.

Question 2: For purposes of determining whether a possessions corporation satisfies the significant business presence test, how shall the possessions corporation treat the cost of components transferred to the possessions corporation by a member of the affiliated group?

Answer 2: The treatment of the cost of components transferred from an affiliate depends on whether the possession product is treated as including the component for purposes of section 936(h). If it is, then for purposes of the value added test, the production costs associated with the component shall be treated as production costs of the affiliated group that are not incurred by the possessions corporation. Production costs shall not be treated as a cost of materials. For purposes of the direct labor test, the direct labor costs associated with such component shall be treated as direct labor costs of the affiliated group that are not incurred by the possessions corporation. If the possession product is treated as not including such component for purposes of section 936(h), then for purposes of the value added test, the cost of the component shall be treated as a cost of materials. For purposes of the direct labor test, the direct labor costs associated with such component shall not be treated as direct labor costs of the affiliated group. If the possession product is treated as not including such component, then the possessions corporation shall not be entitled to any return on the intangibles associated with the manufacturing or marketing of the component.

Question 3: May the members of the affiliated group include as direct labor costs the labor element in indirect production costs?

Answer 3: No. The labor element of indirect production costs may not be considered as part of direct labor costs. In determining whether a possessions corporation satisfies the value added test, however, all production costs, direct and indirect, incurred in a possession shall be taken into account.

Question 4: When is the quality control and inspection of a product considered to be part of the manufacturing activity for that product?

Answer 4: Quality control and inspection of a manufactured product before its sale or other disposition by the manufacturer, or before its incorporation into other products are considered to be part of the indirect manufacturing activity for that initial product. Subsequent testing of a product

to ensure that the product is compatible with other products is not a part of the manufacturing activity for the initial product. When a component is incorporated into an end-product form and the end-product form is then tested, the latter testing will be considered to be a part of the indirect manufacturing activity for the end-product form and will not be considered to be a part of the manufacturing activity for the component.

Question 5: For purposes of the significant business presence test, do direct labor costs of the possessions corporation include only the costs which were actually incurred or do they take into account, in addition, any labor savings which result because the activities were performed in a possession rather than in the United States?

Answer 5: Direct labor costs include only the costs which were actually incurred.

Question 6: For purposes of the significant business presence test and the allocation of income to a possessions corporation, what is the treatment of the cost of installation of a product that is manufactured by a possessions corporation, sold or otherwise transferred to an affiliated corporation, and installed by the affiliated corporation for the customer?

Answer 6: For the purposes of the significant business presence test and the allocation of income to a possessions corporation, product installation costs that are incurred after the product is transferred to an affiliated corporation need not be taken into account as costs incurred in the manufacture of that product, provided that the taxpayer keeps such permanent books of account or records as are sufficient to establish the fair market price of the uninstalled product. In such a case, the cost of installation materials, the cost of the labor for installation, and a reasonable profit for installation will not be included in the costs and income associated with the product.

Question 7: What is the test for determining, within the meaning of section 954(d)(1)(A), whether a product is manufactured or produced by a possessions corporation in a possession?

Answer 7: A product is considered to have been manufactured or produced by a possessions corporation in a possession within the meaning of section 954(d)(1)(A) and § 1.954–3(a)(4) if—

(1) The property has been substantially transformed by the possessions corporation in the possession;

(2) The operations conducted by the possessions corporation in the possession in connection with the property are substantial in nature and are generally considered to constitute the manufacture or production of property; or

(3) The conversion costs sustained by the possessions corporation in the possession, including direct labor, factory burden, testing of components before incorporation into an end product or testing of the manufactured product before sales account for 20 percent or more of the total cost of goods sold by the possessions corporation.

In no event, however, will packaging, repackaging, labeling, or minor assembly operations constitute manufacture or production of property. See particularly examples (2) and (3) of § 1.954–3(a)(4)(iii).

Question 8: Does the requirement that a possession product be produced or manufactured in a possession within the meaning of section 954(d)(1)(A) apply to taxable years beginning before January 1, 1986?

Answer 8: A possessions corporation must satisfy this requirement if the possessions corporation makes a separate election under section 936(H)(6)(F)(iv)(II) with respect to export sales. In addition, for taxable years beginning before January 1, 1986, the possession product is defined with reference to the product produced within the meaning of section 954(d)(1)(A), unless the possessions corporation satisfies the significant business presence test (see § 1.936–5(a) question and answer (7). In the latter case, if the possessions corporation computes its income under the profit split method with respect to a product, the section 954(d)(1)(A) requirement must be satisfied.

Question 9: With respect to products not produced (and types of services not rendered) in the possession on or before September 3, 1982, when must a possessions corporation first satisfy the 25 percent value added test or the 65 percent direct labor test?

Answer 9: A transitional period is established such that a possessions corporation engaged in start-up operations with respect to a product or service need not satisfy the 25 percent value added test of the 65 percent labor test until the third taxable year following the taxable year in which such product or service is first sold by the possessions corporation. During the transitional period, the applicable percentages for these tests will be as follows:

	Year		
	1	2	[illegible]
Value added test	10	15	[illegible]
Labor test	35	[illegible]	[illegible]

A possessions corporation is engaged in start-up operations if it begins operations in a possession with respect to a product or type of service after September 3, 1982. A possessions corporation will be considered to begin operations with respect to a product only if, under the rules of § 1.936–5 (a) questions and answers 3 through 6, such product could not be grouped with any other item of property manufactured in whole or in part in the possessions by any member of the affiliated group in any preceding taxable year. If any member of an affiliated group actually groups two or more items of property then, solely for the purposes of determining whether any item of property in that group is a new product, that grouping shall be respected. However, the fact that an affiliated group does not actually group two or more items of property shall be disregarded in determining whether any item of property is a new product. Any improvement or other change in a possession product which does not substantially change the production process would not be deemed to create a new product. A change in the division of manufacturing activity between the possessions corporation and its affiliates with respect to an item of property will not give rise to a new product. Notwithstanding the above, if a possessions corporation is producing a possession product in one possession, and such corporation or a member of its affiliated group begins operations in a different possession, regardless of whether the items of property could be grouped, the affiliated group may treat the units of the item of property produced at the new site of operations as a new product.

Question 10: Will the Secretary adopt a significant business presence test other than those set forth in section 936(h)(5)(ii)?

Answer 10: Yes. The following significant business presence test is adopted both for the transitional period and thereafter. A possessions corporation will have a significant business presence in a possession for a taxable year with respect to a product or type of service if—

(1) No less than 50 percent of the direct labor costs of the affiliated group for units of the product produced, in whole or in part, during the taxable year by the possessions corporation or for the

type of service rendered by the possessions corporation during the taxable year, is incurred by the possessions corporation as compensation for services performed in the possession; and

(2) The direct labor costs of the possessions corporation for units of the product produced or the type of service rendered plus the base period construction costs are no less than 70 percent of the sum of such base period construction costs and the direct labor costs of the affiliated group for such units of the product produced or the type of service rendered.

Notwithstanding satisfaction of the above test, for purposes of determining whether a possessions corporation may compute its income under the profit split method, a possessions corporation will not be treated as having a significant business presence in a possession with respect to a product unless the possessions corporation manufactures the product in the possession within the meaning of section 954(d)(1)(A).

Question 11: For purposes of the preceding question and answer, how is the term "base period construction costs" defined?

Answer 11: The term "base period construction costs" means the average construction costs incurred by or on behalf of the possessions corporation for service in the possession during the taxable year and the preceding four taxable years for section 1250 property (as defined in section 1250(c) and the regulations thereunder) that is used for the production of the product or the rendering of the service in the possession, and which represents the original use of the section 1250 property. For purposes of the preceding sentence, if the possessions corporation was not in existence during one or more of the four preceding taxable years, its construction costs for that year or years shall be deemed to be zero. Construction costs include architects' and engineers' fees, labor costs, and overhead and profit (if the construction is performed by a person that is not a member of the affiliated group).

Question 12: Must the significant business presence test be met with respect to all units of the product produced during the taxable year by the affiliated group?

Answer 12: No. The significant business presence test must be met with respect to only those units of the product produced during the taxable year in whole or in part by the possessions corporation in a possession.

(c) *Definition and treatment of contract manufacturing.*

Question 1: For purposes of determining whether a possessions corporation satisfies the significant business presence test with respect to a product, the costs incurred by the possessions corporation or by any of its affiliates in connection with contract manufacturing which is related to that product and is performed outside the possession shall be treated as direct labor costs of the affiliated group and shall not be treated as production costs of the possessions corporation or as material costs. How is the term "contract manufacturing" to be defined?

Answer 1: The term "contract manufacturing" includes any arrangement between a possessions corporation (or another member of the affiliated group) and an unrelated person if the unrelated person:

(1) Performs work on inventory owned by a member of the affiliated group for a fee without the passage of title;

(2) Performs manufacturing activities under the direct supervision and control of a member of the affiliated group;

(3) Does not undertake any significant risks in manufacturing its product (e.g., it is paid by the hour); or

(4) Uses intangibles which are related to its product, and such intangibles are owned or licensed by a member of the affiliated group.

Question 2: For purposes of the significant business presence test, how shall a possessions corporation treat the cost of contract manufacturing performed within a possession?

Answer 2: If the possessions corporation uses the value added test, it will be permitted to treat the cost of the contract manufacturing performed in a possession, not including material costs, as a production cost of the possessions corporation. If it uses the direct labor test, it is permitted to treat the direct labor costs of the contract manufacturer associated with such contract manufacturing as a cost of direct labor of the possessions corporation (see question and answer 3, below).

Question 3: How are the amounts paid by a possessions corporation to a contract manufacturer for services rendered in a possession to be treated by the possessions corporation in computing the direct labor cost of the product to which such contract manufacturing relates?

Answer 3: If the possessions corporation can establish the contract manufacturer's direct labor cost which was incurred in the possession, such cost will be treated as incurred by the possessions corporation as compensation for services performed in the possession. If the possessions corporation cannot establish such cost, then 50 percent of the amount paid to such contract manufacturer may be treated as incurred by the possessions corporation as compensation for services performed in the possession; provided, that not more than 50 percent of the fair market value of the product manufactured by the contract manufacturer is attributable to articles shipped into the possession, and the possessions corporation receives a statement from the contract manufacturer that this test has been satisfied. If this fair market test is not satisfied, then the cost of contract manufacturing performed within a possession shall not be treated as a production cost or a direct labor cost of either the possessions corporation or the affiliated group.

Question 4: A possessions corporation, S, purchases raw materials and components from an unrelated corporation which conducts business outside of a possession. The unrelated corporation is not a contract manufacturer. What is the treatment of such raw materials and components for purposes of the significant business presence test?

Answer 4: Where Company S purchases raw materials or components from an unrelated corporation which is not a contract manufacturer, the raw materials and components are treated as materials, and the costs (including direct labor costs) related thereto are treated as a cost of materials.

Question 5: For purposes of the significant business presence test, what is the treatment of costs which are incurred by a member of the affiliated group for contract manufacturing performed outside of the possession with respect to an item of property which is a component of the possession product?

Answer 5: If the possession product is treated as including such component, then the cost of the contract manufacturing shall be treated as a direct labor cost of the affiliated group and shall not be treated as a direct labor cost incurred by the possessions corporation (see § 1.936–5(b) question and answer (2)). If the possession product is treated as not including such component, then the cost of the contract manufacturing shall be treated as a cost of materials of the affiliated group (see § 1.936–5(b) question and answer (2)).

§ 1.936–6 Intangible property income when an election out is made: cost sharing and profit split options; covered intangibles.

The rules in this section apply for purposes of section 936(h) and also for

purposes of section 934(e), where applicable.

(a) *Cost sharing option*—(1) *Product area research.*

Question 1: Cost sharing payments are based on research undertaken by the affiliated group in the "product area" which includes the possession product. The term "product area" is defined by reference to the three-digit classification under the Standard Industrial Classification (SIC) code. Which governmental agency has jurisdiction to decide the proper SIC category for any specific product?

Answer 1: Solely for the purpose of determining the tax consequences of operating in a possession, the Secretary or his delegate has exclusive jurisdiction to decide the proper SIC category under which a product is classified. For this purpose, the product area under which a product is classified will be determined according to the 1972 edition of the SIC code. From time to time and in appropriate cases, the Secretary may prescribe regulations or issue rulings determining the proper SIC category under which a particular product is to be classified, and may prescribe regulations for aggregating two or more three-digit classifications of the SIC code and for classifying product areas according to a system other than under the SIC code.

Question 2: How is the term "affiliated group" defined for purposes of the cost sharing option?

Answer 2: For purposes of the cost sharing option, the term "affiliated group" means the possessions corporation and all other organizations, trades or businesses (whether or not incorporated, whether or not organized in the United States, and whether or not affiliated) owned or controlled directly or indirectly by the same interests, within the meaning of section 482.

Question 3: Are research and development expenditures that are included in product area research limited to research and development expenditures that are deductible under section 174 or that are incurred by U.S. affiliates?

Answer 3: No, product area research is not limited to product area research expenditures deductible under section 174 or to expenses incurred by U.S. affiliates. Product area research also includes deductions permitted under section 168 with respect to research property which are not deductible under section 174; qualified research expenses within the meaning of section 44(F)(b); payments (such as royalties) for the use of, or right to use, a patent, invention, formula, process, design, pattern or know-how; and a proper allowance for amounts incurred in the acquisition of intangible property. In the case of an acquisition of depreciable or amortizable intangible property, the annual amount of product area research shall be equal to the allowable depreciation on the intangible property for the taxable year. In the case of an acquisition of nondepreciable or nonamortizable intangible property, the amount expended for the acquisition shall be included in product area research in the year of the acquisition.

Question 4: Does royalty income from a person outside the affiliated group with respect to manufacturing intangibles within a product area reduce the product area research pool within the same product area?

Answer 4: Yes.

Question 5: What is the treatment of product area research expenses attributable to a component where the component and the integrated product fall within different product areas?

Answer 5: For purposes of the computation of product area research and total sales in the product area by the affiliated group, the product area in which the component falls is aggregated with the product area in which the integrated product falls.

(2) *Possession sales and total sales.*

Question 1: The cost sharing payment is the same proportion of the total cost of product area research which the amount of "possession sales" of the affiliated group bears to the "total sales" of the affiliated group within the product area. How are "possession sales" defined for purposes of the cost sharing fraction?

Answer 1: The term "possession sales" means the aggregate sales or other dispositions of the possession product, less returns and allowances and less indirect taxes imposed on the production of the product, for the taxable year to persons who are not members of the affiliated group. The sales price to be used is the sales price received by the affiliated group from persons who are not members of the affiliated group.

Question 2: For purposes of the numerator of the cost sharing fraction, how are possession sales computed where the possession product is a component product or an end-product form?

Answer 2: The sales price of the component product or end-product form is determined as follows. An independent sales price from comparable uncontrolled transactions must be used if such price can be determined in accordance with § 1.482–2(e)(2). If an independent sales price from comparable uncontrolled transactions cannot be determined, then the sales price for the component product or end-product form will be the same proportion of the sales price for the integrated product which the production costs attributable to the component product or end-product form bears to the total production costs for the integrated product. Production costs will be the sum of direct and indirect production costs as defined for inventory accounting purposes under § 1.471–11 (b), (c), and (d), expect that such costs will not include costs of materials.

Example. The production costs for a component poroduced by a possessions corporation and its affiliated corporations are $600. The total production costs of the integrated product are $900. The sales price for the integrated product is $1500. The sales price for the component product would be $1000 ($600/$900 × $1500).

Question 3: For purposes of determining possessions sales in the numerator of the cost sharing fraction, will the replacement part price of the product be treated as a price from comparable uncontrolled transactions?

Answer 3: Prices for replacement parts are generally higher than prices for equipment sold as part of an original system. Thus, prices for replacement parts cannot generally be used directly as prices for comparable uncontrolled transactions. However, replacement part prices may be used for estimating comparable uncontrolled prices where the price differential can be reasonably determined and taken into acount under § 1.482–2(e)(2).

Question 4: For purposes of determining possession sales in the cost sharing fraction, what is the treatment of components that are purchased by one possessions corporation from a second possessions corporation and which are incorporated into a possession product?

Answer 4: When one possessions corporation purchases components from a second possessions corporation, the purchase price of the components paid to the second possessions corporation is subtracted from the sales proceeds of the product produced in the possession by the first possessions corporation, and only the remainder is included in the numerator of the cost sharing formula for the first corporation. For example, assume that N corporation manufactures a component for sale to O corporation for $100 (a price which reflects prices in comparable uncontrolled transactions). Both N and O are possessions corporations. O then incorporates that product into a second product which is sold to customers for $300. N and O

must make separate cost sharing payments. The cost sharing payment of N corporation is determined by including $100 as possession sales, and the payment of O is determined by subtracting that $100 purchase price from the $300 received from customers. Thus, the possessions sales amount of O is $200. This rule is intended to prevent the double counting of the sales of a component produced by one possessions corporation and incorporated into another product by an affiliated possessions corporation.

Question 5: How are "possession sales" determined under the cost sharing formula if members of the affiliated group (other than the possessions corporation) include purchases of the possession product, X, in a dollar-value LIFO inventory pool (as provided under § 1.472–8)?

Answer 5: With respect to each affiliate, "possession sales" are determined by multiplying total sales of X by the affiliate (regardless of where the units of X were obtained) during the taxable year by a fraction. The numerator of the fraction is the dollar-value amount of units of X or components of X purchased from the possessions corporation by the affiliate during the taxable year. The dollar-value amount will be determined on the basis of the possessions corporation's cost for its inventory purposes, plus any production costs (as defined in section 1.471–11 (b), (c), and (d) but not including costs of materials) incurred by the affiliate during the same period. The denominator of the fraction is the dollar-value amount of units of X purchased by the affiliate in the same period from all sources, with purchases of units of X and any value added by the affiliate in production during the same period, valued as described above.

Question 6: How are "total sales" defined for purposes of the cost sharing fraction?

Answer 6: The term "total sales" means aggregate sales or other dispositions of products in the same product area as the possession product, less returns and allowances and less indirect taxes imposed on the production of the product, for the taxable year to persons who are not members of the affiliated group. The sales price to be used is the sales price received by the affiliated group from persons who are not members of the affiliated group.

Question 7: In computing the cost sharing payment, how are "total sales" computed if the dollar-value LIFO inventory pool includes some products which are not included in the product area (determind under the 3-digit SIC code) on which the denominator of the cost sharing fraction is based?

Answer 7: In such case, the amount of the total sales within the product area to persons who are not members of the affiliated group by persons who are members of the affiliated group is determined by multiplying the total sales of the products within the dollar-value LIFO inventory pool by a fraction. The numerator of the fraction includes the dollar-value of purchases by members of the affiliated group (including the possessions corporation) of products within the product area made during the year, plus and added production costs (as defined in § 1.471–11 (b), (c), and (d) but not including the costs of materials) incurred by the affiliates during the same period. The denominator of the fraction includes the dollar-value of purchases by members of the affiliated group (including the possessions corporation) of products within the dollar-value LIFO inventory pool made during the same period (including any production costs, as described above, incurred by the affiliate during the same period). For these purposes, purchases of a possession product are determined on the basis of the possessions corporation's cost for its inventory purposes.

(3) *Credits against cost sharing payments.*

Question 1: Is the cost of product area research paid or accured by the possessions corporation in a taxable year creditable against the cost sharing payment?

Answer 1: Yes, if the cost of the product area research is paid or accured solely by the possessions corporation. Thus, payments by the possessions corporation under cost sharing arrangements with, or royalties paid to, unrelated persons are so creditable. However, amounts (such as royalties) paid directly or indirectly to, or on behalf of, related persons and amounts paid under any cost sharing agreements with related persons are not creditable against the cost sharing payment.

Question 2: Do royalties or other payments made by an affiliate of the possessions corporation to another member of the affiliated group reduce the costs sharing payment if such royalties or other payments are based, in part, on activity of the possessions corporation?

Answer 2: No. Payments made between affiliated corporations do not reduce the cost sharing payment. Thus, for example, if a possessions corporation sells a component to a foreign affiliate for incorporation by the foreign affiliate into an integrated product sold to unrelated persons, and the foreign affiliate pays a royalty to the U.S. parent of the possessions corporation based on the total value of the integrated product, the cost sharing payment of the possessions corporation is not reduced.

(4) *Computation of cost sharing payment.*

Question 1: S is a possessions corporation engaged in the maufacture and sale of four products (A, B, C, and D) all of which are classified under the same three-digit SIC code. S sells its production to a U.S. affiliate, P, which resells it to unrelated parties in the United States. P's third party sales of each of these products produced in whole or in part by S (computed as provided under paragraph (a)(2) of § 1.936–6) are $1 million; P's other sales of products in the same SIC code are $3,000,000; and the defined worldwide product area research of the affiliated group is $350,000. How should S compute the costs sharing amount for products A, B, C, and D?

Answer 1: The cost sharing amount is computed separately for each product on Schedule P of Form 5735. S should use the following formula for each of the products A, B, C, and D:

$$\frac{\text{Sales to unrelated persons of possession product}}{\text{Total sales of products in SIC code}} \times \text{Worldwide product area research}$$

$$\frac{\$1,000,000}{\$7,000,000} \times \$350,000 = \$50,000$$

Question 2: The facts are the same as in question 1 except that S manufactures product D under a license from an unrelated person. S pays the unrelated party an annual license fee of $20,000. Thus, the worldwide product area research expense of the affiliated group is $370,000. How should the cost sharing payment be adjusted?

Answer 2: The cost sharing fee should be reduced by the $20,000 license fee made as a direct annual payment to a third party on account of product D. The cost sharing payment with respect to product D in this example will be adjusted as follows:

$$\frac{\text{Sales to unrelated persons of possession product}}{\text{Total sales of products in SIC code}} \times \text{Worldwide product area research} - \text{Amount paid by the possessions corporation to an unrelated party}$$

$$\frac{\$1,000,000}{\$7,000,000} \times \$370,000) - \$20,000 = \$32,857$$

Question 3: The facts are the same as in question 1 except that S also manufactures and exports product E to a foreign affiliate, which resells it to unrelated persons for $1 million. S makes a separate election for its export sales. How should S compute the cost sharing amount for product E?

Answer 3: The numerator of the cost sharing fraction is the aggregate sales or other dispositions by members of the affiliated group of the units of product E produced in whole or in part in the possession to persons who are not members of the affiliated group. The cost sharing amount for *product E* would be computed as follows:

$$\frac{\text{Export sales of E}}{\text{Total sales of products in SIC code (in this example, U.S. Sales of A, B, C, and D + export sales of E)}} \times \text{Worldwide product area research}$$

or

$$\frac{\$1,000,000}{(\$7,000,000 + \$1,600,000)} \times \$350,000 = \$43,750$$

Question 4: The facts are the same as in question 1, except that S also receives $10,000 in royalty income from unrelated persons for the licensing of certain manufacturing intangible property rights. What is the amount of the product area research that must be allocated in determining the cost sharing amount?

Answer 4: If the affiliated group receives royalty income from unrelated persons with respect to manufacturing intangibles in the same product area, then the product area research to be considered shall be first reduced by such royalty income. In this case, the amount of product area research to be used in determining S's cost sharing payment should be reduced by the $10,000 royalty payment received to $340,000.

(5) *Effect of election under the cost sharing method.*

Question 1: What is the effect of the cost sharing method?

Answer 1: The cost sharing payment reduces the amount of deductions (and the amount of reductions in earnings and profits) otherwise allowable to the U.S. affiliates (other than tax-exempt affiliates) within the affiliated group as determined under section 936(h)(5)(C)(i)(I)(*b*) which have incurred research expenditures (as defined in § 1.936–6(a)(1), question and answer 3) in the same production area for which the cost sharing option is elected, during the taxable year in which the cost sharing payment accrues. If there are no such U.S. affiliates, the reductions with respect to deductions and earnings and profits, as the case may be, are made with respect to foreign affiliates within the same affiliated group which have incurred product research expenditures in such product area attributable to a U.S. trade or business. If there are no affiliates which have incurred research expenditures in such product area, the reductions are then made with respect to any other U.S. affiliate and, if there is no such U.S. affiliate, then to any other foreign affiliate. The allocations of these reductions in each case shall be made in proportion to the gross income of the affiliates. In the case of foreign affiliates, the allocation shall be made in proportion to gross income attributable to the U.S. trade or business or worldwide gross income, as the case may be. With respect to each group above, the reduction of deductions shall be applied first to deductions under section 174, then to deductions under section 162, and finally to any other deductions on a pro rata basis.

Question 2: For purposes of estimated tax payments, when is the cost sharing amount deemed to accrue?

Answer 2: The cost sharing amount is deemed to accrue to the appropriate affiliated corporations on the last day of the taxable year of each such corporation.

Question 3: If the cost sharing method is elected and the year of accrual of the cost sharing payment to the appropriate affiliated corporations (described in question and answer 1 of this paragraph (a)(5)) differs from the year of actual payment by the possessions corporation, in what year are the deductions of the recipients reduced?

Answer 3: In the year the cost sharing payment has accrued.

Question 4: What is the treatment of income from intangibles under the cost sharing method?

Answer 4: Under the cost sharing method, a possessions corporation is treated as the owner, for purposes of obtaining a return thereon, of manufacturing intangibles related to a possession product. The term "manufacturing intangible" means any patent, invention, formula, process, design, pattern, or know-how. The possessions corporation will not be treated as the owner, for purposes of obtaining a return thereon, of any manufacturing intangibles related to a component product produced by an affiliated corporation and transferred to the possessions corporation for incorporation into the possession product, except in the case that the possession product is treated as including such component product for all purposes of section 936(h)(5). Further, the possessions corporation will not be treated as the owner, for purposes of obtaining a return thereon, of any marketing intangibles except "covered intangibles." (See § 1.936–6(c).)

Question 5: If the cost sharing option is elected, is it necessary for the possessions corporation to be the legal owner of the manufacturing intangibles related to the possession product in order for the possessions corporation to receive a full return with respect to such intangibles?

Answer 5: No. There is no requirement that manufacturing intangibles be owned by the possessions corporation.

Question 6: How is income attributable to marketing intangibles treated under the cost sharing method?

Answer 6: Except in the case of "covered intangibles" (see § 1.936–6(c)), the possesions corporation is not treated as the owner of any marketing intangibles, and income attributable to marketing intangibles will be allocated to the possessions corporation's U.S. shareholders with the proration of income based on shareholdings. If a shareholder of the possessions corporation is a foreign person or is otherwise tax exempt, the possessions corporation is taxable on that shareholder's pro rata amount of the intangible property income.

Question 7: What is the source of the intangible property income described in question and answer 6?

Answer 7: The intangible property income is U.S. source whether taxed to the U.S. shareholder or taxed to the possessions corporation. Such intangible property income, if treated as income of the possessions corporation, does not enter into the calculation of the 80-percent possession source test or the 65-percent active trade or business test.

Question 8: May marketing intangible income, if any, be allocated to the possessions corporation with respect to custom-made products?

Answer 8: No. If the cost sharing option is elected, then income attributable to marketing intangibles (other than "covered intangibles" described in § 1.936–6(c)) will be taxed as discussed in questions and answers 6 and 7 of paragraph (a)(5) of this section. It is immaterial whether the product is custom-made.

Question 9: In order to sell a pharmaceutical product in the United States, a New Drug Application ("NDA") for the product must be approved by the U.S. Food and Drug Administration. Is an NDA considered a manufacturing or marketing intangible for purposes of the allocation of income under the cost sharing method?

Answer 9: A manufacturing intangible.

Question 10: Can a copyright be, in whole or in part, a manufacturing intangible for purposes of the allocation of income under the cost sharing method?

Answer 10: In general, a copyright is a marketing intangible. See section 936(h)(3)(B)(ii). However, copyrights may be treated either as manufacturing intangibles or nonmanufacturing intangibles (or as partly each) depending upon the function or the use of the copyright. If the copyright is used in manufacturing, it will be treated as a manufacturing intangible; but if it is used in marketing, even if it is also classified as know-how, it will be treated as a marketing intangible.

Question 11: If the cost sharing option is elected and a patent is related to the product produced by the possessions corporation, does the return to the possessions corporation with respect to the manufacturing intangible include the make, use, and sell elements of the patent?

Answer 11: Yes. A patent confers an exclusive right for 17 years to sell a product covered by the patent. During this period, the return to the possessions corporation includes the make, use and sell elements of the patent.

Question 12: For purposes of the cost sharing option, may a safe haven rule be applied to determine the amount of marketing intangible income?

Answer 12: No. The amount of marketing intangible income is determined on the basis of all relevant facts and circumstances. The section 482 regulations will continue to apply except to the extent modified by the election. Rev. Proc. 63–10 and Rev. Proc. 68–22 do not apply for this purpose.

Question 13: If a product covered by the cost sharing election is sold by a possessions corporation to an affiliated corporation for resale to an unrelated party, may the resale price method be used to determine the intercompany price of the possessions corporation?

Answer 13: In general, the resale price method may be used if (a) no comparable uncontrolled price for the product exists, and (b) the affiliated corporation does not add a substantial amount of value to the product by manufacturing or by the provision of services which are reflected in the sales price of the product to the customer. The possessions corporation will not be denied use of the resale price method for purposes of such intercompany pricing merely because the reseller adds more than an insubstantial amount to the value of the product by the use of intangible property.

Question 14: If a possessions corporation makes the cost sharing election and uses the cost-plus method under section 482 to determine the arm's-length price of a possession product, will the cost base include the cost of materials which are subject to processing or which are components in the possession product?

Answer 14: A taxpayer may include the cost of materials in the cost base if it is appropriate under the regulations under § 1.482–2(e)(4).

Question 15: If the possessions corporation computes its income with respect to a product under the cost sharing method, and the price of the product is determined under the cost-plus method under section 482, does the cost base used in computing cost-plus under section 482 include the amount of the cost sharing payment?

Answer 15: No.

Question 16: If a member of the affiliated group transfers to a possessions corporation a component which is incorporated into a possession product, how will the transfer price for the component be determined?

Answer 16: the transfer price for the component will be determined under section 482, and as follows. If the possession product is treated as not including such component for purposes of section 936(h)(5), the transfer price paid for the component will include a return on all intangibles related to the component product. If the possession product is treated as including such component for purposes of section 936(H)(5), then the transfer price paid for the component by the possessions corporation will not include a return on any manufacturing intangible related to the component product, and the possessions corporation will obtain the return on the manufacturing intangibles associated with the component.

(b) *Profit split option*—(1) *Computation of combined taxable income.*

Question 1: In determining combined taxable income from sales of a possession product, how are the allocations and apportionments of expenses, losses, and other deductions to be determined?

Answer 1: Expenses, losses, and other deductions are to be allocated and apportioned on a "fully-loaded" basis under § 1.861–8 on a separate company basis to combined gross income of the possessions corporation and other members of the affiliated group (other than foreign affiliates). The amount of research, development, and experimental expenses allocated and apportioned to combined gross income is to be determined under § 1.861–8(e)(3), but shall in no event be less than the amount of the cost sharing payment that would have been required under the rules set forth in section 936(h)(C)(ii)(II) and paragraph (a) of this section if the cost sharing option had been elected. Other expenses which are the subject to § 1.861–8(e) are to be allocated and apportioned in accordance with that section. For example, interest expense (including payments made with respect to bonds issued by the Puerto Rico Industrial, Medical and Environmental Control Facilities Authority (AFICA)) is to be allocated and apportioned under § 1.861–8(e)(2). The class of gross income to which marketing and distribution expenses relate and shall be allocated is generally to be defined by the same "product area" as is determined for the relevant research, development, and experimental expenses (*i.e.*, the appropriate 3-digit SIC code) but shall include only gross income generated or reasonably expected to be generated from the geographic area or areas to which the expenses relate. Marketing and distribution expenses shall be apportioned on a fully-loaded basis which reflects, to a reasonably close extent, the factual relationship between these deductions and the statutory and residual groupings of gross income. Apportionment methods based upon comparisons of amounts incurred before ultimate sale of a product (including apportionment on a basis of comparison of costs of goods sold, other expenses incurred, or other comparisons set forth in § 1.861–8(c)(1)(v), such as time spent) are not on a fully-loaded basis and do not reflect this required factual relationship. A comparison of units sold may be used only where the units are of the same or similar value and are, thus, in fact comparable. These deductions shall be apportioned on a basis of comparison of the amount of gross sales or receipts or another method which

similarly reflects the required factual relationship.

The rules for allocation and apportionment of marketing and distribution expenses may be illustrated by the following example:

Example. Assume that possessions corporation A manufactures pharmaceutical product #1 for resale by B, its U.S. parent corporation, in the United States, that B manufactures pharmaceutical products #2 and #3 in the United States for sale there, that all three products are within the same product area, and that marketing and distribution expenses are internally divided by B among the three products on the basis of time spent by sales persons of B on marketing of the three products, as follows:

Product #1	50x
Product #2	80x
Product #3	110x
Total	240x

These expenses of 240x are allocated to gross income generated by all three products and shall be apportioned on the basis of gross sales or receipts of product #1 as compared to products #2 and #3 or another method which similarly reflects the factual relationship between these expenses and gross income derived from product #1 and products #2 and #3. Thus, if a sales method were used and sales of product #1 accounted for one-third of sales receipts from the three products, 80x (240÷3) of marketing and distribution expenses would be apportioned to the combined gross income from product #1.

The allocation of the remaining expenses, definitely related to a class of gross income, shall be made to the class of gross income to which they are definitely related. These expenses are apportioned on the basis of any reasonable method, as described § 1.861–8 (b)(3) and (c)(1). Examples of such methods may include, but are not limited to, those specified in § 1.861–8(c)(1) (i) through (vi).

Question 2: How may the allocation and apportionment of expenses to combined gross income be verified?

Answer 2: Substantiation of the allocation and apportionment of expenses will be required upon audit of the possessions corporation and affiliates. Detailed substantiation may be necessary, particularly where the entities are engaged in multiple lines of business involving distinct product areas. Sources of substantiation may include certified financial reports, Form 10-K's, annual reports, internal production reports, product line assembly work papers, and other relevant materials. In this regard, see § 1.861–8(f)(5).

Question 3: Does section 936(h) override the moratorium provided by section 223 of the Economic Recovery Tax Act of 1981?

Answer 3: Yes. Thus, the allocation and apportionment of product area research described in question and answer 1 must be made without regard to the moratorium.

Question 4: If a possessions corporation uses the profit split method to determine its taxable income from sales of a product, how does it determine its gross income for purposes of the 80-percent possession source test and the 65-percent active trade or business test of section 936(a)(2)?

Answer 4: One-half of the deductions of the affiliated group (other than foreign affiliates) which are used in determining the combined taxable income from sales of the product are added to the portion of the combined taxable income allocated to the possessions corporation in order to determine the possessions corporation's gross income from sales of such product.

Question 5: How will income from intangibles related to a possession product be treated under the profit split method?

Answer 5: Combined taxable income of the possessions corporation and affiliated corporations from the sale of the possession product will include income attributable to all intangibles, including both manufacturing and marketing intangibles, associated with the product.

Question 6: Can a possessions corporation apply the profit split option to a possession product if no U.S. affiliates derive income from the sale of the possession product?

Answer 6: Yes.

Question 7: With respect to the factual situation discussed in question and answer 6, how is combined taxable income computed?

Answer 7: The profit split option is applied to the taxable income of the possessions corporation from sales of the possession product to foreign affiliates and unrelated persons. Fifty percent of that income is allocated to the possessions corporation, and the remainder is allocated to the appropriate affiliates as described in question and answer 11 of this paragraph (b)(1).

Question 8: Does combined taxable income under the profit split option include amounts received from the sale of a possession product to other members of the affiliated group (other than foreign affiliates) if the possession product is not resold to a foreign affiliate or unrelated person?

Answer 8: No. Combined taxable income is computed only with respect to sales by members of the affiliated group (other than foreign affiliates) to persons who are not members of the affiliated group or to foreign affiliates. See section 936(h)(5)(C)(ii)(IV).

Question 9: If the possession product is a component product, how is combined taxable income for such product to be determined?

Answer 9: The combined taxable income for the component product may be determined by actual prices from comparable uncontrolled transactions under § 1.482–2(e)(2). If no comparable uncontrolled price for the possession product exists, then the gross receipts from sales of the possession product will be deemed to be the same proportion of the gross receipts from sales of the integrated product which the production costs for the possession product bear to the total production costs for the integrated product. The possessions corporation will determine its costs (other than costs incurred for materials purchased from a U.S. affiliate) attributable to the possession product and its expenses allocable and apportionable to the possession product under § 1.861–8, as described in question and answer 1 of this paragraph (b)(1). Each member of the affiliated group that is a United States person, other than the possessions corporation, shall determine its costs (other than costs incurred for materials purchased from a U.S. affiliate) attributable to the possession product, and its expenses allocable and apportionable to the integrated product under § 1.861–8, as described in question and answer 1 of this paragraph (b)(1). Each such United States person (other than the possessions corporation) shall apportion to the possession product, on the basis of the ratio of the production costs for the possession product to the total production costs for the integrated product, the expenses that such affiliate allocated and apportioned to the integrated product. Production costs will be the sum of direct and indirect production costs as defined for inventory accounting purposes under section 1.471–11 (b), (c), and (d), except that they will not include the costs of materials.

Example. A possessions corporation, S, is engaged in the manufacture of microprocessors. S obtains a component from a U.S. affiliate, O. S sells its production to another U.S. affiliate, P, which incorporates the microprocessors into central processing units (CPUs). P transfers the CPUs to a U.S. affiliate, Q, which incorporates them into computers for sale to unrelated customers. S chooses to define the possession product as

the CPUs. The combined taxable income for the CPUs is computed below on the basis of the given production, sales, and cost data:

Production costs (excluding costs of materials):	
1. O's costs for the component	75
2. S's costs for the microprocessors	400
3. P's costs for the CPUs	125
4. O's costs for the computers	150
5. Total (add lines 1 through 4)	750
6. Combined production costs for the CPUs (add lines 1 through 3)	600
7. Ratio of production costs for the CPUs (the possession product) to the production costs for the computers (the integrated product)	0.8
Sales:	
8. Total sales by C to unrelated customers and foreign affiliates of computers containing microprocessors produced by S	5,000
9. Sales value of the CPUs (line 8 multiplied by line 7)	4,000
Total costs of S (excluding costs of materials obtained from U.S. affiliates):	
10. Production costs of S (enter from line 2)	400
11. Materials costs (excluding materials obtained from U.S. affiliates)	100
12. Research expenses	0
13. Other expenses (general and administrative, interest, etc.)	500
14. Total (add lines 10 through 13)	1,000
Research expenses of the affiliated group allocable and apportionable to the CPUs:	
15. Total sales in the 3-digit SIC code	8,000
16. Possession sales (enter from line 9)	4,000
17. Cost sharing fraction (divide line 16 by line 15)	0.5
18. Research expenses incurred by the affiliated group in the 3-digit SIC code	600
19. Cost sharing amount (multiply line 17 by line 18)	300
20. Research of the affiliated group (other than foreign affiliates) allocable and apportionable under § 1.861-8(e)(3) to the computers (the integrated product)	350
21. Research apportionable to the CPUs (multiply line 20 by line 7)	280
22. Enter the greater of line 19 or line 21	300
Other expenses of the affiliated group (other than S and foreign affiliates) allocable or apportionable to the CPUs:	
23. Marketing, general and administrative, interest and other expenses of the affiliated group (other than S and foreign affiliates) which are allocable and apportionable to the computers or to any components thereof	500
24. Expenses apportionable to the CPUs (multiply line 23 by line 7)	400
Combined taxable income attributable to the CPUs:	
25. Combined taxable income (line 9 minus lines 1, 3, 14, 22 and 24)	2,100
26. Share of combined taxable income apportioned to S (50% of line 25)	1,050
Share of combined taxable income apportioned to U.S. affiliates of S:	
27. Adjustment to research expense (Enter the greater of zero or line 19 minus line 21)	20
28. Adjusted combined taxable income (line 27 plus line 25)	2,120
29. Share of combined taxable income apportioned to U.S. affiliates of S (line 28 less line 26)	1,070

Question 10: If the possession product is an end-product form, how is the combined taxable income from the product determined?

Answer 10: Assume that the possessions corporation purchases components from a U.S. affiliate and incorporates them into a product X which is sold without further transformation to unrelated customers and foreign affiliates. The combined taxable income for the end-product form shall be determined by substracting from the third party sales price or comparable uncontrolled sales price of X the following amounts: (1) The comparable uncontrolled sales price of the components and (2) all other costs allocable or apportionable to the end-product form. If no comparable uncontrolled prices for the components exist, then the combined taxable income for the possession product will be computed under the rules described in question and answer 9 of this § 1.936-5(b)(1).

Question 11: If the profit split option is elected, how is the portion of combined taxable income not allocated to the possessions corporation to be treated?

Answer 11: The income shall be allocated (1) to U.S. affiliates (other than tax-exempt affiliates) within the group (as determined under section 482) which derive income from the active conduct of a trade or business in the same product area as the possession product; or (2) if there are no such affiliates, to other U.S. affiliates (other than tax-exempt affiliates); or (3) if there are no U.S. affiliates (other than tax-exempt affiliates), to foreign affiliates which derives income from the active conduct of a trade or business in the same product area as the possession product (or, if the foreign members are resident in a country with which the U.S. has an income tax convention, then to those foreign members which have a permanent establishment in the U.S. which derives income in the same product area as the possession product); or (4) if there are no affiliates described in (1) through (3) above, then to all other affiliates. The allocations made under (1) and (3) above shall be made on the basis of the relative gross income derived by each such affiliate from the active conduct of the trade or business in the same product area, and allocations made under (2) and (4) above shall be made on the basis of the relative total gross income of each such affiliate. Income allocated to foreign affiliates shall be treated as effectively connected with the conduct of a trade or business in the Unites States. For purposes of determining a corporation's estimated tax liability with respect to income thus allocated, the general rules applicable to estimated tax payments shall apply.

Question 12: How is the profit split option to be applied to properly account for costs incurred in a year with respect to products which are sold by the possessions corporation to a U.S. affiliates during such year, but are not resold by the U.S. affiliate to persons who are not members of the affiliated group or to foreign affiliates until a later year?

Answer 12: The rules under § 1.994-1(c)(5) are to be applied. Incomplete transactions will not be taken into consideration in computing combined taxable income. Thus, for example, if in 1983, A, a possessions corporation, sells units of a product with a cost to A of $5000 to B corporation, its U.S. affiliate, which uses the dollar-value LIFO method of costing inventory, and B sells units with a cost of $4000 (representing A's cost) to C corporation, a foreign affiliate, only $4000 of such costs shall be taken into consideration in computing the combined taxable income of the possessions corporation and U.S. affiliates for 1983. If a specific goods LIFO inventory method is used by B, the determination of whether A's goods remain in B's inventory shall be based on whether B's specific goods LIFO grouping has experienced an increment or decrement for the year on the specific LIFO cost of such units, rather than on an average unit cost of such units. If the FIFO method of costing inventory is used by B, transfers may be based on the cost of the specific units transferred or on the average unit production cost of the units transferred, but in each case a FIFO flow assumption shall be used to identify the units transferred. For a determination of which goods are sold by taxpayers using the LIFO method, see question and answer 15.

Question 13: If a possessions corporation purchases materials from and affiliate and computes combined taxable income for the possession product including such materials, how are those materials to be valued in the possessions corporation's inventory?

Answer 13: The cost of those materials is considered to be equal to the affiliate's FIFO cost, regardless of its inventory method.

Question 14: If the possessions corporation uses the FIFO method of costing inventory and the U.S. affiliate uses the LIFO method of costing inventory, or *vice versa*, what method of costing inventory should be used in computing combined taxable income?

Answer 14: The possessions corporation's method of costing inventory determines the cost of the inventory for purposes of computing combined taxable income. However, the affiliate's method of costing determines when the possession product purchased by such affiliate is sold to a foreign affiliate or unrelated person. Thus, if the possessions corporation uses the dollar-value LIFO method, the cost of its inventory for purposes of computing combined taxable income will depend on whether its LIFO pool or pools experienced an increment or decrement

in the year in which sales of its products are made to its U.S. affiliate. Appropriate ratios must be used in years where the sales of the possessions corporation come out of both current year's production and LIFO layers built up in prior years.

Question 15: How are sales of a possession product by a U.S. affiliate determined for purposes of the profit split option if the U.S. affiliate includes purchases of the possession product in a dollar-value LIFO inventory pool (as provided under § 1.472–8)]?

Answer 15: The determination of whether the product acquired from the possessions corporation is sold by the U.S. affiliate is based on the U.S. affiliate's dollar-value LIFO pool. Thus, if there is no change in the level of the U.S. affiliate's pool which includes the possession product, or if any layers of the U.S. affiliate's pool are liquidated, then all units of the product acquired from the possessions corporation during that taxable year, as well as units of the product acquired from the possessions corporation in prior years based on any layers of the U.S. affiliate that are liquidated, are presumed to have been sold by the U.S. affiliate. If the inventory pool of the U.S. affiliate has an increment, the increment attributable to the possession product is determined by multiplying the increment by a fraction. The numerator of the fraction includes the purchases of the product made by the U.S. affiliate during the taxable year from the possessions corporation (determined on the basis of the possessions corporation's cost for its inventory purposes) plus any production costs (as defined in § 1.471–11 (b), (c), and (d), but not including costs of materials) incurred by the U.S. affiliate during the same period. The denominator of the fraction is the total purchases of the product made by the U.S. affiliate for the same period from all sources, with purchases of units of the possession product and any value added by the affiliate in production during the same period, valued as described above. Sales of a possession product are then determined by multiplying the total sales of the product by the U.S. affiliate by a fraction, the numerator of which is the increment in the U.S. affiliate's pool attributable to the possession product and the denominator of which is the increment in the U.S. affiliate's pool attributable to purchases from all sources.

(2) *Pre-TEFRA inventory.*

Question 1: How is pre-TEFRA inventory to be determined if the profit split option is elected and the FIFO method of costing inventory is used by the U.S. affiliate?

Answer 1: Pre-TEFRA inventory is inventory which was produced by the possessions corporation and transferred to a U.S. affiliate prior to the possessions corporation's first taxable year beginning after December 31, 1982. Pre-TEFRA inventory will not be included for purposes of the profit split option. If the U.S. affiliate uses the FIFO method of costing inventory, the pre-TEFRA inventory will be treated as the first inventory sold by the U.S. affiliate during the first year in which section 936(h) applies and will not be included in the computation of combined taxable income for purposes of the profit split option. The treatment of pre-TEFRA inventory when FIFO costing is used by both the U.S. affiliate and the possessions corporation is illustrated by the following example in which FIFO unit costing is used:

Example. Assume the following:

	X		Y	
	Possessions corporation		U.S. affiliate	
	Number of units	Cost per unit	Number of units	Cost per unit
Beginning inventory	500	$150	200	$225
Units produced during 1983	1,000	200		
Ending inventory	400	200	200	

In 1983, the beginning inventory of X, a possessions corporation, is 500 units with a unit cost of $150 and the beginning inventory of Y, the U.S. affiliate, is 200 units with a unit cost of $225, which represents the section 482 price paid by Y. Y's beginning inventory in 1983 represents purchases made in 1982 of products produced by X in that year. Y sells all the units it purchases from X to Z, a foreign affiliate. In 1983, X produces 1000 units at a unit cost of $200 and sells 1100 units to Y (the difference between 1500 units representing X's 1983 beginning inventory (500) and the units produced by X in 1983 (1000) less X's ending inventory of 400 units). Of the 1100 units sold by X to Y in 1983, only 800 units (and not 1000 units) which were sold by Y to Z are taken into consideration in computing combined taxable income for 1983. Since FIFO costing by the possessions corporation is used, the cost is $150 per unit for the first 500 units and $200 per unit for the remaining 300 units. The 200 units sold by X to Y in 1982 are pre-TEFRA inventory and are not included in the computation of combined taxable income for 1983. They are also treated as the first units sold by Y to Z in 1983. This inventory has a unit cost of $225, which reflects the section 482 transfer price from X to Y in 1982. Y's 1983 ending inventory of 300 units will not be taken into consideration in computing the combined taxable income of X and Y for 1983 because the units have not been sold to a foreign affiliate or to persons who are not members of the affiliated group. In a subsequent year when the units are sold to Z, the cost to X and selling price to Z of these units will enter into the computation of combined taxable income for that year.

Question 2: How is pre-TEFRA inventory to be determined if the profit split option is elected and the LIFO method of costing inventory is used by the U.S. affiliate?

Answer 2: Pre-TEFRA inventory will not be included for purposes of the profit split option. If the U.S. affiliate uses the LIFO method (either dollar-value or specific goods LIFO), pre-TEFRA inventory will be treated as inventory sold by the U.S. affiliate in the year in which the U.S. affiliate's LIFO layer containing pre-TEFRA LIFO inventory is liquidated, and shall not be included in the computation of combined taxable income for such years for purposes of the profit split option. The treatment of pre-TEFRA inventory where the dollar-value LIFO method is used by both the U.S. affiliate and the possessions corporation is illustrated by the following example:

Example. Assume the following for 1983:

	X	Y
	Possessions corporation	U.S. affiliate
	dollar-value LIFO cost of inventory	dollar-value LIFO cost of inventory
Beginning inventory	*$5,000	*$4,000
Dollar-value LIFO cost of inventory produced during 1983	20,000	5,000
Ending inventory	4,000	3,000

* Assume that there is no layer of increment and that this represents the base layer.

At the beginning of 1983, X, a possessions corporation, has a dollar-value LIFO pool containing a possession product with a single base layer of $5,000. The beginning inventory of Y, its U.S. affiliate, in the preceding year consists of a single pool containing such possession product in a single base layer in the amount of $4,000, which represents the section 482 price paid by Y. Y sells all its purchases of the possession product to Z, a foreign affiliate. In 1983, X produces additional inventory of the product with a cost of $20,000 and sells inventory with a dollar-value LIFO cost of $21,000 to Y. X's inventory at the end of 1983 has a dollar-value LIFO cost of $4,000. In 1983, Y incurs $5,000 of production costs and sells inventory with a dollar-value LIFO cost of $27,000 to Z, of which $26,000 of inventory is taken into consideration in computing combined taxable income. $1,000 of inventory represents pre-TEFRA inventory resulting from the liquidation of a LIFO layer and is not included in the computation of combined taxable income for 1983. Instead, any income associated with the sale of the pre-TEFRA

inventory is taxed to the U.S. affiliate in the year of sale (in this case, 1983).

(c) *Covered Intangibles.*

Question 1: What are "covered intangibles" under section 936(h)(5)(C)(i)(II)?

Answer 1: The term "covered intangibles" means (1) intangible properly developed in a possession solely by the possessions corporation and owned by it (2) manufacturing intangible property (described in section 936(h)(3)(B)(i)) which is acquired by the possessions corporation from unrelated persons, and (3) any other intangible property (described in section 936(h)(3)(B)(ii) through (v), to the extent not described in section 936(h)(3)(B)(i)) which relates to sales of products or services to unrelated persons for ultimate consumption or use in the possession in which the possessions corporation conducts its business. The possessions corporation is treated as the owner of covered intangibles for purposes of obtaining a return thereon.

Question 2: Do covered intangibles include manufacturing intangible property which is acquired by a U.S. affiliate and subsequently transferred to the possessions corporation?

Answer 2: No. In order for a manufacturing intangible to be treated as a covered intangible, the intangible property must be acquired directly by the possessions corporation from an unrelated person.

Question 3: If a possessions corporation licenses a manufacturing intangible from an unrelated party, will the licensed intangible be treated as a covered intangible?

Answer 3: No.

Question 4: How is ultimate consumption or use determined for purposes of the definition of covered intangibles?

Answer 4: A product will be treated as having its ultimate use or consumption in a possession if it is sold by the possessions corporation to an unrelated person in a possession and is not resold or used or consumed outside of the possession within one year after the date of the sale.

Question 5: Are sales of products that relate to covered intangibles excluded from the cost sharing fraction?

Answer 5: If no intangibles other than covered intangibles are associated with the possession product, then sales of such product will be excluded from the cost sharing fraction. If both covered and non-covered intangibles are associated with the possession product, then sales of such product will be included in the cost sharing fraction.

Question 6: If the cost sharing option is elected, is it necessary for the possessions corporation to be the legal owner of covered intangibles described in section 936(h)(5)(C)(i)(II(*c*) related to the product in order for the possessions corporation to receive a full return with respect to such intangibles?

Answer 6: No. For purposes of section 936(h), it is immaterial whether such covered intangibles are owned by the possessions corporation or by another member of the affiliated group. Moreover, if the legal owner of such covered intangibles which are subject to section 936(h)(5) is an affiliate of the possessions corporation, such person will not be required to charge an arm's-length royalty under section 482 to its possessions corporation.

§ 1.936–7 Manner of making election under section 936(h)(5); special election for export sales; revocation of election under section 936(a).

The rules in this section apply for purposes of section 936(h) and also for purposes of section 934(e), where applicable.

(a) *Manner of making election.*

Question 1: How does a possessions corporation make an election to use the cost sharing method or profit split method?

Answer 1: A possessions corporation makes an election to use the cost sharing or profit split method by filing Form 5712–A and attaching it to its tax return. Form 5712–A must be filed on or before the due date (including extensions) of the tax return of the possessions corporation for its first taxable year beginning after December 31, 1982. The electing corporation must set forth on the form the name and the taxpayer identification number or address of all members of the affiliated group (including foreign affiliates not required to file a U.S. tax return). All members of the affiliated group must consent to the election. An authorized officer of the electing corporation must sign the statement of election and must declare that he has received a signed statement of consent from an authorized officer of each member of the affiliated group. The election is not valid unless all affiliates consent, and unless an amended Form 5712–A is filed and attached to the timely filed possessions corporation's income tax return (including extensions) to reflect any changes in the names or number of corporations in the affiliated group.

Question 2: May the "election out" under section 936(h)(5) be made on a product-by-product basis, or must it be made on a wider basis?

Answer 2: An electing corporation is required to treat products in the same product area in the same manner. Similarly, all possessions corporations in the same affiliated group that produce any products or render any services in the same product area must make the same election for all products that fall within the same product area. However, § 1.936–7(b) provides that the electing corporation may make a different election for export sales than for domestic sales. The electing corporation or corporations may also make different elections for products that fall within different product areas.

Question 3: May the possessions corporation elect to define product area more narrowly than the 3-digit SIC code?

Answer 3: No. Certain alternatives, such as the 4-digit SIC code, would not be permitted under the statute. However, other methods for defining product area may be considered by the Commissioner in the future.

Question 4: May a possessions corporation make an election out under the cost sharing method with respect to a product area if the affiliated group incurs no research, development or experimental costs in that product area?

Answer 4: Yes. In that case the cost sharing payment will be zero.

Question 5: If the significant business presence test is not satisfied for a product or type of service within the product area covered by the election, what rules will apply with respect to that product?

Answer 5: If a cost sharing election has been made with respect to the product area, the cost sharing payment will not be reduced. However, with respect to the product which does not satisfy the significant business presence test, the provisions of section 936 (h)(1) through (h)(4) will apply to the allocation of income.

Question 6: Is a taxpayer permitted to make a change of election on a prospective basis with respect to the cost sharing and profit split methods?

Answer 6: In general, once the election is properly made, it is binding (including upon any later created affiliates), and revocation is only permitted with the consent of the Commissioner of Internal Revenue. However, a taxpayer will be permitted to change its election once from the cost sharing method to the profit split method, or *vice versa,* without consent of the Commissioner if the change is made before January 1, 1986, or within 90 days after [the date of publication of final regulations under section 936(h)(5)(C) (i) and (ii)], whichever is later. A change of election will be treated as an election subject to the procedures set forth above and to

section 481 of the Internal Revenue Code.

Question 7: If the Commissioner determines that a possessions corporation does not meet the 80-percent possession source test or the 65-percent active trade or business test (the "qualification tests") for any taxable year beginning after 1982, under what circumstances is the possessions corporation permitted to make a distribution of property after the close of its taxable year to meet the qualification tests?

Answer 7: A possessions corporation may make a pro rata distribution of property to its shareholders after the close of the taxable year if the Commissioner determines that the possessions corporation does not satisfy the qualification tests (a) by reason of the exclusion from gross income of intangible income under section 936(h)(1)(B) or section 936(h)(5)(C)(i)(II) or (b) by reason of the allocation to the shareholders of the possessions corporation of income under section 936(h)(5)(C)(ii)(III); provided, however, that the determination of the Commissioner does not contain a finding that the failure of such corporation to satisfy the qualification tests was due, in whole or in part, to fraud with intent to evade tax or willful neglect on the part of the possessions corporation. The possessions corporation must designate the distribution at the time the distribution is made as a distribution to meet qualification requirements, and it will be subject to the provisions of section 936(h)(4). Such distributions will not qualify for the dividends received deduction.

(b) *Separate election for export sales.*

Question 1: What methods of computing income can a possessions corporation use under the separate election for export sales?

Answer 1: The only two methods which are available under the separate election for export sales are the cost sharing method and the profit split method.

Question 2: What is the definition of export sales for purposes of the separate election for export sales?

Answer 2: The determination of export sales is based upon the destination of the product, *i.e.*, where it is to be used or consumed. If the product is sold to a U.S. affiliate, it will be treated as an export sale only if resold or otherwise transferred abroad to a foreign person (including a foreign affiliate or foreign branch of a U.S. affiliate) within one year from the date of sale to the U.S. affiliate for ultimate use or consumption outside the United States as provided under § 1.954–3(a)(3)(ii).

Question 3: Assume that a possessions corporation sells a product to both foreign affiliates and foreign branches of U.S. affiliates. In addition, it sells the product to its U.S. parent for resale in the U.S. The possessions corporation makes a profit split election for domestic sales and a cost sharing election for export sales. Will the sales to foreign branches of U.S. affiliates be treated as exports subject to the cost sharing method or as domestic sales subject the profit split method?

Answer 3: The sales to a foreign branch of a U.S. corporation are exports if for ultimate use or consumption outside of the United States as provided under § 1.954–3(a)(3)(ii).

Question 4: Under what circumstances may a possessions corporation make the separate election under section 936(h)(5)(F)(iv)(II) for computing its income from products exported to a foreign person when the income derived by such foreign person on the resale of such products is included in foreign base company income under section 954(a)?

Answer 4: If the income derived by a foreign person on the resale of products manufactured, in whole or in part, by a possessions corporation is included in foreign base company income under section 954(a), then the possessions corporation may make the separate export election under section 936(h)(5)(F)(iv)(II) for computing its income from such products only if such foreign person has been formed or is availed of for substantial business reasons that are unrelated to an affiliated corporation's U.S. tax liability. For purposes of the preceding sentence, a foreign person will be considered to be formed or availed of for such substantial business reasons if the foreign person in the normal course of business purchases substantial quantities of products from both the possessions corporation and its affiliates for resale, and, in addition provides support services for affiliated companies such as centralized testing, marketing of products, management of local currency exposures, or other similar services. However, a foreign person that purchases and resells products only from a possessions corporation is presumed to formed or availed of for other than such substantial business reasons, even if the foreign person provides additional services.

Question 5: When will the "manufacturing" test set forth in subsection (d)(1)(A) of section 954 be applicable to the export sales of a product of a possessions corporation which makes a separate election for export sales?

Answer 5: An electing corporation will be required to meet the "manufacturing" test set forth in subsection (d)(1)(A) of section 954 with respect to export sales of its product in each taxable year in which the separate election for export sales is in effect.

(c) *Revocation of election under section 936(a).*

Question 1: When may an election under section 936(a) be revoked?

Answer 1: An election under section 936(a) may be revoked during the first ten years of section 936 status only with the consent of the Commissioner, and without the Commissioner's consent after that time. The Commissioner hereby consents to all requests for revocation that are made with respect to the taxpayer's first taxable year beginning after December 31, 1982 provided that the section 936(a) election was in effect for the corporation's last taxable year beginning before January 1, 1983, if the taxpayer agrees not to re-elect section 936(a) prior to its first taxable year beginning after December 31, 1988. A taxpayer that wishes to revoke a section 936(a) election under the terms of the blanket revocation must attach a "Statement of Revocation—Section 936" to the taxpayer's timely filed return (including extensions) and must state that in revoking the election the taxpayer agrees to re-elect section 936(a) prior to its first taxable year beginning after December 31, 1988. Other requests to revoke not covered by the Commissioner's blanket consent should be addressed to the District Director having jurisdiction over the taxpayer's tax return.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 84-370 Filed 1-6-84; 4:41 pm]

BILLING CODE 4830-01-M

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26 CFR Part 1

[LR-194-82]

Significant Business Presence Test and Cost Sharing and Profit Split Elections With Respect to the Possessions Tax Credit; Public Hearing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the satisfaction of the significant business presence test

and the cost sharing and profit split elections with respect to the possessions tax credit. These regulations are issued to conform to changes made by section 213 of the Tax Equity and Fiscal Responsibility Act of 1982.

DATES: The public hearing will be held on Tuesday, April 3, 1984, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by Tuesday, March 20, 1984.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The requests to speak and outlines or oral comments should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR–194–82), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Lou Ann Craner of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, telephone 202–566–3935 (not a toll-free call).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 936(h) of the Internal Revenue Code of 1954. The proposed regulations appear in this issue of the **Federal Register** (See FR Doc. 84–370).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who submit written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit, not later than Tuesday, March 20, 1984, an outline of oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

George H. Jelly,

Director, Legislation and Regulations Division.

[FR Doc. 84–369 Filed 1–5–84; 4:41 pm]

BILLING CODE 4830–01–M

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26 CFR Part 1

[EE–17–81]

Computation of "Income" of an Electric Cooperative Under Section 501(c)(12)

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments to the Income Tax Regulations relating to electric cooperatives under section 501(c)(12) of the Internal Revenue Code of 1954. These proposed regulations will provide necessary guidance to those electric cooperatives making a determination of their exempt status under section 501(c)(12) and will affect such cooperatives and their members.

DATES: Written comments and requests for a public hearing must be delivered or mailed by March 12, 1984. The amendments are proposed to be effective for taxable years beginning after the date of publication of these regulations in the **Federal Register** as a final rule.

ADDRESS: Send comments and requests for a public hearing to Commissioner of Internal Revenue, Attention: CC:LR:T (EE–17–81), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Patricia K. Keesler of the Employee Plans and Exempt Organizations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T), 202–566–3430, not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations under section 501(c)(12) of the Internal Revenue Code of 1954. Section 501(c)(12) provides that local benevolent life insurance companies, mutual irrigation and telephone companies and like organizations are exempt from federal income tax if certain requirements are met. Rev. Rul. 67–265, 1967–2 C.B. 205, provides that a cooperative organization furnishing light and water to its members is a "like organization" within the meaning of section 501(c)(12). The proposed regulations amend the existing regulations to conform them to the current position of the Internal Revenue Service that cooperatives that furnish light, water, heat, gas, or electricity to their members are like organizations under 501(c)(12).

Computation of Income

Under section 501(c)(12) an organization must receive 85 percent or more of its income from members in order to be exempt from federal taxation. The existing regulations do not provide a method for electric cooperatives to compute income for purposes of the 85 percent member-income test. This lack of clarity has caused administrative difficulties for the Service as well as the public. The proposed amendments to the regulations provide that income is determined by subtracting cost of goods sold from gross sales and cost of goods sold is determined in accordance with the full absorption method of inventory costing under § 1.471–11 of the Income Tax Regulations. Comments are requested on alternative methods of computing cost of goods sold, in lieu of or in addition to the full absorption method.

Effective Date

The requirement that an electric cooperative's income be determined by subtracting the cost of goods sold from gross sales would be effective for taxable years beginning after the date on which final regulations are issued. For taxable years beginning before final regulations are issued, an electric cooperative may continue to determine its income for purposes of the 85 percent member-income test pursuant to the method consistently applied by the organization.

Executive Order 12291 and Regulatory Flexibility Act

The Commissioner has determined that this proposed regulation is not a major regulation for purposes of Executive Order 12291. Accordingly, a regulatory impact analysis is not required.

Although this document is a notice of proposed rulemaking that solicits public comments, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Patricia K. Keesler of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects in 26 CFR 1.501(a)–1—1.528–10

Income taxes, exempt organizations, nonprofit organizations, cooperatives.

Proposed Amendments to the Regulations

PART 1—(AMENDED)

It is proposed to amend 26 CFR Part 1 by adding the following new § 1.501(c)(12)–2 immediately after § 1.501(c)(12)–1:

§ 1.501(c)(12)–2 Like Organizations.

(a) *In general.* For purposes of section 501(c)(12) and § 1.501(c)(12)–1, the term "like organization" includes an organization that furnishes light, water, heat, gas or electricity to its members on a cooperative basis. Thus, for example, a cooperative that provides electricity to its members may qualify for exemption from federal income taxes as a "like organization" under section 501(c)(12) provided 85 percent or more of its income consists of amounts collected from members for the sole purpose of meeting losses and expenses.

(b) *Electric cooperatives.* For taxable years of an electric cooperative beginning after [THE DATE ON WHICH THIS REGULATION IS PUBLISHED AS A TREASURY DECISION] income from the sale of electricity shall be determined for purposes of applying the 85 percent member-income test by subtracting the cost of producing or purchasing electricity (whichever is applicable) from the gross receipts derived from sales of electricity. The cost of producing or purchasing electricity shall be determined in the manner described in § 1.471–11, relating to the full absorption method of inventory. Section 1.471–11 shall apply as if the sale of electricity were an income producing factor, with inventories required at the beginning and end of each taxable year. However, notwithstanding any contrary provision in § 1.471–11, for purposes of this section, the cost of producing electricity shall not include patronage dividends (as defined in section 1388(a)) whether paid by way of cash or qualified or nonqualified written notice of allocation.

(c) *Example.* The following example illustrates the provisions of this section.

Example. For its most recently completed taxable year, an electric power cooperative had gross receipts of $185*x*: $170*x* from sales of electricity to its members, $10*x* from sales of electricity to nonmembers, and $5*x* from capital gains, dividends and interest. The cost of goods sold, determined in accordance with the provisions of § 1.471–11, was $102*x* for the sales to members and $6*x* for the sales to nonmembers. For purposes of the 85 percent member-income requirement of section 501(c)(12), the electric power cooperative's "income" from sales of electricity to its members is its gross income of $68*x* ($170*x* from sales to members minus $102*x*, cost of goods sold to members). Its "income" from sales of electricity to nonmembers is its gross income of $4*x* ($10*x* from sales to nonmembers minus $6*x*, cost of goods sold to nonmembers). Therefore, of the total gross income of $77*x* ($68*x* from sales to members plus $4*x* from sales to nonmembers plus $5*x* from capital gains, dividends and interest), the amount collected from members for the sole purpose of meeting losses and expenses is 88 percent ($68*x* gross income from members divided by total gross income of $77*x*). Thus, the cooperative meets the 85 percent test of section 501(c)(12).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 84–641 Filed 1–9–84; 8:45 am]

BILLING CODE 4830–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 31

[CC Docket No. 83–1347; FCC 83–586]

Accounting for Access Revenues and Expenses, and To Making Conforming Amendments to the Annual Report Form M and FCC Report 901

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has instituted a Notice of Proposed Rulemaking for the purpose of amending Part 31 of its Rules and Regulations regarding the accounting for access charges. These changes are designed to keep separate those revenues and expenses associated with access charge rules required in the Commission's decision in Docket 78–72. This Notice will also consider changes to the Annual Report Form M and FCC Form 901.

DATES: Comments are due on or before January 27, 1984 Reply comments are due on or before February 13, 1984.

ADDRESS: Comments in response to this Notice should be submitted to the Secretary, Federal Communications Commission, Washington, D.C., 20554.

FOR FURTHER INFORMATION CONTACT: Michael E. Wilson, Audits Branch, Common Carrier Bureau, Federal Communications Commission, Washington, D.C., 20554, Telephone No. (202) 634–1965.

List of Subjects in 47 CFR Part 31

Communications common carriers, telephone, Uniform system of accounts.

Notice of Proposed Rulemaking

In the matter of notice of proposed rulemaking to amend Part 31 Uniform System of Accounts for Class A and Class B Telephone Carriers to account for access revenues and expenses, and to make conforming amendments to the Annual Report Form M and FCC Report 901 (CC Docket No. 83–1347; FCC 83–586).

Adopted: December 14, 1983.

Released: December 21, 1983.

By the Commission: Commissioner Patrick not participating.

I. Introduction

1. This Notice initiates a rulemaking proceeding to revise the accounting rules contained in Part 31, "Uniform System of Accounts for Class A and Class B Telephone Companies," (47 CFR 31.01). These accounting changes are being proposed to establish new accounts to record the carriers' interstate and intrastate access revenues and expenses. We are proposing these changes [1] because the present Part 31 does not have accounts in which carriers can properly record the access revenues and expenses that are required in our decision in the Third Report and Order in MTS and WATS Market Structure (Access Charge Order), CC Docket No. 78–72,[2] or may be required in various state proceedings. We are also proposing to make conforming amendments to the Annual Report Form M (Annual Report for Class A and Class B Telephone Companies) and FCC Report 901, "Monthly Report of Revenues, Expenses, and Other Items—Telephone Companies," to add the new accounts resulting from changes in Part 31 of our Rules and Regulations.

II. Background

2. In our *Access Charge Order* we restructured the method by which local exchange carriers will charge subscribers and interexchange carriers for access to the local exchange carriers' facilities for interstate telecommunications services. In that decision we determined, among other things, that cost-based pricing rather than usage-based pricing for non-traffic sensitive plant was in the public interest. Further, we determined that a substantial portion of these interstate costs should be recovered through flat per line charges assessed upon the end users. However, based on our transitional plan, these charges will be phased in over a six year period beginning in 1984. Finally, we determined that other costs assigned to interstate services for accessing the local exchange carriers' facilities should be recovered through interexchange carriers' carrier charges.

3. In order to implement these changes, we have required exchange carriers to file access tariffs under two basic categories: (1) End user charges and (2) carriers' carrier charges. The tariff element for the end user charges is based on a flat rate for the cost of providing the local loop to the end user. The tariff elements for carrier's carrier charges cover the cost incurred by the exchange carriers for the facilities provided to the interexchange carriers and the cost of billing and collection services provided by the exchange carrier.

III. Discussion

Regulatory Objectives

4. As stated previously, the purpose of this Notice is to propose new accounts for Part 31 for recording carriers' access revenues and expenses and to provide for reporting the results in the Annual Report Form M and FCC Report 901. The objectives to be attained by the proposed new accounts and reporting requirements are:

(A) To provide detailed accounting support for the Commission's review function.

(B) To amend Part 31 to collate all like network access elements into specific accounts and to record carriers' interstate and intrastate access revenues and expenses resulting from access charge rules.

In this Notice, we are seeking comments on whether our proposed amendments to Part 31, Form M, and FCC Report 901 will adequately meet these objectives.

Proposed Accounting Amendments

5. We are proposing to establish separate revenue and expense accounts for federally tariffed access charges and state tariffed access charges. This separation will allow the Commission to identify and monitor access revenues and expenses relative to interstate telecommunications. Our proposed accounting changes to Part 31 would establish three new primary revenue accounts and three new primary expense accounts. The revenue accounts would be account 508, "Interstate access revenues," account 509, "Intrastate access revenues," and account 527, "Billing and collection revenue." The expense accounts would be account 647, "Billing and collection expenses," account 657, "Interstate carriers' carrier expenses," and account 658, "Intrastate carriers' carrier expenses."

6. The access revenue accounts would be used to record all charges assessed by the local exchange carriers on other exchange carriers, the interexchange carriers and the end users for access to the local exchange network. Furthermore, we propose to require the local exchange carriers to subdivide interstate revenues in account 508 into three (3) subaccounts: end user revenues, carriers' carrier facilities revenues, and special access revenues. This segregation of revenue is proposed to provide the staff with pertinent information that would assist in its review of the carriers' access charges. It would also provide the carriers with data that would aid them in determining when revised interstate access tariffs should be filed.

7. The end user subaccount would include all revenues collected by the exchange carriers under the interstate end user tariff element. This subaccount would record the monthly flat rate charge collected by the exchange carrier for each residential and business line that was initially set by the Commission at generally $2 and $6, respectively, except as otherwise provided to life line or centrex customers. The carriers' carrier facilities subaccount would include all revenues collected under the carriers' carrier interstate facilities tariff elements. The special access subaccount would include all revenues collected under the interstate special access tariff element.

8. Account 509, "Intrastate access revenues," would include all access revenues tariffed by state regulatory commissions. We do not propose to require the local exchange carriers to subdivide this account since tariff requirements for state access revenues will vary from state to state.

9. Account 527, "Billing and collection revenue," would include all revenues collected under the billing and collection tariff element.

10. The billing and collection expense account would be used to record expenses incurred by the interexchange carriers or other exchange carriers for having the local exchange carriers bill and collect from the interexchange customers for domestic or international telecommunications services. This account would include all expenses associated with billing and collection furnished under tariff.

11. The interstate carriers' carrier expense account would be used to record all federally tariffed charges assessed to the interexchange carriers for access to the local exchange carriers' facilities. The intrastate carriers' carrier expense account would be used to record all state tariffed charges assessed to the interexchange carriers for access to the local exchange carriers' facilities.

12. While we are not proposing to establish interstate access revenue subaccounts for each tariffed access element, we do propose to require exchange carriers to maintain supporting records that will enable them to identify revenues by federally tariffed access element. We are also proposing to require interexchange carriers to maintain supporting records that will

[1] The proposed accounting changes are interim changes and may be further revised in our rewrite of Part 31 in Docket 78–196, 88 FCC 2d 83 (1981).

[2] FCC 82–579, released February 28, 1983, modified, FCC 83–356, released August 22, 1983.

enable them to identify access expenses by federally tariffed access element. Appendix A contains a description of the proposed amendments to Part 31 for the new revenue and expense accounts.

Form M and FCC Report 901 Amendments

13. In conjunction with our proposed changes to Part 31, we also propose to make conforming amendments to the Annual Report Form M for Class A and Class B Telephone Companies to reflect the proposed accounts. We propose to amend Schedules 34, Operating Revenues, to add accounts 508, "Interstate access revenues," 509, "Intrastate access revenues," and 527, "Billing and collection revenue." We also propose to amend Schedule 35, Operating expenses, to add accounts 647, "Billing and collection expenses," 657, "Interstate carriers' carrier expenses," and 658, "Intrastate carriers' carrier expenses." Finally, we propose to amend FCC Report 901, "Monthly Report of Revenues, Expenses and Other Items—Telephone Companies," to reflect the proposed accounts.

V. Other Matter

14. We are proposing to make the accounting revisions effective six months after a final decision is issued in this proceeding. However, we are also proposing to permit carriers to voluntarily implement these revisions when the access tariffs are implemented. For carriers who do not choose to implement these revisions when their access tariffs are implemented, we propose to require those carriers to be able to identify their access charge data by access charge element. We propose to make the Form M revisions effective with the 1984 reporting year and the FCC Report 901 effective at such time carriers implement the accounting revisions.

15. In compliance with the provisions of Section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), we believe the above discussion sets forth the purpose of the proposed amendments. We certify that the accounting changes can be readily implemented by all carriers subject to Part 31 without significant economic impact.

16. The collection of information requirements contained in the proposed rules have been submitted to OMB for review under Section 3504 of the Paperwork Reduction Act of 1980, 44 U.S.C 35. All comments concerning the collection requirements should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Federal Communications Commission." *See* 5 CFR 1320.13(a).

17. For purposes of this nonrestricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments or pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff, which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any written comments previously filed in the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each such *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state the docket number of the proceeding to which it relates. *See generally*, Section 1.1231 of the Commission's rules, 47 CFR 1.1231. A summary of these Commission procedures governing *ex parte* presentations in informal rulemaking is available from the Commission's Consumer Assistance Office, FCC, Washington, D.C. 20554.

18. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and providing that the fact of the Commission's reliance on such information is noted in the Report and Order.

VI. Ordering Clauses

19. Accordingly it is ordered, That pursuant to the Provisions of Section 4(i) and 220(a) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 220(a), there is hereby instituted a notice of proposed rulemaking into the foregoing matters.

20. It is further ordered, that interested persons may file comments on the specific proposals discussed in this Notice on or before January 27, 1984. Reply comments shall be filed on or before February 13, 1984. In accordance with the provisions of § 1.419 of the Commission's Rules and Regulations, 47 CFR 1.419, an original and five (5) copies of all comments shall be furnished to the Commission. Copies of the comments will be available for public inspection in the Commission's Docket Reference Room, 1919 M Street, NW., Washington, D.C.

21. It is further ordered, pursuant to Section 220(i) of the Communications Act of 1934, as amended, 47 U.S.C. 220(i), that the Secretary shall serve a copy of this Notice on each state commission.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

PART 31—[AMENDED]

Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies is amended as follows:

§ 31.5–53 [Amended]

1. The table in § 31.5–53 is amended by adding the heading "Access Revenues" just after the last entry under "Local Service Revenues." Under "Access Revenues", add account "508 Interstate access revenues." and account "509 Intrastate access revenues." to the column for Class A company accounts.

2. The centerheading "Access Revenues" and §§ 31.508 and 31.509 are added to read as follows:

Access Revenues

§ 31.508 Interstate access revenues.

(a) This account shall include all charges assessed by local exchange carriers upon interexchange carriers and end users for access to the local exchange network for interstate or international telecommunications.

(b) This account shall be further subdivided into three (3) classifications: end user revenues, carriers' carrier facilities revenues, and special access revenues.

(c) End user revenues shall consist of a monthly flat rate charge for each residential or business line that was initially set by the Commission at generally $2 and $6, respectively, except as otherwise provided to life line and centrex customers.

(d) Carriers' carrier facilities revenues shall consist of tariffed charges assessed to interexchange carriers for access to local exchange facilities. The charges shall include:

(1) Limited pay telephone;
(2) Carrier common line;
(3) Line termination;
(4) Local switching;
(5) Intercept;
(6) Information;
(7) Common transport; and
(8) Dedicated transport.

(e) Special access revenues shall include all tariffed charges assessed for other than end user or carrier's carrier charges referred to in paragraphs (c) and (d) of this section.

Note: Carriers are required to maintain supporting documentation in such a manner as to be able to readily identify each tariffed element of the carriers' carrier facilities revenues and each surcharge element collected under special access charges.

§ 31.509 Intrastate access revenues.

This account shall include all charges assessed by local exchange carriers upon interexchange carriers and end users for access to the local exchange network for intrastate telecommunications.

3. Section 31.527 is added to read as follows:

§ 31.527 Billing and collection revenue.

This account shall include charges by local exchange carriers to interexchange carriers or other exchange carriers for billing and/or collecting carrier's revenues. The charges shall include the customer billing process, account collections, billing information services, account establishment and maintenance, and account investigation.

§ 31.6-65 [Amended]

4. The Table in § 31.6–65 is amended under the heading "Commercial Expenses" by adding account "647 Billing and collection expenses." to the column for class A company accounts, between the entries "645 and 648". The centerheading "Access expenses" is added to appear just after the entries for "Commercial Expenses". Under the centerheading "Access Expenses", add account "657 Interstate carriers' carrier expenses." and account "658 Intrastate carriers' carrier expenses." to the column for class A company accounts.

5. Part 31 is amended to add § 31.647.

§ 31.647 Billing and collection expenses. Billing and collection expenses.

This account shall include the expenses incurred by interexchange carriers or other exchange carriers for local exchange carrier billing and collection services related to domestic and international telecommunications services.

6. Part 31 is amended to add the centerheading "Access Expenses" and §§ 31.657 and 31.658 to read as follows:

Access Expenses

§ 31.657 Interstate carriers' carrier expenses.

This account shall include the expenses incurred by the interstate interexchange carriers for access to the local exchange carriers' facilities.

Note.—Carriers are required to maintain supporting documentation in such a manner as to be able to readily identify each tariffed element of this expense.

7. Part 31 is amended to add § 31.658.

§ 31.658 Intrastate carriers' carrier expenses.

This account shall include the expenses incurred by the intrastate interexchange carriers for access to the local exchange carrier's facilities.

[FR Doc. 84-335 Filed 1-9-84; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 64

[CC Docket No. 83-1375; FCC 83-604]

American Telephone and Telegraph Co.; Provision of Basic Services Via Resale by Separate Subsidiary

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This item proposes to authorize AT&T's separate subsidiary to provide basic services via limited or unlimited resale in order to reduce unnecessary regulatory burdens on AT&T, promote competition, and reduce costs to consumers.

DATES: Comments are due February 17, 1984. Reply comments are due March 26, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Warren Lavey, Common Carrier Bureau, (202) 632–6910.

List of Subjects in 47 CFR Part 64

Communications common carriers.

Proposed Rulemaking

In the matter of American Telephone and Telegraph Company; Provision of Basic Services Via Resale by Separate Subsidiary; CC Docket No. 83–1375.

Adopted: December 22, 1983.
Released: January 5, 1984.

By the Commission.

I. Introduction

1. Pursuant to the Commission's orders in the *Second Computer Inquiry*,[1] American Telephone and Telegraph Company (AT&T) established a fully-separated subsidiary to provide unregulated enhanced services and customer-premises equipment. This subsidiary was known initially as American Bell Inc. (ABI); its current name is AT&T Information Systems (ATTIS). We ordered that this subsidiary must not own transmission facilities or provide common carrier (basic) services via resale. ATTIS can resell any service of any carrier to provide enhanced services.

2. In September 1982, AT&T petitioned this Commission in the *Competitive Carrier Rulemaking*[2] to allow ABI to provide basic, resold services without Section 203 tariff-filing requirements and Section 214 entry-and-exit requirements. In January 1983, AT&T sought, via a letter for clarification of the *Second Computer Inquiry*,[3] to provide receive-only earth stations performing certain functions through its regulated interexchange carrier, AT&T Communications (ATCOM). The *Second Computer Inquiry* prohibited ATCOM from providing customer-premises equipment including receive-only earth stations,[4] except when a waiver is granted. AT&T claimed that there is a loss of efficiency when customers can acquire space-segment services from ATCOM but must turn to another supplier, including possibly ATTIS, for earth stations capable of receiving and performing network control or maintenance functions. ATCOM would have offered the receive-only earth stations under tariff, as opposed to their unregulated offering by ATTIS.[5] AT&T stated that consumers would benefit from allowing ATCOM to be a single-vendor supplier of "complete satellite network services." By order adopted today, we denied AT&T's request; we

[1] 77 FCC 2d 384, 474, *reconsid.*, 84 FCC 2d 50 (1980), *further reconsid.*, 88 FCC 2d 512 (1981), *aff'd sub nom.* Computer & Communications Indus. Ass'n. v. Federal Communications Commission, 693 F. 2d 198 (D.C. Cir. 1982), *cert. denied*, 103 S. Ct. 2109 (1983).

[2] AT&T Petition for Reconsideration in CC Docket No. 79–252 (Sept. 27, 1982). *See* 77 FCC 2d 308 (1979) (Notice), 85 FCC 2d 1 (1980) (First Report), 84 FCC 2d 445 (1981), (Further Notice), 91 FCC 2d 59 (1982) (Second Report), *reconsid.*, FCC 83–69 (released March 21, 1983), 48 FR 46791 (October 14, 1983) (Third Report), 48 FR 52452 (November 18, 1983) (Fourth Report).

[3] Letter to Chief, Common Carrier Bureau from Alfred A. Green (January 19, 1983). We received comments from eleven parties on this letter and AT&T filed reply comments.

[4] *Supra* note 1, 84 FCC 2d at 70.

[5] Reply Comments of AT&T 3 (March 9, 1983).

found that the bar on ATCOM does not prevent a service from being offered or impose unreasonable costs on consumers.[6] Nevertheless, it may be in the public interest to grant AT&T some relief along these lines, albeit not by waiver of the *Second Computer Inquiry* rules for receive-only earth stations.

3. In this proceeding we seek comments on the benefits and costs of allowing ATTIS to provide some basic, resold services. We seek to allow ATTIS to provide efficient, innovative offerings of basic, resold services themselves or basic, resold services in conjunction with enhanced services or customer-premises equipment in a manner that does not promote the acquisition and abuse of market power, cross-subsidies, or discrimination. This Notice presents three alternative proposals to allow ATTIS to provide basic services via resale. ATTIS may be allowed to resell as a basic service (1) any service supplied by an unaffiliated carrier (e.g., a carrier other than ATCOM); (2) services of any unaffiliated carrier and any *satellite* service supplied by an affiliated carrier (including ATCOM) as long as that service is available on an unbundled, nondiscriminatory basis (on the same terms and conditions to other users for interconnection, resale, and other use); or (3) services of any unaffiliated carrier and any service supplied by an affiliated carrier on an unbundled, nondiscriminatory basis. These proposals cover interstate domestic, international, and intrastate services. We also seek comments on treating ATTIS by streamlined regulation or forbearance for its basic, resold, domestic, interstate, services.[7]

Comments on a related proposal and other information helpful to this proceeding were sought by the Notice of Inquiry in Long-Run Regulation of AT&T's Basic Domestic Interstate Services.[8] We will incorporate comments from that proceeding in this one, and hereby seek additional comments on these specific proposals.

II. Costs and Benefits of ATTIS Providing Basic Services Via Resale

4. This section discusses possible costs and benefits from lifting the restriction on ATTIS providing basic services via resale. In the Second Computer Inquiry, we stated that AT&T's fully-separated subsidiary could not provide basic services because separation between regulated and unregulated activities would diminish opportunities for cross-subsidies and anticompetitive leverage.[9] We sought to reduce AT&T's ability to inflate the revenue requirements for its basic, regulated services with costs from enhanced services and customer-premises equipment. If rate regulation fails to detect such cost shifting and the carrier has market power, [10] customers of the carrier's basic services may pay unreasonably high rates. We also sought to reduce AT&T's ability to use market power in basic, regulated services to lessen competition in unregulated activities through tying, discriminatory interconnections, or other exclusionary practices (leverage).

5. We first consider the possible benefits of ATTIS providing basic, resold services. Unless such benefits appear substantial, we would be reluctant to alter the range of ATTIS's activities established in the Second Computer Inquiry. We will look to the comments in this proceeding to evaluate the possible consumer benefits of resale for basic services by ATTIS. Lifting this ban may give ATTIS the ability to develop innovative, efficient combinations of basic services, customer-premises equipment, and enhanced services. With basic, resold services, ATTIS may be able to improve the quality and prices of services and products available to consumers and stimulate competition. For example, AT&T's letter and reply comments[11] describe benefits to consumers from a single vendor supplying satellite space-segment services and receive-only earth stations with network control or maintenance features. Single-vendor supply may decrease the cost of obtaining telecommunications services and equipment and increase the quality of their design, performance, and maintenace.[12] ATTIS may also develop innovative, efficient rate structures for basic services alone.

6. We now recognize that allowing ATTIS to provide basic, resold services does not necessarily threaten to increase cross-subsidies or anticompetitive leverage. In Competitive Carrier Rulemaking, we found that resellers lack power in the market of interstate, domestic, interexchange telecommunications services.[13] We did not address the market power of a reseller affiliated with ATCOM in that rulemaking,[14] and seek comments on this point. If ATTIS lacks market power, it seems that ATTIS would be unable to attract customers for basic, resold services that are priced unreasonably high. Nor would it be profitable for ATTIS to charge unreasonably low (predatory) prices or discriminatory prices. Under these conditions, we would not expect to have to perform frequent checks on cost allocations across ATTIS's regulated and unregulated activities to ensure that ATTIS's rates for common carrier services are just and reasonable; market forces would constrain ATTIS's rates. Even if ATTIS could successfully disguise costs of its unregulated activities as costs of its regulated services, without market power ATTIS could not profitably charge supracompetitive rates reflecting its

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[6] American Telephone and Telegraph Company: Request for Clarification of Computer II Requirements Concerning Earth Stations, ENF–83–15, FCC 83–603 (adopted December 22, 1983).

[7] Under forbearance as developed in the Competitive Carrier Rulemaking, supra note 2, basic, domestic, interstate resellers do not file tariffs, facilities applications, or reports on their facilities. Basic, domestic, interstate services supplied by resellers are subject to the other requirements of Title II of the Communications Act of 1934, including the requirement that rates charged be just, reasonable, and nondiscriminatory, and the complaint process. In the Fourth Report, we found that all domestic, interstate resellers not affiliated with AT&T should be treated by forbearance. Under streamlined regulation, carriers must file tariffs on fourteen-days notice, but do not have to file cost support with tariffs or requests for facilities authorization. As explained in Section III infra, we propose that basic, international, resold services supplied by ATTIS would be governed by full tariff and facilities regulation under Title II and would be subject to applicable provisions of the tariffs for the underlying services. We do not propose any unilateral action that would infringe on the sovereign prerogatives of our foreign partners in international telecommunications services. Basic, intrastate, resold services supplied by ATTIS would be subject to state regulation and applicable provisions of the tariffs for the underlying services.

[8] CC Docket No. 83–1147, 48 FR 51340 (November 8, 1983). In paragraph 44, 48 FR at 51348, we stated: "We need to consider whether we might authorize this subsidiary [ATTIS] to provide basic resale services treated by forbearance. If so, we might review AT&T's tariffs for the underlying services that are resold to ensure that the services are general and not tailored or with preferences for its subsidiary."

[9] Supra note 1, 77 FCC 2d at 463–64.

[10] The concept of market power is discussed in Competitive Carrier Rulemaking, supra note 2, 48 FR at 52454–56. We also discussed why a carrier lacking market power would find it unprofitable to engage in monopolistic, predatory, or discriminatory pricing.

[11] Supra notes 3 and 5.

[12] Under the Second Computer Inquiry, ATTIS and ATCOM cannot engage in joint marketing, installation, or maintenance. 47 CFR 64.702(c)(2), (d)(1). In our order adopted today on AT&T's request to allow ATCOM to provide certain receive-only earth stations, we determined that denial of AT&T's request would not make a service unavailable and that possible consumer benefits would not outweigh possible harm from cross-subsidization and anticompetitive conduct. We did not conclude that there were no possible benefits from single-vendor AT&T supply. We propose to enable consumers to obtain at least some such benefits, to the extent that they exist, via services and equipment supplied by ATTIS.

[13] Supra note 2, 48 FR at 52460.

[14] Supra note 2, 91 FCC 2d at 73 n.37; FCC 83–69, at 8 n. 17.

inflated rate base. Then, ATTIS could not obtain monopoly revenues from its basic services to cross-subsidize its unregulated activities. Also, in the absence of market power, it could not exclude competition in enhanced services or customer-premises equipment by forcing consumers to take an unattractive bundle of its basic services and its unregulated products or services.

7. It is unlikely that ATTIS could use resale of the services of any unaffiliated carrier (e.g., a carrier other than ATCOM) to gain market power and thereby engage in undesirable cross-subsidization and anticompetitive leverage. We found in *Competitive Carrier Rulemaking* that most domestic, interstate, interexchange carriers unaffiliated with ATTIS lack market power.[15] For example, we determined that domestic satellite carriers (domsats) cannot profitably charge unreasonable rates for their services. Reselling a domsat's service would not give ATTIS the ability to charge an unreasonable rate for its services; ATTIS's rate would be checked by the underlying carrier's services and rates, actual or potential competition from other resellers of that carrier's service, and services from other satellite and terrestrial carriers. Nor would such resale give ATTIS the ability to force customers who want satellite services to obtain receive-only earth stations from ATTIS; customers could obtain satellite services from other domsat resellers or domsats and obtain equipment from other suppliers. In addition, ATTIS may lack sufficient power in enhanced services or customer-premises equipment to decrease competition in basic services through leverage.[16] Nevertheless, we would be concerned if ATTIS acquired for resale a large share of the domestic, interstate, interexchange capacity of unaffiliated carriers. This conduct could decrease competition between AT&T and other common carriers. Finally, we do not believe that allowing ATTIS to resell the domestic, interstate services of an unaffiliated carrier will increase discrimination in that carrier's rates.[17]

8. Similarly, it is unlikely that ATTIS could obtain market power or promote discrimination through resale of exchange, intrastate, or international services supplies by an unaffiliated carrier. This includes services supplied by the Bell Operating Companies after divestiture (January 1, 1984). We have not analyzed relevant markets for these services and the power of resellers of these services in the *Competitive Carrier Rulemaking*. Yet ATTIS's share of any relevant market from resale of the exchange, intrastate, or international services of unaffiliated carriers will almost certainly be small. These carriers would not have an incentive to erect barriers to entry by other resellers competing with ATTIS, or to develop strategies by which ATTIS could acquire market power. Nor would they have an incentive to develop discriminatory rate structures favoring ATTIS.

9. We are more concerned abut ATTIS's provision of basic services by resale of services of an affiliate (e.g., ATCOM) because of two possible strategies by AT&T. While we cannot say that these practices probably would develop or that regulation probably would be unable to detect and control them, we recognize possible costs in allowing such resale and the benefits of caution. First, suppose that ATCOM structured its service offerings so that ATTIS resold a large share of ATCOM's services and ATCOM supplied relatively little of its services to end-users and other resellers. Then, if ATCOM erected barriers to resale by others which are not eliminated by regulatory scrutiny, ATTIS might have market power.[18] Under these conditions and imperfect regulation of the cost basis of rates, ATTIS might be able to shift costs from its unregulated activities and profitably inflate rates to customers of its basic services. Also, ATTIS might be able to exclude competition in its unregulated activities through leverage. This strategy could defeat the purposes of and benefits from the structural separation ordered by the *Second Computer Inquiry*. Second, we are concerned that ATCOM would target certain service offerings for resale by ATTIS, and erect barriers to their resale by other carriers.[19] The Commission may have difficulty detecting and controlling all instances of such practices through tariff review and the complaint process. ATCOM would have an incentive to discriminate against ATTIS's competitors. Also, this could lead to discrimination in AT&T's pricing for basic services, with some customers paying one rate for a service supplied by ATCOM and others paying another rate for the same service supplied by ATTIS.[20] Finally, we seek comments in this proceeding on the possible effects on ATTIS's power in international resale resulting from ATCOM's operating agreements with foreign carriers for international service.

III. Proposals for ATTIS To Provide Basic Services Via Limited Resale

10. We seek comments on the following three alternative proposals for ATTIS to provide basic services via resale. The proposals attempt to secure for consumers benefits from lifting this ban on ATTIS without substantial risk of undesirable cross-subsidization, exclusionary practices, and discrimination. If the Commission decides to give ATTIS authority to provide basic services via limited resale, we may subsequently propose broader resale in light of future market developments. We will rely on the record developed in this proceeding and in the Inquiry on AT&T to evaluate the costs and benefits of each proposal. We also seek comments on any conditions we should impose along with lifting the resale ban.

11. Under the most limited proposal, ATTIS would be able to provide basic services via resale only of any service supplied by an unaffiliated carrier (e.g., a carrier other than ATCOM). This

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[15] *Supra* note 2, 48 FR at 52460. We have not yet considered whether some domestic, interstate, interexchange carriers are non-dominant in Competitive Carrier Rulemaking. *Id.* at 52463. We would not view the absence of such findings as a reason to bar ATTIS from providing basic service by reselling services of any unaffiliated carrier. It is unlikely that ATTIS would acquire market power through resale of these carriers' services.

[16] *See* Second Computer Inquiry, *supra* note 1, 77 FCC 2d at 433 (supply of enhanced services is "truly competitive"); *id.* at 440 (competition in customer-premises equipment). *See also* Western Union Telegraph Co. v. Federal Communications Commission, 674 F.2d 160, 166–67 (2d Cir. 1982).

[17] Our decisions which declared resale restrictions unlawful and prescribed unlimited resale and shared use looked to resale as a means of eliminating discrimination across services in a carrier's rate structure. *See* Resale and Shared Use of Common Carrier Domestic Public Switched Network Services, 83 FCC 2d 167, 174–77 (1980); Resale and Shared Use of Common Carrier Services and Facilities, 60 FCC 2d 261 (1976), *reconsid.*, 62 FCC 2d 588 (1977), *aff'd sub nom.* American Telephone and Telegraph Co. v. Federal Communications Commission, 572 F.2d 17 (2d Cir.) *cert. denied*, 439 U.S. 875 (1978).

[18] We are inquiring into ATCOM's market power in Long-Run Regulation of AT&T's Basic Domestic Interstate Services, supra note 8, 48 FR at 51349–50.

[19] One AT&T service appeared to be targeted for use by ABI, with tariff provisions such as a twelve-month notice requirement for terminations and excessive minimum usage charges which could discourage potential users and competition. *See* AT&T: Basic (Bell) Packet Switching Service (BPSS), 91 FCC 2d 1 (1982), FCC 83–221 (released May 26, 1983).

[20] Suppose that a carrier has an affiliated reseller, can largely limit certain service offerings to that reseller, and wants to charge some customers discriminatorily high or low rates. The carrier can achieve discrimination by serving some customers itself and having its affiliate serve others at different rates. Such resale may result in more, not less, discrimination in the carrier's rates. *See* note 17 *supra*. This result would be contrary to section 202 of the Communications Act, 47 U.S.C. 202.

would include all domestic and international services of such carrier, subject to the applicable provisions of the tariffs for the underlying services and state regulation. ATTIS could not resell services of carriers that provide service by reselling services of an ATTIS-affiliate and do not own transmission facilities. We propose that ATTIS be required to report annually to the Commission the names of the carriers supplying it services used in the provision of its basic services, and the amounts paid to each carrier for these services.

12. A second proposal expands the range of services available for resale by ATTIS beyond those services covered by the first proposal. Under the second proposal, ATTIS also would be able to provide basic, resold services via any satellite service supplied by an affiliated carrier (including ATCOM) as long as that service is available on an unbundled, nondiscriminatory basis to other users for interconnection, resale, and other use. Satellite services are basic services utilizing no terrestrial transmission lines; they include space segments and related switching and network-control facilities for basic services. Limiting such resale by ATTIS to ATCOM's satellite services reduces the concern about AT&T developing a strategy whereby ATTIS would gain market power. As we found in Competitive Carrier Reulemaking, satellite and terrestrial services compete.[21] Even if ATTIS resold all of ATCOM's satellite capacity, ATTIS probably would lack market power.[22] This limitation also confines the range of services in which there would be concern about greater incentive for discrimination by ATCOM. Resale of satellite services by ATTIS may yield the purported consumer benefits of single-vendor AT&T supply of "complete satellite network services" described in AT&T's letter and reply comments. As for unbundled, nondiscriminatory offerings, our order in AT&T: *Satellite Television Service*[23] explained why such offerings promote the public interest in just, reasonable, and nondisciminatory rates and in competition. Under the *Second Computer Inquiry*, ATCOM must deal with ATTIS on a nondiscriminatory basis.[24] ATCOM must make its services available to ATTIS, other resellers, and other users on the same terms and conditions. Resale by ATTIS should not diminish the opportunities of other suppliers and users to interconnect customer-premises equipment with ATCOM's services or to use ATCOM's services in enhanced or basic services. In addition to the reporting described in para. 11, we propose that ATTIS be required to report annually to the Commission the services supplied by ATCOM to ATTIS used in the provision of ATTIS's basic services, and the amount paid to ATCOM by ATTIS for these services.

13. A third proposal would allow ATTIS to resell as a basic service any service of any carrier, including all of ATCOM's terrestrial and satellite services. ATCOM would make all its services available on an unbundled, nondiscriminatory basis. This proposal would eliminate possible inefficiencies caused by disparate treatment of ATCOM's terrestrial and satellite services, by disparate treatment of ATCOM's terrestrial services and services of other underlying carriers, and by restrictions on ATTIS's ability to offer interrelated products and services. There may be some benefits to consumers from unlimited resale compared with the range of resale allowed under the first or second proposal. However, this third proposal might be detrimental to consumers if ATTIS acquired market power, discrimination in common carrier services increased, or competition was impaired. We propose that ATTIS be required to file the same reports as described in the preceding paragraph.

14. We propose that ATTIS be subject to streamlined regulation or forbearance from tariff-filing and facilities-authorization requirements for its resold, domestic, interstate, basic services. Other obligations of Title II, including the requirement of just, reasonable, and nondiscriminatory rates and the complaint process, would apply to ATTIS's basic, resold services. Forbearance would be consistent with the treatment of non-dominant resellers in *Competitive Carrier Rulemaking*.[25] This treatment corresponds to our assumption that ATTIS will be unable to gain market power in basic services through the adopted proposal. On the other hand, streamlined regulation may be desirable because we lack experience with a provider of basic, resold services affiliated with ATCOM. We seek comments on the relative costs and benefits of streamlined regulation and forbearance applied to ATTIS's basic, resold services. ATTIS would be subject to full Title II tariff and facilities-authorization regulation for its basic, resold, international services, as well as applicable provisions of the tariffs for the underlying services. Finally, ATTIS would be subject to applicable state regulation for its basic, resold, intrastate services.

15. In conclusion, we here propose to lessen restrictions on AT&T, but seek to have no negative impact on the rates for common carrier services and competition. The major benefits are that consumers will have the option of procuring end-to-end service from an additional competitor, ATTIS, and that AT&T will be relieved of a burden not imposed on any of its competitors.[26]

IV. Ordering Clauses

16. This proceeding is instituted pursuant to the provisions contained in 47 U.S.C. 154(i) and 403.

17. Comments must be filed on or before February 17, 1984. Reply comments will be due on or before March 26, 1984.

18. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contracts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* persentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's

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[21] *Supra*, Note 2, 48 FR at 52457–59.

[22] ATTIS would compete with ATCOM's terrestrial services and other providers of terrestrial and satellite services. We seek comments on ATTIS's prospective market power through such limited resale of ATCOM's services. *See* note 18 *supra*. In line with this second proposal, we would consider limiting resale by ATTIS to same set of ATCOM's services other than satellite services.

[23] 86 FCC 2d 18, 28 n.14 (1981). *See also* Long-Run Regulation of AT&T's Basic Domestic Interstate Services, *supra* note 8, 48 FR at 51344.

[24] *Supra* note 1, 77 FCC 2d at 474; 47 CFR 64.702(c), (d).

[25] *Supra* note 2, 48 FR 52481–82. In Competitive Carrier Rulemaking, *id.* at 52482, we discussed the application of tariff and facilities regulation to carriers with a mix of characteristics, some subject to forbearance (e.g., ATTIS's basic, domestic, interstate, resold services) and some subject to full or dominant regulation (e.g., ATTIS's basic, international, resold services). In the absence of two identifiable ATTIS carriers, if ATTIS chooses to provide both domestic-interstate and international basic, resold services, it would be treated by full regulation.

[26] The provisions of the Regulatory Flexibility Act do not apply to this rulemaking because AT&T is the only entity directly affected by our proposed action.

Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally § 1.1231 of the Commission's Rules, 47 CFR 1.1231. All relevant and timely comments and reply comments will be considered by the Commission. In reaching its decision, the Commission may take into account information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

19. In accordance with the provisions of 47 CFR 1.419(b), an original and six copies of all comments, replies, pleadings, briefs and other documents filed in this proceeding shall be furnished to the Commission. Members of the public who wish to express their views by participating informally may do so by submitting one or more copies of their comments, without regard to form (as long as the docket number is clearly stated in the heading). Copies of all filings will be available for public inspection during regular business hours in the Commission's Docket Reference Room (room 239) at its headquarters in Washington, D.C. 1919 M Street NW.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

William J. Tricarico,

Secretary.

Federal Communications Commission.

[FR Doc. 84-556 Filed 1-9-84; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-1377; FCC 83-608]

Facilities of Television and FM Stations

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to revise §§ 73.3571, 73.3572 and 73.3573 of the Commission's Rules concerning major changes in the facilities of television and FM stations. Specifically, changes in power, antenna height and/or antenna location would become minor changes. A change in the primary station of a translator station would merely require a notification. These revisions would also simplify the language in these sections with respect to a change in ownership on a pending AM, FM and television application.

DATE: Comments are due by February 13, 1984 and replies by February 28, 1984.

ADDRESS: Federal Communications Commission, 1919 M Street, NW, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 632-6485.

List of Subjects in 47 CFR Part 73

Radio broadcast, Television broadcast.

Notice of Proposed Rulemaking

In re Matter of Revision of §§ 73.3571, 73.3572 and 73.3573 of the Commission's Rules; MM Docket No. 83-1377; FCC 83-608.

Adopted: December 22, 1983.
Released: January 5, 1984.

By the Commission.

1. The Commission, on its own motion, is proposing to revise §§ 73.3572 and 73.3573 of the Rules concerning major changes in the facilities of authorized or proposed television and FM stations as well as television and FM translator stations.[1] Specifically, we are proposing to define any change in power, antenna location and/or height above average terrain as a minor change, while changes in frequency and station location would continue to be classified as major changes. In regard to FM translator stations, we are proposing to delete changes in primary station from the major change classifications.[2] These revisions will also affect the classifications of major and minor amendments to pending applications under § 73.3572(b) and § 73.3573(b) of the Rules.[3]

2. Presently, §§ 73.3572 and 73.3573 state that a change in facilities which results in a change of 50% or more in an FM or television station's service area is a major change. A major change application is subject to a variety of requirements, including our cut-off procedures, a 30-day holding period following Commission public notice of acceptance and publication of local notice by the applicant. In the same context, a major amendment to a pending application is also subject to these requirements. We must consider these requirements in conjunction with our ongoing review of application processing procedures. Consistent with our underlying statutory responsibilities processing procedures must be directed toward providing service to the public in the most expeditious and efficient manner possible.

3. In order to put these proposed revisions in perspective, we must consider our existing allocation scheme. Unlike AM and noncommercial educational FM stations, the allocation of television and commercial FM stations is on a predetermined channel

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[1] Section 73.3572 of the Rules provides, in pertinent part, as follows:

". . . A major change for TV broadcast stations authorized under this part is any change in frequency or station location, or any change in power or antenna location or height above average terrain (or combination thereof) that would result in a change in 50% or more of the area within the Grade B contour of the station. (A change in area is defined as the sum of the area gained and the area lost as a percentage of the original area). In the case of low power TV and TV translator stations authorized under Part 74 of this chapter, it is any change in: (i) Frequency (output channel) assignment; (ii) Transmitting antenna system including the direction of the radiation, directive antenna pattern or transmission line; (iii) Antenna height; (iv) Antenna location exceeding 200 meters; (v) Authorized operating power; or (vi) Community or area to be served . . ."

Although changes to § 73.3573 have been adopted by the Commission in BC Docket 80-90, released June 14, 1983, they are not yet effective. Section 73.3573 of the Rules currently provides, in pertinent part, as follows:

". . . major change for FM stations authorized under this Part is any change in frequency, station location or class of station, or any change in power, antenna location or height above average terrain (or combination thereof) which would result in a change in 50% or more in area within the station's predicted 1 mV/m field strength contour. (A change in area is defined as the sum of the area gained and the area lost as a percentage of the original area). In the case of FM translator stations authorized under Part 74, it is any change in frequency (output channel), primary stations, or authorized principal community or area . . ."

[2] A primary station is the broadcast station which provides the programs and signals being retransmitted by the translator station. In regard to television translator stations, we have already amended § 74.732(e) of the Rules to substitute a notification requirement for a change in the primary station for both a television translator and a low power television station. Therefore, we are deleting the reference to primary station from § 73.3572(a)(1) of the Rules to reflect this earlier action. It should also be noted that in a recent Notice of Proposed Rule Making with respect to low power television and the television translator service, MM Docket No. 83-1350, released December 23, 1983, we requested comments on making television translators a priority class for processing purposes. We noted that if such a priority were given, a change from a television translator station to a low power televison station would be a major change under Section 73.3572 of the Rules.

[3] These sections specifically refer to the respective §§ 73.3572(a)(1) and 73.3573(a)(1) when determining whether an amendment to a pending application is major or minor. As a consequence, only amendments reflecting changes in frequency, station location, and/or controlling ownership interest would be classified as major.

basis in which specific channels are assigned to specific communities—the respective Tables of Assignments set forth in Part 73 of our Rules. These tables are based upon maximum power and antenna height limitations as well as minimum spacing requirements. These assignments presume the stations will operate at maximum facilities. In fact, many construction permits for new stations do not propose maximum facilities. Instead, subsequent applications (both major and minor changes) improve facilities—usually an increase in power and/or height above average terrain. An application to relocate a transmitter site may or may not involve an increase in facilities. In any event, all applications and amendments to pending applications must be within maximum power and antenna height limitations as well as comply with minimum spacing requirements. For these reasons, an application from an authorized station merely looking toward maximizing its facilities appears to be more logically classified as a minor change. Furthermore, the staff engineering review required for most major and minor change applications is the same.

4. Although there is no table of assignments, the maximum power and antenna height limitations are applicable to noncommercial educational FM stations. In addition, the applicant must protect the 1mV/m contour of existing FM stations from objectionable interference. When a new noncommercial FM station is authorized, its 1mV/m contour will be afforded similar protection. Applicants for a change in facilities must also comply with these requirements. Again, the staff engineering review of a major or minor change application is essentially the same. Other processing procedures are also essentially the same for both the commercial and noncommercial FM service. At present, § 73.3573(a)(1) of the Rules does not distinguish between commercial and noncommercial FM for purposes of the definition of major change. Although we see no compelling reason to distinguish under the proposed revision, we invite comments on whether noncommercial educational FM applications and amendments should continue to be within the purview of § 73.3573(a)(1), and thus be classified as minor along with similar applications and amendments in the commercial service.[4]

5. In evaluating the effects of our present procedures, we are led to several conclusions. The most obvious is that once the applicant for a change in facilities crosses the 50% benchmark, additional burdens are placed upon both the applicant and the processing staff, and service to the public is delayed. The observation applies with equal force to both major change applications and major amendments to pending applications. In a secondary vein pertaining to application processing, it should be noted that, unlike major change applications, minor change applications are not subject to a legal review during processing. However, if we were to define and/or grant all such applications and amendments as minor, it would not affect or prejudice our ultimate disposition of an outstanding complaint, deferred renewal or other subject to scrutiny during the processing of its construction permit application for a new station as well as a review at renewal time. A full legal review in connection with an application merely to change facilities appears redundant. We do not feel that defining all such changes as minor changes would undermine the administration of any rule or policy. Interested parties may, of course, still bring any matter to our attention by filing an informal objection. In regard to the vast majority of applications to change facilities, we feel that it is in the public interest to expedite the processing of applications and the institution of service to the public. In view of the above and the fact that the engineering review of major and minor change facilities is essentially the same, we are proposing to revise §§ 73.3572 and 73.3573 in order to define these changes in facilities as minor changes. [5]

6. Somewhat similar considerations apply with respect to changes in the primary station of an FM translator station. We feel that such a change should not necessitate a major or minor change application. Rather, we propose to require merely a notification to reflect the current primary station. This would afford the translator station licensee maximum flexibility to change its programming service to a community as circumstances warrant. In regard to a television translator station, it should again be noted that we have already amended § 74.732(e) of the Rules to substitute a notification requirement regarding a change in primary station for both a television translator and low power station. As a consequence, deleting the reference to primary station from § 73.3572(a)(1) is merely an effort to have this section reflect the earlier action. Therefore, we propose to delete the reference to a change in primary station from the major change classifications contained in §§ 73.3572(a)(1) and 73.3573(a)(1) of the Rules.

7. We are also proposing revision of §§ 73.3571(b), 73.3571(j)(2), 73.3572(b) and 73.3573(b) of the Rules which, in regard to ownership changes in a pending application, require a new file number if such changes "in the case of an authorized station, would require the filing of an application therefor on FCC Form 314, 315, 345 . . ." When reading these subsections, the applicant should be able to ascertain precisely what change in ownership is permissible in order to retain its file number and position in the processing line. In this connection, the applicant with a pending FCC Form 301 should not have to refer to other FCC Forms or rule sections. In the interest of simplicity and efficient application processing, we would merely require an original party (or parties) to retain more than a 50% ownership interest in the application as originally filed. This means that an amendment reporting any transfer in ownership interest in the applicant solely among the original parties to the application would be treated as a minor amendment. However, if 50% or more of the ownership interest in the applicant were to be transferred to a party or parties not in the original application, an amendment reporting such transfer to new parties would be considered major. If amendments are filed reflecting a series of less than 50% transfers to new parties, the amendment that results in new parties holding an aggregate of 50% or more of the ownership interest would be treated as a major amendment causing a new file number to be assigned to the application.

8. As required by section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA)

[4] At this time, we are not proposing a similar revision of Section 73.3571 with respect to applications to change AM facilities. The propagation characteristics of AM signals are more complex than FM and are highly dependent upon power and time of day. A change in hours of operations to add nighttime service in AM, for example, could cause substantial preclusion or have significant potential for interference. Changes in FM educational station's power or antenna height within the maximum allowed, or changes in site, may also be potentially preclusive, but less so.

[5] On June 14, 1983, we released a *Report and Order* in Docket 80-90 which revised § 73.3573(a)(1) of the Rules to the extent of excluding changes in power and antenna height from the FM major change classification. The present proposal would also make these minor change classifications applicable to the television and noncommercial educational FM services. Since the minimum separation standards and other technical requirements are applicable to both major and minor changes, the present proposal will further review §§ 73.3572(a)(1) and 73.3573(a)(1) to exclude changes in antenna location from the major change classification for both television and FM facilities.

of the expected impact of these proposed policies and rules on small entities. The IRFA is set forth below. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the Notice, but they must have a separate and distinct heading designating them as responses to the regulatory flexibility analysis. The Secretary shall cause a copy of this *Notice*, including the IRFA, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act.

9. Pursuant to the Regulatory Flexibility Act of 1980, the Commission finds as follows:

I. Reasons for Action

1. The present classification of major and minor changes delays the processing of applications and service to the public.

II. The Objective

1. The Commission proposes to define as minor changes certain changes in FM or TV station facilities or ownership which were previously classified as major changes. The Commission also proposes to merely require a notification with respect to a change in primary station by a translator station.

III. Legal Basis

1. Action as proposed is pursuant to Section 303 of the Communications Act of 1934, as amended, which permits the Commission to make such rules and regulations necessary to carry out the provisions of Act.

IV. Description, Potential Impact and Number of Small Entities Affected

1. Many FM and television stations can be classified as small businesses. These stations will benefit by the proposed rule change by lessening the burden in preparing an application and expediting its processing.

V. Recording, Record Keeping and Other Compliance Requirements

1. None.

VI. Federal Rules Which Overlap, Duplicate or Conflict With This Rule

1. None.

VII. Significant Alternatives Minimizing Impact on Small Entities

1. The alternative would be to maintain the status quo. This would not accomplish the beneficial objective sought in this rulemaking.

10. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is a written or oral communication (other than formal written comment/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commissioner's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. *See Generally*, § 1.1231 of the Commission's Rules, 47 CFR 1.1231.

11. Authority for issuance of this Notice is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended. Pursuant to the procedures set forth in § 1.415 of Rules, 47 CFR 1.415, interested persons may file comments on or before February 13, 1984 and reply comments on or before February 28, 1984. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commisssion may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the *Report and Order*.

12. In accordance with provisions of § 1.419 of the Rules formal participants shall file an original and five copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's public reference room at its headquarters in Washington, D.C.

13. For further information concerning this document, contact Robert Hayne, (202) 632–6485.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 84–553 Filed 1–9–84; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 83–1135; RM–4581]

TV Broadcast Station in Cullowhee, North Carolina; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of reply comment period.

SUMMARY: Action taken herein extends the time for filing reply comments in MM Docket No. 83–1135 concerning a proposal to assign UHF television Channel 31 to Cullowhee, North Carolina. Counsel for petitioner states that additional time will be needed to formulate a proper response.

DATE: Reply comments must be filed on or before December 28, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: D. David Weston, Mass Media Bureau, (202) 634–6530.

Order Extending Time for Filing Reply Comments

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Cullowhee, North Carolina) MM Docket No. 83–1135, RM–4581.

Adopted: December 29, 1983.
Released: January 3, 1984.

By the Chief, Policy and Rules Division.

1. On October 6, 1983, the Commission adopted a *Notice of Proposed Rule Making*, 48 FR 50585, published November 2, 1983, in the above captioned proceeding. Comments have been filed and reply comments were due December 20, 1983.

2. We now have before us for consideration a request for extension of

time for filing reply comments, filed on December 20, 1983, by the University of North Carolina, a party to the captioned proceeding. Petitioner requests an extension to and including December 28, 1983. Petitioner states that it has just recently received a copy of a counterproposal for Roswell, Georgia, which raises several complex technical issues which will require additional time in order to prepare reply comments.

3. Section 1.46(b) of the Commission's rules states that extension requests for filing reply comments must be filed seven days in advance of the deadline. Although this request is late, the Commission is of the view that under the circumstances recited, and extension of time is warranted. It appears that no other party to the proceeding would be prejudiced by the grant of the instant request and we are desirous of knowing the University of North Carolina's position with respect to the counterproposal in order to develop a sound and comprehensive record on which to base a decision herein.

4. Accordingly, it is ordered, That the time for filing reply comments in MM Docket No. 83–1135 (RM–4581) is extended to and including December 28, 1983.

5. This action is taken pursuant to the authority contained in Subsections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–394 Filed 1–9–84; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 662

[Docket No. 31220–243]

Northern Anchovy Fishery

Correction

In FR Doc. 83–34178 beginning on page 56806 in the issue of Friday, December 23, 1983, make the following corrections:

1. On page 56806 third column, in the "SUMMARY", eighteenth line, insert the following between the words "new" and "regulations", "scientific assessments. The intended effect of these".

2. Same page, same column, under "DATE", "February 31, 1984" should have read "February 3, 1984".

3. On page 56809, second column, in § 662.7(b)(3), seventh line, "equipment" should have read "equipped".

BILLING CODE 1505–01–M

Notices

Federal Register
Vol. 49, No. 6
Tuesday, January 10, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

1984 Wheat Program; Determinations Regarding the Proclamation of 1984-Crop Program Provisions for Wheat

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of Determination of the 1984 wheat loan and purchase rate, established (target) price, acreage reduction program, payment-in-kind program, and special grazing and haying program.

SUMMARY: The purpose of this notice is to affirm the following determinations which have been made by the Secretary of Agriculture on August 9, 1983 with respect to the 1984 crop of wheat: (1) The loan and purchase rate will be $3.30 per bushel; (2) the established (target) price will be $4.45 per bushel; (3) an acreage reduction program for wheat will be in effect with a uniform reduction of 30 percent; (4) a land diversion program, requiring a 10 to 20 percent reduction, in addition to the acreage reduction program of 30 percent with payment-in-kind equal to 75 percent of the established yield times the acres diverted; and (5) no set-aside or special haying and grazing program will be in effect. These determinations are made in accordance with sections 107B, 107C, 109 and 110 of the Agricultural Act of 1949, as amended (hereinafter referred to as the "1949 Act").

EFFECTIVE DATE: August 9, 1983.

ADDRESS: Dr. Howard C. Williams, Director, Analysis Division, USDA–ASCS, Room 3741, South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Bruce R. Weber, Agricultural Marketing Specialist, Analysis Division, USDA–ASCS, P.O. Box 2415, Washington, D.C. 20013 or call (202) 447–4146. The Final Regulatory Impact Analysis describing the options considered in developing this Notice of Determination is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been designated as "major". It has been determined that these program provisions will result in an annual effect on the economy of $100 million or more.

The title and number of the federal assistance program that this notice applies to are: TITLE–Wheat Production Stabilization: Number 10.058 and TITLE–Commodity Loans and Purchases: Number 10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since there is no requirement that a notice of proposed rulemaking be published in accordance with 5 U.S.C. 553 or any other provision of law with respect to the subject matter of these determinations.

A supplemental environmental impact statement has been completed and it has been determined that there will be no significant adverse environmental impacts.

This notice sets forth determinations with respect to the following issues which are briefly described:

1. *The Loan and Purchase Level.* Section 107B(a) of the 1949 Act provides that the Secretary shall make available to producers loans and purchases for the 1984 crop of wheat at such level, not less than $3.55 per bushel, as the Secretary determines will maintain the competitive relationship of wheat to other grains in domestic and export markets after taking into consideration the cost of producing wheat, supply and demand conditions, and world prices for wheat. If the Secretary determines that the average price of wheat received by producers in any marketing year is not more than 105 percent of the level of loans and purchases for wheat for such marketing year, the Secretary may reduce the level of loans and purchases for the next marketing year by the amount the Secretary determines necessary to maintain domestic and export markets for grain, except that the level of loans and purchases shall not be reduced by more than 10 percent in any year nor below $3.00 per bushel.

2. *The Established (Target) Price Level.* Section 107B(b)(1)(C) of the 1949 Act provides that the established (target) price for wheat shall not be less than $4.45 per bushel for the 1984 crop. Any such established (target) price may be adjusted by the Secretary as the Secretary determines to be appropriate to reflect any change in (i) the average adjusted cost of production per acre for the two crop years immediately preceding the year for which the determination is made from (ii) the average adjusted cost of production per acre for the two crop years immediately preceding the year previous to the one for which the determination is made.

3. *An Acreage Reduction Program (ARP).* Sections 107B(e) (1) and (2) of the 1949 Act provide that the Secretary may establish an acreage reduction program for the 1984 crop of wheat if the Secretary determines that the total supply of wheat, in the absence of such a program, will be excessive, taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. The Secretary shall announce any such wheat acreage reduction program not later than August 15 prior to the calendar year in which the crop is harvested. Such limitation shall be achieved by applying a uniform percentage reduction to the acreage base for each wheat-producing farm. Producers who knowingly produce wheat in excess of the permitted wheat acreage for the farm shall be ineligible for wheat loans, purchases, and payments with respect to that farm. The acreage base for any farm for the purpose of determining any reduction required to be made for any year as the result of a limitation shall be the acreage planted on the farm to wheat for harvest in the crop year immediately preceding the year for which the determination is made or, at the discretion of the Secretary, the average acreage planted to wheat for harvest in the two crop years immediately preceding the year for which the determination is made. The Secretary may make adjustments to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base. In addition, the number of acres on the farm determined

by dividing (1) the product obtained by multiplying the number of acres required to be withdrawn from the production of wheat times the number of acres actually planted to wheat by (2) the number of acres authorized to be planted to wheat in accordance with the limitation established by the Secretary, shall be devoted to conservation uses in accordance with regulations issued by the Secretary.

4. *A Set-Aside Program.* Sections 107B(e) (1) and (3) of the 1949 Act provide that the Secretary may establish a set-aside program for the 1984 crop of wheat if the Secretary determines that the total supply of wheat, in the absence of such a progrm, will be excessive, taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices to meet a national emergency.

5. *Land Diversion Program.* Section 107B(e)(5) of the 1949 Act provides that the Secretary may make land diversion payments to producers of wheat, whether or not an acreage reduction or set-aside program for wheat is in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage of wheat to desirable goals.

6. *The National Program Acreage (NPA).* Section 107B(c)(1) of the 1949 Act provides that the Secretary shall proclaim a NPA for the 1984 crop of wheat not later than August 15, 1983. The NPA shall be the number of harvested acres of wheat the Secretary determines (on the basis of the weighted national average of the farm program payment yields for the 1984 crop) will produce the quantity (less imports) that the Secretary estimates will be utilized domestically and for exports during the 1984/85 marketing year. The NPA provision does not apply if an acreage reduction program is implemented for the 1984 crop of wheat.

7. *Voluntary Reduction Percentage.* Section 107B(c)(3) of the 1949 Act provides that the 1984 individual farm program acreage of wheat which is eligible for payments shall not be reduced by application of an allocation factor (not less than 80 percent nor more than 100 percent) if the producer reduces the acreage of wheat planted for harvest on the farm from the 1984-crop established wheat acreage base by at least the percentage recommended by the Secretary in the proclamation of the NPA for the 1984 program. If an acreage reduction program is implemented for the 1984 crop of wheat, the voluntary reduction percentage shall not be applicable to such crop.

8. *Grazing and Haying of Designated ARP Acreage.* Section 107B(e)(4) of the 1949 Act provides the Secretary may permit all or any part of the conservation use acreage to be devoted to sweet sorghum, hay and grazing or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, or any other commodity, if it is determined that such crop production is needed to provide an adequate supply of such commodities, is not likely to increase the cost of the price support program, and will not affect farm income adversely.

9. *Special Grazing and Haying Program.* Section 109 of the 1949 Act provides that the Secretary is authorized to administer a special wheat acreage grazing and haying program. If a special grazing and haying program is implemented, a producer shall be permitted to designate a portion of the acreage on the farm which the producer intends to plant to wheat, feed grains, or upland cotton for harvest, but not in excess of 40 percent thereof, or 50 acres whichever is greater. Such designated acreage shall be planted to wheat (or some other commodity other than corn or grain sorghum) and must be used by the producer for grazing purposes or hay rather than for commercial grain production. The Secretary shall pay the producer participating in this special program an amount determined by multiplying the farm program payment yield for wheat established for the farm, by the number of acres included in the special program, by a rate of payment determined by the Secretary to be fair and reasonable. Acreage which is included in the special program shall be in addition to any acreage which is included in any set-aside, reduced acreage or land diversion program.

10. *Offsetting Compliance and Cross-Compliance.* Section 107B of the 1949 Act provides that the Secretary may implement offsetting compliance requirements as a condition of eligibility for program benefits. If offsetting compliance is required, operators and owners of farms would have to assure that all farms in which they have an interest were in compliance with program requirements which are specified with respect to the wheat program, such as planting within the established wheat acreage bases or the normal crop acreage established for such farms, in order to be eligible for program benefits. Cross-compliance requires owners and operators to be in compliance with the terms and conditions of any other commodity program on the same farm in order to be eligible for benefits under the wheat program.

11. *Payment-In-Kind Program.* The Payment-In-Kind Program for wheat is authorized by the Agricultural Act of 1949 and the Commodity Credit Corporation Charter Act. Section 107B(e)(5) of the 1949 Act authorizes the Secretary to make land diversion payments to producers of wheat if the Secretary determines that the payments are necessary to assist in adjusting the total national acreage of wheat to desirable goals. The Commodity Credit Corporation Charter Act (15 U.S.C. 714 *et seq.*) gives the Corporation broad authority to support the price of agricultural commodities, stabilize agricultural commodity markets and remove and dispose of agricultural surpluses.

12. *Advance Deficiency Payments.* Section 107C of the 1949 Act provides that if the Secretary establishes an acreage reduction or acreage set-aside program for wheat and determines that deficiency payments will likely be made for such crop, the Secretary may make available advance deficiency payments to producers who agree to participate in such program.

13. *Farmer Owned Reserve Program.* Section 110 of the 1949 Act provides that the Secretary shall provide original or extended price support loan for wheat in accordance with terms and conditions designed to encourage producers to store wheat for extended periods of time in order to promote orderly marketing when wheat is in abundant supply. Loan under this program are required to be made at such level of support as the Secretary determines appropriate, except that the loan rate shall not be less than the regular level of loans and purchases.

A notice that the Secretary was preparing to make determinations with respect to the 1984 crop of wheat was published in the **Federal Register** on May 6, 1983, (48 FR 20451) and provided for a 30-day comment period. The comment period was limited to 30 days to allow the Secretary sufficient time to properly consider the comments received before the final program determinations were made. A total of 155 comments were received. A majority of the comments addressed the following 10 issues: (1) The loan and purchase level; (2) the established (target) price; (3) an acreage reduction program (ARP); (4) a cash land diversion program; (5) a payment-in-kind land diversion program; (6) base acreage adjustments; (7) announcement of the program; (8) haying and grazing requirements for required conservation use acreage (CUA); (9) offsetting

compliance or cross compliance; and (10) the farmer-owned reserve program.

1. *Loan and Purchase Level:* With respect to the loan and purchase level, a total of 33 comments were received with 12 favoring a higher loan rate than in 1983, 8 favoring the same loan rate and 13 favoring a lower loan rate. Most of the comments favored a price support level in a range of $3.55 to $4.00 per bushel.

2. *Established (Target) Price:* With respect to the established (target) price, a total of 25 comments were received with 15 favoring a higher established (target) price than in 1983, 8 supporting the same established (target) price as in 1983 and 2 supporting a lower established (target) price. Most comments favored an established (target) price in the range of $4.30 to $4.45 per bushel.

3. *Acreage Reduction Program (ARP):* A total of 26 comments were received with only 1 comment opposed to an ARP. Those comments favored a reduction in the range of 15 to 25 percent with the majority favoring a 20 percent ARP.

4. *Cash Diversion Program:* A total of 17 comments were received with 9 favoring and 8 opposing a cash land diversion program. Most of those favoring a cash land diversion program supported a 5 to 10 percent diversion program with a $2.70 to $3.00 per bushel payment.

5. *Payment-In-Kind (PIK) Diversion Program:* A total of 79 comments were received with only 16 opposed to a PIK Program. The majority favored a PIK program similar to the one for the 1983 crop of wheat. Most comments supported a compensation ratio of 80 to 90 percent of a farm's established yield. Some comments also favored limiting a PIK Program to no more than 50 percent of the acreage base established for a farm.

6. *Farm Base Acreage Adjustments:* A total of 22 comments were received with 11 favoring the use of the same acreage base established for a farm for the 1983 wheat program, 7 favoring the use of an average of the previous two years' planted wheat acreage in order to determine the farm acreage base, and 2 favoring the use of a five or ten year history of planted wheat acreage in order to determine the farm acreage bases.

7. *Announcement of the 1984 Wheat Program:* A total of 27 comments were received concerning an early announcement of the 1984 wheat program with almost all of such comments favoring an announcement by July 1, 1983 or earlier.

8. *Haying and Grazing of Required Conservation Use Acreage:* A total of 29 comments were received with 13 favoring and 16 opposing year round haying and grazing.

9. *Offsetting and Cross Compliance:* A total of 18 comments were received regarding offsetting compliance with 9 favoring and 9 opposing it. In addition, a total of 17 comments were received concerning cross compliance with 8 favoring and 9 opposing it. Section 107B(k) provides that cross-compliance requirements may be imposed if a set-aside program is established for a crop of wheat, but not if an acreage reduction program is established.

10. *Farmer-Owned Reserve Program:* A total of 18 comments were received with regard to the farmer-owned reserve program with 9 favoring the program and 9 opposing it. Some of those favoring the reserve program also favored a loan premium for entering a commodity into the reserve which would be in excess of the regular loan rate. Others of those commenting favored no loan premium.

A number of the determinations with respect to the wheat program are required to be made by section 107B(e)(1) of the 1949 Act not later than August 15 prior to the calendar year in which the crop is harvested. On August 9, 1983, the Secretary announced by press release the program provisions for the 1984 crop of wheat. Since the only purpose of this notice is to affirm the program determinations previously announced, it has been determined that no further public rulemaking is required which respect to the following determinations:

Determinations

1. *Loan and Purchase Level:* In accordance with section 107B(a) of the 1949 Act, it has been determined that the loan and purchase rate for 1983-crop wheat is $3.30 per bushel since this level will best maintain the competitive relationship of wheat to other grains in domestic and foreign markets after taking into consideration the cost of producing wheat, supply and demand conditions, and the world prices for wheat.

2. *Established (Target) Price:* In accordance with section 107B(1)(C) of the 1949 Act, it has been determined that the established (target) price for wheat is $4.45 per bushel, which is the minimum statutory level. It is felt that any increase in the established (target) price above the minimum statutory level will further increase production by U.S. and foreign wheat producers and result in an undesired increase of the supply level. Sufficient producer participation is anticipated without a higher level. In addition, a higher established (target) price would result in substantially higher Treasury costs without an improvement in the level of wheat supplies.

3. *Acreage Reduction Program (ARP):* In accordance with section 107B(e)(2) of the 1949 Act, it has been determined that a 30 percent reduction shall be applicable to the acreage planted to wheat in 1984. Producers will be required to reduce their acreage base by the announced reduction percentage in order to be eligible for loans, purchases, and payments for the 1984 crop of wheat. The Secretary has determined that the total supply of wheat, in the absence of such limitations, will be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. The 30 percent reduction requirement was selected because it provides the best balance between the multiple objectives of providing adequate wheat supplies for domestic and foreign utilization, while maintaining adequate carryover stocks, supporting farm income, combating inflation, holding down Treasury costs and conserving natural resources.

Acreage designated for conservation use must be cropland that was devoted to row crops or small grains in two of the last three years. However, in order for acreage which is in a summer fallow rotation to be designated as conservation use acreage, such land must be acreage that would have been planted to small grains or row crops in 1984 in the absence of the 1984 wheat program. Without such a requirement, acreage which has not been planted to such crops would be eligible to be utilized as conservation use acreage without any corresponding reduction in production.

The 1984 acreage base for wheat farms, other than those farms where there is an established crop rotation, shall be the average of the acreage planted and considered planted to wheat for harvest in 1982 and 1983. With respect to wheat farms where there is an established crop rotation, the acreage base shall be the acreage planted and considered planted to wheat for harvest in immediately prior years that correspond to the farm's rotation.

Contracts signed by program participants for either the acreage reduction or PIK program will be considered to be binding contracts at the end of the signup period and will provide for liquidated damages for

failure to comply with the terms and conditions of such contracts.

Eligible land on which permanent conservation practices were established in 1982 or a subsequent year will be eligible for designation as conservation use acreage under any acreage reduction, set-aside, or diversion program authorized by the 1949 Act as long as the practice is maintained. These conservation practices will be eligible for cost-sharing assistance under the Agricultural Conservation Program.

4. *Set-Aside Program.* In accordance with sections 107B(e) (1) and (3) of the 1949 Act, it has been determined that there will be no set-aside program for the 1984 crop of wheat since it was determined that an acreage reduction program will be applicable for the 1984 wheat program.

5. *Cash Land Diversion Program.* In accordance with section 107B(e)(5) of the 1949 Act, it has been determined that there will be no cash land diversion program for the 1984 crop of wheat. It has been determined that there will be sufficient producer participation in the ARP and PIK portions of the 1984 wheat program, which will result in the adjustment of the total supply of wheat to desirable goals without a further incentive such as a cash land diversion program.

6. *National Program Acreage.* In accordance with section 107B(d)(2) of the 1949 Act, it has been determined that the NPA will not be applicable for the 1984 crop of wheat since an acreage reduction program has been announced.

7. *Voluntary Reduction Percentage.* In accordance with section 107B(d)(2) of the 1949 Act, it has been determined that the voluntary reduction percentage will not be applicable for the 1984 crop of wheat since an acreage reduction program has been announced.

8. *Grazing and Haying of Designated ARP Acreage.* In accordance with section 107B(e)(4) of the Act, it has been determined that wheat producers shall not be permitted to harvest cover on the designated ARP acreage for hay or plant alternate production crops on the designated ARP acreage. Grazing of the conservation use acreage will be authorized during the six principal non-growing months as determined by the State ASC committees.

9. *Special Haying and Grazing Program.* In accordance with section 109 of the 1949 Act, it has been determined that there will be no special haying and grazing program for the 1984 crop of wheat since this program is not needed to assist in adjusting the supply of wheat to desirable goals.

10. *Offsetting Compliance and Cross-Compliance.* It has been determined that offsetting compliance is not necessary to assist in adjusting the production of wheat to desirable goals and will not be required as a condition of eligibility in order for a wheat producer to participate in the 1984 acreage reduction and land diversion programs. In addition, section 107B(k) of the 1949 Act precludes the imposition of any cross-compliance requirements as a condition of eligibility for participation in the 1984 wheat program since an acreage reduction program has been established.

11. *Payment-In-Kind (PIK) Diversion Program.* It has been determined that producers participating in the acreage reduction program may divert an additional 10 to 20 percent of their wheat acreage base and receive payment-in-kind equal to 75 percent of the established yield times the acres diverted. Producers enrolling in the wheat PIK program must agree to redeem any of their wheat which is pledged as collateral for an outstanding reserve or regular CCC price support loan. Producers who have no wheat pledged as collateral for outstanding price support loans and who desire to participate in the PIK program must agree to pledge a quantity of their 1984 wheat production as loan collateral, redeem such collateral, and sell it to CCC. Such quantity of wheat will then be made available to the producers as PIK compensation. The Secretary has determined that this program is necessary to assist in adjusting the total national acreage of wheat to desirable goals.

12. *Advance Deficiency Payments.* In accordancee with section 107C of the 1949 Act, it has been determined that there will be no advance deficiency payments for the 1984 crop of wheat. Advance deficiency payments are not necessary as an incentive for participation with respect to the 1984 Wheat Program because sufficient producer participation is anticipated without the use of such payments.

13. *Farmer Owned Reserve Program.* In accordance with section 110 of the 1949 Act, the Secretary has determined that there will be no immediate entry into the farmer owned reserve program for the 1984 crop of wheat. Further, the Secretary intends to review the size of the reserve before regular price support loans for the 1984 crop reach maturity. A determination whether to impose a limitation on the size of the reserve will be made accordingly.

Authority: Secs. 107B, 107C, 109, 110; 95 Stat. 1221, as amended 96 Stat. 766, 91 Stat. 950, as amended, 951, as amended, (U.S.C. 1445b–1, 1445b–2 1445d and 1445e); 1001, 91 Stat. 950, as amended, (7 U.S.C. 1309)

Signed in Washington, D.C., January 4, 1984.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 84–589– Filed 1–9–84; 8:45 am]

BILLING CODE 3410–05–M

Forest Service

Regional Foresters and Deputy Regional Foresters; Delegations of Authority

Pursuant to the delegations of authority to the Chief, Forest Service, at 7 CFR 2.60, the following authority is hereby delegated through the Deputy Chief for the National Forest System to the Regional Forester of each Forest Service Region:

(a) Execute all documents for acquisition and disposition of lands and interest in lands pursuant to the Act of January 12, 1983 (96 Stat. 2535) commonly known as the Small Tracts Act, and in accordance with regulations at 36 CFR 254 Subpart C. This authority may be further delegated to the Forest Supervisor of each National Forest by the Regional Forester.

(b) Execute all documents for the acquisition and disposition of lands and interest in lands pursuant to the following Acts:

(1) Adjustment of Land Titles Act of July 8, 1943 (Pub. L. 78–120; 57 Stat. 388; 7 U.S.C. 2253);

(2) Quitclaim Act of April 28, 1930 (46 Stat. 257; 43 U.S.C. 872); and

(3) National Forest Townsite Act of July 31, 1958 as amended (72 Stat. 483; 16 U.S.C. 478a).

F. Dale Robertson,

Associate Chief.

October 11,1983.

[FR Doc. 84–534 Filed 1–9–84; 8:45 am]

BILLING CODE 3410–11–M

CIVIL RIGHTS COMMISSION

North Carolina Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the North Carolina Advisory Committee to the Commission will convene at 1:00 p.m. and will end at 4:00 p.m., on February 1, 1984, at the Greensboro/High Point Marriot, Salon A, Greensboro/High Point Regional Airport, Greensboro, North Carolina 27409. The purpose of this meeting is to discuss the New Commission on Civil Rights and possible program planning.

Persons desiring additional information, or planning a presentation to the Committee, should contact Chairperson, Tommie Young at (919) 379–7803 or the Southern Regional Office at (404) 221–4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 5, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84-543 Filed 1-9-84; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Office of the Secretary

President's Private Sector Survey on Cost Control; Availability of Report

AGENCY: Department of Commerce.

ACTION: Announcing Public Availability of the President's Private Sector Survey on Cost Control (PPSSCC) Final Reports.

SUMMARY: The PPSSCC Final Reports are being distributed by the Government Printing Office. The below listed reports are now available.

SUPPLEMENTARY INFORMATION: Seven PPSSCC reports have been announced previously. For further information, refer to **Federal Register** notice Volume 48, No. 246 dated Wednesday, December 21, 1983. The numbers below (i.e., 8–29) cannot be used to order the reports. The GPO stock number must be known.

Name of report	GPO stock No.	Price
8. The Department of Housing and Urban Development	003-000-00586-1	$8.50
9. The Department of Treasury	003-000-00596-8	7.00
10. The Department of Commerce and The Department of Labor	003-008-00600-0	8.50
11. EPA/SBA/FEMA	003-000-00604-2	7.00
12. The Department of Health and Human Services/PHS	003-000-00605-1	7.50
13. Boards/Commissions—Business Volume I	003-000-00610-7	9.50
14. Boards/Commissions—Business Volume II	003-000-00609-3	12.00
15. The Department of Navy	003-000-00611-5	7.50
16. The Department of Army	003-000-00587-9	8.00
17. The Department of Air Force	003-000-00588-7	11.00
18. The Department of Transportation	003-000-00589-5	11.00
19. State/AID/USIA	003-000-00597-6	8.50
20. The Department of Education	003-000-00598-4	10.00
21. Federal Feeding and Low Income Standards and Benefits	003-000-00599-2	7.50
22. The Department of Interior and The Department of Justice	003-000-00602-6	11.00
23. The Department of Energy	003-000-00603-4	7.50
24. The Department of Agriculture	003-000-00606-9	8.50
25. Management Office Selected Issues, Volumes I and II	003-000-00607-7	8.50
26. User Charges	003-000-00608-5	8.50
27. The Office of the Secretary of Defense	003-000-00612-3	8.00
28. Federal Management Systems	003-000-00613-1	8.00
29. Financial Asset Management	003-000-00614-0	7.50

Contact: To order the above reports, call (202) 783–3238.

FOR FURTHER INFORMATION CONTACT: Ms. Phyllis D. Lambry, U.S. Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, D.C. 20230, (202) 377–3271.

Dated: December 30, 1983.

Marilyn S. McLennan,

Chief, Information Management Division, Office of Information Resources Management.

[FR Doc. 84-574 Filed 1-9-84; 8:45 am]

BILLING CODE 3510-CW-M

President's Commission on Industrial Competitiveness; Meeting

AGENCY: Office of Economic Affairs, Commerce.

ACTION: Notice of meeting.

SUMMARY: The Commission was established by Executive Order 12428 on June 28, 1983 and its charter was approved on August 23, 1983. The Commission shall review means of increasing the long-term competitiveness of United States industries at home and abroad, with particular emphasis on high technology, and provide appropriate advice to the President through the Cabinet Council on Commerce and Trade and the Department of Commerce.

Time and Place

Committee on Capital Resources (a subcommittee of the Commission), Monday, January 23, 1984, 8:00 am–4:30 pm., Westwood Marquis Hotel, The Marquessa Room, 930 Hilgard Avenue, Los Angeles, California 90025.

Public Participation

The meeting will be open to public attendance. A limited number of seats will be available for the public on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: J. Paul Royston, President's Commission on Industrial Competitiveness, 736 Jackson Place, NW., Washington, DC 20503, telephone: 202–395–4527 on substantive issues or Marilyn McLennan, Chief, Information Management Division, 202–377–4217, on issues regarding administration of the Commission.

Egils Milbergs,

Executive Director, President's Commission on Industrial Competitiveness.

[FR Doc. 84-630 Filed 1-9-84; 8:45 am]

BILLING CODE 3510-18-M

Foreign-Trade Zones Board

[Docket No. 2-84]

Proposed Foreign-Trade Zone—Jefferson County, New York, Ogdensburg Customs District; Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the County of Jefferson, State of New York, requesting authority to establish a general-purpose foreign-trade zone in Jefferson County, adjacent to the Alexandria Bay Customs port of entry on the U.S.-Canadian border. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on January 4, 1984. The applicant is authorized to make this proposal under Chapter 157, Laws of New York 1983.

The proposed zone will cover 130 acres at two sites in Watertown and Dexter, New York. Site 1 is at the Jefferson County Industrial Park, located on 115 acres at I–81 and Coffeen Street, Watertown. A 20,000 square foot existing building is available for zone activity. The facility is owned and operated by the Jefferson County Industrial Development Agency (JCIDA), which has been selected to operate the zone project.

Site 2 is at the former Dexter Sulphite Mill at Lakeview Drive and Stockton Avenue in the nearby Village of Dexter. The 15.5-acre facility has a 50,000 square foot building which is being renovated for commercial use. This site will be administered by JCIDA, and operated by F. W. Meyers and Company, Inc.

The application contains evidence of the need for zone services in the area. Several firms have indicated an interest in using zone procedures for the warehousing/distribution of products such as chemical and industrial engineering equipment, electric motors, brakes, pumps, cable, precision dies, security equipment, ice control equipment, medical equipment, and

paper products. Specific manufacturing approvals are not being requested at this time. Such requests would be made to the Board on a case-by-case basis.

Subsequent to the submission of this application, the County submitted a separate proposal on behalf of New York Air Brake Co., for a subzone at its Watertown plant. The formal filing of that proposal is expected shortly and will be the subject of a separate notice and invitation for public comment.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Edward A. Goggin, Assistant Regional Commissioner, U.S. Customs Service, Northeast Region, 100 Summer Street, Boston, MA 02110; and Colonel Robert R. Hardiman, District Engineer, U.S. Army Engineer District, Buffalo, 1776 Niagara Street, Buffalo, NY 14207.

As part of its investigation, the examiners committee will hold a public hearing on February 9, 1984, beginning at 10:00 a.m., in the Board of Supervisor's Chambers, Jefferson County Courthouse, 175 Arsenal Street, Watertown.

Interested parties are invited to present their views at the hearing. Persons wishing to testify should notify the Board's Executive Secretary in writing at the address below or by phone (202/377–2862) by February 3, 1984. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through March 10, 1984.

A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

Port Director's Office, U.S. Customs Service, Wellesley Island, Alexandria Bay, New York 13607;

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1872, 14th and Pennsylvania NW., Washington, D.C. 20230.

Dated: January 4, 1984.

John J. Da Ponte, Jr.

Executive Secretary.

[FR Doc. 84-624 Filed 1-9-84; 8:45 am]

BILLING CODE 3510-25-M

[Docket No. 1-84]

Proposed Foreign-Trade Zone—Monroe County, New York, Rochester Customs Port of Entry; Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the County of Monroe, State of New York, requesting authority to establish authority a general-purpose foreign-trade zone in Monroe County, adjacent to the Rochester Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on January 4, 1984. The applicant is authorized to make this proposal under Chapter 574, Laws of New York 1976.

The proposed zone involves 2 sites totalling 47 acres. Site 1 is located in the Village of East Rochester and involves the Techniplex industrial complex covering 7 acres at Commercial and Main Streets, the adjacent 16,600 square foot Eyer Building, and a nearby industrial area covering 21 acres on Despatch Drive. Site 2 is a 19-acre site at 3800 Monroe Avenue in the Village of Pittsford. Two buildings offer a total 72,000 square feet of warehouse space at this facility. The project will be operated by Upstate Global Trade Corporation, which is engaged in a variety of international trade related activities.

The application contains evidence of the need for zone services in the Rochester area. A number of firms have indicated an interest in using the zone for warehousing/distribution of products such as machinery, instruments, electronic parts and products, hand tools and apparel. Specific manufacturing approvals are not being requested at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Edward A. Goggin, Assistant Regional Commissioner, U.S. Customs Service, Northeast Region, 100 Summer Street, Boston, MA 02110; and Colonel Robert R. Hardiman, District Engineer, U.S. Army Engineer District Buffalo, 1776 Niagara Street, Buffalo, NY 14207.

As part of its investigation, the examiners committee will hold a public hearing on February 8, 1984, beginning at 9:00 a.m., at the Rochester Area Chamber of Commerce Building, 55 St. Paul Street, Rochester.

Interested parties are invited to present their views at the hearing. Persons wishing to testify should notify the Board's Executive Secretary in writing at the address below or by phone (202/377–2862) by February 2. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through March 9, 1984.

A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

U.S. Dept. of Commerce District Office, Rochester Branch, 121 East Avenue, Rochester, NY 14604;

Office of the Executive Secretary; Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1872, 14th and Pennsylvania, NW., Washington, D.C. 20230.

Dated: January 4, 1984.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 84-623 Filed 1-9-84; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

[A-429-009, A-485-010, A-461-011]

Pig Iron From Romania, U.S.S.R., and East Germany; Final Results of Administrative Review of Antidumping Findings

AGENCY: International Trade Administration Commerce.

ACTION: Notice of Final Results of Administrative Review of Antidumping Findings.

SUMMARY: On October 12, 1983, the Department of Commerce published the preliminary results of its administrative review of the antidumping findings on pig iron from Romania, U.S.S.R., and East Germany. The review covers the three known exporters of this merchandise to the United States and the period October 1, 1981 throught September 30, 1982. There were no known shipment of this merchandise to the United States during the period and there are no known unliquidated entries.

We gave interested parties and opportunity to submit oral or written comments on the preliminary results. We received no comments. Based on our analysis, the final results are unchanged

from those presented in the preliminary results of review.

EFFECTIVE DATE: January 10, 1984.

FOR FURTHER INFORMATION CONTACT: Susan M. Crawford or Doug Shaddix, Office of Compliance International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–1130.

SUPPLEMENTARY INFORMATION:

Background

On October 12, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 46408–09) the preliminary results of its administrative review of the antidumping findings on pig iron from Romania, U.S.S.R., and East Germany (33 FR 15904, October 29, 1968). The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of pig iron, which is used in steel production and in the iron foundry industry for making iron castings such as pipe, automobile castings, and machine parts. Such merchandise is currently classifiable under items 606.1300 and 606.1500 of the Tariff Schedules of the United States Annotated.

The review covers the three known exporters of Romanian, Soviet and East German pig iron to the United States and the period October 1, 1981 through September 30, 1982.

Final Results of the Review

We gave interested parties an opportunity to comment on the preliminary results. The Department received no written comments or requests for a hearing. Based on our analysis, the final results of review are the same as those presented in the preliminary results of the review, and we determine that a cash deposit of estimated antidumping duties, as provided for in §353.48(b) of the Commerce Regulations, equal to the following percentages of the entered value shall be rquired on all shipments of Romanian, Soviet, or East German pig iron entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

Exporter (country)	Cash Deposit (percent)
Metalimport (Romania)	1 70
Promsyrnport (U.S.S.R.)	1 70
Deutsch Stahl Metal (East Germany)	1 70

1 No shipments during the period.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review. The Department intends to begin immediately the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information in the next administrative review.

This administrative review and notice are in accordance with section 715(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and §353.53 of the Commerce Regulations (19 CFR 353.35).

Alan F. Homer,

Deputy Assistant Secretary for Import Administration.

Dated: December 28, 1983.

[FR Doc. 84–620 Filed 1–9–84; 8:45 am]

BILLING CODE 3510–25–M

[A–357–042]

Printed Vinyl Film From Argentina; Preliminary Results of Administrative Review of Antidumping Finding and Tentative Determination to Revoke

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Finding and Tentative Determination to Revoke.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on printed vinyl film from Argentina. The review covers the one known manufacturer and/or exporter of this merchandise to the United States, Plavinil Argentina S.A.I.C., and the period August 1, 1982 through July 31, 1983. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

As a result of the review the Department has tentatively determined to revoke the finding. There have been no shipments of this merchandise to the United States for ten years. Interested parties are invited to comment on these prelminary results and tentative determination to revoke.

EFFECTIVE DATE: January 10, 1984.

FOR FURTHER INFORMATION CONTACT: Elizabeth L. Wright on Rober J. Marenick, Office of compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–3601/ 5255.

SUPPLEMENTARY INFORMATION:

Background

On October 3, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 45140) the final results of its last adminsitrative review of the antidumping finding on printed vinyl film from Argentina (38 FR 22794, August 24, 1973) and announced its intent to conduct the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of printed vinyl film, also know as printed polyvinyl chloride sheeting, currently classifiable under item 771.4312 of the Tariff Schedules of the Untied States Annotated.

The review covers the one known manufacturer and/or exporter of Argentinean printed vinyl film to the United States, Plavinil Argentina, S.A.I.C., and the period August 1, 1982 through July 31, 1983. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

Preliminary Results of Review and Tentative Determination to Revoke

Plavinil Argentina, S.A.I.C. requested revocation of the finding. As provided for in section 353.54(e) of the Commerce Regulations, Plavinil Argentina, S.A.I.C. has agreed in writing to an immediate suspension of liquidation and reinstatement of the finding (as an order) if circumstances develop whcih indicate that printed vinly film manufactured by Plavinil Argentina, S.A.I.C. and thereafter imported into the United States is being sold by Plavinil Argentina at less than fair value. There have been no shipments of this merchandise since the date of the finding, a period of ten years.

Therefore, we tentatively determine to revoke the finding on printed vinyl film from Argentina. If this revocation is made final it will apply to all unliquidated entries of this merchandise entered, or withdrawn from warehouse for consumption on or after the date of publication of this notice.

Interested parties may submit written comments on these preliminary results and tentative determination to revoke within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45

days after the date of publication or the first workday thereafter. Any requests for an administrative protective order must be made no later than five days after the date of publication. The Department will publish the final results of the administrative review, including the results of its analysis of any such comments or hearing.

This administrative review, tentative determination to revoke, and notice are in accordance with sections 751 (a)(1) and (c) of the Tariff Act (19 U.S.C. 1675(a)(1), (c)) and §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Dated: December 21, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-619 Filed 1-9-84; 8:45 am]
BILLING CODE 3510-DS-M

Replacement Parts for Self-Propelled Bituminous Paving Equipment From Canada; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Antidumping Finding.

SUMMARY: On May 17, 1983, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on replacement parts for self-propelled bituminous paving equipment from Canada. The review covers six of the seven known manufacturers and/or exporters of this merchandise to the United States and generally the period September 1, 1980 through August 31, 1983.

We gave interested parties an opportunity to submit oral or written comments on the preliminary results. At the request of one exporter, we held a public hearing on July 1, 1983.

As a result of our review of the comments received, we have changed the margin for that one exporter. We have made no changes in the final results of review for the other companies from those presented in our preliminary results.

EFFECTIVE DATE: January 10, 1984.

FOR FURTHER INFORMATION CONTACT: Amy F. Dale or Susan M. Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-5255/1130.

SUPPLEMENTARY INFORMATION:

Background

On May 17, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 22177-8) the preliminary results of its administrative review of the antidumping finding on replacement parts for self-propelled bituminous paving equipment from Canada (42 FR 44811, September 7, 1977). The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of replacement parts for self-propelled bituminous paving equipment. The review covers six of the seven known manufacturers and/or exporters of this merchandise to the United States and generally the period of September 1, 1980 through August 31, 1981. We are deferring review of the seventh firm, National Paver Parts, until our next review.

Analysis of Comments Received:

Interested parties were given an opportunity to submit oral or written comments on the preliminary results. At the request of one respondent, Babcock Allatt, Ltd., we held a public hearing on July 1, 1983.

Comment 1: Allatt claims that the Department has found dumping margins solely due to the Department's refusal to allow an adequate ESP offset.

Department's Position: We disagree. Although our disallowance of Allatt's indirect selling expense claim for home market sales was the largest contributing factor, two changes in Allatt's selling practices also contributed to the resulting margin: (1) In January 1980 Allatt increased the markup on home market sales prices, and (2) in August 1980 Allatt decreased the markup on U.S. ESP sales of parts.

Comment 2: Allatt states that it provided the Department with sufficient data and with two reasonable methods for allocating home market indirect selling expenses. The first method involved dividing the total claimed offset expenses by the value of total home market sales of all products. The second method attempted to isolate selling expenses by product line and then to allocate them on a per order basis by dividing by the number of invoices involved.

Department's Position: The Department disagrees with both proposed methods. The Department has rejected the first method because the expense categories could not be clearly identified with specific product lines, in particular, home market sales of paver parts. We have not accepted Allatt's second method because we believe it is improper to allocate based on the number of transactions or, here, on the number of invoices. We maintain that Allatt has not adequately segregated and then quantified such expenses.

Comment 3: The Department, in calculating the ESP offset, only allowed salesmen salaries, payroll costs and commissions and then divided those expenses by Allatt's total sales revenue, regardless of whether the expenses or revenue were directly related to the sale of paver parts or to the sale of all products.

Allatt claims that the data given to the Department was sufficiently detailed to distinguish selling expenses and revenue associated with paver parts from those associated with the sale of other products. Therefore, Allatt claims the Department should recalculate the ESP offset by dividing the paver parts sales expenses by the paver parts sales revenue.

Department's Position: The Department agrees and has recalculated the ESP offset.

Comment 4: Allatt states that, if margins still exist in the final results of review, they should be separately stated for ESP and purchase price sales.

Department's Position: The Department's practice is to publish one weighted-average percent margin for determining estimated antidumping duties cash deposit rates. We see no reason to deviate from that practice here.

Comment 5: The petitioner, Blaw Knox Construction Equipment Inc., claims that the Department should determine whether Allatt failed to earn a profit on its sales of this merchandise in the domestic market. If so, Blaw Knox argues we should investigate whether Allatt made any sales at less than its cost of production.

Department's Position: The Department believes the petitioner's request to begin such an investigation is based on insufficient information.

Comment 6: Blaw Knox claims that the Department has failed to determine whether domestic discounts for trade-ins have affected the foreign market value.

Department's Position: We determined the foreign market value using Allatt's Canadian price list, which did not include trade-ins. Therefore, we need not examine the question of trade-ins.

Comment 7: Blaw Knox believes that the Department should disallow any claimed expenses that are not specifically identified.

Department's Position: We agree. See Comment 2.

Final Results of the Review

After analysis of the comments received, we have changed the margin for Babcock Allatt, Ltd. For the other companies the final results of review are the same as the preliminary results of review and we determine that the following weighted-average margins exist:

Manufacturer	Time period	Margin (percent)
Anvil Manufacturing Co.	9/1/80–8/31/81	[1] 20.12
Babcock Allatt, Ltd.	12/1/78–8/31/79	[1]
Barber-Greene Canada Ltd.	9/1/79–8/31/81	[1] 0
General Construction Equipment Manufacturing Ltd.	9/1/80–8/31/81	[1] 0
Parker Hannifin	9/1/80–8/31/81	[1] 20.12
S.F. Tubing Ltd.	9/1/80–8/31/81	[1] 0

[1] No shipments during the period.

The Department shall determine and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries during the periods of review. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margins shall be required on all shipments of Canadian replacement parts for self-propelled bituminous paving equipment from these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. The deposit rate for National Paver Parts remains at 1.05 percent, based on our preliminary analysis of shipments made between February 1, 1981 and May 31, 1981. For any future shipments from a new exporter not covered in this or prior reviews, whose first shipments occurred after August 31, 1981, and who is unrelated to any covered firm, a cash deposit of 4.20 percent shall be required. These deposit requirements shall remain in effect until publication of the final results of the next administrative review. The Department is beginning immediately the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and section 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: December 28, 1983.

C. Christopher Parlin,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-621 Filed 1-9-84; 8:45 am]

BILLING CODE 3510-DS-M

[A-427-044]

Stainless Steel Wire Rods From France; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on stainless steel wire rods from France. The review covers the one known exporter of this merchandise to the United States currently covered by the finding, Ugine Aciers, and the period July 1, 1981 through July 31, 1982. The review indicates the existence of dumping margins for the period.

As a result of the review, the Department has preliminarily determined to assess dumping duties equal to the calculated differences between United States price and foreign market value on each of the sales during the period of review.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 10, 1984.

FOR FURTHER INFORMATION CONTACT: Phyllis Derrick or John Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–3601.

SUPPLEMENTARY INFORMATION:

Background

On January 21, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 2808–9) the final results of its last administrative review of the antidumping finding on stainless steel wire rods from France (38 FR 9094, August 20, 1973) and announced its intent to conduct the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of stainless alloy steel wire rods, tempered, treated, or partly manufactured, currently classifiable under item 607.4300 of the Tariff Schedules of the United States Annotated.

The review covers the one known exporter of French stainless steel wire rods currently covered by the finding, Ugine Aciers, and the period July 1, 1981 through July 31, 1982.

United States Price

In calculating United States price the Department used purchase price or exporter's sales price, as appropriate, in accordance with section 772 of the Tarriff Act. Purchase price and exporter's sales price were based, as appropriate, on the c.i.f., duty-paid price and the f.o.b. warehouse price to the first unrelated purchaser in the United States. Where applicable, deductions were made for U.S. Customs duties, U.S. entry and port charges, ocean freight, marine insurance, loading charges, foreign inland frieght, and the U.S. subsidiary's selling expenses. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department use home market price, as defined in section 773 of the Tariff Act, since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. Home market price was based on the delivered price, with adjustments for inland freight, insurance, and differences in the physical characteristics of the merchandise. We disallowed an adjustment claimed for differences in credit expenses because we could not quantify actual differences in credit expenses between the U.S. market and the home market. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that, for the period July 1, 1981 through July 31, 1982, a margin of 10.11% exists.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must

be made within 5 days of the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties of 10.11 percent shall be required on all shipments of stainless steel wire rods from Ugine Aciers entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. For future entries from a new exporter not covered in this or prior administrative reviews, whose first shipments occurred after July 31, 1982, a cash deposit of estimated antidumping duties of 10.11 percent shall be required. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: January 3, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-622 Filed 1-9-84; 8:45 am]

BILLING CODE 3510-DS-M

National Bureau of Standards

Intent To Conduct an OMB Circular No. A-76 Cost Comparison Study

AGENCY: National Bureau of Standards, Commerce.

ACTION: Notice of intent to conduct comparison study.

Notice is hereby given pursuant to Office of Management and Budget Circular No. A-76 and Department of Commerce Administrative Order 201-41 that the National Bureau of Standards (NBS) intends to conduct a comparison study of the cost of the Government's operation of mail preparation and distribution performed at the NBS Gaithersburg site versus the cost of a private contractor performing the same tasks.

A contract may or may not result from the cost comparison study. Results of the study will be made available to bidders, offerors and all interested parties.

DATES: Solicitations for bids or proposals are scheduled for after August 31, 1984. The study is expected to end by April 30, 1985.

Anyone having any questions regarding this item is invited to contact Mrs. Paige L. Gilbert, Executive Officer, Office of the Director for Administration, National Bureau of Standards, Washington, D.C. 20234, (301) 921-3567.

Dated: January 4, 1984.

Ernest Ambler,

Director.

[FR Doc. 84-603 Filed 1-9-84; 8:45 am]

BILLING CODE 3510-13-M

Announcing a Workshop for Local Area Network Implementors of the ISO/NBS Transport Class 4 Protocol

The Institute for Computer Sciences and Technology at the National Bureau of Standards (NBS) announces the fifth two-day workshop to continue discussing implementations for local area networks of the Transport Class 4 Protocol of the International Organization for Standardization according to the NBS design specification. The workshop will be held on March 8 and 9, 1984 at the Marriott Hotel, 620 Lakeforest Blvd., Gaithersburg, Maryland, (301) 977-8900.

The workshop, geared specifically to the needs of local area networking vendors, will focus on Class 4 Transport techniques and implementation strategies leading to a multi-vendor protocol demonstration in 1984 utilizing IEEE 802.3 and 802.4 Local Area Network Technologies and will continue discussions on issues remaining from previous workshops.

Attendance at the workshop is limited due to space requirements and the size of the conference facility; therefore, registration is on a first come, first served basis. A nominal registration fee will be charged for attending the workshop. Participants are expected to make their own travel arrangements and accommodations. NBS reserves the right to cancel any part of the workshop.

To register, companies should send a request on company letterhead to: LAN/Transport Workshop, Attn: Vicki Howard, National Bureau of Standards, Building 225, Room B-218, Washington, D.C. 20234.

The registration request must name the company representative(s) and specify the business address and telephone number for each participant. Registration requests must be post marked by February 21, 1984. An NBS representative will confirm workshop registration reservations by telephone. For additional information, contact Vicki Howard (301) 921-3537.

Dated: January 5, 1984.

Ernest Ambler,

Director.

[FR Doc. 84-606 Filed 1-9-84; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Marine Mammal Permits; Modification No. 3 to Permit No. 351; California Department of Fish and Game

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Scientific Research Permit No. 351 issued to the California Department of Fish and Game, 1416 Ninth Street, Sacramento, California 95814 (46 FR 43732), as modified on December 17, 1981 (46 FR 62684), and July 1, 1982 (47 FR 28730), is further modified to extend the period of authorized taking for two years.

Accordingly, Section B-4 is changed to read:

"5. This permit is valid with respect to the taking authorized herein until December 31, 1986."

This modification is effective December 30, 1983.

The Permit as modified and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: January 3, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-612 Filed 1-9-84; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammal Permits; Issuance of Permit; Marine Animal Productions Inc.

On August 29, 1983 Notice was published in the **Federal Register** (48 FR

39113), that an application had been filed with the National Marine Fisheries Service by Marine Animal Productions, Inc., 150 Debuys Road, Biloxi, Mississippi 39531 for permit to take four (4) Atlantic bottlenose dolphins (*Tursiops truncatus*) for the purpose of public display.

Notice is hereby given that on December 29, 1983, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Public Display Permit for the above taking to Marine Animal Productions, subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: December 30, 1983.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 84-611 Filed 1-9-84; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammal Permits; Modification of Permit; Minnesota Zoological Garden

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Public Display Permit No. 200, issued to the Minnesota Zoological Garden, 12101 Johnny Cake Ridge Road, Apple Valley, Minnesota, on August 3, 1977, is hereby modified by deleting Section B–6 and substituting therefore the following:

"6. This permit is valid with respect to the taking authorized herein until December 31, 1985."

This modification is effective on the date of publication of this Notice in the **Federal Register.**

The Permit as modified, and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Dated: January 4, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-613 Filed 1-9-84; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammal Permits; Modification No. 4 to Permit No. 288; Steven R. Morello

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Scientific Research Permit No. 288 issued to Steven R. Morello, 60 Kip Avenue, Rutherford, New Jersey 07070, on July 24, 1980 (45 FR 50627), and February 4, 1982 (47 FR 5283), is modified to extend the period of authorized taking for one year.

Accordingly, Section B–5 is deleted and replaced by:

"5. This permit is valid with respect to the taking authorized herein until December 31, 1984."

This modification is effective upon publication in the **Federal Register.**

The Permit as modified and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management National Marine Fisheries Service.

[FR Doc. 84-614 Filed 1-9-84; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comment on Bilateral Textile Consultations With the Government of the Arab Republic of Egypt to Review Trade in Categories 300/301 (Cotton Yarn) and 317 (Cotton Twill and Sateen)

January 5, 1984.

On December 29 and 30, 1983, the Government of the United States requested consultations with the Government of the Arab Republic of Egypt with respect to cotton textiles and cotton textile products in Categories 300/301 and 317. These requests were made on the basis of the Bilateral Cotton Textile Agreement of December 7 and December 28, 1977, as extended, between the Governments of the United States and the Arab Republic of Egypt, which provides for consultations when the orderly development of trade between the two countries may be impeded by imports due to market disruption, or the threat thereof.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations between the two governments within 60 days of the receipt of these requests the Committee for the Implementation of Textile Agreements, pursuant to the terms of the agreement, may establish limits for the entry and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 300/301 and 317, produced or manufactured in Egypt and exported during 1984.

The Government of the United States reserves the right under the bilateral agreement to invoke import controls on these categories during the 60-day consultation period.

Any party wishing to comment or provide data or information regarding the treatment of Categories 300/301 and 317 under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement with the Government of the Arab Republic of Egypt, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in Categories 300/301 and 317, is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a

waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-520 Filed 1-6-84; 8:45 am]

BILLING CODE 3510-DR-M

Request for Public Comment on Bilateral Textile Consultations With the Government of India to Review Trade in Category 641 (Woven Blouses)

January 5, 1984.

On December 30, 1983, the Government of the United States requested consultations with the Government of India with respect to Category 641 (Woven Blouses of Man-Made Fiber). This request was made on the basis of Paragraph 16 of the Agreement between the Governments of the United States and India relating to trade in Cotton, Wool and Man-Made Fiber Textiles and Textile Products of December 21, 1982. Paragraph 16 provides for consultations when the orderly development of trade between the two countries may be impeded by imports due to market disruption, or the threat thereof.

The purpose of this notice is to advise the public that if no solution is agreed upon in consultations between the two governments within 90 days of the request for consultations, CITA, pursuant to paragraph 16 of the Agreement, may establish a specific limit of 1,074 dozen for the entry and withdrawal from warehouse for consumption of man-made fiber textile products in Category 641, produced or manufactured in India and exported to the United States during the two-day period beginning on December 30, 1983 and extending through December 31, 1983. If that limit is established, the specific limit for 1984 would be set at 209,754 dozen, according to paragraph 16 of the agreement.

The Government of the United States reserves the right under the Agreement to invoke import controls on this category during the 90-day consultation period (December 30, 1983–March 28, 1984) at 57,176 dozen, and at the 1984 level of 209,754 dozen.

Any party wishing to comment or provide data or information regarding the treatment of Category 641 under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement with the Government of India, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in Category 641, is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C. 20230, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-523 Filed 1-6-84; 8:45 am]

BILLING CODE 3510-DR-M

Request for Public Comment on Bilateral Textile Consultations With the Government of Thailand to Review Trade in Category 631 (Man-Made Fiber Gloves and Mittens)

January 5, 1984.

On December 30, 1983 the Government of the United States requested consultations with the Government of Thailand with respect to Category 631 (man-made fiber gloves and mittens). This request was made on the basis of the bilateral agreement of July 27 and August 8, 1983 between the Governments of the United States and Thailand relating to trade in cotton, wool and man-made fiber textiles and textile products. The agreement provides for consultations when the orderly development of trade between the two countries may be impeded by imports due to market disruption, or the threat thereof.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations between the two governments within 90 days of the request for consultations, CITA, pursuant to the terms of the bilateral agreement, may establish a specific limit of 961 dozen pairs for the entry and withdrawal from warehouse for consumption of man-made fiber textile products in Category 631, produced or manufactured in Thailand and exported to the United States during the two-day period beginning on December 30, 1983 and extending through December 31, 1983. If that limit is established, the specific limit for 1984 would be set at 187,734 dozen pairs, according to the terms of the agreement.

The Government of the United States reserves the right under the agreement to invoke imports controls on this category during the 90-day consultation period (December 30, 1983–March 28, 1984) at 51,174 dozen pairs and at the 1984 level of 187,734 dozen pairs.

Any party wishing to comment or provide data or information regarding the treatment of Category 631 under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement with the Government of Thailand, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in Category 631, is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-522 Filed 1-6-84; 8:45 am]

BILLING CODE 3510-DR-M

Soliciting Public Comment on Bilateral Textile Consultations With the Government of Turkey on Category 338 (Men's and Boys' Knit Shirts)

January 5, 1984.

On December 29, 1983 the United States Government, under Article 3 of the Arrangement Regarding International Trade in Textiles, requested the Government of Turkey to enter into consultations concerning exports to the United States in Category 338, produced or manufactured in Turkey.

The purpose of this notice is to advise that, if no solution is agreed upon between the two governments within sixty days of the date of delivery of the aforementioned note, entry and withdrawal from warehouse for consumption of textile products in Category 338, produced or manufactured in Turkey and exported to the United States during the twelve-month period which began on December 29, 1983 may be restrained at 264,020 dozen.

Anyone wishing to comment or provide data or information regarding the treatment of Category 338, is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, it is requested that comments be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a Foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-521 Filed 1-6-84; 8:45 am]
BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Navy

Chief of Naval Operations, Executive Panel Advisory Committee Cost Technology Task Force; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Cost Technology Task Force will meet January 26, 1984, from 9:00 a.m. to 5:00 p.m. at 2000 North Beauregard Street, Alexandria, Va. All sessions will be closed to the public.

The entire agenda for the meeting will consist of discussions of key issues related to the cost growth and cost technology of naval strategic and tactical systems and platforms and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Thomas E. Arnold, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Room 392, Alexandria, Va. 22311. Telephone (703) 756–1205.

Dated: January 6, 1984.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Alternate Federal Register Liaison Officer.

[FR Doc. 84-649 Filed 1-9-84; 8:45 am]
BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Discretionary Grant Programs Under the Rehabilitation Act of 1973, as Amended; Application Notices Establishing Closing Dates for Transmittal of Fiscal Year 1984 Noncompeting Continuation Applications

AGENCY: Department of Education.

ACTION: Application notices establishing closing dates for transmittal of Fiscal Year 1984 noncompeting continuation applications.

SUMMARY: The purpose of these application notices is to inform potential applicants of fiscal and programmatic information and closing dates for transmittal of applications for noncompeting continuation projects awarded by the Department of Education under Titles III and VI of the Rehabilitation Act of 1973, as amended.

Organization of Notice

This notice covers certain discretionary grant programs administered by the Rehabilitation Services Administration within the Department of Education that are expected to be funded in Fiscal Year 1984.

This notice contains two parts. Part I includes, in chronological order, the list of all closing dates covered by this notice. Part II consists of the individual application announcements for each program. These announcements are in the same order as the closing dates listed in Part I.

Instructions for Transmittal of Applications

Applicants should note specifically the instructions for the transmittal of applications included below:

Transmittal of Applications: In order to be assured of consideration for funding, applications for noncompeting continuation projects should be mailed or hand-delivered on or before the closing date given in the individual program announcements included in this document. If a noncompeting continuation application is late, the U.S. Department of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications Delivered by Mail: Except where specified otherwise immediately below and in the individual program announcements, applications for noncompeting continuation projects must be addressed to the Department of Education Application Control Center, Attention: (Appropriate CFDA No.), Washington, D.C. 20202.

Note.—Applicants for programs under 84.129 (Rehabilitation Long-Term Training Projects, except in the field of prosthetics-orthotics and projects of national scope), 84.129D (Rehabilitation Continuing Education) and 84.129Z (State Vocational Rehabilitation Unit In-Service Training Program) are required to send applications to the Regional Offices of the U.S. Department of Education. The individual program announcements for these programs specifically direct applicants to transmit applications to the appropriate Regional Office. In these cases applications must be mailed or hand delivered to the appropriate address below:

Region I

RSA Regional Commissioner, Department of Education, OSERS, John F. Kennedy Federal Building, Room E-400, Boston, Massachusetts 02203

Region II

RSA Regional Commissioner, Department of Education, OSERS, 26 Federal Plaza, Room 4106, New York, New York 10278

Region III

RSA Regional Commissioner, Department of Education, OSERS, 3535 Market Street, Room 3550, Philadelphia, Pennsylvania 19101

Region IV

RSA Regional Commissioner, Department of Education, OSERS, 101 Marietta Street, N.W., Suite 821, Atlanta, Georgia 30323

Region V

RSA Regional Commissioner, Department of Education, OSERS, 300 South Wacker Drive, 15th Floor, Chicago, Illinois 60606

Region VI

RSA Regional Commissioner, Department of Education, OSERS, 1200 Main Tower Building, Room 1400, Dallas, Texas 75202

Region VII

RSA Regional Commissioner, Department of Education, OSERS, 324 E. 11th Street, 11 Oak Building, 10th Floor, West, Kansas City, Missouri 64106

Region VIII

RSA Regional Commissioner, Department of Education, OSERS, Federal Office Building, Room 7415, 19th and Stout Streets, Denver, Colorado 80202

Region IX

RSA Regional Commissioner
Department of Education, OSERS
Federal Office Building, Rm 480
50 United Nations Plaza
San Francisco, California 94102

Region X

RSA Regional Commissioner
Department of Education, OSERS
2901 Third Avenue, Room 120
Seattle, Washington 98121

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered by Hand: Applications for noncompeting continuation grants must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building #3, 7th and D Streets, SW., Washington, D.C.; or

To the appropriate Regional Office at the address given above.

The Application Control Center will accept hand-delivered applications between 8:30 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays and Federal holidays.

The Regional Offices will accept hand-delivered applications between 8:30 a.m. and 4:30 p.m. (local time) daily, except Saturdays, Sundays, and Federal holidays.

Part I—Programs Listed in Chronological Order

CFDA No. and program	Closing date
84.128A Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Severely Handicapped Individuals.	Feb. 24, 1984.
84.128B Projects With Industry	Do.
84.129 Rehabilitation Long-Term Training Projects.	Do.
84.129D Rehabilitation Training Continuing Education Projects.	May 1, 1984.
84.129Z State Vocational Rehabilitation Unit In-Service Training Program.	May 15, 1984.

Part II —Application Announcements for Each Program

84.128A—Special Projects and Demonstrations for Providing Vocational Rehabiliation Services to Severely Handicapped Individuals

Closing Date: February 24, 1984—Noncompeting Continuations

Authority for this program is contained in Section 311(a)(1) of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 777a(a)(1)).

Awards are made under this program to States and public and other nonprofit agencies and organizations.

The purpose of this program is to support projects designed to expand or otherwise improve vocational rehabilitation services and other services for severely handicapped individuals.

Available Funds: The total amount of funds awarded under this program in Fiscal Year 1983 (excluding spinal cord injury projects) was about $4,660,000; of this amount $1,305,000 was for noncompeting continuation projects and $3,355,000 was for new projects. Approximately $2,800,000 will be available for noncompeting continuation projects in Fiscal Year 1984. An estimated 24 noncompeting continuation projects will be awarded at an average project cost of about $117,000. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: Application forms and program information packages will be mailed to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing this competition. The Secretary urges that the narrative portion of the application not exceed 15 pages in length. The Secretary further urges that only the information required be submitted.

Applicable Regulations: The following regulations are applicable to this program:

(a) Regulations governing Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Severely Handicapped Individuals (34 CFR Parts 369 and 373); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

Further Information: Joseph Abrams, Office of Developmental Programs, Rehabilitation Services Administration, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3330, Mary E. Switzer Building, Washington, D.C. 20202. Telephone (202) 245-0918.

84.128B—Projects With Industry

Closing Date: February 24, 1984—Noncompeting Continuations

Authority for this program is contained in section 621 of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 795g).

Agreements are made under this program with employers and profitmaking and nonprofit organizations including any industrial, business or commercial enterprise; labor organization; community trade association; rehabilitation facility; or any other agency or organization with the capacity to arrange, coordinate or conduct training and other employment programs and provide supportive services and assistance to handicapped individuals in a realistic work setting.

The purpose of this program is to provide handicapped individuals with training, employment, and supportive services and assistance within business, industry, or other realistic work settings in order to prepare them for competitive employment and permit them to maintain their empolyment.

Available Funds: The total amount of funds available under this program in Fiscal Year 1983 was $13,000,000 of which $5,000,000 was provided under the Jobs Bill. Approximately $6,879,000 will be available in Fiscal Year 1984 for noncompeting continuations. An estimated 53 noncompeting continuation projects will be awarded with an average project totalling about $130,000. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: Application forms and program information will be mailed to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing this competition. The Secretary urges that the narrative portion of applications not exceed 15 pages in length. The Secretary further urges that only the information required be submitted.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Projects with Industry Program (34 CFR Parts 369 and 379); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

Further Information: Walter J. Devins, Office of Developmental Programs, Rehabilitation Services Administration, U.S. Department of Education, Room 3320, Mary E. Switzer Building, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone (202) 245–0554.

84.129—Rehabilitation Long-Term Training Projects

Closing Date: February 24, 1984—Noncompeting Continuations

Authority for this program is contained in Section 304 of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 774).

Awards are made under this program to State vocational rehabilitation agencies and other public or nonprofit agencies or organizations, including institutions of higher education.

The purpose of the Rehabilitation Long-Term Training Program is to support projects designed for training personnel available for employment in public or private agencies involved in the rehabilitation of physically and mentally handicapped individuals, especially those who are the most severely handicapped.

Available Funds: The total amount of funds awarded for the support of Rehabilitation Long-Term Training projects in Fiscal Year 1983 was $12,758,000. Approximately $9,199,000 will be available for Rehabilitation Long-Term Training noncompeting continuation projects for Fiscal Year 1984. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: Application forms and program information packages will be mailed to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing this competition. The Secretary urges that the narrative portion of applications not exceed 15 pages in length. The Secretary further that only the information required be submitted.

Applicants applying for assistance under this program must submit their applications to the appropriate Regional Office, except for projects in the field of prosthetics-orthotics and projects of national scope, which will be submitted to the Application Control Center.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Rehabilitation Long-Term Training Program (34 CFR Parts 385 and 386); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

Further Information: Martin W. Spickler, Ph.D., Director, Division of Resource Development, Rehabilitation Services Administration, U.S. Department of Education, Room 3319, Mary E. Switzer Building, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245–0084.

84.129D—Rehabilitation Continuing Education Projects

Closing Date: May 1, 1984—Noncompeting Continuations

Authority for this program is contained in Section 304 of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 774)

Awards are made under this program to State vocational rehabilitation agencies, and other public or nonprofit agencies and organizations, including institutions of higher education.

The purpose of this program is to support training centers that serve either a Federal region or another multi-State geographical area and provide for a broad integrated sequence of training activities that focus on meeting recurrent training needs of rehabilitation personnel employed in public and nonprofit programs providing rehabilitation services to severely physically and mentally disabled individuals.

Available Funds: The total amount of funds awarded under this program for Fiscal Year 1983 was $2,000,000. Approximately $1,952,999 of the $2.2 million available for Rehabilitation Continuing Education in Fiscal Year 1984 will be distributed within each Federal Region for noncompeting continuation projects as follows:

Region I	$158,345
Region II	214,853
Region III	254,404
Region IV	305,093
Region V	

Region VI	250,738
Region VII	184,045
Region VIII	170,439
Region IX	212,596
Region X	172,483

In order to achieve a geographical distribution of projects as provided for in 34 CFR 385.33, the balance of $247,001 available under this program is expected to be used to support new projects in Region V. The availability of these funds will be announced in the **Federal Register** under a separate application notice.

These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: Application forms and program information packages will be mailed to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing this competition. The Secretary urges that the narrative portion of applications not exceed 15 pages in length. The Secretary further urges that only the information required be submitted.

Applicants applying for assistance under this program must submit their applications to the appropriate Regional Office.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Rehabilitation Continuing Education Program (34 CFR Parts 385 and 389); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

Further Information: Martin W. Spickler, Ph.D., Director, Division of Resource Development, Rehabilitation Services Administration, U.S. Department of Education, Room 3319, Mary E. Switzer Building, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245–0084.

84.129Z—State Vocational Rehabilitation Unit In-Service Training Program

Closing Date: May 15, 1984—Noncompeting Continuations

Authority for this program is contained in Section 304 of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 774).

Awards are made under this program to State vocational rehabilitation agencies, and other public or nonprofit agencies and organizations, including institutions of higher education.

The purpose of this program is to support special projects for training personnel employed by State vocational rehabilitation units in program areas essential to the effective management of the State unit program of vocational rehabilitation services or in skill areas which will enable State unit personnel to improve their ability to provide vocational rehabilitation services to severely handicapped individuals.

Available Funds: The total amount of funds available for rehabilitation training in Fiscal Year 1984 is $22,000,000. Of this amount approximately $2,800,000 is available for new and noncompeting continuation projects under the State Vocational Rehabilitation Unit In-Service Training program in Fiscal Year 1984.

Noncompeting continuation funds totalling $1,933,012 are expected to be distributed to the following Federal Regions:

Region I	$0
Region II	207,109
Region III	370,917
Region IV	558,653
Region V	72,755
Region VI	335,932
Region VII	187,951
Region VIII	155,095
Region IX	44,600
Region X	

In order to achieve a geographical distribution of projects as provided for in 34 CFR 385.33, the balance of $866,988 is expected to be used to support new projects in the following Federal Regions:

Region I	$224,469
Region II	[illegible]
Region V	267,220
Region IX	199,231
Region X	146,965
Total	[illegible]

The availability of these funds will be announced in the **Federal Register** under a separate application notice.

These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: Application forms and program information packages will be mailed to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing this competition. The Secretary urges that the narrative portion of applications not exceed 15 pages in length.

The Secretary further urges that only the information required be submitted.

Applicants applying for assistance under this program must submit their applications to the appropriate Regional Office.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the State Vocational Rehabilitation Unit In-Service Training program (34 CFR Parts 385 and 388); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77 and 78).

Further Information: Martin W. Spickler, Ph. D., Director, Division of Resource Development, Rehabilitation Services Administration, U.S. Department of Education, Room 3329, Mary E. Switzer Building, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245–0075.

Dated: January 6, 1984.

Madeleine Will,

Assistant Secretary, Special Education and Rehabilitative Services.

[FR Doc. 84–580 Filed 1–9–84; 8:45 am]

BILLING CODE 4000–01–M

Institutional Aid Programs; Technical Assistance Workshop

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice of Technical Assistance Workshop for Fiscal Year 1984 New Awards for the Strengthening and Special Needs Programs.

SUMMARY: The Department of Education, Division of Institutional Development, will conduct a technical assistance workshop to assist prospective applicants in developing applications for new awards for the Fiscal Year 1984 competitions under the Strengthening and Special Needs Programs. The workshop will *not* address concerns about the Endowment Grant Program *nor* about non-competing continuation applications under the Strengthening, Special Needs and Challenge Grant Programs.

The workshop will last one day. The presentation will focus on answering the following questions:

(1) How are applications reviewed by the field readers, by Program Officers and by the Grants Officer?

(2) How should an applicant address the selection criteria in relation to the instructions and forms within the application form?

(3) What should the institutional long-range plan contain?

(4) What should the plan of operation contain?

(5) How does an applicant show that it is using the Federal funds to supplement, not supplant, local resources?

(6) How does an applicant show that it is using the Federal funds for development purposes, not for operation and maintenance expenses?

(7) How does an applicant show what will happen after the Federal grant period expires?

(8) How does an applicant choose costs which are justified, allowable and reasonable?

(9) What are some samples of applications which in the past were highly ranked?

(10) How does an applicant prepare for the negotiation phone call and the writing of a revised final plan of operation?

The workshop will begin with registration at 8:00 a.m. Presentations are scheduled from 8:30 a.m. to 4:30 p.m. There is no registration fee for the workshops.

The date and location is as follows: January 27, 1984, Washington, D.C., Department of Health and Human Services, North Building Auditorium, 300 Independence Avenue, SW., Washington, D.C.

Further information: For further information, contact: Dr. John R. Jones, Program Development Branch, Division of Institutional Development, U.S. Department of Education (Room 3045, Regional Office Building #3), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245–2384.

(20 U.S.C. 1057–1063 and 1066–1069c)

(Catalog of Federal Domestic Assistance Numbers: 84.031A-Strengthening Program; and 84.031B-Special Needs Program)

Dated: January 6, 1984.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 84-577 Filed 1-9-84; 8:45 am]

BILLING CODE 4000-01-M

Special Needs Program; Application Notice for New Awards in Fiscal Year 1984

Applications are invited for new planning grants or development grants under the Special Needs Program.

Authority for the Special Needs Program is contained in sections 321–324 and 341–347 of Title III of the Higher Education Act of 1965, as amended (HEA). (20 U.S.C. 1060–1063, and 1066–1069c).

The Special Needs Program assists eligible institutions of higher education to become self-sufficient by providing funds to improve their academic quality and strengthen their planning, management, and fiscal capabilities. To this end, the Secretary awards planning grants and non-renewable development grants to eligible two-year and four-year, public and private institutions of higher education. The purpose of a planning grant is to assist an institution to develop its long-range plan.

The purpose of a development grant is to assist an institution to implement portions of its long-range plan, thereby becoming self-sufficient.

Closing Date for Transmittal of Applications: An application for a planning or development grant must be mailed or hand-delivered by March 14, 1984.

Application Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.013B, Washington, D.C. 20202.

An application must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5873, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

The Congress has appropriated $134,416,000 for the Institutional Aid Programs in Fiscal Year 1984. Of that amount, $62,408,000 was appropriated for the Special Needs Program.

The Secretary is reserving approximately $5,200,000 of this $62,408,000 for the Endowment Grant Program, in accordance with section 347(f) of the HEA. The Secretary anticipates using the remaining $57,208,000 to fund 174 non-competing continuation grants under the Special Needs Program.

While no funds are anticipated to remain available for new awards, the Secretary invites applications for new plannng grants or development grants under the Special Needs Program just in case any funds remain after the non-competing continuation grants are awarded.

Applicants are advised of the following possible limitations regarding the awarding of this money:

In accordance with section 347(c)(2) of the HEA, the Secretary intends to award to eligible junior or community colleges with special needs, for both non-competing continuation and new grants, not less than 30 percent of the $62,408,000 reserved for the Special Needs Program or transferred to the Endowment Grant Program.

In accordance with sections 347 (e) and (f) of the HEA, the Secretary also intends to make available to eligible historically black institutions of higher education, for both non-competing continuation and new grants, $27,035,000

of the $62,408,000 reserved for the Special Needs Program or transferred to the Endowment Grant Program.

These institutions include the institutions listed in the 1978 publication of the National Center for Education Statistics entitled "Traditionally Black Institutions of Higher Education: Their Identification and Selected Characteristics." (34 CFR 626.31(b)).

In addition, the Department of Education Appropriation Act, 1984 reserves $45.741,000 of the $134,416,000 appropriated for the Institutional Aid Programs for awards to historically black colleges and universities.

Grants-General. In general, the Secretary will accept an application for a planning or a development grant from any institution designated eligible for the Special Needs Program for Fiscal Year 1984.

In accordance with § 626.31(c)(2) of the Special Needs Program regulations (34 CFR 626.31(c)(2)), the Secretary is limiting the maximum award for planning grants to $25,000 and limiting the maximum award for non-renewable grants to $800,000 per year. Accordingly, applicants should not submit budget requests in excess of these amounts. THE SECRETARY WILL NOT ACCEPT ANY APPLICATION CONTAINING A REQUEST IN EXCESS OF THESE MAXIMUMS; SUCH APPLICATIONS WILL BE RETURNED TO THE APPLICANT.

Planning Grants

1. The Secretary will not accept an application for a planning grant from institutions applying as a cooperative arrangement unless the purpose of the grant is to develop a separate long-range plan for each participating institution.

2. Approval of a planning grant does not commit the Secretary to fund a subsequent application for a development grant.

Requests for Designation as an Eligible Institution: Potential applicants—including those currently grantees under one or more of the Institutional Aid Programs—are advised that a notice was published in the **Federal Register** on September 13, 1983 (FR 48, 41067–41077), explaining how an institution becomes eligible for the Special Needs Program. Institutions were required to submit eligibility requests by October 14, 1983. Any institution that was designated eligible to apply for a new award under the Special Needs Program in Fiscal Year 1983 but failed to submit a letter by the October 14, 1983 closing date requesting that it be maintained as eligible for the Special Needs Program in FY 1984 may submit such a letter as part of its application for a new award under the Special Needs Program. The letter must include the institution's Fall 1983 full-time equivalent enrollment.

Those institutions that are not designated by the Secretary as eligible to apply for a grant in FY 1984 will not be considered for funding.

Application Forms: Application forms and program information packages are expected to be ready for mailing by January 18, 1984. They may be obtained by writing to the Institutional Aid Programs, U.S. Department of Education, L'Enfant Plaza Station, Post Office Box 23868, Washington, D.C. 20024.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that (1) the individual parts of the application not exceed the page limitations identified in the application materials, and (2) applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(a) The regulations in 34 CFR Part 624;

(b) The regulations in 34 CFR part 626; and

(c) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, and 78 except that 34 CFR 75.128(a)(2) and 34 CFR 75.129(a) do not apply to cooperative arrangements.

Further Information: For further information, contact Dr. W. A. Butts, Director, Division of Institutional Development, U.S. Department of Education (Room 3060, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245–2715.

(20 U.S.C. 1060–1063 and 1066–1069c)

(Catalog of Federal Domestic Assistance No. 84.031B—Special Needs Program)

Dated: January 4, 1984.

[FR Doc. 84–579 Filed 1–9–84; 8:45 am]

BILLING CODE 4000–01–M

Strengthening Program; Application Notice for Planning Grants and Renewable Development Grants in Fiscal Year 1984

Applications are invited for new planning grants or renewable development grants under the Strengthening Program.

Authority for this program is contained in sections 311–313 and 341–347 of Title III of the Higher Education Act of 1965, as amended (HEA). (20 U.S.C. 1057–1059, and 1066–1069c).

The Strengthening Program assists eligible institutions of higher education to become self-sufficient by providing funds to improve their academic quality and strengthen their planning, management, and fiscal capabilities. To this end, the Secretary awards planning grants and renewable development grants to eligible two-year and four-year public and private institutions of higher education. The purpose of a planning grant is to assist an institution to develop an institutional long-range plan or an application for a development grant. The purpose of a renewable development grant is to assist an institution to implement portions of its long-range plan to enable it to move toward self-sufficiency.

Closing Date for Transmittal of Applications: An application for a planning or a renewable development grant must be mailed or hand-delivered by March 14, 1984.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.031A, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legible dated U.S. Postal Service postmark.

(2) A legibly mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: The Department of Education Appropriations Act, 1984 appropriated $134,416,000 for the Institutional Aid Programs in Fiscal Year 1984. Of that amount, $62,408,000 was appropriated for the Strengthening Program.

The Secretary anticipates that he will use approximately $57,408,000 to $58,908,000 for non-competing continuation grants. Thus, approximately $3,500,000 to $5,000,000 is anticipated to be available for new awards. Of that amount, the Secretary will set aside a minimum of $150,000 for planning grants. If the Secretary does not receive enough qualifying applications for these funds, he will use the remainder of that money for renewable development grants.

(34 CFR 625.31(b)(1))

The Secretary anticipates awarding approximately 6 planning grants and approximately 20 to 30 renewable development grants.

The Department of Education Appropriations Act, 1984 reserves $45,741,000 of the $134,416,000 appropriated for the Institutional Aid Programs for awards to historically black colleges and universities. This requirement may limit funds available for this competition.

In order to ensure a reasonable number of grants for new projects and in accordance with § 625.31(b)(2) of the Strengthening Program regulations, the Secretary is limiting the maximum award for planning grants to $25,000 and limiting the maximum award for renewable grants to $200,000 per year. Accordingly, applicants should not submit budget requests in excess of these amounts. The Secretary will not accept any application containing a request in excess of these maximums; such applications will be returned to the applicant.

General. The Secretary will accept an application for a planning grant or a one-to-three-year renewable development grant from any institution designated as an eligible institution under the Strengthening Program for Fiscal Year 1984. Because of the anticipated limited amount of Fiscal Year 1984 funds available for new projects, the Secretary will not accept applications for four-to-seven-year non-renewable development grants in Fiscal year 1984.

The Secretary calls attention to § 625.20(b)(2) of the Strengthening Program regulations (34 CFR 625.20(b)(2)) which prohibits an institution which has received a non-renewable development grant under the Special Needs or Challenge Grant Program from applying either individually or as part of a cooperative arrangement, for a renewable grant under the Strengthening Program. The Secretary will not accept any such application and the application will be returned to the applicant.

Planning Grants

1. The Secretary will not accept an application for a planning grant solely to develop an application for a development grant unless the applicant submits, as part of its application, its long-range plan containing all the elements required in § 624.22 of the Institutional Aid Programs regulations (34 CFR 624.22).

2. The Secretary will not accept an application for a planning grant to develop a long-range plan from institutions applying as a cooperative arrangement unless the purpose of the grant is to develop a separate long-range plan for each participating institution.

3. Approval of a planning grant does not commit the Secretary to fund a subsequent application for a development grant.

Development Grants

The application will only accept applications for renewable development grants for Fiscal Year 1984. In accordance with § 6256.10 of the Strengthening Program regulations (34 CFR 625.10), renewable development grants are awarded for a period of one to three years.

In general, administration costs for renewable development grants should not exceed 20 per centum of the total amount of funds requested. Applications containing requests in excess of this amount must include thorough justification of the need for additional funds.

Institutions should note that budget requests for the second and/or third years of multi-year renewable development grants will be limited to the amounts projected for these years is the *original* application for funds minus any amounts which have been projected for *disallowed* activities. In order to better plan funding requests for future years of the grant, institutions receiving awards under this competition will be notified of any disallowed activities at the time their award is negotiated.

Requests for Designation as an Eligible Institution: Potential applications—even if they currently are a grantee under one or more of the Institutional Aid Programs—are advised that a notice was published in the **Federal Register** on September 13, 1983 (FR 48, 41067–41077), explaining how an institution becomes eligible for the Strengthening Program. Any institution that was designated eligible to apply for a new award under the Strengthening Program in Fiscal Year 1983, but that failed to submit a letter by the October 14, 1983 closing date requesting that it be maintained as eligible for the Strengthening Program in Fiscal year 1984, may submit such a letter as part of its application for a new award under the Strengthening Program.

Those institutions that are not designated by the Secretary as eligible to apply for a grant in FY 1984 will not be considered for funding.

Application Forms: Application forms and program information packages are expected to be ready for mailing by January 18, 1984. They may be obtained by writing to the Institutional Aid Programs, U.S. Department of Education, L'Enfant Plaza Station, Post Office Box 23866, Washington, D.C. 20024.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that (1) the individual parts of the application not exceed the page limitations identified in the application materials, and (2) applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(a) The regulations in 34 CFR Part 624;

(b) The regulations in 34 CFR Part 625; and

(c) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77 and 78 except that 34 CFR 75.128(a)(2) and 34 CFR 75.129(a) do not apply to cooperative arrangements.

Further Information: For further information, contact Dr. William A. Butts, Director, Division of Institutional Development, U.S. Department of Education, Room 3060, Regional Office Building 3, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245–2715).

(20 U.S.C. 1057–1059, and 1066–1069c).)

(Catalog of Federal Domestic Assistance No. 84.031A—Strengthening Program)

Dated: January 4, 1984.

T. H. Bell,

Secretary of Education.

[FR Doc. 84–578 Filed 1–9–84; 8:45 am]

BILLING CODE 4000–01–M

List of Nationally Recognized Accrediting Agencies and Associations

SUMMARY: The Secretary of Education lists the nationally recognized accrediting agencies and associations that the Secretary determines to be reliable authorities as to the quality of training offered by the educational institutions or programs they accredit. The Secretary publishes this list for the purpose of determining institutional eligibility under the Higher Education Act and other Federal legislation. The list includes the general scope of recognition granted to each accrediting body.

FOR FURTHER INFORMATION CONTACT: Barbara Binker, Agency Evaluation Section, Eligibility and Agency Evaluation Staff, Office of Postsecondary Education, 400 Maryland Avenue, SW. (Room 3522, ROB–3), U.S. Department of Education, Washington, D.C. 20202.

SUPPLEMENTARY INFORMATION: The Higher Education Act and other legislation, including the Veterans' Readjustment Assistance Act and the Public Health Service Act, require the Secretary to publish a list of nationally recognized accrediting agencies that the Secretary has determined to be reliable authorities concerning educational quality. The most recent list was published in the **Federal Register** on June 14, 1982, 47 FR 25563–25566. Revisions to this list were published in the **Federal Register** on June 28, 1982, 47 FR 27885; November 2, 1982, 47 FR 49699–49700; December 16, 1982, 47 FR 56385; and April 4, 1983, 48 FR 14434–14435.

A number of other changes have been made by the Secretary since publication of the revisions. Rather than publish a new list of revisions, the Secretary feels it appropriate, and less confusing to the public, to issue a comprehensive list of nationally recognized accrediting agencies and associations. This list supersedes the list published in the **Federal Register** on January 14, 1982, and the lists of revisions published between June 28, 1982, and April 4, 1983.

Nationally Recognized Accrediting Agencies and Associations

Regional Institutional Accrediting Associations

New England Association of Schools and Colleges
- Commission on Independent Schools
- Commission on Institutions of Higher Education
- Commission on Public Schools
- Commission on Vocational, Technical, Career Institutions

Regional Institutional Accrediting Commissions

Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges

Accrediting Commission for Schools, Western Association of Schools and Colleges

Accrediting Commission for Senior Colleges and Universities, Western Association of Schools and Colleges

Commission on Colleges, Northwest Association of Schools and Colleges

Commission on Colleges, Southern Association of Colleges and Schools

Commission on Higher Education, Middle States Association of Colleges and Schools

Commission on Institutions of Higher Education, North Central Association of Colleges and Schools

Commission on Occupational Education Institutions, Southern Association of Colleges and Schools

Commission on Schools, North Central Association of Colleges and Schools

National Institutional and Specialized Accrediting Agencies and Associations

Allied Health Education
- Accrediting Bureau of Health Education Schools (private, postsecondary institutions offering allied health education)
- [Agencies recognized for accreditation of allied health *programs* are listed below under the specific fields.]

Architecture
- National Architectural Accrediting Board, Inc. (first professional degree programs)

Art
- National Association of Schools of Art and Design, Commission on Accreditation and Membership (degree-granting schools, departments, and non-degree-granting schools, that are predominantly organized to offer education in art, design, or art/design related disciplines)

Bible College Education
- American Association of Bible Colleges, Commission on Accrediting (Bible colleges and institutes offering undergraduate degree programs)

Blind and Visually Handicapped Education
- National Accreditation Council for Agencies Serving the Blind and Visually Handicapped (specialized schools for the blind and visually handicapped)

Blood Bank Technology
- American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Subcommittee on Accreditation, American Association of Blood Banks (programs for the blood bank technologist)

Business
- American Assembly of Collegiate Schools of Business, Accreditation Council (baccalaureate and graduate degree programs in business administration and management, and baccalaureate and master's degree programs in accountancy)
- Association of Independent Colleges and Schools, Accrediting Commission (private postsecondary schools, junior colleges and senior colleges which are predominantly organized to educate students for business careers)

Chiropractic
- Council on Chiropractic Education, Commission on Accreditation (programs leading to the D.C. degree)

Clinical Pastoral Education
- Association for Clinical Pastoral Education, Inc., Accreditation Committee (basic, advanced, and supervisory clinical pastoral educational programs)

Continuing Education
- Council for Noncollegiate Continuing Education, Accrediting Commission (noncollegiate continuing education institutions and programs)

Cosmetology
- National Accrediting Commission of Cosmetology Arts and Sciences (postsecondary schools and departments of cosmetology arts and sciences)

Cytotechnology
- American Medical Assocation, Committee on Allied Health Education and Accreditation, in cooperation with the Cytotechnology Programs Review Committee, American Society of Cytology (programs for the cytotechnologist)

Dance
- Joint Commission on Dance and Theater Accreditation, sponsored by the National Association of Schools of Art and Design and the National Association of Schools of Music (independent dance schools)

Dental and Dental Auxiliary Education
- American Dental Association, Commission on Dental Accreditation (programs leading to the DDS or DMD degree, advanced dental specialty programs, general practice residency programs and programs in dental hygiene, dental assisting and dental technology)

Dietetics
- American Dietetic Association, Commission on Accreditation

(coordinated undergraduate programs in dietetics, and post-baccaluareate dietetic internship programs)

Engineering
- Accreditation Board for Engineering and Technology, Inc. (first professional degree programs in engineering, and associate and baccalaureate degree programs in engineering technology)

Forestry
- Society of American Foresters (programs leading to a bachelor's or higher first professional degree and related resource-oriented programs)

Funeral Service Education
- American Board of Funeral Service Education, Committee on Accreditation (independent schools and collegiate departments)

Health Services Administration
- Accrediting Commission on Education for Health Services Administration (graduate programs in health services administration)

Histologic Technology
- American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the National Accrediting Agency for Clinical Laboratory Sciences, which is sponsored by the American Society for Medical Technology and the American Society of Clinical Pathologists (programs for the histologic technician)

Home Study Education
- National Home Study Council, Accrediting Commission (home study schools, including those granting associate degrees)

Interior Design
- Foundation for Interior Design Education Research, Committee on Accreditation (programs of interior design in junior and community colleges, trade and technical schools, professional schools, baccalaureate level schools and colleges and graduate schools)

Journalism and Mass Communications
- Accrediting Council on Education in Journalism and Mass Communications (professional baccalaureate and master's degree programs and units within institutions)

Landscape Architecture
- American Society of Landscape Architects, Landscape Architectural Accreditation Board (undergraduate and graduate degree programs)

Law
- American Bar Association, Council of the Section of Legal Education and Admissions to the Bar (professional schools)

Librarianship
- American Library Association, Committee on Accreditation (graduate programs leading to the first professional degree)

Marriage and Family Therapy
- American Association for Marriage and Family Therapy, Commission on Accreditation for Marriage and Family Therapy Education (graduate degree programs and clinical training programs)

Medical Assistant Education
- Accrediting Bureau of Health Education Schools (private medical assistant educational institutions and programs)
- American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Curriculum Review Board, American Association of Medical Assistants Endowment (one- and two-year medical assistant programs)

Medical Laboratory Technician Education
- Accrediting Bureau of Health Education Schools (schools and programs for the medical laboratory technician)
- American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the National Accrediting Agency for Clinical Laboratory Sciences, which is sponsored by the American Society for Medical Technology and the American Society of Clinical Pathologists (associate degree and certificate programs for the medical laboratory technician)

Medical Record Education
- American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Council on Education, American Medical Record Assocation (programs for the medical record administrator and medical record technician)

Medical Technology
- American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the National Accrediting Agency for Clinical Laboratory Sciences, which is sponsored by the American Society for Medical Technology and the American Society of Clinical Pathologists (professional programs)

Medicine
- Liaison Committee on Medical Education of the Council on Medical Education, American Medical Association, and the Executive Council, Association of American Medical Colleges (programs leading to the M.D. degree)

Microbiology
- American Academy of Microbiology, Committee on Postdoctoral Education Programs (postdoctoral programs)

Music
- National Association of Schools of Music (institutions and units within institutions offering degree-granting or non-degree-granting programs in music and music-related disciplines, including community/junior colleges and independent degree-granting institutions)

Nuclear Medicine Technology
- American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Joint Review Committee on Educational Programs in Nuclear Medicine Technology, which is sponsored by the American College of Radiology, American Society for Medical Technology, American Society of Clinical Pathologists, American Society of Radiologic Technologists and the Society of Nuclear Medicine (programs for the nuclear medicine technologist)

Nursing
- American Association of Nurse Anesthetists, Council on Accreditation of Nurse Anesthesia Educational Programs/Schools (professional schools/programs of nurse anesthesia)
- American College of Nurse-Midwives, Division of Accreditation (basic nurse-midwifery education programs)
- National Association for Practical Nurse Education and Service, Inc., Accrediting Review Board (practical nurse programs)
- National League for Nursing, Inc., Board of Review for Associate Degree Programs, Board of Review for Baccalaureate and Higher Degree Programs, Board of Review for Diploma Programs, Board of Review for Practical Nursing Programs (professional, technical and practical nurse programs)

Occupational Therapy
- American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Accreditation Committee, American Occupational Therapy Association (professional programs)

Occupational, Trade and Technical Education
- National Association of Trade and Technical Schools, Accrediting Commission (private schools primarily engaged in trade or technical training, including those offering associate and baccalaureate degrees)

Optometry
- American Optometric Association, Council on Optometric Education (professional degree programs, optometric residency programs, and optometric technician programs)

Osteopathic Medicine
- American Osteopathic Association (programs leading to the D.O. degree)

Pharmacy
- American Council on Pharmaceutical Education (professional degree programs)

Physical Therapy
- American Physical Therapy Association, Committee on Accreditation in Education (professional programs for the physical therapist and programs for the physical therapist assistant)

Physician's Assistant Education
- American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Joint Review Committee on Educational Programs for Physician's Assistants, which is sponsored by the American Academy of Family Physicians, American Academy of Pediatrics, American Academy of Physician Assistants, American College of Physicians, American College of Surgeons, and the Association for Physician Assistant Programs (programs for the assistant to the primary care physician and the surgeon's assistant)

Podiatry
- American Podiatry Association, Council on Podiatry Education (colleges of podiatric medicine, including first professional degree and graduate degree programs)

Psychology
- American Psychological Association, Committee on Accreditation (doctoral programs in clinical, counseling, school,

and combined professional-scientific psychology, and predoctoral intership programs in professional psychology)
Public Health
Council on Education for Public Health (graduate schools of public health, and graduate programs offered outside schools of public health in community health education and in community health/preventive medicine)
Rabbinical and Talmudic Education
Association of Advanced Rabbinical and Talmudic Schools, Accreditation Commission (advanced rabbinical and Talmudic schools)
Radiological Technology
American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Joint Review Committee on Education in Radiologic Technology, which is sponsored by the American College of Radiology and the American Society of Radiologic Technologists (programs for the radiographer and radiation therapy technologist)
Respiratory Theraphy
American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Joint Review Committee for Respiratory Therapy Education, which is sponsored by the American Association for Respiratory Therapy, American College of Chest Physicians, American Society of Anesthesiologists, and the American Thoracic Society (programs for the respiratory therapist and respiratory theraphy technician)
Social Work
Council on Social Work Education, Commission on Accreditation (master's and baccalaureate degree programs)
Speech-Language Pathology and Audiology
American Speech-Language-Hearing Association, Council on Professional Standards in Speech-Language Pathology and Audiology (master's degree programs)
Surgical Technology
American Medical Association, Committee on Allied Health Education and Accreditation, in cooperation with the Joint Review Committee on Education for the Surgical Technologist, which is sponsored by the American College of Surgeons, American Hospital Association and the Association of Surgical Technologists (programs for the surgical technologist)
Teacher Education
National Council for Accreditation of Teacher Education (baccalaureate and graduate degree programs)
Theater
National Association of Schools of Theatre, Commission on Accreditation (institutions and units within institutions offering degree-granting and/or non-degree-granting programs in theater and theater-related disciplines)
Theology
Association of Theological Schools in the United States and Canada, Commission on Accrediting (free-standing schools, as well as schools affiliated with larger institutions, offering graduate professional education for ministry and graduate study of theology)
Veterinary Medicine
American Veterinary Medical Association, Committee on Animal Technician Activities and Training (Two-year programs for animal technicians)
American Veterinary Medical Association, Council on Education (colleges of veterinary medicine offering programs leading to a professional degree)
Other
New York State Board of Regents (registration [accreditation] of collegiate degree-granting programs or curricula offered by institutions of higher education)

Accrediting Agencies and Associations Recognized for Their Preaccreditation Categories

Regional Institutional Accrediting Associations

New England Association of Schools and Colleges (Candidate for Accreditation)

Regional Institutional Accrediting Commissions

Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges (Candidate for Accreditation)
Accrediting Commission for Schools, Western Association of Schools and Colleges (Candidate for Accreditation)
Accrediting Commission for Senior Colleges and Universities, Western Association of Schools and Colleges (Candidate for Accreditation)
Commission on Colleges, Northwest Association of Schools and Colleges (Candidate for Accreditation)
Commission on Colleges, Southern Association of Colleges and Schools (Candidate for Accreditation)
Commission on Higher Education, Middle States Association of Colleges and Schools (Candidate for Accreditation)
Commission on Institutions of Higher Education, North Central Association of Colleges and Schools (Candidate for Accreditation)
Commission on Occupational Education Institutions, Southern Association of College and Schools (Candidate for Accreditation)
Commission on Schools, North Central Association of Colleges and Schools (Candidate for Accreditation)

National Institutional and Specialized Accrediting Agencies and Associations

Accreditation Board for Engineering and Technology, Inc., Engineering Technology Committee (Candidate for Accreditation [to be discontinued after 1983])
American Association of Bible Colleges, Commission on Accrediting (Candidate for Accreditation)
American Association of Nurse Anesthetists, Council on Accreditation of Nurse Anesthesia Educational Programs/Schools (Preaccreditation)
American Council on Pharmaceutical Education (Candidate)
American Dental Association, Commission on Dental Accreditation (Accreditation Eligible)
American Optometric Association, Council on Optometric Education (Reasonable Assurance, Preliminary Approval [for professional degree programs], and Provisional Assurance [for residency programs located in the facilities of the Veterans Administration])
American Osteopathic Association (Preaccreditation Status, Provisional Accreditation)
American Podiatry Association, Council on Podiatry Education (Reasonable Assurance, Preliminary Accreditation)
American Veterinary Medical Association, Council on Education (Reasonable Assurance of Accreditation)
Association for Clinical Pastoral Education, Inc., Accreditation Committee (Candidacy for Accredited Membership)
Association of Advanced Rabbinical and Talmudic Schools, Accreditation Commission (Correspondent, Candidate)
Association of Independent Colleges and Schools, Accrediting Commission (Recognized Candidate for Junior College Accreditation, Recognized Candidate for Senior College Accreditation [for institutions already holding accredited status])
Association of Theological Schools in the United States and Canada, Commission on Accrediting (Candidate for Accredited Membership)
Council on Chiropractic Education, Commission on Accreditation (Recognized Candidate for Accreditation)
Council on Education for Public Health (Preaccreditation)
Council on Social Work Education (Candidacy)
Liaison Committee on Medical Education (Reasonable Assurance, Provisional Accreditation)

Reclassification of recognized preaccreditation status to category of accreditation: National Association of Schools of Art and Design (Candidacy Status)

Dated: January 6, 1984

T. H. Bell,

Secretary of Education.

[FR Doc. 84-607 Filed 1-9-84; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement; Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Governments of the United States of America and Japan Concerning

Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale:

Contract Number S-JA-338, to the Geological Survey of Japan, 57.59 grams of natural uranium and 8.5 grams of thorium, for use as standard reference materials.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: January 4, 1984.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 84-580 Filed 1-9-84; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement; Sweden

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Governments of the United States of America and Sweden Concerning Civil Uses of Atomic Energy, as amended.

The Subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale:

Contract Number S-Sw-61, to ASEA-ATOM, Vasteras, Sweden, 269.672 grams of natural uranium and 78.907 grams of uranium, enriched to 2.66% in U-235, for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: January 4, 1984.

George J. Bradely, Jr.,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 84-581 Filed 1-9-84; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER84-178-000]

Commonwealth Edison Co.; Filing

January 5, 1984.

The filing Company submits the following:

Take notice that Commonwealth Edison Company on December 28, 1983, tendered for filing a Letter Agreement dated December 12, 1983 between Commonwealth Edison Company and Wabash Valley Power Association, Incorporated.

The Letter Agreement provides for Commonwealth Edison Company to stand ready to supply (at Commonwealth Edison Company's existing points of interconnection) Wabash Valley Power Association, Incorporated with 45,000 kW of Standby Power from January 1, 1984 through December 31, 1984.

Copies of the filing were served upon Wabash Valley Power Association, Incorporated, Indianapolis, Indiana and the Illinois Commerce Commission, Springfield, Illinois.

Any person desiring to be heard or to protest said application should file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 27, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-587 Filed 1-9-84; 8:45am]

BILLING CODE 6717-01-M

[Docket No. ER84-183-000]

The Detroit Edison Co.; Tariff Changes

January 5, 1984.

The filing Company submits the following:

Take notice that the The Detroit Edison Company (DEC), December 29, 1983, tendered for filing the following revised tariff sheet:

FERC Electric Tariff Original Volume No. 1

First Revised Sheet No. 16

This revised tariff sheet contains a proposed modification of the fuel adjusment clause presently on file with the Commission. The proposed change would modify the fuel adjustment clause so that the fuel adjustment charges will not be affected by energy produced by facilities undergoing test operation.

The proposed modification is required to ensure that the value of test power produced by the Company's Enrico Fermi Unit No. 2 and Belle River Unit Nos. 1 and 2 power plants during their respective test operations in 1984 and 1985 will be accounted for properly.

Detroit Edison states that copies of the filing were served upon the public utility's jurisdictional customers and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 30, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-587 Filed 1-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RM81-19, Docket No. ST80-009-002]

Dow Pipeline Co.; Extension Reports

January 5, 1984.

The companies listed below have filed extension reports pursuant to section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the

Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a self-implementing basis without case-by-case Commission authorization. The sales may continue for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding the effective date of the requested extension.

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. A letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146. A "G" indicates a transportation by an interstate pipeline pursuant to § 284.221 which is extended under § 284.105. Three other symbols are used for transactions pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations. A "G(HS)" indicates transportation, sale or assignments by a Hinshaw pipeline; A "G(LT)" indicates transportation by a local distribution company, and a "G(LS)" indicates sales or assignments by a local distribution company.

Any person desiring to be heard or to make any protests with reference to said extension report should on or before January 1, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214).

All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Acting Secretary.

Docket No.	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Effective date
*ST80-009-002	Dow Pipeline Co., P.O. Box 4286, Houston, TX 77210	Tennessee Gas Pipeline Co	12-05-83	C	10-15-83
ST80-214-002	Rael Gas Co., 950 One Energy Square, Dallas, TX 75206	Michigan Wisconsin Pipe Line Co	12-13-83	C	[illegible]
ST82-203-001	Tennessee Gas Pipeline Co., P.O. Box 2511, Houston, TX 77001	Columbia Gas Transmission Corp	12-01-83	G	[illegible]
*ST82-204-001	United Texas Transmission Co., P.O. Box 1478, Houston, TX 77001	United Gas Pipe Line Co	[illegible]	C	[illegible]
ST82-220-001	Tennessee Gas Pipeline Co., P.O. Box 2511, Houston, TX 77001	South Jersey Exploration Co	12-14-83	B	03-14-84
ST82-225-001	Oasis Pipe Line Co., 1200 Travis, Box 1188, Houston, TX 77001	Natural Gas Pipeline Co. of America	12-08-83	C	[illegible]
ST82-229-001	Louisiana Intrastate Gas Corp., P.O. Box 1352, Alexandria, LA 71309	Mid Louisiana Gas Co	12-05-83	C	[illegible]
ST82-241-001	Valero Transmission Co., P.O. Box 500, San Antonio, TX 78292	El Paso Natural Gas Co	12-12-83	C	[illegible]
ST82-256-001	Rael Gas Co., 950 One Energy Square, Dallas, TX 75206	Transwestern Pipeline Co	[illegible]	C	[illegible]
ST82-278-002	Delhi Gas Pipeline Corp., Fidelity Union Tower, Dallas, TX 75201	Utah Gas Service Co	12-14-83	C	04-01-84
ST82-339-001	Tennessee Gas Pipeline Co., P.O. Box 2511, Houston, TX 77001	Transcontinental Gas Pipe Line Corp	12-14-83	G	04-15-84
ST83-052-001	Columbia Gulf Transmission Co., P.O. Box 683, Houston, TX 77001	Tennessee Gas Pipeline Co	12-15-83	G	[illegible]
*ST84-226-002	Mid Louisiana Gas Co., 300 Poydras St., New Orleans, LA 70130	Tennessee Gas Pipeline Co	12-13-83	G	01-13-83

* These extension reports were filed after the date specified by the Commission's Regulations, and shall be the subject of a further Commission order.

NOTE.—The noticing of these filings does not constitute a determination of whether the filings comply with the Commission's Regulations.

[FR Doc. 84-589 Filed 1-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-177-000]

Duke Power Co.; Proposed Changes in Rates and Charges

January 5, 1984.

The filing Company submits the following:

Take notice that Duke Power Company (Duke) on December 28, 1983, tendered for filing proposed changes in its electric resale Rate Schedule No. 10 presently on file with the Commission which is applicable to Municipalities and Public Utility Companies. Based on the test period 12 months ending December 31, 1984 conditions, Duke estimates that the proposed changes in resale base rates will increase annual revenues by approximately $12,673,000. Of this amount, the Company states that approximately $12,431,000 is attributable to proposed increased rates under the Company's Rate Schedule No. 10 with the remaining $242,000 attributable to a proposed standby generation charge. The Company is proposing to implement the increase in two steps. The first step, or "interim" rates would increase rates by approximately $10.4 million. The second step, or "proposed" rates would provide additional revenues of $2,273,000 for a total increase of $12,673,000.

Duke states that the increase in wholesale rates is needed to compensate the Company for the increased cost of doing business and the impact of inflation and increasing regulatory requirements.

Copies of the filing were served upon all of Duke's jurisdictional Wholesale Customers, the North Carolina Utilities Commission, the South Carolina Public Service Commission, and the Southeastern Power Administration.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 27, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-590 Filed 1-9-84; 8:45 am]

BILLING CODE 6717-01

[Docket No. ER83-656-002]

Kentucky Utilities Co.; Compliance Filing

January 5, 1984.

The filing company submits the following:

Take notice that on October 24, 1983, Kentucky Utilities Company ("KU") submitted for filing revised sets of the

"A" series of statements and revised cost of service studies pursuant to the Commission's order issued on September 23, 1983. KU states that the revised cost of service studies justify in full the rates which it previously filed in this docket, therefore, no rate revisions are necessary.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before January 13, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-591 Filed 1-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-182-000]

Missouri Public Service Co.; Tariff Change

January 5, 1984.

The filing Company submits the following:

Take notice that Missouri Public Service Company (MPS), on December 28, 1983, tendered for filing proposed changes in its FERC Electric Service Tariffs applicable to the Cities of Odessa and Gilman City, Missouri effective April 1, 1984 by employing the rates and charges in its existing Municipalities-Resale Tariff for service to these communities in lieu of the presently applicable rate schedules. The proposed changes would increase revenues from jurisdictional sales and service by $314,089 for Odessa and $27,893 for Gilman City based on the 12-month period ending November, 1983.

MPS presently renders wholesale service to Odessa and Gilman City under fixed rate contracts which have precluded unilateral increases in rates and charges. The terms of these contracts expire at the end of March, 1984. MPS wishes to render service to these commodities under its municipal resale tariff applicable to six other municipalities effective April 1, 1984. This resale tariff was the subject matter of a rate increase in Docket No. ER82-99 which was permitted to go into effect without suspension by letter order dated January 15, 1982.

Copies of the filing were served on the Cities of Odessa and Gilman City and the Public Service Commission of the State of Missouri.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 27, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-592 Filed 1-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-171-000]

Pacific Power & Light Co.; Filing

January 5, 1984.

The filing Company submits the following:

Take notice that Pacific Power & Light Company (Pacific) on December 21, 1983, tendered for filing, in accordance with § 35.12 of the Commission's Regulations, a Letter Agreement dated October 17, 1983, between Pacific and the Public Utility District No. 1 of Cowlitz County (The District). The Letter Agreement provides for revised payment procedures for operation and maintenance of The District's Swift Hydroelectric Plant No. 2. The Letter Agreement also provides for a transfer charge to The District for the transfer of electric power.

Pacific requests waiver of the Commission's notice requirements to permit this rate schedule to become effective September 1, 1983, which it claims is the date of commencement of service.

Copies of the filing were supplied to Washington Utilities and Transportation Commission and The District.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 20, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-593 Filed 1-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-179-000]

Public Service Company of Colorado, Western Systems Coordinating Council; Tariff Change

January 5, 1984.

The filing Company submits the following:

Take notice that Public Service Company of Colorado (PSCo) and the Western Systems Coordinating Council (WSCC) on December 28, 1983, tendered for filing a proposed change in their FERC Electric Service Tariffs, FERC Rate Schedule No. 36 and FERC Rate Schedule No. 2 respectively. The applicants state that the proposed change is to the Transmission Service Charge assessed by the Western Area Power Administration-Salt Lake City Area (WAPA-SLC) to WSCC Broker System Participants.

PSCo and WSCC indicate that the proposed change is to reflect an increase in the rate charged by WAPA-SLC, from 1.0 to 2.0 mills/kWh, for service it provides to Broker Participants.

PSCo states that copies of the filing were served upon all parties to the Agreement and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 27, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-594 Filed 1-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-180-000]

Public Service Company of Colorado; Filing

January 5, 1984.

The filing Company submits the following:

Take notice that Public Service Company of Colorado (Company) on December 28, 1983, tendered for filing a proposed change in its Power Purchase and Interchange Agreement (Agreement) with Colorado-Ute Electric Association, Inc. (Ute). The Company states that the proposed change is a Supplement to Company's Agreement with Ute, dated April 30, 1982, on file with the Commission under Company's FERC Rate Schedule No. 37.

The Company states that the Supplement to the Agreement with Ute, eliminates the Basalt delivery point and provides for a reduction of load at several points of delivery.

The Company states that copies of the filing were served upon all parties to the Agreement and affected State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such protests or petitions should be filed on or before January 27, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-595 Filed 1-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket NO. ER84-181-000]

Public Service Company of Colorado; Tariff Change

January 5, 1984.

The filing Company submits the following:

Take notice that Public Service Company of Colorado (Public Service) on December 28, 1983, tendered for filing on behalf of members of the Inland Power Pool the Revised Inland Power Pool Agreement which contains proposed changes to the Original Inland Power Pool Agreement (Original Agreement) dated May 6, 1974, as amended. The Original Agreement is on file as Public Service FERC Electric Tariff No. 16. Public Service states that the proposed changes are to allow for the expansion of the Inland Power Pool's functions and scope of operations. The changes include the addition of several sections covering the internal operations of the Pool and changes in the format of the Original Agreement.

Public Service states that copies of the filing were served upon all parties to the Agreement and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 27, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-598 Filed 1-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP84-15-000]

State of Texas, Railroad Commission of Texas, Stahl Petroleum Company (El Paso Natural Gas Company), Patterson #2 Well, FERC J.D. No. 81-15154; Petition To Reopen Final Well Category Determination

Issued: January 5, 1984.

On December 6, 1983, El Paso Natural Gas Company (El Paso) filed a petition with the Federal Energy Regulatory Commission (Commisssion) to reopen the application for determination that natural gas from Stahl Petroleum Company's (Stahl) Patterson #2 Well qualifies as new onshore production gas pursuant to section 103 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3432 (Supp. V 1981). An affirmative determination was made on the Patterson #2 Well by the Railroad Commission of Texas, and became final on January 30, 1981, pursuant to NGPA section 503(d) and 18 CFR 275.202(a).

El Paso, purchaser of the gas from the Patterson #2 Well, states that it has learned that the subject well was drilled and abandoned as a dry hole prior to February 19, 1977, and was subsequently reentered and completed. Specifically, El Paso spudded and drilled the well in June, 1965 to 3,365 feet. In September 1979, Stahl stated that it reentered and drilled a "new well" from 1,670 feet to 2,393 feet. Prior to the issuance of *L&B Oil Co., Inc. v. Federal Energy Regulatory Commission*, 665 F.2d 758 (5th Cir. 1982), the Commission held that the suface drilling date for a section 103 well was the date on which the well was spudded in and surface drilling would be found to be prior to February 19, 1977, if the well were drilled prior to February 19, 1977, and subsequently reentered. Under this test, the Patterson #2 Well would not qualify for a section 103 determination, and the determination would have to be vacated. However, after the issuance of *L&B*, the Commission will allow a reentered well originally spudded prior to February 19, 1977, to qualify as a section 103 well if it meets certain criteria. These criteria include factors such as whether the operator upon reentry made more than minimal use of the existing wellbore, whether substantial additional drilling was performed, and whether almost the entirety of normal exploration and production efforts were incurred. El Paso requests that the section 103 determination for the Patterson #2 Well be reopened to determine if this section 103 determination is consistent with existing precedent.

Any person desiring to be heard or to make any protest to the requested reopening should file, within 30 days after this notice is published in the Federal Register, with the Federal Energy Regulatorry Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a motion to intervene or protest in accordance with the requirements of Rules 214 or 211 of the Rules of Practice and Procedure. All protests filed will be considered but will not make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-597 Filed 1-9-84; 8:45 am]

BILLING CODE 6717-01-M

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[Docket No. CP84-119-000]

Texas Eastern Transmission Corp. and Michigan Wisconsin Pipe Line Co.; Application

January 5, 1984.

Take notice that on December 8, 1983, Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521, Houston, Texas 77252, and Michigan Wisconsin Pipe Line Company (Michigan Wisconsin), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP84-119-000 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Chevron Chemical Company (Chemical Company) for a term of two years, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants propose to transport up to 12,000 dt equivalent of natural gas per day for Chemical Company. It is stated that Texas Eastern would receive the gas at existing points of receipt on production platforms located in East Cameron Blocks 160 and 245, East Cameron Area, offshore Louisiana, and redeliver such volumes, less shrinkage, to an existing point of interconnection between the onshore pipeline systems of Applicants in St. Landry Parish, Louisiana. Michigan Wisconsin would then transport equivalent volumes to an existing point of interconnection between the pipeline systems of Michigan Wisconsin and North Central Public Service Corporation (North Central), a local distribution company, in Lee County, Iowa, for ultimate delivery to Chemical Company at Fort Madison, Iowa.

Applicants state that on February 15, 1969, Texas Eastern entered into a gas purchase contract (contract) with The California Company, a Division of Chevron Oil Company (Chevron), which gave Texas Eastern the right to purchase natural gas to be produced from Blocks 160 and 245, East Cameron Area, offshore Louisiana. The contract was filed in Docket No. CI69-818 and is now designated as Chevron U.S.A., Inc.'s FERC Gas Rate Schedule No. 47, it is stated. It is further stated that the contract contains a provision whereby Texas Eastern would release from dedication under the contract, for a term not to exceed two years, up to 12,000 Mcf per day for Chevron's own use or use by a corporate affiliate. It is stated that Chevron has elected to sell it's reserved gas to its corporate affiliate, Chemical Company, for use in Chemical Company's ammonia production facilities at Fort Madison, Iowa.

It is submitted that the proposed transportation of Chevron's reserved gas to its corporate affiliate, Chemical Company, completes a contractual obligation that Texas Eastern undertook in order to acquire additional natural gas supplies for its system. It is asserted that Chemical Company would use the gas supply for the high priority manufacturing of ammonia for fertilizer. It is stated that the acquisition of these natural gas supplies would enable Chemical Company to reopen its ammonia production facility located in Fort Madison, Iowa, that has been shut down since June 1982.

It is stated that Texas Eastern's transmission charge for this proposed service would be 36.73¢ per dt (10.69¢ per dt offshore plus 26.04¢ per dt onshore). It is indicated that the offshore transportation rate was derived utilizing the methodology and costs set forth in Texas Eastern's filing of revised tariff sheets pursuant to the stipulation and agreement in Docket No. RP83-35-000, *et al.*, as approved by Commission order issued July 14, 1983. It is explained that the offshore transportation services were assigned transmission costs based on an offshore mainline Mcf-mile study for mainline transmission and volumertrically for lateral transmission and that the onshore transmission rate is equivalent to Texas Eastern's currently effective TS-2 rate.

Michigan Wisconsin proposes to charge Chemical Company a rate per dt consistent with the rate contained in Michigan Wisconsin's Rate Schedule EUT-1 as finally approved by the Commission. Michigan Wisconsin states its Rate Schedule EUT-1 is pending before the Commission in Docket No. RP84-1-000.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 26, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-598 Filed 1-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-31-001]

Texas Gas Transmission Corp. and Texas Gas Exploration Corp.; Amendment to Application

January 5, 1984.

Take notice that on December 14, 1983, Texas Gas Transmission Corporation (Texas Gas) and Texas Gas Exploration Corporation (Exploration), P.O. Box 1160, Owensboro, Kentucky 42301, filed in Docket No. CP84-31-001 an amendment to its pending application filed in Docket No. CP84-31-000 pursuant to section 7(c) of the Natural Gas Act to reflect Exploration as joint applicant in Texas Gas' application, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

It is stated that the joint filing would be applicable to that portion of Texas Gas' proposal involving the exchange of natural gas with Exploration and that both delivery and redelivery points would be at Exploration's Eunice processing plant.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before January 26 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations

under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-599 Filed 1-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-176-000]

Western Massachusetts Electric Co.; Rate Schedule Change

January 5, 1984.

The filing Company submits the following:

Take notice that on December 27, 1983, Western Massachusetts Electric Company (WMECO) tendered for filing a proposed rate schedule change with respect to a purchase agreement dated July 1, 1983 (Amendment) between (1) WMECO and (2) Village of Johnson, Water and Light Department (Johnson).

WMECO states that the Amendment provides for changes to a purchase agreement between the same parties dated as of November 1, 1981 (the Agreement). The requested change increase the cost of equity capital and modifies the manner of estimating the annual operation and maintenance expense during the period commencing on July 1, 1983 and terminating on October 31, 1989.

The Agreement provides for a purchase by Johnson of a specified percentage of capacity and associated energy from two gas turbine generating units owned by WMECO during the period from November 1, 1981 to October 31, 1989.

The transmission charge rate is a monthly rate equal to one-twelfth of the estimated annual average cost of service on the transmission system of the NU Companies. The monthly transmission charge is determined as the product of (i) the appropriate transmission charge rate ($/kW-month), and (ii) the total kilowatts of capacity which Johnson is entitled to receive in each month pursuant to the Agreement as amended.

WMECO requests that the Commission waive its standard notice period and permit the Amendment to become effective on July 1, 1983.

WMECO states that copies of this rate schedule have been mailed or delivered to Johnson (Johnson, Vermont).

WMECO further states that the filing is in accordance with Section 35 of the Commission's Regulations.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE.,Washington, D.C. 20426, in accordance with Rules 210, 211, and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.210, 385.211, and 385.214). All such petitions or protests should be filed on or before January 26, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-601 Filed 1-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-155-000]

Public Service Company of New Mexico; Rescinding Notice

January 5, 1984.

Take notice that the Notice of Filing issued in this proceeding on December 29, 1983, (49 FR 499, January 4, 1984) duplicated notice given previously on December 13, 1983 (48 FR 55911, December 16, 1983) and is, therefore, rescinded.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-602 Filed 1-9-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. OF84-121-000]

Small Power Producers; Ultrapower 3; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 5, 1984.

On December 28, 1983, Ultrapower 3, (Applicant) of 16845 Von Karman Avenue, Irvine, California 92714, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The small power production facility will be located in Blue Lake, California. The primary energy source of the facility will be biomasss in the form of wood waste. The electric power production capacity of the facility will be 11.4 megawatts. The facility will be owned by a general partnership organized under the laws of the State of California. The general partners are Ultrapower 3 Inc. and Rincon Investing Company, a wholly-owned subsidiary of Tucson Electric Power Company. Each partner is stated to have a 50 percent equity interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Casbell,

Acting Secretary.

[FR Doc. 84-600 Filed 1-9-84; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

January 3, 1984.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511.

Copies of the submission are available from Richard D. Goodfriend, Agency Clearance Officer, (202) 632-7513. Persons wishing to comment on this information collection should contact David Reed, Office of Management and Budget, Room 3225 NEOB, Washington, D.C. 20503, (202) 395-7231.

Title: Application for New or Modified Radio Station Authorization under Part 5 of FCC Rule—Experimental

Radio Services (Other Than Broadcast)
Form No.: FCC 442
Action: Reinstatement
Respondents: State or local governments and business (including small business)
Estimated Annual Burden: 700 Responses; 2,100 Hours.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-567 Filed 1-9-84; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL ELECTION COMMISSION

[Notice 1984-1]

Filing Dates for Wisconsin Special Primary and General Elections

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for Wisconsin Special Primary and General Elections.

SUMMARY: Committees required to file reports in connection with only the special primary election to be held in the 4th Congressional District of Wisconsin on February 21, 1984, must file a 12-day pre-primary report by February 9, 1984, and an April 15 quarterly report due on April 15, 1984. Committees required to file reports in connection with *both* the special primary election *and* the special general election to be held on February 21, 1984, and April 3, 1984, respectively, must file a 12-day pre-primary report by February 9, 1984, the 12-day pre-general election report by March 22, 1984, the April 15 quarterly report by April 15, 1984, and the 30-day post-election report by May 3, 1984.

After filing these reports, committees should resume filing reports on a quarterly basis.

FOR FURTHER INFORMATION CONTACT: Ms. Bobby Werfel, Public Information Office, 1325 K Street NW., Washington, D.C. 20463, Telephone: (202) 523-4068, Toll-free: (800) 424-9530.

SUPPLEMENTARY INFORMATION:

Notice of Filing Dates for Special Primary and Special General Elections, 4th Congressional District, Wisconsin

All principal campaign committees of candidates in the special primary election and all other political committees not filing monthly reports which support candidates in this special primary election shall file a 12-day pre-primary election report due on February 9, 1984, with coverage dates from date of candidacy, or last report, through February 1, 1984 and an April 15 quarterly report due on April 15, 1984, with coverage dates from February 2, 1984, through March 31, 1984.

All principal campaign committees of candidates in the special primary election and the special general election and all other political committees not filing monthly reports which support candidates in these elections shall file a 12-day pre-primary election report due on February 9, 1984, with coverage dates from the date of candidacy, or last report, through February 1, 1984, a 12-day pre-general election report due on March 22, 1984, with coverage dates from February 2, 1984, through March 14, 1984, the April 15 quarterly report due on April 15, 1984, with coverage dates from March 15, 1984, through March 31, 1984, and a 30-day post-election report due on May 3, 1984, with coverage dates from April 1, 1984, through April 23, 1984.

After filing these reports, committees should resume filing reports on a quarterly basis.

Dated: January 5, 1984.

Lee Ann Elliott,

Chairman Federal Election Commission.

[FR Doc. 84-513 Filed 1-9-84; 8:45 am]
BILLING CODE 6715-01-M

FEDERAL RESERVE SYSTEM

Citicorp, et al.; Proposed de Novo Nonbank Activities by Bank Holding Companies

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp*, New York, New York (finance company and credit-related insurance activities; Iowa, Kansas, and Nebraska): To expand the service area of an existing office of its subsidiary, Citicorp Acceptance Company, Inc. (Delaware), located in Ballwin, Missouri, to include the entire states of Iowa, Kansas, and Nebraska for the following previously approved activities: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the purchasing and servicing for its own account of sales finance contracts; the sale of credit related life and accident and health insurance by licensed agents or brokers, as required; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the making of loans to individuals and businesses secured by a lien on mobile homes, modular units or related manufactured housing, together with the real property to which such housing is or will be permanently affixed, such property being used as security for the loans; and the servicing, for any person, of loans and other extensions of credit. Comments on this application must be received not later than February 3, 1984.

2. *Citicorp*, New York, New York (finance company and credit-related insurance activities; Florida): To relocate a distance of 11 miles three co-located offices of Citicorp subsidiaries, specifically, Citicorp Person-to-Person Financial Center, Inc., Citicorp Person-to-Person Financial Center of Florida, Inc., and Citicorp Homeowners, Inc., from Orlando, Florida, to Altamonte Springs, Florida. From this new location Citicorp Person-to-Person Financial Center, Inc., Citicorp Person-to-Person Financial Center of Florida, Inc., and Citicorp Homeowners Inc. will continue to engage in all their previously approved activities, serving the entire State of Florida. All three offices will continue to engage in the activities of:

the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; and the sale of credit related life and accident and health insurance by licensed agents or brokers, as required. In addition, Citicorp Person-to-Person Financial Center, Inc. and Citicorp Person-to-Person Financial Center of Florida, Inc. will continue to engage in the activity of the extension of loans to dealers for the financing of inventory (floor Planning) and working capital purposes. Citicorp Person-to-Person Financial Center of Florida, Inc. and Citicorp Homeowners, Inc. will also continue to engage in the activities of the sale of consumer oriented financial management courses; the servicing, for any person, of loans and other extensions of credit; the making, acquiring, and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. Citicorp Person-to-Person Financial Center of Florida, Inc. will continue to engage in the additional activity of the purchasing and servicing for its own account of sales finance contracts. Comments on this application must be received not later than February 3, 1984.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Firstbank Holding Company of Colorado*, Lakewood, Colorado (underwriting credit life and disability insurance; Colorado); To engage, through a subsidiary to be known as Colorado Firstbank Life Insurance Company, in the activity of underwriting, as reinsurer, credit life and credit disability insurance which is directly related to extensions of credit by the credit extending affiliates of Firstbank Holding Company of Colorado. This activity would be conducted at offices in Phoenix, Arizona, serving the State of Colorado. Comments on this application must be received not later than February 1, 1984.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Bank Securities, Inc.*, Albuquerque, New Mexico (data processing; New Mexico); To engage, through its Data Processing Services Division, in data processing and transmission services, facilities, data bases, or access to such services, facilities, or data bases by any technologically feasible means. The data to be processed or furnished is of an economic, financial or banking nature. This activity will be conducted from an office in Albuquerque, New Mexico, serving New Mexico. Comments on this application must be received not later than February 3, 1984.

2. *Unicorp Bancshares, Inc.*, Houston, Texas (data processing activities; Texas): To engage through its subsidiary, Unicorp Services, Inc., in data processing activities, including the provision of data processing services, data transmission services, data bases and facilities for the internal operation of Unicorp Bancshares, Inc. and its subsidiaries and the provision of data processing and data transmission services for financial, banking or economic data to other financial and nonfinancial institutions in accordance with the Board's Regulation Y. These activities would be conducted from an office in Houston, Texas, serving the State of Texas. Comments on this application must be received not later than February 3, 1984.

D. **Federal Reserve Bank of San Francisco** (Harry W. Greene, Vice President) 101 Market Street, San Francisco, California 94105:

1. *BankAmerican Corporation*, San Francisco, California (financing, servicing, and insurance activities; expansion of geographic scope; Pennsylvania, New Jersey, Delaware, and New York): To continue to engage through its indirect subsidiary, FinanceAmerica Consumer Discount Company, a Pennsylvania corporation, in the activities of making or acquiring for its own account of loans and other extensions of credit such as would be made or acquired by a finance company; servicing loans and other extensions of credit; and offering credit-related life insurance and credit-related accident and health insurance. Credit-related property insurance will be offered only in Pennsylvania. The aforementioned types of credit-related insurance are permissible under Section 4(c)(8)(D) of the Bank Holding Company Act of 1956, as amended by the Garn-St Germain Depository Institutions Act of 1982 and Section 2 of the Pennsylvania Act of the General Assembly 1974 (Pub. L. 1148, No. 365 (40 P.S. 281) with respect to credit-related property insurance. Such activities will include, but not be limited to, making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit to consumer and businesses, making loans and other extensions of credit secured by real and personal property, and offering credit-related life, credit-related accident and health and credit-related property insurance directly related to extensions of credit made or acquired by FinanceAmerica Consumer Discount Company. Credit-related life and credit-related accident and health insurance may be reinsured in the states of Pennsylvania, New Jersey and Delaware by BA Insurance Company, Inc., an affiliate of FinanceAmerica Consumer Discount. These activities will be conducted from seven existing Pennsylvania officers. The Bensalem, Springfield and two Philadelphia offices will each serve the entire states of Pennsylvania and New Jersey. The Erie office will serve the additional State of New York. The West Chester office will serve the entire States of Pennsylvania and Delaware. The Wilkes-Barre office will serve the entire State of Pennsylvania. Comments on this application must be received not later than February 1, 1984.

2. *BankAmerica Corporation*, San Francisco, California (financing, servicing, and insurance activities, expansion of geographic scope; Indiana and Michigan): To continue to engage, through its indirect subsidiary, FinanceAmerica Corporation, an Indiana corporation, in the activities of making or acquiring for its own account of loans and other extensions of credit such as would be made or acquired by a finance company; servicing loans and other extensions of credit; and offering credit-related life insurance and credit-related accident and health insurance. The aforementioned types of credit-related insurance are permissible under Section 4(c)(8)(A) of the Bank Holding Company Act of 1956, as amended by the Garn-St Germain Depository Institutions Act of 1982. Such activities will include, but not limited to, purchasing installment sales finance contracts, making loans and other extensions of credit to consumers and businesses, making loans secured by real and personal property and offering credit-related life insurance and credit-related accident and health insurance directly related to extensions of credit made or acquired by the above corporation. Credit-related life and credit-related accident and health insurance may be reinsured by BA Insurance Company, Inc., an affiliate of FinanceAmerica Corporation. These activities will be conducted from an existing office located in South Bend, Indiana, serving the entire States of Indiana and Michigan. Comments on this application must be received not later than February 3, 1984.

Board of Governors of the Federal Reserve System, January 4, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-518 Filed 1-9-84; 8:45 am]

BILLING CODE 6210-01-M

Avenue Financial Co., et al.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth is section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in disput and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. **Avenue Financial Corporation**, Oak Park, Illinois; to become a bank holding company by acquiring 80 percent or more of the voting shares of Avenue Bank of Elk Grove, Elk Grove Village, Illinois; Dempster Plaza State Bank, Niles, Illinois; and The Northlake Bank, Northlake, Illinois. Comments on this application must be received not later than January 25, 1984.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. **Pacific Capital Bancorp**, Monterey, California; to become a bank holding company be acquiring 100 percent of the voting shares of First National Bank of Monterey County, Monterey, California, a proposed new bank. Comments on this application must be received not later than February 3, 1984.

Board of Governors of the Federal Reserve System, January 4, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-515 Filed 1-9-84; 8:45 am]

BILLING CODE 6210-01-M

Elkton Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the Reserve Bank indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than January 27, 1984.

A. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St Louis, Missouri 63166:

1. *Elkton Bancorp, Inc.*, Elkton, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of Elkton Bank and Trust Company, Elkton, Kentucky.

2. *First Kentucky National Corporation*, Louisville, Kentucky; to acquire 100 percent of the voting shares or assets of First National Bank, Louisville, Richmond, Virginia, a *de novo*. bank.

3. *Kentucky State Bancorp, Inc.*, Scottsville, Kentucky; to become a bank holding company by acquiring 80 percent of more of the voting shares of Kentucky State Bank of Scottsville, Scottsville, Kentucky.

4. *Magna Group, Inc.*, Belleville, Illinois; to acquire the successor by merger to The First National Bank in Columbia, Columbia, Illinois; the successor by merger to First National Bank of Smithton, Smithton, Illinois; the successor by merger to First National Bank of Marissa, Marissa, Illinois; and 100 percent of Freeburg Bancorp, Inc., Freeburg, Illinios, thereby indirectly acquiring The First National Bank of Freeburg, Freeburg, Illinois.

5. *Saline Bancorp, Inc.*, Harrisburg, Illinois; to become a bank holding company by acquiring 81.8 percent of more of the voting shares of The Bank of Harrisburg, Harrisburg, Illinios.

6. *Sharp Bancshares, Inc.*, Cave City, Arkansas; to acquire 80 percent of more of the voting shares or assets of Bank of Evening Shade, Evening Shade, Arkansas.

Board of Governors of the Federal Reserve System, January 4, 1984.

James McAfee;

Associate Secretary of the Board.

[FR Doc. 84-514 Filed 1-9-84; 8:45 am]

BILLING CODE 6210-01-M

The One Bancorp, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the Federal Reserve Bank indicated for that application. Which respect to each application, interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written representation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than February 1, 1984.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *The One Bancorp*, Portland, Maine; to become a bank holding company by acquiring 100 percent of the voting shares of Maine Savings Bank, Portland, Maine.

B. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *FNT Bancorp, Inc.*, Sunbury, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of First National Trust Bank, Sunbury, Pennsylvania.

C. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Tucker Bros. Inc.*, and *Tucker Holding Company, Inc.*, Jacksonville, Florida; to acquire 100 percent of the voting shares or assets of Tucker Bank of Jacksonville, Jacksonville, Florida.

D. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Arkansas Bankstock Corporation*, Little Rock, Arkansas; to acquire at least 83 percent of the voting shares or assets of First National Bank, Batesville, Arkansas and at least 96.5 percent of Bank of Newark, Newark, Arkansas.

2. *Mercantile Bancorporation Inc.*, St. Louis, Missouri; to acquire 100 percent of the successor by merger to First County Bank, Bloomfield, Missouri.

3. *Second Illinois Bancorp, Inc.*, Manchester, Missouri; to become a bank holding company by acquiring 88.16 percent of First Bank and Trust Company in Greenville, Greenville, Illinois; 90.67 percent of the Farmers and Merchants Bank of Vandalia, Vandalia, Illinois; and 84.26 percent of First National Holding Corporation of O'Fallon, O'Fallon, Illinois, which holds 83.30 percent of First Bank and Trust Company of O'Fallon, O'Fallon, Illinois.

Board of Governors of the Federal Reserve System, January 4, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-517 Filed 1-9-84; 8:45 am]

BILLING CODE 6210-01-M

Southern Bancorp., Inc.; Acquisition of Bank Shares by Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Southern Bancorp, Inc.*, Waycross, Georgia; to acquire 100 percent of the voting shares or assets of Mount Vernon Bank, Mount Vernon, Georgia. Comments on this application must be received not later than February 1, 1984.

Board of Governors of the Federal Reserve System, January 4, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-516 Filed 1-9-84; 8:45 am]

BILLING CODE 6210-01-M

The Mitsubishi Bank, Ltd.; Acquisition of Bank Shares by Bank Holding Companies

The Mitsubishi Bank, Limited, Tokyo, Japan, a registered bank holding company for purposes of the bank Holding Company Act (12 U.S.C. 1841 *et seq.*), has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of BanCal Tri-State Corporation, San Francisco, California, and thereby indirectly acquire the Bank of California, National Association, San Francisco, California. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)), and include consideration of the financial resources of the applicant organization and the bank to be acquired.

The Board has recently stated, in connection with several other applications by foreign banking organizations under the Act, that it has under review the general question whether the capital standards applicable to domestic bank holding companies should also be applied to foreign banking organizations having, or seeking to acquire, domestic banking operations. Korea First Bank, Seoul, Korea, Order dated December 21, 1983; Commercial Bank of Korea, Seoul, Korea, Order dated December 21, 1983; Fuji Bank Limited, Tokyo, Japan, Order dated December 20, 1983. Interested persons may express their views regarding this application, including the manner, if any, that this question bears on the application, by submitting views in writing to the Secretary of the Board or to the Federal Reserve Bank of San Francisco. Such comments must be received not later than February 3, 1984.

This application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank of San Francisco. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 6, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-710 Filed 1-9-84; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Information Collection, Trade Regulation; Consumer Protection

AGENCY: Federal Trade Commission.

ACTION: Application to OMB under the Paperwork Reduction Act, (44 U.S.C. 3501 *et seq.*) for review of information collection requirements contained in current trade regulation rules.

SUMMARY: The FTC is requesting OMB review under 5 CFR 1320.14 of information collection requirements contained in the final trade regulation rules which were adopted by the FTC before the enactment of the Paperwork Reduction Act. The requests pertain to consumer protection labeling, disclosure and recordkeeping requirements deemed to be subject to the regulations implementing the Paperwork Reduction Act.

DATES: Comments on these requests for OMB review must be submitted on or before February 9, 1984.

ADDRESS: Send comments to Mr. Don Arbuckle, Office of Information Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, D.C. Copies of the applications may be obtained from: Public Reference Branch, Room 130, Federal Trade Commission, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Christian S. White, Assistant General Counsel, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3776.

By direction of the Commission.

Dated: December 29, 1983.

Emily H. Rock,

Secretary.

[FR Doc. 84-608 Filed 1-9-84; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

Federal Hotel/Motel Discount Directory; Availability

The General Services Administration (GSA) announces the sixth edition of the Federal Hotel/Motel Discount Directory scheduled for publication in January 1984. The new directory will include a number of features that will make it more useful to the reader. The significant changes to be incorporated into the new directory are as follows:

(1) Revised rates that are effective for 1 year rather than for 6 months;

(2) Coverage of foreign as well as domestic cities;

(3) An expanded list of accommodations and facilities available to Federal travelers, such as accommodations for the handicapped, free parking, free limousine service, and restaurants located on the premises;

(4) Additional information on where agencies or individual travelers may obtain tax exemption certificates; and

(5) Coverage of over 3,500 hotels/motels in more than 1,200 cities. (this is an increase of 900 establishments and 202 cities over the July 1983 directory.)

Agencies are encouraged to ride GSA's printing requisition and to order a sufficient supply to meet their headquarters and field office needs. This will be the only opportunity you will have for the next year to ride the GSA requisition. The publication is being discontinued as a subscription item, but will be sold over the counter through the Government Printing Office (GPO) as a single copy item effective in January 1984. The cost of the directory will be announced by GPO at the time of publication.

Agencies should submit a consolidated printing and binding requisition (SF 1), citing the title of the directory, to the Government Printing Office Planning Services, Room 836, Washington, DC 20401, as soon as possible to obtain copies of the 1984 directory. The rider requisition should contain a reference to GSA requisition 4–00208.

By promoting and supporting the hotel/motel program within your agency, you can help to reduce the cost of Federal travel significantly. GSA will continue its efforts to constantly expand the number of properties listed, as well as to seek greater discounts for the Federal traveler.

Dated: December 21, 1983.

R. H. Jeanneret,

Acting Assistant Administrator for Federal Supply and Services.

[FR Doc. 84–572 Filed 1–9–84; 8:45 am]

BILLING CODE 6820–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Treatment Strategies in Schizophrenia Cooperative Agreement Program

AGENCY: National Institute of Mental Health; Alcohol, Drug Abuse, and Mental Health Administration; HHS.

ACTION: Issuance of Request for Applications for Treatment Strategies in Schizophrenia Cooperative Agreement Program.

SUMMARY: The National Institute of Mental Health announces the availability of a request for research cooperative agreement applications for the Treatment Strategies in Schizophrenia Cooperative Agreement Program. Awards will be made to institutions to carry out an identical protocol in a collaborative research effort. Support must be requested for 5 years. In Fiscal Year 1984, it is anticipated that four awards will be made.

Receipt date of applications for FY 1984 funding: March 1, 1984.

FOR FURTHER INFORMATION OR A COPY OF THE ANNOUNCEMENT, CONTACT: Ms. Jacqueline Dobson, Pharmacologic and Somatic Treatments Research Branch, National Institute of Mental Health, 5600 Fishers Lane—Room 10C–06, Rockville, Maryland 20857, (301) 443–3524.

Robert L. Trachtenberg,

Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 84–571 Filed 1–9–84; 8:45 am]

BILLING CODE 4160–20–M

Food and Drug Administration

[Docket No. 79N–0339 and 79N–0340; DESI Nos. 8165 and 10210]

Prednisolone Acetate and Sodium Sulfacetamide With or Without Neomycin Sulfate for Ophthalmic Use; Drugs for Human Use; Drug Efficacy Study Implementation; Termination of Postponement of Requirement for Revised Labeling; Amendment

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is terminating the postponement of a requirement that the labeling of ophthalmic combination drug products containing prednisolone acetate and sodium sulfacetamide be revised. This notice requires further revisions in the labeling of such drug products and in the labeling of ophthalmic combination drug products that contain prednisolone acetate, sodium sulfacetamide, and neomycin sulfate. These labeling revisions concern the activity of sodium sulfacetamide against certain common bacterial eye pathogens.

DATES: Supplements to approved new drug applications due on or before March 12, 1984. Revised labeling must be put into use on or before May 9, 1984.

ADDRESSES: Communications in response to this notice should be identified with the appropriate DESI number, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements to full new drug applications (identify with NDA number): Division of Anti-Infective Drug Products (HFN-140), Rm. 12B–45, National Center for Drugs and Biologics.

Original abbreviated new drug applications, original antibiotic Form 6's, or supplements thereto (identify as such): Division of Generic Drug Monographs (HFN–530), National Center for Drugs and Biologics.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFN–310), National Center for Drugs and Biologics.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFN–501), National Center for Drugs and Biologics.

FOR FURTHER INFORMATION CONTACT: Douglas Ellsworth, National Center for Drugs and Biologics (HFN–8), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In two notices published in the **Federal Register** of August 29, 1980 (45 FR 57776 and 57780), FDA announced its conclusion that certain ophthalmic combination drug products are effective, including the following drug products:

NDA 10–210; Metimyd Ophthalmic Suspension containing prednisolone acetate and sodium sulfacetamide; Schering Corp., Galloping Hill Rd., Kenilworth, NJ 07033 (DESI 10210).

NDA 50–362; Metimyd with Neomycin Ophthalmic Ointment containing prednisolone acetate, sodium sulfacetamide, and neomycin sulfate; Schering Corp. (DESI 8615).

These notices also announced conditions for marketing and approval of such drugs. In the **Federal Register** of May 18, 1982 (47 FR 21296), FDA amended these conditions to require revised labeling.

After publication of the May 1982 notice, the National Center for Drugs and Biologics determined that certain statements in the required labeling revisions for the ophthalmic combinations containing sodium sulfacetamide needed to be further reviewed. These statements pertained to the activity of sodium sulfacetamide against common bacterial eye pathogens.

In the **Federal Register** of October 19, 1982 (47 FR 46577), to allow time for the review, the Director of the Center postponed the effective date of the May 1982 notice in so far as it pertained to ophthalmic combinations containing prednisolone acetate and sodium sulfacetamide. The effective date of those parts of the May 1982 notice concerning ophthalmic combinations containing prednisolone acetate, sodium sulfacetamide, and neomycin sulfate was not postponed because no manufacturer was marketing such a product.

In the October 1982 notice, the Director also invited interested persons to submit pertinent data. In response, Schering Corp. submitted data. Based upon a review of these data and other available information, the Director concludes that the labeling for ophthalmic steroid/anti-infective combinations containing sodium sulfacetamide should be revised to reflect the activity of the drug against *Pseudomonas* species, *Haemophilus influenzae, Klebsiella pneumoniae,* and *Enterobacter* species. In addition, data do not support a general claim regarding the drug's activity against "Streptococci, including *Streptococcus pneumoniae"* as provided for in the May 1982 notice. Instead, data support a more specific claim of activity against *Streptococcus pneumoniae* and *Streptococcus (viridans group).*

Therefore, the postponement of the effective date of those parts of the May 1982 notice affecting ophthalmic combinations containing prednisolone acetate and sodium sulfacetamide is hereby terminated. Amended conditions for marketing and approval of ophthalmic steroid/ anti-infective combinations containing sodium sulfacetamide are set forth below.

I. Amended Conditions for Marketing and Approval of Combinations Containing Prednisolone Acetate and Sodium Sulfacetamide for Ophthalmic Use

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to Metimyd Ophthalmic Suspension, these conditions apply to the following drug products:

ANDA 87–547; Isopto Cetapred Suspension; Alcon Labs., Inc., 6201 S. Freeway, Box 1959, Fort worth, TX 76101.

ANDA 88–089; Sulphrin Suspension; Muro Pharmacal Labs., Inc., 890 East St., Tewksbury, MA 01876.

ANDA 12–813; Blephamide Ophthalmic Suspension; Allergan Pharmaceuticals, Inc., 2525 Dupont Dr., Irvine, CA 92713.

ANDA 88–032; Predsulfair Ophthalmic Ointment; Pharmafair, 110 Kennedy Blvd., Hauppauge, NY 11788.

ANDA 88–059; Predamide Ophthalmic Suspension; Maurry Biological Co., Inc., 6109 S. Western Ave., Los Angeles, CA 90047.

ANDA 88–007; Predsulfair Ophthalmic Suspension; Pharmafair.

These conditions also apply to any drug product that is not the subject of an approved new drug application and is identical to a product named above. It may also be applicable, under 21 CFR 310.6, to a similar or related drug product that is not the subject of an approved new drug application. It is the responsibility of every drug manufacturer or distributor to review these conditions to determine whether they cover any drug product that the person manufactures or distributes. Such person may request an opinion of the applicability of these conditions to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

A. *Effectiveness classification.* FDA has reviewed all available evidence and concludes that the drug is effective for the indication described in the labeling conditions below.

B. *Conditions for approval and marketing.* FDA is prepared to approve abbreviated new drug applications and supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* The drug product contains prednisolone acetate and sodium sulfetamide, and is suitable for ophthalmic administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all the requirements of the Federal Food, Drug, and Cosmetic Act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The "Indication" is as follows:

For steroid-responsive inflammatory ocular conditions for which a corticosteroid is indicated and where bacterial infection or a risk of bacterial ocular infection exists.

Ocular steroids are indicated in inflammatory conditions of the palpebral and bulbar conjunctiva, cornea, and anterior segment of the globe where the inherent risk of steroid use in certain infective conjunctivitides is accepted to obtain a diminution in edema and inflammation. They are also indicated in chronic anterior uveitis and corneal injury from chemical, radiation, or thermal burns or penetration of foreign bodies.

The use of a combination drug with an anti-infective component is indicated where the risk of infection is high or where there is an expectation that potentially dangerous numbers of bacteria will be present in the eye.

The particular anti-infective drug in this product is active against the following common bacterial eye pathogens: *Escherichia coli, Staphylococcus aureus, Streptococcus pneumonia, Streptococcus (viridans group), Pseudomonas* species, *Haemophilus influenzae, Klebsiella* species, and *Enterobacter* species.

The product does not provide adequate coverage against: *Neisseria* species and *Serratia marcescens.*

3. *Marketing status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before March 12, 1984, the holder of the application has submitted a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice. Revised labeling in accord with the labeling conditions described in this notice must be put into use on or before May 9, 1984. The revised labeling may be put into use before approval of a supplemental new drug application, as provided for in 21 CFR 314.8 (d) and (e).

b. Approval of an abbreviated new drug application (21 CFR 314.2) must be obtained before marketing such products. Marketing before approval of a new drug application will subject such

products, and those persons who caused the products to be marketed to regulatory action.

II. Amended Conditions for Marketing and Approval of Combinations Containing Prednisolone Acetate, Sodium Sulfacetamide, and Neomycin Sulfate for Ophthalmic Use

The approval and marketing of such drug products are governed by the regulations applicable to antibiotic-containing drugs. Currently, no ophthalmic combinations containing prednisolone acetate, sodium sulfacetamide, and neomycin sulfate are marketed. The labeling of any such drug product proposed for marketing must conform to the labeling conditions described below.

a. The indication is:

For steroid-responsive inflammatory ocular conditions for which a corticosteroid is indicated and where bacterial infection or a risk of bacterial ocular infection exists.

Ocular steroids are indicated in inflammatory conditions of the palpebral and bulbar conjunctiva, cornea, and anterior segment of the globe where the inherent risk of steroid use in certain infective conjunctivitides is accepted to obtain a diminution in edema and inflammation. They are also indicated in chronic anterior uveitis and corneal injury from chemical, radiation, or thermal burns, or penetration of foreign bodies.

The use of a combination drug with an anti-infective component is indicated where the risk of infection is high or where there is an expectation that potentially dangerous numbers of bacteria will be present in the eye.

The particular anti-infective drugs in this product are active against the following common bacterial eye pathogens: *Escherichia coli, Staphylococcus aureus, Sterptococcus pneumonia, Streptococcus (viridans groups), Pseudomonas* species, *Haemophilus influenzae, Klebsiella* species, *Enterobacter* species, and *Neisseria* species.

The product does not provide adequate coverage against: *Serratia marcescens.*

b. The WARNINGS section of the labeling must contain an appropriate statement concerning the potential of neomycin sulfate to cause cutaneous sensitization.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 507, 52 Stat. 1050–1053 as amended, 59 Stat 463 as amended (21 U.S.C. 352, 355, 357)) and under the authority delegated to the Director of the National Center for Drugs and Biologics (see 21 CFR 5.70 and 47 FR 26913 published in the **Federal Register** of June 22, 1982).

Dated: December 30 1983.

Harry M. Meyer, Jr.

Director, National Center for Drugs and Biologics.

[FR Doc. 84-531 Filed 1-9-84; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

National Advisory Child Health and Human Development Council; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Advisory Child Health and Human Development Council, January 30–31, 1984, Conference Room 10, National Institutes of Health, Bethesda, Maryland and the meeting of the Subcommittee on Planning on January 29 from 3:30 p.m. to 5:30 p.m. in Building 31, Room 2A52, which was published in the **Federal Register** on February 16, 1983 (48 FR 55925).

The Subcommittee on Planning was to have convened on January 29 from 3:30 p.m. to 5:30 p.m. The Subcommittee meeting has been cancelled.

Dated: January 4, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 84-529 Filed 1-9-84; 8:45 am]

BILLING CODE 4140-01-M

Sickle Cell Disease Advisory Committee; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Sickle Cell Disease Advisory Committee, National Heart, Lung, and Blood Institute, February 17, 1984. The meeting will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205, Building 31, Conference Room 2, A-Wing. The entire meeting will be open to the public from 9:00 a.m. to 5:00 p.m., to discuss recommendations on the implementation and evaluation of the Sickle Cell Disease Program. Attendance by the public will be limited to space available.

Ms. Terry Bellicha, Chief, Public Inquiries and Reports Branch, NHLBI, NIH, Building 31, Room 4A21, (303) 496–4236, will provide summaries of the meeting and roster of the Committee members.

(Catalog of Federal Domestic Assistance Program No. 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: January 4, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84-528 Filed 1-9-84; 8:45 am]

BILLING CODE 4140-01-M

Health Resources and Services Administration

Application Announcement for Cooperative Agreements and Proposed Funding Preference for Area Health Education Center Programs

The Bureau of Health Professions, Health Resources and Services Administration, announces that applications for Fiscal Year 1984 Cooperative Agreements for Area Health Education Center (AHEC) Programs under the authority of Section 781(a)(1) of the Public Health Service Act, are now being accepted, and invites comments on the proposed funding preference as set forth below.

Section 781(a)(1) authorizes Federal assistance to medical and osteopathic schools which have cooperative arrangements with one or more public or nonprofit private area health education centers for the planning, development, and operation of area health education center programs. New applications submitted under this authority will be accepted from medical and osteopathic schools for the purpose of planning, developing and operating new area health education center programs. Applicants may request up to three years of support with the expectation that centers planned and developed in years one and two will be operational no later than the third year. Applications for supplemental funds will also be accepted for currently active programs.

To be eligible to receive support for an area health education center cooperative agreement, the applicant must be a public or nonprofit private accredited school of medicine or osteopathy, or consortium of such schools, or the parent institution on behalf of such school(s).

To receive support, programs must meet the requirements of final regulations at 42 CFR Part 57, Subpart MM, published in the **Federal Register** on February 22, 1983. In addition to the criteria outlined in § 57.3806 of the AHEC regulations concerning the evaluation of applications, consideration will be given to the potential of the project to continue on a self-sustaining basis after the end of the project period.

Requests for application materials and questions regarding grants policy should be directed to: Grants Management Officer (U–76), Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 8C–22, Rockville, Maryland 20857, Telephone: (301) 443–6857.

Questions regarding programmatic information should be directed to: Division of Medicine, Area Health Education Center Branch, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 4C–05, Rockville, Maryland 20857, Telephone: (301) 443–6950.

The application deadline date is May 9, 1984. Applications sent by mail will be considered on time if postmarked on or before May 9 and received no later than May 16, 1984. The term "postmark" means a printed, stamped, or otherwise placed impression, exclusive of a postage meter impression, that is readily identifiable as having been affixed on the date of mailing by an employee of the U.S. Postal Service. All hand delivered applications must be received on or before May 9.

Approximately $1,000,000 is expected to be available in Fiscal Year 1984 for competing awards under Section 781(a)(1).

This program is listed at 13.824 in the *Catalog of Federal Domestic Assistance.* Applications submitted in response to this announcement are not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs, or 45 CFR Part 100.

Proposed Funding Preference

A proposed funding preference is established as follows:

(1) New planning and development projects under Section 781(a)(1) will be funded first, and

(2) Supplements to existing awards will be funded with any remaining funds, according to their relative priority score.

Interested persons are invited to submit written comments regarding this funding preference to Acting Director, Division of Medicine, Bureau of Health Professions at the address given below.

All comments received not later than February 9, 1984 will be considered before a final funding preference for Fiscal Year 1984 is established. Normally, the comment period would be 60 days. However, due to the need to implement any changes in the funding preference for the Fiscal Year 1984 award cycle, this comment period has been reduced to 30 days. After the close of comment period, the final funding preference will be published as a notice in the **Federal Register.**

Written comments should be addressed to: Acting Director, Division of Medicine, Bureau of Health Professions, Health Resources and Service Administration, Parklawn Building, Room 4C–25, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–6190.

All comments received will be available for public inspection and copying at the above address weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

Dated: January 4, 1984.

Robert Graham,

Administrator Assistant Surgeon General.

[FR Doc. 84–609 Filed 1–9–84; 8:45 am]

BILLING CODE 4150–15–M

Geographic Composition of the Contract Health Service Delivery Areas (CHSDA's) Established by Regulations of the Indian Health Service

On October 23, 1980, a notice was published in the **Federal Register** (45 FR 70320) of our best assessment of CHSDA's established by 42 CFR 36.22(a). As noted then, corrections of mistaken inclusions or exclusions of a county or counties would be made administratively and included in a later notice.

The purpose of this notice is to revise and update the October 23, 1980, list. Final regulations for Indian Health Service (IHS) Contract Health Services were published in the **Federal Register** on August 4, 1978 (43 FR 34659).

The regulation at 42 CFR 36.22(a)(6) provides that:

> With respect to all other reservations [i.e., other than those not specifically listed in 42 CFR 36.22] within the funded scope of the Indian health program, the contract health service delivery area shall consist of a county which includes all or part of a reservation, and any county or counties which have a common boundary with the reservation.

This is the geographic area within which contract health services may be made available by the IHS to eligible individuals who reside within the area, subject to the provisions of the regulation. This list presents reservations within the funded scope of the IHS program, and includes exceptions to the rule specifically provided for by the regulation at 42 CFR 36.22(a), several exceptions covering areas which have been traditionally served by IHS and are within the funded scope and exceptions provided by legislation. Listed for each reservation are the counties comprising the CHSDA.

It should be clearly understood that residence within a CHSDA by a person who is within the scope of the Indian health program, as set forth in 42 CFR 36.12, creates no legal entitlement to contract health services but only potential eligibility for services. Services needed but not available at an IHS facility are provided under the Contract Health Services program dependent upon the availability of funds, the person's relative medical priority, and the actual availability and accessibility of alternate resources in accordance with the regulations.

Counties included or excluded from the following list of CHSDA's were determined by applying the regulation quoted above (42 CFR 36.22(a)(6)) except where otherwise provided for by regulations, public laws or congressional action in the appropriations process. Any mistakes in the list of CHSDA's should be brought to the attention of: Mr. Richard J. McCloskey, Indian Health Service, Room 6A–14, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Any corrections of mistaken inclusions or exclusions of a county or counties in a CHSDA may be made administratively and included in a later **Federal Register** notice. However, as explained in the October 23, 1980, notice, redesignations of areas included or excluded from a CHSDA for reasons other than a mistake in applying the regulations is governed by the procedures in 42 CFR 36.22(b) and may only be made by the Secretary and must conform with the Procedures of the Administrative Procedure Act (5 U.S.C. 553).

The CHSDA's for all reservations within the funded scope of the IHS program are as follows:

CONTRACT HEALTH SERVICE DELIVERY AREAS

Reservation	CHSDA (County/State)
Acoma Pueblo	Valencia, NM.
Aqua Caliente Indian Reservation	Riverside, CA.
Ak Chin	Pinal, AZ.
Alaska	(1)
Alturas Indian Rancheria	Modoc, CA.
Augustine Reservation	Riverside, CA.
Bad River	Ashland, WI, Iron, WI.
Barona Reservation	San Diego, CA.
Bay Mills	Chippewa, MI.
Benton Paute Reservation	Mono, CA.
Berry Creek Rancheria	Butte, CA.
Big Bend Rancheria	Shasta, CA.
Big Lagoon Rancheria	Humboldt, CA.
Big Pine Reservation	Inyo, CA.
Bishop Colony	Inyo, CA.
Blackfeet	Glacier, MT, Pondera, MT
Bridgeport Indian Colony	Mono, CA.
Burns Paute	Harney, OR.
Cabazon Reservation	Riverside, CA.
Cahuilla Reservation	Riverside, CA.
Campe Verde	Yavapai, AZ.
Campo Indian Reservation	San Diego, CA.

CONTRACT HEALTH SERVICE DELIVERY AREAS—Continued

Reservation	CHSDA (County/State)
Capitan Grande Reservation.	San Diego, CA.
Cedarville Rancheria	Modoc, CA.
Chehalis	Grays Harbor, WA, Thurston, WA.
Chemehuevi Reservation.	San Bernardino, CA, Mohave, AZ.
Cheyenne River	Corson, SD, Dewey, SD, Haakon, SD, Meade, SD, Perkins, SD, Potter, SD, Stanley, SD, Sully, SD, Walworth, SD, Ziebach, SD.
Chitimacha	St. Mary Parish, LA.
Choctaw	Attala, Ms, Jasper, MS,[1], Jones, MS, Kemper, MS, Leake, MS, Neshoba, MS, Newton, MS, Noxubee, MS.[1]
Cochiti Pueblo	Sandoval, NM.
Cocopah	Yuma, AZ.
Coeur d'Alene	Benewah, ID, Kootenai, ID, Latah, ID, Spokane, WA, Whitman, WA.
Cold Springs Rancheria	Fresno, CA.
Colville	Douglas, WA, Ferry, WA, Grant, WA, Lincoln, WA, Okanogan, WA, Stevens, WA.
Colorado River	Yuma, AZ, Riverside, CA, San Bernardino, CA.
Colusa Rancheria	Colusa, CA.
Cortina Indian Rancheria	Colusa, CA.
Coushatta	Allen Parish, LA.
Cow Creek Band of Umpqua.	Douglas, OR,[3], Jackson, OR[3], Josephine, OR.[3].
Coyote Valley Rancheria.	Mendocino, CA.
Crow	Big Horn, MT, Carbon, MT, Yellowstone, MT, Big Horn, WY, Sheridan, WY.
Crow Creek	Brule, SD, Buffalo, SD, Hand, SD, Hughes, SD, Hyde, SD, Lyman, SD, Stanley, SD.
Cuyapape Reservation	San Diego, CA.
Dry Creek Rancheria	Sonoma, CA.
Duck Valley	Nevada (see Nevada below), Owyhee, ID.
Eastern Band of Cherokees.	Cherokee, NC, Graham, NC, Haywood, NC, Jackson, NC, Swain, NC.
Enterprise Rancheria	Butte, CA.
Flandreau	Moody, SD.
Flathead	Flathead, MT, Lake, Mt, Missoula, MT, Sanders, MT.
Fond Du Lac	Carlton, MN, St. Louis, MN.
Fort Apache	Apache, AZ, Coconino, AZ, Gila, AZ, Graham, AZ, Greenlee, AZ, Navajo, AZ.
Fort Belknap	Blaine, MT, Phillips, MT.
Fort Berthold	Dunn, ND, Mercer, ND, McKenzie, ND, McLean, ND, Mountrail, ND, Ward, ND.
Fort Bidwell Reservation.	Modoc, CA.
Fort Hall	Bannock, ID, Bingham, ID, Caribou, ID, Power, ID.
Fort Independence Reservation.	Inyo, CA.
Fort McDermitt	Nevada (see Nevada below), Malheur, OR.
Fort McDowell	Mancopa, AZ.
Fort Mohave	Nevada (see Nevada below), Mohave, AZ, San Bernardino, CA.
Fort Peck	Daniels, MT, McCone, MT, Richland, MT, Roosevelt, MT, Sheridan, MT, Valley, MT.
Fort Totten (Devil's Lake Sioux Reservation).	Benson, ND, Eddy, ND, Nelson, ND, Ramsey, ND.
Fort Yuma (Quechan)	Imperial, CA, Yuma, AZ.
Gila River	Mancopa, AZ, Pinal, AZ.
Goshute	Nevada (see Nevada below), Juab, UT, Tooele, UT.
Grand Portage	Cook, MN.
Grand Ronde	Polk, OR,[4] Washington, OR,[4] Marion, OR,[4] Yamhill, OR,[4] Tillamook, OR,[4] Multnomah, OR,[4].
Grand Traverse Band of Ottawa and Chippewa.	Leelanau, MI.
Grindelone Indian Rancheria.	Glenn, CA.
Hannahville	Delta, MI, Menominee, MI.

CONTRACT HEALTH SERVICE DELIVERY AREAS—Continued

Reservation	CHSDA (County/State)
Havasupai	Coconino, AZ.
Hoh	Jefferson, WA.
Hoopa Valley Reservation.	Humboldt, CA.
Hopi	Apache, AZ, Coconino, AZ, Navajo, AZ.
Hopland Rancheria	Mendocino, CA.
Houlton Band of Maliseet.	Aroostook, ME.[5]
Hualapai	Coconino, AZ, Mohave, AZ, Yavapai, AZ.
Inaja and Cosmit Reservation.	San Diego, CA.
Iowa	Brown, KS, Doniphan, KS, Richardson, NE.
Isabella	Clare, MI, Isabella, MI, Midland, MI.
Isleta Pueblo	Bernalillo, NM, Torrance, NM, Valencia, NM.
Jackson Rancheria	Amador, CA.
Jamestown Band of Clallam.	Clallam, WA.
Jemez Pueblo	Sandoval, NM.
Jicarilla Apache	Archuleta, CO, Rio Arriba, NM, Sandoval, NM.
Kaibab	Coconino, AZ, Mohave, AZ, Kane, UT.
Kalispel	Pend Oreille, WA.
Karok Tribe of California.	Humboldt, CA, Siskiyou, CA.
Kataktegonning (Watersmeet) or Lac Vieux Desert Band.	Gogebic, MI.
Keweenaw Bay	Baraga, MI, Houghton, MI, Ontonagon, MI.
Kickapoo	Brown, KS, Jackson, KS.
Kootenai	Boundary, ID.
Lac Courte Oreilles	Sawyer, WI.
Lac du Flambeau	Iron, WI, Oneida, WI, Vilas, WI.
La Jolla Reservation	San Diego, CA.
Laguna Pueblo	Bernalillo, NM, Sandoval, NM, Valencia, NM.
La Posta Indian Reservation.	San Diego, CA.
Laytonville Rancheria	Mendocino, CA.
Leech Lake	Beltrami, MN, Cass, MN, Hubbard, MN, Itasca, MN.
Lone Pine Reservation	Inyo, CA.
Lookout Rancheria	Modoc, CA.
Los Coyotes Reservation.	Dan Diego, CA.
Lower Brule	Brule, SD, Buffalo, SD, Hughes, SD, Lyman, SD, Stanley, SD.
Lower Elwha	Clallam, WA.
Lower Sioux	Redwood, MN, Renville, MN.
Lummi	Whatcom, WA.
Makah	Clallam, WA.
Manchester—Pt. Arena Rancheria.	Mendocino, CA
Manzanita Reservation	San Diego, CA.
Nashantucket Pequot	New London, CT.[6]
Menominee	Langlade, WI, Menominee, WI, Oconto, WI, Shawano, WI.
Mesa Grande Reservation.	San Diego, CA.
Mescalero	Chaves, NM, Lincoln, NM, Otero, NM.
Middletown Rancheria	Lake, CA.
Mille Lacs	Artkin, MN, Kanebec, MN, Mille Lacs, MN, Pine, MN.
Mole Lake	Forest, WI.
Montgomery Creek Rancheria.	Shasta, CA.
Morongo Reservation	Riverside, CA.
Muckleshoot	King, WA, Pierce, WA.
Nambe Pueblo	Santa Fe, MN.
Narragansett	Washington, RI.[7]
Navajo (including Alamo Navajo, Coconio Navajo and Ramah Navajo).	Apache, AZ, Bernalillo, NM, Coconio, AZ, Kane, UT, McKinley, NM, Montezuma, CO, Navajo, AZ, Sandoval, NM, San Juan, NM, San Juan, UT, Socorro, NM, Valencia, NM.
Nett Lake	Itasca, MN, Koochiching, MN, St. Louis, MN.
Nevada	(*).
Nez Perce	Clearwater, ID, Idaho, ID, Latah, ID, Lewis, ID, Nez Perce, ID.
Nisqually	Pierce, WA, Thurston, WA.
Nooksack	Whatcom, WA.

CONTRACT HEALTH SERVICE DELIVERY AREAS—Continued

Reservation	CHSDA (County/State)
Northern Cheyenne	Big Horn, MT, Rosebud, MT.
Oklahoma	(*).
Omaha	Burt, NE, Cuming, NE, Monona, IA, Thurston, NE, Wayne, NE.
Oneida	Brown, WI, Outagamie, WI.
Paute Indian Tribe of Utah	Iron, UT,[10] Millard, UT,[10] Sevier, UT,[10] Washington, UT.[10]
Pala Reservation	San Diego, CA.
Papago	Mancopa, AZ, Pima, AZ, Pinal, AZ.
Pasqua-Yaqui	Pima, AZ.[11]
Passamaquoddy	Aroostook, ME,[12] Washington, ME.
Pauma and Yuima Reservation.	San Diego, CA.
Payson Community (Tonto Apache).	Gila, AZ.
Pechanga Reservation	Riverside, CA, San Diego, CA.
Penobscot	Aroostook, ME,[12] Penobscot, ME.
Picuris Pueblo	Taos, NM.
Pine Ridge	Bennett, SD, Cherry, NE, Custer, SD, Dawes, NE, Fall River, SD, Jackson, SD, Mellette, SD, Pennington, SD, Shannon, SD, Shendan, NE, Todd, SD, Washabeugh, SD.
Pit River Indian Tribe of the X–L Ranch Reservation.	Modoc, CA.
Pojoaque Pueblo	Rio Arriba, NM, Santa Fe, NM.
Port Gamble	Kitsap, WA.
Port Madson	Kitsap, WA.
Potowatomi	Forest, WI, Marinette, WI, Oconto, WI.
Potawatomi	Jackson, KS.
Prairie Island	Goodhue, MN.
Prior Lake	Scott, MN.
Puyallup	King, WA, Pierce, WA.
Quileute	Clallam, WA, Jefferson, WA.
Quinault	Grays Harbor, WA, Jefferson, WA.
Ramona Reservation	Riverside, CA.
Red Cliff	Bayfield, WI.
Red Lake	Beltrami, MN, Clearwater, MN, Koochiching, MN, Lake of the Woods, MN, Marshall, MN, Pennington, MN, Polk, MN, Roseau, MN.
Resighini Rancheria	Del Norte, CA.
Rincon Reservation	San Diego, CA.
Roaring Creek Rancheria.	Shasta, CA.
Robinson Rancheria	Lake, CA.
Rocky Boy's	Chouteau, MT, Hill, MT.
Rosebud	Bennett, SD, Cherry, NE, Mellette, SD, Todd, SD, Tripp, SD.
Round Valley Reservation.	Mendocino, CA.
Rumsey Indian Rancheria.	Yolo, CA.
Sac and Fox (Iowa)	Tama, IA.
Sac and Fox (Kansas)	Brown, KS, Richardson, NE.
Salt River	Maricopa, AZ.
Sandia Pueblo	Bernalillo, NM, Sandoval, NM.
San Carlos	Apache, AZ, Cochise, AZ, Gila, AZ, Graham, AZ, Greenlee, AZ, Pinal, AZ.
San Felipe Pueblo	Sandoval, NM.
San Ildefonso	Los Alamos, NM, Rio Arriba, NM, Sandoval, NM, Santa Fe, NM.
San Juan Pueblo	Rio Arriba, NM.
San Manuel Reservation.	San Bernardino, CA.
San Pasqual Reservation.	San Diego, CA.
Santa Ana Pueblo	Sandoval, NM.
Santa Clara Pueblo	Los Alamos, NM, Rio Arriba, NM, Sandoval, NM, Santa Fe, NM.
Santa Rosa Rancheria	Kings, CA.
Santa Rosa Reservation.	Riverside, CA.
Santa Ynez Reservation.	Santa Barbara, CA.
Santa Ysabel Reservation.	San Diego, CA.
Santee	Bon Homme, SD, Knox, NE.
Santo Domingo Pueblo	Sandoval, NM, Santa Fe, NM.
Sauk-Suattle	Snohomish, WA.
Seneca	Allegany, NY, Cattaraugus, NY, Chautauqua, NY, Erie, NY, Warren PA.

CONTRACT HEALTH SERVICE DELIVERY AREAS—Continued

Reservation	CHSDA (County/State)
Sheep Ranch Rancheria.	Calaveras, CA.
Sherwood Valley Rancheria.	Mendocino, CA.
Shingle Springs Rancheria (Veronica Tract).	El Dorado, CA.
Shoalwater	Pacific, WA.
Siletz	Benton, OR,[14] Lane, OR,[14] Lincoln, OR,[14] Linn, OR,[14] Marion, OR,[14] Polk, OR,[14] Tillamook, OR,[14] Yam Hill, OR.[14]
Sisseton	Codington, SD, Day, SD, Grant, SD, Marshall, SD, Richland, ND, Roberts, SD, Sargent, ND, Traverse, MN.
Skokomish	Mason, WA.
Skull Valley	Tooele, UT.
Soboba Reservation	Riverside, CA.
South Florida (including Brighton, Florida State, Hollywood, and Miccosukee).	Broward, FL, Collier, FL, Dade, FL, Glades, FL, Hendry, FL.
Southern Ute	Archuleta, CO, La Plata, CO, Montezuma, CO, Rio Arriba, NM, San Juan, NM.
Spokane	Ferry, WA, Lincoln, WA, Stevens, WA.
Squaxin Island	Mason, WA.
St. Croix	Barron, WI, Burnett, WI, Pine, MN, Polk, WI, Washburn, WI.
St. Regis Mohawk	Franklin, NY, St. Lawrence, NY.
Standing Rock	Adams, ND, Campbell, SD, Corson, SD, Dewey, SD, Emmons, ND, Grant, ND, Morton, ND, Perkins, SD, Sioux, ND, Walworth, SD, Ziebach, SD.
Stewarts Point Rancheria.	Sonoma, CA.
Stillaguamish	Snohomish, WA.
Stockbridge-Munsee	Menominee, WI, Shawano, WI.
Sulfer Bank Rancheria	Lake, CA.
Suzanville Indian Rancheria.	Lassen, CA.
Swinomish	Skagit, WA.
Sycuan Reservation	San Diego, CA.
Table Bluff Rancheria	Humboldt, CA.
Table Mountain Rancheria.	Fresno, CA.
Taos Pueblo	Colfax, NM, Taos, NM.
Teaque Pueblo	Santa Fe, NM.
Texas Band of Kickapoo.	Maverick, TX.[18]
TorresMartinez Reservation.	Riverside, CA., Imperial, CA.
Trinidad Rancheria	Humboldt, CA.
Tulalip	Snohomish, WA.
Tule River Indian Reservation.	Tulare, CA.
Tunica-Biloxi	Avoyelles, LA.
Tuolumne Rancheria	Tuolumne, CA.
Turtle Mountain	Rolette, ND.
Twenty-Nine Palms Reservation.	San Bernardino, CA.
Uintah and Ouray	Carbon, UT, Duchesne, UT, Emery, UT, Grant, UT, Rio Blanco, CO, Uintah, UT, Wasatch, UT.
Umatilla	Umatilla, OR, Union, OR.
Upper Lake Rancheria	Lake, CA.
Upper Sioux	Chippewa, MN, Yellow Medicine, MN.
Ute Mountain Ute	La Plata, CO, Montezuma, CO.
Viejas Reservation	San Diego, CA.
Warm Springs	Clackamas, OR, Jefferson, OR, Linn, OR, Marion, OR, Wasco, OR.
Washoe River (Dresslerville Colony).	Alpine, CA, Nevada (see Nevada).
White Earth	Becker, MN, Clearwater, MN, Mahnomen, MN, Norman, MN, Polk, MN.
Wind River	Hot Springs, WY, Freemont, NY, Sublette, WY.
Winnebago (Nebraska)	Dakota, NE, Dixon, NE, Monona, IA, Thurston, NE, Wayne, NE, Woodbury, IA.

CONTRACT HEALTH SERVICE DELIVERY AREAS—Continued

Reservation	CHSDA (County/State)
Winnebago (Wisconsin)	Adams, WI,[10] Clark, WI,[16] Columbia, WI,[10] Crawford, WI,[16] Eau Claire, WI,[16] Houston, MN,[1] Jackson, WI,[16] Juneau, WI,[16] La Crosse, WI,[16] Marathon, WI,[16] Monroe, WI,[16] Sauk, WI,[10] Shawano, WI,[16] Vernon, WI,[16] Wood, WI,[16]
Yakima	Klickitat, WA, Lewis, WA, Yakima, WA.
Yankton	Bon Homme, SD, Boyd, NE, Charles Mix, SD, Douglas, SD, Gregory, SD, Hutchison, SD, Knox, NE.
Yavapai-Prescott	Yavapai, AZ.
Zia Pueblo	Sandoval, NM.
Zuni Pueblo	Apache, AZ, McKinley, NM, Valencia, NM.

[1] Alaska Native Regions are reservations (42 CFR 36.21(i)) and the entire State of Alaska is included as a CHSDA by regulation (42 CFR 36.22(a)(1)).

[2] Choctaw Indians residing in Jasper and Noxubee Counties, MS, will continue to be eligible for contract health services pending correction of the inadvertent omission of these two counties from section 36.22 of the regulations.

[3] Cow Creek Band of Umpqua recognized by Pub. L. 97-391, signed into law on December 29, 1983. House Rept. No. 97-862 designates Douglas, Jackson, and Josephine Counties as a service area notwithstanding existence of a reservation.

[4] Grand Ronde Tribe of Oregon recognized by Pub. L. 96-165, signed into law on six counties without regard to the existence of a reservation.

[5] Pub. L. 97-428 provides for eligibility in or near the Town of Houlton without regard to existance of a reservation.

[6] Mashantucket Pequot Indian Claims Settlement Act, Pub. L. 98-134, signed into law on October 18, 1983, provides for a reservation in New London.

[7] Narragansett Indians recognized by Pub. L. 95-395, signed into law September 30, 1978. Lands in Washington County are now federally restricted and the Bureau of Indian Affairs considers them as the Narragansett Indian Reservation.

[8] The entire State of Nevada is designated a CHSDA by regulation (42 CFR 36.22(a)(2)).

[9] Former reservations in the State of Oklahoma are reservations by regulation (42 CFR 36.21)(1)). The entire State of Oklahoma is a CHSDA by regulation (42 CFR 36.22(a)(3)).

[10] Paiute Indian Tribe of Utah Restoration Act, Pub. L. 96-227, provides for extension of services to these four counties without regard to the existence of a reservation.

[11] Legislative history (H.R. Report No. 96-1021) to Pub. L. 95-375, Extension of Federal Benefits to Pascua Yaqui Indians, Arizona, expresss congressional intent that lands conveyed to the tribes pursuant to Act of October 8, 1964, (Pub. L. 88-350) shall be deemed a Federal Indian Reservation.

[12] Included to carry out the intention of Congress to fund and provide contract health services to Penobscot and Passmaquoddy Indians in Aroostook County.

[13] The counties included in this CHSDA were designated by regulation (42 CFR 36.22(a)(4)).

[14] In order to carry out the congressional intent under the Siletz Restoration Act, Pub. L. 95-195, as expressed in H.R. Report No. 95-623, at page 4, Siletz tribal members residing in these counties are eligible for contract health services.

[15] Texas Band of Kickapoo was recognized by Pub. L. 97-429, signed into law on January 8, 1983. The Act provides for eligibility in Maverick County without regard to the existence of a reservation.

[16] The counties included in this CHSDA were designated by regulation (42 CFR 36.22(a)(5)).

Dated: January 4, 1984.

Robert Graham,

Administrator.

[FR Doc. 84-610 Filed 1-9-84; 8:45 am]

BILLING CODE 4160-15-M

Public Health Service

National Center for Health Services Research; Assessment of Medical Technology

The Public Health Service (PHS), through the Office of Health Technology Assessment (OHTA), announces that it is coordinating an assessment of what is known of the safety, clinical effectiveness, and use (indication) of apheresis for the treatment of chronic relapsing polyneuropathy. Specifically, we are interested in knowing whether this method has significant advantages or disadvantages when compared with other methods of immunosuppression in the treatment of chronic relapsing polyneuropathy in general, and steroid resistant cases in particular. If it proves to be safe and clinically effective, what are specific indications for its use and how many courses of therapy are reasonable and necessary? In addition, this assessment seeks to determine whether this specific application of apheresis is regarded as investigational, or generally accepted treatment.

For the purposes of this announcement, apheresis is defined as a procedure utilizing specialized equipment to remove selected blood constituents (plasma or cells) from whole blood and returning the remaining constituents to the person from whom the blood was taken.

This method of treatment has been used alone or in conjunction with other immunosuppressive modalities in treating severe systemic autoimmune diseases, macro and hyperglobulinemias, acute renal allograft rejection, myasthenia gravis, and leukemia. This assessment addresses primarily the use of apheresis in the treatment of chronic relapsing polyneuropathy.

The PHS assessment consists of a synthesis of information obtained from appropriate organizations in the private sector and from PHS agencies and others in the Federal Government. PHS assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technolgy. Based on this assessment, a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy. Any person or group wishing to provide OHTA with information relevant to this assessment should do so in writing no later than March 15, 1984 or within 90 days from the date of publication of this notice.

The information being sought is a review and assessment of past, current, and planned research related to this technology, a bibliography of published, controlled clinical trials and other well-designed clinical studies and other information related to the characterization of the patient population most likely to benefit from it, and the clinical acceptability and the effectiveness of this technology.

Written material should be submitted to: Harry Handelsman, D.O., National

Center for Health Service Research, Office of Health Technology Assessment, Park Building, Room 3–10, 5600 Fishers Lane, Rockville, Maryland, 20857.

Further information is available from Dr. Harry Handelsman, Health Science Analyst, at the above address or by telephone (301) 443–4090.

Dated: December 21, 1983.

Enrique D. Carter,

Acting Director, Office of Health Technology Assessment, National Center for Health Services Research.

[FR Doc. 84-618 Filed 1-9-84; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit; Memphis Zoological Garden et al.; Receipt of Applications

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: Memphis Zoological Garden, Memphis, TN. APP. #584360.

The applicant requests a permit to import one pair of captive-bred lowland anoa (*Bubalus depressicornis*) from Leipzig Zoo, Leipzig, East Germany for enhancement of propagation.

Applicant: Rolf J. Bergt, Newburg, MD. APP. #584429.

The applicant requests a permit to purchase in interstate commerce two female and one male Hawaiian (-nene) geese [*Nesochen*(*-Branta*) *sandvicensis*], from the National Zoo, Washington, D.C., for enhancement of propagation.

Applicant: Endangered Species Research and Breeding Center, Spokane, WA. APP. #584115.

The applicant requests a permit to import one pair of cheetah (*Acinonyx jubatus*) from African Lion Safari, Ontario, Canada for enhancement of propagation.

Applicant: Knoxville Zoological Park, Knoxville, TN. APP. #583845.

The applicant requests a permit to import one captive-born female Siberian tiger (*Panthera tigris altaica*) from Leipzig Zoo, East Germany for enhancement of propagation.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: January 4, 1984.

Larry LaRochelle,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 84-615 Filed 1-9-84; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Indian Affairs

Information Collection Submitted to OMB for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explantory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer and the Office of Management and Budget Interior Desk Officer, at (202) 395–7340.

Title: Survey of Alaska Natives' Knowledge and Attitudes about Alaska Native Claims Settlement Act
Bureau Form Number: None
Frequency: One time only
Description of Respondents: Randomly selected sample of Alaska Natives
Annual Responses: 2630
Annual Burden Hours: 1315
Bureau Clearance Office: Orville Hood (202) 343–3574

Dated: December 27, 1983.

John W. Fritz,

Assistant Secretary, Indian Affairs.

[FR Doc. 84-568 Filed 1-9-84; 8:45 am]

BILLING CODE 4310-02-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before December 30, 1983. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by January 25, 1984.

Carol D. Shull,

Chief of Registration, National Register.

CONNECTICUT

Litchfield County

Winchester, *Winchester Soldiers' Monument,* Crown St.

FLORIDA

Orange County

Orlando, *Bridges, J.J., House,* 704 S. Kuhl Ave.

Sarasota County

Venice, *Hotel Venice,* 200 N. Nassau St.

St. Lucie County

Fort Pierce, *St. Lucie High School,* 1100 Delaware Ave.

Volusia County

Ormond Beach, *Anderson-Price Memorial Library Building,* 42 N. Beach St.

MARYLAND

Garrett County

Oakland, *Oakland Historic District,* Roughly bounded by Oak, High, 3rd, Omaha, and Bartlet Sts.

MASSACHUSETTS

Essex County

Danvers, *State Lunatic Hospital at Danvers,* 450 Maple St.

MICHIGAN

Oakland County

Novi, *Yerkes, Joseph D., House,* 42580 Eight Mile Rd.

Ottawa County

Holland, *Cappon, Issac, House,* 228 W. 9th St.

Wayne County

Detroit, *Garfield, James A., School,* 840 Waterman St.

MISSOURI

St. Louis (Independent City)

Majestic Hotel, 1017–23 Pine St. and 200–10 N. 11th St.
Murphy-Blair District, Roughly bounded by I–70, Florissant Ave., Chambers and Branch Sts.
Peters Shoe Company Building, 1232–36 Washington Ave.

NEW MEXICO

Bernalillo County

Albuquerque, *Anaya, Gavino House (Albuquerque North Valley MRA),* 2939 Duranes Rd., NW
Albuquerque, *Barela, Adrian, House (Albuquerque North Valley MRA),* 7618 Guadalupe Trail, NW
Albuquerque, Candelarias Chapel-San Antonio Chapel, 1934 Candelaria Rd., NW

Albuquerque, *Chavez, Juan de Dios, House, (Albuquerque North Valley MRA)*, 205 Griegos Rd., NW
Albuquerque, *Chavez, Juan House (Albuquerque North Valley MRA)*, 7809 4th St., NW
Albuquerque, *Dietz, Robert, Farmhouse (Albuquerque North Valley MRA)*, 4117 Rio Grande Blvd., NW
Albuquerque, *Duranes Chapel (Albuquerque North Valley MRA)*, 2601 Indian School Rd., NW
Albuquerque, *Foraker, C. M., Farmhouse (Albuquerque North Valley MRA)*, 905 Menaul Blvd., NW
Albuquerque, *Gomez, Refugio, House (Albuquerque North Valley MRA)*, 7604 Guadalupe Trail, NW
Albuquerque, *Grande, Charles, House (Albuquerque North Valley MRA)*, 4317 Grande St., NW
Albuquerque, *Los Greigos Historic District (Albuquerque North Valley MRA)*, Griegos Rd. and Rio Grande Blvd.
Albuquerque, *Los Tomases Chapel (Albuquerque North Valley MRA)*, 3101 Los Tomases, NW
Albuquerque, *Lucero y Montoya, Francisco, House (Albuquerque North Valley MRA)*, 9742 4th St., NW
Albuquerque, *Nordhaus, Robert, House (Albuquerque North Valley MRA)*, 6900 Rio Grande Blvd., NW
Albuquerque, *Our Lady of Mt. Carmel Church (Albuquerque North Valley MRA)*, 7813 Edith Blvd., NE
Albuquerque, *Romero, Felipe, House (Albuquerque North Valley MRA)*, 7522 Edith Blvd., NE
Albuquerque, *Shalit, Samuel, House (Albuquerque North Valley MRA)*, 5209 4th St., NW
Albuquerque, *Zeiger, Charles, House (Albuquerque North Valley MRA)*, 3200 Edith Blvd., NE

PENNSYLVANIA

Venango County

Franklin, *Franklin Historic District*, Roughly bounded by Miller Ave., Otter, 8th, Buffalo, and 16th Sts.

PUERTO RICO

Aguadilla County

Camuy, *Antiguo Casino Camuyano*, Estrella and Munoz Rivera Sts.

RHODE ISLAND

Providence County

Providence, *Downtown Providence Historic District*, Roughly bounded by Washington, Westminster, Empire and Weybosset Sts.

VERMONT

Bennington County

Manchester, *Manchester Village Historic District*, US 7A, Union St., and Taconic Ave.

[FR Doc. 84-629 Filed 1-9-84; 8:45 am]
BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-143]

Certain Amorphous Metal Alloys and Amorphous Metal Articles; Change of the Commission Investigative Attorney

Notice is hereby given that, as of this date, Stephen L. Sulzer, Esq., of the Unfair Import Investigations Division will be the Commission investigative attorney in the above-cited investigation instead of Lynn I. Levine, Esq.

The Secretary is requested to publish this Notice in the **Federal Register**.

Dated: December 23, 1983.

David L. Wilson,

Chief, Unfair Import Investigations Division.

[FR Doc. 84-255 Filed 1-9-84; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. TA-201-49]

Stainless Steel Table Flatware

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of a hearing to be held in connection with the investigation.

EFFECTIVE DATE: December 13, 1983.

SUMMARY: Following receipt of a petition on December 13, 1983, from counsel on behalf of the Stainless Steel Flatware Manufacturers Association for an investigation under section 201 of the Trade Act of 1974 of certain imported stainless steel flatware, the United States International Trade Commission hereby gives notice of the institution of investigation No. TA-201-49 under section 201(b)(1) of the act (19 U.S.C 2251) to determine whether knives, forks, spoons, and ladies, with stainless steel handlers, provided for in items 650.08, 650.09, 650.10, 650.12, 650.38, 650.39, 650.40, 650.42, 650.54, 650.55, and, if included in sets, 651.75 of the Tariff Schedules of the United States (TSUS), are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles. The Commission must report its determination to the President by June 13, 1984.

FOR FURTHER INFORMATION CONTACT: John MacHatton, Supervisory Investigator (202/523-0439), Office of Investigations, U.S. International Trade Commission, Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION:

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11, as amended by 47 FR 6189, Feb. 10, 1982), not later than 21 days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring the file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d), as amended by 47 FR 6189, Feb. 10, 1982). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c), amended by 47 FR 33682, Aug. 4, 1982).

Public hearing.—The Commission will hold a public hearing in connection with this investigation beginning at 10:00 a.m., on March 29, 1984, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436 (19 CFR 201.13). Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on March 20, 1984.

Prehearing procedures.—To facilitate the hearing process, it is requested that persons wishing to appear at the hearing submit prehearing briefs enumerating and discussing the issues which they wish to raise at the hearing. An original and fourteen copies of such prehearing briefs should be submitted to the Secretary no later than the close of business on March 23, 1984 (19 CFR 201.6). Confidential submissions should be in accordance with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6). Copies of any prehearing briefs submitted will be made available for public inspection in the Office of the Secretary. Any

prepared statements submitted will be made a part of the transcript. Oral presentations at the hearing should, to the extent possible, be limited to issues raised in the prehearing briefs.

A prehearing conference will be held on March 23, 1984, at 10:00 a.m., in Room 117 of the U.S. International Trade Commission Building.

Written submissions.—As mentioned, parties to this investigation may file prehearing briefs by the date shown above. Posthearing briefs must be submitted no later than close of business on April 6, 1984. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before April 6, 1984. A signed original and fourteen copies of each submission must be filed with the Secretary to the Commission. All written submissions, except for confidential business information, will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

Remedy briefs.—In the event that the Commission makes an affimative injury determination in this investigation (a determination on the issue of injury will be made by the Commission in a meeting scheduled for early in the week beginning April 29, 1984), posthearing briefs on remedy will be due to the Secretary of the Commission no later than the close of business May 8, 1984, and must conform with the requirements of §§ 201.6 and 201.8 of the Commission's rules.

Inspection of petition.—The petition filed in this case is available for public inspection at the Office of the Secretary, U.S. International Trade Commission.

For further information concerning the conduct of the investigation, hearing process, and rules of general application, consult the Commission's Rule of Practice and Procedure, 19 CFR 201, as amended by 47 FR 6188, Feb. 10, 1982; 47 FR 13791, Apr. 1, 1982; and 47 FR 33682, Aug. 4, 1982, and Part 206, Subparts A and B (19 CFR 206, Subparts A and B).

By order of the Commission.

Issued: January 5, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-604 Filed 1-9-84; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30356]

Providence and Worcester Railroad Co.; Securities Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 11301 the issuance of 699,300 shares of common stock by Providence and Worchester Railroad Company to its current shareholders.

DATES: This exemption will be effective on February 9, 1984. Petitions to stay must be filed by January 20, 1984, and petitions for reconsideration must be filed by January 30, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 30356 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423

(2) Petitioner's representatives: Thomas E. Acey, Jr., Verner, Liipfert, Bernhard and McPherson, 1660 L Street, NW., Washington, D.C. 20036

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T. S. InfoSystem, Inc., Room 2227, Interstate Commerce Commission, Washington, D.C. 20423, or call 289-4357 (DC Metropolitan Area) or toll-free (800) 424-5403.

Decided: December 29, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-566 Filed 1-9-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Information Collections Under Review by OMB

January 5, 1984.

OMB has been sent for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. The list has all the entries grouped into new forms, revisions, or extensions. Each entry contains the following information:

(1) The name and telephone number of the Agency Clearance Officer (from whom a copy of the form and supporting documents is available); (2) The office of the agency issuing this form; (3) The title of the form; (4) The agency form number, if applicable; (5) How often the form must be filled out; (6) Who will be required or asked to report; (7) An estimate of the number of responses; (8) An estimate of the total number of hours needed to fill out the form; (9) An indication of whether Section 3504(H) of Pub. L. 96-511 applies; (10) The name and telephone number of the person or office responsible for OMB review. Copies of the proposed forms and supporting documents may be obtained from the Agency Clearance Officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the reviewer listed at the end of each entry and to the Agency Clearance Officer. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer and the Agency Clearance Officer of your intent as early as possible.

DEPARTMENT OF JUSTICE

Agency Clearance Officer Larry E. Miesse—202-633-4312

Extension of the Expiration Date of a Currently Approved Collection Without Any Change in the Substance or in the Method of Collection

- Immigration and Naturalization Service, Department of Justice

Application to extend time of temporary stay (I-539)

One Time

Individuals or housholds

Form is used by non-immigrant alien in the United States to apply for an extension of temporary stay and by the INS to determine eligibility for such extension : 125,000 respondents; 41,000 hours; not applicable under 3504(h).

Rob Veeder—395-4814

- Immigration and Naturalization Service, Department of Justice

Application to file for petition for naturalization (N-400)

One Time

Individuals or households

Used by aliens filing petitions for naturalization and by the INS as a means of determining eligiblity pursuant thereto: 270,000 resposnes; 270,000 hours; not applicable under 3504(h).
Rob Veeder—395–4814
• Immigration and Naturalization Service, Department of Justice
Request for verification of naturalization (N–25)
One Time
Individuals or households
Used to obtain information from the records of a Clerk of Court which may be needed by a person applying for benefits under various provisions of the I&N Act: 1,000 responses; 250 hours; not applicable under 3504(h).
Rob Veeder—395–4814
• Immigration and Naturalization Service, Department of Justice
Notice of final naturalization hearing (children) (N–445B)
One Time
Individuals or housholds
Used to notify a U.S. citizen parent of the Court place and time of a final hearing for the naturalization of his/her child. Documentation which must be presented to the Court if the child is to be naturalized is required to be present: 6,000 responses; 500 hours; not applicable under 3504(h).
Rob Veeder—395–4814
• Immigration and Naturalization Service, Department of Justice
Application by a lawful permanent resident for an alien registration receipt card (I–551)
On occasion
Individuals or households
For use by any lawful permanent resident wishing to obtain an Alien Registration Card because no card has yet been issued, the original has been lost, stolen mutilated, or information on the original must be updated or corrected: 200,000 responses; 100,000 hours; not applicable under 3504(h).
Rob Veeder—395–4814
• Immigration and Naturalization Service, Department of Justice
Request for cancellation of public bond charge (I–356)
One Time
Individuals or housholds
Form is used to determine if bond posted on behalf of an alien in the United States should be cancelled: 900 responses; 225 hours; not applicable under 3504(h).
Rob Veeder—395–4814
• Immigration and Naturalization Service, Department of Justice
Application to file petition for naturalization in behalf of child (N–402)
One Time
Individuals or households
Used by a U.S. citizen to file a petition for naturalization on behalf of their natural or adopted child: 10,000 responses; 5,000 hours; not applicable under 3504(h).
Rob Veeder—395–4814

Larry E. Miesse,
Departmental Clearance Officer, Systems Policy Staff, Office of Information Technology, Justice Management Division.

[FR Doc. 84–526 Filed 1–9–84; 8:45 am]
BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Autoquip Corp., et. al

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 20, 1984.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 20, 1984.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 30th day of December 1983.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

Petitioner (Union/workers or former workers of:)	Location	Date received	Date of petition	Petition No.	Articles produced
Autoquip Corp. (USWA)	Guthrie, OK	12/23/83	12/20/83	TA–W–15,152	Power lifts.
Copperweld Corp., Alumoweld Products Div. (USWA)	Glassport, PA	12/27/83	12/20/83	TA–W–15,153	Alumweld wire.
Spalding Div. of Questor, Inc. (workers)	Chicopee, MA	12/27/83	12/22/83	TA–W–15,154	Iron forged heads & wood heads for golf clubs
Taylor Machine Works, Inc. (USWA)	Louisville, MS	12/22/83	12/20/83	TA–W–15,155	Logging and lifting equipment.
The United States Shoe Corp. (wkrs)	Wilmington, Ohio	12/23/83	12/13/83	TA–W–15,156	Women's leather sport footwear.

[FR Doc. 84–527 Filed 1–9–84; 8:45 am]
BILLING CODE 4510–30–M

Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance; Coberknit Corp., et al.

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period December 26, 1983—December 30, 1983.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the worker's firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–14,760; Coberknit Corp., New York, NY

TA–W–14,783; SCM Proctor, SCM Proctor-Silex Altoona, PA

TA–W–14,834; National Supply Co., Div. of Armco, Inc., Torrance, CA

TA–W–14,805; National Supply Co., Div of Armco, Inc., Gainesville, TX

TA–W–14,693; DTS Caribe, Inc., Vega Baja, PR

TA–W–14,694; DTS Caribe, Inc., Morovis, PR

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA–W–14,787; Ford Motor Co., Ford Div., Buffalo, NY

TA–W–14,647; Dravo Corp., Dravo Marine Equipment Co., Div, Neville Island Shipyard, Neville Island, PA

TA–W–14,893; Wilson Automation Co., Warren, MI

TA–W–14,594; Palm Beach Co., Roanoke, AL

TA–W–14,689; General Motors Corp., Delco-Remy Div., Anaheim, CA

TA–W–14,692; General Motors Corp., Rochester Products Div., Coopersville, MI

TA–W–14,848; General Motors Corp., Fisher Body Div., Euclid, OH

TA–W–14,849; General Motors Corp., Grand Rapids Trim, Grand Rapids, MI

TA–W–14,850; General Motors Corp., Livonia, MI

TA–W–14,851; General Motors Corp., Tecumseh, MI

TA–W–14,852; General Motors Corp., Columbus, OH

TA–W–14,853; General Motors Corp., Detroit Fort Street, Detroit, MI

TA–W–14,854; General Motors Corp., Elyria, OH

TA–W–14,855; General Motors Corp., Coldwater Road, Flint, MI

TA–W–14,856; General Motors Corp., Syracuse, NY

TA–W–14,858; General Motors Corp., Chicago, IL

TA–W–14,859; General Motors Corp., Coit Road, Cleveland, OH

TA–W–14,860; General Motors Corp., Grand Blanc, MI

TA–W–14,861; General Motors Corp., Grand Rapids Metal Fabricating, Grand Rapids, MI

TA–W–14,862; General Motors Corp., Hamilton, OH

TA–W–14,863; General Motors Corp., Kalamazoo, MI

TA–W–14,864; General Motors Corp., Lordstown, OH

TA–W–14,865; General Motors Corp., Mansfield, OH

TA–W–14,866; General Motors Corp., Marion, IN

TA–W–14,867; General Motors Corp., Pittsburgh, PA

TA–W–14,868; General Motors Corp., Fleetwood, Detroit, MI

TA–W–14,869; General Motors Corp., Flint Plant, Flint, MI

TA–W–14,870; General Motors Corp., Lansing, MI

TA–W–14,872; General Motors Corp., Detroit Central Plants, Detroit, MI

TA–W–14,887; General Motors Corp., General Offices, Warren, MI

Affirmative Determinations

TA–W–14,871; General Motors Corp., Fisher Body Div., Pontiac, MI

A certification was issued covering all workers separated on or after July 12, 1982.

TA–W–14,706; Parker Pen Co., Janesville, WI.

A certification was issued covering all workers separated on or after May 16, 1982.

TA–W–14,781; Island Creek Coal Co., Beatrice Mine, Buchanan County, VA

A certification was issued covering all workers separated on or after September 1, 1982

TA–W–14,825; AMF Voit, Inc., Sporting Goods Div., Santa Ana, CA

A certification was issued covering all workers separated on or after June 28, 1982 and before December 20, 1983.

TA–W–14,906; Cleveland Cliffs Iron Co., Empire Mine, Ishpeming, MI

A certification was issued covering all workers separated on or after August 4, 1982.

TA–W–14,894; Wilson Sporting Goods Co., Inc., Ironton, OH

A certification was issued covering all workers engaged in employment related to the production of leather baseball gloves and mitts separated on or after March 1, 1983 and before September 15, 1983.

TA–W–14,878; Massey Ferguson, Inc. Gear & Shaft Plant, Detroit, MI

A certification was issued covering all workers separated on or after June 21, 1982 and before December 1, 1983.

TA–W–14,879; Massey Ferguson, Inc., Transmission & Axle Plant, Wayne, MI

A certification was issued covering all workers separated on or after June 21, 1982 and before December 1, 1983.

TA–W–14,14,577; Knickerbocker Toy Co., Middlesex, NJ

A certification was issued covering all workers separated on or after December 1, 1982 and before May 1, 1983.

TA–W–14,717; U.S. Steel Corp., U.S.S. Fabrication Div., South San Francisco, CA

A certification was issued covering all workers separated on or after October 1, 1982 and before November 30, 1983.

TA–W–14,572; Texaco U.S.A., Eagle Point Plant, Westville, NJ.

A certification was issued covering all workers engaged in employment related to the production of toluene separated on or after January 1, 1983 and before June 1, 1983.

TA–W–14,799; Stauffer Chemical Co., Louisville, KY

A certification was issued covering all workers separated on or after June 28, 1982 and before December 12, 1983.

TA–W–14,828; Central Electronics Co., Paris Div., Paris, Ill, Subsidiary of Zenith Radio Corp.

A certification was issued covering all workers separated on or after Jauary 1, 1983.

TA–W–14,845; Kane Industries, Div. of Chromalloy American Corp., Smith Grove, KY

A certification was issued covering all workers separated on or after October 1, 1982 and before July 1, 1983.

I hereby certify that the aforementioned determinations were issued during the period December 26, 1983–December 30, 1983. Copies of these determinations are available for inspection in Room 9120, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: January 3, 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 84–628 Filed 1–9–84; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Performance Review Board; Senior Executive Service

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of amendment.

SUMMARY: The Civil Service Reform Act (4314(c)(4)) requires that appointments of individual members to a Performance Review Board be published in the **Federal Register**. NASA's membership list appeared in the **Federal Register** as NASA Notice 82–18, 47 FR 12887, March 25, 1982, which was subsequently amended by NASA Notice 83–56, 48 FR 26381, June 7, 1983.

This Notice further amends the membership by reappointing Louis B. DeAngelis, whose term expired July 1983. Mr. DeAngelis's new term will expire November 1986. Jeffrey D. Rosendhal (term expires November 1986) is appointed to replace Franklin D. Martin, whose term expired July 1983. Jesse W. Moore (term expires November 1986) is appointed to replace David R. Braunstein, whose term was to expire in July of 1985. John J. Quann (term expires November 1986) is appointed to replace Clifford E. Charlesworth, whose term expired July 1983.

EFFECTIVE DATE: December 1, 1983.

ADDRESS: Executive Personnel Management Program, NPD, NASA Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Philip D. Waller, telephone 202–755–8825.

James M. Beggs,

Administrator.

[FR Doc. 84–525 Filed 1–9–84; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Biological, Behavioral, and Social Sciences; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Biological, Behavioral, and Social Sciences (BBS).

Date and Time: January 26 & 27, 1984; 9:00 a.m. to 5:00 p.m.

Place: Room 540, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Open.

Contact person: Dr. Robert Rabin, Acting Assistant Director, Biological, Behavioral, and Social Sciences (202) 357–9854, Room 506, National Science Foundation, Washington, DC 20550.

Summary minutes: May be obtained from the contact person named above.

Purpose of Advisory Committee: The Advisory Committee for BBS provides advice, recommendations, and oversight concerning major program emphases, directions, and goals for the research-related activities of the divisions that makeup BBS.

Agenda: The Advisory Committee will be informed of the historical background of BBS, the development of research programs, and of current research priorities in the biological, behavioral, and social sciences. Advisory Committee members will be asked to comment on research priorites in 1984 and beyond; to recommend research topics that should receive highest priority for further study; and to discuss and advise on the longer term plans of BBS. Selected members will prepare a summary of the advice and recommendations made. Plans will be made for subsequent meetings of the committee.

Dated: January 5, 1984.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 84–605 Filed 1–9–84; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Availability of Recommendation Responses

Recommendation Reponses From

Intermodal—*Research and Special Programs Administration: Dec. 23: I–80–1:* Both Federal Railroad Administration and the Materials Transportation Bureau have reservations about the possible misinterpretation of volume data for liquids. Volume varies with temperature, while the total weight of material within a tank car remains constant, regardless of temperature. FRA and MTB believe that net weight provides the most useful measurement of material present. *Dec. 8: I–83–2:* Is evaluating recommendation to determine, by mode of transportation, the feasibility of requiring comprehensive product-specific emergency response information to be appended to shipping documents for hazardous materials transported in bulk quantities. *Dec. 12: I–83–4:* Is evaluating recommendation to develop, for drums being used to ship regulated hazardous materials, preshipment inspection criteria similar to those established in 49 CFR 173.28(m)(1) for drums being reconditioned for reuse, and to publish these criteria to assist shippers and carriers in complying with the requirements of 49 CFR 17 12(a) and 173.24(a).

International Society of Fire Service Instructors: Dec. 5: I–83–1: Will inform its membership of the safety and command benefits in restricting the access of emergency response groups to hazardous materials accident sites until their potential exposure to safety hazards and the need for their response activities can be determined.

Matlack, Inc.: Dec. 13: I–83–3: Will immediately send a letter to all drivers reminding them of Department of Transportation regulations requiring that bills of lading and other shipping documents be readily available and recognizable to authorities in the event of an accident, emergency occurrence, or inspection. Will add information regarding shipping papers to its emergency procedures section of its driver's manual. Will review the matter of shipping documents at emergency situations during regularly scheduled safety meetings.

Pipeline—*The Pipelines of Puerto Rico, Inc.: Dec. 7: P–80–75 and –79:* Has written to the Public Service Commission of Puerto Rico regarding the recommendations to develop procedures to employ during pipeline emergencies and to establish an island-wide "one-call" excavation notifications system.

American Public Gas Association: Nov. 8: P–83–29: Notified its member companies of the accident on February 1, 1983, in Pryor, Oklahoma, and urged them, with respect to customer-owned service lines not subject to Federal inspection requirements, (1) to encourage their customers to arrange for periodic inspections of buried gas service lines for corrosion and (2) to encourage local governments to institute requirements for periodic inspections of buried gas service lines for corrosion.

Interstate Natural Gas Association of America: Nov. 10: P–83–27: In addition to a Sep. 13, 1983, memorandum to its member companies, members of the Construction and Operations staff reviewed, with the the INGAA Construction and Operations Committee, the circumstances of the accident in Pine Bluff, Arkansas, on Oct. 1, 1982, and the recommendation of companies to provide checklists to supervisory personnel for major work projects to identify the essential actions to be performed, before starting work and while work is in progress, to ensure employee and public safety.

Puerto Rico Telephone Company: Nov. 16: P–80–88: Believes that a "one-call" system will benefit all utilities, contractors, and private corporations and that full cooperation and participation of all public and private institutions is required. Is willing and able to participate, but not to undertake the responsibility of managing or supervising such operations.

Trunkline Gas Company: Nov. 18: P–83–17: Ventilation procedure is in Section V–03 of Operation and Maintenance Plan. Gas detection systems are being installed.

American Gas Association: Nov. 10: P–83–19: Notified its member companies of the circumstances of the accident in Bonicord, Tennessee, on Dec. 8, 1982, and urged them to identify compressor station building ventilation systems that have restrictive devices, which if fully or partially closed would allow accumulations of gas leaking from facilities within the building, and install a gas detection system that will detect and alert employees to hazardous gas accumulations and take other actions that may be appropriate to the situation. Does not believe that companies should install a gas detection system that will automatically open

fully all restrictive devices when accumulations of gas are detected.

Railroad—*Chemical Manufacturers Association: Dec. 8: R–83–82:* Has concluded that extended color coding is not the best means of improving tank car identification because such a system (1) tied to generic categories of chemicals would not give the correct response information, as the proper response varies within generic categories; (2) tied to groups of commodities that require the same response would be unworkable since there are over 60 DOT response scenarios. Color-banding could create additional identification problems for on-scene personnel who would have to refer to a chart to interpret the meaning of the color scheme; (3) limited to just a few of the highly hazardous chemicals requires drawing lines between those products that create the greatest transportation hazard and those that do not; (4) could be distorted by smoke, flames, and the darkness of night, and could present problems for the substantial number of people who suffer from color-blindness; (5) is expensive and frequent repainting would be required to counter the effects of debris accumulation and fading and to accommodate for changes in ladings of nondedicated cars.

Federal Railroad Administration: Nov. 14: R–83–79: The results of an inspection made in July 1983 of the track in the Louisville District of the Illinois Central Gulf Railroad and the ICG's response to the FRA's findings indicate that no basis exists for the FRA to issue an emergency order limiting the speed of trains or to otherwise restrict operations in the Louisville District of the ICG. *R–83–80:* Because of the high volume of hazardous materials carried in the Louisville District, the FRA has considered this route a high priority and regularly monitors the condition of the track in accordance with the FRA Railroad Safety National Inspection Plan. Inspections have substantiated that the ICG has significantly improved this tract over the last several years. The Federal Track Safety Standards assign responsibility for setting appropriate classes of track to track owners. As long as the ICG maintains its track in compliance with these standards and takes appropriate remedial action as defects develop, then the ICG is fulfilling its responsibility. *R–83–81:* Has worked with the ICG to effect an improvement in the carrier's inspections practices and to enforce compliance with the Federal Track Safety Standards. *R–83–82:* FRA inspections have been thoughtfully planned and are comprehensive in scope. Remedial actions taken by the ICG have resulted in track improvements that have contributed to the ICG's improved safety performance.

Marine—*Office of the Speaker, Wisconsin Legislature: Dec. 6: M–83–78 and –78:* Referred to the Department of Natural Resources the recommendations to adopt legislation to clearly define the level of legal intoxiation for recreational boat opertors and to require procedures for toxicological trests in the event of a recreational boating fatality to document the role of alcohol in recreational boating accidents and fatalities.

State of New York: Dec. 9: M–83–76 and –77: Commissioner of Parks, Recreation and Historic Preservation has been asked to review the recommendations to adopt legislation (1) to clearly define the level of legal intoxication for recreational boat operators; (2) to allow a chemical test of blood, breath, or urine if a recreational boating operator is suspected of being intoxicated; and (3) to allow toxicological tests in the event of a recreational boating accident fatality.

State of Virginia: Nov. 10: M–83–76 and –77: Will bring to the attention of appropriate State officials the recommendations regarding alcohol involvement in recreational boating accidents.

Speaker of the Virginia House of Delegates: Nov. 16: M–83–76 and –77: Referred recommendations regarding alcohol involvement in recreational boating accidents to the Chairman of the House Courts of Justice Committee for consideration.

Lieutenant Governor of Connecticut: Nov. 15: M–83–76 and –77: Issue of alcohol involvement in recreational boating accidents deserves careful consideration.

Speaker of the Tennessee House of Representatives: Nov. 18: M–83–76: Acknowledges recommendation concerning alcohol involvement in recreational boating safety.

President of the Louisiana State Senate: Nov. 21: M–83–78: Referred recommendation regarding toxicological tests in the event of a recreational boating fatality to the Committee on Transportation, Highways and Public Works.

State of Maryland: Nov. 23: M–83–76: Tests relating to percentage of blood alcohol are usually available if an autopsy has been ordered by the local medical examiner following a fatality in a recreational boating accident.

State of Alabama: Nov. 22: M–83–76 and –77: Department of Conservation and Natural Resources is drafting legislation which will provide for chemical testing for blood alcohol content and defining the level of legal intoxication for persons involved in recreational boating accidents.

Committee on Criminal Justice, Florida House of Representatives: Nov. 21: M–83–76 and –77: Recommendations concerning alcohol involvement in recreational boating safety have been referred to this committee.

California Department of Boating and Waterways: Nov. 29: M–83–76 and –77: Penalties prescribed in law for alcohol involvement in recreational boating accidents parallel those for operators of vehicles. Is studying the relationship between alcohol and motorboat accidents. Is establishing a special task force comprised of members from boating associations, enforcement groups, and the boating public to provide guidance and direction throughout the study. Recently modified the State Boating Accident report form to include a section on alcohol and drugs. Is conducting a series of intoxication enforcement training sessions for law enforcement personnel on waterborne patrols. Plans to inform the boating public of the problems of boat operation while intoxicated by television public service announcements, special news releases, and a comprehensive media campaign in conjunction with National Safe Boating Week.

Lieutenant Governor of Texas: Nov. 28: M–83–76 and –77: Referred recommendations concerning alcohol involvement in recreational boating accidents to the Parks and Wildlife Department.

Illinois Department of Conservation: Nov. 28: M–83–76 and –77: Recommendations concerning alcohol involvement in recreational boating accidents are being reviewed by the Division of Law Enforcement.

State of Hawaii: Dec. 1: M–83–76 and –77: Referred recommendations concerning alcohol involvement in recreational boating accidents to the Director of Transportation for review.

State of Oregon: Nov. 30: M–83–76 and –77: The blood alcohol level of 0.08 percent, although found in Oregon's motor vehicle statutes, can be used by marine law enforcement officers. Blood, breath, or urine tests can be administered also.

State of Connecticut: Dec. 6: M–83–76 and –77: Referred recommendations concerning alcohol involvement in recreational boating accidents to the Chairman of the Governor's Task Force on Driving While Intoxicated for review.

State of Iowa: Nov. 29: M–83–76 and –77: Referred recommendations concerning alcohol involvement in recreational boating accidents to the Department of Transportation for analysis.

American Bureau of Shipping: Nov. 22: M–83–62: Issued a Circular of Instruction to all its surveyors emphasizing the importance of examining the rubber expansion joints in seawater lines carefully and also providing guidelines for renewal after a certain period of time as well as for obvious deterioration. Inserted into its rules a requirement for approval of the design of such pieces in seawater piping system where the nominal diameter exceeds 150mm. May change its rules to include a requirement for examination of nonmetallic expansion pieces at every drydocking rather than just at the Special Survey drydocking, which the original rules imply.

Hellenic Lines Limited: Nov. 3: M–82–19: As far back as June 1977, masters have received instructions concerning the use of the VHF–FM radio telephone equipment as a navigational aid. Has repeated and renewed the instructions to masters.

Note.—Single copies of these response letters are available on written request to Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include respondent's name, date of letter, and recommendation number(s) in your request. The photocopies will be billed at a cost of 20 cents per page ($2 minimum charge).

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

January 5, 1984.

[FR Doc. 84–617 Filed 1–9–84; 8:45 am]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-155]

Consumers Power Co. (Big Rock Point Plant); Exemption

I

The Consumers Power Company (the licensee) is the holder of Facility Operating License No. DPR-6 which authorizes the operation of the Big Rock Point Plant, located in Charlevoix County, Michigan, at a rated power level of 240 megawatts (thermal). This license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

II

Section 50.54(m)(2) of 10 CFR, which becomes effective on January 1, 1984, requires single unit reactors to have two Senior Reactor Operators (SRO) and two Reactor Operators (RO) on shift when the unit is operating.

By letter dated October 3, 1983, the licensee requested an exemption to 10 CFR 50.54(m)(2) such that only one SRO and two RO's would be required on shift during operation at Big Rock Point. In support of this request the licensee referred to a letter dated April 1, 1982 submitted by the licensee to the NRC. Two reports entitled, "Assessment of Shift Staffing Requirements for the Big Rock Point Nuclear Plant" and "Operator Action Event Trees for the Big Rock Nuclear Plant," were transmitted by that letter. These reports were prepared by the licensee to evaluate operator actions required to respond effectively to transient and accident conditions at Big Rock Point. Based primarily on this evaluation, Consumers Power Company concluded that a second SRO on shift is not necessary at Big Rock Point. In addition to the licensed operators (SROs and ROs), two Auxiliary Operators (AOs) are also on shift.

The Big Rock Point plant is small and relatively uncomplicated. It does not have many of the complex, interconnected systems of the newer and larger nuclear plants. Originally, the staff's review of the licensee's analysis revealed two sets of accident sequences in which a second SRO on shift would be needed—certain fire sequences and certain loss of offsite power sequences. The fire sequences considered by the staff in its evaluation involved situations where two licensed operators were required to be in the control room while a third licensed operator was required to be at the alternate shutdown panel. This would consume all of the licensed operator resources on shift leaving no licensed operator available to direct the activities of the fire brigade. However, based on further review the staff concluded that there really is no need to man both the control room and the alternate shutdown panel simultaneously. The alternate panel needs to be manned only in the event the control room has to be abondoned and control functions have to be transferred to the alternate panel, in which case one of the two operators from the control room could proceed to and man the alternate panel. Thus, the third licensed operator on shift remains available to direct the activities of the fire brigade, satisfying the reqirements of Appendix R for fire brigade staffing.

The licensee's analysis identified that in certain loss of offsite power sequences a third AO may be useful in verifying and maintaining the operation of emergency diesel generators or performing circuit breaker alignment in the station power room. An additional SRO could also perform such jobs. However, the sequences in which an additional AO or SRO may be useful involve multiple system failures and are of low probability. Therefore, additional staffing would not result in a significant reduction in the overall core-melt probability. On this basis, the staff concluded that addition of a second SRO (or other operator) is not justified.

The staff concludes that all identified accident sequences with significant contribution to core-melt probability can be adequately accommodated with a shift staffing that includes one SRO, two ROs and two auxiliary operators as proposed by the licensee. Thus, the staff concludes that the requested exemption from the requirements for the second SRO to be on shift at the Big Rock Point Nuclear Plant should be granted.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, the Commission hereby grants an exemption from the requirement of 10 CFR 50.54(m)(2) to have two Senior Reactor Operators on-shift during operation. Big Rock Point may continue to operate with only one SRO on-shift (in addition to the two ROs and two AOs).

The NRC staff has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

This exemption becomes effective on January 1, 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-546 Filed 1-9-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-409]

Dairyland Power Cooperative (La Crosse Boiling Water Reactor); Exemption

I

Dairyland Power Cooperative (the licensee) (PDC) is the holder of Provisional Operating License No. DPR-45 which authorizes operation of the La Crosse Boiling Water Reactor (LACBWR). This provides, among other things, that it is subject to all rules, regulations and orders of the Commission now or hereafter in effect. The facility is a boiling water reactor rated at 165 megawatts (thermal) and is located at the licensee's site located in Vernon County, Wisconsin.

II

A change to the regulation 10 CFR 50.54, issued on July 11, 1983, requires that, effective January 1, 1984, the minimum shift staffing for an operating, single unit nuclear power plant include: (1) An individual holding a senior reactor operator (SRO) license who is assigned responsibility for overall plant operation (the Shift Supervisor); (2) a second SRO who must be present at all times in the control room from which the nuclear unit is being operated (this SRO may be relieved by the Shift Supervisor or another qualified SRO, but an SRO presence in the control room must be maintained); (3) an individual with a reactor operator (RO) license or an SRO license at the plant controls; and (4) an additional RO assigned to the unit. Previously, individual plant technical specifications had estabilished the minimum shift crew staffing for each nuclear unit, and generally required one SRO and two ROs to be present on shift when the unit was operating. The rule change codifies the previously established general requirements and, for most plants, adds the requirement for the second SRO to be stationed in the control room.

By letter dated August 25, 1983 the licensee requested an exemption to the

staffing requirements of 10 CFR 50.54(m)(2) for LACBWR. In lieu of the four licensed operators required by the rule (two SROs and two ROs), the licensee proposes to operate LACBWR with one SRO and one RO per shift. Two auxiliary operators, who are not required to be licensed, are also on each shift. The LACBWR plant is small and relatively uncomplicated. It does not have many of the complex, interconnected systems of the newer and larger nuclear plants, which results in relatively simple plant controls. Its size is only about one-twentieth the size of today's large plants. It has operated successfully since 1967 with a required licensed operator staffing of one SRO and one RO, as now proposed by the licensee to be continued.

The licensee requires that all LACBWR operator must have previous formal nuclear training and experience prior to hire. Currently, all LACBWR operators, both licensed and unlicensed, are former Navy enlisted technicans. An objective of the licensee is that all plant operators obtain an operator license. Toward this end, all operators on shift at LACBWR either already have a valid operator license or are in training for their license examination. The licensee maintanis four watch stations at the plant: reactor operator, turbine operator, switchyard operator, and auxiliary operator.

To the extent allowed by their licensed status, plant operators rotate duty assignments among the four watch stations so as to maintain their familiarity with all aspects of the plant operation. They also participate in maintenance and refueling activities which further increases their familiarity with the plant. Plant operators in training for a reactor operator license function in the control room under the supervision of a licensed operator. As a result of the emphasis on having all plant operators attain licensed status and the cross qualification attained by having each operator capable of handling any watch station, the licensee assures a greater depth of knowledge regarding details of the plant and a greater assurance that any off-normal conditions can be promptly and safely corrected. The licensee also requires that the control room be attended by two operators, at least one of whom has a license, whenever the reactor is critical; and that two licensed operators are required to be in the control room during plant startup, scheduled plant shutdown, and recovery from trips.

The staff concludes that the licensed operator staffing proposed by the licensee, in conjunction with the emphasis on attaining interchangeability among operators at plant watch stations and on having all operators obtain licensed status, and in light of the small size and simplicity of the plant, is sufficient to assure safe plant operation. Based upon the above evaluation, the staff concludes that the licensee's requested exemption from the requirements of 10 CFR 50.54(m)(2) should be granted.

III

Accordingly, the Commission has determined that pursuant to 10 CFR 50.12 an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, the Commission hereby approves the exemption described in Section II above.

The NRC staff has determined that granting this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.54(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

This exemption becomes effective on January 1, 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-547 Filed 1-9-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-334]

Duquesne Light Co. et al; Granting of Relief From ASME Section XI Inservice Inspection Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to Duquesne Light Company, Ohio Edison Company, and Pennsylvania Power Company (the Licensees). The relief relate to the inservice testing program for the Beaver Valley Power Station, Unit No. 1 (the facility) located in Beaver County, Pennsylvania. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of December 15, 1983.

The relief permits the licensee to examine certain welds in a manner different from that prescribed in Section XI of the ASME Boiler and Pressure Vessel Code and applicable Addenda, as required by 10 CFR Part 50, because of inaccessibility, configuration of components, radiation level, or other valid reasons. Alternative examinations have been proposed by the licensee and accepted by the staff.

The request from relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this relief.

For further details with respect to this action, see (1) the application for relief dated May 7, 1983, and (2) the Commission's letter dated December 15, 1983. All of these items are available for public inspection at the Commission's Public Document Room 1717 H Street, NW., Washington, D.C. and at the B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated: at Bethesda, Maryland, this 15th day of December, 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 84-548 Filed 1-9-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-312]

Sacramento Municipal Utility District; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has pursuant to the Decision of its Atomic Safety and Licensing Appeal Board in this proceeding (ALAB-746) dated October 24, 1983, issued Amendment No. 51 to Facility Operating License No. DPR-54, issued to the Sacramento Municipal Utility District (the licensee), which revised the license for operation of the Rancho Seco Nuclear Generating Station located in Sacramento County,

California. The amendment is effective as of its date of issuance.

The amendment adds a license condition which requires radiographic inspection of High Pressure Injection nozzles C and D during future refueling outages.

For further details with respect to this action, see (1) Amendment No. 51 to License No. DPR–54 and (2) the aforementioned Decision of the Atomic Safety and Licensing Appeal Board dated October 24, 1983. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Sacramento City-County Library, 828 I Street, Sacramento, California. A copy of both items may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 3rd day of January 1984.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch #4 Division of Licensing.

[FR Doc. 84-549 Filed 1-9-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50–445 and 50–446]

Texas Utilities Electric Co.; et al.; Issuance of Amendments to Construction Permits

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 7 to Construction Permit Nos. CPPR–126 and CPPR–127. The amendments reflect corporation reorganization of the Texas Utilities Company (TUCO) and ownership interest of the co-permitees of the Comanche Peak Steam Electric Station, Units 1 and 2 as follows:

PRESENT

	Percent
Texas Electric Service Co. (TESCO)[1]	35⅝
Texas Power & Light (TP&L)[1]	33⅓
Dallas Power & Light (DP&L)[1]	18⅓
Texas Municipal Power Agency (TMPA)	6⅛
Brazos Electric Power Cooperative (BEPC)	3⅛
Tex-La Electric Cooperative of Texas, Inc. (Tex-La)	2⅛

[1] TESCO, TP&L, and DP&L are subsidiaries of TUCO.

EFFECTIVE JANUARY 1, 1984[1]

	Percent
Texas Utilities Electric Company (TUEC)	87⅛
Texas Municipal Power Agency (TMPA)	6⅛
Brazos Electric Power Cooperative (BEPC)	3⅛
Tex-La Electric Cooperative of Texas, Inc. (Tex-La)	2⅛

[1] Effective with the reorganization and as a matter of Texas law, all rights and obligations of DP&L, TESCO and TP&L will become the rights and obligations of the successor corporation, TUEC.

The amendments are effective as of January 1, 1984 when the reorganization will become effective.

The application for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the amendments. Prior public notice of the amendments were not required since the amendments do not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendments, dated August 2, 1983; (2) Amendment No. 7 to Construction Permits CPPR–126 & CPPR–127, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Somervell County Public Library, On the Square, P.O. Box 417, Glen Rose, Texas 76403. Items 2 and 3 may be requested by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 29th day of December, 1983.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 84-550 Filed 1-9-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50–266 and 50–301]

Wisconsin Electric Power Co. (Point Beach Nuclear Plant, Units 1 and 2); Exemption

I

Wisconsin Electric Power Company (the licensee is the holder of Facility Operating License Nos. DPR–24 and DPR–27 (the licenses) which authorize operation of the Point Beach Nuclear Plant, Unit Nos. 1 and 2 (the facilities) at a steady state reactor power level not in excess of 1516 megawatts thermal. The facilities consist of Westinghouse Electric Corporation designed pressurized water reactors (PWRs) located at the licensee's site in Manitowoc County, Wisconsin.

The licenses are subject to all rules, regulations and Orders of the Commission.

II

10 CFR 50.44(c)(3)(iii) requires a licensee to provide each light-water nuclear power reactor with high point vents for the reactor coolant system, for the reactor vessel head, and for other systems required to maintain adequate core cooling if the accumulation of non-condensible gases would cause the loss of function of these systems. Required modifications are to be completed by the end of the first scheduled outage of sufficient duration beginning after July 1, 1982.

By letter dated November 29, 1983, the licensee requested an exemption to the schedular requirements of Paragraph (c)(3)(iii) of 10 CFR 50.44. The licensee requests that it be granted an exemption until no later than December 31, 1984 to complete installation of the ractor coolant system and reactor vessel head high point vents for the Point Beach Nuclear Plant, Unit Nos. 1 and 2.

On January 25, 1983, an exemption from the schedular requirements of 10 CFR 50.44(c)(3)(iii) until January 1, 1984 was granted for Point Beach Unit 1. The first outage of sufficient duration after July 1, 1982 to install the RCS high point vent system at Point Beach Unit 1 was the Fall 1982 refueling outage. Point Beach Unit 1 is currently shutdown in a refueling outage with a scheduled restart date of March 30, 1984. Delivery of the control panels necessary for remote vent operation from the control room, which was intitially scheduled in time to meet the January 1, 1984 date, has been delayed until June of 1984. While this equipment will not be delivered in time for installation during the current refueling outage, it will be able to be installed during the next operating cycle since unit shutdown is not required for installation. The licensee estimates that the control panels will be unable to be installed before September 1, 1984. Verification testing will be necessary following installation before the control panels can be declared fully operable. The expected delivery and installation dates of the control panels and the schedule for training and implementation of emergency operating procedures for the RCS gas vents form the basis for the licensee's requested extension from the currently approved implementation date of January 1, 1984 until December 31, 1984 for Point Beach Unit 1.

The technical status of the RCS high point vent system for Point Beach Unit 1 remains in accordance with the Exemption of January 25, 1983 and on the basis we find the requested extension of the implementation date

acceptable. We note that the Power Operated Relief Valve (PORV) system which is separate from the RCS gas vent system could also be utilized as an additional method for venting the pressurizer and the RCS system (over an extended period of time) as mentioned in the January 25, 1983 Exemption.

On May 9, 1983, an exemption from the schedular requirements of 10 CFR 50.44(c)(3)(iii) until January 1, 1984 was granted for Point Beach Unit 2. The first outage of sufficient duration after July 1, 1982 to install the RCS gas vent system at Point Beach Unit 2 had been the spring of 1983 refueling outage. The schedular Exemption was granted due to delivery delays of the control panels necessary for remote operation of the RCS gas vent system from the control room. Subsequent to the issuance of the May 9, 1983 Exemption the licensees learned of additional delivery delays until June 1984 for these control panels. Additionally, the solenoid operated valve isolating the RCS vent path directly to containment for Point Beach Unit 2 failed its hydrostatic leak test during the spring 1983 outage. The valve was subsequently removed from the system and the line capped upstream of the valve. The system was then re-hydrostatically tested. The system is operable utilizing the remaining vent path to the pressure relief tank and utilizing the interim power supplies described in the May 9, 1983 Exemption. The valve will be replaced during the next refueling outage scheduled for the fall of 1984. The installation of the control panels necessary for remote operation from the control room and the implementation of emergency operating procedures will be completed by December 1984 as described earlier for Unit 1.

The technical status of the system is the same as described in the May 9, 1983 Exemption with the exception of the vent ot containment isolation valve which has been removed from the system. Based on the considerations discussed above and for reasons discussed in our May 9, 1983 Exemption, we find the requested extension of the implementation date for the RCS vent system for Point Beach Unit 2 to be acceptable. We note that the PORV system which is separate from the RCS gas vent system could be utilized as an additional method for venting the pressurizer and RCS system (over an extended period of time) as mentioned above in the case of Unit 1.

Since the likelihood that vents would be needed prior to the completion of the vent system is low, the NRC staff concludes that a schedular exemption to the hydrogen rule vents requirements (10 CFR 50.44(c)(3)(iii)) until the system controls are installed and fully tested, but no later than December 31, 1984, is reasonable and that the licensee's request for exemption should be granted.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the exemption requested by the licensee's letter of November 29, 1983, as discussed above, is authorized by law and will not endanger the life or property or the common defense and security, and is otherwise in the public interest. The requested exemption is hereby granted as follows:

The date specified in Paragraph (c)(3)(iii) of 10 CFR 50.44 to complete installation of reactor coolant system high point vents is extended to no later than December 31, 1984 for the Point Beach Plant, Unit Nos. 1 and 2.

The Commission has determined that the granting of this Exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland this 30th day of December, 1983.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 84-551 Filed 1-9-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-29]

Yankee Atomic Electric Co.; Granting of Relief From ASME Code Section XI Inservice Inspection Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components," to the Yankee Atomic Electric Company (the licensee), which relates to the inservice inspection program for the Yankee Nuclear Generating Station (the facility) located in Franklin County, Massachusetts. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50.55a(g). The relief is effectice as of its date of issuance and expires on July 1, 1991.

The relief modifies the visual, surface, volumetric and/or pressure test examinations requirements for certain Class 1, 2, and 3 components for which the Code required examinations have been determined to be impractical.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief.

The Commission has determined that the granting of relief will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this action.

For further details with respect to this action, see (1) the licensee's application dated October 3, 1977, and request for relief dated October 2, 1981; (2) Amendment No. 81 to License No. DPR-3; (3) the letter to the licensee granting the relief dated January 3, 1984; and (4) the Commission's related Safety Evaluation, including a report prepared by the Commission's contractor, Science Applications, Inc., dated August 27, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the local public document room located at the Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 3d day of January 1984.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch 5, Division of Licensing.

[FR Doc. 84-552 Filed 1-9-84; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organization; Cincinnatic Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

January 3, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

American Family Corporation—Common Stock, $.10 Par Value (File No. 7–7260)
Arkansas Best Corporation—Common Stock, $1 Par Value (File No. 7–7261)
Arlen Realty & Development Corp.—Common Stock, $1 Par Value (File No. 7–7262)
BankAmerica Corporation—$2.875 Cumulative Special Preferred Stock (File No. 7–7263)
Basic Resources Corporation—Common Stock, $.05 Par Value (File No. 7–7264)
Block (H&R) Inc.—Common Stock, No Par Value (File No. 7–7265)
Century Telephone Enterprises, Inc.—Common Stock, $1 Par Value (File No. 7–7266)
Chromalloy American Corporation—Common Stock, $1 Par Value (File No. 7–7267)
Coachmen Industries Inc.—Common Stock, No Par Value (File No. 7–7268)
ConAgra, Inc.—Common Stock, $5 Par Value (File No. 7–7269)
Diamond Shamrock Corporation—Common Stock, $1 Par Value $4 Cumulative Convertible Preferred Stock (File No. 7–7270)
DMG, Inc.—Common Stock, $.01 Par Value (File No. 7–7271)
Dravo Corporation—Common Stock, $1 Par Value (File No. 7–7272)
Energy Exchange Corporation—Class A Common Stock, $.01 Par Value (File No. 7–7273)
Fay's Drug Company, Inc.—Common Stock, $.10 Par Value (File No. 7–7274)
First Wisconsin Corporation—Common Stock, $2.50 Par Value (File No. 7–7275)
Fox-Stanley Photo Products, Inc.—Common Stock, $1 Par Value (File No. 7–7276)
Golden Nugget, Inc.—Warrants (File No. 7–7277)
Grow Group, Inc.—Common Stock, $.10 Par Value (File No. 7–7278)
Guardian Industries Corp.—Common Stock, $1 Par Value (File No. 7–7279)
Hartmarx Corporation—Common Stock, $2.50 Par Value (File No. 7–7280)
Institutional Investors Corp.—Common Stock, No Par Value (File No. 7–7281)
International Harvester Co.—Warrants (File No. 7–7282)
Lamson & Sessions Co. (The)—Common Stock, $5 Par Value (File No. 7–7283)
Lehigh Valley Industries, Inc.—Common Stock, $.50 Par Value (File No. 7–7284)
Lifemark Corporation—Common Stock, $.01 Par Value (File No. 7–7285)
Maytag Company (The)—Common Stock, $2.50 Par Value (File No. 7–7286)
Mesa Offshore Trust—Units of Beneficial Interest (File No. 7–7287)
Minnesota Power & Light Company—Common Stock, No Par Value (File No. 7–7288)
Nicolet Instrument Corporation—Common Stock, $.25 Par Value (File No. 7–7289)
Northwest Energy Company—$2.125 Convertible Preferred $1 Par Value (File No. 7–7290)
NVF Company—Common Stock, $.01 Par Value (File No. 7–7291)
Orion Pictures Corporation—Common Stock, $.25 Par Value (File No. 7–7292)
Pacific Scientific Company—Common Stock, $1 Par Value (File No. 7–7293)
Pantry Pride, Inc.—Common Stock, $.01 Par Value (File No. 7–7294)
Prime Motor Inns, Inc.—Common Stock, $.05 Par Value (File No. 7–7295)
Rexnord, Inc.—Common Stock, $1 Par Value (File No. 7–7296)
Rubbermaid Incorporated—Common Stock, $1 Par Value (File No. 7–7297)
Safeguard Scientifics, Inc.—Common Stock, $.10 Par Value (File No. 7–7298)
Service Corporation International—Common Stock, $1 Par Value (File No. 7–7299)
Shaw Industries, Inc.—Common Stock, No Par Value (File No. 7–7300)
Southmark Corporation—Common Stock, $1 Par Value (File No. 7–7301)
Texfi Industries, Inc.—Common Stock, $1 Par Value (File No. 7–7302)
Washington National Corporation—Common Stock, $5 Par Value (File No. 7–7303)
Western Air Lines, Incorporated—Warrants (File No. 7–7304)
Wolvertine World Wide, Inc.—Common Stock, $1 Par Value (File No. 7–7305)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before January 24, 1984 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 84–565 Filed 1–9–84; 8:45 am]
BILLING CODE 8010–01–M

Self-Regulatory Organizations; Midwest Stock Exchange, Inc.; Applicatoins for Unlisted Trading Privileges and of Opportunity for Hearing

January 3, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Detroit Edison Co. (File No. 7–7255)—
- 5½% Cumulative Convertible Preferred, $100 Par Value
- 9.32% Cumulative Perferred, $100 Par Value
- $2.75 Cumulative Perferred, Series B, $1 Par Value
- 7.68% Cumulative Perferred, $100 Par Value
- 7.45% Cumulative Perferred, $100 Par Value
- 7.36% Cumulative Perferred, $100 Par Value
- 2.75% Cumulative Perferred, $1 Par Value
- $2.28 Cumulative Perferred, $1 Par Value
- 9.72% Cumulative Perferred Series, $100 Par Value
- 12.80% Cumulative Perferred, $100 Par Value
- 15.68% Cumulative Perferred, $100 Par Value
- $4.12 Cumulative Perferred, $1 Par Value
- $4.00 Cumulative Perferred Series, $1 Par Value
- $3.42 Cumulative Perferred Series, $1 Par Value
- $3.40 Cumulative Perferred Series, $1 Par Value
- $3.24 Cumulative Perferred Series, $1 Par Value
- $3.13 Cumulative Perferred Series, $1 Par Value

Long Island Lighting Co. (File No. 7–7256—
- 5% Cumulative Perferred Series B, $100 Par Value
- 4.35% Cumulative Perferred Series E, $100 Par Value
- 5¾% Cumulative Perferred Series I, $100 Par Value
- 8.12% Cumulative Perferred Series J, $100 Par Value
- 8.30% Cumulative Perferred Series K, $100 Par Value
- $2.47 Cumulative Perferred Series O, $25 Par Value
- $2.43 Cumulative Perferred Series P, $25 Par Value
- 9.80% Cumulative Perferred Series S, $100 Par Value
- $3.31 Cumulative Perferred Series T, $25 Par Value
- $4.25 Cumulative Perferred Series U, $25 Par Value
- $3.50 Cumulative Perferred Series V, $25 Par Value
- $3.52 Cumulative Perferred Series W, $25 Par Value

Occidental Petroleum Corp. (File No. 7–7257)—
- $14.625 Cumulative Preferred, $1 Par Value
- 15.50% Cumulative Non-Convertible Preferred, $1 Par Value

Tenneco, Inc. (File No. 7–7258)—

7.40% Cumulative Preferred, No Par Value
$11.00 Cumulative Preferred, No Par Value
Xerox Corp. (File No. 7–7259)—
$5.45 Cumulative Preferred, $1 Par Value

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before January 24, 1984 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 84–563 Filed 1–9–84; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Midwest Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

January 3, 1984.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(C) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the common stock of:

Lake Shore Mines Ltd.—Common Stock, $1 Par Value (File No. 7–7249)

This security is registered on one or more other national securities exchange and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before January 24, 1984, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 84–564 Filed 1–9–84; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirement Under OMB Review

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirement to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATE: Comments must be received on or before February 17, 1984. If you anticipate commenting on a submission but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the agency clearance officer of your intent as early as possible.

Copies: Copies of the proposed form, the request for clearance (S.F. 83), supporting statement, instructions, transmittal letter, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the item listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer

Elizabeth M. Zaic, Small Business Administration, 1441 L St., NW., Room 200, Washington, D.C. 20416, Telephone: (202) 653–8538

OMB Reviewer

J. Timothy Sprehe, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, Washington, D.C. 20503, Telephone: (202) 395–4814

Form Submitted for Review

Title: Application for Section 502/503 Loans
Form No. SBA 1244
Frequency: On Ocassion
Description of Respondents: Certified Development Companies
Annual Responses: 912
Annual Burden Hours: 2,736
Type of Request: Revision

Dated: January 5, 1984.

Elizabeth M. Zaic,

Chief, Paperwork Management, Branch, Small Business Administration.

[FR Doc. 84–639 Filed 1–9–84; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area No. 2110]

Alabama; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration. I find that the Counties of Dallas, Calhoun, Jefferson and Shelby in the State of Alabama constitute a disaster loan area because of damage resulting from tornadoes, severe storms and flooding beginning on December 2, 1983. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on February 13, 1984, and for economic injury until September 13, 1984, at:

U.S. Small Business Administration, 900 South 20th Street, Birmingham, Alabama 35256.

or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

	Percent
Homeowners with credit available elsewhere	12.500
Homeowners without credit available elsewhere	6.250
Businesses with credit available elsewhere	11.000
Businesses without credit available elsewhere	8.000
Businesses (EIDL) without credit available elsewhere	8.000
Other (nonprofit organizations including charitable	10.500

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008).

Dated: December 16, 1983.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84–638 Filed 1–9–84; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area No. 3039]

Delaware; Declaration of Physical Disaster Loan Area

Pursuant to the Secretary of Agriculture's Designation, Farmers Home Administration (FmHA) has authorized the acceptance of emergency loan applications in the following area:

State of Delaware

FmHA, Number, and Date

SO–107, November 22, 1983.

Incident and Date

Drought and high temperatures beginning July 1, 1983, and continuing through August 31, 1983.

Counties: New Castle, Kent.

FmHA, Number and Date

SO–107, November 22, 1983.

Incident and Date

Excessive rainfall during period of March 1, 1983, through June 30, 1983, followed by extended drought beginning July 1, 1983, and continuing through August 31, 1983.

County: Sussex.

As a result of this designation, I have determined the above counties in the State of Delaware constitute a disaster loan area for agricultural enterprises which are ineligible for disaster assistance from the FmHA because of alien status: corporations, partnerships, and cooperatives not being primarily engaged in farming, farm owners who do not operate their farms, etc., and for economic injury disaster loans for non-farm small business concerns.

The interest rates for eligible applicants under this designation are as follows:

	Percent
Agricultural enterprises with credit available elsewhere	10.5
Agricultural enterprises without credit available elsewhere	8.0
Nonfarm small businesses (economic injury)	8.0

Loan applications for physical disaster loans from eligible agricultural enterprises may be filed for a period not to exceed thirty days from the date of the letter of referral from FmHA, provided that the application for EM assistance from FmHA or the formal written request for a letter of referral by FmHA was filed within the time limits set forth in the FmHA designation. Loan applications for economic injury for non-farm small businesses may be filed until the close of business on May 22, 1984. The number assigned to this disaster is 3039 for physical damage to eligible agricultural enterprises and for economic injury 6115.

Eligible enterprises may file applications for loans for physical damage or economic injury at:

U.S. Small Business Administration, Area 2 Disaster Office, 75 Spring Street SW., Suite 822, Atlanta, Georgia 30303, (404) 221–5822.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: January 4, 1984.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84–635 Filed 1–9–84; 8:45 am]

BILLING CODE 8035–01–M

[Declaration of Disaster Loan Area No. 3042]

Louisiana; Declaration of Physical Disaster Loan Area

Pursuant to the Secretary of Agriculture's Designation, Farmers Home Administration (FmHA) has authorized the acceptance of emergency loan applications in the following area:

State of Louisiana

FmHA Number, and Date

SO–100, November 28, 1983.

Incident and Date

Drought beginning July 1, 1983, and continuing through September 19, 1983.

Parishes: Bienville, Claiborne, East Carroll, Lincoln, Webster.

FmHA Number, and Date

SO–110, November 28, 1983.

Incident and Date

High winds, tornadoes, hail, excessive rainfall causing flooding, and a cold wet spring beginning May 15, 1983, through June 15, 1983, and a severe drought beginning July 1, 1983, and continuing through September 19, 1983.

Parishes: Franklin, Madison, Ouachita, Richland, Tensas, West Carroll.

As a result of this designation, I have determined the above parishes in the State of Louisiana constitute a disaster loan area for agricultural enterprises which are ineligible for disaster assistance from the FmHA because of alien status; corporations, partnerships and cooperatives not being primarily engaged in farming, farm owners who do not operate their farms, etc., and for economic injury disaster loans for non-farm small business concerns.

The interest rates for eligible applicants under this designation are as follows:

	Percent
Agricultural enterprises with credit available elsewhere	10.5
Agricultural enterprises without credit available elsewhere	8.0
Nonfarm small businesses (economic injury)	8.0

Loan applications for physical disaster loans from eligible agricultural enterprises may be filed for a period not to exceed thirty days from the date of the letter of referral from FmHA, provided that the application for EM assistance from FmHA or the formal written request for a letter of referral by FmHA was filed within the time limits set forth in the FmHA designation. Loan applications for economic injury for non-farm small businesses may be filed until the close of business on May 28, 1983. The number assigned to this disaster is 3042 for physical damage to eligible agricultural enterprises and for economic injury 6118.

Eligible enterprises may file applications for loans for physical damage or economic injury at:

U.S. Small Business Administration, Area 3 Disaster Office, 2306 Oak Lane, Suite 110, Grand Prairie, Texas 75051, (800) 527–7735 and in Texas (800) 442–7206.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: December 29, 1983.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84–631 Filed 1–9–84; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #3043]

Michigan; Declaration of Physical Disaster Loan Area

Pursuant to the Secretary of Agriculture's Designation, Farmers Home Administration (FmHA) has authorized the acceptance of emergency loan applications in the following area:

State of Michigan

FmHA, Number, and Date

SO–112, November 29, 1983.

Incident and Date

Drought beginning June 1, 1983, through September 1, 1983.

Counties: Alcona, Alpena, Cass, Cheboygan, Chippewa, Emmet, Kalamazoo, Luce, Mackinac,

Montmorency, Otsego, Presque Isle, Schoolcraft.

FmHA, Number, and Date

SO–112, November 29, 1983.

Incident and Date

Freezing temperatures occurring May 9, 1983 through May 26, 1983.

Counties: Benzie, Grand Traverse, Leelanau, Mason, Oceana.

FmHA, Number, and Date

SO–112, November 29, 1983.

Incident and Date

Freezing temperatures and drought occurring May 9, 1983, through September 1, 1983.

Counties: Allegan, Antrim, Berrien, Charlevoix.

As a result of this designation, I have determined the above counties in the State of Michigan constitute a disaster loan area for agricultural enterprises which are ineligible for disaster assistance from the FmHA because of alien status; corporations, partnerships and cooperatives not being primarily engaged in farming, farm owners who do not operate their farms, etc., and for economic injuiry disaster loans for non-farm small business concerns.

The interest rates for eligible applicants under this designation are as follows:

	Percent
Agricultural enterprises with credit available elsewhere	10.5
Agricultural enterprises without credit available elsewhere	6.0
Nonfarm small businesses (economic injury)	8.0

Loan applications for physical disaster loans from eligible agricultural enterprises may be filed for a period not to exceed thirty days from the date of the letter of referral from FmHA, provided that the application for EM assistance from FmHA or the formal written request for a letter of referral by FmHA was filed within the time limits set forth in the FmHA designation. Loan applications for economic injury for non-farm small businesses may be filed until the close of business on May 29, 1984. The number assigned to this disaster is 3043 for physical damage to eligible agricultural enterprises and for economic injury 6119.

Eligible enterprises may file applications for loans for physical damage or economic injury at:

U.S. Small Business Administration, Area 2 Disaster Office, 75 Spring Street SW., Suite 22, Atlanta, Georgia 30303, (404) 221–5822.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: January 4, 1984.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84–634 Filed 1–9–84; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #3040]

Montana; Declaration of Physical Disaster Loan Area

Pursuant to the Secretary of Agriculture's Designation, Farmers Home Administration (FmHA) has authorized the acceptance of emergency loan applications in the following area:

State of Montana

FmHA, Number and Date

Incident and Date

SO–106 November 22, 1983.

Drought and high temperatures beginning April 1, 1983, and continuing through November 1, 1983.

Counties: Daniels, Garfield, Glacier, Richland, Roosevelt.

As a result of this designation, I have determined the above counties in the State of Montana constitute a disaster loan area for agricultural enterprises which are ineligible for disaster assistance from the FmHA because of alien status; corporations, partnerships and cooperatives not being primarily engaged in farming, farm owners who do not operate their farms, etc., and for economic injury disaster loans for non-farm small business concerns.

The interest rates for eligible applicants under this designation are as follows:

	Percent
Agricultural enterprises with credit available elsewhere	10.5
Agricultural enterprises without credit available elsewhere	6.0
Non-farm small businesses (economic injury)	8.0

Loan appiications for physical disaster loans from eligible agricultural enterprises may be filed for a period not to exceed thirty days from the date of the letter of referral from FmHA, provided that the application for EM assistance from FmHA or the formal written request for a letter of referral by FmHA was filed within the time limits set forth in the FmHA designation. Loan applications for economic injury for non-farm small businesses may be filed until the close of business on May 22, 1984. The number assigned to this disaster is 3040 for physical damage to eligible agricultural enterprises and for economic injury 6116. Eligible enterprises may file applications for loans for physical damage or economic injury at:

U.S. Small Business Administration, Area 4 Disaster Office, 77 Cadillac Drive, Suite 158, Sacramento, California 95825 (800) 468–1710 and in California (800) 468–1713

or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: December 29, 1983.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84–638 Filed 1–9–84; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #3041]

New Jersey; Declaration of Physical Loan Area

Pursuant to the Secretary of Agriculture's Designation, Farmers Home Administration (FmHA) has authorized the acceptance of emergency loan applications in the following area:

State of New Jersey

FmHA, Number and Date

SO–108, November 22, 1983.

Incident and Date

Drought occurring from July through September 1983 and a hailstorm in Atlantic County occurring on June 16, 1983.

Counties: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Hunterdon, Mercer, Middlesex, Monmouth, Salelm, Somerset.

As a result of this designation, I have determined the above counties in the State of New Jersey constitute a disaster loan area for agricultural enterprises which are ineligible for disaster assistance from the FmHA because of alien status: corporations, partnerships and cooperatives not being primarily engaged in farming, farm owners who do not operate their farms, etc., and for economic injury disaster loans for non-fare small business concerns.

The interest rates for eligible applicants under this designation are as follows:

	Percent
Agricultural enterprises with credit available elsewhere	10.5
Agricultural enterprises without credit available elsewhere	6.0
Non-farm small businesses (economic injury)	8.0

Loan applications for physical disaster loans from eligible agricultural enterprises may be filed for a period not to exceed thirty days from the date of the letter of referral from FmHA, provided that the application for EM assistance from FmHA or the formal written request for a letter of referral by FmHA was filed within the time limits set forth in the FmHA designation. Loan applications for economic injury for non-farm small businesses may be filed until the close of business on May 22, 1984. The number assigned to this disaster is 3041 for pysical damage to eligible agricultural enterprises and for Economic Injury 6117.

Eligible enterprises may file applications for loans for physical damage or economic injury at:

U.S. Small Business Administration, Area 1 Disaster Office, 15.01 Broadway, Fair Lawn, New Jersey 07410 (201) 794–8195

or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: January 4, 1984.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84–633 Filed 1–9–84; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2112]

New York; Declaration of Disaster Loan Area

321 East 22nd Street, New York City in the State of New York constitutes a disaster area because of damage resulting from a fire which occurred on November 9, 1983. Eligible persons, firms, and organizations may file applications for physical damage until the close of business on March 5, 1984, and for economic injury until the close of business on October 3, 1984, at the address listed below:

U.S. Small Business Administration, 26 Federal Plaza, Room 3100, New York, New York 10278

or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

	Percent
Homeowners with credit available elsewhere	12.750
Homeowners without credit available elsewhere	6.375
Businesses with credit available elsewhere	11.000
Businesses without credit available elsewhere	8.000
Businesses (EIDL) without credit available elsewhere	8.000
Other (non-profit organizations including charitable and religious organizations)	10.500

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: January 3, 1984.

Heriberto Herrera,

Acting Administrator.

[FR Doc. 84–637 Filed 1–9–84; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #3038]

North Dakota; Declaration of Physical Disaster Loan Area

Pursuant to the Secretary of Agriculture's Designation, Farmers Home Administration (FmHA) has authorized the acceptance of emergency loan applications in the following area:

State of North Dakota

FmHA, Number and Date

Incident and Date

SO–109 November 28, 1983.

Heavy rains, high winds, and hail on July 17, 1983.

County: Morton.

As a result of this designation, I have determined the above county in the State of North Dakota constitutes a disaster loan area for agricultural enterprises which are ineligible for disaster assistance from the FmHA because of alien status: corporations, partnerships and cooperatives not being primarily engaged in farming, farm owners who do not operate their farms, etc., and for economic injury Disaster loans for non-farm small business concerns.

The interest rates for eligible applicants under this designation are as follows:

	Percent
Agricultural enterprises with credit available elsewhere	10.5
Agricultural enterprises without credit available elsewhere	[illegible]
Non-farm small businesses (economic injury)	8.0

Loan applications for physical disaster loans from eligible agricultural enterprises may be filed for a period not to exceed thrity days from the date of the letter of referral from FmHA, provided that the application for EM assistance from FmHA of the formal written request for a letter of referral by FmHA was filed within the time limits set forth in the FmHA designation. Loan applications for economic injury for non-farm small businesses may be filed until the close of business on May 28, 1984. The number assigned to this disaster is 3038 for physical damage to eligible agricultural enterprises and for economic injury 6114. Eligible enterprises may file applications for loans for physical damage or economic injury at:

U.S. Small Business Administration, Area 4 Disaster Office, 77 Cadillac Drive, Suite 158, Sacramento, California 95825 (800) 468–1710 and in California (800) 468–1713

or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008).

Dated: December 29, 1983.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84–640 Filed 1–9–84; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #3037]

Oklahoma; Declaration of Physical Disaster Loan Area

Pursuant to the Secretary of Agriculture's Designation. Farmers Home Administration (FmHA) has authorized the acceptance of emergency loan applications in the following area:

State of Oklahoma

FmHA, Number and Date

Incident & Date

SO-111 November 28, 1983.

Extended drought and high temperatures beginning June 1, 1983, and continuing thruogh October 10, 1983. Cimarron County also suffered an unseasonable freeze in early September 1983.

Counties: Beckham, Cimarron, Comanche, Cotton, Custer, Greer, Jackson, Jefferson, Kiowa, Roger Mills, Stephens.

As a result of this designation, I have determined the above counties in the State of Oklahoma constitute a disaster loan area for agricultural enterprises which are ineligible for disaster assistance from the FmHA because of alien status: corporations, partnerships, and cooperatives not being primarily engaged in farming, farm owners who do not operate their farms, etc., and for economic injury disaster loans for non-farm small business concerns.

The interest rates for eligible applicants under this designation are as folows:

	Percent
Agricultural enterprises with credit available elsewhere	10.5
Agricultural enterprises without credit available elsewhere	[illegible]
Non-farm small businesses (economic injury)	[illegible]

Loan applications for physical disaster loans from eligible agricultural enterprises may be filed for a period not to exceed thirty days from the date of the letter or referral from FmHA, provided that the application for EM assistance from FmHA or the formal written request for a letter of referral by FmHA was filed within the time limits set forth in the FmHA designation. Loan applications for economic injury for non-farm small businesses may be filed until the close of business on May 28, 1984. The number assigned to this disaster is 3037 for physical damage to eligible agricultural enterprises and for economic injury 6110. Eligible enterprises may file applications for loans for physical damage or economic injury at:

U.S. Small Business Administration, Area 3 Disaster Office, 2306 Oak Lane, Suite 110, Grand Prairie, Texas 75051 (800) 527–7735 and in Texas (800) 442–7206

or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: December 29, 1983.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84-637 Filed 1-9-84; 8:45 am]

BILLING CODE 8025-01-M

TENNESSEE VALLEY AUTHORITY

Proposed Modifications in Guidelines on Dispersed Power Production

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Notice of proposed modifications in TVA's Dispersed Power Production Program and Guidelines.

SUMMARY: On April 20, 1981, TVA adopted a policy to encourage dispersed power production in the Tennessee Valley region and an interim program and guidelines to assist TVA and the distributors of TVA power in implementation of the policy. The policy, program, and guidelines encompass cogeneration and small power production facilities included under sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978 (Pub. L. 95–617). In light of recent changes in rates and power supply considerations, TVA is considering the development of new pricing arrangements for dispersed power production, along with various other revisions in the Dispersed Power Production Guidelines. Written comments are invited from interested persons and the comments will be considered in the development of the guideline changes.

DATE: Comments in writing must be received by 5 p.m., January 31, 1984, to be assured of being considered.

ADDRESS: Written comments should be sent to R. C. Crawford, Director, Division of Energy Use and Distributor Relations, Tennessee Valley Authority, 840 Power Building, Market Street, Chattanooga, Tennessee 37401.

FOR FURTHER INFORMATION CONTACT: Dawn S. Ford, Tennessee Valley Authority, 400 West Summit Hill Drive, EPB5, Knoxville, Tennessee 37902, (615) 632–4402.

SUPPLEMENTARY INFORMATION: TVA's current guidelines on dispersed power production were printed in the **Federal Register** on October 25, 1982 (47 FR 47355), with certain modifications of the guidelines being printed in the **Federal Register** on August 4, 1983 (48 FR 35549). The existing guidelines have been extended through March 31, 1984.

The proposed modifications include among other things (1) a new set of standard purchase prices, (2) optional negotiated purchase price arrangements, and (3) a modified standby rate schedule. Other proposed guideline modifications include provisions whereby (1) any dispersed power producer will be responsible for metering, interconnection, and handling costs whether the output is sold to TVA or a distributor of TVA power, (2) power supply contract demands may be reduced to reflect the addition of dispersed power production facilities, and (3) larger producers will furnish telemetering. The revised guidelines also will describe TVA's administration of the Dispersed Power Production Program and will include certain revisions of the electrical design and operating standards.

A draft of the proposed modified guidelines is printed below.

Dated: December 29, 1983.

W. F. Willis,

General Manager.

Dispersed Power Production Guidelines

These guidelines are intended to assist TVA and its distributors in developing arrangements for the effective utilization of dispersed power production in the Tennessee Valley. The guidelines are of a general nature and are intended to encompass a wide range of possibilities in this new area. As experience is obtained modifications to the guidelines may be necessary and may be made by TVA from time to time as it deems appropriate.

A. Facilities Owned by All Entities Except Distributors of TVA Power

1. *Criteria for Qualified Facilities.* Criteria for qualification of small power production facilities and cogeneration facilities are the same as set out in Federal Energy Regulatory Commission (FERC) rules (18 CFR Part 292).

2. *Purchase of Output from Qualified Facilities.* a. Owners of qualified facilities (qualified producers) will be allowed the option of either (1) using the output of their production facilities to supply their own requirements or (2) selling their surplus or entire output to the connecting electric system, either the local distributor of TVA power or TVA.

b. Owners of qualified facilities may make arrangements to sell their output under the then available standard purchase price schedule referred to in subsection A.3. or under negotiated prices and terms as described in subsection A.4.

c. The qualified producer's right to sell power to the distributor or TVA may be subject to temporary curtailments during system emergencies, and when as a result of operational circumstances, the delivery of such power would interfere with the safe operation of TVA's and/or distributor's respective power systems.

d. All qualified producers that desire to sell power to the distributors of TVA power or TVA will be required to execute contractual agreements.

3. *Standard Purchase Price for Power from Qualified Facilities within the TVA Area.* a. Qualified producers with facilities located within the area in which TVA or the distributors of TVA power are a source of power supply under provisions of the TVA Act may contract to sell the output of their facilities under the then available standard purchase price schedule as adjusted, modified, changed, or replaced by TVA from time to time (see attached Schedule CSPP or any subsequent replacements). Such price schedule adjustments, modifications, and changes (as well as replacements) will be made by TVA as it deems appropriate to reflect changes in projections for avoided energy and capacity costs, changing conditions on the TVA power system, and other power supply considerations.

b. To be eligible for payments under provisions currently included in Part C of the standard purchase price schedule, qualified producers must contract to supply capacity for at least 10 years and must provide reasonable security in accordance with subsection A.6.

c. Amounts payable under the standard purchase price schedule will

be modified, as appropriate, to reflect costs (such as administrative costs, metering costs, and transmission line losses) incurred by the electric system as a result of making purchases from a qualified producer.

4. *Negotiated Purchase Price for Power from Qualified Facilities Located Within the TVA Area.* a. Qualified producers that contract to provide 1,000 kW or more of capacity from a production facility for a period of 10 years or longer are eligible for negotiated pricing arrangements. The negotiated pricing arrangements will permit producers to obtain assured prices for their power output for extended periods of time as described in subsections A.4.b. and A.4.c. In arriving at the price, consideration will be given to the benefits to the power system of such factors as dispatchability, maintenance scheduling, reduced line losses, curtailment rights during periods when deliveries would increase operating costs on the TVA system, and reliability of the project output during TVA onpeak load periods. Under negotiated pricing arrangements, contract terms may not exceed 20 years under subsection A.4.b. and 30 years under subsection A.4.c. Contracts may not be cancelled prior to original expiration dates. Moreover, qualified producers will provide reasonable security in accordance with subsection A.6.

b. All qualified producers that meet the requirements of subsection A.4.a. are eligible to negotiate for fixed purchase prices which will be applicable for each year during the first one-half of the contract term. The prices agreed upon to be paid for each year during such period will be based on the projected value at the time of contracting of the project's power output in terms of TVA's projected avoided costs for capacity and energy for the respective years during such period. For the last one-half of the contract term the purchase price will be that applicable under Part C of Schedule CSPP or the comparable provisions under any subsequent replacement standard purchase price schedule.

c. All qualified producers that meet the requirements of subsection A.4.a. and that use renewable resources as their primary energy source are eligible to negotiate for a levelized fixed purchase price which will be applicable for the first two-thirds of the contract term. Under this pricing arrangement, the projected value at the time of contracting of the project's power output in terms of TVA's projected avoided costs for capacity and energy for the respective years during the first two-thirds of the contract term is determined as in subsection A.4.b. above. These projections will be utilized to determine a fixed price which will yield a sum of payments for project output over the first two-thirds of the contract term that is equivalent to the projected value of the project's output in terms of TVA's projected avoided costs over the same period. This will take into account the then applicable TVA discount rate. For the last one-third of the contract term, the purchase price will be that applicable under Part C of Schedule CSPP or the comparable provisions under any subsequent replacement standard purchase price schedule. Renewable resources are solar, wind, and hydro energy, and all forms of biomass fuels, including solid waste as defined in Section 292.204(b) of FERC's Rules (18 C.F.R. Part 292). A primary energy source is defined herein as that source providing a 75-percent or greater level of the total energy input to the facility on an annual basis.

d. Amounts payable under the negotiated price arrangements will be modified, as appropriate, to reflect costs (such as administrative costs, metering costs, and transmission line losses) incurred by the electric system as a result of making purchases from a qualified producer.

5. *Purchase Price for Power from Qualified Facilities Located Outside the TVA Area.* Qualified producers, with facilities located outside the area in which TVA or the distributors of TVA power are a source of power supply and that are able to make arrangements with connecting utility systems to supply their output to TVA's power system, will receive payments based upon a negotiated price. The price agreed upon is not to exceed the avoided cost of energy to the TVA system and the value, if any, of power to be supplied in offsetting TVA's capacity needs over the term of the contract. Moreover, such producers will provide reasonable security in accordance with subsection A.6.

6. *Security to be Provided by Qualified Producers and Other Protection to Minimize Risks of Loss to the Electric Systems under Long-Term Arrangements.* Contracts will include appropriate provisions to minimize the risks of loss that may be incurred by the electric systems under long-term contracts under subsections A.3., A.4., and A.5. when the qualified producer fails to deliver power and energy as provided under the contract. This may include provisions such as those for payment of damages, setoffs against amounts to be paid qualified producers, and security.

If the qualifed producer fails to deliver power and energy as provided under the contract, the qualified producer will be obligated under the provisions of the contract to repay to the electric system an appropriate portion of the payments already made by the electric system. Such amount to be repaid, with interest, will reflect the amount and other characteristics of power actually received, and the period of delivery, all as compared with the contract terms and requirements.

The security to be provided will be a performance bond, a bank letter of credit, or other measures of security in such form, combination, and amount as deemed sufficient by the electric systems to offset the risks otherwise imposed on the purchasing system under such long-term contracts.

The specific arrangements under a long-term contract will reflect the varying risks associated with the negotiated contract terms and the pricing alternative utilized.

7. *Contract Demand Reductions for Power Customers Constructing Qualified Facilities That Provide Power for Inplant Use.* a. Customers of TVA that own qualified facilities, the constuction of which commenced on or after the effective date (————) of these guidelines, and which select inplant use of the output of their facilities, may request reductions in the amounts of power that they have contracted to purchase from TVA. If a reduction in contract demand is determined to be appropriate, it will be agreed to if the qualified producer agrees to utilize the output of the production facility to meet its own power requirements for the remaining duration of the power contract term. (Distributors may also agree to such reductions in contract demand for their customers constructing qualifying facilities.) The amount of reduction will be determined by TVA in its sole judgment and, as appropriate, by the distributors, as provided in subsections A.7.b. and A.7.c. Any customer seeking such a reduction shall supply information adequate in the judgment of TVA, or the distributor when appropriate, to determine the permissible reduction in the customer's contract demand. If a customer questions the amount of permissible reductions, TVA or the distributor, at the customer's expense, will make such inspection and any testing that will be useful in further evaluating the permissible reduction.

b. Customers owning qualified facilities using renewable resources, as defined in subsection A.4.c., as a primary energy source will be allowed offsetting reductions in the amount of power contracted for up to the demonstrated firm capacity of the qualified facilities.

c. Customers owning qualified facilities that do not use renewable energy resources as a primary energy source (as defined in subsection A.4.c.) will be allowed contract demand reductions upon showing that they are able to produce electricity from their production facilities with less Btu's of fuel input as compared with TVA's fossil-fired generating plants. The amount of permissible reduction will be determined by calculating the conservation of fuel resources obtained by displacing electrical production on the TVA system with the customer's own production. (Fuel resources required to produce electrical output at the qualified facility will be expressed as an incremental heat rate in Btu per kWh.)

The energy conserved in electrical production is expressed as the ratio of (1) the difference between the TVA annual average heat rate for fossil-fired generating plants and the average annual incremental heat rate for the qualified facility over (2) the TVA annual average heat rate for the fossil-fired generating plants. The amount of the permissible contract demand reduction is the product of the ratio and the demonstrated firm capacity of the qualified facility.

d. It is recognized there may be transmission and distribution facilities or portions thereof which were installed based on the customer's initial power supply requirements and which TVA or the distributor would not otherwise have installed if the customer had initially requested a lesser power requirement. Any contract demand reduction agreed to above shall be subject to arrangements being made for full reimbursement by the customer for the unamortized cost of any investments made in such power supply facilities that may not be recoverable over the remaining portion of the power contract term.

8. *Availability of Maintenance and Emergency Standby Power to Qualified Producers.* a. Maintenance and emergency standby power will be available to qualified producers within the area in which TVA or the distributors of TVA power are a source of power supply under provisions of the TVA Act.

b. Qualified producers contracting for the purchase of standby power requirements will do so at the applicable standby power charges. (See attached Standby Power Rate Schedule SP, which schedule may be adjusted, modified, or changed, as well as replaced, from time to time by TVA as it deems appropriate to reflect changes in the costs of providing such power.)

c. When the purchase of standby power requires the distributors or TVA to provide additional interconnection or metering facilities, qualified producers will pay for the additional costs of such facilities in accordance with subsections A.10.a. and A.10.c. of the guidelines.

9. *Sale of Power by TVA and the Distributors for Qualified Facilities.* a. Qualified producers located within the area served with TVA power may purchase their firm, supplemental, or interruptible power requirements under the standard rates then applicable for their customer classifications in the area in which their facilities are located.

b. Qualified producers will contract for their expected maximum supply requirements including, as appropriate, amounts that may be needed to compensate for scheduled or unscheduled loss of output from their own production facilities when a particular qualified producer elects not to purchase standby power.

c. Neither TVA nor the distributors of TVA power will contract or otherwise become obligated to sell power to any qualified producers that are not located within the area in which TVA power can be made available under the provisions of the TVA Act.

10. *Responsibility for Interconnection, Transmission, and Metering Costs.* a. Owners of qualified facilities will be required to pay for any additional transmission or distribution costs (including the costs of metering, system protection, safety equipment, and administrative costs) to the extent that any such additional costs are in excess of those that the distributors of TVA power and TVA would have incurred if the qualified producer's output had not been purchased. Qualified producers with facilities capable of producing in excess of 15,000 kW will be required to provide telemetering facilities to supply information on the power output of their production facilities to the purchasing system.

b. Existing customers of the distributors or TVA that subsequently install qualified facilities may also be required to compensate the distributor or TVA for the unamortized costs less salvage value of any existing transmission or distribution facilities that are rendered surplus by changes in the customer's supply requirements. When such surplus facilities are severable from distributor's or TVA's system, the qualified producer will have the option of taking possession of the severable facilities in lieu of receiving any credit for salvage value.

c. For the transmission and distribution facility costs specified in subsections A.10.a. and A.10.b. above, the qualified producer will be required to reimburse the electric system through (1) monthly payments for periodic operation and maintenance of equipment and (2) a lump sum payment, or, at the producer's option, equivalent monthly payments, for any capital equipment acquisition and installation costs. When the monthly payment option under (2) above is elected, the electric system may include an amount in such payment based on the electric system's cost of money at the time that each facility investment was made.

11. *Compliance with Safety, System Protection, and System Operating Guidelines—For Qualified Producers Operating in Parallel with Connecting Electric Systems (see also Section D for Supplemental Details and Requirements for Parallel and Nonparallel Operation).* a. Qualified producers will be required to provide and maintain suitable apparatus to prevent operation of their production facilities from causing unusual fluctuations or disturbances on the distributors' or TVA's systems.

b. Qualified producers will cooperate with the distributors and TVA in developing mutually acceptable operating procedures for delivery of the output of the qualified producers' facilities.

c. Qualified producers will be responsible for providing and maintaining all equipment they deem necessary for the protection of their own property and operations.

d. All protection, safety, generation, and interconnection equipment installed by qualified producers must meet standards of good utility practices and be capable of continuous parallel operation with TVA's and distributors' systems.

e. All qualified producers that desire to operate their generation facilities in parallel with the electric systems of the distributors of TVA power or TVA will be required to execute contractual agreements.

B. Facilities Owned by Distributors of TVA Power

1. *Criteria for Authorized Facilities.* a. Distributors will be permitted to develop, own, and operate facilities that meet the qualifying criteria referred to in subsection A.1. with the exception of criteria in FERC's rules limiting electric

system participation in facility ownership; provided the distributors comply with the following additional requirements.

b. Without prior approval from TVA, distributors will not undertake the construction or acquisition of production facilities with design production capacities in excess of (1) 80 MW for any individual facility or (2) any amount that would cause the aggregate production capacity of all production facilities owned by the distributor to exceed 10 percent of the distributor's peak capacity requirements projected for the year in which the facilities become operational.

c. Without prior approval from TVA, distributors will not undertake the construction or acquisition of production facilities for which the ongoing annual revenue requirements in the event of facility failure will cause the projected ongoing annual revenue requirements for all production facilities of the distributor to exceed 10 percent of the distributor's projected annual net revenues from its electric operations (resale electric revenues less total power supply costs) during any year after the facilities become operational.

d. In seeking TVA's prior approval of projects that exceed the limitations in subsections B.1.b. and B.1.c. above, it will be the responsibility of the distributor to notify TVA in writing of the proposed undertaking and to provide TVA with such data and information as TVA might reasonably request for the purpose of evaluating the technical and financial feasibility of the proposed project. If the distributor has received no response from TVA within 90 days from the date that the distributor submitted such notice and information to TVA, the distributor may proceed with the proposed project.

2. *Purchase of Output from Distributor-Owned Facilities.* a. Distributors owning authorized facilities will be allowed the option of either (1) using the output to partially supply their own power requirements or (2) selling their surplus or entire output to TVA.

b. Distributors may make arrangements to sell the output of their facilities to TVA under the then available standard purchase price schedule referred to in subsection B.3. or under negotiated prices and terms as described in subsection B.4.

c. Distributors' right to sell power to TVA may be subject to temporary curtailments during system emergencies and when, as a result of operational circumstances, the delivery of such power will interfere with the safe operation of TVA's bulk power supply system.

3. *Standard Purchase Price for Power from Distributor-Owned Facilities.* a. Distributor producers may contract to sell the output of their facilities under the then available standard purchase price schedue as adjusted, modified, changed, or replaced by TVA from time to time (see attached Schedule CSPP or any subsequent replacements). Such price schedule adjustments, modifications, and changes (as well as replacements) will be made by TVA as it deems appropriate to reflect changes in projections for avoided energy and capacity costs, changing conditions on the TVA power system, and other power supply considerations.

b. To be eligible for payments under provisions currently included in Part C of the Standard purchase price schedule, distributor producers must contract to supply capacity to the TVA power system for at least 10 years and must provide reasonable security in accordance with subsection B.5.

c. Amounts payable under the standard purchase price schedule will be modified, as appropriate, to reflect costs (such as administrative costs, metering costs, and transmission line losses) incurred by TVA as a result of making purchases from the distributor producer.

4. *Negotiated Purchase Prices for Power from Distributor-Owned Facilities.* a. Distributor producers that contract to provide 1,000 kW, or more, of capacity to TVA from a production facility for a period of 10 years or longer are eligible for negotiated pricing arrangements. The negotiated pricing arrangement will permit distributor producers to obtain assured prices for their power output for extended periods of time as described in subsections B.4.b. and B.4.c. In arriving at the price, consideration will be given to the benefits to the power system of such factors as dispatchability, maintenance scheduling, reduced line losses, curtailment rights during periods when deliveries would increase operating costs on the TVA system, and reliability of the project output during TVA onpeak load periods. Under negotiated pricing arrangements, contract terms may not exceed 20 years under subsection B.4.b. and 30 years under subsection B.4.c. Contracts may not be cancelled prior to original expiration dates. Moreover, distributor producers will provide reasonable security in accordance with subsection B.5.

b. Distributor producers that meet the requirements of subsection B.4.a. are eligible to negotiate for fixed purchase prices which will be applicable for each year during the first one-half of the contract term. The prices agreed upon to be paid for each year during such period will be based on the projected value at the time of contracting of the project's power output in terms of TVA's projected avoided costs for capacity and energy for the respective years during such period. For the last one-half of the contract term, the purchase price will be that applicable under Part C of Schedule CSPP or the comparable provisions under any subsequent replacement standard purchase price schedule.

c. All distributor producers that meet the requirements of subsection B.4.a. and that use renewable resources as their primary energy source are eligible to negotiate for a levelized fixed purchase price which will be applicable for the first two-thirds of the contract term. Under this pricing arrangement the projected value at the time of contracting of the project's power output in terms of TVA's projected avoided costs for capacity and energy for the respective years during the first two-thirds of the contract term is determined as in subsection B.4.b. above. These projections will be utilized to determine a fixed price which will yield a sum of payments for project output over the first two-thirds of the contract term that is equivalent to the projected value of the project's output in terms of TVA's projected avoided costs over the same period. This will take into account the then applicable TVA discount rate. For the last one-third of the contract term, the purchase price will be that applicable under Part C of Schedule CSPP or the comparable provisions under any subsequent replacement standard purchase price schedule. Renewable resources are solar, wind, and hydro energy, and all forms of biomass fuels, including solid waste as defined in Section 292.204(b) of FERC's Rules (18 CFR Part 292). A primary energy source is defined herein as that source providing a 75-percent or greater level of the total energy input to the facility on an annual basis.

d. Amounts payable under the negotiated price arrangements will be modified, as appropriate, to reflect costs (such as administrative costs, metering costs, and transmission line losses) incurred by TVA as a result of making purchases from a distributor producer.

5. *Security to be Provided by Distributor Producers and Other Protection to Minimize Risks of Loss to TVA Under Long-Term Arrangements.* Contracts will include appropriate provisions to minimize the risks of loss that may be incurred by TVA under subsections B.3. and B.4. when the distributor producer fails to deliver power and energy as provided under the

contract. This may include provisions such as those for payment of damages, setoffs against amounts to be paid distributor producers, and security.

If the distributor producer fails to deliver power and energy as provided under the contract, the distributor producer will be obligated under the provisions of the contract to repay to TVA an appropriate portion of the payments already made by TVA. Such amount to be repaid, with interest, will reflect the amount and other characteristics of power actually received, and the period of delivery, all as compared with the contract terms and requirements.

The security to be provided will be a performance bond, a bank letter of credit, or other measures of security in such form, combination, and amount as deemed sufficient by TVA to offset the risks otherwise imposed on TVA under such long-term contracts.

The specific arrangements under a long-term contract will reflect the varying risks associated with the negotiated contract terms and the pricing alternative utilized.

6. *Availability of Maintenance and Emergency Standby Power to Distributors.* a. TVA will make arrangements for the supply of standby power to distributors for resale to qualified producers interconnected with their systems. Qualified producers contracting for the purchase of standby power requirements will do so in accordance with subsection A.8.

b. When distributors own production facilities and elect to use the output of their facilities to reduce their supply requirements for TVA or when distributors contract with qualified producers for the same purpose and the aggregate supply of a particular distributor from other than TVA sources exceeds 10 percent of the distributor's total peak supply requirements, TVA reserves the right to require the distributor to purchase from TVA such amounts of standby power as TVA determines to be reasonable. In the event this level of supply is achieved through dependence upon facilities operated by customers of the distributor, TVA will work with distributor to develop an appropriate method for allocating the charges for said supply of standby power among those customers.

c. When the purchase of standby power requires TVA to provide additional interconnections or metering facilities, distributors will pay for the additional costs of such facilities in accordance with subsection B.8.a.

7. *Sale of Power to Distributors Owning Authorized Production Facilities or Purchasing Partial Requirements from Qualified Producers.*

a. Distributors obtaining part of their total supply requirements from their authorized facilities or their customers' qualified facilities may purchase the balance of their supply requirements from TVA at the then current wholesale rate for municipal and cooperative distributors of TVA power; provided, however, as indicated in subsection B.6.b. above, distributors that purchase less than 90 percent of their peak capacity requirements from TVA may be required to purchase reasonable amounts of standby power from TVA.

b. For planning purposes, distributors should anticipate that the structure of TVA's wholesale rate may be changed to track TVA production costs from time of use or peak responsibility standpoints and that these changes could affect the economics of distributor-owned facilities.

8. *Responsibility for Interconnection, Transmission, and Metering Costs.* a. Distributors that acquire production facilities for partial supply of their own requirements or for sale of power to TVA will be required to pay TVA for any additional transmission or distribution costs (including the costs of metering, system protection, safety equipment, and administrative costs) to the extent that any such additional costs are in excess of those that TVA would have incurred if the distributor had not acquired the production facilities. Distributor producers with facilities capable of producing in excess of 15,000 kW will be required to provide telemetering facilities to supply information on the power output of their production facilities to TVA.

b. Distributors that purchase for their own use output from qualifying facilities owned by their customers will be required to pay TVA for any additional transmission or distribution costs (including the costs of metering, system protection, safety equipment, and administrative costs) imposed on TVA to the extent that any such additional costs are in excess of those that TVA would have incurred if the distributors did not purchase part of their requirements from qualified producers. Likewise, distributors shall require qualified producers to bear such additional costs resulting from their purchase commitments to qualified producers.

c. Distributors that operate production facilities or purchase output from their customers for their own requirements may be required to compensate TVA for the unamortized costs less salvage value of any existing transmission or distribution facilities owned by TVA that are rendered surplus by any reduction in the distributor's supply requirements from TVA. When such surplus facilities are severable from TVA's system the distributor will have the option of taking possession of the severable facilities in lieu of receiving any credit for salvage value.

9. *Compliance with Safety, System Protection, and System Operating Guidelines (see also Section D for Supplemental Details).* a. Distributor producers will be required to provide and maintain suitable apparatus to prevent operation of their production facilities from causing unusual fluctuations or disturbances on TVA's system.

b. Distributor producers will cooperate with TVA in developing mutually acceptable operating procedures for integrating the output of their production facilities with the output from TVA's production facilities.

c. Distributor producers will be responsible for providing and maintaining all equipment they deem necessary for the protection of their own property and operations.

d. All protection, safety, generation, and interconnection equipment installed by distributor producers must meet standards of good utility practices and be capable of continuous parallel operation with TVA's system.

C. Program Administration

1. *General Program Administration.* a. TVA develops and administers these guidelines which are applicable for purchases by TVA and by distributors of TVA power from dispersed power production facilities and to the utilization of dispersed power production on the region's power system.

b. Distributors of TVA power purchase power from qualified facilities in accordance with the applicable provisions of these guidelines including, but not limited to, those involving standard purchase prices or negotiated purchase prices, and the safety and electric system protection requirements.

c. Upon TVA's request distributors, prior to execution, shall submit for TVA review and approval any agreements with qualified producers for the purchase of their output, including any related arrangements for the sale of standby power to such producers.

2. *Negotiated Pricing Arrangements by Distributors.* a. The negotiated pricing arrangements as provided for in these guidelines require information as to TVA's avoided capacity and energy costs. TVA will develop this and such other information as the distributors

may reasonably request to assist them in evaluating power sales proposals from qualified producers.

b. At the distributor's request, TVA will assist in the development of the negotiated pricing arrangements for qualified producers.

3. *Contract Demand Reductions for Distributor Customers.* a. Distributors at the request of their customers may, consistent with the provisions of subsection A.7., reduce contract demands of existing customers that install qualified facilities providing power for inplant use.

b. In such cases, distributors will make a good faith effort to determine contract demand reductions that are permitted under these guidelines.

c. Distributors will obtain from qualified producers the data needed in making determinations as to the appropriate reductions as provided for under these guidelines, including any necessary inspections and testing at the customer's expense.

d. At a distributor's request, TVA will assist in determining the appropriate reduction as provided for under these guidelines.

4. *Power Deliveries to Distributors for TVA's Account.* a. When an owner of a qualified facility connected to a distributor's power distribution facilities elects to sell its power output under these guidelines to TVA rather than to the connecting distributor and such arrangements are also acceptable to the distributor, the distributor will enter into appropriate contractual arrangements with TVA and the qualified producer for such purposes.

b. Under such an arrangement, the qualified producer will repay the distributor for any additional transmission, distribution, and administrative costs that the distributor incurs as a result of such purchases by TVA from the qualified producer.

c. The amount of any such payments by the qualified producer will be determined by the distributor in consultation with TVA taking into consideration such factors as operation and maintenance of distributor's facilities, changes in distributor's transmission and distribution losses, and meter reading and billing costs.

5. *Contract Amendements and Arrangements for Distibutors.* a. TVA will enter into contract amendments or agreements as appropriate to recognize that there may be limited distributor ownership and operation of production facilities meeting the critiera set forth in subsection B.1. and that distributors may purchase power from qualifying cogeneration facilities and qualifying small power production facilities as referred to in Section A. Such agreements with a distributor will recognize the responsibility of the distributor to TVA for certain additional costs TVA may incur if (without sufficient advance notice for it to have been included in power system plans) TVA has to supply replacement power to the distributor in the event of extended nonperformance of the production facilities of the distributor or a qualifying producer supplying power for use on the distributor's system.

b. Distributors are permitted to use up to 2 percent of their annual net revenues (resale electric revenue less wholesale power cost) for research and demonstration activities, including the evaluation of proposed dispersed power production projects. Activities requiring aggregate expenditures above this amount would be subject to prior review and approval by TVA.

c. When distributors seek TVA's prior approval of research and development expenditures that exceed the limitations in subsection C.5.b. above, it will be the distributor's responsibility to notify TVA in writing of the proposed expenditure and to provide TVA with such data and information as TVA might reasonably request for the purpose of evaluating the proposed research and development activity. If the distributor has received no response from TVA within 90 days from the date the distributor submitted such notice and information to TVA, the distributor may proceed with the proposed expenditure.

d. Distributors will provide TVA with reasonable advance notice of all power production faciltities that either the distributors or their customers plan to acquire and coordinate with TVA the development of any necessary power supply and operating arrangements. Additionally, after such facilities commence operations, the distributors will be responsible for notifying TVA promptly of any anticipated change in the capability of such production facilities to continue to supply power.

D. Supplemental Safety and System Protection Requirements Applicable to Owners of Production Facilities

These requirements shall be applicable to assure system safety and reliability of interconnected operations. The adequacy of safety and system protection facilities for interconnection with producers as provided herein will be determined by TVA and, as appropriate, by the distributors but only insofar as necessary to determine the compatibility of such facilities with the connecting electric system. TVA and the distributors will apply such other safety and system protection requirements as may be determined to be appropriate.

It is recommended that the connecting electric system, TVA or the distributor, emphasize to prospective producers the importance of discussing plans with the connecting electric system before purchasing or installing equipment.

1. *Fault Protection.* a. Adequate protection facilities shall be provided by the owner to protect the connecting electric system from fault currents originating from the production facility. The owner will provide adequate fault current interruption capability with secondary relaying and control circuits.

b. It shall be the responsibility of the owner to provide adequate protection for its production facility from fault currents originating on the connecting electric system because of a fault in the production facility.

2. *Overvoltage and Undervoltage.* a. It shall be the responsibility of the owner to provide adequate protection or safeguards to prevent damage to the connecting electric system caused by overvoltage originating from the operation of the production facility.

b. It shall be the responsibility of the owner to provide adequate protection of its production facility from inadvertent overvoltages originating on the connecting electric system.

c. It shall be the responsibility of the owner to provide facilities adequate to prevent the production facility from being damaged by undervoltage conditions on the connecting electric system.

3. *Synchronization and Isolation.* a. the owner shall provide adequate facilities for the proper synchronization of its production facility with the connecting electric system such that synchronism is accomplished, either manually or by automatic means, without causing undesirable currents or voltages (including current surges and voltage dips) on the connecting electric system.

b. The owner shall provide means for properly disconnecting the production facility from the connecting electric system for system line interruptions, for occasions when the connecting electric system becomes isolated from its source of generation, and for the proper resynchronization of the production facility after such interruptions or isolation. Rapid restoration of service following a temporary interruption using automatic circuit breaker reclosing is a standard utility practice.

c. To provide assurance that the connecting electric system cannot be energized from the production facility during outages on the connecting

electric system, the owner of the production facility must provide equipment for manually disconnecting and isolating the production facility. This will help provide safety for the connecting electric system's employees performing emergency repairs or routine maintenance to its lines. Such equipment must be capable of preventing the production facility from energizing the system's lines and must include a device (or devices) which can be locked so as to isolate the production facility and prevent all means of backfeed into the connecting electric system.

d. The owner may install generating facilities to supply a portion of its load without operating its generating facilities in parallel with the electric system. In these instances, the owner must verify to the electric system that the switches used for transferring the load from the electric system lines to the onsite generation facilities will meet the electric system's requirements for non-parallel operation. Also, the owner must verify there is no possibility of backfeed to the electric system's lines. If it is found that the generating facilities can backfeed, the facilities must meet the requirements for parallel operation.

4. *Grounding.* The facilities (generator, connecting transformer, etc.) that connect to the electric system must be grounded in such a way that coordination is maintained with the relay protection system in use by the connecting electric system and the connected facilities will be protected from deleterious voltages during fault conditions.

5. *Harmonics.* a. Adequate design precautions must be taken by the owner to prevent excessive and deleterious harmonic voltages or currents caused by the production facility from occurring on the connecting electric system.

b. The production facility must be designed to operate with normal harmonic voltages and currents that originate from the connecting electric system.

6. *Reactive Power.* The production facility shall be operated to supply appropriate amounts (as hereinafter described) of reactive power during onpeak hours and to supply no reactive power, or to consume appropriate amounts (as hereinafter described) of reactive power during offpeak hours. The specific reactive power requirements to be met by the production facility will be determined by the connecting electric system, taking into consideration such factors as production facility size and equipment design limitations, electric system voltage levels, and other conditions on the electric system. If the production facility is unable to meet such requirements due to equipment design or other such limitations for which reasonable corrective measures cannot be taken by the producer, the connecting electric system, as it deems necessary, may provide the required reactive power at the expense of the owner of the production facility.

The connecting electric system reserves the right to install metering equipment or to make periodic tests to determine the reactive power flows to or from the owner's production facility and to mutually agree with the owner of the production facility to requirements differing from those described in the above paragraph. The onpeak hours and offpeak hours referred to above are the same as those provided in the then effective standard price schedule.

7. *Voltage Regulation.* The owner shall provide necessary voltage regulation equipment to prevent the production facility from causing excessive voltage variation on the connecting electric system. The voltage variation caused by the production facility must be within ranges capable of being handled by the voltage regulation facilities used by the connecting electric system.

8. *Voltage Flicker.* The voltage surges caused by the operation, synchronization, or isolation of the production facility shall be within the standards of frequency of occurrence and magnitude established by the connecting electric system to prevent undue voltage flicker on the connecting electric system.

9. *Voltage Balance.* a. The voltage produced by the production facility must be balanced if it is a three-phase installation. The waveform must be sinusoidal and compatible with the operation of the connecting electric system.

b. The owner will be responsible for protecting its production facility from inadvertent phase unbalance in the connecting electric system's voltage.

10. *Operational Oversight.* a. The owner will be responsibile for operating its production facility in a manner that will not cause undesirable or harmful effects to the connecting electric system or its other customers.

b. The owner will not begin initial operation of the production facility until it has received written approval from the connecting electric system. This approval shall not be construed as confirming or endorsing the design or as any warranty of safety, durability, or reliability of the production facility equipment.

c. The owner supply the connecting electric system with diagrams and specifications describing the production facility and related interconnection, operation, and protective equipment and any proposed changes to the aforesaid facilities. These diagrams and specifications shall be consistent with good engineering practice and shall specify the equipment to be used (relays, breakers, transformers, generators, etc.) by manufacturer, model, type, size, impedance, and other pertinent information.

For any production facility with output greater than 1,000 kW, the control and protective equipment used by the owner shall be utility class and shall conform to the latest revision of ANSI/IEEE C37.90, IEEE Standard Relays and Relay System Associated with Electric Power Apparatus. Specifications and/or instruction manuals for such control and protective equipment shall be made available by the owner upon request by the concerning electric system.

d. The connecting electric system shall have the right at any time to inspect and test the operation of any control and protective equipment owned and maintained by the owner.

e. If, subsequent to initial operation, a production facility is unable to comply with the provisions for safety, system protection, and production facility operation contained in this Section D, or is otherwise operated in an unsafe manner, the production facility may be disconnected from the connecting electric system until the problem has been corrected.

11. *Metering.* The type of metering and associated equipment shall be determined by the connecting electric system (and purchasing electric system, if different). Selection of metering arrangements will be based upon the lowest cost for equipment and arrangements that will also meet the electric systems' reasonable data requirements. Operation, maintenance, and testing of the meeting equipment may be required from time to time by the electric systems. When tests are requested by the owner of a production facility, such test shall be at the owner's expense.

12. *Dc Current Injection.* Adequate design precautions must be taken by the owner of the production facility to prevent injecting direct current into the connecting electric system. Where dc current injection is a possibility, methods such as isolation transformers, monitoring devices, or other decoupling devices should be utilized by the owner of the production facility to prevent dc current injection.

13. *Single-phase generators.* Single-phase generators larger than 100 kW will be permitted to be connected to distribution facilities (26 kV and below) only after a determination by the connecting electric system that such connection will not interfere with the operation of the distribution circuit. Single-phase generators will not normally be permitted to be connected to subtransmission and transmission (46 kV and above) facilities.

14. *Indemnification.* The owner of the production facility will release, indemnify, and save harmless the connecting electric system and the purchasing electric system if different, and their respective agents and employees from all liability, claims, demands, causes of action, costs, or losses for personal injuries, property damage, or loss of life or property, sustained by the owner, its agents and employees, or third parties rising out of or in any way connected with the installation, operation, maintenance, repair, defect, or failure of the production facility and associated equipment and facilities.

15. *Insurance.* The owner of the production facility will carry general liability insurance (in such minimum amounts as may be determined appropriate by the connecting and purchasing electric systems) to provide protection against liability, claims, demands, causes of action, costs, or losses as described in subsection D.14. above (including losses sustained by the connecting electric system and the purchasing electric system, and their respective agents and employees). The owner of the production facility, at the request of the electric systems, will provide the electric systems with evidence of the continuing effectiveness of such insurance during the term of the contract. The owner of the production facility, at the request of the electric systems, will name the electric systems, and their respective agents and employees, as additional insureds.

Dispersed Power Price Schedule CSPP

(———————— 1984)

Availability

This schedule shall apply to purchases by TVA or distributors of TVA power from cogeneration and small power production facilities within the TVA area in accordance with the guidelines for TVA's Dispersed Power Production Program.

Character of Purchased Power

Alternating current, single, or three-phase, 60 hertz. Power will be purchased at the highest voltage available in the vicinity or other voltage agreed to by the purchasing electric system.

Standard Prices

Part A

Price for power and energy when no time-differentiated metering is utilized.

All kilowatthours per month at 1.710 cents per kWh.

Part B

Price for power and energy when time-differentiated metering is utilized.

All onpeak kilowatthours per month at 1.790 cents per kWh.

All offpeak kilowatthours per month at 1.660 cents per kWh.

Part C

Price for power and energy when time-differentiated metering is utilized. (Only available for purchases under contracts having terms of 10 years or longer.)

All onpeak kilowatthours per month at 2.380 cents per kWh.

All offpeak kilowatthours per month at 1.660 cents per kWh.

Revisions

All of the above prices are subject to revision by TVA annually to reflect, as TVA deems appropriate, TVA's then current projections of avoided energy costs and avoided capacity costs, if any, for the next annual period in which the power and energy is to be supplied.

The onpeak price in Part C above contains a capacity component based on capacity cost projections for an extended period. This portion of the price will be revised annually to reflect changes in such capacity cost projections.

Determinations of Onpeak and Offpeak Hours

Except for Saturdays and Sundays and the weekdays that are observed as Federal holidays for New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, onpeak hours for each day shall be 10:00 a.m. to 10:00 p.m. during calendar months of May through September and from 6:00 a.m. to 12:00 noon and from 4:00 p.m. to 10:00 p.m. during all other calendar months. All other hours of each day and all hours of such expected days shall be offpeak hours. Such times shall be Central Standard Time or Central Daylight Time, whichever is then in effect. The onpeak and offpeak hours under this price schedule are subject to change by TVA. In the event TVA determines that such changes onpeak and offpeak hours are appropriate, it shall so notify producers supplying power to TVA hereunder and distributors at least 12 months prior to the effective date of such changed hours, and the distributors shall promptly notify producers supplying power to them hereunder.

Contract Requirement

Contracts are required for purchases hereunder. For purchases under Part A and Part B above contracts shall extend for a term of not less than one year, provided however that they may be cancelled by the producer upon not less than 90 days' advance written notice to the purchasing electric system. For purchases under Part C above contracts shall extend for a term of not less than 10 years.

Payment

Representatives of TVA or distributor shall on a monthly basis read the meters at the point of delivery and provide the owner of the qualified facility with a detailed accounting of the amount of power and energy supplied (including, as appropriate, metered amounts during onpeak and offpeak periods) as determined by TVA, or distributor. From these readings, calculations will be made to determine the amount to be paid for power and energy supplied by the qualified facility and payment will be rendered promptly to the owner of the qualified facility in accordance with the terms of the contract.

Standby Power Rate Schedule SP

(———————— 1984)

Availability

Available for small power producers and cogenerators that qualify under TVA's Dispersed Power Production Program and that elect to purchase standby service for schedule maintenance and emergency standby power supply. Service is subject to notice and scheduling requirements set out in the contract.

Character of Standby Service

Alternating current, single or three-phase, 60 hertz. Power supplied shall be delivered at the highest voltage available in the vicinity, unless at the customer's request a lower standard voltage is agreed upon.

Standby Power Charges

Reservation charges:

$0.71 per month per kilowatt of customer's standby contract demand, plus

$0.28 per month per kilowatt of aggregate production capacity of customer's facilities.

Demand Use Charges:

$1.41 per week per kilowatt of maintenance standby power prescheduled by customer, plus

$2.82 per week per kilowatt of emergency standby power used by customer.

Standby demand use charges will be prorated on a daily basis for periods of less than one week. All energy deemed to be taken with standby power will be billed as firm energy at the charges applicable under the standard general power rate schedule available for service to the customer. (For customers for whom firm power is also being made available, the amounts of standby power scheduled or taken will be subtracted from the customer's measured demand during such periods for purposes of determining the customer's billing demand for firm power.)

The above reservation and demand use charges may be increased or decreased by TVA, effective with the effective date of any adjustment addendum published by TVA or any Rate Change, to reflect changes in the cost of standby service.

Facilities Rental

There shall be no facilities rental charge under this rate schedule for delivery at bulk transmission voltage levels of 161 kV or higher. For delivery at less than 161 kV, there shall be added to the customer's bill a facilities rental charge. This shall be 33 cents per kW per month except for delivery at voltages below 46 kV, in which case the charge shall be 87 cents per kW per month for the first 10,000 kW and 68 cents per kW per month for the excess over 10,000 kW. Such charge shall be applied to the customer's then effective standby contract demand except that, for a customer for whom firm power is also being made available, and whose firm power takings are also subject to facilities rental charges under the provisions of the standard general power rate schedule, calculations for determining the facilities rental charges for firm power and for standby power shall be made as follows. The standby contract demand will be added to the higher of (1) the highest billing demand for firm power established during the latest 12-consecutive-month period or (2) the customer's then effective firm contract demand, and the amounts in cents per kW set out above shall be applied to the total. The facilities rental charge shall be in addition to all other charges under this rate schedule. Such amounts in cents per kW may be increased or decreased by TVA, effective with the effective date of any Adjustment Addendum published by TVA or any Rate Change, to reflect changes in the costs of providing for delivery at voltage levels below 161 kV.

Contract Requirement

Customers to whom this rate schedule is applicable shall be required to execute contracts, and such contracts shall be for a term not to exceed 10 years.

Payment

Bills under this rate schedule will be rendered monthly. Any amount of bill unpaid after due date specified on bill may be subject to additional charges under Distributor's standard policy.

Single-Point Delivery

The charges under this rate schedule are based upon the supply of standby service through a single delivery and metering point, and at a single voltage. If service is supplied to the same customer through more than one point of delivery or at different voltages, the supply of service at each delivery and metering point and at each different voltage shall be separately metered and billed under this rate schedule.

Service is subject to Rules and Regulations of the Distributor and guidelines applicable under TVA's Dispersed Power Production Program.

[FR Doc. 84-575 Filed 1-9-84; 8:45 am]
BILLING CODE 8120-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

National Airspace Review; Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the Executive Steering Committee of the Federal Aviation Administration (FAA) National Airspace Review Advisory Committee. The agenda for this meeting is as follows:

Opening remarks.

Presentation of Task Group Staff Studies, including recommendations:

Task Group 1-5.3—Common Airspace and Procedures Integration
Task Group 2-1.2—Flow Management
Task Group 2-2.2—Traffic Segregation by Category/IFR Departure Routes
Task Group 2-4.3—Helicopter Charts

Unfinished business.

DATE: January 31, 1984, convenes at 10 a.m.

ADDRESS: The meeting will be held at the Federal Aviation Administration, room 1010, 800 Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: National Airspace Review Program Management Staff, room 1005, Federal Aviation Administration, 800 Independence Avenue, SW., AAT-30, Washington, D.C. 20591, (202) 426-3560. Attendance is open to the interested public, but limited to the space available. To ensure consideration, persons desiring to make statements at the meeting should submit them in writing to the Executive Director, National Airspace Review Advisory Committee, Associate Administrator for Air Traffic, AAT-1, 800 Independence Avenue, SW., Washington, D.C. 20591, by January 24, 1984. Time permitting and subject to the approval of the chairman, these individuals may make oral presentations of their previously submitted statements.

Issued in Washington, D.C., on January 4, 1984.

Karl D. Trautmann,

Manager, Special Projects Staff.

[FR Doc. 84-540 Filed 1-9-84; 8:45 am]
BILLING CODE 4910-13-M

UNITED STATES INFORMATION AGENCY

University Affiliation Program; Application Notice for Fiscal Year 1984

Correction is hereby made to the notice issued in the **Federal Register**, Vol. 48, No. 245, December 20, 1983, appearing on page 56301.

Inquiries concerning programming and budget for the Near East/South Asia should be addressed to: Dr. Ann Bos Radwan, United States Information Agency, E/AEN, 301 4th Street SW., Washington, D.C. 20547 (202) 485-7368.

Dated: January 5, 1984.

Dina Andrews,

Management Analyst.

[FR Doc. 84-616 Filed 1-9-84; 8:45 am]
BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 6
Tuesday, January 10, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL TRADE COMMISSION

TIME AND DATE: 2:00 p.m., Thursday, January 12, 1984

PLACE: Room 532 (open); Room 540 (closed) Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the Public.

MATTERS TO BE CONSIDERED:

Portions Open to Public:

(1) Oral Argument in Thompson Medical Company, Docket No. 9149.

Portions closed to the Public:

(2) Executive Session to follow Oral Argument in Thompson Medical Co., Docket No. 9149.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Information: (202) 523–1892; Recorded Message: (202) 523–3806.

Emily H. Rock,

Secretary.

[S. 84–654 Filed 1–6–84; 1:45 pm]

BILLING CODE 6760–01–M

2

PAROLE COMMISSION

TIME AND DATE: Tuesday, January 17, 1984—9:00 a.m. to 1:00 p.m.

PLACE: Room 420–F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED:

Appeals to the Commission of approximately 24 cases decided by the National Commissioners pursuant to a reference under 28 CFR 2.17 and appealed pursuant to 28 CFR 2.27. These are all cases originally heard by examiner panels wherein inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory releases.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission, (301) 492–5987.

Dated: January 6, 1984.

Joseph A. Barry,

General Counsel, United States Parole Commission.

[S 84–697 Filed 1–6–84; 2:45 pm]

BILLING CODE 4410–01–M

3

UNITED STATES PAROLE COMMISSION

TIME AND DATE: Tuesday, January 17, 1984—2:00 p.m. to 7:00 p.m. Wednesday, January 18, 1984—8:30 a.m. to 11:30 a.m.

PLACE: Room 420–F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of open meeting of October 18 through October 20, 1983.
2. Reports from the Chairman, Vice Chairman, Vice Chairman, Commissioners, General Counsel, Director of Research, Chief of Case Operations, and the Administrative Section.
3. 28 CFR 2.20 Offense Severity Items:
   (a) Export offenses.
   (b) Manufacturing of synthetic illicit drugs and possession, manufacturing, or distribution of chemical precursors used in illicit drug manufacturing.
4. 28 CFR 2.20. The grading of State offenses committed at or about the same time as the current Federal offense.
5. Proposal that Notices of Action be sent directly to prisoners and representatives.
6. Procedures Manual (2.28–03)—clarification of when a National Appeals Board decision becomes official Commission action.
7. Ten-year reconsideration hearings.
8. Proposal that an experimental community service program be conducted.

Consent Agenda

The following Consent Agenda items, only if previously requested to be opened for discussion at the meeting on or before January 13, 1984:

9. Consideration of amendments to Rules and Procedures Manual in R&P Memo 84/1 dated December 9, 1983.
10. Adoption of Training Aids—005 (Clinical Judgment), 006 (Drug Purity), and 007 (Grading Assault Offenses) all dated January 1, 1984.
11. Proposed amendment to 28 CFR 2.19(c) concerning use of charges on which a prisoner has been acquitted.
12. 28 CFR 2.20—clarification of the definition of "protected person."
13. Use of sworn testimony at revocation hearings.

CONTACT PERSON FOR MORE INFORMATION: Peter B. Hoffman, Director of Research, United States Parole Commission, (301) 492–5980.

Dated: January 6, 1984.

Joseph A. Barry,

General Counsel, United States Parole Commission.

[S 84–698 Filed 1–6–84; 2:45 pm]

BILLING CODE 4410–01–M

4

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of January 9, 1984, at 450 Fifth Street, NW., Washington, D.C.

A closed meeting will be held on Wednesday, January 11, 1984, at 10:00 a.m.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10).

Chairman Shad and Commissioners Longstreth, Treadway and Cox voted to consider the items listed for the closed meeting in closed session.

The subject matter of the open meeting scheduled for Wednesday, January 11, 1984, 10:00 a.m., will be: Consideration of whether to adopt Rule 17ad–14 under Section 17A(d)(1) of the Securities Exchange Act of 1934. That rule would require registered transfer agents acting for bidders as "tender agents"—i.e., as "depositaries" during tender offers or as "exchange agents" during exchange offers—to establish special accounts with certain securities depositories. These accounts would

permit depository participants (e.g., broker-dealers and banks) to deliver tendered securities to, or receive withdrawn securities from, the tender agent by book-entry. Tender agents would have to establish these accounts with all registered securities depositories that have Commission-approved automated tender offer procedures, within two business days after the tender or exchange offer begins. For further information, please contact Thomas V. Sjoblom at (202) 272–7379.

The subject matter of the closed meeting scheduled for Wednesday, January 11, 1984, following the open meeting, will be: Formal order of investigation. Institution of injunctive action.

AT TIMES CHANGES IN COMMISSION PRIORITIES REQUIRE ALTERATIONS IN THE SCHEDULING OF MEETING ITEMS. FOR FURTHER INFORMATION AND TO ASCERTAIN WHAT, IF ANY, MATTERS HAVE BEEN ADDED, DELETED OR POSPONED, PLEASE CONTACT: Jerry Marlatt at (202) 272–2092.

January 5, 1984.

George A. Fitzsimmons,

Secretary.

[S 84–673 Filed 1–6–84; 1:45 pm]

BILLING CODE 8010–01–M

Reader Aids

Federal Register

Vol. 49, No. 6

Tuesday, January 10, 1984

INFORMATION AND ASSISTANCE

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 339, 432, 752, and 831

Medical Determinations Related to Employability; Reduction In Grade and Removal Based on Unacceptable Performance; Adverse Actions; and Retirement

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: These amendments to OPM's regulations provide specific authorities and procedures for agencies to require or request medical information relevant to making a personnel management decision. The regulations implement recommendations resulting from OPM's study of "fitness for duty" examination procedures, and extensive agency and OPM experience with the procedures on an optional basis during the past three years. The regulations focus on the proper collection and use of medical information and medical examinations to make appropriate and defensible decisions in all personnel areas including leave management, disability retirement, personnel actions based on deficient performance, conduct, or attendance, and reassignment of injured or other qualified handicapped employees requiring reasonable accommodation. They set procedures for consideration of a medical condition raised by an employee in connection with an action for unacceptable performance or an adverse action. Finally, these regulations delineate the conditions under which an agency must file an application for disability retirement on an employee's behalf.

EFFECTIVE DATE: February 10, 1984.

FOR FURTHER INFORMATION CONTACT:
Part 339—Nancy Kingsbury (202) 632–6013
Parts 432 and 752—Cynthia Field (202) 254–5517
Part 831—Mary Sugar (202) 632–4634.

SUPPLEMENTARY INFORMATION:

General

OPM published proposed regulations on July 1, 1983 (48 FR 30398), which would specify the authorities and procedures for agencies to collect and use medical information in personnel management decisions. These regulations were necessary (and, indeed, have been under development for several years) because previous authorities to obtain and use medical information, particularly in so-called "fitness for duty" situations, were unclear; and there was substantial evidence that those authorities had been abused, especially in the case of psychiatric examinations and agency-filed disability retirements. An earlier version of proposed regulations in this area had been published in August 12, 1980 (45 FR 53481) and the comments received, and extensive experience and insight which developed in the interim, were included in the revised proposed regulations published in July.

OPM received numerous comments on the proposed regulations from agencies, unions, professional organizations and individuals. Although there were a number of suggestions for specific improvements in the regulations, nearly all of the responses expressed positive support for the general approach described in the regulations for obtaining and using medical information in personnel decisions. In particular, the comments noted strong support for the clear-cut obligation on the employee, as reflected in the regulations, to provide acceptable evidence about a medical condition in a wide range of situations in which a benefit or special treatment is being requested. Agency authority to order medical examinations has been significantly limited in recognition that, except in certain limited circumstances, the burden of proof is on the employee and, if he/she fails to provide adequate evidence for the agency to conclude that a medical condition exists which needs to be taken into account, the agency is free to proceed with a decision (adverse action, denial of request) having fully met any procedural obligation related to the health status question.

The regulations state what is required when an employee wishes to raise a health concern in connection with a possible or proposed performance-based action, or with a proposed adverse action. They make technical changes to Part 831 to conform to changes in Part 339, and they set forth restrictions on agency-filed disability retirement applications. These provide that the agency has to have issued a decision to separate the employee, that the agency has documentation of disease or injury, that the employee is incapable of making a decision to file an application, that he or she has no personal representative or guardian, and that no immediate family member is willing to file an application for him or her. Combined with earlier guidance on disability retirement, these provisions are intended to provide a framework for agency decisions on disability retirement.

Reasonable Accommodation

The supplementary information in the proposed regulations noted that the definition of "medical condition" in Part 339 is somewhat narrower than the definition of "physical or medical impairment" in 29 CFR 1613.702(b). However, nothing in these regulations should be construed to relieve an agency of its obligations under 29 CFR 1613.704 to provide reasonable accommodation to a handicapped person. Therefore, it is entirely possible in a specific situation that an employee will not be able to demonstrate the existence of a "medical condition" as defined in these regulations, but the employee may still have a physical or medical impairment which requires reasonable accommodation. An example is an employee found to be mentally retarded.

In the sections below, the specific comments received are itemized, and the related decisions about the final regulations are noted and explained.

Part 339: Medical Determinations Related to Employability

Subpart A—General

Section 339.101 Purpose.

Comment: One agency suggested that the application of Part 339 should be expanded to include former employees who are claiming a benefit deriving from the period during which they were employed.

Response: OPM agrees that these are circumstances wherein agencies have a real interest in obtaining medical

information concerning former employees (for example, to determine whether a position is available which could be offered to a former employee who is receiving workers compensation benefits). However, there is no authority for the former employing agency under Title 5, U.S. Code, to require medical information from former employees, except to the extent that a former employee is an applicant for a position. The Department of Labor has authority to require submission of medical information by former employees receiving workers compensation benefits, and OPM has similar authority for disability annuitants. There is no other legal authority to require such information. Therefore, there is no basis to extend application of Part 339 to former employees.

Section 339.102 Definitions.

"Medical condition"

1. *Comment:* A number of agencies and several unions and other organizations again questioned the validity and/or practicality of excluding from the definition of psychiatric disease (as a medical condition) "personality, character, behavior or adjustment disorders." These objections were based on several arguments:

(a) That it is not always possible to separate clearly a medically definable psychiatric condition from personality, character, behavior, or adjustment disorders.

(b) That, assuming it is medically possible to make a distinction in a reliable way, the person making a decision whether to request medical information under these regulations would not be capable of differentiating between a psychiatric condition and a personality, behavior, character or adjustment disorder, and so could have an ambiguous obligation under the regulations with respect to whether medical information could or should be requested.

(c) That the underlying logic for the exclusion—that personality, character, behavior and adjustment disorders are hereditary or developmental in nature, or are transient, and so should not be considered as disease processes—is not technically supportable.

Response: OPM's own analysis and recent experience in the consideration of psychiatric disease and related disorders in personnel decisions supports the arguments offered by commenters that the definition of psychiatric disease cannot, as a practical or medical technical matter, differentiate between "psychiatric disease" and "personality, character, behavior or adjustment disorder." Moreover, we have concluded that, even if such differentiation were possible, personality and related disorders are properly considered "medical conditions" for some personnel decision purposes. We have also concluded that, in those instances where a particular disorder would not be considered to be a "medical condition," (that is, in a particular case it is purely developmental or transient and amendable to control and treatment, and so would not be a "medical condition" for disability retirement purposes), the decision can adequately be derived from other program criteria, such as that the condition pre-existed appointment or is not a permanent condition. Therefore, we have deleted the exclusion of personality and related disorders from the definition of "medical condition" in the final regulations.

2. *Comment:* Two professional organizations suggested that the term "psychiatric disease" was not desirable, since the disagnostic manual for such disorders does not contain an inclusive construct "physical disease," but rather refers to "mental disorders."

Response: While it is important, when regulations address issues in the domain of other expertise, to be as precise as possible, it is also important to use terms which can be applied accurately in their generally acceptable meaning. For that reason, OPM believes that "psychiatric disease" is more semantically precise for the purpose of defining "medical condition" than the broader "mental disorder" would be. While it is desirable to define specific cases with reference to the diagnostic framework of the American Psychiatric Association's *Diagnostic and Statistical Manual*, it is not feasible to adopt that external reference in defining the scope of a regulation.

"Medical documentation"

3. *Comment:* Most of the commenters found the identification of the specific content of "medical documentation" to be generally acceptable and helpful to the objective of specifying the scope of content of medical information which would meet the information requirements of the decision to be made. A few individual commenters raised specific concerns with specific items in the list which are addressed below. Several agencies and other commenters pointed out that, depending on the nature of the condition, not all of the items of information listed in the definition may be necessary or appropriate, and that to require all of the information in all cases would be costly and an unnecessary burden on the applicant or employee.

Response: Although all of the information listed is necessary about many conditions in particular circumstances, it was not the intent of these regulations to require information to be documented which is not necessary and relevant to the decision being made. Therefore, the final regulations have been amended to clarify that "medical documentation" in a specific situation includes the information identified in writing by the agency which is necessary and relevant to the situation at hand.

4. *Comment:* Several commenters (and specific situations which have arisen since the proposed regulations were published) have brought to OPM's attention that, depending on the decision being made, "medical determination" as defined could be provided by a source other than a "physician" as defined, and be acceptable for, or indeed critical to, the decision. Examples include information about psychiatric or psychological condition from a clinical psychologist (when the decision involves authorization of leave for treatment); or information on the impact of a medical condition on the duties of a job from a vocational rehabilitation specialist (when the decision involves the feasibility of reasonable accommodation).

Response: OPM believes that, in most situations, the type of information identified as "medical documentation" would only be properly available from a "physician". The concerns expressed by the commenters and the examples provided indicate that absolute restriction of the source of such information as it is used in all decisions is inappropriate, and would be inconsistent with the flexibility inherent in the regulations governing some personnel decisions in which medical issues arise. Therefore, the final regulations have been modified to clarify that, in some instances, information from other sources who are professionally authorized to provide it may be acceptable. At the same time, when the proposed Part 339 regulations were developed, the separate definitions of "medical documentation" in Part 831 were deleted and cross-referenced to Part 339. Therefore, it is now necessary to further amend the proposed § 831.502 to clarify that, for purposes of disability retirement annuity decisions, "medical documentation" must be a statement from a physician.

5. *Comment:* Two agencies expressed concern that the description of "clinical

findings" identified as (b) under "medical documentation" is undesirably ambiguous in the meaning of "most recent medical evaluation." One of those agencies raised a related concern about the meaning of "current clinical status" under (c). One agency suggested that a specific time limit be identified to define the necessary recency or currency of the information.

Response: OPM appreciates an agency's concern that there be sufficient authority to disallow information which is not reasonably descriptive of present health status. However, beyond the requirement that a diagnosis of "current clinical status" be provided, it is not possible or desirable to identify a time frame within which clinical findings must be made. The recency of findings necessary to make an assessment of current clinical status varies widely with the nature of the condition. A specific criterion for recency of clinical findings could result in unnecessary medical evaluations, and would not necessarily insure that sufficiently recent findings were available to assess current clinical status. Therefore, we have not adopted the suggestion to further specify the intent of "most recent medical evaluation". The term "current" in (c), "current clinical status", is sufficiently precise in its standard usage to permit necessary decisions to be made.

6. *Comment:* One agency (with expertise in psychiatric disorders) and one professional organization suggested that the definition of "clinical findings" as it applies to psychiatric disease is incomplete and possibly misleading. In particular, it was noted that psychological testing is not always necessary or appropriate for diagnosis of psychiatric disease, and that other tests may be necessary in a particular situation.

Response: OPM is persuaded that the identification of only mental status examinations and psychological tests as a basis for psychiatric diagnosis is simplistic and could lead to unnecessary testing or insufficient information. The final regulations have been amended to clarify that the results of any appropriate diagnostic tests should be included.

7. *Comment:* One union objected to the inclusion of information at (a) and (f) related to the history of a condition and, particularly, the impact of the medical condition on life activities off the job. The union argued that OPM has no authority to require such information, that seeking such information violates the employee's right to privacy, and that authorities to obtain information on outside earnings are sufficient to prevent abuse.

Response: The history of a medical condition is, where identified as relevant and necessary, a basis for determining current clinical status and may be necessary to determining the impact of the condition on the job. Similarly, information about the impact of a condition on life activities off the job may be relevant to, and at a minimum must be consistent with, conclusions or recommendations about duty restrictions or accommodations on the job. For example, a medical condition which warrants restriction from lifting on the job should also result in restrictions on lifting in other life activities. Thus, it is both appropriate and not an invasion of privacy to seek information about impact off the job where that information is relevant and necessary to the decision at hand, or to a determination that the conclusions and recommendations are not inconsistent with generally accepted medical principles and practice. OPM points out that, in many instances, the employee raises the medical issue in connection with a request for a benefit.

"Review of medical documentation."

8. *Comment:* One agency suggested that the phrase "or in coordination with" be dropped from the definition of review of medical documentation, on the grounds that only a physician could make the determination required by the criteria at (a) and (b).

Response: It was not the intent of the definition that the determinations required by (a) and (b) would or could be made by a non-physician. However, in some circumstances it is possible to administratively determine that the criteria have been met through consultation with a physician about the issues involved without actual assessment of the medical documentation by a physician, or for non-physician reviewers who are working under specific criteria established by or in consultation with a physician to determine that medical evidence is clear on its face. Guidance issued under this part will encourage agencies to substantiate any conclusion that criteria (a) and/or (b) are not met through explicit assessment by a physician, usually a medical specialist.

9. *Comment:* One agency recommended changing (b) to read "the conclusions and recommendations are *not inconsistent* with generally accepted medical principles and practice."

Response: This grammatical form is logically equivalent to "are consistent with", and the change would have the effect of giving the employee the benefit of the doubt in those circumstances where "generally accepted medical principles and practice" are not readily specifiable. That benefit is consistent with the intent of the underlying framework for making personnel management decisions, and so the suggestion has been adopted.

Section 339.301 Examination authority.

1. *Comment:* Several agencies identified specific circumstances wherein the proposed regulations do not provide adequate authority to require an employee to report for a medical evaluation. These circumstances include:

(a) The need for current medical information to assess whether an employee receiving workers compensation benefits can be assigned to a position consistent with the limitations of his or her condition.

(b) The need for medical information to determine if an emloyee is physically qualified for a position to which he or she has reassignment rights in reduction in force.

(c) The need for medical information about employees occupying positions requiring medical surveillance to insure that established security or reliability of job performance requirements can be met.

(d) The need for medical information at the time of separation from a position to determine whether injury or harm occurred during employment even if such a condition is not otherwise identified as having an impact on job performance during employment.

Response: (a) OPM agrees that, when an agency has reason to believe that an employee who is receiving workers compensation benefits may be capable of performing the duties of either his or her original position, a modified or restructured job, or a different position, there is a need for current medical information to assess whether an offer to return to work or to regular duties is appropriate. Although the Department of Labor has authority to require medical information to be submitted in such cases, if an agency provides evidence that recovery has taken place or the employee may be able to perform an available job, DOL responses to agency requests for determinations necessarily consume time in which agencies are unable to pursue active return-to-duty efforts because no current medical information is readily available. The final regulations have been modified to provide a limited authority to require medical information in those situations where the agency has identified a specific assignment or position to which

the agency can assign the employee if the medical condition is compatible with the duties of the job.

Guidance issued by OPM, in conjunction with the Dapartment of Labor, will require that the employee be informed of the duties of the assignment or position at the time the medical information is required, and the agency would be obligated to assign the employee to that job if the medical information (consistent with generally accepted medical principles and parctice) indicates that he/she is capable of performing the job.

One agency suggested that the authority be expanded to require that employees receiving workers compensation submit to medical examinations for the purpose of "verifying" the medical condition for which compensation is being paid. Authority to require medical information for that purpose rests solely with the Department of Labor, and it would not be appropriate for such authority to be addressed in Part 339.

(b) OPM agress that, when an employee has assignment rights in a reduction in force to a position which requires specific physical capacities to preform, agencies should obtain medical information to insure that the individual is capable of performing the duties of the position. The final regulations have been modified to include an authority to require an employee who is released from his/her competitive level to undergo an examination to determine if he/she is physically qualified for any position to which he/she has assignment rights. However, if the employee claims that he/she cannot perform the duties of the job because of physical or medical condition, he or she has the responsibility to provide medical documentation sufficient to support that claim. Agencies, must, however, be aware of the obligations of 29 CFR 1613.204 regarding reasonable accommodation.

(c) OPM agrees that it may be necessary for agencies to establish programs of medical surveillance to monitor employee health status to insure that critical job functions can be safely and efficiently performed, or to insure that injury or harm is avoided when employees are exposed to occupational or environmental hazards. The proposed regulations clearly contemplated this need in the authority to require medical information when employees occupy positions subject to occupational/environmental hazards. The final regulations have been amended slightly to clarify the intent to provide authority to require medical information when employees occupy positions requiring programs of medical surveillance, established under OPM or agency regulations, to regularly monitor health status for valid job-related reasons.

(d) OPM agrees that it is desirable to require medical examinations for separating employees who have worked in positions subject to environmental/occupational hazards, to determine if injury or harm has occurred which is not otherwise apparent, but which may be related to an entitlement arising from the period of employment. However, the authorities for such examinations are clearly covered by the general authorities to require medical information under established programs of medical surveillance as described above.

2. *Comment:* One agency suggested clarification of the third condition under which mandatory examinations could be required to make explicit the intent that the "direct question" about an employee's continued capacity be related to the physical or medical requirements which directly underlie the authority to require the examinations, and to reduce the likelihood that the authority will be construed to authorize examinations when the capacity to perform is not related to a medical condition.

Response: The scope of these regulations from their inception has been to provide adequate authority for agencies to resolve situations where health status was an issue related to the job, and to eliminate those circumstances where medical examinations would be demanded in an effort to deal with non-medical or non-physical job issues. This recommendation strengthens those objectives and so it has been adopted.

3. *Comment:* One agency suggested that the conditions under which an agency may offer examinations be expanded to specify requests for an extended leave of absence or advance sick leave.

Response: The proposed regulations clearly contemplated that an agency would have authority to offer an examination when an employee requests extended leave or advance sick leave (under "any other benefit or special treatment") and has furnished medical documentation. The employee also must under the regulations governing sick leave (§ 630.403) provide administratively acceptable evidence before sick leave (or leave without pay in lieu of sick leave) can be granted. Agencies have substantial discretion to determine what is "administratively acceptable evidence", subject to internal regulations and negotiated agreements. Further emphasis on extended leave or sick leave in these regulations is not necessary, and could give the unintended impression of conflict with matters already under agency authority.

Section 339.302 Examination procedures.

1. *Comment:* Three unions and one agency expressed objection to the provision at (b) which requires the agency to designate the physician when examinations are ordered or offered under Part 339. The commenters recommended as an alternative the approach currently in use in "fitness for duty" procedures, wherein if the employee objects to the agency-designated physician, the employee may provide a list of medical specialists from which the agency may select a physician.

Response: The Part 339 regulations are explicitly intended to substantially constrain the number of situations where an agency may order an employee to undergo a medical examination. In most circumstances where the previous "fitness for duty" process would be initiated, the agency no longer has any authority to require an examination. Rather, the regulations provide that the employee bears the burden of demonstrating that a medical condition exists which the agency must take into account. Under these provisions, the employee has total control over which physician will be identified, although the information provided must meet the criteria for "medical documentation" as defined. Only under the very limited circumstances where medical standards or medical surveillance programs exist, or certain other limited situations, is the agency authorized to require an examination. Even in those circumstances, the regulations provide that the agency must offer the employee an opportunity to submit information from the physician of his/her choice. Any information that the employee submits would have to be taken into account in the agency's decision.

In all other circumstances, the agency may *offer* (that is, pay for) an examination. In both the circumstance where the agency orders an examination (given that the employee must also be given an opportunity to submit additional information from his/her own physician) and the circumstance where the agency offers (and pays for) an examination, OPM believes it is appropriate for the agency to identify the physician. In an appropriate circumstance, it would be permissible for the agency to select the employee's

physician. However, since the employee has ample opportunity to submit additional information, and since the agency has a reasonable interest in controlling the source of the information in those circumstances where an agency ordered or offered examination is appropriate, no change in the proposed regulations is warranted.

It is important to emphasize in this context that the regulations do not encourage or even contemplate that the personnel management decision would be made by the physician, be it an employee or agency-identified physician. The deciding official is a supervisor or manager who uses, as a part of the data in his/her decision, the medical information available from any source.

2. *Comment:* Several agencies expressed concern that the notice requirement in § 339.302 (a) and (b) would be unduly burdensome in those situations where the medical examinations were periodic as a part of a program of continuing medical surveillance.

Response: OPM agrees that, when a medical examination is required or offered as a part of a series of periodically scheduled examinations in an established medical retention or surveillance program, the regulations should not require specific notice of the reasons for the examination, the consequences of failure to cooperate, and the right to submit additional information in advance of each examination. The final regulations have been clarified to indicate that, for examinations which are a part of an established medical surveillance program, notification of the reasons for the examinations and other related matters may be provided once, at the initiation of the program and/or on appointment to an affected position.

3. *Comment:* Two professional organizations and one union raised a question about the process in § 339.302(e) for ordering a psychiatric examination. The commenters pointed out that, while the concept of requiring a general medical examination prior to the ordering or offering of a psychiatric examination is sensible, the underlying presumptions of the process are not warranted: That (a) a general practitioner would be capable of identifying that psychiatric symptoms were present, and (b) if disease caused by organic conditions is found (or ruled out), then psychiatric disease requiring evaluation is not present.

Response: The points made are sound, and guidance issued to implement these regulations will encourage agencies to have general medical information reviewed by medical specialists when potentially controversial outcomes are possible (such as an ordered psychiatric evaluation). The practice should permit a sensible outcome in both sorts of situations contemplated in the comments. However, no changes are warranted in the regulations, since they contain adequate authority to seek outside review of the initial medical information, and these are some circumstances where a determination whether to order a psychiatric evaluation can, in fact, be made by the agency's physician, based on review of the examination results.

Section 339.305 Payment for examinations.

Comment: Two unions expressed concern that the requirement that employees pay for medical examinations conducted by a private physician selected by the applicant would "penalize" use of private physicians and is inconsistent to current practice under FPM Chapter 339–4.

Response: Under the proposed regulations, agencies would continue to have authority to pay for examinations if the agency orders or offers the examination and chooses to have the examination conducted by a physician of the employee's choice. (These are the circumstances analogous to the current practice in FPM Chapter 339–4.) However, in all other circumstances, the employee bears the clear burden of proof to demonstrate that a medical or physical condition exists, and that burden reasonably includes the cost of any necessary medical examination. In most such circumstances, the employee is asking for some benefit (e.g., sick leave, accommodation, or relief from responsiblity in an adverse action situation), so it would be inappropriate for the agency to pay for an examination required to substantiate the request.

Section 339.304 Records and reports.

1. *Comment:* One agency expressed concern that the regulations required clarification concerning the applicability of privacy requirements and release.

Response: Section 339.304 (a) and (b) specifically provide that medical records will be received and maintained in accordance with OPM regulations, and will be released to the affected individual in accordance with the Privacy Act access requirements.

2. *Comment:* One agency recommended that the requirement at §399.304(c), that copies of medical records obtained through examinations ordered or offered under Part 339 which involve individuals receiving workers compensation benefits (including continuation of pay) should be sent to the Office of Workers Compensation Programs (OWCP), Department of Labor, be corrected to clarify that records related to occupational disease (as well as those related to traumatic injury) should be forwarded.

Response: This suggestion has been adopted in the final regulations.

3. *Comment:* One agency suggested that the requirement to transmit copies of examination results to OWCP be modified to limit the obligation to those medical records which are relevant to the employee's claim.

Response: After consultation with OWCP, OPM has concluded that it would not be practical to establish criteria for a record's relevance to a claim, and since authority to adjudicate claims is solely the Department of Labor's, the regulation has not been so modified.

Part 432: Reduction in Grade and Removal Based on Unacceptable Performance

1. *Comment:* Two agencies pointed out a citation to §339.301(b)(3), which does not exist. One of these suggested the reference should be to §339.301(a)(3) or to § 339.301(d).

Response: It is clear that if an agency has the authority under §339.301(a)(3), it may order an examination under that subparagraph. Otherwise, it has the option of offering an examination under §339.301(d). OPM has corrected this reference to include both citations.

2. *Comment:* An agency suggested that the employee be held responsible for providing the medical documentation within the time frames for responding to an agency proposal.

Response: OPM recommends that agencies give employees the opportunity to raise medical conditions at the time they give employees an opportunity to demonstrate acceptable performance, before any action is proposed. Guidance to this effect will be put in FPM material. Many employees will supply such information then; others, for whatever reason, will not do so until an action is actually proposed. OPM has clarified that two time periods for submitting information are possible, and also has required that the employee, whenever possible, supply documentation of a medical condition during the opportunity period. This would be beneficial both to the employee and the agency, because the agency will have more time to consider what can be done. However, if the employee does not supply this information until the proposal period, OPM is requiring the employee to supply

it within the reply period, whenever possible. OPM realizes that delays sometimes arise in obtaining this information from a physician. If the employee supplies information after the time for the reply, but before expiration of the notice period, the agency will likely be able to take it into consideration in arriving at its decision. As noted earlier, however, the optimal time for supplying medical documentation is during the opportunity period.

3. *Comment:* A union noted that § 432.204(d) permitted the agency to order a medical examination.

Response: Note OPM's response to the first comment. An agency would have the authority to do so under the strict criteria of § 339.301(a)(3). In most cases, the agency would only have the authority to offer an examination.

4. *Comment:* An agency recommended that OPM eliminate the proposed requirement that agencies conclude that a medical condition has caused the performance deficiency before offering information on disability retirement. The agency felt that the necessity to draw this conclusion was irrelevant to the issue of making disability retirement information available and should be eliminated.

Response: OPM agrees and has made the change, believing that it is better to err on the side of providing disability retirement information when there is any question.

5. *Comment:* An agency recommended reference to § 831.501, which provides for simultaneous processing of personnel actions and employee applications for disability retirements.

Response: OPM has added this reference, as well as a reference to § 831.1203.

6. *Comment:* A union is concerned that the language of § 432.204(d), which requires agencies to "consider" the provisions of 29 CFR 1613.704 on agency obligations for reasonable accommodation, will weaken agency compliance with this regulation.

Response: OPM has changed the wording to meet this concern, but wishes to point out that the requirements of 29 CFR 1613.704 implement a different law, which agencies must meet independent of any injunction to that effect in Title 5, CFR. Thus, the last statement in this section is merely a strong reminder to agencies not to assume that this section of 5 CFR is the only requirement the agency must meet when questions of a medical condition arise for one reason or another.

Part 752: Adverse Actions

1. *Comment:* Several agencies pointed out the citation to a nonexistent § 339.301(b)(3). As one agency correctly noted, the proper citations would be either to § 339.301(a)(3) or to §339.301(d).

Response: As noted above, it is clear that both citations are applicable, and OPM has corrected this reference to include both.

2. *Comment:* Several agencies have recommended that the language in § 752.404(c)(3) be made consistent with that in § 432.204(d), so that it will be clear that the employee is to raise any medical condition if he or she wishes the agency to consider it.

Response: OPM has made the conforming change, but points out that the provisions of 29 CFR 1613.704 will also govern agency obligations in this regard.

3. *Comment:* Two agencies commented on the phrase "the employee shall furnish medical documentation," recommending that the employee be given a reasonable time to furnish such documentation within the time frame for responding to a proposed agency action.

Response: OPM has made the change to conform to that made in § 432.204(d).

4. *Comment:* A union commented that § 752.404(c)(3) would allow the agency to require a medical examination.

Response: See OPM's responses to comments 1 and 3 under Part 432.

5. *Comment:* An agency asked if the offer of a medical examination would delay an agency action.

Response: Possibly it would; OPM assumes that an agency would wish to await the results of the examination which it has offered before making any decision. The same agency asked if the employee's application for disability retirement would delay the agency decision. As we did in Part 432, OPM has referred to § 831.501, which covers this point.

6. *Comment:* Again, a union is concerned that the language which requires the agency to "consider" the provisions of § 1613.704 will weaken agencies' compliance with that regulation.

Response: See OPM's comments under comment 6 of Part 432.

Part 831: Retirement

Three agencies endorsed the proposed regulations as published, stating that they represent a significant improvement over existing guidance, and expressed interest in early finalization.

The remaining comments and suggestions are summarized below together with the actions taken.

1. *Comment:* A union objected to § 831.501(d), which provides that an employee's application for disability retirement shall not preclude or delay any other appropriate personnel action by the employing agency.

Response: This provision was added to clarify that an employee's decision to apply for disability retirement is independent of an involuntary separation, and that the separation is not to be delayed for reasons beyond the agency's control. No change has been made.

2. *Comment*: Several agencies suggested that there is a conflict between the provisions of §§ 831.502(b)(1) and (3).

Response: OPM does not agree that there is a conflict. Therefore, no change has been made to either provisions. Section 831.502(b)(1) provides for documentation in support of a claim for disability retirement that demonstrates "deficiency in service with respect to performance, conduct or attendance" (that is, where actual performance has declined to a less than successful level and is the basis for the disability application). The phrase "or in the absence of any actual service deficiency, a showing that the medical condition is incompatible with either useful service or retention in the position" recognizes that, as a practical matter, there may not be a record of a decline in actual performance when an application for disability is based on the employee's restriction from performing critical or essential job tasks, or from being at work.

Paragraphs (1) and (3) of § 831.502(b) are two of seven considerations used by OPM in determining the sufficiency of a claim for disability retirement. Each consideration relates to the other either in whole or in part. Paragraph (3) relates to paragraph (1) only in part, the first part, and is intended to mean that when the application for disability retirement is in fact based on a decline in actual performance there must be "A relationship between the service deficiency and the medical condition such that the medical condition has caused the service deficiency." In the absence of such a showing OPM would look to see whether the employee suffers from a disease or injury that caused either a restriction from performing the essential duties and responsibilities of the job or the inability to work at all.

3. *Comment*: One agency suggested that we insert "or agency" after the word applicant in § 831.502(b), *Proof of Claim.*

Response: OPM adopted this suggestion.

4. *Comment*: One agency suggested that we limit placement in the agency, as required by § 831.502(b)(7), to those agency facilities in the commuting area that are serviced by the same appointing authority.

Response: We have adopted this suggestion. Some agencies have several operating facilities in the same commuting area. It would be an administrative burden to require that agencies survey all available vacant positions, at the same grade and pay level to which the employee is qualified for reassignment, in *all* agency facilities or that agencies reassign an employee to a position in an agency facility that is not serviced by the same appointing authority. Since OPM currently instructs agencies to consider the employee for reassignment to all available vacant positions at the same grade or pay level in agency facilities that are serviced by the same appointing authority in the commuting area, this is not a policy change. OPM has consistently maintained that agency placement is limited by administrative authority. OPM does not expect that the employee will be reassigned to a position outside the appointing authority for the primary agency subdivision, i.e., bureau, group, division, etc., where he/she is assigned to work.

5. *Comment*: Commenting labor organizations and two agencies felt that adverse action procedures for removal and the agency-filed application should parallel each other, but the removal action required by § 831.1205(a) should not automatically precede the agency's request for disability retirement.

Response: OPM declines to adopt this suggestion. Current regulations and guidance provide for the retention of the employee on the agency's rolls until OPM has acted on the agency's application for an employee's disability retirement. If OPM allows the disability claim, the employee is then removed from the agency's rolls onto the civil service annuity rolls. Should OPM disallow the claim, the agency is left with an employee who it has already determined is no longer employable and who it has notified of an intent to remove from the Government. The time that elapses between the agency's notice of proposed removal and the disallowance of the disability claim by OPM can be substantial, and if the agency proceeds with an action under Parts 432 or 752 of OPM's regulations, the time may be so long that the agency needs to compile further documentation to support an action under the removal procedures.

The change contained in § 831.1205(a) is consistent with the purposes of Civil Service Reform Act of 1978 that actions adverse to employees be based on documented deficiencies in performance, conduct, or attendance, and that warranted actions be taken and completed expeditiously. It is also consistent with conclusions of former Congresswoman Spellman's Subcommittee on Compensation and Employee Benefits that separations for medical reasons may be more stigmatizing than those based on the actual deficiency in performance, conduct, or attendance. OPM intends that agencies' removal actions be reviewable quickly on their merits and that they stand or fall based primarily on whether the employee concerned can provide useful and efficient service to his/her employing agency. Whether or not the employing agency concurrently files an application for disability retirement benefits for the employee is a separate issue. Even if the agency did not do so as early as it might have, this error would not be harmful to the employee since the one-year time limit for filing does not apply when an employee is found to have been incapable of making a decision to file an application for disability retirement at the time of his/her separation.

OPM wants to discourage agencies from attempting to file an application for disability retirement on behalf of the employee where some other personnel action is appropriate, even an adverse action. The unnecessary use of the "agency-filed" disability retirement provisions of the Civil Service Retirement law as an agency management tool is viewed by OPM as an abuse of this provision. Under the revised procedures, we believe that managers will be more confident in addressing employee performance problems and that they will not delay in taking appropriate and timely actions based on the employee's performance.

6. *Comment:* Some agencies object to the language in § 831.1203(a)(2) that limits agency-filed disability retirement applications to cases involving psychiatric disease. Whether the disabling condition is physical or mental, agencies feel that they should be permitted to file on the employee's behalf so long as the criteria contained in §§ 831.1203(a) (3) and (4) are met. They felt that further restriction is inappropriate and fails to recognize the employee's past contributions.

Response: OPM agrees that the proposed language is unnecessarily restrictive. The amended language encompasses all situations where conditions are such that the agency determines that the employee is incapable of making a decision (due to psychiatric disease or otherwise) to file an application for disability retirement.

7. *Comment:* Several agencies objected to the non-recognition of union representatives as personal representatives under § 831.1203(a). They felt that the union's function is inextricably linked with protecting employee's interests.

Response: An employee's affirmative selection of representative (usually an attorney) demonstrates an understanding that his/her employment is threatened and an ability to act on his/her own behalf by making a conscious decision to prevent the agency from taking an action adverse to his/her interest. When an employee demonstrates the ability to make this kind of decision to attempt to protect his/her employment, OPM believes that the employee should also be presumed to be capable of making a decision to file an application for disability retirement, whether or not this decision to protect the job appears to be in the employee's best interest. On the other hand, a union with exclusive representation in an agency is required by law to represent bargaining unit employees, and a union may represent an employee who did not specifically seek a union representative. OPM agress that when there is a union representative, further information should be sought to attempt to determine if the employee initiated a request for union representation or if the union offered its services to the employee.

Section 831.1203(a) is clarified, however, to distinguish between the responsibilities of a representative and the responsibilities of a prospective applicant for disability retirement benefits on an employee's behalf. Even when an employee engages an attorney, the attorney's authority to act on behalf of the employee is limited by the authorization given by the employee. Thus, even an attorney retained solely to represent an employee in his/her removal would not have the authority to file a disability retirement application on behalf of the employee. (See following comment.)

8. *Comment:* One agency commented that it is inappropriate to preclude agencies from filing on behalf of the employee under § 831.1203(a)(4) when existing family members refuse to take an interest or to express a willingness to act for the separated employee.

Response: An agency's responsibility to the employee is limited and is

secondary to that of immediate family members or guardians. By restricting those who can file an application for disability retirement on behalf of the employee, OPM hopes to have applications filed only by those who stand in a position to receive monies that may become payable from the Civil Service Retirement and Disability Fund for the use of the employee. Nonetheless, OPM does agree that family members are not always willing to assume responsibility for the care of a disabled relative.

Accordingly, we have amended § 831.1203(a)(4) and added § 831.1203(a)(5) to clarify that if the employee has no personal representative or legal guardian, and if immediate family members are unwilling to file an application on his or her behalf, the employing agency is not relieved of its obligation to file on the employee's behalf. OPM does not wish to make annuity payments to individuals (family members or others) unless they have expressed an interest and/or willingness to act for and care for the employee-annuitant. We believe that this change will ensure that annuity payments will be used for the care of the employee-annuitant or will be conserved for his/her use.

9. *Comment:* Section 831.1203(a)(4) places the burden on the agency to identify persons having status to file on the employee's behalf. One agency suggests that the employee should be responsible for notifying the agency whether there are persons standing ready to assume responsibility for his/her care.

Response: It is envisioned that the employee involved in an agency-filed case will be suffering from a disease or injury that will have resulted in an appreciable eroding of mental and sometimes also physical capabilities. To require that the employee make disclosure of the type suggested would be unnecessarily burdensome and ineffectual. Furthermore, information regarding the employee's immediate family can usually be obtained from agency records, the employee's supervisor, co-workers, etc. We do not contemplate a search beyond these sources.

10. *Comment:* One agency suggested that § 831.1203(b) should be revised to clarify that when the agency removes the employee and provides counsel relative to his/her possible eligibility for disability retirement, the information provided should be in writing.

Response: OPM has adopted this suggestion. A written record of what the employee is or is not told is most practical from an administrative standpoint. In the event that the employee later alleges that the agency did not provide correct or adequate information, the written record will help decide the issue.

11. *Comment:* One agency suggested that OPM change § 831.1205(b) to provide that its disability decision be issued to the employee and to the employing agency.

Response: OPM has adopted this suggestion.

12. *Comment:* Both commenting labor organizations and some agencies felt that OPM should not cancel an allowed agency-filed disability retirement as provided in § 831.1206 if the agency's removal action is reversed on appeal, especially when the reversal action is based solely on procedural error or some other basis not relating to the employee's mental or physical ability to successfully perform the duties of his/her position.

Response: This provision simply continues current case law under which the Merit Systems Protection Board may reverse OPM's approval of an agency-filed application for disability retirement and cancel the employee's separation if the agency's due process procedures were so deficient that the employee was significantly harmed. Since we are only substituting one due process for another, there is no basis for OPM to continue the annuity. Section 831.1206 provides that OPM will cancel the annuity when a final decision is issued. Accordingly, the annuity payment will continue pending the outcome of an appeal.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it applies only to Federal employees.

List of Subjects

5 CFR Part 339

Government employees, Health.

5 CFR Part 432

Administrative practice and procedure, Government employees.

5 CFR Part 752

Administrative practice and procedure, Government employees.

5 CFR Part 831

Administrative practice and procedure, Claims, Firefighters, Government employees, Handicapped, Law enforcement officers, Pensions, Retirement.

U.S. Office of Personnel Management.

Donald J. Devine,

Director.

Accordingly, OPM is amending Title 5, Code of Federal Regulations, as follows:

1. Part 339—*Qualification Requirements (Medical)* is revised to read as follows:

PART 339—MEDICAL DETERMINATIONS RELATED TO EMPLOYABILITY

Subpart A—General

Sec.
339.101 Purpose.
339.102 Definitions.

Subpart B—Medical Disqualifications

339.201 Medical disqualifications.

Subpart C—Medical Examinations

339.301 Examination authority.
339.302 Examination procedures.
339.303 Payment for examination.
339.304 Records and reports.

Authority: 5 U.S.C. 3301; E.O. 9830, Feb. 24, 1947.

Subpart A—General

§ 339.101 Purpose.

The applicability of this part to applicants and employees is defined by the specific regulation governing the personnel decision in which the medical issue arises. This part also defines the circumstances under which medical documentation may be acquired and under which examinations and evaluations may be conducted to determine the nature of a medical condition, knowledge of which is necessary to make personnel determinations under any part of this title. Personnel decisions based wholly or in part on the review of medical documentation and the results of medical examinations and evaluations shall be made in accordance with all requirements of the appropriate part of this title and provisions of any other title.

§ 339.102 Definitions.

For the purpose of this part:

"Medical condition" means health impairment which results from injury or disease, including psychiatric disease.

"Medical documentation" or "documentation of a medical condition" means a statement which provides the following information, or the parts identified by the agency as necessary and relevant:

(a) The history of the specific medical condition(s), including references to

findings from previous examinations, treatment, and responses to treatment;

(b) Clinical findings from the most recent medical evaluation, including any of the following which have been obtained: findings of physical examination; results of laboratory tests; X-rays; EKG's and other special evaluations or diagnostic procedures; and, in the case of psychiatric disease, the findings of a mental status examination and the results of psychological tests;

(c) Assessment of the current clinical status and plans for future treatment;

(d) Diagnosis;

(e) An estimate of the expected date of full or partial recovery;

(f) An explanation of the impact of the medical condition on life activities both on and off the job;

(g) Narrative explanation of the medical basis for any conclusion that the medical condition has or has not become static or well stabilized;

(h) Narrative explanation of the medical basis for any conclusion which indicates the likelihood that the individual is, or is not, expected to experience sudden or subtle incapacitation as a result of the medical condition;

(i) Narrative explanation of the medical basis for any conclusion that duty restrictions or accommodations are or are not warranted and, if they are, an explanation of their therapeutic or risk avoiding value and the nature of any similar restrictions or accommodations recommended for non-work-related activities; and

(j) Narrative explanation of the medical basis for any conclusion which indicates the likelihood that the individual is, or is not, expected to suffer injury or harm by carrying out, with or without accommodation, the tasks or duties of a position for which he/she is assigned or qualified.

"Medical specialist" means any physicain who is board-certified in a medical specialty, or a physicain serving on active duty in the uniformed services who is board-eligible and who is designated by the uniformed service to perform examinations under this part.

"Physician" means a licensed Doctor of Medicine or Doctor of Osteopathy, or a physician who is serving on active duty in the uniformed services and is designated by the uniformed service to conduct examinations under this part.

"Review of medical documentation" means assessment of medical documentation by, or in coordination with, a physician to ensure that the following criteria are met:

(a) The diagnosis or clinical impression is justified in accordance with established diagnostic criteria; and

(b) The conclusions and recommendations are not inconsistent with generally accepted medical principles and practice.

"Static or well stabilized medical condition" means a medical condition which is not likely to change:

(a) As a consequence of the natural progression of the condition;

(b) Specifically as a result of the normal aging process; or

(c) In response to the work environment or the work itself.

"Subtle incapacitation" means gradual, initially inapparent impairment of physical or mental function which is likely to result in a performance failure, whether reversible or not.

"Sudden incapacitation" means abrupt onset of loss of control of physical or mental function.

Subpart B—Medical Disqualifications

§ 339.201 Medical disqualifications.

Subject to Subpart C of Part 731 of this chapter, OPM may deny an applicant examination, deny an eligible appointment, and instruct an agency to remove an appointee by reason of physical or mental unfitness for the position for which he or she has applied to which he or she has been appointed.

Subpart C—Medical Examinations

§ 339.301 Examination authority.

(a) An agency may require an individual who has applied for or occupies a position which has physical/medical standards for selection or retention, or which is part of an established program of medical surveillance related to occupational or environmental exposure or demands, to report for a medical evaluation:

(1) Prior to appointment or selection (including reemployment on the basis of full or partial recovery from a medical condition);

(2) On a regularly recurring, periodic basis; and

(3) Whenever there is a direct question about an employee's continued capacity to meet the physical or medical requirements of the position.

(b) An agency may require an employee receiving workers compensation benefits or assigned to limited duties as a result of an on-the-job injury to report for medical evaluation when the agency has identified an assignment or position (including the employee's regular position) which it reasonably believes the employee can perform consistent with the medical limitations of his/her condition. If the medical information (consistent with generally accepted medical principles and practice) indicates that the employee is capable of performing the duties identified, the agency will promptly return the employee to corresponding duty and pay status.

(c) An agency may require an employee who is released from his/her competitive level in a reduction-in-force to undergo a medical evaluation if the position(s) to which the employee has reassignment rights requires specific physical capacities to perform the duties of the job, and those physical capacities are different from those required in the employee's present position. The agency shall be aware of the affirmative obligations of the provisions of 29 CFR 1613.704, which require reasonable accommodation of a qualified employee who is handicapped.

(d) An agency may offer a medical examination when an individual has made a request for medical reasons for a change in duty status, assignment, or working conditions or any other benefit or special treatment (including reemployment on the basis of full or partial recovery from a medical condition) and the agency, after it has received and reviewed medical documentation, determines that it cannot grant, support, or act further on the request without verification of the clinical findings and current clinical status.

(e) Any medical evaluation required of an individual shall be carried out and used in accordance with 29 CFR 1613.706.

§ 339.302 Examination procedures.

(a) When an agency orders or offers a medical examination under this subpart it shall inform the applicant or employee in writing of its reasons for ordering or offering the examination and the consequences of failure to cooperate.

(b) The agency shall designate the examining physician, but shall offer the employee or former employee an opportunity to submit medical documentation from his or her personal physician, which the agency shall review and consider.

(c) The agency shall provide the examining physician with a copy of any approved medical evaluation protocol, any applicable standards and requirements for the position, and/or a detailed description of the duties of the position, including critical elements, as defined in Part 430 of this chapter, physical demands, and environmental factors.

(d) If the examination is ordered or offered as a regularly recurring, periodic examination as a part of an established medical retention or surveillance program under § 339.301(a), notification required under paragraphs (a) through (c) of this section may be made once, covering a series of examinations, provided the notice is issued prior to the first required examination.

(e) An agency shall order or offer a psychiatric evaluation to an employee only when the employee first provides results of a general medical or psychiatric examination, or the agency has first conducted a non-psychiatric medical examination, and, after review of the documentation or examination report, the agency's physician concurs that a psychiatric evaluation is warranted for medical reasons. Unless not medically indicated in the psychiatrist's judgment, a psychiatric evaluation normally consists of more than one interview with the employee and includes psychological testing.

(f) All medical specialty examinations ordered or offered under this subpart shall be conducted by a medical specialist.

§ 339.303 Payment for examination.

Agencies shall pay for all agency ordered or agency offered examinations of employees conducted under this subpart. Agencies shall also pay for all required pre-employment examinations of applicants which are conducted by a physician designated by the agency. However, applicants and employees, not the agency, shall pay for a medical examination conducted by a private physician selected by the applicant or employee, unless a statute, regulation, or appropriations act gives the agency authority to pay this expense.

§ 339.304 Records and reports.

(a) Agencies shall receive and maintain all medical documentation and records of examinations obtained under this part in accordance with instructions provided by OPM.

(b) The report of an examination conducted under this subpart shall be made available to the applicant or employee under the provisions of § 294.401 of this chapter.

(c) Agencies shall forward to the Office of Workers' Compensation Programs (OWCP), Department of Labor, a copy of all medical documentation and reports of examinations of individuals who are receiving or have applied for injury compensation benefits including continuation of pay. The agency shall also report to the OWCP the failure of such individuals to report for examinations that the agency orders under this subpart.

PART 432—REDUCTION IN GRADE AND REMOVAL BASED ON UNACCEPTABLE PERFORMANCE

2. Section 432.204 is amended by adding paragraphs (d) and (e) as follows:

§ 432.204 Procedures.

* * * * *

(d) *Consideration of medical condition.* If the employee wishes the agency to consider any medical condition which may contribute to his or her unacceptable performance, he or she shall be given a reasonable time to furnish medical documentation (as defined in § 339.102 of this chapter) of the condition. Whenever possible, the employee shall supply this information at the time the agency offers him or her the opportunity to demonstrate acceptable performance. If the employee offers such documentation after the agency has proposed a reduction in grade or removal, he or she shall supply this information within the time limits allowed for a reply, whenever possible. After its review of the medical documentation supplied by the employee, the agency may, if authorized, require a medical examination under the criteria of § 339.301(a)(3) and the procedures of § 330.302 of this chapter, or otherwise, at its option, offer a medical examination in accordance with the criteria in § 339.301(d) and the procedures of § 339.302 of this chapter. If the employee has five years of service, the agency shall provide information concerning disability retirement. The agency shall be aware of the affirmative obligations of the provisions of 29 CFR 1613.704, which require reasonable accommodation of a qualified employee who is handicapped.

(e) *Applications for disability retirement.* Section 831.501(d) provides that an employee's application for disability retirement shall not preclude or delay any other appropriate personnel action. Section 831.1203 sets forth the basis under which an agency shall file an application for disability retirement on behalf of an employee.

(5 U.S.C. 4305)

PART 752—ADVERSE ACTIONS

§ 752.04 [Amended]

3. In § 752.404, paragraph (c)(3) is added, paragraph (f) is revised, and paragraph (h) is added to read as follows:

* * * * *

(c) *Employee's answer.* * * *

(3) If the employee wishes the agency to consider any medical condition which may contribute to a conduct, performance, or leave problem, the employee shall be given a reasonable time to furnish medical documentation (as defined in § 339.102 of this chapter) of the condition. Whenever possible, the employee shall supply such documentation within the time limits allowed for an answer. After its review of the medical documentation supplied by the employee, the agency may, if authorized, require a medical examination under the criteria of § 339.301(a)(3) and the procedures of § 339.302 of this chapter, or otherwise, at its option, offer a medical examination in accordance with the criteria of § 339.301(d) and procedures of § 339.302 of this chapter. If the employee has five years of service, the agency shall provide information concerning disability retirement. The agency shall be aware of the affirmative obligations of the provisions of 29 CFR 1613.704, which require reasonable accommodation of a qualified employee who is handicapped.

* * * * *

(f) *Agency decision.* In arriving at its decision, the agency shall not consider any reasons for action other than those specified in the notice of proposed action. It shall consider any answer of the employee and/or his or her representative made to a designated official and any medical documentation furnished under paragraph (c) of this section. The agency shall deliver the notice of decision to the employee at or before the time the action will be effective, and advise the employee of appeal rights.

* * * * *

(h) *Applications for disability retirement.* Section 831.501(d) of this chapter provides that an employee's application for disability retirement shall not preclude or delay any other appropriate personnel action. Section 831.1203 of this chapter sets forth the basis under which an agency shall file an application for disability retirement on behalf of an employee.

(5 U.S.C. 7514)

PART 831—RETIREMENT

4. Section 831.109(b) is revised to read as follows:

§ 831.109 Initial decision and reconsideration.

* * * * *

(b) *Actions covered elsewhere.* (1) A request for reconsideration of

termination of annuity payments under 5 U.S.C. 8311–22 shall be made in accordance with the procedures set out in Subpart K of this part.

(2) A request for reconsideration of a decision to collect an erroneous annuity overpayment shall be made in accordance with § 831.1303(b) of this part.

* * * * *

5. Under § 831.501, paragraph (d) is revised and paragraph (e) added, to read as follows:

§ 831.501 Time for filing applications.

* * * * *

(d) An employee's application for disability retirement shall not preclude or delay any other appropriate personnel action by the employing agency.

(e) When a department or agency files an application for disability retirement of an employee, it shall do so in accordance with Subpart L of this part. Medical documentation shall be obtained in accordance with Part 339 of this chapter.

6. In § 831.502, paragraph (a) is amended by removing the definition of "medical information" and adding alphabetically the definitions listed below; and paragraph (b) is revised to read as follows:

§ 831.502 Disability retirement.

(a) * * *

"Examination" and "reexamination" mean an evaluation of evidentiary material related to the question of disability. Unless OPM exercises its choice of physician, the cost of providing medical documentation rests with the employee or disability annuitant, who will provide any information necessary to OPM's evaluation.

"Income from wages and/or self-employment" means money or property received by a disability annuitant as consideration for or in reward of personal services or a work product, or as a profit from a business (sole proprietorship, partnership, or corporation) wholly or partly owned by the disability annuitant and in which the disability annuitant has an active role in the management thereof; and also includes, for a disability annuitant reemployed by the Federal Government, any amount offset or deducted under the provisions of 5 U.S.C. 8344. Income is deemed earned in the calendar year in which it is received.

"Medical documentation," "documentation of a medical condition," and "physician" have the same meaning given these terms in § 339.102 of this chapter. "Medical documentation" submitted under this part shall be submitted from a physician.

* * * * *

"Same grade or pay level" means, in regard to a vacant position within the same pay system as the position the employee presently occupies, the same grade and an equivalent amount of basic pay, as defined in 5 U.S.C. 8331(3); in regard to a vacant position in another pay system, an equivalent amount of basic pay, as defined in 5 U.S.C. 8331(3).

* * * * *

(b) *Proof of claim.* No claim for disability retirement shall be allowed unless OPM determines that the claim should be granted based upon documentation provided by the applicant or the agency which demonstrates the following:

(1) A deficiency in service with respect to performance, conduct or attendance, or in the absence of any actual service deficiency, a showing that the medical condition is incompatible with either useful service or retention in the position;

(2) A medical condition which is defined as a disease or injury;

(3) A relationship between the service deficiency and the medical condition such that the medical condition has caused the service deficiency;

(4) The duration of the medical condition, past and expected, and a showing that the condition, in all probability, will continue for at least a year;

(5) The applicant became disabled while serving under the Civil Service Retirement System;

(6) The agency's inability to make reasonable accommodation to the employee's medical condition; and

(7) The absence of another available position, within the employing agency and commuting area, at the same grade or pay level and tenure, for which the employee is qualified for reassignment. For this part, placement in the agency is limited to those facilities in the commuting area that are serviced by the same appointing authority.

* * * * *

7. Subpart L of Part 831 is revised to read as follows:

Subpart L—Disability Retirement on Application by an Agency

Sec.

831.1201 Scope.
831.1202 Definitions
831.1203 Basis for filing application.
831.1204 Agency procedure.
831.1205 Office of Personnel Management procedure.
831.1206 Cancellation of retirement.

Authority: 5 U.S.C. 8347

Subpart L—Disability Retirement on Application by an Agency

§ 831.1201 Scope.

This subpart prescribes the procedures to be followed when an agency files an application for the employee's disability retirement in the course of removing an employee.

§ 831.1202 Definitions.

"Medical documentation," "documentation of a medical condition," and "review of medical documentation," have the same meaning given these terms in § 339.102 of this chapter. "Medical documentation" submitted under this subpart shall be submitted from a physician.

§ 831.1203 Basis for filing application.

(a) An agency shall file an application for disability retirement of an employee who has five years of civilian Federal service under the following conditions:

(1) The agency has issued a decision to remove the employee;

(2) The agency concludes, after its review of medical documentation, that cause for the unacceptable performance, conduct, or attendance is due to disease or injury;

(3) The employee is institutionalized, or based on the agency's review of medical and other information, it concludes that the employee is incapable of making a decision to file an application for disability retirement;

(4) The employee has no personal representative or guardian; and

(5) The employee has no immediate family member who is willing to file an application on his or her behalf.

(b) When an agency issues a decision to remove and the conditions described in paragraph (a) of this section have not been satisfied but the removal is based on reasons apparently caused by a medical condition, the agency shall advise the employee in writing of his or her possible eligibility for disability retirement.

§ 831.1204 Agency procedure.

(a) The agency shall inform the employee in writing at the same time it informs the employee of its removal decision, or any time before the separation is effected, that: (1) The agency is submitting a disability retirement application on the employee's behalf to OPM, (2) the employee may review any medical information in accordance with the criteria in § 294.401(b) of this chapter, and (3) the action does not affect the employee's right to submit a voluntary application

for disability retirement under § 831.502 of this part.

(b) When an agency submits an application for disability retirement to OPM under this subpart, it shall provide OPM with copies of the decision to remove, the medical documentation, and any other documents needed to show that the cause for removal is due to a medical condition. Following separation, the agency shall provide OPM a copy of the documentation of the separation.

§ 831.1205 Office of Personnel Management procedure.

(a) OPM shall not act on any application for disability retirement under this subpart until it receives the appropriate documentation of the separation. When OPM receives a complete application for disability retirement under this subpart, it shall notify the former employee that it has received the application, and that he or she may submit medical documentation. OPM shall determine entitlement to disability retirement under the provisions of § 831.502 of this part.

(b) OPM shall issue its decision in writing to the employee and to the employing agency. The decision shall include a statement of findings and conclusions, and an explanation of the right to request reconsideration under § 831.109 of this part.

§ 831.1206 Cancellation of retirement.

OPM shall cancel any disability retirement when a final decision of an administrative authority or court reverses the removal action and orders the reinstatement of an employee to the agency rolls.

[FR Doc. 84-745 Filed 1-10-84; 8:45 am]
BILLING CODE 6325-01-M

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5 CFR Part 1001

Employee Responsibilities and Conduct

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This document modifies existing internal OPM regulations by amending a regulation concerning the misuse of official information to make it clear that the regulation does not permit discipline by way of reprisal against legitimate "whistleblowers." A regulation prohibiting OPM employees from making public agency disagreements or criticism of OPM officials is removed; a restriction on contracting with Federal employees is substituted. Finally, certain procedural and editorial changes have been made to regulations on the reporting of employment and financial interests.

EFFECTIVE DATE: January 11, 1984.

FOR FURTHER INFORMATION CONTACT: Lew Fischer, Office of the General Counsel, (202) 632-5506.

SUPPLEMENTARY INFORMATION: On January 13, 1981, the Merit Systems Protection Board issued an order stating its intention to review on its own motion OPM regulations at 5 CFR 735.206 and 5 CFR 1001.735-208 to "consider whether these regulations allow or impermissibly encourage the commission of prohibited personnel practices with respect to employees who disclose information which they reasonably believe evidences a violation of law, mismanagement, waste of funds, abuse of authority, or a danger to the public health or safety." In response to that order, OPM submitted a motion for a stay of that review based opon, among other things, a proposed revision of OPM regulations. That motion was granted and the revision herein is, in part, in response to the Board's order. Implementation of OPM regulations is subject to 5 U.S.C. 1103(b) and 1105; specifically excluded from this process are regulations that apply solely to OPM or its employees. Likewise, the regulations of an agency that are solely internal in applicability are not subject to Executive Order 12291, Federal Regulation, or the Regulatory Flexibility Act.

List of Subjects in 5 CFR Part 1001

Conflict of interests, Government employees.

U.S. Office of Personnel Management.

Donald J. Devine,

Director.

Accordingly, the United States Office of Personnel Management amends Part 1001 of Title 5 of the Code of Federal Regulations as follows:

PART 1001—EMPLOYEE RESPONSIBILITIES AND CONDUCT

1. Section 1001.735-205 is revised to read as follows:

§ 1001.735-205 Misuse of information.

(a) Except as provided in § 1001.735-203(b), an applicant or employee shall not, directly or indirectly, for the purpose of furthering a private interest, use or allow the use of official information which has not been made available to the general public and which has been obtained by such employee through, or in connection with, Government employment or application for Government employment.

(b) Nothing in this section shall permit the use of personnel actions against applicants or employees in reprisal for lawful disclosures of information made by such applicants or employees, to proper authorities, on the reasonable belief that the information thus disclosed evidences a violation of law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

2. Section 1001.735-208 is revised to read as follows:

§ 1001.735-208 Contracts between OPM and Government employees or former OPM employees.

(a) Contracts shall not knowingly be entered into between OPM and employees of the Government or business concerns or organizations which are substantially owned or controlled by Government employees, except for the most compelling reasons, such as cases where the needs of the Government cannot reasonably be otherwise supplied.

(b) Contracts shall not be entered into between OPM and former full-time, non-temporary OPM employees during the one year period following their termination from OPM employment, except where the participation of the former OPM employee is essential to obtaining the needed services.

(c) Exceptions under paragraphs (a) and (b) of this section shall be approved by the Associate Director, Administration Group, or his designee.

3. Section 1001.735-304 is revised to read as follows:

§ 1001.735-304 Applicability of other provisions.

Except for § 1001.735-208, the provisions of §§ 1001.735-206 through 1001.735-213 apply to special Government employees in the same manner as to employees.

4. Section 1001.735-401 is revised to read as follows:

§ 1001.735-401 Employees required to submit statements.

Employees shall submit statements of employment and financial interests in accordance with the criteria established in 5 CFR 735.403. An employee required to file a financial statement under the provisions of the "Ethics in Government Act of 1978" (Public Law 96-521) shall not file a statement under this Subpart.

5. Section 1001.735-402 is revised to read as follows:

§ 1001.735–402 Employee's complaint on filing requirement.

An employee who believes that his or her position has been improperly included as one requiring submission of a statement of employment and financial interests may obtain a review of that designation through the OPM internal grievance procedure.

6. Section 1001.735–403 is revised to read as follows:

§ 1001.735–403 Form of statements.

An employee required to submit a statement of employment and financial interests should submit that statement in the format prescribed by the Office of Personnel and EEO.

7. Section 1001.735–405 is revised to read as follows:

§ 1001.735–405 Supplementary statements.

Changes in, or additions to, the information contained in an employee's statement of employment and financial interests shall be reported in a supplementary statement, in the format prescribed by the Office of Personnel of OPM, as of September 30 of each year. If no changes or additions occur, a negative report is required. Notwithstanding the filing of the annual report required by this section, each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a violation of the conflict-of-interest provisions of section 208 of title 18, United States Code, or Subpart B of this Part.

8. Under § 1001.735–409, paragraphs (b) and (c) are removed; paragraph (d) is redesignated as (b) and is revised to read as follows:

§ 1001.735–409 Review of statements.

* * * * *

(b) When a statement submitted under this section indicates a conflict between the interests of an employee and the performance of services for the Government, and when the conflict or appearance of conflict cannot be resolved by the reviewing official, the information concerning the conflict shall be reported to the General Counsel of OPM. The employee concerned shall be given an opportunity to explain the conflict or appearance of conflict before remedial action is initiated.

9. Paragraph (b) of § 1001.735–412 is revised to read as follows: § 1001.735–412 Submission of statements by special Government employees.

(b) A special Government employee shall submit his statement of employment and financial interests in the format prescribed by the Office of Personnel and EEO of OPM. The statement shall be filed with the Assistant Director of OPM for Personnel, who shall review it for potential conflicts of interest before forwarding it to the Office of the General Counsel, where all such statements will be maintained. All such statements shall be accorded the confidentiality prescribed in § 1001.735–410.

* * * * *

Authority: Sec. 201, E.O. 11222.

[FR Doc. 84–744 Filed 1–10–84; 8:45 am]
BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

United States Standards for Grades of Canned Grapefruit and Orange for Salad

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule

SUMMARY: The purpose of this final rule is to revise the voluntary U.S. Standards for Grades of Canned Grapefruit and Orange for Salad. The final rule was developed by the United States Department of Agriculture (USDA) at the request of major segments of the citrus industry. This final rule revises the voluntary grade standards to: (1) Allow sliced oranges to be used in packing this product; and (2) replace dual grade nomenclature with single letter designations. Its effect will be to improve the grade standards and promote orderly and efficient marketing of grapefruit and orange for salad.

EFFECTIVE DATE: January 11, 1984.

FOR FURTHER INFORMATION CONTACT: Paul Jennings, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, Telephone (202) 447–6247.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated as a "nonmajor" rule. It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in cost or prices to consumers, individual industries, Federal, State, or local government agencies, or geographic regions. It will not result in significant effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601), because it reflects current marketing practices.

It is found that it is impracticable and contrary to the public interest to delay the effective date of the final rule in that: (1) Processing of the 1983 citrus crop has begun, and it is intended that this final rule be applicable to this crop; and (2) the major segments of the citrus industry have been apprised of this action and have requested that the changes incorporated in this revision be made effective as soon as possible. Therefore, this final rule is effective upon publication in the **Federal Register** (5 U.S.C. 533).

The currently effective standards for grades of canned grapefruit and orange for salad provide only for segmented fruit to be used in the product. This revision adds sliced oranges or a combination of segmented and sliced oranges, to segmented grapefruit as styles used in canned grapefruit and orange for salad for the purpose of describing product subject to grading. Sliced oranges are utilized in packing canned oranges, chilled oranges and chilled citrus salad.

Following the policy of making grade standards simpler to understand, the dual grade nomenclature is being replaced with single letter grades of "U.S. Grade A" and "U.S. Grade B."

On September 9, 1983, a proposed rule was published in the **Federal Register** (48 FR 40734). The comment filing period ended October 11, 1983. A comment was received from a citrus processor objecting to the proposed change. These objections were withdrawn by the processor at a later date. The Florida Citrus Processors Association, Florida Citrus Mutual, and the State of Florida, Department of Citrus all commented favorably and requested that the final rule be published as soon as practicable. After review of the comments and in order to promote orderly marketing of canned grapefruit and orange for salad, the USDA hereby revises the U.S. grade standards to: (1) Allow sliced oranges to be used in packing this product; and (2) replace dual grade nomenclature with single letter grade designations.

List of Subjects in 7 CFR Part 52

Fruit and vegetable, Food grades, Standards.

Accordingly, the United States Standards for Grades of Canned Grapefruit and Orange for Salad (7 CFR 52.1251–52.1264) are amended as follows:

PART 52—[AMENDED]

1. The Table of Contents of the Subpart is revised to read as follows:

Sec.
52.1251 Product description.
52.1252 Styles.
52.1253 Grades.
52.1254 Liquid media and Brix measurement.
52.1255 Fill of container.
52.1256 Minimum drained weight.
52.1257 Sample unit size.
52.1258 Determining the grade of a sample unit.
52.1259 Determining the rating for factors which are scored.
52.1260 Wholeness.
52.1261 Color.
52.1262 Defects.
52.1263 Character.
52.1264 Determining the grade of a lot.

2. Section 52.1251 is revised to read as follows:

§ 52.1251 Product description.

Canned grapefruit and orange for salad, commonly known as canned citrus salad, is prepared from sound, mature grapefruit (Citrus paradisi Macfadyen) and sound, mature oranges of the orange group (Citrus sinensis). The fruit ingredients have been properly washed, cored, with seeds and major portions of tough membrane removed. The grapefruit units are segmented and the orange units may be segmented or sliced. The product is packed with a suitable packing medium which may be water, fruit juice, nutritive carbohydrate sweeteners, artificial sweeteners, or any other safe and suitable ingredients permissible under the Federal Food, Drug, and Cosmetic Act. The product is sufficiently processed by heat to assure preservation in hermetically or aseptically sealed containers.

§ 52.1264 [Removed]

3. Section 52.1264 is removed.

§§ 52.1253–52.1264 [Redesignated from §§ 521252–52.1263]

4. Sections 52.1252 through 52.1263 are redesignated as §§ 52.1253 through 52.1264 respectively.

§ 52.1252 [Added]

5. A new § 52.1252 is added to read as follows:

§ 52.1252 Styles.

(a) Segmented.
(b) Mixed segmented and sliced.

§ 52.1253 [Amended]

6. Newly designated § 52.1253 is amended in paragraph (a) by removing the phrase "(or U.S. Fancy)" and in paragraph (b) by removing the phrase "(or U.S. Choice)".

§§ 52.1253, 52.1260, and 52.1263 [Amended]

7. Newly designated §§ 52.1253, 52.1260, and 52.1263 are amended by changing "segments" to "units" wherever it appears.

§§ 52.1260 and 52.1262 [Amended]

8. In newly designated §§ 52.1260 (a) introductory text, (a)(1); and (a)(2); and 52.1262 (a)(4) change the word "segment" to read "unit".

(Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended (7 U.S.C. 1622, 1624))

Done at Washington, D.C., on: January 5, 1984.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 84-665 Filed 1-10-84; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Part 212

[Docket No. R-0431]

Regulation L, Management Official Interlocks; Correction

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Correction.

SUMMARY: The Board is making a correction to a document on 12 CFR Part 212, Regulation L (Management Official Interlocks) published at 48 FR 57106 (December 28, 1983).

FOR FURTHER INFORMATION CONTACT: Melanie L. Fein, Senior Attorney, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551; (202) 452–3594.

SUPPLEMENTARY INFORMATION: The authority citation is amended to read:

Authority: 12 U.S.C. 3201, *et seq.*, 5 U.S.C. 19.

Board of Governors of the Federal Reserve System January 6, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-676 Filed 1-10-84; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 572a

[No. 83-767]

Extension of the Voluntary Assisted-Merger Program

Dated: December 30, 1983.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board ("Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC" or "Corporation"), has determined to extend operation of its Voluntary Assisted-Merger Program, which had been established on a test basis for six months ending December 31, 1983 to June 30, 1984. The Board's action is intended to extend the program for an additional six months in order to provide a better opportunity to use and study its benefits.

EFFECTIVE DATE: January 1, 1984.

FOR FURTHER INFORMATION CONTACT: Judith Gunderson, Attorney, (202/377–6439), or Gregory B. Smith, Attorney, (202/377–6454), of the Office of General Counsel, or Alan Hawkins, Office of the Federal Savings and Loan Insurance Corporation (202/377–6114), Federal Home Loan Bank Board, 1700 "G" Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: The Voluntary Assisted-Merger Program, Part 572a of the Rules and Regulations for the Federal Savings and Loan Insurance Corporation ("Insurance Regulations"), 12 CFR Part 572a, which was promulgated by the Board on June 9, 1983, Board Resolution No. 83–333, delegates to the Board's Principal Supervisory Agents authority to negotiate and approve certain mergers and acquisitions of eligible insured-institutions, as designated by the Board, and to authorize financial assistance from the FSLIC to facilitate such mergers and acquisitions. The authority delegated covers mergers and acquisitions assisted by the FSLIC and voluntarily entered into by the affected institutions. The Board's action was intended to permit earlier solution of relatively simple situations, to reduce the time and cost required to complete those solutions, and to encourage innovative approaches to the financial problems of insured institutions. However, the Board only viewed the program as a temporary measure necessitated by the exigencies of the adverse operating conditions, caused by high interest rates, experienced by the

thrift industry since 1980. Therefore, the Board established the program with a termination date of December 31, 1983. The Board has now determined that adverse operating conditions in the thrift industry continue to necessitate use of the program and that, therefore, the program should be continued for an additional six months.

List of Subjects in 12 CFR Part 572a

Savings and Loan Association, Voluntary Assisted Merger Program.

The Board finds that observance of the public notice and comment periods, pursuant to 5 U.S.C. 553(b) and 12 CFR 508.12, and delay of the effective date pursuant to 5 U.S.C. 553(d) and 12 CFR 508.14, are unnecessary and inappropriate in this case, because the regulation pertains to internal Board procedures and practices whereby currently exercised Board activities are delegated to its Principal Supervisory Agents.

However, the Board will entertain comments regarding this program in determining whether any changes are appropriate. Comments should be sent to the Director, Information Services, Office of Secretariat, Federal Home Loan Bank Board, 1700 "G" Street, N.W., Washington, D.C. 20552. Comments will be available for public inspection at the same address.

Accordingly, the Board hereby amends Part 572a of Subchapter D, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

Revise paragraph (a) of § 572a.6, as follows:

Regulations of the Federal Savings and Loan Insurance Corporation

PART 572a—OPERATIONS

§ 572a.6 Sunset.

(a) The Voluntary Assisted-Merger Program shall terminate on June 30, 1984, unless extended by regulatory amendment by the Corporation.

* * * * *

Authority: Secs. 401, 402, 403, 405, 406, and 407, 48 Stat. 1255, 1256, 1257, 1259 and 1260, as amended (12 U.S.C. 1724, 1725, 1726, 1728, 1729 and 1730); secs. 2 and 5, 28 Stat. 128 and 132, as amended (12 U.S.C. 1462 and 1464); Reorg. Plan No. 3 of 1947, CFR 1943–1948 Comp., p. 1071.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 84–700 Filed 1–10–84; 8:45 am]

BILLING CODE 6720–01–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 21

Special Calls for Futures and Options Information

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is amending Rule 21.02, 17 CFR 21.02, to require that for futures and option accounts future commission merchants, members of contract markets, introducing brokers, foreign brokers, and for options, contract markets, provide to the Commission upon special call the telephone numbers of persons for whom they carry accounts. In order to provide the Commission with a sampling frame for the conduct of its market-wide studies, the Commission is also adopting a new § 21.02a which authorizes the Commission to issue abbreviated special calls to futures commission merchants and other similar reporting entities. These abbreviated calls require the response to be in machine readable form. The rule as adopted includes an exemptive provision for those reporting entities which are unable to meet the technological requirements of the rule.

DATE: These rules shall be effective February 10, 1984.

ADDRESS: Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

FOR FURTHER INFORMATION CONTACT: Paul M. Architzel, Chief Counsel, Division of Economics and Education at the above address. Telephone: (202) 254–6990.

SUPPLEMENTARY INFORMATION: .

I. Background

On July 14, 1983, the Commission published for public comment proposed amendments to Rule 21.02 (48 FR 32188). These proposed amendments would have provided for an alternative to the manual tabulation of information as required by the existing rule. The proposed amendments to Rule 21.02 would have required that information which is carried by all future commission merchants on their data processing systems be provided in an automated manner to the Commission. This information would have provided a sampling frame from which the Comission could request additional information for a selected market sample. In addition, in order to permit the Commission readily to conduct in-depth follow-up surveys, the Commission proposed to amend Rule 21.02 to require that traders' telephone numbers be submitted upon special call.

The Commission provided for a forty-five day comment period on the proposed rules. In response, the Commission received comments from nine commentators. These included comments from five commodity exchanges, three futures commission merchants, and one industry association. In general, those commodity exchanges commenting on the proposed rule were opposed to its requirements, particularly n as they applied to the exchanges. The exchanges contended that they should have no reporting requirements for special calls under either existing Rule 21.02 or under other similar regulations.

Some commentators representing the futures commission merchant community, however, supported the concept embodied in the proposed rule. Indeed, one industry association which by its estimate represents those futures commission merchants handling approximately eighty percent of all futures contracts traded on U.S. exchanges,

> lauded the Commission's concept * * * and is of the view that collecting research data by modern sampling techniques would greatly facilitate the Commission's study of selected futures and options markets without placing undue burdens on the futures industry.

In this spirit, this commentator and other commentators representing futures commission merchants offered several technical suggestions which the Commission by-and-large has incorporated into the final rule.

The Commission is herein adopting an amendment to Rule 21.02 requiring that upon special call, in addition to the other information presently requested, the telephone numbers of traders as indicated on the records of the reporting entities be provided to the Commission. In addition, the Commission is adopting a separate regulation, new Rule 21.02a, which establishes an abbreviated special call procedure. These abbreviated special calls are intended to provide the Commission with a sampling frame for the conduct of its market-wide studies. Use of the sampling technique will permit the Commission to obtain more in-depth information about individuals using the markets while at the same time reducing the overall burden on reporting entities.

Moreover, the abbreviated special call requires that responses be in machine readable form. This will permit the Commission to draw a statistically valid

sample for its survey without devoting the resources necessary to tabulate manually a total enumeration of the market. Those resources will instead be focused on obtaining complete data for only the selected survey sample. The benefits from automating the initial request for information should also similarly accrue to the vast majority of reporting entities by reducing the amount of resources necessary to provide the Commission with statistically valid information. As in the proposed rule, an exemption provision has been included for those reporting entities who are unable to comply with the technological requirements of the rule.

II. Amendment of Rule 21.02

The Commission has determined to adopt the amendment to Rule 21.02, as proposed, requiring that the telephone numbers of traders be provided. Several commentators suggested that telephone numbers be reported to the Commission as carried on the existing business records of the future commission merchants. In this regard, they pointed out that not all customers provide telephone numbers to their futures commission merchants. Some customers may instead provide telex numbers, direct telephone lines or arrange for other means of communication.

The Commission cannot limit the reporting entities' responsibility for complying with a special call to merely providing information as it appears on its business records. Therefore, it may be necessary for the reporting entity to go beyond its records in order to comply. However, for the purposes of responding to a special call in the context of a market survey, it may be unnecessary, in certain limited instances, to require reporting entities to go beyond the information concerning customer telephone numbers carried on the reporting entities' ordinary business records. Accordingly, the Commission intends to treat responses to a market survey special call furnishing telephone numbers as being in compliance where such responses are prepared from, and accurately reflect, the ordinary business records of the reporting entities.[1]

III. Role of the Contract Markets

The various contract markets took general exception to the Commission's proposal. They objected in principle to the existing special call reporting requirements placed on the contract markets. They generally argued that the data required for the surveys of option markets are typically in the possession of futures commission merchants or exchange clearing members.[2] Accordingly, the contract markets objected to playing any role in the gathering and tabulation of survey information. They maintained that because the survey information is typically located with a different primary source, they should be spared the expense and inconvenience of playing an active role in surveying their markets.

Consistent with this argument, one commentator requested that existing Commission Rules 21.02 and 16.05, 17 CFR 21.02 and 16.05, be amended to remove from contract markets their existing special call obligations with respect to option contract markets. This commentator stated:

> In the course of assessing the implication * * * of the Commission's current proposals under Reg. § 21.02, it became clear that the flaws that are articulated in these comments are not confined to the pending matter but extend to existing Reg. § 21.02 as well as Reg. § 16.05 * * *.

In adopting final rules permitting the trading of options on commodity futures contracts, the Commission placed with the contract markets the responsibility for surveying their markets. Commission Rule 16.05 therefore specifically provides that contract markets designated for the trading of commodity options shall conduct market surveys upon call by the Commission and shall provide the indicated information on individual option traders to the Commission in the manner specified. In adopting this rule, the Commission noted that it:

> wishes to emphasize that the requirement that the contract markets collect large trader data is solely for the purpose of obtaining surveillance information, which, by its nature, is not suitable for determining certain market characteristics. This separate requirement of market surveys is therefore necessary to properly evaluate the option pilot program and the Commission has determined to adopt, as § 16.05, a requirement that the exchanges collect information and provide it to the Commission.
>
> 46 FR 54500, 54513 (November 3, 1981).

This provision is consistent with the overall thrust of the Commission's option program to regulate these additional markets with its existing available resources. As the Commission stated in connection with a related provision:

> To the extent practicable, the Commission intends to assume an oversight role in the option pilot program and to allow designated contract markets to assume primary responsibility in various areas, including market surveillance * * *. The Commission further believes there is no compelling reason to justify the expenditure of public funds to collect and process this data and that the costs of operating the system should be borne more directly by the principal beneficiaries of self-regulation.
>
> 46 FR 54513.

As the exchange commentators observed, Rules 16.05 and 21.02 in effect provide that the exchanges act as intermediaries between the futures commission merchants who possess the raw data and the Commission. This role is consistent with the Commission's intent that the self-regulators bear the regulatory burdens of the option program.[3] Accordingly, the Commission cannot agree with those exchange commentators who have petitioned to repeal the requirements in Rules 16.05 and 21.02 concerning exchange responsibility for responding to special calls on option markets. In this respect, the Commission reiterates its intention to require the exchanges to make three surveys of their option markets during the course of the pilot program.[4] *Compare*, 46 FR 54513.

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[1] One commentator suggested that unpublished telephone numbers should not be required to be reported to the Commission. The Commission cannot agree with this suggestion. Where a commodity trader has provided a telephone number to a futures commission merchant, whether published or unpublished, there can be no objection to the futures commission merchant providing that number to the Commission for statutorily mandated governmental functions. In this connection, it should be noted that telephone numbers typically will not be required to be reported in a total market enumeration survey, but rather would be required for only the selected sample. Thus, the number of unpublished telephone numbers which the Commission collects should be relatively small. Moreover, an individual's telephone number, whether published or unpublished, when located on a list of persons holding open positions in a futures or option market at the levels specified in a special call, is confidential under the provisions of Section 8 of the Commodity Exchange Act and will be treated by the Commission with the same confidence as is any other information which could link individuals to their specific business transactions or market positions.

[2] Under Commission regulation 16.02 contract markets are required to obtain reports from futures commission merchants or clearing members concerning the positions of reportable option traders. However, that information is not typically required for the vast number of option traders who hold positions below reportable levels.

[3] In this connection, one contract market suggested that the appropriate self-regulatory organization to conduct the surveys was the NFA. It suggested that the NFA would have better access to its members' records than would the exchanges. On the other hand, one FCM commentator suggested that the burden of reporting should be on the exchanges rather than on the FCMs. The Commission believed at the time it adopted the option regulations that the contract markets choosing to become designated option markets were the appropriate self-regulatory organizations to shoulder this burden. Nothing in the intervening period has changed that view.

[4] In the regulations establishing the pilot option program the Commission suggested that three

Continued

IV. Abbreviated Special Call

In addition to their general opposition to assuming reporting responsibilities for special call surveys, the contract markets were unanimously opposed to the proposed abbreviated procedure. Several exchange commentators specifically alluded to the relative burden of providing responses in machine readable form. They observed that the Commission must have overlooked the differing positions of exchanges and futures commission merchants because the discussion of the proposal in the **Federal Register** notice focused on the data processing systems of the futures commission merchants.

The Commission did not intend to suggest that it had overlooked the position or responsibilities of the contract market with respect to reporting in option contract markets. Rather, the proposal was based on the effect such a regulation would have on those who ultimately must furnish the information, the futures commission merchants and member firms. Accordingly, the Commission's failure to discuss specifically the exchanges' role was not intended to treat lightly their responsibilities, but rather was an effort to design a procedure which could be successfully implemented by the vast majority of reporting entities and to recognize that the ultimate burden of the regulation falls on those who actually possess the information.

In light of the comments received voicing concern over the application of the abbreviated special call to the exchanges, the Commission has determined not to include contract markets under the provisions of the abbreviated special call. Instead, the abbreviated procedure will be promulgated as a separate Commission rule, Rule 21.02a. Rule 21.02a is applicable only to futures commission merchants, members of contract markets, and foreign brokers. As discussed above, however, the Commission has determined not to revise existing Rules 21.02 or 16.05 to exempt contract markets from the responsibility for reporting for their option markets.

V. Rule 21.02a

In contrast to the exchanges, futures commission merchants had more specific, technical concerns. For example, the industry association commentator, representing a group of ninety-nine futures commission merchants, approved of the concept of the abbreviated special call but suggested technical amendments clarifying and simplifying certain aspects of the rule. Among these suggestions, the industry association advocated incorporating the format and coding structure into the rule. It reasoned that any changes in the reporting format from one special call to another would take considerable time and effort, partially defeating the economies to be gained from the rule. The Commission agrees with this observation and therefore has incorporated the format and coding structure into the provisions of the rule.

In this regard, in addition to including the coding and format structure in the rule, the Commission has also amended certain items in the format structure from that which was published in the proposal. In particular, the revised format structure provides that the customer's name and address be in a free format. The Commission has been assured by several commentators, including the industry association, that this will more closely align to common industry practice. Further, the Commission, as suggested, has provided that the reporting coding be the same as is used in the Commission's current Series 01 Reports. In addition, the Commission is specifying in the rule the medium for reporting. In this regard, the Commission has not made specific provision for reporting by means of other magnetic media as suggested by the comments. That provision has been incorporated into the proposed exemption provision as discussed below.

The industry association also commented that the date for reporting of information be prospective, that a period of at least thirty days advance notice be given before the information must be prepared, and that a period of at least ten days be provided before responses must be returned. The Commission has not specifically provided for such time periods in its rules. Such time periods may prove unnecessarily long after experience with the procedures has been gained.

Nevertheless, the Commission is mindful that sufficient time must be provided to reporting entities in order for them to make required computer programming changes and, where relevant, to submit petitions for exemptions to the Commission and to permit the Commission sufficient time to consider those petitions. Moreover, although the Commission has not adopted in the regulation a specific time period after the call date by which the response must be submitted, the Commission has without exception in the past provided a reasonable period to the reporting entities to prepare and submit their responses. The Commission intends to continue to follow these policies of providing adequte time both before and after the special call date but believes that flexibility as to the timing of future calls is needed.

The industry association also suggested in its comments that for purposes of the abbreviated call the information required only be that which actually appears on the reporting entities' records for that business day. A reporting entity, therefore, would be deemed in compliance even if the information provided, that which is routinely carried on its books, did not exactly correspond with the information required by the regulation.

Although the purpose of automating the abbreviated special call procedure is to make use of existing, automated data as much as possible, and thereby to reduce the costs of reporting, the Commission cannot permit reporting entities to deviate substantially from the information and format required. Otherwise, the call may result in data which is unacceptable or unusable for sampling purposes. For example, the address of account holders may be relevant where the sample is to be stratified by geographical location. Moreover, non-compliance by one or more of the reporting entities which invalidates their responses may unacceptably skew the overall statistical results. Accordingly, the Commission cannot accept as complying with the special call substantial substitutions in the required information.

Where a futures commission merchant does not carry the required information in its computer systems or cannot provide it in a form which permits it substantially to comply with the reporting requirements, however, a petition for exemption may be appropriate. For example, where a futures commission merchant's entire automated record system lacks one of the required elements which can only be

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market wide surveys would be required by the Commission. 46 FR 54513. The Commission has recently issued a special call for various contract markets, including option markets, in connection with the study required by Section 23 of the Act. Because this call requested information on both futures and options, for purposes of efficiency, it was issued pursuant to Rule 21.02 directly to futures commission merchants and clearing members, but not contract markets. The Commission intends, however, when conducting future studies of option markets, to issue special calls on the option contract markets. In consideration of those entities who actually possess the required information, however, the Commission will accept the response already received for information concerning those option contract markets included in the recent special call as fulfilling the first required survey for those particular option markets.

cross-referenced manually, the reporting entity may be able to demonstrate its technological inability to meet the abbreviated special call provision. Where, however, the business records of the reporting entity generally provide the information required in the special call, and only occasionally is the required information omitted, and where such minor differences do not affect the overall validity of the sampling process, such responses may be deemed to be in substantial compliance with the regulation.

Finally, the industry association noted that reporting entities should be specifically authorized to permit service bureaus to report such information on their behalf to the Commission. The Commission recognized in its discussion of the proposed rules that many of the reporting entities may contract with third parties for the performance of their automatic data processing. The Commission recognizes that third party service contractors may be the actual firms reporting to the Commission on behalf of the reporting entities. Accordingly, the Commission does not believe that specific provision in the rule permitting this practice is necessary. The Commission notes, however, that although private contractual arrangements may shift the actual reporting to a third party, the legal responsibility for compliance rests with the reporting entity.

VI. Exemption Provision

The Commission has retained an exemptive provision from the proposed rule. Several smaller reporting entities noted that their automatic data processing hardware was incompatible with the Commission's. The Commission reiterates that it does not expect reporting entities to acquire new hardware nor to completely revise an existing data-base in order to comply with this regulation. Rather, the intent of the regulation is to reduce the existing burden of manual tabulation of responses to special calls by substituting, where technically feasible, procedures which use existing automated data processing systems.

In this respect, several commentators questioned whether sufficient uniformity of automatic data processing equipment exists within the industry to permit this objective to be obtained. From the comments received by the Commission, it appears that a very high percentage of the recordkeeping of the futures industry is carried on systems which are compatible with the format and coding requirements being promulgated by the Commission in this rule. Nevertheless, where a reporting entity is able to report in machine readable form but is not able to meet the medium, format or coding requirements of the rule, it may file a petition for exemption from specific provisions of the rule. In such cases, the Director of the Division of Economics and Education will consider alternative media, format or coding requirements.

In order to facilitate and expedite decisions on petitions for exemption, and in light of the technical nature of those decisions, the Commission has provided in the final rule for the Director of the Division of Economics and Education to make those determinations. Under the rule as herein adopted, the Director of the Division of Economics and Education has the discretion to permit a response in a machine readable form that does not comply with the specifications of the rule, or to relieve entirely the reporting entity from the requirement of machine readable reporting by providing that the response be filed as if the special call were issued under Section 21.02. In light of these facts, the Commission is confident that its intent in adopting this rule can be achieved while at the same time not increasing costs to those reporting entities which are currently unable to meet the technical requirements for compliance.

VII. Related Issues

A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.*, requires that agencies, in adopting rules, consider their impact on small businesses. Analysis of the final rule amendments to Section 21.02 are not required, however, since the Commission has previously determined that the reporting entities, such as future commission merchants and contract markets, are not "small entities" for purposes of the RFA. 47 FR 18618–18621 (April 30, 1982). Accordingly, pursuant to Section 3(a) of the RFA, 5 U.S.C. 605(b), the Chairman, on behalf of the Commission, certifies that these rules will not have a significant economic impact on a substantial number of small entities.[5]

B. Paperwork Reduction Act

This rule reduces an existing paperwork requirement by amending an existing rule which already has been assigned an Office of Management and Budget ("OMB") control number. The Commission assumes that the resulting new and amended rules will be assigned the same OMB control number. Accordingly, the Commission has submitted to the Director of the Office of Management and Budget pursuant to the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) an explanation and details of the information collection required under this rule. Commission Rule 21.02 has previously been issued a control number pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). The amendment of that rule, new Rule 21.02a, being adopted herein serves in effect to reduce materially the existing paperwork requirements.

Several commentators questioned the Commission's filing under the Paperwork Reduction Act in connection with the proposed rule. These commentators noted that the Commission in its filing under Rule 21.02 referred to the paperwork requirements of futures commission merchants and foreign brokers, but did not refer to the reporting burden under the proposed rule on option contract markets. In this respect the commentators noted that the filings by the Commission under OMB No. 3038–0017:

> contain literally nothing to support imposing information collection burdens on contract markets and, in fact, fail even to identify the contract markets as affected parties.

The Commission is aware that its filings under OMB No. 3038–0017 do not specifically refer to the obligations of contract markets to respond to market-wide special calls. However, when the Commission enacted the pilot program, OMB assigned control number 3038–0007 to all regulations enacted or amended by that program, including Rules 16.05 and 21.02. 46 FR 54514, 54515. *See also*, Display of Office of Management and Budget (OMB) Control Numbers for Reporting and Recordkeeping Requirements. 46 FR 63035, 63036 (December 30, 1981).

The Office of Management and Budget has been notified by the Commission of the adoption of this rule and a copy of this **Federal Register** notice has been provided to that agency.

List of Subjects in 17 CFR Part 21

Special calls for information, Futures commission merchants, Records and recordkeeping requirements, Machine readable.

In consideration of the foregoing and pursuant to the authority contained in

[5] While analysis under the RFA is not required, the Commission observes that the amendments are intended to streamline existing reporting requirements and to reduce existing paperwork burdens. It should also be noted that the rule provides an exemptive provision for any firm which is unable technologically to comply with the requirements of the rule. This exemption should provide relief to any reporting entity which fails to possess the prerequisite technical capability for compliance.

the Commodity Exchange Act and in particular, Sections 4c, 4f, 4g, 4i, 5(b), and 8a(5) of the Act, 7 U.S.C. 6c, 6f, 6g, 6i, 7(b) and 12a(5) (1982), the Commission hereby amends Chapter 1 of Title 17 of the Code of Federal Regulations by amending § 21.02 and by adding § 21.02a as follows:

PART 21—[AMENDED]

1. Section 21.02 is amended by revising the section heading and paragraph (a) as follows:

§ 21.02 Special calls for information.

* * * * *

(a) The name, address, and telephone number of the person for whom each account is carried;

* * * * *

2. New § 21.02a is added as follows:

§ 21.02a Special Calls for Information—Sample Surveys.

(a) Upon special call by the Commission for information relating to futures and/or option positions held on the dates specified in the call, each futures commission merchant, member of a contract market and foreign broker shall furnish to the Commission in accordance with paragraph (b) below the following information concerning accounts of traders owning or controlling such futures and/or option position as may be specified in the call:

(1) Account number;

(2) The name and address of the person for whom each account is carried; and

(3) The number of open futures and/or options contracts carried in each account as specified in the call.

(b) Except as provided in paragraph (c), the information shall be furnished in the following form and manner:

(1) *Reporting Medium.* Except as otherwise specifically approved by the Commission, information shall be provided on nonlabeled, unblocked nine track, 1600 BPI tapes with EBCDIC encoded card images.

(2) *File Layout.* All required machine records shall be submitted together in a single file. Each record will be 80 characters long with a record type indentifier in the first four positions and a record sequence indentifier in the last eight positions. Specific record formats are a set of COBOL language record descriptions. Four records are defined as follows:

(i) Type 400A records are an identification record used to pass data specifying the firm that is reporting. One 400A record should be included in the file.

(ii) Type 410B and 411C records are account identification records. Type 410B records are used to furnish account numbers. A series of type 411C records are used to transmit the name and address of the accounts. A series of 411C records should follow each 410B record.

(iii) Type 520E records are open position records. A series of 520E records should follow the last 411C record for each account.

(3) The required records are as follows:

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01  0-T-400A.
    05 0-T-REPORT TYPE—PIC X (4)
       Value 400A.
    05 0-T-REPORT DATE—PIC X (6).
    05 0-T-REPORTING-FIRM-NAME—
       PIC X (55).
    05 FILLER—PIC X (7).
    05 0-T-SEQUENCE—PIC 9 (8).
01  0-T-410B.
    05 0-T-RECORD-TYPE—PIC X (4)
       Value 410B.
    05 0-T-ACCOUNT-NUMBER—PIC X
       (48).
    05 FILLER—PIC X (20).
    05 0-T-SEQUENCE—PIC 9 (8).
01  0-T-411C.
    05 0-T-RECORD-TYPE—PIC X (4)
       Value 411C.
    05 0-T-ACCOUNT-NAME-STREET-
       ADDRESS—PIC X (68).
    05 0-T-SEQUENCE—PIC 9 (8).
01  0 T-520E.
    05 0-T-RECORD-TYPE—PIC X (4)
       Value 520E.
    05 0-T-COMMODITY ID—PIC X (6).
    05 0-T-DELIVERY-OR-
       EXPIRATION-MONTH—PIC X (4).
    05 0-T-PUT OR CALL OPTION—PIC
       X (1).
    05 0-T-STRIKE-PRICE—PIC 9 (8).
    05 0-T-OPEN-LONG-POSITION—
       PIC 9 (8).
    05 0-T-OPEN-LONG-POSITION—
       PIC 9 (8).
    05 FILLER—PIC X (33).
    05 0-T-SEQUENCE—PIC 9 (8).
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(4) *Field Definitions.* Field definitions for each record are as follows:

(i) *Record Type Identifier.* Unique identifier used by CFTC to transmit the format and implied meaning of data in a record. Valid values are 400A, 410B, 411C, and 520E.

(ii) *Report Date.* This is the date specified in the call for which the futures commisssion merchant or member provides position information. Dates should be encoded as six numeric characters—YYMMDD where YY is the last 2 digits of the year, MM is the month, and DD is the day of the month coded with a leading 0 for months and days 1–9.

(iii) *Reporting Firm Name.* The name of the firm which must respond to the Commission's call. The name of the firm is left justified in the field.

(iv) *Account Number.* A unique identifier for each account reported to the Commission under the 21.2(a) call. This can be any sequence of alphanumeric characters not to exceed 48 characters which are left justified in the field.

(v) *Name and Address.* The name and address of the person (individual or firm) for whom the account is carried. No specific format is required. Information is encoded in columns 5 through 72 on the 411C records. One 411C record corresponds to one line of characters used by respondents to maintain customer name and address on their system. There is no limit on the number of 411C records which can be used to transmit the information.

(vi) *Commodity ID.* A 6-digit numeric sequence uniquely identifying a contract traded on a particular exchange. The 6-digit numbers will be supplied by the Commission in the special call.

(vii) *Year and Month.* The year and month of delivery of the commodity specified in the futures contract, encoded as for characters YYMM. YY is the last two digits of the year and MM is the month, with a leading 0 for months 1–9.

If options information is being transmitted, this corresponds to the delivery month and year of the future upon which the option is traded or, in the case of options on physicals, the options expiration month and year.

(viii) *Put or Call Identifier.* If the 520E record is used to transmit futures data, this field is blank. For put options, encode this field with a "P," for call options a "C".

(ix) *Strike Price.* For futures information, this field is blank. For options, the first position is a decimal indicator (D) and in the second through eighth positions the integer strike price (IIIIIII). The value of the option strike price is computed IIIIIII*EXP10)(−D). Thus, 30004375 is interpreted as 4375*EXP10(−3)=4.375=4⅜.

(x) *Open Long (Short) Positions.* Total number of long (short) contracts in the commodity specified in the call that open on the firm's books for a particular account as of the end of the trading day specified in the call. The field should be zero filled with right justified integers from 0 to 9999999.

(c) Response to special calls made pursuant to this section may be satisfied by responding as if the special call were issued under § 21.02 of this Chapter, or in machine-readable form in a manner other than that specified in paragraph (b), in the discretion of the Director of

Economics and Education, upon a showing that the futures commission merchant, member of a contract market, or foreign broker is not able technologically to provide the information in the form required by this section. Petitions for exemption under this paragraph must be filed sufficiently in advance of the date specified in the special call to provide the Director with a period for consideration of the petition which is reasonable under the circumstances.

Issued in Washington, D.C., on January 6, 1984, by the Commission.

Jane K. Stuckey,

Secretary to the Commission.

[FR Doc. 84-726 Filed 1-10-84; 8:45]

BILLING CODE 6351-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Regulations No. 16]

Supplemental Security Income; Burial Spaces and Certain Funds Set Aside for Burial Expenses

Correction

In FR Doc. 83-34360, beginning on page 57125, in the issue of Wednesday, December 28, 1983, in the second column, in the "EFFECTIVE DATE" paragraph, in the second line, the date should read "December 28, 1983".

BILLING CODE 1505-01-M

Food and Drug Administration

21 CFR Part 546

Tetracycline Antibiotic Drugs for Animal Use; Tetracycline Boluses

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by American Cyanamid Co. proposing that the marketing status of its tetracycline hydrochloride (TCHCl) calf bolus be changed from use by or on the order of a licensed veterinarian to over-the-counter (OTC) use.

EFFECTIVE DATE: January 11, 1984.

FOR FURTHER INFORMATION CONTACT: Charles E. Haines, Bureau of Veterinary Medicine (HFV-133), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3410.

SUPPLEMENTARY INFORMATION: American Cyanamid Co., Berdan Ave., Wayne, NJ 07470, filed a supplement to its approval NADA 65-270 proposing OTC use of Polyotic® Tetracycline Hydrochloride Oblets®. The oblets (boluses) contain 500 milligrams of TCHCl each and are administered to calves for control and treatment of bacterial enteritis (scours) caused by *E. coli* and bacterial pneumonia caused by *Pasteurella* spp., *Hemophilus* spp., and *Klebsiella* spp. The supplement is approved and the regulations are amended to reflect the approval.

This is a Category II supplement (42 FR 64367; December 23, 1977) involving a change in marketing status from prescription to OTC for the specified indications. Because tetracycline (oxytetracycline, chlortetracycline, and tetracycline) calf boluses are readily available OTC, the use of and exposure to residues of, tetracycline should not be greatly affected. Therefore, a reevaluation of underlying safety and effectiveness data was not required. The basis of approval of this supplement is discussed in the **Federal Register** of May 11, 1982 (47 FR 20111).

Approval of this supplement is an administrative action that did not require generation of new effectivenss or safety data. Therefore, a freedom of information summary (pursuant to 21 CFR 514.11(e)(2)(ii)) is not required for this action.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a signficant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 546

Animal drugs, Antibiotics, Tetracycline.

PART 546—TETRACYCLINE ANTIBIOTIC DRUGS FOR ANIMAL USE

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i) and (n), 82 Stat. 347, 350-351 (21 U.S.C. 360b(i) and (n))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 546.180c *Tetracycline boluses* is amended in paragraph (c)(6)(i)(*b*) by removing the last phrase "Federal law restricts this drug to use by or on the order of a licensed veterinarian." and by removing the semicolon after the word "tetracycline," and inserting in its place a period.

Effective date. January 11, 1984.

(Sec. 512(i) and (n), 82 Stat. 347, 350-351 (21 U.S.C. 360b(i) and (n)))

Dated: January 4, 1984.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 84-690 Filed 1-10-84; 8:45 am]

BILLING CODE 4160-01-M

POSTAL SERVICE

39 CFR Part 10

International Express Mail Service to Belgium

AGENCY: Postal Service.

ACTION: Final action on International Express Mail Service to Belgium.

SUMMARY: Pursuant to an agreement with the postal administration of Belgium, the Postal Service intends to begin International Express Mail On-Demand Service with Belgium at postage rates indicated in the table below. Service is scheduled to begin on February 11, 1984.

EFFECTIVE DATE: February 11, 1984.

FOR FURTHER INFORMATION CONTACT: Leon W. Perlinn, (202) 245-4414.

SUPPLEMENTARY INFORMATION: By a notice published in the **Federal Register** on December 7, 1983 (48 FR 54831), the Postal Service announced that it was proposing to begin International Express Mail On-Demand Service to Belgium. Comments were invited on a published rate table, which is a proposed amendment to the International Mail Manual (incorporated by reference in the Code of Federal Regulations, 39 CFR 10.1), and which is to become effective on the date service begins. No comments were received.

Accordingly, the Postal Service states that it intends to begin International Express Mail On-Demand Service with Belgium on February 11, 1984 at the rates indicated in the table below.

List of Subjects in 39 CFR Part 10

Postal Service, Foreign relations.

BELGIUM—INTERNATIONAL EXPRESS MAIL

[On demand service [1]]

Up to and including Pounds	Rate	Up to and including Pounds	Rate
1	$20 00	18	$82 90
2	23 70	19	86 60
3	27 40	20	90 30
4	31 10	21	94 00
5	34 80	22	97 70
6	38 50	23	101 40

BELGIUM—INTERNATIONAL EXPRESS MAIL—Continued

[On demand service [1]]

Up to and including Pounds	Rate	Up to and including Pounds	Rate
7	42.20	24	105.10
8	45.90	25	108.80
9	49.60	26	112.50
10	53.30	27	116.20
11	57.00	28	119.90
12	60.70	29	123.60
13	64.40	30	127.30
14	68.10	31	131.00
15	71.80	32	134.70
16	75.50	33	138.40
17	79.20		

[1] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and international Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

A transmittal letter making these changes in the pages of the International Mail Manual will be published in the **Federal Register** as provided in 39 CFR 10.3 and will be transmitted to subscribers automatically.

(39 U.S.C. 401, 404, 407)

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 84-699 Filed 1-10-84; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-4-FRL 2504-7; KY-019]

Approval and Promulgation of Implementation Plans; Kentucky: Approval of Revisions to Appendix N of the Kentucky State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA today approves revisions to Appendix N of the Kentucky State Implementation Plan (SIP). Appendix N consists of regulations developed by the Air Pollution Control District of Jefferson County (the District), and applies only in Jefferson County, Kentucky; they are implemented by the District. EPA approval of the regulations enables the District to retain authority for all subject activities in Jefferson County.

EFFECTIVE DATE: This action will be effective March 12, 1984, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Written comments should be addressed to Melvin Russell of EPA Region IV's Air Management Branch (see EPA Region IV address below). Copies of the material submitted by Kentucky may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460;

Library, Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20005;

Air Management Branch, Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365;

Kentucky Department for Environmental Protection, 18 Reilly Road, Bldg. 2, Fort Boone Plaza, Frankfort, Kentucky 40601; and

Air Pollution Control, District of Jefferson County, 914 East Broadway, Louisville, Kentucky 40204

FOR FURTHER INFORMATION CONTACT: Melvin Russell of the EPA Region IV Air Management Branch at the above address, telephone 404/881-3286 (FTS 257-3286).

SUPPLEMENTARY INFORMATION: The Air Pollution Control District of Jefferson County (the District) develops and implements air quality regulations in Jefferson County, Kentucky. The District's regulations are at least as stringent as compatible Kentucky regulations. The District's regulations are incorporated by the State as part of the Kentucky SIP; in this manner, the State has the authority to implement the regulations in Jefferson County if the District cannot.

The SIP revisions affected by today's approval were adopted by the Air Pollution Control Board of Jefferson County on April 21, 1982, and submitted to EPA by Kentucky on July 19, 1982. The July 19, 1982, submittal consisted of only the revisions to the regulations. Because the regulations were numerous, and the revisions diverse, EPA requested the complete text of each revised regulation to ensure that the regulations for the District and the State, as reviewed and approved by EPA, were identical. Kentucky submitted the complete text of each revised regulation on March 21, 1983.

Discussion

The District has revised its regulations as follows:

I. The following volatile organic compound (VOC) regulations have been revised to have an applicability date of May 20, 1981.

A. Regulation 6.23 Standard of Performance for Existing Dry Cleaning Facilities

B. Regulation 6.29 Standard of Performance for Existing Graphic Arts Facilities Using Rotogravure and Flexography

C. Regulation 6.30 Standard of Performance for Existing Factory Surface Coating Operations of Flat Wood Paneling

D. Regulation 6.31 Standard of Performance for Existing Miscellaneous Metal Parts and Products Surface Coating Operations

E. Regulation 6.32 Standard of Performance for Leaks From Existing Petroleum Refinery Equipment

F. Regulation 6.33 Standard of Performance for Existing Synthesized Pharmaceutical Product Manufacturing Operations

G. Regulation 6.34 Standard of Performance for Existing Pneumatic Rubber Tire Manufacturing Plants

H. Regulation 7.23 Standards of Performance for New Perchloroethylene Dry Cleaning Systems

I. Regulation 7.56 Leaks From New Petroleum Refinery Equipment

J. Regulation 7.57 New Graphic Arts Facilities Using Rotogravure and Flexography

K. Regulation 7.58 Standards of Performance for New Factory Surface Coating Operations of Flat Wood Paneling

L. Regulation 7.59 Standards of Performance for New Miscellaneous Metal Parts and Products Surface Coating Operations

M. Regulation 7.60 Standards of Performance for New Synthesized Pharmaceutical Product Manufacturing Operations

N. Regulation 7.61 Standards of Performance for New Pneumatic Rubber Tire Manufacturing Plants

II. Regulation 6.36 Standard of Performance for Existing Metal Parts and Products Surface Coating Operations at Auto and Truck Manufacturing Plants

Section 6. Exemptions, has been revised to clarify that any facility using Section 6 of the regulation may elect to use the instantaneous arithmetic average of the coatings used in the coating line.

III. Regulation 6.13 Standard of Performance for Existing Storage Vessels for Volatile Organic Compounds

Section 1. Applicability, has been revised to clarify that the regulation applies to any affected facility "* * * which was in being or had a construction permit issued by the District before September 1, 1976, and

not subject to Regulation 7.12, and which has a storage capacity greater than 250 gallons."

IV. Regulation 6.24 Standard of Performance for Existing Sources Using Organic Materials

Section 2, Definitions, subsection (b) is revised to read as follows:

"Organic materials" means organic compounds which are used as dissolvers, reaction media, viscosity reducers, cleaning agents, *reactants*, diluents, or thinners, except that such materials which have a vapor pressure *less* than 0.5 mm Hg at 220 degrees Fahrenheit shall not be considered to be included unless exposed to temperatures exceeding 220 degrees Fahrenheit."

V. Regulation 1.04 Performance Tests, Section 2. Test Requirements, Subsection (a) has been revised to read as follows:

"The District may require, for cause, the owner or operator of any affected facility to sample emissions in accordance with *EPA test method procedures. Alternate procedures may be used in special circumstances upon advance approval by the District.* All tests shall be made under the direction of persons qualified by training and/or experience in the field of air pollution control."

VI. Regulation 2.01 General Application has been revised to complement the District's Regulation 2.04 Construction or Modification of Major Sources in or Impacting Upon Non-attainment Areas (emission offset requirements) and Regulation 2.05 Prevention of Significant Deterioration of Air Quality.

Regulation 2.01 is basically informative, and references applicable District regulations.

VII. Regulation 2.03 Permit Requirements—General, Section 8. Reconstructed Sources, has been revised to read as follows:

"A reconstructed source will be treated as a new source (unless (53) (*ii*) *d.* of Regulation 1.02 applies). However, any economic or technical limitations will be taken into account in assessing whether the emission standards for a new source are applicable. *Unless the reconstruction would also result in a major modification, the provisions of Regulations 2.04 and 2.05 shall not apply to a reconstructed source.*"

VIII. Regulation 2.07 Public Notification, Section 1. Opportunity for public comment and Section 2. PSD Notifications, have been revised to complement District Regulation 2.04 Construction or Modification of Major Sources in or Impacting Upon Non-attainment Areas (emission offset requirements), Regulation 2.05 Prevention of Significant Deterioration of Air Quality, and Regulation 2.12 Controlled Trading (including banking and bubble rules). Regulation 2.07 is basically informative and references the applicable District regulations.

IX. Regulation 7.12 Standards of Performance for New Storage Vessels for Volatile Organic Compounds

Section 5. Monitoring of Operations; Subsection (a) has been revised to read as follows:

"(a) The owner or operator of any storage vessel with a capacity greater than 40,000 gallons to which this regulation applies shall, for each such storage vessel, maintain a file of each type of volatile organic compound stored, *and* of the *maximum true* vapor pressure of *that liquid during the respective storage period.*"

X. Regulation 2.11 Air Quality Model Usage

This regulation has been revised to complement Regulation 2.12 Controlled Trading (Including Banking and Bubble Rules), and Regulation 2.05 Prevention of Significant Deterioration of Air Quality. The changes do not affect the approvability of the regulation. They serve only to clarify the precedures for implementing the previously approved regulation.

EPA has reviewed the entire text of the District's regulations addressed in items I through X above. EPA finds the recent revisions and the entire regulations approvable.

Action: EPA today approves the following Air Pollution Control District of Jefferson County regulations as part of Appendix N of the Kentucky SIP (See discussion section above for titles): Regulations 1.04, 2.01, 2.03, 2.07, 2.11, 6.13, 6.23, 6.24, 6.29, 6.30, 6.31, 6.32, 6.33, 6.34, 6.36, 7.12, 7.23, 7.56, 7.57, 7.58, 7.59, 7.60 and 7.61.

This action will be effective March 12, 1984. However, if we receive notice within 30 days that someone wishes to submit critical comments, we will withdraw this action and will publish two subsequent notices before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [60 days from today]. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Note.—Incorporation by reference of the Kentucky State Implementation Plan was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Incorporation by reference.

(Secs. 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502))

Dated: January 4, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart S—Kentucky

In § 52.920, paragraph (c) is amended by adding paragraph (41) as follows:

§ 52.920 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(41) Revisions to Appendix N, submitted July 19, 1982 and March 21, 1983, by the Kentucky Department for Environmental Protection.

[FR Doc. 84-689 Filed 1-10-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-4-FRL 2504-8; TN-007]

Approval and Promulgation of Implemention Plans; Tennessee: 1982 Revision of Nashville-Davidson County O_3 Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On February 3, 1983 (48 FR 5038), EPA proposed to approve Tennessee's revision to its ozone (O_3) State Implementation Plan (SIP) for the Nashville-Davidson County area. The plan submitted by the State/Local agency demonstrated that attainment of

the ozone standard would occur on or before December 31, 1982. Further, the plan revision meets all requirements of the Clean Air Act and EPA policy. No comments were received on this proposed action. Therefore, EPA today approves the revision to the Tennessee SIP for Metropolitan Nashville-Davidson County area.

DATE: This action is effective February 10, 1984.

ADDRESS: Copies of this revision are available for inspection at: The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408.

Copies of the SIP revision and other materials relating to this rulemaking are available for inspection at:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460;

EPA, Region IV, Air Management Branch, 345 Courtland Street, Atlanta, Georgia 30365; and

Tennessee Air Pollution Control Division, 150 9th North Ave., Terran Building, Nashville, Tennessee 37203.

FOR FURTHER INFORMATION CONTACT: Waymond Blackmon, EPA Region IV, Air Management Branch at 404/881-2864 (FTS: 257-2864).

SUPPLEMENTARY INFORMATION: The 1977 Amendments added a new Part D to Title I of the Clean Air Act. Under this Part, the States were required to revise their SIP's for all nonattainment areas and submit the revisions to EPA by January 1, 1979 (Sections 171-178 of the Act; Section 129(c) (uncodified) of Pub. L. 95-95). The revised plans were to provide for attainment by December 31, 1982, unless the State demonstrated that they could not attain either the ozone or carbon monoxide (CO) standard by that date despite the implementation of all reasonably available control measures (Sections 172(a)(2)), and requested an extension. If EPA approved this demonstration, the attainment date for ozone or CO could be extended up to December 31, 1987. States receiving such extensions were to submit a second SIP revision that provides for attainment by the approved attainment date and complies with all of the Part D requirements (Section 172(c)). These second SIP revisions had to be submitted by July 1, 1982 (Section 129(c) (uncodified), Pub. L. 95-95).

The State of Tennessee submitted its initial SIP revision for the Metropolitan Nashville-Davidson County ozone nonattainment area on February 13, 1979. The State requested that EPA extend the attainment date for the ozone standard in this area to December 31, 1987. EPA granted this request and approved the initial plan revision on August 13, 1980 (45 FR 53809). Tennessee submitted its 1982 ozone SIP revision on June 30, 1982. A full discussion of this SIP revision and of EPA's evaluation was contained in the February 3, 1983 (48 FR 5058), proposal notice and will not be repeated in detail here.

However, a brief discussion follows which presents the rationale for approving the plan revision. The ozone modeling analysis indicates that a 9.2% emission reduction will be needed to eliminate violations of the ozone standard in the area. Through adoption of rules and regulations for stationary sources and the Federal Motor Vehicle Emission Control Program, the local air agency demonstrated that a 35% reduction would occur by 1982, thus assuring an adequate margin over the 9.2% emission reduction calculated through use of ozone modeling. Because the present SIP demonstrates attainment of the ozone standard by December 31, 1982, EPA is rescinding the extension (until December 31, 1987) that had been granted when the 1979 SIP was approved. The new date for attainment of the ozone standard is December 31, 1982. The present submittal was evaluated using criteria that were applicable to the 1979 SIP. The State of Tennessee 1982 SIP for O_3 contains the appropriate stationary source control measures necessary to achieve the calculated emission reduction.

A 45-day public comment period was provided, ending March 21, 1983. During that time, no comments were received on the proposed action.

Action. EPA has found that Tennessee's 1982 ozone SIP revision for the Metropolitan Nashville-Davidson County area meets all requirements of the Clean Air Act and EPA policy. Moreover, there were no public comments on EPA's proposal to approve these revisions. Therefore, EPA approves these revisions to the Tennessee 1982 O_3 SIP for Metropolitan Nashville-Davidson County area.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

Note.—Incorporation by reference of the State Implementation Plan for the State of Tennessee was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Incorporation by reference.

(Secs. 110 and 172 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7502))

Dated: January 4, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart RR—Tennessee

1. In § 52.2220, paragraph (c) is amended by adding paragraph (54) as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(54) Revisions to the Part D ozone plan for the Nashville-Davidson County nonattainment area, submitted on June 30, 1982, by the Tennessee Department of Public Health.

* * * * *

§ 52.2230 [Amended]

2. In the attainment date table of § 52.2230, the "e" (indicating attainment by 12/31/87) in the "ozone" column of the entry for the Davidson County nonattainment area (Middle Tennessee Intrastate AQCR) is replaced with a "d" (indicating attainment by 12/31/82).

[FR Doc. 84-688 Filed 1-10-84; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 1

[FPR Temp. Reg. 64, Supp. 1]

Agency Requests for Delegations of Procurement Authority for the Acquisition of ADP Equipment and Services

AGENCY: General Services Administration.

ACTION: Temporary regulation, supplement.

SUMMARY: The purpose of this regulation is to extend the expiration date of FPR Temporary Regulation 64. This

regulation extended, clarified, and modified the GSA alternate procedure that agencies may use to submit individual requests for delegations of procurement authority to acquire ADP resources. This supplement provides a continuation of a reduction of paperwork burdens and increases the economy and efficiency of Federal agencies in accordance with the objectives of the Paperwork Reduction Act.

DATES: Effective date: December 1, 1983; Expiration date: September 30, 1984.

FOR FURTHER INFORMATION CONTACT: Mary A. Blake, Policy Branch (KMPP), Policy and Regulation Division (202–566–0194)

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 1, FPR Temporary Regulation 64, Supplement 1 is added to the appendix at the end of the chapter.

Federal Procurement Regulations, Temporary Regulation 64, Supplement 1

December 9, 1983.

To: Heads of Federal agencies.

Subject: Agency requests for delegations of procurement authority for the acquisition of ADP equipment and services.

1. *Purpose.* This supplement extends the expiration date of FPR Temporary 64.

2. *Effective date.* This regulation is effective December 1, 1983.

3. *Expiration date.* This regulation expires September 30, 1984, unless sooner superseded or canceled.

4. *Information and assistance.* For further information and assistance contact General Services Administration (KMPP), Washington, DC 20405, telephone FTS or local 566–0194, commercial toll 202–566–0194.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 84–648 Filed 1–10–84; 8:45 am]

BILLING CODE 6820–25–M

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41 CFR Part 101–11

[FPMR Amendment B–55]

Declassification of and Public Access to National Security Information

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This rule revises the procedures for the declassification of and public access to national security information in the legal custody or under the declassification jurisdiction of the National Archives and Records Service. This revision is required by the signing of Executive Order 12356 of April 2, 1982, (National Security Information) and the issuance of the Information Security Oversight Directive Number 1 of June 22, 1982. This rule affects the process for the mandatory declassification review of classified records by the National Archives and Records Service.

EFFECTIVE DATE: January 11, 1984.

FOR FURTHER INFORMATION CONTACT: Edwin A. Thompson (202–523–3165).

SUPPLEMENTARY INFORMATION: This regulation was published as a proposed rule on March 1, 1983 (48 FR 8498). Comments were received from 3 agencies. One agency recommended that the regulation should make a distinction between declassification of national security information and access to the declassified document under statute or regulation. A statement has been added to § 101–11.320 that documents declassified under the procedures in this regulation are still subject to the Freedom of Information Act, if accessioned agency records, or donor restrictions, if donated historical materials.

In response to concerns that notification to requestors of referrals for declassification review may reveal classified information, §§ 101–11.322–1 (a) and (b) and 101–11.323–1 (a) and (b) have been revised to clarify that NARS will not disclose to a researcher the name of the agency to which a referral has been made.

Two agencies expressed a preference for handling mandatory review of classified U.S. Government originated information and foreign government information (§§ 101–11.322 and 101–11.323) in the same way that mandatory review of classified White House originated information is handled. Because under Executive Order 12356 the Archivist of the United States has been given declassification authority only for White House information, this comment cannot be adopted.

The General Services Administration has determined that this rule is not a major rule for the purpose of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net costs to society.

List of Subjects in 41 CFR Part 101–11

Archives and records, Classified information, Freedom of information.

41 CFR Part 101–11 is amended as follows:

PART 101–11—RECORDS MANAGEMENT

1. The table of contents for Part 101–11 is amended by revising entries as follows:

Sec.

101–11.320 General provisions.
101–11.321 Public requests for mandatory review of classified information under Executive Order 12356.
101–11.322 Mandatory review of classified U.S. Government originated information.
101–11.322–1 NARS action.
101–11.322–2 Agency action.
101–11.323 Mandatory review of foreign government information provided to the United States in confidence.
101–11.323–1 NARS action.
101–11.323–2 Agency action.
101–11.324 Mandatory review of classified information originated by a defunct agency or received by a defunct agency from a foreign government.
101–11.324–1 NARS action.
101–11.323–2 Agency action.
101–11.325 Mandatory review of classified White House originated information and foreign government information received or classified in the White House less than 30 years old.
101–11.325–1 NARS action.
101–11.325–2 NARS appellate process.
101–11.325–3 Agency action.
101–11.326 Mandatory review of classified White House originated information and foreign government information received by or classified in the White House more than 30 years old.
101–11.327 Mandatory review of classified White House information in the custody of other agencies.
101–11.328 Liaison.
101–11.329 Requests for reclassification of information.
101–11.329–1 Information originated by or under the declassification jurisdiction of Federal agencies.
101–11.329–2 Information originated in the White House and under the declassification jurisdiction of the Archivist.
101–11.329–3 Appeals.

2. Subpart 101–11.3a is revised to read as follows:

Subpart 101–11.3a—Declassification of and Public Access to National Security Information

§ 101–11.320 General provisions.

Declassification of and public access to national security information and material (hereafter referred to as "classified information" or collectively termed "information") is governed by

Executive Order 12356 of April 2, 1982 (47 FR 14874, April 6, 1982), and by the Information Security Oversight Office Directive Number 1 of June 22, 1982 (47 FR 27836, June 25, 1982). Documents declassified in accordance with this regulation may be withheld from release under the provisions of 5 U.S.C. 552(b) for accessioned agency records or § 105–61.202 for donated historical materials.

§ 101–11.321 Public requests for mandatory review of classified information under Executive Order 12356.

United States citizens or permanent resident aliens, Federal agencies, or State or local governments wishing to request mandatory review of classified information which has been accessioned into the National Archives and Records Service or which has been donated to the Government should identify the records or information desired and apply in writing to the appropriate NARS depository listed in 41 CFR 105–61.5101. The documents or materials containing the information should be described with sufficient specificity to enable NARS to locate it with a reasonable amount of effort. When practicable, a request shall include the name of the originator and recipient of the information, as well as its date, subject, and file designation. If the information sought cannot be identified from the description provided or if the information sought is so voluminous that processing it would interfere with NARS' capacity to serve all requesters on an equitable basis, NARS shall notify the requester that, unless additional information is provided or the scope of the request is narrowed, no further action will be taken. NARS shall review for declassification and release the requested information or those declassified portions of the request that constitute a coherent segment unless withholding is otherwise warranted under applicable law.

§ 101–11.322 Mandatory review of classified U.S. Government originated information.

§ 101–11.322–1 NARS action.

(a) Information less than 30 years old. NARS shall promptly acknowledge receipt of a request for mandatory review of classified U.S. Government originated information, and within 20 calendar days of receipt of the request, shall forward the request together with copies of the documents containing the requested information to the agency which originated the information or the agency which the Archivist determines has primary subject matter interest. NARS shall inform the requester that referrals have been made to the appropriate Government agency.

(b) Information more than 30 years old. NARS shall acknowledge receipt of a request for mandatory review of classified U.S. Government originated information which NARS may review for declassification using systematic review guidelines and within 60 calendar days of receipt of the request will act upon it and notify the requester of the action taken. If additional time is necessary to make a declassification determination, NARS shall notify the requester of the time needed to process the request. Except in unusual circumstances, NARS will make a final determination within 1 year of the receipt of the request. Information which NARS may not declassify using the systematic review guidelines will be promptly forwarded, with copies of documents containing the requested information, to the responsible agency. NARS shall inform the requester that referrals have been made to the appropriate Government agency.

§ 101–11.322–2 Agency action.

Upon receipt of a request for mandatory review of classified U.S. Government originated information forwarded by NARS, the originating or responsible agency shall:

(a) Either make a prompt declassification determination and notify the requester accordingly, or inform the requester and NARS of the additional time needed to process the request. Except in unusual circumstances agencies shall make a final determination within 1 year.

(b) Notify NARS of any other agency to which it forwarded the request in those cases requiring the declassification determination of another agency.

(c) Forward the declassified reproductions to the requester with their determination and also notify NARS of that determination. When the request cannot be declassified in its entirety, the agency must also furnish to the requester (with a copy to NARS):

(1) A brief statement of the reasons the requested information cannot be declassified; and

(2) A statement of the right to appeal within 60 calendar days of receipt of the denial, the procedures for taking such action; and the name, title, and address of the appeal authority. The agency appellate authority shall make a determination within 30 working days following the receipt of an appeal. If additional time is required to make a determination, the agency appellate authority shall notify the requester and NARS of the additional time needed and provide the requester with the reason for the extension. The agency appellate authority shall notify NARS and the requester in writing of the final determination and of the reasons for any denial.

(d) Furnish to NARS a copy of each document released only in part, marked to indicate the portions which remain classified.

§ 101–11.323 Mandatory review of foreign government information provided to the United States in confidence.

§ 101–11.323–1 NARS action.

(a) Information less than 30 years old. NARS shall promptly acknowledge receipt of a request for mandatory review of foreign government information and, within 20 calendar days of receipt of the request, shall forward the request, together with copies of the documents containing the requested information, to the agency which initially received or classified the information. If unable to identify the agency, NARS will forward the request to the agency which has primary subject matter interest. NARS will inform the requester that referrals have been made to the appropriate Government agency.

(b) Information more than 30 years old. NARS shall acknowledge receipt of a request for mandatory review of foreign government information which NARS may review for declassification using applicable systematic review guidelines, and within 60 calendar days of receipt of the request will act upon it and notify the requester of the action taken. If additional time is necessary to make a declassification determination, NARS shall notify the requester of the time needed to process the request. Except in unusual circumstances, NARS will make a final determination within 1 year of the receipt of the request. Requests for information, which NARS cannot declassify using the systematic review guidelines will be promptly forwarded, with copies of the documents containing the requested information, to the responsible agency. NARS will notify the requester that referrals have been made to the appropriate Government agency.

§ 101–11.323–2 Agency action.

Upon receipt of a request forwarded by NARS for review of foreign government information, the agency shall:

(a) Either make a prompt declassification determination and notify the requester accordingly, or inform the requester and NARS of the additional time needed to process the request. Except in unusual

circumstances agencies shall make a final determination within 1 year.

(b) Notify NARS of any other agency to which it forwarded the request in those cases requiring the declassification determination of another agency.

(c) Forward the declassified reproductions to the requester with their determination and also notify NARS of that determination. When the request cannot be declassified in its entirety, the agency must also furnish the reproduction and information cited in § 101–11.322–2 (c) and (d).

§ 101–11.324 Mandatory review of classified information originated by a defunct agency or received by a defunct agency from a foreign government.

§ 101–11.324–1 NARS action.

NARS is responsible for declassification of all information in the custody of NARS originated by an agency which has ceased to exist and whose functions have not been transferred to another agency and of all foreign government information originally received or classified by such an agency. NARS will promptly acknowledge receipt of requests for such information, review the information using applicable systematic review guidelines, and, when necessary, consult with any agency having primary subject matter interest. NARS shall either make a prompt declassification determination and notify the requester accordingly, or inform the requester of the additional time needed to process the request. Except in unusual circumstances NARS shall make a final determination within one year. If the request is denied in whole or in part, the Assistant Archivist for the National Archives or the Assistant Archivist for Presidential Libraries will furnish the requester a brief statement of the reasons for denial and a notice of the right to appeal the determination within 60 calendar days to the Deputy Archivist of the United States (mailing address: General Services Administration (ND), Washington, DC 20408). Upon receipt of an appeal the Deputy Archivist shall, within 30 working days:

(a) Review the previous decision made to deny the information and, as necessary;

(b) Consult with the appellate authorities in any agency having primary subject matter interest in the information previously denied; and

(c) Notify the requester of the determination and make available to the requester any additional information that has been declassified as a result of the appeal.

§ 101–11.324–2 Agency action.

Upon receipt of a request forwarded by NARS for consultation regarding the declassification of information originated by a defunct agency or of foreign government information originally received or classified by a defunct agency, the agency with primary subject matter interest shall:

(a) Advise the Archivist whether the information should be declassified in whole or in part or should continue to be exempt from declassification; and

(b) Return the request to NARS along with a brief statement of the reasons any requested information should not be declassified.

§ 101–11.325 Mandatory review of classified White House originated information and foreign government information received or classified in the White House less than 30 years old.

Information originated by a President, the White House staff, by committees, commissions, or boards appointed by a President, or others specifically providing advice and counsel to a President or acting on behalf of a President (hereafter cited as White House originated information) is subject to mandatory review consistent with the provisions of applicable laws or lawful agreements that pertain to the respective Presidential papers or records. Unless precluded by such laws or agreements, White Houe originated information is subject to mandatory review 10 years after the close of the administration which created the materials or when the materials have been archivally processed, whichever occurs first.

§ 101–11.325–1 NARS action.

(a) NARS shall promptly acknowledge receipt of a request for mandatory review of such classified White House originated information and foreign government information received or classified in the White House.

(b) NARS will review the requested information, determine which agencies have primary subject matter interest, forward to those agencies copies of material containing the requested information, and request their recommendations regarding declassification.

(c) NARS will review the recommendations returned by the agencies and make its declassification determination within one year of receipt of the request, except in unusual circumstances.

(d) When the request cannot be declassified in its entirety, NARS will furnish the requester:

(1) A brief statement of the reasons the requested information cannot be declassified;

(2) Access to those portions of documents releasable only in part that constitute a coherent segment; and

(3) A notice of the right to appeal the determination within 60 calendar days to the Deputy Archivist of the United States (mailing address: General Services Administration (ND), Washington, DC 20408).

§ 101–11.325–2 NARS appellate process.

Upon receipt of an appeal, the Deputy Archivist shall within 30 working days:

(a) Review the decision made to deny the information;

(b) Consult with the appellate authorities in agencies having primary subject matter interest in the information previously denied;

(c) Notify the requester of the determination and make available to the requester any additional information which has been declassified as a result of the appeal; and

(d) Notify the requester of the right to appeal denials of access to the Director, Information Security Oversight Office (mailing address: General Services Administration (Z), Washington, DC 20405).

§ 101–11.325–3 Agency action.

Upon receipt of a request forwarded by NARS for consultation regarding declassification of White House originated information and foreign government information received by or classified in the White House, the agency with primary subject matter interest shall:

(a) Advise the Archivist whether the information should be declassified in whole or in part or should continue to be exempt from declassification; and

(b) Provide a brief statement of the reasons any requested information should not be declassified and return the reproductions to NARS;

(c) Return all reproductions referred for consultation including a copy of each document which should be released only in part, marked to indicate the portions which should remain classified.

§ 101–11.326 Mandatory review of classified White House originated information and foreign government information received by or classified in the White House more than 30 years old.

(a) NARS shall promptly acknowledge the receipt of a request for mandatory review of classified White House originated information and foreign government information received by or classified in the White House more than 30 years old, and shall act upon that

request within 60 calendar days. If additional time is necessary to make a declassification determination, NARS shall notify the requester of the time needed to process the request. NARS will make a final determination within 1 year of the receipt of the request, except in unusual circumstances.

(b) NARS shall review the information using applicable systematic review guidelines and will make available to the requester information declassified using those guidelines.

(c) Information which cannot be declassified by NARS using systematic review guidelines will be promptly forwarded to the agencies with primary subject matter interest and further processed in accordance with § 101–11.325–1 (b) through (d) and §§ 101–11.325–2 through 101–11.325–3.

§ 101–11.327 Mandatory review of classified White House information in the custody of other agencies.

Agencies having custody of classified White House information of a previous administration shall forward requests for mandatory review of such information to the Office of the National Archives (mailing address: General Services Administration (NND), Washington, DC 20408) together with copies of documents containing the requested information and the agency's recommendations regarding declassification. NARS will make a declassification determination on such requests after consulting with any other agency with primary subject matter interest and will reply to the requester. If the request is denied in whole or in part, the requester may appeal within 60 calendar days of receipt of the denial to the Deputy Archivist of the United States (mailing address: General Services Administration (ND), Washington, DC 20408). Appeals are processed in accordance to the procedures listed in § 101–11.325–2.

§101–11–328 Liaison.

To ensure that NARS will be able to respond promptly to mandatory review requests and appeals from denials, the head of each agency shall be requested to provide NARS with the current name, title, and address of the agency's designated mandatory review and appellate authority.

§ 101–11.329 Requests for reclassification of information.

§101–11.329–1 Information originated by or under the declassification jurisdiction of Federal agencies.

An agency may request NARS to temporarily close, re-review, and possibly reclassify records and donated historical materials originated by the agency which were declassified in accordance with E.O. 12356 or predecessor Orders. The agency shall submit the request in writing to the Assistant Archivist for the National Archives (NN) or to the Assistant Archivist for Presidential Libraries (NL) (mailing address: General Services Administration (NL), Washington, DC 20408). If the urgency of the matter precludes a written request, an authorized agency official may make a preliminary request by telephone. A written request shall follow the oral request within 5 workdays. In the request the authorized agency official shall:

(a) Identify the records or donated historical materials involved as specifically as possible;

(b) Explain the reason the agency believes a re-review and possible reclassification may be necessary in the interest of national security; and

(c) Provide any information the agency may have concerning any previous public disclosure of the information in the records or donated historical materials.

§ 101–11.329–2 Information originated in the White House and under the declassification jurisdiction of the Archivist.

Requests from agencies to re-view and possibly reclassify information originated by a President; the White House staff; committees commissions, or boards appointed by the President; or others specifically providing advice and counsel to a President or acting on behalf of a President and which has been declassified and disclosed shall be submitted in writing to the Archivist of the United States. In the request the authorized agency official shall:

(a) Specifically identify the record or donated historical material;

(b) Explain the reason the agency believes a re-review and possible reclassification may be necessary in the interest of national security; and

(c) Provide any information the agency may have concerning the public disclosure of the information in the records or donated historical material.

§ 101–11.329–3 Appeals.

NARS may appeal to the Director, Information Security Oversight Office, any re-review or reclassification request from an agency when, in the Archivist's opinion, the facts of previous disclosure suggest that such action is unwarranted or unjustified.

(Sec. 205 (c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: November 3, 1983.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 84–650 Filed 1–10–84; 8:45 am]

BILLING CODE 6820–26–M

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41 CFR Part 101–47

[FPMR Amdt. H–145]

Utilization and Disposal of Real Property Protection and Maintenance of Excess and Surplus Real Property

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: In order to avoid confusion that has been experienced in the past, this regulation clarifies and corrects certain inconsistences concerning the protection and maintenance of excess and surplus real property. Further, this regulation reflects current GSA policy requiring a written agreement between the disposal agency and the agency holding excess property in cases where the disposal agency will be required to pay for protection and mainteance.

EFFECTIVE DATE: January 11, 1984.

FOR FURTHER INFORMATION CONTACT: James H. Pitts, Office of Real Property (202) 535–7067.

SUPPLEMENTARY INFORMATION: GSA has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

Under the Federal Property Management Regulations, the holding agency is responsible for the expense of protection and maintenance of excess and surplus real property for not more than 12 months, plus the period to the first day of the succeeding quarter of the fiscal year after the date that the property is available for immediate disposition. Thereafter the disposal agency becomes financially responsible for protection and maintenance costs, although the holding agency remains responsible for protecting and maintaining the property. This

regulation clarifies and corrects inconsistencies concerning the protection and maintenance of excess and surplus real property. Further, this regulation reflects current GSA policy requiring a written agreement between the disposal agency and the agency holding excess property in cases where the disposal agency will be required to pay for protection and maintenance.

The purpose of the required written agreement concerning protection and maintenance costs is to provide a basis for budget requests and to establish a reasonable level of protection and maintenance for each property. The written agreement will specify the date the disposal agency will assume the financial responsibility for protection and maintenance, and it will state the payment of protection and maintenance costs by the disposal agency will be contingent upon whether Congress appropriates adequate funds for such purpose, to the disposal agency. The written agreement alone will not provide authority to obligate funds and an obligational document will be signed by the parties only if and when funds are made available by Congress to the disposal agency.

List of Subjects in 41 CFR Part 101–47

Surplus government property, and Government property management.

Accordingly, 41 CFR Part 101–47 is amended as follows:

1. The table of contents for Part 101.47 is amended by revising the following:

PART 101.47—[AMENDED]

Sec.
101–47.202–9 Expense of Protection and maintenance.
101–47.402 Protection and maintenance.
101–47.402–2 Expense of Protection and maintenance.

Subpart 101–47.2—Utilization of Excess Real Property

2. Section 101–47.202–9 is recaptioned and revised to read as follows:

§ 101–47.202–9 Expense of protection and maintenance.

When there are expenses connected with the protection and maintenance of the property reported to GSA, the notice ot the holding agency of the date of receipt (see § 101–47.202–8) will indicate, if determinable, the date that the provisions of §101.47–202–2 will become effectivce. Normally this will be the date of the receipt of the report. If because of actions of the holding agency the property is not available for immediate disposition at the time of receipt of the report, the holding agency will be reminded in the notice that the period of its responsibility for the expense of protection and maintenance will be extended by the period of the delay.

Subpart 101–47.4—Management of Excess and Surplus Real Property

3. Section 101–47.402 is recaptioned to read as follows:

§ 101–47.402 Protection and maintenance.

4. Section 101–47.402–1 is revised to read as follows:

§ 101–47.402–1 Responsibility.

The holding agency shall retain custody and accountability for excess and surplus real property including related personal property and shall perform the protection and maintenance of such property pending its transfer to another Federal agency or its disposal. Guidelines for protection and maintenance of excess and surplus real property are in § 101–47.4913. The holding agency shall be responsible for complying with the requirements of the National Oil and Hazardous Substances Pollution Contingency Plan and initiating or cooperating with others in the actions prescribed for the prevention, containment, or remedy of hazardous conditions.

5. Section 101–47.402–2 is recaptioned and revised to read as follows:

§ 101–47.402–2 Expense of protection and maintenance.

(a) The holding agency shall be responsible for the expense of protection and maintenance of such property pending transfer or disposal for not more than 12 months, plus the period to the first day of the succeeding quarter of the fiscal year after the date that the property is available for immediate disposition. If the holding agency requests deferral of the disposal, continues to occupy the property beyond the excess date to the detriment of orderly disposal, or otherwise takes actions which result in a delay in the disposition, the period for which that agency is responsible for such expenses shall be extended by the period of delay. (See § 101–47.202–9.)

(b) In the event the property is not transferred to a Federal agency or disposed of during the period mentioned in paragraph (a) of this section, the expense of protection and maintenance of such property from and after the expiration date of said period shall be either paid or reimbursed to the holding agency, subject to the limitations herein, which payment or reimbursement shall be in the discretion of the disposal agency. The maximum amount of protection and maintenance to be paid or reimbursed by the disposal agency will be specified in a written agreement between the holding agency and the disposal agency, but such payment or reimbursement is subject to the appropriations by Congress to the disposal agency of funds sufficient to make such payment or reimbursement. In accordance with the written agreement, the disposal agency and the holding agency will sign an obligational document only if and when Congress actually appropriates to the disposal agency, pursuant to its request, funds sufficient to pay or reimburse the holding agency for protection and maintenance expenses, as agreed. In the absence of a written agreement, the holding agency shall be responsible for all expenses of protection and maintenance, without any right of contribution or reimbursement from the disposal agency.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: November 29, 1983.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 84–645 Filed 1–10–84; 8:45 am]

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National Archives and Records Service

41 CFR Part 105–61

[GSA Order ADM 7900.2 CHGE 21]

Public Use of Records, Donated Historical Materials, and Facilities in the National Archives and Records Service

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This rule revises procedures relating to public access to national security information in the legal custody of the National Archives and Records Service. This revision is required by the signing of Executive Order 12356, National Security Information, on April 2, 1982, and the issuance of the Information Security Oversight Office Directive Number 1 of June 22, 1982. This rule affects the process of systematic and mandatory review for the declassification of classified records in the custody of the National Archives and Records Service.

EFFECTIVE DATE: January 11, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Edwin A. Thompson (202–523–3165).

SUPPLEMENTARY INFORMATION: This regulation was published as a proposed rule on February 10, 1983 (48 FR 6139). Comments were received from one agency which questioned whether

National Archives and Records Service (NARS) notification to requestors of referrals for declassification review was in conflict with Executive Order 12356. The language in § 105–61.104–4(a) (1) and (2) has been revised to clarify that NARS will not disclose to a researcher the name of the agency to which a referral has been made.

Several other clarifications have been incorporated into this final rule. A statement has been added to § 105–61.104 to remind requestors that documents declassified under the procedures in this regulation may be withheld from the public under Freedom of Information Act exemptions or, for donated historical materials, donor restrictions. Section 105–61.104–1(c) has been modified to ensure that NARS will be informed of the agency's final determination in the event of an appeal. There are also several minor editorial changes.

The General Services Administration has determined that this rule is not a major rule for the purpose of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 105–61

Archives and records, Classified information, Freedom of information, Government property management, Privacy.

41 CFR Part 105–61 is amended as follows:

PART 105–61—PUBLIC USE OF RECORDS, DONATED HISTORICAL MATERIALS, AND FACILITIES IN THE NATIONAL ARCHIVES AND RECORDS SERVICE

1. The table of contents for Subpart 105–61.1 is amended by revising entries for §§ 105.61.104 through 105–61.104–9 and by removing the entry for § 105–61.104–10 as follows:

Sec.
105–61.104 Access to national security information.
105–61.104–1 Freedom of Information Act requests.
105–61.104–2 Declassification responsibility.
105–61.104–3 Public requests for mandatory review of classified information under Executive Order 12356.
105–61.104–4 Mandatory review of classified U.S. Government originated information or foreign government information provided to the United States in confidence.
105–61.104–5 Mandatory review of information originated by a defunct agency or received by a defunct agency from a foreign government.
105–61.104–6 Mandatory review of classified White House originated information and foreign government information received or classified by the White House less than 30 years old.
105–61.104–7 Mandatory review of classified White House originated information and foreign government information received or classified by the White House more than 30 years old.
105–61.104–8 Access by historical researchers and former Presidential appointees.
105–61.104–9 Fees.

2. Sections 105–61.104, 105–61.104–1, 105–61.104–2, 105–61.104–3, and 105–61.104–4 are revised to read as follows:

§ 105–61.104 Access to national security information.

Declassification of and public access to national security information and material, hereinafter referred to as "classified information" or collectively termed "information," is governed by Executive Order 12356 of April 2, 1982 (47 FR 14874, April 6, 1982), the implementing Information Security Oversight Office Directive Number 1 of June 22, 1982 (47 FR 27836, June 25, 1982), and the Freedom of Information Act (5 U.S.C. 552). Documents declassified in accordance with this regulation may be withheld from release under the provisions of 5 U.S.C. 552(b) for accessioned agency records or § 105–61.202 for donated historical materials.

§ 105–61.104–1 Freedom of Information Act requests.

(a) *Requests for access to national security information under the Freedom of Information Act.* Requests for access to national security information under the Freedom of Information Act are processed in accordance with the provisions of § 105–61.103–1(b). Time limits for responses to Freedom of Information Act requests for national security information are those provided in the act rather than the longer time limits provided for responses to mandatory review requests specified by Executive Order 12356.

(b) *Agency action.* Upon receipt of a request forwarded by NARS for a determination regarding declassification, the agency with declassification responsibility shall:

(1) Advise whether the information should be declassified in whole or in part or should continue to be exempt from declassification;

(2) Provide a brief statement of the reason any requested information should not be declassified; and

(3) Return all reproductions referred for determination, including a copy of each document which should be released only in part, marked to indicate the portions which remain classified.

(c) *Denials and Appeals.* Denials under the Freedom of Information Act of access to national security information accessioned into the National Archives are made by designated officials of the originating or responsible agency. NARS notifies the requestor of the agency's determination. Appeals of denials of access to national security information must be made in writing to the appropriate authority in the agency having declassification responsibility for the denied information as indicated in §105–61.104–2. The agency appellate authority shall make a determination in accordance with 5 U.S.C. 552(b). The agency appellate authority shall notify NARS and the requestor in writing of the final denials. The agency will also furnish to NARS a copy of each document released only in part, marked to indicate the portions which remain classified.

§ 105–61.104–2 Declassification responsibility.

(a) *Classified U.S. Government originated information less than 30 years old.* Declassification of U.S. Government originated information less than 30 years old is the responsibility of the agency that originated the information.

(b) *Foreign government information provided to the United States in confidence and less than 30 years old.* Declassification of foreign government information (provided to the U.S. in confidence) less than 30 years old, is the responsibility of the agency that initially received or classified the foreign government information in consultation with concerned agencies. NARS may make a declassification determination on foreign government information less than 30 years old only when the responsible agency has specifically authorized this action.

(c) *Classified U.S. Government originated information and foreign government information provided in confidence more than 30 years old.* Systematic reviews of U.S. Government originated information and foreign government information (provided to the U.S. in confidence) more than 30 years

old (except for intelligence file series described in paragraph (d) of this section) accessioned into the National Archives or donated to the Government are the responsibility of NARS. NARS shall conduct systematic declassification reviews in accordance with guidelines provided by the head of the originating agency or, with respect to foreign government information, in accordance with guidelines provided by the head of the agency having declassification jurisdiction over the information. If no guidelines for review of foreign government information have been provided by the agency heads, the Director of the Information Security Oversight Office, after coordinating with the agencies having declassification authority over the information, shall issue general guidelines for systematic declassification reviews. With respect to the systematic reviews of Presidential papers or records, guidelines shall be developed by the Archivist of the United States and approved by the National Security Council.

(d) *Classified U.S. Government originated information concerning intelligence and cryptology.* Systematic reviews of file series of accessioned records and presidential papers or records concerning intelligence activities (including special activities), or intelligence sources or methods, and cryptology created after 1945, shall be conducted as the records become 50 years old. NARS shall conduct systematic declassification reviews in accordance with guidlines provided by the Director of the Central Intelligence Agency concerning information on intelligence activities and intelligence sources and methods, and by the Secretary of Defense concerning cryptologic information.

(e) *White House information.* Declassification of information from a previous administration which was originated by the President; by the White House staff; by committees, commission, or boards appointed by the President; or by others specifically providing advice and counsel to a President or acting on behalf of the President (hereinafter referred to as "White House information") is the responsibility of the Archivist of the United States. Declassification determinations will be made after consultation with agencies having primary subject matter interest and will be consistent with the provisions of applicable laws or lawful agreements.

(f) *Information orginated by a defunct agency.* NARS is responsible for declassification of all information in the custody of NARS originated by an agency that has ceased to exist and whose functions have not been transferred to another agency and of all foreign government information originally received or classified by such an agency. NARS shall make declassification determinations after consultation with all agencies having primary subject matter interest.

§ 105-61.104-3 Public requests for mandatory review of classified information under Executive Order 12356.

United States citizens or permanent resident aliens, Federal agencies, or State or local governments wishing to request mandatory review of classified information that has been accessioned into the National Archives or donated to the Government may do so by describing the document or material containing the information with sufficient specificity to enable NARS to locate it with a reasonable amount of effort. When practicable, a request shall include the name of the originator and recipient of the information, as well as its date, subject, and file designation. If the information sought cannot be identified from the description provided or if the information sought is so voluminous that processing it would interfere with NARS' capacity to serve all requestors on an equitable basis, NARS shall notify the requestor that, unless additional information is provided or the scope of the request is narrowed, no further action will be taken. NARS shall review for declassification and release the requested information or those declassified portions of the request that constitute a coherent segment unless withholding is otherwise warranted under applicable law. Requests for mandatory review should be addressed to the appropriate NARS depository listed in § 105-61.5101.

§ 105-61.104-4 Mandatory review of classified U.S. Government originated information and foreign government information provided to the United States in confidence.

(a) *NARS action.*—(1) *Information less than 30 years old.* NARS shall promptly acknowledge receipt of a request for mandatory review of classified U.S. Government originated information, and within 20 calendar days of receipt of the request, shall forward the request, with copies of the documents containing the requested information to the agency that originated the information or to the agency that the Archivist determines has primary subject matter interest. With respect to foreign government information, the request and copies of the documents shall be forwarded to the agency which initially received or classified the information. If unable to identify that agency, NARS shall forward the request to the agency which has primary subject matter interest. NARS shall inform the requestor that referrals have been made to the appropriate Government agency.

(2) *Information more than 30 years old.* NARS shall acknowledge receipt of a request for mandatory review of classified U.S. Government originated information or foreign government information which NARS may review for declassification using systematic review guidelines, and within 60 days of receipt of the request shall act upon it and notify the requestor of the action taken. If additional time is necessary to make a declassification determination, NARS shall notify the requestor of the time needed to process the request. NARS will make a final determination within 1 year of the receipt of the request. Information that NARS may not declassify using the systematic review guidelines shall be promptly forwarded, with copies of the documents containing the requested information, to the responsible agency. NARS shall notify the requestor that referrals have been made to the appropriate Government agency.

(b) *Agency action.* Upon receipt of a request for mandatory review of classified U.S. Government originated information or foreign government information forwarded by NARS, the originating or responsible agency shall:

(1) Either make a prompt declassification determination and notify the requestor accordingly, or inform the requestor and NARS of the additional time needed to process the request. Except in unusual circumstances, agencies shall make a final determination within 1 year.

(2) Notify NARS of any other agency to which it forwards the request in those cases requiring the declassification determination of another agency.

(3) Forward the declassified reproductions to the requestor with their determination and also notify NARS of that determination. When the request cannot be declassified in its entirety the agency must also furnish the requestor (with a copy to NARS):

(i) A brief statement of the reasons the requested information cannot be declassified; and

(ii) A statement of the right to appeal within 60 calendar days of receipt of the denial, the procedures for taking such action, and the name, title, and address of the appeal authority. (The agency appellate authority shall make a

determination within 30 working days following the receipt of the appeal. If additional time is required to make a determination, the agency appellate authority shall notify the requestor and NARS of the additional time needed and provide the requestor with the reason for the extension. The agency appellate authority shall notify NARS and the requestor in writing of the final denials.)

Note.—The agency will also furnish to NARS a copy of each document released only in part, marked to indicate the portions which remain classified.

3. Section 105–61.104–5 is removed and §§ 105–61.104–6 through 105–61.104–10 are redesignated § 105–61.104–5 through § 105–61.104–9 and revised as follows:

§ 105–61.104–5 Mandatory review of information originated by a defunct agency or received by a defunct agency from a foreign government.

(a) *NARS action.* NARS is responsible for declassification of all information in the custody of NARS originated by an agency which has ceased to exist and whose functions have not been transferred to another agency and of all foreign government information originally received or classified by such an agency. NARS shall promptly acknowledge receipt of requests for such information, review the information using systematic review guidelines, and, when necessary, consult with any agency having primary subject matter interest. NARS shall either make a prompt declassification determination and notify the requestor accordingly, or inform the requestor of the additional time needed to process the request. Except in unusual circumstances NARS shall make a final determination within 1 year. If the request is denied in whole or in part, the Assistant Archivist for the National Archives or the Assistant Archivist for Presidential Libraries shall furnish the requestor a brief statement of the reasons for denial and a notice of the right to appeal the determination within 60 calendar days to the Deputy Archivist of the United States (mailing address: General Services Administration (ND), Washington, DC 20408). Upon receipt of an appeal, the Deputy Archivist shall, within 30 calendar days:

(1) Review the previous decision made to deny the information;

(2) Consult, as necessary, with the appellate authorities in any agency having primary subject matter interest in the information previously denied; and

(3) Notify the requestor of the determination and make available to the requestor any additional information that has been declassified as a result of the appeal.

(b) *Agency action.* Upon receipt of a request forwarded to NARS for consultation regarding the declassification of information originated by a defunct agency or of foreign government information originally received or classified by a defunct agency, the agency with primary subject matter interest shall:

(1) Advise the Archivist whether the information should be declassified in whole or in part or should continue to be exempt from declassification; and

(2) Return the request to NARS along with a brief statement of the reasons why any requested information should not be declassified.

§ 105–61.104–6 Mandatory review of classified White House originated information and foreign government information received or classified in the White House less than 30 years old.

(a) *NARS action.* (1) White House information is subject to mandatory review consistent with the provisions of applicable laws or lawful agreements that pertain to the respective Presidential papers or records. Unless precluded by such laws or agreements, White House originated information is subject to mandatory review 10 years after the close of the administration which created the materials or when the materials have been archivally processed, whichever occurs first.

(2) NARS shall promptly acknowledge receipt of a request for mandatory review of White House originated information and foreign government information received or classified by the White House which is requested more than 10 years after the close of the administration or after it has been archivally processed, whichever occurs first.

(3) NARS shall review the requested information, determine which agencies have primary subject matter interest, forward to those agencies copies of material containing the requested information, and request their recommendation regarding declassification.

(4) NARS shall review the recommendations returned by the agencies and make its declassification determination within one year of receipt of the request.

(5) When the request cannot be declassified in its entirety, NARS shall furnish the requestor:

(i) A brief statement of the reasons the requested information cannot be declassified;

(ii) Access to the portions of documents releasable in part that constitute a coherent segment; and

(iii) A notice of the right to appeal the determination within 60 days to the Deputy Archivist of the United States (mailing address: General Services Administration (ND), Washington, D.C. 20408).

(6) Upon receipt of an appeal, the Deputy Archivist shall within 30 calendar days:

(i) Review the decision to deny the information;

(ii) Consult with the appellate authorities in agencies having primary subject matter interest in the information previously denied;

(iii) Notify the requestor of the determination and make available to the requestor any additional information which has been declassified as a result of the appeal; and

(iv) Notify the requestor of the right to appeal denials of access to the Director, Information Security Oversight Office (mailing address: General Services Administration (Z), Washington, DC 20405).

(b) *Agency Action.* Upon receipt of a request forwarded to NARS for consultation regarding declassification of White House originated information and foreign government information received or classified by the White House, the agency with primary subject matter interest shall:

(1) Advise the Archivist of the United States whether the information shall be declassified in whole or in part or should continue to be exempt from declassification;

(2) Provide a brief statement of the reasons any requested information should not be declassified; and

(3) Return all reproductions referred for consultation including a copy of each document that should be released only in part, marked to indicate the portions which remain classified.

§ 105–61.104–7 Mandatory review of classified White House originated information and foreign government information received or classified by the White House more than 30 years old.

(a) NARS shall promptly acknowledge the receipt of a request for mandatory review of classified White House originated information and foreign government information received by or classified in the White House that is more than 30 years old, and shall act upon the request within 60 days. If additional time is necessary to make a declassification determination, NARS shall notify the requestor of the time needed to process the request. NARS

shall make a final determination within 1 year of the receipt of the request.

(b) NARS shall review the information using applicable systematic review guidelines and shall make available to the requestor information declassified using those guidelines.

(c) Information which cannot be declassified by NARS using systematic review guidelines shall be forwarded to the agencies with primary subject matter interest and further processed in accordance with § 105–61.104–6 (a) (2) through (5) and (b).

§ 105–61.104–8 Access by historical researchers and former Presidential appointees.

(a) Access to classified information may be granted to U.S. citizens who are engaged in historical research projects or who previously occupied policy-making positions to which they were appointed by the President. Persons desiring permission to examine material under this special historical researcher/Presidential appointees access program should contact NARS at least 4 months before they desire access to the materials to permit time for the responsible agencies to process the requests for access. NARS shall inform requestors of the agencies to which they will have to apply for permission to examine classified information and shall provide requestors with the information and forms to apply for permission from the Archivist of the United States to examine classified information originated by the White House or classified information in the custody of the National Archives which was originated by a defunct agency.

(b) Requestors may examine records under this program only after the originating or responsible agency:

(1) Determines in writing that access is consistent with the interest of national security;

(2) Takes appropriate steps to protect classified information from unauthorized disclosure or compromise, and ensures that the information is safeguarded in a manner consistent with Executive Order 12356; and

(3) Limits the access granted to former presidential appointees to items that the person originated, reviewed, signed, or received while serving as a presidential appointee.

(c) To grant against the possibility of unauthorized access to restricted records, a director may issue instructions supplementing the research room rules provided in § 105–61.102.

§ 105–61.104–9 Fees.

NARS will charge requestors for copies of declassified according to the fees listed in 41 CFR 105–61.5206.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: November 10, 1983.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 84–644 Filed 1–10–84; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 64 and 68

[CC Docket No. 83–427; FCC 83–565]

Access to Telecommunications Equipment by the Hearing Impaired and Other Disabled Persons

AGENCY: Federal Communications Commission.

ACTION: Final rules.

SUMMARY: The Commission is amending its rules to incorporate the requirements of the Telecommunications for the Disabled Act of 1982, which ensure that hearing impaired persons have reasonable access to telephone service and allow telephone carriers to provide equipment needed by persons with hearing, sight, speech or mobility impairments to utilize the telephone network. These actions are necessary to maintain affordability of such equipment and to enable persons with the disabilities listed to function as fully participating members of society. The amendments will facilitate access of disabled persons to necessary equipment and services in both residential and non-residential settings, and through the adoption of technical specifications and labeling requirements, will enable manufacturers, telephone suppliers, and customers to determine whether particular telephones are usable by hearing aid wearers.

EFFECTIVE DATE: February 10, 1984.

FOR FURTHER INFORMATION CONTACT: Carl Gold, 202–632–4890.

List of Subjects

47 CFR Part 64

Communications common carriers, Telephone.

47 CFR Part 68

Administrative practice and procedure, Communications common carriers, Communications equipment, Telephone.

Report and Order

In the Matter of Access to Telecommunications Equipment by the Hearing Impaired and Other Disabled Persons. CC Docket No. 83–427.

Adopted: December 1, 1983.
Released: December 23, 1983.

By the Commission: Chairman Fowler issuing a separate statement.

I. Introduction

1. The Telecommunications for the Disabled Act of 1982, Pub. L. 97–410 (to be codified as 47 U.S.C. 610) (Act) was signed into law on January 3, 1983. It is designed to resolve problems that persons with physical disabilities may have in obtaining access to the telephone network. The Act requires that the Commission, no later than January 3, 1984, (1) establish regulations to ensure reasonable access to telephone service for the hearing impaired; (2) establish regulations requiring that certain categories of telephones designated "essential" be internally compatible with hearing aids specially designed for telephone use; (3) adopt technical standards which will effectuate the above regulations; (4) establish requirements for labeling telephone packaging to inform consumers whether a telephone is compatible with hearing aids; (5) adopt rules to allow carriers to provide "specialized terminal equipment" (*i.e.*, CPE) to persons with hearing, sight, speech and mobility impairments, and permit state commissions to allow carriers to recover in tariffs for communications services "reasonable and prudent costs not charged directly to users of such equipment." In addition, the Act delegates to state commissions the authority to enforce the rules we adopt concerning reasonable access to telephone service and compatibility of "essential" telephones. The Act requires the Commission to consider the costs and benefits to all telephone users of any regulations enacted, and to encourage the use of currently available technology without discouraging or impairing the development of new technology. We are, as explained in this Order, amending our rules to implement the requirements of the Act. Final rules adopted herein are attached as Appendix C.

2. Pending issuance of regulations to implement the Act, we granted a waiver to all carriers to offer new "specialized CPE" (*i.e.* the "specialized terminal equipment" referred to above) on a tariffed or untariffed basis to persons with impaired hearing, vision, speech or mobility. We also permitted the Bell Operating Companies (BOC's) to offer

such equipment without forming a separate subsidiary as required by *Computer II*. That waiver contained a temporary definition of "specialized CPE" which is subject to revision in this rulemaking. This waiver was granted to avoid disrupting the provision of equipment and services necessary for disabled persons to access the telephone network. *American Telephone and Telegraph Co., Petition for Waiver Allowing BOCs to Provide Under Tariff New CPE for the Disabled,* 92 FCC 2d 38 (1983) (*Waiver Order*).

3. As a first step in implementing the Act, we adopted a Notice of Proposed Rulemaking (Notice) and solicited comments and reply comments on the issues mentioned above. —— FCC 2d ——, FCC 83–176, released May 4, 1983, 48 FR 20771 (May 9, 1983).[1] Comments were received from telephone carriers, equipment manufacturers, state public utility commissions, organizations representing persons with impaired hearing and other disabilities, a Member of Congress, and other members of the public.[2]

4. Recently we denied the request of the American Telephone & Telegraph Company (AT&T) that this Commission authorize it to offer "specialized CPE" on a detariffed basis. We based this determination on our finding that it would best effectuate the purposes of the Act to leave the decision whether or not to detariff this CPE to each state. *American Telephone and Telegraph Co., Request to Offer Specialized CPE for the Disabled on a Detariffed Basis,* —— FCC 2d ——, FCC 83–517, released November 25, 1983. We are herein modifying our Computer II [3] rules to implement this decision.

II. Communications Needs of the Disabled and Current Efforts To Meet Those Needs

A. Congressional Cost-Benefit Analysis

5. Before passing the Act, Congress weighed the likely costs and benefits to all persons of requiring that certain telephones be made compatible with hearing aids and that carriers be able to recover the costs of providing certain "specialized CPE" to disabled consumers in tariffs for regulated services. A summary of significant findings included in the Act and the accompanying House Committee Report [4] is necessary to understand the actions we are taking.

6. The Act's provisions requiring compatibility between telephone and hearing aids "specially designed for telephone use" [5] are intended to benefit the more than ten million Americans whose hearing is sufficiently impaired to require the use of a hearing aid. Congress found that the level of production of compatible telephones is sufficient that such telephones are widely available.[6] Congress found, however, that a "lack of technical standards ensuring compatibility between hearing aids and telephones," [7] necessitated that "adoption of technical standards * * * to ensure compatibility * * * thereby accommodating the needs of individuals with hearing impairments." [8]

7. Congress also found that the hearing of 1.2 million Americans is too diminished to use a telephone even with a hearing aid.[9] These persons require other devices to utilize the telephone network, the most widely used being the "telecommunications device for the deaf" (TDD). The TDD is basically a teletypewriter with a small display screen, which may be equipped with a printer. The TDD sends and receives messages over the telephone network. Some TDDs are directly hard-wired into the network, while others are connected through acoustic couplers.

8. Other persons are affected by impaired speech, vision or mobility. They can utilize the network only through a variety of devices which modify or are ancillary to a telephone. The House Report cites examples of commercially available products including artificial larynxes and breath-activated telephones, and products which might become available, *e.g.*, a voice-activated telephone.[10]

9. Congress found that equipment enabling persons with disabilities to utilize the telephone network has traditionally been provided by telephone companies, often at prices which are subsidized pursuant to state-sanctioned programs. Subsidization has been effectuated by various methods, including tariffs which reflect a decision that part of the cost of such equipment should be built into the prices of other products and services, and surcharges billed directly to general ratepayers.[11] Congress was concerned that *Computer II's* prohibition on tariffing CPE would eliminate such subsidization, making "specialized CPE" unaffordable and depriving many disabled persons of access to telephone service. Congress stated that this might deprive many individuals of the opportunity to have gainful employment, and even require institutionalization of those disabled persons whose health must be frequently monitored. As a result, Congress decided that the costs to society of lost telephone usage including impairment of the quality of life for the disabled, far exceed the costs of subsidizing products and services needed by the disabled to use the telephone network.[12] Accordingly, Congress, sought to provide each state the power to subsidize "specialized CPE," in any manner which it finds most effective.

10. Based upon its cost-benefit analysis, Congress made the following findings which are relevant to our determinations herein. The regulatory costs to implement the Act and monitor its implementation are minor.[13] It is not costly to maintain production of hearing aid-compatible telephones.[14] In fact, Congress found that the incremental cost of manufacturing a telephone so as to be compatible rather than incompatible is currently insignificant.[15]

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[1] At the same time, the Commission terminated an earlier proceeding, Telecommunications Services for the Deaf and Hearing Impaired, CC Docket No. 78–50, —— FCC 2d ——, FCC 83–177, released May 4, 1983, which involved issues similar to those raised by the Act. That Order indicated that certain issues would be addressed in the instant proceeding, including the inability of individuals using telecommunications devices for the deaf (TDDs) in the ASCII format to communicate with persons using TDDs in the Baudot format.

[2] Summaries of comments and reply comments are attached as Appendices A and B, respectively. In addition, numerous informal comments were received. These comments were considered in rendering this decision but are not summarized in this Order.

[3] Amendment of Section 64.702 of the Commission's Rules and Regulations (Second Computer Inquiry), 77 FCC 2d 384 (1980) (Final Decision), *reconsideration*, 84 FCC 2d 512 (1981), *aff'd sub nom.* CCIA v. FCC, 693 F.2d 198 (D.C. Cir. 1982), *cert. denied*, 103 S. Ct. 2109 (1983).

[4] H.R. Rep. No. 888, 97th Cong., 2d Sess. (1982) (House Report).

[5] Act, section 610(b). The House Report explains that most hearing aids are "specially designed for telephone use," *i.e.*, contain a "telecoil" which is activated by a magnetic field generated by a telephone handset. 90% of telephones currently in use generate a sufficient field to activate the telecoil, which is necessary to permit feedback-free reception loud enough for the user to hear. House Report at 8. Telephones which internally generate the required magnetic field will be referred to throughout this order as "hearing aid-compatible" or "compatible."

[6] *See* Act, § 2(2); House Report at 11.

[7] Act, § 2(3).

[8] *Id.*, § 2(4).

[9] *See* House Report at 4.

[10] *Id. at* 3. A more complete list of products which assist the disabled in using the telephone is described in para. 13, *infra*.

[11] *See* H. Rpt. at 3.

[12] H. Rpt. at 3–4.

[13] H. Rpt. at 7.

[14] *Id.* at 8.

[15] *But see* H. Rpt. at 8, fn. 4, which notes that technological changes may increase the cost differential.

It is more cost-effective for the states than the Commission to enforce requirements that "essential telephones" be hearing aid-compatible.[16] Finally, any costs to ensure the availability and affordability of equipment necessary for disabled persons to use the network are outweighed by the benefits to society that will result when "these individuals can participate as self-sustaining employees and consumers in the national economy and can safely and conveniently travel from state to state with equal access to airports, hotels, restaurants, and other places of public accommodation."[17]

B. Current Availability of Telecommunications Equipment and Services Beneficial to Persons With Disabilities

1. *Hearing Aid-Compatible Telephones*

11. Congress found that an increasing portion of telephones in production are or can be made hearing aid-compatible. AT&T represents that all telephones it provides which are activated by coins or credit cards are already compatible. General Telephone & Electronic Service Corporation (GTE) states that all of its coin-operated telephones are hearing aid-compatible.[18] United Telephone System (UTS) states that all new telephones purchased by UTS companies for coin operation are compatible.[19] AT&T represents that by the end of 1984, almost all telephones produced by Western Electric Company will be compatible.[20] GTE and UTS, however, comment that the compatibility of telephones they offer varies. They attribute this variance, at least in part, to the absence of uniform standards defining compatibility, a situation which the Act is designed to correct.[21]

2. *Other Devices That Assist the Disabled*

12. Telecommunications Devices for the Deaf (TDDs) are the primary means by which deaf and speech-impaired individuals are able to access the telephone network. Some parties argue that if TDDs are not subsidized, if special assistance in accessing the network is not provided, and some improvements in technology are not made, TDDs are deficient as a substitute for telephones. First, they are more costly than most basic telephone equipment. AT&T has represented that retail price of certain TDDs to be approximately $600 plus delivery charges.[22] Second, many older TDDs were often teletypewriters taken out of service and donated by communications companies. Those TDDs use the Baudot format, with a modem that allows only one person to transmit messages at a time. On the other hand, many currently produced TDDs use the ASCII format with a modem allowing simultaneous transmission. The two formats are incompatible, and it appears that an affordable converter is not yet in production.[23] It may be too costly to convert a TDD from Baudot to ASCII or to retrain Baudot users to use ASCII, which is the format more likely to be used in the future.[24] Finally, TDD users require special operator and directory services to access the network.

13. In addition to TDDs, a number of other devices and assemblies of equipment are currently available which enable persons with physical impairments to utilize the network.[25] Aids for persons with impaired speech include the amplifying handset and artificial larynx. Aids for persons with impaired hearing include amplifying handsets and headsets, receivers which transmit messages by bone conduction, and devices which use light or vibrations to signal incoming calls. Aids for persons with impaired vision include large-number dials and stickers and a light-sensitive probe that produces an audible response to indicate on which line a call is incoming on a multi-button telephone set. Code-Com sets enable visually or hearing impaired persons to send and receive coded messages through lights or vibrations. Persons with impaired mobility can obtain speakerphones and other devices which allow hands-free calling, and single number dialers which require only that the caller press a button which dials a preprogrammed emergency number.

3. *Current Programs Allowing the Disabled To Use the Network*

14. Many states now help assure the availability of this equipment to the disabled through a variety of programs. The following is not intended to be an exhaustive list. California requires that every telephone ratepayer pay a small surcharge (currently 3¢ per month) to a trust fund. The trust fund reimburses exchange carriers who provide TDDs to deaf persons at no charge beyond the monthly rate for local telephone service. California also requires carriers to provide certain types of "specialized" CPE to the disabled, such as touchcalling instruments, amplified handsets, and speakerphones, at one-half the ordinary tariff rate, allowing carriers to recover any unpaid costs in rate proceedings.[26] A Michigan statute requires that exchange carriers sell or lease TDDs to the deaf or severely hearing impaired at the carrier's purchase cost, with mandatory application of lease payments to the purchase price.[27] The Wisconsin Public Services Commission requires that TDDs (apparently costing up to $250) be provided as part of the basic local exchange rate. Maintenance is provided as part of the basic local exchange rate.[28] The Kentucky Utility Regulatory Commission requires carriers to provide TDDs to deaf persons at the "actual direct cost to the utility."G529 The New Hampshire Public Utilities Commission has ordered that various devices other than TDDs be provided at the rate for basic exchange services.[30] Minnesota has approved tariffs filed by Northwestern Bell and Continental Telephone which offer for sale specialized terminal equipment under low-interest credit arrangements.

15. In addition to providing equipment beneficial to the disabled, some carriers provide special services necessary for disabled customers to access that network. AT&T-affiliated BOCs have regional offices which provide information concerning products and services designed to aid persons with disabilities, and specialized repair and related services.[31] GTE states that it offers similar services itself or "participates with the BOCs via" BOC assistance centers "in many parts of the country."[32] In addition, AT&T provides

[16] *Id.* at 14.

[17] H. Rpt/ at 4 (Footnote omitted).

[18] AT&T Comments at A2–5; GTE Comments at 8, 9, 14.

[19] UTS Comments at 3.

[20] AT&T Comments at A–1, 2.

[21] UTS Comments at 3; GTE Comments at 8, 9, 14.

[22] Supplementary Comments at 6, n. 9. Certain TDDs are currently available at lower retail prices, but all are significantly more costly than basic telephones.

[23] *See* AT&T Comments at 12.

[24] "A Nationwide Communications System for the Hearing Impaired," NTIA Contract No. NT–81–SAC–00070 at 10, 15 (October 1981).

[25] *See* "Telecommunications Services for Special Needs" (Bell System publication).

[26] Comments of California Public Utilities Commission at 1–4 (hereinafter California).

[27] Mich. Comp. Laws § 484.103.

[28] Order of Wisconsin Public Service Commission 05–TV–6 (Feb. 20, 1980).

[29] Order of Ky. Util. Reg'y Comm'n, Admin. Case No. 220 (Feb. 19, 1980).

[30] N.H. Pub. Util. Comm'n., Order No. 15752, Dkt. DR 82–70.

[31] AT&T Comments at 3–6, Reply at 7–9. AT&T intends, after the planned divestiture of the BOCs in 1984, to provide product and service information and distribution through one nationwide center which would be accessed by a toll-free number. AT&T Comments at 5.

[32] GTE Comments at 3–4.

toll-free operator and directory assistance to disabled customers of any carrier.[33] Some carriers provide discounts on TDD toll rates, recognizing the slow speed of information transmission, and exemptions from directory or operator assistance charges on telephone calls made by persons with diminished vision or mobility.

III. Adoption of Regulations To Implement the Telecommunications for the Disabled Act

A. Introduction

16. In order to ensure that every hearing impaired person has reasonable access to telephone service, and that persons with other disabilities can obtain specialized CPE at affordable rates, we are amending Parts 64 and 68 of our Rules and Regulations [34] to achieve the purposes of the Telecommunications for the Disabled Act. The rules we are adopting ensure that every person who requires a hearing aid-compatible telephone can obtain one. Exchange carriers are required to provide such telephones if unavailable from other sources. The Rules also ensure that TDD users will be provided the operator and directory assistance they require to access the telephone network. After January 1, 1985, all telephones which are installed in "essential" locations, as defined in the Rules, must be hearing aid-compatible. All coin-operated and "emergency use" telephones, as defined in the Rules, which were installed prior to January 1, 1985, must be converted to hearing aid-compatibility by that date. We are adopting a uniform technical standard which will allow confirmation of whether telephones are actually hearing aid-compatible. We are also requiring that all telephones offered for sale after June 1, 1984, be accompanied by package labelling or written statements notifying the prospective purchaser whether or not the telephone is hearing aid-compatible, and if not, disclosing that the instrument may not be used as "essential." Finally, we are modifying our Rules to conform to the Act's directive that carriers may offer specialized CPE, either on a tariffed or untariffed basis as each state may direct.

B. Regulations To Ensure Reasonable Access to Telephone Service by the Hearing Impaired

1. *Summary of Rules*

17. Section 610(a) of the Act states:

> The Commission shall establish such regulations as are necessary to ensure reasonable access to telephone service by persons with impaired hearing.

We are taking several actions to ensure that hearing impaired consumers have reasonable access to telephone service. We are requiring that exchange carriers make available a hearing aid-compatible telephone, on request to each user who cannot otherwise obtain such a telephone. We are requiring any carrier currently providing specialized operator and directory assistance for TDD users notify regulatory authorities six months prior to any intended termination of such service. No other actions are necessary to ensure availability of transmission services needed by the hearing impaired to access the network, because hearing impaired persons who are able to use telephones with or without ancillary devices are afforded the same range of operator and directory assistance as persons without impaired hearing. There currently exist various exemptions and discounts on charges for TDD assistance and discounts on rates for TDD toll calls. We endorse the offering of beneficial rates for such services, which we note are not mandated by the Act. The actions we are taking, together with the actions we are taking to implement subsections (b), (c) and (d) of the Act (see paras. 23–44, *infra*), ensure the accessibility of telephone service to the hearing impaired.

2. *Provision of Hearing Aid-Compatible Telephones*

18. We are adopting rules to ensure that hearing aid users have access to telephone service by requiring that exchange carriers supply customers who are hearing impaired with compatible telephones, on a detariffed basis, after other efforts to procure such a telephone have failed.[35] Tariffing of hearing aid-compatible telephones is unwarranted because, as explained in paragraph 46, *infra*, hearing aid-compatible telephones are not "specialized CPE." Although Congress was confident that manufacturing of hearing aid-compatible telephones is nearing universality, comments of Independent carriers in this proceeding indicate that availability may be limited in non-urban areas, and representatives of the hearing impaired have complained that current "on request" programs by which carriers voluntarily provide compatible telephones are ineffective.[36] Recently we adopted a plan which allows states, until June 30, 1985, to require exchange carriers to provide and maintain basic telephones for subscribers in isolated areas who cannot obtain telephones from unregulated entities.[37] We conclude herein that hearing impaired consumers must be permanently protected from similar failure of the marketplace to provide hearing aid-compatible telephones. Our new rule should be interpreted consistently with "provider of last resort" provisions until expiration of those provisions. We further find that the regulation will not be unduly burdensome to carriers who will have an ample supply from which to procure hearing aid-compatable telephones if necessary. We also conclude that requiring a carrier to convert a convertible incompatible telephone upon request of a hearing impaired consumer does not constitute retrofitting prohibited by section 610(f) of the Act because the customer, and not the carrier, will bear the cost of conversion.

19. Several parties take the position that subsection (a) requires us to take more expansive actions. Two commenters argue that we should ensure that all telephones are hearing aid-compatible by requiring hearing aid-compatibility as a prerequisite to registration under Part 68.[38] The Organization of Use of the Telephone (OUT) and the American Speech-Language-Hearing Association (ASLHA) recommend that registration of all telephones under Part 68 of our Rules be conditioned upon hearing aid compatibility. OUT argues that this would be the most cost-effective and most easily-administered means of ensuring that each hearing aid wearer has access to a compatible telephone. We agree that such a requirement could effectively assure hearing aid users of access to compatible telephones and might be relatively simple to administer. We find, however, that adopting the requirement advocated by OUT and ASLHA would contravene the purposes of the Act, while the requirement we are adopting furthers those purposes. Congress could have required that every

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[33] AT&T Comments at 3. Reply Comments at 8.

[34] 47 CFR Parts 64, 68.

[35] The requirements of the regulation may be met either by the sale of new compatible telephones or conversion of existing incompatible ones.

[36] Organization for Use of the Telephone (OUT). Reply Comments at 12.

[37] National Association of Regulatory Utility Commissioners Petition for Declaratory Ruling that State Commissions Have Authority to Require Exchange Carriers to Provide and Maintain Basic Telephone Instruments and Associated Wiring, —— FCC 2d ——, FCC 83–222, released May 12, 1983.

[38] OUT Comments, at 2–4, 16; American Speech-Language-Hearing Association (ASLHA), Reply Comments at 2.

telephone which is manufactured be hearing aid-compatible, a situation which OUT and ASLHA's proposal would create. It chose, however, only to specify locations where a compatible telephone must be placed. The legislative history expresses the statutory plan:

> The legislation focuses on those "essential telephones" to which the hearing impaired must have access if they are to function effectively in modern society. Companies are free to manufacture and to market non-compatible telephones, and businesses and consumers may purchase these instruments for use by persons who do not have hearing impairments.
>
> * * * * *
>
> Under no circumstances may the Commission designate as an essential telephone any residential telephone * * * if all the persons who would normally use it do not have hearing impairments. House Report at 9.

20. The purposes of the Act can be achieved through actions short of requiring universal production of compatible telephones. Our rules ensure that every person who requires a compatible telephone can acquire one. As noted, Congress found that a sufficient supply of compatible telephones exists to ensure this. The rules also preserve consumer and manufacturer choice concerning equipment to be purchased and manufactured.

21. In addition, we note that the approach we are taking will strengthen existing "on request" programs, by requiring carriers, if necessary, to secure hearing aid-compatible telephones, if requested by a subscriber. Merely reporting unavailability of compatible telephones would not meet the carrier's obligation to supply equipment.[39] Furthermore, uniform technical standards for hearing aid-compatibility will prevent carriers from evading responsibility by disclaiming knowledge of whether particular equipment is functionally compatible. This approach is also more likely than a requirement that telephones be compatible to be registered to achieve the statutory goals as it will not interfere with price competition and innovation in the CPE market.

3. *Operator and Directory Assistance Services Necessary for TDD Users to Access the Telephone Network*

22. AT&T has indicated that it provides TDD operator and directory assistance to customers of any carrier. (Comments at 3, Reply at 8). GTE states that it provides similar services in certain of its territories. (See Comments at 4). To ensure that hearing impaired persons have "reasonable access" to telephone service, we are requiring that carriers providing such services notify this Commission and affected states six months prior to terminating such service. Without these services, provision of TDDs could become a fruitless act. This provision allows this Commission and state regulatory agencies to consider termination proposals and determine whether termination is in the public interest. Furthermore, we are not requiring that carriers make available more sophisticated or costly services suggested by some commenters. These include call waiting, call forwarding, and relay services using intermediaries to allow conversation between persons without hearing impairments who do not have TDDs, and TDD users.[40] Such services appear to impose costs which we are unwilling to impose in light of section 610(e) of the Act. We are not precluding cooperative efforts by states and carriers, including subsidies if necessary, to provide incidental services to TDD users which go beyond the basic requirements of new section 64.603.[41] Indeed, we note that without requirements by this Commission, AT&T, some BOC's, GTE, and some Independents currently allow discounts or exemptions from charges for directory or operator assistance.

4. *Requirements that "Essential Telephones" be Hearing Aid-Compatible*

a. *Summary.*

23. Section 610(b) of the Act provides:

> [T]he Commission shall require that essential telephones provide internal means for effective use with hearing aids that are specially designed for telephone use. For purposes of this subsection, the term "essential telephones" means only coin-operated telephones, telephones provided for emergency use, and other telephones frequently needed for use by persons using such hearing aids.

The Act also provides:

> [E]xcept for coin-operated telephones and telephones provided for emergency use, the Commission may not require the retrofitting of equipment to achieve the purposes of this section. 47 U.S.C. 610(f).

To meet the mandate of subsection (b) and the restrictions of subsection (f), we are requiring that as of January 1, 1985, all newly installed "essential" telephones be hearing aid-compatible, and all incompatible coin-operated and emergency telephones be retrofitted by that date. To codify these requirements, we are adding §§ 68.4 and 68.112 to Part 68 of our Rules. We note that the Act does not require placement of new telephones where none currently exist, only that newly-installed telephones be compatible and that designated existing telephones be retrofitted.

24. Section 68.4 prescribes hearing aid-compatibility of new and existing "essential" telephones by January 1, 1985, including retrofitting of telephones not exempted by subsection (f) of the Act. While United States Independent Telephone Association (USITA) requested more time, it provided no data affirmatively demonstrating a need for a longer retrofitting period. "Hearing aid-compatibility" is defined by reference to § 68.316, which is discussed at paras. 38–41, *infra*. The Electronic Industries Association (EIA) standards adopted in section 68.316 meet the Act's mandate that hearing aid-compatibility be provided by means internal to a telephone.

b. *Categories of Essential Telephones.*

25. Section 68.112 establishes definitions of the three categories of "essential" telephones, *i.e.* coin-operated, "emergency," and "frequently needed." The subcategories adopted under the headings "emergency" and "frequently needed" telephones include telephones in places where the hearing impaired might be isolated or confined; telephones installed to contact public authority or to obtain medical assistance; credit card telephones; telephones made available to invites; telephones in workplaces; and telephones in hotel or motel rooms. These categories are consistent with the legislative history.

(1) *Coin-Operated Telephones*

26. Our requirement that coin-operated telephones be hearing aid-compatible applies to any coin-operated telephone regardless of location. This is consistent with Congressional findings that most coin-operated telephones are already hearing aid-compatible and that it is not costly to convert an

[39] States may establish reasonable standards for determining the actual availability of compatible telephones within exchange areas.

[40] Comments suggesting that we require some or all of these services include Michigan Department of Labor (Michigan), at 2–3; National Center for Law and the Deaf (National Center), at 2; Institute for Cognitive Science (ICS), at 2–4; California, at 1–2; Greater Los Angeles Council on Deafness (Los Angeles), at 4.

[41] Several commenters (Los Angeles at 4; ASLHA at 2; ICS at 1–2; Bay Area Center for Law and the Deaf (BACLAD) at 2) request that the Commission require discounts on TDD toll calls because TDDs transmit information at a much slower rate than telephones. AT&T correctly responds, however, that our Order terminating Docket No. 78–50 (Telecommunications Services for the Deaf and Hearing Impaired) concluded that further rate determinations of this nature are appropriately left to state regulatory agencies.

incompatible telephone.[42] Furthermore, a one-year deadline for retrofitting coin-operated telephones is consistent with these Congressional findings, and we encourage carriers to retrofit earlier if this is feasible. The definition of "coin-operated" contained in new § 68.112(a) should be reasonably construed to accommodate technological changes, including availability of telephones which accept and make change for paper currency. *See* GTE Comments at 11. The definition excludes telephones activated by credit cards only, which we classify as "frequently needed" telephones. See Para. 30, *infra.*[43]

(2) *Telephone Provided for Emergency Use*

27. We are adding to our rules definitions of three subcategories of "telephones provided for emergency use." These are (1) telephones provided for use in islolated areas, (2) telephones needed to signal life-threatening situations in confined institutional settings, and (3) telephones specifically installed to contact public authorities or providers of medical assistance. We note that Congress intended that non-network telephones be included in this category, *e.g.*, telephones in elevators, police call boxes, telephones in hospital rooms. The definitions of "emergency use" telephones will be contained in new § 68.112(b). Upon an affirmative showing that another location should be included in our Rules, we will consider adding new categories.

28. We are not requiring placement of an "emergency" telephone where none existed; the reference in subsection (b)(3) of the new rule to telephones "needed" to signal life-threatening or emergency situations indicates that institutions may have chosen to provide an alternative means of monitoring emergencies, including an on-duty attendant or a signalling device other than a telephone. In that case, a telephone which is also in the hospital room is not provided for emergency use and if incompatible would not have to be retrofitted. Finally, in recognition of our responsibility under section 610(e) to consider the costs and benefits of every rule we adopt herein, we find a lack of evidence showing that any "emergency telephone" requirement, including the one-year deadline in retrofitting, will be unduly costly to manufacturers, carriers, or the public.

(3) *Telephones Frequently Needed by the Hearing Impaired*

29. The remaining category of "essential" telephones is "telephones frequently needed for use by the hearing impaired." The definitions of "frequently needed" telephones, contained in § 68.112(c), include five subcategories of telephones: telephones activated by credit card or other pre-arranged credit; workplace telephones; telephones made available at places of business or in public buidings; telephones in hotel and motel rooms; and non-emergency telephones in locations where the hearing impaired may be confined, *e.g.*, hospitals. As with "emergency" telephones, Congress intended to include certain non-network telephones in this category, including internal extensions in places of business and public buildings.[44] Unlike the other two categories of "essential" telephones, not every newly installed telephone in this category need be compatible. The following sections describe the subcategories of "frequently needed" telephones. Our rules recognize that subsection (f) of the Act prohibits the Commission from requiring the retrofitting of telephones in this category.

(a) *Credit Card Telephones.*

30. The first subcategory is telephones on which calls may be paid for only by credit cards or other pre-arranged credit (or third number or reverse billing). Congress in its Report noted that AT&T and GTE projected that all credit card telephones in their territories would be hearing aid-compatible by the end of 1982.[45] AT&T represents that it has accomplished this. (Comments at A–2 thru 5). Congress concluded that, because in its view less power is needed to activate these telephones than coin-operated telephones, many credit card telephones would be removed if we required these telephones to conform to the same criterion for magnetic field strength as other "essential" telephones.[46] The Report therefore recommends that a newly-installed credit-card telephone be hearing aid-compatible unless no coin-operated telephone is readily accessible which is capable of performing the same functions as the credit card telephone.[47] We are adopting a rule which is consistent with Congress' concerns but will still ensure that compatible telephones are available in public locations.

(b) *Workplace Telephones.*

31. We are also requiring that when an employer installs a new telephone at the work station of a hearing impaired employee, that telephone must be compatible if that employee will use it in the course of work duties. Section 68.112(c)(2) contains this requirement. This requirement is consistent with the legislative history, which provides that "An employee with impaired hearing should have access to at least one compatible telephone unless his duties would not involve the use of such a telephone if it were available." H. Rpt. at 10. We cannot accept the contention by OUT (Comments at 7) that we should require all new telephones in workplaces to be hearing aid-compatible. OUT's position is inconsistent with the requirement of section 610(b) that non-emergency, non-coin-operated CPE be compatible only if frequently needed by persons with hearing impairments. In addition, we conclude that OUT's suggestion is unnecessary to achieve the purposes of the Act, which seeks to preserve consumer choice in the purchase of CPE.

(c) *Telephones for Use by Invitees.*

32. The next category of "frequently needed" telephones is telephones for use by business invitees. We shall require generally that newly-installed telephones in public buildings and places of business, which are made available to the public, be compatible, no party having demonstrated that a compatibility requirement will impose "extraordinary costs of implementation" in the locations mentioned.[48] This section does not require that a newly-installed credit card-telephone be compatible if it is in proximity to a hearing aid-compatible coin-operated telephone.

(d) *Hotel and Motel Room Telephones.*

33. The fourth category of "frequently needed" telephones is hotel and motel room telephones, for which new § 68.112(c)(4) sets forth requirements. This subcategory received considerable attention in both the legislative history

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[42] *See* H. Rpt. at 9.

[43] We note that while the legislative history of the Act appears to contemplate that all telephones be registered, with registration indicating whether or not a telephone is hearing aid-compatible, H. Rept. at 12, we do not currently permit registration of coin-operated telephones. As all coin-operated telephones will have to be hearing aid-compatible, their omission from the registration program is of little consequence in terms of the purposes of the Act. An application for registration of a coin-operated telephone is, however, currently under consideration by this Commission. Application of Viking Electronics, Inc., File No. 100–CX–83 (October 28, 1982). If we decide to register coin-operated telephones, applications will be required to show hearing aid-compatibility, and registrants will be subject to the same conditions concerning hearing aid-compatibility as registrants of other "essential" telephones.

[44] *See* H. Rpt. at 10

[45] *Id.* at 11.

[46] *See id.* at 6, 9.

[47] *Id.* at 9.0

[48] *See id.* at 10.

of the Act and in the comments received in this proceeding. OUT (Comments at 7, Reply Comments at 9–11), ASLHA (Comments at 4), and the Communications Workers of America (Reply Comments at 3) demand universal compatibility of hotel and motel room telephones. OUT in particular argues that this would be a less costly and less confusing requirement than alternatives which were proposed by other commenters and considered by Congress. Congress, however, did not believe that universal compatibility in hotel and motels is necessary. The Report states:

> As an alternative to providing compatible telephones in every room, a hotel may set aside a reasonable number of rooms (under a formula that the regulations will specify) for the hearing impaired. Alternatively, the hotel owner may maintain a reasonable supply of compatible instruments and install them at the request of a guest who uses a hearing aid. H. Rpt. at 10.

34. The Chairman of the House Committee which had jurisdiction over the Act, Representative Wirth, confirmed in debate that "there is no requirement that every telephone in the lobby or every [hotel or motel] room would have to have telephones that are compatible with hearing aids." He proposed that "1 out of 10 rooms" should have a compatible telephone.[49] Representative Wirth referred to the above-quoted portion of the House Report as providing "several examples of the maximum extent of regulation" by the Commission," *i.e.*, prohibiting the Commission from requiring that every new hotel or motel telephone be hearing aid-compatible.[50]

35. We conclude as Congress did that we need not require that all telephones in hotel and motel rooms be compatible. Any of several approaches will ensure that hearing aid users are accommodated by hotels and motels. Section 68.112(c)(4) therefore sets forth several alternatives for compliance. Any hotel or motel which has incompatible telephones in its rooms need not install new telephones or retrofit existing telephones. When a hotel or motel does install a new telephone or replaces an existing one, it may comply with the Act either by installing a compatible telephone or taking other actions specified in our Rules. Once a hotel or motel has attained compliance in ten percent of its rooms, it may install any type of equipment it chooses. We reject, however, comments which suggest that the maintenance of a supply of adapters which couple externally with non-compatible handsets to enable use of those handsets by hearing aid wearers would comply with the Act.[51] The plain language of section 610(b) requires that essential telephones contain internal means for compatibility with hearing aids. Accordingly, compliance with § 68.112(c)(4) can be achieved only by provision of internally compatible telephones as specified therein.

(e) *Non-Emergency Telephones in Locations Where the Hearing Impaired May be Confined.*

36. The final category of "frequently needed" telephones includes telephones in locations where the hearing impaired may be confined but which are not needed to signal the presence of a life-threatening situation. This category includes, but is not limited to, telephones in rooms in hospitals, convalescent homes, residential health care facilities for senior citizens, and prisons. As indicated in para. 28, *supra*, if a hearing impaired person in such a location has access to an alternative means of signalling an emergency, a telephone in such a room is not provided for emergency use. It would, however, be "frequently needed by the hearing impaired." Therefore, existing telephones in such locations need not be retrofitted, but telephones installed after January 1, 1985, must be hearing aid-compatible.

(f) *Public Availability of Telecommunications Devices for the Deaf.*

37. An additional issue which is most logically dealt with here is the suggestion made by several commenters that the Commission require the placement of TDDs, or coin telephone booths which can accommodate them, in public locations.[52] We will not prescribe such a requirement in this proceeding. Subsection (b) of the Disabled Act is limited by its terms to telephones, not TDDs. No section of the Act affirmatively requires placement of an instrument whether a telephone or TDD, and, in view of the substantial costs that such a requirement might impose on the public and those governmental and private entities which control such locations, we decline to do so here. As we noted in *Telecommunications Services for the Deaf and Hearing Impaired*,[53] however, there is nothing to prevent a state regulatory agency from requiring subsidization of such equipment pursuant to section 610(g) of the Act.[54] We therefore leave this matter for resolution between states, carriers and suppliers of TDDs.

5. *Adoption of Uniform Technical Standards for Hearing Aid Compatibility*

38. Congress found in section 2 of the Act that technical standards for compatibility between hearing aids and telephones are necessary to assure that the needs of the hearing impaired are met. Section 610(c) of the Act provides that "the Commission shall establish or approve such technical standards as required to enforce this section." The Report indicates that such standards must be nationally uniform, preempting any conflicting state requirements. The Commission may adopt standards produced by industry agreement or adopt other standards if industry fails to agree or the industry standard does not lead to satisfactory results. The legislative history, however, reflects Congress' concern that our technical standards not freeze technology by specifying a permissible design and excluding potentially superior alternatives. In fact Congress made plain that the Commission should expeditiously accept any new design which is compatible with existing technologies and provides results which are equivalent or superior to those achieved by an existing standard.[55]

39. Comments filed in this proceeding by the Electronic Industries Association (EIA), a trade association representing manufacturers of telephone equipment, contain proposed technical standards developed jointly by EIA and the Hearing Industries Association (HIA), entitled "Magnetic Field Intensity Criteria for Telephone Compatibility with Hearing Aids." Commenters agreed that these standards will ensure that complying telephones will be usable with hearing aids equipped with telecoils. Consistent with Congress' suggestion that we adopt industry-developed, effective standards, we are therefore incorporating these standards into Part 68, at § 68.316. The standards enable manufacturers and suppliers to be certain that the telephones they produce and install are functionally

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[49] 123 Cong. Rec. at H 9485 (Daily ed., Dec. 13, 1982).

[50] 123 Cong. Rec. at H 10355 (Daily ed., December 18, 1982). *Accord.* Comments of Representative Thomas Bliley, Jr., filed in this docket (June 15, 1983).

[51] *See* GTE Comments at 8; North American Telephone Association (NATA) Commnets at 7; Electronic Industries Association (EIA) Comments at 5.

[52] *E.g.*, Scott Rafferty (Rafferty) Comments at 6; National Center, Comments at 2; BACLAD, Reply Comments at 2; Michigan, Comments at 3.

[53] CC Docket No. 78–50, —— FCC 2d ——, FCC 83–177, released May 4, 1983.

[54] *Id.* at paras. 21–24.

[55] H. Rpt. at 11. The Report specifically indicates that Congress chose not to specify "inductive coupling" as the only acceptable method of hearing aid compatibility. *Id.* at 8.

compatible with hearing aids designed for telephone use. We note that the new rule cross-references requirements we are adopting for labelling of telephone packaging. See paras. 42–44, *infra*. This cross-reference will disclose to potential purchasers the limits the Act places on the use of incompatible telephones in "essential" locations.

40. Accordingly, we are adopting the standard recommended by EIA.[56] We are not precluding EIA from developing new standards or revising its recommended standards to reflect changes in technology. Henceforth, however, the Commission, not industry, will determine whether to amend the standard adopted in our Rules. Furthermore, we will not freeze technology by specifying a particular design for hearing aid-compatibility; thus we will entertain a petition by any person, supported by technical data, which demonstrates that a particular telephone may be used as "essential" because a technological alternative to inductive coupling makes that telephone hearing aid-compatible by means internal to the telephone.

41. While OUT supports the EIA standards, it also argues that prototype telephones should be subject to laboratory tests by a federal testing bureau, or to field tests by consumers, before the Commission enacts technical standards. (OUT Comments at 10–12). It bases this argument upon a statement in the legislative history that the Commission should reject an industry-developed compatibility standard if consumers establish that the standard fails to provide satisfactory results.[57] We will not order such tests as a prerequisite to adopting the EIA standard. We would expect, however, that every manufacturer will rigorously test all new equipment and we are requiring that all Part 68 registrations of telephones represented to be compatible be backed by affirmative data to be made available to the Commission on request. We will of course review carefully any complaints that the standard we are adopting is insufficient, and take prompt remedial action, if warranted.[58]

[56] Because of the broad consensus on the standards proposed by EIA/HIA, we find it unnecessary for the Common Carrier Bureau to convene meetings on this subject as we had suggested in the Notice, para. 25.

[57] H. Rpt. at 11.

[58] On November 25, 1983, OUT submitted unauthorized supplementary comments which criticize some aspects of the EIA standards. In view of the imminent deadline for issuing regulations to implement the Act, we will not address further the question of the adequacy of the standards, but will, as noted, take remedial action if warranted based upon consumer complaints.

6. *Labelling of Telephone Packaging and Other Notification Concerning Hearing Aid Compatibility*

a. *Requirements.*

42. Section 610(d) of the Act provides that

> The Commission shall establish such requirements for the labelling of packaging materials for equipment as are needed to provide adequate information to consumers on the compatibility between telephones and hearing aids.

Requirements for labelling CPE packaging must "explain, in a clear understandable manner, whether and how persons with impaired hearing may use such equipment." H. Rpt. at 12. The Act does not require labelling of equipment itself. However, the Report notes that "it would be desirable for persons using hearing aids to be able to identify noncompatible telephones * * * outside their homes." *Id.*

43. To meet the mandate of subsection (d) of the Act and to ensure that purchasers of new incompatible telephones are aware that such telephones may not be installed in locations causing them to be "essential," [59] we are requiring labelling of external packaging as the Act prescribes, and directing manufacturers to include written disclosure statements with new telephones delivered unpackaged, because equipment used in workplaces, hospitals, places of business, etc., is often delivered unpackaged. These requirements are incorporated in new § 68.224 of our Rules, which provides manufacturers six months after the rules are issued to comply. All new telephones which are incompatible with hearing aids must be accompanied by written information concerning limitations on use as "essential" pursuant to section 610(b) of the Act. Although these disclosure statements may not reach the end user, they will ensure that the purchaser is aware of his obligations to end users and can make informed purchasing decisions. These requirements will undoubtedly impose some costs on manufacturers of CPE. But since labelling and instructions are generally used in any event, the costs will largely be those associated with a change in labelling and instructions, and not continuing ones. Congress, as we have noted, has determined that the benefits of enabling hearing impaired persons to function in society, including reduced institutionalization and increased employment, outweigh these costs. See para. 9, *supra*.

[59] *See id.* at 12.

b. *Identification of Compatibility of Non-Residential Telephones.*

44. We have considered but rejected proposals by several commenters that we require some form of marking or labelling on the surface of telephones to indicate whether they are hearing aid compatible,[60] and a proposal that we require signs on or near pay telephones indicating availability of a hearing aid-compatible telephone.[61] We see no reason to require signs on pay telephone booths because all coin-operated telephones will be compatible pursuant to section 610(b) of the Act, and § 68.112 of our Rules. Furthermore, while we agree that some means of identifying compatibility of telephones outside the home would help ensure that hearing aid users will feel free to travel, the record shows that most coin-operated telephones, which are already generally compatible, are already marked with a blue "grommet" (*i.e.* rubber molding on the junction of the cord and receivers),[62] and most public use telephones will become compatible by operation of amendments to Part 68 of our Rules adopted by this Order.[63] We are not, of course, discouraging voluntary marking of telephone equipment or designations of public availability of compatible telephones in any manner which may aid hearing impaired persons.

7. *Provision of "Specialized CPE" for Persons With Impaired Hearing, Speech, Vision or Mobility*

a. *Statutory Provision.*

45. Section 610(g) of the Act provides:

> Any common carrier or connecting carrier may provide specialized terminal equipment needed by persons whose hearing, speech, vision, or mobility is impaired. The State commission may allow the carrier to recover in its tariffs for regulated service reasonable and prudent costs not charged directly to users of such equipment.

As we have noted (para. 4, *supra*), we concluded in our Order denying AT&T's request to detariff "specialized CPE" that the Act is intended to facilitate the efforts of states and carriers to meet the communications needs of disabled persons. Therefore, we have added rules which modify *Computer II*, to make clear that states may continue

[60] Rafferty, Comments at 15; Michigan, Comments at 5; OUT, Comments at 14.

[61] Michigan, Comments at 3.

[62] AT&T Comments at 12; USITA Comments at 7

[63] In addition we note that the requirements of new § 64.603 requiring carriers annually to include billing inserts containing information on the Act's requirements, will ensure that consumers are aware of requirements that "essential" telephones be compatible, and will explain the significance of any non-verbal form of labelling or marking adopted by a carrier including "grommets," symbols, or the like

subsidized offerings of "specialized CPE" on a tariffed or detariffed basis.[64] The Commission recently required that any BOC which offers CPE after divestiture must do so through structural separation.[65] This requirement, however, does not affect carriers' ability to offer specialized CPE on an unseparated basis. The Act does not specifically define specialized CPE (which is referred to in the Act as "specialized terminal equipment"). The Report gives guidance, however, noting that regulated services may subsidize only equipment actually needed by disabled persons to communicate, or by other persons who communicate regularly with disabled persons.[66] The Report also gives certain examples of specialized terminal equipment including TDDs, artificial larynxes, and hands-free telephones. *Id.* at 3.

b. *Definition of Specialized CPE.*

46. We are modifying our Rules to allow states and carriers to tariff specialized CPE for persons with impaired hearing, speech, sight or mobility. Therefore we are adding Section 64.601(a) to our Rules. That provision recognizes that carriers may provide specialized CPE to disabled persons or to their associates. Specialized CPE encompasses any CPE which a person with a particular disability needs to access the network without assistance, or a non-disabled person needs to communicate with a disabled person, *e.g.*, a TDD. In other words, a particular type of CPE may not be provided under tariff to a person who would be able to utilize the network or contact a disabled person without it. *E.g.*, an amplifying handset may not be provided under tariff to a person whose hearing is unimpaired. The definition excludes basic hearing aid-compatible telephones. The Act does not specifically address the inclusion of hearing aid-compatible telephones as part of specialized terminal equipment. Congress found that the marketplace is producing an ample supply of such telephones at affordable prices.[67] Congress' concern was directed to other more costly equipment which is produced on a relatively small scale, and which might escalate in price in a deregulated environment. In such cases disabled persons would be hampered by unsubsidized prices of equipment. Such concerns do not apply to basic hearing aid-compatible telephones.[68] Therefore subsidies are unnecessary for such telephones. Moreover, as hearing aid-compatible telephones are expected to be almost universally available, tariffed provision of such telephones would undercut this Commission's *Computer II* policies.

47. The regulation does not preclude carriers from offering, or states from approving, offering of TDDs or other specialized CPE under any subsidy method which will effectuate the goals of the Act, including tariffing. In fact, this Commission encourages the continuation of charitable contributions, by carriers, or equipment such as TDDs and artificial larynxes, a subsidy method which may prove less distortive of telephone rates and less detrimental to ratepayers than increasing toll or exchange rates or imposing surcharges on bills for exchange services. In order to encourage innovation and avoid freezing technology, our new rule includes a list of examples but does not specify every type of "specialized CPE" which may be permissibly offered to disabled persons.[69] States can allow equipment other than the examples specified to be provided under tariff consistent with the letter and spirit of the Act and our Rules. We trust that such authority will not be abused, and we are prepared to take actions to prevent such abuse. See para. 49, *infra.*

48. Finally, we have considered, and we reject, suggestions by some commenters that the Commission adopt a definition of specialized CPE which would allow subsidized provision of only those products whose sole or main purpose is to benefit the disabled.[70] Subsection (g) of the Act refers to equipment "needed" by the disabled. Equipment may be needed by the disabled regardless of whether it was designed with them in mind, *e.g.* speakerphones. We find, moreover, that the problems of attempting to define specialized CPE by the nature of particular equipment, *i.e.*, whether a product is "designed" for disabled persons or only incidentally beneficial to them, are almost insoluble in some cases.

c. *Limitations on Provision of Specialized CPE.*

49. States and carriers must be cognizant that the Act does not authorize carriers to make a wholesale re-entry into the provisions of regulated CPE. We have considered circumstances in which we would take action against state programs which go further than permitted by the Act. Among the circumstances in which we might act are situations outlined by Representative Wirth. These include: (1) A tariff includes equipment that is not specialized, *i.e.*, will not enable a disabled person to use generally available telecommunications services (or those services that have been specially designed for their use) effectively or without assistance; (2) a tariff makes equipment which might otherwise be designated "specialized" available to persons who do not require it by virtue of a physiological impariment (*e.g.*, a speakerphone provided to a non-disabled person); (3) a tariff for regulated services includes costs of providing equipment that are not "reasonable and prudent."[71] One method of preventing abuse of the subsidy mechanism which is currently employed in several states is certification that a consumer needs a particular device to effectively obtain telephone service, by professionals familiar with particular disabilities, before the customer may obtain one at subsidized rates. In any event, we are confident that the states, which have the incentive to hold down rates for telephone services for all ratepayers, will assure that abuses in the provision of specialized CPE do not occur.

d. *Incompatibility of ASCII and Baudot TDDs.*

50. As we recognized in the Notice (para. 17), the termination of CC Docket No. 78–50 left unresolved the question of how to rectify the incompatibility between TDDs using the ASCII/103 (ASCII) and Baudot/Weitbrecht (Baudot) standards. The record in this proceeding does not provide a basis for a uniform solution to this problem at this time. AT&T has indicated that development of an affordable modem allowing interface between the two formats is feasible, and that the Electronic Industries Association is

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[64] Although we have left to the states decisions regarding the appropriate method for subsidizing specialized CPE, and we are required to delegate to the states authority to enforce certain regulations, *see* para. 51, *infra*, we are hopeful that carriers will continue current programs to aid the disabled. Moreover, we encourage new initiatives by carriers and states to assist disabled ratepayers.

[65] Policy and Rules Concerning the Furnishing of Customer Premises Equipment, Enhanced Services and Cellular Communications Services, CC Docket No. 83–115, ——FCC 2d——, FCC 83–552, adopted November 23, 1983.

[66] H. Rpt. at 13.

[67] H. Rpt. at 11.

[68] *Id.*

[69] In Addition to requirements for provision of specialized CPE, states may find it appropriate to issue reasonable requirements for carries to notify customers of the availability of such products and incidental services which enable customers to utilize such products.

[70] *See* NATA Comments at 11; USITA Comments at 8; Comdial Comments; GTE Comments at 18; Michigan Comments at 5; UTS Comments at 5.

[71] 123 Cong. Rec. at H9484 (Daily ed., Dec. 13, 1982).

exploring a uniform standard for interface between ASCII and Baudot TDDs. (Comments at 12). We encourage voluntary developments in this area and would consider, only as appropriate, formal adoption of a uniform standard agreed to by consensus, as was the case with the hearing aid compatibility standard we are adopting herein. At this time, however, we are limiting regulation of this situation to requirement that carriers which supply TDDs, provide TDD users, on request, with sufficient information to make informed purchasing decisions. *See* § 64.601(b).

51. The growing availability of moderate-cost home computer equipment meeting the ASCII/103 standard suggests that adopting that standard for telecommunications equipment for the deaf might decrease equipment costs for deaf customers and greatly expand the community of users to which deaf persons have access. While the Commission could conceivably adopt ASCII/103 as a standard with a specified deadline for phasing out dual-format or Baudot-only TDDs, the immediate costs of conversion or replacement of obsolescent existing equipment warrant caution in taking short-term actions unjustified by the record. The states will have power to require provision of TDDs using a particular standard, and can develop, in conjunction with carriers, any needed subsidization plans for conversion of equipment or retraining of Baudot users. We note, for example, that California's TDD subsidy program requires provision of dually compatible TDDs, with customers required to pay only a small surcharge for a dually compatible TDD if such a instrument is not cost-competitive with Baudot-only TDDs.[72] This Commission remains receptive to efforts by industry and representatives of the hearing impaired to reach a nationwide solution to the ASCII/Baudot problem.

8. *Enforcement of Regulations Issued Under Subsections (a) and (b) of the Act*

52. Section 610(h) of the Act provides that

> The Commission shall delegate to each state commission the authority to enforce within such State compliance with the specific regulations that the Commission issues under subsections (a) and (b), conditioned upon the adoption and enforcement of such regulations by the State commission.

[72] Investigation to Provide a Program for the Furnishing of Telecommunications Devices to the Deaf and Severely Hearing Impaired, Decision No. 92871, at 2–3 (Calif. Publ. Util. Com'n, April 7, 1981).

Congress found that it would be more cost-effective for the states rather than this Commission to handle disputes arising under the Act. Therefore authority to enforce subsections (a) and (b), requiring "reasonable access" and compatibility of "essential" telephones, is delegated to any state commission which adopts the regulations issued in this proceeding. New §§ 68.414 and 64.604, which delegate responsibility for several of the rules we are enacting, prescribe a period for voluntary compliance by individuals or carriers before a state commences a formal enforcement action.[73] The regulations delegating enforcement responsibilities also underscore that this Commission retains jurisdiction to enforce all sections of the Act if a state declines enforcement responsibilities. Our Rules, however, make clear that a state may properly decide not to act on a complaint which lacks merit as long as the customer is properly notified.[74]

IV. Regulatory Flexibility Act—Final Analysis

A. Need for and Objectives of Rules

53. These rules are being issued as directed by the Telecommunications for the Disabled Act of 1982, Pub. L. 97–410 (to be published at 47 U.S.C. 610). Through these rules, the Commission seeks to comply with the congressional purposes and provisions contained in that legislation. In order to comply with those purposes, this Commission is adopting regulations to ensure reasonable access to telephone service by the hearing impaired, including enacting technical standards for certification that essential telephones are hearing aid-compatible; defining which telephones are "essential"; enacting standards for labelling packaging and otherwise notifying the public of whether telephones are or are not hearing aid-compatible; and requiring telephone carriers to provide hearing impaired persons with hearing aid-compatible telephone if otherwise unavailable. In addition, the rules define circumstances under which specialized equipment needed by the hearing impaired and other disabled persons may be provided pursuant to state public utility regulation, and prescribe that carriers notify regulatory commissions if the carrier plans to discontinue transmission services necessary to enable deaf persons to use the network.

54. The Notice of Proposed Rulemaking in this proceeding (Para. 44) solicited comments on the Initial Regulatory Flexibility Analysis, and specified that such comments be contained under separate headings from comments relating to the general issues. No such comments were received. Nevertheless, in order to discharge our duty under the Regulatory Flexibility Act, we will proceed to discuss the pertinent costs arising from actions we are taking to implement the Telecommunications for the Disabled Act, and alternatives to those actions which we considered and rejected.

B. Analysis of Specific Actions

1. *Adoption of Technical Standards for Hearing Aid Compatibility*

55. We are requiring that telephones, in order to be designated "hearing aid-compatible" and therefore usable as "essential" telephones, comply with a uniform technical standard incorporated in our Rules. This standard places no burden on any person because it does not of itself require any company to manufacture telephones but merely establishes specifications to be met by a company which chooses to do so. Furthermore, the standard represents a consensus of industry members based upon currently prevalent technology. We were not presented with a viable alternative to the particular standard we are adopting.

2. *Requirements That Essential Telephones be Hearing Aid-Compatible*

56. We are requiring that after a specified date only hearing aid-compatible telephones be installed for use as "essential" telephones and that existing telephones which are coin-operated or provided for emergency use be retrofitted for compatibility by that date. There is generally no alternative to either requirement, both of which are mandated by the Act. Where the Act permitted an alternative to requiring that every telephone in a particular category of "essential" telephones be hearing aid-compatible, we have adopted such an alternative, *i.e.*, for credit card telephones and telephones in hotel and motel rooms. Certain commenters proposed longer deadlines for the retrofitting of coin-operated and emergency use telephones. We rejected those alternatives because no commenter quantified the expense to

[73] *See* Rpt. at 14.

[74] We further note a commenter's suggestion that this Commission, in order to facilitate public scrutiny of carrier compliance, act as a repository for carrier tariff filings for "specialized CPE" and accountings for sales of such products. Rafferty, Comments at 25. We believe, however, that the benefits of such requirements would not justify the resulting paperwork burden, both to the carriers and to the Commission. Therefore we are not adopting such a requirement.

which the shorter deadline we are adopting would subject providers of those telephones.

3. *Requirements for Package Labelling and Inserts to Indicate Hearing Aid Compatibility and Provide Other Information*

57. These requirements will increase manufacturers' production costs to some extent. However, there is no alternative to requiring package labelling, which is required by the Act, and therefore no alternative to package inserts which replace labels for unpackaged telephones. Package inserts informing a customer that an incompatible telephone may not be used in "essential" circumstances is required to effectuate the Congressional intent that the purchaser be informed of limitations on the use of incompatible telephones. Congress found such an approach to be preferable to requiring that every telephone manufactured be hearing aid-compatible. Package inserts are also less costly than alternatives we considered and rejected, such as marking the surface of an incompatible telephone.

4. *Provision of Specialized CPE*

58. The provision in our Rules relating to specialized CPE merely recognizes that the Act preserves certain rights which states and carriers already largely possess. It creates no rights or obligations in itself and therefore is not burdensome to any carrier or manufacturer.

5. *Provision of Information Concerning Usage of ASCII and Baudot TDDs*

59. We are requiring that carriers which provide TDDs are also required to provide, on request, information enabling customers to make informed decisions in purchasing or leasing a TDD. The costs of such a requirement, if any, should be minimal. The Commission considered but rejected more rigorous and expensive alternatives for rectifying problems stemming from incompatibility of TDD formats, including adoption of a standard format which would require costly equipment modification or removal of products from the market.

6. *Requirement that Exchange Carriers Provided Hearing Aid-Compatible Telephones if Otherwise Unavailable*

60. This provision places some expense on exchange carriers, who may choose to comply through any combination of maintenance of inventory, procurement of instruments as needed, or conversion of existing instruments. Such costs can, however, be recouped through mark-up on the retail price of telephones and through service charges for installations of telephones. The only viable alternatives for ensuring that every person needing a compatible telephone can acquire one, those of making hearing aid-compatibility a prerequisite to Part 68 registration of telephones, or of designating as "essential" all residential telephones used by hearing impaired individuals, would be more onerous.

7. *Notification by Carriers Seeking to Terminate TDD Operator and Directory Assistance*

61. This requirement does not impose costs on carriers, who would in most instances have to seek regulatory permission to terminate such services in any event. It does not require the offering of new services, nor mandate continuation of services which may be too costly for a particular carrier to maintain.

C. Flexibility Analysis Conclusion

62. We conclude that the actions we are taking herein comply with the purposes of the Regulatory Flexibility Act. In many instances our regulations do no more than codify requirements expressly imposed by Congress. Where alternative resolutions to particular problems were presented, we have chosen the less costly alternative unless a more costly alternative would clearly be more effective in meeting the needs of disabled customers. Finally, in many instances, both large and small carriers and manufacturers will be able to include the expenses of actions required by our regulations as part of revenue requirements for regulated services or by setting their own price on unregulated products and services.

V. Conclusion

63. Accordingly, it is ordered, pursuant to Sections 4(i), 4(j) of the Communications Act of 1934, as amended (47 U.S.C. 154(i) and 154(j)), and pursuant to the Telecommunications for the Disabled Act of 1982, Pub. L. 97–410 (to be published at 47 U.S.C. 610), that Parts 64 and 68 of the Commission's Rules and Regulations are amended as specified in Appendix C. These amendments become effective 30 days after publication of the report and order in the **Federal Register**.

64. It is further ordered that the Secretary shall cause this Report and Order and the Final Regulatory Flexibility Analysis contained herein to be published in the **Federal Register** and send a copy to the Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act (5 U.S.C. 601, *et. seq.* (1980)).

65. It is further ordered that this proceeding is terminated.

Note.—Due to the ongoing effort to minimize publishing costs, Appendices A and B, summaries of comments, will not be printed herein. However, interested parties may review those comments in the FCC Dockets Branch, RM. 239, 1919 M. St., N.W. Washington, D.C. 20554.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix C

PART 68—[AMENDED]

Title 47, Part 68 of the Code of Federal Regulations is amended as follows:

1. By revising § 68.1 to read as follows:

§ 68.1 Purpose.

The purpose of the rules and regulations in this part is to provide for uniform standards for the protection of the telephone network from harms caused by the connection of terminal equipment thereto, and for the compatibility of hearing aids and telephones so as to ensure that persons with hearing aids have reasonable access to the telephone network.

2. By adding the following § 68.4 to Subpart A, to read as follows:

§ 68.4 Hearing aid-compatible telephones.

Except as provided in § 68.112(c) (1) and (4), every telephone installed on or after January 1, 1985 which is subject to § 68.112 must be hearing aid-compatible. Every telephone subject to § 68.112 (a) and (b) installed prior to January 1, 1985 shall be modified or replaced, as necessary, in order to be hearing aid-compatible by January 1, 1985. A telephone is hearing aid-compatible if it meets the criteria set forth in § 68.200(i).

3. By adding the following § 68.112 to Subpart B:

§ 68.112 Hearing aid-compatibility.

(a) *Coin telephones.* All new and existing coin-operated telephones, whether located on public property or in a semi-public location (*e.g.* drugstore, gas station, private club).

(b) *Emergency use telephones.* Telephones "provided for emergency use" include the following:

(1) Telephones in places where a person with impaired hearing might be

isolated in an emergency, including, but not limited to, elevators, automobile, railroad or subway tunnels, and highways.

(2) Telephones specifically installed to alert emergency authorities, including, but not limited to, policy or fire departments or medical assistance personnel.

(3) Telephones needed to signal life-threatening or emergency situations in confined settings, including, but not limited to, rooms in hospitals, residential health care facilities for senior citizens, convalescent homes, and prisons. A telephone is not needed to signal life-threatening or emergency situations if an alternative means of signalling such a situation is available.

(c) *Telephones frequently needed by the hearing impaired.*

(1) Any telephone on which calls may only be paid for by credit card or other pre-arranged credit. Each such telephone must be hearing aid-compatible unless a hearing aid-compatible coin-operated telephone providing similar services is nearby and readily available.

(2) Any telephone made available at the work station of a hearing impaired employee for use by that employee in his or her employment duty. An employee's "work station" is defined as the location within a workplace where that employee is usually found in the course of his or her employment duties.

(3) Any telephone, including internal extensions and telephones restricted to local calling areas, made available for use by the public in places of business or buildings in which visits by the public are reasonably expected. Examples include, but are not limited to, telephones located in lobbies of hotels or apartment buildings; telephones in stores, which are used by patrons to order merchandise; telephones in public transportation terminals which are used to call taxis or to reserve rental automobiles.

(4) Any telephone in a hotel or motel room. *Provided that,* if at least ten percent of the rooms in a hotel or motel are equipped to accommodate a hearing impaired customer, the hotel or motel need not purchase or install a compatible telephone when it replaces a telephone. A room is equipped to accommodate a hearing impaired customer if (i) it contains a permanently installed hearing aid-compatible telephone; or (ii) it contains a telephone which will accept a plug-in hearing aid-compatible handset, which shall be provided to the hearing impaired customer by the hotel or motel; or (iii) the room contains a jack into which a hearing aid-compatible telephone provided to the customer by the hotel or motel may be plugged (*i.e.*, in addition to a permanently installed telephone which is not hearing aid-compatible). *Provided further that,* if fewer than ten percent of the rooms in a hotel or motel are hearing aid-compatible, when replacing a telephone the hotel or motel must, until the ten percent minimum is reached: (A) replace it with a hearing aid-compatible telephone, *or* (B) procure and maintain a plug-in hearing aid-compatible telephone handset which it will provide to a hearing impaired customer upon request at check-in.

(5) Any telephone in the locations listed in § 68.112(b)(3) in which an alternative means of signalling a life-threatening or emergency situation is available.

4. Section 68.200 is amended by adding a new paragraph (i), to read as follows:

§ 68.200 Application for equipment registration.

* * * * *

(i) Any application for registration or modification of the registration of a telephone, filed on or after March 1, 1984, shall state whether the handset complies with Section 68.316 of these rules (defining hearing aid compatibility), or state that it does not comply with that section. A telephone handset which complies with Section 68.316 shall be deemed a "hearing aid-compatible telephone" for purposes of Section 68.4.

5. Section 68.218 is amended by adding paragraph (b)(5) and by revising the flush (final sentence) sentence at the end of paragraph (b) to read as follows:

§ 68.218 Responsibility of grantee of equipment registration.

* * * * *

(b) The grantee or its agent shall provide to the user of the registered equipment the following:

* * * * *

(5) For a telephone which is not hearing aid-compatible, as defined in § 68.316 of these Rules:

(i) Notice that FCC rules prohibit the use of that handset in certain locations; and

(ii) A list of such locations (see Section 68.112).

A telephone company which provides and installs the registered equipment need only provide the user with the information required in paragraphs (b)(1), (b)(3) and (b)(5) of this section.

6. By adding to Subpart C the following § 68.224:

§ 68.224 Notice of hearing aid compatibility.

Every telephone offered for sale to the public on or after June 1, 1984, whether previously-registered or newly-registered, shall:

(a) Contain in a conspicuous location on the surface of its packaging a statement as to whether or not the telephone is hearing aid-compatible, as is defined in section 68.316 of these Rules, or if offered for sale without a surrounding package, shall be accompanied by a written statement as to whether or not the telephone is hearing aid-compatible, as is defined in Section 68.316 of these Rules; and

(b) Be accompanied by instructions in accordance with § 68.218(b)(5) of the Rules.

7. By adding to Subpart D the following § 68.316.

§ 68.316 Hearing aid compatibility: technical standards.

A telephone handset is hearing aid-compatible if it complies with the following standard, published by Electronic Industries Association, copyright 1983, and reproduced by permission of Electronic Industries Association:

Electronic Industries Association Recommended Standard RS–504 Magnetic Field Intensity Criteria for Telephone Compatibility With Hearing Aids

[Prepared by EIA Engineering Committee TR-41 and the Hearing Industries Association's Standards and Technical Committee]

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Magnetic Field Intensity Criteria for Telephone Compatibility With Hearing Aids

(From EIA Standards Proposal No. 1652, formulated under the cognizance of EIA TR-41 Committee on Voice Telephone Terminals

and the Hearing Industries Association's Standards and Technical Committee.)

1 Introduction

Hearing-aid users have used magnetic coupling to enable them to participate in telephone communications since the 1940's. Magnetic pick-ups in hearing-aids have provided for coupling to many, but not all, types of telephone handsets. A major reason for incompatibility has been the lack of handset magnetic field intensity requirements. Typically, whatever field existed had been provided fortuitously rather than by design. More recently, special handset designs, e.g., blue grommet handsets associated with public telephones, have been introduced to provide hearing-aid coupling and trials were conducted to demonstrate the acceptability of such designs. It is anticipated that there will be an increase in the number of new handset designs in the future. A standard definition of the magnetic field intensity emanating from telephone handsets intended to provide hearing-aid coupling is needed so that hearing-aid manufacturers can design their product to use this field, which will be guaranteed in handsets which comply with this standard.

1.1 This standard is one of a series of technical standards on voice telephone terminal equipment prepared by EIA Engineering Committee TR-41. This document, with its companion standards on Private Branch Exchanges (PBX), Key Telephone Systems (KTS), Telephones and Environmental and Safety Considerations (Refs: A1, A2, A3 and A4) fills a recognized need in the telephone industry brought about by the increasing use in the public telephone network of equipment supplied by numerous manufacturers. It will be useful to anyone engaged in the manufacture of telephone terminal equipment and hearing-aids and to those purchasing, operating or using such equipment or devices.

1.2 This standard is intended to be a living document, subject to revision and updating as warranted by advances in network and terminal equipment technology and changes in the FCC Rules and Regulations.

2 Scope

2.1 The purpose of this document is to establish formal criteria defining the magnetic field intensity presented by a telephone to which hearing aids can couple. The requirements are based on present telecommunications plant characteristics at the telephone interface. The telephone will also be subject to the applicable requirements of EIA RS-470, Telephone Instruments with Loop Signaling for Voiceband Applications (Ref: A3) and the environmental requirements specified in EIA Standards Project PN-1361, Environmental and Safety Considerations for Voice Telephone Terminals, when published (Ref: A4).

Telephones which meet these requirements should ensure satisfactory service to users of magnetically coupled hearing-aids in a high percentage of installations, both initially and over some period of time, as the network grows and changes occur in telephone serving equipment. However, due to the wide range of customer apparatus and loop plant and dependent on the environment in which the telephone and hearing aid are used, conformance with this standard does not guarantee acceptable performance or interface compatibility under all possible operating conditions.

2.2 A telephone complies with this standard if it meets the requirements in this standard when manufactured and can be expected to continue to meet these requirements when properly used and maintained. For satisfactory service a telephone needs to be capable, through the proper selection of equipment options, of satisfying the requirements applicable to its marketing area.

2.3 The standard is intended to be in conformance with Part 68 of the FCC Rules and Regulations, but it is not limited to the scope of those rules (Ref: A5).

2.4 The signal level and method of measurement in this standard have been chosen to ensure reproducible results and permit comparison of evaluations. The measured magnetic field intensity will be approximately 15 dB above the average level encountered in the field and the measured high-end frequency response will be greater than that encountered in the field.

2.5 The basic accuracy and reproducibility of measurements made in accordance with this standard will depend primarily upon the accuracy of the test equipment used, the care with which the measurements are conducted, and the inherent stability of the devices under test.

3 Definitions

This section contains definitions of terms needed for proper understanding and application of this standard which are not believed to be adequately treated elsewhere. A glossary of telephone terminology, which will be published as a companion volume to the series of technical standards on Telephone Terminals For Voiceband Applications, is recommended as a general reference and for definitions not covered in this section.

3.1 A telephone is a terminal instrument which permits two-way, real-time voice communication with a distant party over a network or customer premises connection. It converts real-time voice and voiceband acoustic signals into electrical signals suitable for transmission over the telephone network and converts received electrical signals into acoustic signals. A telephone which meets the requirements of this standard also generates a magnetic field to which hearing-aids may couple.

3.2 The telephone boundaries are the electrical interface with the network, PBX or KTS and the acoustic, magnetic and mechanical interfaces with the user. The telephone may also have an electrical interface with commercial power.

3.3 A hearing aid is a personal electronic amplifying device, intended to increase the loudness of sound and worn to compensate for impaired hearing. When equipped with an optional inductive pick-up coil (commonly called a telecoil), a hearing aid can be used to amplify magnetic fields such as those from telephone receivers or induction-loop systems.

3.4 The reference plane is the planar area containing points of the receiver-end of the handset which, in normal handset use, rest against the ear (see Fig 1).

3.5 The measurement plane is parallel to, and 10 mm in front of, the reference plane (see Fig 1).

3.6 The reference axis is normal to the reference plane and passes through the center of the receiver cap (or the center of the hole array, for handset types that do not have receiver caps).

3.7 The measurement axis is parallel to the reference axis but may be displaced from that axis, by a maximum of 10 mm (see Fig 1). Within this constraint, the measurement axis may be located where the axial and radial field intensity measurements, are optimum with regard to the requirements. In a handset with a centered receiver and a circularly symmetrical magnetic field, the measurement axis and the reference axis would coincide.

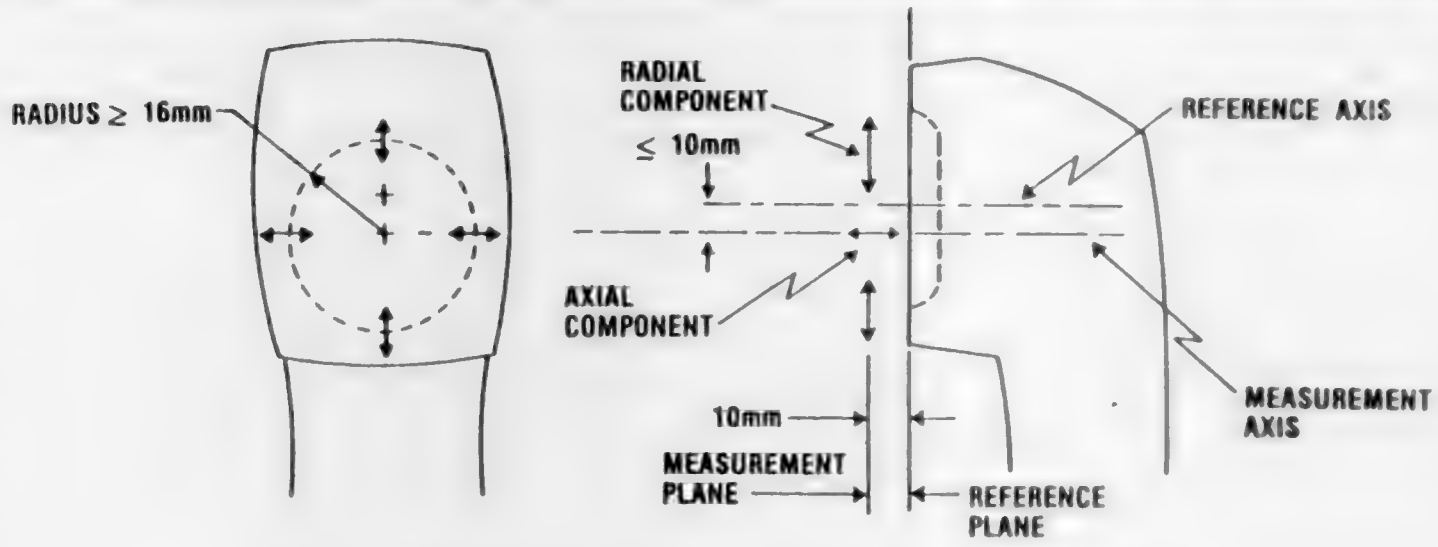

FIG 1 REFERENCE AND MEASUREMENT PLANES AND AXES

4 Technical Requirements

4.1 *General.*

These criteria apply to handsets when tested as a constituent part of a telephone.

4.1.1 Three parameters descriptive of the magnetic field at points in the measurement plane shall be used to ascertain adequacy for magnetic coupling. These three parameters are intensity, direction and frequency response, associated with the field vector.

4.1.2 The procedures for determining the parameter values are defined in the IEEE Standard Method For Measuring The Magnetic Field Intensity Around A Telephone Receiver (Ref: A6), with the exception that this EIA Recommended Standard does not require that the measurements be made using an equivalent loop of 2.75 km of No. 26 AWG cable, but uses a 1250–ohm resistor in series with the battery feed instead (see Fig 2).

4.1.3 When testing other than general purpose analog telephones, e.g., proprietary or digital telephones, an appropriate feed circuit and termination shall be used that produces equivalent test conditions.

4.2 *Axial Field Intensity.*

When measured as specified in 4.1.2, the axial component of the magnetic field directed along the measurement axis and located at the measurement plane, shall be greater than −22 dB relative to 1 A/m, for an input of −10 dBV at 1000 Hz (see Fig 2).

Note.—If the magnitude of the axial component exceeds −19 dB relative to 1 A/m, some relaxation in the frequency response is permitted (See 4.4.1).

4.3 *Radial Field Intensity.*

When measured as specified in 4.1.2, radial components of the magnetic field as measured at four points 90° apart, and at a distance >16 mm from the measurement axis (as selected in 4.2), shall be greater than −27 dB relative to 1 A/m, for an input of −10 dBV at 1000 Hz (see Fig 2).

4.4 *Induced Voltage Frequency Response.*

The frequency response of the voltage induced in the probe coil by the axial component of the magnetic field as measured in 4.2, shall fall within the acceptable region of Fig 4A or Fig 4B (see 4.4.1 and 4.4.2), over the frequency range 300-to-3300 Hz.

4.4.1 For receivers with an axial component which exceeds −19 dB relative to 1 A/m, when measured as specified in 4.1.2, the frequency response shall fall within the acceptable region of Fig 4A.

4.4.2 For receivers with an axial component which is less than −19 dB but greater than −22 dB relative to 1 A/m, when measured as specified in 4.1.2, the frequency response shall fall within the acceptable region of Fig 4B.

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BLOCK DIAGRAM
MAGNETIC FIELD MEASURING APPARATUS

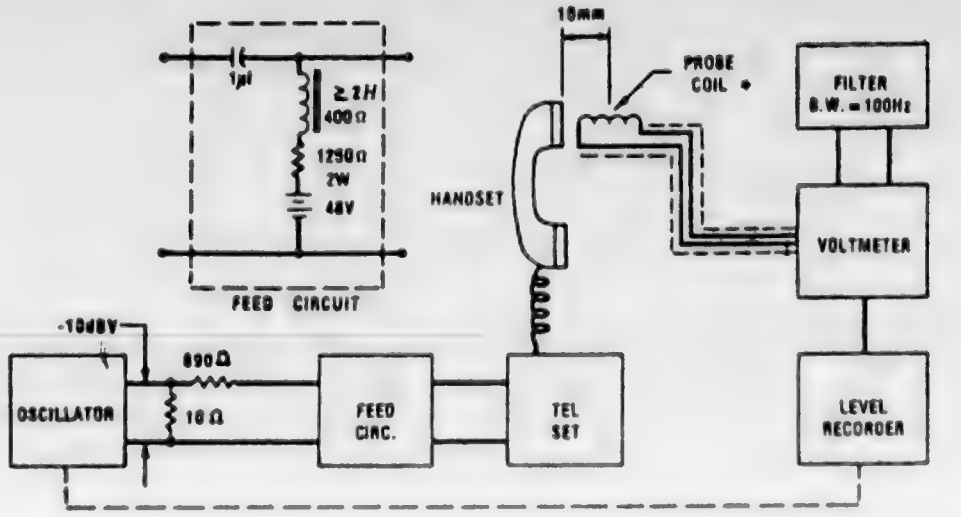

* PROBE COIL, TIBBETTS MM48, OR EQUIV. (SEE FIG. 3)

FIG 2 MEASUREMENT BLOCK DIAGRAM

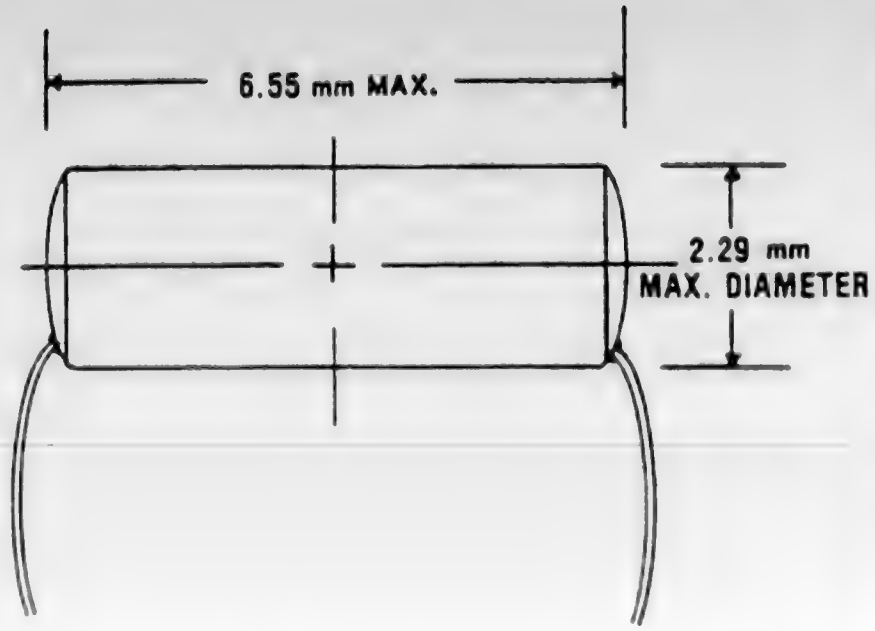

TYPICAL PARAMETERS OF PROBE COIL

DC RESISTANCE: 900Ω
INDUCTANCE: 140 mH
SENSITIVITY: -60.5 dBV/(A/m)

FIG 3 PROBE COIL PARAMETERS

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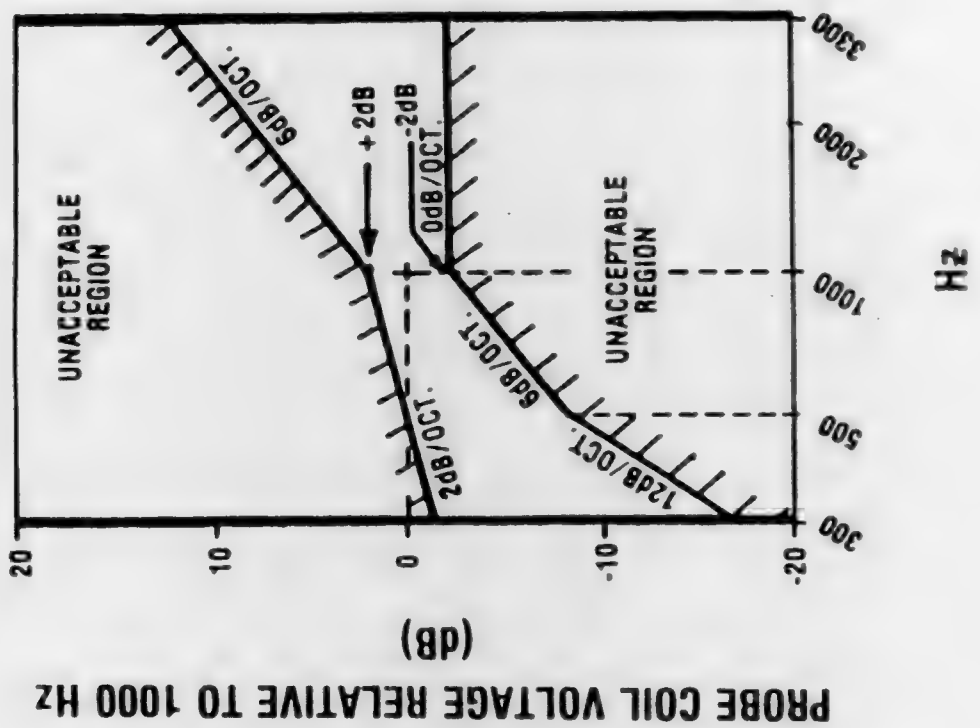

FIG 4B INDUCED VOLTAGE FREQUENCY RESPONSE FOR RECEIVERS WITH AN AXIAL FIELD THAT EXCEEDS -22 dB

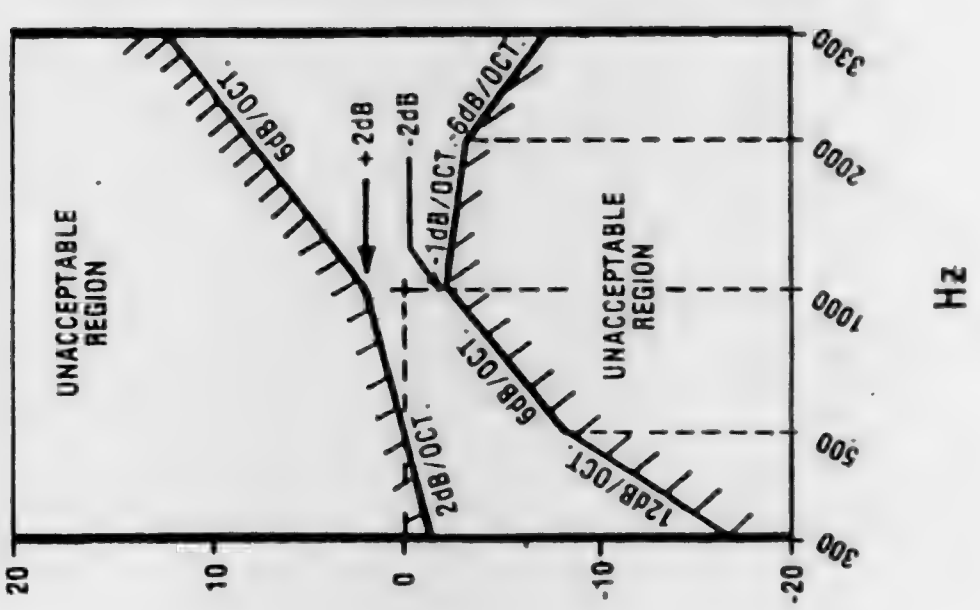

FIG 4A INDUCED VOLTAGE FREQUENCY RESPONSE FOR RECEIVERS WITH AN AXIAL FIELD THAT EXCEEDS -19 dB

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Appendix A Bibliography

(A1) EIA Standard RS–464, Private Branch Exchange (PBX) Switching Equipment for Voiceband Applications.

(A2) EIA Standard RS–478, Multi-Line Key Telephone Systems (KTS) for Voiceband Applications.

(A3) EIA Standard RS–470, Telephone Instruments with Loop Signaling for Voiceband Applications.

(A4) EIA Project Number PN–1361, Environmental and Safety Considerations for Voice Telephone Terminals.

(A5) Federal Communications Commission Rules and Regulations, Part 68, Connection of Terminal Equipment to the Telephone Network.

(A6) IEEE Standard, Method for Measuring the Magnetic Field around a Telephone Receiver. (to be published)

8. By adding to Subpart E the following § 68.414:

§ 68.414 Hearing aid-compatibility: enforcement.

Enforcement of §§ 68.4 and 68.112 is hereby delegated to those states which adopt those Sections and provide for their enforcement. The procedures followed by a state to enforce those sections shall provide a 30–day period after a complaint is filed, during which time state personnel shall attempt to resolve a dispute on an informal basis. If a state has not adopted or incorporated §§ 68.4 and 68.112, or failed to act within 6 months from the filing of a complaint with the state public utility commission, the Commission will accept such compliants. A written notification to the complainant that the state believes action is unwarranted is not a failure to act.

PART 64—[AMENDED]

Title 47, Part 64 of the Code of Federal Regulations is amended as follows:

1. By adding a new Subpart F to read as follows:

Subpart F—Furnishing of Customer-Premises Equipment and Related Services Needed by Persons With Impaired Hearing, Speech, Vision or Mobility

Sec.

68.601 Specialized customer-premises equipment.
68.602 Provision of hearing aid-compatible telephones by exchange carriers.
68.603 Notification that carrier seeks to terminate operator or directory assistance for TDD users.
68.604 Enforcement.

Subpart F—Furnishing of Customer-Premises Equipment and Related Services Needed by Persons With Impaired Hearing, Speech, Vision or Mobility

§ 64.601 Specialized customer-premises equipment.

(a) Any communications common carrier may provide, under tariff, customer-premises equipment other than a hearing aid-compatible telephone (as defined in § 68.316) which is actually needed by persons whose hearing, speech, vision or mobility is impaired. Such equipment may be provided to persons with those disabilities or to associates or institutions who require such equipment regularly to communicate with them. Examples of such equipment include, but are not limited to, artificial larynxes, bone conductor receivers, and telecommunications devices for the deaf (TDDs).

(b) Any carrier who provides telecommunications devices for the deaf, whether or not pursuant to tariff, shall respond to any inquiry concerning (1) the availability (including general price levels) of TDDs using ASCII, Baudot, or both formats; (2) the compatibility of any TDD with other TDDs and computers.

§ 64.602 Provision of hearing aid-compatible telephones by exchange carriers.

In the absence of alternative suppliers in an exchange area, an exchange carrier must provide a hearing aid-compatible telephone, as defined in § 68.200(i), and provide related installation and maintenance services, in connection with such telephones, on a detariffed basis, to any hearing impaired customer who requests such equipment or services.

§ 64.603 Notification that carrier seeks to terminate operator or directory assistance for TDD users.

Any telephone exchange carrier providing operator and directory assistance services to users of telecommunications devices for the deaf, which seeks to terminate existing services, shall no less than six months prior to a proposed termination date notify the Commission and stte public utility commission of its intent to terminate.

§ 064.604 Enforcement.

Enforcement of §§ 64.602 and 64.603 is hereby delegated to those state public utility commissions which adopt those sections and provide for their enforcement. The procedures followed by a state to enforce those sections shall provide a 30-day period after a complaint is filed, during which time state personnel shall attempt to resolve a dispute on an informal basis. If a state has not adopted §§ 64.602 and 64.603, or has failed to act within six months from the filing of a complaint with the state public utility commission, the Commission will accept such complaints. A written notification to the complainant that the state believes action is unwarranted is not a failure to act.

Separate Statement of Mark S. Fowler, Chairman

RE: Access to Telecommunications Equipment by the Hearing Impaired and Other Disabled Persons

This decision completes an important link of our implementation of *Computer II*. Congress recognized in passing the 1982 Telecommunications for the Disabled Act that the new competitive communications environment must ensure continued service for those with hearing, sight, speech and mobility impairments. Today's decision takes account of these needs, balancing them against the dictates of a robust telecommunications marketplace.

I want to complement the staff in drawing up procedures and regulations that strike that balance extremely well. And I hope that state regulators will use today's decision as their guide in formulating policies and reviewing tariffs that affect the rights of consumers that need special services. Under this decision, the hearing impaired and others will find that they are merely different, not disabled, consumers when it comes to using their telephones.

[FR Doc. 84–399 Filed 1–10–84; 8:45 am]
BILLING CODE 6712–01–M

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47 CFR Part 73

[BC Docket No. 78–28; MM Docket No. 83–16; RM–3103; RM–3740; FCC 83–572]

Relative Phase Tolerances for Directional AM Stations; and, Amendment of the Commission's Rules To Expand the Use of Toroidal Transformers; and, To Provide for the Use of Radio Frequency Relays in Sampling Element Transmission Lines

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission adopts new rules that require AM broadcasters using directional antenna systems to keep the relative antenna phases to within ±3° of the values specified on the station license. Additionally, the rules provide for expanded use of toroidal current transformers as a means of deriving current samples in direction AM station antenna systems and

provide for the use of radio frequency relays in sampling element transmission lines. This action is taken in response to requests that the technical rules relating to AM broadcasting be updated to reflect the capabilities of current broadcast technology. The intended effect is to provide AM broadcasters with a simple means of ascertaining proper directional antenna operation and to provide them with flexibility in the design of directional antenna monitoring systems.

DATES: The new rules become effective on January 1, 1984.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: James E. McNally, Jr., Mass Media Bureau, Policy and Rules Division, Technical and International Branch (202) 632–9660.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Report and Order; Proceedings Terminated

In the matter of amendment of § 73.52 of the Commission's Rules and Regulations with respect to relative phase tolerances for directional AM stations (BC Docket No. 78–28); amendment of § 73.68 of the rules to expand the use of toroidal transformers as a method of deriving current samples in directional (AM) antenna systems (MM Docket No. 83–16 RM–3103); and to provide for the use of radio frequency relays in sampling element transmission lines (RM–3740).

Adopted: December 1, 1983.
Released: December 20, 1983.
By the Commission:

Introduction

1. For reasons of administrative efficiency and because the above-referenced proceedings essentially are concerned with the accuracy and stability of directional AM broadcast station antenna systems and associated monitoring equipment, we wish to bring the two proceedings to a conclusion by means of this single *Report and Order*.

BC Docket No. 78–28

2. On January 25, 1978, the Commission adopted a *Notice of Proposed Rule Making* (*"78–28 Notice"*) in BC Docket No. 78–28 (43 FR 4674, February 3, 1978) seeking to formalize a policy that required the relative phases of directional AM station antenna currents to be maintained within ±3° of the specified values. The rules did not (and still do not) specify the accuracy within which the phases of the currents should be maintained. Only in cases where there are unusually rigid requirements for the protection of other stations does the station license specify the limits within which phase relationships must be maintained. Accordingly, the Commission proposed to amend then § 73.52 (now § 73.62) to require licensees of AM stations with directional antenna systems to maintain the phases of the antenna currents within ±3° of the values specified in the station license, unless more stringent limits are specified therein.[1] Comments were filed by the Association of Federal Communications Consulting Engineers (AFCCE), E. Harold Munn, Jr. & Associates, Inc. (Munn), American Broadcasting Company (ABC), National Association of Broadcasters (NAB), Association for Broadcast Engineering Standards, Inc. (ABES) and David C. Williams. No reply comments were filed.

Comment Summary

3. The AFCCE, Munn and ABES support the proposal to adopt a tolerance of ±3° for directional AM stations. ABC questions whether there is really a need to formally codify the existing policy, but agrees that a ±3° tolerance appears reasonable as a general matter. ABES contends that regulation of antenna monitor current amplitudes without similar regulation of antenna phase relationships is anomalous and that all applicable standards should be set forth in the rules. Nevertheless, ABES suggests that adoption of a ±5° tolerance might be more appropriate if such deviation resulted in no additional interference to the service areas of other stations. Lastly, all of these parties emphasize that the final rule should clearly indicate that licensees would be expected to maintain the ±3° phasing tolerance only during periods of normal operation, not during periods of extreme weather or unusual climatic conditions.

4. NAB believes that neither internal (*i.e.*, antenna monitor indications) nor external (*i.e.*, monitoring point field strength indications) indications can be relied upon exclusively to provide complete information about the operating condition of the antenna array because of potentially significant environmental changes possible in either the antenna array or monitoring point environments. Nevertheless, NAB recommends that if changes are contemplated in the regulation of directional antenna systems, either internal or external indications should prevail, but not both simultaneously. NAB suggests that if we prefer to rely more heavily on internal antenna indications, a substantial relaxation of the requirements pertaining to external indications would be appropriate. Thus, NAB argues that if the ±3° phase tolerance is adopted as the general rule, a 25% tolerance should be applied to the monitoring point values.[2] Further, NAB indicates that a significant number of stations rely on flexibility in antenna phase relationship to make seasonal adjustments to the antenna pattern in order to obtain correct monitoring point values. Such phase adjustments are apparently viewed as an "escape valve" by which broadcasters can avoid having to continually apply for special temporary authorization to operate outside of license-specified parameters. NAB, like ABES, also favors relaxed phase tolerances if applicants or licensees are able to show that operation within the expanded tolerances would result in no additional interference to other stations.

5. Williams does not favor adoption of the ±3° phase tolerance for a number of reasons, and prefers that we pursue a more comprehensive plan designed to ensure proper directional antenna operation. He expresses concern that if we adopt a formal phase angle tolerance, we will attach more importance to it than to field strength, which he considers the final measure of proper antenna operation. Further, Williams demonstrates that antenna arrays with sharp nulls can experience severe distortion of the pattern (particularly in the depth and direction of critical nulls) with phase deviations of ±3°. Thus, he views phase parameters alone as a poor measure of antenna performance. Like the others filing comments, he points out that antenna phase may shift considerably depending on temperature and humidity. This shifting is aggravated, he notes, when the sampling system is poorly constructed and maintained. As an alternative to our proposal, he recommends implementation of a program containing the following elements: additional antenna monitor and field strength measurements when the 5% ratio tolerance and ±3° phase angle tolerance are exceeded; additional skeleton and partial proofs of performance required as necessary; submission of a "proof of performance of the sampling system" after

[1] By reregulatory *Order* adopted September 27, 1979 (FCC 79–609), the FCC divided the subject matter ("Maintenance of antenna input power and directional antenna parameters") of § 73.53 between new § § 73.62 ("Directional antenna system tolerances") and 73.1560 ("Operating power tolerance"). Thus, the pertinent rule section for the purposes of this proceeding is § 73.62.

[2] The rules now require that the field strength values not exceed the maximum monitoring point values specified in the station authorization

construction or major repairs to the sampling system; mandatory upgrading of sampling systems when deemed necessary; or upgrading of all sampling systems by a specified date.

Discussion

6. We continue to believe that specification of an antenna phase tolerance in the rules is desirable. Proper directional antenna operation can be assumed only when antenna amplitudes and phases are within specified parameters. As ABES points out, it is anomalous that such a tolerance is lacking in the rules when a tolerance exists for antenna current amplitude ratios.

7. As we indicated in the *78–28 Notice*, the ±3° tolerance approximates the current ±5% tolerance applicable to antenna current amplitude ratios. It does not appear that this value would be difficult to maintain, particularly if deviations therefrom are permitted during periods of unusual weather or severe climatic conditions. In this regard, we note that there are a few directional AM stations that are required to hold their relative antenna phases to within 0.5° of the authorized values, and these stations are able to do so using FCC-approved sampling systems and precision antenna monitors. Accordingly, we conclude that as a general rule, operation in accordance with the proposed ±3° phase tolerance is appropriate.

8. Moreover, we disagree with NAB's contention that recent improvements in antenna sampling systems alone do not justify imposition of a ±3° phase tolerance. We take the view that in many cases where an approved antenna sampling system was not used, the actual antenna radiation pattern tended to be more stable than the indications of the antenna sampling system. Any measurement device must be more accurate than the tolerance applicable to the parameter it is being used to measure. This is why we have found it necessary, in various proceedings, to encourage improvements in the quality of both the antenna sampling system itself, and the antenna monitor. We have provided various incentives for AM broadcasters to upgrade the quality of their antenna sampling systems for some time.[3] Yet 35% of directional AM stations still operate with sampling systems of uncertain quality.

9. We believe that monitoring point measurements and internal antenna operating parameters (current ratios and phase) are equally important in determining proper directional antenna operation. The two types of measurements act as a good check and balance system. Only a full proof-of-performance could conclusively demonstrate proper directional antenna operation and this is a very costly and time consuming process. The indications provided by the comparatively few monitoring points specified in the station authorization may vary with changing ground conductivity and may not always reflect the unattenuated radiation. They are also susceptible to reradiation from nearby objects. Further, we require that only a few radials be monitored and these may not conclusively demonstrate that the proper antenna pattern is being obtained. Lastly, we set only upper limits for monitoring point indications, but indications which are too low may also indicate misadjustment.

10. The operating values for the antenna current ratios and phases (the internal antenna monitoring parameters) specified on an authorization are established as the result of an extensive proof-of-performance made on the antenna system. Unlike monitoring point field strength indications, antenna monitor indications are easy to obtain on a frequent basis and are often more reliable, being less susceptible to the effects of local environmental changes. Experience has shown that stability in antenna monitor indications generally ensures the stability of directional antenna system operation.

11. However, we are sensitive to the concerns expressed both in this proceeding and earlier in the Docket No. 18471 proceeding that adherence to such a phase tolerance should be the norm, but that short-term variance from such a standard be permissible during unfavorable weather conditions. We agree with the commenters that out-of-tolerance indications during heavy rain, snow or icing, or during abrupt and substantial changes in temperature or humidity, including consequent effects on ground conductivity, may not warrant immediate corrective action. Clearly, to make adjustments to either antenna current amplitude or phase in the absence of appropriate field strength indications may be unwise. Accordingly, we have decided to allow out-of-tolerance operation occuring as a result of adverse climatic conditions for a period of up to 10 consecutive days, provided the monitoring point values specified in the station authorization are within limits. This period is, we think, sufficient for the resolution of most problems of this type. An open-ended period could lead to abuses. Should licensees need to operate out-of-tolerance for more than 10 days, they will be required to notify our AM Branch and request special temporary authority to operate at variance with the rule. Lastly, antenna sample current ratios have an equal potential for being disturbed and we think adoption of a similar policy would be appropriate. Previously, licensees have had to request special temporary authority to operate at variance with the terms of their authorization immediately at the onset of such a situation. We believe this is no longer necessary. Accordingly, § 73.62 is being amended to let the 10 day grace period apply to both antenna monitor ratio and phase indications. The adoption of the 10 day grace period applicable to out-of-tolerance antenna phase and ratio indications should effectively negate any operational or administrative burdens that might be implied by adoption of the new phase tolerance.

12. We do not believe that a 25% tolerance need be applied to monitoring point field strength indications if the ±3° antenna phase tolerance is adopted. On December 6, 1979, we adopted, on an experimental basis, a policy of assigning monitoring point limits using the "direct ratio method."[4] This policy substantially relaxed the monitoring point tolerances from those in effect for many years prior to that time. Our experience with this new policy has confirmed its value in reducing the frequency of adjustments to the antenna patterns of many stations and in reducing the number of readjustment applications filed with the Commission. This has been possible without increasing the interference among stations. Accordingly, rather than adopt the 25% tolerance suggested by NAB, we are herewith adopting permanently the monitoring point policy described in footnote 4.

[3] Most recently, see the *Report and Order* BC Docket No. 82–537, which eliminated most broadcast periodic measurement and logging requirements. However, the rules required that broadcasters without approved sampling systems continue periodic measurement and logging of those operating parameters concerned with directional antenna operation. See § 73.1820(a)(2).

[4] This policy was implemented by letter from the Chief, Broadcast Bureau to Donald G. Everist, Chairman of the FCC Processing and Procedure Committee of the Association of Federal Communications Consulting Engineers. The complete text of this letter is given in Appendix B. Under the "direct ratio method," monitoring point limits are obtained by multiplying the measured field strength at a monitoring point by the ratio of the authorized maximum radiation divided by the unattenuated radiation established in the proof-of-performance. This method simply restricts unattenuated radiation to within its maximum authorized value whereas the traditional method in many cases, restricted radiation more severely

13. As a final matter, NAB and ABES favor a relaxed phase tolerance if applicants or licensees are able to show that operation would result in no additional interference to other stations. However, such a tolerance (and the showing made to support it) could be rendered meaningless by new or modified cochannel or adjacent channel assignments. Further, such a showing would entail substantial study which, by its very nature, would be more theoretical than practical. Guidelines have long been established concerning phase stability requirements and we see no reason to modify them at this time.

Comments in MM Docket No. 83–16

14. On January 13, 1983, the Commission adopted a *Notice of Proposed Rule Making* (*"83–16 Notice"*) in MM Docket No. 83–16 (48 FR 5978, February 9, 1983) in response to petitions filed by the Association of Federal Communications Consulting Engineers ("AFCCE") and Charles P. Crossno ("Crossno"), a consulting engineer. AFCCE, in RM–3103, sought amendment of the rules to provide for greater flexibility in the use of toroidal current transformers as a means of deriving directional AM station antenna sample currents. It asked the FCC to allow use of these transformers whenever it could be demonstrated that the sampling system operated reliably. Crossno, in RM–3740, requested a change in the rules to permit AM broadcasters to use a remotely controlled switching relay to feed the reference and relative sample currents to the antenna monitor from a central point in the antenna array.

15. In the *83–16 Notice*, the Commission proposed restricting the use of toroidal current transformers to stations with antenna towers of uniform cross-section, or self-supporting towers having a central common feedpoint for all tower legs, where the electrical height of the towers would not exceed 130°. Additionally, we proposed to allow the use of such transformers with "folded unipole" antennas of any height, provided the impedance of the individual tower would not exceed 70 ohms. These limitations were based on the assumed impracticality of using toroidal current transformers on towers greater than 130° in electrical height and out of desire to avoid the administrative burdens that would have been entailed by the showings proposed by AFCCE.

16. Lastly, we proposed to allow the use of a centrally located relay or other type of switch to provide current samples to the antenna monitor as requested by Crossno. However, we expressed the belief that two related suggestions were unnecessarily burdensome in view of the potential benefit. The two suggestions were that the antenna monitor be capable of being installed at the central switching point with no significant difference in observed ratios or phase indications and that impedance line measurements be made at ±5 kHz of the station's operating frequency at the antenna monitor end of the two sampling lines for each selected element. These latter requirements were not included in the proposed rules.

17. Comments in MM Docket No. 83–16 were filed by AFCCE, Robert A. Jones, P.E. (Jones), Charles I. Gallagher, P.E. (Gallagher) and Taft Broadcasting Company. NAB filed reply comments, and late-filed comments were submitted by Thomas G. Osenkowski on behalf of Radio Station WNYC.

Comments on RM–3103

18. AFCCE and NAB argue for adoption of the original AFCCE proposal (RM–3103) that would allow the use of toroidal current transformers as antenna monitor sample current sources at any AM directional station, provided that a showing of adequate stability could be made. Thus, they are not in favor of the restrictions proposed by the Commission in the *83–16 Notice*.

19. Jones, in his comments, agrees that the toroidal current transformers can be successfully used on guyed towers of uniform cross-section up to 130° in electrical height, but argues that base current sampling is not sufficiently reliable where self-supported or folded unipole types of antennas are used. He also opposes the proposed 30 day test or trial period as a means of demonstrating satisfactory performance of toroidal current transformers in lieu of loops on taller towers.

20. Gallagher expresses the belief that antenna monitor current samples should only be taken from rigid, non-rotatable loops operated at tower potential. He considers any other technique a compromise and cannot see any circumstance where any other system would result in the sample current being more accurate or reliable than when derived from the tower itself. Amplifying, somewhat, the comments of Jones, Gallagher points out that using the antenna base current as the antenna monitor signal source potentially involves three different types of currents: (1) the actual antenna current (which we will call the "radiated current"), (2) the current to ground which results from the distributed capacity of the base insulator and the lower 10 to 20 feet of tower (which we will call the "distributed base capacity current"), and (3) any current to ground through the tower lighting choke (which we will call the "choke current"). He notes that as long as a tower has a low impedance (as is the case with towers with an electrical height near 90°), the distributed base capacity current will be small and will have little effect on the accuracy of the current sample. However, as a tower (and its impedance) increases, the ratio of the distributed base capacity current to the radiated current will increase and can be significant. He cites two cases where use of toroidal current transformers at stations with taller towers either did or would have resulted in inaccurate sample current ratio indications. On the basis of his experience, Gallagher views the proposed 130° limit as a wise limit on the use of toroidal current transformers.

21. Taft, in its comments, argues that the 130° height limit is inadequate, based on its experience with Station WTVN (Columbus, Ohio). Taft submits extensive measurement data showing accurate and stable current samples derived from toroidal current transformers installed at the base of a tower 141.6° in electrical height. Accordingly, Taft suggests an upper height limit of 150–160° and would prefer to see the terms of the original AFCCE petition adopted (where use with a tower of any height would be permitted if a suitable showing of stability and accuracy was made).

22. Osenkowski discusses at some length his efforts to install untuned sampling loops on two self-supported towers of Station WNYC. He encountered trouble in obtaining sample current signal levels of sufficient amplitude to operate the antenna monitor. After considering various alternatives, he decided to install toroidal current transformers which subsequently provided signals of sufficient amplitude and stability. Osenkowski notes that while uniform, guyed antenna towers generally have sinusoidally distributed current, self-supported, diamond and other assorted types of towers are assumed to be markedly non-sinusoidal in terms of current distribution. Any number of factors, he indicates, can result in non-sinusoidal current distribution, making the point of current maxima difficult to determine and subject to change. In such cases, loop placement can be difficult to determine and use of toroidal current transformers can often be beneficial. Osenkowski notes that while a toroidal current transformer signal sample may not reflect a condition of snow or ice, it should be remembered that such a

condition will generally prevail for all towers in a particular antenna array. Thus, assuming that the transformers are located in the same electrical positions, effects of change in tower operating impedance and the resulting change in the mutual impedance would be reflected back to the antenna monitor. Ice accumulation on a loop antenna or on a loop insulator can result in undesired changes in the array—an unlikely occurrence where toroidal current transformers are used. Thus, Osenkowski concludes that use of toroidal current transformers is beneficial to broadcasters, particularly in cases where satisfactory operation cannot be obtained under the terms of the present rules (*i.e.*, with loops).

Comments on RM–3740

23. Gallagher, Jones and NAB (in its reply comments) commented on our proposals relative to petition RM–3740 (use of relays or a motor-driven switch to feed antenna sample currents to the antenna monitor via two coaxial cables rather than with cables from each antenna tower). Jones merely recommended that any switching relays meet all of the requirements for equipment used in FCC approved sampling systems. Gallagher expressed the belief that radio frequency (RF) relays should be of the coaxial type and be adequately shielded. He favors a means of taking sample current indications ahead of the relay and favors retention of the safeguards suggested in the original petition. However, NAB suggested that installation of "fail safe" indicating devices could serve to limit the probability of undetected relay failures. Moreover, NAB notes that other operating parameters (such as direct reading of antenna base currents or field strength measurements) would assist licensees in making accurate determinations of antenna or sampling system component failures.

Discussion

24. Except for the reservations expressed by Gallagher and Jones, the comments support the position taken by the Commission in the *83–16 Notice*. Thus, for the reasons expressed below, we have decided to adopt rules consistent with those proposed in the *83–16 Notice*, with the exception that antenna heights over the proposed limit of 130° will be allowed subject to a showing that the installation meets our accuracy and stability requirements.

25. First, we agree with Gallagher that three separate current components may flow in a tower. These have been identified as the radiated current, the distributed base capacity current and the choke current. An effect similar to that of the choke current may occur when land mobile or other antennas are mounted on a broadcast tower if their feed lines are not sufficiently isolated at the tower's base. However, all such choke currents will be negligible if the tower mounted devices are properly isocoupled. Moreover, in the absence of antenna or other special devices, any choke currents in the various antennas in the array should be nearly equal, particularly if the antenna towers are of the same type and height.

26. The same observation applies in the case of the distributed base capacity current. As Osenkowski notes in his comments, the weather conditions seen by each tower in a particular array should be the same and the effects on each tower should be similar. Thus, while a change in antenna sample current amplitudes is possible, the ratios and the phase angles should remain unchanged. Of course, this probability will diminish where one or more towers in an array is physically or electrically different than the others. Thus, while we agree with Gallagher that there are theoretical reasons why toroidal current transformers should not be used with towers greater than 130° in electrical height, in the majority of cases (where the antenna towers in the array are all of the same type), the practical consequences of such incidental currents are likely to be minimal.

27. Further, as Osenkowski points out elsewhere in his comments, the sensitivity of antenna monitors is generally around 2 volts for satisfactory performance.[5] High sensitivity toroidal current transformers deliver 1 volt of sample current per ampere of base antenna current. Thus, if a typical antenna monitor is used with toroidal current transformers, a base current on the order of two amperes is necessary for the reference input and .5 ampere for the relative inputs.[6] Since the antenna base resistance generally increases (and the base current decreases) as the height increases, there will be a practical limit on the height of a tower with which toroidal current transformers may be used. This limit cannot be stated as a general rule because it depends, ultimately, on the smallest antenna current present during the station's lower power mode of operation.

28. In view of the foregoing considerations, we have decided not to prohibit the use of toroidal current transformers in cases where an antenna tower is more than 130° in electrical height. Rather, we will leave this decision to the broadcaster or his consulting engineer. Thus, broadcasters who wish to use toroidal current transformers with towers 110° to 130° in electrical height will merely be required to certify the stability of their sampling system by meeting required tolerances for a 30 day period. We continue to believe that the one month period is sufficient to reveal any anomalies in antenna sampling systems using toroidal current transformers where the towers are less than 130° in electrical height. However, in view of potential uncertainties in operation, special showings to demonstrate the suitability of toroidal current transformers in antenna systems with towers more than 130° in electrical height will be required.[7] The showing must reflect that over a consecutive 30 day period, all antenna monitor indications were within tolerance. Data shall be taken daily or weekly for each antenna pattern pursuant to the new provisions set forth in § 73.68(a)(4)(ii).

29. The comments submitted in response to the *83–16 Notice* supported our proposal to allow the use of radio frequency relays to switch sampling current signals from different antenna towers and feed them to the antennas monitor by way of only two sampling lines (one carrying the "reference" signal and the other the "relative" signal). Accordingly, we are adopting the rules proposed therein.[8] However, we have anticipated that in lieu of a switch or relay, a licensee may wish to install the antenna monitor at the central point in the array and remotely read its various meter indications. This is already permitted if an antenna phasor unit is located in the center of the antenna field. (See Section 73.69(a)(1)). However, we have no objection to installation of the antenna monitor in a structure other than a phasor house, provided the antenna monitor can operate accurately over the wide temperature and humidity extremes that are typical of antenna tuning houses. In this regard, we expect that a similar type of structure would serve as a junction point for the antenna sample current lines and as a housing for the ratio frequency relay or motor-driven switch. However, in the case of extreme temperature or humidity

[5] In fact, sensitivity for the reference input is generally around 2 volts, and sensitivity for the relative signal inputs is generally around 0.5 volt.

[6] This assumes negligible loss in the coaxial cable connecting the antenna monitor to the toroidal current transformers.

[7] We would note that of 1840 directional operations, only 250 have towers more than 130° in electrical height.

[8] See the *83–16 Notice*, Paragraph 21.

changes, the licensee would have to install such equipment as may be necessary to keep the environment in the housing structure within the specified operating parameters for the particular antenna monitor. Thus, while we are amending the rules as requested, we urge licensees to give careful consideration to cost-benefit tradeoffs associated with centralized installation of a radio frequency relay or switch, or even the antenna monitor itself, since operating and maintenance costs of the additional structure, as well as potential inconvenience in visiting it for maintenance purposes, may eventually surpass the cost of running antenna sample current coaxial cable from each tower directly to the transmitter building.

Conclusion

30. The *78–28 Notice* was issued prior to the adoption of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) and is therefore exempt from its provisions. Nevertheless, we recognize that a small number of directional AM station licensees may be adversely affected by our adoption of the ±3° phase tolerance in that they may be compelled to upgrade substandard antenna monitoring systems where the monitoring system, rather than the actual antenna system, is responsible for out-of-tolerance indications. According to our estimates, there are approximately 650 directional AM stations (most of which would probably be classified as "small business entities" under the provisions of the Regulatory Flexibility Act) that have not installed FCC-approved antenna monitoring systems. Of this number, some undoubtedly have sampling systems that are adequate, even if not FCC-approved. Accordingly, the number of directional AM station licensees that potentially would be adversely affected by our adoption of the ±3° phase tolerance is small.

31. With respect to the Docket No. 83–16 proceeding, we pointed out in the *Notice* (Paragraph 30) that the provisions of the Regulatory Flexibility Act did not apply since the rules proposed were completely optional in nature and would not compel licensees to acquire any new equipment, undertake new record-keeping requirements or modify existing practice in any way. This contention was not disputed in the comments, so no additional Regulatory Flexibility Act analysis is herein being provided.

32. Accordingly, it is ordered, pursuant to the authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended, that Part 73 of the Commission's Rules are amended, effective January 1, 1984, as set forth in the attached Appendix. It is further ordered That this proceeding is terminated.

33. It is further ordered that the Secretary shall cause this *Report and Order* and its appendices to be published in the FCC Reports.

34. Further information on this matter may be obtained by contacting James E. McNally, Jr., Mass Media Bureau, (202) 632–9660.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

I. 47 CFR Part 73 is amended as follows:

1. Section 73.62 is revised as follows:

§ 73.62 Directional antenna system tolerances.

Each AM station operating a directional antenna must maintain the indicated relative amplitudes of the antenna base currents and antenna monitor currents within 5% of the values specified on the instrument of authorization, unless other tolerances are specified therein. Directional antenna relative phase currents must be maintained to within ±3° of the values specified on the instrument of authorization, unless other tolerances are specified therein; provided that during periods of inclement weather or severe climatic conditions, a licensee may operate at variance with these provisions for a period up to 10 consecutive days, providing the monitoring point values specified in the station authorization are within limits. If, at the end of this 10-day period normal operation is not restored, the licensee must request from the FCC in Washington, D.C., special temporary authority to operate the station at variance with the provisions of this section.

2. Section 73.68 is amended by revising subparagraph (a)(1); by revising subparagraph (a)(2); and by adding new subparagraphs (a)(3) and (a)(4) as follows:

§ 73.68 Sampling systems for antenna monitors

(a) * * *

(1) All coaxial cable from the sampling elements to the antenna monitor, including cable used in the construction of isolation coils, except short lengths of flexible cable connecting the transmitter house sampling line termination to the monitor, must have a solid outer conductor and have uniform physical and electrical characteristics. The dialectric must be either predominantly pressurized air or other inert gas, or foamed polyethylene.

(i) All sampling lines for a critical antenna array (i.e., an array for which the station authorization requires the maintenance of phase and current relationships within specified tolerances) must be of the same electrical length, with corresponding lengths of all lines exposed to equivalent environmental conditions.

(ii) For other arrays, lines of differing length may be employed, provided that the difference in length between the longest and the shortest line is not so great that, over the range of temperatures to which the system is exposed, predicted errors in indicated phase difference resulting from such temperature changes will exceed 0.5°.

(iii) A sampling line mounted on a tower must be adequately supported to prevent displacement, and must be protected against physical damage. Where feasible, sampling line sections between each tower base and the transmitter house is to be jacketed and buried: lines run above ground must be firmly supported, and protected against physical damage, with the outer conductor strapped to the station's ground system at such points as found necessary to minimize currents induced by antenna radiation.

(iv) All necessary connections and outdoor cable terminations must be made with waterproof fittings designed for use with the type of cable employed.

(v) For determining the permissible differences in line lengths that may be installed, the total difference between the highest listed normal daily maximum and lowest listed normal daily minimum temperatures as shown for the nearest location shown in the most recent issue of "Local Climatological Data Annual Summaries" shall be used in the calculations. This publication is available from:

National Climatic Center
National Oceanic and Atmospheric Administration
Asheville, North Carolina 28801

(vi) The provisions of this subparagraph do not preclude the use of a centrally located impedance-matched radio frequency relay or remotely controlled switch to provide relative sampling currents to the antenna monitor over a single transmission line. However, the reference sampling line and the relative sampling line from the switching point to the antenna monitor must be identical in type and electrical length, and must be exposed to the same

environment. The sampling line from each sampling element to the relay must conform to all relevant requirements indicated in this subparagraph. Alternatively, a licensee may install the antenna monitor at a centrally located or otherwise convenient location provided that the temperature and humidity of the operating environment are maintained within the tolerances specified by the antenna monitor manufacturer. When such an antenna monitor is to be remotely controlled and read, installation shall conform to the requirements of § 73.67 of this Part.

(2) Except as provided below, sampling elements must be single turn, unshielded loops of extremely rigid construction, with ample, firmly positioned gaps at the open loop end, mounted on towers at a fixed orientation. Loops must be installed to operate at tower potential, provided that for towers less than 130° in electrical height, loops operating at ground potential may be used. Each loop must be mounted on the tower near the point of maximum tower current, but in no case less than 3 meters (10 feet) above ground.

(3) Shielded current transformers may be used in lieu of unshielded loops to extract samples from antenna feed lines at the base of each tower having a uniform cross-section and 110° or less in electrical height, or a self-supporting tower 110° or less in electrical height, provided it has a common feedpoint for all tower legs.

(4) Shielded current transformers may be used in lieu of unshielded loops to extract samples from the antenna feed line at the base of each tower having a uniform cross-section more than 110° but not greater than 130° in electrical height, self-supporting towers not exceeding 130° in electrical height and having a central common feedpoint for all tower legs, and folded unipole antennas of any height having a base driving point resistance and reactance not exceeding 70 ohms, provided the following conditions are met:

(i) Stability of operation during a test period of 30 continuous days using the current transformers must demonstrate that the antenna monitor sample current ratios do not exceed 5% of those specified on the station authorization and that the relative phase indications are within ±3° of the values specified on the station authorization, unless a more stringent tolerence is specified therein.

(ii) The following parameters shall be read and recorded as indicated during the 30 day test period for each antenna pattern:

(A) Indications at each monitoring point specified in the station authorization, weekly.

(B) Base currents and their calculated ratios, weekly.

(C) Common point current, daily.

(D) Antenna monitor sample current amplitudes and their ratios, daily.

(E) Antenna monitor phase indications, daily.

(iii) Failure to meet the stability requirement specified in (i) of this paragraph will require that the licensee seek special temporary authority to operate at variance with the terms of the station instrument of authorization until the problem can be corrected.

(iv) A certification by the licensee that the sampling system meets the stability requirement specified in this paragraph must be included in the request for approval of the monitor sampling system together with the information specified in paragraph (c) of this section.

(v) Shielded current transformers may be used may be used in lieu of unshielded loops to extract samples from the antenna feed line at the base of each tower greater than 130° in electrical height provided the requirements set forth in subparagraphs (a)(4) (i) through (iii) of this section are satisfied and the resulting data is included in the request for approval of the monitor sampling system together with the information specified in paragraph (c) of this section.

(vi) The FCC may request the licensee to conduct such other tests, or measurements, or submit additional data it deems necessary to determine the stability of the antenna sampling system.

* * * * *

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Appendix B

December 6, 1979.

Mr. Donald G. Everist, Chairman.
FCC Processing and Procedure Committee, Association of Federal Communications Consulting Engineers, 1015—15th Street, NW., Suite 703, Washington, D.C. 20005

Dear Mr. Everist: I have your letter of October 22nd, written on behalf of your committee, requesting modification of certain Commission engineering practices used in assigning monitoring point limits to AM directional broadcast stations. Your letter formalizes suggestions developed in a series of meetings, begun well over a year ago, between your committee and members of the Broadcast Facilities Division's engineering staff concerning the policies and procedures governing the preparation and processing of various types of applications. The interest shown throughout this period by your committee in helping improve our processing procedures has been helpful and is greatly appreciated.

Specifically, your committee feels that, under the present policy, monitoring point limits are often assigned which are unnecessarily restrictive and urges the adoption of a policy whereby the assignment of these limits is based on the "direct ratio" method. The committee also urges the establishment of a policy whereby stations subject to seasonal conductivity changes can achieve relaxed limits upon submission of "seasonal proofs." Additionally, the committee requests that the Commission refrain from altering monitoring point limits based on partial proofs of performance if "substantial conformance" of the radiation patterns is demonstrated and the antenna parameters are either essentially unchanged or, if changed, adequately justified.

In response to your first suggestion, I am pleased to announce that we have, on an experimental basis, adopted the policy of assigning monitoring point limits using the direct ratio method. Under the direct ratio method, monitoring point limits are obtained by multiplying the measured field strength at a monitoring point by the ratio of the authorized maximum radiation divided by the unattenuated radiation established in the proof of performance. This method simply restricts unattenuated radiation to within its maximum authorized value whereas the traditional method, in many cases, restricted radiation much more severely. Theoretically, objectionable interference is not caused if antenna radiation is maintained below its maximum authorized value. Assuming, therefore, that changes in monitoring point field strength correspond directly to changes in antenna radiation, monitoring point limits determined by the direct ratio method should be adequate to avoid interference. However, since the assumption of a linear relationship between monitor point readings and antenna radiation becomes somewhat questionable with excessive changes, we do not intend to assign limits higher than 200% above proof values. In addition, because operation with monitoring point field strength in excess of the direct ratio limit could result in objectionable interference, we will continue to deny requests to exceed those limits.

Your second suggestion addresses a problem encountered in many areas of the country where complete proofs of performance are done during the summer months when ground conductivity is significantly lower than during the winter months. Often monitoring point limits resulting from such summertime proofs are not sufficient to accommodate higher readings encountered during winter. In such a case increased limits are obtained by collecting supplemental wintertime data in the form of a partial proof of performance consisting of at least 10 measurements on each radial established in the complete proof (see Section 73.154(a) of the Rules). You suggest that the Commission accept "seasonal proofs" for this purpose in lieu of partial proofs. A seasonal proof would consist of "at least 20 field strength measurements, both nondirectional and directional, on each of the radials specified in the construction permit and at least one radial in the major lobe."

In responding to this suggestion, it is helpful to understand the approach used by Commission engineers in analyzing complete proofs of performance. These generally consist of 20 or 30 measurements per radial (see § 73.186(a)(1)) and serve as the reference for all subsequent partial proofs. As you know, the fundamental problem is distinguishing between the effects of conductivity and antenna radiation. In making this distinction, we consider it imperative to establish, as conclusively as possible, the size and shape of the nondirectional radiation pattern. The nondirectional radiating system is simpler (fewer variables) than the directional system and its RMS (size) can be more accurately determined since each measured radial is of more or less equal significance, particularly if the radials are evenly spaced. With a directional pattern, many of the minor-lobe and null radials do not contribute significantly toward defining the RMS, leaving the remaining main lobe radials with a disproportionate influence on the determination of the pattern size. For these same reasons, the Commission relies entirely on nondirectional measurement data in determining the extent of seasonal changes in conductivity.

Because of the crucial role played by the nondirectional pattern resulting from a complete proof of performance, extreme care is used in analyzing the measurement data. Experienced engineers who have been carefully trained are used in this work. All known external factors such as terrain features, reradiating structures, pipe lines, etc., are taken into account. Each radial is repeatedly weighed against the others with constant attention to the resulting pattern shape and RMS and the analysis is not considered complete until the importance of each element of data is understood from the perspective of the whole. Of course, the more extensive and "well behaved" the measurement data, the more precise and confident the engineer can be with his/her analysis. Once the nondirectional pattern is established, analysis of the directional data can usually be done mathematically, rather than graphically, using either arithmetic or logarithmic averages. Any subsequent nondirectional partial proofs which are submitted to the Commission for the purpose of documenting suspected conductivity changes are mathematically analyzed, point for point along each radial, against the complete proof nondirectional data (see Section 73.186(a)(5)). If the possibilities of distortion and changed RMS can be eliminated from the partial proof nondirectional pattern, then the extent of conductivity change along each radial can be determined and applied to the directional partial proof data revealing whether, in fact, observed changes in directional field strengths resulted from changes in the radiation pattern or simply from conductivity changes.

The notion of a seasonal proof, to the extent that some of the proof radials would be eliminated, strikes at the very heart of our approach which is an accurate determination of the nondirectional radiation pattern. Although, under the committee's suggestion, the minimum number of measurements on some radials would be raised from 10 to 20, we do not feel the value gained from additional data on these radials would be sufficient to offset the complete loss of data on the remaining radials. This is also the case for directional patterns where changes in radiation in some directions can affect radiation in other directions and assumptions of pattern symmetry are generally unreliable. The Commission encourages supplemental measurements in addition to the minimum of 10 per radial required by the Rules; this should not be accomplished, however, at the expense of fewer measurements on other radials.

Your last suggestion concerns the Commission's assignment of monitoring point limits in response to partial proofs of performance conducted following antenna repairs, refurbishment, construction or readjustment. Often such proofs result in a reduction in limits below those previously assigned because measurements were taken during periods of low conductivity or because antenna radiation in some directions was reduced. The committee suggests we not lower limits in such cases if the pattern remains in substantial conformance and the antenna parameters (phases and current ratios) are either essentially unchanged or, if changed, adequately justified. We believe this suggestion has merit and have, also on an experimental basis, ceased the practice of lowering limits based on partial proofs except when such limits would exceed measured values by more than 200%.

We feel that the current mandatory use of type-approved antenna monitors by directional stations and the widespread use of approved sample systems permit these changes in policy at this time without endangering in any way the technical integrity of our AM broadcasting system. Nonetheless, because of the significance of these changes, we intend to proceed on an experimental basis for at least a year, gaining the benefit of practical experience, before permanently adopting them. In addition, cases clearly falling beyond the scope of these policies will continue to be handled on a case-by-case basis.

We are hopeful that the changes we have initiated in response to your suggestions will provide many stations with operating tolerances sufficient to accommodate variations which, under our old policy, would have required a proof of performance and the filing of an application with the Commission. Again, I would like to express my sincere appreciation for the work done by your committee in bringing forth these suggestions.

Sincerely,

Richard J. Shiben,

Chief, Broadcast Bureau.

[FR Doc. 84-557 Filed 1-10-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 97

[PR Docket No. 83-27; RM-4229]

Allow the Use of Volunteers to Prepare and Administer Operator Examinations in the Amateur Radio Service and Correction

AGENCY: Federal Communications Commission.

ACTION: Final Rules and Correction.

SUMMARY: This document corrects FCC rules regarding the use of voluntary and uncompensated volunteers to prepare and administer amateur operator examinations in order to eliminate unintended inconsistencies in the rules adopted in the *Report and Order* in this proceeding.

EFFECTIVE DATE: January 11, 1984.

FOR FURTHER INFORMATION CONTACT: John J. Borkowski, Federal Communications Commission, Washington, D.C. 20554, (202) 632-4964.

Errata

In the matter of amendment of Parts 0, 1 and 97 of the Commission's rules to allow the use of volunteers to prepare and administer operator examinations in the Amateur Radio Service (PR Docket No. 83-27 RM-4229).

Released: December 30, 1983.

1. On September 22, 1983, the Commission adopted a *Report and Order*, 48 FR 45653 (October 6, 1983), in the above captioned proceeding. In the *Report and Order*, the Commission amended Parts 0, 1 and 97 of its Rules to allow the use of volunteers to prepare and administer operator examinations in the Amateur Radio Service.

2. In the rules set forth in the Appendix to the *Report and Order*, volunteers are given ten days from the time they administer an examination to forward candidates' applications to the VEC (§ 97.28(h)). However, VEC's are given only ten days from the date of the examination to forward candidates' applications to the FCC (§ 97.519(c)). This could result in a VEC having no time to perform the functions listed in § 97.519, and was not intended. The Commission intended to give the VEC adequate time to perform these functions.

3. At paragraph 28 of the *Report and Order*, The Commission stated: ". . . we have incorporated all of the present telegraph requirements and guidelines from our present rules." With respect to telegraphy examination grading, no changes were intended. However, § 97.29 (c) in the Appendix imposed an additional burden not included in the present rules of grading on the basis of

"one continuous minute." Inclusion of this new burden was not intended.

4. Sections 97.503 and 97.515 of the Rules in the Appendix cross-reference § 97.30. There is no § 97.30. The cross-references should be deleted.

5. Section 97.28(i)(2) provides for FCC retesting of any person who obtained an operator license through the volunteer examination process. It does not indicate what the FCC will do if such a person does not pass the examination. This was an inadvertent omission. Therefore, we are adding a new paragraph (j) to § 97.28 to clarify that an examinee who fails to appear for readministration of an examination or who fails to pass the retested examination element(s) will have his/her operator's license cancelled and will be issued a new operator license for the operator license class previously held by the examinee. We are also clarifying that FCC retesting applies only for examinations above the Novice Class.

6. Additionally, the definition of the term "Amateur Code Credit Certificate" in § 97.3 was inadvertently retained.

7. Finally, the wording of § 97.513 regarding where VEC's may coordinate examinations is unintentionally ambiguous. While this wording was designed to permit VEC's to coordinate examinations outside of the regions listed in § 97.507(b) (such as United States military bases in foreign countries), it was not intended to permit one regional VEC to coordinate examinations in another region.

8. Accordingly, the following corrections are made to the Appendix of the *Report and Order* in this proceeding:

§ 97.3 [Corrected]

1. Paragraph (aa) of § 97.3 is removed and reserved.

2. Section 97.28 is amended by revising paragraph (i) and adding a new paragraph (j) as follows:

§ 97.28 Examination administration.

* * * * *

(i) The FCC reserves the right, without qualification, to:

(1) Administer examinations itself; *or*

(2) Readminister examinations itself or under the supervision of an examiner designated by the FCC to any person who obtained an operator license above the Novice Class through the volunteer examination process.

(j) If a licensee fails to appear for readministration of an examination pursuant to paragraph (i)(2) of this section, or does not successfully complete the examination element(s) which are readministered, the licensee's operator license is subject to cancellation; in an instance of such cancellation, the licensee will be issued an operator license consistent with completed examination elements which have not been invalidated by not appearing for or failing readministration of an examination.

3. The words "for one continuous minute" are removed from the first sentence of paragraph (c) of § 97.29.

4. The cross-references to § 97.30 are removed from § 97.503(b) and from § 97.515.

5. The first two sentences of § 97.513 are revised to read:

§ 97.513 Scheduling of examinations.

A VEC will coordinate the dates and times for scheduling examinations (see § 97.26) throughout the region(s) it serves. Any VEC may also coordinate the scheduling of testing opportunities outside of the regions listed in § 97.507(b).

* * * * *

6. Paragraph (c) of § 97.519 is revised to read:

§ 97.519 Examination procedures.

* * * * *

(c) Forward the application within ten days of its receipt from the examiners to: Federal Communications Commission, Licensing Division, Private Radio Bureau, Gettysburg, Pennsylvania 17325.

* * * * *

(Secs. 4(i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 84-344 Filed 1-10-84; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 671

[Docket No. 31230-254]

Tanner Crab Off Alaska

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency interim rule and request for comments.

SUMMARY: The Secretary of Commerce has determined that an emergency exists in the Tanner crab fishery conducted in parts of the Southeast District of Registration Area A and therefore closes the Tanner crab season in inshore waters on December 23, 1983. This action is necessary to bring the Tanner crab season in parts of the 3-to-200-mile fishery conservation zone (FCZ) within the Southeast District into conformity with the season in adjacent territorial waters, thereby removing a conflict between the Tanner crab season and exploratory king crab fisheries in localized areas thoughout internal waters of the Southeast District. It is intended to prevent confounding the State's king crab management regime, to reduce the risk of overfishing local king crab stocks, to encourage the development of new king crab fisheries, and to reduce potential enforcement costs.

DATE: This rule is effective from 12:01 a.m., Yukon Standard Time (YST), December 23, 1983, until 11:59 p.m. YST, February 9, 1984. Comments must be received on or before February 8, 1984.

ADDRESS: Comments should be addressed to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: William L. Robinson (Fishery Biologist, NMFS, Fishery Management Operations Branch), 907-586-7230.

SUPPLEMENTARY INFORMATION:

Background

The domestic Tanner crab fishery in the FCZ off Alaska is managed under the fishery management plan for the Commercial Tanner Crab Fishery off the Coast of Alaska (FMP). This FMP was developed by the North Pacific Fishery Management Council (Council), approved by the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), and implemented by a final rule effective May 15, 1978 (43 FR 21170). The FMP has been amended eight times.

The 1982-83 Tanner crab season in territorial waters in the Southeast District began December 1, 1982, earlier than the season opening in most other parts of the State of Alaska. As a consequence, substantially greater numbers than expected of fishing vessels which intended ultimately to fish in other areas of the State when other seasons opened were attracted into the Southeast District. Local fishermen were preempted by non-local vessels, and the large number of vessels and fishing effort strained the State's capacity to manage the resource. In order to distribute fishing effort more evenly among the Tanner crab fisheries around the State, the Alaska State Board of Fisheries changed the season opening date for territorial waters of the

Southeast District from December 1 to February 10 so that the Tanner crab season in this district would start at approximately the same time as other Tanner crab seasons around the State. Thus, a disproportionately large number of Tanner crab vessels would not be able to concentrate in the Southeast District before moving to other districts where later season openings were scheduled.

The Council recognized the need for the Tanner crab season in the FCZ of the Southeast District to be consistent with the season in State waters for enforcement reasons. Further recognizing the need to adjust season opening and closing dates throughout the management unit as well as in this single instance, the Council proposed and approved Amendment 9 which establishes framework regulatory mechanisms to accomplish necessary changes to season opening and closing dates without the need for individual FMP amendments. This amendent has not yet been submitted to the Secretary of Commerce. Consequently, the 1983 Tanner crab season opened on December 1, 1983 in the FCZ portion of the Southeast District, whereas the season does not open until February 10, 1984 in Alaska State waters. In addition, the State of Alaska has authorized an exploratory king crab fishery for brown king crab in portions of its internal waters that are adjacent to portions of the FCZ that intrude into those internal waters. These FCZ intrusions are closed to the taking of king crab.

If the Tanner crab season in those portions of the FCZ that intrude into State internal waters is kept open before February 10, 1984, not only would State and Federal regulations be different, but king crab fishermen could harvest Tanner crab from king crab fishing areas in territorial waters and report the landings as being from the FCZ intrusions. Conversely, and perhaps more seriously, Tanner crab fishermen in the FCZ intrusions could harvest king crab from closed portions of the FCZ and report their landings as being from open areas within State waters. The taking of king crab under the guise of Tanner crab fishing from waters closed to king crab fishing could seriously jeopardize the king crab stocks in those waters. This latter situation could disrupt the development of new king crab fisheries by causing the State of Alaska to close its exploratory king crab fisheries to eliminate the illegal harvest of king crab from the FCZ intrusions.

Enforcement to prevent violations resulting a tanner crab fishery open in Federal waters but closed in adjacent State waters and a king crab fishery open in State waters but closed in the adjacent FCZ intrusions would be inordinately burdensome due to the need to increase surveillance and to conduct vessel tank inspections. Closing the Tanner crab season in the FCZ intrusions will reduce the amount of enforcement effort required.

It is not necessary to close the offshore portion of the FCZ because the offshore areas are open to the taking of king crab. This emergency rule is necessary to close the Tanner crab season from December 23, 1983 until February 10, 1984, when the Tanner crab season opens in adjacent State internal waters, only in the following areas of the FCZ, called the FCZ intrusions.

1. Waters of the FCZ in Cross Sound east of a line extending from Cape Spencer (58°12′45″ N. latitude, 136°39′30″ W. longitude) to Yakobi Rock (58°05′10″ N. latitude, 136°33′40″ W. longitude).

2. Waters of the FCZ in Sitka Sound east of a line extending from Cape Edgecumbe (56°59′45″ N. latitude, 135°51′00″ W. longitude) to Point Woodhouse (56°50′05″ N. latitude, 135°32′15″ W. longitude).

3. Waters of the FCZ in Lower Chatham Strait and Frederick Sound north and east of a line extending from Cape Ommaney (56°10′00″ N. latitude, 134°40′20″ W. longitude) to Motion Point (55°55′00″ N. latitude, 134°10′00″ W. longitude).

4. Waters of the FCZ in Iphigenia Bay and Summer Strait north and east of a line extending from Helm Point (55°49′30″ N. latitude, 134°17′00″ W. longitude) to Cape Ulitka (55°33′45″ N. latitude, 133°43′35″ W. longitude).

Classification

The Assistant Administrator has determined that this rule is necessary to respond to an emergency situation and is consistent with the Magnuson Act and other applicable law.

The Assistant Administrator also finds that the reasons justifying promulgation of this rule on an emergency basis make it impracticable and contrary to the public interest to provide notice and a prior opportunity for public comment, or to delay for 30 days the effective date of the rule under the provisions of 5 U.S.C. 553 (b) and (d). Comments are invited for a period of 30 days following the effective date of this rule. Comments should be sent to the Regional Director at the address above.

The Assistant Administrator has determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the Alaska Coastal Management Program, as required by section 307(c) of the Coastal Zone Management Act of 1972 and its implementing regulation at 15 CFR Part 930, Subpart C. This determination has been submitted for review by the responsible state agency.

The Assistant Administrator prepared an environmental assessment (EA) for this action and concluded that no significant impact on the human environment will result from its implementation. A copy of the EA is available from the Regional Director at the address above.

The NOAA Administrator has determined that rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. He made his decision on the basis of the analysis contained in the EA mentioned above. This emergency rule is exempt from the normal review procedures of E.O. 12291 as provided in section 8(a)(1) of that order. This rule is being reported to the Director of the Office of Management and Budget, with an explanation of why following the procedures of that order is impractical.

The General Counsel of the Department of Commerce has certified to the Small Business Administration that this rule will not have a significant economic impact upon a substantial number of small domestic entities for the purpose of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The certification was made on the basis of the analysis contained in the EA.

This rule does not contain a collection of information requirement and therefore is not subject to the provisions of the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 671

Fish, Fisheries, Reporting and recordkeeping requirements.

Dated: January 6, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

For the reason set out in the preamble, 50 CFR Part 671 is amended as follows:

PART 671—TANNER CRAB OFF ALASKA

1. The authority citation for Part 671 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 671.26, paragraph (c)(2)(i) is revised to read as follows:

§ 671.26 Season, general gear restrictions, and registration areas.

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(i) Tanner crab may be taken in the Southeast District from December 1 through May 1, subject to adjustment by the Secretary under § 671.27 of this part, except that in the following areas, Tanner crab may be taken from February 10 through May 1 only, subject to adjustment by the Secretary under § 671.27 of the part.

(A) Cross Sound east of a line extending from Cape Spencer (58°12'45" N. latitude, 136°39'30" W. longitude) to Yakobi Rock (58°05'10" N. latitude, 136°33'40" W. longitude).

(B) Sitka Sound east of a line extending from Cape Edgecumba 56°59'45" N. latitude, 135°51'00" W. longitude) to Point Woodhouse (56°50'05" N. latitude, 135°32'15" W. longitude).

(C) Lower Chatham Strait and Frederick Sound north and east of a line extending from Cape Ommaney (56°10'00" N. latitude, 134°40'20" W. longitude) to Motion Point (55°55'00" N. latitude, 134°10'00" W. longitude).

(D) Iphigenia Bay and Summer Strait north and east of a line extending from Helm Point (55°49'30" N. latitude, 134°17'00" W. longitude) to Cape Ulitka (55°33'45" N. latitude, 133°43'35" W. longitude).

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[FR Doc. 84-734 Filed 1-9-84; 8:50 am]

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Proposed Rules

Federal Register
Vol. 49, No. 7
Wednesday, January 11, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

7 CFR Part 991

Hops of Domestic Production; Administrative Rules and Regulations Governing Additional Allotment Base

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: Notice is hereby given of a proposal to issue two million pounds of additional allotment base to new producers under the Federal marketing order for domestic hops. This proposal is intended to improve the flexibility of the marketing order in meeting trade demand fluctuations.

DATE: Comments due February 10, 1984.

ADDRESSES: Written comments should be sent to: Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written materials should be submitted, and they shall be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250; (202) 447–5053.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This proposal would amend Subpart—Administrative Rules and Regulations (7 CFR 991.130–991.601; 48 FR 13013) by adding a new § 991.138a to provide for the issuance of additional allotment base to new producers. This subpart is operative under Order No. 991, as amended (7 CFR Part 991), regulating the handling of hops of domestic production, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposed rule is based on an unanimous recommendation of the Hop Administrative Committee.

During the past five years, the salable percentage has been in excess of 100 percent. At the same time, there were large fluctuations in trade demand for hops. Future responsiveness of the order to changes in trade demand might be improved if there were a moderate upward adjustment in the total amount of base with an additional number of permanent producers under the order. Such an action would be consistent with the Act and § 911.38(b) of the order (7 CFR 991.38(b)). In addition, it would be in furtherance of the USDA guideline objective of eliminating barriers to entry in marketing order programs.

The proposal provides for the Committee to make two million pounds of additional allotment base available to new producers, about three percent of existing base. A "new producer" would be defined as any person who is not holding allotment base on the date this notice is issued.

The proposal requires the Committee to determine the size and number of economic units of allotment base to be made available in order to ensure that economically feasible amounts of base are distributed. The Committee would include that information in its announcements informing new producers when to apply for this allotment base. The application for this allotment base will include a statement that the applicant will make a bona fide effort to produce the annual allotment referable to such allotment base. This additional allotment base would be issued on a random basis by placing all applicants' names in a lot for drawing.

Allotment base issued under this proposal would not be transferrable for two years after the date of issuance by the Committee except, in the following circumstances: (1) In the event of sale or other transfer of a producer's production facilities, the base could be transferred to the person acquiring and continuing the use of such facilities; (2) in the event of death of the producer, the entire base could be transferred to such producer's heirs or beneficiaries (3) if a base is held jointly and the joint venture is terminated, the entire base could be transferred to one of the joint venture holders, or divided among them.

List of Subjects in 7 CFR Part 991

Marketing agreements and orders; and Hops.

PART 991—[AMENDED]

Therefore, Subpart—Administrative Rules and Regulations (7 CFR 991.130–991.601; 48 FR 13013) is proposed to be amended by adding § 991.138a to read as follows:

§ 991.138a Additional allotment base.

Pursuant to § 991.38(b), the Committee shall grant two million pounds of additional allotment base to new producers in accordance with the following procedures:

(a) "New producer" means any person who is not holding an allotment base on (December 29, 1983).

(b) Allotment bases granted under this section shall be for hops of any variety planted after the effective date of this rule.

(c) The Committee shall: Determine the size and number of economic units of additional allotment base to be made available to new producers, and the Committee shall include that information in its announcements to new producers informing them when to submit requests for allotment base.

(d) Any new producer desiring allotment base pursuant to this section must file a written application with the Committee, by a time specified by it, containing the following information:

(1) The location and number of acres which the applicant will plant to hops for harvesting during the 1984–85 marketing year.

(2) A statement that the applicant will make a bona fide effort to produce the annual allotment referable to such allotment base.

(e) The names of all applicants shall be placed in a lot for drawing. After the drawing the Committee shall immediately notify each applicant whose name was drawn and issue that person allotment base in the appropriate economic unit.

(f) Additional allotment base issued under this section shall not be transferrable for two years after the date of issuance by the Committee except in the following circumstances:

(1) In the event of sale or other transfer of a producer's production facilities, the base may be transferred to the person acquiring and continuing the use of such facilities; (2) in the event of death of the producer, the entire base may be transferred to such producer's heirs or beneficiaries; and (3) if a base is held jointly and the joint venture is terminated, the entire base may be transferred to one of the joint venture holders, or divided among them.

Dated: December 29, 1983.

Charles R. Brader,

Director, Fruit and Vegetable Division.

[FR Doc 84-731 Filed 1-10-84; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 991

[Docket No. AO-352-A-2]

Hops of Domestic Production; Formal Rulemaking Proceeding

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of opportunity to submit proposals.

SUMMARY: The Department of Agriculture invites interested persons to submit proposals to amend the marketing order for domestically produced hops. A formal rulemaking hearing will be held early in 1984 to receive evidence on amendatory proposals; included should be proposals to eliminate barriers to entry, and to limit transfer of allotment base.

DATE: Proposals must be received by March 12, 1984.

ADDRESS: Send four copies of any proposals in writing to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, where they will be available for public inspection during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250; (202) 447-5053.

SUPPLEMENTARY INFORMATION: A notice to hold a public hearing to amend the hop marketing order will be announced early in 1984. This hearing will be held at a convenient location in the area of production. At the hearing, testimony will be received on proposals to amend the order.

Considerable controversy has existed within the domestic hop industry for several years on matters relating to Marketing Order No. 991 for hops of domestic production, primarily in regard to entry of new producers and the ability of existing hop producers to expand their operations. The controversy has been of such magnitude and duration that an amendment of the order may be necessary. Accordingly, USDA now is soliciting amendatory proposals to be included in a notice of hearing, and especially proposals to eliminate entry barriers and to limit transfer of allotment base by producers.

Any proposals submitted should cite specific sections of the hop marketing order (7 CFR Part 991) to which they relate and should reference Docket No. AO-352-A-2.

Hop producers, handlers, and the public have until March 12, 1984 to submit written proposals to amend the hop marketing order. Soon after this date, the Administrator will review the proposals in accord with 7 CFR 900.3, and notice of hearing will be issued and published in the **Federal Register** announcing the amendatory proposals, and the location, date, and time of the public hearing.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Signed at Washington, D.C. on January 4, 1984.

Vern F. Highley,

Administrator, Agricultural Marketing Service.

[FR Doc 84-732 Filed 1-10-84; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

Del Bonita and Wildhorse, Montana; Change in Hours of Service

AGENCY: Customs Service, Treasury.

ACTION: Withdrawal of proposed rule.

SUMMARY: This document withdraws a proposal to change the hours of service currently provided at the Customs port of entry of Del Bonita, Montana, and the Customs station of Wildhorse, Montana, located on the U.S.-Canadian border, in the Great Falls, Montana, Customs District.

The change, which was coordinated with the Immigration and Naturalization Service (INS), was proposed to enable Customs and INS to obtain more efficient use of their personnel, facilities, and resources. However, after consideration of the comments received in response to the proposal and further review of the matter, it has been determined that service at this port and station should continue to be provided at the current hours.

DATE: Withdrawal effective January 11, 1984.

FOR FURTHER INFORMATION CONTACT: Richard C. Coleman, Office of Inspection and Control, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8157).

SUPPLEMENTARY INFORMATION: .

Background

In general, §101.6, Customs Regulations (19 CFR 101.6), provides that each Customs office shall be open for the transaction of Customs business between the hours of 8:30 a.m. and 5:00 p.m. on all days of the year except Saturdays, Sundays, and national holidays. It also provides that services performed outside a Customs office generally shall be furnished between the hours of 8:00 a.m. and 5:00 p.m. However, because of local conditions, different but equivalent hours may be necessary to maintain adequate and efficient service.

Del Bonita and Wildhorse, located in the Great Falls, Montana, Customs District, are two man border crossings, jointly staffed by personnel from Customs and the Immigration and Naturalizaiton Service (INS). The current hours of service at these locations are as follows:

Del Bonita

June 1-September 15—8:00 a.m.-9:00 p.m.
September 16-May 31—9:00 a.m.-6:00 p.m.

Wildhorse

May 15-September 30—8:00 a.m.-9:00 p.m.
October 1-May 14—8:00 a.m.-5:00 p.m.

Because traffic at Del Bonita and Wildhorse did not justify the current hours of service, by notice published in the **Federal Register** on June 14, 1983 (48 FR 27265), it was proposed to change the hours of service for both locations as follows:

May 15-September 30—9:00 a.m.-9:00 p.m.
October 1-May 14—9:00 a.m.-5:00 p.m.

As stated in that notice, this change would have placed both locations on the same operating schedule, reduce overall operating costs, including overtime expenditures, and allow for better scheduling and utilization of available office staff. Before taking any final action, however, public comments were solicited on the proposed change. Comments were to be received on or before August 15, 1983.

Discussion of Comments

Forty-three comments were received in response to the notice. A number of comments apparently were based on erroneous newspaper accounts indicating that Customs would cease weekend service at Del Bonita. This was not even suggested in the proposal. Weekend service will be continued.

The primary concerns of the commenters were the possible adverse economic impact the proposal might have on area businesses, as well as inconvenience for the traveling public. Customs believes that any adverse economic impact or inconvenience would have been minimal. In fact, service would actually have been increased by 3 hours over current hours at Del Bonita during the last 2 weeks of May and the last 2 weeks of September. Moreover, the new hours of service would have eliminated overtime costs which are unnecessary in light of the fact that the volume of traffic at these two locations does not justify the additonal hours of service.

However, after further review of the matter, it was determined that the savings to Customs from this proposal would be minimal. In addition, Canadian Customs has expressed some concern over the change in hours of service. In view of these factors, and the comments received in response to the notice, Customs has determined that the proposed change in hours of service at Del Bonita and Wildhorse is not justified. Accordingly, the proposal is withdrawn.

Drafting Information

The principal author or this document was Glen E. Vereb, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: November 22, 1983.

Alfred R. De Angelus,

Acting Commissioner.

[FR Doc. 84-706 Filed 1-10-84; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Parts 16, 20, and 23

Proposed Provisions for Estates of Indians of the Five Civilized Tribes, Financial Assistance and Social Services Program, and Indian Child Welfare Act

August 3, 1983.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs proposes to amend existing Estates of Indians of the Five Civilized Tribes regulations to reflect the consolidation of the Muskogee Field Office of the Solicitor with the Tulsa Regional Office of the Solicitor.

The Bureau proposes also to amend existing Financial Assistance and Social Services Program regulations to implement changes as directed by the congressional directive in the Fiscal Year 1983 Appropriations Conference Report No. 97-978, dated December 17, 1982. The report states on page 20 that: "The managers direct the Bureau to move expeditiously to implement changes in the general assistance program to bring payments into conformance with State payments in those States where the standard of need exceeds actual payments. The regulations shall provide flexibility for the Bureau to adjust payments as such payments may be adjusted by the States." This practice by some State public welfare agencies has been employed over the years to accommodate State budgetary constraints, and is commonly referred to as a "Rateable Reduction".

Other revisions of Financial Assistance and Social Services program regulations are proposed to clarify the definition of "near reservation", and to emphasize the Bureau's responsibility to administer general assistance programs only in localities where such programs will not duplicate existing general assistance services.

Amendments, additions and corrections are also proposed for the Indian Child Welfare Act regulations. In those regulations, this proposed rule intends to: (1) define the term "multi-service Indian center"; (2) provide address corrections for the Bureau's Minneapolis Area Office and Sacramento Area Office; (3) include a new section to assure timely filing of vouchers for legal fees; (4) include multi-service Indian centers as eligible grant applicants; (5) allow multi-service Indian centers to be eligible to apply for grants to serve designated "near reservation" areas; (6) enable the Commissioner to approve multi-year grants; (7) correct a printing error appearing in the existing regulations; (8) add "date of birth" to the list of identifying data required of State courts when notifying the Bureau of final decrees or adoptive orders for any Indian child; and (99) make other changes to coincide with the revisions outlined above.

DATES: Comments must be received on or before Februry 10, 1984.

ADDRESS: Written comments should be addressed to: Chief, Division of Social Services, Bureau of Indian Affairs, 1951 Constitution Avenue, NW., Washington, D.C. 20245.

FOR FURTHER INFORMATION CONTACT: Raymond V. Butler, Chief, Division of Social Services, Bureau of Indian Affairs, telephone number: (202) 343-6434.

SUPPLEMENTARY INFORMATION: The Bureau of Indian Affairs is publishing a proposed rule which amends 25 CFR 16.1(c), Definitions. The amended paragraph reflects the consolidation of the Muskogee Field Office of the Solicitor with the Tulsa Regional Office of the Solicitor.

The proposed rule will also amend § 20.1(s) and (w), Definitions. The amended paragraphs incorporate the changes directed by the congressional report.

With the enactment of the 1981 Omnibus Budget Reconciliation Act, which made many changes in the Aid to Families with Dependent Children (AFDC) program, many States increased the standard of need and imposed a rateable reduction on actual payment levels to maximize available funding in the Federal/State matching formula. (An American Public Welfare Association report issued December 28, 1982, indicated that 21 of the 50 States had increased their standards of need.) This situation created some marked differences between the standards of need and the actual levels of payment, which brought the issue to the attention of the Congress. The Bureau has had a long-standing policy (since 1944) of making general assistance payments at 100 percent of the established standard of need in the State wherein the recipient resides. However, since the general assistance program is federally funded, the Bureau, to avoid placing excessive hardship on recipients, is proposing a "floor" or minimum payment level of not less than one-third of the national poverty levels as established annually by the Department of Commerce. Also, as is the practice in States where th level of payment is less than the standard of need, the Bureau proposes to permit the offset of any available income to an applicant or recipient up to the extent of the dollar difference between the actual payment level and the standard of need.

Paragraph (a)(3) of 25 CFR 20.20, General (Eligibility Conditions), is amended to clarify and strengthen the

definition of "near reservation" as set forth in § 20.1(r).

It is proposed also to amend 25 CFR 20.21(c), General Assistance, by deleting the word "comparable". The deletion clarifies the Bureau's responsibility to administer general assistance programs only in areas where such programs would not duplicate existing State, county and/or municipal general assistance programs.

In 25 CFR 23.2, Definitions, paragraph (n) is redesignated as § 23.2(o) in order to incorporate the definition of "multi-service Indian center", which is added as a new paragraph (n). This redesignation is proposed to enable urban areas serving more than one tribe to apply for a grant under this authorization.

Paragraph (b)(2) of § 23.11, Notice, is amended to reflect a change of address for the Minneapolis Area Office, and paragraph (b)(12) is amended to correct the Zip Code for the Sacramento Area Office.

Paragraph § 23.13(e), Payment for appointed counsel in State Indian child custody proceedings, is amended by adding a new paragraph § 23.13(e)(3). This addition is being proposed to ensure timely filing of vouchers for attorneys' fees, and to enable the Bureau to issue payments for these fees from the proper appropriation.

Paragraph (a) of § 23.21, Eligibility requirements, is amended to include multiservice Indian centers as eligible grant applicants; paragraph (b) of the same section is amended to delete the word "annually" to coincide with the proposed addition of 25 CFR 23.37 below.

In § 23.25, Application selection criteria, paragraph (a) is corrected due to a typographical error. In line 1 of that paragraph, the word "of" is changed to "or".

Also in § 23.25, paragraph (c) is amended to include the governing body of a multi-service Indian center in order to assure that such centers will be eligible to apply for a grant under this part.

In § 23.26, Request from tribal governing body or Indian organization, it is proposed to add paragraph (c), thereby authorizing eligibility under this part for multi-service Indian service centers to apply for and receive grants to provide services in a designated "near reservation" area.

It is proposed also to amend paragraphs (a) and (b) of § 23.27, Grant approval limitation, in order to include the term "multi-service Indian center", thereby making § 23.27 consistent with other proposed changes in the rule.

A new § 23.37, Multi-year developmental grants, is being added to the rule. This proposed addition authorizes the Commissioner to approve multi-year grant awards, thus providing grantees sufficient time to establish and implement a program of services before again being required to compete for a grant. Since initiation of the Indian Child Welfare Act grant program, grantees have experienced numerous administrative difficulties in operating programs on a one-year-only basis, and many grantees have requested a change such as the one being proposed.

This rule document does not constitute a major Federal action significantly affecting the quality of the human environment under the National Environment Policy Act of 1969.

The information collection requirement contained in 25 CFR 23 has been approved by the Office of Management and Budget under 44 U.S.C. 3504(h) *et seq.* and assigned clearance number 1076–0006. The information is being collected to determine Indian Child Welfare Act program compliance and eligibility. Response is required to obtain Indian Child Welfare Act grant funding.

The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The sole effect of the proposed revision to 25 CFR Part 20 will be to require adherence to a "rateable reduction" in general assistance payments to eligible Indians. The revisions of 25 CFR Part 23 will not have significant economic effect other than the addition to 25 CFR 23.37, which will affect the timeframe under which Indian Child Welfare Act grants will be available. Revision of 25 CFR 16.1(c) is necessitated by the consolidation of the Muskogee Field Office with the Tulsa Regional Office.

This proposed rule is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary-Indian Affairs by 209 DM 8.

The policy of the Department of the Interior is, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions or objections regarding the proposed rule. The primary author of this document is Raymond V. Butler, Chief, Division of Social Services, Bureau of Indian Affairs, telephone number (202) 343–6434.

List of Subjects

25 CFR Part 16

Estates and Indians-Law.

25 CFR Part 20

Administrative practice and procedure, Child welfare, Indians-Social welfare, Public assistance programs.

25 CFR Part 23

Notice of involuntary child custody proceedings and payment for appointed counsel, Grants to Indian tribes and Indian organizations for Indian child and family programs, Grant revision, cancellation or assumption, Administrative provisions, Assistance to state courts, Child welfare.

For the reasons set forth in the preamble, Parts 16, 20 and 23 of Title 25 of the Code of Federal Regulations are proposed to be amended as follows:

PART 16—ESTATES OF INDIANS OF THE FIVE CIVILIZED TRIBES

1. Paragraph (c) of § 16.1 is revised to read as follows:

§ 16.1 Definitions.

* * * * *

(c) The term "Field Solicitor" means the Regional Solicitor, Southwest Region, Page Belcher Federal Building, P.O. Box 3156, Tulsa, Oklahoma 74101.

* * * * *

PART 20—FINANCIAL ASSISTANCE AND SOCIAL SERVICES PROGRAM

2. Paragraphs (s) and (w) of § 20.1 are revised to read as follows:

§ 20.1 Definitions.

* * * * *

(s) "Need" means the deficit between resources and money amounts necessary to meet the cost of basic items and/or special items by the applicant or recipient as established pursuant to the Social Security Act by the public welfare agency of the State in which the applicant or recipient resides, and which shall be used by the Bureau in determining the amount of financial assistance to be provided to the applicant or recipient residing in that State. However, in any State where the level of payment is less than the standard of need, the Bureau shall use the level of actual payment in

determining the amount of financial assistance to be provided to the applicant or recipient residing in that State, except that no payment level shall be less than one-third of the national annual poverty level as published by the U.S. Department of Commerce.

* * * * *

(w) "Resources" means services or income available to an Indian person or family, unless excluded by Federal public assistance or Supplemental Security Income statute from being considered as income for the purpose of determining financial need. However, in any State where the level of payment is less than the standard of need, available net income shall be exempt to the extent of the dollar difference between the level of payment and the standard of need.

* * * * *

3. Paragraph (a)(3) of § 20.20 is revised to read as follows:

§ 20.20 General.

* * * * *

(a) * * *

(3) The applicant must reside near reservation as specifically defined in § 20.1(r) and be a member of the tribe that requested designation of the near reservation service area.

* * * * *

4. Paragraph (c) of § 20.21 is revised to read as follows:

§ 20.21 General assistance.

* * * * *

(c) They reside in areas where general assistance is not available or is not being provided to all residents on the same basis from a State, county, municipality or other local public jurisdiction.

* * * * *

PART 23—INDIAN CHILD WELFARE ACT

5. Paragraph (n) of § 23.2 is redesignated as paragraph (o) and a new paragraph (n) is added to read as follows:

§ 23.2 Definitions.

* * * * *

(n) Multi-service Indian center means a social service center operated by an Indian organization and located off-reservation, or in a designated "near" reservation area having an established program of social service delivery to a clientele of varied tribal affiliations, but with no more than one-half of the clientele from any one tribe.

* * * * *

6. Paragraphs (b)(2) and (b)(12) of § 23.11 are revised to read as follows:

§ 23.11 Notice.

* * * * *

(b) * * *

(2) For proceedings in Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio or Wisconsin, notice should be sent to the following address: Minneapolis Area Director, Bureau of Indian Affairs, Chamber of Commerce Building—6th Floor, 15 South Fifth Street, Minneapolis, Minnesota 55402.

* * * * *

(12) For proceedings in California or Hawaii, notice should be sent to the following address: Sacramento Area Director, Bureau of Indian Affairs, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

* * * * *

7. A new paragraph (e) is added to § 23.13 to read as follows:

§ 23.13 Payment for appointed counsel in State Indian child custody proceedings.

* * * * *

(e) The Area Director shall authorize the payment of attorney fees and expenses in the amount requested in the voucher approved by the court unless:

(1) The court has abused its discretion under State law in determining the amount of the fees and expenses; or

(2) The client has not been previously certified as eligible under paragraph (c) of this section: or

(3) The voucher is not submitted within ninety (90) days after completion of the legal action involving a client certified as eligible for payment of legal fees under paragraph (b) of this section.

* * * * *

8. Paragraphs (a) and (b) of § 23.21 are revised to read as follows:

§ 23.21 Eligibility requirements.

(a) The governing body of any tribe or tribes, or any off-reservation Indian organization, or any multi-service Indian center located off-reservation or in an area designated by the Commissioner as "near" reservation may apply for a grant individually or as a consortium under this part.

(b) Each tribe, off-reservation Indian organization, multi-service Indian center or consortium may submit only one grant application during an application period. The application period during which grant applications will be accepted shall be published as a notice in the **Federal Register.**

* * * * *

9. Paragraphs (a) and (c) of § 23.25 are revised to read as follows:

§ 23.25 Application selection criteria.

(a) The Commissioner or his/her designated representative shall select for grants under this part those proposals which will in his/her judgment best promote the purposes of Title II of the Act. Such selection will be made through a review process in which each application will be scored competitively, taking into consideration the content of the application as required in § 23.24, and the following factors:

* * * * *

(c) Selection for grants under this part for "on or near" reservation programs shall be limited to the governing body of the tribe to be served by the grant, or the governing body of a multi-service Indian center. The governing body of the tribe may make subgrant or subcontract with another organizational entity, including but not limited to an Indian organization, subject to the provisions of § 23.36.

* * * * *

10. A new paragraph (c) is added to § 23.26 to read as follows:

§ 23.26 Request from tribal governing body or Indian organization.

* * * * *

(c) The Bureau shall only make a grant under this part for multi-service Indian center program located off-reservation or in a designated "near" reservation area when officially requested to do so by the governing body of the multi-service Indian center. The request may be in one of the forms prescribed in paragraph (a) of this section.

* * * * *

11. Paragraphs (a) and (b) of § 23.27 are revised to read as follows:

§ 23.27 Grant approval limitation.

(a) *Area Office preliminary approval.* Authority for preliminary approval of a grant application under this part shall be with the Area Director when the intent, purpose and scope of the grant proposal pertains solely to an Indian tribe or tribes, or to an Indian organization representing an off-reservation community or multi-service Indian Center located within that Area Director's administrative jurisdiction.

(b) *Central Office preliminary approval.* Authority for preliminary approval of a grant application under this part shall be with the Commissioner when the intent, purpose and scope of the grant proposal pertains to Indian tribes, off-reservation communities or Indian organizations, or multi-service Indian centers representing more than one Area Office's administrative

jurisdiction, but located within the Commissioner's overall jurisdiction.

* * * * *

12. A new § 23.37 is added to read as follows:

§ 23.37 Multi-year developmental grants.

The Commissioner may, at his/her discretion, approve multi-year developmental grants for up to a maximum of three (3) years to eligible applicants, subject to the availability of funds in accordance with 25 CFR 23.27(e), and subject also to past performance by the grantee as stipulated in § 23.27(c)(3).

(a) Upon announcement of acceptance of applications for multi-year grants, the applicant shall prepare a grant application in accordance with 25 CFR 23.24, 23.25 and 23.26, placing primary emphasis on the first year's activities, but also providing sufficient information on activities proposed for subsequent years to allow the Bureau, utilizing these regulations, to make a judgment of the relevance and potential effectiveness of future activities.

(b) The formula published in the Federal Register in accordance with 25 CFR 23.27(e)(1) will establish the funding level for the first year of the multi-year grant.

(c) If, in the judgment of the Commissioner, the grantee's proposed program activity for subsequent years is acceptable, funding shall be approved in accordance with 25 CFR 23.27(e)(1), depending on the appropriation for that grant program year and on the grantee's approved funding request.

(d) In each year subsequent to the first year of funding, the grantee must comply with the requirements of §§ 23.24, 23.25, 23.26 and 23.27. In compliance with § 23.29, technical assistance will be provided to grantees through Bureau Agency and/or Area Offices.

(e) If existing grantees are not re-approved for a second or third year of funding, a grant application period will be announced, and the funds made available to other eligible grant applications.

* * * * *

13. Paragraph (a)(1) of § 23.81 is revised to read as follows:

§ 23.81 Recordkeeping and information availability.

* * * * *

(a)(1) The name of the child, the birth date of the child, the tribal affiliation of the child and the Indian blood quantum of the child as required by section 301(a) of Public Law 95-608 (25 U.S.C. 1951).

(Catalog of Federal Domestic Assistance Program—15.113 Indian—General Assistance; 15.144—Indian Child Welfare—Title II Grants)

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 84-647 Filed 1-10-84; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[EE-44-78]

Cooperative Hospital Service Organizations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the treatment of certain cooperative hospital service organizations. Changes to the applicable tax law were made by the Revenue and Expenditure Control Act of 1968 and by the Tax Reform Act of 1976. The proposed regulations would provide the public with the guidance needed to comply with those Acts and would affect organizations seeking to qualify for tax exempt status as organizations described in section 501(e).

DATES: Written comments and requests for a public hearing must be delivered or mailed by March 12, 1984. The amendments are proposed to be effective generally for taxable years ending after June 28, 1968. In the case of organizations performing clinical services, however, the amendments are proposed to be effective for taxable years ending after December 31, 1976.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (EE-44-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Harry Beker of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention CC:EE) (202-566-6212) (not a Toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 170(b)(1)(A) and 501(e) of the Internal Revenue Code of 1954. These proposed amendments are to be issued to conform the regulations to section 109(a) of the Revenue and Expenditure Control Act of 1968 (82 Stat. 269) and section 1312(a) of the Tax Reform Act of 1976 (90 Stat. 1730) and are issued under the authority contained in section 7805 of the Code (68A Stat. 917; 26 U.S.C. 7805).

History

Prior to the enactment of section 501(e), the law as to the tax status of shared hospital service organizations was uncertain. The Service took the position that if two or more tax exempt hospitals created an entity to perform commercial services for them, that entity was not entitled to exemption. Rev. Rul. 54-305, 1954-2 C.B. 127. That position, however, was rejected in *Hospital Bureau of Standards and Supplies, Inc. v. United States*, 158 F. Supp. 560 (Ct. Cl. 1958). After expressly noting the uncertainty in the law and recognizing the ever increasing cost of hospital services, Congress enacted subsection (e) of section 501, effective for taxable years ending after June 28, 1968.

Cooperative Hospital Service Organizations in General

The purpose of section 501(e) is to exempt from taxation a cooperative organization which provides specified services to exempt hospitals. These cooperatives are organized and operated to achieve economies of scale for their patron-hospitals by performing administrative and other similar services on a joint basis and are afforded tax treatment which is similar to that of their patron-hospitals. Section 501(e) limits the services which such a cooperative may perform on a centralized basis to the following: data processing, purchasing, warehousing, billing and collection, food, clinical, industrial engineering, laboratory, printing, communications, record center, and personnel. In 1969, the Service emphasized that an organization seeking to qualify under section 501(e) may perform only one or more of these specifically enumerated services. Rev. Rul. 69-160, 1969-1 C.B. 147, held that a hospital service organization which performed laundry services for its patron-hospitals did not meet the requirements of section 501(e) and therefore did not qualify for exemption under any other provision of the Code. That position has been upheld in *HCSC-Laundry* v. *United States*, 450 U.S. 1 (1981). The proposed regulations therefore limit the activities of cooperative hospital service organizations solely to those specified in section 501(e) which is the exclusive and

controlling section governing the exemption of such organizations.

The proposed regulations also require that the specified services must be performed solely for two or more patron-hospitals, all of which are recognized as exempt under section 501(c)(3) or owned by the United States or a State or one of its political subdivisions. The proposed regulations recognize, however, that the specified services may also be performed for other cooperative hospital service organizations meeting the requirements of section 501(e). Moreover, because a section 501(e) organization may only perform specified services for specified organizations, it cannot have unrelated business taxable income as defined in section 512 (other than that indicated in § 1.501(e)–1 (b)(4)).

The proposed regulations additionally require that the hospital service organization be organized and operated on a cooperative basis, that any capital stock be held by its patron-hospitals (no dividends, however, may be paid on such stock), and that the organization allocates or pays all net earnings to such patrons within 8½ months of the close of its taxable year. Allocations or payments must be made on the basis of the percentage of the services performed for each patron-hospital.

Although section 501(e)(2) requires that "all net earnings" be allocated or paid, the proposed regulations recognize that the retention of an amount for retiring indebtedness, expanding services or for other necessary purposes is not inconsistent with the requirements of section 501(e). In addition, although all outstanding capital stock of the organization must be held by its patron-hospitals, the proposed regulations recognize that not all patron-hosptials transacting business with the organization need have voting rights in the organization. However, the proposed regulations require that, where the organization has both voting and nonvoting patron-hospitals, the percentage of services done with nonvoting patrons may not exceed the percentage of services done with voting patrons. This provision is applicable to both stock and membership cooperatives so that either type of cooperative must do more than 50 percent of its business with voting patrons.

Conforming changes are also made under § 1.170A–9(c)(1) and § 1.501(k)–1 of the Income Tax Regulations.

Nonapplicability of Executive Order 12291

The Treasury Department has determined that this Regulation is not subject to review under Executive Order 12291 or the Treasury or Office of Management and Budget implementation of the Order dated April 29, 1983.

Regulatory Flexibility Act

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the regulatory flexibility act (5 U.S.C. chapter 6).

Paperwork Reduction Act

The requirements relating to collection of information contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on these requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Internal Revenue Service, New Executive Office Building, Washington, D.C. 20503. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB send copies of those comments to the Service.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Harry Beker of the Employee Plans and Exempt Organizations Division of the Office of Chief Council, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects

26 CFR 1.61–1—1.281–4

Income taxes, Deductions.

26 CFR 1.501(a)–1—1.528–10

Income taxes, Exempt organizations, Cooperatives.

Proposed Amendments to the Regulations

Accordingly, it is proposed to amend the Income Tax Regulations, 26 CFR Part 1, as follows:

Paragraph 1. Paragraph (c)(1) of § 1.170A–9 is revised to read as follows:

§ 1.170A–9 Definition of section 170(b)(1)(A) organization.

* * * * *

(c) *Hospitals and medical research organizations*—(1) *Hospitals.* An organization (other than one described in subparagraph (2) of this paragraph) is described in section 170(b)(1)(A)(iii) if:

(i) It is a hospital, and

(ii) Its principal purpose of function is the providing of medical or hospital care or medical education or medical research.

The term "hospital" includes (*a*) Federal hospitals and (*b*) State, county, and municipal hospitals which are instrumentalities of governmental units referred to in section 170(c)(1) and otherwise come within the definition. A rehabilitation institution, outpatient clinic, or community mental health or drug treatment center may qualify as a "hospital" within the meaning of subdivision (i) of this subparagraph if its principal purpose or function is the providing of hospital or medical care. For purposes of this subdivision, the term "medical care" shall include the treatment of any physical or mental disability or condition, whether on an inpatient or outpatient basis, provided the cost of such treatment is deductible under section 213 by the person treated. An organization, all the accommodations of which qualify as being part of an "extended care facility" within the meaning of 42 U.S.C. 1395x(j), may qualify as a "hospital" within the meaning of subdivision (i) of this subparagraph if its principal purpose or function is the providing of hospital or medical care. For taxable years ending after June 28, 1968, the term "hospital" also includes cooperative hospital service organizations which meet the requirements of section 501(e) and § 1.501(e)–1. The term "hospital" does not, however, include convalescent homes or homes for children or the aged, nor does the term include institutions whose principal purpose or function is

to train handicapped individuals to pursue some vocation. An organization whose principal purpose or function is the providing of medical education or medical research will not be considered a "hospital" within the meaning of subdivision (i) of this subparagraph, unless it is also actively engaged in providing medical or hospital care to patients on its premises or in its facilities, on an inpatient or outpatient basis, as an integral part of its medical education or medical research functions. See, however, subparagraph (2) of this paragraph with respect to certain medical research organizations.

* * * * *

§ 1.501(e)–1 [Redesignated as § 1.501(k)–1]

Par. 2. Section 1.501(e)–1 is redesignated as § 1.501(k)–1.

Par. 3. The following new section is added immediately after § 1.501(d)–1:

§ 1.501(e)–1 Cooperative hospital service organizations.

(a) *General rule.* Section 501(e) is the exclusive and controlling section under which a cooperative hospital service organization can qualify as a charitable organization. A cooperative hospital service organization which meets the requirements of section 501(e) and this section shall be treated as an organization described in section 501(c)(3), exempt from taxation under section 501(a), and referred to in section 170(b)(1)(A)(iii) (relating to percentage limitations on charitable contributions). In order to qualify for tax exempt status, a cooperative hospital service organization must—

(1) Be organized and operated on a cooperative basis,

(2) Perform, on a centralized basis, only one or more specifically enumerated services which, if performed directly by a tax exempt hospital, would constitute activities in the exercies or performance of the purpose or function constituting the basis for its exemption, and

(3) Perform such service or services solely for two or more patron-hosptials as described in paragraph (d) of this section.

(b) *Organized and operated on a cooperative basis*—(1) *In general.* In order to meet the requirements of section 501(e), the organization must be organized and operated on a cooperative basis (whether or not under a specific statute on cooperatives) and must allocate or pay all of its net earnings within 8½ months after the close of the taxable year to its patron-hospitals on the basis of the percentage of its services performed for each patron. For the recordkeeping requirements of a section 501(e) organization, see § 1.521–1(a)(1).

(2) *Percentage of services defined.* The percentage of services performed for each patron-hospital may be determined on the basis of either the value or the quantity of the services provided by the organization to the patron-hospital, provided such basis is realistic in terms of the actual cost of the services to the organization.

(3) *Retention of net earnings.* Exemption will not be denied a cooperative hospital service organization solely because the organization, instead of paying all net earnings to its patron-hospitals, retains an amount for such purposes as retiring indebtedness, expanding the services of the organization, or for any other necessary purpose and allocates such amounts to its patrons. However, such funds may not be accumulated beyond the reasonable needs of the organization. Whether there is an improper accumulation of funds depends upon the particular circumstances of each case. Moreover, where an organization retains net earnings for necessary purposes, the organization's records must show each patron's rights and interests in the funds retained.

(4) *Nonpatronage income.* An organization described in section 501(e) may have income from nonpatronage sources such as investment of retained earnings. However, such an organization cannot be exempt if it engages in any business other than that of providing the specified services, described in paragraph (c), for the specified patron-hospitals, described in paragraph (d). Thus, it cannot have unrelated business taxable income as defined in section 512 other than debt-financed income which is treated as unrelated business taxable income solely because of the applicability of section 514. Such an organization may also have certain interest, annuities, royalties, and rents which are excluded from unrelated business taxable income because of the modifications contained in sections 512(b) (1), (2) or (3). The nonpatronage income permitted under this subparagraph must be allocated or paid as provided in subparagraph (1) or retained as provided in subparagraph (3).

(5) *Stock ownership.* An organization does not meet the requirements of section 501(e) unless all of the organization's outstanding capital stock, if there is such stock, is held solely by its patron-hospitals. However, no amount may be paid as dividends on the capital stock of the organization. For purposes of the preceding sentence, the term "capital stock" includes common stock (whether voting or nonvoting), preferred stock, or any other form evidencing a proprietary interest in the organization.

(c) *Scope of services.* An organization meets the requirements of section 501(e) only if the organization performs, on a centralized basis, one or more of the following services and only such services: data processing, purchasing (including the purchasing and dispensing of drugs and pharmaceuticals to patron-hospitals), warehousing, billing and collection, food, clinical, industrial engineering (including the installation, maintenance and repair of biomedical and similar equipment), laboratory, printing, communications, record center, and personnel (including recruitment, selection, testing, training, education and placement of personnel) services. An organization is not described in section 501(e) if, in addition to or instead of one or more of these specified services, the organization performs any other service.

Example. An organization performs industrial engineering services on a cooperative basis solely for patron-hospital each of which is an organization described in section 501(c)(3) and exempt from taxation under section 501(a). However, in addition to this service, the organization operates laundry services for its patron-hospitals. This cooperative organization does not meet the requirements of this paragraph because it performs laundry services not specified in this paragraph.

(d) *Patron-hospitals*—(1) *Defined.* Section 501(e) only applies if the organization performs its services solely for two or more patron-hospitals each of which is—

(i) An organization described in section 501(c)(3) which is exempt from taxation under section 501(a),

(ii) A constituent part of an organization described in section 501(c)(3) which is exempt from taxation under section 501(a) and which, if organized and operated as a separate entity, would constitute an organization described in section 501(c)(3), or

(iii) Owned and operated by the United States, a State, the District of Columbia, or a possession of the United States, or a political subdivision or an

agency or instrumentality of any of the foregoing.

(2) *Business with nonvoting patron-hospitals.* Exemption will not be denied a cooperative hospital service organization solely because the organization (whether organized on a stock or membership basis) transacts business with patron-hospitals which do not have voting rights in the organization and therefore do not participate in the decisions affecting the operation of the organization. Where the organization has both patron-hospitals with voting rights and patron-hospitals without such rights, the organization must provide at least 50 percent of its services to patron-hospitals with voting rights in the organization. Thus, the percentage of services provided to nonvoting patrons may not exceed the percentage of such services provided to voting patrons. Notwithstanding that an organization may have both voting and nonvoting patron-hospitals, patronage refunds must nevertheless be allocated or paid to all patron-hospitals solely on the basis specified in paragraph (b) of this section.

(3) *Services to other organizations.* An organization does not meet the requirements of section 501(e) if, in addition to performing services for patron-hospitals (entities described in subdivisions (i), (ii) or (iii) of subparagraph (1)), the organization performs any service for any other organization. For example, a cooperative hospital service organization is not exempt if it performs services for convalescent homes for children or the aged, vocational training facilities for the handicapped, educational institutions which do not provide hospital care in their facilities, and proprietary hospitals. However, the provision of the specified services between or among cooperative hospital service organizations meeting the requirements of section 501(e) is permissible.

(e) *Effective dates.* An organization, other than an organization performing clinical services, may meet the requirements of section 501(e) and be a tax exempt organization for taxable years ending after June 28, 1968. An organization performing clinical services may meet the requirements of section 501(e) and be a tax exempt organization for taxable years ending after December 31, 1976.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 84-741 Filed 1-10-84; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 230

[ER 200-2-2]

Environmental Quality, Procedures for Implementing the National Environmental Policy Act (NEPA)

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Proposed rule.

SUMMARY: This proposed rule is designed to replace the regulations issued by the U.S. Army Corps of Engineers on August 25, 1980, and revised on March 2, 1981, implementing the procedural provisions of NEPA as required by the Council on Environmental Quality's (CEQ) regulations (40 CFR Parts 1500–1508). The purpose of this proposed rule is to clarify and streamline NEPA requirements on activities for Federal water resource projects and related lands. In addition, the Corps NEPA regulations governing the Department of the Army's regulatory activities have been modified to be consistent with the recommendations of the Presidential Task Force on Regulatory Relief and the policies of the Assistant Secretary of the Army (Civil Works). Procedures contained in the CEQ regulations have been incorporated to reduce paperwork and delay in preparing, reviewing, processing and approving all types of Corps NEPA documents. Moreover, this proposed rule is intended to reduce unnecessary regulatory burdens on applicants seeking Department of the Army permits while maintaining the integrity of the Corps environmental review responsibilities under NEPA.

DATE: Comments must be received by the Corps of Engineers no later than March 12, 1984.

ADDRESS: Written comments should be sent to: Chief of Engineers, Department of the Army, ATTN: (DAEN-CWR-P), Washington, DC., 20314. Phone: (202/272–0120).

FOR FURTHER INFROMATION CONTACT: Mr. Richard Makinen, (202) 272–0120 or Dr. John Hall, (202) 272–0199.

SUPPLEMENTARY INFORMATION:

Classification

The Secretary of the Army has determined that this revision is not a "major" rule within the meaning of Executive Order 12291. This is because the revision will not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, geographic regions, or Federal, State, or local government agencies; or (3) have significant adverse effects on competition, employment, investment productivity, innovation or on the ability of a United States based enterprise to compete with foreign-based enterprises in domestic or export markets.

The purpose and intended effect of this revision is to streamline Corps NEPA procedures consistent with improved management techniques and to reduce unnecessary regulatory burdens on applicants who seek Department of the Army permits. No increased paperwork burdens are imposed by the revision.

This revision was submitted to the Office of Management and Budget (OMB) for review as required by E.O. 12291.

Regulatory Analysis

Under E.O. 12291, the Department of the Army must determine if a regulation is "major" and therefore subject to a Regulatory Impact Analysis. Because the Department of the Army believes that this revision is not "major," it is not subject to such an analysis.

Background

In November 1978, CEQ revised the NEPA regulations and directed that Federal agencies achieve the requirement of NEPA, but at the same time, reduce paperwork and delay (40 CFR 1500.4 and 1500.5). On June 29, 1979, the Corps of Engineers proposed revisions to its NEPA implementation regulations and published its final rules on August 25, 1980. Experience since that time indicates that the August 25, 1980, rules do not achieve the requirements of the CEQ regulations in that there remain many unnecessary delays and paperwork in the Corps NEPA process. These proposed rules are intended to reduce or eliminate the nonproductive and wasteful aspects of the existing regulations. The CEQ regulations also specify that agency implementing regulations should not repeat or paraphrase the CEQ regulations. There is extensive repetition in the current Corps regulations and this proposal would eliminate most of that. Some repetition was retained for clarity. However, it is our intent that, when adopted, these regulations would supplement the CEQ regulations and Corps officials would use both the CEQ and these regulations as integral parts of the overall rules governing NEPA compliance.

The changes proposed here are to reduce or eliminate unnecessary paperwork and delay and to reduce the length of this document by eliminating duplication with the CEQ regulations. We solicit comments on other changes which may be made along those lines. There is no intent to change the decision making process nor reduce concerns for environmental quality. We specifically solicit comments on whether these proposed rules may be perceived to do so and, is so, how they may be modified to achieve the purposes stated above while retaining appropriate environmental sensitivity.

With respect to Appendix B, which relates to the Corps of Engineers regulatory program we propose to make the changes noted, but, following public review, the appendix will be relocated to 33 CFR Part 325, Appendix B, to consolidate the rules governing the regulatory program all in the same part of the CFR.

Paragraph-by-paragraph analysis of the proposal

230.1 Purpose. No substantive change. This section would be shortened to eliminate unnecessary verbiage.

230.2 Applicability. No change.

230.3 References. Minor changes to update references.

230.4 Definitions. This section would be changed to refer to CEQ and other Corps regulations, rather than repeat definitions.

230.5 Policy. This section would be deleted. CEQ regulations contain the Federal policy (40 CFR 1500.2) and require that agency implementing regulations be confined to procedures only (40 CFR 1507.3). A new section 230.5 would be added, titled "Responsible Officials," to identify within the agency which officials are responsible for the various NEPA compliance requirements. With a few exceptions related to national policy and coordination at the headquarters level, Corps district commanders are responsible for NEPA compliance.

230.6 Actions Normally Requiring an EIS. This section would be significantly revised. The existing regulation lists activities by legislative authority rather than by degree of environmental impact. The proposed regulations would focus on the degree of impacts. However, the range of projects and wide variation in their impacts preclude a detailed discussion of which types of projects may or may not require an EIS. We have attempted to give broad categories only as guidance to district commanders who in turn must make judgments on a case-by-case basis.

230.7 Actions Normally Requiring an EA. The same approach would be used here as in 230.6 above. We have listed broad categories of impacts rather than legislative authorities. District commanders would be responsible for case-by-case determinations. The guidance provided herein is guidance only and district commanders have the authority and responsibility for making the judgmental determination in the field.

230.8 Emergency Actions. This section would be rewritten to clarify that emergency actions do not excuse district commanders from considering the environmental effects of their actions. However, the intent is to take whatever emergency action is required with the consideration to environmental effects without observing the formal procedures required by this regulation. Because the nature and extent of emergency actions cannot be predicted, the regulations include a provision for NEPA documentation in major cases to be made after-the-fact. Procedures have not been established purposely because of the unpredictable nature of such occurrences and any such regulations would be speculative in their adaptability to given sets of circumstances. We intend that when such circumstances arise, Corps officials will determine appropriate measures through consultation with CEQ, EPA, and other affected interests.

230.9 Categorical Exclusions. The present § 230.9, Environmental Assessment, and subsequent sections through § 230.12 would be renumbered by one number higher. A new § 230.9 would be added to incorporate the categorical exclusions which are currently listed in Appendix D and to add several categorical exclusions which deal with routine operation and maintenance activities as well as minor situations where another agency would be the "lead" agency under CEQ regulations and that agency has determined that the activity is categorically excluded. The new categorical exclusions are listed at §§ 230.9(a) through 230.9(d). In addition, the introductory sentences of the paragraph would be modified to delete unnecessary verbiage. Interested parties are requested to comment on these proposed reclassifications. Specific examples that support the commentator's position should be provided.

230.10 Environmental Assessments. This section would be revised to eliminate unnecessary language and to delete the reference incorporating § 230.25 which would use a more efficient approach to displaying compliance with other environmental statutes.

230.11 Finding of No Significant Impact (FONSI). This section would be renumbered from § 230.10, and would be modified to eliminate unnecessary language, to reduce unnecessary circulation of documents and to delete the requirement for comment-response format of addressing issues raised. These changes are intended to clarify that the FONSI is the decision document of the responsible official and as such, is not subject to review and comment through the coordination process. The appropriate NEPA document for comment and evaluation of impacts is the environmental assessment.

230.12 Environmental Impact Statement (EIS). This section would be renumbered from § 230.11 and would be modified to eliminate unnecessary language, to delete the duplicative discussion of format and other requirements which are contained in the CEQ regulations, to eliminate documentation which is not required by CEQ and to reduce duplicative or overlapping procedures and documents by referring to ER 1105–2–60, Planning Guidance Notebook, and to the proposed Appendix B of 33 CFR Part 325 (for regulatory actions). The reference to Appendix A would be deleted because Appendix A itself would be deleted since the material is considered as agency informational guidance and not agency procedures. The provision for supplemental information reports would be modified to make it a discretionary act of the responsible official. It is not required by NEPA or the CEQ regulations and, hence, would not be required by Corps of Engineers regulations. However, district commanders are expected to keep the public informed as appropriate to ensure proper public input to the process.

230.13 Record of Decision. This section would be modified significantly to eliminate duplication with CEQ regulations and to clarify the level of signature authority within the agency. The present § 230.13, Monitoring and Mitigation would be deleted because these subjects are appropriately discussed in 33 CFR Part 1505. We interpret monitoring as that necessary to insure adopted mitigation measures are implemented.

230.14 Lead and Cooperating Agencies. This section would be significantly reduced to eliminate duplication with CEQ regulations and to state those situations where the Corps may be the lead agency or a cooperating agency. We believe generally that "when everyone is responsible, no one

is responsible" and accordingly, discourage the joint lead agency concept. However, if a district commander determines that a joint lead agency arrangement would best serve project goals and public input, such arrangements may be made.

230.15 Scoping. This section which now essentially repeats or paraphrases CEQ regulations would simply incorporate by reference the CEQ provisions for scoping.

230.16 Notice of Intent. This section would be modified to incorporate by reference the procedures in ER 200–2–1 for publications in the Federal Register and to eliminate the specific requirement to furnish a notice of intent to certain EPA officials. Notification to those officials is required by CEQ regulations and need not be repeated in Corps regulations.

230.17 Filing Requirements. This section would be modified to delete unnecessary provisions and to clarify responsibilities within the agency for filing documents. Timing requirements would be modified to require that if EIS's are integrated into planning documents, they be completed within the scope of the critical path of project or study completion. If they are not integrated into planning documents, they should be completed within one year, if practicable. "Worst case" analyses would be used as provided by CEQ regulations. Specific comment periods and expedited filing are provided in CEQ regulations and would not be repeated in this section. The timing requirements for departmental review actions would be deleted from this regulation because the EIS process is completed by that time and departmental reviews are covered by other Corps regulations (ER 1105–2–60).

230.18 Availability. This section would be shortened by elimination of repetition with CEQ regulations and modified to require that if an EIS exceeds 50 pages, a summary will be prepared as provided in 40 CFR 1502.19 and 1506.6. The purpose of this is to provide a document in which the public can find all pertinent information quickly and to reduce the volume of paper which is circulated for review. Of course, the full document and appendices are always available and will be provided whenever appropriate.

230.19 Comments. This section would be shortened by eliminating duplication with CEQ regulations and would be modified by providing flexibility for the district commander to use the most efficient and effective means to display the comments and the Corps consideration thereof in the final EIS. The intent of this modification is to provide for a proper balancing of considerations of clarity, brevity, legal sufficiency, and administrative efforts. The public at large normally requires clear, concise analysis whereas individual commentators prefer to see their comments specifically addressed. The subparagraph dealing with comments on the final EIS has been simplified because we have found that very few such comments are received and even then normally do not raise new issues. Hence, we would make specific responses discretionary based on the substance of the comments.

230.20 Integration with State and Local Procedures. This section would adopt without modification the procedures specified in CEQ regulations.

230.21 Adoption of EIS. This section would be shortened by eliminating duplication of CEQ regulations and to stress that redrafting and recirculation of other agency EIS will be done only if there is a significant need to do so. Minor disagreements with the content of an EIS would not be cause to redraft and recirculate an EIS.

230.22 Limitations on Actions During the NEPA process. This section would simply incorporate by reference the requirements of the CEQ regulations. The current provisions of this section are purely duplicative.

230.23 Predecision Referrals. Most provisions of the current regulations duplicate CEQ regulations and would be deleted. The proposed regulation would address internal agency procedures required to initiate a predecision referral in a timely fashion.

230.24 Agency Decision Points. This section would be shortened by eliminating duplicative or unnecessary provisions. The new section would simply reference where decision points are found in other parts of Corps regulations.

230.25 Environmental Review and Consultation Requirements. This section would be reduced significantly by eliminating lengthy discussions of various related statutes, executive orders and memoranda. Such discussion and analysis are incorporated by reference to the Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation studies (P&G). This will insure consistency with the Principles and Guidelines and reduce the volume of federal regulations without altering their effect. Discussion of Executive Order 12114, Environmental Effects Abroad is retained because it does not appear elsewhere in Corps regulations.

230.26 General Considerations. This section would be shortened significantly because it is largely duplicative of CEQ regulations.

Appendix A. The current Appendix A would be deleted since the material contained therein is otherwise contained in Corps regulations, circulars, etc. Pertinent provisions would be incorporated into the basic regulation. The current Appendix C would be redesignated appendix A. This Appendix would be slightly changed to reflect revised internal planning procedures under the new Principles and Guidelines.

Appendix B. Par. 1. Introduction. Added emphasis would be given to reducing paperwork.

Par. 2. General. No change.

Par. 3. Development of Information and Data. This paragraph would be revised to eliminate duplication with CEQ regulations (40 CFR 1506.5 and 40 CFR 1502.22).

Par. 4. Elimination of Duplication with State and Local Procedures. No change.

Par. 5. Informing the Public. The subject of this paragraph would be changed to "Public Involvement." The text would be shortened to eliminate unnecessary verbiage.

—Pre-Application Consultation for Major Applications (paragraph 6) would be deleted. CEQ regulations (40 CFR 1501.2(d) and Corps regulations (33 CFR Part 325) adequately cover the need to commence the NEPA process at the earliest possible time to insure that environmental values are fully considered in the decision making process.

Par. 6 Categorical Exclusions. This paragraph and subsequent paragraphs would be renumberd by one number less. This paragraph would be modified to add several categories of permit activities, which based on the Corps experience, are not considered to be major Federal actions significantly affecting the human environment and would therefore be categorically excluded from NEPA documentation. We believe that categorical exclusions may be more effectively used and request interested parties to comment on these proposed categorical exclusions with particular attention given to size or volume thresholds, or other criteria used to categorize the significance of an activity.

—Specific examples that support the commentator's position are requested. The paragraph would also revise the procedures for a district commander to develop additional categorical exclusions appropriate to that district after public notice and review by other Federal, state, and local

agencies and the general public. The proposed additional categorical exclusions would require final approval by the division commander.

Par. 7 EA/FONSI Document. This paragraph would be modified to better define the scope of analysis for an EA for an activity requiring a Corps permit; essentially the same rule would govern other Corps NEPA documents (e.g. EIS). This proposed provision is intended to reflect the leading decisions of the federal courts concerning the scope of analysis for NEPA documents, and the policies of the administration concerning regulatory relief. The paragraph has also been modified to encourage districts to reduce unnecessary paperwork by combining decision documents with the EA.

—Finding of Fact (paragraph 9) would be deleted. The requirement for this document is discussed in 33 CFR Part 325.

Par. 8 Environmental Impact Statement. This paragraph and subsequent paragraphs would be renumbered by two numbers less. Paragraph would be shortened by eliminating duplication of CEQ regulations.

Par. 9 Organization and Content of Draft EIS. This pargraph would be revised by defining the range of alternatives which must be addressed in an EIS prepared in connection with an application for a Corps permit. Under paragraph 9b(5) (c) and (d) the district commander would need only to consider alternatives which are reasonably related to the general purpose and need to be served by the specific activity requiring a Corps permit. Also, alternatives outside the permit applicant's capabilities would be considered reasonable and discussed in the EIS only when and to the extent necessary to objectively evaluate and reach a decision on the permit application.

Par. 10 Notice of Intent. No change.

Par. 11 Public Hearing. No change.

Par. 12 Organization and Content of Final EIS. This paragraph would be revised to eliminate unnecessary verbiage.

Par. 13 Comments Received on the Final EIS. This paragraph would be revised to eliminate unnecessary verbiage.

Par. 14 EIS Supplement. This paragraph would be shortened by referring to Corps basic (NEPA) regulation, rather than duplicate information.

—Supplemental Information and Other Reports (Paragraph 17) would be deleted because there is no legal or regulatory basis for them. However, district commanders are still expected to keep the public informed as appropriate to ensure proper public input to the process.

—Public Notice Announcing Availability of Draft, Final EIS and EIS Supplements (paragraph 18) would be deleted. Material contained in this paragraph duplicates existing Corps public notification requirements (33 CFR 325.3) and CEQ regulations (40 CFR 1506.6).

Par. 15 Filing Requirements. This paragraph would be renumbered by four numbers less. This paragraph would be shortened by eliminating unnecessary verbiage. It would incorporate by reference the CEQ regulations (40 CFR 1506.9).

Par. 16 Timing. This provision would be removed from the preceding paragraph to establish a separate subject. It would incorporate by reference the CEQ provisions on timing of agency actions (40 CFR 1506.10). The following paragraphs would be renumbered by three numbers less.

Par. 17 Expedited Filing. No change.

Par. 18 Record of Decision. This paragraph would be modified to require submittal of the signed Record of Decision to the Office of Federal Activities, EPA, stating that the date of the letter starts the 25-day referral period.

Par. 19 Predecision Referrals by Other Agencies for Regulatory Actions. This paragraph would be shortened to eliminate unnecesary verbiage.

Par. 20 Review of Other Agencies' EIS. No change.

Par. 21 Monitoring. This paragraph would be shortened by simply incorporating references to the CEQ regulations (40 CFR 1505.3) and 33 CFR Part 325.

List of Subjects in 35 CFR Part 230

Administrative practice and procedure, Environmental impact statements, Environmental protection, Flood control, Flood plains, Navigation, Water resources, Water supply, Waterways, Wetlands.

Dated: December 9, 1983.

Robert K. Dawson,

Deputy, Assistant Secretary of the Army (Civil Works).

It is proposed to revise 33 CFR Part 230 to read as follows:

PART 230—PROCEDURES FOR IMPLEMENTING NEPA

Sec.

230.1 Purpose.
230.2 Applicability.
230.3 References.
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230.6 Actions normally requiring an EIS.
230.7 Actions normally requiring an Environmental Assessment (EA) but not necessarily an EIS.
230.8 Emergency actions.
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230.10 Environmental Assessments (EA).
230.11 Finding of No Significant Impact (FONSI).
230.12 Environmental Impact Statements (EIS).
230.13 Record of decision.
230.14 Lead and cooperating agencies.
230.15 Scoping.
230.16 Notice of intent.
230.17 Filing requirements.
230.18 Availability.
230.19 Comments.
230.20 Integration with State and local procedures.
230.21 Adoption.
230.22 Limitations on actions during the NEPA process.
230.23 Predecision referrals.
230.24 Agency decision points.
230.25 Environmental review and consultation requirements.
230.26 General considerations in preparing Corps EIS.

Appendix A—Processing Corps NEPA Documents

Appendix B—Environmental Operating Procedures and Documents for Regulatory Actions

Authority: National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.); Executive Order 1514, Protection and Enhancement of Environmental Quality, March 5, 1970, as amended by Executive Order 11991, May 24, 1977; and CEQ Regulations Implementing the Procedural Provisions of NEPA (40 CFR 1507.3).

§ 230.1 Purpose.

This regulation provides guidance for implementing the procedural provisions of NEPA. It supplements Council on Environmental Quality (CEQ) regulation 40 CFR Parts 1500–1508, November 29, 1978 in accordance with 40 CFR 1507.3, and is intended to be used only in conjunction with the CEQ regulation. Whenever the guidance in this regulation is unclear or not specific the reader is referred to the CEQ regulation.

§ 230.2 Applicability.

This regulation is applicable to all HQUSACE/OCE elements and all field operating activities having responsibility for preparing and processing environmental documents in support of Civil Works functions.

§ 230.3 References.

(a) Executive Order 11514, Protection and Enhancement of Environmental Quality, 5 March 1970, as amended by

Executive Order 11991, 24 May 1977 (42 FR 26967, 25 May 1977).

(b) Executive Order 11593, Protection and Enchancement of the Cultural Environment, 13 May 1971 (36 FR 8921, 15 May 1971).

(c) Executive Order 11988, Floodplain Management, 24 May 1977 (42 FR 26951, 25 May 1977).

(d) Executive Order 11990, Protection of Wetlands, 24 May 1977 (42 FR 26961, 25 May 1977).

(e) Executive Order 12114, Environmental Effects Abroad of Major Federal Actions, 4 January 1979 (44 FR 1957, 9 January 1979).

(f) Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*

(g) Clean Water Act (formerly known as the Federal Water Pollution Control Act) 33 U.S.C.1344 (hereinafter referred to as Section 404).

(h) Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 *et seq.*

(i) Deepwater Port Act of 1074, as amended, 33 U.S.C. 1501 *et seq.*

(j) Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.*

(k) Federal Water Project Recreation Act, 16 U.S.C. 460–1(12), *et seq*

(l) Fish and Wildlife Coordination Act, 16 U.S.C. *et seq.*

(m) Historic Sites Act 1935, as amended, 16 U.S.C. 461–467.

(n) Marine Mammal Protection Act of 1972, 16 U.S.C. 1361 *et seq.*

(o) Marine Protection, Research and Sanctuaries Act of 1972, as amended, 16 U.S.C. 1401 *et seq.*

(p) National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 *et seq.* (hereinafter referred to as NEPA)

(q) National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470 *et seq.*

(r) Preservation of Historic and Archeological Data Act of 1974, as amended, 16 U.S.C. 469 *et seq.* (Also referred to as the "Reservoir Salvage Act" of 1969, as amended").

(s) River and Harbor Act, March 3, 1899 (30 Stat. 1151, 33 U.S.C. 401 and 403) and (30 Stat. 1152, 33 U.S.C. 407).

(t) Wild and Scenic Rivers Act of 1968, 16 U.S.C. 1271 *et seq.*

(u) "Navigable Waters, Discharge of Dredged or Fill Material," (40 CFR 230), Environmental Protection Agency.

(v) "Regulations for Implementing the Procedural Provisions of the National Envirommental Policy Act of 1969," (40 CFR Parts 1500–1508, 29 November 1978), Council on Environmental Quality.

(w) "Protection of Historic and Cultural Properties" (36 CFR Part 800, 30 January 1979), Advisory Council on Historic Preservation.

(x) Economic and Environmental Principles and Guidelines for Water and Related Land Resource Implementations Studies (48 CFR 10249–10258, 10 March 1983).

(y) Regulatory Programs of the Corps of Engineers 33 CFR Parts 320–330 (47 FR 31794–31834, 22 July 1982).

(z) "CEQ Memorandum of 11 August 1980, Analysis of Impacts on Prime or Unique Agricultural Lands in Implementing NEPA."

(aa) "CEQ Memorandum of 10 August 1980, Interagency Consultation to Avoid or Mitigate Adverse Effects on Rivers in the Nationwide Inventory."

(bb) "CEQ Memorandum of 17 November 1980, Guidance on Applying Section 404(r) of the Clean Water Act to Federal Projects which Involve the discharge of Dredged or Fill Materials into Waters of the U.S., Including Wetlands."

(cc) ER 200–2–1.
(dd) ER 310–1–5.
(ee) ER 1105–2–10.
(ff) ER 1105–2–20.
(gg) ER 1105–2–30.
(hh) ER 1105–2–50.
(ii) ER 1105–2–60.
(jj) ER 1105–2–811.
(kk) ER 1130–2–400.
(ll) ER 1103–2–406.
(mm) ER 1130–2–412.
(nn) ER 1130–2–413.
(oo) ER 1165–2–228.
(pp) ER 1165–2–400.
(qq) EP 360–1–10.
(rr) EP 1105–2–15.
(ss) EP 1105–2–55.
(tt) EP 1165–2–501.

§ 230.4 Definitions.

(Refer to applicable Corps of Engineers Regulations and 40 CFR Part 1508).

§ 230.5 Responsible officials.

The district commander is the Corps NEPA official responsible for compliance with NEPA for actions within district boundaries. The district commander may also be the responsible Corps official to provide agency views on other agencies' EIS. The Office of Environmental Policy Development CDR USACE (DAEN-CWR-P) WASH DC 20314 (phone number 202–272–0120) is the point of contact for information on Corps NEPA documents. CDR USACE (DAEN–CWZ–P) WASH DC 20314 (phone number 202–272–0103) is the point of contact for NEPA oversight activities and the review of other agencies EIS and related NEPA documents.

§ 230.6 Actions normally requiring an EIS.

The following actions normally are major Federal actions having a significant impact on the quality of the human environment, and therefore normally require an EIS. However, district commanders may consider the use of an EA on these types of actions if early studies show that the action is not likely to have a significant impact on the quality of the human environment and is not likely to result in legal aciton due to substantial controversy.

(a) Feasibility reports for authorization and construction of major projects which affect a significant geographic area.

(b) Proposed changes in projects previously discussed in an environmental document when those changes would result in significant environmental impacts beyond those previously discussed. The change may occur prior to or after initiation of construction.

(c) Proposed major changes in the operation and/or maintenance of a completed project which would result in significant environemental impact.

(d) Permit actions which would result in significant environmental impacts.

§ 230.7 Actions normally requiring an Environmental Assessment (EA) but not necessarily an EIS.

The following actions normally are not major Federal actions having a significant impact on the quality of the human environment, and therefore, normally do not require an EIS. If the district commander determines that this test cannot be met, either prior to or during the preparation of an EA, the district commander should prepare an EIS for Federal actions listed below. In addition, if the condition for an EA is met, but the district commander believes that the Federal action may result in legal action due to substantial controversy, he may prepare an EIS to better assure the likelihood of proceeding with the proposed Federal action without subsequent delays.

(a) *Feasibility Reports.* Feasibility reports which recommend Federal actions which are limited in scope and geographic area, and are not likely to have significant environmental impacts.

(b) *Authorized Projects.* Changes to authorized projects which do not result in significant impacts different from those previously addressed in an EIS or EA on the project, and which may be approved under the discretionary authority of the Chief of Engineers.

(c) *Continuing Authorities Program.* Projects recommended for approval of the Chief of Engineers under the following authorities.

(1) Section 205 Small Flood Control Authority

(2) Section 208 Snagging and Clearing for Flood Control Authority
(3) Section 107 Small Navigation Project Authority
(4) Section 103 Small Beach Erosion Control Project Authority
(5) Section 111 Mitigation of Shore Damages Attributable to Navigation Projects

(d) *Construction and Operations and Maintenance.* Changes to projects in a construction or operations and maintenance category which would not cause significant environmental impacts where those activities were not considered in the project EIS or EA.

§ 230.8 Emergency actions.

District commanders are authorized to waiver environmental documentation requirements when responding to emergency situations to prevent or reduce imminent risk to life, health or property or severe economic losses. Emergency actions considered major in scope may require alternative NEPA arrangements. District commanders should contact the division commander for guidance. Division commanders, in turn, may contact DAEN–CWZ–P for guidance.

§ 230.9 Categorial exclusions.

The following actions when considered individually and cumulatively do not have a significant effect on the quality of the human environment and are excluded categorically from environmental documentation. However, district commanders should be alert for extraordinary circumstances which may dictate the need to prepare an EA or an EIS. **Note:** Even though an EA or EIS is not legally mandated for any Federal action falling within one of the following "categorical exclusions", that fact does not exempt any Federal action from procedural or substantive compliance with any other Federal law. For example, compliance with the Endangered Species Act, the Clean Water Act, etc., is always mandatory, even for actions not requiring an EA or EIS.

(a) Routine operation and maintenance actions of limited scope on completed Corps projects which carry out the authorized project purposes such as general administration, equipment purchases, custodial actions, general plans, erosion control, painting, repair rehabilitation, and replacement of existing structures and facilities such as buildings, roads, levees, groins and utilities.

(b) Maintenance dredging of small navigation projects and boat facilities using existing disposal sites or involving less than 50,000 cubic yards of uncontaminated dredged material to be placed in an upland site.

(c) Facilities at Corps projects, such as hydropower facilities, which are subject to other Federal agency authority and are categorically excluded by that agency.

(d) Planning and technical studies which do not contain recommendations for authorization or funding for construction, but may recommend further study. This does not exclude consideration of environmental matters in the studies.

(e) Grants to accomplish the highest and best use or authorized project purposes for:
(1) Agricultural and grazing purposes.
(2) Public park and recreational purposes.
(3) Commercial concession purposes.
(4) Private recreational purposes.
(5) Miscellaneous purposes of a minor nature such as lakeshore protection and improvements, steps, lights, etc.
(6) Use and occupancy of existing buildings, facilities, and real property.
(7) Fish and wildlife and forestry management purposes.
(8) Civil defense.
(9) Education.

(f) Real estate grants for use of excess or surplus real property.

(g) Real estate grants for Government-owned housing.

(h) Exchanges of excess real property and interests therein for property required for project purposes.

(i) Real estate grants for rights-of-way which involve only minor disturbances to earth, air, or water:
(1) Access roads or streets.
(2) Electric power, telephone, telegraph and other communication lines.
(3) Water, sewer, and irrigation pipelines, pumping plants and appurtenant facilities.
(4) Canals, ditches, dikes, retarding structures, etc. used in connection with fish and wildlife conservation and development programs.
(5) Removal of sand, gravel, rock, and other borrow material.
(6) Oil and gas seismic and gravity meter survey and exploration purposes.

(j) Real estate grant of consents to use Government-owned easement areas.

(k) Real estate grants for archaeological and historical investigations.

(l) Renewal and minor amendment of existing real estate grants evidencing authority to use Government-owned real property.

(m) Reporting excess or surplus real property to the General Services Administration for disposal.

(n) Disposal of excess separable recreation lands acquired under Pub. L. 89–72 or release of deed restrictions to cure encroachments.

(o) Disposal of excess easement interest to the underlying fee owner.

(p) Disposal of existing buildings and improvements for off-site removal.

(q) Sale of existing cottage site areas.

(r) Return of Public Domain lands to the Department of the Interior.

(s) Grants of lands to other Federal agencies (NEPA compliance is the responsibility of the other Federal agency).

(t) Emergency projects constructed under Section 14 or Section 3 of the Continuing Authorities Program.

§230.10 Environmental Assessments (EA).

(a) *Purpose.* An EA is a brief document which provides sufficient information to the district commander on potential environmental effects of the proposed action and its alternatives, for determining whether to prepare an EIS or a FONSI (40 CFR 1508.9). The district commander is responsible for making this determination.

(b) *Format.* While no special format is required, the EA should include a brief discussion of the need for the proposed action, its environmental impacts, alternatives to the proposed action and a list of the agencies, interested groups and the public consulted. The document, supported by necessary appendices or technical data to be retained by the district, is to be concise for meaningful review and decision. It should not normally exceed 15 pages. In the case of feasibility and continuing authority studies not requiring an EIS, the EA may be integrated into the report.

§ 230.11 Finding of No Significant Impact (FONSI).

A FONSI shall be prepared to accompany an EA when an EIS is not required. The FONSI shall briefly present the reasons why the action will not have a significant impact on the quality of the human environment, state that an EIS is not required and will be made available to the public in accordance with 40 CFR 1501.4(e)(1). In the case of feasibility and continuing authority studies, the FONSI together with the EA will be included within the report and circulated for review and comment. A notice of availability of the FONSI and report will be sent to all other parties on the mailing list at this time (40 CFR 1501.4(e)(2)). If the district commander determines after review of the comments received that an EIS should be prepared, the guidance outlined in Appendix A and ER 1105–2–

60 shall be followed. For regulatory actions refer to Appendix B for guidance.

§ 230.12 Environmental Impact Statements (EIS).

An EIS may be prepared as a separate document for regulatory permits or, in the case of Corps studies and projects, may be prepared as a section of the project report, or may be combined with (i.e., completely integrated with) the project report as authorized by 40 CFR 1500.4 and 1506.4. An integrated report/EIS shall meet the requirements of 40 CFR 1502.10. Specific guidance on integrated EIS's is contained in Er 1105–2–60. An EIS when prepared as a separate document shall follow the format outlined in 40 CFR 1502.10. District commanders should strive to limit the text covering paragraphs (d) through (g) of 40 CFR 1502.10 to less than 50 pages to the extent practicable and consistent with ensuring a legally and technically adequate EIS. In unusual or complex EIS's where the text may exceed 50 pages, the district commander will circulate the summary rather than the EIS as discussed in 40 CFR 1502.19. Technical data and background information in support of the necessary environmental analysis fundamental to the EIS should be referred to or included as an appendix to the document.

(a) *Draft and final EIS.* Detailed guidance on EIS's prepared for feasibility, re-evaluation and continuing authority studies is contained in ER 1105–2–60 (Planning Guidance Notebook). Appendix B contains guidance for regulatory actions. For other than feasibility, reevaluation and continuing authority studies, a final EIS may take the form of an "abbreviated" document described in 40 CFR 1503.4(c) if the changes from the draft EIS are minor and consist of factual corrections and/or are confined to explanation of Corps actions, citing authorities or reasons which support the agency position. An abbreviated final EIS will consist of a new title page, summary, errata or correction sheet(s) and comments and responses. In filing the abbreviated final EIS with EPA (Washington Office), five copies of the draft EIS shall be included in the transmittal. If the comments on the draft EIS raise significant issues, present new, reasonable and feasible alternatives, or other important matters not addressed in the draft EIS, a final EIS following the format in 40 CFR 1502.10 shall be utilized. District commanders shall be responsible for determining the type of final EIS to prepare. Processing of the EIS will be in accordance with the instructions contained in Appendices A and B.

(b) *Supplements.* A supplement to the draft or final EIS will be prepared whenever required as discussed in 40 CFR 1502.9(c). A supplement to a draft EIS will be prepared and filed in the same manner as a draft EIS and will be titled "Supplement I, Supplement II, etc. The final EIS will address the changes noted in the supplement. A supplement to a final EIS will be prepared and filed first as a *draft* supplement and then as a final supplement. Supplements will be filed and circulated in the same manner as a draft and final EIS (including the abbreviated procedure discussed in 12a. above). Supplements to a draft or final EIS filed before 30 July 1979 may follow the format of the previously filed EIS. Supplements to a draft EIS filed after this date will follow the format outlined in 40 CFR 1502.10, ER 1105–2–60, Appendix B, as appropriate. References to the draft or final EIS being supplemented should be used to eliminate repetitive discussions in order to focus on the important issues and impacts. The transmittal letter to EPA as well as the cover sheet shall clearly identify the title and purpose of the document as well as the title and filing date of the previous EIS being supplemented and how copies can be obtained. The decision will be made on the proposed action by the appropriate Corps official after the final supplement has been on file for 30 days, and a Record of Decision will be prepared and signed.

(c) *Tiering.* Tiering is discussed in 40 CFR 1502.20 and 1508.28 and should be used in appropriate cases. The initial broad or programmatic EIS must present sufficient information regarding the overall impacts of the proposed action so that the decision-makers can make a reasoned judgment on the merits of the action at the present stage of planning or development and exclude from consideration issues already decided or not ready for decision. The initial broad EIS should also identify data gaps and discuss future plans to supplement the data and prepare and circulate site specific EIS or EA as appropriate.

(d) *Other Reports.* District commanders may also publish periodic fact sheets and other informational documents on long-term or complex EIS to keep the public informed on the status of the proposed action. These documents will not be filed with EPA.

§ 230.13 Record of decision.

The Record of Decision shall follow the guidance outlined in 40 CFR 1505.2. In the case of regulatory permit actions, see Appendix B. Records of Decision will be signed as follows:

(a) *Feasibility Reports.* The Record of Decision for feasibility reports will be signed by the ASA(CW) at the time the eport is transmitted to Congress for authorization.

(b) *Continuing Authority Reports.* The Record of Decision will be signed by the Director of Civil Works or Chief, Planning Division (DAEN–CWP) at the time the project is approved for construction.

(c) *Projects in Preconstruction Planning and Engineering, Construction, Operations and Maintenance and Real Estate Actions.* The record of Decision will be signed by the Director of Civil Works for projects or actions requiring OCE approval. For projects or actions delegated to the division commander for approval, the division commander will sign the Record of Decision. In those cases involving the disposal of dredged or fill material into waters of the U.S. or where compliance with the requirements of other related laws and authorities was not attained with the review and circulation of the EIS, the signing of the Record of Decision may be deferred until after completion of the public interest review but prior to initiation of the proposed action.

(d) *Preparation and Processing.* The district commander preparing the EIS will be responsible for preparing the draft Record of Decision for signature of the ASA(CW); Director of Civil Works; Chief, Planning Division; or division commander; as appropriate. Incoming letters of comments and Corps responses received on the final EIS, as discussed in 230.19(d), will be available for review by the decision-maker signing the Record of Decision.

§ 230.14 Lead and cooperating agencies.

Lead agency, joint lead agency, and cooperating agency designation and responsibilities are contained in 40 CFR 1501.5 and 1501.6. The district commander is authorized to enter into agreements with regional offices of other agencies as required by 40 CFR 1501.5(c). District or division commanders will consult with HQDA (DAEN–CWZ–P), WASH DC 20314 prior to requesting resolution by CEQ as outlined by 40 CFR 1501.5 (e) and (f).

(a) *Lead Agency.* The Corps will normally be lead agency for Corps civil works projects and will normally avoid joint lead agency arrangements. Regulatory actions will be determined on the basis of 40 CFR 1501.5(c).

(b) *Corps as a Cooperating Agency.* For cooperating agency designation the Corps area of expertise or jurisdiction

by law is flood control, navigation, hydropower and regulatory functions. See Appendix II of CEQ regulations.

§ 230.15 Scoping.

Refer to 40 CFR 1501.7 for a complete discussion on scoping requirements.

§ 230.16 Notice of Intent.

A notice of intent to prepare a draft EIS for publication in the **Federal Register** is discussed in ER 200–2–1.

§ 230.17 Filing Requirements.

Five (5) copies of draft, final and supplemental EIS's shall be sent to: Director, Office of Federal Activities (A–104), Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. District commanders shall file draft EIS, Supplements to a draft EIS, and draft supplements directly with EPA. Final EIS and final supplements shall be filed by appropriate elements within OCE for feasibility and reevaluation reports requiring Congressional authorization. Division commanders shall file final EIS and final supplements for all other Corps actions except for final EIS or final supplements for permit actions which will be filed by the district commander after appropriate reviews by division and the incorporation in the EIS of division's comments. OCE and/or division will notify field office counterparts when to circulate the final EIS or final supplement and will not file the final document with EPA until notified by the district commander that distribution of the document has been completed.

(a) *Timing Requirements.* Specific timing requirements regarding the filing of EIS's with EPA are discussed in 40 CFR 1506.10. District commanders will forward any expedited filing requests together with appropriate supporting information, through channels to DAEN–CWZ–P. Once a decision is reached to prepare an EIS or EIS Supplement, district commanders will establish a schedule of time limits for each step of the process, based upon considerations listed in 40 CFR 1501.8 and upon other management considerations. The time required from the decision to prepare an EIS to filing the final EIS should not normally exceed one year (CEQ 46 FR 18037, March 23, 1981). For feasibility, continuing authority or reevaluation studies, where the project study time is expected to exceed 12 months, the timing of the EIS should be commensurate with the project study time. In appropriate circumstance where the costs of completing studies or acquiring information for an EIS (i.e., cost in terms of money, time or other resources) would be exorbitant, the district commander should consider using the worst case analysis mechanism described in 40 CFR 1502.22 in order to complete the EIS process within a reasonable time-frame. In all cases, however, it is the district commander's responsibility to assure that the time limit established for the preparation of an EIS or EIS Supplement is consistent with the purposes of NEPA.

(b) *Timing Requirements on Supplements.* Draft and final supplements covering actions not having a bearing on the overall project for which a final EIS has been filed, will observe the minimum review periods for only those actions addressed in the supplement and not curtail other ongoing or scheduled actions on the overall project which have already complied with the procedural requirements of NEPA. In the case of an abbreviated final supplement, no administrative waiting periods are required.

§ 230.18 Availability.

Draft and final EIS and Supplements will be available to the public as provided in 40 CFR 1502.19 and 1506.6. Appendices will not normally be circulated but reader availability of single copies at no cost will be noted in the basic document.

§ 230.19 Comments. District commanders shall request the comments as set forth in 40 CFR Part 1503 and § 1506.6. A lack of response may be presumed to indicate that the party contacted has no comment to make.

(a) *Time Extensions.* District commanders will consider and act on requests for time extensions to review and comment on an EIS based on timeliness of distribution of the document, prior agency involvement in the proposed action, and the action's scope and complexity.

(b) *Public Meetings and Hearings.* See 40 CFR 1506.6(c)(2). Refer to paragraph 12, Appendix B for regulatory permit actions.

(c) *Comments Received on the Draft EIS.* See 40 CFR 1503.4. District commanders will pay particular attention to the display in the Final EIS of comments received on the Draft EIS. In the case of abbreviated Final EIS's, follow 40 CFR 1503.4(c). For all other Final EIS's, comments and agency responses thereto will be placed in an Appendix in a format most efficient for users of the final EIS to understand the nature of public input and the district commander's consideration thereof. District commanders will avoid lengthy or repetitive verbatim reporting of comments and will keep responses clear and concise.

(d) *Comments Received On the Final EIS.* Reponses to comments received on the final EIS are required only when substantive issues are raised which have not been addressed in the EIS. In the case of feasibility reports where the final report and EIS, BERH or MRC report, and the proposed Chief's report are circulated for review, incoming comment letters will be answered, if appropriate, by DAEN–CWP. After the review period is over, DAEN–CWP will provide copies of all incoming comments received in OCE to the district commander for use in preparing the draft Record of Decision. For all other Corps actions except permit actions, two (2) copies of all incoming comment letters (even if the letters do not require an agency response) together with the district commander's response (if appropriate) and the draft Record of Decision will be submitted through channels to the appropriate decision authority. In the case of a letter recommending a referral under 40 CFR 1504, reporting officers will notify DAEN–CWZ–P and request further guidance. The Record of Decision will not be signed nor any action taken on the proposal until the referral case is resolved.

(e) *Commenting on Other Agencies EIS.* See 40 CFR 1503.2 and .3. District commanders will provide comments directly to the requesting agency (if appropriate) with a copy provided to DAEN–CWP–P. DAEN–CWP–P may designate a lead office to provide coordinated agency comments. When the Corps is a cooperating agency, the Corps will always provide comments on another Federal agency draft EIS even if the response is no comment. Comments should be specified; restricted to jurisdiction by law and special expertise as defined in 40 CFR 1508.15 and .26. See Appendix II of CEQ regulations.

§ 230.20 Integration with State and Local Procedures.

See 40 CFR 1506.2.

§ 230.21 Adoption.

See 40 CFR 1506.3. A district commander will normally adopt another agencies EIS and consider it to be adequate unless he finds substantial doubt as to technical or procedural adequacy or obvious omission of factors important to a Corps decision. In such cases, he will prepare a draft and Final supplement noting in the draft supplement why the EIS was considered inadequate. In all cases, except where the document is not recirculated as

provided in 40 CFR 1506.3(b) or (c), the adopted EIS with the supplement, if any, will be processed in accordance with this regulation. A district commander may also adopt another agencies EA/FONSI.

§ 230.22 Limitations on Actions During the NEPA Process.

See 40 CFR 1506.1.

§ 230.23 Predecision Referrals.

See 40 CFR Part 1504. If the district commander determines that a predecision referral is appropriate the case will be sent through division to reach DAEN–CWZ–P not later than 15 days after the final EIS was filed with EPA.

§ 230.24 Agency Decision Points.

The timing and processing of Corps NEPA documents in relation to major decision points are addressed in paragraphs 11 and 13 and Appendix A for studies and projects and Appendix B for regulatory permit actions.

§ 230.25 Environmental Review and Consultation Requirements.

(40 CFR 1502.25).

(a) For Federal projects, NEPA documents shall be prepared concurrently with and integrated with environmental impact analyses and related review laws and executive orders. A current listing is contained in paragraph 3.4.3 of Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies. Reviews and consultation requirements, analyses, and status of coordination associated with applicable laws, executive orders and memoranda will be summarized in the draft document and the results of the coordination will be summarized in the final document. Appendices with further details may be added as appropriate. Regulatory actions will follow Appendix B and 33 CFR Parts 320 through 330.

(b) *Executive Order 12114, Environmental Effects Abroad of Major Federal Actions, 4 January 1979.* For general policy guidance, see **Federal Register** of 12 April 1979, 32 CFR Part 197. Procedural requirements for Corps Civil Works studies and projects are discussed below. Procedural requirements for Corps regulatory actions are discussed in 33 CFR Parts 320–330.

(1) The district commander through the division commander responsible for the activity will notify DAEN–CWP–E, N, S or W as appropriate, of an impending action which may impact on another country and that environmental studies are necessary to determine the extent and significance of the impact. The district commander will inform DAEN–CWP whether entry into the country is necessary to study the base condition.

(2) DAEN–CWP will notify the State Department, Office of Environmental and health (OES/ENH) of the district commanders concern, and whether a need exists at this point to notify officially the foreign nation of our intent to study potential impacts. Depending on expected extent and severity of impacts, or if entry is deemed necessary, the matter will be referred to the appropriate foreign desk for action.

(3) As soon as it becomes evident that the impacts of the proposed actions are considered significant, DAEN–CWP will notify the State Department. The State Department will determine whether the foreign embassy needs to be notified, and will do so if deemed appropriate, requesting formal discussios on the matter. When the International Joint Commission (IJC) or the International Boundary and Water Commission, United States and Mexico (IBWC) is involved in a study, the State Department should be consulted to determine the foreign policy implications of any action and the proper course of action for formal consultations.

(4) Any press releases or report documents dealing with impact assessments in foreign nations should be made available to the appropriate foreign desk at the State Department for clearance and coordination with the foreign embassy prior to public dissemination.

§ 230.26 General considerations in preparing Corps EIS.

(a) *Interdisciplinary Preparation.* See (40 CFR 1502.6.).

(b) *Incorporation by Reference.* To the maximum extent possible, EIS shall incorporate material by reference wherever possible in accordance with 40 CFR 1502.21. Footnotes should be used rarely; only where their use greatly aids the reader's understanding of the point discussed. Citation in the EIS of material incorporated by reference should be made by indicating an author's last name and date of the reference in parentheses at the appropriate location in the EIS. The list of references will be placed at the end of the EIS. Only information sources actually cited in the text should appear in the refrence list. The reference list shall include the author's name and address and the date and title of the publication, personal communications and type of communication (e.g., letter, telephone, interview, etc.).

(c) *Incomplete or Unavailable Information.* Refer to 40 CFR 1502.22.

(d) *Methodology and Scientific Accuracy.* Refer to 40 CFR 1502.24.

(e) *Cost-Benefit Analysis.* Refer to 40 CFR 1502.23.

(f) *Contractual Relationships.* The use of outside professional services (contractors) for the preparation of the basic data for EA and EIS for Corps actions shall be in accordance with 40 CFR 1506.5 (b) and (c). The district commander shall assist the contractor in the preparation of the document and independently evaluate and be responsible for its scope, content and accuracy. The names of the person(s) responsible for this independent evaluation and contractor particpants shall be included in the list of principal preparers. District commanders shall prepare and have contractors execute a disclosure statement specifying that they have no financial or other interest in the outcome of the project. See Appendix B for regulatory actions.

Appendix A—Processing Corps NEPA Documents

NEPA documents for Corps Civil Works activities will be processed in accordance with the instructions contained in this Appendix and applicable paragraphs in the regulation. NEPA documents for regulatory actions will be processed in accordance with guidance contained in Appendix B.

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Title

1. Feasibility Studies (Survey Reports, Legislative Phase LGDM, Section 216 Reports, and Fish and Wildlife Reports)
2. Continuing Authority Studies
3. Projects in Preconstruction Planning and Engineering, Construction, and Operations and Maintenance
4. Other Corps Projects

1. Feasibility Studies

a. *Preparation and Draft Review.* During the reconnaissance phase of study, the district commander shall undertake environmental studies, with emphasis on scoping, commensurate with engineering, economic and other technical studies to determine the probable environmental effects of alternatives and the appropriate NEPA document to accompany the feasibility report. This environmental assessment process should be continued in the feasibility phase, and if the need for an EIS develops the district commander will prepare a Notice of Intent as early in the feasibility phase as possible. Following the guidance in ER 1105–2–10 through 60, the district commander will prepare a draft feasibility report incorporating the draft EIS or EA and FONSI (as appropriate), and circulate it to agencies, organizations and members of the public known to have an interest in the study. Five copies of the draft EIS will be mailed to Director, Office of Federal Activities (A–104).

EPA, WASH DC 20460 for filing after distribution has been completed. After receipt and evaluation of comments received, the district commander will prepare the final report and EIS or EA and FONSI and submit it to the division commander for review.

b. *Division Review.* After review, the division commander will issue a public notice of report issuance and transmit the report to the Board of Engineers for Rivers and Harbors (BERH). On Mississippi River and Tributaries projects, the district commander submits the report to the Mississippi River Commission (MRC) and issues the public notice. For the purpose of this regulation, only the acronym BERH will be used since the review functions of MRC and BERH are similar. The notice will provide a 30-day period for comments to be submitted to BERH on the report and EIS. Although the EIS in the report is identified as a "final" at this stage of processing, it should be clear to all those requesting a copy that it is an "Interim Document under Agency Review—Subject to Revision" and will become the agency's final EIS when it is filed after BERH review.

c. *BERH Review.* BERH will review the EIS at the same time as it reviews the final feasibility report. The report and EIS should be compatible. If BERH review requires minor revisions to the plan as recommended by the division and district commanders, minor changes to the EIS reflecting plan revisions shall be noted in the BERH report. If BERH action results in major revisions to the recommended plan and revisions are varients of the plan or alternatives described in the draft EIS, an addendum to the final EIS will be prepared by BERH (with assistance from the district commander, as required). This addendum "package" will be identified as an "Addendum to the Final EIS—Environmental Consequences of the Modifications Recommended by the Board of Engineers for Rivers and Harbors—project name." The format shall include an abstract on the cover page, recommended changes to the division/district commander's proposed plan, rationale for the recommended changes, environmental consequences of the recommended changes and the name, expertise/discipline, experience, and role of the principal preparer(s) of the addendum. Letters received during BERH review which provide new pertinent information having a bearing on the modifications recommended by BERH will be attached to the addendum. If BERH recommends major revisions or a new alternative to the plan recommended by the division and district commanders and was not discussed in the EIS, a supplement to the draft EIS will be required.

d. *Departmental Reviews.* The report and final EIS, together with the proposed report of the Chief of Engineers and the BERH report, will be filed with EPA at about the same time as it is circulated for 90-day Departmental review to the concerned state(s) and Federal agencies at the Washington level. District commanders will circulate the proposed Chief's Report, BERH report, and the report and final EIS to parties on the project mailing list not contacted by OCE (groups and individuals known to have an interest in the study or who provided comments on the draft EIS) allowing the normal 30-day period of review. OCE will provide a standard letter for the district to use to transmit these documents which explains the current status of the report and EIS and directs all comments to be sent to CDR USACE (DAEN-CWP). Copies of the report appendices circulated with the draft need not be circulated with the report and final EIS. All letters of comment received on the report and final EIS together with OCE responses and the draft Record of Decision (to be provided by the district commander) will be included with other papers furnished at the time the final Chief's Report is transmitted to ASA(CW) for further review and processing.

e. *Executive Reviews.* After completion of review, the Chief of Engineers will sign his final report and transmit the report and accompanying documents to ASA(CW). After review ASA(CW) will transmit the report to OMB requesting its views in relation to the programs of the President. After OMB provides its views, ASA(CW) will sign the Record of Decision and transmit the report to Congress.

2. Continuing Authority Studies

a. *Preparation and Draft Review.* During the reconnaissance phase of study, the district commander shall undertake environmental studies commensurate with engineering, economic and other technical studies to determine the probable environmental effects of alternatives and the appropriate NEPA document to accompany the detailed project report (DPR). If the results of the reconnaissance phase warrants preparation of an EIS, the district commander will prepare a Notice of Intent early in the ensuing detailed project study. Following the guidance in ER 1105-2-10 through 60 the district commander will prepare the draft DPR incorporating the EA and FONSI or draft EIS (as appropriate), and circulate it to agencies, organizations and members of the public known to have an interest in the study. If an EIS is prepared for the DPR five copies of the draft EIS will be mailed to Director, Office of Federal Activities (A-104), EPA, WASH DC 20460 for filing after distribution has been completed.

b. *Agency Review.* After receipt and evaluation of comments received, the district commander will prepare the final DPR and EA/FONSI or final EIS and submit eight (8) copies to the division commander for review and approval. After review the division commander will file five (5) copies of the final DPR and EIS with the Washington office of EPA. The division commander will not file the final EIS until notified by the district commander that distribution has been completed.

c. *Final Review.* Letters of comment on the final DPR including the final EIS will be answered by the district commander on an individual basis if appropriate. Two (2) copies of all incoming letters and the district commander's reply together with five copies of the final DPR and EIS and a draft of the Record of Decision will be submitted through division to the appropriate element within DAEN-CWP. After review of the DPR and NEPA documents, the Director of Civil Works or Chief, Planning Division will approve the project and sign the Record of Decision if an EIS was prepared for the DPR.

d. *Projects Not Requiring a DPR.* If the Initial Appraisal Report or Reconnaissance Phase documentation is used as the basis to approve a project for construction, it shall include NEPA documentation and shall be processed in the same manner as a DPR. This paragraph is not applicable to Section 14 and Section 3 projects.

3. Projects in Preconstruction Planning and Engineering, Construction, and Completed Projects in an Operations and Maintenance Category

a. *General.* District commanders will make a determination whether to prepare an EIS if one was not previously filed or review the existing NEPA document(s) on file to determine if there are any new circumstances which have occurred since completion of the document or if there are any significant environmental impacts resulting from proposed changes to the project which may warrant the preparation of a draft and final EIS Supplement. No further NEPA documentation is required for projects that remain unchanged. If the proposed changes and resulting impacts are not significant an EA and FONSI may be used.

b. *Preparation and Draft Review.* As soon as practicable after the district commander makes a determination to prepare an EIS or EIS Supplement for the proposed project, a Notice of Intent (as discussed in paragraph 17) will be prepared and published in the **Federal Register.** The district commander will prepare the draft EIS or EIS supplement and circulate it to agencies, groups and individuals on the mailing list known to have an interest in the project for review and comment. Five (5) copies will be sent to Director, Office of Federal activities (A-104), EPA, 401 M St., SW., WASH DC 20460 for filing after distribution has been completed.

c. *Agency Review.* After receipt and evaluation of comments received, the district commander will prepare the final EIS or EIS Supplement. Eight (8) copies will be transmitted to the division commander for review. After review the division commander will file five (5) copies with the Washington office of EPA. A copy of the final EIS or EIS Supplement and transmittal letter to EPA will be provided to the appropriate counterpart office within OCE. The division commander will not file the final EIS until notified by the district commander that distribution has been completed.

d. *Final Review.* Letters of comment on the final EIS or EIS Supplement will be answered by the district commander on an individual basis as appropriate. Two (2) copies of the incoming letters and the district commander's reply together with two copies of the final EIS or EIS Supplement and a draft of the Record Decision will be submitted to the appropriate Corps office having approval authority. After review of the NEPA documents and comments and responses, the appropriate Corps official will sign the Record of Decision and approve the project.

4. Other Corps Projects

Draft and final EIS for other Civil Works projects or activities having significant environmental impacts which may be authorized by Congress without an EIS

having been previously filed and for certain real estate management and disposal actions which may require an EIS should be processed in accordance with paragraph 3 of this appendix except that DAEN–REM–I will be the appropriate counterpart office within OCE for real estate actions.

Appendix B—Environmental Operating Procedures and Documents for Regulatory actions

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1. *Introduction.* In keeping with Executive Order 12291 and the policy stated in the CEQ regulation implementing NEPA (40 CFR 1500.2), where interpretive problems arise in implementing this regulation, and consideration of all other factors do not give a clear indication of a reasonable interpretation, the interpretation (consistent with the spirit and intent of NEPA) which results in the least paperwork and delay will be used. Specific examples of ways to reduce paperwork in the NEPA process are found at 40 CFR 1500.4. Maximum advantage of these recommendations should be taken.

2. *General.* Where guidance in this appendix is not specific, the reader is referred to the basic regulation (ER 200–2–2). Where guidance is not specific in both this appendix and in the basic regulation, the reader is referred to 40 CFR Parts 1500–1508.

3. *Development of Information and Data.* (See 40 CFR 1506.5). The district commander may require the applicant to furnish appropriate information that the commander considers necessary to allow preparation of an EA or EIS. See also 40 CFR 1502.22 regarding incomplete or unavailable information.

4. *Elimination of Duplication with State and Local Procedures.* See paragraph 21 basic regulation.

5. *Public Involvement.* Several paragraphs of this appendix (paragraphs 7, 8, 11, 13, and 19) provide information regarding district commanders making available to the public certain environmental documents in accordance with 40 CFR 1506.6.

6. *Categorical Exclusions.*

a. *General.* The following activities are not considered to be major federal actions significantly affecting the human environment and are therefore categorically excluded from NEPA documentation.

(1) Fixed or floating small private piers, docks, boat hoists and boathouses, which would not interfer with commercial or recreational navigation;

(2) Utility line crossings which completely span the waterway, provided there is no interference with commercial or recreational navigation and no change in preconstruction bottom contours due to excavation and filling associated with the utility line crossings;

(3) Maintenance dredging of small navigation and drainage facilities where dredged material is disposed of at an upland site;

(4) Concrete structures and headwalls for intake and outfall pipes and associated discharge of material for backfill or bedding; where no filling occurs in a wetland;

(5) Boat launching ramps, with no more than 2 lanes in width and not constructed through a fringe of wetland vegetation;

(6) All applications which qualify as letters of permission (as described at 33 CFR 325.5(b)(2)).

Note.—Even though an EA or EIS is not legally mandated for any Federal action falling within one of the "categorial exclusions," that fact does not exempt any Federal action from procedural or substantive compliance with any other Federal law. For example, compliance with the Endangered Species Act, the Clean Water Act, etc., is always mandatory, even for actions not requiring an EA or EIS.

b. *Extraordinary Circumstances.* District commanders should be alert for extraordinary where normally excluded actions would have substantial environmental effects and thus require an EA or EIS.

c. Each district commander may develop additional categorical exclusions as defined in 40 CFR 1508.4 appropriate to that district. The district commander shall notify other Federal, state, and local agencies and the general public through separate public notice procedures with a minimum 30 day comment period; and, if deemed necessary, hold a public hearing. These proposed exclusions, along with substantive comments and responses, will be forwarded to the division commander for final approval. The division commander will provide a copy of the approved categorical exclusions to CDR, USACE (DAEN–CWO–N) WASH DC 20314. A public notice shall be issued at the conclusion of these procedures announcing the final categorical exclusion. Public notices on site specific applications falling within such categories shall state that the application is considered to be a categorical exclusion.

7. *EA/FONSI Document.* (See 40 CFR 1508.9 and 1508.13 for definitions).

a. *Environmental Assessment (EA) and Findings of No Significant Impact (FONSI).* The district commander shall complete an EA as soon as practicable after all relevant information is available (i.e., after the comment period for the public notice announcing receipt of the permit application has expired) and prior to preparation of the Statement of Finding (SOF). When the EA confirms that the impact of the applicant's proposal is not significant and there are no "unresolved conflicts concerning alternative uses of available resources . . ." (Section 102(2)(E) of NEPA), the EA need not include a discusson on alternatives. In all other cases where the district commander determines that there are unresolved conflicts concerning alternative uses of available resources, the EA shall include a discussion of the reasonable alternatives which are considered by the ultimate decision-maker. The alternatives considered to be available to the decision-maker are: issue the permit as requested, issue the permit with appropriate conditions, or deny the permit. "Appropriate conditions" may include project modifications within the scope of established permit conditioning policy (See 33 CFR 325.4). Denial is considered the "no action" alternative. The EA should not normally exceed 15 pages and shall conclude with a FONSI (See 40 CFR 1508.13) or a determination that an EIS is required. The district commander may delegate the signing of an EA/FONSI document.

b. *Scope of Analysis.* In some situations, a permit applicant may propose to conduct a specific activity requiring a Corps permit (e.g., construction of a pier in a navigable water of the United States) which is merely one component of an entire project (e.g., construction of an oil refinery on an upland area). The district commander should confine the scope of the EA to only the direct and indirect environmental effects of the specific activity requiring a Corps permit unless he determines that the following criteria mandate that he expand the scope of analysis of the NEPA review to encompass the direct and indirect environmental effects of the entire project.

The district commander should discuss the direct and indirect environmental effects of all aspects of the entire project only when the specific activity or activities requiring the Corps permit constitute such an essential component of the entire project that realization of the entire project would be impossible without the Corps permit and the overall Federal involvement with the project is sufficient to justify a NEPA review of the entire project. For example, if a non-Federal

oil refinery, electric generating plant, or industrial facility is proposed to be built on an upland site and the only Corps permit requirement relates to an outfall pipe or a connecting pipeline, that pipe or pipeline permit, in and of itself, normally would not constitute sufficient overall Federal involvement with the project to justify expanding the scope of a Corps EA to cover the entire upland facility, even if the facility could not operate without the Corps permit. On the other hand, if an applicant were to seek a Corps permit for an outfall pipe or pipeline plus a pier and/or a Corps permit to discharge a substantial amount of dredged or fill material into U.S. waters, such a combination of project features requiring Corps permits might well constitute sufficient Federal involvement with the project to justify a NEPA review of the entire project, provided that at least one project feature requiring a Corps permit must be essential to realization of the entire project. The scope of review undertaken in a Corps EA necessarily must involve a degree of discretion exercised by the district commander allowing him to deal with varying factual circumstances. One specific application of the above stated rule arises when a non-Federal pipeline or electric utility line requires a Corps permit to cross a water of the United States. In that situation, only the "specific activity" (i.e., the crossing per se) should be analyzed in an EA to determine whether or not the crossing would result in a significant environmental impact. The "entire project" (i.e. the entire length of the pipeline or utility line) should not be analyzed in the EA, unless there is sufficient Federal control over or responsibility for the entire project to "federalize" it for purposes of NEPA, in the judgment of the district commander. Notwithstanding the foregoing rules, the district commander is authorized to expand the scope of analysis of any Corps EA whenever and to the extent he finds necessary, in his sole discretionary judgment, to protect an important Federal interest which falls within the ambit of NEPA. When the district commander has decided to prepare an EA addressing all direct and indirect environmental effects of an entire project, he may incorporate by reference and rely upon the environmental reviews of other Federal and state agencies to the maximum extent practicable.

(See 40 CFR 1500.4(j); 1502.21; 1508; 1508.9)

c. *Combining documents.* The district commander is encouraged to combine the decision document and EA. The consolidated document shall be called Environmental Assessment and Statement of Findings (EA/SOF) (see 40 CFR 1506.4). The document must include a FONSI.

8. *Environmental Impact Statement*—General.

a. *Determination of Lead and Cooperating Agencies.* When the district commander determines that an EIS is required, he will contact any other appropriate Federal agencies to determine their respective role(s), i.e., that of lead agency, joint lead agency, or cooperating agency.

b. *Corps as Lead Agency.* When the Corps is lead agency, it will be responsible for funding the entire EIS except for those portions which come under the jurisdiction of other Federal agencies. This in no way shall be construed as lessening the district commander's ability to request the applicant to furnish appropriate information as discussed in paragraph 3 of this appendix. Staff support from other Federal agencies beyond the immediate jurisdiction of those agencies may be cost reimbursed by the Corps under written agreement.

c. *Corps as Cooperative Agency.* If another agency is the lead agency as set forth by the CEQ regulations (40 CFR 1501.5 and 1501.6(a) and 1508.16), the district commander will coordinate with that agency as a cooperating agency under 40 CFR 1501.6(b) and 1508.5 to insure that agency's resulting EIS may be adopted by the Corps for purposes of exercising its permit authority. As a cooperating agency the Corps will be responsible to the lead agency for providing that environmental information which is directly related to the regulatory matter involved and which is required for the preparation of an EIS and any inherent funding involved. This in no way shall be construed as lessening the district commander's ability to request the applicant to furnish appropriate information as discussed in paragraph 3 of this appendix.

When the Corps is a cooperating agency because of a regulatory permit action, the district commander will, in accordance with 40 CFR 1501.6(b)(4), "make available staff support at the lead agency's request" to enhance the latter's interdisciplinary capability provided the request pertains to the Corps permit covered by the EIS. Beyond this, Corps staff support will generally be made available to the lead agency to the extent practicable within its own responsibility and available resources. Any assistance to a lead agency beyond this will normally be by written agreement with the lead agency providing for a cost reimbursable basis for Corps resources expended. If the district commander thinks a public hearing should be held and another agency is lead agency, the district commander may request that the lead agency hold a joint public hearing and provide reasons why the joint hearing will be helpful. The district commander should offer to take an active part in the hearing and ensure coverage of Corps concerns.

d. *Scope of Analysis.* See paragraph 7(b).

e. *Scoping Process.* Refer to 40 CFR 1501.7.

f. *Contracting.* See 40 CFR 1506.5.

(1) The district commander may prepare an EIS, or may obtain information needed to prepare an EIS, either with his own in-house staff or by choosing a contractor. In choosing a contractor who reports directly to the district commander, the procedures of 40 CFR 1506.5(e) will be followed.

(2) Information required for an EIS may also be furnished by the applicant or a consultant employed by the applicant. Where this approach is followed, the district commander will (i) advise the applicant and/or his consultant of the Corps' information requirements, and (ii) meet with the applicant and/or his consultant from time to time and provide him with the district commanders views regarding adequacy of the data that is being developed.

g. *Change in EIS Determination.* If subsequent to a published notice of intent to prepare an EIS, or distribution of a draft EIS, the distict commander determines that an EIS is no longer required, he shall notify in writing the Office, Chief of Engineers, the appropriate Corps division office, the appropriate EPA Regional Administrator, the Office of Environmental Review of the Environmental Protection, Washington, DC, and the public of his determination.

The EIS process may follow through to the completion of the final EIS stage even though denial of a permit is anticipated if the record is not sufficient to support denial without completion of the final EIS process; if, in the district commander's opinion, the public interest would be better served by completing the EIS process; of if the district commander believes the final decision on the permit will be made by higher authority (see j. below).

h. *Time Limits.* For regulatory actions, the district commander will follow Para. 18a. of the basic regulation unless unusual delays caused by applicant inaction require longer time frames for EIS preparation. At the outlet of the EIS effort, timing milestones will be developed and made available to the applicant and the public.

i. *Definition of Corps Action.* For regulatory actions, the Corps action is issuance of a permit or issuance of a permit with conditions. For regulatory permits, denial of a permit application is considered "no action" on the part of the Corps.

j. *Permit Elevation.* If for any reason the application will be decided at a higher authority. The district commander should not limit the alternatives from which higher authority may choose. The district commander shall forward to higher authority his views on comments received on the final EIS or final supplement to the final EIS.

9. Organization and Content of Draft EIS's.

a. *General.* This section gives detailed information for preparing draft EIS. When the Corps is the lead agency, this draft EIS format and these procedures will be followed. When the Corps is one of the joint lead agencies, the joint lead agencies will mutually decide which agency's format and procedures will be followed.

b. *Format.*

(1) *Cover Sheet.*

(a) Ref. 40 CFR 1502.11

(b) The "person at the agency who can supply further information" (40 CFR 1502.11(c)) is the regulatory action officer handling that permit application.

(c) The cover sheet shall identify the EIS as a Corps permit action and state the authorities (Sections 9, 10, 404, 103, etc.) under which the Corps is exerting its jurisdiction.

(2) *Summary.* In addition to the requirements of 40 CFR 1502.12, this section shall identify the proposed action as a Corps permit action stating the authorities (Sections 9, 10, 404, 103, etc.) under which the Corps is exerting its jurisdiction; it shall also summarize the purpose and need for the proposed action and it shall briefly state the beneficial/adverse impacts of the proposed action.

(3) *Table of Contents.*

(4) *Purpose of and Need for the Proposal.* The purpose of and need for the proposed specifc activity which requires a Department of the Army permit shall be stated. In the event the activity is but one part of a more extensive project which does not require a Department of the Army permit, then the purpose and need of the entire project shall also be stated. The applicant should be encouraged to provide a specific statement on the purpose of and need for the proposed activity.

(5) *Alternatives.* See 40 CFR 1502.14. The alternatives available to the decision-maker as stated in paragraph 8.i. above, are issuance, issuance with conditions, or denial.

(a) The applicant's proposal will be thoroughly addressed.

(b) In analyzing the alternatives for issuing the permit with conditions, the decision-maker will be guided by the policy on conditioning of permits contained in 33 CFR Part 325.

(c) Only reasonable alternatives need be considered in detail, as specified at 40 CFR 1502.14. No alternative shall be considered reasonable unless it is reasonably related to the general purpose and need to be served by the specific activity requiring a Corps permit. In addition, alternatives which cannot reasonably be undertaken by the permit applicant shall be considered reasonable and discussed only when and to the extent necessary to allow complete and objective evaluation of the permit application, and a fully informed decision regarding the ultimate decision to grant or deny the permit.

(d) The EIS should discuss geographic alternatives, e.g., changes in locaction and other site specific variables, and functional alternatives, e.g., project substitutes and design modifications.

(e) 40 CFR 1502.23 states a cost-benefit analysis shall be incorporated into the EIS when such an analysis is "relevant to the choice among alternatives . . . being considered for the proposed action." For regulatory actions, cost-benefit ratios need not be prepared on proposed actions at they relate to the efficiency of the proposal or the efficiency of the enterprise in the private sector. However, baseline economic data and its interpretation may be appropriate to include in an EIS when the data shows a measurable impact on the public.

(f) Disclosure of Preferred Alternative. For regulatory actions, the preferred alternative is determined at the completion of the regulatory process, i.e., after the 30 day period following filing the final EIS. Hence, no preferred alternative can be stated in an EIS. This does not negate the requirement of 40 CFR 1505.2(b) to objectively state the "environmentally preferred alternative."

(g) Mitigation. Guidance on mitigation is given in 33 CFR Part 325.

(6) *Affected Environment.* Ref. 40 CFR 1502.15

(7) *Environmental Consequences.* Ref. 40 CFR 1502.16

(8) *List of Preparers.* Ret. 40 CFR 1502.17

(9) *Public Involvement.* This section shall list the dates and nature of all public notices, scoping meetings and public hearings and include a list of all parties notified.

(10) *Appendices.* (See 40 CFR 1502.18). Appendices will be used the maxiumu extent practicable to maximum the length of the main text of the EIS. Appendices will not normally be circulated with every copy of the EIS, but appropriate appendices should be routinely provided to parties with special interest and expertise in the particular subject.

(11) *Index.* The index of an EIS is to be designed to provide for easy reference to items discussed in the main text of the EIS. These items are to be listed in the index in alphabetical order and page(s) and paragraph number(s) given for each item. The index shall be placed at the very end of the EIS document.

10. *Notice of Intent.* The district commander shall follow the guidance in ER 200–2–1 in preparing a notice of intent to prepare a draft EIS for publication in the **Federal Register.** A notice of intent announcing a proposed draft EIS for regulatory permit actions shall identify the action as a regulatory action in the title of the notice as listed in the Table of Contents to the **Federal Register.**

11. *Public Hearing.* If a public hearing is to be held pursuant to 33 Part CFR 327, the actions analyzed by a draft EIS are to be considered at the public hearing, the district commander will make the draft EIS available to the public at last 15 days in advance of the hearing. If a hearing request is received from another agency having jurisdiction as provided in 40 CFR 1506.6(c)(2), the district commander shall initiate coordination for a joint hearing with that agency whenever appropriate. Unless the district commander concurs that such a hearing is required under 33 CFR Part 327 he will not independently conduct a hearing.

12. *Organization and Content of Final EIS.* The organization and content of the final EIS including the abbreviated final EIS procedures shall follow the guidance in paragraph 12a of the basic regulation.

13. *Comments Received on the Fianl EIS.* For permit cases to be decided at the district level, the district commander will consider the comments, but need not reply to those parties providing comments on the final EIS. The Record of Decision may not be signed and permit issuance may not occur until 30 days after the final EIS has been noticed in the **Federal Register** by EPA. For permit cases decided at higher authority, the district commander shall forward the final EIS comment letters together with appropriate responses to the substantive comments to higher authority along with the case. In the case of a letter recommending a referral under 40 CFR Part 1504, the district commander will follow the guidance in paragraph 19 of this appendix.

14. *EIS Supplement.* See paragraph 12(b) of the basic regulation.

15. *Filing Requirements.* See 40 CFR 1506.9. Five (5) copies of EIS's shall be sent to Director, Office of Federal Activities (A–104), Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. EPA will publish a notice of availability in the **Federal Register** each week (generally Friday) which will start the review period. At the same time they are mailed to EPA for filing, one copy of each draft and final EIS, and EIS supplements when appropriate, shall be forwarded to CDR USACE (DAEN–CWO–N) WASH DC 20314. The transmittal letter to OCE shall include the status of the permit application, a list of the objectives, the issues involved, whether the case is in litigation, and a preliminary determination whether the permit decision will be made at the district level.

16. *Timing.* 40 CFR 1506.10 describes the timing of an agency action when an EIS is involved.

17. *Expedited Filing.* 40 CFR 1506.10 provides information on allowable time reductions and time extensions associated with the EIS process. As necessary, the district commander will provide the necessary information and facts to CDR USACE (DAEN–CWZ–P) WASH DC 20314 (with copy to DAEN–CWO–N) for consultation with EPA for a reduction in the prescribed review periods.

18. *Record of Decision.* In those cases involving an EIS, the Statement of Findings will be called the Record of Decision and shall incorporate the requirements of 40 CFR 1505.2. The Record of Decision is not to be included when filing a final EIS and may not be signed until 30 days after the final EIS has been noticed in the **Federal Register** by EPA. To avoid duplication, the Record of Decision may reference the EIS. The signed Record of Decision shall be sent to the Office of Federal Activities, EPA (A–104) WASH DC 20460. The transmittal letter to EPA should state that the date of the letter starts the 25-day referral period.

19. *Predecision Referrals by Other Agencies for Regulatory Actions* (See 40 CFR Part 1504). If another Federal agency advises a potential referral to CEQ under 40 CFR Part 1504, and the final decision (made no sooner than 30 days following filing of the final EIS) is contrary to the position of the agency which has indicated an intent to refer the matter to CEQ, the decision-maker will notify the agency and CEQ of his proposed decision. The referring agency will then have 25 calendar days to refer the case under 40 CFR Part 1504 if it so chooses. If a referral is made, the decision-maker will transmit the referral to (DAEN–CWZ–P) and (DAEN–CWO–N) for further guidance.

20. *Review of Other Agencies' EIS.* If the district commander determines that another agency's draft EIS which involves a Corps permit action is inadequate with respect to the Corps' permit action, the district commander shall attempt to resolve the differences concerning the Corps permit action prior to the filing of the final EIS by the other agency. If the district commander finds that final EIS is inadequate with respect to the Corps permit action, the district commander shall adopt the other agency's final EIS or a portion thereof and prepare an appropriate NEPA document to address the Corps' involvement with the proposed action. See paragraph 22 of the basic regulation.

21. *Monitoring.* Monitoring compliance with permit requirements shall be carried out in accordance with 40 CFR 1505.3 and with 33 CFR Part 325.

[FR Doc. 84–701 Filed 1–10–84; 8:45 am]

BILLING CODE 3710–92–M

VOL 49 ISS 7 JA 11 1984 UMI

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans' Education; Vocational Rehabilitation Panel

AGENCY: Veterans Administration (VA).

ACTION: Proposed regulations.

SUMMARY: These proposed regulations provide for replacement of the Vocational Rehabilitation Board by the Vocational Rehabilitation Panel. The Panel's role is to provide consultation and technical assistance in evaluating and developing rehabilitation plans for seriously handicapped veterans and dependents. The decision-making responsibility which the Board formerly had is eliminated and reassigned to a counseling psychologist in the Vocational Rehabilitation and Counseling Division of VA's Department of Veterans Benefits. The proposal should streamline the decisions being made regarding eligible children in special restorative training.

DATES: Comments must be received on or before February 10, 1984. It is proposed to make these regulations effective the date of final approval.

ADDRESS: Send written comments to the Administrator of Veterans' Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays) until February 21, 1984. Anyone visiting Central Office in Washington, D.C., for the purpose of inspecting any such comments will be received by the VA Central Office Veterans Services Unit in room 132. Visitors to VA field stations will be informed that the records are available for inspection only in Central Office, and will be furnished the address and room number.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420 (202) 389–2092.

SUPPLEMENTARY INFORMATION: Sections 21.3300, 21.3301, 21.3303, 21.3304, 21.3306, 21.3307, 21.4105, 21.4232 and 21.4276 are all amended to provide that VA counseling psychologists will make decisions concerning special restorative training or specialized vocational training that were formerly made by Vocational Rehabilitation Boards. Vocational Rehabilitation Boards are being replaced by Vocational Rehabilitation Panels.

The Veterans Administration has determined that these proposed regulations contain no major rules as that term is defined by Executive Order 12291, Federal Regulation. The annual effect on the economy will be less than $100 million. They will not result in any major increases in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administor of Veterans' Affairs hereby certifies that these proposed regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), these proposed regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because these regulations affect the internal organization of the VA, and, to a lesser extent individual benefit recipients. The regulations will have no significant impact on small entities, i.e., small businesses, small, private and nonprofit organizations, and small governmental jurisdictions.

The Catalog of Federal Domestic Assistance number for the program affected by these proposed regulations is 64.117.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: November 29, 1983.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

The Veterans Administration proposes to amend 38 CFR Part 21 as set forth below:

1. In § 21.3300, the introductory text of paragraph (b) is revised as follows:

§ 21.3300 Special restorative training.

* * * * *

(b) *Special restorative training courses.* The counseling psychologist, after consulting with the Vocational Rehabilitation Panel, may prescribe for special restorative training purposes courses such as—

(38 U.S.C. 1740)

* * * * *

2. In § 21.3301, the introductory portion of paragraph (a) and paragraphs (b) through (d) are revised and paragraph (e) is added so that the added and revised material reads as follows:

§ 21.3301 Need.

(a) *Determination of need.* When special restorative training has been requested or is being considered for a handicapped child, a counseling psychologist will obtain all information necessary to determine the need for and feasibility of special restorative training. After the counseling psychologist completes this task, he or she will refer the case to the Vocational Rehabilitation Panel. The panel will consider whether—

(38 U.S.C. 1741(a)).

* * * * *

(b) *Report.* The Vocational Rehabilitation Panel will prepare a written report of its findings and recommendations as to the need for assistance and the types of assistance which should be provided. The report will be sent to the counseling psychologist.

(38 U.S.C. 1741(a))

(c) *Development and implementation.* Following consultation with the panel or receipt of the panel's report, or both, the counseling psychologist will determine the need and feasibility of special restorative training. If an affirmative finding is made, an individualized, written plan comparable to that developed in cases of extended evaluation under 38 U.S.C. chapter 31 will be prepared. The plan will be developed jointly with the eligible child and parent or guardian.

(38 U.S.C. 1741(a))

(d) *Notification of disallowance.* When a parent or guardian has requested special restorative training on behalf of an eligible child, and the counseling psychologist finds that this training is not needed or will not materially improve the child's condition, the Veterans Administration will inform the parent or guardian in writing of the finding. The Veterans Administration will also inform the parent or guardian of his or her appeal rights.

(e) *Reentrance after interruption.* The case of an eligible child shall be referred to the panel for consideration of whether the eligible child may be

permitted reentrance into special restorative training following interruption. The panel will recommend approval to the counseling psychologist if there is a reasonable expectation that the purpose of special restorative training will be accomplished. See § 21.3306.

(38 U.S.C. 1740)

3. In § 21.3303, paragraph (a) is revised as follows:

§ 21.3303 Extent of training.

(a) *Length of special restorative training.* Ordinarily, special restorative training may not exceed 12 months. When the counseling psychologist, after consulting with the Vocational Rehabilitation Panel, determines that more than 12 months of training is necessary, he or she will refer the program to the Director, Vocational Rehabilitation and Counseling Service for prior approval. Where the plan for a program of special restorative training itself (not in combination with the program of education) will require more than 45 months (or its equivalent in accelerated payments) the plan will be included in the recommendation to the Director, Vocational Rehabilitation and Counseling Service for approval.

(38 U.S.C. 1743(b))

* * * * *

4. In § 21.3304, paragraph (b)(2) is revised as follows:

§ 21.3304 Assistance during training.

* * * * *

(b) *Adjustments in the training situation.* * * *

(2) When major difficulties cannot be corrected, the vocational rehabilitation specialist will prepare a report of pertinent facts and recommendations for action by the counseling psychologist in consultation with the Vocational Rehabilitation Panel.

* * * * *

5. In § 21.3306, paragraph (b) is revised as follows:

§ 21.3306 Reentrance after interruption.

* * * * *

(b) *Referral to the counseling psychologist.* (1) The vocational rehabilitation specialist will refer the eligible child's case to the counseling psychologist when special restorative training was interrupted—

(i) By reason of failure to maintain satisfactory conduct or progress, or

(ii) For any other reason which requires corrective action, such as change of place of training, change of course, personal adjustment, etc.

(2) The counseling psychologist will consult with the Vocational Rehabilitation Panel. If he or she determines that the conditions which caused the interruption can be overcome, he or she will approve the necessary adjustment.

(3) The counseling psychologist will make a finding of infeasibility if—

(i) All efforts to effect proper adjustment in the case have failed; and

(ii) There is substantial evidence, resolving any reasonable doubt in favor of the child (as discussed in § 3.102 of this chapter), that additional efforts will be unsuccessful.

(38 U.S.C. 1741, 1743(b))

6. In § 21.3307, paragraph (a) is revised as follows:

§ 21.3307 "Discontinued" status.

(a) *Placement in "discontinued" status.* If reentrance from "interrupted" status into a program of special restorative training is not approved by a counseling psychologist under the provisions of § 21.3306, the vocational rehabilitation specialist will place the case in "discontinued" status.

(38 U.S.C. 1743(b))

* * * * *

7. Section 21.3331 is revised as follows:

§ 21.3331 Commencing date.

The commencing date of an authorization of a special training allowance will be the date of entrance or reentrance into the prescribed course of special restorative training, or the date the counseling psychologist approved the course for the eligible child whichever is later. See also § 21.4131.

(38 U.S.C. 1742)

8. In § 21.4105, paragraph (a) is revised as follows:

§ 21.4105 Special training—38 U.S.C. Chapter 35.

(a) *Initial counseling.* A counseling psychologist in the Vocational Rehabilitation and Counseling Division will counsel a handicapped person before referring the case to the Vocational Rehabilitation Panel (established under § 21.60) for consideration as to the person's need for a course of specialized vocational training or special restorative training. After consulting with the panel, and considering the panel's report, the counseling psychologist will determine if the handicapped person needs a course of specialized vocational training or special restorative training.

(38 U.S.C. 1736, 1740–1743)

* * * * *

9. In § 21.4232, paragraphs (a) (2) and (3) are revised and paragraphs (a) (4) and (d) are added so that the added and revised material reads as follows:

§ 21.4232 Specialized vocational training—38 U.S.C. Chapter 35.

(a) *Eligibility requirements for specialized vocational training.* * * *

(2) The counseling psychologist will—

(i) After consulting with the Vocational Rehabilitation Panel, determine whether such a course is in the best interest of the eligible person; and

(ii) Deny the application for the program when the course is not in the eligible person's best interest.

(3) Both the counseling psychologist and the Vocational Rehabilitation Panel will assist in developing the program and a suitable educational plan, if the course is in the eligible person's best interest.

(4) The Veterans Administration may authorize specialized vocational training for an eligible child only if the child has passed his or her 14th birthday at the time training is to begin.

(38 U.S.C. 1736)

* * * * *

(d) *Length of specialized vocational training.* When the program of specialized vocational training will exceed 45 months, the counseling psychologist will refer the program to the Director, Vocational Rehabilitation and Counseling Service for prior approval.

(38 U.S.C. 1734(b))

10. In § 21.4276, for the convenience of the reader, the introductory text of paragraph (e) is reprinted and paragraphs (a), (c), (d), and (e) (4) and (5) are revised and paragraph (e) (6) is added so that the added and revised material reads as follows:

§ 21.4276 Special assistance—38 U.S.C. Chapter 35.

(a) *Need for special assistance.* (1) The Veterans Administration will provide the assistance of a vocational rehabilitation specialist or of a counselor with assigned vocational rehabilitation specialist duties when the counseling psychologist determines that although the eligible child does not need special restorative training, he or she will require assistance in order to pursue a program of education successfully because of—

(i) The handicapping effects of a physical or mental condition, or

(ii) Personal adjustment problems.

(2) The counseling psychologist will determine the need for this assistance.

after consulting with the Vocational Rehabilitation Panel. He or she will use information developed in the counseling process, including data and opinion obtained from medical and other specialists as appropriate in the case.

(38 U.S.C. 1741)

* * * * *

(c) *Recommendations.* (1) The Vocational Rehabilitation Panel will prepare a report stating its recommendation as to—

(i) The need for assistance, and

(ii) The factors taken into account in arriving at the recommendation.

(2) When the panel recommends that assistance is needed, the panel will include suggestions and recommendations relative to the nature of the assistance.

(3) The report will be sent to the counseling psychologist.

(38 U.S.C. 1741)

(d) *Duration.* When the counseling psychologist determines, after consideration of the findings and recommendations developed in paragraph (c) of this section, that an eligible child needs assistance he or she will inform the parent or guardian of the finding and of the underlying reasons. If the parent or guardian concurs in the finding, the Veterans Administration will provide the indicated assistance until the progress and adjustment of the eligible child in his or her program of education are such that the assistance is no longer needed.

(38 U.S.C. 1741(a))

(e) *Nature of assistance.* Assistance by the vocational rehabilitation specialist will include:

* * * * *

(4) Referring the case of an eligible child who is receiving assistance to the counseling psychologist when it appears that the need for special restorative training should be considered;

(5) Referring the case of an eligible person who is receiving assistance to the Vocational Rehabilitation Panel, when the panel's advice and assistance is needed to resolve difficulties; and

(6) Assisting the parent or guardian in locating and arranging for training by an educational institution when the eligible child is homebound. Only eligible children who qualify for training under § 21.3300 may receive such training at home from any person or organization which is not an "educational institution."

(38 U.S.C. 1743(a))

[FR Doc. 84-655 Filed 1-10-84; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 3E2891/P319; FRL-2503-5]

Benomyl; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for the combined residues of the fungicide benomyl and its metabolites in or on the raw agricultural commodity dandelions. This proposed regulation to establish a maximum permissible level for residues of the fungicide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments must be received on or before February 10, 1984.

ADDRESS:

Written comments by mail to: Program Management and Support Division (TS-757C), Offices of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703-557-1192) at the above address.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 3E2891 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of Florida.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the combined residues of the fungicide benomyl (methyl 1-(butylcarbamoyl)-2-benzimidazolecarbamate) and its metabolites containing the benzimidazole moiety (calculated as benomyl) in or on the raw agricultural commodity dandelions at 10 parts per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance were a 2-year dog feeding study with a no-observed-effect level (NOEL) of 500 parts per million (ppm) (12.5 milligrams per kilograms of body weight per day (mg/kg bw/day)); a 2-year rat feeding study with a NOEL of 2,500 pm (125 mg/kg bw/day); 3-generation rat reproducton study with no effect on reproductive performance up to 100 ppm (5.0 mg/kg bw/day); two teratology studies (rat and rabbit, dietary dosing), negative for teratogenic effects in rats at 129 mg/kg and in rabbits at 500 ppm (15 mg/kg bw/day); and oncogenicity studies discussed below.

A comprehensive review of the data available for the chemical was conducted for the rebuttable presumption against registration (RPAR) for benomyl, which was published in the **Federal Register** of December 6, 1977 (42 FR 61788).

This presumption was based on information indicating that benomyl posed the risks of mutagenicity (point mutation and nondisjunction), spermatogenic depression and teratogenic effects, acute toxicity to aquatic organisms, and significant population reduction in nontarget organisms. In the **Federal Register** of August 30, 1979 (44 FR 51166), the Agency published a Preliminary Notice of Determination, which concluded that benomyl continued to pose the risks noted above with the exception of point mutations and significant population reductions in nontarget organisms. In the Notice and Position Document 2/3, the Agency weighed the risks and benefits of use together, and determined that certain modifications to the terms and conditions of use were necessary to reduce the risks of use to applicators.

Subsequent to these findings, data have been made available indicating that benomyl is oncogenic in mice and additional teratogenic test have been submitted. A rereview of the currently registered and proposed uses of benomyl in light of the potential oncogenic and teratogenic adverse effects has been completed. Both benomyl and MBC, the common metabolite of benomyl and thiophanate-methyl, have been shown to be hepatocarcinogens in tests with mice. The upper limit to the oncogenic lifetime risk to the general public via worst case dietary exposure to previously published tolerances is estimated to the 7.5×10^{-5}. The incremental increase in risk from the proposed tolerance for dandelions is 2.0×10^{-7}, which is considered negligible. Benomyl has the potential to cause terathogenic effects. The NOEL for these effects is tentatively set at 30 mg/kg/day based on results from a gavage study in rats. Margins of

Safety (MOS) for teratogenicity from dietary exposure range from 254 to 600,000 (single serving basis). The MOS for reproductive effects (damage to spermatogonia and seminal vesicles) resulting from existing and approved tolerances (including this proposed tolerance) for benomyl is 210.7. The MOS for teratogenic risks resulting from ingestion of single serving of benomyl treated dandelions (raw or cooked dandelion greens) is 1,500. The Agency's position concerning the RPAR issues with benomyl was published in the **Federal Register** of October 20, 1982 (47 FR 46747). In the Notice of Determination Concluding the Rebuttable Presumption Against Registration for benomyl the Agency determined that the benefits of benomyl use exceed the risk of use if a dust mask is used when mixing and loading for aerial application. Registrants are required to amend their product labels to require use of protective equipment for persons who mix and load benomyl for aerial application.

The acceptable daily intake (ADI), based on the 3-generation rat reproduction study (NOEL of 100 ppm, or 5.0 mg/kg/day) and using a 100-fold safety factor, is calculated to be 0.05 mg/kg bw/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 3.0 mg/day. The theoretical maximum residue contribution (TMRC) from established tolerances for a 1.5-kg daily diet is calculated to be 1.9176 mg/day; the current action will increase the TMRC by 0.00450 mg/day (0.23 percent). Published tolerances utilize 63.92 percent of the ADI; the current action will utilize an additional 0.15 percent.

The nature of the residues is adequately understood, and an adequate analytical methodology, fluorometric spectometry or liquid chromatography employing an ultraviolet detector, is available for enforcement purposes. Secondary residues are not expected in meat or milk from the proposed use on dandelions since this item is not used as an animal feed. Continued registration of this chemical is subject to the requirements of the determination concluding the rebuttable presumption against registration for benomyl.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR 180.294 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 3E2891/P319]. All written comments filed in response to this petition will be available in the Program Management and Support Division at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesitcides and pests.

Dated: December 23, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.294 be amended by adding and alphabetically inserting the raw agricultural commodity dandelions to read as follows:

§ 180.294 Benomyl; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Dandelions	10.0
* * * * *	

[FR Doc. 84–329 Filed 1–10–84; 8:45 am]

BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

41 CFR Part 105–61

[ADM 7900.2]

Public Use of Records, Donated Historical Materials and Facilities in the National Archives and Records Service; Fees

AGENCY: National Archives and Records Service, GSA.

ACTION: Proposed rule.

SUMMARY: This proposed rule will revise fees charged by the National Archives and Records Service for reproduction of archival records, donated historical materials, and records filed with the Office of the Federal Register. The fees are being changed to reflect the current costs of providing the reproduction services.

DATE: Comments must be received on or before February 10, 1984.

ADDRESS: Comments shall be addressed to National Archives and Records Service (NAA), Attn: Adrienne C. Thomas, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: Adrienne Thomas (202–523–3214).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purpose of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net costs to society.

List of Subjects in 41 CFR Part 105–61

Archives and records.

PART 105–61—PUBLIC USE OF RECORDS, DONATED HISTORICAL MATERIALS, AND FACILITIES IN THE NATIONAL ARCHIVES AND RECORDS SERVICE

Accordingly, GSA proposes to amend Subpart 105–61.52 as follows:

1. The authority citation for Part 105–61 reads as follows:

Authority: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

2. Section 105–61.5201 is amended by adding paragraphs (c)(3) and (c)(4), redesignating paragraph (c)(7) as (c)(9), adding a new paragraph (c)(7), and revising paragraph (c)(8) and new paragraph (c)(9) to read as follows:

§ 105–61.5201 Applicability.

* * * * *

(c) * * *

(3) Motion picture and video recording materials among the holdings of the National Archives. Prices for reproduction of these materials are available from the Motion Picture and Sound and Video Branch, General Services Administration (NNSM), Washington, D.C. 20408.

(4) Machine-readable records. Prices for duplication are available from the Machine-readable Branch, General Services Administration (NNSR), Washington, D.C. 20408.

* * * * *

(7) The fee for electrostatic copies of records filed with the Office of the Federal Register is $0.20 when the customer makes the copies. Where NARS makes the copies, the fees in § 105–61.5206(h) apply. Copies of records made by NARS staff in research rooms at NARS facilities are $0.25 per copy. NARS may restrict the size of orders copied in research rooms due to staff workload and machine limitations.

(8) Customers may request expedited service for most reproduction orders. "Rush" orders are subject to a 50-percent surcharge.

(9) Orders requiring additional expense to meet unusual customer specifications such as the use of special techniques to make a photographic copy more legible than the original document, or unusual format or background requirement for negative microfilm. Fees for these orders are computed for each order.

3. Section 105–61. 5205 is revised to read as follows:

§ 105–61.5205 Mail orders.

(a) Except for copy flow, where the minimum fee is $11.00, there is a minimum fee of $5.00 per order for reproductions ordered by mail.

(b) Orders to addresses in the United States are sent either first class or UPS depending on the weight of the order and availability of UPS service. When a customer requests special mailing services (such as Express Mail or registered mail) and/or shipment to a foreign address, the cost of the special service and/or additional postage for foreign mail is added to the cost of the reproductions.

4. Section 105–61.5206 is revised to read as follows:

§ 105–61.5206 Fee schedule.

(a) Authentication. $2.00.

(b) Still photography:

(1) Copy negative:	
4 inch by 5 inch (Black and White)	$5.00
4 inch by 5 inch (Color)	7.00
8 inch by 10 inch (Black and White)	8.75
8 inch by 10 inch (Color)	16.20
(2) Photographic print (Black and White):	
4 inch by 5 inch	3.95
8 inch by 10 inch	5.75
11 inch by 14 inch	7.10
16 inch by 20 inch	9.75
20 inch by 24 inch	12.50
22 inch by 28 inch	15.00
24 inch by 30 inch	18.50
30 inch by 40 inch	20.75
Sepia, add	5.20
(3) Slides:	
2 inch by 2 inch (Black and White)	2.60
2 inch by 2 inch (Color)	4.00

(c) Aerial prints:

10 inch by 10 inch	5.65
14 inch by 14 inch	9.00
18 inch by 18 inch	10.50
20 inch by 24 inch	10.50
27 inch by 28 inch	19.75
40 inch by 41 inch	26.50

(d) Photostat:

Paper (up to 17 inch by 23 inch)	$8.55
Film (up to 17 inch by 23 inch)	10.40

(e) Diazo (per foot)—$1.20.

(f) Microfilm:

	16mm rotary	16mm planetary	34 mm planetary	35mm oversize
(1) Negative (per frame; Customer tabs documents for microfilming	15	25	25	.55
NARS identifies documents for microfilming	.20	.30	30	
(2) Next generation (per foot)		16	.20	
(3) Direct duplicate (per foot)		.22	.25	

(g) Microfiche duplication (per fiche)—$.60

(h) Electrostatic copying:

(1) Paper to paper (up to 11 inch by 17 inch):	
Customer tabs documents for copying	35
NARS identifies documents for copying	.40
(2) Paper to paper (18 inch by 24 inch)	.65
(3) Oversized electrostatic copies	1.80
Add per foot for vellum paper	.25
(4) Microfilm to paper:	
From negative (copy flow), per foot	1.60
From positive, up to 11 inch by 17 inch, work done by customer	.35
From positive up to 11 inch by 17 inch, NARS performs the work:	
First copy per roll	1.70
Next consecutive frame or duplicate	.60
Next nonconsecutive frame	.85
From positive, 18 inch by 24 inch, Work done by customer	.90
NARS performs the work:	
First copy per roll	2.20
Next consecutive frame or duplicate	1.15
Next nonconsecutive frame	1.35

(i) Sound recordings (per minute):

Reel to cassette	.50
Reel to reel (3.75 ips)	.75
Reel to reel (7.51 ips)	.90
Film to tape sound transfer—16 mm sprocketed tape	3.00
Film to tape transfer—¼ inch tape	1.40

(j) Technical services:

	Regular	Overtime
Photographer (per hour)	16.50	22.50
Microfilm preparation (per hour)	12.00	18.00
Sound and video recordings (per hour)	18.00	24.50

(k) Preservation of records. In order to preserve certain records which are in poor physical condition, NARS may restrict customers to a choice of photostatic or microfilm copies instead of electrostatic copies.

(l) Unlisted processes. Fees for reproduction processes not listed in this section § 105–61.5206 are computed upon request.

Dated: December 6, 1983.

Robert M. Warner,

Archivist of the United States.

[FR Doc. 84–646 Filed 1–10–84; 8:45 am]

BILLING CODE 6820–26–M

Notices

Federal Register
Vol. 49, No. 7
Wednesday, January 11, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

January 6, 1984.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 108–W Admin. Bldg., Washington, D.C. 20250, (202) 447–4414.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs Office of Management and Budget, Washington, D.C. 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extension

• Forest Service
State and Private Forestry
Accomplishment Reporting
3100–8, 3200–6, 3400–5, 3500–5, 3600–2
Annually
State or Local Governments: 265 responses; 530 hours; not applicable under 3504(h)
Howard Burnett, (703) 382–9036

• Statistical Reporting Service
Eggs, Chickens, Turkey Survey
Weekly, Monthly, Quarterly, Annually
Farm, Businesses: 73,897 responses; 10,907 hours; not applicable under 3504(h)
Lee Sandberg, (202) 447–6820

Revised

• Statistical Reporting Service
Farm Production Expenditure Survey
Annually
Farms: 50,800 responses; 19,578 hours; not applicable under 3504(h)
Lee Sandberg, (202) 447–6820

Susan B. Hess,
Acting Department Clearance Officer.

[FR Doc 84–727 Filed 1–10–84; 8:45 am]
BILLING CODE 3410–01–M

CIVIL AERONAUTICS BOARD

Application of Braniff Airways, Incorporated and Braniff, Inc. for Transfer of a Certificate of Public Convenience and Necessity

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order Instituting a Fitness Investigation of Braniff, Inc., 84–1–13, Docket 41860.

SUMMARY: The Board is issuing an order instituting a fitness investigation of Braniff, Inc.

DATES: Persons wishing to file requests for additional evidence or petitions to intervene in the Braniff, Inc. Fitness Investigation shall file their petitions in Docket 41860 by January 16, 1984.

ADDRESSES: Requests for additional evidence and petitions to intervene should be filed in Docket 41860 and addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served on: Braniff, Inc., the Secretary of Transportation; and the Attorney General.

Service will also be required on any other person filing petitions.

FOR FURTHER INFORMATION CONTACT: Sherry L. Kinland, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. (202) 673–5333.

SUPPLEMENTARY INFORMATION: The complete text of Order 84–1–13 is available from our Distribution Section, Room 100, 1825 Connecticut Ave., NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 84–1–13 to that address.

By the Civil Aeronautics Board: January 6, 1984.

Phyllis T. Kaylor,
Secretary.

[FR Doc 84–728 Filed 1–10–84; 8:45 am]
BILLING CODE 6320–01–M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed under Subpart Q of the Board's Procedural Regulations

Week ended December 30, 1983

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings. (See 14 CFR 302.1701 et seq.)

Date filed	Docket No.	Description
Dec. 28, 1983....	41907	Alfonso Airways & Export, Inc., c/o Alfonso Diaz Del Castillo, P.O. Box 6449, Hollywood, Florida 33081 Aplication of Alfonso Airways & Export, Inc. pursuant to Section 401(d)(1) of the Act and Subpart Q of the Board's Procedural Regulations requests permanent authority to provide foreign air transportation of persons, property and mail as follows For scheduled service between the following points: (a) Tampa, Florida to Cancun, Mexico (b) Cancun, Mexico to Tampa, Florida. (c) Miami, Florida to San Jose, Costa Rica (d) San Jose, Costa Rica to Miami, Florida (e) Miami, Florida to Puerto Plata and Santo Domingo, Dominican Republic (f) Santo Domingo and Puerto Plata, Dominican Republic, to Miami, Florida For charter service: (a) Between any point in any State of the United States or the District of Columbia, or any other territory or possession of the United States, on one hand, and points in Canada, on the other; (b) Between any point in any State of the United States or the District of Columbia, or any other territory or possession of the United States, on one hand, and points in Mexico, on the other; (c) Between any point in any State of the United States or the District of Columbia, or any other territory or possession of the United States, on the one hand, and points in Jamaica, the Bahama Islands, Bermuda, Haiti, the Dominican Republic, Trinidad, Aruba, the Leeward and Windward Islands and any other foreign place located in the Gulf of Mexico or the Caribbean Sea, on the other hand; (d) Between any point in any State of the United States or the District of Columbia, or any other territory or possession of the United States, on one hand, and points in British Honduras, the Canal Zone, Guatemala, Honduras, El Salvador, Nicaragua, Costa Rica, Panama and in the countries on the continent of South America, on the other hand, (e) Between any point in any State of the United States or the District of Columbia, or any other territory or possession of the United States, on one hand, and points in America Samoa, Guam, Johnson Island, the Marshall Islands, Okinawa, Wake Island and points in Australasia, Indonesia and Asia as far west as longitude 70 degrees east via a transpacific routing, on the other hand; (f) Between any point in any State of the United States or the District of Columbia, or any other territory or possession of the United States, and one hand, and points in Greenland, and Asia, as far east as (and including) India, on the other hand. Conforming Applications, Motions to Modify Scope and Answers may be filed by January 24, 1984
Dec. 28, 1983 .	41908	Alfonso Airways & Export, Inc., c/o Alfonso Diaz Del Castillo, P.O. Box 6449, Hollywood, Florida 33081 Application of Alfonso Airways & Export, Inc. pursuant to Section 401(d)(1) of the Act and Subpart Q of the Board's Procedural Regulation requests issuance of a certificate of public convenience and necessity authorizing it to engage in scheduled interstate and overseas air transportation of persons, property, and mail, initially between the points of Miami, Orlando, Tampa, and Tallahassee, Florida; San Juan, Puerto Rico; and Saint Thomas and Saint Croix, U.S. Virgin Islands Conforming Applications, Motions to Modify Scope and Answers may be filed by January 24, 1984
Dec. 28, 1983 . .	41911	Transamerica Airlines, Inc., c/o Jeffrey A. Manley, Burwell, Hansen, Manley & Peters, 1706 New Hampshire Avenue, N.W., Washington, D.C. 20009 Application of Transamerica Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a certificate of public convenience and necessity for authority to operate between points in the United States, on the one hand, and Dublin, Ireland, on the other hand. Answers may be filed by January 11, 1983
Dec. 28, 1983 . .	41913	Continental Air Lines, Inc., c/o Emory N. Ellis, Fulbright & Jaworski, 1150 Connecticut Avenue, N.W., Washington, D.C. 20036. Conforming Application of Continental Air Lines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a certificate of public convenience and necessity authorizing it to serve U.S. Route D. 1 of the U.S. Canada Air Transport Agreement (Bilateral) (Houston/Dallas/Ft. Worth-Calgary/Admonton-Anchorage/Fairbanks). Answers may be filed by January 11, 1984

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-729 Filed 1-10-84; 8:45 am]

BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

Arizona Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Arizona Advisory Committee to the Commission will convene at 2:00 p.m. and will end at 6:00 p.m., on January 27, 1984, at the Hotel San Carlos, 106 First Street, Yuma, Arizona 85364. The purpose of the meeting is to discuss the status of the project on State employment issues.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Chairperson, Richard Zazueta, at (602) 247-5691 or the Western Regional Office at (213) 688-3437.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 27, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84-653 Filed 1-10-84; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census.
Title: Shipper's Export Declaration for In-Transit Goods.
Form numbers: Agency—7513; OMB—0607-0001.
Type of request: Revision of currently approved collection.
Burden: Unknown number of respondents; 17,000 reporting hours.
Needs and uses: The declaration is used by exporters to report shipments of merchandise from one foreign country to another through the United States. The declaration also serves as a basic source document from which the Bureau of the Census compiles the U.S. statistics on outbound in-transit shipments.
Affected public: Individuals or households, businesses or other for-profit institutions, non-profit institutions.
Frequency: On occasion, monthly.
Respondent's obligation: Mandatory.
OMB desk officer: Timothy Sprehe, 395-4814.

Agency: International Trade Administration.
Title: Antidumping Administrative Reviews.
Form numbers: Agency—ITA-363P, ITA-364P; OMB—N/A.
Type of request: Existing collection in use without an OMB control number.
Burden: 1,400 respondents; 12,000 reporting hours.
Needs and uses: Collected information consists of sales and cost data of commodities covered by an outstanding antidumping duty order or finding. It is required from all know exporters in the country of the finding for a given period and is used to determine any applicable dumping duties and to set a cash deposit rate.
Affected public: State or local governments, businesses or other for-profit institutions, small businesses or organizations.
Frequency: Annually.

Respondent's obligation: Required to obtain or retain a benefit.
OMB desk officer: Ken Allen, 395–3785.

Agency: International Trade Administration.
Title: Exception to Requirement of Order Party Signature.
Form numbers: Agency—N/A; OMB—0625–0024.
Type of request: Reinstatement of a previously approved collection for which approval has expired.
Burden: 12 respondents; 3 reporting hours.
Needs and uses: When an applicant for an export license does not have a definite order for export, he may request a waiver of the order requirement by submitting, with his application, a statement explaining why an exception should be granted.
Affected public: Businesses or other for-profit institutions, small businesses or organizations.
Frequency: On occasion.
Respondent's obligation: Required to obtain or retain a benefit.
OMB desk officer: Ken Allen, 395–3785.

Agency: International Trade Administration.
Title: Foreign Trade Zones (FTZ) Application.
Form numbers: Agency—N/A; OMB—N/A.
Type of request: Existing collection in use without an OMB control number.
Burden: 35 respondents; 2,675 reporting hours.
Needs and uses: The Foreign Trade Zones Act requires that application be made to the FTZ Board for authority to establish a foreign-trade zone project in a port of entry community. Applicants are usually a city, a state, a port authority, or other public or quasi-public organization.
Affected public: State or local governments; businesses or other for-profit institutions, non-profit institutions, small businesses or organizations.
Frequency: On occasion.
Respondent's obligation: Required to obtain or retain a benefit.
OMB desk officer: Ken Allen, 395–3785.

Agency: International Trade Administration.
Title: Swedish Consignee's Letter of Assurance.
Form numbers: Agency—N/A; OMB—N/A.
Type of request: Existing collection in use without an OMB control number.
Burden: 125 respondents; 63 reporting hours.
Needs and uses: Under this procedure U.S. exporters request their Swedish customers to voluntarily submit a letter affirming that they will not knowingly divert U.S. imports contrary to U.S. law.
Affected public: Businesses or other for-profit institutions, small businesses or organizations.
Frequency: On occasion.
Respondent's obligation: Required to obtain or retain a benefit.
OMB desk officer: Ken Allen, 395–3785.

Agency: International Trade Administration.
Title: General License GIT Shipments Originating in Canada.
Form numbers: Agency—N/A; OMB—N/A.
Type of request: Existing collection in use without an OMB control number.
Burden: 15,000 respondents; 1,250 reporting hours.
Needs and uses: The Export Administration Regulations require that for exports from Canada moving in transit through the United States to a foreign destination, under General License, a copy of Form B–13, Canadian Customs Entry, shall be presented to the Customs Office at the port of export rather than at the port of entry. The information on Form B–13 is used to verify the information on the Shipper's Export Declaration.
Affected public: Businesses or other for-profit institutions, small businesses or organizations.
Frequency: On occasion.
Respondent's obligation: Required to obtain or retain a benefit.
OMB desk officer: Ken Allen, 395–3785.

Agency: International Trade Administration.
Title: Written Assurance for Exports of Technical Data Under General License.
Form number: Agency—N/A; OMB—N/A.
Type of request: Existing collection in use without an OMB control number.
Burden: 250 respondents; 125 reporting hours.
Needs and uses: This procedure requires that certain written assurances be provided by foreign importers to U.S. exporters of certain types of technical data and its direct products so that such data will not be shipped to unauthorized destinations.
Affected Public: Businesses or other for-profit institutions, small businesses or organizations.
Frequency: On occasion.
Respondent's obligation: Required to obtain or retain a benefit.
OMB desk officer: Ken Allen, 395–3785.

Agency: International Trade Administration.
Title: Statement by Foreign Importer of Aircraft or Vessel Repair Parts.
Form numbers: Agency—ITA–686P; OMB—N/A.
Type of request: Existing collection in use without an OMB control number.
Burden: 50 respondents; 13 reporting hours.
Needs and uses: This form is used to simplify the application requirements, and the use abroad, of U.S. origin commodities for both foreign importers and U.S. exporters, as follows: (1) It permits the filing of one annual document instead of a number of supporting statements; and (2) it provides a blanket approval for supplying U.S. origin commodities to aircraft and vessels of friendly countries instead of requiring the foreign importer to send the usual documents to his U.S. exporter.
Affected public: Businesses or other for-profit institutions, small businesses or organizations.
Frequency: On occasion.
Respondent's obligation: Required to obtain or retain a benefit.
OMB desk officer: Ken Allen, 395–3785.

Agency: International Trade Administration.
Title: Statement by Ultimate Consignee or Purchaser.
Form numbers: Agency—ITA–629P; OMB—N/A.
Type of request: Existing collection in use without an OMB control number.
Burden: 40,000 respondents; 20,000 reporting hours.
Needs and uses: This form collects certain facts necessary to determine the merit of an export license application. Information on the end-use and the ultimate destination of commodities involved in a proposed export transaction is used to decide whether to approve or reject an application.
Affected public: Businesses or other for-profit institutions, small businesses or organizations.
Frequency: On occasion.
Respondent's obligation: Required to obtain or retain a benefit.
OMB desk officer: Ken Allen, 395–3785.

Agency: International Trade Administration.
Title: Statement by Foreign Consignee in Support of Special License Application.
Form numbers: Agency—ITA–6052P; OMB—N/A.
Type of request: Existing collection in use without an OMB control number.
Burden: 5,000 respondents; 2,500 reporting hours.
Needs and uses: U.S. exporters provide information on this form which is considered in determining whether

U.S. exporters are eligible to participate in special license procedures.

Affected public: Businesses or other for-profit institutions, small businesses or organizations.

Frequency: On occasion.

Respondent's obligation: Required to obtain or retain a benefit.

OMB desk officer: Ken Allen, 395–3785.

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to the respective OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 84–703 Filed 1–10–84; 8:45 am]

BILLING CODE 3510–CW–M

Foreign-Trade Zones Board

[Order No. 239]

Resolution and Order Approving the Application of the Massachusetts Port Authority for a Special-Purpose Subzone in Lawrence, Massachusetts, Within the Lawrence Customs Port of Entry

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Massachusetts Port Authority, grantee of Foreign-Trade Zone 27, filed February 3, 1983, requesting special-purpose subzone status for the textile processing plant of Lawrence Textile Shrinking Company in Lawrence, Massachusetts, within the Lawrence Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal would be in the public interest if activity on merchandise to be imported is limited to the types of non-manufacturing operations listed in the application, approves the application subject to the conditions that no activity shall be conducted under zone procedures that would change Customs classifications or country of origin on merchandise destined for the domestic market.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority an appropriate Board Order.

Grant of Authority To Establish a Foreign-trade Subzone in Lawrence, Massachusetts

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the Massachusetts Port Authority, grantee of Foreign-Trade Zone No. 27 in Boston, has made application (filed February 3, 1983, FTZ Docket No. 1–83, 48 FR 6145) in due and proper form to the Board requesting a special-purpose subzone at the textile processing facility of the Lawrence Textile Shrinking Company in Lawrence, Massachusetts, within the Lawrence Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations would be satisfied and that the proposal would be in the public interest if approval is given subject to the conditions stated in the resolution accompanying this action;

Now, therefore, in accordance with the application filed February 3, 1983, the Board hereby authorizes the establishment of a subzone at Lawrence Textile Shrinking Company's facility in Lawrence, Massachusetts, designated on the records of the Board as Foreign-Trade Subzone No. 27C at the location mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and the Regulations, and those stated in the resolution accompanying this action, and also to the following express conditions and limitations:

Activities conducted under zone procedures shall be limited to the non-manufacturing processes described in the application.

Activation of the subzone shall be commenced within a reasonable time from the date of issuance of the grant, and prior thereto, any necessary permits shall be obtained from Federal, State, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade subzone in the performance of their official duties.

The grant shall not be construed to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer or his delegate at Washington, D.C. this 5th day of January 1984 pursuant to Order of the Board.

Foreign-Trade Zones Board.

William T. Archey,

Acting Assistant Secretary of Commerce for Trade Administration Chairman, Committee of Alternates.

Attest:

John Dupont,

Executive Secretary.

[FR Doc. 84–707 Filed 1–10–84; 8:45 am]

BILLING CODE 3510–25–M

International Trade Administration

[C–535–001]

Cotton Shop Towels from Pakistan; Final Affirmative Countervailing Duty Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters

in Pakistan of cotton shop towels, as described in the "Scope of Investigation" section of this notice. The net subsidy is 12.67 percent *ad valorem*. The U.S. International Trade Commission (ITC) will determine whether these imports are materially injuring, or threatening to materially injure, a U.S. industry, within 45 days of the date of publication of this notice.

EFFECTIVE DATE: January 11, 1984.

FOR FURTHER INFORMATION CONTACT: Paul Thran, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, (202) 377–3963.

SUPPLEMENTARY INFORMATION: @Based upon our investigation, we determine that the government of Pakistan (GOP) provides certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), to manufacturers, producers, or exporters in Pakistan of cotton shop towels, as described in the "Scope of Investigation" section of this notice.

- Compensatory Rebate;
- Excise Tax Rebate;
- Sales Tax Rebate;
- Customs Duty Rebate;
- Income Tax Reduction;
- Export Financing; and
- Export Credit Insurance.

We determine the net subsidy to be 12.67 percent *ad valorem*.

Case History

On July 29, 1983, we received a petition from counsel for Milliken and Company filed on behalf of the U.S. industry producing cotton shop towels. The petition alleged that certain benefits which constitute subsidies within the meaning of section 701 of the Act are being provided, directly or indirectly, to manufacturers, producers, or exporters in Pakistan of cotton shop towels. We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation, and on August 18, 1983, we initiated an investigation (48 FR 38661).

Since Pakistan is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determination is required for this investigation. Therefore, we notified the International Trade Commission (ITC) of our initiation. On September 12, 1983, the ITC determined that there is a reasonable indication that imports of cotton shop towels are materially injuring a U.S. industry.

We presented a questionnaire concerning the allegations to the Embassy of Pakistan in Washington, D.C. on September 6, 1983 and requested a response by October 7, 1983. In a letter dated September 21, 1983, the GOP requested a postponement of the due date of the response. We granted the GOP a one week extension.

The GOP submitted a response to our questionnaire on October 18, 1983. On October 24, 1983, the Department preliminarily determined that there was reason to believe or suspect that the GOP provides certain benefits which constitute subsidies to manufacturers, producers, or exporters in Pakistan of cotton shop towels (48 FR 49678). We estimated the net subsidy to be 11.87 percent *ad valorem* and the following programs were preliminarily determined to confer subsidies:

- Compensatory Rebate;
- Excise Tax Rebate;
- Customs Duty Rebate;
- Sales Tax Rebate;
- Income Tax Reduction; and
- Export Financing.

The GOP submitted a supplementary response to our questionnaire on November 16, 1983. Between November 14 and 28, 1983, we conducted a verification, in Pakistan, of the information in the responses.

We provided opportunities for oral and written comments by the the public on our preliminary determination. No request was received for a public hearing.

Scope of Investigation

The product covered by this investigation is shop towels of cotton. The merchandise is currently classified under item number 366.2740 of the *Tariff Schedules of the United States Annotated* (TSUSA). The cotton shop towel industry in Pakistan is an unorganized cottage industry. The GOP has provided us with a list of companies which received authorization to export shop towels to the United States. The period for which we are measuring subsidization is 1982.

Analysis of Programs

In its response, the GOP provided data for the applicable period. The Towel Manufacturers' Association of Pakistan (TMAP) also provided a response. However, due to the unorganized cottage industry nature of Pakistani shop towel production, the TMAP could provide company-specific information on only some of the companies. Even after verification, complete information on the two company-specific programs, the income tax reduction and preferential export financing, was unobtainable. Therefore, we used the best information available, which consisted of information from the petition, in valuing these two benefits. Based upon our analysis of the petition, the responses to our questionnaire, and all public comments, we have determined the following.

I. Programs Determined To Confer Subsidies

We determine that subsidies are being provided to manufacturers, producers, or exporters in Pakistan of cotton shop towels under the programs described below.

A. *Compensatory Rebate.* The petitioner alleged that the government of Pakistan provides exporters of shop towels with a compensatory cash rebate which is calculated as 12.5 percent of the f.o.b. value of the exported product.

On August 28, 1983, the GOP reduced the value of the cash rebate for shop towels to 7.5 percent. Our policy has been to recognize fundamental changes in benefits applicable to all recipients in programs where we can confirm the change and where we have no reason to believe that the benefit has been shifted to other program. Both criteria are met in this case.

As the GOP failed to provide information linking the amount of the rebate to actual indirect taxes borne by shop towels, we determine that the GOP pays the compensatory rebate without regard to specific duties and taxes incurred in the production of shop towels. Therefore, it is countervailable. We find the value of the compensatory rebate to be 7.5 percent *ad valorem*.

B. *Excise Tax and Sales Tax Rebates.* The petitioner also alleged that the GOP provides a 3.8 percent excise tax rebate and a 0.35 percent sales tax rebate on exports of shop towels. We found the actual value of the sale tax rebate to be 0.11 percent. The reports covering the calculations of the values of the rebates showed that the GOP used information from a very limited number of companies in calculating the incidence of indirect taxes on grey cloth (shop towels). We find that the reports do not show the required linkage between the rebates given and the indirect tax incidence. Therefore, the two programs are countervailable and we find the values of the benefits to be 3.8 and 0.11 percent *ad valorem*, respectively.

C. *Customs Duty Rebate.* The petitioner also alleged that the GOP provides a 2 percent customs duty rebate on exported goods. The program is in effect a duty drawback. The GOP provided information on the correct value of this program. The value of the customs duty rebate is 0.37 percent. We verified that this value is correct.

During the verification, we found that the GOP pays this rebate on items not physically incorporated into the exported product. The sizing chemicals involved are used in the production process to stiffen, straighten, and shrink the yarn. However, they do not remain in the finished product. Therefore, the customs dity rebate is countervailable. The total value of benefit from this program is 0.37 percent *ad valorem*.

D. *Income Tax Reduction*. The GOP provides a 55 percent reduction of taxes on income generated by products made for export. We determined this program to be countervailable in the previous investigation of textile products from Pakistan. As receipt of this benefit is based solely on export performance, it is countervailable. As complete information on company use of this program was unobtainable, we used the information in the petition for valuing this benefit. The *ad valorem* value of the benefit is 0.013 percent.

E. *Export Financing*. The GOP permits short-term export financing to be provided to exporters at rates considerably lower than those otherwise charged on short-term loans in Pakistan. As receipt of this benefit is based solely on export performance, it is countervailable. As complete information on company use of this program was unobtainable, we used the information in the petition for valuing this benefit. The *ad valorem* value of the benefit is 0.08 percent.

F. *Export Credit Insurance*. The GOP, through the Pakistan Insurance Corporation, provides exporters with insurance against non-payment by foreign purchasers. Petitioner alleged that the premiums charged are insufficient to cover the long term operating costs of the program. Our verification showed that this was true. As we had insufficient information on the use of this program by the shop towel exporters, we used the best information available. There is no commercial benchmark. We calculated the benefit by determining the difference between administrative expenses and premiums charge and allocating it over the value of total exports insured for 1982. We find the value of the benefit of this program to be 0.8 percent *ad valorem*.

II. Program Determined Not To Be Used

We determine that the following program was not used by manufacturers, producers, or exporters of cotton shop towels from Pakistan.

Import Duty Rebates

The petitioner alleged that the GOP provides rebates of import duty on import of textile equipment. The GOP stated that this program applies only to imports of entire textile factories and not to individual pieces of equipment. The GOP also stated that the shop towel industry did not use this program.

Verification

In accordance with section 776(a) of the Act, we verified the information used in making our final determination. During this verification, we followed normal procedures. These included meetings and inspection of documents with government officials and on-site inspection of the records and operation of the companies exporting the merchandise under investigation to the United States.

Comments

All comments received are addressed in the sections of this notice concerning our findings.

Final Determination

Based upon our investigation and in accordance with section 705(a)(1) of the Act, we determine that manufacturers, producers, or exporters in Pakistan of cotton shop towels are being provided with certain benefits which constitute subsidies within the meaning of the countervailing duty law.

Continuation of Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to continue suspension of liquidation of all entries of cotton shop towels from Pakistan which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**, and to require a cash deposit or bond for each entry of the subject merchandise in the amount of 12.67 percent *ad valorem*. The bond or cash requirements established in our preliminary determination are no longer in effect.

ITC Notification

In accordance with section 705(c)(1)(A) of the Act, we will notify the ITC of our determination. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration. If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If the ITC determines that such injury does exist, we will issue a countervailing duty order directing Customs officials to assess a countervailing duty on cotton shop towels from Pakistan entered, or withdrawn from warehouse, for consumption after the suspension of liquidation equal to 12.67 percent *ad valorem*. This determiation is published pursuant to section 705(d) of the Act.

Dated: January 5, 1984.

Willian T. Archey,

Acting Assistant Secretary for Trade Administration.

[FR Doc. 84-702 Filed 1-10-84; 8:45 am]

BILLING CODE 3510-DS-M

[A-583-010]

Preliminary Determination of Sales at Less Than Fair Value; Acrylic Film, Strips and Sheets, at Least 0.030 Inch in Thickness, From Taiwan

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that acrylic film, strips and sheets, at least 0.030 inch in thickness ("acrylic sheet"), are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Administration (ITC) of our determination, and we have directed the U.S. Customs Service to suspend the liquidation of all entries of the subject merchandise which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice and to require a cash deposit or bond for each such entry in an amount equal to the estimated dumping margin, as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination by March 19, 1984.

EFFECTIVE DATE: January 11, 1984.

FOR FURTHER INFORMATION CONTACT: Steven Morrison, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone: (202) 377-3003.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that there is a reasonable basis to

believe or suspect that acrylic sheet from Taiwan are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act).

The weighted-average margins on all sales are 2.93, 0.66, and 1.06 percent from Chi Mei Industrial Company ("Chi Mei"), Jiuh Mei Enterprise Company ("Jiuh Mei") and Hsin Hwa Chemical Company ("Hsin Hwa") (respondents), respectively.

If this investigation proceeds normally, we will make our final determination by March 19, 1984.

Case History

On July 28, 1983, we received a petition filed by E.I. du Pont de Nemours and Company, Inc. of Wilmington, Delaware. In accordance with the filing requirements of § 353.36 of the Commerce Department Regulations (19 CFR 353.36), the petitioner alleged that acrylic sheets imported from Taiwan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring or are threatening to materially injure, a U.S. industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. We notified the ITC of our action and initiated such an investigation on August 17, 1983 (48 FR 38660). On September 21, 1983, the ITC found that there is a reasonable indication that imports of acrylic sheet are materially injuring, or are threatening to materially injure, a United States industry.

We are presented a questionnaire on September 13, 1983, to the three respondents who actively participated in this investigation: Chi Mei, Jiuh Mei and Hsin Hwa. These three firms are reported to account for more than 90 percent of the exports of acrylic sheet from Taiwan to the United States during the period of investigation. We received the responses on October 31, 1983. Subsequently, we received additional data and explanations in letters directed to portions of the respose that were incomplete, inaccurate or unclear. Where questions remain, we will seek further clarification and additional information during the verification.

Scope of Investigation

The merchandise covered by this investigation is a acrylic film, strips and sheets, at least 0.030 inch thick. It consists of polymerized methyl methalcrylate monomer which is formed into film, strips or sheets by cell casting, continuous casting or extrusion. Acrylic sheet may have a flat or patterned surface and may be transparent, translucent or opaque, clear, white, black or colored. It is generally used as a glazing material and in lighting fixtures, laminated structures, signs, displays, chair mats and other fabricated items. It is currently classified under item numbers 771.4100 and 771.4500 of the

Tariff Schedules of the United States Annotated (1983) (TSUSA)

We investigated sales of acrylic sheet from Taiwan during the period from February 1 to July 31, 1983.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the acrylic sheet to represent the United States price for the sales by each respondent because the merchandise was sold to unrelated purchasers prior to its importation into the United States and the manufacturers know its destination at the time of sale. We calculated the purchase price for each manufacturer based on the c.i.f. or c. & f. (U.S. port) packed price.

In accordance with section 772(d)(1)(B) and (C) of the Act, for Chi Mei we added an amount for duty drawback and indirect taxes rebated or not collected by reason of exportation of the merchandise to the United States. We made deductions for inland freight in Taiwan, ocean freight, marine insurance where appropriate, export stamp tax, export promotion fees and export brokerage.

For Jiuh Mei we added duty drawback. Jiuh Mei did not report taxes rebated or not collected by reason of exportation in its response. We made deductions for inland freight in Taiwan, ocean freight, marine insurance where appropriate, export stamp taxes, export promotion fees and export brokerage.

For Hsin Hwa, which is located in a foreign trade zone, the duty drawback and tax rebates are reported to be inapplicable. We made deductions for inland freight in Taiwan, ocean freight, marine insurance where appropriate, export stamp taxes, export promotion fees and export brokerage.

Foreign Market Value

In accordance with §353.3 of the Commerce Regulations (19 CFR 353.3) we used home market sales for determination of foreign market value for the respondent Chi Mei. Because respondents Jiuh Mei and Hsin Hwa reported no sales of acrylic sheet in the home market, we based foreign market value on sales in the third country in which they had the largest volume of sales of acrylic sheet, in accordance with §353.5)c)(2) of the Commerce Regulations (19 CFR 353.5 (c)(2)). The appropriate third country markets were Australia for Jiuh Mei and Hong Kong for Hsin Hwa. For these two firms we calculated foreign market value based on c.i.f. or c.& f. (third country port) prices to unrelated purchasers.

For Chi Mei we deducted inland freight in Taiwan. We made circumstance of sale adjustments for differences between home market and U.S. credit expense, bad debt and warranty expense, and after-sale warehousing, where appropriate. We made adjustments for packing differences between the U.S. and home market. We also made an adjustment for differences between commissions on sales to the United States and home market indirect selling expenses allowed as an offset to U.S. commissions in accordance with § 353.15(c) of the Commerce Regulations. Identical merchandise was compared in the two markets where possible. Where identical merchandise was not sold in both markets, we compared merchandise identical in size and color class and made adjustments for differences in cost based on differences in thickness, in accordance with section 353.16 of the Commerce Regulations.

For Jiuh Mei we added duty drawback to make the adjustment comparable to that made for exported merchandise under U.S. price according to section 772(d)(1)(B) of the Act. We made deductions for inland freight in Taiwan, ocean freight, marine insurance, export stamp taxes, export promotion fees, and export brokerage. Packing was reported to be identical in both markets and therefore required no adjustment. Where appropriate, we made adjustments for the cost of physical differences in the merchandise, based on differences in thickness. For Hsin Hwa, all these calculations were also made with the exception of duty drawback, which is reported not to be applicable because the company is located in a foreign trade zone. Adjustments were made for the cost of physical differences in merchandise sold by Hsin Hwa in the two markets based on differences in thickness and differences between clear and colored acrylic sheet, since Hsin

Hwa's response established that its prices for clear sheet were distinct from prices for colored sheets and the applications of clear and colored sheet may differ.

We have preliminarily disallowed an adjustment to price claimed by all three manufacturers for cost differences attributable to the production of different quantities of merchandise. The data submitted do not indicate that quantity discounts exist or that differences in prices are due to production cost differentials as provided for in § 353.14 of the Commerce Regulations.

Chi Mei claimed circumstance of sale adjustments for salesmen's travel and entertainment expenses. We did not allow these circumstance of sale adjustments for purposes of the preliminary determination, because they do not appear to be directly related to the sales of the merchandise under investigation, as required by § 353.15 of the Commerce Regulations. However, we included these expenses in the indirect selling expenses used as an offset to U.S. commissions. Chi Mei also claimed a circumstance of sale adjustment for adverfising assumed on behalf of its customers. We did not allow this adjustment preliminarily because the nature of the claimed advertising is not clear. We will examine these claims in detail during our verification of Chi Mei's response and may consider them in making our final determination.

Chi Mei claimed a level of trade adjustment on the ground that it acts as a distributor in the home market while it sells to distributors in the U.S. We disallowed the claimed level of trade adjustment, because the data did not reveal differences in prices due to differences in levels of trade.

Jiuh Mei claimed an adjustment for differences in merchandise between white and other colors. We did not allow the adjustment. For sales of acrylic sheet in the third country market, there were no identifiable differences in price or market value between white acrylic sheet and acrylic sheet of other colors, as required by § 353.16 of the Commerce Regulations for an adjustment, nor was such a price difference discernable with respect to sales of acrylic sheet by Jiuh Mei in the United States.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of acrylic sheet from Taiwan, which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. This suspension of liquidation will remain in effect until further notice. The weighted-average margins are as follows:

Manufacturer	Weighted-average margin percentage
Jiuh Mei Enterprise Company	0.66
Hsin Hwa Chemical Company	1.06
Chi Mei Industrial Company	2.93
All Other Manufacturers/Producers/Exporters	2.24

Verification

In accordance with section 776(a) of the Act, we will verify all data used in reaching a final determination in this investigation.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Public Comment

In accordance with § 353.47 of the Commerce Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on February 2, 1984, at the U.S. Department of Commerce, Room 3092, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by January 26, 1984. Oral presentations will be limited to issues raised in the briefs. All written views by those not participating in the hearing should be filed in accordance with 19 CFR 353.46, within 30 days of publication of this notice, at the above address in at least 10 copies.

Dated: January 4, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-704 Filed 1-10-84; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Civil Operational Remote Sensing Satellite Advisory Committee; Meeting

AGENCY: National Environmental Satellite, Data, and Information Service, NOAA, Commerce.

ACTION: Notice of Open Meeting.

SUMMARY: The Civil Operational Remote Sensing Satellite Advisory Committee was established by the Secretary of Commerce to advise the Department on its responsibilities for the civil operational land and weather satellite programs and proposals to transfer these satellite systems to the private sector.

DATES: The open meeting is scheduled for Thursday and Friday, January 26–27, 1984, 9:00 a.m.—about 4:30 p.m. on Thurday and 9:00 a.m.—about 12:00 noon on Friday.

ADDRESS: U.S. Department of Commerce, Conference Room 6802, Herbert C. Hoover Building, 14th Street and Constitution Avenue, NW., Washinigton, D.C.

Agenda: The Committee will be reviewing the technical and policy implications of transferring the Landsat system to the private sector including the Request for Proposals issued on January 3, 1984.

Public participation: About 60 seats will be available on a first-come, first-served basis. Written statements may be submitted by the public before or after the meeting and should be directed to Dr. John H. McElory, Assistant Administrator for Satellite, Data, and Information Services, NOAA, Washington, D.C. 20230. Minutes of the meeting will be available after certification by the Committee Chairman 30 days after the meeting.

FOR FURTHER INFORMATION: Contact the Committee Executive Secretary, Dr. Richard J. Keating, (301)

763–5904, or the Committee Staff Officer, Ms. Peggy Harwood, (301) 763–7821, External Relations Staff, National Environmental Satellite, Data, and Information Service, NOAA, (E/ER), Washington, D.C. 20233.

Dated: January 5, 1984.

Dr. John H. McElroy,

Assistant Administrator for Environmental Satellite, Data, and Information Services.

[FR Doc. 84–651 Filed 1–10–84; 8:45 am]

BILLING CODE 3510–12–M

DEPARTMENT OF DEFENSE

Domestic Household Goods Program

AGENCY: Military Traffic Management Command, DOD.

ACTION: Notice of final decision.

SUMMARY: The Secretary of Defense on 29 November 1983 determined that the modification of procedures associated with the acquisition of rates for interstate shipments should take place as proposed in 48 FR 45144 (3 OCT 83) and FR 49688 (27 OCT 83). In making this determination, he considered all relevant factors involved.

A solicitation to participate in the new program was mailed out to all DOD—approved carriefs of record on 30 November 1983. Industry—proposed modifications to the original solicitation were for the most part adopted.

An interim message change to implement the new rate acquisition procedures was made to the applicable regulation, DOD 4500.34-R. This change will be incorporated in the next revision of this regulation.

FOR FURTHER INFORMATION CONTACT: LTC Robert P. Coleman, HQ Military Traffic Management Command, ATTN: MT–PPC (Room 408), 5611 Columbia Pike, Fall Church, VA 22041

SUPPLEMENTARY INFORMATION: Written comments were considered by the Military Traffic Management Command (MTMC) in accordance with the references referred to above. These comments generally raised 20 issues which were individually evaluated. Considered replies to each may be obtained by contracting the individual named above.

These determinations are being made under the authority of 10 USC 2301–2314, DoD Directive 4500.9, and DoD 4500.34–R.

Dated: January 6, 1984.

Nathan R. Berkley,

Colonel, GS, Director of Personal Property.

[FR Doc. 84–666 Filed 1–10–84; 8:45 am]

BILLING CODE 3710–08–M

Office of the Secretary

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92–463, as amended by Section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee has been scheduled as follows:

Thursday, 16 February 1984, Rosslyn, VA

The entire meeting, commencing at 0900 hours is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on SIGINT Support to Naval Operations.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

January 6, 1984.

[FR Doc. 84–667 Filed 1–10–84; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Task Force on Supercomputer Applications; Advisory Committee Meeting

The Defense Science Board Task Force on Supercomputer Applications will meet in closed session on 13–14 February 1984 in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meetings on 13–14 February 1984 the Defense Science Board Task Force on Supercomputer Applications will review current Service applications of intelligence computing and revise a draft interim report.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. I, (1976)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

January 5, 1984.

[FR Doc. 84–668 Filed 1–10–84; 8:45 am]

BILLING CODE 3810–01–M

Corps of Engineers, Department of The Army

Intent To Prepare a Draft Environmental Impact Statement for Arthur Kill Channel—Howland Hook Marine Terminal Navigation Study

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement.

SUMMARY: 1. Description of Proposed Action—Deepen channel (Reach 2 and 3) generally along existing lines to 42 feet between the confluence of Newark Bay, Kill Van Kull and Arthur Kill down to the end of the Howland Hook Terminal. Continue deepening the channel (Reach 1) generally along existing lines to 40 feet from the Howland Hook Terminal down to the Exxon Bayway Refinery approximately ½ mile south of the Goethals Bridge. The existing channel is 35 feet deep.

2. Reasonable Alternatives:

(1) No Action

(2) Widening and deepening channel to allow two-way deep draft traffic.

3. Scoping Process:

a. Public Involvement—Coordination and scoping began with public notice issued Jan. 1980. A second notice was issued June 1981 detailing Plan of Study. Between then and now contacts were made to further refine and update concerns.

Public views will be continuously solicited during this stage towards reaching decisions on acceptable plans and environmental concerns.

b. Significant Issues Requiring In-depth Analysis:

(1) Mudflats north of Channel

(2) Shooters Island

(3) Project area wetlands

(4) Project area water quality

c. Assignments—Federal agencies having jurisdiction under law will be asked to be a cooperating agency.

d. Environmental review and consultation—Cooperating agencies as well as appropriate State environmental agencies will be consulted during EIS preparation. Any comments on this project can be addressed to the project manager listed below.

4. Scoping Meeting will not be held.

5. Estimate date of statement availability Oct. 1984, Address:

Project Manager (COE), Pamela Tames, Attn: NANPL–FN, Tel No. (212) 264–9077.

EIS Coordinator (COE), Joseph Debler, Attn: NANPL–E, Tel No. (212) 264–4663.

U.S. Army Engineer District, New York, 26 Federal Plaza, New York, N.Y. 10007.

Dated: January 3, 1983.

Samuel P. Tosi, P.E.,

Chief, Planning Division.

[FR Doc. 84-663 Filed 1-10-84; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

Advisory Council on Dependents' Education; Meeting

AGENCY: Advisory Council on Dependents' Education.

ACTION: Notice of Open Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Council on Dependents' Education, of two standing committees concerning education programs and administration, and of two ad hoc committees concerning the Comprehensive Study of DoDDS. This notice also describes the functions of the Council. Notice of these meetings is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of its opportunity to attend.

DATE: The Advisory Council on Dependents' Education: February 6 and 8, 9:00 a.m. to 5:00 p.m.

Committees: February 7, 9:00 a.m. to 4:00 p.m.

ADDRESS: Rosslyn Westpart Hotel, Dogwood Rooms A and B, 1900 N. Fort Myer Drive, Rosslyn, Virginia 22209.

FOR FURTHER INFORMATION CONTACT: Dr. William F. Keough, Administrator of Education for Overseas Dependents, 400 Maryland Avenue, S.W., Room 2083, Washington, D.C. 20202, (202) 245-8011.

SUPPLEMENTARY INFORMATION: The Advisory Council on Dependents' Education is established under section 1411 of the Defense Dependents' Education Act of 1978, as amended (20 U.S.C. 929). The Council is established to recommend to the Director general policies for operation of the defense dependents' education system with respect to curriculm selection, administration, and operation of the system

The meeting of the Council is open to the public. The proposed agenda for the full Council on February 6 includes: A report of the Administrator on Council matters, a progress report by the Director, a report by the Director on the current status of previously expressed ACDE concerns, and presentations by DoDDS staff members on the DoDDS response to recommendations made by recent studies of U.S. education, the master teacher pilot plan in Panama, education of children at isolated locations, tuition assistance systemwide, military construction projects, and sponsorship programs systemwide. The proposed agenda for the full Council on February 8 includes reports by the committees.

The proposed agenda for the Education Program Committee on February 7 includes education of children at isolated locations, retention of students, sponsorship programs, and the DoDDS response to recommendations made by recent studies of U.S. educdation.

The proposed agenda for the Administration Committee on February 7 includes year-end reports of the local education advisory committees, the master teacher pilot plan in Panama, tuition assistance, military construction projects, and appeals of the local school advisory committees.

Records are kept of all Council proceedings and are available for inspection at the office of the Advisory Council on Dependents' Education, 400 Maryland Avenue, S.W., Room 2083, Washington, D.C., from the hours of 8:30 a.m. to 5:30 p.m.

Dated: January 4, 1984.

A. Wayne Roberts,

Deputy Under Secretary for Intergovernmental and Interagency Affairs.

[FR Doc. 84-570 Filed 1-10-84; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Meeting Change

ACTION: Notice of Meeting Change.

The following change has occurred for the meeting of the Army Science Board ad hoc subgroup on Army Leadership, which was announced in the **Federal Register** issue of Tuesday, December 20, 1983 (48 FR 56254), **Federal Register** Document Number 83-33662:

Place of Meeting—US Army Training and Doctrine Command, Ft. Monroe, Virginia.

Dates of Meeting—Thursday and Friday, January 26 and 27, 1984.

The above meeting changes the previous meeting scheduled for the Armed Forces Staff College, Norfolk, Virginia on January 27, 1984. There is no change to the previously announced meeting to be held at the Pentagon on January 25, 1984.

John O. Roach, II,

DA Liaison Officer with the Federal Register.

[FR Doc. 84-733 Filed 1-10-84; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Grand Junction, Colorado; Change in Schedule for Issuing Draft Environmental Impact Statement

AGENCY: Department of Energy.

ACTION: Compliance with National Environmental Policy Act; Notice of Change in Schedule for Issuing Draft Environmental Impact Statement.

SUMMARY: The U.S. Department of Energy (DOE) announces its intent to postpone completion of a Draft EIS regarding selection of an appropriate remedial action to stabilize or control mill tailings derived from the inactive uranium mill near Grand Junction, Colorado.

The original schedule for compliance with the National Environmental Policy Act (NEPA) provided for public review of the Draft EIS in late 1983. The new schedule postpones further work on the Draft EIS until January 1985 with public review intended to take place in the Spring of 1985. Remedial action is still scheduled to begin in the Fall of 1986.

On completion of the Draft EIS, its availability will be announced in the **Federal Register** and local news media, and comments will be solicited. Comments on the Draft EIS will be considered in preparing the Final EIS.

ADDRESS: General information on the process followed by the DOE in preparing environmental impact statements may be obtained from the Office of Environmental Compliance, Office of the Assistant Secretary for Environmental Protection, Safety, and Emergency Preparedness, U.S. Department of Energy, Attn: Mr. Steven R. Woodbury, Room 4G-064, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-4610. Additional information may be obtained from the Uranium Mill Tailings Remedial Action Project, U.S. Department of Energy, Albuquerque Operations Office, 5301 Central Avenue, NE., Suite 1700, Albuquerque, New Mexico 87108, Attn: Mr. James A. Morley, Project Manager.

SUPPLEMENTARY INFORMATION: The DOE published a Notice of Intent (48 FR 2817) on January 21, 1983, regarding the preparation of an EIS and conduct of pubic scoping meetings for remedial actions to be performed at the Grand Junction inactive uranium mill site.

Scoping meetings were held in Grand Junction on February 8 and 9, 1983.

In the Notice of Intent, the DOE stated that "After the completion of a Final EIS, the plan for remedial action on the Grand Junction tailings will be selected, probably in 1984." The DOE has adjusted the EIS schedule to reflect the extra time required for remedial action on vicinity properties as well as the time required for additional data collection and engineering studies. The schedule adjustment allows remedial action on the vicinity properties to be completed at approximately the same time as remedial action on the tailings pile. The additional time is also necessary to fully evaluate the remedial action options for the tailings pile and ensure their compliance with standards for the protection of public health, safety, and environment promulgated by the Environmental Protection Agency (40 CFR Part 192).

Members of the public may inspect documents, including the EIS Implementation Plan, to be used in preparing the Draft EIS at the following locations:

Freedom of Information Reading Room, Room 1E–190, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585.
Bendix Field Engineering Corporation Library, P.O. Box 2557, Grand Junction, CO 81501.
Mesa County Library, 530 Grand Junction Avenue, Grand Junction, CO 81501.
Learning Resource Center, Mesa College, P.O. Box 2647, Grand Junction, CO 81502.
Rifle Branch Library, 337 East Avenue, Rifle, CO 81650.
Regional Energy/Environment Information Center, Denver Public Library, 1357 Broadway, Denver, CO 80210.

Dated at Washington, D.C., this 3rd day of January 1984, for the United States Department of Energy.

William A. Vaughan,

Assistant Secretary, Environmental Protection, Safety, and Emergency Preparedness.

[FR Doc. 84–743 Filed 1–10–84; 8:45 am]

BILLING CODE 6450–01–M

Rifle, Colorado; Change in Schedule for Issuing Draft Environmental Impact Statement

AGENCY: Department of Energy.

ACTION: Compliance with National Environmental Policy Act; Notice of Change in Schedule for Issuing Draft Environmental Impact Statement.

SUMMARY: The U.S. Department of Energy (DOE) announces its intent to postpone completion of a Draft EIS regarding selection of an appropriate remedial action to stabilize or control mill tailings derived from the inactive uranium mill near Rifle, Colorado.

The original schedule for compliance with the National Environmental Policy Act (NEPA) provided for public review of the Draft EIS in late 1983. The new schedule postpones further work on the Draft EIS until January 1985 with public review intended to take place in the Spring of 1985. Remedial action is still scheduled to begin in the Spring of 1987.

On completion of the Draft EIS, its availability will be announced in the **Federal Register** and local news media, and comments will be solicited. Comments on the Draft EIS will be considered in preparing the Final EIS.

ADDRESS: General information on the process followed by the DOE in preparing environmental impact statements may be obtained from the Office of Environmental Compliance, Office of the Assistant Secretary for Environmental Protection, Safety and Emergency Preparedness, U.S. Department of Energy, Attn: Mr. Steven R. Woodbury, Room 4G–064, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–4510. Additional information may be obtained from the Uranium Mill Tailings Remedial Action Project, U.S. Department of Energy, Albuquerque Opeations Office, 5301 Central Avenue, NE., Suite 1700, Albuquerque, New Mexico 87108; Attn: Mr. James A. Morley, Project Manager.

SUPPLEMENTARY INFORMATION: The DOE published a Notice of Intent (48 FR 2819) on January 21, 1983, regarding the preparation of an EIS and conduct of public scoping meetings for remedial actions to be performed at the Rifle inactive uranium mill site. Scoping meetings were held in Rifle on February 7 and 8, 1983..

In the Notice of Intent, the DOE stated that "After the completion of a Final EIS, the plan for remedial action on the Rifle tailings will be selected, probably in 1984." The DOE has adjusted the schedule for the Rifle EIS to coincide with changes made in an EIS being proposed for remedial action on the tailings pile in Grand Junction, Colorado, as well as to allow for additional data collection and engineering studies. The additional time is also necessary to fully evalute the remedial action options for the tailings pile and ensure their compliance with standards for the protection of public health, safety, and environment promulgated by the Environmental Protection Agency (40 CFR Part 192).

Members of the public may inspect documents, including the EIS Implementation Plan, to be used in preparing the Draft EIS at the following locations:

Freedom of Information Reading Room, Room 1E–190, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585.
Bendix Field Engineering Corporation Library, P.O. Box 2557, Grand Junction, CO 81502.
Mesa County Library, 530 Grand Junction Avenue, Grand Junction, CO 81501.
Learning Resource Center, Mesa College, P.O. Box 2647, Grand Junction, CO 81502.
Rifle Branch Library, 337 East Avenue, Rifle, CO 81650.
Regional Energy/Environment Information Center, Denver Public Library, 1357 Broadway, Denver, CO 80210.

Dated at Washington, D.C., this 3rd day of January 1984, for the United States Department of Energy.

William A. Vaughan,

Assistant Secretry, Environmental Protection Safety, and Emergency Preparedness.

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Bonneville Power Administration

Record of Decision for Bonneville Power Administration's Transmission Facilities Vegetation Management Program

AGENCIES: Lead Agency—Bonneville Power Administration (BPA), DOE; Cooperating Agencies—U.S. Environmental Protection Agency; Forest Service (FS), U.S. Department of Agriculture; Bureau of Land Management (BLM), U.S. Department of the Interior; and Fish and Wildlife Service (FWS), U.S. Department of the Interior.

ACTION: Record of Decision (ROD).

SUMMARY: Bonneville Power Administration (BPA) has selected a vegetation management program for controlling vegetation at its transmission facilities. The program selected was identified as Alternative 10 in the Final Environmental Impact Statement (EIS) on BPA's Transmission Facilities Vegetation Management Program (DOE/

EIS-0097-F). The program will use manual, spot chemical, broadcast chemical, and biological methods to manage vegetation. Other methods may be employed on an experimental basis, or where constraints imposed by entities other than BPA place limits upon or foreclose reliance upon the methods included in the program.

The selected program was identified as BPA's preferred alternative in the EIS. Based upon the analysis in the EIS, the selected program was also determined to be the environmentally preferred alternative. The EIS identified a total of 55 separate mitigation measures. With the exception of mitigation measures No. 17, No. 18, No. 41, and No. 42, all of the mitigation measures described in the EIS are incorporated into the selected program.

Selection of treatment methods to be used in specific management situations is based on consideration of the social, ecological, and economic consequences of using the various methods included in the program. Treatment selection guidelines that will be used under the selected program are identified and discussed in Chapter 5 of the EIS. Under these guidelines, manual methods are to be used primarily on low-density right-of-way brush on accessible sites and where treatment of individual plants is appropriate (e.g., visual screens and riparian areas). Spot chemical methods are to be used primarily in similar situations where sprouting plant species are a problem but with precautions (e.g., buffer zones) to protect water quality. Broadcast chemical methods will be used in inaccessible sites, on high-density bursh, and where little hazard to public health, water quality, or adjacent land use is involved. Current experimental studies with, and limited operational use of, biological methods will continue. A series of tables summarizing, generally, BPA's treatment selections for specific management situations (e.g., transmission line rights-of-way and substations) are being distributed to interested parties along with the ROD and are available from the address listed at the end of the document.

SUPPLEMENTARY INFORMATION:

Background

BPA operates and maintains a regional electrical transmission system in the Pacific Northwest. This system encompasses approximately 13,000 miles of transmission lines and 357 substations plus miscellaneous other facilities in the States of Oregon, Washington, and Idaho, and in parts of Montana, Wyoming, California, and Utah. The underlying need for a vegetation management program is to ensure transmission system reliability.

Tall-growing plants must be prevented from growing into transmission lines. Access roads used for inspection and maintenance of transmission lines must be kept clear of obstructing vegetation. Within substations, switchyards, and microwave stations, all vegetation must be removed to prevent fire and safety hazards. Also, where BPA's actions have caused and/or contributed to noxious weed infestation, BPA cooperates with landowners and local weed control districts to help eradicate or control noxious weeds.

Alternatives Considered

In making a decision with respect to its future vegetation management program, BPA evaluated a number of alternative methods of vegetation control (see Chapter 3 of the EIS). The methods of control that were evaluated fall into four broad categories: (1) Chemical methods of control (including both spot herbicide applications and broadcast herbicide applications); (2) manual methods (cutting, girdling, topping, pruning, handpulling, and hoeing); (3) mechanical methods (scarification, chopping, cutting, or mowing); (4) biological methods (controlling weeds by introduced insects, establishment of stable low-growing species, prescribed grazing, and wildlife management). Multiple use arrangements with landowners were also evaluated along with the other methods of vegetation control.

Extending the evaluation of specific methods of vegetation control, BPA also evaluated alternative vegetation management programs (see Chapter 4 of the EIS). A vegetation management program may rely on just one method of control or on a combination of methods. The alternative vegetation management programs evaluated in the EIS were as follows:

Alternative 1—No Action
Alternative 2—Manual Only
Alternative 3—Spot Chemical Only
Alternative 4—Broadcast Chemical Only
Alternative 5—Manual and Mechanical Methods
Alternative 6—Spot Chemical and Broadcast Chemical Methods
Alternative 7—Biological, Manual, and Mechanical Methods
Alternative 8—Biological, Manual, Mechanical, and Spot Chemical Methods
Alternative 9—Biological, Manual, Mechanical, and Broadcast Chemical Methods
Alternative 10—Biological, Manual, Spot Chemical, and Broadcast Chemical Methods
Alternative 11—Biological, Manual, and Spot Chemical Methods

Evaluation of Alternatives

These 11 vegetation management program alternatives were evaluated and compared to each other using 14 evaluation criteria. The sources of these evaluation criteria were: (1) comments and suggestions obtained during the EIS scoping process; (2) public and agency comments received on previous BPA environmental assessments (EA's) and EIS's covering vegetation management; and (3) the knowledge and experience of BPA's own vegetation management personnel. The 14 evaluation criteria were organized as follows:

Social Criteria

1. Public health.
2. Worker safety.
3. Land use.
4. Visual, historical, and cultural resources.
5. Public acceptability.

Biophysical Criteria

6. Water quality and fisheries.
7. Plants and animals.
8. Soil productivity.

Economic Criteria

9. Treatment cost.
10. Employment.
11. Energy efficiency.

Management Criteria

12. Legal criteria.
13. Treatment effectiveness.
14. Operational flexibility.

Eight of these 14 criteria were given high importance ratings based on the above sources (public health, worker safety, public acceptability, water quality and fisheries, treatment cost, legal compliance, treatment effectiveness, and operation flexibility).

Each of the 11 program alternatives was evaluated against each of the evaluation criteria, and a determination made whether it would have: (1) Major beneficial impact; (2) beneficial impact; (3) no or negligible impact; (4) adverse impact; (5) major adverse impact; or (6) not applicable with respect to each criteria. In comparing and ranking the alternative programs, subtotals were obtained for just the environmental criteria (social criteria plus biophysical criteria) in addition to grand totals for all criteria (including economic and management criteria).

Among the 11 program alternatives, five alternatives were ranked favorably:

(1) Exclusive use of manual methods (Alternative 2), (2) exclusive use of spot chemical methods (Alternative 3), (3) use of spot chemical and broadcast chemical methods (Alternative 6), (4) use of manual, biological, spot chemical, and broadcast chemical methods (Alternative 10), and (5) use of biological, manual, and spot chemical methods (Alternative 11). Based upon paired comparisons among these five favorably ranked alternatives, the selected program (Alternative 10) ranks as equal or better on all high importance criteria. Overall, Alternative 10 rated highest with respect to environmental criteria. Alternative 10 also rated highest with respect to economic and management criteria. Alternative 10, the selected program, is therefore the environmentally preferable alternative, and it is also preferable for technical and economic reasons.

Means to Avoid or Minimize Environmental Impact

The selected program (Alternative 10 in the EIS) includes the use of spot chemical, broadcast chemical, manual, and biological methods. Selection of treatment methods for particular sites is based upon social and ecological considerations as well as economic cost and management effectiveness. Specific management prescription selections are based upon field inspections and various technical aids such as oblique aerial photography, plan and profile drawings, and a computerized inventory of BPA's rights-of-way, and they are made in accordance with treatment selection guidelines (see Chapter 5 of the EIS). The selected program includes a number of mitigation measures, management requirements, and guidelines intended to further reduce or minimize adverse environmental impacts. Manual methods are to be used primarily on low-density right-of-way brush at accessible locations and in special situations where treatment of individual plants is appropriate such as adjacent to streams and at visual screens. Spot chemical methods are to be used in similar situations where resprouting plant species are a problem but with precautions to protect water quality. Broadcast chemical methods are to be used in inaccessible sites, on high-density brush, and where there is little hazard to public health, water quality, and adjacent land use. Biological methods are to be operational in controlling noxious weeds in certain situations, and are also to be conducted experimentally elsewhere.

The mitigation measures listed below are those discussed and evaluated in the EIS. They are numbered consecutively and organized according to which particular method(s) of vegetation control they apply. With the exception of mitigation measures No. 17, No. 18, No. 41, and No. 42, all of these measures are incorporated into the selected program.

Measures Relevant to All Methods of Control

1. Follow all applicable Federal and State laws and regulations in conducting vegetation management treatments.

2. Allow vegetation that does not conflict with BPA's underlying need for vegetation management to grow on rights-of-way; for example, allow tall-growing plants in canyons where no possibility exists for violation of transmission line clearance criteria.

3. Select treatments for specific sites based on considerations of sociological, economic, and ecological consequences; that is, use an Integrated Pest Management (IPM) decisionmaking process; high importance concerns are public health, worker safety, water quality, and treatment cost; also important are adjacent land uses and wildlife habitat.

4. Coordinate vegetation control activities with managers and administrators of parks, recreation areas, scenic areas, historical sites, and other high public use areas in proximity to transmission facilities.

5. Establish Memoranda of Agreement with land management agencies whose lands are crossed by transmission facilities to cooperatively develop vegetation management plans.

6. Establish agreement with landowners to facilitate compatibility of vegetation management activities with landowner objectives; for example, where appropriate, agreements may specify exclusion of all herbicides, type or application technique of herbicide treatments, type of other control methods, timing of control treatments, or notification before herbicide applications; agreements may be formal (see Item 7, below) or informal.

7. Establish multiple-use agreements with landowners (e.g., "tree and brush control agreements," and "Christmas tree agreements") to formally designate landowners responsible for right-of-way vegetation management subject to BPA clearance and access criteria.

8. Maintain right-of-way vegetation at highway crossings and recreation sites (e.g., stream crossings) with appearance as high-priority objective; maintain vegetation screens at such critical viewpoints, and use topping or pruning of trees as appropriate.

9. Cooperate with adjoining landowners and local Weed Control Districts to control and/or eradicate noxious weed infestations on right-of-way in accordance with landowner agreements and Federal, State, and local laws.

10. Prepare Daily Brush and Weed Control Reports (BPA Form No. 307) for all vegetation management projects to record all data necessary to document control treatments (e.g., treatment site location; control method; herbicide formulation, application rate, and application technique; weather conditions; and unusual conditions).

11. Strictly observe all safety instructions in the BPA Transmission Line Maintenance Standard; conduct worker safety instruction for BPA workers (especially for use of manual methods).

12. Provide opportuntiy for public review of BPA's transmission facilities vegetation management program by means of public and agency review of this program EIS as well as subsequent environmental documents tiered to the program EIS. The public involvement effort includes an extensive direct mailing of the environmental documents, use of the news media to announce the availability of the program EIS, and the establishment of public information centers during the review period for the program EIS.

13. Continue research and field tests of new control methods and new herbicides; document study design, before and after site evaluations, and effectiveness of vegetation management; maintain documentation in a form suitable for public review. In particular, document frequency of treatment required for each method or herbicide tested.

14. Continue periodic contact with U.S. Fish and Wildlife Service Endangered Species Offices to monitor additions to Threatened/Endangered Species lists and new locations or habitats of previously listed species that may be affected by vegetation management activities.

15. Use properly sized equipment and motor vehicles and keep them in proper adjustment to minimize energy requirements.

16. Improvement management guidelines for selection of treatment methods for each management unit; document guidelines in instructional memoranda between Branch of Transmission Line Maintenance and Area Operation and Maintenance Managers; generically indicate those situations where each treatment method, herbicide application rate, and herbicide application technique is either appropriate, not appropriate, or

appropriate given adherence to special circumstances or precautions.

17. Document rationale for selection of treatment method for each management unit.

18. Investigate feasibility of establishing a cost-sharing program whereby landowners are reimbursed for maintaining right-of-way vegetation on their lands, in order to stimulate greater participation of landowners in multiple use agreements.

19. Cooperate with State and local land use planning entities and explore the possibility of determining generic compatibility of routine, ongoing vegetation management activities with land-use plans, policies, and controls (e.g., coastal zone management).

20. Encode information regarding locations of threatened and endangered species (particular plants) into ROWDATA inventory system and other appropriate planning tools if such species become known on BPA rights-of-way; encode information regarding locations of known cultural resource sites into ROWDATA system to insure protection during vegetation management activities.

21. Follow all applicable Federal and State laws including EPA and State-approved herbicide labels; for example, follow mixing instructions on herbicide labels carefully.

22. Allow herbicides to be applied only by licensed applicators or under the *direct supervision* of licensed applicators as required by State law.

23. Mix all herbicides on right-of-way, within substations, or at other acceptable sites to minimize risks of inadvertent spills.

24. Strictly observe buffer zones at all bodies of water (e.g., streams, ponds, wetlands, springs, and seeps) as follows:

Method of application	Buffer zone to water body* (minimum horizontal distance in feet)
Spot chemical:	
Basal-stem spray	10
Cut-stump treatment	10
Frill or injection	10
Pellets or granules	10
Foliage spray	[illegible]
Broadcast chemical:	
Ground-based foliage spray	50
Aerial foliage spray	100

*Except for herbicide formulations such as Ammonium Sulfamate which is permissible up to the water's edge.

25. Carefully monitor weather conditions (i.e., wind, precipitation, temperature, and humidity) before and during herbicides applications to prevent drift, volatilization, leaching, or surface runoff of applied herbicides.

26. Monitor herbicide residues in soil and water when requested appropriately by land management agencies, landowners, and the BPA Areas, to identify patterns of herbicides' persistence and mobility at sensitive sites.

27. Strictly observe all Maintenance Standard and label instructions for handling, storage, and disposal of herbicides and herbicide containers.

28. Strictly observe Maintenance Standard instructions for handling of "minor " spills and "major" spills; for major spills, follow specified procedures for cleanup, disposal, notification of landowner and State and Federal agencies, and certification of compliance from agencies.

29. Carefully consider land uses adjacent to treatment sites (e.g., commercial crops, and recreation grounds) when prescribing and implementing chemical treatments.

30. Inspect right-of-way prior to herbicde application for presence of domestic animals if herbicide label restricts grazing. If such herbicides are planned for use, notify landowners prior to application to allow confinement of livestock away from right-of-way.

31. Do not use oil carriers in foliar herbicide applications to avoid oil hazards to wildlife (small birds and mammals, in particular) and to reduce energy requirements of chemical methods.

32. Conduct herbicide applicator training to insure that proper application rates and herbicide placement are used; inspect herbicide operations to insure proper implementation.

33. Monitor the fate of herbicides in groundwater and surface water at substations where herbicides are used at high application rates. Also, several of the herbicides used at substations for total weed control are persistent in soil and mobile in waters; therefore, where substations are located over water supply aquifers (e.g., Spokane Valley-Rathdrum Prairie Sole Source Aquifer), depths to the ground-water table should be established and soil permeability analyzed in order to estimate likelihood of groundwater contamination.

Measures Relevant to Broadcast Chemical Methods of Control

34. Strictly observe all requirements and measures to minimize drift and volatilization from broadcast applications (both aerial and ground-based), including monitoring of weather conditions (wind, temperature, humidity, and likelihood of precipitation) and use of drift control measures.

35. Inspect aerial applicators and applications to insure BPA's spray delivery specifications are satisfied by contractors.

36. Inspect right-of-way immediately prior to broadcast applications (especially aerial) to disclose presence of people (e.g., off road vehicle operators hunters, hikers, berry pickers, and woodworkers).

37. Observe at least a 10-foot buffer zone beteen the treated vegetation under the line receiving aerial broadcast applications and the right-of-way edge to minimize impacts on off right-of-way vegetation.

38. Avoid broadcast applications adjacent to susceptible crops or ornamental plantings where any likelihood of damage exists for nontarget vegetation.

39. Avoid use of broadcast applications in high-sensitivity landscapee where temporary brown-out of vegetation is unacceptable.

40. Restrict use of aerial broadcast chemical methods primarily to remote areas with limited access, where no possibility of water supply contamination exists, and where temporary vegetation brown-out is acceptable.

41. Flag edges of stream buffer zones to insure that helicopter operators recognize their presence during aerial applications; monitor a sample (e.g., 10 percent) of stream buffer zone edges using spray deposit paper to evaluate observance of edges by aerial applicators.

42. To insure no aerial application within 100–foot stream buffer zone, require shutoff of spray delivery system 150 feet from stream (spray delivery specifications allow 50 feet for system to achieve dripless shutoff).

43. Use broadcast chemical methods primarily on high density, uniform stands of target species in order to minimize energy requirements per target stem treated, in order to avoid treatment of nontarget plants, and in order to diversify wildlife habitat conditions.

44. Eliminate use of 2,4–D ester formulations where any danger of contaminating water bodies exists, due to toxic effects on aquatic organisms.

Measures Relevant to Spot Chemical Methods

45. Avoid application of granular or pelletized herbicides to active or dormant (fallow) cultivated ground.

46. Avoid soil surface applications of herbicides where water table is high, where leaching or surface runoff is possible, or when ground is frozen.

47. Use primarily on accessible, low-density stands or target species in order

to maximize energy efficiency and worker safety.

48. In riparian areas, retain adequate shading of streams to prevent elevated stream temperatures.

49. Where spot chemical methods are used to control high-density target vegetation (e.g., in stream or cropland buffer zones), implement treatment in a way that enhances wildlife habitat diversity.

Measures Relevant to Manual Methods of Control

50. When cutting shrubs, cut short, flat stumps to minimize worker hazards of tripping and puncture wounds.

51. Use spark arresters on equipment and have fire suppression equipment accessible during all cutting treatments.

52. Chip or lop-and-scatter debris from cutting treatments to prevent fire hazard and to improve visual quality.

53. Remove all felled trees and limbs from streams or watercourses.

54. In riparian areas, retain adequate shading of streams to prevent elevated stream temperatures.

55. Implement manual treatments in a way that enhances wildlife habitat diversity (e.g., use cut-stump herbicide treatments to prevent dense sprout stands from forming).

Mitigation Measures Not Adopted

Mitigation Measure No. 17 would have BPA document the rationale for selection of specific treatment methods for each management unit. The purpose of this measure would be to provide evidence in the treatment record explaining what factors led BPA to select a particular method for a specific site. BPA would be able to explicitly show on the record that it had considered relevant factors in choosing a given treatment method at a particular site.

BPA has not adopted this measure because it would be an excessively burdensome exercise in paperwork and recordkeeping and of questionable utility. Approximately 84,000 acres of BPA rights-of-way, organized into some 42,000 management units (approximately 2 acres each on the average) require periodic vegetation management. In any given year several thousand management units require decisions regarding selection of treatment methods. To explicitly set down in writing the rationale for each of these decisions would not only generate excessive paperwork, but it would be of questionable value, as BPA already documents vegetation management activities and treatment implementation by other means. The ROWDATA computerized inventory maintains a record for each right-of-way management unit. Included in this data base is detailed information on date and method of last treatment, type and application rate of herbicide (if used), and the management unit's classification in terms of land use. Critical and sensitive areas are also identified in the ROWDATA records. As treatment selections are actually implemented, Daily Brush and Weed Control Reports are completed by BPA vegetation management personnel. These reports document how and under what conditions a treatment was implemented. There is already in place, therefore, substantial documentation of treatment selections and their implementation. This documentation will be continued under the selected program.

Mitigation Measure No. 18 would have BPA investigate the feasibility of establishing cost-sharing programs in which landowners are reimbursed for maintaining right-of-way vegetation on their land. BPA has investigated what other utilities have experienced in trying to establish cost-sharing programs (see Chapter 3 of the EIS). The cases investigated displayed low interest on the part of landowners and a high default rate for such established agreements. Where there is a default, the utility incurs both the administrative costs of the agreement as well as the direct costs of treating the vegetation. Because of the disappointing experiences of others in the area of cost sharing, BPA does not intend to include this as a normal ongoing part of its selected program.

Nevertheless, it is BPA policy to promote multiple use on its rights-of-way. Consistent with this policy, private landowners may enter into "Tree and Brush Control Agreements" with BPA. Under these agreements, landowners can assume responsibility for managing right-of-way vegetation on their property. While the agreement is in force BPA agrees to relinquish all vegetation control rights on the property. However, BPA does not provide cost reimbursements to landowners under these agreements.

Mitigation Measure No. 41 applies to aerial broadcast applications. This measure would require that the edges of stream buffer zones be flagged to insure that helicopter operators recognize their presence during aerial applications. It would also require that BPA monitor (through the use of spray deposit paper) the observance of the edges by aerial applicators. This measure could, conceivably, reduce the potential for inadvertent direct contact with smaller bodies of water. Nevertheless, BPA does not intend to adopt this mitigation measure because current practices already provide for adequate protection of water quality.

The purpose of having a 100-foot buffer zone is to provide for an adequate margin of safety for the surface water *even if* the shutoff of the aerial application does not occur precisely at the buffer zone edge. Areas to be sprayed are inspected beforehand and aerial operators are carefully briefed before making their applications. Furthermore, BPA inspectors are present on the ground to monitor compliance with contract specifications (including buffer zones). Radio contact between the ground and the aerial applicator enables the inspector to order a shut off at any time. While these practices are not fail-safe, they do (together with other BPA practices aimed at protecting water quality) provide an adequate margin of safety.

Even under a worst-case condition (direct aerial application to the water surface at the highest application rate) the hazard presented to the aquatic environment would be low for all aerially applied herbicides except for Ester formulations of 2,4-D. Ester formulations of 2,4-D are the subject of mitigation measure No. 44 which BPA has chosen to adopt in this Record of Decision.

Mitigation Measure No. 42 also applies to aerial broadcast applications. To assure that no aerial application takes place within 100 feet of a stream, the spray delivery system would be required to shut off at a distance of 150 feet from the stream. While acknowledging that this measure would create an additional margin of safety, BPA's current practices already insure adequate protection of water quality. Accordingly, BPA does not intend to adopt this mitigation measure.

The buffer zone observed by BPA for aerial broadcast applications is 100 feet. Whether conditions are closely monitored by BPA inspectors on-site at the time of the application to minimize drift, volitilization, or surface runoff. Prior to conducting aerial applications, aerial spray contractors are required to fulfill BPA's spray delivery specifications which are quite stringent (see Chapter 3 of the EIS).

BPA has verified the effectiveness of these practices through monitoring herbicide residues in streams near treated right-of-way. Monitoring over the last 10 years has revealed that in cases where herbicides were detected in streams, contamination was highly localized, occurred at very low levels, and quickly decreased. These results

verify the effectiveness of BPA's existing practices.

Monitoring and Enforcement: The mitigation measures identified in the final EIS and adopted in this Record of Decision will be incorporated into BPA's Transmission Line Right-of-Way Maintenance Standard. This standard serves as a basic guide to BPA personnel responsible for controlling vegetation. All treatment selections will be made in accordance with the Right-of-Way Maintenance Standard.

Vegetation management work to be performed by BPA's own Force Account personnel are described in detailed Working Instructions. The BPA foreman overseeing the Force Account work is responsible for seeing that the Working Instructions are adhered to, and he/she signs them off upon their successful completion. Vegetation management work to be performed by contract is described in detail in the Work Statement, which is incorporated into the contract itself. An inspector is assigned to the contract by the appropriate BPA Area, and it is the inspector's responsibility to oversee the performance of the contract and to see to it that the treatment selections specified in the Work Statement are adhered to. Daily reports are filled out by the inspectors who bear witness to contract compliance.

Intergration With Other Requirements: BPA has evaluated various environmental statutes and regulations applicable to BPA's programs and activities (see Chapter 8 of the EIS). For each of these environmental requirements, a determination was made regarding its relevance to transmission facility vegetation management. For each of the requirements determined to be relevant, an explanation is provided in the EIS regarding how compliance is or will be assured.

Some of the relevant environmental requirements are satisfactorily complied with at the program level (the level of analysis contained in the EIS). Other relevant environmental requirements will be satisfactorily complied with at the project level. Still other relevant environmental requirements will be satisfied at both the program level and the project level. For example, in some cases, an environmental requirement will be satisfied completely by incorporating a particular constraint or mitigation measure as a standard practice in the systemwide vegetation management program. In other cases, complete compliance will only be partially provided by incorporation of a mitigation measure in the systemwide program; subsequent selection and implementation of site-specific measures in carrying out individual vegetation management projects will be needed to completely satisfy these requirements.

The following summarizes the findings made by BPA with resect to the various environmental requirements determined to be relevant to transmission facilities vegetation management:

Relevant environmental requirement	Levels for compliance with requirements		Means for compliance
	Programmatic	Project-level	
Environmental policy	Partial	Complete	Program EIS together with project-specific environmental analyses "tiered" to generic programmatic EIS.
Endangered/threatened species and critical habitat.	Complete (as of 05–15–83).		Project-specific environmental analysis verify no jeopardy to listed species or critical habitats or provide mitigation.
Heritage conservation	Partial	Complete	Determination that vegetation management at existing facilities do not have an effect upon sites, protection of newly discovered sites at BPA facilities, SHPO consultation with respect to BPA's determinations.
Coastal management program consistency.	Complete	do	"General consistency determination" in EIS.
Wetlands	Complete	do	Incorporation of measures for wetland protection from herbicide contamination in program assures no unusual circumstances in routine maintenance program.
Farmlands	Partial	do	Incorporation of measures to protect farmland productivity in program, implementation at project level.
Recreation resources	do	do	Maintenance and enhancement of visual quality at or near recreational resources in cooperation with land management agencies.
Permit for right-of-way on public land (indirectly relevant).	do	do	Cooperative development of right-of-way management plans pursuant to Memorandum of Understanding with USFS and BLM.
Pollution control at Federal facilities			
Clean Water Act	do	do	Incorporation of measures to protect water quality in program, implementation of measures at project level.
Resource Conservation and Recovery Act.	do	do	Incorpration of waste disposal procedures in program (Right-of-Way Maintenance Standards) implementation at project level.
Safe Drinking Water Act	do	do	Incorporation of measures to protect water quality in program, implementation of measures at project level.
Noise Control Act	do	do	Compliance with State and local noise control standards where they exist.
Federal Insecticide, Fungicide, and Rodenticide Act.	do	do	Incorporation of herbicide-use constraints into program (right-of-way maintenance standards); implementation during field operations.
Energy conservation at Federal facilities.	Complete		BPA's "General Operations Plan" for energy conservation covers vehicles and equipment used in vegetation management.

In regard to endangered and threatened species and critical habitat, BPA, after examining current literature and informally consulting with the Endangered Species Offices of the U.S. Fish and Wildlife Service (USFWS), reached the conclusion that its proposed vegetation management program would not jeopardize the continued existence of any threatened or endangered species, or adversely modify their critical habitats (see Chapter 8, Section 2, of the EIS). Copies of this finding were provided to appropriate offices of USFWS. The U.S. Department of the Interior, speaking in behalf of USFWS, expressed basic agreement with BPA's finding, indicating also that they saw no immediate need for BPA to initiate formal consultation with USFWS.

In regard to heritage conservation, BPA made a determination that vegetation management employing the use of spot chemical, broadcast chemical, manual, and biological methods at existing transmission facilities does not constitute an "effect" upon National Register sites (see Chapter 8, Section 4, of the EIS). BPA is continuing to consult with the various State Historic Preservation Officers (SHPO's). Additional consultation will be initiated during the public and agency review of the forthcoming environmental documents that will be tiered to the program EIS.

In regard to State, area-wide and local plan and program consistency, BPA made a determination that the requirements of the Intergovernmental Cooperation Act and OMB Circular A–95 are not relevant to BPA's proposed vegetation management program (see Chapter 8, Section 5, of the EIS). Nevertheless, BPA relied upon the clearinghouses established under A–95 in circulating its draft program EIS to State, regional, and local agencies. Copies of the final EIS, as well as this ROD, have been sent to the same

agencies, organizations, and individuals who received the draft EIS.

In regard to coastal management program consistency, BPA concluded that its vegetation management program was consistent with the Washington State Coastal Zone Management Program and the Oregon State Coastal Zone Management Program (see Chapter 8, Section 6, of the EIS). This was in the form of General Consistency Determinations for both State programs as provided for in 15 CFR 930.39. The general consistency determinations were incorporated into the draft EIS (which was distributed in September 1982), and provided to the Department of Land Conservation and Development (Oregon) and the Department of Ecology (Washington). Neither of these States disagreed with BPA's general consistency determination. In the case of Oregon, written concurrence with BPA's finding was obtained.

In regard to floodplains, BPA concluded that the procedures for floodplain review set forth in Executive Order (EO) 11988, as well as the Department of Energy's (DOE's) Regulations at 10 CFR Part 1022, are not relevant to BPA's vegetation management program (see Chapter 8, Section 7, of the EIS).

In regard to wetlands, BPA concluded that EO 11990 (Wetland Protection) and DOE's implementing regulations for wetland protection were relevant to transmission facilities vegetation management (see Chapter 8, Section 8, of the EIS). This conclusion was reached because the use of herbicides on transmission line rights-of-way through wetlands could be considered to be an unusual circumstance with potential for adverse impact. However, because of the mitigation measures incorporated into BPA's proposed vegetation management program (e.g., stream buffer zones, and drift control measures) and the low toxicities of herbicides used by BPA (see Chapter 7 of the EIS, *Water Quality),* adverse impacts to wetlands are highly unlikely. Accordingly, no unusual circumstances were found to exist and a wetlands assessment was not deemed necessary for BPA's program.

In regard to farmlands, BPA concluded that its vegetation management program does not result in the conversion of farmlands to other uses (see Chapter 8, Section 9, of the EIS). Nevertheless, it was acknowledged that farmland protection requirements are relevant because vegetation management may potentially impact agricultural productivity. Such potential impacts are effectively minimized because: (1) vegetation control is not normally required in cultivated areas, (2) drift control and other mitigation measures minimize the possibility of impacts to nontarget vegetation, and (3) BPA's policy is to cooperate with others in noxious weed control in agricultural areas. Additionally, the herbicides used by BPA do not persist long enough to pose any problem of reduced soil productivity.

FOR FURTHER INFORMATION CONTACT: Anthony R. Morrell, Environmental Manager, Bonneville Power Administration, P.O. Box 3621—SJ, Portland, Oregon 97208; telephone (503) 230–5136. Copies of this Record of Decision are being sent to agencies, organizations, and individuals who were sent copies of the EIS.

Issued in Portland, Oregon, December 16, 1983.

Peter T. Johnson,

Administrator.

[FR Doc. 84–661 Filed 1–10–84; 8:45 am]

BILLING CODE 6450–01–M

Office of Energy Research

High Energy Physics Advisory Panel; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: High Energy Physics Advisory Panel (HEPAP).

Date and time: Monday, February 6, 1984, 9:00am—6:00pm, Tuesday, February 7, 1984, 9:00am—5:00pm.

Place: U.S. Department of Energy, Room A–410, 19901 Germantown Road, Germantown, MD 20874.

Contact: Dr. P. K. Williams, Executive Secretary, High Energy Physics Advisory Panel, U.S. Department of Energy, ER–221, Washington, D.C. 20545, Telephone: 301/353–4829.

Purpose of Panel: To provide advice and guidance on a continuing basis with respect to the high energy physics research program.

Tentative Agenda

Monday, February 6, 1984

—Discussion of FY 1984 Appropriation Budgets and FY 1985 Presidential Reguest Budgets for NSF Elementary Particle Physics and DOE High Energy Physics programs.
—Discussion of DOE actions and plans on advanced accelerator R&D.
—Presentation and discussion of results of SLC R&D tests and construction status.
—Discussion of Capital Equipment needs in the DOE High Energy Physics and NSF Elementary Particle Physics programs.
—Discussion of issues on the boundary between High Energy Physics and Nuclear Physics.
—Public Comment (10 minute rule).

Tuesday, February 7, 1984

—Presentation and discussion on review of non-accelerator experiments: high energy gamma ray astronomy; searches for magnetic monopoles.
—Further discussion of budgets and equipment problems.
—Public comment (10 minute rule).

Public participation: The meeting is open to the public. The Chairperson of the panel is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Panel will be permitted to do so either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Executive Secretary at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Minutes: Available for public review and copying at the Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on January 5, 1984.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 84–660 Filed 1–10–84; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[PF–359 PH–FRL 2505–1]

Certain Companies; Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide petitions relating to the establishment of tolerances for residues of certain pesticide chemicals in or on certain commodities.

ADDRESS: By mail, written comments may be sent to the following address,

attention Product Manager (PM) named in each petition:

Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In Person, deliver comments to: Rm. 236, CM No. 2, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Written comments must be identified by the document control number [PF–359]. All written comments filed in reponse to this notice will be available for public inspection in the Program Management and Support Division office at the address above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: The Product Manager at the telephone and room number given in each petition.

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following pesticide petitions relating to the establishment of tolerances for residues of certain pesticide chemicals in or on certain commmodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

Initial Filings

1. *PP 4F2992.* E.I. du Pont de Nemours & Co., Wilmington, DE 19898. Proposes amending 40 CFR 180.303 by establishing tolerances for the insecticide oxamyl (methyl *N',N'*-dimethyl-*N*-[(methylcarbamoyl)oxy]-1-thiooxamimidate) in or on the commodity cabbage at 2 parts per million (ppm). The proposed analytical method for determining residues is gas chromatography with sulfur sensitive flame photometric detector. (Jay Ellenberger, PM–12, CM#2, Rm. 205 (703–557–2386))

2. *PP 4F2999.* Dow Chemical Co., P.O. Box 1706, Midland, MI 48640. Proposes amending 40 CFR 180.342 by establishing tolerances for the combined residues of the insecticide chlorpyrifos, *O, O*-diethyl *O*-(3,5,6-trichloro-2f-pyridyl) phosphorothioate and its metabolite 3,5,6-trichloro-2-pyridinol in or on the commodities tree nuts as follows:

Commodities	Parts per million (ppm)
Almonds	0.2
Beech nut	.2
Brazil nut	.2
Butternut	.2
Cashew	.2
Chestnut	.2
Chinquapin	.2
Filbert	.2
Hickory	.2
Macadamia	.2
Pecan	.2
Walnuts (black and English)	.2

The proposed analytical method for determining residues is gas chromatography using a flame photometric detector. (Jay Ellenberger, PM–12, CM#2, Rm. 205, (703–557–2386)).

3. *PP 4F3000.* Ciba-Geigy Corp., Agricultural Division, P.O. Box 18300, Greensboro, NC 27419. Proposes amending 40 CFR 180.368 by establishing tolerances for the combined residues of the herbicide metolachlor [2-chloro-*N*-(2-ethyl-6-methyl-phenyl)-*N*-(2-methoxy-l-methylethyl) acetamide] and its metabolites determined as 2-[(2-ethyl-6-methylphenyl)-amino]-1-propanol and 2-[(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, each expressed as parent metolachlor, in or on the commodity apples at 0.1 ppm. Proposed analytical method for determining residues is gas chromatography. (Richard Mountfort, PM–23, CM#2, Rm. 247, (703–557–1830).

4. *PP 4F3006.* Elanco Products Co., 740 South Alabama St., Indianapolis, IN 46285. Proposes amending 40 CFR 180.416 by establishing tolerances for the herbicide ethalfluralin [*N*-ethyl-*N*-(2-methyl-2 propenyl)-2, 6-dinitro-4-(trifluoromethyl) benzenamine] in or on the commodity sunflowers at 0.05 ppm. The proposed analytical method for determining residues is electron capture gas liquid chromatography. (Richard Mountfort, PM–23, CM#2, Rm. 247, (703–557–1830).

5. *PP 4F2984.* Rhone-Poulenc, Inc., Agrochemical Division, P.O. Box 125, Black Horse Lane, Monmouth Junction, NJ 08852. Proposes amending 40 CFR Part 180 by establishing an exemption from the requirement of a tolerance for residues of the reported wetting and dispersing agents sopropher 3 D 33: alpha [phenyl, 2,4,6-tris (1 phenyl ethyl)] omega polyoxyethylene, mixture of phosphates and soprophor FL: Alpha [phenyl, 2,4,6-tris (1 phenyl ethyl)] omega polyoxyethylene, mixture of phosphates, triethanolamine salt in or on the commodity cotton. (Robert Taylor, PM–25, CM#2, Rm. 245, (703–557–1800).

6. *PP 4F2996.* American Cyanamid Co., P.O. Box 400, Princeton, NJ 08540. Proposes amending 40 CFR 180.352 by establishing tolerances for the combined residues of the insecticide terbufos (S-[[(1,1-dimethylethyl)thio]methyl] *O,O* diethyl phosphorodithioate) and its phosphorylated (cholinesterase-inhibiting) metabolites phosphorothioic acid [*S*-(*t*-butyl-thio)methyl *O,O*-diethyl ester]; phosphorothioic acid [*S*-(*t*-butyl-sulfinyl)methyl *O,O*-diethyl ester]; phosphorothioc acid [*S*-(*t*-butyl-suflonyl) methyl *O,O*-diethyl ester]; phosphorothioic acid [*S*-(*t*-butyl-sulfinyl) methyl *O,O*-diethyl ester]; phosphorothioic acid [*S*-(*t*-butyl-suflonyl)methyl *O,O*-diethyl ester] in or on the commodities peanut nutmeat at 0.05 ppm, and peanut shells at 2.5 ppm. The proposed analytical method for determining residues is gas chromatographic procedure equipped with a flame photometric detector. (William Miller, PM–16, CM#2, Rm. 211, (703–557–2600).

7. *PP 4F3005.* Stauffer Chemical Co., 1200 S. 47 St., Richmond, CA 94804. Proposes amending 40 CFR 180.328 by establishing tolerances for the residues of the herbicide *N,N*-diethyl-2-(1-naphthalenyloxy)-propionamide in or on the commodities as follows:

Commodities	Parts per million (ppm)
Alfalfa	0.1 (N)
Alfalfa forage	1 (N)
Alfalfa hay	.1 (N)
Peanuts	1 (N)
Peanuts forage	.1 (N)
Peanuts hay	.1(N)
Peanuts hulls	1 (N)
Pineapples	.1 (N)
Root and tuber vegetables	.1 (N)

The proposed anlytical method for determining residues is gas liquid chromatography using the Cowson conductivity detector specific for nitrogen. (Robert Taylor, PM–25, CM#2, Rm. 243, (703–557–1800).

(Sec. 408(d)(2) 68 Stat. 512, (21 U.S.C. 436a(d)(2)))

Dated: December 27, 1983.

Robert Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84–684 Filed 1–10–84; 9:45 am]

BILLING CODE 6560–50–M

[PF–360 PH–FRL 2505–3]

Certain Companies; Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide petitions relating to the establishment of tolerances for residues of certain

pesticide chemicals in or on certain commodities.

ADDRESS: By mail submit written comments to:

Program Management and Support Division (TS–757C), Attn: Product Manager (PM) 21, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, deliver comments to: Rm. 236, CM#2, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Written comments must be identified by the document control number [PF–360]. All written comments filed in response to this notice will be available for public inspection in the Program Management and Support Division office at the address above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Henry Jacoby, PM–21, 557–1900.

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following pesticide petitions relating to the establishment of certain pesticide chemicals in or on certain commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

Initial Filings

1. *PP 4F2998.* BASF Wyandotte Corp., P.O. Box 181, Parsippany, NJ 07054. Proposes amending 40 CFR 180.380 by establishing tolerances for the combined residues of the fungicide 3-(3,5-dichlorophenyl)-5-ethenyl-5-methyl-2,4-oxazolidinedione and its metabolites containing the 3,5-dichloro aniline moiety in or on the commodities tomatoes at 2.0 parts per million (ppm) and cucumbers at 1.0 ppm. The analytical method for determining residues is gas chromatography using an electron capture detector (Ni63).

2. *PP 4F3007.* Ciba Giegy Corp., P.O. Box 18300, Greensboro, NC 27419. Proposes amending 40 CFR Part 180 by establishing tolerances for the combined residues of the fungicide (1-[[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl]methyl]-1*H*-1,2,4-triazole and its metabolites determined as 2,4–dichlorobenzonic acid and expressed as parent compound in or on the commodity pecans at 0.1 ppm. The proposed analytical method for determining residues is gas liquid chromatography.

(Sec. 408(d)(2) 68 Stat. 512, (21 U.S.C. 346a(d)(2))).

Dated: December 27, 1983.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84–636 Filed 1–10–84; 8:45 am]

BILLING CODE 6560–50–M

[OPP–180633; PH–FRL 2505–4]

Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pests in the States listed below. Also listed are three crisis exemptions initiated by two States and the U.S. Department of Agriculture, Animal and Plant Health Inspection Service (USDA/APHIS).

DATES: See each specific and crisis exemption for its effective dates.

FOR FURTHER INFORMATION CONTACT: See each specific and crisis exemption for the name of the contact person. The following information applies to all contact people: By mail:

Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460

Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.(703–557–1192)

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. Florida Department of Agriculture and Consumer Services for the use of benomyl on potatoes to control *S. Sclerotiorum;* November 14, 1983 to April 30, 1984. EPA completed a rebuttable presumption against registration (RPAR) on this chemical; the final determination was published in the **Federal Register** of October 20, 1982 (47 FR 46747). (Jim Tompkins)

2. Minnesota Department of Agriculture for the use of metalaxyl on sunflower seeds to control downy mildew; December 8, 1983 to May 30, 1984. (Gene Asbury)

3. USDA/APHIS for the use of naled on inanimate objects to eradicate oriental fruit fly in California; December 3, 1983 to December 4, 1984. (Jack E. Housenger)

Crisis exemptions were initiated by the:

1. Arizona Commission of Agriculture and Horticulture on November 18, 1983, for the use of metalaxyl on cauliflower, broccoli, and collards to control downy mildew. Since it was anticipated that this program would be needed for more than 15 days, Arizona has requested a specific exemption to continue it. The need for this program is expected to last until December 1984. (Jim Tompkins)

2. Texas Department of Agriculture on October 4, 1983, for the use of permethrin on collards, mustard, and turnip greens to control the cabbage looper. Since it was anticipated that this program would be needed for more than 15 days, Texas has requested a specific exemption to continue it. The need for this program is expected to last until January 31, 1984. (Jack E. Housenger)

3. USDA/APHIS on October 31, 1983, for the use of malathion on fly sites to control the Mexican fruit fly. Since it was anticipated that this program would be needed for more than 15 days, USDA/APHIS has requested a quarantine exemption to continue it. The need for this program is expected to continue for one year. (Jack E. Housenger)

(Sec. 18, as amended, 92 Stat. 819 (7 U.S.C. 136))

Dated: December 23, 1983.

James M. Conlon,

Director, Office of Pesticide Programs.

[FR Doc. 84–667 Filed 1–10–84; 8:45 am]

BILLING CODE 6560–50–M

[PP 3G2855/T435; PH–FRL 2505–2]

5-(4-Chlorophenyl)-2, 3-Diphenylthiophene Establishment of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established temporary tolerances for residues of the insecticide 5-(4-chlorophenyl)-2, 3-diphenylthiophene in or on certain raw agricultural commodities. These temporary tolerances were requested by Uniroyal Chemical Company.

DATE: These temporary tolerances expire December 9, 1984.

FOR FURTHER INFORMATION CONTACT: By mail:

Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460

Office location and telephone number: Rm. 202, CM#2, 1921 Jefferson Davis Highway, Arlington, VA (703–557–2366)

SUPPLEMENTARY INFORMATION: Uniroyal Chemical Company, 74 Amity Road, Bethany, CT 06525, has requested in pesticide petition PP 3G2855, the establishment of temporary tolerances

for residues of the insecticides 5-(4-chlorophenyl)-2, 3-diphenylthiophene, in or on the raw agricultural commodities grapefruit and oranges at 0.5 part per million (ppm); milk fat at 0.5 ppm (reflecting no more than 0.02 ppm in whole milk), meat and meat byproducts of cattle at 0.02 ppm, and fat of cattle at 0.1 ppm. A related food and feed additive regulation has established a tolerance for 5-(4-chlorophenyl)-2, 3-diphenylthiophene in citrus oil at 100 ppm and dried citrus pulp at 3.0 ppm.

These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permits 400–EUP–62 and 400–EUP–63 which are being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been established on the condition that the pesticide be used in accordance with the experimental use permits and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permits.

2. Uniroyal Chemical Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire December 9, 1984. Residues not in excess of these amounts remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permits and temporary tolerances. These tolerances may be revoked if the experimental use permits are revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 610–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516 (21 U.S.C. 346a(j)))

Dated: December 30, 1983.

Robert V. Brown,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84–685 Filed 1–10–84; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Delegation of Authority to the Department of Health and Human Services

AGENCY: Federal Emergency Management Agency.

ACTION: Authority Delegation.

SUMMARY: This notice advises State and local governments and the public of a delegation of authority to the Secretary of Health and Human Services by the Federal Emergency Management Agency.

DATE: The delegation of authority is effective on January 11, 1984.

FOR FURTHER INFORMATION CONTACT: Agnes Mravcak, Emergency Management Specialist, Federal Emergency Management Agency, SLPS/DAP/IA, Rm 713, Washington, DC 20472, Phone: (202) 287–0555.

SUPPLEMENTARY INFORMATION: On March 7, 1975, the Secretary of Housing and Urban Development issued a delegation of authority to the Secretary of Health, Education and Welfare concerning the execution of the Crisis Counseling Assistance and Training program authorized by section 413 of the Disaster Relief Act of 1974, Pub. L. 93–288 (42 U.S.C. 5183). Administration of most disaster relief programs under the Act was then a function of the Department of Housing and Urban Development. Most of the programs under the Act have been transferred under Executive Order 12148, as amended, to the Director of the Federal Emergency Management Agency. The responsibility for the Crisis Counseling Assistance and Training program has been further redelegated to the Associate Director, State and Local Programs and Support (44 CFR 2.61), and to the FEMA Regional Directors (44 CFR 2.71).

Authority Delegation

Pursuant to the authority vested in me to exercise certain of the powers and authorities of the President with respect to Federal disaster assistance pursuant to Section 4–203 of Executive Order 12148, entitled "Federal Emergency Management," (44 FR 43239; July 20, 1979), I hereby delegate to the Secretary of Health and Human Services the following authority:

1. The authority to ascertain whether assistance under Section 413 of the Disaster Relief Act of 1974, as requested by a Governor of his/her representative, is warranted, and to recommend approval or disapproval of the request;

2. The authority to provide technical assistance to the FEMA Regional Directors and to States;

3. The authority to perform program oversight functions on behalf of FEMA;

4. The authority to recommend to FEMA approval or disapproval of program extensions and appeals;

5. The authority to fund States to provide the approved services, with funds provided by FEMA from the President's Disaster Fund;

6. The authority to provide direct services, with funds provided by FEMA from the President's Disaster Fund, when the State determines that it cannot perform the required services; and

7. The authority to review the program regulations, make recommendations for change, and participate in the revision process.

Dated: January 3, 1984.

Samuel W. Speck,

Associate Director, State and Local Programs and Support Federal Emergency Management Agency.

[FR Doc. 84–652 Filed 1–10–84; 8:45 am]

BILLING CODE 6718–01–M

Delegation of Authority to the Department of Health and Human Services

AGENCY: Federal Emergency Management Agency.

ACTION: Notice of Withdrawal of Delegation of Authority.

SUMMARY: This notice advises State and local governments and the public of FEMA's withdrawal of a previous delegation of authority to the Secretary of Health, Education and Welfare (40 FR 10705; March 7, 1975).

DATE: The withdrawal is effective on January 11, 1984.

FOR FURTHER INFORMATION CONTACT: Agnes C. Mravcak, Office of Disaster Assistance Programs, State and Local Programs and Support, Federal Emergency Management Agency, 500 C Street, S.W., Washington, DC 20472 (202–287–0555).

SUPPLEMENTARY INFORMATION: On March 7, 1975, the Secretary of Housing and Urban Development issued a delegation of authority to the Secretary of Health, Education and Welfare concerning the execution of the Crisis Counseling Assistance and Training program authorized by section 413 of the Disaster Relief Act of 1974, Pub. L. 93–288 (42 U.S.C. 5183). Administration of most disaster relief programs under the Act was then a function of the Department of Housing and Urban Development. Most of the programs under the Act have been transferred under Executive Order 12148, as amended, to the Director of the Federal Emergency Management Agency. The responsibility for the Crisis Counseling Assistance and Training program has been further redelegated to the Associate Director, State and Local Programs and Support (44 CFR 2.61), and to the FEMA Regional Directors (44 CFR 2.71).

Authority Revocation

Pursuant to the authority vested in me to exercise certain of the powers and authorities of the President with respect to Federal disaster assistance pursuant to Section 4–203 of Executive Order 12148, entitled "Federal Emergency Management," (44 FR 43239; July 20, 1979), I hereby revoke the delegation to the Secretary of Health, Education and Welfare dated October 29, 1974 and effective March 7, 1975 (40 FR 10705) concerning section 413 of the Disaster Relief Act of 1974.

Samuel W. Speck,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 84–669 Filed 1–10–84; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the Federal Register in which this notice appears. The requirements for comments and protests are found in § 522.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: T–3738–2.

Title: South Carolina State Ports Authority and Orient Overseas Container Line, Inc., Terminal Lease Agreement Modification.

Parties: South Carolina State Ports Authority (Authority) and Orient Overseas Container Line, Inc. (OOCL).

Synopsis: This amendment modifies the basic agreement which provides for the lease by the Authority to OOCL of premises at the Port's North Charleston terminal, Charleston, South Carolina. The amendment establishes a fixed expiration date, increases the size of the leased area, increases the monthly rental, increases the minimum annual tonnage guarantee and provided for an option for additional acreage.

Filing party: W. M. Lawrence, South Carolina State Ports Authority, P.O. Box 817, Charleston, South Carolina 29402.

Agreement No.: T–3740–2.

Title: Georgia Ports Authority and United States Lines, Inc. Amended Lease Agreement

Parties: Georgia Ports Authority (Port) and United States Lines, Inc. (USL)

Synopsis: Agreement No. T–3740–2 modifies the basic agreement between the parties for the Port's 5-year lease to USL of premises at berth No. 60, Garden City Terminal, Chatham County, Georgia. The purpose of the modification is to extend the term of the agreement to March 30, 1984, by which time a new agreement will be submitted to the Federal Maritime Commission for approval.

Filing party: Robert W. Goethe, Assistant Executive Director, Georgia Ports Authority, P.O. Box 2406, Savannah, Georgia 31402.

Agreement No. T–4159.

Title: San Francisco Port Commission and National Galleon Shipping Company, User Terminal Lease Agreement.

Parties: San Francisco Port Commission (Port) and National Galleon Shipping Company (Galleon).

Synopsis: Agreement No. T–4159 provides that the Port will grant to the User (Galleon) nonexclusive right to use the San Francisco Container Terminal facilities at Piers 94 and 96, for the handling of its vessels. Galleon agrees to use the premises as its regularly scheduled Northern California port of call. As consideration to Galleon for the use of the assigned premises as its regular port of call, it shall pay to the Port 60% of all revenue from dockage, wharfage, demurrage and storage earned in lieu of 100% payment. The provisions of the Port's Tariff No. 3–C shall apply to Galleon's use of the premises. The term of the agreement is for 5 years.

Filing party: Samuel B. Nemirow, Esq., Hill, Betts and Nash, 1220 Nineteenth Street, N. W., Washington, D.C. 20036.

Agreement No. T–4160.

Title: Port Everglades Authority and Sea-Land Service, Inc., Renewal Terminal Lease Agreement.

Parties: Port Everglades Authority (Port) and Sea-Land Service, Inc. (Sea-Land).

Synopsis: Agreement No. T–4160 restates previously approved Agreement No. T–3918 between the parties, and extends the term for a period of 2–years. The Port leased 6 acres of land in Broward County, Florida, to be used by Sea-Land in the handling and processing of containers and related equipment.

Filing party: Don S. Harvey, Port Everglades Authority, P.O. Box 13136, Fort Lauderdale, Florida 33316.

Agreement No. 17–46.

Title: Far East Conference.

Parties:

Japan Line
Kawasaki Kisen Kaisha, Ltd.
Nitsui O.S.K. Lines, Ltd.
A. P. Moller-Maersk Line
Nippon Yusen Kaisha
United States Lines, Inc.
Yamashita-Shinnihon Steamship Co., Ltd.

Synopsis: The proposed amendment would delete Article 23 of the agreement and Item III of Schedule A to the agreement which would eliminate the conference's misrating program.

Filing party: Gerald F. Flynn, Chairman, Far East Conference, 40 Rector Street, New York, New York 10006.

Agreement No. 17–47.

Title: Far East Conference.

Parties:

Japan Line, Ltd.

Kawasaki Kisen Kaisha, Ltd.
Mitsui O.S.K. Lines, Ltd.
A. P. Moller Maersk Line
Nippon Yusen Kaisha
United States Lines, Inc.
Yamashita-Shinnihon Steamship Co., Ltd.

Synopsis: Agreement No. 17–47 would amend Article 8(a) of the basic agreement to provide that matter not docketed in accordance with the Conference procedure cannot be discussed at any Conference meeting unless such discussion is approved by the majority of the attendees voting in accordance with the Conference Agreement and cannot be voted upon unless motion for a vote is unanimously agreed by all parties present. Such matters then can be passed in accordance with the voting procedures of the Conference Agreement.

Filing Party: Gerald J. Flynn, Chairman, Far East Conference, 40 Rector Street, New York, New York 10006.

By Order of the Federal Maritime Commission.

Dated: January 6, 1984.

Francis C. Hurney,
Secretary.

[FR Doc. 84–736 Filed 1–10–84; 8:45 am]
BILLING CODE 6730–01–M

Filing and Approval of Agreement

The Federal Maritime Commission hereby gives notices that on December 28, 1983, the following agreement was filed with the Commission pursuant to section 15 of the Shipping Act, 1916, as amended by section 4 of the Maritime Labor Agreements Act of 1980, Pub. L. 96–325, 94 Stat. 1021, and was deemed approved that date, to the extent it constitutes an assessment agreement as described in the fifth paragraph of section 15, Shipping Act, 1916.

Agreement No.: LM–82–4.

Title: West Gulf Maritime Association Assessment Agreement.

Synopsis: Basic Agreement No. LM–62 is a Resolution of the West Gulf Maritime Association establishing the Guaranteed Annual Income Program and Fringe Benefits Contract Administration Assessment. The amendment LM–82–4 provides for an extension of the current level of assessments for an additional period of time to and including June 30, 1984 in view of the decline in trade and cargoes moving to the ports in the West Gulf.

Filing Party: Royston Raysor, Vickery and Williams, 2200 Texas Commerce Tower, Houston, Texas 77002.

By Order of the Federal Maritime Commission.

Dated: January 6, 1984.

Francis C. Hurney,
Secretary.

[FR Doc. 84–735 Filed 1–10–84; 8:45 am]
BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Allied Bancshares, Inc., et al.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under sections 3(a)(1) and 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a) (1) and (3)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Allied Bancshares, Inc.*, Houston, Texas to acquire 100 percent of the voting shares of Texas United Bancorp, Inc., Fort Worth, Texas, and Allied Fort Worth Bancshares, Inc., Houston, Texas, to become a bank holding company by acquiring 100 percent of the voting shares of Texas United Bancorp, Inc., Fort Worth, Texas. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Dallas. Comments on this application must be received not later than February 3, 1984.

Board of Governors of the Federal Reserve System, January 6, 1984.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 84–678 Filed 1–10–84; 8:45 am]
BILLING CODE 6210–01–M

DeKalb County Bancshares, Inc.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The bank holding company listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (49 Federal Register 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated for that application. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to the application, interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding this application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 2, 1984.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *DeKalb County Bancshares, Inc.*, Clarksdale, Missouri; to acquire Nelsen Insurance Agency, Clarksdale, Missouri. A company engaged in acting as agent for the sale of any insurance in Clarksdale, Missouri, a town with a population not exceeding 5,000, and in the surrounding area in northeast Missouri.

Board of Governors of the Federal Reserve System, January 6, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-677 Filed 1-10-84; 8:45 am]

BILLING CODE 6210-01-M

First Commonwealth Financial Corporation, et al.; Acquisition of Bank Shares by Bank Holding Companies

The companies in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *First Commonwealth Financial Corporation,* Indiana, Pennsylvania; to acquire 100 percent of the voting shares or assets of Deposit Bank, DuBois, Pennsylvania. Comments on this application must be received not later than February 3, 1984.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Lexington Bancshares, Inc.,* Lexington, Nebraska; to acquire 49.96 percent of the voting shares or assets of Seven V Banco, Inc., Callaway, Nebraska, parent of Seven Valleys State Bank of Callaway, Callaway, Nebraska. Comments on this application must be received not later than February 3, 1984.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Camino Real Bancshares, Inc.,* Carrizo Springs, Texas; to acquire 81.9 percent of the voting shares of Frontier State Bank, Eagle Pass, Texas. Comments on this application must be received not later than February 3, 1984.

2. *Northside Financial Corporation,* San Antonio, Texas; to acquire 100 percent of the voting shares or assets of Northwest Bank, N.A., San Antonio, Texas. Comments on this application must be received not later than February 3, 1984.

D. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Allied Bancshares, Inc.,* Houston, Texas; to acquire 100 percent of the voting shares of Allied Bank North Capitol Central, N.A., Dallas, Texas. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Dallas. Comments on this application must be received not later than February 3, 1984.

Board of Governors of the Federal Reserve System, January 6, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-679 Filed 1-10-84; 8:45 am]

BILLING CODE 6210-01-M

First National Bancorp, Inc., et al.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *First National Bancorp, Inc.,* Centre Hall, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of The First National of Centre Hall, Centre Hall, Pennsylvania. Comments on this application must be received not later than February 1, 1984.

2. *Southern Jersey Bancorp.,* Bridgeton, New Jersey; to become a bank holding company by acquiring 100 percent of the voting shares of The Farmers and Merchants National Bank of Bridgeton, Bridgeton, New Jersey. Comments on this application must be received not later than February 3, 1984.

B. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *First Western Pennbancorp, Inc.,* New Castle, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Western Pennsylvania, New Castle, Pennsylvania. Comments on this application must be received not later than January 31, 1984.

C. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Fessenden Bancshares, Inc.,* Fessenden, North Dakota; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Fessenden, Fessenden, North Dakota. Comments on this application must be received not later than February 1, 1984.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First Bancorp of Kansas,* Wichita, Kansas; to retain 16.77 percent of the voting shares of The First National Bank of Neodesha, Neodesha, Kansas, and 11.8 percent of the voting shares of Stockgrowers State Bank, Ashland, Kansas, all of which were acquired through the trust department of its subsidiary bank. Comments on this application must be received not later than January 27, 1984.

Board of Governors of the Federal Reserve System, January 6, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-680 Filed 1-10-84; 8:45 am]

BILLING CODE 6210-01-M

LCB Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated for that application. Once the application has

been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to each application, interested persons may express their views in writing to the Reserve Bank indicated for that application or to the office of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than February 2, 1984.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *LCB Bancorp. Inc.*, Elyria, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of The Lorain County Savings & Trust Co., Elyria, Ohio.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *First Virginia Banks, Inc.*, Falls Church, Virginia; to acquire 100 percent of the voting shares or assets of First Virginia Bank Citizens-Clintwood, Virginia, the successor by merger to Virginia Citizens Bank, Clintwood, Virginia.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Citizens Bancorporation*, Sheboygan, Wisconsin; to acquire 100 percent of the voting shares or assets of S.B.W. Bancorp, Inc., Waupun, Wisconsin, thereby indirectly acquiring The State Bank of Waupun, Waupun, Wisconsin.

2. *Cole-Taylor Financial Group, Inc.*, Northbrook, Illinois; to acquire 92 percent of the voting shares or assets of Ford City Bank & Trust Company, Chicago, Illinois.

3. *Minier Financial*, Minier, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of First Farmer's State Bank of Minier, Minier, Illinois.

D. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Bancshares of Ripley, Inc.*, Ripley, Tennessee; to become a bank holding company by acquiring 80 percent or more of the voting shares of Bank of Ripley, Ripley, Tennessee.

E. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Valley Bank Holding Company*, Security, Colorado; to acquire 58.6 percent of the voting shares or assets of Mountain National Bank, Woodland Park, Colorado.

2. *Wilson Bancshares, Inc.*, Wilson, Oklahoma; to become a bank holding company by acquiring at least 80 percent of the voting shares of The Bank of Wilson, Wilson, Oklahoma.

F. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First United Bancshares, Inc.*, Houston, Texas; to become a bank holding company by acquiring at least 93.9 percent of the voting shares of United National Bank of Houston, Houston, Texas.

Board of Governors of the Federal Reserve System, January 6, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-681 Filed 1-10-84; 8:45 am]

BILLING CODE 6210-01-M

First Arkansas Bankstock Corporation, et al; Proposed "De Novo" Nonbank Activities by Bank Holding Companies

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo)* (or continue to engage in an activity earlier commenced *de novo*, directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing shoud identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Arkansas Bankstock Corporation*, Little Rock, Arkansas (financing, servicing, investment advisory, and management consulting activities; southern and midwestern United States): To engage through its subsidiary, FABCO Mortgage Company, Inc., also doing business as FABCO Associates Finance, Incorporated, in the making, procuring or acquiring loans and other extensions of credit for the accounts of others as would be made by commercial banks, savings and loans associations, or other similar-type financial institutions; servicing such loans for others; providing investment or financial advice to any person; and providing management consulting advice to nonaffiliated banks and nonbanking depository institutions, all in accordance with the Board's Regulation Y. These activities will be conducted from offices of its Applicant's subsidiary located in Little Rock, Arkansas, serving the states of Arkansas, Tennessee, Mississippi, Louisiana, Texas, Oklahoma, Missouri, and Kansas. Comments on this application must be received not later than January 26, 1984.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *BankAmerica Corporation*, San Francisco, California (making loans and other extensions of credit; Florida): To engage, through its proposed indirect subsidiary, Overseas Finance Corporation, a proposed Delaware corporation, in the activities of making loans and other extensions of credit to domestic and overseas borrowers, including foreign governments and their agencies and instrumentalities. Such activities will include, but not to be limited to, issuing letters of credit and accepting drafts. These activities will be conducted from a *de novo* office in Coral Gables, Florida, serving all fifty states, the District of Columbia and all foreign countries. Due to the need for BankAmerica Corporation to provide a vehicle that management considers suitable for making loan commitments

as early as January 1984, this notice is being published on an emergency basis and comments on this application must be received not later than January 13, 1984.

Board of Governors of the Federal Reserve System, January 6, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-682 Filed 1-10-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Medicaid Program; Hearing; Reconsideration of Disapproval of Three New York State Plan Amendments

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of Hearing.

SUMMARY: This notice announces an administrative hearing on February 14, 1984 in New York City, New York, to reconsider our decision to disapprove New York State Plan Amendments 83-12, 83-13 and 83-17.

DATE: Closing date: Requests to participate in the hearing as a party must be received by January 26, 1984.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, Bureau of Eligibility, Reimbursement and Coverage, 365 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207; Telephone: (301) 594-8261.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove three New York State Plan Amendments.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid Agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues which will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with the requirements contained in 45 CFR 215.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins, in accordance with the requirements contained in 45 CFR 213.15(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

New York has requested a reconsideration of our decision to disapprove three State Plan Amendments. The issues in the three State Plan Amendments are discussed below:

New York SPA 83-12—The issue in this matter is whether New York's request to revise the methods and standards used to set rates of reimbursement for psychiatric hospitals operated by the New York State Office of Mental Health violates section 1902(a)(13)(A) of the Social Security Act.

Section 1902(a)(13)(A) of the Social Security Act requires, in part, that payment of hospital services be provided under the State plan through the use of rates which the State finds, and makes assurances satisfactory to the Secretary, are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide care service in conformity with applicable State and Federal laws, regulations, and quality and safety standards. The section further states that the methods and standards used to determine rates must take into account the situation of hospital which serve a disproportionate number of low income patients with special needs. The addition of outpatient service costs as allowable costs in the determination of inpatient hospital rates does not constitute costs relative to the provision of inpatient care and services. Therefore, HCFA has determined that New York's proposed plan is in violation of the requirement of section 1902(a)(13)(A) of the Social Security Act.

New York 83-13—The issue in this matter is whether New York's request to amend its long-term care reimbursement plan for residential health care facilities by defining certain assessment fees as allowable costs is in violation of section 1903(a)(1) and section 1902(a)(13)(A) of the Social Security Act. Section 1903(a)(1) of the Social Security Act provides that Federal Financial Participation (FFP) is available to match State expenditures incurred in reimbursing providers of medical assistance. The regulatory assessment and health agency fees the State proposed to consider as allowable costs are not expenditures. Therefore, HCFA has determined that New York's proposed plan amendment is in violation of section 1903(a)(1) of the Social Security Act.

Further, section 1902(a)(13)(A) of the Act requires that payment for long-term care services be provided under the State plan through the use of rates which the State finds and makes assurances satisfactory to the Secretary, are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with applicable States and Federal laws, regulations, and quality and safety standards. Since assessment fees do not constitute expenditures relative to the provision of care and services, HCFA has determined that proposed plan amendment is in violation of section 1902(a)(13)(A) of the Social Security Act.

New York 82-17—The issue in this matter is whether New York's request to allow coverage of continuous 24-hour personal care services in three specific categories is in violation of section 1902(a)(10) and 42 CFR 440.170(f). Section 1902(a)(10) of the Social Security Act specifies, in part, that services available to categorically needy recipients must be equal in amount, duration, and scope for all recipients within the group. The services available to a covered medically needy group also must equal in amount, duration, and scope for all recipients within the group.

The State's proposed plan would limit coverage of personal care services in the following three situations:

1. Recipient is at home awaiting placement in a residential health care facility or hospital, and has an emergency condition which necessitates continuous care;

2. Recipient requires respite care (limit of 2 weeks per year); or

3. A physically disabled recipient needs the services in order to continue or seek employment. Under this third category, services would include "assistance in preparing to go to place of employment, assistance in getting to and from the place of employment and assistance with activities of daily living such as toileting and feeding at the place of employment."

Category 3 provides for more services to employable individuals than to others in the same eligibility group. Therefore, HCFA has determined that New York's proposed plan is in violation of section 1902(a)(10) of the Social Security Act. Furthermore, regulations at 42 CFR 440.170(f) defines personal care services "in a recipient's home." The State's proposed plan allows services related to seeking or maintaining employment. These services are independent of

services furnished in the recipient's home. Therefore, HCFA has determined that New York's proposed plan is in violation of 42 CFR 440.170(f).

The notice to New York announcing an administrative hearing to reconsider our disapproval of its State Plan Amendments reads as follows:

Mr. David Emil,
Deputy Commissioner and General Counsel, New York State Department of Social Services, 40 North Pearl Street, Albany, New York 12243.

Dear Mr. Emil: This is to advise you that your requests for reconsideration of New York State Plan Amendments 83–12 and 83–13 were received on December 12, 1983. Your request for reconsideration of New York State Plan Amendment 83–17 was received on December 17, 1983. You have requested a reconsideration of whether these plan amendments conform to the requirements for approval under the Social Security Act and pertinent Federal regulations.

I am scheduling hearings on your requests to be held on February 14, 1984 in Room 2208, 22nd Floor, 26 Federal Plaza, New York City, New York. The hearings will be held as follows: 9 a.m.—New York SPA 83–12, 10:30 a.m.—New York SPA 83–13, 1:30 p.m.—New York SPA 83–17.

If this date is not acceptable, we would be glad to set another that is mutually agreeable to the parties.

I am designating Mr. Lawrence Ageloff as the presiding official. If there arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (301) 594–8261.

Sincerely yours,

Carolyne K. Davis, Ph. D.

(Section 1116 of the Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: January 6, 1984.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 84–737 Filed 1–10–84; 8:45 am]

BILLING CODE 4120–03–M

Health Resources and Services Administration

Filing of Annual Report of Federal Advisory Committee

Notice is hereby given that pursuant to section 13 of Pub. L. 92–463, the Annual Report for the following Health Resources and Services Administration Federal Advisory Committee has been filed with the Library of Congress:

National Council on Health Planning and Development.

Copies are available to the public for inspection at the Library of Congress, Newspaper and Current Periodical Reading Room, Room 1026, Thomas Jefferson Building, Second Street and Independence Avenue, SE., Washington, D.C., or weekdays between 9:00 a.m. and 4:30 p.m. at the Department of Health and Human Services, Department Library, North Building, Room 1436, 330 Independence Avenue, SW., Washington, D.C. 20201, Telephone (202) 245–6791. Copies may be obtained from Ms. Diane McMenamin, Interim Executive Secretary, National Council on Health Planning and Development, Health Resources and Services Administration, Room 17A–55, Parklawn Building, 5600, Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–4273.

Dated: January 4, 1984.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 84–695 Filed 1–10–84; 8:45 am]

BILLING CODE 4160–16–M

Office of Human Development Services

Administration for Native Americans

AGENCY: Office of Human Development Services, HHS.

SUBJECT: Amendment to Program Announcement 13612–841.

SUMMARY: This is to give public notice of the additional list of Fiscal Year 1983 grantees of the Administration for Native Americans eligible to apply for funding under Program Announcement 13612–841, Financial Assistance for Native American Projects (published at 48 FR 35562, August 4, 1983).

(Catalog of Federal Domestic Assistance Program Number 13612 Native American Programs)

Dated: December 19, 1983.

Casimer R. Wichlacz,

Acting Commissioner, Administration for Native Americans.

Approved: January 4, 1984.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

Grantee	State	BPE	Application due date
Native Americans for Community Action	AZ	3/31/84	1/1/84
Leech Lake Reservation Business Committee	MN	3/31/84	1/1/84
Eight Northern Indian Pueblos Council	NM	3/31/84	1/1/84
Business Committee of the Chippewa Cree	MT	3/31/84	1/1/84
Shoshone & Arapahoe Joint Business Council	WY	3/31/84	1/1/84
Oneida Tribe of Indians of Wisconsin	WI	3/31/84	1/1/84
San Carlos Apache Tribe	AZ	3/31/84	1/1/84
Brotherton Indian Nation	WI	3/31/84	1/1/84
Aroostook Micmac Council, Inc	ME	3/31/84	1/1/84
Office of Hawaiian Affairs	HI	3/31/84	1/1/84
Boston Indian Council, Inc	MA	3/31/84	1/1/84
Genessee Valley Indian Assoc	MI	3/31/84	1/1/84
Walker River Paiute Tribe	NV	3/31/84	1/1/84
Baltimore American Indian Center	MD	3/31/84	1/1/84
Metlakatla Indian Community	AK	3/31/84	1/1/84
Mowa Band of Choctaw Indians	AL	3/31/84	1/1/84
Miccosukee Indian Tribe of FL	FL	4/30/84	1/31/84
Ute Mountain Ute Tribe	CO	4/30/84	1/31/84
Community Action for the Urbanized Indian	CA	4/30/84	1/31/84
Menominee Tribe of Indians	WI	4/30/84	1/31/84
Indian Development District of Arizona	AZ	4/30/84	1/31/84
American Indian Community Center	WA	4/30/84	1/31/84
Oklahomans for Indian Opportunity	OK	5/31/84	3/3/84
Rhode Island Indian Council	RI	5/31/84	3/3/84
Jamestown Klallum Tribe	WA	5/31/84	3/3/84
DNA Peoples Legal Services, Inc	AZ	5/31/84	3/3/84
Chickasaw Nation	OK	5/31/84	3/3/84
Kalispel Tribe	WA	5/31/84	3/3/84
Couer d' Alene Tribe	ID	5/31/84	3/3/84
Grand Traverse Band of Ottawa	MI	5/31/84	3/3/84
Fort Bidwell Indian Assoc	CA	5/31/84	3/3/84
Sac and Fox Tribe of Indians	OK	5/31/84	3/3/84
White Earth Reservation Business Committee	MN	5/31/84	3/3/84
Yavapai-Apache Tribe	AZ	5/31/84	3/3/84
Kootenai Tribe of Idaho	ID	5/31/84	3/3/84
Swinomish Indian Tribal Community	WA	5/31/84	3/3/84
Small Tribes of Western Washington	WA	5/31/84	3/3/84
Reno Sparks Indian Colony	NV	5/31/84	3/3/84
Houlton Band of Maliseet	ME	5/31/84	3/3/84
Port Gamble Klallum Indian Colony	WA	5/31/84	3/3/84
Native American Center of Tulsa	OK	6/30/84	4/1/84
Confederated Tribes and Band of the Yakima	WA	6/30/84	4/1/84
Native American Center of Oklahoma City	OK	6/30/84	4/1/84
Powhatan Renape Nation	NJ	6/30/84	4/1/84
Seneca Nation	NY	6/30/84	4/1/84
Passamoquoddy Tribe	ME	6/30/84	4/1/84
Seattle Indian Center	WA	6/30/84	4/1/84
Hopi Tribe	AZ	6/30/84	4/1/84
Turtle Mountain Band of Chippewa	ND	6/30/84	4/1/84
Council for Tribal Employment Rights	WA	6/30/84	4/1/84
Phoenix Indian Center	AZ	6/30/84	4/1/84
The Suquamish Tribe	WA	6/30/84	4/1/84
The Kaw Tribe of OK	OK	6/30/84	4/1/84
Three Affiliated Tribes	ND	6/30/84	4/1/84
Fresno American Indian Center	CA	6/30/84	4/1/84
Makah Indian Tribe	WA	6/30/84	4/1/84
Pueblo of Acoma	NM	6/30/84	4/1/84
Fort McDermitt Paiute-Shoshone Tribe	NV	6/30/84	4/1/84
Pawnee Tribe	OK	7/31/84	5/3/84
Southern California Tribal Chairmen's Assoc	CA	7/31/84	5/3/84
Lummi Tribe	WA	7/31/84	5/3/84
Hoopa Valley Business Council	CA	8/31/84	6/1/84
American Indian Registry for the Performing Arts	CA	8/31/84	6/1/84
Keweenaw Bay Indian Community	MI	8/31/84	6/1/84
Saginaw Chippewa Indian Tribe	MI	8/31/84	6/1/84

Grantee	State	BPE	Application due date
North American Indian Assoc. of Detroit, Inc	MI	8/31/84	6/1/84
Michigan Indian Benefit Assoc	MI	8/31/84	6/1/84
Upper Midwest American Indian Center	MN	8/31/84	6/1/84
Seminole Nation	OK	8/31/84	6/1/84
Muscogee Creek Nation	OK	8/31/84	6/1/84
United Indian Development Assoc	CA	9/30/84	7/3/84
Standing Rock Sioux Tribe	ND	9/30/84	7/3/84
Confederated Tribes of the Umatilla	OR	9/30/84	7/3/84

[FR Doc. 84-562 Filed 1-10-84; 8:45 am]

BILLING CODE 4130-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Choctaw Nation of Oklahoma; Transfer of Federally Owned Lands

This notice is published in exercise of authority by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.1. On May 26, 1983, pursuant to the authority contained in the Federal Property and Administrative Services Act of 1949, as amended by Public Law 93-599 dated January 2, 1975 (88 Stat. 1954), the below-described property was transferred by the Administrator of General Services to the Secretary of the Interior, without reimbursement, to be held in trust for the use and benefit of the Choctaw Nation of Oklahoma:

Indian Meridian

The W½ and W½E½ in Section 28, Township 5 North, Range 17 East, less and except the following tracts of land designated as Tracts 1 and 2.

The above described W½ and W½E½ of Section 28 is subject to the right of ingress and egress over and across the existing access road.

Tract 1

A parcel of land in the Northwest quarter of Section 28, Township 5 North, Range 17 East, Pittsburg County, Oklahoma, more particularly described as follows:

Beginning at the Northeast corner of the Northwest quarter of Section 28; thence South 1 degree, 45 minutes, 12 seconds East along the East line of the Northwest quarter, 1827.20 feet; thence South 88 degrees, 42 minutes, 27 seconds West and parallel with the North line of Section 28, 1574.04 feet; thence North 0 degrees, 17 minutes, 44 seconds West and parallel with the West line of Section 28, 1195.21 feet; thence South 88 degrees, 42 minutes, 27 seconds West and parallel with the North line of Section 28, 397.70 feet; thence North 0 degrees, 17 minutes, 44 seconds West and parallel with the West line of Section 28, 632.21 feet to a point on the North line of Section 28, said point being 710.00 feet East of the Northwest corner of Section 28; thence North 88 degrees, 42 minutes, 27 seconds East along the North line of Section 28, 1925.25 feet to the point of beginning, containing 70.82 acres.

Tract 2

A parcel of land in Section 28, Township 5 North, Range 17 East, Pittsburg County, Oklahoma, more particularly described as follows:

Commencing at the Northeast corner of the Northwest quarter of Section 28; thence South 1 degree, 45 minutes, 12 seconds East along the North-South ¼ section line, 2762.44 feet; thence South 88 degrees, 42 minutes, 27 seconds West, 526.61 feet to the true point of beginning; thence North 88 degrees, 42 minutes, 27 seconds East and parallel with the North line of Section 28, 1207.35 feet; thence South 1 degree, 42 minutes, 03 seconds East and parallel with the East line of the West ½ of the East ½ of Section 28, 1079.42 feet; thence South 88 degrees, 42 minutes, 27 seconds West and parallel with the North line of Section 28, 1214.67 feet; thence North 1 degree, 18 minutes, 44 seconds West, 1079.39 feet to the point of beginning, containing 30.0 acres.

These lands are to be treated as and receive the same benefits and protection as other trust lands held for the benefit and use of the Choctaw Nation of Oklahoma. Appropriate notation will be made in the land records of the Bureau of Indian Affairs.

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 84-696 Filed 1-10-84; 8:45 am]

BILLING CODE 4310-02-M

Wisconsin Winnebago Tribe; Establishment of Reservation

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.1.

Notice is hereby given that, under the authority of Section 7 of the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 467), the hereinafter described land, located in Sauk County, Wisconsin, was proclaimed to be an Indian reservation, effective December 29, 1983, for the exclusive use of Indians entitled by enrollment or by tribal membership to residence at such reservation.

4th Principal Meridian

Township 12 North, Range 6 East, Town of Delton

Sec. 10, in SW¼SW¼; more specifically described as:

Commencing at the Southwest corner of said Section 10; thence North 4°09' West, 659.49 feet along the West line of said Section 10 to the point of beginning; thence continuing North 4°09' West, 656.90 feet along the West line of said Section 10 to the Northwest corner of the SW¼SW¼ of said Section 10, thence North 86°00' East, 792.20 feet along the North line of the SW¼SW¼ of said Section 10, thence South 4°09' East 657.59 feet parallel with West line of said Section 10; thence South 86°03' West, 792.20 feet to the point of beginning, containing 11.45 acres, more or less, subject to all valid existing easements, reservations, and rights-of-way of record.

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 84-694 Filed 1-10-84; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Idaho Falls District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Meeting of the Idaho Falls District Grazing Advisory Board.

SUMMARY: The Idaho Falls District Grazing Advisory Board will meet Saturday, February 11, 1984. Notice of this meeting is in accordance with Pub. L 92-463. The meeting will begin at 9 a.m. at the Idaho Falls BLM Office, 940 Lincoln Road in Idaho Falls. The meeting is open to the public; public comments on agenda items will be accepted from 10:30 to 11 a.m.

Agenda items for the meeting include a discussion of change of livestock class in the Big Desert, the status of the sheep experiment station's Mooreland Allotment, update on weed control, cooperative management agreements for the Big Butte Resource Area, an update on the resource management plan for the Medicine Lodge Resource Area, presentation of the Edie Bench prescribed burn plan, update on the 8100 budget, and reviewing 1984 advisory board funds and project requests.

Summary minutes of the meeting will be kept in the District Office and will be available for public inspection and reproduction during business hours (7:45 a.m. to 4:30 p.m.) within 30 days of the meeting.

FOR MORE INFORMATION CONTACT:

Julia Corbett, (208) 529-1020.

Dated: January 3, 1984.

O'dell A. Frandsen,

District Manager.

[FR Doc. 84-662 Filed 1-10-84; 8:45 am]

BILLING CODE 4310-GG-M

Minerals Management Service

Use of Electronic Funds Transfer (EFT) for Offshore Bonus and Rental Payments

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of Public Meetings.

SUMMARY: Notice is hereby given that the Minerals Management Service will conduct four orientation seminars to present information specific to the required use of Electronic Funds Transfer (EFT) payments for 4/5 bonus and first year rental payments resulting from offshore lease offerings conducted after February 1, 1984.

DATES: The Seiminars are scheduled to be conducted as follows:

Seminar Date, City/State
February 2, 1984, Los Angeles, California
February 7, 1984, Houston, Texas
February 9, 1984, New Orleans, Louisiana
February 14, 1984, New York, New York

ADDRESS: Each seminar is expected to last approximately 3 hours and each will begin at 9:00 a.m. local time at the following locations:

City/State, Location
Los Angeles, California, Los Angeles Convention Center, 1206 S. Figueroa Street
Houston, Texas, Hyatt Regency Hotel, 1200 Louisiana Street
New Orleans, Louisiana, Hilton Hotel, Poydrous at the Mississippi River
New York, New York, New York University Graduate Business School, Merrill Hall, 90 Trinity Place

FOR FURTHER INFORMATION CONTACT: Don Gilman, Chief, Funds Administration and Investments Section, Royalty Management Program, Minerals Management Service, MS–652, P.O. Box 25165, Denver, Colorado 80225. Phone: (303) 231–3435.

SUPPLEMENTARY INFORMATION: The seminars, responding to a recent Interim Rule published on July 26, 1983, (48 FR 33996), are designed to provide the participants with an overview of both the Federal Reserve Communication System and the Treasury Financial Communication System. In addition, detailed information will be presented concerning funds transfer message format as well as required routing and reference information.

Dated: January 4, 1984.

Robert E. Boldt,

Associate Director for Royalty Management.

[FR Doc. 84–691 Filed 1–10–84; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

San Antonio Missions Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the San Antonio Missions Advisory Commission will be held at 1:00 p.m., Tuesday, January 31, 1984, in Room A206, Federal Building, 727 E. Durango Blvd., San Antonio, Texas.

The San Antonio Missions Advisory Commission was established pursuant to Public Law 95–629, Title II, November 10, 1978. The purpose of the commission is to advise the Secretary of the Interior or his designee on matters relating to the park and with respect to carrying out the provisions of the statute establishing the San Antonio Missions National Historical Park.

Matters to be discussed at this meeting include:

Park Operations Update
"Friends of the Park" Update
Briefing on Hot Wells Project
Handicapped Accessibility Plan
36 CFR Update
Resource Management Plan
Special Recognition Presentation

The meeting will be open to the public, however, facilities and space for accommodating members of the public will be limited and persons will be accommodated on a first-come, first-serve basis.

Any member of the public may file a written statement concerning the matters to be discussed with the Superintendent, San Antonio Missions National Historical Park.

Persons wishing further information regarding this meeting or who wish to submit a written statement may contact Jose A. Cisneros, Superintendent, 727 E. Durango Blvd., Room A612, San Antonio, Texas 78206, telephone (512) 229–6009.

Minutes of the meeting will be available for public review approximately four weeks after the meeting at the office of the San Antonio Missions National Historical Park.

Dated: December 30, 1983.

Jack Neckels,

Acting Regional Director, Southwest Region.

[FR Doc. 84–664 Filed 1–10–84; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–143]

Import Investigations; Certain Amorphous Metal Alloys and Amorphous Metal Articles; Prehearing Conference

Notice is hereby given that the prehearing conference will commence at 9:00 a.m. on January 16, 1984, at the Waterfront Center, Room 201, 1010 Wisconsin Avenue, NW., Washington, D.C. 20007, and the hearing will commence immediately thereafter.

The Secretary shall publish this notice in the **Federal Register.**

Issued: January 4, 1984.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 84–715 Filed 1–10–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–162]

Import Investigations; Certain Cardiac Pacemakers and Components Thereof; Commission Determination To Change the Effective Date of Initial Determination

AGENCY: International Trade Commission.

ACTION: The Commission has changed the effective date of an initial determination (I.D.) (Order No. 16) from Jan. 16, 1984, to Jan. 27, 1984.

Authority: 48 FR 20226, May 5, 1983 (to be codified at 19 CFR § 210.53(h)).

SUPPLEMENTARY INFORMATION: An I.D. joining Cordis Corp. as a respondent in the above-referenced investigation was issued on Dec. 14, 1983. Cordis Corp. filed a motion (Motion No. 162–18–C) on Dec. 23, 1983, for an extension of time in which to file a petition for review of the I.D. The motion was granted and Cordis was given until Jan. 6, 1984, to file a petition. In order for the Commission to be able to consider the petition and any responses thereto, the effective date of the I.D. has been changed to Jan. 27, 1984.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0493.

By order of the Commission.

Issued: January 6, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–713 Filed 1–10–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–168]

Import Investigations; Certain Combination Punch Press and Laser Assemblies and Components Thereof; Order

For reasons of judicial economy, administrative necessity, and pursuant to my authority as Chief Administrative Law Judge, I hereby relieve Administrative Law Judge Janet D. Saxon and designate Administrative Law Judge James P. Timony as Presiding

Officer in this investigation effective on the date of issuance of this order.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register**.

Issued: January 5, 1984.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 84-722 Filed 1-10-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-153]

Import Investigations; Certain Microprocessors, Related Parts and Systems; Initial Determination Terminating Respondents on the Basis of Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a settlement agreement:

NEC Corporation, NEC Electronics In. (named in the Notice of Investigation as NEC Electronics U.S.A. Inc.) and NEC Home Electronics (U.S.A.) Inc.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on January 4, 1984.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-523-0176.

By order of the Commission.

Issued: January 4, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-717 Filed 1-10-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-163]

Import Investigation; Certain Nutating Valve Actuators and Components Thereof; Order

For reasons of judicial economy, administrative necessity, and pursuant to my authority as Chief Administrative Law Judge, I hereby relieve Administrative Law Judge Janet D. Saxon and designate Administrative Law Judge James P. Timony as Presiding Officer in this investigation effective on the date of issuance of this order.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register**.

Issued: January 5, 1984.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 84-725 Filed 1-10-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-172]

Import Investigations; Certain Shearing Machines; Order No. 4

For reasons of judicial economy, administrative necessity, and pursuant to my authority as Chief Administrative Law Judge, I hereby relieve Administrative Law Judge Donald K. Duvall and designate Administrative Law Judge James P. Timony as Presiding Officer in this investigation effective on the date of issuance of this order.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register**.

Issued: January 6, 1984.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 84-723 Filed 1-10-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-167]

Import Investigations; Certain Single Handle Faucets; Commission Determination Not To Review Initial Determination Joining Respondent

AGENCY: U.S. International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (I.D.) (Order No. 4) to join Everpromotion Industrial Co., Ltd., as a respondent.

AUTHORITY: (U.S.C. 1337, 47 FR 25134, June 10, 1982, and 48 FR 20226, May 5, 1983 (to be codified at 19 CFR 210.53(c) and (h)).

SUPPLEMENTARY INFORMATION: On November 4, 1983, complainant moved to amend the complaint and notice of investigation by joining Everpromotion Industrial Company, Ltd., as a party respondent to the investigation. On December 15, 1983, the presiding officer issued an I.D. granting the motion. No petitions for review were received and no comments from other Government agencies were received. The Commission has determined not to review the I.D.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, telephone 202-523-0493.

By order of the Commission.

Issued: January 6, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc 84-712 Filed 1-10-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-179]

Import Investigations; Certain Spherical Roller Bearings and Components Thereof and Tools and Equipment for the Manufacture Thereof; Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on December 5, 1983, under section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337),

on behalf of SKF Industries, Inc., 1100 First Avenue, King of Prussia, Pennsylvania 19406. The complaint alleges unfair methods of competition and unfair acts in the importation of certain spherical roller bearings and components thereof and tools, equipment and technical assistance for the assembly or manufacture thereof into the United States, or in their sale, by reason of alleged direct, contributory and induced infringement of claims 1–4, 9, 11, 12, 16, 17, 19–23, 25, 26, 28, and 29 of U.S. Letters Patent 3,990,753. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests the Commission to institute an investigation and, after a full investigation, to issue a permanent exclusion order and permanent cease and desist orders.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on January 3, 1984, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain spherical roller bearings and components thereof and tools, equipment and technical assistance for the assembly or manufacture thereof into the United States, or in their sale, by reason of alleged direct, contributory or induced infringement of claims 1–4, 9, 11, 12, 16, 17, 19–23, 25, 26, 28 or 29 of U.S. Letters Patent 3,990,753, the effect or tendency of which is to destory or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—SKF Industries, Inc., 1100 First Avenue, King of Prussia, Pennsylvania 19406.

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

FAG Bearings Corporation, Hamilton Avenue, Stamford, Connecticut 06904
FAG Kugelfischer Georg Schafer & Co., Georg Schafer Strasse, Postfach 1260, 8720, Schweinfurt 2, Federal Republic of Germany

(c) Juan Cockburn, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Room 128, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 C.F.R. 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone (202) 523–0471.

FOR FURTHER INFORMATION CONTACT: Juan Cockburn, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, telephone (202) 523–1272.

By order of the Commission.

Issued: January 4, 1984.

Kenneth R. Mason,
Secretary.

[FR Doc. 84–718 Filed 1–10–84; 8:45 am]
BILLING CODE 7020–02–M

[Investigation No. 337–TA–178]

Import Investigations; Certain Vinyl-Covered Foam Blocks; Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Janet D. Saxon as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register**.

Issued: January 5, 1984.

Donald K. Duvall,
Chief Administrative Law Judge.

[FR Doc. 84–724 Filed 1–10–84; 8:45 am]
BILLING CODE 7020–02–M

[Investigation No. 337–TA–174]

Import Investigations; Certain Woodworking Machines; Order No. 3

For reasons of judicial economy, administrative necessity, and pursuant to my authority as Chief Administrative Law Judge, I hereby relieve Administrative Law Judge Donald K. Duvall and designate Administrative Law Judge James P. Timony as Presiding Officer in this investigation effective on the date of issuance of this order.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register**.

Issued: January 5, 1984.

Donald K. Duvall,
Chief Administrative Law Judge.

[FR Doc. 84–721 Filed 1–10–84; 8:45 am]
BILLING CODE 7020–02–M

[Investigations Nos. 731–TA–155 and 731–TA–156 (Preliminary)

Choline Chloride From Canada and the United Kingdom

Determinations

On the basis of the record [1] developed in the subject investigations, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673(a)), that there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury,[2] by reason of imports from Canada and the United Kingdom of choline chloride, provided for in item 439.50 of the Tariff Schedules of the United States, which are alleged to be sole in the United States at less than fair value (LTFV).

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Commissioners Stern, Haggart, and Lodwick determined only that there was a reasonable indication of material injury concerning imports from Canada; Commissioner Haggart determined only that there was a reasonable indication of material injury with respect to imports from the United Kingdom.

Background

On November 15, 1983, counsel for Syntex Agribusiness, Inc., filed petitions with the Commission and the Department of Commerce alleging that imports of choline chloride from Canada and the United Kingdom are being sold in the United States at LTFV, and that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports of such merchandise. Accordingly, effective November 15, 1983, the Commission instituted preliminary antidumping investigations under section 733(a) of the Act (19 U.S.C. 1673(a)).

Notice of the institution of the Commission's investigations and of a conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register**, of November 25, 1983 (48 FR 53185). The conference was held in Washington, D.C. on December 8, 1983, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its report on the investigations to the Secretary of Commerce on December 30, 1983. A public version of the Commission's report, Choline Chloride from Canada and the United Kingdom (investigations Nos. 731–TA–155 and 156 (Preliminary), USITC Publication 1473, 1983) contains the views of the Commission and information developed during the investigations.

Issued: December 30, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–720 Filed 1–10–84; 8:45 am]

BILLING CODE 7020–02–M

[Inv. No. 332–174]

International Developments in Biotechnology and Their Possible Impact on Certain Sectors of the U.S. Chemical Industry

AGENCY: United States International Trade Commission.

ACTION: In accordance with the provisions of section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)), the Commission has instituted on its own motion investigation No. 332–174 for the purpose of gathering and presenting information on international developments in biotechnology. The information will be used in assessing the competitiveness of biotechnologically produced products in world markets, the current status of the industry, future trends, and certain other areas relevant to the investigation. The possible future impact of biotechnology on U.S. chemical trade will be analyzed.

Background

Biotechnology is a rapidly growing field of expertise which is on the leading edge of the high technology industries. The exchange and licensing of developed fermentation and other biologically oriented processes is growing. The potential exists that products produced by biotechnological processes will impact future trade, particularly in chemicals. Certain drugs and related products, enzymes, ferments, amino acids, biologicals, and alcohols, that are already large items of trade, may in the future be made by new biotechnological processes more expensively, purer, or both, which could alter current trade patterns.

EFFECTIVE DATE: January 3, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. David G. Michels or Mr. Jack Greenblatt, Energy and Chemicals Division, U.S. International Trade Commission, Washington, D.C. 20436 (telephone 202–523–0293, 202–523–1212 respectively).

Written Submissions

While there is no public hearing scheduled for this study, written submissions from interested parties are invited. Commercial or financial information which a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested parties. To be ensured of consideration by the Commission, written statements should be received by the close of business on April 30, 1984. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

Issued: January 4, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–716 Filed 1–10–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 701–TA–208 (Preliminary)]

Iron Bars From Brazil

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is no reasonable indication that an industry in the United States is materially injured, or is theatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil of continuous-cast iron bars, provided for in items 606.97 and 657.09 of the Tariff Schedules of the United States upon which bounties or grants are alleged to be paid.

Background

On November 15, 1983, counsel for Wells Manufacturing Co., a U.S. producer, filed a petition with the U.S. International Trade Commission and with the Department of Commerce alleging that an industry in the United States is materially injured, by reason of imports from Brazil of continuous-cast iron bars upon which bounties or grants are alleged to be paid. Accordingly, effective November 15, 1983, the Commission instituted a preliminary countervailing duty investigation under section 703(a) of the Act (19 U.S.C. 1671b(a)).

Notice of the Commission's institution of the investigation and of a conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** on November 25, 1983 (48 FR 53184). The conference was held in Washington, D.C. on December 9, 1983, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmited its report on the investigation to the Secretary of Commerce on December 30, 1983. A public verison of the Commission's report, Iron Bars from Brazil (investigation No. 701–TA–208 (preliminary), USITC Publication 1472, 1983) contains the views of the Commission and information developed during the investigation.

Issued: December 30, 1983.

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[1] The "record" is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-719 Filed 1-10- 8:45 am]

BILLING CODE 7020-02-M-

[Investigation No. 731-TA-126 (Final)]

Potassium Permanganate From Spain

Determination

On the basis of the record [1] developed in the subject investigation, the Commission unanimously determines, pursuant to section 735(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)(1)), that an industry in the United States is materially injured [2] by reason of imports of potassium permanganate, provided for in item 420.28 of the Tariff Schedules of the United States, which have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective August 9, 1983, following a preliminary determination by the Department of Commerce that imports of potassium permanganate from Spain are being sold in the United States at LTFV.

Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** of August 31, 1983 (48 FR 39519). The hearing was held in Washington, D.C., on December 2, 1983, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its report on this investigation to the Secretary of Commerce on January 5, 1984. A public version of the Commission's report, *Potassium Permanganate from Spain* (investigation No. 731-TA-126 (Final), USITC Publication 1474, 1984), contains the views of the Commission and information developed during the investigation.

Issued: January 5, 1984.

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[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Commissioner Stern determines that an industry in the United States is materially injured, or threatened with material injury, by reason of the subject imports.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-714 Filed 1-10-84: 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperative; Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: January 6, 1984.

The following Notices were filed in accordance with section 10526 (a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) Southern States Cooperative, Inc.
(2) 6606 W. Broad Street, P.O. Box 26234, Richmond, VA 23260.
(3) 6606 W. Broad Street, P.O. Box 26234, Richmond, VA 23260.
(4) Garry L. Horn, P.O. Box 26234, Richmond, VA 23260.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-659 Filed 1-10-84; 8:45 am]

BILLING CODE 7035-1-M

[OP2-007; MCF-15543]

Motor Carriers Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed by Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register** and *ICC Register*. Failure seasonable to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 40 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any applicatiion directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate

authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this descision-notice, or the application of a non-complying applicant shall stand denied.

Decided: December 20, 1983.

By the Commission, Review Board Members Carleton, Williams, and Dowell. (Dowell not participating).

Inquires Can Be Made to Team 2 (202) 275–7251.

James H. Bayne,

Acting Secretary.

MC–F–15543, filed December 9, 1983. John A. Gallagher, Jr., Alice M. Gallagher, Frank P. Gallagher and Stephen A. Gallagher (315 Howe Ave., Passaic, NJ 07055)—Continuance in control—Barclay Transportation Services Inc. (Barclay) (6 Just Road, Fairfield , NJ 07007), Community Coach, Inc. (Coach) (315 Howe Ave., Passaic, NJ 07055), and Community Transit, Inc., (Transit) (315 Howe Ave., Passaic, NJ 07055).

Representative: J. G. Dail, Jr., 6623A Old Dominion Drive, McLean, VA 22101.

Applicants seek authority to continue in control of Barclay, Coach, and Transit, upon institution of operations by Barclay in interstate or foreign commerce, as a motor common carrier.

Coach operates under MC–76022 as a motor common carrier, over irregular routes, of passengers, in charter and special operations, between points in the United States (except Hawaii).

Transit operates under MC–145548 as a motor common carrier of passenger, over regular, routes in the northern New Jersey-New York City area.

Barclay was granted authority in No. MC–169528 to transport passengers, in charter and special operations, between points in the United States (except Hawaii).

[FR Doc. 84–858 Filed 1–10–84; 8:45 am]

BILLING CODE 7035–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Availability of Reports, Recommendations and Responses

Reports Issued

Marine Accident Report: Capsizing of the Charter Passenger Vessel SAN MATEO, Morro Bay, California, February 16, 1983 (NTSB/MAR–83/09) (NTIS Order No. PB83–916409).

Railroad Accident Reports: Brief Format, Issue Number 1—1982 (NTSB/RAB–83/04) (NTIS Order No. PB83–917204).

Note.—Reports may be ordered from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, for a fee covering the cost of printing, mailing, handling, and maintenance. For information on reports call 703–487–4650 and to order subscriptions to reports call 703–487–4630.

Recommendations to:

Railroad—*Southern Railway System: Jan. 4: R–83–103:* Revise procedures for train orders related to weather conditions to prescribe conditions under which the train orders should be issued, and specific actions to be taken by crewmembers so that the risk of operating hazards caused by weather will be minimized. *R–83–104:* Examine periodically its rights-of-way for unstable slope conditions, and eliminate these conditions where possible. Install slide detection devices or adopt other appropriate measures to detect landslides where unstable slope conditions cannot be eliminated. *R–83–105:* Adopt the recommended practices of the American Railway Engineering Association regarding maintenance of earth and rock slopes.

Federal Railroad Administration: Jan. 4: R–83–106: Require that landslides on railroad rights-of-way be reported separately from other weather-related accident data. *R–83–107:* Review information available from the Federal Highway Administration regarding highway right-of-way construction and maintenance, and disseminate to railroads information pertinent to railroad right-of-way stabilization programs.

Association of American Railroads: Jan. 4: R–83–108: Inform its members of the circumstances of the Amtrak derailment at Rockfish, Virginia, on April 3, 1983, and encourage them to review and revise as necessary their procedures for train orders related to weather conditions to prescribe conditions under which the train orders should be issued, and specific actions to be taken by crewmembers so that the risk of operating hazards caused by weather will be minimized. *R–83–109:* Encourage its members to review and revise as necessary their operating rules and practices to make them more effective in predictable abnormal operating situations.

Note.—Single copies of these recommendation letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include recommendation number in your request. Copies of recent recommendations are free of charge while supplies last. Recommendations that must be photocopied will be billed at a cost of 20 cents per page ($2 minimum charge).

Recommendation Responses from

Aviation—*Federal Aviation Administration: Dec. 27: A–83–57:* Does not plan to issue an Airworthiness Directive applicable to Beech Models 19, 23, and 24 series airplanes to require incorporation of Beechcraft Service Instructions No. 1095, Revision 1 regarding fuel selector valves. *Dec. 30: A–82–51:* Page 12 of General Aviation Airworthiness Alert (Advisory Circular 43–16) No. 55, dated February 1983 contains an article on the Hartzell propeller A282 inner clamp bolt and the availability of a new bolt as a replacement.

Railroad—*Washington Metropolitan Area Transit Authority: Dec. 14: R–82–8 and –58:* Operating Rule 61 as revised by Special Order 82–9, Rule 62, Rule 63, Rule 64, and Rule 65 address the requirement for an operator to obtain Operations Control Center permission to operate in any mode other than full automatic. Will require an absolute block whenever an operator is authorized to operate Mode 2 (stop and proceed up to 15 mph) in addition to previous requirement for an absolute block when an operator was authorized to operate Mode 3 (Automatic Train Protection cut out). *R–82–9:* Any time the cathode ray tube indicates that a switch may not be functioning properly, OCC immediately assumes that the interlocking is defective and absolute block procedures are followed. *R–82–10:* Recent disciplinary action has been taken against offenders of operating rules requiring operators to report to the OCC whenever they are unable to operate in the fully automatic mode. *R–82–11:* Believes that requiring the OCC to instruct a train's operator as to the intended route for the train and receive proper acknowledgment from the operator before a manually operated train is permitted to enter a block containing an interlocking will create substantial radio traffic and that this additional radio traffic is not necessary when operating Mode 2 (obeying cab signals). Will install positive wayside route signals that will tell the operator his route at all times. *R–82–14:* Has completed modifications to the OCC radio panels to provide radio communicating capability that is commensurate with peak radio traffic demands of the expanding rail system. *R–82–15, –16, –55, and –57:* A totally revised training, retraining, and certification program for operators, transportation supervisors, station attendants, station supervisors, and OCC personnel will be phased in in 1984. *R–82–17, –18, –70, and –72:* Has retrofitted the revenue system with standardized circuit breakers that assure that the breaker stays "locked out" after a short (approximately 15 seconds) delay. Will install passenger initiated evacuation devices for the car center doors and will initiate an accompanying information and publicity program for passengers. *R–82–58:* WMATA has a new General Superintendent. *R–82–59:* Is introducing into its radio protocol the use of the International Phonetic Alphabet to assure distinction between like-sounding letters. *R–82–62:* Has revised the speed

definitions in its operating rules. *R–82–64:* Modified the automated alert system to segregate and color code vital alarms from routine alarms, and to provide an audible indicator. *R–82–66:* Maintenance forces inspect switch machine fusetrons during each applicable scheduled preventative maintenance inspection. *R–82–67:* Portable radios have been purchased and are issued routinely to train operators. *R–82–71:* The existing car storage battery on the Metrorail cars provides battery power for emergency interior lights, tail lights and headlights, door operations, communications, and other critical systems if third rail power is lost or removed in an emergency. Has concluded that an additional back-up system is not justified. *R–82–73:* There is no hardware successfully in use on any freight or passenger railroad for detecting detrailments. BART's derail bar failures have increased potential risks of system operation, due to stopped and delayed trains, as manual intervention is necessary to recover from delays. *R–82–74:* Has obtained an UMTA grant to procure, test, and demonstrate a reliable carborne monitor in July 1983 and is proceeding with the project. *R–82–75 and –76:* Permanent tunnel radio communication facilities for fire, police, and rescue personnel has been completed. *R–82–77:* Has conducted 19 emergency simulations and disaster drills in conjunction with jurisdictional fire departments and rescue services. Several of these drills have involved area hospitals. Classroom and field training and familiarization drills are conducted for all fire department personnel.

Highway—*State of North Carolina: Dec. 16: H–83–51:* The University of North Carolina Safety Research Center is closely monitoring the effectiveness of motor vehicle child passenger restraint systems in motor vehicle collisions. Is directing that special emphasis be placed on proper use of motor vehicle child restraint systems in promotions funded in part or in total from the State budget.

Federal Highway Administration: Dec. 28: H–83–68: Acknowledges receipt of recommendation to revise Motor Carrier Safety Regulation 391.43 to incorporate a provision which will prohibit the falsification or omission of medical information in connection with a medical certification physical examination.

Territory of Puerto Rico: Dec. 19: H–83–49 and –50: Secretary of Transportation and Public Works and Executive Director of the Traffic Safety Commission will examine existing statutes on child seat belt restraint systems.

Marine—*Massachusetts Maritime Academy: Dec. 27: M–82–43:* Has instituted appropriate continuing training whenever a ship is available to acquaint all cadets with the routes available to exit from the engineroom and other spaces on the ship. *M–82–44:* The BAY STATE is no longer utilized as a training vessel; no training vessel is currently assigned to the academy. *M–82–45:* Appropriate indoctrination program will be utilized to accomplish the safe, effective evacuation from the engineroom in whatever training vessel is assigned. *M–82–46:* A shipboard safety board has been established and is in effect during periods of training cruise. *M–82–47:* Has established a policy of keeping the doors to the engineroom and stair towers on the training ship closed at all times except for the passage of personnel. *M–82–48:* Chief Engineer has begun developing standing orders for inport cadet engineering watches in the engineroom on the training ship similar to the standing orders for underway watches. *M–82–49:* Chief Engineer has begun developing standing orders for licensed engineer officer watches on the training ship both underway and inport when the engineering plant is in operation.

North Carolina Department of Crime Control & Public Safety: Dec. 22: M–83–76 and –77: Refered recommendations concerning alcohol involvement in recreational boating accidents to the Governor's Crime Commission for study.

State of Georgia: Dec. 27: M–83–76 and –77: Boating safety officials are studying the extent of alcohol involvement in recreational boating accidents.

United States Coast Guard Auxiliary: Dec. 13: M–83–75: Has requested the Office of Health Services, U.S. Coast Guard Headquarters to develop necessary educational material that can be incorporated into the auxiliary's public education courses. With this information, the auxiliary will print a pamphlet covering educational material on the hazards of alcohol use and its effect on recreational boat operators. Will furnish a wallet-size card indicating the relationship between number of drinks and the legal limits for boat operators to be handed out by courtesy examiners when conducting the courtesy marine examination.

United States Power Squadrons: Nov. 16: M–83–75: Will include material on the hazards of alcohol use and its effect on recreational boat operators in its course material.

International Association of Classification Societies: Dec. 23: M–83–89: Advised member societies of the circumstances of the accident involving the Dutch bulk carrier M/V AMSTELVOORN on September 28, 1982, and solicited their views on necessary action to require that all conditions of excessive vibrations, mechanical failure of pipelines and fittings, and hydraulic system leaks are corrected on vessels which they have classed to improve the reliability of installed Hydroster model MS–800–TE–1 steering gear system in all modes of system operation.

Note.—Single copies of these response letters are available on written request to: Public Inquires Section, National Transportation Safety Board, Washington, D.C. 20594. Please include respondent's name, date of letter, and recommendation number(s) in your request. The photocopies will be billed at a cost of 20 cents per page ($2 minimum charge).

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

January 6, 1984.

[FR Doc. 84–657 Filed 1–10–84; 8:45 am]

BILLING CODE 7533–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 13697; 812–5703]

FPA Perennial Fund, Inc.; Filing of Application

January 5, 1984.

Notice is hereby given that FPA Perennial Fund, Inc. ("Applicant"), 10301 West Pico Boulevard, Los Angeles, CA 90064, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on November 22, 1983, requesting an order pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Sections 2(a)(32), 2(a)(35) and 22(c) of the Act and Rule 22c–1 thereunder, to the extent necessary to permit Applicant to assess a contingent deferred sales charge on certain redemptions of shares purchased in single transactions involving $1,000,000 or more. All interested persons are referred to the application on file the with Commission for a statement of the representations contained therein which are summarized below and to the Act and the rules thereunder for the text of the applicable provisions.

Applicant states that it was organized as a corporation under the laws of Maryland on September 14, 1983, and filed with the Commission a registration statement on Form N–1 under the Act on November 3, 1983. Mitchel, Schreiber, Watts & Co., Inc. will be Applicant's distributor ("Distributor"), and will receive the proceeds of the contingent deferred sales charge.

Applicant proposes to impose traditional front-end sales loads on sales of its shares purchased in single transactions involving less than $1,000,000, but proposes to impose no front-end on purchases in single transactions of $1,000,000 or more. Consequently, in single transactions of $1,000,000 or more, purchasers will be able to have the entire proceeds of their purchase payments fully invested from the time they are made. However, Applicant also proposes to pay the Distributor a contingent defferred sales charge from the proceeds of certain redemptions of shares initially sold without a sales charge. According to the application, the contingent deferrred sales charge would only be imposed in the event of a redemption transaction within one year following the purchase transaction and would be 0.85% of the aggregate purchase payments made by the investor.

Applicant represents that the contingent deferred sales charge would be imposed if an investor redeems an amount which causes the value of the investor's account with the Applicant to fall below the total dollar amount of purchase payments made by the investor without an initial sales charge during a period of one year prior to the redemption. No contingent deferred sales charge would be imposed when the investor redeems amounts derived from (1) increases in the value of the account above the total dollar amount of purchase payments during the year (either through growth in net asset value per share of the Fund or through reinvestment of dividends and capital gains distributions in additional shares of the Fund) or (2) purchase payments made more than one year prior to the redemption. Applicant states that in determining whether a contingent deferred sales charge is payable, it would be assumed that shares held the longest are the first to be redeemed.

Applicant asserts that its proposal permits shareholders to have the advantages of greater investment dollars working for them from the time of their purchase. Moreover, Applicant states that the contingent deferred sales charge applies only to redemptions of amounts representing purchase payments during the year after a purchase without initial sales charge; it does not apply to increases in the investor's account through reinvestment of distributions or increases in net asset value per share.

Applicant argues that the imposition of the contingent deferred sales charge in the manner described above would not cause shares of Applicant to fall outside the definition of "redeemable securit(ies)" in Section 2(a)(32) of the Act. Applicant further believes that imposition of the contingent deferred sales charge will not restrict a shareholder from receiving his proportionate share of the current net assets of the Applicant, but will merely defer the deduction of a sales charge and make it contingent upon an event which may never occur. However, in order to avoid uncertainty in this regard, Applicant requests an exemption from the operation of Section 2(a)(32) of the Act to the extent necessary to permit imposition of the proposed contingent deferred sales charge.

Applicant avers that the proposed contingent deferred sales charge is consistent with the intent of the Act's definition of "sales load" in Section 2(a)(35). The contingent deferred sales charge is paid to the Distributor to reimburse it solely for expenses related to the sale of shares and, therefore, Applicant submits that this arrangement is within the Section 2(a)(35) definition of sales load, but for the timing of the imposition of the charge. Appplicant contends that the deferral of its sales charge, and its contingency upon the occurrence of an event which may not occur, does not change the basic nature of this charge, which is in every other respect a sales charge. However, Applicant requests an exemption from the provisions of Section 2(a)(35), to the extent necessary to permit imposition of the proposed charge.

Applicant further asserts that the implementation of the proposed contingent deferred sales charge would not violate Section 22(c) of the Act or Rule 22c–1 thereunder. However, in order to avoid any possibility that questions might be raised as to the potential applicability of Section 22(c) and Rule 22c-1, Applicant requests an exemption from the operation of the provisions of Ruel 22c–1 to the extent necessary or appropriate to permit Applicant to implement the proposed contingent deferred sales charge.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than January 30, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, prusuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–670 Filed 1–10–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 13699; 812–5712]

Over-the-Counter Securities Fund, Inc.; Filing of Application

January 5, 1984.

Notice is hereby given that Over-The-Counter Securities Fund, Inc. ("Applicant"), Plymouth and Walnut Avenues, Oreland, PA 19075, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on November 28, 1983, for an order of the Commission, pursuant to Sections 6(c) and 17(d) of the Act and Rule 17d–1 thereunder, granting an exemption from the provisions of Section 13(a)(2), 18(f)(1), 22(f) and (g) of the Act to the extent necessary to permit Applicant to implement and maintain a proposed deferred compensation plan for its non-interested directors. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below and to the Act and the rules thereunder for the text of the applicable provisions.

According to the application Applicant's board of directors consists of five individuals. Three of the directors who are not "interested persons" of the Applicant within the meaning of Section 2(a)(19) of the Act, receive a fee of $100 each for each board meeting attended plus expenses and an annual fee of $600. Applicant states that this is the only remuneration that it pays its directors. Applicant also states that for the year ended December 31, 1982, it paid an aggregate amount of $13,900 in director's fees.

Applicant proposes to adopt a deferred compensation plan ("Plan") which will permit Applicant's non-interested directors to defer receipt of their director's fees. Applicant states that the purpose of the Plan is to enable the directors to avoid the loss of Social Security benefits which they might otherwise be entitled to and to defer payment of income taxes on the director fees until retirement. Applicant states that the election by a director to participate in the Plan will continue in effect during the year of election and for each subsequent calendar year unless the director notifies Applicant's president, in writing , before January 1 of the next succeeding year.

Under the Plan all amounts otherwise due as director's fees to participating directors will be invested in shares of Applicant, with all dividends and capital gains being reinvested in shares of Applicant. Applicant states that its obligation to make payments to a director will be based on the value of the total amounts set aside for the director's benefit. Applicant further states that these amounts shall be paid upon retirement to the director in a number of annual installments determined by Applicant. In the event of a director's death or incapacity, amounts payable to him under the Plan

will be paid to his designated beneficiary or legal representative. Finally, Applicant states that its obligation to make payments under the terms of the Plan will be solely an obligation of Applicant and will be payable from its general assets and property.

Applicant represents that the Plan will have only a negligible effect on its financial condition and that the Plan does not obligate Applicant to retain any directors nor to pay them a director's fee. Applicant further represents that directors who are interested persons within the meaning of Section 2(a)(19) of the Act will not participate in the Plan since they do not receive director's fees from Applicant. According to the application the participating directors may not transfer or otherwise negotiate the shares purchased with their directors fees.

Applicant submits that the withholding of director's fees and the investment of these funds in shares of Applicant does not constitute the issuance of a class of senior securities within the meaning of Section 18(f)(1) of the Act nor does it increase the speculative character of Applicant's outstanding voting securities. However, Applicant requests an exemption from Section 18(f)(1) of the Act, as well as, Section 13(a)(2) of the Act which prohibits the issuance of senior securities without approval from a majority of shareholders. Applicant also requests an exemption from Section 22(f) of the Act which prohibits an issuer from restricting the transferability of its shares and from Section 22(g) of the Act which prohibits an Investment Company from issuing its shares for services or property other than cash or securities. Applicant represents that it will be the legal and beneficial owner of the shares set aside for the participating directors and that Applicant may redeem or otherwise alienate those shares at any time. Applicant asserts that the Plan is not a joint transaction between itself and the directors within the meaning of Section 17(d) of the Act and Rule 17d–1 thereunder and that the participation of Applicant in the Plan is not any less advantageous than the participation of the directors in the Plan.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than January 30, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–672 Filed 1–10–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 20522; SR–NASD–83–26]

National Association of Securities Dealers, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

January 3, 1984.

The National Association of Securities Dealers, Inc. ("NASD"), 1735 K Street, N.W., Washington, D.C. 20006, submitted on December 19, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1984 (the "Act") and Rule 19b–4 thereunder. The proposed rule change is described in Items I, II and III below, which were prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change provides for a new charge to subscribers for access to NASDAQ Level 1 Service (for securities other than National Market System securities) and NASDAQ/National Market System Last Sale Service through an authorized portable quotation device capable of receiving quotations for not more than forty securities at a time at a rate of $6.00 per month per device.

II. Self-Regulatory Organization's Statements Regarding the Proposed Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purposes of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change establishes, on a pilot basis, a reduced fee for limited usage subscribers to NASDSQ Level 1 Service and NMS Last Sale information. This service will permit subscribers access to NASDAQ Level 1 Service for securities other than National Market System securities and to NASDAQ/NMS Last Sale Service through an authorized hand held quotation device. This portable device will be capable of receiving quotations for not more than forty (40) securities at a time at a charge of $6.00 per month per device. The monthly charge per device is designed to cover the monthly operating expenses of the service at a level commensurate with the limited use accorded. The Association intends to review the rate and usage limitation contained in this rule change after a suitable period of time in which to determine the amount of interest in the service and the different types of service which may be requested by other Vendors.

Section 15A(b)(5) of the Securities Exchange Act provides that the rules of a national securities association must provide for the equitable allocation of reasonable dues, fee and other charges among persons using any facility or system which the association operates or controls. The Association believes that the reduced fee for limited access, usage of the information is consistent with these provisions. The proposed rule change is also consistent with Section 11A(a)(1)(B)(iii) which provides for facilitating the availability to investors of information with respect to quotations for and transactions in securities in that the provision will allow investors immediate access to both NASDAQ Level 1 quotations and NMS Last Sale Trade reporting.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Association does not foresee any burden on competition by this proposed rule change since the fee will be available to any subscriber utilizing an interrogation device with comparable limitations on access to the information.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others. Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective immediately pursuant to a request for accelerated effectiveness as provided for under Section 19(b)(2) of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written comments concerning the proposed rule change within 21 days after the date of publication in the **Federal Register.** Persons submitting comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR–NASD–83–26.

Copies of the Submission and any related documents, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the NASD.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of Sections 11A and 15A of the Act and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the rule change. Section 11Aa(1)(C)(iii) of the Act states that broad availability of quotation and transaction information for securities is in the public interest. By providing a lower fee for market information obtained through limited use terminals, the proposed rule change furthers this statutory goal of wide dissemination of market information. Specifically, the Commission finds good cause to accelerate approval of this rule change in order to provide access to NASDAQ Level I Service and to NASDAQ/NMS last sale service at reduced rates at the earliest date possible.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the commission, by the division of Market Regulation, pursuant to delegated authority.[1]

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 84-674 Filed 1-10-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20532; File No. SR-NASD-83-19]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc.; Relating to the Filing Requirements Under the Interpretation of the Board of Governors; Review of Corporate Financing

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 14, 1983, the National Association of Securities Dealers Inc. ("Association") filed with Securities Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been revised by the self-regulatory organization on December 16, 1983. The Commission is publishing this notice to solicit comments on the proposed rule change thereto from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Association is proposing to amend the filing requirements of the Interpretation of the Board of Governors— Review of Corporate Financing ("Corporate Financing Interpretation") under Article III, Section 1 of the Rules of Fair Practice (NASD Manual (CCH) para 2151, at page 2025) to provide an exemption for securities registered with the Securities and Exchange Commission on registration statement Form S–3 or a similar form promulgated in lieu of Form S–3 by an issuer which presently meets the requirements of Form S–3 as those requirements were in effect on March 1, 1983. The text of the proposed amendment follows:

Filing Requirements [1]

* * * * *

Documents relating to the following issues need not be filed with the Association:

(1) securities which pursuant to the provisions of Section 3(a)(12) of the Securities Exchange Act of 1934 are exempt securities;

(2) securities of investment companies as defined in Section 3 of the Investment Company Act of 1940 (except issues of closed-end management companies);

(3) variable contracts; and

[(4) straight debt issues rated "B" or better by a recognized rating service.]

(4) securities registered with the Securities and Exchange Commission on registration statement Form S–3 or a similar form promulgated in lieu of Form S–3 issued by an issuer which meets the requirements of Form S–3 as those requirements were in effect on March 1, 1983.

II. Self-Regulatory Organization's Statement Regarding the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and the basis for the proposed rule change and discussed any comments it received on the proposed rule change. The self-regulatory organization has prepared summaries, set forth in Section (A), (B), and (C) below, of the most significant aspect of such statements.

(A) *Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

The Association is proposing to amend the filing requirements of the Corporate Financing Interpretation to exempt all debt and equity offerings of securities registered with the Commission on Registration Statement Form S–3 (or a similar form promulgated in lieu of Form S–3 by an issuer which meets the substantive requirements of Form S–3 as those requirements were in effect on March 1, 1983). the current exemption for "straight" debt rated "B" or better would be eliminated. In addition, the proposed amendment would replace the Association's current interpretation (S.E.C. Securities Act Release No. 19648 (April 4, 1983), 48 FR 15358) which provides an exemption for securities which are registered on a Form S–3 and offered pursuant to Rule 415 of the Securities Exchange Act of 1933.

To use Form S–3, both the registrant and the transaction must meet specified qualifications. Form S–3 may be used by a U.S. registrant which has been a reporting company for 36 months prior to the filing, and has made timely filings for 12 months preceding the filing date. In addition, neither the registrant nor its subsidiaries may have defaulted in the payment of required dividends or any

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[1] 17 CFR 200.30–3(a)(12).

[1] New material is italicized; deleted material is bracketed.

material obligations since the end of its last audited year.

Form S–3 may be used for primary offerings of such registrants which have outstanding voting stock held by non-affiliates with an aggregate market value of $150 million, or alternatively, $100 million aggregate market value and annual trading volume of three million shares. Primary offerings by qualified registrants of "investment grade" non-convertible debt and preferred securities may also be registered on Form S–3. Investment grade debt is defined as those securities rated by a nationally recognized statistical organization in the four highest categories (e.g., "AAA" through "BBB" by Standard & Poor's and "Aaa" through "Baa" by Moody's). Secondary offerings of outstanding securities by any person other than the issuer may be registered on Form S–3 if the securities are quoted on NASDAO or listed on a national securities exchange. Finally, rights offerings, dividend and interest reinvestment plans, and offerings of securities upon conversion and the exercise of warrants may be registered on Form S–3.

The proposed amendments would alter present NASD filing requirements for both debt and equity securities. With respect to equity offerings, i.e., offering which have any attribute of equity ownership, the number of offerings which would be required to be filed would be substantially reduced. Currently, most equity offerings are required to be filed with the Association, except where the offering is being made pursuant to Rule 415 by a registrant which qualifies to register on a Form S–3. Under the proposed amendment, the current exemption for equity offerings registered on a Form S–3 and distributed pursuant to Rule 415 would be eliminated. In its place, the Association is proposing that an exemption be adopted for all equity offerings registered with the SEC on Form S–3 (or a similar form promulgated in lieu of Form S–3 by an issuer which meets the substantive requirements of Form S–3 as those requirements were in effect on March 1, 1983).

With respect to debt offerings, i.e., offerings with no equity characteristics, the proposed amendments would require a greater number of such offerings to be filed than at present. Under the present Corporate Financing Interpretation, public offerings of "straight debt" rated "B" or better by a nationally recognized rating agency and "shelf" offerings of debt registered on a Form S–3 are exempt from filing.

Pursuant to the proposed amendment, the present exemptions for straight debt rated "B" or better and "shelf" offerings of debt registered on a Form S–3 would be eliminated. In its place, an exemption for all debt registered on Form S–3 (or a similar form promulgated in lieu of Form S–3 by an issuer which meets the substantive requirements of Form S–3 as those requirements were in effect on March 1, 1983) would be adopted. Generally speaking, therefore, debt instruments rated "B" or "BB" by Standard & Poor's and "B" or "Ba" by Moody's would become subject to NASD filing requirements. In view of the proliferation of debt which is considered below "investment grade", it is considered appropriate to subject these instruments to review by the Association to assure the fairness and reasonableness of their overall underwriting terms and arrangements.

The Association believes that the competitive market forces which ordinarily affect a public offering by an issuer qualified to use Form S–3 are effective in assuring that the underwriting terms and arrangements generally are fair and reasonable. In addition, rapid access to the marketplace has become increasingly critical for certain issuers and such access has been facilitated by SEC policies which permit offerings to become effective without detailed review. Therefore, the Association believes it is appropriate to take steps to assure ready access to the marketplace so long as investor protection is assured.

The proposed amendment relates only to filing requirements and does not constitute an exemption from the substantive requirements of the Corporate Financing Interpretation. Members will still be expected to assure compliance with those requirements in any offerings in which they participate. Additionally, the proposed exemption relates only to filing requirements under the Corporate Financing Interpretation; the exemption does not extend to offerings which are subject to Schedule E of Article IV, Section 2 of the NASD By-Laws concerning offerings by members of their own securities or those of affiliates.

The Association is charged under both Sections 15(A)(b)(2) and 15(A)(b)(6) of the Securities Exchange Act of 1934 with the responsibility of promulgating rules which prevent fraudulent and manipulative practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and generally protect investors. The proposed rule change is designed to further these purposes by facilitating access to the marketplace within the parameters of investor protection.

(B) *Self-Regulatory Organization's Statement on Burden on Competition*

The Association believes this rule change presents no impact on competition which is not necessary in furtherance of the purposes of the Secrities Exchange Act of 1934, as amended.

(C) *Self-Regulatory Organization's Statement of Comment on the Proposed Rule Change Received from Members, Participants, or Others*

The Association published the proposed rule change for comment in Notice-to-Members 83–25 (May 27, 1983) as an amendment to the proposed Corporate Financing Rule which is to be filed with the Commission pursuant to the Rule 19b–4. The Association received a total of one comment letter on the rule proposal. While generally supportive of the proposal to exempt all offerings registered on a Form S–3 from the filing requirements of the Corporate Financing Interpretation, the commentator suggested that the exemption also should extend to Rule 415 shelf offerings on Forms S–2 and S–1 and to certain other S–2 filings, and that the current exemption for debt rated "B" or better should be retained. The commentator also recommended that offerings which are exempt from the Association's filing requirements should not be subject to the substantive requirements of the Corporate Financing Interpretation.

After due consideration of the comments received, the Board of Governors approved the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding; or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(R) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the

Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 4, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-675 Filed 1-10-84; 8:45 am]

BILLING CODE 8010-01-M

Philadelphia Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

January 5, 1984

In the Matter of Application of the Philadelphia Stock Exchange, Inc. For Unlisted Trading Priviledges in Certain Securities; Securities Exchange Act of 1934.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of:

First Pennsylvania Corp. (File No. 7-7306)
Convertible Depository Shares (each representing ¼ shart of $10.50 Cumulative Convertible Preferred Stock, Series C

This security is listed and registered on one or more other national securities exchange and is reported on the consolidated transaction reporting system.

Interested person are invited to submit on or before January 26, 1984 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-671 Filed 1-10-84; 8:45 am]

BILLING CODE 8010-01-M

SYNTHETIC FUELS CORPORATION

Solicitation for Coal or Lignite Gasification Projects

AGENCY: Synthetic Fuels Corporation.

ACTION: Issuance of Solicitation for Coal or Lignite Gasification Projects.

SUMMARY: Notice is hereby given that on January 5, 1984 the United States Synthetic Fuels Corporation issued a Solicitation for Coal or Lignite Gasification Projects soliciting proposals for synthetic fuel projects to be assisted under Title I, Part B, of the Energy Security Act of 1980 (Pub. L. 96-294).

EFFECTIVE DATE: January 5, 1984.

FOR FURTHER INFORMATION CONTACT: Ralph L. Bayrer, Vice President-Projects, United States Synthetic Fuels Corporation, 2121 K Street, NW., Washington, D.C. 20586, (202) 822-6436.

For copies of the solicitation contact: Catherine McMillan, Director of Public Disclosure, United States Synthetic Fuels Corporation, 2121 K Street, NW., Washington, D.C. 20586, (202) 822-6460.

United States Synthetic Fuels Corporation.

Leonard C. Axelrod,

Acting Group Vice President-Corporate.

[FR Doc. 84-708 Filed 1-10-84; 8:45 am]

BILLING CODE 0000-00-M

Solicitation for Coal-Water Fuel Projects

AGENCY: Synthetic Fuels Corporation.

ACTION: Issuance of Solicitation for Coal-Water Fuel Projects.

SUMMARY: Notice is hereby given that on January 5, 1984 the United States Synthetic Fuels Corporation issued a Solicitation for Coal-Water Fuel Projects soliciting proposals for synthetic fuel projects to be assisted under Title I, Part B, of the Energy Security Act of 1980 (Pub. L. 96-294).

EFFECTIVE DATE: January 5, 1984.

FOR FURTHER INFORMATION CONTACT: Ralph L. Bayrer, Vice President—Projects, United States Synthetic Fuels Corporation, 2121 K Street, NW, Washington, D.C. 20586, (202) 822-6436.

For copies of the solicitation contact: Catherine McMillan, Director of Public Disclosure, United States Synthetic Fuels Corporation, 2121 K Street, NW, Washington, D.C. 20586, (202) 822-6460.

United States Synthetic Fuels Corporation.

Leonard C. Axelrod,

Acting Group Vice President—Corporate.

[FR Doc. 84-709 Filed 1-10-84; 8:45 am]

BILLING CODE 0000-00

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[BS-AP-No. 2215]

Seaboard System Railroad, Inc.; Public Hearing

The Seaboard System Railroad, Inc., has petitioned the Federal Railroad Administration (FRA) seeking approval of the proposed discontinuance of the automatic block signal system between Mile Post Q-88.4 at Monon, Indiana, and Mile Post Q-112.3 at Delphi, Indiana, on the Indianapolis Branch of the Louisville Division. This proceeding is identified as FRA Block Signal Application Number 2215.

After examining the carrier's propposal and the available facts, the FRA has determined that a public hearing is necessary before a final decision is made on this proposal.

Acccordingly, a public hearing is hereby set for 10:00 a.m. on March 6, 1984, in Room 402 of the U.S. Post Office and Court House at 46 East Ohio Street, Indianapolis, Indiana.

The heaing will be an informal one, and will be conducted in accordance with Rule 25 of the FRA Rules of Practice (49 CFR 211.25), by a representative designated by the FRA.

The hearing will be a nonadversary proceeding and, therefore, there will be no cross-examination of persons presenting statements. The FRA representative will make an opening statement outlining the scope of the hearing. After all initital statements have been completed, those persons who wish to make brief rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures, if necessary for the conduct

of the hearing, will be announced at the hearing.

Issued in Washington, D.C. on January 5, 1984.

J. W. Walsh,

Associate Administrator for Safety.

[FR Doc. 84-573 Filed 1-10-84; 8:45 am]

BILLING CODE 4910-06-M

VETERANS ADMINISTRATION

Cooperative Studies Evaluation Committee; Meeting

The Veterans Administration gives notice under Public Law 92-463 that a meeting of the Cooperative Studies Evaluation Committee, authorized by 38 U.S.C. 4101, will be held at the Miami Marriott Hotel, 1201 N.W. Le Jeune Rd. (N.W. 42nd Avenue) Miami, Florida 33126, on February 13, 1984. The meeting will be for the purpose of reviewing proposed cooperative studies and advising the Veterans Administration on the relevance and feasibility of the studies, the adequacy of the protocols, and the scientific validity and propriety of technical details, including protection of human subjects. The Committee adivses the Director, Medical Research Service, through the Chief of the Cooperative Studies Program, on its findings.

The meeting will be open to the public up to the seating capacity of the room from 8 to 8:30 a.m., on February 13, to discuss the general status of the program. To assure adequate accommodations, those who plan to attend should contact Dr. James A. Hagans, Coordinator, Cooperative Studies Evaluation Committee, Veterans Administration Central Office, Washington, DC (202-389-3702), prior to January 27, 1984.

The meeting will be closed from 8:30 a.m. to 7:15 p.m. on February 13, for consideration of specific proposals in accordance with provisions set forth in subsection 10(d) of Pub. L. 92-463, as amended by section 5(c) of Pub. L. 94-409, and subsection (c)(6) and (c)(9)(B) of section 552b, title 5, United States Code. During this portion of the meeting, discussions and decisions will deal with qualifications of personnel conducting the studies and the medical records of patients who are study subjects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Additionally, premature disclosure of the Committee's recommendations would likely frustrate implementation of final proposed actions.

Dated: January 4, 1984.

By direction of the Administrator:

Larry R. Moen,

Deputy Director, Office of Public and Consumer Affairs.

[FR Doc. 84-692 Filed 1-10-84; 8:45 am]

BILLING CODE 8320-01-M

Privacy Act of 1974; Report of New Matching Program

AGENCY: Veterans Administration.

ACTION: Notice.

SUMMARY: The VA (Veterans Administration) is providing notice that the Office of Inspector General will conduct a series of computer matches of VA compensation and pension records with Federal, State and local records of incarcerated persons. The goal of these matches is to detect unwarranted compensation, DIC (dependency and indemnity compensation) and pension payments made under title 38, United States Code, which may result when the VA is not notified that a veteran or beneficiary had been confined as a result of conviction of a felony, or a felony or misdemeanor in the case of a pension recipient, for any part of a period beginning sixty-one days after the incareration begins.

DATES: It is anticipated the matches will commence in January 1984.

ADDRESS: Interested persons may comment on the proposed matches by writing to the Assistant Inspector General for Policy, Planning and Resources (53), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: Renald P. Mrani, Assistant Inspector General for Policy, Planning and Resources, Office of the Inspector General, Veterans Administration (202) 389-2915.

SUPPLEMENTARY INFORMATION: Further information regarding the matching program is provided in this notice. This information is required by paragraph 5.f.(1) of the Revised Supplemental Guidance for Conducting Matching Programs, issued by the Office of Management and Budget (47 FR 21656, May 19, 1982). A copy of this notice has been provided to both House of Congress and the Office of Management and Budget.

Dated: January 4, 1983.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

Report of Matching Program: Veterans Administration Compensation and Pension Records With Federal, State and Local Penal Records

a. *Authority:* The Inspector General Act of 1978, Public Law 95-452.

b. *Program Description:*

(1). *Purpose:* The OIG (Office of Inspector General) plans to match lists of veterans and beneficiaries who receive compensation, DIC (dependency and indemnity compensation) or pension benefits from the VA (Veterans Administration) with records of Federal, State and local correctional organizations to identify recipients who may be ineligible to receive these benefits. This ineligibility may occur when the VA has not been informed of the incarceration of the individual for a period of more than sixty days following his/her conviction for a felony, or for a misdemeanor or felony in the case of a pension recipient. Sections 505 and 3113 of title 38, United States Code, require that the VA reduce or discontinue compensation, DIC or pension payments to such persons who are incarcerated beyond sixty days. It is planned that the initial match will be with records of the Federal Bureau of Prisons, Department of Justice, and subsequent matches will be with the records of State and selected local correctional agencies.

(2). *Procedures:* An initial match will be made of VA records with records of the Federal Bureau of Prisons, Department of Justice. The match will be performed by the VA OIG. If this match demonstrates the effectiveness of matching VA and Federal penal records to detect overpayments of veteran benefits, the Inspector General may direct that additional matches be conducted with the penal records of California, Florida, Georgia, Louisiana, Mississippi, Ohio and Texas. The Inspector General may further direct that matches be conducted with some or all of the remaining States and with selected local penal records that have been automated. Such matches of VA with State and local penal records will be conducted by the VA OIG whenever possible, but in some cases may be conducted by State or local agencies at their request. The list of recipients of veteran benefits utilized by the OIG will contain only social security numbers. When necessary to verify the identity of recipients who may be listed in Federal, State or local penal records, additional identifying data such as the data of birth, place of birth and sex may be

released to these organizations. The names of veterans and beneficiaries will not be provided to a Federal, State or local agency except in connection with a proceeding for the collection of a debt owed the United States resulting from the receipt of VA benefits, or in response to a written request from the agency for a purpose provided by law. These matches may be cyclical or may be repeated periodically.

In the event of a "hit", i.e., the determination through the matching program that the VA has not been notified of the incarceration of a recipient, the identity of the recipient as an incarcerated individual will be verified by the OIG and if the period of incarceration has continued for more than sixty days, the information will be referred to the Chief Benefits Director of the VA for consideration of reduction or suspension of the benefit and action to recover any overpayment. Where there are reasonable grounds to believe there has been a violation of criminal law, the matter will be investigated and referred for prosecutive consideration.

c. *Records to be matched:* Lists extracted from the following systems of records will be matched with Federal, State and local penal records:

Compensation, Pension, Education and Rehabilitation Records—VA (58 VA 21/22/28) (47 FR 372–375, January 5, 1982; 47 FR 16132, April 14, 1982; 47 FR 40742, September 15, 1982). The disclosure of information from this system of records, for the purpose of the matching program, is permitted by a published routine use.

d. *Period of Match:* Intermittently from approximately January 1984.

e. *Safeguards:* Records used in the matches and data generated as a result, will be safeguarded from unauthorized disclosure. Access will be limited to those persons who have a need for the information in order to conduct the matches or follow-up actions. All of the material will be stored in locked containers when not in use. Prior to releasing any information from the VA system of records to a State or local agency the OIG will obtain a written agreement from the matching agency specifying that the matching file will remain the property of the VA and will be returned to the OIG or destroyed upon completion of the match, as appropriate; that it will be used and accessed only to match the files previously agreed to; that it will not be used to extract information concerning "non-hit" individuals for any purpose; and that it will not be duplicated or disseminated within or outside the matching agency unless authorized in writing by the VA OIG.

f. *Retention and Disposition:* Records not resulting in "hits" will be destroyed by burning, shredding or electronic erasing within two months of the completion of the individual match. Records resulting in "hits" will be retained by either the OIG or the Department of Veterans Benefits until the completion of any necessary administrative or legal action and will then be disposed of in accordance with approved records control schedules and/or approved disposition authority from the Archivist of the United States.

[FR Doc. 84–693 Filed 1–10–84; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 7
Wednesday, January 11, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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CIVIL AERONAUTICS BOARD

Short Notice Addition and Closure of Items for the January 10, 1984 Meeting

TIME AND DATE: 10:00 a.m., January 10, 1984.

PLACE: Room 1027 (Open), Room 1012 (Closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 24. Report on Thailand. (BIA). 25. Report on Germany. (BIA).

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary, (202) 673–5068.

[S. 730 Filed 1–9–84: 9:24 am]
BILLING CODE 6320-01-M

2

FEDERAL COMMUNICATIONS COMMISSION

FCC To Hold a Closed Commission Meeting Thursday, January 12, 1984.

January 5, 1984.

The Federal Communications Commission will hold a Closed Meeting on the subject listed below on Thursday, January 12, 1984 following the Open Meeting, which is scheduled to commence at 9:30 A.M., in Room 856, at 1919 M Street, N.W. Washington, D.C.

Agenda, Item No. and Subject

Hearing—1—Applications for Review and a petition to Reopen the Record and Enlarge the Issues in the Brownfield, Texas comparative FM proceeding (Docket Nos. 81–164 and 81–165).

This item is closed to the public because it concerns Adjudicatory Matters (See 47 CFR 0.603 (j)).

The following persons are expected to attend:

Commissioners and their Assistants, Managing Director and members of his staff General Counsel and members of his staff Chief, Office of Public Affairs and members of his staff.

Action by the Commission January 4, 1984. Commissioners Fowler, Chairman; Quello, Dawson, Rivera and Patrick voting to consider this item in Closed Session.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: January 6, 1984.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S. 84-844 Filed 1–9–84: 3:11 pm]
BILLING CODE 6712-10-M

3

FEDERAL COMMUNICATIONS COMMISSION

FCC to Hold Open Commission Meeting, Thursday, January 12, 1984.

January 5, 1984.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, January 12, 1984, which is scheduled to commence at 9:30 A.M., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No. and Subject

Private Radio—1—*Title:* Report and Order in the Matter of Amendment of Rules Concerning Medical Services Operations in the 450–470 MHz Band in the Special Emergency Radio Service. *Summary:* The FCC will consider proposed rules regarding operational requirements for equipment on MED frequency pairs.

Private Radio—2—*Title:* Notice of Proposed Rule Making (RM 4560) to add the Gulf of Mexico to authorized service area of maritime mobile systems operating in the 216–220 MHz band. *Summary:* The FCC will consider whether to propose amending Parts 2, 81 and 83 of the rules to expand the allocation of the 216–220 MHz band for use in the maritime service. Maritime communications in the 216–220 MHz band are currently limited to the Mississippi River System and the Gulf Intracoastal Waterway. A rulemaking petition (RM 4560) asks the FCC to estimate the service area restrictions applicable to the maritime services use of the band.

Issued: January 6, 1984.

Private Radio—3—*Title:* Memorandum Opinion and Order regarding Petitions for Reconsideration of the FCC's Report and Order updating and codifying the General Mobile Radio Service (GMRS) Rules. *Summary:* The FCC will consider whether to grant the Petition for Partial Reconsideration of AT&T and the Petition for Reconsideration of the Personal Radio Steering Group (PRSG) of its Report and Order updating and codifying the rules in the General Mobile Radio Service (GMRS).

Common Carrier—1—*Title:* Section 214 Authorization for Provision by a Telephone Common Carrier of Lines for its Cable Television and Other Non-Common Carrier Services Outside Its Telephone Service Area. *Summary:* Notice of Proposed Rulemaking proposing to grant blanket authorization for certain lines.

Policy—1—*Title:* Mass Media Docket No. 82–441 relating to subscription television authorization for noncommercial educational television station licensees. *Summary:* The Commission will consider whether to authorize noncommercial educational television station licensees to transmit programming on a subscription basis.

Policy—2—*Title:* In the Matter of Repeal of the "Regional Concentration of Control" Provisions of the Commission's Multiple Ownership Rules. *Summary:* The Commission will consider whether to issue a *Notice of Proposed Rule Making* looking toward repeal or modification of the three-station regional concentration of control rule.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S. 845 Filed 1–9–84: 3:11 pm]
BILLING CODE 6712-01-M

4

FEDERAL ELECTION COMMISSION

Federal Register No. 84–331.

PREVIOUSLY ANNOUNCED DATES AND TIME: Thursday, January 12, 1984, 10:00 A.M.

PURSUANT TO 11 CFR 3.5(D)(1), THE COMMISSION IS ADDING THE FOLLOWING

MATTER TO THE OPEN MEETING AGENDA: Application of 26 USC 9033(c) to the 1984 Presidential Nominating Process.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S. 84–772 Filed 1–9–84; 10:35 am]

BILLING CODE 6715–01–M

5

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Monday, January 16, 1984.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202 452–3204.

Dated: January 6, 1984.

James McAfee,

Associate Secretary of the Board.

[S. 84–747 Filed 1–9–84; 9:24 a.m.]

BILLING CODE 6210–01–M

6

FEDERAL TRADE COMMISSION

TIME AND DATES: 10:00 a.m., Wednesday, January 18, 1984.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580

STATUS: Open.

MATTERS TO BE CONSIDERED: American Association of Advertising Agencies; Presentation entitled "Advertising In Different Kinds of Markets".

CONTANCT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Information: (202) 523–1892; Recorded Message: (202) 523–3806.

Emily H. Rock,

Secretary.

[S. 84–766 Filed 1–9–84; 10:05 a.m.]

BILLING CODE 6750–01–M

7

INTERNATIONAL TRADE COMMISSION

USITC SE–84–4.

TIME AND DATE: 2:30 p.m, Wednesday, January 18, 1984.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints: a. Certain x-ray image intensifier tubes and instruments (Docket No. 1005).
5. Investigation 104–TAA–20 (Certain Castor Oil Products from Brazil)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary. (202) 523–0161.

[S. 84–711 Filed 1–9–84; 9:24 am]

BILLING CODE 7020–02–M

8

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 246 December 21, 1983 page 56469.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m. on January 12, 1984.

CHANGES IN THE MEETING: This meeting is canceled.

Dated: January 9, 1984.

E. Ross Buckley,

General Counsel.

[S. 83–852 Filed 1–9–84; 3:11 pm]

BILLING CODE 7600–01–M

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federal register

Wednesday
January 11, 1984

Part II

Enforcement of Nondiscrimination on the Basis of Handicap in Federally Conducted Programs

Administrative Conference of the United States

Advisory Committee on Federal Pay

Advisory Commission on Intergovernmental Relations

Department of Energy

Office of the Federal Inspector for the Alaska Natural Gas Transportation System

Export-Import Bank of the United States

Consumer Product Safety Commission

International Trade Commission

International Development Cooperation Agency, Agency for International Development

Arms Control and Disarmament Agency

International Boundary and Water Commission, United States and Mexico—United States Section

Board for International Broadcasting

American Battle Monuments Commission

National Foundation on the Arts and the Humanities, National Endowment for the Humanities

National Foundation on the Arts and the Humanities, Institute of Museum Services

National Commission on Libraries and Information Science

National Transportation Safety Board

Marine Mammal Commission

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1 CFR Part 326

ADVISORY COMMITTEE ON FEDERAL PAY

5 CFR Part 1411

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

5 CFR Part 1701

DEPARTMENT OF ENERGY

10 CFR Part 1040

OFFICE OF THE FEDERAL INSPECTOR FOR THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

10 CFR Part 1535

EXPORT-IMPORT BANK OF THE UNITED STATES

12 CFR Part 410

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1033

UNITED STATES INTERNATIONAL TRADE COMMISSION

19 CFR Part 201

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Part 219

ARMS CONTROL AND DISARMAMENT AGENCY

22 CFR Part 607

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO—UNITED STATES SECTION

22 CFR Part 1103

BOARD FOR INTERNATIONAL BROADCASTING

22 CFR Part 1304

AMERICAN BATTLE MONUMENTS COMMISSION

36 CFR Part 406

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

45 CFR Part 1175

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum Services

45 CFR Part 1181

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

45 CFR Part 1706

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 807

MARINE MAMMAL COMMISSION

50 CFR Part 550

Enforcement of Nondiscrimination on the Basis of Handicap in Federally Conducted Programs

AGENCIES: Administrative Conference of the United States; Advisory Committee on Federal Pay; Advisory Commission on Intergovernmental Relations; Department of Energy; Office of the Federal Inspector for the Alaska Natural Gas Transportation System; Export-Import Bank of the United States; United States International Trade Commission; International Development Cooperation Agency, Agency for International Development; U.S. Arms Control and Disarmament Agency; International Boundary and Water Commission, United States and Mexico-United States Section; Board for International Broadcasting; American Battle Monuments Commission; National Foundation on the Arts and the Humanities, National Endowment for the Humanities; National Foundation on the Arts and the Humanities, Institute of Museum Services; National Commission on Libraries and Information Science; National Transportation Safety Board; Marine Mammal Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed regulation provides for the enforcement of section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap, as it applies to programs or activities conducted by the agencies listed above.

DATES: To be assured of consideration, comments must be in writing and must be received on or before May 10, 1984. Comments should refer to specific sections in the regulation.

ADDRESSES: See individual agencies below.

FOR FURTHER INFORMATION CONTACT: See individual agencies below.

SUPPLEMENTARY INFORMATION:

Background

The purpose of this proposed rule is to provide for the enforcement of section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), as it applies to programs and activities conducted by the following agencies:

Administrative Conference of the United States; Advisory Committee on Federal Pay; Advisory Commission on Intergovernmental Relations; Department of Energy; Office of the Federal Inspector for the Alaska Natural Gas Transportation System; Export-Import Bank of the United States; United States International Trade Commission; International Development Cooperation Agency, Agency for International Development; U.S. Arms Control and Disarmament Agency; International Boundary and Water Commission , United States and Mexico-United States Section; Board for International Broadcasting; American Battle Monuments Commission; National Foundation on the Arts and the Humanities, National Endowment for the Humanities; National Foundation on the Arts and the Humanities, Institute of Museum Services; National Commission on Libraries and Information Science; National Transportation Safety Board; Marine Mammal Commission.

(hereinafter "the agencies"). As amended by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (Sec. 119, Pub. L. 95–602, 92 Stat. 2982), section 504 of the Rehabilitation Act of 1973 states that

> No otherwise qualified handicapped individual in the United States, . . . shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance *or under any program or activity conducted by any Executive agency or by the United States Postal Service. The head of each such agency shall promulgate such regulations as may be necessary to carry out the amendments to this section made by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978. Copies of any proposed regulation shall be submitted to appropriate authorizing committees of the Congress, and such regulation may take effect no earlier than the thirtieth day after the date on which such regulation is so submitted to such committees.*

(29 U.S.C. 794) (amendment italicized).

Because the agencies are required by this amendment to promulgate implementing regulations, and because the proposed standards and procedures to be established are the same for all of the agencies, the agencies are publishing this notice of proposed rulemaking jointly. The final rule adopted by each agency will be codified in that agency's portion of the Code of Federal Regulations as indicated in the information provided for individual agencies below. The agencies agreed to joint publication of the preamble and the text of the regulation in order to expedite its issuance and minimize costs, in view of the identity in proposed standards among the agencies. If, following the public comment period, one or more of the agencies desires to promulgate a final regulation with different substantive provisions in order to account for its particular needs identified in response to public comments, it will, of course, do so.

The substantive nondiscrimination obligations of the agencies, as set forth in this proposed rule, are identical, for the most part, to those established by Federal regulations for programs or activities receiving Federal financial assistance. *See* 28 CFR Part 41 (section 504 coordination regulation for federally assisted programs). This general parallelism is in accord with the intent expressed by supporters of the 1978 amendment in floor debate, including its sponsor, Rep. James M. Jeffords, that the Federal Government should have the same section 504 obligations as recipients of Federal financial assistance. 124 Cong. Rec. 13,901 (1978) (remarks of Rep. Jeffords); 124 Cong. Rec. E2668, E2670 (daily ed. May 17, 1978) *id.;* 124 Cong. Rec. 13,897 (remarks of Rep. Brademas); *id.* at 38,552 (remarks of Rep. Sarasin).

This regulation has been reviewed by the Department of Justice. It is an adaptation of a prototype prepared by the Department of Justice under Executive Order 12250 (45 FR 72995, 3 CFR, 1980 Comp., p. 298) and distributed to Executive agencies on April 15, 1983.

This regulation has also been reviewed by the Equal Employment Opportunity Commission under Executive Order 12067 (43 FR 28967, 3 CFR, 1978 Comp., p. 206).

It is not a major rule within the meaning of Executive Order 12291 (46 FR 13193, 3 CFR, 1981 Comp., p. 127) and, therefore, a regulatory impact analysis has not been prepared.

This regulation does not have an impact on small entities. It is not, therefore, subject to the Regulatory Flexibility Act (5 U.S.C. 601–612).

Section-by-Section Analysis

Section —.101 Purpose.

Section —.101 states the purpose of the proposed rule, which is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

Section —.102 Application.

The proposed regulation applies to all programs or activities conducted by the agency.

Section —.103 Definitions.

"Assistant Attorney General." "Assistant Attorney General" refers to the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

"Auxiliary aids." "Auxiliary aids" means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in and enjoy the benefits of the agency's programs or activities. The definition provides examples of commonly used auxiliary aids. Although auxiliary aids are required explicitly only by § —.160(a)(1), they may also be necessary to meet other requirements of the regulation.

"Complete complaint." The definition of "complete complaint" enables the agency to determine the beginning of its obligation to investigate a complaint (*see* § —.170(d)).

"Facility." The definition of "facility" is similar to that in the section 504 coordination regulation for federally assisted programs, 28 CFR 41.3(f), except that the term "rolling stock or other conveyances" has been added and the phrase "or interest in such property" has been deleted to clarify its coverage. The term "facility" is used in § —.150 and § —.170(e).

"Handicapped person." The definition of "handicapped person" is a shortened version of the definition appearing in the section 504 coordination regulation for federally assisted programs (28 CFR 41.31). In the interest of brevity, examples of handicapping conditions appearing under the term "physical or mental impairment" are deleted.

"Qualified handicapped person." The definition of "qualified handicapped person" is a revised version of the definition appearing in the section 504 coordination regulation for federally assisted programs (28 CFR 41.32).

Paragraph (1) deviates from existing regulations for federally assisted programs because of intervening court decisions. It defines "qualified handicapped person" with regard to any program under which a person is required to perform services or to achieve a level of accomplishment. In such programs a qualified handicapped person is one who can achieve the purpose of the program without modifications in the program that would result in a fundamental alteration in its nature. This definition reflects the decision of the Supreme Court in *Southeastern Community College v. Davis*, 442 U.S. 397 (1979). In that case, the Court ruled that a hearing-impaired applicant to a nursing school was not a "qualified handicapped person" because her hearing impairment would prevent her from participating in the clinical training portion of the program. The Court found that, if the program were modified so as to enable the respondent to participate (by exempting her from the clinical training requirements), "she would not receive even a rough equivalent of the training a nursing program normally gives." *Id.* at 410. It also found that "the purpose of [the] program was to train persons who could serve the nursing profession in all customary ways," *id.* at 413, and that the respondent would be unable, because of her hearing impairment, to perform some functions expected of a registered nurse. It therefore we concluded that the school was not required by section 504 to make such modifications that would

result in "a fundamental alteration in the nature of the program." *Id.* at 410.

We have incorporated the Court's language in the definition of "qualified handicapped person" in order to make clear that such a person must be able to participate in the program offered by the agency. The agency is required to make modifications in order to enable a handicapped applicant to participate, but is not required to offer a program of a fundamentally different nature. The test is whether, with appropriate modifications, the applicant can achieve the purpose of the program offered; not whether the applicant could benefit or obtain results from some other program that the agency does not offer. Although the revised definition allows exclusion of some handicapped people from some programs, it requires that a handicapped person who is capable of achieving the purpose of the program must be accommodated, provided that the modifications do not fundamentally alter the nature of the program.

For programs or activities that do not fall under the first paragraph, paragraph (2) adopts the existing definition of "qualified handicapped person" with respect to services (28 CFR 41.32(b)) in the coordination regulation for programs receiving Federal financial assistance. Under this definition, a qualified handicapped person is a handicapped person who meets the essential eligibility requirements for participation in the program or activity.

"Section 504." This definition makes clear that, as used in this regulation, "section 504" applies only to programs or activities conducted by the agency and not to programs or activities to which it provides Federal financial assistance.

Section —.110 Self-evaluation.

The agency shall conduct a self-evaluation of its compliance with section 504 within one year of the effective date of this regulation. The process shall include consultation with interested persons, including consultation with handicapped persons or organizations representing handicapped persons. The self-evaluation requirement is present in the existing section 504 coordination regulation for programs or activities receiving Federal financial assistance (28 CFR 41.5(b)(2)). Experience has demonstrated the self-evaluation process to be a valuable means of establishing a working relationship with handicapped persons that promotes both effective and efficient implementation of section 504.

Section —.130 General prohibitions against discrimination.

Section —.130 is an adaptation of the corresponding section of the section 504 coordination regulation for programs or activities receiving Federal financial assistance (28 CFR 41.51).

Paragraph (a) restates the nondiscrimination mandate of section 504. The remaining paragraphs in § —.130 establish the general principles for analyzing whether any particular action of the agency violates this mandate. These principles serve as the analytical foundation for the remaining sections of the regulation. Whenever the agency has violated a provision in any of the subsequent sections, it has also violated one of the general prohibitions found in § —.130. When there is no applicable subsequent provision, the general prohibitions stated in this section apply.

Paragraph (b) prohibits overt denials of equal treatment of handicapped persons. The agency may not refuse to provide a handicapped person with an equal opportunity to participate in or benefit from its program simply because the person is handicapped. Such blatantly exclusionary practices often result from the use of irrebuttable presumptions that absolutely exclude certain classes of disabled persons (*e.g.*, epileptics, hearing-impaired persons, persons with heart ailments) from participation in programs or activities without regard to an individual's actual ability to participate. Use of an irrebuttable presumption is permissible only when in all cases a physical condition by its very nature would prevent an individual from meeting the essential eligibility requirements for participation in the activity in question. It would be permissible, therefore, to exclude without an individual evaluation all persons who are blind in both eyes from eligibility for a license to operate a commercial vehicle in interstate commerce; but it may not be permissible to automatically disqualify all those who are blind in just one eye.

Section 504, however, prohibits more than just the most obvious denials of equal treatment. It is not enough to admit persons in wheelchairs to a program if the facilities in which the program is conducted are inaccessible. Paragraph (b)(1)(iii), therefore, requires that the opportunity to participate or benefit afforded to a handicapped person be as effective as that afforded to others. The later sections on program accessibility (§§ —.150– —.151) and communications (§ —.160) are specific applications of this principle.

Despite the mandate of paragraph (d) that the agency administer its programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons, paragraph (b)(1)(iv), in conjunction with paragraph (d), permits the agency to develop separate or different aids, benefits, or services when necessary to provide handicapped persons with an equal opportunity to participate in or benefit from the agency's programs or activities. Paragraph (b)(1)(iv) requires that different or separate aids, benefits, or services be provided only when necessary to ensure that the aids, benefits, or services are as effective as those provided to others. Even when separate or different aids, benefits, or services would be more effective, paragraph (b)(2) provides that a qualified handicapped person still has the right to choose to participate in the program that is not designed to accommodate handicapped persons.

Paragraph (b)(1)(v) prohibits the agency from denying a qualified handicapped person the opportunity to participate as a member of a planning or advisory board.

Paragraph (b)(1)(vi) prohibits the agency from limiting a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving any aid, benefit, or service.

Paragraph (b)(3) prohibits the agency from utilizing criteria or methods of administration that deny handicapped persons access to the agency's programs or activities. The phrase "criteria or methods of administration" refers to official written agency policies and the actual practices of the agency. This paragraph prohibits both blatantly exclusionary policies or practices and nonessential policies and practices that are neutral on their face, but deny handicapped persons an effective opportunity to participate.

Paragraph (b)(4) specifically applies the prohibition enunciated in § —.130(b)(3) to the process of selecting sites for construction of new facilities or existing facilities to be used by the agency. Paragraph (b)(4) does not apply to construction of additional buildings at an existing site.

Paragraph (b)(5) prohibits the agency, in the selection of procurement contractors, from using criteria that subject qualified handicapped persons to discriminate on the basis of handicap.

Paragraph (c) provides that programs conducted pursuant to Federal statute or Executive order that are designed to benefit only handicapped persons or a given class of handicapped persons may

be limited to those handicapped persons.

Section —.140 Employment.

Section—.140 prohibits discrimination on the basis of handicap in employment by Executive agencies. This regulation is in accord with a recent decision of the Fifth Circuit that holds that, despite the resulting overlap of coverage with section 501 of the Rehabilitation Act of 1973, (29 U.S.C. 791), Congress intended section 504 to cover the employment practices of Executive agencies. The court also held that in order to give effect to both section 504 and section 501, the administrative procedures of section 501 must be followed in processing section 504 complaints. *Prewitt v. United States Postal Service,* 662 F.2d 292 (5th Cir. 1981).

Consistent with that decision, this section provides that the standards, requirements, and procedures of section 501 of the Rehabilitation Act, as established in regulations of the Equal Employment Opportunity Commission (EEOC) at 29 CFR Part 1613, shall be those applicable to employment in federally conducted programs or activities. In addition to this section, § —.170(b) of this regulation specifies that the agency will use the existing EEOC procedures to resolve allegations of employment discrimination. Responsibility for coordinating enforcement of Federal laws prohibiting discrimination in employment is assigned to the EEOC by Executive Order 12067 (3 CFR, 1979 Comp., p. 206). Under this authority, the EEOC establishes government-wide standards on nondiscrimination in employment on the basis of handicap.

Section —.150 Program accessibility: Existing facilities.

This regulation adopts the program accessibility concept found in the existing section 504 coordination regulation for programs or activities receiving Federal financial assistance (28 CFR 41.56–41.58), with certain modifications. Thus, §—.150 requires that the agency's program or activity, when viewed in its entirety, be readily accessible to and usable by handicapped persons. The regulation also makes clear that the agency is not required to make each of its existing facilities accessible (§ —.150(a)(1)). However, § —.150, unlike 28 CFR 41.56–41.57, places explicit limits on the agency's obligation to ensure program accessibility (§ —.150(a)(2)).

Paragraph (a)(2) generally codifies recent case law that defines the scope of the agency's obligation to ensure program accessibility. This paragraph provides that in meeting the program accessibility requirement the agency is not required to take any action that would result in a fundamental alteration in the nature of its program or activity or in undue financial and administrative burdens. A similar limitation is provided in § —.160(e). This provision is based on the Supreme Court's holding in *Southeastern Community College v. Davis,* 442 U.S. 397 (1979), that section 504 does not require program modifications that result in a fundamental alteration in the nature of a program, and on the Court's statement that section 504 does not require modifications that would result in "undue financial and administrative burdens." 442 U.S. at 412. Since *Davis,* circuit courts have applied this limitation on a showing that only one of the two "undue burdens" would be created as a result of the modification sought to be imposed under section 504. *See, e.g., Dopico v. Goldschmidt,* 687 F.2d 644 (2d Cir. 1982); *American Public Transit Association v. Lewis (APTA),* 655 F.2d 1272 (D.C. Cir. 1981). Thus, in *APTA* the United States Court of Appeals for the District of Columbia Circuit applied the *Davis* language and invalidated the section 504 regulations of the Department of Transportation. The court in *APTA* noted "that at some point a transit system's refusal to take modest, affirmative steps to accommodate handicapped persons might well violate section 504. But DOT's rules do not mandate only modest expenditures. The regulations require extensive modifications of existing systems and impose extremely heavy financial burdens on local transit authorities." 655 F.2d at 1278.

The inclusion of paragraph (a)(2) is an effort to conform the agency's regulation implementing section 504 to the Supreme Court's interpretation of the statute in *Davis* as well as to the decisions of lower courts following the *Davis* opinion. This paragraph acknowledges, in light of recent case law, that in some situations, certain accommodations for a handicapped person may so alter an agency's program or activity, or entail such extensive costs and administrative burdens that the refusal to undertake the accommodations is not discriminatory. The failure to include such a provision could lead to judicial invalidation of the regulation or reversal of a particular enforcement action taken pursuant to the regulation.

This paragraph, however, does not establish an absolute defense; it does not relieve the agency of all obligations to handicapped persons. Although the agency is not required to take actions that would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens, it nevertheless must take any other steps necessary to ensure that handicapped persons receive the benefits and services of the federally conducted program or activity.

Paragraph (b) sets forth a number of means by which program accessibility may be achieved, including redesign of equipment, reassignment of services to accessible buildings, and provision of aides. In choosing among methods, the agency shall give priority consideration to those that will be consistent with provision of services in the most integrated setting appropriate to the needs of handicapped persons. Structural changes in existing facilities are required only when there is no other feasible way to make the agency's program accessible. The agency may comply with the program accessibility requirement by delivering services at alternate accessible sites or making home visits as appropriate.

Paragraphs (c) and (d) establish time periods for complying with the program accessibility requirement. As currently required for federally assisted programs by 28 CFR 41.57(b), the agency must make any necessary structural changes in facilities as soon as practicable, but in no event later than three years after the effective date of this regulation. Where structural modifications are required, a transition plan shall be developed within six months of the effective date of this regulation. Aside from structural changes, all other necessary steps to achieve compliance shall be taken within sixty days.

Section —.151 Program accessibility: New construction and alterations.

Overlapping coverage exists with respect to new construction under section 504, section 502 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 792), and the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157). Section —.151 provides that those buildings that are constructed or altered by, on behalf of, or for the use of the agency shall be designed, constructed, or altered to be readily accessible to and usable by handicapped persons in accordance with 41 CFR sections 101–19.600 to 101–19.607. This standard was promulgated pursuant to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157). We believe that it is appropriate to adopt the existing Architectural Barriers Act standard for section 504 compliance because new and altered buildings subject to this regulation are also subject to the Architectural Barriers

Act and because adoption of the standard will avoid duplicative and possibly inconsistent standards.

Existing buildings leased by the agency after the effective date of this regulation are not required to meet the new construction standard. They are subject, however, to the requirements of § —.150.

Section —.160 Communications.

Section —.160 requires the agency to take appropriate steps to ensure effective communication with personnel of other Federal entities, applicants, participants, and members of the public. These steps shall include procedures for determining when auxiliary aids are necessary under § —.160(a)(1) to afford a handicapped person an equal opportunity to participate in, and enjoy the benefits of, the agency's program or activity. They shall also include an opportunity for handicapped persons to request the auxiliary aids of their choice. This expressed choice shall be given primary consideration by the agency (§ —.160). The agency shall honor the choice unless it can demonstrate that another effective means of communication exists or that use of the means chosen would not be required under § —.160(e). That paragraph limits the obligation of the agency to ensure effective communication in accordance with *Davis* and the circuit court opinions interpreting it (*see supra* preamble § —.150(a)(3)). Unless not required by § —.160(e), the agency shall provide auxiliary aids at no cost to the handicapped person.

In some circumstances, a notepad and written materials may be sufficient to permit effective communication with a hearing-impaired person. In many circumstances, however, they may not be, particularly where the hearing-impaired applicant or participant is not skilled in spoken or written language. Then, a sign language interpreter may be appropriate. For vision-impaired persons, effective communication might be achieved by several means, including readers and audio recordings. In general, the agency intends to make clear to the public (1) the communications services it offers to afford handicapped persons an equal opportunity to participate in or benefit from its programs or activities, (2) the opportunity to request a particular mode of communication, and (3) the agency's preference regarding auxiliary aids if it can demonstrate that several different modes are effective.

The agency shall ensure effective communication with vision-impaired and hearing-impaired persons involved in hearings conducted by the agency. Auxiliary aids must be afforded where necessary to ensure effective communication at the proceedings. If sign language interpreters are necessary, the agency may require that it be given reasonable notice prior to the proceeding of the need for an interpreter. Moreover, the agency need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature. § —.160(a)(1)(ii). For example, the agency need not provide eye glasses or hearing aids to applicants or participants in its programs. Similarly, the regulation does not require the agency to provide wheelchairs to persons with mobility impairments.

Paragraph (b) requires the agency to provide information to handicapped persons concerning accessible services, activities, and facilities. Paragraph (c) requires the agency to provide signage at inaccessible facilities that directs users to locations with information about accessible facilities.

Paragraph (d) requires the agency to take appropriate steps to provide handicapped persons with information regarding their section 504 rights under the agency's programs and activities. Methods of providing this information include, for example, the publication of information in handbooks, manuals, and pamphlets that are distributed to the public to describe the agency's programs and activities; the display of informative posters in service centers and other public places; or the broadcast of information by television or radio.

Section —.170 Compliance procedures.

Paragraph (a) specifies that paragraphs (c) through (l) of this section establish the procedures for processing complaints other than employment complaints. Paragraph (b) provides that the agency will process employment complaints according to procedures established in existing regulations of the EEOC (29 CFR Part 1613) pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

The agency will designate an official responsible for coordinating implementation of this section (§ —.170(c)). The agency is required to accept and investigate all complete complaints (§ —.170(d)). If it determines that it does not have jurisdiction over a complaint, it shall promptly notify the complainant and make reasonable efforts to refer the complaint to the appropriate entity of the Federal government (§ —.170(e)).

Paragraph (f) requires the agency to notify the Architectural and Transportation Barriers Compliance Board upon receipt of a complaint alleging that a building or facility subject to the Archtectural Barriers Act or section 502 was designed, constructed, or altered in a manner that does not provide ready access and use to handicapped persons.

Paragraph (g) requires the agency to provide to the complainant, in writing, findings of fact and conclusions of law, the relief granted if noncompliance is found, and notice of the right to appeal (§ —.170(g)). One appeal within the agency shall be provided (§ —.170(i)). The appeal will not be heard by the same person who made the initial determination of compliance or noncompliance (§ —.170(i)).

Paragraph (l) permits the agency to delegate its authority for investigating complaints to other Federal agencies. However, the statutory obligation of the agency to make a final determination of compliance or noncompliance may not be delegated.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1 CFR Part 326

ADDRESS: Comments should be sent to: Administrative Conference of the United States, 2120 L Street, Suite 500, Washington, D.C. 20037.

FOR FURTHER INFORMATION CONTACT: Richard K. Berg, Esq., General Counsel, Administrative Conference of the United States, 2120 L Street, N.W., Suite 500, Washington, D.C. 20037; (202) 254–7020 TDD: (202) 724–7678.

List of Subjects in 1 CFR Part 326

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

It is proposed that Title 1 of the Code of Federal Regulations be amended by adding Part 326 as set forth at the end of this document.

Richard K. Berg,

General Counsel.

PART 326—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Sec.

326.101 Purpose.
326.102 Application.
326.103 Definitions.
326.104–326.109 [Reserved]
326.110 Self-evaluation.
326.111–326.129 [Reserved]

Sec.
326.130 General prohibitions against discrimination.
326.131–326.139 [Reserved]
326.140 Employment.
326.141–326.149 [Reserved]
326.150 Program accessibility: Existing facilities.
326.151 Program accessibility: New construction and alterations.
326.152–326.159 [Reserved]
326.160 Communications.
326.161–326.169 [Reserved]
326.170 Compliance procedures.
326.171–326.999 [Reserved]

Authority: 29 U.S.C. 794.

ADVISORY COMMITTEE ON FEDERAL PAY

5 CFR Part 1411

ADDRESS: Comments should be sent to: Ms. Lucretia Dewey Tanner, Executive Director, Advisory Committee on Federal Pay, 1730 K Street, N.W., Suite 205, Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: The above named person, Telephone: (202) 653–6193, TDD: (202) 724–7678.

List of Subjects in 5 CFR Part 1411

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

It is proposed that Title 5 of the Code of Federal Regulations be amended by adding Part 1411 as set forth at the end of this document.

Lucretia Dewey Tanner,
Executive Director.

PART 1411—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY ADVISORY COMMITTEE ON FEDERAL PAY

Sec.
1411.101 Purpose.
1411.102 Application.
1411.103 Definitions.
1411.104–1411.109 [Reserved]
1411.110 Self-evaluation.
1411.111–1411.129 [Reserved]
1411.130 General prohibitions against discrimination.
1411.131–1411.139 [Reserved]
1411.140 Employment.
1411.141–1411.149 [Reserved]
1411.150 Program accessibility: Existing facilities.
1411.151 Program accessibility: New construction and alterations.
1411.152–1411.159 [Reserved]
1411.160 Communications.
1411.161–1411.169 [Reserved]
1411.170 Compliance procedures.
1411.171–1411.999 [Reserved]

Authority: 29 U.S.C. 794.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

5 CFR Part 1701

ADDRESS: Comments should be sent to Advisory Commission on Intergovernmental Relations, Suite 2000, Vanguard Building, 1111 20th Street, NW., Washington, DC 20575.

FOR FURTHER INFORMATION CONTACT: Franklin A. Steinko, Jr., Budget and Management Officer, Advisory Commission on Intergovernmental Relations, Suite 2000, Vanguard Building, 1111 20th Street, NW., Washington, DC 20575, Phone: (202) 653–5640, TDD (202) 724–7678.

List of Subjects in 5 CFR Part 1701

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

It is proposed that Title 5 of the Code of Federal Regulations be amended by adding Part 1701 as set forth at the end of this document.

Franklin A. Steinko, Jr.,
Budget and Management Officer.

PART 1701—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

Sec.
1701.101 Purpose.
1701.102 Application.
1701.103 Definitions.
1701.104–1701.109 [Reserved]
1701.110 Self-evaluation.
1701.111–1701.129 [Reserved]
1701.130 General prohibitions against discrimination.
1701.131–1701.139 [Reserved]
1701.140 Employment.
1701.141–1701.149 [Reserved]
1701.150 Program accessibility: Existing facilities.
1701.151 Program accessibility: New construction and alterations.
1701.152–1701.159 [Reserved]
1701.160 Communications.
1701.161–1701.169 [Reserved]
1701.170 Compliance procedures.
1701.171–1701.999 [Reserved]

Authority: 29 U.S.C. 794.

DEPARTMENT OF ENERGY

10 CFR Part 1040

ADDRESS: Comments should be sent to Special Assistant for Civil Rights, U.S. Department of Energy, 1000 Independence Avenue, Washington, D.C. 20585. Mail Stop 4B–112.

FOR FURTHER INFORMATION CONTACT: Mr. Charles A. Agnew, Jr., U.S. Department of Energy, 1000 Independence Ave. SW., Room 4B–102, Voice: (202) 252–1549, TDD: (202) 724–7678, Washington, D.C. 20585.

List of Subjects in 10 CFR Part 1040

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

It is proposed that Title 5 of the Code of Federal Regulations be amended by adding Subpart D to Part 1040 as set forth at the end of this document.

Charles A. Agnew, Jr.,
Special Assistant for Civil Rights.

PART 1040—[AMENDED]

Subpart D—Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by Department of Energy

Sec.
1040.101 Purpose.
1040.102 Application.
1040.103 Definitions.
1040.104–1040.109 [Reserved]
1040.110 Self-evaluation.
1040.111–1040.129 [Reserved]
1040.130 General prohibitions against discrimination.
1040.131–1040.139 [Reserved]
1040.140 Employment.
1040.141–1040.149 [Reserved]
1040.150 Program accessibility: Existing facilities.
1040.151 Program accessibility: New construction and alterations.
1040.152–1040.159 [Reserved]
1040.160 Communications.
1040.161–1040.169 [Reserved]
1040.170 Compliance procedures.
1040.171–1040.999 [Reserved]

Authority: 29 U.S.C. 794.

OFFICE OF THE FEDERAL INSPECTOR FOR THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

10 CFR Part 1535

ADDRESS: Comments should be sent to Rhodell G. Fields, Acting General Counsel, Office of the Federal Inspector for the Alaska Natural Gas Transportation System, 1200 Pennsylvania Avenue, N.W., Room 3411, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: Rhodell G. Fields, 1200 Pennsylvania Avenue, N.W., Room 3411, Washington, D.C. 20044; (202) 275–1144 TDD: (202) 724–7678.

List of Subjects in 10 CFR Part 1535

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

It is proposed that Title 10 of the Code of Federal Regulations be amended by adding Part 1535 as set forth at the end of this document.

Rhodell G. Fields,

Acting General Counsel.

PART 1535—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY OFFICE OF THE FEDERAL INSPECTOR FOR THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

Sec.

1535.101 Purpose.
1535.102 Application.
1535.103 1535 Definitions.
1535.104 1535–109 [Reserved]
1535.110 Self-evaluation.
1535.111–1535.129 [Reserved]
1535.130 General prohibitions against discrimination.
1535.131–1535.139 [Reserved]
1535.140 Employment.
1535.141–1535.149 [Reserved]
1535.150 Program accessibility: Existing facilities.
1535.151 Program accessibility: New construction and alterations.
1535.152–1535.159 [Reserved]
1535.160 Communications.
1535.161–1535.169 [Reserved]
1535.170 Compliance procedures.
1535.171–1535.999 [Reserved]

Authority: 29 U.S.C. 794.

EXPORT-IMPORT BANK OF THE UNITED STATES

12 CFR Part 410

ADDRESS: Comments should be sent to Warren W. Glick, General Counsel, Export-Import Bank of the United States, 811 Vermont Avenue N.W., Washington, D.C. 20571.

FOR FURTHER INFORMATION CONTACT: Warren W. Glick, General Counsel, Voice (566–8334), TTY (566–8846).

List of Subjects in 12 CFR Part 410

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

It is proposed that Title 12 of the Code of Federal Regulations be amended by adding Part 410 as set forth at the end of this document.

Warren W. Glick,

General Counsel.

PART 410—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY EXPORT-IMPORT BANK OF THE UNITED STATES

Sec.

410.101 Purpose.
410.102 Application.
410.103 Definitions.
410.104–410.109 [Reserved]
410.110 Self-evaluation.
410.111–410.129 [Reserved]
410.130 General prohibitions against discrimination.
410.131–410.139 [Reserved]
410.140 Employment.
410.141–410.149 [Reserved]
410.150 Program accessibility: Existing facilities.
410.151 Program accessibility: New construction and alterations.
410.152–410.159 [Reserved]
410.160 Communications.
410.161–410.169 [Reserved]
410.170 Compliance procedures.
410.171–410.999 [Reserved]

Authority: 29 U.S.C. 794.

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1033

ADDRESS: Comments should be sent to: Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: Robert T. Noonan, Office of General Counsel, Telephone (301)492–6980, TDD (800) 638–8270 National, (800) 492–8104 Md only.

List of Subjects in 16 CFR Part 1033

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

It is proposed that Title 16 of the Code of Federal Regulatons be amended by adding Part 1033 as set forth at the end of this document.

Sadye E. Dunn,

Secretary.

PART 1033—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE CONSUMER PRODUCT SAFETY COMMISSION

Sec.

1033.101 Purpose.
1033.102 Application.
1033.103 Definitions.
1033.104–1033.109 [Reserved]
1033.110 Self-evaluation.
1033.111–1033.129 [Reserved]
1033.130 General prohibitions against discrimination.
1033.131–1033.139 [Reserved]
1033.140 Employment.
1033.141–1033.149 [Reserved]
1033.150 Program accessibility: Existing facilities.
1033.151 Program accessibility: New construction and alterations.
1033.152–1033.159 [Reserved]
1033.160 Communications.
1033.161–1033.169 [Reserved]
1033.170 Compliance procedures.
1033.171–1033.999 [Reserved]

Authority: 29 U.S.C. 794.

UNITED STATES INTERNATIONAL TRADE COMMISSION

19 CFR Part 201

ADDRESS: Comments should be sent to: Mr. Terry P. Mc.Gowan, Room 166, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

FOR FURTHER INFORMATION CONTACT: Mr. Terry P. McGowan, Room 166, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436; telephone 202–523–0182. TDD (202)724–7678.

List of Subjects in 19 CFR Part 201

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

It is proposed that Title 19 of the Code of Federal Regulatons be amended by adding Subpart G to Part 201 as set forth

at the end of this document.

Alfred Eckes,

Chairman.

PART 201—[AMENDED]

Part 201, Subpart G—Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the U.S. International Trade Commission

Sec.

201.101 Purpose.
201.102 Application.
201.103 Definitions.
201.104–201.109 [Reserved]
201.110 Self-evaluation.
201.111–201.129 [Reserved]
201.130 General prohibitions against discrimination.
201.131–201.139 [Reserved]
201.140 Employment.
201.141–201.149 [Reserved]
201.1150 Program accessibility: Existing facilities.
201.1151 Program accessibility: New construction and alterations.
201.1152–201.159 [Reserved]
201.160 Communications.
201.161–201.169 [Reserved]
201.170 Compliance procedures.
201.171–201.999 [Reserved]

Authority: 29 U.S.C. 794.

AGENCY FOR INTERNATIONAL DEVELOPMENT

22 CFR Part 219

ADDRESS: Comments should be sent to Office of Equal Opportunity Programs, Agency for International Development, Room 1226, SA–2, Washington, D.C. 20523.

FOR FURTHER INFORMATION CONTACT: Dennis Diamond, Office of Equal Opportunity Programs, Agency for International Development, Room 1226, SA–2, Washington, D.C. 20523 (202) 632–5766, TDD: (202) 724–7678.

List of Subjects in 22 CFR Part 219

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

It is proposed that Title 22 of the Code of Federal Regulations be amended by adding Part 219 as set forth at the end of this document.

Nancy D. Frame,

Assistant General Counsel for Employee and Public Affairs, Office of the General Counsel

PART 219—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY AGENCY FOR INTERNATIONAL DEVELOPMENT, INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Sec.

219.101 Purpose.
219.102 Application.
219.103 Definitions.
219.104–219.109 [Reserved]
219.110 Self-evaluation.
219.111–219.129 [Reserved]
219.130 General prohibitions against discrimination.
219.131–219.139 [Reserved]
219.140 Employment.
219.141–219.149 [Reserved]
219.150 Program accessibility: Existing facilities.
219.151 Program accessibility: New construction and alterations.
219.152–219.159 [Reserved]
219.160 Communications.
219.161–219.169 [Reserved]
219.170 Compliance procedures.
219.171–219.999 [Reserved]

Authority: 29 U.S.C. 794.

ARMS CONTROL AND DISARMAMENT AGENCY

22 CFR Part 607

ADDRESS: Comments should be sent to Equal Employment Opportunity Officer, U.S. Arms Control and Disarmament Agency, Washington, D.C. 20451.

FOR FURTHER INFORMATION CONTACT: F. Eugene Johnson, Room 5672A, 320 21st Street, NW., Washington, D.C. 20451, Telephone: Voice (202) 632–8666; TDD (202) 724–7678.

List of Subjects in 22 CFR Part 607

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

It is proposed that Title 22 of the Code of Federal Regulations be amended by adding Part 607 as set forth at the end of this document.

William J. Montgomery,

Administrative Director.

PART 607—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Sec.

607.101 Purpose.
607.102 Application.
607.103 Definitions.
607.104–607.109 [Reserved]
607.110 Self-evaluation.
607.111–607.129 [Reserved]
607.130 General prohibitions against discrimination.
607.131–607.139 [Reserved]
607.140 Employment.
607.141–607.149 [Reserved]
607.150 Program accessibility: Existing facilities.
607.151 Program accessibility: New construction and alterations.
607.152–607.159 [Reserved]
607.160 Communications.
607.161–607.169 [Reserved]
607.170 Compliance procedures.
607.171–607.999 [Reserved]

Authority: 29 U.S.C. 794.

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO—UNITED STATES SECTION

22 CFR Part 1103

ADDRESS: Comments should be sent to International Boundary and Water Commission, United States and Mexico, United States Section, 4110 Rio Bravo Street, El Paso, Texas 79902.

FOR FURTHER INFORMATION CONTACT: Frank P. Fullerton, Legal Adviser, International Boundary and Water Commission, United States and Mexico, United States Section, 4110 Rio Bravo Street, El Paso, Texas 79902. Telephones: Commercial: (915) 541–7393, FTS: 572–7393, TDD: (202) 724–7678.

List of Subjects in 22 CFR Part 1103

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped,

Nondiscrimination, Physically handicapped.

It is proposed that Title 22 of the Code of Federal Regulations be amended by adding Part 1103 as set forth at the end of this document.

Frank P. Fullerton,

Legal Adviser.

PART 1103—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO, UNITED STATES SECTION

Sec.
1103.101 Purpose.
1103.102 Application.
1103.103 Definitions.
1103.104–1103.109 [Reserved]
1103.110 Self-evalutation.
1103.111–1103.129 [Reserved]
1103.130 General prohibitions against discrimination.
1103.131–1103.139 [Reserved]
1103.140 Employment.
1103.141–1103.149 [Reserved]
1103.150 Program accessibility: Existing facilities.
1103.151 Program accessibility: New construction and alterations.
1103.152–1103.159 [Reserved]
1103.160 Communications.
1103.161–1103.169 [Reserved]
1103.170 Compliance procedures.
1103.171–1103.999 [Reserved]

Authority: 29 U.S.C. 794.

BOARD FOR INTERNATIONAL BROADCASTING

22 CFR Part 1304

ADDRESS: Comments should be sent to 1201 Connecticut Avenue, NW., Suite 1100, Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Kathryn M. Harper, 1201 Connecticut Avenue, N.W., Suite 1100, Washington, D.C. 20036 Telephone: (202) 254–8040, TDD: (202) 724–7678.

List of Subjects in 22 CFR Part 1304

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

It is proposed that Title 22 of the Code of Federal Regulations be amended by adding Part 1304 as set forth at the end of this document.

Walter R. Roberts,

Executive Director.

PART 1304—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE BOARD FOR INTERNATIONAL BROADCASTING

Sec.
1304.101 Purpose.
1304.102 Application.
1304.103 Definitions.
1304.104–1304.109 [Reserved]
1304.110 Self-evaluation.
1304.111–1304.129 [Reserved]
1304.130 General prohibitions against discrimination.
1304.131–1304.139 [Reserved]
1304.140 Employment.
1304.141–1304.149 [Reserved]
1304.150 Program accessibility: Existing facilities.
1304.151 Program accessibility: New construction and alterations.
1304.152–1304.159 [Reserved]
1304.160 Communications.
1304.161–1304.169 [Reserved]
1304.170 Compliance procedures.
1304.171–1304.999 [Reserved]

Authority: 29 U.S.C. 794.

AMERICAN BATTLE MONUMENTS COMMISSION

36 CFR Part 406

ADDRESS: Comments should be sent to Room 5127 Pulaski Bldg., 20 Massachusetts Ave., NW., Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT: Col. Clayton L. Moran (202) 272–0534, TDD: (202) 724–7678.

List of Subjects in 36 CFR Part 406

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

It is proposed that Title 36 of the Code of Federal Regulations be amended by adding Part 406 as set forth at the end of this document.

Clayton L. Moran,

Colonel, FA, Director, Personnel and Administration.

PART 406—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY AMERICAN BATTLE MONUMENTS COMMISSION

Sec.
406.101 Purpose.
406.102 Application.
406.103 Definitions.
406.104–406.109 [Reserved]
406.110 Self-evaluation.
406.111–406.129 [Reserved]
406.130 General prohibitions against discrimination.
406.131–406.139 [Reserved]
406.140 Employment.
406.141–406.149 [Reserved]
406.150 Program accessibility: Existing facilities.
406.151 Program accessibility: New construction and alterations.
406.152–406.159 [Reserved]
406.160 Communications.
406.161–406.169 [Reserved]
406.170 Compliance procedures.
406.171–406.999 [Reserved]

Authority: 29 U.S.C. 794.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

45 CFR Part 1175

ADDRESS: Comments should be sent to Old Post Office Building, Room 419, 1100 Pennsylvania Ave., N.W., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Carol M. Gordon, Director, Office of Equal Opportunity (202) 786–0410, TDD: (202) 724–7678.

List of Subjects in 45 CFR Part 1175

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

It is proposed that Title 45 of the Code of Federal Regulations be amended by adding Part 1175 as set forth at the end of this document.

William Bennett,

Chairman.

PART 1175—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE NATIONAL ENDOWMENT FOR THE HUMANITIES

Sec.
1175.101 Purpose.
1175.102 Application.
1175.103 Definitions.
1175.104–1175.109 [Reserved]
1175.110 Self-evaluation.
1175.111–1175.129 [Reserved]
1175.130 General prohibitions against discrimination.
1175.131–1175.139 [Reserved]
1175.140 Employment.
1175.141–1175.149 [Reserved]
1175.150 Program accessibility: Existing facilities.

Sec.
1175.151 Program accessibility: New construction and alterations.
1175.152–1175.159 [Reserved]
1175.160 Communications.
1175.161–1175.169 [Reserved]
1175.170 Compliance procedures.
1175.171–1175.999 [Reserved]

Authority: 29 U.S.C. 794.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum Services

45 CFR Part 1181

ADDRESS: Comments should be sent to: Institute of Museum Services, Old Post Office Building, Room 510, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Institute of Museum Services (202) 786–0536, TDD: (202) 724–7678.

List of Subjects in 45 CFR Part 1181

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

It is proposed that Title 45 of the Code of Federal Regulations be amended by adding Part 1181 as set forth at the end of this document.

Susan E. Phillips,

Director, Institute of Museum Services.

PART 1181—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE INSTITUTE OF MUSEUM SERVICES

Sec.
1181.101 Purpose.
1181.102 Application.
1181.103 Definitions.
1181.104–1181.109 [Reserved]
1181.110 Self-evaluation.
1181.111–1181.129 [Reserved]
1181.130 General prohibitions against discrimination.
1181.131–1181.139 [Reserved]
1181.140 Employment.
1181.141–1181.149 [Reserved]
1181.150 Program accessibility: Existing facilities.
1181.151 Program accessibility: New construction and alterations.
1181.152–1175.159 [Reserved]
1181.160 Communications.
1181.161–1181.169 [Reserved]
1181.170 Compliance procedures
1181.171–1181.999 [Reserved]

Authority: 29 U.S.C. 794.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

45 CFR Part 1706

ADDRESS: Comments should be sent to Dr. Sarah G. Bishop, Deputy Director, GSA ROB 7th and D Streets, S.W., Suite 3122, Washington, D.C. 20024.

FOR FURTHER INFORMATION CONTACT: Sarah G. Bishop (202) 382–0840 (Voice) or (202) 724–7678 (TDD).

List of Subjects in 45 CFR Part 1706

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

It is proposed that Title 45 of the Code of Federal Regulations be amended by adding Part 1706 as set forth at the end of this document.

Toni Carbo Bearman,

Executive Director.

PART 1706—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Sec.
1706.101 Purpose.
1706.102 Application.
1706.103 Definitions.
1706.104–1706.109 [Reserved]
1706.110 Self-evaluation.
1706.111–1706.129 [Reserved]
1706.130 General prohibitions against discrimination.
1706.131–1706.139 [Reserved]
1706.140 Employment.
1706.141–1706.149 [Reserved]
1706.150 Program accessibility: Existing facilities.
1706.151 Program accessibility: New construction and alterations.
1706.152–1706.159 [Reserved]
1706.160 Communications.
1706.161–1706.169 [Reserved]
1706.170 Compliance procedures.
1706.171–1706.999 [Reserved]

Authority: 29 U.S.C. 794.

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 807

ADDRESS: Comments should be sent to: John M. Stuhldreher, General Counsel, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594.

FOR FURTHER INFORMATION CONTACT: John M. Stuhldreher, General Counsel, National Transportation Safety Board, Washington, D.C. 20594; (202–382–6540). (TDD 202–724–7678).

List of Subjects in 49 CFR Part 807

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

It is proposed that Title 49 of the Code of Federal Regulations be amended by adding Part 807 as set forth at the end of this document.

Patricia A. Goldman,

Vice Chairman.

PART 807—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE NATIONAL TRANSPORTATION SAFETY BOARD

Sec.
807.101 Purpose.
807.102 Application.
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807.104–807.109 [Reserved]
807.110 Self-evaluation.
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807.141–807.149 [Reserved]
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807.161–807.169 [Reserved]
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807.171–807.999 [Reserved]

Authority: 29 U.S.C. 794.

MARINE MAMMAL COMMISSION

50 CFR Part 550

ADDRESS: Comments should be sent to John R. Twiss, Jr., Executive Director, Marine Mammal Commission, Room 307, 1625 I Street, N.W., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: John R. Twiss, Jr., Executive Director, Marine Mammal Commission, Room 307, 1625 I Street, N.W., Washington, D.C. 20006; (202) 653–6237. TDD: (202) 724–7678.

List of Subjects in 50 CFR Part 550

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped,

Nondiscrimination, Physically handicapped.

It is proposed that Title 50 of the Code of Federal Regulations be amended by adding Part 550 as set forth at the end of this document.

John R. Twiss, Jr.,
Executive Director.

PART 550—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY MARINE MAMMAL COMMISSION

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550.102 Application.
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550.104–550.109 [Reserved]
550.110 Self-evaluation.
550.111–556.129 [Reserved]
550.130 General prohibitions against discrimination.
550.131–550.139 [Reserved]
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550.151 Program accessibility: New construction and alterations.
550.152–550.159 [Reserved]
550.160 Communications.
550.161–550.169 [Reserved]
550.170 Compliance procedures.
550.171 [Reserved]

Authority: 29 U.S.C. 794.

Part —— —ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY

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——.161——.169 [Reserved].
——.170 Compliance procedures.
——.171——.999 [Reserved].

Authority: 29 U.S.C. 794.

§ ——.101 Purpose.

The purpose of this part is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

§ ——.102 Application.

This part applies to all programs or activities conducted by the agency.

§ ——.103 Definitions.

For purposes of this part, the term—

"Assistant Attorney General" means the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

"Auxiliary aids" means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the agency. For example, auxiliary aids useful for persons with impaired vision include readers, Brailled materials, audio recordings, telecommunication devices, and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDD's) interpreters, notetakers, written materials, and other similar services and devices.

"Complete complaint" means a written statement that contains the complainant's name and address and describes the agency's actions in sufficient detail to inform the agency of the nature and date of the alleged violation of section 504. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of classes or third parties shall describe or identify (by name, if possible) the alleged victims of discrimination.

"Facility" means all or any portion of buildings, structures, equipment, roads walks, parking lots, rolling stock or other conveyances, or other real or personal property.

"Handicapped person" means any person who has a physical or mental impairment that substantially limits one more major life activities, has a record of such an impairment, or is regarded as having such an impairment. As used in this definition, the phrase:

(1) "Physical or mental impairment" includes—

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; Special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(2) "Major life activities" includes functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) "Is regarded as having an impairment" means—

(i) Has a physical or mental impairment that does not substantially limit major life activities but is treated by the agency as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by the agency as having such an impairment.

"Qualified handicapped person" means—

(1) With respect to any agency program or activity under which a person is required to perform services or to achieve a level of accomplishment, a handicapped person who meets the essential eligibility requirements and who can achieve the purpose of the program or activity without modifications in the program or activity that would result in a fundamental alteration in its nature; and

(2) With respect to any other program or activity, a handicapped person who meets the essential eligiblility requirements for participation in, or receipt of benefits from, that program or activity.

"Section 504" means section 504 of the Rehabilitation Act of 1973 (Pub. L. 93–112, 87 Stat. 394 (29 U.S.C. 794)), as amended by the Rehabilitation Act Amendments of 1974 (Pub. L. 93–516, 88 Stat. 1617), and the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (Pub. L. 95–602, 92 Stat. 2955). As used in this part, section 504 applies only to programs or activities conducted by Executive agencies and not to federally assisted programs.

§ ——.104——.109 [Reserved]

§ ——.110 Self-evaluation.

Within one year of the effective date of this part, the agency shall conduct, with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons, a self-evaluation of its compliance with section 504.

§ ——.111——.129 [Reserved]

§ ——.130 General prohibitions against discrimination.

(a) No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the agency.

(b)(1) This agency, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap—

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons than is provided to others unless such action is necessary to provide qualified handicapped persons with aids, benefits, or services that are as effective as those provided to others;

(v) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(vi) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(2) The agency may not deny a qualified handicapped person the opportunity to participate in programs or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities.

(3) The agency may not, directly or through contractual or other arrangements, utilize criteria or methods of administration the purpose or effect of which would—

(i) Subject qualified handicapped persons to discrimination on the basis of handicap; or

(ii) Defeat or substantially impair accomplishment of the objectives of a program or activity with respect to handicapped persons.

(4) The agency may not, in determining the site or location of a facility, make selections the purpose or effect of which would—

(i) Exclude handicapped persons from, deny them the benefits of, or otherwise subject them to discrimination under any program or activity conducted by the agency; or

(ii) Defeat or substantially impair the accomplishment of the objectives of a program or activity with respect to handicapped persons.

(5) The agency, in the selection of procurement contractors, may not use criteria that subject qualified handicapped persons to discrimination on the basis of handicap.

(c) The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or Executive order to handicapped persons or the exclusion of a specific class of handicapped persons from a program limited by Federal statute or Executive order to a different class of handicapped persons is not prohibited by this part.

(d) The agency shall administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons.

§ ——.131——.139 [Reserved]

§ ——.140 Employment.

No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity conducted by the agency. The definitions, requirements, and procedures of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), as established in 29 CFR Part 1613, shall apply to employment in federally conducted programs or activities.

§ ——.141——.149 [Reserved]

§ ——.150 Program accessibility: Existing facilities.

(a) *General.* The agency shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by handicapped persons. This paragraph does not—

(1) Necessarily require the agency to make each of its existing facilities accessible to and usable by handicappd persons; or

(2) Require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. If an action would result in such an alteration or such burdens, the agency shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that handicapped persons receive the benefits and services of the program or activity.

(b) *Methods.* The agency may comply with the requirements of this section through such means as redesign of equipment, reassignment of services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities, use of accessible rolling stock, or any other methods that result in making its programs or activities readily accessible to and usable by handicapped persons. The agency is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section. The agency, in making alterations to existing buildings, shall meet accessibility requirements to the extent compelled by the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157) and any regulations implementing it. In choosing among available methods for meeting the requirements of this section, the agency shall give priority to those methods that offer programs and activities to qualified handicapped persons in the most integrated setting appropriate.

(c) *Time period for compliance.* The agency shall comply with the obligations established under this section within sixty days of the effective date of this part except that where structural changes in facilities are undertaken, such changes shall be made within three years of the effective date of this part, but in any event as expeditiously as possible.

(d) *Transition plan.* In the event that structural changes to facilities will be undertaken to achieve program accessibility, the agency shall develop, within six months of the effective date of this part, a transition plan setting forth the steps necessary to complete such changes. The plan shall be developed with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons. A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum—

(1) Identify physical obstacles in the agency's facilities that limit the accessibility of its programs or activities to handicapped persons;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period;

(4) Indicate the official responsible for implementation of the plan; and

(5) Identify the persons or groups with whose assistance the plan was prepared.

§ ——.151 Program accessibility: New construction and alterations.

Each building or part of a building that is constructed or altered, by, on behalf of, or for the use of the agency shall be designed, constructed, or altered so as to be readily accessible to and usable by handicapped persons. The definitions, requirements, and standards of the Architectural Barriers Act, 42 U.S.C. 4151–4157, as established in 41 CFR 101.600 to 101.607, apply to buildings covered by this section.

§ ——.152——.159 [Reserved]

§ ——.160 Communications.

(a) The agency shall take appropriate steps to ensure effective communication with applicants, participants, personnel of other Federal entities, and members of the public.

(1) The agency shall furnish appropriate auxiliary aids where necessary to afford a handicapped person an equal opportunity to participate in, and enjoy the benefits of, a program or activity conducted by the agency.

(i) In determining what type of auxiliary aid is necessary, the agency shall give primary consideration to the requests of the handicapped person.

(ii) The agency need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature.

(2) Where the agency communicates with applicants and beneficiaries by telephone, telecommunications devices for deaf persons (TDD's) or equally effective telecommunication systems shall be used.

(b) The agency shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities.

(c) The agency shall provide signage at a primary entrance to each of its inaccessible facilities, directing users to a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall be used at each primary entrance of an accessible facility.

(d) The agency shall take appropriate steps to provide handicapped persons with information regarding their section 504 rights under the agency's programs or activities.

(e) This section does not require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. If an action required to comply with this section would result in such an alteration or such burdens, the agency shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, handicapped persons receive the benefits and services of the program or activity.

§——.161——.169 [Reserved]

§——.170 Compliance procedures.

(a) Except as provided in paragraph (b) of this section, this section applies to all allegations of discrimination on the basis of handicap in programs or activities conducted by the agency.

(b) The agency shall process complaints alleging violations of section 504 with respect to employment according to the procedures established in 29 CFR 1613 pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

(c) The head of the agency shall designate an official to be responsible for coordinating implementation of this section.

(d) The agency shall accept and investigate all complete complaints for which it has jurisdiction. All complete complaints must be filed within 180 days of the alleged act of discrimination. The agency may extend this time period for good cause.

(e) If the agency receives a complaint over which it does not have jurisdiction, it shall promptly notify the complainant and shall make reasonable efforts to refer the complaint to the appropriate government entity.

(f) The agency shall notify the Architectural and Transportation Barriers Compliance Board upon receipt of any complaint alleging that a building or facility that is subject to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157), or section 502 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 22), is not readily accessible and usable to handicapped persons.

(g) Within 180 days of the receipt of a complete complaint for which it has jurisdiction, the agency shall notify the complainant of the results of the investigation in a letter containing—

(1) Findings of fact and conclusions of law;

(2) A description of a remedy for each violation found; and

(3) A notice of the right to appeal.

(h) Appeals of the findings of fact and conclusions of law or remedies must be filed by the complainant within 90 days of receipt from the agency of the letter required by §——.170(g). The agency may extend this time for good cause.

(i) Timely appeals shall be accepted and processed by the head of the agency.

(j) The head of the agency shall notify the complainant of the results of the appeal within 60 days of the receipt of the request. If the head of the agency determines that additional information is needed from the complainant, he or she shall have 60 days from the date of receipt of the additional information to make its determination on the appeal.

(k) The time limits cited in (g) and (j) above may be extended with the permission of the Assistant Attorney General.

(l) The agency may delegate its authority for conducting complaint investigations to other Federal agencies, except that the authority for making the final determination may not be delegated.

§——.171——.999 [Reserved]

[FR Doc. 84–656 Filed 1–10–84; 8:45 am]

BILLING CODES 6110–01–M, 6820–43–M, 6115–01–M, 6450–01–M, 6119–01–M, 6660–01–M, 7020–02–M, 6355–01–M, 6820–32–M, 4710–03–M, 6155–01–M, 6120–01–M, 7536–01–M

federal register

Wednesday
January 11, 1984

Part III

Department of Commerce

National Oceanic and Atmospheric Administration

15 CFR Part 904

Civil Procedures—Ability to Pay; Interim Final Rule

VOL 49 ISS 7 JA 11 1984 UMI

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 904

[Docket No. 31025-206]

Civil Procedures—Ability to Pay

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Interim final rule.

SUMMARY: The National Oceanic and Atmospheric Administration adopts uniform policies and procedures for taking into account the ability of a person, charged with violating one of the laws NOAA enforces, to pay a civil penalty. The rule defines the manner and context in which NOAA will consider the ability of a person to pay a civil penalty, and makes explicit the responsibilities of a person to provide timely and relevant financial information.

DATES: This regulation is effective on January 11, 1984. Comments must be submitted on or before April 10, 1984.

ADDRESSES: Interested persons are invited to submit written comments to the NOAA Office of General Counsel (GCEL), Room 275, Page 1 Building, 2001 Wisconsin Avenue, N.W., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Amy Svoboda (202) 254–8350.

SUPPLEMENTARY INFORMATION:

Discussion

The Magnuson Fishery Conservation and Management Act, the Ocean Thermal Energy Conversion Act, the Northern Pacific Halibut Act, and the Lacey Act Amendments of 1981 require that the NOAA Administrator take into account, among other factors, a violator's ability to pay a penalty when deciding how much the penalty should be. In the interest of dealing equitably with violators of other NOAA-enforced laws, this regulation provides that NOAA will consider ability to pay when exercising its authority to assess civil penalties under all NOAA-enforced statutes. The other NOAA-enforced statutes are listed in Section 904.100.

The ability of a person to pay a penalty has already been taken into account to a certain extent when the agency devises penalty schedules for each fishery. This regulation describes the method in which the ability to pay factor is taken into account in assessing a penalty for a particular individual.

The Administrator is required to consider ability to pay only when assessing a civil penalty, not when remitting or mitigating a penalty after it has been assessed in a final agency action or when collecting a penalty. Therefore, except as provided in § 904.108(f)(1), this regulation leaves up to the discretion of the Administrator whether a person's ability to pay will be considered in mitigation, remission or collection of a penalty.

Section 904.108(b) points out that the ability of a violator to pay a penalty is only one of eight factors that the Administrator must consider when assessing a penalty. The ability to pay factor is to be balanced with the other factors listed in that section.

Section 904.108(c) reflects NOAA's understanding that "ability to pay" may refer to either a violator's inability to pay a penalty amount warranted by other factors; or a violator's ability to pay a penalty amount that is higher than otherwise warranted, so that a penalty will deter future violations and not be incorporated as a cost of doing business.

Section 904.108(d) explains that , to have a basis upon which to consider a person's inability to pay a penalty, the Administrator must be provided with a complete and accurate picture of the violator's assets and liabilities. The Administrator does not maintain records on the financial status of potential violators, nor does he or she have subpoena power in all statutes to obtain such information from a violator. Therefore, if a violator believes that he or she does not have the ability to pay the amount of the proposed penalty, the violator has the responsibility to fill out and return financial information requests and interrogatories available from the particular Office of General Counsel that issued the notice of violation and assessment. Absent contrary information in the record, the rule provides that the violator is presumed able to pay the penalty.

Section 904.108(d) also requires that the violator provide verification of the submitted financial information from an independent source such as an auditor, accountant, banker, or title company, if the Administrator requests it.

Section 904.108(e) points out that the information that NOAA considers relevant to a violator's ability to pay includes more than a violator's cash and liquid assets. It states NOAA's position that an individual has the ability to pay a penalty if he or she can pay in installments over time, borrow money, liquidate assets, or reorganize a business.

Section 904.108(e) also recognizes that there may be instances in which other factors, such as egregiousness of the violation, damage to the resource, or recalcitrance of the violator, outweigh the ability to pay factor such that the Administrator will impose a penalty that could contribute to a violator's bankruptcy or discontinuation of his or her business.

Section 904.108(f) describes the time within which a violator's financial information must be brought to the attention of the Administrator.

Section 904.108(g) provides that all information relating to a violator's ability to pay will not be considered for the first time by the Administrator in an administrative review of an initial decision. This will allow any issues involving ability to pay, if appealed, to have been thoroughly explored by the parties before an administrative law judge.

Section 904.108(h)(1) requires a petitioner for remission or mitigation to submit his or her petition within 30 days of a final agency decision or order if the petition relates to the issue of petitioner's ability to pay.

Section 904.108(h)(2) waives the Administrator's discretion described in 904.108(a) in one instance. It provides that if a respondent petitions for remission or mitigation of a penalty assessed by the ALJ in an initial decision which is substantially greater than the one assessed in the Notice of Violation and Assessment (NOVA), and the respondent did not submit ability to pay information at the hearing relative to the greater amount assessed by the ALJ, the Administrator will take into account the respondent's ability to pay information submitted in the petition.

Classification

The National Oceanic and Atmospheric Administration (NOAA) has determined that these rules are not major rules as defined by Executive Order 12291, "Federal Regulations."

Because these regulations only establish agency procedure and practice, they are exempt from the Regulatory Flexibility Act requirements of regulatory analysis.

These regulations are categorically excluded by NOAA Directive 02–10 from preparation of an environmental analysis under the National Environmental Policy Act of 1969.

Because any information collected under this regulation will be collected pursuant to an administrative action or investigation involving the agency against specific individuals or entities, these regulations are excluded from the requirements of the Paperwork Reduction Act in accordance with 5 CFR 1320.3(c).

List of Subjects in 15 CFR Part 904

Administrative practice and procedure, Penalties.

Signed at Washington, D.C. this 28th day of December 1983.

Samuel A. Lawrence,

Director, Office of Administrative and Technical Services, NOAA.

PART 904—[AMENDED]

15 CFR Part 904 is amended by adding § 904.108 to Subpart B, to read as follows:

Subpart B—Civil Penalties

§ 904.108 Ability to pay

(a) *Scope.* (1) The Administrator shall take into account a respondent's ability to pay when assessing a civil penalty for a violation of one of the statutes NOAA administers, including those listed in § 904.100(a)(1).

(2) For penalties that have become final agency actions in accordance with § 904.104, the Administrator may, in his or her discretion, also consider ability to pay in ruling on a petition for remission or mitigation or in collecting an unpaid civil penalty (but see § 904.108(h)(1)).

(b) *Relation to other factors.* The ability of a person to pay a penalty is only one of a number of factors to be taken into account in assessing a penalty. Other factors, depending upon the statute in question, may include the nature, circumstances, extent, and gravity of the alleged violation; with respect to the respondent, the degree of culpability and any history of prior offenses; and such other matters as justice may require. The Administrator must balance a respondent's ability to pay with the other relevant factors when determining the appropriate amount of a penalty.

(c) *Use of ability to pay factor.* The Administrator may, in consideration of a respondent's ability to pay, increase or decrease a penalty from an amount that would otherwise be warranted by the other relevant factors listed in paragraph (b) of this section. A penalty may be increased if a respondent's ability to pay is such that a higher penalty is necessary to deter future violations, or for commercial violators, to make a penalty more than a cost of doing business. A penalty may be decreased if the respondent establishes that he or she is unable to pay an otherwise appropriate penalty amount.

(d) *Respondent's burden to prove inability.* If a respondent asserts that a penalty should be reduced because of inability to pay, the respondent has the burden of proving such inability by providing a complete and accurate financial statement to the Administrator. An evaluation of a respondent's financial situation will not be undertaken until the respondent, if requested, completes a financial information request form, answers written interrogatories, and submits verification of his or her financial information from an independent source. If a respondent does not submit the requested financial information, the respondent will be presumed to have the ability to pay the penalty.

(e) *Relevant financial information.* Financial information relevant to a respondent's ability to pay includes, but is not limited to, the value of a respondent's cash and liquid assets, ability to borrow, net worth, liabilities, income, prior and anticipated profits, expected cash flow, and the respondent's ability to pay in installments over time. A respondent will be considered able to pay a penalty even if he or she must take such actions as pay in installments over time, borrow money, liquidate assets, or reorganize his or her business. The Administrator's consideration of a respondent's ability to pay does not preclude an assessment of a penalty in an amount that would cause or contribute to the bankruptcy or other discontinuation of the respondent's business.

(f) *When information must be submitted.* Financial information regarding respondent's ability to pay should be submitted to the Office of General Counsel as soon after receipt of the Notice of Violation and Assessment (NOVA) as possible. If a respondent has requested a hearing on the offense alleged in the NOVA and wants his or her ability to pay considered in the initial decision of the Administrative Law Judge (ALJ), the financial information to be presented to the ALJ must be submitted to the Office of General Counsel at least 10 days in advance of the hearing.

(g) *Administrative review.* Issues regarding ability to pay will not be considered in an administrative review of an initial decision if the financial information was not previously presented by the respondent to the ALJ at the hearing.

(h) *Remission or mitigation.* (1) A petition for remission or mitigation which is based, wholly or in part, on a respondent's ability to pay a penalty must be submitted within 30 days of a final administrative decision and order of the Administrator as defined in § 904.104 and § 904.272.

(2) If a penalty assessed in the NOVA is substantially increased by the ALJ in an initial decision and the respondent did not submit ability to pay information relative to the greater amount assessed by the ALJ, the Administrator will consider ability to pay in a petition for remission or mitigation, notwithstanding the discretion reserved to the Administrator in paragraph (a)(2) of this section.

[FR Doc. 84-13 Filed 1-10-84; 8:45 am]

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[Orange, Grapefruit, Tangerine and Tangelo Reg. 6, Amdt. 28]

Oranges, Grapefruit, Tangerine and Tangelos Grown in Florida; Amendment of Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This action: (1) lowers the minimum diameter requirement for domestic shipments of Florida pink seedless grapefruit and imports of pink seedless grapefruit from 3$^{9}/_{16}$ inches to 3$^{5}/_{16}$ inches; (2) lowers the minimum diameter requirement for domestic shipments for Florida tangelos from 2$^{8}/_{16}$ inches to 2$^{4}/_{16}$ inches and requires domestic and export shipments of Florida Tangelos to meet the requirements of U.S. No. 1 Golden; (3) lowers the minimum diameter of Florida Dancy and Robinson tangerines from 2$^{4}/_{16}$ inches to 2$^{2}/_{16}$ inches for domestic shipments only; and (4) lowers the minimum diameter for domestic and export shipments of Florida Honey tangerines from 2$^{6}/_{16}$ inches to 2$^{4}/_{16}$ inches and requires domestic and export shipments of Florida Honey tangerines to meet the grade requirements of Florida No. 1 Golden. The change in minimum size and grade of such fruit recognizes the grade and size composition of the remaining fruit supply and is consistent with the available crop in the interest of growers and consumers.

EFFECTIVE DATE: January 9, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities.

The amendment is issued under the marketing agreement and Order No. 905 (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines and tangelos grown in Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Citrus Administrative Committee, and upon other available information. It is hereby found that the regulation of Florida pink seedless grapefruit, Dancy, Robinson, and Honey tangerines, and tangelos as hereinafter provided, will tend to effectuate the declared policy of the act.

The minimum grade and size requirements, specified herein, reflect the committee's and the Department's appraisal of the need to revise the size requirements applicable to Florida pink seedless grapefruit, the size requirements applicable to Florida Dancy and Robinson tangerines, and the grade and size requirements applicable to Florida Honey tangerines and tangelos in recognition of the recent freeze in Florida. The freeze has resulted in some fruit loss and increased market demand for the remaining fruit supply. Specification of these requirements assures that the available supply of such marketable fruit reaches the consumer.

Under Section 8e of the act (7 U.S.C. 608e–1), whenever specified commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality or maturity requirements as those in effect for the domestically produced commodity. Thus, size requirements for imported pink seedless grapefruit will also change to conform to the size requirements for domestic shipments of Florida pink seedless grapefruit.

It is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared purposes of the act. This amendment relieves restrictions on shipments of Florida pink seedless grapefruit, Dancy, Robinson and Honey tangerines, tangelos and imports of pink seedless grapefruit. Handlers have been apprised of such provisions and the effective dates.

List of Subjects in 7 CFR Part 905

Marketing Agreements and Orders, Florida, Grapefruit, Oranges, Tangelos, Tangerines.

PART 905—[AMENDED]

Accordingly, the provisions of § 905.306 are amended by revising the following entries in Table I paragraph (a), applicable to domestic shipments, and Table II paragraph (a), applicable to export shipments, to read as follows:

§ 905.306 Oranges, Grapefruit, Tangerine and Tangelo Regulation 6.

(a) * * *

TABLE I

Variety	Regulation period	Minimum grade	Minimum diameter (in.)
(1)	(2)	(3)	(4)
*	*	*	*
Grapefruit:			
Seedless, pink	1/9/84–8/19/84	Improved No. 2 (External)	3$^{9}/_{16}$
		U.S. No. 1 (Internal)	
	On and after 8/20/84	Improved No. 2 (External)	3$^{9}/_{16}$
		U.S. No. 1 (Internal)	
Tangelos	1/9/84–8/19/84	U.S. No. 1 Golden	2$^{4}/_{16}$
	On and after 8/20/84	U.S. No. 1	2$^{6}/_{16}$

TABLE I—Continued

Variety	Regulation period	Minimum grade	Minimum diameter (in.)
(1)	(2)	(3)	(4)
Tangerines:			
Dancy	1/9/84–8/19/84	U.S. No. 1	2 3/16
	On and after 8/20/84	U.S. No. 1	2 4/16
Robinson	1/9/84–8/19/84	U.S. No. 1	2 3/16
	On and after 8/20/84	U.S. No. 1	2 4/16
Honey	1/9/84–8/19/84	Fla. No. 1 Golden	2 4/16
	On and after 8/20/84	Florida No. 1	2 5/16

(b) * * *

TABLE II

Variety	Regulation period	Minimum grade	Minimum diameter (in.)
(1)	(2)	(3)	(4)
Tangelos	1/9/84–8/19/84	U.S. No. 1 Golden	2 4/16
	On and after 8/20/84	U.S. No. 1	2 4/16
Tangerines: Honey	1/9/84–8/19/84	Fla. No. 1 Golden	2 4/16
	On and after 8/20/84	Florida No. 1	2 5/16

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 9, 1984.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84–876 Filed 1–11–84; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 907

[Navel Orange Reg. 588; Navel Orange Reg. 587, Amdt. 1]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period January 13–19, 1984, increases the quantity of such oranges that may be shipped during the period January 6–12, 1984. Such action is needed to provide for the orderly marketing of fresh navel oranges for the period specified due to the marketing situation confronting the orange industry.

DATES: This regulation becomes effective January 13, 1984, and the amendment is effective for the period January 6–12, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that these actions will tend to effectuate the declared policy of the Act.

These actions are consistent with the marketing policy for 1983–84. The marketing policy was recommended by the committee following discussion at a public meeting on September 27, 1983. The committee met again publicly on January 3, 1984 at Visalia, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is steady.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information on views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of navel oranges. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 907

Marketing Agreements and Orders, California, Arizona, Oranges (Navel).

PART 907—[AMENDED]

1. Section 907.888 is added as follows:

§ 907.888 Navel Orange Regulation 588.

The quantities of navel oranges grown in California and Arizona which may be handled during the period January 13, 1984, through January 19, 1984, are established as follows:

(a) District 1: 1,500,000 cartons;

(b) District 2: 28 cartons;

(c) District 3: Unlimited cartons;

(d) District 4: Unlimited cartons;

2. In § 907.887, *Navel Orange Regulation 587* (49 FR 848), paragraphs (a) through (d) are hereby revised to read:

§ 907.887 Navel Orange Regulation 587.

(a) District 1: 1,200,000 cartons;

(b) District 2: Unlimited cartons;

(c) District 3: Unlimited cartons;

(d) District 4: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674))

Dated: January 9, 1984.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84–806 Filed 1–11–84; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 993

Dried Prunes Produced in California; Changes in the Time for Filing Reports and Conforming Changes; Correction

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule; correction.

SUMMARY: This document corrects wording contained in the final rule which changes the time requirements for handlers to file the monthly "New Crop Supply and Inbound Prune Report" and the "Report of Shipments". The rule was published in the December 29, 1983, issue of the **Federal Register** (48 FR 57260–57261).

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, (202) 447–5053.

The following corrections are made in FR Doc. 83–34489 appearing on pages 57260–57261 in the issue of December 29, 1983:

1. On page 57261 at the top of column two, the phrase "prior to the 5th working day" contained in § 993.172(b) should be changed to read as follows: "not later than the 5th working day".

2. On page 57261 at the top of column two, the phrase "prior to the 5th working day" contained in § 993.172(d) should be changed to read as follows: "not later than the 5th working day".

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674))

Dated: January 6, 1984.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 84–807 Filed 1–11–84; 8:45 am]

BILLING CODE 3410–02–M

Food Safety and Inspection Service

9 CFR Parts 307, 350, 351, 354, 355, 362, and 381

[Docket No. 83–035F]

Fee Increase for Inspection Service

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending the Federal meat and poultry inspection regulations to increase fees charged by FSIS to provide overtime inspection, identification, certification, or laboratory services to meat and poultry establishments. The fees reflect the increased costs of providing these services due to the increase for salaries of Federal employees allocated by Congress under the Federal Pay Comparability Act of 1970.

EFFECTIVE DATE: January 22, 1984.

FOR FURTHER INFORMATION CONTACT: Ms. Eppie Daproza, Acting Director, Finance Division, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 382–0072.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This rule is issued in conformance with Executive Order 12291, and has been determined to be not a "major rule." It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Effects on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601), because the fees provided for in this document are not new but merely reflect a minimal increase in the costs currently borne by those entities which elect to utilize certain inspection services.

Background

On December 2, 1983, The FSIS published a proposed rule in the **Federal Register** (48 FR 54361) to increase fees charged by FSIS to provide overtime inspection, identification, or certification services to meat and poultry establishments. The fees to be charged for these services are determined by an analysis of data on the current cost of these services coupled with the increase in that cost due to the increase for salaries of Federal employees allocated by Congess under the Federal Pay Comparability Act of 1970.

The comments received on the proposal provide generally that the Department should not increase fees for the affected inspection services at this time in light of current economic conditions affecting official establishments using these services. In that connection, it is noted that the ordinary costs of providing inspection services under the requirements of the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA) are borne by the Federal Government. However, the Department is required by the FMIA (21 U.S.C. 659) and the PPIA (21 U.S.C. 468) to recover the costs of overtime and holiday inspection services from those establishments which voluntarily elect to utilize such inspection services. The rates provided for in this document reflect only a minimal increase in the costs currently borne by those entities electing to utilize those and certain other voluntary inspection services.

List of Subjects

9 CFR Part 307

Meat inspection, Reimbursable services.

9 CFR Part 350

Meat inspection, Reimbursable services, Voluntary inspection, Certification service.

9 CFR Part 351

Meat inspection, Certification service, Reimbursable services.

9 CFR Part 354

Meat inspection, Reimbursable services.

9 CFR Part 355

Meat inspection, Reimbursable services.

9 CFR Part 362

Poultry products inspection, Reimbursable services.

9 CFR Part 381

Poultry products inspection, Reimbursable services.

The amendments to the Federal meat and poultry products inspection regulations are as follows:

PART 307—[AMENDED]

1. The authority citation for Part 307 reads as follows:

Authority: 41 Stat. 241, 7 U.S.C. 394; 34 Stat. 1264, as amended; 21 U.S.C. 621; 62 Stat. 334; 21 U.S.C. 695, 7 CFR 2.15(a), 2.92.

2. Section 307.5(a) is revised to read as follows:

§ 307.5 Overtime and holiday inspection service.

(a) The management of an official establishment, an importer, or an exporter shall pay the Food Safety and Inspection Service $20.44 per hour per Program employee to reimburse the

Program for the cost of the inspection service furnished on any holiday as specified in paragraph (b) of this section; or for more than 8 hours on any day, or more than 40 hours in any administrative workweek Sunday through Saturday.

* * * * *

PART 350—[AMENDED]

3. The authority citation for Part 350 reads as follows:

Authority: 41 Stat. 241, 7 U.S.C. 394; 60 Stat. 1087, as amended, 7 U.S.C. 1622; 60 Stat. 1090, as amended, 7 U.S.C. 1624; 34 Stat. 1264, as amended, 21 U.S.C. 621; 62 Stat. 334, 21 U.S.C. 695; 7 CFR 2.15(a) 2.92.

4. Section 350.7(c) is revised to read as follows:

§ 350.7 Fees and charges.

* * * * *

(c) The fees to be charged and collected for service under the regulations in this Part shall be at the rate of $17.72 per hour for base time, $20.44 per hour for overtime including Saturdays, Sundays, and holidays, and $31.28 per hour for laboratory service, to cover the costs of the service and shall be charged for the time required to render such service. Where appropriate, this time will include but will not be limited to the time required for travel of the inspector or inspectors in connection therewith during the regularly scheduled administrative workweek.

* * * * *

PART 351—[AMENDED]

5. The authority citation for Part 351 reads as follows:

Authority: 60 Stat. 1087, as amended, 7 U.S.C. 1622, 60 Stat. 1090, as amended, 7 U.S.C. 1624; 7 CFR 2.15(a), 2.92.

6. Section 351.8 is revised to read as follows:

§ 351.8 Charges for surveys for plants.

Applicants for the certification service shall pay the Department for salary costs at the rate of $17.72 per hour for base time, $20.44 per hour for overtime, travel and per diem allowances at rates currently allowed by the Federal Travel Regulations, and other expenses incidental to the initial survey of the rendering plants or storage facilities for which certification service is requested.

7. Section 351.9(a) is revised to read as follows:

§ 351.9 Charges for examinations.

(a) The fees to be charged and collected by the Administrator for examination shall be $17.72 per hour for base time and $20.44 per hour for overtime including Saturdays, Sundays, and holidays, as provided for in § 351.14 and $31.28 per hour for any laboratory service required to determine the eligibility of any technical animal fat for certification under the regulations in this Part. Such fees shall be charged for the time required to render such service, including, but not limited to, the time required for the travel of the inspector or inspectors in connection therewith.

* * * * *

PART 354—[AMENDED]

8. The authority citation for Part 354 reads as follows:

Authority: 60 Stat. 1087, as amended, 7 U.S.C. 1622, 60 Stat. 1090, as amended, 7 U.S.C. 1624; 7 CFR 2.15(a), 2.92.

9. Section 354.101 (b) and (c) is revised to read as follows:

§ 354.101 On a fee basis.

* * * * *

(b) The charges for inspection service will be based on the time required to perform such services. The hourly rate shall be $17.72 for base time and $20.44 for overtime or holiday work.

(c) Charges for any laboratory analysis or laboratory examination of rabbits under this part related to inspection service shall be $31.28 per hour.

PART 355—[AMENDED]

10. The authority citation for Part 355 reads as follows:

Authority: 60 Stat. 1087, as amended, 7 U.S.C. 1622, 60 Stat. 1090, as amended, 7 U.S.C. 1624; 7 CFR 2.15(a), 2.92.

11. Section 355.12 is revised to read as follows:

§ 355.12 Charge for service.

The fees to be charged and collected by the Administrator shall be $17.72 per hour for base time, $20.44 per hour for overtime, including Saturdays, Sundays, and holidays, and $31.28 per hour for laboratory services to reimburse the Service for the cost of the inspection service furnished.

PART 362—[AMENDED]

12. The authority citation for Part 362 reads as follows:

Authority: 60 Stat. 1087, as amended, 7 U.S.C. 1622, 60 Stat. 1090, as amended, 7 U.S.C. 1624; 7 CFR 2.15(a) 2.92.

13. Section 362.5(c) is revised to read as follows:

§ 362.5 Fees and charges.

* * * * *

(c) The fees to be charged and collected for service under the regulations in this Part shall be at the rate of $17.72 per hour for base time, $20.44 per hour for overtime including Saturdays, Sundays, and holidays, and $31.28 per hour for laboratory service to cover the costs of the service and shall be charged for the time required to render such service, including, but not limited to, the time required for the travel of the inspector or inspectors in connection therewith during the regularly scheduled administrative workweek.

* * * * *

PART 381—[AMENDED]

14. The authority citation for Part 381 reads as follows:

Authority: 71 Stat. 447, 448, as amended, 21 U.S.C. 463, 468; 7 CFR 2.15(a) 2.92.

15. Section 381.38(a) is revised to read as follows:

§ 381.38 Overtime and holiday inspection service.

(a) The management of an official establishment, an importer, or an exporter shall pay the Food Safety and Inspection Service $20.44 per hour per Program employee to reimburse the Program for the cost of the inspection service furnished on any holiday specified in paragraph (b) of this section; or for more than 8 hours on any day, or more than 40 hours in any administrative workweek Sunday through Saturday.

* * * * *

Done at Washington, D.C., on January 4, 1984.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 84-806 Filed 1-11-84; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 23844; Amdt. No. 95-314]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rule) altitudes and changeover points for

certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: November 24, 1983.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFO–230), Air Transportation Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 95 of the Federal Aviation Regulations (14 CFR Part 95) prescribes new, amended, suspended, or revoked IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in Part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference.

The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment is unnecessary, impracticable, and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 95

Aircraft, Airspace.

Adoption of the Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, Part 95 of the Federal Aviation Regulations (14 CFR Part 95) is amended as follows effective at 0901 GMT November 24, 1983.

(Secs. 307 and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348 and 1510); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C. on November 24, 1983.

Kenneth S. Hunt,

Director of Flight Operations.

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REVISIONS TO IFR ALTITUDES & CHANGE OVER POINTS

AMENDMENT 314 EFFECTIVE DATE, NOVEMBER 24, 1983

FROM	TO	MEA
§95.1001 DIRECT ROUTES-U.S.		
IS ADDED TO READ		
APPLETON, OH VORTAC	TIVERTON, OH VORTAC	18000 MAA-45000
BOWLING GREEN, KY VORTAC	LEXINGTON, KY VORTAC	18000 MAA-41000
CINCINNATI, OH VORTAC	YORK, KY VORTAC	18000 MAA-41000
DAYTON, OH VORTAC	APPLETON, OH VORTAC	18000 MAA-45000
DAYTON, OH VORTAC	FORT WAYNE, IN VORTAC	18000 MAA-43000
DAYTON, OH VORTAC	GUNNE, OH FIX	18000 MAA-39000
FORT WAYNE, IN VORTAC	KALAMAZOO, MI VOR	18000 MAA-43000
GRAND ISLAND, NE VORTAC *3800 - MOCA	SALINA, KS VORTAC	*7000 MAA-17500
GUNNE, OH FIX	TIVERTON, OH VORTAC	18000 MAA-39000
KALAMAZOO, MI VOR	GRAND RAPIDS, MI VOR/DME	18000 MAA-43000
LEXINGTON, KY VORTAC	BLUEFIELD, WV VORTAC	18000 MAA-41000
LEXINGTON, KY VORTAC	WHITESBURG, KY VORTAC	18000 MAA-41000
LONDON KY VORTAC	HOLSTON MOUNTAIN, TN VORTAC	18000 MAA-43000
SALEM, MI VORTAC VIA SVM VORTAC 073	U S CANADIAN BORDER	18000 MAA-45000
TIVERTON OH VORTAC	AKRON OH VOR/DME	18000 MAA-39000
TIVERTON, OH VORTAC	WILMO, OH FIX	18000 MAA-41000
UNBAR, MI FIX	SALEM, MI VORTAC	18000 MAA-45000
WICHITA KS VORTAC	WALNUT RIDGE, AR VORTAC	18000 MAA-45000
WICHITA, KS VORTAC *3600 - MOCA	OKLAHOMA CITY OK VORTAC	*6000 MAA-17500
WILMO OH FIX	AKRON OH VOR/DME	18000 MAA-41000
IS AMENDED TO READ IN PART		
SOUTH BEND, IN VORTAC	LITCHFIELD, MI VORTAC COP 49 SBN	#18000 MAA-41000
#MAXIMUM CROSSING ALT SBN 073/49 33000.		
IS AMENDED TO DELETE		
BATTLE CREEK, MI VORTAC	VENTU, MI FIX	2700
BATTLE CREEK, MI VORTAC *2200 - MOCA	KALAMAZOO, MI VOR	*2800
BATTLE CREEK, MI VORTAC *2200 - MOCA	GEEBE, MI FIX	*2800

FROM	TO	MEA
§96.1001 DIRECT ROUTES-U.S.—Continued		
GRAND RAPIDS, MI VOR/DME	BEJAE, MI FIX	2700
GRAND RAPIDS, MI VOR/DME	OSEGO, MI FIX	3000
KALAMAZOO, MI VOR *2300 MOCA	LINGS, MI FIX	*2900
LANSING MI VORTAC	BEJAE MI FIX	2700
§95.6001 VOR FEDERAL AIRWAY 1		
IS AMENDED TO READ IN PART		
JACKSONVILLE FL VORTAC *5000 - MRA **1400 - MOCA	*STARY GA FIX	**4000
STARY, GA FIX *1200 - MOCA	RUBYS, SC FIX	*11000
RUBYS, SC FIX *3000 - MRA **1100 - MOCA	*BASSO, SC FIX	**11000
BASSO, SC FIX *3000 - MRA	*ROOFS SC FIX	2000
ROOFS, SC FIX	CHARLESTON SC VORTAC	2000
§95.6002 VOR FEDERAL AIRWAY 2		
IS AMENDED TO READ IN PART		
JAMESTOWN ND VOR/DME *5700 - MRA	*CHAFE ND FIX	3300
§95.6003 VOR FEDERAL AIRWAY 3		
IS AMENDED TO READ IN PART		
ORMOND BEACH, FL VORTAC *1400 - MOCA	BRUNSWICK GA VORTAC	*2000
§95.6005 VOR FEDERAL AIRWAY 5		
IS AMENDED TO DELETE		
JACKSONVILLE, FL VORTAC *1400 - MOCA	FOLKS, GA FIX	*2000
FOLKS, GA FIX *1400 - MOCA	PAFFO, GA FIX	*4000
PAFFO, GA FIX	ALMA, GA VORTAC	2000
ALMA, GA VORTAC	DUBLIN, GA VORTAC	2000
§95.6012 VOR FEDERAL AIRWAY 12		
IS AMENDED TO READ IN PART		
TUCUMCARI, NM VORTAC *6500 - MRA	*VEGGE, TX FIX	6000

FROM	TO	MEA
§95.6012 VOR FEDERAL AIRWAY 12—Continued		
VEGGE, TX FIX	AMARILLO, TX VORTAC	6000

FROM	TO	MEA
§95.6073 VOR FEDERAL AIRWAY 73—Continued		
WICHITA, KS VORTAC	HUTCHINSON, KS VORTAC	3600

FROM	TO	MEA
§95.6123 VOR FEDERAL AIRWAY 123—Continued		
ROBBINSVILLE, NJ VORTAC *1500 - MOCA	LISSA NY FIX	*2000

FROM	TO	MEA
§95.6157 VOR FEDERAL AIRWAY 157—Continued		
ROBBINSVILLE NJ VORTAC *1400 - MOCA	COLTS NECK NJ VORTAC	*2000

FROM	TO	MEA
§95.6012 VOR FEDERAL AIRWAY 12—Continued		
VEGGE, TX FIX	AMARILLO, TX VORTAC	6000
ANTHONY, KS VORTAC	WICHITA, KS VORTAC	3600
WICHITA, KS VORTAC	EMPORIA, KS VORTAC	3600
§95.6019 VOR FEDERAL AIRWAY 19		
IS AMENDED TO READ IN PART		
SANTA FE, NM VORTAC	*LAS VEGAS, NM VORTAC	12500
*10000 - MCA LAS VEGAS VORTAC, N BND		
*11300 - MCA LAS VEGAS VORTAC, W BND		
§95.6023 VOR FEDERAL AIRWAY 23		
IS AMENDED TO READ IN PART		
YUBBA, CA FIX	*GRIDD, CA FIX	**4000
*4000 - MRA		
**3400 - MOCA		
§95.6037 VOR FEDERAL AIRWAY 37		
IS AMENDED TO READ IN PART		
JACKSONVILLE, FL VORTAC	BRUNSWICK, GA VORTAC	2000
§95.6045 VOR FEDERAL AIRWAY 45		
IS AMENDED TO READ IN PART		
SEEKS, MI FIX	*CURRS, MI FIX	**3500
*5000 - MRA		
**2400 - MOCA		
CURRS, MI FIX	*AILES, MI FIX	**3500
*5000 - MRA		
**2400 - MOCA		
§95.6051 VOR FEDERAL AIRWAY 51		
IS AMENDED TO READ IN PART		
ORMOND BEACH, FL VORTAC	*BULLI, FL FIX	**2000
*3000 - MRA		
**1400 - MOCA		
BULLI, FL FIX	*ASTOR, FL FIX	**2000
*3000 - MRA		
**1400 - MOCA		
ASTOR, FL FIX	JACKSONVILLE, FL VORTAC	2000
JACKSONVILLE, FL VORTAC	WAYCROSS, GA VORTAC	2300
WAYCROSS, GA VORTAC	ALMA, GA VORTAC	2300
§95.6073 VOR FEDERAL AIRWAY 73		
IS AMENDED TO READ IN PART		
FRAKS, OK FIX	WICHITA, KS VORTAC	*6500
*3600 - MOCA		

FROM	TO	MEA
§95.6073 VOR FEDERAL AIRWAY 73—Continued		
WICHITA, KS VORTAC	HUTCHINSON, KS VORTAC	3600
§95.6077 VOR FEDERAL AIRWAY 77		
IS AMENDED TO READ IN PART		
PIONEER, OK VORTAC	WICHITA, KS VORTAC	3600
WICHITA, KS VORTAC	*FLOSS, KS FIX	3600
*5000 - MRA		
FLOSS, KS FIX	*WILSY, KS FIX	**5000
*5000 - MRA		
**2800 - MOCA		
§95.6095 VOR FEDERAL AIRWAY 95		
IS AMENDED TO READ IN PART		
LAZON, CO FIX	FOWES, CO FIX	
	N BND	15600
	S BND	16100
BALOO, CO FIX	BALIF, CO FIX	
	N BND	16200
	S BND	15000
BALIF, CO FIX	TREES, CO FIX	16200
§95.6104 VOR FEDERAL AIRWAY 104		
IS AMENDED TO READ IN PART		
BURLINGTON, VT VORTAC	MONTPELIER, VT VOR/DME	6000
§95.6106 VOR FEDERAL AIRWAY 106		
IS AMENDED TO READ IN PART		
HUDON, PA FIX	RASHE, PA FIX	*6000
*3900 - MOCA		
§95.6121 VOR FEDERAL AIRWAY 121		
IS AMENDED TO READ IN PART		
FORT JONES, CA VORTAC	*BAYTS, OR FIX	**10000
*10000 - MRA		
**9100 - MOCA		
§95.6123 VOR FEDERAL AIRWAY 123		
IS AMENDED TO READ IN PART		
MITCH, MD FIX	SWANN, MD FIX	*3000
*2200 - MOCA		
SWANN, MD FIX	TACKS, MD FIX	*7000
*1600 - MOCA		
TACKS, MD FIX	WOODSTOWN, NJ VORTAC	*2000
*1500 - MOCA		
WOODSTOWN, NJ VORTAC	COBUS, NJ FIX	2000
COBUS, NJ FIX	ROBBINSVILLE, NJ VORTAC	*2000
*1500 - MOCA		

FROM	TO	MEA
§95.6123 VOR FEDERAL AIRWAY 123—Continued		
ROBBINSVILLE, NJ VORTAC	LISSA, NY FIX	*2000
*1500 - MOCA		
LISSA, NY FIX	LA GUARDIA, NY VOR/DME	2700
LA GUARDIA, NY VOR/DME	STAMS, CT FIX	*2500
*1500 - MOCA		
STAMS, CT FIX	CARMEL, NY VORTAC	*2500
*2000 - MOCA		
§95.6125 VOR FEDERAL AIRWAY 125		
IS AMENDED TO READ IN PART		
CAPE GIRARDEAU, MO VOR	ENGEN, IL FIX	3500
§95.6132 VOR FEDERAL AIRWAY 132		
IS AMENDED TO READ IN PART		
FLOSS, KS FIX	CHANUTE, KS VOR	*5000
*2700 - MOCA		
§95.6140 VOR FEDERAL AIRWAY 140		
IS AMENDED TO READ IN PART		
TULSA, OK VORTAC	*PRYOR, OK FIX	2700
*2900 - MRA		
§95.6148 VOR FEDERAL AIRWAY 148		
IS AMENDED TO READ IN PART		
IRONWOOD, MI VORTAC	HOUGHTON, MI VORTAC	3700
§95.6151 VOR FEDERAL AIRWAY 151		
IS AMENDED TO READ IN PART		
WOONS, RI FIX	WHAMY, MA FIX	*2700
*2200 - MOCA		
STRUM, NH FIX	UNKER, NH FIX	*4500
*3500 - MOCA		
UNKER, NH FIX	LEBANON, NH VOR/DME	4500
MONTPELIER, VT VOR/DME	BURLINGTON, VT VORTAC	6000
§95.6153 VOR FEDERAL AIRWAY 153		
IS AMENDED TO READ IN PART		
LAKE HENRY, PA VORTAC	HANCOCK, NY VORTAC	4400
§95.6157 VOR FEDERAL AIRWAY 157		
IS AMENDED TO READ IN PART		
DALTO, VA FIX	RICHMOND, VA VORTAC	*2000
*1500 - MOCA		
DUPONT, DE VORTAC	MUFLA, NJ FIX	2000
MUFLA, NJ FIX	ROBBINSVILLE, NJ VORTAC	*2000
*1500 - MOCA		

FROM	TO	MEA
§95.6157 VOR FEDERAL AIRWAY 157—Continued		
ROBBINSVILLE, NJ VORTAC	COLTS NECK, NJ VORTAC	*2000
*1400 - MOCA		
ELLIS, NJ FIX	KINGSTON, NY VORTAC	3000
§95.6161 VOR FEDERAL AIRWAY 161		
IS AMENDED TO READ IN PART		
INTERNATIONAL FALLS, MN VORTAC	U.S. CANADIAN BORDER	3000
§95.6172 VOR FEDERAL AIRWAY 172		
IS AMENDED TO READ IN PART		
MENOL, IA FIX	LINDE, IA FIX	*4000
*2800 - MOCA		
§95.6190 VOR FEDERAL AIRWAY 190		
IS AMENDED TO READ IN PART		
LAS VEGAS, NM VORTAC	DALHART, TX VORTAC	*9500
*8000 - MOCA		
§95.6198 VOR FEDERAL AIRWAY 198		
IS AMENDED TO READ IN PART		
TAYLOR, FL VORTAC	JACKSONVILLE, FL VORTAC	2100
§95.6213 VOR FEDERAL AIRWAY 213		
IS AMENDED TO READ IN PART		
WOODSTOWN, NJ VORTAC	COBUS, NJ FIX	2000
COBUS, NJ FIX	ROBBINSVILLE, NJ VORTAC	*2000
*1500 - MOCA		
§95.6233 VOR FEDERAL AIRWAY 233		
IS AMENDED TO READ IN PART		
GAYLORD, MI VOR/DME	*DRIPE, MI FIX	3000
*5000 - MRA		
§95.6243 VOR FEDERAL AIRWAY 243		
IS AMENDED TO READ IN PART		
JACKSONVILLE, FL VORTAC	WAYCROSS, GA VORTAC	2300

FROM	TO	MEA

§95.6261 VOR FEDERAL AIRWAY 261
IS AMENDED TO READ IN PART

WICHITA, KS VORTAC	CHARI, KS FIX	3600

§95.6267 VOR FEDERAL AIRWAY 267
IS AMENDED TO READ IN PART

WORMS, FL FIX	BARBS, FL FIX	2100
ROYES, FL FIX	JACKSONVILLE, FL VORTAC	*3000
*2000 - MOCA		
JACKSONVILLE, FL VORTAC	*BAXLY, GA FIX	**5000
*3000 - MRA		
**2000 - MOCA		

§95.6297 VOR FEDERAL AIRWAY 297
IS AMENDED TO READ IN PART

SPARR, MI FIX	*RONDO, MI FIX	3000
*5060 - MRA		
RONDO, MI FIX	*WOLIT, MI FIX	3000
*5000 - MRA		

§95.6312 VOR FEDERAL AIRWAY 312
IS AMENDED TO READ IN PART

TACKS, MD FIX	WOODSTOWN, NJ VORTAC	*2000
*1500 - MOCA		

§95.6350 VOR FEDERAL AIRWAY 350
IS AMENDED TO READ IN PART

WICHITA, KS VORTAC	CHANUTE, KS VOR	3600

§95.6367 VOR FEDERAL AIRWAY 367
IS AMENDED TO READ IN PART

INTERNATIONAL FALLS, MN VORTAC	U.S. CANADIAN BORDER	3000

§95.6408 VOR FEDERAL AIRWAY 408
IS AMENDED TO READ IN PART

LUCKE, VA FIX	SCOBY, MD FIX	5000
SCOBY, MD FIX	MODENA, PA VORTAC	5000
		MAA-22000

FROM	TO	MEA

§95.6412 VOR FEDERAL AIRWAY 412
IS AMENDED TO READ IN PART

REDWOOD FALLS, MN VORTAC	FLYING CLOUD, MN VOR/DME	2800

§95.6421 VOR FEDERAL AIRWAY 421
IS AMENDED TO READ IN PART

POWES, CO FIX	*GUNNISON, CO VORTAC	
	NE BND	12500
	SW BND	16100
*12500 - MCA GUNNISON VORTAC, S BND		
*13000 - MCA GUNNISON VORTAC, N BND		
WENDT, CO FIX	CAZUU, CO FIX	
	N BND	17000
	S BND	15000
CAZUU, CO FIX	JERRO, CO FIX	*17000
*16300 - MOCA		

§95.6433 VOR FEDERAL AIRWAY 433
IS AMENDED TO READ IN PART

MITCH, MD FIX	SWANN, MD FIX	*3000
*2200 - MOCA		

§95.6445 VOR FEDERAL AIRWAY 445
IS AMENDED TO READ IN PART

LA GUARDIA, NY VOR/DME	STAMS, CT FIX	*2500
*1500 - MOCA		

§95.6447 VOR FEDERAL AIRWAY 447
IS AMENDED TO READ IN PART

MUDDI, VT FIX	*RUCKY, VT FIX	5200
*5500 - MRA		
MONTPELIER, VT VOR/DME	*PLOTT, VT FIX	4800
*6000 - MRA		
PLOTT, VT FIX	*HURDS, VT FIX	5000
*6500 - MRA		

§95.6453 VOR FEDERAL AIRWAY 453
IS AMENDED TO READ IN PART

DILLINGHAM, AK VOR/DME	EDUCE, AK FIX	*7000
*6500 - MOCA		

§95.6468 VOR FEDERAL AIRWAY 468
IS AMENDED TO READ IN PART

*PORTLAND, OR VORTAC	TROTS, WA FIX	**10000
*4500 - MCA PORTLAND VORTAC, NE BND		
**7100 - MOCA		
*TROTS, WA FIX	SWANY, WA FIX	**11500
*11500 - MCA TROTS FIX, NE BND		
**7100 - MOCA		

FROM	TO	MEA

§95.6475 VOR FEDERAL AIRWAY 475
IS AMENDED TO READ IN PART

PROVIDENCE, RI VORTAC	MILLIS, MA FIX	2200

§95.6484 VOR FEDERAL AIRWAY 484
IS AMENDED TO READ IN PART

WODEN, ID FIX	*DRYAD, ID FIX	**12000
*13000 - MCA DRYAD FIX, SE BND		
**10100 - MOCA		
DRYAD, ID FIX	SWITZ, UT FIX	#*16000
*11900 - MOCA		
#MEA IS ESTABLISHED WITH A GAP IN NAVIGATION SIGNAL COVERAGE		
SWITZ, UT FIX	CAUSE, UT FIX	*11500
*8600 - MOCA		

§95.6485 VOR FEDERAL AIRWAY 485
IS AMENDED TO READ IN PART

PANOS, CA FIX	HENCE, CA FIX	*6500
*5600 - MOCA		
HENCE, CA FIX	GILRO, CA FIX	*6500
*4000 - MOCA		
GILRO, CA FIX	SNIDR, CA FIX	4000

§95.6487 VOR FEDERAL AIRWAY 487
IS AMENDED TO READ IN PART

STAMS, CT FIX	CARMEL, NY VORTAC	*2500
*2000 - MOCA		

FROM	TO	MEA

§95.6495 VOR FEDERAL AIRWAY 495
IS AMENDED TO READ IN PART

CORVALLIS, OR VOR	*ADLOW, OR FIX	4000
*5000 - MRA		
ADLOW, OR FIX	NEWBERG, OR VORTAC	4000

§95.6506 VOR FEDERAL AIRWAY 506
IS AMENDED TO READ IN PART

BAILY, AK FIX	*BREMI, AK FIX	#10000
*7000 - MCA BREMI FIX, E BND		
#MEA IS ESTABLISHED WITH A GAP IN NAVIGATION SIGNAL COVERAGE.		
KING SALMON, AK VORTAC	KOWOK, AK FIX	3000
KOWOK, AK FIX	CAYON, AK FIX	*8000
*7000 - MOCA		
CAYON, AK FIX	BETHEL, AK VORTAC	4000

§95.6510 VOR FEDERAL AIRWAY 510
IS AMENDED TO READ IN PART

JAMESTOWN, ND VOR/DME	*CHAFE, ND FIX	3300
*5700 - MRA		
ALEXANDRIA, MN VORTAC	*DAYLE, MN FIX	5000
*5000 - MCA DAYLE FIX, NW BND		

§95.6532 VOR FEDERAL AIRWAY 532
IS AMENDED TO READ IN PART

PIONEER, OK VORTAC	WICHITA, KS VORTAC	3600
WICHITA, KS VORTAC	SALINA, KS VORTAC	3600

FROM	TO	MEA	MAA

§95.7002 JET ROUTE NO. 2

§95.8005 JET ROUTES CHANGEOVER POINTS

AIRWAY SEGMENT	CHANGEOVER POINTS

FROM	TO	MEA	MAA
§95.7002 JET ROUTE NO. 2			
	IS AMENDED TO READ IN PART		
TALLAHASSEE, FL VORTAC	TAYLOR, FL VORTAC	18000	45000
§95.7536 JET ROUTE NO. 536			
	IS AMENDED TO READ IN PART		
SISTERS ISLAND, AK VORTAC	U.S. CANADIAN BORDER	#18000	45000

#MEA IS ESTABLISHED WITH A GAP IN NAVIGATION SIGNAL COVERAGE.

§95.8003 VOR FEDERAL AIRWAYS CHANGEOVER POINTS

AIRWAY SEGMENT		CHANGEOVER POINTS	
FROM	TO	DISTANCE	FROM
	V-1		
	IS AMENDED TO READ IN PART		
JACKSONVILLE, FL VORTAC	CHARLESTON SC VORTAC	96	JACKSONVILLE
	V-23		
	IS AMENDED TO DELETE		
FORT JONES CA VORTAC	MEDFORD, OR VORTAC	25	FORT JONES
	V-97		
	IS AMENDED BY ADDING		
SAINT PETERSBURG FL VORTAC	TALLAHASSEE FL VORTAC	97	SAINT PETERSBUR
	V-268		
	IS AMENDED BY ADDING		
INDIAN HEAD PA VORTAC	HAGERSTOWN, MD VOR	58	INDIAN HEAD
	V-298		
	IS AMENDED TO DELETE		
MC CALL, ID VORTAC	DUBOIS, ID VORTAC	106	MC CALL
	V-330		
	IS AMENDED TO READ IN PART		
LEWISTON ID VOR/DME	SALMON, ID VOR/DME	53	LEWISTOR

§95.8005 JET ROUTES CHANGEOVER POINTS

AIRWAY SEGMENT		CHANGEOVER POINTS	
FROM	TO	DISTANCE	FROM
	J-536		
	IS AMENDED TO READ IN PART		
SISTERS ISLAND, AK VORTAC	WHITEHORSE, CANADA VOR/DME	97	SISTERS ISLAND

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 270

[Release No. IC-13688]

Exemptive Relief for Mutual Funds Underlying Variable Life Insurance Separate Accounts

AGENCY: Securities and Exchange Commission.

ACTION: Final rule amendment.

SUMMARY: The Commission is adopting amendments to the general exemptive rule under the Investment Company Act of 1940 regarding insurance company separate accounts offering variable life insurance contracts that will make available to mutual funds underlying such separate accounts relief from the Act's minimum net worth requirement and three related provisions of the Act. The amended rule will provide mutual funds underlying variable life trust accounts with relief comparable to that provided to mutual funds underlying variable annuity trust accounts in a companion release.

EFFECTIVE DATE: January 12, 1984.

FOR FURTHER INFORMATION CONTACT: Thomas P. Lemke, Special Counsel (202-272-2061), Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission") today is adopting amendments to Rule 6e-2 (17 CFR 270.6e-2) under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*) ("Act"), the general exemptive rule relating to insurance company separate accounts ("separate accounts") offering scheduled premium variable life insurance contracts ("variable life"). The amendments would make available to mutual funds underlying separate accounts registered under the Act as unit investment trusts ("trust accounts") exemptive relief from the minimum net worth requirement of section 14(a) of the Act (15 U.S.C. 80a-14(a)), and related relief from sections 15(a), 16(a), and 32(a) of the Act (15 U.S.C. 80a-15(a), 80(a)-16(a), and 80a-31(a)), comparable to that presently provided to the trust accounts themselves by rule 6e-2. This relief is similar to that being provided to mutual funds underlying variable annuity trust accounts in a companion release [1] adopting amendments to rule 14a-2 under the Act (17 CFR 270.14a-2).[2]

Discussion

Rule 6e-2 under the Act provides extensive exemptions from various provisions of the Act to variable life separate accounts. Paragraph (b)(6) thereunder exempts such separate accounts from the minimum net worth requirement of section 14(a) of the Act,[3] provided certain conditions are satisfied.[4] This relief is similar to the relief amended rule 14a-2 under the Act [5] provides to variable annuity separate accounts, and to mutual funds underlying variable annuity trust accounts.

In the case of mutual funds underlying variable annuity trust accounts, extending the relief existing rule 14a-2 provides is appropriate because (1) such mutual funds are sponsored by insurance companies having a certain level of capital and surplus and subject to extensive state regulation and (2) the securities of such funds will be offered only to trust accounts of qualifying insurance companies, and thus it is unlikely that the abuses section 14(a) is intended to eliminate will occur.[6] For the same reasons, and because this is an area where life insurance separate accounts and variable annuity separate accounts should not be subject to disparate regulation, the Commission is amending rule 6e-2 in order to extend the relief therein from section 14(a) to mutual funds underlying variable life trust accounts. The amendments also will make available to such mutual funds relief from sections 15(a), 16(a), and 32(a) of the Act equivalent to that amended rule 14a-2 [7] provides mutual funds underlying variable annuity trust accounts.

Final Rulemaking

1. Amended Rule 6e-2

Rule 6e-2(b)(15)(v) provides that any registered management investment company established by the insurer and described in paragraph (b)(15) of the rule shall be exempt from section 14(a) of the Act provided that until such company has total assets of at least $100,000 the sponsoring life insurance company shall have at least the minimum net worth prescribed by rule 6e-2(b)(6). Rule 6e-2(b)(15)(vi) provides that any such company shall be exempt from sections 15(a), 16(a), and 32(a) of the Act, to the extent prescribed by rules 6e-2(b)(7)(i), 6e-2(b)(8)(i), and 6e-2(b)(14), provided that such company complies with the conditions set forth in those paragraphs as if it were a separate account.[8]

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[1] Investment Company Act Rel. No. 13687 (Dec. 23, 1983).

[2] Rule 14a-2, as originally adopted in Investment Company Act Rel. No. 5738 (July 10, 1969) (34 FR 12695, July 14, 1969), generally exempts any separate account from section 14(a) with respect to a public offering of tax-benefited variable annuity contracts if at the commencement of the offering the account's sponsoring insurance company has a certain minimum net worth. In Investment Company Act Rel. No. 12745 (Oct. 18, 1982) (47 FR 47860, Oct. 28, 1982), the Commission proposed to amend rule 14a-2 in order to make the relief therein, and thus the relief provided by related rules 15a-3, 16a-1, and 32a-2 (17 CFR 270.15a-3, 270.16a-1, and 270.32a-2), available to any separate account offering variable annuity contracts, regardless of the tax treatment accorded such contracts by the Internal Revenue Code. As discussed in the companion release, the Commission, in response to comment, has determined to expand rule 14a-2 further by making the relief therein, and the relief provided by the related rules, available to the mutual funds established by the sponsoring insurance company to serve as the underlying investment media for trust accounts.

[3] Section 14(a) generally prohibits any registered investment company from making a public offering of its securities unless it has a net worth of at least $100,000.

[4] Rule 6e-2(b)(6) exempts a variable life separate account from section 14(a) provided generally that until it has total assets of at least $100,000 the sponsoring life insurance company shall have not less than $1,000,000 of combined capital and surplus, if a stock company, or of unassigned surplus, if a mutual company.

[5] *See* note 2, *supra*.

[6] The legislative history of section 14(a) indicates that it was intended to ensure that an investment company has a certain degree of financial responsibility prior to offering its securities. *See, e.g., S. Rep. No.* 1775, 76th Cong., 3d Sess. 13 (1940).

[7] As relevant here, section 15(a) of the Act requires that the initial written contract pursuant to which the investment adviser serves or acts shall have been approved by a vote of a majority of the outstanding voting securities of the registered investment company; section 16(a) requires a similar vote for persons serving as directors of such company; and section 32(a) requires a similar vote ratifying the selection of the company's independent public accountant. In the companion release, the Commission is amending rule 14a-2 in order to make available to mutual funds underlying variable annuity trust accounts the relief from these sections provided by existing rules 15a-3, 16a-1, and 32a-2 under the Act. The amendments herein would extend similar relief provided by rules 6e-2(b)(7), 6e-2(b)(8), and 6e-2(b)(14) to mutual funds underlying variable life trust accounts.

[8] For example, an underlying mutual fund qualifying for the relief provided by rule 6e-2(b)(15)(v) would, pursuant to rule 6e-2(b)(15)(vi), be exempt from the requirements of section 15(a) of the Act, as prescribed by rule 6e-2(b)(7)(i), to the extent this section requires that the initial written contract pursuant to which the investment adviser serves or acts shall have been approved by the vote of a majority of the outstanding voting securities of the fund. This relief would be available provided, as required by rule 6e-2(b)(7)(i) (A) and (B), that such investment adviser is selected and a written contract entered into before the effective date of the fund's registration statement under the Securities Act of 1933 and that a written contract is submitted to a vote of security holders at their first meeting, which shall take place within one year of the effective date of such registration statement.

2. Adoption of Amendments Without Prior Notice or Delay

The Administrative Procedure Act (5 U.S.C. 551 *et seq.*) ("APA") generally requires that any agency publish a notice of proposed rulemaking that provides adequate opportunity for comment by interested persons. Section 553(b)(B) of the APA provides an exception from this requirement in situations where the agency for good cause finds that prior notice and comment are "impractical, unnecessary, or contrary to the public interest." These standards are incorporated in rule 4(b) of the Commission's Rules of Practice (17 CFR 201.4(b)), which requires publication and prior notice of proposed rule amendments "[e]xcept where the Commission finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest."

The purpose of these amendments is to expand the availability of certain relief from the Act. The Commission believes that these amendments would have no detrimental impact on the rights of companies subject to the rule. In addition, the Commission believes that there is little, if any, likelihood that any interested person would have reason to object to their adoption. Accordingly, the Commission has determined that prior notice and comment are unnecessary. Further, the Commission finds, pursuant to section 553(d)(1) of the APA, that a 30 day delay in effectiveness is not required because these amendments grant exceptions. Therefore, these amendments to rule 6e–2 will become effective January 12, 1984.

List of Subjects in Part 270

Investment companies, Reporting and recordkeeping requirements, Securities.

Text of Amended Rule 6e–2(b)(15)

Part 270 of Chapter II of Title 17 of the Code of Federal Regulations is amended as follows:

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

By adding new paragraphs (b)(15) (v) and (vi) to § 270.6e–2 to read as follows:

§ 270.6e–2 Exemptions for certain variable life separate accounts.

* * * * *

(b) * * *

(15) * * *

(v) Any registered management investment company established by the insurer and described in this paragraph (b)(15) shall be exempt from Section 14(a) provided that until such company has total assets of at least $100,000 the life insurer shall have at least the minimum net worth prescribed in paragraph (b)(6) above; and

(vi) Any registered management investment company established by the insurer and described in this paragraph (b)(15) shall be exempt from Sections 15(a), 16(a), and 32(a)(2) of the Act, to the extent prescribed by paragraphs (b)(7)(i), (b)(8)(i), and (b)(14), provided that such company complies with the conditions set forth in those paragraphs as if it were a separate account.

* * * * *

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Chairman of the Commission has certified that adoption of the amendments set forth herein will not have a significant economic impact on a substantial number of small entities. This certification, including the reasons therefor, is attached to this release.

Paperwork Reduction Act

The rule amendments are not subject to the Act because they do not impose an information collection requirement.

Statutory Authority

The amendments to rule 6e–2 are promulgated pursuant to the provisions of sections 6(c) and 38(a) of the Act (15 U.S.C. 80a–6(c) and 80a–37(a), respectively). For the reasons set forth above, the rule amendments will become effective January 12, 1984.

By the Commission.

Dated: December 23, 1983.

George A. Fitzsimmons,

Secretary.

Regulatory Flexibility Act Certification

I, John S. R. Shad, Chairman of the Securities and Exchange Commission, hereby certify pursuant to 5 U.S.C. 605(b) that adoption of the amendments to rule 6e–2 under the Investment Company Act of 1940 will not have a significant economic impact on a substantial number of small entities. The reason for the certification is that there are few, if any, mutual funds underlying registered insurance company separate accounts that, when considered in conjunction with their sponsoring separate account and insurance company, qualify as "small entities" as that term has been defined in the Commission's rules.

Dated: December 22, 1983.

John S. R. Shad,

Chairman.

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17 CFR Part 270

[Release No. IC-13687; File No. S7-949]

Exemptive Relief for Separate Accounts That Offer Variable Annuity Contracts to Certain Employees of Texas Institutions of Higher Education and From the Act's Minimum Net Worth and Certain Other Requirements

AGENCY: Securities and Exchange Commission.

ACTION: Final rule and rule amendments.

SUMMARY: The Commission is adopting a rule and amendments to a rule providing certain exemptions from the Investment Company Act of 1940 for registered insurance company separate accounts offering variable annuity contracts. The rule codifies standards developed by the Commission in connection with individual applications filed by separate accounts seeking exemptive relief to the extent necessary to permit them to comply with applicable Texas law in connection with the offer and sale of their variable annuity contracts to certain employees of Texas institutions of higher education, thereby eliminating the need for such applications. The rule amendments expand the availability of the exemptive relief from the Act's minimum net worth requirement provided by an existing exemptive rule and the availability of related exemptive relief provided by three other existing rules. The Commission also is adopting related technical amendments to one of the general rules under the Act.

EFFECTIVE DATE: January 12, 1984.

FOR FURTHER INFORMATION CONTACT: Thomas P. Lemke, Special Counsel (202–272–2061) or Jay S. Neuman, Attorney (202–272–2067), Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission") today announced the adoption of rule 6c–7 [17 CFR 270.6c–7] under the Investment Company Act of 1940 [15 U.S.C. 80a–1 *et seq.*] ("Act") and amendments to rule 14a–2 under the Act [17 CFR 270.14a–2], which will provide registered insurance company separate accounts, and any depositor of or principal underwriter for such accounts (collectively, "separate accounts"), with exemptive relief from various provisions of the Act with respect to variable annuity contracts[1]

[1] As used herein, the term "variable annuity contract," as defined in rule 0–1(e) [17 CFR 270.0–

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participating in such separate accounts. Rule 6c–7 codifies the conditions under which the Commission has granted individual exemptive applications to separate accounts to the extent necessary to permit them to comply with applicable Texas law in connection with the offer and sale of their variable annuity contracts to certain employees of Texas institutions of higher education. Amended rule 14a–2 expands the availability of the exemptive relief from the minimum net worth requirement of section 14(a) of the Act [15 U.S.C. 80a–14(a)] provided to separate accounts by that rule and the availability of related exemptive relief from certain requirements of sections 15(a), 16(a), and 32(a) of the Act [15 U.S.C. 80a–15(a), 80a–16(a), and 80a–31(a)] provided by existing rules 15a–3, 16a–1, and 32a–2 under the Act [17 CFR 270.15a–3, 270.16a–1, and 270.32a–2]. In response to comments, the Commission also has determined to make the relief provided by rule 14a–2, and the relief provided by rules 15a–3, 16a–1, and 32a–2, available to mutual funds underlying separate accounts registered under the Act as unit investment trusts. Finally, the Commission is adopting related technical amendments to rule 0–1(e) [17 CFR 270.0–1(e)] of the General Rules and Regulations under the Act.

The rule and rule amendments being adopted today are among several rules the Commission has adopted codifying the standards developed in connection with certain types of applications filed by separate accounts for so-called "start-up" exemptions[2] and for the relief under the Act.[3] The background and reasons for the proposals are set forth in Investment Company Act Release No. 12745 (October 18, 1982) [47 FR 47860, October 28, 1982].

Discussion

In response to its request for comments, the Commission received five comment letters. The main points raised by the commentators and any changes made to the proposals are discussed below.

1. Rule 6c–7—Texas Optional Retirement Program Relief

Four persons submitted comments on proposed rule 6c–7. Three commentators generally supported adoption of the rule as proposed, although one suggested that the final rule be expanded so as to provide relief in any situation "resembling" that arising under Texas law. The fourth commentator supported adoption of rule 6c–7 on the condition that the relief provided therein, which as proposed would have been available only for separate accounts offering variable annuity contracts in the relevant Texas market, be expanded to provide comparable relief to traditional mutual funds desiring to offer their shares in that market.

The Commission has determined not to incorporate these suggestions and to adopt rule 6c–7 as proposed. With respect to both suggested expansions of the rule, the Commission notes that no exemptive applications requesting similar relief have been filed. Accordingly, neither the Commission nor applicants have considered, in the context of specific factual settings, the issues involved in order to determine the appropriate conditions under which relief should be granted. The Commission believes that it would be premature to grant exemptive relief by rule in such situations. Of course, if a specific application is filed relating to either of the commentators' suggestions, the Commission's experience leading to the adoption of rule 6c–7 should expedite consideration of the issues involved.[4]

2. Amendments to Rule 14a–2—Relief from Minimum Net Worth Requirement

All three commentators on proposed amended rule 14a–2 supported its adoption, although one commentator urged the Commission to expand further the availability of the relief. As proposed, the amended rule would have provided relief from the Act's minimum net worth requirement to insurance company separate accounts registered under the Act both as management investment companies ("management accounts") and as unit investment trusts ("trust accounts"). In the case of trust accounts, however, the proposed amended rule would not have provided relief to the mutual funds established by the insurance company to serve as the underlying investment media for such accounts. The commentator urged the Commission to provide relief to such underlying funds, noting that the basis for exempting trust accounts—namely, that the acount is sponsored by an insurance company which meets the minimum net worth requirement of rule 14a–2 and is subject to extensive state regulation—is equally applicable to exempting underlying mutual funds sponsored by the insurance company. Furthermore, the commentator pointed out that the adequacy of protection to investors provided by a qualifying sponsoring insurance company is indistinguishable in the case of management and trust accounts, yet the practical effect of the proposed amended rule would be to treat them differently.

The Commission believes that it is appropriate to make the relief provided by rule 14a–2 available to underlying mutual funds (1) where such funds are sponsored by an insurance company that (i) meets the minimum net worth requirement of rule 14a–2 and (ii) is subject to extensive state regulation aimed at preserving the sponsoring company's solvency and (2) where such funds make their securities available only to trust accounts of qualifying insurance companies. In such circumstances, there appears to be little possibility that the kind of abuses section 14 is intended to deter will occur. Accordingly, a new paragraph (b) has been added to the rule, extending the rule's relief to underlying mutual funds established by a qualifying insurance company which offer their securities to trust accounts of the sponsoring insurance company. The relief also is available to such underlying funds, if, in addition to offering their securities to trust accounts of the sponsoring insurance company, they offer their securities to trust accounts of other insurance companies, provided that such other sponsoring insurance companies are qualifying insurance companies for purposes of paragraph (a) of the rule.[5] The expanded

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1(e)], includes any variable accumulation or annuity contract, any portion thereof, or any units of interest or participation therein pursuant to which the value of the contract, either prior or subsequent to annuitization, or both, varies according to the investment experience of the separate account in which the contract participates. *See* Investment Company Act Rel. No. 13406 (July 28, 1983) [48 FR 36097, Aug. 9, 1983].

[2] For a variety of reasons, separate accounts must obtain "start-up" exemptive relief from various provisions of the Act prior to offering their variable annuity contracts to the public.

[3] *See* Investment Company Act Rel. No. 13407 (July 28, 1983) [48 FR 36243, Aug. 10, 1983] (rule 11a–2 [17 CFR 270.11a–2]); Investment Company Act Rel. No. 13406 (July 28, 1983) [48 FR 36097, Aug. 9, 1983] (rule 6c–8 [17 CFR 270.6c–8]).

[4] The exemptive relief afforded by rule 6c–7 is available only so long as Texas law is interpreted by the Texas Attorney General as imposing restrictions upon the redeemability of variable annuity contracts offered or sold in the relevant market that are inconsistent with pertinent provisions of the Act.

[5] One commentator suggested that rule 14a–2 amended further to extend relief to separate accounts offering variable life insurance contracts. Since this relief already is provided to both management and trust accounts by rule 6e–2(b)(6) under the Act [17 CFR 270.6e–2(b)(6)], no changes have been made in this regard. *See also* rules 6e–2(b)(7) (relating to section 15(a)), 6e–2(b)(8) (relating to section 16(a)), and 6e–2(b)(14) (relating to section 32(a)) [17 CFR 270.6e–2(b)(7), 270.6e–2(b)(8), and 270.6e–2(b)(14)]. In a companion release (Investment Company Act Rel. No. 13688 (Dec. 23, 1983)) the

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relief is not available to underlying mutual funds whose securities are available for purchase by members of the public other than through purchase of an insurance product offered by a trust account.

The Commission believes it is also appropriate to expand the availability of the relief provided by related rules 15a–3, 16a–1, and 32a–2 to underlying mutual funds. As discussed in the proposing release, these rules were necessitated by the exemptive relief included in rule 14a–2, and their availability is conditioned in part upon a separate account qulifying for the relief provided by rule 14a–2. Thus, in making the relief provided by rule 14a–2 available to underlying mutual funds—and thereby eliminating the initial capital requirement for such companies—it also is appropriate to make available the relief provided by the related rules since there will be no shareholders initially eligible to take the actions addressed by these rules. Accordingly, a new paragraph (c) has been added to the rule extending the relief contained in rules 15a–3, 16a–1, and 32a–2 to underlying mutual funds,[6] provided that they qualify for the relief provided by rule 14a–2(b) and comply with the conditions set forth in the related rules as if they were separate accounts.[7]

3. Amendments to rule 0–1(e)

As proposed, the Commission is amending rule 0–1(e) of the General Rules and Regulations under the Act, which defines various terms used in those rules and regulations, including the term "separate account," and sets forth conditions for availability of exemptive relief for separate accounts pursuant to various of those rules, to include rule 6c–7 as one of the rules listed therein.

List of Subjects in Part 270

Investment companies, Reporting and recordkeeping requirements, Securities.

Text of Rule 6c–7 and Amendments to Rules 14a–2 and 0–1(e)

PART 270—[AMENDED]

Part 270 of Chapter II of Title 17 of the Code of Federal Regulations is amended as follows:

1. By revising paragraphs (e) introductory text and (e)(2) of § 270.0–1 to read as follows:

§ 270.0–1 Definition of terms used in this part.

* * * * *

(e) Definition of separate account and conditions for availability of exemption under §§ 270.6c–6, 270.6c–7, 270.6c–8, 270.11a–2, 270.14a–2, 270.15a–3, 270.16a–1, 270.22d–3, 270.22e–1, 270.27a–1, 270.27a–2, 270.27a–3, 270.27c–1, and 270.32a–2 of this chapter.

* * * * *

(2) As conditions to the availability of exemptive Rules 6c–6, 6c–7, 6c–8, 11a–2, 14a–2, 15a–3, 16a–1, 22d–3, 22e–1, 27a–1, 27a–2, 27a–3, 27c–1, and 32a–2, the separate account shall be legally segregated, the assets of the separate account shall, at the time during the year that adjustments in the reserves are made, have a value at least equal to the reserves and other contract liabilities with respect to such account, and, at all other times, shall have a value approximately equal to or in excess of such reserves and liabilities; and that portion of such assets having a value equal to, or approximately equal to, such reserves and contract liabilities shall not be chargeable with liabilities arising out of any other business which the insurance company may conduct.

2. By adding § 270.6c–7 to read as follows:

§ 270.6c–7 Exemptions from certain provisions of sections 22(e) and 27 for registered separate accounts offering variable annuity contracts to participants in the Texas Optional Retirement Program.

A registered separate account, and any depositor of or underwriter for such account, shall be exempt from the provisions of sections 22(e), 27(c)(1), and 27(d) of the Act (15 U.S.C. 80a–22(e), 80a–27(c)(1), and 80a–27(d), respectively) with respect to any variable annuity contract participating in such account to the extent necessary to permit compliance with the Texas Optional Retirement Program ("Program"), *Provided*, That the separate, account, depositor, or underwriter for such account:

(a) Includes appropriate disclosure regarding the restrictions on redemption imposed by the Program in each registration statement, including the prospectus, used in connection with the Program;

(b) Includes appropriate disclosure regarding the restrictions on redemption imposed by the Program in any sales literature used in connection with the offer of annuity contracts to potential Program participants;

(c) Instructs salespeople who solicit Program participants to purchase annuity contracts specifically to bring the restrictions on redemption imposed by the Program to the attention of potential Program participants;

(d) Obtains from each Program participants who purchases an annuity contract in connection with the Program, prior to or at the time of such purchase, a signed statement acknowledging the restrictions on redemption imposed by the Program; and

(e) Includes in Part II of the separate account's registration statement under the Securities Act of 1933 a representation that this section is being relied upon and that the provisions of paragraphs (a)–(d) of this section have been complied with.

3. By revising § 270.14a–2 to read as follows:

§ 270.14a–2 Exemption from section 14(a) of the Act for certain registered separate accounts and their principal underwriters.

(a) A registered separate account, and any principal underwriter for such account, shall be exempt from section 14(a) of the Act (15 U.S.C. 80a–14(a)) with respect to a public offering of variable annuity contracts participating in such account if, at the commencement of such offering, the insurance company establishing and maintaining such separate account shall have (1) a combined capital and surplus, if a stock

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Commission is adopting amendments to rule 6e–2(b)(15) in order to provide relief from section 14(a) to mutual funds underlying variable life trust accounts comparable to that being provided by amended rule 14a–2 to mutual funds underlying variable annuity trust accounts. Those amendments also will provide mutual funds underlying variable life trust accounts with relief from sections 15(a), 16(a), and 32(a) of the Act comparable to that being provided to variable annuity trust accounts by amended rule 14a–2(c) (*see* disucssion in text accompanying note 6, *infra*.).

[6] The Commission has determined, pursuant to section 553(b)(B) of the Administration Procedure Act, that there is no need to republish proposed amended rule 14a–2 to obtain comment on its decision to expand the availability of rules 14a–2, 15a–3, 16a–1, and 32a–2 to underlying mutual funds since that issue was raised by, and in fact was commented upon in, the proposed rulemaking. Moreover, the Commission believes this action is appropriate because expanding the availability of these rules would have no detrimental impact on the rights of companies subject to these rules or of investors, and there appears to be little, if any, likelihood that any interested person would have reason to object to this action.

[7] For example, an underlying mutual fund qualifying for the relief provided by rule 14a–2(b) would, pursuant to rule 14a–2(c), be exempt from the requirements of section 16(a) of the Act, as prescribed by rule 16a–1, that persons serving as the directors of such fund shall, prior to the first meeting of security holders, be elected by the holders of outstanding voting securities of such fund at an annual or special meeting called for that purpose. This relief would be available provided, as required by rules 16a–1(2) and (3), that such persons have been appointed directors of such fund by the fund's establishing insurance company and that election of fund directors shall be held at the first security holder meeting, which shall take place within one year of the effective date of the fund's registration statement under the Securities Act of 1933 [15 U.S.C. 77a et seq.].

company, or (2) an unassigned surplus, if a mutual company, of not less than $1,000,000 as set forth in the balance sheet of such insurance company contained in the registration statement or any amendment thereto relating to such contracts filed pursuant to the Securities Act of 1933.

(b) Any registered management investment company which has as a promoter an insurance company meeting the requirements of paragraph (a) of this section and which offers its securities to separate accounts of such insurance company registered under the Act as unit investment trusts ("trust accounts"), and any principal underwriter for such investment company, shall be exempt from section 14(a) with respect to such offering and to the offering of such securities to trust accounts of other insurance companies meeting the requirements of paragraph (a) of this section.

(c) Any registered management investment company exempt from section 14(a) of the Act pursuant to paragraph (b) of this section shall be exempt from sections 15(a), 16(a), and 32(a)(2) of the Act (15 U.S.C. 80a–15(a), 80a–16(a), and 80a–31(a)(2)), to the extent prescribed in rules 15a–3, 16a–1, and 32a–2 under the Act (17 CFR 270.15a–3, 270.16a–1, and 270.32a–2), provided that such investment company complies with the conditions set forth in those rules as if it were a separate account.

Paperwork Reduction Act

The information collection required by rule 6c–7 has been approved by the Office of Management and Budget for use through January 31, 1986 (OMB No. 3235–0276).

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Chairman of the Commission has certified that the rule and rule amendments adopted herein will not have a significant economic impact on a substantial number of small entities. The Commission did not receive any comments on that certification.

Statutory Authority

Rule 6c–7 and the amendments to rule 14a–2 are promulgated pursuant to the provisions of sections 6(c) and 38(a) of the Act (15 U.S.C. 80a–6(c) and 80a–37(a), respectively). The amendments to rule 0–1(e) are promulgated pursuant to the provisions of section 38(a) of the Act (15 U.S.C. 80a–37(a)). Because this rulemaking is exemptive in nature, the Commission finds, pursuant to section 553(d)(1) of the Administrative Procedure Act (5 U.S.C. 553(d)(1)), that the 30 day delay in effectiveness is not required and, accordingly, the rule and rule amendments will became effective immediately upon publication in the **Federal Register**.

By the Commission.

George A. Fitzsimmons,

Secretary.

December 23, 1983.

[FR Doc. 84–804 Filed 1–11–84; 8:45 am]

BILLING CODE 8010–01

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 10

[T.D. 84–16]

Refund of Duties on Imported Watches and Watch Movements

AGENCY: Customs Service, Treasury.

ACTION: Interim regulation.

SUMMARY: This document amends the Customs Regulations to reflect a new incentive designed by the Congress to stimulate watch assembly activity in the U.S. insular possessions. The new incentive is in the form of a production incentive certificate entitling the holder (or another party to which it has transferred some or all of its entitlement) to secure the refund of duties paid to Customs on specified watches, watch movements (including solid state watches and watch movements), and watch parts entered into the United States during a 3-year period beginning 2 years before the issue date of the certificate of entitlement. This incentive will be administered jointly by the Department of Commerce and Interior and by Customs.

DATES:

Effective date: January 12, 1984.

Comments: Because the statute upon which this regulation is based became effective on January 27, 1983, the amendment is being published as an interim regulation, effective on January 12, 1984. However, written comments received by Customs before March 12, 1984 will be considered in determining whether any changes to the regulation are required before a final rule is published.

ADDRESS: Comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, Room 2426, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Betty L. Colburn, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5307)

or

Richard Seppa or Frnak Creel, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230 (202–377–1660).

SUPPLEMENTARY INFORMATION:

Background

Pub. L. 97–446, an Act "to reduce certain Customs duties, to suspend temporarily certain duties, to extend certain existing suspensions of duties, and for other purposes," was approved on January 12, 1983.

The Act provides a new incentive designed to stimulate watch assembly activity in the United States insular possessions (i.e., U.S. Virgin Islands, Guam, American Samoa). Since 1959, the watch and watch movement industry has been a significant factor in the economy and in employment opportunities in the U.S. insular possessions. This has been, in part, due to tariff incentives provided under the Tariff Schedules of the United States (TSUS, 19 U.S.C. 1202), which previously afforded duty-free entry to watches and watch movements which did not contain foreign materials to the value of more than 70 percent of their total value.

According to the legislative history of Pub. L. 97–446 (See H.R. 4566, section 115, page 14), the industry provided more than 1,300 jobs at its peak. However, since 1960, over half the industry has closed down and employment, at the time of enactment, was under 100 people. This is largely due to a market shift away from mechanical watches and toward quartz digital watches. Producers in the insular possessions have not refitted to accommodate this market shift.

Import levels from the U.S. insular possessions are low as compared to quotas against which they are monitored. The U.S. Virgin Islands, for example, shipped 2.6 million units in 1981 against a quota of just over 7 million units.

The intent of the Act is to spur production in the insular possessions and to encourage those producers who are there to stay and those producers who have left, to return.

Section 110 of the Act amended the TSUS by eliminating the foreign content

value limitation set out in General Headnote 3(a), TSUS. Prior to the Act, General Headnote 3(a), TSUS, provided that watches and watch movements manufactured in and imported from the insular possessions could enter the United States free of duty if they did not contain foreign materials to the value of more than 70 percent of their total value. Former law also provided a quantitative restriction on such imports equal to one-ninth of apparent U.S. consumption.

The Act changes the tariff schedules as follows: (1) Eliminates the limit of 70 percent content from foreign countries; (2) establishes the annual limit on duty-free entry at 7 million units in 1984 and at 10 million units or one-ninth of apparent U.S. consumption (whichever is greater) in subsequent years; (3) provides authority to the Secretaries of Commerce and Interior to redistribute the annual limit among the territories; and (4) provides a duty rebate for the industry which would reflect the amount of local labor content in the watches.

However, the Act forbids the extension of General Headnote 3(a), TSUS, privileges and benefits to any articles containing materials to which rates of duty set forth in Column 2 (products of Communist countries as defined in General Headnote 3(f), TSUS) apply and limits the size of the 1983 calendar year allocation of watch quotas to 3,000,000 units produced or manufactured in the U.S. Virgin Islands, 1,200,000 units in Guam, and 600,000 units in American Samoa. In 1984 and thereafter, the Departments of Commerce and Interior will have the authority to adjust the size of the allocation downward by no more than 10 percent or upward by no more than 20 percent in any one year.

The new incentive created by the Act is in the form of a production incentive certificate which can be used to secure the refund of duties paid on specified watches, watch movements, and watch parts entered during a 3-year period beginning 2 years before the issue date of the certificate. This certificate is to be issued to eligible producers by March 1 of each calendar year.

The incentive will be administered jointly by the Departments of Commerce and Interior and by Customs. Copies of International Trade Administration, Form ITA–360, Certificate of Entitlement to Secure the Refund of Duties on Watches and Watch Movements, will be issued by Commerce/Interior and kept by the insular producers on their premises or at another location approved in advance by the Departments. Form ITA–361, A Request for Refund of Duties on Watches and Watch Movements, will be presented by the certificate holder (or, because the certificate entitlements are transferable, another party legally entitled to a portion or all of the entitlement) to a Customs official at the port of entry where the articles were entered. The documentation accompanying the request form shall include a copy of the import entry, providing proof that duty was paid on the watches and watch movements.

The Form ITA–360 certificate expires 1 year from its date of issuance. A refund request made by either the insular producer itself or by a transferee named by the insular producer on Form ITA–361 must be filed within this 1-year period. This expiration date applies equally to all refund requests, whether a single request for the entire amount specified in the Form ITA–360 certificate or multiple requests for partial amounts. Refund requests will be accepted until either the amount specified in the certificate is depleted or until the certificate expires 1 year from its date of issuance.

A request for refund on Form ITA–361 must be filed at the port where the watch import entry was originally filed, then forwarded to the appropriate Customs regional office of that port for payment, and finally, together with payment, sent back to the originating port. Every effort will be made to expedite the processing of these refunds. A fee of 5 percent will be deducted from each refund request as reimbursement to salaries and expenses of those Customs personnel processing the request. This fee may later be reduced if actual costs are less than the 5 percent amount.

This document amends Part 10, Customs Regulations (19 CFR Part 10), by adding a new § 10.181 to provide a procedure to secure the refund of duties on watches and watch movements for watch producers in the U.S. insular possessions.

Comments

Before adopting the regulation as a final rule, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on normal business days between the hours of 9:00 a.m. to 4:30 p.m. at the Regulations Control Branch, Customs Service Headquarters, Room 2426, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Inapplicability of Notice and Delayed Effective Date Provisions

As discussed in the legislative history of Pub. L. 97–446, due to the state of the watch industry in the U.S. insular possessions, the need for immediate action to stimulate watch assembly activity in these areas, and the fact that the Act became effective on January 27, 1983, it has been determined that, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure are impracticable, unnecessary, and contrary to the public interest. For the same reasons, pursuant to 5 U.S.C. 553(d)(3), it has been determined that good cause exists for dispensing with a delayed effective date.

E.O. 12291

Inasmuch as Customs does not believe that the amendment meets the criteria for a "major rule" within the meaning of section 1(b) of E.O. 12291, a regulatory impact analysis has not been prepared.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this regulation, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601–612) are inapplicable. However, any comments submitted with regard to the economic impact of this regulation will be considered before a final rule is issued.

Drafting Information

The principal author of this document was James S. Demb, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from the Departments of Commerce and Interior and other Customs offices participated in its development.

List of Subjects in 19 CFR Part 10

Customs duties and inspection, Imports.

Amendments to the Regulations

Part 10, Customs Regulations (19 CFR Part 10), is amended by adding a new center heading and new § 10.181 to read as follows:

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

Watches and Watch Movements From U.S. Insular Possessions

§ 10.181 Watches and Watch Movements From U.S. Insular possessions.

(a) The issuance of an International Trade Administration Form ITA–360, Certificate of Entitlement to Secure the Refund of Duties on Watches and Watch Movements, by the Department of Commerce, authorizes a producer of

watches in the U.S. insular possessions to file requests with Customs for the refund of duties paid on imports of watches, watch movements (including solid state watches and watch movements), and watch parts (excepting separate watch cases and any articles containing any materials to which rates of duty set forth in Column 2, Tariff Schedules of the United States (19 U.S.C. 1202) apply). The amount of the refund requested may be up to the value specified in the certificate, provided that the articles for which refunds are requested were entered during a 3-year period beginning 2 years before the date of issuance of the Form ITA–360 certificate from the Department of Commerce.

(b) The Form ITA–360 may not be used to secure refunds. To secure a refund, the party requesting the refund of duties (claimant) must present to Customs Form ITA–361, Request for Refund of Duties on Watches and Watch Movements, properly executed, and authenticated by Department of Commerce.

(c) By completing Form ITA–361, the insular producer may either:

(1) Transfer its entitlement, in whole or in part, to any other party for any consideration agreed to by the insular producer and the transferee, or

(2) Request the refund of duties to itself.

(d) A claimant must file Form ITA–361 with Customs at the same port where the watch import entry was originally filed and duties paid. The documentation accompanying Form ITA–361 shall include a copy of the import entry, providing proof that duty was paid on the watches and watch movements.

(e) When requesting the refund of duties on Form ITA–361, the claimant also must complete and submit to Customs the declaration on the form which reads as follows:

"I declare that the information given above is true and correct to the best of my knowledge and belief; that no notices of exportation of articles with benefit of drawback were filed upon exportation of this merchandise from the United States; that no liquidated refunds on the articles relating to the present claim have been paid; and that no protest or request for litigation for refund of duties paid and herewith claimed has been made."

(f) A fee of 5 percent will be deducted from each refund request as reimbursement to salaries and expenses of those Customs personnel processing the request.

(g) Form ITA–360 expires 1 year from its date of issuance. Any refund request on Form ITA–361 made by either the insular producer itself or any transferee named on Form ITA–360 must be filed within this 1-year period. This expiration date applies equally to all refund requests, whether a single request for the entire amount specified in the Form ITA–360 certificate or multiple requests for partial amounts. Refund requests will be accepted until either the amount specified in the certificate is depleted or until the certificate expires 1 year from its date of issuance.

(h) Customs will process only those refund requests made in accordance with the joint rules of the Department of Commerce and the Interior governing the issuance and handling of certificates and the transfer of entitlements as contained in 15 CFR Part 303.

(R.S. 251, as amended, sec. 624, 46 Stat. 759, 77A Stat. 14 (5 U.S.C. 301, 19 U.S.C. 66, 1202, 1624 (Gen. Hdnte. 11, TSUS)))

William von Raab,

Commissioner of Customs.

Approved: December 14, 1983.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 84–826 Filed 1–11–84; 8:45 am]

BILLING CODE 4820–02–M

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19 CFR Part 10

[T.D. 84–17]

Elimination of Duty on Articles Imported for Physically or Mentally Handicapped Persons

AGENCY: Customs Service, Treasury.

ACTION: Interim regulation.

SUMMARY: This document amends the Customs Regulations to provide a procedure for the duty-free treatment of imported articles specially designed or adapted for the use or benefit of physically or mentally handicapped persons. Many articles for the blind, and some for other handicapped individuals, already are entitled to duty-free entry under existing law. This document describes a new law which expands coverage to encompass most articles specially designed or adapted for use by the handicapped other than articles solely for the blind.

EFFECTIVE DATE: January 12, 1984.

Comments: Because the statute upon which this regulation is based became effective on February 11, 1983, the amendment is being published as an interim regulation, effective on January 12, 1984. However, written comments received by Customs before March 12, 1984 will be considered in determining whether any changes to the regulation are required before a final rule is published.

ADDRESS: Written comments (preferably in triplicate) should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, Room 2426, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Herbert Geller, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202–566–5307) or Richard Seppa or Frank Creel, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230 (202–377–1660).

SUPPLEMENTARY INFORMATION:

Background

The Agreement on the Importation of Educational, Scientific and Cultural Materials, known as the Florence Agreement, is an international agreement providing for duty-free trade among its 90 signatories in specified categories of articles. These categories are: (1) Books, publications, and documents; (2) works of art and collector's pieces; (3) visual and auditory materials; (4) scientific instruments and apparatus; and (5) articles for the blind.

A Protocol to the Florence Agreement, enacted into law as Pub. L. 97–446 and known as the Nairobi Protocol, broadens the scope of the Florence Agreement by removing some of its restrictions on articles otherwise entitled to duty-free status, and by expanding the Agreement to embrace technologically new articles and previously uncovered works of art and film. One major new category of articles is all materials specially designed for the education, employment, and social advancement of physically or mentally handicapped persons. Thus, the Protocol is intended to afford duty-free treatment for articles not only for the blind, but for all other handicapped persons without regard to the source of their affliction.

Many articles for the blind, and some for other handicapped individuals, already are entitled to duty-free entry under existing statutes. The Protocol expands coverage to encompass most articles specially designed or adapted for use by other handicapped individuals. Consequently, Part 4 of Schedule 9, Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202), has been amended by inserting item numbers 960.10, 960.12, and 960.15, "Articles Specially Designed or Adapted for the Use or Benefit of the Blind or

other Physically or Mentally Handicapped Persons." Part 4, TSUS, headnotes and item numbers 960.10, 960.12, and 960.15, TSUS, provide as follows:

Part 4 Headnote:

1. An article described in any of the provisions of this part, if entered during the period specified in the last column, is classifiable in said provision, if the conditions and requirements thereof and of any applicable regulations are met. The provisions of this part shall prevail over any provision describing such article in schedules 1 to 8, inclusive.

2. For the purposes of items 960.10, 960.12, and 960.15—

(a) The term *"physically or mentally handicapped persons"* includes any person suffering from a permanent or chronic physical or mental impairment which substantially limits one or more major life activities, such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(b) These items do not cover—

(i) articles for acute or transient disability;

(ii) spectacles, dentures, and cosmetic articles for individuals not substantially disabled;

(iii) therapeutic and diagnostic articles; and

(iv) medicines or drugs.

Articles specially designed or adapted for the use or benefit of the blind or other physically or mentally handicapped persons (however provided for in schedules 1 to 7):

Articles for the blind:

960.10 Books, music, and pamphlets, in raised print, used exclusively by or for them.

960.12 Braille tablets, cubarithms, and special apparatus, machines, presses, and types for their use or benefit exclusively.

960.15 Other.

The articles added by these new provisions became eligible for duty-free treatment for the period beginning February 11, 1983, and ending August 11, 1985. During this period, the policy of treating these articles as duty-free will be reviewed by the President. Instructions regarding the duty-free treatment of these articles have already been issued to Customs field officers by memoranda dated February 22, 1983, and July 13, 1983. Articles have been entered duty-free under this new policy since February 11, 1983. However, it is noted that item numbers 826.10 and 826.20, TSUS, already provide permanent duty-free treatment for those articles covered by the new provisions 960.10 and 960.12, TSUS, on a temporary basis. Therefore, there is no time limit applicable to duty-free treatment of these particular articles.

Pursuant to the authority in section 165 of Pub. L. 97–446, this document amends Part 10, Customs Regulations, (19 CFR Part 10), to provide a procedure for the duty-free treatment of articles specially designed or adapted for the use or benefit of physically or mentally handicapped persons other than articles solely for the blind. Therefore, the interim regulations proposed in this document apply only to articles covered under item 960.15, TSUS.

Those articles claimed under item 960.15, TSUS, may be admitted duty-free by Customs with the entry summary or with the entry when the entry summary is filed at the time of entry, upon the submission of a Department of Commerce International Trade Administration Form ITA–362P, "Information on Articles for Physically or Mentally Handicapped Persons Imported Free of Duty under Pub. L. 97–446 (other than Articles for the Blind)", providing specified information about the articles to be imported.

The requirement for the Form ITA–362P is limited to articles entered under item 960.15, TSUS. This form may not be treated, in accordance with § 141.66 (19 CFR 141.66), as a missing document. A bond may not be given to Customs for the production of this form at the time of entry. This prohibition fulfills the requirements of the implementing legislation to monitor the articles' entry. The Form ITA–362P must be presented at the time entry summary is filed following release of the articles. A duty-free entry summary will be rejected and appropriate estimated duties required if Form ITA–362P is not presented at the time of entry summary filing.

In accordance with the intent of the legislation, an insignificant adaptation would not result in duty-free treatment for a relatively expensive article. Otherwise, this special tariff category would create incentives for commercially motivated tariff-avoidance schemes and pre-import and post-entry manipulation. Rather, for an entire modified article to be accorded duty-free treatment, the modification or adaptation must be significant, so as to render the article clearly for use by handicapped persons. Whether a modification is significant will depend on Customs' consideration of such criteria as the relative cost and permanence of the adaptation and the degree to which the imported article with the adaptation is dedicated to use by the handicapped. For example, an automobile fitted with special hydraulic seats and modified to be operated primarily with hand controls would not be used under normal circumstances by the non-handicapped, and such a modification represents a considerable expense to the user. This special automobile would qualify for duty-free treatment. On the other hand, special attachments to permit a handicapped individual to operate the foot brake or gas pedal of an otherwise conventional automobile are inexpensive modifications relative to the cost of the automobile and can be readily removed after importation. This type of adaptation is insufficient to alter the basic character of the conventional automobile and render it eligible for duty-free entry. (The part used in the modification, though, might qualify if the modified part is entered separately.)

Customs cannot in this document answer all questions concerning this matter. Such questions should be submitted to the Director, Entry, Procedures and Penalties Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229, in accordance with the ruling procedures set forth in Part 177, Customs Regulations (19 CFR Part 177).

This document amends Part 10, Customs Regulations (19 CFR Part 10), by adding a new section 10.182 to provide a procedure to secure the duty-free entry of certain articles for physically or mentally handicapped persons other than articles solely for the blind.

Comments

Before adopting the regulation as a final rule, Customs will give consideration to any written comments (preferably in triplicate) timely submitted to the Commissioner. Comments submitted will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on normal business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Customs Service Headquarters, Room 2426, 1301 Constitution Avenue NW., Washington, D.C. 20229.

Inapplicability of Notice and Delayed Effective Date Provisions

The Department of State listed the Nairobi Protocol as one of the few international agreements for which there is an urgent need. The Protocol will serve to promote a freer exchange of ideas and cultural articles and foster greater international understanding and peace, while benefitting handicapped individuals. Therefore, it has been determined that, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure are impracticable, unnecessary, and

contrary to the public interest. For the same reasons a delayed effective date is being dispensed with, pursuant to 5 U.S.C. 553(d)(3).

E.O. 12291 and Regulatory Flexibility Act

Because the amendment does not meet the criteria for a "major rule" within the meaning of section 1(b) of E.O. 12291, Customs has not prepared a regulatory impact analysis.

Because of the need to expedite the issuance of this regulation, Customs has not yet been able to determine if the regulation will have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601–612). However, Customs will continue to review this matter and will consider any comments submitted before issuing a final rule.

Paperwork Reduction Act

The International Trade Administration, U.S. Department of Commerce, submitted Form ITA–362P, the form used to request duty-free treatment for articles specially designed or adapted for use by the handicapped, to the Office of Management and Budget for approval. Form ITA–362P was approved and its OMB approval number is 0625–0118, which expires March 31, 1985.

Drafting Information

The principal author of this document was James S. Demb, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from the Department of Commerce and other Customs offices participated in its development.

List of Subjects in 19 CFR Part 10

Customs duties and inspection, Imports.

Amendment to the Regulations

Part 10, Customs Regulations (19 CFR Part 10), is amended by adding a new center heading and new section 10.182 to read as follows:

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

Articles Specially Designed or Adapted for Use by Handicapped Persons Other Than Articles Solely for the Blind

§ 10.182 Articles Specially Designed or Adapted for Use by Handicapped Persons Other Than Articles Solely for the Blind.

(a) Articles specially designed or adapted for use by handicapped persons other than articles solely for the blind claimed to be entitled to free entry under temporary tariff item 960.15, Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202), may be admitted free of duty by Customs upon the submission of an International Trade Administration Form ITA–362P, "Information on Articles for Physically or Mentally Handicapped Persons Imported Free of Duty under Pub. L. 97–446 (other than Articles for the Blind)," providing specified information about the articles to be imported.

(b) The requirement for the Form ITA–362P is limited to merchandise entered under item 960.15, TSUS. This form may not be treated, in accordance with § 141.66 (19 CFR 141.66), as a missing document. A bond may not be given to Customs for the production of this form at the time of entry. The Form ITA–362P must be presented with the entry summary or with the entry when the entry summary is filed at the time of entry. A duty-free entry summary will be rejected and appropriate estimated duties required if Form ITA–362P is not presented at the time of entry summary filing. The effective period for duty-free treatment of these articles extends until August 11, 1985, unless extended by the President.

(R.S. 251, as amended, sec. 624, 46 Stat. 759, 77A Stat. 14 (5 U.S.C. 301, 19 U.S.C. 66, 1202 (Gen. Hdnt. 11), 1624))

William Green,

Acting Commissioner of Customs.

Approved: December 21, 1983.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 84–825 Filed 1–11–84; 8:45 am]

BILLING CODE 4820–02–M

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19 CFR Part 177

[T.D. 84–15]

Tariff Classification of Bulk Liquid Chocolate

AGENCY: Customs Service, Treasury.

ACTION: Continuation of position.

SUMMARY: This document advises the public that after consideration of numerous public comments and extensive review, Customs has determined to continue its current position regarding the tariff classification of certain bulk chocolate imported in liquid form for further manufacturing. The chocolate will be classified for Customs purposes under the provision for sweetened chocolate in any other form, in item 156.30, Tariff Schedules of the United States (TSUS). A proposed change of position, which was published in response to a public petition and would have resulted in the classification of this merchandise under the tariff provision for sweetened chocolate in bars or blocks weighing 10 pounds or more each, has not been adopted.

EFFECTIVE DATE: January 12, 1984.

FOR FURTHER INFORMATION CONTACT: Lee C. Seligman, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–8181).

SUPPLEMENTARY INFORMATION:

Background

On March 22, 1983, a notice was published in the **Federal Register** (48 FR 11956), advising the public that, as a result of a request for a tariff classification ruling, Customs was reviewing its current position of classifying certain bulk liquid chocolate under the provision for other sweetened chocolate in item 156.30, Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202). Customs requested comments on the proposal to reclassify that merchandise under the provision for sweetened chocolate in bars or blocks weighing 10 pounds or more each in item 156.25, TSUS. Comments were to have been received by May 23, 1983. However, the comment period was extended to June 22, 1983, by notice published in the **Federal Register** on May 20, 1983 (48 FR 22747).

The requestor represented to Customs that the most economical method of transporting the chocolate from Canada to the United States is in 40,000 pound loads in temperature controlled tank trucks. If left at room temperature, the chocolate would harden. However, the trucks contemplated for use in transporting the chocolate would maintain sufficient heat during transit to keep the chocolate in a molten state during transportation and transfer in order to facilitate unloading and further processing in the United States. Transport of the chocolate in other than molten form would substantially increase the costs of the contemplated operation and probably create a result which would be economically unfeasible.

It was also represented to Customs that the legislative history of item 156.25, TSUS, clearly shows that Congress intended the lower rate of duty to apply to all bulk imports of sweetened chocolate for manufacturing use and that the specification of "bars or blocks weighing 10 pounds or more each" merely reflected Congress' understanding of the form in which chocolate in bulk for further

manufacturing was transported at the time this provision was originally enacted.

Customs sought public comment on the proposal, especially on the following issues:

(1) Does the legislative history of item 156.25, TSUS, clearly reveal a Congressional intent to prescribe a lower rate of duty for all bulk shipments of sweetened chocolate and not just those "in bars and blocks weighing 10 pounds or more each"?

(2) If the answer to the previous question is affirmative, is it proper for Customs to ignore the phrase "in bars or blocks weighing 10 pounds or more each" in considering whether liquid chocolate may be classified under item 156.25, TSUS?

(3) If so, how should chocolate in bulk form for further manufacturing be defined?

Although no uniform and established practice has been found to exist (within the meaning of § 177.10(c), Customs Regulations (19 CFR 177.10(c)), Customs' decision in this matter could have had a substantial impact upon both importers and domestic manufacturers. Merchandise subject to this decision could be exempt from the quota restraints of items 950.15 and 950.16, TSUS.

Analysis of Comments and Findings

Numerous comments were received in response to the published notice. Replies were received from members of the general public, members of the trade, and several members of Congress.

Of the comments received from the general public, 38 favored the change of position, 35 favored the present classification scheme, and 31 expressed either an alternative position, such as averaging the duty rates at issue, or did not clearly set forth a position.

The comments from members of the trade were almost unanimous in their opposition to the proposed change.

Our review of the petition, the comments, and the language of the provisions at issue leads us to believe that Customs' current classification is correct. We believe that the language set forth in items 156.25, TSUS, and 156.30, TSUS, is clear and unambiguous and, therefore, resort to the limited legislative history is unnecessary. *C. J. Tower & Sons* v. *United States*, 41 CCPA 185, C.A.D. 550 (1953).

Absent the clear indication that Congress intended a commercial or trade definition to prevail, it is a common and permissible practice to resort to standard dictionary and encyclopedic definitions to gain an understanding of tariff terms. Our reading of these standard sources uniformly indicates that the expression "bars or blocks weighing 10 or more pounds each" intends a *solid* mass, usually rectangular in shape, or a compact *solid* piece of material.

Even assuming that sufficient ambiguity exists to require reference to the limited legislative history available, the petition still should be denied. Our reading of the relevant legislative floor debate surrounding amendment of the predecessor provision leads to the conclusion that Congress intended a lower rate of duty *only* for *small* quantities of *high quality* chocolate from Switzerland which was not domestically available and which was shipped in "*bars or blocks of 10 or more pounds each* (emphasis provided)." Chocolate not meeting these strict requirements in both form and quantity was to be, and has been, classified under the provision for chocolate in *any other form* (emphasis provided). Congress, by enactment of the amendment to the tariff schedules of 1929 (and the carrying forward of the identical language to date), expressly provided for *certain* sweetened chocolate (*i.e.*, "in bars or blocks of 10 or more pounds each" in paragraph 777 (now item 156.25, TSUS)) to be dutiable at one rate and, if *in any other form*, at a second higher rate (emphasis provided). (71 Con. Rec. 5672, 5673 (November 16, 1929)).

Furthermore, Congress, being charged with knowledge of trade practice, common meaning, and the position taken by Customs regarding the application of these provisions, has never modified or expanded the coverage of this provision. Indeed, ratification of Customs position by failure to modify these provisions, even during total revision culminating in the Tariff Classification Act of 1962, indicates that the provisions in question were and are being administered in accordance with Congressional intent. (Pub. L. 87–456, 76 Stat. 72 (May 24, 1962)).

Continuation of Position

After careful analysis of all comments received and a thorough review of this matter, the proposal to classify liquid bulk chocolate under the provision for sweetened chocolate in bars or blocks weighing 10 pounds or more each in item 156.25, TSUS, has not been adopted. Accordingly, Customs will continue its current position of classifying the liquid bulk chocolate in question under item 156.30, TSUS.

Drafting Information

The principal author of this document was Larry L. Burton, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: November 18, 1983.

William Green,

Acting Commissioner of Customs.

[FR Doc. 84-627 Filed 1-11-84; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 650

Water Supply and Sewage Treatment at Safety Rest Areas

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends the FHWA's existing regulation concerning water supply and sewage treatment at highway safety rest areas (23 CFR Part 650). These revisions incorporate certain changes made by the Federal-Aid Highway Act of 1981 affecting the participation of Federal-aid highway funds in Interstate safety rest area projects. Further, the revisions update certain provisions to expressly recognize the Environmental Protection Agency's (EPA) regulations implementing the Clean Water Act (CWA) and the Safe Drinking Water Act (SDWA) as part of FHWA policies and procedures for providing safe and adequate water supply and sewage treatment facilities at safety rest areas constructed with Federal-aid funds.

EFFECTIVE DATE: February 13, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Baumgardner, Office of Engineering (HNG–31), (202) 472–7690, or Mr. Jerry Boone, Office of the Chief Counsel (HCC–10), (202) 426–0761, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: This rule amends the FHWA's existing regulation concerning water supply and sewage treatment at highway safety rest areas (23 CFR Part 650). These revisions incorporate certain changes made by the Federal-Aid Highway Act of 1981 (Pub. L. 97–134, 95 Stat. 1699) affecting the participation of Federal-aid highway funds in Interstate safety rest area projects. Further, the revisions update certain provisions to expressly recognize EPA's regulations

implementing the Clean Water Act, 33 U.S.C. 1251 *et seq.*, and the Safe Drinking Water Act, 42 U.S.C. 300f *et seq.*, as part of FHWA policies and procedures for providing safe and adequate water supply and sewage treatment facilities at safety rest areas constructed with Federal-aid funds.

The Federal-Aid Highway Act of 1981 restructured the Interstate Highway Program by reducing the cost to complete the Interstate System and by expanding the Interstate 3R Program (resurfacing, restoration and rehabilitation) to a 4R Program through the addition of reconstruction as an eligible item. To achieve the reduced Interstate cost-to-complete, § 4(b) of the Act limited the obligation of Interstate construction funds by providing a new definition for Interstate completion. This provision limits funding of Interstate construction projects in a variety of ways and to those features necessary to provide a minimum level of acceptable service. Section 4 (b) generally further limits funding for Interstate construction to previously approved work included in the 1981 Interstate Cost Estimate (ICE), which was approved by the Act as well.

As a result of the Act, many features previously eligible for Interstate construction funding are no longer eligible, but may be funded with Interstate 4R funds. The only safety rest area work eligible for Interstate construction funds is that (1) included in the 1981 ICE and (2) necessary to replace existing similar services, inpacted by otherwise eligible roadway work, on gap sections or on incorporated segments with approved major upgrading. Other Interstate highway rest area work is eligible for Interstate 4R funds.

Accordingly, the principal change made by this revision is to set forth the eligibility limitations for Interstate construction funding of water supply and sewage treatment facilities at safety rest areas. Paragraph 650.515(a), the operative provision, provides that work to upgrade existing safety rest area water supply and sewage facilities, or to construct new facilities, is to be funded with Interstate 4R funds or primary funds, rather than Interstate construction funds. An exception to this change, as described above, is allowed for certain safety rest areas.

Issuance of existing Part 650 in October 1974 preceded enactment of the SDWA which became law in December 1974. The SDWA established national primary drinking water standards. It is the primary law protecting groundwater purity for domestic use. The EPA has implemented the SDWA at 40 CFR Parts 141 and 142. Part 141 delineates maximum contaminant levels for specified microbiological and chemical contaminants in water provided by a public water system. Part 142 seeks to implement these primary drinking water standards.

The CWA established permit and control procedures for discharges of pollutants into bodies of water. When existing Part 650 was issued, the effluent limitations promulgated pursuant to the CWA were in proposed form. The proposed limitations were adopted as final in 1977.

When highway construction and operation result in the possible discharge of a pollutant from a point source, a permit is required under the National Pollution Discharge Elimination System (NPDES). The NPDES program includes discharges of treated sewage effluent from safety rest areas. The EPA regulations for the NPDES program are set forth in 40 CFR Parts 121–125. Also, pursuant to the CWA, 40 CFR Part 133 provides information on the level of effluent quality attainable through the application of secondary treatment.

The revisions made by this final rule are consistent with the SDWA and CWA and pertinent EPA implementing regulations, at 40 CFR Parts 141 and 142 and Parts 125 and 133, respectively, and incorporate such EPA regulations as part of FHWA's policies and procedures for providing safe and adequate water supply and sewage treatment facilities at safety rest areas.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under DOT regulatory policies and procedures. Notice and opportunity for comment are not required under the DOT regulatory policies and procedures because this action merely makes technical changes and changes required by statute and because it is not anticipated that publication for comment would result in the receipt of useful information. A notice of proposed rulemaking is not required under the Administrative Procedure Act because the matters affected relate to grants, benefits or contracts pursuant to 5 U.S.C. 553(a)(2). It is not anticipated that this action will have a significant economic effect since it is merely intended to improve the internal operations of the highway program. Therefore, a full regulatory evaluation is not required. For the foregoing reason and because these changes will only affect State highway agencies, under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities.

In consideration of the foregoing, Subpart E of Part 650 of Chapter I, Title 23, Code of Federal Regulations, is amended to read as set forth below.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

List of Subjects in 23 CFR Part 650

Grant programs—Transportation, Highways and roads, Safety rest areas, Water and sewage treatment.

Issued on: January 5, 1984.

L. P. Lamm,

Deputy Administrator, Federal Highway Administration.

Part 650 is amended by revising Subpart E to read as follows:

PART 650—BRIDGES, STRUCTURES, AND HYDRAULICS

Subpart E—Water Supply and Sewage Treatment at Safety Rest Areas

Sec.

650.501 Purpose.
650.503 Applicability.
650.505 Definitions.
650.507 Policy.
650.509 Site selection.
650.511 Water supply facilities.
650.513 Sewage treatment facilities.
650.515 Federal-aid participation in construction costs.

Authority: 23 U.S.C. 109(h), 315, 319; 49 CFR 1.48(b); Pub. L. 97–134, 95 Stat. 1699.

Subpart E—Water Supply and Sewage Treatment at Safety Rest Areas

§ 650.501 Purpose.

The purpose of this regulation is to prescribe Federal Highway Administration (FHWA) policies and procedures for providing safe and adequate water supply and sewage treatment facilities at safety rest areas constructed with Federal-aid funds.

§ 650.503 Applicability.

The provisions of this regulation shall apply to safety rest areas constructed with Federal-aid funds with existing or proposed drinking water supply and sewage treatment facilities.

§ 650.505 Definitions.

(a) *Designated sole source aquifer*—an aquifer, as established in 40 CFR Part 149 pursuant to the Safe Drinking Water Act, 42 U.S.C. 300f, 300h–3(e), which represents the major source of a community's water supply.

(b) *Effluent limitations*—the standards governing the discharge quality of treated sewage as established by the Environmental Protection Agency (EPA) in 40 CFR Part 133 pursuant to the Clean Water Act, 33 U.S.C. 1311.

(c) *Federal drinking water standards*—the standards for assessing the physical, chemical, biological, and radiological characteristics of water for drinking as established by EPA in 40 CFR Part 141 pursuant to the Safe Drinking Water Act, 42 U.S.C. 300f, which delineate the maximum permissible level of a contaminant in water provided by a public water system.

(d) *National pollutant discharge elimination system (NPDES)*—the regulatory permit program that controls the quality of treated sewage discharged from sewage treatment plants as established in 40 CFR Part 125 pursuant to the Clean Water Act, 33 U.S.C. 1342.

(e) *Receiving water quality standards*—the standards for maintaining or improving water quality in bodies of water and streams as set forth in the Clean Water Act, 33 U.S.C. 1313, and 40 CFR Part 120—Water Quality Standards.

(f) *Safety rest area*—a roadside facility safely removed from the traveled way with parking and such facilities for the motorist deemed necessary for rest, relaxation, comfort and information. The term is synonymous with "rest and recreation areas" as described in 23 U.S.C. 319.

§ 650.507 Policy.

It is the policy of FHWA:

(a) That drinking water supply systems shall be designed, constructed, and maintained to provide water which meets drinking water standards established by EPA in 40 CFR Part 141 promulgated pursuant to the Safe Drinking Water Act, 42 U.S.C. 300f *et seq.*, as amended, or State standards, whichever are more stringent;

(b) That onsite sewage treatment facilities shall be designed, constructed, and operated to meet:

(1) Effluent limitations established by EPA in 40 CFR Part 133 promulgated pursuant to the Clean Water Act, 33 U.S.C. 1311 *et seq.*, as amended, or State standards, whichever are more stringent,

(2) The receiving water quality standards, and

(3) Requirements for any sole source aquifer as established in 40 CFR 141 promulgated pursuant to the Safe Drinking Water Act, 42 U.S.C. 330f *et seq.*, as amended, or State standards, whichever are more stringent; and

(c) That sewage systems not covered by paragraph (b) of this section shall be designed, constructed, and operated to meet the applicable State standards.

§ 650.509 Site selection.

Adequate information shall be obtained in the site selection process to insure that the following conditions can be met:

(a) The availability of a drinking water supply source in adequate quantity and quality, including water from public water supply systems.

(b) The capability to dispose of sewage generated by the safety rest areas in a manner consistent with these regulations, including any potential impact to sole source aquifers. Where a public sewage system is to be utilized, the system's ability to adequately treat and dispose of the sewage shall be ascertained.

§ 650.511 Water supply facilities.

The following factors shall apply to the design of water supply facilities for safety rest areas:

(a) In the interest of conserving energy and underground water resources, reduced-flow fixtures shall be considered for the safety rest area building.

(b) Water treatment shall be accomplished at the site as may be necessary to meet drinking water standards.

(c) Onsite storage, auxiliary supplies or recirculating units shall be provided as may be necessary to obtain a water supply that will meet peak demands.

(d) The safety rest area's drinking water supply, regardless of source, shall be monitored in accordance with State regulatory agency standards.

§ 650.513 Sewage treatment facilities.

The following factors shall apply to the design of sewage treatment facilities for safety rest areas:

(a) The permit required under the National Pollution Discharge Elimination System (NPDES) shall be obtained prior to approval of Plans, Specifications and Estimate (PS&E) and authorization for the advertisement of bids.

(b) Sewage treatment shall be accomplished at the site as may be necessary to meet effluent limitations. Any effluent shall be monitored in accordance with the standards established by the NPDES permit.

§ 650.515 Federal-aid participation in construction costs.

(a) *New safety rest areas.* (1) Federal-aid projects may be approved for the construction of drinking water supply and sewage treatment facilities that will meet the requirements of § 650.507.

(2) Federal-aid participation in the cost to connect to public facilities may include participation in the State highway agency's share of the cost to construct, expand or improve the public facility to assure adequate water supply or sewage treatment. Participation in amounts expended for capital improvements to the public facility will be limited to the lesser of:

(i) The appropriate pro rata share of the highway project's contribution to the need for the improvements;

(ii) The present worth of the capital investment, maintenance and operation costs of an onsite facility.

(3) Federal-aid Interstate (FAI) construction funds may be used for safety rest areas on the Interstate System if the work is necessary to replace existing similar services on gap sections or as part of the approved major upgrading of an incorporated segment. The FAI construction funds are limited to costs for speed change lanes, entrance and exit roadways, circulatory roads, parking areas, walkways, curbs, lighting installation, replacement of other existing similar services, and corresponding preliminary engineering and right-of-way costs.

(4) For Interstate projects, the work described in paragraphs (a) (1) and (2) of this section that is not eligible for FAI construction funds shall be eligible for funding with Interstate 4R funds or primary funds. This would include the costs for both construction and completion of improvement of safety rest areas and the costs of any upgrading of water supply facilities, sewage treatment facilities or provisions to serve the handicapped.

(b) *Existing safety rest areas.*—(1) *Quantity requirements.* Federal-aid funds other than FAI construction funds may be used to expand or improve water supply and sewage systems at existing safety rest areas without regard for the design year for the original construction.

(2) *Quality requirements.* (i) The use of Federal-aid funds other than FAI construction funds may be approved to improve or replace existing water supply systems which fail to meet existing or new and more stringent drinking water quality standards imposed pursuant to Federal or State law.

(ii) Where safety rest area sewage effluent quality does not meet effluent limitations, the use of Federal-aid funds other than FAI construction funds in sewage treatment facility replacement or improvements to meet those

standards may be authorized for projects where the construction of these facilities was authorized prior to the date of this regulation, subject to the following:

(A) Evidence of a failure of existing treatment facility to meet effluent standards established by field investigation and appropriate testing of influent and effluent samples.

(B) Failure to meet effluent standards is not a result of inadequate maintenance or plant operation. If plant operation is deficient, such steps as increased operator training or certification should be accomplished.

(C) Receipt of an engineering report describing the characteristics, volumes, and rates of sewage flows. The report should also contain design computations and a discussion of modifications required to meet the standards.

(c) *Procedures.* Project proposals which incorporate sophisticated processes or involve difficult design problems should be forwarded to the Regional Federal Highway Administrator for review and comment. The Washington Headquarters office is available for consultation upon request.

[FR Doc. 84-793 Filed 1-11-84; 8:45 am]
BILLING CODE 4910-22-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 936

Extension of Public Comment Period on the status of the Oklahoma Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Extension of public comment period.

SUMMARY: On May 25, 1983, the Director, OSM, announced that he had reason to believe that Oklahoma may not be implementing, administering, maintaining or enforcing its approved program to regulate surface coal mining and reclamation operations (48 FR 23414). Following a June 15, 1983, informal conference between OSM and the Oklahoma Department of Mines, the Director gave notice that he still had reason to believe that Oklahoma is not adequately implementing, administering, maintaining or enforcing its approved program (48 FR 52299, November 17, 1983). By that notice, the Director scheduled a public hearing and public comment period to provide an opportunity for interested persons to express their concerns on the implementation of the Oklahoma program in accordance with the provisions of 30 CFR 733.12(d). The public hearing was held on December 21, 1983, in Muskogee, Oklahoma. The public comment period announced in the Director's notice extended through December 30, 1983.

Because OSM requested the Oklahoma Department of Mines to provide additional information in response to questions raised at the hearing, the Director has decided to give the State until January 11, 1984, to submit the requested information and the public until January 19, 1984, to provide comments on this and all other information contained in the administrative record.

DATE: Public comments must be received before 4:00 p.m. on January 19, 1984, in order to be considered in the Director's findings on the status of the Oklahoma permanent regulatory program.

ADDRESSES: Written comments should be sent to: Office of Surface Mining, Room 3432, 333 West Fourth Street, Tulsa, Oklahoma 74103.

Copies of Administrative Record documents referenced in this notice are available for public inspection and copying during normal business hours at:

Office of Surface Mining, Administrative Record Office, Room 5315, 1100 L Street, NW., Washington, D.C. 20240, Telephone: (202) 343-4728

Office of Surface Mining, Tulsa Field Office, 333 West Fourth Street, Room 3432, Tulsa, Oklahoma 74103, Telephone: (918) 581-7927

Oklahoma Department of Mines, 4040 N. Lincoln, Suite 107, Oklahoma City, Oklahoma 73105, Telephone: (405) 521-3659.

FOR FURTHER INFORMATION CONTACT:

Carl C. Close, Special Assistant to the Assistant Director, Program Operations and Inspection, Office of Surface Mining, 1951 Constitution Avenue, NW., Washington, D.C. 20240; Telephone: (202) 343-4225;

Robert L. Markey, Tulsa Field Office, Director, Office of Surface Mining, Room 3432, 333 West Fourth Street, Tulsa, Oklahoma 74103; Telephone: (918) 581-7927.

SUPPLEMENTARY INFORMATION:

I. Background

On March 10, 1983, the Director, OSM, notified the Oklahoma Department of Mines (ODOM) that he had reason to believe that the State may not be implementing, administering, maintaining or enforcing its approved program to regulate surface coal mining and reclamation operations (see OK-458). The Director cited problems in Oklahoma's program implementation in several areas including the designation of lands as unsuitable for mining, permitting, inspection and enforcement, administrative procedures and records, and Oklahoma's ability to meet its conditions of approval. A more detailed account of the Director's concerns over the status of Oklahoma's implementation of its program can be found in the May 25, 1983 **Federal Register** at 48 FR 23414.

On April 14, 1983, ODOM responded to the Director's March 10, 1983 letter by providing additional written information (OK-461). On April 17, 1983, ODOM requested an informal conference with OSM under the provisions of 30 CFR 733.12(c). *See* OK-465. The Director agreed to Oklahoma's request, notified the public on May 25, 1983 (48 FR 23414), and subsequently held an informal conference with Oklahoma officials on June 15, 1983 in Oklahoma City. A transcript of the informal conference has been placed in the Administrative Record (OK-483).

At the informal conference, OSM requested ODOM to provide additional information on many of OSM's concerns. ODOM submitted additional information on July 14, 1983 (OK-521), August 25, 1983 (OK-508) and November 8, 1983 (OK-522).

Meetings were held between OSM and the State on October 5 and 12, 1983, to discuss OSM's concerns and the State's progress in resolving problems (OK-517 and OK-520).

On November 10, 1983, the Director notified the Governor of Oklahoma that he still had reason to believe that the State is not adequately implementing, administering, maintaining or enforcing its approved program and that for these reasons OSM would hold a public hearing and public comment period in accordance with the procedures contained in 30 CFR 733.12(d). OK-526. The Director's letter was followed by a **Federal Register** notice published on November 17, 1983 (48 FR 52298) and a letter from OSM to the Oklahoma Department of Mines detailing the remaining areas of concern and topics to be discussed at the public hearing. *See* OK-528 and OK-529.

OSM held a public hearing on December 21, 1983, in Muskogee, Oklahoma and provided the public an opportunity to comment through December 30, 1983, on the status of Oklahoma's program implementation.

A transcript of the testimony received at the public hearing, together with all written information submitted for the

record at that time will be placed in the administrative record shortly.

The Director's November 17, 1983, **Federal Register** notice stated that subsequent to the public hearing and the review of all available information including the hearing transcript, written presentations and written comments, the Director will publish his findings on the status of Oklahoma's program implementation in accordance with the provisions of 30 CFR 733.12(e).

II. Extension of Public Comment Period

During the public hearing, OSM requested ODOM to provide additional information in response to questions raised. The Deputy Chief Mine Inspector, ODOM, requested at the hearing that the State be given additional time to submit the required information. The Director finds the State's request to be reasonable and in the public interest in order to ensure consideration by the Director of all available information in reaching his findings. Accordingly, the Director hereby gives Oklahoma until January 11, 1984, to provide the requested material. In order to provide the public an opportunity to comment on the additional material in the context of all other information contained in the administrative record, the Director hereby extends the public comment period from December 30, 1983 to January 19, 1984. All public comments should be submitted to the location shown above under "**ADDRESSES**" by that date in order to be included in the Director's findings on the status of Oklahoma's program implementation.

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C 1201 *et seq.*).

Dated: December 29, 1983.

William B. Schmidt,

Assistant Director, Program Operations and Inspection.

[FR Doc. 84–611 Filed 1–11–84; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 948

Permanent State Regulatory Program of West Virginia; Preemption and Supersession of Certain Provision of State Law

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: This documents amends 30 CFR Part 948 to preempt and supersede a specific provision of West Virginia's law which provides that a permittee, his authorized agent or employees and State inspectors are not liable for any injury sustained by a citizen accompanying an inspector during an inspection.

This action is being taken because the Director has determined that this provision is inconsistent with section 521(a)(1) of the Surface Mining Control and Reclamation Act of 1977.

EFFECTIVE DATE: January 12, 1984.

FOR FURTHER INFORMATION CONTACT: David H. Halsey, Director, Charleston Field Office, Office of Surface Mining Reclamation and Enforcement, 603 Morris Street, Charleston, West Virginia 25301. Telephone: (304) 347–7158.

SUPPLEMENTARY INFORMATION:

Background

On November 16, 1983, the Secretary of the Interior approved amendments to West Virginia's permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) and removed some of the conditions of approval on the State's program (48 FR 52034–52054). Also, in the November 16, 1983 **Federal Register**, the Director of OSM announced and sought public comment on a proposal to preempt and supersede a provision of West Virginia's law which provides that a permittee, his authorized agent or employees and state inspectors are not liable for any injury sustained by a citizen accompanying an inspector onto a mine site. The public comment period on the proposal closed on December 16, 1983 (48 FR 52092–52093).

Director's Finding

Pursuant to section 505(b) of SMCRA and 30 CFR 730.11(a), the Director has decided to preempt and supersede specific wording in Section 20–6–15(g) of the West Virginia Surface Coal Mining and Reclamation Act (WV SCMRA).

The complete text of Section 20–6–15(g) of WV SCMRA is as follows:

(g) Whenever on the basis of available information, including reliable information from any person, the director has cause to believe that any person is in violation of this article, any permit condition or any regulation promulgated under this article, the director shall immediately order state inspection of the surface-mining operation at which the alleged violation is occurring unless the information is available as a result of a prior state inspection. The director shall notify any person who supplied such reliable information when the state inspection will be carried out. Such person may accompany the inspector during the inspection: *Provided*, that except for deliberate and willful acts, the permittee, his authorized agent or employees, and the inspector whom such person is accompanying, shall not be held civilly liable for any injury to such person during the inspection trip. Any such person accompanying an inspector on an inspection shall be responsible for supplying any safety equipment required for his use.

The specific wording of Section 20–6–15(g) that is being preempted and superseded by the Director is as follows:

Provided, That except for deliberate and willful acts, the permittee, his authorized agent or employees, and the inspector whom such person is accompanying, shall not be held civilly liable for any injury to such person during the inspection trip.

This action is being taken because the Secretary has determined that this provision is inconsistent with section 521(a)(1) of SMCRA. This determination is based on the reasons cited under Finding 27 of the Secretary's decision concerning amendments to the West Virginia permanent regulatory program which were published in the **Federal Register** on November 16, 1983 (48 FR 52042). As set forth in that notice, the Secretary disapproved the above-cited provision of Section 20–6–15(g) of WV SCMRA and removed condition (24) of his approval of the West Virginia program.

Public Comments

On November 16, 1983, the Director solicited public comments on his proposal to preempt and supersede the aforementioned provision of Section 20–6–15(g) of WV SCMRA. The public comment period closed at 4:00 p.m. on December 16, 1983, and no comments were received on the proposal.

Preemption/Supersession of State Provision

Inasmuch as the Secretary has disapproved a portion of Section 20–6–15(g) of WV SCMRA and removed condition (24) of his approval of the West Virginia program and no objections were received on the Director's proposal to preempt and supersede that portion of State law, the Director is hereby setting forth that provision of WV SCMRA which will be superseded by Federal law as required by 30 CFR 730.11(a) and section 505(a) of SMCRA. The specific wording of Section 20–6–15(g) of WV SCMRA to be preempted and superseded is as follows:

Provided, That except for deliberate and willful acts, the permittee, his authorized agent or employees, and the inspector whom such person is accompanying, shall not be held civilly liable for any injury to such person during the inspection trip.

Additional Information

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that pursuant to the Section 702(d) of SMCRA, 30

U.S.C. 1292(d), no environmental impact statement need by prepared on this rule-making.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of state regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the state.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 948

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, 30 CFR Part 948 is amended as set forth herein.

Dated: January 6, 1984.

James R. Harris,

Director, Office of Surface Mining.

Authority: Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*

PART 948—WEST VIRGINIA

1. Part 948 is amended by adding a new § 948.13 as set forth below.

§ 948.13 State program provisions set aside.

The following portion of Section 20-6-15(g) of the West Virginia Surface Coal Mining and Reclamation Act concerning liability for injuries sustained by citizens during inspections is inconsistent with the Federal provisions and is hereby set aside under the provisions of Section 505(b) of the Surface Mining Control and Reclamation Act of 1977. The specific wording of Section 20-6-15(g) that is preempted and superseded is as follows:

Provided, That except for deliberate and willful acts, the permittee, his authorized agent or employees, and the inspector whom such person is accompanying, shall not be held civilly liable for any injury to such person during the inspection trip.

[FR Doc. 84-813 Filed 1-11-84; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 257

[DoD Directive 5530.1]

Acceptance of Service of Process

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Final rule.

SUMMARY: This final rule is revised to redesignate officials of the Department of Defense who are authorized to accept service of process on behalf of their Component. Issuance of this rule is necessary because of changes in the officials who may accept service of process. This rule is intended to facilitate service of process in actions against officials of the Department of Defense who are sued in their official capacities.

EFFECTIVE DATE: This rule was approved and signed by the Deputy Secretary of Defense on August 22, 1983, and is effective as of that date.

FOR FURTHER INFORMATION CONTACT: Mr. Paul S. Koffsky, Office of the Assistant General Counsel (Manpower and Health Affairs), Department of Defense, Washington, D.C. 20301, Telephone 202-695-3657.

SUPPLEMENTARY INFORMATION: In FR Doc. 67-5125 appearing in the **Federal Register** on May 9, 1967 (32 FR 7019), the Office of the Secretary of Defense published Part 257 designating certain DoD officials to receive service of process in court litigation. Subsequently, 2 amendments were issued that appeared on November 28, 1970 (35 FR 18195), and July 15, 1980 (45 FR 47424). This rule revises the entire Part 257.

List of Subjects in 32 CFR Part 257

Courts.

Accordingly, 32 CFR Part 257 is revised as follows:

PART 257—ACCEPTANCE OF SERVICE OF PROCESS

Sec.

257.1 Purpose.
257.2 Applicability.
257.3 Definition.
257.4 Policy.
257.5 Responsibilities.

Authority: 5 U.S.C. 301, 133.

§ 257.1 Purpose.

This rule updates DoD policy governing acceptance of service of process served on the Secretary of Defense and the Secretaries of the Military Departments.

§ 257.2 Applicability.

This rule applies to the Office of the Secretary of Defense (OSD) and the Military Departments.

§ 257.3 Definition.

Service of Process. When applied to the filing of a court action against an officer or agency of the United States, service of process refers to the delivery or, when appropriate, receipt by mail, of a summons and complaint made in accordance with Rule 4, Federal Rules of Civil Procedure by serving the United States and by serving a copy of the summons and complaint by registered or certified mail to such officer or agency. It further signifies the delivery of a subpoena requiring a witness to appear and give testimony or of a subpoena requiring production of documents, or delivery of a subpoena for any other reason whether or not the matter involves the United States.

§ 257.4 Policy.

It is DoD policy to accept service of process directed to the Secretary of Defense or a Secretary of a Military Department in his official capacity. Acceptance of service of process will not constitute an admission or waiver with respect to the jurisdiction or to the propriety of service.

§ 257.5 Responsibilities.

The following responsibilities may not be redelegated:

(a) The *General Counsel, Department of Defense*, shall accept service of process for the OSD.

(b) The *Secretary of the Army*, or his designee, the *Chief, Litigation Division*, Office of the Judge Advocate General, shall accept service of process for the Department of the Army.

(c) The *Secretary of the Navy*, or his designee, the *General Counsel*, shall accept service of process for the Department of the Navy.

(d) The *Secretary of the Air Force*, or his designee, the *Chief, General Litigation Division*, Office of the Judge Advocate General, shall accept service

of process for the Department of the Air Force.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

January 6, 1984.

[FR Doc. 84-892 Filed 1-11-84; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA No. 866; A-7-FRL 2504-5]

Approval and Promulgation of Implementation Plans; State of Kansas

AGENCY: Environmental Protection Agency.

ACTION: Notice of final rulemaking.

SUMMARY: On October 9, 1981, the State of Kansas submitted draft regulations to revise portions of the new source permitting regulations and to adopt a regulation controlling volatile organic compound (VOC) emissions from tank trucks serving bulk terminals. A notice of receipt was published in the **Federal Register** on March 26, 1982 (47 FR 12965). Final regulations were adopted and submitted to EPA on June 15, 1982. These regulations were adopted to satisfy conditions placed on the state's Part D plan revision (46 FR 20164, April 3, 1981). The State of Kansas included in the June 15, 1982 submittal certain regulatory revisions which were not required by the SIP conditions. EPA proposed to approve most of these regulations on March 10, 1983 (48 FR 10081).

The purpose of today's action is to approve most of the revised new source permitting regulations and the regulation controlling VOC emissions from tank trucks and remove the conditions of April 3, 1981 (46 FR 20164). Action on the regulatory changes related to the definition of source will be deferred to a later date for reasons discussed below.

EFFECTIVE DATE: This action is effective March 12, 1984.

ADDRESSES: Copies of the state submission are available during normal business hours at the following locations:

Environmental Protection Agency, Region VII, Air Branch, 324 East 11th Street, Room 1415, Kansas City, MO 64106.

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460.

The Office of the Federal Register, 1100 L St., NW., Room 8401, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Robert J. Chanslor, Environmental Protection Agency, 324 East 11th Street, Kansas City MO 64106 at (816) 374-3791, (FTS 758-3791).

SUPPLEMENTARY INFORMATION: On April 3, 1981, EPA conditionally approved certain portions of the Kansas SIP with regard to the requirements of Part D of the Clean Air Act, as amended. The conditions were specific regarding section 172(b)(2), section 172(b)(10), and section 173(3). A detailed discussion of that action may be found in the **Federal Register** published on that date (46 FR 20164). Today's action removes the remaining conditions from that action, codified at 40 CFR 52.875.

To satisfy one of the conditions, the State adopted amendments revising its new source permitting regulations to comply with section 173(3) of the Act. The condition required that the state adopt statutory amendments by April 30, 1981, file the revised regulations as temporary amendments with the Revisor of Statutes by July 1, 1981, and adopt the revised regulations as permanent amendments to the Kansas air quality regulations by May 1, 1982. The state satisfied this condition.

In order to satisfy the two remaining conditions, the state adopted and filed with the Revisor of Statutes a regulation controlliing VOC emissions from tank trucks serving bulk petroleum terminals by July 1, 1981, and adopted the revised regulations as permanent regulations by May 1, 1982. The state's submittal of June 15, 1982, satisfied these conditions.

Today's action approves regulations 28-19-70 and 28-19-62 which are applicable to VOC emissions from tank trucks. The EPA has received no comments on the March 10, 1983, proposal to approve these regulations.

The March 10, 1983, proposed rulemaking proposed approval of K.A.R. 28-16-61h. This was a typographical error. The regulation which should have been referenced is K.A.R. 28-19-16h. That regulation is among those discussed below on which action is being deferred.

In addition to the regulations discussed above, the State of Kansas submitted certain other revisions not required by the April 3, 1981, conditions. These regulations are 28-19-16 and definitions in 28-19-16a, 28-19-16b, 28-19-16c, 28-19-16f, 28-19-16g, 28-19-16h, and 28-19-16i. The March 10, 1983, **Federal Register** publication proposed to approve portions of the above regulations and defer action on the remainder. Some of the Kansas revisions were made to be consistent with the EPA regulatory revision that eliminated the dual source definition [see 40 CFR 51.18(j)(1) (i) and (ii)]. The remainder of the revisions in 28-19-16 were made for the purpose of clarification and style.

On August 7, 1980 (45 FR 52676), EPA defined "source" as it would apply under certain circumstances to new source review in nonattainment areas as both an industrial plant and each individual piece of process equipment. The major effect of this "dual source" definition was to subject each new piece of process equipment that emitted certain levels of pollutants to new source review. For sources locating in attainment areas, the prevention of significant deterioration (PSD) regulations defined source as an entire plant or related operations. The "plant-wide" definition used in the PSD regulations allows sources to avoid new source review by balancing emission increases and decreases so that net plant-wide emissions do not increase. This option was not available in nonattainment areas.

On October 14, 1981 (46 FR 50766), EPA deleted the dual source definition and defined "source" as only an entire industrial plant consistent with the PSD definition. Under this new definition, the new source review requirements could be avoided for an individual piece of process equipment if a counterbalancing decrease in emissions occurred elsewhere in a plant. Under the October 14, 1981 source definition, more modifications to major existing sources could avoid new source procedures if there were commensurate emissions reductions over the entire plant. In the October 14, 1981, rulemaking, EPA deleted the reconstruction rule that required new source review procedures where reconstruction costs were 50 percent or more of the original cost of the facility.

On August 17, 1982, in *NRDC vs. Gorsuch*, No. 81-2208, the Circuit Court for the District of Columbia vacated the EPA revised source definition and deletion of the reconstruction rule. Subsequently EPA made a commitment to the court that it would not approve any SIP revision containing those provisions. The affected Kansas regulatory revisions are:

1. Regulation 28-19-16a(d) which defines Building, Structure, Facility, or Installation;

2. Deletion of Regulation 28-19-16a(v) "Reconstruction;"

3. Deletion of the term Reconstruction in Regulations 28-19-16, 28-19-16b, 28-

19–16c, 28–19–16f, 28–19–16h, and 28–19–16i; and

4. Deletion of Regulation 28–19–16a(o) which defines "Installation".

The language of 28–19–16a(x) defining "Stationary Source", has not been explicitly revised, but the definition of "Installation" has been revised by deleting the old definition at 28–19–16a(o) and adding the term to Regulation 28–19–16a(d). Because the terms "Building", "Structure", "Facility", or "Installation", are used in the definition of "Stationary Source", the effect is to alter the Kansas source definition for new source review in nonattainment areas.

Today's rulemaking approves those regulations which are not affected by the *NRDC vs. Gorsuch* ruling. EPA defers action on those affected revisions. EPA approves the revision of Regulation 28–19–16a(g) which defines contemporaneous in a manner consistent with the EPA approved definition in comparable Missouri regulations.

Other changes that are approved appear at 28–19–16a(a), 28–19–16a(b), 28–19–16a(c), 28–19–16a(d), 28–19–16a(e), 28–19–16a(k), and 28–19–16a(o). These changes were made for the purpose of clarification and style.

EPA also approves renumbering of subsections from 28–19–16a(o) through 28–19–16a(x); the title change of 28–19–16g; deletion of old paragraph (a) and addition of new paragraphs (a) through (c). EPA approves deletion of Regulation 28–19–51 regarding fugitive dust.

Comments Received

The Natural Resources Defence Council (NRDC) submitted the only public comment on the March 10, 1983 proposed rulemaking by letter of March 22, 1983. The comment was limited to the EPA proposal to defer action on the revised Kansas source definition. The letter states that deferral is an inadequate response to the court action in *NRDC vs. Gorsuch;* and that EPA should promptly disapprove the change in the Kansas source definition so that Kansas can promptly get on with the job of revising the SIP to conform the "source" definition and the "reconstruction" rule to the requirements of the law.

Response to Comments

As EPA explained in the proposed rulemaking, the existing approved Kansas SIP contains provisions conforming to the "dual definition". The effect of EPA's deferral of action on the Kansas plant-wide source definition revision is to retain that existing definition. Therefore, the Kansas SIP conforms to the Circuit Court ruling. The effect on the SIP would be the same were EPA to disapprove the revised Kansas rule. EPA does not agree that it is necessary to disapprove the rule to be consistent with the court's opinion. Finally, EPA has appealed the Circuit Court ruling to the Supreme Court. EPA will take final action on the revised Kansas source definition after the Supreme Court has ruled on the appeal.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate Circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements.

This notice of final rulemaking is issued under authority of section 110 and Part D of the Clean Air Act, as amended.

Incorporation by reference of the State Implementation Plan for the State of Kansas was approved by the Director of the Federal Register on July 1, 1982.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons; Intergovernmental relations.

Dated: January 4, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. Section 52.870 is amended by adding a new paragraph (c)(15) to read as follows:

§ 52.870 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(15) New regulations 28–19–70 and 28–19–62 applicable to tank trucks operating at bulk gasoline terminals were submitted by the Kansas Department of Health and Environment on June 15, 1982. State regulation 28–19–51 is revoked. Revised regulations 28–19–16, 28–19–16a, 28–19–16b, 28–19–16c, 28–19–16f, 28–19–16g, 28–19–16h, and 28–19–16i, applicable to new sources in nonattainment areas were included with the June 15, 1982 submittal. Action is deferred on the following regulations: 28–19–16a(d), 28–19–16a(v), 28–19–16, 28–19–16b, 28–19–16c, 28–19–16f, 28–19–16h, 28–19–16i, and 28–19–16a(o). The remainder of the provisions are approved.

§ 52.875 [Removed]

2. Section 52.875 is removed.

§ 52.870 [Removed]

3. Section 52.870 currently contains two paragraphs designated as (c)(13). This document corrects § 52.870 by redesignating the second (c)(13), which reads in part, "(13) Letter and supporting documents submitted on September 15, 1981 * * *" as new paragraph "(c)(14)".

[FR Doc. 84–801 Filed 1–11–84; 8:45 am]
BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are finalized for the communities listed below.

The base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below:

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Risk Studies Division, Federal Insurance Administration, Washington, D.C. 20472 (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed. Proposed base flood elevations or proposed modified base flood elevations have been published in the **Federal Register** for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of

1968 (Pub. L. 90–448)). 42 U.S.C. 4001–4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal the proposed determination to or through the community for a period of ninety (90) days has been provided.

The Agency has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 USC 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies for reasons set out in the proposed rule that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, this rule is not a major rule under terms of Executive Order 12291, so no regulatory analyses have been proposed. It does not involve any collection of information for purposes of the Paperwork Reduction Act.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

PART 67—[AMENDED]

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The modified base flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. Any appeals of the proposed base flood elevations which were received and have been resolved by the Agency.

State	City/town/county	Source of flooding	[illegible]	#Depth in feet above ground. *Elevation in feet (NGVD) Modified
Arizona	Phoenix, city, Maricopa County (FEMA Docket No. 6485).	Cave Creek	Upstream corporate limits	*1,518
			7th Street (upstream side)	*1,464
			Beardsley Road (upstream side)	*1,432
			Union Hills Drive (upstream side)	*1,400
			West Bell Road (upstream side)	*1,365
			19th Avenue (upstream side)	*1,323
			Thunderbird Road (upstream side)	*1,298
			Cactus Road (upstream side)	*1,273
			Peoria Avenue (upstream side)	*1,252
			Dunlap Avenue (upstream side)	*1,223
			Northern Avenue (upstream side)	*1,199
			Glendale Avenue (upstream side)	*1,176
			Bethany Home Road (upstream side)	*1,153
			Indian School Road (upstream side)	*1,114
			Van Buren Street (upstream side)	*1,077
			Durango Street (upstream side)	*1,049
		East Fork Cave Creek	Upstream corporate limits	*1,452
			7th Street (upstream side)	*1,378
			Confluence with Cave Creek	*1,329
		Moon Valley Wash	Thunderbird Road	*1,321
			Confluence with Cave Creek	*1,283
		Scatter Wash	7th Avenue (downstream side)	*1,471
			19th Avenue (upstream side)	*1,435
			Deer Valley Road (upstream side)	*1,375
			Confluence with Skunk Creek	*1,323
		East Branch Scatter Wash	27th Avenue (upstream side)	*1,390
			Confluence with Scatter Wash	*1,364
		Skunk Creek	Upstream corporate limits	*1,461
			Happy Valley Road (upstream side)	*1,432
			Deer Valley Road (upstream side)	*1,362
			Downstream corporate limits	*1,300
		Tenth Street Wash	Mercer Lane	*1,337
			Arizona Canal	*1,242
		Indian Bend Wash	Acoma Road (downstream side)	*1,418
			Sweetwater Avenue (upstream side)	*1,398
			40th Street (downstream side)	*1,385
		Myrtle Avenue Wash	19th Street	*1,290
			Confluence with Dreamy Draw Wash East	*1,242
		Flynn Lane Wash	Lincoln Drive	*1,310
			Arizona Canal	*1,242
		Dreamy Draw Wash East	Friar Drive (upstream side)	*1,286
			Confluence with Myrtle Avenue Wash	*1,242
		Salt River	Upstream corporate limits	*1,143
			7th Street (upstream side)	*1,076
			51st Avenue (upstream side)	*1,016
			Downstream corporate limits	*951
		Aqua Fria River	Downstream corporate limits	*1,031
			Upstream corporate limits	*1,033
		New River	Downstream corporate limits	*1,031
			Upstream corporate limits	*1,040
		Echo Canyon Wash	Arizona Canal	*1,251
			44th Street (upstream side)	*1,294

Maps available for inspection at the City Hall, 251 West Washington Street, Phoenix, Arizona.

California	Fillmore (city of), Ventura County (FEMA–6563)	Santa Clara River	100 feet north of the intersection of Ventura Street and Serra Drive	*453
		Sespe Creek	Intersection of Ventura Street and C Street	(¹)

Maps are available for review at City Hall, 524 Sespe Avenue, Fillmore, California.

Colorado	La Plata County (Unincorporated Areas), FEMA–6563	Lightner Creek	700 feet upstream of centerline of U.S. Highway 160 (near Bridge No. 5)	*6,609

Maps are available for inspection at the Planning Department, 12th and Main, Durango, Colorado.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). Modified
Delaware	Sussex County (Docket No. FEMA-6558)	Little Assawoman Bay	Shoreline at Conch Point	*5
			Shoreline of Little Assawoman Canal south of Muddy Neck Road bridge.	*4
			Shoreline at Drum Point	*4
			Shoreline of Miller Creek at Brickbat Point	*4
	Maps available for inspection at the Office of Planning and Zoning, Sussex County Courthouse, Georgetown, Delaware.			
Georgia	(C) Clarkston, DeKalb County (Docket No. FEMA-6547).	South Fork Peachtree Creek	About 2,100 feet upstream of Montreal Road	*958
			Just upstream of Interstate Route 285 culvert	*940
		Tributary "C" of Snapfinger Creek	Approximately 600 feet south of Norman Street	*923
	Maps available for inspection at 3921 Church Street, Clarkston, Georgia.			
Georgia	(Uninc.) Clayton County (Docket No. FEMA-6547)	Little Cotton Creek	About 300 feet upstream of Dam (upstream of Rex Road).	*780
			About 100 feet downstream of confluence of Upton Creek.	*790
		Conley Creek	About 700 feet downstream of East Conley Road	*799
			About 300 feet upstream of East Conley Road	*808
	Maps available for inspection at the Clayton County Courthouse, Administration Building, Jonesboro, Georgia.			
Georgia	(Uninc.) Douglas County (Docket No. FEMA-6558)	Chattahoochee River	Just upstream of State Highway 92	*747
			At upstream county boundary	*761
		Sweetwater Creek	At mouth	*757
			About 1.3 miles upstream of Lower River Road	*757
	Maps available for inspection at 6754 Broad Street, Douglasville, Georgia.			
Georgia	(C) Marietta, Cobb County (Docket No. FEMA-6538)	Rottenwood Creek	Just upstream of Delk Road	*928
			Just downstream of Interstate 75	*933
	Maps available for inspection at P.O. Box 609, Marietta, Georgia.			
Georgia	(C) Roswell, Fulton County (Docket No. FEMA-6547)	Chattahoochee River	At confluence of Willeo Creek	*862
			At confluence of Big Creek	*867
			At upstream corporate limits	*871
		Seven Branches	At confluence with Chattahoochee River	*870
			Just downstream of Martin Landing Dam	*870
		Big Creek	At confluence with Chattahoochee River	*867
		Riverside Creek	At confluence with Chattahoochee River	*863
		Willeo Creek	At confluence with Chattahoochee River	*862
	Maps available for inspection at 617 Atlantic Street, Roswell, Georgia.			
Illinois	(v) East Dundee, Kane County (Docket No. FEMA-6558).	Fox River	Northwest corporate limit near Wenholz Avenue and Water Street intersection.	*721
			Southwest corporate limit 2,500 feet south of Williams Road and Elgin Avenue intersection.	*717
	Maps available for inspection at the Village Hall, 120 Barrington Avenue, East Dundee, Illinois.			
Illinois	(V) Northbrook, Cook County (Docket No. FEMA-6568).	Techny Drain	At downstream corporate limits	*643
			Just downstream of School Foot Bridge	*647
			About 140 feet upstream of School Foot Bridge	*650
	Maps available for inspection at Engineering Department, 1225 Cedar Lane, Northbrook, Illinois.			
Illinois	(V) Palatine, Cook County (Docket No. FEMA-6568)	Salt Creek	About 1,200 feet downstream of Lalonde Avenue	*727
			About 500 feet downstream of Michigan Avenue	*728
		Arlington Heights Branch	Just upstream of Chicago and Northwestern Railroad	*714
			Just downstream of Palatine Road	*717
			Just upstream of Clark Road	*722
			Just upstream of Tahoe Drive	*735
			About 4,800 feet upstream of Smith Street	*758
	Maps available for inspection at the Village Hall, 200 East Wood Street, Palatine, Illinois.			
Illinois	(V) West Dundee, Kane County (Docket No. FEMA-6558).	Fox River	Southeast corporate limit 300 feet east of First Street and Fay Avenue intersection.	*717
			Northern corporate limit near Sixth Street and Hillcrest Court intersection.	*721
	Maps available for inspection at 102 South Second Street, West Dundee, Illinois.			
Indiana	(T) Nashville, Brown County (Docket No. FEMA-6538)	North Fork Salt Creek	At confluence of Jackson Branch	*600
			About 1,750 feet upstream of State Route 46 (near confluence of Gnaw Bone Creek).	*617
	Maps available for inspection at P.O. Box 401, 141 Old School Way, Nashville, Indiana.			
Massachusetts	Lakeville, town, Plymouth County (Docket No. FEMA-6547).	Namasket River	Downstream corporate limits	*55
			At Assawompset Pond Dam	*55
		Assawompset Pond	Entire shoreline	*55
		Long Pond	Entire shoreline	*55
		Long Pond River	Entire length	*55
	Maps available for inspection at the Town Office Building, Bedford Street, Lakeville, Massachusetts.			

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). Modified
Michigan	(C) Zilwaukee, Saginaw County (Docket No. FEMA-6547).	Shallow Flooding (Overflow from Saginaw River and Universal Drain).	West of Conrail and south of Tittabawassee Street	[illegible]
Maps available for inspection at 319 Tittabawassee Drive, Saginaw, Michigan.				
Minnesota	(Uninc.) Isanti County (Docket No. FEMA-6547)	Isanti Brook	About 1.4 miles downstream of County Road 43	*935
			Just downstream of County Road 43	*945
			Just upstream of Florence Lake Dam	*947
		Florence Lake	Shoreline	*947
		Elms Lake	Shoreline	*947
		Lake Fannie	Shoreline	[illegible]
		Skogman Lake	Shoreline	*950
Maps available for inspection at the Isanti Courthouse, 237 S.W. 2nd Avenue, Cambridge, Minnesota.				
New Jersey	Cherry Hill (township of), Camden County (Docket No. FEMA-6563).	South Branch	40 Feet upstream from the centerline of Springdale Road.	*44
		Pennsauken Creek	20 feet upstream from the centerline of Old Marlton Pike.	*73
Maps are available for review at the Office of Community Development, 820 Mercer Street, Cherry Hill, New Jersey.				
New Jersey	Mount Laurel (Township of) Burlington County FEMA-6563.	South Branch Pennsauken Creek	80 feet upstream from the centerline of Springdale Road.	*44
Maps are available for review at Town Hall, 100 North Mount Laurel Road, Mount Laurel, New Jersey.				
New York	Wheatfield, town, Niagara County (Docket No. FEMA-6558).	Berghoftz Creek	Approximately 2,000 feet downstream of Williams Road.	*574
			Upstream of Niagara Road	*582
			Upstream corporate limits (located downstream of Raymond Road).	[illegible]
Maps are available for inspection at the Town Hall, 2800 Church Road, North Tonawanda, New York.				
Oregon	Heppner (city of), Morrow County FEMA-6563)	Willow Creek	10 feet upstream from centerline of Gale Street	*1,927
			30 feet upstream from centerline of Alfalfa Street	*1,973
		Shobe Creek	20 feet upstream from centerline of Chase Street	*1,971
		Hinton Creek	Centerline of Elder Street	*1,946
Maps are available for reivew at City Hall, 188 West Willow, Heppner, Oregon.				
Oregon	Lexington (town of), Morrow County (FEMA-6563)	Willow Creek	100 feet upstream of Centerline of Mountain Road	*1,412
			50 feet upstream of the centerline of B Street	*1,448
		Blackhorse Canyon	800 Feet upstream from the confluence with Willow Creek.	*1,436
Maps are available for reivew at Town Hall, Lexington, Oregon.				
Oregon	Morrow County (Unincorporated Areas), (FEMA-6563	Willow Creek (At Heppner)	20 feet downstream from the centerline of Fuller Canyon Road.	*1,1887
		(At Lexington)	Centerline of Mountain Road	*1,411
		(At Ione)	City of Ione westernmost corporate limits	*1,071
Maps are available for review at the Planning Department, Lexington, Oregon.				
Pennsylvania	Derry, borough, Westmoreland County (Docket No. FEMA-6563).	McGee Run	Downstream corporate limits	*1,133
			Upstream of 4th Street	*1,144
			Upstream of Canada Way	*1,154
			Upstream corporate limits	*1,227
		Garlane Mills Run	Confluence with McGee Run	*1,152
			Upstream of Chestnut Street	*1,158
			Downstream of West 2nd Avenue	*1,188
			Upstream of West 3rd Avenue	*1,199
			Downstream West Utopia Street	*1,236
			Approximately 200 feet upstream of West 5th Avenue	*1,250
Maps available for inspection at the Borough Hall, Derry, Pennsylvania.				
Pennsylvania	Union, township, Washington County (Docket No. FEMA-6563).	Monongahela River	Downstream corporate limits	*751
Maps available for inspection at the Union Municipal Building, Gastonville, Pennsylvania.				
South Carolina	(C) Conway, Horry County (Docket No. FEMA-6538)	Waccamaw River	About 0.7 mile downstream of U.S. Highway 501	*10
			At the confluence of Kingston Lake Swamp	*14
		Kingston Lake Swamp	At mouth at Waccamaw River	*14
			About 1.8 miles upstream of the Seaboard Coast Line Railroad.	*14
		Crab Tree Swamp	Just downstream of Long Avenue	*14
			About 2,200 feet upstream of Oak Street	*14
Maps available for inspection at P.O. Drawer 1075, Conway, South Carolina.				
Texas	Alamo Heights, city, Bexar County (Docket No. FEMA-6563).	Almos Creek	Downstream corporate limits	*681
			Upstream of Olmos Dam	*726
			Upstream corporate limits	*726
Maps available for inspection at the Alamo Hights City Hall, 6116 Broadway, San Antonio, Texas.				

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). Modified
Texas	Irving, city, Dallas County (Docket No. FEMA-6558)	West Fork of Trinity River	MacArthur Boulevard (upstream side)	*436
		Bear Creek	Approximately 1,250' upstream of Hunter-Farrel Road	*437
			Approximately 6,000' upstream of Hunter-Farrel Road	*438
	Maps available for inspection at the City Hall, 825 West Irving Boulevard, Irving, Texas.			
Virginia	Roanoke, city, Independent City (Docket No. FEMA-6558).	West Fork Carvin Creek	Downstream corporate limits	*1,032
			Upstream corporate limits	*1,047
		Ore Branch	Upstream of Wonju Street	*959
		Glade Creek	Approximately 800' upstream of the Norfolk and Western Railway bridge.	*939
	Maps are available for inspection at the City Hall, 215 Church Avenue, SW, Roanoke, Virginia.			
West Virginia	Martinsburg, city, Berkely County (Docket No. FEMA-6547).	Dry Run	Downstream of CONRAIL crossing	*450
	Maps are available for inspection at the City Hall, 224 West King Street, Martinsburg, West Virginia.			
West Virginia	Morgantown, city, Monongalia County (Docket No. FEMA-6547).	Deckers Creek	Confluence with Monongahela River	*814
			Upstream of Deckers Creek Road/Walnut Street	*818
			Upstream of Rodgers Street	*829
			Upstream of White Avenue	*844
			Upstream of State Route 64	*850
			Upstream of Carnegie Street	*864
			Most upstream corporate limits	*886
		Knocking Run	Confluence with Deckers Creek	*853
		Aaron Creek	Confluence with Deckers Creek	*845
	Maps are available for inspection at the City Hall, 389 Spruce Street, Morgantown, West Virginia.			

[1] Area protected by levee from base flood

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); E.O. 12127, 44 FR 19367; and delegation of authority to the Administrator)

Issued: January 4, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84-798 Filed 1-11-84; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are finalized for the communities listed below.

The base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations, for the commmunity. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed. Proposed base flood elevations or proposed modified base flood elevations have been published in the **Federal Register** for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal proposed determination to or through the community for a period of ninety (90) days has been provided.

The Agency has developed criteria for flood plain management in floodprone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Federal Insurance Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies for reasons set out in the proposed rule that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, this rule is not a major rule under terms of Executive Order 1229, so no regulatory analyses have been prepared. It does not involve any collection of information for purposes of the Paperwork Reduction Act.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

PART 67—[AMENDED]

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base (100-year) flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. No appeal was made during the 90-day period and the proposed base flood elevations have not been changed.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Alabama	City of Clanton, Chilton County (FEMA-6470).	Goose Pond Creek	Just upstream of Lay Dam Road	*569
			Just upstream of Louisville and Nashville Railroad	*572
		Poley Bridge Creek	Just downstream of 6th Street	*[illegible]
			Just upstream of Louisville and Nashville Railroad	*575
		Black Snake Creek	Just upstream of Ollie Avenue	*571
			Just upstream of Blacksnake Road	*586
		Possum Creek	Just upstream of 16th Avenue North	*579
			Just downstream of Center Street	*586
		Cripple Coon Creek	Just upstream of Old Thursby Road	*580
			Just upstream of 14th Avenue	*589
Maps available for inspection at City Clerk's Office, City Hall, Second Avenue, Clanton, Alabama 35045.				
California	Rocklin (City), Placer County (FEMA-6550).	Aguilar Road Tributary	25 feet upstream from center of Foothill Road	*287
		Antelope Creek	Center of intersection of Sunset Boulevard and Antelope Creek.	*201
		Clover Valley Creek	100 feet upstream from center of Midas Avenue	*256
		Loomis Tributary	200 feet upstream from confluence with Sucker Ravine.	*294
		Pleasant Grove Creek	500 feet upstream from center of Sunset Boulevard	*130
		Rocklin City Tributary	50 feet upstream from center of Farron Street	*226
		Secret Ravine	100 feet upstream from center of Rocklin Road	*258
		Sucker Ravine	Center of intersection of Dominguez Road and Sucker Ravine.	*292
Maps available for inspection at Planning Department, 4060 Rocklin Road, Rocklin, California.				
California	San Rafael (City), Marin County (FEMA-6550).	San Rafael Creek	Intersection of C Street and 1st Street	*9
		San Rafael Bay (San Rafael Canal).	Intersection of High Street and 3rd Street	[illegible]
		San Pablo Bay (Gallinas Creek)	Intersection of Civic Center Drive and Southern Pacific Railroad.	*6
		Miller Creek	400 feet along the corporate limits Northwest from the Southern Pacific Railroad.	*12
Maps available for inspection at the Department of Engineering, 1400 5th Avenue, San Rafael, California.				
Colorado	Delta (City), Delta County (FEMA-6557)	Gunnison River	At U.S. Highway 50 Northbound	*4,934
		Uncompahgre River	70 feet upstream of the 5th Street Bridge (new)	*4,942
Maps available for inspection at Planning and Zoning Department, East 4th & Main Street, Delta, Colorado.				
Connecticut	Groton (City) New London County (Docket No. FEMA-6553).	Long Island Sound	Shoreline at Eastern Point	*15
			Shoreline at Bayberry Lane extended	*13
			Entire shoreline of Baker Cove within community	*12
		Thames River	Shoreline at Bayview Avenue No. 1 extended	*13
			Shoreline at northern corporate limits	*12
Maps available for inspection at the City Municipal Building, Groton, Connecticut.				
Florida	Unincorporated Areas of Hernando County (FEMA 6535).	Withlacoochee River	Approximately 1,000 feet downstream of Interstate Highway 75.	*53
			Approximately 500 feet upstream of U.S. Highway 301	*71
		Little Withlacoochee River	Approximately 1,000 feet downstream of U.S. Highway 301.	*71
			Approximately 200 feet upstream of U.S. Highway 301	*72
		Ponding Area 1	At Brooksville Quarry	*70
		Ponding Area 2	Approximately 1,000 feet southwest of intersection of Walden Drive West and Cook Drive.	*84
		Ponding Area 3	Along Country Club Drive approximately 500 feet south of 5th Avenue.	[illegible]
		Ponding Area 4	Approximately 1,500 feet southeast of intersection of Martin Drive and Weeks Drive.	[illegible]
		Shallow Flooding	Entire shoreline of Horse Lake lying south of the intersection of State Highway 50 and County Road 485.	*72
		Shallow Flooding	Approximately 1,000 feet northwest of intersection of Croom Road (County Road 478) and Patrick Road.	[illegible]
		Shallow Flooding	Along Martin Drive approximately 300 feet east of Walden Drive East.	#3
		Gulf of Mexico	Along County Road 595 approximately 500 feet north of Hammock Creek.	*18
		Gulf of Mexico/Indian Bay	Just south of the intersection of Hernando Beach Road and County Road 595	*13
		Gulf of Mexico/Little Pine Bay	Intersection of Hernando Beach and Hernando Blvd.	*12
		Gulf of Mexico/Centipede Bay	Along County Road 595 approximately 500 feet southwest of Weekiwachee River.	*13
		Gulf of Mexico/Rock Island Bay	Intersection of State Highway 50 and County Road [illegible].	*16
		Gulf of Mexico Chassahowitzka Bay.	Along the northern county limits at the crossing of Ryle Creek.	*16
Maps available for inspection at Board of County Commissioners' Office, John Law Ayers Building, 1 North Brooksville Avenue, Brooksville, Florida 33572.				
Florida	Hillsborough County (unincorporated areas) FEMA-6557.	Gulf of Mexico	At the center of State Highway 45 crossing of Cockroach Creek	*9
			At the center of the intersection of Memorial Highway and West Hillsborough Avenue	*10
			At the center of the intersection of Estelle Avenue and Connecticut Street.	*11

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			At the center of the junction of Kracker Avenue and State Highway 45.	*12
			At Sand Island	*15

Maps available for inspection at County Drainage Engineering Department, 800 Twiggs Street, Tampa, Florida.

Georgia	Unincorporated Areas of Camden County (FEMA-6560).	Atlantic Ocean	At the confluence of Point Peter Creek with St. Marys River.	*15
			Along the southeastern shoreline of Cumberland Island.	*16
			At the confluence of Brickhill River with Cumberland River.	*16
			At the confluence of Sandler Creek with Crooked River.	*17
			Along the northeastern shoreline of Cumberland Island	*18
			Just downstream of U.S. Route 95 along White Oak Creek.	*20
		Atlantic Ocean/Satilla River	Just downstream of U.S. Route 95	*17
			At the confluence of Dover Creek with Satilla River	*20

Maps available for inspection at Camden County Commissioners Offices, County Branch Office, Woodbine, Georgia 31569.

Georgia	Jekyll Island State Park Authority, Glynn County (FEMA-6560).	Atlantic Ocean	At the intersection of River View Drive and Captain Wylly Road.	*13
			At the intersection of Major Horton Road and Beach View Drive.	*14

Maps available for inspection at Convention Center, Beachview Drive, Jekyll Island, Georgia 31521.

Georgia	City of Kingsland, Camden County (FEMA-6560).	Atlantic Ocean/Little Catfish Stream	100 feet SE of the intersection of Clark Bluff Road and Little Catfish Stream.	*12
		Atlantic Ocean	Just downstream of Clark Bluff Road along Catfish Creek.	*12

Maps available for inspection at City Hall, 115 South Railroad Avenue East, Kingsland, Georgia 31548.

Georgia	City of Macon-Bibb County (FEMA-6560).	Ocmulgee River	Just upstream of Seaboard Coast Line Railroad	*297
			Just upstream of Southern Railway	*303
			Just downstream of Spring Street	*307
			Approximately 300 feet upstream of Arkwright Road Access.	*325
		Ocmulgee River (after levee overtopping).	Just west of intersection of Walker Road and Macon Levee.	*290
			At intersection of Lower Boundary Street and Southern Railway.	*292
			At intersection of Poplar Street and Walker Road	*298

Maps available for inspection at Mayor George Israel's Office or Mr. Joe Withering, City Engineer, City Hall, Second & Poplar Streets. Maps are also available at the Bibb County Engineer's Office and The County Chairman's Office, County Courthouse, Macon, Georgia 31201.

Georgia	Unincorporated Areas of McIntosh County (FEMA-6550).	Atlantic Ocean	At the confluence of McCloy Creek and Blackbeard Creek.	*16
			At the confluence of Mud River and New Teakettle Creek.	*17
			At the confluence of Ridge River mouth and Front River.	*18
			At the confluence of the Wahoo River and the South Newport River.	*19

Maps available for inspection at the McIntosh County Commissioner's Office, County Courthouse, Darien, Georgia 31305.

Georgia	City of Richmond Hill, Bryan County (FEMA-6546).	Sterling Creek 1	Just upstream of Interstate 95	*16
		Sterling Creek 2	Just upstream of Timber Trail	*11
			Just downstream of Seaboard Coast Line Railroad	*12
			Just upstream of Seaboard Coast Line Railroad	*17
			Just upstream of Dirt Road	*17
			Just downstream of U.S. 17 & State Road 25	*17
			Just upstream of U.S. 17 & State Road 25	*18
		Ogeechee River	Just downstream of the Seaboard Coast Line Railroad	*14

Maps available for inspection at City Clerk's Office, City Hall, Ford Avenue, Richmond Hill, Georgia 31324.

Georgia	City of St. Marys Camden County (FEMA-6560).	Atlantic Ocean	At the confluence of Sweetwater Branch with North River.	*14

Maps available for inspection at City Hall, 418 Osborne Street, St. Marys, Georgia 31558.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Georgia	Town of Tyrone, Fayette County (FEMA-6521).	Line Creek	Approximately 300 feet downstream of Castlewood Road.	*858
			Approximately 500 feet upstream of Castlewood Road.	*857
Maps available for inspection at Town Hall, Town Clerk's Office, Highway 74, Tyrone, Georgia 30290.				
Georgia	City of Woodbine, Camden County (FEMA-6560).	Atlantic Ocean/Satilla River	At the intersection of U.S. Route 17 and 8th Street	*14
Maps available for inspection at City Hall, 8th Street, Woodbine, Georgia 31569.				
Idaho	Grangeville (City), Idaho County FEMA-6557.	East Fork Three Mile Creek	40 feet upstream from the center of Main Street	*3,419
		Middle Fork Three Mile Creek	40 feet upstream from the center of W. North Street	*3,378
		Main Three Mile Creek	40 feet upstream from the center of E. North 7th Street.	*3,324
		West Fork Three Mile Creek	40 feet upstream from the center of South 5th Street	*3,423
		Shallow Flooding	At the center of intersection of State Street and South Street.	#2
		Long Haul Creek	40 feet upstream from the center of North 2nd Street	*3,352
		Shallow Flooding	50 feet east of the intersection of W. South 1st Street and E Street.	#1
Maps available for inspection at City Hall, 225 West North Street, Grangeville, Idaho.				
Illinois	(C) Warsaw, Hancock County (Docket No. FEMA-6560).	Mississippi River	About 4.0 miles downstream of confluence of Des Moines River.	*496
			About 0.7 mile upstream of confluence of Des Moines River.	*501
Maps available for inspection at the Office of the City Clerk, City Hall, 306 Main Street, Warsaw, Illinois.				
Indiana	(C) Indianapolis Marion County (Docket No. FFEMA-6541).	White River	At downstream County Boundary	*661
			Just downstream of Dam (near 16th Street)	*693
			Just upstream of Dam (near 16th Street)	*696
			About 0.4 mile upstream of Northwestern Avenue	*710
			At upstream County Boundary (Just downstream of 86th Street).	*740
		Baily Creek	At mouth	*726
			Just downstream of Olney Street	*733
		Beech Creek	At confluence with Lick Creek	*760
			Just downstream of 9th Avenue	*771
			At confluence of Churchman Creek	*802
		Buffalo Creek	Just upstream of County Line Road	*709
			Just downstream of Stop 11 Road	*738
			Just upstream of David Lane	*754
		Bean Creek	At confluence with Pleasant Run	*705
			Just upstream of Cruft Street	*729
			Just upstream of Villa Avenue	*742
			Just downstream of Conrail	*769
			Just upstream of Conrail	*776
			About 0.3 mile upstream of Minnesota Street	*798
		Buck Creek	At downstream County Boundary	*764
			Just upstream of Conrail	*774
			Just upstream of Cheese System	*809
			Just downstream of County Line Road	*826
		Little Buck Creek	At mouth	*669
			Just upstream of State Route 37	*681
			Just upstream of Southport Road (Just east of Sherman Drive).	*776
			Just downstream of Edgewood Avenue (About 1600 feet east of Five Points Road).	*842
		Carmel Creek	At mouth	*735
			Just downstream of 96th Street	*740
		Crooked Creek	At mouth	*703
			Just upstream of Knollton Road	*752
			Just downstream of Northwestern Avenue (About 700 feet south of Sapphire Boulevard).	*811
			Just upstream of Northwestern Avenue (About 900 feet south of Sapphire Boulevard).	*817
			Just upstream of Dam	*854
			Just upstream of Interstate 465	*868
		Churchman Creek	At confluence with Beech Creek	*802
			Just upstream of High School Road	*807
			Just downstream of confluence of Sloan Ditch	*824
		Delaware Creek	At confluence with Crooked Creek	*833
			About 100 feet upstream of Interstate 465	*849
		Devon Creek	At mouth	*733
			Just downstream of Brown Road	*744
		Eagle Creek	At confluence with White River	*681
			Just downstream of 21st Street	*725
			Just upstream of Interstate 74 (below Eagle Creek Dam).	*754
		Little Eagle Creek	At confluence with Eagle Creek	*695
			Just upstream of Conrail (near Falcon Creek)	*734
			Just upstream of 59th Street	*799
			Just downstream of New Augusta Road	*841
		Falcon Creek	At confluence with Little Eagle Creek	*733
			Just downstream of 52nd Street	*798
		Fall Creek	At confluence with White River	*692
			Just upstream of Dam (near Keystone Avenue)	*727
			Just downstream of Geist Reservoir Dam	*766
		Fisher Creek	At confluence with Lick Creek	*833

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
			Just upstream of Chessie System	*836
			Just downstream of northbound Interstate 465	*843
		Guion Creek	At confluence with Little Eagle Creek	*756
			Just upstream of 52nd Street	*773
			About 0.54 mile upstream of 62nd Street	*794
		Grassy Creek	At confluence with Buck Creek	*804
			About 260 feet upstream of 25th Street	*834
		Indian Creek	Just upstream of Indian Lake Dam	*783
			Just upstream of Conrail	*816
			Just downstream of 42nd Street	*834
		Lick Creek	At mouth	*680
			Just upstream of Keystone Avenue	*740
			Just upstream of Bethel Avenue	*793
			Just upstream of Interstate 465	*841
			Just downstream of 21st Street	*864
		Mud Creek	At mouth	*753
			Just downstream of 96th Street	*781
		McFarland Creek	At confluence with Lick Creek	*746
			Just upstream of Interstate 65	*767
			Just upstream of Emerson Avenue	*822
		Oil Creek	At confluence with Payne Branch	*843
			Just downstream of 86th Street	*865
		Strange Creek	At confluence with Bailey Creek	*731
			Just downstream of 65th Street	*740
		Williams Creek	At mouth	*722
			Just upstream of Spring Mill Road	*754
			Just downstream of 96th Street	*796
		Camp Branch	At confluence with Howland Ditch	*749
			About 900 feet upstream of 75th Street	*754
		Payne Branch	At confluence with Crooked Creek	*824
			Just upstream of 86th Street	*855
		Howland Ditch	At mouth	*726
			Just upstream of Dean Road	*739
			Just upstream of Allisonville Road	*760
		Dry Run	At confluence with Little Eagle Creek	*718
			Just upstream of Georgetown Road	*733
			Just upstream of 38th Street	*770
			Just downstream of 46th Street	*800
		Dry Run Diversion Ditch	At mouth	*733
			Just downstream of divergence from Dry Run	*741
		Sloan Ditch	At mouth	*824
			Just downstream of Hunter Road	*848
		Pleasant Run	At confluence with White River	*684
			Just downstream of dam (near Conrail)	*736
			Just upstream of Prospect Street	*747
			Just upstream of 10th Street	*806
			About 0.2 mile upstream of Richardt Street	*848
		Pogues Run	Just downstream of Vermont Street	*721
			Just upstream of Sherman Drive	*760
			Just downstream of 38th Street	*837

Maps available for inspection at 2441 City County Building, Indianapolis, Indiana 46204.

Iowa	(C) Marshalltown, Marshall County (Docket No. FEMA-6535).	Iowa River	About 0.5 mile downstream of Chicago and Northwestern Railroad.	*861
			About 1,800 feet upstream of County Road E35	*867
			About 1 mile upstream of the confluence of Braddy Creek.	*881
		Linn Creek	At downstream corporate limit	*871
			Just upstream of South 6th Street	*883
			At upstream corporate limit	*901
		Anson Creek	Mouth at Linn Creek	*877
			Just upstream of South Center Street	*944
		Braddy Creek	Mouth at Iowa River	*879
			Just downstream of North 13th Street	*891
			Just upstream of North 13th Street	*896
			About 100 feet upstream of West Main Street	*925

Maps available for inspection at City Hall, P.O. Box #757, Marshalltown, Iowa.

Kentucky	Unincorporated areas of Lawrence County (FEMA-6509).	Big Sandy River	At the confluence of Big Sandy River and Blaine Creek.	*568
		Blaine Creek	Approximately 130 feet downstream of State Highway 3.	*582
			Just downstream of the Covered Bridge	*591
			Approximately 100 feet downstream of State Highway 32.	*654
		Left Fork Blaine Creek	Approximately 530 feet upstream of State Highway [illegible]	*692
		Levisa Fork	Just upstream of Unnamed Bridge (approximately 1,800 feet northwest of Borders Chapel).	*592
		Right Fork Blaine Creek	Approximately 2,000 feet upstream of State Highway 469.	*681
		Tug Fork	Approximately 1,000 feet upstream of the confluence of Baker Branch (approximately 1,400 feet northwest of Concord Church)	*596
			Approximately 550 feet downstream of the Lawrence County-Martin County boundary.	*[illegible]

Maps available for inspection at County Judge's Office, Lawrence County Courthouse, 230 Main Cross Street, Louisa, Kentucky 41230.

Kentucky	City of Russellville, Logan County (FEMA-6521).	Town Branch	Approximately 120 feet upstream of confluence of Town Branch Tributary D.	*575
			Approximately 125 feet downstream of West Third Street.	*584
			Approximately 150 feet upstream of Bluegrass Avenue	*596
		Town Branch Tributary A	Approximately 300 feet upstream of Louisville and Nashville Railroad.	*620

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 300 feet upstream of Emerson By-pass (Industrial Road)	*630
		Town Branch Tributary B	Approximately 60 feet downstream of West Sixth Street	*592
			Approximately 130 feet upstream of U.S. Highway 79	*605
		Town Branch Tributary C	Just upstream of U.S. Highway 431	*585
		Town Branch Tributary D	Approximately 100 feet upstream of East Second Street	*582
			Approximately 250 feet upstream of East Fourth Street (State Highway 66 and State Highway 80)	*[illegible]
			Approximately 100 feet downstream of State Highway 100	*[illegible]
		Town Branch Tributary E	Approximately 120 feet upstream of State Highway 100	*610
		Town Branch Tributary F	Just upstream of East Ninth Street	*599
			Just upstream of Gravel Street	*615
		Town Branch Tributary G	Approximately 450 feet upstream of confluence with Town Branch	*585
		Proctor Branch Tributary A	Just upstream of the Eastern Corporate Limits	*600
		Proctor Branch Tributary B	Just upstream of Modernmaid Drive	*605
Maps available for inspection at City Hall, Russellville, Kentucky 42276.				
Maine	Biddeford, city, York County (Docket No. FEMA-6509).	Atlantic Ocean	Shoreline at Horseshoe Cove	*14
			Shoreline at East Point	*20
			Shoreline approximately 500 northeast of Main Street (extended)	*25
		Saco River	Upstream Cataract Dam	*48
			Upstream Springs Dam	*57
			Upstream Interstate Route 95	*61
			Approximately 2 miles downstream State Route 5	*65
			Upstream corporate limits	*70
		Little River	Approximately 0.6 mile downstream of Pool Street	*9
			Upstream Pool Street	*16
			Upstream Oak Ridge Road	*27
		Moon Brook	Downstream Meetinghouse Road	*9
			Approximately 1.54 miles upstream Meetinghouse Road	*44
		Thatcher Brook	At confluence with Saco River	*[illegible]
			At South Street	*[illegible]
Maps available for inspection at City Clerk's Office, City Hall, 205 Main Street, Biddeford, Maine.				
Massachusetts	Hubbardston, town, Worcester County (Docket No. FEMA-6546).	Canesto Brook	Downstream corporate limits	*750
			Approximately 6,550 feet upstream of downstream corporate limits	*802
			Williamsville Road (upstream side)	*848
		East Branch Ware River	Downstream corporate limits	*936
			Lombard Road (upstream side)	*982
			Upstream corporate limits	*1,006
Maps available for inspection at the Office of the Planning Board, Town Hall, Hubbardston, Massachusetts.				
Michigan	(C) Portland, Ionia County (Docket No. FEMA-6550).	Grand River	About 1.2 miles downstream of Chessie System	*706
			About 0.8 mile upstream of Bridge Street	*716
Maps available for inspection at City Hall, 259 Kent Street, Portland, Michigan.				
Minnesota	(C) Mapleview, Mower County (Docket No. FEMA-6553).	Cedar River	Within the corporate limits	*1,203
Maps available for inspection at the Office of the City Clerk, City Hall, 204 Broadway, Mapleview, Minnesota.				
Nebraska	(C) Lexington, Dawson County (Docket No. FEMA-6553).	Platte River	About 0.66 mile downstream of U.S. Highway 283	*2,379
			About 2.25 miles upstream of U.S. Highway 283	*2,398
		Shallow flooding (overflow from Spring Creek).	About 2.0 miles north of Lexington Municipal Airport	#2
			About 0.25 mile west of State Highway 21 bridge over Spring Creek.	#2
			About 0.6 mile northeast of State Highway 21 bridge over Spring Creek.	#2
			About 0.25 mile east of State Highway 21 bridge over Spring Creek.	#1
			About 1.0 mile east of intersection of Taft Street and U.S. Highway 30.	#1
			About 2.0 miles east of intersection of Walnut Street and U.S. Highway 283.	#2
		Shallow flooding (overflow from Buffalo Creek).	At State Highway 21 intersection with Extraterritorial Limits Boundary in Section 20.	#1
Maps available for inspection at City Hall, P.O. Box 70, Lexington, Nebraska.				
New Jersey	Barnegat Light, borough, Ocean County (Docket No. FEMA-6550).	Atlantic Ocean	Entire shoreline within community	*15
		Barnegat Bay	Shoreline at 13th Street extended west	*7
Maps available for inspection at the Municipal Building, Ten West 10th Street, Barnegat Light, New Jersey.				
New Jersey	Beach Haven, borough, Ocean County (Docket No. FEMA-6550).	Atlantic Ocean	Entire shoreline within community	*15
		Little Egg Harbor	Entire shoreline of Little Island	*12
			Entire shoreline within community	*10
Maps available for inspection at the Municipal Building, 300 Engleside Avenue, Beach Haven, New Jersey.				
New Jersey	Edgewater, borough, Bergen County (Docket No. FEMA-6560).	Hudson River	Entire shoreline affecting community	*10
Maps available for inspection at the Office of the Borough Clerk, Borough Hall, 916 River Road, Edgewater, New Jersey				
New Jersey	Harvey Cedars, borough, Ocean County (Docket No. FEMA-6550).	Atlantic Ocean	Entire shoreline within community	*15
		Manahawkin Bay	Entire shoreline within community	*7
Maps available for inspection at the Municipal Building, 16th Street and Long Beach Boulevard, Harvey Cedars, New Jersey.				

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New Jersey	Jamesburg, borough, Middlesex County (Docket No. FEMA-6553).	Manalapan Brook	Downstream corporate limits	*45
			Downstream of dam	*47
			Manalapan Lake at William Street (extended)	*53
		Wigwam Brook	At confluence with Manalapan Brook	*47
			Upstream of Forsgate Drive culvert	*64
			At corporate limits	*68
		Barclay's Brook	Confluence with Manalapan Brook	*45
			Upstream of Lake Street	*51
			At corporate limits	*59
Maps available for inspection at the Municipal Building, 31 East Railroad Avenue, Jamesburg, New Jersey.				
New Jersey	Long Beach, township, Ocean County (Docket No. FEMA-6550).	Atlantic Ocean	Entire shoreline within community	*15
		Barnegat Bay	Shoreline at Cedars Avenue extended	*7
		Manahawkun Bay	Shoreline at Roxie Avenue extended	*9
		Little Egg Harbor	Shoreline at Hobart Avenue extended	*10
			Shoreline 2,000 feet southwest of Roosevelt Avenue extended	*11
Maps available for inspection at the Long Beach Township Municipal Building, 6805 Long Beach Boulevard, Beach Haven, New Jersey.				
New Jersey	Paramus, borough, Bergen County (Docket No. FEMA-6560).	Saddle River	Downstream corporate limits	*46
			Upstream Century Road	*52
			Upstream Grove Street	*61
			Downstream Linwood Avenue	*78
		Sprout Brook	Downstream corporate limits	*42
			Upstream Century Road	*46
			State Route 17	*47
			Confluence of Mannings Brook	*53
		Mannings Brook	Confluence with Sprout Brook	*53
			Downstream footbridge	*54
		Van Saun Mill Brook	Downstream corporate limits	*16
			Upstream Howland Avenue	*31
			Continental Avenue	*45
		Coles Brook	Downstream corporate limits	*16
			Upstream corporate limits	*25
		Behnke Brook	Confluence with Herring Brook	*32
			Upstream Forest Avenue	*43
			Downstream Midland Avenue	*61
		Herring Brook	Confluence with Van Saun Mill Brook	*32
			Downstream Meadow Lane	*39
			Upstream State Route 4	*53
Maps available for inspection at the Municipal Building, One Jockish Square, Paramus, New Jersey.				
New Jersey	Perth Amboy, city, Middlesex County (Docket No. FEMA-6550).	Raritan River	Shoreline west of State Route 35 bridge	*13
			Shoreline east of State Route 35 bridge	*10
			Shoreline at CONRAIL bridge	*13
		Arthur Kill	Shoreline at Smith Street	*13
			Shoreline at Buckingham Avenue	*12
			Shoreline at State Route 440	*12
			Entire shoreline of Woodbridge River	*10
		Spa Spring Creek	Upstream of CONRAIL bridge	*13
			Upstream of Amboy Avenue	*14
Maps available for inspection at the Municipal Building, 280 High Street, Perth Amboy, New Jersey.				
New Jersey	Ship Bottom, borough, Ocean County (Docket No. FEMA-6550).	Atlantic Ocean	Entire shoreline within community	*15
		Manahawkin Bay	Shoreline at 27th Avenue extended	*10
			Shoreline at 11th Avenue extended	*8
			Shoreline at 21st Avenue extended	*9
Maps available for inspection at the Municipal Building, 17th and Boulevard, Ship Bottom, New Jersey.				
New Jersey	Surf City, borough, Ocean County (Docket No. FEMA-6550).	Atlantic Ocean	Entire shoreline within community	*15
		Manahawkin Bay	Entire shoreline within community	*8
Maps available for inspection at the Municipal Building, 813 Boulevard, Surf City, New Jersey.				
New Jersey	Upper, township, Cape May County (Docket No. FEMA-6560).	Atlantic Ocean	Entire shoreline within community	*15
		Great Egg Harbor	From Garden State Parkway to Golders Point along shoreline	*14
Maps available for inspection at the Upper Township Municipal Building, Tuckahoe, New Jersey.				
New Jersey	Weehawkin, township, Hudson County (Docket No. FEMA-6650).	Hudson River	Entire shoreline affecting community	*10
Maps available for inspection at the Town Hall, 400 Park Avenue, Weehawkin, New Jersey.				
New Jersey	West New York, town, Hudson County (Docket No. FEMA-6550).	Hudson River	Entire shoreline within community	*10
Maps available for inspection at 428 60th Street, West New York, New Jersey.				
New Jersey	West Windsor, township, Mercer County (Docket No. FEMA-6541).	Millstone River	Downstream corporate limits	*58
			Upstream of CONRAIL bridge	*63
			Upstream of Cranbury Road	*68
			Upstream corporate limits	*72
		Big Bear Brook	Confluence with Millstone River	*62
			Upstream side of Grovers Mill Pond Dam	*67
			Upstream of Hightstown Road	*73
			Upstream of Southfield Road	*79
			Upstream corporate limits	*83
		Bear Creek	Confluence with Big Bear Brook	*62
			Upstream corporate limits	*68
		Canoe	Confluence with Big Bear Brook	*67
			Upstream of North Mill Road	*70
			Upstream of Hendrickson Drive	*85

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State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
			At upstream side of Penn-Lyle Road	*103
		Little Bear Brook	At confluence with the Millstone River	[illegible]
			Downstream of Meadow Road	*62
		Duck Pond Run	Downstream corporate limits	*86
			Upstream of CONRAIL bridge	*79
			Upstream of North Post Road	*86
			Upstream of Penn-Lyle Road	*92
		Stony Brook	Confluence with Millstone River	[illegible]
			Upstream of Alexander Road	*61
			Upstream corporate limits (extended)	*67
		Assunpink Creek	Downstream corporate limits	*59
			Upstream side of Site 20 Dam	*68
			Confluence of Bridgegroom Run	*70
			Upstream of Old Trenton Road	*70
			Upstream corporate limits	*74
		Bridegroom Run	Confluence with Assunpink Creek	*70
			Upstream of Edinburg Road	*77
			Upstream side of Old Trenton Road	*80

Maps available for inspection at the Municipal Building, Clarksville Road, West Windsor, New Jersey.

New Jersey	White, township, Warren County (Docket No. FEMA–6509).	Delaware River	Most downstream corporate limits	*229
			Shoreline at Foul Rift Road (extended)	*232
			Confluence Pophandusing Brook	*252
			Approximately 0.95 mile upstream of upstream Belvidere corporate limits (area not included).	*260
			Approximate center of Mecks Island	*268
			Most upstream corporate limits	*273
		Pequest River	Downstream corporate limits	[illegible]
			Upstream Farm Road bridge	*305
			100 feet upstream Broken Dam	*330
			Upstream first CONRAIL crossing	*363
			Upstream Buttzville Road	*375
			Upstream third CONRAIL crossing	*405
			Upstream corporate limits	*429
		Beaver Brook	Confluence with Pequest River	*300
			Upstream CONRAIL crossing	*327
			Upstream corporate limits	*352

Maps available for inspection at Route 46 and Bridgeville Road, New Jersey 07823.

New York	Ballston, town, Saratoga County (Docket No. FEMA–6557).	Alplaus Kill	At downstream corporate limits	*265
			At upstream corporate limits	*294
		Ballston Creek	At confluence with Ballston Lake	*258
			At downstream corporate limits	*256
		Ballston Lake	Entire shoreline within community	[illegible]
		Morning Kill	At East High Street	*226
			Upstream of CONRAIL crossing	*271
			Upstream of Morning Kill Road	*322
			Upstream of bridge at Goode Street	[illegible]
			Upstream of Devils Lane	*437
			Upstream corporate limits	*482

Maps available for inspection at the Town Hall, Ballston, New York.

New York	Ballston Spa, village, Saratoga County (Docket No. FEMA–6557).	Gordon Creek	At confluence with Kayaderosseras Creek	*241
			Upstream of Bath Street	*246
			Upstream of Fair Ground Avenue	*225
			Approximately 1,200 feet upstream of Fair Ground Avenue.	*264
		Kayaderosseras Creek	At downstream corporate limits	*230
			Upstream of Ralph Street	*237
			Approximately 100 feet upstream of Milton Avenue	*249

Maps available for inspection at the Village Hall, 66 Front Street, Ballston Spa, New York.

New York	Barker, village, Niagara County (Docket No. FEMA–6550).	Golden Hill Creek	Approximately 800 feet upstream of State Route 148	*330
			Approximately 1,900 feet downstream of State Route 148.	[illegible]

Maps available for inspection at the Village Hall, 8708 Main Street, Barker, New York.

New York	Canadice, town, Ontario County (Docket No. FEMA–6470)..	Canadice Outlet	Downstream corporate limits	*1,086
			Upstream of Hollow Road	*1,093
			Upstream of Purcell Hill Road	*1,100
		Affolter Gully	Confluence with Honeoye Lake	*806
			Confluence with Tributary T5–B	[illegible]
			Approximately 520 feet upstream of Tributary T5–B confluence.	[illegible]
		Tributary T–2	Confluence with Honeoye Lake	[illegible]
			Upstream of Access Road	*814
			Approximately 325 feet upstream of Access Road	*842
		Tributary T5–B	Confluence with Affolter Gully	*822
			Approximately 490 feet upstream of Affolter Gully confluence.	*841
		Tributary T–7	Confluence with Honeoye Lake	*806
			Upstream of Access Road	*812
			Approximately 750 feet upstream of Access Road	*837
		Tributary T–10	Confluence with Honeoye Lake	*806
			Upstream of Private Road	*825
			Approximately 270 feet upstram of Private Road	*842
		Tributary T–15	Confluence with Honeoye Lake	*806
			Upstream of Access Road	*820
			Approximately 200 feet upstream of Access Road	[illegible]
		Tributary T–16	Confluence with Honeoye Lake	[illegible]
			Upstream of Private Road	[illegible]
			Approximately 270 feet upstream of Private Road	[illegible]
		Tributary T–17	Confluence with Honeoye Lake	*806
			Downstream of Private Road	[illegible]

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream of Private Road	*825
		Honeoye Lake	Entire shoreline in the community	*806
		Hemlock Lake	Entire shoreline in the community	*908
Maps available for inspection at the Town Hall, County Route 37, Springwater, New York.				
New York	Fishkill, town, Dutchess County (Docket No. FEMA-6550).	Hudson River	Downstream corporate limits	*8
			Upstream corporate limits	*8
		Fishkill Creek	Confluence with Hudson River	*8
			Second upstream corporate limits	*183
			Upstream of Interstate Route 84 westbound	*212
			Upstream of U.S. Route 9	*214
			Fourth downstream corporate limits	*216
			Upstream of State Route 52	*222
			Upstream corporate limits	*225
		Clove Creek	Confluence with Fishkill Creek	*212
			Upstream of downstream Private Road	*217
			Approximately 4,100 feet downstream of upstream Private Road.	*230
			Upstream of upstream Private Road	*224
			Upstream corporate limits	*250
		Sprout Creek	Confluence with Fishkill Creek	*225
			Upstream corporate limits	*227
		Tributary to Fishkill Creek	Confluence with Fishkill Creek	*211
			Upstream of Wheaton Avenue	*215
			Upstream of U.S. Route 9	*224
			Approximately 2,700 feet downstream of Cedar Hill Road.	*225
Maps available for inspection at the Office of the Town Clerk, 108 Main Street, Fishkill, New York.				
New York	Genesee Falls, town, Wyoming County (Docket No. FEMA-6550).	Genesee River	Upstream limit of Letchworth State Park	*1,114
			Upstream side County Route 436 bridge	*1,117
			At Whiskey bridge	*1,120
Maps available for inspection at the Town Hall, Church Street, Portageville, New York.				
New York	Glenville, town, Schenectady County (Docket No. FEMA-6557).	Mohawk River	Downstream corporate limits	*222
			At confluence of Kromme Kill	*226
			Upstream of CONRAIL and Delaware & Hudson Railroad.	*231
			Upstream of Lock No. 8	*235
			Upstream of Boston and Maine Railroad	*243
			Upstream of State Route 103/Lock No. 9	*251
			Upstream corporate limits	*258
		Alplaus Kill	At confluence with Mohawk River	*224
			Upstream of Boston and Maine Railroad	*227
			Corporate limits (1st crossing)	*236
			Corporate limits (2nd crossing)	*294
			Upstream of dam	*330
			Upstream of Van Vorst Road	*338
			Upstream corporate limits	*340
		Kromme Kill	At confluence with Mohawk River	*226
			Downstream of Freemans Road	*229
			Approximately 950 feet upstream of Delaware & Hudson Railroad.	*241
Maps available for inspection at the Town Hall, 127 Mohawk Avenue, Scotia, New York.				
New York	Lake Luzerne, town, Warren County (Docket No. FEMA-6470).	Hudson River	Downstream of Palmers Falls Dam	*447
			Downstream of Curtis Mill Dam	*535
			Downstream of State Route 9N	*560
			Confluence of Sacandaga River	*561
Maps available for inspection at the Town Hall, 2143 Main Street, Lake Luzerne, New York.				
New York	Marcy, town, Oneida County (Docket No. FEMA-6535).	Mohawk River	Most downstream corporate limits	*414
			Upstream New York State Thruway	*415
			Upstream Hayes Road	*417
			At corporate limits located downstream of River Street	*419
			Most upstream corporate limits	*420
		Ninemile Creek	Approximately 1,700 feet (.32 mile) upstream of Powell Road.	*499
			Approximately 4,600 feet downstream of Main Street	*511
			Approximately 2,900 feet (.55 mile) downstream of Main Street.	*514
			Upstream Main Street	*527
			Upstream corporate limits	*544
Maps available for inspection at the Town Hall, 9455 Toby Road, Marcy, New York.				
New York	Port Chester, village, Westchester County (Docket No. FEMA-6550).	Long Island Sound	Shoreline of Port Chester Harbor	*17
			Byram River at Interstate Route 95	*12
Maps available for inspection at the Village Hall, 110 Willett Avenue, Port Chester, New York.				
New York	Schuylerville, village, Saratoga County (Docket No. FEMA-6557).	Hudson River	Downstream corporate limits	*100
			Upstream corporate limits	*101
		Fish Creek	At confluence with Hudson River	*100
			Upstream of Broad Street	*102
			At corporate limits	*149
Maps available for inspection at the Village Hall, Schuylerville, New York.				
New York	Scotia, village, Schenectady County (Docket No. FEMA-6557)	Mohawk River	Downstream of CONRAIL	*230
			Upstream of Western Gateway bridge	*232
			Upstream corporate limits (extended)	*233
		Kromme Kill	Downstream corporate limits	*236
			Upstream of State Route 50	*247
			Approximately .48 mile upstream of U.S. Route 50	*249
Maps available for inspection at the Village Hall, Scotia, New York.				

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New York	Stillwater, town of Saratoga County (Docket No. FEMA–6557).	Hudson River	Downstream corporate limits	*85
			Upstream of Lock No. 3	82
			Upstream corporate limits with Village of Stillwater	*94
			Most upstream corporate limits	*97
		Anthony Kill	Downstream corporate limits at Round Lake Avenue	*106
			Confluence with Plum Brook	*118
			Upstream of footbridge	*132
			Upstream corporate limits	*169
		Schuyler Creek	Downstream corporate limits	*94
			Approximately 3,150 feet upstream of corporate limits	*130
		Plum Brook	Confluence with Anthony Kill	*118
			Upstream of George Thompson Road	*139
			Upstream of downstream dam	*152
			Approximately 4,400 feet upstream of dam	*215
			Approximately 2,800 feet downstream of dam	*275
			Upstream of dam	*303
			Approximately 2,700 feet upstream of dam, downstream of Robinson Road.	*328
		Saratoga Lake	Entire shoreline within community	*210
Maps available for inspection at the Town Hall, Stillwater, New York.				
New York	Sylvan Beach, village, Oneida County (Docket No. FEMA–6535).	Oneida Lake	Entire shoreline within the community	*373
		Erie Canal	Entire shoreline within the community	*373
		Wood Creek	Entire shoreline within the community	*373
		Fish Creek	Confluence with Erie Canal	*373
			Upstream corporate limits	*377
Maps available for inspection at the Municipal Building, Route 13, Sylvan Beach, New York.				
New York	Victory, village, Saratoga County (Docket No. FEMA–6557).	Fish Creek	Approximately 3,600 feet downstream of Hill Street (corporate limits)	*148
			Approximately 80 feet upstream of Hill Street	*179
			Approximately 300 feet upstream of Mennen Road	*183
Maps available for inspection at the Village Hall, Victory, New York.				
North Carolina	City of Burnsville, Yancy County (FEMA–6499).	Little Crabtree Creek	Just upstream of Hunter Street	*2,828
			Just upstream of Pensacola Road (State Route 197)	*2,856
Maps available for inspection at Town Hall, Main Street, Burnsville, North Carolina 28714.				
North Carolina	Town of Maggie Valley, Haywood County (FEMA–6499).	Jonathan Creek	Just upstream of Secondary Road 1307	*2,874
			Approximately 75 feet upstream of Evans Cove Road	*2,956
			Just upstream of Fie Branch Road	*3,089
		Campbell Creek	Just downstream of U.S. Highway 19	*3,011
			Approximately 150 feet upstream of U.S. Highway 19	*3,015
Maps available for inspection at Town Hall, Highway 19, Maggie Valley, North Carolina 28751.				
North Carolina	Unincorporated areas of Yancey County (FEMA–6499).	Ayles Creek	Just upstream of Yancey Railroad (approximately 2,270 feet upstream from confluence with Little Crabtree Creek)	*2,486
			Just upstream of Secondary Road 1153	*2,636
		Little Crabtree Creek	Approximately 160 feet upstream of Secondary Road 1147.	*2,471
			Just upstream of Secondary Road 1142	*2,562
		Bowlens Creek	Just upstream of Bowlens Creek Road (approximately 420 feet upstream of confluence with Cane River).	*2,815
			Just upstream of Bowlens Creek Road (approximately 2.95 miles upstream of confluence with Cane River).	*2,804
		Bald Creek	Approximately 100 feet upstream of U.S. Highway 19 (approximately 4,220 feet upstream of confluence with Cane River).	*2,512
		Bald Mountain Creek	Just upstream of Private Drive (approximately 1,600 feet upstream of confluence with Cane River).	*2,317
		Jacks Creek	Just downstream of Secondary Road 1416	*2,328
		South Toe River	Just upstream of Secondary Road 1303	*2,466
			Just downstream of confluence of Whitecak Creek	*2,678
		Cane River	Just upstream of Secondary Road 1354	*2,148
			Just upstream of U.S. Highway 19W	*2,400
			Just upstream of U.S. Highway 19E	*2,536
			Just upstream of State Highway 197	*2,934
		Elk Fork	Just upstream of State Highway 197	*3,118
		Brown Creek	Just upstream of State Highway 80	*2,734
		Cat Tail Creek	Just upstream of State Highway 197	*2,867
		Whitecak Creek	Approximately 50 feet upstream of Private Drive (approximately 4,380 feet above confluence with South Toe River).	*2,734
		Big Creek	Just upstream of Secondary Road 1414	*2,186
		Haney Creek	Just upstream of Private Drive (approximately 790 feet upstream of confluence with Cane River).	*2,956
Maps available for inspection at County Manager's Office, Yancey County Courthouse, Main Street, Burnsville, North Carolina 28714.				
North Dakota	Harwood (township), Cass County (FEMA–6546).	Red River of the North	The intersection of County Roads 32 and 31	*889
			Area approximately 400 feet north of the intersection of County Roads 4 and 31.	*884
Maps available for inspection at Township Hall, Route 1, Harwood, North Dakota.				
North Dakota	Reed (township Cass County (FEMA–6546).	Red River of the North	The area approximately 300 feet southeast of the intersection of County Road 22 and Interstate 29.	*880
Maps available for inspection at Township Hall, Rural Route 2, Fargo, North Dakota.				

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). Modified
Ohio	(V) Delta, Fulton County (Docket No FEMA-6553).	Fewless Creek	About 2,200 feet downstream of Conrail	*710
			Just upstream of Conrail	*719
			About 0.6 mile upstream of Fernwood Avenue	*729
Maps available for inspection at the Administrator's Office, Memorial Hall, 401 Main Street, Delta, Ohio.				
Ohio	(C) Grove City, Franklin County (Docket No. FEMA-6449).	Plum Run	Just upstream of London-Groveport Road	*720
			About 0.6 mile upstream of London-Groveport Road	*734
		Grant Run	About 1.05 miles downstream of Borror Road	*726
		Just upstream of Borror Road	*726	
			Just downstream of Interstate 71	*815
			Just upstream of Interstate 71	*821
			About 0.41 mile upstream of Interstate 71	*826
		Grant Run Tributary	About 0.25 mile downstream of Holton Road	*744
			About 400 feet downstream of Holton Road	*748
			Just upstream of Hoover Road	*809
			About 1,000 feet upstream of Orders Road	*828
		Brown Run	Just upstream of Hoover Road	*805
			Just upstream of Santa Maria Drive	*815
			Just upstream of Sheldon Place	*835
			Just downstream of Chessie System	*845
		Mulberry Run	Just upstream of Interstate 71	*760
			Just upstream of Hoover Road	*812
			Just upstream of Haughn Road	*836
		Marsh Run	Just upstream of Marlene Drive	*757
			Just downstream of U.S. Route 62	*813
			Just upstream of U.S. Route 62	*823
			Just downstream of Chessie System	*824
			Just downstream of Big Run South Road	*866
			Just upstream of Demorest Road	*872
		Republican Run	About 400 feet upstream of Interstate 71	*767
			Just downstream of Stringtown Road	*781
			Just upstream of Stringtown Road	*788
			About 600 feet downstream of Hoover Road	*804
			Just upstream of Columbus Street (450 feet upstream of Hoover Road).	*819
			Just downstream of Demorest Road	*862
Maps available for inspection at the Administrative Assistant's Office, City Hall, 3360 Park Street, Grove City, Ohio.				
Ohio	(C) Jackson, Jackson County (Docket No. FEMA-6560).	Little Salt Creek	Approximately 0.5 mile downstream of the confluence of Jisco Lake Creek.	*648
			Approximately 0.6 mile upstream of State Route 124	*655
		Horse Creek	Approximately 0.25 mile downstream of Chillicothe Street.	*650
			Approximately 0.3 mile upstream of Mill Street	*651
		Price Creek	Confluence with Little Salt Creek	*649
			Approximately 400 feet upstream of Coffman Street	*650
		Jisco Lake Creek	Confluence with Little Salt Creek	*649
			At confluence with Parkview Lateral	*650
		South Branch	At the confluence with Little Salt Creek	*654
			Approximately 0.3 mile upstream of Vaughn Street	*669
		Sugar Run	Just downstream from Detroit, Toledo, and Cronton Railroad.	*652
			Approximately 0.5 mile upstream from Chessie System	*652
		Parkview Lateral	At confluence with Jisco Lake Creek	*650
			Approximately 0.1 mile upstream of State Street	*650
		Lateral L	At confluence with Little Salt Creek	*654
			Approximately 200 feet upstream of State Route 93	*657
Maps available for inspection at the Safety Service Director's Office, City Hall, Memorial Building, Broadway Street, Jackson, Ohio.				
Oregon	Adams (city), Umatilla County (FEMA-6550).	Wildhorse Creek	Intersection of Wade Street and Main Street	*1517
		Sand Hollow Creek	Intersection of William Street and East Street	
Maps available for inspection at City Recorder's Home, Box 112, Adams, Oregon.				
Oregon	Baker (city), Baker County (FEMA-6546).	Powder River	At the intersection of 13th Street and Auburn Avenue	*3,435
		Old Settlers Slough	At the intersection of Wabash Avenue and 2nd Street	*3,459
Maps available for inspection at City Hall, Baker, Oregon.				
Oregon	Echo (city), (Umatilla County) (FEMA-6499).	Umatilla River	35 feet downstream from center of Main Street	*630
Maps available for inspection at City Hall, Bonanza, Echo, Oregon.				
Oregon	Helix (city), Umatilla County (FEMA-6557).	Greasewood Creek	Intersection of Harrison Street and Aurora Street	*1,755
		Southwest Drainage	Intersection of Columbia Street and Morton Street	*1,752
Maps available for inspection at City Hall, Helix, Oregon.				
Oregon	Ontario (city), Malheur County (FEMA-6548).	Snake River	At Union Pacific Railroad Crossing	*2,142
		Malheur River	Center of intersection of 8th Avenue NW and 5th Avenue NW.	*2,145
Maps available for inspection at City Hall, 444 SW 4th Street, Ontario, Oregon.				
Pennsylvania	Bechtelsville, borough, Berks County (Docket No. FEMA-6498).	Swamp Creek	Downstream corporate limits	*365
			Approximately 80 feet upstream of Mill Street	*381
			Approximately 40 feet upstream of CONRAIL	*395
			Upstream Main Street	*409
			Upstream corporate limits	*425
Maps available for inspection at the Borough Hall, 158 South Main Street, Bechtelsville, Pennsylvania.				
Pennsylvania	Chester, township, Delaware County (Docket No. FEMA-6526).	Chester Creek	At downstream corporate limits	*28
			At upstream corporate limits	*41
Maps available for inspection at the Chester Township Building, 1150 Mildred Avenue, Chester, Pennsylvania.				

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Pennsylvania	Colebrookdale, township, Berks County (Docket No. FEMA-6541).	Ironstone Creek	At downstream corporate limits	*316
			Approximately 100 feet downstream of Reading Avenue (Route 562).	*338
		Swamp Creek	At downstream corporate limits	*305
			Upstream Mill Crest Road	*318
			Approximately 200 feet downstream of Spring Garden Drive (Route 562).	*331
Maps available for inspection at the Municipal Building, Boyertown, Pennsylvania.				
Pennsylvania	Douglass, township, Montgomery County (Docket No. FEMA-6550).	Minister Creek	Downstream corporate limits	*271
			Upstream Gilbertsville Road	*286
			Upstream Minister Creek Dam No. 1	*310
			At upstream corporate limits	*337
		Oley Creek	At confluence with Minister Creek	*275
			Upstream of Gilbertsville Road	*293
			Upstream of Sweinhart Road	*358
			Approximately .24 mile upstream of Sweinhart Road	*374
		Swamp Creek	Most downstream corporate limits	*271
			Upstream of Congo Road	*291
			Approximately .78 mile downstream of County Line Road.	*296
			At County Line Road and County boundary	*311
		Middle Creek	Downstream corporate limits	*266
			Upstream of dam	*276
			Approximately .56 mile upstream of Dam	*282
		Schlegel Run	Downstream corporate limits	*276
			Upstream of Hoffmansville Road	*306
			Downstream of Hoffman Road	*346
		West Branch Perkiomen Creek	Upstream of West Branch Road	*345
			Approximately .38 mile upstream of Dam No. 1	*386
			Upstream of Miller Road	*395
			Upstream County boundary	*411
Maps available for inspection at the Municipal Building, Gilbertsville, Pennsylvania.				
Pennsylvania	Doylestown, borough, Bucks County (Docket No. FEMA-6541).	Neshaminy Creek Tributary	Downstream corporate limits	*256
			Downstream Green Street	*263
			Upstream East State Street	*331
			Upstream Forest Drive	*337
			Upstream Creek Drive	*365
			Upstream corporate limits	*378
		Cooks Run	Upstream U.S. Route 202 bypass	*313
			Upstream corporate limits	*323
Maps available for inspection at the Borough Building, Doylestown, Pennsylvania.				
Pennsylvania	LeBoeuf, township, Erie County (Docket No. FEMA-6012).	French Creek	U.S. Route 6 (upstream side)	*1,165
			Flatts Road (upstream side)	*1,174
			Approximately 1,900 feet above Dewey Road	*1,197
Maps available for inspection at the Township Building, Waterford, Pennsylvania.				
Pennsylvania	Montgomery, township, Montgomery County (Docket No. FEMA-6539).	West Branch Neshaminy Creek Tributary.	Corporate limits	*287
			Approximately 600 feet downstream of U.S. Route 202/Doylestown Road.	*360
			Downstream of U.S. Route 202/Doylestown Road	*372
		Little Neshaminy Creek	At Kenas Road	*301
			At confluence of Little Neshaminy Creek Tributary No. 1.	*327
			Downstream of Horsham Road/Pennsylvania Route 463.	*346
		Little Neshaminy Creek Tributary No. 1.	At confluence of Little Neshaminy Creek	*327
			Downstream of Stump Road	*333
		Little Neshaminy Creek Tributary No. 2.	At confluence with Little Neshaminy Creek	*311
			Downstream of Stump Road	*340
		Colmar Tributary	1,220 feet upstream of CONRAIL	*291
			2,360 feet upstream of CONRAIL	*292
Maps available for inspection at the Township Municipal Building, Montgomery, Pennsylvania.				
Pennsylvania	Washington, township, Berks County (Docket No. FEMA-6541).	Tributary E to Swamp Creek	Upstream Old Route 100	*442
			Downstream Farm Dam	*[illegible]
		Swamp Creek	At downstream corporate limits	*360
			Approximately 770 feet upstream of Mill Street	*383
Maps available for inspection at the Township Building, Monday and Wednesday from 8:30 a.m. to 3:30 p.m., Washington, Pennsylvania.				

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base (100-year) flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. No appeal was made during the 90-day period and the proposed base flood elevations have not been changed.

State	City/town/county	Source of flooding	Location	#Depth in meters above ground. *Elevation in Meters (MSL)
Commonwealth of Puerto Rico.	Lajas Valley (FEMA–6554)	Rio Loco	Center of Puerto Rico Highway 332, 110 meters south of its intersection with Puerto Rico Highway 116.	*6.0
			At the intersection of Puerto Rico Highways 116 and 389.	*23.8
		Caribbean Sea	South end of Puerto Rico Highway 332, approximately 1.45 kilometers south of its intersection with Puerto Rico Highway 116.	*2.1
Maps available for inspection at Puerto Rico Planning Board, Minillas Government Center, North Building, 14th Floor, Santurce, Puerto Rico.				
Commonwealth of Puerto Rico.	Rio Guanajibo Basin (FEMA–6470)	Rio Guanajibo	10 meters upstream from the center of Puerto Rico Highway 102 (Avenida Comercio).	*3.0
			At the intersection of Puerto Rico Highway 114 and river.	*20.3
			10 meters downstream from the center of Puerto Rico Highway 119.	*45.5
			30 meters downstream from the center of Puerto Rico Highway 368.	*94.0
		Quebrada Mendoza	At the intersection of Puerto Rico Highway 312 and Calle Baldonott.	*22.1
		Atlantic Ocean	At the mouth of Rio Guanajibo	*1.6
Maps available for inspection at Planning Board, Minillas Government Center, D-Diego Avenue, P.O. Box 41119, San Juan, Puerto Rico.				
Commonwealth of Puerto Rico.	Rio Yaguez Basin (FEMA–6554)	Rio Yaguez	40 meters upstream from the center of Calle Post	*9.5
			At the intersection of Avenida Comercio and Calle McKinley.	*0.9
		Atlantic Ocean	West end of Calle McKinley, 90 meters west of its intersection with Avenida Comercio.	*1.6
Maps available for inspection at Puerto Rico Planning Department, Minillas Government Center, North Building, 14th Floor, Santurce, Puerto Rico.				

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base (100-year) flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. No appeal was made during the 90-day period and the proposed base flood elevations have not been changed.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Rhode Island	Middletown, town, Newport County (Docket No. FEMA–6550).	Narragansett Bay	Entire shoreline within community	*17
		Rhode Island Sound	Ellery Avenue (extended)	*28
			Hoover Road (extended)	*19
			Easton Point	*28
			Ashurt Avenue (extended)	*28
			Purgatory Road (extended)	*34
			Rocks Road (extended)	*19
			Sachuest Point	*23
		Sakonnet River	Matthews Lane (extended)	*34
			Buena Vista Avenue (extended)	*28
			Peckham Avenue (extended)	*18
		Bailey Brook	Green End Avenue (upstream side)	*13
			Clambake Road (upstream side)	*22
			East Main Road (upstream side)	*45
			Woolsey Road (upstream side)	*72
			Approximately 1,400 feet upstream of St. Lucy School Drive.	*115
		Paradise Brook	Confluence with Nelson Pond	*13
			Access Road (upstream side)	*64
			Green End Avenue (upstream side)	*128
			Upstream of Mitchells Lane	*166
		Maidford River	Approximately 420 feet downstream of Easton Farm Drive.	*13
			Reservoir Road (upstream side)	*47
			Prospect Avenue (upstream side)	*72
			Green End Avenue (upstream side)	*105
			Berkeley Avenue (upstream side)	*117
			Approximately 600 feet upstream of Wyatt Road	*154
Maps available for inspection at the Town Hall, Middletown, Rhode Island.				
Texas	City of Little River-Academy, Bell County (FEMA 6526).	Boggy Creek	Just upstream of FM 436	*454
			Just upstream of Texas Highway 95	*483
		Boggy Creek Tributary 1	Just upstream of Wilson Valley Road	*447
Maps available for inspection at City Hall, Main and Evan Streets, Little River Academy, Texas 76554.				
Texas	Shoreacres, city, Harris County (Docket No. FEMA–6431).	Galveston Bay	Entire shoreline within community	*17
		Taylors Bayou	Entire length within the community	*11
Maps available for inspection at the Shoreacres City Hall.				

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Virginia	Accomack County (Docket No. FEMA-6401)	Chincoteague Bay	Eastern shoreline	*9
			Western shoreline	*10
		Atlantic Ocean	Shoreline from northern county boundary to Wachapreague Inlet.	*12
			Shoreline from Wachapreague Inlet to southern county boundary.	*13
		Chesapeake Bay	Smith Island south to Tanger Island	*6
			Great Fox Island south to Watts Island	*9
			Shoreline from northern county boundary to Doe Creek.	*9
			Shoreline from Doe Creek to Nandua Creek	*10
			Shoreline from Nandua Creek to southern county boundary.	*11

Maps available for inspection at the Zoning Office, Accomack County Office Building, Accomac, Virginia.

Virginia	Patrick County (Docket No. FEMA-6553)	South Mayo River	Approximately .7 mile downstream of State Route 681	*1,152
			Confluence of Campbell Branch	*1,182
			Confluence of North Fork South Mayo River	*1,216
			Upstream State Route 63 (most downstream crossing)	*1,281
			Upstream State Route 615 (upstream crossing)	*1,364
			Upstream State Route 631 (most upstream crossing)	*1,447
			Approximately 80 feet upstream of State Route 644	*1,485
		Campbell Branch	Confluence with South Mayo River	*1,182
			Upstream U.S. Route 58	*1,249
			Approximately 960 feet upstream Johnson Street	*1,351
		North Fork South Mayo River	Confluence with South Mayo River	*1,216
			Confluence of Poorhouse Creek	*1,244
			Approxiamtely .28 mile upstream U.S. Route 58 (downstream crossing).	*1,271
			Approximately 1.15 miles downstream State Route 8	*1,328
			Upstream U.S. Route 58 (upstream crossing)	*1,391
		Poorhouse Creek	Confluence with North Fork South Mayo River	*1,244
			Upstream of most upstream private drive	*1,279
			Approximately 20 feet upstream State Route 642	*1,324

Maps available for inspection at the Office of Patrick County Administrator, Hooker Building, Stuart, Virginia.

Virginia	Stuart, town, Patrick County (Docket No. FEMA-6553)	South Mayo River	Downstream corporate limits	*1,182
			Upstream Masonite Access Road	*1,189
			Upstream corporate limits	*1,195
		North Fork South Mayo River	Downstream corporate limits	*1,223
			Upstream State Route 1020	*1,233
			Upstream corporate limits	*1,243
		Campbell Branch	Confluence with South Mayo River	*1,182
			Upstream U.S. Route 58	*1,249
			Upstream Johnson Street	*1,325
			Upstream corporate limits	*1,351

Maps available for inspection at the Town Office, Stuart, Virginia.

West Virginia	Marshall County (Docket No. FEMA-6550)	Ohio River	At downstream county boundary	*640
			At Captina Island	*648
			At corporate limits of City of McMechen	*655
		Wheeling Creek	At downstream county boundary	[illegible]
			County Route 5 (most downstream crossing) upstream side.	*727
			At Burch Road	*771
		Little Grave Creek	At corporate limits of City of Moundsville	*652
			Lindy Lane (upstream side)	*674
			Approximately .56 mile upstream of Lindy Lane	*686

Maps available for inspection at the Marshall County Courthouse, Moundsville, West Virginia.

West Virginia	Monongalia County (Docket No. FEMA-6550)	Deckers Creek	Downstream corporate limits of City of Morgantown	*845
			Downstream of State Route 7	*890
			Downstream side access road bridge	*948
			Approximately 634 feet upstream of State Route 7 bridge	*1,017
		Dunkard Creek	Downstream county boundary	*914
			Upstream side, most downstream County Route 39 bridge.	*920
			Upstream side, most upstream County Route 39 bridge.	*926
			Downstream side, most downstream State Route 7 bridge.	*940
			Downstream side, most upstream State Route 7 bridge.	*946
			Most upstream county boundary	*956
		Monongahela River	Downstream county boundary	*807
			Downstream side, Star City Highway bridge	*811
			Most downstream City of Morgantown corporate limits	*812
			Upstream side, Morgantown Lock and Dam	*819
			Most upstream Morgantown corporate limits	*820
			Upstream side, Interstate 79 bridge	*823
			Upstream side, Hildebrande Lock and Dam	*835
			Upstream side, Opekiska Lock and Dam	*857
			Upstream county boundary	*861

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Aaron Creek	Downstream City of Morgantown corporate limits	*845
			Upstream side, downstream County Route 64 bridge	*849
			Upstream side, upstream County Route 64 bridge	*853
Maps available for inspection at the Monongalia County Courthouse, 245 High Street, Morgantown, West Virginia.				
West Virginia	Pratt, town, Kanawha County (Docket No. FEMA-6550).	Kanawha River	Confluence of Paint Creek	*614
			Upstream corporate limits	*615
		Paint Creek	Confluence with Danawha River	*614
			Upstream corporate limits	*615
Maps available for inspection at the Town Hall, Pratt, West Virginia.				
Wisconsin	(V) Williams Bay, Walworth County (Docket No. FEMA-6541).	Lake Geneva	Shoreline	*865
		Southwick Creek	At mouth	*865
			About 1,900 feet upstream of Geneva Street	*877
			About 4,000 feet upstream of Geneva Street	*903
		Southwick Creek Overland Flow	Just upstream of confluence with Southwick Creek	*877
			At divergence with Southwick Creek	*885
Maps available for inspection at the Village President's Office, Village Hall, 65 West Geneva Street, Williams Bay, Wisconsin.				
Wyoming	Campbell County (unincorporated areas) (FEMA-6553).	Donkey Creek	50 feet upstream from the center of Donkey Creek Drive.	*4,560
		Donkey Creek	At the center of Jay Hawker Street crossing	*4,578
		Stonepile Creek	At the confluence with Donkey Creek	*4,461
		Antelope Butte Creek	100 feet upstream of State Highway 59	*4,553
		Sleepy Hollow Creek	100 feet upstream from the center of Sleepy Hollow Blvd.	*4,578
		Little Rawhide Creek	50 feet downstream from the center of State Highway 14 and 16.	*4,266
Maps available for inspection at Engineer's Office, 500 South Gillette, Gillette, Wyoming.				

The base (100-year) flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. Appeals of the proposed base flood elevations were received and have been resolved by the Agency.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Connecticut	Clinton, town, Middlesex County (Docket No. FEMA-6527).	Long Island Sound	Shoreline at Indian Street extended	*16
			Shoreline at Uncas Road extended	*14
			Shoreline at Central Road extended	*16
Maps available for inspection at the Town Hall, Clinton, Connecticut.				
Florida	Charlotte County (unincorporated areas) (FEMA-6485)	Gulf of Mexico	At the center of intersection of Annapolis Lane and Oakland Hills Road.	*10
			At the center of intersection of Griggs Road and Short Street.	*13
		Charlotte Harbor	At the center of intersection of Woodside Street and Ester Avenue.	*8
			At the center of intersection of 4th Street and Larsen Street.	*10
			At the center of intersection of Bayshore Road and Larsen Street.	*12
Maps available for inspection at the Zoning Office, 18500 Murdock Circle, Port Charlotte, Florida.				
Florida	Sarasota County (unincorporated areas) (FEMA-6521)	Gulf of Mexico	Center of intersection of West River Road and Venice Farm Road.	*8
			Center of intersection of Mangrove Point Road and Midnight Pass Road.	*10
			Center of intersection of Cedar Park Circle and Higel Avenue.	*11
			Center of intersection of State Highway 789 and City Island Road.	*12
			Center of intersection fo Givens Street and Ocean Boulevard.	*13
			Center of confluence of Forked Creek and Lemon Bay	*14
			Center of intersection of Beach Road and Columbus Boulevard.	*15
			Western most tip of Sarasota Point	*16
			200 feet west from the center of intersection of Casey Key Road and Sandspur Lane.	*17
			500 feet southwest from center of intersection of Uplands Boulevard and Parkview Drive.	*18
Maps available for inspection at the Building Department, 1301 Cattlemen Road, Sarasota, Florida.				
Indiana	(T) Dyer, Lake County (Docket No. FEMA-6074)	Dyer Ditch	At mouth	*622
			Just downstream of 213th Street	*622
			Just upstream of 213th Street	*626
			About 0.4 mile downstream of U.S. Highway 30	*629
			Just downstream of U.S. Highway 30	*635

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			About 200 feet downstream of the Louisville and Nashville Railroad	*636
			Just upstream of the Louisville and Nashville Railroad	*642
			Just downstream of Novak Road	*642
		Hart Ditch	Just upstream of Main Street	*621
			Just downstream of the Elgin Joliet and Eastern Railway	*630
			Just upstream of the Louisville and Nashville Railroad	*632
			About 0.27 mile upstream of Hart Street	*637
		Shallow Flooding	Portions of the area south of Main Street, east of Sheffield Avenue, north of 210th Street, and west of Hart Ditch.	*620
			Portions of the area bordered by Dyer Ditch, Hart Ditch, and 213th Street.	[illegible]
			Portions of the area south of 213th Street, west of Dyer Ditch, north of the Elgin Joliet and Eastern Railway, and east of Calumet Avenue	*625
			Portions of the area south of 213th Street and northeast of Dyer Ditch.	*624
			Portions of the area south of the Elgin Joliet and Eastern Railway, west of Dyer Ditch, north of Lincoln Highway, and east of the Louisville and Nashville Railroad.	*628
			Area east of Dyer Ditch and north of Lincoln Highway	[illegible]
			Portions of the area south of Main Street, east of Hart Ditch, and northeast of Dyer Ditch from its mouth to about stream mile 0.57	*620
			Portions of the area northwest of Dyer Ditch at about stream mile 0.6.	*621

Maps available for inspection at the Town Hall, 226 East Schultz Street, Dyer, Indiana.

Nevada	Mineral County (unincorporated areas) (FEMA-6356)	Cottonwood Creek Alluvial Fan Flooding.	Intersection of Kenneth Drive and Cottonwood Drive	#3
		Shallow Flooding	80 feet west from center of intersection of Randal Street and U.S. Highway 95.	*4,085
		Corey, Powell, and Little Squaw Creeks.	Intersection of 1st Street and State Highway 31	#1
		Luning area Alluvial Fan Flooding	1.3 miles south of intersection of State Highway 23 and U.S. Highway 95.	#1

Maps available for inspection at County Clerk and County Treasurer's Office, 1st and A Streets, Hawthorne, Nevada.

Pennsylvania	Kennett, township, Chester County (Docket No. FEMA-6254).	Red Clay Creek	At the downstream corporate limits	*191
			At the confluence of East Branch Red Clay Creek	*204
		West Branch Red Clay Creek	At the confluence with East Branch Red Clay Creek	*204
			Approximately 1,600 feet upstream of Winding Lane	*217
			At Kaolin Road	*226
			At Private Road located approximately 3,800 feet upstream of Chandler Mill Road.	*244
			At Hillendale Road bridge	*256
			At Quarry Road	*265
			At West Cypress Street	*277
			At the upstream corporate limits	*286
		East Branch Red Clay Creek	At the confluence with Red Clay Creek	*204
			At downstream side of Old Kennett Road	*224
			At upstream side of McFarland Road bridge	*241
			Approximately 500 feet upstream of Hillendale Road bridge.	*260
			At the downstream Kennett Square corporate limits	*283
			At the upstream Kennett Square corporate limits	*306
			At the upstream corporate limits	*324
		Tributary 1	At the downstream corporate limits	*209
			At Burnt Mill Road bridge	*222
			Approximately 2,500 feet upstream of Burnt Mill Road bridge.	*246
		Tributary 2	At the downstream corporate limits	*316
			At upstream side of Hadley Mill Road bridge	*328
			Approximately 1,300 feet upstream of Hadley Mill Road bridge.	*341
			At the upstream corporate limits	*360

Maps available for inspection at the Township Building, Kennett Square, Pennsylvania.

Texas	City of Port Arthur, Jefferson County (FEMA-6333)	Rhodair Gully	Just upstream of Port Arthur Road	*10
			Just downstream of U.S. Highway 69	*15
		Alligator Gully	At the intersection of Memorial Freeway and Main "B" Canal.	*3
		Port Acres	At the intersection of State Highway 365 and Wilson Avenue.	*3
		Lakeside	Along Bayou Drive and Cashmere Drive	*1
		Crane Bayou	At the intersection of Main Avenue and 15th Street	*3
		Sabine Pass	At the entrance to Sabine Pass	*21
			Just south of Texas Point at mouth of Texas Bayou	*16
			At the Coast Guard Station at shore side	*13
			At Sabine Pass side	*14
			At Sabine Pass community at intersection of State Highway 87 and Broadway Street.	*12
			At Sabine Pass just upstream of U.S. Highway 82	*12
			At the crossing of State Highway 87 over the Intracoastal Waterway.	*12

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			At Gulf Gate Bridge at Sabine/Neches Canal	*10
			At Main Avenue extended outside of the Levee	*8
			Southwest of the community of Sabine Pass, at the intersection of State Highway 87 and a dirt road located 1.75 miles southwest of South 14th Avenue.	*15
		Neches River	At State Highway 87 (under the control of Wave Height Action).	*9
			At mouth of Molasses Bayou (affected by Wave Height Surge).	*8

Maps available for inspection at City Hall, 444 Fourth Street, Port Arthur, Texas 77640.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and E.O. 12127, 44 FR 19367)

Issued: January 5, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84-795 Filed 1-11-84; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[Gen. Docket No. 83-325; RM-4062; RM-4075; FCC 83-597]

Amendment of Part 15 to Add New Interim Provisions for Cordless Telephones

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order adopts interim rule provisions for cordless telephones. This action is needed because the present FCC Rules are inadequate to meet the growing consumer demand for these devices. This action is intended to provide relief from overcrowding of cordless telephone channels while the Commission contemplates permanent rule provisions for these devices.

DATES: This Order becomes effective February 15, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mr. Julius P. Knapp, Federal Communications Commission, Office of Science and Technology, 2025 "M" Street NW., Washington, D.C. 20554. Phone (202) 653–8247.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 15

Cordless telephones.

Report and Order

In the matter of Amendment of Part 15 to add new interim provisions for cordless telephones; Gen. Docket No. 83–325, RM–4062, RM–4075.

Adopted: December 22, 1983.
Released: January 10, 1984.

By the Commission.

I. Introduction

1. A *Notice of Proposed Rulemaking* (NPRM) in this proceeding was adopted on March 31, 1983 (48 FR 16298, April 15, 1983). The instant *Report and Order* establishes interim rule provisions for cordless telephones until permanent frequencies can be found for operation of these devices.

2. Cordless telephones utilize a short range two-way radio communications link in place of the wire normally connected to a telephone handset. This allows the user the freedom to talk on the telephone anywhere throughout his home or yard without the restriction of the telephone cord. Cordless telephones presently operate without individual license under the provisions for low power communication devices in Part 15 of the FCC Rules. Most of the present generation of cordless telephones are designed so that the portable handset transmits on one of five frequencies in the 49 MHz band subject to the requirements of §§ 15.117 and 15.118; the base unit, which connects to the telephone line, transmits in the band 1.625 to 1.8 MHz using carrier current techniques, subject to the requirements of § 15.7 of the Rules.[1]

3. This proceeding was initiated in response to petitions for rulemaking from the Electronic Industries Association, Telecommunications Group, Personal Communications Section (EIA/PCS) and Mura Corp.,[2] who stated that the present rules are inadequate to meet the growing demand for cordless telephones. The *NPRM* cited the following reasons for the proposal: the presently available frequencies are fast becoming overcrowded resulting in mutual interference between cordless telephones; the anticipated expansion of the AM broadcast band upwards to 1705 kHz towards the end of this decade will result in interference to cordless telephones; and, there are technical difficulties with 1.625—1.8 MHz carrier current operation (i.e., 1.7 MHz cordless telephones are susceptible to interference from home appliances and other devices connected to the household electrical wiring, and the 1.7 MHz band is a poor match for the 49 MHz link due to substantially different radio wave propagation characteristics). The petitioners requested that 25 to 30 channels be established for cordless telephones. Both Mura and EIA/PCS suggested use of frequencies in the bands 46.6—47.0 MHz and 49.6—50.0 MHz, which are allocated for use by the U.S. Government, and additionally, EIA/PCS recommended use of the bands 74.6 to 74.8 MHz and 75.2 to 75.4 MHz, which straddle the allocation at 75 MHz for aeronautical marker beacons.

[1] In an *Order Granting Conditional Waiver*, adopted September 29, 1982, released October 4, 1982, 48 FR 4788, the Commission granted a waiver of § 15.7 to American Telecommunications Corporation for a cordless telephone. The waiver was subject to technical and other conditions and required production to terminate by October 1, 1984. Authority was delegated to the Chief Scientist to grant waivers to other manufacturers subject to the same conditions. An *Errata* to the waiver was issued on February 1, 1983, 48 FR 5928. See also the *Memorandum Opinion and Order*, FCC 33–358, adopted July 28, 1983, released August 5, 1983, reaffirming the waiver.

[2] Petition filed by the Mura Corporation on February 26, 1982, designated RM–4062. Petition filed by the Electronics Industry Association (EIA) on March 10, 1982, designated RM–4075.

4. The Commission's decision to propose frequencies in the 46 MHz and 49 MHz bands was coordinated with and concurred in by the U.S. Department of Commerce, National Telecommunications and Information Agency (NTIA) which has responsibility for managing U.S. Government use of the radio spectrum. Specifically, NTIA, in a report which was approved by the Interdepartment Radio Advisory Committee (IRAC) and referred to the Commission by NTIA, agreed to allow interim use of the 46 and 49 MHz frequencies provided that manufacturing or importing of equipment using these frequencies is terminated after five years and provided further that marketing is terminated within six years from the date any rules become effective.[3]

5. The *Notice of Proposed Rulemaking* in this docket proposed to permit production of cordless telephones for a period of 5 years in 20 frequencies (10 duplex channels) in the 46 and 49 MHz bands. Marketing was to terminate one year later. With respect to a long term solution for cordless telephones, the Commission had already solicited comments on one possible method of accommodating cordless telephones. In General Docket 83–26, which proposed a new personal radio service in the 900 MHz region of the spectrum, comments had been requested as to whether cordless telephones might be made part of this new service.[4] Cordless telephone manufacturers had indicated informally that it would take 5 to 10 years to develop viable 900 MHz cordless telephones. In view of the industry's stated need for more immediate relief, the Commission elected to propose interim rules at 46/49 MHz.

6. Fourteen parties filed comments and eight parties filed reply comments in response to the *NPRM* as listed in the attached Appendix A. The majority of commenters are manufacturers of cordless telephones. Two of the commenters, AT&T and GTE Service Corp., are telephone system operators. Three are organizations representing TV broadcast interests who focus exclusively on interference to TV reception that could potentially be caused by cordless telephones. The issues which the commenters have raised are discussed below. With the exceptions of those modifications discussed in the succeeding paragraphs, the rules we are adopting herein are essentially the same as those proposed.

[3] A copy of the "Report of Ad Hoc 184" has been placed in the official file of this proceeding and is available through the FCC duplicating contractor.

[4] *Notice of Proposed Rulemaking*, General Docket 83–26, FCC–83–19 (Released March 4, 1983), at paragraph 76.

II. Comments and Discussion

A. Permanent Provisions for Cordless Telephones

7. Cordless telephone manufacturers and telephone system operators first and foremost emphasize the need for the Commission to move forward as soon as possible with permanent provisions for cordless telephones, notwithstanding the fact that immediate relief is needed by way of adoption of the proposed interim rules. The cordless telephone industry indicates that while it is receptive to a permanent frequency assignment in the 900 MHz region of the spectrum, it does not believe that cordless telephones can share frequencies with the proposed new personal radio service. Several of the commenters report that they intend to file detailed comments to this effect in the pending General Docket 83–26. Further, Electronic Industries Association, Personal Communications Section (EIA/PCS), which represents approximately fifteen cordless telephone manufacturers, states that it plans to submit a petition for rulemkaing in the near future containing a specific proposal for an exclusion allocation of frequencies for cordless telephones in the 900 MHz region.

8. General Electric Co. (GE), the petitioner for the new 900 NHz personal radio service, filed comments in the instant docket as a distributor of cordless telephones. GE suggests that the Commission delay a decision on a permanent allocation for cordless telephones until after the new personal radio service is established and some experience is gained with this service. This experience could then form the basis for determining whether the service is suitable for cordless telephones. This suggestion is strongly opposed by EIA/PCS, AT&T and Uniden who reply that the demand for cordless telephones is sufficiently great that it merits separate and immediate action.

9. The Commission fully recognizes the need to establish permanent provisions for cordless telephones. We will evaluate the comments filed in General Docket 83–26 and if it appears that cordless telephones can and should be accommodated within the scope of that proceeding we will act accordingly. Alternatively, if the industry believes that a separate proceeding is required, as seems to be indicated by the comments filed in this docket, we would welcome a detailed proposal.

B. Proposed Interim Frequencies

10. In addition to proposing the use of 46/49 MHz frequencies for cordless telephones, comments were solicited in the *NPRM* as to whether additional lightly loaded frequencies in the non Government land mobile bands between 30 and 50 MHz might be used for cordless telephones on either an interim or permanent basis. The frequencies, identified in footnote 11 of the *NPRM*, were not expressly proposed because it was anticipated that the wide dispersal of the frequencies would pose design problems for cordless telephones.[5] Also, it was expected that land mobile users would increase the use of these frequencies once they became aware of the light loading. EIA/PCS suggests that the frequencies in the band 30 to 50 MHz be made available for cordless telephones on an interim basis. They estimate that the 20 frequencies which the Commission proposed at 46 and 49 MHz will provide relief for only 12 to 18 months. Some manufacturers who filed individual comments estimated that the relief might last as long as 2½ years. The additional lightly loaded frequencies in the 30 to 50 MHz band should, according to EIA/PCS, be made available to provide the 5 year relief contemplated in the *NPRM*. EIA/PCS indicates that if manufacturers encounter difficulties in designing cordless telephones for the entire 30 to 50 MHz band, they can merely choose to design for a part of this band, i.e. the 46/49 MHz segment.

11. The question of how long a period of relief from overcrowding will be provided by the interim frequencies at 46 and 49 MHz is a matter of speculation and we have no clear evidence that the proposed frequencies will not be sufficient until permanent provisions are in place. Moreover, there appears to be little assurance that cordless telephone manufacturers would, in fact, use the subject frequencies in the 30 to 50 MHz band if made available to them. These factors, in addition to some concerns we have about possible interference, lead us to conclude that it is inappropriate to take action on the subject frequencies in the 30 to 50 MHz region at this time. Accordingly, we have limited the interim frequencies for cordless telephones to those at 46 and 49 MHz, as proposed in the *NPRM*.

[5] Footnote 11 of the *NPRM* identified 30 frequencies spread throughout the 30 to 50 MHz range. The frequencies are so widely separated that it is questionable whether a single cordless telephone design could cover all the frequencies. Changes of electrical parts or returning of circuits might be required.

12. GTE notes that a number of the proposed interim frequencies are spaced only 15 kHz apart and contends that adjacent channel interference will occur with this spacing. No data are presented to support this contention. Existing cordless telephones operating at 49 MHz under the provisions of §§ 15.117 and 15.118 utilize 20 kHz channels spaced 15 kHz apart and none of the manufacturers commenting in this proceeding report difficulties with adjacent channel interference. The Commission has received reports of mutual interference between cordless telephones, and while we cannot say with certainty that adjacent channel interference has never been the cause, in our opinion this does not seem to be a significant problem. Lacking actual evidence of adjacent channel interference, we believe there is no reason to change the channel spacing at this time.

13. Mr. John S. Papay, an amateur radio operator, advises that 3 of the proposed interim frequencies, 46.79, 49.79 and 49.93 MHz, are utilized by the U.S. Army Military Affiliate Radio System (MARS) program in Ohio. Consequently, Mr. Papay claims that there will be mutual interference between cordless telephones and MARS equipment in Ohio. MARS is a voluntary program whereby amateur radio operators provide communications assistance to the military using U.S. Government frequencies. In response to Mr. Papay, EIA/PCS and Uniden point out that the proposed frequencies were recommended by NTIA/IRAC as the least utilized on a nationwide basis. The use of certain frequencies by MARS in Ohio should not, according to EIA/PCS and Uniden, preclude nationwide use by cordless telephones. They assert further that with the high power operation of MARS and low power operation of cordless telephones, if interference occurs it would be to cordless telephones. We agree, in part, with EIA/PCS and Uniden. Most importantly, we would expect that if interference occurs on these few frequencies in Ohio, then vendors in that state will soon learn to avoid marketing cordless telephones that use those frequencies. Mr. Papay's comment has been brought to the attention of NTIA for its consideration.

C. Designation of Frequency Bands for Base and Remote Units; Frequency Pairing

14. In order for a cordless telephone to operate in a duplex mode (talk and listen at the same time), two frequencies must be utilized, one for transmission from the base to the remote handset and one for the remote to the base. The *NPRM* proposed no restrictions on how the 20 interim frequencies for cordless telephones might be paired or otherwise organized. This was to be left up to the discretion of each individual manufacturer. There is a clear consensus among the commenters, with the exception of Electra Corp., that certain restrictions should be prescribed for how the frequencies may be used.

15. Most of the industry request that the Commission designate the frequencies in the 46 MHz band for base units and frequencies in the 49 MHz band for remote units. This designation of frequencies is allegedly needed to preclude manufacturers from designing by chance cordless telephones that operate on complementary frequency pairs, such that two cordless telephone base units in adjacent homes or apartments might lock on to one another. According to GTE, in such a situation both telephones could go off hook and tie up telephone company central office equipment.[6] Further, a valuable cordless telephone frequency pair would be blocked. Several commenters in addition express concern that cordless telephone handsets operating on complementary frequencies might be used as walkie-talkies.

16. The industry also requests that the Commission pair the interim frequencies. This would allegedly reduce the amount of interference between cordless telephones compared with unpaired frequencies because both frequencies in each channel pair would either be vacant or receiving interference. EIA/PCS, AT&T, GE, GTE, Phone-Mate and Dynascan all advocate a pairing scheme that takes advantage of a fixed spacing of 3.06 MHz between 6 pairs of the proposed 20 frequencies. The uniform spacing would provide for design of frequency agile cordless telephones that could scan for a vacant channel. An alternative pairing scheme put forward by Mura Corp. involves use of 3.00 MHz spacing between the paired frequencies, where 5 pairs of the proposed 20 frequencies have this spacing. Mura and GTE suggest an exchange of certain frequencies with the U.S. Government to increase the number of channels having fixed spacing.[7]

17. Electra is the sole opposition to designation of base unit and remote unit frequencies and frequency pairing. Electra explains that it developed and is marketing under the existing FCC Rules a cordless telephone which uses a technique that permits operation on two closely spaced frequencies in the 49 MHz band.[8] According to Electra, assignment of base/remote unit frequencies and frequency pairing will stifle innovations such as its duplex 49 MHz cordless telephone. AT&T contends that the technique utilized by Electra is not the result of marketplace forces so much as a way of dealing with FCC rules that were never intended to accommodate cordless telephones. AT&T states that there appears to be no free market justification for denying the public the benefit of channel pairing in order to preserve Electra's design. EIA/PCS, GTE, Phone-Mate and Uniden all oppose continued provision for duplex 49 MHz cordless telephones because this would allegedly create an imbalance whereby the 49 MHz frequencies are more heavily utilized than the 46 MHz frequencies. In its reply comments Electra asserts that the *NPRM* did not propose termination of duplex 49 MHz cordless telephones, and in any event, Electra feels that it should at least be allowed an adequate period to recover the development costs of its duplex 49 MHz cordless telephone.

18. We are persuaded that the risk that cordless telephones may be designed to operate on complimentary frequencies, resulting in base units interlocking and causing adverse effects on telephone company plant, warrants designation of the 46 MHz frequencies for base units and 49 MHz frequencies for remotes. Although little evidence has been submitted to support the industry's claim that frequency pairing will reduce interference, it appears that the hypothesis is correct.[9] Since reduction

[6] GTE acknowledges that this issue is related to the issue of cordless telephone security as discussed in paragraphs 20 through 27, below. However, GTE points out that it is insufficient to rely on security features alone to avoid lock-up of two cordless telephones operating on complimentary frequency pairs.

[7] The frequencies suggested for addition or substitution were 49.610; 49.630; 49.690; 49.710; 49.730; and 49.790 MHz.

[8] The Electra duplex 49 MHz cordless telephone operates under the present §§ 15.117 and 15.118 and utilizes the frequencies 49.830 and 49.890 MHz, which are the lowest and uppermost frequencies of the five that are currently available at 49 MHz. Thus the two frequencies are separated by only 60 kHz.

[9] That pairing of frequencies will reduce mutual interference between cordless telephones can be seen intuitively. For example, suppose only four frequencies were available and one user is occupying two of the frequencies. If the frequencies are paired at random, a second user will receive interference if his unit operates on either or both of the first unit's frequencies. But if the frequencies are paired in a defined way, the second user will receive interference only when his unit operates on the same pair of frequencies; the possibility of receiving interference on only one frequency is eliminated. Thus the chance or probability of receiving interference is reduced when utilizing channel pairing.

of mutual interference among cordless telephones would be of benefit to consumers, to manufacturers and to the telephone companies, we are prescribing frequency pairing. We have elected to adopt the 3.06 MHz frequency pairing recommended by the majority of commenters because this provides the highest number of uniformly spaced frequencies among those proposed. We have consulted with the Executive Branch regarding the frequencies that Mura and GTE recommend to substitute to increase the number of paired channels with fixed spacing. Due to the nature of existing operations or the density of usage on the suggested frequencies, it is believed that significantly increased interference to the cordless telephones would result. Therefore, the frequencies we are adopting are those that were proposed.

19. With regard to Electra's argument that pairing frequencies will stifle innovations, it is difficult to foresee any tangible benefits that would result from allowing manufacturers to choose their own frequency pairs. Electra has not pointed out anything substantive. We believe that the overall benefits of reduced interference outweigh the minimal risk that frequency pairing might in some way impede meaningful innovations. Under the rules we are adopting, Electra will be permitted to continue to produce its dual 49 MHz cordless telephone until October 1, 1984, which as discussed in paragraph 31 below, is the same termination date that applies to all other current generation cordless telephones. Whether Electra's situation is sufficiently unique that it should be allowed a longer period is not an issue to be considered in this proceeding. We note, however, that the Electra unit has already been on the market for at least 2 years, and so it seems likely that Electra will amply recover its development costs.

D. Cordless Telephone Security

20. Proposed § 15.232(g) stipulated that "A cordless telephone system shall provide some minimum means of preventing the base unit from either being engaged by an outside party or unintentionally going off-hook and seizing local telephone network loops." This proposed requirement stemmed primarily from comments submitted by one telephone company that cordless telephones could cause billing and other problems for telephone companies unless these devices are properly designed. While the commenters agree that such a requirement may be necessary, they are divided about what should be considered a "minimal means" of protection. The cordless telephone industry refers to the ability of a cordless telephone to reject outside users or spurious signals as cordless telephone security. We will use the same term herein to refer to the subject requirement.

21. GTE explains that it is seriously concerned about how inadequate cordless telephone security might adversely impact on telephone company operations. GTE describes a number of scenarios where the telephone company would be left to resolve problems caused by poor cordless telephone security. For instance, a user may discover he can obtain a dial tone from a neighbor's base unit and proceed to make toll or obscene calls. Or, a user may have the same security combination as a neighbor's base unit and unwittingly dial a call through his neighbor's base unit. Or, if a cordless handset engages two base units and a call is placed to something like an airline reservation desk, two reservation clerks would receive the call and, due to the crosstalk, the telephone company would likely receive an "others on line" report by the reservation desk. GTE reports that it has heard of two incidents where cordless telephones dialed 911 as a result of responses to spurious signals. AT&T does not elaborate on how it perceives that inadequate cordless telephone security may affect telephone company operations. However, AT&T contends that the proposed rule implies that manufacturers need only make some minimal effort to achieve security and suggests that the rule be amended to require that manufacturers do whatever is necessary.

22. Because of these potential problems, many cordless telephones currently marketed are designed to provide some security protection.[10] Many units are designed to completely lock out the base unit radio receiver when the remote handset is in the base unit's cradle. Since it is obvious that often the handset will not be left in the cradle but will be kept at another location in the house, the lock out feature is therefore sometimes supplemented with one of two types of security techniques. Probably the more widely used technique involves transmission of one or more guard tones in addition to the main voice signal. The tones, inaudible to the user, must be present for the base unit to respond and dial out a call. For technical reasons this technique is limited to a few unique combinations per channel.[11] The second approach to cordless telephone security, which seems to be growing in popularity, is to transmit a digitally coded signal to "unlock" the base unit. This approach generally allows several hundred code combinations per channel and is similar to the technique utilized by garage door opener controls.[12]

23. The commenters express diverse opinions on what the Commission should consider an acceptable minimal means of security. GTE explains that at least 500 codes per channel are needed in order to ensure that there is a reasonable chance that two cordless units within range won't have the same combination. This is based on GTE's understanding of what the garage door industry found to be necessary for garage door controls and upon a limited analysis.[13] Phone-Mate concurs with GTE. Mura suggests that cordless telephones be required to have at least a level of security provided by dual combination guard tones or a digital coding scheme that accommodates at least 64 different code combinations. Uniden asserts that single guard tone technology will provide adequate protection against the situations described by GTE and requests that the Commission expressly state that guard tones are acceptable.

24. EIA/PCS opposes any requirement calling for a minimum number of codes or combinations and states that some manufacturers are developing security

[10] While manufacturers are presently required to submit applications for equipment authorization of cordless telephones, information is not required concerning security features and how they function. Our information on current cordless telephone security features comes in part from a review of what material has occasionally been submitted with equipment authorization applications and in part from a number of articles appearing in technical magazines.

[11] Usually the guard tones employed by cordless telephones range somewhere between 4 and 7 kHz. The handset will ordinarily contain an oscillator to generate the tones and the base unit will contain a tuned circuit which responds to the tones. There are several constraints which limit the number of combinations a manufacturer might achieve using guard tones: as higher frequency tones are used, wider transmitter and receiver bandwidths are required; tones spaced closely together require greater selectivity to distinguish them; and use of multiple tones requires more complex and likely more expensive circuitry.

[12] Garage door openers generally transmit a train of digital pulses to "unlock" the receiver and hence open the door. Usually the sequence of the pulses can be adjusted by the user to form 250 or more combinations of pulse sequences. This is accomplished by setting a series of switches in both the garage door opener transmitter and receiver to have the identical on/off sequence.

[13] GTE claims that the chance of two cordless telephones having the same combination is similar to the so called "Birthday Paradox"—a probability analysis which shows that even among a small number of people there is a surprisingly good chance that two will have the same birthday. GTE uses the analysis to compute that with 500 codes, the 50/50 probability of duplication occurs for 27 users. This analysis appears to be oversimplistic for the reasons indicated in paragraph 25.

techniques where the number of combinations would be irrelevant. The Section strongly believes that competitive marketplace forces will ensure that sufficient security levels will be achieved. EIA/PCS states that the Commission staff should determine what is a minimally acceptable means of security on a dynamic basis, taking into account a number of factors including the number of channels used by the product, the state-of-the-art and the real danger of harm to the network.[14]

25. We are not convinced that the potential problem of inadequate cordless telephone security is as severe as GTE describes. While GTE has concluded that 500 codes per channel are needed to prevent disruption of telephone company operations, it neglects to take into account serveral factors which tend to lessen the chances of cordless telephone interactions. To begin with, although several cordless telephones might be operated near each other, in all likelihood only a few would utilize the same channel. Then, we can assume that, consistent with the present generation of cordless telephones, most of these units will have some form of security protection. In order to interact, two units would have to be in the receive mode (handset removed from its cradle), the security techniques of each would have to be similar and they would have to be set for the same 'combination'. A cordless telephone using guard tones for security may be immune to one using digital coding, and vice versa.[15]

26. Further, we note that there is little evidence in the record before us of external cost—*viz.*, costs to users other than the cordless phone customer without a security system. There is no evidence, for example, that without security systems tie-ups in the telephone company central office equipment would result like those which have led us to require, henceforth, the pairing of frequencies. In addition, we have been presented with no information on the extent to which misbillings actually occur, on how the telephone companies are handling the problem, or on the cost incurred by telephone companies because of misbilling. At the same time, we have no information as to the cost to manufacturers of including security devices, a cost that would likely be passed on to the consumer.

27. In light of this lack of information, we find insufficient justification for imposing a regulation mandating security systems at this time. This conclusion is particularly warranted because marketplace forces have already served to bring about security features on most cordless telephones. We expect, as suggested by EIA/PCS, that marketplace forces will bring about still further improvements in cordless telephone security systems. In our view, it is preferable to allow the consumer to decide the degree of security protection he requires and cost he is willing to pay rather than prescribing specific minimal design requirements for security systems. For instance, someone who lives in a remote area may have little if any need for a security system for his cordless telephone. By contrast, someone who lives in a city would gain almost no protection from a minimal security system, such as a 3-code system, which would afford little or no safeguards against nearby users who do not coordinate with other cordless telephone owners operating on the same pair of frequencies. Indeed, we are concerned that if we mandate a specific minimal security system, some consumers might be misled into believing that, by purchasing an "FCC security-approved system," they were purchasing a system that would provide complete security, when that is not a fact. In lieu of a design requirement, we have determined to initiate a notice of rulemaking in this docket, contemplating a labelling requirement for cordless telephones, whereby the prospective purchaser would be informed of the security features that prevent others from dialing calls through that unit. By ensuring that the potential problem of inadequate cordless telephone security is brought to the consumer's attention, we expect that the marketplace would provide appropriate security features best suited to the individual consumer's needs. Thus, the security concerns expressed by parties in this proceeding could be accommodated without the Commission mandating a security requirement.

E. Technical Requirements

28. Electronic Industries Association/Consumer Electronics Group (EIA/CEG), representing manufacturers of television receivers, points out that the fourth harmonics of the proposed interim cordless telephone frequencies at 46 and 49 MHz fall within television channels 9 and 11, respectively. EIA/CEG explains that the spurious emissions limits proposed in § 15.232(d) are insufficient to protect reception of a Grade B contour signal on television channels 9 or 11 if an indoor antenna is used and the cordless telephone is only 3 meters away. EIA/CEG recommends 60 dB suppression of 4th harmonics from cordless telephones. The National Association of Broadcasters (NAB) and the Association of Maximum Service Telecasters, Inc. (AMST), which both represent television broadcasters, echo EIA/CEG's concern. Uniden and EIA/PCS reply that the fourth harmonic of present 49 MHz cordless telephones falls on television channel 11, and is suppressed only 26 dB. They also point out that the FCC proposal represents an additional 10 dB suppression of the 4th harmonic and question the need for 60 dB of suppression. We believe EIA/CEG's assumptions are overly conservative.[16] For instance, in an area where only a Grade B television signal is available it is more likely that an outdoor aerial would be used. Also, a user can correct any interference to his own TV reception by increasing the separation distance. While we have received at least one report of interference to TV reception (on TV channel 2) caused by a cordless telephone, there is little evidence at this time of significant interference caused by harmonic emissions from cordless telephones. In light of these factors we are adopting the proposed spurious emissions limits. The spurious emissions requirement has been renumbered from the proposal and is set forth in § 15.233(d).

29. EIA/PCS requests a slight modification of the proposed spurious emissions requirement with respect to the modulation products on either side of the fundamental frequency. Present cordless telephones operating under § 15.118 are subject to a spurious emissions limit of 500 microvolts per meter (μV/m) measured at 3 meters distance. As mentioned above, the Commission's proposal called for a tightening of this requirement to further control the interference potential to television broadcast and other radio services. While EIA/PCS is willing to accept the tighter limits, it requests a slight modification to allow 500 μV/m in the 10 kHz bands just above and below the authorized band. This request is

[14] A definition of harm to the telephone network can be found in § 68.3(g) of Part 68. While inadequate cordless telephone security may not physically damage telephone equipment, any resultant misbilling due to use of these devices could be construed as harm to the telephone network under the definition in Part 68.

[15] GTE's recommendation to require 500 codes per channel would be tantamount to mandating use of digital coding. If all cordless telephones utilized digital coding then the advantage of possible noncompatibility of techniques is lost.

[16] The proposed spurious emissions limits are identical to those in place for personal computers, adopted in FCC Docket No. 20780. For a discussion of these limits see paragraphs 44 thru 47 of the *Order Granting in Part Reconsideration* in Docket No. 20780, adopted March 27, 1980, released April 9, 1980, 45 FR 24154, April 9, 1980.

made to accommodate the modulation products attributable to the use of guard tones for security purposes. We believe that imposing a field strength limit in a 10 kHz band would be a somewhat unorthodox approach to limiting modulation products and would at least be inconvenient from a measurement standpoint.[17] The more appropriate approach to this problem is modification of the provisions pertaining to the emission bandwitch. Accordingly, the rules we are adopting in § 15.233(b) provide the relaxation EIA/PCS requests but are based on limits on emission bandwidth. The procedure to determine compliance with this requirement is a practical one that is used for other transmitters.

30. Several of the commenters request clarification of proposed § 15.232(e) which calls for the cordless telephone to be completely self contained with the antenna permanently attached. They ask that this requirement be modified to explicitly permit designs that allow the user to conveniently replace a broken antenna with one of the same kind. Apparently antenna breakage occurs frequently with cordless telephones. The manufacturers point out that many current generation cordless telephones provide user serviceable antennas under the 'self contained' requirement of § 15.118(e). We are expanding the proposed requirement and renumbering it as § 15.233(e) to specifically allow antenna attachment designs that facilitate replacement of broken antennas. However, we will not permit use of standard electrical connectors that would allow replacement with an antenna of a different type of use of external radio frequency amplifiers. Manufacturers also request that the requirement that the device be self-contained should be interpreted to allow operation while connected to a battery charger. Experience has indicated that the transmitter output signal is affected only minimally by connection of a battery charger. Accordingly, § 15.233(e) has been rewritten to specifically permit operation while connected to a battery charger.

[17] In order to determine the levels of modulation products it is necessary to apply a standard input signal to the device. It would be cumbersome to carry the instruments necessary to generate this input signal out to an open field test site where field strength measurements are normally performed. Tests to determine emission bandwidth and levels of modulation products are therefore normally performed at a laboratory bench. Aside from this, there are other measurement difficulties posed by a field strength limit for closely space emissions in a 10 kHz band.

F. Implementation/Termination Dates

31. Fanon/Courier requests that the new rules for cordless telephones not be finalized until April, 1984 to avoid any disruption of the 1983 Christmas marketing season. Evidently it is concerned that consumers may not purchase present generation cordless telephones if they are aware that new models will be available in the near future. In view of the fact that all other manufacturers request immediate action to adopt the proposed interim provisions, we must assume that the concern expressed by Fanon Courier is of minor importance to the cordless telephone industry. Moreover, the issue raised by Fanon Courier is practically moot at this point in time. Accordingly, we see no reason to delay these rules. A number of the commenters point out that the proposal did not include any termination dates for cordless telephones operating under the present rule provisions. They state that unless the Commission takes this measure, there would be overlap and potential contradiction between the general provisions for 49 MHz low power communications devices as set forth in §§ 15.117 and 15.118 and the new interim provisions for cordless telephones. Most suggest that production of current generation cordless telephones be required to cease by October 1, 1984. This is the production termination date the Commission established as a condition for waiver of § 15.7 for cordless telephone 1.7 MHz carrier current transmitters.[18] We agree that a termination date for present generation cordless telephones should be stated in the rules and are amending § 15.117 to require production to terminate by October 1, 1984.

32. Several of the commenters request modification of the termination dates for the interim provisions. They state that the termination for manufacturing cordless telephones under the new provisions should be set at either 5 years after the interim rules are adopted or 2 years after permanent rules are adopted, whichever is later. As we indicated earlier, at this time we expect to have permanent rule provisions in place soon enough to make a smooth transition from the interim rules. We are therefore prescribing a fixed 5 year cut-off date on production under the interim provisions. Several manufacturers also oppose the proposed requirement that marketing cease one year after production. They state that this will create a situation whereby many retailers may be forced to sell off surplus at a loss. As an alternative, it is suggested that the marketing cut-off only be applied to marketing by manufacturers or importers; not to retailers. In our view, one year should be sufficient to complete sales of these cordless telephones once manufacture ceases, particularly since the cut-off date is known well in advance. We are therefore adopting the one year cut-off on marketing after prodution ceases.

[18] See footnote 1, supra.

G. Miscellaneous Issues

33. The proposed rules included a requirement that cordless telephones carry a label that alerts consumers that the device may not ensure privacy of conversations. Mr. Samuel H. Beverage, commenting as a purchaser of a cordless telephone, complains that this is not sufficient. Mr. Beverage explains that the consumer may not be aware when buying the device that it employs radio and conversations may not be private.[19] He suggests that cordless telephones be required to either employ voice scrambling or have a beeper that warns the incoming caller that the conversation may not be private.

34. We do not believe that a design requirement to ensure privacy is the appropriate approach. Consumers must share some responsibility for evaluating the advantages and limitations of cordless telephones before deciding whether to purchase such as device. We believe that the statement about privacy on the label will be plainly visible to consumers who inspect the product before purchase and it gives adequate warning. The lack of privacy when using cordless telephones has been discussed in any number of consumer articles about these devices and obviously many people are willing to accept the risk. Mandating voice encryption would surely increase to price of cordless telephones quite substantially. It is best left up to the individual consumer to decide whether this feature is needed and the added cost is warranted. While we are unaware of any voice secure cordless telephones available at this time, we have heard informal reports that such designs are being developed.

35. Several parties objected to the proposed requirement that a warning label be carried on both the cordless telephone base and remote units advising the user that interference must be accepted and conversations might not be private. GTE, Dynascan, Phone-Mate and Matsushita request that the

[19] The Commission has received a number of complaints similar to Mr. Beverage's, both in writing and by telephone.

information be required to be put in the user instruction manual instead of on labels. They argue that there is little space for such a label on the remote unit and that the label is aesthetically unpleasing. Dynascan suggests that alternatively the label be put only on the base. We believe that this information is of sufficient importance that it should be put on the equipment where it can be readily seen by anyone who might use the cordless telephone. However, in view of the concern about space for the warning label on the handset, we are requiring that it be carried only on the base unit.

36. GTE recommends that the Commission prescribe limits on RF energy that may be coupled to the telephone line by cordless telephones. GTE is apparently concerned that manufacturers may attempt to use the telephone wiring as an antenna similar to what is being done now with the 1.7 MHz carrier current link used by present generation cordless telephones. This, according to GTE, could result in harm to the telephone network. While the telphone wiring may perform well as an antenna at 1.7 MHz where the wavelength is long, we suspect that it would yield poor performance at 46 MHz where the wavelength is much shorter. Accordingly, we have little reason to believe that manufacturers will design the 46 MHz cordless telephones to use the telephone line as an antenna for the transmitter. A limit on RF energy coupled to the telephone line does not appear to be needed.

IV. Final Regulatory Analysis

37. Pursuant to 5 U.S.C. 601 et seq. an Initial Regulatory Flexibility Analysis was incorporated in paragraph 12 of the *Notice of Proposed Rulemaking*. In paragraph 14 of this *NPRM*, written comments on this Analysis were solicited with the same filing deadlines as comments on the rest of the Notice. No comments in response to this request were received.[20]

A. Need for and Objective of Rule

38. The Commission is establishing interim frequencies for cordless telephones. The existing general rule provisions that these devices have been operating under are considered by manufacturers to be inadequate to meet the growing consumer demand for these devices.

[20] Fanon Courier refers to the Initial Regulatory Flexibility Analysis in the heading of its comments. However, Fanon Courier's comments are clearly aimed at specific issues in the *NPRM* and not at the Commission's Initial Regulatory Flexibility Analysis.

B. Summary of Issues Raised in Comments on Initial Analysis

39. No comments were received specifically concerned with the Initial Regulatory Flexibility Analysis in the Notice in this proceeding. Since these rules do not impose any new reporting or record keeping requirement, there is no deleterious economic effect on manufacturers of cordless telephones whether a small business or large. In fact, since these rules will facilitate continued growth of the cordless telephone industry, the effects will be beneficial.

C. Significant Alternatives

40. The regulations adopted herein respond to petitions from the cordless telephone industry seeking special rule provisions and additional frequencies for cordless telephones. This action is in line with the petitions, except that the provisions will be made available only for limited period to allow time to consider permanent frequencies and rule provisions. No other significant alternatives are apparent.

V. Ordering Clauses

41. Pursuant to the above and under the authority of §§ 4(i), 302 and 303(r) of the Communications Act of 1934, as amended, it is ordered that Part 15 is amended as set out in Appendix B of this Order.

42. It is further ordered that this amendment shall become effective February 15, 1984. Applications for certification of cordless telephones under these rule provisions will not be accepted before February 15, 1984.

43. For further information concerning this Order contact Mr. Julius Knapp, Office of Science and Technology, telephone (202) 653–8247.

Federal Communications Commission.

William J. Tricarico,

Secretary.

APPENDIX A

	Organization acronym
The following parties filed comments in response to the *NPRM* in General Docket 83-325:	
American Telephone and Telegraph Company.	AT&T.
Samuel H. Beverage	Beverage.
Dynascan Corporation	Dynascan.
Electronic Industries Association:	
Consumer Electronics Group	EIA/CEG.
Telecommunications Group, Personal Communications Section.	EIA/PCS.
Electra Company, Division of Masco Corp. of Indiana.	Electra.
Fanon/Courier Corporation	Fanon.
General Electric Company	GE.
GTE Service Corporation	GTE.
Matsushita Electric Corporation of America	Matsushita.
Mura Corporation	Mura.
John S. Papay	Papay.
Phone-Mate, Inc.	Phone-Mate.

APPENDIX A—Continued

	Organization acronym
Uniden Corporation of America	Uniden.
The following parties filed reply comments:	
American Telephone and Telegraph Company.	AT&T.
Association of Maximum Service Telecasters, Inc.	AMST.
Electra Company, Division of Masco Corp. of Indiana.	Electra.
Electronic Industries Association, Telecommunications Group, Personal Communications Section.	EIA/PCS.
GTE Service Corporation	GTE.
National Association of Broadcasters	NAB.
Phone-Mate, Inc.	Phone-Mate.
Uniden Corporation of America	Uniden.

Apendix B

PART 15—[AMENDED]

Part 15 of the FCC Rules (47 CFR Part 15) is amended as follows:

1. The table of contents of Part 15 is amended by adding a new subheading at the end of Subpart E and titles of new rule Sections to read as follows:

* * * * *

Cordless Telephones

Sec.

15.231 Interim provisions for a cordless telephone.
15.232 Interim frequencies for cordless telephones.
15.233 Technical specifications.
15.234 Report of measurements.
15.235 Certification requirement.
15.236 Labelling and identification requirements for a cordless telephone.
15.237 Non-interference requirement.

2. Section 15.117 is amended by designating the present text as paragraph (a) and by adding a new paragraph (b) to read as follows:

§ 15.117 Operation between 49.83–49.90 MHz.

* * * * *

(b) The manufacture of a cordless telephone using the frequencies in paragraph (a) of this section under the provisions of § 15.118 shall cease October 1, 1984. All cordless telephones manufactured after October 1, 1984 shall conform to the requirements in §§ 15.231–15.237, inclusive.

3. Subpart E of Part 15 is amended by adding a new undesignated heading immediately following § 15.228 and by adding new §§ 15.231–15.237 to read as follows:

Cordless Telephones

§ 15.231 Interim provisions for a cordless telephone.

A cordless telephone may be operated without an individual license, subject to the requirements of §§ 15.231–15.237,

inclusive. The manufacture and importation of such devices shall cease February 15, 1989 and the marketing shall cease February 15, 1990.

§ 15.232 Interim frequencies for cordless telephones.

A cordless telephone shall be operated on one or more of the following frequency pairs, provided it complies with the provisions in §§ 15.231–15.237, inclusive.

Channel	Base transmit (MHz)	Handset transmit (MHz)
1	46.610	49.670
2	46.630	49.845
3	46.670	49.860
4	46.710	49.770
5	46.730	49.875
6	46.770	49.830
7	46.830	49.890
8	46.870	49.930
9	46.930	49.990
10	46.970	49.970

§ 15.233 Technical specifications.

A cordless telephone shall comply with all the technical specifications in this section.

(a) Frequency tolerance of carrier: 2±0.01%. The tolerance shall be maintained for a temperature variation of −20°C to +50°C at normal supply voltage, and for variation in the primary voltage from 85% to 115% of the rated supply voltage at a temperature of 20°C.

(b) Emission shall be confined within a 20 kHz band centered on the authorized carrier frequency. Modulation poducts failling within 10 kHz or below this 20kHz band shall be attenuated at least 26 dB below the level above of the unmodulated carrier. Tests to determine compliance with this requirement shall be performed using an appropriate input signal as prescribed in § 2.989 of this chapter.

(c) The field strength of the carrier frequency shall not exceed 10,000 μV/m at 3 meters.

(d) Harmonics and other out-of-band emissions, on any frequency more than 20 kHz removed from the authorized center frequency shall comply with the field strength limitations in the following table:

Frequency (MHz)	Field strength (μV/m at 3m)
25 to 88	100
88 to 216	150
216 to 1000	200

The spectrum shall be scanned from 25 to 1000 MHz and all signals exceeding 20 μV/m at 3 meters shall be reported.

(e) The cordless telephone shall be completely self-contained except for the power line cord and wiring for connection to the telephone line. This provision does not prohibit operation while connected to a battery charger. The antenna shall be permanently attached to the enclosure containing the phone. The manufacturer may design the unit so that a broken antenna can be replaced by the user; however, use of an antenna jack or standard electrical connector is prohibited.

(f) A cordless telephone which receives electrical power from the public utility power lines shall limit the radio frequency voltage coupled back into the powerlines to less than 100 μV on any frequency below 30 MHz. A device which is designed to utilize a battery charger is subject to this requirement. Measurements shall be performed in accordance with the appropriate parts of IEEE Standard 213. (See § 15.75 of this Part.)

§ 15.234 Report of measurements.

The report of measurements for a cordless telephone operating under § 15.233 shall contain the information required by § 15.143.

§ 15.235 Certification requirement.

Both the base station and portable handset of a cordless telephone shall be certificated by the Commission pursuant to the procedures in Subpart J of Part 2. Certification is a prerequisite for legal marketing and use. The transmitter portion of the cordless telephone shall be certificted to show compliance with the requirments in §§ 15.231–15.237, inclusive. The receiver portion shall be certificated to show compliance with the requirements in Subpart C of this Part. A single application for certification *(FCC Form 731)* may be filed for a cordless telephone system provided it clearly identifies and provides data for all parts of the system to show compliance with the applicable technical requirements.

Note.—A cordless telephone, which is intended to be connected to a public telephone network shall also comply with regulations in Part 68 of this Chapter. A separate application for registration under Part 68 is required.

§ 15.236 Labelling and identification requirements for a cordless telephone.

Both the base station and portable handset of a cordless telephone system shall be identified and labelled pursuant to §§ 2.925, 2.926 and 2.1045 of Part 2 of this Chapter. In addition, the label attached to the cordless telephone base station shall contain the following statement:

This cordless telephone system operates under Part 15 of FCC Rules. Privacy of Communications may not be ensured when using this phone. Operation is subject to two conditions: 1) it may not interfere with radio communications; and 2) it must accept any interference received, including that which may cause undesirable operation.

When a single application for certification of a cordless telephone system is submitted in accordance with § 15.236, both the base station and portable handset may carry the same FCC Identifier.

§ 15.237 Non-interference requirement.

Notwithstanding compliance with the technical specifications herein, a cordless telephone is subject to the general conditions of § 15.3 of this part. The operator of a cordless telephone may be required to stop operating his device upon a finding that the device is causing harmful interference and it is in the public interest to stop operation until the interference problem has been corrected.

[FR Doc. 84-821 Filed 1-11-84; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 87

[PR Docket No. 83-29]

Provision of a Transition Period for the Removal of the A3 Class of Emission (Voice) From Aeronautical Radiobeacon Stations; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: On November 18, 1983, on page (48 FR) 52464, the Commission published a Report and Order in this proceeding concerning the removal of the A3 class of emission (voice) from aeronautical radiobeacon stations.

The effective date mentioned in the Preamble of that document was incorrect. The correct date should read: December 19, 1983, as mentioned in the ordering clause of the text.

In addition, immediately following the caption of the text in the first column, "In the Matter of * * *", the word "corrected" inadvertently appeared and should be disregarded.

FOR FURTHER INFORMATION CONTACT: Robert E. Mickley, Private Radio Bureau, (202) 632-7175.

William J. Tricarico,

Federal Communications Commission.

[FR Doc. 84-816 Filed 1-11-84; 8:45 am]
BILLING CODE 6712-01-M

VOL 49 ISS 8 JA 12 1984 UMI

47 CFR Part 90

Amendment of Part 90 of the Rules To Modify Procedures for Determining Elevation of Average Terrain

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends § 90.309(a)(4) of the Rules by allowing the use of digital terrain data tapes to determine the elevation of average terrain. This procedural change is deregulatory in nature and reduces the burden on the public.

EFFECTIVE DATE: January 30, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Eugene Thomson, Private Radio Bureau, (202) 634–2443.

List of Subjects in 47 CFR Part 90

Radio.

Order

In the matter of amendment of Part 90 of the rules to modify procedures for determining elevation of average terrain.

Adopted: December 28, 1983.
Released: January 9, 1984.
By the Managing Director.

1. Section 90.309(a)(4) of the Commission's Rules specifies the method of determining the average terrain elevation when calculating the antenna height above average terrain (AAT). This calculation must be made by applicants for frequencies in the 470–512 MHz and 806–821/851–866 MHz bands. The procedures state that terrain elevation data shall be taken from U.S. Geological Survey Topographic Quadrangle Maps, U.S. Army Corps of Engineer Maps, or Tennessee Valley Authority Maps (Scale 1:24,000), whichever is the latest. If such maps are not published for the area in question, the next best topographic information should be used.

2. The National Cartographic Institute, U.S. Geological Survey, has recently made available computer tapes containing digital terrain data obtained from their 2° × 1° maps (1:250,000 scale). The Commission has received requests that the use of these tapes be allowed for computation of antenna height AAT since computer computation is simpler and more economical than the present manual computations.

3. Since the digital terrain data tapes are derived from maps different from those specified in the Rules, it is possible that antenna height AAT values calculated when using such tapes may differ from values obtained from 1:24,000 scale maps. Considering that we allow different scale maps to be used if the 1:24,000 scale maps are not available, coupled with the 50 foot variation allowed for antenna heights in the antenna height/power equivalency tables in the Rules, and also the vagaries of signal strengths due to propagation and terrain conditions, it appears that our presently specified average terrain calculation procedures can be relaxed.

4. In view of its continuing actions to relax the rules when it is deemed to be in the public interest, the Commission is amending § 90.309(a)(4) of its Rules and Regulations to permit the use of 1:250,000 scale topographic maps, as well as terrain data in other forms derived from these maps, to be utilized in the calculation of antenna height above average terrain. This amendment is deregulatory in nature, consists of a procedural change, and reduces the burden on the public. Therefore, the notice and comment requirements set forth in Section 553 of the Administrative Procedures Act are not required.

5. Accordingly, it is ordered, pursuant to § 0.231(d) of the Commission's Rules and Section 4(i) and 303 of the Communications Act, as amended, that effective January 30, 1984, Part 90 of the Commission's Rules is amended as set forth in the attached Appendix.

Federal Communications Commission.

Edward J. Minkel,

Managing Director.

Appendix

PART 90—[AMENDED]

Part 90 of the Commission's Rules and Regulations is amended as follows:

Section 90.309 is amended by revising paragraph (a)(4) to read:

§ 90.309 Tables and figures.

(a) * * *

(4) In determining the average elevation of the terrain, the elevations between 2 (3 km) and 10 (16 km) miles from the antenna site are employed. Profile graphs shall be drawn for a minimum of eight radials beginning at the antenna site and extending 10 (16 km) miles. The radials should be drawn starting with true north. At least one radial should be constructed in the direction of the nearest cochannel and adjacent channel UHF television stations. The profile graph for each radial shall be plotted by contour intervals of from 40 (12 m) to 100 (30 m) feet and, where the data permits, at least 50 points of elevation (generally uniformly spaced) should be used for each radial. For very rugged terrain 200 (61 m) to 400 (122 m) feet contour intervals may be used. Where the terrain is uniform or gently sloping, the smallest contour interval indicated on the topographic chart may be used. The average elevation of the 8-mile distance between 2 (3 km) and 10 (16 km) miles from the antenna site should be determined from the profile graph for each radial. This may be obtained by averaging a large number of equally spaced points, by using a planimeter, or by obtaining the median elevation (that exceeded by 50 percent of the distance) in sectors and averaging those values. In the preparation of the profile graphs, the elevation or contour intervals may be taken from U.S. Geological Survey Topographic Maps, U.S. Army Corps of Engineers Maps, or Tennessee Valley Authority Maps. Maps with a scale of 1:250,000 or larger (such as 1:24,000) shall be used. Digital Terrain Data Tapes, provided by the National Cartographic Institute, U.S. Geological Survey, may be utilized in lieu of maps, but the number of data points must be equal to or exceed that specified above. If such maps are not published for the area in question, the next best topographic information should be used.

* * * * *

[FR Doc. 84–819 Filed 1–12–84; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 90

[Gen. Docket No. 82–625; RM–3504; RM–3534]

Provide High Frequency Spectrum for Use by Eligibles in the Special Industrial, Petroleum, Telephone Maintenance and Power Radio Services

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This action corrects typographical errors and erroneous paragraph designations in this proceeding concerning high frequency spectrum for use by eligibles in certain radio services.

FOR FURTHER INFORMATION CONTACT: Keith Plourd, Private Radio Bureau, Land Mobile and Microwave Division, (202) 634–2443.

Erratum

In the matter of amendment of Parts 2 and 90 of the Commission's rules and regulations to provide high frequency spectrum for use by eligibles in the Special Industrial, Petroleum, Telephone Maintenance and Power Radio

Services. (Gen. Docket No. 82-625, RM-3504, RM-3534.)

Released: December 30, 1983.

On July 7, 1983, the Commission released a *Report and Order* in the above-captioned matter. It was published in the **Federeal Register** on July 20, 1983, 48 FR 32991. These errata correct errors in the printing of the *Report and Order* and the **Federal Register** to read as follows:

1. Page 32992, paragraph 2: the page number for the reference to the *Notice of Proposed Rule Making* released September 14, 1982 is corrected to read, "(47 FR 46339)."

2. Page 32992, footnote 3: the date of the release of the *Memorandum Opinion and Order on Reconsideration*, Docket No. 18921, is corrected to read, "June 2, 1983."

3. Appendix A, page 32993, instruction number 1: in column number 7 of the table, "Band (kHz)," the entry which reads "5000–4550" is corrected to read "5005–5450."

4. Appendix A, page 32994: in column number 11, "Nature OF SERVICES of stations," the entry to the extreme right of "9775–9995" which appears in column number 7, "Band (kHz)," is corrected to read "AERONAUTICAL FIXED. INDUSTRIAL. INTERNATIONAL FIXED PUBLIC. LOCAL GOVERNMENT."

5. Appendix A, page: 32996.

A. Under instruction number 5.A, in the Telephone Maintenance Radio Service Frequency Table, limitation number "13" in the right-hand column is redesignated as "14."

B. Under instruction number 5.B., new paragraph § 90.81(d)(13) is redesignated as § 90.81(d)(14).

6. Appendix A, page 32996, instruction number 6: new paragraph § 90.129(n) is redesignated as § 90.129(o)

7. Appendix A, pages 11 and 13, instruction number 10: In the "Combined frequently listing," §90.555(b), the second entry in the first column labeled "Frequently" is corrected to read "90–1120" in lieu of "10."

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 84-818 Filed 1-11-84; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

49 CFR Part 1

[OST Docket No. 1; Amdt. 1-188]

Organization and Delegation of Powers and Duties; Use of Railroad Bridges by Other Railroad Companies

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: This amendment delegates to the Federal Railroad Administration (FRA) the authority to arbitrate disputes between railroads over the terms for use of bridges constructed under the Bridge Act of 1906, since the issues that could arise are within the subject matters of FRA.

DATE: The effective date of this amendment is January 12, 1984.

FOR FURTHER INFORMATION CONTACT: Robert I. Ross, Office of the General Counsel, C-50, Department of Transportation, Washington, DC (202) 426-4723.

SUPPLEMENTARY INFORMATION: Since this amendment relates to Departmental management, procedures, and practice, notice and comment on it are unnecessary and it may be made effective in fewer than thirty days after publication in the **Federal Register**.

Under Section 3 of the Bridge Act of 1906, as amended (33 U.S.C. 493), all railroad companies are entitled to use railroad bridges built in accordance with that Act, upon payment of reasonable compensation. Disagreement over the terms of use or the compensation to be paid is resolved by the Secretary of Transportation. Some of the authority vested in the Secretary by the Act has previously been delegated to the Coast Guard and the Federal Highway Administration (49 CFR 1.46(c)(6)) and 1.48(i)(1)); however, the issues that could arise in a dispute under Section 3 are matters within the subject matter of FRA. Hence, this amendment delegates this authority to FRA.

List of Subjects in 49 CFR Part 1

Authority delegations (government agencies), Organization and functions (government agencies).

PART 1—[AMENDED]

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended as follows:

1. In § 1.46, paragraph (c)(6) is revised to read as follows:

§ 1.46 Delegations to Commandant of the Coast Guard.

The Commandant of the Coast Guard is delegated authority to—

* * * * *

(c) Carry out the following laws relating generally to water vessel anchorages, drawbridge operating regulations, obstructive bridges, pollution of the sea by oil, and the locations and clearances of bridges and causeways over the navigable waters of the United States.

* * * * *

(6) The Act of March 23, 1906, as amended (34 Stat. 84, 33 U.S.C. 491 et seq.) except section 3 (33 U.S.C. 493) and that portion of section 4 (33 U.S.C. 494) that relates to tolls.

* * * * *

2. In § 1.49, a new paragraph (z) is added, to read as follows:

§ 1.49 Delegations to Federal Railroad Administrator.

The Federal Railroad Administrator is delegated authority to—

* * * * *

(z) Carry out the functions vested in the Secretary by Section 3 of the Bridge Act of 1906, as amended (33 U.S.C. 493), relating to disputes over the terms and compensation for use of railroad bridges built under the Act.

Authority: 49 U.S.C. 322.

Issued in Washington, D.C., on January 4, 1984.

Elizabeth Hanford Dole,

Secretary of Transportation.

[FR Doc. 84-527 Filed 1-11-84; 8:45 am]

BILLING CODE 4910-62-M

Federal Railroad Administration

49 CFR Part 210

[Docket No. RNE-2; Notice No. 2]

Railroad Noise Emission Compliance Regulations

Correction

In FR Doc. 83-34010 beginning on page 56756 in the issue of Friday, December 23, 1983, make the following corrections.

On page 56761, in the table, the information in the last three columns for "201.11(c) and 201.12(c)" and "201.16" should be moved down so that it aligns with the last line of the information in the second column; and in Footnote 1, "L_{max}m=" should read "L_{max}=".

BILLING CODE 1505-01-M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 81-11; Notice 7]

Lamps, Reflective Devices and Associated Equipment; Correction

Correction

In FR Doc. 83-34725, appearing on

page 57494 in the issue of Friday, December 30, 1983, the figure in the fourth line below the heading *"§ 571.108 [Amended]"* in column two should read, "1.122."

BILLING CODE 1505-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 351

[Docket No. 31129-227]

Whaling: International Whaling Commission

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: The Whaling Convention Act requires that the Secretary of Commerce publish the Schedule of the International Convention for the Regulation of Whaling, 1946, in the **Federal Register**, so that the Schedule will "become effective with respect to all persons and vessels subject to the jurisdiction of the United States in accordance with the terms of such regulations" * * *. This final rule publishes the most recent amendments to the Schedule of the International Convention for the Regulation of Whaling. The intended effect of this action is to comply with United States international obligations under the Convention as provided in the Whaling Convention Act even though commercial whaling is proscribed for all persons and vessels subject to the jurisdiction of the United States.

EFFECTIVE DATE: This final rule is effective January 12, 1984.

FOR FURTHER INFORMATION CONTACT: Dean Swanson, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, NOAA, Department of Commerce, Washington, D.C. 20235, telephone—(202) 634-1792.

SUPPLEMENTARY INFORMATION: At its 35th Annual Meeting held in Brighton, England, July 18–23, 1983, the International Whaling Commission (IWC) adopted amendments to the Schedule establishing catch limits for the 1983–84 pelagic and 1984 coastal whaling seasons with regard to both commercial and aboriginal subsistence whaling.

Notification of amendments to the Schedule was made by the Secretary of the IWC on August 5, 1983, and corrections to it was made on September 7, 1983. By terms of the Convention, the amendments become effective at the end of a 90-day objection period except for any to which one or more Contracting Governments file objection. If any amendment is the subject of an objection, it becomes effective with respect to all Contracting Governments that have not objected at the conclusion of a second 90-day object period or 30 days after the last objection is filed, whichever is later.

At the conclusion of the objection period on November 3, 1983, no objections had been made. This publication, therefore, incorporates all amendments to the Schedule that became binding on the United States as of November 3, 1983.

All regulations in this Part relate to commercial whaling which is currently proscribed for all persons and vessel subject to United States jurisdiction, except as provided in Section 351.36. Additional regulations relating to the 1984 aboriginal subsistence harvest of bowhead whales by Alaskan Natives will be published at a later date and will appear in 50 CFR Part 230.

16 U.S.C. 916k requires the Secretary to promulgate IWC Schedule amendments. These amendments result from a process in which NOAA provided opportunity for public comment in the development of the United States positions. As the issuance of these regulations is required by U.S. law to carry out an obligation under the Convention, such issuance is within the "foreign affairs function of the United States" exception from the informal rulemaking requirements of 5 U.S.C. 55.3(a)(1), and the regulations can go into effect immediately. Also, this promulgation is exempt from the NEPA environmental document requirements under Section 6(c)(3) of the revised NOAA Directive (NDM 02-10; 45 FR 49312-49321) implementing NEPA because it constitutes a programmatic function with no potential for significant environmental impact.

The NOAA Administrator has reviewed this final rule in accordance with the specification of Executive Order 12291, "Federal Regulation," and the Departmental guidelines implementing that Order, and has determined that Section 1(a)(1) of the Order excludes these regulations from its scope as being "regulations issued with respect to a * * * foreign affairs function of the United States." Accordingly, no regulatory impact analysis is required.

The General Counsel, Department of Commerce, has certified to the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities because it would regulate activities that are otherwise prohibited with the exception of aboriginal subsistence whaling allowed under 50 CFR 351.36, which does not in any event involve a substantial number of small entities. This exception will be the subject of a separate rulemaking to be published in 50 CFR Part 230. Accordingly, no regulatory flexibility analysis is required. Finally, this action does not increase the Federal paperwork burden for agencies, individuals, small businesses, or other persons. Therefore, the Paperwork Reduction Act of 1980 does not apply.

List of Subjects in 50 CFR Part 351

Fisheries, Marine mammals, Reporting and record keeping requirements, Treaties.

Dated: January 4, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

PART 351—WHALING

For reasons set down in the preamble, Part 351 of Title 50, Code of Federal Regulations, is amended as set forth below.

1. The authority citation for Part 351 reads as follows:

Authority: Article 5, 62 Stat. 1718, Sec. 2–14; 64 Stat. 421–425; 16 U.S.C. 916 *et seq.*

2. Revise § 351.35 to read as follows:

§ 351.35 Catch limits for baleen whales.

(a) The number of baleen whales taken in the Southern Hemisphere in the 1983/84 pelagic season and the 1984 coastal season shall not exceed the limits shown in Tables 1 and 2. However, in no circumstances shall the sum of the area catches exceed the total catch limit for each species.

(b) The number of baleen whales taken in the North Pacific Ocean and dependent waters in 1984 and in the North Atlantic Ocean in 1984 shall not exceed the limits shown in Tables 1 and 2.

3. In § 351.36, revise paragraph (b) and add a new footnote "2" to read as follows:

[2] At the end of the first year this figure will be reviewed and if necessary amended on the basis of the advice of the Scientific Committee.

§ 351.36 Aboriginal subsistence whaling.

* * * * *

(b) Catch limits for aboriginal subsistence whaling are as follows:

(1) The taking of 9 humpback whales not below 35 feet (10.7 metres) in length per year is permitted in Greenland waters provided that whale catchers of less than 50 gross register tonnage are used for this purpose.

(2) The taking of bowhead whales from the Bering Sea stock by aborigines is permitted, but only when the meat and products of such whales are to be used exclusively for local consumption by the aborigines and further provided that: (i) For the years 1984 and 1985 the total number of whales struck shall not exceed 43,[2] provided that in either year the number of whales struck shall not exceed 27. (ii) It is forbidden to strike, take, or kill calves or any bowhead whale accompanied by a calf.

(3) The taking of gray whales from the Eastern stock in the North Pacific is permitted, but only by aborigines or a Contracting Government on behalf of aborigines, and then only when the meat and products of such whales are to be used exclusively for local consumption by the aborigines. The number of gray whales taken in accordance with this subparagraph in 1984 shall not exceed the limit shown in Table 1.

* * * * *

4. Revise Tables 1 through 3 and place at the end of Subpart C to read as follows:

TABLE 1 TO SUBPART C.—BALEEN WHALE STOCK CLASSIFICATIONS AND CATCH LIMITS (EXCLUDING BRYDE'S WHALES)

	Sei		Minke		Fin		Blue	Humpback	Right bowhead, pygmy right	Gray	
	Classification	Catch limit	Classification	Catch limit	Classification	Catch limit	Classification	Classification	Classification	Classification	Catch limit
Southern Hemisphere—1983/84 pelagic season and 1984 coastal season											
Area and longitudes:											
I—120° W. to 60° W.	PS	[3]	-	624	PS	0	PS	PS	•	•	•
II—60° W. to 0° W.	PS	[3]	-	630	[3]	0	PS	[3]	[3]	•	•
III—0° to 70° E.	PS	0	-	1,416	PS	0	[3]	PS	PS	•	•
IV—70° E. to 130° E.	PS	0	-	2,095	[3]	0	PS	[3]		[3]	•
V—130° E. to 170° W.	[3]	0	-	1,445	[3]	0	[3]	[3]		[3]	•
VI—170° W. to 120° W.	PS	[3]	-	778	[3]	0	PS	[3]		[3]	•
Total catch not to exceed.				6,655		0	[3]	[3]	[3]		
Northern Hemisphere—1984 season.											
Arctic	•	•	•	•	•	•	•		PS	•	•
North Pacific:											
Whole region	[3]	0	•	•	[3]	0	[3]	[3]	[3]	•	•
Okhotsk Sea-West Pacific Stock.	•	•	SMS	[1] 421	•	•	•	•	•	•	•
Sea of Japan-Yellow Sea-East China Sea Stock.	•	•	-	[3] 0	•	•	•	•	•	•	•
Remainder	•	•	IMS	[3] 0	•	•	•	•	•	•	•
Eastern Stock	•	•	•	•	•	•	•	•	•	SMS	[4] 179
Western Stock	•	•	•	•	•	•	•	•	•	[3]	0
North Atantic:											
Whole region	•	•	•	•	•	PS	[3]	PS	•	•	•
West Greenland Stock.	•	•	-	[5] [6] 300	-	[7] 6	•	•	•	•	•
Newfoundland-Labrador Stock.	•	•	•	[3] 0	-	•	•	•	•	•	•
Canadian East Coast Stock.	•	•	-	•	•	•	•	•	•	•	•
Nova Scotia Stock.	[3]	0	•	•	[3]	0	•	•	•	•	•
Central Stock	•	•	-	291	•	•	•	•	•	•	•
East Greenland-Iceland Stock.	•	•	•	•	SMS	167	•	•	•	•	•
Iceland-Denmark Strait Stock.	SMS	[8] 100	•	•	•	•	•	•	•	•	•
Spain-Portugal-British Isles Stock.	•	•	•	•	-	[9] 120	•	•	•	•	•
Northeastern Stock.	•	•	-	635	•	•	•	•	•	•	•
West Norway-Faroe Islands Stock.	•	•	•	•	[3]	0	•	•	•	•	•
North Norway Stock.	•	•	•	•	-	0	•	•	•	•	•
Eastern Stock	-	0	•	•	•	•	•	•	•	•	•
Northern Indian Ocean.	•	•	IMS	[3] 0	•	•	[3]	[3]	[3]	•	•

[1] The total catch of minke whales shall not exceed 1,678 in the five years 1980 to 1984 inclusive.
[2] Provided that the remainder from the previous block quota of 3,634 for the five years 1980 to 1984 inclusive may be taken in the years 1984 and 1985.
[3] Pending a satisfactory estimate of stock size.
[4] Available to be taken by aborigines or a Contracting Government on behalf of aborigines pursuant to § 351.36(b)(3).
[5] The total catch of minke whales shall not exceed 588 in the two years 1984 and 1985 inclusive.
[6] Of the total numbers shown, a proportion corresponding to needs may be taken by aborigines pursuant to § 351.36(b)(4).
[7] Available to be taken abongines pursuant to § 351.36(b)(4).
[8] The total catch of sei whales shall not exceed 504 in the six years 1980 to 1985 inclusive.
[9] The total catch of fin whales shall not exceed 270 in the three years 1983 to 1985 inclusive.

TABLE 2 TO SUBPART C.—BRYDE'S WHALE STOCK CLASSIFICATIONS AND CATCH LIMITS

	Classification	Catch limit
Southern Hemisphere—1983/84 pelagic season and 1984 coastal season		
South Atlantic Stock		[1]
Southern Indian Ocean Stock	IMS	[1] 0
South African Inshore Stock		[1]
Solomon Islands Stock	IMS	[1] 0
Western South Pacific Stock	IMS	[1] 0
Eastern South Pacific Stock	IMS	[1] 0
Peruvian Stock		[2] [3] 165
North Pacific—1984 season		
Eastern Stock	IMS	[1] 0
Western Stock	IMS	536
East China Sea Stock		0
North Atlantic—1984 season	IMS	[1] 0
Northern Indian Ocean—1984 season		[1]

[1] Pending a satisfactory estimate of stock size.
[2] Available to be taken in a six month period starting in November 1983.
[3] The catch limit for this stock for the 1985 season will be lower than 165 and thereafter shall be zero until the Commission decides otherwise.

TABLE 3 TO SUBPART C.—TOOTHED WHALE STOCK CLASSIFICATIONS AND CATCH LIMITS

	Sperm		Bottlenose classification
	Classification	Catch limit	
Southern Hemisphere—1983/84 pelagic season and 1984 coastal season			
Division and longitudes:			
1—60° W. to 30° W.	-	0	.
2—30° W. to 20° E.	-	0	.
3—20° E. to 60° E.	-	0	.
4—60° E. to 90° E.	-	0	.
5—90° E. to 130° E.	-	0	.
6—130° E. to 160° E.	-	0	.
7—160° E. to 170° W.	-	0	.
8—170° W. to 100° W.	-	0	.
9—100° W. to 60° W.	-	0	.
Northern Hemisphere—1984 season			
North Pacific:			
Western Division	-	[1] [2]	.
Eastern Division	-	[1]	.
North Atlantic	-	[1]	[3] PS
Northern Indian Ocean	-	[1]	

[1] No whales may be taken from this stock until catch limits including any limitations on size and sex are established by the Commission.
[2] Notwithstanding footnote 1, catch limits for the 1982 and 1983 coastal seasons are 450 and 400 whales respectively, provided that included within each of these catch limits there may be a by-catch of females not to exceed 11.5% and all whaling operations for this species shall cease for the rest of each season when the by-catch is reached.
[3] Provisionally listed as PS for 1984 pending the accumulation of sufficient information for classification.

[FR Doc. 84-825 Filed 1-11-84; 8:45 am]
BILLING CODE 3510-22-M

VOL 49 ISS 8 JA 12 1984 UMI

Proposed Rules

Federal Register
Vol. 49, No. 8
Thursday, January 12, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 157, 271, 282 and 284

[Docket Nos. RM79–50–000, et al.; Order No. 354]

Northern Natural Gas Co., et al.; Termination of Rulemaking Dockets

Issued January 6, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Termination of rulemaking dockets.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is terminating sixteen rulemaking dockets. In its order, the Commission withdraws the Notices of Proposed Rulemaking issued in Docket Nos. RM80–52–000 and RM80–64–000, and denies petitions for rulemaking filed in Docket Nos. RM79–50–000, RM80–49–000, RM81–22–000, RM80–77–000, RM81–42–000, RM81–32–000, RM81–39–000, RM81–43–000, RM82–42–000, RM81–23–000, RM82–22–000, RM83–48–000, and RM79–17–000. The Commission is terminating these dockets because it has already taken action that obviates the need for further activity in the docket or because it is not persuaded to change existing policies.

DATES: This termination of rulemaking dockets is effective January 12, 1984.

FOR FURTHER INFORMATION CONTACT: Elizabeth Withnell, Division of Rulemaking and Legislative Analysis, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–8033.

Before Commissioners: Raymond J. O'Connor, Chairman; Georgiana Sheldon, J. David Hughes, A. G. Sousa and Oliver G. Richard III.

The Federal Energy Regulatory Commission (Commission) is terminating fifteen pending rulemaking dockets. In particular, the Commission is withdrawing two Notices of Proposed Rulemaking (NOPR) and denying thirteen petitions for rulemaking (PRM). These various notices are explained in detail by individual docket numbers which, to the extent possible, are grouped by subject matter.

I. Natural Gas Act Certificate Matters

A. Docket No. RM79–50–000: Northern Natural Gas Company

On June 1, 1979, the Northern Natural Gas Company (Northern) asked the Commission to establish a procedure for issuing budget-type certificates to pipelines for the construction of sales taps[1] to facilitate the sale and delivery of natural gas to right-to-way grantors who agree to the easement in reliance on obtaining service from the pipeline. The Commission is today denying this petition as unnecessary in light of rules adopted in Docket No. RM81–19–000.[2]

In Docket No. RM81–19–000, the Commission provided for the issuance of blanket certificates to authorize a number of activities by pipelines, including the construction of sales taps to right-to-way grantors. The Commission chose blanket certificates as the tool for implementing a streamlined certification process because with these certificates, rather than with budget-type certificates, a greater range of activities can be authorized. The Commission also broadened the definition of right-of-way grantors to eliminate the restriction on taps only to customers who grant easements in reliance on obtaining gas service. Under the final rules, a right-of-way grantor is a person who grants a right-of-way easement to the certificate holder or any successor to an interest which is subject to the easement.[3]

Because the Commission has made the changes that Northern requested in another docket, further action on RM79–50–000 is unnecessary. This petition is therefore denied.

[1] A sales tap consists of the metering and appurtenant facilities necessary to enable the certificate holder to deliver gas to a distribution customer or an end user. 18 CFR 157.202(b)(10) (1983).

[2] Interstate Pipeline Certificates for Routine Transactions, Docket No. RM81–19–000, issued May 28, 1982 (Order No. 234), 47 FR 24,254 (June 4, 1982), 47 FR 30,724 (July 15, 1982), III FERC Stats. & Regs. ¶ 30,368.

[3] 18 CFR 157.202(b)(9) (1983).

B. Docket No. RM80–49–000: National Gypsum Company and National Gypsum Energy Company

The Commission is denying as unnecessary a petition for rulemaking filed on March 24, 1980, by the National Gypsum Company and the National Gysum Energy Company. The petitioners asked that a rulemaking proceeding the instituted to establish uniform standards governing transportation of natural gas discovered, produced, and ultimately consumed by high priority industrial end users.

In Docket No. RM81–29–000,[4] the Commission amended its rules to authorize under the blanket certificate program transportation of gas reserves owned and developed by a high priority end user. The Commission's rule authorizes such transportation on an automatic basis for a term of ten years or for the life of the gas reserves, whichever is less.[5] In promulgating this regulation, the Commission noted that "such authorization is justified by the inherent risk involved in exploration for gas and the need for sufficient time to economically recover such reserves."[6] National Gypsum Company and the National Gypsum Energy Company make similar arguments in their petition.

Because the Commission has acceded to petitioners' request by promulgating the rule in Docket No. RM81–29–000, further action on this petition for rulemaking is unnecessary. The petition is therefore denied.

C. Docket No. RM81–22–000: Consolidated Edison Company of New York, Inc., et al.

On March 10, 1981, Consolidated Edison Company of New York, Inc. (Con Ed) and several co-petitioners [7] filed a

[4] Sales and transportation by Interstate Pipelines and Distributors; Expansion of categories of Activities Authorized Under Blanket Certificate, Docket No. RM81–29–000, issued July 20, 1983 (Order No. 319) 48 FR 34,875, (Aug. 1, 1983) III FERC Stats. & Regs. ¶ 30,477.

[5] 48 FR 34888–89 (to be codified at 18 CFR 157.209(a)(ii). Longer term transactions involving gas reserves owned and developed by a high priority end user are subject to a prior notice procedure. 18 C.F.R. § 157.205 (1983).

[6] 48 FR 34879, II FERC Stats. & Regs. ¶ 30,477 at 30,609.

[7] Co-petitioners include National Gas and Oil Corporation, Ohio Producers Group, Public Service Electric and Gas Company, Salt River Project Agricultural Improvement and Power District, Long Island Lighting Company, Alabama-Tennessee Natural Gas Company, and Phelps Dodge Corporation.

request with the Commission [8] to extend the Order No. 30 program [9] "until such time as the Commission implements a more effective program to replace [it]" and to institute a rulemaking proceeding to permit the issuance of blanket certificates for the transportation of oil displacement gas. This petition for rulemaking is being denied as unnecessary in light of related Commission actions.

Order No. 30 established a short-term program authorizing the transportation of natural gas for displacement of fuel oil to relieve demand pressure on distillate and related stocks of petroleum products during the winter heating season of 1979. The program was last extended by order No. 30–F [10] in which the Commission reiterated that it would "reassess current policies . . . and . . . develop a comprehensive long-term policy . . ."[11] as part of its pending rulemaking proceeding in Docket Nos. RM81–19–000 [12] and RM81–29–000.[13]

That reassessment is now complete. In a final rule issued in Docket No. RM81–29–000 [14] the Commission decided to terminate the Order No. 30 program because a fuel oil shortage emergency no longer exists. In a companion final rule, the Commission also decided to implement a short-term (until June 30, 1985) experimental program authorizing the transportation of natural gas under the blanket certificate to all end-users, including those who were eligible for the Order No. 30 program. [15] During the term of this experimental program, the Commission will review gas markets to determine what, if any, future designations for transportation under the blanket certificate rule are appropriate.

Because of these decisions, which in effect make the changes Con Ed requested, further action on RM81–22–000 is unnecessary. That petition, accordingly, is denied.

II. NGPA Title I Pricing Matters

A. Docket No. RM80–52–000; Advance Payments Under the NGPA

On April 23, 1980, the Commission issued a Notice of Proposed Rulemaking (NOPR) [16] which would have applied to version of the advance payments [17] rule of 18 CFR 271.403 [18] to producers of gas eligible for maximum lawful prices authorized in sections other than 104 and 106(a) of the Natural Gas Policy Act (NGPA). [19] The primary purpose of this proposal was to prevent producers from using interest free advance payments authorized under the Federal Power Commission's (FPC) advance payments program to circumvent maximum lawful prices set by the NGPA. The proposed rule would have imputed an interest rate to advance payments equal to the average prime rate for each calendar quarter, compounded quarterly, and would have prevented producers from receiving more than 50 percent of the applicable maximum lawful price for gas until advance payments they received on or after the date of issuance of the NOPR, plus interest, were repaid.

Many of the two dozen comments received in this docket took issue with the Commission's position. A number of commenters pointed out that Congress limited the Commission's jurisdiction over gas prices in the NGPA and authorized the agency to increase, but not to decrease, the statutorily mandated maximum lawful prices. According to this view, the Commission has no jurisdiction to limit gas prices received by producers until advances, plus interest, are repaid. Other commenters argued that as drafted, the proposal was overly broad or ambiguous, particularly in its definition of advance payments.

After reviewing the comments and the Commission's experience with the Advance Payments program, the Commission does not believe that further action in this docket is necessary. The primary thrust of the proposed rule was to govern advance payments given rate base treatment for the exploration, development, and production of gas qualifying under NGPA incentive prices. By order of the F.P.C.,[20] however, rate base treatment for advances made after December 31, 1980 is not permitted. The advance payments governed by the proposed rule, therefore, would only have been those made between April 23, 1980 and December 31, 1980. A review of rate cases filed with the Commission indicates that no advances were made during this period. Additionally, the Commission has no reason to believe that advance payments were made by intrastate pipelines during this period.

Because the Commission believes that no advances were made during the period the proposed rule would have governed, implementation of a final rule in Docket No. RM80–52–000 is unnecessary. Accordingly, the Commission is withdrawing the NOPR issued in this docket. This action, however, does not constitute Commission determination of the question whether prepayments or advance payments already included in a pipeline's rate base violate Title I of the NGPA. While the Commission is not aware of any problems concerning the advance payments this rule was intended to address, termination of this rulemaking does not preclude appropriate action in specific instances where the Commission believes prepayments or advance payments may violate Title I.

B. Docket No. RM80–77–000: Gulf Oil Corporation

Gulf Oil Corporation (Gulf) filed a petition for rulemaking on September 11, 1980,[21] requesting a change in the definition of minimum rate gas,[22] found

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[8] A notice regarding this petition was issued on April 21, 1981, 46 FR 23,952 (Apr. 29, 1981).

[9] 18 CFR 284.200–284.208.

[10] Transportation Certificates for Natural Gas for the Displacement of Fuel Oil, Docket No. RM79–34–000, issued May 21, 1981 (Order No. 30–F) 46 Fed. Reg. 30,491 (June 9,1981), FERC Stats. & Regs. (Reg. Preambles 1977–1981) ¶ 30,263. *See also* Order No. 30–D issued Aug. 15, 1980, 45 Fed. Reg. 56,046 (Aug 22, 1980), FERC Stats. & Regs. (Reg. Preambles 1977–1981) ¶ 30,184.

[11] 45 FR at 56,050, FERC Stats. & Regs. (Reg. Preambles 1977–1981).

[12] Interstate Pipeline Certificates for Routine Transactions, Docket No. RM81–19–000, issued May 28, 1982, 47 Fed. Reg. 24,254 (June 4, 1982) (Order No. 234), III FERC Stats. & Regs. ¶ 30,367.

[13] Sales Transportation by Interstate Pipelines and Distributors: Expansion of Categories of Activities Authorized Under Blanket Certificates, Docket No. 81–29–000, issued July 20, 1983 (Order No. 319), 48 Fed. Reg. 34,875 (Aug. 1, 1983), II FERC Stats. & Reg. ¶ 30,477.

[14] *Id.* at 34,878, III FERC Stats. & Regs. ¶ 30,476 at 30,608.

[15] Interstate Pipeline Blanket Certificates for Routine Transactions and Sales and Transportation by Interstate Pipelines and Distributors, Docket Nos. RM81–19–000 and RM81–29–000, issued July 20, 1983 (Order No. 234–B), 48 FR. 34,872 (Aug. 1, 1983); III FERC Stats. & Reg. ¶ 30,476.

[16] Advance Payments Under the Natural Gas Policy Act of 1978, Docket No. RM80–52–000, 45 FR 28,345 (Apr. 28, 1980), FERC Stats. & Regs. (Proposed Regs. 1977–1981) ¶ 32,063.

[17] An advance payment is any payment made by a first purchaser of gas in advance of receipt of gas deliveries. These payments do *not* include prepayments made under take-or-pay contract provisions. *Id.* at 28,347 and n. 17, FERC Stats. & Regs. (Proposed Regs. 1977–1981) ¶ 32,063 at 32,705 and n.17.

[18] 18 CFR 271.403 requires a deduction, as a carrying charge adjustment, of 83 cents per MMBtu from the maximum lawful price for natural gas qualifying under sections 104 and 106(a) of the NGPA if the seller has accepted advance payments after November 5, 1978, the date of issuance of Opinion 770–A by the Federal Power Commission.

[19] The proposed rule would have governed gas eligible for prices established in sections 102, 103, 105, 106(b), 107, 108 and 109 of the NGPA: *i.e.*, both interstate and intrastate gas.

[20] Accounting and Rate Treatment of Advances Included in Account No. 166 Advances for Gas Exploration, Development and Production, Docket Nos. R–411 and RM74–4 (Termination Order) issued Dec. 31, 1975, 54 FPC 3046 (1975).

[21] Conoco, Inc. filed comments in support of Gulf's petition.

[22] The purpose of a minimum rate for gas is to assure that rates received by producers are not so low as to prevent or retard further exploration for

Continued

at 18 CFR 271.402(b)(9), to establish a minimum rate for gas from wells drilled on or after January 1, 1973. The Gulf petition was submitted in response to the Commission's invitation, in a footnote to an order denying rehearing on final regulations implementing sections 104 and 106 of the NGPA, to "file a petition asking the Commission to undertake a hearing under Section 5 of the NGA to determine whether the rate for gas from these wells is unjust, unreasonable, unduly discriminatory or preferential."[23]

Rather than seeking a hearing under section 5 of NGA, however, Gulf has asked for a generic rulemaking to establish on an industry-wide basis a minimum rate for gas from wells drilled on or after January 1, 1973. On the basis of available information, the Commission is unconvinced that a generic rate is warranted at this time. Gulf has offered no evidence in their petition that leads to a contrary conclusion.

If the company is interested in pursuing individual relief, a section 5 proceeding remains available. In the absence of sufficient evidence that the problems Gulf faces warrant a generic proceeding applicable to the whole industry, however, the Commission declines to change the definition of minimum rate gas. Gulf's petition is therefore denied.

C. Docket No. RM81–42–000: Sun Gas Company

The Sun Gas Company (Sun Gas) filed a petition on September 9, 1981 requesting an incentive rate for new wells drilled in old reservoirs on old leases[24] on the Outer Continental Shelf (OCS). The Commission also received comments from 11 other companies supporting this petition.

The company points out that under both section 104(b)(2) and section 107(c)(5) of the NGPA, the Commission has the authority to establish such a price for this gas. Section 104(b)(2) gives the Commission authority to set a ceiling price for interstate gas higher than the section 104 rate if such a price is "just and reasonable within the meaning of the Natural Gas Act." Sun Gas argues that a higher price is justified because section 104 prices are "woefully deficient in view of today's high cost of offshore maintenance, drilling, and platform construction." Section 107(c)(5) gives the Commission discretion to set an incentive price necessary for production of high cost gas; *i.e.*, gas produced under conditions presenting extraordinary risks or costs. The company argues alternatively that obtaining gas from new wells drilled in old reservoirs on old leases on the Outer Continental Shelf is extraordinarily risky and costly and that such gas, therefore, should be classified as "high cost."

The Commission is unpersuaded by Sun Gas's petition or the supporting comments that additional incentives generally are needed at this time to produce gas from new wells drilled in old reservoirs on old leases on the Outer Continental Shelf. In the first instance, the company has presented no information demonstrating that the current section 104 price for this category of gas is not just and reasonable. The Commission notes, in fact, that rates for interstate natural gas under section 104 have been adjusted by a monthly inflation factor since April 1977. As a result, the current price for this gas is higher than it would have been had the national rates, in effect prior to passage of the NGPA, continued to apply.

Additionally, although Sun Gas argues that a section 107 price is warranted, the company has failed to provide any cost data that would allow the Commission to make the requisite findings that production of gas generally from new wells drilled in old reservoirs on old leases on the Outer Continental Shelf is extraordinarily risky or costly and that an incentive price is necessary for production.

Because the Commission is not convinced by the Sun Gas petition that further incentives on a generic basis are needed at this time to produce gas from new wells in old reservoirs on old leases on the Outer Continental Shelf, the Commission denies the petition to issue a rule. However, Sun is not precluded from filing a petition with adequate substantiation for individual relief under section 104(b) or for an incentive price under section 107(c)(5).

D. Docket No. RM81–32–000: Indicated Producers, *et al.*

Docket No. RM81–39–000: Associated Gas Distributors

Docket No. RM81–43–000: Texas Eastern Transmission Corporation

Docket No. RM82–42–000: Interstate Natural Gas Association of America

Indicated Producers, *et al.*,[25] Associated Gas Distributors (AGD), Texas Eastern Transmission Corporation (Texas Eastern) and Interstate Natural (Gas) Association of America (INGAA) filed petitions requesting both a declaratory order and a rulemaking proceeding.[26] The petitioners advocate a declaratory order establishing a proper relationship between the maximum lawful prices authorized in Title I of the NGPA and the cost or value of the service performed by a pipeline/purchaser in transporting liquid and liquefiable hydrocarbons (liquids and liquefiables)[27] for a producer/seller. The rulemaking proceeding would establish generically the rates applicable to pipeline transportation of producer-owned liquids and liquefiables. Petitioners argue that this action would expedite Commission consideration of the issues involved in allocating the costs of liquids and liquefiables between producer/sellers and pipeline/purchasers.

The question of how to allocate costs of transporting liquids and liquefiables has had a rather lengthy history before

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gas and to increase the incentives needed to maximize production from existing wells. Just and Reasonable National Rates for Sales of Natural Gas, Docket No. R–478, issued Dec. 31, 1975 (Opinion No. 749, 54 F.P.C. 3090, 3113.

[23] Ceiling Prices; Natural Gas Committed or Dedicated to Interstate Commerce; Order Denying Application for Rehearing and Stay and Amending Regulations, Docket No. RM80–19–000, issued Feb. 27, 1980, 45 FR 16,171, 16,173 n.15 (Mar. 13, 1980) (Order No. 64–A), FERC Stats. & Regs. (Reg. Preambles 1977–1981) ¶ 30,132 at 30,928.

[24] These reservoirs are those discovered prior to July 27, 1976. Natural Gas Policy Act section 102(d)(2), 15 U.S.C. 3311(d)(2) (Supp. V 1981).

[25] The "Indicated Producers" are: Shell Oil Company, Arco Oil and Gas Company, Conoco, Inc., Gulf Oil Corporation, and Marathon Oil Company. The Commission also received other petitions in this docket from Aminoil USA, Inc., "Certain Producers" (Pennzoil Company, Union Texas Petroleum Corporation, Tenneco Oil Company, and General American Oil Company of Texas), "Producer Petitioners" (Mobil Oil Corporation, Mobil Producing Texas and New Mexico, Inc., Mobil Oil Exploration and Producing Southeast, Inc., Amoco Production Company, Chevron USA, Inc., Cities Service Company, Exxon Company, Getty Oil Company, Kerr-McGee Corporation, Placid Oil Company, Phillips Petroleum Company, and Texaco, Inc.) who filed a "supplementary and complementary" petition to that of Indicated Producers, and Union Oil Company of California, which joined and adopted "Indicated Producers" petition. Additionally, the Public Service Commission of the State of New York filed comments in this docket and in Docket No. RM81–39–000.

[26] Three of the petitions were filed in 1981: Indicated Producers' on June 1, 1981, AGD's on July 22, 1981, and Texas Eastern's on September 22, 1981. INGAA's petition was filed on September 20, 1982.

[27] Liquids and liquefiables are substances separated from raw natural gas and include ethane, propane, butane and pentane. *See generally* Regulations Implementing Section 110 of the Natural Gas Policy Act and Establishing Policy Under the Natural Gas Act, Docket No. RM80–47–002 issued Jan. 24, 1983, 48 FR 5152 (Feb. 3, 1983) (Order No. 94-a), III FERC Stats. & Regs. ¶ 30,419.

the Commission, culminating in a Declaratory Order, issued January 17, 1983, 22 FERC ¶ 61,013 (1983), and an Order Denying Rehearing of the Declaratory Order, issued July 7, 1983, 24 FERC ¶ 61,004 (1983). The Declaratory Order substantively responded to petitioners' requests for a declaration of Commission policy on the applicability of Title I to the liquids and liquefiables issue.[28] On rehearing, the Commission affirmed the Declaratory Order and also effectively disposed of petitioners' request for the promulgation of a rule. Noting that the issuance of the Declaratory Order had made further action unnecessary, the Commission elaborated on the reasons for not proceeding with a generic proceeding.

Orders Approving Settlements for eleven major pipeline rate cases have already resolved the issue that would have been the subject of the generic rule—the proper amount to allocate to a pipeline's cost of service for the transportation of liquid and liquefiable hydrocarbons. Since the issue is well on the way to being resolved in indvidual pipeline rate cases, a generic rulemaking would more likely *delay* rather than expedite resolution of the issues.

24 FERC ¶ 61,004 at 61,023 (footnotes omitted; emphasis in the original).

The Commission has therefore disposed of the declaratory order portions of the petitions filed by the Indicated Producers, *et al.*, AGD, Texas Eastern and INGAA, and, at the same time, has provided the rationale for its decision to use a case-by-case approach in preference to a generic rule on liquids and liquefiables,[29] disposing of the rulemaking part of the petitions as well. Neither order, however, expressly denied the rulemaking part of the petitions filed in Docket Nos. RM81–32–000, RM81–39–000, RM81–43–000, and RM82–42–000, although the Order Denying Rehearing effectively did so.[30] The Commission therefore denies those rulemaking petitions today.

[28] In the Declaratory Order, the Commission granted Indicated Producers' petition for declaratory order and denied the petitions for declaratory order filed by AGD, Texas Eastern, and INGAA. 22 FERC at 61,026.

[29] *See also*, Trunkline Gas Company, Docket No. RP80–106–010, 23 FERC ¶ 61,137 (April 21, 1983) (Order Approving Settlement); *reh. denied* 24 FERC ¶ 61,105 (July 8, 1983). The Commission also notes in this context its discretion to choose to proceed by rule or by adjudication. *See SEC v. Chenery*, 332 U.S. 194 (1947) and its progeny.

[30] "Having decided to utilize the individual pipeline rate cases and not the general rulemaking approach, Texas Eastern's request for a rulemaking has been effectively denied." 24 FERC ¶ 61,004 at p. 61,027, n.27. Although the Commission specifically responded only to Texas Eastern's petition, the other three petitions deal with the same subject matter.

III. NGPA Title II Pricing Matters

A. Docket No. RM80–64–000: Exemption From Incremental Pricing for Distillers Who Produce Fuel Grade Alcohol Blended To Form Gasohol

In June 9, 1980, the Commission issued an NOPR[31] to grant a short-term[32] exemption from incremental pricing for certain distilleries[33] that use natural gas to produce anhydrous alcohol which is subsequently blended with gasoline to form gasohol. The purpose of the proposal was to offer an immediate incentive to hasten the production of gasohol by providing distilleries with an assured energy source at an economical price. Because these distilleries currently are exempt from incremental pricing surcharges as a result of corollary Commission actions, there is no need for further action in this docket.

On October 6, 1980, the Commission issued an interim rule in Docket No. RM80–75–000[34] clarifying the scope of 18 CFR 282.202(a), the definition of agricultural uses of natural gas that are exempt from incremental pricing. In the interim rule, the Commission proposed that all essential agricultural uses certified by the Secretary of Agriculture on or before October 15, 1979 would be considered agricultural uses by this Commission for purposes of incremental pricing exemptions. In the interim rule, the Commission also proposed, that essential agricultural uses certified by the Secretary of Agriculture after October 15, 1979 would not qualify automatically as exempt from incremental pricing, but would be evaluated on a case-by-case basis in full rulemaking proceedings. The use of natural gas in the distillation of fuel-grade alcohol from food grains under certain circumstances[35] was certified as an essential agricultural use by the Secretary of Agriculture after October 15, 1979 and thus falls in the category of uses that must be considered individually by the Commission.

Because of significant concerns raised about the interim rule, on April 23, 1981, the Commission issued an order staying its effective date to provide additional time to study its impact.[36] As a result of that stay, essential agricultural uses certified by the Secretary of Agriculture after October 15, 1979, including the use of natural gas by distilleries that produce anhydrous alcohol which is used to make gasohol, are exempt from incremental pricing while the stay is in effect. Moreover, even if the stay were lifted, there is no reason to proceed with this rulemaking since the proposed rule was for only a limited time period until May 9, 1984.

Since the primary purpose of rule proposed in Docket No. RM80–64–000 is being met, further action is unnecessary. The Commission is therefore withdrawing the Notice of Proposed Rulemaking.

B. Docket No. RM81–23–000: Rochester Gas and Electric Corporation

On March 17, 1981, Rochester Gas and Electric Corporation (RG&E) petitioned the Commission to amend its regulations implementing Title II of the NGPA to exempt from incremental pricing surcharges all district heating facilities[37] in existence as of 1977. The Commission also received comments in support of the petition from two Members of Congress. The Commission has considered RG&E's request and the suppporting comments, but is not persuaded that its current policy should be modified.

The Commission is given broad discretion in the NGPA to implement the incremental pricing provisions of Title II which apply to the industrial use of natural gas.[38] In exercising that discretion, the Commission determined that the status of district heating facilities as industrial facilities should be based on the use to which the steam

[31] Exemptions From Incremental Pricing for Distillers Who Produce Fuel Grade Alcohol Blended to Form Gasohol, Docket No. RM80–64–000, issued June 9, 1980, 45 Fed. Reg. 40,617 (June 16, 1970), FERC Stats. and Regs. (Proposed Regs. 1977–1981) ¶ 32,070.

[32] The exemption was intended to expire no later than May 9, 1984. Its short-term nature was designed to avoid conflicts with long-range energy policy to encourage facilities to switch from fuel oil to coal or other renewable energy sources.

[33] In order to qualify for the exemption, the distillers had to be in existence on or before May 8, 1980 and could not have the installed capacity lawfully to burn coal.

[34] Agricultural Uses Exemption; Interim Rule Amending Commission's Regulations Under the Natural Gas Policy Act of 1978, issued Oct. 6, 1980, 45 FR 67,276 (Oct. 9, 1980), FERC Stats. and Regs. (Reg. Preambles) ¶ 30,195.

[35] The distillers had to be in existence on June 30, 1980, could not have the installed capacity lawfully to burn coal, and could only qualify for the exemption until June 29, 1985.

[36] Interim Rule Amending § 282.202(a) of the Commission's Regulations under the Natural Gas Policy Act of 1978, Docket No. RM80–75–000 (Order Amending Stay), issued Apr. 23, 1981, 46 FR 25,599 (May 8, 1981), 15 FERC ¶ 61,065 (1981). A partial stay of the interim rule, limited to those users of natural gas who has filed affidavits for exemptions as agricultural users prior to October 6, 1980, was issued by the Commission on October 23, 1980, 45 Fed. Reg. 76,681 (Nov. 20, 1980).

[37] A district heating facility is a facility which generates steam sold to the public. 18 CFR 282.103(d)(2) (1983).

[38] *See, e.g.* Natural Gas Policy Act section 501 15 U.S.C. 3411(d)(1) (Supp. V 1981)

generated by these facilities is put.[39] Because a customer-by-customer determination for each district heating facility would be administratively cumbersome and would thwart the intent of the statute, the Commission decided that those heating facilities that serve primarily non-industrial steam requirements are not industrial facilities and therefore are exempt from incremental pricing.[40] RG&E's No. 9 plant serves primarily industrial customers and thus is not a facility exempt from incremental pricing surcharges.

RG&E argues that the Commission's regulations are in conflict with national energy policy, incompatible with Congressional intent, and inconsistent with the policies underlying incremental pricing. The Commission disagrees. The intent of the incremental pricing program is to place the initial burden of higher gas prices on industrial users. The Commission's regulations on district heating facilities accomplish this goal by ensuring that the facilities which serve primarily industrial customers are charged for and can pass along the increased costs of natural gas to such customers.[41]

RG&E also argues that its proposed rule revision would foster the revitalization of its district heating facility. The Commission is not persuaded that this is a proper basis for a generic rulemaking. This is especially true since the Commission has created procedures specifically to address the kind of case-specific issues RG&E raises. When Order No. 49–A was issued, the Commission counseled district heating facilities which served (in 1977) primarily non-exempt loads to petition for an adjustment under the procedures of 502(c) of the NGPA, 15 U.S.C. 3412(c) (Supp. V 1981) and to show why exemption is necessary to prevent special hardship, inequity, or unfair distribution of burdens.[42] Under this procedure, RG&E has filed for an adjustment in Docket No. SA80–88, which is still pending.[43]

Rochester Gas and Electric has not convinced the Commission that an amendment to its incremental pricing rules is warranted. Therefore, the company's petition is denied.

C. Docket No. RM82–22–000: Miles Laboratories, Inc.

On March 25, 1982, Miles Laboratories, Inc. (Miles) petitioned the Commission to exempt from incremental pricing the manufacture of food-grade citric acid. The company argued that the production of this substance is food processing and thus an exempt agricultural use under section 206(b)(3)(A) of the NGPA. Because the Commission disagrees with Miles' classification of citric acid, it is denying the company's petition.

As an initial matter, the Commission notes that in the preamble to the Notice of Proposed Rulemaking issued in Docket No. RM81–17–000,[44] it urged all interested parties to petition for agricultural use exemptions by the deadline for filing written comments in the docket, May 29, 1981, because it did not expect to "allocate Commission or staff time to consideration of similar additional rulemaking proceedings in the near future."[45] The Commission imposed this deadline because it believed that "most persons who would request [exemptions] either have already done so or can do so in the context of this proceeding."[46] Miles did not petition for an exemption before the Commission's regulatory deadline.

Even if the Commission were willing to open another rulemaking docket to consider Miles' request, it is not persuaded that citric acid would qualify as a food. Generally, the Commission has recognized that food seasonings such as spices fall withing the definition of food.[47] Citric acid , however, is not a discrete food seasoning akin to spice. Rather, it is an organic chemical that is added to food for a variety of purposes. Because it is not a food but a chemical additive, its manufacture does not qualify as food processing. Accordingly, the petition filed in Docket No. RM82–22–000 is denied.

D. Docket No. RM83–48–000: Church and Dwight Company, Inc.

On December 27, 1982, Church and Dwight Company Inc. petitioned the Commission to exempt from incremental pricing surcharges the use of natural gas as a boiler fuel in the manufacture of sodium bicarbonate used in animal feed. The company argued that the addition of sodium bicarbonate to animal rations makes the substance an animal feed and that, therefore, the boiler fuel use of natural gas to make this product is exempt under § 282.210 of the Commission's regulations. Section 282.210 exempts from incremental pricing natural gas used as a boiler fuel in the production of fertilizer, agricultural chemicals, animal feed and food.

The Commission is not persuaded that sodium bicarbonate is an animal feed and thus should be exempt from incremental pricing. The materials submitted by the company indicate that sodium bicarbonate is a non-feed substance that is added to animal rations. Its purpose is not to provide animal nutrition, but to change the content of the rumen of cattle in order to increase feed efficiency. The exemption authorized in § 282.210 is for animal feed itself, not for additions to the feed. Since sodium bicarbonate is not an animal feed, but a feed additive, the boiler fuel use of natural gas in its manufacture does not qualify for the exemption from incremental pricing found in the Commission's rules. Therefore, the Commission denies the petition submitted by Church and Dwight Company.

IV. General Policies Under the Natural Gas and Federal Power Acts

A. Docket No. RM79–17–000: Indiana Municipal Electric Association, et al.

The Commission is denying as unnecessary a petition for rulemaking submitted on January 26, 1979, by the Indiana Municipal Electric Association, *et al.*[48] The Association requested that the Commission raise the interest rate applicable to refunds under the Federal Power Act, 16 U.S.C. 791a–828c (1976 & Supp. V 1981) and the Natural Gas Act, 15 U.S.C. 717–717w (1976 & Supp. V 1981) by either (1) establishing a refund rate at no less than 2 percentage points above the prime rate; or (2) establishing

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[39] Regulations Implementing the Incremental Pricing Provisions of the Natural Gas Policy Act of 1978, issued Dec. 27, 1979, 45 FR 767, 775 (Jan. 3, 1980) (Order No. 49–A), FERC Stats. & Regs. (Reg. Preambles 1977–1981) ¶ 30,114 at p. 30,799.

[40] *Id.*

[41] The Commission understands that RG&E is prevented from allocating surcharge costs only to customers of its No. 9 plant as a result of a decision made by the New York Public Service Commission. The Commission believes that it a state regulation prohibits passthrough of these charges, RG&E should request a change in the State, rather than the federal, requirement.

[42] The Commission notes that RG&E did not petition for rehearing of Order No. 49–A.

[43] The Director of the Office of Pipeline and Producer Regulation denied the request in 1980, 13 FERC § 62,054 (1980).

[44] Definition of Agricultural Use in Commission's Incremental Pricing Regulations, Docket No. RM81–17–000, issued Apr. 20 1981, 46 FR 23,487 at 23,488 (Apr. 27, 1981), FERC Stats. & Regs. (Proposed Regs.) ¶32,129 at 33,174.

[45] *Id.*

[46] *Id.*

[47] Incremental Pricing , Docket No. RM81–17–000, issued Nov. 16, 1981, 46 FR 57,469 (Nov. 24 1981) (Order No. 189), FERC Stats. & Regs. (Reg. Preambles) ¶ 30,313 at 31,771.

[48] Co-petitioners include towns and cities in Indiana, designated as "IMEA Cities" and the Crawfordsville Light and Power Company of Crawfordsville, Indiana.

a fixed rate of no less than 12 percent; or (3) setting the rate at the return on equity requested by companies in their rate filings. The Association also advocated that interest on refunds be compounded.

On March 26, 1979, shortly after receiving this request, the Commission issued a Notice of Proposed Rulemaking [49] proposing, among other things, to tie the interest rate on carrying charges and refunds to the prime interest rate charged by commercial banks for short-term business loans and to require monthly compounding of interest on funds subject to refund. After accepting comments in that docket, the Commission issued a final rule on September 17, 1979.[50]

In drafting the final rules, the Commission specifically considered proposals such as those advocated in this petition for rulemaking.[51] The Commission concluded, however, that the prime rate charged by banks for short-term business loans would best reflect a balance between the costs and benefits associated with excessive payments and provide an incentive for prompt resolution of rate proceedings. The Commission decided to change the compounding requirement in the final rules from a monthly basis to a quarterly basis because of the burden a monthly adjustment could impose.

Because the Commission has already examined the question of an appropriate interest rate refund as well as the method for compounding this rate, further action on RM79-17-000 is unnecessary. Accordingly, that petition is denied.

(Administrative Procedure Act, U.S.C. 551-557 (1976); Department of Energy Organization Act, 42 U.S.C. 7101-7352 (Supp. V 1981); Exec. Order No. 12009, 3 CFR 142 (1978); Federal Power Act, as amended, 16 U.S.C. 291-828 (1976 & Supp. V 1981), Natural Gas Act, 15 U.S.C. 717-7172 (1976 & Supp. V 1981), Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432 (Supp. V 1981)

In consideration of the foregoing, the Commission denies the petitions for rulemaking filed in Docket Nos. RM79-50-000, RM80-49-000, RM81-22-000; withdraws the Notice of Proposed Rulemaking in Docket No. RM80-52-000; denies the petitions for rulemaking filed Docket Nos. RM80-77-000, RM81-42-000, RM81-32-000, RM81-39-000, RM81-43-000, RM82-42-000, withdraws the Notice of Proposed Rulemaking in Docket No. RM80-64-000; and denies the petitions for rulemaking in Dockets Nos. RM81-23-000, RM82-22-000, RM83-48-000, and RM79-17-000. These dockets are being terminated as of the date of issuance of this Order.

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-749 Filed 1-11-83; 8:45 am]

BILLING CODE 6717-01-M

[49] Regulations under the Federal Power and Natural Gas Acts and Natural Gas Policy Act of 1978; Refund Requirements for Oil Pipelines, Docket No. RM77-22-000, issued Mar. 9, 1979, 44 FR 18,046 (Mar. 28, 1979), FERC Stats. and Regs. (Proposed Regs.) ¶ 32,012.

[50] Natural Gas Policy and Procedures; Final Regulations and Request for Comments, Docket No. RM 77-22-000, issued Sept. 10, 1979 (Order No. 47), 44 FR 53,493 (Sept. 14, 1979), FERC Stats. and Regs. (Reg. Preambles) ¶ 30,083.

[51] *Id.* at 53,494, FERC Stats. & Regs. (Reg. Preambles) as 30,548.

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

Proposed Change in Hours of Customs Service at Noyes, Minnesota

AGENCY: Customs Service, Treasury.

ACTION: Notice of proposed change in hours of service; solicitation of comments.

SUMMARY: This notice solicits public comments on a proposed reduction in the hours of service currently provided at the Customs port of Noyes, Minnesota, located on the U.S.-Canadian border, in the Pembina, North Dakota, Customs District.

Because traffic at Noyes does not justify the current 24-hour shcedule, it is proposed to eliminate service between midnight and 8:00 a.m.

It is estimated that the proposed change, which would enable Customs to obtain more efficient use of its personnel, facilities, and resources, would result in substantial savings.

DATES: Comments must be received on or before March 12, 1984.

ADDRESS: Comments (preferbly in triplicate) should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Denise Crawford, Office of Inspection and Control, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8157).

SUPPLEMENTARY INFORMATION:

Background

In general, § 101.6, Customs Regulations (19 CFR 101.6), provides that each Customs office shall be open for the transaction of Customs business between the hours of 8:30 a.m. and 5:00 p.m. on all days of the year except Saturdays, Sundays, and national holidays. It also provides that services performed outside a Customs office generally shall be furnished between the hours of 8:00 a.m. and 5:00 p.m. However, because of local conditions, different but equivalent hours may be necessary to maintain adequate and efficient service.

The Customs ports of entry of Noyes, Minnesota, and Pembina, North Dakota, both located on the U.S.-Canadian Border in the Pembina, North Dakota, Customs District, currently operate on a 24-hour basis and are staffed by Customs and Immigration and Naturalization Service personnel. Because traffic at Noyes and Pembina does not justify the hours of service between midnight and 8:00 a.m., since these two ports are located only a mile and a quarter from each other, Customs does not believe it is cost efficient to staff both locations on a 24-hour basis. Because Pembina is located on an interstate highway and Noyes is not, and since a lesser volume of traffic is processed at Noyes between midnight and 8:00 a.m. than is processed at Pembina during the same hours, Customs is proposing to eliminate service between midnight and 8:00 a.m. at Noyes.

The propopsal, if adopted, would enable Customs to realize a savings of more than $40,000 a year. In addition, the proposal would not have any major adverse impact on industry transportation or local population because of the close proximity to Pembina which could easily absorb the additional workload.

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Drafting Information

The principal author of this document was Glen E. Vereb, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 101

Customs duties and inspection, Harbors, Organization and functions (Government agencies), Seals and insignia.

Dated: December 9, 1983.

Alfred R. De Angelus,

Acting Commissioner of Customs.

[FR Doc. 84-705 Filed 1-11-84; 8:45 am]

BILLING CODE 4820-02-M

19 CFR Part 151

Examination of Imported Merchandise

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations to require that, as a general rule, all imported merchandise shall be examined at the place of arrival at the expense of the importer, rather than at "public stores" at Customs expense. A "public store" is a premises owned or leased by the Government and used for the storage of merchandise until it is released from Customs custody. The regulations now provide that unless the importer requests examination at a place other than a public store, merchandise is to be transported from the place of arrival to a public store for examination.

The proposed amendments would decrease Cutoms costs and liability while allowing more expeditious handling, examination, and release of cargo.

DATE: Comments must be received on or before March 12, 1984.

ADDRESS: Comments (preferably in triplicate) should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Thomas Davis, Office of Cargo Enforcement and Facilitation, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5354).

SUPPLEMENTARY INFORMATION:

Background

Under present § 151.6, Customs Regulations (19 CFR 151.6), all imported merchandise is required to be examined at the public stores, except inflammable, explosive, or dangerous merchandise, or any other merchandise which cannot be examined conveniently at the public stores, unless another place is requested by an importer and approved by Customs in accordance with § 151.7, Customs Regulations (19 CFR 151.7). The term "public store" is defined in section 561, Tariff Act of 1930 (19 U.S.C. 1561), as "(A)ny premises owned or leased by the Government and used for the storage of merchandise for the final release of which from Customs custody a permit has not been issued * * *."

Merchandise sent to the public stores for examintion under section 151.6 has been opened, examined, and closed by Customs personnel at Customs expense. However, any costs incurred (other than Customs salaries) when merchandise is examined at a place other than the public stores, such as at the wharf or other place of arrival or at the importer's premises, at the request of an importer under § 151.7, are charged to the importer. This has resulted in recurring disputes between Customs and importers involving responsibility for opening/closing cargo packages for Federal examination requirements.

The working of the current regulations allows an importer with a bulky or heavily-crated shipment which requires examination to refuse legitimately to request examination at other than the public stores and let Customs decide how, when, and where to examine the shipment. If Customs decides to do so at the public stores, it may cost Customs a substantial sum to load and haul the merchandise to that place. If Customs decides to examine the shipment where it is, in the absence of a request from the importer, then Customs provides the time, manpower, and tools to perform the examination. In either case, Customs must assume the inherent liabilities and responsibilities.

The concept of "public stores" in the traditional sense has waned because Customs facilities, personnel, equipment, and logistic backing necessary to support that function are extremely limited in many locations.

It is clear that Customs may require examination of imported merchandise where it chooses (19 U.S.C. 1499). Further, Customs may require an importer to bear all examination expenses.

If implemented, the proposed amendments will benefit not only Customs, but also importers, brokers, and carriers by allowing for expeditious handling, examination, and release of cargo shipments. In addition, these amendments would:

1. Allow maximum utilization of inspectional personnel;
2. Reduce the amount of paperwork and other controls necessary to forward examination packages to public stores;
3. Reduce the possibility of injury to Customs personnel;
4. Reduce instances of liability to Customs for tort claims because of damaged or pilfered merchandise; and
5. Reduce recurring costs of providing and replacing tools needed to conduct cargo examinations.

Accordingly, after studying the problem, Customs has determined that it would be desirable to amend §§ 151.6 and 151.7 to require that, in general, all imported merchandise will be examined at the place of arrival rather than the public stores and at the expense of the importer. This does not preclude the importer from requesting examination at a place other than the place of arrival, such as the importer's premises. Existing public stores would not be abolished, but used much less frequently, and solely at Customs option.

It is noted that this proposal is not intended to require an importer to pay any costs associated with the salary of a Customs employee in regard to examination of merchandise where such costs are not now paid.

Authority

This proposal is made under the authority of R.S. 251, as amended, section 461, 46 Stat. 717, section 467, as added June 25, 1938, section 11, 52 Stat. 1083, as amended, section 499, 46 Stat. 728, as amended, section 624, 46 Stat. 759 (19 U.S.C. 66, 1461, 1467, 1499, 1624).

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with section 103.11(b), Customs Regulations (19 CFR 103.11(b)), from 9:00 a.m. to 4:30 p.m. on normal business days, at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

E.O. 12291 and Regulatory Flexibility Act

It has been determined that this proposal is not a "major rule" within the criteria provided in section 1(b) of E.O. 12291, and therefore no regulatory impact analysis is required.

Pursuant to the provisions of section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*), it is hereby certified that the regulations set forth in this document, if promulgated, will not have a significant economic impact on a substantial number of small entities. Accordingly, these regulations are not subject to the regulatory

analysis or other requirements of 5 U.S.C. 603 and 604.

Drafting Information

The principal author of this document was Todd J. Schneider, Regulations Control Branch, U.S. Customs Services. However, personnel from other Customs offices participated in its development.

Lists of Subjects in 19 CFR Part 151

Customs duties and inspection, Imports.

Proposed Amendments

It is proposed to amend § 151.6 and 151.7, Customs Regulations (19 CFR 151.6, 151.7), as follows:

PART 151—EXAMINATION, SAMPLING, AND TESTING OF MERCHANDISE

1. Section 151.6 would be revised to read as follows:

§ 151.6 Place of examination.

All merchandise will be examined at the place of arrival, unless examination at another place is required by the district director or authorized in accordance with § 151.7 of this part. Except where the merchandise is required by the district director to be examined at the public stores, the importer shall bear any expense involved in preparing the merchandise for Customs examination and closing packages.

2. The heading, introductory language, and paragraphs (b) and (c) of § 151.7 would be revised to read as follows:

§ 151.7 Examination elsewhere than at place of arrival or public stores.

The district director may authorize examination at a place other than at the place of arrival or the public stores, such as at the importer's premises. If examination at a place other than at the place of arrival or the public stores is authorized it will be subject to the following conditions:

* * * * *

(b) *Preparation for Customs examination and closing packages.* Except when merchandise is required by the district director to be examined at the public stores, the importer shall arrange and bear any expense for preparation of the merchandise for Customs examination and closing of packages.

(c) *Reimbursement of expenses outside port limits.* If the place of examination is not located within the limits of a port of entry or at a Customs station at which a Customs officer is permanently located, whether or not that location is the place of arrival, the importer shall pay any additional expenses, including actual expenses of travel and subsistence but not the salary during regular hours of duty of the examining officer. However, no collection will be made if the total amount chargeable against one importer for one day amounts to less than 50 cents. If the total amount chargeable amounts to 50 cents or more but less than $1, a minimum charge of $1 will be made.

* * * * *

William von Raab,

Commissioner of Customs.

Approved: December 14, 1983.

John M. Walker, Jr.

Assistant Secretary of the Treasury.

[FR Doc. 84-828 Filed 1-11-84; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners

Correction

In FR Doc. 83-34066 beginning on page 56801 in the issue of Friday, December 23, 1983, third column, under **ADDRESS**, third line, "550 Friendship" should read "5550 Friendship".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 901

Permanent State Regulatory Program of Alabama

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of a program amendment submitted by Alabama to satisfy certain conditions imposed by the Secretary of the Interior on the approval of the Alabama State program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment also addressess the remand of three provisions of Alabama's program by a United States District Court decision.

The amendment consists of a set of modifications to Alabama's surface and underground coal mining regulations and a draft memorandum of understanding between the Alabama Department of Environmental Management and the Alabama Surface Mining Commission.

The conditions proposed to be addressed by Alabama's proposed modifications relate to specific program requirements in the areas of sediment control, and spoil placement and disposal. The remanded section of Alabama's program proposed to be addressed relates to Alabama's provisions for approving exemptions from the requirements for operators to return mined lands to their approximate original contour. The remanded provision is proposed to be addressed by the aforementioned memorandum of understanding between the Alabama Department of Environmental Management and the Alabama Surface Mining Commission.

The specific details of Alabama's proposed amendment are discussed below under "**SUPPLEMENTARY INFORMATION.**"

This document sets forth the times and locations that the Alabama program and proposed amendments are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and information pertinent to the public hearing.

DATES: Written comments, data or other relevant information relating to this rulemaking not received on or before 4:00 p.m. February 13, 1984 will not necessarily be considered.

A public hearing on the proposed modifications has been scheduled for February 6, 1984 at the address listed below under "**ADDRESSES.**"

Any person interested in making an oral or written presentation at the hearing should contact Mr. John T. Davis at the address or phone number listed below by the close of business four working days before the date of the hearing. If no one has contacted Mr. Davis to express an interest in participating in the hearing by that date, the hearing will not be held. If only one person has so contacted Mr. Davis by the above date, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: Written comments should be mailed or hand delivered to: John T. Davis, Director, Birmingham Field

Office, Office of Surface Mining Reclamation and Enforcement, 228 West Valley Avenue, 3rd Floor, Homewood, Alabama 35209.

The public hearing will be held at the Office of Surface Mining, Birmingham Field Office, Office of Surface Mining Reclamation and Enforcement, 228 West Valley Avenue, 3rd floor, Homewood, Alabama.

Copies of the Alabama program, a listing of any scheduled public meetings, and all written comments received in response to this notice will be available for review at the OSM and State regulatory authority offices listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Room 5315, 1100 L Street, NW., Washington, D.C. 20240

Office of Surface Mining Reclamation and Enforcement, 228 West Valley Avenue, 3rd Floor, Homewood, Alabama 35209

Alabama Surface Mining Commission, Central Bank Building, 2nd Floor, 811 Second Avenue, Jasper, Alabama 35501.

FOR FURTHER INFORMATION CONTACT:

John T. Davis, Director, Birmingham Field Office, Office of Surface Mining Reclamation and Enforcement, 228 West Valley Avenue, 3rd Floor, Homewood, Alabama 35209; Telephone: (205) 254–0890.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Availability of Copies

Copies of the Alabama program, the Secretary's notice conditionally approving the Alabama program (together with the Seretary's findings), a listing of any scheduled public hearings or meetings and all written comments received in response to this notice will be available for review at the OSM offices and the office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excuding holidays.

Office of Surface Mining, Room 5315, 1100 L Street, NW., Washington, D.C. 20240

Office of Surface Mining, Birmingham Field Office, Office of Surface Mining, 228 West Valley Avenue, Room 302, Birmingham, Alabama 34209

Alabama Surface Mining Commission, Central Bank Building, 2nd Floor, 811 Second Avenue, Jasper, Alabama 35501.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **"DATES"** or at locations other than Birmingham, Alabama, will not necessarily be considered and included in the Administrative Record for the final rulemaking.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **"FOR FURTHER INFORMATION CONTACT"** by the close of business four working days before the date of the hearing. If no one requests to comment at the public hearing, the hearing will not be held.

If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare appropriate questions. The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment, have been heard.

Public Meeting

Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting at the OSM office listed in **"ADDRESSES"** by contacting the person listed under **"FOR FURTHER INFORMATION CONTACT."**

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record. A written summary of each public meeting will be made part of the Administrative Record.

II. Background on Conditional Approval

Under 30 CFR 732.13(j), the Secretary may conditionally approve a State permanent regulatory program which contains minor deficiencies where the deficiencies are of such a size and nature as to render no part of the program incomplete, the State is actively proceeding with the steps to correct the deficiencies, and the State agrees to correct the deficiencies according to a schedule set in the notice of conditional approval.

III. Background on the Alabama Program

Information regarding the general background on the Alabama State program, including the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Alabama program can be found at 47 FR 22020–22038 (May 20, 1982) and 48 FR 34026 (July 27, 1983).

At the time of the Secretary's conditional approval, Alabama agreed to meet 13 conditions, many of which contained more than one element. Briefly, these conditions are:

1. Condition (a) requires Alabama to provide for the award of attorney and expert witness fees in accordance with Section 520(f) of SMCRA.

2. Condition (b)(1) requires Alabama to limit the definition of "extraction of coal as an incidental part" to only those areas included in the Federal definition.

3. Condition (b)(2) requires Alabama to redefine "Historic Lands" to include properly designated sites of religious, cultural and historic significance.

4. Condition (c) requires Alabama to change the term "unnecessarily disturbed" to "significantly disturbed" in order to provide sufficient protection for wildlife habitats.

5. Condition (d)(1) requires Alabama to provide that at the present time, the best technology currently available for sediment control is sedimentation ponds.

6. Condition (d)(2) requires Alabama to provide for sufficient sedimentation pond design criteria in accordance with 30 CFR 816.46(e)–(u) and 817.46(e)–(u).

7. Condition (d)(3) requires Alabama to limit impoundment slopes to not greater than lv:2h.

8. Condition (d)(4) requires Alabama to provide for the inspection of all appropriate dams in accordance with 30 CFR 77.216–3.

9. Condition (d)(5) requires Alabama to provide for minimum sediment storage volume for sedimentation ponds.

10. Condition (e)(1) requires Alabama to prohibit the disposal of coal processing waste in head-of-hollow and valley fills.

11. Condition (e)(2) requires Alabama to provide for the placement of spoil in four horizontal lifts unless otherwise authorized by the regulatory authority.

12. Condition (e)(3) requires Alabama to provide criteria for slopes greater than 36%.

13. Condition (e)(4) requires Alabama to provide criteria and requirements for head-of-hollow end valley fills in a

manner no less effective than 30 CFR 816.72 and 816.73.

14. Condition (f)(1) requires Alabama to limit blasting periods to an aggregate of four hours per day.

15. Condition (f)(2) required Alabama to limit maximum peak particle velocity to one inch per second at the locations of certain structures and to adjust the scaled distance factor and accompanying tables accordingly.

16. Condition (g)(1) requires Alabama to provide that permit applications contain the identification of the current use of buildings on maps and plans.

17. Condition (g)(2) requires Alabama to provide that permit applications contain sufficient slope measurements to adequately represent the existing land surface configuration.

18. Condition (g)(3) requires Alabama to provide that permit applications contain information concerning equitable owners of record found in a standard title search of the standard chain of title.

19. Condition (h)(1) requires Alabama to provide mandatory authority for the regulatory authority to provide to the public information on acid and acid-forming materials in the coal seam.

20. Condition (h)(2) requires Alabama to grant to the regulatory authority, rather than the operator, the discretionary power to determine the confidentiality of information relative to exploratory activities, and containing specific criteria for such determination.

21. Condition (i) requires Alabama to provide that the applicant must demonstrate that the use of existing structures will not result in significant harm to the environment or impair public health or safety.

22. Condition (j) requires Alabama to provide for the permitting of coal processing plants and other support facilities including those not at or near the mine site.

23. Condition (k) requires Alabama to provide for the meeting of all three conditions contained in 30 CFR 785.18(d)(9) prior to the granting of a variance.

24. Condition (l) requires Alabama to grant authorized representatives the power to and requiring that the authorized representatives shall impose affirmative obligations on the operator in situations of imminent danger or significant environmental harm or when an operator fails to abate the violation in the most expeditious manner physically possible.

25. Condition (m) requires Alabama to make certain editorial changes to its rules as follows:

(m)(1): In the definition of Federal Lands, insert "interest" after "mineral".

(m)(2): In the definition of "Groundwater" substitute "in" in lieu of "below".

(m)(3): Add a scope section to Alabama rule Part 823 (now redesignated as 880–X–10G–.01).

(m)(4): Remove the word "following" from section 823.15 (now redesignated as 880–X–10G).

(m)(5): Add appropriate references in Sections 816.46(u) and 817.46(u) (now redesignated as 880–X–10G and 880–X–10D).

(m)(6): Correct the reference at section 778.13(d) (now redesignated as 880–X–8D).

On August 29, 1983, Alabama submitted proposed amendments to meet each of the above conditions except for (d), (e) and (m)(5). OSM announced receipt of Alabama's August 29, 1983, amendments in the **Federal Register** on September 28, 1983 (48 FR 44233) and invited public comment. Also, at that time, Alabama requested an extension of time to meet conditions (d), (e) and (m)(5). A final rule indicating the Secretary's actions regarding Alabama's August 29, 1983, amendments and the conditions related thereto will be announced separately in the **Federal Register**. The extension request sought by Alabama may be mooted if the Secretary finds the November 26, 1983, proposed amendments meet conditions (d), (e) and (m)(5).

In addition, OSM announced in the November 15, 1983 **Federal Register** a proposed rule concerning the remand of three Alabama program provisions by the United States District Court for the Middle District of Alabama in Citizens for Responsible Resource Development v. Watt, Civil No. 82–530–N, October 7, 1983. Two of the three remanded provisions were proposed for reconsideration by OSM's November 15, 1983, notice in light of recent changes made to the Federal rules.

The first remanded provision concerns the Secretary's approval of Alabama's provision allowing partial bond release prior to topsoil replacement. Under the Federal rules which existed at the time the Alabama program was conditionally approved, 30 CFR 807.12 allowed the regulatory authority discretion to release sixty percent of the bond upon completion of Phase I reclamation. The Federal rules at 30 CFR 807.12(e)(1) required topsoil replacement as one of the elements which must be finished in order for reclamation Phase I to be deemed to have been completed. Alabama's provision at 880–X–9D omits this requirement. However, the Federal rules have since been changed. The new rule at 30 CFR 800.40(c)(1) provides that Phase I reclamation which would allow partial bond release may include topsoil replacement, but the requirement of topsoil replacement is no longer mandatory (48 FR 32932, July 19, 1983).

The other remanded provision concerns the Secretary's approval of Alabama's rules governing bond replacement in the event of the insolvency of a surety or bank. Under the Federal rules that existed at the time the Alabama program was conditionally approved, 30 CFR 806.12 (e)(6)(iii) and (g)(7)(iii) provided that during the period an operator is without bond coverage and is seeking a replacement bond, the regulatory authority shall conduct weekly inspections of the affected site(s). The Alabama counterparts at 880–X–9C–.03 (5)(e)(3) and (6)(h)(iii) omit this requirement. Subsequent to the Secretary's conditional approval of Alabama's program, the Federal rules concerning bond replacement were changed to no longer require weekly inspections. *See* 30 CFR 800.16(e)(2), 48 FR 32932, July 19, 1983.

In order to respond to the District Court's remand of these two Alabama provisions, OSM sought public comment on whether the existing Alabama provisions are in accordance with SMCRA and are now no less effective than the current Federal rules. The public comment period ended on December 15, 1983. A final rule announcing the Secretary's findings and actions will appear in a separate **Federal Register** notice.

In addition to responding to the two remanded provisions discussed above, OMS's November 15, 1983 notice also proposed placing an additional condition on Alabama's program in response to the District Court's remand of a third program provision. However, such action is being superseded because Alabama has submitted a proposed amendment to address the third remanded section. That proposed amendment is discussed in detail below.

IV. Discussion of the Proposed Amendment

On November 28, 1983, the Alabama Surface Mining Commission submitted a proposed program amendment to satisfy conditions (d), (e), and (m)(5) and to address one of the provisions of the State's program remanded by the United States District Court for the Middle District of Alabama.

Specifically, Alabama has:

(1) Proposed changes to rules 880–X–10C–.13 and 10D–.13 to meet conditions (d)(1);

(2) Proposed changes to rules 880–X–10C.17 and 10D–.17 to meet conditions (d)(2) and (d)(5):

(3) Proposed changes to rules 880–X–10C.20 and 10D–.20 to meet conditions (d)(3) and (d)(4);

(4) Proposed changes to rules 880–X–10C–.36(13)(b) and 10D–.33(13)(b) to meet condition (e)(1);

(5) Proposed changes to rules 880–X–10C–.36(9) and 10D–.33(9) to meet conditions (e)(2) and (e)(3);

(6) Proposed changes to rules 880–X–10C–.36(15)–(17) and 10D–.33(15)–(17) to meet condition (e)(4);

(7) Requested that OSM review condition (m)(5) in light of final OSM rules at 30 CFR 816.49 and 817.49 published September 26, 1983 (48 FR 44032); and

(8) Submitted a draft memorandum of understanding between the Alabama Department of Environmental Management and the Alabama Surface Mining Commission which would, when finalized, provide for necessary consultation and approval authority on variances from approximate original contour for steep slope mining in accordance with 30 CFR 785.16(c)(4)(iii) and the decision of the U.S. District Court for the Middle District of Alabama in *Citizens for Responsible Resource Development* v. *Watt*, Civil No. 82–530–N, October 7, 1983.

Thus, the Secretary requests comments on the substantive adequacy of the proposed amendments to satisfy the above conditions and court remand. The issue is whether each amendment is no less effective than its counterpart in the Federal regulations.

V. Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has detemined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be net by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 901

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

Dated: January 6, 1984.

Director, Office of Surface Mining.

James R. Harris,

[FR Doc. 84–812 Filed 1–11–84; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD3 83–060]

Drawbridge Operation Regulations; Nacote Creek, New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of Atlantic County, New Jersey, the Coast Guard is considering a change to the regulations governing the Route 575 Bridge at Port Republic, New Jersey by requiring notice of opening at all times and an opening as soon as possible for a public vessel of the United States. This proposal is being made because no requests have been made to open the draw since 1979. This action should relieve the bridge owner of the burden of having a person constantly available to open the draw and should still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before February 27, 1984.

ADDRESSES: Comments should be submitted to and are available for examination from 9 a.m. to 3 p.m., Monday through Friday, except holidays, at the office of the Commander (oan-br), Third Coast Guard District, Bldg. 135A, Governors Island, NY 10004. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, Third Coast Guard District (212) 668–7994.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or for any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Third Coast Guard District, will evaluate all communications received and will determine a final course of action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Ernest J. Feemster, project manager and Mary Ann Arisman, project attorney.

Discussion of Proposed Regulation

The Route 575 County Bridge, near Port Republic, N.J., carries minimal roadway traffic over Nacote Creek. The Waterway area upstream of the bridge is confined and forms a large body of water suitable for pleasure boating. The bridge has a minimum eight-foot vertical clearance (at Mean High Water) in the closed position. The existing clearance apparently is adequate for the few vessels using the waterway. A marina is located downstream of the bridge and most vessels from the marina normally transit downstream rather than upstream. There are several old docks upstream of the bridge but very little, if any usage appears to be made of these docks. Based on the minimal usage of the waterway, and the bridge's not being required to open since 1979, the Coast Guard feels that it may be reasonable to require eight hours notice at all times. This notice would not apply to public vessels of the United States, which will be passed through the draw as soon as possible at all times. A draft economic evaluation has not been conducted for this action because the economic impact on marine and vehicular interests is expected to be minimal.

Economic Assessment and Certification

These proposed regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these proposed regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–

80). As explained above, an economic evaluation has not been conducted since its impact is expected to be minimal. In accordance with § 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is certified that these rules, if promulgated, would not have a significant economic impact on a substantial number of small entities because no known water-dependent entities will be affected.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations.

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, by adding a new § 117.225(f)(9–a) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.225 Navigable waters in the State of New Jersey; bridges where constant attendance of draw tenders is not required.

* * * * *

(f) * * *

(9–a) Nacote Creek; the draw of the Ocean County Route 575 bridge, mile 3.5 at Port Republic shall open on signal if at least eight hours notice is given, and shall open as soon as possible at all times for passage for a public vessel of the United States.

* * * * *

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: December 27, 1983.

W. E. Caldwell,

Vice Admiral, U.S. Coast Guard Commander, Third Coast Guard District.

[FR Doc. 84–833 Filed 1–11–84; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 712

[OPTS–82004P;TSH FRL 2502–3]

Preliminary Assessment Information; Manufacturer Reporting Amendment Adding Mesityl Oxide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This proposed rule adds a single chemical, mesityl oxide, to the list of chemicals for which manufacturers must submit Preliminary Assessment Information under section 8(a) of the Toxic Substances Control Act (TSCA). The Interagency Testing Committee (ITC) designated this chemical in its Fourth Report as a candidate for testing under TSCA section 4. EPA did not include the chemical in the initial Preliminary Assessment Information Rule, but is adding it to the list of subject chemicals at this time. The Agency will use the reported data on mesityl oxide to obtain further support for its final test rule decision concerning that chemical.

DATE: Comments on this proposed rule must be submitted on or before February 13, 1984. Written comments should bear the document control number OPTS–82004P, and should be submitted to the following address:

TSCA Public Information Office (TS–793), Office of Toxic Substances, Environmental Protection Agency, Rm. E–108, 401 M St., SW., Washington, D.C. 20460.

All written comments filed under this proposal will be available for public inspection in room E–107 at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

Jack P. McCarthy, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–543, 401 M St., SW., Washington, D.C. 20460, Toll free: (800–424–9065), in Washington, D.C.: (544–1404), Outside the USA: (Operator–202–554–1404).

SUPPLEMENTARY INFORMATION: OMB Control Number: 2000–0420.

I. Legal Authority

The Preliminary Assessment Information Rule—Manufacturer Reporting, issued under the authority of section 8(a) of the Toxic Substances Control Act, was published in the **Federal Register** of June 22, 1982 (47 FR 26992). The rule established standardized reporting requirements for all manufacturers of chemicals listed in the rule. It required manufacturers of approximately 250 chemicals to report general production, use, and exposure information using the Preliminary Assessment Information Manufacturer's Report (EPA Form 7710–35). EPA may add chemical substances to the list of chemicals subject to the rule in order to gather data for the assessment of those chemicals.

II. Reporting Requirements

This rule proposes that mesityl oxide (CAS No. 141–79–7) be added to the list of chemicals subject to the Preliminary Assessment Information Rule. Manufacturers (including importers) or mesityl oxide would be required to provide EPA with Preliminary Assessment Information Reports on that chemical. A manufacturing firm would be required to submit a separate Manufacturer's Report for each plant site at which mesityl oxide is produced. Manufacturers of mesityl oxide would be required to submit their completed Reports within 60 days of the effective date of the final rule. Any firm submitting data under this rule could, at its discretion, specify that EPA is to treat the data as Confidential Business Information (CBI).

Additional details of the reporting requirements, including the reporting exemptions, are fully described in the Preliminary Assessment Information Rule. That rule is codified in the Code of Federal Regulations at 40 CFR Part 712.

III. Agency Rationale and Objectives

The TSCA Interagency Testing Committee ((ITC) included mesityl oxide in its Fourth Report of chemical substances designated for test rule consideration under TSCA section 4(a) (44 FR 31866, June 1, 1979). In response to that designation, EPA has issued a rule proposing the establishment of testing requirements for mesityl oxide. That proposed rule was published in the **Federal Register** of July 5, 1983 (48 FR 30699).

EPA did not include mesityl oxide in the initial section 8(a) Preliminary Assessment Information Rule. However, the Agency is now proposing the addition of mesityl oxide to that rule in order to obtain production, use, and exposure data on the chemical. Although EPA has already made a tentative decision to require testing on mesityl oxide, the Agency is seeking exposure-related information on the chemical at this time. These data will be used by EPA in making its final test rule decision with regard to mesityl oxide.

IV. Release of Aggregate Data

The Agency will follow procedures for the release of aggregate statistics as prescribed in a Rule Related Notice published in the **Federal Register** of June 13, 1983 (48 FR 27041). Included in the Notice are procedures for requesting exemptions from the release of aggregate data. Exemption requests concerning the release of aggregate data on any chemical sustance must be received by EPA no later than 60 days after the effective date of the final rule.

V. Economic Impact

EPA's cost estimates for manufacturer compliance with the requirements of this rule are based on estimates used in the Preliminary Assessment Information Rule. These cost estimates were updated to reflect inflationary trends through the latter part of 1982. Although EPA does not expect the reporting requirements of this rule to be in effect until early 1984, the Agency is utilizing the 1982 economic data in estimating the cost of manufacturer reporting on mesityl oxide. With the recent moderation in the inflation rate, EPA does not expect the compliance costs of this rule to be significantly different from the 1982 values for per-chemical reporting costs.

EPA's has identified the following categories of compliance costs for this rule:

1. A fixed cost of approximately $590 for a manufacturing plant site to become familiar with the regulation and to determine whether it is required to report on its production of mesityl oxide.

2. A variable cost of approximately $520 per report for the plant site to complete the Manufacturer's Report, meet all certification requirements, and determine whether reported information should be claimed confidential.

Based on non-confidential data at EPA's disposal, the Agency estimates that four plant sites operated by four companies will submit reports under this rule. Each of these sites will submit a single report on mesityl oxide. This estimate excludes manufacturers of mesityl oxide that need not report because they quality for the small manufacturer exemption. The total reporting cost of the mesityl oxide amendment is estimated by EPA to be $4,440.

For a more detailed discussion of reporting costs, see the Economic Impact and Small Business Definition Analysis For the Final TSCA Section 8(a) Preliminary Assessment Information Rule, prepared in 1981 by ICF, Inc. This document is contained in the public record for the Preliminary Assessment Information Rule (OPTS–82004).

VI. Regulatory Assessment Requirements—Paperwork Reduction Act, Regulatory Flexibility Act, Executive Order 12291

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, authorizes the Director of the Office of Management and Budget (OMB) to review certain information collection requests by Federal agencies. The final section 8(a) rule has been reviewed and approved by OMB. The OMB control number is 2000–0420.

EPA has also determined that, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, this proposed addition to the section 8(a) rule will not have a significant economic impact on a substantial number of small entities. EPA expects only four companies to report under this rule, well within Regulatory Flexibility Act guidelines. In addition, the rule will exempt "small" manufacturers (as defined in 40 CFR 712.25) from reporting on mesityl oxide.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and should be subject to a Regulatory Impact Analysis. EPA has determined that this regulation is not major because it is not expected to have a compliance cost of $100 million or more. Rather, as noted above, this rule is expected to have a one-time cost of approximately $4,440. The rule therefore will not have a significant effect on competition, costs, or prices.

The reporting previsions in this proposed regulation have been submitted to OMB as required by Executive Order 12291.

VII. Rulemaking Record

The public record for this proposed rulemaking is a continuation of the record for the Preliminary Assessment Information Rule (OPTS–82004). All documents, including the index to this public record, are available for inspection in the OTS Reading Room from 8:00 a.m. to 4:00 p.m. on working days (Rm. E–107, 401 M St., Washington, D.C. 29460). The record includes basic information considered by the Agency in developing this proposed rule. The Agency will supplement the record with the following types of additional information as it is received:

1. All comments on this proposed amendment.

2. All relevant support documents and studies.

3. Records of all communications between EPA personnel and persons outside the Agency pertaining to the development of this rule. (This does not include inter- or intra-agency memoranda unless specifically noted in the index of the rulemaking record.)

4. Minutes, summaries, or transcripts of any public meetings held to develop this rule.

5. Any factual information considered by the Agency in developing the rule.

EPA will identify the complete rulemaking record on or before the date of promulgation of the regulation, as prescribed by section 19(a)(3) of TSCA, and will accept additional material for inclusion in the record at any time between this notice and that date. The final rule will also permit persons to point out any errors or omissions in the record.

(Sec. 8(a), Pub. L. 94–469, 90 Stat. 2003 (15 U.S.C. 2607(a)))

List of Subjects in 40 CFR Part 712

Chemicals, Environmental protection, Recordkeeping and reporting requirements.

Dated: December 21, 1983.

Don R. Clay,

Director, Office of Toxic Substances.

PART 712—[AMENDED]

Therefore, it is proposed that 40 CFR 712.30 be amended by adding paragraph (i) to read as follows:

§ 712.30 Chemical lists and reporting periods.

* * * * *

(i) Manufacturers of the chemical substance listed below must submit a Preliminary Assessment Information Manufacturer's Report on that chemical substance within 90 days of the date of publication of this rule in the **Federal Register**:

Mesityl Oxide, CAS No. 141–79–7

* * * * *

[FR Doc. 84–803 Filed 1–11–84; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL MARITIME COMMISSION

46 CFR Part 508

[Docket No. 82–58]

Action To Adjust or Meet Conditions Unfavorable to Shipping in the United States/Venezuela Trade

AGENCY: Federal Maritime Commission.

ACTION: Discontinuance of proposed rule.

SUMMARY: The Federal Maritime Commission has determined to discontinue this proceeding (47 FR 55969) without issuing a final rule. The status of the carriers which had petitioned for issuance of the rule has changed to such an extent that continuation of this proceeding would serve no purpose.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street, NW., Washington, D.C. 20573 (202) 523–5725.

SUPPLEMENTARY INFORMATION: On September 13, 1983, Concorde/Nopal Line moved the Commission to suspend action on its Petition For Issuance of Rules To Adjust Or Meet Conditions

Unfavorable to Shipping In The United States/Venezuela Trade filed on July 8, 1983. In that motion, the Commission was advised that the United States and Venezuela had entered into a "Memorandum of Consultation" encompassing terms permitting Concorde/Nopal to apply for provisional status to participate in the U.S/ Venezuela trade. Concorde/Nopal has now notified the Commission, by letter from its counsel, that its application for provisional status has been granted.

Concorde/Nopal will thus be able to carry cargoes otherwise reserved by the Government of Venezuela to Venezuelan-flag and associate carriers, continuing its longstanding service in the trade. Concorde/Nopal states that its status is "provisional pending the outcome of further negotiations (scheduled for the first quarter of 1984) between the U.S. and Venezuela concerning a bilateral maritime agreement" and is subject to certain unspecified conditions applicable only to the operations of Concorde-Nopal in this trade. Concorde/Nopal asks the Commission to "continue to suspend further proceedings" on this matter.

Concorde/Nopal's concerns regarding its continued participation in the trade appear to have been alleviated by the Venezuelan government's grant of provisional associate status. The Commission sees no reason to continue the present docket because of Concorde/Nopal's apparent fears that its provisional status will prove transitory or because of dissatisfaction with the unnamed conditions imposed on its service. The information provided the Commission by Concorde/Nopal indicates simply that it has been granted provisional associate status, a state of affairs no more transitory or less secure than the interim associate status previously granted the two U.S. flag carriers whose petitions for relief under section 19(b) of the Merchant Marine Act, 1920, 46 U.S.C. 876(b), resulted in initiation of this proceeding.[1] If Concorde/Nopal's status changes, or its service suffers from the imposition of significant discriminatory conditions, it may again petition the Commission for action pursuant to section 19. No purposes would be served by continuation of the present inactive proceeding.

Therefore, it is ordered, that this proceeding is discontinued.

By the Commission.

Francis C. Hurney,
Secretary.

[FR Doc. 84-277 Filed 1-11-84; 8:45 am]
BILLING CODE 6730-01-M

[1] Delta Steamship Lines, Inc. and Coordinated Caribbean Transport.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[RM-4436; CC Docket No. 83-1376; FCC 83-606]

Integration of Rates and Services for the Provision of Communications by Authorized Common Carriers

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry.

SUMMARY: The Commission is initiating a *Notice of Inquiry* into the appropriateness of the existing rate integration policies for Alaska, Hawaii, Puerto Rico, and the Virgin Islands in light of recent Commission actions authorizing competitive entry to these points for interstate telecommunications services. This action is taken in response to a Petition for Rulemaking (RM 4436), filed by the state of Alaska and the Alaska Public Utilities Commission.

DATES: Comments must be received on or before March 7, 1984. Reply Comments are due on or before April 6, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Douglas Slotten, Policy and Program Planning Division at (202) 632-9342.

Notice of Inquiry

In the matter of Integration of Rates and Services for the Provision of Communications by Authorized Common Carriers between the Contiguous States and Alaska, Hawaii, Puerto Rico and the Virgin Islands, RM 4430; and Integration of Rates and Services for the Provision of Communications by Authorized Common Carriers between the Contiguous States and Alaska, Hawaii, Puerto Rico and the Virgin Islands, CC Docket No. 83-1376.

Adopted December 22, 1983.
Released January 4, 1984.

By the Commission.

I. Background

1. The Commission has before it a Petition for Rulemaking filed by the State of Alaska and the Alaska Public Utilities Commission (hereinafter jointly referred to as Alaska) on April 11, 1983. The Petition requests the initiation of a rulemaking proceeding to establish a permanent mechanism for the integration of rates and services between the contiguous states and Alaska, Hawaii, Puerto Rico and the Virgin Islands (the noncontiguous points). The State of Hawaii, Alascom, Inc. (Alascom),[1] and General Communications Incorporated (GCI)[2] filed comments in response to the Petition. Alascom replied to the GCI comments. A letter from Senator Ted Stevens supporting the initiation of a rulemaking proceeding to develop long-term policies for rate integration and competition in the post-divestiture era[3] was included in the record.[4]

2. In support of the Petition, Alaska submits that rate integration is dependent primarily upon agreements between AT&T and carriers serving the noncontiguous points and that the separate interim agreements between Hawaiian Telephone Company and Alascom and AT&T expire January 1, 1985, after which settlements will be based on the *Separations Manual* which is incorporated as Part 67 of the Commission's Rules, 47 CFR 67.1. Alaska further contends that the implementation of access charges, *MTS-WATS Market Structure Inquiry (Phase I)*, 48 FR 10319 (March 11, 1983), *recon.*, 48 FR 42984 (September 21, 1983), *appeal pending sub nom. NARUC v. FCC*, Civ. No. 83-1225 (filed March 1, 1983), and the exchange plant separations proceeding, *Amendment of Part 67*, mimeo No. 6726 (released September 26, 1983), *modified in part*, FCC 83-564 (adopted December 1, 1983), will alter significantly the foundation on which settlements are based, thereby undermining the rate integration process. Alaska states that AT&T settlements with the noncontiguous carriers generally amounted to more than the revenues generated by calls from those areas. Because noncontiguous points typically have high cost exchange and interexchange facilities, Alaska contends that rate integration cannot be maintained without some form of modified interstate rate averaging or other

[1] Alascom is the traditional carrier in Alaska, offering both interstate and intrastate telecommunication services. It and the American Telephone and Telegraph Company (AT&T) currently offer the interstate services at integrated rates pursuant to Commission direction.

[2] GCI is a new competitive entrant in the interstate telecommunications market, offering service to Anchorage, Alaska, via satellite facilities there and in Seattle, Washington. It leases transponders, and utilizes ENFIA facilities, WATS or private line services obtained from AT&T to reach the called destination in the contiguous states.

[3] The divestiture by AT&T of the Bell Operating Companies pursuant to the Modification of Final Judgment entered in *United States* v. *Am. Tel. and Tel. Co.*, 552 F. Supp. 131 (D.D.C. 1982), *cert. denied sub nom. Maryland* v. *United States*, 103 S. Ct. 1240 (1983).

[4] On December 7, 1983, GCI filed a Petition for Expedited Consideration and Related Interim Relief. Comment was requested by Public Notice released December 9, 1983.

substantial support for both types of facility costs. While the access charge decision will provide support for nontraffic sensitive (NTS) costs, high traffic sensitive exchange costs will be passed on to the interexchange carrier who will recover them from the interstate user. In its view, this will increase rates to noncontiguous points or discourage service to those points. Additionally, Alaska asserts that there is now no mechanism to support high cost interexchange facilities since AT&T's agreement to pay a transitional supplement ends on December 31, 1984, after which settlements will be based on interstate costs assigned by the *Separations Manual*. Alaska believes that absent substantial support from all ratepayers benefitting from the extension of interstate services to Alaska points, rate integration may collapse. The support necessary is, in Alaska's view, not a significant percentage when compared to total toll revenues. While not proposing a specific mechanism, Alaska suggests that the high costs could be supported by a fund similar to the universal service fund and funded through the carrier common line rate element. It submits that payment from such a fund could be made to all carriers that provide service to the noncontiguous points under integrated rate structures, with payments being proportionate to traffic volumes and cost factors.

3. Hawaii states in supporting the objectives of the Alaska Petition that there is a compelling need for a mechanism to assure that rate integration is implemented. It asserts that services to nonconctiguous points have been more expensive than comparable services between other points, thereby adversely affecting the residents of the noncontiguous points and those wishing to communicate with them. Hawaii submits that the universal service fund does not redress the problems associated with high cost, traffic sensitive exchange facilities or high cost interexchange facilities. Hawaii suggests that elimination of the interstate settlements pool and introduction of competition may cause carriers to be reluctant to honor their commitments to rate integration despite the clear directives of the Commission. The goals of Section 1 of the Communications Act of 1934, as amended, 47 U.S.C. 151, will be furthered, in Hawaii's view, if revised integration procedures are developed.

4. GCI, in supporting the Alaska Petition, submits that the changes in the telecommunication industry will not destroy rate integration, but represent an increasing incongruity between the competitive policies and the existing mechanism for rate integration. For the public to receive the benefits of both policies, it asserts that rate integration must be restructured. It believes that some support to Alaska is necessary if universal service is to be achieved. However, it argues that if only one carrier is to receive support, competitive service in the Alaskan market will be frustrated. Therefore, GCI contends that the mechanism providing rate support must allow for participation by all carriers serving routes requiring support.

5. Alascom supports the initiation of a proceeding to ensure that rate integration will not be jeopardized as reliance on marketplace forces increases. Alascom states that it knows of no reason why it is not entitled to continue to recover its full interstate MTS–WATS costs from AT&T by means of settlements based on applicable separations procedures and negotiated arrangements. Alascom suggests that it the Commission does not wish to have At&T continue to be the sole contributor to the support of services to high-cost noncontiguous points, a supplemental Alaskan interstate separations allocation that would become part of a universal service fund could be established. Such a fund could also, in Alascom's view, include above average NTS and exchange carriers' traffic sensitive costs, thus spreading the cost of supporting these high cost areas among all interstate exchange carriers at a minimum cost to the nation as a whole. Alascom does not believe, as highlighted in its reply comments to GCI's comments, that competitive providers should be compensated from such a fund since that would encourage uneconomic duplication of facilities. It says that users who already support facilities to provide service to high cost areas would have to pay the cost of such facilities. A competitive policy assertedly does not require subsidy of carriers competing with the carrier of last resort since that would create perverse incentives, would undermine the discipline that competition provides and would do nothing to further universal service. Alascom argues that if GCI cannot compete at cost-base rates, it should terminate service.

II. Existing Policy

6. AT&T and the independent telephone companies have long used a uniform rate schedule based upon averaged costs and rates for most interstate services among points in the contiguous states and the District of Columbia. Revenues from those services were traditionally divided in accordance with a formula that compensated each participating carrier for its interstate expenses and provided each carrier with the same return on its interstate investment. The interstate expense and investment was computed in accordance with the *Separations Manual* that is used for purposes of jurisdictional separations (*ie.*, through division of revenues and settlements contracts agreed to by the participating carriers). Different procedures were used for purposes of computing settlements and interstate rates between domestic points and noncontiguous states, territories, and possessions. Those procedures historically resulted in rates to and from noncontiguous points that were higher than interstate rates for comparable distances within the contiguous states.

7. In the early 1970's this Commission adopted a rate integration policy for interstate MTS–WATS service between Alaska, Hawaii and Puerto Rico and the contiguous states. *Establishment of Domestic Communications Satellite Facilities*, 35 FCC 2d 844, 856 (1972) (*Domsat II*), *off'd on recon.*, 38 FCC 2d 665 (1972), *off'd sub nom.* Network Project v. FCC, 511 F. 2d 786 (D.C. Cir. 1975). Rate integration was not adopted for private line offerings, as they were considered to be specialized in character. The Virgin Islands was subsequently included within the rate integration policy.

8. When rate integration is discussed, there are, in fact, two subelements involved. The first, and the most obvious to users of telecommunications services, is the averaged rates charged which may not necessarily relate to the underlying costs of providing the service. The averaging implicit in the procedure has been justified on the grounds that no person should be deprived of telecommunications service at reasonable rates simply because of the high costs associated with serving the user's location. Full rate integration was to be achieved through phased reductions in tariffed rates. *Integration of Rates and Services*, 61 FCC 2d 380 (1976), *recon. denied*, 65 FCC 2d 234 (1977). Rates were fully integrated between Puerto Rico and the Virgin Islands on July 1, 1980. *Integration of Rates and Services*, 72 FCC 2d 715 (1979). The final step in the rate integration process for Alaska and Hawaii was scheduled to be accomplished on January 1, 1985. *Integration of Rates and Services*, 87 FCC 2d 25 (1981). On October 3, 1983, AT&T filed revised interstate tariffs that would have integrated Alaskan and Hawaiian MTS–WATS rates on January 1, 1984. These rates were suspended for

investigation until April 3, 1984. *Investigation of Access and Divestiture Related Tariffs*, FCC 83–470 (released October 19, 1983).

9. The second factor in rate integration is the settlement arrangements between carriers serving the noncontiguous points and AT&T. It is this process through which carriers settle the differences between the amounts each collects from the end users and the amount to which the carrier is entitled for providing its part of the service offering. These agreements in the past have been negotiated between carriers on an individuals basis. AT&T and carriers serving the noncontiguous points have entered into new settlement arrangements that follow the traditional pattern in the contiguous states. Carriers that serve the noncontiguous points will recover all expenses apportioned to the interstate jurisdiction and a return on interstate investment equal to the rate earned by the settlements pool as a whole. The settlement agreements with Alascom and Hawaiian Telephone provide certain supplemental payments to those carriers through 1984.[5] This Commission has determined that the same *Separations Manual* provisions that are used to identify interstate investment and expenses in the contiguous states should be used for all noncontiguous points, *Integration of Rates and Services*, 87 FCC 2d 18 (1981), and *Integration of Rates and Services*, 72 FCC 2d 699 (1979).

10. We have taken several actions recently that have opened the noncontiguous points to competitive entry, thereby bringing them the benefits that competition provides for the marketplace. The noncontiguous points of Hawaii, Puerto Rico and the Virgin Islands were opened to competition in 1980. *MTS–WATS Market Structure Inquiry*, 81 FCC 2d 177 (1980). The Alaskan interstate MTS–WATS market, with a limited exception prohibiting duplicative facilities to bush communities, was opened to competitive entry in 1982. *MTS–WATS Market Structure Inquiry (Phase II)*, 92 FCC 2d 787 (1982), *recon. denied*, FCC 83–213 (released May 9, 1983). Finally, we have promoted marketplace competition with the noncontiguous points by extending the dominant/nondominant and forbearance policies applicable to the contiguous states to the noncontiguous points. *Competitive Carrier Rulemaking (Fourth Report and Order)*, FCC 83–481 (released November 2, 1983).

11. Our recent decision to establish a system of interstate access charges will substantially alter the traditional system of settlements and division of revenues within the contiguous states that has been used as a model for settlements between AT&T and carriers that serve the noncontiguous points. The telephone companies that serve the noncontiguous states are primarly exchange carriers and will be receiving most of their compensation for participation in interstate services through access charges. Settlement arrangements will, however, still be required (at least in the near term) between AT&T and independent telephone companies owning facilities that are classified as interexchange for purposes of the access charge rules.

III. Discussion

12. Our effort to bring telecommunication services to the noncontiguous points at rates comparable to those in the contiguous states has a long history. The pleadings before us support that just as we are achieving the culmination of rate integration, the competitive policies advanced in more recent years may adversely affect the future utility of existing rate integration procedures. While the pleadings express a need for a proceeding to investigate the interrelationships between rate integration and competition for the future telecommunication policies for the noncontiguous points, there is a decided lack of specificity concerning the nature or breadth of the problems perceived or the solutions proffered to alleviate them. Moreover, there is disagreement concerning the integration policy that would be compatible with competition.

13. The record developed in connection with Alaska's Petition is inadequate for us to make a recommendation of any rule changes at this time. Accordingly, we will not initiate a Notice of Proposed Rulemaking. However, we conclude that the public interest will be served if we begin a rulemaking proceeding to evaluate the rate integration policy and associated settlement arrangements in the light of more recent developments. This will give interested persons an opportunity to provide detailed support for the generalized assertions contained in the pleadings associated with the Alaska Petition.

14. Questions of competitive equity did not arise before carriers with their own facilities entered these markets in competition with the existing carriers. Moreover, as long as the competitive entrants' share of the market in the contiguous states was very small, the settlement procedures accommodated rate integration without significantly distorting competition. The increased levels of competition in the contiguous states and entry of competitors owning facilities in the noncontiguous points raises questions of the viability of competition under the existing rate integration procedures. To provide some focus for parties interested in commenting in this Docket, we shall outline several issues on which we seek comment. In doing so, we do not imply that these are the only issues that could be delineated, or that alternative formulations could not be posited. The focus of our discussion is on the potential long-run implications of maintaining our policies favoring both competition and rate integration, and on adjustments which may be necessary to reconcile those policies.[6]

15. Participants in this proceeding are requested to comment on the degree to which competition and the existing rate integration policies are believed to be incompatible. Any participant believing them to be incompatible should describe factors that lead to this incompatibility In setting forth the factors, participants should be as specific as possible as to the interrelationships that exist and should identify the policies that will be affected by competitive entry. The identification of the factors causing the alleged incompatibilities is extremely important because it will permit the development of modified policies that specifically address the problems defined by the comments. To the extent that these factors impose additional financial burdens on carriers or customers, delineation of the specific costs involved should be provided. The provision of dollar amounts will be

[5] The assertion by Alaska that the settlements agreements will expire on January 1, 1985, is correct. It is only the transitional supplements that Alascom and Hawaiian Telephone have been receiving that will terminate on the date. The settlements agreements will, however, have to be modified to reflect the adoption of access charges for the exchange portion of telephone services.

[6] GCI argues in its Petition (*See* Note 4, *supra*), essentially, that the outcome of this proceeding will be academic because its viability as a competitor is significantly affected by the tariffs which are presently scheduled to become effective next April 3. We expect to address GCI's Petition and the responses thereto next month. It may be necessary for AT&T and GCI (as well as other facilities-based providers of service to noncontiguous points) to enter into some type of interim arrangements. Any such relief would have to be structured so as to have the least possible impact on the competitive environment and should be consistent with the long-run options. Interested persons should prepare themselves to move quickly on this matter, and are encouraged to meet upon this matter soon to begin mapping out what accommodations may be feasible should we rule favorably on GCI's Petition.

particularly helpful if the record discloses that modifications in the existing policies are necessary.

16. Participants are requested to submit proposals for modifying existing policies to account for the factors identified in response to the preceding paragraph. Any proposal should specifically identify those Commission policies or settlement arrangements that may be required.[7] The dollar impacts of any changes should be provided if it is possible to do so. Comment is also sought on whether the modifications proposed will have different effects depending on the noncontiguous point to which they are applied. If so, to what extent will different policies be necessary for different noncontiguous points? Would different policies create unreasonable discrimination between points in violation of Section 202(a) of the Communications Act, 47 U.S.C. 202(a)? Participants should also comment on the impact any proposed plan would have on the provision of competitive telecommunication services throughout the entire domestic market (including service both to contiguous and noncontiguous points). If existing policies or practices are to be modified, we intend to select those modifications which have the least impact on competition wherever possible, consistent with the achievement of other Commission policies.

17. A critical factor in developing policies and rules for a competitive environment for the noncontiguous points is an evaluation of the characteristics possessed by the various interstate, interexchange carriers serving those markets. The determination of the characteristics of the carriers entering these markets is easier than identifying those of the existing carriers in these markets. The new entrant may rely totally on the resale of other carriers' facilities, may have its own facilities in the noncontiguous point and resell another carrier's facilities in the contiguous states (*e.g.*, as GCI does in its offerings in Alaska), or may have a substantial network in the contiguous states and enter the noncontiguous point either via its own facilities or through the resale of a carrier's facilities in the noncontiguous point.

18. There appear to be two approaches to characterizing the carriers that have traditionally served such markets. The first is to consider those carriers as partners with AT&T and view the offering as a joint competitive offering. This view is based on the requirement that AT&T join with such a carrier in offering service at integrated rates. *Domsat II, supra.* The second is to view a carrier such as Alascom as facility-based in its particular service area and as a reseller with respect to the contiguous states. This view is premised on the fact that such a carrier owns only those facilities in its service area and relies on the facilities of other carriers to complete its interstate offerings. The decision as to which characterization to apply to these carriers may significantly affect the ultimate market structure and applicable rules.

19. Under a joint venture theory, a competitive entrant would be competing with the average costs associated with the joint offering. A new entrant presumably would enter only if it could offer service at a cost lower than the average cost of the joint venture. This could create a barrier to entry since an entrant could also be expected to incur somewhat higher costs—absent a significant technological breakthrough. Therefore, we seek comment on whether the obligations on AT&T and carriers such as Alascom should be altered in any way to provide a more workable competitve environment. If so, what change are necessary? Can there in fact be an obligation imposed on two carriers to provide service at integrated rates without considering them to be a partnership for purposes of determining a competitive policy?

20. The facility-based/resale characterization would appear to require considerably greater modifications in existing practices than might the joint venture characterization. We seek comment on the implications of the facility-based/resale characterization for existing policies and practices. How would we determine equitable mechanisms to compensate for the fact that the original carrier has an obligation to serve all points, while the entering carrier is under no such obligation? Would the result be an administered price system? If so, will the benefits of competition actually be achieved?

21. In analyzing these options, participants should address the degree of competition possible under each approach. Particular attention should be paid to whether support payments can be minimized if one characterization is adopted over another. What factors should we consider in making such a comparison and what weight should be assigned to each factor?

22. The premise underlying Alaska's Petition appears to be that since the high-cost noncontiguous points currently receive support from the contiguous states, a modified rate integration plan or some other mechanism must be in place to ensure that carriers will continue to serve these points in a competitive environment. GCI, in commenting on Alaska's Petition, argues that if support is provided to the incumbent carrier, the competitive entrant must receive support in order to afford the entrant an opportunity to compete. Does the answer to the question of whether a support payment should be made to a competitive entrant depend on which characterization of the existing carrier is selected? Is such a policy consistent with a competitive marketplace? If a policy allowing a competitive entrant to receive support payments through some mechanism were to be adopted, what impact would this have on the overall level of support payments required for a particular point? If demand were stimulated by entry, would it not be possible that the support amount would increase? Would competitors in all noncontiguous points require support payments? What protections could a plan contain that would ensure that the competition-based incentives to control costs are attained? If such controls cannot be developed, would it be better to adopt a policy that did not provide support to competitive entrants at all, thereby possibly limiting the support payments required from ratepayers in the contiguous states?

23. The existing policy imposes the requirement for supporting the high-cost noncontiguous points upon services provided by AT&T and its partners in the interstate settlements pool. While the implementation of access charges will spread some of this support over all carriers utilizing the exchange facilities, the majority of support is required because of high interexchange costs. Alascom suggests that in a competitive environment it may not be equitable, or even viable, to continue to impose any obligation for supporting service to such points on one group of competitive carriers. If this is the case, what mechanism should be used to spread the costs of supporting service to such points? Participants who favor alternative mechanisms should describe in detail how any mechanism they propose would work, and what existing procedures would have to be changed.

[7] Participants may also suggest changes in separations rules if they believe such changes are necessary or desirable in order to develop a viable long-run policy. We will not, of course, adopt any separations changes in this Docket. Any change in separations rules would require an initial decision of a Federal-State Joint Board pursuant to Section 410(c) of the Act, 47 U.S.C. 410(c). If separations changes are suggested in this Docket that appear to warrant consideration, we will refer such questions to a Joint Board.

24. Several parties' comments have suggested that a universal service fund approach be taken to providing support to the high-cost noncontiguous points. [1] Would this method be workable? At what point in the process would the costs be spread among services of the various carriers? Would the spreading be equitable, or would it result in uneven distribution of the costs among carriers? Is there a different mechanism that would be more efficient, or cause less competitive impact?

25. Several commente suggest that the changes to the exhange allocations in the *Separations Manual* and the adoption of access charges will adversely affect rate integration. Exchange carriers are part of the National Exchange Carrier Association which provides a mechanism for achieving partially averaged access tariff rates and compensation for exchange carrier costs that are assigned to the interstate jurisdiction by the *Separations Manubl.* While we belive that the principal area in which possible concerns exist is the interexchange area, participants who believe that access charges or *Separation Manual* changes will have an adverse impact on integration policies should feel free to present their positions in their comments. Such participants should describe the adverse effects they anticipate and the size of any perceived impacts. We believe that our decisions in these areas have carefully taken into account the impacts on high cost areas, thereby obviating any significant impact.

26. Accordingly, it is ordered, pursuant to Sections 1, 4 (i) and (j), 201–205 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154 (i) and (j), 201–205 and 403, and Section 553 of the Administrative Procedures Act, 5 U.S.C. 553, That this *Notice of Inquiry* is hereby initiated.

27. It is further ordered, That comments shall be filed on or before March 7, 1984. Reply comments shall be filed on or before April 6, 1984. Comments shall be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554. All comments will be available for public inspection in the Commission's Docket Reference Room, 1919 M. Street, NW, Washington, D.C.

28. It is further ordered, That the Petition for Rulemaking filed by the State of Alaska and Alaska Public Utilities Commission is granted to the extent indicated herein.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 84-832 Filed 1-11-84 8:45 am]

BILLING CODE 6712-01-M

[1] Such a universal service fund would be different than that adopted by the Joint Board in CC Docket No. 80-286. That fund was intended to spread certain high cost nontraffic sensitive costs among all users of telecommunication service. The suggested universal service fund would relate only to some unspecified high interexchange costs.

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Notices

Federal Register
Vol. 49, No. 8
Thursday, January 12, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Soybean Research Advisory Institute; Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776), the Agricultural Research Service announces the following meeting:

Name: Soybean Research Advisory Institute.

Date: February 7–9, 1984 (9:00 a.m. Daily).

Place: Room 3109, South Building, U.S. Department of Agriculture, 12th and Independence Avenue, SW., Washington, DC 20250.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: This is the fifth meeting of the Soybean Research Advisory Institute. The purpose of this Advisory Institute is to provide a temporary advisory body to assess soybean production and utilization research in the United States and to submit a comprehensive report to Congressional committees on its findings. The fifth meeting includes a review of the executive summary and complete report and any required work sessions on completing the report.

Contact Person: Dr. Robert C. Leffel, Executive Secretary, Soybean Research Advisory Institute, Bldg. 011, HH–19, BARC-West, Beltsville, MD 20705. Telephone: (301) 344–1722.

Done at Beltsville, Maryland, this 19th day of December 1983.

Robert C. Leffel,

Executive Secretary, Soybean Research Advisory Institute.

[FR Doc. 84–877 Filed 1–11–84; 8:45 am]

BILLING CODE 3410–03–M

Commodity Credit Corporation

[1984-Crop Peanuts]

1984-Crop Peanut Program Proposed Determination Regarding National Average Support Levels for Quota and Additional Peanuts and the Minimum Commodity Credit Corporation Export Edible Sales Price for Additional Loan Peanuts

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of proposed determination.

SUMMARY: This notice requests comments with respect to the following determinations for the 1984 crop of peanuts: (1) The national average level of price support for quota peanuts, (2) the national average level of support for additional peanuts and (3) the Commodity Credit Corporation (CCC) export edible sales policy for 1984-crop additional peanuts which are pledged as collateral for a price support loan. These determinations are necessary to carry out the peanut price support program provided for in Section 108A of the Agricultural Act of 1949, as amended (hereinafter referred to as the "Act"). It is proposed that the quota support level for the 1984 crop shall be the same level as that applicable to the 1983 crop, $550 per ton. With respect to the level of support for additional peanuts and the minimum export edible sales price for additional peanuts pledged as loan collateral, this notice sets forth the range of prices under consideration.

DATE: Comments must be received on or before February 9, 1984 to be assured of consideration.

ADDRESSES: Send comments to Director, Analysis Division, 3741 South Building, P.O. Box 2415, Washington, D.C. 20013.

All written submissions will be made available for public inspection from 8:15 a.m. to 4:45 p.m. Monday through Friday in Room 3741 South Building, 14th and Independence Avenue SW., Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Gypsy Banks, Agricultural Economist, Agricultural Stabilization and Conservation Service, USDA, Room 3732 South Building, P.O. Box 2415, Washington, D.C. 20013 (202) 447–5953. A Preliminary Regulatory Impact Analysis is available upon request.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures required by Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classifed "not major." It has been determined that the actions proposed by the notice will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local governments, or geographical regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this notice applies to are: Title—Commodity Loans and Purchases, Number—10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

It has been determined that the public comment period with respect to this notice of proposed determination should be 30 days. The determination of the national average support level for the 1984-crop of additional peanuts is required by law to be made by the Secretary of Agriculture no later than February 15, 1984. Restricting the comment period to thirty days is necessary to assure adequate time for review and consideration of comments and permit a final determination with respect to the loan level for additional peanuts to be made by that date. The determinations with respect to the national average support level for quota peanuts and the minimum CCC export edible sales price for loan collateral additional peanuts are usually made at the same time as the additional support level in order to facilitate producer planning for the crop year.

These matters involve the considerations set forth below and comments are requested to aid in the determinations.

A. *National Average Support Level for Quota Peanuts.* Section 108A (1) of the Agricultural Act of 1949 ("the 1949 Act")

provides that the national average support level for each of the 1984 and 1985 crops of quota peanuts shall be the national average quota support rate for such peanuts for the preceding crop, adjusted to reflect any increase, during the period January 1 and ending December 31 of the calendar year immediately preceding the marketing year for the crop for which a level of support is being determined, in the national average cost of peanut production, excluding any increase in the cost of land. Section 108A provides further that in no event shall the national average quota support rate for any such crop exceed by more than 6 per centum the national average quota support rate for the preceding crop.

Since the 1983 calendar year immediately precedes the marketing year for the 1984 crop, the 1984 quota support level is required to be the 1983 quota support of $550 per ton adjusted to reflect any such increase in the national average cost of peanut production in calendar year 1983. The basis on which the national average cost of peanut production is to be determined is not specified in section 108A(1) of the 1949 Act. With respect to other commodity programs authorized by the 1949 Act in connection with which determinations are to be made on the basis of average cost of production (for example, sections 105B(b)(1)(C) and 107B(b)(1)(C), it is specified that the costs should be determined on a per acre basis. As shown in the following table, using cash expenses, capital replacement, land, and labor, the national average cost of producing 1983-crop peanuts on a planted acre basis is estimated by the Economic Research Service (ERS) to have decreased 0.7 percent from the 1982 cost estimate.

If a unit basis (cost of production per pound of peanuts) were used to determine whether there had been any increase in the cost of production in 1983 as compared to 1982, it would be necessary to make adjustments for variations in the quantities of peanuts produced caused by weather and other factors. This would require the use of trend yields. Using trend yields as calculated by ERS, the national average cost of producing 1983 crop peanuts on a per pound basis is estimated to have decreased $0.005 per pound or 2.4 percent from the 1982 cost of production. Details of the cost of production estimates are shown in the following table.

TABLE 45—PEANUT PRODUCTION COSTS, U.S., 1982–1984 [1]

Item	Dollars per planted acre	
	1982 [2]	1983 [3]
Cash receipts:		
Primary crop	656.52	546.58
Secondary crop	11.00	10.78
Total	667.52	557.36
Cash expenses:		
Seed	63.43	63.49
Fertilizer	20.83	19.56
Lime and gypsum	14.57	13.68
Chemicals	82.92	[illegible]
Custom operations	7.49	7.68
Fuel and lubrication	35.88	34.54
Repairs	20.56	20.24
Drying	42.14	34.70
Total, variable expenses	287.81	280.79
General farm overhead	27.12	27.72
Taxes and insurance	7.45	8.73
Interest	[illegible]	94.40
Total, fixed expenses	133.22	130.85
Total, cash expenses	421.03	411.63
Receipts less cash expenses	246.49	145.73
Capital replacement	53.17	58.31
Receipts less cash expenses and replacement	193.32	87.42
Economic costs:		
Variable expenses	287.81	280.79
General farm overhead	27.12	27.72
Taxes and insurance	7.45	8.73
Capital replacement	53.17	58.31
Allocated returns to owned inputs:		
Operating capital	12.09	11.64
Other nonland capital	19.73	21.35
Land	36.32	37.82
Labor [4]	33.23	34.23
Residual to management and risk	188.66	76.77
Net returns to owned inputs	291.97	181.81
(Price dollars/pounds)	0.248	0.244
Trend yield (pounds/planted acre)	2,618.29	2,665.00
Total cash expenses plus capital replacement, land, and labor:		
Dollars per planted acre	545.75	541.99
Dollars per pound with trend yield	.2084	.2034

[1] Based on 1982 survey data.
[2] Preliminary.
[3] Projected.
[4] This item includes hired labor (a cash expense) and unpaid labor; they could not be separately identified given available survey data.

In view of the foregoing, it is proposed that the national average support level for the 1984 crop of quota peanuts remain unchanged from the 1983 level of $550 per ton.

B. *National average level of support for additional peanuts.* Section 108A (2) of the Act provides that the Secretary shall make price support available to producers through loans, purchases, or other operations on 1984-crop additional peanuts at such level as the Secretary determines to be appropriate, taking into consideration certain factors. Those factors are the demand for peanut oil and meal, expected prices of other vegetable oils and meals and the demand for peanuts in foreign markets. the Act further provides that the Secretary shall set the support rate on additional peanuts at a level estimated by the Secretary to ensure there are no losses to CCC on the sale or disposal of such peanuts. Section 358(p) of the Agricultural Adjustment Act of 1938 defines additional peanuts for any marketing year as: (A) any peanuts marketed from a farm for which a farm poundage quota has been established that are in excess of the quota marketings from such farm for such year and (B) all peanuts marketed from a farm for which no farm poundage quota has been established. The 1949 Act provides that the level of support for 1984-crop additional peanuts shall be announced no later than February 15, 1984. The statutory factors for determining the additional support level are discussed below for the 1984 crop.

1. *Demand for peanut oil and meal.* The quantity of peanuts available for crushing in 1984/85, a residual of edible use, is expected to range from 194,000 tons to 274,000 tons compared with 170 thousand tons for 1982 and 1983. Peanut oil and meal prices are expected to average 37 cents per pound and $190 per ton, respectively, for the 1984/85 marketing year assuming lower and mid-range minimum CCC export edible sales price options. With the higher minimum sales price option more peanuts are expected to be crushed, thus, depressing peanut oil prices to an estimated 35 cents per pound.

2. *Expected prices of other vegetable oils and meals.* In 1983/84, the world aggregate production of oilseeds is estimated to be 179 million short tons (162.8 million metric tons), 9 percent lower than 1982/83. Virtually all the reduction is expected to occur in the U.S. Soybeans account for 47 percent of the total world aggregate oilseed production while peanuts account for 12 percent. Because of soybean dominance of the total supply, soybeans lead the demand-supply price patterns for oilseeds. Tight supplies and higher prices dominate the 1983/84 U.S. soybean outlook. In 1983/84 soybean oil prices are estimated to range from 28 to 34 cents per pound compared to 20.5 cents per pound in 1982/83. Soybean meal prices are expected to range from $230 to $250 per ton, compared with $187 per ton for 1982/83. Soybean acreage will likely increase in 1984 and the resulting larger production is expected to offset the drawdown in 1983/84 carryout stocks. Demand for oil and meal is expected to strengthen. Soy oil prices are pojected to decrease 3 percent from 1983/84 price and soybean meal prices are projected to decrease 21 percent from 1983/84 levels.

3. *Demand for peanuts in foreign markets.* The demand for U.S. peanuts in foreign markets is expected to strengthen as U.S. exports return to their more historical levels prior to the drought-reduced 1980 crop. The U.S. is expected to supply as much as 422,000 short tons to the export market in the 1984/85 marketing year, 25 percent above the 338,000 ton estimate for 1983/84 marketing year. The 1983 drought was not as severe as the 1980 drought and is not expected to impact exports as much as 1980.

As indicated, in addition to the consideration of the above factors, the 1949 Act also provides that the support rate must be established at a level estimated to ensure no loss to CCC from the sale or disposal of additional peanuts placed under loan. Under the pool concept, gains from any pool are redistributed to the producers. Thus, a loss in any pool is a net loss to CCC. It is expected that all peanuts in some additional loan pools will be disposed of exclusively through sales for domestic crushing. Based on present data, it is proposed that the support level for the 1984 crop of additional peanuts be no higher than $230 per ton and no lower than $185 per ton. The higher figure is derived from an expected crushing price for the 1984 marketing year of $315 per ton minus expected CCC handling and related costs of $85 per ton. The lower figure of $185 per ton is the 1983-crop additional support level. A support level of less than $230 per ton would provide a cushion against lower than expected crushing prices, higher than expected costs, or other factors which would result in a loss to CCC from the sale or disposal of additional loan collateral peanuts.

C. *Minimum CCC export edible sales price for additional peanuts pledged as collateral for a price support loan.* The determination of a minimum CCC export edible sales price with regard to additional peanuts pledged as loan collateral is discretionary with the Secretary. It is presently intended that this determination will be made at the same time as the determination of the support levels for quota and additional peanuts in order to give handlers and growers adequate information on which to base export contracts for additional peanuts. If the minimum sales price is established too high, it discourages export contracting between handlers and growers and encourages the production of additional peanuts for the loan program on the assumption that the minimum sales price is the price growers will receive for their loan peanuts. This assumption may be incorrect, however, since a misjudgement in the price of edible peanuts in the export market could result in CCC losing edible sales and having to crush the loan inventory. In such case, growers would only receive the additional loan rate. If the minimum sales price is too low, returns from export sales will not be maximized and grower income will be reduced, since export contracts between handlers and growers are generally based on the CCC minimum sales price. It is proposed that the minimum export edible sales price for the 1984 crop of peanuts will range from $265 per ton to $530 per ton. The lower figure is equal to the lowest proposed additional support level plus the estimated costs incurred by CCC for the storage, handling, inspection of export edible peanuts. The higher figure was derived by deducting $20 per ton from the proposed $550 per ton quota support price. The minimum CCC export edible sales price for the 1978 through 1981 crops was established at $20 per ton below the quota support price. However, for the 1982 and 1983 crops, the minimum CCC export edible sales price was established at $75 per ton and $150 per ton below the quota support price, respectively. Some growers have suggested this minimum sales price should be established closer to the quota support price.

Proposed Determinations

Comments are requested on the following issues with respect to 1984-crop peanuts:

(1) The national average price support level for quota peanuts.

(2) The national average price support level for additional peanuts.

(3) The minimum CCC export edible sales price for additional peanuts pledged as loan collateral.

All written submissions will be made available for public inspection form 8:15 a.m. to 4:45 p.m. Monday through Friday in room 3741-South Building, 14th and Independence Avenue, SW., Washington, D.C. 20013.

Signed at Washington, D.C. on January 10, 1984.

C. Hoke Leggett,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 84-984 Filed 1-10-84; 2:52 pm]

BILLING CODE 3410-05-M

Forest Service

National Forest Land and Resource Management Plans, National Forests in Alabama, et al.; Revised Notice of Intent to Prepare Environmental Impact Statements

The Department of Agriculture, Forest Service, is preparing Environmental Impact Statements for proposed Forest Land and Resource Management Plans for the National Forests in Alabama, Puerto Rico, Tennessee, Kentucky, Florida, Virginia, Arkansas, Oklahoma, and Texas. Notices of Intent were previously filed. However, in response to the decision by the Ninth Circuit Court of Appeals (California vs. Block, October 22, 1982) the Secretary of Agriculture directed the Forest Service to evaluate roadless areas in Environmental Impact Statements for Forest Land and Resource Management Plans. Consequently, completion and filing of the EISs will be delayed and a revised Notice of Intent is being filed. Regulations were revised (36 CFR 219.17) to allow for the roadless area re-evaluation. Public participation in the roadless area re-evaluation has been proceeding following press releases in order to collect data and analyze past activities.

To evaluate roadless areas in these states, the public, other government agencies, and Indian tribes are, or have been, invited to participate in identifying new or revised issues associated with inventoried roadless areas, clarifying current roadless area issues, and assisting in determing the necessary scope and detail of evaluation appropriate for each roadless area. Specific information is, or has been, requested on manageable boundaries, wilderness values, and resource development potential.

The Forest Service will, or has solicited, written responses from the public through newsletters, press releases and/or personal contacts with known interested organizations and individuals.

Written comments, suggestions and information about roadless areas should be, or have been, sent to the appropriate Forest Supervisor as follows:

National Forests in Alabama, 1765 Highland Avenue, Montgomery, AL 36107

Caribbean National Forest, Box AQ, Rio Piedras, PR 00928

Cherokee National Forest, 2800 N. Ocoee Street, NW., Box 2010, Cleveland, TN 37311

Daniel Boone National Forest, 100 Vaught Road, Winchester, KY 40391
National Forests in Florida, Hobbs Federal Building, 227 No. Bronough Street, Suite 4061, Tallahassee, FL 32301
George Washington National Forest, 210 Federal Building, Harrisonburg, VA 22801
Jefferson National Forest, 210 Franklin Road, S.W., Caller Service 2900, Roanoke, VA 24001
Ouachita National Forest, Box 1270, Federal Building, Hot Springs National Park, AR 71902
Ozark-St. Francis National Forests, Box 1008, Russellville, AR 72801
National Forests in Texas, Homer Garrison Building, 701 N. First Street, Lufkin, TX 75901

Forest land and resource management plans are being prepared to provide for multiple use and sustained yield of the goods and services from the National Forest System in a way that maximizes long term net public benefits in an environmentally sound manner. Plans will guide all natural resource management activities and establish management standards and guidelines. They will determine resource management practices, levels of resource production and management, and the availability and suitability of lands for resource management. Environmental Impact Statements will evaluate several alternatives for management. The public will be invited to comment on draft Environmental Impact Statements as they are completed.

The revised schedule for completion and filing of draft and final Environmental Impact Statements is:

National Forest	DEIS	FEIS
Alabama	3/85	9/85
Caribbean	9/84	9/85
Cherokee	12/84	9/85
Daniel Boone	9/84	6/85
Florida	12/84	9/85
George Washington	9/84	6/85
Jefferson	12/84	9/85
Ouachita	9/84	6/85
Ozark-St. Francis	12/84	9/85
Texas	3/85	9/85

John E. Alcock, Regional Forester, Southern Region, is the responsible official. Questions and requests for additional information should be directed to the appropriate Forest Supervisor.

Dated: January 4, 1984.

James E. Webb,

Deputy Regional Forester.

[FR Doc. 84-788 Filed 1-11-84; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Martin County Airport, RC&D Measure, North Carolina

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Martin County Airport, RC&D Measure, Martin County, North Carolina.

FOR FURTHER INFORMATION CONTACT: Mr. Coy A. Garrett, State Conservationist, Soil Conservation Service, Room 544, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27611, Telephone (919) 755-4210.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Coy A. Garrett, State Conservationist, has determined that the preparation and review of an environmental impact state statement are not needed for this project.

The measure concerns a plan for reducing serious erosion on the Martin County Airport grounds. The planned works of improvement include grading and shaping, liming, fertilizing, seeding and mulching with adapted vegetation.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Coy A. Garrett.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

Dated: December 19, 1983.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program, Executive Order 12372, "Intergovernmental Review of Federal Programs" is applicable)

Coy A. Garrett,

State Conservationist.

[FR Doc. 84-853 Filed 1-11-84; 8:45 am]

BILLING CODE 3410-16-M

Scaly Mountain Critical Area Treatment; RC&D Measure, North Carolina

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Scaly Mountain Critical Area Treatment, RC&D Measure, Macon County, North Carolina.

FOR FURTHER INFORMATION CONTACT: Mr. Coy A. Garrett, State Conservationist, Soil Conservation Service, Room 544, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27611, Telephone (919) 755-4210.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Coy A. Garrett, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan to treat critical eroding areas in the Scaly Mountain Area with vegetative and structural measures.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Coy A. Garrett.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

Dated: December 19, 1983.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Executive Order 12372, "Intergovernmental Review of Federal Programs" is applicable)

Coy A. Garrett,

State Conservationist.

[FR Doc. 84-854 Filed 1-11-84; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

International Trade Administration

[C-201-017]

Postponement of Countervailing Duty Investigation; Bricks From Mexico

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The preliminary determination of bricks from Mexico is being postponed until not later than February 16, 1984.

EFFECTIVE DATE: January 12, 1984.

FOR FURTHER INFORMATION CONTACT: Deborah Semb, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, Telephone: (202) 377-3534.

SUPPLEMENTARY INFORMATION: On November 14, 1983, we initiated a countervailing duty investigation to determine whether certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being conferred upon the manufacture, production or exportation of bricks from Mexico (48 FR 52496).

The notice of initiation stated that if the investigation proceeded normally, we would make our preliminary determination by January 17, 1984.

In accordance with section 703(c)(1)(A) of the Tariff Act of 1930, as amended (the Act), counsel for the petitioners requested that we extend the preliminary determination by thirty days. This request was made to permit additional time to investigate the existence of an additional bounty or grant conferred upon the exportation of brick from Mexico. Therefore, we will now make our preliminary determination by February 16, 1984.

This notice is published in accordance with section 703(c)(2) of the Act.

Dated: January 4, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-861 Filed 1-11-84; 8:45 am]

BILLING CODE 3510-DS-M

Scientific Articles; Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes; North Carolina Central University et al.

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No.: 83-326. Applicant: North Carolina Central University, Durham, NC 27707. Instrument: Electron Microscope, Model H-300. Manufacturer: Hitachi, Japan. Intended use: See notice at 48 FR 51675. Instrument ordered: November 18, 1982.

Docket No.: 83-328. Applicant: University of Texas Medical Branch at Galveston, Galveston, TX 77550. Instrument: Electron Microscope, Model EM 410LS and Accessories. Manufacturer: Nederlandse Philips Bedrijven, B.V., The Netherlands. Intended use: See notice at 48 FR 51675. Instrument ordered: September 13, 1983.

Docket No.: 83-331. Applicant: Veterans Administration Medical Center, Little Rock, AR 72206. Instrument: Electron Microscope, JEM-100CX and Accessories. Manufacturer: JEOL, Inc., Japan. Intended use: See notice at 48 FR 51676. Application received by Commissioner of Customs: October 27, 1983.

Docket No.: 83-344. Applicant: Cornell University, Geneva, NY 14456. Instrument: Electron Microscope, Model JEM-100SX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use: See notice at 48 FR 51619. Instrument ordered: September 6, 1983.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered.

Reasons: Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or of any other instrument suited to these purposes, which was being manufactured in the United States either at the time of order of each instrument or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-860 Filed 1-11-84; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

National Marine Fisheries Service; Availability

Pursuant to section 14(b)(2) of the North Pacific Fisheries Act of 1954 as amended (16 U.S.C. 1021 et seq.), the National Marine Fisheries Service has released to the general public its Proposed Action Plan for Dall's Porpoise for 1984. The plan describes research studies conducted on Dall's porpoise, proposed research plans for 1984, and management measures taken to reduce the incidental take of this species in the Japanese high seas salmon fishery.

Copies of this report are available from the Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, Washington, D.C. 20235.

Dated: January 6, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-810 Filed 1-11-84; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Defense Data Network (Defensive Systems Subgroup); Advisory Committee Meeting

The Defensive Systems Subgroup of the Defense Science Board Task Force on Defense Data network will meet in closed session on February 1-2, 1984 in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meeting on February 1–2, 1984, the Task Force will discuss the application of technology to systems designed to improve future U.S. air defense capabilities.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. I, (1976)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly this meeting will be closed to the public.

Dated: January 6, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84–882 Filed 1–11–84; 8:45 am]

BILLING CODE 3810–01–M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

January 4, 1984.

The USAF Scientific Advisory Board Armament Division Advisory Group will meet February 14–15, 1984 at Eglin AFB, FL, from 8:30 a.m. to 4:30 p.m. each day.

The purpose of the meeting will be to review Sensor-Fuzed Munition Enhancements.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202–697–4811.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 84–857 Filed 1–11–84; 8:45 am]

BILLING CODE 3910–01–M

Department of the Navy

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Naval Research Advisory Committee Panel on Reduced Observables will meet on January 31, 1984 and February 1 and 2, 1984, at Commander Training Command, U.S. Pacific Fleet, San Diego, California. Sessions of the meeting will commence at 8:30 a.m. and terminate at 4:00 p.m. on January 31, 1984; commence at 8:30 a.m. and terminate at 3:00 p.m. on February 1, 1984; and commence at 9:00 a.m. and terminate at 12:00 noon on February 2, 1984. All sessions of the meeting will be the public.

The entire agenda for the meeting will consist of discussions relating to the Fleet training assessment, Battle Group tactical operations/training, operational deception, operational modeling and gaming, operational initiatives and requirements, and technology developments. These matters constitute classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive order. The classified and non-classified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning contact: Commander M. B. Kelley, U.S. Navy, Office of Naval Research (Code 100N), 800 North Quincy Street, Arlington, VA 22217, Telephone Number (202) 696–4870.

Dated: January 9, 1984.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Alternate Federal Register Liaison Officer.

[FR Doc. 84–824 Filed 1–11–84; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF EDUCATION

National Advisory Council on Indian Education; Meeting

AGENCY: National Advisory Council on Indian Education.

ACTION: Amendment to Notice.

SUMMARY: Notice is hereby given to amend a **Federal Register** notice concerning a closed Search Committee Meeting of the National Advisory Council on Indian Education. On January 19, 1984, the agenda has been changed to include the interviewing of candidates for the position of Director, Indian Education Programs. The time and location of the search Committee Meeting on January 19, 1984, remains the same. On January 20, 1984, the meeting has been rescheduled to start at 8:30 A.M. instead of 9:00 A.M. Everthing else for January 20, 1984, remains the same. The interview process may be continued on January 21, 1984, if necessary. The original notice was published in the **Federal Register** on January 6, 1984, page 929, Vol. 49, No. 4.

DATE: January 10, 1984.

Lincoln C. White,

Executive Director, National Advisory Council on Indian Education.

[FR Doc. 84–1018 Filed 1–11–84; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Forms Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration.

ACTION: Notice of submission of request for clearance to the Office of Management and Budget.

SUMMARY: Under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), Department of Energy (DOE) notices of proposed collections under review will be published in the **Federal Register** on the Thursday of the week following their submission to the Office of Management and Budget (OMB). Following this notice is a list of the DOE proposals sent to OMB for approval. The listing does not contain information collection requirements contained in regulations which are to be submitted under 3504(h) of the Paperwork Reduction Act.

Each entry contains the following information and is listed by the DOE sponsoring office: (1) The form number; (2) Form title; (3) Type of request, e.g., new, revision, or extension; (4) Frequency of collection; (5) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (6) Type of respondent; (7) An estimate of the number of respondents; (8) Annual respondent burden, i.e., an estimate of the total number of hours needed to fill out the form; and (9) A brief abstract describing the proposed collection.

DATES: Last Notice published Thursday, December 8, 1983, (48 FR 55022).

FOR FURTHER INFORMATION CONTACT:

John Gross, Director, Forms Clearance and Burden Control Division, Energy Information Administration, M.S. 1H–023, Forrestal Building, 1000 Independence Ave., SW., Washington, DC 20585; (202) 252–2308;

Jefferson B. Hill, Department of Energy Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503; (202) 395–7340; and

Vartkes Broussalian, Federal Energy Regulatory Commission Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503; (202) 395–7340.

SUPPLEMENTARY INFORMATION: Copies of proposed collections and supporting documents may be obtained from Mr. Gross. Comments and questions about the items on this list should be directed to the OMB reviewer for the appropriate agency as shown above.

If you anticipate commenting on a form, but find that time to prepare these comments will prevent you from submitting comments promptly, you should advise the OMB reviewer of your intent as early as possible.

Issued in Washington, D.C., January 4, 1984.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

DOE FORMS UNDER REVIEW BY OMB

Form No.	Form title	Type of request	Response frequency	Response obligation	Respondent description	Estimated number of respondents	Annual respondent burden	Abstract
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
EIA–28	Financial Reporting System.	Revision	Annual	Mandatory	Major domestic oil and gas producers.	25	43,000	EIA–28 collects financial, production and reserves data. The data, required pursuant to Pub. L. 95–91, are used to evaluate the competitive environment for energy products supply/development, and to analyze energy resource development/supply/distribution arrangements. EIA publishes the aggregate data.

[FR Doc. 84–474 Filed 1–11–84; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. ER84–165–000]

American Electric Power Service Corp.; Filing

January 6, 1984.

The filing Company submits the following:

Take notice that on December 30, 1983, the American Electric Power Service Corporation (AEP) on behalf of its affiliate Indiana & Michigan Electric Company (I&ME) submitted to the Commission Modification No. 11 dated December 1, 1983 to the Agreement dated January 2, 1977 between the City of Richmond, Indiana and I&ME (1977 Agreement), I&ME's Rate Schedule FERC No. 70.

AEP states that this modification revises the 1977 Agreement by extending the Agreement for an additional period of two years with one year automatic extensions, unless terminated by either party with one year's notice. This Modification also revises Service Schedule A—Firm Power and Energy by extending this service schedule and by specifying the RP&L Firm Contract Demand, in kilowatts for 1984 and 1985.

AEP further states this Modification also revises several other Service Schedules which are part of this Agreement. The terms and conditions contained in the revisions to these Service Schedules are substantially the same as those contained in serveral other Service Schedules filed by AEP and accepted for filing by FERC. This Agreement is proposed to become effective January 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon Richmond Power and Light Company, the Public Service Commission of Indiana, and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 25, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–752 Filed 1–11–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER84–173–000]

Centel Corp.; Filing

January 6, 1984.

The filing Company submits the following:

Take notice that on December 23, 1983, Centel Corporation (Centel) tendered for filing a Wholesale Contract between Centel, Western Power and the Municipal City of Luray, Kansas. Centel states that the energy purchased by the city under the terms of this contract is for the operation of the electric distribution system and other such uses as commonly required by the city.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 25, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–753 Filed 1–11–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER84–174–000]

The Detroit Edison Co.; Filing

January 6, 1984.

The filing Company submits the following:

Take notice that The Detroit Edison Company on December 23, 1983 tendered for filing the following proposed changes in its FPC Electric Service Tariff, 1st Revised Volume No.1:

Amendment to Electric Supply Agreement

Detroit Edison is requesting that the Commission approve an amendment to the Electric Supply Agreement with the Thumb Electric Cooperative to enable Detroit Edison to add a new service delivery point with the customer. No other term of the Electric Supply Agreement has been changed as a result of this Agreement.

Detroit Edison requests that the Commission grant such waivers and authorizations as are required to enable the implementation of this Agreement from August 29, 1983.

Copies of the filing were served upon The Detroit Edison Company's jurisdictional coustomers and upon the Michigan Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 24, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-754 Filed 1-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-187-000]

El Paso Electric Co.; Filing

January 6, 1984

The filing company submits the following:

Take notice that on December 30, 1983, El Paso Electric Company (El Paso) tendered for filing an "Interchange Agreement between El Paso Electric Company and Tucson Electric Power Company," dated December 16, 1983 (Agreement). El Paso states the Agreement establishes a general contractual framework for the provision of interchange services including economy energy interchange, nonfirm transmission service and additional power exchange.

El Paso requests an effective date of January 1, 1984, for Service Schedules A and B (economy energy interchange and nonfirm transmission service, respectively) and therefore requests waiver of the Commission's notice requirements. Service Schedule C, Additional Power Exchange, is proposed to become effective with initial synchronization of Unit No. 1 at the Palo Verde Nuclear Generating Station.

According to El Paso copies of this filing have been served upon the Public Utility Commission of Texas, the New Mexico Public Service Commission, and Tucson Electric Power Company.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 25, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-755 Filed 1-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-172-000]

El Paso Electric Co.; Filing

January 6, 1984.

The filing Company submits the following:

Take notice that on December 22, 1983, El Paso Electric Company (EPE) submitted for filing, as an initial rate filing, an "Interchange Agreement between El Paso Electric Company and City of Riverside," dated November 29, 1981, (Agreement). EPE states that this Agreement provides a basis for the exchange of energy between parties on a returnable basis and on an economy basis. The Agreement also provides for emergency assistance. EPE has requested that this Agreement be accepted for filing and made effective on December 1, 1983, and that waiver of the notice provisions and other requirements of the Commission's Regulations be granted as appropriate.

EPE further states that copies of this filing have been served upon the Public Utility Commission of Texas, the New Mexico Public Service Commission, and the City of Riverside.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 23, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-756 Filed 1-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-184-000]

Illinois Power Co.; Filing

January 6, 1984.

The filing Company submits the following:

Take notice that on December 30, 1983, Illinois Power Company (Illinois) tendered for filing proposed changes in the following rate schedules:

Rate Schedule FERC No. 79, applicable to the City of Princeton
Rate Schedule FERC No. 80, applicable to the City of Waterloo
Rate Schedule FERC No. 81, applicable to the City of Peru
Rate Schedule FERC No. 82, applicable to the City of Mascoutah
Rate Schedule FERC No. 83, applicable to the City of Freebury
Rate Schedule FERC No. 84, applicable to the City of Breese
Rate Schedule FERC No. 85, applicable to the City of Highland
Rate Schedule FERC No. ——, applicable to the City of Farmer City
Rate Schedule FERC No. ——, applicable to the City of Caryle

Illinois states that the proposed changes would increase revenues from jurisdictional sales and service by approximately $1,800,000 based on the twelve month period ended December 31, 1982.

Illinois further states that with the present rates it would earn a rate of return of only 13.65 percent on electric sales to these customers during the twelve months ended December 31, 1982. Continuing increases in cost of capital, labor, materials and supplies are expected to further reduce the company's earnings. The Company indicates that the electric rate changes

made by this filing are necessary to more fully provide compensation for these increasing costs.

Illinois requests an effective date of January 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the Company's electric partial requirements wholesale service customers and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 25, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-757 Filed 1-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC84-8-000]

Interstate Power Co.; Application

January 6, 1984.

Take notice that on December 28, 1983, Interstate Power Company (Applicant) of Dubuque, Iowa, filed an Application pursuant to Section 203 of the Federal Power Act seeking authority to sell to Corn Belt Power Cooperative certain electric transmission line facilities and real estate located in the counties of Cerro Gordo and Franklin, State of Iowa.

The facilities proposed to be sold by Applicant for a base purchase price of $240,844.16, consist of approximately 37.15 miles of 161 KV transmission line.

Applicant represents that after the sale there will be no change in the use of the facilities.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 27, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-756 Filed 1-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-188-000]

Kansas Power and Light Co.; Filing

January 6, 1984.

The filing Company submits the following:

Take notice that on January 3, 1984, Kansas Power and Light Company (KPL) tendered for filing an Interim Power Supply and Transmission Service Schedule with Kansas Electric Power Cooperative, Inc. (KEPCo), for wholesale service to that Cooperative. KPL states that this Schedule permits KEPCo to receive service under rate schedules RCW-8/83 and SWPA/KEPCo-1/84. The proposed effective date is January 1, 1984 and KPL requests that the Commission waive the notice requirements. KPL states that the proposed change provides essentially for an interim six month period in which KPL will provide power and energy to the Cooperative and transmission service of hydroelectric power and energy from Southwestern Power Administration. In addition, KPL states that copies of the Schedule have been mailed to KEPCo and the State Corporation Commission of Kansas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 25, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-759 Filed 1-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-175-000]

Pacific Gas and Electric Co.; Filing of Contract Amendments

January 6, 1984.

The filing Company submits the following:

Take notice that Pacific Gas and Electric Company ("PG&E") on December 27, 1983, tendered for filing amendments to Appendices A and B of a contract dated May 12, 1982, between PG and E and Sierra Pacific Power Company ("Sierra"), hereinafter jointly referred to as "Parties". This contract, entitled "Interconnection Agreement Between Pacific Gas and Electric Company and Sierra Pacific Power Company ("Contract") provides the terms and conditions for power sales and purchases between the Parties and was made effective by the Commission as of September 1, 1982.

On a scheduled basis, either Party, at the other Party's request, may offer to provide capacity as reserve, spinning reserve or capacity and associated energy to satisfy the other Party's requirements. Emergency assistance, limited short-term service of energy without capacity are other services also provided for by the Contract. The proposed amendments establish, among other things, an energy exchange account and include a list of Sierra's scheduled capacity purchases from PG and E for the years 1984 through 1987.

PG and E respectfully requests, pursuant to Section 35.11 of the Commission's regulations waiver of the Commission's usual notice requirement so as to permit an effective date for the Contract amendments of January 1, 1984. No customers under any other rate schedules will be affected if such waiver is granted.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 25, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will

not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-760 Filed 1-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-186-000]

Pacific Gas and Electric Co.; Filing

January 6, 1984.

The filing Company submits the following:

Take notice that on December 30, 1983, Pacific Gas and Electric Company (PGandE) tendered for filing proposed rate settlement agreements reached between PGandE and the City and County of San Francisco, Sierra Pacific Power Company, CP National Corporation and the Shasta Dam Area Public Utility District, respectively.

PGandE requests an effective date of January 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the public utility's jurisdictional customers and the California Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 25, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-761 Filed 1-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL84-5-000]

Sierra Pacific Power Co.; Filing

January 6, 1984.

Take notice that on December 21, 1983, Sierra Pacific Power Company (Sierra Pacific) tendered for filing an application for an order of the Commission disclaiming jurisdiction under Section 203 of the Federal Power Act over a corporate reorganization under which Sierra Pacific will become a wholly-owned subsidiary of Sierra Pacific Resources, a newly created holding company.

Sierra Pacific is engaged in the generation, distribution and sale of electric energy in Nevada and California and in Nevada is also engaged in the distribution of Natural gas and water for domestic, commercial and irrigation uses. Sierra Pacific's rates and charges are subject to regulation by the Public Service Commission of Nevada, the Public Utilities Commission of California and by this Commission. Sierra Pacific is a "public utility" as that term is defined in Section 201(e) of the Federal Power Act.

Sierra Pacific states that the corporate reorganization does not involve any of the elements required for Commission jurisdiction under Section 203 of the Federal Power Act since there is no disposition by Sierra Pacific of its juridictional facilities, no merger or consolidation of Sierra Pacific's jurisdictional facilities with those of any other person, and no acquisition of Sierra Pacific's securities by another "public utility." Sierra Pacific states that the type of corporate reorganization involved in this case is the same type that was involved in Iowa Power & Light Co., Docket No. EL79-13, where the Commission granted the utility's request for disclaimer of jurisdiction under Section 203.

Sierra Pacific states that the corporate reorganization will not impair effective regulatory control in the public interest.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 27, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-762 Filed 1-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER79-150-009]

Southern California Edison Co.; Compliance Filing

January 6, 1984.

Take notice that on December 23, 1983, Southern California Edison Company (Edison) submitted for filing revised tariff sheets covering resale service as part of a revised compliance filing pursuant to the Commission's order issued on November 30, 1983.

Edison states that the revised compliance filing modifies the compliance filing submitted under date of March 18, 1983, with respect to the treatment of the collection of deferred taxes relating to the 1976-1978 removal cost deductions in the deferred tax account. Edison further states that this filing also modifies the rate design to reduce the range of individual customer rate of return compared with the original compliance filing.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 19, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-763 Filed 1-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-75-000]

Southern California Edison Co.; Compliance

Issued January 5, 1984.

On November 8, 1983, Southern California Edison Company (SCE) tendered for filing a two-step increase in its rates to eight wholesale customers.[1] The proposed Phase A rates would increase revenues by approximately $32.6 million (13.1%) and the proposed Phase B rates would increase revenues by an additional $10.0 million, representing a total increase of approximately $42.6 million (17.1%) for the calendar year 1984 test period. About $10.5 million of the increase is supported by the inclusion in rate base of construction work in progress (CWIP other than for pollution control or fuel conversion facilities. SCE requests that the proposed Phase A rates become

[1] *See* Attachment A for customers and rate schedule designations.

effective on January 7, 1984, and that the Phase B rates become effective on January 8, 1984.

Notice of the filing was published in the **Federal Register** with comments due on or before November 30, 1983. The City of Vernon, California (Vernon) filed a timely motion to intervene and protest, and requested that the Phase A and B rates be suspended for five months. The Cities of Anaheim, Riverside, Banning, Colton, and Azusa, California (Cities) also filed a motion to intervene, protest, motion for maximum suspension, and request for a hearing.[2] Vernon and the Cities raise various cost of service and rate base issues[3] and allege that the proposed rates may create a price squeeze.

On December 15, 1982, SCE answered Vernon's motion to intervene. SCE does not oppose Vernon's intervention, but argues that the rates should be suspended for only one day, if at all. On December 20, 1983, SCE filed a motion for leave to file an answer out of time, together with its answer to Cities' pleading.[4] SCE does not oppose Cities' intervention, but makes numerous arguments concerning Cities' motion for maximum suspension.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the unoppose motions to intervene serve to make Vernon and the Cities parties to this proceeding.

We note initially that SCE has failed to properly synchronize test year interest expense used in the income tax calculation with the interest portion of the claimed rate of return.[5] Consistent with established Commission precedent,[6] we shall order summary disposition with respect to this issue.

In addition, examination of SCE's filing indicates that the company has included approximately 51% of its CWIP balances (other than amounts related to pollution control and fuel conversion facilities) in rate base in violation of section 35.26 of the Commission's regulations. Since the regulations provide for a 50% ceiling, summary disposition as to this matter is also appropriate. Given the magnitude of the summary disposition items, SCE will be directed to file revised Phase B rates and revised cost of service statements reflecting a proper calculation of interest expense and an appropriate reduction in CWIP balances.

Our preliminary review of SCE's filing and the pleadings indicates that the proposed rates, as modified by summary disposition, have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the rates for filing, as modified, and we shall suspend them as ordered below.

In *West Texas Utilities Company*, Docket No. ER82–23–000, 18 FERC ¶ 61,189 (1982), we noted that rate filings would ordinarily be suspended for five months where preliminary review indicates that the proposed increase may be unjust and unreasonable and may produce substantially excessive revenues, as defined in *West Texas*. Since it appears that both the Phase A and the Phase B rates, as modified by summary disposition, may yield substantially excessive revenues, a five month suspension is warranted as to both phases. However, we note that SCE's proposed effective date for the Phase A rates falls one day short of the required sixty day notice period. Thus, a five month suspension of both phases would result in the two rates becoming effective concurrently on June 8, 1984. Consistent with the Commission's treatment of a similar situation in *West Texas Utilities Company*, Docket No. ER83–694–000, 25 FERC ¶ 61,114, n.8 (1983), the lower Phase A rates will be deemed withdrawn, and the proposed Phase B rates will be suspended for five months, to become effective, subject to refund, on June 8, 1984.

In accordance with the Commission's policy and practice established in *Arkansas Power and Light Company*, Docket No. ER79–339, 8 FERC ¶ 61,131 (1979), we shall phase the price squeeze issue raised by the intervenors.

The Commission orders:

(A) SCE's method of computing test year interest expenses is summarily rejected, as is SCE's inclusion of more than 50% of its CWIP balances (other than pollution control and fuel conversion) in rate base. SCE is directed to file, within thirty (30) days of the date of this order, revised Phase B rates and revised cost of service statements reflecting these adjustments.

(B) SCE's proposed Phase B rates are hereby accepted for filing, as modified by summary disposition, and are suspended for five months, to become effective on June 8, 1984, subject to refund; the proposed Phase A rates are deemed withdrawn.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR Ch. I), a public hearing shall be held concerning the justness and reasonableness of SCE's rates.

(D) The Commission staff shall serve top sheets in this proceeding within ten (10) days of the date of this order.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(F) The Commission hereby orders initiation of price squeeze procedures and further orders that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The presiding judge may modify this schedule for good cause shown. The price squeeze portion of this case shall be governed by the procedures set forth in § 2.17 of the

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[2] On November 29, 1983, the Cities filed a motion to extend the period in which to file interventions and protests. That request was effectively granted by a notice of the Commission's Secretary accepting for filing the Cities' December 2, 1983 intervention.

[3] Vernon alleges, *inter alia*, that SCE has included excessive depreciation expenses, decommissioning expenses, and operation and maintenance (O&M) expenses; that the company has overstated demand projections; and that SCE has claimed an excessive rate of return. Vernon also challenges the allocation of costs among customer classes. The Cities allege improper assignment to wholesale service of antitrust-related litigation costs; development of interest expense, for tax purposes, on a nonsynchronized basis; improper allocation of franchise fees; excessive O&M expenses; overstated demand projections; excessive depreciation and decomissioning expenses; excessive fuel stock; inclusion of excess CWIP in rate base; excessive rate of return; inclusion of prepayments in rate base; and premature inclusion of the SONGS No. 3 nuclear unit in rate base.

[4] We hereby grant SCE's motion for leave to file its answer out of time.

[5] Although SCE attempted to synchronize interest expense, it utilized an incorrectly weighted long-term debt component to develop total company interest expense, and also improperly allocated total company expense to wholesale services on the basis of rate base less working capital.

[6] *E.g., Gulf States Utilities Company*, Docket No. ER82–375–000, 20 FERC ¶ 61,039 (1982).

Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(G) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.
Lois D. Cashell,
Acting Secretary.

Attachment A

SOUTHERN CALIFORNIA EDISON COMPANY DOCKET NO. ER84-75-000 RATE SCHEDULE DESIGNATIONS

Designation	Description	Other Party
(1) Supplement No. 18 to Rate Schedule FPC No. 6 (supersedes supplement No. 17)	TOU-R	Arizona Public Service Company (Cibola).
(2) Supplement No. 19 to Rate Schedule FPC No. 13 (supersedes supplement No. 18)	TOU-R	Vernon.
(3) Supplement No. 23 to Rate Schedule FPC No. 15 (supersedes supplement No. 22)	TOU-R	Anaheim.
(4) Supplement No. 18 to Rate Schedule FPC No. 16 (supersedes supplement No. 22)	TOU-R	Azusa.
(5) Supplement No. 24 to Rate Schedule FPC No. 17 (supersedes supplement No. 23)	TOU-R	Riverside.
(6) Supplement No. 17 to Rate Schedule FPC No. 21 (supersedes supplement No. 16)	TOU-R	Banning.
(7) Supplement No. 17 to Rate Schedule FPC No. 29 (supersedes supplement No. 16)	TOU-R	Arizona Public Service Company (Blythe).
(8) Supplement No. 19 to Rate Schedule FPC No. 31 (supersedes supplement No. 18)	TOU-R	Colton.
(9) Supplement No. 23 to Rate Schedule FPC No. 33 (supersedes supplement No. 22)	TOU-R	Southern California Water Company (Harnish).
(10) Supplement No. 24 to Rate Schedule FPC No. 33 (supersedes supplement No. 21)	TOU-R	Southern California Water Company (Gold Hill).

[FR Doc. 84-764 Filed 1-11-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA84-1-31-003 (PGA84-1, IPR84-1)]

Arkansas Louisiana Gas Co.; Filing of Revised Tariff Sheets Reflecting Tariff Adjustment

January 6, 1984.

Take notice that on December 30, 1983, Arkansas Louisiana Gas Company (Arkla) tendered for filing Thirty-fifth Revised Sheet No. 4 to its FERC Gas Tariff, First Revised Volume No. 1, Rate Schedule No. G-2, to become effective February 1, 1984, to reduce its rate by the amount of 10.95¢ per Mcf for the remainder of its present PGA period which will end March 31, 1984.

The filing of Thirty-fifth Revised Sheet No. 4 is to revise the current total end-rate which became effective on October 1, 1983, pursuant to Arkla's PGA filing, downward to a new proposed rate of 338.18¢ per Mcf. This downward adjustment is necessary to reflect the most current trend of Arkla's purchased gas costs available from producers and pipeline suppliers.

Arkla states that copies of the revised tariff sheet and supporting data are being mailed to Arkla's jurisdictional customers and other interested parties affected by this tariff change.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 16, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Doc. 84-867 Filed 1-11-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA84-1-31-004 (PGA84-1, IPR84-1)]

Arkansas Louisiana Gas Co.; Filing of Revised Tariff Sheets Reflecting Tariff Adjustment

January 6, 1984.

Take notice that on December 30, 1983, Arkansas Louisiana Gas Company (Arkla) tendered for filing Thirty-Fourth Revised Sheet No. 185 to its FERC Gas Tariff, Original Volume No. 3, Rate Schedule No. X-26, to become effective February 1, 1984, to reduce its rate by the amount of 10.95¢ per Mcf for the remainder of its present PGA period which will end March 31, 1984.

The filing of Thirty-Fourth Revised Sheet No. 185 is to revise the current total end rate which became effective on October 1, 1983, pursuant to Arkla's PGA filing, downward to a new proposed rate of 338.18¢ per Mcf. This downward adjustment is necessary to reflect the most current trend of Arkla's purchased gas costs available from producers and pipeline suppliers.

Arkla states that copies of the revised tariff sheet and supporting data are being mailed to Arkla's jurisdictional customers and other interested parties affected by this tariff change.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 16, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-868 Filed 1-11-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA84-1-16-000]

National Fuel Gas Supply Corp; Proposed Tariff Change

January 6, 1984.

Take notice that on December 30, 1983, National Fuel Gas Supply

Corporation (National) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Forty-fifth Revised Sheet No. 4 proposed to be effective February 1, 1984.

National states that the purpose of this revised tariff sheet is to adjust National's rates pursuant to Article 17 (PGA) of the General Terms and Conditions. National further states that Forty-fifth Revised Sheet No. 4 reflects a decrease in National's rates of 21.46¢ per Mcf. In addition, National purposes to collect NGPA prices for the period December 1, 1978 to June 1, 1982, for its production through an annual surcharge.

National states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 16, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-869 Filed 1-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA 84-1-17-001 and RP 79-28-002]

Texas Eastern Transmission Corp. Proposed Changes in FERC Gas Tariff

January 6, 1984.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on *Dec. 30,* 1983 tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1 and Original Volume No. 2, the following sheets:

(A) Fourth Revised Volume No. 1

Sixty-eighth Revised Sheet No. 14
Sixty-seventh Revised Sheet No. 14A
Sixty-seventh Revised Sheet No. 14B
Sixty-seventh Revised Sheet No. 14C
Sixty-seventh Revised Sheet No. 14D
Ninth Revised Sheet No. 14E

(B) Original Volume No. 2

Fifteenth Revised Sheet No. 235
Sixteenth Revised Sheet No. 322
Fifth Revised Sheet No. 449
Fourth Revised Sheet No. 524
Fifth Revised Sheet No. 564
Fourth Revised Sheet No. 565
Fourth Revised Sheet No. 582
Fourth Revised Sheet No. 583
Second Revised Sheet No. 651
Third Revised Sheet No. 661
Third Revised Sheet No. 671
Third Revised Sheet No. 681
Fourth Revised Sheet No. 706
Third Revised Sheet No. 726
Third Revised Sheet No. 759
Third Revised Sheet No. 760

In the alternative, Texas Eastern submits for filing the following Alternate revised tariff sheets:

(C) Fourth Revised Volume No. 1

Alternate Sixty-eighth Revised Sheet No. 14
Alternate Sixty-seventh Revised Sheet No. 14A
Alternate Sixty-seventh Revised Sheet No. 14B
Alternate Sixty-seventh Revised Sheet No. 14C
Alternate Sixty-seventh Revised Sheet No. 14D
Ninth Revised Sheet No. 14E

(D) Original Volume No. 2

Fifteenth Revised Sheet No. 235
Sixteenth Revised Sheet No. 322

The primary revised tariff sheets are being issued pursuant to provisions of the General Terms and Conditions of Texas Eastern's FERC Gas Tariff contained in section 12.4, Demand Charge Adjustment Commodity Surcharge; section 23, Purchased Gas Cost Adjustment; and section 27, Electric Power Cost (EPC) Adjustment. Such primary revised tariff sheets are also being issued pursuant to the Stipulation and Agreement filed in Docket No. RP79-38-000 approved by Commission order issued October 4, 1983. The Alternate revised tariff sheets do not reflect the Stipulation and Agreement approved in Docket No. RP79-28-000. The enclosed revised tariff sheets are being filed in the alternative due to the fact that the court has not yet accepted and approved the settlement approved by the Commission in Docket No. RP79-28-000.

In particular, the changes proposed therein consist of:

(1) Changes in the DCA Commodity Surcharges pursuant to section 12.4,

(2) A PGA increase of $0.087/dth in the demand component of Texas Eastern's rates and an increase of $0.3028/dth in the commodity component based on a net increase in the projected cost of gas purchased from producers and pipeline suppliers and a negative balance in Account 191 as of November 30, 1983, pursuant to section 23,

(3) Projected Incremental Pricing Surcharges for the period February 1, 1984 through July 31, 1984, pursuant to section 23,

(4) Changes in rates for sales and transportation services pursuant to section 27 to reflect the projected annual electric power cost incurred in the operation of transmission compressor stations with electric motor prime movers for the 12 months beginning February 1, 1984, and to reflect the EPC surcharge which is designed to clear the balance in the Deferred Account as of November 30, 1983,

The primary set of revised tariff sheets also reflect the payments which Texas Eastern received from the construction firms of Brown & Root, Inc. and J. Ray McDermott & Company totaling $4,512,143.01 as settlement of issues raised in Docket No. RP79-28-000. Pursuant to the Stipulation and Agreement filed in Docket No. RP79-28-000, approved by Commission order issued October 4, 1983, Texas Eastern has credited FERC Account 108 by such amount and reduced its base tariff rates as reflected on the primary revised tariff sheets by the cost of service effect of this reduction in rate base. The Alternate revised tariff sheets do not reflect such reduction.

The proposed effective date of the above tariff sheets is February 1, 1984.

On December 5, 1983, Texas Eastern filed with the Commission a motion for an extension of time in complying with the new format for PGA filings as set forth in Docket No. RM83-73-000. In response to Texas Eastern's filing of December 5, 1983 the Commssion staff informally notified Texas Eastern that the requirements of Order 349 in Docket No. RM83-73-000 are applicable to PGA filings made subsequent to February 1, 1984. However in the event a waiver is required, Texas Eastern renews its request for an extension of time to comply with the requirements as set forth in the rulemaking under Docket No. RM83-73-000.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or

before January 16, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-870 Filed 1-1-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-38-000]

Transcontinental Gas Pipe Line Corp.; Tariff Filing

January 6, 1984.

Take notice that on December 30, 1983, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing the following sheets to its FERC Gas Tariff, Second Revised Volume No. 1:

Original Sheet Nos. 17, 18, 170, 171, 172, 173, 361, 362 and 363

Transco states that such tariff sheets constitute Rate Schedule T-P which is entitled "Transportation Service For End Users In The Production Area". It is stated that Transco is filing this rate schedule to enable it to render end-user transportation service pursuant to the regulations promulgated by the Commission in Order Nos. 234-B, 319 and 319-A. § 157.209(d)(1)(i) of the Regulations, which was promulgated in Order No. 319-A, requires that an interstate pipeline transporting end-user gas state its rates and charges in a "generally applicable transportation tariff".

Transco further states that it already has a generally applicable tariff for transportation when gas is redelivered by Transco in one of its Rate Zones (which represent Transco's market area). However, it is stated that Transco does not have a generally applicable tariff for transportation when gas is redelivered by Transco in Transco's production area. Transco states that its production area is the area upstream of Transco's Compressor Station No. 65 located near the Louisiana-Mississippi State Boundary. It is stated that, for this reason, Transco is filing Rate Schedule T-P so Transco will be able to render end-user transportation service in its production area.

Transco further states that its currently effective rates for transportation service in the production area are reflected on Original Sheet Nos. 17 and 18 of subject filing. It is stated that, in conjunction with such rates, Footnote 1 on Original Sheet No. 18 should be read. Footnote 1 states as follows:

> The above charges per dt have been increased by 5% pursuant to Article II of the Interim Settlement Agreement As To Rates Of Transco filed on October 31, 1983 in Transco Docket No. RP83-30-000. If such Settlement Agreement is not approved by the FERC, Transco will charge each Buyer [of the transportation service] the applicable filed rate in Docket No. RP83-30-000 for transportation rendered through March 31, 1984. Transco will make any refunds to, and will be entitled to recover any surcharges from, a Buyer necessitated thereby. All refunds and surcharges will be without interest. If the FERC approves such Settlement Agreement, the above charges will increase or decrease effective April 1, 1984 to reflect the rolled-in rate methodology provided for in such Settlement Agreement.

It is proposed that subject tariff sheets be made effective February 1, 1984 so Transco may commence end-user transportation service in its production area as soon as possible. It is reiterated that Transco is filing this tariff pursuant to Regulations under which the Commission is encouraging end-user transportation by interstate pipelines. Transco states that a copy of the instant filing has been served on its customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All such motions or protests should be filed on or before January 16, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-871 Filed 1-11-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-61-001]

West Lake Arthur Corp.; Filing

January 6, 1984.

Take notice that on December 29, 1983, West Lake Arthur Corporation (WLAC) tendered for filing Sixth Revised Sheet No. 4A of its FERC Gas Tariff, Original Volume No. 1. The tariff sheet was filed pursuant to the Purchased Gas Cost Adjustment provision contained in Section 15 of WLAC's tariff.

WLAC states that copies of the filing were served upon WLAC's jurisdictional customer and interested state regulatory commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 16, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-872 Filed 1-11-84; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-66106 PH-FRI 2506-S]

Proposed Intent To Cancel Registrations of Pesticide Products Containing Dibromochloropropane (DBCP); Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability of Proposed Intent to Cancel.

SUMMARY: This notice is making available for comment a proposed intent to cancel pesticide products containing dibromochloropropane (DBCP). The proposed intent to cancel is based on recent evidence that use of DBCP on pineapple fields has led to contamination of drinking water. Under the proposed notice, registration for this use of DBCP would be cancelled and existing stocks would be permitted to be used only under circumstances where drinking water contamination would not result. Copies of the proposed notice of intent to cancel have been sent to the EPA's Scientific Advisory Panel and the U.S. Department of Agriculture for comment. Comments from all other interested persons are invited.

DATE: Comments on the proposed notice must be received on or before March 12, 1984.

ADDRESSES: Requests for copies of the proposed intent to cancel should be submitted to:

Richard J. Johnson, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460

Office location and telephone number: Rm. 711H, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7400)

By mail, submit written comments to: Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460

In person, deliver comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202

Written comments must be identified by the document control number [OPP–66106A]. All written comments filed in response to this notice will be available for public inspection in the Program Management and Support Division office at the address above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Richard J. Johnson (703–557–7400).

SUPPLEMENTARY INFORMATION: Sections 6(b) and 25(d) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, require that the Administrator of the Environmental Protection Agency submit any proposed notice of intent to cancel pesticide registrations to the Secretary of Agriculture and to the Scientific Advisory Panel (SAP) at least 60 days prior to providing formal notice of intent to cancel to the registrant. Accordingly, copies of the notice have been sent to the Secretary and the SAP for comment.

The proposal would cancel DBCP products registrated for use in pineapple fields in Hawaii. This is the only remaining use for which DBCP is registrated; notice that registrations for all other uses were cancelled was published in the **Federal Register** of March 31, 1981 (46 FR 19596). Existing stocks of DBCP would be permitted to be used to treat pineapple fields until December 31, 1986, only on the island of Maui, and only on fields where it could be determined that contamination of drinking water would not occur.

Copies of the proposed notice of intent to cancel are available upon request. Although not required to do so by FIFRA, the Agency invites comments from the public on the proposal. Such comments must be submitted by March 12, 1984. This time allows for request and receipt of the proposed notice of intent to cancel and for submission of comments. Because of the Agency's concern for the potential hazards to public health resulting from this use, the Agency intends to proceed as expeditiously as possible. Accordingly, requests for extentions in the comment period will not be granted..

Dated: December 30, 1983.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 84–833 Filed 1–11–84; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[MM Docket No. 83–1356; File No. BP–810701AS, etc.]

Voyageur Broadcasting Co., et al; Hearing Designation Order

In regard Applications of Voyageur Broadcasting Co., WMIN, Maplewood, Minnesota, Has: 1010 kHz, 250W, D, Req: 1030 kHz, 0.5 kW, 50 kW–LS, DA–2, U, MM Docket No. 83–1356, File No. BP–810701AS; Progressive Communications, Inc., WOKL, Altoona, Wisconsin, Has: 1050 kHz, 1kW, D, Req: 1030 kHz, 250W, 10 kW–LS, DA–N, U, MM Docket No. 83–1357, File No. BP–811026AG; Hercules Broadcasting Co., Sartell, Minnesota, Req: 1030 kHz 1 kW, 10 kW–LS, DA–2, U, MM Docket No. 83–1358, File No. BP–811204AD; For Construction permit.

Adopted: December 15, 1983.

Released: January 9, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration: (a) the above-captioned mutually exclusive applications for new AM broadcast stations; (b) petitions to intervene and to deny the Voyageur Broadcasting Co. and Progressive Communications, Inc. applications filed by Westinghouse Broadcasting and Cable, Inc.; [1] (c) a petition to deny the Voyageur application filed by Palmer Communications Incorporated: and (d) related pleadings.

2. *Voyageur Broadcasting Company.* Westinghouse alleges prohibited overlap with the 0.5 mV/m 50% skywave contour of its station WBZ, Boston, Massachusetts, and seeks, in addition, a critical array designation for the Voyageur proposal. Turning first to several procedural and technical questions raised by its pleading, Voyageur responded to Westinghouse's initial petition with a minor amendment to its proposal purporting to eliminate the interference cited by petitioner. Subsequently, Westinghouse filed a supplemental pleading, and Voyageur a motion to strike this submission as an untimely reply. In our view, though, the Westinghouse pleading is properly responsive to new matters raised by the Voyageur amendment and was timely filed in this context. Hence we will accept the pleading and deny the motion to strike.

3. With respect to the proper basis for calculating the relevant WBZ contours, the Voyageur proposal was filed on July 1, 1981, and the contractor's modified standard pattern conversion for WBZ was released on July 14, 1981. Therefore, the applicant properly utilized the WBZ 1979 proof-of-performance conductivities and measured radiation pattern to determine the relevant WBZ contours. Voyageur's subsequent minor amendment did not introduce a requirement that it adopt different data. *See Radiation Patterns for AM Broadcast Stations*, 84 FCC 2d 769, 827–829 (1981).

4. As for the merits of Westinghouse's petition, we have reviewed all of the information and data filed by the applicant and the petitioner. Utilizing the measured radiation pattern and within the range of resolution of our skywave curves at these large distances, we find that the proposal is in compliance with §§ 73.187 and 73.182 of our Rules. We will therefore deny the Westinghouse petition.

5. Palmer Communications Incorporated for its part alleges that the 0.5 mV/m contours of its station WHO, Des Moines, Iowa, and the Voyageur proposal will overlap in violation of § 73.37(a) of the Commission's Rules. Our review of all of the information and data submitted by the parties, including the additonal data contained in petitioner's reply pleading, reveals no prohibited overlap however. We will therefore deny the petition to deny.

6. Section 73.24(j) of the Commisson's Rules requires, *inter alia*, that the proposed 25 mV/m contour encompass

[1] Westinghouse also filed a petition to intervene and to deny the Hercules Broadcasting Company application. Subsequently, the applicant filed a petition for leave to amend and an amendment which cured the alleged electrical interference. Westinghouse has withdrawn its petition contingent on Commission acceptance of the amendment. The amendment removes a potentially disqualifying defect; we will therefore grant the petition for leave to amend, accept the amendment and dismiss the petition.

the business district of the community to which the station is assigned. We cannot determine from the information before us whether Voyageur's 25 mV/m contour will encompass the business district of its designated community, and, if not, whether waiver is warranted. An appropriate issue will be specified.

7. *Progressive Communications, Inc.* In its petition, Westinghouse alleges prohibited interference to the 0.5 mV/m 50% skywave contour of station WBZ. Our own study reveals no such interference, however, and the petition will be denied.

8. *Hercules Broadcasting Company.* This applicant's local notice of the filing of its application failed to list the antenna height as required by § 73.3580(f)(5) of the Commission's Rules. A corrected notice must be republished and that fact certified to the presiding Administrative Law Judge within thirty (30) days of the release of this Order.

9. The Material filed by this applicant does not establish its financial qualifications. The application is filed on the 1977 version of the FCC Form 301 and section III, the financial qualifications section, has not been completed. Thus, while the applicant specifies land and equipment costs, it does not provide estimates as to its construction, operating and other expenses. We cannot under these circumstances determine whether sufficient funds are available. On October 25, 1982, the applicant filed an amendment to its application and certified its financial qualifications as required by the FCC Form 301 which became effective December 2, 1981. This certification does not, however, answer questions raised by the initially deficient financial showing. See *South Florida Broadcasting Company Inc.*, FCC 83–265, Mimeo 95065, released June 2, 1983. A financial issue will therefore be specified.

10. Except as indicated by the issues below, all three applicants are qualified to construct and operate as proposed.[2] However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding. Although the applications are for different communities, they would serve substantial areas in common. Therefore, in addition to an issue to determine pursuant to section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service, a contingent comparative issue will be specified.

11. Accordingly, it is ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge, at a time and place to be specified in a subsequent Order, upon the following issues:

(1) To determine, whether the 25 mV/m contour of the Voyageur Broadcasting Company proposal will encompass the business district of Maplewood, Minnesota, and if it does not, whether circumstances exist which warrant waiver of § 73.24(j) of the Commission's Rules.

(2) To determine, with respect to the Hercules Broadcasting Company application:

(a) The costs of constructing the station and operating for three months as proposed,

(b) Whether the applicant has available sufficient funds to meet the proposed construction and operating costs, and

(c) Whether, in light of the above, the applicant is financially qualified to construct and operate as proposed.

(3) To determine the areas and populations which would receive primary service from each proposal, and the availability of other primary aural services to such areas and populations.

(4) To determine in light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient, and equitable distribution of radio service.

(5) To determine, in the event it is concluded that a choice among the applicants should not be based solely on considerations relating to section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

(6) To determine in light of the evidence adduced pursuant to the foregoing issues, which of the applications, if any, should be granted.

12. It is further ordered, That the motion to strike filed by Voyageur Broadcasting Company is denied, and the supplement to petition to intervene and to deny filed by Westinghouse Broadcasting and Cable, Inc. is accepted.

13. It is further ordered, That the petitions to intervene and to deny the applications of Voyageur Broadcasting Company and Progressive Communications, Inc., filed by Westinghouse Broadcasting and Cable, Inc., are denied, and its petition to intervene and to deny the application of Hercules Broadcasting Company is dismissed as moot.

14. It is further ordered, That the petition to deny filed by Palmer Communications, Incorporated is denied.

15. It is further ordered, That Hercules Broadcasting Company republish a corrected public notice of the filing of its application as set out in paragraph eight (8) above, and certify as to its compliance with the Administrative Law Judge within thirty (30) days of the release of this Order.

16. It is further ordered, That the petition for leave to amend filed by Hercules Broadcasting Company on November 17, 1982, is granted, and the amendment contained therein is accepted for filing.

17. It is further ordered, That to avail themselves of the opportunity to be heard and pursuant to § 1.221(c) of the Commission's Rules, the applicants shall, within 20 days of the mailing of this Order, in person or by attorney, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this order.

18. It is further ordered, That pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and section 311(a)(2) of the Commission's Rules, the applicants shall give notice of the hearing as prescribed by the rule, and shall advise the Commission of the publication of the notices as required by § 73.359(g) of the rules.

Federal Communications Commission.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 84–843 Filed 1–11–84; 8:45 am]

BILLING CODE 6712–01–M

[2] Operation with the facilities specified herein is subject to modification, suspension or termination without right to hearing, if found by the Commission to be necessary in order to conform to the Final Acts of ITU Administrative Conference on Medium Frequency Broadcasting in Region 2, Rio de Janeiro 1981, and to bilateral and other multilateral agreements between the United States and other countries.

[MM Docket No. 83–1378; File No. BP–820304AD, etc.]

Chapman Broadcasting Co., et al; Hearing Designation Order

In regard to Applications of Dale Chapman D/B/A Chapman Broadcasting Co., San Juan, Texas, Req: 1210 kHz, 1 kW, 10 kW–LS, DA–2, U, MM Docket No. 83–1378, File No. BP–820304AD; Gisela Rodriguez, San Benito, Texas, Req: 1210 kHz, 1 kW, 50 kW–LS, DA–2, U, MM Docket No. 83–1379, File No. BP–821223AE; Rio Broadcasting Company, Inc., Kirt, Pharr, Texas, Has: 1580 kHz, 1 kW, DA–N, U, Req: 1210 kHz, 1 kW, 10 kW–LS, DA–2, U, MM Docket No. 83–1380, File No. BP–821223AF; Maida Mascorro D/B/A Texas Gulf Coast Broadcasting Co., Donna, Texas, Req: 1210 kHz, 2.5 kW, 50 kW–LS, DA–2, U, MM Docket No. 83–1381, File No. BP–821223AH; For Construction Permit.

Adopted: December 20, 1983.

Released: January 10, 1984.

By the Chief, Mass Media Bureau.

1. The Commission by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration the mutually exclusive applications of Dale Chapman d/b/a Chapman Broadcasting Company (Chapman), Gisela Rodriguez (Rodriguez), Rio Broadcasting Company, Inc. (Rio), and Maida Mascorro d/b/a Texas Gulf Coast Broadcasting Company (Gulf Coast).[1] In addition we have before us a petition to deny the Rodriguez proposal filed by Gulf Coast and related pleadings.

2. *The Rodriguez proposal.* Rodriguez submitted certification of its financial qualifications under Section III of Form 301. The certification, however, is incomplete. Rodriguez has failed to certify under Item 2 that it has a reasonable assurance of a present firm intention for each agreement to furnish capital, and that it can and will meet all contractual requirements as to collateral, guarantees and capital investment. The applicant must submit an amended Section III financial certification to remedy this omission, as indicated below.

3. Gulf Coast alleges, and Rodriguez concedes, that the Rodriguez proposal fails to provide 25 mV/m nighttime coverage to the business district of San Benito. Waiver of § 73.24(j) is warranted, however. Rodriguez complies fully with all other coverage requirements, including the daytime business district coverage provisions, and its nighttime signal strength of 15.95 mV/m seems to us adequate for a community and business district of San Benito's size.[2]

4. The Rodriguez application indicates that photographs of the proposed transmitter site will be furnished. We have no evidence that this amendment has been filed, however. To remedy this deficiency, Rodriguez will be required to file an appropriate amendment with the presiding Administrative Law Judge.

5. *The Rio proposal.* By amendment to its application, Rio has reported the institution of a lawsuit alleging violations on its part of antitrust and related provisions. We cannot at this early stage of that litigation assess its impact on Rio's qualifications to be a Commission licensee. Hence, we will specify no issues at this time, leaving it to the presiding Administrative Law Judge to evaluate subsequent developments as they occur.[3]

6. *The Gulf Coast proposal.* Gulf Coast proposes 2.5 kilowatts nighttime power. Recognizing that § 73.21(a)(2)(ii)(c), of our Rules limits new Class II–B stations on the clear channels to a 1 kW nighttime power, Gulf Coast requests waiver of the rule. The Commission has adopted a strict standard for waiver requests of this nature, however. Thus waivers will be granted only upon a showing that the higher power proposed is necessary to provide principal city service and will not impede our allocation objectives. While Gulf Coast has established compliance with the first part of this test, it has not sufficiently supported its claim that the higher power will not preclude other possible co-channel, unlimited time Class II assignments. Since it cannot be determined from the record if waiver of Section 73.21 is warranted, an issue will be specified.

7. Except as indicated by the issues specified below, all applicants are qualified to construct and operate as proposed.[4] However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding. Although the proposals are for different communities, they would serve substantial areas in common. Therefore, in addition to determining pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient, and equitable distribution of radio service, a contingent comparative issue will be specified.

8. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

2. To determine with respect to the proposal of Maida Mascorro d/b/a Texas Gulf Coast Broadcasting Co., whether circumstances exist which warrant waiver of § 73.21(a)(2)(ii)(c) of the Commission's Rules.

3. To determine the areas and populations which would receive primary service from each proposal, and the availability of other primary aural service to such areas and populations.

4. To determine, in the light of secion 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service.

5. To determine, in the event it be concluded that a choice among the applicants should not be based solely on considerations relating to Section 307(b), which of the proposals would on a comparative basis better serve the public interest.

6. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

9. It is further ordered, That the petition to deny filed by Maida Mascorro d.b.a. Texas Gulf Coast Broadcasting Company is denied.

10. It is further ordered, That Gisela Rodriguez shall file the amended financial certification of Section III, Form 301, discussed in paragraph 2 above, or advise the Administrative Law Judge within 30 days of the release of this Order that certification cannot be made.

11. It is further ordered, That Gisela Rodriguez shall file the amendment described in paragraph 4 above within 30 days of the release of this Order.

12. It is further ordered, That in the event the application of Gisela Rodriguez is granted, § 73.24(j) of the Rules will be waived on its behalf.

13. It is further ordered, That, the petitions for leave to amend filed by Gisela Rodriguez and Rio Broadcasting Company, Inc., are granted and the accompanying amendments are accepted.

14. It is further ordered, That to avail themselves of the opportunity to be heard and pursuant to § 1.221(c) of the Commission's Rules, the applicants shall within 20 days of the mailing of this order, in person or by attorney, file with the Commission in triplicate written appearances stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this order.

15. It is further ordered, That pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, the applicants shall give notice of the hearing as prescribed in the rule, and shall advise the Commission of the publication of the notice as required by § 73.3594(g) of the Rules.

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[1] Rodriguez and Rio have filed amendments that fail to meet the requirements of § 73.3522 of the Commission's Rules. Under § 1.65, however, good cause has been shown for the acceptance of these amendments.

[2] As the Gulf Coast pleading addresses matters governing the acceptability for filing of Rodriguez's application, we have considered it at this stage of the proceeding.

[3] We will adopt the same approach toward the pending renewal application of station KABQ (whose principals are identical to Rio's) against which a petition to deny has been filed.

[4] Operation with the facilities specified herein is subject to modification, suspension or termination without right to hearing, if found by the Commission to be necessary in order to conform to the Final Acts of the ITU Administrative Conference on Medium Frequency Broadcasting in Region 2, Rio de Janeiro 1981, and to bilateral and other multilateral agreements between the United States and other countries.

Federal Communications Commission.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix

16. The Commission has not yet received Federal Aviation Administration clearance for the antenna tower proposed by the below listed applicant. Accordingly, it is ordered, that the following issue is specified:

1. To determine whether there is reasonable possibility that a hazard to air navigation would occur as a result of the tower heights and location proposed by Maida I. Mascorro, d.b.a. Texas Gulf Coast Broadcasting Co.

17. It is further ordered, That the Federal Aviation Administration is made a party to the proceeding.

[FR Doc. 84-836 Filed 1-11-84; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 79-184]

North Atlantic Region; Meeting of Parties Interested in Facilities Planning

January 6, 1984.

Members of the Common Carrier Bureau Staff will convene a public meeting of all interested persons to discuss the updated North Atlantic facilities planning information and draft United States submissions to the January 31–February 2, 1984 North Atlantic Consultative Working Group meeting submitted to date. The public meeting will be held in Room 856, 1919 M Street NW., Washington, D.C. on Wednesday, January 11, 1984 at 10:00 a.m.

For additional information, contact Robert Gosse (202) 632-4047.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-835 Filed 1-11-84; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket Nos. 83-1382 and 83-1383; File Nos. BPCT-830822KF and BPCT-831018KP]

Haynes Communications Co. and Central Plains Communications Co.; Hearing Designation Order

In the matter of applications of Haynes Communications Co., Salina, Kansas (MM Docket No. 83-1382, File No. BPCT-830822KF) and Central Plains Communications Co., Salina, Kansas (MM Docket No. 83-1383, File No. BPCT-831018K)P for construction permit.

Adopted: December 23, 1983.
Released: January 6, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for new commercial television station to operate on Channel 34, Salina, Kansas.

2. The effective radiated visual power, antenna height above average terrain and other technical data submitted by the applicants indicate that there would be a significant difference in the size of the area and population that each proposes to serve. Consequently, for the purpose of comparison, the areas and populations which would be within the predicted 64 dBu (Grade B) contour, together with the availability of other television service of Grade B or greater intensity, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

3. No determination has been reached that the tower height and location proposed by either applicant would not constitute a hazard to air navigation.[1] Accordingly, an issue regarding this matter will be specified.

4. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

5. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, before and Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Haynes Communications Co. and Central Plains Communications Co. whether there is a reasonable possibility that the tower height and location proposed by each would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

[1] The Commission has not received a copy of the Federal Aviation Administration's determination for Haynes Communication Co.

6. It is further ordered, that the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 1.

7. It is further ordered, that, to avail themselves to the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

8. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 84-837 Filed 1-11-84 8:45 am]

BILLING CODE 6712-01-M

[MM Docket Nos. 83-1384 and 83-1385; File Nos. BPCT-830815 KF and BPCT-831018 KK]

Haynes Communications Co. and Duluth Media; Hearing Designation Order

In the matter of applications of Haynes Communications Co. Duluth, Minnesota (MM Docket No. 83-1384, File No. BPCT-830815KF) and Alfonso Arreola d/b/a DULUTH MEDIA, Duluth, Minnesota (MM Docket No. 83-1385, File No. BPCT-831018KK) for construction permit.

Adopted: December 23, 1983. Released: January 9, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for a new commercial television station to operate on Channel 27, Duluth, Minnesota.

2. The effective radiated visual power, antenna height above average terrain and other technical data submitted by the applicants indicate that there would be a significant difference in the size of the area and population that each proposes to serve. Consequently, for the purpose of comparison, the areas and populations which would be within the predicted 64 dBu (Grade B) contour,

together with the availability of other television service of Grade B or greater intensity, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

3. No determination has been reached that the tower height and location proposed by each applicant would not constitute a hazard to air navigation. Accordingly, an issue regarding this matter will be specified.

4. Duluth Media proposes to operate from a site located within 250 miles of the Canadian border with maximum visual effective radiated power (ERP) of more than 1000 kilowatts. The proposal poses no interference threat to United States television stations; however, it contravenes an agreement between the United States and Canada which limits the maximum visual ERP of United States television stations located within 250 miles of Canada to 1000 kilowatts. *Agreement Effectuated by Exchange of Notes,* T.I.A.S. 2594 (1952). Accordingly, in the event of a grant of Duluth Media's application, the construction permit shall be appropriately conditioned.

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, it is ordered, that pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possibility that the tower height and location proposed by each applicant would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, that the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 1.

8. It is further ordered, that, in the event of a grant of Duluth Media's application, the construction permit shall be conditioned as follows:

Subject to the condition that operation with effective radiated power in excess of 1000 kW is subject to the consent of Canada.

9. It is further ordered, that to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

10. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal communications commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 84-836 Filed 1-11-84; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 83-1359 et al.; File No. BPCT-830524KE]

K-J Broadcasting, Inc.; Hearing Designation Order

In the matter of applications of K-J Broadcasting, Inc., New Iberia, Louisiana (MM Docket No. 83-1359, File No. BPCT-830524KE), Way of the Cross of Baton Rouge, New Iberia, Louisiana (MM Docket No. 83-1360, File No. BPCT-830714KG), Commerce Broadcasting, Inc., New Iberia, Louisiana (MM Docket No. 83-1361, File No. BPCT-830729KJ), Blue Rose Television, New Iberia, Louisiana (MM Docket No. 83-1362, File No. BPCT-830801KE), Guadalupe Enterprises, Inc., New Iberia, Louisiana (MM Docket No. 83-1363, File No. BPCT-830801KI), Tres Video, Inc., New Iberia, Louisiana (MM Docket No. 83-1364, File No. BPCT-830801KM) and Rosemary Azar d/b/a CHANNEL 36 BROADCASTING, New Iberia, Louisiana (MM Docket No. 83-1365, File No. BPCT-830801KN) for construction permit.

Adopted: December 19, 1983.

Released: January 10, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for authority to construct a new commercial television station on Channel 36, New Iberia, Louisiana.

2. The effective radiated visual power, antenna height above average terrain and other technical data submitted by each applicant indicates that there would be a significant difference in the size of the areas and populations that each proposes to serve. Consequently, for the purposes of comparison, the areas and populations which would be within the predicted 64 dBu (Grade B) contour, together with the availability of other television service of Grade B or greater intensity, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants. Way of the Cross of Baton Rouge has not submitted the population figures required by Item 10, Section V-C, FCC, Form 301. Way of the Cross of Baton Rouge will be required to submit the population figures in amendment form to the presiding Administrative Law Judge within 20 days after the date of the release of this Order.

3. No determination has been reached that the tower heights and locations proposed by Way of the Cross of Baton Rouge, Commerce Broadcasting, Blue Rose Television, Ltd. and Guadalupe Enterprises, Inc.[1] would not constitute a hazard to air navigation. Accordingly, an issue regarding this matter will be specified.

4. Section 73.685(f) of the Commission's Rules requires an applicant proposing to use a directional antenna to include a tabulation of relative field pattern, oriented so that 0° corresponds to True North and tabluated at least every 10° plus any minima or maxima. Commerce Broadcasting, Inc., Blue Rose Television, Ltd., Guadalupe Enterprises, Inc., Tres Video Inc. and Channel 36 Broadcasting have not supplied this data. Accordingly, the applicants will each be required to submit an amendment with the appropriate information, to the presiding Administrative Law Judge and a copy to the TV Branch, Mass Media Bureau, within 20 days after the date of the release of this Order.

5. Tres Video, Inc.'s indicates that it will side mount its antenna on a tower to be constructed by FM stations KDEA, New Iberia, Louisiana and KTDY, Lafayette, Louisiana. The applications are currently pending before the

[1] The Commission is not in receipt of FAA's determinations for the towers proposed by Way of the Cross of Baton Rouge, Commerce Broadcasting, Inc. and Blue Rose Television, Ltd. Further, a previous FAA determination of "No Hazard" for Guadalupe expired on July 10, 1983. Guadalupe will therefore be required to revalidate its FAA determination.

Commission. Any question relating to major environmental actions or FAA determinations will be considered during the processing of the FM applications.

6. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

7. Accordingly, it is ordered, that pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Way of the Cross of Baton Rouge, Commerce Broadcasting, Inc., Blue Rose Television, Ltd. and Guadalupe Enterprises Inc., whether there is a reasonable possibility that the tower height and location proposed by each would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

8. It is further ordered, that Way of the Cross of Baton Rouge shall submit an amendment stating the population within its predicted Grade B contour, to the presiding Administrative Law Judge, within 20 days after the date of the release of this Order.

9. It is further ordered, that Commerce Broadcasting, Inc., Blue Rose Television, Ltd., Guadalupe Enterprises, Inc., Tres Video, Inc. and Channel 36 Broadcasting shall each submit an amendment providing the information required by § 73.685(f) of the Commission's Rules, to the presiding Administrative Law Judge and a copy to TV Branch, Mass Media Bureau, within 20 days after the date of the release of this Order.

10. It is further ordered, that the Federal Aviation Administration IS MADE A PARTY RESPONDENT to this proceeding with respect to issue 1.

11. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants and party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

12. It is further ordered, that, the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 84-842 Filed 1-11-84; 8:45 am]

BILLING CODE 6712-01-M

Sheila Callahan and Friends and KGVO Broadcasters, Inc.; Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, City, and State	File No.	MM Docket No.
A. Sheila Callahan and Friends, Missoula, MT	BPH-820504AT	83-1373
B. KGVO Broadcasters, Inc., Missoula, MT	BPH-820908AN	83-1374

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Comparative, A, B
2. Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554, Telephone (202) 632-6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 84-839 Filed 1-11-84; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket Nos. 83-1368 and 83-1369; File Nos. BPCT-830118KI and BPCT-830314KL]

Stanley G. Emert, Jr. and Metro Program Network, Inc.; Hearing Designation Order

In the matter of applications of Stanley G. Emert, Jr., Cedar Rapids, Iowa; (MM Docket No. 83-1368, File No. BPCT-830118KI) and Metro Program Network, Inc., Cedar Rapids, Iowa; (MM Docket No. 83-1369, File No. BPCT-830314KL) for construction permit.

Adopted: December 19, 1983.
Released: January 9, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Stanley G. Emert, Jr. and Metro Program Network, Inc. for authority to construct a new commercial television broadcast station on Channel 28, Cedar Rapids, Iowa.

2. In Section III, Items 1 and 2, FCC Form 301, Metro answered "no" to the question as to whether or not it is financially qualified to construct and operate the proposed facility. Accordingly, the applicant will be given 20 days from the release date of this Order to review its financial proposal in light of Commission requirements, to make any changes that may be necessary, and, if appropriate, to submit a certification to the presiding Administrative Law Judge in the manner called for in Section III Form 301, as to its financial qualifications. If the applicant cannot make the required certification, it shall so advise the Administrative Law Judge who shall then specify an appropriate issue.

3. Section 73.610 of the Commission's Rules requires a minimum separation of 20 miles between a station operating on Channel 28 and a station or city to which Channel 20 is allocated. Metro's application states it would be 18 miles from vacant channel 20, Iowa City, Iowa [1] Metro would, therefore, be 2

[1] The Commission has on file an application for Channel 20, Iowa City, Iowa, BPCT-821203KF, which meets the spacing requirements to Metro's application.

miles short-spaced. Accordingly, an issue will be specified.

4. Metro intends to mount its antenna on the existing tower of station KCCK–FM. The Commission's records show the authorized height of the KCCK–FM tower to be 360 feet above ground level (1200 feet AMSL), but the applicant specifies the tower height AGL as 400 feet (1240 feet AMSL). The Commission cannot determine whether the discrepancy is an error by the applicant or whether the applicant proposes to increase the tower height by 40 feet. If it is an error, the applicant may amend by appropriate timely-filed amendment; if the applicant proposes to increase the tower height, the presiding officer will specify an appropriate air hazard issue.

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the application must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, it is ordered, that pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to Metro Program Network, Inc., whether the application is consistent with § 73.610 of the Commission's Rules and, if not, whether circumstances exist which would warrant a waiver of the rule.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, that Metro shall submit to the presiding Administrative Law Judge within 20 days of the release of this Order the clarification or amendment required by paragraph four as to its proposed tower height.

8. It is further ordered, that Metro Program Network, Inc., shall submit a financial certification in the form required by Section III, FCC Form 301, within 20 days after this Order is released or advise the Administrative Law Judge that certification cannot be made, as may be appropriate.

9. It is further ordered, that to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in persons or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

10. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Service Divisions, Mass Media Bureau.

[FR Doc. 84–840 Filed 1–11–84; 8:45 am]

BILLING CODE 6712–01–M

[MM Docket Nos. 83–1366 and 83–1367; File Nos. BMPCT–830307KE and BPCT–830603KF]

Sterling Associates, Ltd. and Anthony Jay Fant and Kyla Beth Fant, Hearing Designation Order

In the matter of applications of AG Thiessen and Ellen Ann Thiessen, d.b.a. Sterling Associates, Ltd. (WTJP–TV), Gadsden, Alabama (MM Docket No. 83–1366, File No. BMPCT–830307KE) Anthony Jay Fant and Kyla Beth Fant, Gadsden, Alabama, (MM Docket No. 83–1367, File No. BPCT–830603KF) for constuction permit.

Adopted: December 19, 1983.
Released: January 6, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of A.G. Thiessen and Ellen Ann Thiessen, d.b.a. Sterling Associates, Ltd., for modification of construction permit for unbuilt Station WTJP–TV to change channel from 60 to 44, Gadsden, Alabama; and Anthony Jay Fant and Kyla Beth Fant [1] for authority to construct a new commercial television station on Channel 44, Gadsden, Alabama.

2. The applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

3. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

4. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

5. It is further ordered, that, the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 84–841 Filed 1–11–84; 8:45 am]

BILLING CODE 6712–01–M

[1] On August 4, 1983, the B cut-off date, the Fants filed an informal amendment to their application. On August 5, 1983, the Fants submitted a supplement to this amendment. The information in the August 5 amendment, in most instances, duplicated the less formal August 4 amendment. The Fants state that the August 5 amendment was late due to the failure of Eastern Airlines to properly transfer the package in Atlanta. For good cause shown, the amendment is accepted. *See, Arcatel, Inc.*, 53 RR 2d 847 (1983).

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies; Banco Zaragozana, S.A., et al.

The Companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank

Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Banco Zaragozano, S.A.*, Madrid, Spain; Banzano International, N.V., Curacao, Netherlands Antilles; Banzano, B.V., Amsterdam, Netherlands; and, Miami National Bancorp, Coral Gables, Florida; to acquire 89.7 percent of the voting shares or assets of International Bank of Miami, Miami, Florida. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Atlanta. Comments on this application must be received not later than February 6, 1984.

Board of Governors of the Federal Reserve System, January 6, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-767 Filed 1-11-84: 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Broward Bancorp, et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW. Atlanta, Georgia 30303:

1. *Broward Bancorp*, Lauderdale Lakes, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Broward Bank, Lauderdale Lakes, Flordia. Comments on this application must be received not later than February 6, 1984.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Breckinridge Bancshares, Inc.*, Irvington, Kentucky; to become a bank holding company by acquiring al least 80.0 percent of the voting shares of First State Bank, Irvington, Kentucky. Comments on this application must be received not later than February 6, 1984.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Spring Woods Bancshares, Inc.*, Houston, Texas; to become a bank holding company by acquiring at least 80 percent of the voting shares of Spring Woods Bank, Houston, Texas. Comments on this application must be received not later than February 6, 1984.

Board of Governors of the Federal Reserve System, January 6, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-768 Filed 1-11-84: 8:45 am]

BILLING CODE 6210-01-M

Asquisitions of Companies Engaged in Permissible Nonbanking Activities; First City Financial Co.

The bank holding company listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (49 **Federal Register** 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for insection at the offices of the Board of Governors. With respect to the application, interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding this application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 3, 1984.

A. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First City Financial Corporation*, Albuquerque, New Mexico; to acquire First City Mortgage Company, Albuquerque, New Mexico. Applicant proposes to engage in mortgage banking activities including the origination of real estate mortgages banking activities including the origination of real estate mortgage loans for its own account and the account of others. These activities would be conducted from offices in Phoenix and Tucson, Arizona, serving the State of Arizona, and San Diego, California, serving the State of California.

Board of Governors of the Federal Reserve System, January 6, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-771 Filed 1-11-84: 8:45 am]

BILLING CODE 6210-01-M

Formations of; Acquisitions by; and Mergers of Bank Holding Companies; Greencastle Bancorp, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications

are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated for that inspection. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to each application, interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than February 3, 1984.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Greencastle Bancorp, Inc.*, Greencastle, Indiana; to acquire 100 percent of the voting shares of Greencastle Investment Company, Greencastle, Indiana, and thereby indirectly acquire 80 percent of the voting shares of First-Citizens Bank and Trust Company, Greencastle, Indiana.

2. *Mahaska Investment Company*, Oskaloosa, Iowa; to acquire 100 percent of the voting shares or assets of Mahaska State Bank, Oskaloosa, Iowa.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Downstate Bancshares, Inc.*, Murphysboro, Illinois; to become a bank holding company by acquiring 80 percent of the voting shares of First National Bank in Altamont, Illinois.

2. *E. & D. Bancshares, Inc.*, Mendon, Illinois; to become a bank holding company by acquiring 87.5 percent of the voting shares of Mendon State Bank, Mendon, Illinois.

3. *Farmers Bancorp of Sturgis, Inc.*, Sturgis, Kentucky; to become a bank holding company by acquiring 80 percent or more of the voting shares of Farmers State Bank, Sturgis, Kentucky.

4. *Paducah Bank Shares, Inc.*, Paducah, Kentucky; to become a bank holding company by acquiring 80 percent or more of the voting shares of Paducah Bank and Trust Company, Paducah, Kentucky.

C. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Lewisville Bancorp, Inc.*, Lewisville, Minnesota; to become a bank holding company by acquiring 86.8 percent of the voting shares of Merchants State Bank of Lewisville, Lewisville, Minnesota.

2. *Silver Run Bancorporation, Inc.*, Red Lodge, Montana; to become a bank holding company by acquiring 81.07 percent of the voting shares of The United States National Bank of Red Lodge, Red Lodge, Montana.

Board of Governors of the Federal Reserve System, January 6, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-768 Filed 1-11-84; 8:45 am]

BILLING CODE 6210-01-M

Proposed De Novo Nonbank Activities by Bank Holding Companies; United Financial Banking Companies, Inc., et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *United Financial Banking Companies, Inc.*, Vienna, Virginia (commercial lending; District of Columbia, Maryland, Virginia): To engage in the business of making or acquiring loans and extensions of credit such as would be made by a commercial finance company including activities such as servicing loans and participating in loans, in accordance with the Board's Regulation Y. These activities would be performed primarily in the States of Virginia and Maryland, and in the District of Columbia. Comments on this application must be received not later than January 30, 1984.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Helotes Bancshares, Inc.*, Helotes, Texas (financing and insurance activities; Texas): To engage, through its subsidiary, Southern Sun Life Insurance Company, in the underwriting of credit life insurance and credit accident and health insurance directly related to extensions of credit by Helotes State Bank, a Texas banking association and wholly owned subsidiary of Helotes Bancshares, Inc. These activities would be performed from an office in Helotes, Texas, serving the State of Texas. Comments on this application must be received not later than February 6, 1984.

Board of Governors of the Federal Reserve System, January 6, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-770 Filed 1-11-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Cooperative Agreements; Preventive Health Services-Tuberculosis Control; Availability of Funds for Fiscal Year 1984

The Centers for Disease Control (CDC) announces the availability of funds for Fiscal Year 1984 for Cooperative Agreements for Tuberculosis Control Programs, Catalog of Federal Domestic Assistance Number 13.116. This program is authorized by section 317(a) of the Public Health Service (PHS) Act (42 U.S.C. 247b(a)), as amended. Regulations governing programs for preventive health services

are codified at 42 CFR Part 51b. Subpart A contains general provisions relating to these programs.

Eligible applicants for this program are the official public health agencies of State and local governments, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and American Samoa. Although new applications will be considered, priority for funding will be given to continuation of currently funded cooperative agreements because of the limited funds available in Fiscal Year 1984. New awards, if any, will be limited to support of programs in States which reported 100 or more new cases of tuberculosis for each of the years 1981 and 1982 or had an incidence rate greater than the national tuberculosis incidence rate reported in 1982 (11.0 per 100,000 population) for both 1981 and 1982, and to selected urban areas as described below.

New cooperative agreements may also be awarded directly to a local health agency serving a high-priority urban area with a city of at least 250,000 population which reported 200 or more new cases of tuberculosis in each of the years 1981 and 1982 or had an incidence rate greater than the rate for United States cities over 250,000 population in 1982 (22.3 per 100,000 population) for both 1981 and 1982. Although certain local health agencies may be eligible for direct funding, eligible local health agencies within a State are strongly encouraged to include their request for assistance in the State application to ensure effective coordination of State/local/Federal resources.

State and local applicants must show that tuberculosis cooperative agreement funds will be directed primarily to support outreach activities in high incidence population groups and selected geographical areas with (1) a significant level of tuberculosis; and (2) an incidence rate greater than the State as a whole.

Applications meeting these requirements will be evaluated and priority for funding of new projects established, based upon the following factors, using data for both 1981 and 1982: (1) The total number of cases reported; (2) the number of bacteriologically confirmed cases reported; (3) the bacteriologically substantiated incidence rate of disease; (4) the number of tuberculosis cases among children 0–14 years of age; (5) significant levels of tuberculosis among individuals who were born in countries with high rates of tuberculosis; and (6) a significant increase in tuberculosis morbidity.

In addition, the overall potential effectiveness of the applicant's plan of operation in meeting the objectives of the proposed project will be considered in evaluating and assigning priority to applications. These factors were chosen to establish the extent of an applicant's tuberculosis problem and incorporate the intent of Congress for expenditure of these funds.

Purpose and Cooperative Activities

A. Purpose

The national goal in tuberculosis control is to continue an annual reduction of reported tuberculosis cases of at least 5 percent. The minimum short-term objectives needed to meet this goal include:

1. At least 75 percent of all initially infectious patients will become noninfectious (convert their sputum from positive to negative) within 3 months of starting treatment, and at least 95 percent will become noninfectious within 6 months.

2. At least 90 percent of all reported cases of tuberculosis will complete an American Thoracic Society/Centers for Disease Control (ATS/CDC) recommended regimen of antituberculosis drug therapy.

3. At least 95 percent of all close contacts to infectious cases will receive examinations, with at least 95 percent of all those under 15 years of age and 75 percent of all infected persons 15 years of age and over placed on preventive treatment.

4. For close contacts and other high-risk individuals placed on preventive therapy, at least 90 percent of those persons under 15 years of age and 75 percent of all others will complete a recommended course of preventive therapy.

B. Cooperative Activities

The collaborative and programmatic involvement of recipients of funds and CDC is as follows:

1. Recipient Public Health Agency Activities. a. Reporting of all tuberculosis cases, suspects, and significant laboratory results by health care providers and laboratories in both the public and private sectors; analysis of reporting trends; and implementation of updated public health record systems needed to monitor the current care status of patients, suspects, contacts, and high-risk infected persons in the community.

b. Deployment of outreach personnel for followup of patients and their contacts; application or intensification of directly administered daily or intermittent drug treatment.

c. Providing tuberculosis diagnostic, treatment, and prevention services adapted to the characteristics of tuberculosis population subgroups; and implementation of special approaches to meet the needs of immigrants with inherent language and cultural barriers.

d. Development or continuation of cost effective, medically sound tuberculosis medical care and public health policies. A major policy component should be the use of recommended ATS/CDC treatment regimens.

e. Epidemiological analysis and rapid followup for laboratory reports of drug resistant organisms.

f. Program evaluation and special epidemiological investigation/analysis of unique tuberculosis problems such as tuberculosis in foreign born, drug resistance, etc. Activities should include detailed investigation of all cases in children to identify causes of community control failure and to design more effective prevention and control actions.

2. Centers for Disease Control Activities. a. Collaboration in the development and operation of tuberculosis case reporting and program management record systems. Assistance in analysis and evaluation of morbidity, mortality, and program management information.

b. Assistance in improving program performance through onsite assistance and the provision of training materials for use by project staff.

c. Provision of onsite technical assistance in the planning, operation, and evaluation of program activities.

d. Provision of medical and programmatic consultation through telephone and written consultation.

e. Development and dissemination of public health and medical policies and recommendations for the diagnosis, treatment, and prevention of tuberculosis (including the development of joint ATS/CDC statements). Development of patient education and motivation materials.

Quarterly and/or semiannual narrative and performance statistical reports may be required subject to approval by the Office of Management and Budget. Financial status reports are required no later than 90 days after the end of each budget period. Final financial status and progress reports are required 90 days after the end of a project period.

Approximately $5 million will be available during Fiscal Year 1984 to continue between 40 and 48 cooperative agreements initiated in 1982 and 1983.

Although new applications will be considered, priority for funding will be given to continuation of existing programs; up to 3 new cooperative agreements may be funded. The average award is expected to be $100,000, with individual awards ranging from $30,000 to $500,000. Cooperative agreements are usually funded for 12 months in a 1- to 5-year project period. Continuation awards within the project period are made on the basis of satisfactory progress in meeting project objectives and on the availability of funds. Funding estimates outlined above may vary and are subject to change.

Cooperative agreement funds may be used to support both local personnel and the employment of individuals in direct assistance (i.e., "in lieu of cash") positions under section 317 of the PHS Act, and to purchase supplies and services directly related to the public health tuberculosis outpatient activities, particularly morbidity surveillance, outreach, and assessment. Project funds may not be used to supplant State or local funds available for tuberculosis control or to support construction costs or inpatient care.

New applications for a cooperative agreement must include a narrative which summarizes: (1) The background and need for support including information that relates to factors by which the applications will be evaluated; (2) both long- and short-term objectives of the proposed project which are consistent with the national goal outlined above, and which are specific, measurable, realistic, and time-framed; (3) the activities and methods which will be employed to accomplish the objectives (of special importance will be the employment of outreach workers in high incidence areas for use in patient followup and directly administered therapy programs); (4) the methods which will be employed to evaluate program activities; (5) fiscal information of the applicant pursuant to provisions of section 317(b)(2) of the PHS Act, although there are no matching or cost participation requirements; and (6) any other information which will support the request for assistance.

Continuation applications should provide new short-term objectives for the new budget period; a progress report on activities performed during the prior budget period; a description of any changes in the method of operation, long-term objectives, need for grant support, and evaluation procedures compared to information provided in previous applications; and fiscal and other supporting information as indicated in (5) and (6) in the preceding paragraph.

The original and one copy of the application must be submitted to the address in I.a. below on or before 4:30 p.m. (e.s.t.) on Friday, March 30, 1984. Applications may meet the deadline by either delivering or mailing the application on or before that date, provided the following conditions are met:

1. *Mailed applications.* Applications mailed through the U.S. Postal Service shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date by Leo A. Sanders, Chief, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, N.E., Room 107A, Atlanta, Georgia 30305, or

b. Sent by first class mail, postmarked on or before the deadline date, and received by the granting agency in time for submission to the independent review group. (Applicants are cautioned to request a legible U.S. Postal Service postmark or use U.S. Postal Service express mail, or certified or registered mail, and obtain a legible dated mailing receipt from the U.S. Postal Service. Private metered postmarks will not be acceptable as proof of timely mailing.)

2. *Applications submitted by other means.* Applications submitted by any means except mailing first class through the U.S. Postal Service shall be considered as meeting the deadline only if they are physically received at the place specified in paragraph I.a. above before close of business on or before the deadline date (4:30 p.m. e.s.t. Friday, March, 30, 1984).

3. *Late applications.* Applications which do not meet the criteria in either paragraph 1. or 2. above are considered late applications and will not be considered in the current competition.

4. *Copies of Applications.* A copy of the application should be simultaneously submitted to the appropriate Department of Health and Human Services Regional Office listed below. For applicants who are other than State agencies, the appropriate State health agency should be notified of the submission of the application.

Applications are subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs, and regulations (42 CFR Part 122, as amended, and Part 123) implementing the National Health Planning and Resource Development Act of 1974.

Information on application procedures, copies of application forms, and other material may be obtained from Leo A. Sanders, Chief, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, N.E., Room 107A, Atlanta, Georgia 30305, telephone (404) 262–6575, or FTS 236–6575. Technical assistance may be obtained from John J. Seggerson, Division of Tuberculosis Control, Center for Prevention Services, Centers for Disease Control, Atlanta, Georgia 30333, telephone (404) 329–2508, or FTS 236–2508. Technical assistance is also available from the appropriate Department of Health and Human Services Regional Office.

Dated: December 30, 1983.

James O. Mason,

Director, Centers for Disease Control.

Department of Health and Human Services (HHS) Regional Offices

Regional Health Administrator, PHS, HHS Region I, John Fitzgerald Kennedy Building, Boston, Massachusetts 02203, (617) 223–6827

Regional Health Administrator, PHS, HHS Region II, Federal Building, 26 Federal Plaza, Room 3337, New York, New York 10278, (212) 264–2561

Regional Health Administrator, PHS, HHS Region III, Gateway Building No. 1, 3521–35 Market Street, Mailing Address: P.O. Box 13716, Philadelphia, Pennsylvania 19101, (215) 596–6637

Regional Health Administrator, PHS, HHS Region IV, 101 Marietta Towers, Suite 1007, Atlanta, Georgia 30323, (404) 221–2316

Regional Health Administrator, PHS, HHS Region V, 300 South Wacker Drive, 33rd Floor, Chicago, Illinois 60666, (312) 353–1385

Regional Health Administrator, PHS, HHS Region VI, 1200 Main Tower Building, Room 1835, Dallas, Texas 75202, (214) 767–3879

Regional Health Administrator, PHS, HHS Region VII, 601 East 12th Street, Kansas City, Missouri 64106, (816) 374–3291

Regional Health Administrator, PHS, HHS Region VIII, 1185 Federal Building, 1961 Stout Street, Denver, Colorado 80294, (303) 837–6163

Regional Health Administrator, PHS, HHS Region IX, 50 United Nations Plaza, San Francisco, California 94102, (415) 556–5810

Regional Health Administrator, PHS, HHS Region X, 2901 Third Avenue, MS. 402, Seattle, Washington 98121, (206) 442–0430

[FR Doc. 84–846 Filed 1–11–84; 8:45 am]

BILLING CODE 4160–18–M

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Mine Health Research Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control (CDC) announces the following National Institute for Occupational Safety and Health (NIOSH) Committee meeting:

Name: Mine Health Research Advisory Committee.

Date: February 2–3, 1984.

Place: Auditorium A, Centers for Disease Control, 1600 Clifton Road NE., Atlanta, Georgia 30333.

Time and Type of Meeting: Closed: 8:30 a.m. to 8:45 a.m.—February 2; Open: 8:45 a.m. to 4:45 p.m.—February 2; Open: 8:30 a.m. to 12:00 noon—February 3.

Contact Person: Roy M. Fleming, Sc.D., Executive Secretary, Mine Health, Research Advisory Committee, NIOSH, CDC, Building 1, Room 3053, 1600 Clifton Road NE., Atlanta, Georgia 30333, Phone: (404) 329–3343.

Purpose: The Committee is charged with advising the Secretary of Health and Human Services on matters involving or relating to mine health research, including grants and contracts for such research.

Agenda: Agenda items for the meeting will include announcements, consideration of minutes of previous meeting and future meeting dates; report on End-of-Service-Life-Indicators from the Respirator Subcommittee; discussion of the identification of research cohorts with NIOSH date; status of diesel research; NIOSH's program planning process and NIOSH's mining research program priorities with input from the Mine Safety and Health Administration, the Bureau of Mines, industry representatives, and labor representatives. Beginning at 8:30 a.m. through 8:45 a.m., February 2, the Committee will be performing the final review of the mine health research grant applications for Federal assistance. This portion of the meeting will not be open to the public in accordance with the provisions set forth in Section 552b(c)(6), Title 5 US Code, and the Determination of the Director, Centers for Disease Control, pursuant to Pub. L. 92–463.

Agenda items are subject to change as priorities dictate.

The portion of the meeting so indicated is open to the public for observation and participation. Viewpoints and suggestions from any interested parties are invited. Anyone wishing to make an oral presentation should notify the contact person listed above as soon as possible before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the presentation. Oral presentations will be scheduled at the discretion of the Chairperson and as time permits. Anyone wishing to have a question answered during the meeting by a scheduled speaker should submit the question in writing, along with his or her name and affiliation, through the Executive Secretary to the Chairperson. At the discretion of the Chairperson and as time permits, appropriate questions will be asked of the speakers.

A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: January 6, 1984.

James O. Mason,

Director, Centers for Disease Control.

[FR Doc. 84–849 Filed 1–11–84; 8:45 am]

BILLING CODE 4160–19–M

National Institutes of Health

Board of Scientific Counselors, NIEHS; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, NIEHS, January 31–February 1, 1984, in Building 101, Conference Room, South Campus, NIEHS, Research Triangle Park, North Carolina.

This meeting will be open to the public 9 a.m. to 12 noon on January 31, for the purpose of presenting an overview of the organization and conduct of research in the Laboratory of Pharmacology. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6) of Title 5 U.S. Code and Section 10(d) of Public Law 92–463, the meeting will be closed to the public on January 31 from approximately 1 p.m. to adjournment on February 1, for the evaluation of the programs of the Laboratory of Pharmacology, including the consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Executive Secretary, Dr. Charles E. Carter, Scientific Director, NIEHS, Research Triangle Park, N.C. 27709, telephone (919) 541–3205, FTS 629–3205, will furnish summaries of the meeting, rosters of committee members and substantive program information.

Dated: January 4, 1984.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 84–902 Filed 1–11–84; 8:45 am]

BILLING CODE 4140–01–M

National Advisory Environmental Health Sciences Council; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Environmental Health Sciences Council, January 24–25, 1984, at the National Institute of Environmental Health Sciences, Building 101 Conference Room, Research Triangle Park, North Carolina.

This meeting will be open to the public on January 24 from 9 a.m. to approximately 12 noon for the report of the Director, NIEHS, and for discussion of the NIEHS budget, program policies and issues, recent legislation, and other items of interest. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on January 24, from approximately 1:00 p.m. to adjournment on January 25, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Winona Herrell, Committee Management Officer, NIEHS, Bldg. 31, Rm. 2B55, NIH, Bethesda, Md. 20205, (301) 496–3511, will provide summaries of the meeting and rosters of council members.

Dr. Wilford L. Nusser, Associate Director for Extramural Program, NIEHS, P.O. Box 12233, Research Triangle Park, North Carolina 27709, (919) 541–7723, FTS 629–7723, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Progam Nos. 13.112, Characterization of Environmental Health Hazards; 13.113, Biological Response to Environmental Health Hazards; 13.114, Applied Toxicological Research and Testing; 13.115, Biometry and Risk Estimation; 13.894, Resource and Manpower Development, National Institutes of Health)

Dated: January 4, 1984.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 84–859 Filed 1–11–84; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Advisory Board and Board Subcommittees; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meetings of the National Cancer Advisory Board and its Subcommittees, January 29–February 1, 1984, National Cancer Institute, Building 31, C Wing, Conference Room 6, National Institutes of Health, Bethesda, Maryland 20205. Portions of the Board meeting and its Subcommittees will be open to the public to discuss committee business as indicated in the notice. Attendance by the public will be limited to space available.

Portions of these meetings will be closed to the public as indicated below in accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Mrs. Winifred Lumsden, the Committee Management Officer, NCI, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will furnish summaries of the meetings, substantive program information and rosters of members, upon request.

Name of committee: *National Cancer Advisory Board.*

Dates of meeting: January 30–February 1, 1984.

Place of meeting: Building 31, C Wing, Conference Room 6, National Institutes of Health.

Open: January 30, 8:30 a.m.—recess, February 1, 8:30 a.m.—adjournment.

Agenda: Reports on activities of the President's Cancer Panel and the Director's Report on the National Cancer Institute; Update on Ovarian Cancer; Surgical Oncology; Concensus Conference; National Hospice Study; and reports on the NCAB Subcommittees.

Closed session: January 31, 8:30 a.m.—recess.

Closure reason: To review grant applications.

Name of committee: *Subcommittee on Organ Systems Program.*

Date of meeting: January 29, 1984.

Place of meeting: Building 31, C Wing, Conference Room 7, National Institutes of Health.

Open: January 29, 6:00 p.m.—adjournment.

Agenda: A discussion of the Organ Systems Program.

Name of committee: *Subcommittee on Cancer Control and the Community.*

Date of meeting: January 29, 1984.

Place of meeting: Building 31, C Wing, Conference Room 7, National Institutes of Health.

Open: January 29, 7:30 p.m.—adjournment.

Agenda: A discussion of NCAB interests in the Cancer Prevention and Control Program.

Name of committee: *ad hoc Subcommittee on Construction.*

Date of meeting: January 30, 1984.

Place of meeting: Building 31, C Wing, Conference Room 6, National Institutes of Health.

Closed: January 30, 7:30 p.m.—adjournment.

Closure reason: Review of grant applications.

Name of committee: *Subcommittee on Special Actions for Grants.*

Date of meeting: January 31, 1984.

Place of meeting: Building 31, C Wing, Conference Room 6, National Institutes of Health.

Closed: January 31, 8:30 a.m.—adjournment.

Closure reason: Review of grant applications.

Name of committee: *ad hoc Subcommittee on Innovations in Surgical Oncology.*

Date of meeting: January 31, 1984.

Place of meeting: Building 31, C Wing, Conference Room 7, National Institutes of Health.

Open: January 31, 7:30 p.m.—adjournment.

Agenda: To organize the subcommittee, scrutinize the grant process, and discuss the Surgical Oncology Program.

Dated: January 4, 1984.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

(Catalog of Federal Domestic Assistance Program Numbers: 13.392, project grants in cancer construction. 13.393, project grants in cancer cause and prevention. 13.394, project grants in cancer detection and diagnosis. 13.395, project grants in cancer treatment. 13.396, project grants in cancer biology. 13.397, project grants in cancer centers support. 13.398, project grants in cancer research manpower. 13.399, project grants and contracts in cancer control.)

[FR Doc. 84–903 Filed 1–11–84; 8:45 am]

BILLING CODE 4140–01–M

Review of Contract Proposals; Meetings

Pursuant to Public Law 92–463, notice is hereby given for meetings of several committees of the National Cancer Institute.

These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in Sections 552b(c)(4) and 552(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will furnish summaries of metings and rosters of committee members upon request. Other information pertaining to the meetings can be obtained from the Executive Secretary indicated.

Name of Committee: Biometry and Epidemiology Contract Review Committee.

Dates: January 27, 1984.

Place: National Institutes of Health, Building 31C, Conference Room 7, 9000 Rockville Pike, Bethesda, MD 20205.

Times: Open: January 27, 9:00 a.m.—9:30 a.m.

Agenda: A review of administrative details.

Closed: January 27, 9:30 a.m.—adjournment.

Closure reason: To review contract proposals.

Executive Secretary: Dr. Wilna A. Woods, Westwood Building, Room 807, National Institutes of Health, Bethesda, MD 20205. Phone: 301/496–7153.

Name of Committee: Cancer Resources and Repositories Contracts Review Committee.

Dates: January 30–31, 1984.

Place: January 30, National Institutes of Health, Building 1, Wilson Hall, 9000 Rockville Pike, Bethesda, MD 20205.

January 31, National Institutes of Health, Building 31, Conference Room 2, 9000 Rockville Pike, Bethesda, MD 20205.

Times: Open: January 30, 8:30 a.m.—9:00 a.m.

Agenda: A review of administrative details.

Closed: January 30, 9:00 a.m.—recess, January 31, 8:30 a.m.—adjournment.

Closure Reason: To review contract proposals.

Executive Secretary: Dr. Margaret W. Holmes, Westwood Building, Room 805, National Institutes of Health, Bethesda, MD 20205. Phone: 301/496–7421.

Dated: January 4, 1984.

Betty J. Beveridge,

Committee Management Officer, National Institute of Health.

[FR Doc. 84-901 Filed 1-11-84; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-84-1330]

Privacy Act of 1974; Proposed Amendments to Systems of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Amendments to existing Privacy Act systems of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended by the Debt Collection Act of 1982, the Department is giving notice that it intends to amend five Privacy Act systems of records.

EFFECTIVE DATE: Amendments pertaining to disclosure of information to consumer reporting agencies are effective upon publication of this notice (January 12, 1984). Amendments concerning administrative and salary offset shall become effective without notice 30 days from the publication date of this notice (February 11, 1984), unless comments are received on or before that date which would result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Arthur L. Stokes, Departmental Privacy Act Officer, (202) 755-5320. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Five systems of records are being amended to provide for compatible disclosures to other Federal agencies for the purpose of collecting debts owed the Federal government through Administrative or salary offset. These system notices are also being amended to provide for disclosures to consumer reporting agencies to facilitate the collection of debts pursuant to the provisions of 5 U.S.C. 552a(b)(12) and the Debt Collection Act of 1982 (31 U.S.C. 3711(f)). The systems are: (1) HUD/DEPT-2, Accounting Records, published at 46 FR 54879 and previously amended at 46 FR 59315; (2) HUD/DEPT-34, Pay and Leave Records of Employees, published at 46 FR 54889 and previously amended at 47 FR 15914; (3) HUD/DEPT-37, Personnel Travel System, published at 46 FR 54889 and previously amended at 47 FR 39251; (4) HUD/DEPT-62, Claim Collection Records, published at 46 FR 54897; and (5) HUD/DEPT-69, Intergovernmental Personnel Act Assignment Records, published at 46 FR 54902. The words "to other Federal agencies for the purpose of collecting debts owed the Federal government by administrative or salary offset" are added to the routine use section of each system description. Further, a new section entitled "Disclosures to Consumer Reporting Agencies" is added to each system description. The notices are published below in their entirety, as amended. The prefatory statement containing General Routine Uses applicable to most of the Department's systems of records was published at 46 FR 34322 (August 6, 1982). Appendix A, which lists the addresses of HUD's Field Offices, was published at 46 FR 34331 (August 6, 1982).

(5 U.S.C. 552a, 88 Stat. 1896; sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C., December 29, 1983.

Donald J. Keuch, Jr.,

Deputy Assistant Secretary for Administration.

HUD/DEPT-2

SYSTEM NAME:

Accounting Records.

SYSTEM LOCATION:

Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Mortgagors; mortgagees; grant/project and loan applicants and recipients; HUD personnel; vendors; brokers; bidders; managers; tenants; individuals within Disaster Assistance Programs; builders, developers, contractors, and appraisers; individuals writing to the Department; employees on HUD/FHA projects; investors; subjects of audit; closing agents; former mortgagors and purchasers of HUD-owned properties.

CATEGORIES OF RECORDS IN THE SYSTEM:

Lease and loan collection register; schedules of payments receivable and received; premiums due; claim files and fee billing statements; escrow and Certificates of Deposit files; cash flow and budget control files; earnest money register; purchase order log; imprest fund; area managers' accounting records; restitution, maintenance, and market expenses; distributive shares records; salary; savings bonds; bills of lading; vouchers; invoices; receipts; cancelled checks; mortgages, builders and contractors financial statements, records and audit reports; requests for termination of home mortgage insurance; deposit and receipt records; detailed accounting reports concerning diversified payments, disbursements, and cancelled checks; repurchases of mortgages; adjustments from recoveries, manual adjustments, and defaults; acquired home property records; sales closing papers; statements of accounts; tax records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

See 113 of the Budget and Accounting Act of 1950 31 U.S.C. 66a. (Pub. L. 81-784).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Users paragraphs in prefatory statement. Other routine uses: U.S. Treasury—for disbursements and adjustments thereof: Internal Revenue Service—for reporting of sales commissions and to obtain current mailing address; General Accounting Office, General Services Administration, Department of Labor, Labor housing authorities, and taxing authorities—for audit, accounting and financial reference purposes; mortgagee lenders—for accounting and financial reference purposes; HUD contractor—for mortgage note servicing; to other Federal agencies for the purpose of collecting debts owed to the Federal Government by administrative or salary offset.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Desks; safes; locked filing cabinets; central files; book cases; ledger trays and binders; tables; magnetic tape/disc/drum.

RETRIEVABILITY:

By Social Security number; name; case file number; schedule number; audit number; control number; receipt number; voucher number; contract number; address.

SAFEGUARDS:

Security checks, limited authorization and access, security guards; computer records are maintained in secure areas with access limited to authorized personnel and technical restraints employed with regard to accessing the records.

RETENTION AND DISPOSAL:

GSA schedules of retention and disposal; destruction after six months; transfer to either a Federal Records Center or Archives.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Finance and Accounting, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURE:

The Department's rule for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) In relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Department Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451, Seventh Street SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals; other individuals; current or previous employers; credit bureaus; financial institutions; private corporations or firms doing business with HUD; Federal and non-federal governmental agencies; HUD personnel.

HUD-DEPT—34

SYSTEM NAME:

Pay and Leave Records of Employees.

SYSTEM LOCATION:

All Department offices. For a complete listing of offices, with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and separated HUD employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number and employee number, grade, step, and salary; organization, retirement of FICA data as applicable; Federal, State and local tax deductions; regular and optional Government life insurance deduction(s), health insurance deduction and plan or code; cash award data; jury duty data; military leave data; pay differentials; union dues deductions; allotments by type and amount; financial institution code and employee account number; leave status and data of all types (including annual, compensatory, jury duty, maternity, military; retirement, disability; sick, transferred, and without pay); time and attendance records, including sign in/sign out sheets and related documentation, leave applications and reports, individual daily time reports, adjustments to time and attendance, overtime reports, supporting data, such as medical certificates, number of regular, overtime, holiday, Sunday and other hours worked; pay period number and ending dates; cost of living allowances; mailing address; co-owner and/or beneficiary of bonds, marital status and number of dependents; "Notification of Personal Actions," Congressional requests or inquiries on the pay/leave problems of employees; court orders; personnel/payroll data requests; information about the problem received from the employee, an Administrative Office, or from a Personnel employee, including supporting documentation; written correspondence pertaining to pay/leave problems; and related information or documentation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: Transmittal of data to U.S. Treasury to effect issuance of paycheck to employees and distribution of pay according to employee directions for saving bonds, allotments, financial institutions and other authorized purposes. Annual reporting of W-2 statements to Internal Revenue Service, Social Security Administration, the individual, and taxing authorities of States, the District of Columbia, territories, possessions, and local government, except Social Security Numbers will be reported only to such authorities that have satisfied the requirements set forth in Section 7(a)(2)(B) of the Privacy Act of 1974. To the Office of Personnel Management concerning pay, benefits, retirement deductions, and other information necessary for the Office to carry on its Government-wide personnel functions; to GAO—for audit and to resolve employee appeals on pay/leave decisions; to other Federal government agencies—to facilitate employee transfers; to State agencies—to verify workmen's compensation injury claims; time and attendance data—to contractor for scanning, keying, producing error lists, and producing input media; to other Federal agencies for the purpose of collecting debts owed to the Federal Government by administrative or salary offset.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966, 31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual, machine-readable and magnetic media.

RETRIEVABILITY:

Name of employee; Social Security Number.

SAFEGUARD:

Physical, technical, and administrative security is maintained with all storage equipment and/or rooms locked when not in use. Admittance, when open, is restricted to authorized personnel only. All personnel who handle or maintian records as a part of their official duties are instructed and cautioned on the confidentiality of the records. Manual files kept in lockable desks, file cabinets and safes.

RETENTION AND DISPOSAL:

Retained on site until after GAO audit, then disposed of, or transferred to

Federal Records Storage Centers in accordance with fiscal records program approval by GAO, as appropriate, or General Records Schedules of GSA. Generally, records on employee pay-leave problems are retained in the Personnel Systems and Payroll Division in Headquarters for three years after a decision has been made on the problem. In payroll, the retention schedule for these records is the same as that for employee pay and leave records. In Personnel Offices, problem pay/leave records are retained for six months after a decision has been made on the problem, and then disposed of.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Systems and Payroll Division, Office of Personnel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with procedures in 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate locations. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURE:

The Department's rules for contesting the contents of records and appealing initial denials, by the individuals concerned appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) In relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A, (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Officer of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410

RECORD SOURCE CATEGORIES:

Subject individuals, supervisors, timekeepers, official personnel records, previous employers, or other Federal government agenices, Headquarters or Regional Office personnel responsible for solving pay/leave problems. Area and Service Office personnel who have information about pay/leave problems, banks, other financial institutions, and courts.

HUD/DEPT-37

SYSTEM NAME:

Personnel Travel System.

SYSTEM LOCATION:

All Department offices maintain employee travel records. For a complete listing of offices, with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

HUD personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

All travel records, including vouchers, requests, advances, receipts for requests, orders.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(d) of the Department of Housing and Urban Development Act of 1965, Pub. L. 89–174; Budget and Accounting Act of 1950, 31 U.S.C. 66a.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USES AND THE PURPOSES OF SUCH USERS:

See Routine Uses paragraphs in prefatory statement. Other routine uses: to Treasury—for payment of vouchers; vouchers and receipts are available to GAO and GSA for audit purposes and vouchers are verified by private transporters; to other Federal agencies for the purpose of collecting debts owed to the Federal Government by administrative or salary offset.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders and on magnetic tape/disc/drum.

RETRIEVABILITY:

Almost always retrievable by name, occasionally by Social Security number.

SAFEGUARDS:

Lockable desks or file cabinets; computer records are maintained in secure areas with access limited to authorized personnel and technical restraints employed with regard to accessing the records.

RETENTION AND DISPOSAL:

Records are active and kept up-to-date. Files purged in accordance with HUD Handbook.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Finance and Accounting, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

For Transportation Requests: Director, Office of Administrative Services, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appeared in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) In relation to contesting contents of record, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individual and supervisors.

HUD/DEPT–62

SYSTEM NAME:

Claims Collection Records.

SYSTEM LOCATION:

Headquarters and field offices. For a complete listing of these offices with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Mortgagors; mortgagees; grant/project and loan applicants and recipients; HUD personnel; vendors; brokers; bidders; managers; tenants; builders; developers,

contractors, and appraisers; employees on HUD/FHA projects; investors; subjects of audit; closing agents; former mortgagors and purchasers of HUD-owned properties.

CATEGORIES OF RECORDS IN THE SYSTEM:

Lease and loan collection register; schedules of payments receivable and received; premiums due; claim files; fee billing statements; escrow and Certificates of Deposit files; cash flow and budget control files; earnest money register; purchase order log; imprest fund; area managers' accounting records; restitution, maintenance, and market expenses; bills of lading; vouchers; invoices; receipts; mortgagors, builder's and contractor's financial statements, records and audit reports; deposit and receipt records; disbursements and cancelled checks; repurchases of mortgages; adjustments from recoveries, defaults, acquired home property records; sales closing papers; statements of accounts; tax records; certifications and applications for assistance; and notice of court action.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Claims Collection Act of 1966 (Section 1, Pub. L. 89–508).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: Justice Department—for prosecution of fraud revealed in the course of claims collection efforts, and for the institution of foreclosure or other proceedings to effect collection of claims; FBI—for investigation of possible fraud revealed in the course of claims collection efforts; General Accounting Office—for the institution of proceedings to effect collection of claims; other Federal Agencies—to facilitate collection of claims against Federal employees; Office of Personnel Management—for offsetting retirement payments; to commercial credit bureaus—to facilitate claims collection consistent with Federal Claims Collection Standards, 4 CFR 102.4; to other Federal agencies for the purpose of collecting debts owed to the Federal Government by administrative or salary offset.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966, 31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Desks; safes; locked file cabinets.

RETRIEVABILITY:

Name, Social Security Number, Project Name and Number, and Contract Number.

SAFEGUARDS:

Locked files; limited access by authorized individuals.

RETENTION AND DISPOSAL:

GSA schedules of retention and disposal; destruction one year after statute of limitation expiration.

SYSTEM MANAGER AND ADDRESS:

Department Claims Officer, Office of Finance and Accounting, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) In relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A, (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals; other individuals; current or previous employers; credit bureaus; financial institutions; private corporations or firms doing business with HUD; Federal and non-Federal government agencies; HUD personnel

HUD/DEPT-69

SYSTEM NAME:

Intergovernmental Personnel Act Assignment Records.

SYSTEM LOCATION:

Headquarters and field offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former employees of State or local governments, educational institutions, Indian tribal governments, or other eligible organizations who are presently on or have completed a detail with the Department of Housing and Urban Development (HUD) under the provisions of the Intergovernmental Personnel Act (IPAP).

CATEGORIES OF RECORDS IN THE SYSTEM:

These records are comprised of a copy of the assignee's IPA agreement between HUD and a State or local government, educational institution, Indian tribal government, or other eligible organization: resume, personal qualifications statement, and background information about the assignee(s); records of interviews with assignee(s) and any required assignment evaluations and reports; and any documents which affect the status of the assignment such as extensions, amendments and terminations of contracts. The following data will be included in the records: Name of employee, social security number, date of birth, home address, agency employed by, job title, name and title of immediate supervisor, office telephone number, annual salary, date employed by agency, position to which assignment will be made, type of assignment, and period of assignment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Intergovernmental Personnel Act of 1970 (84 Stat. 1909), 5 U.S.C. 3371–3376, and E.O. 11589.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the Merit System Protection Board, Federal Labor Relations Authority, and the Equal Employment Opportunity Commission when requested in performance of authorized duties. To Office of Personnel Management for personnel inspections of the Department; to other Federal agenices for the purpose of collecting debts owed to the Federal Government by administrative or salary offset.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Individual name.

SAFEGUARDS:

Files are kept in a secured area, with access limited to authorized personnel.

RETENTION AND DISPOSAL:

Records are retained in accordance with officially approved mandatory standards contained in HUD Handbooks 2225.6 and 2228.2.

SYSTEM MANAGERS(S), AND ADDRESS:

Director, Employment Planning and Standards Division, Office of Personnel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A, (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Participating individual; individual's permanent employing organization; Department personnel files and records.

[FR Doc. 84-823 Filed 1-11-84; 8:45 am]

BILLING CODE 4210-32-M

[Docket No. N-84-1329]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirement described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, telephone (202) 755-5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposals should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Proposal: Request for Final Endorsement of Credit Instrument
Office: Housing
Form Number: FHA-2023
Frequency of submission: On Occasion
Affected Public: Businesses or Other For-Profit
Estimated Burden Hours: 698
Status: Extension
Contact: Linda D. Cheatham, HUD (202) 426-7113 or Robert Neal, OMB (202) 395-7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 29, 1983.

Proposal: Schedule of Subscribers Addendum for Construction Loan Certification
Office: Government National Mortgage Association
Form Number: HUD-1735, HUD-1738, HUD-11739, and HUD-11745
Frequency of submission: On Occasion
Affected Public: Businesses or Other For-Profit
Estimated Burden Hours: 262
Status: New
Contact:Patricia Gifford, HUD (202) 755-5550 or Robert Neal, OMB (202) 395-7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 29, 1983.

Proposal: Technical Assistance Recipient Questionaire
Office: Community Planning and Development
Form Number: HUD-40011
Frequency of submission: On Occasion
Affected Public: State or Local Governments, Businesses or Other For-Profit, and Non-Profit Institutions
Estimated Burden Hours: 6,000
Status: Extension
Contact: Harold Goldblatt, HUD, (202) 755-6186 or Robert Neal, OMB, (202) 395-7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 29, 1983.

Proposal: Technical Suitability of Products

Office: Housing
Form Number: None
Frequency of submission: On Occasion
Affected Public: Businesses or Other For-Profit and Federal Agencies or Employees
Estimated Burden Hours: 8,000
Status: New
Contact: Donald K. Baxter, HUD, (202) 755–5718 or Robert Neal, OMB, (202) 395–7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 29, 1983.

Proposal: Section 3—Affirmative Action Plan
Office: Fair Housing and Equal Opportunity
Form Number: None
Frequency of submission: On Occasion
Affected Public: State or Local Governments, Businesses or Other For-Profit, Non-Profit Institutions, and Small Businesses or Organizations
Estimated Burden Hours: 7,500
Status: New
Contact: Turner Russell, HUD, (202) 755–5673 or Robert Neal, OMB, (202) 395–7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 29, 1983.

Proposal: Section 3—Participation in Other Federal Programs Report
Office: Fair Housing and Equal Opportunity
Form Number: None
Frequency of Submission: On Occasion
Affected Public: State or Local Governments, Businesses or Other For-Profit, Non-Profit Institutions, and Small Businesses or Organizations
Estimated Burden Hours: 2,500
Status: New
Contact: Turner Russell, HUD, (202) 755–5673 or Robert Neal, OMB, (202) 395–7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 29, 1983.

Proposal: Section 3—Monitoring and Compliance Report
Office: Fair Housing and Equal Opportunity
Form Number: None
Frequency of Submission: On Occasion
Affected Public: State or Local Government, Businesses or Other For-Profit, Non-Profit Institutions, and Small Businesses or Organizations
Estimated Burden Hours: 7,500
Status: New
Contact: Turner Russell, HUD, (202) 755–5673 or Robert Neal, OMB, (202) 395–7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 29, 1983.

Proposal: Voluntary Compliance Agreement Report
Office: Fair Housing and Equal Opportunity
Form Number: None
Frequency of Submission: On Occasion
Affected Public: State or Local Governments and Non-Profit Institutions
Estimated Burden Hours: 18,000
Status: New
Contact: Laurence D. Pearl, HUD, (202) 755–5904 or Robert Neal, OMB, (202) 395–7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 29, 1983.

Proposal: Section 3—Statement of Work Force Needs
Office: Fair Housing and Equal Opportunity
Form Number: None
Frequency of Submission: On Occasion
Affected Public: State or Local Governments, Businesses or Other For-Profit, Non-Profit Institutions, and Small Businesses or Organizations
Estimated Burden Hours: 2,500
Status: New
Contact: Turner Russell, HUD, (202) 755–5673 or Robert Neal, OMB, (202) 395–7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 29, 1983.

Lea Hamilton,

Director, Office of Information Policies and Systems.

[FR Doc. 84–822 Filed 1–11–84; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Notice of Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

December 29, 1983.

This is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.8(a) (formerly 25 CFR 54.8(a)) notice is hereby given that the North Fork Mono Band of Indians, c/o Mr. Ron Goode, P.O. Box 49, North Fork, California 93643, has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on September 7, 1983. The petition was forwarded and signed by members of the group's governing body.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be by mail to the petitioner and other interested parties at the appropriate time.

Under § 83.8(d) (formerly 54.8(d)) of the Federal regulations, interested parties may submit factual or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the Bureau of Indian Affairs files.

The petition may be examined by appointment in the Division of Tribal Government Services, Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20245.

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 84–780 Filed 1–11–84; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[A–17000–H]

Arizona; Termination of Segregative Effect

January 6, 1984.

1. On May 13, 1971, August 10, 1971, January 17, 1972, February 23, 1972, October 31, 1980, March 23, 1981, and May 4, 1981, the State of Arizona filed applications to select certain public lands in lieu of school lands that were encumbered by other rights or reservations before the State's title could attach (43 U.S.C. 851–852). Effective August 27, 1981, said lands were segregated from appropriation under the public land laws, including the mining, but not the mineral leasing laws (46 FR, No. 144; pp 38508–38509).

The State has withdrawn its applications as to the following described lands:

Gila and Salt River Meridian, Arizona

T. 4 N., R. 1 E.,
Sec. 3: Lots 1–3, inclusive, S½NE¼, SE¼NW¼.
T. 5 N., R. 1 E.,
Sec. 28: SW¼NE¼;

Sec. 30: S½NE¼NE¼, SE¼NE¼;
Sec. 33: N½NE¼;
Sec. 34: All.
T. 7 N., R. 2 E.,
Sec. 15: Unpatented land west of I–17 highway in E½;
Sec. 26: N½NE¼, NE¼NW¼.
T. 11 N., R. 2 E.,
Sec. 23: Lots 11–13, inclusive, 20, 32.
T. 5 N., R. 3 E.,
Sec. 1: SE¼NE¼.
T. 6 N., R. 3 E.,
Sec. 35: E½SW¼NE¼NW¼.
T. 7 N., R. 3 E.,
Sec. 30: Lots 1, 2.
T. 5 N., R. 4 E.,
Sec. 6: Lots 6, 7, SW¼NE¼, E½SW¼;
Sec. 7: Lot 1.
T. 6 N., R. 4 E.,
Sec. 8: NE¼SE¼;
Sec. 9: Lot 1, SE¼NE¼.
T. 1 N., R. 8 E.,
Sec. 36: S½SE¼.
T. 1 N., R. 15½ E.,
Sec. 23: NE¼NW¼;
Sec. 24: SW¼NW¼;
Sec. 26: W½NE¼, W½SE¼NE¼, W½NE¼SE¼, NW¼SE¼;
Sec. 27: SE¼NE¼, NE¼SE¼.
T. 14 N., R. 2 W.,
Sec. 3: W½SW¼;
Sec. 4: S½;
Sec. 9: N½N½, SW¼NW¼, W½SW¼;
Sec. 10: NW¼NW¼.

The areas described aggregate 2,840.09 in Gila, Maricopa, Pinal, and Yavapai Counties.

2. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands described in paragraph 1 were opened to the operation of the public land laws including the mining laws (Ch. 2, Title 30 U.S.C.) on August 27, 1983.

Appropriation of lands under the general mining laws between August 27, 1981 and August 26, 1983 was unauthorized. Any such attempted appropriation, including attempted adverse possesion under 30 U.S.C. Section 38, vested no rightrs against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

3. The lands have been and will continue to be open to applications and offers under the mineral leasing laws.

4. Inquiries concerning the lands should be addressed to the Bureau of Land Managment, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073 (602–261–4774).

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84–779 Filed 1–11–84; 8:45 am]

BILLING CODE 4310–32–M

[A–17000–X]

Arizona; Termination of Segregative Effect

January 6, 1984.

1. On July 2, 1981, the State of Arizona filed application to select certain public lands in lieu of school lands that were encumbered by other rights or reservations before the State's title could attach (43 U.S.C. 851–853). Effective August 27, 1981, said lands were segregated from appropriation under the public land laws, including the mining, but not the mineral leasing laws (46 FR, No. 144; pp 38508–38509).

The State has withdrawn its application as to the following described lands:

Gila and Salt River Meridian, Arizona,

T. 10 N., T. 2 E.,
Sec. 2: That part of Lots 2 and 3 lying between I–17 R/W and Bloody Basin Road.
T. 11 N., T. 2 E.,
Sec. 2: Lot 5, N½NW¼SE¼NW¼, E½SE¼NW¼, S½NW¼SE¼NW¼, SW¼SE¼NW¼, W½NW¼NE¼SW¼, E½NE¼NW¼SW¼, SW¼NE¼SW¼, S½SE¼NE¼SW¼, E½SE¼, SW¼E½NW¼NE¼SW¼;
Sec. 8: E½NW¼NE¼, N½NW¼NW¼NE¼, E½E½SW¼NE¼, N½NE¼NE¼NW¼, E½NE¼NW¼SE¼, SE¼NW¼SE¼, N½NE¼SW¼SE¼, W½SW¼SE¼;
Sec. 17: W½W½E½;
Sec. 26: That part of W½W½east of I–17 R/W;
Sec. 35: Part of S½SW¼SE¼lying between I–17 R/W and Bloody Basin Road.
T. 12 N., R. 2 E.,
Sec. 28: S½SE¼NE¼SW¼, E½SE½SW¼, S½S½SW¼SW¼SW¼, SW¼SE¼SW¼SW¼;
Sec. 33: E½E½NW¼.

The areas described aggregate 439.63 acres in Yavapai County.

2. Subject to valid existing rights, the privisions of existing withdrawals, and the requirements of applicable law, the lands described in paragraph 1 were opened to the operation of the public land laws including the mining laws (Ch. 2, Title 30 U.S.C.) on August 27, 1983.

Appropriation of lands under the general mining laws between August 27, 1981 and August 26, 1983 was unauthorzed. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Section 38, vested no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has proivided for such determination in local courts.

3. The lands have been and will continue to be open to applications and offers under the mineral leasing laws.

4. Inquires concerning the lands should be addressed to the Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073 (602–261–4774).

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operation.

[FR Doc. 84–778 Filed 1–11–84; 8:45 am]

BILLING CODE 4310–32–M

[A–6727]

Arizona; Termination of Segregative Effect

January 6, 1984.

1. On January 17, 1972, the State of Arizona filed application to select certain public lands in lieu of school lands that were encumbered by other rights or reservations before the State's title could attach (43 U.S.C. 851–852). Effective August 27, 1981, said lands were segregated from appropriation under the public land laws, including the mining, but not the mineral leasing laws (46 FR, No. 144; pp 38508–38509).

The State has withdrawn its application as to the following described lands:

Gila and Salt River Meridian, Arizona,

T. 1 N., R. 8 E.,
Sec. 8: S½SW¼, SE¼;
Sec. 9: S½SE¼NE¼, S½.

The areas described aggregate 580 acres in Pinal County.

2. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands described in paragraph 1 were opened to the operation of the public land laws including the mining laws (Ch. 2, Title 30 U.S.C.) on August 27, 1983.

Appropriation of lands under the general mining laws between August 27, 1981 and August 26, 1983 was unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Section 38, vested no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law

where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

3. The lands have been and will continue to be open to applications and offers under the mineral leasing laws.

4. Inquiries concerning the lands should be addressed to the Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073 (602–261–4774).

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84–777 Filed 1–11–84; 8:45 am]

BILLING CODE 4310–32–M

[A–1700–F]

Arizona; Termination of Segregative Effect

January 6, 1984.

1. On May 15, 1972, may 24, 1972, October 31, 1980, March 23, 1981, and May 4, 1981, the State of Arizona filed applications to select certain public lands in lieu of school lands that were encumbered by other rights or reservations before the State's title could attach (43 U.S.C. 851–852). Effective August 27, 1981, said lands were segregated from appropriation under the public land laws, including the mining, but not the mineral leasing laws (46 FR No. 144; pp 38508–38509).

The State has withdrawn its applications as to the following described lands:

Gila and Salt River Meridian, Arizona

T. 5 S., R. 5 E.,
Sec. 13: Lots 6, 7, S½SW¼NE¼,S½S½NW¼,N½SW¼,NW¼SE¼,E½SW¼SE¼;
Sec. 24: Lot 1, E½SW¼NE¼,SE¼NE¼, W½SE¼SE¼NW¼,SW¼SE¼NW¼, NE¼SW¼,SW¼NW¼SW¼,E½NW¼SW¼,S½SW¼.
T. 5 S., R. 6 E.,
Sec. 17: W½;
Sec. 18: Lots 4, 5, E½SW¼, SE¼.
T. 5 S., R. 10E.,
Sec. 20: E½;
Sec. 21: NE¼, S½.
T. 16 S., R. 10 E.,
Sec. 4: Lot 15.
T. 12 S., R. 11 E.,
Sec. 28: NE¼NE¼.
T. 13 S., R. 11 E.,
Sec. 17: SW¼SW¼;
Sec. 29: NE¼.
T. 14 S., R. 12 E.,
Sec. 29: Lots 1–32 inclusice, NE¼;
Sec. 30: Lots 9–72 inclusive;
Sec. 35: N½SW¼.
T. 15 S., R. 12 E.,
Sec. 1: Lots 24–31 inclusive;
Sec. 3: Lots 1, 2;
Sec. 4: Lot 1, SE¼NE¼;
Sec. 20: S½NW¼,SW¼, S½SE¼;
Sec. 22: NE¼NE¼SE¼,S½NE¼SE¼, SE¼SE¼;
Sec. 23: NE¼NE¼,S½N½,SW¼, NE¼NW¼SE¼,S½NW¼SE¼, NE¼SE¼;
Sec. 24: SW¼NW¼.
T. 12 S., R. 13 E.,
Sec. 19: Lots 3, 4, W½NE¼,SE¼NE¼, E½W½,SE¼.
T. 14 S., R. 13 E.,
Sec. 19: SE¼.
T. 22 S., R. 21 E.,
Sec. 20: E½NW¼;
Sec. 34: S½NE¼.
T. 22 S., R. 22 E.,
Sec. 4: Lots 11, 23–33 inclusive, 36, 39, 40, 45, 46, 50, 57, 59, 62, 63, 66–70 inclusive, 72, 73, 76, 77, 82–85 inclusive, 87–90 inclusive, 93–103 inclusive.

The areas described aggregate 5,069.75 acres in Cochise, Pima, and Pinal Counties.

2. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands described in paragraph 1 were opened to the operation of the public land laws including the mining laws (Ch. 2, Title 30 U.S.C.) on August 27, 1983.

Appropriation of lands under the general mining laws between August 27, 1981 and August 26, 1983 was unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Section 38, vested no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

3. The lands have been and will continue to be open to applications and offers under the mineral leasing laws.

4. Inquiries concerning the lands should be addressed to the Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073 (602–261–4774).

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84–776 Filed 1–11–84; 8:45 am]

BILLING CODE 4310–32–M

[S 1683 WR, CA 7053 WR, CA 7054 WR, and CA 7055 WR]

California; Proposed Continuation of Withdrawals of Land; Opportunity for Public Hearing

January 6, 1984.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action provides notice and opportunity for public hearing of the proposed continuation of four withdrawals affecting a total of 354.82 acres of public and reconveyed land withdrawn in connection with the Orland Reclamation Project. The lands remain closed to surface entry and mining but have been and will remain open to mineral leasing.

FOR FURTHER INFORMATION CONTACT: Dianna Storey, California State Office, (916) 484–4431.

SUPPLEMENTARY INFORMATION: Pursuant to the provisions of section 204(*1*) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754; 43 U.S.C. 1714, the Bureau of Reclamation, Mid-Pacific Region, proposes to continue four existing withdrawals of land for a period of 50 years. The withdrawals, located in Glenn County, are described as follows:

Mount Diablo Meridian

S 1683 WR

Public Land Order No. 4652 of April 18, 1969:

T. 20 N., R. 6 W.,
Sec. 16, E½NE¼.
The area described contains 80 acres.

CA 7053 WR

Secretarial Order of November 16, 1917:

T. 20 N., R. 6 W.,
Sec. 21, E½NE¼.
The area described contains 80 acres.

CA 7054 WR

Secretarial Order of June 16, 1909:

T. 22 N., R. 2 W.,
Sec. 18, lot 3.
T. 22 N., R. 3 W.,
Sec. 14, NE¼SE¼.
The area described aggregate 74.82 acres.

CA 7055 WR

Secretarial Order of December 28, 1906:

T. 18 N., R. 6 W.,
Sec. 35, SW¼NE¼ and W½SE¼.
The areas described contains 120 acres.

1. The purpose of the withdrawals is to protect lands for the Orland Reclamation Project. The withdrawals segregate the lands from operation of the public land laws generally, including the mining laws, but not from

applications and offers under the mineral leasing laws. No change in the segregative effect of the withdrawals or use of the land is proposed.

2. Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal continuations. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal continuations must submit a written request to the Chief, Branch of Lands and Minerals Operations within 90 days from the date of publication of this notice. If the State Director, Bureau of Land Mangagement, in his discretion, determines that a public hearing is justified, a notice of the time and place will be published in the **Federal Register** at least 30 days prior to the scheduled date of the meeting.

3. In addition, for a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuations may present their views in writing to the Chief, Branch of Lands and Minerals Operations, California State Office.

4. The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources, and will review the withdrawal rejustification to ensure that, (1) continuation would be consistent with the statutory objectives of the programs for which the lands are dedicated; (2) the areas involved are the minimum essential to meet the desired needs; (3) the maximum concurrent utilization of the lands is provided for; and (4) an agreement is reached on the concurrent management of the lands and their resources.

5. The authorized officer will also prepare a report for consideration by the Secretary of the Interior, the President, and the Congress who will determine whether or not the withdrawals will be continued, and if so, for how long. The determination on the continuation of the withdrawals will be published in the **Federal Register**. The existing withdrawals will continue until such final determination is made.

All communications in connection with the proposed withdrawal continuations and opportunity for public haearing should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, California State Office, Room E–2841, 2800 Cottage Way, Sacramento, California 95825.

Eleanor Wilkinson,

Chief, Lands and Locatable Minerals Section Branch of Lands and Minerals Operations.

[FR Doc. 84–774 Filed 1–11–84; 8:45 am]

BILLING CODE 4310–84–M

Coos Bay District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting of Coos Bay District Advisory Council.

SUMMARY: Notice is hereby given in accordance with Pub. L. –579 and 43 CFR Part 1780 that a meeting of the Coos Bay District Advisory Council will be held on Friday, February 17, 1984. the meeting will be held in the conference room of the Coos Bay District Office, 333 South Fourth Street, Coos Bay, OR, beginning at 10:00 a.m.

Agenda

The agenda for the meeting will include:

1. A discussion of old business.
2. A presentation by District staff on some of the problems associated with the extension BLM road system in the District.
3. A discussion of possible ways to improve the situation, including a District proposal for road closures.
4. Lunch.
5. A discussion among the council members to develop a recommendation to the District Manager concerning the proposed road closures.
6. Arrangements for the next meeting.

The meeting is open to the public and news media. Interested persons may make oral statements to the council during a 30-minute period immediately following lunch, or file written statements for the council's consideration. Anyone wishing to make an oral statement must notify the District Manager by close of business on Friday, February 3, 1984 (Telephone 503–269–5880).

ADDRESS: Bureau of Land Management, Coos Bay District Office, 333 South Fourth Street, Coos Bay, OR 97420.

Summary minutes of the meeting will be maintained at the District Office and made available during regular business hours (7:45 a.m. to 4:30 p.m.) for public inspection or reproduction at the cost of duplication.

Dated: January 3, 1984.

Robert T. Dale,

District Manager.

[FR Doc. 84–789 Filed 1–11–84; 8:45 am]

BILLING CODE 4310–33–M

[M–57793]

Montana; Order Providing for Opening of Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Opening of Public Lands.

SUMMARY: In an exchange of lands in Phillips and Carbon Counties, Montana, the United States acquired the following tract of land in the Custer National Forest:

Principal Meridian, Montana

T. 8 S., R. 26 E.,
Secs. 5, 8, and 9—parts within HES.–169.
Containing 159.96 acres.

SUPPLEMENTARY INFORMATION: Upon acceptance of title to the above-described lands, they became part of the Custer National Forest and are subject to all the laws, rules and regulations applicable thereto. At 10 a.m. on February 15, 1984, the lands shall be open to such forms of disposition as may by law be made of national forest lands.

Inquiries concerning the lands should be addressed to the Forest Supervisor, Custer National Forest, P.O. Box 2556, Billings, Montana 59103.

James Binando,

Chief, Branch of Land Resources.

January 6, 1984.

[FR Doc. 84–775 Filed 1–11–84; 8:45 am]

BILLING CODE 4310–ON–M

Rock Springs District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting of Rock Springs District Advisory Council.

DATE: February 2, 1984.

ADDRESS: Rock Springs District Office, Bureau of Land Management, U.S. 191 North, Rock Springs, Wyoming.

FOR FURTHER INFORMATION CONTACT: Donald H. Sweep, District Manager, Rock Springs District, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyoming 82902–1869, (307–382–5350).

SUPPLEMENTARY INFORMATION: This meeting of the Rock Springs District Advisory Council will convene at 10:00 a.m. in the District Office Conference Room at the above address.

The agenda items are:

Grazing Management-Cooperative Management Agreements
Known Geologic Structures Designation Status

Sodium Concessionary Leasing Plans
Green River-Hamms Fork Coal Leasing Status
Kemmerer Resource Management Plan Status
FY 1984 Wild Horse Program Status
Public comment period and plans for next meeting.

Donald H. Sweep,

District Manager.

[FR Doc. 84-790 Filed 1-11-84; 8:45 am]

BILLING CODE 4310-22-M

[C-0102703]

Colorado; Proposed Continuation Amendment to Notice of Proposed Withdrawal Fryingpan-Arkansas Project; Correction

January 3, 1984.

In Federal Register of Wednesday, September 28, 1983, paragraph 2, on page 44273, column 1, after the description for T. 11 S., R. 80 W., 6th P.M., amend description to include:

T. 11 S., R. 81 W.,
Sec. 24, that portion of lot 9 south of State Highway 82.
T. 8 S., R. 84 W.,
Sec. 7, lots 3, 4, and E½SW¼;
Sec. 11, approximately 2.4 acres in the southeast corner of lot 6;
Sec. 16, N½NE¼NE¼, N½NE¼NW¼NE¼, NW¼NW¼NE¼, S½SW¼NW¼, S½N½SW¼NW¼, SW¼SE¼NW¼, S½SE¼SE¼NW¼, and NW¼SE¼;
Sec. 17, S½NE¼, and N½NW¼;
Sec. 18, NW¼, and N½NE¼.

Robert D. Dinsmore,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-791 Filed 1-11-84; 8:45 am]

BILLING CODE 7310-JB-M

[AA-48110-V]

Alaska; Proposed Reinstatement of a Terminated Oil and Gas Lease

January 5, 1984.

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas lease AA-48110-V has been timely filed for the following lands:

Kateel River Meridian

T. 21 S., R. 22E.,
Sec. 5, NW¼SE¼.
(40 acres).

The proposed reinstatement of the lease will be under the same terms and conditions of the original lease, except the rental will be increased to $5 per acre per year, and royalty increased to 16⅔ percent. The $500 administrative fee and the cost of publishing this Notice have been paid. The required rentals and royalties accruing from September 1, 1983, the date of termination, have been paid.

Having met all the requirements for reinstatement of lease AA-48110-V as set out in Section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective March 1, 1984, subject to the terms and conditions cited above.

Dated: January 5, 1984.

Robert E. Sorenson,

Chief, Branch of Mineral Adjudication.

[FR Doc. 84-784 Filed 1-11-84; 8:45 am]

BILLING CODE 4310-84-M

[AA-48110-W]

Alaska; Notice of Proposed Reinstatement of a Terminated Oil and Gas Lease

January 5, 1984.

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas lease AA-48110-W has been timely filed for the following lands:

Kateel River Meridian

T. 21 S., R. 22 E.,
Sec. 5, NE¼SW¼.
(40 acres).

The proposed reinstatement of the lease will be under the same terms and conditions of the original lease, except the rental will be increased to $5 per acre per year, and royalty increased to 16⅔ percent. The $500 administrative fee and the cost of publishing this Notice have been paid. The required rentals and royalties accruing from September 1, 1983, the date of termination, have been paid.

Having met all the requirements for reinstatement of lease AA-48110-W as set out in Section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective March 1, 1984, subject to the terms and conditions cited above.

Dated: January 5, 1984.

Robert E. Sorenson,

Chief, Branch of Mineral Adjudication.

[FR Doc. 84-785 Filed 1-11-84; 8:45 am]

BILLING CODE 4310-84-M

[A-18905-E]

Arizona; Notice of Conveyance

December 29, 1983.

Notice is hereby given that the following described land has been sold pursuant to sections 203 and 209 of the Federal Land Policy and Management Act of 1976 for $61,500 at public auction held at Tonopah, Arizona, on September 22, 1983.

Gila and Salt River Meridian, Arizona

T. 1 S., R. 9 W.,
Sec. 7, lots 1, 2, 3, 4, E½W½ comprising 302.96 acres in Maricopa County.

The purpose of this notice is to inform the public and interested State and local government officials of the transfer of the land out of Federal ownership.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-782 Filed 1-11-84; 8:45 am]

BILLING CODE 4210-32-M

North Dakota; Call for Expressions of Leasing Interest in Coal for the Fort Union Coal Region

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management is asking the public, industry, small business, public bodies, and state and local governments to identify areas in North Dakota where there is interest in leasing federal coal. In accordance with 43 CFR 3420.3-2, this and other information gathered by the BLM will be used to delineate preliminary tracts which can be considered for possible leasing in the next federal coal lease sale in the region, currently scheduled for June 1986.

The lands open to expressions of leasing interest at this time have been found acceptable for further leasing consideration in the following management framework plans (MFPs): West-Central North Dakota, McKenzie-Williams, and Southwest North Dakota. Maps showing the areas acceptable for further consideration are available from the BLM Dickinson District Office.

On the basis of the MFPs, approximately 489,920 acres are available for expressions of leasing interest. (See Table I for a breakdown by MFP area.)

Not all of this acreage has undergone complete application of the MFP coal "screens". In the Southwest and McKenzie-Williams MFP areas, further application of wildlife and cultural resource screens may result in excluding some lands from further consideration for leasing. For more information on this, those interested are urged to

contact the BLM Dickinson District Office.

Responses to this Notice will be accepted until February 24, 1984.

All information submitted in the expressions of interest shall be available for public inspection and copying upon request.

ADDRESS: Two copies of the expression of interest must be sent to the BLM State Director for Montana and the Dakotas: Michael Penfold, State Director (921), Bureau of Land Management, P.O. Box 36800, Billings, MT 59107.

FOR FURTHER INFORMATION CONTACT: Chuck Pettee, Bureau of Land Management, Gate City Building, 204 Sims Sts., P.O. Box 1229, Dickinson, ND 58602, Telephone: (701) 225–9148.

SUPPLEMENTARY INFORMATION: Maps and supplementary information on the lands available for expressions of leasing interest may be obtained from the BLM Dickinson District Office. Respondents to this Notice should use these materials in preparing their expressions of interest.

Expressions of interest from small businesses and public bodies are particularly invited in accordance with the provisions of 43 CFR 3420.1–3, which states that a reasonable number of lease tracts will be reserved and offered through competitive lease sales to those qualifying under the definitions of public bodies and small coal mining businesses.

Those who submit expressions of interest should state that the submissions are for possible small business or public body set-asides and should also supply proof of small business or public body status. An individual, business or governmental entity, or public body may participate and submit expressions of leasing interest.

An expression of interest is not an application for coal leasing. Information obtained as a result of this invitation will be used along with other information gathered by the BLM to delineate potential lease tracts that could be ranked, selected, and scheduled for inclusion into a lease sale, as described in 43 CFR 3420.5–1. Expressing interest in a certain area does not guarantee that the area will be included in a potential lease tract. Among other things, thoroughness and completeness of an expression are determining factors in deciding whether or not to delineate a tract. Expressions of leasing interest should include the following data, where applicable:

1. Location:

a. Locate proposed mining project boundaries on a Fort Union coal interest map (available from the BLM Dickinson District).

b. If no location is indicated but other specific information is provided, the expression could still be considered.

2. Type of mine:

a. Surface or underground.

b. Technique of mining (i.e., longwall, shovel and truck, room and pillar, dragline).

3. Quantity and quality of coal needs including total tonnage, life of mine, average annual production rates, and the year mine production would begin.

4. Proposed use of coal:

a. Identify the likely market and location, or potential alternative locations for coal use including type and size of power plant and synthetic fuel plant, or other use both within and outside the Fort Union coal region.

5. Transportation and proposed routes to existing and proposed facilities (i.e., railroads, pipelines, and highways).

6. Information relating to mineral ownership:

a. Information on surface owner consents over federal coal previously granted (i.e., name of qualified surface owner, date of surface lease agreement, description of leased lands, whether agreement is transferable and termination date of consent, etc.).

b. Commitments from fee coal owners or commitments for associated nonfederal coal.

7. Contacts. List the name, address, and phone number of the person who may be contacted for clarification or additional information on the area of interest and end use information.

Information considered proprietary should not be submitted as part of this expression of leasing interest. If proprietary information is submitted, please include a signed release stating that the information can be made available for public inspection and copying upon request.

Dated: January 5, 1984.

Reed L. Smith,

Dickinson District Manager.

TABLE I

Coal deposit	Estimated in-place Federal coal	
	Acres	Million tons
McKenzie-Williams MFP Area:		
Williston	44,462	764.1
Hanks	42,620	645.2
Sand Creek	49,970	846.1
Tobacco Garden	10,980	92.4
Bennie Peer	2,037	32.0
Totals	150,069	2,379.8
Southwest MFP Area		
Elgin-New Leipzig	14,360	156.6
Mott	41,060	477.6
New England	87,910	1,384.3
Bowman-Gascoyne	18,760	605.3

TABLE I—Continued

Coal deposit	Estimated in-place Federal coal	
	Acres	Million tons
Dickinson	24,195	635.5
Totals	186,285	3,259.3
West-Central MFP Area:		
Dickinson	63,112	1,762.9
Dunn Center	41,550	1,095.6
Center-Stanton	12,975	363.3
Hazen	3,200	60.1
Renner's Cover	10,025	289.5
North Beulah	2,838	59.6
Zap	2,084	32.8
South Beulah	7,849	178.6
Washburn	1,035	14.5
Underwood	1,430	27.5
Garrison	3,600	30.4
North Garrison	3,868	64.3
Totals	153,566	3,979.1
Grand totals	489,920	9,618.2

[FR Doc. 84–781 Filed 1–11–84; 8:45 am]

BILLING CODE 4310–DN–M

[Utah 51482]

Realty Action for Lands in Tooele County, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: This is a Notice of a direct sale of 140 acres of public land in Tooele County, in accordance with existing law.

DATE: The date of the sale is April 4, 1984.

ADDRESS: Comments concerning the sale will be accepted for a period of 45 days from the date of this notice by the: District Manager, Bureau of Land Management, 2370 South 2300 West, Salt Lake City, Utah 84119.

FOR FURTHER INFORMATION CONTACT: Nancy Bloyer, Pony Express Realty Specialist, (801) 524–5348.

SUPPLEMENTARY INFORMATION: The following described public land has been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713) or FLPMA:

Legal description	Acreage
T. 6 S., R. 18 W., SLB&M:	
Sec. 4, W½E½SW¼	40
Sec. 8, NE¼NE¼	40
Sec. 9, W½NE¼NW¼, NW¼NW¼	60
Total	140

The land is being offered by direct sale to Mr. Eldon Stubbs at the appraised fair market value of $17,500.

The lands are being offered for sale to serve the public objectives of economic

development and the growing of cultivated crops. Authorizing the farming of these lands will enhance Mr. Stubbs' adjoining farm operation. This objective could not be achieved on other public land such as a parcel that was noncontiguous. The parcel does not possess more important public values than economic development since livestock grazing is the present and projected use of the land. The tract is no larger than necessary to support a family-sized farm.

A direct sale to Mr. Stubbs will recognize a preference to him as a user with existing improvements and as an adjoining landowner, as set forth in FLPMA.

The sale is consistent with the Bureau of Land Management's planning system and with Tooele County planning and zoning.

The public lands will be sold on the fourth day of April, 1984.

Terms and conditions applicable to the sale are:

1. The sale of these lands will be subject to all valid existing rights.

2. A right-of-way is reserved for ditches and canals constructed by the authority of the United States Act of August 30, 1980 (26 Stat. 391; 43 U.S.C. 945).

3. All minerals will be reserved to the United States.

4. Federal law requires that the buyer be a U.S. citizen. proof of this requirement shall be presented by Mr. Stubbs on the date of the sale.

The designated purchaser, Mr. Stubbs, will be required to pay for the cost to publish this notice in the **Federal Register**. He will also be required to submit a nonrefundable deposit of one-fifth of the full price of $17,500 on the sale date, April 4, 1984, by certified check. The remainder of the full price shall be paid within 30 days of the sale date. Failure to pay the full price within 30 days shall disqualify Mr. Stubbs as the designated purchaser and the deposit shall be forfeited and disposed of as other receipts of sale. The lands may then be offered on a competitive bidding basis, with details of such a sale to be set forth in a subsequent notice.

Detailed information concerning the sale, including the planning documents and environmental assessment is available for review at the above address. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this reality action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

Frank W. Snell,

Salt Lake District Manager.

[FR Doc. 84-783 Filed 1-11-84; 8:45 am]

BILLING CODE 4310-DQ-M

[A-18411]

Public Lands Exchange; Mohave County, Arizona

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of realty action—exchange, public lands in Mohave County, Arizona.

SUMMARY: The following described lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Gila and Salt River Meridian, Arizona

T. 25 N., R. 19W.,
Sec. 16; W½SW¼SW¼NW¼.
Containing 5 acres, more or less.

In exchange for these lands, the United States will acquire the following described land from Martin L. Harbarger, Jr., and Stanley E. Jones.

Gila and Salt River Meridian, Arizona

T. 18N., R. 16 W.,
Sec. 11; N½NW¼SW¼.
Containing 20 acres, more or less.

The purpose of the exchange is to acquire the non-Federal land that contains highly diversified wildlife habitat on the southwest slope of Wabayuma Peak, south of Kingman, Arizona. The exchange is consistent with the Bureau's land use plans and the public interest will be well served.

The above lands will be subject to an appraisal to determine the value of the lands to be exchanged. The listed lands may change to reflect equal value following the completion of the appraisal.

Lands to be transferred from the United States will be subject to the following reservations:

1. A right-of-way for ditches and canals constructed by the authority of the United States, pursuant to the Act of August 30, 1890 (26 Stat. 391; U.S.C. 945).

2. All minerals in the subject are reserved to the State of Arizona pursuant to the Act of June 20, 1910.

3. Subject to an easement to Mohave County for Pierce Ferry Road as approved by the County Board of Supervisors by Resolution No. 476, Recorded in Book 132 of Dockets, Pages 425–428 on October 24, 1968.

4. Subject to such rights for powerline right-of-way A–18556 as provided under the authority of the Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).

5. Subject to such rights for telephone right-of-way A–11587 as provided under the authority of the Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).

Private lands to be acquired by the United States will be subject to the following reservations, terms and conditions:

1. All minerals in the subject are reserved to the Santa Fe Pacific Railroad Company as set forth in Book 78 of Deeds, page 348, Mohave County, Arizona.

Publication of this Notice will segregate the subject lands from all appropriations under the public land laws. This segregaton will terminate upon the issuance of a patent or two years from the date of this Notice, or upon publication of a Notice of Termination.

Detailed information concerning this exchange can be obtained from the Kingman Resource Area Office, 2475 Beverly Avenue, Kingman, Arizona 86401. For a period of Forty-five (45) days from the date of this Notice, interested parties may submit comments to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix Arizona 895027. Any adverse comments will be evaluated by the District Manager who may vacate or modify this Realty Action, and issue a final determination. In the absence of any action by the District Manager, this Realty Action will become the final determination of the Department of the Interior.

Dated: December 30, 1983.

Marlyn V. Jones,

District Manager.

[FR Doc. 84-847 Filed 1-11-84; 8:45 am]

BILLING CODE 4310-30-M

[N-38119, N-38119-A]

Nevada; Notice of Conveyance

Notice is hereby given that, pursuant to the Act of December 23, 1980, 94 Stat. 3381; 43 U.S.C. 1701 and section 209(b) of the Act of October 21, 1976 (90 Stat. 2757; 43 U.S.C. 1719), Carol and Lester Hall, Las Vegas, Nevada have purchased, by competitive sale, public lands in Clark County described as:

Mount Diablo Meridian, Nevada

T. 22 S., R. 61 E.,
Sec. 6, lot 56.
Containing 5 acres.

The purpose of this notice is to inform the public and interested State and local governmental officials of the issuance of a conveyance document to Carol and Lester Hall.

William K. Stowers,

Acting Deputy State Director, Operations.

[FR Doc. 84-850 Filed 1-11-84; 8:45 am]

BILLING CODE 4310-HC-M

Fish and Wildlife Service

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chaper 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service clearance officer and the OMB Interior Desk Officer, Washington, D.C. 20503, telephone 202-395-7313.

Title: Mourning Dove Call Count Survey.
Abstract: Such survey is conducted annually by Service and State biologists to assess the population status of the mourning dove. The survey data are analyzed, and the resulting assessment guides the Service in its promulgation of regulations for hunting the species.
Bureau Form Number: 3-159.
Frequency: Annually.
Description of Respondents: Service and State biologists.
Annual Responces: 850.
Annual Burden Hours: 145.
Service Clearance Officer: Arthur J. Ferguson, 202-653-7499.

Dated: January 6, 1984.

Ronald E. Lambertson,

Associate Director, Wildlife Resources.

[FR Doc. 84-787 Filed 1-11-84; 8:45am]

BILLING CODE 4310-07-M

Minerals Management Service

Samedan Oil Corp.; Receipt of a Proposed Plan of Development/ Production

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a Proposed Plan of Development/ Production (POD/P).

SUMMARY: Notice is hereby given that Samedan Oil Corporation has submitted a POD/P describing the activities it proposes to conduct on Lease OCS-G 4846, Block 241, Galveston Area, offshore Texas. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Freeport, Texas.

DATE: The subject POD/P was deemed submitted on October 11, 1983.

ADDRESSES: A copy of the subject POD/P is available for public review at the Office of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Hossein Hekmatdoost, Minerals Management Service, Gulf of Mexico Region; Rules and Production; Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 838-0873.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the POD/P and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in POD/Ps available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: January 5, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84-786 Filed 1-11-84; 8:45 am]

BILLING CODE 4310-MR-M

Proposal To Change the Water Depth Criterion for Granting Longer Primary Lease Terms

AGENCY: Minerals Management Service, Interior.

ACTION: Extension of comment period.

SUMMARY: On December 20, 1983 (48 FR 56279), the Minerals Management Service (MMS) published in the **Federal Register** a Request for Comments. In that Request the MMS stated that it was examining its policy on the proper length of the primary lease term for deepwater offshore oil and gas leases. To encourage exploration and development in deepwater areas, MMS is considering establishing 10-year lease terms in water depths exceeding 400m. That solicitation was intended to obtain comments and recommendations on whether there is a need to change current policy, and, if so, what water depth is more appropriate. The comment period was scheduled to expire on January 19, 1984. Several commenters have asked for an extension to file a response. Upon further consideration, the comment period is extended to February 9, 1984.

DATE: Comments should be postmarked or hand-delivered no later than the close of business February 9, 1984.

ADDRESS: Request for Comments on Longer Lease Terms—Director, Minerals Management Service, U.S. Department of the Interior, 12203 Sunrise Valley Drive, Reston, Virginia 22091, Attn: MS643.

FOR FURTHER INFORMATION CONTACT: Mr. Marshall Rose or Ms. Carol Hartgen, Minerals Management Service, MS643, Reston, Virginia 22091, telephone (703) 860-7571 or 860-7558.

John B. Rigg,

Associate Director for Offshore Minerals Management.

[FR Doc. 84-797 Filed 1-11-84; 8:45 am]

BILLING CODE 4310-MR-M

Exxon Co.; Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Exxon Company, U.S.A. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 1177, Block 6, South Marsh Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9

a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 838–0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: January 3, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84–856 Filed 1–11–84; 8:45 am]

BILLING CODE 4310–MR–M

Outer Continental Shelf Advisory Board's Gulf of Mexico Regional Technical Working Group; Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Commitee Act, Pub. L. 92–463. A meeting of the Outer Continental Shelf Advisory Board's Gulf of Mexico Regional Technical Working Group will be held on February 14–16, 1984, in Metairie, Louisiana. The agenda of the meeting is as follows:

February 14—Gulf of Mexico Winter Ternary Studies Meeting 9:30 a.m. to 5:00 p.m.

February 15—Regional Technical Working Group Business Meeting 8:30 a.m. to 5:00 p.m.:

A. Update on Offshore Lease Offerings.

B. Anchoring on East and West Flower Garden Banks.

C. Briefings by Regional Supervisors.

D. Draft Regional Studies Plan for FY 1986.

February 16—Completion of Draft Regional Studies Plan for FY 1986 8:30 a.m. to 11:30 a.m.

The meeting will be held in the Fourth Floor Conference Room of the Minerals Management Service, Gulf of Mexico Reginal Office, 3301 North Causeway Boulevard, Metairie, Lousiana 70010. The meeting is open to the public, and interested persons may make oral or written presentations upon request. Such requests should be made not later than February 10, 1984, to Mr. Sydney H. Verinder, at the above address, or telephone (504) 838–0627.

A taped cassette transcript and summary minutes of the meeting will be available for public inspection in the Office of the Regional Manager, Gulf of Mexico Regional Office, not later than 60 days after the meeting.

Dated: January 3, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region, Minerals Management Service.

[FR Doc. 84–851 Filed 1–11–84; 8:45 am]

BILLING CODE 4310–MR–M

Mobil Oil Exploration and Producing Southeast Inc.; Oil and Gas Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Mobil Oil Exploration and Producing Southeast Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 4003, Block 90, Grand Isle Area, Offshore Louisiana. Proposed plans for the above areas provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Morgan City, Louisiana.

PURPOSE: The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the Code of Federal Regulations, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the Plan for consistency with the Louisiana Coastal Resources Program.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations. Accordingly, a copy of the Plan is available for public review at the Office of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

A copy of the Consistency Certification and the Plan are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44396, Baton Rouge, Louisiana 70804. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the Plan from the Minerals Management Service.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 838–0519.

Dated: January 3, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84–855 Filed 1–11–84; 8:45 am]

BILLING CODE 4310–MR–M

MOTOR CARRIER RATEMAKING STUDY COMMISSION

Postponement of Public Meeting

The meeting of the Motor Carrier Ratemaking Study Commission scheduled for 9:00 a.m., Wednesday, January 18, 1984 has been postponed. It will be rescheduled in the near future.

This meeting had been called to provide the opportunity for the Study Commission to discuss and consider the draft report, findings, and recommendations; to direct issuance of the final document with its findings and recommendations to the Congress and President; and to consider other business as appropriate.

For Further Information contact: Gary D. Dunbar, Executive Director, Motor Carrier Ratemaking Study Commission, 100 Indiana Avenue, NW., Washington, D.C. 20001. Phone (202) 724–9600.

Submitted this, the 9th day of January 1984.

Gary D. Dunbar,

Executive Director.

[Doc. 84–858 Filed 1–11–84; 8:45 am]

BILLING CODE 6820–BO–M

VOL 49 ISS 8 JA 12 1984 UMI

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-325 and 50-324]

Carolina Power & Light Co. (Brunswick Steam Electric Plant, Units 1 and 2); Exemption

I

The Carolina Power & Light Company (the licensee) is the holder of Facility Operating License Nos. DPR-71 and DPR-62 (the licenses) which authorize operation of the Brunswick Steam Electric Plant, Units 1 and 2 located in Brunswick County, North Carolina at steady state reactor core power levels each not in excess of 2436 megawatts thermal. This license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

II

On October 2, 1980, the Commission proposed rulemaking on "Interim Requirements Related to Hydrogen Control and Certain Degraded Core Considerations." The proposed amendments to 10 CFR Part 50 would improve hydrogen management in light-water reactor facilities and provide specific design and other requirements to mitigate the consequences of accidents.

On January 4, 1982, the proposed rule became effective and as part of the amendments, it required hydrogen recombiner capability to reduce the likelihood of venting radioactive gases following an accident. The hydrogen recombiner capability applies to light-water nuclear power reactors that rely upon purge/repressurization systems as the primary means of hydrogen control.

Section 50.44(c)(3)(ii) of 10 CFR Part 50 requires that by the end of the first scheduled outage after July 5, 1982 and of sufficient duration to permit required modifications, each light-water power reactor, that relies upon a purge/repressurization system as the primary means for controlling combustible gases following a Loss-of-Coolant Accident, shall be provided with either an internal recombiner or the capability to install an external recombiner following the start of an accident.

III

In a March 16, 1983 submittal, the licensee requested an exemption from the requirement of § 50.44(c)(3)(ii) for provision of either an internal recombiner or the capability to install an external recombiner following the start of an accident. The request was based on BWR Owners Group studies of combustible gas control submitted for NRC review by letter dated June 21, 1982. In the event that the Commission is unable to issue promptly its decision on request for exemption from the equipment requirements of § 50.44(c)(3)(ii), the licensee requested an extension of the schedule requirements of 10 CFR 50.44(c)(3)(ii). By letter dated June 21, 1983 the Commission granted an extension of the schedular requirements through December 31, 1983. By letter dated October 27, 1983 the licensee requested a further extension to June 30, 1984 in the event that the NRC had not completed its review.

We are nearing completion of our review of the BWR Owners Group studies on which the licensee's exemption request was based. We will be able to consider the licensee's request for permanent exemption following completion of that review.

During the interim period, with respect to combustible gas control in the event of a loss-of-coolant accident, the Brunswick units can use the existing containment atmosphere control systems, in conjunction with the standby gas control systems, to avoid unacceptable combustible gas concentrations. The containment atmosphere control system maintains an inert atmosphere during normal operation and the Containment Atmosphere Dilution (CAD) system is used to control combustible gas concentrations after an accident. By means of the CAD system, hydrogen and oxygen concentrations are monitored as nitrogen is added to the containment atmosphere to dilute combustible gases. In the unlikely prospect of high containment vessel pressure, the pressure may be relieved by venting through the standby gas control system. A detailed procedure has been developed by the licensee, with operating personnel trained to use these systems in the control of combustible gases. We find these means of combustible gas control acceptable for interim operation of the Brunswick Steam Electric Plant, Units 1 and 2 through June 30, 1984.

Accordingly, the Commission has determined that pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, the Commission hereby approves the following exemption request.

Exemption is granted from the schedular requirement of § 50.44(c)(3)(ii) to extend the required date from "the end of the first scheduled outage beginning after July 5, 1982 and of sufficient duration to permit modifications" to no later than June 30, 1984, or, if the plant is shutdown on that date, before the resumption of operation thereafter.

The Commission has determined that the granting of this exemption will not result in any significant environmental impact and that, pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Maryland, this 29th day of December 1983.

Darrel G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-860 Filed 1-11-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-295 and 50-304]

Commonwealth Edison Co.; Consideration of Issuance of Amendments to Facilities Operating Licenses and Opportunity for Prior Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facilities Operating License Nos. DPR-39 and DPR-48, issued to Commonwealth Edison Company (the licensee), for operation of the Zion Nuclear Power Station, Unit Nos. 1 and 2 located in Zion, Illinois.

The amendments would revise the provisions in the Technical Specifications regarding the acceptance criteria for containment leakage tests. The change would replace the existing design basis accident leakage rate of 0.1 percent of the containment volume per 24 hours at 47 psig with a value of 0.225 percent of the containment volume per 24 hours at 47 psig. The change reflects the results of calculations to establish the maximum allowable primary containment leakage per the dose guideline limits of 10 CFR Part 100 for off-site dose and GDC-19 of Appendix A of 10 CFR Part 50 for control room personnel dose.

Prior to issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By February 13, 1984, the licensee may file a request for a hearing with respect to issuance of the amendments to the

subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rule of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfied these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commiission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Steven A. Varga, Chief, Operating Reactors Branch No. 1, Division of Licensing: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to P. Steptoe, Esquire, Isham, Lincoln and Beale, Attorneys at Law, Three First National Plaza, 51st Floor, Chicago, Illinois 60602, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendments dated August 8, 1983, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. and at the Zion-Benton Public Library District, 2600 Emmaus Avenue, Zion, Illinois 60099.

Dated at Bethesda, Maryland, this 23rd day of December 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 84–861 Filed 1–11–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–295 and 50–304]

Commonwealth Edison Co.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–39 and DPR–48 issued to Commonwealth Edison Company (the licensee), for operation of the Zion Nuclear Power Station, Units 1 and 2 located in Zion, Illinois.

In accordance with the licensee's application for amendment dated October 14, 1983 the amendment would permit temporary one-time changes to Zion Technical Specifications regarding the Auxiliary Electric Power that would allow performing extensive preventive maintenance on the diesel generator shared between the two units. Because that diesel generator is shared, extended maintenance periods have not have been available under present technical specifications, even during scheduled refueling outages of either of the two units. The proposed one-time changes would extend the present seven-day period to forty-five days during which, with one unit in cold shutdown, only two diesel generators would be required to satisfy the standby AC on-site power requirements.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By February 13, 1984 the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a

request for hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspects(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Steven A. Varga, Chief, Operating Reactors Branch No. 1, Division of Licensing: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to P. Steptoe, Esquire, Isham, Lincoln and Beale, Attorneys at Law, Three First National Plaza, 51st Floor, Chicago, Illinois 60602, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer of the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated October 14, 1983, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Zion-Benton Public Library District, 2600 Emmaus Avenue, Zion, Illinois 60099.

Dated at Bethesda, Maryland this January 5, 1984.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 84–802 Filed 1–11–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–269 etc.]

Duke Power Co. (Oconee Nuclear Station, Units 1, 2 and 3 McGuire Nuclear Station, Units 1 and 2); Exemption

I

In the matter of Docket Nos. 50–269, 50–270, 50–287, 50–369, and 50–370.

Duke Power Company (the licensee) is the holder of Facility Operating Licenses Nos. DPR–38, DPR–47 and DPR–55 which authorize operation of the Oconee Nuclear Station, Units 1, 2 and 3 (Oconee or the facilities). The licensee is also the holder of Facility Operating Licenses Nos. NPF–9 and NPF–17 which authorize operation of the McGuire Nuclear Station, Units 1 and 2 (McGuire or the facilities). These licenses provide, among other things, that they are subject to all rules, regulations and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The Oconee facilities are pressurized water reactors located at the licensee's site in Oconee County, South Carolina. The McGuire facilities are pressurized water reactors located at the licensee's site near Charlotte, North Carolina.

II

Section IV.F. of Appendix E to 10 CFR Part 50 requires each licensee of a nuclear power facility to conduct an annual emergency preparedness exercise. Section IV.F. of Appendix E also requires that provisions be made for training and exercising of licensee employees, including licensee headquarters support personnel, in radiation emergency matters.

III

The licensee's letter of March 9, 1983, to Harold R. Denton, Director, Office of Nuclear Reactor Regulation, requested an exemption to be granted to the requirements of 10 CFR Part 50, Appendix E. IV.F. as applied to active participation by all licensee headquarters support personnel for each station's annual exercise. The licensee bases this request for exemption on the fact that with the addition of the Catawba Nuclear Station to the system the licensee will be conducting three exercises per year. Consequently, headquarters suppor' personnel would be exercised three times per year. Based on experience gained during emergency preparedness exercises at the McGuire and Oconee Nuclear Stations during 1980, 1981, and 1982, the licensee proposes an alternative whereby licensee headquarters support personnel participate in emergency preparedness

exercises once per year and not once per year per station.

In the same letter of March 9, 1983, the licensee provided commitments to provide adequate support by its headquarters support personnel to ensure effective exercises are conducted at each nuclear station. The Commission's staff has reviewed the results of past emergency preparedness exercises, results of emergency preparedness implementation appraisals, and results of routine emergency preparedness inspections at the McGuire and Oconee facilities. Licensee performance during past exercises has been determined to be adequate by the Commission's regional staff. The licensee has also been responsive to issues identified during the emergency preparedness appraisal and inspection program. The licensee has shown a willingness to take prompt action on problems identified during exercises, appraisals, and inspections. In addition, the regional staff has found through review of training programs, evaluation of personnel qualification and program administration, and by physical inspection of facilities and equipment, that licensee management is committed to effective emergency preparedness.

Granting of the proposed exemption would not relieve the licensee of the responsibility for providing full corporate support to each exercise in which a State government is participating on a full scale basis. The licensee, however, has in fact committed to fulfilling this responsibility in a letter dated October 10, 1983.

Based on (1) the licensee's demonstration of adequate performance during emergency preparedness exercises while staffing corporate positions on an annual basis, (2) the licensee's continuing commitment to emergency preparedness programs, and (3) the adequacy of the licensee's current emergency management system program, it is the staff's position that exercising the same corporate staff personnel more than once annually is not necessary to maintain adequate preparedness. Exercising of necessary corporate support personnel on an annual bais is sufficient to maintain proficiency and familiarity with the emergency work function. Therefore, the Commission's staff considers that the objectives of Section IV.F. of Appendix E to 10 CFR Part 50 are met and the licensee's request to be exempted from the requirement to exercise the same corporate staff support personnel annually for each station should be granted

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security, is otherwise in the public interest, and the licensee is hereby exempted from that portion of the requirements of 10 CFR Part 50, Appendix E, Section IV.F. requiring the licensee's headquarters support personnel to be exercised as part of the annual exercise for each station.

Provided that such personnel shall be exercised at least once each year as part of an annual exercise for one of the licensee's operating reactor facilities, and

Provided that the licensee shall furnish adequate headquarters support personnel to provide full corporate support to each exercise in which a State government is participating on a full scale basis.

The Commission has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

This exemption is effective upon issuance.

Dated at Bethesda, Maryland, this 6th day of January 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-863 Filed 1-11-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-315 and 50-316]

Indiana and Michigan Electric Co. (Donald C. Cook Nuclear Power Plant Unit Nos. 1 and 2); Exemption

I

Indiana and Michigan Electric Company (the licensee) is holder of Facility Operating License Nos. DPR 58 and DPR-74, which authorize operation of the Donald C. Cook Nuclear Power Plant, Unit Nos. 1 and 2 (Cook or the facilities). These licenses provide, among other things, that they are subject to all rules, regulations and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facilities are pressurized water reactors located at the licensee's site in Berrien County, Michigan.

II

Section III.G.2 of Appendix R to 10 CFR Part 50 requires that one train of cables and equipment necessary to achieve and maintain safe shutdown be maintained free of fire damage by one of the following means:

a. Separation of cables and equipment and associated non-safety circuits of redundant trains by a fire barrier having a 3-hour rating. Structural steel forming a part of or supporting such fire barriers shall be protected to provide fire resistance equivalent to that required of the barrier;

b. Separation of cables and equipment and associated non-safety circuits of redundant trains by a horizontal distance of more than 20 feet with no intervening combustibles or fire hazards. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area; or

c. Enclosure of cables and equipment and associated non-safety circuits of one redundant train in a fire barrier having a 1-hour rating. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area.

If these conditions are not met, Section III.G.3 requires alternative shutdown capability independent of the fire area of concern. It also requires a fixed suppression system in the fire area of concern if it contains a large concentration of cables or other combustibles.

Section III.O of Appendix R to 10 CFR Part 50 requires that the reactor coolant pump shall be equipped with an oil collection system if the containment is not inerted during normal operation. Section III.O also requires, among other things, that the leakage shall be collected and drained to a vented closed container that can hold the entire lube oil system inventory.

III

By letters dated December 30, 1982, March 31, 1983 and August 22, 1983, the licensee requested exemptions from Section III.G and one exemption from Section III.O of Appendix R to 10 CFR Part 50.

Fire Zone 1 contains eight individual cubicles containing the redundant residual heat removal (RHR) pumps and containment spray (CTS) pumps for both units. Each pump cubicle has a controlled access screen mesh door which is located behind a missile shield wall.

Manual fire suppression equipment and a detection system are provided in the area. The fire load in the area is low.

The licensee proposes to upgrade the walls between the redundant pumps to a 3-hour fire resistance rating by sealing all penetration openings and installing fire dampers in common HVAC duct work. One train of power cables will be enclosed in a 1-hour rated barrier. The entrances to the RHR pumps have screen mesh doors which are not fire barrier.

This area does not comply with Section III.G because it does not have automatic suppression, the entrances to the RHR pump are not fire barriers, and the unprotected pump power cables are located less than 20 feet from each other.

The combustible loading in this area is low. An early warning smoke detection system is provided. If a fire occurred in this area, it is our opinion that the 3-hour walls between the RHR pumps and 1-hour barrier on one train of cables in the corridor will provide reasonable assurance that one train of RHR pumps will be maintained free of fire damage in the interval needed for the fire brigade to respond and manually extinguish the fire.

Based on the above evaluation, the existing protection for the RHR pumps in conjunction with the proposed fire barrier modifications provide a level of fire protection equivalent to the technical requirements of Section III.G. The exemption should, therefore, be granted.

The Unit 1 and Unit 2 transformer rooms, fire zones 14 and 20, contain the pressurizer heater transformer and the emergency diesel test breakers. The two fire zones are separated by several hundred feet. If a fire occurred in either area, the equipment of one unit could be used to safely shut down the other unit. Manual fire suppression equipment is provided in the area. The licensee proposes to install a detection system in the area.

These areas do not meet Section III.G because fixed suppression systems are not provided in an area where alternative shutdown capability is provided.

These two areas contain primarily electrical equipment in metal cabinets, and have a low in-situ combustible loading. With a detection system installed as proposed, a fire in either of these areas would be of limited severity and duration. The installation of a fixed suppression system would not appreciably enhance the fire protection for safe shutdown capability.

Based on the above evaluation and with the proposed modification, the fire protection system for the transformer rooms of Unit 1 and 2 provides a level of protection equivalent to the technical requirements of Section III.G and therefore, the exemption should be granted.

Fire zones 29 a, b, c, d, and f contains the essential service water (ESW) pumps and motor control centers. The ESW pumps of one unit can be used as a backup for the other unit. The fire load in the area is low. This exemption request is limited to the need for a fixed suppression system in the ESW pump rooms. Manual suppression equipment is provided in the area. The licensee proposes to install a detection system throughout the area.

This area does not comply with Section III.G because a fixed extinguishing system is not provided.

In this area, the only combustibles are a few cables and the 2 gallons of lubricating oil from the pump motors totally enclosed in the pump casing. With a detection system installed, as proposed, a fire in either of these areas would be of limited severity and duration. The installation of a fixed suppression system would not appreciably enhance the fire protection for safe shutdown capability.

Based on the above evaluation, with the proposed modifications, the fire protection for the ESW pumps of Units 1 and 2 provides a level of protection equivalent to the technical requirements of Section III.G and therefore, the exemption should be granted.

Fire zone 29G is the basement level below the essential service water pump rooms of both units and contains two motor control centers not required for safe shutdown. The fire zone has an open hatch with a ladder up to the Unit 2 ESW southeast pump cubicle and a stairway which opens to the northwest Unit 1 pump cubicle.

The licensee proposes to modify the open hatchway to include a 3-hour hatch cover. The Unit 1 and Unit 2 ESW pumps will therefore be separated by a complete 3-hour barrier in compliance with Section III.G. This area does not meet the requirement, however, for installation of automatic suppression in areas where redundant trains of safe shutdown cables are routed.

The arrangement of the stairway and exhaust ventilation system provides a means for high-level venting of smoke, heat, and combustion products emanating from fire zone 29G. This will preclude a buildup of a hot gas layer at the ceiling level in fire zone 29G where the ESW pump cables are located. Additional protection is provided by one-hour rated fire barriers on all four trains of ESW pump cables. We agree that the proposed modifications in conjunction with the low fuel load in the area provides reasonable assurance that one train of an ESW pump will be maintained free of fire damage.

Based on the above evaluation, the level of protection provided for the ESW pumps (Fire Zone 29G) provides a level of fire protection equivalent to the technical requirements of Section III.G. The exemption should be granted.

The Unit 1 and 2 east main steam enclosures, fire areas 33, 33a, 33b, 34, 34a and 34b, contain main steam lines and the non-essential service water valve gallery. These areas also contain the main steam pressure transmitters, the electropneumatic transmitters for the steam generator power operated relief valves, auxiliary feedwater inlet valves from the turbine driven pump, the local shutdown indication panel and the power operated relief valves and safety valves. The main steam valves are also located in these areas.

The combustible loading in the area is low. Alternate shutdown capability is provided independent of the areas. The licensee proposes to install a detection system and 1-hour rated fire dampers.

These areas do not comply with Section III.G because a fixed suppression system is not provided.

These areas contain primarily cable insulation, however the amount of insulation is distributed throughout the area and in its present configuration does not pose a significant hazard. With a detection system installed, as proposed, a fire in either of these areas would be of limited severity and duration. The installation of a fixed suppression system would not appreciably enhance the fire protection for safe shutdown capability. Based on the above evaluation and the proposed modification, the fire protection system for the Unit 1 and Unit 2 main steam enclosures provides a level of fire protection equivalent to the technical requirements of Section III.G. The exemption should, therefore, be granted.

The component cooling water pump area, fire zone 44S, contains a number of Unit 2 safe shutdown cables, five component cooling water (CCW) pumps, two Unit 2 CCW heat exchangers, and associated valves.

This area does not comply with Section III.G because the redundant CCW systems are not separated by 3-hour rated fire barriers.

The licensee proposes to install an increased coverage automatic suppression system over the CCW pumps and to separate the pumps by a partial height 3-hour barrier. It was our concern that due to the low ceiling, and close proximity of redundant equipment a fire in this area could damage all CCW

pumps for both units prior to response of the fire brigade.

The partial height barrier will prevent a floor level exposure fire from damaging redundant CCW pumps. A stratified layer of hot combustion gases will not form in the area immediately above the pumps due to the high level venting provided by the change in ceiling height in the area adjacent to the pumps. In addition, a high density sprinkler system will be provided over the pumps, with extended coverage heads provided at the height of the pumps, as well as the ceiling. This combination of protection provides reasonable assurance that one train of CCW pumps will remain functional until the response of the fire brigade.

Based on the above evaluation, the level of existing protection in conjunction with the proposed modificaitons provides a level of fire protection for the component cooling water pump area (Fire Zone 44S) equivalent to the technical requirements of section III.G. The exemption should be granted.

Five areas 53 and 54 are the control rooms for Units 1 and 2. The control rooms contain all the normal control panels for plant operation and most relay and instrument cabinets associated with plant control. In addition, the Unit 2 hot shutdown panel is located in the south-west corner of the Unit 1 control room and vice versa.

The control room area is protected from other fire zones by three-hour rated floors, ceilings and wall except for 2 ceiling and 2 floor hatches, both of which have two-hour ratings. Also, the common connection door between the control rooms is unrated. There are ionization detectors located in each control room along with six CO_2 fire extinguishers and two 1-hour breathing apparatus. Located outside the control room are water hose reels and two CO_2 hose reels. The licensee proposes to upgrade the two floor hatches and the common connecting door to a 3-hour rating.

This area does not comply with Section III.G because the control room is not provided with fixed suppression where alternate shutdown capability exists.

The control room is equipped with area fire detectors, a hose station, and fire extinguishers for manual fire fighting. The fire load in the are is low. The fire protection features currently installed in the control room and the continuous manning of the control room by operators that constitute a continuous fire watch provide adequate defense-in-depth fire fighting capability for these areas. In addition, an alternate shutdown system is provided with control capabilities for those systems necessary to maintain safe-shutdown capability which is independent of the main control room. Manual fire suppression in the event of a fire would be prompt and effective and, thus, a fixed suppression system will not enhance the fire protection in this area.

Based on the above evaluation, the existing fire protection program for the control room provides a level of fire protection equivalent to the technical requirements of Section III.G. The exemption should, therefore, be granted.

Each unit has four reactor coolant pumps with an oil collective system which drains to a vented closed collection tank. The quantity of lubricating oil in each pump is 265 gallons; the capacity of the oil collection tank is 275 gallons.

The collection tank is arranged such that if a failure of more than one RCP motor lube system occurred, the oil collection tank would overflow onto the lower containment floor. There are no ignition sources at the floor level of the lower containment.

The RCP motor lube oil system does not comply with Section III.O because the oil collection tank is not sized to contain the entire lube oil system inventory.

The RCP motor lube oil system is capable of withstanding the safe shutdown earthquake. The oil collection tank is provided with sufficient capacity to hold the total lube oil inventory of one reactor coolant pump with margin and is designed so that any overflow will be drained to a safe location. We agree with the licensee that this combination of features is acceptable.

Based on the above evaluation, the existing RCP motor lube oil collection system provides a level of safety equivalent to the technical requirements of Section III.O and, therefore, the exemption should be granted.

IV

The exemptions are contingent upon the licensee's maintenance of administrative control of transient combustibles which are equivalent to those specified in Section III.K.1 through III.K.8 of Appendix R to 10 CFR Part 50 and any characterization of transient combustibles or design features which are specifically discussed in our Safety Evaluation (SE). This SE was transmitted to the licensee by letter dated December 23, 1983.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, these exemptions in the areas identified above are authorized by law and will not endanger life or property or the common defense and security, are otherwise in the public interest, and are hereby granted.

The Commission has determined that the granting of this Exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland, this 23rd day of December 1983.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-864 Filed 1-11-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 40-2061-ML; ASLBP No. 84-495-01 ML]

Kerr-McGee Chemical Corp. (West Chicago Rare Earths Facility); Prehearing Conference

January 6, 1984.

Please take notice that a prehearing conference in this proceeding will take place on February 2, 1984, at the U.S. Court of Appeals, Room 2781, 219 South Dearborn Street, Chicago, Illinois, 60604, beginning at 9:30 AM. The purpose of the conference is to consider petitions to intervene and contentions filed by the Attorney General of Illinois on behalf of the people of that state and the Chamber of Commerce of the City of West Chicago.

Bethesda, Maryland January 6, 1984.

For the Atomic Safety and Licensing Board.

John H. Frye, III.

Chairman, Administrative Judge.

[FR Doc. 84-866 Filed 1-11-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-333]

Power Authority of the State of New York (James A. FitzPatrick Nuclear Power Plant); Exemption

I

The Power Authority of the State of New York (the licensee) is the holder of Facility Operating License No. DPR-59 (the license) which authorizes operation of the James A. FitzPatrick Nuclear Power Plant located in Oswego County, New York at steady state reactor core power levels not in excess of 2436 megawatts thermal. This license

provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

II

On October 2, 1980, the Commission proposed rulemaking on "Interim Requirements Related to Hydrogen Control and Certain Degraded Core Considerations." The proposed amendments to 10 CFR Part 50 would improve hydrogen management in light-water reactor facilities and provide specific design and other requirements to mitigate the consequences of accidents.

On January 4, 1982, the proposed rule became effective and as part of the amendments, it required hydrogen recombiner capability to reduce the likelihood of venting radioactive gases following an accident. The hydrogen recombiner capability applies to light-water nuclear power reactors that rely upon purge/repressurization systems as the primary means of hydrogen control.

Section 50.44(c)(3)(ii) of 10 CFR Part 50 requires that by the end of the first scheduled outage after July 5, 1982 and of sufficient duration to permit required modifications, each light-water power reactor, that relies upon a purge/repressurization system as the primary means for controlling combustible gases following a Loss-of-Coolant Accident, shall be provided with either an internal recombiner or the capability to install an external recombiner following the start of an accident.

III

In a June 29, 1983 submittal, as supplemented by letter dated July 19, 1983, the licensee requested an exemption from the requirement of § 50.44(c)(3)(ii) for provision of either an internal recombiner or the capability to install an external recombiner following the start of an accident. The request was based on BWR Owners Group studies of combustible gas control submitted for NRC review by letter dated June 21, 1982. In the event that the Commission is unable to issue promptly its decision on request for exemption from the equipment requirements of § 50.44(c)(3)(ii), the licensee requested an extension of the schedule requirements of 10 CFR 50.44 (c)(3)(ii). By letter dated August 22, 1983 the Commission granted an extension of the schedular requirements through December 31, 1983. By letter dated December 9, 1983 the licensee requested a further extension in the event that the NRC had not completed its review by December 31, 1983.

We have very nearly completed our review of the BWR Owners Group studies on which the licensee's exemption request was based. We will be able to consider the licensee's request for permanent exemption following completion of that review.

During the interim period, with respect to combustible gas control in the event of a loss-of-coolant accident, the FitzPatrick plant can use the existing containment atmosphere control systems, in conjunction with the standby gas control systems, to avoid unacceptable combustible gas concentrations. The containment atomsphere control system maintains an inert atmosphere during normal operation and the Containment Atmosphere Dilution (CAD) system is used to control combustible gas concentrations after an accident. By means of the CAD system, hydrogen and oxygen concentrations are monitored as nitrogen is added to the containment atmosphere to dilute combustible gases. In the unlikely prospect of high containment vessel pressure, the pressure may be relieved by venting through the standby gas control system. A detailed procedure has been developed by the licensee, with operating personnel trained to use these systems in the control of combustible gases. We find these means of combustible gas control acceptable for interim operation of the James A. FitzPatrick Nuclear Power Plant through June 30, 1984.

IV

Accordingly, the Commission has determined that pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest.

Therefore, the Commission hereby approves the following exemption request.

Exemption is granted from the schedular requirement of § 50.44 (c)(3)(ii) to extend the required date from "the end of the first scheduled outage beginning after July 5, 1982 and of sufficient duration to permit modifications" to no later than June 30, 1984, or, if the plant is shutdown on that date, before the resumption of operation thereafter.

The Commission has determined that the granting of this exemption will not result in any significant environmental impact and that, pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Maryland this 30th day of December, 1983.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing.

[FR Doc. 84-885 Filed 1-11-84; 8:45 am]

BILLING CODE 7590-01-M

Applications for Licenses To Export and Import Nuclear Facilities or Materials

Correction

In FR Doc. 83-32296 beginning on page 54549 in the issue of Monday, December 5, 1983, make the following corrections:

1. On page 54550, in the table, fifth column "County of designation" should read "Country of designation".

2. On the same page, in the table, fifth column, Country of designation, first entry, "For United Kingdom", should read "From United Kingdom".

BILLING CODE 1505-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Hydropower Assessment Steering Committee; Meeting

AGENCY: Hydropower Assessment Steering Committee of the Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting to be held pursuant to the Federal Advisory Committere Act, 5 U.S.C. Appendix I, 1-4. Activities will include:

- Hydro database pilot study
- Proposal for cumulative impacts methods study
- Proposal for designation of protected areas
- Criteria for use in site ranking study
- Other
- Public comment.

Status: open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its Hydropowr Assessment Steering Committee..

DATE: January 18, 1984. 9:30 a.m.

ADDRESS: The meeting will be held at the Conucil Hearing Room in Portland, Oregon.

FOR FURTHER INFORMATION CONTACT:
Peter Paquet, (503) 222–5161.

Edward Sheets,
Executive Director.

[FR Doc. 84–798 Filed 1–11–84; 8:45 am]
BILLING CODE 0095–20–M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Agency Clearance Officer—Kenneth Fogash, (202) 272–2700.

Upon written request copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, D.C. 20549.

Extension

Form 144—No. 270–112

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for clearance Form 144 relating to the resale of restricted securities effected without registration pursuant to Rule 144 (17 CFR 230.144) under the Securities Act of 1933. Form 144 is a notification of resale of securities without registration in reliance on Rule 144.

Submit comments to OMB Desk Officer: Katie Lewin (202) 395–7231, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C., 20503.

Dated: January 3, 1984.

George A. Fitzsimmons,
Secretary.

[FR Doc. 84–831 Filed 1–11–84; 8:45 am]
BILLING CODE 8010–01–M

[Release No. 20534 (SR–AMEX–83–28)]

American Stock Exchange, Inc.; Order Approving Proposed Rule Change

January 6, 1984.

The American Stock Exchange, Inc. ("Amex"), 86 Trinity Place, New York, N.Y. 10006, submitted on October 28, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder, to amend Sections 125 and 710 of the Amex Company Guide. Section 125 requires that an indenture under which bonds (or debentures) are to be listed on the Amex provide that the Trustee will, upon default, enforce any remedy provided in the indenture if so requested by holders of a specified percentage (not more than 30% in principal amount) of such bonds, unless such request is later rescinded by a majority in principal amount. The Amex proposes to modify Section 125 to limit its provisions to apply only to indentures not qualified under the Trust Indenture Act of 1939.

Section 710 of the Amex Company Guide, which governs shareholder voting for listing purposes, requires, in addition to a favorable majority vote at a duly convened meeting, that the total vote cast on the matters set forth in Sections 711–714 must "represent over 50% in interest of all securities entitled to vote". On all other matters, the quorum requirements of Section 123 of the Amex Company Guide apply. The Amex states that the existing requirement of Section 710 can become troublesome where securities holders abstain from voting on a given proposal; *i.e.*, a listing proposal may be defeated by a small percentage of holders abstaining, even though present at a meeting for quorum purposes. Accordingly, the Amex proposes to rescind the clause requiring that the vote cast must represent over 50% in interest of all securities entitled to vote on the proposal.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 20392, November 17, 1983) and by publication in the **Federal Register** (48 FR 53612, November 28, 1983). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 84–873 Filed 1–11–84; 8:45 am]
BILLING CODE 8010–01–M

[Release No. 34–20539; File No. SR–NYSE–83–52; Amdt. No. 1]

Self-Regulatory Organizations; Proposed Rule Change By New York Stock Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 5, 1984, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

On October 26, 1983, the Exchange filed a proposed rule change respecting options on 13 industry index stock groups ("industry index options"), File No. SR–NYSE–83–52, (the "October Filing"). Amendment No. 1 provides for the deletion of one of the Exchange's index groups, the Airlines group, due to the Exchange's revision of its stock group qualification criteria and adjusts its Regional Banks group and its three telecommunications groups as to their composition and market weight. The amendment also indicates that the Exchange intends initially to list options only upon the NYSE Telephone Companies Index (calculated from the prices of "New" AT&T and of the stocks of the seven Regional Holding Companies) and the NYSE Telecommunications Indes, and specifies a January cycle for the Exchange's longer-term industry index series. In addition, the amendment incorporates into the October Filing, as appropriate, comments received from the Commission staff following its review of the October Filing and makes various minor technical corrections and improvements in the Exchange's option rules. Those changes are discussed below.

(A) Economic Uses

As noted above, the Exchange intends initially to trade industry index options on the NYSE Telephone Companies Indes and the NYSE Telecommunications Index. The Exchange believes that the introduction of those options at this time is particularly useful to investors, given the high investor interest generated by AT&T's divestiture of the Regional Holding Companies, the related

uncertainties and the resulting utility of hedging devices to limit the risks associated with those uncertainties.

(B) Selection of Industry Groups

In the October Filing, the Exchange identifies the following three index group characteristics as relevant to concerns regarding the potential for manipulation of industry index options through activity in one or more underlying stocks: (A) The extent of inter-industry diversity among the stocks within a group, (B) the number of stocks within the group and (C) the size and liquidity of the market for each stock within the group. In specifying guidelines addressing characteristic (C), the October Filing proposes standards that would have applied to each stock in a group of less than 25 stocks, but which are somewhat relaxed relative to those applicable to stocks underlying individual stock options. At the suggestion of the Commission staff, the Exchange has reformulated its guidelines in a manner that permits the incorporation of the standards that apply to stocks underlying individual stock options. The relevant rules as revised by Amendment No. 1, in applying those standards, require that stocks accounting for at least 50 percent of the underlying group's index value meet them. As noted above, the revised guidelines affect the qualification of only one of the 13 of the industry index groups proposed in the October Filing.

(C) Exchange Trading of Underlying Stocks

In the October Filing, the Exchange proposes provisions designed to detect and prevent manipulation through concurrent activity in an industry index option and in underlying stocks whose prices tend to have a disproportionate impact on the index value. The October Filing designated a 30 percent threshold as the amount of the index value a stock included in an underlying industry group must contribute before those provisions apply to the stock. In accommodating the Commission staff's comments, Amendment No. 1 reduces that threshold. While the Exchange continues to believe that the 30 percent level provides a comfortable margin of protection, the Exchange is acquiescing in the initial application of the even more conservative thresholds suggested by the Commission staff in the interest of a timely commencement of Exchange trading of industry index options. By acquiescing in the reduction, the Exchange does not wish to imply that it believes the lower thresholds are necessary or appropriate for the protection of investors.

Among the provisions affected by the threshold reduction is a prohibition upon an equity specialist acting as either an options specialist or a Competitive Options Trader ("COT") in any industry index option whose underlying group includes any of his specialty stocks that accounts for the threshold amount of the index value. As revised, the relevant Exchange rules provide that the prohibition on concurrent market making is triggered if a specialty stock contributes five percent or more of the underlying group's index value or if specialty stocks collectively contribute ten percent or more of the index value.

In addition to lowering the thresholds regarding concurrent market making, Amendment No. 1 extends the Exchange's prohibitions on a specialist and his associated persons trading in options on his specialty stocks to include industry index options whose underlying groups include any of his specialty stocks. The amendment also makes clear that the Exchange will not permit any communications by members between its equity and options Floors that are not available between its equities Floor and the floors of the other options exchanges.

The Exchange believes that these changes and the spatial separation of the Exchange's equities Floor from its options Floor (noted in the October Filing), taken together with enhancements to its surveillance program geared to industry index options, the ongoing implementation of its equity audit trail and the completion by the end of March of automation of the options audit trail, will assure that the Exchange has in place a physical and regulatory environment capable of frustrating any unique manipulative opportunities presented by a single self-regulatory organization operating both a market for industry index options and the primary market for most of the underlying stocks.

In Amendment No. 1, the Exchange also discusses at length factors in connection with the two industry indexes that it intends to trade initially that make them particularly unlikely candidates for manipulation. In its discussion, the Exchange notes how widely held and actively traded "New" Telephone is. The Exchange then discusses the formidable task facing a person who seeks to manipulate either index through purchases of "New" Telephone, noting the various factors that would bear on the manipulator's carrying costs or risk analysis or on the market effects of his own activity. The Exchange also notes the various points during the manipulative activity where the potential for detection by the Exchange is high.

The discussion concludes by pointing out that, by identifying the immensity of the undertaking, the difficulties in its execution and the risks associated with it, the Exchange does not purport to demonstrate that a "New" Telephone/industry index manipulation is impossible. But it does suggest that when a stock such as "New" Telephone "dominates" an industry index, the immense size and daily trading volume of the stock makes manipulation of the index impractical. When that impracticality is coupled with the sophisticated tools now available to the Exchange permitting it to detect such a manipulation, the potential risk to the Exchange's market for either the NYSE Telephone Companies Index option or the NYSE Telecommunications Index option is comparable to, if not less than, those extant in many other Commission-regulated market places.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) *Purpose*—The purposes of Amendment No. 1 are (a) to incorporate into the October Filing, as appropriate, comments received from the Commission staff following its review of the October Filing and (b) to make various minor technical corrections and improvements in the Exchange's option rules.

The particular purposes of the changes of substance included in the amendment are summarized in the Exchange's response to Item I.

(2) *Statutory Basis*—The statutory basis for Amendment No. 1 is the same as the October Filing. Please see the notice of that filing, Release No. 34-20343 (November 3, 1983), 48 FR 51995 (November 15, 1983).

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the October Filing as amended by Amendment No. 1 will not impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments regarding Amendment No. 1. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 6, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-875 Filed 1-11-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13700; (812-5599)]

VMS Capital Corp.; Filing of Application

January 6, 1984.

Notice is hereby given that VMS Capital Corporation ("Applicant"), 69 West Washington Street, Chicago, IL 60602, an Illinois corporation, filed an application on July 12, 1983, and amendments thereto on November 15, and December 20, 1983, for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from all of the provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below, and to the Act for the text of its relevant provisions.

Applicant states that it is a wholly-owned subsidiary corporation of VMS Realty, Inc., an Illinois corporation all of whose shares are owned by VMS Realty Partners, an Illinois general partnership. VMS Realty, Inc., was formed in 1980 and since that date has operated as a general partner of certain real estate limited partnerships and a "servicing entity" to help maintain the business operations of the limited partnerships of which it, VMS Realty Partners, and/or its affiliates act as a general partner. Applicant states that its sole business will consist of making loans to those partnerships.

Applicant states that VMS Realty, Inc., currently employs approximately 200 people providing a variety of services including acquisition, marketing, financing, data processing and property analysis, and that VMS Realty, Inc., and its affiliates provide business services only to the limited partnerships and their general partners. Applicant states that the limited partnerships are in the business of acquiring, owning, managing and disposing of real estate or interests therein, and that VMS Realty Partners or its affiliates act as general partner to approximately 60 such limited partnerships that own only real estate or interests therein with a fair market value in excess of $700,000,000.

Applicant represents that an investor in one of the limited partnerships typically pays a cash portion of between 5% and 15% of the purchase price per partnership unit and executes a fully negotiable, secured, promissory note requiring payments to be made in varying amounts periodically for the next several (generally five) years after subscription, with fixed interest on any unpaid balance ("Investor Partnership Notes"). Applicant states that the cash proceeds received by each limited partnership from the sale of limited partnership units are applied to the purchase price of the real estate investments, certain expenses of the offering of interests in the limited partnership, other expenses, and operating reserves. Additional sources of financing are used to fund the balance of the cash needs of the limited partnership. The real estate investments are financed in one or more of several ways, including conventional and purchase money financing. VMS Realty, Inc., among its other functions, assists in arranging for financing the limited partnerships through lines of credit. Applicant states that Investor Partnership Notes currently are pledged as collateral to one or more commercial lenders in return for loans equal to a substantial percentage of the principal amount of the Investor Partnership Notes, with the proceeds of these loans being used as described above. Applicant further states that repayment of such loans is generally made at approximately the same time as principal and interest on the Investor Partnership Notes is received by each limited partnership.

Applicant states that in order to expedite and possibly make more economical the arrangement of financing for future limited partnerships, VMS Realty, Inc., has organized the Applicant as its wholly-owned subsidiary to operate as follows. One or more real estate syndications of limited partnerships will be completed which in the aggregate will have outstanding Investor Partnership Notes of several million dollars. The Investor Partnership Notes will each be secured by each investor's units in each limited partnership and by a surety bond issued by an unaffiliated insurance carrier providing for full and timely payment of principal and interest of each Partnership Note until its maturity. The premium for each surety bond will be paid by the limited partnership, either directly or through Applicant. The limited partnership will then pledge its Investor Partnership Notes, the limited partnership units securing them, and the

surety bonds, as collateral for notes ("Working Capital Notes") that it will sell to Applicant. Applicant will publicly offer notes with a fixed interest rate and terms for payment of principal and interest which will include periodic repayment of outstanding principal during the term of the notes ("finance Notes") in order to raise funds to purchase the Working Capital Notes. In no event will the maturity of the Finance Notes exceed the maturity of the Investor Partnership Notes. The Finance Notes will be offered for sale and sold pursuant to an effective registration statement uder the Securities Act of 1983, as amended.

The prospectus through which the Finance Notes will be offered will prominently disclose the existence of the surety bond, and also that the Finance Notes (which will be collateralized by the Working Capital Notes) are issued by, and are backed by the credit of, the Applicant and not by the credit of VMS Realty Inc., or its affiliated entities. Applicant will loan the proceeds of the sale of its Finance Notes to the limited partnerships and will at about the same time receive a Working Capital Note from each limited partnership in the principal sum of the amount being loaned to each limited partnershiup. Cash flow to be received by Applicant from the limited partnerships will exceed or be equivalent to all obligations of Applicant, including repayment of principal and interest on its Finance Notes and ongoing administration, accounting and legal expenses expected over the life of the Finance Notes. The security for the Working Capital Notes will be the Investor Partnership Notes, together with a security interest on the proceeds of the Investor Partnership Notes as they are paid from time to time pursuant to their terms and a security interest in the investor's partnership units in the limited partnership pledged as security for repayment of the Investor Partnership Notes, and the surety bond issued by the insurance carrier. Concurrently with the execution of a Working Capital Note the Investor Partnership Notes will be transferred to Applicant. Applicant will not disburse the funds under the Working Capital Note to the particular limited partnership unless the trustee of Applicant has received the surety bond guaranteeing payment under the Investor Partnership Notes. The investors in the limited partnership will then be advised of the closing of the loan transaction under the Working Capital Note and will be instructed to make their future capital contribution payments under their Investor Partnership Notes directly to the trustee of Applicant at a prearranged "lock box" account rather than to the limited partnerships themselves. Thus, the trustee will be immediately aware of any defaults by limited partners on their Investors Partnership Notes. In the event of a default, the trustee, who will hold the surety bond on behalf of Applicant, will make claims to the surety company for any default and upon receipt of the funds from the surety will immediately make them available to Applicant pursuant to the trust indenture so that the holders of the Finance Notes will receive timely payments.

Applicants asset that there will be no need for Applicant to conduct any operations aside from the investment in Working Capital Notes or to make any investment decisions in order for Applicant to have sufficient positive and unencumbered cash flow to meet its full obligations for repayment of principal and interest of Finance Notes on a timely basis. In effect, after the issuance of the Finance Notes pursuant to the registration statement under the Securities Act of 1933, as amended, Applicant will have no operational responsibility, thereby becoming a "flow through" entity, and the trustee will make all other decisions. All decisions on actions to be taken in the event of any default will be made consistent with a trust indenture in effect pursuant to the Trust Indenture Act of 1939 by a bank trustee who shall be unaffiliated with Applicant, the limited partnerships or any of the insurance carriers. Amounts received in connection with the reduction of obligations evidenced by Investor Partnership Notes will be held by Applicant and maintained by the bank trustee in cash, cash items or investments in United States government obligations and appropriate amounts distributed to the Finance Note holders. No Finance Notes will be issued once the public offering has been concluded and prior to repayment of the Finance Notes. Financing for Investor Partnership Notes of additional limited partnerships will be obtained through other means or facilties not involving Applicant or affecting its capital structure.

In support of the relief requested, Applicant asserts that each limited partnership with Applicant enters into (or will enter into) credit relationships could itself directly finance its capital needs by pledging its Investor Partnership Notes for loans from unaffiliated financial institutions. Prior to the organization of Applicant, this has been the practice of VMS Realty, Inc., when indirectly arranging similar financing. As a special purpose corporation established solely to issue Finance Notes to obtain funds to make advances to the limited partnerships for the uses described, Applicant believes its operations are functionally the equivalent of its parent company (VMS Realty, Inc.) directly securing financing through a debt offering for the purpose of financing its related activities. Applicant asserts that if VMS Realty, Inc., were directly to engage in Applicant's business, it would be exempt from the definition of an investment company pursuant to Section 3(b)(1) of the Act. Other than Applicant's common stock (which has not been and will not be offered publicly), Applicant's only outstanding securities will be the Finance Notes, and the entire net proceeds of Applicant's sales of the Finance Notes will be used to purchase Working Capital Notes.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than January 31, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-874 Filed 1-11-84; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 04/04-0225]

Blackburn-Sanford Venture Capital Corp; Issuance of License To Operate as a Small Business Investment Company

On October 4, 1983, a notice was published in the **Federal Register** (48 FR 45328), stating that an application had been filed by Blackburn-Sanford

Venture Capital Corp., 3120 First National Tower, Louisville, Kentucky 40202, with the Small Business Administration (SBA) for a license to operate as a small business investment company (SBIC), pursuant to § 107.102 of the Regulations governing SBICs (13 CFR 107.102 (1983)).

Interested parties were given until the close of business October 19, 1983, to sumit their written comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, and after having considered the application and all other information, SBA issued License No. 04/04–0225 on November 30, 1983, to Blackburn-Sanford Venture Capital Corp. to operate as an SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 5, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84–885 Filed 1–11–84; 8:45 am]

BILLING CODE 8025–01–M

[License No. 02/02–0418]

Key Venture Capital Corp.; Notice of Issuance of a License To Operate as a Small Business Investment Company

On October 11, 1983, a notice was published in the **Federal Register** (48 FR 46127) stating that Key Venture Capital Corp., 60 State Street, Albany, New York 12207 had filed an Application with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1983)), for a license as a small business investment company (SBIC).

Interested parties were given until the close of business October 26, 1983, to submit their comments. No comments were received.

Notice is hereby given that, having considered the application and all other pertinent information, SBA on December 20, 1983 issued License No. 02/02–0418 to Key Venture Capital Corp., pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 5, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84–886 Filed 1–11–84; 8:45 am]

BILLING CODE 8025–01–M

Presidential Advisory Committee on Small and Minority Business Ownership; Public Meeting

The Presidential Advisory Committee on Small and Minority Business Ownership, located in Washington, D.C., will hold a public meeting at 9:00 a.m. until 5:00 p.m., Monday, January 23, 1984, at the Hyatt Regency Hotel, James L. Knight Center, 400 S. E. Second Avenue, Miami, Florida 33131, to discuss such business as may be presented by the Committee members. The meeting will be open to the interest public, however, space is limited.

Persons wishing to present written statements should notify Mr. Milton Wilson, Jr., Office of Capital Ownership Development, Small Business Administration, Room 602, 1441 L Street, NW., Washington, D.C. 20416 in writing or by telephone (202) 653–6526, no later than January 18, 1984.

Dated: January 3, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84–888 Filed 1–11–84; 8:45 am]

BILLING CODE 8025–01–M

President's Advisory Committee on Women's Business Ownership; Public Meeting

The President's Advisory Committee on Women's Business Ownership will hold a public meeting on Tuesday, January 31 from 9:00 am to 5:00 pm and Wednesday, February 1 from 9:00 am to 12:00 noon at the Colony Square Hotel, Atlanta, Georgia, to discuss such business as may be presented by the Committee members. The meeting will be open to the public, however, space is limited.

Persons wishing to present written statements should notify Ms. Carolyn Gray, Office of Women's Business Ownership, Small Business Administration, Room 414, 1441 L Street, NW., Washington, D.C. 20416 in writing or by telephone (202) 653–6620 no later than January 20.

Jean M. Nowak,

Director, Office of Advisory Councils.

January 9, 1984.

[FR Doc. 84–887 Filed 1–11–84; 8:45 am]

BILLING CODE 8025–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences; Information on Imports During First 10 Months of 1983

This notice is for information only and has no legal effect. It is provided in order to inform the public of certain import statistics covering the period of January through October 1983. These statistics are relevant to the "competitive need" limits set forth in section 504(c) of the Trade Act of 1974 (19 U.S.C. 2464(c)), pertaining to the Generalized System of Preferences (GSP). Those limits provide, in effect, that any GSP eligible beneficiary country that exported to the United States during the most recent calendar year a quantity of any one GSP eligible article in excess of (1) a specified dollar limit adjusted annually to reflect changes in the U.S. Gross National Product or (2) 50 percent of the value of total U.S. imports of the article, is to be removed from GSP eligibility not later than 90 days after the close of that calendar year. Based on preliminary data and subject to revision, the aforementioned dollar limit is expected to be approximately $57.9 million for calendar year 1983.

Section 1111 of the Trade Agreements Act of 1979 amends section 504(c)(1)(B) of the Trade Act of 1974 so that the President may disregard the 50 percent "competitive need" limit with respect to any eligible article if the value of total imports of the article during the most recent calendar year did not exceed $1 million, adjusted annually to reflect changes in the U.S. Gross National Product. This "de minimis" level is expected to be approximately $1.37 million dollars for calendar year 1983.

An Executive order will be issued to be effective March 30, 1984, making the adjustments that are required by section 504(c) of the Trade Act, on the basis of official data covering all of calendar year 1983. It should be emphasized that the information set forth below covers only the first 10 months of 1983. While this is not complete information, it is being published now in order to provide the maximum possible advance indication as to adjustments that may be made to meet the requirements of section 504(c) of the Trade Act.

List I below shows countries which have already exceeded competitive need limitations (country supplied over $57.9 million during January-October 1983) or have been graduated from the GSP in earlier years pursuant to the President's discretionary authority.

List II below shows countries which are approaching the competitive need limitations (country accounted for over 47 percent of the value of total U.S. imports and/or over $48 million during January-October 1983).

List III below shows countries which, despite accounting for more than 40 percent of the value of total U.S. imports of an article, may be eligible to receive GSP benefits through the de minimis waiver (country accounted for over 50 percent of the value of total U.S. imports of the item and the value of total U.S. imports was less than $1.37 million during January-October 1983).

List IV below shows countries which are currently ineligible for the GSP but which may be eligible for redesignation to GSP status pursuant to the President's discretionary authority (country accounted for less than 50 percent of the value of U.S. imports and the value of total U.S. imports was less than $48 million during January-October 1983).

The column headed "TSUS" in the lists below set forth item numbers of the Tariff Schedules of the United States (19 U.S.C. 1202), representing categories of imported articles.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

BILLING CODE 3190-01-M

LIST I : COUNTRIES GRADUATED OR EXCEEDING COMPETITIVE NEED LIMITS
JAN-OCT 1983

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LIST I : COUNTRIES GRADUATED OR EXCEEDING COMPETITIVE NEED LIMITS
JAN-OCT 1983

	TSUS	COUNTRY	% OF WORLD	COUNTRY TOTAL	WORLD TOTAL
	12161	ARGENTINA	47.2%	$58,014,733	$123,020,512
*	13551	MEXICO	87.3%	$368,656	$422,254
*	13595	MEXICO	96.6%	$17,203,494	$17,809,685
*	13620	MEXICO	96.6%	$2,421,852	$2,506,630
*	13622	MEXICO	98.7%	$5,488,990	$5,559,817
*	13710	MEXICO	94.6%	$42,296,772	$44,707,682
*	13740	MEXICO	87.4%	$1,491,363	$1,707,074
*	13750	MEXICO	99.7%	$24,140,525	$24,209,550
*	13763	MEXICO	98.9%	$51,848,790	$52,400,066
*	14676	MEXICO	79.8%	$12,617,391	$15,811,155
*	14803	MEXICO	62.3%	$4,919,593	$7,896,931
*	14817	MEXICO	98.3%	$21,872,745	$22,253,417
	15520	DOMINICAN REPUBLIC	18.5%	$152,285,614	$823,971,042
	15520	BRAZIL	10.8%	$88,607,882	$823,971,042
	15520	PHILIPPINES	12.4%	$102,032,501	$823,971,042
*	16705	MEXICO	5.2%	$22,363,737	$430,997,146
	19221	COLOMBIA	66.2%	$68,459,970	$103,359,002
*	22250	TAIWAN	49.8%	$1,360,019	$2,733,514
*	24520	BRAZIL	45.8%	$14,952,666	$32,672,892
	25687	MEXICO	86.1%	$76,437,172	$88,775,458
*	33740	KOREA, SOUTH	24.4%	$1,574,179	$6,456,553
*	33740	HONG KONG	3.2%	$206,817	$6,456,553
*	35581	TAIWAN	4.6%	$1,190,873	$25,893,008
*	38961	HONG KONG	29.8%	$24,168,768	$81,231,427
*	38961	TAIWAN	31.5%	$25,612,958	$81,231,427
*	40620	ISRAEL	42.8%	$466,110	$1,089,909
	40716	VENEZUELA	80.9%	$142,756,901	$176,467,738
*	44542	TAIWAN	53.0%	$12,214,047	$23,061,551
*	45244	BRAZIL	63.2%	$956,941	$1,515,166
*	47356	MEXICO	70.3%	$250,863	$356,880
*	52221	MEXICO	43.6%	$12,718,408	$29,192,411
*	53231	MEXICO	53.0%	$1,500,583	$2,829,375
*	54553	MEXICO	44.9%	$8,910,427	$19,845,894
*	60636	BRAZIL	28.1%	$1,122,330	$4,001,062
*	60637	BRAZIL	27.7%	$9,284,199	$33,555,583
*	60644	BRAZIL	23.0%	$7,908,742	$34,338,473
	61206	CHILE	54.7%	$348,359,679	$637,410,374
	61802	VENEZUELA	12.9%	$59,310,325	$459,650,756
*	64214	KOREA, SOUTH	71.9%	$2,540,908	$3,533,760
*	64216	KOREA, SOUTH	64.8%	$27,521,868	$42,484,830
*	64217	KOREA, SOUTH	13.1%	$117,765	$895,680
*	64632	KOREA, SOUTH	47.7%	$768,289	$1,611,932
	64897	TAIWAN	71.6%	$88,645,825	$123,862,058
*	64937	TAIWAN	47.7%	$11,881,708	$24,889,809
*	65089	HONG KONG	16.8%	$231,481	$1,375,314
*	65089	TAIWAN	31.3%	$430,171	$1,375,314
*	65146	KOREA, SOUTH	14.4%	$311,115	$2,167,520
*	65146	TAIWAN	78.8%	$1,708,268	$2,167,520
*	65149	TAIWAN	56.1%	$1,444,578	$2,575,998

* GRADUATED

LIST I : COUNTRIES GRADUATED OR EXCEEDING COMPETITIVE NEED LIMITS
JAN-OCT 1983

	TSUS	COUNTRY	% OF WORLD	COUNTRY TOTAL	WORLD TOTAL
*	65284	MEXICO	49.9%	$20,571,360	$41,242,312
*	65348	TAIWAN	39.6%	$4,352,260	$11,000,107
*	65393	TAIWAN	62.4%	$2,504,853	$4,011,018
*	65394	KOREA, SOUTH	51.5%	$31,885,528	$61,869,134
*	65404	KOREA, SOUTH	53.4%	$9,276,214	$17,380,643
*	65404	TAIWAN	28.8%	$5,012,162	$17,380,643
*	65407	TAIWAN	31.6%	$899,729	$2,844,149
*	65413	HONG KONG	57.3%	$5,544,802	$9,671,744
*	66042	BRAZIL	4.3%	$6,799,919	$159,833,805
	66048	MEXICO	50.9%	$334,939,373	$657,926,776
	66048	BRAZIL	22.0%	$144,581,503	$657,926,776
	66106	HONG KONG	33.5%	$139,651,813	$416,466,729
	66106	TAIWAN	42.4%	$176,722,852	$416,466,729
*	66109	SINGAPORE	35.9%	$24,380,381	$67,855,127
*	67435	TAIWAN	7.0%	$35,997,933	$514,412,088
*	67620	TAIWAN	18.9%	$45,878,028	$242,815,706
	67630	TAIWAN	6.2%	$103,902,453	$1,673,461,777
	67652	MEXICO	5.2%	$131,791,604	$2,541,873,178
	67652	SINGAPORE	20.0%	$509,317,292	$2,541,873,178
	67652	HONG KONG	12.8%	$324,929,408	$2,541,873,178
	67652	TAIWAN	4.9%	$124,659,026	$2,541,873,178
	67850	MEXICO	6.2%	$83,444,604	$1,348,035,353
	67850	KOREA, SOUTH	7.4%	$99,588,301	$1,348,035,353
*	67850	HONG KONG	1.9%	$25,682,534	$1,348,035,353
	67850	TAIWAN	7.1%	$95,931,362	$1,348,035,353
	68260	MEXICO	17.4%	$105,470,688	$606,568,608
	68260	HONG KONG	14.4%	$87,372,918	$606,568,608
	68260	TAIWAN	10.5%	$63,930,464	$606,568,608
*	68305	TAIWAN	21.6%	$3,283,175	$15,180,324
*	68315	MEXICO	40.8%	$25,137,754	$61,672,215
*	68370	HONG KONG	44.4%	$4,081,184	$9,193,571
*	68370	TAIWAN	4.7%	$431,630	$9,193,571
	68425	KOREA, SOUTH	26.8%	$73,348,866	$273,538,412
	68448	HONG KONG	56.1%	$104,148,947	$185,613,081
*	68453	TAIWAN	56.8%	$502,395	$883,870
	68462	HONG KONG	15.6%	$125,600,010	$803,556,080
	68462	TAIWAN	21.0%	$168,823,505	$803,556,080
*	68470	KOREA, SOUTH	7.1%	$31,526,139	$441,121,602
	68470	TAIWAN	21.2%	$93,504,817	$441,121,602
*	68524	KOREA, SOUTH	5.1%	$24,680,678	$486,351,407
	68524	HONG KONG	28.6%	$139,253,513	$486,351,407
*	68524	TAIWAN	8.2%	$40,098,213	$486,351,407
	68529	KOREA, SOUTH	13.3%	$95,362,129	$719,946,522
	68529	HONG KONG	8.8%	$63,441,685	$719,946,522
	68529	TAIWAN	16.6%	$119,266,113	$719,946,522
*	68540	TAIWAN	1.1%	$19,836,265	$1,788,192,996
	68590	MEXICO	16.7%	$182,966,082	$1,097,606,972
	68590	TAIWAN	8.0%	$87,560,244	$1,097,606,972
	68812	MEXICO	77.6%	$156,713,352	$201,879,670

* GRADUATED

LIST I : COUNTRIES GRADUATED OR EXCEEDING COMPETITIVE NEED LIMITS
JAN-OCT 1983

	TSUS	COUNTRY	% OF WORLD	COUNTRY TOTAL	WORLD TOTAL
	68815	MEXICO	45.7%	$8[illegible],235,711	$192,915,907
	68843	HONG KONG	14.2%	$62,327,809	$437,813,406
	69232	MEXICO	12.0%	$206,104,923	$1,712,053,015
*	69232	BRAZIL	2.9%	$49,042,591	$1,712,053,015
*	69635	TAIWAN	38.9%	$2,561,632	$6,[illegible]92,035
	69660	KOREA, SOUTH	99.5%	$210,364,783	$211,417,304
*	70639	KOREA, SOUTH	14.1%	$2,939,301	$20,872,171
*	70639	HONG KONG	13.0%	$2,711,434	$20,872,171
*	70639	TAIWAN	57.2%	$11,938,815	$20,872,171
*	70661	HONG KONG	25.8%	$4,702,954	$18,[illegible]57,743
*	70661	TAIWAN	40.6%	$7,413,374	$18,[illegible]57,743
	70845	TAIWAN	46.5%	$70,965,998	$152,679,797
*	70847	HONG KONG	10.2%	$17,[illegible]02,864	$173,10[illegible],689
*	70915	ISRAEL	0.6%	$61,370	$11,091,358
*	70940	HONG KONG	29.1%	$2,849,844	$9,77[illegible],805
*	72532	TAIWAN	46.5%	$[illegible],898,657	$6,230,480
*	72711	HONG KONG	12.1%	$[illegible]0,469,371	$70,106,027
*	72723	TAIWAN	37.2%	$[illegible]2,779,870	$7,47[illegible],953
	72735	TAIWAN	22.3%	$100,444,931	$451,095,384
	72755	TAIWAN	27.5%	$8[illegible],332,974	$313,927,366
*	72822	TAIWAN	80.4%	$[illegible],336,049	$11,61[illegible],647
*	73094	KOREA, SOUTH	35.2%	$854,153	$2,427,866
*	73130	TAIWAN	17.3%	$123,921	$[illegible]716,123
*	73415	TAIWAN	49.1%	$9,663,431	$19,[illegible]96,394
	73420	HONG KONG	21.3%	$100,039,342	$470,331,059
	73420	TAIWAN	39.0%	$183,375,552	$470,331,059
*	73509	TAIWAN	50.3%	$9,784,384	$19,44[illegible],785
*	73512	TAIWAN	59.6%	$1,568,409	$2,[illegible]32,129
	73520	TAIWAN	38.3%	$63,452,948	$165,[illegible]10,815
*	73715	HONG KONG	35.5%	$26,077,261	$73,441,498
*	73721	HONG KONG	46.8%	$6,247,295	$13,34[illegible],804
*	73723	TAIWAN	35.8%	$14,709,047	$41,11[illegible],390
*	73730	KOREA, SOUTH	56.3%	$47,277,185	$83,922,680
*	73780	HONG KONG	38.2%	$9,462,193	$24,737,905
	73795	HONG KONG	41.8%	$107,808,133	$258,215,196
*	73795	TAIWAN	20.0%	$51,582,293	$258,215,196
*	74011	ISRAEL	2.8%	$278,947	$10,110,323
*	74012	HONG KONG	0.9%	$23,624	$2,4[illegible]8,546
*	74013	HONG KONG	0.5%	$1,399,069	$258,165,502
*	74014	HONG KONG	9.5%	$30,066,775	$316,[illegible],303
*	74015	HONG KONG	50.0%	$38,189,371	$76,347,706
*	74125	HONG KONG	29.0%	$521,363	$1,797,114
*	75525	HONG KONG	39.1%	$9,671,977	$24,715,717
	77143	TAIWAN	22.2%	$67,314,161	$302,770,107
	77251	KOREA, SOUTH	9.7%	$100,832,961	$1,036,976,333
*	77260	KOREA, SOUTH	34.4%	$8,090,180	$23,507,248
	77455	TAIWAN	15.5%	$62,399,464	$401,618,800
	79115	KOREA, SOUTH	45.7%	$64,527,724	$141,160,090

LIST II : COUNTRIES APPROACHING COMPETITIVE NEED LIMITS
JAN-OCT 1983

	TSUS	COUNTRY	% OF WORLD	COUNTRY TOTAL	WORLD TOTAL
*	10745	BRAZIL	66.4%	$524,613	$789,757
	10748	BRAZIL	57.6%	$50,784,008	$88,150,495
	10780	ARGENTINA	73.6%	$2,681,495	$3,643,510
*	11045	ARGENTINA	77.2%	$751,906	$973,883
	11301	THAILAND	61.5%	$2,083,313	$3,389,258
	11406	KOREA, SOUTH	59.2%	$1,266,773	$2,138,355
	12155	INDIA	68.4%	$2,726,971	$3,989,713
	12164	INDIA	59.7%	$1,199,361	$2,007,730
	12165	ARGENTINA	69.4%	$14,551,656	$20,962,183
*	13032	ARGENTINA	47.4%	$363,356	$767,098
*	13037	ARGENTINA	79.9%	$751,667	$940,329
*	13040	KOREA, SOUTH	100.0%	$3,478	$3,478
*	13135	THAILAND	68.8%	$534,487	$777,418
*	13514	PORTUGAL	74.3%	$13,827	$18,612
*	13541	ISRAEL	62.8%	$305,551	$486,211
*	13580	NICARAGUA	89.6%	$12,410	$13,856
	13590	MEXICO	97.3%	$24,322,439	$24,985,693
*	13599	MEXICO	60.8%	$473,248	$778,138
	13600	DOMINICAN REPUBLIC	80.6%	$4,327,588	$5,367,837
	13630	MEXICO	66.1%	$6,618,159	$10,005,861
	13661	MEXICO	84.9%	$1,740,253	$2,048,664
	13680	MEXICO	93.0%	$3,720,617	$4,001,820
*	13695	DOMINICAN REPUBLIC	69.5%	$73,409	$105,618
	13702	DOMINICAN REPUBLIC	96.8%	$1,389,372	$1,435,000
	13771	MEXICO	73.0%	$2,380,227	$3,260,898
*	13775	COSTA RICA	96.4%	$1,314,677	$1,364,214
*	13779	MEXICO	99.9%	$1,336,651	$1,338,331
*	13789	DOMINICAN REPUBLIC	98.6%	$1,153,186	$1,169,200
*	13793	DOMINICAN REPUBLIC	73.6%	$361,838	$491,948
	13805	MEXICO	59.1%	$12,156,090	$20,577,618
	13835	COSTA RICA	87.1%	$1,500,927	$1,722,877
*	14014	THAILAND	57.6%	$424,419	$736,622
	14021	MEXICO	91.1%	$4,795,348	$5,262,535
*	14035	TURKEY	50.4%	$177,821	$352,953
*	14054	ISRAEL	76.1%	$307,750	$404,604
*	14135	TURKEY	59.6%	$168,266	$282,381
	14177	MEXICO	55.4%	$10,941,680	$19,755,915
*	14550	MEXICO	78.7%	$69,965	$88,877
	14622	TURKEY	75.0%	$6,761,761	$9,011,818
*	14642	ECUADOR	47.2%	$284,129	$601,803
	14644	PHILIPPINES	70.4%	$2,510,575	$3,567,565
*	14690	CHILE	82.7%	$497,239	$601,015
*	14733	JAMAICA	97.8%	$281,449	$287,650
*	14736	HAITI	65.9%	$9,366	$14,215
*	14754	COLOMBIA	71.9%	$40,228	$55,979
*	14785	BRAZIL	85.8%	$418,671	$487,896
	14812	MEXICO	67.0%	$2,523,069	$3,764,198
*	14819	ISRAEL	100.0%	$27,072	$27,072
	14825	MEXICO	98.2%	$2,191,752	$2,232,156

* See LIST III

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	TSUS	COUNTRY	% OF WORLD	COUNTRY TOTAL	WORLD TOTAL
	14872	CHILE	90.9%	$8,357,373	$9,195,599
*	14915	COSTA RICA	63.8%	$456,196	$714,895
	14950	MEXICO	71.7%	$1,342,354	$1,871,939
	14960	THAILAND	49.8%	$1,596,969	$3,208,342
*	15200	PANAMA	63.7%	$1,552	$2,435
*	15243	DOMINICAN REPUBLIC	65.3%	$187,091	$286,390
	15254	BRAZIL	62.8%	$963,568	$1,535,300
*	15320	PHILIPPINES	100.0%	$790	$790
*	15440	MAURITIUS	47.0%	$380,083	$807,894
	15453	TAIWAN	52.5%	$1,330,952	$2,536,642
	15535	DOMINICAN REPUBLIC	69.5%	$2,424,927	$3,491,005
*	16165	ARGENTINA	61.6%	$35,529	$57,687
*	16175	ISRAEL	47.1%	$107,124	$227,479
	16183	INDIA	55.0%	$3,477,569	$6,322,177
*	16184	KOREA, SOUTH	68.7%	$620,554	$903,264
*	16211	JAMAICA	59.6%	$12,321	$20,678
*	16813	TRINIDAD ISLAND	99.3%	$534,716	$538,406
*	16842	YUGOSLAVIA	86.4%	$95,139	$110,137
*	16854	YUGOSLAVIA	52.9%	$107,144	$202,358
*	16861	YUGOSLAVIA	92.7%	$27,875	$30,070
*	16947	TAIWAN	71.6%	$6,700	$9,360
*	16949	MEXICO	49.6%	$20,520	$41,344
*	16958	YUGOSLAVIA	100.0%	$3,900	$3,900
*	17015	CAMEROON	61.1%	$312,474	$511,778
	17615	BRAZIL	100.0%	$1,460,389	$1,460,389
*	17712	KOREA, SOUTH	100.0%	$679	$679
*	18453	TRUST TERR OF PACIFI	77.3%	$365,619	$472,730
*	18465	TAIWAN	64.2%	$156,944	$244,289
*	19085	BAHAMAS	56.2%	$29,492	$52,446
	19285	MEXICO	66.7%	$2,541,212	$3,807,848
	20091	HONDURAS	60.7%	$2,598,946	$4,279,245
	20262	MEXICO	96.9%	$34,134,317	$35,236,073
*	20320	HONDURAS	56.2%	$48,000	$85,442
	20440	TAIWAN	65.3%	$4,600,236	$7,039,539
	20647	TAIWAN	74.2%	$1,999,288	$2,694,958
	20660	MEXICO	55.6%	$19,139,062	$34,427,190
*	20665	TAIWAN	50.0%	$377,558	$755,849
	20698	TAIWAN	54.9%	$38,070,518	$69,353,237
*	22010	PORTUGAL	97.9%	$1,105,734	$1,129,110
*	22015	PORTUGAL	93.6%	$110,951	$118,590
	22020	PORTUGAL	86.8%	$1,882,247	$2,169,216
	22025	PORTUGAL	84.2%	$1,232,097	$1,462,596
*	22035	PORTUGAL	99.1%	$31,818	$32,118
*	22037	PORTUGAL	88.4%	$37,840	$42,813
	22048	PORTUGAL	60.8%	$2,294,663	$3,772,384
	22210	HONG KONG	61.0%	$5,540,836	$9,084,119
*	22232	TAIWAN	100.0%	$45,181	$45,181
*	22236	TAIWAN	72.0%	$176,018	$244,385
*	24010	BRAZIL	99.7%	$1,006,748	$1,009,548

* See LIST III

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	TSUS	COUNTRY	% OF WORLD	COUNTRY TOTAL	WORLD TOTAL
*	24012	BRAZIL	71.3%	$394,652	$553,583
*	24016	HONG KONG	100.0%	$376	$376
*	24019	TAIWAN	77.1%	$614,300	$796,892
	24021	MEXICO	51.8%	$3,416,667	$6,600,163
	24038	PHILIPPINES	58.0%	$3,776,920	$6,507,008
*	24052	BRAZIL	100.0%	$214,897	$214,897
*	24054	TAIWAN	51.1%	$8,941	$17,511
*	24058	INDONESIA	53.3%	$534,047	$1,002,515
*	24500	CHILE	48.9%	$8,992	$18,386
*	24545	MEXICO	51.1%	$185,481	$363,254
*	25120	MEXICO	99.1%	$65,461	$66,072
*	25125	TAIWAN	100.0%	$1,487	$1,487
*	25273	MEXICO	74.7%	$4,210	$5,635
*	25456	MEXICO	83.9%	$178,123	$212,338
	25660	KOREA, SOUTH	61.7%	$20,124,644	$32,599,014
*	27390	HONG KONG	50.6%	$105,583	$208,859
*	30440	THAILAND	94.9%	$9,434	$9,942
*	30444	TAIWAN	62.0%	$775	$1,249
*	30448	BRAZIL	97.8%	$44,421	$45,422
*	30522	INDIA	67.0%	$369,833	$552,360
	30528	INDIA	58.7%	$1,028,508	$1,751,049
	30540	PHILIPPINES	49.2%	$941,647	$1,914,997
*	30671	MEXICO	55.0%	$7,552	$13,734
*	31530	MEXICO	80.3%	$58,703	$73,077
*	31555	BRAZIL	69.1%	$149,743	$216,554
*	31580	THAILAND	91.9%	$816,248	$888,331
*	31585	THAILAND	99.2%	$193,711	$195,208
*	31590	THAILAND	96.1%	$84,402	$87,804
*	31595	THAILAND	100.0%	$7,635	$7,635
*	31650	HONG KONG	47.5%	$18,352	$39,707
	31901	INDIA	98.0%	$1,948,612	$1,988,613
	31903	INDIA	96.2%	$1,507,200	$1,566,284
	31905	INDIA	97.7%	$2,421,594	$2,477,925
*	31907	INDIA	94.5%	$306,952	$324,955
*	33550	INDIA	81.4%	$105,775	$129,921
*	34730	BANGLADESH	51.7%	$382,637	$740,754
*	36035	INDIA	98.8%	$826,780	$837,007
*	36121	PHILIPPINES	100.0%	$3,323	$3,323
*	36409	ROMANIA	71.0%	$21,346	$30,065
*	36514	HONG KONG	59.8%	$8,850	$14,807
*	36529	TAIWAN	100.0%	$2,193	$2,193
	36584	PHILIPPINES	50.5%	$2,275,181	$4,500,915
	36684	PHILIPPINES	63.1%	$2,415,630	$3,829,927
*	41056	ROMANIA	49.2%	$66,803	$135,681
	41222	BAHAMAS	51.7%	$45,946,952	$88,818,303
*	41231	ISRAEL	56.6%	$214,156	$378,560
*	41280	MEXICO	51.9%	$390,131	$752,282
*	41336	ROMANIA	50.8%	$311,785	$613,456
	41610	TURKEY	74.9%	$2,452,820	$3,273,814

* See LIST III

LIST II : COUNTRIES APPROACHING COMPETITIVE NEED LIMITS
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	TSUS	COUNTRY	% OF WORLD	COUNTRY TOTAL	WORLD TOTAL
*	41754	BOLIVIA	95.5%	$101,091	$105,880
*	41800	MEXICO	67.2%	$161,389	$240,235
*	41824	INDIA	87.2%	$117,812	$135,145
*	41878	MEXICO	62.1%	$577,023	$929,871
*	41900	PERU	93.7%	$34,829	$37,168
	41960	MEXICO	67.0%	$1,417,118	$2,114,901
*	42002	ISRAEL	72.2%	$206,289	$285,824
*	42024	ISRAEL	62.1%	$585,570	$942,392
*	42082	ISRAEL	96.2%	$830,644	$863,581
*	42160	MEXICO	97.8%	$50,554	$51,694
*	42186	MEXICO	92.6%	$471,589	$509,064
*	42274	MEXICO	94.1%	$350,400	$372,336
*	42276	MEXICO	69.4%	$876,500	$1,262,100
*	42500	TAIWAN	99.1%	$39,486	$39,841
*	42512	BRAZIL	47.0%	$396,805	$844,140
*	42584	NETHERLANDS ANTILLES	78.4%	$1,062,732	$1,355,858
*	42634	ARGENTINA	100.0%	$6,930	$6,930
*	42702	DOMINICAN REPUBLIC	100.0%	$500	$500
*	42716	ARGENTINA	85.4%	$454,076	$531,995
*	42725	MEXICO	47.9%	$47,876	$99,948
*	42836	MALAYSIA	50.1%	$57,648	$115,131
*	42850	BRAZIL	48.9%	$7,772	$15,905
	42858	BRAZIL	57.0%	$1,776,068	$3,114,857
*	42922	BRAZIL	80.0%	$637,799	$796,833
*	43713	INDIA	86.4%	$75,780	$87,734
*	43716	INDIA	100.0%	$172,328	$172,328
*	44610	MALAYSIA	65.7%	$238,791	$363,206
*	45228	ISRAEL	84.2%	$52,199	$61,967
*	45516	COLOMBIA	89.9%	$7,747	$8,622
*	45518	COLOMBIA	79.1%	$148,084	$187,110
*	46115	BERMUDA	84.9%	$70,634	$83,196
*	46525	CAYMAN ISLANDS	58.9%	$31,251	$53,082
*	46605	JAMAICA	53.6%	$77,681	$145,061
*	47018	BRAZIL	53.0%	$34,000	$64,106
*	47336	CYPRUS	90.3%	$23,796	$26,355
*	47338	CYPRUS	60.3%	$51,604	$85,575
	47352	MEXICO	99.4%	$4,094,053	$4,120,568
*	47382	KOREA, SOUTH	99.8%	$405,924	$406,816
*	49010	MALAYSIA	62.8%	$363,908	$579,451
*	49012	MALAYSIA	67.1%	$329,031	$490,583
*	49404	TAIWAN	73.5%	$12,765	$17,379
*	51131	MEXICO	95.6%	$361,585	$378,172
*	51224	MEXICO	72.9%	$188,261	$258,321
*	51231	MEXICO	53.2%	$4,694	$8,824
*	51454	MEXICO	95.3%	$24,896	$26,129
*	51624	BRAZIL	89.2%	$52,500	$58,846
*	51671	INDIA	94.4%	$514,410	$544,984
*	51673	INDIA	100.0%	$17,471	$17,471
*	51674	INDIA	86.3%	$128,852	$149,253

* See LIST III

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	TSUS	COUNTRY	% OF WORLD	COUNTRY TOTAL	WORLD TOTAL
*	52037	INDIA	50.7%	$61,428	$121,101
*	52351	TAIWAN	77.6%	$3,360	$4,329
*	53315	TAIWAN	67.0%	$353,404	$527,611
*	53474	TAIWAN	55.4%	$2,614	$4,720
*	53476	TAIWAN	60.0%	$339,673	$566,103
	53481	TAIWAN	49.0%	$1,921,778	$3,919,654
	53491	TAIWAN	54.2%	$4,923,370	$9,080,982
	53494	TAIWAN	43.8%	$52,186,571	$119,106,083
	53531	MEXICO	52.2%	$6,086,476	$11,657,980
*	53611	ISRAEL	56.0%	$640,251	$1,144,266
	54021	MEXICO	49.1%	$2,245,357	$4,573,096
*	54534	TAIWAN	83.5%	$8,688	$10,406
*	54565	MEXICO	77.6%	$1,001,579	$1,290,453
*	54585	TAIWAN	60.1%	$685,662	$1,141,795
	54587	TAIWAN	47.5%	$3,838,711	$8,077,344
	54737	TAIWAN	47.1%	$5,694,562	$12,091,843
*	54741	HONG KONG	51.5%	$99,026	$192,413
	60133	MEXICO	81.7%	$2,164,917	$2,649,747
	60210	PERU	83.8%	$4,080,132	$4,866,122
	60340	CHILE	48.5%	$5,244,464	$10,821,991
*	60566	SINGAPORE	53.7%	$27,576	$51,389
*	60648	PORTUGAL	56.3%	$257,523	$457,270
*	61063	INDIA	65.6%	$45,102	$68,726
	61065	KOREA, SOUTH	68.7%	$1,361,375	$1,980,336
*	61066	KOREA, SOUTH	100.0%	$3,629	$3,629
*	61070	TAIWAN	60.7%	$644,316	$1,060,807
*	61202	MEXICO	100.0%	$37,982	$37,982
	61203	CHILE	66.7%	$52,296,609	$78,402,881
*	61215	MEXICO	54.1%	$356,444	$658,824
*	61230	YUGOSLAVIA	72.4%	$348,311	$481,247
*	61236	KOREA, SOUTH	99.1%	$32,304	$32,583
*	61243	TAIWAN	100.0%	$121,756	$121,756
*	61315	TAIWAN	52.5%	$136,447	$259,871
	61318	TAIWAN	50.0%	$2,310,341	$4,622,945
	61802	GHANA	12.3%	$56,360,705	$459,650,756
	61815	VENEZUELA	47.9%	$8,719,828	$18,208,788
*	62050	ZIMBABWE	73.4%	$68,210	$92,900
*	62217	COLOMBIA	94.9%	$27,262	$28,738
*	62220	BRAZIL	59.6%	$597,585	$1,002,702
*	62225	BOLIVIA	93.6%	$146,745	$156,736
*	62424	MEXICO	57.1%	$6,000	$10,508
*	62434	MEXICO	68.3%	$49,745	$72,811
*	63260	PERU	67.0%	$499,927	$746,193
*	64245	MEXICO	78.0%	$322,144	$412,751
*	64270	TAIWAN	47.2%	$12,575	$26,638
*	64424	BRAZIL	87.8%	$31,036	$35,330
*	64606	TAIWAN	77.4%	$97,475	$125,976
*	64636	KOREA, SOUTH	50.9%	$295,976	$580,964
*	64647	TAIWAN	74.5%	$169,269	$227,230

* See LIST III

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	TSUS	COUNTRY	% OF WORLD	COUNTRY TOTAL	WORLD TOTAL
*	64682	TAIWAN	55.9%	$73,121	$130,887
*	64687	HONG KONG	49.0%	$38,560	$78,717
*	64688	TAIWAN	96.7%	$9,000	$9,310
	64690	MEXICO	63.7%	$3,436,126	$5,390,578
*	64698	MEXICO	88.6%	$326,515	$368,344
	64855	TAIWAN	64.0%	$1,520,132	$2,375,637
*	64857	MEXICO	48.1%	$303,060	$629,695
*	64871	TAIWAN	100.0%	$504	$504
	64891	TAIWAN	87.4%	$1,341,450	$1,535,056
	64895	TAIWAN	51.6%	$1,721,911	$3,336,175
*	64927	TAIWAN	57.6%	$243,184	$421,899
*	64973	KOREA, SOUTH	100.0%	$4,083	$4,083
*	64975	HONG KONG	65.2%	$75,589	$115,920
*	65031	MEXICO	48.6%	$72,144	$148,522
*	65047	TAIWAN	78.5%	$237,745	$302,895
*	65083	HONG KONG	95.2%	$9,134	$9,598
*	65087	HONG KONG	79.1%	$44,822	$56,640
*	65104	KOREA, SOUTH	66.0%	$3,105	$4,705
*	65107	MEXICO	58.1%	$126,784	$218,050
*	65115	TAIWAN	58.1%	$231,115	$397,789
	65121	TAIWAN	63.7%	$5,169,009	$8,114,227
	65133	HONG KONG	50.7%	$2,752,937	$5,424,902
	65137	TAIWAN	52.4%	$8,098,983	$15,463,295
	65153	TAIWAN	57.6%	$1,652,022	$2,868,766
*	65162	THAILAND	82.2%	$10,675	$12,985
*	65213	MEXICO	53.0%	$1,765	$3,328
*	65213	TAIWAN	47.0%	$1,563	$3,328
	65260	TAIWAN	47.8%	$1,941,177	$4,062,833
*	65303	MEXICO	63.6%	$295,554	$464,975
*	65305	INDIA	53.2%	$8,423	$15,833
	65339	TAIWAN	54.5%	$47,997,273	$88,145,739
	65345	TAIWAN	47.6%	$5,536,403	$11,635,010
*	65347	TAIWAN	91.9%	$1,216,855	$1,323,652
*	65370	HONG KONG	73.8%	$48,435	$65,670
	65385	TAIWAN	92.7%	$3,620,776	$3,904,089
	65399	TAIWAN	67.5%	$3,319,418	$4,917,313
	65412	TAIWAN	89.4%	$3,565,413	$3,988,262
	65414	BRAZIL	62.0%	$1,231,226	$1,987,117
	65724	TAIWAN	73.4%	$4,657,785	$6,342,079
	65735	TAIWAN	47.0%	$28,925,230	$61,503,055
*	66080	TAIWAN	54.3%	$450,515	$830,372
	66410	TAIWAN	11.9%	$55,039,509	$462,010,599
	67216	TAIWAN	48.2%	$51,518,176	$106,888,615
	67652	KOREA, SOUTH	2.0%	$51,463,558	$2,541,873,178
*	68059	MEXICO	50.3%	$430,152	$855,082
	68235	MEXICO	52.9%	$46,900,131	$88,584,949
	68380	HONG KONG	72.3%	$5,289,439	$7,319,371
	68410	TAIWAN	53.4%	$3,045,235	$5,701,880
	68415	SINGAPORE	47.3%	$20,421,491	$43,160,284

* See LIST III

LIST II : COUNTRIES APPROACHING COMPETITIVE NEED LIMITS
JAN-OCT 1983

	TSUS	COUNTRY	% OF WORLD	COUNTRY TOTAL	WORLD TOTAL
*	68542	KOREA, SOUTH	98.8%	$48,550	$49,151
	68630	TAIWAN	61.7%	$8,866,971	$14,362,694
*	68742	TAIWAN	62.7%	$371,279	$591,800
	68810	TAIWAN	84.8%	$43,011,005	$50,737,043
	68843	TAIWAN	12.7%	$55,713,552	$437,813,406
	69015	MEXICO	86.2%	$13,670,000	$15,853,391
	69229	MEXICO	48.7%	$795,650	$1,632,207
	69232	TAIWAN	3.0%	$50,651,265	$1,712,053,015
	69260	TAIWAN	56.5%	$24,459,690	$43,278,594
	69610	TAIWAN	37.5%	$53,236,911	$142,012,996
	69640	TAIWAN	49.1%	$1,788,606	$3,645,687
	70090	MEXICO	94.5%	$11,270,910	$11,930,472
*	70215	HONG KONG	47.4%	$2,668	$5,623
*	70232	MEXICO	75.8%	$227,285	$300,019
*	70235	MEXICO	63.3%	$40,510	$63,960
*	70245	MEXICO	100.0%	$16,045	$16,045
	70314	MEXICO	99.2%	$11,502,074	$11,591,636
*	70320	HONG KONG	100.0%	$1,710	$1,710
*	70434	TAIWAN	100.0%	$41,220	$41,220
*	70633	PHILIPPINES	92.4%	$65,076	$70,462
*	70637	TAIWAN	68.7%	$110,738	$161,168
	70645	HONG KONG	53.7%	$1,131,378	$2,107,241
*	70650	TAIWAN	70.8%	$341,882	$483,030
*	70861	ISRAEL	73.6%	$269,863	$366,902
*	70863	ISRAEL	58.4%	$178,535	$305,722
*	70907	HONG KONG	58.5%	$90,232	$154,136
	70954	TRINIDAD ISLAND	59.1%	$2,202,507	$3,726,433
*	71067	TAIWAN	50.5%	$10,041	$19,865
*	71130	TAIWAN	51.9%	$357,825	$689,448
*	71131	BRAZIL	75.5%	$267,449	$354,186
	71138	MEXICO	50.0%	$3,589,077	$7,176,231
*	71307	TAIWAN	94.2%	$100,440	$106,580
	71315	MEXICO	67.7%	$5,561,627	$8,212,184
	71317	HONG KONG	73.7%	$1,149,794	$1,559,848
*	71319	TAIWAN	83.6%	$498,216	$596,143
*	72214	TAIWAN	49.0%	$624,438	$1,275,180
*	72290	TAIWAN	51.1%	$182,442	$356,768
*	72292	TAIWAN	47.2%	$74,646	$158,302
*	72320	MEXICO	74.7%	$281,218	$376,296
*	72520	INDIA	82.0%	$94,741	$115,498
	72550	TAIWAN	54.7%	$16,758,629	$30,651,720
	72552	TAIWAN	49.6%	$1,048,565	$2,116,092
	72625	TAIWAN	51.2%	$4,063,371	$7,932,481
	72706	MEXICO	63.1%	$47,330,111	$74,992,725
	72711	PHILIPPINES	47.0%	$32,934,712	$70,106,027
	72750	TAIWAN	50.7%	$21,009,824	$41,466,376
	72786	TAIWAN	47.7%	$2,282,263	$4,789,277
*	72820	TAIWAN	52.9%	$48,114	$90,997
*	73029	PHILIPPINES	90.1%	$486,812	$540,168

* See LIST III

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LIST II : COUNTRIES APPROACHING COMPETITIVE NEED LIMITS
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	TSUS	COUNTRY	% OF WORLD	COUNTRY TOTAL	WORLD TOTAL
*	73041	BRAZIL	99.9%	$477,589	$478,286
*	73051	HAITI	100.0%	$3,610	$3,610
*	73077	BRAZIL	76.3%	$9,304	$12,187
	73090	KOREA, SOUTH	73.9%	$4,432,942	$5,998,730
*	73110	TAIWAN	59.1%	$409,944	$693,304
	73120	KOREA, SOUTH	53.1%	$1,928,359	$3,634,622
*	73130	KOREA, SOUTH	53.8%	$385,277	$716,123
*	73142	HONG KONG	100.0%	$89,365	$89,365
*	73250	TAIWAN	82.3%	$496,840	$603,658
	73260	TAIWAN	67.1%	$12,105,765	$18,041,021
	73410	TAIWAN	81.4%	$3,241,906	$3,983,366
	73425	HONG KONG	53.6%	$1,797,220	$3,354,094
*	73430	HONG KONG	85.6%	$443,767	$518,528
*	73434	HONG KONG	54.5%	$499,878	$916,596
*	73442	TAIWAN	70.9%	$233,600	$329,319
	73451	TAIWAN	82.2%	$2,947,462	$3,586,149
	73454	TAIWAN	51.9%	$15,059,051	$28,989,437
	73456	HAITI	60.5%	$27,179,230	$44,957,633
*	73460	TAIWAN	61.1%	$157,952	$258,689
	73470	KOREA, SOUTH	57.2%	$8,488,581	$14,834,607
*	73471	TAIWAN	64.9%	$282,993	$435,852
	73472	TAIWAN	57.9%	$1,118,546	$1,931,416
	73486	TAIWAN	68.6%	$21,135,198	$30,808,622
	73487	TAIWAN	75.1%	$8,927,420	$11,883,532
	73490	TAIWAN	87.3%	$5,731,215	$6,563,435
	73507	KOREA, SOUTH	54.4%	$5,142,565	$9,456,414
*	73511	TAIWAN	90.4%	$239,820	$265,423
	73726	TAIWAN	49.3%	$1,827,835	$3,707,542
	73743	HONG KONG	61.7%	$1,594,000	$2,582,099
	73747	HONG KONG	61.1%	$1,109,854	$1,815,825
	73749	HONG KONG	72.4%	$7,341,554	$10,133,926
*	73750	TAIWAN	62.1%	$50,820	$81,774
	73751	KOREA, SOUTH	83.3%	$15,942,336	$19,137,935
	73760	HONG KONG	49.8%	$2,754,376	$5,529,356
	73765	TAIWAN	52.5%	$4,214,356	$8,024,515
	74011	PERU	62.5%	$6,317,134	$10,110,323
	74030	HONG KONG	51.6%	$827,843	$1,602,961
	74034	HONG KONG	91.0%	$1,952,661	$2,145,485
	74070	PERU	51.1%	$7,609,939	$14,881,498
	74080	KOREA, SOUTH	49.7%	$1,250,928	$2,516,241
*	74120	HONG KONG	92.1%	$162,813	$176,817
*	74552	MALAYSIA	55.5%	$286,336	$515,745
	74556	MALAYSIA	50.1%	$1,197,324	$2,391,681
*	74570	TAIWAN	77.2%	$291,617	$377,881
*	74812	HAITI	53.8%	$73,657	$136,953
*	74815	TAIWAN	76.9%	$345,411	$449,207
	74821	TAIWAN	50.0%	$10,207,201	$20,426,342
*	75005	HONG KONG	81.5%	$254,422	$312,042
	75020	TAIWAN	55.6%	$5,819,300	$10,462,498

* See LIST III

LIST II : COUNTRIES APPROACHING COMPETITIVE NEED LIMITS
JAN-OCT 1983

	TSUS	COUNTRY	% OF WORLD	COUNTRY TOTAL	WORLD TOTAL
	75022	TAIWAN	56.9%	$1,055,689	$1,855,510
	75025	HONG KONG	54.4%	$2,538,921	$4,671,311
	75035	TAIWAN	66.8%	$1,302,138	$1,950,472
	75040	HONG KONG	58.6%	$3,227,232	$5,508,293
*	75050	KOREA, SOUTH	61.7%	$780,691	$1,266,272
*	75080	TAIWAN	72.1%	$218,836	$303,480
	75105	TAIWAN	81.2%	$46,871,256	$57,718,058
*	75110	TAIWAN	58.9%	$33,104	$56,250
	75111	TAIWAN	49.1%	$842,098	$1,716,697
*	75115	TAIWAN	100.0%	$22,447	$22,447
	75120	TAIWAN	91.6%	$1,345,891	$1,469,912
*	75530	MALTA	67.4%	$248,529	$368,625
*	75621	INDIA	74.4%	$8,558	$11,508
*	75623	INDIA	75.9%	$34,110	$44,932
*	75635	TURKEY	54.1%	$328,216	$606,842
*	75640	HONG KONG	55.6%	$11,338	$20,408
*	75645	HONG KONG	67.2%	$174,535	$259,633
*	76056	TAIWAN	69.3%	$325,900	$470,053
*	77105	ISRAEL	96.0%	$665,021	$692,398
	77145	TAIWAN	60.6%	$2,058,054	$3,396,084
	77235	TAIWAN	88.6%	$49,133,776	$55,479,188
	77270	TAIWAN	48.3%	$791,933	$1,641,222
	77305	TAIWAN	55.6%	$2,369,225	$4,259,644
*	77420	INDIA	51.2%	$3,023	$5,901
*	77435	HONG KONG	62.8%	$21,541	$34,302
	77445	HONG KONG	50.2%	$7,934,502	$15,798,233
	79003	TAIWAN	51.6%	$6,306,575	$12,222,213
	79010	TAIWAN	56.3%	$3,988,868	$7,086,863
	79039	TAIWAN	89.8%	$43,026,059	$47,922,590
	79070	KOREA, SOUTH	84.2%	$29,153,526	$34,637,509
*	79110	HONG KONG	48.1%	$155,335	$322,959
*	79117	BRAZIL	66.9%	$32,658	$48,825
*	79120	BRAZIL	65.5%	$52,713	$80,499
*	79135	TAIWAN	47.9%	$3,790	$7,917
*	79180	TAIWAN	54.4%	$197,799	$363,597
*	79230	TAIWAN	59.7%	$15,497	$25,957
	79250	PHILIPPINES	63.8%	$4,022,499	$6,300,889
	79260	HONG KONG	64.4%	$3,990,528	$6,194,683
	79275	HONG KONG	88.4%	$2,615,707	$2,960,257

* See LIST III

LIST III : POSSIBLE de MINIMIS ITEMS
JAN-OCT 1983

LIST III : POSSIBLE de MINIMIS ITEMS
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LIST III : POSSIBLE de MINIMIS ITEMS
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TSUS	COUNTRY	% OF WORLD	COUNTRY TOTAL	WORLD TOTAL
10745	BRAZIL	66.4%	$524,613	$789,757
11045	ARGENTINA	77.2%	$751,906	$973,883
13032	ARGENTINA	47.4%	$363,356	$767,098
13037	ARGENTINA	79.9%	$751,667	$940,329
13040	KOREA, SOUTH	100.0%	$3,478	$3,478
13135	THAILAND	68.8%	$534,487	$777,418
13514	PORTUGAL	74.3%	$13,827	$18,612
13541	ISRAEL	62.8%	$305,551	$486,211
13580	NICARAGUA	89.6%	$12,410	$13,856
13599	MEXICO	60.8%	$473,248	$778,138
13695	DOMINICAN REPUBLIC	69.5%	$73,409	$105,618
13775	COSTA RICA	96.4%	$1,314,677	$1,364,214
13779	MEXICO	99.9%	$1,336,651	$1,338,331
13789	DOMINICAN REPUBLIC	98.6%	$1,153,186	$1,169,200
13793	DOMINICAN REPUBLIC	73.6%	$361,838	$491,948
14014	THAILAND	57.6%	$424,419	$736,622
14035	TURKEY	50.4%	$177,821	$352,953
14054	ISRAEL	76.1%	$307,750	$404,604
14135	TURKEY	59.6%	$168,266	$282,381
14550	MEXICO	78.7%	$69,965	$88,877
14642	ECUADOR	47.2%	$284,129	$601,803
14690	CHILE	82.7%	$497,239	$601,015
14733	JAMAICA	97.8%	$281,449	$287,650
14736	HAITI	65.9%	$9,366	$14,215
14754	COLOMBIA	71.9%	$40,228	$55,979
14785	BRAZIL	85.8%	$418,671	$487,896
14819	ISRAEL	100.0%	$27,072	$27,072
14915	COSTA RICA	63.8%	$456,196	$714,895
15200	PANAMA	63.7%	$1,552	$2,435
15243	DOMINICAN REPUBLIC	65.3%	$187,091	$286,390
15320	PHILIPPINES	100.0%	$790	$790
15440	MAURITIUS	47.0%	$380,083	$807,894
16165	ARGENTINA	61.6%	$35,529	$57,687
16175	ISRAEL	47.1%	$107,124	$227,479
16184	KOREA, SOUTH	68.7%	$620,554	$903,264
16211	JAMAICA	59.6%	$12,321	$20,678
16813	TRINIDAD ISLAND	99.3%	$534,716	$538,406
16842	YUGOSLAVIA	86.4%	$95,139	$110,137
16854	YUGOSLAVIA	52.9%	$107,144	$202,358
16861	YUGOSLAVIA	92.7%	$27,875	$30,070
16947	TAIWAN	71.6%	$6,700	$9,360
16949	MEXICO	49.6%	$20,520	$41,344
16958	YUGOSLAVIA	100.0%	$3,900	$3,900
17015	CAMEROON	61.1%	$312,474	$511,778
17712	KOREA, SOUTH	100.0%	$679	$679
18453	TRUST TERR OF PACIFI	77.3%	$365,619	$472,730
18465	TAIWAN	64.2%	$156,944	$244,289
19085	BAHAMAS	56.2%	$29,492	$52,446
20320	HONDURAS	56.2%	$48,000	$85,442

LIST III : POSSIBLE de MINIMIS ITEMS
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TSUS	COUNTRY	% OF WORLD	COUNTRY TOTAL	WORLD TOTAL
20665	TAIWAN	50.0%	$377,558	$755,849
22010	PORTUGAL	97.9%	$1,105,734	$1,129,110
22015	PORTUGAL	93.6%	$110,951	$118,590
22035	PORTUGAL	99.1%	$31,818	$32,118
22037	PORTUGAL	88.4%	$37,840	$42,813
22232	TAIWAN	100.0%	$45,181	$45,181
22236	TAIWAN	72.0%	$176,018	$244,385
24010	BRAZIL	99.7%	$1,006,748	$1,009,548
24012	BRAZIL	71.3%	$394,652	$553,583
24016	HONG KONG	100.0%	$376	$376
24019	TAIWAN	77.1%	$614,300	$796,892
24052	BRAZIL	100.0%	$214,897	$214,897
24054	TAIWAN	51.1%	$8,941	$17,511
24058	INDONESIA	53.3%	$534,047	$1,002,515
24500	CHILE	48.9%	$8,992	$18,386
24545	MEXICO	51.1%	$185,481	$363,254
25120	MEXICO	99.1%	$65,461	$66,072
25125	TAIWAN	100.0%	$1,487	$1,487
25273	MEXICO	74.7%	$4,210	$5,635
25456	MEXICO	83.9%	$178,123	$212,338
27390	HONG KONG	50.6%	$105,583	$208,859
30440	THAILAND	94.9%	$9,434	$9,942
30444	TAIWAN	62.0%	$775	$1,249
30448	BRAZIL	97.8%	$44,421	$45,422
30522	INDIA	67.0%	$369,833	$552,360
30671	MEXICO	55.0%	$7,552	$13,734
31530	MEXICO	80.3%	$58,703	$73,077
31555	BRAZIL	69.1%	$149,743	$216,554
31580	THAILAND	91.9%	$816,248	$888,331
31585	THAILAND	99.2%	$193,711	$195,208
31590	THAILAND	96.1%	$84,402	$87,804
31595	THAILAND	100.0%	$7,635	$7,635
31650	HONG KONG	47.5%	$18,852	$39,707
31907	INDIA	94.5%	$306,952	$324,955
33550	INDIA	81.4%	$105,775	$129,921
34730	BANGLADESH	51.7%	$382,637	$740,754
36035	INDIA	98.8%	$826,780	$837,007
36121	PHILIPPINES	100.0%	$3,323	$3,323
36409	ROMANIA	71.0%	$21,346	$30,065
36514	HONG KONG	59.8%	$8,850	$14,807
36529	TAIWAN	100.0%	$2,193	$2,193
41056	ROMANIA	49.2%	$66,803	$135,681
41231	ISRAEL	56.6%	$214,156	$378,560
41280	MEXICO	51.9%	$390,131	$752,282
41336	ROMANIA	50.8%	$311,785	$613,456
41754	BOLIVIA	95.5%	$101,091	$105,880
41800	MEXICO	67.2%	$161,389	$240,235
41824	INDIA	87.2%	$117,812	$135,145
41878	MEXICO	62.1%	$577,023	$929,871

LIST III : POSSIBLE de MINIMIS ITEMS
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TSUS	COUNTRY	% OF WORLD	COUNTRY TOTAL	WORLD TOTAL
41900	PERU	93.7%	$34,829	$37,168
42002	ISRAEL	72.2%	$206,289	$285,824
42024	ISRAEL	62.1%	$585,570	$942,392
42082	ISRAEL	96.2%	$830,644	$863,581
42160	MEXICO	97.8%	$50,554	$51,694
42186	MEXICO	92.6%	$471,589	$509,064
42274	MEXICO	94.1%	$350,400	$372,336
42276	MEXICO	69.4%	$876,500	$1,262,100
42500	TAIWAN	99.1%	$39,486	$39,841
42512	BRAZIL	47.0%	$396,805	$844,140
42584	NETHERLANDS ANTILLES	78.4%	$1,062,732	$1,355,858
42634	ARGENTINA	100.0%	$6,930	$6,930
42702	DOMINICAN REPUBLIC	100.0%	$500	$500
42716	ARGENTINA	85.4%	$454,076	$531,995
42725	MEXICO	47.9%	$47,876	$99,948
42836	MALAYSIA	50.1%	$57,648	$115,131
42850	BRAZIL	48.9%	$7,772	$15,905
42922	BRAZIL	80.0%	$637,799	$796,833
43713	INDIA	86.4%	$75,780	$87,734
43716	INDIA	100.0%	$172,328	$172,328
44610	MALAYSIA	65.7%	$238,791	$363,206
45228	ISRAEL	84.2%	$52,199	$61,967
45516	COLOMBIA	89.9%	$7,747	$8,622
45518	COLOMBIA	79.1%	$148,084	$187,110
46115	BERMUDA	84.9%	$70,634	$83,196
46525	CAYMAN ISLANDS	58.9%	$31,251	$53,082
46605	JAMAICA	53.6%	$77,681	$145,061
47018	BRAZIL	53.0%	$34,000	$64,106
47336	CYPRUS	90.3%	$23,796	$26,355
47338	CYPRUS	60.3%	$51,604	$85,575
47382	KOREA, SOUTH	99.8%	$405,924	$406,816
49010	MALAYSIA	62.8%	$363,908	$579,451
49012	MALAYSIA	67.1%	$329,031	$490,583
49404	TAIWAN	73.5%	$12,765	$17,379
51131	MEXICO	95.6%	$361,585	$378,172
51224	MEXICO	72.9%	$188,261	$258,321
51231	MEXICO	53.2%	$4,694	$8,824
51454	MEXICO	95.3%	$24,896	$26,129
51624	BRAZIL	89.2%	$52,500	$58,846
51671	INDIA	94.4%	$514,410	$544,984
51673	INDIA	100.0%	$17,471	$17,471
51674	INDIA	86.3%	$128,852	$149,253
52037	INDIA	50.7%	$61,428	$121,101
52351	TAIWAN	77.6%	$3,360	$4,329
53315	TAIWAN	67.0%	$353,404	$527,611
53474	TAIWAN	55.4%	$2,614	$4,720
53476	TAIWAN	60.0%	$339,673	$566,103
53611	ISRAEL	56.0%	$640,251	$1,144,266
54534	TAIWAN	83.5%	$8,688	$10,406

LIST III : POSSIBLE de MINIMIS ITEMS
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TSUS	COUNTRY	% OF WORLD	COUNTRY TOTAL	WORLD TOTAL
54565	MEXICO	77.6%	$1,001,579	$1,290,453
54585	TAIWAN	60.1%	$685,662	$1,141,795
54741	HONG KONG	51.5%	$99,026	$192,413
60566	SINGAPORE	53.7%	$27,576	$51,389
60648	PORTUGAL	56.3%	$257,523	$457,270
61063	INDIA	65.6%	$45,102	$68,726
61066	KOREA, SOUTH	100.0%	$3,629	$3,629
61070	TAIWAN	60.7%	$644,316	$1,060,807
61202	MEXICO	100.0%	$37,982	$37,982
61215	MEXICO	54.1%	$356,444	$658,824
61230	YUGOSLAVIA	72.4%	$348,311	$481,247
61236	KOREA, SOUTH	99.1%	$32,304	$32,583
61243	TAIWAN	100.0%	$121,756	$121,756
61315	TAIWAN	52.5%	$136,447	$259,871
62050	ZIMBABWE	73.4%	$68,210	$92,900
62217	COLOMBIA	94.9%	$27,262	$28,738
62220	BRAZIL	59.6%	$597,585	$1,002,702
62225	BOLIVIA	93.6%	$146,745	$156,736
62424	MEXICO	57.1%	$6,000	$10,508
62434	MEXICO	68.3%	$49,745	$72,811
63260	PERU	67.0%	$499,927	$746,193
64245	MEXICO	78.0%	$322,144	$412,751
64270	TAIWAN	47.2%	$12,575	$26,638
64424	BRAZIL	87.8%	$31,036	$35,330
64606	TAIWAN	77.4%	$97,475	$125,976
64636	KOREA, SOUTH	50.9%	$295,976	$580,964
64647	TAIWAN	74.5%	$169,269	$227,230
64682	TAIWAN	55.9%	$73,121	$130,887
64687	HONG KONG	49.0%	$38,560	$78,717
64688	TAIWAN	96.7%	$9,000	$9,310
64698	MEXICO	88.6%	$326,515	$368,344
64857	MEXICO	48.1%	$303,060	$629,695
64871	TAIWAN	100.0%	$504	$504
64927	TAIWAN	57.6%	$243,184	$421,899
64973	KOREA, SOUTH	100.0%	$4,083	$4,083
64975	HONG KONG	65.2%	$75,589	$115,920
65031	MEXICO	48.6%	$72,144	$148,522
65047	TAIWAN	78.5%	$237,745	$302,895
65083	HONG KONG	95.2%	$9,134	$9,598
65087	HONG KONG	79.1%	$44,822	$56,640
65104	KOREA, SOUTH	66.0%	$3,105	$4,705
65107	MEXICO	58.1%	$126,784	$218,050
65115	TAIWAN	58.1%	$231,115	$397,789
65162	THAILAND	82.2%	$10,675	$12,985
65213	MEXICO	53.0%	$1,765	$3,328
65213	TAIWAN	47.0%	$1,563	$3,328
65303	MEXICO	63.6%	$295,554	$464,975
65305	INDIA	53.2%	$8,423	$15,833
65347	TAIWAN	91.9%	$1,216,855	$1,323,652

LIST III : POSSIBLE de MINIMIS ITEMS
JAN-OCT 1983

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JAN-OCT 1983

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LIST III : POSSIBLE de MINIMIS ITEMS
JAN-OCT 1983

TSUS	COUNTRY	% OF WORLD	COUNTRY TOTAL	WORLD TOTAL
65370	HONG KONG	73.8%	$48,435	$65,670
66080	TAIWAN	54.3%	$450,515	$830,372
68059	MEXICO	50.3%	$430,152	$855,082
68542	KOREA, SOUTH	98.8%	$48,550	$49,151
68742	TAIWAN	62.7%	$371,279	$591,800
70215	HONG KONG	47.4%	$2,668	$5,623
70232	MEXICO	75.8%	$227,285	$300,019
70235	MEXICO	63.3%	$40,510	$63,960
70245	MEXICO	100.0%	$16,045	$16,045
70320	HONG KONG	100.0%	$1,710	$1,710
70434	TAIWAN	100.0%	$41,220	$41,220
70633	PHILIPPINES	92.4%	$65,076	$70,462
70637	TAIWAN	68.7%	$110,738	$161,168
70650	TAIWAN	70.8%	$341,882	$483,030
70861	ISRAEL	73.6%	$269,863	$366,902
70863	ISRAEL	58.4%	$178,535	$305,722
70907	HONG KONG	58.5%	$90,232	$154,136
71067	TAIWAN	50.5%	$10,041	$19,865
71130	TAIWAN	51.9%	$357,825	$689,448
71131	BRAZIL	75.5%	$267,449	$354,186
71307	TAIWAN	94.2%	$100,440	$106,580
71319	TAIWAN	83.6%	$498,216	$596,143
72214	TAIWAN	49.0%	$624,438	$1,275,180
72290	TAIWAN	51.1%	$182,442	$356,768
72292	TAIWAN	47.2%	$74,646	$158,302
72320	MEXICO	74.7%	$281,218	$376,296
72520	INDIA	82.0%	$94,741	$115,498
72820	TAIWAN	52.9%	$48,114	$90,997
73029	PHILIPPINES	90.1%	$486,812	$540,168
73041	BRAZIL	99.9%	$477,589	$478,286
73051	HAITI	100.0%	$3,610	$3,610
73077	BRAZIL	76.3%	$9,304	$12,187
73110	TAIWAN	59.1%	$409,944	$693,304
73130	KOREA, SOUTH	53.8%	$385,277	$716,123
73142	HONG KONG	100.0%	$89,365	$89,365
73250	TAIWAN	82.3%	$496,840	$603,658
73430	HONG KONG	85.6%	$443,767	$518,528
73434	HONG KONG	54.5%	$499,878	$916,596
73442	TAIWAN	70.9%	$233,600	$329,319
73460	TAIWAN	61.1%	$157,952	$258,689
73471	TAIWAN	64.9%	$282,993	$435,852
73511	TAIWAN	90.4%	$239,820	$265,423
73750	TAIWAN	62.1%	$50,820	$81,774
74120	HONG KONG	92.1%	$162,813	$176,817
74552	MALAYSIA	55.5%	$286,336	$515,745
74570	TAIWAN	77.2%	$291,617	$377,881
74812	HAITI	53.8%	$73,657	$136,953
74815	TAIWAN	76.9%	$345,411	$449,207
75005	HONG KONG	81.5%	$254,422	$312,042

LIST III : POSSIBLE de MINIMIS ITEMS
JAN-OCT 1983

TSUS	COUNTRY	% OF WORLD	COUNTRY TOTAL	WORLD TOTAL
75050	KOREA, SOUTH	61.7%	$780,691	$1,266,272
75080	TAIWAN	72.1%	$218,836	$303,480
75110	TAIWAN	58.9%	$33,104	$56,250
75115	TAIWAN	100.0%	$22,447	$22,447
75530	MALTA	67.4%	$248,529	$368,625
75621	INDIA	74.4%	$8,558	$11,508
75623	INDIA	75.9%	$34,110	$44,932
75635	TURKEY	54.1%	$328,216	$606,842
75640	HONG KONG	55.6%	$11,338	$20,408
75645	HONG KONG	67.2%	$174,535	$259,633
76056	TAIWAN	69.3%	$325,900	$470,053
77105	ISRAEL	96.0%	$665,021	$692,398
77420	INDIA	51.2%	$3,023	$5,901
77435	HONG KONG	62.8%	$21,541	$34,302
79110	HONG KONG	48.1%	$155,335	$322,959
79117	BRAZIL	66.9%	$32,658	$48,825
79120	BRAZIL	65.5%	$52,713	$80,499
79135	TAIWAN	47.9%	$3,790	$7,917
79180	TAIWAN	54.4%	$197,799	$363,597
79230	TAIWAN	59.7%	$15,497	$25,957

LIST IV : POSSIBLE REDESIGNATION ITEMS
JAN-OCT 1983

TSUS	COUNTRY	% OF WORLD	COUNTRY TOTAL	WORLD TOTAL
11221	PERU	22.4%	$824,568	$3,683,159
12162	INDIA	39.6%	$6,813,665	$17,214,780
14830	MEXICO	28.5%	$1,854,133	$6,516,039
15272	HONDURAS	44.6%	$1,119,373	$2,511,384
15520	THAILAND	0.7%	$5,831,536	$823,971,042
15535	BARBADOS	28.5%	$994,315	$3,491,005
30412	EGYPT	11.4%	$138,621	$1,216,347
30530	BANGLADESH	16.7%	$153,862	$922,713
31525	MEXICO	35.7%	$1,753,193	$4,909,200
40872	KOREA, SOUTH	17.9%	$3,372,618	$18,791,561
42570	MEXICO	36.3%	$1,903,720	$5,247,435
43760	ARGENTINA	42.8%	$1,642,834	$3,838,609
49382	MEXICO	40.1%	$901,213	$2,249,038
52394	MEXICO	41.7%	$931,610	$2,232,095
53222	KOREA, SOUTH	44.9%	$2,038,205	$4,536,925
60210	HONDURAS	13.8%	$673,488	$4,866,122
60340	CHILE	48.5%	$5,244,464	$10,821,991
60350	CHILE	44.7%	$4,998,590	$11,176,878
61806	GHANA	2.6%	$10,202,984	$396,490,018
61815	YUGOSLAVIA	24.5%	$4,466,757	$18,208,788
65203	KOREA, SOUTH	29.1%	$854,769	$2,934,527
65260	TAIWAN	47.8%	$1,941,177	$4,062,833
66165	ISRAEL	31.6%	$2,915,511	$9,235,868
66235	MEXICO	44.5%	$3,327,017	$7,483,064
68415	SINGAPORE	47.3%	$20,421,491	$43,160,284
68455	MEXICO	37.1%	$8,320,342	$22,450,373
68524	SINGAPORE	8.8%	$42,611,819	$486,351,407
68540	KOREA, SOUTH	2.3%	$41,979,729	$1,788,192,996
70247	MEXICO	32.6%	$190,035	$582,069
72214	MACAO	18.2%	$232,100	$1,275,180
72665	MEXICO	39.3%	$590,956	$1,486,368
72712	PHILIPPINES	37.7%	$1,939,313	$5,138,051
72729	YUGOSLAVIA	22.8%	$32,926,027	$144,610,543
73707	HONG KONG	45.1%	$8,667,816	$19,233,340
73728	KOREA, SOUTH	40.8%	$2,547,625	$6,251,750
73740	KOREA, SOUTH	31.0%	$24,769,230	$79,852,134
73747	TAIWAN	18.5%	$335,775	$1,815,825
73749	TAIWAN	13.0%	$1,316,406	$10,133,926
73750	HONG KONG	32.7%	$26,717	$81,774
73751	HONG KONG	0.6%	$112,866	$19,137,935
73751	TAIWAN	2.6%	$501,598	$19,137,935
73760	HONG KONG	49.8%	$2,754,376	$5,529,356
74075	KOREA, SOUTH	37.2%	$391,654	$1,051,634
75045	KOREA, SOUTH	46.0%	$5,032,546	$10,936,574
79128	INDIA	12.2%	$3,898,159	$31,883,187
79210	MEXICO	25.4%	$884,180	$3,479,593

[FR Doc. 84-748 Filed 1-11-84; 8:45 am]
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AGENCY: C
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DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 84-006

Great Lakes Registered Pilotage; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date and proposed agenda of a meeting regarding Great Lakes Registered Pilotage.

DATE: February 15, 1984.

ADDRESS: Federal Building, Conference Room, 31st Floor, 1240 East Ninth Street, Cleveland, Ohio 44199.

FOR FURTHER INFORMATION CONTACT: Captain George R. Skuggen, Director, Great Lakes Pilotage Staff, U.S. Coast Guard, 1240 East Ninth Street, Cleveland, Ohio 44199. Telephone: (216) 522-3930.

SUPPLEMENTARY INFORMATION: The Coast Guard is having an open meeting for all interested parties regarding Great Lakes Registered Pilotage. The meeting will be held on February 15, 1984, commencing at 10 a.m. The subject of the meeting will be limited to pilotage required by the Great Lakes Pilotage Act of 1960, that is, pilotage involving foreign vessels and U.S. registered vessels. This meeting is intended to be a frank and open discussion of issues. The following is a proposed agenda, however, interested persons are encouraged to submit (to Captain Skuggen by February 8) any additional items they wish to have added to the agenda:

- Traffic projections for future years
- Pilotage rates
- Pilot workload
- Pilot compensation
- "B" Certificates
- Canadian Saltie/Lakers
- Port rates
- Safety

Dated: January 6, 1984.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 84-834 Filed 1-11-84; 8:45 am]

BILLING CODE 4910-14-M

Federal Highway Administration

Environmental Impact Statement, Spokane, Spokane County, Washington

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for the proposed Ray Street Extention project in the City of Spokane, Spokane County, Washington.

FOR FURTHER INFORMATION CONTACT:

Mr. P. C. Gregson, Division Administrator, Federal Highway Administration, Suite 501, Evergreen Plaza, 711 South Capitol Way, Olympia, Washington 98501, Telephone (206) 753-2120.

Mr. Clyde L. Slemmer, P.E., Project Development Engineer, Washington State Department of Transportation, Highway Administration Building, Olympia, Washington 98504, Telephone (206) 753-6101.

Mr. Irving B. Reed, Public Works Director, Skywalk Level, City Hall, Spokane, Washington 99201, Telephone (509) 456-4300.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Washington State Department of Transportation and the City of Spokane, will prepare an environmental impact statement (EIS) on a proposal that would provide an extension of Ray Street (a principal arterial) from 34th Avenue south to the Palouse Highway.

Alternatives under consideration include (1) taking no action; (2) constructing the new section of road straight south to the Palouse Highway; (3) constructing a crossover southeast to Freya Street and then south to the Palouse Highway; and (4) constructing a crossover southeast to Thor Street and then south to the Palouse Highway.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. A series of public meetings will be held in Spokane in the early part of 1984.

In addition, upon completion of the draft EIS, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be available for public and agency review and comment. To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the addresses previously provided.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A-95 regarding state and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on: January 3, 1984.

Richard Schimelfenyg,

Area Engineer, Olympia, Washington.

[FR Doc. 84-792 Filed 1-11-84; 8:45 am]

BILLING CODE 4910-22-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 8
Thursday, January 12, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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Federal Maritime Commission	6
Nuclear Regulatory Commission	7
Parole Commission	8
Securities and Exchange Commission	9

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 5:00 p.m. on Friday, January 6, 1984, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to (1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Farmers Bank and Trust, Winchester, Tennessee, which was closed by the Commissioner of Financial Institutions for the State of Tennessee on Friday, January 6, 1984; (2) accept the bid for the transaction submitted by Mid-South Bank & Trust Company, Murfreesboro, Tennessee, and insured State nonmember bank; (3) approve the application of Mid-South Bank & Trust Company, Murfreesboro, Tennessee, for consent to purchase certain assets of and to assume the liability to pay deposits made in Farmers Bank and Trust, Winchester, Tennessee, and for consent to establish the four offices of Farmers Bank and Trust as branches of Mid-South Bank & Trust Company; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Doyle L. Arnold, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: January 9, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-84-884 Filed 1-10-84; 8:45 am]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, January 16, 1984, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.— Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: January 9, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-84-878 Filed 1-9-84; 8:45 am]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, January 16, 1984, to consider the following matters:

Summary Agenda: No subsantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for consent to merge:

First National Bank of the Valley, Luray, Virginia, for consent to merge, under its charter and with the title "Jefferson National Bank," with Old Dominion Savings Bank, Winchester, Virginia, a non-FDIC insured institution.

Application for consent to establish a remote a service facility:

Barnett Bank of Palm Beach County, Rivera Beach, Florida, for consent to establish a

remote service facility at Palm Beach Mall, 1801 Palm Beach Lakes Boulevard, West Palm Beach, Florida.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,889–L, The First National of Midland, Midland, Texas.

Memorandum re: Nationwide Servicer for Mortgage Loans.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director of an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Director, Division of Liquidation:

Memorandum re: Sale of Property Consolidated Costa Mesa, California Liquidation Office (Case No. 45,897)

Discussion Agenda:

Memorandum and resolution re: Proposed amendments to Part 330 of the Corporation's rules and regulations, entitled "Clarification of Definition of Deposit Insurance Coverage" which concern insurance coverage of brokered deposits.

The meeting will be held in the Board on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: January 9, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–84–879 Filed 1–9–84 8:45 am]

BILLING CODE 6714–01–M

4

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, January 17, 1984, 10:00 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance. Litigation. Audits. Personnel.

* * * * *

DATE AND TIME: Thursday, January 19, 1984, 10:00 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C. (Fifth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of Dates of Future Meetings
Correction and Approval of Minutes
Eligibility Report for Candidates to Receive Presidential Primary Matching Funds
Presidential Matching Funds for Candidates who owe Repayments of Civil Penalties—Larouche Eligibility Report
Draft Advisory Opinion #1983–43, Frank M. Northam on behalf of U.S. Defense Committee and Patrick Reilly
Request for Reagan for President Committee for stay of Commission's Final Repayment Determination Pending Appeal—(Continued from January 5, 1984)
Briefing on Government Space Program by Mr. William B. Jenkins, Director of GSA Real Estate Division
Routine Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S–84–960 Filed 1–10–84; 2:39 pm]

BILLING CODE 6715–01–M

5

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 2:00 P.M., January 16, 1984.

PLACE: 1700 G Street, N.W., 6th Floor, Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravlee (202–377–6970).

MATTERS TO BE CONSIDERED: Brokered Deposits.

J. J. Finn,

Secretary.

[No. 66, January 10, 1984]

[S–985 Filed 1–10–84; 3:51 pm]

BILLING CODE 6720–01–M

6

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9:00 A.M.—January 18, 1984.

PLACE: Hearing Room One—1100 L. Street, N.W., Washington, D.C. 20573.

STATUS: Open.

MATTER TO BE CONSIDERED: 1. Agreement No. 10318–1: Extension of the United States-European Trade Carriers Cooperative Study Arrangement.

CONTACT PERSON FOR MORE INFORMATION: Bruce A. Dombrowski, Assistant Secretary, (202) 523–5725.

[S–84–993 Filed 1–10–84; 3:58 pm]

BILLING CODE 6730–01–M

7

NUCLEAR REGULATORY COMMISSION

DATE: Week of January 16, 1984.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE DISCUSSED

Monday, January 16

10:00 a.m.
Discussion of Corrosion in PORV's at TMI–1 (Public Meeting).

2:00 p.m.
Discussion of Future Steps in TMI–1 Restart (Closed—Ex. 5 & 10).

Tuesday, January 17

9:00 a.m.
Comments by Parties on Diablo Canyon Criticality and Low Power Operation (Public Meeting).

11:30 a.m.
Discussion of Pending Investigation (Closed—Ex. 5 & 7).

ADDITIONAL INFORMATION: Briefing on BWR Pipe Crack Issues (Public Meeting) scheduled for Thursday, January 12, *time change* from 10:00 a.m. to 2:00 p.m.

TO VERIFY THE STATUS OF MEETINGS CALL: (Recording)—(202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Walter Magee,

Office of the Secretary.

[S–84–883 Filed 1–10–84; 8:45 am]

BILLING CODE 7590–01–M

8

PAROLE COMMISSION

Public Announcement; Pursuant To The Government In The Sunshine Act Pub. L. 94–409 (5 U.S.C. Section 552b).

AGENCY HOLDING MEETING: U.S. Parole Commission, National Commissioners (the Commissioners presently maintaining offices at Chevy Chase, Maryland Headquarters).

TIME AND DATE: Thursday, January 12, 1984—2:00 p.m.

PLACE: Room 420–F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTER TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 5 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals

Board, United States Parole Commission, (301) 492–5987.

Date: January 9, 1984.

Joseph A. Barry,

General Counsel United States Parole Commission.

[S–84–051 Filed 1–10–84; 8:45 am]

BILLING CODE 4410–01–M

9

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of January 16, 1984, at 450 Fifth Street, NW., Washington, D.C.

Open meetings will be held on Tuesday, January 17, 1984, at 9:30 a.m. and on Wednesday, January 18, 1984, at 3:00 p.m.

A closed meeting will be held on Tuesday, January 17, 1984, following the 9:30 a.m. open meeting.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10).

Chairman Shad and Commissioners Treadway and Cox voted to consider the items listed for the closed meeting in closed session.

The subject matter of the open meeting scheduled for Tuesday, January 17, 1984, 9:30 a.m., will be:

1. Consideration of whether to adopt Rule 17Ad–14 under Section 17A(d)(1) of the Securities Exchange Act of 1934. That rule would require registered transfer agents acting for bidders as "tender agents"—i.e., as "depositaires" during tender offers or as "exchange agents" during exchange offers—to establish special accounts with certain securities depositories. These accounts would permit depository participants (e.g., broker-dealers and banks) to deliver tendered securities to, or receive withdrawn securities from, the tender agent by book-entry. Tender agents would have to establish these accounts with all registered securities depositories that have Commission-approved automated tender offer procedures, within two business days after the tender or exchange offer begins. For further information, please contact Thomas V. Sjoblom at (202) 272–7379.

2. Consideration of whether to propose for public comment amendments to rule 12d–1 and rescission of rule 2a–3 under the Investment Company Act of 1940 and related disclosure requirements. The proposed amendments to rule 12d–1 would permit investment companies to invest in securities issued by persons engaged in securities activities, directly or indirectly, as a broker, dealer, underwriter, or investment adviser. For further information, please contact Elizabeth K. Norsworthy at (202) 272–2048.

The subject matter of the closed meeting scheduled for Tuesday, January 17, 1984, following the 9:30 a.m. open meeting, will be:

Formal orders of investigation.
Dissolution of injunctive action.

The subject matter of the open meeting scheduled for Wednesday, January 18, 1984, at 3:00 p.m., will be: The Commission will meet with representatives from the American Society of Corporate Secretaries to discuss matters of mutual interest. For further information, please contact Steven L. Molinari at (202) 272–2589.

AT TIMES CHANGES IN COMMISSION PRIORITIES REQUIRE ALTERATIONS IN THE SCHEDULING OF MEETING ITEMS. FOR FURTHER INFORMATION AND TO ASCERTAIN WHAT, IF ANY, MATTERS HAVE BEEN ADDED, DELETED OR POSTPONED, PLEASE CONTACT: JoAnn Zuercher at (202) 272–2014.

George A. Fitzsimmons,

Secretary.

January 10, 1984.

[S–84–965 Filed 1–10–84; 8:45 am]

BILLING CODE 8010–01–M

VOL 49 ISS 8 JA 12 1984 UMI

Thursday
January 12, 1984

Part II

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978; Notice

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Vol. 1035]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 6, 1984.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS

ISSUED JANUARY 6, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION									
-AMERICO PETROLEUM INC				RECEIVED:	12/05/83	JA: KS			
8410434	K-83-0499	1515520555		103		ROYER #1	FRIENDSHIP EXT	47.0	PEOPLES NATURAL G
-ASSOCIATED PETROLEUM CONSULTANTS IN				RECEIVED:	12/05/83	JA: KS			
8410438	K-83-0520	1509521349		102-2		ALBERS #1 15095-21349	KOMAREK	800.0	DELHI GAS PIPELIN
8410499	K-83-0453	1509521262		102-2		HAUSER #1 15-095-21262	(WILDCAT)	500.0	DELHI GAS PIPELIN
8410473	K-83-0573	1500721629		102-4		MOTT RANCH #8 15-007-21,629	AMBERMILLS SOUTH	1.1	DELHI GAS PIPELIN
-BENJAMIN F SPRINGER				RECEIVED:	12/05/83	JA: KS			
8410443	K-83-0606	1512526002		102-2		SHOUSE #1	COFFEYVILLE - CHERRYV	21.6	NORTHWEST CENTERA
8410445	K-83-0608	1512526001		102-2		SHOUSE #2	COFFEYVILLE - CHERRYV	27.0	NORTHWEST CENTRAL
8410446	K-83-0607	1512526152		102-2		SHOUSE #3	COFFEYVILLE - CHERRYV	27.0	NORTHWEST CENTRAL
-BENSON MINERAL GROUP				RECEIVED:	12/05/83	JA: KS			
8410487	K-82-1039	1512524499		108		ERWIN 3-32	JEFFERSON - SYCAMORE	1.8	UNION GAS SYSTEMS
8410488	K-82-1038	1512524500		108		ERWIN 4-32	JEFFERSON - SYCAMORE	13.1	UNION GAS SYSTEMS
8410477	K-83-0541	1512526131		103		GILLEN 2-8	JEFFERSON - SYCAMORE	2.4	UNION GAS SYSTEMS
8410464	K-83-0495	1500923143		103		GRACE WEAVER #1-3	OTIS-ALBERT	29.2	NORTHERN GAS PROD
8410486	K-82-1031	1512524501		108		INGMIRE 3-32	JEFFERSON SYCAMORE	5.4	UNION GAS SYSTEMS
8410435	K-83-0496	1514521040		102-2		NUCKOLLS "B" 1-15	BRYANT SE	7.3	NORTHERN NATURAL
8410490	K-82-1028	1512524504		108		WISE 6-5	JEFFERSON - SYCAMORE	0.0	UNION GAS SYSTEMS
8410489	K-82-1029	1512524505		108		WISE 7-5	JEFFERSON - SYCAMORE	2.3	UNION GAS SYSTEM
-BOW VALLEY PETROLEUM INC				RECEIVED:	12/05/83	JA: KS			
8410474	K-83-0572	1503320598		102-2		KANSAS UNIVERSITY 2-32	WILDCAT	109.0	MICHIGAN-WISCONSI
-BURK LEROY E				RECEIVED:	12/05/83	JA: KS			
8410441	K-83-0595	1512526304		102-2		BURK #11	COFFEYVILLE - CHERRYV	0.0	CITIES SERVICE CO
8410436	K-83-0440	1512524228		102-2		BURK #3	COFFEYVILLE - CHERRYV	21.9	CITIES SERVICE CO
8410442	K-83-0596	1512523728		102-2		BURK #5	COFFEYVILLE - CHERRYV	0.0	CITIES SERVICE CO
8410500	K-83-0439	1512525785		102-2		BURK #9	COFFEYVILLE - CHERRYV	21.9	CITIES SERVICE CO
-CENTENNIAL ENERGY CO				RECEIVED:	12/05/83	JA: KS			
8410450	K-83-0470	1518120124		108		BRINEY FARMS 2-22	GOODLAND	10.0	K N ENERGY INC
8410457	K-83-0468	1518120127		108		CEBULA #1-15	GOODLAND	10.0	K N ENERGY INC
8410451	K-83-0469	1518120220		108		WALLACE 1-16	GOODLAND	10.0	K N ENERGY INC
-CINCO EXPLORATION COMPANY				RECEIVED:	12/05/83	JA: KS			
8410471	K-83-0486	1509720899		102-2		FREDA DUNBAR #3	WILDCAT	91.3	PERMIAN CORP
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	12/05/83	JA: KS			
8410460	K-83-0465	1507720879		103		GRIGSBY "A" #1	LITTLE SANDY CREEK	29.0	
-COASTAL OIL & GAS CORP				RECEIVED:	12/05/83	JA: KS			
8410461	K-83-0464	1512900000		108		CENTRAL LIFE 1-32	GREENWOOD	8.0	COLORADO INTERSTA
8410463	K-83-0462	1512900000		108		CRAVER 1-32	GREENWOOD	18.0	COLORADO INTERSTA
8410462	K-83-0463	1512900000		108		HEINTZ 1-31	GREENWOOD	9.0	COLORADO INTERSTA
-DECK OIL CO				RECEIVED:	12/05/83	JA: KS			
8410452	K-83-0528	1502500000		103		SMITH #1	SITKA	0.0	NORTHERN NATURAL
-DOME PETROLEUM CORP				RECEIVED:	12/05/83	JA: KS			
8410504	K-83-0008	1500720777		108		SCHIFF #1	N HARBAUGH	4.6	PANHANDLE EASTERN
-ENERGY GROUP INC				RECEIVED:	12/05/83	JA: KS			
8410431	K-83-0519	1518920581		103		DAVIS #1-27	WALKEMEYER	0.0	NORTHERN NATURAL
-F G HOLL				RECEIVED:	12/05/83	JA: KS			
8410470	K-83-0487	1504720517		103		HAWLEY #1-13	MASSEY	58.0	REPUBLIC NATURAL

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-GRAVES DRILLING CO INC				RECEIVED:	12/05/83	JA: KS			
8410494	K-83-0537	1500720091		108		HAYNES #1	HC	20.1	PEOPLES NATURAL G
-HERITAGE EXPLORATION INC				RECEIVED:	12/05/83	JA: KS			
8410496	K-83-0534	1512525055		102-2		WEST POWELL 2B	CHERRYVALE - COFFEYVI	36.5	NORTHWEST CENTRAL
8410495	K-83-0535	1525125249		102-2		WEST POWELL 3B	CHERRYVALE - COFFEYVI	36.5	NORTHWEST CENTRAL
-HINKLE OIL COMPANY				RECEIVED:	12/05/83	JA: KS			
8410475	K-83-0567	1515121203		103		CARVER #1	IUKA-CARMI SW	91.0	CENTRAL STATES GA
-INTEGRATED ENERGY INC				RECEIVED:	12/05/83	JA: KS			
8410501	K-83-0167	1515520539		103		SOPER #2	FRIENDSHIP	36.5	PEOPLES NATURAL G
-J MARK RICHARDSON				RECEIVED:	12/05/83	JA: KS			
8410484	K-83-0479	1515121104		102-2		HARPER FARMS B #1	CARVER ROBBINS	45.0	PANHANDLE EASTERN
-JONES ROBERT & TAYLOR WILLIAM				RECEIVED:	12/05/83	JA: KS			
8410455	K-83-0524	1512525490		102-2		TAYLOR #1	CHERRYVALE COFFEYVILL	14.5	NORTHWEST CENTRAL
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	12/05/83	JA: KS			
8410433	K-83-0501	1517500000		103		BLACK #1	IRIS	255.5	
-KBW OIL & GAS CO				RECEIVED:	12/05/83	JA: KS			
8410497	K-83-0530	1500721544		103		AUBLEY #1	WILDCAT	2.7	PEOPLES NATURAL G
8410483	K-83-0480	1500721515		103		DOHM #1	NW SHARON	16.0	PEOPLES NATURAL G
-L C G GAS CO				RECEIVED:	12/05/83	JA: KS			
8410491	K-82-1252	1509921783		108		JOHN WULF #1		18.3	M G MACKERLE CO I
8410492	K-82-1251	1509921765		108		MARVIN WULF #1	SW 1/4 NE 1/4 S13 T35	18.3	M E MACKERLE CO I
8410465	K-83-0490	1509921868		108		ZIEGLER #2	NE 1/4 S13 T35 R20E	3.7	M E MACKERLE CO I
-LEAR PETROLEUM EXPLORATION INC				RECEIVED:	12/05/83	JA: KS			
8410454	K-83-0525	1503320593		102-2		BIRD #1-32	BIRD SOUTH	53.0	MICHIGAN WISCONSI
8410453	K-83-0526	1503320595		102-2		NIELSON-UPTON #2-32	BIRD SOUTH	300.0	MICHIGAN WISCONSI
-MCGINNESS OIL COMPANY				RECEIVED:	12/05/83	JA: KS			
8410476	K-83-0542	1500721546		103		F OHLSON #1	HARDTNER	215.0	KANSAS GAS SUPPLY
-MIDWESTERN EXPLORATION CO				RECEIVED:	12/05/83	JA: KS			
8410498	K-83-0529	1512920648		103		GRIMWOOD 2-13	GREENWOOD GAS FIELD	60.0	COLORADO INTERSTA
-MOBIL OIL CORP				RECEIVED:	12/05/83	JA: KS			
8410439	K-83-0575	1518920615		103		HINSHAW ESTATE UNIT #2	PANOMA COUNCIL GROVE	35.0	NORTHWEST CENTRAL
-MOLZ OIL CO				RECEIVED:	12/05/83	JA: KS			
8410482	K-83-0481	1500721597		103		STERLING #1	STRANATHAN	30.0	KANSAS GAS SUPPLY
-NIELSON ENTERPRISES INC				RECEIVED:	12/05/83	JA: KS			
8410446	K-83-0476	1511920472		108		ADAMS 1-30	ADAMS RANCH	18.0	COLORADO INTERSTA
8410449	K-83-0473	1502320181		108		BURR #B-1	SO ST FRANCIS GAS ARE	8.0	PEOPLES NATURAL G
8410447	K-83-0475	1502320179		108		FRITZ #A-1	SO ST FRANCIS GAS ARE	4.0	PEOPLES NATURAL G
8410448	K-83-0474	1502320180		108		HARKINS #A-1	SO ST FRANCIS GAS ARE	5.0	PEOPLES NATURAL G
-NORTHERN NATURAL GAS PRODUCING CO				RECEIVED:	12/05/83	JA: KS			
8410459	K-83-0466	1505520522		103		BROWN #14 FARM WELL #15	PANOMA COUNCIL GROVE	52.1	NORTHERN NATURAL
8410472	K-83-0574	1518920638		103		THOMAS T HOLT UNIT WELL #2	WALKEMEYER LOWER MORR	112.5	NORTHERN NATURAL
-OIL PROPERTY MANAGEMENT INC				RECEIVED:	12/05/83	JA: KS			
8410456	K-83-0522	1515121004		103		POLLOCK #1	IUKA-CARMI	23.0	CENTRAL STATES GA
8410429	K-83-0521	1515121044		103		POLLOCK #2 "TWIN"	IUKA-CARMI	26.0	CENTRAL STATES GA
-OILWELL OPERATORS INC				RECEIVED:	12/05/83	JA: KS			
8410485	K-83-0478	1500721571		103		SPICER #1 NEW LEASE	CANEMA	288.0	PEOPLES NATURAL G
8410467	K-83-0489	1500721607		103		SPICER #2 NEW LEASE	CANEMA	144.0	PEOPLES NATURAL G
-R & D PETROLEUM				RECEIVED:	12/05/83	JA: KS			
8410503	K-83-0158	1515121166		103		GRIFFITH "B" #1	FRISBIE NE	120.0	CENTRAL STATES GA
-ROXANA CORP				RECEIVED:	12/05/83	JA: KS			
8410502	K-83-0166	1518521713		103		TURNER #6	CRISSMAN NORTH	27.0	CENTRAL STATES GA
-TEXAS ENERGIES INC				RECEIVED:	12/05/83	JA: KS			
8410468	K-83-0471	1500721578		102-4		HINZ 'C' 1-22	WILDCAT	18.0	REPUBLIC NATURAL
8410469	K-83-0472	1500721576		102-4		HOAGLAND 2-22	WILDCAT	20.0	REPUBLIC NATURAL
8410479	K-83-0485	1515121246		103		STOTTS 2-3	CARVER-ROBBINS	110.0	CENTRAL STATES GA
-TGT PETROLEUM CORPORATION				RECEIVED:	12/05/83	JA: KS			
8410466	K-83-0492	1509720946		103		VICKI #1	EINSEL	9.0	PANHANDLE EASTERN
-THE MAURICE L BROWN COMPANY				RECEIVED:	12/05/83	JA: KS			
8410432	K-83-0514	1509720932		103		YOST GAS UNIT #3	ALFORD NORTH	73.0	KANSAS GAS SUPPLY
-TOM KAT LTD				RECEIVED:	12/05/83	JA: KS			
8410440	K-83-0577	1504721079		103		CAREY #1	WILL C S/2 SE SE SE 2	15.0	CENTRAL STATES GA
-TXO PRODUCTION CORP				RECEIVED:	12/05/83	JA: KS			
8410480	K-83-0484	1509521344		102-2		ALBERS "B" #2	KOMAREK	360.0	DELMI CORP
8410478	K-83-0540	1509521359		102-2		ALBERS "C" #1	ST LEO	150.0	DELMI CORP
8410458	K-83-0467	1500720413		103		FINDLEY #1	SULLIVAN EAST	75.0	NORTHERN GAS PROD
8410493	K-83-0539	1509521332		103		KELLY #2	MAPLE GROVE	30.0	
8410481	K-83-0483	1500721510		102-2		LARSON "B" #1	BROOKS YOUNGER	150.0	
8410438	K-83-0569	1503310589		103		MCANINCH-GREGG #2	SHIMER	30.0	KANSAS GAS SUPPLY
8410437	K-83-0568	1509521361		102-2		NEISES #1	KOMAREK	150.0	DELMI CORP
**********									
LOUISIANA OFFICE OF CONSERVATION									
**********									
-ADCO PRODUCING COMPANY INC				RECEIVED:	12/05/83	JA: LA			
8410339	82-1313	1710720407		102-4	103	PEARCE #3 LT MASS RA SU C	FOX LAKE	124.0	LOCUST RIDGE GAS
-AMOCO PRODUCTION CO				RECEIVED:	12/05/83	JA: LA			
8410397	83-1406	1770520107		103		S/L 862 #14	VERMILION BLOCK 14 FI	3000.0	TRUNKLINE GAS CO
-ARAPAHO PETROLEUM INCORPORATED				RECEIVED:	12/05/83	JA: LA			
8410424	83-0691	1701700000		108		WILBANKS #1	RODESSA	7.0	BRECKENRIDGE GASO
-ARCO OIL AND GAS COMPANY				RECEIVED:	12/05/83	JA: LA			
8410419	83-0712	1703100000		108		MAE FLETCHER #2 PETTIT SUE	LOGANSPORT (PETTIT)	19.0	SOUTHERN NATURAL
-ART MACHIN & ASSOCIATES INC				RECEIVED:	12/05/83	JA: LA			
8410405	83-1542	1711920408		103		WALKER #1 PET RA SUWI	NORTH SHONGALOO - RED	8.0	UNITED GAS PIPE L
-ASPEN EXPLORATION				RECEIVED:	12/05/83	JA: LA			
8410355	82-3313	1700121060		103		WINDSOR DAIGLE #1 HELL	CHURCH POINT FIELD	1014.0	MONTEREY PIPELINE
-BASS ENTERPRISES PRODUCTION CO				RECEIVED:	12/05/83	JA: LA			
8410338	83-1107	1706120279		102-4	103	R E ROBERSON #1 CV DAVIS RB SUS	MIDDLEFORK	110.0	UNITED GAS PIPELI
-BROWN JOEL B				RECEIVED:	12/05/83	JA: LA			
8410292	82-0228	1701723055		102-4		HOBBS #1 CV RA SUB	CADDO PINE ISLAND	1005.0	ARKANSAS LOUISIAN
-CALLON PETROLEUM COMPANY				RECEIVED:	12/05/83	JA: LA			
8410383	83-1174	1706320096		102-4		CROWN ZELLERBACH #3 WELL	LOCKHART CROSSING (WI	136.0	LOUISIANA INTRAST
8410332	83-0992	1706320104		102-4		CROWN ZELLERBACH #4 1ST WX RA SUM	LOCKHART CROSSING (WI	68.0	LOUISIANA INTRAST
8410347	83-0994	1706320109		102-4		CROWN ZELLERBACH #5 1ST WX RA SUR	LOCKHART CROSSING (WI	70.0	LOUISIANA INTRAST
8410333	83-0991	1706320098		102-4		I J FARRIS #1 1ST WX RA SUT	LOCKHART CROSSING (WI	68.0	LOUISIANA INTRAST
8410348	83-0993	1706320086		102-4		I P CO #3 1ST WX RA SUA	LOCKHART CROSSING (WI	126.0	SOUTHERN NATURAL
8410334	83-0990	1706320103		102-4		M I STEWART #1 1ST WX RA SUO	LOCKHART CROSSING (WI	105.0	LOUISIANA INTRAST
-CITIES SERVICE COMPANY				RECEIVED:	12/05/83	JA: LA			
8410296	82-3177	1702721053		102-4		GREER B #1	COLQUITT	210.0	ARKANSAS LOUISIAN
8410294	82-1074	1702720991		102-4		ODUM A-1 HA RB SUC	COLQUITT	506.0	
-CONOCO INC				RECEIVED:	12/05/83	JA: LA			
8410317	82-2249	1705320718		102-4		H A WILKINSON #1 VU A	EAST ROANOKE FIELD	1500.0	LOUISIANA GAS SYS
8410316	83-1177	1705320795		102-4		M W BRIESKE #1 HBY RA SUD	EAST ROANOKE FIELD	2000.0	LOUISIANA GAS SYS
8410331	83-1457	1705320779		102-4		S J LEJEUNE #1 HBY RA SUB	EAST ROANOKE FIELD	1500.0	LOUISIANA GAS SYS
-CRYSTAL OIL AND LAND COMPANY				RECEIVED:	12/05/83	JA: LA			
8410376	83-1330	1701724847		103		CLEMENTS "R" #4	NORTH MISSIONARY LAKE	32.1	ARKANSAS LOUISIAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8410315	83-1181	1704920195		102-4		DAVIS BROTHERS "D" #1	VERNON	1325.0	UNITED GAS PIPE L
8410343	83-1163	1701521908		102-4		FOSTER "B" #1-D CV RB SU49	ARKANA	12.8	ARKANSAS LOUISIAN
8410412	83-0979	1701521922		102-4		GEASLIN #1 SLI RB SUN	ARKANA	55.4	ARKANSAS LOUISIAN
8410410	83-0976	1701521781		102-4		INTL PAPER CO "I" #1 SLI RB SUA	ARKANA	40.2	ARKANSAS LOUISIAN
8410314	83-1180	1704920202		102-4		OXFORD #2 HOSS RA SUX	VERNON	930.8	UNITED GAS PIPE L
8410381	83-1537	1708120391		103		POSEY #1	GAHAGAN	83.4	LOUISIANA INTRAST
-DAVID CROW				RECEIVED:	12/05/83	JA: LA			
8410344	83-1162	1701718434		102-4		GRAVES "A" #1 SLI RC SU 92	CADDO-PINE ISLAND	0.0	ARKANSAS LOUISIAN
-DESCO OIL CO				RECEIVED:	12/05/83	JA: LA			
8410307	83-1521	1702321503		103		CUTLER #3 M-16 RA SUA	TWIN ISLAND	14.6	LOUISIANA RESOURC
-DESOTO OIL & GAS CORP				RECEIVED:	12/05/83	JA: LA			
8410428	83-0731	1703120455		108		ELEANOR SAMPLE SCOTT #1 #146239	GAY ISLAND	0.0	LOUISIANA INTRAST
8410386	83-1513	1703121905		103		SAMPLE SCOTT #2 SERIAL #180753	GAY ISLAND	0.0	LOUISIANA INTRAST
8410395	83-1512	1703121965		103		SAMPLE SCOTT #5 SERIAL #181603	GAY ISLAND	0.0	LOUISIANA INTRAST
-DIAMEX CO				RECEIVED:	12/05/83	JA: LA			
8410340	82-2229	1705320676		102-4		POWELL LUMBER COMPANY #1	EDNA 3583 (PERMITTED	75.0	TENNESSEE GAS PIP
-EDWIN L & BERRY R COX				RECEIVED:	12/05/83	JA: LA			
8410345	83-1161	1700120684		102-4		ARDOIN #2 ORTEGO A RB SUA	TEPETATE WEST	300.0	LOUISIANA GAS SYS
-EDWIN L COX				RECEIVED:	12/05/83	JA: LA			
8410346	83-1160	1700120780		102-4		HEMSGENS #2 UMT-1 RB SUA	ELLIS	340.0	LOUISIANA GAS SYS
-EXCALIBUR RESOURCES INC				RECEIVED:	12/05/83	JA: LA			
8410394	83-1511	1701724494		103		EGAN-WEBB #2	CASPIANA	130.0	ARKANSAS LOUISIAN
8410391	83-1506	1703121659		103		LOWREY #3	RED RIVER - BULL BAYO	100.0	SABINE - DESOTO P
-EXCHANGE OIL & GAS CORPORATION				RECEIVED:	12/05/83	JA: LA			
8410384	83-1173	1705520240		102-4		DECLOUET #1 BOL MEX 3 RA SUB	NORTH MAURICE	2155.0	LOUISIANA INTRAST
-EXXON CORPORATION				RECEIVED:	12/05/83	JA: LA			
8410313	82-1244	1707520274		102-2		S L 6894 A #8	MAIN PASS BLOCK 74	15.0	UNITED G.S PIPE L
8410323	83-1468	1707523093		103		SL 1927 #67 SEP I-6 RA SU	SOUTHEAST PASS	100.0	TENNESSEE GAS PIP
8410320	83-1349	1707522450		103		SL 2090 #14 I5 R4A SUA	SOUTHEAST PASS	600.0	TENNESSEE GAS PIP
-FLAMINGO OIL & GAS INC				RECEIVED:	12/05/83	JA: LA			
8410368	83-1183	1702120977		102-4		GOUGH #1 WX RA SUG	PISTOL THICKET	0.0	LOUISIANA INTRAST
-FRANK HALE				RECEIVED:	12/05/83	JA: LA			
8410363	83-1322	1701724528		103		HINDSMAN PARKER B #2 SL1 RCSU 31	CADDO PINE ISLAND	220.0	ARKANSAS LOUISIAN
8410372	83-1327	1701724529		103		HINDSMAN PARKER B #3 SL1 RC SU 30	CADDO PINE ISLAND	220.0	ARKANSAS LOUISIAN
-FRONTIER EXPLORATION INC				RECEIVED:	12/05/83	JA: LA			
8410326	83-1501	1706900000		103		ARCO A LEASE 1	ASHLAND	214.0	UNITED GAS PIPE L
-GAS RESOURCES INC				RECEIVED:	12/05/83	JA: LA			
8410295	83-0356	1711123706		103		MANVILLE 748 #2	MONROE GAS	13.0	INC PIPELINE CO I
-GENERAL AMERICAN OIL COMPANY OF TEX				RECEIVED:	12/05/83	JA: LA			
8410312	82-2217	1702300000		103		CAMERON PARISH SCHOOL BOARD #28	JOHNSON BAYOU (K-3A S	400.0	TRANSCONTINENTAL
-GETTY OIL COMPANY				RECEIVED:	12/05/83	JA: LA			
8410302	83-1531	1703100000		103		PACE A #2 CV-RA-SUD	LOGANSPORT	0.0	TENNESSEE GAS PIP
-GOLDKING PRODUCTION COMPANY				RECEIVED:	12/05/83	JA: LA			
8410382	83-1175	1708720221		102-4		SL 9295 #1 7900 RB SUA	EAST STUARDS BLUFF	276.0	LOUISIANA INTRAST
8410416	83-1464	1703320170		103		TERRACE LAND CO #2-D	SIEGEN	81.0	UNITED GAS PIPELI
-GRACE PETROLEUM CORPORATION				RECEIVED:	12/05/83	JA: LA			
8410377	83-1533	1701724367		103		BAYLISS #1 HOSS RA SU FF	LONGWOOD	0.0	SOUTHWESTERN ELEC
8410398	83-1365	1706120340		103		STEWART #1	SIMSBORO	0.0	LOUISIANA GAS PUR
-GRAHAM EXPLORATION LTD DRILLING PAR				RECEIVED:	12/05/83	JA: LA			
8410369	83-1185	1705120575		102-4		MO PAC ALT #1 CIB #1 RB SUA	WESTWEGO	504.0	LOUISIANA GAS SER
-GRIGSBY PETROLEUM INC				RECEIVED:	12/05/83	JA: LA			
8410318	82-2273	1700121092		102-4		E L BERTRAND #1 #178099 RD SUA	IOTA	400.0	LOUISIANA GAS SYS
8410321	83-1502	1704920192		103		MS A MATHEWS #1 #180301 RA SUG	HODGE 4517	250.0	ARKANSAS LOUISIAN
-GUERNSEY PETROLEUM CORPORATION				RECEIVED:	12/05/83	JA: LA			
8410379	83-1535	1703121986		103		BISHOP #1 LAF RA SUG	RED RIVER BULL BAYOU	54.0	TEXAS EASTERN TRA
8410378	83-1536	1703121988		103		MARSHALL A CALHOUN #3 LAF RA SUS	RED RIVER BULL BAYOU	36.0	TEXAS EASTERN TRA
8410375	83-1333	1703121794		103		WANDA BEAM #1	WILDCAT	36.0	LOUISIANA INTRAST
-GULF OIL CORPORATION				RECEIVED:	12/05/83	JA: LA			
8410364	83-1526	1707523091		103		B L D 'D' #17	SOUTH PASS BLOCK 24	55.0	SOUTHERN NATURAL
8410360	83-1424	1707523069		103		BLD 'E' #163 VU 202	WEST BAY	83.0	TEXAS EASTERN TRA
8410318	83-1523	1707523028		103		BLD'E' 161 VU 62	WEST BAY FIELD	299.3	TEXAS EASTERN TRA
8410407	83-1544	1708920336		103		DELTA SECURITIES CO INC #134	BAYOU COUBA	47.5	TRANSCONTINENTAL
8410408	83-1545	1708920337		103		DELTA SECURITIES CORP INC #135	BAYOU COUBA	0.3	TRANSCONTINENTAL
8410309	83-1529	1701920989		103		FONTENOT #1-D CAM 1 RB SUA	SOUTH BELL CITY	507.0	TEXAS GAS TRANSMI
8410396	83-1420	1707523021		103		J G TIMOLAT 'C' #12	WEST BAY	20.0	TEXAS EASTERN TRA
8410304	83-1517	1705721512		103		S L 1772 #119	TIMBALIER BAY	108.0	TENNESSEE GAS PIP
8410351	83-1435	1707522777		103		S L 195 QQ #101-D Q-1 SU9	WEST BLACK BAY FIELD	0.0	SOUTHERN NATURAL
8410414	83-1445	1707522844		103		S L 195 QQ WELL #318	QUARANTINE BAY FIELD	1.5	UNITED GAS PIPELI
8410365	83-1527	1707522935		103		S L 195 QQ WELL #323	QUARANTINE BAY FIELD	15.6	UNITED GAS PIPELI
8410328	83-1448	1707523006		103		S L 195 QQ WELL #326	QUARANTINE BAY FIELD	49.3	UNITED GAS PIPELI
8410327	83-1447	1707523032		103		S L 195 QQ WELL #86 NBLB N-1 RA SU	NORTH BLACK BAY	21.9	SOUTHERN NATURAL
8410370	83-1186	1707523148		102-4		S/L 195 'QQ' #338	QUARANTINE BAY FIELD	300.0	UNITED GAS PIPELI
-HADDOX PETROLEUM CORP				RECEIVED:	12/05/83	JA: LA			
8410428	83-0629	1711123045		108		MOBIL IP #5	MONROE	16.4	MID LOUISIANA GAS
-HARVEY BROYLES & MUNOCO CO				RECEIVED:	12/05/83	JA: LA			
8410356	83-1364	1707321948		103		G R CLEMENT #1 HOSS C RA SUE	CHENIERE CREEK	0.0	MANVILLE FOREST P
-HOGAN EXPLORATION INC				RECEIVED:	12/05/83	JA: LA			
8410367	83-1182	1702120968		102-4		GORDY #1 NEGLEY RA SUB	WELCOME HOME	35.0	LOUISIANA INTRAST
-JAMES CHARLIE G				RECEIVED:	12/05/83	JA: LA			
8410388	83-0988	1702120937		102-4		COLUMBIA HEIGHTS #1	WILDCAT	8.0	INTRA-STATE GAS C
8410335	83-0989	1702120896		102-4		E FINNEY CLAY #2	WILDCAT	0.0	LOUISIANA INTRAST
-JEEMS BAYOU PRODUCTION CORP				RECEIVED:	12/05/83	JA: LA			
8410390	83-1507	1708120446		103		DUPREE ROD RA	RED OAK LAKE 7644	85.3	LOUISIANA INTRAST
8410415	83-1446	1703122084		103		RIEMER CALHOUN B	BUFFALO BAYOU	146.0	MID-LOUISIANA GAS
-LEA EXPLORATION INC				RECEIVED:	12/05/83	JA: LA			
8410350	83-1436	1701120425		103		LONIX BOYER #1 VUA	EAST PEPKINS	250.0	UNITED G.S PIPE L
-LOUISIANA LAND & EXPLORATION CO				RECEIVED:	12/05/83	JA: LA			
8410417	83-1465	1709720663		103		JOE BOUDREAUX #1	VELTIN	0.0	UNITED G.S PIPELI
-LUFFEY GAS CORP				RECEIVED:	12/05/83	JA: LA			
8410422	83-0632	1711123929		103		B J HAYES #1	MONROE	7.2	WEST MONROE GAS G
-M & M RENTALS				RECEIVED:	12/05/83	JA: LA			
8410341	83-1081	1707321958		103	108	A M JOHNSON #2	MONROE	9.0	PETRO LEWIS CORP
-MAJESTIC ENERGY CORP				RECEIVED:	12/05/83	JA: LA			
8410406	83-1543	1701521717		103		LOUIS KAUFMAN ET AL #1 CV RA SU 23	ELM GROVE	547.5	UNITED G.S PIPELI
-MALLARD DRILLING CORP				RECEIVED:	12/05/83	JA: LA			
8410400	83-1441	1708120480		103		CAMPBELL #1	GAHAGAN	0.0	LOUISIANA INTRAST
8410392	83-1440	1708120497		103		CAMPBELL #2 SERIAL #181005	GAHAGAN	0.0	LOUISIANA INTRAST
8410349	83-1437	1703122054		103		J BARNES #1	PLEASANT HILL	0.0	LOUISIANA INTRAST
8410413	83-1443	1708120494		103		RIVED #1	GAHAGAN	0.0	LOUISIANA INTRAST
8410401	83-1442	1708120498		103		STUART #001	GAHAGAN	0.0	LOUISIANA INTRAST
-MARATHON OIL COMPANY				RECEIVED:	12/05/83	JA: LA			
8410337	83-1352	1711920406		103		MOC GLEASON #3 CV JRS SU	COTTON VALLEY	401.5	UNITED G.S PIPE L
-MAY PETROLEUM INC				RECEIVED:	12/05/83	JA: LA			
8410389	83-1505	1703121911		103		LELA WILLIAMS "A" #1-D PSU-N	BETHANY LONGSTREET	182.5	ARKANSAS LOUISIAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-MCRAE EXPLORATION INC									
8410409	83-1538	1702721025		RECEIVED:	12/05/83	JA: LA			
			103			BYRD #2 CV RA SU P	SUGAR CREEK	1500.0	LOUISIANA GAS INT
-MCRAE OIL CORP				RECEIVED:	12/05/83	JA: LA			
8410380	83-1536	1706120317	103			REED LUMBER CO #1 LCV RA SUY	TERRYVILLE	75.0	LOUISIANA GAS PUR
-MICH-LA OIL & GAS EXPLORATION				RECEIVED:	12/05/83	JA: LA			
8410392	83-1509	1703102202	102-3			MARTIN TIMBER CO #1	GROGAN	110.0	TENNESSEE GAS PIP
8410358	83-1428	1703121978	103			W T J RAMSEY ET AL #1	GROGAN	80.0	TENNESSEE GAS PIP
8410393	83-1510	1703122048	103			WALLACE #1	GROGAN	110.0	TENNESSEE GAS PIP
-MID LOUISIANA GAS COMPANY				RECEIVED:	12/05/83	JA: LA			
8410426	83-0611	1711123979	103			MLGC FEE GAS #1210	MONROE GAS FIELD	21.6	MID LOUISIANA GAS
8410427	83-0612	1711123971	103			MLGC FEE GAS #1212	MONROE GAS FIELD	21.6	MID LOUISIANA GAS
8410425	83-0610	1711123981	103			MLGC FEE GAS #1213	MONROE GAS FIELD	21.6	MID LOUISIANA GAS
-MITCHELL ENERGY CORPORATION				RECEIVED:	12/05/83	JA: LA			
8410411	83-0977	1704920133	102-4			T J GREEN #1 CV RA SUC	KELLEYS	250.0	LOUISIANA GAS PUR
-NRG RESOURCES INC				RECEIVED:	12/05/83	JA: LA			
8410306	83-1520	1701921118	103			CORBELLO #1	NORTHWEST CHALKLEY	180.0	TENNESSEE GAS PIP
-PENNZOIL PRODUCING COMPANY				RECEIVED:	12/05/83	JA: LA			
8410361	83-1421	1703121830	103			A M SMITH #1 HOSS SUNN	LOGANSPORT/TRAVIS PEA	500.0	DELHI GAS PIPELIN
8410362	83-1318	1703121822	103			HG ANTHONY A 1 HOSS RA SUC	SPIDER/HOSSTON	250.0	DELHI GAS PIPELIN
8410373	83-1325	1703121849	103			HG ANTHONY 1 HOSS SU QQ	LOGANSPORT-HOSSTON	100.0	DELHI GAS PIPELIN
-PETROFUNDS INC				RECEIVED:	12/05/83	JA: LA			
8410402	83-1539	1701320549	103			CONTINENTAL CAN CO #5 HOSS B SU C	WEST BRYCELAND	600.0	LOUISIANA GAS PUR
8410308	83-1523	1701320549	103			CONTINENTAL CAN CO #5-D HOSS A SU C	WEST BRYCELAND	600.0	LOUISIANA GAS PUR
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	12/05/83	JA: LA			
8410301	83-1530	1701320531	103			STARK B #3 HOSS B RA SUHH	ADA	237.0	SOUTHWESTERN ELEC
-PICKENS CO INC				RECEIVED:	12/05/83	JA: LA			
8410421	83-0926	1705320650	102-4			M A LEBLANC #1 ID 168377	WEST TEPETATE	183.0	LOUISIANA GAS SYS
-PLACID OIL COMPANY				RECEIVED:	12/05/83	JA: LA			
8410387	83-1514	1710121311	103			SHADYSIDE #14 DB-1 RC SU J	PATTERSON	1095.0	TENNESSEE GAS PIP
-REALITOS ENERGY CORP				RECEIVED:	12/05/83	JA: LA			
8410329	83-1451	1703121752	103			WILLAMETTE #1 U HOSS RA SUY	BELLE BOWER	100.0	ARKANSAS LOUISIAN
-ROBERSON WELL SERVICE				RECEIVED:	12/05/83	JA: LA			
8410319	83-1082	1711123932	103	108		G A MCCORMICK #2	MONROE	9.0	PETRO LEWIS CORP
-SAMANTHA PETROLEUM CORP				RECEIVED:	12/05/83	JA: LA			
8410342	82-3442	1708120473	102-2	103		GUILLOT A-1	GAY ISLAND	50.0	UNITED GAS PIPE L
-SEVARG COMPANY INC				RECEIVED:	12/05/83	JA: LA			
8410330	83-1466	1709720717	103			WILSON COURVILLE #1	OPELOUSAS	350.0	FLORIDA GAS TRANS
-SHELL OFFSHORE INC				RECEIVED:	12/05/83	JA: LA			
8410324	83-1469	1772120362	103			SL 1008 #B-55 SPB 27 FLD N4A RA SU	SOUTH PASS BLOCK 27 F	6.0	TENNESSEE GAS PIP
8410366	83-1170	1770920231	102-4			SL 7870 #1 EI 18 S2 RC SU	EUGENE ISLAND BLOCK 1	0.0	MID-LOUISIANA GAS
8410404	83-1541	1772120285	103			SP 27 FLD SL 1012 #260	SOUTH PASS BLOCK 27 F	10.0	TENNESSEE GAS PIP
-SHELL OIL CO				RECEIVED:	12/05/83	JA: LA			
8410291	82-0615	1772120319	103			SL 1012 #295 SP 27 N4B RB SU	SOUTH PASS BLOCK 27 F	7.0	TENNESSEE GAS PIP
-SPIRIT PETROLEUM				RECEIVED:	12/05/83	JA: LA			
8410423	83-0679	1702120890	102-4			MIXON #1 (180748) L WX RA SUI	WELCOME HOME	100.0	LOUISIANA INTRAST
-STONE PETROLEUM CORP				RECEIVED:	12/05/83	JA: LA			
8410293	82-2538	1705721960	102-4			LATERRE #1 RB SUA	GOLDEN MEADOW	1570.0	
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	12/05/83	JA: LA			
8410325	83-1470	1700121200	103			HAYES B #4 EGAN CAM RC SU	EGAN	65.0	TRANSCONTINENTAL
-SUPERIOR OIL CO				RECEIVED:	12/05/83	JA: LA			
8410418	83-1463	1711321058	103			A S LAPOINT #1 15850' RA SUA	KAPLAN	300.0	
8410388	83-1515	1710922606	103			R W BUCKLEY UNIT 10 #3	FOUR ISLE COME	1009.0	UNITED GAS PIPELI
8410336	83-1361	1704721605	103			SCHWING L & S CO #75	BAYOU BLEU	1.0	DOW INTRASTATE GA
8410374	83-1324	1704720661	103			SCHWING L & S CO #81	BAYOU BLEU	25.0	DOW INTRASTATE GA
-TEXACO INC				RECEIVED:	12/05/83	JA: LA			
8410299	82-1241	1710121183	102-4			BAL SU WKL #53	BATEMAN LAKE	2071.0	CITY OF MORGAN CI
-TEXAS GAS EXPLORATION CORP				RECEIVED:	12/05/83	JA: LA			
8410354	83-1432	1705120570	103			STATE LEASE 7016 #1A	SATURDAY ISLAND	212.0	SUGAR BOWL GAS CO
-THE DOW CHEMICAL COMPANY				RECEIVED:	12/05/83	JA: LA			
8410311	83-1524	1709900547	103			IBERVILLE #1 N RA SUA	HAPPYTOWN	17.0	
8410303	83-1532	1709920682	103			WILLIAMS INC "A" #1 L PLAN P4 RA	BAYOU LONG	400.0	
-TIPCO				RECEIVED:	12/05/83	JA: LA			
8410357	83-1430	1772720078	103			STATE LEASE 2220 #48	ELOI BAY	8.0	SOUTHERN NATURAL
8410353	83-1433	1772720084	103			STATE LEASE 2220 #52-D	ELOI BAY	13.0	SOUTHERN NATURAL
8410352	83-1434	1772720098	103			STATE LEASE 2220 #54	ELOI BAY	51.0	SOUTHERN NATURAL
8410359	83-1425	1772720100	103			STATE LEASE 2220 #55	ELOI BAY	44.0	SOUTHERN NATURAL
-TWIN CITY GAS				RECEIVED:	12/05/83	JA: LA			
8410297	83-0376	1707321942	103			WOMACK #1	MONROE	0.0	IMC PIPELINE CO I
-TXO PRODUCTION CORP				RECEIVED:	12/05/83	JA: LA			
8410371	83-0987	1704920132	102-4			MARTIN "F" #1	CLAY	24.8	ARKANSAS-LOUISIAN
8410322	83-1503	1701724607	103			WERNER SAWMILL #1 CV D RA SUPP	GREENWOOD-WASKOM	485.8	UNITED GAS PIPE L
8410298	83-0390	1706120337	102-4			YOUNG "L" #1	RUSTON	1053.0	DELHI GAS PIPELIN
-W B MCCARTER JR INC				RECEIVED:	12/05/83	JA: LA			
8410385	83-1178	1705320595	102-4			R J MINE ESTATE #1	ROGERS GULLY FIELD	61.2	UNITED GAS PIPELI
-WEAVER OIL AND GAS CORPORATION				RECEIVED:	12/05/83	JA: LA			
8410305	83-1518	1770320086	103			STATE LEASE 6289 #1	EAST CAMERON BLOCK 4	1460.0	LOUISIANA RESOURC
-WILLIAMSON & SMITHERMAN				RECEIVED:	12/05/83	JA: LA			
8410403	83-1540	1711920380	103			MCGINTY #1 SN 179472	SIBLEY FIELD	100.0	UNITED GAS PIPE I

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** DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, ALBUQUERQUE,NM

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-AMOCO PRODUCTION CO				RECEIVED:	11/28/83	JA: NM 4			
8409524	NM-1254-83PB	3004511687	108-PB			GALLEGOS CANYON UNIT #2U	BASIN	0.0	EL PASO NATURAL G

[FR Doc. 84-751 Filed 1-11-84; 8:45 am]

BILLING CODE 6717-01-C

[Vol. 1036]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 6, 1984.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New Well (2.5 Mile rule)
102–3: New Well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New resevoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS

ISSUED JANUARY 6, 1984

TEXAS RAILROAD COMMISSION

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-ADA OIL EXPLORATION CORP				RECEIVED: 12/05/83 JA: TX					
8410591	F-83-069742	4205100000		102-2		JOHN NEWMAN #10	GIDDINGS (AUSTIN CHAL	0	0 PHILLIPS PETROLEU
8410618	F-83-071594	4205100000		102-2		WEST BIRCH CREEK PARK #5	GIDDINGS	0	0 PHILLIPS PETROLEU
8410635	F-83-072158	4205100000		102-2		WEST BIRCH CREEK PARK #7	GIDDINGS	0	0 PHILLIPS PETROLEU
-ADOBE OIL & GAS CORPORATION				RECEIVED: 12/05/83 JA: TX					
8410679	F-7B-074074	4225332649		103		D L BRISTOW #4	MINTER	12	0
-AMOCO PRODUCTION CO				RECEIVED: 12/05/83 JA: TX					
8410762	F-8A-075301	4221933880		103		ELLWOOD "A" #151	SNYER	0	0 AMOCO PRODUCTION
8410761	F-8A-075300	4221933881		103		ELLWOOD "A" #152	SNYER	0.0	AMOCO PRODUCTION
8410765	F-8A-075304	4221933854		103		ELLWOOD "A" #156	SNYER	0.0	AMOCO PRODUCTION
8410802	F-8A-075402	4221934010		103		LEVELLAND UNIT #791	LEVELLAND	77	5 AMOCO PRODUCTION
8410800	F-8A-075400	4221934008		103		LEVELLAND UNIT #793	LEVELLAND	74	0 AMOCO PRODUCTION
8410801	F-8A-075401	4221924012		103		LEVELLAND UNIT #794	LEVELLAND	101.0	AMOCO PRODUCTION
8410804	F-8A-075404	4221933960		103		MAY MONTGOMERY UNIT #79	LEVELLAND	37	0 AMOCO PRODUCTION
8410803	F-8A-075403	4221933959		103		MAY MONTGOMERY UNIT #80	LEVELLAND	33.1	AMOCO PRODUCTION
8410799	F-8A-075399	4221933956		103		MAY MONTGOMERY UNIT #83	LEVELLAND	26.0	AMOCO PRODUCTION
8410760	F-8A-075299	4221933961		103		MAY MONTGOMERY UNIT #84	LEVELLAND	41.0	AMOCO PRODUCTION
8410759	F-8A-075298	4221933955		103		MAY MONTGOMERY UNIT #85	LEVELLAND	35	2 AMOCO PRODUCTION
8410763	F-8A-075302	4221933890		103		W G FRAZIER #132	SLAUGHTER	0	0 AMOCO PRODUCTION
8410798	F-8A-075398	4221933892		103		W G FRAZIER UT #133	SLAUGHTER	0	2 AMOCO PRODUCTION
-ARCO OIL AND GAS COMPANY				RECEIVED: 12/05/83 JA: TX					
8410641	F-04-072291	4221531347		102-4		MACBEAN UNIT #1	MERCEDES (7500) PRDO	20	0 TENNESSEE GAS PIP
-AUDAX ENERGY CORP				RECEIVED: 12/05/83 JA: TX					
8410721	F-08-074959	4200333568		103		BROWN "12" #5	FUHRMAN-MASCHO	9.1	PHILLIPS PETROLEU
-BEST PETROLEUM EXPLORATION INC				RECEIVED: 12/05/83 JA: TX					
8410729	F-09-075157	4223735286		103		RITA "B" #1 (OIL)	DEARING (CADDO)	45.0	LONE STAR GAS CO
-BILL FENN INC				RECEIVED: 12/05/83 JA: TX					
8410628	F-03-071899	4228731411		102-4		SUSIE B NO 1 RRC ID #N/A	GIDDINGS (AUSTIN CHAL	0.0	PERRY PIPELINE CO
-BILL FORNEY INC				RECEIVED: 12/05/83 JA: TX					
8410640	F-02-072269	4225530650		102-4		J H SPURLOCK #1	SOUTHWEST MCCASKILL	100	0 ELIZABETHTOWN GAS
-BIRDWELL BAKER				RECEIVED: 12/05/83 JA: TX					
8410669	F-03-073825	4247130244		102-4		CENTRAL COAL & COKE #2	MORGAS EAST (JACKSON	50.0	MORGAS CO
-BORGER WELDING INC				RECEIVED: 12/05/83 JA: TX					
8410707	F-10-074510	4206500000		103		O'NEAL #1	PANHANDLE CARSON	50	0 GETTY OIL CO
-BRC PETROLEUM INC				RECEIVED: 12/05/83 JA: TX					
8410578	F-03-066907	4207100000		102-4		W L PATTILLO #1	PROPOSED TURTLE BAY (	0.0	UNITED TEXAS TRAN
-BUFFTON OIL & GAS INC				RECEIVED: 12/05/83 JA: TX					
8410609	F-09-071472	4223700000		103		POLK-PATTON #3	BOONSVILLE BEND (CONG	182.5	LONE STAR GAS CO
-BURK ROYALTY CO				RECEIVED: 12/05/83 JA: TX					
8410692	F-LD-07424	4235731254		103	107-TF	B F SCHULTZ #2	PERRYTON W (CLEVELAND	0	0 NORTHERN NATURAL
-C F LAWRENCE & ASSOC INC				RECEIVED: 12/05/83 JA: TX					
8410723	F-08-074968	4237134431		103		MCMURTRY #13	LEHR-APCO	0.0	APACHE GAS CORP
-C R GOBER				RECEIVED: 12/05/83 JA: TX					
8410659	F-7B-073499	4244733395		102-4		R C LITTLE #1	KINGS CREEK (MISS)	3	0 HST GATHERING CO
8410658	F-7B-07349	4244700000		102-4		R C LITTLE #2	KINGS CREEK (CADDO)	0	0 HST GATHERING CO
-CABOT PETROLEUM CORP				RECEIVED: 12/05/83 JA: TX					

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8410737	F-10-075242	4239330922		103		LOWE #50-A-2
8410736	F-7C-075234	4241331284		103		WHITTEN "A" #2 (106759)
				RECEIVED:	12/05/83	JA: TX
-CADDO CORP						
8410731	F-7B-075206	4215131649		103		J F DOZIER #2
				RECEIVED:	12/05/83	JA: TX
-CARLSON PETROLEUM CO						
8410554	F-06-056278	4240131455		102-2		KANGERGA #1
				RECEIVED:	12/05/83	JA: TX
-CENTURY ENERGY INC						
8410587	F-01-069565	4250700000		103		LORA LYLES #3
8410599	F-01-070670	4250731954		103		LORA LYLES #4
				RECEIVED:	12/05/83	JA: TX
-CHAMPLIN PETROLEUM COMPANY				107-TF		P C PERNER "199" #1
				RECEIVED:	12/05/83	JA: TX
8410558	F-7C-058935	4210533242		108		L C JONES A-1
				RECEIVED:	12/05/83	JA: TX
-CHARLES E HANNON				103	107-TF	ADAMS #4-153
8410694	F-08-07428	4232900000				
				RECEIVED:	12/05/83	JA: TX
-CHESAPEAKE BAY GAS GATH & CROCKETT				103		W L FOSTER 1 #72
8410656	F-7C-073318	4210524386		103		W L FOSTER 1 #76
				103		W L FOSTER 1 #77
-CHEVRON U S A INC				103		W L FOSTER 1 #79
8410825	F-08-075486	4222733011		103		W L FOSTER 1 #80
8410820	F-08-075479	4222733065		103		W L FOSTER S #17R
8410821	F-08-075480	4233532530				
8410822	F-08-075481	4233532529		RECEIVED:	12/05/83	JA: TX
8410823	F-08-075482	4222733157		108		BELCHER #1
8410824	F-08-075485	4233532464		103		WEST SEMINOLE SAN ANDRES UNIT #509
				RECEIVED:	12/05/83	JA: TX
-CITIES SERVICE OIL & GAS CORP				102-4	103	BIG MIKE "C" #1
8410677	F-06-074031	4231597501		103		C E LOURANCE #1
8410758	F-8A-075296	4216532595				
				RECEIVED:	12/05/83	JA: TX
-COMANCHE INVESTMENTS				103		C T HARRIS - 12 #1 ID
8410667	F-7B-073764	4213335084		102-4	103	CITIZENS NATL BANK OF LUBBOCK #13
8410808	F-7B-075445	4213335112		102-4	103	HUCKABEE #1
				102-4		HUNTLEY EAST SAN ANDRES UNIT #33
-CONOCO INC				102-4	103	HUNTLEY EAST SAN ANDRES UNIT #53
8410722	F-7C-074962	4210534507		102-4	103	HUNTLEY EAST SAN ANDRES UNIT #54
8410618	F-8A-071629	4216931608		102-4	103	HUNTLEY EAST SAN ANDRES UNIT #55
8410697	F-08-074317	4238931410		102-4	103	HUNTLEY EAST SAN ANDRES UNIT #57
8410608	F-8A-071455	4216900000		102-4	103	HUNTLEY EAST SAN ANDRES UNIT #58
8410617	F-8A-071628	4216900000		102-4	103	HUNTLEY EAST SAN ANDRES UNIT #59
8410616	F-8A-071627	4216900000		102-4	103	HUNTLEY EAST SAN ANDRES UNIT #60
8410615	F-8A-071626	4216931153		102-4	103	HUNTLEY EAST SAN ANDRES UNIT #63
8410614	F-8A-071625	4216900000		102-4	103	HUNTLEY EAST SAN ANDRES UNIT #64
8410613	F-8A-071624	4216931199		102-4	103	HUNTLEY EAST SAN ANDRES UNIT #66
8410612	F-8A-071623	4216931536		102-4	103	HUNTLEY EAST SAN ANDRES UNIT #67
8410611	F-8A-071622	4216931758		102-4	103	HUNTLEY EAST SAN ANDRES UNIT #68
8410623	F-8A-071641	4216931753		108		WIGHT "187" #2 ID 25220
8410622	F-8A-071640	4216931752		108		WIGHT UNIT #64 ID 20661
8410621	F-8A-071638	4216931948		108		WIGHT UNIT #85 ID 20661
8410620	F-8A-071637	4216931942				
8410619	F-8A-071636	4216931941		RECEIVED:	12/05/83	JA: TX
8410755	F-08-075291	4213533092		102-4		STATE TRACT 691-L SW/4 WELL #3-L
8410757	F-08-075293	4213500000				
8410756	F-08-075292	4213531789		RECEIVED:	12/05/83	JA: TX
-CORPUS CHRISTI OIL AND GAS CO				108-PB		R D MILLS #1
8410715	F-04-074810	4270330301				
-COTTON PETROLEUM CORPORATION				RECEIVED:	12/05/83	JA: TX
8410585	F-10-069335	4239300000		102-4		JOHN SEDWICK #15
-CROMERA OIL & GAS CO				RECEIVED:	12/05/83	JA: TX
8410738	F-7B-075244	4241735288		102-4		BLANCHARD #1
-CRYSTAL OIL AND LAND COMPANY				RECEIVED:	12/05/83	JA: TX
8410691	F-06-074237	4206730429		102-4	103	EVE #1
-DANIEL OIL COMPANY				RECEIVED:	12/05/83	JA: TX
8410633	F-01-072082	4231131719		102-4		W L ONEAL #3
-DAVID A SCHLACHTER OIL & GAS				RECEIVED:	12/05/83	JA: TX
8410584	F-06-069026	4242330644		108		BLANCHE WINSTON RRC #14840
-DELTA OIL & GAS CO				RECEIVED:	12/05/83	JA: TX
8410663	F-7B-073566	4242900000		102-4	103	NORTHWEST GARZA UNIT #209 I D 61053
-DIEKEMPER RAY J JR				102-4	103	NORTHWEST GARZA UNIT #307 I D 61053
8410632	F-8A-072072	4216900000		102-4		NORTHWEST GARZA UNIT #705T ID 61053
8410631	F-8A-072059	4216900000				
8410630	F-8A-072047	4216900000		RECEIVED:	12/05/83	JA: TX
-DISCOVERY OPERATING INC				103		LAUDERDALE #1
8410675	F-8A-073938	4231732712				
-ECHO PRODUCTION INC				RECEIVED:	12/05/83	JA: TX
8410739	F-09-075246	4250300000		102-4		CEARLEY #2
-EL PASO EXPLORATION CO				RECEIVED:	12/05/83	JA: TX
8410547	F-10-052824	4221131217		108-PB		MEEK #1
-EL PASO NATURAL GAS COMPANY				RECEIVED:	12/05/83	JA: TX
8410535	F-10-041791	4217923689		108-PB		BARNES #2
8410572	F-10-064107	4217923691		108-PB		BEASLEY #2
8410529	F-10-036504	4208726022		108-PB		BETENBOUGH #2
8410549	F-10-053982	4208726026		108-PB		BETENBOUGH A#4
8410581	F-10-067613	4208726028		108-PB		BETENBOUGH B #1
8410565	F-7C-062007	4217923696		108-PB		CALLAHAM #1
8410544	F-10-049577	4221130262		108-PB		CAMPBELL #1
8410520	F-10-022715	4221130555		108-PB		CHANDLER #1
8410510	F-7C-002531	4243530142		108-PB		COLLIER SHURLEY 18 #6
8410534	F-10-041022	4217923699		108-PB		COUSINS #1
8410541	F-10-047501	4217923702		108-PB		DARSEY #2
8410532	F-7C-038781	4243519207		108-PB		DEBERRY A #2
8410513	F-7C-003276	4243519209		108-PB		DEBERRY A #4
8410512	F-7C-003115	4243500000		108-PB		DEBERRY A #7
8410569	F-7C-062723	4243530702		108-PB		DEBERRY A #8
8410560	F-7C-059278	4243519203		108-PB		DEBERRY-BOYETT UNIT #1
8410526	F-7C-033032	4243530555		108-PB		DEBERRY-BOYETT UNIT #2
8410518	F-7C-018052	4243531003		108-PB		HALBERT #3
8410627	F-10-071872	4248326095		108-PB		HALL A #1
8410552	F-10-054499	4217923711		108-PB		HANNER X #1
8410551	F-10-054313	4217923712		108-PB		HERRINGTON #1
8410521	F-10-023815	4217923720		108-PB		HOWARD #1
8410556	F-10-058236	4217923728		108-PB		JOHNSTON #1
8410582	F-10-067614	4208726119		108-PB		KNOLL B #1
8410517	F-10-013291	4217923731		108-PB		KROUCH #1
8410550	F-10-053984	4208726155		108-PB		LUTES A #1
8410548	F-10-052827	4217923735		108-PB		MAGEE #1
8410566	F-10-062009	4248326160		108-PB		MAGNOLIA A #2
8410538	F-7C-045746	4243519213		108-PB		MARTIN #1
8410524	F-10-029850	4208726179		108-PB		MCDOWELL #5
8410562	F-10-060460	4208726180		108-PB		MCDOWELL #6

FIELD NAME	PROD	PURCHASER
LEDRICK RANCH S (UPPE	82.8	TRANSWESTERN PIPE
ELDORADO (CANYON)	44.0	FARMLAND INDUSTRI
SYLVESTER (STRAWN)	27.4	PALO DURO PIPELIN
MINDEN W (TRAVIS PEAK	109.8	TEXAS UTILITIES F
ESCONDIDO	2263.0	ESPERANZA TRANSMI
	44.5	ESPERANZA TRANSMI
PERNER RANCH (DEVONIA	3564.0	PRODUCERS GAS CO
STRAWBERRY	5.0	PHILLIPS PETROLEU
ADAMS-BAGGETT FIELD	90.8	DETROIT-TEXAS GAS
IATAN EAST HOWARD	18.3	GETTY OIL CO
IATAN EAST HOWARD	6.6	GETTY OIL CO
IATAN EAST HOWARD	5.8	GETTY OIL CO
IATAN EAST HOWARD	5.5	GETTY OIL CO
IATAN EAST HOWARD	5.8	GETTY OIL CO
IATAN EAST HOWARD	9.1	GETTY OIL CO
RODESSA (HILL SOUTH)	0.0	BRECKENRIDGE GASO
SEMINOLE WEST	38.8	CITIES SERVICE OI
DAVENPORT (RANGER M)	130.8	LONE STAR GAS CO
EASTLAND COUNTY REGUL	11.3	LONE STAR GAS CO
ESCONDIDO N W	365.0	
HUNTLEY EAST/SAN ANDR	400.0	MID PLAINS PETROC
JESS BUSHER (DELAWARE	51.8	EL PASO NATURAL G
HUNTLEY EAST (SAN AND	887.0	MID PLAINS PETROC
HUNTLEY EAST (SAN AND	40.0	MID PLAINS PETROC
HUNTLEY EAST (SAN AND	400.0	MID PLAINS PETROC
HUNTLEY EAST (SAN AND	400.0	MID PLAINS PETROC
HUNTLEY EAST (SAN AND	400.0	MID PLAINS PETROC
HUNTLEY EAST (SAN AND	400.0	MID PLAINS PETROC
HUNTLEY EAST (SAN AND	400.0	MID PLAINS PETROC
HUNTLEY EAST (SAN AND	400.0	MID PLAINS PETROC
HUNTLEY EAST (SAN AND	400.0	MID PLAINS PETROC
HUNTLEY EAST (SAN AND	400.0	MID PLAINS PETROC
HUNTLEY EAST (SAN AND	400.0	MID PLAINS PETROC
HUNTLEY EAST (SAN AND	400.0	MID PLAINS PETROC
NORTH COWDEN	3.4	AMOCO PRODUCTION
NORTH COWDEN	4.5	AMOCO PRODUCTION
NORTH COWDEN	0.4	AMOCO PRODUCTION
BLOCK 691-L (5350') F	0.0	HOUSTON PIPELINE
P D MILLS-ATOKA	0.0	MICHIGAN-WISCONSI
CROMERA (MORAN)	2.4	WARREN PETROLEUM
PODESSA	1.1	BRECKENRIDGE GASO
SAN CAJA S W (BLOCK 8	0.0	ENJET INC
CHAPEL HILL (TRAVIS P	12.8	ETEXAS PRODUCERS
STEPHENS COUNTY REGUL	0.0	LONE STAR GAS CO
GARZA	1.1	MID PLAINS PETROC
GARZA	1.1	MID PLAINS PETROC
GARZA	1.1	MID PLAINS PETROC
ACKERLY (DEAN SAND)	0.0	TEXACO INC
FRANK (4200)	0.0	SOUTHWESTERN GAS
BUFFALO WALLOW	0.0	EL PASO NATURAL G
PANHANDLE WEST	0.0	EL PASO NATURAL G
PANHANDLE WEST	0.0	EL PASO NATURAL G
PANHANDLE EAST	0.0	EL PASO NATURAL G
PANHANDLE EAST	0.0	EL PASO NATURAL G
PANHANDLE WEST	0.0	EL PASO NATURAL G
S E MENDOTA-UPPER MOR	0.0	EL PASO NATURAL G
VIKING - MORROW UPPER	0.0	EL PASO NATURAL G
SAWYER-CANYON	0.0	EL PASO NATURAL G
PANHANDLE WEST	0.0	EL PASO NATURAL G
PANHANDLE WEST	0.0	EL PASO NATURAL G
SONORA-CANYON UPPER	0.0	EL PASO NATURAL G
SONORA - CANYON UPPER	0.0	EL PASO NATURAL G
SONORA-CANYON UPPER	0.0	EL PASO NATURAL G
SONORA-CANYON UPPER	0.0	EL PASO NATURAL G
SONORA-CANYON UPPER	0.0	EL PASO NATURAL G
SONORA-CANYON UPPER	0.0	EL PASO NATURAL G
SONORA - CANYON UPPER	0.0	EL PASO NATURAL G
PANHANDLE EAST	0.0	EL PASO NATURAL G
PANHANDLE WEST	0.0	EL PASO NATURAL G
PANHANDLE WEST	0.0	EL PASO NATURAL G
PANHANDLE WEST	0.0	EL PASO NATURAL G
PANHANDLE WEST	0.0	EL PASO NATURAL G
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PANHANDLE WEST	0.0	EL PASO NATURAL G
PANHANDLE EAST	0.0	EL PASO NATURAL G
PANHANDLE WEST	0.0	EL PASO NATURAL G
PANHANDLE EAST	0.0	EL PASO NATURAL G
SONORA-CANYON UPPER	0.0	EL PASO NATURAL G
PANHANDLE EAST	0.0	EL PASO NATURAL G
PANHANDLE EAST	0.0	EL PASO NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8410527	F-7C-053181	4243519221		108-PB		MECKEL #5	SONORA-CANYON UPPER	0.0	EL PASO NATURAL G
8410537	F-7C-042712	4243530316		108-PB		MECKEL #7	SONORA-CANYON UPPER	0.0	EL PASO NATURAL G
8410555	F-10-057622	4248326201		108-PB		NELSON #1	PANHANDLE EAST	0.0	EL PASO NATURAL G
8410626	F-10-071854	4208726203		108-PB		NEUKIRK #2	PANHANDLE EAST	0.0	EL PASO NATURAL G
8410531	F-10-037519	4217923744		108-PB		REEVES #1	PANHANDLE WEST	0.0	EL PASO NATURAL G
8410543	F-7C-049576	4243500000		108-PB		SIMMONS #1	SONORA CANYON UPPER	0.0	EL PASO NATURAL G
8410516	F-7C-009196	4243530557		108-PB		THOMSON C #4	SONORA - CANYON UPPER	0.0	EL PASO NATURAL G
8410523	F-7C-030872	4243519227		108-PB		THOMSON 62 #1	SONORA-CANYON UPPER	0.0	EL PASO NATURAL G
8410519	F-10-020926	4217923757		108-PB		WILSON #1	PANHANDLE WEST	0.0	EL PASO NATURAL G
8410539	F-10-047226	4208726316		108-PB		WISCHKAEMPER A #4	PANHANDLE EAST	0.0	EL PASO NATURAL G
-ENERGY RESERVES GROUP INC				RECEIVED:	12/05/83	JA: TX			
8410749	F-7C-075280	4208131139		103		J E CHAPPELL "A" #17	JAMESON (STRAWN)	10.8	UNION TEXAS PETRO
-ENERGY RESOURCES OIL & GAS CORP				RECEIVED:	12/05/83	JA: TX			
8410709	F-01-074628	4201331558		102-4		J T PESEK #1	JOURDANTON (ANACACHO)	275.0	REATA INDUSTRIAL
-ENSERCH EXPLORATION INC				RECEIVED:	12/05/83	JA: TX			
8410704	F-7B-074446	4242900000		103		J W STOUARD UNIT #3	IVADELL	0.0	
8410689	F-7B-074208	4236732577		103		J W STURDIVANT #3	SPRINGTOWN	0.0	
8410716	F-09-074837	4219730589		103		LOVE "20" UNIT 4	LOVE (MISSISSIPPIAN)	0.0	LONE STAR GAS CO
8410649	F-05-073147	4221330371		103		T H WALLACE #3	TRI-CITIES (TRAVIS PE	0.0	LONE STAR GAS CO
-ESENJAY PETROLEUM CORP				RECEIVED:	12/05/83	JA: TX			
8410598	F-04-070538	4224931668		103		AMELIA TORRANS #4	ALICE (STILLWELL 5340	500.0	VALLEY GAS TRANSM
-EVEREST MINERALS CORP				RECEIVED:	12/05/83	JA: TX			
8410570	F-03-062791	4228731314		102-2	103	DOROTHY SIMMANG WELL #2	GIDDINGS (AUSTIN CHAL	210.0	PHILLIPS PETROLEU
-EXCELSIOR OIL CORP				RECEIVED:	12/05/83	JA: TX			
8410829	F-06-075490	4240100000		103		WILLIE ANN LINER #1	DANVILLE (PETTIT LOWE	36.0	AMALGAMATED GAS P
-EXXON CO USA				RECEIVED:	12/05/83	JA: TX			
8410533	F-08-040326	4232900000		108-PB		MARY E TURNER D #3	AZALEA	0.0	
-EXXON CORPORATION				RECEIVED:	12/05/83	JA: TX			
8410810	F-06-075447	4207330534		103		CARTER STATE (NECHES CONS OU-15) #4	NECHES (WOODBINE)	36.5	UNITED GAS PIPELI
8410807	F-03-075443	4233930586		103		CONROE FIELD UNIT #1119	CONROE	325.0	MOPAN UTILITIES C
8410805	F-06-075440	4207330513		103		HARRY LEE CARTER "C" #14	NECHES (WOODBINE)	36.5	UNITED GAS PIPELI
8410806	F-06-075442	4207330531		103		HARRY LEE CARTER "E" #6	NECHES (WOODBINE)	63.9	UNITED GAS PIPELI
8410655	F-08-073303	4210333186		103		JUDKINS GAS UNIT #2 WELL 279	SAND HILLS (JUDKINS)	51.0	EL PASO HYDROCARB
8410727	F-06-075124	4207330507		102-4	107-TF	P C PINKERTON JR #1	OVERTON	352.0	ARMCO STEEL CORP
8410717	F-06-074852	4234731017		103		SAM B HAYTER ESTATE #3	DOUGLASS W (TRAVIS PE	263.0	ARMCO STEEL CORP
8410657	F-04-073336	4204730954		103		SANTA FE RANCH 71 (ID PENDING)	SANTA FE EAST (I-05)	546.0	NATURAL GAS PIPEL
8410536	F-06-069477	4206330475		102-4		VERA MIDDLETON GAS UNIT #1 #1	REKLAW (TRAVIS PEAK)	570.0	ARMCO STEEL CORP
-FIRST TRIAD CORP				RECEIVED:	12/05/83	JA: TX			
8410695	F-7B-074300	4236732543		102-4		WOODRUFF-BLAIR #2 (GAS)	DENNIS WEST (STRAWN)	323.0	PARKER GAS INC
-FLYNN ENERGY CORP				RECEIVED:	12/05/83	JA: TX			
8410606	F-02-071368	4229700000		102-4		HERRING RANCH 67 #4	MAXINE EAST (6300)	489.0	UNITED TEXAS TRAN
-GETTY OIL COMPANY				RECEIVED:	12/05/83	JA: TX			
8410701	F-8A-074411	4207900000		108		SOUTHWEST LEVELLAND UNIT #48	LEVELLAND	2.0	CITIES OIL & GAS
-GLENN COPE				RECEIVED:	12/05/83	JA: TX			
8410794	F-10-075391	4208700000		103		MELVIN BAILEY #1	EAST PANHANDLE	0.0	HIGH PLAINS NATUR
-GOLDSTON OIL CORP				RECEIVED:	12/05/83	JA: TX			
8410720	F-01-074949	4231131865		102-4	103	T J MARTIN GAS UNIT #2 WELL #1-T	ROOS (1350')	73.0	TENNESSEE GAS PIP
-GREENWOOD INDUSTRIES INC				RECEIVED:	12/05/83	JA: TX			
8410583	F-7B-068364	4209331084		102-4		MOORE #2	MOORE (MARBLE FALLS)	2000.0	ENERGY PIPELINE C
-GULF OIL CORPORATION				RECEIVED:	12/05/83	JA: TX			
8410559	F-10-059225	4219530014		108-PB		BUCKNER BAPTIST #1	CLEMENTINE	0.0	NORTHERN NATURAL
8410542	F-10-049146	4219535319		108-PB		CLEMENTINE #1	CLEMENTINE	0.0	NORTHERN NATURAL
8410685	F-10-074127	4229530858		107-TF		HAROLD PEERY #3-766	PEERY (MARMATON)/CLEV	19.4	TRANSWESTERN PIPE
8410684	F-10-074126	4229531005		107-TF		HAROLD PEERY #4-766	PEERY (CLEVELAND)/CLE	17.5	TRANSWESTERN PIPE
8410687	F-10-074129	4229531004		107-TF		HAROLD PEERY #5-766	PEERY (CLEVELAND)/CLE	184.6	TRANSWESTERN PIPE
8410683	F-10-074125	4229531226		107-TF		HAROLD PEERY #6-766	PEERY (CLEVELAND)/CLE	93.5	TRANSWESTERN PIPE
8410682	F-10-074124	4229531211		107-TF		HAROLD PEERY #7-766	PEERY (CLEVELAND)/CLE	72.1	TRANSWESTERN PIPE
8410681	F-10-074123	4229531210		107-TF		HAROLD PEERY #8-766	PEERY (MARMATON)/CLE	56.5	PHILLIPS PETROLEU
8410754	F-08-075287	4247532919		103		HUTCHINGS STOCK ASSN #1245	WARD-ESTES NORTH	8.0	CABOT CORP
8410753	F-08-075286	4247532845		103		HUTCHINGS STOCK ASSN #1246	WARD-ESTES NORTH	3.4	CABOT CORP
8410752	F-08-075285	4247532878		103		HUTCHINGS STOCK ASSN #1248	WARD-ESTES NORTH	9.6	CABOT CO P
8410571	F-08-063972	4238932143		103		J R F WOODS ET AL #1	HANON NORTHWEST (DELA	50.0	TRANSWESTERN PIPE
8410676	F-08-073988	4210331500		103		J T MCELROY CONSOL #975	MCELROY	7.0	PHILLIPS PETROLEU
8410553	F-10-054816	4221130642		108-PB		JENKIE CAMPBELL #1-I	S W CANADIAN	0.0	TRANSWESTERN PIPE
8410653	F-09-073190	4223795041		108		NORTH RIGGS WELL #1	BOONSVILLE BEND CONGL	6.2	SOUTHWESTERN GAS
8410680	F-10-074122	4229531006		107-TF		PEARL WHEAT #2-765	PEERY (CLEVELAND)/CLE	179.4	TRANSWESTERN PIPE
8410686	F-10-074128	4229531209		107-TF		PEARL WHEAT #4-765	PEERY (CLEVELAND)/CLE	8.8	TRANSWESTERN PIPE
8410568	F-10-062158	4235760082		108-PB		R H HOLLAND A #1	FRANTZ	0.0	PANHANDLE EASTERN
8410567	F-10-062153	4219535314		108-PB		W B BARNES #1	HANSFORD-UPPERMORROW	0.0	NORTHERN NATURAL
8410575	F-10-065570	4231130916		108-PB		W CAMPBELL #3-56	PED DEER CREEK	8.0	TRANSWESTERN PIPE
-HAMMAN OIL & REFINING CO				RECEIVED:	12/05/83	JA: TX			
8410594	F-03-069891	4208931310		102-4		CRANZ #1	STARR-LITE N (WILCOX	2.5	
8410573	F-03-064351	4207131303		102-4		WILCOX HEIRS #3	TRINITY RIVER DELTA (	182.5	UNITED TEXAS TRAN
-HANLEY PETROLEUM INC				RECEIVED:	12/05/83	JA: TX			
8410714	F-08-074793	4213534061		103		FOSTER "A" WELL #1	EDWARDS WEST (CANYON)	40.0	PHILLIPS PETROLEU
-HANSON MINERALS CO				RECEIVED:	12/05/83	JA: TX			
8410664	F-02-073640	4229733292		102-4		MEIDER GAS UNIT WELL #2	COQUAT (10,500')	1.1	PANHANDLE GAS CO
-HCW EXPLORATION INC				RECEIVED:	12/05/83	JA: TX			
8410814	F-09-075463	4223732410		108		CAMPBELL-WOOD #2 ID #086279	NEWPORT SOUTH (ATOKA	6.7	CITIES SERVICE CO
8410812	F-09-075460	4223732445		108		J D COLLIE #1 ID #082414	MARINA-MAG (CONGLOMER	11.4	SOUTHWESTERN GAS
8410813	F-09-075461	4223733478		108		LOYD CLAY #1 ID #021298	JACK COUNTY REGULAR	3.5	LONE STAR GAS CO
8410816	F-7B-075466	4236731962		108		MILO ANDERSON #1 ID #091455	RENO (CONGLOMERATE)	2.0	LONE STAR GAS CO
8410815	F-7B-075465	4236731304		108		ROBERT BRYANT #1 ID #087913	RENO (CONGLOMERATE)	3.5	LONE STAR GAS CO
-HERD PRODUCING CO & WESSELY				RECEIVED:	12/05/83	JA: TX			
8410665	F-05-073642	4229330667		103	107-TF	TRIPLE H RANCH GU NO 1 WELL #2	FARRAR (COTTON VALLEY	1505.0	TEXAS UTILITIES F
-HIGHLAND RESOURCES INC				RECEIVED:	12/05/83	JA: TX			
8410662	F-02-07352	4228531309		102-4	103	BRUSHY CREEK GAS UNIT WELL #7	BRUSHY CREEK (YEGUA 5	250.0	TEXAS EASTERN TRA
8410643	F-02-072403	4228531716		103		BRUSHY CREEK GAS UNIT WELL #8	BRUSHY CREEK (5150) F	100.0	TEXAS EASTERN TRA
-HOUSTON OIL & GAS CO INC				RECEIVED:	12/05/83	JA: TX			
8410791	F-7B-075374	4208333534		102-4		FAUBION #1 (19826)	HRUBETZ (ELLENBURGER)	1.0	UNION TEXAS PETRO
8410790	F-7B-075373	4239932789		102-4		FAUBION #2 (19826)	HRUBETZ (ELLENBURGER)	75.0	UNION TEXAS PETRO
8410789	F-7B-075372	4208333573		102-4		FAUBION #3 (19826)	HRUBETZ (ELLENBURGER)	43.0	UNION TEXAS PETRO
8410788	F-7B-075371	4239932788		102-4		ROSSON #1 (20077)	HRUBETZ (ELLENBURGER)	36.0	UNION TEXAS PETRO
-HPC INC				RECEIVED:	12/05/83	JA: TX			
8410564	F-02-061315	4228531361		102-4	103	HUGH R GOODRICH #1	LAVACA RIVER (1700')	39.0	TEXAS EASTERN TRA
-HRUBETZ OIL CO				RECEIVED:	12/05/83	JA: TX			
8410817	F-7B-075468	4208333590		102-4		LUCY GRAY #2	HRUBETZ (ELLEN)	0.5	LONE STAR GAS CO
8410818	F-7B-075469	4208333622		102-4		LUCY GRAY #3	HRUBETZ (ELLEN)	0.5	LONE STAR GAS CO
-J A WILBURN				RECEIVED:	12/05/83	JA: TX			
8410751	F-7B-075282	4215131457		103		E L OGDEN #1	CLAYTONVILLE (CANYON	15.0	TIPPERARY CORP
8410750	F-7B-075281	4215131462		103		L L STUART "C" #1	CLAYTONVILLE (CANYON	17.0	TIPPERARY CORP
-J M HUBER CORPORATION				RECEIVED:	12/05/83	JA: TX			
8410828	F-10-075489	4219530851		103		STEELE COLLARD "B" #2L	HANSFORD (MARMATON)	20.0	PHILLIPS PETROLEU
8410827	F-10-075488	4219530850		103		STEELE COLLARD "B" #3	HANSFORD (MARMATON)	20.0	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	GPOD	PURCHASER
-J R HAMILTON				RECEIVED:	12/05/83	JA: TX			
8410670	F-04-073831	4213100000		102-4		OLVERA #4	J R (5505)	188.0	VALERO TRANSMISSI
-J-O'B OPERATING CO				RECEIVED:	12/05/83	JA: TX			
8410674	F-06-073937	4207330495		102-4		WOMACK-HERRING #1	PERCY WHEELER (TRAVIS	183	0 UNITED GAS PIPE L
-JAMES K ANDERSON INC				RECEIVED:	12/05/83	JA: TX			
8410696	F-7C-074309	4239932639		102-4		PITCHFORD-STATE #1	MELANIE A (JENNINGS S	800.0	UNION TEXAS PETRO
8410700	F-7B-074388	4244132397		102-4		SEARS "D" #1	E J NORTH (FRY)	200.0	UNION TEXAS PETRO
-JOHN L COX				RECEIVED:	12/05/83	JA: TX			
8410645	F-7C-072583	4246131579		103		DOLLIE #1 RRC 10256	SPRABERRY (TA)	10	0 PHILLIPS PETROLEU
8410772	F-08-075321	4217331419		103		GLENN RILEY #5	SPRABERRY (TA)	10	0 EL PASO NATURAL G
8410580	F-7C-067417	4238300000		103		ROCKEN B "70" #1	SPRABERRY (TA)	10.0	EL PASO NATURAL G
8410636	F-7C-072229	4238332584		103		ROCKER B "O" #2 RRC #5172	SPRABERRY (TA)	10.0	EL PASO NATURAL G
8410637	F-7C-072230	4238332585		103		ROCKER B "O" #21 RRC #05172	SPRABERRY (TA)	10.0	EL PASO NATURAL G
8410639	F-7C-072235	4238332591		103		ROCKER B "Q" #19 RRC #05289	SPRABERRY (TA)	10.0	EL PASO NATURAL G
8410638	F-7C-072234	4238332583		103		ROCKER B "T" #14 RRC #05416	SPRABERRY (TA)	10	0 EL PASO NATURAL G
8410589	F-7C-069663	4238332533		103		ROCKER B "117" #1	SPRABERRY (TA)	10	0 EL PASO NATURAL G
8410590	F-7C-069666	4238332531		103		ROCKER B "153" #1 RRC #10119	SPRABERRY (TA)	10.0	EL PASO NATURAL G
8410642	F-7C-072353	4238332576		103		ROCKER B "153" #2 RRC#10119	SPRABERRY (TREND AREA	10.0	EL PASO NATURAL G
-KAARI OIL CO				RECEIVED:	12/05/83	JA: TX			
8410741	F-10-075261	4206531455		103		W E COBB #3 (ID# 05414)	PANHANDLE CARSON	40.0	CAPOT PIPELINE CO
-KATLACO OPERATING CO INC				RECEIVED:	12/05/83	JA: TX			
8410561	F-7B-060341	4213334074		108		GARL GORR #1 (18938)	KLEINER (LAKE SAND)	40.0	EL PASO HYDROCARB
-KORMAN OPERATING INC				RECEIVED:	12/05/83	JA: TX			
8410778	F-7C-075342	4232900000		108		VOLKMANN #1	WILHELM LANE W/STRAWN	11.0	SUN OIL CO
-L R SPRADLING				RECEIVED:	12/05/83	JA: TX			
8410706	F-10-074509	4206500000		103		O'NEAL #3	PANHANDLE CARSON COUN	50.0	GETTY OIL CO
-LACY & BYRD INC				RECEIVED:	12/05/83	JA: TX			
8410795	F-08-075392	4232931209		103		MACKEY #1 RRC #28367	PARKS (PENNSYLVANIAN)	48.0	MOBIL PRODUCING T
-LADD PETROLEUM CORPORATION				RECEIVED:	12/05/83	JA: TX			
8410699	F-7C-074366	4210534454		103	107-TF	S MILLSPAUGH #14-4	OZONA (CANYON SAND)	328	5 AMERICAN PIPELINE
-MALOUF ABRAHAM CO INC.				RECEIVED:	12/05/83	JA: TX			
8410678	F-10-074044	4221131592		103		CAMPBELL #1 WELL	CANADIAN SW (GRANITE	0	0 LESTAR TRANSMISSI
-MARSHALL EXPLORATION INC				RECEIVED:	12/05/83	JA: TX			
8410688	F-03-074149	4231330453		102-4 103		M Y VICK #5	MADISONVILLE NE (GEOR	200.0	LONE STAR GAS CO
-MCCORD EXPLORATION				RECEIVED:	12/05/83	JA: TX			
8410595	F-04-069895	4240900000		102-4		ROUNTREE #2	PLYMOUTH FIELD	0.0	HOUSTON PIPELINE
-MCKENZIE OPERATING CO INC				RECEIVED:	12/05/83	JA: TX			
8410698	F-7B-074328	4236332622		102-4		WIGGINGTON #1	MINERAL WELLS S (CONG	125.0	SOUTHWESTERN GAS
-MCMURREY PETROLEUM INC				RECEIVED:	12/05/83	JA: TX			
8410602	F-03-071135	4204130937		102-4 103		BRIGHT SKY RANCH #3 ID #16498	KURTEN	0	0 FERGUSON CROSSIN
8410693	F-03-074267	4204130980		102-4 103		CHEAPSIDE #1 RRC PERMIT NO 202034	BRYAN	0	0 VANGUARD PIPELI
8410673	F-03-073880	4204130926		102-4 103		TRANT #1 RRC LEASE NO 16739	BRYAN	0	0
-MCR OIL CORP OF TEXAS				RECEIVED:	12/05/83	JA: TX			
8410605	F-10-071307	4221131575		103		STATE #3-156	CANADIAN S E (DOUGLAS	234.0	ARKANSAS LOUISI
-MICHAEL F CUSACK				RECEIVED:	12/05/83	JA: TX			
8410603	F-04-071234	4213100000		103		DUVAL COUNTY RANCH CO 3-55	LOPEZ NORTH (COLE)	0.0	UNITED TEXAS TRAN
-MID-AMERICA PETROLEUM INC				RECEIVED:	12/05/83	JA: TX			
8410780	F-7C-075345	4238332263		103		JIM DIXON #6	SPRABERRY (TREND AREA	9	0 NORTHERN NATURAL
8410782	F-7C-075348	4238332278		103		SHAW #5	SPRABERRY (TREND AREA	9.5	NORTHERN NATURAL
8410784	F-7C-075352	4238332288		103		SHAW #6	SPRABERRY (TREND AREA	9.0	NORTHERN NATURAL
8410785	F-7C-075353	4238332279		103		SHAW #7	SPRABERRY (TREND AREA	13.0	NORTHERN NATURAL
8410781	F-7C-075347	4238332180		103		TURNER #5	SPRABERRY (TREND AREA	9	0 NORTHERN NATURAL
8410783	F-7C-075351	4238332181		103		TURNER #6	SPRABERRY (TREND AREA	9.0	NORTHERN NATURAL
-MITCHELL ENERGY CORPORATION				RECEIVED:	12/05/83	JA: TX			
8410725	F-8A-075046	4250132362		103		COOPER-SLOAN #1	SABLE (SAN ANDRES)	8.8	
8410557	F-09-058556	4223700000		108-PB		EUGENE MOSER #2	CRAFTON WEST	0.0	CITIES SERVICE OI
8410577	F-09-066238	4249732473		102-4 103		J D KARNES #7-L	NEWARK EAST (BARNETT	213.9	NATURAL GAS PIPEL
8410726	F-09-075047	4236732521		103		J M HART #2	BOONSVILLE (BEND CONG	294.6	LONE STAR GAS CO
8410740	F-09-075251	4249700000		108		JAMES D BENTLEY #2 049167	BOONSVILLE (BEND CONG	0	0 NATURAL GAS PIPEL
8410528	F-03-036061	4231300000		108-PB		JAMES LANG #1	MADISONVILLE	0.0	LONE STAR GAS CO
8410730	F-09-075164	4249732605		103		S R BAILEY #2	BOONSVILLE (BEND CONG	276.7	NATURAL GAS PIPEL
8410819	F-09-075472	4249732546		103		TARRANT CTY WATERBOARD #30 #17355	MORRIS (CONSOLIDATED	162.5	NATURAL GAS PIPEL
8410690	F-09-074230	4249732566		103		W S COLEMAN #2	BOONSVILLE (BEND CONG	170.9	NATURAL GAS PIPEL
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	12/05/83	JA: TX			
8410563	F-7C-060795	4244300000		108-PB		BROWN MCNINCH EST #3	BROWN BASSETT	0	0 EL PASO NATURAL G
8410713	F-10-07478	4229531341		103		WILLIAM T BROWNLEE #4	KELLN (TONKAWA OIL)	9.1	PHILLIPS PETROLEU
-MONTERO OPERATING INC				RECEIVED:	12/05/83	JA: TX			
8410654	F-7C-073234	4235331463		103		JAMESON "A" #1	SILVER (CANYON)	9.0	SUN EXPLORATION &
-MORAN EXPLORATION INC				RECEIVED:	12/05/83	JA: TX			
8410719	F-7C-07492	4223531550		108		MAYER "A" WELL #1 RRC 08568	SPRABERRY (TREND AREA	8.7	NORTHERN NATURAL
8410718	F-7C-07492	4223530698		108		ROCKER B-105 WELL #1 RRC 73677	ELA SUGG (WOLFCAMP)	17.4	NORTHERN NATURAL
-MR OIL CO				RECEIVED:	12/05/83	JA: TX			
8410771	F-08-075316	4247532796		103		JOHNSON -B- #15	WARD-ESTES NORTH	19.0	WESTERN COUNTIES
-MWJ PRODUCING COMPANY				RECEIVED:	12/05/83	JA: TX			
8410668	F-08-073810	4217331217		103		TXL 27 "A" #2	SPRABERRY (TREND AREA	42.0	TEXACO INC
-NATURAL RESOURCES CORP				RECEIVED:	12/05/83	JA: TX			
8410733	F-03-075221	4208900000		107-PE		NRC HERDER #1 RRC NO 045739	EAST RAMSEY	0.0	AMOCO PRODUCTION
-NEWTON OIL & GAS CORP				RECEIVED:	12/05/83	JA: TX			
8410703	F-01-074428	4228330968		102-4		LYSSY #1	TRI BAR NORTH (OLMOS)	191	0 HOUSTON PIPE LINE
-NORTHERN NATURAL GAS PRODUCING CO				RECEIVED:	12/05/83	JA: TX			
8410576	F-10-066200	4206500000		108-PB		BURNETT SEC 80 #1090	PANHANDLE WEST	0.0	NORTHERN NATURAL
-NORTHRIDGE OIL CO				RECEIVED:	12/05/83	JA: TX			
8410779	F-09-075344	4207733130		103		BORGMAN "B" B-1	BLUE GROVE (CADDO)	6.0	FAGADAU ENERGY CO
8410769	F-09-075313	4223735258		102-4		LEASE #23385	BARFIELD (CONG)	26.0	TEXAS UTILITIES F
8410770	F-09-075314	4223735343		102-4		LEASE #23385	BARFIELD (CONG)	9.0	TEXAS UTILITIES F
-OLYMPIA OIL CO INC				RECEIVED:	12/05/83	JA: TX			
8410728	F-7B-075156	4208333364		102-4		HALE #1 (106767)	HRUPETZ (ELLENBURGER)	1277.0	UNION TEXAS PETRO
-PATTERSON PETROLEUM INC				RECEIVED:	12/05/83	JA: TX			
8410601	F-03-070821	4214931546		102-2		H D HAVEMANN #1	GIDDINGS (AUSTIN CHAL	420	0 PHILLIPS PETROLEU
8410647	F-03-073096	4214931491		102-2		T A EMBESI #1	GIDDINGS (AUSTIN CHAL	475.0	PHILLIPS PETROLEU
-PED OIL CORP				RECEIVED:	12/05/83	JA: TX			
8410625	F-7C-071800	4246100000		103		X B COX #2	SPRABERRY (TREND AREA	8.0	PHILLIPS PETROLEU
-PEND OREILLE OIL & GAS CO				RECEIVED:	12/05/83	JA: TX			
8410629	F-03-072011	4216730925		102-4		RUTH MARSHALL ET AL CU #1	SAN LEON	1468.0	HOUSTON LIGHTING
-PERRY OIL & GAS CO				RECEIVED:	12/05/83	JA: TX			
8410661	F-03-073511	4214931575		102-3		MATTHEW UNIT #1	GIDDINGS (AUSTIN CHAL	73.0	SOUTH CENTER GAS
-PETRO-MEGA INC				RECEIVED:	12/05/83	JA: TX			
8410787	F-7B-075369	4208333542		103		DANIELS #2 (19541)	WILLIAMS	23.0	UNION TEXAS PETRO
-PHILLIPS OIL CO				RECEIVED:	12/05/83	JA: TX			
8410644	F-06-072415	4242330665		103		BISHOP MOSELEY #2	CHAPEL HILL N E (TRAV	120.0	ETEXAS PRODUCERS
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	12/05/83	JA: TX			
8410776	F-08-075327	4249531274		108		BASH #13 (16091)	KEYSTONE (COLBY)	6.0	SID RICHARDSON GA
8410773	F-08-075323	4200304520		108		EMBAR-B #22 (08769)	GOLDSMITH (5600)	24.0	EL PASO NATURAL G
8410774	F-08-075324	4200304521		108		EMBAR-B #23 (08769)	GOLDSMITH (5600)	22.0	EL PASO NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8410766	F-10-075307	4234100000		108		JOANNA #2	PANHANDLE WEST	■.0	EL PASO NATURAL G
8410511	F-10-002739	4221100000		108-PB		JONES N #2	FELDMAN - CHEROKEE	■.0	PANHANDLE EASTERN
8410777	F-08-075328	4249503453		108		MCCABE F P #6 (21555)	HALLEY	3.0	EL PASO NATURAL G
8410767	F-10-075308	4223300000		108		POOL R L #1	PANHANDLE WEST .	0.■	EL PASO NATURAL G
8410775	F-08-075326	4249510859		108		UNIVERSITY LANDS-R #1 (42158)	WAR-WINK (5085 DELAWA	21.0	EL PASO NATURAL G
-PIONEER PRODUCTION CORPORATION				RECEIVED:	12/05/83	JA: TX			
8410596	F-10-070498	4239300000		102-4 103		GILL #2-32R	GILL FIELD	0.0	WESTAR TRANSMISSI
8410514	F-10-007077	4229500000		108-PB		JOE BARTON #1	MAMMOTH CREEK NORTH	0.0	NORTHERN NATURAL
8410546	F-10-052244	4229500000		108-PB		MUGG ESTATE #1	MAMMOTH CREEK NORTH	■.0	NORTHERN NATURAL
8410536	F-10-041791	4229500000		108-PB		REDELSPERGER #1	MAMMOTH CREEK NORTH	0.0	NORTHERN NATURAL
8410515	F-10-007079	4229500000		108-PB		SCHULTZ UNIT #1	MAMMOTH CREEK - NORTH	0.0	NORTHERN NATURAL
-PITTS ENERGY CO				RECEIVED:	12/05/83	JA: TX			
8410724	F-08-074996	4231732711		103		BURCHETT #1	SPRABERRY (TREND AREA	13.1	PHILLIPS PETROLEU
-QUANICO OIL & GAS INC				RECEIVED:	12/05/83	JA: TX			
8410604	F-7B-071297	4204933530		102-4		J W ADAMS #1	TRICKHAM (CAPPS)	7.3	EL PASO HYDROCARB
8410668	F-7B-073495	4204933609		102-4		J W ADAMS #2	TRICKHAM (CAPPS)	7.3	EL PASO HYDROCARB
-R A W ENERGY CORP				RECEIVED:	12/05/83	JA: TX			
8410671	F-7B-073851	4236732507		102-4		G WARD-AIRPORT #1	MINERAL WELLS S (STRA	250 0	SOUTHWESTERN GAS
8410702	F-7B-074417	4236732423		102-4		WILEY "A" #1-B	DICEY S (STRAWN)	100.0	TEXAS UTILITIES F
-REATA OIL & GAS CORP				RECEIVED:	12/05/83	JA: TX			
8410574	F-03-065513	4231330412		102-4		MARY C BRADFORD #1	MADISONVILLE W (GEORG	3.0	LONE STAR GAS CO
-REUBEN B KNIGHT				RECEIVED:	12/05/83	JA: TX			
8410768	F-09-075312	4249731234		108		J R SINGLETON #1	BOONESVILLE (PEND CON	20.■	NATURAL GAS PIPEL
-RICHARDS PRODUCING CO				RECEIVED:	12/05/83	JA: TX			
8410710	F-03-074652	4232131274		103		DYKES & SWANSON #1	SUGAR VALLEY N (UNION	100.0	HOUSTON PIPE LINE
-ROSE O E				RECEIVED:	12/05/83	JA: TX			
8410735	F-7B-075227	4213300000		108		M L WOODS #2 (037199)	EASTLAND COUNTY REGUL	243.0	LONE STAR GAS CO
-RUTHERFORD OIL CORP				RECEIVED:	12/05/83	JA: TX			
8410811	F-03-07545	4236130464		102-4		NELDA C STARK #2	PEVETO (9,600)	730.0	TEJAS GAS CORP
-SANTA FE ENERGY PRODUCTS CO				RECEIVED:	12/05/83	JA: TX			
8410796	F-06-075394	4222530463		102-2		EASTHAM STATE FARM #2	EASTHAM STATE FARM (G	500 0	SOUTH TEXAS GATHE
8410797	F-03-075395	4214931536		102-2		MATTINGLY #1	GIDDINGS (AUSTIN CHAL	140.■	
-SCANDRILL INC				RECEIVED:	12/05/83	JA: TX			
8410624	F-09-071661	4223735325		102-4		KILLEN #3	POSELAND (ATOKA CONGL	159.9	LONE STAR GAS CO
-SOUTHLAND ROYALTY CO				RECEIVED:	12/05/83	JA: TX			
8410522	F-7C-025359	4243500000		108-PB		B M HALBERT #2	SONORA - CANYON UPPER	0.0	EL PASO NATURAL G
8410505	F-7C-000284	4210530216		108-PB		CLEGG 1-83	OZONA	■.0	NORTHERN NATURAL
8410506	F-7C-000291	4210530215		108-PB		DOLLYE COATES 1-69 #1	OZONA	0.0	NORTHERN NATURAL
8410530	F-7C-036652	4210500000		108-PB		IRA CARSON #2-54	OZONA	■.■	NORTHERN NATURAL
8410523	F-7C-025360	4210500000		108-PB		MOODY ESTATE #1-53	OZONA	0.■	NORTHERN NATURAL
8410507	F-7C-000297	4243500000		108-PB		SHURLEY B-1	SHURLEY RANCH CANYON	0.■	EL PASO NATURAL G
8410509	F-7C-000299	4216530226		108-PB		ZIPP RANCH 1-34 #1	OZONA	0.0	NORTHERN NATURAL
8410508	F-7C-000298	4210530229		108-PB		ZIPP RANCH 2-34 #1	OZON	0.0	NORTHERN NATURAL
-STEVE STAMPER				RECEIVED:	12/05/83	JA: TX			
8410793	F-09-075384	4223700000		103		T D WILLIAMS #1	JACK COUNTY REGULAR	47 ■	
-SUN EXPL. & PROD. CO. - HOUSTON				RECEIVED:	12/05/83	JA: TX			
8410826	F-7C-075487	4210534188		103		UNIVERSITY "D" #15	FARMER (SAN ANDRES)	7.0	J L DAVIS
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	12/05/83	JA: TX			
8410764	F-8A-075303	4221933850		103		CENTRAL LEVELLAND UNIT #279	LEVELLAND	8 ■	AMOCO PRODUCTION
8410540	F-7C-047488	4210500000		108-PB		COX #1-22	OZONA CANYON SAND	0 0	NORTHERN NATURAL
8410708	F-04-074568	4242700000		108		I V MONTALVO -A- #9L	SUN	15.0	TRANSCONTINENTAL
8410732	F-7B-075218	4215131185		103		PEARCE HOLLAND #2	PARDUE	7 0	
-SUPERIOR OIL CO				RECEIVED:	12/05/83	JA: TX			
8410634	F-03-072105	4228731372		102-2 103		SHELLY BRANCH UNIT #3 WELL #2	GIDDINGS (AUSTIN CHAL	116.0	PERRY PIPELINE CO
-TAUBERT STEED GUNN & MEDDERS				RECEIVED:	12/05/83	JA: TX			
8410712	F-8A-074737	4226931150		102-4		S B BURNETT ESTATE "NA" 34	ANNE TANDY (STRAWN 54	17.0	LONE STAR GAS CO
-TED TRUE INC				RECEIVED:	12/05/83	JA: TX			
8410652	F-10-073171	4234130965		103		BRENT 65-5	PANHANDLE MOORE COUNT	0.0	HOUSTON PIPE LINE
8410651	F-10-073169	4234130962		103		BRENT 65-7	PANHANDLE MOORE COUNT	0.0	HOUSTON PIPE LINE
8410650	F-10-073168	4234130963		103		BRENT 65-8	PANHANDLE MOORE COUNT	0.0	HOUSTON PIPE LINE
-TELSTAR CORP				RECEIVED	12/05/83	JA: TX			
8410711	F-7B-074716	4236732562		102-4		RICHARDS #1 ID NUMBER APPLIED FOR	DENNIS WEST (STRAWN)	65 0	TEXAS UTILITIES F
-TEXACO INC				RECEIVED:	12/05/83	JA: TX			
8410648	F-08-073144	4243131343		102-4		STERLING "T" FEE #5	CONGER SW	318 3	VALERO TRANSMISSI
8410646	F-8A-072951	4216532598		103		WHARTON UNIT #132	HARRIS	1.5	PHILLIPS PETROLEU
-TEXAS INTERNATIONAL PET CORP				RECEIVED:	12/05/83	JA: TX			
8410588	F-03-069650	4205131489		102-2		BOHACEK #3	BIG "A" TAYLOR FIELD	0.■	CLAJON GAS CO
-THOMPSON J CLEO & JAMES CLEO JR				RECEIVED:	12/05/83	JA: TX			
8410705	F-7C-074486	4210534583		102-4 107-TF		UNIVERSITY 31-30E #2	UNIVERSITY 31 (STRAWN	300.0	
-TRACY OIL INC				RECEIVED:	12/05/83	JA: TX			
8410742	F-10-075265	4217931370		103		HOLT #2 (ID# 05419)	PANHANDLE GRAY	47.■	CITIES SERVICE CO
-TUCKER DRILLING COMPANY INC				RECEIVED:	12/05/83	JA: TX			
8410579	F-7C-067316	4243500000		108-PB		COLLIER SHURLEY #4	SAWYER (CANYON)	15.■	EL PASO NATURAL G
8410809	F-7C-07544	4223532139		102-2 103		MAGRUDER #3	ROCK PEN (CANYON)	164.3	
8410545	F-7C-049816	4243500000		108-PB		NED DUNBAR #7	SAWYER (CANYON)	15 0	EL PASO NATURAL G
-TXO PRODUCTION CORP				RECEIVED:	12/05/83	JA: TX			
8410597	F-02-070532	4223931866		102-4		BLANKENSHIP G U 4	MORALES	0.0	DELHI GAS PIPELIN
8410600	F-02-070741	4229700000		102-4		MCCLELLAND D-1	OAKVILLE (WILCOX 9700	0.0	DELHI GAS PIPELIN
8410592	F-02-069743	4223931854		102-4		MUSSELMAN I-1	MCDANIEL (1990')	0.0	REATA INDUSTRIAL
-U S OPERATING INC				RECEIVED:	12/05/83	JA: TX			
8410593	F-03-069801	4228731331		102-2		JOAN #2 RRC ID # NA	GIDDINGS (AUSTIN CHAL	0.0	PERRY PIPELINE CO
-VOLVO PETROLEUM INC				RECEIVED	12/05/83	JA: TX			
8410607	F-09-071410	4209700000		102-2		MARJORIE J MCMAHON #4	WEST HANDY	0.■	LONE STAR GAS CO
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	12/05/83	JA: TX			
8410786	F-08-075367	4210333219		103		P J LEA ETAL (TR A) #152	LEA (SAN ANDRES)	50.9	EL PASO NATURAL G
-WILLIAM MOSS PROPERTIES INC				RECEIVED:	12/05/83	JA: TX			
8410666	F-7C-073709	4238532594		103		ROCKER "B" #12-1	SPRABERRY/TREND AREA	22.3	
-WILSON ENERGY INC				RECEIVED:	12/05/83	JA: TX			
8410745	F-7C-075270	4210500000		108		UNIVERSITY 12 #1	FARMER (SAN ANDRES)	0.5	J L DAVIS
8410746	F-7C-075271	4210500000		108		UNIVERSITY 12 #2	FARMER (SAN ANDRES)	1.0	J L DAVIS
8410748	F-7C-075273	4210533332		108		UNIVERSITY 2 "A" #1	FARMER (SAN ANDRES)	1.0	J L DAVIS
8410747	F-7C-075272	4210533282		108		UNIVERSITY 2 "A" #4	FARMER (SAN ANDRES)	1.0	J L DAVIS
8410744	F-7C-075269	4210500000		108		UNIVERSITY [illegible] #1	FARMER (SAN ANDRES)	1.0	J L DAVIS
8410743	F-7C-075268	4210500000		108		UNIVERSITY 9 #3	FARMER (SAN ANDRES)	1.0	J L DAVIS
-WY-VEL CORP				RECEIVED:	12/05/83	JA: TX			
8410792	F-10-075381	4217931338		103		AEBERSOLD (04904) #8	PANHANDLE	76.2	CABOT CORP
8410734	F-10-075223	4223331603		103		SOUTHLAND (04341) #17	PANHANDLE	16.8	PHILLIPS PETROLEU
-ZERO CORP OF TEXAS				RECEIVED:	12/05/83	JA: TX			
8410672	F-01-073854	4228300000		102-4		SOUTH TEXAS SYNDICATE #33-3	MULA PASTURE N (4700)	66.0	ESPERANZA TRANSMI

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Thursday
January 12, 1984

Part III

Department of Health and Human Services

Office of the Secretary

45 CFR Part 84

Nondiscrimination on the Basis of Handicap; Procedures and Guidelines Relating to Health Care for Handicapped Infants; Final Rule

VOL 49 ISS 8 JA 12 1984 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 84

Nondiscrimination on the Basis of Handicap; Procedures and Guidelines Relating to Health Care for Handicapped Infants

AGENCY: Office of the Secretary, HHS.

ACTION: Final rules.

SUMMARY: These are final rules on procedures and guidelines relating to nondiscrimination on the basis of handicap in connection with health care for handicapped infants. These rules are issued under the authority of section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of handicap in programs and activities receiving Federal financial assistance.

EFFECTIVE DATE: February 13, 1984.

FOR FURTHER INFORMATION CONTACT: Susan Shaloub, Office for Civil Rights, Department of Health and Human Services, 330 Independence Avenue, SW., Room 5514, Washington, D.C. 20201; telephone (202) 245–6585. TDD No. (202) 472–2916.

SUPPLEMENTARY INFORMATION:

I. Synopsis

These rules are the product of a careful analysis of nearly 17,000 comments submitted to the Department during the comment period provided by the proposed rules of July 5, 1983. On the basis of this analysis, the Department has made significant modifications to the proposed rules. These modifications are designed to establish a framework under which the substantial controversy that has attended the Department's efforts to strengthen enforcement of section 504 in this area can be replaced by a more cooperative effort involving the Federal Government, the medical community, private advocacy groups and state governments.

These final rules continue the Department's efforts to put in place an effective mechanism for enforcing section 504 in connection with health care for handicapped infants.

But they also initiate new efforts to make unnecessary the use of those Federal enforcement mechanisms by encouraging hospitals to establish policies and procedures to implement the principle that treatment decisions for handicapped infants be based on reasonable medical judgments, and medically beneficial treatment not be withheld solely on the basis of an infant's present or anticipated mental or physical impairments.

In seeking to forge a cooperative approach, the Department is encouraged by the recent development of "Principles of Treatment of Disabled Infants" by the following major medical and disability organizations: American academy of Pediatrics, National Association of Children's Hospitals and Related Institutions, Association for Retarded Citizens, Down's Syndrome Congress, Spina Bifida Association of America, American Coalition of Citizens with Disabilities, The Association for the Severely Handicapped, American Association on Mental Deficiency, and American Association of University Affiliated Programs for the Developmentally Disabled. Announced November 29, 1983, in Washington, D.C., these principles state:

> When medical care is clearly beneficial, it should always be provided. * * * Considerations such as anticipated or actual limited potential of an individual and present or future lack of available community resources are irrelevant and must not determine the decisions concerning medical care. The individual's medical condition should be the sole focus of the decision. These are very strict standards.
>
> It is ethically and legally justified to withhold medical or surgical procedures which are clearly futile and will only prolong the act of dying. However, supportive care should be provided, including sustenance as medically indicated and relief of pain and suffering. The needs of the dying person should be respected. The family also should be supported in its grieving.
>
> In case where it is uncertain whether medical treatment will be beneficial, a person's disability must not be the basis for a decision to withhold treatment. * * * When doubt exists at any time about whether to treat, a presumption always should be in favor of treatment.

In the issuance of these final rules, the Department seeks to build upon the spirit of cooperation underlying this landmark statement of principles. The major elements of the final rules are as follows:

First, the Department adopts the recommendation of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research that the Federal government encourage hospitals to establish review procedures concerning life and death decisions affecting seriously ill newborns. The rules include a model Infant Care Review Committee to assist hospitals in this effort.

Second, the rules require the posting in hospitals of an informational notice regarding the legal rights of handicapped infants. The notice requirements have been revised to permit hospitals to highlight their own policies and internal review procedures, in addition to the federal law and government contact points.

Third, the rules require that state child protective services agencies have established procedures for applying their own state laws protecting children from medical neglect.

Fourth, the appendix to the rules sets forth interpretative guidelines for applying the law in these cases. These guidelines restate the Department's interpretation that section 504 requires that health care providers not withhold nourishment or medically beneficial treatment from a handicapped infant solely on the basis of present or anticipated physical or mental impairments, but it does not interfere with reasonable medical judgments, nor require the provision of futile treatments.

Fifth, the appendix to the rules sets forth guidelines for HHS investigations of alleged civil rights violations relating to health care for handicapped infants. These guidelines provide for the participation of hospital Infant Care Review Committees, the avoidance of unnecessary investigations, the involvement of qualified medical consultants, and the protection of confidential information.

The Department hopes the issuance of these rules, which become effective in 30 days, will end the controversy that has surrounded their development. But more importantly, it is hoped the rules will foster a new process of cooperative efforts and sensible approaches to advance the principle that life and death medical treatment decisions be based on informed judgments of medical benefits and risks, and not on stereotypes and prejudices against handicapped persons.

II. Background

On April 30, 1982, President Reagan instructed the Secretary of Health and Human Services:

> to notify health care providers of the applicability of section 504 of the Rehabilitation Act of 1973 to the treatment of handicapped patients. That law forbids recipients of federal funds from withholding from handicapped citizens, simply because they are handicapped, any benefit or service that would ordinarily be provided to persons without handicaps. Regulations under this law specifically prohibit hospitals and other providers of health services receiving federal assistance from discriminating against the handicapped.
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> * * * * *
>
> Our nation's commitment to equal protection of the law will have little meaning

if we deny such protection to those who have not been blessed with the same physical or mental gifts we too often take for granted. I support federal laws prohibiting discrimination against the handicapped, and remain determined that such laws will be vigorously enforced.

The President's instructions followed reports of the death, in Bloomington, Indiana, of an infant with Down's syndrome, from whom available surgical treatment to repair a detached esophagus was withheld.

On May 18, 1982, HHS issued to approximately 7,000 hospitals a notice stating:

> Under section 504 it is unlawful for a recipient of federal financial assistance to withhold from a handicapped infant nutritional sustenance or medical or surgical treatment required to correct a life-threatening condition if: (1) the withholding is based on the fact that the infant is handicapped; (2) the handicap does not render the treatment or nutritional sustenance medically contraindicated.

Soon after this notice, the HHS Office for Civil Rights (OCR) established expedited investigative procedures to deal with any case of a suspected discriminatory withholding of lifesustaining nourishment or medical treatment from a handicapped infant.

On March 7, 1983, HHS issued, with a scheduled effective date of March 22, 1983, an interim final rule requiring recipient hospitals to post "in a conspicuous place" in pertinent wards a notice advising of the applicability of section 504 and the availability of a telephone "hotline" to report suspected violations of the law.

On April 14, 1983, the Honorable Gerhard Gesell, United States District Judge for the District of Columbia, declared the interim final rule invalid on the grounds that it was "arbitrary and capricious" and that there was inadequate justification for waiving a public comment period prior to issuance of the regulation. *American Academy of Pediatrics* v. *Heckler*, 561 F. Supp. 395 (D.D.C. 1983). Judge Gesell declined to order the Department to discontinue use of the hotline.

On July 5, 1983, HHS issued a proposed rule in which the notice requirement was revised; provisions were added concerning state child protective service agencies; an appendix of standards and examples was added; and a 60-day comment period was provided. 48 FR 30846.

The Department received 16,739 comments, of which 16,331 (97.5%) supported the proposed rule, and 408 (2.5%) opposed it. Other aggregate descriptions are:

—Of 322 nurses, 314 (97.5%) supported, and 8 (2.5%) opposed it.
—Of 141 pediatricians or newborn care specialists, 39 (27.7%) favored, and 102 (72.3%) opposed it.
—Of 253 physicians, not including pediatricians or newborn care specialists, 140 (55.3%) favored, and 113 (44.7%) opposed it.
—Of 137 comments from hospital officials and medical, hospital, nursing and other health related association, 31 (22.6%) supported and 106 (77.4%) opposed it.
—Of 77 comments from associations representing the handicapped, all supported the proposed rule.
—Of 100 parents of handicapped persons, 95 (95%) supported and 5 (5%) opposed it.

In addition to the written comments received, a number of meetings were held after issuance of the proposed rule with representatives of interested groups. The principal HHS officials involved in these meetings were the Under Secretary and the Surgeon General. Minutes of these meetings were kept and have been included in the public comment file.

Every comment was read and analyzed. Readers determined whether the commenter was in favor of, or opposed to, the proposed rule and identified particular points made by the commenter. The decisions made by the Department in connection with the rule are based not on the volume of comments advancing any point, but on thorough consideration of the merits of the comments submitted.

III. Provisions of the Final Rules

A. INFANT CARE REVIEW COMMITTEES

The March 1983 report of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research included the following recommendation:

> The Commission concludes that hospitals that care for seriously ill newborns should have explicit policies on decisionmaking procedures in cases involving life-sustaining treatment for these infants. . . . Such policies should provide for internal review whenever parents and the attending physician decide that life-sustaining therapy should be foregone. . . .
>
> Such a review could serve several functions and the review mechanism may vary accordingly. First, it can verify that the best information available is being used. Second, it can confirm the propriety of a decision that providers and parents have reached or confirm that the range of discretion accorded to the parents is appropriate. Third, it can resolve disputes among those involved in a decision, if necessary, by siding with one party or another in a dispute. Finally, it can refer cases to public agencies (child protection services, probate courts, or prosecuting attorneys) when appropriate.

In response to a question included in the preamble, the Department received many comments regarding hospital review boards. Many commenters who expressed opposition to the rule, particularly health care providers, expressed a strong preference for the hospital review board approach over the proposed rule or any implementation or enforcement of section 504. Others opposed hospital review boards, particularly as an alternative to the proposed rule and existing HHS procedures.

The American Academy of Pediatrics, which submitted the most detailed proposal, suggested, as an alternative to the proposed rule, that all hospitals, as a condition of participation in the Medicare program (not as a requirement of section 504), establish a review committee. Under this proposal (also endorsed by the National Association of Children's Hospitals and Related Institutions, and in concept, the American Hospital Association) the committee would have three functions: (1) To develop hospital policies and guidelines for management of specific types of diagnoses; (2) to monitor adherence through retrospective record review; and (3) to review, on an emergency basis, specific cases when the withholding of life-sustaining treatment is being considered. When the committee disagreed with a parental or physician decision to withhold treatment, the case would be referred to the appropriate court or child protective agency, and treatment would be continued pending a decision. Committee membership would include a hospital administrator, a representative of a disability group, a lay community member, a member of the hospital's medical staff, and a practicing nurse.

Among the arguments advanced in favor of the creation of hospital review boards, as a substitute for the approach set forth in the proposed rule, were:

(a) They would represent a cooperative approach between the government and the health care community, rather than a confrontational approach.

(b) They would provide a vehicle by which facility "self-evaluations" can be conducted.

(c) They would assure an indepth review by persons of varied perspectives of individual, complex cases involving critically ill infants.

(d) They would provide a mechanism for ensuring that hospitals, physicians

and parents are informed of the most recent medical information concerning treatment of handicapped infants and of community services, counselling, parent support groups, and such alternative care options as adoption, foster care, and other out-of-home placements.

(c) They would lead to the involvement of child protective agencies and of the courts where it is indicated that the interests of the child are not being served.

Many commenters who expressed support for the proposed rule also expressed strong opposition to the alternative approach of hospital review boards because:

(a) Such boards cannot replace State and federal government responsibilities to protect the rights of citizens. The use of review boards would not assure that all individuals with disabilities would receive nondiscriminatory treatment as guaranteed by section 504.

(b) Such boards are virtually untested as a viable mechanism to protect handicapped infants from discriminatory practices.

A number of commenters, including the American Medical Association, the Catholic Health Association, the Federation of American Hospitals, the American College of Hospital Administrators, the American College of Physicians, the American Nurses Association, and other medical groups, expressed support for the concept of review boards, but opposed any mandate that review boards be established. The AMA added:

> While we do not support federal intervention in treatment decisions concerning seriously ill newborns, the attention brought about by the government's action should provide a continued stimulus to develop mechanisms to deal with these sensitive matters without the intrusion of the federal government into an area where it does not belong.

Response

The Department believes there is much merit in many of the comments submitted both in favor of, and in opposition to, utilization of hospital review boards to assist in the development of standard policies and protocols and to review individual cases. The Department's conclusions are as follows.

First, the Department believes review committees cannot be given an exclusive role in reviewing medical decisions concerning the withholding or withdrawal of medical or surgical treatments from handicapped infants, and thus, cannot accept the proposal of hospital review boards as a *substitute* for mechanisms to enforce section 504.

The Department does not seek to take over medical decisionmaking regarding health care for handicapped infants. HHS agrees that the best decisionmakers are generally the parents and the physicians directly involved. However, there is, and must be, a framework within which the decisionmakers, the parents and physicians, operate.

That framework is established by laws. With respect to health care professionals providing services under programs or activities receiving federal financial assistance, the framework includes section 504, which prohibits discrimination on the basis of handicap in programs or activities receiving Federal financial assistance. With respect to parents, the laws are state laws establishing limitations on parental authority. With respect to both the federal law and the respective state laws, each specifically provides implementation mechanisms involving government agencies.

The fundamental issue involved in deciding whether review boards should be a substitute for enforcement of section 504 is whether the legal framework within which the decisionmaking parents and physicians are supposed to function (and generally do function) will be utilized.

Under the proposal that review boards act in lieu of government, whether physicians or hospital review boards adhere to the principles of section 504 would be determined by those physicians and boards alone. Whether parents, physicians, or review boards adhere to state laws on the limitations of parental authority would be decided by the same physicians and boards. Whether they ever utilize the implementation schemes established by law to ensure that those principles are adhered to would also be decided by those parents, physicians, and review boards.

The Department concludes that the essential element of this alternative proposal—that it separates the process from the established legal framework governing decisionmaking by parents and physicians, with no meaningful provision to ensure that they function in accord with this framework—makes the proposal unacceptable as a substitute for the proposed rule. This alternative proposal simply does not provide sufficient safeguards that the requirements of section 504 will be met. Because section 504 is applicable to the provision of health care services to handicapped infants in programs and activities receiving Federal financial assistance, the Department believes it would not be justifiable for the Department to refrain from exercising a regulatory role to enforce the statute.

Second, the Department concludes that, although unacceptable as a substitute, review boards can be very valuable. The Department agrees with the rationale of the President's Commission and many commenters that input from a committee that includes individuals with medical expertise and people with non-medical perspectives and that is guided by proper standards and protocols can be very helpful in bringing about informed, enlightened and fair decisionmaking regarding these difficult issues. The Department, therefore, adopts the recommendation of the President's Commission that the government encourage establishment of hospital review boards.

Third, the Department concludes that the creation of hospital review boards should not be mandated by the Federal government. The Department agrees with the President's Commission that because review boards are "largely untried", they are not so demonstrably effective as to justify making them mandatory for nearly 7,000 hospitals nationwide. Also, there would be very substantial practical problems in seeking to enforce such a mandate with respect to so many hospitals. To make such a mandate viable, it would have to be accompanied by detailed standards on how to organize and operate the committee. The Department agrees with the President's Commission that flexibility is needed for each hospital to consider the best approach for itself. For example, the review board procedures may be unnecessary for small or rural hospitals that rarely encounter cases involving severely impaired newborns and that handle such cases by immediately transferring the infant to the appropriate specialty hospital.

In addition, in view of the strong opposition by major medical organizations to mandatory committees, there would likely be protracted legal proceedings challenging the regulation, whether adopted pursuant to section 504 or pursuant to authority under the Social Security Act to establish conditions of participation and standards for the Medicare and Medicaid programs.

For these reasons, the Department has concluded that Infant Care Review Committees should be encouraged, but not mandated by the federal government.

Fourth, the Department concludes that the establishment of review boards will be facilitated by the development of a model committee. Therefore, § 84.55(f) of the rules sets forth a model Infant Care Review Committee (ICRC). This model

calls for broad representation and significant involvement of the ICRC in developing standard policies and protocols for the hospital and in promptly reviewing specific cases. The model is based sustantially on comments submitted by the American Academy of Pediatrics.

The Department has revised the Academy's model somewhat to underscore that the purpose of the ICRC is to advance the basic principles embodied in section 504, the recommendations of the President's Commission and the landmark "Principles of Treatment of Disabled Infants." The Department has also revised the Academy's model to provide, in connection with review of specific cases, for the designation of one member of the ICRC as "special advocate" for the infant. While recognizing that all members of the ICRC should be advocates for the best interests of the infant, the role of the special advocate will be to ensure that all considerations in favor of the provisions of life-sustaining treatment are fully evaluated and considered. As the President's Commission stated, "it is all too easy to undervalue the lives of handicapped infants." The special advocate feature of the model ICRC provides a mechanism to counteract this tendency.

This model is also consistent with the recommendations of the President's Commission and the comments of the American Hospital Association and other medical organizations. The Department also acknowledges the comment of the American Medical Association that the government's actions provide "a continued stimulus" for the medical community "to develop mechanisms to deal with these sensitive matters." HHS strongly encourages medical organizations to follow through on their suggestions and provide all possible assistance to their member institutions and medical professionals in establishing and operating these ICRC's.

B. INFORMATIONAL NOTICE

The proposed rules required that recipient hospitals post "in a conspicuous place in each nurse's station" of appropriate wards a notice stating:

DISCRIMINATORY FAILURE TO FEED AND CARE FOR HANDICAPPED INFANTS IN THIS FACILITY IS PROHIBITED BY FEDERAL LAW.

* * * * *

Any person having knowledge that a handicapped infant is being discriminatory denied food or customary medical care should immediately contact:

Handicapped Infant Hotline

* * * * *

Failure to feed and care for infants may also violate the criminal and civil laws of your state.

A number of commenters expressed a concern that the posting of the required notice would itself have a disruptive effect on the provision of health care to newborn infants by creating the impression to an infant's parents, already in a very stressful situation, that the physician, nursing staff, and hospital should not be trusted to provide proper care to their child. In connection with this point, the Catholic Health Association suggested that hospitals be permitted to use an alternative notice allowing the hospital to state its agreement with the policy of nondiscrimination and indicate the appropriate hospital contact person. Another comment suggested alternatives to posting, such as placing the notice on the admitting document or on consent forms used by the hospital.

Some commenters considered the wording of the notice very ambiguous in its references to "discriminatory failure" and "customary medical care" and in its failure to make reference to futile treatments, deference to legitimate medical judgments, the nonapplicability of section 504 to parental decisions, and many distinctions and nuances relating to the applicability of section 504 in this context.

Other criticisms were that the words "should immediately contact" improperly implied a legal obligation to report; the reference to "this facility" implied prior misconduct by that facility; and the reference to violations of "the criminal and civil laws of your state" is inappropriate because it does not relate to the purpose of the notice to inform people about civil rights protections.

A number of commenters suggested additions to the notice, including: a reference to the sanctions for noncompliance; express inclusion of handicapped infants born alive after abortions; reference to physical, mental, or emotional abuse or injury or withholding of fluids, oxygen, medications, warmth, and routine nursing care; and a statement that callers are not required to identify themselves.

Other commenters urged that hospitals be required to notify HHS that the notice has been posted.

Response

In an effort to accommodate many of these concerns, the Department has made a number of changes regarding the wording of the informational notice and the locations where it is to be posted. However, the Department remains convinced of the need for a notice to advise individuals in a position to know about potentially discriminatory conduct of the requirements of the law and of the mechanisms available to report suspected violations expeditiously so that, should a violation be occurring, corrective action can be taken in time to save the infant's life.

In many other contexts of civil rights enforcement and enforcement of scores of other statutes, speed is not essential because the victim of discrimination can be essentially "made whole" through reinstatement in a job, admission to a school or hospital, retroactive benefit payments, or the like. However, in the context of life and death medical decisions, the matter must be handled with the utmost urgency. For this reason, the Department continues to believe that it is essential to meaningful implementation of the requirements of section 504 to have a mechanism for immediate reports of suspected violations.

However, the Department has concluded that it can, without detracting from this overriding objective, eliminate the unintended adverse effects of the notice many commenters perceived. Therefore, the informational notice requirements set forth in § 84.55(b) reflect significant modifications from those set forth in the proposed rules.

First, the Department has adopted the suggestion of the Catholic Health Association that hospitals be permitted to post a notice reflecting that the hospital's policy is consistent with the nondiscrimination requirements of section 504 and that the hospital also has a mechanism to review suspected noncompliance with this policy. This change eliminates any perception that the notice implies improper conduct by the hospital.

The only requirement contained in the rule for the use of this notice (identified in the regulation as "Notice A") is that the content of the notice be truthful as it relates to that hospital. To be truthful, the hospital must have a policy that nourishment and medically beneficial treatment, as determined with respect for reasonable medical judgments, should not be withheld from handicapped infants solely on the basis of their present or anticipated mental or physical impairments. Furthermore, the hospital must have a procedure for review of treatment deliberations and decisions concerning health care for handicapped infants. Also, so that potential callers will be assured that the hospital's procedures will be

implemented in good faith, the hospital's policies must provide for the confidentiality of the identity of, and prohibitions of retaliation against, potential callers who, in good faith and nonmaliciously, provide information about possible noncompliance. A hospital need not, in order to post Notice A, have an Infant Care Review Committee in conformance with the model ICRC, nor forego management prerogatives with respect to anyone who might abuse the hospital's procedures by, for example, willfully making false or malicious calls. Hospitals for which the content of "Notice A" is not truthful must post the notice identified as "Notice B."

Second, the requirement regarding the location where copies of the notice must be posted has been changed. Consistent with the Department's intent to target the notice to nurses and other health care professionals, the proposed rule required that the notice be posted at the nurses' stations of appropriate wards, rather than more generally in the wards as had been stated in the March interim final rule. In view of the concern expressed by a number of commenters that posting in the nurses' stations would continue to make the notice conspicuous to distressed parents, the final rules do not require that copies of the notice be posted at nurses' stations. Rather, the notice is to be posted at any location(s) where nurses and other medical professionals who are engaged in providing health care related services to infants will be aware of the content of the notice. Locations such as locker rooms and lounge areas will suffice as long as placement in these locations ensures that the appropriate personnel will see the notice. Under these circumstances the notice would not have to be posted at nurse's stations or any other location where posting would have adverse effects on parents. The number of copies which must be posted in the hospital is similarly determined on the basis of ensuring that the appropriate personnel will see it.

Third, in view of this more specific targeting, the size of the notice has been reduced from the 8½ x 11 inches requirement in the proposed rule (and the 17 x 14 inch notices distributed in connection with the March rule) to 5 x 7 inches.

Fourth, the wording of the informational notice has been revised in connection with the language which attempts to convey in simple terms the basic protection of the law. The new language reflects the law's deference to reasonable medical judgments, refers to "medically beneficial treatment" and clarifies that the concept of handicapped discrimination relates to decisions made solely on the basis of present or anticipated mental or physical impairments. The reference in the text of the notice and elsewhere in the rules to "present or anticipated mental or physical impairments" is based on the definition of "handicapped person" in existing regulations, 45 CFR 84.3(j). The Department believes this phrase conveys a better understanding than use of the word "handicap."

The Department has also changed the heading of the notice to eliminate what many perceived to be a negative statement. The revised notice adopts the same heading, "Principles of Treatment of Disabled Infants", adopted by the coalition of leading disability and medical organizations in their landmark statement of principles.

In seeking to compose the wording of the notice, the Department has sought to set forth a simple, understandable, and accurate description of the requirement of the law. To a significant degree, the application of section 504 in this context defies a simple and precise restatement. The wording of the notice, however, does not establish a legally mandated rule of conduct; it merely conveys information. In recognition of the impossibility of setting forth a statement that covers all possible dimensions and nuances of the statute, the notice advises that callers may obtain further information by calling the designated contact points.

The Department believes this statement resolves many of the concerns regarding ambiguity of the prior version of the notice without becoming so cumbersome and complicated that it confuses more than it informs.

Concerning other comments, the Department is not adopting the suggestion that hospitals be required to notify HHS that the notice has been posted. There are insufficient benefits accruing from establishing a mechanism for checking off approximately 7,000 unverified notifications of posting to justify the administrative burden on the Department and recipients.

In addition, consistent with the objective of targeting the notice to nurses and other medical professionals, and in view of concerns about frightening parents, the Department is not adopting the suggestion that the nondiscrimination notice be required on hospital admission or consent forms. However, the Department encourages hospitals and Infant Care Review Committees to consider seriously developing some written information for parents with respect to hospital policies and procedures in connection with this issue. Such information could include an explanation of rights and responsibilities of parents, infants, and hospitals, the operation of the ICRC, available social services, and other pertinent information.

The Department is also not adopting numerous suggestions for additions to the notice because they are unnecessary and would make the notice cumbersome and possibly confusing. Statements concerning the existence of sanctions for noncompliance, the applicability of section 504 to infants born alive after abortions, the lawfulness of withholding futile treatments, and the applicability of section 504 to a wide range of aspects of medical care are all quite correct, but their inclusion in the notice is unnecessary.

The Department is not adopting the suggestion that the notice state that callers are not required to identify themselves. Although the Department will take appropriate follow-up action on anonymous calls that convey credible and specific information, the Department does not wish to encourage callers to remain anonymous because there is great value in having the ability to recontact the complainant as the inquiry or investigation progresses. The Department believes the statements contained in the notice regarding confidentiality of the identity of callers and prohibitions against retaliation are adequate to overcome the understandable reluctance a sincere potential complainant may have.

Finally, although the statement is correct, the Department adopts the suggestion that the reference to violations of state criminal and civil laws be deleted because it is unnecessary and potentially inflammatory.

C. RESPONSIBILITIES OF CHILD PROTECTIVE SERVICES AGENCIES

A number of commenters addressed the provision of the proposed rule requiring that state child protective services agencies establish and maintain written methods of administration and procedures to ensure full utilization of their authorities pursuant to state law to prevent instances of medical neglect of handicapped infants.

Several child protective services agencies and their representatives opposed this provision. As stated by the National Council of State Public Welfare Administrators:

> While the NCSPWA agrees there is a need to establish additional protections for infants born with handicapping conditions. * * * we

believe the child protective services agency is not, as a rule, the appropriate authority to establish standards for medical treatment, to police the medical profession, or to make the kinds of medical/ethical judgments required in this area.

The State of Nebraska Department of Public Welfare expressed support for increased involvement of state child protective services agencies:

> We feel that the agency with primary responsibility for investigation and enforcement of this law should be the State Protective Services Agency. We further would suggest that hospital administration be charged with the responsibility for reporting any possible violations of this law to the State Protective Services Agency. * * * The State Protective Services Agency should be responsible for reporting to the Office of Civil Rights the results of any actions taken as a result of the report. * * *

Some commenters urged deletion of the requirement that state agencies report cases to OCR because it conflicts with the confidentiality requirements of state child abuse and neglect statutes and presents an unnecessary administrative burden. Other commenters suggested that this requirement be expanded to require reports to OCR at each step of an agency's investigation. Other commenters suggested that state child protective services agencies be required to involve state protection and advocacy systems for the developmentally disabled in all of its activities related to this issue.

Response

Section G, below, includes a discussion of the applicability of section 504 in cases where a refusal to provide medically beneficial treatment is a result, not of decisions by a health care provider, but of decisions by parents. As explained in that section, it is the responsibility of the hospital in such a case to report the circumstances to the state child protective services agency. If that agency receives Federal financial assistance in its child protective services program, it may not fail, solely on the basis of the infant's present or anticipated physical or mental impairments, to utilize its full authority pursuant to state law to protect the infant. Although there are some variations among state child protective statutes, all have the following basic elements: a requirement that health care providers report suspected cases of child abuse or neglect, including medical neglect; a mechanism for timely receipt of such reports; a process for administrative inquiry and investigation to determine the facts; and the authority and responsibility to seek an appropriate court order to remedy the apparent abuse and neglect, if it is found to exist.

Consistent with the applicability of section 504 to child protective services agencies and with the typical elements of state child protective statutes, the proposed rule included a subsection requiring that, within 60 days of the effective date, "each recipient state child protective services agency shall establish and maintain written methods of administration and procedures to assure that the agency utilizes its full authority pursuant to state law to prevent instances of medical neglect of handicapped infants."

This provision was modeled after an existing provision in the Department's regulation implementing title VI of the Civil Rights Act of 1964, 45 CFR 80.4(b), which requires all continuing state programs to have "such methods of administration for the program as are found by the responsible department official to give reasonable assurance" of compliance.

The proposed rule went on to specify several elements which must be included in the agency's methods of administration and procedures. Four of these elements precisely mirror the common fundamental components of state child protective statutes.

The proposed rule also called for immediate notification to the Department of each report of suspected medical neglect of a handicapped infant, the steps taken by the agency to investigate such report, and the agency's final disposition of such report. This requirement was also based upon an existing regulation, 45 CFR 80.6(b), which requires compliance reports "in such form and containing such information" as the Department may require. Therefore, the proposed rule's requirement for notification to OCR is simply a specification of a type of compliance report the Department deems necessary to monitor the recipient's compliance.

With respect to the comments concerning the potential conflict between this notification requirement and the confidentiality provisions of state child abuse and neglect statutes, this provision is entirely consistent with existing regulatory requirements of recipient child protective services agencies under 45 CFR 80.6(c), which includes the statement: "Asserted considerations of privacy or confidentiality may not operate to bar the Department from evaluating or seeking to enforce compliance with this part."

In addition, HHS regulations requiring, as a condition of receiving Federal funds, state child protective services agencies to protect the confidentiality of child abuse and neglect information also make clear that HHS and the Comptroller General of the United States must have access to documents and other records "pertinent to the HHS grant." 45 CFR 1340.14, 74.24.

The Department has not adopted the suggestion that more detailed requirements be established for state child protective services agencies because the requirements should be flexible enough to be easily incorporated into existing agency procedures.

Section 84.55(c)(1) of the final rules adopts the corresponding provision of the proposed rules without substantive change. In summary, it simply restates existing section 504 responsibilities of recipient state child protective services agencies; requires standard procedures to assure compliance (as has been long required for continuing state programs under title VI); specifies the basic elements of those procedures (which precisely mirror the standard components of state statutes); and specifies a form of compliance reports required under existing agency responsibilities. Consistent with the Department's investigative guidelines, § 84.55(c)(2) encourages state agencies to involve Infant Care Review Committees in connection with the agencies' actions pursuant to its state law and procedures.

D. EXPEDITED ACCESS TO RECORDS

The final rules create a limited exception to the Department's existing regulations pertaining to access to sources of information. The existing regulation, 45 CFR 80.6(c), made applicable to section 504 cases by 45 CFR 84.61, states:

> Each recipient shall permit access by the responsible Department official or his designees during *normal business hours* to such of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with this part. (Emphasis supplied.)

The proposed rules included a modification to specify that access to pertinent records and facilities of a recipient "shall not be limited to normal business hours when, in the judgment of the responsible Department official, immediate access is necessary to protect the life or health of a handicapped individual." The final rules adopt this change in § 84.55(d).

A number of commenters expressed support for this provision as essential to efforts to save lives. Others objected on the grounds that investigations are

highly disruptive, the OCR officials are not qualified to make a judgment regarding the degree of danger to the life or health of a handicapped individual and that the rule should specify circumstances warranting access and procedures applicable to investigations after normal business hours.

Response

The Department views this as a minor, technical clarification. Access to recipient facilities and sources of information is required by existing regulations and is essential for the Department to carry out its statutory obligation to determine whether recipients are in compliance with civil rights laws. The provision in existing regulations regarding "normal business hours" is nothing more than a recognition that many recipients conduct their federally assisted programs and activities only during those hours.

The furnishing of inpatient medical services, however, is not a 9:00 a.m. to 5:00 p.m., Monday through Friday undertaking. Rather, the "normal business hours" for nurseries and neonatal intensive care units are 24 hours a day, seven days a week. The Department, therefore, has the authority to seek pertinent records at any time even in the absence of this revision. Nonetheless, the Department adopts this change to clarify its authority and recipients' obligations. The objections expressed regarding this provision are substantially the same as objections to investigative procedures generally, and are discussed in section H, below.

This modification makes clear where the circumstances indicate a risk of imminent, irrevocable harm due to suspected noncompliance, the Department will, as it must, initiate immediate action to determine compliance.

E. EXPEDITED ACTION TO EFFECT COMPLIANCE

The final rules include a slight revision to existing regulatory procedures concerning remedies for noncompliance. Existing regulations, 45 CFR 80.8(a) and (d) (made applicable to section 504 cases by 45 CFR 84.61), provide:

> If there appears to be a failure or a threatened failure to comply with this regulation . . . compliance with this part may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance or by any other means authorized by law. Such other means may include . . . a reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States. . . or any assurance or other contractual undertaking. . . .
>
> * * * * *
>
> No action to effect compliance by any other means authorized by law shall be taken until (1) the responsible Department official has determined compliance cannot be secured by voluntary means, (2) the recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance, and (3) the expiration of at least 10 days from the mailing of such notice to the recipient or other person.

The proposed rule included a provision that the normal requirement of providing 10-days notice "shall not apply when, in the judgment of the responsible Department official, immediate remedial action is necessary to protect the life or health of a handicapped individual." The final rule, in § 84.55(e), adopts this revision.

A number of commenters expressed support for this provision as essential to efforts to save lives; others objected because the rule did not identify standards for waiving the 10-day notice or alternate procedure to be followed.

Response

The Department considers this a minor, technical change. The 10-day notice was designed to facilitate pursuit of informal compliance in circumstances where noncompliance did not imminently threaten lives. The failure to provide nourishment or treatment to a handicapped infant, however, may have such a consequence.

As a matter of legal interpretation, the Department believes the normal 10-day notice rule would, even absent the proposed change, be inapplicable in a case where the government seeks a temporary restraining order to sustain the life of a handicapped infant in imminent danger of death. Such actions would often be for the purpose of preserving the status quo, such as by continuing the provision of nourishment and routine care, pending a more definitive determination of compliance or noncompliance with section 504, rather than "to effect compliance" following a determination of noncompliance. In addition, the Department believes federal judges would be appropriately loathe to allow minor procedural technicalities to defeat totally the accomplishment of the statutory purpose. Nonetheless, the Department proposed this limited exception to the normal 10-day notice rule to clarify its authorities and corresponding recipient responsibilities.

The determination of the need to waive the 10-day notice will be made in accordance with the standard investigative procedures, explained in section H, below. Concerning alternate notice procedures, the final rule provides that oral or written notice will be provided as soon as practicable.

F. GUIDELINES RELATING TO HEALTH CARE FOR HANDICAPPED INFANTS

Most of the comments submitted during the comment period dealt with issues well beyond the specific provisions of the proposed rules, such as the applicability of section 504 to this subject matter and the Department's section 504 enforcement process.

Like the proposed rules, the final rules contain four discrete requirements applicable to recipients of Federal financial assistance. First, hospitals must post an informational notice. Second, the normal 10-day notice before initiating action to effect compliance can be waived when immediate action is necessary. Third, access by the Department to pertinent records and facilities can be obtained after "normal business hours" when immediate access in necessary. Fourth, state child protective services agencies must establish procedures to utilize their full authority under state law to prevent medical neglect of handicapped infants.

To bring these specific provisions further back into focus, it is useful to note what the final rules, like the proposed rules, do *not* do. They do not establish the applicability of section 504 to the provision of health care to handicapped infants. The applicability of section 504 is already established by the statute and the existing HHS regulations. They do not establish the authority or procedures of HHS to investigate reports of suspected noncompliance with section 504. Authority and procedures are already established by the statute, existing regulations and administrative practices. They do not establish a toll-free telephone number, which has been established and is in operation. Although most of the controversy concerning the rules relates to the broader issues, the mandatory aspects of the final rules deal only with several discrete points.

Nonetheless, many of the comments relating to the broader issues were highly relevant and valuable. Other comments on the broader issues reflected a lack of understanding of how the Department interprets the applicability of section 504 in this area and the Department's compliance procedures. To clarify these issues, the final rules include an appendix, which sets forth guidelines relating to health

care for handicapped infants. This appendix includes interpretative guidelines relating to the applicability of section 504 and guidelines for HHS investigations in this area. These guidelines do not independently establish rules of conduct or substantive rights and responsibilities, which are established by the statute and existing regulations. The Department will apply these guidelines flexibly to take into account the circumstances presented in each case regarding both the determination of compliance or noncompliance and the conduct of the investigation. These guidelines are set forth as an appendix to the final rules simply to assist recipients and the public in understanding the Department's general interpretations and procedures. This appendix becomes a part of the permanent Code of Federal Regulations.

G. INTERPRETATIVE GUIDELINES RELATING TO THE APPLICABILITY OF SECTION 504

Medically Beneficial Treatment

As stated in the preamble to the proposed rules, the Department interprets section 504 as requiring that medically beneficial treatment not be withheld, solely on the basis of handicap, from a handicapped infant.

Three of the questions on which the July 5 notice of proposed rulemaking specifically solicited comments concerned the issue of medically beneficial treatment as the standard to guide treatment decisions, including further explanations that would assist health care providers and the public in understanding the requirements of Section 504, implications concerning cost and the allocation of medical resources, and the impact of perceived economic, emotional and marital effects on parents.

Among commenters supporting the standard of providing medically beneficial treatment was the Down's Syndrome Congress:

> Some children may be unwanted by their parents. . . . The Down's Syndrome Congress does not seek to judge those parents who do not feel that they can adequately parent because of the handicap. Rather, we seek to make available those adoption homes that want children who have Down's syndrome.

Also typical of comments in support of the standard of providing medically beneficial treatment was the comment of the Association for Retarded Citizens:

> No quality of life or other such considerations are acceptable to the ARC. Although we are primarily a parent organization and many ARC members have had significant difficulty (financial, emotional, etc.) raising their mentally retarded child, we come down strongly on the side of the child.
>
> Available medical and other technology is not able to fully predict the future capacity of most mentally retarded children, especially in the first days and weeks of life. Our members can cite numerous examples of improper and wrong advice given to them by physicians about the future capacities of their children.

A number of commenters argued that the medically beneficial treatment standard is inappropriate. For example, the Department received the following comment from a Texas physician:

> [N]ot only is the "very strict standard" advocated by the President's Commission "not being uniformly followed," [as stated in the HHS July 5 NPRM] it is probably close to *uniformly not* being followed. The "very strict standard" the Secretary of Health and Human Services is trying to foist on the medical community is contrary to the usual practices of that community. (Emphasis in original.)

Similarly, the following comment was submitted by an Alabama physician:

> Recently I have treated a 13-month old black child who has congenital heart disease, spastic encephalopathy, vomiting, repeated bouts of bilateral pneumonia, internal squint of the left eye, and mental deficiency. He is one of the thousands of children who are the victims of the neonatal intensive care units located in every medical center. He was born premature, weighing two pounds and ten ounces. With modern treatment and instruments he survived. These children have no future and are a terrible burden on their parents and this nation.
>
> * * * What good is it treating these premature babies? Will it not be better if they are left to die? * * * We are compounding our problems by bringing into life thousands of congenitally sick babies which nature has rejected.

A number of commenters, particularly medical organizations, suggested different articulations of standards. For example, the American Medical Association combines a number of notions in articulating the standard to be applied, including consideration of "quality of life", and deference to parental decisions unless there is "convincing evidence to the contrary." The full text of the AMA position is as follows:

> QUALITY OF LIFE. In the making of decisions for the treatment of seriously deformed newborns or persons who are severely deteriorated victims of injury, illness or advanced age, the primary consideration should be what is best for the individual patient and not the avoidance of a burden to the family or to society. Quality of life is a factor to be considered in determining what is best for the individual. Life should be cherished despite disabilities and handicaps, except when prolongation would be inhumane and unconscionable. Under these circumstances, withholding or removing life supporting means is ethical provided that the normal care given an individual who is ill is not discontinued. In desperate situations involving newborns, the advice and judgment of the physician should be readily available, but the decision whether to exert maximal efforts to sustain life should be the choice of the parents. The parents should be told the options, expected benefits, risks and limits of any proposed care; how the potential for human relationships is affected by the infant's condition; and relevant information and answers to their questions. The presumption is that the love which parents usually have for their children will be dominant in the decisions which they make in determining what is in the best interest of their children. It is to be expected that parents will act unselfishly, particularly where life itself is at stake. Unless there is convincing evidence to the contrary, parental authority should be respected.

Another articulation of standards, submitted by the Biomedical Ethics Committee of the University of Minnesota Hospitals, includes the following ethical principles:

> When the burden of treatment lacks compensating benefit or treatment is futile, the parent(s) and attending physician need not continue or pursue it.
>
> Therapies lack compensating benefit when: (a) they serve merely to prolong the dying process; (b) the infant suffers from intolerable, intractable pain, which cannot be alleviated by medical treatment; (c) the infant will be unable to participate even minimally in human experience.

Probably the most poignant comments regarding the standard which should be applied relating to the provision of medical care to handicapped infants were submitted by parents of handicapped children. Of 100 commenters who identified themselves as parents of handicapped persons, 95 supported the proposed rule and five opposed it. From a Montana mother:

> My daughter Keough was born in November 1980 with Down's syndrome and a host of birth defects in her digestive system similar to Baby Doe's problems * * * Twenty minutes after her birth our then pediatrician offered to let her starve in the hospital nursery * * *
>
> * * * * *
>
> * * * There are times when I am getting up for the tenth time during the night to suction my daughter's trach tube so she can breathe that I would give anything not to have to deal with the situation, but I will never regret having her as part of the family.

From a mother and father, both physicians, in California:

> [A]s the parents of an eight-year-old boy with Down's Syndrome, who suffers from marked retardation and a severe cardio-pulmonary condition, we do appreciate both the deep anguish and the countless joys that derive from caring for and caring about a

severely handicapped child. There is no limit set on the strength, the growth and the fulfillment that his love continues to bring us every day For his sake and for the sake of all the handicapped newborn, it is urgent that safeguards be enacted. Let merciful caring, not mercy-killing, be our answer to their needs.

Another dimension of the comments concerning the interpretation of section 504 as requiring that medically beneficial treatment not be withheld solely on the basis of handicap relates to the difficulty of determining the "medically beneficial treatment." As stated by the Children's Hospital of Boston:

[The NPRM] states that the denial of treatment where there is no medical benefit to the individual would not be discriminatory because the individual would not be a "qualified handicapped person" within the meaning of section 504. . [A problem with this analysis is that] it relies on outcome which cannot always be predicted or, even if predicted is not always accurate, may be affected by other factors, and may not even be known for an indeterminate time. If section 504 is to provide guidance in treatment situations, its applicability should be known at the outset. Otherwise staff will be subjected to an after-the-fact scrutiny which may well be inaccurate and oppressive.

Another comment regarding the role of medical judgements was submitted by presiding Judge John G. Baker, Monroe Superior Court, Division III, the Judge who decided the Bloomingtom Infant Doe case:

The question in the Infant Doe case was, when parents are confronted with two competent medical opinions, one suggesting that corrective surgery may be appropriate and the other suggesting that corrective surgery and extraordinary measures would only be futile acts, does the law allow the parents to select which medical course to follow? It was the decision of the Indiana Court that the law provided the parents with the responsibility of choosing which medical course to follow without governmental intervention.

Response

The Department's position remains unchanged. Section 504 provides:

No otherwise qualified handicapped individual shall, solely by reason of his handicap, be excluded from participation, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance. . .

The statute defines a "handicapped individual" as:

Any person who (i) has a physical or mental impairment which substantially limits one or more of such person's major life activities, . or (iii) is regarded as having such an impairment.

A key issue in applying section 504 in any context is that the handicapped individual who is allegedly excluded from participation in, denied the benefits of, or subject to discrimination under a federally assisted program or activity be "otherwise qualified" to participate in, or benefit from, the program or activity, in spite of his or her handicap. In the context of receiving medical care, the ability to benefit for a handicapped person is the ability to benefit medically from treatment or services. If the handicapped person is able to benefit medically from the treatment or service, in spite of the person's present or anticipated physical or mental impairments, the individual is "otherwise qualified" to receive that treatment or service, and it may not be denied solely on the basis of the handicap.

Therefore, the analytical framework under the statute for applying section 504 in the context of health care for handicapped infants is that health care providers may not, solely on the basis of present or anticipated physical or mental impairments of an infant, withhold treatment or nourishment from the infant who, in spite of such impairments, will medically benefit from the treatment or nourishment.

Not only is this analytical framework directed by the statute, the Department believes the medically beneficial treatment standard is the appropriate guiding principle for providing health care services to handicapped infants. The Department agrees with the President's Commission that "it is all too easy to undervalue the lives of handicapped infants," and that it is "imperative to counteract this" by excluding "consideration of the negative effects of an impaired child's life on other persons" and to treat handicapped infants "no less vigorously than their healthy peers."

The Department also agrees with the essential principle contained in the joint statement of November 29, 1983, by the coalition of medical groups and disability organizations, including the American Academy of Pediatrics, the National Association of Children's Hospitals and Related Institutions, the association for Retarded Citizens, the Spina Bifida Association of America, and others:

When medical care is clearly beneficial, it should always be provided. . . . The individual's medical condition should be the sole focus of the decision.

Consistent with the recommendations of the President's Commission and the principles agreed to by the coalition of medical and disability groups, paragraphs (1), (2) and (3) of section (a) of the appendix state the basic interpretative guidelines of the Department for applying section 504 in this context. These interpretative guidelines make clear that health care providers may not, solely on the basis of present or anticipated physical or mental impairments of an infant, withhold treatment or nourishment from the infant, who, in spite of such impairments, will medically benefit from the treatment or nourishment. They also made clear that futile treatments or treatments that will do no more than temporarily prolong the act of dying of a terminally ill infant are not required by section 504, and that, in determining whether certain possible treatments will be medically beneficial to an infant, reasonable medical judgments in selecting among alternative courses of treatment will be respected. The principle of respecting reasonable medical judgments reflects the Department's recognition that in many cases the process of medical decisionmaking is not mechanical and precise. Analyses of medical risks, medical benefits, possible outcomes, complications, and the like require experience and judgments. Most of all, they must be specifically based on the actual circumstances presented in any given case. The statutory framework does not provide for, nor will the Department seek to engage in, second-guessing of reasonable medical judgments regarding medically beneficial care.

The principle of respecting reasonable medical judgments in the context of applying section 504 is also consistent with analogous case law. For example, the Supreme Court has made it clear that the application of constitutional protections do not interfere with *bona fide* medical judgments so as to authorize a court "to specify which of several professionally acceptable [treatment] choices should have been made." *Youngberg* v. *Romeo*, 457 U.S. 307, 321 (1982).

However, the Department also recognizes that not every opinion expressed by a doctor automatically qualifies as a reasonable medical judgment. For example, a doctor's opinion that available corrective surgery to save the life of a Down's syndrome infant should be withheld is contrary to the opinion of the President's Commission and comments submitted to the Department by the American Academy of Pediatrics, the National Association of Children's Hospitals and Related Institutions, and other medical organizations. It is not within the

bounds of reasonable medical judgment and is not entitled to deference.

Parental Decisions

A number of commenters argued that the Department's analysis of section 504's applicability fails to take into account the lack of authority hospitals and physicians have to perform treatment to which the parents have not consented. Some commenters expressed a belief that the Department purports to require physicians and hospitals unilaterally to overrule parental decisions. As stated by the American Medical Association:

> If section 504 is applied as the Department claims it should be, physicians and hospitals will be required to treat a handicapped infant in all cases, regardless of parental consent, for fear of sanctions allegedly authorized by section 504.

Similarly, the National Asssociation of Children's Hospitals and Related Institutions stated:

> Nor does the rule recognize that, in lieu of indications to the contrary, decisions of care of the infant made by these parents, based on their determination of the child's best interest, are theirs to make, a right and responsibility assigned to them universally by state statute. . . .

Also in connection with the issue of a recipient's section 504 responsibilities in cases where parents refuse to consent to medically beneficial treatment, a number of commenters criticized a statement included in the Department's May 18 notice to health care providers that:

> Health Care providers should not aid a decision by the infant's parents or guardian to withhold treatment or nourishment discriminatorily by allowing the infant to remain in the institution.

The criticism was that to discharge the infant, as the statement implied the hospital should do, would be unlikely to advance the objective of assuring that the infant receive medically beneficial treatment.

Response

The Department's position has been, and continues to be, that the lack of parental consent does have an impact on a recipient hospital's section 504 responsibilities, but that the lack of parental consent to provide particular treatment does not remove from hospitals the obligation to operate other aspects of their program without discrimination.

Although the need may not arise frequently, it is an accepted part of the operation of hospitals to contest the denial of parental consent when such a decision is not in the best interest of a child. Most hospitals have established procedures to petition courts to order medical care when parents do not provide consent for treatment that is medically needed and appropriate.

In addition to the internal hospital procedures, state laws generally establish responsibilities of health care professionals where treatment is being withheld because of improper denial of parental consent. Health care professionals are generally required by state law to report cases of abuse, neglect, or other threats to a child's health. These laws, whether explicitly or implicitly, include the denial of needed medical treatment as an event requiring reporting.

The requirement that health care providers report instances of improper denial of medical care is no less a part of their program than is the provision of care itself. Both arise from the recipients's program of administering to the medical interests of its patients. Section 504 prohibits discrimination on the basis of handicap in the operation of federally assisted programs and activities. Thus, a recipient that, as a matter of practice or law, reports to State authorities the withholding of needed medical treatment from an infant may not deny the same service or benefit to a qualified handicapped infant because the infant is handicapped.

Section 504 applies only to programs or activities receiving federal financial assistance; it does not apply to decisions made by parents. Where a non-treatment decision, no matter how discriminatory, is made by parents, rather than by the hospital, section 504 does not mandate that the hospital unilaterally overrule the parental decision and provide treatment notwithstanding the lack of consent. But it does require that recipient hospitals not fail, on the basis of handicap, to report the apparently improper parental decision to the appropriate State authorities, or to seek judicial review itself, so as to trigger the system provided by State law to determine whether the parental decision should be honored. Action by hospitals to seek judicial review is not uncommon in cases where, for example, parents have objected on religious grounds to a medically necessary blood transfusion for their child.

The Department agrees with the criticism of the sentence in the May 18, 1982 notice. This statement reflected a recognition by the Department that section 504 does not require hospitals unilaterally to overrule parental decisions, and that hospitals cannot provide treatment without parental consent. The point should have been better stated that a recipient hospital may not blindly implement improper and discriminatory parental decisions. Rather, the hospital should resort to the system provided by state law to determine whether a parental decision should be implemented.

Therefore, the proper analysis of the applicability of section 504 in cases where the failure to provide medically indicated treatment is due to a lack of parental consent is that a recipient hospital is not required to seek to unilaterally overrule the parents, but it must adhere to the standard practice, as required by state law, to make a report to the state agency charged under state law with responsibility to initiate the determination as to whether the parental decision was proper, or to seek judicial review itself. This interpretative guideline is set forth in section (a)(4) of the appendix.

Rather than representing an improper Federal government attempt to "question and overturn the decisions of parents concerning their children's medical treatment," the Department is simply requiring that the long-standing requirements and mechanisms of *state* law for defining the limits of parental authority not be rendered, through discriminatory actions of recipient hospitals, *de facto* inoperative.

Examples

The July 5 proposed rule was accompanied by an appendix explaining the manner in which section 504 applies to the provision of health care services to handicapped infants and providing several examples of its applicability to particular factual situations. A number of commenters criticized statements contained in that appendix. Criticisms and comments were as follows: (a) Use of phrases such as "futile therapies", "services generally provided", and "dubious medical benefit" are ambiguous. (b) The characterization of the infants with intracranial hemorrhage as analogous to anencephaly is incorrect. Intracranial hemorrhages vary greatly in severity, and are generally treatable and treated. (c) The American Society for Parenteral and Enteral Nutrition stated that although there are no circumstances justifying "withholding oral feeding through a working digestive tract in any patient capable of digesting food, in whole or in part," there may be "limited circumstances" in which not providing nourishment through intravenous means "may be appropriate." (d) The appendix does not indicate the appropriate care for infants who have conditions with prognoses worse than Down's syndrome

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but less severe than anencephaly, such as Trisomy 18, Trisomy 13, Holoprosencephaly, Hydranencephaly, Cornelia de Lange Syndrome, and many others.

(e) "It would be impossible to develop a complete list of handicaps to which the regulations apply. The limited ability to predict outcomes, and the rapid changes in diagnostic and therapeutic modalities make such a goal wholly impracticable."

Response

The application of constitutional and statutory civil rights protections in scores of contexts is difficult. A glance at the Supreme Court's docket confirms this, as every year difficult issues are presented to the Court for resolution. These cases often produce split decisions and multiple opinions.

Therefore, it is to be expected that definitive statements on various dimensions of the applicability of the handicapped discrimination law in connection with health care for handicapped infants, a subject no less difficult than many other aspects of civil rights law, would be few. The imprudence of seeking to speculate on the outcome of applying section 504 in a wide variety of specific factual circumstances was underscored by some of the comments received.

Keeping in mind the utility of providing some examples to assist in understanding the analytical framework of the statute, but also the need to allow individualized attention to specific factual circumstances, the guidelines included in the appendix (section (a)(5)) set forth examples dealing with Down's syndrome, spina bifida, anencephaly, and extreme prematurity.

The Department agrees with the comment that it would be impossible to establish a specific list of all handicapping conditions and the proper treatment in each case. None of the commenters who perceived ambiguities had convincing answers to the questions they raised.

It is appropriate that the law (and thus the government) does not prospectively and unequivocally answer every hypothetical question. In many cases, the law, like medical treatment, can only be applied on a case-by-case basis with a full appreciation for the facts presented.

But it is also appropriate that the law and government have an analytical framework for approaching the issue and a procedural framework for seeking, in cooperation with the medical community and advocacy groups, to narrow the "gray area." The final rules seek to do no more, and importantly, no less.

H. GUIDELINES FOR HHS INVESTIGATIONS RELATING TO HEALTH CARE FOR HANDICAPPED INFANTS

Conduct of Investigations

The July 5 notice of proposed rulemaking solicited comments on HHS investigative procedures. A number of commenters argued that OCR complaint investigations are highly disruptive. The primary concerns expressed in this regard were:

(a) Due to the complexity of the subject matter, there are many erroneous complaints, either by well-intentioned, but ill-informed, persons or by disgruntled employees.

(b) Anonymous calls are not reliable.

(c) Investigations monopolize the time of physicians, nurses and other hospital staff, and make medical records, while under review by OCR investigators, unavailable.

(d) Investigations carry with them the potential for sensational media coverage, which can unjustly damage the good reputations of parents, hospitals and health care professionals.

(e) The presence of OCR investigators is likely to frighten other infants' parents who will assume that, because investigators are present, the hospital must be guilty of improper conduct.

Response

Although some potential for inconvenience or disruption exists in connection with any type of law enforcement investigation, because of the traumatic circumstances of an infant's illness, the potential for sensationalistic media coverage, and other factors, the Department is very sensitive to the special nature of "Infant Doe" investigations. As HHS has gained experience in conducting these investigations, revisions to investigative procedures have been implemented to minimize any disruptive effects. It is the policy of the Department to do everything possible, consistent with its statutory obligation to investigate effectively all complaints of violations of section 504, to minimize any disruptions that may be caused by OCR investigations.

OCR has made adjustments to investigative procedures. It now undertakes a careful screening of complaints in an effort to avoid unnecessary on-site investigations. This screening consists of immediately initiating a preliminary inquiry with the hospital to obtain information regarding the infant in question. The information initially received from the complainant and that received from the hospital is then evaluated to determine whether there is a need for an on-site investigation. Particular factors taken into account are the source of the complainant's information (first-hand knowledge, overheard a discussion, etc.), the complainant's position to have reliable information (a nurse in the ward where the infant is being treated, a friend of a friend, etc.), the specificity of the information provided by the complainant and hospital, whether there is any indication of a lack of parental consent for the provision of all medically beneficial treatment, the analysis of the ICRC, whether the hospital is cooperative in connection with the inquiry, and other pertinent factors.

None of these factors considered in evaluating the information provided by the complainant and the hospital is, by itself, determinative. For example, the Department prefers that the complainant provide his or her name. Not only does it corroborate that the complainant takes the matter seriously and reflects some degree of confidence the complainant has in the accuracy of the information being conveyed, having the complainant's name also permits follow-up communications to seek clarification of the information gathered. However, the Department recognizes that a complainant may not be willing to provide his or her name due to fear of retaliation, and that anonymity does not necessarily suggest that the complaint is not valid, particularly if the specificity of the information provided and other factors support the credibility of the complaint. Therefore, the determination as to whether an on-site investigation is needed is made on the totality of the information available to OCR from the complainant, the hospital, and any other source consulted (such as an OCR medical consultant and the state child protective services agency).

HHS believes this procedure, if hospitals cooperate in its implementation, can avoid unnecessary on-site investigations, which inherently have a potential for some inconvenience. Although hospital officials may be properly reluctant to provide information over the telephone, they can confirm the credentials of the OCR investigator making the telephone contact by calling the toll-free telephone number to verify that the caller is, in fact, an OCR investigator.

Where, as a result of this preliminary inquiry, there appears to be no need for an immediate on-site investigation, none will be conducted. However, to assure

that HHS is adequately meeting its statutory responsibility, where there is a significant question as to compliance with section 504, doubt will be resolved in favor of initiating an on-site investigation.

This preliminary inquiry process is undertaken by OCR in an effort to accommodate the special circumstances presented in connection with "Infant Doe" complaints. This procedure should not be construed as suggesting that the Department believes there are any limitations to its legal authority to investigate all complaints or to otherwise collect information regarding recipient compliance in accordance with the Department's existing section 504 regulations. Nor does this preliminary inquiry process establish any legally enforceable procedural right or precondition to the conduct of on-site investigations.

When on-site investigations are conducted, OCR's procedures minimize any potential inconvenience or disruption. Every effort is made, consistent with the need to obtain prompt information, to accommodate the busy schedules of health care professionals to avoid diverting them from their important duties. Similarly, OCR has never had a problem working out access to medical records to avoid their being unavailable to health care professionals who also need access to them.

With respect to media interest, OCR has a firm policy of providing no comment to the press on the details of any open investigation. HHS believes organizations or individual complainants concerned about proper patient care should be extremely sensitive to threats to proper care inherent in making premature and unsupported comments to the media. Similarly, the media should be attentive to OCR's admonition, regularly given in response to media questions, that the fact that an investigation is being conducted does not imply that an allegation is true.

Section (b)(1) through (5) of the appendix spell out the basic guidelines, including the preliminary inquiry process, applicable to HHS investigations in this area. These guidelines make specific reference to the role of Infant Care Review Committees. Whenever a hospital has an ICRC, established and operated substantially in accordance with the suggested model, the Department will consult closely with the ICRC in connection with a preliminary inquiry or investigation and will give careful consideration to the analysis and recommendations of the ICRC.

The Department believes OCR procedures, including the initial inquiry process, minimize the potential for disruption. HHS will, on the basis of further experience gained, such as with ICRCS, continue to evaluate its procedures consistent with the policy of effective enforcement with a minimum of disruption. The Department also notes that there is probably an irreducible level of inconvenience associated with any effort to provide safeguards to prevent the fatal consequences of discriminatory decisions. It must be recognized, however, that the risks of a certain amount of inconvenience or disruption are significantly preferable to the risks of tragic loss of life due to discriminatory decisionmaking.

Use of Medical Consultants

Another concern expressed by commenters relates to the qualifications of the individuals involved in the administrative fact finding process to evaluate correctly the medical circumstances present in any particular case. For example:

> The Alabama Hospital Association strongly feels that the [investigative] team should be comprised of highly trained and licensed medical personnel. Under no circumstances should anyone less than licensed medical personnel be allowed to intrude in this area of medical decisionmaking and impose alternative judgments or conclusions.

The Spina Bifida Association of America made a similar comment from a different perspective:

> The key to effective enforcement is securing an independent medical examination of children allegedly being denied treatment, by a physician or medical team both skilled in modern treatment techniques *and* committed to the equal treatment principle. Such physicians do exist, particularly at expertise centers that have specialized in the care of children with spina bifida. The only way to ensure effective enforcement is to give disability rights groups like SBAA the ability to recommend *which* expertise centers and expert consultants are used by the regional OCR offices to conduct the independent medical examinations.

Response

HHS agrees that OCR investigators do not have the medical expertise to make independent judgements concerning difficult medical issues. For this reason, the Office for Civil Rights has made arrangements with qualified physicians to serve as medical consultants to OCR in "Infant Doe" investigations. This process is noted in section(b)(6) of the appendix.

The role of the OCR medical consultants is to provide OCR with an analysis of the medical issues present in any particular case, and an opinion as to whether medically beneficial treatment was provided. Based on this analysis, OCR makes a determination as to whether any medically beneficial treatment may have been discriminatorily denied solely on the basis of the infant's handicap.

The extent of the involvement of the OCR medical consultant has varied depending upon the circumstances of particular cases. In all cases the OCR medical consultant reviews the pertinent medical records. In some cases the OCR medical consultant and the attending physician have discussed a case by telephone. HHS believes the experience to date with OCR medical consultants demonstrates the effectiveness of their involvement. HHS is aware of no case in which a recipient has challenged the quality of the medical consultant's evaluation or the OCR findings based upon it.

It is important that all interested groups understand the precise and limited role of the OCR medical consultants. Their function is *not* to take over the medical management of particular cases, to conduct a personal, independent examination of the infant, to make independent treatment recommendations to parents, or to otherwise engage in any direct practice of medicine concerning the infant.

The Department has no authority to compel unilaterally an independent medical examination of a child who is the subject of a section 504 complaint. Under applicable requirements of law, physicians may not practice medicine on an infant patient without the consent of the parents or an order of a court of competent jurisdiction.

In any given case, any of a wide variety of circumstances may be present regarding the actions of parents and health care providers. Regardless of the circumstances, the first step is to determine the facts. Only if the facts demonstrate that there is a need for governmental action can that action be pursued. A court will only issue an order if there is a showing of a need for the order, such as evidence that the hospital *is* out of compliance with section 504 or showing that the parents *are* medically neglecting the infant. Such a showing cannot be made on the basis of the bare allegations of a complaint or without a determination of the facts.

OCR's function in an investigation is to determine the facts, and the function of the medical consultant is to assist OCR in this effort. The process of determining the facts typically involves a review of medical records and

discussions with health care providers involved. The OCR medical consultants assist in this process by providing identification and expert analysis of the medical issues involved. These consultants do not, and may not under applicable law, take over the medical management of the case.

With respect to the suggestion that HHS give disability groups the opportunity to recommend qualified physicians to serve as OCR medical consultants, the Department would welcome such suggestions from all interested groups.

The Department is unable to commit itself to having a medical consultant participate in person in every on-site investigation. However, the guidelines contained in the appendix state that, to the extent practicable, the OCR medical consultant will discuss the case with the hospital's ICRC or appropriate medical personnel by telephone.

Prompt Report of Investigative Findings

Another complaint made by a number of commenters regarding OCR enforcement procedures concerns the sometimes lengthy delay between completion of the on-site investigation and receipt by the hospital of notification of the outcome of the investigation. Commenters expressed concern that, particularly in connection with investigations that may have attracted local media attention, where the OCR investigation found no evidence of a violation, the hospital should have the ability to reassure the public promptly that it was involved in no improper activity.

Response

The point is well taken. Office for Civil Rights procedures pertaining to all investigations require that before the office makes an official finding, whether it is of compliance or noncompliance, a thorough record is compiled and reviewed by supervisory officials. Experience in connection with "Infant Doe" cases is that formal findings have been made in less time than is typical in connection with other civil rights investigations. However, there is generally a need for careful review by an OCR medical consultant, an HHS attorney, and supervisory officials.

The Department recognizes that there are special circumstances in connection with Infant Doe cases, and is instituting a special notification to recipient hospitals in cases where an emergency on-site investigation has been conducted. As a matter of practice, on-site investigation of complaints alleging that an infant's life is in peril due to the discriminatory withholding of medically beneficial care are conducted immediately for the primary purpose of determining whether there is a need to ask the Department of Justice to seek immediate injunctive relief to compel compliance with section 504. Generally, during the course of the investigation, when sufficient information has been obtained and discussed with the OCR medical consultant, a decision is made on whether there is such a need.

The new procedure is that, when a decision is made that there is no need to make an immediate referral to the Justice Department, the recipient hospital will be immediately notified of that decision. The investigator will, if still on-site, personally notify hospital officials. A letter to the same effect will then promptly be sent by OCR. This letter will notify the recipient hospital of the decision made concerning immediate referral to the Justice Department. It will not provide a formal finding concerning the investigation, which cannot be made until all information is analyzed and reviewed. (It may be, for example, that, although there is no emergency requiring immediate legal action by the Justice Department, there is, or was, noncompliance.)

The Department believes this immediate notification procedure, stated in section (b)(7) of the appendix, will provide a basis for the hospital to assure the press and public that OCR's initial conclusion in connection with the investigation is that no infant is in imminent peril due to discriminatory withholding of medically beneficial treatment.

Confidentiality of Records

A number of commenters criticized the enforcement process on the grounds that it infringes on the confidentiality of the physician-parent relationship and the privacy of medical records. Some of these commenters referred to the confidentiality requirements of state law and professional ethical standards.

As stated by the Federation of American Hospitals:

> The physician may be required to inform the parents that anything they may say or decide must be disclosed to federal or state authorities if an investigation results. [P]arents will find that they have a choice between sharing vital information and counseling with their physician and having their thoughts and emotions revealed to a stranger or, alternatively, withholding information.

A suggestion for an additional confidentiality safeguard, submitted by the director of nursing of a Butte, Montana hospital, was to limit review of records to one investigator, on-site, with no copies made.

Response

HHS believes there is no sound legal basis to challenge the Department's right to access to medical records for the purpose of determining compliance with section 504, and that adequate safeguards exist to protect the confidentiality of records obtained by OCR in the course of civil rights investigations.

With respect to legal authority, a state law, such as one restricting access to certain records, cannot, under the Supremacy Clause of the United States Constitution, be used to prevent accomplishment of the full congressional purpose of a Federal law. Similarly, standards of particular professional groups may not frustrate or defeat a Federal statutory duty.

Section 504 establishes certain responsibilities of recipients and authorizes and directs Federal agencies to enforce the law. Existing regulations, 45 CFR 80.6(c) (made applicable to section 504 by 45 CFR 84.61), require:

> Each recipient shall permit access by the responsible Department official or his designee during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with this Part. . . . Asserted considerations of privacy or confidentiality may not operate to bar the Department from evaluating or seeking to enforce compliance with this Part. Information of a confidential nature obtained in connection with compliance evaluation or enforcement shall not be disclosed except where necessary in formal enforcement proceedings or where otherwise required by law.

The requirement that recipients provide access to records necessary to determine compliance is essential to accomplishment of the congressional purpose in enacting section 504.

HHS has adequate safeguards to protect the confidentiality of medical records obtained during the course of a section 504 investigation. In addition to the regulatory provision (quoted above) protecting confidentiality, OCR does not release confidential information in connection with any Freedom of Information Act request. Nondisclosure is permitted under that Act for records, the release of which would consititute a clearly unwarranted invasion of personal privacy. As further protection, OCR permits deletion of the patient's and parents' names and other indentifying information to the extent deletion will not impede OCR's ability to determine compliance.

The argument that the possibility that investigators will seek access to a medical file will cause parents to withhold vital information from the infant's physician is not persuasive. Courts and legislatures have repeatedly rejected arguments that exceptions to the principle of confidentiality of medical records and the physician-patient privilege would result in the withholding of information necessary to facilitate proper treatment. There are many established exceptions in the law to the principle of doctor-patient confidentiality in connection with criminal and civil proceedings where the effective administration of justice requires access to information in medical records or provided to physicians. It is also noteworthy in this regard that the Federal Rules of Evidence do not include an express doctor-patient privilege.

With respect to the suggestions for additional safeguards submitted by a commenter, OCR has in some cases been able to limit review of records to one individual at the hospital, without the need to obtain copies. However, no assurances can be made that OCR can meet its responsibility to conduct a thorough investigation under these conditions. Also, in many cases it may be preferable for the hospital to send OCR the pertinent records (with identifying information deleted), perhaps avoiding the need for any on-site investigation.

IV. Related HHS Activities

HHS has undertaken several other initiatives in cooperation with the medical community and disability organizations to improve the delivery of health care services to handicapped infants. Recently, a contact was awarded by the Office of Human Development Services, HHS to the John F. Kennedy Institute in Baltimore to develop a model for a working nationwide referral network for the developmentally disabled. Such a network, using today's sophisticated technology, will make it possible for the physician, parents, or care-takers of a developmentally disabled individual to query a single source for information about that disability and pinpoint the best or most appropriate places to get help any where in the country for that individual.

Under the terms of this award, the strong features of two important information systems are to be combined and regionalized. One is a data retrieval system for the particular use of practicing physicians. The other is accessible by the general public. The data base for the physician-oriented system was developed by the Kennedy Institute in Baltimore, using data supplied by the 38 HHS supported university-affiliated facilities around the country. The American Medical Association has a contract with the Kennedy Institute to include the Institute's data as an additional offering of the A.M.A.'s nationwide medical information network, or "MINET." It is available to every "MINET" subscriber who has a desk-top computer and a telephone.

This enterprise pulls together government, the private nonprofit sector, and organized medicine, in this case, the A.M.A., to make information available to physicians concerning access to specialized care for their patients and as well as to a broad variety of support services in the community.

The more consumer-oriented data system is now functioning in South Carolina to benefit the citizens of that state. The system carries information on access to care and community support services within the state. Any individual or family member can gain access to the system merely by dialing a toll-free "800" number.

The Kennedy Institute has an excellent concept of how such a network will function. Under the contract recently awarded, it is hoped the South Carolina Model will be expanded to seven other states in the region. The next step should then be to extend the system nationally and thus make available to all citizens the best information and the most appropriate resources relative to handicapping conditions.

The availability of such a resource should do much to take the insecurity out of one effort to rally support services for the handicapped newborn.

In addition to this nationwide referral network, HHS and the Department of Education, in cooperation with the coalition of medical and disability organizations who signed the "Principles of Treatment of Disabled Infants," are organizing an effort to develop teaching models for health care professionals on improving infant care, aiding the decision-making process and use of the nationwide referral network.

The Department believes that informational and educational efforts of this kind are also of great importance in advancing the principles underlying the final rules.

V. Additional Analysis of Comments

Section III above includes an explanation of the provisions of the final rules, including an analysis of pertinent comments submitted to the Department during the comment period on the proposed rules. This section is an analysis of other comments not directly related to specific provisions of the final rules.

A. LEGAL ISSUES

A significant number of commenters addressed legal issues relating to the application of section 504 to matters concerning health care for handicapped infants.

Statutory Construction of Section 504

A number of commenters argued that, as a matter of statutory construction, section 504 of the Rehabilitation Act of 1973 is inapplicable to matters concerning health care for handicapped infants. The arguments advanced by these commenters were:

(a) The statute does not specifically mention handicapped infants, and the statutory definition of "handicapped individual" should be construed as inapplicable to infants because its reference to substantial limitations on major life activities has no application to infants since all infants are dependent on the efforts of others for performance of all external life activities.

(b) The legislative history makes no mention of handicapped infants and indicates that the primary focus of Congress in enacting the Rehabilitation Act was matters relating to vocational rehabilitation, rather than medical matters; and although the statutory definition of handicapped individual was amended in 1974 to broaden its scope beyond vocational rehabilitation, including access to services such as medical care, there was no indication that the statute, as amended, was intended to cover medical judgments about the type of treatment given any handicapped individual. As stated by one commenter:

> There is not even a hint in the legislative history of the Act or its amendments that would indicate Congressional intent to apply section 504 to medical treatment of severely handicapped infants. Rather, it is clear that Congress intended the Act to foster fruitful and independent living for handicapped individuals.

(c) The rulemaking history of the Department's section 504 regulations reveals previous HHS interpretations that section 504 is inapplicable.

Response

The Department's position remains unchanged. Section 504 clearly applies to matters concerning the provision of health care to handicapped infants, and nothing in the legislative history of the statute or rulemaking history of the

Department's regulations suggests a credible interpretation to the contrary.

Section 504 provides:

> No otherwise qualified handicapped individual . . . shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. . . .

The statute defines a "handicapped individual" as

> any person who (i) has a physical or mental impairment which substantially limits one or more of such person's major life activities, . . . or (iii) is regarded as having such an impairment.

An infant is a person. If an infant has a physical or mental impairment which substantially limits major life activities, or is regarded as having such an impairment, the infant is a "handicapped individual" within the meaning of the law. If a hospital engages in a program or activity which provides medical services to infants and if that program or activity receives Federal financial assistance, it is a "program or activity receiving Federal financial assistance" within the meaning of the law.

If an infant who is a "handicapped individual" is "otherwise qualified" to receive the benefits of a medical services program or activity receiving Federal financial assistance, and is denied, solely by reason of his handicap, the benefits of those medical services, that infant is within the protection of section 504.

A key issue, therefore, in applying section 504 in any context is that the handicapped individual who was allegedly excluded from participation in, denied the benefit of, or subjected to discrimination under, a federally assisted program or activity be "otherwise qualified" to participate in, or benefit from, the program or activity. To be "otherwise qualified," the handicapped individual must, in spite of his or her present or anticipated physical or mental impairment, be able to meet the essential requirements for participation in the program or activity.

In the context of receiving medical care, the ability to benefit for a handicapped person is the ability to benefit medically from treatment or services. If the handicapped person is able to benefit medically from the treatment or service, in spite of the person's handicap, the individual is "otherwise qualified" to receive that treatment or service, and it may not be denied solely on the basis of the handicap.

Therefore, the analytical framework under the statute for applying section 504 in the context of health care for handicapped infants is that medically beneficial treatment and services not be withheld from a handicapped infant solely on the basis of the handicap.

The legislative history makes clear that by enacting section 504 Congress intended to eliminate all of the "many forms of potential discrimination" against handicapped people through "the establishment of a broad governmental policy." S. Rep. No. 1297, 93d Cong., 2d Sess. 38 (1974). The statute applies to all federally funded programs or activities, specifically including those that provide "health services." *Id.*

The rulemaking history related to the 1977 promulgation of the Department's section 504 regulations explained that the Department was not seeking to regulate with respect to the highly controversial issue of the rights of institutionalized persons to receive treatment for the condition which led to their institutionalization. Additionally, the regulation specifies that the provision of health care services generally to handicapped persons is a matter covered by the Act and the Department's rules. 45 CFR 84.52.

It is difficult to understand the theory of statutory construction that would distinguish the provision of health care services to qualified handicapped infants from the provision of other federally assisted benefits and services to qualified handicapped individuals.

The Department cannot subscribe to the theory that the definition of "handicapped individual" should be construed as inapplicable to infants because infants are dependent upon others for all major life activities. This argument appears to be based on a much too narrow view of what constitutes "major life activities." The Department's section 504 regulations define "major life activities" at 45 CFR 84.3 (j)(2)(ii), as: "functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working." Infants undertake at least some of these major life activities from the moment of birth.

Moreover, if this is the theory, the Department is unaware of the basis to be used in determining at what age the protections of section 504 would begin to apply.

In summary, the Department can find no clue in any bit of legal analysis or rational policy analysis to commend the notion that there is or should be a distinction in the application of section 504 based on the age of the handicapped individual.

It appears the real basis for the contention that section 504 is inapplicable in this context is that medical care is involved, rather than what some may perceive as much less complicated matters like distributing welfare benefits, developing transportation systems, administering housing programs, delivering social services, providing educational services, making employment decisions, and the like.

The Department agrees that matters relating to the provision of medical care are in some ways different from other aspects of applying section 504. For one thing, the consequences of discriminatory treatment may be much higher—a matter of life and death. Also, the analysis involved in determining whether discrimination exists may, in some cases, be much more subtle and difficult. But one aspect that appears the same in all applications of section 504 is that decisions regarding whether handicapped persons will receive the services and benefits of programs and activities receiving Federal financial assistance are sometimes made, not on the basis of the individual's actual qualifications for, and ability to benefit from, those activities, but rather on stereotypes and prejudices concerning the limitations on major life activities faced by handicapped persons. Section 504 was enacted to eliminate these considerations from such decisions. And although the section 504 analysis may be more subtle (at least in some cases), it is an anomalous and bizarre theory that section 504 can properly be used to require that a ramp be built in a hospital to assure that handicapped persons not be denied access to medical services solely on the basis of their handicaps, but that statute may not properly be used to prevent the intentional act of allowing other handicapped persons to die in that hospital, solely because of their handicaps. The Department cannot subscribe to this theory.

In summary, the Department's position is unchanged. Section 504 clearly applies to the provision of health care for handicapped infants.

Separating the "Handicap" from the Condition Requiring Treatment

A number of commenters expressed views that the section 504 analysis summarized above is incapable of application in many or most cases because the handicapping condition and the condition requiring treatment are one and the same. This fact, the commentors argue, results in an inability to separate "medical judgments" from judgments relating to social, emotional,

economic, or other non-medical issues, concerning which unreasonable prejudices have often caused discrimination against handicapped individuals.

Response

Although perhaps subtle, the analysis required by the statutory framework is just as applicable in a case where the handicapping condition and the condition requiring treatment are the same as it is to the "simpler" case where two distinct conditions are involved.

In the "simple" case involving two distinct conditions, such as Down's syndrome and an intestinal obstruction, the Down' syndrome does not present a medical contraindication to surgical correction of the intestinal obstruction. There is no valid medical reason (assuming no other condications) for treating the Down's syndrome infant differently than an infant with the same intestinal obstruction and no Down's syndrome.

The same analysis applies where the handicapping condition and the condition to be treated are the same. In such a case the "handicap" is the physical or mental impairment the infant has or will have (or "is regarded as having") *after* completion of the treatment under consideration. In the case of an infant born with myelomeningocele, for example, the treatment which must be considered is surgery to close the protruding sac to prevent infection and other potentially fatal consequences. The "handicap" is the physical and/or mental impairment the infant is regarded as likely to have in future life. To the extent the myelomeningocele itself or other complications (such as respiratory problems, infection, anesthetic risk, or other factors) present, in the exercise of reasonable medical judgement, contraindications to the surgery, the infant is not able to benefit, in spite of his or her handicap, from the surgery. However, if the surgery would be medically beneficial, in that it would be likely, in the exercise of reasonable medical judgment, to bring about its intended result of avoiding infection or other fatal consequences, then failure to perform the surgery because of the anticipated impairments in future life offends section 504, as the withholding of surgery is *because* of the handicap and *in spite of* the infant's being qualified to receive the surgery.

In both the Down's syndrome and myelomeningocele examples, this analytical framework accomplishes precisely what Congress intended in enacting section 504: to overcome stereotypes and prejudices against handicapped persons who are, in spite of their handicaps, able to participate in, and benefit from, activities and services supported by Federal funds.

All of this is not to say that application of this analytical framework in every case will be easy. Nonetheless, in spite of the difficulties which may arise in case-by-case applications, the analytical framework focusing on the provision of medically beneficial treatment to handicapped infants is the correct one under the statute, and is capable of application.

Applicability of Section 504 When Hospital Is Incapable of Providing Treatment

A number of commenters questioned the applicability of section 504 in cases where the hospital, due to lack of sophisticated equipment, medical specialists, or other factors, is incapable of providing the treatment needed by a particular infant. These commenters appeared to suggest that the Department would find such a hospital to be in violation of section 504 because it did not provide the medically beneficial treatment it was unable to provide.

Response

The answer on the applicability of the law in such a case is as clear as the applicability of common sense. Common sense indicates that if a patient needs treatment which a hospital cannot provide, the hospital will try to refer the patient to a facility that can provide it. If the patient is handicapped, the common sense response is the same. The failure of the hospital to itself provide the treatment is not "on the basis of the handicap"; rather, nontreatment is based on the fact that the hospital is incapable of providing the treatment.

Similarly, if the medically indicated course of action for any individual with a condition the facility is incapable of treating is to arrange for that individual to be transferred to a facility where the treatment can be provided, then this transfer cannot be denied to a qualified handicapped person (one who will benefit medically from it) on the basis of the person's handicap.

Responsibilities of Hospitals as Opposed to Physicians

Another challenge to the Department's application of section 504 to health care for handicapped infants was submitted by the Federation of American Hospitals:

> . . . A hospital cannot practice medicine. In fact, many state laws prohibit and punish the unauthorized practice of medicine. Nevertheless, the proposed rules place the responsibility for the physician's decision on the hospital. Moreover, assuming that discrimination on the basis of handicap exists, it is *not* discrimination on the part of the hospital, it is the discrimination of the physician and/or parents who are not recipients of federal financial assistance as that term is defined under the Rehabilitation Act. Therefore, insofar as they apply to hospitals, not physicians and parents, the proposed rules are also totally misdirected.

Response

The Department disagrees with the comment's implications that the law in any way requires hospitals to engage in the unauthorized practice of medicine, and that hospitals have no authority to prohibit discrimination by physicians.

It is the Department's view that a hospital has the authority to condition a physician's staff membership or renewal of membership on an agreement to abide by the hospital's policy of nondiscrimination. Indeed, the Department's conditions for hospital participation in the Medicare program require that a hospital have "an effective governing body legally responsible for the conduct of the hospital as an institution." 42 CFR 405.1021. Those conditions also require that a hospital have:

> a medical staff organized under bylaws approved by the governing body, and responsible to the governing body of the hospital for the quality of all medical care provided patients in the hospital and for the ethical and professional practices of its members.

42 CFR 405.1023.

Under those conditions the medical staff is also "responsible for support of . . . hospital policies." 42 CFR 405.1023(a). Standards set forth in the accreditation manual for hospitals, published by the Joint Commission on Accreditation of Hospitals, also recognize the responsibility of the governing body to adopt and approve bylaws consistent with all applicable laws and regulations. The accreditation manual also emphasizes that the governing body has the responsibility for the conduct of the hospital's operation and that the medical staff is responsible to the governing body.

It is the Department's position therefore that a hospital has the right to establish and implement a policy of nondiscrimination among its employees and medical staff, and that this does not constitute an unauthorized practice of medicine by the institution.

Applicability of Section 504 to Adults

Several commenters raised the issue whether section 504 would also be applicable to issues relating to medical care provided to adults. For example,

the Department received the following comment from a doctor in San Antonio, Texas:

> As a doctor who practices on adult patients, what I find most worrisome about this whole sorry affair is that the reasoning behind the proposed rules applies at least as well to adults as to infants with congential defects. Should every patient, no matter how old or ill, be forced to receive the "benefits" of cardiopulmonary resuscitation? Should a ninety-year-old man with a stroke which has caused him to develop pneumonia be subjected to weeks on a respirator in hopes of getting him well enough to go to a nursing home, where the same basic problem is sure to lead to another bout of pneumonia? Should a senile, combative eighty-year-old lady with a breast mass have a biopsy and mastectomy? Certainly a stroke and senility are handicaps if Down's syndrome is.

Response

Although section 504 is, of course, applicable to issues relating to health care provided to adults, the unique issues relating to health care for handicapped infants significantly affect the application of the law and justify the special procedures established by the final rules.

The special needs of infants and minors have long been recognized by most states, as its evidenced by the enactment of child abuse and neglect statutes. These statutes, in most instances, specifically reference the failure to provide necessary medical care to minors as constituting child abuse or neglect, and establish special remedial authorities.

In contrast, most adult patients are viewed by courts as being competent to give or withhold consent regarding medical treatment for themselves. In the case of adults incapable of making decisions, due to senility, mental retardation, or the like, courts have applied the "substituted judgment" doctrine to try to ascertain the incompetent patient's own wishes through available evidence and by asking what a reasonable person in the patient's situation would do.

The circumstances which give rise to the special procedures established by every state to protect children are the same circumstances which give rise to the special procedures established by the final rules to apply section 504 to matters relating to health care for handicapped infants.

Limitations on Obligations Imposed By Section 504

A number of commenters called attention to judicial decisions indicating limitations on the extent to which section 504 mandates that recipients of Federal financial assistance undertake substantial changes in their programs or activities.

As stated by the American Academy of Pediatrics:

> Case law interpreting section 504 suggests the existence of limitations beyond which the statute cannot reach, giving rise to the question of whether HHS' rule would impose on providers unwarranted affirmative action burdens. In *Southeastern Community College v. Davis*, 442 U.S. 397 (1979), the Supreme Court considered the claims of a licensed practical nurse that her denial of admission to a college nursing program on the basis of her hearing disability violated section 504. The college had determined that Davis's impairment was such that, even with a hearing aid, she would be unable to participate fully in the program and function effectively as a nurse. According to the plaintiff, however, the college should not have taken her handicap into account in determining whether she was "otherwise qualified" for the program, but, rather, should have confined its inquiry to her academic and technical qualifications. The Court rejected this argument, finding that section 504 "by its terms does not compel educational institutions to disregard the disabilities of handicapped individuals. . . ." 442 U.S. at 405.
>
> Davis argued further that HHS regulations implementing section 504 required that the nursing program be modified to accommodate her, to which the Court replied:
>
> If these regulations were to require substantial adjustment in existing programs beyond those necessary to eliminate discrimination against otherwise qualified individuals, they would do more than clarify the meaning of § 504. Instead, they would constitute an unauthorized extension of the obligations imposed by that statute. *Id.* at 410. . . .

Response

The only affirmative step required of recipient hospitals by the final rules is to post an informational notice. As explained in the preamble, the Department has sought to tailor the notice, with respect to both its wording and the locations for its posting, so as to avoid any disruptive or administratively burdensome effects. The posting of notices to advise individuals of protections provided by Federal laws is very common in connection with a wide range of civil rights, health and safety, consumer protection, labor standards, and other Federal laws. The posting of this notice cannot be credibly argued to constitute the kind of excessive regulation prohibited by the *Davis* doctrine.

The other provisions of the final rule which affect hospitals, the clarification regarding access to records and the narrow exception to the ten-day notice rule, similarly impose no appreciable administrative burdens on hospitals. The provision of the final rules relating to state child protective services agencies also, as explained in the preamble, imposes no significant burdens.

The case-by-case application of section 504 and existing regulations, entirely separate from any mandatory provision of the final rules, is, of course, subject to the *Davis* limitations. However, as clearly evidenced by the guidelines set forth in the appendix to the final rules, these limitations have been fully complied with in connection with the Department's interpretations of the application of section 504 and in its enforcement processes.

Section 504, as the *Davis* decision recognized, requires the operation of a recipient's program in a nondiscriminatory fashion. The Department's interpretations and procedures applicable in this context require no more. The guidelines in the appendix make clear the Department interprets section 504 as not requiring the provision of futile treatments and as respecting reasonable medical judgments. Further, they make clear that investigative procedures have been specially crafted to avoid substantial administrative burdens. The basis of the Supreme Court's decision in *Davis* was that because the Court found it unlikely that the plaintiff could benefit ultimately from the nursing program, the college's refusal to make substantial modifications to its educational program to accomodate the plaintiff was not discriminatory. The appendix guidelines make clear that the Department's interpretation of section 504 in this context carefully adheres to this ability to benefit requirement.

The *Davis* decision did not authorize the evasion of section 504 obligations under the guise that adhering to the nondiscrimination mandate may require some attention. However the courts ultimately refine the doctrine that there are limitations on the scope of section 504, it is the Department's firm position that those limitations are in no way touched by the mandatory requirements of the final rules, nor will they be touched by case-by-case application of the law consistent with the guidelines set forth in the appendix to the final rules.

Medicare and Medicaid as "Federal Financial Assistance"

A number of commenters also disputed the Department's legal authority for the rules on the grounds that participation by hospitals in the Medicare and Medicaid programs did not bring them within the coverage of section 504 on the grounds that Medicare and Medicaid are not

"Federal financial assistance" within the meaning of the Act.

Response

The Department's position, consistently held since the Medicare and Medicaid programs were originally enacted in 1965, that Medicare Part A payments to hospitals and Medicaid constitute Federal financial assistance for purposes of applicability of Title VI of the Civil Rights Act of 1964 and the nondiscrimination statutes modeled after it, including section 504, is unchanged.

Because the rules do not specifically refer to the Medicare or Medicaid programs, the validity of the rule is not dependent upon the Department's long-standing interpretation. However, hospital officials who believe their hospitals are not subject to these civil rights laws may wish to inform themselves of the Department's position and the substantial legal support for it.

The Department's position has been clear, unequivocal, and consistent. The appendix to the Department's title VI regulations lists Medicare and Medicaid as programs of Federal financial assistance. 45 CFR Part 80, Appendix A, Part 1, No. 121, and Part 2, No. 30. The appendix to HHS's section 504 regulations makes clear HHS's interpretation that the scope of jurisdiction of section 504 is the same as that for title VI. 45 CFR Part 84, Appendix A, Subpart A, No. 2.

The legislative history of the Medicare statute makes clear that Medicare payments to hospitals were intended to constitute Federal financial assistance for purposes of the applicability of title VI of the Civil Rights Act, and thus section 504 as well. Speaking on the floor of the Senate in support of the Medicare bill, Senators Ribicoff and Hart stated unequivocally that title VI was applicable to hospitals participating in Medicare. Senator Ribicoff: "[H]ospitals and other institutions have . . . to abide by Title VI of the Civil Rights Act." 111 Cong. Rec. 15803 (1965). Senator Hart:

> In addition to the new economic independence it will create, I am hopeful that the bill will promote first class citizenship in another fashion also. We decided last year, and wrote into law, that federal tax dollars collected from all the people may not be used to provide benefits to institutions or agencies which discriminate on the grounds of race, color, or national origin. This principle will, of course, apply to hospital and extended care and home health services provided under the social security systems, and *will require institutions and agencies furnishing these services to abide by Title VI of the Civil Rights Act of 1964*. Id. at 15813 [emphasis supplied].

In addition, the legislative history of the Civil Rights Act supports this position. In the most complete analysis of title VI contained in the House Judiciary Committee's Report, the additional views of seven supporters of the legislation, uncontroverted in any section of the report, specifically made reference to the predecessor program to Medicaid and clearly stated congressional policy underlying title VI:

> In a related fashion, racial discrimination has been found to exist in vendor payment programs for medical care of public assistance recipients. Hospitals, nursing homes, and clinics in all parts of the country participate in these programs and, in some, Negro recipients have received less than equal advantage.
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> * * * * *
>
> In every essential of life, American citizens are affected by programs of Federal financial assistance. Through these programs, medical care, food, employment, education, and welfare are supplied to those in need. For the government, then, to permit the extension of such assistance to be carried on in a racially discriminatory manner is to violate the precepts of democracy and undermine the foundations of government.

H.R. Rep. No. 914, 88th Cong. 2d Sess. (Additional Views on H.R. 7152 of Hon. William M. McCulloch, et al.).

Courts which have dealt with this issue have found Medicare and Medicaid to constitute Federal financial assistance for purposes of establishing civil rights jurisdiction. A recent such case is *United States* v. *Baylor University Medical Center*, 564 F. Supp. 1495 (N.D. Tex. 1983). Citing HHS regulations indicating that Medicare and Medicaid are Federal financial assistance, case law in which courts "have had little difficulty" in finding that they are Federal financial assistance, the legislative history of the Medicare statute, long-standing agency interpretation, and the broad construction which must be given to remedial civil rights statutes, the court found that Medicare and Medicaid are Federal financial assistance for purposes of section 504 coverage. The court also specifically rejected the medical center's argument that Medicare and Medicaid payments are exempt from the definition of "Federal financial assistance" on the grounds of being under contracts of insurance. The Court distinguished insurance programs, by noting that Medicare is funded by mandatory taxes and Medicaid by general revenues, rather than through a system of risk-based premiums.

Other cases supporting the position that Medicare and Medicaid payments are Federal financial assistance are *NAACP* v. *Wilmington Medical Center*, 657 F.2d 1332 (3d Cir. 1981) (the court noted its jurisdiction was based on the hospital's receipt of Medicare and Medicaid funding); *United States* v. *Cabrini Medical Center*, 497 F. Supp. 95, 96, n.1 (S.D.N.Y. 1980); *Cook* v. *Oschner*, No. 70–1969 (E.D. La., Feb. 12, 1979) (the defendants' argument that Medicare and Medicaid payments did not constitute Federal financial assistance was rejected by the district court during pre-trial motions); *Flora* v. *Moore*, 461 F. Supp. 1104, 1115 (N.D. Miss 1978); and *Bob Jones University* v. *Johnson*, 396 F. Supp. 597 (D.S.C. 1974), *aff'd.*, 529 F.2d 514 (4th Cir. 1975) (court held that VA benefits to students constituted Federal financial assistance to the university and noted their similarity to Medicaid).

The basic congressional policy underlying title VI, section 504 and related statutes is that federally funded programs and services are to be administered in a nondiscriminatory fashion. The Medicare and Medicaid programs were established for the purpose of providing medical service to people who otherwise might not be financially able to obtain them. The argument that somehow these federally assisted medical services were not intended to be within the reach of the nondiscrimination rule is clearly contrary to the basic congressional policy. Underscoring this is the fact that HHS spends billions of dollars annually for health care services to the aged, disabled, and poor, and virtually all hospitals participate in these programs. According to data of the Health Care Financing Administration (HCFA), HHS, of approximately 6,930 hospitals, 6,737 participate in Medicare and virtually the same number in Medicaid. In fiscal year 1982, total hospital costs in the United States were $136 billion. Of this, $47.9 billion were HCFA expenditures ($36.3 billion, Medicare, $11.6 billion, Medicaid). Approximately 36 percent of all hospital costs in the United States are financed through the Medicare and Medicaid programs. *See HCFA Statistics* (Publication No. 03155, Sept. 1983).

It should also be noted that there are no persuasive arguments for distinguishing Medicaid and Medicare on the question of whether they constitute Federal financial assistance to hospitals. Although Federal Medicaid funds flow through the states, the states' relationship to the hospitals in Medicaid is essentially the same as that of the Federal government to the hospitals in Medicare. HHS regulations for both title VI and section 504 specify that recipients of Federal financial assistance include all subrecipients

which receive funds from a recipient. 45 CFR 80.13(i), 84.3(f).

In addition, Medicare and Medicaid cannot be considered procurement contracts for purposes of the statutory exemption from civil rights jurisdiction in connection with such contracts. Unlike the relationship that exists under procurement contracts, health care providers promise only that if they serve an eligible beneficiary of the program, they will look to the government for payment of all but specified items. In addition, under Medicare and Medicaid the level of services is determined by providers who are not acting as agents for the government and are not discharging an obligation the government has assumed. Rather they are—with Federal assistance—engaging in activities they have long performed. In this respect Medicare and Medicaid payments are indistinguishable from grants to pay the costs of medical services. Indeed, those payments often cover medical costs of indigent patients that hospitals would otherwise be required to absorb pursuant to their other legal obligations. In contrast, under a procurement contract the government acts on its own account as a consumer of goods, such as typewriters and paper clips, or services, such as hotel accommodations and rental car services for traveling employees. The level of services under procurement contracts is determined by the government and not, as under Medicaid or Medicare, by the provider.

Furthermore, the Medicare and Medicaid programs do not fall within the statutory exemption from the definition of Federal financial assistance for any payments pursuant to "a contract of insurance or guaranty." 42 U.S.C. 2000 d–1, 2000 d–4 (title VI); 45 CFR 84.3(h) (section 504). The principal object of the Medicare and Medicaid programs is to provide service. Medicare and Medicaid programs cannot properly be characterized as, or analogized to, a contract of insurance. Benefits under these programs are not measured by any fixed premium paid by the beneficiary to the government; the government reimburses for the reasonable cost incurred by the provider in rendering services. Missing from both reimbursement plans is that essential element of insurance—the assumption of risk. The Medicare and Medicaid programs do not purport to indemnify for nonpayment by the beneficiary. The hospital, in becoming a provider of services under these programs, agrees to look to the government for payment and to accept the reimbursement from the government as full payment, except for the deductible and coinsurance. The beneficiary does not incur any obligation to pay for those services which are covered by the agreement between the provider and the government.

Nor do Medicare and Medicaid constitute contracts of guaranty. Essential to a definition of a contract of guaranty is a primary obligation on the part of the individual for whom the guaranty is given. A contract of guaranty is a promise to pay or an assumption of performance of some duty upon the failure of another who is primarily obligated in the first instance. In contrast, the reimbursement provisions of the Medicare and Medicaid programs are not activated by the failure of the individual recipient to pay for the medical services covered by agreement between the government and the hospital.

It is the absence of these elements which distinguishes Medicare and Medicaid from programs that Congress intended to be excluded under the contract of insurance or guaranty exception, such as mortgage guarantees under FHA or VA and depositors' insurance under FDIC, where the role of the government is clearly as an insurer or guarantor and Federal monies are involved only if the private party does not meet his or her obligation. It is also noteworthy that the American Hospital Association apparently concluded in 1966, when Medicare was instituted, that hospitals receiving Medicare were recipients of Federal financial assistance for title VI purposes. The AHA solicited and printed in its journal a question and answer article prepared by the former Department of Health, Education and Welfare to help hospitals understand what they were required to do to comply with title VI to receive Medicare funds. *See* "Hospitals and Title VI of the Civil Rights Act of 1964, Questions and Answers," *Hospitals*, June 1, 1966. Also, pursuant to 45 CFR 84.5, hospitals which participate in the Medicare and Medicaid programs have submitted assurances to HHS that they would comply with section 504 and the applicable regulations.

Accordingly, as demonstrated by this brief summary of points in support of the Department's long-standing position, hospitals which participate in the Medicare and Medicaid programs are recipients of Federal financial assistance for the purpose of establishing section 504 jurisdiction.

"Program or Activity" Receiving Federal Financial Assistance

Another argument presented by some commenters to dispute the legal authority for the proposed rule is that even if Medicare and Medicaid are "Federal financial assistance," they are not "a program or activity" which provides medical care to handicapped infants. The argument appears to be that, purportedly following the analysis of the government's brief to the Supreme Court in the pending case of *Grove City College* v. *Bell*, 687 F.2d 684 (3d Cir. 1982), *cert. granted*, 51 USLW 3611, February 22, 1983 (#82–792), the "program or activity" which receives Federal financial assistance in the form of Medicare and Medicaid payments to a hospital is the fiscal accounting office of the hospital.

As stated by the American Academy of Pediatrics:

> . . . to the extent, then, that the government believes that Title IX cannot extend beyond the financial aid office, is difficult to understand how section 504 could extend to nurseries, maternity wards, and neonatal intensive care units simply because the medical expenses of primarily elderly Medicare beneficiaries are reimbursed in the accounting office.

Response

The Department believes this argument is without merit. The position advanced by the government in *Grove City* is that in determining what constitutes the Federally assisted program, it is necessary to examine both the nature of the Federal program and the organizational practices of the recipient institutions. *Grove City* involves the Basic Education Opportunity Grants program (BEOG), in which grants are made to students and used by the students to pay for tuition, fees, room and board. The recipient institutions operate financial aid programs under the direction of a financial aid office, with a separate budget and a specific purpose, to provide financial aid to students who otherwise could not afford to attend the college. BEOG's are one component of the college's financial aid program. In view of the nature of the Federal BEOG program and the organizational practices of colleges, it is the college's financial aid program that receives the Federal assistance. Although, conceivably, an effort could be undertaken to "trace" the "ripple effects" of the BEOG money throughout the college, the government's position in *Grove City* is that this is not what Congress intended in enacting the program specificity requirement in the applicable civil right statutes.

The circumstances involved in connection with Medicare and Medicaid reimbursements to hospitals are entirely

different from those involved in BEOG's and colleges. Rather than providing assistance to a general financial aid program operated by the recipient, Medicare and Medicaid payments to hospitals are primarily for particular medical services provided to particular patients who received services in particular units of the hospital. It is services provided to particular beneficiaries by the hospital's operating room, x-ray department, laboratory, pediatrics ward, or other organizational units that give rise to the Federal reimbursements. In addition, the hospital's organizational and accounting practices provide for Federal reimbursement for a proportionate share of administrative costs, housekeeping, depreciation of physical plant, and other general expenses, all specifically itemized and specifically eligible for reimbursement.

Also unlike colleges, "tracing" Medicare and Medicaid reimbursements within hospitals is not dependent upon looking for "ripple effects" of the Federal funds. Rather, it is the specific identification of actual services and costs which gives rise to reimbursements based specifically thereon.

Therefore, the Federally assisted program of a hospital is not, as a commenter suggested, the accounting office of the hospital, any more than the Federally assisted program of a college is the accounting office or comptroller. An examination of the applicable Federal programs and the recipient's organizational practices makes clear that the issues presented in the *Grove City* case, and the positions taken by the government in that case, do not undermine the legal basis for the final rules or the application of section 504 to health care for handicapped infants.

It should also be noted that whatever subtleties or twists are ultimately associated with the interpretation of "program or activity," the final rules specifically accommodate the program specificity requirement pertaining to the posting of the informational notice as applicable to each recipient that provides health care services to infants "in programs or activities receiving Federal financial assistance." If, on the basis of the Supreme Court's eventual decision in *Grove City* or other factors, limitations evolve on what programs or activities of hospitals are covered by section 504, those limitations will be accommodated by the text of the rules.

Services vs. Employment as Jurisdictional Limitation

The Federation of American Hospitals advanced another argument in behalf of the proposition that the Department has no legal authority to issue the final rules. The Federation commented:

> The Rehabilitation Act of 1973 (Pub. L. 93–112) does *not* apply to hospitals. Federal circuit courts of appeal which squarely address the issue uniformly hold that the Act does *not* apply to hospitals as recipients of Medicaid or Medicare funds. These courts have held that the Rehabilitation Act applies to recipients of federal financial assistance if, and only if, that assistance has the primary objective of providing employment.
>
> In *United States* v. *Cabrini*, 639 F.2d 908 (2d Cir. 1981), the Court . . . [held] that the Office for Civil Rights was not authorized to investigate a complaint by a hospital employee that he was discharged for mental disability. . . . *Tragesar v. Libbie Rehabilitation Center, Inc.*, 590 F.2d 87, 89 (4th Cir. 1978), *cert. den'd*, 442 U.S. 947; *Scanlon v. Atascadero State Hospital*, 677 F.2d 1271, 1272 (9th Cir. 1981); see, also, *Carmi v. Metropolitan St. Louis Sewer District*, 620 F.2d 672, 674–675 (8th Cir. 1980), *cert. den'd*, 101 S. Ct. 249 (1980) . . .
>
> As there is no legal authority supporting the proposition that the Rehabilitation Act of 1973 applies to hospitals receiving Medicare and Medicaid funds since the primary objective of those programs is *not* employment; the proposed rules must be withdrawn.

Response

The Federation's legal argument is incorrect. The *Tragesar/Carmi/Cabrini Scanlon* line of cases holds that section 504 does not provide jurisdiction *over employment practices of recipients* unless the Federal financial assistance has the primary objective of providing employment. These cases held that section 505(a)(2) of the Rehabilitation Act, making the "remedies, procedures, and rights set forth in title VI of the Civil Rights Act of 1964" applicable to section 504, incorporated the restriction in section 604 of the Civil Rights Act of 1964, which makes title VI inapplicable to employment practices unless the Federal financial assistance has the primary objective of providing employment. Two circuit courts have recently held that the reference to title VI procedures in section 505 did not intend to incorporate the employment restriction. *Jones* v. *Metropolitan Atlanta Rapid Transit Authority*, 681 F.2d 1376 (11th Cir. 1982), *petition for cert. pending*, No. 82–1159 (filed January 11, 1983); *LeStrange* v. *Consolidated Rail Corporation*, 687 F.2d 767 (3d Cir. 1982), *cert. granted*. The Supreme Court is expected to decide this issue during its present term.

Regardless of the merits of that issue, it has no relevance to the final rules. No case has held, as none could based on the clear statutory language and congressional intent of section 504, that section 504 applies only to a very narrow segment of employment practices, and has no applicability to the provision of services and benefits under programs and activities receiving Federal financial assistance.

B. ENFORCEMENT PROCESSES

A prior section of this preamble discusses investigative procedures of the Department applicable in the context of health care for handicapped infants and an analysis of related comments. This section discusses other comments pertinent to this issue.

Sanction for Non-Compliance

A number of commenters stated objections to the sanction for non-compliance, termination of Federal financial assistance. The basic thrust of these comments was that termination of all or a portion of a hospital's Federal financial assistance would be unfair in the context of difficult treatment decisions, later judged by HHS to be in non-compliance with section 504. As stated by the American Hospital Association:

> The penalty for even inadvertent violation would be severe. The Department asserts authority and threatens to terminate all federal financial assistance that the individual or institution may be receiving. Moreover, the threat of such penalties may encourage physicians and others to refuse to participate in programs funded by the Federal government, particularly those supporting specialized treatment facilities for the newborn. In cases where the institution depends for operation on significant federal funds unrelated to handicaps, this policy may, for example, cause the closing of neonatal units to avoid the risk of losing federal funds. Such a result could reduce access to needed care for many infants who could be helped with safe, timely and effective treatment.

Response

It is correct that under the law, non-compliance with section 504 can result in termination of Federal financial assistance to the particular program or activity, or part thereof, in which the noncompliance has been found. However, the existing procedural and legal requirements applicable to any action to terminate Federal financial assistance are more than adequate to protect against an unfair result.

The Rehabilitation Act provides, in section 505(a)(2), that the remedies, procedures and rights set forth in title VI of the Civil Rights Act of 1964 shall be applicable to actions to enforce section 504. These title VI procedures provide substantial due process protections.

First, before Federal financial assistance can be terminated, the

recipient must have an opportunity for a hearing before a court or administrative law judge, who must expressly find that there has been a failure to comply with the law or applicable regulations.

Second, before Federal financial assistance can be terminated, their must be a finding that compliance cannot be secured by voluntary means. Therefore, a recipient that has been found to have violated section 504 in connection with the health care provided to a handicapped infant will not lose its Federal funding unless it refuses to adopt the standards or procedures necessary to prevent future noncompliance.

Third, in any case, the burden of proof that there has been noncompliance and that it cannot be corrected by voluntary means is on the government. The standards for this determination are those set forth in the appendix to the final rules which includes the guideline regarding deference to reasonable medical judgments.

Fourth, the Department's regulations provide for appeal of adverse administrative law judge decisions to the Department's Civil Rights Reviewing Authority, which is independent from the Office for Civil Rights. Recipients may then seek review by the Secretary of the decisions of the Reviewing Authority. Further, the Department's final decision is subject to judicial review.

Therefore, there is no basis for an assertion that Federal financial assistance can be precipitously terminated on the basis of some subjective determinations by a handful of bureaucrats. In fact, due primarily to the statutory requirement that recipients be given full opportunity to voluntarily comply, the chance, based on all prior governmental experience under title VI and the statutes modeled after it, that any recipient will actually lose its Federal financial assistance is rather remote.

OCR Investigations at Strong Memorial Hospital and Vanderbilt University Hospital

In support of criticisms of OCR investigations, a number of commenters cited reports of hospitals which were subjects of OCR investigations at the time the interim final rule was put into effect in March. As stated by the American Hospital Association:

> The mischief of the federal hotline enforcement machanism was illustrated graphically during the short life of the March rule by the occurrances at Vanderbilt University Hospital in Nashville and Strong Memorial Hospital in Rochester, NY. In the Vanderbilt case, an anonymous hotline caller alleged that ten named children at the hospital were not being fed or given proper medical care. A federal "Baby Doe squad" (consisting of lay officials from the regional and national staffs of the Office of Civil Rights and a hired neonatologist) arrived at the hospital that evening and met with the attending physicians for each of the children, the chief of pediatrics, the chief pediatric resident, and the associate director for nursing, after which the neonatologist examined each child. On the following day, the investigative team examined medical records and interviewed nursing staff, hospital administrators, and the chief of pediatrics.
>
> [The investigation] resulted in the delayed discharge of one patient, delayed the transporting of children to scheduled surgery, necessitated the re-ordering of laboratory reports, diverted nurses from patient assignments, delayed nursing shift reports, and consumed, in total, substantial amounts of professional time that otherwise would have been devoted to the care of patients, including the infants who were the subjects of the investigation.
>
> The Strong Memorial experience was strikingly similar and even more disturbing. An unidentified hotline caller, whose only information concerning the case apparently came from a newspaper report, triggered an investigation regarding the treatment of conjoined twins in that facility. An identically constituted investigative squad arrived at the hospital, though without any statement of investigative authority or written requests for hospital records. The hospital complied nonetheless with the investigators' requests, only to have the team disagree as to which of them was entitled to the information. The neonatologist member of the team subsequently departed upon learning that the investigators had failed to obtain the parents' consent to examine the infants.
>
> The effects of the investigation in this case went well beyond the diversion of patient care resources and delays in treatment. The parents of the conjoined infants were subjected to substantial undesired publicity. Parents of other critically-ill children were led by this publicity and the lack of clarification from federal investigators to become apprehensive about the adequacy of care provided at Strong Memorial. Before the investigation concluded, one family removed its seriously-ill child from the facility prior to the completion of treatment, on the belief that the hospital was intentionally harming children.

Response

The Department strongly disputes the accounts of these investigations provided by personnel affiliated with the two hospitals. The reports referenced by commenters appear to be based upon affidavits prepared in connection with litigation initiated by the American Hospital Association challenging the implementation of the March interim final rule. Contrary to these reports, both of these investigations were conducted very expeditiously and professionally, and every effort was made to minimize any disruption to the hospitals. In addition, during the course of these investigations (and prior to their being raised in the litigation), officials of neither hospital complained to OCR regarding the conduct of the investigations, nor, in either case, did hospital personnel complain to OCR personnel that the investigations were causing significant disruptions to the patient care activities of the hospital.

With respect to the Strong Memorial Hospital case, the following are the pertinent facts of the investigation:

a. On the morning of March 29, 1983 (seven days after the effective date of the interim final rule), a complaint was received on the hotline about conjoined infants recently born at Strong Memorial Hospital in Rochester, New York.

b. An investigative team consisting of one investigator from the Washington Office and two from the New York Regional Office was sent to the site to investigate. The team arrived at approximately 4:30 p.m. Arrangements were made to have a medical consultant also travel to the site.

c. The team met with a hospital administrative officer and the attending physician. The attending physician reviewed the infants' condition and status. He mentioned that there was a no-resuscitation order in effect for the twins, should cardiac arrest occur.

d. The attending physician told OCR that the parents were concerned about publicity. OCR assured him that OCR would not discuss the case with the media or otherwise publicize OCR's investigation.

e. The OCR team made no request to interview other staff at that time. The administrator produced a copy of the medical records. The Washington Office investigator received it and said it would not be necessary to produce another copy for the Regional Office. Throughout the investigation, the administrator and attending physician were cooperative and helpful. The attending physician asked the team leader to tell the OCR medical consultant that he could be called late and would be glad to come to the hospital and meet with him, show him the medical records, and let him view the infant. The administrator asked to be called when the medical consultant arrived. The OCR team left the hospital at about 7:30 p.m.

f. The OCR medical consultant arrived in Rochester about 9:15 p.m. and met with the investigative team. Apparently based on a misimpression of his role, the consultant stated he would not review

the records or go to the hospital to meet with the physician or view the infants unless the parents consented.

g. On the morning of March 30, 1983, the OCR team and the OCR medical consultant had a telephone conversation with the administrator. He said that he wished the OCR team would not return to the hospital because that investigation was receiving publicity. The team leader decided there was no need to return to the hospital.

h. In summary, the investigative team was on site only three hours in the late afternoon and early evening of March 29.

With respect to Vanderbilt University Hospital, following are the pertinent facts of the case:

a. OCR received a hotline telephone call at 11:45 a.m. on March 23, 1983 (the day after the effective date of the interim final rule), alleging that ten infants at Vanderbilt University Hospital were not receiving treatment and/or nourishment.

b. From 9:30 p.m. to 11:45 p.m. on March 23, 1983, the OCR investigative team, consisting of two investigators from the Atlanta Regional Office, one from the Washington Office, and the OCR medical consultant, met with various members of the hospital staff to discuss the current status of the ten infants.

c. After this meeting, from midnight until 12:30 a.m., the OCR medical consultant physically viewed the infants on the regularly scheduled "rounds" in the company of the Chief Pediatric Resident and the Chief of Pediatrics.

d. From 8:00 a.m. until 2:45 p.m. on March 24, 1983, the OCR investigators and medical consultant reviewed the available medical records of the ten children. Medical records were given to OCR in groups of four and retrieved as needed by the Associate Director of Nursing and other members of the Vanderbilt staff. The Associate Director of Nursing and the hospital staff members were very cooperative, and at no time did they indicate to the investigative team that the review of records was causing any problem. In only one instance did they indicate they needed a chart, and OCR immediately relinquished it. That chart was not subsequently made available for review that day, but a copy of it was mailed to OCR.f

e. All records were reviewed with the understanding that if they were needed for patient care they would be retrieved. Computer printouts detailing the admitting diagnosis, age, physician assigned to the case, service area, and the date of admission or transfer for all ten children were given to the OCR team. The Associate Director of Nursing stated that this printout was readily available because the information was kept on-line for billing purposes and this would not interfere with patient care. The bedside charts were copied and given to OCR at the end of day because they were needed for patient care.

f. Following the OCR review of the medical records, from approximately 2:45 p.m. to 4:00 p.m. on March 24, 1983, the OCR team interviewed the available nurses who were involved in the primary care of the infants. Five nurses were interviewed for approximately 10 to 15 minutes each. The selection of the nurses was left to the discretion of the Associate Director of Nursing; she scheduled them so that patient care would not be disrupted.

g. At no time did the Chief of Pediatrics or Associate Director of Nursing indicate that the OCR investigation was placing patients in jeopardy.

h. The hospital staff asked the OCR team for a preliminary statement of findings. The team leader responded that OCR investigators are not authorized to make findings during an investigation. An investigative report would have to be prepared following the investigation, and this would have to be reviewed before the agency could issue findings.

i. The total time spent on-site to investigate the circumstances relating to all ten infants was approximately eleven hours. The total time occupied of the two Vanderbilt doctors directly involved was seven and one-half hours. Every effort was made to minimize any disruption, and at no time during the investigation did hospital personnel complain to OCR that the investigation was disrupting patient care.

Therefore, contrary to the reports of hospital officials, prepared to support litigation against the Department, these investigations were conducted professionally and every effort was make to minimize any disruptions.

Concerning the report that, according to a hospital official, one family withdrew a seriously ill patient from the Strong Memorial Hospital before completion of treatment due to fears that the hospital was intentionally harming children, caused by their reading of local newspaper accounts of the investigation, the report provided no further details, and the department has no basis to confirm the event or the motivations for it. However, the firm policy of not commenting to the media regarding an open investigation was adhered to strictly in the Strong Memorial Hospital case. Media attention was not provoked by OCR, nor did OCR make any statement to the media which could have implied any belief by OCR that the allegations of the complaint were substantiated.

Danger of Overtreatment

Several Commenters expressed the concern that the existence of OCR's enforcement process would cause hospitals and health care professionals to "overtreat" an infant. An example of this is a case in which the attending physician or physicians have concluded on the basis of reasonable medical judgment that treatment would be futile, but, due to a fear that an OCR investigation might come to a contrary conclusion, nevertheless provide futile treatment, which, while prolonging the process of dying, causes suffering to the infant and severe distress to the infant's parents. In connection with adverse ramifications of overtreatment, attention was called to the experiences of one family, as presented in a recent book, *The Long Dying of Baby Andrew* (Little, Brown and Co., Boston, 1983).

Response

The Department believes that whatever the dangers are that physician misjudgments will lead to "overtreatment" of infants, those dangers are not increased by the existence of section 504 or the determination of the Department to see that it is effectively enforced. As indicated above, section 504 does not require that futile treatments, which will do no more than prolong the act of dying, be provided. Moreover, OCR decisions concerning compliance or noncompliance with section 504, informed by the expert evaluation of qualified medical consultants, do not interfere with reasonable medical judgments. Also, in any case, reviewing whether certain care was medically indicated and denied on the basis of the infant's handicap, there are extensive due process protections to assure accuracy of fact finding. Furthermore, even where there is an ultimate finding, after exhaustion of all due process rights, of noncompliance of section 504, no sanction can be implemented unless the recipient hospital refuses to adopt procedures to bring it into compliance.

The Department agrees that in a "close case" it may be prudent to preserve the status quo pending additional consideration regarding whether certain possible treatments are medically indicated, whether that additional consideration is by specialists at the hospital, by medical professionals at a more specialized facility, by some internal hospital

review board, or by some state or federal agency. In such a case, the usual practice in most hospitals likely would be to continue life-sustaining care until the appropriate analysis has been secured.

C. ALTERNATIVE APPROACHES

In addition to proposals discussed in the preamble concerning establishment of Infant Care Review Committees, the Department received other suggested alternative approaches.

AMA Proposal: Further Study Prior to Action

The American Medical Association proposed that, rather than adopting any regulation, the Department should initiate a study to include: compilation of data on the incidences of each type of severe impairment in newborns and of successful treatment, unsuccessful treatment and nontreatment in each category; identification of the issues involved in medical management and of mechanisms currently used by hospitals and states; determination of the availability of facilities, financial resources, and public and private social services; and an assessment of the impact of the various alternative means of responding to situations involving severely impaired newborns, including such factors as the ongoing treatment of newborns, the families of severely impaired newborns, the operation of health care facilities, the confidentiality of patient-physician relationship, the malpractice and disciplinary risks of health care providers, the availability of facilities and resources, and the costs of care.

Response

The AMA's proposal for an elaborate study prior to taking any action concerning this matter is not acceptable to the Department. The Department does not believe it is necessary—or in some respects, even possible—to generate definitive data, information or conclusions on many of the issues identified in the AMA's study proposal.

Much of the data the AMA proposes be compiled concerning the incidence rates of every classification and degree of serious impairment, of respective modes of treatment, of rates of success, nonsuccess and nontreatment, and of issues, mechanisms, resources and costs is probably impossible to compile. These matters are the subject of an entire discipline of medical practice and study To suggest that a government study will somehow generate conclusive information on these issues appears naive at best

The call for a study of the resources available and the costs of care for newborns appears aimed at identifying an aggregate cost to society of putting into practice the principle of providing all handicapped infants with medically beneficial treatment. Because there are no reliable data available on the extent to which handicapped infants are now denied medically beneficial treatment, it would apear impossible to develop even reasonable guesses regarding aggregate costs. Of course, in the overall context of all health care expenditures in the United States, the costs are certain to be relatively small.

In question 6 included in the preamble to the July 5 proposed rule the Department sought input on this cost issue by asking for "examples of cases where medically indicated treatment would, but for the legal requirements of section 504, be withheld." No information was submitted to the Department in response to this question which provides a basis for meaningful cost projections. Although the AMA did not address the issue, other major medical organizations who commented on the cost issue indicated that cost should not be a determinative factor in deciding upon treatment for seriously impaired newborns.

The Department agrees there is utility in assessing the impact of various alternative means of addressing and responding to situations involving severely impaired newborns. Much of this preamble focuses on precisely this issue. Although the AMA did not identify the "various alternative means" it believes to exist to deal with this issue, based on the comments received by the Department, there would appear to be three major approaches: (1) Enforcement of section 504 (hereinafter "the section 504 approach"); (2) review by hospital review boards, such as Infant Care Review Committees (hereinafter "ICRC approach"); and (3) the traditional doctor-parent approach.

Concerning impact on treatment of newborns, the section 504 approach is most directly focused on the provision of medically beneficial treatment. The ICRC approach would be organized to have this as its objective, but lacks a mechanism to assure this as a relatively uniform result among thousands of hospitals. The connection between actual practice and this objective appears most potentially attenuated under the traditional doctor-parent approach, under which there are many thousands of individual decisionmaking units.

With respect to the impact on families to the extent some parents would not consent to medically beneficial treatment, the traditional doctor-parent approach would appear least likely, given the lack of a mechanism to facilitate uniformity, to resort to the system provided by State law to review the propriety of parental decisions. The ICRC approach appears more likely, and the section 504 approach most likely, to produce this result in that they incorporate standards that the lack of parental consent for medically beneficial treatment must be brought to the attention of the appropriate state agencies.

Concerning the impact on the operation of health care facilities, the traditional doctor-parent approach would appear to have the least impact because the facilities have no formalized involvement in the decisionmaking process. Both the section 504 approach and the ICRC aproach would likely result in greater involvement of the health care facility.

With respect to the confidentiality of patient-physician relationships, the traditional physician-parent approach is most protective of confidentiality in that it does not provide for the sharing of information with others. Both the section 504 approach and ICRC approach involve the sharing of information with others, but both incorporate adequate confidentiality safeguards.

With respect to the impact on malpractice and disciplinary risks (assuming that by disciplinary risks, the AMA is referring to revocation of medical licenses, or the like) of health care providers, to the extent physicians have malpractice or disciplinary vulnerabilites relating to incorrect diagnoses or inadequate knowledge of prevailing medical judgments regarding indicated treatments, approaches which facilitate the avoidance of failure to provide medically indicated treatment would appear to reduce those vulnerabilities. Because none of the approaches involve doctors or hospitals overruling parental decisions, and because reports to State agencies of suspected instances of neglect of children are immunized by state law from legal vulnerability, none appear to increase malpractice or disciplinary risks in the context of actions which would be taken when parents refuse consent for medically beneficial treatment.

With respect to the impact on costs, available resources, and available facilities, to the extent the different approaches affect the likelihood that handicapped infants will receive medically indicated treatment, these factors will be correspondingly affected

However, the Department is unaware of any data base for quantifying these factors.

In summary, the Department believes adequate information is on the record to provide a basis for prudent and informed decisions on this issue. Regarding several of the issues raised by the AMA proposal, the Department agrees there would be advantages in having more detailed information and data. However, obtaining more definitive information on some of these issues is impracticable or impossible due to the lack of a reliable data base and a viable methodology to obtain better data. Therefore, the Department believes there would be very little to be gained from another government study of this issue.

D. FACTUAL BASIS FOR FINAL RULES

NPRM Explanation

A number of commenters challenged the Department's factual basis for the proposed rule, as set forth in the July 5 notice of proposed rulemaking. The points argued in support of the position that the factual basis did not provide a sufficient foundation for the regulation were:

(a) Judge Gesell questioned the factual basis for the March 7 rule.

(b) The 1973 article by Drs. Duff and Campbell of the Yale New-Haven Hospital documenting that of 299 consecutive deaths occurring in that special care nursery, 45 (14%) were related to withholding treatment, cited in the preamble to the proposed rule, was too old to be reliable.

(c) The several specific cases cited in the preamble had various probativity defects.

(d) The 1977 article reporting the results of a survey of pediatricians suggesting discriminatory attitudes was outdated, not statistically valid, and otherwise lacked current probative value.

(e) The findings of the report of the President's Commission for Study of Ethical Problems in Medicine and Biomedical and Behavioral Research entitled *Deciding to Forego Life-Sustaining Treatment* contradict the Department's factual basis.

(f) Because "discrimination against the handicapped in the delivery of health care services does not only involve handicapped newborns," there is "no compelling rationale for a set of rules targeted solely at this population."

Response

The Department continues to believe that a substantial factual basis exists for the proposed rule. First, it should be noted that Judge Gesell, although he found many relevant factors to have been inadequately considered in connection with issuance of the March 7 rule, did not find the factual basis inadequate to support "undertaking a regulatory approach to the problem of how newborns should be treated in government-financed hospitals."

Second, the arguments that the well-documented Duff and Campbell study is outdated are based on the personal opinions of several commenters. These personal opinions, although in some cases those of highly-respected medical professionals, were not backed up by any empirical data even remotely resembling the very detailed evidence of the Duff and Campbell study.

Third, the conclusion of the President's Commission that decision-making about seriously ill newborns "usually adheres" to proper standards cannot be fairly represented as evidence that handicapped newborns should be exempt from basic protections of the law prohibiting discrimination on the basis of the handicap.

Fourth, regardless of the caveats concerning the age of particular cases or the lack of a conclusive finding of illegal discrimination, the several specific cases cited in the preamble to the proposed rule support the proposition that handicapped infants may be subjected to unlawful discrimination.

Fifth, in the absence of any empirical studies or data to bolster their personal opinions, the commenters who suggested that the results, published in 1977, of the survey of pediatricians' attitudes are outdated are not convincing. The article, "Ethical Issues in Pediatric Surgery: A National Survey of Pediatricians and Pediatric Surgeons," 60 *Pediatrics* 588, reported the results of a survey of 400 members of the Surgical Section of the American Academy of Pediatrics and an additional 308 chairpersons of teaching departments of pediatrics and chiefs of divisions of neonatology and genetics in departments of pediatrics. Responses were received from 267 of the former group (66.8%) and 190 of the latter (61.7%). Responses were anonymous. Among the results of the survey were:

—76.8% of the pediatric surgeons and 49.5% of the pediatricians said they would "acquiesce in parents' decision to refuse consent for surgery in a newborn with intestinal atresia if the infant also had Down's syndrome."

—23.6% of pediatric surgeons and 13.2% of pediatricians would *encourage* parents to refuse consent for treatment of a newborn with intestinal atresia and Down's syndrome. Only 3.4% of pediatric surgeons and 15.8% of pediatricians would get a court order directing surgery if the parents refused.

—63.3% of the pediatric surgeons and 42.6% of the pediatricians said in cases of infants with duodenal atresia and Down's syndrome, where they "accept parental withholding of lifesaving surgery," they would also "stop all supportive treatment including intravenous fluids and nasal gastric suction."

—62% of all respondents who believe that children with Down's syndrome "are capable of being useful and bringing love and happiness into the home" would nevertheless acquiesce in parents' decisions not to allow surgery for the atresia. Only 7% who so believe indicate that they would go to court to require surgery.

Sixth, there is no requirement in law or policy for the government to prove the magnitude of illegality before establishing basic mechanisms to allow for effective enforcement of a clearly applicable statute.

Evidence of Problems Submitted by Commenters

Additional evidence of the risk that handicapped infants may be subjected to discrimination was submitted by commenters. For example, the Spina Bifida Association of America stated:

> Unfortunately, the SBAA has direct experience of cases in which this principle [of nondiscrimination] has not been followed—instances in which children with spina bifida have been initially denied appropriate treatment. Pediatric neurosurgeon Dr. David McClone of Chicago Children's Memorial Hospital, a member of SBAA's Professional Advisory Committee, has found that 5% of the children with spina bifida referred to him have been victims of treatment denial. Most of these cases, he believes, resulted from ignorance of current therapies and their impressive outcomes.

The Department received a number of comments from practicing nurses regarding the problem and need for the proposed rule. For example, from a Lexington, Kentucky, nurse:

> I am a registered nurse and have worked in the labor and delivery area, newborn nursery and intensive care nursery. . . . I think the average American would be shocked at the decisions that are made regarding "non-perfect" infants. I have personally heard physicians and nurses talk to new parents about their child and persuade the parents to "let the child die and therefore end its suffering"—which really meant "let us starve your child to death"—that is certainly not a humane way to "let a child die."

A nurse in Boca Raton, Florida wrote:

> I am an RN with a speciality in maternal-child health. In the past few years I have had to witness the deaths of innocent children in hospitals where a decision was

made not to continue with medical care and assistance.

Another nurse wrote:

As a nurse (RN) in a neonatal ICU, I feel compelled to write and voice my support of the "Baby Doe rule" now proposed. . . . Many doctors and nurses openly support withholding or withdrawing medical care. . . . Due to the ethics of the medical director of the unit, this has only been done once or twice to my knowledge. I would report any cases of neglect I knew of if this number and service were available. . . . An outside third party is needed to police the cases. Please allow some method of reporting and investigating these babies' cases to be available.

From a nurse in San Diego, California came the following comment:

[A]s a practicing registered nurse myself, I believe such regulations permit nurses and staff to act in a patient's best interest—life itself!—without fear of harrassment and possible job loss.

In addition, some commenters who opposed the proposed rule appeared to acknowledge that there is a risk that handicapped infants will not receive medically beneficial treatment. For example, the American Society of Law and Medicine, a national, nonprofit professional association, stated:

There can be no question that some decisions to end life-sustaining care for newborns have been made inappropriately, even if the frequency of this problem has not been established.

Another example of this is the comment by the chairman of the division of pediatrics of a hospital in Illinois:

We are acutely aware that handicapped individuals (*not* must handicapped newborns) are systematically discriminated against in our society. We are also acutely aware that we, like virtually all members of our society, are guilty of having prejudicial beliefs and attitudes about the handicapped. That pediatricians and other health care providers have acted on these negative beliefs and attitudes should come as no surprise. That parents, at least in the initial phase of their relationship with a handicapped newborn, should wish to be spared what is perceived as a burden or even wish that the infant had never been born should come as no shock.

* * * * *

We wholeheartedly agree that in the past these obviously critically important decisions have not been accorded the degree of reflection and care they are due. Given the wide range of possible technological interventions now possible; given the changing conception of the appropriate role of physician and parents in such decisions; and given the need for public accountability for such decisions—we support the idea that the manner in which such decisions have been made in the past needs critical re-examination.

Another example is the comment of the American Academy of Pediatrics:

The traditional method of a single physician making such judgment [regarding treatment], without exposure to other persons having additional facts, experience, and points of view, may lead to decisions, which, in retrospect, cannot be justified.

Response

The Department believes these comments provide additional support for the Department's conclusions that available evidence indicates there are cases in which handicapped infants are at risk of having life-sustaining, nourishment or medically beneficial treatment withheld solely on the basis of their present or anticipated physical or mental impairments, and that this evidence constitutes a substantial foundation for the establishment of basic procedural mechanisms to facilitate enforcement of section 504.

OCR Investigations to Date

Another argument made by a number of commenters to support criticisms of the adequacy of the factual basis for the proposed rule was that the experience of the Office for Civil Rights to date in connection with section 504 enforcement activities relating to health care for handicapped infants indicate there is no significant evidence of a problem that the rule could reasonably be designed to deal with. As stated by the American Hospital Association:

The total absence of verifiable violations, notwithstanding hundreds of hotline calls, also compels the conclusion that either this mechanism is not an effective means to meet any alleged need or, as we believe to be the case, the violations that have been described are not occurring. In either case, a federal regulation is unnecessary.

Response

Rather than support the argument that there is no need for section 504 applicability or enforcement in connection with health care for handicapped infants, the OCR experience to date provides additional evidence that the assumption that handicapped infants will receive medically beneficial treatment is not always justified.

First, it must be noted that the vast majority of the several hundred calls made to the Department were not for the purpose of reporting suspected violations of section 504. Rather, the vast majority of calls were for administrative purposes, such as hospital officials asking questions about the provisions of the March interim final rule, individuals acting on their apparent curiosity to see if anyone would answer the telephone, and other peripheral matters. It should also be noted that the Department's experience under the interim final rule does not provide an adequate basis to make conclusive judgements in any direction because the rule was only in effect for about three weeks, from March 22 until April 14, the day Judge Gesell declared it invalid.

Following is a summary of the Infant Doe cases handled to date, and current as of December 1, 1983.

1. *Bloomington, Indiana.* Investigation into April 1982, death of infant with Down's syndrome and esophageal atresia from whom surgery was withheld on the instructions of the parents. An investigation, delayed due to difficulties in obtaining information sealed by court order, has been conducted. Final administrative action has not yet been taken.

2. *Robinson, Illinois.* May 14, 1982 complaint that hospital (at the parents' request) failed to perform necessary surgery on an infant born with myelomeningocele. Prompt on-site investigation was conducted, involving OCR, the Justice Department and the state child protective services agency. The parents refused consent for surgery; the hospital referred the matter to state authorities, who accepted custody of the infant and arranged for surgery and adoption. The care provided to the infant while these actions were taken was in compliance with section 504. Finding: no violation.

3. *Madison, Wisconsin.* May 7, 1982, complaint that two infant survivors of abortions may have been denied treatment. On-site investigation revealed that two infants, of 26 and 22 weeks gestation, were born alive following abortions; life-saving procedures were applied: neither infant could survive due to extreme prematurity. Finding: no violation.

4. *Kettering, Ohio.* July 26, 1982, complaint that an infant with spina bifida and hydrocephalus was not being treated. Immediate on-site investigation revealed that surgery to correct the spina bifida condition was not performed immediately because the infant had medical complications. Surgery was performed after the infant's condition stabilized. The hospital provided all proper treatment. Finding: no violation.

5. *Barrington, Illinois.* September 17, 1982, complaint that a multi-handicapped infant was not receiving needed treatment. Immediate on-site investigation determined that given the nature and severity of the problems, there were no procedures or services which could have been provided which might have changed or otherwise

influenced the outcome for this infant, who died for days after birth. Finding: no violation.

6. *New Haven, Connecticut.* October 12, 1982, complaint (referred from the Department of Justice) that hospital engaged in a pattern and practice of denying medical treatment to handicapped infants. The complaint was included in a compliance review, already in progress. The investigation has been expanded to include several cases involving other Connecticut hospitals. The investigation, which has included review of hundreds of medical files, has not been completed.

7. *Tulsa, Oklahoma.* December 7, 1982, complaint that a baby was being deliberately dehydrated. Immediate on-site investigation determined that the infant had hydranencephaly (complete or almost complete absence of cerebral hemispheres) and transposition of the great vessels (reversal of main vessels into heart); notwithstanding all proper care, the severity of the anomalies made the prognosis very pessimistic. Finding: no violation.

8. *Duarte, California.* January 10, 1983, complaint that the hospital denied the complainant's son admission to the hospital for a bone marrow transplant solely because of his handicapping condition, Down's syndrome. An investigation has been conducted. Administrative action has not been completed.

9. *Austin, Texas.* January 17, 1983, complaint that newborn babies with serious birth defects have not received proper care. An investigation has been conducted. Administrative action has not been completed.

10. *Lansing, Michigan.* January 24, 1983, complaint that a handicapped infant born to a surrogate mother was treated for a streptococci infection over the objections of the father who had told the hospital not to care for the child. OCR inquiry determined the hospital took immediate steps to obtain an appropriate court order to assure that needed treatment was provided, notwithstanding objections from the father. Finding: no violation.

11. *San Antonio, Texas.* March 2, 1983, complaint that deaths of a number of infants at two hospitals may have been related to discriminatory withholding of care. OCR investigation postponed at request of District Attorney assisting in grand jury criminal investigation.

12. *Houston, Texas.* March 10, 1983, complaint that five infants were denied proper care in a neonatal intensive care unit. The investigation has not been completed.

13. *Jackson, Michigan.* March 14, 1983, complaint from a mother that her son, who had Down's syndrome, died as a result of improper treatment. An investigation has been conducted. Administrative action not completed.

14. *Odessa, Texas.* March 18, 1983, hotline complaint that the hospital had failed to provide adequate medical care to a premature infant who died in 1982. On-site investigation and review of medical records by OCR medical consultant found that the infant, born March 18, 1982, after a 25–26-week gestation period, suffered from extreme immaturity, and died March 20, 1982. Finding: no violation.

15. *Nashville, Tennessee.* March 22, 1983, hotline complaint that an infant had been denied sustenance for three days. Immediate contact revealed the infant was not a patient at the facility and the alleged attending physician was not a member of the attending or resident medical staff. This was verified by the patient census data, the facility's physician roster, and contact with the county medical society. This case was administratively closed due to an insufficient complaint.

16. *Nashville, Tennessee.* March 22, 1983, anonumous hotline complaint that 10 childern were not receiving adequate medical treatment. Immediate on-site investigation, including an OCR medical consultant, determined that no child was in imminent danger; all children were receiving nutritional sustenance; and all children were receiving proper care. Finding: no violation.

17. *Fayette, Alabama.* March 22, 1983, anonymous hotline complaint that a handicapped infant was denied nourishment and allowed to die in an Alabama hospital in December 1982. The caller could provide no other information. Investigation has been conducted. Administrative action awaiting report from medical consultant.

18. *Waxahachie, Texas.* March 23, 1983, anonymous hotline complaint that between Christmas and February, a premature infant was denied treatment and allowed to die at a hospital in Texas. An investigation has been conducted. Administrative action not yet completed.

19. *Baltimore, Maryland.* March 23, 1983, hotline complaint that a premature infant was not being provided nourishment and heat. An immediate on-site investigation determined that the infant, weight 1 lb.,½ ounce at birth, was previable; the infant died several hours after birth; the infant had no congenital malformations or anomalies. Final administrative action on this case has not yet been taken.

20. *Newark, New Jersey.* March 27, 1983, anonmous hotline complaint that a premature infant, born as a result of a third trimester abortion, was not receiving adequate care. Immediate on-site investigation reveled that the premature infant weighed about 700 grams, and showed few signs of life. The infant was aggressively resuscitated, placed on intravenous feeding, and provided other life supporting treatment. Appropriate care was being provided. Finding: no violation.

21. *Rochester, New York.* March 29, 1983, hotline complaint that Siamese twin infants were being denied treatment. Immediate on-site investigation determined that a team specialists examined the infants and concluded the conjoined female infant would not survive any attempt to separate them. Full intensive care was provided. The infants were placed on a respirator and given antibiotics, fluid and the necessary nutrition. At the time of the on-site, March 29, 1983, it was determined that there was no basis for seeking emergency remedial action. Final administrative action has not yet been completed.

22. *Seattle., Washington.* March 30, 1983, hotline complaint that an infant was being denied food and water and would not live much longer than a day or two. The caller had no identifying or other information. Immediate on-site inquiry determined there were no infants at the facility meeting the description of the complaint. The case was administratively closed due to insufficient complaint.

23. *Miami, Florida.* April 4, 1983, hotline complaint alleging (based upon information in the newspaper) parents of a premature infant and the attending physician decided not to allow the infant to be resuscitated. Immediate inquiry determined the infant had died prior to receipt of the complaint. The premature infant had multiple catastrophic conditions, including complete liquefaction of the brain. Final administrative action awaiting report of medical consultant.

24. *Decatur, Alabama.* April 6, 1983, hotline complaint from a parent that her child's condition was misdiagnosed by a particular physician during a 2½ year period. Inquiry determined that the child suffers from food allergies; the prognosis is excellent, the child at one time was believed, apparently erroneously, to be retarded. This case was administratively closed because the inquiry failed to reveal ilnformation suggesting a possible violation of section 504.

25. *Melrose Park, Illinois.* April 8, 1983, anonymous hotliine complaint. The caller provided no details concerning the infant's condition or treatment.

Immediate telephone inquiry discovered no information to suggest a section 504 violation. This case was administratively closed due to an insufficient complaint.

26. *Charlotte, North Carolina.* April 10, 1983, hotline complaint that a premature infant died in July 1979 due to withholding of treatment. The caller could not provide any other information. Due to the length of time since the alleged discriminatory act and the lack of specific information, this case was administratively closed due to an insufficient complaint.

27. *Hyde Park, New York.* April 13, 1983, anonymous hotline complaint that the hospital would have let a baby with Down's syndrome die if the parents had not been aggressive and insisted on care being provided. The caller could provide no identifying information. This case was administratively closed due to an insufficient complaint.

28. *Coquille, Oregon.* April 13, 1983, hotline complaint that parents of a handicapped infant and the attending physician were going to withhold all treatment. Immediate on-site investigation, including medical consultant's review of medical records, determined the infant had a severe congenital central nervous system defect incompatible with life and not amenable to surgical correction; hospital provided supportive care and attempted to provide fluid orally, but did not attempt to provide intravenous fluids or arrange immediate transfer to a tertiary level neonatal intensive care unit for more specialized evaluations. The OCR medical consultant and the specialists at the tertiary care facility to which the infant was transferred three days after birth concluded that no course of treatment which was available would have avoided imminent death of this infant; the most that could have been expected from more aggressive care would have been to prolong the act of dying. The infant died 10 days after birth. Finding: no violation.

29. *Athens, Tennessee.* April 18, 1983, anonymous hotline complaint that an infant born at 28 weeks gestation was denied treatment and nourishment and allowed to die at a Tennessee hospital. The caller could give no identifying information. Investigation has been conducted. Administrative action awaiting report of medical consultant.

30. *Shreveport, Louisiana.* April 20, 1983, hotline complaint that a particular physician at the hospital certified three infants born alive as stillborn and refused to provide care to another infant. Investigation, including medical consultant review, found no medically beneficial treatment was withheld. Finding: no violation.

31. *Dayton, Ohio.* April 29, 1983, anonymous hotline complaint that an infant, identity unknown, weighing one pound and eight ounces was denied treatment and died. Inquiry revealed the deceased infant was premature (22 weeks gestation) and immature (organs were not developed); the infant had no anomalies; the hospital attempted to administer oxygen but the lungs were too small to function; no medically beneficial treatment was withheld. This case was administratively closed due to the lack of information suggesting possible violation of section 504.

32. *Los Angeles, California.* May 17, 1983, complaint that infant, believed stillborn, lived several hours and may not have received proper care. Administrative action has not been completed.

33. *Daytona Beach, Florida.* May 19, 1983, hotline complaint that an infant with spina bifida may not be receiving medical treatment. Immediate contact with hospital and state agency and prompt on-site investigation indicated that the parents did not consent to surgery for the infant; on May 18, eight days after birth, the state agency obtained a court order to provide surgery, which was performed May 22, 1983. An investigation has been conducted. Administrative action awaits report of medical consultant.

34. *Baton Rouge, Louisiana.* May 23, 1983, hotline complaint that medical services were denied a premature infant, who died soon after birth. Investigation has been conducted. Administrative action has not been completed.

35. *Colorado Springs, Colorado.* June 21, 1983, hotline complaint from a nurse that an infant with myelomeningocele and paralyzed vocal chords was being denied necessary surgery. Immediate on-site investigation indicated substantial uncertainty on whether treatment for the myelomeningocele would be provided immediately; physicians were providing nutrition and supportive care and were awaiting the results of several tests on the infant. During the afternoon, hospital personnel were advised that an on-site investigation would be initiated that evening; that the state child protective services agency would be asked to also investigate; and that OCR would notify the Justice Department of the investigation. Also during the afternoon, the OCR medical consultant discussed the case with the attending physician. That evening corrective surgery was performed on the myelomeningocele. Investigation, including review by medical consultant, determined that no medically beneficial treatment was withheld on the basis of the infant's handicap. Finding: no violation.

36. *Brooklyn, New York.* June 23, 1983, complaint that premature infant who died in 1981 did not receive proper care. An investigation was conducted. Administrative action awaits report of medical consultant.

37. *Atlanta, Georgia.* June 27, 1983, hotline complaint that an infant, identity unknown, born with multiple anomalies was in a life-threatening situation because the doctors were planning to cease treatment of the infant. On-site investigation, June 28, indicated the premature infant, who weighed 950 grams at birth, received aggressive treatment, but the prognosis was not optimistic. At the time of the on-site investigation, it was determined there was no basis to seek emergency remedial action. Final administrative action is awaiting written report from medical consultant.

38. *Medford, Oregon.* July 7, 1983, anonymous hotline complaint that two infants died in 1982 because of improper medical treatment. The investigation has not been completed.

39. *Pinehurst, North Carolina.* July 21, 1983, hotline complaint that a three-week old infant with spina bifida and hydrocephalus would not live if surgical treatment was not provided. Immediate inquiry determined the appropriate surgery was performed July 8, 1983. Final administrative action has not been concluded.

40. *San Francisco, California.* August 2, 1983, hotline complaint that an infant with a cleft palate and heart defect was allowed to die at a California hospital in May 1979. The caller stated that a malpractice lawsuit is pending. The investigation has not been completed.

41. *Falls Church, Virginia.* August 9, 1983, hotline complaint that a baby, identity unknown, with possible brain damage, no ears or eyes, would not be given nourishment. A meeting with hospital officials failed to identify an infant meeting the description given by the complainant. An infant with somewhat similar circumstances was described; no information concerning this infant suggested a lack of appropriate care. Complainant refused to accept OCR calls seeking further information. This case was administratively closed due to an insufficient complaint.

42. *Wichita, Kansas.* August 11, 1983, complaint that infant whose body was discovered at incinerator site may have been denied proper treatment. An investigation has been conducted.

Administrative action has not been completed.

43. *Lincoln, Nebraska.* August 25, 1983, hotline complaint that two premature infants did not receive appropriate care and died. The investigation has not been completed.

44. *Boynton Beach, Florida.* September 20, 1983, hotline complaint that two handicapped infants were allowed to die immediately following birth. The investigation has not been completed.

45. *Norfolk, Virginia.* September 21, 1983, complaint that infant born alive following an abortion was not being fed or treated. Inquiry determined infant died September 20, 1983. Final administrative action has not been completed.

46. *Boise, Idaho.* September 30, 1983, hotline complaint that an abandoned premature infant with no brain tissue might be withdrawn from life support. Immediate inquiry determined the State child protective services agency had obtained custody of the infant and had no plans to discontinue life support. Final administrative action has not been completed.

47. *Philadelphia, Pennsylvania.* October 16, 1983, hotline complaint that infant, age approximately six weeks, with spina bifida, who received surgery, was not receiving appropriate follow-up care. Inquiry initiated October 16. Decision made that circumstances did not suggest need for immediate remedial action. Final administrative action has not been completed.

48. *Long Island, New York.* October 19, 1983, complaint, based on newspaper article, that infant with spina bifida not receiving surgery due to refusal of parents to consent; legal proceedings has been initiated in State court. Inquiry initiated October 19. On October 27, HHS asked Department of Justice to commence legal action to overcome refusal of hospital to permit review of pertinent records. On November 2, legal action was commenced. On November 17, district court ruled against the government. Appeal filed November 18.

49. *Phoenix, Arizona.* November 7, 1983 anonymous hotline complaint that infant with spina bifida and other conditions not receiving surgery. Immediate inquiry initiated; records obtained; OCR medical consultant discussed case with attending physician and hospital review committee. Decision made not to refer case to Justice Department for emergency remedial action. Final administrative action not yet completed.

The Department believes three of these cases demonstrate the utility of the procedural mechanisms called for in the final rules. In the Robinson, Illinois case (listed as case 2, above), for example, the involvement of the state child protective services agency, working in cooperation with HHS and the Justice Department, was the most important element in bringing about corrective surgery for the infant. The state agency received a report from the hospital administrator pursuant to the state child protective services statute. Had there been no governmental involvement in the case, the outcome might have been much less favorable. Media reports one year later indicate the child's development was proceeding very well, with leg braces adequately compensating for the child's impairment.

In the Daytona Beach, Florida case (listed as case 33, above), action by the state child protective services agency, like that called for in the final rules, brought about needed corrective surgery. Without this action, the infant might have died or suffered more severe impairments.

In the Colorado Springs, Colorado case (listed as case 35, above) the prompt involvement of HHS, acting upon a complaint from a nurse, may have contributed to the decision to provide corrective surgery. Because the decisionmaking process was in progress at the time the OCR inquiry began, it is impossible to say the surgery would not have been provided without this involvement. However, the involvement of OCR and the OCR medical consultant was cooperatively received by the hospital and apparently constructive.

Although no case has resulted in a finding of discriminatory withholding of medical care, the Department believes these cases provide additional documentation of the need for governmental involvement and the appropriateness of the procedures established by the final rules.

E. OTHER ISSUES

Self-Evaluation

Among the questions on which the July 5 notice of proposed rulemaking solicited comments was question 1:

> Should recipients providing health care services to infants be required to perform a self-evaluation, pursuant to 45 CFR 84.6(c)(1), with respect to their policies and practices concerning health services to handicapped infants?

A number of commenters expressed support for this requirement. Some commenters expressed the view that self-evaluations would be helpful and should be conducted, but they should not be a federal regulatory mandate. Some commenters suggested that if this were to be a requirement, it should be through mechanisms other than section 504, such as voluntary accreditation standards or Medicare conditions of participation.

Some commenters opposed a self-evaluation requirement on the grounds it would likely be unproductive. For example:

> Americans United for Life is skeptical of any approach to the enforcement of section 504 that relies on the cooperation of those being regulated. Encouraging hospitals to perform "*self*-evaluation" is not likely to lead to *accurate* evaluation.

Response

The Department has not adopted a self-evaluation requirement as part of the final rules. The Department believes this function will be most effectively carried out in connection with the activities of Infant Care Review Committees encouraged by the final rules, and therefore will not seek to impose uniform standards for self-evaluations.

Information to Parents

Among the questions on which the July 5 notice of proposed rulemaking solicited comments was question 2:

> Should such recipients be required to identify for parents of handicapped infants born in their facilities those public and private agencies in the geographical vicinity that provide services to handicapped infants?

A great many commenters expressed support for such a requirement on the ground that before parents are put into a position of having to make very difficult decisions concerning care for their handicapped child, the parents should be aware of the health and social services agencies and organizations and parental support groups available in the community. Other commenters opposed this requirement. Some commenters expressed the view that hospitals should provide this information as part of their own policies and procedures, but that it would be counterproductive to seek to impose rigid, uniform regulatory requirements in this regard.

Among those supporting such a requirement was the Spina Bifida Association of America (SBAA):

> The SBAA strongly supports such a requirement; it might be the most important influential aspect of the entire regulation.
>
> Parents of a newborn spina bifida child are expected to make rational life and death decisions when what was expected to be a joyous time has instead become an occasion for confronting the concerns of the unknown. The decisions must be made quickly and under great stress. Dr. Rosalyn Darling, a member of SBAA's Professional Advisory Committee, has written that decisions are often made by physicians and individuals who have very little contact with the

disabled community; consequently, decisions concerning treatment are often "stacked" against the newborn with a problem. Parents naturally turn to their physician for guidance, but he or she may have only outdated and unwarrantedly pessimistic information about spina bifida. Even if the physician is well-informed about the available treatment, he or she is rarely aware of the supportive services in the community or equipped to give the support and counselling that others who have gone through the same experience can't provide.

Clearly, new parents of a disabled child need the names of agencies and support groups available to assist the family unit. Other parents who have gone through the same situation can then share their knowledge of the disability and its treatment and give comfort and assistance.

The American Speech-Language-Hearing Association, which represents 39,000 speech-language pathologists and audiologists nationwide, stated:

[P]arents and physicians are largely unaware of what educational, habilitative, and rehabilitative services are available for handicapped children, how much success handicapped children receiving these services can have, the obligation of states to educate handicapped children, the extent of research now going on regarding handicapped children, and other federal, state and local governmental commitments to the handicapped. Unfortunately, physicians have all that they can do to maintain currency with medical information and are, therefore, frequently ill-informed as to what can be done for handicapped infants. . . .

* * * * *

. . . Recipients should be required to provide complete information to the parent about the appropriate handicap. This would include not only identification of public and private agencies that provide services to handicapped infants, but (1) detailed information on the handicap itself; (2) discussion of the educational and rehabilitation potential; (3) discussion of alternative care options such as foster homes, adoption, etc.; (4) identification of parent support groups; and (5) discussion of expectations for a self-sufficient future life. In providing the required information the recipient should use individuals knowledgeable about the handicap, including professionals, associations and parents of handicapped children. For example, the American Speech-Language-Hearing Association and its consumer affiliate, the National Association of Hearing and Speech Action (NAHSA) maintains a Help line (800-638-8255) that can be used to obtain information on (1) speech-language pathology and audiology services available in any area of the United States, (2) speech, language and hearing disorders, and (3) other agencies serving the communicatively handicapped. NAHSA provides informational brochures. . . . Many professional associations have similar documents that would be helpful to recipients.

Among those opposing a requirement that recipients provide information to parents was Georgetown University Hospital, Washington, D.C. As an alternative, the hospital proposed:

DHHS should undertake the responsibility of providing a federal office charged with the task of identifying for parents of handicapped children those public and private agencies in the geographical vicinity of the parent's residence that provide service of handicapped infants, and for providing the necessary financial assistance to acquire such services. Hospitals should be required to furnish parents with a telephone number, and/or address of this federal office.

Response

The Department believes it is extremely important for parents of handicapped newborn infants to receive detailed information on the availability of health and social services for handicapped children in the communities. However, the Department has concluded the most effective way to advance this goal is not through an attempt to impose detailed regulatory requirements that would be very difficult to monitor and enforce.

Rather, the Department has undertaken several initiatives, discussed above in the preamble, to improve the furnishing of information to parents. In addition, this should be a central focus of the activities of the Infant Care Review Committees, which, under the model set forth in the final rules, include participation by representatives of disability groups or disability experts.

VI. Regulatory Information

Severability

It is the Secretary's intent that should any subsection, paragraph, clause, or provision of this rule be declared by a court of competent jurisdiction to be invalid, the remainder of the rule, not expressly so declared invalid, shall continue in effect.

Regulatory Impact Analysis

This proposed rule has been reviewed under Executive Order 12291. It is not a major rule as defined by the Order because it does not have an effect on the economy of $100 million or more or meet the other definitional criteria contained in the Order, and thus does not require a regulatory impact analysis.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (Pub. L. 96-354) requires the Federal government to anticipate and reduce the impact of rules and paperwork requirements on small businesses and other small entities. For each rule with a "significant impact on a substantial number of small entities" an analysis must be prepared describing the rule's impact on small entities.

The Secretary certifies that the final rules do not have a significant impact on a substantial number of small entities. As it relates to hospitals, the primary requirement of the final rules is to post an informational notice, which has no significant impact on the hospitals. The requirements concerning expedited access to records and expedited action to effect compliance also, as explained above, have no significant impact. Requirements in the final rules relating to state child protective services agencies have no substantial impact on those agencies, because those requirements, as explained above, are fully consistent with normal procedures of those agencies and existing regulatory requirements.

Matters addressed in the guidelines included in the final rules are not requirements of the rules. They reflect interpretations and procedures of the Department pursuant to the statute, existing regulations, and existing procedures.

Therefore, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

Section 84.55(c) of the final rules contains information collection requirements. These requirements were submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act of 1980, and approved for use through September 30, 1986. The OMB No. is 0990-0114.

Department of Justice Review

Pursuant to Executive Order 12250, these final rules have been reviewed and approved by the Department of Justice.

List of Subjects in 45 CFR Part 84

Civil rights, Education of handicapped, Handicapped, Physically handicapped.

Dated: December 30, 1983.
Approved:

Margaret M. Heckler,
Secretary.

PART 84—[AMENDED]

The authority citation for Part 84 is as follows:

Authority: Sec. 504, Rehabilitation Act of 1973, Pub. L. 93-112, 87 Stat. 394 (29 U.S.C. 794974); sec. 111(a), Rehabilitation Act Amendments of 1974, Pub. L. 93-516, 88 Stat. 1619 (29 U.S.C. 706); sec. 606, Education of the Handicapped Act (20 U.S.C. 1405), as amended by Pub. L. 94-142, 89 Stat. 795; sec. 321, Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and

Rehabilitation Act of 1970, 84 Stat. 182 (42 U.S.C. 4581), as amended; sec. 497, Drug Abuse Office and Treatment Act of 1972, 86 Stat. 78 (21 U.S.C. 1174), as amended.

For the reasons set forth in the preamble:

1. 45 CFR Part 84 is amended by inserting after § 84.54 the following new § 84.55:

§ 84.55 Procedures relating to health care for handicapped infants.

(a) *Infant Care Review Committees.* The Department encourages each recipient health care provider that provides health care services to infants in programs receiving Federal financial assistance to establish an Infant Care Review Committee (ICRC) to assist the provider in delivering health care and related services to infants and in complying with this part. The purpose of the committee is to assist the health care provider in the development of standards, policies and procedures for providing treatment to handicapped infants and in making decisions concerning medically beneficial treatment in specific cases. While the Department recognizes the value of ICRC's in assuring appropriate medical care to infants, such committees are not required by this section. An ICRC should be composed of individuals representing a broad range of perspectives, and should include a practicing physician, a representative of a disability organization, a practicing nurse, and other individuals. A suggested model ICRC is set forth in paragraph (f) of this section.

(b) *Posting of informational notice.* (1) Each recipient health care provider that provides health care services to infants in programs or activities receiving Federal financial assistance shall post and keep posted in appropriate places an informational notice.

(2) The notice must be posted at location(s) where nurses and other medical professionals who are engaged in providing health care and related services to infants will see it. To the extent it does not impair accomplishment of the requirement that copies of the notice be posted where such personnel will see it, the notice need not be posted in area(s) where parents of infant patients will see it.

(3) Each health care provider for which the content of the following notice (identified as Notice A) is truthful may use Notice A. For the content of the notice to be truthful: (i) The provider must have a policy consistent with that stated in the notice; (ii) the provider must have a procedure for review of treatment deliberations and decisions to which the notice applies, such as (but not limited to) an Infant Care Review Committee; and (iii) the statements concerning the identity of callers and retaliation are truthful.

Notice A:

PRINCIPLES OF TREATMENT OF DISABLED INFANTS

It is the policy of this hospital, consistent with Federal law, that, nourishment and medically beneficial treatment (as determined with respect for reasonable medical judgments) should not be withheld from handicapped infants solely on the basis of their present or anticipated mental or physical impairments.

This Federal law, section 504 of the Rehabilitation Act of 1973, prohibits discrimination on the basis of handicap in programs or activities receiving Federal financial assistance. For further information, or to report suspected noncompliance, call:

[Identify designated hospital contact point and telephone number] or

[Identify appropriate child protective services agency and telephone number] or

U.S. Department of Health and Human Services (HHS): 800–368–1019 (Toll-free; available 24 hours a day; TDD capability).

The identity of callers will be held confidential. Retaliation by this hospital against any person for providing information about possible noncompliance is prohibited by this hospital and Federal regulations.

(4) Health care providers other than those described in paragraph (b)(3) of this section must post the following notice (identified as Notice B):

Notice B:

PRINCIPLES OF TREATMENT OF DISABLED INFANTS

Federal law prohibits discrimination on the basis of handicap. Under this law, nourishment and medically beneficial treatment (as determined with respect for reasonable medical judgments) should not be withheld from handicapped infants solely on the basis of their present or anticipated mental or physical impairments.

This Federal law, section 504 of the Rehabilitation Act of 1973, applies to programs or activities receiving Federal financial assistance. For further information, or to report suspected noncompliance, call:

[Identify appropriate child protective services agency and telephone number] or

U.S. Department of Health and Human Services (HHS): 800–368–1019 (Toll-free; available 24 hours a day; TDD capability)

The identity of callers will be held confidential. Federal regulations prohibit retaliation by this hospital against any person who provides information about possible violations.

(5) The notice may be no smaller than 5 by 7 inches, and the type size no smaller than that generally used for similar internal communications to staff. The recipient must insert the specified information on the notice it selects. Recipient hospitals in Washington, D.C. must list 863–0100 as the telephone number for HHS. No other alterations may be made to the notice. Copies of the notices may be obtained from the Department of Health and Human Services upon request, or the recipient may produce its own notices in conformance with the specified wording.

(c) *Responsibilities of recipient state child protective services agencies.* (1) Within 60 days of the effective date of this section, each recipient state child protective services agency shall establish and maintain in written form methods of administration and procedures to assure that the agency utilizes its full authority pursuant to state law to prevent instances of unlawful medical neglect of handicapped infants. These methods of administration and procedures shall include:

(i) A requirement that health care providers report on a timely basis to the state agency circumstances which they determine to constitute known or suspected instances of unlawful medical neglect of handicapped infants;

(ii) A method by which the state agency can receive reports of suspected unlawful medical neglect of handicapped infants from health care providers, other individuals, and the Department on a timely basis;

(iii) Immediate review of reports of suspected unlawful medical neglect of handicapped infants and, where appropriate, on-site investigation of such reports;

(iv) Provision of child protective services to such medically neglected handicapped infants, including, where appropriate, seeking a timely court order to compel the provision of necessary nourishment and medical treatment; and

(v) Timely notification to the responsible Department official of each report of suspected unlawful medical neglect involving the withholding, solely on the basis of present or anticipated physical or mental impairments, of treatment or nourishment from a handicapped infant who, in spite of such impairments, will medically benefit from the treatment or nourishment, the steps taken by the state agency to investigate such report, and the state agency's final disposition of such report.

(2) Whenever a hospital at which an infant who is the subject of a report of suspected unlawful medical neglect is being treated has an Infant Care Review Committee (ICRC) the Department encourages the state child protective services agency to consult with the ICRC in carrying out the state agency's authorities under its state law and methods of administration. In developing its methods of

administration and procedures, the Department encourages child protective services agencies to adopt guidelines for investigations similar to those of the Department regarding the involvement of ICRC's.

(The provisions of § 84.55(c) have been approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act. The OMB No. is 0990–0114.)

(d) *Expedited access to records.* Access to pertient records and facilities of a recipient pursuant to 45 CFR 80.6(c) (made applicable to this part by 45 CFR 84.61) shall not be limited to normal business hours when, in the judgment of the responsible Department official, immediate access is necessary to protect the life or health of a handicapped individual.

(e) *Expedited action to affect compliance.* The requirement of 45 CFR 80.8(d)(3) pertaining to notice to recipients prior to the initiation of action to effect compliance (made applicable to this part by 45 CFR 84.61) shall not apply when, in the judgment of the responsible Department official, immediate action to effect compliance is necessary to protect the life or health of a handicapped individual. In such cases the recipient will, as soon as practicable, be given oral or written notice of its failure to comply, of the action to be taken to effect compliance, and its continuing opportunity to comply voluntarily.

(f) *Model Infant Care Review Committee.* Recipient health care providers wishing to establish Infant Care Review Committees should consider adoption of the following model. This model is advisory. Recipient health care providers are not required to establish a review committee or, if one is established, to adhere to this model. In seeking to determine compliance with this part, as it relates to health care for handicapped infants, by health care providers that have an ICRC established and operated substantially in accordance with this model, the Department will, to the extent possible, consult with the ICRC.

(1) *Establishment and purpose.* (i) The hospital establishes an Infant Care Review Committee (ICRC) or joins with one or more other hospitals to create a joint ICRC. The establishing document will state that the ICRC is for the purpose of facilitating the development and implementation of standards, policies and procedures designed to assure that, while respecting reasonable medical judgments, treatment and nourishment not be withheld, solely on the basis of present or anticipated physical or mental impairments, from handicapped infants who, in spite of such impairments, will benefit medically from the treatment or nourishment.

(ii) The activities of the ICRC will be guided by the following principles:

(A) The interpretative guidelines of the Department relating to the applicability of this part to health care for handicapped infants.

(B) As stated in the "Principles of Treatment of Disabled Infants" of the coalition of major medical and disability organizations, including the American Academy of Pediatrics, National Association of Children's Hospitals and Related Institutions, Association for Retarded Citizens, Down's Syndrome Congress, Spina Bifida Association, and others:

> When medical care is clearly beneficial, it should always be provided. When appropriate medical care is not available, arrangements should be made to transfer the infant to an appropriate medical facility. Consideration such as anticipated or actual limited potential of an individual and present or future lack of available community resources are irrelevant and must not determine the decisions concerning medical care. The individual's medical condition should be the sole focus of the decision. These are very strict standards.
>
> It is ethically and legally justified to withhold medical or surgical procedures which are clearly futile and will only prolong the act of dying. However, supportive care should be provided, including sustenance as medically indicated and relief of pain and suffering. The needs of the dying person should be respected. The family also should be supported in its grieving.
>
> In cases where it is uncertain whether medical treatment will be beneficial, a person's disability must not be the basis for a decision to withhold treatment. At all times during the process when decisions are being made about the benefit or futility of medical treatment, the person should be cared for in the medically most appropriate ways. When doubt exists at any time about whether to treat, a presumption always should be in favor of treatment.

(C) As stated by the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research:

> This [standard for providing medically beneficial treatment] is a very strict standard in that it excludes consideration of the negative effects of an impaired child's life on other persons, including parents, siblings, and society. Although abiding by this standard may be difficult in specific cases, it is all too easy to undervalue the lives of handicapped infants; the Commission finds it imperative to counteract this by treating them no less vigorously than their healthy peers or than older children with similar handicaps would be treated.

(iii) The ICRC will carry out its purposes by:

(A) Recommending institutional policies concerning the withholding or withdrawal of medical or surgical treatments to infants, including guidelines for ICRC action for specific categories of life-threatening conditions affecting infants;

(B) Providing advice in specific cases when decisions are being considered to withhold or withdraw from infant life-sustaining medical or surgical treatment; and

(C) Reviewing retrospectively on a regular basis infant medical records in situations in which life-sustaining medical or surgical treatment has been withheld or withdrawn.

(2) *Organization and staffing.* The ICRC will consist of at least 7 members and include the following:

(i) A practicing physician (e.g., a pediatrician, a neonatologist, or a pediatric surgeon),

(ii) A practicing nurse,

(iii) A hospital administrator,

(iv) A representative of the legal profession,

(v) A representative of a disability group, or a developmental disability expert,

(vi) A lay community member, and

(vii) A member of a facility's organized medical staff, who shall serve as chairperson.

In connection with review of specific cases, one member of the ICRC shall be designated to act as "special advocate" for the infant, as provided in paragraph (f)(3)(ii)(E) of the section. The hospital will provide staff support for the ICRC, including legal counsel. The ICRC will meet on a regular basis, or as required below in connection with review of specific cases. It shall adopt or recommend to the appropriate hospital official or body such administrative policies as terms of office and quorum requirements. The ICRC will recommend procedures to ensure that both hospital personnel and patient families are fully informed of the existence and functions of the ICRC and its availability on a 24-hour basis.

(3) *Operation of ICRC*—(i) *Prospective policy development.* (A) The ICRC will develop and recommend for adoption by the hospital institutional policies concerning the withholding or withdrawal of medical treatment for infants with life-threatening conditions. These will include guidelines for management of specific types of cases or diagnoses, for example, Down's syndrome and spina bifida, and procedures to be followed in such recurring circumstances as, for example, brain death and parental refusal to consent to life-saving treatment. The

hospital, upon recommendation of the ICRC, may require attending physicians to notify the ICRC of the presence in the facility of an infant with a diagnosis specified by the ICRC, e.g., Down's syndrome and spina bifida.

(B) In recommending these policies and guidelines, the ICRC will consult with medical and other authorities on issues involving disabled individuals, e.g., neonatologists, pediatric surgeons, county and city agencies which provide services for the disabled, and disability advocacy organizations. It will also consult with appropriate committees of the medical staff, to ensure that the ICRC policies and guidelines build on existing staff by-laws, rules and regulations concerning consultations and staff membership requirements. The ICRC will also inform and educate hospital staff on the policies and guidelines it develops.

(ii) *Review of specific cases.* In addition to regularly scheduled meetings, interim ICRC meetings will take place under specified circumstances to permit review of individual cases. The hospital will, to the extent possible, require in each case that life-sustaining treatment be continued, until the ICRC can review the case and provide advice.

(A) Interim ICRC meetings will be convened within 24 hours (or less if indicated) when there is disagreement between the family of an infant and the infant's physician as to the withholding or withdrawal of treatment, when a preliminary decision to withhold or withdraw life-sustaining treatment has been made in certain categories of cases identified by the ICRC, when there is disagreement between members of the hospital's medical and/or nursing staffs, or when otherwise appropriate.

(B) Such interim ICRC meetings will take place upon the request of any member of the ICRC or hospital staff or parent or guardian of the infant. The ICRC will have procedures to preserve the confidentiality of the identity of persons making such requests, and such persons shall be protected from reprisal. When appropriate, the ICRC or a designated member will inform the requesting individual of the ICRC's recommendation.

(C) The ICRC may provide for telephone and other forms of review when the timing and nature of the case, as identified in policies developed by the ICRC, make the convening of an interim meeting impracticable.

(D) Interim meetings will be open to the affected parties. The ICRC will ensure that the interests of the parents, the physician, and the child are fully considered; that family members have been fully informed of the patient's condition and prognosis; that they have been provided with a listing which describes the services furnished by parent support groups and public and private agencies in the geographic vicinity to infants with conditions such as that before the ICRC; and that the ICRC will facilitate their access to such services and groups.

(E) To ensure a comprehensive evaluation of all options and factors pertinent to the committee's deliberations, the chairperson will designate one member of the ICRC to act, in connection with that specific case, as special advocate for the infant. The special advocate will seek to ensure that all considerations in favor of the provision of life-sustaining treatment are fully evaluated and considered by the ICRC.

(F) In cases in which there is disagreement on treatment between a physician and an infant's family, and the family wishes to continue life-sustaining treatment, the family's wishes will be carried out, for as long as the family wishes, unless such treatment is medically contraindicated. When there is physician/family disagreement and the family refuses consent to life-sustaining treatment, and the ICRC, after due deliberation, agrees with the family, the ICRC will recommend that the treatment be withheld. When there is physician/family disagreement and the family refuses consent, but the ICRC disagrees with the family, the ICRC will recommend to the hospital board or appropriate official that the case be referred immediately to an appropriate court or child protective agency, and every effort shall be made to continue treatment, preserve the status quo, and prevent worsening of the infant's condition until such time as the court or agency renders a decision or takes other appropriate action. The ICRC will also follow this procedure in cases in which the family and physician agree that life-sustaining treatment should be wi*hheld or withdrawn, but the ICRC disagrees.

(iii) *Retrospective record review.* The ICRC, at its regularly-scheduled meeting, will review all records involving withholding or termination of medical or surgical treatment to infants consistent with hospital policies developed by the ICRC, unless the case was previously before the ICRC pursuant to paragraph (f)(3)(ii) of this section. If the ICRC finds that a deviation was made from the institutional policies in a given case, it shall conduct a review and report the findings to appropriate hospital personnel for appropriate action.

(4) *Records.* The ICRC will maintain records of all of its deliberations and summary descriptions of specific cases considered and the disposition of those cases. Such records will be kept in accordance with institutional policies on confidentiality of medical information. They will be made available to appropriate government agencies, or upon court order, or as otherwise required by law.

Amendment to Table of Contents

2. The table of contents to 45 CFR Part 84 is amended by striking the designation of "84.55–84.60 [Reserved]" and by inserting in lieu thereof, the following:

Sec.
84.55 Procedures relating to health care for handicapped infants.
84.56–84.60 [Reserved]

3. 45 CFR Part 84 is amended by inserting after Appendix B the following new appendix:

Appendix C—Guidelines Relating to Health Care for Handicapped Infants.

(a) *Interpretative guidelines relating to the applicability of this part to health care for handicapped infants.* The following are interpretative guidelines of the Department set forth here to assist recipients and the public in understanding the Department's interpretation of section 504 and the regulations contained in this part as applied to matters concerning health care for handicapped infants. These interpretative guidelines are illustrative; they do not independently establish rules of conduct.

(1) With respect to programs and activities receiving Federal financial assistance, health care providers may not, solely on the basis of present or anticipated physical or mental impairments of an infant, withhold treatment or nourishment from the infant who, in spite of such impairments, will medically benefit from the treatment or nourishment.

(2) Futile treatment or treatment that will do no more than temporarily prolong the act of dying of a terminally ill infant is not considered treatment that will medically benefit the infant.

(3) In determining whether certain possible treatments will be medically beneficial to an infant, reasonable medical judgments in selecting among alternative courses of treatment will be respected.

(4) Section 504 and the provisions of this part are not applicable to parents (who are not recipients of Federal financial assistance). However, each recipient health care provider must in all aspects of its health care programs receiving Federal financial assistance provide health care and related services in a manner consistent with the requirements of section 504 and this part. Such aspects includes decisions on whether to report, as required by State law or otherwise, to the appropriate child protective services agency a suspected instance of medical neglect of a child, or to take other

action to seek review or parental decisions to withhold consent for medically indicated treatment. Whenever parents make a decision to withhold consent for medically beneficial treatment or nourishment, such recipient providers may not, solely on the basis of the infant's present or anticipated future mental or physical impairments, fail to follow applicable procedures on reporting such incidents to the child protective services agency or to seek judicial review.

(5) The following are examples of applying these interpretative guidelines. These examples are stated in the context of decisions made by recipient health care providers. Were these decisions made by parents, the guideline stated in section (a)(4) would apply. These examples assume no facts or complications other than those stated. Because every case must be examined on its individual facts, these are merely illustrative examples to assist in understanding the framework for applying the nondiscrimination requirements of section 504 and this part.

(i) Withholding of medically beneficial surgery to correct an intestinal obstruction in an infant with Down's Syndrome when the withholding is based upon the anticipated future mental retardation of the infant and there are no medical contraindications to the surgery that would other wise justify withholding the surgery would constitute a discriminatory act, violative of section 504

(ii) Withholding of treatment for medically correctable physical anomalies in children born with spina bifida when such denial is based on anticipated mental impairment paralysis or incontinence of the infant, rather than on reasonable medical judgments that treatment would be futile, too unlikely of success given complications in the particular case, or otherwise not of medical benefit to the infant, would constitute a discriminatory act, violative of section 504.

(iii) Withholding of medical treatment for an infant born with anencephaly, who will inevitably die within a short period of time, would not constitute a discriminatory act because the treatment would be futile and do no more than temporarily prolong the act of dying.

(iv) Withholding of certain potential treatments from a severely premature and low birth weight infant on the grounds of reasonable medical judgments concerning the improbability of success or risks of potential harm to the infant would not violate section 504.

(b) *Guidelines for HHS investigations relating to health care for handicapped infants.* The following are guidelines of the Department in conducting investigations relating to health care for handicapped infants. They are set forth here to assist recipients and the public in understanding applicable investigative procedures. These guidelines do not establish rules of conduct, create or affect legally enforceable rights of any person, or modify existing rights, authorities or responsibilities pursuant to this part. These guidelines reflect the Department's recognition of the special circumstances presented in connection with complaints of suspected life-threatening noncompliance with this part involving health care for handicapped infants. These guidelines do not apply to other investigations pursuant to this part, or other civil rights statutes and rules. Deviations from these guidelines may occur when, in the judgment of the responsible Department official, other action is necessary to protect the life or health of a handicapped infant.

(1) Unless impracticable, whenever the Department receives a complaint of suspected life-threatening noncompliance with this part in connection with health care for a handicapped infant in a program or activity receiving Federal financial assistance, HHS will immediately conduct a preliminary inquiry into the matter by initiating telephone contact with the recipient hospital to obtain information relating to the condition and treatment of the infant who is the subject of the complaint. The preliminary inquiry, which may include additional contact with the complainant and a requirement that pertinent records be provided to the Department, will generally be completed within 24 hours (or sooner if indicated) after receipt of the complaint.

(2) Unless impracticable, whenever a recipient hospital has an Infant Care Review Committee, established and operated substantially in accordance with the provisions of 45 CFR 84.55(f), the Department will, as part of its preliminary inquiry, solicit the information available to, and the analysis and recomendations of, the ICRC. Unless, in the judgment of the responsible Department official, other action is necessary to protect the life or health of a handicapped infant, prior to initiating an on-site investigation, the Department will await receipt of this information from the ICRC for 24 hours (or less if indicated) after receipt of the complaint. The Department may require a subsequent written report of the ICRC's findings, accompanied by pertinent records and documentation.

(3) On the basis of the information obtained during preliminary inquiry, including information provided by the hospital (including the hospital's ICRC, if any), information provided by the complainant, and all other information obtained, the Department will determine whether there is a need for an on-site investigation of the complaint. Whenever the Department determines that doubt remains that the recipient hospital or some other recipient is in compliance with this part or additional documentation is desired to substantiate a conclusion, the Department will initiate an on-site investigation or take some other appropriate action. Unless impracticable, prior to initiating an on-site investigation, the Department's medical consultant (referred to in paragraph 6) will contact the hospital's ICRC or appropriate medical personnel of the recipient hospital.

(4) In conducting on-site investigations, when a recipient hospital has an ICRC established and operated substantially in accordance with the provisions of 45 CFR 84.55(f), the investigation will begin with, or include at the earliest practicable time, a meeting with the ICRC or its designees. In all on-site investigations, the Department will make every effort to minimize any potential inconvenience or disruption, accommodate the schedules of health care professionals and avoid making medical records unavailable. The Department will also seek to coordinate its investigation with any related investigations by the state child protective services agency so as to minimize potential disruption.

(5) It is the policy of the Department to make no comment to the public or media regarding the substance of a pending preliminary inquiry or investigation.

(6) The Department will obtain the assistance of a qualified medical consultant to evaluate the medical information (including medical records) obtained in the course of a preliminary inquiry or investigation. The name, title and telephone number of the Department's medical consultant will be made available to the recipient hospital. The Department's medical consultant will, if appropriate, contact medical personnel of the recipient hospital in connection with the preliminary inquiry, investigation or medical consultant's evaluation. To the extent practicable, the medical consultant will be a specialist with respect to the condition of the infant who is the subject of the preliminary inquiry or investigation. The medical consultant may be an employee of the Department or another person who has agreed to serve, with or without compensation, in that capacity.

(7) The Department will advise the recipient hospital of its conclusions as soon as possible following the completion of a preliminary inquiry or investigation. Whenever final administrative findings following an investigation of a complaint of suspected life-threatening noncompliance cannot be made promptly, the Department will seek to notify the recipient and the complainant of the Department's decision on whether the matter will be immediately referred to the Department of Justice pursuant to 45 CFR 80.8

(8) Except as necessary to determine or effect compliance, the Department will (i) in conducting preliminary inquiries and investigations, permit information provided by the recipient hospital to the Department to be furnished without names or other identifying information relating to the infant and the infant's family; and (ii) to the extent permitted by law, safeguard the confidentiality of information obtained.

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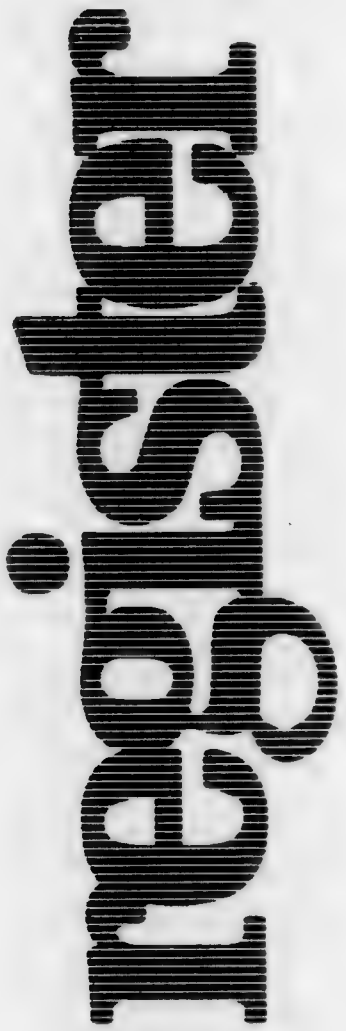

Thursday
January 12, 1984

Part IV

Environmental Protection Agency

40 CFR Parts 7 and 12

Nondiscrimination in Programs Receiving Federal Assistance From the Environmental Protection Agency; Final Rule

VOL 49 ISS 8 JA 12 1984 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 7 and 12

[FRL 2420-4]

Nondiscrimination in Programs Receiving Federal Assistance From the Environmental Protection Agency

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule implements statutes which prohibit discrimination on the grounds of race, color, national origin, sex and handicap. Instead of a separate rule to implement each statute, this consolidated rule includes all requirements of the statutes and clarifies the requirements imposed on EPA assistance (see Appendix for partial listing).

When implemented, this regulation will streamline the administrative requirements currently imposed on recipients of agency funds by multiple nondiscrimination regulations. In addition, it will strengthen agency monitoring efforts by eliminating redundancy and refining compliance procedures.

EFFECTIVE DATE: February 13, 1984.

FOR FURTHER INFORMATION CONTACT: Nathaniel Scurry, Director, Office of Civil Rights (A-105), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 382-4575 (voice) or TDD (202) 382-4565. Copies of the rule will also be available in Braille at EPA Headquarters and each EPA Regional Office.

SUPPLEMENTARY INFORMATION: This rule revises the EPA regulation implementing Title VI of the Civil Rights Act of 1964, as amended, published in the **Federal Register** on July 5, 1973 (40 CFR Part 7), and incorporates the regulation implementing Section 13 of the Federal Water Pollution Control Act Amendment of 1972 (Pub. L. 92-500), published by EPA on September 13, 1974 (40 CFR Part 12), which prohibits sex discrimination in all EPA assisted programs under the Federal Water Pollution Control Act. This rule consolidates EPA's handicap and sex nondiscrimination requirements into 40 CFR Part 7; 40 CFR Part 12 is being removed.

Title IX of the Education Amendments of 1972 (relating to nondiscrimination on the basis of sex in educational programs) is not addressed in this regulation. Under 40 CFR Part 30, however, recipients of EPA assistance must comply with Title IX, if applicable.

This rule was proposed in the **Federal Register** on January 8, 1981 (46 FR 2306) and the comment period ended on March 9, 1981. Extensive comments from the EPA Program Offices and the Department of Justice (DOJ) have been incorporated in this final rule. Further, the requirements covering Section 504 of the Rehabilitation Act of 1973 as amended, comport with the coordination guidelines established by the Department of Health, Education, and Welfare and transferred to the Department of Justice by Executive Order 12250 as they are interpreted by the Department of Justice. The proposed rule contained provisions on Age discrimination that are not included in this final rule because they have not been approved by HHS. This rule will be amended to include those provisions when HHS approval is obtained. This final rule deviates to some extent from the proposed rule to accommodate the above. Changes to Subpart C, Discrimination Prohibited on the Basis of Handicap, were made in reliance on guidance and advice given by the Department of Justice pursuant to its responsibilities under Executive Order 12250 in order to reflect what judicial precedent requires. Rationale relative to reformating, as well as the substantive comments received, follow:

Subpart A of this regulation sets forth the purpose of the regulation and general definitions. We have moved former paragraph (a) of § 7.20, Agency responsibilities, to Subpart E, Agency Compliance Procedures, as § 7.105, General policy. Since this paragraph summarized EPA's compliance policy, this was a logical move. Throughout the rule we changed "Assistance Approving Official" to "Award Official" to more accurately describe the function. One commenter considered the definition of "Facility" to be too broad. We have changed the definition to make it less broad, and have described limitations to it under our comments relating to Subpart D, Requirements for Applicants and Recipients.

One commenter recommended that the definition of Hispanic be expanded to include persons of Portuguese origin. We cannot accept this recommendation. The basic racial and ethnic categories for all federal data collection and reporting purposes are established by Directive 15 of the Office of Federal Statistical Policy and Standards, whose function is now in the Office of Information and Regulatory Affairs, Office of Management and Budget, 43 FR 19260. The Department of Justice's Title VI coordination regulation (28 CFR 42.401 to 42.415) also requires that these categories be used.

Subpart B describes the prohibitions against all forms of discrimination covered by this regulation except discrimination against handicapped persons. We made editorial changes for reasons of clarity.

Within Subpart C, Discrimination Prohibited on the Basis of Handicap, we have responded to several comments which described certain provisions of the proposed Subpart as confusing, particularly those dealing with accessibility.

Paragraph (a)(2) of § 7.65 codifies recent case law that defines the scope of a recipient's obligation to ensure program accessibility. This paragraph provides that in meeting the program accessibility requirement a recipient is not required to take any action that would result in a fundamental alteration in the nature of its program or activity or in undue financial and administrative burdens. This provision is based on the Supreme Court's holding in *Southeastern Community College* v. *Davis*, 442 U.S. 397 (1979), that section 504 does not require program modifications that result in a fundamental alteration in the nature of a program, and on circuit court applications of the Court's statement in *Davis* that section 504 does not require modification that would result in "undue financial and administrative burdens." 442 U.S. at 412; *see, e.g., Dopico* v. *Goldschmidt*, 687 F.2d 644 (2d Cir. 1982); *American Public Transit Association* v. *Lewis* (APTA), 655 F.2d 1272 (D.C. Cir. 1981). In *APTA* the United States Court of Appeals for the District of Columbia applied the *Davis* language and invalidated the section 504 regulations of the Department of Transportation. The court in *APTA* noted "that at some point a transit system's refusal to take modest affirmative steps to accommodate handicapped persons might well violate section 504. But DOT's rules do not mandate only modest expenditures. The regulations require extensive modifications of existing systems and impose extremely heavy financial burdens on local transit authorities." 655 F.2d at 1278.

The inclusion of paragraph (a)(2) is an effort to conform the agency's implementation of section 504 to the Supreme Court interpretation of the statute in *Davis* as well as to the decisions of lower courts following the *Davis* opinion. This paragraph acknowledges, in light of recent case law, that in some situations, certain accommodations for a handicapped person may so alter recipients' programs or activities, or entail such extensive costs and administrative burdens, that

the refusal to undertake their accommodations is not discriminatory. The failure to include such a provision reflecting judicial interpretation of section 504 could lead to judicial invalidation of the regulation or reversal of particular enforcement actions taken under the regulation.

This paragraph, however, does not establish an absolute defense; it does not relieve a recipient of all obligations to handicapped persons. Although a recipient is not required to take actions that would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens, it nevertheless must take any other steps necessary to ensure that handicapped persons receive the benefits and services of the federally assisted program or activity.

New paragraph (e) of section 7.65 states that alterations to existing facilities need not be undertaken when they are structurally or financially not feasible.

Paragraph (b) of § 7.70, New construction, stipulates the effective date of applicable accessibility requirements on design of new construction.

New paragraph (d) of § 7.70, New construction, excludes certain types of areas of EPA projects from the accessibility requirement. We anticipate use of this exemption only in those instances where a facility or portion of a facility is not visited by the public or beneficiaries and where, because of the nature of the facility and the requirements of the jobs there, it is not likely that persons with particular handicaps could meet the physical requirements for those jobs, even with reasonable accommodation. In those instances, the areas in question would not have to be accessible to persons with those handicaps. For example, elevator access need not be provided in a sewage treatment plant for certain areas associated with the treatment process because of the potential hazards that exist and because full mobility may be necessary to perform some of the essential functions of the jobs in those areas. Providing accessibility for wheelchair users in these areas would impose an undue hardship on the operation of the recipient's activity. Recipients would be required to provide accessibility for persons with other handicaps, such as hearing impairments, who could perform jobs in treatment areas without creating safety or health hazards. However, separate administrative or laboratory areas in the same facility must be accessible to persons in wheelchairs.

EPA and recipients should not, of course, make blanket assumptions that handicapped persons cannot perform jobs in particular areas, but should consult with handicapped persons and their representative organizations in determining how facilities can be designed to provide employment opportunities. EPA and recipients should consult with the Equal Employment Opportunity Commission (EEOC) for guidance on the scope of this exemption as it relates to employment opportunities. The EEOC has responsibility for coordinating the federal effort to enforce the federal equal employment opportunity law (E.O. 12067, 43 CFR 28967). We have also followed the suggestions of several commenters to establish timeframes for compliance with accessibility requirements.

One commenter thought that the proposed rule did not sufficiently specify requirements to accommodate handicapped people. We have chosen to leave the specifics to the particular situation as it arises. Reasonable accommodation is required. To determine specifically what is necessary for any particular program is left to the judgment of the program management as guided by this regulation.

One of the major difficulties EPA has encountered in attempting to define "reasonable accommodation" is that each form of impairment of handicapped employees or persons seeking employment requires different methods of accommodation to achieve equality of opportunity with the nonimpaired. It would neither be practical to list every form of accommodation that would achieve this end, nor to dictate a uniform degree of accommodation based upon cost. Finally, certain programs, such as construction grants for wastewater treatment works, create employment opportunities which expose employees to high risks of injury. The ability to perform safely is an essential function of any hazardous job, and a recipient may consider dangers to employees as a factor in determining whether an accommodation is reasonable. In all cases where qualified handicapped persons are employed by or seek employment from EPA assisted recipients, recipients will be expected to extend such employment opportunities as may be available to persons within the limits of coverage of Subpart C, unless the recipient can demonstrate that such accommodation would impose an undue hardship on its operation. The standards of the Department of Justice in 28 CFR Part 42.511 which defines "reasonable accommodation," will be used to determine whether accommodation should be made by the recipient. Several Federal circuit courts have ruled that employment is covered by section 504 only where a primary purpose of the assistance is to provide employment. *Scanlon* v. *Atascadero State Hospital*, 677 F.2d 1271 (9th Cir. 1982); *United States* v. *Cabrini Medical Center*, 639 F.2d 908 (2d Cir. 1981); *Carmi* v. *Metropolitan St. Louis Sewer District*, 620 F.2d 672 (8th Cir. 1980), *cert. denied*, 449 U.S. 892 (1980); *Trageser* v. *Libbie Rehabilitation Center, Inc.*, 590 F.2d 87 (4th Cir. 1978), *cert. denied*, 442 U.S. 947 (1979). However, the Third and Eleventh Circuit Courts of Appeals have recently held that section 504 generally applies to employment. *Le Strange* v. *Consolidated Rail Corp.*, 687 F.2d 767 (3rd Cir. 1982) *cert. granted*, 51 U.S.L.W. 3598 (U.S., Feb. 22, 1983), (No. 82–862); *Jones* v. *Metropolitan Atlanta Rapid Transit Authority*, 681 F.2d 1376 (11th Cir. 1982), *pet. for cert. filed*, 51 U.S.L.W. 3535 (U.S., Jan. 11, 1983) (No. 82–1159).

Pending further clarification of the law, Subpart C will not be enforced with respect to employment where employment is not a primary purpose of the EPA assistance in States located in the Second, Fourth, Eighth, and Ninth Circuits (New York, Connecticut, Vermont, Maryland, North Carolina, South Carolina, Virginia, West Virginia, Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, Alaska, Arizona, California, Idaho, Montana, Nevada, Oregon, Washington, Guam, and Hawaii).

Subpart D sets forth the procedures applicants and recipients must follow for EPA to determine whether they are in compliance with this regulation.

Section 7.80 describes the requirements for applicants. Paragraph (a) of this section provides that all applicants must submit an assurance that the assisted program or activity will not involve any discrimination prohibited by this Part. Paragraph (b) of this section clarifies that construction grant applicants must also submit a compliance report, EPA Form 4700–4. These are mandatory requirements for applicants and will, we expect, provide the basis on which EPA will make the majority of preaward compliance determinations. However, the Office of Civil Rights (OCR), if unable to make a determination based only on such submissions, may request additional information from the applicant or others in accordance with paragraph (a)(1) of § 7.80. Pursuant to the DOJ Coordination Regulation, Paragraph (c) has been added to require submission of compliance information from applicants.

The information required includes notice of any pending lawsuits alleging discrimination by the applicant in the program or activity that would be the subject of the EPA assistance. It also solicits a description of applications to, or current assistance from, other federal agencies for the same program or activity that EPA would assist and a statement on any compliance reviews conducted for that program or activity during the two years before the EPA application.

Section 7.85 describes the compliance information that EPA recipients must collect, maintain, and, on request, submit to EPA. Several commenters requested clarification of the proposed requirements. One criticized the section for providing too little guidance and requested a "more clear, detailed description" of the information that should be collected. In response to this, we have reordered sections of Subpart D of the final rule to make it more descriptive and inclusive and have expanded some provisions for clarity. Paragraph (a) of this section provides that a recipient must collect and maintain four basic categories of information, namely: information concerning lawsuits pending against the recipient that allege discrimination this Part prohibits; information concerning complaints of alleged discrimination filed with the recipient; data showing the racial/ethnic, national origin, sex, and handicap condition of beneficiaries of the recipient's program; and reports of compliance reviews conducted by other agencies. A recipient may also be required to collect and maintain such other information as the OCR determines to be necessary to assure compliance. Paragraph (d) of this section describes the factors that a recipient must take into account in developing such information. Paragraph (e) of this section requires a recipient to retain compliance information for a certain period and to make such information available to EPA and the public, upon request. While recipients are not required to submit routine compliance reports, they must have the information available to submit if requested by EPA.

Several commenters expressed concern over whether Part 7 applied to all the facilities and operations of an EPA applicant/recipient or only to those facilities and operations directly connected with or employed in furthering the project objectives. Part 7 applies only to those facilities, operations, and activities of a recipient that receive EPA assistance. If a recipient received assistance under an EPA statute, the purpose and scope of which is to assist the entire operation of the recipient, then the entire range of the recipient's facilities, operations, and activities become subject to the civil rights statutes implemented by this regulation.

Several commenters were confused about our intent when we used the term "subrecipient" in the proposed rule in § 7.75 Compliance reports. It is our intent that the entity actually implementing the EPA assisted program comply with the requirements of this Part and be able to give assurance of such compliance with respect to such program. To clarify our intent we have eliminated the term "subrecipient."

In response to the comment which asked if proposed § 7.75 required a recipient to keep a log of "service" complaints (as well as employment complaints) when such complaints were maintained by another city agency, those requirements (now appearing under § 7.85) would be met if the recipient can provide the required data upon request to EPA or an interested party.

One commenter suggested that EPA's monitoring of compliance would be improved if we required recipients to identify any discriminatory policies or practices and indicate steps they would take to modify those practices. While we do not require such "self-evaluation" to be submitted to EPA, it is expected, as stated in paragraph (c) of § 7.85, that recipients will identify discrimination prohibited by this Part in any of their funded programs or activities.

Proposed § 7.80, now § 7.90, required each recipient to adopt a grievance procedure and designate a person to coordinate its compliance efforts. Two commenters asked for further explanation of "appropriate due process" for that proposed procedure. We concluded that this phrase may have implied too much. We intend that recipients establish a standard procedure for dealing with complaints that provides an opportunity for a timely and fair resolution. We have, therefore, revised paragraph (a) of § 7.90 to require a recipient to adopt a grievance procedure that assures the prompt and fair resolution of complaints.

Proposed § 7.70, now § 7.95, required each recipient to provide public notice of nondiscrimination to designated groups and individuals. Several commenters indicated that the proposed requirement that notice "must be" included in all major correspondence would be burdensome to recipients. One comment indicated that other suggested forms of notice were more appropriate than this apparently mandatory form; another comment indicated that if all federal agencies had such a requirement "there would be little space left on correspondence for correspondence." We agreed with these comments and have made this form of notice discretionary.

In § 7.85 of the proposed rule, a recipient was required to notify the OCR at the time a lawsuit alleging discrimination was filed. One commenter indicated that such a requirement would be burdensome to a recipient since it would presumably require the recipient to keep EPA apprised of the progress of the lawsuit. The same commenter noted that other federal agencies simply require such information be submitted annually or periodically as part of an application, and recommended that we eliminate this requirement. We modified paragraph (a) of § 7.85 accordingly and now require that a recipient maintain information on pending lawsuits and submit such information upon request.

Section 7.100 prohibits an applicant, recipient or other person from intimidating, threatening, coercing or discriminating against an individual or group in order to interfere with a right or privilege guaranteed by the nondiscrimination provisions of this Part, or because such individual has filed a complaint or participated in enforcement of this regulation. One commenter noted that this section needed "more teeth." Since a complaint of intimidation would be treated according to the complaint procedure in § 7.120, an applicant or recipient found in violation of § 7.100 could be subject to enforcement procedures. We think this is a sufficiently severe sanction.

Another commenter criticized the entire compliance section for "lack of coordination" with the guidelines issued by the Department of Labor and the Attorney General. We think this criticism is unfounded. We have developed our regulation in compliance with the Department of Justice guidelines on Title VI and Section 504, and after numerous discussions with the Department. The Department of Labor is responsible for the administration of Section 503 of the Rehabilitation Act of 1973, as amended, an affirmative action statute that applies to certain federal contractors. It must be noted that revised Part 7 does not apply to those that receive EPA funds through direct federal procurement arrangements.

Subpart E sets forth the procedures that EPA will follow in assuring that applicants and recipients are in compliance with the requirements of the Acts and this Part.

One commenter suggested that it would be more logical to reorder the sections in the proposed Subpart to have preaward compliance, postaward compliance, and complaint investigations precede the sections on sanctions and coordination with other agencies. We have accepted this suggestion and have restructured this Subpart. New § 7.110 describes EPA's preaward review of an applicant's submission(s). Paragraph (a) provides that the OCR will determine compliance based on "any other information EPA receives during this time or has on file about the applicant." One commenter asked what this latter provision included. Many EPA recipients, particularly those constructing wastewater treatment facilities, have received a series of awards and, therefore, EPA has a "file" that may contain information useful to the OCR. In addition, the application itself may include data that would be of interest to the OCR (e.g., other federal assistance an applicant is receiving).

One commenter suggested greater specificity as to when the OCR would conduct an on-site review. An on-site review of the covered program or activity shall take place only when OCR has reason to believe discrimination may be occurring. Of course, OCR may request data and information from applicants at the preaward stage.

Section 7.115 of this final rule (formerly § 7.120) describes EPA's postaward compliance process. One commenter noted that EPA will only conduct compliance reviews where compliance problems have been identified and suggested that EPA should also conduct reviews of recipients where there have been no complaints or investigations. Another commenter also recommended "random reviews" in addition to the proposed approach. It is our view that EPA's compliance resources will have the greatest impact when used to address identified problem areas. Accordingly, postaward on-site reviews of covered programs or activities shall take place only when OCR has reason to believe discrimination may be occurring. We note, however, that revised paragraph (a) of § 7.115 permits EPA to collect data and information as part of a compliance review of any recipient of EPA assistance on a random basis.

Section 7.120 provides the procedure for investigating and resolving complaints of discrimination. One commenter recommended that we establish a specific time limit (rather than merely "promptly") for resolving complaints. We have revised paragraph (c) of this section to require the OCR to notify all parties within five (5) calendar days of the receipt of a complaint and to notify them within twenty (20) additional calendar days, according to paragraph (d)(1), whether EPA accepted, rejected or referred the complaint to another agency. Further, we have clarified the time limit for resolving complaints by applying the postaward compliance procedure set forth in § 7.115 to them. That section has been amended to include, where appropriate, references to complaint investigation. Under these provisions, a preliminary decision must be made within 180 calendar days from the time a complaint is received by the agency. Paragraph (f) of § 7.120 is reserved for the mediation process that applies only to complaints of age discrimination.

In the proposed regulation, § 7.130 described the procedure for annulling, suspending or terminating EPA assistance upon a finding of noncompliance. One commenter asked whether such procedures apply to denial of assistance as well. They do. We have revised this section to include the procedures for refusing to provide financial assistance. We have also rewritten this section to clarify the decision-making process and the rights of applicants and recipients. It should be noted that before EPA denies, annuls, suspends, or terminates assistance on the basis of noncompliance, the applicant or recipient has the statutory right to an evidentiary hearing.

Regulation Development Process

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore subject to the Regulatory Impact Analysis requirements of the Order. We have determined that this regulation is not "major" as it will not have a substantial impact on the economy. This rule was submitted to the Office of Management and Budget for review, as required by Executive Order 12291.

Office of Management and Budget Review

Under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, the information provisions of this rule found in Sections 7.80 and 7.85 were approved by the Office of Management and Budget (OMB), control number 2000–0006, and are reflected in this rule.

Environmental Impact Statement

This regulation does not affect the environment. An Environmental Impact Statement is not required under the National Environmental Policy Act of 1969.

This regulation does not supersede 40 CFR Part 8 which implements Executive Order 11246.

List of Subjects in 40 CFR Part 7

Civil rights, Sex discrimination, Discrimination against handicapped.

In consideration of the foregoing, 40 CFR is amended by removing Part 12 and revising 40 CFR Part 7 to read as follows:

PART 7—NONDISCRIMINATION IN PROGRAMS RECEIVING FEDERAL ASSISTANCE FROM THE ENVIRONMENTAL PROTECTION AGENCY

Subpart A—General

Sec.
7.10 Purpose of this part.
7.15 Applicability.
7.20 Responsible agency officers.
7.25 Definitions.

Subpart B—Discrimination Prohibited on the Basis of Race, Color, National Origin or Sex

7.30 General prohibition.
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Subpart C—Discrimination Prohibited on the Basis of Handicap

7.45 General Prohibition.
7.50 Specific prohibitions against discrimination.
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Subpart E—Agency Compliance Procedures

7.105 General policy.
7.110 Preaward Compliance.
7.115 Postaward compliance.
7.120 Complaint investigations.
7.125 Coordination with other agencies.
7.130 Actions available to EPA to obtain compliance.
7.135 Procedure for regaining eligibility.
Appendix A—EPA Assistance Programs as Listed in the "Catalog of Federal Domestic Assistance"

Authority: The Civil rights Act of 1964, as amended, 42 U.S.C. 2000d *et seq.*; sec. 504, Rehabilitation Act of 1973, as amended, 29 U.S.C. 794; sec. 13, Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92–500.

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Subpart A—General

§ 7.10 Purpose of this part.

This Part implements: Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; and Section 13 of the Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92–500, (collectively, the Acts).

§ 7.15 Applicability.

This Part applies to all applicants for, and recipients of, EPA assistance in the operation of programs or activities receiving such assistance beginning Feburary 13, 1984. New construction (§ 7.70) for which design was initiated prior to February 13, 1984, shall comply with the accessibility requirements in the Department of Health, Education and Welfare (now the Department of Health and Human Services) nondiscrimination regulation, 45 CFR 84.23, issued June 3, 1977, or with equivalent standards that ensure the facility is readily accessible to and usable by handicapped persons. Such assistance includes but is not limited to that which is listed in the *Catalogue of Federal Domestic Assistance* under the 66.000 series. It supersedes the provisions of former 40 CFR Parts 7 and 12.

§ 7.20 Responsible agency officers.

(a) The EPA Office of Civil Rights (OCR) is responsible for developing and administering EPA's compliance programs under the Acts.

(b) EPA's Project Officers will, to the extent possible, be available to explain to each recipient its obligations under this Part and to provide recipients with technical assistance or guidance upon request.

§ 7.25 Definitions.

As used in this Part:

"Administrator" means the Administrator of EPA. It includes any other agency official authorized to act on his or her behalf, unless explicity stated otherwise.

"Alcohol abuse" means any misuse of alcohol which demonstrably interferes with a person's health, interpersonal relations or working ability.

"Applicant" means any entity that files an application or unsolicited proposal or otherwise requests EPA assistance (see definition for "EPA assistance").

"Assistant Attorney General" is the head of the Civil Rights Division, U.S. Department of Justice.

"Award Official" means the EPA official with the authority to approve and execute assistance agreements and to take other assistance related actions authorized by this Part and by other EPA regulations or delegation of authority.

"Drug abuse" means:

(a) The use of any drug or substance listed by the Department of Justice in 21 CFR 1308.11, under authority of the Controlled Substances Act, 21 USC 801, as a controlled substance unavailable for prescription because:

(1) The drug or substance has a high potential for abuse,

(2) The drug or other substance has no currently accepted medical use in treatment in the United States, or

(3) There is a lack of accepted safety for use of the drug or other substance under medical supervision.

Note.—Examples of drugs under paragraph (a)(1) of this section include certain opiates and opiate derivatives (*e.g.*, heroin) and hallucinogenic substances (*e.g.*, marijuana, mescaline, peyote) and depressants (*e.g.*, methaqualone). Examples of (a)(2) include opium, coca leaves, methadone, amphetamines and barbiturates.

(b) The misue of any drug or substance listed by the Department of Justice in 21 CFR 1308.12–15 under authority of the Controlled Substances Act as a controlled substance available for prescription.

"EPA" means the United States Environmental Protection Agency.

"EPA" assistance" means any grant or cooperative agreement, loan, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which EPA provides or otherwise makes available assistance in the form of:

(1) Funds;

(2) Services of personnel; or

(3) Real or personal property or any interest in or use of such property, including:

(i) Transfers or leases of such property for less than fair market value or for reduced consideration; and

(ii) Proceeds from a subsequent transfer or lease of such property if EPA's share of its fair market value is not returned to EPA.

"Facility" means all, or any part of, or any interests in structures, equipment, roads, walks, parking lots, or other real or personal property.

"Handicapped person:"

(a) "Handicapped person" means any person who (1) has a physical or mental impairment which substantially limits one or more major life activities, (2) has a record of such an impairment, or (3) is regarded as having such an impairment. For purposes of employment, the term "handicapped person" does not include any person who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment, by reason of such current drug or alcohol abuse, would constitute a direct threat to property or the safety of others.

(b) As used in this paragraph, the phrase:

(1) "Physical or mental impairment" means (i) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovasular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; and (ii) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(2) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) "Is regarded as having an impairment" means:

(i) Has a physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined above but is treated by a recipient as having such an impairment.

"Office of Civil Rights" or OCR means the Director of the Office of Civil Rights, EPA Headquarters or his/her designated representative.

"Project Officer" means the EPA official designated in the assistance agreement (as defined in "EPA assistance") as EPA's program contact with the recipient; Project Officers are responsible for monitoring the project.

"Qualified handicapped person" means:

(a) With respect to employment: a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question.

(b) With respect to services: a handicapped person who meets the essential eligibility requirements for the receipt of such services.

"Racial classifications:" [1]

(a) American Indian or Alaskan native. A person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

(b) Asian or Pacific Islander. A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa.

(c) Black and not of Hispanic origin. A person having origins in any of the black racial groups of Africa.

(d) Hispanic. A person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless or race.

(e) White, not of Hispanic origin. A person having origins in any of the original peoples of Europe, North Africa, or the Middle East.

"Recipient" means, for the purposes of this regulation, any state or its political subdivision, any instrumentality of a state or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance.

"Section 13" refers to Section 13 of the Federal Water Pollution Control Act Amendments of 1972.

"United States" includes the states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and all other territories and possessions of the United States; the term "State" includes any one of the foregoing.

[1] Additional subcategories based on national origin or primary language spoken may be used where appropriate on either a national or a regional basis. Subparagraphs (a) through (e) are in conformity with Directive 15 of the Office of Federal Statistical Policy and Standards, whose function is now in the Office of Information and Regulatory Affairs, Office of Management and Budget. Should that office, or any successor office, change or otherwise amend the categories listed in Directive 15, the categories in this paragraph shall be interpreted to conform with any such changes or amendments.

Subpart B—Discrimination Prohibited on the Basis of Race, Color, National Origin or Sex

§ 7.30 General prohibition.

No person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving EPA assistance on the basis of race, color, national origin, or on the basis of sex in any program or activity receiving EPA assistance under the Federal Water Pollution Control Act, as amended, including the Environmental Financing Act of 1972.

§ 7.35 Specific prohibitions.

(a) As to any program or activity receiving EPA assistance, a recipient shall not directly or through contractual, licensing, or other arrangements on the basis of race, color, national origin or, if applicable, sex:

(1) Deny a person any service, aid or other benefit of the program;

(2) Provide a person any service, aid or other benefit that is different, or is provided differently from that provided to others under the program;

(3) Restrict a person in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, aid, or benefit provided by the program;

(4) Subject a person to segregation in any manner or separate treatment in any way related to receiving services or benefits under the program;

(5) Deny a person or any group of persons the opportunity to participate as members of any planning or advisory body which is an integral part of the program, such as a local sanitation board or sewer authority;

(6) Discriminate in employment on the basis of sex in any program subject to Section 13, or on the basis of race, color, or national origin in any program whose purpose is to create employment; or, by means of employment discrimination, deny intended beneficiaries the benefits of the EPA assistance program, or subject the beneficiaries to prohibited discrimination.

(7) In administering a program or activity receiving Federal financial assistance in which the recipient has previously discriminated on the basis of race, color, sex, or national origin, the recipient shall take affirmative action to provide remedies to those who have been injured by the discrimination.

(b) A recipient shall not use criteria or methods of administering its program which have the effect of subjecting individuals to discrimination because of their race, color, national origin, or sex, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, national origin, or sex.

(c) A recipient shall not choose a site or location of a facility that has the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program to which this Part applies on the grounds of race, color, or national origin or sex; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of this subpart.

(d) The specific prohibitions of discrimination enumerated above do not limit the general prohibition of § 7.30.

§ 7.40 [Reserved]

Subpart C—Discrimination Prohibited on the Basis of Handicap

§ 7.45 General prohibition.

No qualified handicapped person shall solely on the basis of handicap be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity receiving EPA assistance.

§ 7.50 Specific prohibitions against discrimination.

(a) A recipient, in providing any aid, benefit or service under any program or activity receiving EPA assistance shall not, on the basis of handicap, directly or through contractual, licensing, or other arrangement:

(1) Deny a qualified handicapped person any service, aid or other benefit of a federally assisted program;

(2) Provide different or separate aids, benefits, or services to handicapped persons or to any class of handicapped persons than is provided to others unless the action is necessary to provide qualified handicapped persons with aids, benefits, or services that are as effective as those provided to others;

(3) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an entity that discriminates on the basis of handicap in providing aids, benefits, or services to beneficiaries of the recipient's program;

(4) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(5) Limit a qualified handicapped person in any other way in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit or service from the program.

(b) A recipient may not, in determining the site or location of a facility, make selections: (1) That have the effect of excluding handicapped persons from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity that receives or benefits from EPA assistance or (2) that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity receiving EPA assistance with respect to handicapped persons.

(c) A recipient shall not use criteria or methods of administering any program or activity receiving EPA assistance which have the effect of subjecting individuals to discrimination because of their handicap, or have the effect of defeating or substantially impairing accomplishment of the objectives of such program or activity with respect to handicapped persons.

(d) Recipients shall take appropriate steps to ensure that communications with their applicants, employees, and beneficiaries are available to persons with impaired vision and hearing.

(e) The exclusion of non-handicapped persons or specified classes of handicapped persons from programs limited by federal statute or Executive Order to handicapped persons or a different class of handicapped persons is not prohibited by this subpart.

§ 7.55 Separate or different programs.

Recipients shall not deny a qualified handicapped person an opportunity equal to that afforded others to participate in or benefit from the aid, benefit, or service in the program receiving EPA assistance. Recipients shall administer programs in the most integrated setting appropriate to the needs of qualified handicapped persons.

§ 7.60 Prohibitions and requirements relating to employment.

(a) No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity that receives or benefits from federal assistance.

(b) A recipient shall make all decisions concerning employment under any program or activity to which this Part applies in a manner which ensures that discrimination on the basis of handicap does not occur, and shall not limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of handicap.

(c) The prohibition against discrimination in employment applies to the following activities:

(1) Recruitment, advertising, and the processing of applications for employment;

(2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation and changes in compensation;

(4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(5) Leaves of absence, sick leave, or any other leave;

(6) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

(7) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(8) Employer sponsored activities, including social or recreational programs; or

(9) Any other term, condition, or privilege of employment.

(d) A recipient shall not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants or employees to discrimination prohibited by this subpart. The relationships referred to in this paragraph include relationships with employment and referral agencies, with labor unions, with organizations providing or administering fringe benefits to employees of the recipient, and with organizations providing training and apprenticeship programs.

(e) A recipient shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped applicant or employee unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program.

(f) A recipient shall not use employment tests or criteria that discriminate against handicapped persons and shall ensure that employment tests are adapted for use by persons who have handicaps that impair sensory, manual, or speaking skills.

(g) A recipient shall not conduct a preemployment medical examination or make a preemployment inquiry as to whether an applicant is a handicapped person or as to the nature or severity of a handicap except as permitted by the Department of Justice in 28 CFR 42.513.

§ 7.65 Accessibility.

(a) *General.* A recipient shall operate each program or activity receiving EPA assistance so that such program or activity, when viewed in its entirety, is readily accessible to and usable by handicapped persons. This paragraph does not:

(1) Necessarily require a recipient to make each of its existing facilities or every part of an existing facility accessible to and usable by handicapped persons.

(2) Require a recipient to take any action that the recipient can demonstrate would result in a fundamental alteration in the nature of its program or activity or in undue financial and administrative burdens. If an action would result in such an alternation or such financial and administrative burdens, the recipient shall be required to take any other action that would not result in such an alteration or financial and administrative burdens but would nevertheless ensure that handicapped persons receive the benefits and services of the program or activity receiving EPA assistance.

(b) Methods of making existing programs accessible. A recipient may comply with the accessibility requirements of this section by making structural changes, redesigning equipment, reassigning services to accessible buildings, assigning aides to beneficiaries, or any other means that make its program or activity accessible to handicapped persons. In choosing among alternatives, a recipient must give priority to methods that offer program benefits to handicapped persons in the most integrated setting appropriate.

(c) *Deadlines.* (1) Except where structural changes in facilities are necessary, recipients must adhere to the provisions of this section within 60 days after the effective date of this Part.

(2) Recipients having an existing facility which does require alterations in order to make a program or activity accessible must prepare a transition plan in accordance with § 7.75 within six months from the effective date of this Part. The recipient must complete the changes as soon as possible, but not later than three years from date of award.

(d) Notice of accessibility. The recipient must make sure that interested persons, including those with impaired vision or hearing, can find out about the existence and location of the assisted program services, activities, and facilities that are accessible to and usable by handicapped persons.

(e) Structural and financial feasibility. This section does not require structural alterations to existing facilities if making such alterations would not be structurally or financially feasible. An alteration is not structurally feasible when it has little likelihood of being accomplished without removing or altering a load-bearing structural member. Financial feasibility shall take into account the degree to which the alteration work is to be assisted by EPA assistance, the cost limitations of the program under which such assistance is provided, and the relative cost of accomplishing such alterations in manners consistent and inconsistent with accessibility.

§ 7.70 New construction.

(a) *General.* New facilities shall be designed and constructed to be readily accessible to and usable by handicapped persons. Alterations to existing facilities shall, to the maximum extent feasible, be designed and constructed to be readily accessible to and usable by handicapped persons.

(b) Any construction for which design is initiated on or after the effective date of this Part shall comply with the accessibility requirements of this section. Any construction for which design was initiated prior to the effective date of this Part shall comply with accessibility requirements in the Department of Health, Education and Welfare (now the Department of Health and Human Services) nondiscrimination regulation, 45 CFR 84.23, issued June 3, 1977, or with equivalent standards that ensure the facility is readily accessible to and usable by handicapped persons.

(c) Design, construction or alteration of facilities in conformance with the 1980 "American National Standard Specifications for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped," published by the American National Standards Institute, Inc., constitutes compliance with this section.[2]

(d) *Exception.* This section shall not apply to the design, construction or alteration of any portion of a building that, because of its intended use, will not require accessibility to the public beneficiaries or result in the employment or residence therein of physically handicapped persons.

§ 7.75 Transition plan.

If structural changes to facilities are necessary to make the program accessible to handicapped persons, a recipient must prepare a transition plan.

(a) *Requirements.* The transition plan must set forth the steps needed to complete the structural changes required and must be developed with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons. At a minimum, the transition plan must:

(1) Identify the physical obstacles in the recipient's facilities that limit handicapped persons' access to its program or activity,

(2) Describe in detail what the recipient will do to make the facilities accessible,

(3) Specify the schedule for the steps needed to achieve full program accessibility, and include a year-by-year timetable if the process will take more than one year,

(4) Indicate the person responsible for carrying out the plan.

(b) Availability. Recipients shall make available a copy of the transition plan to the OCR upon request and to the public for inspection at either the site of the project or at the recipient's main office.

Subpart D—Requirements for Applicants and Recipients

§ 7.80 Applicants.

(a) *Assurances.*—(1) *General.* Applicants for EPA assistance shall submit an assurance with their applications stating that, with respect to their programs or activities that receive EPA assistance, they will comply with the requirements of this Part. Applicants must also submit any other information that the OCR determines is necessary for preaward review. The applicant's acceptance of EPA assistance is an acceptance of the obligation of this assurance and this Part.

(2) *Duration of assurance.*—(i) *Real property.* When EPA awards assistance in the form of real property, or assistance to acquire real property, or structures on the property, the assurance will obligate the recipient, or transferee, during the period the real property or structures are used for the purpose for which EPA assistance is extended, or for another purpose in which similar services or benefits are provided. The transfer instrument shall contain a covenant running with the land which assures nondiscrimination. Where applicable, the covenant shall also retain a right of reverter which will permit EPA to recover the property if the covenant is ever broken.

(ii) *Personal property.* When EPA provides assistance in the form of personal property, the assurance will obligate the recipient for so long as it continues to own or possess the property.

(iii) *Other forms of assistance.* In all other cases, the assurance will obligate the recipient for as long as EPA assistance is extended.

(b) *Wastewater treatment project.* EPA Form 4700–4 shall also be submitted with applications for assistance under Title II of the Federal Water Pollution Control Act.

(c) *Compliance information.* Each applicant for EPA assistance shall submit regarding the program or activity that would receive EPA assistance:

(1) Notice of any lawsuit pending against the applicant alleging discrimination on the basis of race, color, sex, handicap, or national origin;

(2) A brief description of any applications pending to other federal agencies for assistance, and of federal assistance being provided at the time of the application; and

(3) A statement describing any civil rights compliance reviews regarding the applicant conducted during the two-year period before the application, and information concerning the agency or organization performing the reviews.

(Approved by the Office of Management and Budget under Control Number 2000–0006.)

§ 7.85 Recipients.

(a) *Compliance information.* Each recipient shall collect, maintain, and on request of the OCR, provide the following information to show compliance with this Part:

(1) A brief description of any lawsuits pending against the recipient that allege discrimination which this Part prohibits;

(2) Racial/ethnic, national origin, sex and handicap data, or EPA Form 4700–4 information submitted with its application;

(3) A log of discrimination complaints which identifies the complaint, the date it was filed, the date the recipient's investigation was completed, the disposition, and the date of disposition; and

(4) Reports of any compliance reviews conducted by any other agencies.

(b) *Additional compliance information.* If necessary, the OCR may require recipients to submit data and information specific to certain programs to determine compliance where there is reason to believe that discrimination may exist in a program or activity receiving EPA assistance or to investigate a complaint alleging discrimination in a program or activity receiving EPA assistance. Requests shall be limited to data and information which is relevant to determining

[2]The American National Standards Institute, Inc., is located at 1430 Broadway, New York, N.Y. 10018. A copy of the document may be purchased from this Institute for $5.00 plus $2.00 shipping cost.

compliance and shall be accompanied by a written statement summarizing the complaint or setting forth the basis for the belief that discrimination may exist.

(c) *Self-evaluation.* Each recipient must conduct a self-evaluation of its administrative policies and practices, to consider whether such policies and practices may involve handicap discrimination prohibited by this Part. When conducting the self-evaluation, the recipient shall consult with interested and involved persons including handicapped persons or organizations representing handicapped persons. The evaluation shall be completed within 18 months after the effective date of this Part.

(d) Preparing compliance information. In preparing compliance information, a recipient must:

(1) [Reserved]

(2) Use the racial classifications set forth in § 7.25 in determining categories of race, color or national origin.

(e) *Maintaining compliance information.* Recipients must keep records for (a) and (b) of this section for three (3) years after completing the project. When any complaint or other action for alleged failure to comply with this Part is brought before the three-year period ends, the recipient shall keep records until the complaint is resolved.

(f) Accessibility to compliance information. A recipient shall:

(1) Give the OCR access during normal business hours to its books, records, accounts and other sources of information, including its facilities, as may be pertinent to ascertain compliance with this Part;

(2) Make compliance information available to the public upon request; and

(3) Assist in obtaining other required information that is in the possession of other agencies, institutions, or persons not under the recipient's control. If such party refuses to release that information, the recipient shall inform the OCR and explain its efforts to obtain the information.

(g) *Coordination of compliance effort.* If the recipient employs fifteen (15) or more employees, it shall designate at least one person to coordinate its efforts to comply with its obligations under this Part.

(Approved by the Office of Management and Budget under Control Number 2000–0006.)

§ 7.90 Grievance procedures.

(a) *Requirements.* Each recipient shall adopt grievance procedures that assure the prompt and fair resolution of complaints which allege violation of this Part.

(b) *Exception.* Recipients with fewer than fifteen (15) full-time employees need not comply with this section unless the OCR finds a violation of this Part or determines that creating a grievance procedure will not significantly impair the recipient's ability to provide benefits or services.

§ 7.95 Notice of nondiscrimination.

(a) *Requirements.* A recipient shall provide initial and continuing notice that it does not discriminate on the basis of race, color, national origin, or handicap in a program or activity receiving EPA assistance or, in programs covered by Section 13, on the basis of sex. Methods of notice must accommodate those with impaired vision or hearing. At a minimum, this notice must be posted in a prominent place in the recipient's offices or facilities. Methods of notice may also include publishing in newspapers and magazines, and placing notices in recipient's internal publications or on recipient's printed letterhead. Where appropriate, such notice must be in a language or languages other than English. The notice must identify the responsible employee designated in accordance with § 7.85.

(b) *Deadline.* Recipients of assistance must provide initial notice by thirty (30) calendar days after award and continuing notice for the duration of EPA assistance.

§ 7.100 Intimidation and retaliation prohibited.

No applicant, recipient, nor other person shall intimidate, threaten, coerce, or discriminate against any individual or group, either:

(a) For the purpose of interfering with any right or privilege guaranteed by the Acts or this Part, or

(b) Because the individual has filed a complaint or has testified, assisted or participated in any way in an investigation, proceeding or hearing under this Part, or has opposed any practice made unlawful by this regulation.

Subpart E—Agency Compliance Procedures

§ 7.105 General policy.

EPA's Administrator, Director of the Office of Civil Rights, Project Officers and other responsible officials shall seek the cooperation of applicants and recipients in securing compliance with this Part, and are available to provide help.

§ 7.110 Preaward compliance.

(a) *Review of compliance information.* Within EPA's application processing period, the OCR will determine whether the applicant is in compliance with this Part and inform the Award Official. This determination will be based on the submissions required by § 7.80 and any other information EPA receives during this time (including complaints) or has on file about the applicant. When the OCR cannot make a determination on the basis of this information, additional information will be requested from the applicant, local government officials, or interested persons or organizations, including handicapped persons or organizations representing such persons. The OCR may also conduct an on-site review only when it has reason to believe discrimination may be occurring in a program or activity which is the subject of the application.

(b) *Voluntary compliance.* If the review indicates noncompliance, an applicant may agree in writing to take the steps the OCR recommends to come into compliance with this Part. The OCR must approve the written agreement before any award is made.

(c) *Refusal to comply.* If the applicant refuses to enter into such an agreement, the OCR shall follow the procedure established by paragraph (b) of § 7.130.

§ 7.115 Postaward compliance.

(a) *Periodic review.* The OCR may periodically conduct compliance reviews of any recipient's programs or activities receiving EPA assistance, including the request of data and information, and may conduct on-site reviews when it has reason to believe that discrimination may be occurring in such programs or activities.

(b) *Notice of review.* After selecting a recipient for review or initiating a complaint investigation in accordance with § 7.120, the OCR will inform the recipient of:

(1) The nature of and schedule for review, or investigation; and

(2) Its opportunity, before the determination in paragraph (d) of this section is made, to make a written submission responding to, rebutting, or denying the allegations raised in the review or complaint.

(c) *Postreview notice.* (1) Within 180 calendar days from the start of the compliance review or complaint investigation, the OCR will notify the recipient in writing by certified mail, return receipt requested, of:

(i) Preliminary findings;

(ii) Recommendations, if any, for achieving voluntary compliance; and

(iii) Recipient's right to engage in voluntary compliance negotiations where appropriate.

(2) The OCR will notify the Award Official and the Assistant Attorney

General for Civil Rights of the preliminary findings of noncompliance.

(d) *Formal determination of noncompliance.* After receiving the notice of the preliminary finding of noncompliance in paragraph (c) of this section, the recipient may:

(1) Agree to the OCR's recommendations, or

(2) Submit a written response sufficient to demonstrate that the preliminary findings are incorrect, or that compliance may be achieved through steps other than those recommended by OCR.

If the recipient does not take one of these actions within fifty (50) calendar days after receiving this preliminary notice, the OCR shall, within fourteen (14) calendar days, send a formal written determination of noncompliance to the recipient and copies to the Award Official and Assistant Attorney General.

(e) *Voluntary compliance time limits.* The recipient will have ten (10) calendar days from receipt of the formal determination of noncompliance in which to come into voluntary compliance. If the recipient fails to meet this deadline, the OCR must start proceedings under paragraph (b) of § 7.130.

(f) *Form of voluntary compliance agreements.* All agreements to come into voluntary compliance must:

(1) Be in writing;

(2) Set forth the specific steps the recipient has agreed to take, and

(3) Be signed by the Director, OCR or his/her designee and an official with authority to legally bind the recipient.

§ 7.120 Complaint investigations.

The OCR shall promptly investigate all complaints filed under this section unless the complainant and the party complained against agree to a delay pending settlement negotiations.

(a) *Who may file a complaint.* A person who believes that he or she or a specific class of persons has been discriminated against in violation of this Part may file a complaint. The complaint may be filed by an authorized representative. A complaint alleging employment discrimination must identify at least one individual aggrieved by such discrimination. Complaints solely alleging employment discrimination against an individual on the basis of race, color, national origin, sex or religion shall be processed under the procedures for complaints of employment discrimination filed against recipients of federal assistance (see 28 CFR Part 42, Subpart H and 29 CFR Part 1691). Complainants are encouraged but not required to make use of any grievance procedure established under § 7.90 before filing a complaint. Filing a complaint through a grievance procedure does not extend the 180 day calendar requirement of paragraph (b)(2 of this section.

(b) Where, when and how to file complaint. The complainant may file a complaint at any EPA office. The complaint may be referred to the region in which the alleged discriminatory acts occurred.

(1) The complaint must be in writing and it must describe the alleged discriminatory acts which violate this part.

(2) The complaint must be filed within 180 calendar days of the alleged discriminatory acts, unless the OCR waives the time limit for good cause. The filing of a grievance with the recipient does not satisfy the requirement that complaints must be filed within 180 days of the alleged discriminatory acts.

(c) *Notification.* The OCR will notify the complainant and the recipient of the agency's receipt of the complaint within five (5) calendar days.

(d) *Complaint processing procedures.* After acknowledging receipt of a complaint, the OCR will immediately initiate complaint processing procedures.

(1) *Preliminary investigation* (i) Within twenty (20) calendar days of acknowledgment of the complaint, the OCR will review the complaint for acceptance, rejection, or referral to the appropriate Federal agency.

(ii) If the complaint is accepted, the OCR will notify the complainant and the Award Official. The OCR will also notify the applicant or recipient complained against of the allegations and give the applicant or recipient opportunity to make a written submission responding to, rebutting, or denying the allegations raised in the complaint.

(iii) The party complained against may send the OCR a response to the notice of complaint within thirty (30) calendar days of receiving it.

(2) *Informal resolution.* (i) OCR shall attempt to resolve complaints informally whenever possible. When a complaint cannot be resolved informally, OCR shall follow the procedures established by paragraphs (c) through (e) of § 7.115.

(ii) (Reserved).

(e) *Confidentiality.* EPA agrees to keep the complainant's identity confidential except to the extent necessary to carry out the purposes of this Part, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder. Ordinarily in complaints of employment discrimination, the name of the complainant will be given to the recipient with the notice of complaint.

(f) [Reserved].

(g) *Dismissal of complaint.* If OCR's investigation reveals no violation of this Part, the Director, OCR, will dismiss the complaint and notify the complainant and recipient.

§ 7.125 Coordination with other agencies.

If, in the conduct of a compliance review or an investigation, it becomes evident that another agency has jurisdiction over the subject matter, OCR will cooperate with that agency during the continuation of the review of investigation. EPA will:

(a) Coordinate its efforts with the other agency, and

(b) Ensure that one of the agencies is designated the lead agency for this purpose. When an agency other than EPA serves as the lead agency, any action taken, requirement imposed, or determination made by the lead agency, other than a final determination to terminate funds, shall have the same effect as though such action had been taken by EPA.

§ 7.130 Actions available to EPA to obtain compliance.

(a) General. If compliance with this Part cannot be assured by informal means, EPA may terminate or refuse to award or to continue assistance. EPA may also use any other means authorized by law to get compliance, including a referral of the matter to the Department of Justice.

(b) Procedure to deny, annul, suspend or terminate EPA assistance.

(1) *OCR finding.* If OCR determines that an applicant or recipient is not in compliance with this Part, and if compliance cannot be achieved voluntarily, OCR shall make a finding of noncompliance. The OCR will notify the applicant or recipient (by registered mail, return receipt requested) of the finding, the action proposed to be taken, and the opportunity for an evidentiary hearing.

(2) *Hearing.* (i) Within 30 days of receipt of the above notice, the applicant or recipient shall file a written answer, under oath or affirmation, and may request a hearing.

(ii) The answer and request for a hearing shall be sent by registered mail, return receipt requested, to the Chief Administrative Law Judge (ALJ) (A–110), United States Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Upon receipt of a request for a hearing, the ALJ will send the applicant or recipient a copy of the ALJ's procedures. If the recipient

does not request a hearing, it shall be deemed to have waived its right to a hearing, and the OCR finding shall be deemed to be the ALJ's determination.

(3) *Final decision and disposition.* (i) The applicant or recipient may, within 30 days of receipt of the ALJ's determination, file with the Administrator its exceptions to that determination. When such exceptions are filed, the Administrator may, within 45 days after the ALJ's determination, serve to the applicant or recipient, a notice that he/she will review the determination. In the absence of either exceptions or notice of review, the ALJ's determination shall constitute the Administrator's final decision.

(ii) If the Administrator reviews the ALJ's determination, all parties shall be given reasonable opportunity to file written statements. A copy of the Administrator's decision will be sent to the applicant or recipient.

(iii) If the Administrator's decision is to deny an application, or annul, suspend or terminate EPA assistance, that decision becomes effective thirty (30) days from the date on which the Administrator submits a full written report of the circumstances and grounds for such action to the Committees of the House and Senate having legislative jurisdiction over the program or activity involved. The decision of the Administrator shall not be subject to further administrative appeal under EPA's General Regulation for Assistance Programs (40 CFR Part 30, Subpart L).

(4) *Scope of decision.* The denial, annulment, termination or supension shall be limited to the particular applicant or recipient who was found to have discriminated, and shall be limited in its effect to the particular program or the part of it in which the discrimination was found.

§ 7.135 Procedure for regaining eligibility.

(a) *Requirements.* An applicant or recipient whose assistance has been denied, annulled, terminated, or suspended under this Part regains eligibility as soon as it:

(1) Provides reasonable assurance that it is complying and will comply with this Part in the future, and

(2) Satisfies the terms and conditions for regaining eligibility that are specified in the denial, annulment, termination or suspension order.

(b) *Procedure.* The applicant or recipient must submit a written request to restore eligibility to the OCR declaring that it has met the requirements set forth in paragraph (a) of this section. Upon determining that these requirements have been met, the OCR must notify the Award Official, and the applicant or recipient that eligibility has been restored.

(c) Rights on denial of restoration of eligibility. If the OCR denies a request to restore eligibility, the applicant or recipient may file a written request for a hearing before the EPA Chief Administrative Law Judge in accordance with paragraph (c) § 7.130, listing the reasons it believes the OCR was in error.

Appendix A—EPA Assistance Programs as Listed in the "Catalog of Federal Domestic Assistance"

1. Assistance provided by the Office of Air, Noise and Radiation under the Clean Air Act of 1977, as amended; Pub. L. 95–95, 42 U.S.C. 7401 *et seq.* (ANR 66.001)

2. Assistance provided by the Office of Air, Noise and Radiation under the Clean Air Act of 1977, as amended; Pub. L. 95–95, 42 U.S.C. 7401 *et seq.* (ANR 66.003)

3. Assistance provided by the Office of Water under the Clean Water Act of 1977, as amended; Sections 101(e), 109(b), 201–05, 207, 208(d), 210–12, 215–19, 304(d)(3), 313, 501, 502, 511 and 516(b); Pub. L. 97–117; Pub. L. 95–217; Pub. L. 96–483; 33 U.S.C. 1251 *et seq.* (OW 66.418)

4. Assistance provided by the Office of Water under the Clean Water Act of 1977, as amended; § 106; Pub. L. 95–217; 33 U.S.C. 1251 *et seq.* (OW 66.419)

5. Assistance provided by the Office of Water under the Clean Water Act of 1977, as amended; Pub. L. 95–217; 33 U.S.C. 1251 *et seq.* (OW 66.426)

6. Assistance provided by the Office of Water under the Public Health Service Act, as amended by the Safe Drinking Water Act, Pub. L. 93–523; as amended by Pub. L. 93–190; Pub. L. 96–63; and Pub. L. 93–502. (OW 66.432)

7. Assistance provided by the Office of Water under the Safe Drinking Water Act, Pub. L. 93–523, as amended by Pub. L. 96–63, Pub. L. 95–190, and Pub. L. 96–502. (OW 66.433)

8. Assistance provided by the Office of Water under the Clean Water Act of 1977, Section 205(g), as amended by Pub. L. 95–217 and the Federal Water Pollution Control Act, as amended; Pub. L. 97–117; 33 U.S.C. 1251 *et seq.* (OW 66.438)

9. Assistance provided by the Office of Water under the Resource Conservation & Recovery Act of 1976; as amended by the Solid Waste Disposal Act; Pub. L. 94–580; § 3011, 42 U.S.C. 6931, 6947, 6948–49. (OW 66.802).

10. Assistance provided by the Office of Research and Development under the Clean Air Act of 1977, as amended; Pub. L. 95–95; 42 U.S.C. *et seq.*; Clean Water Act of 1977, as amended; Pub. L. 95–217; 33 U.S.C. 1251 *et seq.*, § 8001 of the Solid Water Disposal Act, as amended by the Resource Conservation & Recovery Act of 1976; Pub. L. 94–580; 42 U.S.C. 6901, Public Health Service Act as amended by the Safe Drinking Water Act as amended by Pub. L. 95–190; Federal Insecticide, Fungicide & Rodenticide Act; Pub. L. 95–516; 7 U.S.C. 136 *et seq.*, as amended by Pub. L.'s 94–140 and 95–396; Toxic Substances Control Act; 15 U.S.C. 2609; Pub. L. 94–469. (ORD 66.500)

11. Assistance provided by the Office of Research and Development under the Clean Air Act of 1977, as amended; Pub. L. 95–95; 42 U.S.C. 7401 *et seq.* (ORD 66.501)

12. Assistance provided by the Office of Research and Development under the Federal Insecticide, Fungicide & Rodenticide Act, Pub. L. 95–516, 7 U.S.C. 136 *et seq.*, as amended by Pub. L.'s 94–140 and 95–396. (ORD 66.502)

13. Assistance provided by the Office of Research and Development under the Solid Waste Disposal Act, as amended by the Resource Conservation & Recovery Act of 1976; 42 U.S.C. 6901, Pub. L. 94–580, § 8001. (ORD 66.504)

14. Assistance provided by the Office of Research and Development under the Clean Water Act of 1977, as amended; Pub. L. 95–217; 33 U.S.C. 1251 *et seq.* (ORD 66.505)

15. Assistance provided by the Office of Research and Development under the Public Health Service Act as amended by the Safe Drinking Water Act, as amended by Pub. L. 95–190 (ORD 66.506)

16. Assistance provided by the Office of Research and Development under the Toxic Substances Control Act; Pub. L. 94–469; 15 U.S.C. 2609; § 10. (ORD 66.507)

17. Assistance provided by the Office of Administration, including but not limited to: Clean Air Act of 1977, as amended, Pub. L. 95–95; 42 U.S.C. 7401 *et seq.*, Clean Water Act of 1977, as amended; Pub. L. 95–217; 33 U.S.C. 1251 *et seq.;* Solid Waste Disposal Act, as amended by the Resource Conservation & Recovery Act of 1976; 42 U.S.C. 6901; Pub. L. 94–580; Federal Insecticide, Fungicide & Rodenticide Act; Pub. L. 92–516; 7 U.S.C. 136 *et seq.* as amended by Pub. L.'s 94–140 and 95–396; Public Health Service Act, as amended by the Safe Drinking Water Act, as amended by Pub. L. 95–190. (OA 66.600)

18. Assistance provided by the Office of Administration under the Clean Water Act of 1977, as amended; Pub. L. 95–217; Section 213; 33 U.S.C. 1251 *et seq.* (OA 66.603)

19. Assistance provided by the Office of Enforcement Counsel under the Federal Insecticide & Rodenticide Act, as amended; Pub. L. 92–516; 7 U.S.C. 136 *et seq.*, as amended by Pub. L. 94–140, Section 23(a) and Pub. L. 95–396. (OA 66.700)

20. Assistance provided by the Office of Solid Waste and Emergency Response under the Comprehensive Environmental Responses, Compensation and Liability Act of 1980; Pub. L. 96–510, § 3012, 42 U.S.C. 9601, *et seq.* (OSW—number not to be assigned since Office of Management and Budget does not catalog one-year programs.)

21. Assistance provided by the Office of Water under the Clean Water Act as amended; Pub. L. 97–117, 33 U.S.C. 1313. (OW—66.454)

Dated: October 27, 1983.

William D. Ruckelshaus,

Administrator, Environmental Protection Agency.

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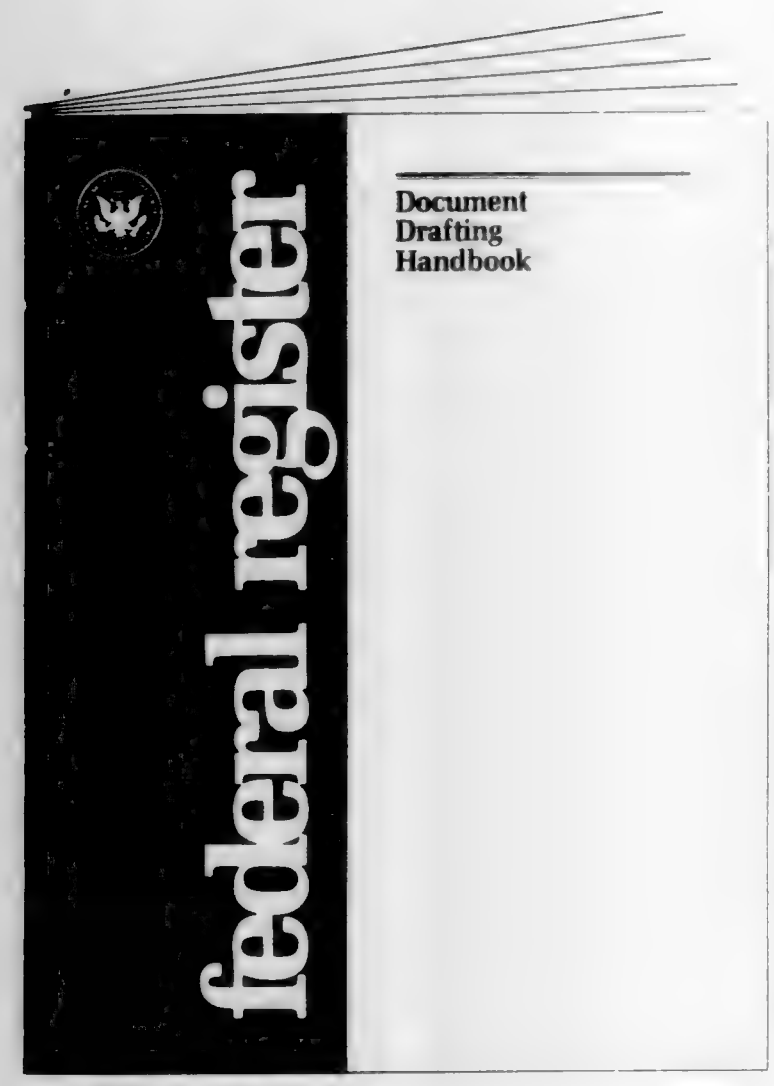

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Investment Companies
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Marine Mammals
National Oceanic and Atmospheric Administration

Marketing Agreements
Agricultural Marketing Service

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Customs Service

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Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 446]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 210,000 cartons during the period January 15–21, 1984. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: January 15, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy currently in effect. The committee met publicly on January 10, 1984, at Ventura, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is steady.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

Section 910.746 is added as follows:

§ 910.746 Lemon Regulation 446.

The quantity of lemons grown in California and Arizona which may be handled during the period January 15, 1984, through January 21, 1984, is established at 210,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 12, 1984.

Will supply on pages

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84-1149 Filed 1-12-84; 11:49 am]

BILLING CODE 3410-02-M

7 CFR Part 928

Papayas Grown in Hawaii; Change in Interest Charges

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule increases the interest rate charged on delinquent assessments from ¾ of 1 percent per month to 1 percent per month. This rule also extends the time when assessments are due by 10 days. This action is designed to bring the interest rate more into line with current comparable rates, and to conform with handlers' current accounting practices.

EFFECTIVE DATE: February 13, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This final rule is issued under Marketing Order No. 928 (7 CFR Part 928), regulating the handling of papayas grown in Hawaii. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Papaya Administrative Committee and upon other available information. Notice of this action was contained in a proposed rule published April 7, 1983, in the **Federal Register** (48 FR 15133). No comments were received during the 30 days provided.

Under § 928.41 of the papaya marketing order, if a handler does not pay program assessments within a prescribed time period, the unpaid assessments may be subject to an interest charge at rates prescribed by the committee with the approval of the Secretary. The current interest rate of ¾ of 1 percent per month is set forth in § 928.141 of Subpart—Rules and Regulations (§§ 928.141–928.160), and

that rate has been in effect since 1971. This action would increase the rate to 1 percent per month to reflect a rate more in line with current comparable interest rates. This action also provides that such interest charges shall apply to assessments not paid within 5 days after the 25th of each month, rather than to assessments not paid within 5 days after the 15th of each month as is now the case, applicable to papayas handled during the preceding month.

List of Subjects in 7 CFR Part 928

Marketing agreement and orders, Hawaii, Papayas.

PART 928—[AMENDED]

Therefore, § 928.141 is revised to read as follows:

§ 928.141 Interest charges.

(a) Assessments levied pursuant to § 928.41 not paid within 5 days after the 25th of each month on papayas handled during the preceding month shall be subject to an interest charge of 1 percent per month.

(b) Notification that assessments are due not later than 5 days after the 25th of each month shall constitute a demand on a handler for the payment of the handler's pro rata share of expenses within the meaning of § 928.41(a).

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 10, 1984.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84–989 Filed 1–12–84; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 989

Raisins Produced From Grapes Grown in California; Addition of Muscat (Including Other Raisins With Seeds), Sultana, and Zante Currant Raisins to Weight Dockage System and Conforming Changes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule completes action taken previously to include Muscat (including other raisins with seeds), Sultana and Zante Currant raisins in the weight dockage system for immaturity under the Federal marketing order for California raisins. The inclusion of these varietal types of raisins under the dockage system permit handlers of these raisins to acquire them as natural condition standard raisins even though the lot has been determined to be off-grade because of an excess of immature raisins. This action is based on a recommendation of the Raisin Administrative Committee (RAC). The RAC works with USDA in administering the order.

EFFECTIVE DATE: Effective with the 1983–84 crop year, which began August 1, 1983.

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250; (202) 447–5053.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

It is found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because growers and handlers have been using, and would like to continue using without interruption, the weight dockage system in acquiring 1983–84 crop Muscat (including other raisins with seeds), Sultana, and Zante Currant raisins. A break in the use of this successful industry acquisition system would restrict the benefits of the weight dockage system, disrupt raisin acquisitions and serve no useful purpose. This system quickens raisin acquisitions and reduces inspection and reconditioning costs.

An emergency interim final rule was published in the November 29, 1983, issue of the **Federal Register** (48 FR 53683) establishing on an interim basis authority for raisin producers and handlers to utilize the weight dockage system for the 1983–84 crop Muscat (including other raisins with seeds), Sultana, and Zante Currant raisins.

The weight dockage system is contained in § 989.210 of Subpart—Supplementary Regulations (7 CFR 989.210—989.221; 48 FR 35347; 49214; 52028; 53683). Conforming changes are necessary in § 989.701 of Subpart Quality Control (7 CFR 989.701—989.703; 48 FR 49214; 53683). These subparts are operative pursuant to the marketing agreement, and Order No. 989, both as amended, regulating the handling of raisins produced from grapes grown in California (hereinafter referred to collectively as the "order"). The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). Authority for the weight dockage system is contained in § 989.58(a) of the order.

The emergency rule solicited written comments until December 14, 1983, and not one was received. The order permits Muscat (including other raisins with seeds), Sultana, and Zante Currant raisins to be included under a weight dockage system for immaturity together with Natural (Sun-dried) Seedless, Dipped Seedless, Oleate and Related Seedless, Golden Seedless, and Monukka raisins. Inclusion of these three varietal types of raisins under the dockage system permits handlers to acquire them as natural condition standard raisins even though the raisins have been determined to be off-grade because of an excess of immature raisins. The immature raisins usually can be removed from the lot of raisins by the handler during normal processing so the balance of the lot meets grade requirements. The creditable weight of such lot is computed by multiplying the net weight of the lot by a dockage factor. The factor reduces the weight of the lot by an amount approximating the weight of the immature raisins needed to be removed from the lot in order for the balance of the lot to meet grade requirements.

Current minimum grade and condition requirements prescribed in § 989.701 for these three varietal types state that they shall be fairly free from immature (skinny) raisins and shall have a normal characteristic color, flavor, and odor of properly prepared raisins. The industry's interpretation of this requirement is that any lot of raisins containing 12 percent or less, by weight, of immature raisins meets this requirement. Thus, the regulation establishes a 12 percent minimum for a weight dockage system as recommended by the RAC in keeping with current industry practices.

Permitting handlers to acquire low maturity raisins of these three varietal types as standard raisins under this system will speed up acquisitions, save inspection costs, and save the producers of such raisins additional reconditioning costs.

Therefore, paragraph (h) is added to § 989.210 designating a dockage system applicable to Muscat (including other raisins with seeds), Sultana, and Zante Current raisins. Also, other conforming changes are made in § 989.210 and in § 989.701 in recognition of this designation.

After consideration of all relevant matter and information presented, including that in the emergency Interim

Final Rule, the recommendations of the Committee and other information, it is determined that the changes hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 989

Marketing agreements and orders; Grapes, Raisins, California.

PART 989—[AMENDED]

Therefore, the final rule is as follows:

1. Section 989.210 of Subpart—Supplementary Regulations (7 CFR 989.210–989.221; 48 FR 35347; 49214; 52028; 53683) is amended by revising the section heading, paragraphs (a) through (f), the heading for paragraph (g), and by adding a new paragraph (h) to read as follows:

Subpart—Supplementary Regulations

§ 989.210 Handling of varietal types of raisins acquired pursuant to a weight dockage system.

(a) *General.* Subject to prior agreement between handler and tenderer, a handler may acquire as standard raisins any lot of Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Monukka, and Oleate and Related Seedless raisins containing more than 6 percent beginning with the 1983–84 crop year, 4 percent beginning with the 1984–85 crop year, and 2 percent beginning with the 1985–86 and subsequent crop years, by weight, of substandard raisins under a weight dockage system. A handler also may, subject to prior agreement, acquire as standard raisins any lot of Muscat (including other raisins with seeds), Sultana, and Zante Currant raisins containing more than 12 percent, by weight, of substandard raisins under a weight dockage system. The creditable weight of each lot of raisins acquired in this manner shall be that obtained by multiplying the net weight of the raisins in the lot by the applicable dockage factor from the appropriate dockage table prescribed in paragraphs (g) or (h) of this section.

(b) *Free and reserve tonnage percentages.* Whenever free and reserve percentages are designated for raisins of the varietal types specified in paragraph (a) of this section for a crop year, such percentages shall be applicable to the creditable weight of any lot of such raisins acquired by a handler pursuant to a weight dockage system.

(c) *Reserve tonnage.* A handler may hold as reserve tonnage raisins any lot, or portion thereof, of raisins of the varietal types specified in paragraph (a) of this section acquired pursuant to a weight dockage system: *Provided,* That only the creditable weight of such lot, or portion thereof, may be applied by the Committee against the handler's reserve tonnage obligation.

(d) *Assessments.* Assessments on any lot of raisins of the varietal types specified in paragraph (a) of this section acquired by a handler pursuant to a weight dockage system shall be applicable to the free tonnage portion of the creditable weight of such lot.

(e) *Payments for services on reserve tonnage.* Payment to a handler for services performed by him with respect to reserve tonnage raisins of the varietal types specified in paragraph (a) of this section acquired pursuant to a weight dockage system shall be made on the basis of the creditable weight of such lot and at the applicable rate specified for such services in § 989.401 of Subpart—Schedule of Payments.

(f) *Identification.* Any lot of raisins of the varietal types specified in paragraph (a) of this section acquired by a handler pursuant to the weight dockage system shall be so identified by the inspection service affixing to one container on each pallet, or to each bin, in such lot, a prenumbered RAC control card (to be furnished by the Committee) which shall remain affixed to the container or bin until the raisins are processed or disposed of as natural condition raisins. The control card shall only be removed by, or under the supervision of an inspector of the inspection service, or authorized Committee personnel.

(g) *Dockage table applicable to Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Monukka, and Oleate and Related Seedless raisins.*

* * * * *

(h) *Dockage table applicable to Muscat (including other raisins with seeds), Sultana, and Zante Currant raisins.*

Percent substandard	Dockage factor
12.0 or less	(1)
12.1	.006
12.2	.012
12.3	.017
12.4	.023
12.5	.029
12.6	.034
12.7	.040
12.8	.046
12.9	.051
13.0	.057

[1] No dockage.

Note.—Percentages in excess of the last percentage shown in the table shall be expressed in the same increments as the foregoing, and the dockage factor for each such increment shall be .001 less than the dockage factor for the preceding increment.

2. Section 989.701 (d)(2), (e)(2) and (f)(2) of Subpart—Quality Control (7 CFR 989.701–989.703; 48 FR 49214; 53683) are revised to read as follows:

Subpart—Quality Control

§ 989.701 Minimum grade and condition standards for natural condition raisins.

* * * * *

(d) * * *

(2) shall have a normal characteristic color, flavor, and odor of properly prepared raisins and shall contain not more than 12 percent, by weight, of substandard raisins (raisins that show development less than that characteristic of raisins prepared from fairly well matured grapes);

* * * * *

(e) * * *

(2) shall have a normal characteristic color, flavor, and odor of properly prepared raisins and shall contain not more than 12 percent, by weight, of substandard raisins (raisins that show development less than that characteristic of raisins prepared from fairly well matured grapes);

* * * * *

(f) * * *

(2) shall have a normal characteristic color, flavor, and odor of properly prepared raisins and shall contain not more than 12 percent, by weight, of substandard raisins (raisins that show development less than that characteristic of raisins prepared from fairly well matured grapes);

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 10, 1984.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 84-900 Filed 1-12-84; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 81–ANE–16; Amdt. 39–4790]

Airworthiness Directives; General Electric Company CF6–45 and CF6–50 Series Model Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) that requires the replacement of certain

titanium high pressure compressor (HPC) parts found on CF6–45 and CF6–50 series engines. High vibration, mechanical failures of HPC blades, or rotor unbalance causing severe rubbing of titanium HPC components have resulted in uncontained titanium engine fires. Once ignited, titanium combustion continues until either the titanium is depleted, the air pressure falls below some critical value, or the combustion progresses to a heavy section. Titanium fires are fast burning and extremely intense. The molten particles in titanium fires generate highly erosive hot sprays which have burned through titanium compressor casings with resulting radial expulsion of molten or incandescent metal. These uncontained molten sprays have the potential for igniting serious secondary fires. Uncontained fire aboard an aircraft presents an obvious danger to the aircraft and its occupants, especially in flight.

DATES: *Effective date*—this amendment is effective on February 10, 1984.

Compliance date: June 1, 1984.

The Director of the **Federal Register** approved the incorporation by reference provisions in this document on January 10, 1984.

ADDRESS: The applicable service bulletins may be obtained from General Electric Company, Neumann Way, Cincinnati, Ohio 45215.

A copy of the service bulletins is contained in the Rules Docket, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Ted Pas, Transport Engine Section, ANE–141, Engine Certification Branch, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone: (617) 273–7347.

SUPPLEMENTARY INFORMATION:

Prior Regulatory History

A previous proposal to amend Part 39 of the Federal Aviation Regulations (14 CFR Part 39) by adding a new AD applicable to General Electric Company CF6–45 and CF6–50 series model turbofan engines was published in the **Federal Register** on October 5, 1981 (46 FR 48941). A minor correction to the proposed AD was published in the **Federal Register** on November 9, 1981 (46 FR 55273). Five comments were received on this proposal. Two commentators addressed publication errors and noted that compliance could be documented by referral to accomplishment of specified service bulletins rather than recording of individual part numbers. Three commentators stated that the proposed compliance date of December 31, 1982, would be difficult to achieve for some operators without excessive expense, based on planned kit delivery and engine removal schedules. The manufacturer of the engine questioned the need for an AD.

The current proposal to amend Part 39 of the Federal Aviation Regulations (14 CFR Part 39) by adding a new AD applicable to General Electric Company CF6–45 and CF6–50 series model turbofan engines was published in the **Federal Register** on April 14, 1983 (48 FR 16063). To date, there have been 33 titanium fires in CF6–50 engines. These fires are attributed to severe rubbing of titanium HPC components caused by high vibration, mechanical failures of HPC blades, or rotor unbalance. All 33 fires are considered to be uncontained in that the fires burned through the titanium compressor case. Although there have been no secondary fires to date as a result of these burn throughs, the outer shrouds of the fuel manifolds have been heat damaged and penetrated on two occasions. While the fuel manifolds consist of a double wall construction to provide additional protection from fuel leakage and/or external heating, any fuel leakage during a titanium fire event has the potential of being catastrophic.

This AD will require the replacement of the titanium forward HPC case, the inlet and first and second stage vanes, and the stages 6–9 blades with steel parts. Configuration changes are also simultaneously required on the titanium 3–9 spool and stages 3–5 blades. Service experience has confirmed earlier tests and analysis showing that the substitution of steel HPC components for titanium in critical areas will eliminate titanium fires.

Interested persons were invited to participate in the proposed rulemaking by submitting written comments on the proposal of the FAA. Two comments were received in response to the current Notice of Proposed Rulemaking (NPRM).

One commentator, a foreign air carrier, accepted the need for the AD but mentioned that the compliance date proposed in the current NPRM, December 31, 1983, would be difficult for it to achieve. Its engine update program is accomplished during scheduled shop visits for major refurbishment, but due to reductions in flight schedule caused by the economic climate, its last four engines are not scheduled for upgrading by December 31, 1983. It suggested that a compliance date of June 30, 1984, would result in a significant cost savings.

Another commentator, a United States air carrier, disagreed with the need for an AD, noting that its "operations stand to be substantially and directly impacted by the FAA's proposal, and it may well be the only carrier to be affected." It stated that the fuel and lube lines of its CF6–50 engines were protected with graphite shields, a measure deemed by the engine manufacturer to provide the necessary margin of safety. It also indicated that it had implemented and accelerated program to incorporate the steel HPC parts and requested that the compliance date be extended to December 31, 1984, should the FAA determine to proceed with the promulgation of the AD.

This commentator also contended that the engine manufacturer's comments submitted in connection with the previous NPRM on this subject were not directly addressed in the current NPRM, and that a copy of these comments were not on file in the public docket when a copy of the complete docket was mailed to the commentator.

The FAA acknowledges the inadvertent omission of the manufacturer's comments when the docket was duplicated for the commentator. The manufacturer's letter has been placed in the engineering project file. It was, however, fully considered in the subsequent evaluation process and was mentioned in the current NPRM. The commentator's submission indicates that it was aware of the matters asserted in the manufacturer's letter and it recited a portion of that letter. Accordingly, the FAA concludes that this commentator was not seriously prejudiced by the omission. As no other interested party requested an opportunity to inspect the public docket, it is concluded that other parties were not affected by this inadvertent omission.

This commentator also suggested that the provision of the AD which authorizes adjustment of the compliance date to permit compliance at "an established inspection period," if approved by the Engine Certification Branch, would provide an appropriate mechanism to adjust the compliance date if enforcement of the December 31, 1983, deadline would create substantial maintenance and operating difficulties resulting in undue hardship for a carrier. Contrary to this commentator's understanding, the FAA does not envision the use of this discretionary provisions except for very minor adjustments to permit compliance when engines are already scheduled for an

established inspection period which approximates the compliance date mandated by the AD.

In its comment to the previous NPRM, the manufacturer questioned the need for an AD asserting that: (1) Titanium fires in engines incorporating protective wrap on the fluid lines had not resulted in secondary fires, and (2) the structural integrity of the engine system would not be lost even if the compressor casing should be completely severed in a fire as the thrust reverser, when latched, provides a full secondary load path capable of carrying all flight loads. In the view of the manufacturer, a titanium fire, from an operations standpoint, would be equivalent to an in-flight shutdown which might occur for any number of reasons.

The manufacturer, nevertheless, has aggressively supported the retrofit of engines to the steel compressor configuration because of the number of fire incidents and the nature of damage.

The FAA does not concur with the manufacturer's assessment. While graphite shields do protect the fluid lines, the fuel manifold is not so protected, and the outer shroud of fuel manifolds have been heat damaged and penetrated in two titanium fire incidents with this model engine. Moreover, lines containing flammable fluids are routed within the nacelle. These lines could leak as a result of engine failure damage and would fuel a fire in the nacelle if ignited by burning titanium. Thus, the potential for a serious secondary fire does exist.

Although fire bottles are provided to extinguish nacelle fires, the preferred approach to control this danger is by preventing engine case burn through, rather than by attempting to control a fire after burn through has occurred. The FAA also notes that the claimed load bearing capability of the thrust reverser would not mitigate the requirement for engine structural integrity following a failure.

Therefore, notwithstanding the views articulated by the manufacturer and the United States air carrier, the FAA has determined that these titanium fire incidents must be considered serious uncontained failures of the engine, and although no catastrophic secondary fires have resulted yet, there is a risk of one if flammable fluids are present for any reason.

In consideration of all evidence presently available, the FAA has determined that mandatory compliance with the engine upgrade program is deemed necessary to provide an adequate level of safety.

A compliance date of June 1, 1984, is being incorporated in place of the December 31, 1983, date which was proposed in the NPRM. This date will provide an adequate opportunity for all remaining operators to complete the required modifications. The vast majority of operators have already completed the change. Indeed, only approximately 13 engines of a world-wide fleet total of 1,007 engines have not yet been modified. Continuation of unmodified engines in service beyond June 1, 1984, presents, in the judgment of the FAA, an unnecessary risk to the flying public.

Approximately 13 engines are affected by this AD, and the cost impact is estimated to be $5,980,000. For this reason, the proposed rule is not considered to be major under the criteria of Executive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979.) Few, if any, small entities within the meaning of the Regulatory Flexibility Act would be affected since the rule affects only operators of B747, DC–10, and A300 aircraft in which the CF6–45 and –50 engines are installed, none of which is believed to be a small entity.

The FAA has given careful consideration to the comments which were received and has determined that sufficient evidence exists in the interest of aviation safety to adopt the proposed rule.

List of Subjects in 14 CFR Part 39

Engines, Aircraft, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

General Electric Company: Applies to CF6–45 and CF6–50 series model turbofan engines. Unless already accomplished, to preclude the possibility of uncontained titanium fires, replace as follows prior to June 1, 1984:

(a) Compressor stator assembly, including the compressor case, and stage 6 vanes in accordance with FAA approved General Electric CF6–45 and CF6–50 Service Bulletin 72–549.

(b) Compressor inlet stator vanes and stage 1 and 2 stator vanes in accordance with FAA approved General Electric CF6–45 and CF6–50 Service Bulletin 72–550.

(c) Compressor blades, stages 3 through 9, and the stage 3–9 spool in accordance with FAA approved General Electric CF6–45 and CF6–50 Service Bulletin 72–551.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request from the General Electric Company, Neumann Way, Cincinnati, Ohio 45215. These documents may also be examined at the FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts. A historical file on this AD is maintained by the FAA, New England Region Office, Burlington, Massachusetts.

Upon request of the operator, an FAA Maintenance Inspector, subject to prior approval of the Manager, Engine Certification Branch, FAA, New England Region, may adjust the compliance date(s) specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

This amendment become effective on February 10, 1984.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, 1423); (49 U.S.C. 106(g) revised, Pub. L. 97–449, January 12, 1983); 14 CFR 11.89)

Note.—The FAA has determined for the reasons stated in "**SUPPLEMENTARY INFORMATION,**" that this document involves a regulation which is not considered to be major under Executive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979.) It is certified that the rule will not have a significant economic impact on a substantial number of small entities because the rule will affect only operators of B747, A–300, and DC–10 aircraft in which the CF6–45/50 engines are installed, none of which is believed to be a small entity. A final regulatory evaluation prepared for this document is contained in the public docket, and a copy may be obtained by writing to the FAA, Office of the Regional Counsel, Attn: Rules Docket No. 81–ANE–16, 12 New England Executive Park, Burlington, Massachusetts 01803.

Note.—The incorporation by reference provisions of this document were approved by the Director of the **Federal Register** on January 10, 1984.

Issued in Burlington, Massachusetts, on December 20, 1983.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 84–832 Filed 1–10–84; 2:30 pm]

BILLING CODE 4910–13–M

CIVIL AERONAUTICS BOARD

14 CFR Part 385

[Reg. OR–214; Amdt. 136 to Part 385]

Delegations and Review of Action Under Delegation; Nonhearing Matters

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB is delegating authority to its Comptroller to pay all properly documented claims from

appropriated funds consistent with Treasury, OMB, GAO, and CAB policies, make adjustments to payments based on CAB audit reports and internal claims examinations, and design air carrier subsidy claim forms. This action is taken to implement the Debt Collection Act, the Contract Disputes Act, and to clarify existing functions.

DATES: Adopted: January 10, 1984. Effective: January 13, 1984.

FOR FURTHER INFORMATION CONTACT: Edna S. Park, Office of the Comptroller, 202–673–5282 or Joanne Petrie, Office of the General Counsel, 202–673–5442, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION: In PR–262, 48 FR 52887, November 23, 1983, the Board issued a new Part 316, Collection of Claims Owed the United States, to implement the Federal Claims Collection Act and the Debt Collection Act. That rule sets forth the procedures to be used by the CAB to collect debts owed the United States, and states how interest will be charged on unpaid claims. The rule further states when interest and penalty charges may be waived and what actions a person must take to respond to a notice of claim. The purpose of the rule is to ensure a fair and expeditious collection of these claims.

In reviewing the Board's delegations of authority to staff contained in Part 385, Delegations and review of action under delegation: Nonhearing Matters, the Board finds that three additional delegations are necessary to efficiently implement the Acts and certain general Board functions. This final rule clarifies the Comptroller's role as the Board's Financial Manager. In addition, it grants authority to perform ministerial acts pursuant to the Board's activities under the Debt Collection Act.

The first delegation gives the Comptroller authority to pay all properly documented claims from appropriated funds consistent with Treasury, OMB, GAO, and CAB policies. Section 384.7(a)(3) states that the comptroller is in charge of administering the Board's financial management systems, including fiscal administration activities and subsidy payment functions. This final rule merely clarifies the organizational structure by providing specific delegated authority to pay authorized bills.

Paragraph (j) delegates authority to make minor or routine adjustments to payments based on audit reports prepared by the Bureau of Carrier Accounts and Audits, and through routine internal examinations of claims and vouchers. This delegation applies only to routine adjustments that do not require a policy interpretation or decision by the Board. An example of an action authorized under this delegation would be an overpayment of $25 to a carrier because of incorrect addition or transposition of numerals. The delegation specifically does not include any dollar limitation because the significance of any adjustment varies with each case.

Paragraph (k) grants the Comptroller explicit authority to design air carrier subsidy claim forms. As a practical matter, the Comptroller has been informally exercising this function for years for the section 406 program. This delegation will allow the Comptroller to redesign the form if necessary to provide or highlight information needed by the Board.

Since this amendment is administrative in nature, affecting only rules of agency organization and procedure, we find that notice and public procedure are unnecessary. The rule will be effective upon publication in the Federal Register because the Board finds that the delegation is necessary to implement Part 316, the Debt Collection Act, and the Contract Disputes Act.

List of Subjects in 14 CFR Part 385

Administrative practice and procedure, Authority delegations (Government agencies).

PART 385—[AMENDED]

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 385, Delegations and Review of Action Under Delegation; Nonhearing Matters, as follows:

1. The authority for Part 385 is:

Authority: Secs. 102, 204, 401, 402, 403, 407, 416, Pub. L. 85–726, as amended, 72 Stat. 740, 743, 754, 757, 758, 766, 771; 49 U.S.C. 1302, 1324, 1371, 1372, 1373, 1377, 1386. Reorganization Plan No. 3 of 1961, 26 FR 5989.

2. Paragraphs (i), (j), and (k) are added to § 385.27 as follows:

§ 385.27 Delegation to the comptroller.

* * * * *

(i) Pay from appropriated funds all properly documented claims consistent with Treasury, OMB, GAO, and CAB policies.

(j) Make minor or routine adjustments to payments based on audit reports prepared by the Bureau of Carrier Accounts and Audits, and through routine internal examinations of claims and vouchers.

(k) Design air carrier subsidy claim forms.

By the Civil Acronautics Board:

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-998 Filed 1-12-84; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 134, 148, 162, 171, and 172

[T.D. 84–16]

Penalties and Penalties Procedures

AGENCY: U.S. Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations relating to penalties and penalties procedures. The document: (a) Adds the revised penalty guidelines relating to 19 U.S.C. 1592 as an appendix to Part 171, Customs Regulations (19 CFR Part 171); (b) clarifies the requirements and criteria applicable to prior disclosures of violations of 19 U.S.C. 1592; (c) places a limitation on the number of supplemental petitions requesting relief from fines, penalties, and forfeitures and from liquidated damages claims; and (d) makes certain other minor, technical changes to the Customs Regulations.

The amendments are necessary in view of legislative and procedural changes relating to Customs fines, penalties, and forfeitures program.

EFFECTIVE DATE: February 13, 1984.

FOR FURTHER INFORMATION CONTACT: Edward T. Rosse, Chief, Commercial Fraud and Negligence Penalties Branch, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–8317).

SUPPLEMENTARY INFORMATION:

Background

Section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), provides for penalties and penalties procedures when by fraud, gross negligence or negligence, merchandise is entered, introduced, or attempted to be entered or introduced into the commerce of the United States, by means of any document, written or oral statement, or act, which is material and false, or by means of any material omission; or when a person aids or abets any other person in the entry, introduction, or attempted entry or introduction of merchandise by such means. Section

618, Tariff Act of 1930, as amended (19 U.S.C. 1618), provides for the remission or mitigation of fines, penalties, and forfeitures by the Secretary of the Treasury.

Public Law 95–410, the "Customs Procedural Reform and Simplification Act of 1978," amended 19 U.S.C. 1592. As a result of changes made by Pub. L. 95–410, and as a result of a consideration of its fines, penalties, and forfeitures program, the Customs Service believes that changes in its regulations are necessary.

This document amends the Customs Regulations by (a) adding the revised penalty guidelines relating to 19 U.S.C. 1592 as an appendix to Part 171, Customs Regulations (19 CFR Part 171); (b) clarifying the requirements and criteria applicable to prior disclosures of violations of 19 U.S.C. 1592, (c) placing a limitation on the number of supplemental petitions requesting relief from fines, penalties, and forfeitures and from liquidated damages claims; and (d) making certain other minor, technical changes to the Customs Regulations.

These changes were proposed in a notice published in the **Federal Register** on November 3, 1982 (47 FR 49853). Approximately 40 comments were received in response to the notice.

Discussion of Comments and Formulation of Final Rules

1. REVISED PENALTY GUIDELINES

A. The Guidelines as an Appendix to the Regulations

Several commenters object to the status of the guidelines as an appendix to the regulations. They contend that since the guidelines are substantive, they should appear as regulations subject to formal rule making procedure.

Customs does not consider the guidelines to be formal regulations; they are for instruction and guidance to Customs field officers. Customs is including the guidelines as an appendix to the regulations merely to advise the public of them.

B. Definitions

Several commenters request clarification of the term "unfair trade practice" under paragraph (A) of the guidelines. Language is being added to expand upon the unfair trade practice concept by stating "unfair trade practice under the antidumping, countervailing duty or a similar statute or an unfair act involving patent or copyright infringement."

Numerous commenters object ot the definition of negligence in paragraph (B)(1) of the guidelines, contending that the language "reasonable care and competence expected from a person in the same circumstances" is a drastic departure from the standard definition of negligence. They state that ineguitable results will occur if a greater degree of care is expected from an experienced importer. The commenters object to including in the definition of negligence the language "communicating information so that it may be understood by the recipient" because it is unfair to make the importer responsible for the competency of the Customs officers receiving the information.

Customs has chosen the language comprising the definition of negligence from the Restatement (Second) of Torts, section 552, comment b, which applies to the obligations of suppliers of information. According to the Restatement, a supplier of information, in order to fulfill the expected standard of care, must exercise the competance reasonably expected of one in the same circumstances. Therefore, experienced importers may be reasonably expected to exercise a higher degree of competence in ascertaining the facts stated in entry documents than the business novice or inexperienced inporter. Similarly, in order to fulfill the standard of care, the information supplied must not be communicated in such a manner that it is misleading. This definition imposes only a reasonable standard of care and does not, as the commenters suggest, make the importer a guarantor of the interpretation or understanding of the information presented.

The commenters state that the definitions of negligence and gross negligence use, but do not explain, the words "the offender's obligation under the statute."

Customs believes that 19 U.S.C.1592 clearly states a party's obligation pursuant to that statute, and that it is unnecessary to restate that obligation in the guidelines.

One of the commenters suggests that the language "violate the laws of the United States" in the definitions of gross negligence and fraud be expanded to read "violate the laws of the United States related to the entry or introduction or attempted entry or introduction of merchandise into the commerce of the United States."

Customs believes that the suggested expansion of this language is inappropriate since a false statement or omission may relate to an offender's obligations under laws of the United States other than the laws related exclusively to entry or introduction of merchandise, e.g., laws prohibiting possession or use of certain articles in the United States, such as controlled substances, automobiles which fail to meet safety or emission standards, etc.

With respect to the definition of fraud, Customs has deleted the word "demonstrable" and inserted the words "as established by clear and convincing evidence." This change is being made to have the guidelines parallel 19 U.S.C. 1592(e)(2) which states that in any proceeding commenced by the United States in the Court of International Trade for the recovery of any monetary penalty under 19 U.S.C. 1592 based upon fraud, the United States shall have the burden of proof to establish the alleged violation by clear and convincing evidence.

C. Assessment of Penalties

Clarification is requested by commenters who claim that the Customs field officer is not specifically authorized by the guidelines to evaluate mitigating factors in setting the amount in the pre-penalty notice.

In the proposal, Customs stated that the guidelines would instruct field officers to consider mitigating, aggravating and extraordinary factors in assessing a claim for monetary penalty. To ensure that field officers are aware of this policy, that instruction is being inserted in paragraph (C)(1)(b) of the guidelines, which directs field officers to consider mitigating, aggravating and extraordinary factors in issuing a pre-penalty notice in cases involving gross negligence and negligence. With respect to a penalty based on fraud, the amount in the pre-penalty and penalty notices shall be the domestic value of the merchandise. Language is also being added to the introductory paragraph preceding paragraph (A) of the guidelines to clarify that the assessed or mitigated penalty amount determined in accordance with the guidelines does not limit the penalty amount which the Government may seek in bringing civil enforcement action pursuant to 19 U.S.C. 1592(e).

Two commenters find fault with what they perceive to be an approach to assessment of penalties based on the fact that some violations may be less serious than others. They point out that the "seriousness" of a violation should not depend upon the amount of the loss of revenue. One commenter calls this approach inappropriate inasmuch as the statute creates its own criteria of seriousness by establishing degrees of culpability. Several commenters remark that fixed sum penalty amounts for non-serious violations should never exceed statutory maximums or the ranges set forth by the guidelines, and that the

guidelines fail to reflect this rule. A number of commenters point out that the examples provided in the guidelines for non-serious violations are not even violations because the falsities are not material. Customs believes that the amount of the loss of revenue is a factor to be considered along with other factors in determining a penalty amount within the range of penalty amounts appropriate to the degree of culpability. The provisions in paragraph (C)(1)(b) are intended to indicate several factors affecting the gravity of violations for general guidance in determining the amount of the penalty claim. We do not believe that these provisions can be interpreted as requiring an unreasonable categorization of violations. Language is being added to paragraph (C)(1)(c) to indicate that fixed sum penalty amounts for certain violations should not exceed either the statutory maximums or the maximums set forth in the guidelines, and to indicate that the falsities cited as examples must be material, as defined in the guidelines.

With respect to paragraph (C)(2) of the guidelines, commenters recommend that a loss of revenue of $1,000, rather than $500, be the threshold for the initiation of a penalty case, and that a penalty assessment be discretionary with the district director if the loss of revenue is between $1,000 and $5,000. One commenter suggests that Customs add language stating that, in a case involving a prior disclosure, the district director has the discretion whether or not to issue a penalty notice. A commenter states that it is illegal to set a higher degree of culpability in the penalty notice merely because the statute of limitations will expire within 3 months, and that a penalty notice should always state why the case is continuing, or the basis for not accepting the petitioner's arguments. One commenter recommends that the phrase of paragraph (C)(2)(a) "and in consideration of issuance of the penalty notice" be changed to "and in consideration whether or not to issue a penalty notice."

Customs believes that the threshold amount of a $500 loss of revenue for initiation of a penalty case is consistent with and necessary to Customs obligation to enforce the statute and deter future violations. The language in paragraph (C)(2)(c) is being amended to provide that a penalty case shall not be initiated in cases involving: (a) a prior disclosure of a violation resultant from gross negligence or negligence; and (b) either no actual loss of revenue to the Government, or an actual loss of revenue resulting in interest due under 19 U.S.C. 1592(c)(4) which is less than $500, provided that the actual loss of revenue has been tendered to Customs. Criteria limiting penalties for violation of 19 U.S.C. 1592 by arriving travelers are contained in paragraph (J)(2) of the guidelines.

Customs believes that the provision for reissuance or amendment of outstanding penalty claims, if the evidence substantiates a higher degree of culpability, is reasonable and not contrary to any statutory provision. Customs further believes that under 19 U.S.C. 1592(b)(2), a penalty claim need only specify all changes in the information provided in the pre-penalty notice. There is no requirement that the penalty notice address arguments made in response to the pre-penalty notice. It is clear that Congress intended that such findings be provided only in response to a petition for relief.

The recommended language change to paragraph (C)(2)(a) is being adopted.

D. Ranges of Mitigation

The commenters criticize the disposition ranges in paragraph (D) of the guidelines as being too high, especially in non-revenue-loss cases. They criticize the dispositions in prior disclosure cases in paragraph (E) because mitigation is not permitted below the statutory maximums.

Customs believes that the disposition ranges in paragraph (D) are consistent with Customs enforcement objectives and also allow substantial relief from penalty claims. Relief below the stated ranges is permitted in cases involving a prior disclosure (paragraph (E)), cases where extraordinary factors are present (paragraph (H)), and cases where a fixed sum penalty is appropriate (paragraph (C)(1)(c)). Customs does not believe that the penalties collected upon the disposition of prior disclosure cases are excessive. In a prior disclosure case in which the violation is due to negligence or gross negligence, and there is no loss of revenue or the loss of revenue is potential, no penalty is collected.

E. Mitigating Factors

Several commenters urge that contributory Customs error, which includes misleading or erroneous Customs advice, should be grounds for cancellation of a penalty case rather than merely a mitigating factor. They urge that the mitigating factor of cooperation with the investigation should include providing books and records, notwithstanding 19 U.S.C. 1508, which requires the maintenance of books and records, because the Government is saved the effort of procuring a subpoena. One commenter believes that the mitigating factor of immediate remedial action should include the payment of the actual loss of revenue after issuance of a penalty notice as long as it is made within 30 days of the determination of duties owed. Commenters also believe that prior good record and inexperience in importing should bear upon the level of culpability, and that prior good record should mitigate a fraud violation.

With respect to contributory Customs error, the guidelines are being amended to state that if it is determined that the Customs error was the sole cause of the violation, the penalty will be cancelled. If the Customs error contributed to the violation but the violator is nevertheless culpable, the error will be considered as a mitigating factor. Concerning cooperation, Customs believes that the fact that the Government may be saved the effort of procuring a subpoena does not warrant a provision that the act of supplying books and records should be considered as a mitigating factor.

Concerning the payment of the actual loss of revenue, § 162.79(b)(2), Customs Regulations (19 CFR 162.79(b)(2)), in implementing 19 U.S.C. 1592(d), provides that the amount of the actual loss of revenue shall be stated in the penalty notice and that payment or arrangements therefor shall be made within 30 days of the date of the notice. Customs does not believe that compliance with this provision should be regarded as a mitigating factor. With respect to culpability, the existence of a prior good record is not relevant to a determination as to whether the offender's violations with respect to subsequent importations were due to negligence, gross negligence or fraud, and this factor cannot, in any case, be found to mitigate a fraudulent violation of the statute. Similarly, Customs believes that although experience in importing may be considered in determining the competency reasonably to be expected of an importer, this aspect of experience or inexperience is separate and distinct from considerations affecting mitigation.

F. Aggravating Factors

Two commenters contend that obstructing the investigation, withholding evidence, and providing misleading informaton should be considered aggravating factors only if they were intentional. Other commenters believe that aggravating factors should only be considered if Customs Headquarters concurs.

Customs believes that the provision for aggravating factors is sufficient for

their application in appropriate circumstances without requiring a specific finding of intent, and that there is no demonstrable need for Customs Headquarters concurrence in a finding by Customs field officers that these factors are present.

G. Extraordinary Factors

One commenter contends that Customs knowledge of a violation should preclude the assessment of any penalty in a non-fraud case where Customs failure to notify the violator is a dereliction of duty. Another commenter proposes that substantial delay in the investigation attributable to the violator should not preclude application of this factor because the import specialist should be apprised of the error and can control the entries.

Customs does not believe that the fact that Customs failed to notify a violator concerning Customs knowledge of the violation can, under any circumstance, warrant cancellation or full remission of the penalty. Denial of the application of this factor when a substantial delay in the investigation is attributable to the violator is based on the premise that Customs is not in a position to provide the violator with information concerning a violation until the matter has been investigated.

H. Customhouse Brokers

A commenter criticizes that part of the guidelines which subjects to full penalty liability customhouse brokers who commit a grossly negligent violation of 19 U.S.C. 1592, whether or not the broker shared in the financial benefits of the violation over and above the prevailing brokerage fees. Customs has decided to strike this proposed departure from present practice and maintain its penalty limit of $500 in such a situation. Grossly negligent brokers who do share in the financial benefits of a violation will not be protected by the $500 limit.

The same commenter also criticizes the fact that the guidelines depart from previous practice in that they do not include language which shields an innocent broker who files an entry as the importer of record from liability for the actual loss of revenue on liquidated entries. Customs had already ruled (Headquarters decision dated September 8, 1982, file No. 213792) that an innocent broker filing an entry as importer of record is liable under 19 U.S.C. 1592(d) for any actual loss of revenue. By filing an entry as importer of record, i.e., using its own bond rather than its client's bond, the broker assumes the responsibility and risk not only for any increased duties found to be due on unliquidated entries, but for the actual loss of revenue on liquidated duties as well.

I. Arriving Travelers

Commenters have noticed that the guidelines providing for special limitations on liability for first offense, noncommercial, fraudulent violations by arriving travelers, do not provide for non-revenue-loss cases. Language indicating a range of penalty amounts for non-revenue-loss cases is being added. In addition, paragraph (J)(2)(b) is being revised to state certain circumstances with respect to both revenue-loss and non-revenue-loss cases where a penalty case shall not be initiated.

2. PRIOR DISCLOSURE

A. Writing Requirement

Numerous commenters object to the requirement of proposed § 162.74(a), Customs Regulations (19 CFR 162.74(a)), that a prior disclosure be in writing. They contend that 19 U.S.C. 1592(c)(4) does not authorize the imposition of formal requirements concerning the manner in which a prior disclosure must be made, and that the writing requirement would be prejudicial to inexperienced importers who may be unaware of the requirement.

Customs believes that it is implicit from the provisions of 19 U.S.C. 1592(c)(4) that the Secretary of the Treasury shall issue regulations which set forth the procedures for prior disclosure in order to ensure that the facts concerning the date, time, and contents of the disclosure are established in the record. Further, under 19 U.S.C. 1624, the Secretary is authorized to issue rules and regulations as may be necessary to carry out the provisions of 19 U.S.C. 1592(c)(4). The requirement that a prior disclosure must be in writing is reasonably related to the necessity to establish the date, time and contents of the purported prior disclosure.

In paragraph (H)(2) of the proposed guidelines it was stated that additional relief from a penalty will be granted if a person discloses the circumstances of a violation by providing evidence or information which is not in Customs possession or knowledge and/or which had not been requested by a Customs officer, although the disclosure does not meet the requirements for a prior disclosure in § 162.74, Customs Regulations (19 CFR 162.74). After further consideration, Customs has concluded that a person should be accorded the full benefit of prior disclosure treatment if the person provides information to Customs with respect to a violation of 19 U.S.C. 1592 which does not meet the requirement of a written disclosure statement if the district director is satisfied that: (1) The information was provided before or without knowledge of the commencement of a formal investigation; and (2) the information provided substantially comprises the information specified in section 162.71(e). This information need not be in writing. This amendment is stated in § 162.74(a)(2). Paragraph (H)(2) of the proposed guidelines is deleted.

B. Time of Disclosure

Numerous commenters believe that the time of disclosure as specified in § 162.74(b), should be the time of mailing, not the time of receipt, in order to conform with standard notice procedure. They contend that the regulation should obligate the Customs officer to give a receipt, rather than obligate the disclosing party to ask for a receipt. It is also recommended that the term "documents" be replaced with "the written statements provided for in § 162.71(e)." One commenter believes that the certified mail requirement is unreasonable because it may invalidate certain disclosures even when the fact of disclosure is conclusively established. Because the burden is upon the importer to prove disclosure, it is contended that the certified mail rule should be optional.

Customs has revised the proposed language of § 162.74(b) to provide that if the disclosing documents are sent by certified mail, return-receipt requested, and if they are received by Customs, the time of mailing shall be deemed to be the time of disclosure. If the documents are sent otherwise by mail or are delivered in person, the time of receipt by Customs shall be deemed to be the time of disclosure. Upon request, Customs will provide a receipt stating the time and date of receipt. The provision of information which is not in writing but which qualifies for prior disclosure treatment shall be deemed to have occurred at the time Customs was provided with information which substantially complies with the requirements of § 162.71(e).

C. Discloses the Circumstances of the Violation

Commenters object to proposed § 162.71(e)(4) because the disclosing party may not possess, at the time of the disclosure, "the true and accurate information or data which should have been provided in the entry documents." Customs has decided to add to this language "and agrees to provide any

information or data which is unknown at the time of disclosure within 30-days of the initial disclosure date or within an extension of such 30 day period as the district director may permit in order for the person to obtain the information or data."

D. Referral for Investigation

Commenters criticize the district director's obligation, pursuant to § 162.74(c), to refer any disclosure of a violation to the field office of the Office of Investigations as an unnecessary duplication of effort on Customs part inasmuch as an importer's disclosure should be presumed to be accurate and complete. One commenter suggests that such referral should be within the discretion of the district director. Two commenters have recommended that this section be merged with § 162.74(j), which provides for non-referral of minor violations.

Customs does not agree that determinations concerning the validity of a prior disclosure can be based solely on a presumption that the disclosure is complete and accurate. This provision is not intended to preclude a determination by the district director that referral is unnecessary because a minor violation is involved within the purview of § 162.74(j), or a determination, normally after consultation with the Office of Investigations, that commencement of a formal investigation is not necessary in the circumstances of the particular disclosure.

E. Commencement and Expansion of a Formal Investigation

Commenters object to the provisions in § 162.71 (d) and (e) that "contemporaneous notes" in the investigatory record may establish the date of commencement or expansion of a formal investigation. Commenters stress that "contemporaneous notes" should not stand on the same footing as a Memorandum of Information Received (MOIR) or an entry in a formal investigative record. They contend that more formal documentation is needed, such as the filing of an MOIR or the assignment of a file number. Customs disagrees. Whether a formal investigation has been commenced or expanded is not dependent upon the means for recording the fact, e.g., the preparation of an MOIR or assignment of a file number. More determinative of the commencement of an investigation of a specific violation is whether the investigatory record shows that information was received with would cause an investigative agent to believe that the possibility of a violation of 19 U.S.C. 1592 existed. We do not believe that in any such instance the actions of the agent in investigating the information can be regarded as routine.

Commenters also criticize the provisions in § 162.71 (d) and (e) that an agent's inquiry concerning the type of or circumstances of the violation will commence or expand an investigation. They contend that routine inquiries should be distinguished from formal investigations, and that routine inquiries should not preclude a subsequent prior disclosure. One commenter states that a request for books and records must precede a determination that a formal investigation should commence based upon those books and records. Customs believes that the act of a Customs investigative agent in making an inquiry concerning the type of or circumstances of a violation or in requesting specific books and records cannot be considered routine, and that such an inquiry or request is sufficient to inform a party that an investigation has been commenced or has expanded.

F. Proof of Lack of Knowledge

With respect to the language of proposed § 162.74(f), commenters contend that the imputation of knowledge of commencement of an investigation due to an agent's inquiry or request for books and records creates an irrebuttable presumption that is contrary to the actual knowledge test of the statute. One commenter suggests that the presumption be rebuttable. Another commenter suggests that the time period of proposed § 162.74(f) be changed from three years to one year.

Customs has determined to change the language of this section to provide that the presumption of knowledge created by an agent's inquiry or request for books and records may be rebutted by evidence that, notwithstanding the inquiry or request, the person did not have knowledge that an investigation had commenced with respect to the disclosed violation. Additionally, Customs has decided to delete the three-year time period from § 162.74(f); the time of the agent's inquiry or request is only one factor to be considered in determining whether the person had knowledge of the commencement of the investigaton.

G. Penalty Claims Not Requiring Formal Investigation

One commenter suggests that § 162.74(g) make clear that a prior disclosure may occur up until the time of any of the acts of sub-paragraphs (1) through (4). Another commenter believes that a prior disclosure should be foreclosed on the date recorded in writing by an officer who discovered facts and circumstances relied upon by an authorized officer to determine that a penalty will be issued without formal investigation.

Customs believes that the language of proposed § 162.74(g) is sufficiently clear in stating that a prior disclosure may be made at any time before the appropriate Customs officer's determination that available evidence warrants issuance of the penalty claim. The officer's evaluation of the evidence and his further action in this regard are determinative. This situation is not analagous to that where Customs is merely commencing a formal investigation and, therefore, notice to the person is not necessary to preclude a prior disclosure. Secondly, the decision and action of the Customs officer, not the discovery of the evidence leading to the decision, preclude the subsequent prior disclosure. Language is being added to proposed § 162.74(g)(3) to indicate that determinations by Customs officers of possible violations without formal investigation may also be made as the result of the inspection of commercial merchandise in connection with entry.

3. SUPPLEMENTAL PETITIONS

A. Limit of Two Supplemental Petitions

Commenters contend that the limit of two supplemental petitions in proposed §§ 171.33(c) and 172.33(c) represents an arbitrary cut-off of the administrative review process and that no limit should be set, especially where the penalty amount has been paid. Commenters identify certain circumstances which should always warrant further review, i.e., (1) where the supplemental petition responds to a new issue of law or fact which the initial decision failed to identify; (2) where counsel has been retained for the first time; (3) where additional information has been obtained through Freedom of Information Act procedures; and (4) where a favorable court decision has been rendered with respect to related entries, or unrelated entries if the issues are the same (in which case the 60-day limit of proposed §§ 171.33(c)(2)(ii) and 172.33(c)(2)(ii) is criticized as too short). Commenters also state that the term "second supplemental petition" should not include an offer in compromise pursuant to 19 U.S.C. 1617.

Customs believes that the mitigation process under the regulations and revised penalty guidelines provides ample opportunity for oral and written presentations by any party involved in a penalty proceeding, and ample

opportunity for administrative review throughout the various stages of the proceeding. Any person to whom a pre-penalty notice is issued may make a written and an oral presentation as to why a penalty notice should not be issued. In determining whether to issue a penalty notice, and, if so, the amount of the penalty, the district director is to consider oral and written presentations made by the alleged violator, all available evidence with respect to the existence of material false statements or omissions, the degree of culpability, the existence of a prior disclosure, the seriousness of the violation, and the existence of mitigating, aggravating or extraordinary factors. Subsequent to the issuance of a penalty notice, the alleged violator may make a written and an oral presentation, and will receive a written decision which includes findings of fact and conclusions of law. If the alleged violator is not satisfied with that decision, a supplemental petition may be filed, additional presentations made, and an additional written decision will be issued. The petitioning party can also request that a supplemental petition be treated as an appeal to the Secretary of the Treasury.

As stated previously, Customs believes that these procedures provide ample opportunity for review of all aspects of the penalty case. If matters such as new information or new legal or factual issues arise, or new counsel is retained, the petitioner can receive yet another hearing either through a second supplemental petition, after payment of the penalty and actual loss of revenue, or by declining to pay and pursuing the matter with the Department of Justice after the case is referred to that agency by Customs. Customs believes that it is in the interest of the efficient administration of the penalty process that, for the purpose of §§ 171.33(c) and 172.33(c), the term "second supplemental petition" includes an offer in compromise under 19 U.S.C. 1617. In making an offer of compromise, however, only the amount of the offer must be deposited (see 19 CFR 161.5(b)).

B. Payment Prerequisite to Second Supplemental Petition

Commenters criticize the requirement of proposed §§ 171.33(c)(1) and 172.33(c)(1) that a second supplemental petition will not be accepted unless it is accompanied or preceded by full payment of all penalties and withheld duties determined to be due in the decision rendered on the first supplemental petition. They contend that prepayment will serve as a disincentive for Customs to seriously consider further submission. The commenters further state that since payment of the penalty may be considered voluntary under *Carlingswitch, Inc. v. United States*, 651 F. 2d 768 (C.C.P.A. 1981), and not a protestable "charge or exaction" under 19 U.S.C. 1514(a)(3), judicial review may be foreclosed since the Court of International Trade has no jurisdiction over a case brought by a petitioner to review a penalty.

Customs does not believe that there is any basis for the conclusion that Customs will fail to give meaningful consideration to supplemental petitions after the penalty and withheld duties are paid. In the pre-penalty stage of the case, the petitioner is afforded the opportunity to discuss all issues in the case with the field officers involved, and in any decision on the initial petition or first supplemental petition, Customs is required to state the findings of law and fact upon which the decision is based. The number of cases in which all significant issues will not be addressed before the penalty must be paid will be minimal and the possibilities suggested by commenters do not justify further delays in collection of the mitigated claim by the Government.

The *Carlingswitch* case concerned a voluntary payment of withheld duties. Thus, that decision will not affect Customs policy, pursuant to 19 U.S.C. 1520(a)(3), of refunding penalty amounts which are subsequently determined to be excessive. While it may be true that judicial review may be precluded if a peititioner files a second supplemental petition after payment of a penalty, and further relief is denied by Customs, Customs believes that the penalty process gives a petitioner adequate opportunity for review. If the petitioner wants to ensure judicial review, it can decline to pay the mitigated penalty after the first supplemental petition.

The notice stated that nothing in the proposed amendments should be construed as limiting or precluding the opportunity afforded under Treasury Order 219–2, published in the **Federal Register** on February 25, 1976 (47 FR 8192), to seek an appeal to the Secretary of the Treasury. Customs has decided to include the provisions of Treasury Order 219–2 in new § 171–33(d).

4. INTERNAL ADVICE REQUESTS

One commenter suggests, with respect to proposed section 162.78(b), that internal advice requests be prohibited during a pending penalty case inasmuch as advice from Headquarters on a classification or value issue may delay the penalty case and circumvent the district director's authority.

Customs does not believe that there is demonstrable evidence that adoption of this provision would cause substantial delays or circumvention of the district director's authority to proceed with the penalty case which would outweigh Customs interest in resolving complex legal issues at an early stage in the penalty proceeding. In connection with an internal advice request, a district director may indicate why he believes that consideration of a particular request is inappropriate.

5. ARRIVING PASSENGERS

The notice contained a minor, technical amendment to § 148.19, Customs Regulations (19 CFR 148.19). Section 148.19 is being further amended to state that, if a seizure is not made, an amount equivalent to the maximum penalty which may be assessed in accordance with the passenger's degree of culpability as provided for in 19 U.S.C. 1592 shall be demanded from the passenger, and that the amount demanded may be mitigated in accordance with the revised penalty guideline. The language "or to treat an article in some other manner in order to obtain a benefit" has been added to § 148.19.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this document because the amendments will not have a significant economic impact on a substantial number of small entities. The amendments are not expected to have significant secondary or incidental effects on a substantial number of small entities, or to impose, or otherwise cause a significant increase in the reporting, recordkeeping or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that the amendments will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

Because this document will not result in a regulation which will be a "major rule" as defined in section 1(b) of E.O. 12291, a regulatory impact analysis as prescribed by section 3 of the E.O. is not required.

Drafting Information

The principal author of this document was Gerald J. O'Brien, Jr., Regulations Control Branch, Office of Regulations

and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects

19 CFR Part 134

Customs duties and inspection, Imports.

19 CFR Part 148

Customs duties and inspection, Imports.

19 CFR Part 162

Customs duties and inspection, Imports, Administrative practice and procedure, Law enforcement, Penalties, Seizures and forfeitures, Prior disclosure.

19 CFR Part 171

Customs duties and inspection, Imports, Administrative practice and procedure, Law enforcement, Penalties, Seizures and forfeitures.

19 CFR Part 172

Customs duties and inspection, Imports, Administrative practice and procedure, Liquidated damages.

Amendments to the Regulations

Parts 134, 148, 162, 171, and 172, Customs Regulations (19 CFR Parts 134, 148, 162, 171, and 172), are amended as set forth below.

William von Raab,

Commissioner of Customs.

Approved: December 21, 1983.

John M. Walker, Jr.

Assistant Secretary of the Treasury.

PART 134—COUNTRY OF ORIGIN MARKING

§ 134.52 [Amended]

The first sentence of § 134.52(d) is amended by substituting "monetary penalty" for "forfeiture value."

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

Section 148.19 is revised to read as follows:

§ 148.19 False or fraudulent statement.

A passenger who makes any false or fraudulent statement or engages in other conduct within the purview of section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), whereby a Customs officer is or may be induced to pass an article free of duty or at less than the proper amount of duty, or to treat an article in some other manner in order to obtain a benefit, shall be deemed to have violated 19 U.S.C. 1592. In any such case the article involved shall be seized only if one or more of the conditions set forth in section 162.75 of this chapter are present, if it is available for seizure at the time the violation is detected, and if such seizure is otherwise practicable, unless the article is in the possession of an innocent holder for value who has full right to possession as against any party to the Customs violation. It seizure is not made, an amount equivalent to the maximum penalty which may be assessed in accordance with the passenger's degree of culpability as provided in 19 U.S.C. 1592(c) shall be demanded from the passenger. The amount demanded in lieu of seizure shall be determined in accordance with the guidelines contained in the appendix to Part 171 of this chapter. In all cases, the estimated duties shall be demanded of the passenger as soon as possible after the discovery of the violation. Any applicable internal revenue tax shall also be demanded unless the merchandise is to be, or has been, forfeited.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 162—RECORDKEEPING, INSPECTION, SEARCH, AND SEIZURE

§ 162.41 [Reserved]

§ 162.80 [Redesignated from § 162.41(c)]

1. Part 162 is amended by removing § 162.41 (a) and (b) and by redesignating § 162.41(c) as new § 162.80. Section 162.41 is marked "[Reserved]."

2. Section 162.71 is amended by adding a new paragraph (e) to read as follows:

§ 162.71 Definitions.

* * * * *

(e) *Discloses the circumstances of the violation.* When used in § 162.74(a), the term "discloses the circumstances of the violation" means the act of providing to Customs a written statement which:

(1) Identifies the class or kind of merchandise involved in the violation;

(2) Identifies the importation included in the disclosure by entry number or by indicating each Customs port of entry and the approximate dates of entry;

(3) Specifies the material false statements or material omissions made; and

(4) Sets forth to the best of the violator's knowledge, the true and accurate information or data which should have been provided in the entry documents, and states that the person will provide any information or data which is unknown at the time of disclosure within 30 days of the initial disclosure date or within and extension of the 30-day period as the district director may permit in order for the person to obtain the information or data.

3. Section 162.74 is revised to read as follows:

§ 162.74 Prior disclosure.

(a) *In general.* (1) A prior disclosure is made if the person concerned discloses the circumstances of a violation (as defined in § 162.71(e) of section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), in writing to a district director before, or without knowledge of, the commencement of a formal investigation of that violation, and makes a tender of any actual loss of duties in accordance with paragraph (h) of this section.

(2) A person shall be accorded the full benefit of prior disclosure treatment if that person provides information to Customs with respect to a violation of 19 U.S.C. 1592 which does not meet the requirements of a written disclosure statement pursuant to this section if the district director is satisfied that the information was provided before or without knowledge of the commencement of a formal investigation, and the information provided includes substantially the information specified in § 1621.71(e). The provision of this information need not be in writing.

(b) *Time of prior disclosure.* (1) If the documents which provide the disclosing information are sent by certified mail, return-receipt requested, and are ultimately received by Customs, the disclosure shall be deemed to have been made at the time of mailing.

(2) If the documents are sent otherwise by mail or are delivered in person, the disclosure shall be deemed to have been made at the time of receipt by Customs. If the documents are delivered in person, the person delivering the documents is to request a receipt from Customs, stating the time and date of receipt.

(3) The provision of information which is not in writing but which qualifies for prior disclosure treatment pursuant to paragraph (a)(2) of this section shall be deemed to have occurred at the time which Customs was provided with information which substantially complies with the requirements of § 162.71(e).

(4) Any documents relating to a prior disclosure should be addressed to the immediate attention of the district director.

(c) *Referral for investigation.* Any disclosure of a violation shall be referred immediately by the district

director to the appropriate field office of the Office of Investigations. Upon completion of its investigation, the field office shall immediately return the disclosure, together with its report, to the district director for appropriate action.

(d) *Commencement of formal investigation.* A formal investigation of a violation is considered to be commenced:

(1) In the case of a referral by an import specialist or other Customs officer of a matter involving the disclosing party and the disclosed information for investigation of a possible violation of 19 U.S.C. 1592, on the date recorded in writing as the date on which the matter was referred to the Office of Investigations;

(2) In the case of referral by an import specialist or other Customs officer of a request for value, classification, or other technical investigation, on the date recorded in writing by an investigating agent in the investigatory record (including contemporaneous notes) as the date on which facts and circumstances were discovered or information was received which caused an investigating agent to believe that possibility of a violation of 19 U.S.C. 1592 existed with respect to the disclosing party and the disclosed information;

(3) In the case of an investigation prompted by an individual other than a Customs officer with regard to the disclosing party and the disclosed information, on the date recorded in writing by the Office of Investigations in the investigatory record (including contemporaneous notes) as the date on which the information was received;

(4) In all other cases, on the earliest of the following:

(i) The date recorded in writing by the Office of Investigations in the investigatory record (including contemporaneous notes) as the date on which facts and circumstances were discovered or information was received which caused an investigating agent to believe that the possibility of a violation of 19 U.S.C. 1592 existed with respect to the disclosing party and the disclosed information;

(ii) The date on which an investigating agent, having properly identified himself and the nature of his inquiry, had, either in person or in writing, made an inquiry of the person concerning the type of or circumstances of the disclosed violation;

(iii) The date on which an investigating agent, having properly identified himself and the nature of his inquiry, requested specific books and records of the person relating to the disclosed information.

(e) *Expansion of formal investigation.* A formal investigation is deemed to have commenced as to additional violations (outside the scope of the original investigation but committed by the same party) on the earliest of the following:

(1) The date recorded in writing by the Office of Investigations in the investigatory record (including contemporaneous notes) as the date on which facts and circumstances were discovered or information was received which caused an investigating agent to believe that the possibility of a violation of 19 U.S.C. 1592 existed with respect to the additional violations;

(2) The date on which an investigating agent, having properly identified himself and the nature of his inquiry, had, either in person or in writing, made an inquiry of the person concerning the type of or circumstances of additional violations; or

(3) The date on which an investigating agent, having properly identified himself and the nature of his inquiry, requested specific books and records of the person relating to the additional violations.

(f) *Proof of lack of knowledge.* A person who claims a lack of knowledge of the commencement of a formal investigation has the burden to prove that lack of knowledge. A person shall be presumed to have had knowledge of the commencement of a formal investigation of a violation if before the claimed prior disclosure of the violation:

(1) An investigating agent, having properly identified himself and the nature of his inquiry, had, either in person or in writing, made an inquiry of the person concerning the type of or circumstances of the disclosed violation; or

(2) An investigating agent, having properly identified himself and the nature of his inquiry, requested specific books and records of the person relating to the disclosed information.

That presumption may be rebutted by evidence that, notwithstanding the inquiry or request, the person did not have knowledge that an investigation had commenced with respect to the disclosed information.

(g) *Penalty claims not requiring formal investigation.* A prior disclosure may not be made after a determination by an authorized Customs officer that there is reasonable cause to believe that there has been a violation of 19 U.S.C. 1592 and that a claim for monetary penalty shall be issued without commencement of a formal investigation. Such determination shall be evidenced as follows:

(1) By the issuance of a pre-penalty notice:

(2) By the issuance of a penalty notice if a pre-penalty notice is not required;

(3) In the case of violations involving merchandise accompanying persons entering the United States or commercial merchandise inspected in connection with entry, by oral notification to the person of the officer's finding of a violation; or

(4) In the case of the seizure of merchandise under 19 U.S.C. 1592, by the act of seizure.

(h) *Tender of actual loss of duties.* A person who discloses the circumstances of the violation shall tender any actual loss of duties at the time of disclosure or within 30 days after the district director notifies the person in writing of his calculation of the actual loss of duties. The district director may extend the period if he determines there is good cause to do so.

(i) *Undisclosed violations.* Undisclosed violations discovered by Customs as the result of an investigation of a prior disclosure of another violation shall not be entitled to treatment under the prior disclosure provisions.

(j) *Minor violations.* The district director shall not refer a disclosed violation for investigation or establish a penalty case if;

(1) The disclosed violation involves a loss of duties of $500 or less;

(2) Any actual loss of duties has been deposited;

(3) There is no evidence that the violation was fraudulent; and

(4) There are no other compelling reasons for a penalty proceeding, such as history of similar violations.

§ 162.75 [Amended]

4. Section 162.75(d)(3) is amended by substituting "compliance made with the decision" for "the monetary penalty paid."

5. Section 162.78(b) is amended by adding the following between the first and second sentences;

§ 162.78 Presentations responding to pre-penalty notice

* * * * *

(b) * * * In addition, an extension may be granted if, upon request of the alleged violator, the Commissioner of Customs determines that the case involves an issue which is a proper matter for submission to Customs Headquarters under internal advice procedures (See § 177.11(b)(2)) * * *

* * * * *

§ 162.79 [Amended]

6. The second sentence of § 162.79(b)(2) is amended by substituting "section 592(d), Tariff Act of 1930, as amended (19 U.S.C. 1592(d))," for "section 162.79(b)."

7. New § 162.80 (redesignated from § 162.41(c)) reads as follows:

§ 162.80 Liability for duties; liquidation of entries.

(a)(1) When an entry is the subject of an investigation for possible violation of section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), or of a penalty action established under that section, the district director, subject to the provisions of paragraph (a)(2) of this section, may liquidate the entry and collect duties before the conclusion of the investigation or final disposition of the penalty action if he determines that liquidation would be in the interest of the Government.

(2)(i) An entry not liquidated within 1 year from the date of entry or final withdrawal of all merchandise covered by a warehouse entry shall be deemed liquidated at the rate of duty, value, quantity, and amount of duties asserted at the time of entry by the importer, his consignee, or agent unless the time for liquidation is extended by the district director because—

(A) Information needed by Customs for the proper appraisement or classification of the merchandise is not available.

(B) The importer, his consignee, or agent requests an extension and demonstrates good cause why the extention should be granted, or

(C) The 1-year liquidation period is suspended as required by statute or court order.

(ii) An entry not liquidated within 4 years from the date of entry or final withdrawal of all merchandise covered by a warehouse entry shall be deemed liquidated at the rate of duty, value, quantity, and amount of duties asserted at the time of entry by the importer, his consignee, or agent unless liquidation continues to be suspended by statute or court order. In that event, the entry shall be liquidated within 90 days after removal of the suspension.

(iii) The district director promptly shall notify the importer or consignee concerned and any authorized agent and surety of the importer or consignee in writing of any extension or suspension of the liquidation period.

(b) When merchandise not covered by an entry is subject to section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), a demand shall be made on the importer for payment of the duty estimated to be due on such merchandise.

(c) Any applicable internal revenue tax shall also be demanded unless the merchandise is to be, or has been, forfeited.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 171—FINES, PENALTIES, AND FORFEITURES

§ 171.1 [Reserved]

1. Section 171.1 is removed and marked "[Reserved]."

§ 171.2 [Reserved]

§ 171.24 [Redesignated from § 171.2]

2. Section 171.2 is redesignated as § 171.24 and is amended by substituting "Department of Justice" for "United States attorney" in the first and second sentences. Section 171.2 is marked "[Reserved]."

3. Section 171.33(a) (1) and (2) are amended by substituting "from which further relief is requested" for "on the initial petition for relief."

4. Section 171.33 is further amended by adding a new paragraph (c) and (d) to read as follows:

§ 171.33 Supplemental petitions for relief.

* * * * *

(c) *Second supplemental petition.* (1) Only one further supplemental petition may be filed appealing a decision made with respect to an initial supplemental petition. The second supplemental petition will not be accepted unless accompanied or preceded by full payment of all penalties and withheld duties determined to be due in the decision rendered on the first supplemental petition. Such payment must be made within 60 days from the date of notice to the petitioner of the decision on the first supplemental petition if no effective period is prescribed in the decision, or within such time prescribed, if any. The second supplemental petition should be filed with the district director who initiated the case. For the purpose of this section, the term "second supplemental petition" shall include an offer in compromise under 19 U.S.C. 1617 made prior to the commencement of a civil action to enforce the penalty claim.

(2) A second supplemental petition will not be considered except in one of the following circumstances:

(i) If it is filed within 2 years from the date of notice to the petitioner of the decision on the first supplemental petition;

(ii) If it is filed within 60 days following an administrative or judicial decision with respect to the entries involved in the penalty case which reduces the loss of duties upon which the mitigated penalty amount was based; or

(iii) If the deciding official in his discretion determines that the acceptance of a second supplemental petition is warranted.

(d) Appeals to the Secretary of the Treasury. A petitioner filing a supplemental petition pursuant to this section from a decision of the Commissioner of Customs with respect to any liability assessed under 19 U.S.C. 1592 may request that the petition be accepted as an appeal to the Secretary of the Treasury. The Secretary will accept for decision any such supplemental petition when in his discretion he determines that such petition raises a question of fact, law or policy of such importance as to require a decision by the Secretary. If the Secretary declines to accept an appeal for decision, the petitioner will be so informed; in such a case, if the supplemental petition is an initial supplemental petition or a second supplemental petition eligible for consideration under paragraph (c) of this section, a decision thereon will be issued by Customs.

(R.S. 251, as amended, R.S. 5294, as amended, sec. 9, 24 Stat. 81, as amended, secs. 618, 624, 641, 46 Stat. 757, as amended, 759 (19 U.S.C. 66, 1618, 1624, 1641, 46 U.S.C. 7, 320))

PART 172—LIQUIDATED DAMAGES

1. Section 172.33(a) (1) and (2) are amended by substituting "from which further relief is requested" for "on the initial petition for relief."

2. Section 172.33 is further amended by adding a new paragraph (c) to read as follows:

§ 172.33 Supplemental petitions for relief.

* * * * *

(c) *Second supplemental petition.* (1) Only one further supplemental petition may be filed appealing a decision made with respect to an initial supplemental petition. The second supplemental petition will not be accepted unless accompanied or preceded by full payment of all penalties and withheld duties determined to be due in the decision rendered on the first supplemental petition. Such payment must be made within 60 days from the date of notice to the petitioner of the decision on the first supplemental petition if no effective period is prescribed in the decision, or within such time prescribed, if any. The second supplemental petition should be filed with the district director who initiated the case.

(2) A second supplemental petition will not be considered except in one of the following circumstances:

(i) If it is filed within 2 years from the date of notice to the petitioner of the decision on the first supplemental petition;

(ii) If is filed within 60 days following an administrative or judicial decision which reduces the loss of duties upon which the mitigated penalty amount was based; or

(iii) If the deciding official in his discretion determines that the acceptance of a second supplemental petition is warranted.

(R.S. 251, as amended, R.S. 5294, as amended, sec. 9, 24 Stat. 81, as amended, secs. 618, 623, 624, 641, 46 Stat. 757, as amended, 759, as amended (19 U.S.C. 66, 1618, 1623, 1624, 1641, 46 U.S.C. 7, 320))

PART 171—[AMENDED]

3. A new Appendix B is added to Part 171 to read as follows:

Appendix B to Part 171—Customs Regulations, Revised Penalty Guidelines, 19 U.S.C. 1592

A monetary penalty incurred under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592; hereinafter referred to as section 592) may be remitted or mitigated under section 618, Tariff Act of 1930, as amended (19 U.S.C. 1618), if it is determined that there exist such mitigating circumstances as to justify remission or mitigation. The guidelines below will be used by the Customs Service in arriving at a just and reasonable assessment and disposition of liabilities arising under section 592 within the stated limitations. It is intended that these guidelines shall be applied by Customs officers in pre-penalty proceedings and in determining the monetary penalty assessed in the penalty notice. The assessed or mitigated penalty amount determined in accordance with these guidelines does not limit the penalty amount which the Government may seek in bringing a civil enforcement action pursuant to 19 U.S.C. 1592(e).

(A) Violations of Section 592; Materiality

Without regard to whether the United States is or may be deprived of all or a portion of any lawful duty thereby, a violation of section 592 occurs when a person, through fraud, gross negligence, or negligence, enters, introduces, or attempts to enter or introduce any merchandise into the commerce of the United States by means of any document, written or oral statement, or act which is material and false, or any omission which is material; or when a person aids or abets any other person in the entry, introduction, or attempted entry or introduction of merchandise by such means. A document, statement, act, or omission is material if it has the potential to alter the classification, appraisement, or admissibility of merchandise, or the liability for duty, or if it tends to conceal an unfair trade practice under the antidumping, countervailing duty or a similar statute, or an unfair act involving patent or copyright infringement. There is no violation if the falsity or omission is due solely to clerical error or mistake of fact, unless the error or mistake is part of a pattern of negligent conduct.

(B) Degrees of Culpability

There are three degrees of culpability under section 592: negligence, gross negligence, and fraud.

(1) *Negligence.* A violation is determined to be negligent if it results from an act or acts (of commission or omission) done through either the failure to exercise the degree of reasonable care and competence expected from a person in the same circumstances in ascertaining the facts or in drawing inferences therefrom, in ascertaining the offender's obligations under the statute, or in communicating information so that it may be understood by the recipient. As a general rule, a violation is determined to be negligent if it results from the offender's failure to exercise reasonable care and competence to ensure that a statement made is correct.

(2) *Gross Negligence.* A violation is determined to be grossly negligent if it results from an act or acts (of commission or omission) done with actual knowledge of or wanton disregard for the relevant facts and with indifference or disregard for the offender's obligations under the statute, but without intent to defraud the revenue or violate the laws of the United States.

(3) *Fraud.* A violation is determined to be fraudulent if it results from an act or acts (of commission or omission) deliberately done with intent to defraud the revenue or to otherwise violate the laws of the United States, as established by clear and convincing evidence.

(C) Assessment of Penalties

(1) *Issuance of Pre-Penalty Notice.* (a) As provided in § 162.77, Customs Regulations (19 CFR 162.77), if the district director has reasonable cause to believe that a violation of section 592 has occurred and determines that further proceedings are warranted, he shall issue to each person concerned a notice of his intent to issue a claim for a monetary penalty. In issuing such pre-penalty notice, the district director shall make a tentative determination of the degree of culpability and the amount of the proposed claim. A pre-penalty notice is not required if the violation involves a non-commercial importation or if the proposed claim does not exceed $1,000.

(b) If the violation is determined to be the result of fraud, the proposed claim shall be equal to the domestic value of the merchandise. In cases involving gross negligence and negligence, in determining the amount of the proposed claim, the district director shall take into account the gravity of the offense, the amount of loss of revenue, the extent of wrongdoing, mitigating, aggravating and extraordinary factors, and other factors bearing upon the seriousness of the violation, but in no case shall the assessed penalty exceed the statutory ceilings prescribed in section 592. In cases involving gross negligence and negligence, penalties equivalent to the ceilings stated in paragraph (D) regarding disposition of cases may be appropriate in cases involving serious violations, e.g., violations involving a high loss of revenue and quota evasions. To be serious, a violation need not result in a loss of revenue. The violation may be serious because it affects the admissibility of merchandise or the enforcement of other laws, as in the case of quota evasions, false statements to conceal the dumping of merchandise, or violations of exclusionary orders of the International Trade Commission.

(c) Violations where the loss of revenue is nonexistent or minimal and which have an insignificant impact on enforcement of the laws of the United States may justify a proposed penalty in a fixed amount not related to the value of merchandise, but an amount believed sufficient to have a deterrent effect, i.e., violations involving the subsequent sale of merchandise or vehicles entered for personal use; violations involving failure to comply with declaration or entry requirements which do not change the admissibility or entry status of merchandise, its appraised value or classification; violations involving the illegal diversion to domestic use of instruments of international traffic; and local point-to-point traffic violations. This category also includes violations in which the falsity or omission is revelant only to the assessment of duties, but in which it is finally determined that the falsity or omission did not result in any loss of duties, i.e., failure to report commissions paid which are ultimately determined to be non-dutiable; or a false statement as to the relationship of the parties if the fact of the relationship is determined not to affect appraisement. In order for there to be a violation of section 592, the falsity or omission must be material, as defined in paragraph (A) of these guidelines. Generally, a penalty in a fixed amount ranging from $100 to $500 would be appropriate in cases where there are no prior violations of the same kind. Fixed sums ranging from $500 to $10,000 may be appropriate, however, in the case of multiple or repeated violations. Fixed sum penalty amounts may not exceed the maximum amounts stated in section 592 and in these guidelines.

(d) In determining the amount of the proposed penalty, the district director shall also take into account any mitigating, aggravating, or extraordinary factors that are clearly established by the evidence available at the time.

(2) *Issuance of Penalty Notice.* (a) Following issuance of the pre-penalty notice, and in consideration whether or not to issue a penalty notice pursuant to § 162.79, Customs Regulations (19 CFR 162.79), and if so, in what amount, the district director shall give consideration to all available evidence with respect to the existence of material false statements or omissions (including evidence presented by the alleged violator), the degree of culpability, the existence of a prior disclosure, the seriousness of the violation, and the existence of mitigating, aggravating, or extraordinary factors. In all cases involving fraud, the penalty notice shall be in the amount of the domestic value of the merchandise. In general, the degree of

culpability stated in a pre-penalty notice shall not be increased in the penalty notice. If, subsequent to the issuance of a pre-penalty notice and upon further review of the evidence, the district director determines that a higher degree of culpability exists, the pre-penalty notice should be cancelled and a new pre-penalty notice issued indicating the higher degree of culpability and increased penalty amount proposed, with supporting evidence reflected therein. If, however, less than 3 months remain before expiration of the statute of limitations, the higher degree of culpability and higher penalty amount may be indicated in the notice of penalty. Alternatively, the district director shall consider whether a lower degree of culpability is warranted by the evidence. The penalty notice shall contain other changes in the information provided in the pre-penalty notice.

(b) No penalty case shall be initiated for revenue-loss violation, if the district director is certain that the violation has resulted from negligence, the combined actual and potential loss of revenue from entries within that district is $500 or less, and the circumstances make it certain it is a violation which does not extend to other districts. In cases in which the loss of revenue is between $500 and $1,000, the district director may initiate a penalty case if, in his consideration of all the circumstances, the claim for monetary penalty is warranted as a deterrent for future violations. Any actual loss of revenue shall be collected pursuant to § 162.79b, Customs Regulations (19 CFR 162.79b).

(c) No penalty case shall be initiated for a violation involving gross negligence or negligence where a prior disclosure has been made and there is no actual loss of revenue, or where the actual loss of revenue has been tendered to Customs and the interest thereon is less than $500.

(D) Disposition of Cases

(1) *In General.* In mitigating claims for monetary penalty, the district director or appropriate customs official shall consider all the information in the petition and all available evidence, taking into account any mitigating, aggravating, and extraordinary factors in determining the final assessed penalty. All factors used by the district director or appropriate customs official in determining the penalty should be stated in this decision. If a penalty in a fixed amount is deemed not to be appropriate (see (C)(1)(c)), disposition in revenue-loss and non-revenue-loss cases shall proceed in the manner set forth below.

(2) *Violations Determined to be Fraudulent.* Absent extraordinary factors justifying further relief, a penalty for a fraudulent violation shall be mitigated as follows:

(a) For revenue-loss violations, to an amount ranging from a minimum of five times the loss of revenue to a maximum of the lesser of the domestic value of the merchandise of eight times the loss of revenue. However, a penalty equal to the greater of the domestic value of the merchandise or eight times the loss of revenue may be warranted due to the existence of aggravating factors.

(b) For non-revenue-loss violations, to an amount ranging from 50 to 80 percent of the dutiable value of the merchandise. However, a penalty equal to the domestic value of the merchandise may be warranted due to the existence of aggravating factors.

(3) *Violations Determined to be Grossly Negligent.* Absent extraordinary factors justifying further relief, a penalty for a grossly negligent violation shall be mitigated as follows:

(a) For revenue-loss violations, to an amount ranging from a minimum of two and one-half times the loss of revenue to a maximum of the lesser of the domestic value of the merchandise or four times the loss of revenue;

(b) For non-revenue-loss violations, to an amount ranging from 25 to 40 percent of the dutiable value of merchandise.

(4) *Violations Determined to be Negligent.* Absent extraordinary factors justifying further relief, a penalty for a negligent violation shall be mitigated as follows:

(a) For revenue-loss violations, to an amount ranging from a minimum of one-half the loss of revenue to a maximum of the lesser of the domestic value of the merchandise or two times the loss of revenue.

(b) For non-revenue-lost violations, to an amount ranging from five to 20 percent of the dutiable value of the merchandise.

(5) *Cancellation of Claim.* The district director shall cancel a claim for monetary penalty whenever it is determined that an essential element of the violation has not been established by the available evidence.

(6) *Remission of Claim.* If, following consultation with the regional counsel, the district director determines by clear and convincing evidence that the statute of limitations would be available as a defense to enforcement of a claim for monetary penalty, then the district director shall remit such claim, if it is within his authority as provided in section 171.21, Customs Regulations (19 CFR 171.21). Any such case not within the district director's authority should be referred to the Commercial Fraud and Negligence Penalties Branch at Customs Headquarters. If the district director believes that a claim for monetary penalty should be remitted for a reason not set forth in these guidelines, he shall first obtain approval from the Chief, Commercial Fraud and Negligence Penalties Branch, Headquarters, Customs Service.

(E) Prior Disclosure; Disposition of Cases

(1) In non-revenue-loss cases and potential-revenue loss cases involving a prior disclosure where the degree of culpability is determined to be negligence or gross negligence, the claim for monetary penalty is to be remitted in full.

(2) In non-revenue-loss cases involving a prior disclosure where the degree of culpability is determined to be fraud, the claim for monetary penalty shall be equal to ten percent of the dutiable value of the merchandise. There shall be no further mitigation in the absence of extraordinary factors.

(3) In actual-revenue-loss cases involving a prior disclosure where the degree of culpability is determined to be negligence or gross negligence, the claim for monetary penalty shall be equal to the interest computed from the date of liquidation on the amount of the actual loss of revenue resulting from the violation.

(4) In revenue-loss cases involving a prior disclosure where the degree of culpability is determined to be fraud, the claim for monetary penalty shall be equal to 100 percent of the total actual and potential loss of revenue resulting from the violation. There shall be no further mitigation in the absence of extraordinary factors.

(F) Mitigating Factors

The following factors shall be considered in mitigation of the penalty, provided that sufficient evidence establishes their existence. The list is not exclusive.

(1) *Contributory Customs Error.* This factor includes misleading or erroneous advice given by a Customs official only if it appears that the violator reasonably relied upon the information. If the claimed erroneous advice was not given in writing, the violator has the burden of establishing this claim by a preponderance of the evidence. The concepts of comparative negligence may be utilized in determining the weight to be assigned to this factor. If it is determined that the Customs error was the sole cause of the violation, the penalty is to be cancelled. If the Customs error contributed to the violation, but the violator is also culpable, the Customs error is to be considered as a mitigating factor.

(2) *Cooperation with the Investigation.* In order to obtain the benefits of this factor, the violator must exhibit cooperation beyond that expected from a person under investigation for a Customs violation. Some examples of the cooperation contemplated include assisting Customs officers to an unusual degree in auditing the books and records of the violator, and assisting Customs in obtaining additional information relating to the subject violation or other violations. Merely providing the books and records of the violator may not be considered cooperation justifying mitigation.

(3) *Immediate Remedial action.* This factor includes the payment of the actual loss of duties prior to the issuance of a penalty notice and within 30 days of the determination of the duties owed. In certain extreme circumstances, this factor may include the removal of an offending employee. The correction of organizational or procedural defects will not be considered a mitigating factor. It is expected that any importer or other involved individual will seek to remove or change any condition which contributed to the existence of a violation.

(4) *Inexperience in Importing.* Inexperience is a factor only if it contributes to the violation and the violation is not due to fraud or gross negligence.

(5) *Prior Good Record.* For the violator to benefit from this factor, the violation must have occurred as a result of negligence or gross negligence, and the violator must be able to show a consistent pattern of importations without violation of section 592, or any other statute prohibiting false or fraudulent importation practices.

(G) Aggravating Factors

Certain factors may be determined to be aggravating factors in arriving at the final mitigated penalty decision. Examples of aggravating factors include obstructing the investigation, withholding evidence, providing misleading information concerning the violation, and prior substantive violations of section 592 for which a final administrative finding of culpability has been made.

(H) Extraordinary Factors Justifying Further Relief

(1) The four factors specified below may be considered in connection with further relief. Such relief may be accorded for extraordinary factors not specified below only upon the concurrence of the Chief, Commercial Fraud and Negligence Penalities Branch, Headquarters.

(a) *Inability to obtain jurisdiction over the violator or inability to enforce a judgement against the violator.*

(b) *Inability to Pay the Mitigated Penalty.* The party claiming the existence of this factor must present documentary evidence in support thereof, i.e., copies of income tax returns, current financial statements, and independent audit reports.

(c) *Extraordinary Expenses.* This factor may include such expenses as those incurred in providing one-time computer runs solely for submission to Customs to aid it in analyzing a case involving an unusual number of entries, with each entry involving several factors, i.e., violations involving item 807, Tariff Schedules of the United States. Usual accounting and legal expenses (both general and Customs), or the cost incurred in instituting remedial action would not be considered extraordinary expenses.

(d) *Customs Knowledge.* Additional relief in non-fraud cases will be granted if it is determined that Customs had actual knowledge of a violation and failed to inform the violator so that it could have taken earlier corrective action. In such cases, if a penalty is to be assessed involving repeated violations of the same kind, the maximum penalty amount for violations occurring after the date on which actual knowledge was obtained by Customs will be limited to two times the loss of revenue in non-revenue-loss cases or five percent of dutiable value in non-revenue-loss cases if the continuing violations were the result of gross negligence, or the lesser of one time the loss of revenue in non-revenue-loss cases or two percent of dutiable value in non-revenue-loss cases if the violations were the result of negligence. This factor shall not be applicable when a substantial delay in the investigation is attributable to the violator.

(I) Customhouse Brokers

A customhouse broker shall be subject to the above guidelines only if he is determined to have (1) committed a fraudulent or grossly negligent violation; or (2) committed a grossly negligent or negligent violation and shared in the financial benefits of the violation to an extent over and above the prevailing brokerage fees.

If the broker committed a grossly negligent violation without sharing in the financial benefits over and above the prevailing brokerage fees, the penalty should ordinarily be mitigated to a flat sum which should not exceed $500.

If the broker committed a negligent violation without sharing in the financial benefits over and above the prevailing brokerage fees, the penalty should ordinarily be mitigated to a flat sum not to exceed $250. A broker is not negligent if he acts with reasonable care (as measured by the prevailing standards of the profession) in the preparation and presentation of the entry or the entry summary, and reasonably relies on the information or documents supplied to him by the actual owner, consignee, shipper, or their agent.

(J) Arriving Travelers

(1) *Liability.* Assessment of penalties and determination of degrees of culpability for violations by an arriving traveler must be determined in accordance with the above guidelines.

(2) *Limitations on Liability.* (a) In the absence of a referral for criminal prosecution, monetary penalties assessed in the case of a first-offense, non-commercial, fraudulent violation by an arriving traveler will generally be limited: (1) In the case of revenue-loss violations, to an amount ranging from a minimum of three times the loss of revenue to a maximum of five times the loss of revenue, provided the loss of revenue is also paid; (2) in the case of non-revenue-loss violations, to an amount ranging from a minimum of 30 percent of the dutiable value to a maximum of 50 percent of the dutiable value.

(b) With respect to revenue-loss violations, no penalty case shall be initiated against an arriving traveler if the violation is not fraudulent or commercial, the loss of revenue is $100 or less, and there are no other concurrent or prior violations of section 592 or other statutes prohibiting false or fraudulent importation practices. However, all lawful duties shall be collected. With respect to non-revenue-loss violations, no penalty case shall be initiated against an arriving traveler if the violation is not fraudulent or commercial, there are no other concurrent or prior violations of section 592, and a penalty is not believed necessary to deter future violations or to serve a law enforcement purpose.

(K) Violations of Laws Administered by Other Federal Agencies

Violations of laws administered by other federal agencies (such as Foreign Assets Control, Agriculture, Fish and Wildlife) should be referred to the appropriate agency for its recommendation. Such recommendation, if promptly tendered, will be given due consideration, and may be followed provided the recommendation would not result in a disposition inconsistent with these guidelines.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 610 and 660

[Docket No. 82N-0358]

General Biological Products Standards—Sterility; Additional Standards for Diagnostic Substances for Laboratory Tests—Amendment of Final Container Requirements for Certain In Vitro Diagnostic Products

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the requirements concerning the sterility, transparency, and color of final containers used in packaging certain in vitro diagnostic products used to detect hepatitis in blood intended for transfusion. This final rule authorizes the Director, National Center for Drugs and Biologics, to exempt certain products from the sterility requirement and to require instead that the products meet certain microbial load specifications. This final rule also replaces the requirements that final containers be both colorless and transparent with a requirement that final containers be sufficently transparent to permit visual inspection of the contents for presence of particulate matter and increased turbidity. The final rule thus allows the use of plastic containers, thereby reducing manufacturing costs.

EFFECTIVE DATE: January 30, 1984.

FOR FURTHER INFORMATION CONTACT: Joseph Wilczek, National Center for Drugs and Biologics (HFN-813), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-1306.

SUPPLEMENTARY INFORMATION: In the Federal Register of May 6, 1983 (48 FR 20433), FDA proposed to amend § 610.12 of the general biologics regulations (21 CFR 610.12) to allow the manufacture of final containers of certain in vitro diagnostic products for detecting hepatitis that are not absolutely sterile. This final rule is based on that proposal. The products affected are Hepatitis B Surface Antigen and Antibody to Hepatitis B Surface Antigen. These are in vitro diagnostic products used for the detection of hepatitis B surface antigen or antibody to hepatitis B surface antigen in units of blood and blood products intended for transfusion to ensure absence of infectious haptitis B virus. The agency proposed to amend the sterility requirements of § 610.12 for

in vitro diagnostics to allow for an alternative to absolute sterility of the contents of a final containers when scientific evidence supports the alternative and it is approved by the Director, Office of Biologics. In addition, the agency proposed to amend §§ 660.2(d) and 660.41(c) (21 CFR 660.2(d) and 660.41(c)) of the additional standards for diagnostic substances for laboratory tests to (1) require that the effectiveness of the contents of the final container of hepatitis in vitro diagnostics be maintained throughout the dating period, regardless of whether the contents of the final container are sterile; and (2) to permit use of plastic containers as an alternative to glass containers by removing the words "colorless and transparent" and substituting the phrase "sufficently transparent to permit visual inspection of the contents for presence of particulate matter and increased turbidity."

Interested persons were given until July 5, 1983, to submit written comments regarding this proposal.

Three letters of comment were received on the proposed rule. Two of the letters fully endorsed the proposed rule. The third letter of comment, while endorsing the proposed rule, expressed three concerns.

First, the comment suggested that although FDA proposed to discontinue the requirement of absolute final product sterility, the agency should define specific product control standards. Second, the comment asserted that plastic vials for the affected products may develop a leakage problem unless specially constructed closures are used. Finally, the comment expressed concern that plastic containers for certian unlicensed (nonhepatitis B) hepatitis test kits currently on the market are not sufficently transparent to allow visual inspection of the contents for turbidity as would be required by proposed §§ 660.2(d) and 660.41(c).

FDA agrees that specific product control standards, such as microbial load specifications, must be established for in vitro diagnostics such as hepatitis in vitro products that may not require absolute final product sterility to assure their continued safety, purity, potency, and effectiveness. FDA will not approve an exemption from final product sterility requirements for such products unless a manufacturer submits adequate supporting data, including microbial load specifications, that demonstrate that the continued safety, purity, potency, and effectiveness of the hepatitis in vitro product are not compromised.

FDA advises that pursuant to § 600.11(h), all final containers and closures for biological products must be made of material that will not allow undue deterioration of the product or otherwise render it less suitable for the intended use, and the sealing of the container must maintain the integrity of the product. FDA believes that § 600.11(h) requires that final product containers, whether glass or plastic, be leakproof.

FDA is not aware of any currently marketed unlicensed hepatitis test kits in which the safety, purity, potency, and effectiveness of the in vitro reagents are compromised by the lack of transparency of plastic final containers. To assure potency and effectiveness of hepatitis B surface antigen and antibody to hepatitis B surface antigen diagnostic products, the agency believes that the plastic containers for these licensed products must be sufficiently transparent to detect turbidity. Turbidity in these two liquid products is an indication of possible deterioration and loss of potency and effectiveness. Accordingly, FDA will not approve plastic containers for Hepatitis B Surface Antigen or Antibody to Hepatitis B Surface Antigen unless the plastic containers allow satisfactory inspection of the contents for turbidity.

The agency is changing proposed § 610.12(g)(4) by replacing the phrase "Director, Office of Biologics" with the phrase "Director, National Center for Drugs and Biologics" consistent with a recent reorganization within FDA. Accordingly, FDA is adopting the proposed regulations with minor clarifying changes.

In accordance with Executive Order 12291 and the Regulatory Flexibility Act, the agency has considered the impact of the final rule. FDA believes that the rule will relieve a burden on manufacturers of certain in vitro diagnostic products by allowing more flexibility concerning final container requirements. There currently are four manufacturers of Hepatitis B Surface Antigen and nine manufacturers of Antibody to Hepatitis B Surface Antigen. The final rule is expected to have a favorable economic impact on these establishments. Therefore, the agency concludes that the final rule does not warrant designation as a major rule under any of the criteria specified under section 1(b) of Executive Order 12291. The agency certifies that a regulatory flexibility analysis is not required because the final rule would not have a sugnificant impact on a substantial number of small entities.

List of Subjects

21 CFR Part 610

Biologics.

21 CFR Part 660

Biologics, Labeling.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 501, 502, 701,, 52 Stat. 1040–1042 as amended, 1049–1051 as amended, 1055–1056 as amended (21 U.S.C. 321, 351, 352, 371)) and the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 610 and 660 are amended as follows:

PART 610—GENERAL BIOLOGICAL PRODUCTS STANDARDS

1. In Part 610 by revising § 610.12(g)(4) to read as follows:

§ 610.12 Sterility.

* * * * *

(g) * * *

(4) *Test percluded or not required.* (i) The tests prescribed in this section need not be performed for Whole Blood (Human), Cyroprecipitated Antihemophilic Factor (Human), Platelet Concentrate (Human), Leukocyte Typing Serum, Red Blood Cells (Human), Single Donor Plasma (Human), Source Plasma (Human), Smallpox Vaccine, or Reagent Red Blood Cells.

(ii) Where a manufacturer submits data which the Director, National Center for Drugs and Biologics, finds adequate to establish that the mode of administration, the method of preparation, or the special nature of the product precludes or does not require a sterility test or that the sterility of the lot is not necessary to assure the safety, purity, and potency of the product, the Director may exempt a product from the sterility requirements of this section subject to any conditions necessary to assure the safety, purity, and potency of the product.

* * * * *

PART 660—ADDITIONAL STANDARDS FOR DIAGNOSTIC SUBSTANCES FOR LABORATORY TESTS

2. In Part 660:

a. By revising § 660.2(d) to read as follows:

§ 660.2 General requirements.

* * * * *

(d) *Final container.* A final container shall be sufficiently transparent to permit visual inspection of the contents for presence of particulate matter and

increased turbidity. The effectiveness of the contents of a final container shall be maintained throughout its dating period.

* * * * *

b. By revising § 660.41(c) to read as follows:

§ 660.41 Processing.

* * * * *

(c) *Final container.* A final container shall be sufficiently transparent to permit visual inspection of the contents for presence of particulate matter and increased turbidity. The effectiveness of the contents of a final container shall be maintained throughout its dating period.

* * * * *

Effective date. This regulation becomes effective February 13, 1984.

(Secs. 201, 502, 701, 52 Stat. 1040–1042 as amended, 1050–1051 as amended, 1055–1056 as amended (21 U.S.C. 321, 352, 371); sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262).)

Dated: December 22, 1983.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-910 Filed 1-12-84; 8:45 am]
BILLING CODE 4160-01-M

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21 CFR Part 640

[Docket No. 82N-0400]

Additional Standards for Human Blood and Blood Products; Normal Serum Albumin (Human) and Plasma Protein Fraction (Human); Removal of Requirements for Samples, Protocols, and Official Release

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is removing the specific lot release requirements for both Normal Serum Albumin (Human) and Plasma Protein Fraction (Human) to provide the agency the flexibility to modify or waive the lot release requirements for these two products when such requirements are unnecessary to assure that the products are safe and effective.

EFFECTIVE DATE: January 13, 1984.

FOR FURTHER INFORMATION CONTACT: Joseph Wilczek, National Center for Drugs and Biologics (HFN–813), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301–443–1306.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 3, 1983 (48 FR 19897), FDA proposed to amend §§ 640.85 and 640.95 of the biologics regulations (21 CFR 640.85 and 640.95) by eliminating the specific lot release regulations for Normal Serum Albumin (Human) and Plasma Protein Fraction (Human). Normal Serum Albumin (Human) and Plasma Protein Fraction (Human) are injectable biological products derived from the fractionation of human blood and are similar in nature. Both products may be used to treat a burn patient by helping to overcome loss of fluid, to treat a shock trauma patient, or to replace plasma proteins in a patient with a lower than normal level of protein in the blood. Both products are stable biological preparations, are free of the risk of transmitting hepatitis, and are subject to procedures for manufacture and quality control testing that are well understood.

The specific lot release regulations for Normal Serum Albumin (Human) and Plasma Protein Fraction (Human) supplement the general lot release regulation in § 610.2(a) (21 CFR 610.2(a)) which is applicable to any biological product. The specific lot release regulations for both products require the submission to FDA of a protocol (i.e., a summary of the history of the manufacture of the lot), require a specific quantity of samples of the product for required testing, and prohibit the manufacturer's release of the lot for distribution without receipt of notification that FDA has officially released the lot.

In proposing to eliminate the specific lot release regulations for these products, FDA stated that it would rely instead on the general biologics regulation in § 610.2(a) which authorizes the agency to require official lot release for any biological product at any time it believes lot release is necessary. The proposed rule provides the agency with the flexibility to modify or waive a manufacturer's lot release requirements when the safety and effectiveness of these products can be assured without compliance with such requirements.

Interested persons were given until July 5, 1983, to submit written comments regarding the proposed rule. FDA received three comments, each of which fully supported the proposed rule.

Accordingly, the agency is removing §§ 640.85 and 640.95 concerning samples, protocols, and official release for Normal Serum Albumin (Human) and Plasma Protein Fraction (Human) and will instead rely, as needed, on the provisions of § 610.2(a). Manufacturers of these products may at any time request exemptions from the requirements for submission of samples, protocols, and lot release. However, manufacturers of these products still are required to receive FDA's official release under § 610.2(a) for these products unless notified otherwise by the Director, National Center for Drugs and Biologics.

The agency has determined pursuant to 21 CFR 25.24(d)(13) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

In accordance with Executive Order 12291 and the Regulatory Flexibility Act, the agency has considered the impact of this final rule. FDA believes that the amendment will relieve a burden on manufacturers of Normal Serum Albumin (Human) and Plasma Protein Fraction (Human) by allowing more flexibility concerning lot-release requirements. The removals are expected to have a favorable economic impact on the 14 current manufacturers of Normal Serum Albumin (Human) and the five manufacturers of Plasma Protein Fraction (Human). The agency concludes that the removals do not warrant designation as a major rule under any of the criteria specified under section 1(b) of Executive Order 12291. The agency certifies that a regulatory flexibility analysis is not required because the removals would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 21 CFR Part 640

Blood.

PART 640—ADDITIONAL STANDARDS FOR HUMAN BLOOD AND BLOOD PRODUCTS

§§ 640.85 and 640.95 [Removed]

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 640 is amended by removing § 640.85 *Samples; protocols; official release* and § 640.95 *Samples; protocols; official release.*

Effective date. This regulation is effective January 13, 1984.

(Sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262).)

Dated: December 22, 1983.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-986 Filed 1-12-84; 8:45 am]
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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 163

General Forest Regulations

December 16, 1983.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs is publishing a final rule which updates the General Forest Regulations to include new provisions for revocable road use permits for removal of commercial forest products, insect and disease control, and forest development. Also included are substantive changes within existing text, general administrative changes and correction of gender specific terms. Five to 23 years have elapsed since the last revision and publication of the forestry regulations. During the interim, there have been changes in technology, economic conditions and national Indian policy. This action is required to align this rule with these changes. The final rule will simplify program accomplishment and ease burdens on small Indian and non-Indian logging contractors.

EFFECTIVE DATE: This final rule shall become effective February 13, 1984.

FOR FURTHER INFORMATION CONTACT: Fred G. Malroy, Division of Forestry, Bureau of Indian Affairs, Code 230, 1951 Constitution Avenue, N.W., Washington, D.C. 20245, telephone number (202) 343–6067.

SUPPLEMENTARY INFORMATION: This final rule is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 D 8. The Bureau of Indian Affairs published a redesignation table on March 30, 1982 (47 FR 13326) which renumbered Part 141, General Forest Regulations as Part 163. Therefore, all references in this document are made to Part 163.

Five to 23 years have elapsed since the last revision and publication of the forestry regulations. During the interim, there have been changes in technology, economic conditions and national Indian policy. This action is required to align this rule with these changes.

The final rule will simplify program accomplishment and ease burdens on small Indian and non-Indian logging contractors. These amended regulations were published as proposed regulations on March 18, 1983. Comments were reviewed, considered and revisions were adopted or not adopted as indicated below:

A. Revisions Made Due to Comments Received

(1) Several commenters recommended that § 163.1 be amended to include a definition for commércial forest resources and provide additional clarifications. The Bureau considered the recommendation and agrees. Accordingly, § 163.1 is amended to include a definition for "commercial forest resources." Several other definitions have been slightly amended to provide clarification suggested by comments.

(2) Several commenters questioned the sufficiency of the Bureau's stated forestry objectives in § 163.3. The Bureau considered the comments and as a result, § 163.3(h) is revised to include "soil productivity" as one of the resources to be protected and/or enhanced.

(3) Several commenters observed the need for more specific definition of the contents of the Forest Management Plan. The Bureau considered these recommendations. Accordingly, § 163.4 is revised to specify inclusion of a statement of objectives in management plans and other minor clarifications.

(4) At the suggestion of one commenter, § 163.9 is amended to include clarifying conjunctions in the text.

(5) One commenter noted that small timber sales were commonplace in the Lake States and expressed the need for a more appropriate formula for establishing bid deposit requirements for small states. As a result, § 163.10(a)(1) is amended to provide for a smaller bid deposit when advertising timber for sale at values less than $1.000.00.

(6) One astute commenter observed that we had improperly cited another section of this part. Accordingly, § 163.13(b) is amended to correct an erroneous citation.

(7) At the recommendation of one commenter, § 163.18 is amended to improve the quality of one line of text and correct a typographical error.

(8) One commenter recommended that the term "individual", as it is used in § 163.19, requires a unique definition for purposes of this text. The Bureau considered this and agrees. Therefore, § 163.19 is revised to define within the text the term "individual." Other minor clarifications were made.

(9) One commenter observed that for purposes of consistency, the words "construction permits" should be included in the title of § 163.23. The Bureau considered this and agrees. Accordingly, the heading for § 163.23 is revised.

(10) Several commenters noted that requirements for environmental protection were inadequately referenced. The Bureau considered this and agrees. Consequently, a new § 163.27 is added to clearly affirm the Bureau's policy concerning compliance with environmental quality and requirements relative to the General Forest Regulations.

B. Comments Not Adopted

A number of comments were submitted which reflected the commentors' unfamiliarity with the contents of the Bureau manual part 53 BIAM or the significance and requirements of the Timber Management Plan. It was determined that such comments were not substantive and they were not adopted. Several comments recommended more detail and specificity, thereby attempting to impose more rigid constraints into permissible program activities than the Bureau desires at this stage of program control. These recommendations were not adopted.

Likewise, comments were not adopted which reflected lack of understanding of the Federal budgetary process or for which provision has already been made within the Bureau's ongoing operational system.

In regard to § 163.18, the proposed version of these regulations made reference to a May 5, 1982, opinion of the Solicitor. On April 15, 1983, the Solicitor modified his opinion "to concur in the expressed opinion of Congress" that "the Secretary has the authority to reduce the amount of administrative fees deposited into the Treasury." Therefore, no changes have been made to this section regarding the utilization, expenditure, and size of such deductions.

The primary author of this document is Fred G. Malroy, Forester, Central Office, Bureau of Indian Affairs, telephone number (202) 343–6067.

The Department of the Interior has determined that this document is not a major rule under the criteria established by Executive Order 12291 and does not have significant economic effect on a substantial number of small entities under the criteria established by the Regulatory Flexibility Act. The rationale for this conclusion is that the proposed rule is designed to relax certain of the existing rules and provide more flexibility for resource managers to work with "small" contract loggers. Perhaps 100 very small business entities will be potentially impacted favorably. Their magnitude of economic activity resulting from these rules will have

inconsequential impact on regional or area economies.

The information collection requirements contained in §§ 163.6(a), 163.7(c)(2), 163.8(a), 163.9(a), 163.10(d), 163.14, 163.19(a), 163.19(d) and 163.23 have been approved by the Office of Management and Budget under 44 U.S.C. 3504(h) *et seq.* and assigned clearance number 1076–0080.

The Department has determined that this rule does not constitute a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969.

List of Subjects in 25 CFR Part 163

Forests and forest products, Indians—lands.

Part 163 of Chapter I of Title 25 of the Code of Federal Regulations is hereby revised to read as follows:

PART 163—GENERAL FOREST REGULATIONS

Sec.

163.1 Definitions.
163.2 Scope and information collection.
163.3 Objectives.
163.4 Sustained yield management.
163.5 Cutting restrictions.
163.6 Indian operations.
163.7 Timber sales from unallotted and allotted lands.
163.8 Advertisement of sales.
163.9 Timber sales without advertisement.
163.10 Deposit with bid.
163.11 Acceptance and rejection of bids.
163.12 Contracts required.
163.13 Execution and approval of contracts.
163.14 Bonds required.
163.15 Payment for timber.
163.16 Advance payment for allotment timber.
163.17 Timber for cutting timber.
163.18 Deductions for administrative expenses.
163.19 Timber cutting permits.
163.20 Free-use cutting without permits.
163.21 Fire management measures.
163.22 Trespass.
163.23 Revocable road use and construction permits for removal of commercial forest products.
163.24 Insect and disease control.
163.25 Forest development.
163.26 Appeals under timber contracts and permits.
163.27 Environmental protection.

Authority: Secs. 7, 8, 36 Stat. 857, 25 U.S.C. 406, 407; and sec. 6, 48 Stat. 986, 25 U.S.C. 466; 47 Stat. 1417, 25 U.S.C. 413. § 141.23 issued under 5 U.S.C. 301, 25 U.S.C. 2, unless otherwise noted.

§ 163.1 Definitions.

"Approval" means authorization by the Secretary, Area Director, Superintendent, tribe or individual Indian in accordance with appropriate delegations of authority.

"Commercial forest land" means Indian forest land capable of bearing merchantable forest products, currently or prospectively accessible, and not withdrawn from such use.

"Commercial forest resources" includes all the benefits derived by man from commercial forest lands such as forest products, soil productivity, water, fisheries, wildlife, recreation, aesthetic and other traditional values of the forest.

"Forest products" includes major forest resources such as lumber, lath, crating, ties, bolts, logs, bark, pulpwood, fuelwood, posts, Christmas trees, split products or other marketable materials authorized for removal.

"Forest protection" includes the protection of Indian forest resources from damages and losses by disease, insects, fire, animals (domestic and wild) and trespass. It also includes protection of wild lands from fire.

"Indian forest lands" means lands held in trust by the United States for Indian tribes, individual Indians, or Alaskan Natives or lands which are owned by such tribes and individuals subject to restrictions against alienation. Such lands are considered chiefly valuable for the production of forest products or to maintain watershed or other land values enhanced by a forest cover. A formal inspection and land classification action is not required before applying the provisions of this part to the management of any particular tract of land.

"Secretary" means the Secretary of the Interior or his/her authorized representative.

"Stumpage rate" means the stumpage value per thousand board feet or other unit of measure.

"Stumpage value" means the value of uncut timber as it stands in the woods.

"Sustained yield" means the yield of forest products that a forest can produce continuously at a given intensity of management.

§ 163.2 Scope and information collection.

(a) The regulations in this part are applicable to all Indian forest lands except as this part may be superseded by special legislation.

(b) The information collection requirements contained in sections 163.6(a), 163.7(c)(2), 163.8(a), 163.9(a), 163.10(d), 163.14, 163.19(a), 163.19(d), and 163.23 have been approved by the Office of Management and Budget under 44 U.S.C. 3504(h) *et seq.* and assigned clearance number 1076–0080. The information is being collected to properly account for the resource. The information will be used to conduct program planning and management of timber resources. Response is required to obtain or retain a benefit.

§ 163.3 Objectives.

The following objectives apply to the management of Indian forest lands.

(a) The development, maintenance and enhancement of commercial forest lands in perpetually productive state by providing effective management and protection through the application of sound silvicultural and economic principles to the reforestation, growth and harvesting of timber and other forest products. This includes making adequate provision for new forest growth as the timber is removed.

(b) Regulation of the forest resources through the establishment and development of a timber sales program that is supported by written tribal objectives, and a long-range multiple use plan (as included in a forest management plan) that requires sound forest management practices.

(c) The regulation of the commercial forest in a manner which will insure method and order in harvesting the tree capital, so as to make possible continuous production and a perpetual forest business.

(d) The development of Indian forests by Indian people to promote self-sustaining communities, so that Indians may receive from their own property not only the stumpage value, but also the benefit of whatever labor and profit it is capable of yielding.

(e) The sale of Indian timber on the open market, when the volume available and/or utilized for harvest is in excess of that which is being developed by the local Indian forest enterprise(s).

(f) The preservation of the forest in its natural state whenever the authorized Indian representatives determine that the recreational, cultural, aesthetic, or traditional values of the forest represent the highest and best use of the land to the Indians.

(g) The management and protection of forest resources to retain the beneficial effects of regulating water runoff and minimizing soil erosion.

(h) The management and protection of forest lands to maintain and/or improve timber production, soil productivity, grazing, wildlife, fisheries, recreation, aesthetic, cultural, and other traditional values of the forest to the extent that such action is in the best interest of the Indians.

§ 163.4 Sustained yield management.

To further the objectives enumerated in § 163.3, the timber harvest from Indian forest lands will not be authorized until practical methods of

harvest, based on sound economic, silvicultural and other forest management principles, have been prescribed. Harvest schedules shall be directed toward achieving an approximate balance at the earliest practical time, between maximum net growth and harvest, and shall salvage timber that is deteriorating from fire damage, insect infestation, disease, overmaturity or other causes. On all Indian reservations with commercial forest lands, appropriate management and operating plans shall be prepared and revised as needed. Such documents will contain a statement defining the objectives sought and describing the manner in which the policies of the tribe and the Secretary will be applied to the forest, with a definite plan of silvicultural management, analysis of the short-term and long-term effects of the plan, and a program of action, including a harvest schedule, for a specified period in the future.

§ 163.5 Cutting restrictions.

(a) Harvesting Indian timber will not be permitted unless provisions for natural and/or artificial forestation are included in planning the harvest.

(b) Clearing of large contiguous areas will be permitted only on lands that, when cleared, will be devoted to a more beneficial use than growing timber crops. This restriction shall not prohibit clearcutting when it is silviculturally good practice to harvest a particular stand of timber by such methods and conforms with § 163.3.

§ 163.6 Indian operations.

Indian tribal forest enterprises may be initiated and organized with consent of the authorized tribal representatives. Such enterprises may contract for the purchase of non-Indian owned forest products. Subject to approval by the Secretary the following actions may be taken:

(a) Authorized tribal enterprises may enter into formal agreements with tribal representatives for the use of tribal forest products, and with individual Indian owners for allotted forest products.

(b) Authorized officials of tribal enterprises, operating under approved agreements for the use of tribal or allotted forest products pursuant to this section, may sell the forest products produced according to generally accepted trade practices without compliance with § 3709 of the Revised Statutes.

(c) With the consent of the Indian owners, such enterprises may, without advertisement, contract for the purchase of forest products on Indian lands at stumpage rates authorized by the Secretary.

(d) Determination of and payment for stumpage and/or products utilized by such enterprises will be authorized in accordance with § 163.15. However, the Secretary may issue special instructions for payment by methods other than those in § 163.15.

(e) Performance bonds may or may not be required in connection with operations on trust lands by such enterprises as determined by the Secretary.

§ 163.7 Timber sales from unallotted and allotted lands.

(a) If the volume of timber available for harvest on a reservation exceeds that being developed and/or utilized by local Indian forest enterprise(s) or individual Indians, open market sales of Indian timber may be authorized. This provision requires consent of the authorized representatives of the tribe for tribal timber, and the owners of a majority Indian interest in trust or restricted timber on allotted lands. Consent of the Secretary is required in all cases.

(b) On any Indian forest lands not formally designated for retention in its natural state by authorized Indian representatives, the Secretary may sell the timber from lands held under a trust or other patent containing restrictions on alienations without the consent of the owners when in his/her judgment such action is necessary to prevent loss of values resulting from fire, insects, diseases, withthrow or other catastrophes.

(c) Unless otherwise authorized by the Secretary, sales of timber from unallotted lands, allotted lands, or a combination of these two ownerships having a stumpage value exceeding $10,000 will not be approved until:

(1) an examination of the timber to be sold has been made by a forest officer, and

(2) a report setting forth all pertinent information has been submitted to the officer authorized to approve the contract as provided in § 163.13. In all such sales the timber shall be appraised and sold at stumpage rates not less than those established by the Secretary.

§ 163.8 Advertisement of sales.

Except as provided in §§ 163.6, 163.7, 163.9, and 163.19 sales of timber shall be made only after advertising.

(a) The advertisement shall be approved by the officer who will approve the contract. Advertised sales shall be made under sealed bids, or at public auction, or under a combination thereof. The advertisement may limit sales of Indian timber to Indian forest enterprises, members of the tribe, or may grant to Indian forest enterprises and/or members of the tribe who submitted bids the right to meet the higher bid of a non-member. If the estimated stumpage value of the timber offered does not exceed $10,000, the advertisement may be made by posters and circular letters. If the estimated stumpage value exceeds $10,000, the advertisement shall also be made in at least one edition of a newspaper of general circulation in the locality where the timber is situated. If the estimated stumpage value does not exceed $50,000, the advertisement shall be made for not less than 15 days; if the estimated stumpage value exceeds $50,000 but not $200,000, for not less than 30 days; and if the estimated stumpage value exceeds $200,000, for not less than 60 days.

(b) The approving officer may reduce the advertising period because of emergencies such as fire, insect attack, blowdown, limitation of time, or when there would be no practical advantage in advertising for the prescribed periods.

(c) If no contract is executed after such advertisement, the approving officer may, within one year from the last day on which bids were to be received as defined in the advertisement, permit the sale of such timber in the open market. The sale will be made upon the terms and conditions in the advertisement and at not less than the advertised value or the appraised value at the time of sale, whichever is greater.

§ 163.9 Timber sales without advertisement.

(a) Sales of timber may be made without advertisement to Indians or non-Indians with the consent of the authorized representatives of the tribe for tribal timber or with the consent of the owners of a majority Indian interest in trust or restricted timber on allotted lands, and the approval of the Secretary when:

(1) The timber is to be cut in conjunction with the granting of a right-of-way;

(2) Granting an authorized occupancy;

(3) It must be cut to protect the forest from injury;

(4) It is impractical to secure competition by formal advertising procedures; or

(5) Otherwise specifically authorized by statutes or regulations.

(b) The approving officer shall establish a documented record of each negotiated transaction. This will include:

(1) A written determination and finding that the transaction is of a type or class allowing the negotiation procedures or warranting departure from the procedures provided in § 163.8;

(2) The extent of solicitation and competition, or a statement of the facts upon which a finding of impracticability of securing competition is based; and

(3) A statement of the factors on which the award is based, including a determination as to the reasonability of the price accepted.

(c) This section shall not serve to impede the use of § 163.6 as approved by the Secretary.

§ 163.10 Deposit with bid.

(a) A deposit shall be made with each proposal for the purchase of either allotted or unallotted Indian timber. Such deposits shall be at least:

(1) Ten (10) percent if the appraised stumpage value is less than $100,000 and in any event not less than $1,000 or full value whichever is less;

(2) Five (5) percent if the appraised stumpage value is $100,000 to $250,000 but in any event not less than $10,000.

(3) Three (3) percent if the appraised stumpage value exceeds $250,000 but in any event not less than $12,500.

(b) Deposits shall be in the form of either a certified check, cashier's check, bank draft, postal money order, or irrevocable letter-of-credit, drawn payable to the order of the Bureau of Indian Affairs, or in cash.

(c) The deposit of the apparent high bidder, and of others who submit written request to have their bids considered for acceptance will be retained pending acceptance or rejection of the bids. All other deposits will be returned following the opening and posting of bids.

(d) The deposit of the successful bidder will be retained if the bidder does not:

(1) Furnish the performance bond required by § 163.14 within the time stipulated in the advertisement of timber sale,

(2) Execute the contract, or

(3) Perform the contract.

(e) This section does not limit or waive any further damages available under applicable law or the terms of the contract.

§ 163.11 Acceptance and rejection of bids.

(a) Applicants or bidders may be Indian forest enterprises, members of the tribe, individuals, associations of individuals, partnerships, or corporations. The high bid received in accordance with any advertisement issued under authority of this part shall be accepted, except that the approving officer, having set forth the reason(s) in writing, shall have the right to reject the high bid if:

(1) The high bidder is considered unqualified to fulfill the contractual requirement of the advertisement, or

(2) There are reasonable grounds to consider it in the interest of the Indians to reject the high bid.

(b) If the high bid is rejected, the approving officer may authorize:

(1) Rejection of all bids, or

(2) Acceptance of the offer of another bidder who, at bid opening, makes written request that their bid and bid deposit be held pending a bid acceptance.

(c) The officer authorized to accept the bid shall have the discretion to waive minor technical defects in advertisements and proposals, such as typograghical errors and misplaced entries on forms that do not affect clarity, value or money deposits.

§ 163.12 Contracts required.

Except as provided in § 163.19, in sales of timber with an appraised stumpage value exceeding $10,000, the contract forms approved by the Secretary must be used unless a special form for a particular sale or class of sales is approved by the Secretary. Essential departures from the fundamental requirements of standard and approved contract forms shall be made only with the approval of the Secretary. Unless otherwise directed, the contracts shall require that the proceeds be paid by remittance drawn to the Bureau of Indian Affairs and transmitted to the Superintendent. By mutual agreement, contracts may be extended, modified, or assigned subject to approval of the approving officer, and may be terminated by the approving officer upon completion or by mutual agreement.

§ 163.13 Execution and approval of contracts.

(a) All contracts for the sale of tribal timber shall be executed by the authorized tribal representative(s). Contracts must be approved by the Secretary to be valid. There shall be included with the contract, an affidavit executed by the appropriate tribal representative(s) setting forth the resolution or other authority of the governing body of the tribe authorizing the sale.

(b) Contracts for the sale of allotted timber shall be executed by the Indian owners or the Secretary acting pursuant to a power of attorney from the Indian owner, subject to conditions set forth in §§ 163.7 and 163.13(b) (1), (2), and (3). Contracts must be approved by the Secretary to be valid.

(1) The Secretary may, after consultation with any legally appointed guardian, execute contracts on behalf of minors and Indian owners who are non compos mentis.

(2) The Secretary may execute contracts for those persons whose ownership in a decedent's estate has not been determined or for those persons who cannot be located after a reasonable and diligent search and the giving of notice by publication.

(3) Upon the request of the owner of an undivided but unrestricted interest in land in which there are trust or restricted Indian interests, the Secretary may include such unrestricted interest in a sale of the trust or restricted interests in the timber, pursuant to this part, and perform any functions required of him/her by the contract of sale for both the restricted and the unrestricted interests, including the collection and disbursement of payments for timber and the deductions as service fees from such payments of sums in lieu of administrative expenses.

§ 163.14 Bonds required.

Performance bonds will be required in connection with all sales of Indian timber, except they may or may not be required, as determined by the approving officer, in connection with the use of timber by tribal enterprises pursuant to §163.6 or in timber cutting permits issued pursuant to § 163.19. In sales in which the estimated stumpage value, calculated at the appraised stumpage rates, does not exceed $10,000, the bond shall be at least 20 percent of the estimated stumpage value. In sales in which the estimated stumpage value exceeds $10,000 but is not over $100,000, the bond shall be at least 15 percent of the estimated stumpage value but not less than $2,000; in sales in which the estimated stumpage value exceeds $100,000, but is not over $250,000, the bond shall be at least 10 percent of the estimated stumpage value but not less than $15,000; and in sales in which the estimated stumpage value exceeds $250,000, the bond shall be at least 5 percent of the estimated stumpage value but not less than $25,000. Bonds shall be in a form acceptable to the approving officer and may include a corporate surety bond by an acceptable surety company; or cash bond designating the approving officer to act under a power of attorney; or negotiable United States Government securities supported by appropriate power of attorney; or an irrevocable letter-of-credit.

§ 163.15 Payment for timber.

(a) The basis of volume determination for timber sold shall be the Scribner Decimal C log rules, cubic volume, lineal measurement, piece count, weight, or such other form of measurement as the Secretary may authorize for use. With the exception of tribal enterprises pursuant to § 163.6, payment for timber will be required in advance of cutting.

(b) Methods of payment include advance payments, installment payments and advance deposits as specified in timber contract documents. Each advance deposit shall be at least 10 percent of the value of the minimum volume of timber required to be cut annually, figured at the appraised stumpage rates: *Provided*, that the approving officer may reduce the size of the last advance deposit before the completion of the sale or before periods of approximately three months or longer during which no timber cutting is anticipated. If a contract stipulates no minimum annual cutting requirements, the amount of each advance deposit shall be determined by the approving officer. The advance payments that may be required in the sale of trust timber, pursuant to § 163.16, shall not operate to reduce the size of advance deposits required by this section.

§ 163.16 Advance payment for allotment timber.

(a) Unless otherwise authorized by the Secretary, and except in the case of lump sum (predetermined volume) sales, contracts for the sale of timber from Indian forest lands shall provide for the payment of up to 25 percent of the stumpage value, calculated at the bid price, within 30 days from the date of approval and before cutting begins. Additional advance payments may be specified in contracts that are more than three years in duration. However, no advance payment will be required that would make the sum of such payment and of advance deposits and advance payments previously applied against timber cut from each appropriate ownership exceed 50 percent of the bid stumpage value. For each appropriate ownership, advance payments shall be credited against the timber as it is cut and scaled at the stumpage rates governing at the time of scaling.

(b) Terms and conditions for payment of timber under lump sum sales shall be specified in timber contract documents. Advance payments are not refundable.

§ 163.17 Time for cutting timber.

Unless otherwise authorized by the Secretary, the maximum period which shall be allowed, after the effective date of a timber contract, for harvesting the estimated volume of timber purchased shall be five years.

§ 163.18 Deductions for administrative expenses.

In sales of forest products from Indian forest lands, a reasonable deduction shall be made from the gross proceeds to cover in whole or in part the cost of managing and protecting the forest lands. Such costs will include the cost of sale administration, and forest regeneration. However, such deductions are not intended to cover the costs that are paid from funds appropriated specifically for fire suppression or forest pest control. Unless special instructions have been given by the Secretary as to the amount of the deduction, or the manner in which it is to be made, the deduction shall be 10% of the gross amount received for timber sold. Service fees in lieu of administrative deductions shall be determined in a similar manner.

§ 163.19 Timber cutting permits.

(a) Except as provided in §§ 163.6 and 163.20, all cutting of forest products that is not done under formal contract, pursuant to § 163.12, shall be done under timber cutting permit forms approved by the Secretary. Permits will be issued only with the written consent of the Indian owner(s) or the Secretary, for allotted lands, as authorized in § 163.13. To be valid, permits must be approved by the Secretary. Such consents to the issuance of cutting permits shall stipulate the minimum product rate at which timber may be sold under permit. Payment and bonding requirements will be stipulated in the permit document as appropriate.

(b) Free-use cutting permits may be issued for specified species and types of forest products. Timber cut under this authority may be limited as to sale or exchange for other goods or services. The stumpage value which may be cut in a fiscal year by any individual under this authority shall not exceed $2,500. Individual shall mean an individual or any operating entity comprised of several individuals.

(c) Paid permits subject to deductions for administrative expenses, as provided in § 163.18, may be issued. Unless otherwise authorized by the Secretary, the stumpage value which may be cut under paid permits in a fiscal year by any individual under this authority shall not exceed $10,000. This paragraph (c) does not apply to special allotment timber cutting permits. Individual shall mean an individual or any operating entity comprised of several individuals.

(d) An Indian having sole beneficial interest in an allotment may be issued an approved form of special permit to cut and sell designated timber from such allotment. The special permit shall include provision for payment by the Indian of administrative expenses pursuant to § 163.18. Unless waived by the Secretary, the permit shall also require the Indian to make a deposit with the Secretary to be returned to the Indian upon satisfactory completion of the permit or to be used by the Secretary in his/her discretion for planting or other work to offset damage to the land or the timber caused by failure to comply with the provisions of the permit. As a condition to granting a special permit under authority of this paragraph, the Indian may be required to provide evidence acceptable to the Secretary that he/she has arranged a bona fide sale of the timber to be cut, on terms that will protect the Indian's interests.

§ 163.20 Free-use cutting without permits.

With the consent of the Indian owners and the Secretary, Indians may cut designated types of forest products from Indian forest lands without a permit or contract, and without charge. Timber cut under this authority shall be for the Indian's personal use, and shall not be sold or exchanged for other goods or services.

§ 163.21 Fire management measures.

(a) The Secretary is authorized to maintain facilities and staff, hire temporary labor, rent fire fighting equipment, purchase tools and supplies, and pay for their transportation as needed, to maintain an adequate level of readiness to meet normal wildfire protection needs and extinguish forest or range fires on Indian reservations or other Indian trust lands. No expenses for fighting a fire outside a reservation may be incurred unless the fire threatens the reservation or other Indian trust lands or unless such expenses are incurred pursuant to an approved cooperative agreement with another protection agency. The rates of pay for fire fighters and for equipment rental shall be the rates for such fire fighting services that are currently in use by public and private wildfire protection agencies adjacent to Indian reservations on which a fire occurs, unless there are in effect at the time different rates that have been approved by the Secretary. The Secretary may also enter into reciprocal agreements with any fire organization maintaining protection facilities in the vicinity of Indian reservations or other Indian trust lands for mutual aid in wildfire protection. This section does not apply to the rendering of emergency aid, or

agreements for mutual aid in fire protection pursuant to the Act of May 27, 1955 (69 Stat. 66).

(b) The Secretary will conduct a wildfire prevention program to reduce the number of person-caused fires on Indian reservations or other Indian trust lands.

(c) The Secretary is authorized to expend funds for emergency rehabilitation measures needed to stabilize soil and watershed on Indian reservations or other Indian trust lands damaged by wildfire.

(d) Upon consultation with the Indian landowners, the Secretary may use fire as a a management tool on Indian reservations to achieve land or resource management objectives.

§ 163.22 Trespass.

(a) In addition to liability for trespass on Indian lands, as indicated in this part, persons responsible for such trespass may be prosecuted criminally under any applicable federal law. Penalties are prescribed by the following statutes:

(1) Timber trespass (18 U.S.C. 1853).

(2) Fire trespass (18 U.S.C. 1855, 1856). Tribal ordinances may apply where appropriate.

(b) The extraction, severance, injury or removal of forest products from Indian lands under the jurisdiction of the Department of the Interior, except when authorized by law and the regulations of the Department, is an act of trespass. Trespassers will be liable in damages to the United States and the Indian owners, and will be subject to prosecution for such unlawful acts.

(c) The rule of damages to be applied in cases of timber and other trespass will be the measure of damages prescribed by the laws of the State in which the trespass is committed, unless by federal law a different rule is prescribed or authorized.

(d) The Secretary may identify and forbid the removal of forest products from restricted or trust Indian lands or direct their removal to a point of safekeeping when there is reason to believe that such products were unlawfully cut. Any such forest products that can be positively identified as Indian trust property should be sold to prevent their deterioration. When any forest products cut in trespass are found to be removed to land not under Government supervision, the owner of the land should be notified that such products are Indian trust property and any further action should be upon advice of the Office of the Solicitor of the Department of the Interior. Any forest products sold under this § 163.22 may be disposed of under the provisions of this part, insofar as they are applicable. The Secretary may accept payment of damages in full in the settlement of civil trespass cases without resort to court action. The Secretary may also accept a recommended settlement per Solicitor's Regulations Manual I.4.1 when exercised in accordance with Departmental procedures contained in 344 DM 3. All other matters relating to the collection of debts under this section will be in accordance with departmental Manual, Part 344.

(e) The Secretary will provide for timely action on any reports of trespass on Indian trust lands including pending Native allotments (25 U.S.C. 9).

§ 163.23 Revocable road use and construction permits for removal of commercial forest products.

(a) The Secretary may request tribes and/or all other trust landowners to sign landowners revocable permits designating the Secretary as Agent for the landowner and empowering him/her to issue revocable road use and construction permits to users for the purpose of removing commercial forest products.

(b) When a majority of trust interest in a tract has consented, the Secretary may issue revocable road use and construction permits for removal of commercial forest products over and across individually owned lands. In addition, the Secretary may act for individual owners when:

(1) the individual owner of the land or of an interest therein is a minor or a person non compos mentis, and the Secretary finds that such grant, in total or for an interest therein, will cause no substantial injury to the land or the owner, which cannot be adequately compensated for by monetary damages;

(2) the whereabouts of the owner of the land or an interest therein are unknown, and the owners or owner of any interests therein whose whereabouts are known or majority thereof, consent to the grant;

(3) the heirs or devisees of a deceased owner of the land or interest therein have not been determined, and the Secretary finds the grant will cause no substantial injury to the land or any owner thereof, provided that once the heirs or devisees of the deceased owner are determined, their consent is obtained.

(c) Nothing in this section shall preclude acquisition of rights-of-way for roads, Subchapter H, Part 169, 25 CFR, or conflict with provisions of that part.

§ 163.24 Insect and disease control.

(a) The Secretary is authorized to protect and preserve from disease, or the ravages of beetles, or other insects, timber on Indian reservations or other Indian lands under the jurisdiction of the Department of the Interior. (Sept. 20, 1922, Ch. 349, 42 Stat. 857). The Secretary shall consult with authorized tribal representatives or owners of other Indian lands concerning control actions.

(b) The Secretary is responsible to control and mitigate harmful effects of insects and diseases on Indian forest lands. The Secretary will coordinate this control with the Secretary of Agriculture in accordance with Section 5, Pub. L. 95–313, July 1, 1978, 92 Stat. 336.

§ 163.25 Forest development.

This section pertains to that segment of the forestry program which addresses the improvement of timber resources. The program shall consist of forestation, timber stand improvement work, and related investments that enhance productivity. It shall be conducted with emphasis on on-site activities. Forest development funds will be used to establish, re-establish, maintain, and/or improve growth of desirable commercial timber species and stocking level. Forest development activities will be planned and executed using cost/benefit analyses as one of the determinants in establishing priorities.

§ 163.26 Appeals under timber contracts and permits.

Any action taken by an approving officer exercising delegated authority from the Secretary of the Interior or by a subordinate official of the Department of the Interior exercising an authority by the terms of the contract may be appealed. Such appeal shall not stay any action under the contract unless otherwise directed by the Secretary of the Interior. Such appeals shall be filed in accordance with the provision of 25 CFR Part 2, Appeals from Administrative Actions, or any other applicable general regulations covering appeals. Appropriate Indian representatives shall be notified upon receipt of an appeal initiated by the purchaser. Likewise, the purchaser shall be notified upon receipt of an appeal initiated by the seller.

§ 163.27 Environmental protection.

Before implementing these regulations, forestry personnel will review their timber sale activities for potential environmental impacts in accordance with the National Environmental Policy Act (NEPA) of 1969 and applicable Council on

Environmental Quality Regulations (40 CFR 1500–1508). NEPA compliance is further explained in Departmental Manual Part 516 DM (Environmental Quality) and 30 BIAM Supplement 1 (NEPA Handbook) of the Bureau of Indian Affairs, from which specific guidance is obtained.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 84-773 Filed 1-12-84; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7935]

Common Trust Funds

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to common trust funds. Changes to the applicable tax law were made by the Tax Reform Act of 1976, by the Act of September 17, 1976, by the Crude Oil Windfall Profit Tax Act of 1980, and by the Economic Recovery Tax Act of 1981, and by the Technical Corrections Act of 1982. These regulations provide the public with guidance necessary to comply with those Acts and with other rules affecting common trust funds. The regulations affect common trust funds and their participants.

EFFECTIVE DATES: The amendments conforming to sections of the Tax Reform Act of 1976 are effective for taxable years as follows:

Section 1402(b)(1) relating to 26 CFR 1.584–4(c)(4) for taxable years beginning in 1977;

Section 1402(b)(2) relating to 26 CFR 1.584–4(c)(4) for taxable years beginning after December 31, 1977;

Section 1901(b)(1)(G) relating to 26 CFR 1.584–2(b)(1) for taxable years beginning after December 31, 1976;

Section 2131(d) relating to 26 CFR 1.584–4(a) for taxable years ending after April 7, 1976;

Section 2138(a) relating to 26 CFR 1.584–1(b)(1) for taxable years ending after October 3, 1976.

The amendments conforming to the Act of September 17, 1976 relating to 26 CFR 1.584–1(c) are effective for taxable years beginning after December 31, 1975.

The amendment conforming to the Crude Oil Windfall Profit Tax Act of 1980 (as amended by section 302(b)(1) of the Economic Recovery Tax Act of 1981) relating to § 1.584–2(b)(1) is effective with respect to taxable years beginning after December 31, 1980, and before January 1, 1982. The clarifying amendment under § 1.584–2(c)(3), relating to the pass-through of unrelated business income to participants in the common trust fund, is effective for taxable years of participants beginning on or after September 22, 1980.

FOR FURTHER INFORMATION CONTACT: Mitchell H. Rapaport of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T (202–566–3459).

SUPPLEMENTARY INFORMATION:

Background

On September 22, 1980, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 584 and 6032 of the Internal Revenue Code of 1954 (45 FR 62848). The amendments were proposed to make certain clarifying changes and to conform the regulations to the following statutory changes:

Section 1402(b) (1) and (2) of the Tax Reform Act of 1976 (90 Stat. 1732) amended section 584 to reflect the new holding period provisions for determining long-term and short-term capital gains and losses under section 1222.

Section 1901(b)(1)(G) of the Tax Reform Act of 1976 (90 Stat. 1790) amended section 584 to delete references to sections 35, 242, and 171.

Section 2131(b) of the Tax Reform Act of 1976 (90 Stat. 1924) amended section 584 to provide that the admission of a participant shall be treated as a purchase of, or exchange for, the participating interest.

Section 2138(a) of the Tax Reform Act of 1976 (90 Stat. 1932) amended section 584 to provide for the allowance of accounts established under the Uniform Gifts to Minors Act or similar state law.

Section 1 and 2 of the Act of September 17, 1976 (90 Stat. 1273), amended Code section 584 to provide that when banks become members of the same affiliated group (within the meaning of Code section 1504) they are, for purposes of section 584, to be treated as one bank for the period of their affiliation.

A public hearing was held on February 19, 1981. All comments and testimony regarding the proposed amendments were considered. Those proposed amendments are adopted as revised by this Treasury decision. The following three technical changes to those regulations have been made.

Exemption of Certain Interest Income

The Crude Oil Windfall Profit Tax Act of 1980 (as amended by section 302 (b)(1) of the Economic Recovery Tax Act of 1981) amended section 116 of the Code to provide for the exemption of certain interest income from tax. Section 404(b)(3) of the Crude Oil Windfall Profit Tax Act of 1980 amended Code section 584(c)(2) to conform this exemption to interest income earned by a common trust fund. Section 128 of the Code provides that gross income does not include any amount received by an individual during the taxable year as interest on a depository institution tax-exempt savings certificate. Section 103 (a)(2) of the Technical Correction Act of 1982 amended Code section 584(c)(2) to conform this exemption to interest earned by a common trust fund. This final regulation makes corresponding changes to § 1.584–2(b)(1).

Treatment of Amounts in Hands of Participants

The proposed regulations, in § 1.584–2 (c)(3), provided that, for purposes of determining the character in the hands of a participant of any item of income or deduction, each participant is treated as if it made directly the investment by the common trust fund from which the item was derived. In response to comments that section 584 does not specifically provide for the flow-through of all items from a common trust fund, § 1.584–2 (c)(3) has been modified. The modified regulation provides that any amount of income or loss of the common trust fund that is included in the computation of a participant's taxable income is to be treated as income or loss from an unrelated trade on business to the extent that such amount would have been income or loss from an unrelated trade or business if the participant had made directly the investment in the common trust fund. Thus, any amounts of income or loss to be included in a participant's computation of taxable income will be computed as specifically provided in section 584, while the treatment in the hands of the participant as income or loss from an unrelated trade or business of amounts so computed will be determined as if the participant had made directly the investments of the common trust fund. A cross reference in the regulations under section 512 is added.

The proposed regulation did not specify an effective date for § 1.584–2 (c)(3), relating to the treatment of amounts of income or loss included in the computation of the participant's taxable income. As a result, the

amendment would have had retroactive effect. In response to comments received on this subject, the final regulations provide a prospective effective date for this rule, commencing on the date of publication of the notice of proposed rulemaking. Therefore, the portion of the regulations relating to the rule in § 1.584–2(c)(3) applies to computations of taxable income for taxable years beginning on or after September 22, 1980.

Admission or Withdrawal of Participants

Under § 1.584–4 of the proposed regulations the transfer of a participating interest by two or more banks that are members of the same affiliated group as a result of the division of a single common trust fund will not be considered to be an admission or a withdrawal. However, this rule only applies where the dividing and resulting common trust funds have diversified portfolios and each participant's pro rata interest in each of the resulting common trust funds is substantially the same as was the participant's pro rata interest in the dividing fund. If a common trust fund in which several affiliated banks participate is divided because of the termination of the affiliation this rule would require that each of the participants in the dividing common trust fund become a participant in each of the resulting common trust funds. One commentator has stated that in many situations this will not be possible. In order to allow disaffiliating banks to divide a common trust fund without causing the participants to recognize gain, the final regulations provide that each of the participants in the dividing common trust fund need not become a participant in each of the resulting common trust funds. However, this rule shall only apply where the written plans of operation of the resulting common trust funds are substantially identical to the plan of operation of the dividing common trust fund, each of the assets of the dividing common trust fund are distributed substantially pro rata to each of the resulting common trust funds, and each participant's aggregate interest in the assets of the resulting common trust funds of which he or she is a participant is substantially the same as was the participant's pro rata interest in the assets of the dividing common trust fund. The plan of operation of a resulting common trust fund will not be considered to be substantially identical to that of the dividing common trust fund where, for example, the plan of operation of the resulting common trust fund contains restrictions as to the types of participants that may invest in the common trust fund where such restrictions were not present in the plan of operation of the dividing common trust fund. The requirement that the distribution of the assets of the dividing common trust fund must be "substantially" pro rata is intended to allow distributions in order to eliminate fractional shares.

Provisions Applicable to Participants

Under § 1.584–2(d) of the existing and of the proposed regulations, participants accounted for their proportionate share of income from a common trust fund according to provisions under subchapter J, chapter 1 of the Code. This final regulation clarifies that certain participants may account for such income according to the provisions under subchapter D, F, or H, as the case may be.

Explanation of Provisions Unchanged From the Notice

The Act of September 17, 1976, amended Code section 584 to provide that when banks become members of the same affiliated group (within the meaning of Code section 1504) they are, for purposes of section 584, to be treated as one bank for the period of their affiliation. This Treasury decision makes it clear that banks that are members of the same affiliated group may contribute to common trust funds of other member banks without disqualifying the funds as common trust funds.

Rules and regulations promulgated by the Comptroller of the Currency permit the contribution of cash and, in limited circumstances, non-cash property to a fund. The Tax Reform Act of 1976 amended section 584 to make the contribution of non-cash property to a common trust fund a taxable event. In addition, the Act extended common trust fund treatment to custodial accounts established pursuant to a State law that is substantially similar to the Uniform Gifts to Minors Act. The Tax Reform Act also repealed an obsolete portion of section 584 dealing with partially tax-exempt interest and amended the section to reflect the new holding period provisions for determining long-term and short-term capital gains and losses under section 1222. This Treasury decision incorporates these changes as they relate to common trust funds and their participants.

The final regulations adopted by this Treasury decision impose no new reporting or recordkeeping requirements. The principal purpose of the final regulations is to conform existing regulations under sections 584 and 6032 of the Code to changes made by the Act of September 17, 1976, the Tax Reform Act of 1976, the Crude Oil Windfall Profit Tax Act of 1980, the Economic Recovery Tax Act of 1981 and the Technical Corrections Act of 1982. Evaluation of the effectiveness of these regulations after issuance will be based on comments received from offices within the Treasury, the Internal Revenue Service, other governmental agencies, and the public.

Non-Applicability of Executive Order 12291

The Treasury Department has determined that this proposed regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 29, 1983.

Regulatory Flexibility Act

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for interpretative regulations. Accordingly, the Regulatory Flexibility Act does not apply and no Regulatory Flexibility Analysis is required for this rule.

Drafting Information

The principal author of this regulation is Mitchell H. Rapaport of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and the Treasury Department participated in developing the regulation on matters of substance and style.

List of Subjects

26 CFR 1.501(a)–1—1.528–10

Income taxes, Exempt organizations, Foundations, Nonprofit organizations, Cooperatives, Political organizations, Homeowners associations.

26 CFR 1.581–1—1.601–1

Income taxes, Banks.

26 CFR 1.6001–1—1.6109–2

Income taxes, Administration and procedure, Filing requirements.

PART—[AMENDED]

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 1 is amended as follows:

Paragraph 1. Section 1.512(a)-1 is amended by adding a new sentence at the end of paragraph (a). The added sentence reads as follows:

§ 1.512(a)-1 Definition.

(a) *In general.* * * *
For the treatment of amounts of income or loss of common trust funds, see § 1.584-2(c)(3).
* * * * *

Par. 2. Section 1.584-1 is amended by removing the third sentence of paragraph (a), by revising paragraph (b), and by adding new paragraph (c). These added and amended provisions read as follows:

§ 1.584-1 Common trust funds.
* * * * *

(b) *Conditions for qualification.* (1) For a fund to be qualified as a common trust fund it must be maintained by a bank (as defined in section 581) in conformity with the rules and regulations of the Comptroller of the Currency, exclusively for the collective investment and reinvestment of contributions to the fund by the bank. The bank may either act alone or with one or more other fiduciaries, but it must act solely in its capacity as one or a combination of the following: (i) As a trustee of a trust created by will, deed, agreement, declaration of trust, or order of court; (ii) as an executor of a will or as an administrator of an estate; (iii) as a guardian (by whatever name known under local law) of the estate of an infant, of an incompentent individual, or of an absent individual; or (iv) on or after October 3, 1976, as a custodian of a Uniform Gifts to Minors account. A Uniform Gifts to Minors account is an account established pursuant to a State law substantially similar to the Uniform Gifts to Minors Act. (*See* the Uniform Gifts to Minors Act of 1956 or the Uniform Gifts to Minors Act of 1966, as published by the National Conference of Commissioners on Uniform State Laws.) The Commissioner will publish a list of the States whose laws he determines to be substantially similar to such uniform acts. A bank that maintains a Uniform Gifts to Minors Act account must establish, to the satisfaction of the Commissioner or his delegate, that with respect to the account the bank has duties and responsibilities similar to the duties and responsibilities of a trustee or guardian.

(2) A common trust fund may be a participant in another common trust fund.

(c) *Affiliated groups.* For taxable years beginning after December 31, 1975, two or more banks that are members of the same affiliated group (within the meaning of section 1504) are treated, for purposes of section 584, as one bank for the period of their affiliation. A common trust fund may be maintained by one or by more than one member of an affiliated group. Any member of the group may, but need not, contribute to the fund. Further, for purposes of this paragraph, members of an affiliated group may be, but need not be, co-trustees of the common trust fund.

Par. 3. Section 1.584-2 is amended by:
1. Revising paragraph (a);
2. Revising paragraph (b);
3. Revising paragraph (c)(1) and (c)(2);
4. Redesignating existing paragraph (c)(3) as paragraph (c)(4) and revising the first sentence of paragraph (c)(4) as so redesignated;
5. Adding a new paragraph (c)(3);
6. Redesignating existing paragraph (c)(4) as subdivision (v) of redesignated paragraph (c)(4);
7. Adding a new subdivision (vi) to redesignated paragraph (c)(4); and
8. Revising paragraph (d).

These revised and added provisions read as follows:

§ 1.584-2 Income of participants in common trust fund.

(a) Each participant in a common trust fund is required to include in computing its taxable income for its taxable year within which or with which the taxable year of the fund ends, whether or not distributed and whether or not distributable:

(1) Its proportionate share of short-term capital gains and losses, computed as provided in § 1.584-3;

(2) Its proportionate share of long-term capital gains and losses, computed as provided in § 1.584-3; and

(3) Its proportionate share of the ordinary taxable income or the ordinary net loss of the common trust fund, computed as provided in § 1.584-3.

(b)(1) Each participant's proportionate share of dividends and interest to which section 116 or 128 applies received by the common trust fund shall be deemed to have been received by such participant as such dividends and as such interest.

(2) Any tax withheld at the source from income of the fund (*e.g.*, under section 1441) is deemed to have been withheld proportionately from the participants to whom such income is allocated.

(c)(1) The proportionate share of each participant's short-term capital gains and losses, long-term capital gains and losses, ordinary taxable income or ordinary net loss, dividends and interest received, and tax withheld at the source shall be determined under the method of accounting adopted by the bank in accordance with the written plan by which the common trust fund is established and administered, provided such method clearly reflects the income of each participant.

(2) Items of income and deductions shall be allocated to the periods between valuation dates established by the plan within the taxable year in which they were realized. Ordinary taxable income or ordinary net loss, short-term capital gains and losses, long-term capital gains and losses, and tax withheld at the source shall be computed for each period. The participants' proportionate shares of income and losses for each period shall then be determined.

(3) For taxable years beginning on or after September 22, 1980, any amount of income or loss of the common trust fund which is included in the computation of a participant's taxable income for the taxable year shall be treated as income or loss from an unrelated trade or business to the extent that such amount would have been income or loss from an unrelated trade or business if such participant had made directly the investments of the common trust fund.

(4) The provisions of this paragraph may be illustrated by the following example:
* * * * *

(vi) Assume in the above example that participant Trust A qualified as a trust forming part of a pension, profit sharing, or stock bonus plan under section 401(a). Assume further that 20 percent of the ordinary taxable income of the common trust fund would be unrelated business taxable income (as defined under section 512(a)(1)) if received directly by Trust A. Under paragraph (c)(3), participant Trust A, for purposes of computing its taxable income, must treat its proportionate share of the common trust fund's ordinary taxable income as income from an unrelated trade or business to the extent such amount would have been income from an unrelated trade or business if Trust A had directly made the investments of the common trust fund. Therefore, participant Trust A must take into account 20 percent of its proportionate share of the common trust fund's ordinary taxable income as income from an unrelated trade or business.

(d) The provisions of part I, subchapter J, chapter 1 of the Code, or, as the case may be, the provisions of subchapters D, F, or H of chapter 1 of the Code, are applicable in determining the extent to which each participant's proportionate share of any income or loss of the common trust fund is taxable to the participant, or to a person other than the participant.

Par. 4. Section 1.584-3 is amended by inserting the word "and" at the end of

paragraph (b), by removing the semi-colon and the word "and" and inserting a period in lieu thereof at the end of paragraph (c), and by removing paragraph (d).

Par. 5. Section 1.584–4 is amended by adding a new sentence after the first sentence of paragraph (a), by adding three new sentences after the last sentence of paragraph (a), and by revising paragraph (c)(4). These added and amended provisions read as follows:

§ 1.584–4 Admission or withdrawal of participants in the common trust fund.

(a) *Gain or loss.* * * * For taxable years of participants ending after April 7, 1976, and for transfers occurring after that date, the transfer of property by a participant to a common trust fund is treated as a sale or exchange of the property transferred. * * * When a participating interest is transferred by a bank or by two or more banks that are members of the same affiliated group (within the meaning of section 1504), as a result of the combination of two or more common trust funds or the division of a single common trust fund, the transfer to the surviving or divided common trust fund is not considered to be an admission or a withdrawal if—

(1) The combining, dividing, and resulting common trust funds have diversified portfolios within the meaning of section 368(a)(2)(F)(ii) and the regulations thereunder, and

(2) In the case of a division, each participant's pro rata interest in each of the resulting common trust funds is substantially the same as was the participant's pro rata interest in the dividing fund. However, in the case of the division of a common trust fund maintained by two or more banks that are members of the same affiliated group resulting from the termination of such affiliation, the division will be treated as meeting the requirements of this subparagraph if the written plans of operation of the resulting common trust funds are substantially identical to the plan of operation of the dividing common trust fund, each of the assets of the dividing common trust fund are distributed substantially pro rata to each of the resulting common trust funds, and each participant's aggregate interest in the assets of the resulting common trust funds of which he or she is a participant is substantially the same as was the participant's pro rata interest in the assets of the dividing common trust fund. The plan of operation of a resulting common trust fund will not be considered to be substantially identical to that of the dividing common trust fund where, for example, the plan of operation of the resulting common trust fund contains restrictions as to the types of participants that may invest in the common trust fund where such restrictions were not present in the plan of operation of the dividing common trust fund.

* * * * *

(c) *Addition to basis.* * * *

(4) The excess of the gains over the losses recognized to the common trust fund upon sales or exchanges of capital assets held (i) for more than 18 months for taxable years beginning after December 31, 1937, and before January 1, 1942, (ii) for more than 6 months for taxable years beginning after December 31, 1941, and before January 1, 1977, (iii) for more than 9 months for taxable years beginning 1977, and (iv) for more than 1 year for taxable years beginning after December 31, 1977, and * * *

Par. 6. Section 1.6032–1 is amended by adding new sentences immediately following the first and sixth sentances. The added provisions read as follows:

§ 1.6032–1 Return of banks with respect to common trust funds.

* * * Member banks of an affiliated group that serve as co-trustees with respect to a common trust fund must act jointly in making a return for the fund. * * * If the common trust fund is maintained by two or more banks that are members of the same affiliated group, the return must also identify the member bank in the group that has contributed each participant's property or money to the fund. * * *

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: December 22, 1983.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 84–689 Filed 1–12–84; 8:45 am]

BILLING CODE 4830–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[SW–8 FRL–2506–7]

Hazardous Waste Management Programs; North Dakota and Utah; Request for Extension of Phase I Interim Authorization Beyond January 22, 1984

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of extension of application submission and interim authorization period.

SUMMARY: The States of North Dakota and Utah, respectively, requested 60 day extensions added to the 180 day extensions already granted beyond the July 26, 1983, deadline for continuation of Phase I Interim Authorization in the absence of an application for Interim Phase II, Component C Authorization (authority to permit storage, treatment and disposal facilities) under the Resource Conservation and Recovery Act of 1976 as amended. EPA is granting these extensions. This extension avoids termination on January 22, 1984, of the Interim Authorization which EPA granted previously to the States for the Phase I portions of the hazardous waste program. The extensions is based on the State's schedules calling for submission of the complete applications for Final Authorization in March, 1983.

EFFECTIVE DATE: January 13, 1984.

FOR FURTHER INFORMATION CONTACT: Louis W. Johnson, Chief, Waste Management Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295 (8AW–WM), Telephone: (303) 837–2221.

SUPPLEMENTARY INFORMATION:

Background

40 CFR 271.122(c)(4) (formerly 123.122(c)(4); 47 FR 32377, July 26, 1982) requires that States which have received any, but not all, Phases/Components of Interim Authorization amend their original submissions by July 26, 1983, to include all Components of Phase II. 40 CFR 271.137(a) (formerly 123.1347(a); 47 FR 32378, July 26, 1982) further provides that on July 26, 1983, interim authorizations terminate except where the State has submitted by that date an application for all Phases/Components of interim authorization.

Where the authorization (approval) of the State program terminates, EPA is to administer and enforce the Federal program in these States. However, the Regional Administrator may, for good cause, extend the July 26, 1983, deadline for submission of the interim authorization application and the deadline for termination of the approval of the State program.

Note.—40 CFR Part 123, including the July 26, 1982, amendments (47 FR 32373), was recodified on April 1, 1983, as 40 CFR Part 271 (48 FR 14248).

Utah received Phase I Interim Authorization on December 12, 1980, and North Dakota received partial Phase I Interim Authorization on December 2,

1980. In each case, these States' ability to apply for Phase II A, B, and C Interim Authorization was delayed by pending actions in the State Legislatures, completion of State land disposal regulations, and decisions by the States to apply directly for Full Authorization. New delays are due to changes which need to be made to the States' Final Authorization applications as brought out in reviews of their draft applications submitted in September of 1983.

	North Dakota	Utah
1. State Hearing on Hazardous Waste Regulations.	June 1983	Sept. 1983.
2. Submit Draft Final Authorization Application.	Sept. 1983	Sept. 1983.
3. Consolidated Comments from EPA to the State.	Nov. 1983	Nov. 1983.
4. Submit Complete Application for Final Authorization.	Mar. 1983	Mar. 1983.

Decision

In consideration of the efforts of the States of North Dakota and Utah to finalize RCRA equivalent regulations and the above schedules for Final Authorization Application, I find good cause to exist to grant the States' requests for an additional 60 day extension beyond the January 22, 1984, deadline for applying for Interim Authorization as follows:

North Dakota—240 days to March 22, 1984

Utah—240 days to March 22, 1984

Therefore, these States must officially submit a complete application for Final Authorization to EPA on or before March 22, 1984. If either or both of the States of North Dakota and/or Utah fails to submit a complete application by March 22, 1984, approval of that State's Phase I program will terminate automatically and administration of the hazardous waste management program will revert to EPA.

List of Subjects in 40 CFR Part 271

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business information.

Authority. This notice is issued under the authority of Sec. 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C 6912(a), 6926 and 6974(b).

Dated: January 3, 1983.

John G. Welles,

Regional Administrator.

[FR Doc. 84-953 Filed 1-12-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 716

[OPTS-84006A; TSH-FRL 2480-3]

Submission of Lists and Copies of Health and Safety Studies

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule adds certain chemical substances and a designated mixture to the list of chemical substances and mixtures for which lists and copies of unpublished health and safety studies must be submitted under section 8(d) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2607(d). The chemical substances being added were recommended for testing by the Interagency Testing Committee (ITC), established under section 4(e) of TSCA, in its Eleventh Report to EPA. EPA is also adding a designated mixture containing substances recommended by the ITC in its Tenth Report. The Agency will use the studies to support its investigations of the risks posed by the chemicals and, in particular, to support its decisions whether to require industry to test chemicals under section 4 of TSCA.

EFFECTIVE DATE: This regulation becomes effective on February 13, 1984.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, D.C. 20460, Toll free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the U.S.A.: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: OMB Control Number: 2070-0004.

In the **Federal Register** of September 2, 1982 (47 FR 38780), EPA issued regulations under section 8(d) of TSCA to require submission of lists and copies of unpublished health and safety studies on specifically listed chemicals by chemical manufacturers and processors. Other persons in possession of such studies may be asked to submit them on a voluntary basis. The rule established standardized reporting requirements and provides for amending the list of chemicals subject to the rule. Chemicals may be added that have been recommended by the ITC for testing consideration under section 4 of TSCA or have been separately selected by the Environmental Protection Agency for evaluation.

The ITC, established under section 4(e) of TSCA (15 U.S.C. 2603(e)), recommends chemical substances, categories of substances, and mixtures for priority consideration by EPA in the issuance of testing rules under section 4(a) of TSCA (15 U.S.C. 2603(a)). Section 4(e) directs the ITC to revise its list of recommendations every six months as the ITC determines to be necessary.

When recommending chemicals to EPA for testing, the ITC can add these chemicals to the section 4(e) Priority List either one of two ways. A chemical can be designated for response by EPA within 12 months or recommended but not designated for response within 12 months. Chemicals recommended by the ITC can be added to the section 8(d) rule under the automatic reporting provision of the rule (40 CFR 716.17(b)). However, up to the time the section 8(d) rule was developed, all of the ITC's recommendations had included designation for EPA response within 12 months. Therefore, the rule and preamble did not distinguish between chemicals that are designated and those recommended but not designated for 12-month review. Therefore, only 12-month designated chemicals will be added under 40 CFR 716.17(b). EPA is preparing an amendment to the section 8(d) rule which will change 40 CFR 716.17(b) to clearly include chemicals recommended by the ITC but not designated for 12-month review. However, prior to adoption of such an amendment, non-designated chemicals will be added by notice and comment rulemaking under § 716.17(a) of the rule.

Under 40 CFR 716.17(a), EPA proposed and is now amending the list of chemicals by adding the carbofuran intermediates and certain trimethylbenzenes which were added to the section 4(e) Priority List, but not designated for response by EPA within 12 months, by the ITC in its Eleventh Report. Also, EPA is adding a designated mixture named "Aromatic C_9 fraction from petroleum refining" which is primarily composed of mixed trimethylbenzenes (1,2,3-trimethylbenzene, 1,2,4-trimethylbenzene, and 1,3,5-trimethylbenzene) and mixed ethyltoluenes (ortho-, meta-, and para-ethyltoluene). 1,2,4-Trimethylbenzene and ethyltoluene (mixed isomers) were designated by the ITC in its Tenth Report. The other trimethylbenzenes were recommended in the ITC's Eleventh Report. EPA is adding this

designated mixture because EPA has responded to the ITC's recommendations on mixed ethyltoluenes and the trimethylbenzenes by proposing that an aromatic C_9 fraction (containing these substances) be tested. The Agency's proposed action for these substances was published in the **Federal Register** of May 23, 1983 (48 FR 23088).

No comments were received in response to the proposal of this amendment, which was published in the **Federal Register** of June 22, 1983 (48 FR 28483). Therefore, EPA has not changed the content of this rule since proposal.

We are adding the following chemcial substances and designated mixture.

Chemicals Added to Rule

Chemical Substances

Substances	CAS Nos.
Trimethylbenzene (mixed isomers)	25551-13-7
1,2,3-Trimethylbenzene	526-73-8
1,3,5-Trimethylbenzene	108-67-8
Methallyl 2-nitrophenyl ether	13414-54-5
7-Amino-2,2-dimethyl-2,3-dihydrobenzofuran	68298-46-4
7-Nitro-2,2-dimethyl-2,3-dihydrobenzofuran	13414-55-6

Designated Mixtures

Aromatic C_9 fraction from petroleum refining: The C_9 fraction is primarily composed of 1,2,3-trimethylbenzene (CAS No. 526–73–8), 1,2,4-trimethylbenzene (CAS No. 95–63–6), 1,3,5-trimethylbenzene (CAS No. 108–67–8), mixed trimethylbenzenes (CAS No. 25551–13–7), ortho-ethyltoluene (CAS No. 611–14–3), meta-ethyltoluene (CAS No. 620–14–4), para-ethyltoluene (CAS No. 622–96–8), and mixed ethyltoluenes (CAS No. 25550–14–5) in varying proportions.

Under the rule implementing section 8(d) of TSCA, EPA will acquire unpublished health and safety studies on these chemicals from manufacturers and processors of the chemicals.

Economic Impact

EPA estimates that these additional chemicals will cost industry $43,400 to submit the required data.

Corporate rule review	$18,300
Corporate review (site identification)	3,400
File search	7,300
Title listing	300
Photocopying (materials)	400
Photocopying (labor)	1,400
Managerial review	10,800
Ongoing reporting	1,500
Total	43,400

If we assume ±30 percent margin of error in these estimates the range of probable cost varies from $30,400 to $56,400.

If the studies submitted allow EPA to eliminate even one potential section 4 mandated test on a subject chemical, the cost avoided could exceed the total cost of this rule. In addition, the studies submitted may help EPA identify public health and environmental problems which may require action by EPA to control or mitigate. Thus, the cost of this rule is low compared to the potential benefits.

Public Record

EPA has established a public record (docket number OPTS–84006) for this rulemaking document which, along with a complete index, is available for inspection in the OPTS Reading Room, Rm. E–107 from 8:00 a.m. to 4:00 p.m. on working days (401 M St., SW., Washington, D.C. 20460). This record includes basis information considered by the Agency in developing this rule.

Additional documents may be added to the Public Record. Within 30 days of the date of publication, please notify EPA of any errors or omissions in the Public Record. Address all correspondence to: Document Control Officer (TS–793), Rm. E–108, Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Below is a list of the documents which constitute the record for this rulemaking. The Agency will supplement the record with additional information as it is received.

(1) Health and Safety Study Reporting Regulations (40 CFR Part 716), Public Record, Docket No. 084003.

(2) Reports Impact Analysis for 40 CFR Part 716 and this rulemaking.

(3) Tenth and Eleventh Reports of the Interagency Testing Committee (ITC); 47 FR 22585 (Tenth Report) and 47 FR 54626 (Eleventh Report).

(4) **Federal Register** notice and entire record compiled to date in C_9 test rule.

Regulatory Assessment Requirements

Paperwork Reduction Act, Executive Order 12291, and Regulatory Flexibility Act

The final section 8(d) rule (40 CFR Part 716) has been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act (PRA) of 1980, 44 U.S.C. 3501 *et seq.* The OMB control number is 2070–0004.

The amendment was submitted to OMB for review as required by Executive Order 12291.

Only 18 companies are expected to report under this rule. Therefore, in accordance with the Regulatory Flexibility Act (Pub. L. 96–354), EPA has determined that this rule will not have a significant economic impact on a substantial number of small entities.

(Sec. 8(d), Pub. L. 94–469, 90 Stat 2029 (15 U.S.C. 2607(d))

List of Subjects in 40 CFR Part 716

Chemicals, Health and safety, Environmental protection, Hazardous materials, Reporting and recordkeeping requirements.

Dated: November 16, 1983.

Don R. Clay,

Acting Assistant Administrator for Pesticides and Toxic Substances.

PART 716—[AMENDED]

Therefore, Title 40, Chapter I is amended by adding paragraphs (a)(5) and (b) to § 716.17 to read as follows:

§ 716.17 Substances and designated mixtures to which this subpart applies.

(a) * * *

(5) As of February 13, 1984, the following chemical substances are subject to this subpart.

Substances	CAS Nos.
Trimethylbenzene (mixed isomers)	25551-13-7
1,2,3-Trimethylbenzene	526-73-8
1,3,5-Trimethylbenzene	108-67-8
Methallyl 2-nitrophenyl ether	13414-54-5
7-Amino-2,2-dimethyl-2,3-dihydrobenzofuran	68298-46-4
7-Nitro-2,2-dimethyl-2,3-dihydrobenzofuran	13414-55-6

(b)(1) *Designated mixtures.* As of February 13, 1984, the following designated mixtures are subject to this subpart.

Designated Mixtures

Aromatic C_9 fraction from petroleum refining: The C_9 fraction is primarily composed of 1,2,3-trimethylbenzene (CAS No. 526–73–8), 1,2,4-trimethylbenzene (CAS No. 95–63–6), 1,3,5-trimethylbenzene (CAS No. 108–67–8), mixed trimethylbenzenes (CAS No. 25551–13–7), ortho-ethyltoluene (CAS No. 611–14–3), meta-ethyltoluene (CAS No. 620–14–4), para-ethyltoluene (CAS No. 622–96–8), and mixed ethyltoluenes (CAS No. 25550–14–5) in varying proportions.

(2) [Reserved].

[FR Doc. 84–870 Filed 1–12–84; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 761

[OPTS–211011; TSH–FRL 2487–7]

Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions; Denial of Citizen's Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule related notice, denial of citizen's petition.

SUMMARY: This notice announces EPA's decision to deny a citizen's petition submitted by Cannelton Industries, Incorporated (CI) under section 21 of the Toxic Substances Control Act (TSCA) (15 U.S.C. 2620). CI requested that EPA amend its polychlorinated biphenyl (PCB) regulations (40 CFR Part 761) to provide EPA Regional Administrators authority to approve alternative disposal methods for non-liquid PCBs, including contaminated soil. The contaminated soil referred to in the petition is PCB-soaked rock, gravel and other mining debris resulting from a transformer spill in a mine shaft in West Virginia.

ADDRESS: Copies of the petition and all related information are located in: TSCA Public Information Office (TS–793), Office of Toxic Substances, Environmental Protection Agency, Rm. E–107, 401 M St., SW., Washington, D.C. 20560.

They are available for review and copying from 8:00 a.m. to 4:00 p.m. Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–543, 401 M St., SW., Washington, D.C. 20460, toll free: (800–424–9065), in Washington, D.C.: (554–1404), outside the USA: (Operator 202–554–1404).

SUPPLEMENTARY INFORMATION:

I. Background

Section 6(e)(1)(A) of TSCA requires that EPA promulgate rules for the disposal of PCBs. Disposal means intentionally or accidentally to discard, throw away, or otherwise complete or terminate the useful life of PCBs and PCB Items. Disposal includes spills, leaks, and other uncontrolled discharges of PCBs as well as actions related to containing, transporting, destroying, degrading, decontaminating, or confining PCBs and PCB Items.

The rules implementing section 6(e)(1)(A) were published in the **Federal Register** of May 31, 1979 (44 FR 31514) and recodified in the **Federal Register** of May 6, 1982 (47 FR 19527). The rules require that various types of PCBs and PCB Articles be disposed of in landfills (40 CFR 761.75); destroyed in incinerators (40 CFR 761.70) or high efficiency boilers (40 CFR 761.60); or by an alternative method which can achieve a level of performance equivalent to incinerators or high efficiency boilers.

Under the rules' provisions, non-liquid PCBs, including contaminated soil, resulting from the cleanup and removal of spills, must be disposed of in EPA-approved incinerators or chemical waste landfills. No disposal alternatives are currently authorized for this type of PCB material.

In March 1982, CI was preparing to close and seal one of its underground coal mines (No. 105) in Kanawha County, West Virginia. During the operation, on or about March 25, 1982, a PCB Transformer owned by CI ruptured within the mine. As a result, approximately 447 gallons of 46 percent PCB dielectric fluid spilled onto the crushed rock, gravel, and other mining waste material ("gob") lining the floor of the mine. The spill was isolated and contained within an area approximately 190 feet long and 10 feet wide. Following the incident, the company continued its closure operation and subsequently sealed off the mine during the first week in April 1982.

On October 12, 1983, CI petitioned the EPA, under section 21 of TSCA, to amend its PCB regulations governing disposal. The PCB disposal regulations (40 CFR 761.60(a)(4)) mandate that contaminated soil from PCB spills be disposed of by incineration or chemical waste landfill. The petition seeks to leave the PCB-contaminated soil in place as an alternative disposal method.

CI asserts that EPA should grant its request for the following reasons:

1. There is a greater risk of PCB exposure to humans and the environment associated with removal of the PCB-contaminated material from the abandoned coal mine and transportation to an EPA-approved landfill than is associated with leaving the PCBs in place.

2. PCBs will not migrate outside the area of containment.

3. Even if migration should occur and PCBs are transported by water from the area of containment, the resultant dilution would render the PCBs undetectable.

4. Removal and disposal of the spilled PCBs, in accordance with EPA regulations, would place an unreasonable and unnecessary economic burden on CI.

5. In-place burial of PCB-contaminated soil in underground mine shafts is consistent with the primary purpose of TSCA and the statutory provisions governing the promulgation of disposal rules.

II. Decision

EPA has reviewed the contents of the CI petition and recognizes that spill cleanup and removal operations are special situations involving various site-specific factors. However, in order to approve the petition, EPA would have to find that the disposal alternative proposed by CI is equivalent or superior to EPA-approved chemical waste landfills and incinerators for soil and debris contaminated with PCBs. On the basis of present evidence, EPA cannot make this finding.

CI's petition specifically seeks to provide EPA Regional Administrators discretion to approve one-time, in-place burial as an acceptable disposal alternative for PCB-contaminated soil from spills which occur underground in mine shafts. EPA has concluded that the petition lacks adequate information to enable the Agency to determine the likelihood or degree of adverse effects to human health or the environment from the proposed action. Removal and transportation of the PCB material to an EPA-approved landfill would not pose unreasonable exposure risks. EPA and the Department of Transportation (DOT) have regulations to prevent or minimize the health and safety risks of PCB handling and transportation. Properly trained and equipped workers are capable of removing PCB-contaminated soil and debris with little or no risk of exposure. Their clothing and equipment can be properly disposed of or decontaminated with little or no risk of exposure. Disposal by chemical waste landfill has been shown to pose a minimum and controllable risk to human health and the environment. Landfills can be monitored for PCB migration using groundwater monitoring wells. Leaving a PCB spill in place in a mine leads to an unquantifiable risk over an unquantifiable area. Based on available information, EPA is unable to find support for the petitioner's determination that burial in place would be safe and present less risk of PCB exposure to humans or the environment than disposal in accordance with EPA regulations.

Indeed, on the basis of current information, EPA believes that disposal of PCBs by in-place burial could result in an uncontrolled human and environmental exposure potential. According to the CI petition, substantial construction and maintenance are necessary to provide roof support in Mine No. 105. It is not clear, therefore, that the shale lining of the mine is capable of forming a stable and impermeable enclosure around the

spilled material. EPA-approved chemical waste landfills, on the other hand, must be located in relatively impermeable formations.

The petition does not provide a petrographic permeability analysis of the geology of Mine No. 105. CI's use of the term "historically dry" to describe the mine is intended only as a relative means of comparison with other coal mines in the area. Since mining operations have fractured the shale lining of the coal shaft, it is very possible that groundwater infiltration may occur to the spill area through open pores in the walls and floor of the mine. Although PCBs are known to have a strong affinity for fine soil particles, this adsorption phenomenon is not recognized on larger rocks associated with gravel and gob. In this environment, PCBs may be leached or released by erosion. Migration by water transport is therefore a potential pathway of PCB movement from the contamination area. It would be extremely difficult to design a system capable of adequately monitoring PCB migration from Mine No. 105. The CI proposal does recognize the possiblity of water infiltration and discharge from the mine but claims that such a discharge would not pose a detectable exposure level since the PCBs would be diluted. Dilution for purposes of avoiding the disposal regulations is prohibited in the PCB rule. Therefore, dilution is not an acceptable alternative to EPA-approved disposal.

CI maintains that reopening Mine No. 105 and disposing of the PCB-contaminated soil and debris by incineration or chemical waste landfill is too economically burdensome. The petition does not contain any economic cost data to support this contention. EPA believes that the cost of properly disposing of this material is not excessive. By failing to comply promptly with applicable Federal laws, i.e., spill reporting and cleanup procedures, CI may now incur higher removal and disposal costs than it would have incurred had it properly handled the spilled PCBs in March 1982. However, under the circumstances, the added expense incurred by CI is self-imposed.

EPA has concluded that approved chemical waste landfills and incinerators are methods of PCB disposal which have been shown to pose a minimum risk to human health and the environment. A properly designed chemical waste landfill at an appropriate site will effectively isolate and control the movement of PCBs. Exposure to humans and the environment should be insignificant if the site for the landfill is properly selected, and the criteria outlined in 40 CFR 761.75 are followed for management and monitoring of the landfill. Since the proposed in-place burial of PCBs poses an unknown and uncontrollable risk, approval of such a disposal method would not be consistent with the intent of TSCA.

Accordingly, CI's petition for an amendment to the PCB regulations is denied.

III. Official Record for the Petition

The following documents constitute the record for this action:

1. CI Petition to the Environmental Protection Agency, dated October 7, 1983.

2. 44 FR 40132, July 9, 1979. USEPA. "Disposal of PCB-Contaminated Soil and Debris; Denial of Citizen's Petition."

3. Official Rulemaking Record from "Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions Rule," 44 FR 31514, May 31, 1979.

4. Record of meeting between EPA, CI, and Robert Shingler of L. Robert Kimball and Associates, dated September 13, 1983.

5. Memorandum of telephone conversation between Leopold Kokoszka, EPA Headquarters, and Robert Davis, EPA Region III, November 4, 1983.

Dated: January 6, 1984.

William D. Ruckelshaus,

Administrator.

[FR Doc. 84-1015 Filed 1-12-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6582]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program; Michigan et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 457, Lanham, Maryland 20706, Phone: (800) 638-7418.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 287-0222, 500 C Street, Southwest, FEMA Room 509, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where the flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are inpracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance."

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, Federal

Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

PART 64—[AMENDED]

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of Eligible Communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Michigan: Montcalm	Eureka, township of	260735	Dec. 12, 1983, emergency	
Nevada: Lincoln	Unincorporated areas	320014A	...do	2-22-83
Illinois: Hancock & Henderson	Dallas City, city of	1702788	July 10, 1975, emergency; Oct. 18, 1983, regular; Oct. 18, 1983, suspended; Dec. 9, 1983, reinstated.	3-22-74 & 7-30-76
North Dakota: Dunn	Killdeer, city of	[illegible]	May 27, 1975, emergency; Dec. 1, 1983, regular; Dec. 1, 1983, suspended; Dec. 13, 1983, reinstated.	6-28-74 & 1-02-76
Missouri: Pulaski	Unincorporated areas	290826	Dec. 21, 1983, emergency	
Pennsylvania: Butler	Middlesex, township of	421229A	Dec. 10, 1974, emergency; Dec. 1, 1983, regular; Dec. 1, 1983, suspended; Dec. 16, 1983, reinstated.	7-26-74 & 7-02-76
Washington: Pierce	Tacoma, city of	5301488	July 2, 1974, emergency; Dec. 1, 1983, regular; Dec. 1, 1983, suspended; Dec. 16, 1983, reinstated.	10-18-74 & 2-18-77
Arizona: Yavapai	Cottonwood, town of	[illegible]	May 5, 1975, emergency; Sept. 16, 1981, regular; Sept. 16, 1981, suspended; Dec. 20, 1983, reinstated.	6-07-74, 5-02-75 & 9-16-81
Idaho: Bingham	Firth, city of	160136A	Dec. 21, 1983, emergency; Dec. 21, 1983, regular	4-23-76, 9-07-82 & 9-15-83
Pennsylvania: Bedford	St. Clairsville, borough of	421328	Dec. 28, 1983, emergency	1-31-75
Washington: Walla Walla	Unincorporated areas	5301948	Dec. 23, 1971, emergency; Dec. 1, 1983, regular; Dec. 1, 1983, suspended; Dec. 21, 1983, reinstated.	12-27-74 & 9-13-77
West Virginia: Mercer	Matoaka, town of	5401268	Dec. 13, 1974, emergency; Dec. 15, 1983, regular; Dec. 15, 1983, suspended; Dec. 28, 1983, reinstated.	5-31-74 & 7-30-76
Nevada: Churchill	Unincorporated areas	320030A	Dec. 30, 1983, emergency	12-27-77
Region III				
Pennsylvania: Bucks	Bedminster, township of	421049A	Dec. 1, 1983, suspension withdrawn	1-31-75
West Virginia: Mercer	Bramwell, town of	5401258	...do	5-24-74 & 3-26-76
Region IV				
North Carolina: Haywood	Clyde, town of	3701228	...do	6-14-74 & 10-15-76
Region V				
Illinois:				
Hardin	Cave-In-Rock, village of	1702748	...do	1-23-74 & 7-30-76
McLean	Heyworth, village of	1704978	...do	6-14-74 & 7-14-74
Indiana: Jefferson	Brooksburg, town of	180105A	...do	11-29-74
Ohio:				
Harrison & Jefferson	Adena, village of	3902958	...do	7-23-76 & 10-3-80
Jefferson	Amsterdam, village of	3902968	...do	4-12-74 & 5-28-76
Licking	Unincorporated areas	3903288	...do	3-10-78
Wisconsin: Oconto	Suring, village of	550300C	...do	5-3-74, 6-4-76 & 2-12-82
Region VI				
Texas: Harris	Morgans Point, city of	4803058	...do	6-28-74 & 9-19-75
Region VIII				
North Dakota:				
Dunn	Dunn Center, city of	380028A	...do	11-22-74
Do	Halliday, city of	380029A	...do	11-22-74
Region IX				
Nevada: Washoe	Sparks, city of	320021B	...do	2-8-74 & 6-27-75
Region X				
Washington:				
Snohomish	Index, town of	5301668	...do	2-8-74 & 12-27-74
Do	Monroe, city of	5301698	...do	11-5-76 & 1-16-79
Mason	Shelton, city of	5301168	...do	6-14-74 & 3-19-76
Region I				
Massachusetts:				
Berkshire	Amherst, town of	250156C	Dec. 15, 1983, suspension withdrawn	7-19-74, 12-3-76 & 2-4-81
Do	Otis, town of	[illegible]	...do	9-20-74 & 3-11-77
Region II				
New Jersey:				
Ocean	Bay Head, borough of	345281D	...do	8-17-71, 7-1-75, 4-18-75 & 3-19-76

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Monmouth	Manasquan, borough of	345303C	do	5-13-72, 7-1-74 & 1-16-76
Bergen	Ridgewood, village of	340067B	[illegible]	8-31-73 & 7-7-78
New York: Nassau	Roslyn Harbor, village of	361035B	do	6-28-74, 12-19-75 & 12-19-75
Region III				
Virginia: Rockingham	Bridgewater, town of	510134B	do	6-28-74 & 5-28-76
West Virginia:				
Brooke	Unincorporated areas	540011B	[illegible]	11-22-74 & 7-8-77
Monongalia	Granville, town of	540272A	do	11-29-74
Region V				
Illinois:				
Carroll	Unincorporated areas	170019	do	6-2-78
Fulton	Liverpool, village of	170762D	do	12-28-73, 8-1-75, 12-28-79 & 6-15-81
Indiana: Lake	Highland, town of	185176C	do	5-19-72, 7-1-74 & 10-10-75
Michigan: Eaton	Eaton Rapids, township of	260391A	do	9-12-75
Ohio:				
Hamilton	Newtown, village of	390230C	do	2-1-74, 5-28-76 & 11-3-78
Madison/Union	Plain city, village of	390625	do	7-25-75
Wisconsin: Washington	Unincorporated areas	550471	do	9-1-83
Region VI				
Oklahoma: McClain	Newcastle, city of	400103B	do	6-7-74 & 5-21-76
Texas:				
Brazoria	Baileys Prairie, town of	480065B	do	11-8-74 & 10-22-76
Do	Brazoria, city of	480066B	do	1-9-74 & 5-21-76
Lamar	Paris, city of	480427B	do	6-14-74 & 7-9-76
Bexar	San Antonio, city of	480045B	do	4-5-74 & 6-27-78
Brazoria	West Columbia, city of	480081B	do	6-14-74 & 1-16-76
Region IX				
Arizona: Yuma	Unincorporated areas	0400998	do	4-12-74, 10-25-77 & 4-[illegible]
California: Tulare	Farmersville, city of	060405C	do	10-1-76 & 5-31-77

(National Flood Insurance Act of 1968 (title XIII, Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Administrator, Federal Insurance Administration)

Issued: January 6, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84-913 Filed 1-12-84; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

National Flood Insurance Program; Changes in Flood Elevation Determinations; Louisiana

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Modified base (100-year) flood elevations are finalized for the communities listed below.

These modified elevations will be used in calculating flood insurance premium rates for new buildings and their contents and for second layer coverage on existing buildings and their contents.

DATES: The effective dates for these modified base flood elevations are indicated on the following table and amend the Flood Insurance Rate Map(s) (FIRM) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed on the following table.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Risk Studies Division, Federal Insurance Administration, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of modified flood elevations for each community listed. These modified elevations have been published in newspaper(s) of local circulation and ninety (90) days have elapsed since that publication. The Administrator has resolved any appeals resulting from this notification.

Numerous changes made in the base (100-year) flood elevations on the Flood

Insurance Rate Maps (FIRM) for each community make it administratively infeasible to publish in this notice all of the changes contained on the maps. However, this rule includes the address of the Chief Executive Officer of the community, where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 65).

For rating purposes, the revised community number is shown and must be used for all new policies and renewals.

The modified base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the flood plain management measures required by 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State or regional entities.

These modified base flood elevations shall be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for second layer coverage on existing buildings and their contents.

The changes in the base flood elevations are in accordance with 44 CFR 65.4.

State and county	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
LA, Rapides Parish (FEMA Docket No. 6369).	Alexandria, City	*Daily Town Talk:* 7/27/82 and 8/3/82.	Honorable John K. Snyder, Mayor of Alexandria, P.O. Box 71, Alexandria, LA 71301.	5/15/84	2201468

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance, Flood plains.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to Administrator, Federal Insurance Administration)

Issued: January 4, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84-912 Filed 1-12-84; 8:45 am]

BILLING CODE 6718-03-M

[Docket No. FEMA-6580]

44 CFR Part 65

Changes in Special Flood Hazard Areas Under the National Flood Insurance Program; Montana

AGENCY: Federal Emergency Management Agency.

ACTION: Interim Rule.

SUMMARY: This rule lists those communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) elevations for new buildings and their contents and for second layer insurance of existing buildings and their contents.

DATES: These modified elevations are currently in effect and amend the Flood Insurance Rate Map (FIRM) in effect prior to this determination.

From the date of the second publication of notice of these changes in a prominent local newspaper, any person has ninety (90) days in which he can request through the community that the Administrator, reconsider the changes. These modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base (100-year) flood elevation determinations are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table. Send comments to that address also.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Risk Studies Division, Federal Insurance Administration, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The numerous changes made in the base (100-year) flood elevations on the Flood Insurance Rate Map(s) make it administratively infeasible to publish in this notice all of the modified base (100-year) flood elevations contained on the map. However, this rule includes the address of the Chief Executive Officer of the community where the modified base (100-year) flood elevation determinations are available for inspection.

Any request for reconsideration must be based on knowledge of changed conditions, or new scientific or technical data.

These modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 65.4.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations, together with the flood plain management measures required by 60.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time, enact stricter requirements on its own, or

pursuant to policies established by other Federal, State or regional entities.

The changes in the base (100-year) flood elevations listed below are in accordance with 44 CFR 65.4

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance, Flood plains.

State and County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No
Montana: Cascade	Unincorporated Areas	*Great Falls Tribune*, Jan. 3, 1984; Jan. 10, 1984.	Chairman Jack T. Whitaker, Board of Commissioners, Cascade County, Courthouse Annex, Room 111, Great Falls, Montana 59401.	Dec. 28, 1983	[illegible]
Oklahoma: Oklahoma	Edmond, City	*Edmond Sun*, Nov. 25, 1983; Dec. 2, 1983.	Honorable Carl F. Reherman, Mayor of Edmond, P.O Box 1260, Edmond, Oklahoma 73034.	Nov. 17, 1983, Letter of Map Revision	400252A
Canadian, Cleveland, McClain, Oklahoma, Pottawatomie	Oklahoma City, (City)	*Oklahoma Advertiser*, Jan. 5, 1984; Jan. 12, 1984.	Honorable Andrew Coats, Mayor of Oklahoma City, 200 North Walker, Suite 302, Oklahoma City, OK 73102.	Dec. 29, 1983, Letter of Map Revision	405378C
South Dakota: Pennington	Town of New Underwood	Dec. 23, 1983; Dec. 30, 1983, *Rapid City Journal*.	Honorable I. L. Oliff, Mayor, Town of New Underwood, Box 278, New Underwood, South Dakota	Dec. 16, 1983	[illegible]
Texas: Dallas and Tarrant	Grand Prairie, City	*Grand Prairie Daily News*, Jan. 4, 1984; Jan. 11, 1984.	Honorable Anne Gresham, Mayor of Grand Prairie, P.O. Box 11, Grand Prairie, TX 75051.	Dec. 28, 1983, Letter of Map Revision	[illegible]
Dallas	Irving, City	*Daily News*, Nov. 25, 1983, Dec. 2, 1983.	Honorable Bobby Joe Raper, Mayor of Irving, P.O. Box 2288, Irving, TX 75061	Nov. 17, 1983, Letter of Map Revision	[illegible]
Tarrant	North Richland Hills, City	*Mid-Cities Daily News*, Jan. 4, 1984; Jan. 11, 1984.	Honorable Dick Faram, Mayor of North Richland Hills, P.O. Box 18609, North Richland Hills, TX 76118	Dec. 28, 1983, Letter of Map Revision	[illegible]

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Administrator, Federal Insurance Administration)

Issued: January 4, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84-911 Filed 1-12-84; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 96

Low Income Home Energy Assistance Reallotment Report; Adjustment of Annual Median Income for Household Size

AGENCY: Office of the Secretary, HHS.

ACTION: Correction of Interim Rule.

SUMMARY: In the preamble to the interim regulations which appeared in the **Federal Register** of November 16, 1983 (48 FR 52059), we inadvertently omitted the effective date.

That regulation provided a method as required by statute for adjusting median income by family size and clarified a requirement for a reallotment report.

This document supplies the correct effective date.

FOR FURTHER INFORMATION CONTACT: Laurence Love (202) 245–2000.

SUPPLEMENTARY INFORMATION: We found that we inadvertently omitted the effective date in the preamble to the interim regulations. In order to correct the omission we are now adding the effective date. Accordingly, we are correcting the DATES section of the preamble to include the effective date of these regulations. The DATES section should read as follows:

DATES: These interim regulations are effective November 16, 1983. Consideration will be given to written comments received on or before January 16, 1984.

(Catalog of Federal Domestic Assistance Program No. 13.818 Low Income Home Energy Assistance)

Dated: January 6, 1984.

Robert F. Sermier,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 84-814 Filed 1-12-84; 8:45 am]

BILLING CODE 4190-11-M

LEGAL SERVICES CORPORATION

45 CFR Part 1627

Subgrants, Fees and Dues; Correction

AGENCY: Legal Services Corporation.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule governing subgrants, fees and dues which appeared at pp. 54206–10 in the **Federal Register** of November 30, 1983. This action is necessary to conform the text of this final rule to the text adopted by the Legal Services Corporation Board as reflected in the minutes of the November 7, 1983 meeting. It allows any subgrant expiring before March 1, 1984 to be extended to March 1, 1984, rather than limiting this extension to subgrants expiring between January 1 and March 1, 1984.

EFFECTIVE DATE: December 30, 1983 (unchanged).

FOR FURTHER INFORMATION CONTACT: John C. Meyer, Deputy General Counsel, 733 15th Street NW., Washington, D.C. 20005; telephone 202–272–4010.

The following correction is made in FR Doc. 83–31937, appearing on pp. 54206–10 in the issue of November 30, 1983; in § 1627.3 on p. 54209, subparagraph (a)(4) in column 2 is corrected by deleting "between January 1 and" and substituting "before" in line 3. Thus the corrected portion of the subparagraph reads: "Any subgrant which is a continuation of a previous

subgrant and which expires before March 1, 1984 may be extended until March 1, 1984, if a new subgrant agreement is submitted for approval to the Corporation by January 15, 1984 * * *."

Dated: January 9, 1984.

Alan R. Swendiman,

General Counsel.

[FR Doc. 84-954 Filed 1-12-84; 8:45 am]

BILLING CODE 6820-35-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[Docket No. 19142; RM-1569; RM-3333; FCC 83-603]

Children's Television Programming and Advertising Practices

AGENCY: Federal Communications Commission.

ACTION: Report and Order; Policy Statement.

SUMMARY: In resolving the issues raised by the Notice of Proposed Rule Making in this proceeding concerning children's television, the Commission continues to recognize the obligation of the broadcaster to serve children. It concludes that given the totality of video programming sources and their offerings for children, constitutional concerns regarding interference with the exercise of a licensee's programming discretion, and regulatory anomalies that often result from inflexible standards, specific quantification rules are undesirable. The Commission continues, however, to recognize the special obligations of broadcasters to serve the child audience.

FOR FURTHER INFORMATION CONTACT: Freda Lippert Thyden: Mass Media Bureau (202) 632-7792, and Brian Fontes: Mass Media Bureau (202) 632-6302.

Report and Order; Proceeding Terminated

In the matter of Children's Television Programming and Advertising Practices (Docket No. 19142, RM-1569, RM-3333).

Adopted: December 22, 1983.

Released: January 4, 1984.

By the Commission: Commissioner Rivera dissenting and issuing a statement at a later date; Commissioner Patrick not participating.

1. Now before the Commission for consideration are the comments filed in response to the *Notice of Proposed Rule Making* ("*Notice*") in the above-captioned proceeding concerning television programming for children.[1] The *Notice* is the most recent step in a thirteen year inquiry into television programming and advertising addressed to children.

History of the Proceeding

2. In 1970, Action for Children's Television ("ACT") submitted a petition proposing a rule requiring commercial television broadcasters to provide, on a weekly basis, minimum amounts of age-specific programming for children. In 1971, we adopted our *First Notice of Inquiry* to explore and define the fundamental issues in children's television.[2] A Children's Television Task Force ("Task Force") was setup at that time to help achieve these goals. We concluded the inquiry in 1974 with the issuance of a *Report and Policy Statement* ("*Policy Statement*").[3] The *Policy Statement* specifically asked commercial television licensees to: (1) Make a "meaningful effort" to increase the amount of programming for children; (2) air a "reasonable amount" of programming for children designed to educate and inform and not simply to entertain; (3) air informational programming separately targeted for both preschool and school-age children; and (4) air programming for children scheduled during weekdays as well as on weekends. Commercial television broadcasters also were expected to: (1) Limit the amount of advertising in children's programming;[4] (2) insure an adequate separation between program content and commercial messages; and (3) eliminate host-selling and tie-in practices.[5]

3. On appeal, the U.S. Court of Appeals affirmed the *Report and Policy Statement.*[6] The Court held that the Commission's decision to provide policy guidelines and not to adopt specific regulations governing advertising and programming practices for children's television was a reasoned exercise of its broad discretion.

4. In 1978, the Commission re-established the Children's Television task Force to inquire into the effectiveness of broadcast industry self-regulation under the *Report and Policy Statement.*[7] The Task Force was to inquire into children's programming and advertising practices and investigate the impact of new technologies and alternative sources of programming on the availability of children's programming. The Task Force presented its report to the Commission on October 30, 1979. It concluded that broadcasters had not complied with the programming guidelines of the *Policy Statement* but, in general, had complied with the advertising guidelines.[8]

5. In coming to its conclusion concerning programming, the Task Force examined the amount of time commercial broadcasters devoted to children's programs during the 1973-74 broadcast season, the season prior to the *Policy Statement's* adoption, and the 1977-78 season, the most recent complete broadcast season at the time its report was written.[9] This study revealed a 7.2% increase in the overall amount of time commercial broadcasters devoted to children's television programming. Although an increase was noted, the Task Force nonetheless determined that licensees had not complied with the guideline for overall amount of children's programs because: (1) The increase in the average per-station amount of time devoted to children's programs was due to the increased broadcast of syndicated programs carried on independent stations; (2) independent stations exist primarily in large markets; (3) network affiliates' time devoted to children's programs remained essentially the same between the two broadcast seasons; and (4) reliance on syndicated rather than local programming increased at both independent and network-affiliated stations. The Task Force also concluded that: (a) No significant increase had occurred in the number of educational and instructional programs aired for children; (b) licensees had not made an effort to air age-specific programs; and (c) the proportion of children's programs

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[1] 75 F.C.C. 2d 138 (1980), 45 FR 1976 (published January 9, 1980).

[2] 28 F.C.C. 2d 368 (1971), 36 FR 1429 (published January 29, 1971).

[3] 50 F.C.C. 2d 1 (1974), 39 FR 39396 (published November 6, 1974).

[4] The broadcast industry adopted advertising restrictions that were endorsed by the Commission in the *Policy Statement*. Both the National Association of Broadcasters ("NAB") and the Association of Independent Television Stations ("INTV") planned a phased-in reduction that by January, 1976, would restrict advertisements to 9 minutes and thirty seconds on weekends and 12 minutes during the week.

[5] The *Policy Statement* was reaffirmed on reconsideration. 55 F.C.C. 2d 691 (1975).

[6] *Action for Children's Television v. F.C.C.*, 564 F.2d 458 (D.C. Cir. 1977).

[7] *Second Notice of Inquiry* in Docket No 19142, 68 F.C.C. 2d 1344 (1978), 43 FR 37136 (published August 21, 1978).

[8] A summary of the Task Force's conclusions and recommendations is contained in Appendix A, along with a summary of comments initially filed in response to the 1980 *Notice of Proposed Rulemaking*, 75 F.C.C. 2d 138 (1979), 45 Fed. Reg. 1976 (published January 9, 1980).

[9] Television Programming for Children: A Report of the Children's Television Task Force, Federal Communications Commission, Vol. IV, October, 1979.

scheduled on the weekend had decreased somewhat but nearly half of children's programs were still shown on weekends.

6. In the opinion of the Task Force, the economic incentives of the advertiser-supported broadcasting system do not encourage the provision of specialized programming for children. Advertisers desire the largest possible audience of potential buyers for their advertised products, but young children have an influence on decisions to buy only a relatively few advertised products. Thus, the amount of money spent on children's advertising appears to be small relative to the amount spent advertising to adults. The Task Force believed that the small numbers of children and the limited appeal of the children's market to advertisers, combined with the small number of outlets in most markets, create incentives for the commercial television system to neglect the specific needs of the child audience.[10]

7. As a result of the Task Force Report, the Commission adopted the *Notice of Proposed Rule Making* herein. The *Notice* contained the following five options for possible Commission action:

(1) Rescind the *Policy Statement* and find that commercial television broadcasters no longer have any specific obligation to serve the child audience. Instead, reliance would be placed on other program sources.

(2) Because of concerns about the constitutional limits to Commission authority, maintain or modify the *Policy Statement*.

(3) Adopt mandatory programming rules on an interim basis.

(4) Adopt quantitative renewal processing guidelines for children's programming.

(5) Increase the number of video outlets per market to increase the amount and diversity of programming serving children.

8. In response to the *Notice of Proposed Rule Making*, voluminous comments were filed in the summer of 1980. A broad range of interests made their views known and indicated their concerns. Broadcast associations, networks, licensees, advertising groups and program producers and distributors represented the broadcast industry. Public interest and media organizations, educational associations, religious groups and individuals represented nonindustry views.

9. A thorough discussion of the comments filed in response to the *Notice of Proposed Rule Making* appears in Appendix A of this document. Nevertheless, it is appropriate at this juncture to briefly discuss the commenters' rebuttal to the Task Force's conclusion that broadcasters had failed in making a meaningful effort to increase the amount of programming for children. By its own extensive study, the National Association of Broadcasters ("NAB") confirmed the data developed in the Task Force report. It disagreed, however, with the conclusion drawn from these results. NAB argued that the Task Force report, in fact, showed a significant increase in the amount of time devoted to children's programs in the top 52 markets which account for 66.6% of the total 2–11 year old population. Further, NAB noted that if public broadcasters were included, the average amount of time per week devoted to children's programs would increase from 11.23 hours to 15.09 hours. Thus, NAB, as well as the networks, argued that a substantial amount of programming is available to children.

Recent Proceedings

10. On March 28, 1983, the Commission reopened the children's television proceeding.[11] We sought to update the record to enable us better to resolve the important questions raised by the *Notice*. Therefore, we held an *en banc* meeting on April 26, 1983, to hear oral presentations from 24 participants and permitted the submission of additional written comments from interested parties.[12]

11. As in 1980, presentations (oral and written) were made on behalf of the broadcast industry, as well as non-broadcast interests. Commercial broadcasters continue to acknowledge their "public service obligation" to develop and present programs which serve the unique needs of the child audience. To support the proposition that such programming in fact has been and will continue to be aired, the networks and the National Association of Broadcasters exhibited videotapes of past and future programs of interest to children. Broadcasters continue to believe that responsible self-regulation and reliance upon marketplace forces are the most effective means of meeting their obligation to the child audience. According to ABC, the most important development that has occurred since comments were last submitted (1980) in this proceeding has been the steady progress of marketplace changes that continue to enhance the overall diversity and availability of children's programming. It is alleged that a veritable explosion is occurring in the use of various visual and audio devices to be used with or in addition to the home television receiver. Broadcasters submit that videocassettes and discs make available a wide range of programming directed to children. They assert that the playback and "time-shift" capability of this technology offers new and exciting possibilities for tailoring programming to the needs of children. In addition, these parties note that the number of children's features available on basic and pay cable services,[13] as well as the number of children's programs offered by public broadcasting,[14] has grown substantially in recent years.

12. Broadcasters also direct our attention to those Commission actions taken in the last two years that individually and cumulatively offer the opportunity for more and diverse children's and other specialized programming: (1) the authorization of a direct broadcast satellite ("DBS") service; (2) the authorization of a new low power television service; and (3) the further deregulation of the subscription television ("STV") service. The industry also notes that other technologies, such as Multipoint Distribution services, Satellite Master Antenna TV, Teletext and Videotext, undoubtedly will give rise to still more ways in which children receive programming. Therefore, the parties conclude that commercial television should not be viewed in isolation.

13. While there was some minor disagreement as to whether the *Policy Statement* should be clarified, phased-out or eliminated, the industry generally oppose a more expansive regulatory approach. The parties contend that rules are unnecessary because: (1) The youth audience has been well served by television;[15] (2) there is no factual basis

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[10] Television Programming for Children: A Report of the Children's Television Task Force. Federal Communications Commission, October 1979. Vol. II.

[11] 48 FR 18660, published April 26, 1983.

[12] *See* Appendix B for a listing of those who made oral presentations and Appendix C for a listing of parties filing supplemental comments.

[13] The Disney Channel, a pay cable service, which debuted earlier this year joined other children's programming initiatives such as Nickelodeon, Calliope and Carousel, offered by Warner Amex, USA Cable and Showtime, respectively.

[14] CBS submits that it is in no sense an abdication of the responsibilities of commercial broadcasters to point out the special role of public television in this area. It argues that public stations were established to serve needs that may not be fully met by the commercial system.

[15] Most of these parties give a detailed description in their written comments updating their efforts in programming for children. They also argue that the Task Force survey seriously understated the children's programming available in the markets selected for study.

for the imposition of mandatory programming rules with respect to children's television;[16] (3) the adoption of rules compelling the presentation of mandated amounts of particular types of programming at specified times would be arbitrary, as well as an infringement of the editorial discretion of broadcasters in violation of the first amendment and the Communication Act,[17] and (4) more hours of children's television actually might mean less in the sense that increased quantity may precipitate a decrease in the quality of such programming.

14. ABC and Forward Communications suggest that we issue a general reaffirmation of the principles of the *Policy Statement*, clarify licensee obligations under the *Policy Statement* based upon a more realistic assessment of practical conditions and public interest needs, and adopt a regulatory program looking toward a gradual phase-out of the *Policy Statement* commensurate with marketplace developments. They contend that emphasis should be placed upon broad affirmative licensee responsibilities. The obligation to serve children should be coupled with a renewed emphasis on licensee discretion. They further recommend that *Policy Statement* language suggesting a special status for "educational" or "instructional" children's programming should be deleted. It is argued that entertainment-oriented features often can be highly effective in serving children. Further, certain family-oriented program material, not primarily designed for children, but nevertheless having special appeal to youthful viewers, should be recognized as reflective of a broadcaster's overall effort in this area. The Commission is also asked to discard the concept of subgroupings of the child audience. It is argued that broadcasters and the marketplace should be permitted to develop the appropriate mix of school-age, teenage and pre-school programming. ABC and Forward Communications Corporation recommend a gradual phase-out of the *Policy Statement* and a total reliance upon marketplace forces. The American Association of Advertising Agencies, Inc. ("AAAA"), submits that because industry self-regulation is proving itself a most effective means of serving the interests of children, there is no basis upon which to support either a continuation of the *Policy Statement* or promulgation of additional policies or guidelines in this regard.[18]

15. Public television representatives do not address the question of regulating children's TV. Rather, they express their commitment to children's programming but submit that all broadcasting, not just the public sphere, is responsible for serving children. To improve the relationship between television and education, John Murray of Boys Town suggests the establishment of a National Endowment for Children's Telecommunications which would be largely supported by public and private philanthropy through a consortium of foundations, professional organizations and the broadcast industry.[19]

16. Generally, non-industry interests request that the Commission adopt rules relating to children's television programming and advertising practices, as well as establish license renewal guidelines. They would have the Commission require: (1) More programming designed for children; (2) the scheduling of children's programs throughout the week; (3) the presentation of programs designed for specific age groups of chidren; [20] and compliance with the advertising standards set forth in the 1974 *Policy Statement*. According to these organizations, the rationale for regulating children's television is fourfold: (1) Industry "backsliding;" (2) the abolition of the NAB Code; (3) the adoption of the short-form renewal; and (4) *Policy Statement* standards which are too broad to be enforceable.

17. In challenging the concept of industry self-regulation, commenters assert there has been a decline in the amount and availability of programming for the child audience. Of particular concern to ACT is the lack of regularly scheduled weekday children's programs. Also, WATCH submits there has been an overall reduction in the diversity of shows for children. It also argues that the demise of "regulation by raised eyebrow" has removed the major incentive for broadcasters to serve children.

18. Commenters are quite concerned that the abolition of the NAB Code will result in overcommercialization during the broadcast of children's programs.[21] They argue that the Commission took no regulatory action in regard to advertising standards for children because the broadcast industry adopted commercialization limits for children's television. Without this Code, it is submitted, overcommercialization again may appear. Therefore, commenters assert a rule limiting commercial material during children's programs should be adopted.

19. Public interest groups also argue that the "new" simplified renewal application is yet another reason for regulating children's programming. In March 1981, the Commission reduced the broadcast license renewal application (Form 303) from a document requesting, among other things, information on children's television, to a postcard format (simplified renewal application) consisting of five questions, none of which concern children's programming.[22] Commenters argue that without industry-wide data comparable to that previously gathered by means of the renewal application, the Commission cannot monitor how well licensees and the marketplace serve children. Further, without this data, it is alleged, the public is without the necessary information to assist the Commission in ascertaining whether its licensees are meeting their public interest responsibilities.

20. Two commenting parties, Citizens Communications Center ("CCC") and WATCH are concerned particularly with what they consider to be vague standards governing children's programs. CCC asserts that the precise numerical standards used in rules are not nearly as important as the need for some consistently applied quantitative measure that would provide certainty and guidance to the industry and the public. CCC cites *FCC v. Pacifica Foundation* [23] as holding that the

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[16] CBS, as well as other parties, submit that throughout the week, television offers a wide variety of programs defined by the Commission as "children's programs," as well as many other programs recognized by parents, educators and critics as highly worthwhile for young audiences.

[17] These parties also contend that expanded renewal reporting in the area of children's programming would not only fail to achieve any legitimate public interest objective, but it would directly undermine the basic regulatory purpose behind the current short form renewal application.

[18] The AAAA submits that children have strong likes and dislikes and will not repudiate their favorite programs. In fact, it argues that most programs watched by children are not produced for them.

[19] The National Education Association recommends the creation of a Temporary Commission on Children's Television to provide a forum for dialogue in a nonadversarial atmosphere.

[20] WATCH recommends that the Commission require each station to air 5 hours of programming per week for pre-school children and 2¼ hours per week for elementary school age children.

[21] In March 1982, the U.S. District Court for the District of Columbia found that certain provisions of the NAB Code could violate the Sherman Antitrust Act. A consent decree through which NAB agreed to stop enforcing all the challenged provisions was then entered (November 1982). *United States v. National Association of Broadcasters*, 536 F. Supp. 149 (D.D.C. 1982). Soon after this final judgment, NAB abolished the entire Code.

[22] *Revision of Applications for Renewal of License*, 46 Fed. Reg. 26236, published May 11, 1981. Five percent of all license renewal applicants are randomly selected each renewal period and required to fill out an Audit Form (FOC Form 303–C) that contains questions on, among other things, children's programming and advertising practices.

[23] 438 U.S. 726 (1978).

governmental interest in the well-being of its youth justifies restrictions on broadcasters' first amendment rights. It submits that the Commission's authority to establish and favor program categories has been upheld in the face of first amendment challenges.[24] CCC further asserts that the establishment of mandatory minimal percentages is not consitutionally suspect because it does not prohibit the broadcast of other programming by station licensees. Thus, it would provide the public with additional information rather than repressing existing sources. Any "chilling effect" upon broadcasters' ability to provide other programming is seen as minimal. CCC also submits that the first amendment benefits to the public clearly outweigh the broadcasters' first amendment claims.

21. In reply comments, ABC argues that the request for mandatory standards regarding advertising for children goes beyond the established parameters of the current proceeding. It further assert that the elimination of the NAB Code has not impaired the implementation of its own more vigorous children's television standards, and contends that expanded renewal reporting in the area of children's programming not only would fail to achieve any legitimate public interest objective, but would undermine the basic regulatory purpose behind the current short-form renewal application.

22. In reply to comments made by the broadcast industry, ACT argues that the responsibility for children's television programming rests squarely on the shoulders of each broadcast licensee. Therefore, relying on other sources of children's programming is contrary to the law and antithetical to the interests of children. Under the theory of "market" responsibility, maintains ACT, the fact that some stations serve children would act as a disincentive to any expansion of children's programming.[25] Furthermore, this approach would destroy licensee accountability to the public and to the Commission. ACT further argues that shifting responsibility for children's programming to public broadcasting would have an adverse effect on the diversity of children's programming. Nor, in ACT's view, should this responsibility be shifted to the new technologies. First, consumers would incur substantial costs (installation and monthly charges) to subscribe to these services. Second, because these new technologies are not subject to the public interest standard of the Communications Act, there is no guarantee that they will serve children. ACT argues that the question is not what kinds of children's programming are being offered, or how good such programs are, but rather how much time is allocated to children's programming, and when such programs are scheduled. ACT acknowledges that family programming may be appropriate for child viewers and be enjoyed by them. However, it contends that family programming is not designed specifically for children and thus does not necessarily meet their special needs.

Discussion

23. In attempting to resolve the issues in this proceeding it is appropriate that we turn first to the recommendations of the Children's Television Task Force. The Task Force, believing that greater attention to the needs of the child audience was desirable, focused on three broad options to improve the situation: (1) Mandatory programming requirements, (2) increased governmental funding (or other incentives) for the production and distribution of such programming, and (3) increasing the number of video outlets so as to improve the commercial incentives for serving subgroups in the audience and to increase the available distribution paths for children's programming. The recommended mandatory programming requirement could be enforced either through a specific rule or through processing guidelines applied to the renewal of station licenses. The Report focused on the amount of programming available on a per station basis and found that amount inadequate. It reviewed briefly the jurisdictional and constitutional objections to the adoption of mandatory program requirements and found them not to preclude the adoption of requirements and it recommended that such requirements be adopted.[26]

24. Our weighing of what we think are the relevant considerations in this proceeding lead us to believe that the recommended mandatory programming obligations are undesirable and should not be adopted. The other recommendations of the Task Force, relating to public funding for the production and distribution of informational and instructional children's programming and for the creation of additional video outlets and commercial funding mechanisms, we agree with fully. While issues relating to public funding are beyond our jurisdiction, we have moved aggressively to create new video outlets.[27]

25. In reaching our decision in this matter it should be made clear at the outset that we recognize the special character of the child audience, including particularly the younger portion of that audience. Television programming is undoubtedly an influential factor in childhood development, and economic factors relating to the distribution of advertiser supported programming for children are likely to vary somewhat from those associated with the distribution of programming for adults. In these respects we are not in fundamental disagreement with the findings of the Task Force and with the views of most of the commenting parties in this proceeding.

Availability of Children's Programming

26. In several important respects, however, we disagree with the predicate upon which the Task Force based its recommendations and on which many parties base arguments supporting mandatory programming requirements. The first of these disagreements relates to the issue of the actual availability of programming for the child audience. In particular, we find the Task Force conclusion erroneous for its failure to properly consider: (1) The growth in number of commercial stations and their increased receivability; (2) programming on noncommercial stations; (3) cable program services; and (4) child viewing of "family" oriented television. These

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[24] Cited in support of this position is *National Association of Independent Television Producers and Distributors v. FCC*, 516 F. 2d 526 (2d Cir. 1975), in which the court upheld the Commission's decision to permit exemptions to the prime time access rule ("PTAR") for licensees choosing to offer network news, public affairs or childrens's programming in the PTAR time slots.

[25] Under the "market" theory, the *Policy Statement* would be applied on a market basis so that programming responsibility could be shared. Therefore, if one station in a market was providing children's programming, there would be no reason for all stations in that market to provide parallel programming.

[26] The Task Force believed that the advertising guidelines in the Policy Statement had been complied with and therefore recommended no changes in this area. Because of this, the Commission specifically stated in the *Notice of Proposed Rule Making* that policies regarding advertising were not in question in this proceeding. Accordingly, we regard requests for changes in these policies to be beyond the scope of this proceeding.

[27] The Task Force specifically urged a relaxation of the subscription television rules. The paucity of options for direct viewer payments for programs, it was suggested, limited audiences in expressing the intensity of their preferences for particular types of programs. This, it was believed, decreased the availability of programming for children. The Commission's *Third Report and Order in Docket 21502*, 47 FR 30089 (1982) eliminated all of the subscription television restrictions with which the Task Force had expressed concern.

failures undermine the conclusions drawn by the *Report*. The second disagreement concerns practical, legal and policy problems with our ability to adopt and enforce programming obligations.

27. With respect to the first of these concerns, the Task Force focused its attention on the amount and scheduling of children's programming by the average commercial station. Based on this focus, it found a need for a more aggressive regulatory stance to replace that previously followed. In our view, the Task Force's focus in this regard was too narrow. We must, of course, exercise our regulatory authority with respect to individual licensees. The objective of the Commission's involvement, however, is to assure that the telecommunications system as a whole is responsive to the needs of the public. It is therefore appropriate to look to that system as a whole in reviewing developments relating to the accessability of programming for the child audience.

28. The data developed by the Task Force reveal a 7.2 percent increase, during the years studied (1973–74 and 1977–78), in the amount of time commercial broadcast stations, on average, devoted to children's programming.[28] Not focused on, however, was the fact that the total number of stations licensed was increasing. During the time since this docket was commenced, the total number of licensed commercial stations increased from 668 (1971) to 844 (1983), an increase of approximately 25 percent.[29] Moreover, the reach of these stations was being constantly increased through more efficient operations (increased power and antenna height), through reductions in the UHF handicap, and through increased cable television carriage. Summary data show the average television household now receives 9.8 signals, an increase of 3 (44 percent) since 1970. Thus, not only was the average output of children's programming per station increasing but the average number of stations accessable to the child viewer was increasing as well.

29. Even this broader focus, which includes the totality of programming from all commercial stations, however, is unduly narrow since it excludes from the product available to the child audience that which by almost any measure must be the most significant programming—that produced and distributed by the public broadcasting system. This system was created precisely for the purpose of supplementing the commercial broadcasting system and in specific recognition of the desirability of providing public support to increasing the availability of programming that might not be fully supported by commercial incentiyes. The public broadcasting system has recognized this mandate with respect to the broadcasting of children's programming and its successes in this field have been broadly recognized. The Corporation for Public Broadcasting has recently recognized children's programming as the number one priority in its Program Fund guidelines.[30] We do not expect the public broadcasting system to bear the sole responsibility for meeting the needs of the child television audience or its existence to provide an excuse for the failings of the commercial broadcasting system. But we do not believe it appropriate to exclude its output from consideration as a significant factor in measuring the extent to which the needs of this audience are being served. The Commission has reserved channels in its television broadcast table of allotments for the specific use of noncommercial broadcasting stations so that the public would have access to the kinds of informational, instructional, and cultural programming that these stations deliver. Today, almost 300 stations—more than a quarter of all the licensed television stations—are of the noncommercial variety. The Public Broadcasting System, during the 1982–83 season provided stations in the public broadcasting system, reaching over 90 percent of all television households, with some 2,050 hours of children's programming.[31]

30. An additional important component of the national children's television programming market consists of the programming available to the child audience from nonbroadcast sources, including in particular that programming available over the facilities of cable television systems At the time this proceeding was commenced, cable television served a relatively limited segment of the population, and its function was almost entirely the retransmission of over-the-air televison broadcast signals. Cable television now passes some 54 percent of all homes and cannot be avoided in any assessment of the accessability of programming to the child audience. The most popular of the cable television delivered children's programming services, "Kidstime," reaches some 18 million subscribers or about 20 percent of all television households. Millions of households have access to other children's program services by cable as well, including "Nickelodeon," (14 million subscribers) and the recently inaugurated Disney Channel which already reaches over 300,000 subscribers. Some programming on the major pay cable television program services, such as Home Box Office, is also directed to the child audience.[32]

31. In addition to excluding from its principal focus programming available from public television and from non-broadcast sources, the Task Force also focused, in a definitional sense, on only a portion of the totality of programming that is viewed by and is responsive to the needs and interests of the child audience. That is, its concern was principally with that programming defined in the Commission's rules as

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[28] Task Force Report, Volume 4, p. 39. This increase, significantly, resulted largely from a 36 percent increase in the children's programming broadcast by independent stations. This is highly supportive of one basic thesis of the Task Force Report; namely, that the growth of alternative video outlets would result in market segmentation and a resultant greater attention to specific subgroups within the audience such as the child audience. There are now independent stations in 86 different markets serving 78 percent of all TV households.

[29] The changes that have taken place in the video marketplace over the course of the last decade are set forth in some detail in the Commission's *Tentative Decision and Request for Further Comment in BC Docket 82–345*, 48 FR 38020 (1983). We recognize, of course, that the Task Force itself was addressing a narrower time period but believe the broad trends involved are more clearly reflected in data covering the longer period.

[30] September 15, 1983, resolution of the Board of Directors of the Corporation for Public Broadcasting.

[31] Status Report of Public Broadcasting 1980, Corporation for Puvlic Broadcasting; Public Television Programming by Category (FY–1982) prepared by Research and Programming Services, Corporation for Public Broadcasting contracted project, 1983. *See also*, Nielsen Television Index, Special Analysis for Corporation for Public Broadcasting, 1983. It is worth noting that when the reservation of channels for noncommercial stations was first proposed, a suggestion was made that, as an alernative, each commercial station should be forced to make a certain amount of time available "for educational purposes in the public interest as a sustaining feature." While refusing to accept the existence of educational stations as an excuse for commercial stations not complying with their obligations to the community, the Commission did reject this alternative proposal. The Commission both questioned the legal basis for such a rule and found it impractical stating: "A proper determination as to the appropriate amount of time to be set aside is subject to so many different and complex factors, difficult to determine in advance, that the possibility of such a rule is most questionable." *Sixth Report and Order in Dockets 8736 et al.*, 41 FCC 148, 163–4 (1952).

[32] Satellite Services Report, National Cable Television Association, December, 1983. A recent description of some of the children's program services offered on cable television systems (as well as of programs available from commercial networks, public television, and from syndication) may be found in Aimee Dorr "A Guide to the Best TV Shows for Children," *TV Guide*, Dec. 17, 1983, p. 4.

children's programming.[33] This definition covers only programs "originally produced and broadcast primarily for a child audience twelve years old and under." Explicitly excluded from coverage are programs that might be appealing to children and significantly viewed by them but which were, when produced, intended for a broader audience as well.[34] This exclusinon of what has been broadly referred to as "family" programming, clearly resulted in an unduly narrowed definition of the programming of interest and value to the child audience. While the necessity of defining the scope of the statistical studies undertaken required some definitional cutoffs, it seems clear that by using limitations that excluded programs such as "The Wonderful World of Disney," [35] that relevant programming of value could not be fully comprehended by the study. The problem, however, is more than just a statistical anomaly. Such a definitional limitation serves to encourage the broadcasting of programming that is likely, given the dynamics of program selection within the household, to have not only a smaller total audience but a smaller child audience. Moreover, it suggests that positive values should be associated with programs directed to the child audience, whatever the social utility of those programs, while programs specifically designed to bridge age levels and be shared by parents and children are of lesser value on the regulatory scale. We believe it is important to take into account, in assessing the state of children's programming, highly rated family shows that draw both larger child audiences and mixed parent/child audiences. These programs, because they encourage interaction, rather than isolation of children and parents, are a valuable part of the overall program mix.

32. In sum, we cannot conclude that statistical studies of the Task Force or of the other commenting parties in themselves make out a case for increased regulatory concern or involvement. Properly viewed, the adequacy of the programming to which children have access must be based on a consideration of the whole of the video distribution system. Viewing that system broadly and on an overall national basis, we find increases in the children's programming available from the average station, dramatic increases in the number of stations in operation, increases in the availability of these stations through cable carriage and improved station facilities, increased availability of noncommercial programming made possible through the growth of the public broadcasting system, and increased viewing options provided to substantial portions of the population by the operation of cable television systems. In short, there is no national failure of access to children's programming that requires an across-the-board, national quota for each and every licensee to meet. We do not mean to suggest that these developments have satisfied all the demands for programming associated with the child audience or that they satisfy all legitimate regulatory concerns. We do not, however, take the existence of an unsatisfied demand in some situations to be evidence of a national market failure in regards to the production and distribution of children's television programming. In any situation where resources are limited and there are alternative demands placed on those resources, even the most perfectly functioning market will leave demands unsatisfied. Here, however, there is ample evidence of the system as a whole moving to respond to the unmet needs of this audience.

Issues of Law and Policy

33. In addition to having these concerns with the factual predicate on which the recommendations for mondatory programming requirements were based, we also believe there are far more significant legal and practical difficulties associated with such requirements than have been acknowledged by their proponents. Parties urging such requirements have generally presented it as content neutral in terms of program quality. The question of program quality, however, is integral to the public interest issues in this proceeding. Much of the discussion associated with this proceeding by the parties and indeed by the Commission itself has addressed the overall quantity and scheduling of programming created for children. Yet, in fact, much of the actual concern has only to do with the availability of "quality" children's programming, programming that through its educational, intellectual, or cultural content is mentally or developmentally uplifting to the child audience. In fact, nothing in the record of this proceeding suggests that regulation would be desirable merely to force the broadcast of programming more likely to attract children into the television viewing audience and away from other pursuits or that would result in existing child viewers devoting a greater amount of time to viewing television. Indeed, much of the discussion of the need for increased regulatory involvement is intertwined with a more general discussion of whether television viewing is not in itself destructive of healthy child development. Much of the discussion of methods for providing the child audience with greater access to programming specifically produced for that audience is closely juxtaposed with extraordinarily harsh criticisms of much of the very programming that has been specifically designed to attract this audience.[36]

34. Any analysis of the service received by the child audience that is entirely content neutral—which equates hours of television viewing with needs satisfaction—must conclude that this audience is well served. The inadequacy of this type of analysis leads us to conclude that the obligation broadcasters have to serve children cannot be rationally viewed as simply emphasizing a need to broadcast programming that appeals to or is

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[33] *See Memorandum Opinion and Order in Docket 19142*, 53 FCC 2d 161 (1975). For some purposes other definitions were used that had essentially the same thrust. A separate concern with the definition relates to exclusion of teenagers from the child category. Because of this exclusion, Altman Productions, Inc., claiming that a significant regulatory bias against teenage programming has been created, requests rulemaking to eliminate this bias. Others have raised similar concerns. Commissioner Washburn, for example, in his separate statement at the time the 1979 *Notice* was issued suggested that: "The teenage audience is of equal, if not greater importance than preschoolers and grade schoolers." 75 FCC 2d at 158. We have no doubt that the needs of the teenage audience are significant and that this and many other subgroups within the audience merit consideration. There are questions of degree involved, however, and those factors that warrant some special concern for the child audience, even within the existing definition, appear to decrease with age. Moreover, attempts to define audience segments more particularly for regulatory purposes seem to us likely either to unduly involve this agency in scheduling decisions or to result in such inclusive categorization that the whole effort would be meaningless. Thus, we are not disposed to grant the Altman Productions request.

[34] Task Force Report, Volume IV, p. 13.

[35] See statement of Commissioner Washburn, concurring in part and dissenting in part, to the *Notice of Proposed Rulemaking*, 75 FCC 2d at 158.

[36] The filings of ACT and other parties in the early stages of this proceeding found many programs "fostering stereotypes, prejudices and questionable social standards." Weekend programs were found "more objectionable, violent, stereotyped and ad-ridden than family programs by far." Comment summary, *Policy Statement*, 50 FCC 2d at 20 and 21. See also, for example, Peggy Charren, "Children's TV: Sugar and Vice and Nothing Nice," *Business and Society Review*, No. 22, summer 1977. This article references a Michigan State University study that identifies weekend children's programming as "the most violent and most deceitful time block of programming on television." In children's programs, the article states: "Antisocial behavior patterns are often combined with racial and sexual stereotypes." *See also, Television and Behavior: Ten Years of Scientific Progress and Implications for the Eighties*. National Institute of Mental Health. (1982).

produced for children. Certainly no structural or market failure can be found that warrants any special concern in this regard; children watch enough television, and no regulatory initiative need be introduced to get them to watch more. What is of special concern is that attention be paid to the developmental and emotional needs of children. Thus, we are not persuaded that efforts to adopt specific mandatory program hours obligations can achieve their intended objective in the absence of some control over or attention to the issue of quality. The Task Force itself. Concludes, however, that the "fundamental issue of program quality cannot be addressed." Rather it attempted to use the term "educational/instructive"[37] as a proxy for that type of programming which would be socially beneficial to the child audience. It has argued that such a categorization is no more suspect or objectional than other categorization schemes already in existence and used for other regulatory purposes, such as, "news," "public affairs," "documentary," or "nonentertainment" programs.

35. We believe, however that an honest appraisal of the issue here under consideration suggests that the parallels are far from exact. In the categories now in use there is generally abundant room for argument with respect to programming on the fringes of the definition—for example, whether *Real People* is a documentary or entertainment program. But the basic objective of the category is generally not disputed. The arguments presented relate to the programs on the margin. Here, however, it seems relatively clear that any "quality" program—especially if it had some entertainment value and were capable of attracting a significant child audience—would satisfy the basic objective of a children's program requirement. The issue of definition relates not so much to the fringes of the category but to the basic purpose of the category itself.[38] There are, as has been noted elsewhere, programs that are basically entertainment and that are also intended to be shared with an adult audience that nevertheless "teach millions of children each week fundamental truths about human relations and about the essential character of the American people."[39] Both the Commission and the courts have recognized that "judgments concerning the suitability of particular types of programs for children are highly subjective."[40]

36. Because of concerns with problems of this type, we have believed, with only the rarest of exceptions, that selection of programming is a matter that should be decided by station licensees and by the audience through its viewing pattern voting. Program quota systems have been viewed historically as fundamentally in conflict with the statutory scheme of broadcast regulation. The question of whether certain socially desirable objectives in the broadcasting field might be achieved by such fixed program quotas is one that was presented to the legislature as the methodology of broadcast regulation was initially being considered. And the question of whether such programming requirements would be consistent with the system of broadcast regulation actually adopted has arisen periodically since, with in each instance a negative response. As radio broadcasting legislation was first being looked at, Congress considered and rejected proposals to allocate certain percentages of station time or a certain percentages of stations to particular types of programming. H.R. 7357, submitted prior to passage of the Radio Act of 1927, included a provision requiring stations to comply with programming priorities based on subject matter.[41] As the Supreme Court has noted:

> This provision was eventually deleted since it was considered to border on censorship. Congress subsequently added a section to the Radio Act of 1927 expressly prohibiting censorship and other "interfer[ence] with the right of free speech by means of radio communication."[42]

37. Based on the same type of concern, if not this precise legislative history, calls for programming requirements or quotas of one type or another have been repeatedly rejected. Their rejection at times in the past when only a small percentage of the stations now in operation had been licensed, raises significant questions as to how a change in the basic answer could now be justified. As noted above, the Commission rejected specific educational programming quotas when the television station table of assignments was adopted.

38. None of the Commission's or the courts' seminal statements concerning regulatory involvement in station programming went so far as to apply specific program quotas. Neither the 1929 Federal Radio Commission decision in *Great Lakes Broadcasting Co.*,[43] which discussed the expectation that licensees provide a balanced program schedule designed to serve all substantial groups in their communities, nor the famous 1946 "Blue Book," nor

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[37] The *Policy Statement* focused on the terms "educational or informational" while also speaking in terms of "cultural development" and cultivating the mind. 50 FCC 2d at 5–6. There is no existing definition of "informational" programming in the Commission's rules and the Task Force studies found no programs that it designated "educational", although programs in the "instructional" category were found. Task Force Report, Volume 2, page 22, note 22.

[38] Some evidence that issues relating to definitions and program quality are not simply part of a traditional "parade of horribles" brought out for rhetorical purposes only, may be gleaned from some contemporary experience in Australia. Regulatory authorities there, faced with the same kinds of concerns that are the subject of this docket but unconstrained by restrictions equivalent to the First Amendment and faced with far fewer broadcast outlets, have created a childrens program review committee and are developing standards to directly respond to issues of program quality. The program criteria suggest, for example, that programs must be "easily understood and appreciated by children," "fulfil[ ] some special need of children," and "contribute[ ] to the social, emotional or intellectual development of children." Australian Broadcasting Tribunal, *Notice of Proposed Determinaton of Children's Television Standards*, October 24, 1983. Although the words used in the Task Force Report recommendations and those in the Australian proposal are different, they would seem to be attempting to define the same types of programming. See also statement of Commissioner Washburn, concurring in part and dissenting in part, to *Notice of Proposed Rule Making*, 75 FCC 2d at 158: "The demarcation line between "instructional" and "entertainment" programming, in my judgment, is virtually impossible to draw." Justice Marshall, in his dissenting opinion in *FCC v. WNCN Listeners Guild*, 450 U.S. 582, 615 (1981), in discussing the Commission's involvement with different types of program content, states "it is not immediately apparent, for example, why children's programming falls on the "nonentertainment side of the spectrum. . . ."

[39] Statement of Commissioner Washburn, concurring in part and dissenting in part, the *Notice of Proposed Rulemaking*, 75 FCC 2d at 158. The point here, that the real public interest in children's programming involves attracting the child audience to programming that imparts a public interest or pro social message can be accomplished with adult or family programming as well or better than with specifically child programming, may be illustrated with an example. The Task Force Report states that, in the programming data being reviewed, it found the children's program with the highest child viewing, the *Scooby Doo-Dynomutt Show*, was seen by only half as many children as *Happy Days*, an adult program. Thus, for regulatory purposes licensees would receive no credit for *Happy Days*. Yet, it is reported that when the Fonz, the central *Happy Days* character, obtained a library card, many child viewers did likewise. Similarly, an "instructional" child's program with the ability to garner only a modest audience might have less public value than a hogher audience appeal child's "entertainment" program with a social message embedded in it.

[40] *National Association of Independent Television Program Producers and Directors v. FCC*, 516 F. 2d 539, note 21 (1975). The Court goes on to state that "A precise definition is probably unattainable, and, indeed undesirable. No one can set boundaries to the fantasy of a child's world." p. 539.

[41] H.R. 7357, 68th Cong., 1st Sess., section 1(B) (1924).

[42] (footnote omitted). *FCC v. WNCN Listeners Guild*, 450 U.S. 582, 597 (1981).

[43] 3 F.R.C. Ann. Rep. 32 (1929), *rev'd on other grounds* 37 F. 2d 993, *cert. dismissed*, 281 U.S. 706 (1930).

the 1960 program statement with its fourteen program categories, including the first specific reference to programming for children, found it either desirable from a policy perspective or acceptable from a legal perspective to define by hours, schedule, and type any particular programming that should be broadcast to fulfill the public obligations of licensees.[44] Virtually every decision has focused on the tension between the statutory requirement that stations operate and be regulated in the public interest and the clear intention of the statute that the field of broacasting is to be one of free competition, that licensees are to be accorded maximum editorial discretion, and that the Commission is given no supervisory control over programming and is prohibited from engaging in program censorship.[45] The somewhat nebulous nature of the obligations imposed were found, in each case, necessary to accommodate the conflicting requirements of promoting programming diversity and avoiding unnecessary restrictions on licensee discretion.

39. Numerous judicial opinions have also noted that serious First Amendment concerns are raised by such requirements. The courts have had occasion to speak to the issue several times in recent years. In 1978 the Commission refused to adopt quantitative program standards for television broadcasters involved in comparative renewal hearings. The argument was made that the absence of precise, i.e., quantitative, standards raised First Amendment problems. The Court of Appeals responded, stating:

> As to petitioners' First Amendment claims, their approach would do more to subvert the editorial independence of broadcasters and impose greater restrictions on broadcasting than any duties or guidelines presently imposed by the Commission. The Act provides brodcasters with broad programming discretion and prohibits the Commission from exercising the power of censorship.[46]

40. Decisions refusing to adopt mandatory hour or percentage requirements have recognized not just the Constitutional fragility of such requirements but a practical policy component as well. In recent efforts to reform various policies relating to the regulation of radio broadcasting, the Commission noted that it "has not in the past, and will not in the future[,] focus on the total number of minutes or percentage of broadcast time devoted to issue oriented programming," and that "the number of minutes or percentage of broadcasting time devoted to such programming is largely irrelevant." *Memorandum Opinion and Order in BC Docket 79–219*, 87 FCC 2d 797, 809, 819 (1981). The Court of Appeals noted the logic of stressing the importance of factors besides quantity in its review of our decision, acknowledging that quantity alone may not be a measure of whether particular issues are being addressed in a meaningful fashion.[47]

41. More specifically with respect to the issue of children's programming, the Court of Appeals has acknowledged that rigid scheduling and quantity requirements would "not make sense from a policy standpoint." In a statement with which we agree, the Court stated that it failed to see the logic in policies that imply that a regular schedule of cartoons would satisfy the public interest when a more limited schedule of educational specials would not.[48] This raises again the issue of program quality. If it is assumed that station licensees will provide children's programming only involuntarily, then there is no logical way to disassociate quantity and quality. At a given cost, a specific regulatory requirement to respond to the needs and interests of children could be responded to either by the broadcasting of a limited number of more costly programs (more costly either in terms of production cost or lost audience) or a larger number of less costly programs. Although from the point of view of the station enterprise both approaches are equal in cost, rules that require or reward quantity create a strong bias to follow the "more programs lower cost" approach. Were there only a single broadcast outlet involved in each market, this conceivably might be a sensible course from a regulatory perspective. However, it does not appear to be a public interest maximizing approach where more outlets are involved. Proponents of mandatory requirements urge, however, that with mandatory time requirements at least some programming would be available and, having to provide that programming, stations would then have an incentive to make their best efforts to produce attractive programming. While we agree that stations would attempt to maximize their returns within the constraints imposed, the hypothetical example posed by the Court of Appeals—regularly scheduled cartoons receiving more credit than less, frequently scheduled better quality programs—would still seem to be the likely result.

42. A practical concern of another type has been recognized as well. Rigid obligations relating to specific types of programming run contrary to efforts at specialization. As the Children's Television Task Force has suggested, such specialization as is made possible by the development of more programming outlets provides the surest long run chance of providing better service to all segments of society, including children. No sophisticated survey is required to observe that such specialization is occurring. During weekday mornings, independent (as well as public) stations in many markets compete for the child audience. Networks, affiliated stations concentrated on news and public affairs. On weekends, when network stations target the child audience, the independent (and the public) stations do not. As predicted, market segmentation leads to station specialization better serving the needs of the entire viewing public. Program quotas, in the absence of an extraordinarily complicated allocation merchanism, would work fundamentally against effort to align commercial incentives with quality service to the child audience.[49]

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[44] FCC, "Public Service Responsibility of Broadcast Licensees," (1946); *En Banc Programming Inquiry*, 44 FCC 2303 (1960).

[45] See also, separate statements of Commissioners Ferris, Washburn, Fogarty, and Brown to *Notice of Proposed Rule Making*, 75 FCC 2d 138, 153, 156, 165, 168 (1979).

[46] *National Black Media Coalition v. FCC*, 44 RR 2d 547, 551 (D.C. 1978). See also the statement of the Second Circuit Court of Appeals in *National Association of Independent Television Producers and Distributors v. FCC*, 516 F 2d 526, 536 (2nd Cir. 1975), concerning exceptions to the prime time access rules for network distributed children's programs, that "it may be that *mandatory* programming by the Commission even in categories would raise serious First Amendment questions." This statement was echoed by the District of Columbia Circuit Court of Appeals in its recent decision in the radio deregulation proceeding, *Office of Communications of the United Church of Christ v. FCC*, 707 F. 2d 1413, 1430 (D.C. Cir. 1983). In its "format" regulation decision, *WNCN Listeners Guild v. FCC*, 610 F. 2d 838, 850–51 (D.C. Cir. 1979), the Court stated, "There would no doubt be severe statutory and constitutional difficulties with any system that required intrusive governmental surveillance [or] dictated programming choices. . . ." These decisions harken back to the Supreme Court's opinion in *FCC v. Sanders Brothers*, 309 U.S. 470 (1940) stating that the Communication's Act "does not essay to regulate the business of the licensee. The Commission is given no supervisory control over programs. . . ."

[47] *Office of Communication of the United Church of Christ v. FCC*, 707 F. 2d 1413, 1433 (D.C. Cir. 1983).

[48] *Washington Association for Television and Children v. FCC*, 712 F. 2d 677, 684 (D.C. Cir. 1983).

[49] Commercial broadcasting is guided by both regulatory and commercial requirements. The fundamentally commercial nature of the commercial broadcasting system, however, can only be ignored at great risk. It would be possible, as many have suggested, to correct advertising problems associated with the child audience through commercial time limitations or prohibitions, to correct scheduling problems through time of day requirements, to address age needs through program divisions, to respond to existing or regulation

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Regulations running against the grain of station specialization would reduce market incentives for the production of programming for specialized audiences. They would also place the Commission in a position of having to involve itself with specific choices among preferred types of programming. We do not feel, for instance, that we should declare that children's programming in the 7:00–8:00 a.m. hours is inherently preferable to that time being used for news programs.[50]

43. We thus find ourselves precisely caught between the apparent possibility of accomplishing an extremely important and socially desirable objective and the legislative and Constitutional mandate and the values on which they are based which forbid our direct involvement in program censorship and which require that broadcast station licensees retain broad discretion in the programming they broadcast. Recognizing that a balance must be reached, we believe this balance is best struck through a continued stress on the general licensee obligations emphasized by the Commission in its 1974 Children's Television Policy Statement and through the general requirement that stations provide programming responsive to the needs and interests of the communities they serve.[51] We continue to believe "that the broadcasters' public service obligation includes a responsibility to provide diversified programming designed to meet the varied needs and interests of the child audience."[52] The record reflects that the child audience is a unique one that warrants special programming attention from licensees.

44. We do not believe it desirable, however, to mandate programming quotas or impose more specific program or scheduling requirements nor do we interpret the Policy Statement as imposing such obligations. In 1975, we stated that because "the considerations as to what constitutes a 'reasonable amount' may vary, according to service area demographics, existing children's programming, market size, network affiliation or independent status, prior commitments to locally-produced programs, and the availability of television, etc. we believe it is desirable to avoid rules which are unnecessarily broad and inflexible."[53] We continue to believe that this is true. It mirrors precisely the rationale set forth in the *En Banc Programming Inquiry* in 1960 as to why program quotas in other areas were not being adopted.[54]

45. We are acutely aware of the difficulties inherent in enforcing an unquantified general obligation to the child audience such as that described in the *Policy Statement* and of the charge made in the Task Force Report and by others that such a policy is "unenforceable by either the Commission or the public."[55] Enforcement difficulties are created by a host of factors: (1) By the desirablity of judging licensees on their overall programming record and not on one segment of that record alone; (2) by the desirability of taking into account the availability of programming from other sources; (3) by the need to account for the individual financial positions of newer and smaller market stations; (4) by issues associated with programming quality as opposed to quantity; (5) and by the constraints imposed by the First Amendment and Section 326 of the Communications Act. To the extent those who argue that the obligations imposed are unenforceable are simply stating that the Commission has a heavy burden to meet before it substitutes its judgment for that of a licensee, we believe that is as it should be. That has been the requirement since prior to 1934. Broadcasters, however, should not be misled into believing that no enforceable obligations remain. The bedrock obligation of every broadcaster to be responsive to the needs and interests of its community, including the specialized needs of children in that community, remains. Until such time as the Commission's role in station programming has been totally eliminated, those obligations will have to be enforced by the Commission and the Commission's performance in that regard will be subject to review by the Court of Appeals. This result is, we believe, entirely consistent with what the Supreme Court has described as "the Commission's duty to chart a workable 'middle course' to preserve 'essentially private broadcast journalism' held only broadly accountable to 'public interest standards.'"[56]

46. In summary, we do not wish this decision to be an endorsement of a "raised eyebrow" approach to regulation. No cryptic message will be found between the lines of this decision. Simply put, we find no basis in the record to apply a national mandatory quota for children's programming. But, there is a continuing duty, under the public interest standard, on each licensee to examine the program needs of the child part of the audience and to be ready to demonstrate at renewal time its attention to those needs. This duty is part of the public interest requirement that a licensee consider the needs of all significant elements of its community. A licensee may consider what other children's program service is available in its market in executing its response to those needs. But a licensee who fails to consider those needs, in light of its particular market situation, will find no refuge in the order.

47. *Regulatory Flexibility Analysis:*

I. Need for and Purposes of the Rule

The Commission has decided not to adopt new requirements regarding programming for children. Given the totality of video programming sources and their offerings for children, constitutional concerns regarding interference with the exercise of a licensee's programming discretion, and regulatory anomalies that often result from inflexible standards, the Commission concluded that specific quantification rules are undesirable.

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created failures of commercial incentives through program quotas, and to respond to general concerns over "quality" through cleverly crafted definitions or *ad hoc* reivews. The net result, however, would be a fundamental change in our broadcasting systems from one of licensee editorial discretion to one involving detailed agency oversight.

[50] The statutory and public interest basis for permitting, if not encouraging such segmentation and specialization, was recognized most recently by the District of Columbia Circuit Court of Appeals decision up holding the Commission's radio deregulation proceeding. *Office of Communication of the United Church of Christ v. FCC*, 707, F. 2d 1413 (D.C. Cir. 1983). The District of Columbia Circuit Court of Appeals opinion rejecting the Commission's policy statement in the "format" case had previously recognized in that context that "[n]o public interest issue is raised if . . . there is an adequate substitute in the service area for the format being abondoned. . . ." *WNCN Listeners Guild v. FCC*, 610 F.2d 838, 851 (1979), *reversed on appeal FCC v. WNCN Listeners Guild*, 450 U.S. 532 (1979).

[51] *En Banc Programming Inquiry*, 44 FCC 2303 (1960).

[52] *Report and Policy Statement in Docket 19142*, 50 FCC 2d 1 (1974); See also, *Washington Association for Television and Children*, 712 F.2d 677 (D.C. Cir. 1982).

[53] *Memorandum Opinion and Order*, 55 FCC 2d 691, 693 (1975), cont.

[54] "It is emphasized that these standards or guidelines should in no sense constitute a rigid mold for station performance, nor should they be considered as a Commission formula for broadcast service in the public service. Rather, they should be considered as indicia of the types and areas of service which, on the basis of experience, have usually been accepted by the broadcasters as more or less included in the practical definition of community needs and interest." 44 FCC 2303, 2313 (1960).

[55] Task Force Report, p. 92.

[56] *FCC v. WNCN Listeners Guild*, 450 U.S. 582, note 32, quoting from *Columbia Broadcasting System, Inc. v. Democratic National Committee*, 412 U.S. 94, 120 (1973).

II. Summary of Issues Raised by Public Comment in Response to the Initial Regulatory Flexibility Analysis, Commission Assessment, and Changes Made as a Result.

A. Issues Raised.

Commercial broadcasters, while recognizing their obligation to program for children, argued that establishing quantitative guidelines for children's programs would be arbitrary.

A few broadcasters recommended a clarification of licensee obligations under the *Policy Statement* or a gradual phase-out of the *Policy Statement* commensurate with marketplace developments.

Public interest organizations argued that self-regulation will not result in sufficient children's television and therefore suggested adopting rules requiring a minimum amount of children's programming and/or quantitative renewal processing guidelines for children's programming.

B. Assessment

The record reveals that a variety of existing communications services provide quantity and quality in children's programming. Furthermore, it appears that new services can be expected to provide new outlets in the future which will add to that diversity. In view of the present state of the marketplace, the Commission believes that specific quantification rules are undesirable.

The Commission also concluded that there was no value in substituting our judgment for that of the licensee in deciding what amount or type of programming for the child audience is needed. The licensee is in a better position to determine the interests and needs of the particular children in its audience.

C. Changes Made as a Result of Such Comment

In response to those comments concerned about children's program offerings and our recognition of the important role of television in a child's life, we have continued to recognize the obligation of broadcasters to serve this portion of the audience.

In response to opposition to the adoption of rules or renewal guidelines, we rejected the options proposing mandatory programming rules or renewal processing guidelines.

III. Significant Alternatives Considered and Rejected

The *Notice* proposed rescinding or modifying the *Policy Statement*, adopting mandatory programming rules and children's programming license renewal processing guidelines, and increasing the number of video outlets.

The Commission concluded that the number of video outlets, both advertiser-supported and pay, currently available will provide diversity in children's programs without the necessity of adopting specific quantification rules or renewal guidelines. The Commission also reached this decision because of its constitutional concerns and recognition that regulatory anomalies often result from inflexible standards. Because of Commission actions recently taken that authorize new technological communications services, the Commission found no need to take any action to increase the number of video outlets.

48. Authority for adoption of the action taken herein is contained in Section 303 of the Communications Act of 1934, as amended.

49. It is further ordered, that the petition to amend FCC Form 303 filed January 24, 1979, by Altman Productions, Inc., is dismissed.

50. It is further ordered, that the proceedings concerning this *Report and Order* are terminated.

51. For further information concerning this proceeding, contact Freda Lippert Thyden, Mass Media Bureau, (202) 632-7792 and Brian Fontes, Mass Media Bureau, (202) 632-6302.

Federal Communications Commission. *

William J. Tricarico,

Secretary.

Appendix A—Summary of Task Force's Findings and Conclusions and Summary of Comments Submitted in 1980

I. Introduction

1. On December 19, 1979, the Commission adopted a *Notice of Proposed Rule Making* in the matter of children's television programming practices. The *Notice* was released December 28, 1979, and published on January 9, 1980, 45 FR 1976. The *Notice* sought comments on five broad regulatory options relating to the Commission's continuing oversight of broadcasters' children programming practices. In this context, the Commission also solicited comment on the Children's Television Task Force Report, which found that broadcasters generally had failed to meet their programming obligations to the child audience as established by the Commission's 1974 *Policy Statements*.

2. This document summarizes the comments received in response to the *Notice*. No effort is made to provide a detailed summary of every comment; however, the major themes of the commenters have been addressed. Section II of this document briefly describes the parties commenting in the proceeding and provides a short summary of the informal comments received by the Commission. Section III summarizes the comments that address the Children's Task Force *Report*. The parties' opinions on the five regulatory options proposed in the *Notice* are discussed in Section IV.

II. Response to the Notice

3. One hundred and thirty-six formal comments and 18 formal reply comments representing 185 different parties were filed in the proceeding. A broad range of interests were represented. Among those commenting were five broadcast associations, four broadcast networks, 56 station owners and licensees, three advertising interests, and four program producers and distributors. Non-broadcast related interests were represented by 16 public interest and media groups, nine educational associations, and six religious groups. Over 60 individuals filed formal comments. A complete list of the commenting parties appears at the end of this Appendix.

4. Since the Commission reinstituted the children's proceeding in 1978, over 11,300 informal comments have been received from parents, teachers, professionals, and children across the country. Various neighborhood organizations, social groups, and professional agencies have sent in letters as well. Of the informal comments received, over 10,000 are from children. Most of the children's letters appear to be the result of classroom exercises.

5. The majority of the letters submitted address overall concerns about television and children. Therefore, most of these informal comments do not relate directly to the specific issues raised in the *Notice*. Informal comments filed by adults are generally in the nature of complaints directed at television programming as a whole. These comments include statements of displeasure with commercials and program scheduling and content, as well as requests for specific types of programs. Many state the view that too much violence is presented on television. In reference to children's programs, cartoons receive the most criticism because of the excessive violence said to be depicted in many animated series.

* Commissioner Rivera dissenting and issuing a statement at a later date.

6. A considerable number of adults suggested a reduction in the amount of commercial time per hour of children's programming (*e.g.* 9½ minutes to 6 minutes). Along with these suggestions were a large number of requests for the clustering of commercials on the hour (or half-hour for 30 minute programs), thus eliminating commercial breaks within a programming segment.

7. Other points of complaint that were mentioned often are as follows: (a) Local broadcasters are not meeting the needs of children in current children's programs and scheduling; (b) Commercials are offensive in their content and volume (loudness); and (c) There are too many cartoons and an overabundance of "junk food" and toy commercials on Saturday mornings.

8. Many adults favorably mentioned specific children's and family programs such as: (1) "3–2–1 Contact;" (2) "After School Specials;" (3) "Sesame Street;" (4) "Fat Albert;" (5) "Hot Hero Sandwich;" (6) "Captain Kangaroo;" (7) "Boomer" and "Walt Disney;" (8) "Electric Company" and "Zoom;" (9) "Kids Are People Too;" and (10) "Little House on the Prairie."

9. A small percentage of informal commenters argued that television is just fine the way it is and that even if it were not, the government has no business getting involved in programming decisions. Several parents equated the Commission's proceeding with further governmental intrusion into family and personal affairs.

10. With regard to informal comments filed by children, several common complaints and program favorites were mentioned in a large majority of the letters received. Common points of complaint included too many commercials, too many soap operas, scheduling of children's shows and specials at late hours, and the lack of realism in cartoons.

III. The Task Force Report

11. Parties filing formal comments in this proceeding addressed three major areas related to the Task Force *Report:* (a) The *Report's* interpretation of the 1974 *Policy Statement;* (b) studies contained in the *Report;* and (c) the conclusions drawn by the Task Force. The 1974 *Policy Statement* established guidelines for children's television programs and advertising practices. The Task Force *Report* assessed the broadcast industry's compliance with the guidelines set forth in the 1974 *Policy Statement* and concluded that the broadcast industry has complied with the advertising limitations. The *Report* found that on an aggregate basis broadcast licensees have complied with non-program material guidelines (9½ minutes per hour on weekends and 12 minutes per hour on weekdays). Licensees have also eliminated the advertising practices of host-selling and the use of tie-ins. Additionally, licensees are using separation devices to distinguish programming matter from advertising matter.

12. In the area of children's programming, however, the Task Force *Report* concluded that licensees have not complied with the 1974 *Policy Statement* guidelines relating to overall amount of children's programs, scheduling of such programs, and the need for educational/informational programs and age-specific programs. A summary of the comments relating to each of these programming-related areas is presented below.

A. Overall Amount of Children's Programming

13. The 1974 *Policy Statement* states that broadcasters have a responsibility to serve children. Although the Commission in 1974 did not adopt rules specifying a set number of hours of children's programs to be presented, it did state that stations were expected to make a "meaningful effort" in the amount of time devoted to children's programs. The Task Force *Report* includes a major study conducted by Professor John Abel, Department of Telecommunication, Michigan State University (hereafter the Abel study) examining the overall amount of time commercial broadcasters devoted to children's programs during the 1973–74 broadcast season, the season prior to adoption of the Commission's *Policy Statement,* and the 1977–78 season, the most complete broadcast season at the time the *Report* was written. The decision by the Task Force to make quantitative comparisons between the two broadcast seasons was based on the premise that the "meaningful effort" expected by the 1974 *Policy Statement* would be evidenced by the amount of time devoted to such programming.

14. The Abel study concluded that the 1977–78 broadcast season showed a 7.2% increase in total amount of time devoted to children's programs compared with the 1973–74 season. Closer analysis revealed that syndicated programming, much of which is former network prime time programming, aired on independent stations caused the overall increase. Time devoted to network-originated programming actually decreased in 1977–78 compared with 1973–74, as did locally-produced children's programs. Network-affiliated stations relied more heavily on syndicated programming in 1977–78 than in 1973–74. The amount of time devoted to children's programs on network-affiliated stations remained essentially the same for both broadcast seasons. Because the independent stations whose programming was responsible for the increase between 1973–74 and 1977–78 are likely to be found primarily within the top 50 markets and because many of the syndicated programs being broadcast do not clearly comply with the Commission's definition of "children's programs," the *Report* concluded that on an aggregate basis licensees have not complied with the guidelines requiring "meaningful effort" in overall amount of children's programs.

(1) *Interpretation of the 1974 Policy Statement*

15. Several broadcast industry commenters questioned the Task Force's interpretation of the 1974 *Policy Statement.* Metromedia, Inc., concluded that "[t]he most fundamental mischaracterization in the Task Force *Report* is the claim that the Commission, in 1974, had expressed specific dissatisfaction with the overall prevailing amount of children's programming within the industry and had ordered an increase in that amount." CBS, Inc., and others argued that in 1974 the Commission expressed concern over a few stations that reportedly presented no children's programs at all and that the Commission did not express any judgment on the prevailing overall quantitative level of such programs. In 1974, the Commission did not assess the quantitative level of children's programs and, thus, Metromedia stated, any attempt to assess compliance with the *Policy Statement* by quantitative means is "an attempt to fabricate a pattern of non-compliance."

16. Forward Communications Corporation ("Forward") maintained the 1974 *Policy Statement* "represented a flexible statement of general affirmative duties that were to be implemented on a self-regulatory basis affording due regard to the fundamental principle of licensee discretion." Capital Cities Communications, Inc., also contended that in 1974, the Commission never undertook a study to determine how much children's programming constituted a "meaningful effort" and, therefore, any attempt to impose a quantitative assessment of compliance with the 1974 *Policy Statement* is a misinterpretation of that document.

17. Americdan Broadcasting Companies, Inc.'s ("ABC") criticism focused primarily upon the use of

quantitative rather than qualitative analysis of children's programs by the Task Force. ABC and General Electric Broadcasting contend that the non-specific guidelines of the *Policy Statement* allowed "network stations and program producers to expend considerable energies in improving the quality of programming, rather than concentrating on *quantity.*"

18. Citizens groups commenting on this point stated that the Task Force staff interpreted the 1974 *Policy Statement* correctly. Action for Children's Television ("ACT") argued that broadcasters are attempting to minimize the obligations enumerated in the *Policy Statement.* ACT maintained that the Task Force correctly concluded that the commercial television industry as a whole has not fully complied with the guidelines set forth in the *Policy Statement.* ACT disputed claims that the *Policy Statement* did not require a quantitative change in programming practices. Additionally, ACT believed the *Policy Statement* focused particularly on the quantity of available programming designed to educate and inform specific age groups of children.

19. ACT further argued that the *Policy Statement* made clear that the Commission's announced intent to evaluate the improvements in children's programming would take the form of a quantitative examination of the response of individual broadcast licensees to the *Policy Statement* guidelines. ACT referred to paragraph 19 of the *Policy Statement* in maintaining that "while the self-regulatory approach meant that licensee's service would for a time be evaluated on an ad hoc basis, the Commission states that 'the amount of time devoted to a certain category of program service is an important indication.' "

20. Washington Association for Television and Children ("WATCH") [1] stated in reply comments that there are pervasive misinterpretations in the comments of various broadcasters that attempt to distort the content of the *Policy Statement.* WATCH disputed the contention that the *Policy Statement* was only a directive to those broadcasters doing no children's programming to improve their performance.

(2). *The Report's Research*

21. Numerous industry commenters criticized the Abel report. Additionally, NAB, NBC, ABC and CBS conducted their own studies. all parties commenting on Abel's research concluded his study formed the "backbone" of the *Report's* conclusions. Broadcasters claimed the Abel study is seriously deficient and has methodological, conceptual and analytic problems that cast doubt on the validity of its findings and the resulting recommendations. According to industry parties, NBC's analysis of the Abel study shows that "one of the most serious deficiencies involves the selection and design of the sample for analysis." NBC states that through the use of the stratified random sampling method, Abel selected 52 markets from the national total of 209 (13 from stratum one, 13 from stratum two, etc.), making no attempt to relate the number of viewers with the programming available. According to NBC, "Since smaller markets had far fewer programs than larger markets, this error (allowing all markets equal representation) necessarily created a distorted view of the amount of programming most childern can receive."

22. Criticisms also were made of Abel's use of two randomly selected composite weeks, one for the 1973–74 broadcast season and the other from the 1977–78 season, for comparison purposes. NBC claimed that it is inaccurate to project a complete year of programming on the basis of composite weeks. A composite week does not account for seasonal variations and frequent program schedule changes. NBC and NAB objected to the fact that a Saturday appearing in the 1977–78 composite week contained programming pre-empted on the West Coast (Pacific time zone). The composite week sample, according to several industry commenters, also does not allow children's specials to be accurately reflected. ABC argued that the same composite week should have been used for both seasons and also noted that the month of December was not represented in the sample. ABC claimed that December traditionally has contained large amounts of children's programming. According to NBC, a composite week sampling procedure can produce general programming estimates, but these estimates are unreliable if a significant proportion of the shows are non-regularly scheduled. NBC pointed out that although the Commission utilizes information obtained from composite week data as part of the license renewal process, licensees are permitted to provide additional information at the time of renewal.

23. Another criticism of the Abel study relates to Abel's use of *TV Guide,* Arbitron's *Network and Syndicated Program Analysis Books* and other resource material to determine if programs should be classified as "children's programs." ABC noted that the Abel classification system also created a list of "potential children's programs." [2] These "potential children's programs" according to ABC, undoubtedly constitute legitimate children's programming and should have been included in the main analysis. NBC claimed that Abel did not include "World of Disney" as a children's program, while ABC references the Abel study as including "World of Disney" as a "potential children's program"

24. According to NBC, NAB, and ABC, the Abel study also seriously underestimates the total amount of children's programming available by excluding public broadcasting, cable, off-air distant signals and Canadian broadcasting received in the United States. ABC concluded that by including all children's programming available within a market, the amount of time devoted to children's programs in markets reported by Abel would increase by 50%.

25. Comments supporting the methodology of the Abel study include those of Professor Gerald Kline, Director of the School of Journalism and Mass Communication at the University of Minnesota. According to Kline, "The time span, 1973–74 and 1977–78, obviously met the before and after boundary conditions that the FCC could use in determining whether enough time had passed for compliance." Additionally, Kline stated, "In choosing to sample from the populations of programs in 1973–74 and 1977–78 that were broadcast by commercial stations, Professor Abel correctly lays the groundwork for choosing the appropriate sampling frame." Kline stated that if Abel had selected stations based on numbers of children in the

[1] Citizens Communications Center filed initial comments on behalf of WATCH, American Association of University Women, The Baltimore Film Forum, Big Brothers of the National Capital Area, Chesapeake Montessori Society, District of Columbia Media Task Force, Focusing Awareness of Children and Television, Public Action Coalition for Toys, and the American Federation of Teachers, Washington Teachers Union Local 6. Reply comments were filed on behalf of WATCH alone. For the sake of simplicity, both comments will be referred to as the comments of WATCH.

[2] Abel developed a list of potential children's programs based on syndicated program sources' classification of some former network prime time programs, programs disigned primarily for an 18–48 year old audience, as children's programs. The Abel report includes two separate analyses, one consisting of programs designed for children 12 years' of age and younger, and the other an analysis of programs including those that some syndicators classify as children's programs, *e.g., Hogan's Heroes.* The results of the latter analysis parallel those of the former.

markets, as NBC suggests, Abel would have obtained a sample of stations predominantly in large metropolitan areas. An implication of this, according to Kline, would have been to put a premium on service to children in big cities at the expense of children in the rest of the country. Kline justified Abel's analysis according to strata (stratum one, markets 1–52; stratum two, markets 53–104; stratum three, markets 105–156 and stratum four, markets 157–209) on the basis that the broadcast industry itself operates in quartiles when it makes general evaluations of sales and profits as well as costs for buying products and advertising costs.

28. With regard to failure of the Abel study to include cable, Kline mentioned that in many markets cable simply provides for redundant delivery of network offerings. Kline noted that Abel's use of two different randomly selected composite weeks does not allow for comparison of days, or months from Time 1 and Time 2. Parameter estimates at Time 2 are, however, a fair and unbiased estimate of the offerings in the second time period as a whole. Kline also stated that "by not drawing a day in December in either time period, some would argue that Abel's data are flawed—this is not the case!" Random sampling methods provide an unbiased estimate of each separate season. Professor Kline found no problem with Abel's use of *TV Guide* listings to identify available programming. If there are errors in *TV Guide* Kline observes, there is no reason to believe that they would be other than randomly distributed across the whole data base. Thus such errors would not skew the findings. Concerning programming definition and coding of data, Kline concluded that Abel made every effort to meet the requirements for the definition of children's programs as laid down by the Commission. Additionally all of the procedures for coder training and reliability meet the accepted criteria normally used in scientific studies.

27. Professor Joey Reagan, Department of Communications, University of Michigan, concluded that the Abel study used standard sampling procedures. The procedures used by Abel insure that one set of markets would not unduly influence estimates made of another. Reagan also stated that the NBC study attempting to replicate the Abel report is seriously flawed by its lack of an independent random sampling procedure. The NBC sampling techniques, according to Reagan, result in estimates of children's programming higher than is actually the case. Commenting on the reliability of the Abel study, Reagan stated that if one looks at the estimates of commercial children's programming for the composite weeks, the NAB and Abel studies are quite similar in result (11.23 hours vs. 11.30 hours respectively). Professor Jayne Zenaty, Department of Telecommunications, Indiana University, states that "Abel set out to study the compliance of local commercial television stations with the Commission's 1974 *Policy Statement* on children's programming. . . . NAB and NBC set out, on the other hand, to determine the amount of children's programming viewers could actually see, which included public television stations as well as distant television stations." According to Zenaty, an examination of the amount of time devoted to children's programming carried on local commercial TV stations reported by NBC reveals findings quite similar to the Abel study.

(3). *Conclusions of the Task Force*

28. The Abel study indicated that the average commercial television licensee in 1977–78 presented 11.3 hours of children's programming per week, representing a 7.2% increase over the 10.4 hours per week aired in 1973–74. Although Abel reported an increase, the Task Force reported that licensees have not complied with the guideline for overall amount of children's programs for the following reasons: (a) The increase in the average per-station amount of time devoted to children's programs is due to the increased broadcast of syndicated programs carried on independent stations; (b) independent stations exist primarily in large markets; (c) network affiliates' time devoted to children's programs remained essentially the same between the two broadcast seasons; and (d) reliance on syndicated rather than local programming increased at both independent and network-affiliated stations.

29. NBC, CBS and NAB noted that the Abel report shows a significant increase in the amount of time devoted to children's programs in the top 52 markets—accounting for 66.6% of the total 2–11 year old population. In 1977–78, the commercial stations in the top 52 markets aired an averaged of 12.6 hours of children's programming per week compared to 10.8 hours in 1973–74. In the remaining markets, licensees aired essentially the same amount of children's programming in 1977–78 as they did in 1973–74. Thus, CBS stated, the Abel study in and of itself totally refutes the contention that commercial broadcasters are not making a "meaningful effort" in the area of children's programming. NAB, after conducting an extensive study, reported that the average commercial broadcaster devoted 11.23 hours per week to children's programming (Abel reported 11.3 hours per week for the 1977–78 broadcast season). NAB contended that if public broadcasters were included, the average amount of time per week devoted to children's programs would increase to 15.09 hours.[3] According to NAB and the networks, a substantial amount of programming is available to children and the conclusion drawn by the Task Force that broadcasters have not complied with the 1974 *Policy Statement* is erroneous.

30. Forward referenced studies by NBC and NAB said to document the conclusion that the overall amount of time devoted to children's programming is consistent with the "meaningful effort" standard of the *Policy Statement*. Fisher also concluded that the 7.2% increase in programming reported by Abel, despite the decrease in network-originated and local programming, still shows that broadcasters have complied with the Commission's intentions. Comments filed by Chronicle Broadcasting Company and others reported that the number of children's programs has increased significantly since 1973–74 and that the average children's program is 2 minutes longer (36.6 minutes in 1973–74 and 38.6 minutes in 1977–78), further evidence that broadcasters are complying with the *Policy Statement*. Group W and Metromedia reported they have significantly increased the amount of time devoted to children's programming on all their stations since 1973–74.

31. The Abel study concluded that independent stations aired an average of 14.3 hours of children's programming per week in 1977–78 compared with 10.6 hours in 1973–74, representing a 35% increase. Abel reported that the amount of time devoted to children's programs aired on network-affiliated stations remained essentially the same between the two broadcast seasons (10.40 hours in 1973–74 and 10.37 hours in 1977–78). NBC claimed that the Task Force should not have made distinctions between network affiliated stations and independent stations. The aggregate amount of time devoted to children's programming, according to NBC, represents an increase over the 1973–74 season and, thus, compliance with the 1974 *Policy Statement*. INTV concluded

[3] According to comments filed by the Public Broadcasting Service ("PBS"), it defines children's programs as program designed for those 17 years old and younger.

that broadcasters in general and, specifically, independent stations are in compliance with the 1974 *Policy Statement's* reference to amount of overall programming.

32. WATCH argued that networks and their affiliates cannot be allowed to claim a significant increase in quantity based on additional syndicated programming aired by independent broadcasters and programming of public broadcasters when network affiliates' programming has essentially remained at the 1973–74 level. According to ACT, the Task Force *Report* was correct in showing differing trends in service corresponding to a station's status as independent or network-owned or affiliated.

33. The Abel study presented data indicating that network affiliates devoted significantly more time during the 1973–74 composite week (.97 hours) to special children's programs than they did during the 1977–78 composite week (.64 hours). Because independent stations had so few specials appearing in the composite weeks, no analysis of their performance in this area could be done. ABC, NBC and CBS disagreed with Abel's findings relating to the amount of time devoted to special children's programs. ABC reported a 52% increase since 1973–74 in air time devoted to children's specials. ACT contended, however, that "while many of the weekday specials are award winning, they do not constitute programming scheduled on a regular daily or even weekly basis; nor are there enough specials scheduled to constitute a substitute for a commitment to offer regularly scheduled weekday programming designed for the child audience."

B. Educational/Informational Programming

34. The Task Force *Report* contained three studies assessing licensee compliance with the educational/informational guideline of the 1974 *Policy Statement*. The basis upon which the Task Force assessed compliance was the overall amount of time devoted to children's educational/informational programming. The primary study (the Fontes study) used to assess compliance with the "reasonable amount" guideline of the *Policy Statement* examined children's programming aired during the 1973–74 and 1977–78 broadcast seasons. The list of programs provided by the Abel study was given to five individuals judged to be nationally recognized experts on children's television. These experts classified those programs with which they were familiar according to categories of programs contained in the Commission's rules. Majority vote determined the classification made. Network-originated and syndicated programs were classified by the experts. Local programming was not classified by the experts due to their lack of familiarity with these programs. Educational/informational inserts were factored into the analysis. The Fontes study concluded that the amount of time devoted to network-originated and syndicated educational/informational programs remained essentially the same between the two broadcast seasons (2.8 hours in 1973–74; and 2.6 hours in 1977–78).

35. A second study, conducted by Professor Joseph Turow, Department of Communications, Purdue University, examined network-originated children's series from 1948–1978. Professor Turow's study was intended to present a historical profile of network children's programming. Turow developed a list of network-originated programming from Neilson archives and other reference books covering the years 1948–1978. He then analyzed the programs according to entertainment/non-entertainment categories. Dr. Turow concluded that the amount of time devoted to network-originated non-entertainment programming remained essentially at the 1974 level.

36. A third study, conducted by the Task Force, examined the sample of children's programs reported by licensees in renewal applications. This study examined the frequency of educational/informational programs reported by licensees. Because licensees were not asked to submit a list of their children's programs until 1975, comparisons similar to those of Abel and Fontes examining the 1973–74 and 1977–78 broadcast seasons could not be made. Additionally, the Task Force found ambiguities in the classifiction of children's programming by licensees, making the results of the renewal study questionable. The results indicate that 21.5% of the children's programs listed were categorized by the licensees as educational/informational.

37. As a result of the three studies and comments filed in response to the *Second Notice of Inquiry* in this docket, the Task Force concluded that licensees have not complied with the "reasonable effort" guideline relating to educational/informational programming. This conclusion is based upon the amount of time licensees devoted to such programming. Parties filing formal comments question the Task Force's interpretation of the 1974 *Policy Statement*, research conducted by the Task Force, and the conclusions drawn by the Task Force.

(1). *Interpretation of the 1974 Policy Statement*

38. Only a few parties specifically addressed the Task Force's interpretation of the 1974 *Policy Statement* as it relates to educational/informational programming. CBS concluded that by abandoning the "reasonableness" standard in the educational/informational guideline in favor of a quantitative assessment of compliance, the staff fundamentally distorted the meaning of the Commission's 1974 *Policy Statement*. ABC claimed that there was an underlying staff bias that society would better be served by "educational" programming more frequently targeted to subgroups of children. ABC contended that programs such as "Little House on the Prairie," designed primarily to entertain, should be counted as educational under the *Policy Statement's* guidelines. ABC argued that the Task Force did not make the case that educational programs, presumably in a more traditional "chalk and blackboard" framework, are somehow "better" or more beneficial to children than the teaching that occurs when important messages concerning social and interpersonal relationships are woven into an entertainment feature like the "After School Specials." ACT observed that the *Policy Statement* focuses explicitly on the quantity of available programming designed to educate and inform specific age groups of children rather than simply to entertain.

(2). *The Fontes Study*

39. The study by Dr. Brian Fontes, "The Amount of Children's Instructional Programming Aired During the 1973–74 and 1977–78 Television Seasons," drew comments primarily from the networks and NAB. ABC claimed that because the Fontes study relied upon the use of programs derived from the Abel study, the Fontes study contains the design flaws of the Abel report. One of the major criticisms of the Fontes study made by ABC and others regarded the study's exclusion of local programming. ABC noted that although showing a decrease, the Abel study derived 72 program titles that were classified as local childen's programs during the 1973–74 season and 62 titles so classified for the 1977 season. ABC concluded that many of those local programs were undoubtedly instructional. NBC claimed that 40% of the children's educational/informational

programs broadcast on NBC-owned stations were locally produced. CBS and NAB also fault the Fontes study for excluding locally-produced children's programming.

40. The Fontes study also was criticized for allegedly excluding inserts (segments approximately 1–2 minutes) within programs. ABC and NAB, however, note that the *Report* documents that the amount of time devoted to inserts has not undergone a substantial change since 1973–74. However, they argue that the Task Force *Report* is deficient in failing to consider inserts originated by local stations. All three networks criticize the Fontes study for relying upon the judgments of five experts on children's television to classify programs. ABC objects to this methodology because classifications were, as ABC claims, based solely on titles and CBS argues that some programs judged to be educational by educators were classified as predominantly entertainment by the experts. NAB argues that the Fontes study was based upon a narrow interpretation of the language of the 1974 *Policy Statement*. The *Policy Statement*, NAB noted, refers to educational/informational programming while the Fontes study examines only instructional programming. WATCH, in its reply comments, defended the Fontes study as providing a general picture of patterns of the amount of time devoted to educational or instructional programming during the 1973–74 and 1977–78 seasons.

(3). *The Turow Study*

41. The Turow study, "Program Trends in Network Children's Television: 1948–78," resulted in a complete list of network-originated children's programming for the years in question. The Turow report did not examine syndicated or local children's programming. The major criticisms of the Turow report were made by the networks. NBC claimed that numerous omissions and carelessness in the design and execution of the Turow study reduce its credibility. Because the Turow study purports to show general trends in *network* programming, NBC stated, it has no direct relevance to whether or not individual licensees are showing more or less children's programming or as to the availability of children's programming in a market. ABC was dissatisfied with Turow's "restricted" definition of children's programming—only programs designated as "children's by Neilson classifications. ABC argued that many children's programs were omitted by use of this methodology.

42. The main criticism of Turow's study focused upon Turow's classification of certain programs as "entertainment." CBS and ABC objected to Turow's classification of "Captain Kangaroo" as an entertainment program. The CBS "Festival of Lively Arts" also was designated as entertainment. CBS contends that many broadcasts in this series were clearly instructional. WATCH contended, however, that the criticism of the Turow study is inaccurate. Turow found that over a 30 year period (1948–1978) 13% of all network children's programs were educational in nature, with 87% classified as entertainment. WATCH contended that Turow's classification of programs as either entertainment or non-entertainment was both correct and consistent with the Commission definitions of program categories.

(4). *License Renewal Study*

43. A review of license renewal forms was conducted by the Task Force. Due to wide variation in how programs were classified by licensees and the fact that renewal forms did not, at the time of the *Policy Statement*, include a section on children's programming, the Task Force presented the results in the context of Fontes' instructional study and the Turow report. NBC claimed that the Task Force improperly discarded the results of the renewal study. NBC further claimed that the findings of the renewal study disclose that the amount of children's educational/instructional programs reported by licensees exceeded the mandatory requirements that the Commission was urged to adopt in 1974.

(5). *Conclusions of the Task Force Report*

44. The Task Force *Report* concluded that licensees did not comply with the 1974 *Policy Statement's* guideline relating to "reasonable amount" of educational/informational programming. Broadcasters believed the Task Force Report provides no basis for concluding that broadcasters are not presenting "a 'reasonable amount' of instructional programs for all children." CBS referenced the Turow report that shows the proportion of non-entertainment network children's programs rose from 4% in 1968–69 . . . to 10% during the first 2 years of the 1970's and to between 12% and 15% in the six years thereafter. The Fontes study reported that commercial licensees in 1977–78 presented 2.6 hours weekly of instructional children's programming. CBS believed that to characterize such performance as unreasonable would be clearly arbitrary. NAB reported that commercial broadcasters devoted an average of 3.25 hours per week to informational/instructional programming. INTV argued that network-owned stations and affiliates now are airing educational/informational programming on weekends and also have aired educational inserts. Metromedia cited a NAB/NATPE survey showing that 35% of the programs for children broadcast by all stations (including PBS) are instructional, informational and educational in nature and argues that this clearly demonstrates compliance with the Commission's guidelines.

45. Industry commenters such as Group W also argued that the *Report's* focus on quantitative issues improperly fails to take into account improvements made in recent years in the quality of children's programming. Meredith Corporation and CapCities noted behind-the-scenes efforts to improve the pro-social quality of children's programming, citing the use of educators and other consultants who assist in program development. Simiarly, GE contended that the line between instructional and entertainment programming is amorphous, making the staff study of instructional programming non-reflective of the positive social values of entertainment programming.

46. ACT faulted broadcasters' arguments that drop-ins, public service announcements, and short spot messsages constitute a major effort to comply with Commission guidelines. New York Council on Children's Television ("NYCCT") conducted a survey of New York City metropolitan stations during the week of May 3–9, 1980, and found that of 131 shows broadcast by commercial stations only 20 would meet the *Policy Statement* definition of educational and instructional programs. The Minnesota PTA alleged that Minneapolis broadcasters did not clear network specials or regularly scheduled programs such as "Captain Kangaroo." The Minnesota PTA believed that broadcasters in their state have failed to provide educational/informational programming consistent with Commission policy.

C. Age-Specific Programming

47. In the 1974 *Policy Statement*, the Commission said that it believed some effort should be made to serve both pre-school and school age children with age-specific programming. The Task Force did not conduct its own research assessing licensee compliance with the Commission's guideline on age-specific programming, and relied upon a study

submitted to the Commission by Romper Room, Inc., for data on this issue. The Romper Room study surveyed all regularly scheduled programming of commercial stations in the 50 largest television markets for the period between November 2 and November 29, 1978. Noncommercial programming was excluded from the survey. Of the 208 stations in the top 50 markets, 50 were affiliated with ABC, 50 with CBS, 50 with NBC and 58 were independents. In the hours between 6:00 a.m. and 8:00 p.m., the Romper Room survey showed that 32 stations (15.4 percent) broadcast no instructional programming for children of any age, 64 stations (30.8 percent) broadcast no instructional programming for pre-school children, 30 stations (14.4 percent) broadcast one half-hour per week of regularly scheduled instructional programming for children, 109 stations (52.4 percent) did no instructional programming for children during weekdays, and excluding CBS affiliates (which have "Captain Kangaroo" available to them), 86 network affiliates (86 percent of all non-CBS network affiliates surveyed) did no instructional programming for children during weekdays.

48. Additionally, the Task Force commissioned Dr. Ellen Wartella, Professor at the Institute for Communication Research, University of Illinois, to review the research on children's ability to comprehend television programming. Wartella concluded that "the literature on children's comprehension of television content has found age-related changes in children's understanding of plot lines, perceptions of television characters, perceptions of the reality of television and comprehension of the economics of the medium. Children as old as eight and ten years have been shown less proficient than older children in recalling those scenes of a television program adults consider essential to undertanding the plotline. During the elementary school years children have difficulty understanding characters' motivations for actions. Kindergartners through third graders have been found to be less adept at recalling characters' motivations for actions than are older children. There is evidence that by fifth grade children begin to describe motivations for characters' behaviors.

49. Comments filed by Romper Room, Inc., indicating a lack of pre-school age programming in the top 50 markets and Dr. Wartella's review of research relating to children's comprehension of television content served as the basis for the *Report's* conclusions that licensees have not complied with the age-specificity guideline of the 1974 *Policy Statement.*

(1). *Interpretation of the 1974 Policy Statement*

50. Comments regarding age specificity focused upon the *Report's* conclusion of non-compliance with Commission guidelines. Generally, licensees objected to the Task Force's interpretation of the *Policy Statement* in terms of licensees doing more relative to their 1974 performance. While licensees did not specifically address the issue of the Task Force's interpretation of the age-specific guideline, ACT contended the *Policy Statement* focuses explicitly on the quantity of available programming designed for specific age groups of children.

(2). *The Report's Research*

51. Referencing the Wartella paper, ABC questioned the need to develop programming to meet the needs of pre-schoolers. According to ABC, the Wartella paper presents only a textbook theory of child development. ABC states that "children do not develop their cognitive abilities in readily identifiable increments." NBC believed the Task Force assumes that children cannot understand and do not derive enrichment from programs not specifically designed for them. NBC claimed that children understand and benefit from programs designed for a broad age range of child and family viewing.

52. CBS faulted the Task Force for relying upon data generally critical of industry performance. Broadcasters faulted the Commission for not undertaking its own analysis of age-specific programming. INTV claimed that audience research demonstrates that pre-schoolers do not view programs designed for them as often as they view programs designed for the general child and family audience. Leslie Isler, a doctoral candidate at the Harvard Graduate School of Education, argued that while there are clearly distinct cognitive and social differences between pre-school and school-age children, children's comprehension of television does not appear to vary along these lines.

53. Comments of Albert J. Solnit, M.D., Sterling Professor of Pediatrics and Psychiatry, Yale University, included in ACT's reply comments, indicate that research into the development of children suggests that television programming should be respectful of children's needs and that needs vary as the child grows older. Dr. Solnit's comments were echoed by those of Drs. Dorothy and Jerome Singer, also included in ACT's reply comments.

(3). *Conclusions of the Task Force*

54. The Task Force *Report* concluded that licensees have not complied with the 1974 *Policy Statement's* guideline relating to age-specific programming. CBS references the Romper Room study and observes that 69.2% of all stations in the top-50 markets carried at least some instructional programming for pre-school children. According to CBS, this indicates overwhelming compliance with the mandate of the 1974 *Policy Statement* that "some effort" be made in this area. INTV stated that independent stations carry an average of two hours of age-specific programming each week, clearly reflecting a "reasonable effort." According to NAB, 20.3% of all children's programming on commercial stations is pre-school age in nature. NAB also reports that public stations air an average of 12.3 hours of pre-school age programming per week compared with 3.1 hours aired on commercial stations. As a result of its survey, NAB concluded that the "meaningful effort" standard for age-specific programming has been met. WATCH contended that programming for pre-schoolers must be designed to facilitate their level of understanding and development. ACT disputed the claims that research does not support the need for age-specific programming designed for children.

D. Scheduling of Children's Programs

55. At the time of the 1974 *Policy Statement*, the Commission was concerned with the relative absence of children's programming on weekdays. The Commission recognized that while independent stations do provide weekday programming for children, there was an overall imbalance in scheduling. The Commission concluded that "although we are not prepared to adopt a specific scheduling rule, we do expect to see considerable improvement in scheduling practices in the future."

56. The Abel study analyzed the number of programs independent stations and network-affiliated stations devote to children's programming on weekdays and weekends. The study concluded that overall, combining network affiliates and independent stations, the proportion of children's programs scheduled on weekends significantly decreased between 1973–74 and 1977–78 (47.3% of all children's programs were scheduled on weekends in 1977–78 compared to 53.7% in 1973–74). Independent stations in 1973–74 aired 13.4% of their children's programs on Saturday and Sunday compared with

12.0% aired on weekends during 1977–78. Network affiliate stations aired 63.7% of their children's programs on weekends in 1973–74 compared with 60.6% on weekends in 1977–78. Although the analyses revealed that a shift in overall amount of children's programming being aired on weekends has occurred, the Task Force concluded that this shift did not meet the Commission's guidelines of "considerable improvement in scheduling practices in the future."

57. CBS claimed that the Task Force incorrectly concluded that broadcasters have not made "considerable improvements" in scheduling children's programming. CBS argued that the Abel study shows that licensees have significantly decreased the amount of children's programs aired on weekends. INTV reported that 87% of independents' children's programming is aired on weekdays and that children are well served by family programs aired on independent stations. NAB's study concluded that 46% of the commercial stations' children's programming was aired on weekdays and 54% on weekends during 1979. Storer claimed the market is working efficiently through specialization, with network stations broadcasting the majority of their children's programs during weekends while independent stations air the majority of their children's shows during the week. ACT contended that many of the weekday specials are not offered on a regular daily or even weekly basis.

E. Marketplace Analysis

58. The Task Force *Report* concluded that:

> . . . in a free enterprise economy, producers will serve societal goals only if consumers can directly express their preferences through purchases in the marketplace. Since advertisers rather than viewers pay for television programming, broadcasters program to maximize the adult audience rather than to serve the needs of smaller groups, particularly those likely to have little effect on product sales. The limited number of broadcasting outlets in virtually every market places constraints upon the opportunities for program diversity and prevents the development of programming to meet strong preferences of small audiences. While segments of the population are well served by the broadcasting system, the children's market is dramatically underserved. The Task Force believes that there is considerable demand for and benefit to society from age-specific educational programming, but that this demand goes unfulfilled and the benefit goes unrealized due to children's limited appeal to the advertiser and the limited number of broadcast outlets. In short, we believe that what economists call a market failure exists in children's television programming. In the context of this analysis, it is clear that the market incentives of the broadcast industry as it is structured today run counter to the policy guidelines and expectations that the Commission created in its 1974 *Policy Statement*.

The *Report* argues that without some change in the broadcast market, only limited changes can be expected either in the availability or scheduling of non-entertainment and age-specific children's programs or in the overall amount of programming available to children.

59. In response to the Task Force's marketplace analysis, Storer stated that the Commission mistakenly declined in 1974 to look at the availability of children's television market-wide. Additionally, Storer argued that the Task Force ignores a marketplace analysis by excluding children's programs available on public stations, distant signals, cable and pay cable. The conclusions drawn by the Task Force were based in large part on a study of commercial stations in 52 markets. Storer contended that the population of children, ages 2–12, is declining rapidly. Given that fact, economic theories of supply and demand would predict that the number of children's programs would decline proportionately. Citing NBC's comment analyzing the availability of children's programming within markets, Storer reported that the availability of children's programming market-wide has dramatically increased since the 1974 *Policy Statement*. According to Storer, the Task Force's own studies demonstrate that the market is working efficiently through specialization, specifically in the area of scheduling. Network affiliates air the majority of their children's programming on weekends while independent stations air the majority of their children's shows during the week. With regard to diversified program type, Storer believed that marketplace forces are operating to service the optimal and most efficient situation: commercial stations specializing in entertainment programming and public stations specializing instructional/educational programming. Public and commercial broadcasting specialize in the type of programming each is most adept and experienced in supplying.

60. Group W noted recent action by the Commission has facilitated the increase of programming outlets from which to choose. The Commission eliminated the restrictions upon importation of distant broadcast signals by cable television operators, and eliminated the protection afforded by the syndicated exclusivity rule to the local broadcaster's programming. Additionally, the one-to-a-community subscription television rule has been eliminated and the allocations for STV frequencies have been increased. Group W observed that there are currently no restrictions placed on the common carrier retransmission of broadcast signals to points far beyond off-air reception. Regarding future plans, several major communications companies have announced plans to market in-home-use video discs and video cassettes with specialized programs, and direct satellite-to-home broadcast marketing plans are already being formulated. Group W believed the changing policies of the Commission will increase the number of outlets within a market, thus enhancing the likelihood that children's needs will be met.

61. NAB asserted that in the long term the matter of educational children's programming will be resolved by increasing diversity in program sources. The interim measures proposed by the Task Force are based on unsound analyses of the marketplace. To accurately state there is a market failure indicates that some optimal standard of marketplace performance is known, and the Task Force *Report* does not present data describing the standard by which a marketplace failure is judged.

62. CBS contended that the data base used to justify a market failure is unsound. The Task Force argued that the inclusion of children's programs among the offerings of some cable television systems and pay TV services indicates a willingness among parents to purchase additional educational programming for their children. Of the educational program packages presented in the Task Force *Report* only one is a pay cable service. Other educational program packages are offered as part of basic subscription fees. CBS reported that only 10.3% of all potential households purchased the pay children's programming channel. CBS also argued that if the "unsatisfied demand" assumption were true one would expect viewership levels for currently available education programs to be very high. CBS cited data indicating that given a choice between entertainment and educational children's programs, children overwhelmingly choose entertainment programs. This information, argued CBS, does not support the view that the marketplace has failed to provide an amount of such programming reasonably consistent with the public's desires.

63. Quaker Oats stated that their experience as an advertiser to the children's market corroborates the Task Force's finding that the economic

incentives of commercial broadcasting do not encourage the provision of specialized programming for children. Quaker does not see how maintaining or modifying the *Policy Statement* can change this basic economic conclusion. According to Quaker Oats, relying on other sources for children's programs appears to be working; specifically, since the ACT petition in 1971, PBS has successfully developed and maintained a number of innovative and age-specific children's programs. Quaker, however, did not believe that increasing the number of commercially supported video outlets is likely to result in improved television programming for children. Quaker contended that competition for the broadcast audience is by no means synonymous with an increase in the quality or diversity of broadcast programming.

IV. Options Presented in the Notice of Proposed Rule Making

Option One. Rescind the Policy Statement and Rely on Other Program Sources for Children's Programming.

64. The few broadcasters who addressed this option seem to agree that the basis of the option—the conclusion that the commercial television marketplace has failed to provide a sufficient amount of children's programming—is patently incorrect. The broadcasters vigorously argued that the marketplace does work and that on a marketwide basis, children's programming abounds. WGN stated that the availability of programming from other sources does not mean that commercial broadcasters are unaware of or are not fullfilling their obligation to serve the child audience. On the merits of the option, the broadcasters' responses were mixed. ABC, for example, argued that although commercial television should not be viewed in isolation, the 1974 *Policy Statement* should not be rescinded because of the litigation that would result. Other broadcasters favored the option and speak to the responsibilities of other program sources.

65. Meredith Corporation believed that the option provides the possibility of beneficial results to the public with no adverse effect on children's programming. If there is a need for quality children's fare in a community, the broadcaster must respond by making an affirmative effort to satisfy the needs and desires of the viewers. Also, the development of new technologies will force broadcasters to be more competitive just to survive. PBS, while not taking a substantive position on option one, pointed out that rescinding the *Policy Statement* would not eliminate the basic underlying licensee duty to children which is contained in the Commission's 1960 *En Banc Programming Statement*. CPB opposed relying solely on other program sources. CPB argued that such reliance will not ensure high quality programs unless adequate funding is available. According to Quaker, public television has successfully served the unique needs of children; therefore, option one is Quaker's favorite option.

66. Virtually every public interest and consumer group filing comments opposed rescinding the 1974 *Policy Statement*. ACT asserted that the Commission must not abandon its position and that rescinding the *Policy Statement* would impair service to the child audience. The Committee for Children's Television of Metro Detroit stated that even though the *Policy Statement* has had little effect, repeal would be detrimental. Minority Children's Television, a Chicago group, argued that rescinding the *Policy Statement* would lead to the elimination of children's programs. The Rochester Coalition for Children's Television strongly objected to relying solely on program sources other than commercial broadcasting because alternative sources are either unavailable or expensive. According to WATCH, only 80% of the population receives PBS programming, most of which is transmitted on UHF channels. Cable television only reaches approximately 20% of the population. Furthermore, the high cost of subscription television, video discs and video cassettes makes them prohibitively expensive to most Americans.

Option Two. Maintain or Modify the Policy Statement.

67. The majority of the commenting broadcasters who did not favor outright repeal of the *Policy Statement* approve of maintaining a policy statement, although not necessarily in the same form as the existing one. Many broadcasters urged that a revitalized *Policy Statement* is the most viable option before the Commission. It represents a careful and prudent balance of interests which neither does too little nor strays too far. WGN, while favoring repeal, stated that it is not necessarily opposed to maintaining a policy statement as a guide to self regulation. A number of parties supplied a detailed explanation on how they would reformulate the *Policy Statement*. The new policy should reaffirm the principles of the 1974 *Statement*, but policy objectives should be more broadly based utilizing a market by market as opposed to a licensee approach. Also, these parties suggested deleting the special status of educational/informational programming and discarding the subgroupings of the child audience. The choice of children's programming would be the exclusive province of the individual licensee.

68. A separate issue addressed in the discussion of option two concerns the need to modify the television license renewal form in order to obtain more comprehensive and precise information about licensee programming practices for children. The reaction of the broadcast community to more detailed reporting standards was mixed. For example, Meredith Corporation supported detailed reporting standards in order to facilitate the collection of comprehensive data regarding the national status of children's programming. Chronicle opined that new reporting standards would promote better record keeping but would not necessarily insure better programming, whereas, ABC, Forward and General Electric felt that there is no need to seek more detailed information and that such requirements might be merely masked attempts to regulate indirectly that which cannot be regulated directly. PBS argued that more detailed reporting standards approach the area of impermissible intrusions into programming decisions.

69. The National Cable Television Association ("NCTA"), in reply comments, stated that maintenance of the present guidelines would allow the natural development of innovative technological services and encourage existing programmers to continue to improve children's programs. The Producer's Association for Children's Television ("PACT") also argued that maintaining the *Policy Statement* will best insure the continuance of the current development and improvement of children's programming.

70. Most of the commenting public interest groups did not favor relying on the *Policy Statement* alone. ACT charged that there have been no changes in the competitive environment that make it any more likely now than in 1974 that broadcasters will voluntarily comply with a policy statement. WATCH argued that the standards set out in the *Policy Statement* are unenforceable and even operate as a disincentive. Taking the opposite position were the Council on Children, Media and Merchandizing, and the Radio Television Council of Greater Cleveland, which favored relying on the *Policy Statement*. Virtually all of the public interest groups addressing this

option favored adopting improved program reporting requirements.

71. Only a few of the individual commenters discussed option two in any detail. For instance, Janine Bempechat presented a concept involving applying the *Policy Statement* on a market basis such that programming responsibility can be shared. The concept is based on the notion that if one station in the market is providing children's programming, there is no reason why all stations should provide parallel programming.

Option Three. Mandatory Programming Rules.

A. Feasibility and Advisability of Rules

72. Broadcasters filing in this proceeding unanimously disapproved of mandatory programming rules. The most cited argument against requiring a specific amount of programming was that such a requirement will not guarantee high quality programming and may instead discourage the current efforts to produce high quality shows. An almost equal number of broadcasters complained that the rule would disrupt program scheduling to no one's particular benefit. Field Communications, noting that independent stations traditionally "counter program" by placing much of their children's programming on weekdays, averred that mandatory weekday requirements would destroy the competitive incentives for independent stations. Fisher Broadcasting believed that rules would result in the deletion of local news, public affairs, and general family programming and feels that specific requirements geared for children neglect the needs and interests of other groups. A related concern expressed by several parties is that broadcasters, not the Commission, are most suited to determine the correct programming mix for their communities. Another scheduling-related argument against such a rule is that even though a set number of hours of educational programs is available, that does not necessarily mean that children will watch.

73. Another major concern expressed by several commenters involved enforcement of such rules. They feared that regardless of how much discretion the Commission allows in choosing appropriate programming, the Commission staff will be forced into making judgments about educational content and age specificity in addition to the larger issue of whether the shows can be classified as children's programming. Broadcasters also feared that creating mandatory programming requirements for children will lead other identifiable groups to demand similar treatment. They argued that eventually the entire broadcast day would be carved into designated audience segments. Group W also asserted that government has rarely succeeded in altering the personal preferences of its citizens and that government regulation cannot supplant parental guidance.

74. The broadcasters' final major practical argument against mandatory programming requirements concerned the availability of product to meet the requirements. According to the Subscription Television Association, the critical problem in this area is the lack of high quality children's programming available to broadcasters. It was argued that the average local television station cannot produce large quantities of high quality programming because of staff limitations, the high cost of local production, and the economic realities of children's programming. Local productions almost always result in losses and local spot children's advertisers are rare. Advertising problems increase when children are further divided into age-specific subgroups.

75. As to broadcast-related commenting parties, PACT, in particular, foresaw several detrimental byproducts of mandatory programming rules. PACT asserted that it is foolish to assume that broadcasters will maintain their curent children's programming in addition to the mandated educational programming. PACT stated further that rules will hinder the development of marketplace alternatives which the Commission staff hopes to rely on in the future. The scenario envisioned develops as follows: rules will diminish the quality of children's programming because existing resources will be spread over more hours of programming. This decline in quality will devitalize the industry as it focusses on satisfying regulators rather than attracting, entertaining, and educating child viewers. The market will become glutted with low quality products which will tend to dry up or impair the growth of other program sources. This will effectively postpone or preclude a marketplace cure. Television for All Children ("TVAC"), the distributor for Federally-financed ESAA (Emergency School Aid Act) programming, refuted the comments of some broadcasters by stating that there is, in fact, an abundance of quality children's programming available in the marketplace and that commercial broadcasters are increasingly utilizing this ESAA programming.

76. Of the public interest and media groups commenting on option three, the majority favored some type of mandatory programming requirements. Several parties would, however, formulate the rule differently than the *Notice* proposes. ACT would require each licensee to air 7½ hours on weekdays of programming originally designed for children *and* 7½ hours per week of age-specific, educational programming originally designed for children. These two separate requirements are not mutually exclusive; that is, one program could satisfy both requirements. ACT disputed broadcasters' arguments that mandatory rules will cause a decrease in quality. There is programming in existence which needs outlets. Minority Children's Television, Inc., also believed that the rule outlined in the *Notice* does not go far enough. The group would require a minimum of 25 hours of programming per week divided among the following categories: educational shows for ages 2 through 6; educational shows for ages 6–12; educational shows for ages 12–18; and racially, economically, and socially balanced shows for ages 2–18. The preferred option of WATCH would require 5 hours per week for pre-schoolers and 3 hours per week for school-age children, with at least one half hour of school-age programming locally produced. WATCH opposed any standard related to educational content, but believes a policy statement should accompany the rule which would encourage that a substantial portion of the shows should be designed to educate and not merely to entertain. Not all of the citizen's groups favored mandatory standards. For instance, the Committee for Children's Television of Metro Detroit opposed rules because increased quantity will not necessarily translate into increased quality.

77. The vast majority of the professional, religious, and educational associations favored the adoption of option three. The National Association of Pediatric Nurse Associates and Practitioners suggested, however, that 12 to 14 hours per week should be mandated because that approximates 50% of the child's weekly viewing time. The National Education Association reported that its members overwhelmingly support programming requirements. The Minnesota PTA/TV Concern Committee believed that the industry will respond to programming rules with creative and lively programming. Of sixty-five individuals formally commenting in this proceeding, forty-seven favored mandatory programming rules. Shelah Moller, while

acknowledging that there are problems with rules, believed that they represent the only realistic hope for significant improvement. Six individual commenters expressly argued against adoption of rules. The reasons given for opposing the rules were similar to those expressed by broadcast industry commenters—that quantity will not insure quality and that rules represent government paternalism.

78. Of the parties representing broadcast interests, only INTV supported the notion that, if rules are adopted, they should not apply equally to all television broadcasters. INTV suggested that mandatory standards should not apply to independent stations. The other broadcasters commenting on this issue took the view that mandatory standards, if adopted, should be capable of uniform application. CBS and Fisher both contended that different standards for different classes of licensees raises serious equal protection problems. In reply comments, Group W suggested that if rules are established they should apply not only to broadcasters but also to other regulated electronic media as well.

79. Only three non-broadcast parties commented on this issue. WATCH and the National Education Association believed that the mandatory rules should be applied uniformly to all commercial broadcast licensees. WATCH added that waivers of the rule could be obtained on an *ad hoc* basis if proven necessary. A contrary position was advocated by Janine Bempechat, who argued that only VHF network affiliates should come under the rules; independent and UHF stations should be exempt.

C. Criteria for Phase Out of Rules

80. Only one of the broadcast or broadcast related commenters addressed this issue. ABC stated that if, as it believes, the rules would be illegal and not beneficial to children's programming, then a sunset provision would not remedy those faults. But if the Commission goes ahead with rules, ABC believed the requirements should expire as soon as possible. Of the few non-broadcast commenters discussing this issue, some favored retaining rules until competition and additional outlets can generate sufficient programming. Another argued that the rule should be rescinded for any station that complies with it for three years. Several parties, including ACT, disagreed with the notion of an automatic sunset clause *per se*. Minority Children's Television stated that any sunset clause implies that any gains made would be lost when the rules were repealed. However, WATCH supported an automatic five year sunset provision because after that time a true assessment could be made of whether the increase in video outlets and technical improvements have facilitated sufficient programming for children. Regarding the criteria to be used in any non-automatic sunset provision, the National PTA felt that it should be based solely on the specific number of hours broadcast and on quality standards. The Committee for Community Access suggested a sunset provision based on market factors. According to CCA, mandatory programming requirements should not apply in any market containing a non-subscription television station devoted primarily to children's programming or in any market in which 95% of the homes in the market have the opportunity to subscribe to a low cost subscription channel for children.

D. Legal Considerations

81. Nearly all of the legal discussion in the comments concerned the legality and constitutionality of the proposed mandatory programming requirements. Without exception, broadcast interests argued that mandatory rules would violate established Commission policy, the Communications Act, and the First Amendment. Proponents of mandatory rules found no legal impediments to establishing such requirements.

1. *Arguments of parties opposed to mandatory rules*

82. The legal infirmity most frequently cited by broadcast interests is that programming requirements are an impermissible restriction on a licensee's editorial discretion. The First Amendment protects the editorial process as well as prohibiting prior restraints. These protections apply to broadcast journalism, broadcasters argue, citing *Columbia Broadcasting System* v. *Democratic National Committee*, 412 U.S. 94 (1973). Promoting any one type of programming is a value judgment and value judgments are at the heart of the editorial process. Cases which do allow some infringement of broadcaster discretion are distinguished as very narrow holdings which do not affect programming decisions nearly so much as the proposed rules. For example, *Red Lion Broadcasting Co.* v. *FCC*, 395 U.S. 367 (1969), (which upheld the Fairness Doctrine, personal attack and political editorial rules), represents the outer limits of government intrusion into programming decisions. Even so, the Fairness Doctrine affords the broadcaster broad discretion in deciding what issues to cover, when to cover them, and how to cover them. *FCC* v. *Pacifica Foundation*, 438 U.S. 726 (1978), does not, insist the broadcasters, establish special constitutional status for children which would support mandatory categories and amounts of programming.

83. The broadcast interests similarly distinguished other cases relied on by proponents of rules. *NAITPD* v. *FCC*, 516 F. 2d 526 (2d Cir. 1975), the case which upheld the children's exemption to the prime time access rule, broadened rather than restricted the types of programs broadcasters could air. The *NAITPD* court clearly distinguished the Commission's authority to interest itself in programming from the power of the Commission to adopt mandatory programming requirements. Likewise, no support for rules can be found in *Action for Children's Television* v. *FCC*, 564 F. 2d 458 (1977). That case upheld the Commission's decision *not* to take any action beyond issuing a policy statement. The language in the *Act* case which is so heavily relied upon by proponents of the rules, which states that the Commission has an affirmative duty to take further action if broadcasters fail to comply with the *Policy Statement*, is only dicta, and refers to the advertising guidelines contained in the *Policy Statement*, not the programming guidelines.

84. The broadcast interests averred that the rules go beyond merely specifying categories; they will inevitably lead to program by program review by the Commission. The guaranteed right of access rejected in *CBS* v. *DNC*, *supra*, was found unacceptable in part because the Commission would have had too great a role in specific programming decisions. The proposed rules suffer from a similar infirmity. Also, in attempting to define the types of programming which would be acceptable under the rules, the definitions must be sufficiently specific to give broadcasters guidance on the types of shows required. However, the more specific the requirement, the more it impinges on licensee discretion.

85. In summarizing the constitutional problems inherent in the mandatory rules, the broadcasters cited the four prong test necessary for approval of any governmental restriction of First Amendment freedoms. Restraints on these freedoms are upheld if the requirements are within the constitutional power of the government; the requirements further a substantial government interest; the substantial government interest is unrelated to the suppression of free expression; and, the incidential restriction of First

Amendment guarantees is no greater than is essential to the furtherance of that interest. *United States* v. *O'Brien*, 391 U.S. 367 (1968). Commenters indicated that at least two of these tests are not met. First, given the lack of a reliable factual record that any problem actually exists, ther is no showing that a substantial government interest is involved. Second the proposed rules are not the least intrusive means available to meet the Commission's goals.

86. In addition to First Amendment problems, the broadcasters asserted that the rules would violate the Communications Act of 1934. Section 326 of the Act represents a specific bar to mandatory programming requirements as it precludes the Commission from censoring broadcast programming. Censorship includes dictating programs as well as prohibiting programs. *Banzhaf* v. *FCC*, 405 F. 2d 1082 (D.C. Cir. 1968). NBC asserted that the failure of the Commission staff to address Section 326 undermines its entire legal analysis. Legislative history of the Act was also cited as evidence that Congress deliberately withheld from the Commission the power to prescribe priorities as to subject matter.

87. Finally, the broadcast-related commenters argued that the proposed rules represent a sharp departure from established Commission policy. The preservation of licensee programming discretion to meet the unique needs of individual communities has long been a cornerstone of Commission broadcast regulation. The programming rules cross the dividing line between the Commission's properly taking an interest in program categories by encouragement and guidance, and improperly dictating what programming should be aired. The Commission would be decreeing what best serves the needs of a community, regardless of how duplicative and otherwise unnecessary the programming is.

2. *Arguments of parties supporting mandatory rules*

88. Proponents of mandatory programming rules argued that First Amendment protections are not absolute. The broadcasters' claims that any interference with licensee discretion represents a constitutional violation were premised on the erroneous assumption that broadcasters have an absolute right of free speech. Some regulation of expression is permissible—even necessary—under the First Amendment to ensure the fulfillment of important governmental interests. Broadcasters can be obligated to air certain programming if it is necessary to serve the public's First Amendment interests, which are paramount. Proponents argued that the language in the *Red Lion* decision is not limited to the Fairness Doctrine. It was further argued that the proposed rules represent a minimal intrusion into licensee's editorial discretion. The rules set out content neutral categories which do not dictate specific program content. The children's program exemption to the prime time access rule exemplifies the fact that the Commission may legitimately perfer certain categories of programming. Indeed, the Commission has long considered licensee programming in categories such as news and public affairs. As to *CBS* v. *DNC*, the situation represents a far greater and fundamentally different intrusion into the editorial process than the programming categories proposed by the Commission. Furthermore, in implementing the rules, it is fair to assume that the Commission will defer to licensee categorization of programming and will not penalize broadcasters who err in good faith.

89. The proponents proffer two futher arguments in support of their position. First, broadcasting is subject to greater regulation than other communications media because it utilizes the public airwaves and because the number of outlets are necessarily limited. Second, the courts have long recognized that children constitute a unique group afforded special legal protections. *See Prince* v. *Massachusetts*, 321 U.S. 158 (1943); *Ginsberg* v. *New York*, 390 U.S. 629 (1968). The recently decided *Pacifica* case was cited as an excellent example of the special constitutional considerations inherent in issues involving the welfare of children.

90. Those parties favoring mandatory requirements stated that ample statutory authority exists for promulgating the proposed rules. Section 303 and 303(r) give the Commission power to establish rules, regulations, and restrictions necessary to carry out the provisions of the Act. Sections 307 and 309(a) mandate that the public interest be considered when granting, renewing, or modifying licenses. Citing *FCC* v. *American Broadcasting Company*, 347 U.S. 284, 290 (1953), the proponents averred that the Commission can regulate by rule what it regulates in evaluating license performance on an individual basis. The Commission has an obligation to assure that broadcasters operate in the public interest. Licensees do have broad discretion regarding specific program content, but it is appropriate for the Commission to determine what types of program service meet the public interest. The record now before the Commission compels a different result than in 1974, and the courts have stated that, given a proper factual record, the Commission may have the power to promulgate regulations. *ACT, supra. at* 480; *Writer's Guild of America, West, Inc.* v. *FCC*, 423 F. Supp. 1064, 1149 (C.D. Ca. 1976), *vacated and remanded sub nom. Tandem Productions* v. *National Broadcasting Co.*, 609 F. 2d 355 (9th Cir. 1979).

91. The supporters of mandatory requirements argued that the proposed regulations do not give the Commission the power of censorship. Section 326 represents Congress' desire to preserve the values of private journalism. It precluded the Commission from scrutinizing programs in advance of broadcast, but it has never been construed to deny the Commission the power to review the content of completed broadcasts in the performance of its regulatory duties.

Option Four. License Renewal Processing Guidelines.

92. As a general proposition, broadcast interests commenting on this option argued that processing guidelines suffer from the same practical and legal infirmities as the proposed mandatory rules. Guidelines have the same effects as rules. The flexibility of guidelines does not diminish their seriousness. NBC stated that the threat of non-renewal would create strict compliance with the guidelines even though a licensee determines that the needs of the community require a different program mix. In addition to the practical considerations, broadcasters found legal impediments to establishing the proposed processing guidelines. They argued that the licensing process cannot be used as a vehicle to impose new rules on licensees. *Writers Guild West* v. *FCC*, 423 F. Supp. at 1150. The courts will look to the effects of Commission requirements, not just their form.

93. Many of the broadcasters commenting on option four maintained that the existing license renewal processing guidelines bear little resemblance in kind and degree to the proposed guidelines and therefore offer no precedential value. The levels for news, public affairs and locally produced programming are set far below the actual programming of the vast majority of licensees. As such, they do not materially affect the editorial judgment of most licensees. The guidelines proposed in this proceeding, however, compelled significant increases in the amount of children's programs aired. Thus, instead of singling

out the occasional abuse of discretion, the proposed guidelines seek a blanket reordering of editorial priorities. Also, the existing guidelines speak in terms of broad, general program categories, spread over a large portion of the broadcast day, with no target audience. The proposed guidelines very specifically set out amounts, content, scheduling, and target audience.

94. The reaction of advertisers and program producers commenting on option four was mixed. Quaker Oats opposed the guidelines and suggests that they would result only in heavy paperwork and administrative costs for broadcasters and the Commission. On the other hand, Romper Room strongly urged that minimum processing guidelines be established. Romper Room believed that without incentives, broadcasters will not meet their obligations to children. Processing guidelines assured a minimal effort in presenting educational programming, yet provided the Commission and licensees with maximum flexibility. In reply comments, the company disputed the notion that guidelines are the same as mandatory rules. Processing guidelines represented a flexible scheme in which a licensee's good faith efforts and mitigating circumstances are weighed.

95. Public interest and media groups also viewed the adequacy of processing guidelines differently. Generally, those groups which oppose mandatory rules had a more favorable reaction to guidelines. The Committee for Community Access took the position that mandatory rules or processing guidelines would be equally effective. CCA analysed radio statistics and found that the vast majority of licensees comply with processing guidelines for nonentertainment programming and commercials. Similar results were predicted if children's programming guidelines are adopted. Although ACT submitted that processing guidelines are an inadequate response to the problem, it believed guidelines may be an attractive interim remedy because they maintain maximum flexibility and provide some incentive for broadcasters to conform. WATCH differed with this view and argued that guidelines represent an inadequate substitute for quantitative, mandatory standards. WATCH's chief concern was that guidelines are applied at the end of a license term. This gives little relief to the child audience that is inadequately served during the license term. Furthermore, the chances of denying a license renewal for failure to meet the guidelines are slim and thus the remedy is seen as illusory.

96. Most of the professional, educational, and religious organizations which stated support for mandatory rules also supported processing guidelines. However, only a few individuals filing formal comments directly addressed the processing guidelines proposal. Janine Bempechat stated that guidelines are only effective to the extent that outside interest groups challenge a license renewal because internal staff review alone rarely leads to any extraordinary action against licensees. Henry R. McCarty felt that "promise vs. performance" should always be reviewed during license renewals. Shelah Moller argued against guidelines because they are cumbersome, time consuming, and operate only after the fact.

Option Five. Increasing the Number of Video Outlets.

97. Most of the broadcasters commenting specifically on this option favored continuing efforts to foster UHF comparability. However, for the most part, broadcast interests opposed initiating significant changes in the communications market structure solely in the context of the children's proceeding. NAB believed that only the marketplace can determine the extent to which video outlets should be increased. ABC claimed that there is no proof that the means considered in option five would produce the desired result of increasing educational programming for children. NBC added that children's programming options are already increasing because of changing technologies and that it is inappropriate for the Commission to artificially distort the marketplace during periods of such rapid development. Chronicle argued that increasing the number of outlets in a market might spread advertising support even more thinly, lowering the resources available to individual stations. This, in turn, could lower the overall quality of local children's television. PBS was the only broadcaster to agree with the Task Force conclusion that the amount and diversity of children's programming is likely to be increased by expanding the number of outlets. PBS also urged that the Commission be alert to opportunities for allocating additional channels to public television. This would foster the Commission's objective of increasing the delivery of children's programming.

98. Quaker Oats favored increasing the number of commercial video outlets because of its healthy effect on competition. Quaker suggested, however, that an increase in competition for the broadcast audience is not synonymous with an increase in the quality or diversity of programming. Quaker opposed increasing the number of noncommercial stations. A proliferation of noncommercial stations will, it argues, reduce the amount of financial support to existing public stations which will reduce public stations' programming capabilities. This may cause a decline rather than an increase in the quality and variety of public television shows for children.

99. No consensus can be drawn from the comments of the public interest and media groups regarding option five. However, the Committee for Community Access found this to be the best long term solution. CCA believes that more stations in existence would have to share a smaller portion of the total audience. Therefore, stations could afford to appeal to small, specialized audiences. ACT believes as a long range strategy the option should be pursued. However, ACT stated there is no proof that it would work and thus it would be irresponsible to rely solely on this option. Even though video outlets increase, commercial broadcasters must still bear some responsibility for children's programming so that all children's needs are considered and served. The Committee for Children's Television of Metro Detroit disapproved of option five because there is no guarantee that increased competition will increase quality. The possibility of relying on alternative forms of communication, stated the New York Council on Children's TV, does not justify a diminution of commercial broadcaster's obligations. According to NYCCT, alternative media will program only recycled product instead of providing new material because they cannot compete with the network programmers dollar for dollar. Furthermore, there is no legal obligation on noncommercial outlets to supply adequate children's programming.

100. The educational associations were, for the most part, sceptical of option five as a realistic solution to the problem. The National Education Association stated that increasing video outlets may only proliferate the current excesses. Some individuals and PTA commenters suggested two key problems with this solution: (a) There is no guarantee that all children, especially the poor, would derive any benefits; and (b) the marketplace is not the best regulator of scarce public resources.

Parties Filing Formal Comments or Reply Comments in 1980

I. Broadcast Interests and Related Industries

A. *Associations*

1. ABC Television Affiliates Association
2. Association of Independent Television Stations
3. Association of Maximum Service Telecasters
4. National Association of Broadcasters
5. Subscription Television Association

B. *Television Networks*

1. American Broadcasting Companies
2. Columbia Broadcasting System
3. National Broadcasting Company
4. Public Broadcasting Service

C. *Licensees*

1. Capital Cities Broadcasting
2. Chronicle Broadcasting Company
3. Field Communications Corporation
4. Fisher Broadcasting
5. Forward Communications Corporation
6. General Electric Broadcasting, Inc.
7. Joint comments filed by Dow, Lohnes and Albertson
   a. Channel
   b. Cosmos Broadcasting Corp.
   c. Cox Broadcasting Corp.
   d. Daily Telegraph Printing Company
   e. Elba Development Corp.
   f. Guy Gannett Broadcasting Service
   g. Illiana Telecasting Corp.
   h. KOVR–TV, Inc.
   i. McClatchy Newspapers
   j. Mid-America Television Company
   k. Midcontinent Broadcasting Co.
   l. Multimedia, Inc.
   m. The Outlet Company
   n. Palmer Communications, Inc.
   o. Portal Communications, Inc.
   p. Sangre de Cristo Communications, Inc.
   q. Sierra Cascade Communications, Inc.
   r. State Telecasting Company, Inc.
   s. United Television, Inc.
   t. WCSC, Inc.
   u. The WHYN Stations Corp.
8. Joint comments filed by Fletcher, Heald & Hildreth
   a. Capitol Broadcasting Company, Inc.
   b. Coast Television Broadcasting Corp.
   c. Griffin Television, Inc.
   d. King Broadcasting Company
   e. Leake TV, Inc.
   f. Pappas Telecasting, Inc.
9. Joint comments filed by McKenna, Wilkinson, Kittner
   a. Guaranty Broadcasting Corp.
   b. John H. Phipps Broadcasting Stations, Inc.
   c. May Broadcasting Company
   d. Plains Television Corp.
   e. Shamrock Broadcasting Company, Inc.
   f. Southern Television Corporation
   g. Summit Radio Corp.
   h. Weigel Broadcasting Company
   i. Winnebago Television Corp.
   j. WKRG–TV
10. Meredith Corporation
11. Metromedia
12. Quincey Broadcasting Company
13. Storer Broadcasting Company
14. Westinghouse Broadcasting Company, Inc.
15. WBRE–TV, Inc.
16. WGN Continental; WGN of Colorado; WPIX, Inc.
17. WJAC, Inc.
18. WSJV–TV, Inc.
19. WPTZ–TV, Inc.
20. WUFT–TV (Board of Regents, State of Florida)

D. *Advertisers*

1. American Association of Advertising Agencies
2. Association of National Advertisers
3. Quaker Oats*

E. *Program Producers and Distributors*

1. Altman Productions
2. Romper Room, Inc.
3. Producer's Association for Children's Television
4. Television for All Children

F. *Miscellaneous*

1. Corporation for Public Broadcasting
2. National Cable Television Association (reply only)

II. Public Interest and Media Groups

1. Action for Children's Television
2. American Council for Better Broadcasts*
3. Atlanta Council for Children's Television
4. Children's Rights, Inc.
5. Committee for Children's Television of Metro Detroit
6. Committee for Community Access
7. Council on Children, Media, and Merchandising
8. Joint comments filed by Citizens Communications Center
   a. American Association of University Women
   b. American Federation of Teachers, Washington Teachers Union, Local 6
   c. The Baltimore Film Forum
   d. Big Brothers of the National Capital Area
   e. Chesapeake Montessori Society
   f. District of Columbia Media Task Force
   g. Focusing Awareness of Children and Television
   h. Public Action Coalition for Toys
   i. Washington Association for Television and Children (WATCH)
9. Long Island Coalition for Fair Broadcasting
10. Minority Children's Television Inc.*
11. Montgomery County Hispanic Coalition
12. National Citizen's Committee for Broadcasting
13. New York Council on Children's Television
14. Radio-Television Council of Greater Cleveland
15. Rochester Coalition on Children's Television
16. TV Impact Committee of the Lehigh Valley

III. Organizations

A. *Professional Associations*

1. National Association of Pediatric Nurse Associates and Practitioners
2. American Nurses Association

B. *Educational and PTA Associations*

1. 9th District PTA (Los Angeles, CA)
2. 10th District PTA (Los Angeles, CA)
3. National Education Association
4. National Parent, Teachers Association
5. New Jersey Education Association
6. Reviewing Stand North
7. St. Louis Association for the Education of Young Children
8. Television Concern Committee, Minnesota State PTA
9. West Virginia Education Association

C. *Religious Organizations and Congregations*

1. First Baptist Church, Kingsbury, IN.
2. Hawaii Council of Churches, Broadcast Commission
3. Llanerch Presbyterian Church, Havertown, PA.
4. National Council of Churches of Christ, Communication Commission
5. UNDA-USA
6. United Church of Christ, Office of Communications

D. *State Agencies*

1. Maryland Office for Children and Youth
2. Massachusetts Consumer's Council

E. *Miscellaneous*

1. "Children and Television" class, Mary College
2. Congressional Wives Task Force
3. Junior Saturday Club of Wayne (Wayne, PA)

*Comm
deadline.

IV. Individuals

1. John Abel and Rick Ducey (reply only)
2. Donald E. Agostino (reply only)*
3. Mildred Ake*
4. Ronald Alpert
5. Suzanne Anderson
6. T. L. Anderson
7. Nancy E. Baker-Flynn
8. Janine Bempechat
9. Terry T. Clapp
10. John Donovan Coffey*
11. Paul J. Colbert
12. Barbara Fox Conen
13. Hildred H. Conley
14. Katherine A. Cook
15. David H. Evans
16. Mary J. Fears
17. Patricia S. Fuhrer
18. Robin S. Godfrey*
19. Anna Groff*
20. Nancy T. Guiles
21. John M. & Susan S. Harrer
22. Louis Haskin
23. Mike Hauch
24. Marjorie A. Hurley
25. Leslie Isler
26. Dorothy Davies Johnson
27. Jody Katz & Charles Willmott
28. Leta Kempton
29. Dolly H. Kohnen
30. Leona K. & Robert J. Lacey
31. Charlene Lahar*
32. Henry R. McCarty
33. Shelah Moller
34. Daniel Nussbaum
35. Louis J. Oates
36. Harry F. Palmer
37. Joseph J. Palombi
38. Ingrid Pelillo*
39. Elizabeth M. Pellegrino
40. Jacqueline Phelps
41. Frances G. Pratt
42. Doreen Prenkert
43. Hugh Rank
44. Joey Reagan (reply only)
45. Jane M. Rees
46. Deb Ressler
47. Julie E. Rones
48. Judith Rosenman
49. Bonita Schaaf*
50. Kenneth R. Seeley
51. Madeline H. Selick
52. Doris L. Shreve
53. William M. Simpson
54. Albert J. Strauss
55. John V. Surr
56. Eric Michael Tabeling
57. Sr. Rafael Tilton
58. Marguerite S. Tucker*
59. Judy K. Underwood
60. Anna Weisberg
61. Paul Whiting
62. Allan Wolf
63. Ponenail Wright
64. Elenore Yavarone
65. Jayne W. Zenaty (reply only)

*Comments filed after the Commission's filing deadline.

APPENDIX B—

Parties Making Oral Presentation to the Commission at the April 28, 1983, En Banc Meeting

Three panels of participants were heard from. The parties are as follows:

Panel I

National Association of Broadcasters
CBS, Inc.
Action for Children's Television
Robert Keeshan
Romper Room Enterprises
Jerome Singer
Association of National Advertisers

Panel II

American Broadcasting Companies, Inc.
Association of Independent Television Stations, Inc.
Washington Association for Television and Children
Francis M. Palumbo, M.D.
Corporation for Public Broadcasting
National Association of Public Television Stations
Public Broadcasting Service
Susan Greene
Bruce Watkins
National Education Association

Panel III

National Association of Television Program Executives
National Broadcasting Company, Inc.
Radio and Television Commission of the Southern Baptist Convention
National Black Media Coalition
International Reading Association
Citizens Communications Center
National Coalition on Television Violence

APPENDIX C—

Parties Filing Supplemental Comments

(1) Action for Children's Television*
(2) Alpha Kappa Alpha Sorority, Inc.
(3) American Academy of Child Psychiatry*
(4) American Association of Advertising Agencies, Inc.
(5) American Broadcasting Companies, Inc.
(6) Bloomberg, Terry*
(7) Boys Town
(8) Broadcast Commission of the Hawaii Council of Churches*
(9) Brown, Vaugh Lee*
(10) Bush Institute for Child and Family Policy
(11) CBS, Inc.
(12) Chicano Federation of San Diego County, Inc.
(13) Citizens Communications Center*
(14) Coleman, Marilyn, Chairperson, Department of Child and Family Development (University of Missouri—Columbia)
(15) Comma/Oklahoma Conference of Churches
(16) The Committee for Children's Television of Metro Detroit*
(17) Community Nutrition Institute
(18) Davis, Deborah Kay*
(19) Forward Communication Corporation
(20) Gallagher, Joanne W.*
(21) Guaranty Broadcasting Corporation et al.
(22) Kaiser, Lloyd, President WQED, on behalf of National Association of Public Television Stations
(23) Lowery, Kay, Chairman, Family Relationships and Child Development for National Extension Homemakers, Council, Inc.
(24) MacDonald, Bonnie*
(25) McNally, Thomas P.*
(26) Menninger, Roy W.*
(27) Metromedia, Inc.*
(28) National Association of Elementary School Principals
(29) National Broadcasting Company, Inc.*
(30) National Catholic Educational Association*
(31) National Education Association
(32) Parent's Choice*
(33) Public Action Coalition on Toys*
(34) Public Broadcasting Service
(35) Rockefeller, Sharon Percy, Chairman of the Board of the Corporation for Public Broadcasting
(36) Sparkes, Kathleen K.*
(37) Wallaces et al.*
(38) Washington Association for Television and Children
(39) Women for Racial and Economic Equality*

Parties Filing Reply Comments

(1) Action for Children's Television
(2) American Broadcasting Companies, Inc.
(3) Washington Association for Television and Children

[FR Doc. 84-820 Filed 1-12-84 8:45 am]
BILLING CODE 6712-01-M

* Parties marked an asterisk filed comments outside the scheduled comment period. They were also considered.

47 CFR Part 90

[Docket No. 20846; FCC 83-610]

Policies and Regulations To Govern Interconnection of Private Land Mobile Radio Systems With Public Switched Telephone Network

AGENCY: Federal Communications Commission.

ACTION: Final rule; Order suspending compliance date.

SUMMARY: The Commission has adopted an *Order* which suspends the January 1, 1984 compliance date requiring licensees of existing interconnected systems below 800 MHz to conform to the rules contained in the *First Report and Order*, General Mobile Radio-Interconnection, 69 FCC 2d 1831 (1978), pending review of the interconnection rules below 800 MHz. The suspension enables licensees with existing interconnected systems to continue present use.

EFFECTIVE DATE: December 30, 1983.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Nia C. Cresham, Private Radio Bureau, Land Mobile & Microwave Division, Rules Branch, (202) 634-2443.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 90

Private land mobile radio services, Radio.

Order

In the matter of amendment of Part 90 of the Commission's rules to prescribe policies and regulations to govern the interconnection of private land mobile radio systems with the public switched telephone network. Docket No. 20846.

Adopted: December 28, 1983.
Released: December 30, 1983.

By the Commission.

1. On August 23, 1978, the Commission released a *First Report and Order*, Docket No. 20846, 69 FCC 2d 1831 (1978), which established rules to govern the interconnection of private land mobile radio systems with the public switched telephone network (PSTN) in the bands below 800 MHz. This was followed by a *Second Report and Order*, Docket No. 20846, 89 FCC 2d 741 (1982), which adopted new rules and policies to govern the interconnection of private systems and the PSTN in the 800 MHz bands. In general, the new rules at 800 MHz are more liberal than those governing interconnection below 800 MHz.

2. On September 13, 1982, the Communications Act was amended by "The Communications Amendments Act of 1982", Pub. L. 97-259, 96 Stat. 1087, September 13, 1982; see Section 120 (Section 331 of the Communications Act of 1934, as amended, is codified at 47 U.S.C. 332). In our *Memorandum Opinion and Order*, Docket No. 20846, released May 27, 1983, (48 FR 29,512, June 27, 1983), we reviewed and modified our *Second Report and Order* in light of this new legislation. We determined that the new legislation affirmed our conclusion that interconnection of private systems should occur on an unfettered basis, subject to the requirement that licensees and users obtain their own telephone service either individually or collectively on a nonprofit basis and limited by the prohibition against the "resale" of telephone service or facilities. Conference Report No. 97-765, 97th Cong., 2nd Sess., August 18, 1982, at 55.

3. In our *First Report and Order*, we permitted licensees of existing interconnected systems operating below 800 MHz to continue to use them until January 1, 1984. By January 1, 1984, all of these systems were to be brought into compliance with the new rules. This would mean, for example, that in certain radio services in the largest cities in the country, interconnection would have to cease entirely by January 1, 1984.

4. We now intend to review our private interconnection rules below 800 MHz in light of the Communications Amendments Act of 1982 and the Commission's goal to eliminate unnecessary regulations and policies. In determining whether we should suspend indefinitely the January 1, 1984 compliance date for private interconnected systems operating below 800 MHz, we are guided by the factors enunciated in *Virginia Petroleum Jobbers Assoc. v. F.P.C.*, 259 F. 2d 921 (D.C. Cir. 1958) and, more recently, *Ambach v. Bell*, 686 F. 2d 974 (D.C. Cir. 1982). In view of the likelihood that the rules in question may be modified in the near future, we are persuaded that the public interest, convenience and necessity favors interim relief. We are convinced that it would place an unnecessary and unreasonable burden on licensees and users to require them to conform to the rules by January 1, 1984, while these rules are currently under review and may be amended in the near future. Furthermore, many of these systems have been operating for over 5 years and we do not expect their continued operation pending final review of the rules to cause significant harm to other users. Therefore, we will suspend the compliance date of January 1, 1984, until the Commission has reviewed the rules governing interconnection below 800 MHz.

5. Accordingly, it is ordered that the compliance date of January 1, 1984, for the existing interconnected systems operating below 800 MHz, as provided in our *First Report and Order* of this proceeding, is suspended effective December 30, 1983, pursuant to Section 4(i) of the Communications Act of 1934, as amended.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 84-617 Filed 1-12-84; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

49 CFR Part 1

[OST Docket No. 1; Amdt. 1-189]

Organization and Delegation of Powers and Duties; Northeast Rail Service Act of 1981

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: This amendment delegates to the Federal Railroad Administrator functions vested in the Secretary by the Northeast Rail Service Act of 1981.

DATE: The effective date of this amendment is December 15, 1983.

FOR FURTHER INFORMATION CONTACT: Robert I. Ross, Office of the General Counsel, (202) 426-4723.

SUPPLEMENTARY INFORMATION: Since this amendment relates to Departmental management, procedures, and practice, notice and comment on it are unnecessary and it may be made effective in fewer than thirty days after publication in the **Federal Register**.

The Northeast Rail Service Act of 1981 (Pub. L. 97-35; August 13, 1981) authorizes the Secretary of Transportation to take various actions relating to rail matters, most particularly regarding the return of Conrail to the private sector. The purpose of this amendment is to delegate that authority to the Federal Railroad Administrator. This amendment includes, and therefore supplants, an earlier delegation to the Administrator of the authority vested in the Secretary to engage the services of an investment banking or similar firm to arrange for the sale of the interest of the United States in the common stock of Conrail.

List of Subjects in 49 CFR Part 1

Authority delegations (government agencies), Organization and functions (government agencies).

PART 1—[AMENDED]

In consideration of the foregoing, § 1.49 of Part 1 of Title 49, Code of Federal Regulations, is amended by revising paragraph (y) to read as follows:

§ 1.49 Delegations to Federal Railroad Administrator.

The Federal Railroad Administrator is delegated authority to—

* * * * *

(y) Carry out the functions vested in the Secretary by the Northeast Rail Service Act of 1981 (Pub. L. 97–35).

Authority: 49 U.S.C. 322.

Issued in Washington, D.C., on January 6, 1984.

Elizabeth Hanford Dole,
Secretary of Transportation.

[FR Doc. 84–884 Filed 1–12–84; 8:45 am]
BILLING CODE 4910–62–M

Proposed Rules

Federal Register
Vol. 49, No. 9
Friday, January 13, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 810

Proposed Amendment to the U.S. Standards for Wheat

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: In compliance with the requirements for periodic review of existing regulations, the Federal Grain Inspection Service (FGIS) has reviewed and is proposing to revise the regulations under the United States Grain Standards Act, as amended, concerning the U.S. Standards for Wheat as follows:

1. The procedure for rounding dockage would be revised. When the actual dockage is from zero to 0.25 percent, no dockage figure would be shown on the certificate, 0.26 to 0.75 percent would be certificated as 0.5 percent, 0.76 to 1.25 percent would be certificated as 1.0 percent, and so forth.

2. The special grade "Light garlicky" would be deleted and the special grade "Garlicky" would be redefined as wheat containing more than 2 green bulblets or an equivalent quantity of dry or partly dry bulblets in 1,000 grams. The work portion would be reduced to 250 grams for counts in excess of 10 green garlic bulblets.

3. The allowable limit for castor beans in the numerical grades would be reduced from 2 to 1.

4. When Hard Red Spring wheat or White Club wheat predominates in Mixed wheat, the test weight requirements applicable for those two kinds of wheat would apply.

5. An extreme amount of smut would not render wheat Sample grade. The special grades, "Light smutty" and "Smutty", would continue to be shown on official certificates.

6. The components of the subclass Western White wheat would be listed in the order of predominance on the official certificate.

7. The factors wheat of other classes, contrasting classes, and subclasses would be analyzed on a work portion of wheat free from dockage and shrunken and broken kernels.

8. An additional class of wheat, designated Red wheat, would be established. This class would accommodate Red wheat which appears on the basis of visual physical characteristics, to contain more than 10.0 percent of other classes of Red wheat. Except for wheat of other classes, the grade factors for all other classes and subclasses would apply, with the additional factor, protein content. The minimum protein content for grades U.S. Nos. 1, 2, 3, 4, and 5 would be 13.5, 11.0, 10.0, 9.0, and 9.0 percent, respectively on a 14 percent moisture basis. The wheat of other classes factor limits will not be applicable to Red wheat.

DATE: Comments must be submitted on or before March 13, 1984.

ADDRESSES: Comments must be submitted in writing, in duplicate, to Lewis Lebakken, Jr., Information Resources Management Branch, USDA, FGIS, Room 0667, South Building, 1400 Independence Avenue, SW., Washington, D.C. 20250; telephone (202) 382–1738. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule has been issued in conformance with Executive Order 12291 and Secretary's Memorandum 1512–1. The action has been classified as nonmajor, because the proposed rule does not meet the criteria for a major regulation established in the Order.

Regulatory Flexibility Act Certification

Dr. Kenneth A. Gilles, Administrator, FGIS, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities, because most users of wheat inspection services do not meet the requirements for small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Effective Date

Pursuant to section 4(b) of the United States Grain Standards Act (7 U.S.C. 76(b) the Act) and § 800.4 (7 CFR 800.4) of the regulations, no standards established or amendments or revocation of standards under the Act are to become effective less than one calendar year after promulgation, unless in the judgment of the Administrator the public health, interest, or safety requires that they become effective sooner.

Review of Standards

The review of the U.S. Standards for Wheat (7 CFR 810.301–810.309) included a determination of the continued need for the standards, a review of changes in marketing factors and functions affecting the standards, and a review of changes in technology and economic condition in the area affected by the standards and their application through the incorporation of grading factors or tests which better indicate grain quality. The objective was to assure that the standards continued to serve the needs of the market to the greatest possible extent. FGIS has determined that, in general, the wheat standards are serving their intended purpose and should remain in effect; however, FGIS proposes to make certain changes, as discussed below.

Following discussions with industry and other interested parties regarding FGIS' intention to review the wheat standards, 144 comments were received. Based on these comments and FGIS' continuing examination of the wheat standards, FGIS identified several issues for extensive evaluation. A notice, published in the March 22, 1983, **Federal Register** (48 FR 11953) requested public comment on these and other issues which FGIS should consider in its review. Subsequent to publication of the notice, 106 comments were received from all segments of the industry including foreign entities.

In the March 22, 1983, notice FGIS identified certain issues which form the basis for the proposed changes to the standards as follows:

(a) Dockage

Dockage consists primarily of dust, chaff, small weed seeds, very small pieces of broken wheat, and coarse grains larger than wheat. Dockage usually is removed in the grain cleaning

process, and may be utilized as a byproduct in animal feeds.

Under the current method dockage is certificated by rounding down to the nearest 0.5 percent (7 CFR 810.305). For example, 0.0 to 0.49 percent is shown as no dockage, 0.50 to 0.99 percent is shown as 0.5 percent dockage, and 1.0 to 1.49 percent is shown as 1.0 percent dockage. To more closely reflect the actual dockage content, two alternative procedures were reviewed by FGIS. One was certification of dockage in increments of 0.1 percent. Because of equipment limitations and sample variation, reporting dockage in increments of 0.1 percent lacks reproducibility.

The other alternative involved rounding in increments of 0.5 percent. Zero to 0.25 percent would show no dockage, 0.26 to 0.75 would be 0.5 percent, 0.76 to 1.25 would be 1.0 percent dockage, and so forth. Stating dockage in the above manner is more accurate than the current procedure because the stated percentage of dockage could differ from the actual dockage by no more than 0.25 percent. This change favors neither buyer nor seller.

The minority of commenters opposed a change in the method of rounding dockage, and stated that: (1) Producers and handlers would lose money, (2) the foreign buyer would benefit, and there is a lack of official complaints, (3) the current standards have served the industry well for many years and as a result importers have come to know the quality of wheat they will receive, (4) misunderstanding would add confusion to the marketing, (5) the loading of wheat at zero dockage would practically be eliminated, (6) at today's high speed method of loading, cleaning at the export elevator is not practicable, (7) the cost of investment in cleaning equipment would be prohibitive for many elevators, (8) there would be no resulting decrease in the percentage of dockage in U.S. wheat, nor would there be an increase in sales by changing rounding rules for dockage, (9) importers can contract for and receive any quality of what that they desire, (10) most importing countries buy the cheapest wheat available and do not pay premiums to get specific qualities desired, (11) dockage should be combined with foreign material and shrunken and broken kernels, and (12) consideration should be given to changing dockage to a "Besatz" system where undesirable matter is categorized as useful or useless matter.

A majority of the commenters supported a change in dockage procedures, and stated that: (1) A more representative and accurate method of stating the dockage is needed, (2) many foreign buyers are not satisfied with current procedures and complain that U.S. wheats consistently contain about 0.3 to 0.5 percent more dockage than stated on the certificate, (3) foreign buyers object because the current procedure consistently understates the actual dockage and impacts on imports levies, (4) European buyers regularly pay significant premiums to purchase Canadian wheat, which they claim is "cleaner" than U.S. shipments, (5) South American buyers have recently switched from the U.S. to other sources, based partly on the issue of dockage in U.S. wheat, and (6) less tolerance at the lower end of the dockage scale would assist those buyers who want cleaner grain and are willing to pay for it.

FGIS has determined that current dockage procedures need to be improved in order to maintain and increase exports of U.S. wheat. Dusty wheat is the most frequent and consistent informal complaint of foreign buyers. While dockage has feed value in the U.S., the same utility does not exist in foreign countries. Moreover, the buyer pays freight costs and, when applicable, an import levy on the total weight of the cargo.

Currently when wheat contains between 0.26 and 0.49 percent actual dockage, no dockage figure is shown on the certificate; the proposed dockage rounding procedure would certify this amount as 0.5 percent. An FGIS analysis indicated that the price impact would be less than one-tenth of a cent per bushel upon prices received by producers. The study evaluated data from representative market samples of all classes of wheat for a 5-year period. Reported dockage levels tended to be higher under this alternative method. However, if the trade were to adjust its price for the lesser amount of dockage actually contained in the wheat, then any possible producer loss is nullified.

In view of the above, it is proposed that the current procedure for rounding dockage in section 810.305 be revised. When the actual dockage is from zero to 0.25 percent, no dockage figure would be shown on the certificate; 0.26 to 0.75 percent would be certificated as 0.5 percent; 0.76 to 1.25 percent would be certificated as 1.0 percent, and so forth.

(b) Garlicky Wheat

Wheat containing two but not more than six green garlic bulblets or an equivalent quantity of dry or partly dry bulblets in a 1,000-gram portion currently is graded "Light garlicky" (7 CFR 810.308(b)). Wheat that contains more than six green garlic bulblets or an equivalent quantity of dry or partly dry bulblets currently is graded "Garlicky" (7 CFR 810.308(c)).

The issue was whether FGIS should delete "Light garlicky" and define "Garlicky" as wheat containing "more than 2 green bulblets or an equivalent quantity of dry or partly dry bulblets in 1,000 grams." Bulblet count would only be shown upon request. The size of the work portion would be reduced to 250-gram for counts in excess of 10 green garlic bulblets. Portion sizes are a procedural matter for inspection and will be defined in the Grain Inspection Handbook.

Millers have indicated that small quantities of garlic do not significantly affect grinding equipment or flour production. Also a reduction in the size of the work portion, when more than 10 green bulblets are present, is warranted to reduce the time required to analyze 1,000 grams of wheat while maintaining reasonable accuracy.

A majority of the commenters supported the change. Several commenters recommended that the number of garlic bulblets found in the sample be shown in all instances; but the current system has a provision for obtaining counts on the certificates upon request and FGIS contends this is working satisfactorily. One commenter stated that a 250-gram portion of wheat was insufficient to accurately determine a garlic count. While a larger portion size might provide a higher degree of accuracy, sufficient accuracy will be maintained on a 250-gram portion while saving inspection time needed to perform the counting. Another commenter stated that a better method is needed for scoring small broken pieces of garlic. While it is recognized as a problem, at this time FGIS is not aware of a better method. In view of the above, in § 810.308 it is proposed that: (1) The special grade "Light garlicky" be deleted; (2) the limit for special grade "Garlicky" be redefined as "more than 2 green bulblets or an equivalent quantity of dry or partly dry bulblets in 1,000 grams"; and (3) the determination of garlic be based on a 250-gram work portion when more than 10 green garlic bulblets are present which will appear in the Grain Inspection Handbook.

Also in § 810.309 it is proposed to delete the special grade designation of "Light garlicky".

(c) Castor Beans

The numerical grade limit of 2 castor bean seeds is too lenient. Castor bean seeds are rarely found in any grain (7 CFR 810.306 at (3), but the large size of the seed and the toxicity of the ricin found within, make it prudent to permit

the presence of only the minimum number of seeds in wheat. The majority of the commenters supported tightening the limit for castor bean seeds.

Accordingly, in § 810.306 it is proposed that the limit for castor bean seeds in the numerical grades be reduced from 2 to 1, i.e., when a 1,000 gram sample contains more than 1 castor bean the wheat will be graded "U.S. Sample grade."

(d) Test Weight Requirements for Mixed Wheat

A change is needed to clarify the test weight requirements when Hard Red Spring wheat or White Club wheat predominate in the mixture (7 CFR 810.306(b)) because the test weight requirements for Hard Red Spring wheat and White Club wheat in the various grades differ. The intent of the standards is to apply the test weight requirements of the predominating class. However the grade chart is not definitive on this point, and differences in interpretation have resulted. The issue presented was whether to modify the chart to indicate the predominating class.

Although a few commenters stated the changes were not needed, a majority of commenters supported the proposal.

Accordingly, in § 810.306 it is proposed to modify the grade chart. When Hard Red Spring wheat or White Club wheat predominate in a sample of Mixed wheat, the test weight requirements for those wheat classes would apply.

(e) Smutty Wheat

Currently, when smut is evident in a sample, the special grades "Light smutty" and "Smutty" are applied (7 CFR 810.308 (d) and (e)). Also, when the sample contains a quantity of smut so great that one or more grade requirements cannot be determined accurately, a Sample grade designation is applied (7 CFR 810.306 at (2)). Inspection data show that wheat rarely contains so much smut that grade requirements cannot be determined accurately. The special grades appear to adequately inform the user of the condition of the wheat and make the requirement regarding extreme quantities of smut as Sample grade unnecessary.

The issue presented was whether to delete the presence of an extreme amount of smut as a factor rendering wheat Sample grade.

The majority of commenters supported the change.

Accordingly, in § 810.306 it is proposed that the presence of an extreme amount of smut would not render the wheat U.S. Sample grade.

(f) Certification of Western White Wheat

In Western White wheat, the percentage of White Club wheat is currently stated first in the "Remarks" section of the official certificate, followed by the percentage of other white wheat (7 CFR 810.307(a)(5)). Certification procedures for mixtures of grains or classes are to list the components of the mixture in the order of predominance. In most samples of Western White wheat, White Club wheat comprises a small or minimal proportion of the mixture, with other white wheat predominating.

Therefore, the issue presented was whether to list the components of the subclass Western White wheat in the order of predominance on the official certificate as is done in mixed grains.

The majority supported listing the components of Western White wheat in the order of predominance.

Accordingly, in § 810.307 it is proposed that the components of Western White wheat be listed in the order of predominance on the official certificate.

(g) Basis of Determination

The analysis for wheat of other classes, contrasting classes, and subclasses currently is performed on wheat after the removal of dockage (7 CFR 810.303(c)). In contrast heat-damaged kernels, damaged kernels (total), and foreign material analyses are performed on wheat after the removal of dockage and shrunken and broken kernels (7 CFR 810.302(g).

Shrunken and broken kernels are pieces of wheat and other material that pass through a 0.064x⅜ inch oblong-hole sieve. These shrunken and broken kernels are difficult to analyze for several of the grading factors such as, wheat of other classes, contrasting classes, and subclasses. Increased inspection accuracy and a reduction in inspection time would result if the analyses were performed after the removal of the shrunken and broken kernels. Therefore, the issue presented was whether to analyze the factors of wheat of other classes, contrasting classes, and subclasses on a work portion of wheat free from dockage *and* shrunken and broken kernels.

The majority supported the change.

Accordingly, in § 810.303 it is proposed that the analysis for the factors wheat of other classes, contrasting classes, and subclasses be performed on a work portion of wheat free from dockage and shrunken and broken kernels.

(h) Contrasting Classes

There are three classes of red wheat grown in the United States. Two of these classes, Hard Red Spring and Hard Red Winter Wheat, are produced for their protein quantity and quality characteristics and are considered bread wheats.

The class Soft Red Winter wheat is bred to contain a lower percentage of protein with different quality characteristics and is used for cakes, cookies, crackers, pretzels, doughnuts, and the like. Because the two types (hard and soft) of wheat have been developed for particular needs, and possess different chemcial and physical characteristics, mixing the two types may adversely affect milling and flour performance.

Currently, U.S. No. 2 Dark Northern Spring wheat or U.S. No. 2 Hard Red Winter wheat may contain a maximum of 5.0 percent of Soft Red Winter wheat. The issue was whether the maximum other class limits should be lowered to 2.0 percent.

The majority of the commenters opposed a change to consider soft and hard types as contrasting classes, and stated that: (1) Analysis is difficult and subjective, (2) the proposed change was impractical and unnecessary, (3) buyers could get any level of quality desired by paying the proper premium, (4) current standards are understood by the industry and present few problems, (5) changing to more restrictive limits would cause an increase in grading errors resulting in more appeals at increased cost and render some producers' wheat unmarketable, (6) millers accept hard wheat containing 5 percent of soft wheat, (7) producers and handlers may be penalized in areas where both soft and hard types are produced and may become mixed, and (8) some new varieties of winter wheat are crosses of soft and hard types; consequently, typical kernel appearance has become diffused for these wheats.

The minority of the commenters supported a change, and stated that: (1) Mixtures are not desired because of the difference in milling and baking qualities of soft and hard wheats, (2) tempering characteristics and mixing times are different, (3) intentional admixing is a practice that becomes increasingly attractive when the price differential between the two types becomes great and that any cash benefits that accrue are not passed back to the producer or the importer, (4) reducing the amount of contrasting

classes would discourage blending, (5) blending capabilities in some countries are restrictive; therefore, poorer quality wheat could not be blended with their domestic wheats to improve quality, and (6) reducing the amount of contrasting classes would insure more uniform quality and improve our competitive position in world trade.

After reviewing these comments, FGIS has decided not to make a proposal concerning contrasting classes at this time but will continue to study the issue.

Red Wheat

In addition to those proposals related to the issues mentioned in the March 22, 1983, notice, FGIS proposes to establish an additional class of wheat designated as Red wheat. Originally, classes and subclasses were incorporated into the standards to facilitate marketing by aiding the buyer in the selection of the proper wheat for the product to be made. Each class had certain unique visual and physical characteristics. Recently plant breeders have developed red wheat which exhibit nonuniform physical appearance atypical of existing classes. To enable the grain market to ascertain use and value, it is proposed to establish an additional class of wheat, designated as Red wheat. Such a class would include blends of those red wheat varieties which are particularly difficult to identify and which appear as mixtures consisting of two or more of the following classes, Hard Red Winter, Soft Red Winter, or Hard Red Spring wheat. The minor component should represent a minimum of ten percent. For this new class of Red wheat, the grade factors for all other classes and subclasses would apply, except for wheat of other classes, with the additional factor, protein content. The minimum protein content for the grades 1, 2, 3, 4, and 5 would be 13.5, 11.0, 10.0, 9.0, and 9.0 percent, respectively, on a 14 percent moisture basis. The addition of protein content would assist in identifying the potential end use. For the class Red wheat, the factor limits for wheat of other classes shall not apply.

Accordingly, in §§ 810.301, 810.302, 810.306, and 810.307 FGIS proposes to establish an additional class of wheat designated as Red wheat. Due to the proposed establishment of the class Red wheat, a necessary amendment to the definition of Mixed wheat in § 810.301 is also proposed. Also, the resultant renumbering of footnotes in § 810.306 is proposed.

Other Comments

In addition to comments directly related to the issue presented in March 22, 1983, notice, interested persons provided additional comments regarding classing, inspection procedures, certification, infestation, grading factors, and dockage. They are as follows:

1. Classing:

a. Grade wheat by class instead of subclass.

b. No change should be made regarding the classing of Southwest-grown wheat.

c. Review classing of Southwest-grown red wheat.

d. Change the classing system to use protein for categorizing wheat as Hard, Semi-hard, and Soft.

e. Combine the classes of Hard Red Spring wheat and Hard Red Winter wheat and designate as Hard Red wheat.

f. Loosen the requirements for the factor wheat of other classes.

g. Retain the subclasses in the class Hard Red Spring wheat.

h. Reinstate dark, hard, and vitreous kernel determinations for Hard red Winter wheat.

i. Retain the method of starting hard and vitreous kernels of Durum wheat.

j. Delete the Durum wheat subclasses and substitute a hard and vitreous kernel.

FGIS has decided not to propose at this time any wheat classing revisions based on these comments; however, FGIS will continue to study these comments as part of its constant effort to improve the classing of wheat. No action will be taken until further study can be completed.

2. Inspection procedures:

Suggestions were made to:

a. Use a No. 4 sieve in the Carter dockage tester to perform the shrunken and broken kernels test on the entire sample.

b. Delete the No. 8 sieve when determining dockage if excessive wild buckwheat is present.

The use of a No. 4 sieve in the top carriage of the Carter dockage has been studied and shown to save inspection time. However, this change is not being proposed because the results are not consistent with the currently used mechanical shaker. Also, some factors are currently determined prior to the removal of shrunken and broken kernels. If the proposal to analyze wheat of other classes, contrasting classes, and subclasses on a sample after the removal of dockage and shrunken and broken kernels is adopted, the suggestion may warrant further study.

The use of the No. 8 sieve is a special procedure for determining dockage when an excessive amount of wild buckwheat is found in a sample. At the present, FGIS does not consider this procedure to be reliable. If the procedure can be modified to be more reliable in the future, FGIS will reexamine this question.

3. Certification:

Suggestions were made to:

a. Delete the subclassing of Durum wheat and show the percentage of hard and vitreous kernels in Durum wheat on the certificate.

b. Include protein and falling number values on the certificate.

Subclassing in Durum wheat provides a means of separating the wheat into 3 groups according to the percentage of hard and vitreous kernels. Subclassing serves a useful purpose in assuring the buyer a minimum percentage of hard and vitreous kernels. If the subclasses were deleted and the percentage of hard and vitreous kernels was required to be shown on the certificate, inspection time and cost would be increased substantially.

A requirement to show protein and falling number values on all certificates would increase inspection costs unnecessarily. For example, protein seldom is requested on Soft Red Winter wheat. Also, falling number results would be meaningful only if sprouted wheat were a problem. These tests should be performed only in instances when they are meaningful to the applicant. Currently, both tests are available, and performed on a request basis.

4. Infestation:

Suggestions were made to:

a. State on certificates the number of live and dead insects and not differentiate between weevils and other insects.

b. Record on certificates the presence of all insects.

c. Provide a more accurate evaluation of infestation.

d. Designate a single live insect as making a sample weevily.

Infestation has been a controversial issue for many years. The detection of live or dead insects is difficult because some insects are internal feeders and cannot be detected readily. Obtaining a representative sample to determine the degree of infestation is difficult.

A proposal addressing infestation was not included because (1) further study is needed regarding suitable methods to detect hidden, live or dead infestation, and (2) a visual count of live insects is available. FGIS will continue to cooperate with on-going research efforts and the industry to make improvements in this area.

5. Grading factors:

Suggestions were made to:

a. Include gluten requirements in the standards.

b. Raise test weight requirements for all classes of wheat.

c. Identify scabby wheat separately in the standards.

d. Redesignate and set limits for heat damage as heat damage 0.2 percent and heavy heat damage, badly burned, 0.02 percent.

e. Tighten ergot limit.

f. Tighten grade limits in Durum wheat because presently the limits are so wide that there is inconsistent quality in the same grade.

A suggestion has been made to include gluten requirements in the standards. Gluten tests currently are not available under the U.S. Grain Standards Act because the test rarely is requested and is very time consuming.

One commenter suggested raising the test weight requirements for wheat. Additional support and study would be required before such a change could be implemented.

The identification of scab-infected wheat as a separate factor was suggested. Upon request, the amount of scab-damaged wheat present in a sample can be shown on the inspection certificate.

It was suggested that the factor heat damage be further divided into two factors—heat damage and heavy heat damage (badly burned) with a limit of .02 percent for the latter. Prior to May 1977, the heat-damage limits for grades U.S. No. 1 and U.S. No. 2 were 0.1 percent and 0.2 percent, respectively. Because of sampling and grading variability, 0.2 percent was subsequently established as the grade limit for heat-damaged kernels in both grades U.S. No. 1 and U.S. No. 2. A limit of 0.02 percent may be too restrictive for practical application under the current sampling and inspection procedures. Further evaluation is necessay.

Tightening the limit for ergot was suggested. A change in the limit for ergot in wheat was considered in the previous revision of the wheat standards. The comments received at that time opposed the change; therefore, the current limit was retained and FGIS is not proposing any changes at this time.

A commenter stated that the grade factor limits in Durum wheat were too wide, causing shipment within the same grade to be inconsistent in quality. Grades accommodate variations in the crop. Differences in environment and variety may account for the differences. The suggested change would not assure consistency because the "lowest" factor determines the grade.

Many of the comments appear to have merit and will be studied and evaluated for impact, procedures, and instrumentation needs. Due consideration will be given to methods that can be developed and shown to be workable within the current grain marketing system.

Some comments and suggestions did not directly relate to the wheat standards and therefore will not be addressed in this docket. They will be addressed when the appropriate standards are reviewed.

List of Subjects in 7 CFR Part 810

Export and grain.

PART 810—[AMENDED]

1. Section 810.301 is amended by revising the introductory text, by revising existing paragraph (g) and redesignating it as paragraph (h) and by adding a new paragraph (g) to read as follows:

§ 810.301 Definition of wheat.

The grain of common wheat *(Triticum aestivum L.)*, club wheat (*T. pactum Host*), and Durum wheat (*T. durum Desf.*) which, before the removal of the dockage, consists of 50 percent or more of one or more of these wheats and not more than 10 percent of other grains for which standards have been established under the United States Grain Standards Act and which, after the removal of the dockage, contains 50 percent or more of whole kernels of one or more of these wheats. Wheat shall be divided into the following eight classes: Hard Red Spring wheat, Durum wheat, Hard Red Winter wheat, Soft Red Winter wheat, White wheat, Unclassed wheat, Red wheat, and Mixed wheat.

* * * * *

(g) *Red wheat.* Any mixture of the classes Hard Red Winter, Hard Red Spring, or Soft Red Winter wheat which consists of less than 90 percent of one of these classes and more than 10 percent of one or more of the remaining Red wheat classes.

(h) *Mixed wheat.* Any mixture of wheat which consists of less than 90 percent of one class and more than 10 percent of one other class, or a combination of classes which meets the definition of wheat, and which does not meet the requirements of the class Red wheat.

* * * * *

2. Section 810.302 is amended by revising paragraph (a) to read as follows:

§ 810.302 Definition of other terms.

* * * * *

(a) Contrasting classes shall be:

(1) Durum wheat, White wheat, and Unclassed wheat in the classes Hard Red Spring wheat, Hard Red Winter wheat, Soft Red Winter wheat, and Red wheat.

(2) Hard Red Spring wheat, Hard Red Winter wheat, Soft Red Winter wheat, White wheat, and Unclassed wheat in the class Durum wheat.

(3) Hard Red Spring wheat, Durum wheat, Hard Red Winter wheat, Soft Red Winter wheat, and Unclassed wheat in the class White wheat.

* * * * *

3. Section 810.303 is amended by revising paragraph (c).

§ 810.303 Basis of determination.

* * * * *

(c) *All other determinations.* All other determinations shall be upon the basis of the grain when free from dockage except the determination of heat-damaged kernels, damaged kernels (total), foreign material, other classes, contrasting classes, and subclasses shall be upon the basis of the grain when free from dockage and shrunken and broken kernels; and the determination of odor shall be upon either the basis of the sample as a whole or the grain when free from dockage.

* * * * *

4. Section 810.305 is amended by revising paragraph (b) to read as follows:

§ 810.305 Percentages.

* * * * *

(b) Percentages shall be stated in whole and tenth percent to the nearest tenth percent, except when determining the identity of wheat, the class, the subclass, and the percentage of dockage and/or ergot. The percentage when determining the identity of wheat, the class, and the subclass shall be stated to the nearest whole percent. The percentage of dockage when equal to one-half percent or more shall be stated in terms of half percent, whole percent, or whole and half percent, as the case may be, as shown in the following examples; Dockage ranging from 0.0 to 0.25 would show no dockage figure. Dockage ranging from 0.26 to 0.75 percent shall be expressed as 0.5 percent, from 0.76 to 1.25 percent as 1.0 percent, from 1.26 to 1.75 percent as 1.5 percent, and so forth. The percentage of ergot shall be stated to the nearest hundredth percent.

5. Section 810.306 is amended by revising paragraph (a) to read as follows:

Grades, Grade Requirements, and Grade Designations

§ 810.306 Grades and grade requirements.

WHEAT

[(a) Grades and grade requirements for all classes of wheat, except Mixed wheat. (See also § 810.308).]

Grade	Minimum limits of—			Maximum limits of—						
	Test weight per bushel		Protein						Wheat of other classes [4]	
	Hard Red Spring wheat or White Club wheat (pounds) [1]	All other classes and subclasses (pounds)	Protein wheat only [2] (percent)	Heat damaged kernels (percent)	Damaged kernels (total) [3] (percent)	Foreign material (percent)	Shrunken and broken kernels (percent)	Defects (total) [4] (percent)	Contrasting classes (percent)	Total [5] of other classes [6 7] (percent)
U.S. No. 1	58.0	60.0	13.5	0.2	2.0	0.5	3.0	3.0	1.0	3.0
U.S. No. 2	57.0	58.0	11.0	0.2	4.0	1.0	5.0	5.0	2.0	5.0
U.S. No. 3	55.0	56.0	10.0	0.5	7.0	2.0	8.0	8.0	3.0	10.0
U.S. No. 4	53.0	54.0	9.0	1.0	10.0	3.0	12.0	12.0	10.0	10.0
U.S. No. 5	50.0	51.0	9.0	3.0	15.0	5.0	20.0	20.0	10.0	10.0

U.S. Sample grade:

U.S. Sample grade shall be wheat which:

(1) Does not meet the requirements for the grades U.S. Nos. 1, 2, 3, 4, or 5; or

(2) Contains 8 or more stones, 2 or more pieces of glass, 3 or more crotalaria seeds (*Crotalaria spp.*), 2 or more castor beans (*Ricinus communis*), 4 or more particles of an unknown foreign substance(s) or a commonly recognized harmful or toxic substance(s), or 2 or more rodent pellets, bird droppings, or an equivalent quantity of other animal filth per 1,000 grams of wheat; or

(3) Has a musty, sour, or commercially objectionable foreign odor (*except smut or garlic odor*); or

(4) Is heating or otherwise of distinctly low quality.

[1] These requirements also apply when Hard Red Spring wheat or White Club wheat predominate in a sample of Mixed wheat.
[2] On a 14 percent moisture basis.
[3] Includes heat-damaged kernels.
[4] Defects (total) include damaged kernels (total), foreign material, and shrunken and broken kernels. The sum of these three factors may not exceed the limit for defects.
[5] Unclassed Wheat of any grade may contain not more than 10 percent of wheat of other classes.
[6] Includes contrasting classes.
[7] These requirements do not apply to the class Red wheat.

* * * * *

6. Section 810.307 is amended by revising paragraph (a) to read as follows:

§ 810.307 Grade designations.

(a) *Grade designations for wheat.* (See also § 810.308). The grade designations for wheat shall include in the following order: (1) The letters "U.S."; (2) the number of the grade or the words "Sample grade"; (3) the subclass, or in the case of Hard Red Winter wheat, Mixed wheat, Soft Red Winter wheat, Unclassed wheat, and Red wheat, the class; (4) each applicable special grade (see also section 810.309); and (5) when applicable, the word "dockage" together with the percentage thereof. In the case of Western White wheat, there shall be included under "Remarks" on the inspection certificate, in the order of predominance, the name and percentage of White Club wheat and other white wheat in the mixture. In the case of Unclassed wheat, there shall be included under "Remarks" on the inspection certificate the color or other characteristics which describe the wheat, together with the percentage. In the case of Red wheat, there shall be included under "Remarks" on the inspection certificate, the percentage of protein. In the case of Mixed wheat, there shall be included under "Remarks" on the inspection certificate, in order of predominance, the name and percentage of the classes that comprise the mixture.

* * * * *

7. Section 810.308 is amended by revising paragraph (b), removing paragraph (c), redesignating paragraphs (d) through (g) as paragraphs (c) through (f) as follows:

Special Grades, Special Grade Requirements and Special Grade Designations

§ 810.308 Special grades and special grade requirements.

* * * * *

(b) *Garlicky wheat.* Wheat which contains in a 1,000-gram portion more than two green garlic bulblets or an equivalent quantity of dry or partly dry bulblets.

(c) *Light Smutty wheat.* * * *

(d) *Smutty wheat.* * * *

(e) *Weevily wheat.* * * *

(f) *Treated wheat.* * * *

8. Section 810.309 is amended by revising paragraph (a) to read as follows:

§ 810.309 Special grade designation.

* * * * *

(a) The grade designation for ergoty, garlicky, light smutty, smutty, and weevily wheat shall include in the order listed, following the applicable class or subclass, the word(s) "Ergoty": "Garlicky": "Light Smutty", "Smutty": and "Weevily": as warranted, and all other information prescribed in section 810.307.

* * * * *

(Secs. 5 and 18, Pub. L. 94–582, 90 Stat. 2869 and 2884 (7 U.S.C. 76 and 87(e)).

Dated: December 22, 1983.

Kenneth A. Gilles,

Administrator.

[FR Doc. 84–809 Filed 1–12–84; 8:45 am]

BILLING CODE 3410–EN–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 270

[Release No. IC–13705; File No. S7–1–84]

Payment of Administrative Fees to the Depositor or Principal Underwriter of a Unit Investment Trust

AGENCY: Securites and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing for comment a rule under the Investment Company Act of 1940 that would permit the trustee of a unit investment trust to be reimbursed from trust assets for fees paid to the trust's depositor for certain

bookkeeping and other administrative services. The rule also would provide the exemptive relief to an insurance company separate account and related persons that offer or sell variable annuity contracts necessary to permit deduction of such fees from the account's assets. The proposal would codify the "at cost" standard that the Commission has applied to individual requests for approval of such fees and would eliminate the need for these actions. The Commission is also proposing related technical amendments to one of the general rules under the Act.

DATE: Comments must be received on or before February 25, 1984.

ADDRESS: Comments should be sent in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Comment letters should refer to File No. S7–1–84. All comments will be available for public inspection in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Thomas P. Lemke, Special Counsel (202–272–2061), or Robert E. Plaze, Attorney (202–272–2622), Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission") today is publishing for public comment proposed rule 26a–1 under the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.) ("Act"), which would allow as an expense to the trustee or custodian (collectively, "trustee") of a unit investment trust ("trust") any fee paid to the depositor of or principal underwriter for such trust and related persons (collectively, "depositor") for bookkeeping or other administrative services of a character normally performed by the trustee itself ("administrative fees"), provided that such fee is an amount not greater than the estimated cost of the services provided. The proposed rule also would provide exemptive relief to insurance company separate accounts and related persons that offer or sell variable annuity contracts (collectively, "separate accounts") [1] from the provisions of sections 26(a) and 27(c)(2) of the Act (15 U.S.C. 80a–26(a) and 80a–27(c)(2) to the extent necessary to permit the deduction of administrative fees from a separate account's assets. The proposal would codify the "at cost" standard that the Commission has applied in individual cases, particularly exemptive applications filed by separate accounts. In addition, the Commission is proposing several related technical amendments to rule 0–1(e) (17 CFR 270.0–1(e)) of its General Rules and Regulations under the Act.

[1] The term "separate account" is defined in section 2(a)(37) of the Act (15 U.S.C. 80a–2(a)(37)). A substantially identical definition of "separate account," as that term is used in various rules under the act, is contained in rule 0–1(e)(1) under the Act (17 CFR 270.0–1(e)(1)). The term "variable annuity contract" is defined in rule 0–(e)(1) under the Act (17 CFR 270.0–(e)(1). *See* Investment Company Act Rel. No. 13406 (July 26, 1983) (48 FRE 36097, Aug. 9, 1983).

Discussion

Section 26(a) of the Act contains various requirements for trusts.[2] Section 26(a)(2) provides, among other things, that no trust depositor shall sell any security issued by the trust unless the trust indenture provides that no payments to the depositor shall be allowed the trustee as an expense. The purpose of this provision is to prohibit the depositor from "reaping hidden profits" through purported administrative fees.[3] Section 26(a)(2)(C) does permit, however, the depositor to receive administrative fees which do not exceed such reasonable amount as prescribed by the Commission.[4]

The Commission has interpreted section 26 to permit a payment from trust assets to the depositor for administrative fees provided that the fee is an amount not greater than the estimated cost of the services provided, *i.e.*, the services must be provided "at cost."[5] Although this issue has arisen most frequently in applications filed by separate accounts seeking the exemptions needed to permit deduction of annual contract maintenance fees, transfer fees, and other types of administrative fees,[6] it also has arisen in applications and no-action letters involving administrative fees imposed by trusts that are not separate accounts. In all of these contexts, the "at cost" standard has been applied. In light of this experience, the Commission is proposing to codify such relief in rule 26a–1.

[2] Section 26(a) provides, in relevant part, that:

No principal underwriter for or depositor of a registered unit investment trust shall sell, except by surrender to the trustee for redemption, any security of which such trust is the issuer (other than short-term paper), unless the trust indenture, agreement of custodianship, or other instrument pursuant to which such security is issued—

(2) provides, in substance, * * * (C) that no payment to the depositor of or a principal underwriter for such trust, or to any affiliated person or agent of such depositor or underwriter, shall be allowed the trustee or custodian as an expense (except that provision may be made for the payment to any such person of a fee, not exceeding such reasonable amount as the Commission may prescribe as compensation for performing bookkeeping and other administrative services, of a character normally performed by the trustee or custodian itself); * * *.

[3] *Id.; H.R. Rep. No.* 2639, 76th Cong., 3d Sess. 22 (1940). *See also S. Rep. No.* 1775, 76th Cong., 3d Sess. 8, 18 (1940).

[4] *See Securities and Exchange Commission* v. *Variable Annuity Life Ins. Co.*, 39 SEC 680, 702–703 (1960).

[5] This "at cost' standard is founded on the policies underlying section 26(a)(2)(C) of the Act, which is intended generally to preserve trust assets and prevent securityholders from being subjected to purported "administrative" fees which, instead of compensating the depositor for administrative services actually rendered, in fact provide additional remuneration to the depositor. *See generally H.R. Rep. No.* 2639, 76th Cong., 3d Sess. 22 (1940).

The Commission has applied the "at cost" standard in this context as follows: If the separate account reserves the right to increase the fee in question, the fee must be set at a level not greater than the cost of the service to be provided that year; if the fee is guaranteed not to increase (*i.e.*, where applicable state law or the terms of a variable annuity contract itself limits the account's ability to raise the level of administrative fees over the life of the contract), the fee may be set at a level not greater than the average expected cost of the services to be provided during the period of the guarantee.

[6] A separate account may be registered under the Act as a unit investment trust ("trust account") or as an open-end management investment company ("management account"). By virtue of section 27(c)(2) of the Act, the requirements of section 26(a), in addition to being directly applicable to trust accounts, are made applicable to any registered investment company—including management as well as trust accounts—offering periodic payment plan certificates. A variable annuity contract which is permitted to be paid for with more than one purchase payment, including a reinvestment of dividends or an accumulation of capital gains attributable to the contract, is a periodic payment plan certificate. *See, e.g., Prudential Ins. Co. of Am.*, 41 SEC 335, 348, *aff'd sub. nom. Prudential Ins. Co. of Am.* v. *Securities and Exchange Commission*, 326 F. 2d 383 (3d Cir.), *cert. denied*, 377 U.S. 953 (1964).

Proposed Rule and Rule Amendments

1. Proposed Rule 26a–1

Paragraph (a) of proposed rule 26a–1 provides generally that for purposes of section 26(a)(2)(C), payment of a fee to the depositor for administrative services shall be allowed the trustee as an expense provided that such fee is not greater than the estimated cost of the services provided. Paragraph (b) of the proposed rule provides any separate account, and any depositor of such account, with the exemptive relief from the provisions of sections 26(a) and 27(c)(2) necessary to permit the deduction of any fee that would be allowed a trustee as an expense as provided in paragraph (a) of the rule.

2. Proposed Technical Amendments to Rule 0–1(e)

Rule 0–1 of the General Rules and Regulations under the Act defines various terms used in those rules. Rule 0–1(e) defines the term "separate

account"; and sets forth the conditions for availability of exemptive relief for separate accounts pursuant to the general rules. The Commission is proposing to amend rule 0–1(e) to include rule 26a–1 as one of the rules listed therein.

List of Subjects in 17 CFR Part 270

Investment companies, Reporting and recordkeeping requirements, Securities.

Text of Proposed Rule 26a–1 and Proposed Amendments to Rule 0–1(e)

It is proposed that Part 270 of Chapter II of Title 17 of the Code of Federal Regulations be amended as follows:

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

1. By revising paragraphs (e) introductory text and (e)(2) of § 270.0–1 to read as follows:

§ 270.0–1 Definition of terms used in this part.

* * * * *

(e) Definition of separate account and conditions for availability of exemption under §§ 270.6c–6, 270.6c–7, 270.6c–8, 270.11a–2, 270.14a–2, 270.15a–3, 270.16a–1, 270.22d–3, 270.22e–1, 270.26a–1, 270.26a–2, 270.27a–2, 270.27a–3, 270.27c–1, and 270.32a–2 of this chapter.

(1) * * *

(2) As conditions to the availability of exemptive Rules 6c–6, 6c–7, 6c–8, 11a–2, 14a–2, 15a–3, 16a–1, 22d–3, 22e–1, 26a–1, 26a–2, 27a–1, 27a–2, 27a–3, 27c–1, and 32a–2, the separate account shall be legally segregated, the assets of the separate acount shall, at the time during the year that adjustments in the reserves are made, have a value at least equal to the reserves and other contract liabilities with respect to such account, and at all other times, shall have a value approximately equal to or in excess of such reserves and liabilities; and that portion of such assets having a value equal to, or approximately equal to, such reserves and contract liabilities shall not be chargeable with liabilities arising out of any other business which the insurance company may conduct.

2. By adding new § 270.26a–1 to read as follows:

§ 270.26a–1 Payment of administrative fees to the depositor or principal underwriter of a unit investment trust; exemptive relief for separate accounts.

(a) For purposes of section 26(a)(2)(C) of the Act, payment of a fee to the depositor of or a principal underwriter for a registered unit investment trust, or to any affiliated person or agent of such depositor or underwriter (collectively, "depositor"), for bookkeeping or other administrative services provided to the trust shall be allowed the custodian or trustee ("trustee") as an expense, *Provided*, That such fee is an amount not greater than the expenses actually paid by such depositor directly attributable to the services provided and increased by the services provided, without profit, as determined in accordance with generally accepted accounting principles consistently applied.

(b) A registered separate account, and any depositor of or principal underwriter for such account, shall be exempt from the provisions of sections 26(a) and 27(c)(2) of the Act (15 U.S.C. 80a–26(a) and 80a–27(c)(2)) with respect to any variable annuity contract participating in such account to the extent necessary to permit the deduction of any fee that would be allowed a trustee as an expense as provided in paragraph (a) above.

Regulatory Filexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Chairman of the Commission has certified that the rule proposed herein will not, if adopted, have a significant economic impact on a substantial number of small entities. This certification, including the reasons therefor, is attached to this release.

Paperwork Reduction Act

The proposed rule is not subject to the Act because it does not impose an information collection requirement.

Statutory Authority: Proposed rule 26a–1 is issued pursuant to the provisions of sections 6(c), 26(a), and 38(a) of the Act (15 U.S.C. 80a–6(c), 80a–26(a), and 80a–37(a)). The proposed amendments to rule 0–1(e) (17 CFR 270.0–1(e)) are issued pursuant to the provisions of section 38(a) of the Act (15 U.S.C. 80a–37(a)).

By the Commission.

George A. Fitzsimmons,

Secretary.

January 9, 1984.

Regulatory Flexibility Act Certification

I, John S.R. Shad, Chairman of the Securities and Exchange Commission, hereby certify pursuant to 5 U.S.C. 605(b) that proposed rule 26a–1 under the Investment Company Act of 1940, if adopted, will not have a significant economic impact on a substantial number of small entities. The reason for this certification in the case of traditional unit investment trusts is that it appears that there are few, if any, such trusts that would find it necessary to utilize the proposed rule since most such trusts do not engage in the types of activities addressed by the rule. Moreover, the reduction, if any, in costs to such trusts resulting from the proposed rule's elimination of their need to obtain approval of certain fees for administrative services will not have a significant economic impact on any such trusts.

The reason for the certification in the case of insurance company separate accounts is that there are few, if any, such separate accounts, when considered in conjunction with their sponsoring insurance companies, that qualify as "small entities" as that term has been defined in the Commission's rules. Moreover, the reduction, if any, in costs to such separate accounts resulting from the proposed rule's elimination of their need to file certain applications will not have a significant economic impact on any such separate accounts.

Dated: January 6, 1984.

John S. R. Shad,

Chairman.

[FR Doc. 84–950 Filed 1–12–84; 8:45 am]
BILLING CODE 8010–01–M

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17 CFR Part 270

[Release No. IC–13706; File No. S7–2–84]

Exemptive Relief for Separate Accounts Relating to Custodianship of and Deduction of Certain Fees and Charges From the Account's Assets

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing for comment an exemptive rule under the Investment Company Act for registered insurance company separate accounts with respect to variable annuity contracts participating in such separate accounts. The proposed rule would codify the standards that the Commission has developed in processing individual applications filed by separate accounts seeking the exemptive relief necessary to permit them to engage in certain custodianship activities and to make certain routine deductions from account assets. If adopted, the proposed rule would eliminate the need for separate accounts to obtain individual exemptive orders in connection with these matters. The Commission is also proposing related technical amendments to one of the general rules under the Act.

DATE: Comments must be received on or before February 25, 1984.

ADDRESS: Comments should be sent in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange

Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comment letters should refer to File No. S7–2–84. All comments received will be available for public inspection in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Thomas P. Lemke, Special Counsel (202–272–2061), or Robert E. Plaze, Attorney (202–272–2622), Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, N.W. Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission") today is publishing for comment proposed rule 26a–2 under the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.) ("Act"), which would provide registered insurance company separate accounts (sometimes referred to as "separate accounts", "accounts" or "applicants") [1] that offer or sell variable annuity contracts [2] exemptive relief from various provisions of the Act. The exemptive relief also would be available for any depositor of, or underwriter for, such accounts ("other persons," and, together with separate account, sometimes referred to as "applicants"). Proposed rule 26a–2 would codify the standards that the Commission has developed with respect to applications filed by separate accounts and other persons seeking the exemptive relief from the provisions of sections 26(a) and 27(c)(2) of the Act (15 U.S.C. 80a–26(a) and 80a–27(c)(2)) necessary to permit an account's sponsoring insurance company, rather than a bank trustee or custodian ("custodian"), to serve as custodian for the assets of the account. The proposed rule also would provide the relief necessary to permit an account to hold certain property in uncertificated form, to deposit certain securities in securities depositories or utilize the federal book-entry system, and to make certain routine deduction from account assets. In addition, the Commission is proposing several related technical amendments to rule 0–1(e) (17 CFR 270.0–1(e)) of its General Rules and Regulations under the Act. The proposals are part of the Commission's effort to codify the standards that it has developed reviewing applications filed by separate accounts for so-called "start-up" exemptive relief [3] and for other relief under the Act.[4]

[1] The term "separate account" is defined in section 2(a)(37) of the Act (15 U.S.C. 80a–2(a) (37)). A substantially identical definition of "separate account," as that term is used in various rules under the Act, is contained in rule 0–1(e) (1) under the Act (17 CFR 270.1(e)(1)). The term "insurance company" is defined in section 2(a)(17) of the Act (15 U.S.C. 80a–2(a) (17)). A separate account may be registered under the Act either as a unit investment trust ("trust account") or as an open-end management company ("management account").

[2] As defined by Rule 0–1(e) under the Act (17 CFR 270.0–1(e)), the term "variable annuity contract" includes any accumulation or annuity contract, any portion thereof, or any unit of interest or participation therein pursuant to which the value of the contract, either prior or subsequent to annuitization, or both, varies according to the investment experience of the separate account. *See* Investment Company Act Rel. No. 13406 (July 28, 1983) (48 FR 36097, Aug. 9, 1983).

[3] For a variety of reasons, separate accounts must obtain so-called "start-up" relief room various provisions of the Act prior to offering their variable annuity contracts to the public.

[4] *See, e.g.*, Investment Company Act Rel., No. 13407 (July 28, 1983) (48 FR 36243, Aug. 10, 1983) (rule 11a–2); Investment Company Act Rel. No. 13406 (July 28, 1983) (48 FR 36097, Aug. 9, 1983) (rule 6c–8); Investment Company Act Rel. No. 12745 (Oct. 18, 1982) (47 FR 47860, Oct. 28, 1982) (proposed rule 6c–7 and proposed amended rule 14a–2).

Discussion

1. Custodianship Relief

Section 26(a) of the Act prescribes various requirements for trust accounts concerning, among other things, the custodianship of trust assets.[5] The section's legislative history indicates that its purpose is to prevent the "orphanage" of the account's assets by insuring that "a proper trustee has custody of the securities * * * [of the account."[6] By virtue of section 27(c)(2) of the Act, several requirements of section 26(a) are applicable to management accounts and other persons that issue periodic payment plan certificates.[7]

Sections 26(a)(1) and 26(a)(2)(D) which require the designation of one or more custodians, each of which is a bank with a minimum net worth, and require that such custodians have possession of and hold in trust all assets of the trust are incompatible with the insurance laws of some states, which require that the insurance company own and hold the assets of the separate account and prohibit the insurance company from holding those assets in trust.[8] In addition, section 26(a)(2)(D), because it requires that the custodian have "possession" of the account's assets, may prohibit a management account from engaging in various custodianship activities otherwise permitted by section 17(f) of the Act (15 U.S.C. 80a–17(f)) of the rules thereunder (e.g., the deposit of its securities in a clearing agency which acts as a securities depository or in the federal bood entry system) and may prohibit a trust account from holding the shares of its underlying portfolio companies in uncertificated form.

Applicants seeking exemptions to engage in these activities generally demonstrate that the requested relief is consistent with the standards set forth in section 6(c) of the Act (15 U.S.C. 80a–6(c)), and the Commission has routinely granted the requested relief. Specifically, the Commission has approved applications for exemptions

[5] Section 26(a) provides, in relevant part, that:

No principal underwriter for or depositor of a registered unit investment trust shall sell, except by surrender to the trustee for redemption, any security of which such trust is the issuer (other than short-term paper), unless the trust indenture, agreement of custodianship, or other instrument pursuant to which such security is issued—

(1) Designates one or more trustees or custodians, each of which is a bank, * * *; [and]

(2) Provides, in substance, * * * (C) that no payment to the depositor of or a principal underwriter for such trust, or to any affiliated person or agent of such depositor or underwriter, shall be allowed the trustee or custodian as an expense (except that provision may be made for the payment to any such person of a fee, not exceeding such reasonable amount as the Commission may prescribe as compensation for performing bookkeeping and other administrative services, of a character normally performed by the trustee or custodian itself); and (D) that the trustee or custodian shall have possession of all securities and other property in which the funds of the trust are invested, all funds held for such investment, all equalization, redemption, and other special funds of the trust, and all income upon, accretions to, and proceeds of such property and funds, and shall segregate and hold the same in trust * * *.

[6] *Hearings on H.R. 10065 Before A Subcomm. of the House Comm. on Interstate and Foreign Commerce*, 76th Cong., 3d Sess. 130 (1940) (statement of David Schenker). *See H.R. Rep. No.* 2639, 76th Cong., 3d Sess. 22 (1940) (hereinafter cited as "House Report"); *S. Rep. No.* 1775, 76th Cong., 3d Sess. 8, 18 (1940), (hereinafter cited as "Senate Report"); *Securities and Exchange Commission* v. *Variable Annuity Life Ins. Co.*, 39 SEC 680, 702 (1960).

[7] Section 27(c)(2) provides that:

It shall be unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate, unless—

(2) The proceeds of all payments on such certificate (except such amounts as are deducted for sales load) are deposited with a trustee or custodian having the qualifications prescribed in paragraph (1) of section 26(a) for the trustee of unit investment trusts, and are held by such trustee or custodian under an indenture or agreement containing, in substance, the provisions required by paragraphs (2) and (3) of section 26(a) for the trust indentures of unit investment trusts.

A "periodic payment plan certificate" is defined in section 2(a)(27) of the Act (15 U.S.C. 80a-2(a)(27)), in part, as any certificate, investment contract, or other security providing for a series of periodic payments by the holder, and representing an interest in certain specified securities or in a unit or fund of securities purchased wholly or partly with the proceeds of such payments. A variable annuity contract which is permitted to be paid for with more than one purchase payment, including a reinvestment of dividends or an accumulation of capital gains, is a periodic payment plan certificate. *See, e.g., Prudential Ins. Co. of Am.*, 41 SEC 335, 348, *aff'd sub. nom. Prudential Ins. Co. of Am.* v. *Securities and Exchange Commission*, 326 F.2d 383 (3d Cir.), *cert. denied*, 377 U.S. 953 (1964).

[8] *See, e.g.*, 27 N.Y. Ins. Law Section 227(j) (Mckinney 1983–1984 Pocket Part).

from sections 26(a) (1) and 26(a)(2) (D) (and section 27(c)(2)) to permit a separate account's sponsoring insurance company to hold the account's assets and to hold those assets in a safekeeping and not in trust because the Commission believes that state insurance laws governing the safekeeping of insurance company assets generally are adequate to ensure the preservation of a separate account's assets. Similarly, the Commission has issued orders granting exemptive relief from section 26(a)(2) (D) (and section 27(c)(2)) to permit management accounts to engage in custodianship practices otherwise permitted by section 17(f) or the rules thereunder because the protections provided therein are sufficient. Finally, the Commission has issued orders granting exemptive relief from section 26(a)(2) (D) (and section 27(c)(2)) to permit trust accounts to hold the shares of their underlying portfolio companies in uncertificated form because this procedure also does not raise the types of problems with which Congress was concerned in enacting section 26(a). Moreover, the issuance of certificated shares in this instance would result in unnecessary costs.

2. Relief for Deduction of Certain Routine Fees and Charges

In addition to prescribing custodianship requirements for separate accounts, section 26(a)(2)(C), in effect, precludes the custodian of a separate account from making deductions from account assets for certain fees and charges such as premium taxes[9] and, if the account is a management account, the investment advisory fee.[10] The Commission has issued exemptive orders permitting an account's trustee or custodian to make these two types of routine deductions. In the case of premium taxes, there is little potential for abuses of the type intended to be deterred by the relevant provisions; with respect to advisory fees, relief has been routinely granted because section 15 and 36 of the Act (15 U.S.C. 80a–15 and 80a–35) reflect the Congressional determination that the appropriate level of such fees is, in the first instance, primarily a matter for parties other than the Commission.

In light of the experience discussed above, the Commission is proposing to codify in rule 26a–2 the relief for deduction of certain routine fees and charges and custodianship relief it routinely grants.

Proposed Rule and Rule Amendments

1. Proposed Rule 26a–2

Paragraph (a) of proposed rule 26a–2 exempts any registered separate account offering variable annuity contracts, and any depositor of or principal underwriter for such account, from the provisions of sections 26(a) and 27(c)(2) of the Act to the extent necessary to permit the separate account's sponsoring insurance company to hold the assets of the separate account rather than to have those assets held by a bank trustee or custodian as required by section 26(a)(1).[11] In addition, paragraph (a) provides relief to permit the sponsoring insurance company to hold such assets not pursuant to a trust indenture of other such instrument as required by section 26(a)(2)(D).

Paragraph (b) of the proposed rule provides relief to permit any trust account to hold the securities of its underlying portfolio companies in uncertificated form. Paragraph (c) provides relief to permit any management account to hold its assets in any manner permitted by section 17(f) of the Act or the rules thereunder.

Finally, paragraph (d) of the proposed rule provides exemptive relief to permit the separate account to deduct from its assets an amount for premium taxes imposed by a State or other governmental entity and to deduct from its assets, if it is a managed account, an investment advisory fee. With regard to the latter fee, it must be emphasized that the proposed rule's exemptive relief would not constitute Commission approval as to the appropriateness of the level of the fee. Rather, as is the case in exemptive orders now, the rule would provide relief only to permit a deduction from an account's assets that is not otherwise permitted by section 26(a)(2).

2. Proposed Technical Amendments to Rule 0–1(e)

Rule 0–1 of the General Rules and Regulations under the Act defines various terms used in those rules. Rule 0–1(e) defines the term "separate account" and sets forth the conditions for availablity of exemptive relief for separate accounts pursuant to those rules. The Commission is proposing to amend rule 0–1(e) to include rule 26a–2 as one of the rules liste therein.

List of Subjects in 17 CFR Part 270

Investment companies, Reporting and recordkeeping requirements, Securities.

Text of Proposed Rule 26a–2 and Proposed Amendments to Rule 0–1(e)

It is proposed that Part 270 of Chapter II of Title 17 of the Code of Federal Regulations be amended as follows:

1. By revising paragraphs (e) introductory text and (e)(2) of § 270.0–1 to read as follows:

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

§ 270.0–1 Definition of terms used in this part.

* * * * *

(e) Definition of separate account and conditions for availability of exemption under §§ 270.6c–6, 270.6c–7, 270.6c–8, 270.11a–2, 270.14a–2, 270.15a–3, 270.16a–1, 270.22d–3, 270.22e–1, 270.26a–1, 270.26a–2, 270.27a–2, 270.27a–3, 270.27c–1, and 270.32a–2 of this chapter.

(1) * * *

(2) As conditions to the availability of exemptive Rules 6c–6, 6c–7, 6c–8, 11a–2, 14a–2, 15a–3, 16a–1, 22d–3, 22e–1, 26a–1, 26a–2, 27a–1, 27a–2, 27a–3, 27c–1, and 32a–2, the separate account shall be legally segregated, the assets of the separate account shall, at the time during the year that adjustments in the reserves are made, have a value at least equal to the reserves and other contract liabilities with respect to such account, and at all other times, shall have a value approximately equal to or in excess of such reserves and liabilities; and that portion of such assets having a value equal to, or approximately equal to, such reserves and contract liabilities shall not be chargeable with liabilities arising out of any other business which the insurance company may conduct.

2. By adding new § 270.26a–2 to read as follows:

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[9] Various states and municipalities impose a premium tax upon purchase payments made under a variable annuity contract, and separate accounts make deduction against contract value in an amount equal to this tax levy. Premium taxes currently imposed range from .5% to approximately 2.5% and usually are deducted at the time purchase payments are made, at redemption or annuitization, or whenever the tax is incurred.

[10] Section 26(a)(2) provides generally, as relevant here, that no principal underwriter for or depositor of a separate account shall sell any security issued by the account unless it provides that no payments to the sponsoring insurance company (*i.e.*, the depositor) shall be allowed as an expense of the account. The legislative history of this provision indicates that this provision is intended to prohibit, "[e]xcept under special circumstances, the depositor or underwriter * * * [of the account] from deriving any fees from the trust other than the original sales load for distributing the shares [of the account]." *House Report, supra* note 6, at 22; *Senate Report, supra* note 6, at 18.

[11] As used in the proposed rule, the phrase "assets of the separate account" is intended to encompass each type of property listed in section 26(a)(2)(D), *i.e.*, "all securities and other property in which the funds of the separate account are invested, all funds held for such investment, all equalization, redemption, and other special funds of the separate account, and all income upon, accretions to, and proceeds of such property and funds * * *."

§ 270.26a–2 Exemptions from certain provisions of sections 26 and 27 for registered separate accounts and others regarding custodianship of and deduction of certain fees and charges from the assets of such accounts.

A registered separate account, and any depositor of or principal underwriter for such account, shall be exempt from the provisions of sections 26(a) and 27(c)(2) of the Act (15 U.S.C. 80a–26(a) and 80a–27(c)(2)) with respect to any variable annuity contract participating in such account to the extent necessary:

(a) To permit the insurance company that sponsors such account to hold the assets of the separate account and to hold such assets not pursuant to a trust indenture or other such instrument;

(b) To permit any separate account registerd under the Act as a unit investment trust to hold the securities of any underlying portfolio companies in uncertificated form;

(c) To permit any separate account registered under the Act as a management investment company to hold its assets in any manner permitted by section 17(f) of the Act (15 U.S.C. 80a–17(f)) or any rules thereunder; and

(d) To permit the deduction from the assets of the separate account of amounts for premium taxes imposed by any State or other governmental entity and, if the separate account is registered under the Act as an open-end management investment company, an investment advisory fee.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Chairman of the Commission has certified that the rule proposed herein will not, if adopted, have a significant economic impact on a substantial number of small entities. This certification, including the reasons therefore, is attached to this release.

Paperwork Reduction Act

The proposed rule is not subject to the Act because it does not impose an information collection requirement.

Statutory Authority: Proposed rule 26a–2 is issued pursuant to the provisions of sections 6(c) and 38(a) of the Act (15 U.S.C. 80a–6(c) and 80a–37(a), respectively). The proposed amendments to rule 0–1(e) (17 CFR 270.0–1(e)) are issued pursuant to the provisions of section 38(a) of the Act (15 U.S.C. 80a–37(a)).

By the Commission.

Dated: January 9, 1984.

George A. Fitzsimmons,

Secretary.

Regulatory Flexibility Act Certification

I, John S. R. Shad, Chairman of the Securities and Exchange Commission, hereby certify pursuant to 5 U.S.C. 605(b) that proposed rule 26a–2 under the Investment Company Act of 1940, if adopted, will not have a significant economic impact on a substantial number of small entities. The reason for the certification is that there are few, if any, registered insurance company separate accounts, when considered in conjunction with their sponsoring insurance companies, that qualify as "small entities" as that term has been defined in the Commission's rules. Moreover, the reduction in costs to such separate accounts, if any, resulting from the proposed rule's elimination of their need to file certain exemptive applications will not have a significant economic impact on any such separate accounts.

Dated: January 6, 1984.

John S. R. Shad,

Chairman.

[FR Doc. 84–949 Filed 1–12–84; 8:45 am]
BILLING CODE 8010–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Ch. I

Proposed Notice of Rulemaking Relating to Entry Type Codes and Entry Numbers

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: Customs has undertaken numerous initiatives relating to the development of a comprehensive integrated automated commercial system. To ensure entry processing efficiency for both Customs and entry preparers, changes in the assignment and format of: (1) Entry type codes; and (2) entry numbers are desirable. The purpose of this notice is to inform the public of these two intended changes, and invite interested parties to comment thereon.

Customs anticipates that the procedure relating to entry type codes will be instituted on a voluntary basis in the near future, and that both procedures will be implemented fully during calendar year 1984. After considering the comments received in response to this notice, Customs will publish a final document in the **Federal Register** informing the public of its conclusions.

DATE: Comments must be received on or before March 13, 1984.

ADDRESS: Written comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Richard J. Bonner, Duty Assessment Division (202–566–5492), U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

Customs has undertaken numerous initiatives relating to the development of a comprehensive integrated Automated Commercial System (ACS). When fully developed, this system will provide an efficient means for accomplishing the current and future entry processing needs of Customs, other government agencies, and the international trade community. Currently, many formal entries received by Customs are prepared on computers. More international trade businesses are planning to use computers as part of automating the preparation of import documentation.

To ensure entry processing efficiency for both Customs and entry preparers, changes in the assignment and format of: (1) Entry type codes, and (2) entry numbers are desirable.

This document informs the public of these two intended changes and invites interested parties to comment thereon. After considering the comments received in response to this notice, Customs will publish a final document informing the public of its conclusions.

Entry Type Code

Current Procedure

The currently used entry type codes, numbered one through seven, follow:

Entry type	Entry type code
Consumption Dutiable	1
Vessel Repair	2
Appraisement	3
Warehouse	4
Drawback	5
Bonded A/C Fuel	6
Consumption Free	7

These entry type codes have emerged over many years and served to identify only a few of the many entry types. They are more related to categories that

are of statistical interest than as to types which distinguish Customs' processing requirements. Many entry types such as informals, quota, and temporary importation bond cannot be specifically identified with this entry type code procedure.

New Procedure

There is a need to adopt a simple, flexible entry type code structure which will allow Customs to identify entry transactions by their processing requirements.

The following table of two-digit entry type codes uniquely identifies all current entry types and provides adequate room for additional types in the future. The first digit of the code identifies the general category of entry (i.e., consumption = 0, informal = 1, warehouse = 2, etc.). The second digit further defines the specific processing type within the entry category (i.e., consumption quota = 02, informal free and dutiable = 11, etc.).

Where a transaction requires the use of more than one entry type code, the special entry processing type code 99 should be used (e.g., where both quota and countervailing duty apply to the same transaction, use entry type code 99).

Customs Entry Type Codes

Entry type	Entry type code
Consumption Entries:	
Free and Dutiable	01
Quota	02
Countervailing Duty/Antidumping Duty	03
Appraisement	04
Vessel Repair	05
Foreign Trade Zone (Consumption)	06
Informal Entries:	
Free and Dutiable	11
Quota	12
Warehouse Entries:	
Warehouse	21
Re-warehouse	22
Temporary Importation Bond (TIB)	23
Trade Fair	24
Permanent Exhibition	25
Foreign Trade Zone (Admission)	26
Warehouse Withdrawal:	
For Consumption	31
Quota	32
Aircraft and Vessel Supply	33
Countervailing Duty/Antidumping Duty	34
For Transportation	35
For Exportation	36
For Transportation and Exportation	37
Drawback Entries:	
Manufacturer	41
Same Condition	42
Rejected Importation	43
Government Entries:	
Defense Contract Importation (DCASR)	51
Dutiable	52
Free	53
Transportation Entries:	
Immediate Transportation	61
Transportation and Exportation	62
Immediate Exportation	63
Transit	64
Special Processing Entries:	
Special Entry Processing	99

Once effective, all entry preparers must show the applicable two-digit code on the appropriate Customs entry forms including the entry summary document, Customs Form 7501. Customs expects to implement parts of the new automated commercial processing system in the near future, and, therefore, requests the voluntary compliance of entry preparers in using the new codes as soon as possible after that time. This procedure will be implemented fully during calendar year 1984.

Entry Number

Current Procedure

Customs entries are identified by a nine-digit number in the following format:

FY–NNNNNN–C

FY represents the current fiscal year, NNNNNN is a sequential number, and C is a check digit computed from the first eight digits.

For each fiscal year, Customs issues blocks of entry numbers to brokers and importers for each district and port. Issuing and controlling these numbers have become an administrative burden to Customs and the importing community. The issuance process at the beginning of each fiscal year is particularly time consuming and costly.

New Procedure

For the past year, Customs has been working with the trade community to develop a new entry numbering concept which is simple, flexible, and easy to manage. Customs is now completing the administrative details for this concept which should be implemented during calendar year 1984. At that time, Customs will amend its regulations by removing section 142.3a, Customs Regulations (19 CFR 142.3a), relating to the procedure for assigning entry numbers.

The new number, including hyphens, will be shown on all required entry documentation, including the entry summary document, Customs Form 7501, as follows:

XXX–NNNN–NNNC

XXX represents an entry filer code, NNNN–NNN is a unique number which will be assigned by the entry preparer, and C is a check digit computed from the first ten characters.

Entry Filer Code (XXX)

The entry filer code will be the only portion of the entry number that will be assigned and controlled by Customs. All brokers, importers, and others who prepare entry documentation on a regular basis will be assigned a unique three character (alphabetic, numeric, or alpha-numeric) code. The entry preparer will use this code nationwide as the beginning three characters of the number for all Customs entries, regardless of where the entries are filed. The entry filer code will replace the three digit importer/broker numbers currently assigned by Customs districts.

Entry Preparer Assigned Number (NNNN–NNN)

For each entry, the entry preparer will assign a unique number. This number may be assigned in any manner convenient provided the same number is not assigned to more than one transaction. This number will not be associated with a fiscal year of a Customs district/port. The numbers need not be assigned or used in sequence.

As each entry is received, Customs will record the unique number assigned to the transaction, and will not allow the use of the same number on any subsequent transaction. A duplicate number will result in Customs rejecting the transaction.

Check Digit (C)

The entry preparer will compute the check digit using a formula provided by Customs. These specific details will be made available when the entry filer codes are issued. Customs will assist entry preparers that do not have automation capability to secure the services of a company to handle their entry numbers.

Comments

Before adopting these initiatives, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with section 103.11(b), Customs Regulations (19 CFR 103.11(b)), during regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, U.S. Customs Service, Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Regulatory Flexibility Act

Pursuant to the provisions of section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601, *et seq.*), it is hereby certified that the regulations set forth in this document will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Authority: This document is issued under the authority of R.S. 251, as amended (19 U.S.C. 66), sections 484, 624, 46 Stat. 722, as amended, 759 (19 U.S.C. 1484, 1624).

Drafting Information

The principal author of this document was Charles D. Ressin, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices particpated in its development.

Alfred R. De Angelus,

Acting Commissioner of Customs.

Approved: December 14, 1983.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 84-656 Filed 1-12-84; 8:45 am]

BILLING CODE 4820-02-M

Internal Revenue Service

26 CFR Part 1

[LR-184-80]

Installment Obligations Received From Liquidating Corporations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document provides proposed regulations relating to reporting on the installment method gain attributable to the receipt of certain installment obligations by a shareholder from a liquidating corporation. Changes to the applicable tax law were made by the Installment Sales Revision Act of 1980. These regulations would affect all taxpayers who receive installment obligations as liquidating distributions and would provide them with the guidance to comply with the law.

DATES: Written comments or requests for a public hearing must be delivered or mailed by March 16, 1984. The regulations provided by this document are proposed to apply to installment obligations distributed by a liquidating corporation after March 31, 1980.

ADDRESS: Send comments and a request for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-184-80), Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Lou Ann Craner or Cynthia Grigsby of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224. (Attention: CC:LR:T) (202-566-3935).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed rules for reporting installment obligations received by a shareholder from a liquidating corporation under section 453(h) of the Internal Revenue Code, as amended by the Installment Sales Revision Act of 1980, 94 Stat. 2247. This document does not contain regulations relating to the general rules for reporting installment sales and the rules relating to contingent payment installment sales. Temporary regulations relating to those rules were published in the **Federal Register**, February 4, 1981. This document does not contain regulations relating to installment obligations received in certain exchanges in which gain or loss is generally not recognized, nor regulations relating to installment sales between related parties, nor regulations relating to private annuity transactions. Proposed regulations relating to those subjects will be contained in later documents, as will proposed regulations relating to installment sales under sections 453A, 453B, 691, 1038 and 1239. These regulations are issued under the authority contained in sections 453(j) and 7805 of the Code (94 Stat. 2247, 68A Stat. 917; 26 U.S.C. 453(j), 7805).

Under prior law, a shareholder who realized gain on receipt of installment obligations from a liquidating corporation was not permitted to report such gain on the installment method. Instead all the gain had to be recognized in the taxable year in which the obligations were received.

The Installment Sales Revision Act of 1980 provides that, unless a taxpayer elects otherwise, gain attributable to the receipt of an installment obligation in certain liquidations is to be reported on the installment method. To the greatest extent practicable, this regulation conforms the treatment of a shareholder receiveing installment obligations from a liquidating corportion to the treatment of a shareholder selling the stock of the corporation in an installment sale.

The new rules under section 453(h) apply generally to obligations acquired by the distributing corporation in a sale of property during a complete liquidation to which section 337 applies and timely distributed to shareholders whose tax treatment is governed by section 331(a). However, obligations acquired in a sale or exchange of inventory property which was not sold or exchanged in bulk do not qualify. If a corporation has more than one trade or business, an installment obligation received in a bulk sale of the inventory of any one trade or business will qualify for installment method reporting whether or not the inventory of any other trade or business is sold in bulk.

Installment obligations received by shareholders of a corporation in a liquidation under sections other than section 331(a), *e.g.* in a partial liquidation that is not a step in a complete liquidation, do not qualify for installment method reporting under this provision.

The scope of the nonrecognition treatment provided under section 337(a) is limited. By statutory definition, nonrecognition treatment is denied to nonbulk sales of inventory, installment obligations received in respect of such sales of inventory, and installment obligations received in respect of sales and exchanges which took place before adoption of the plan of complete liquidation. Nonrecognition treatment is also denied to the extent of recapturable depreciation in the asset sold. In the liquidation of a collapsible corporation, nonrecognition treatment is not available for sales of depreciable property to a more than 20% (actual or constructive) shareholder, even when nonrecognition treatment is otherwise available under section 341(e)(4). In liquidations to which (prior to TEFRA) section 337(c)(2)(B) applied, nonrecognition treatment was limited to the appreciation in the value of the subsidiary's assets prior to the parent's acquisition of the stock of the subsidiary.

The regulations provide special rules for determining the method of reporting installment obligations distributed to shareholders in those liquidations in which the nonrecognition treatment provided in section 337(a) is limited. Installment obligations (or any portion thereof) received in respect of a nonbulk sale of inventory are not reported on the installment method, but any other installment obligations (or portions thereof) distributed in the liquidation are reported on the installment method. Thus, even though the liquidating corporation may recognize gain or loss on certain sales under exceptions to section 337(a) (*e.g.*, sections 341(e)(4), 1245 or 1250) any installment obligation distributed to a qualifying shareholder is reportable on the installment method.

The regulations also provide a special rule for installment obligations received in liquidations to which section 337(c)(2) (formerly section 337(c)(2)(A)) applies. Section 337(a) does not apply to such liquidations but section 337(d) provides a special adjustment which provides

minority shareholders with what amounts to a credit for the tax on the gain recognized by the liquidating corporation. Here, as in liquidations to which "old" section 337(c)(2)(B) applied, minority shareholders report on the installment method (unless the shareholder elects not so to report) installment obligations received as liquidation distributions without regard to any gain recognized by the corporation.

Generally, a shareholder who receives liquidating distributions in more than one taxable year recovers basis completely before recognizing any gain. This general rule is inconsistent with installment method reporting which requires that basis be ratably apportioned. Therefore, if a taxpayer receives distributions in more than one year, basis must be reallocated in the subsequent year among all the assets distributed in all years. If the reallocation in the later year indicates that the taxpayer did not recognize the appropriate amount of gain in the earlier year, the taxpayer must file an amended return for the first year. If the taxpayer has made a tax-free transfer to a corporation or partnership of an installment obligation which has an initial basis different from the basis it would have after all liquidating distributions are made, these regulations require that the person who has acquired the installment obligation appropriately readjust basis and file an amended return when necessary.

Section 1.453–2, which relates to special rules applicable to dealers in personal property, will be redesignated upon adoption of this document as a Treasury decision. Regulations relating to special rules applicable to dealers in personal property will be published in the future under section 453A. Until those regulations are issued, the material presently contained in § 1.453–2 will remain in effect for dealers in personal property except to the extent that material conflicts with section 453A.

Special Analyses

The Commissioner of Internal Revenue had determined that this proposed rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required. This document is a notice of proposed rulemaking that solicits public comment and the Internal Revenue Service has concluded that the notice and public procedure requirements of 5 U.S.C. 553 do apply because the rules proposed are legislative. Accordingly, a Regulatory Flexibility Analysis is required.

Initial Regulatory Flexibility Analysis

These proposed regulations are necessary to implement the provisions of section 453(h) of the Internal Revenue Code as amended by the Installment Sales Revision Act of 1980.

The objective of these regulations is to provide taxpayers with the guidance necessary to comply with the provisions of section 453(h) as amended by the Installment Sales Revision Act of 1980, relating to the treatment of installment obligations received by a shareholder from a liquidating corporation. These regulations are promulgated under sections 453(j) and 7805 of the Internal Revenue Code of 1954.

These proposed regulations, if adopted, will affect small businesses but not other small entities, such as local governments or tax-exempt organizations, which do not pay taxes.

These proposed regulations, if adopted, will affect any corporation that is a small business if upon liquidation of the corporation a qualifying installment obligation is distributed to shareholders. It is anticipated that a significant number of small businesses will be affected. These regulations do not impose substantial reporting requirements beyond those already imposed by the tax laws generally nor record keeping requirements beyond those necessary to account for any complete liquidation. The professional competence necessary to comply with these regulations in no greater than that already necessary to arrange the complete liquidation of a corporation.

These regulations do not overlap with, conflict with or duplicate any existing federal regulations.

None of the significant alternatives considered in drafting these regulations would have significantly altered the economic impact of these regulations on small entities.

Comments and Request for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Drafting Information

The principal author of this regulation is Phoebe A. Mix of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects in 26 CFR 1.441–1—1.483–2

Income taxes, Accounting, Deferred compensation plans, Installment sales.

Proposed Amendments to the Regulation

PART 1—[AMENDED]

Accordingly, it is proposed to amend 26 CFR Part 1 by revising § 1.453–2 to read as follows:

§ 1.453–2 Installment obligations received from a liquidating corporation.

(a) *In general.*—(1) *Generally.* Except as provided in proposed § 1.453–3(i) (relating to installment sales of depreciable property to certain closely related persons), a qualifying shareholder who receives a qualifying installment obligation (as defined in paragraph (c) of this section) in connection with a liquidation to which section 337 applies (as defined in paragraph (d) of this section) will treat payments received in respect of the obligation, rather than the obligation, as payment for the shareholder's stock. The shareholder will report the payments received on the installment method unless the shareholder elects otherwise in accordance with the rules set forth in § 1.453–1A(e) of these regulations.

(2) *Liquidating distributions treated as selling price.* All amounts distributed or treated as distributed to the qualifying shareholder incident to the liquidation including, in addition to qualifying installment obligations, cash, other property, and obligations that are not qualifying installment obligations, will be considered as having been received by the shareholder as the selling price [as defined in § 1.453–1A(b)(2)(ii)] for the shareholder's stock in the liquidating corporation. For the proper method of reporting liquidating distributions received in more than one taxable year of a shareholder, see paragraph (e) of this section. An election not to report on the installment method an installment obligation received as a liquidating distribution will apply to all distributions received in the liquidation.

(3) *Assumption of corporate liability by shareholders*—(i) *In general.* If in the course of the liquidation a shareholder assumes or takes subject to secured or unsecured indebtedness, the amount of

the indebtedness is added to the shareholder's basis in the stock of the liquidating corporation. Such additions to basis will not affect the taxpayer's holding period in the stock. Liabilities assumed by or taken subject to by the shareholder do not reduce the amounts received in computing the selling price.

(ii) *Example.* The following example illustrates the provision of paragraph (a)(3):

Example (i). A owns all of the stock of T corporation at a basis of $100,000. T, which is not a collapsible corporation, owns Blackacre, unimproved real property, at a basis of $700,000. Blackacre is subject to a mortgage ("underlying mortgage") of $1,100,000. A is not personally and primarily liable on the underlying mortgage and the T shares held by A are not encumbered by the underlying mortgage. The other assets of T consist of cash of $400,000 and accounts receivable having a total face amount (and value) of $600,000. The unsecured liabilities of T total $900,000. On February 1, 1983, T adopts a plan of complete liquidation comporting with section 337, and promptly sells Blackacre to unrelated B corporation for a mortgage note (bearing adequate stated interest) in the face amount of $4 million (the B note). Under the agreement between T and B corporations, T (or its successor) is to continue to service (make principal and interest payments on) the underlying mortgage. Immediately thereafter, T completes its liquidation by distributing to Mr. A its cash of $400,000, accounts receivable of $600,000, and the $4 million B note. A assumes T's $900,000 of unsecured liabilities and receives the distributed property subject to the obligation to continue to service the $1,100,000 underlying mortgage. In 1983 A receives no payments from B corporation on the B note.

(ii) Provided A does not elect out of installment treatment, the transaction will be reported by A on the installment method. Selling price is $5 million (cash of $400,000, accounts receivable of $600,000, and B note of $4 million). Total contract price also is $5 million. A's basis in the T shares, initially $100,000, is increased by the $900,000 of unsecured T liabilities assumed by Mr. A and by the obligation (to which A takes subject) to service the $1,100,000 underlying mortgage, to an aggregate basis of $2,100,000. Accordingly, gross profit is $2,900,000 (selling price $5 million less aggregate basis of $2,100,000). Gross profit ratio is 58% (gross profit $2,900,000 divided by total contract price of $5 million). 1983 payments to A are $1 million ($400,000 cash plus $600,000 receivables) and A will recognize gain in 1983 of $580,000 ($1 million times 58%).

(iii) In 1984 A receives payment from B corporation on the B note of $1 million (exclusive of interest). A's gain recognized in 1984 is $580,000 ($1 million times 58%).

(b) *Qualifying shareholder.* The term "qualifying shareholder" means a shareholder to which, with respect to the liquidating distribution, section 331 applies. Thus, a creditor who receives a distribution from a liquidating corporation in exchange for the creditor's claim is not a qualifying shareholder whether or not the liquidation is described in section 337(g).

(c) *Qualifying installment obligation*—(1) *In general.* Except as provided in paragraph (c)(4) of this section (relating to certain inventory sales), the term "qualifying installment obligation" means an installment obligation (as defined in § 1.453.1A(c)(2)(i)) acquired in a sale or exchange of corporate assets by the liquidating corporation during the 12-month period set forth in section 337(a). In the case of a liquidation described in section 337(g), the period described in section 337(g)(2) shall be treated as the 12-month period set forth in section 337(a).

(2) *Corporate assets* Except as provided in paragraph (c)(4) of this section (relating to certain sales of inventory), the nature of the assets sold by the tax consequences to the selling corporation do not determine whether an installment obligation is a qualifying installment obligation. Thus, for example, the fact that the fair market value of an asset is less than the adjusted basis of that asset in the hands of the corporation, or that the sale of an asset will subject the corporation to depreciation recapture (*e.g.*, sections 1245 and 1250), or that the assets of a trade or business sold by the corporation for an installment obligation include section 179 property, accounts receivable, installment obligations, or cash will not disqualify installment obligations received in exchange for those assets as qualifying installment obligations. However, a debt obligation received by the corporation in exchange for cash, as an investment functionally unrelated to a sale or exchange of noncash assets by the corporation, will not be treated as a qualifying installment obligation.

(3) *Installment obligations distributed in liquidations to which section 337(c)(3) applies*—(i) *In general.* In the case of a liquidation to which section 337(c)(3) (relating to certain liquidating subsidiary corporations) applies, a qualifying installment obligation acquired in respect of a sale or exchange by the liquidating subsidiary corporation will be treated as a qualifying installment obligation if distributed to a qualifying shareholder of a distributee corporation (as defined in section 337(c)(3)(B)).

(ii) *Examples.* The provisions of paragraph (c) (3) of this section are illustrated by the following examples:

Example (1). A, an individual, owns all of the stock of T corporation. T has an operating division and three wholly-owned subsidiaries, X, Y, and Z. Neither T nor any of its subsidiaries is a collapsible corporation (as defined in section 341(b)). On February 1, 1981, T, Y, and Z all adopt plans of complete liquidation. The following sales promptly are made to unrelated purchasers: T sells its operating division to B for cash and an installment obligation. T sells the stock of X to C for an installment obligation. Y sells all of its assets to D for an installment obligation. Z sells all of its assets to E for cash. In June 1981, Y and Z completely liquidate, distributing their respective assets (installment obligations and cash) to T. In July 1981, T completely liquidates, distributing to A cash and the installment obligations respectively issued by B, C, and D. The liquidation of T is a liquidation to which section 337 applies and the liquidations of Y and Z are liquidations to which section 337(c)(3) applies. A is a qualifying shareholder and the installment obligations issued by B, C, and D are qualifying installment obligations. Unless A elects otherwise, A reports the transaction on the installment method as if the cash and installment obligations had been received in an installment sale of the stock of T corporation.

Example (2). A, a cash method individual taxpayer, owns all of the stock of P corporation. P owns 20% of the stock of S corporation. The balance of the S stock is owned by unrelated individuals. On February 1, 1981, P adopts a plan of complete liquidation and sells all of its property, other than its S stock, to B, an unrelated purchaser for cash and an installment obligation. On March 1, 1981, S adopts a plan of complete liquidation, then sells all of its property to unrelated C for cash and installment obligations, and immediately distributes the cash and installment obligations to its shareholders in completion of the liquidation. Promptly thereafter, P liquidates, distributing to A cash, the B installment obligation, and a C installment obligation that P received in the liquidation of S. In the hands of A, the B installment obligation is a qualifying installment obligation. In hands of P, the C installment obligation was a qualifying installment obligation. However, in the hands of A, the C installment obligation will not be treated as a qualifying installment obligation because P only owns a 20% stock interest in S. Because P does not own at least 80% of the stock of S, the liquidation of S is not a case to which section 337(c)(3) applies. Thus, in the hands of A, the C obligation is consider to be a third party note (not a purchaser's evidence of indebtedness) and therefore is treated as a payment to A in the year of distribution. Accordingly, in 1981 A will report as payment the cash and the fair market value of the C obligation distributed to A in the liquidation of P.

(4) *Installment obligations attributable to certain sales of inventory*—(i) *In general.* An installment obligation acquired by a corporation, in a liquidation to which section 337 applies, in respect of a sale or exchange of a broken lot of inventory (within the

meaning of paragraph (c)(4)(ii)(B) of this section) is not a qualifying installment obligation. In the event that the installment obligation is received in respect of a broken lot of inventory and other assets, only the portion of the installment obligation received in respect of the broken lot of inventory is not a qualifying installment obligation. The portion of the installment obligation attributable to other assets is a qualifying installment obligation. See paragraph (c)(4)(iii) of this section for rules for determining what portion of an installment obligation is nonqualifying.

(ii) *Definitions.* For purposes of this section, the following definitions shall apply:

(A) *Inventory property.* The term "inventory property" means property described in section 337(b)(1)(A).

(B) *Broken lot of inventory.* The term "broken lot of inventory" means inventory property sold or exchanged in a manner which does not meet the description contained in section 37(b)(2).

(iii) *Rules for determining nonqualifying installment obligation.* If a broken lot of inventory is sold to a purchaser together with other corporate assets and the consideration received includes cash (or other property) the assumption of (or taking subject to) corporate liabilities, or both, as well as an installment obligation, the following rules will apply solely for the purpose of determining the portion of the installment obligation (if any) that is attributable to the broken lot of inventory. First, the buyer's assumption of unsecured liabilities and the buyer's assumption of or taking subject to liabilities encumbering the broken lot of inventory are deemed consideration received for the broken lot of inventory, up to the fair market value thereof (liabilities encumbering only assets other than the broken lot of inventory are not deemed to be consideration received for the broken lot of inventory). Second, the sum of any cash and the fair market value of other property (other than the installment obligation) received is deemed consideration for the broken lot of inventory up to the amount (if any) by which the fair market value of the broken lot of inventory exceeds the previously described liabilities. Accordingly, an installment obligation will be deemed to have been received in respect of a broken lot of inventory only to the extent that the fair market value of the broken lot of inventory exceeds the sum of the cash and fair market value of other property received, and the unsecured liabilities and secured liabilities encumbering the broken lot of inventory assumed or taken subject to by the purchaser.

(iv) *Examples.* The provisions of this paragraph are illustrated by the following examples:

Example (1). (i) P corporation has three operating divisions, X, Y, and Z, each engaged in a separate trade or business, and a minor amount of investment assets. P is not a collapsible corporation (as defined in section 341(b)). On July 1, 1981, P adopts a plan of complete liquidation comporting with section 337. The following sales are promptly made to purchasers unrelated to P: P sells all of the assets of the X division (including all of the inventory property) to B for cash of $30,000 plus an amount to be retained by P to meet certain liabilities, and installment obligations totalling $200,000. P sells substantially all of the inventory property of the Y division (worth $100,000) to C for an installment obligation, and sells all of the other assets of the Y division (excluding cash but including installment receivables previously acquired in the ordinary conduct of the business of the Y division) to D for a $170,000 installment obligation. P sells ⅓ of the inventory property of the Z division to E for $100,000 cash, ⅓ of the inventory property of the Z division to F for a $100,000 installment obligation, and all of the other assets of the Z division (including ⅓ of the inventory property worth $100,000) to G for $60,000 cash, a $240,000 installment obligation, and the assumption by G of the liabilities of the Z division. P promptly completes its liquidation, distributing the cash and installment obligations to A, an individual cash method taxpayer who is its sole shareholder. In the hands of A, the installment obligations issued by B, C, and D are qualifying installment obligations. The installment obligation issued by F is not a qualifying installment obligation. A portion of the installment obligation issued by G is a qualifying installment obligation and a portion is not a qualifying installment obligation, determined as follows: G purchased part of the inventory property and all of the other assets of the Z division by paying cash ($60,000), issuing an installment obligation ($240,000), and assuming the liabilities of the Z division. Liabilities encumbering assets other than inventory property are ignored in the calculation. Assume the unsecured liabilities and any liabilities encumbering the inventory property aggregated $30,000 and thus that the total purchase price paid by G was $330,000 (exclusive of any liabilities encumbering solely noninventory property). Of this aggregate amount, $100,000 was paid for inventory property of the Z division. The payment made by G by assumption of liabilities ($30,000) and in cash ($60,000) will be attributed first to the inventory property. Therefore, only $10,000 of the $240,000 installment obligation will be attributed to inventory property. Accordingly, in the hands of A $10,000 of the installment obligation issued by G is not a qualifying installment obligation and the balance of $230,000 is a qualifying installment obligation.

(ii) In the 1981 liquidation of P, A receives a liquidating distribution as follows (assume all installment obligations bear stated interest equal to or above the section 483 test rate and that all nonqualifying installment obligations have a fair market value equal to their face amount):

Item	Qualifying installment obligations	Cash and other property
Cash		$190,000
B note	$200,000	
C note	100,000	
D note	170,000	
F note		100,000
G note [1]	230,000	10,000
Total	700,000	300,000

[1] Face amount $240,000

Assume that A's basis in the stock of P was $100,000. Under the installment method, A's selling price and contract price are both $1 million, gross profit is $900,000, and the gross profit ratio is 9/10. Accordingly, in 1981 A must report gain of $270,000 (90% of $300,000 payment in cash and other property). A will hold the installment obligations that are entirely qualifying installment obligations at a basis equal to 10% of the face amount. A will hold the F note, a nonqualifying installment obligation, at a basis equal to its $100,000 value when received by A. A will hold the G note, a mixed obligation, at a basis of $33,000 (10% of the $230,000 qualifying installment obligation portion of the note, plus $10,000 nonqualifying portion of the note).

Example (2). The facts are the same as in example (1), except that in acquiring assets of the Z division (⅓ of the inventory property and all of the other assets of the Z division), G issues two installment obligations (bearing adequate stated interest). One is a $230,000 installment obligation and the other is a $10,000 installment obligation worth its face amount. The agreement between P and G states that the $10,000 installment obligation is issued as consideration for inventory property acquired by G from P. In example (1), in which G issued a single $240,000 installment obligation, it was determined that only $230,000 of this installement obligation would constitute a qualifying installment obligation. However, when separate installment obligations are issued and one such obligation is designated as consideration for inventory property acquired, that designation ordinarily will be given effect by the Internal Revenue Service for the purpose of attributing consideration paid (in excess of the sum of liabilities assumed, cash paid, and other property received) for inventory property first to the designated installment obligation. Accordingly, on the facts stated, the entire $10,000 installment obligation is not a qualifying installment obligation and the entire $230,000 installment obligation is a qualifying installment obligation. Thus A will hold the $10,000 G note, a nonqualifying installment obligation, with a basis equal to its $10,000 value when received by A. A will hold the $230,000 G note, a qualifying installment obligation, with a basis of $23,000 (10% of $230,000).

(d) *Liquidation to which section 337 applies—(1) in general.* The term "a liquidation to which section 337 applies" means a complete liquidation to which section 337(a) applies, after taking into account section 337 (c), (e) and (g), but without regard to section 337 (b) and (f). The liquidation of a collapsible corporation (as defined in section 341(b)) is not a liquidation to which section 337 applies, within the meaning of this paragraph, unless section 337(a) applies by reason of section 341(e)(4). Except as provided in the preceding sentence and paragraph (c)(4) of this section (relating to certain sales of inventory), any installment obligation received in respect of a sale by the corporation during a liquidation described in section 337(a) will be a qualifying installment obligation. Thus, even though the liquidating corporation may recognize gain or loss on certain sales under certain exceptions to section 337(a) (*e.g.* sections 337(c)(2)(B), 341(e)(4), 1245 or 1250), the entire obligation distributed to a qualifying shareholder is reportable on the installment method.

(2) *Special rule for liquidations to which section 337(c)(2) applies.* With respect to a shareholder (other than a corporation which meets the 80% stock ownership requirement specified in section 332(b)(1)) who is a qualifying shareholder, for purposes of this section, a liquidation to which section 337(c)(2) applies is a liquidation to which section 337 applies. An amount equal to the increase described in section 337(d)(1) is deemed to be a cash distribution in liquidation to the shareholder in the first taxable year in which the shareholder actually receives a distribution in liquidation from the corporation.

(e) *Liquidating distributions received in more than one taxable year*—(1) *In general.* If the taxpayer is a shareholder who receives, in a liquidation to which section 337 applies, distributions in more than one taxable year of the taxpayer, then, on completion of the liquidation, basis in the taxpayer's shares previously allocated to property (including qualifying installment obligations) received in an earlier taxable year shall be appropriately reallocated among all property (including qualifying installment obligations) received as a distribution in the liquidation in any taxable year of the taxpayer unless the taxpayer elected out of installment method reporting. If by reason of this basis reallocation it is determined that the taxpayer, or any substituted person (as defined in paragraph (e)(2) of this section), has not fully recognized gain in an earlier taxable year, whichever party did not fully recognize gain shall file an amended return for that earlier year which properly reflects the gain attributable to the distribution received in the earlier year.

(2) *Substituted person.* The term "substituted person" means a person to whom the taxpayer has transferred (directly or indirectly) an installment obligation received by the taxpayer as a liquidating distribution, if, for the purpose of determining gain or loss from a sale or exchange, the substituted person's basis in such installment obligation is determined in whole or in part by reference to the basis of such installment obligation in the hands of the taxpayer. In addition, if during the 12 month period set forth in section 337(a) a shareholder dies, and a liquidating distribution was received by the decedent and a liquidating distribution is thereafter received by the shareholder's estate or other successor to the shares, for purposes of this paragraph the estate or other successor to the share shall be treated as the taxpayer and the decedent (and any person who is a substituted person with respect to the decedent) shall be treated as a substituted person with respect to the estate or other successor to the shares.

(3) *Examples.* The following examples illustrate the provisions of this paragraph. Assume in each example that the taxpayer receiving the liquidating distribution is a calendar year taxpayer.

Example (1). A, an individual, owns all of the stock of T corporation with a basis of $100,000. A's taxable year is the calendar year. T is not a collapsible corporation (as defined in section 341(b)). On February 1, 1980, T adopts a plan of complete liquidation and sells all of its assets to a single purchaser in a single transaction. In January 1981, T distributes $200,000 cash and a $300,000 qualifying installment obligation to A, thereby completing its liquidation to which section 337 applies. The January 1981 distribution is the only liquidating distribution made by T. For purposes of reporting the liquidating distributions, the selling price is $500,000 ($200,000 cash + $300,000 qualifying obligation), the gross profit is $400,000 ($500,000 − $100,000 basis), and the gross profit ratio is 4/5 ($400,000/$500,000). If before the close of 1981 A receives a $50,000 payment on the installment obligation, $40,000 (4/5 of $50,000) will be reportable under the installment method as gain. In total, A will report gain in 1981 of $200,000, $160,000 (4/5 of $200,000) attributable to the $200,000 cash received in the liquidation and $40,000 (4/5 of $50,000) attributable to $50,000 payment on the installment obligation.

Example (2). The facts are the same as in example (1) except that T distributes $200,000 cash in December 1980, and the $300,000 qualifying installment obligation in January 1981. For purposes of reporting the 1980 distribution, 1981 distributions initially are disregarded. Therefore, in 1980 A recovers A's entire $100,000 basis against the $200,000 cash distribution, and will recognize $100,000 as gain. When A receives the $300,000 installment obligation in 1981, A is required to reallocate A's $100,000 basis in the T shares among all property received in both taxable years. The reallocation will produce the results shown in example (1): a selling price of $500,000, a gross profit of $400,000 and a gross profit ratio of 4/5. If A has filed a tax return for 1980 reporting only $100,000 gain in that year, A is required to file an amended return reporting an additional $60,000 of recognized gain in 1980 (($200,000 × 4/5) − $100,000).

Example (3). The facts are the same as in example (1), except that T distributes the $300,000 qualifying installment obligation to A in June 1980, and distributes the $200,000 cash to A in January 1981. Assume further that in November 1980, A receives a payment of $60,000 on the installment obligation (in addition to the receipt of substantial interest). Because the 1981 distributions initially are disregarded for purposes of reporting in 1980, in 1980 A would allocate the entire $100,000 basis in the T shares to the $300,000 installment obligation. The gross profit ratio thus would be 2/3 (($300,000 − $100,000) ÷ $300,000). A would treat $40,000 (2/3 × $60,000) of the 1980 installment obligation payment as recognized gain in 1980. Upon completion of the liquidation in 1981, A is required to reallocate basis to conform with the results in example (1). The recomputed selling price is $500,000, the recomputed gross profit is $400,000 and the recomputed gross profit ratio is 4/5. Therefore, A should have reported $48,000 (4/5 of $60,000) of the $60,000 payment received in 1980 as gain. Since A reported only $40,000 as gain in that year, if A has filed a return for 1980 A must file an amended return reporting the additional gain of $8,000 ($48,000 − $40,000). Of the $200,000 cash distribution received by A in 1981, $40,000 is return of basis and $160,000 ($200,000 × 4/5) is gain.

Example (4). The facts are the same as in example (3), except that in 1980, before receiving any payment on the installment obligation, A transfers the installment obligation to P partnership in exchange for a parternship in exhange for a partnership interest in P. Under sections 721 and 453B, gain is not recognized on the transfer and P holds the installment obligation at the same basis the obligation had in the hands of A. P is therefore a substituted person with respect to A. Accordingly, the basis recomputed rule applies to P and its partners. If P has filed a return for its taxable year in which it reported $40,000 gain with respect to the $60,000 payment on the installment obligation, it must file an amended return reporting an additional $8,000 ($48,000 − $40,000) of gain recognized on that payment. Further, each partner of P who has filed a return for the partner's taxable year in which or with which P's taxable year ends, must file an amended return reporting the partner's distributive share of the additional gain.

Example (5). The facts are the same as in example (3) except that, in addition, A dies December 1, 1980, and the installment obligation passes by bequest to A's child, D, who receives a $60,000 payment in respect of the obligation in December as well as the cash distribution in January 1981. Because an installment obligation is a right to receive income in respect of a decedent, D reports the installment obligation as A would have. Therefore in 1980, D would recognize gain of $40,000 (2/3 × $60,000) in 1980. Upon completion of the liquidation in 1981, if D has filed a return reporting only $40,000 gain, an amended return must be filed reporting an additional gain of $8,000 ($48,000 − $40,000). In addition, if A had filed a return reporting only $40,000 gain an amended return must be filed reporting an additional $8,000 ($48,000 − $40,000. In addition, of the $200,000 cash distribution received by D in 1981 $40,000 will be return of basis and $160,000 ($200,000 × 4/5 will be gain.

Example (6). The facts are the same as in example (2), except that on December 31, 1980, after receiving the $200,000 cash distribution but before receiving the $300,000 qualifying installment obligation distribution, A donates all the T shares to Z corporation, a section 501(c)(3) organization. A midstream carryover basis transfer of shares in a corporation engaged in a section 337 liquidation is an invalid assignment of income. Accordingly, A will be required to reallocate basis and report gain in the manner described in example (2).

Example (7). B owns all of the stock of X corporation with an adjusted basis of $100,000. X is not a collapsible corporation (as defined in section 341(b)). X conducts two separate businesses, the J division worth $100,000 and the K division worth $900,000. On December 1, 1980 X adopts a plan of complete liquidation. On December 15, 1980 X sells the J division to M and receives in exchange a $100,000 qualifying installment obligation which X immediately transfers to B as a first liquidating distribution. On January 15, 1981, X merges with and into unrelated N corporation. Under the plan of merger, N is the surviving corporation, all of the assets of the K division are acquired by N, and N assumes or takes subject to all of the liabilities of the K division, the shares of X are cancelled, and in exchange B receives directly from N a $900,000 installment obligation issued by N. The transaction is a liquidation to which section 337 applies since X, within the 12-month period beginning on December 1, 1980 (the date on which X adopted a plan of complete liquidation), has distributed all of its assets (consisting of the $100,000 M note and the $900,000 N note). Accordingly, B is a qualifying shareholder and both the M note and the N note are qualifying installment obligations in the hands of B. Since B received no payment in 1980, no amended return is required to be filed by B. However, B must allocate B's total $100,000 basis $10,000 to the M note and $90,000 to the N note.

(f) *Coordination with other provisions—(1) In general.* Except as specifically provided in section 453(h)(l)(C) and proposed § 453–3 (i) relating to installment sales of depreciable property to certain closely related persons), whenever it shall be relevant to any determination under any provision of the Internal Revenue Code, a qualifying installment obligation distributed to a qualifying shareholder in a liquidation to which section 337 applies (as defined in paragraph (d) of this section) shall be treated as if the obligation had been received by the shareholder in an installment sale of shares directly to the person issuing the installment obligation.

(2) *Examples.* The following examples illustrate the provision of this paragraph (in each case, it is assumed that the liquidating corporation is not a collapsible corporation (as defined in section 341 (b)):

Example (1). A owns all of the stock of T corporation. Substantially all of the assets of T are inventory property. T adopts a plan of complete liquidation, promptly sells all of its assets to B corporation in exchange for a $1 million qualifying installment obligation, and distributes the qualifying installment obligation to A in completion of its liquidation. The installment obligation bears stated interest at less than the test rate prescribed in section 483 and the regulations thereunder. In the hands of T section 483 would have no application to the installment obligation since it was issued in exchange for T's inventory. See section 483(f)(3). However, since in the hands of A the installment obligation will be treated as if received by A on a sale of A's T shares directly to B, section 483 will apply to the installment obligation in A's hands.

Example (2). C owns all of the stock of Y corporation. A substantial part of the assets of Y consists of stocks and securities traded on an established securities market. Y adopts a plan of complete liquidation, sells all of its stock and securities holdings to B corporation (which is closely held) in exchange for a $1 million installment obligation (bearing adequate stated interest), sells all of its other assets to another purchaser for cash, and distributes the cash and qualifying installment obligation to C in completion of its liquidation to which section 337 applies. In the hands of Y, the B installment obligation may carry original issue discount (as defined in section 1232(b)(1)) since the obligation was issued for stock and securities traded on an established securities market. However, in the hands of C the installment obligation is not an original issue discount obligation since it is treated as having been received by C in a direct sale to B corporation of the shares of Y and neither the Y shares nor the B installment obligation is traded on an established securities market.

Example (3). The shares of Q corporation are traded on an established securities market. D owns more than 5% of the shares of Q. The assets of Q consist of normal business properties. Q adopts a plan of complete liquidation and sells all of its assets to L corporation in exchange for cash and qualifying installment obligations that are not readily tradable. Q corporation promptly distributes solely cash to the shareholders of Q holding 5% or less of the outstanding shares of Q, and distributes cash and the L qualifying installment obligations to the shareholders who won more than 5% of the outstanding shares of Q, including D, thereby completing its liquidation to which section 337 applies. In the hands of Q, the L installment obligations would not be original issue discount obligations since they were not part of an issue a portion of which is traded on an established securities market nor issued to Q for stock or securities traded on an established securities market. However, in the hands of D, the L installment obligation may qualify as an original issue discount obligation since the shares of Q were traded on an established securities market and D is treated as having received the L installment obligation in a direct sale of Q shares to L.

(g) *Effective dates—(1) In general.* The provisions of this section (§ 1.453–2) shall apply to distributions of qualifying installment obligations made after March 31, 1980. The date of the distribution of the installment notes, not the date the corporation adopts the plan of complete liquidation, is controlling.

(2) *Examples.* The effective date provisions of section 453(h) are illustrated by the following examples:

Example (1). On December 1, 1979 X corporation adopts a plan of complete liquidation and promptly sells all of its assets to unrelated Z for $400,000 cash and a $600,000 long-term installment note bearing adequate stated interest. On June 1, 1980 X distributes the cash and the note to A, its sole shareholder, completing the liquidation to which section 337 applies. Assume X is not a collapsible corporation. A may elect to report the installment note on the installment method and report gain when payments are received. A must elect installment method reporting because prior to October 20, 1980 installment method reporting was available only to taxpayers who affirmatively elected it. Had X distributed the installment note after October 19, 1980, A would have been required to report the note on the installment method unless A had elected otherwise.

Example (2). The facts are the same as in example (1), except that the long-term installment note does not call for fixed payments aggregating $600,000 (plus interest). Instead, the note calls for annual payments equal to a stated percentage of the income of X for a specified number of years, and $600,000 is the stated maximum amount (exclusive of interest) payable on the note. A may not elect to report the note on the installment method because contingent installment obligations were not eligible for installment method reporting prior to October 20, 1980. Had X distributed the contingent installment obligation after October 19, 1980, however, A would be required to report the

note on the installment method unless A had elected otherwise.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 84-891 Filed 1-12-84; 8:45 am]

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26 CFR Part 51

[LR-66-80]

Allocation of the 1,000 Barrel Amount Within a Related Group Under The Crude Oil Windfall Profit Tax Act of 1980

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the allocation within a related group of the 1,000 barrel amount for independent producers subject to a reduced rate of windfall profit tax on domestic crude oil. The applicable law was added to the Internal Revenue Code by the Crude Oil Windfall Profit Tax Act of 1980. The regulations would provide the public with guidance needed to comply with the Act.

DATES: These proposed regulations would apply and be effective with respect to all crude oil removed (or deemed removed) from the premises after February 29, 1980. Written comments and requests for a public hearing must be delivered or mailed by March 13, 1984.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-66-80), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Beverly A. Baughman of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T (202-566-3297) (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the proposed Excise Tax Regulations under the Crude Oil Windfall Profit Tax Act of 1980 (26 CFR Part 51) under section 4992 (e) of the Internal Revenue Code of 1954. The proposed regulations are required to implement section 4992(e) as added by section 101 (a)(1) of the Crude Oil Windfall Profit Tax Act of 1980, and are to be issued under the authority contained in sections 4992(e), 4997(b), and 7805 of the Internal Revenue Code of 1954 (94 Stat. 236, 26 U.S.C. 4992(e); 94 Stat. 249, 26 U.S.C. 4997(b); 68A Stat. 917, 26 U.S.C. 7805).

In General

The windfall profit tax is a temporary excise tax imposed upon the windfall profit from domestically produced taxable crude oil removed from the premises during each taxable period (generally a calendar quarter). Generally, the rate of tax on tier 1 and teir 2 oil is 70 percent and 60 percent, respectively. However, certain tier 1 and tier 2 oil produced by independent producers is subject to a 50 percent and 30 percent rate of tax, respectively. This oil subject to the reduced rate of tax is "independent producer oil."

"Independent producer oil" is that portion of an independent producer's qualified production for the quarter that does not exceed such person's independent producer amount for the quarter. A person's independent producer amount for any quarter is the product of 1,000 barrels multiplied by the number of days in the quarter. However, this 1,000 barrel amount must be allocated among independent producers who are members of the same related group at any time during the calendar quarter. If an independent producer is a member of the same related group for only a portion of the quarter, the 1,000 barrel amount is subject to allocation for those days on which the independent producer is a member of that related group. The Service considered a rule that would allocate on a quarterly basis among those who were group members at any time during a quarter. That is, a group member's independent producer amount for a quarter would be a share of one independent producer amount for the quarter (1,000 barrels times the number of days in the quarter), regardless of on how many days during the quarter the independent producer was a group member. The share would be proportionate to that independent producer's production for that quarter. This rule would have the effect of depriving an independent producer of the full 1,000 barrel per day amount even on those days when the independent producer was not a member of the related group. Such a rule is supportable under the language of section 4992(e)(1). Nevertheless, this rule was rejected in favor of the rule that only reduced the independent producer amount for those days on which the independent producer was a member of a related group.

Members of a Related Group

An independent producer is treated as a member of a related group if the independent producer is a member of: (i) A family; (ii) a controlled group of corporations: (iii) a group of entities under common control; or (iv) if 50 percent or more of the beneficial interest in one or more of the corporations, trusts, or estates is owned by one or more members of the same family, all these entities and the family. A group of entities under common control means any group of entities that is either a parent-subsidiary group under common control, a brother-sister group under common control, or a combined group under common control. For purposes of determining whether 50 percent or more of the beneficial interest in one or more corporations, trusts, or estates is owned by one or more members of the same family, an interest owned by or for a corporation, partnership, trust or estate is considered as owned directly by the entity and proportionately by its stockholders, partners, or beneficiaries, as the case may be.

If, under these rules, an independent producer is a member of more than one related group for any concurrent period during the calendar quarter, the allocation of the 1,000 barrel amount to the independent producer is made by reference to that related group that results in the smallest allocation for that independent producer. Once an independent producer's allocation has been made by reference to that related group that results in the smallest allocation, the independent producer still is treated as a member of the other related group or groups for allocation purposes.

Special Analyses

The Commissioner of Internal Revenue had determined that the proposed rule is not subject to review under Executive Order 12291 or the Treasury—OMB implementation of that Order, dated April 29, 1983. Accordingly, a Regulatory Impact Analyses is not required. Although this document is a notice of proposed rulemaking that solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to

the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Drafting Information

The principal author of these proposed regulations is Beverly A. Baughman of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of style and substance.

List of Subjects in 26 CFR Part 51

Excise tax, Petroleum, Crude Oil Windfall Profit Tax of 1980.

Proposed Amendments to the Regulations

PART 51—[AMENDED]

Accordingly, it is proposed to amend 26 CFR Part 51 as follows:

§ 51.4992-1 [Amended]

Paragraph 1. Paragraph (e) is removed from § 51.4992–1.

Par. 2. A new § 51.4992–2 is added in the appropriate place to read as follows:

§ 51.4992-2 Allocation within related group of 1,000 barrel amount.

(a) *General rule*—(1) *In general.* The 1,000 barrel amount described in section 4992(c)(1)(A) must be allocated among independent producers who are members of the same related group at any time during the calendar quarter. For the definition of the term "related group", see paragraph (b) of this section.

(2) *Method of allocation*—(i) *Members of the same related group for the entire quarter.* If an independent producer is a member of the same related group (one whose members do not vary) for the entire quarter, the independent producer's allocable share of the 1,000 barrel amount shall be equal to that amount which bears the same ratio to 1,000 barrels as that independent producer's qualified production of crude oil (as defined in section 4992(d)) for the quarter bears to the total qualified production of crude oil for the quarter of all the independent producers of that related group.

(ii) *Members of the same related group for part of the quarter*—(A) If an independent producer is a member of the same related group for less than the entire quarter, the 1,000 barrel amount prescribed in paragraph (a)(1) of this section shall be allocated for those days during the quarter on which the independent producer is a member of the related group. For each day that an independent producer is a member of the related group, the independent producer's allocable share of the 1,000 barrel amount shall be equal to that amount which bears the same ratio to 1,000 barrels as that independent producer's qualified production of crude oil (as defined on section 4992(d)) for that day bears to the total qualified production of crude oil for that day of all the independent producers of that related group. This calculation must be performed for each day that an independent producer is a member of a related group, unless the independent producer is a member of that related group for the entire quarter (see paragraph (a)(2)(i) of this section).

(B) On those days during the quarter that the independent producer described in paragraph (a)(2)(ii)(A) of the section is not a member of a related group, the independent producer is not required to allocate the 1,000 barrel amount pursuant to paragraph (a)(1) of this section.

(C) The independent producer amount for an independent producer described in paragraph (a)(2)(ii)(A) of this section for the quarter shall be equal to the sum of—

(*1*) The independent producer's daily amounts computed under paragraph (a)(2)(ii)(A) of this section, and

(*2*) The product of 1,000 barrels multiplied by the number of days in the quarter that the independent producer is not a member of any related group. The 1,000 barrel amount prescribed in paragraph (a)(1) of this section is first allocated under this section before any further allocation is made under section 4992(c)(2) between tiers 1 and 2 and within any tier.

(3) *Examples.* The allocation described in paragraph (a)(1) of this section may be illustrated by the following examples:

Example (1). On April 1, 1980, A, B, and C, all independent producers, were members of the same related group. A and B continued to be members of the related group during the entire second quarter of 1980 (April through June), but C was a member of the related group only for the month of April. C did not become a member of any other related group during the quarter. C continued the production of oil. For the period from April 1, 1980 through April 30, 1980, A, B, and C each day had qualified production of 500 barrels, 400 barrels and 300 barrels, respectfully. For the period from May 1, 1980 through June 30, 1980, A, B, and C each day had qualified production of 1,000 barrels, 800 barrels, and 600 barrels, respectively. Because A, B, and C were all members of the same related group during part of the second quarter, the 1,000 barrel amount must be allocated among A, B, and C. However, only C's production during the time period that C was a member of the related group is counted for determining the allocation. Thus, for the period from April 1, 1980 through April 30, 1980, A's 1,000 barrel amount is reduced to 417 barrels, B's 1,000 barrel amount is reduced to 333 barrels, and C's 1,000 barrel amount is reduced to 250 barrels, determined as follows:

Member A..... $1{,}000 \times \frac{500}{1{,}200} = 417$ barrels

Member B..... $1{,}000 \times \frac{400}{1{,}200} = 333$ barrels

Member C..... $1{,}000 \times \frac{300}{1{,}200} = 250$ barrels

For the period from May 1, 1980 through June 30, 1980, A's 1,000 barrel amount is reduced to 556 barrels, and B's 1,000 barrel amount is reduced to 444 barrels determined as follows: (C's production is not counted because C was not a member of the related group during the period).

Member A..... $1{,}000 \times \frac{1{,}000}{1{,}800} = 556$ barrels

Member B..... $1{,}000 \times \frac{800}{1{,}800} = 444$ barrels

Member C..... = 1,000 barrels (C is entitled to the entire 1,000 barrel amount for that part of the second quarter (May 1, 1980 through June 30, 1980) during which C is not a member of any related group).

Accordingly, for the second quarter of 1980, the independent producer amount for the members are as follows:

Member A.....	12,510	barrels (417×30 days)
	33,916	barrels (556×61 days)
	46,426	barrels
Member B.....	10,000	barrels (333 33×30 days)
	27,084	barrels (444×61 days)
	37,084	barrels
Member C.....	7,500	barrels (250×30 days)
	61,000	barrels (1,000×61 days)
	68,500	barrels

Example (2). Assume the facts are the same as in example (1) except that B is not an independent producer and, therefore, does not have any qualified production. Thus, B is not entitled to any independent producer amount. The 1,000 barrel amount for A and C is not reduced by allocating a part of it to B.

(b) *Related group.* For purposes of this section, a related group is any one of the following groups:

(1) Members of the same family;

(2) A controlled group of corporations;

(3) A group of entities under common control; or

(4) If 50 percent or more of the beneficial interest in one or more corporations, trusts, or estates is owned by one or more members of the same family, all these entities and the family.

(5) The provision of this paragraph (b)(4) may be illustrated by the following example:

Example. A, an independent producer, is unmarried and has no minor children. A owns 50 percent in value of the stock in each of nine corporations. These corporations are not members of a controlled group of corporations or members of a group of entities under common control. A and the nine corporations are treated as members of the same related group described in paragraph (b)(4) of this section because A owns 50 percent of the beneficial interest in each of these nine corporations.

(c) *Definitions.* For purposes of this section, the following terms have the following meanings:

(1) *Family.* The term "family" means an individual and the spouse and all minor children of the individual. For example, two minor children who are independent producers would be treated as members of the same family even though neither parent was an independent producer or neither parent had qualified production of oil during the calendar quarter. For this purpose, the status of a child as a minor shall be determined under state law.

(2) *Controlled group of corporations.* The term "controlled group of corporations" has the meaning given to this term by section 1563(a) (including other provisions of section 1563 and the regulations thereunder necessary in the application of section 1563(a)), except that section 1563(b)(2) shall not apply and except that the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in section 1563(a).

(3) *Group of entities under common control.* The term "group of entities under common control" means any group of entities that is either a "parent-subsidiary group under common control" as defined in paragraph (c)(3)(i) of this section, a "brother-sister group under common control" as defined in paragraph (c)(3)(ii) of this section, or a "combined group under common control" as defined in paragraph (c)(3)(iii) of this section. For purposes of this paragraph (c)(3), the term "organization" means a corporation, estate, or trust. If, for a calendar quarter, an organization is a member of more than one group of entities under common control, see paragraph (e) of this section for the rule that the organization's allocation is determined by reference to that group which result in the smallest allocation for that organization. For purposes of paragraph (c)(3) of this section, the following terms have the following meanings:

(i) *Parent-subsidiary group under common control.* The term "parent-subsidiary group under common control" means one or more chains of organizations that are connected through ownership of a controlling interest with a common parent organization if—

(A) A controlling interest in each of the organizations, except the common parent organization, is owned singly or in combination by one or more of the other organizations in the chain or chains; and

(B) The common parent organization owns a controlling interest in at least one of the other organizations, excluding, in computing this controlling interest, an interest owned directly in the organization by the other organizations.

(ii) *Brother-sister group under common control.* The term "brother-sister group under common control" means two or more organizations if the same five or fewer persons who are individuals, estates, or trusts own, singly or in combination, a controlling interest in each organization taking into account the ownership of each person only to the extent that the person's ownership is identical with respect to each organization.

(iii) *Combined group under common control.* The term "combined group under common control" means a group of three or more organizations if each organization is a member of either a parent-subsidiary group under common control, or a brother-sister group under common control, and at least one organization is the common parent organization of the parent-subsidiary group under common control and also is a member of the brother-sister group under common control.

(iv) *Controlling interest.* The term "controlling interest" means:

(A) In the case of an organization which is a corporation, ownership of stock possessing more than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of the total value of the shares of all classes of stock of the corporation, and

(B) In the case of an organization which is an estate or trust, ownership of an actuarial interest (determined under paragraph (c)(3)(v) of this section) of more than 50 percent of the estate or trust. The principles of the rules contained in § 1.1563–2 shall apply for purposes of determining whether certain interests in an estate or trust or stock in a corporation are included in determining control, and the principles of the rules contained in § 1.1563–3 shall apply for purposes of determining the ownership of stock in a corporation or the ownership of an interest in an estate or trust.

(v) *Actuarial interest.* For purposes of this paragraph (c), the actuarial interest of each beneficiary of an estate or trust is determined by assuming the maximum exercise of discretion by the fiduciary in favor of the beneficiary. The factors and methods prescribed in § 20.2031–10 for use in ascertaining the value of an interest in property for estate tax purposes shall be used to determine a beneficiary's actuarial interest.

(4) *Fifty percent or more of the beneficial interest.* The term "50 percent or more of the beneficial interest" means—

(i) With respect to any corporation, 50 percent or more in value of the outstanding stock (excluding Treasury stock) of such corporation, and

(ii) With respect to an estate or trust, an actuarial interest of 50 percent or more of the estate or trust (determined under paragraph (c)(3)(v) of this section).

The determination of the family's beneficial interest in an estate or trust shall be based on all of the property owned by the estate or trust and shall not be based on interests solely relating to oil production owned by the estate or trust.

(d) *Constructive ownership*—(1) *In general.* For purposes of determining, under paragraph (b)(4) of this section, whether 50 percent or more of the beneficial interest in one or more corporations, trusts, or estates is owned by one or more members of the same family, an interest owned by or for a corporation, partnership, trust, or estate is considered as owned directly by the entity and proportionately by its stockholders, partners, or beneficiaries in accordance with the attribution rules described in paragraph (d)(2) of this section.

(2) *Attribution rules*—(i) Corporations. An interest owned, directly or indirectly, by or for a corporation shall be considered as owned by each shareholder in that proportion which the value of the stock which such shareholder so owns bears to the value of all the stock in such corporation.

(ii) *Estates and trusts.* An interest owned, directly or indirectly, by or for

an estate or trust (other than an employees' trust decribed in section 401 (a) which is exempt from tax under section 501(a)) shall be considered as owned by its beneficiaries in proportion to the actuarial interest of such beneficiaries in such estate or trust.

(iii) *Partnership.* An interest owned, directly or indirectly, by or for a partnership shall be considered as owned proportionately by its partners.

(iv) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example. B and C are married and have two minor children, D and E. Each person is an independent producer. B is the sole beneficiary of Trust F, an independent producer that is a partner with an 80 percent capital and profits interest in the XYZ partnership. XYZ owns 75 percent in value of the stock of corporation M, an independent producer. F is treated as owning 80 percent of the property owned (or treated as owned) by XYZ. Thus, F is treated as owning 60 percent in value (80 percent of 75 percent) of the stock of M, and B is treated as owning the interest in M that is treated as owned by F. Accordingly, because B is treated as owning 50 percent of more of the beneficial interest in M, B, C, D, E, Trust F, and Corporation M are treated as members of the same related group described in paragraph (b)(4).

(e) *Members of more than one related group*—(1) *In general.* If, under this section, an independent producer is a member of more than one related group concurrently for the entire quarter (or for any concurrent period during the calendar quarter), the determination of the independent producer's allocation of the 1,000 barrel amount under paragraph (a)(1) of this section for that quarter (or concurrent period) shall be made by reference to the allocation of the related group that results in the smallest allocation for that person. However, for purposes of making the allocation under paragraph (a) (1) of this section with respect to any other related group, an independent producer whose allocation is made by reference to the allocation of the related group which results in the smallest allocation for the independent producer nevertheless small be treated as a member of the other related group for purposes of determining the other members' allocable share of the 1,000 barrel amount.

(2) *Examples.* The rules of paragraph (e) may be illustrated by the following examples:

Example (1). Assume the facts are the same as in example (1) of paragraph (a)(3) of this section except that on May 1, 1980, C becomes a member of a related group with D and E, both independent producers, after ceasing to be a member of the related group with A and B. C remains a member with D and E through June 30, 1980. For the period from May 1, 1980 through June 30, 1980, C had qualified production of 600 barrels daily. For the period from May 1, 1980 through June 30, 1980, D and E each had qualified production of 1,200 barrels daily. Because C is not concurrently a member of more than one related group during the calendar quarter (April through June), C's allocation of the 1,000 barrel amount is not made by reference to the allocation of the related group that results in the smallest allocation to C. Instead C's allocation is determined separately for the period from April 1, 1980 through April 30, 1980, when C was a member of a related group with A and B and for the period from May 1, 1980 through June 30, 1980, when C was a member of a related group with D and E. Therefore, for the period from April 1, 1980 through April 30, 1980, C's allocation of the 1,000 barrel amount and C's independent producer amount are the same as in example (1) of paragraph (a)(3) of this section. For the period from May 1, 1980 through June 30, 1980, C's 1,000 barrel amount is reduced to 200 barrels, D's 1,000 barrel amount is reduced to 400 barrels and E's 1,000 barrel amount is reduced to 400 barrels determined as follows:

$$\text{Member C}\ldots\ldots\ 1{,}000 \times \frac{600}{3{,}000} = 200 \text{ barrels}$$

$$\text{Member D}\ldots\ldots\ 1{,}000 \times \frac{1{,}200}{3{,}000} = 400 \text{ barrels}$$

$$\text{Member E}\ldots\ldots\ 1{,}000 \times \frac{1{,}200}{3{,}000} = 400 \text{ barrels}$$

Accordingly, for the period for May 1, 1980 through June 30, 1980, the independent producer amounts for C, D, and E are as follows:

Member C..... 122,000 barrels (200 × 61 days)
Member D..... 244,000 barrels (400 × 61 days)
Member E..... 244,000 barrels (400 × 61 days)

Example (2). From January 1, 1982 through March 31, 1982, F and H, both independent producers, were members of related group FH. For the period from January 1, 1982 through January 30, 1982, H is also a member of a related group with I and J, both independent producers. For the period from January 31, 1982 through March 31, 1982, I and J are members of related group IJ. Each day of the quarter F, H, I, and J produce the following quantities of crude oil:

F = 1,200 barrels
H = 800 barrels
I = 1,600 barrels
J = 1,600 barrels

Because H is a member of more than one related group for a concurrent period (January 1, 1982 through January 30, 1982) during the calendar quarter (January through March), H's allocation for that concurrent period of the 1,000 barrel amount must be made by reference to the allocation of the related group that results in the smallest allocation to H. H's 1,000 barrel amount is reduced to 400 barrels for the period from January 1, 1982, through January 30, 1982, as a member of group FH and to 200 barrels as a member of group HIJ determined as follows:

$$1{,}000 \times \frac{\text{800 (H's daily production)}}{\text{2,000 (F\&H's daily production)}} = 400 \text{ barrels}$$

$$1{,}000 \times \frac{\text{800 (H's daily production)}}{\text{4,000 (H, I\&J's daily production)}} = 200 \text{ barrels}$$

Therefore, H's allocation as a member of a related group with I and J is smaller than H's allocation as a member of a related group with F. Thus, H is treated as a member of a related group with I and J for the period from January 1, 1982 through January 30, 1982. However, the amount of the reduction of F's 1,000 barrel amount for that period still will be determined with regard to H because H still is treated as a member of the related group with F for purposes of determining F's allocation.

Thus, for the period from January 1, 1982 through January 30, 1982, and for the period from January 31, 1982 through March 31, 1982, F's 1,000 barrel amount is reduced to 600 barrels determined as follows:

$$1{,}000 \times \frac{\text{1,200 (F's daily production)}}{\text{2,000 (F\&H's daily production)}} = 600 \text{ barrels}$$

Accordingly, for the first quarter of 1982, the independent producer amount for F is 54,000 barrels determined as follows: 18,000 barrels (600×30 days); 36,000 barrels (600×60 days); total, 54,000 barrels.

For the period from January 31, 1982 through March 31, 1982, H's 1,000 barrel amount is reduced to 400 barrels determined as follows:

$$1{,}000 \times \frac{\text{800 (H's daily production)}}{\text{2,000 (F \& H's daily production)}} = 400 \text{ barrels}$$

Accordingly, for the first quarter of 1982, the independent producer amount for H is 30,000 barrels determined as follows: 6,000 barrels (30 days×200 (H's allocation with reference to related group H, I&J)); 24,000 barrels (60 days×400); total, 30,000 barrels.

For the period from January 1, 1982 through January 30, 1982, I's 1,000 barrel amount is reduced to 400 barrels determined as follows:

$$1{,}000 \times \frac{\text{1,600 (I's daily production)}}{\text{4,000 (H, I and J's daily production)}} = 400 \text{ barrels}$$

For the period from January 31, 1982 through March 30, 1982, I's 1,000 barrel amount is reduced to 500 barrels determined as follows:

$$1{,}000 \times \frac{\text{1,600 (I's daily production)}}{\text{3,200 (I and J's production)}} = 500 \text{ barrels}$$

Accordingly, for the first quarter of 1982, the independent producer amount for I is 42,000 barrels determined as follows: 12,000 barrels (30 days × 400 barrels); 30,000 barrels (60 days × 500 barrels); total, 42,000 barrels.

The reduction of the 1,000 barrel amount and the independent producer amount for the first quarter of 1982 for J is the same as for I.

Example (3). G and H are married and have a minor child J. G, H, and J are independent producers. For the entire second calendar quarter of 1982, G owns 50 percent in value of the stock in corporations N and O, and 45 percent in value of the stock in corporation P. N, O, and P are independent producers. K and L, independent producers, are unmarried and have no minor children. K and L are unrelated to G, H, and J, and unrelated to each other. For the entire second calendar quarter of 1982, K owns 30 percent in value of the stock in N, O, and P. For the entire second calendar quarter of 1982, L owns 20 percent in value of the stock in N and O, and 25 percent in value of the stock in P. Accordingly, corporations N, O, and P qualify as members of a brother-sister controlled group because G, K, and L in combination directly own more than 50 percent of the total value of the stock of each corporation, taking into account the stock ownership of each person only to the extent his stock ownership is identical with respect to each such corporation. However, N and O also qualify concurrently as members of a related group with G, H, and J because G owns 50 percent of the beneficial interest in N and O, and G, H, and J are a family. Assuming that each independent producer produces the same amount of oil per day, N and O must be treated as members of the related group composed of G, H, J, N, and O since this group will result in the smallest allocations of the 1,000 barrel amounts to N and O. However, the amount of the reduction of P's 1,000 barrel amount shall be determined with regard to N and O because N and O still are treated as members of the related group with P for purposes of determining P's allocation. K and L are not treated as members of a related group.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 84-890 Filed 1-12-84; 8:45 am]

BILLING CODE 4830-01-M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 4

[Notice No. 501; Ref: Notice No. 493]

Wine Labeling and Advertising Regulations Under the Federal Alcohol Administration Act (Appellations of Origin and Placement of Name and Address and Net Contents)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Extension of comment period.

SUMMARY: This notice extends the comment period for Notice No. 493, an additional 45 days. Notice No. 493, was published in the Federal Register on November 16, 1983 (48 FR 52088), proposing the amendment of various regulations governing the labeling and advertising of wine. The comment period is being extended due to a request by the Delegation of the Commission of the European Communities.

DATE: Comments must be received on or before February 27, 1984.

ADDRESS: Comments must be submitted to the Chief, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, D.C. 20044-0385 (Notice No. 493).

FOR FURTHER INFORMATION CONTACT: Roger Bowling, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20226, 202-566-7626.

SUPPLEMENTARY INFORMATION:

Background

On November 16, 1983, ATF published Notice No. 493, proposing the amendment of various regulations governing the labeling and advertising of wine. Due to a request by the Delegation of the Commission of the European Communities, ATF is extending the comment period an additional 45 days.

Disclosure of Comments

Written comments or suggestions may be inspected by any person at the ATF Reading Room, Office of Public Affairs and Disclosure, Room 4407, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., during normal business hours.

Drafting Information

The principal author of this document is James P. Ficaretta, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority and Issuance

This notice is issued under the authority contained in section 5 of the Federal Alcohol Administration Act, 49 Stat. 981, as amended; 27 U.S.C. 205.

Approved: January 9, 1984.

Stephen E. Higgins,

Director.

[FR Doc. 84-1011 Filed 1-12-84; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 870

Abandoned Mine Land Reclamation Fund; Fee Collection and Coal Production Reporting

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Proposed rule; change of hearing location and extension of comment period.

SUMMARY: On November 30, 1983, the Office of Surface Mining issued a Proposed rule involving revisions and amendments to 30 CFR Part 870, regarding the Abandoned Mine Land Reclamation Fund, fee collection requirements and coal production reporting procedures (48 FR 54190) November 30, 1983. The location and date of the public hearing is being changed at the request of persons wishing to testify. The comment period is being extended.

DATES: Written comments: accepted until 5:00 p.m., February 3, 1984.

Public hearing: Held on January 26, 1984, at 10:00 a.m. (local).

ADDRESSES: Written comments: Hand deliver to the Office of Surface Mining, U.S. Department of the Interior, Administration Record (AML-27), Room 5315, 1100 L Street, NW., Washington, D.C. 20240, or mail to the Office of Surface Mining, U.S. Department of the Interior, Administrative Record (AML-27), Room 5315-L, 1951 Constitution Avenue, NW., Washington, D.C. 20240.

Public hearing: Wise, Virginia, Clinch Valley College, Cantrell Hall, Room 206.

FOR FURTHER INFORMATION CONTACT: Jane Robinson, Abandoned Mine Land Reclamation Division, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240. Telephone (202) 343-7944.

SUPPLEMENTARY INFORMATION: On or before January 4, 1984, attorneys representing ANR Coal Company, Penn Virginia Resources Corporation, and Lambert Coal Company requested an opportunity to testify at a public hearing. A request was made to hold the hearing in southwestern Virginia in close proximity to those wishing to testify.

Upon consideration, notice is hereby given that the hearing will be held in Wise, Virginia, on January 26, 1984. The comment period is extended to February 3, 1984, to allow interested persons to respond to comments raised at the hearing.

Dated: January 10, 1984.

Carl C. Close,

Acting Assistant Director, Program Operations and Inspection.

[FR Doc. 84-984 Filed 1-12-84; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPTS-50509; TSH-FRL 2422-3]

8-Acetyl-3-Dodecyl-7,7,9,9-Tetramethyl-1,3,8-Triaza-spiro [4,5] Decane-2,4-dione; Proposed Determination of Significant New Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2604(a)(2), which would require persons to notify EPA at least 90 days before manufacturing, importing, or processing a substance for a "significant new use." This SNUR applies to a chemical substance that was the subject of premanufacture notice (PMN) P83-370 and a section 5(e) Consent Order issued by EPA. EPA is proposing to define as new uses: any manufacture of the substance within the United States; processing the substance without certain personal protective equipment; or any distribution of the substance without a precautionary label statement specifying proper handling procedures affixed to all containers of the substance. These new uses were not allowed under the Consent 5(e) order. The Agency is concerned that this substance may present an unreasonable risk to human health if these defined new uses occur.

DATE: Written comments should be submitted by March 13, 1984.

ADDRESS: Since some comments are expected to contain confidential business information, all comments should be sent in triplicate to: Document Control Officer (TS-793), Office of Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, D.C. 20460.

Comments should include the docket control number OPTS-50509. Nonconfidential comments and sanitized versions of confidential comments received on this proposal will be available for reviewing and copying from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays, in Rm. E-107, at the address given above.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, D.C. 20460, Toll free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: OMB control number 2070-0012.

I. Authority

Section 5(a)(2) of TSCA authorizes EPA to determine if a use of a chemical substance is a significant new use. EPA must make this determination by rule, after considering all relevant factors, including those listed in section 5(a)(2). Once a use is determined to be a significant new use, persons must, under section 5(a)(1)(B), submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use. Such a notice is subject to the same statutory requirements and procedures as a PMN submitted under section 5(a)(1)(A) of TSCA which is interpreted at 40 CFR Part 720 (see May 13, 1983, 48 FR 21722). In particular, these include the information submission requirements of section 5(d)(1), and section 5(b), certain exemptions authorized by section 5(h), and the regulatory authorities of section 5(e) and section 5(f) of TSCA. If EPA does not take regulatory action under sections 5, 6, or 7 to control a substance on which it has received a SNUR notice, section 5(g) requires the Agency to explain its reasons in the **Federal Register** for not taking action. In addition, substances covered by proposed or final SNURs are subject to the export reporting requirements of TSCA section 12(b). EPA regulations interpreting section 12(b) requirements appear at 40 CFR Part 707. Substances subject to final SNURs would be covered by TSCA section 13 import certification requirements at 19 CFR Parts 12.118 through 12.127, and 127.8 (amended). EPA regulations discussing section 13 and TSCA's import requirements appear at 40 CFR Part 707.

II. Substance Subject to Proposed SNUR

The chemical substance covered by this proposed rule was the subject of a PMN submitted by a company claiming its identity confidential. The submitter also claimed the use and production volume of the substance confidential. The PMN submitter intends to import the substance. The specific identity of the chemical is 8-acetyl-3-dodecyl-7,7,9,9-tetramethyl-1,3,8-triaza-spiro [4.5] decane-2,4-dione. This substance will be referred to by its PMN number, P83-370, throughout this preamble.

III. Background

On January 10, 1983, EPA received a PMN, which EPA designated as P83-370, in accordance with section 5(a) of TSCA (15 U.S.C. 2604(a)). The Agency announced receipt of the PMN in the **Federal Register** of January 24, 1983 (48 FR 3045). The company voluntarily suspended the review period for 10 weeks, and the 90-day review period ended on June 18, 1983.

1. *Health effects of concern.* In the PMN, the submitter provided the Agency with the following test results: acute oral LD50 (rat)—>5g/kg; eye irritation (rabbit)—slight; skin irritation (rabbit)—minimal; skin sensitization (guinea pig)—strong; and mutagenicity (Ames with and without activation)—negative. EPA's general literature searches provided no additional information on the toxicity of the substance itself.

EPA analyzed the possible toxicity of P83-370 by relying upon data submitted with the PMN and on structure activity analysis using as analogues the following substances with similar chemical structures: hydantoin, phenytoin, mephenytoin, etholoin, and phenacemide. Based on the data, both the submitter and EPA have concluded that the chemical substance is a strong skin sensitizer. In addition, the identified hydantoin analogues have demonstrated teratogenic effects in rats and mice. Such effects include growth retardation skeletal defects, cleft palate, exencephaly, and open eye. One of these hydantoin derviatives, phenytoin, is used therapeutically in treating epilepsy in humans. Phenytoin has been characterized as a known human teratogen. Prenatal exposure to phenytoin may result in "fetal hydantoin syndrome," the effects of which include growth retardation, mental retardation, craniofacial abnormalities, and nail and digital hypoplasia. Mephenytoin,

however, demonstrated no teratogenic effects when tested in mice.

Based on structure activity analysis and on the low solubility of P83–370 in water (0.2 mg/(l), the substance may be poorly absorbed via the gastrointestinal tract, lungs, and skin. Poor absorption characteristics do not, however, allay the Agency's concern about the potential health effects because there are no test data on the substance itself or the hydantoin analogues which establish a no observed adverse effect level, nor have the actual absorption characteristics of the substance been tested.

2. *Exposures of concern.* The submitter indicated that P83–370 is to be imported. Routine dermal and inhalation exposure to the substance may occur during processing. The Agency estimates that processing workers who do not use personal protective equipment, of the type described in this proposed rule, may potentially be exposed to up to 200 mg/kg/day dermally and up to 0.02 mg/kg/day by inhalation during the processing operations. A total of 12–24 workers are likely to be exposed during processing. It is expected that exposure during use will be significantly less than that experienced by formulators, because of the specific application process used. EPA has no reason to conclude that, if the substance was manufactured domestically, exposure during manufacture would be lower than during processing.

EPA and the PMN submitter have determined that the use of protective equipment during processing operations may substantially reduce potential worker exposure. The Agency estimates that use of gloves and goggles imperivous to P83–370 would significantly reduce dermal and eye exposure. Use of a National Institute for Occupational Safety and Health (NIOSH) approved dust respirator would significantly reduce inhalation exposure. EPA believes that processing the substance without such safeguards engenders risks that require additional Agency review in the presence of increased toxicity and exposure information.

IV. Reasons for Proposing This Rule

The Agency evaluated P83–370 and determined there is insufficient information to perform a reasoned evaluation of the health effects of the substance and that it may present an unreasonable risk to human health if it is domestically manufactured or processed without the use of certain protective safety equipment. Based on these findings, the Agency did not ban the substance, but rather, chose to restrict the manufacture and processing of the substance, thereby significantly reducing risk, while imposing less burden on the PMN submitter.

The submitter and the Agency negotiated a section 5(e) Consent Order which: (1) Prohibits domestic manufacture of the substance; (2) requires the use of specific personal protective equipment during processing; and (3) requires development and use of a precautionary label on containers of the substance. These controls are effective until appropriate data are developed to allow a reasoned evaluation of this substance. The Order became effective on September 4,1983.

The section 5(e) Consent Order, by its terms, applies only to the PMN submitter. Because it does not prohibit import, P83–370 will be added to the TSCA Chemical Substance Inventory when EPA receives a notice of commencement of import from the PMN submitter. As a result, other persons could begin manufacturing, importing, or processing the substance without notice to EPA and without the restrictions, imposed by the section 5(e) Order. This manufacturing, importing, or processing could allow the exposures of concern to occur. Therefore, EPA is proposing to designate: (1) Any domestic manufacture and (2) processing of the substance without certain protective equipment as significant new uses. This will enable the Agency to review exposures of concern before they occur.

Through a SNUR, the Agency would ensure that all manufacturers, importers, and processors are subject to similar reporting requirements. Moreover, the Agency would have an opportunity to review exposure and toxicity information on the substance so that, if necessary, action could be taken to ensure that persons will not be exposed to levels that are potentially hazardous. To assist EPA in making a reasoned evaluation of the chemical's potential to cause teratogenic effects, the notices submitted under the SNUR should contain appropriate test data. Studies that would produce data necessary to evaluate the potential effects of P83–370 are discussed in more detail later in this preamble. In addition to such data, EPA needs exposure information to aid in assessing whether exposure can be adequately controlled by means other than those stated in the proposed significant new uses for the substance.

V. Alternatives

EPA considered other possible approaches to ensure protection of human health. One alternative was to promulgate a section 8(a) reporting rule for the substance. Under such a rule, EPA could require any person to report to the Agency before manufacturing or processing P83–370 without protective equipment. Because the chemical substance is subject to a section 5(e) Order, the normal small business exemption of section 8(a) would not apply. However, the use of section 8(a) has one major shortcoming. If EPA received a report under section 8(a) indicating that a person intended to manufacture the chemical substance domestically or process the substance without protective equipment, the Agency could not take action under section 5(e), as it could under a SNUR, and thus would not be able to regulate the substance pending development of information. Rather, EPA would have to obtain test data under a section 4 rulemaking and then, if necessary, regulate the substance under section 6. This approach would not only be extremely resource intensive for the Agency, it would also allow unnecessary risks to human health during the time needed for data development. In addition, the original PMN submitter would be at a competitive disadvantage because the section 5(e) Consent Order applies only to that company. It is not the intent of EPA in the PMN process to create unfair marketplace disruptions.

Another regulatory approach considered is the authority to regulate substances under section 6 of TSCA. However, section 6(a) specifies that the Agency may regulate a chemical substance only if there is a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use or disposal of a chemical substance or mixture "presents or will present" an unreasonable risk to human health or the environment. As stated previously, there is insufficient information to perform such an evaluation of the health effects of this chemical substance. Therefore, the Agency cannot state at this time that this substance "presents or will present" an unreasonable risk, but only that it "may present" an unreasonable risk of injury to health. Therefore, the Agency cannot presently use section 6 to regulate this chemical substance.

VI. Proposed Significant New Uses

To determine what would constitute a significant new use of P83–370, EPA considered relevant information about the toxicity of the substance and likely exposures associated with the manufacture and processing of the substance, and possible new uses, including the four factors listed in

section 5(a)(2) of TSCA. In particular, the Agency considered the potential for domestic manufacture and the reasonably anticipated manner and methods of processing the substance. For the latter, the extent to which these methods affect the magnitude and duration of human exposure was considered. In addition, EPA drew directly from the restrictions contained in the section 5(e) Order to determine the significant new uses. Based on these considerations, EPA proposes to define the following as significant new uses of P83–370:

1. Any domestic manufacture of the chemical substance.

2. Processing of the chemical substance without requiring use of the following personal protective equipment:

a. Protective gloves and goggles determined by the processor to be impervious to the substance under the conditions of exposure. Gloves and goggles shall be determined to be impervious to the substance either by testing under the conditions of exposure, including the duration of exposure, or reliance on the supplier's specifications.

b. Chemical worker respirators approved by NIOSH as suitable to protect against respirable dust.

EPA believes that there is a great likelihood that others will seek to manufacture P83–370 domestically, once it is entered on the Iventory. The intended use for which the substance will be imported is one that has a substantial growth potential. Thus, the Agency is concerned about potential exposures associated with domestic manufacture.

Should the substance be manufactured domestically, workers may encounter dermal and inhalation exposure that warrant cateful review. At this point, however, such exposures have not been reviewed by the Agency. In the event that domestic manufacturing were to occur, EPA and industry would need to assess the potential risks associated with exposure to the substance in a manufacturing operation. The Agency has an obligation under TSCA to reveiw such esposure thoroughly before it occurs in light of the health concerns.

With regard to processing, there exists the potential for accidental dermal or eye contact with P83–370, but there is no way to quantify the likelihood of such exposure given the available data. Use of the protective equipment designated above is expected to reduce significantly the availability of the substance for both dermal reactions and inhalation leading to teratogenic effects. Use of gloves and goggles in processing the substance is expected to reduce accidendtal exposure.

As an alternative to using personal protective equipment, potential processors may want to use a process that minimizes exposure. Such exposure controls would be described in a SNUR notice. A process that significantly reduces exposure may also reduce EPA's concerns.

VII. Recordkeeping Requirements

To ensure compliance with this proposed rule and to assist enforcement efforts, EPA is proposing that the following records be maintained for five years, after the date of their creation, by persons who process the substance subject to this proposed rule.

1. The names of persons required to use protective equipment.

2. Records of specifications evaluated or tests performed on the prescribed protective equipment.

This proposed requirement is expected to encourage compliance with this proposed rule when promulgated and to support EPA's enforcement efforts. The Agency considered omitting recordkeeping requirements, but believes compliance monitoring for this proposed SNUR would be made more difficult.

Section 5(a)(2) of TSCA does not explicitly provide for recordkeeping of the type in paragraph (g) of this proposed rule. However, as discussed above, EPA believes that such recordkeeping is necessary to implement and enforce the requirements of the SNUR effectively. EPA believes that two TSCA authorities support the recordkeeping in this proposed rule. First, EPA believes there is inherent authority in section 5 of TSCA to require the keeping of records reasonably necessary to implement the mandate of section 5. EPA has already exercised this authority in the PMN rule recordkeeping requirements (see 40 CFR 720.78). Clearly, there is no way to determine whether a processor is undertaking a new use of the type in this proposed rule unless the processor is required to keep records of his activities to show that the new use has not occurred. Otherwise, EPA would not be able to determine that a violation has occurred unless the processor was observed in violation.

Second, section 8(a) of TSCA provides broad authority for EPA to require manufacturers and processors of chemical substances to keep records. Generally, a section 8(a) recordkeeping requirement does not apply to small manufacturers and processors, but in this case a section 5(e) Order is in effect for the chemical substance in question. Thus, under section 8(a)(3)(A)(ii) of TSCA, EPA can require recordkeeping by small processors as well. However, the section 5(e) Consent Order will automatically be revoked when the SNUR goes into effect. EPA chose to write this and other section 5(e) Orders in this fashion to ensure that the original PMN submitter would be treated in the same manner as other manufacturers, importers, and processors once the SNUR is in effect.

EPA believes that revocation of the section 5(e) Order after the SNUR and its accompanying section 8(a) recordkeeping requirements go into effect would not invalidate the recordkeeping requirement for small processors. Congress clearly believed that small businesses should be subject to section 8(a) when the particular chemical substance in question was the subject of a specific regulatory action and finding. In this case the "may present an unreasonable risk" finding in the section 5(e) Order would remain valid even though the Agency had revoked the Order for administrative reasons.

As an alternative to the recordkeeping requirements in paragraph (g) of this proposed rule, EPA is considering making failure to keep certain records a significant new use. Thus, 90 days before any processor could cease keeping the specified records, the processor would be required to submit a notice to EPA. Any person who failed to keep the records without having notified EPA would be in violation of section 5 of TSCA and of the rule.

Another alternative being considered by the Agency would require recordkeeping by all persons importing, manufacturing, or processing a chemical substance subject to a 5(e) Order, in any fashion which does not constitute a significant new use.

VIII. Persons Subject to SNUR Notice Requirements

Section 5(a)(1)(B) of TSCA requires persons to submit a SNUR notice to EPA before manufacturing, importing, or processing a substance subject to a SNUR for a significant new use. The language of this proposal makes clear that manufacturers, importers, and processors are subject to SNUR notice requirements. In past proposed SNURs, however, the Agency has determined that requiring both manufacturers (including importers) and processors to submit SNUR notices may result in duplicative information and cause an unnecessary burden on industry. Therefore, the Agency proposed to allow manufacturers and processors to decide

which party should submit what information to EPA so long as all appropriate information was submitted. This approach would certainly be appropriate where the significant new use would occur downstream from the manfacture, importing, or processing operations. However, for this substance, the exposure and hazard concerns involve workers in the manufacturing and processing operations and the proposed new use is the actual domestic manufacturing or processing as opposed to a marketable end product. Therefore, the points and levels of exposure and the number of persons exposed will be unique to each manufacturer and processor. To assess the effects resulting from these significant new uses, the Agency proposes to require any person who intends to manufacture, import, or process the substance for a defined significant new use to submit a SNUR notice.

Using this approach, if a person plans to manufacture this substance in the United States, that person is required to submit a SNUR notice. Alternatively, if a person plans to process this substance without the designated protective equipment, that person would be required to submit a SNUR notice. If a person planned to import the substance and then sold the substance to a person who planned to process it without using the designated protective equipment, both persons would be responsible for submitting a SNUR notice, but EPA is proposing that only one be required to submit a notice. In this situation, that person would be the processor because he is the one most familiar with the exposures resulting from the new use. In the situations where the importer has information important to EPA's risk assessment, the Agency would encourage the two persons to make a joint submission to provide complete information. If one person did not have complete information about the substance or the use, and the other person did not submit that informtion, EPA could take action under section 5(e) to regulate the new use pending submission of the information. In situations where it is not clear who should submit a SNUR notice, the Agency encourages potential SNUR notice submitters to consult EPA prior to submitting their notice.

IX. Applicability of Proposal to Uses Occurring Before Promulgation of Final Rule

EPA recognizes that when P83–370 is added to the Inventory it may be manufactured or processed for the significant new uses defined in this proposal before promulgation of the final rule. EPA has decided that the intent of section 5(a)(1)(B) can best be served by determining whether a use is "new" or "existing" as of the proposal date of the SNUR. If EPA were to consider uses begun during the proposal period to be "existing" rather than "new," it would be virtually impossible for the Agency to establish SNUR notice requirements because any person could defeat the SNUR by initiating the proposed significant new use before the rule became final. This would be contrary to the general intent of section 5(a)(1)(B).

Thus, if the substance is manufactured, imported, or processed between proposal and promulgation for a proposed significant new use, the Agency will still consider such uses to be "new" if they are retained in the final rule. EPA recognizes that this interpretation may disrupt commercial activities of persons who began manufacture, import, or processing for a significant new use during the proposal period. However, this proposal puts them on notice of that potential disruption, and they proceed at their own risk. The Agency specifically requests comments on ways to minimize this disruption.

X. Procedures for Informing Persons of the Existence of This Significant New Use Rule

The final rule will be published in the **Federal Register** and codified in the Code of Federal Regulations (CFR). While this will provide legal notice of the rule, EPA also intends to publish information concerning final SNURs in the TSCA Chemicals-In-Progress Bulletin, published by the TSCA Assistance Office of EPA's Office of Toxic Substances. EPA may also use the TSCA Chemical Substance Inventory to inform persons of the existence of final SNURs through footnotes to the chemical identities of substances subject to SNURs. The footnotes would refer to an Inventory Appendix which would give a **Federal Register** or CFR citation for the SNURs. As a variation of this approach, the Agency is considering publishing a list of substances subject to SNURs as an Inventory Appendix.

An person who intends to manufacture or process a substance for the first time would check the Inventory to determine if the substance is listed. If the person found that the substance is on the Inventory, but subject to a SNUR, he could determine whether he would be subject to reporting by contacting EPA or reviewing the rule. Because an updated Inventory is only published periodically, manufacturers and processors would also rely on the **Federal Register** and the TSCA Chemicals-In-Progress Bulletin. Because EPA maintains a current copy of the Inventory, any questions could be resolved by consulting EPA.

EPA believes that all manufacturers and most processors know the identities of the substances they manufacture or process and therefore can follow the above procedures. EPA recognizes, however, that some processors may not know the identity of substances they process and, as a result, may not know they are subject to a SNUR. At the same time manufacturers do not always know what their processor/customers do with substances supplied to them. Therefore, EPA has identified several alternative approaches to address liability for manufacturers, importers, and processors of substances subject to a SNUR.

First, if a required SNUR notice has not been submitted, EPA could hold manufacturers and importers of the chemical substance liable if any of their customers process the substance for a significant new use (i.e. without certain protective equipment) even if the manufacturer or importer did not know that the customer intended to process the substance for the significant new use. Manufacturers and importers could avoid liability in this situation by informing each of their customers in writing that the substance is subject to this SNUR and by maintaining records that each verify such customer notification. However, if the manufacturer or importer had reason to believe that a customer was processing the substance for a significant new use before submitting a SNUR notice, the manufacturer or importer would be required to immediately cease sales of the substance to the customer and notify EPA enforcement authorities to avoid liability. The manufacturer or importer could not resume sales of the substance to that customer until a SNUR notice had been submitted by the manufacturer, importer, or processor, and the notice review period had run without regulatory action by EPA.

Second, EPA could hold processors liable if they process the substance for a significant new use without submitting a SNUR notice, even if they did not know the identity of the substance or that the substance was subject to a SNUR. However, processors could avoid liability in this situation by asking each of their suppliers to certify in writing whether the substance is subject to a SNUR receiving a negative response, and maintaining records of each negative response. EPA believes that many processors ask suppliers to certify

that the chemical substances they purchase are on the Inventory. The Agency believes that processors can similarly ask suppliers whether the substances are subject to SNUR notice requirements. This alternative is consistent with the reporting alternative above in which EPA proposes to require submission by processors of SNUR notices for their significant new uses.

Third, EPA could require manufacturers and processors of this substance to notify, through a label or otherwise, any person to whom they distribute the substance that the substance is subject to this SNUR. EPA could accomplish this in one of two ways. EPA believes that, where necessary, there is inherent authority in section 5(e)(2) of TSCA to require such notification since lack of notification would impair compliance with the rule. In addition, EPA could define distribution of this substance without a notification as a significant new use; before anyone could distribute the substance without providing notification, they would have to submit a SNUR notice to EPA.

The Agency specifically requests comments on these approaches as well as on other approaches to ensure that SNUR notice requirements are followed.

XI. Required Information

A. General

The Agency proposes that SNUR notice submitters use the premanufacture notice form and follow the premanufacture notice rules which were published in the **Federal Register** of May 13, 1983 (48 FR 21722). EPA urges SNUR notice submitters to provide detailed information on human exposure that will result from the significant new use. Manufacturers and processors should focus on the following information: (1) Chemical identity; (2) description of processing and use; (3) exposures related to processing and use; and (4) test data. In addition, EPA urges persons to submit information on both the potential benefits and risks of the substance compared to those posed by its substitutes.

Depending on EPA's calculations of the risks involved, if a SNUR notice is submitted for the subject substance without test data or other information to demonstrate that exposure is adequately controlled by means other than those specified in these proposed significant new uses, EPA could take action under section 5(e).

B. Test Data

EPA recognizes that under TSCA section 5, a person is not required to develop any particular test data before submitting a notice. Rather, a person is required only to submit test data in his possession or control and to describe any other data known to or reasonably ascertainable by him. However, in view of the potential health risk that may be posed by the proposed significant new uses of P83–370, EPA encourages possible SNUR notice submitters to conduct tests that would allow a more reasoned evaluation of the substance's potential to cause teratogenic effects.

The Agency has determined that fetal teratology studies with blood level testing are appropriate tests to determine the potential for teratogenic effects. Such testing will provide data necessary to determine whether effects such as fetal hydantoin syndrome will occur. This type of information is quite valuable for the Agency's ongoing review of the toxicity of this chemical substance. Therefore, such testing should be submitted in a SNUR notice.

Any testing should be conducted according to good laboratory practices and through the use of methodologies acceptable to the Agency. Failure to do so may lead the Agency to find such data to be insufficient to evaluate the health effects of this substance reasonably.

As part of an optional prenotice consultation, EPA will discuss the test data it believes necessary to evaluate a significant new use of P83–370. During prenotice consultation, EPA will also discuss information that will be particularly useful to the Agency in reviewing this substance. EPA encourages persons to consult with the Agency before selecting a protocol for testing the substance.

XII. EPA Review of Notice

EPA proposes to review SNUR notices the same way it reviews PMNs and to subject such notices to the procedures in the final premanufacture notice rule. Under section 5(d)(2) of TSCA, EPA will issue a summary of each notice in the **Federal Register.** The review period for the notice will run 90 days from EPA's receipt of the notice. Under TSCA section 5(c), this period may be extended up to an additional 90 days for good cause. The submitter may not manufacture, import, or process the substance for the significant new use until the review period, including extensions, has expired.

The Agency may regulate the substance during the review period. If a significant new use notice is submitted for a chemical substance without information sufficient to judge the toxicity and exposure potential of the substance, EPA may issue a section 5(e) Order limiting or prohibiting the new use until sufficient information is developed. In addition, section 5(f) authorizes EPA to prohibit the significant new use if it presents or will present an unreasonable risk to health or the environment. EPA may also refer information in a SNUR notice to other EPA offices and other Federal agencies. If EPA does not take action under section 4, 5, 6, or 7 to control a substance on which it has received a significant new use notice, section 5(g) requires the Agency to explain in the **Federal Register** its reasons for not taking action.

XIII. Modification of Reporting Requirements

The Agency believes that there may be circumstances that will lead to modification of the new use descriptions. When a significant new use notice is submitted, EPA will review the use to determine whether any regulatory action is necessary. If, after review, EPA allows the use to occur, the use arguably should not be subject to further reporting. EPA may amend the SNUR to modify or eliminate the new use description if the Agency decides that a change is warranted or that further notice of that use under a SNUR is not warranted. EPA may also amend the SNUR to modify or eliminate other use descriptions if it determines, based on new data available to EPA, that a substance no longer presents health or environmental concerns for those uses.

EPA will amend a SNUR through rulemaking. When EPA revises a SNUR by eliminating notice requirements for a single, narrow use of the substance, the Agency may dispense with notice and comment if it, for good cause, finds that notice and comment is impracticable, unnecessary, or contrary to the public interest. However, EPA will completely revoke or substantially alter a SNUR only after notice and an opportunity for comment.

XIV. Proposed Rule Language

This proposed rule is structured as follows. The chemical substance and defined significant new uses are described in paragraph (a) of this proposal. In paragraph (b), EPA proposes definitions applicable for this section. Paragraph (c) describes the persons who must report. The notice requirements and procedures for reporting under this proposal are stated in paragraph (d). Paragraph (e) clarifies which exemption of TSCA section 5(h) applies in this SNUR. Test marketing exemptions (TMEs) under TSCA section 5(h)(1) generally apply in SNURs.

However, in this case the proposed significant new uses involve actual domestic manufacture and particular processing operation as opposed to a marketable end use. Therefore, EPA believes that TMEs should not apply in this case. Paragraph (f) describes enforcement provisions applicable to this proposed rule.

EPA invites comments on all aspects of this proposed rule language.

XV. Enforcement

It is unlawful for any person to fail or refuse to comply with any provision of section 5 or any rule promulgated under section 5. Manufacture or processing of chemical substances for a significant new use without prior submission of a significant new use notice would be a violation of section 15.

Section 15 of TSCA also makes it unlawful for any person to:

1. Use for commercial purposes a chemical substance or mixture which such person knew or has reason to know was manufactured, imported or processed in violation of a SNUR.

2. Fail or refuse to permit entry or inspection as required by section 11.

3. Fail or refuse to permit access to or copying of records, as required by TSCA.

Violators may be subject to various penalties and to both criminal and civil liability. Persons who submit materially misleading or false information in connection with the requirement of any provision of a SNUR may be subject to penalties calculated as if they never filed their notices. Under the penalty provision of section 16 of TSCA, any person who violates section 15 could be subject to a civil penalty of up to $25,000 for each violation. Each day of operation in violation could constitute a separate violation. Knowing or willful violation of a SNUR could lead to the imposition of criminal penalties of up to $25,000 for each day of violation and imprisonment for up to one year. Other remedies are available to EPA under sections 7 and 17 of TSCA such as seeking an injunction to restrain violations of a SNUR and the seizure of chemical substances manufactured or processed in violation of a SNUR.

Individuals, as well as corporations, could be subject to enforcement actions. Sections 15 and 16 of TSCA apply to "any person" who violates various provisions of TSCA. EPA may, at its discretion, proceed against individuals as well as companies. In particular, EPA may proceed against individuals who report false information or cause it to be reported.

XVI. Economic Analysis

The Agency has evaluated the potential costs of establishing significant new use reporting requirements for P83–370. The economic analysis of the possible outcomes as a result of the promulgation of this SNUR is summarized below.

The only costs that will definitely occur as a result of this SNUR will be EPA's cost of issuing and enforcing it. It is estimated that the Agency costs of issuing the SNUR are $42,150. The Agency would also incur enforcement costs.

After promulgation to the proposal of the SNUR, the Agency believes that there are five possible scenerios for firms that may wish to manufacture or process P83–370. First, a company may process the substance using the required protective equipment; therefore, no SNUR notice would need to be submitted. Second, a firm may desire to manufacture or process the substance for a significant new use and then would submit a SNUR notice. Third, a firm may desire to manufacture or process the substance for a significant new use and then would submit a SNUR notice with information showing alternative methods of controlling exposures that allay Agency concerns. Fourth, a SNUR notice may be submitted that includes the results of the recommended testing or notification that the firm is preparing to test the substance. Fifth, a firm may decide not to manufacture or process the substance because of the restrictions imposed by the SNUR.

The costs associated with these possible outcomes have been calculated by EPA. If a company decides to produce the substance under the terms of the SNUR, it will not incur the cost of submitting a SNUR notice. The only cost to the company would be that of the protective equipment. The present value of the protective equipment is $999. This cost is computed over a 10-year period for one worker. The estimate is based on use over 10-year economic life of the substance and utilizing a 10- percent discount rate.

In some circumstances it could be cost effective for a company to file a SNUR notice with data which show that other means of controlling exposures could mitigate EPA's concern. In this case, the company would incur the cost of filing the SNUR notice ($1,375 to $7,950) and possibly the cost of some exposure controls which ordinarily would not be used without the existence of the SNUR. EPA's costs following proposal of a SNUR would include reviewing the SNUR notice ($6,865) and modifying the terms of the SNUR ($8,430) if the information provided shows that EPA's concerns would be adequately addressed by the use of a different type of exposure control.

It is theoretically possible that a company could file a SNUR notice which would include the test results of the recommended testing. In such a situation, a company would incur the cost of filing a notice ($1,375 to $7,950), performing the test ($70,000), and the cost of production delay (probably a delay in profits of 0.5 year).

Some companies could find the cost of controlling exposures too expensive to justify manufacturing or processing. If this were true, the company would not incur any direct cost as a result of the SNUR. However, the company and society could then lose benefits that could have been derived from the manufacture or processing of the substance.

The Agency has not attempted to quantify the benefits of the proposed rule or of the possible outcomes. In general, benefits will accrue if the proposed action leads to the identification and control of unreasonable risks before significant health effects can occur. The issuance of the SNUR provides the benefits of reduced health risks until production or processing ceases. Furthermore, these benefits would continue regardless of decisions made by industry in response to the SNUR.

XVII. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this proposed rule is not a "Major Rule" because it does not have an effect on the economy of $100 million or more, and it will not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the annual cost of this proposed rule, EPA believes that the cost will be low. Even if EPA received 25 SNUR notices, and each submitter performed the recommended testing, the direct cost of the rule would be under one million dollars. In addition, because of the nature of the rule and the substance subject to it, EPA believes that there will be few significant new use notices submitted. Further, while the expense of a notice and the uncertainty of possible EPA regulation may discourage certain innovation, that impact will be limited because such factors are unlikely to discourage an

innovation which has high potential value. Finally, this SNUR may encourage innovation in safe chemical substances or highly beneficial uses.

This proposal was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), EPA certifies that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small businesses. The agency has no way to predict whether parties affected by this proposed rule are likely to be small businesses. However, EPA believes that few manufacturers or processors will submit SNUR notices. Therefore, although the costs of preparing a notice under this proposed rule might be significant for some small businesses, the number of such businesses affected would not be substantial. The Agency expects that one of the first notice submitters will test the substance as suggested earlier. With these data, EPA would be able to evaluate the risks posed by the substance in these uses and, if necessary, take action to control those risks. At that time, the Agency presumably would repeal the SNUR. Therefore, even if all SNUR notices are submitted by small businesses, only a few small businesses will be directly affected by the proposed rule. In addition, the cost of the testing that may be encouraged by this proposal should not have a major impact on a small business that may want to use this chemical substance as set forth in this proposal.

C. Paperwork Reduction Act

The information reporting requirements contained in this proposed rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and have been assigned OMB control number 2070–0012.

XVIII. Confidential Business Information

Any person who submits comments which the person claims as confidential business information must mark the comments as "confidential," "trade secret," or other appropriate designation. Any comments not claimed as confidential at the time of submission will be placed in the public file. Any comments marked as confidential will be treated in accordance with the procedures in 40 CFR Part 2. EPA requests that any person submitting confidential comments prepare and submit a sanitized version of the comments which EPA can place in the public file.

XIX. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPTS–50509). The record includes basic information considered by the Agency in developing this proposed rule. EPA will supplement the record with additional information as it is received. The record now includes the following categories of information:

1. The PMN for this chemical substance.
2. The **Federal Register** notice of receipt of the PMN.
3. A copy of the section 5(e) Consent Order.
4. Data on chemical analogues of the substance.
5. The toxicity support documents for the Significant New Use Rule.
6. The economics support document for the Significant New Use Rule.

A public version of this record containing sanitized copies of this information from which CBI has been deleted, is available to the public in the OTS Public Information Office, from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. The Public Information Office is located in Rm. E–107, 401 M St., SW., Washington, D.C.

EPA will identify the complete rulemaking record by the date of promulgation. The Agency will accept additional materials for inclusion in the record at any time between this proposal and designation of the complete record. The final rule will also permit persons to point out any errors or omissions in the record.

(Sec. 5, Pub. L. 94–469, 90 Stat. 2012 (15 U.S.C. 2604))

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Reporting and recordkeeping requirements, Significant new uses.

Dated: December 21, 1983.

William D. Ruckelshaus,

Administrator.

PART 721—[AMENDED]

Therefore, it is proposed that proposed Part 721 of Chapter I of Title 40 be amended by adding § 721.25 to read as follows:

§ 721.25 8-acetyl-3-dodecyl-7,7,9,9-tetramethyl-1,3,8-triaza-spiro [4,5] decane-2,4-dione.

This section identifies activities with respect to a chemical substance which EPA has determined are "significant new uses" under the authority of section 5(a)(2) of the Toxic Substances Control Act. In addition, it specifies the procedures for reporting on this substance.

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The following chemical substance is subject to reporting under this section for the significant new uses listed in paragraph (a)(2) of this section: 8-acetyl-3-dodecyl-7,7,9,9-tetramethyl-1,3,8-triaza-spiro [4,5] decane-2,4-dione.

(2) Significant new uses subject to reporting:

(i) Any manufacture within the United States.

(ii) Processing without requiring use of the following personal protective equipment:

(A) Protective gloves and goggles determined by the processor to be impervious to the substance either: (*1*) By testing the equipment under conditions of exposure, or (*2*) by evaluating the specifications supplied by glove and goggle manufacturers which indicate that the items will be impervious to chemical substances in the class containing the substance under conditions of exposure, including expected duration of exposure.

(B) Chemical worker respirators approved by the National Institute for Occupational Safety and Health (NIOSH) as suitable to protect against respirable dust.

(b) *Definitions.* Applicable definitions in section 3 of the Act, 15 U.S.C. 2602, apply to this section. Applicable definitions in § 720.3 of this Chapter apply to this section. In addition, the following definitions apply:

(1) "Process for commercial purposes" means preparation of a chemical substance or mixture, after its manufacture, for distribution in commerce with the purpose of obtaining an immediate or eventual commercial advantage for the processor. Processing of any amount of a chemical substance or mixture is included. If a chemical substance or mixture containing impurities is processed for commercial purposes, then those impurities are also processed for commercial purposes.

(2) "Manufacture." For the purposes of this rule the term "manufacture" is exclusive of importation.

(3) [Reserved]

(c) *Persons who must report.* Any person who intends to manufacture, import (other than as part of an article), or process for commercial purposes the substance listed in paragraph (a) of this section for a significant new use defined

in that paragraph must submit a notice to the EPA Office of Toxic Substances in Washington, D.C. under the provisions of section 5(a)(1)(B) of the Act, Part 720 of this Chapter, and this section. Any notice of import must be submitted by the principal importer.

(d) *Notice requirements and procedures.* Each person who is required to submit a significant new use notice under this section must submit the notice at least 90 calendar days before commencing the significant new use. The submitter must comply with any applicable requirement of section 5(b) of the Act, and the notice must include the information and test data specified in section 5(d)(1) of the Act. The notice must be submitted on the notice form in Appendix A to Part 720 of this Chapter and must comply with the requirements of Part 720, except to the extent that they are inconsistent with this section. EPA will process the notice in accordance with the procedures in Part 720 of this Chapter, except to the extent that they are inconsistent with this section.

(e) *Exemptions and exclusions.* The chemical substance listed in paragraph (a) of this section is not subject to the notification requirements of this section if:

(1) The substance is manufactured or processed only in small quantities solely for research and development, and the substance is manufactured or processed in accordance with the provisions of § 720.36 of this chapter.

(2) The substance is manufactured or processed only as an impurity or byproduct.

(f) *Enforcement.* (1) Failure to comply with any provision of this section is a violation of section 15 of the Act (15 U.S.C. 2614).

(2) Using for commercial purposes a chemical substance or mixture which a person knew or had reason to know was manufactured, processed, or distributed in commerce in violation of this section is a violation of section 15 of the Act (15 U.S.C. 2614).

(3) Failure or refusal to permit access to or copying of records, as required by section 11 of the Act, is a violation of section 15 of the Act (15 U.S.C. 2614).

(4) Failure or refusal to permit entry or inspection, as required by section 11 of the Act, is a violation of section 15 of the Act (15 U.S.C. 2614).

(5) Violators may be subject to the civil and criminal penalties in section 16 of the Act (15 U.S.C. 2615) for each violation. Persons who submit materially misleading or false information in connection with the requirement of any provision of this section may be subject to penalties calculated as if they never filed their notices.

(6) EPA may seek to enjoin the manufacture or processing of a chemical substance in violation of this section or act to seize any chemical substance manufactured or processed in violation of this section or take other actions under the authority of sections 7 or 17 of the Act (15 U.S.C. 2606 or 2616).

(g) *Recordkeeping.* Processors who process the substance identified in paragraph (a) of this section must maintain the following records for five years from the date of their creation:

(1) The names of persons required to use protective equipment.

(2) Records of specifications evaluated or tests performed on the prescribed protective equipment.

(Approved by the Office of Management and Budget under control number 2070–0012)

[FR Doc. 84–971 Filed 1–12–84; 8:45 am]
BILLING CODE 6560–50–M

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40 CFR Part 799

[OPTS–42050; TSH–FRL 2483–1]

Mono-, Di-, and Trichlorinated Benzenes; Proposed Environmental Effects Test Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Under section 4 of the Toxic Substances Control Act (TSCA), EPA is proposing that manufacturers and processors of mono-, di-, and trichlorinated benzenes conduct certain chemical fate and environmental effects tests on these chemicals. The testing being proposed will be performed according to protocols adopted by the Agency. EPA is not proposing chemical fate or environmental effects testing of the tetrachlorobenzenes or pentachlorobenzene at this time. However, in view of recently obtained information indicating production and environmental release of the tetrachlorobenzenes, the Agency is issuing an Advance Notice of Proposed Rulemaking (ANPR) for the tetrachlorobenzenes and is soliciting comments on the possible need to issue a proposed test rule for one or more of the tetrachlorobenzene isomers. This notice constitutes EPA's response to the Interagency Testing Committee's (ITC) designation of mono-, di-, tri-, tetra- and pentachlorinated benzenes as priority candidates for environmental effects testing consideration.

DATES: Submit written comments on or before March 13, 1984. If persons request an opportunity for oral comment by February 27, 1984, EPA will hold a public meeting on March 28, 1984, on this rule in Washington, D.C. For further information on arranging to speak at the meeting see Unit VI of this preamble.

ADDRESS: Submit written comments in triplicate to: TSCA Public Information Office (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–108, 401 M St. SW., Washington, D.C. 20460. Include the document control number [OPTS–42050] on all submissions.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Rm. E–543, 401 M St. SW., Washington, D.C. 20460, Toll Free: (800–424–9065), In Washington, D.C.: (554–1404), Outside the USA: (Operator—202–554–1404).

SUPPLEMENTARY INFORMATION: .

I. Introduction

Section 4(e) of TSCA (Pub. L. 94–469, 90 Stat. 2003 *et seq.*; 15 U.S.C. 2601 *et seq.*) established an Interagency Testing Committee (ITC) to recommend to EPA a list of chemicals to be considered for testing under section 4(a) of the Act. The ITC may designate substances on the list for priority consideration for testing under section 4(a) of the Act.

The ITC designated the chlorinated benzenes for priority consideration in its Initial (mono-, di-, and trichlorinated benzenes) and Third (tetra-, and pentachlorinated benzenes) Reports, published in the **Federal Register** of October 12, 1977 (42 FR 55026) and October 30, 1978 (43 FR 50630), respectively. The ITC recommended that mono-, di-, tri-, tetra- and pentachlorinated benzenes be considered for health and environmental effects testing. EPA's response to the ITC's health effects testing recommendations for these chlorinated benzenes was published in the **Federal Register** of July 18, 1980 (45 FR 48524). This notice constitutes EPA's response to the ITC's designation of chlorobenzenes as priority candidates for consideration for environmental effects testing, with particular emphasis on long-term environmental studies on freshwater and marine organisms or populations.

The ITC's testing recommendations for mono- and dichlorinated benzenes were based on the reported large U.S. production volumes of these compounds. The ITC's Initial Report stated that the U.S. production of monochlorobenzene

was over 300 million pounds/year. Production of 1,2- and 1,4-dichlorobenzene was estimated by the ITC at 50 million pounds each. In addition, the ITC was concerned that the manufacture of mono- and dichlorobenzenes and their use alone and in products could present an environmental hazard, particularly in light of the high release rate of mono- and dichlorobenzenes and their anticipated persistence in the environment.

The ITC's recommendations for tri-, tetra- and penta-chlorinated benzenes were based on reports of contamination of air, water, soil and food chains by chlorinated benzene compounds. The ITC cited several possible sources of contamination, which included the use of chlorinated benzenes as chemical intermediates, as solvents in the manufacture of dyes, as lubricants and pesticides, and as transformer oils. The ITC also speculated that a reduction in the use of polychlorinated biphenyls may result in increased use of trichlorobenzenes as transformer oils.

Under section 4(a)(1) of TSCA, EPA must require testing of a chemical substance to develop health or environmental data if the Agency finds that:

(A)(i) the manufacture, distribution in commerce, processing, use, or disposal of a chemical substance or mixture, or that any combination of such activities, may present an unreasonable risk of injury to health or the environment,

(ii) there are insufficient data and experience upon which the effects of such manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data; or

(B)(i) a chemical substance or mixture is or will be produced in substantial quantities, and (I) it enters or may reasonably be anticipated to enter the environment in substantial quantities or (II) there is or may be significant or substantial human exposure to such substance or mixture,

(ii) there are insufficient data and experience upon which the effects of the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data.

EPA uses a weight of evidence approach in making a section 4(a)(1)(A)(i) finding in which both exposure and toxicity information are considered to make the finding that the chemical may present an unreasonable risk. For the section 4(a)(1)(B)(i) finding, EPA considers only production, exposure, and release information to determine if there is substantial exposure or release. For the second finding under both sections 4(a)(1)(A) and 4(a)(1)(B), EPA examines toxicity and fate studies to determine if exisiting information is adequate to determine or reasonably predict the effects of human exposure to, or environmental release of, the chemical. In making the third finding, that testing is necessary, EPA considers whether any ongoing testing will satisfy the information needs for the chemical and whether testing which the Agency might require would be capable of developing the necessary information.

EPA's process for determining when these findings can be made is described in detail in EPA's first and second proposed test rules as published in the **Federal Register** of July 18, 1980 (45 FR 48528) and June 5, 1981 (46 FR 30300), respectively. The section 4(a)(1)(A) findings are discussed in (45 FR 48528), and the section 4(a)(1)(B) findings are discussed in (46 FR 30300).

In evaluating the ITC's testing recommendations concerning the chlorinated benzenes, EPA considered all available relevant information, which included the following: Information presented in the ITC's report recommending testing consideration; production volume, use, exposure, and release information reported by manufacturers of the chlorinated benzenes under the TSCA section 8(a) Preliminary Assessment Information Rule (40 CFR Part 712); health and safety studies submitted by the manufacturers of the chlorinate benzenes under the TSCA section 8(d) Health and Safety Data Reporting Rule (40 CFR Part 716); and published and unpublished data available to the Agency. On the basis of its evaluation, as described in this preamble and the accompanying technical support document, EPA is proposing environmental effects and chemical fate testing requirements for the mono-, di-, and trichlorinated benzenes under either section 4(a)(1)(A) or 4(a)(1)(B), as appropriate. EPA also is soliciting comments on the need for environmental effects and chemical fate testing of tetrachlorobenzenes through an Adnvance Notice of Proposed Rulemaking (ANPR) contained in this Notice. The Agency is not proposing testing for pentachlorobenzene because available information indicates that pentachlorobenzene is not produced in or imported into the United States. By these actions, EPA is responding to the ITC's designations of mono-, di-, tri-, tetra- and pentachlorinated benzenes for testing consideration.

II. Chlorinated Benzenes

A. Profile

The eleven chlorinated benzenes listed in Table 1 are those considered in this response to the ITC. For membership in the category, a substance must be a benzene ring in which one to five hydrogen atoms are replaced by a chlorine.

TABLE 1.—IUPAC NAMES, CAS NUMBERS AND SYNONYMS OF THE CHLORINATED BENEZENES

IUPAC name	CAB No	Synonyms
Chlorobenzene	108-90-7	Monochlorobenzene, [illegible] chloride
1,2-Dichlorobenzene	95-50-1	*ortho* or *o*-Dichlorobenzene
1,3-Dichlorobenzene	541-73-1	*meta*- or *m*-Dichlorobenzene
1,4-Dichlorobenzene	106-46-7	*para*- or *p*-Dichlorobenzene
1,2,3-Trichlorobenzene	87-61-6	*vic*-Trichlorobenzene
1,2,4-Trichlorobenzene	120-82-1	*unsym*-Trichlorobenzene
1,3,5-Trichlorobenzene	108-70-3	*sym*-Trichlorobenzene
1,2,3,4-Tetrachlorobenzene	634-66-2	1,2,3,4-Tetrachlorobenzol
1,2,3,5-Tetrachlorobenzene	634-90-2	1,2,3,5-Tetrachlorobenzol
1,2,4,5-Tetrachlorobenzene	95-94-3	1,2,4,5-Tetrachlorobenzol
1,2,3,4,5-Pentachlorobenzene	608-93-5	Quintochlorobenzene

Ranges of chlorinated benzene production in and/or import into the United States are presented in Table 2. These figures were derived from information reported under the TSCA section 8(a) Preliminary Assessment Information Rule published in the **Federal Register** of June 22, 1982 (47 FR 26992), using the techniques for aggregating data as described in the **Federal Register** of June 13, 1983 (48 FR 27041), and rounding off to three significant figures.

TABLE 2.—UNITED STATES PRODUCTION AND/OR IMPORT OF THE CHLORINATED BENZENES

Chlorinated benzene	Production and/or import volume (lbs/year)[a]
Monochlorobenzene	195,000,000 to 284,000,000
1,2-Dichlorobenzene	40,300,000 to 47,300,000
1,3-Dichlorobenzene	323,000 to 1,010,000
1,4-Dichlorobenzene	62,300,000.
1,2,3-Trichlorobenzene.	51,300 to 163,000.
1,2,4-Trichlorobenzene.	2,750,000 to 8,070,000
1,3,5-Trichlorobenzene.	244,000 to 462,000
Tetrachlorobenzene	Unknown.[b]
Pentachlorobenzene	[illegible].

[a] Data were derived from information reported under the TSCA Section 8(a) Preliminary Assessment Information Rule (47 FR 26992) using the techniques for aggregating data described in 48 FR 27041 and EPA communications with the chlorobenzene manufacturers.

[b] The single tetrachlorobenzene manufacturer that reported under the TSCA Section 8(a) Preliminary Assessment Information Rule (47 FR 26992) informed the Agency that it no longer produced tetrachlorobenzene. However, recent information now indicates that potentially significant levels of tetrachlorobenzene may now or soon will be produced by another chlorobenzene manufacturer (CBI 1983)

The principal uses of the chlorobenzenes are summarized in Table 3.

TABLE 3.—PRINCIPAL USES OF CHLOROBENZENES*

Chlorinated benzene	Principal uses
Monochlorobenzene.	Intermediate in dye and herbicide manufacture; solvent in pesticide* and degreasing formulations.
1,2-Dichlorobenzene.	Production of 3,4-dichloroaniline; intermediate in manufacture of herbicides, dyes, polyethers, and epoxy resins; organic solvent.
1,4-Dichlorobenzene	Space deodorants and moth-control.*
Trichlorobenzenes	Organic intermediates, solvents; dye carriers; transformer and dielectric fluids.
Tetrachlorobenzenes.	Intermediate in production of dielectric fluids, pesticides, herbicides, and pentachlorobenzene.
Pentachlorobenzene	Production of pentachloronitrobenzene.

*Use of chlorinated benzenes as pesticide products or as solvents in such pesticides is regulated under the Federal Insecticide, Fungicide, and Rodenticide Act and was not considered in this rulemaking.

B. Findings

1. *TSCA Section 4(a)(1)(B).* The EPA is basing its proposed testing of monochlorobenzene, 1,2- and 1,4-dichlorobenzenes and 1,2,4-trichlorobenzene on the authority of section 4(a)(1)(B) of TSCA. EPA has concluded that monochlorobenzene, 1,2- and 1,4-dichlorobenzenes and 1,2,4-trichlorobenzene are produced in substantial quantities, and may enter the environment in substantial quantities. Furthermore, EPA has concluded that there are insufficient data available to either reasonably determine or predict the results of this exposure in the areas of chemical fate and environmental effects and that testing is necessary to develop such data.

EPA has reached these conclusions for the following reasons: (1) Available information indicates that the annual United States production and/or import volumes for monochlorobenzene, 1,2- and 1,4-dichlorobenzenes and 1,2,4-trichlorobenzene are substantial (see Table 2), based on information reported under the TSCA section 8(a) Preliminary Assessment Information Rule (47 FR 26992), aggregated using the techniques described in 48 FR 27041 and rounded off to three significant figures. (2) Available information indicates that there are substantial amounts of monochlorobenzene, 1,2- and 1,4-dichlorobenzenes and 1,2,4-trichlorobenzene released to the environment each year via manufacturing, processing and/or use activities. Table 4, presents aggregated environmental release estimates of the chlorinated benzenes resulting from their manufacture, based on information reported under the TSCA section 8(a) Preliminary Assessment Information Rule (47 FR 26992) and rounded off to three significant figures. In addition, available data indicate that the uses of these chlorinated benzenes may result in substantial release of monochlorobenzene, 1,2- and 1,4-dichlorobenzenes and 1,2,4-trichlorobenzene into the environment. Johnston et al. (1980) and Mathtech (1983) estimated the following environmental releases from use: monochlorobenzene—2 million pounds released to air, and 70 million pounds released to water; 1,2-dichlorobenzene—<0.1 million pounds released to air, 9.1 million pounds released to water, and <0.1 million pounds released to land; 1,4-dichlorobenzene—15.7 million pounds released to air, 11.8 million pounds released to water, and 0.6 million pounds released to land; and 1,2,4-trichlorobenzene—3.2 million pounds released to water (Refs. 1 and 2). (See section 2.1 of the technical support document for additional information on the environmental release of the chlorinated benzenes.) (3) EPA has concluded that there are insufficient data on the chemical fates and environmental effects of monochlorobenzene, 1,2- and 1, 4-dichlorobenzenes and 1,2,4-trichlorobenzene to reasonably determine or predict the results of their environmental releases, and that testing is necessary to develop such data.

TABLE 4.—ANNUAL ENVIRONMENTAL RELEASE ESTIMATES DURING THE MANUFACTURE OF FOUR CHLORINATED BENZENES

Chlorinated benzene	Annual release estimate in pounds
Monchlorobenzene	420,000–605,000
1,2-Dichlorobenzene	65,800
1,4-Dichlorobenzene	365,000–592,000
1,2,4-Trichlorobenzene	801–2,033

2. *TSCA Section 4(a)(1)(a).* EPA is basing its proposed testing of 1,2,-trichlorobenzene on the authority of TSCA section 4(a)(1)(A), because EPA has concluded that 1,2,3-trichlorobenzene may present an unreasonable risk of injury to organisms in the aquatic environment. EPA has reached this conclusion for the following reasons: (1) Existing toxicity data indicate that among the mono-, di-, and trichlorobenzenes, 1,2,3-trichlorobenzene is the most toxic chlorinated benzene to aquatic organisms (Ref. 3). Toxicity measurements include reported 48-hr LC_{50}s of 0.71 mg/L and 3.1 mg/L for rainbow trout and zebra danios, respectively, and a 24-hr daphnid LC_{50} of 3.35 mg/L (Ref. 3). In addition, chronic toxicity data on daphnids show significant effects at concentations as low as 0.1 mg/L (Ref. 3). (2) Available information indicates that the manufacture and uses of 1,2,3-trichlorobenzene (dye carrier, organic solvent, intermediate and dielectirc fluid) are the principal sources of its environmental release. Ware and West (1977) reported levels of 21–46 mg/L 1,2,3-chlorobenzene in municipal discharge, measured using flame-ionization gas chromatography (Ref. 5). Using these measured levels of 1,2,3-trichlorobenzene of 1200–2600× in rainbow and its trout (Ref. 4) the potential concentration of 1,2,3-trichlorobenzene in fish is in the range of 25—120 mg/L (measured levels in water×BCF's for rainbow trout=potential concentration of 1,2,3,-trichlorobenzene in fish). Due to this potential bio-concentration of 1,2,3-trichlorobenzene, and its reported LC_{50} of 0.71 ml/l for rainbow trout, the Agency has determined that 1,2,3-trichlorobenzene may present an unreasonable risk to aquatic organisms. (3) EPA has concluded that there are insufficient data on the environmental effect of 1,2,3-trichlorobenzene to reasonably determine or predict the result of its environmental release and that testing is necessary to develop such data.

On the basis of these findings, the agency is proposing the testing requirements summarized in Tables 5 and 6 as a basis for determining the chemical fate and/or environmental effects of monochlorobenzene, 1,2- and 1,4/dichlorobenzenes, 1,2,4-tricholorbenzene and 1,2,3-trichlorobenzene.

TABLE 5.—PROPOSED TESTING REQUIREMENTS FOR MONO-, 1,2Di, 1,4-Di- AND 1,2,4-Trichlorinated Benzene

Chlorinated benzene	Proposed testing
Monocholoroben-zene.	Chemical fate: Atmospheric oxidation via hydroxyl radical. Environmental effects: Speed germination, root elongation and early seedling growth in terrestrial macrophytes.
1,2- and 1,4-Dichlorobenzenes.	Chemical fate: Atmospheric oxidation via hydroxyl radical, and soil adsorption coefficient. Environmental effects: Speed germination, root elongation and early seedling growth in terrestrial macrophytes.
1,2,4-Trichlorobenzene.	Chemical fate: Atmospheric oxidation via hydroxyl radical, and soil adsorption coefficient.

TABLE 5.—PROPOSED TESTING REQUIREMENTS FOR MONO-, 1,2DI, 1,4-DI- AND 1,2,4-Trichlorinated Benzene—Continued

Chlorinated benzene	Proposed testing
	Environmental effects: Acute and chronic toxicity to mysid shrimp; acute toxicity to the aquatic macrophyte *Lemna gibba*; seed germination, root elongation and early seedling growth in terrestrial macrophytes.

TABLE 6.—PROPOSED TESTING REQUIREMENTS FOR 1,2,3-TRICHLOROBENZENE

Environmental effects
96-hr LC_{50} for fathead minnow; 96-hr EC_{50} for one species of *Gammarus*; acute toxicity to the aquatic macrophyte *Lemna gibba*; acute toxicity to mysid shrimp and silversides; chronic toxicity to mysid shrimp if LC_{50} is <1 ppm.

3. *No Further Testing.* For 1,3-dichlorobenzene, the Agency has concluded that no further testing should be proposed at this time. Existing data for 1,3-dichlorobenzene adequately characterize its toxicity to aquatic organisms. In addition, available information provides no basis for believing that 1,3-dichlorobenzene may present an unreasonable risk to the terrestrial environment.

For 1,3,5-trichlorobenzene, the Agency has concluded that no further testing should be proposed under either TSCA section 4(a)(1)(B) or 4(a)(1)(A) at this time. This conclusion is based on the following factors: (1) Data submitted under TSCA section 8(a) indicate that 1,3,5-trichlorobenzene is not currently produced in the United States; (2) the primary uses of 1,3,5-trichlorobenzene, for which it is imported into the United States, are expected to result in low environmental releases and exposures; and (3) in view of the level of exposure, currently available, albeit limited, data on the chemical fate and environmental effects of 1,3,5-trichlorobenzene do not support a finding that this compound may pose an unreasonable risk of injury to organism in the aquatic and terrestrial environments.

For pentachlorobenzene, the Agency concludes that no additional testing should be proposed at this time. This conclusion is based on the fact that pentachlorobenzene is neither produced in nor imported into the United States at this time. The only former U.S. pentachlorobenzene manufacturer and/or importer has notified EPA that it no longer manufactures and/or imports pentachlorobenzene.

4. *Advance Notice of Proposed Rulemaking.* For the tetrachlorobenzenes, this Notice constitutes an Advance Notice of Proposed Rulemaking. The Agency decided to issue an ANPR for tetrachlorobenzenes based on the following factors: (1) Information submitted to the EPA under the June, 1982, TSCA section 8(a) Preliminary Assessment Information Rule (47 FR 26992) indicated that only one manufacturer produced 1,2,4,5- and 1,2,3,5-trichlorobenzenes in the U.S., and that no tetrachlorobenzene was imported into the country. On May 2, 1983, this sole manufacturer notified the Agency that it no longer produced 1,2,4,5- and 1,2,3,5-trichlorobenzenes. Because these chlorobenzenes were neither produced in nor imported into the United States, the Agency had initially decided not to propose environmental effects testing for 1,2,4,5- and 1,2,3,5-tetrachlorobenzenes under TSCA section 4(a). (2) In September 1983, EPA was informed that a chlorinated benzene manufacturer in the United States had received and accepted an order for a mixture of tri- and tetrachlorinated benzenes to be used as a substitute for polychlorinated biphenyls (PSBs) in transformers. On September 27, 1983, the Agency received information, claimed as confidential business information (CBI), as to which isomer or isomers of tri- and tetrachlorinated benzenes make up this mixture and in what percentages. (3) EPA believes that the use of tetrachlorobenzene in transformers may result in environmental release and exposure similar to that demonstrated with polychlorinated bephenyls (PCBs). However, EPA does not know the potential production/importation volume of tetrachlorobenzenes for this use and cannot estimate potential release of tetrachlorobenzenes to the environment at this time.

EPA believes that an ANPR is an appropriate mechanism to obtain information on the potential production, use, and environmental release of tetrachlorobenzene as a PCB substitute. The Agency is asking for public comment on the need to test the tetrachlorobenzenes for environmental effects. (See Unit II. I). If EPA determines that there is a significant potential for environmental release from the manufacturing, processing, use or disposal of tetrachlorobenzenes, EPA will propose that they be tested for chemical fate and/or environmental effects.

The analyses on which the above findings are based are presented in the Chlorinated Benzenes Support Document, which is available from the TSCA Assistance Office (TAO).

C. Test Substance

EPA is proposing that chlorinated benzenes of 99 percent purity be used as the test substances for the chemical fate and environmental effects testing. This stipulation increases the likelihood that any toxic effects observed are related to the chlorinated benzenes and not to any impurities.

D. Persons Required to Test

Section 4(b)(3)(B) specifies that the activities for which the Administrator makes section 4(a) findings (manufacture, processing, distribution, use and/or disposal) determine who bears the responsibility for testing. Manufacturers are required to test if the findings are based on manufacturing ("manufacture" is defined in section 3(7) of TSCA to include "import"). Processors are required to test if the findings are based on processing. Both manufacturers and processors are required to test if the exposures giving rise to the potential risk occur during use, distribution, or disposal.

EPA has found that (a) mono-, 1,2-di, 1,4-di, and 1,2,4-trichlorinated benzenes are produced in substantial quantities and that their manufacture, processing, and use are likely to result in significant or substantial exposure to the environment, and (b) for 1,2,3-trichlorobenzene, manufacture, processing and use may lead to unreasonable risk to organisms in the aquatic environment. Thus, EPA is proposing that persons who manufacture or process, or who intend to manufacture or process monochlorobenzene, 1,2- and 1,4-dichlorobenzenes, and 1,2,4- and 1,2,3-trichlorobenzenes at any time from the effective date of this test rule to the end of the reimbursement period be subject to the requirements of the rule for the chlorinated benzene(s) that they manufacture or process. The end of the reimbursement period ordinarily will be 5 years after the submission of the last final report required under the test rule.

Because TSCA contains provisions to avoid duplicative testing, not every person subject to this rule must individually conduct testing. Section 4(b)(3)(A) of TSCA provides that EPA may permit two or more manufacturers or processors who are subject to a test rule to designate one such person or a qualified third person to conduct the tests and submit data on their behalf. Section 4(c) provides that any person required to test may apply to EPA for an exemption from that requirement as discussed in Unit II.E. below.

E. Exemptions

EPA's proposed policy on application for exemptions from section 4 testing requirements was published in the **Federal Register** of July 18, 1980 (45 FR 48512). EPA intends to promulgate its final procedures for exemptions in 40 CFR Part 770. The exemption procedures described below and included in the proposed rule language are consistent with EPA's current thinking on exemption procedures. If the general rule is promulgated before this proposal becomes final, the chlorinated benzenes rule will be modified to comport with the general procedural provisions.

Any manufacturer or processor of the chlorinated benzenes identified in paragraph (a) of this proposed rule would be able to apply for an exemption. Any person who has applied for an exemption would not be in violation of the rule until such time as EPA denies the application.

If manufacturers perform all the required testing, processors would be granted exemptions automatically without having to file applications.

When EPA has received a proposed study plan for a test set and has adopted the plan as the test standard, EPA would conditionally grant all exemption applications for that test set. If the test sponsor later fails to perform the testing, EPA would notify all persons who had submitted exemption applications for that test set that the exemptions would be denied unless within 30 days a manufacturer or processor notified EPA of its intent to perform the testing in accordance with the adopted test standards.

F. Approach to Adoption of Test Rules

1. *General process.* EPA announced a new approach to adoption of test rules published in the **Federal Register** of March 26, 1982 (47 FR 13012). EPA intends to promulgate a general procedural rule in 40 CFR Part 770 which will contain the procedural requirements for this approach. However, because that procedural rule is not in effect, this proposed rule contains specific procedures for adoption of this test rule. If the general rule is promulgated before this proposal becomes final, the chlorinated benzenes final rule will be modified to comport with the general procedural provisions.

Under the approach being followed for chlorinated benzenes, test rule development will be a two-phase process. In phase I, EPA is proposing that specific testing be required for chlorinated benzenes. This phase of the rulemaking will allow the public to comment on the decision to require testing and the specific types of tests to be required. Phase II begins after promulgation of the phase I test rule. In phase II, EPA will propose study plans submitted by test sponsors for public comment. After comment, the Agency will adopt the study plans, as proposed or modified, as specific test standards for the tests required by the phase I rule. Persons who submit the study plans will be obligated to perform the tests in accordance with the test standards adopted.

2. *Letter of intent to test or exemption application.* The proposed rule would require manufacturers and processors of chlorinated benzenes to perform certain tests. Once the rule is in effect, 30 days after publication in the **Federal Register**, each current manufacturer of monochlorobenzene, 1,2-dichlorobenzene, 1,4-dichlorobenzene, 1,2,4-trichlorobenzene, and 1,2,3-trichlorobenzene would have 30 days to submit for each required test set (see paragraphs (j) (1) through (9) of the proposed rule) either a letter of intent to perform the test set or an application for exemption. Each manufacturer who submitted a letter of intent to perform a specific test set would be obligated, first to submit, within 90 days of the effective date, a proposed study plan for the test set and, ultimately, to perform the testing.

Because EPA is making findings on individual chlorinated benzenes, the exemption procedures for the chlorobenzenes are the same as the procedures for individual chemicals discussed in Unit II.E. If manufacturers of a chlorinated benzene performed all the required test sets, processors of that chlorinated benzene would not be required to test or to submit exemption applications. EPA would automatically grant them exemptions from the requirements of the rule.

If no manufacturer of a given chlorinated benzene submitted a letter of intent to perform a particular test set within the 30-day period, EPA would publish a notice in the **Federal Register** to notify all processors of that chlorinated benzene. The notice would state that EPA had not received letters of intent to perform certain test sets and that current processors would have 30 days to submit, for each test set remaining, either a letter of intent to perform the test set or an exemption application for that test set. Each processor who submitted a letter of intent to perform a specific test set would be obligated, first, to submit, within 90 days of the publication of the **Federal Register** notice, a proposed study plan for the test set and, ultimately, to perform the testing.

If no manufacturer or processor submitted a letter of intent to perform a particular test set, EPA would notify all manufacturers and processors, by letter or through the **Federal Register**, that all exemption applications for that chlorinated benzene would be denied and that all manufacturers and processors of that chlorinated benzene would be in violation of the rule until a proposed study plan is submitted for that test set.

Any person not manufacturing chlorinated benzenes subject to testing requirements in effect, who later begins manufacturing before the end of the reimbursement period, would be required to submit a letter of intent to test or an exemption application for each required test set by the day the person begins manufacture. If EPA has published a notice in the **Federal Register** telling processors to submit letters of intent or exemption applications for certain test sets, any person not processing chlorinated benzenes at the time the rule goes into effect, who later begins processing before the end of the reimbursement period, would be required to submit a letter of intent to test or an exemption application for each test set specified in the **Federal Register** notice by the day the person begins processing.

3. *Submission and adoption of study plans.* Any manufacturer of chlorinated benzenes who submitted a letter of intent to perform a test set would have to submit, within 90 days after the effective date of the rule, a proposed study plan for that test set. In the event manufacturers do not submit letters of intent for all the required test sets, any processor who submits a letter of intent to perform a specific test set would have to submit, within 90 days of the publication of the **Federal Register** notice notifying processors, a proposed study plan for that test set. Paragraph (e) of the rule describes the contents of a proposed study plan.

EPA proposed generic test methodology requirements (generic test standards) in the **Federal Register** of May 9, 1979 (44 FR 27334), July 26, 1979 (44 FR 44054), and November 21, 1980 (45 FR 77332). In response to concerns about the rigidity of generic test methodology requirements, EPA has changed its approach for providing test standards for TSCA section 4 test rules. It has issued generic test methodology guidelines to replace the previously proposed generic test methodology requirements. The TSCA guidelines have been published by the National Technical Information Service (NTIS) for health effects (PB 82-232984),

environmental effects (PB 82–232992), and chemical fate (PB 82–233008). Good Laboratory Practice (GLP) standards for development of data on physical and chemical properties, persistence, and ecological effects of chemical properties, persistence, and ecological effects of Chemical Substances under TSCA were proposed in the **Federal Register** of November 21, 1980 (44 FR 77357). These GLP standards will be promulgated as generic requirements. These final TSCA GLP regulations will apply to the chlorinated benzenes test rule.

For guidance in preparing study plans, EPA recommends that test sponsors consult the TSCA Test Guidelines and the TSCA GLP standards as referenced above; the Organization for Economic Cooperation and Development's (OECD) Guidelines, as adopted by the OECD Council on May 12, 1981; or the FIFRA Pesticide Registration Guidelines: Proposed Data Requirements published by the National Technical Information Service (see the **Federal Register** of November 24, 1982 (47 FR 53192), for a list of these guidelines).

Failure to submit a study plan would be a violation of the rule.

EPA would review the proposed study plans. If they are incomplete, the manufacturer or processor would be notified of the deficiency and would have 15 days to provide appropriate information to make the plan complete. If the information is not provided in 15 days, the manufacturer or processor would be in violation of the rule. In addition, EPA would return to the appropriate stage of the process and require manufacturers or processors, as appropriate, to submit letters of intent, exemption applications, and study plans.

If the proposed study plan is complete, EPA would propose the study plan for public comment. In particular, the request for comments would focus on whether the study plan will ensure that data from the test set will be reliable and adequate. There would be a 45-day comment period and the opportunity to present views orally upon request. After considering the public comment, EPA would adopt the study plan as proposed, or as modified in response to comment, as the test standard for the required test set.

The person who submitted the proposed study plan would be required to perform the testing according to that standard. Failure to perform the testing would be in violation of the rule.

G. Reporting Requirements

EPA is proposing that all data be reported in accordance with the EPA GLP Standards to appear in 40 CFR Part 792. EPA has reviewed public comment on the proposed GLP Standards and is now developing final GLP standards. The final GLP Standards will apply to this rule.

EPA is required by TSCA section 4(b)(1)(C) to specify the time period during which persons subject to a test rule must submit test data. These deadlines will be established in the phase II rulemaking in which study plans are approved, or in a subsequent FR notice if EPA changes its policy as described in Unit II.E.

TSCA section 14(b) governs Agency disclosure of all test data submitted pursuant to section 4 of TSCA. Upon receipt of data required by this rule, the Agency will publish a notice of receipt in the **Federal Register** as required by section 4(d).

H. Enforcement Provisions

The Agency considers failure to comply with any aspect of a section 4 rule to be a violation of section 15 of TSCA. Section 15(1) of TSCA makes it unlawful for any person to fail or refuse to comply with any rule or order issued under section 4. Section 15(3) of TSCA makes it unlawful for any person to fail or refuse to: (1) Establish or maintain records, (2) submit reports, notices, or other information, or (3) permit access to or copying of records required by the Act or any rule issued under TSCA .

Additionally, TSCA section 15(4) makes it unlawful for any person to fail or refuse to permit entry or inspection as required by section 11. Section 11 applies to any "establishment, facility, or other premises in which chemical substances or mixtures are manufactured, processed, stored, or held before or after their distribution in commerce* * *." The Agency considers a testing facility to be a place where the chemical is held or stored, and, therefore, subject to inspection. Laboratory audits/inspections will be conducted periodically in accordance with the authority and procedures outlined in TSCA section 11 by duly designated representatives of the EPA for the purpose of determining compliance with any final rule for chlorinated benzenes. These inspections may be conducted for purposes which include verification that testing has begun, that schedules are being met, that reports accurately reflect the underlying raw data and interpretations and evaluations thereof, and that the studies are being conducted according to EPA GLP standards and the test standards established in the phase II rule.

EPA's authority to inspect a testing facility also derives from section 4(b)(1) of TSCA , which directs EPA to promulgate standards for the development of test data. These standards are defined in section 3(12)(B) of TSCA to include those requirements necessary to assure that data developed under testing rules are reliable and adequate, and such other requirements as are necessary to provide such assurance. The Agency maintains that laboratory inspections are necessary to provide this assurance.

Violators of TSCA are subject to criminal and civil liability. Persons who submit materially misleading or false information in connection with the requirement of any provision of this rule may be subject to penalties calculated as if they never submitted their data. Under the penalty provision of section 16 of TSCA, any person who violates section 15 could be subject to a civil penalty of up to $25,000 for each violation with each day of operation in violation constituting a separate violation. This provision would be applicable primarily to manufacturers or processors that fail to submit a letter of intent to perform testing or an exemption request. Continued manufacturing or processing after the deadlines for such submissions would be a violation of the rule. Knowing or willful violations could lead to the imposition of criminal penalties of up to $25,000 for each day of violation and imprisonment for up to 1 year. In determining the amount of penalty, EPA will take into account the seriousness of the violation and the degree of culpability of the violator as well as all the other factors listed in section 16. Other remedies are available to EPA under section 17 of TSCA, such as seeking and injunction to restrain violations of TSCA section 4.

Individuals, as well as corporations, could be subject to enforcement actions. Sections 15 and 16 of TSCA apply to "any person" who violates various provisions of TSCA. EPA may, at its discretion, proceed against individuals as well as companies themselves. In particular, this includes individuals who report false information or who cause it to be reported. In addition, the submission of false, fictitious, or fraudulent statements is a violation under 18 U.S.C. 1001.

I. Issues

The decision to defer environmental testing of the tetrachlorobenzenes is one for which further input by interested parties will be particularly useful. Therefore, EPA is soliciting public comment on the following information needs: (1) Production in and/or import

into the United States of tetrachlorobenzenes, (2) anticipated environmental release from production, use, distribution, or disposal of tetrachlorobenzenes, (3) ratios and isomer specific chemical components of mixtures of the chlorinated benzenes, including impurities, for use as a polychlorinated biphenyls substitute, and (4) the potential production of chlorinated benzenes (isomer specific) for use as a substitute for polychlorinated biphenyls.

The public comments received in response to this ANPR for the tetrachlorobenzenes will be instrumental in assisting the Agency in its determination on whether to require environmental effects testing of these chlorinated benzenes. If, after public comments are reviewed and evaluated, the Agency is unable to obtain specific information concerning tetrachlorinated benzene production in and/or importation into the United States, and their potential environmental release from use as a substitute for polychlorinated biphenyls, then the Agency may issue a TSCA section 8(a) rule requiring this specific information. In addition, the Agency may issue a TSCA section 5 Significant New Use Rule (SNUR) on 1,3-dichlorobenzene, 1,3,5-trichlorobenzene, and/or pentachlorobenzene.

III. Economic Analysis of Proposed Rule

To evaluate the potential economic impact of test rules, EPA has adopted a two-stage approach. All candidates for test rules go through a Level I analysis. This consists of evaluating each chemical group on four principal market characteristics: (1) Demand sensitivity, (2) cost characteristics, (3) industry structure, and (4) market expectations. The results of the Level I analysis, along with the consideration of the costs of the required tests, indicate whether the possibility of a significant adverse economic impact exists. Where the indication is negative, no further economic analysis is done for that chemical substance or group. However, for those chemical substances or groups where the Level I analysis indicates a potential for a significant economic impact, a more comprehensive and detailed analysis is conducted. This Level II analysis attempts to predict more precisely the magnitude of the expected impact.

Total testing costs for the proposed rule for the chlorinated benzenes are estimated to range from $100,900 to $210,600. The annualized cost range is $26,100 to $54,600, based on a 25 percent cost of capital over 15 years; the estimated unit costs range from 0.01 to 0.03 cents per pound. These estimates indicate that the economic impact of the proposed testing will not be significant. Moreover, on the basis of its Level I assessment, EPA believes that this proposed test rule will not result in a loss to society of the benefits of the chlorinated benzenes.

A detailed discussion of the methodology used to conduct the economic analysis for this test rule, the "Level I Economic Impact Analysis for Chlorobenzenes" (EPA Contract No. 68–01–6630), is available from the TSCA Assistance Office (TAO)[1] and is part of the public docket for this rulemaking.

IV. Availability of Test Facilities and Personnel

Section 4(b)(1) of TSCA requires EPA to consider "the reasonably foreseeable availability of the facilities and personnel needed to perform the testing required under the rule." Therefore, EPA conducted a study to assess the availability of test facilities and personnel to handle the additional demand for testing services created by section 4 test rules and test programs negotiated with industry in place of rulemaking. Copies of the study, "Chemical Testing Industry: Profile of Toxicological Testing, October, 1981," can be obtained through the NTIS (PB 82–140773).

On the basis of this study, the Agency believes that there will be available resources to perform the testing in this proposed rule.

V. Guidelines and Study Plans

The following guidelines and/or study plans cited in this proposed test rulemaking are available from: National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, (703) 487–4650.

NTIS publication No.	Title	Price
PB 82–140773	Chemical Testing Industry: Profile of Toxicological Testing.	$16.00
PB 82–232982	TSCA Environmental Effects Test Guidelines for Acute Toxicity Testing.	[illegible]
PB 83–153908	OECD Test Guidelines for Hazard Evaluation: Wildlife and Aquatic Organisms.	11.50
PB 83–153916	FIFRA Pesticides Registration Guidelines: Proposed Data Requirements for Hazard Evaluation: Humans and Domestic Animals.	11.50

VI. Public Meetings

If persons indicate to EPA that they wish to present comments on this proposed rule to EPA officials who are directly responsible for developing the rule and supporting analyses, EPA will hold a public meeting on March 28, 1984 in Washington, D.C. Persons who wish to present comments at the meeting should call the TSCA Assistance Office (TAO): Toll Free: (800–424–9065); In Washington, D.C.: (554–1404); Outside the U.S.A. (Operator–202–554–1404), by February 27, 1984. The meeting will not be held if members of the public do not indicate that they wish to make oral presentations. This meeting is scheduled after the deadline for submission of written comments, so that issues raised in the written comments can be discussed by EPA and the public commenters. While the meeting will be open to the public, active participation will be limited to those persons who arranged to present comments and to designated EPA participants. Attendees should call the TAO before making travel plans to check whether the meeting will be held.

Should a meeting be held, the Agency will transcribe the meeting and include the written transcript in the public record. Participants are invited, but not required, to submit copies of their statements prior to or on the day of the meeting. All such written materials will become part of EPA's record for this rulemaking.

VII. Public Record

EPA has established a record for this rulemaking docket number [OPTS–4250]. This record includes the basic information the Agency considered in developing this proposal, and appropriate **Federal Register** notices. The Agency will supplement the record with additional information as it is received. The Record includes the following information:

(1) **Federal Register** notices pertaining to this rule consisting of:

(a) Notice of proposed rule on the chlorinated benzenes.

(b) Notice containing the ITC designation of the chlorinated benzenes to the Priority List [42 FR 55026, October 12, 1977 and 43 FR 50630, October 30, 1978].

(c) Notices relating to EPA's environmental effects test guidelines and EPA Good Laboratory Practice Standards.

(d) Notice of proposed rule on exemption policy and procedures.

(e) Notice of final rule on reimbursement policy and procedures.

(2) Support Documents consisting of:

(a) Chlorinated Benzenes Technical Support Document.

(b) Economic Analysis Support Document.

(3) Minutes of informal meetings.

(4) Communications before proposal consisting of:

[1] TSCA Assistance Office, EPA, Rm. E–543, 401 M St., SW., Washington, D.C. 20460, Toll Free: (800–424–9065), In Washington, D.C. (554–1404), Outside USA: (Operator–202–554–1404).

(a) Written public and intra- or interagency memoranda and comments.

(b) Summaries of telephone conversations.

(c) Meeting summaries.

(d) Reports—published and unpublished factual materials, including contractors' reports.

Confidential Business Information (CBI), while part of the record, is not available for public review. A public version of the record, from which CBI has been deleted, is available for inspection in the OPTS Reading Room, Rm. E–107, 401 M St. SW., Washington, D.C. from 8:00 a.m. to 4:00 p.m., Monday through Friday except legal holidays.

VIII. Classification of Rule

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This test rule is not major because it does not meet any of the criteria set forth in section 1(b) of the Order. First, the actual annual cost of the testing prescribed for the chlorinated benzenes is less than $55,000 over the testing and reimbursement period. Second, because the cost of the required testing will be distributed over a large production volume, the rule will have only very minor effects on producers' costs or users' prices for these chemicals. Finally, taking into account the nature of the market for these chemicals, the low level of costs involved, and the expected nature of the mechanisms for sharing the costs of the required testing, EPA concludes that there will be no significant adverse economic impact of any type as a result of this rule.

This proposed regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA, and any EPA response to those comments, are included in the public record.

IX. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, (15 U.S.C. 601, *et seq.*, Pub. L. 96–354, September 19, 1980), EPA is certifying that this test rule, if promulgated, will not have a significant impact on a substantial number of small businesses because: (1) They will not perform testing themselves and will not participate in the organization of the testing effort; (2) they will experience only minor costs in securing exemptions from testing requirements; and (3) they are unlikely to be significantly affected by reimbursement requirements.

X. Paperwork Reduction Act

The information collection requirements in the proposed rule will be submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB mailed Attention: Desk Officer for EPA.

XI. References

(1) Johnston P, Hodge V, Slimak K. 1980. Materials Balance—Task #4—Chlorobenzenes. Prepared by J.R.B. Associates, Inc., for Office of Pesticides and Toxic Substances, U.S. Environmental Protection Agency. Report 560/13–80–001.

(2) Mathtech, Inc., 1983. Draft Report Level I Economic Evaluation Chlorobenzenes. Prepared for Economics and Technology Division, Office of Pesticides and Toxic Substances, U.S. Environmental Protection Agency. Contract No. 68–01–6630.

(3) Calamari D, Galassi S, Setti F, Vighi M. 1983. Toxicity of Selected Chlorobenzenes to Aquatic Organisms. Chemosphere 12(2): 253–262.

(4) Oliver BG, Niimi AJ. 1983. Bioconcentration of Chlorobenzenes From Water by Rainbow Trout: Correlations

(5) Ware SA, West WL. 1977. Investigation of Selected Potential Environmental Contaminants: Halogenated Benzenes. Report 560/2–77–004. U.S. Environmental Protection Agency, Office of Toxic Substances.

List of Subjects in 40 CFR Part 799

Testing, Environmental protection, Hazardous material, Chemicals.

(Sec. 4, Pub. L. 94–469, 90 stat. 2003; (15 U.S.C. 2061))

Dated: December 23, 1983.

Alvin L. Alm,

Acting Administrator.

PART 799—[AMENDED]

Therefore, it is proposed that a new § 799.2900 be added to Subpart B of the proposed Part 799 to read as follows:

§ 799.2900 Monochlorobenzene; 1,2-dichlorobenzene; 1,4-dichlorobenzene; 1,2,4-trichlorobenzene and 1,2,3-trichlorobenzene.

(a) *Identification of test substance.* (1) Monochlorobenzene (CAS No. 108–90–7); 1,2-dichlorobenzene (CAS No. 95–50–1), 1,4-dichlorobenzene (CAS No. 106–46–7); 1,2, 4-trichlorobenzene (CAS No. 120–82–1); and 1,2,3-trichlorobenzene (CAS No. 87–61–6) each shall be tested in accordance with this section.

(2) Monochlorobenzene; 1,2-dichlorobenzene; 1,4-dichlorobenzene; 1,2,4-trichlorobenzene and 1,2,3-trichlorobenzene of 99 percent purity shall be used as the test substance in all tests.

(b) *Persons required to submit study plans, conduct tests and submit data.* (1) all persons who manufacture or process monochlorobenzene; 1,2-dichlorobenzene; 1,4-dichlorobenzene; 1,2,4-trichlorobenzene; or 1,2,3-trichlorobenzene or any mixture of these chlorinated benzenes from the effective date of this rule February 13, 1984 to the end of the reimbursement period shall submit letters of intent to test, exemption applications and study plans and shall conduct tests and submit data as specified in paragraphs (c), (d), (e), (h), (j), and (k) of this section.

(2) Any person subject to the requirements of this section may apply to EPA for an exemption from study plan submission and testing requirements. Any such application shall be in accordance with paragraph (h) of this section.

(c) *Submission of notice of intent to test or exemption application.* (1) No later than 30 days after the effective date of this rule, each person manufacturing monochlorobenzene, 1,2-dichlorobenzene, 1,4-dichlorobenzene, 1,2,4-trichlorobenzene, and 1,2,3-trichlorobenzene, or any mixture thereof, as of the effective date of this rule must, for each test or test set required by paragraphs (j)(1) through (j)(9) of this section, either notify EPA by letter of its intent to perform the test set or submit an application for an exemption from the study plan submission and testing requirements for the test set.

(2) If, by the date specified in paragraph (c)(1) of this section, for each of the chlorinated benzenes identified in paragraph (a) of this section, no manufacturer has notified EPA of its intent to perform testing for each test set required by paragraph (j) of this section, EPA will publish a notice in the **Federal Register** of this fact specifying the chlorobenzene and the testing for which no notice of intent has been submitted. No later than 30 days after publication of such a notice, each person processing the chlorinated benzenes identified in the notice as of the effective date of this section must, for each test set specified in the **Federal Register** notice, either notify EPA by letter of its intent to prform the test set or submit an application for an exemption from the study plan submission and testing requirements for the testing.

(3) Any person not manufacturing the chlorinated benzenes identified in paragraph (a) of this section as of the effective date of this rule who, before the end of the reimbursement period, manufactures any one of them must comply with the requirements of

paragraphs (c)(1) and (d)(1) of this section. For the pupose of paragraph (c) of this section, the manufacturer must submit the notice of intent to test or exemption application required by paragraph (c)(1) of this section by the date manufacture begins and must submit any proposed study plan required by paragraph (d)(1) of this section within 60 days of the date manufacture begins.

(4) If a **Federal Register** notice has been published under paragraphs (c)(2) or (d)(4) of this section, any person not processing the chlorinated benzenes identified in the notice described in paragraph (c)(2) of this section, as of the effective date of this rule who, before the end of the reimbursement period, begins processing the chlorobenzenes must comply with the requirements of paragraphs (c)(2) and (d)(2) of this section. For purposes of paragraph (c) of this section, the processor must submit the notice of intent to test or exemption application required by paragraph (c)(2) of this section by the date processing begins and must submit any proposed study plan required by paragraph (d)(2) of this section within 60 days of the date processing begins.

(5) Any manufacturer or processor of the chlorinated benzenes identified in paragraph (a) of this section, which has notified EPA under paragraphs (c)(1), (c)(2), (c)(3), or (c)(4) of this section of its intent to perform testing for a test set required by paragraph (j) of this section, must submit a proposed study plan for the test set and must perform that test set in accordance with the test standards in paragraph (k) of this section.

(d) *Submission of proposed study plans.* (1) Manufacturers of the chlorinated benzenes identified in paragraph (a) of this section which notify EPA under paragraph (c)(1) of this section that they intend to perform a test set must submit a proposed study plan for the test set in accordance with paragraph (e) of this section no later than 90 days after the effective date of this rule. Manufacturers may jointly submit a single proposed study plan if they plan to sponsor or perform the test set jointly. Any manufacturer which, having notified EPA of its intent to perform a test set, fails to submit a proposed study plan for that test set will have been in violation of this section as if no letter of intent to perform the test set had been submitted.

(2) Processors of the chlorinated benzenes identified in paragraph (a) of this section which notify EPA under paragraph (c)(2) of this section that they intend to perform a test set must submit a proposed study plan for the test set in accordance with paragraph (e) of this section no latter than 90 days after the publication of the notice specified in paragraph (c)(2) of this section. Processors may jointly submit a single proposed study plan if they plan to sponsor or perform the test set jointly. Any processor which, having notified EPA of its intent to perform a test set, fails to submit a proposed study plan for that test set will have been in violation of this section as if no letter of intent to perform the test set had been submitted.

(3) If EPA determines in accordance with paragraph (f)(1)(i) of this section that a proposed study plan is incomplete and the manufacturer or processor has not, after notice from EPA, submitted appropriate information to make the study plan complete within 15 days, the manufacturer or processor will have been in violation of this section as if no letter of intent to perform the test set had been submitted.

(4) If either by:

(i) The date specified in paragraph (d)(1) of this section a manufacturer of the chlorinated benzenes identified in paragraph (a) of this section, which notified EPA of its intent to perform a test set, has failed to submit a proposed study plan for that test set; or

(ii) A proposed study plan submitted under paragraph (d)(1) of this section has been found to be incomplete under paragraph (f)(1)(i) of this section and the manufacturer has not submitted appropriate information to make the study plan complete within 15 days, EPA will publish a notice in the **Federal Register** of this fact specifying the test set. The requirements of paragraphs (c)(2) and (d)(2) of this section for processors to submit letters of intent to perform testing, applications for exemption and proposed study plans will apply.

(5) If either:

(i) By the date specified in paragraph (c)(2) of this section no processor of the chlorinated benzenes has notified EPA of its intent to perform testing for any test set identified in a **Federal Register** notice published under paragraphs (c)(2) or (d)(4) of this section,

(ii) The date specified in paragraph (d)(2) of this section any processor of the chlorinated benzenes identified in paragraph (a) of this section, which notified EPA of its intent to perform a test set, has failed to submit a proposed study plan for that test set; or

(iii) A proposed study plan submitted under paragraph (d)(2) of this section has been found to be incomplete under paragraph (f)(1)(i) of this section and the processor has not submitted appropriate information to make the study plan complete within 15 days, all applications for exemption from the requirements to submit study plans and to perform tests for the specified test set involved will automatically be denied. EPA will notify each manufacturer and processor of the chlorinated benzenes identified in paragraph (a) of this section, which applied for an exemption for the specific test set involved, of this automatic denial either by letter or by notice in the **Federal Register**. Each manufacturer or processor of the chlorinated benzenes identified in paragraph (a) of this section for whom an exemption application has been automatically denied will be in violation of this section 30 days from the time that it receives the notice letter or 30 days from the time that the notice is published in the **Federal Register**, whichever comes first. The violation will continue until a manufacturer or processor of the chlorinated benzenes identified in paragraph (a) of this section, submits a proposed study plan for each test set involved.

(6) Any manufacturer or processor of the test substance specified in paragraph (a) of this section may submit a proposed study plan for any test set required by this section at any time, regardless of whether the manufacturer or processor submitted an application for exemption from testing that test set.

(e) *Content of study plans.* (1) All study plans are required to contain the following information:

(i) A citation to this section.

(ii) The specific test set covered by the study plan.

(iii) (A) The names and addresses of the test set sponsors.

(B) The names, addresses, and telephone numbers of the responsible administrative officials and project manager(s) in the principal sponsor's organization.

(C) The name, address, and telephone number of the appropriate individual(s) for oral and written communication with EPA.

(D)(*1*) The name and address of the testing facility(ies) and the names, addresses, and telephone numbers of the testing facility's administrative officials and project managers responsible for the testing.

(*2*) Brief summaries of the training and experience of each professional involved in the study, including study director, veterinarian(s), toxicologist(s) pathologist(s) and laboratory assistants.

(iv) Identity and data on the substances or mixtures being tested, including appropriate physical constants, spectral data, chemical analysis and stability under test and storage conditions.

(v) Study protocols, including rationales for: species/strain selection; dose selection (and supporting data); route(s) or method(s) of exposure; a description of diet to be used and its source, including nutrients and contaminants and their concentrations; for *in vitro* test systems, a description of culture medium and its source; and a summary of expected spontaneous chronic disease (including tumors), genealogy, and life span.

(vi) Schedule for initiation and completion of major phases of long-term tests; schedule for submission of interim progress and final reports to EPA.

(2) Information specified under paragraph (e)(1)(iii)(D) of this section is not required in proposed study if the information is not available at the time of submission; however, the information must be submitted before the initiation of testing.

(f) *Review and adoption of study plans.* (1) Upon receipt of a proposed study plan, EPA will review the study plan to determine whether it complies with paragraph (e) of this section.

(i) If EPA determines that the proposed study plan does not comply with paragraph (e) of this section, EPA will notify the submitter that the submission is incomplete and identify the deficiencies and the steps necessary to complete the submission. The submitter will have 15 days from the day it receives this notice to submit appropriate information to make the study plan complete. If the submitter fails to provide appropriate information to complete the study plan within this time, the submitter will have been in violation of this section as if no study plan had been submitted.

(ii) If EPA determines the proposed study plan complies with paragraph (e) of this section, EPA will publish a notice in the **Federal Register** requesting comments on the ability of the study plan to ensure that data from the test set will be reliable and adequate. EPA will provide a 45-day comment period and will provide an opportunity for an oral presentation upon request of any person. EPA may extend the comment period if it appears from the nature of the issues raised by EPA's review or from public comments that further comment is warranted.

(2) After receiving and considering public comment, EPA will adopt the study plan, including time deadlines and reporting schedules, as proposed or as modified in response to EPA review and public comments, as test standards for the testing of the chlorinated benzenes in paragraph (k) of this section.

(g) *Modification of study plans during conduct of study*—(1) *Application.* Any test set sponsor who wishes to modify the adopted study plan for any test set or study required under this rule must submit an application in accordance with this section. Application for modification shall be made in writing to the Chief, Test Rules Development Branch, Office of Toxic Substances, or by phone, with written confirmation to follow as soon as feasible. Applications must include appropriate explanations of why the modification is necessary.

(2) *Adoption.* To the extent feasible, EPA will seek public comment on all substantive changes in study plans. EPA will issue a notice in the **Federal Register** requesting comments on requested modifications. However, EPA will act on the requested modification without seeking public comment:

(i) If EPA believes that an immediate modification to a study plan is necessary in order to preserve the accuracy or validity of an on-going study; or

(ii) if EPA determines that a modification clearly does not pose any substantive issues. EPA will notify the sponsor of the Agency's approval or disapproval. When the Agency approves a modification, it will publish a notice in the **Federal Register** indicating that the study plan has been modified.

(h) *Exemption applications.* (1) Any manufacturer or processor of the chlorinated benzenes identified in paragraph (a) may submit an application to EPA for an exemption from submitting proposed study pans for and from performing any or all of the test sets specified in paragraph (j) of this section. The application must include the name and address of the manufacturer or processor and must identify the specific requirements of this section from which the exemption is sought.

(2) No manufacturer or processor of the chlorinated benzenes identified in paragraph (a) of this section will be in violation of the requirment to perform a specific test set under paragraph (j) of this section if it has submitted a timely application for an exemption for that test set and the application has not been denied by EPA.

(3) EPA will conditionally grant any requested exemption for a specific test set required by paragraph (j) of this section if EPA has received a complete proposed study plan for that test set in accordance with paragraph (e) of this section and has adopted the study plan in accordance with paragraph (f)(2) of this section.

(4) EPA will deny any exemption for a specific test set in paragraph (j) of this section if the study sponsor fails to perform the test set or to submit data as required in the test standards adopted under paragraph (k) of this section.

(5) If manufacturers of the chlorinated benzenes identified in paragraph (a) of this section perform all the tests required by paragraph (j) of this section, processors of the chlorinated benzenes identified in paragraph (a) of this section will automatically be granted an exemption from the study plan submission and testing requirements without the need to file an application for exemption.

(i) *Test results.* Except as set forth in paragraph (j) of this section, a positive or negative test result in any of the environmental health effects or chemical fate tests enumerated in paragraph (j) of this section is defined as specified in the TSCA Environmental Effects Test Guidelines or the TSCA Chemical Fate Guidelines published by the National Technical Information Service (NTIS).

(j) *Environmental Effects Testing.*—(1) *Aquatic macrophyte acute toxicity testing*—(i) *Required testing.* Testing using measured concentrations, flow through or static renewal systems and systems that control for evaporation of the test substance, shall be conducted for 1,2,4-trichlorobenzene and 1,2,3-triclorobenzene. Testing shall be conducted with *Lemna gibba* to develop data on the acute toxicity of the above chlorobenzene isomers to aquatic plants.

(ii) *Study plans.* For guidance in preparing study plans, it is recommended that the TSCA Environmental Effects Test Guidelines for *Lemna* acute toxicity testing (EG–23), available in the public record for this rulemaking, be consulted. Additional guidance may be obtained by consulting the FIFRA Guidelines for Hazard Evaluation: Wildlife and Aquatic Organisms (PB 83–153908).

(2) *Marine invetebrate acute toxicity testing*—(i) *Required testing.* Testing using measured concentrations, flow through or static renewal systems, and systems that control for evaporation of the test substance, shall be conducted for 1,2,4-trichlorobenzene and 1,2,3-triclorobenzene. Testing shall be conducted with mysid shrimp (*Mysidopis bahia*) to develop data on the acute toxicity of the above chlorobenzene isomers to marine invertebrates.

(ii) *Study plans.* For guidance in preparing study plans, it is recommended that the TSCA Environmental Effects Guidelines for mysid shrimp acute toxicity testing (EG–3), available in the public record for this rulemaking, be consulted.

(3) *Marine fish acute toxicity testing*—(i) *Required testing.* Testing using measured concentrations, flow through systems, and systems that control for evaporation of the test substance shall be conducted for 1,2,3-trichlorobenzene. Testing shall be conducted with Silversides *(Menidia menidia)* to develop data on the acute toxicity of 1,2,3-trichlorobenzene to saltwater fish.

(ii) *Study plans.* For guidance in preparing study plans, it is recommended that the American Society for Testing and Materials (ASTM) publication "Conducting Acute Toxicity Tests With Fishes, Macroinvertebrates, and Amphibians" be consulted (ASTM) Designation E729–80). Additional guidance may be obtained by consulting the FIFRA Guidelines for Hazard Evaluation: Wildlife and Aquatic Organisms (PB 83–153908) and the Ecological Research Series, "Methods for Acute Toxicity Tests with Fish, Macroinvertebrates and Amphibians" (EPA–660/3–75–009).

(4) *Freshwater fish acute toxicity testing*—(i) *Required testing.* Testing using measured concentrations, flow through systems, and systems that control for evaporation of the test substance shall be conducted for 1,2,3-trichlorobenzene. A 96-hr LC50 test shall be conducted with the fathead minnow to develop data on the acute toxicity of 1,2,3-trichlorobenzene to freshwater fish.

(ii) *Study plans.* For guidance in preparing study plans, it is recommended that the TSCA Environmental Effects Test Guidelines for fish acute toxicity testing (EG–9), available in the public record for this rulemaking, be consulted. Additional guidance may be obtained by consulting the Organization for Economic Cooperation and Development's (OECD) test guideline for fish acute toxicity testing (EG–20) available in the public record for this rulemaking.

(5) *Freshwater invertebrate acute toxicity testing*—(i) *Required testing.* Testing using measured concentrations, flow through or static renewal systems, and system that control for evaporation of the test substance shall be conducted for 1,2,3-trichlorobenzene. A 96-hr EC50 test shall be conducted for one species of *Gammarus* to develop data on the acute toxicity of 1,2,3-trichlorobenzene to aquatic freshwater invertebrates.

(ii) *Study plans.* For guidance in preparing study plans it is recommended that the American Society For Testing and Materials (ASTM) publication, "Conducting Acute Toxicity Tests With Fishes, Macroinvertebrates, and Amphibians," be consulted. Additional guidance may be obtained by consulting the Ecological Research Series, "Methods for Acute Toxicity Tests with Fish, Macroinvertebrates and Amphibians" (EPA–660/3–75–009).

(6) *Mysid shrimp chronic toxicity testing*—(i) *Required testing.* Testing using measured concentrations, flow through or static renewal systems, and systems that control for evaporation of the test substance shall be conducted for 1,2,3-trichlorobenzene. Testing shall be conducted with mysid shrimp *(Mysidopsis bahia)* to develop data on the chronic toxicity of 1,2,4-trichlorobenzene to marine invertebrates. The above testing shall also be conducted for 1,2,3-trichlorobenzene, should the acute LC50 of this chemical for mysid shrimp be determined to be 1 ppm or less.

(ii) *Study plans.* For guidance in preparing study plans, it is recommended that the TSCA Environmental Effects Test Guidances for mysid shrimp chronic toxicity testing (EG–4), available in the public record for this rulemaking, be consulted.

(7) *Seed germination, root elongation and early seedling growth in terrestrial macrophytes*—(i) *Required testing.* Testing, using measured concentrations and systems that control for evaporation of the test substance, shall be conducted for monochlorobenzene, 1,2-dichlorobenzene, 1,4-dichlorobenzene, and 1,2,3-trichlorobenzene. Testing shall be conducted with terrestrial macrophytes to develop data on the acute toxicities of the above chlorobenzenes to terrestrial plants.

(ii) *Study Plans.* For guidance in preparing study plans, it is recommended that the TSCA Environmental Effects Test Guidelines for seed germination/root elongation (EG–12) and early seedling growth (EG–13), available in the public record for this rulemaking, be consulted. Additional guidance may be obtained by consulting the proposed Organization for Economic Cooperation and Development (OECD) plant toxicity test guideline, available in the public record of this rulemaking.

(8) *Atmospheric oxidation*—(i) *Required testing.* Testing shall be conducted for monochlorobenzene; 1,2-dichlorobenzene; 1,4-dichlorobenzene, and 1,2,4-trichlorobenzene to develop data on the rate of atmospheric oxidation via the hydroxyl radical.

(ii) *Study Plans.* For guidance in preparing study plans it is recommended that the "Experimental Protocol for Determining Hydroxyl Radical Reaction Rate Constants" (EPA 600/3–82–038), available in the public record for this rulemaking, be consulted.

(9) *Soil adsorption coefficient test*—(i) *Required testing.* Testing, using systems that control for evaporation of the test substance, shall be conducted for 1,2-dichlorobenzene; 1,4-dichlorobenzene, and 1,2,4-trichlorobenzene to develop data on the adsorption of the above chlorobenzenes to sediments.

(ii) *Study plans.* For guidance in preparing study plans, it is recommended that the TSCA Chemical Fate Guidelines for sediment and soil adsorption isotherms (CG–1710), available in the public record for this rulemaking, be consulted.

(k) *Test Standards.* (1) All data must be developed and reported in accordance with the EPA Good Laboratory Practice Regulations in 40 CFR Part 792.

(2) [reserved].

(l) *Enforcement.* (1) If a manufacturer or processor, which notified EPA under paragraph (c) (1), (2), (3) or (4) of this section of its intent to perform testing for a test set required by paragraph (j) of this section, fails to perform the test set in accordance with the test standards in paragraph (k) of this section, that failure will be in violation of this rule.

(2) EPA will publish a notice in the **Federal Register** to inform all manufacturers and processors that all exemptions for performance of the test set will be denied unless, within 30 days of the publication of the notice, a manufacturer or processor of the chlorobenzenes notifies EPA by letter that it intends to perform the test set in accordance with the test standards in paragraph (k) of this section.

(3) Any person who fails or refuses to comply with any aspect of this rule is in violation of section 15 of TSCA.

(m) *Sources of study plans/guidelines.* The various study plans/guidelines given in this proposed rulemaking are available from the following source. Address and telephone number: National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, (703) 477–4650.

[FR Doc. 84–836 Filed 1–12–84 8:45 am]
BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–6581]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Connecticut, et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations and proposed modified base flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of the proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Risk Studies Division, Federal Insurance Administration, Washington, D.C. 20472 (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations and modified base flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 USC 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirements; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The proposed modified base flood elevations for selected locations are:

PROPOSED MODIFIED BASE FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	[illegible]
Connecticut	North Haven, town, New Haven County	Quinnipiac River	Upstream of Broadway	*11	*13
			Defco Park Road (extended)	*16	*17
			Confluence of Pine Brook	*17	*18
			Approximately 300 feet downstream of confluence of Wharton Brook.	*20	*21
Maps available for inspection at the Town Hall, 18 Church Street, North Haven, Connecticut.					
Send comments to Honorable Walter Garwrych, Mayor of North Haven, Town Hall, 18 Church Street, North Haven, Connecticut 06473.					
Maryland	Harford County	Bush River	Easten shoreline north of CONRAIL to Park Beach Drive extended (north).	*13	*10
			Northern shoreline	*13	*10
			Western shoreline from Birch Avenue extended to the Bush River Yacht Club.	*12	*10
			Western shoreline from Bush River Yacht Club to Baker Avenue West (extended).	*14	*10
			Western shoreline north of CONRAIL	*13	*10
		Gunpowder River	Shoreline from confluence of Foster Branch to confluence with Gunpowder Falls.	*13	*10
Maps available for inspection at the Harford County Building, 45 South Main Street, Bel Air, Maryland.					
Send comments to Honorable Hebern Freeman, Harford County Executive, 45 South Main Street, Bel Air, Maryland 21014					
Massachusetts	Waltham, city, Middlesex County	West Chester Brook	Bacon Street Culvert Inlet (upstream side)	*74	*72
			Upstream of most downstream Private Drive	*87	*82
Maps available for inspection at the City Hall, 610 Main Street, Waltham, Massachusetts.					
Send comments to Honorable Arthur J. Clark, Mayor of Waltham, 610 Main Street, Waltham, Massachusetts 02154.					
New York	Rye, city, Westchester County	Long Island Sound	Eastern shoreline of North Manursing Island	*17	*19
			Manursing Way extended east	*17	*18
			Oakland Beach	*17	*18
			Parsonage Point	*17	*18
			Milton Point	*17	*18
			Crane Island	*17	*16
Maps available for inspection at the City Hall, Boston Post Road, Rye, New York.					
Send comments to Honorable Frederick J. Hunziker, Mayor of Rye, City Hall, Boston Post Road, Rye, New York 10580.					
Oklahoma	Moore, city, Cleveland County	North Fork River	Upstream of Bryant Avenue (upstream crossing)	*1,188	*1,187
			Upstream of Bronze Medal Road	*1,204	*1,202
			Approximately 100 feet downstream of NE 12th Street	*1,218	*1,216

PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. °Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the City Hall, 125 East Main Street, Moore, Oklahoma. Send comments to Honorable Louis Kindrick, Mayor of Moore, P.O. Box 7248, Moore, Oklahoma 73153.					
Ohio	(C) Louisville, Stark County	East Branch Nimishillen Creek	Approximately 1.54 miles downstream of Conrail	°1,087	°1,084
			State Route 153	°1,105	°1,102
			North Chapel Street	°1,107	°1,104
			Approximately 0.52 mile upstream of North Chapel Street.	°1,110	°1,109
Maps available for inspection at City Hall, 215 S. Mill Street, Louisville, Ohio. Send comments to Honorable Roger H. Howard, City Manager, City of Louisville, 215 S. Mill Street, Louisville, Ohio 44641.					
Pennsylvania	New Hope, borough, Bucks County	Delaware River	Downstream corporate limits	°66	°67
			Confluence of Aquetong Creek	°69	°70
			Upstream corporate limits	°72	°73
		Aquetong Creek	Confluence with Delaware River	°69	°70
Maps available for inspection at the Borough Hall, 41 North Main Street, New Hope, Pennsylvania. Send comments to Honorable Jay Snyder, Mayor of New Hope, P.O. Box 141, New Hope, Pennsylvania 18938.					
Texas	Castle Hills, city, Bexar County	Olmos Creek	Downstream corporate limits	°772	°773
			Upstream of Interstate Route 410	°777	°780
			Upstream corporate limits	°813	°814
Maps available for inspection at the Castle Hills City Hall, 6915 West Avenue, San Antonio, Texas. Send comments to Honorable H. P. Lundblade, Mayor of Castle Hills, 6915 West Avenue, San Antonio, Texas 78213.					
Texas	Galveston, city, Galveston County	Gulf of Mexico	Old Fort San Jacinto between 2nd Street and Seawall Boulevard.	None	°11
Maps available for inspection at the City Hall, 2715 Ball Street, Galveston, Texas. Send comments to Honorable E. Gus Manuel, Mayor of Galveston, P.O. Box 779, Galveston, Texas 77553.					
Texas	Temple, city, Bell County	Bird Creek	Upstream of corporate limit at Nugent Road	None	°697
			Approximately 1,000 feet upstream of corporate limit	None	°704
		Little Elm Creek Tributary No. 2	Downstream of Atchinson Topeka and Santa Fe Railroad.	None	°696
			Downstream of Old U.S. Highway 81	None	°664
Maps available for inspection at the Municipal Building, Temple, Texas. Send comments to Honorable John F. Sammons, Jr., Mayor of Temple, Municipal Building, Temple, Texas 76501.					
Texas	Three Rivers, city, Live Oak County	Olds Slough	Entire streamline located within community	°152	°141
		Nueces River	Tullos Street (extended)	°152	°141
			South of levee located approximately 550 feet south of Tullos Street.	°152	°141
Maps available for inspection at the City Hall, Three Rivers, Texas. Send comments to Honorable E. L. Evans, Mayor of Three Rivers, P.O. Box 398, Three Rivers, Texas 78071.					
Virginia	Chincoteague, town, Accomack County	Chincoteague Bay	Entire shoreline of Chincoteague Bay and Chincoteague Channel within community.	°11	°8
Maps available for inspection at the Chincoteague Town Office, Chincoteague, Virginia. Send comments to Honorable Asa T. Hickman, Mayor of Chincoteague, Town Office, Chincoteague, Virginia 23336.					
Wisconsin	(C) Jefferson, Jefferson County	Rock River	About 3,500 feet downstream of South Main Street	°790	°787
			About 0.93 mile upstream of West North Street	°791	°789
Maps available for inspection at 317 South Main Street, Jefferson, Wisconsin. Send comments to Honorable Richard Fischer, Mayor, City of Jefferson, 317 South Main Street, Jefferson, Wisconsin 53549.					
Wisconsin	(Uninc.) Outagamie County	Wolf River	Just upstream of city of New London corporate limits	°762	°762
			Just upstream of County Highway S	°765	°764
			About 5.6 miles upstream of State Highway 54	°772	°770
		Bear Creek	About 0.1 mile upstream of State Highway 76	°764	°764
			About 1.45 miles upstream of State Highway 76	°766	°767
		Fox River	About 22.9 miles above mouth near intersection of Hass Road and County Highway ZZ.	None	°610
			Just downstream of Cedars Lock Dam	None	°694
			Just upstream of Cedars Lock Dam	None	°702
			Just downstream of city of Appleton corporate limits (approximately 2.4 miles upstream of Cedars Lock Dam).	°704	°704
		Black Otter Creek	About 950 feet downstream of village of Hortonville western corporate limits.	None	°764
			Just upstream of village of Hortonville corporate limits (Black Otter Lake).	None	°792

PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the Planning and Zoning Department, County Courthouse, 410 South Walnut Street, Appleton, Wisconsin					
Send comments to Honorable John R. Schreiter, County Executive, Outagamie County, County Courthouse, 410 South Walnut Street, Appleton, Wisconsin 54911					

THE PROPOSED BASE FLOOD ELEVATIONS FOR SELECTED LOCATIONS ARE: PROPOSED BASE FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
California	California City city, Kern County	Tierra del Sol Creek	25 feet upstream from the center of California City Boulevard	*2,353
Maps are available at City Hall, 21000 Hacienda Boulevard, California City, California.				
Send comments to the Honorable Lou Logue, 21000 Hacienda Boulevard, California City, California 93505.				
California	East Palo Alto city, San Mateo County	San Francisco Bay	Intersection of Pulgas Avenue and O'Connor Street	*7
Maps are available at City Manager's Office, 2515 University, East Palo Alto, California				
Send comments to the Honorable Barbara Mouton, 2515 University, East Palo Alto, California 94303.				
Georgia	City of Clayton, Rabun County	Bynum Creek	Approximately 500 feet upstream of U.S. Highway 76	*1,885
		Needy Creek	Just upstream of North Main Street culvert inlet	*1,896
		Norton Creek	Just upstream of Warwoman Road culvert inlet	*1,899
		Possum Creek	Just upstream of Marsingill Drive culvert inlet	*1,892
		Saddle Gap Branch	Just upstream of Duggan Hill Road culvert inlet	*1,875
			Approximately 75 feet upstream of Polly Gap Drive culvert inlet	*1,886
		Scott Creek	Just upstream of South Main Street culvert inlet	*1,873
			Approximately 600 feet upstream of Marsingill Drive	*1,883
		Scott Creek Tributary 2	Just downstream of U.S. Highway 76	*1,900
		Stekoa Creek	Just downstream of Camper Corral incorporated Bridge	*1,866
			Just upstream of U.S. Highway 441 culvert inlet	*1,921
Maps available for inspection at City Hall, Corner of Church and Hiawasse Streets, Clayton, Georgia 30525				
Send comments to Mayor Paul Buchanan or Mr. Howard Pollard, City Administrator, City Hall, P.O. Box 702, Clayton, Georgia 30525				
Illinois	(V) Pearl, Pike County	Hardy Creek	At mouth	*443
			About 0.7 mile upstream of East Street	*452
		Illinois River	Within the community	*443
Maps available for inspection at the Holloway's Red and White Grocery Store, Pearl, Illinois.				
Send comments to Honorable Roger Hatcher, Village President, Village of Pearl, Village Hall, Pearl, Illinois 62361.				
Illinois	(V) Thebes, Alexander County	Mississippi River	About 2.16 miles downstream of Missouri Pacific Railroad	*345
			About 0.55 mile upstream of Missouri Pacific Railroad	*348
Maps available for inspection at the Village Hall, Thebes, Illinois.				
Send comments to Honorable John H. Masterson, Village President, Village of Thebes, Village Hall, Thebes, Illinois 62990				
Maryland	Wicomico County	Tonytank Creek	Confluence with Wicomico River	*6
			Upstream South Camden Avenue	*11
			Downstream South Division Street	*17
			Upstream U.S. Highway 13 bypass	*33
			Downstream Nutters Cross Road	*36
		Beaverdam Creek	Approximately 500 feet downstream of Memorial Plaza	*11
			Approximately 500 feet upstream of North Schumaker Drive	*25
			Downstream 2nd crossing of North Schumaker Drive	*30
		Slab Bridge Creek	Confluence with Morris Prong	*23
			Approximately 2,075 feet upstream of confluence with Morris Prong.	*24
		White Marsh Creek	Confluence with Tonytank Creek	*33
			Downstream of Nutters Cross Road	*37
		Wood Creek	Confluence with Leonard Pond Run	*28
			Downstream Connelly Mill Road	*39
		Morris Prong	Confluence with Tonytank Creek	*15
			At City of Fruitland and County Boundary	*22
			Upstream U.S. Highway 13 bypass	*29
			Approximately 4,900 feet upstream U.S. Highway 13 bypass.	*35
		North Prong	Confluence with Leonard Pond	*37
		Leonard Pond	Downstream Williams Mill Pond Road	*37
		Andrews Branch	Upstream Williams Mill Pond Road	*40
			Just upstream Gordy Mill Road	*43
		South Prong	Confluence with Leonard Pond	*37
		Leonard Pond	Downstream Rum Ridge Road	*40
		Unnamed	Confluence with South Prong	*38
		Tributary to South Prong	Downstream Williams Mill Pond Road	*39
		Jackson Branch	Confluence with North Prong Leonard Pond	*37
			Downstream Gordy Mill Road	*42
		Connelly Mill Branch	Confluence with Leonard Pond Run	*25
			Downstream Connelly Mill Road	*32
		Beaglin Branch	Downstream College Avenue	*26

THE PROPOSED BASE FLOOD ELEVATIONS FOR SELECTED LOCATIONS ARE: PROPOSED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Downstream Mount Hermon Road	*35
		Unnamed	Confluence with Beaglin Branch	*29
		Tributary to Beaglin Branch	Downstream Mount Hermon Road	*31
		Brewington Branch	Confluence with Johnson Pond	*14
			Downstream West Gordy Road	*31
			Downstream U.S. Highway 13 bypass	*32
		Coty Cox Branch	Approximately 600 feet downstream of downstream corporate limits.	*20
			Upstream Keene Avenue	*23
			Downstream Jersey Road	*31
		Walston Branch	Confluence with Beaverdam Creek	*27
			Upstream U.S. Highway 13 bypass	*38
			Approximately 4,860 feet upstream Ward Road	*38
		Peggy Branch	Confluence with Middle Neck Branch	*31
			Upstream Parker Road	*36
			Downstream end of culvert U.S. Highway 13 bypass	*42
		Mayer Branch	Confluence with Andrews Branch (Williams Mill Pond)	*40
			Downstream Gordy Mill Road	*41
		Middle Neck	Confluence of Peggy Branch	*31
			Approximately 1,570 feet upstream Parker Road	*35
		Leonard Pond Run	Confluence with main body Johnson Pond	*14
			Approximately 870 feet upstream of Naylor Mill Road	*24
			Confluence of Wood Creek	*28
			Approximately 4,300 feet upstream confluence of Wood Creek	*31
		Nanticoke River	Shoreline from Runaway Point to upstream county boundary	*6
			Shoreline from Runaway Point to Roaring Point	*8
			Shoreline from Roaring Point to Mollies Point	*9
		Wicomico River	Shoreline from Mollies Point to downstream of Shiles Creek	*8
			Shoreline from Shiles Creek to confluence of Tonytank Creek.	*6
		Wicomico Creek	Entire shoreline in the county	*6

Maps available for inspection at the Public Works Office, Room 201, Government Office Building, Salisbury, Maryland.
Send comments to Honorable Matthew Creamer, Administration Director of Wicomico County, P.O. Box 870, Salisbury, Maryland 21801.

New Jersey	Ocean City, city, Cape May County	Atlantic Ocean	Entire shoreline within community	*15
		Egg Harbor	Shoreline of the lagoon	*9
			Shoreline of Carnival Bayou	*9

Maps available for inspection at the City Clerk's Office, City Hall, 9th Street and Asbury Avenue, Ocean City, New Jersey
Send comments to Honorable Jack Bittner, Mayor of the City of Ocean City, City Hall, 9th Street and Asbury Avenue, Ocean City, New Jersey 08226.

New Jersey	Sparta, township, Sussex County	Wallkill River and Lake Mohawk	Downstream corporate limits	*574
			West Mountain Road (upstream side)	*592
			Downstream crossing of NJ State Highway Route 517 (upstream side).	*645
			Upstream of Lake Mohawk Dam	*730
			Upstream corporate limits	*730
		Sparta Junction Tributary	Downstream corporate limits	*569
			Downstream crossing of Private Drive (upstream side)	*577
			Abandoned bridge (upstream side)	*600
			Upstream corporate limits	*611

Maps available for inspection at the Municipal Building, 65 Main Street, Sparta, New Jersey
Send comments to Honorable Michael LaRose, Mayor of the Township of Sparta, 65 Main Street, Sparta, New Jersey 07871.

New York	Beekman, town, Dutchess County	Fishkill Creek	Downstream corporate limits	*311
			Confluence with Frog Hollow Brook	*315
			Upstream of Green Haven Road	*331
			Upstream of Beekman Poughquag Road	*342
			Upstream of dam	*364
			Upstream of State Route 55	*371
			At confluence of Tributary to Fishkill Creek	*379
		Tributary to Fishkill Creek	Confluence with Fishkill Creek	*379
			Upstream of Dorn road	*408
			Upstream corporate limits	*440
		Sylvan Lake Outlet	Downstream corporate limits	*321
			Upstream Miller Road	*322
			Confluence with Sylvan Lake	*325
		Frog Hollow Brook	Confluence with Fishkill Creek	*315
			Upstream of Farm bridge	*333
			Upstream of State Route 216	*362
			Upstream of 3rd upstream Wood Footbridge	*385
			Approximately .93 mile upstream of Wood Footbridge	*429
		Whaley Lake Stream	Confluence with Fishkill Creek	*350
			Upstream of dam located approximately 700 feet upstream of Beekman Poughquag Road.	*376
			Upstream of County Route 7	*424
			Approximately 75 feet upstream of State Route 55 (first crossing).	*446
			Upstream of State Route 55 (second crossing) approximately .59 mile upstream State Route 55 (second crossing).	*476
			Upstream of State Route 216	*582

THE PROPOSED BASE FLOOD ELEVATIONS FOR SELECTED LOCATIONS ARE: PROPOSED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream of Private Bridge located approximately 870 feet upstream of State Route 216	*617
			Upstream corporate limits	*657

Maps available for inspection at the Office of the Town Clerk. Town Hall, Poughquag, New York.
Send comments to Honorable Gerald Richardson, Town Supervisor of Beekman, Town Hall, Poughquag, New York 12570.

New York	Clermont, town, Columbia County	Hudson River	Entire shoreline within corporate limits	*9
		Roeliff Jansen Kill	Approximately .42 mile upstream of State Route 70	*244
			Approximately 1.53 miles downstream of upstream corporate limits	*263
			Upstream corporate limits	*283

Maps available for inspection at the Town Clerk's Office, Route 6, Clermont, New York.
Send comments to Honorable William E. Banks, Town Supervisor of Clermont, R.D. 1, Box 626, Germantown, New York 12526.

New York	Cortlandt, town, Westchester County	Annsville Creek	At confluence with Hudson River	*8
			At confluence with Peekskill Hollow Brook and Sprout Brook	*8
		Peekskill Hollow Brook	At confluence with Annsville Creek and Sprout Brook	*8
			Upstream of Pump House Dam	*31
			Approximately 3,850' upstream of Gallows Hill Road	*50
			At first upstream corporate limits	[illegible]
			At third upstream corporate limits	*123
		Sprout Brook	At confluence with Annsville Creek and Peekskill Hollow Brook	*8
			Upstream of abandoned road	*14
			Upstream of Cortlandt Lake Dam	*97
		Furnace Brook	Approximately 130' downstream of Furnace Dock Road.	*77
			Upstream of Washington Street	*186
			Upstream of Furnace Brook Drive	*238
			Approximately 2,000' upstream of Furnace Brook Drive (2nd crossing).	*251
		Croton River	At downstream corporate limits	*9
			Upstream of Quaker Bridge Road (1st crossing)	*44
			At upstream corporate limits	*50

Maps available for inspection at the Town Clerk's Office, Municipal Building, Croton-on-Hudson, New York.
Send comments to Honorable Charles DiGiacomo, Cortlandt Town Supervisor, Municipal Building, Croton-on-Hudson, New York 10520.

New York	Fairport, village, Monroe County	Thomas Creek	Downstream corporate limits	*424
			Upstream of downstream CONRAIL crossing	*449
			Upstream corporate limits	*461

Maps available for inspection at the Village Hall, Fairport, New York
Send comments to Honorable Vincent G. Kennelley, Mayor of the Village of Fairport, Fairport Village Hall, 31 South Main Street, Fairport, New York 14450.

New York	Wellsville, town, Allegany County	Brimmer Brook	At downstream corporate limits	*1,493
			Upstream side of Philips Road	*1,510
			500 feet upstream State Route 417	*1,590
			Upstream corporate limits	*1,708
		Chenunda Creek	At confluence with Genesee River	*1,518
			Upstream State Route 19	*1,541
			At upstream corporate limits	*1,561
		Dyke Creek	At downstream corporate limits	*1,505
			Upstream State Route 417	*1,514
			Upstream CONRAIL	*1,524
			Upstream Williams Grove Road	*1,546
			2,350 feet upstream Williams Grove Road	*1,553
		Genesee River	At downstream corporate limits	*1,478
			At downstream corporate limits for the Village of Wellsville.	*1,486
			At upstream corporate limits for the Village of Wellsville	*1,499
			Upstream Weidnick Road	*1,515
			At confluence of Chenundo Creek	*1,518
			At upstream corporate limits	*1,521
		Wightman Hollow Creek	At confluence with Dyke Creek	*1,528
			Downstream State Route 417	*1,550
			400 feet upstream of first crossing of Wightman Hollow Road.	*1,610
			Upstream second crossing of Wightman Hollow Road 2,250 feet upstream of second crossing of Wightman Hollow Road	*1,727

Maps available for inspection at the Municipal Building, Main Street, Wellsville, New York.
Send comments to Honorable Lester D. Loucks, Town Supervisor of Wellsville, Main Street, Wellsville, New York 14895.

Oregon	Adrian city, Malheur County	Snake River	At the intersection of 5th Street and Oregon Street	*2,201

Maps available for inspection at City Hall, Adrian, Oregon.
Send comments to Honorable Clay Wehl, P.O. Box 226, Adrian, Oregon 97901.

Oregon	Jordan Valley city, Malheur County	Jordan Creek	100 feet upstream from confluence with Baxter Creek	*4,383

Maps are available at City Hall, Jordan Valley, Oregon.
Send comments to the Honorable Marvin D. Bowers, P.O. Box 587, Jordan Valley, Oregon 97910.

South Carolina	City of Beaufort, Beaufort County	Atlantic Ocean/Beaufort River	Intersection of Craven St. and New Street	*11

THE PROPOSED BASE FLOOD ELEVATIONS FOR SELECTED LOCATIONS ARE: PROPOSED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
		Atlantic Ocean/Battery Creek	Intersection of Battery Creek Road and First Boulevard	*10

Maps available for inspection at City Hall, 302 Carteret Street, Beaufort, South Carolina 29902

Send comments to Mayor Henry Chambers or Mr. Jack Miller, City Manager, City Hall, P.O. Drawer 1167, Beaufort, South Carolina 29902

South Carolina	Unincorporated Areas of Beaufort County	Atlantic Ocean/Broad River	Intersection of State Highway 3 and Interstate Highway 17	*8
		Atlantic Ocean/Beaufort River	Intersection of Central Drive and Bnckyard Road	*11
		Atlantic Ocean/New River	At Seaboard Coast Line Railroad	*11
		Atlantic Ocean/St. Helena Sound	Intersection of State Highway 77 and Interstate Highway 21	*12
		Atlantic Ocean	Intersection of State Highway 195 and Seaside Road	*14
			Intersection of South Sea Pines and Gulf Point Road	*14
			Intersection of Queens Folly Road and Sea Lane	*15
			Intersection of State Highway 335 and State Highway 434	*15
			Intersection of Piper Street and North Forest Beach Drive	*16
			Porpoise Drive extended to Atlantic Ocean	*19
			Pope Avenue extended to Atlantic Ocean	*20
		Atlantic Ocean/Cooper River	Confluence of Bull Creek & Hoophole Creek	*13
		Atlantic Ocean/Calibogue Sound	Intersection of South Calibogue Cay Road and North Calibogue Cay Road	*14
		Atlantic Ocean/May River	Confluence of Rose Dew Creek and May River	*11
		Atlantic Ocean/Colleton River	Confluence of Colleton River and Okatee River	*16
		Atlantic Ocean/Skull Creek	Intersection of Gumtree Road and Squire Pope Road	*12
		Atlantic Ocean/Port Royal Sound	Intersection of North Port Royal Drive and Fort Walker Drive	*13
		Atlantic Ocean/Coosaw River	Confluence with Morgan Back Creek	*16
		Atlantic Ocean/Combahee River	Confluence of Briars Creek and Wimbee Creek	*11

Maps available for inspection at the Arthur Horne Building, 999 Ribaut Road, Beaufort, South Carolina 29902 and at the County Courthouse Annex, Hiltonhead Island, South Carolina 29925

Send comments to Mr. John Perry, County Administrator, or Mr. Sandy Teal, Plan Examiner, P.O. Box 1228, Beaufort, South Carolina 29902.

South Carolina	Town of Port Royal, Beaufort County	Atlantic Ocean/Beaufort River	Intersection of Fort Frederick Road and Old Shell Road	*11
		Atlantic Ocean/Battery Creek	Intersection of Paris Avenue and 7th Street	*13

Maps available for inspection at City Hall, 1406 Paris Avenue, Port Royal, South Carolina 29935

Send comments to Mayor Henry Robinson or Mr. Harvey Cawthorn, Public Works Director, City Hall, P.O. Drawer 8, Port Royal, South Carolina 29935

Tennessee	Unincorporated Areas of Anderson County	Coal Creek	Approximately 320 feet upstream of Beech Grove Road.	*876
			Approximately 320 feet upstream of Railroad Avenue	*893
		Bullrun Creek	Just upstream of Old U.S. Highway 25W	*808
			Just downstream of Bell Campground Road	*816
		Hinds Creek	Approximately 900 feet upstream of Mountain Road	*848
			Approximately 440 feet upstream of Brushy Valley Road	*876
		Brushy Fork Poplar Creek	Approximately 980 feet upstream of State Highway 61 (upstream crossing).	*788
			Just upstream of State Highway 61 (upstream crossing)	*816
		Poplar Creek	Approximately 1,320 feet upstream of Strutt Street	*780
			Approximately 100 feet upstream of Dutch Valley Road.	*791
		Blue Spring Branch	Approximately 500 feet upstream of Donovan Road	*791
		Indian Creek	Just downstream of Green Street	* 841
		Clinch River	Just downstream of Louisville and Nashville Railroad	* 797
			Approximately 1,000 feet upstream of Southern Railway	* 804
		Right Fork Coal Creek	Just upstream of Town of Lake City corporate limits	* 863

Maps available for inspection at Purchasing Department, County Courthouse, 100 North Main Street, Clinton, Tennessee 37716.

Send comments to Mr. David Bolling, County Executive or Ms. Brenda McCaney, Administrative Assistant, County Courthouse, 100 North Main Street, Clinton, Tennessee 37716

Tennessee	City of Erwin, Unicoi County	North Indian Creek	Just upstream of State Highway 81	* 1,651
		Rock Creek	Just upstream of Highway 19W and 23	* 1,760
		Martin Creek	Just downstream of U.S. Highway 19W and 23	* 1,722

Maps available for inspection at City Recorder's Office, Municipal Building, Corner of Church and Gay Streets, Erwin, Tennessee 37650

Send comments to Mayor Herman May or Mr. Joe Frazier, City Recorder, P.O. Box 59, Erwin, Tennessee, 37650.

Tennessee	City of Harriman, Roane County	Emory River	At the confluence of Emory River and Bullard Branch	*763
			Just upstream of Old U.S. Highway 27	* 767
			Just upstream of Cincinnati, New Orleans, Texas, and Pacific Railroad.	* 772

Maps available for inspection at Mayor's Office, Old Temperance Building, Roane and Walden Streets, Harriman, Tennessee 37748.

Send comments to Mayor Harold Wester or Mayor Pro Tem Jerry Davis, P.O. Box 433, Harriman, Tennessee 37748.

Tennessee	City of La Follette, Campbell County	Big Creek	Just downstream of Beech Street	*1,052
			Just downstream of U.S. Highway 25 West	*1,081
			Approximately 100 feet upstream of U.S. Highway 23 West.	*1,088

THE PROPOSED BASE FLOOD ELEVATIONS FOR SELECTED LOCATIONS ARE: PROPOSED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
	Maps available for inspection at City Hall, 205 South Tennessee Avenue, La Follette, Tennessee 37766			
	Send comments to Mayor R. C. Alley, City Hall, 205 South Tennessee Avenue, La Follette, Tennessee 37766 or Ms. Gwen Wilson, Tennessee State Planning Office, P.O. Box 1069, Knoxville, Tennessee 37901.			
Tennessee	Unincorporated Areas of Unicoi County	Buffalo Creek	Just downstream of Castle Road	*1,700
			Just upstream of U.S. Highway 23 & 19W and State Highway 36	*1,899
		Scioto Creek	Just downstream of Forest Service Raod	*1,928
			Just downstream of State Highway 107	*1,963
		Nolichucky River	Just upstream of U.S. Highway 23 and 19W By-pass	*1,645
			Just downstream of U.S. Highway 23 and 19W	*1,652
			Approximately 100 feet upstream of U.S. Highway 23 and 19W and Highway 36	*1,680
		North Indian Creek	Just downstream of State Highway 81	*1,647
			Just upstream of U.S. Highway 23 and 19W By-Pass (upstream crossing)	*1,670
			Approximately 100 feet upstream of U.S. Highway 23 and 19W	*1,920
		South Indian Creek	Approximately 200 feet downstream of County Road (County Road is located approximately 1,300 feet above mouth)	*1,645
			Just downstream of Unnamed Road (approximately 500 feet from the intersection of Mill Road and U.S Highway 19W and 23)	*1,785
		Martin Creek	Just upstream of Carolina Avenue	*1,685
			Just upstream of U.S. Highway 23 & 19W	*1,725
		Odom Branch	Just upstream of Private drive (approximately 700 feet upstream of mouth)	*1,855
		Rock Creek	Just upstream of U.S. Highway 23 and 19W	*1,760
	Maps available for inspection at Unicoi County Courthouse, Main Street, Erwin, Tennessee 37650.			
	Send comments to Judge Howard Garland, County Executive, County Courthouse, P.O. Box 169, Erwin, Tennessee 37650			
Texas	Town of Stagecoach, Montgomery County	Walnut Creek	Approximately 150 feet upstream of Southernmost Corporate Limits	*177
		Sulphur Branch	Approximately 200 feet downstream of confluence of Sulphur Branch	*178
			Approximately 150 feet downstream of Hartman Road	*179
			Approximately 400 feet downstream of Dam on Old Coach Road.	*180
	Maps available for inspection at the home of the Town Secretary, Ms. Eileen Klein, 16111 Wagon Wheel, Magnolia, Texas 77355			
	Send comments to Mayor Walter cook, 15310 Stagecoach Road or Ms. Elileen Klein, Town Secretary, 16111 Wagon Wheel, Magnolia, Texas 77355			
Vermont	Middlebury, Town, Addison County	Otter Creek	Village of Middlebury downstream corporate limits	*320
			State Route 30 (upstream side)	*346
			Village of Middlebury upstream corporate limits	350
			Upstream corporate limits	*351
		Middlebury River	Confluence with Otter Creek	*351
			Creek Road (upstream side)	*356
			First upstream corporate limits	*360
			Second upstream corporate limits	*363
			U.S. Route 7 (upstream side)	*376
			Grist Mill Road (upstream side)	*445
			Approximately 130 feet downstream of High Plains Road	*506
	Maps available for inspection at the Office of Fred Dunnington, Administrative Officer of Middlebury Municipal Building, Middlebury, Vermont			
	Send comments to Honorable Timothy Buskey, Chairman of the Board of Selectmen for the Town of Middlebury, Municipal Building, Middlebury, Vermont 05753.			

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Administrator, Federal Insurance Administration)

Issued: January 4, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84–794 Filed 1–12–84; 8:45 am]

BILLING CODE 6718–03–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

Scoping/Planning Meeting for the Development of Regulations for the Taking of Marine Mammals Incidental to Commercial Fishing Operations for 1986 and Beyond

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice of Intent to Prepare an EIS for Tuna/Porpoise Rulemaking and Hold Scoping Meetings.

SUMMARY: The National Marine Fisheries Service (NMFS) intends to prepare an Environmental Impact Statement (EIS) for regulations to govern the taking of marine mammals (porpoise) incidental to commercial purse seine fishing for tuna in the eastern tropical Pacific Ocean beginning January 1, 1986. The NMFS will convene scoping meetings early in the process to ensure that the public has an opportunity to advise on the issues which need to be considered in developing the regulatory regime. This Notice announces the details on scoping meetings and the tentative schedule for the rulemaking process.

DATES: Public scoping meetings will be held as follows: San Diego, California, February 14, 1984; Washington, D.C., February 16, 1984.

ADDRESSES: Meetings will be held at the following locations:

City: San Diego, California
Location: Federal Building, Room 2S31, 800 Front Street
Time: 9:00 a.m.–4:00 p.m.

City: Washington, D.C.
Location: Conference Room, Page Building 2, 3300 Whitehaven Street NW.
Time: 9:00 a.m.–4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Karnella, NMFS, 3300 Whitehaven Street NW., Washington, DC, (202) 634–7471; or Svein Fougner, Southwest Region, NMFS, 300 South Ferry St., Terminal Island, California 90731, (213) 548–2517.

SUPPLEMENTARY INFORMATION: The General Permit and regulations governing the taking of marine mammals (porpoises) incidental to the commercial purse seine fishery for tuna in the eastern tropical Pacific Ocean are in effect until 2400 hours, December 31, 1985. The NMFS is initiating the consideration of alternative management strategies and regulatory measures to be effective January 1, 1986, in anticipation that the Marine Mammal Protection Act (MMPA) will be reauthorized and that the American Tunaboat Association will apply for an extension of its General Permit under the MMPA. Among the management strategies to be addressed are continuation of current measures with little or no modification (the "no action" alternative); a more stringent regime; and a more flexible regime, for one year or several years. The ultimate recommendations will depend on the status of porpoise stocks relative to their optimum sustainable population (OSP) levels; the economic and technological feasibility of alternative management measures; and the type, magnitude, and distribution of beneficial and adverse effects of alternative management strategies and regulatory measures. An Environmental Impact Statement (EIS) will be prepared to present information and analyses of the impact of the alternatives which must be considered by the Agency. Public scoping meetings will be held to ensure full opportunity for interested members of the public and government agencies to advise the Agency on the issues, alternatives, and impacts which should be addressed in the EIS and to provide information for use in decisionmaking. Background materials are being prepared for distribution to interested persons prior to the scoping meetings. Please contact one of the individuals named in this notice if you need a copy.

The tentative schedule to consider these measures is as follows:

February 1984—Completion of public scoping meetings
February 1985—Distribution of draft EIS
April 1985—Completion of Administrative Law Judge (ALJ) hearings
August 1985—Receipt of ALJ Recommendations
October 1985—Announcement of decision by Administrator, NOAA
January 1986—Effective date of regulations

(Marine Mammal Protection Act of 1972, as amended: 86 Stat. 1027; 16 U.S.C. 1361–1407; Pub. L. 92–522)

Dated: January 9, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84–926 Filed 01–12–84; 8:45 am]

BILLING CODE 3510–08–M

Notices

Federal Register
Vol. 49, No. 9
Friday, January 13, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

INTERNATIONAL DEVELOPMENT AGENCY

Agency for International Development

Amendment to A.I.D. Delegation of Authority No. 38; Assistant Administrator for Africa

A.I.D. Delegation of Authority No. 38 (June 21, 1977, 42 FR 31511) is hereby amended as follows:

In paragraph 1—

(a) Insert after "the Assistant Administrator for Africa," the following "and the Assistant Administrator for the Private Enterprise Bureau," and

(b) Insert after "the benefit of countries," the following "and/or programs."

Dated: October 19, 1983.

Frank B. Kimball,

Counselor to the Administrator.

[FR Doc. 84-963 Filed 1-12-84; 8:45 am]

BILLING CODE 6116-01-M

Amendment to A.I.D. Delegation of Authority No. 142; Housing Guaranty Program

A.I.D. Delegation of Authority No. 142 (July 22, 1981, 46 FR 37823) is hereby amended by deleting section 1, paragraph 2., and substituting therefor the following:

"2. The Housing Guaranty program and other shelter and urban development programs administered and/or funded by the Private Enterprise Bureau."

Dated: October 19, 1983.

Frank B. Kimball,

Counselor to the Administrator.

[FR Doc. 84-962 Filed 1-12-84; 8:45 am]

BILLING CODE 6116-01-M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

ATBCB Meeting; Change in Location

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of change in location of ATBCB meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (ATBCB) will be holding its February 10, 1984, meeting in the Hubert H. Humphrey Building, 200 Independence Ave., Room 503A, from 1:00 pm to 5:00 pm. This meeting was originally scheduled to be held in the Main Hall of the Disabled American Veterans (DAV) National Service and Legislative Headquarters, 807 Maine Avenue SW., Washington, D.C. 20024.

DATE: February 10, 1984—1:00 pm–5:00 pm.

ADDRESS: Hubert H. Humphrey Building, Room 503A, 200 Independence Ave. SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Larry Allison, Specialist Assistant for External Affairs (202) 245–1591 (voice or TDD).

Committee meetings of the ATBCB will be held on Thursday, February 9 and Friday morning, February 10, in the Hubert Humphrey Building.

Contact Larry Allison, Special Assistant for External Affairs (202) 245–1591 (voice or TDD), for further information.

Robert M. Johnson,

Executive Director.

[FR Doc. 84-972 Filed 1-12-84; 8:45 am]

BILLING CODE 6820-BA-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations; Week Ended January 6, 1984

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings. (See 14 CFR 302.1701 et seq.)

Date filed	Docket No.	Description
1-6-84	41342	Polynesian Airlines (Holdings) Limited and Polynesian Airlines (Operations) Limited., c/o Robert D. Papkin, Squire, Sanders & Dempsey, 1201 Pennsylvania Avenue, N.W., Washington, D.C. 20004

Date filed	Docket No.	Description
1-3-84	41882	Supplement No. 2 to Joint Application of Polynesian Airlines (Holdings) Limited and Polynesian Airlines (Operations) Limited for a foreign air carrier permit. (Additional information). Answers may be filed by February 3, 1984. Royale Airlines, Inc., c/o Theodore I. Seamon, Seamon, Wasko & Ozment, 1211 Connecticut Avenue, N.W., Suite 300, Washington, D.C. 20036. Amendment No. 1 to the Application of Royale Airlines, Inc. for a certificate of public convenience and necessity under Section 401(d)(1) of the Act to engage in interstate and oversees scheduled air transportation. (Additional information)
1-3-84	41923	Lone Star Oversees, Inc., c/o Bert W. Rein, Wiley, Johnson & Rein, 1776 K Street, N.W., Washington, D.C. 20006. Application of Lone Star Oversees, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a certificate under Section 401 of the Act authorizing Lone Star to engage in scheduled foreign air transportation of persons, property and mail between a point or points in the United States, its territories, and possessions and a point or points in France (Paris), Belgium (Brussels) and the Netherlands (Amsterdam). Conforming Applications, Motions to Modify Scope and Answers may be filed by January 31, 1984.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 84-1001 Filed 1-12-84; 8:45 am]
BILLING CODE 6320-01-M

[Order 84-1-32]

Bidzy Ta Hot' Aana d/b/a Tanana Air Service for Certificate Authority; Application

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause (84-1-32).

SUMMARY: The Board is proposing to find Bidzy Ta Hot' Aana d/b/a Tanana Air Service fit, willing, and able and to issue it a certificate of public convenience and necessity under section 401 of the Federal Aviation Act authorizing it to provide interstate and overseas scheduled air transportation of persons, property, and mail in Alaska.

DATES: All interested persons wishing to respond to the Board's tentative fitness determination and proposed certificate award shall file, and serve upon all persons listed below no later than February 1, 1984, a statement of their response, together with a summary of testimony, statistical data, and other material expected to be relied upon to support any objections raised.

ADDRESSES: Response should be filed in Docket 40966 and addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428, and should be served upon the parties listed in the Attachment B to the order.

FOR FURTHER INFORMATION CONTACT: Joseph W. Bolognesi, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 (202) 673-5333.

SUPPLEMENTARY INFORMATION: The complete text of Order 84-1-32 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 84-1-32 to that address.

By the Civil Aeronautics Board: January 10, 1984.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 84-998 Filed 1-12-84; 8:45 am]
BILLING CODE 6320-01-M

[Order 84-1-31]

Fitness Determination of Fort Worth Airlines, Inc., Order to Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 84-1-31, Order to Show Cause.

SUMMARY: The Board is proposing to find that Fort Worth Airlines, Inc. is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service conform to applicable safety standards. The complete text of this order is available, as noted below.

DATES: Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed below no later than January 31, 1984 together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

ADDRESSES: Responses or additional data should be filed with the Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and with all persons listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Barbara P. Dunnigan, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428 (202) 673-5918.

SUPPLEMENTARY INFORMATION: The complete text of Order 84-1-31 is available from the Distribution Section, Room 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 84-1-31 to that address.

By the Civil Aeronautics Board: January 10, 1984.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 84-997 Filed 1-12-84; 8:45 am]
BILLING CODE 6320-01-M

[Docket 40662]

Aero West Airlines, Inc., Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter will be held on January 20, 1984, at 9:30 a.m. (local time) in Room 1012, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., January 9, 1984.

Ronnie A. Yoder,
Administrative Law Judge.

[FR Doc. 84-1003 Filed 1-12-84; 8:45 am]
BILLING CODE 6320-01-M

[Docket 41919]

Airmark Corporation Fitness Investigation; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge Ronnie A. Yoder. Future communications should be addressed to him.

Dated Washington, D.C., January 9, 1984.

Elias C. Rodriguez,
Chief Administrative Law Judge.

[FR Doc. 84-1004 Filed 1-12-84; 8:45 am]
BILLING CODE 6320-01-M

[Docket 41860]

Braniff, Inc., Fitness Investigation; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge John M. Vittone. Future communications should be addressed to him.

Dated: Washington, D.C., January 9, 1984.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 84-1005 Filed 1-12-84; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41860]

Braniff, Inc., Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on January 23, 1984, at 10:00 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned.

Dated at Washington, D.C., January 10, 1984.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 84-1002 Filed 1-12-84; 8:45 am]

BILLING CODE 6320-01-M

[Order 84-1-35]

National Aircraft Sales and Service; Application

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: 84-1-35. Application of Air National Aircraft Sales and Service, Inc. in Docket 41664 to provide scheduled air transportation of persons, property and mail between points in the United States, and Athens, Greece via points in Belgium and the Netherlands.

SUMMARY: The Board has tentatively found and concluded that Air National is fit to provide the scheduled service proposed in its application which constitutes a substantial change in operations, and that grant of the application is consistent with the public convenience and necessity.

The complete text of Order 84-1-35 is available as noted below.

DATES: Objections to the Board's tentative findings and conclusions shall be filed by February 7, 1984.

ADDRESSES: All pleadings should be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428 in Docket 41664.

FOR FURTHER INFORMATION CONTACT: Nicholas Lowry, Bureau of International Aviation, Civil Aeronautics Board, Washington, D.C. 20428, (202) 673-5415.

SUPPLEMENTARY INFORMATION: The complete text of Order 84-1-35 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 85-1-35 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: January 10, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-1000 Filed 1-12-84; 8:45 am]

BILLING CODE 6320-01-M

[Order 84-1-30]

Pacific American Air Lines, Inc. for Review of Fitness; Application

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause (84-1-30).

SUMMARY: The Board is proposing to find that Pacific American Air Lines, Inc. continues to be fit to provide the air transportation authorized by the certificates issued to it in Orders 80-10-16 and 80-11-87, for domestic and foreign charter air transportation, respectively. The complete text of this order is available, as noted below.

DATES: Objections: All interested persons having objections to the Board's tentative fitness findings shall file, and serve upon all persons listed below no later than January 30, 1984, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the objections.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 41665 and should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428, and should be served upon Pacific American and the Federal Aviation Administration.

FOR FURTHER INFORMATION CONTACT: Carolyn S. Kramp, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 (202) 673-5919.

SUPPLEMENTARY INFORMATION: The complete text of Order 84-1-30 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 84-1-30 to that address.

By the Civil Aeronautics Board: January 10, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-999 Filed 1-12-84; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Alabama Advisory Committee; Meeting Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a meeting of the Advisory Committee of the Commission originally scheduled for January 18, 1984, at Birmingham, Alabama (FR Doc. 83-33455 on page 55888, December 16, 1983), has a new meeting date.

The meeting date will be February 2, 1984. The address and time will remain in the same.

Dated at Washington, D.C., January 10, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84-945 Filed 1-12-84; 8:45 am]

BILLING CODE 6335-01-M

Minnesota Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Minnesota Advisory Committee to the Commission will convene at 6:30 p.m. and will end at 9:00 p.m., on February 13, 1984, at the Minnesota AFL-CIO Office, Conference Room, 175 Aurora Avenue, St. Paul, Minnesota 55103. The purpose of the meeting is to discuss the status of the project on mental health and the complaint of medical students.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Chairperson, Ruth Myers, at (218) 726-8878 or the Midwestern Regional Office at (312) 353-7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 5, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84-946 Filed 1-12-84; 8:45 am]

BILLING CODE 6335-01-M

South Carolina Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the South Carolina Advisory Committee to the Commission will convene at 9:30 a.m. and will end at 11:30 a.m., on January 24, 1984, at the Gressette Senate Office Building, Room 409, State Capitol Complex, Columbia, South Carolina 29201. The purpose of this meeting is to discuss the project, *South Carolina's Use of Block Grant Funds*, and the reorganization of the U.S. Commission on Civil Rights.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Chairperson, Dr. Oscar P. Butler, Jr., at (803) 536–7040 or the Southern Regional Office at (404) 221–4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 10, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–944 Filed 1–12–84; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

National Institutes of Health; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No.: 83–80. Applicant: National Institutes of Health, Bethesda, MD 20205. Instrument: Ion Source and Power Supply. Manufacturer: Ion Tech Limited, United Kingdom. Intended use: See notice at 47 FR 57982.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, was being manufactured in the United States at the time the foreign instrument was ordered (September 22, 1981).

Reasons: The foreign instrument can ionize high molecular weight compounds for analysis. The National Bureau of Standards advises in its memorandum dated February 23, 1983 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use being manufactured at the time the foreign instrument was ordered.

We know of no other domestic instrument or apparatus of equivalent scientific value to the foreign instrument being manufactured at the time the foreign instrument was ordered.

We understand that the instrument to which this application relates was liquidated on June 11, 1982. Duty-free entry will depend on whether the applicant successfully protests this liquidation.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84–931 Filed 1–12–84 8:45 am]

BILLING CODE 3510–25–M

Texas A & M University, et al.; Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with Subsections 301.5(a) (5) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 84–28. Applicant: Texas A & M University, Gelogogy Department, College Station, TX 77843. Instrument: Isotope Mass spectrometer, Model MAT 251 with Accessories. Manufacturer: Finnigan Corporation, West Germany. Intended use: Study of carbon and oxygen iostope fractionation in the shells of live benthonic foraminifera. The isotopic composition of these shells, when measured in specimens from a sediment core, provide a record of ancient Ice Ages and an important tool for stratigraphic correlation of marine sediments and sedimentary rock. Implicit in these application is an understanding of the factors that influence the isotopic make-up of the foraminifera; however, that is often not the case, hence the intended research. Education—Hands on experience on the instrument in the form of organized lab excercises and term projects in the courses Stable Isotope Geology and Methods of Geochemistry. Students in Methods of Geochemistry will, in addition, receive training in the extraction and analysis of very small samples. Application received by Commissioner of Customs: December 7, 1983.

Docket No. 84–29. Applicant: Baylor College of Medicine, 1200 Moursund Avenue, Houston, TX 77030. Instrument: Hydraulic Microdrives, Model MO–10 & MO–103–R. Manufacturer: Narishige Scientific Instrument Lab., Japan. Intended use: Physiological studies of mammalian brain cells with the objective of obtaining a better understanding of the functioning of the brain in health and disease. Application received by commissioner of Customs: December 7, 1983.

Docket No. 84–30. Applicant: Baylor College of Medicine, 1200 Moursund Avenue, Houston, TX 77030. instrument: Micromanipulators. Manufacturer: Narishige Scientific Inst., Japan. intended use: To test various hypotheses on the neural function of guinea-pig hippocampus cells. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: December 7, 1983.

Docket No. 84–31. Applicant: Baylor College of Medicine, Department of Cell Biology, Houston, TX 77030. Instrument: Electron Microscope, Model Em 410LS and Accessories. Manufacturer: Nederlandse (Philips) Bedri/ven B.V., The Netherlands. Intended use: Research activities of four faculty members of the Department of Cell Biology as follows:

(1) Molecular Basis for Force Generation in Eukaryotic Flagella.

(2) The Mitotic Apparatus and Chromosome Movement in Eukaryotic Cells.

(3) Electron Microscopic Characterization of Isolated Gap Junctional Membrane.

(4) Chemistry and Localization of an Actin End-Binding Protein. Application Received by Commissioner of Customs: December 7, 1983.

Docket No. 84–32. Applicant: University of South Carolina, School of Medicine, Columbia, SC 29208. Instrument: Electron Microscope, Model

JEM–200CX with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use: Study of the interaction between extracellular matrix components and the cell surface of muscle cells in normal and diseased animals. Other phenomena to be investigated are the origin and formation of foam cells in atherosclerosis, organization of calcium deposits in the pineal gland, and Herpes virus infection of lung and heart. Education—Demonstration of standard electron microscopic techniques as well as certain specialized procedures in the course "Electron Microscopy in Pathology". Application Received by Commissioner of Customs: December 7, 1983.

Docket No. 84–34. Applicant: National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, NC 27709. Instrument: Mass Spectrometry Data System, 11/250. Manufacturer: VG Analytical, united Kingdom. Intended use; The data system is to be interfaced to an existing high resolution double focusing mass spectormeter and the combined instrument is to characterize individual components of complex samples of biological or environmental origin, analyze middle molecular weight biological samples and perform quantitiative analyses at mass resolutions of 10,000. Specifically, the research will involve identification of environmental agents and their transformation products, the identification of xenobiotic chemical metabolities, the measurement of the changes in the levels of naturally occurring biological compounds as a result of exposure of test systems to xenobiotic chemcials and the identification of any modifications occurring to natural biochemicals in test systems resulting from exposure to xenobiotics. Application Received by Commissioner of Customs: December 7, 1983.

Docket No. 84–35. Applicant: Stanford University, Department of Radiology, Stanford, CA 94305. Instrument: Radiotherapy Treatment planning Simulator. Manufacturer: Varian, United Kingdom. Intended use: A variety of scientific research protocols investigating the efficacy of various cancer treatment modalities. Education—Training of radiation therpy residents and students undertaking clerkships in radiation therapy. In addition, radiation therapy technologists are involved in the teaching programs leading to their certification as radiation therapy technologists. Application Received by Commissioner of Customs: December 7, 1983.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84–930 Filed 1–12–84; 8:45 am]

BILLING CODE 3510–25–M

Minority Business Development Agency

Financial Assistance Application Announcement; California

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications under its Minority Business Development Center (MBDC) program to operate two projects for a 12-month period in the following locations:

Vallejo SMSA—I. D. Number 09–10–84002–01:		
Maximum MBDA Contribution	$144,500	
SCS Contribution	14,450	
Total Federal Contribution		$158,950
Minimum Cost Sharing Contribution		28,050
Minimum Total Project Cost		$187,000
Start Date—May 1, 1984.		
Oxnard SMSA—I. D. Number 09–10–84004–01:		
Maximum MBDA Contribution	$212,500	
SCS Contribution	21,250	
Total Federal Contribution		$233,750
Minimum Cost Sharing Contribution		41,250
Minimum Total Project Cost		$275,000
Start Date—May 1, 1984		

Applicants shall be required to contribute at least 15% of the total program cost through Non-Federal funds. Cost sharing contributions can be in the form of cash contributions, fee for services or in-kind contributions.

CLOSING DATE: February 13, 1984.

ADDRESS: Minority Business Development Agency, U.S. Department of Commerce, 450 Golden Gate Avenue, Box 36114, San Francisco, California 94102.

FOR FURTHER INFORMATION CONTACT: Ms. Liz Embry at (415) 556–6733.

SUPPLEMENTARY INFORMATION:

A. Scope and Purpose of this Announcement.

Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. The MBDC program is specifically designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit through which and from which information and assistance to and about minority businesses are funneled.

B. Eligible Applicants.

Awards shall be open to all individuals, non-profit organizations, for-profit firms, local and state governments, American Indian tribes and educational institutions.

C. Evaluation Process.

All proposals received as a result of this announcement will be evaluated by a MBDA review panel.

D. Evaluation Criteria for Minority Business Development Center Applications.

The evaluation criteria is designed to facilitate an objective evaluation of competitive applications for the Minority Business Development Center program.

MBDA reserves the right to reject any or all applications, including the application receiving the highest evaluation, and will exercise this right when it is determined that it is in the best interest of the Government to do so (e.g., the apparent successful applicant has serious unresolved audit issues from current or previous grants, contracts or cooperative agreements with an agency of the Federal Government).

Evaluation of proposals will employ the following criteria:

I. *Capability and Experience of Firm/Staff*—provide information that demonstrates the organization's capabilities and prior experiences in addressing the needs of minority business individuals and firms. Provide information that demonstrates the staff's capabilities and prior experiences in providing management and technical assistance to minority individuals and firms. Indicate previous experience in MBE community to be served in terms of: inventorying resources and

opportunities; the brokering thereof; and providing management and technical assistance.

The following are key factors to be considered in this section:

Firm

The organization's receptivity in the MBE community to be served, i.e., business contacts in the public and private sector; leadership responsibilities; and experience in assisting MBE business persons and firms. (References from clients assisted are pertinent.)

Background credentials and references for the owners of the organization and a capability statement of what the organization can do.

Knowledge of the geographic area to be served in terms of the needs of minority businesses and past ongoing relationships with local, public and private—entities that can possibly enhance the BDC program effort—i.e., Chambers of Commerce, trade associations, venture capital organizations, banks, SBA, HUD, state, city and county government agencies, etc.

Staff

List personnel to be used. Indicate their salaries, educational level and previous experience. Provide résumés for all professional staff personnel.

Demonstrate competence among staff to effectuate mergers, acquisitions, spin-offs and joint-ventures.

Provide organizational chart, job descriptions and qualification standards involving all professional staff persons to be utilized on the project.

If any contractors are to be utilized, identify and indicate areas and level of experience. *Primary consideration will be given to inhouse capability.*

Note.—All contracting proposed should be in accordance with procurement standards in Attachment 0 of OMB Circulars A–110 or A–102.

II. *Techniques and Methodology*—specify plans for achieving the goals and objectives of the project. This section should be developed by using the outline of the Work Requirements and the MBDC responsibilities as *guides* and will become part of the award document. Include start-up plan and example of work plan format. Fully explain the procedures for: outreach, screening, assisting and monitoring clients; maintaining the profile inventory of minority businesses; and brokering of new business ownership, market and capital opportunities and prevention of business failures. In summary, address how, when and where work will be done and by whom. Include level of performance.

III. *Resources*—address technical and administrative resources, i.e., computer facilities, voluntary staff time and space; and financial resources in terms of meeting MBDA's 15% cost-sharing requirement and including a fee for services for assistance provided clients. A fee for services in the amount of 10% of the cost of assistance will be charged to all clients receiving management and technical assistance.

Cost-sharing is that portion of project costs not borne by the Federal Government. The composition and amount of cost-sharing are key factors that will be considered in determining the merit of this section. The cost sharing requirement can be met through the following order or priority: (1) Cash contributions; (2) fee for services; and (3) in-kind contributions.

A. *Cash contribution*—Means cash that is contributed or donated by the recipient, and other Non-Federal sources, i.e., public agencies and institutions, private organizations, corporations and individuals.

B. *Fee for services*—Is a charge to a client for assistance provided by the MBDC for M&TA and/or SCS.

C. *In-Kind contribution*—Represents the value of non-cash contributions provided by the recipient and other Non-Federal sources. The order of priority for in-kind contributions are: high technology systems to be utilized to achieve program objectives; top level staff personnel and real and personal property donated by other public agencies, institutions and private organizations. Property purchased with Federal funds will not be considered as the recipient's in-kind contribution. Under no circumstances can the in-kind contribution exceed 50% of the total Non-Federal contribution.

IV. *Costs*—Demonstrate in narrative format that costs being proposed will give the minority business client and the government the most effective program possible in terms of quality, quantity, timeliness and efficiency.

Include the principal costs involved for achieving work plan under Cooperative Agreement by completing Part III—the Budget Information Section of the Request for Application.

Provide cost-sharing plan information in terms of methodology and format for billing the costs of management and technical assistance and specialized consulting services to clients.

Total project cost will be evaluated in terms of:

Clear explanations of all expenditures proposed, and

The extent to which the applicant can leverage Federal program funds and operate with *economy* and *efficiency*.

In conclusion, the applicant's schedule for start of the MBDC operation should be included in Part II. Part II will be known as the applicant's plan of operation and will be incorporated into the Cooperative Agreement Award.

A detailed justification of all proposed costs is required for Part III and each item must be fully explained.

The failure to supply information in any given category of the criteria will result in the application being considered non-responsive and dropped from competitive review.

All information submitted is subject to verification by MBDA.

E. Disposition of Proposals.

Notification of awards will be made by the Grants Officer, U.S. Department of Commerce (DOC) Organizations whose proposals are unsuccessful will be advised by MBDA, DOC.

F. Proposal Instructions and Forms.

This program is subject to OMB Circular A–95 requirements.

Questions concerning the preceding information, copies of application forms, and applicable regulations can be obtained at the above address.

Nothing in this solicitation shall be construed as committing MBDA to divide available funds among all qualified applicants.

G. A pre-application conference to assist all interested applicants will be held at the following address and time:

San Francisco

Minority Business Development Agency, U.S. Department of Commerce, 450 Golden Gate Avenue, Room 13029, San Francisco, California 94102, January 25, 1984 at 10:00 a.m.

11.800 Minority Business Development-Catalog of Federal Domestic Assistance.

Dated: January 9, 1984.

Powell McDaniel,

Acting Regional Director.

[FR Doc. 84–986 Filed 1–12–84; 8:45 am]

BILLING CODE 3510–21–M

National Oceanic and Atmospheric Administration

North Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The North Pacific Fishery Management Council, established by

Section 302 of the Fishery Conservation and Management Act of 1976 (Pub L. 94–265, as amended, its Scientific and Statistical Committee (SSC) and its Advisory Panel (AP) will hold joint and separate meetings. The Council will also meet in joint session with the Alaska Board of Fisheries.

DATES: The Council will meet at 9:00 a.m. Wednesday, February 1, 1984, in the Gastineau Room of the Baranof Hotel in Juneau and will meet with the Alaska Board of Fisheries beginning at 1:30 p.m. the same day in the Gold Room of the Baranof Hotel. The Council will continue meeting with the Board on Thursday, February 2, and will meet alone again at 9:00 a.m. on Friday, February 3, in the Gastineau Room to conduct Council business.

The Scientific and Statistical Committee meeting will convene on Monday, January 30, 1984, at noon in the Gastineau Room of the Baranof Hotel and will adjourn about 5 p.m. on Tuesday, January 31. The Advisory Panel will meet in the Capitol Room of the Baranof beginning at noon on January 30 and will continue on Tuesday, January 31. The meetings may be lengthened or shortened depending upon progress on the agenda items.

A workgroup will meet at 8:30 a.m. on Monday, January 30, in the Baranof Hotel to develop a status report for the Council on research on the occurrence and origin of net marks on salmon. The Council's Permit Review Committee and a workgroup on Council/Alaska Board of Fisheries working procedures will meet at the Baranof the week of the Council meeting, exact time and place to be announced.

Proposed Agenda

Council—A detailed agenda will be sent to the public around January 16, 1984. The Council and Board of Fisheries will meet jointly to hear salmon staff reports, a technical report on the U.S.-Canada salmon interception treaty negotiations and hear public testimony on salmon regulatory proposals before taking action on 1984 management proposals for chinook salmon in the fishery conservation zone off Southeastern Alaska. The Board and the Council will also review joint working procedures for Tanner crab management and regulatory review.

When the Council meets alone, they will review several groundfish management items including restrictions on joint venture trawling for sablefish and ways to reduce catches of halibut, salmon and crabs by trawlers in various areas of the Bering Sea and Gulf of Alaska. A discussion of NMFS' disapproval of Amendment 6 (establishing a Fishery Development Zone) to the Bering Sea/Aleutian Islands fishery management plan is also on the agenda. The Council will also be asked to review and reaffirm pelagic gear restrictions on the foreign pollock fishery in the Gulf of Alaska adopted at their December meeting.

The Council will consider management proposals to promote a developmental halibut fishery in the Bering Sea by residents of the Pribilof and Nelson Islands. Among the management alternatives the Council may consider in this regard are the following:

1. Establishing IPHC Area 4C as an exclusive registration area;
2. Imposing a maximum vessel size limit of 5 net tons in IPHC Area 4C;
3. Requiring all halibut commercially harvested in IPHC Area 4C be landed at ports within that area;
4. Creation of 12-nautical mile fishery development zones around St. Paul, St. George, Nelson and Nunivak Islands with exclusive area registration, vessel size limit of 5 net tons and separate harvest quotas for each zone.
5. Imposing a trip-poundage limit on vessels fishing in IPHC Area 4C.

The Council may also consider proposals submitted by concerned parties prior to the meeting in Juneau.

The Council will review a Request for Proposals for herring research in the Bering Sea, and also review foreign vessel permit applications received since the last Council meeting. They include requests for joint ventures by ships from Norway and Poland, and for directed fisheries by Norwegian, Polish and Japanese ships.

The Council will confirm new SSC and AP officers. Various contracts may also be reviewed.

The SSC and AP agenda items will be similar to that of the Council.

Plan team and workgroup meetings may be held on short notice during the Council meeting week. These meetings will be posted at the hotel. All meetings are open to the public.

FOR FURTHER INFORMATION CONTACT: Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, Alaska 99510, (907) 274–4563.

Dated: January 10, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84–1008 Filed 1–12–84; 8:45 am]

BILLING CODE 3510–22–M

Western Pacific Fishery Management Council; Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice of Public Meeting.

SUMMARY: The Western Pacific Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265, as amended) has established a Scientific and Statistical Committee which will meet to review draft assessment of deep sea shrimp, crab and slipper lobster resources; review studies about need for escape gaps in lobster traps, and discuss lobster monitoring activities and need for future research; review studies that have: (a) Complied catch rates for billfish and other pelagic species experienced by Hawaiian fishermen over the past several decades, (b) analyzed factors believed to affect the abundance of blue marlin in Hawaiian waters, and (c) provide preliminary evidence of genetic variation in blue marks from different parts of the Pacific ocean; review the draft of the bottomfish framework fishery management plan, as well as discuss any other Committee business.

DATES: The meeting will convene Thursday, January 26, 1984, at approximately 9:00 a.m. and will adjourn at approximately 3:00 p.m. on Friday, January 27, 1984.

ADDRESS: The meeting will take place at the Ala Moana Banquet Halls, Ala Moana Center, Honolulu, Hawaii.

FOR FURTHER INFORMATION CONTACT: Western Pacific Fishery Management Council, Room 1405—1164 Bishop Street, Honolulu, Hawaii 96813, Telephone: (808) 523–1368.

Dated: January 10, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84–1009 Filed 1–12–84; 8:45 am]

BILLING CODE 3510–22–M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected

inventions to extend market coverage for U.S. companies and may also be available for licensing.

Technical and licensing information on specific inventions may be obtained by writing to: Office of Government Inventions and Patents, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Please cite the number and title of inventions of interest.

Douglas J. Campion,

Patent Licensing, Office of Government Inventions and Patents, National Technical Information Service, U.S. Department of Commerce.

Department of Agriculture

SN 6–245,464 (4,416,881)
Insect Repellents Employing Cyclohexane-Carbonyl Morpholine Compounds

SN 6–294,096 (4,416,069)
Enhancement of Color Quality of Lumber During Drying

SN 6–367,638 (4,415,350)
Auxin Compositions of Phenyl Thioesters of Indole-3-Alkanoic Acids and Their Use as Auxin Growth Regulators

SN 6–367,639 (4,411,684)
Auxin Compositions of N-Phenyl And N-Chloro Phenyl Indolyl-3-Alkylene Amides and Their Ue as Auxin Growth Regulators

SN 6–409,268 (4,414,084)
Process for Conversion of Cellulose to Amino Acids by Radiofrequency Plasma of Nitrogen and Hydrogen

SN 6–464,530 (4,413,997)
Dicarbamoylsulfonate Tanning Agent

SN 6–496,518
Ova Harvesting System

SN 6–507,192
Control of Insects

SN 6–530,829
Transport Carriage

SN 6–532,411
Forest Fire Rate of Spread Timer and Method

SN 6–539,027
Adjustable Sheave Wheel

SN 6–543,730
Process and Compositions for Preserving Fresh Hides and Skins

Department of Health & Human Services

SN 6–250,840 (4,415,807)
Cross-Slice Data Acquisition System For Pet Scanner

SN 6–271,271 (4,416,662)
Roller Infusion Apparatus

SN 6–315,271 (4,414,108)
Apparatus and Method for Continuous Countercurrent Extraction and Particle Separation

SN 6–325,730 (4,413,985)
Hydrocephalic Antenatal Vent for Intrauterine Treatment (HAVIT)

SN 6–338,537 (4,416,871)
Inhibition By Peptides of Tolerance to and Physical Dependence on Morphine

SN 6–389,118 (4,412,066)
Polymer Bound Dyes Prepared By Diazo Coupling Reactions With Poly(Organophosphazenes)

SN 6–402,353 (4,416,761)
Multi Slab Gel Casting Electrophoresis Apparatus

SN 6–537,572
Stimulation of Enzymatic Ligation of DNA By High Concentrations of Nonspecific Polymers

Department of the Air Force

SN 6–263,629 (4,407,705)
Production of Negative Ions of Hydrogen

SN 6–404,725
A Rechargeable Secondary Battery Having An Aluminum Salt Electrolyte

SN 6–515,834
Blind-Mating, Positionally Adjustable Electrical Connection Device

SN 6–532,862
Mounting Device

SN 6–533,331
Electronic Nerve Agent Detector

SN 6–534,996
Heat Management System for Aircraft

SN 6–536,142
Diffuse Incandescent Runway Marker Light Apparatus for Overt/Covert Operation

SN 6–538,872
Means for Aligning Elevation Beam Pattern Along an Isodop in Synthetic Aperture Mapping Radar

Department of the Army

SN 6–538,633
Alignment Transfer and Verification Scheme for a Portable Land Navigation System

SN 6–539,201
Liner-Propellant Bond Tests

SN 6–544,144
Protective Mask For Airborne Toxic Substances

SN 6–544,770
Method of Pretreating Carbon Black Powder to Improve Cathode Performance and Lithium Sulfuryl Chloride Cell Including the Pretreated Carbon Black Powder

[FR Doc. 84–987 Filed 1–12–84; 8:45 am]
BILLING CODE 3510–04–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comment on Textile Consultations With the Government of the Republic of Korea

January 10, 1984.

On January 9, 1984, the Government of the United States, under Article 3 of the Arrangement Regarding International Trade in Textiles, the MFA, requested the Government of the Republic of Korea to enter into consultations concerning exports to the United States of man-made fiber luggage in Category 670 (only T.S.U.S.A. Nos. 706.4144 and 706.4152), produced or manufactured in the Republic of Korea.

The purpose of this notice is to advise that, if no solution is agreed upon between the two governments within sixty days of the date of delivery of the aforementioned note requesting consultations, entry and withdrawal from warehouse for consumption of textile products in Category 670 (only T.S.U.S.A. Nos. 706.4144 and 706.4152), produced or manufactured in the Republic of Korea and exported to the United States during the twelve-month period which began on January 9, 1984, may be restrained at 18,435,270 pounds.

Anyone wishing to comment or provide data or information regarding the treatment of Category 670pt., is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, it is requested that comments be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating

to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-929 Filed 1-12-84; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent To Prepare Draft Environmental Impact Statement for Proposed Flood Control Project on Sauquoit Creek, Village of Whitesboro, Oneida County, New York

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Draft Supplemental Revised Environmental Impact Statement.

SUMMARY:

1. Description of Proposed Action

The proposed plan consists of channel modification along a one-mile stretch of Sauquoit Creek from its confluence with the Mohawk River upstream to the Route 69 (Oriskany Blvd.) Bridge.

2. Reasonable Alternatives

A reasonable alternative to modification of the existing Sauquoit Creek channel is no action. Other alternatives considered include: nonstructural measures such as evacuation of the floodplain, floodproofing and land use regulations; levees; and floodwalls.

3. Scoping Process

a. Public Involvement

Coordination with Federal, State, and local interests was conducted on February 3, 1983 at the regional office of the NYS Dept. of Environmental Conservation in Utica, New York and at the Whitesboro Town Hall in the Village of Whitesboro. Views from public agencies and individuals will also be solicited by means of a public notice presenting a description of the proposed plan of improvement, and announcing that a Detailed Project Report and Draft Environmental Impact Statement are being prepared.

b. Significant Issues Requiring In-Depth Analysis

Water quality impacts, archeological and cultural resources impacts, aquatic resources impacts, and floodplain impacts.

c. Assignments

None anticipated.

d. Environmental Review and Consultation

Review will be as outlined in Council on Environmental Quality regulations dated November 29, 1983 (40 CFR Parts 1500–1508) and Corps regulations ER200–2–2 dated August 25, 1980 (revised March 2, 1981).

4. Scoping Meeting

Meeting will not be held.

5. Estimate date of statement availability June 1984

ADDRESS:

Project Manager, David Schlesinger, Attn: NANPL–FA, Tel No. 212–264–9086.

EIS Coordinator, Robert Dieterich, Attn: NANPL–E, Tel No. 212–264–4662.

US Army Engineer District, New York, 26 Federal Plaza, New York, N.Y. 10007.

Dated: January 3, 1984.

Samuel P. Tosi,

P.E., Chief, Planning Division.

[FR Doc. 84-961 Filed 1-12-84; 8:45 am]

BILLING CODE 3710-06-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–51495; TSH–FRL 2481–1]

Certain Chemicals; Premanufacture Notices

Correction

In FR Doc. 83–32111, beginning on page 54394, in the issue of Friday, December 2, 1983, in the third column, under "PMN 84–216", in the eleventh line "1mg/l." should read "11mg/l."

BILLING CODE 1505-01-M

[OPTS–51501 TSH–FRL 2506–2]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of seven PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 84–309, 84–310, 84–311, and 84–312—March 28, 1984;

PMN 84–313, 84–314 and 84–315—April 2, 1984.

Written comments by:

PMN 84–309, 84–310, 84–311, and 84–312—February 27, 1984;

PMN 84–313, 84–314 and 84–315—March 3, 1984.

ADDRESS: Written comments, identified by the document control number "[OPTS–51501]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, DC 20460, (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Margaret Stasikowski, Acting Chief, Premanufacturing Notice Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M St., SW., Washington, DC 20460, (202–382–3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E–107 at the above address.

PMN 84–309

Importer. Confidential.

Chemical. (G) Polyether acid phospate.

Use/Import. (G) Additive for aqueous cutting fluids. Import range: 400,000–1,000,000 kg/yr.

Toxicity Data. Acute oral: 10,000 mg/kg; Irritation: Skin—Moderate, Eye—Moderate; Inhalation: No mortalities.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 84–310

Importer. Confidential.

Chemical. (G) Amine salt of a substituted organic acid.

Use/Import. (G) Corrosion inhibitor. Import range: 200,000–500,000 kg/yr.

Toxicity Data. Acute oral: 4,750 mg/kg; Acute intraperitoneal, (rat)—700 mg/kg, (mouse)— < 2,000 mg/kg; Irritation: Skin—Moderate, Eye—Moderate; Inhalation: Highly enriched.

Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

PMN 84–311

Manufacturer. Confidential.
Chemical. (G) Cyclic alkene-yne.
Use/Production. (G) Reaction modifier. Import range: Confidential.
Toxicity Data. Acute oral: 737 mg/kg; Acute dermal: 2,000 mg/kg; Irritation: Skin—Moderate, Eye—Slight; Ames Test: Negative.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by waste water treatment.

PMN 84–312

Importer. Confidential.
Chemical. (S) Methyltris(2-methyl-3-butyn-2-oxy)silane.
Use/Import. (G) Additive for elastomers. Import range: Confidential.
Toxicity Data. Acute oral: 3,884 mg/kg; Acute dermal: 2,000 mg/kg; Irritation: Skin—Very slight, Eye—Non-irritant; Ames Test: Negative.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

PMN 84–313

Manufacturer. Confidential.
Chemical. (G) Poly alkylene polyol.
Use/Production. (G) The new substance will have an open industrial use in manufacturing polyurethanes. Prod. range: 400,000–2,500,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 34 workers, up to 4 hrs/da, up to 250 da/yr.
Environmental Release/Disposal. 15–100 kg/batch released to land. Disposal by incineration and landfill.

PMN 84–314

Manufacturer. Confidential.
Chemical. (G) Partially oxidized polysaccharide.
Use/Production. (G) Contained use in manufacturing. Prod. range: 20–80 kg/yr.
Toxicity Data. Acute oral: <3,200 mg/kg; Acute dermal: <20 ml/kg; Irritation: Skin—Slight, Eye—Slight.
Exposure. Manufacture and processing: dermal, a total of 7 workers, up to 0.3 hr/da, up to 3 da/yr.
Environmental Release/Disposal. Less than 1 to 5 kg/batch released to control technology only. Disposal by navigable waterway.

PMN 84–315

Manufacturer. Confidential.
Chemical. (G) Polymer of alkyl and heteromonocyclic amines and an alkanedioic acid.
Use/Production. (G) Adhesive component. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

Dated: Janauary 9, 1984.

Linda A. Travers,

Acting Director, Information Management Division.

[FR Doc. 84–937 Filed 1–12–84; 8:45 am]
BILLING CODE 6560–50–M

[OPTS–53055; BH–FRL 2480–1]

Premanufacture Notices; Monthly Status Report for October 1983

Correction

In FR Doc. 83–31924, beginning on page 54274, in the issue of Thursday, December 1, 1983, on page 54279, in the fourth line from the bottom, for the entry 83–1310, the second column should read "Mercaptopropyl methyl dimethoxy silane".

BILLING CODE 1505–01–M

Environmental Impact Statements Filed January 3 Through January 6, 1984; Availability

[ER–FRL 2505–8]

Responsible Agency: Office of Federal Activities, General Information (202) 382–5073 or (202) 382–5075.

EIS No. 830669, Draft, AFS, IN, Wayne-Hoosier National Forest, Land and Resource Management Plan, Due: Apr. 13, 1984.
EIS No. 84000, Final, SCS, CA, Spring Creek Subwatershed Flood Control Plan, Sonoma Co., Due: Feb. 13, 1984.
EIS No. 840001, DSuppl, NRC, PA, Three Mile Island, Nuclear Station, Unit 2, Revised Estimates of Occupational Radiation Doses, Dauphin County, Due: Feb. 27, 1984.
EIS No. 840002, Draft, FHW, TX, Rt. 734/Parmer Lane, Highway Extension, Rt. 1325 to Rt. 620, Travis and Williamson Counties, Due: Feb. 27, 1984.
EIS No. 840003, Draft, NOA, HI, Hawaii Humpback Whale National Marine Sanctuary, Designation, Due: Mar. 12, 1984.
EIS No. 840004, Final, EPA, NY, Lake George-Upper Hudson Region, Wastewater Treatment Facilities Management Plan, Grant, Warren Co., Due: Feb. 15, 1984.

Amended Notices:

EIS No. 830648, Final, FHW, PA, Mid-County Expressway/I–476/LR–1010 Completion, Ridge Pike to Pennsylvania Turnpike, Montgomery County, Due: Jan. 16, 1984. Published FR 12–16–83—Incorrect due date.
EIS No. 830580, Draft, NOA, AS, Fagatele Bay National Marine Sanctuary, Designation, Island of Tutuila, American Somoa, Due: Jan. 20, 1984. Published FR 11–04–83 Review extended.
EIS No. 830602, Draft, BLM, UT, Sunnyside Combined Hydrocarbon Lease Conversion, Carbon County, Due: Feb. 6, 1984. Published FR 11–18–84 Review extended.

Dated: January 10, 1984.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 84–1010 Filed 1–12–84; 8:45 am]
BILLING CODE 6560–50–M

[SAB–FRL 2507–5]

Science Advisory Board; Subcommittee on Risk Assessment for Radionuclides Open Meeting—January 16, 1984

Under Public Law 92–463, notice is hereby given of an emergency one day meeting of the Science Advisory Board's Subcommittee on Risk Assessment for Radionuclides. The meeting will be held on January 16, 1984 in Room 1112, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, Virginia. The meeting will begin at 9:30 a.m. and will adjourn at approximately 4:00 p.m.

The emergency nature of the meeting is the result of the urgent need of the Agency to complete its ongoing regulatory programs and the need to resolve public comments and other concerns expeditiously. The Subcommittee plans to complete its review task and issue its report within three months.

The Subcommittee was formed as the result of a written request from EPA Administrator William D. Ruckelshaus to the Chairman of the Science Advisory Board on December 6, 1983. The purpose of the Subcommittee is to provide a critical and independent review of the process by which the Agency estimates human cancer and genetic risk due to radionuclides in the environment. The Subcommittee's review activities are designed to improve the scientific basis of risk assessment in EPA. The panel will not attempt to address risk management issues (such as defining acceptable risk levels or recommending what constitutes an ample margin of safety) in the course of its review.

Specific issues to be addressed by the Subcommittee include:

1. Has the EPA Office of Radiation Programs (ORP) considered and

interpreted in a scientifically adequate manner the appropriate literature on radiation risk assessment including data sources on radiation risks?

2. Are the assumptions made by ORP in estimating radiation risks reasonable, and are they justified in the supporting documentation?

3. Is ORP's selection of the National Academy of Sciences/Biological Effects of Ionizing Radiation III report as the basic guide to radiation risk estimates scientifically appropriate?

4. Is the ORP analysis of potential lung cancer risks due to radon progeny scientifically defensible?

5. Is the wide range of uncertainty in estimates of human cancer and genetic risk clearly presented?

6. Is the ORP choice of the International Council of Radiation Protection (ICRP) quality factor of twenty for high LET radiation scientifically reasonable or are there better alternatives?

7. Is the choice of ICRP dosimetric models scientifically adequate? Are there any alternatives?

8. In a few cases EPA has used organ transfer factors for a general population rather than those for occupational workers. Are these changes appropriate and justified in the documentation?

9. Are the air dispersion models reasonable to estimate radionuclide concentrations (1) in the neighborhood of a source? and (2) to regional populations?

10. Is the selection of transfer factors and other parameters in the food chain analysis reasonable?

The following individuals have agreed to serve as members of the Subcommittee to carry out the review of the risk assessment for radionuclides.

Dr. Roger O. McClellan (Chairman), Director of Inhalation Toxicology Research Institute, Lovlace Biomedical and Environmental Research Institute, P.O. Box 5890, Albuquerque, New Mexico 87115

Dr. Seymour Abrahamson, Professor of Zoology and Genetics, Department of Zoology, University of Wisconsin, Madison, Wisconsin 53706

Dr. Victor Archer, Rocky Mountain Center for Occupational Health, Building 512, Salt Lake City, Utah 84112

Dr. Victor P. Bond, Associate Director, Brookhaven National Laboratory, Upton, New York 11973

Dr. Gordon L. Brownell, Physics Research Laboratory, Massachusetts General Hospital, Boston, Massachusetts 02114

Dr. Merrill Eisenbud, New York University, Lanza Laboratory, Long Meadow Road, Tuxedo, New York 10987

Dr. Frank A. Gifford, 109 Gorgas Lane, Oak Ridge, Tennessee 37830

Dr. James V. Neel, Lee R. Dice University, Professor of Human Genetics, University of Michigan Medical School, Dept. of Human Genetics-Box 015, 1137 E Catherine Street, Ann Arbor, Michigan 48109,

Dr. William J. Schull, Director and Professor of Population Genetics, Center for Demographic and Population Genetics, School of Public Health, University of Texas Health Science Center at Houston, Houston, Texas 77030

Dr. Donovan Thompson, 4231 NE 70 Third, Seattle, Washington 98115

Dr. Ward Wicker, Savannah River Ecology Laboratory, Drawer E, Aiken, South Carolina 29801

For Further Information Contact: Cheryl B. Bentley, (202) 382–4126.

Terry F. Yosie,

Staff Director, Science Advisory Board, January 11, 1984.

[FR Doc. 84–1071 Filed 1–12–84; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL RESERVE SYSTEM

Bath County Banking Co., et al., Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated for that application. Once the application has been accepted for processing, it will aslo be available for inspection at the offices of the Board of Governors. With respect to each application, interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, indentifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than February 9, 1984.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Bath County Banking Company,* Owingsville, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of Owingsville Banking Company, Owingsville, Kentucky.

2. *Commonwealth Trust Bancorp, Inc.,* Covington, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of Covington Trust & Banking Company, Covington, Kentucky.

B. **Federal Reserve Bank of Chicago** Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Colonial Bankshares Corporation,*Chicago, Illinois; to acquire 29.1 percent of the voting shares or assets of Northwest American Bankshares Corporation, Chicago, Illinois, and thereby indirectly acquire Northwest Commerce Bank Rosemont, Illinois and All American Bank of Chicago, Chicago, Illinois.

2. *G.S.B. Financial Corporation,* Garrett, Indiana; to become a bankholding company by acquiring 100 percent of the voting shares of The Garrett State Bank, Garrett, Indiana.

3. *Northwest American Bankshares Corporation,* Chicago, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Northwest Commerce Bank, Rosemont, Illinois and 58.1 percent of All American Bank of Chicago, Chicago, Illinois.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Chester County Bancshares, Inc.,* Henderson, Tennessee; to become a bank holding company by acquiring 80 percent or more of the voting shares of Chester County Bank, Henderson, Tennessee.

2. *NSB, Inc., Metropolis,* Illinois; to become a bank holding company by acquiring 80 percent or more of the voting shares of The National State Bank, Metropolis, Illinois.

3. *Shawneetown Bancorp, Inc.,* Shawneetown, Illinois: to acquire 80 percent or more of the voting shares or assets of First National Bank in Golconda, Golconda, Illinois.

4. *TC Bankshares, Inc.,* North Little Rock, Illinois; to acquire 100 percent of the voting shares or assets of First State Bank of Morrilton, Morrilton, Arkansas and 100 percent of People Bancshares Inc., Van Buren, Arkansas, thereby

acquiring indirect control of 82.1 percent of Peoples Bank and Trust Company, Van Buren, Arkansas.

Board of Governors of the Federal Reserve System, January 9, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-919 Filed 1-12-84; 8:45 am]

BILLING CODE 6210-01-M

First of Austin Bancshares, Inc., et al.; Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First of Austin Bancshares, Inc.*, Austin, Texas; to acquire 100 percent of the voting shares or assets of First National Bank, Austin, Texas (in organization). Comments on this application must be received not later than February 8, 1984.

2. *University National Bancshares of San Antonio, Inc.*, San Antonio, Texas; to acquire 100 percent of the voting shares or assets of Castle Hills National Bank, San Antonio, Texas. Comments on this application must be received not later than February 9, 1984.

Board of Governors of the Federal Reserve System, January 9, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-920 Filed 1-12-84; 8:45 am]

BILLING CODE 6210-01-M

Penn Central Bancorp, Inc., et al.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Penn Central Bancorp, Inc.*, Huntingdon, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of Penn Central National Bank, Huntingdon, Pennsylvania. Comments on this application must be received not later than February 9, 1984.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23161:

1. *F&M Bancorp*, Frederick, Maryland; to become a bank holding company by acquiring 100 percent of the voting shares of Farmers and Mechanics National Bank, Frederick, Maryland. Comments on this application must be received not later than February 9, 1984.

C. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *F. A. Bankshares, Inc.*, Monroe, Georgia; to become a bank holding company by acquiring up to 100 percent of the voting shares of First American Bank of Walton, Monroe, Georgia. Comments on this application must be received not later than February 8, 1984.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Financial Bancshares, Inc.*, LaVista, Nebraska; to become a bank holding company by acquiring 80 percent of the voting shares of Bank of Nebraska in LaVista, LaVista, Nebraska. Comments on this application must be received not later than February 3, 1984.

2. *National Bancshares, Inc.*, Oklahoma City, Oklahoma; to become a bank holding company by acquiring 80 percent of the voting shares of American National Bancshares, Inc., Midwest City, Oklahoma. Comments on this application must be received not later than February 1, 1984.

3. *Warrensburg Bancshares, Inc.*, Chillicothe, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of Community Bank of Warrensburg, Warrensburg, Missouri. Comments on this application must be received not later than February 9, 1984.

E. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Maries County Bancorp, Inc.*, Vienna, Missouri; to become a bank holding company by acquiring at least 80 percent of the voting shares of Maries County Bank, Vienna, Missouri, and Belle State Bank, Belle, Missouri. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of St. Louis. Comments on this application must be received not later than February 9, 1984.

Board of Governors of the Federal Reserve System, January 9, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-921 Filed 1-12-84; 8:45 am]

BILLING CODE 6210-01-M

Banque Paribas, et al.; Notice of Proposed de Novo Nonbank Activities by Bank Holding Companies

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or

unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Banque Paribas* and *Compagnie Financiere de Paribas* both of Paris, France (financing and servicing activities; Texas): To engage, through its subsidiary, Paribas Finance (Texas), Inc., in commercial financial activities, including the making and acquiring of loans and other extensions of credit such as would be made by a commercial financing company, including commercial loans secured by accounts receivable, fixed assets, equipment and inventory; making loans to finance the acquisition of residential real estate; issuing commercial and stand-by letters of credit; and servicing such loans and extensions of credit for others. These activities would be performed in the State of Texas. Comments on this application must be received not later than February 9, 1984.

2. *Key Banks, Inc.*, Albany, New York (reinsurance activities; Maine): To engage, through its subsidiary Key Bank Life Insurance, Ltd., Phoenix, Arizona, in the underwriting as reinsurer of credit life insurance and credit accident and health insurance sold in connection with extensions of credit made by Key Bancshares of Maine, a proposed subsidiary of Key Banks, Inc. The area to be served under this proposal is the State of Maine. Comments on this application must be received not later than February 8, 1984.

B. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Mellon National Corporation*, Pittsburgh, Pennsylvania (commercial lending and leasing activities; United States and overseas): To engage through its indirect subsidiary, Mellon Financial Services Corporation, in commercial lending, including accounts receivable and inventory financing, and permissible personal property leasing, including acting as agent, broker, or adviser in leasing such property. These activities would be conducted from an office in Kansas City, Missouri, serving the United States, as well as clients overseas. Comments on this application must be received not later than February 8, 1984.

C. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Citizens and Southern Georgia Corporation*, Atlanta, Georgia (mortgage banking activities; Florida, Tennessee): To engage, through its subsidiary, Citizens and Southern Mortgage Company (FLA), in mortgage lending and mortgage banking activities, including the extension of direct loans to consumers, the purchase and discount of real estate loans and other extensions of credit, making, acquiring, servicing, or soliciting, for its own account or for the account of others, loans and other extensions of credit; and acting as agent for the sale of life, accident and health insurance directly related to its extensions of credit. These activities would be conducted from offices in Orlando, Florida, and Nashville, Tennessee, serving the states of Florida and Tennessee. Comments on this application must be received not later than February 8, 1984.

2. *Flint Bancshares, Inc.*, Cordele, Georgia (financing activities; Georgia): To engage through its subsidiary, Cordele Banking Company, in consumer and commercial finance activities as a purchaser, from time to time, of portions or large credit lines on a non-recourse basis. These activities would be conducted in Crisp County, Georgia, and surrounding counties. Comments on this application must be received not later than February 1, 1984.

D. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Oakwood Bancorp, Inc.*, Springfield, Illinois, (banking and credit insurance activities; Illinois): To engage *de novo* through its banking subsidiary, the State Bank of Oakwood, Oakwood, Ilinois as a broker in the sale of credit life and credit accident and health insurance. These activities would be conducted from offices of the State Bank of Oakwood, serving the city of Oakwood, Illinois. Comments on this application must be received not later than January 27, 1984.

Board of Governors of the Federal Reserve System, January 9, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-922 Filed 1-12-84; 8:45 am]

BILLING CODE 6210-01-M

Agency Forms Under Review

January 10, 1984.

Background

When executive departments and independent agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act [44 U.S.C. Chapter 35]. Departments and agencies use a number of techniques to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibilities under the act also considers comments on the forms and recordkeeping requirements that will affect the public. Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. OMB's usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

List of Forms Under Review

Immediately following the submission of a request by the Federal Reserve for OMB approval of a reporting or recordkeeping requirement, a description of the report is published in the **Federal Register**. This information contains the name and telephone number of the Federal Reserve Board clearance officer (from whom a copy of a form and supporting documents is available). The entries are grouped by type of submission—i.e., new forms, revisions, extensions (burden change), extensions (no change), and reinstatements.

Copies of the proposed forms and supporting documents may be obtained from the Federal Reserve Board clearance officer whose name, address, and telephone number appear below. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division

of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–3829).

OMB Reviewer—Judy McIntosh—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202–395–6880).

Request for Revisions to an Existing Report

1. Report title: Reports of Condition and Income.

Agency form number: FFIEC 031–034.

Frequency: Quarterly.

Reporters: State member banks.

Small businesses are affected.

General description of report: Respondent's obligation to reply is mandatory [12 U.S.C. 324]; a pledge of confidentiality is not promised.

Detailed schedules of assets, liabilities, and capital accounts in the form of a condition report, and summary statement; detailed schedule of operating income and expense, sources and disposition of income, and changes in the equity capital in the form of an income statement; and a variety of supporting schedules. (Addition of two items on Schedule RC–L, Commitments and Contingencies, on "when-issued" securities and the addition of one item on Schedule RC–E, Deposit Liabilities, on brokered retail deposits issued in denominations of $100,000 or less.—

Board of Governors of the Federal System, January 10, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–1020 Filed 1–12–84; 8:45 am]

BILLING CODE 6210–01–M

Firstar Corp., et al.; Engaging de novo in Permissible Nonbanking Activities

The bank holding companies listed in this notice have filed a notice under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each notice is available for immediate inspection at the Federal Reserve Bank indicated for that application. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to each notice, interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than February 9, 1984.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Firstar Corporation*, Appleton, Wisconsin, (trust activities; Wisconsin): To engage, through a *de novo* subsidiary Firstar Trust Company, Appleton, Wisconsin in the activities of a trust company. These activities would be conducted from an office in Appleton, Wisconsin, serving that area.

2. *Mt. Zion Bancorp, Inc.*, Mt. Zion, Illinois; Applicant proposes to engage *de novo* through its subsidiary, MZB Diversified Insurance, Inc., Mt. Zion, Illinois, in general insurance activities in a town with a population of less than 5,000, pursuant to § 225.4(a)(9)(ii) of Regulation Y. The activities will be performed from offices in Mt. Zion and Dalton City, Illinois, serving these towns.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Norwest Corporation*, Minneapolis, Minnesota (financing, insurance and travelers checks activities; Pennsylvania): To engage through its subsidiaries, Norwest Financial America, Inc. and Norwest Financial Consumer Discount Company, in the activities of consumer finance, sales finance and commercial finance, the sale of credit life, credit accident and health and credit-related property and casualty insurance related to extensions of credit by those companies (such sale of credit-related insurance being a permissible activity under Subparagraph D ot Title VI of the Garn-St. Germain Depository Institutions Act of 1982) and the offering for sale and selling of travelers checks. These activities will be conducted from an office in Lancaster, Pennsylvania. This notification is (1) for the relocation of an existing office in Lancaster, Pennylvania and (2) to engage *de novo* in the activities of sales finance and commercial finance from said office, as relocated. Upon relocation, said office will serve Lancaster, Pennsylvania.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First State Holding Company, Inc.*, Mullinville, Kansas (leasing activities; Kansas): To engage directly in the leasing of personal property, including farm machinery and motor vehicles, in accordance with the Board's Regulation Y. These activities would be performed in the City of Mullinville, Kansas and Southwest Kansas.

Board of Governors of the Federal Reserve System, January 10, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–1019 Filed 1–12–84; 8:45 am]

BILLING CODE 6210–01–M

FEDERAL TRADE COMMISSION

State Regulation of Securities; Survey of Securities Industry Firms

AGENCY: Federal Trade Commission.

ACTION: Request for OMB Review under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) of a survey of securities industry firms' experiences in seeking State registration of common stocks.

SUMMARY: The survey for which OMB review is sought is intended to obtain information about the registration status of common stocks issued between July 1, 1979 and June 30, 1980 and to gather information on the registration process from the responding firms. The survey results will be incorporated in a study conducted by the FTC's Bureau of Economics: Blue Sky Securities Laws As Investor Protection Regulation. Data from the survey will be analyzed in conjunction with risk and return observations on these securities in a comparison of registered and unregistered securities in various States.

DATES: Comments on the proposed survey must be submitted on or before February 13, 1984.

ADDRESS: Send comments to Mr. Don Arbuckle, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, D.C. 20503. Copies of this application may be obtained from: Public Reference Branch, Room 130, Federal Trade Commission, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: John C. Hilke, Division of Industry Analysis, Bureau of Economics, Federal Trade Commission, Washington, D.C. 20580 (202) 634–7688.

John H. Carley,

General Counsel.

[FR Doc. 84–899 Filed 1–12–84; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on January 6.

Public Health Service

Centers for Disease Control

Subject: The Possible Association Between Reye Syndrome and Medication Pilot Study—new
Respondents: Individuals

Note.—The Department has requested expedited OMB review for study. The public has ten days in which to comment.

OMB Desk Officer: Fay S. Iudicello

Food and Drug Administration

Subject: Citizen Petition—existing collection
Respondents: Businesses, individuals, state and local governments
Subject: Filing of Objections and Requests for Hearing on a Regulation or Order—existing collection
Respondents: Businesses
OMB Desk Officer: Bruce Artim

Social Security Administration

Subject: Annual Report by Grantees of the Number and Income Levels of Households Assisted by Low Income Home Energy Assistance Program (0960–0261)—revision
Respondents: State agencies
Subject: Grantee Surveys of the Fiscal Year 1983 and 1984 Low Income Home Energy Assistance Programs (0960–0330)—revision
Respondents: State agencies
Subject: Information Exchange Between State IV–D and State Medicaid Agencies—NPRM—new
Respondents: State IV–D agencies
Subject: Report on Individual with Childhood Impairment (0960–0084)—extension/no change
Respondents: Schools, state and local agencies, and other appropriate institutions
OMB Desk Officer: Milo Sunderhauf

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202–245–6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address:

OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503
Attn: (name of OMB Desk Officer)

Dated: January 11, 1984.

Robert F. Sermier,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 84–1032 Filed 1–12–84; 8:45 am]

BILLING CODE 4150–04–M

Office of the Assistant Secretary for Health

Meeting, National Committee on Vital and Health Statistics

Pursuant to the Federal Advisory Act (Pub. L. 92–643), notice is hereby given that the Subcommittee on the Vital Statistics Program of the National Committee on Vital and Health Statistics, pursuant to functions established by section 306(k)(2) of the Public Health Service Act, as amended, (42 USC 242k), will convene on Thursday, January 19 and Friday, January 20, 1984, at 9:00 a.m. in Room 1–23 of the Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782.

The Subcommittee will review the uses of vital statistics data by other Federal agencies.

Further information regarding this meeting of the Subcommittee or other matters pertaining to the National Committee on Vital and Health Statistics may be obtained by contacting William F. Stewart, National Committee on Vital and Health Statistics, Room 2–28 Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782 telephone (301) 436–7122.

Dated: January 3, 1984.

Manning Feinleib,

Director.

[FR Doc. 84–934 Filed 1–12–84; 8:45 am]

BILLING CODE 4160–17–M

Food and Drug Administration

Public Workshop; Agents Used To Treat Angina

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a forthcoming public workshop to discuss studies that could be considered appropriate for testing the effectiveness of agents used to treat angina.

DATE: The workshop will be held on February 17, from 9 a.m. to 5 p.m.

ADDRESS: The workshop will be held at the Auditorium, Lister Hill Center, Bldg. 38A, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD.

FOR FURTHER INFORMATION CONTACT: Joan C. Standaert, National Center for Drugs and Biologics (HFN–110), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4730.

SUPPLEMENTARY INFORMATION: FDA's Division of Cardio-Renal Drug Products, National Center for Drugs and Biologics, will hold a workshop to discuss studies that could be considered appropriate for testing the effectiveness of agents used to treat angina. The workshop will be held on February 17, at the Auditorium, Lister Hill Center, Bldg. 38A, Rockville Pike, Bethesda, MD 20209. The entire meeting will be open to the public from 9 a.m. to 5 p.m.

Requests for information on the workshop should be directed to Joan C. Standaert (address above).

Dated: January 9, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–905 Filed 1–12–84; 8:45 am]

BILLING CODE 4160–01–M

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory

committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Drug Abuse Advisory Committee

Date, time, and place. February 3, 9 a.m., Conference Rms. G and H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, February 3, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to conclusion; Frederick J. Abramek, National Center for Drugs and Biologics (HFN-120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4020.

General function of the committee. The committee advises the Commissioner of Food and Drugs regarding the scientific and medical evaluation of all information gathered by the Department of Health and Human Services and the Department of Justice with regard to safety, efficacy, and abuse potential of drugs or other substances and recommends actions to be taken by the Department of Health and Human Services with regard to marketing, investigation, and control of such drugs or other substances.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The committee will discuss Naltrexone and specifically the safety and efficacy considerations of a narcotic antagonist agent proposed for use in the treatment of detoxified, drug-dependent individuals.

Fertility and Maternal Health Drugs Advisory Committee

Date, time, and place. February 9, 8 a.m., and February 10, 9 a.m., Auditorium, Lister Hill Center, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD.

Type of meeting and executive secretary. Open committee discussion, February 9, 8 a.m. to 5 p.m.; open public hearing, February 10, 9 a.m. to 10 a.m.; open committee discussion, February 10, 10 a.m. to 5 p.m.; A. T. Gregoire, National Center for Drugs and Biologics (HFN-130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1869.

General function of the committee. The committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drug products for use in obstetrics, gynecology, and contraception.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee, should communicate with the committee executive secretary.

Open committee discussion. On February 9, the committee will review and discuss the safety of oral contraceptives. On February 10, the committee will discuss the use of progestins during estrogen replacement therapy.

Cardiovascular and Renal Drugs Advisory Committee

Date, time, and place. February 16, 9 a.m., Auditorium, Lister Hill Center, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 5 p.m.; Joan Standaert, National Center for Drugs and Biologics (HFN-110), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4730.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational prescription drugs for use in the treatment of cardiovascular and renal disorders.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The committee will discuss NDA 18-972, Cordarone (amiodorone hydrochloride), Ives Laboratories, for use as an anti-arrhythmic agent and NDA 11-856 (methyl prednisolone sodium succinate), The Upjohn Co., for treatment of acute (less than 12 hours) onset of myocardial infarction.

Clinical Chemistry Device Section of the Clinical Chemistry and Hematology Devices Panel

Date, time, and place. February 28 and 29, 9 a.m., Rm. 1207, 8757 Georgia Ave., Silver Spring, MD.

Type of meeting and panel section leader. Open public hearing February 28, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 12 m.; open public hearing, 1 p.m. to 2 p.m.; open committee discussion, 2 p.m. to 5 p.m.; open public hearing, February 29, 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 5 p.m.; Kaiser Aziz, National Center for Devices and Radiological Health (HFK-440), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7234.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the panel section leader before February 1, and submit a brief statement of the nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On February 28, the committee will discuss two petitions for reclassification of in vitro diagnostic device systems for quantitation of unconjugated bilirubin and the bilirubin binding status of the blood of neonates. This information is used as an aid in the diagnosis and management of bilirubinemia and kernicterus. On February 29, the committee will discuss a petition for reclassification of an in vitro diagnostic device system "A Cytoreceptor Assay for Measurement of 1,25-dihydroxy Vitamin D in Serum." Assessment of this hormone is useful in the diagnosis and management of patients with a variety of disorders associated with abnormal calcium metabolism.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open

public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Dated: January 9, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–907 Filed 1–12–84; 8:45 am]

BILLING CODE 4160–01–M

Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel; Amendment of Meeting Agenda

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is amending the open committee discussion portion of the notice announcing a meeting to the Ophthalmic Device Panel scheduled for January 30 and 31, 1984. The meeting was announced in the **Federal Register** of December 28, 1983 (48 FR 57173). The notice is amended by adding a discussion that will be held on January 31, 1984.

FOR FURTHER INFORMATION CONTACT: George C. Murray, National Center for Drugs and Biologics (HFK–460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7940.

SUPPLEMENTARY INFORMATION: The additon to the open committee discussion portion of the agenda reads as follows:

"On January 31, the committee and FDA staff will discuss proposed amendments to the contact lens guidelines to streamline contact lens studies and the premarket approval process for contact lenses."

Dated: January 9, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–908 Filed 1–12–84; 8:45 am]

BILLING CODE 4160–01–M

Anti-Infective Drugs Advisory Committee; Republishing of Meeting; Notice

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is republishing the notice of the Anti-Infective Drugs Advisory Committee meeting scheduled for January 30 and 31, 1984. The meeting was announced in the **Federal Register** of December 16, 1983 (48 FR 55922). The notice is being republished because of a change in the open committee discussion: Discussion of Flagyl has been deleted and discussion of the prophylactic claims for cardiac surgery with regard to PRECEF (ceforanide for injection) has been added.

Anti-Inflective Drugs Advisory Committee

Date, time, and place. January 30 and 31, 9 a.m., Conference Rm. M, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contract person. Open public hearing, January 30, 9 a.m. to 10 a.m.; open committee discussion, January 30, 10 a.m. to 4:30 p.m., January 31, 9 a.m. to 12:30 p.m.; John Curtis, National Center for Drugs and Biologics, (HFN–140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6797.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drug products for use in infectious diseases.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The committee will discuss Bacitracin USP Sterile Powder for Intramuscular Use, Antibiotic Form 60–733, (Upjohn); the approach to prophlactic claims for cardiac surgery with regard to PRECEF (ceforanide for injection), Antibiotic Form 50–554 (Bristol Laboratories); and Guidelines for Clinical Studies of Systemic Antimicrobial Agents Including Prophylactic Use in Surgery.

Dated: January 9, 1984.

William R. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–909 Filed 1–12–84; 8:45 am]

BILLING CODE 4160–01–M

National Institutes of Health

Consensus Conference on the Use of Diagnostic Ultrasound Imaging in Pregnancy

Notice is hereby given of the NIH Consensus Development Conference on the Use of Diagnostic Ultrasound Imaging in Pregnancy, to be held February 6–8, 1984 in the Masur Auditorium, Warren Grant Magnuson Clinical Center (Building 10), NIH, 9000 Rockville Pike, Bethesda, Maryland. The meeting is sponsored by the National Institute of Child Health and Human Development, NIH; the National Center for Devices and Radiological Health of the Food and Drug Administration; the NIH Division of Research Resources; and the NIH Office of Medical Applications of Research.

The use of ultrasound in obstetrics has increased dramatically in recent years. It is now estimated that between one-third and one-half of all pregnancies in the United States receive ultrasound evaluation at some point. Ultrasound has been applied to assess gestational age and fetal growth, to detect fetal or maternal abnormalities, to determine the position of the fetus in utero, to recognize multiple pregnancies, and for many other purposes. Concern has risen over the safety of this procedure and over whether ultrasound use is necessary or appropriate.

In order to study this important issue, the NIH will bring together biomedical investigators, medical specialists in obstetrics, neonatology, family practice, epidemiology and radiology and other health professionals and public representatives. A panel comprised of such individuals has been reviewing diagnostic ultrasound imaging in pregnancy during the past year to develop a draft report and preliminary consensus statement. Single copies of

the report, and the draft statement and further meeting information may be obtained, at no cost from: Peter Murphy, Prospect Associates, 2115 East Jefferson Street, Suite 401, Rockville, MD 20852.

The focus of the meeting will be in answering the following questions:

- What types of ultrasound scanning are currently used in obstetric practice? How extensive is this use? What is known about dose/exposure to the fetus and the mother from each type?
- For what purposes is ultrasound now used in pregnancy? For each use what is the evidence that ultrasound improves patient management and/or outcome of pregnancy?
- What are the theoretrical risks of ultrasound to the fetus and the mother? What evidence exists from animal, tissue culture, and human studies on the actual extent of the risk?
- Based on the available evidence, what are the appropriate indications for and limitations on the use of ultrasound in obstetrics today?
- What further studies are needed of efficacy and safety of use of ultrasound in pregnancy?

During the thre-day conference, scientific presentation will be made by experts, and members of the audience will have ample time to make comments. The panel will meet in executive session at the close of the meeting on the second day and write its final consensus statement taking into consideration the draft report, the presentations and audience remarks.

At 9 a.m. on the third day, February 8, the report will be read to the audience for comment.

Dated: January 4, 1984.

James B. Wyngaarden,

Director, National Institutes of Health.

[FR Doc. 84-918 Filed 1-12-84; 8:45 am]

BILLING CODE 4140-01-M

General Clinical Research Centers Committee; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the General Clinical Research Centers (GCRC) Committee, Division of Research Resources (DRR), February 13-14, 1984, Cypress Inn, Lincoln and 7th Street, Carmel, CA.

The meeting will be open to the public on February 13, 1984, from 9:00 a.m. to approximately 12:00 noon during which time there will be comments by the Director, DRR; and update on the GCRC Program; and reports on the Clinical Associate Physician Program, the diffusion of the CLINFO System, possible new technologies for GCRCs, and Clinical Research Data Management. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public February 13, 1984, from approximately 12:00 p.m. to recess, and on February 14, 1984, from 8:30 a.m. to adjournment, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, Bldg. 31, Rm. 5B-10, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-5545, will provide summaries of the meeting and rosters of the Committee members. Dr. Ephraim Y. Levin, Executive Secretary of the General Clinical Research Centers Review Committee, Bldg. 31, Room 5B51, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-6595, will furnish program information.

(Catalog of Federal Domestic Assistance Program No. 13.333, Clinical Research, National Institutes of Health)

Dated: January 4, 1984.

Betty J. Beveridge,

NIH Committee Management Office.

[FR Doc. 84-917 Filed 1-12-84; 8:45 am]

BILLING CODE 4140-01-M

Recombinant DNA Advisory Committee; Amended Notice of Meeting

Notice is hereby given for an amendment to the Notice of Meeting of the Recombinant DNA Advisory Committee, National Institutes of Health, February 6-7, 1984, which was published in the **Federal Register** on January 5, 1984 (49 FR 896).

The meeting was to be open to the public on February 6 from 9:00 a.m. to 11:00 a.m. and again from 1:00 p.m. to recess, and on February 7 from 9:00 a.m. to adjournment. The meeting was to be closed to the public from approximately 11:00 a.m. to 12:30 p.m. on February 6. The meeting will now occur only on February 6. The closed session will now occur from approximately 4:30 p.m. to 5:30 p.m. The open portions of the meeting will be from 9:00 a.m. to approximately 4:30 p.m.

For further information please contact Dr. William J. Gartland, Executive Secretary, Building 31, Room 3B10, 9000 Rockville Pike, Bethesda, Maryland 20205.

Dated: January 5, 1984.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 84-916 Filed 1-12-84; 8:45 pm]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Bureau Forms Submitted to OMB for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collections requirement and related forms and explanatory material may be obtained by contacting the Bureau of Land Management's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer and the Office of Management and Budget Reviewing Official at 202-395-7340.

Title: 43 CFR 2562, 43 CFR 2563, 43 CFR 2567, "Notice of Location of Settlement of Occupancy Claim—Alaska"

Bureau Form Number: AK-2560-3

Frequency: Once

Description of Respondents: Claimants under the Alaska Settlement Laws

Annual Responses: 500

Annual Burden Hours: 125

Bureau clearance officer (alternate): Linda Gibbs 202-653-8853.

November 28, 1983.

James M. Parker,

Acting Director.

[FR Doc. 84-968 Filed 1-12-84; 8:45 am]

BILLING CODE 4310-84-M

[CA 13313]

California, Conveyance of Public Lands Exchange; Termination of the Segregation of Lands; Humboldt County; Correction

January 6, 1984.

AGENCY: Bureau of Land Mangement, Interior.

ACTION: Notice; correction.

SUMMARY: This document corrects a notice that appeared at page 32088 in the

Federal Register on Wednesday, July 13, 1983 (48 FR 32088).

FOR FURTHER INFORMATION CONTACT: Viola Andrade, California State Office, (916) 484–4431.

The following correction is made in FR Doc. 83–18896 appearing at page 32088 in the issue of July 13, 1983: On page 32088, column two, under "Humboldt Meridian, California" delete "T. 4 N., R. 4 E., Sec. 22, SW¼SW¼;"

Inquiries concerning this action should be addressed to the undersigned, Bureau of Land Mangement, California State Office, Room E–2841, 2800 Cottage Way, Sacramento, California 95825.

Eleanor Wilkinson,

Chief, Lands and Locatable Minerals Section Branch of Lands and Minerals Operations.

[FR Doc. 84–969 Filed 1–12 —84: 8:45 am]

BILLING CODE 4310–84–M

[M–58101]

Montana; Conveyance of Public Lands

Correction

In FR Doc. 83–33883 appearing on page 56651 in the issue of Thursday, December 22, 1983, third column, in the land description, Sec. 24, "* * * and N½ SE¼" should read "* * * and N½ SE¼ SE¼".

BILLING CODE 1505–01–M

[M–57980, M–57980–A]

Montana; Order Providing for Opening of Public Lands

Correction

In FR Doc. 83–33923 appearing on page 56653 in the issue of Thursday, December 22, 1983, middle column, third line from the bottom of the page, "5,814.27" should read "5,814.37".

BILLING CODE 1505–01–M

Geological Survey

Presentation; Initial Results of Gorda Ridge and Juan de Fuca Surveys

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice.

SUMMARY: The U.S. Geological Survey (USGS) announces a forthcoming presentation to all interested parties of initial results from joint surveys of the Gorda Ridge and nearby Juan de Fuca Ridge by the USGS, Minerals Management Service (MMS), and the National Oceanic and Atmospheric Administration (NOAA).

DATE: The presentation will be held on February 8–9, 1984, beginning at 9:00 a.m.

ADDRESS: The presentation will be held at the conference room of the USGS (Building 3), 345 Middlefield Road, Menlo Park, California 94025.

FOR FURTHER INFORMATION CONTACT:

Robert G. Beauchamp, Minerals Management Service, Mail Stop 643, Reston, Virginia 22091, telephone (703) 860–7571

or

David G. Howell, USGS, 345 Middlefield Road, Mail Stop 99, Menlo Park, California 94025, telephone (415) 856–7141.

SUPPLEMENTARY INFORMATION: Beginning at 9:00 a.m. on February 8, 1984, there will be presentations by representatives from USGS outlining the initial scientific results of the investigations followed by the afternoon and following day sessions devoted to consultations with scientists and opportunities to inspect the available data which will include:

1. Bathymetric charts of the Gorda Ridge Area.
2. Sea Mark II (sidescan) seafloor imagery.
3. Single-channel seismic profiles across the Gorda Ridge north of Escanaba Trough.
4. Two multi-channel seismic profiles across the sediment filled Escanaba Trough.
5. A suite of representative rock samples from 15 dredge hauls collected during a Gorda Ridge cruise in October 1983.
6. Preliminary chemical analyses of hydrothermal muds and manganese crusts.

Dated: January 6, 1984.

Robert Hamilton,

Chief Geologist.

[FR Doc. 84–987 Filed 1–12–84: 8:45 am]

BILLING CODE 4310–31–M

National Park Service

Development Concept Plan for Cedar Pass, Badlands National Park

AGENCY: National Park Service.

ACTION: Addendum to the Development Concept Plan for Cedar Pass, Badlands National Park.

SUMMARY: The National Park Service intends to amend the Development Concept Plan for the Cedar Pass area of Badlands National Park for the following reasons:

The development concept plan as approved in 1982 was to have resolved a number of increasingly serious problems. The plan was to have improved the relationship of visitor facilities and encouraged more desirable circulation patterns. The development concept plan called for relocating the concession lodge and residential facilities. The proposed relocation would not only have improved overall relationships but it would have also resolved the deterioration problem associated with the concession lodge.

Since the development concept plan was approved the concession lodge building has deteriorated to the point that a life, health, and safety issue has resulted. Since 1982 the park has also experienced a substantial (33 percent) decrease in visitation. As a result of this decrease and in view of efforts to cutback Federal expenditures due to austere times, implementation of the plan was held in abeyance.

The park's visitation will probably remain static. Funding for major new construction projects is not likely to be approved. Faced with these realities, the National Park Service will amend the Development Concept Plan for Badlands National Park to permit appropriate renovation to the concession lodge and thereby resolve the life, health, safety issue. The amendment and associated improvements are considered to be interim until future trends, visitation and funding dictate the need to reevaluate the Cedar Pass area.

It is not anticipated that the addendum is a major action with a potential of causing significant environmental impact or controversy. However, an environmental assessment will be prepared prior to design and construction.

Comments on the proposed addendum and request for information will be received for 30 days following publication of this notice.

FOR FURTHER INFORMATION CONTACT: Mr. Gilbert E. Blinn, Superintendent, Badlands National Park, Post Office Box 6, Interior, South Dakota, 57750.

Lorraine L. Mintzmyer,

Regional Director, Rocky Mountain Region.

[FR Doc. 84–904 Filed 1–12–84: 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or to use

compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation, addresses of principal office and State of incorporation:

ConAgra, Inc., ConAgra Center, One Central Park Plaza, Omaha, NE 68102 (a Delaware corporation)

2. Wholly-owned subsidiaries which will participate in the operations, addresses of their respective principal offices and State of incorporation:

1. Alaska Packers Association, Inc., 150 Nickerson Street, Suite 300, Seattle, WA 98109 (a Washington corporation)
2. Armour Food Company, 111 W. Clarendon Station 1017, Phoenix, AZ 85077, (a Delaware corporation)
3. Armour Food Express Company, 222 S. 72nd Street, Omaha, NE 68114 (a Delaware corporation)
4. Atwood Commodities, Inc., 876 Grain Exchange Bldg., Minneapolis, MN 55415 (a Nebraska corporation)
5. Atwood-Larson Company, 876 Grain Exchange Bldg., Minneapolis, MN 55415 (a Minnesota corporation)
6. Banquet Foods Corporation, One Banquet Place, 13515 Barrett Parkway Drive, Ballwin, MO 63011 (a Delaware corporation)
7. Banquet Foods International, Inc., One Banquet Place, 13515 Barrett Parkway Drive, Ballwin, MO 63011 (a Missouri corporation)
8. CAG Company, ConAgra Center, One Central Park Plaza, Omaha, NE 68102 (an Oklahoma corporation)
9. CAG Leasing Company, 2001 Reliance Pkwy #A, P.O. 179, Bedford, TX 76021 (a Texas corporation)
10. Caribbean Basic Foods Company, GPO Box G–1960, San Juan, Puerto Rico 00936 (a Nebraska corporation)
11. ConAgra-Europe, Inc., Bioter Biona Bldg., Emilio Vargas, 7, Madrid 27, Spain (a Nebraska corporation)
12. ConAgra Export Company, ConAgra Center, One Central Park Plaza, Omaha, NE 68102 (a Nebraska corporation)
13. ConAgra de Puerto Rico, Inc., ConAgra Center, One Central Park Plaza, Omaha, NE 68102 (a Nebraska corporation)
14. ConAgra Pet Products Company, 3902 Leavenworth Street, Omaha, NE 68105 (a Delaware corporation)
15. ConAgra Transportation, Inc., 5301 West Channel Rd., Catoosa, OK 74105 (an Oklahoma corporation)
16. MHC, Inc., ConAgra Center, One Central Park Plaza, Omaha, NE 68102 (an Oregon corporation)
17. Molinos de Puerto Rico, Inc., GPO Box G–1960, San Juan, Puerto Rico 00936 (a Nebraska corporation)
18. OKG Bulkhandling Corp., 5301 West Channel Rd., Catoosa, OK 74105 (an Oklahoma corporation)
19. Peavey Company, 730 Second Avenue South, Minneapolis, MN 55402 (a Minnesota corporation)
20. M&R Distributing Company, P.O. Box E, West Highway 30, Grand Island, NE 68801 (a Minnesota corporation)
21. Occident Insurance Co., Ltd., 730 Second Avenue South, Minneapolis, MN 55402 (a Bermuda corporation)
22. Peavey Commodity Services, Inc., 730 Second Avenue South, Minneapolis, MN 55402 (an Illinois corporation)
23. Peavey Futures Management Corporation, 730 Second Avenue South, Minneapolis, MN 55402 (an Illinois corporation)
24. Peavey Securities, Inc., 730 Second Avenue South, Minneapolis, MN 55402 (a Minnesota corporation)
25. Peavey Delaware Limited, 730 Second Avenue South, Minneapolis, MN 55402 (a Delaware corporation)
26. Peavey Industries Limited, 730 Second Avenue South, Minneapolis, MN 55402 (a Canada corporation)
27. Peavey International Inc., 730 Second Avenue South, Minneapolis, MN 55402 (an Illinois corporation)
28. Peavey Marts, Incorporated, 730 Second Avenue South, Minneapolis, MN 55402 (a Minnesota corporation)
29. Public Grain Elevator of New Orleans, Inc., 730 Second Avenue, South, Minneapolis, MN 55402 (a Louisiana corporation)
30. Universal Wholesale, Inc., 730 Second Avenue South, Minneapolis, MN 55402 (a Minnesota corporation)
31. USF of Minnesota, Inc., 730 Second Avenue South, Minneapolis, MN 55402 (a Minnesota corporation)
32. Sea Alaska International, Inc., 150 Nickerson Street, Suite 300, Seattle, WA 98109 (a Washington corporation)
33. Sea Alaska Products, Inc., 150 Nickerson Street, Suite 300, Seattle, WA 98109 (a Washington corporation)
34. Singleton Seafood Company, 5024 Uceta Road, P.O. Box 2819, Tampa, FL 33619 (a Florida corporation)
35. The Southern Micro Blenders of Tennessee, Inc., 3801 N. Hawthorne, Chattanooga, TN 37405 (a Tennessee corporation)
36. Specialty Feed Products Company, 730 Second Avenue, South, Minneapolis, MN 55402 (a Minnesota corporation)
37. Taco Plaza, Inc., 2001 Reliance Parkway, Suite A, Bedford, TX 76021 (a Texas corporation)
38. To-Ricos, Inc., P.O. Box 646, Aibonito, Puerto Rico 00609 (a Nebraska corporation)
39. Tropmi Import Company, 5024 Uceta Road, P.O. Box 2819, Tampa, FL 33619 (a Florida corporation)
40. Ultra-Life Laboratories, Inc., 3801 N. Hawthorne, Chattanooga, TN 37405 (an Illinois corporation)
41. United Agri Products, Inc., 725 South Schneider St., Fremont, NE 68025 (a Delaware corporation)
42. Balcom Chemicals, Inc., P.O. Box 1286, Greeley, CO 80631 (a Colorado corporation)
43. United Agri Products Financial Services, Inc., P.O. Box 1286, Greeley, CO 80631 (a Colorado corporation)
44. Central Valley Chemicals, Inc., P.O. Box 446, Weslaco, TX 78596 (a Texas corporation)
45. Dixie Ag Supply, Inc., 1801 Old Montgomery Rd., Selma, AL 36701 (an Alabama corporation)
46. Hess & Clark, Inc., 7th and Orange Streets, Ashland, OH 44805 (an Ohio corporation)
47. GA AG Chem, Inc., Empire Expressway, P.O. Box 1260, Swainsboro, GA 30401 (a Georgia corporation)
48. Grower Service Corp. (NY), 16713 Industrial Parkway, P.O. Box 18037, Lansing, MI 48901 (a New York corporation)
49. Loveland Industries, Inc., 2307 West 8th Street, Loveland, CO 80537 (a Colorado corporation)
50. Mid Valley Chemicals, Inc., P.O. Box 446, Weslaco, TX 78596 (a Texas corporation)
51. Midwest Agriculture Warehouse Co., 725 South Schneider Street, Fremont, NE 68025 (a Nebraska corporation)
52. Northwest Chemical Corp., 4560 Ridge Road, N.W., Salem, OR 97303 (an Oregon corporation)
53. Ostlund Chemical Co., 1330 Northwest 40th, Fargo, ND 58102 (a North Dakota corporation)
54. Platte Chemical Co., 150 South Main, Fremont, NE 68025 (a Nebraska corporation)
55. Pueblo Chemical & Supply Co., P.O. Box 1279, Garden City, KS 67846 (a Colorado corporation)
56. Snake River Chemicals, Inc., P.O. Box 1196, Caldwell, ID 83650 (an Idaho corporation)
57. Transbas, Inc., 1525 Lockwood Road, Billings, MT 59101 (a Tennessee corporation)
58. Tri River Chemical Company, Inc., P.O. Box 2641, Pasco, WA 99302 (a Washington corporation)
59. Tri State Chemicals, Inc., P.O. Box 1206, Hereford, TX 79045 (a Texas corporation)
60. Tri State Delta Chemicals, Inc., P.O. Box 369, Clarksdale, MS 38614 (a Mississippi corporation)
61. United Agri Products, Special Products, Inc., 13808 "F" Street, Omaha, NE 68137 (a Nebraska corporation)
62. Westchem Agriculture Chemicals, Inc., 1525 Lockwood Rd., Billings, MT 59101 (a Montana corporation)
63. Yellowstone Valley Chemicals, Inc., 1525 Lockwood Rd., Billings, MT 59101 (a Montana corporation)
64. Agrichem, Inc., P.O. Box 506, Burlington, WA 98233 (a Washington corporation)

1. Parent Corporation and address of principal office:

West Coast Grocery Company, Inc. 480 East 19th Street, Tacoma, WA 98401

2. Wholly owned subsidiary which will participate in the operations, and state of Incorporation:

Wesco Freight, Inc., Washington

James H. Bayne,

Acting Secretary.

[FR Doc. 84–924 Filed 1–12–84; 8:45 am]

BILLING CODE 7035–01–M

[Decision-Notice–OP3–11]

Motor Carriers; Finance Applications

Decided: December 30, 1983.

The following applications seek approval to consolidate, purchase,

merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. §§ 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal** & *I.C.C.* **Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1182.2(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

James H. Bayne,

Acting Secretary.

MCF-15542 (Republication) filed December 6, 1983, previously published January 6, 1984 and republished this issue. RED & TAN ENTERPRISES (Red & Tan) (126 North Washington Ave., Bergenfield, NJ 07621)—Continuance in Control—RED &TAN TOURS (R&TT) (437 Tonnele Ave., Jersey City, NJ 07306). Representative: Michael J. Marzano, 99 Kinderkamack Rd., Westwood, NJ 07675.

Red & Tan, a non carrier, seeks to continue in control of R&TT, upon institution of operations by R&TT in interstate or foreign commerce under certificate No. MC-162174 (Sub-No. 2). Ernest Capitani, Ernest A. Capitani, Jr., Amelia Capitani Gerace, Richard A. Capitani, Ronald Gerace, Janis Gerace, Lori Finley, Arleen Schmidt, and Mildred Capitani, who control Red & Tan, seek authority to continue in control of R&TT through the transaction.

Through authority granted in previous Commission proceedings, Red & Tan controls Rockland Coaches, Inc., Hudson Bus Transportation Co., Inc., and North Boulevard Transportation Co., all of which are common carriers.

Rockland is a motor common carrier under a certificate in No. MC-29890 and subnumbers thereunder which authorize generally the transportation of passengers and their baggage, and express, and newspapers over regular and irregular routes, between named points in New Jersey and New York.

By certificates issued under Nos. MC-129854 and MC-13492 and subnumbers thereunder, Hudson and North Boulevard, respectively, were granted authority as common carriers to transport (a) passengers and their baggage, over regular routes, between named points in New Jersey and New York, and (b) passengers, in charter and special operations, over irregular routes, between points in the U.S. (except Alaska and Hawaii)

By a decision served October 7, 1983, R&TT was granted authority to transport passengers, over regular routes, between named points in New York and New Jersey.

Note.—R&TT filed a common carrier application in MC-162174 (Sub-No. 2) which was published in the **Federal Register** on August 4, 1983. As a condition to a grant of that authority, applicant was required to file this continuance in control application or submit an affidavit indicating why such approval is unnecessary.

The purpose of this republication is to reflect the correct Preface and to also show publication in the I.C.C. and **Federal Register**

[FR Doc. 84-925 Filed 1-12-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review:

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The OMB and Agency form numbers, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small businesses or organizations are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202–523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202–395–6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

Employment and Training Administration
Evaluation of the Dislocated Worker Demonstration Projects
ETA–RC65
Single-time
Individuals or Households
2,000 reponses; 1,000 hours; 1 form

This project will test many of the programmatic and service delivery options available for the needs of workers dislocated by plant closings and mass layoffs. Information gathered will help States and localities plan more effective use of funds available through Title III of JTPA and help develop future policy initiatives.

Extension

Employment Standards Administration
Claims by Non-federal Law Enforcement Officer and Their Survivors
1215–0116, CA–721, CA–722
On occasion
Individuals or Households
575 responses; 102.5 hours; 2 forms

The CA–721 and CA–722 are used by non-federal law enforcement officers and their survivors to file claims under the FECA. The information is necessary to adjudicate the claims.

Extension

Mine Safety and Health Administration
Notification of Legal Identity
1219–0008, MASH Form 2000–7
On occasion
Businesses and other for profit; small businesses or organizations
10,400 responses; 10,400 hours

Requires mine operators to file with MSHA the name and address of the mine and the name and address of the persons who control and operate the mine, and any revisions of such names and addresses. The information is used to identify persons chargeable with violations of safety and health standards, in the assessment of civil penalties, and in the service of legal documents.

Signed at Washington, D.C. this 10th day of January, 1984.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 84–1013 Filed 1–12–84; 8:45 am]

BILLING CODE 4510–30, 4510–27, 4510–43–M

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period January 2, 1984–January 6, 1984.

In order for affirmative determination to be made and a certification of eligibility to apply for adjustment assistnce to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increase of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–14,920; Camp Branch Coal Co., Lyburn, WV

In the following case the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA–W–14,901; Rola Co., Dubois, PA

Affirmative Determinations

TA–W–14,933; Robbins & Myers, Inc., Comfort Conditioning Div., Memphis, TN

A certification was issued covering all workers separated on or after January 29, 1983.

TA–W–14,932; Robbins & Myers, Inc., Comfort Conditioning Div., Foley, AL

A certification was issued covering all workers separated on or after January 29, 1983 and before September 30, 1983.

TA–W–14,902; Scovill Security Products Group, Lenoir City, TN

A certification was issued covering all workers separated on or after January 1, 1983.

TA–W–14,782; Potash Company of America, Carlsbad, NM

A certification was issued covering all workers separated on or after January 1, 1983.

I hereby certify that the aforementioned determinations were issued during the period January 2, 1984–January 6, 1984. Copies of these determinations are available for inspection in Room 9120, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: January 10, 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 84–1014 Filed 1–12–84; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total

or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 23, 1984.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 23, 1984.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213.

Signed at Washington, D.C., this 9th day of January 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Melville Footwear Manufacturing, Inc. (workers)	Sparta, NC	12/28/83	12/21/83	TA-W-15, 157	Men's work shoes, insulated boots & western boots.
North American Philips Lighting Corp. (IBEW)	Reform, AL	1/4/84	12/16/83	TA-W-15, 158	Decorative lamps.
Reed Sportswear Manufacturing Co., (ACTWU)	Detroit, MI	1/3/84	12/16/83	TA-W-15, 159	Men's & women's leather coats & jackets.
Rubin Grais & Sons, Inc. (ACTWU)	Chicago, IL	1/3/84	12/16/83	TA-W-15, 160	Men's leather coats & jackets.
(The) Timken Co. (workers)	New Philadelphia, OH	1/6/84	12/28/83	TA-W-15, 161	Precision tapered roller bearings.
United States Metals Refining Co. (USWA)	Carteret, NJ	1/4/84	12/22/83	TA-W-15, 162	Refine & smelt copper & precious metals.
U.S. Steel Corp., Edgar Thomson-Irvin Works (USWA)	Braddock, PA	12/23/83	12/10/83	TA-W-15, 163	BOP shop and foundry
Westinghouse Electric Corp. (Electrical Wkrs.)	Cheektowaga, NY	1/4/84	12/29/83	TA-W-15, 164	Electric motors & various parts.
Sterling China Co. (workers)	Wellsville, OH	1/6/84	12/27/83	TA-W-15, 165	Hotel & restaurant dinner ware

[FR Doc. 84-1017 Filed 1-12-84; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-15,082]

Aston Precision Products, Incorporated, Aston, Pennsylvania; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on October 31, 1983, in response to a petition received on October 28, 1983, which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers at Aston Precision Products, Incorporated, Aston, Pennsylvania.

The petitioners have requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C. this 4th day of January 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 84-1016 Filed 1-12-84; 8:45 am]

BILLING CODE 4510-30-M

Office of Federal Contract Compliance Programs Reinstatement of Dibert, Bancroft & Ross Company, Ltd.

AGENCY: Office of Federal Contract Compliance Programs, Labor.

ACTION: Notice of Reinstatement, Dibert, Bancroft & Ross Company, Ltd.

SUMMARY: This notice advises that Dibert, Bancroft & Ross Company, Ltd. has been reinstated as an eligible bidder on Federal contracts and subcontracts.

FOR FURTHER INFORMATION CONTACT: John C. Fox, Executive Assistant to the Director, Office of Federal Contract Compliance Programs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room C-3325, Washington, D.C. 20210 (202-523-9475).

SUPPLEMENTARY INFORMATION: Dibert, Bancroft & Ross Company Ltd., Amite, Louisiana, was reinstated as an eligible bidder on Federal contracts and subcontracts, effective October 23, 1983, after the company demonstrated to the Director, OFCCP, it intent and ability to comply with the equal opportunity clause of Executive Order 11246, as amended.

A copy of the Conciliation Agreement, signed on October 19, 1983, by the Director, Office of Federal Contract Compliance Programs, reinstating Dibert, Bancroft & Ross Company, Ltd., and committing the Company to specific affirmative action steps and reporting requirements follows.

Dated: December 21, 1983.

Susan R. Meisinger,

Acting Director.

Conciliation Agreement Between United States Department of Labor, Office of Federal Contract Compliance Programs and Dibert, Bancroft and Ross Company, Limited Amite, Louisiana 70422

Part I: General Provisions:

1. This Agreement is between the Office of Federal Contract Compliance Programs (hereinafter OFCCP) and Dibert, Bancroft and Ross Company, Limited, Amited, Louisiana (hereinafter DB and R).

2. On October 8, 1974, the U.S. Department of Defense, Defense Supply Agency (hereinafter "DSA"), issued a notification of Contractor's Ineligibility for Government Contracts (Appendix 1, hereto), debarring Dibert, Bancroft and Ross Company, Ltd., Amite, Louisiana, Respondent, from Federal contracts, subcontracts or extensions, or other modifications of existing contracts funded in whole or in part by any agency or instrumentality of the United States. This debarment was the result of the following events:

On November 15, 1973, DSA scheduled a compliance review pursuant to Executive Order 11246 and 41 CFR Part 60-1 and 41 CFR Part 60-2 (1973 ed.), and on December 12, 1973, initiated an onsite review. DB and R did not have a written Affirmative Action Program (AAP) as required by 41 CFR Part 60-1 and 41 CFR Part 60-2, and refused to develop such a plan. Representatives of DSA toured the DB and R establishment in Amite, Louisiana and identified the absence of minorities in certain departments. Thereafter DB and R representatives denied DSA further access to information DSA sought pursuant to 41 CFR Part 60-1 and 41 CFR Part 60-2. DSA issued a notice to show cause to DB and R on January 24, 1974 (Appendix 2, hereto). DB and R continued to decline to prepare and submit an AAP. On August 9, 1974, DSA notified DB and R in writing of the proposed cancellation of Federal

contracts because of noncompliance (Appendix 3, hereto), and advised it of its right to request a hearing. DB and R did not reply.

On September 12, 1974, the Deputy Chief, Office of Contracts Compliance, Contract Administration Services, Department of Defense, issued a Recommendation for the Issuance of Notice of Cancellation (Appendix 4, hereto). On October 8, 1974, the Deputy Secretary of Defense issued a Notice of Debarment (Appendix 1, hereto).

These actions were taken pursuant to regulations then in effect which had been promulgated pursuant to Executive Order 11246 (30 F.R. 12319), as amended (hereinafter referred to as "Executive Order 11246"). Since the September 12, 1974 and October 8, 1974 actions, Executive Order 11246 was amended by Executive Order 12086 (43 F.R. 49420), which consolidated all the functions previously assigned to various compliance agencies for enforcement of Executive Order 11246 into the Office of Federal Contract Compliance Programs ("OFCCP"), United States Department of Labor ("DOL").

On October 10, 1978, DB and R filed a request pursuant to 41 CFR Sec. 60–1.31 that the Director, OFCCP, reinstate it as an eligible Federal contractor within the terms of Executive Order 11246. On January 17, 1979, DB and R in response to the Notification of Directed Compliance Review (dated December 15, 1978), requested an indefinite extension of time in which to prepare an AAP which effectively stayed the reinstatement procedure at that time. finally, on July 10, 1981, DB and R submitted an unacceptable AAP. Then, about four days later DB and R declined to permit OFCCP to conduct an onsite review (see 41 CFR Sec. 60–60.3(c)) as part of the reinstatement procedure. This effectively stayed the reinstatement procedure again at this time. On July 2, 1982, DB and R again filed a request pursuant to 41 CFR Sec. 60–1.31 that the Director, OFCCP, Reinstate it as an eligible Federal contractor within the terms of Executive Order 11246. This request initiated reinstatement procedures and an onsite compliance review resulting in this Agreement.

The record in this case consists of the January 224, 1974 notice to show cause (Appendix 2), the March 14, 1974 notification of non-awardable prospective contractors, the August 9, 1974 notice of proposed cancellation of Federal Contracts (Appendix 3), the September 12, 1974 Recommendation for the Issuance of Notice of Cancellation (Appendix 4), and the October 8, 1974 Notice of Debarment (Appendix 1). The parties to this Agreement hereby waive any further procedural steps which may be provided in 41 CFR Part 60–30 for a Final Administrative Order.

Furthermore, the parties to the Agreement agree that upon signature this Agreement shall consitute a Final Administrative Order and agree not to challenge or contest the validity of the Final Order.

3. Subject to the performance by DB and R of all promises and representations contained herein and in its Affirmative Action Program, all identified problem areas in this Agreement in egard to the compliance of DB and R with Executive Order 11246, as amended, shall be deemed resolved. Further, the October 8, 1974 Debarment is lifted and DB and R is entitled to bid on and to receive Federal contracts and subcontracts without restriction by OFCCP.

4. DB and R agrees that OFCCP may review compliance with this Agreement. As part of such review, OFCCP may require written reports, inspect the premises, examine witnesses and examine and copy documents as noted more fully below.

5. DB and R agrees that there will be no retaliation of any kind against any beneficiary of this Agreement, or against any person who has provided information or assistance, or who files a charge, or who participates in any manner in any proceeding under Executive Order 11246, as amended.

6. This Agreement will be deemed to have been accepted by the Government on the date of signature by the parties.

7. It is recognized that where OFCCP believes that DB and R has breached the Conciliation Agreement, evidence regarding the entire scope of DB and R's alleged non-compliance from which the Conciliation Agreement resulted, in addition to evidence regarding DB and R's alleged violation of the Conciliation Agreement, may be introduced at the enforcement proceeding.

8. This Agreement is applicable to and binding upon DB and R, all of its divisions and subsidiaries, and all affiliates, purchasers, successors, transferees, and/or assignees of DB and R, during the period in which the Agreement is in effect.

DB and R agrees to comply with the requirements of this Agreement. DB and R agrees to disseminate to its employees its equal employment opportunity policy and this Agreement within thirty (30) days from the execution of this Agreement. The policy and this Agreement must be posted on employee bulletin boards throughout the plant for at least 60 days and must be discussed during staff and employee meetings. It is the Chief Executive Officer's responsibility to maintain a work environment free of harassment and/or intimidation.

II. Specific Provisions:

1. Prior to entering into the Agreement, OFCCP conducted a compliance review of DB and R pursuant to 41 CFR Sec. 60–1.31. This compliance review disclosed certain deficiencies set forth below for which DB and R agreed to institute certain corrective actions, also set forth below. The listed corrective actions are part of the terms and conditions of this Agreement.

(1) DEFICIENCY. The AAP submitted by DB and R was not signed by an executive official of the company as required by 41 CFR Sec. 60–1.40(a).

CORRECTIVE ACTION. On August 30, 1982, DB and R submitted an AAP signed by the President of the company, meeting the requirements of 41 CFR Sec. 60–1.40(a).

(2) DEFICIENCY. DB and R did not maintain support data as required by 41 CFR Sec. 60–2.12(m).

CORRECTIVE ACTION. On August 23, 1982, DB and R established a system to maintain data on applicant flow, hiring, promotion, transfers, training and terminations. Data will include the date, name, race, sex and job title for each personnel transaction. In addition, applicant flow information will include the job(s) for which the applicant has applied, job category, referral source and disposition. Establishment of this system conforms to the requirements of 41 CFR Sec. 60–2.12(m).

(3) DEFICIENCY. The AAP submitted by DB and R on July 30, 1982, did not include a work force analysis as required by 41 CFR Sec. 60–2.11(a). On August 12, 1982, DB and R submitted a work force analysis. This analysis did not meet requirements set forth at 41 CFR Sec. 60–2.11(a). Specifically, the work force analysis did not contain wage rates or salary ranges for salaried personnel. Additionally, the organizational units (departments) did not include unit supervision.

CORRECTIVE ACTION. On August 19, 1982, DB and R provided salary information. On August 8, 1983, DB and R provided a revised work force analysis which included unit supervision for each organizational unit as required by 41 CFR Sec. 60–2.11(a).

(4) DEFICIENCY. The AAP submitted by DB and R on July 30, 1982, did not contain a utilization analysis as required by 41 CFR Sec. 60–2.11(b). On August 12, 1982, DB and R submitted a utilization analysis. This analysis was unacceptable, specifically,

A. Major job groups were formed by departmental units rather than by jobs having similar content, wage rates and opportunities as required by 41 CFR Sec. 60–2.11(b), resulting in the indequate identification of segregated job groups.

B. Based upon the inappropriate job groupings, the availability analysis is deficient.

C. All areas of underutilization were not identified as required by 41 CFR Sec. 60–2.11(b).

CORRECTIVE ACTION. DB and R submitted a revised utilization analysis on August 30, 1982 and September 14, 1982. These submissions reflected identification of all calculated underutilized areas using the inappropriately grouped jobs. On August 8, 1983, DB and R submitted a revised utilization analysis which did not meet the requirements of 41 CFR Sec. 60–2.11(b), in that the jobs were inappropriately grouped. On September 22, 1983, DB and R submitted a revised utilization analysis containing appropriately grouped jobs and an acceptable availability analysis meeting the requirements set forth at 41 CFR Sec. 60–2.11(b).

(5) DEFICIENCY. Due to Deficiency No. 4 above, the goals provided in the AAP, submitted July 30, 1982, did not meet the requirements of 41 CFR Sec. 60–2.12 and 41 CFR Sec. 60–2.13(e).

CORRECTIVE ACTION. On September 22, 1983, DB and R submitted revised goals meeting the requirements of 41 CFR Sec. 60–2.12 and 41 CFR Sec. 60–2.13(e).

(6) DEFICIENCY. OFCCP conducted an onsite review of DB and R's work force on August 19, 1982. This review revealed discriminatory placement of minority (Black) employees into lower paying job classifications for the relevant period of review between November 15, 1973 and October 8, 1974. Although no applicant records are available, the review of incumbent and former employee personnel files revealed that four (4) Black employees possessed qualifications equal to-or better than that of some non-minorities who were hired into the crane operator and pattern maker job classification (s). Specifically, the review revealed that the company had placed no Black employees in either the crane operator or the pattern maker classifications and/or line of progression. Further, there is only one Black employed as an apprentice in molder classification of three molder apprentice positions. Conversely, there were no Whites employed in the chipper grinder, sand mixer, helpers or laborers job classifications. DB and R contends that most of the minority incumbents do not meet the requirements for pattern maker, molder and crane operator job classifications and/or lines of progression. The foregoing reflects employment discrimination and must be remedied in accordance with 41 CFR Sec. 60–2.1(b)

CORRECTIVE ACTION. DB and R shall take the following remedial actions to ensure that all job classifications and departments are not segregated by race: Priority placement of qualified minority incumbents into these segregated job titles as vacancies occur prior to outside hiring, including the rehiring of former employees. As vacancies occur in these segregated job classifications, DB and R will make an offer of employment to victims of discrimination listed on Appendix 5 into the appropriate job classifications of molder or pattern maker apprentice or crane operator at a rate of 50% of the vacancies which arise in each classification, until all names are exhausted, starting with those employees noted with the most senior date of hire, and continuing with former employees based on date of hire. Appendix 5 identifies minority (Black) incumbents and former employees who are qualified for those job classifications and/or line of progression as indicated.

These employees must be allowed placement as described above without loss of income. If the job classification to which employees are transferred pays less than their current position, but opens the way to jobs with higher earnings potential, they must be paid at their current rates ("red circled") until, through advancement or other pay increases, their earnings in the new positions equal or exceed the red-circled rates.

Rehiring Procedures

DB and R is not a party to any written collective bargaining agreements and accordingly is not a party to any bona fide seniority systems. DB and R's layoff/recall policy is not a contractual one and rehires will not be used to occupy job classifications intended to be filled by the identified victims or discrimination. Any attempt to do so will be considered a lack of good faith and will not be a defense for the company's failure to eliminate segregated job classifications.

Selction Procedures

DB and R is obligated to ensure that, as part of the selection procedure, qualifications must be based on job-related criteria. DB and R must not use disparate placement practices which have resulted in segregated job classifications and departments during the relevant period of time. Further, any selection procedure which is neutral on its face (e.g. high school diploma, height, weight requirements), that disproportionately excludes minorities or women is a violation of 41 CFR Sec. 60–3.4 B unless validated in accordance with 41 CFR Sec. 60–3.5 and 41 CFR Sec. 60–3.14. However, DB and R may use properly validated job related tests in accordance with the Uniform Guidelines on Employee Selection Procedures.

(7) DEFICIENCY. The AAP submitted by DB and R on July 30, 1982, failed to address problem areas by organizational units and job groups (41 CFR Sec. 60–2.13(d), and action-oriented programs designed to eliminate the problem area and further designed to attain established goals (41 CFR Sec. 60–2.13(f). Specifically, DB and R did not identify and design an action-oriented program to eliminate the problem of segregated job groups. Further, DB and R failed to identify as a problem area the lack of women in the blue collar positions, despite their availability or to take specific action-oriented steps to employ available, qualified women throughout the blue collar sector of the work force.

CORRECTIVE ACTION. On September 22, 1983, DB and R agreed to identify the absence of women and minorities in several sectors of the work force, where they were otherwise available and qualified, as a problem area and to undertake the following specific action-oriented programs:

A. Within 90 days of the effective date of this Agreement, DB and R shall develop and implement a program of counseling and encouragement of present and future female and minority employees to seek and obtain jobs in every department of the facility, with special emphasis on jobs with concentrations of men or non-minority employees. DB and R will provide OFCCP with a copy of this program for prior review and approval at least 30 days prior to its implementation. Features of the program shall include, but are not limited to, the following:

(1) Within six months of the entry of the Agreement, and annually thereafter, a training program will be conducted for all supervisory personnel (including foremen and line supervisors) focusing on supervisory obligations under the AAP and this Agreement; past performance and current goals including problems previously encountered and methods whereby such can be overcome; and methods by which women and minority employees may be assisted in order for them to obtain and successfully perform in jobs with large male and/or non-minority

concentrations. An employee of the OFFCP will attend the initial supervisor training program.

(2) At the time this program is implemented and annually thereafter, the Chief Executive Officer will prepare a letter to be posted conspicuously throughout the plant, and to be shown to each female and minority employee and to each newly hired female or minority employee during their orientation period. The letter shall reaffirm the commitment of DB and R to EEO and stress the various measures DB and R is taking to fulfill that commitment.

(3) Within six months of entry of this Agreement, and annually thereafter for the duration of this Agreement, female and minority employees shall meet in groups not to exceed 8 such employees with their immediate supervisor for a counseling session. In each such session, the supervisor will provide the employees with encouragement in seeking all available jobs in the plant for which they are qualified, and will discuss any problems the employees are having on the job, training and promotion opportunities.

B. DB and R will advise all new hires of the existence of vacancies in all jobs with particular effort to encourage women and minorities to seek jobs which have concentrations of men and non-minorities.

C. All employees regardless of race or sex shall receive the same training and instruction for each job.

(8) DEFICIENCY. The AAP did not address the Sex Discrimination Guidelines but merely discussed sexual harassment which does not meet the requirements of 41 CFR Part 60–20. On September 15, 1982, DB and R submitted a pregnancy leave policy which allows a specified time off for child bearing rather than treating pregnancy leave as any other temporary illness. This policy violates the requirements of 41 CFR Sec. 60–20.3(g).

CORRECTIVE ACTION. On September 27, 1983, DB and R addressed the Sex Discrimination Guidelines including pregnancy leave policy, meeting the requirement of 41 CFR Part 60–20.

III. Reports

1. DB and R shall submit monthly reports to the New Orleans Area Office, OFCCP, beginning with the first month following the execution of this Agreement. Reports are to be received by the New Orleans Area Office not later than the fifteenth calendar day following the end of the reporting period. Data to be submitted will include a list of vacancies filled, applicant flow (including job applied for), hiring activity, terminations, transfers, training, promotions, temporary illness, disability leave, and counseling as specified in the corrective action to Deficiency Number 7. Each entry shall include date, name, race and sex. Where appropriate, indicate reasons for personnel actions; i.e., failure to select, hire or promote and reason for termination. If, after a (3) three-month period, the reports indicate compliance with this Agreement, and the Executive Order, OFCCP will review reporting requirements to determine if reporting intervals may be extended to quarterly. DB and R will also submit on an annual basis a report of the results of the prior year's AAP. Such report shall contain at least an explanation of goal attainment and good faith efforts DB and R undertook to meet any missed goal(s).

DB and R agrees to maintain for the duration of this Agreement all documents which support the statements made in the AAP and the aforementioned reports, and shall make such documents available for inspection and copying by the OFCCP upon reasonable notice. Additionally, OFCCP may conduct onsite evaluations, as necessary, of DB and R's compliance with this Agreement.

IV. Implementation and Enforcement

1. This Agreement shall expire two (2) years from the date of the Director's signature, except as to the provisions of Deficiency 6 which requirements shall terminate on the date all identified victims of emplyment discrimination are transferred to their rightful places.

2. If, at any time during the operation of this Agreement, the Office of Federal Contract Compliance Programs or its successor(s) believes that Dibert, Bancroft and Ross Company, Ltd., has violated any portion of this agreement, Dibert, Bancroft and Ross Company, Ltd., shall be promptly notified of the fact in writing. This notification shall include a statement of facts and circumstances relied upon in forming that belief. In addition, the notification shall provide Dibert, Bancroft and Ross Company, Ltd., with fifteen (15) working days to respond in writing. It is understood that OFCCP may initiate a hearing on whether this Agreement has been violated any time after the fifteen-day period has elapsed upon filing with an Administrative Law Judge the written notification sent to Dibert, Bancroft and Ross Company, Ltd., accompanied by a Motion for Sanctions.

A Motion by the Government claiming a default under this Agreement: (1) shall state briefly and concisely the facts providing the basis for the claim of violation, and (2) may request the entry of an order of debarment and/or order suspending, cancelling, or terminating whatever federally involved contracts or subcontracts which may at that time be held by DB and R or other relief as may be appropriate.

DB and R shall have the right to file and serve and answer to a Motion claiming default, with fifteen (15) days after receipt of the Motion. Failure to make timely answer to the Motion shall result in the entry of an order entering the relief requested in the Motion. A request by either party that the court give the matter expedited consideration shall not be opposed by the other party.

In the event an answer is timely filed, the Administrative Law Judge shall set a hearing date on the Motion. This hearing shall be governed by these provisions and 41 CFR Part 60–30.31, including the expedited hearing procedures at 41 CFR Sec. 60–30 *et seq.*, as applicable, at the discretion of OFCCP. The hearing shall be on the record. After the hearing, the provisions of 41 CFR Sections 60–30.25 through 60–30.30, or 60–30.35 through 60–30.37, as appropriate shall be applicable.

V. Non-Limitation of Agreement

Nothing provided in this Agreement shall be construed as a limitation upon the application of State or Local affirmative action or equal employment opportunity requirements.

VI. Non-Admissions Clause

By entering into this agreement, DB and R does not admit that it has violated E.O. 11246, as amended, or that it has in any manner discriminated against its employees or any applicant for employment based upon said individual's race, creed, color, national origin, sex, religion, handicap, or service in the armed services of the United States. Furthermore, this agreement shall not constitute an admission that DB and R was subject to E.O. 11246 during the period from February 20, 1974, to the effective date of this agreement. DR and R denies that it discriminated against anyone on the basis of race, sex, religion or national origin.

VII. Reinstatement as an Eligible Contractor

Wherefore, based on the foregoing agreements and representations, Dibert, Bancroft and Ross Company, Ltd., may be and hereby is reinstated as an eligible bidder on Federal contracts and subcontracts effective on the date of signature of the parties. Thus, Dibert, Bancroft and Ross Company, Ltd., can receive any such contracts bid upon, on

or after this date. The director of OFCCP shall expeditiously communicate this fact to contracting agencies and to the Comptroller General of the United States.

VIII. Signatures

This Conciliation Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and Dibert, Bancroft and Ross Company, Ltd., Amite, Louisiana.

Date: October 19, 1983.

For the Office of Federal Contract Compliance Programs: Ellen Shong Bergman, *Director, Office of Federal Contract Compliance Programs, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210, (202) 523–9475.*

Witness: John C. Fox, *Executive Assistant to the Director, Office of Federal Contract Compliance Programs, U.S. Department of Labor, Washington, D.C. 20210, (202) 523–9475.*

Date: October 23, 1983.

For the Company: John A. Ross, *President, Dibert, Bancroft and Ross Company, Limited, Amite, Louisiana 70422, (504) 748–7141.*

Witness: *G. Phillip Shuler, Chaffe, McCall, Phillips, Toler & Sarpy, 1500 First National Bank of Commerce Building, New Orleans, Louisiana 70112–1, (504) 566–1320.*

[FR Doc. 84–1012 Filed 1–12–84; 8:45 am]

BILLING CODE 4510–27–M

LEGAL SERVICES CORPORATION

Repeal of Instruction Concerning Employee Salaries

AGENCY: Legal Services Corporation.

ACTION: Notice.

SUMMARY: This notice repeals the Legal Services Corporation Instruction concerning recipient employee salary levels, published in the **Federal Register** November 12, 1976 (41 FR 50042–43). This Instruction is repealed because it is clearly obsolete.

EFFECTIVE DATE: February 13, 1984.

FOR FURTHER INFORMATION CONTACT: Gregg L. Hartley, Office of Field Services, Legal Services Corporation, 733 15th Street NW., Washington, D.C. 20005; telephone (202) 272–4080.

SUPPLEMENTARY INFORMATION: The Legal Services Corporation has been conducting a systematic review of its old Instructions, updating or eliminating them. With the repeal of this Instruction, only one Instruction dated prior to 1983 is still in effect. That one remaining old Instruction, Property Management Program for Legal Services Corporation Recipients, dated April 16, 1979, will be revised in the near future.

Dated: January 9, 1984.

Gregg L. Hartley,

Director, Office of Field Services.

[FR Doc. 84–955 Filed 1–12–84; 8:45 am]

BILLING CODE 6820–35–M

LIBRARY OF CONGRESS

American Folklife Center Board of Trustees; Meeting

In accordance with Pub. L. 94–463, the Board of Trustees of the American Folklife Center announces its meeting to be held in Washington, D.C. on Friday, February 10, from 9:30 a.m. to 4:30 p.m. in the Wilson Room of the Library of Congress. The meeting will be open to the public. It is suggested that persons planning to attend this meeting as observers contact Eleanor Sreb, American Folklife Center (202) 287–6590.

The American Folklife Center was created by the U.S. Congress with passage of Pub. L. 94–201, the American Folklife Preservation Act, in 1976. The Center is directed to "preserve and present American folklife" through programs of research, documentation, archival preservation, live presentation, exhibition, publications, dissemination, training, and other activities involving the many folk cultural traditions of the United States. The Center is under the general guidance of a Board of Trustees composed of members from Federal agencies and private life widely recognized for their interest in American folk traditions and arts.

The Center is structured with a small core group of versatile professionals who both carry out programs themselves and oversee projects done by contract by others. In the brief period of the Center's operation it has begun energetically to carry out its mandate with programs that provide coordination, assistance, and model projects for the field of American folklife.

Raymond L. Dockstader,

Deputy Director, American Folklife Center.

[FR Doc. 84–959 Filed 1–12–84; 8:45 am]

BILLING CODE 1410–01–M

NATIONAL SCIENCE FOUNDATION

Ad Hoc Oversight Subcommittee for Astronomy Research Section; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Ad Hoc Oversight Subcommittee for Astronomy Research Section, Advisory Committee for Astronomical Sciences.

Date: January 31, February 1 and 2, 1984.

Time: 9:00 AM–5 PM each day.

Place: Room 643, National Science Foundation, 1800 G Street, NW, Washington, DC 20550.

Type of meeting: Closed.

Contact person: Dr. Morris L. Aizenman, Head, Astronomy Research Section, Division of Astronomical Sciences, Room 615, National Science Foundation, Washington, DC, 20550 Telephone: (202) 357–7643.

Summary minutes: May be obtained from the contact person at the above address.

Purpose of committee: To provide NSF management with an advisory appraisal of the technical stewardship by the NSF. This review is in addition to the peer reviews of particular proposals, and is in accordance with policies outlined in NSF Circular No. 147.

AGENDA

Tuesday, January 31, 1984 (Closed)

9AM–5PM—Review and comparison of declined proposals (and supporting documentation) with successful awards in the Astronomy Research Section, including peer review materials and other privileged material.

Wednesday, February 1, 1984 (Closed)

9AM–5PM—Further review and comparison of declined proposals and awards.

Thursday, February 2, 1984 (Closed)

9AM–5PM—Executive Sessions: Writing of Draft Report.

Reason for closing: The Oversight Review Committee will be reviewing grant and declination jackets which contain the names of applicant institutions and principal investigators and privileged information contained in declination proposals. This session will also include a review of the peer review documentation pertaining to applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator

January 10, 1984.

[FR Doc. 84–915 Filed 1–12–84; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Advanced Scientific Computing; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Advanced Scientific Computing.

Date and time: January 30–31, 1984; 9:00 AM to 5:00 PM each day.

Place: Room 540, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.

Type of meeting: Part Open—Open January 30—9:00 AM to noon; closed January 30—noon to 5:00 PM; closed January 31—9:00 AM to 5:00 PM.

Contact person: Dr. Edward F. Hayes, Controller, National Science Foundation, Washington, D.C. 20550. Telephone (202) 357–9418.

Summary of minutes: May be obtained from Dr. Edward F. Hayes.

Purpose of committee: To provide advice and recommendations concerning NSF support for advanced computing resources.

Agenda: The meeting will involve briefing of the Committee by NSF staff on items of central interest to the Committee. The closed session will involve review of pending proposals.

Reason for closing: The closed session of the meeting will deal with a review of proposals containing the names of applicant institutions and principal investigators and privileged information from the files pertaining to the proposals. These matters are within exemptions (4) and (6) of U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

January 10, 1984.

[FR Doc. 84–914 Filed 1–12–84; 8:45 am]

BILLING CODE 7555–01–M

OFFICE OF PERSONNEL MANAGEMENT

Proposal of New Forms Undergoing OMB Review

AGENCY: Office of Personnel Management.

ACTION: Notice of Proposed Information Collection Submitted to OMB for Clearance.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), this notice announces a proposal to collect information from the public. SF 28xxC, Physician's Statement, is completed by physicians providing medical documentation in support of applications for disability retirement. Also, in certain cases SF 28xx, Documentation In Support of Disability Retirement Application, SF 28xxA, Applicant's Statement of Disability, SF 28xxB, Supervisor's Statement, SF 28xxD, Agency Certification of Reassignment and Accommodation Efforts, and SF 28xxE, Disability Retirement Application Checklist, are completed by former Federal employees who apply for disability retirement within one year of the date of separation from the service as provided by Section 8337, Title 5, United States Code. For copies of this proposal, call John P. Weld, Agency Clearance Officer, on (202) 632–7720.

DATES: Comments on this proposal should be received within ten working days from the date of this publication.

ADDRESSES: Send or deliver comments to:

John P. Weld, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street, NW., Room 6410, Washington, D.C. 20415

and

Mr. Frank Reeder, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503

FOR FURTHER INFORMATION CONTACT: William Washington, (202) 632–5472.

Office of Personnel Management.

Donald J. Devine,

Director.

[FR Doc. 84–1021 Filed 1–12–84; 8:45 am]

BILLING CODE 6325–01–M

POSTAL SERVICE

Intent To Solicit Transportation of Mail by Air

AGENCY: Postal Service.

ACTION: Notice.

SUMMARY: The Postal Service intends to solicit proposals for transportation of mail, by air carriers, to and from points located in the United States with service to commence on January 1, 1985.

DATES: Request for proposals will be issued on January 20, 1984. Offers will be accepted by the Postal Service until April 2, 1984.

ADDRESS: Negotiation packages may be obtained by interested parties by writing to General Manager, Transportation, Procurement and Policy Division, Room 7913, U.S. Postal Service, Washington, D.C. 20260–7132.

FOR FURTHER INFORMATION CONTACT: J. Paul Seehaver, (202)245–4035.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 84–900 Filed 1–12–84; 8:45 am]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

Executive Committee of the Government-Business Forum on Small Business Capital Formation; Meeting

The Small Business Investment Incentive Act of 1980 (Pub. L. No. 96–477, October 21, 1980) requires the Securities and Exchange Commission to conduct an annual Government-Business Forum to review the current status of problems and programs relating to small business capital formation. The Executive Committee, comprised of appointees from several federal agencies and private sector organizations, will meet on January 19, 1984, at 9:30 a.m. for the purpose of planning the Forum which is scheduled for the fall of 1984. The meeting is to be held at the Securities and Exchange Commission, Room 3059, 450 5th Street, NW., Washington, D.C. 20549, and will be open to the public.

For further information, contact H. Steven Holtzman at (202) 272–2644.

George A. Fitzsimmons,

Secretary.

January 10, 1984.

[FR Doc. 84–942 Filed 1–12–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 23196; 70–6698]

American Electric Power Co., Inc., et al.; Hearing

January 6, 1984.

In the matter of American Electric Power Co., Inc., AEP Generating Company, 1 Riverside Plaza, Columbus, Ohio 43216; Indiana & Michigan Electric Co., One Summit Square, P.O. Box 60, Fort Wayne, Indiana 46801; Proposal To Amend Revolving Credit Agreement and Capital Funds Agreement.

American Electric Power Company, Inc. ("AEP"), a registered holding company, Indiana & Michigan Electric Company, an electric utility subsidiary of AEP, and AEP Generating Company ("AEGCo"), a wholly owned generating subsidiary of AEP, have filed a post-effective amendment to their application-declaration in this proceeding pursuant to Sections 6(a), 7, 9, 10 and 12 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 45 thereunder.

By orders dated March 24, 1982 (HCAR No. 22429) and February 16, 1983 (HCAR No. 22857), AEGCo was authorized to issue and reissue unsecured promissory notes evidencing borrowings in the aggregate principal amount of up to $450 million at any one time outstanding through December 31, 1987, from a group of ten commercial banks pursuant to a revolving credit agreement, ("Revolving Credit Agreement"), as amended. Borrowings by AEGCo under the Revolving Credit Agreement, together with other funds available to AEGCo, including funds made available by AEP pursuant to a capital funds agreement ("Capital Funds Agreement"), as amended, are applied to construction costs for the Rockport Generating Station ("Rockport") in Indiana. At September 30, 1983, AEGCo's investment in Rockport was $336 million. As of November 15, 1983, AEGCo has outstanding notes evidencing borrowings under the Revolving Credit Agreement in the aggregate principal amount of $120 million.

AEGCo proposes a further amendment of its Revolving Credit Agreement under which the banks would extend their commitments to December 31, 1989. The terms of borrowing by AEGCo at the London Interbank Offering ("LIBO") rate would also be amended. The Revolving Credit Agreement currently provides that LIBO rate borrowings shall bear interest at ½ of 1% per annum above the LIBO rate until December 31, 1985 and ⅝ of 1% per annum above the LIBO rate between January 1, 1986 and December 31, 1987. This amendment will provide that LIBO rate notes bear interest at ½ of 1% per annum above the LIBO rate until December 31, 1987 and 5/8 of 1% per annum above the LIBO rate between January 1, 1988 and December 31, 1989. All other terms and conditions of borrowing under the Revolving Credit Agreement, including provisions relating to the payment of commitment fees on the unused amount of each bank's commitment thereunder, shall remain unchanged.

AEP and AEGCo also propose to amend the Capital Funds Agreement. It presently obligates AEP to contribute to AEGCo such additional amounts of capital as may be required from time to time by AEGCo in order to maintain the equity component of the capitalization of AEGCo at not less than 15% through December 31, 1984, not less than 20% thereafter through December 31, 1985, not less than 25% thereafter through June 30, 1986, and not less than 35% thereafter through December 31, 1987. This amendment will provide that AEP maintain the equity component of AEGCo's capitalization at not less than 35% at all times after June 30, 1986.

The amended application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by January 30, 1984 to the Scretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declaration at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-943 Filed 1-12-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20537; SR-NYSE-83-58]

New York Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

January 6, 1984.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 30, 1983, the New York Stock Exchange, Inc. ("NYSE") 11 Wall Street, New York, New York 10005, filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The NYSE's proposed rule change would extend the NYSE's pilot program relating to the operation of enhancements to the Automated Bond System ("ABS Enhancements") [1] from December 15, 1983 to April 30, 1984. The ABS Enhancements, as approved in SR-NYSE-83-11, consist of a pilot program whereby a universal contra party name is used (1) to compare transactions effected by matching orders through the ABS, and (2) to automate submission of trade data entered in the ABS to comparison.[2] The NYSE has noted it is requesting an extension to allow the Exchange additional time to codify the ABS Enhancements in a permanent rule change proposal. The NYSE states that the ABS Enhancements are not proposed to be changed during the extension of the pilot program. According to the NYSE, the statutory basis for the proposed rule change is Section 6(b)(5), 11A(a)(1), and 17A(a) of the Act.

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, 450 5th Street, NW., Washington, D.C. Reference should be made to File No. SR-NYSE-83-58.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of

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[1] The Commission approved the adoption of the pilot program (SR-NYSE-83-11) on July 14, 1982 (Securities Exchange Act No. 18690, July 14, 1982; 47 FR 32674, July 28, 1982). The Commission most recently approved an extension to the pilot program until December 15, 1983 as proposed in SR-NYSE-83-50. (Securities Exchange Act No. 20321, October 21, 1983; 48 FR 49957, October 28, 1983).

[2] In its original filing (SR-NYSE-83-11), the NYSE noted that the pilot program would require modification to certain NYSE rules prior to Commission approval of the program on a permanent basis, and that any necessary changes to its rules would be submitted to the Commission during the pilot program.

publication of notice of filing thereof, in that it will provide the Exchange with the additional time necessary to codify the ABS Enhancements into a permanent rule change proposal as well as permitting it to file with the Commission the necessary modifications to NYSE rules prior to Commission approval on a permanent basis. Therefore, the Commission believes it is appropriate to extend the pilot program until April 30, 1984.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-940 Filed 1-12-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20536; SR-NYSE-83-59]

New York Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

January 6, 1984.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 30, 1983, the New York Stock Exchange, Inc. ("NYSE"), 11 Wall Street, New York, New York 10005, filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The NYSE's proposed rule change would amend paragraph .40 of the NYSE's Rule 103A, the "sunset" provision, to extend the rule's effectiveness from December 31, 1983 to March 31, 1984.[1] Rule 103A provides for the evaluation of specialist performance and establishes a non-disciplinary procedure for the reallocation of stock due to substandard specialist performance. Rule 103A authorizes the Market Performance Committee of the NYSE to withdraw NYSE approval of a member's registration as specialist in one or more stock(s) if the specialist has consistently received evaluation by floor brokers on the quarterly Specialist Performance Evaluation Questionnaire which are below a minimum level of acceptable performance. The Exchange noted in its filing that the purpose of this extension is to keep Rule 103A effective while the NYSE codifies and files with the Commission its procedures for specialist performance review and counselling of a specialist unit whose performance needs improvement. The NYSE states that the statutory basis for the proposed rule change is Section 6(b)(5) of the Act which, among other things, requires Exchange rules to be designed to promote just and equitable principles of trade; to foster cooperation and coordination with persons engaged in regulating, clearing, settling and processing information with respect to, and facilitating transactions in securities; to remove impediments to and perfect the mechanism of a free and open market and a national market system; and, in general, to protect investors and the public interest.

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. Reference should be made to File No. SR-NYSE-83-59.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the pilot program under Rule 103A was scheduled to expire on December 31, 1983. The Commission believes it is appropriate to continue the program on a pilot basis for an additional calendar quarter to permit the NYSE to file with the Commission amendments to procedures under Rule 103A relating to specialist performance review and counselling of specialist units.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-941 Filed 1-12-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20538; File No. PSE-84-2]

Self-Regulatory Organization; Proposed Rule Change by the Pacific Stock Exchange Incorporated; Relating to Approval of Underlying Securities for Options Trading

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 4, 1984, The Pacific Stock Exchange Incorporated ("PSE" or the "Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Pacific Stock Exchange Incorporated ("PSE" or the "Exchange") proposes the following changes to its Rule VI, governing exchange options trading. (Italics indicate added language; brackets indicate deleted language.)

Rule VI

Exchange Options Trading

Approval of Underlying Securities

Section 12. No change prior to:

(b) Underlying securities shall be *(i)* duly listed and registered on a national securities exchange, *or (ii) designated as national market system securities*

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[1] Rule 103A was approved by the Commission as a two-year pilot program terminating on May 15, 1981. (Securities Exchange Act Release No. 15827, May 15, 1979, 44 FR 100, May 22, 1979. The rule's effectiveness has been extended a number of times since then. Most recently, on October 5, 1983, the Commission approved an amendment to Rule 103A (SR-NYSE-83-48) extending the rule's effectiveness to December 31, 1983. Securities Exchange Act Release No. 20262, October 5, 1983; 48 FR 47081, October 17, 1983.

pursuant to "Tier 1 Criteria", as defined in Rule 11Aa2–1 under the Securities Exchange Act of 1934, as amended; and

(c) No change.

Commentary

.01 No change.

.02 In considering for approval underlying securities which have not been primarily traded on a national securities exchange *or designated as national market system securities* for the [two] *one* year[s] preceding such approval, the Exchange may take into account [for such portion of such two-year period as the security has not been traded on a national securities exchange] the volume of trading in such security in the over-the-counter market as reflected in the NASDAQ system. If the volume of trading in [such] *the* over-the-counter market [during such time period equals the volume which would have been required had the security been traded during such time on a national securities exchange] *meets the requirements specified in subparagraph 12(a)(iii) above,* then the security may be deemed to have met the volume requirements set forth in the agreements between the Exchange and the Clearing Corporation.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organizaton has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to increase the universe of securities eligible to serve as underlying securities for options trading. Currently, the Exchange is limited to securities which are listed and registered on a national securities exchange. The proposal expands eligible securities to include securities traded on the over-the-counter market through the NASDAQ system so long as they have met the requirements of, and been designated as, national market system ("NMS") securities, pursuant to the "Tier 1 Criteria" defined in Rule 11Aa2–1 under the Securities Exchange Act of 1934 (the "Act"). To qualify for options trading under these new standards, an underlying security must meet the initial listing standards described in Rule VI, Section 12, as well as the "Tier 1 Criteria" of Rule 11Aa2–1.

The current standards were implemented prior to the Securities and Exchange Commission's ("Commission" or the "SEC") promulgation of Rule 11Aa2–1, in response to Congress' directives in Section 11A(a) of the Act regarding the creation of a national market system. The standards required an underlying security to have been listed on a national securities exchange in order to ensure that accurate and immediate last sale and quotation data were available. The reporting mechanisms which existed for OTC securities at that time did not provide accurate and immediate last sale and quotation data. This information is essential for the maintenance of a fair and orderly market in derivative vehicles like options and therefore, it was not in the public interest to trade options on OTC securities.

The steps taken thus far towards the development of a national market system have vitiated the rationale of the current standards with respect to certain securities, specifically, those securities designated as NMS securities meeting the "Tier 1 Criteria". Transactions in NMS securities meeting the "Tier 1 Criteria" must be reported on a real-time basis within the same time-frame as listed securities and at a price net of broker/dealer commissions. Quotations in these NMS securities must be at a firm price and size, and updated as necessary in a timely fashion. Thus, these NMS securities have the same characteristics as listed securities with respect to the elements essential for the maintenance of a fair and orderly options market. Therefore, the trading of options on these NMS securities would not harm investors or the public interest.

The trading of listed options on the PSE would benefit investors by providing the full range of advantages options offer. In particular, investors would enjoy the benefits of a limited-risk hedge for positions in NMS securities without the liquidity disadvantages of a conventional over-the-counter option. The investor benefits from the fact that with an exchange-listed option, there would exist a single unfragmented market in which to acquire or dispose of an option position. In addition, the PSE's rules protecting option investors would apply to options on these NMS securities.

In conjunction with this rule change proposal, the PSE is requesting that the SEC modify Rule 12a–6, under the Act in a manner which would permit the trading of options on NMS securities. The PSE suggests that the Commission reconsider deleting paragraph (b)(3) of Rule 12a–6, as proposed in Securities Exchange Act Release No. 34–13247 (February 7, 1977). As noted above, the real-time last sale reporting of the NMS securities meeting the "Tier 1 Criteria" addresses the conberns the Commission expressed at that time.

The PSE's proposal removes impediments to the perfecting of a national market system and protects investors and the public interest. Therefore, the statutory basis for the PSE's proposal is Section 6(b)(5) of the Act.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change imposes no burden on competiton.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of the publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding; or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change; or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing.[1]

[1] The Commission expects to solicit comments on the specific issues raised by exchange proposals to trade options on over-the-counter securities in the context of its anticipated proposal to amend Rule 12a–6 under the Act. Such a rule amendment would be a necessary precondition to approval of this proposal, as well as similar ones previously filed by the Chicago Board Options Exchange, Incorporated (*see* Securities Exchange Act Release No. 20471, December 9, 1983, 48 FR 55939, December 16, 1983); and the American Stock Exchange, Inc. (*see* Securities Exchange Act Release No. 20498, December 16, 1983, 48 FR 56871, December 23, 1983). In addition, the Commission expects to solicit

Continued

Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 6, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-630 Filed 1-12-84; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice CM-8/703]

Advisory Committee on International Investment, Technology, and Development; Meeting

The Department of State will hold a meeting of the Working Group on Transborder Data Flows (TBDF) of the Advisory Committee on International Investment, Technology, and Development on Monday, January 30, 1984, from 10:00 a.m. to noon. The meeting will be held in the Loy Henderson Conference Room of the State Department, 2201 C Street, NW., Washington, D.C. 20520. The meeting will be open to the public.

An agenda for the meeting will include reports on the OECD Symposium on Transborder Data Flows, and the meeting of the OECD/ICCP Committee Bureau, both held in London in December, 1983, and preparations for the next ICCP meeting in March 1984 including proposals for the 1985 ICCP work program. The status of the U.S. study for the UN Center for Transnational Corporations will also be discussed.

Members of the public wishing to attend the meeting must contact Mr. Lincoln's office (202-632-2728) in order to arrange admittance to the State Department. Please use the "C" Street entrance.

The Chairman of the Committee will, as time permits, entertain oral comments from members of the public attending the meeting.

Dated: December 22, 1983.

Philip T. Lincoln, Jr.,

Executive Secretary.

[FR Doc. 84-957 Filed 1-12-84; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/704]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea Working Group on Radio Communications; Meeting

The Working Group on Radio Communications of the Subcommittee on Safety of Life at Sea will conduct an open meeting at 9:30 AM on January 31, 1984 in Room 5332-5334 of the Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590.

The purpose of the meeting is to prepare position documents for the 27th Session of the Subcommittee on Radio Communications of the International Maritime Organization to be held in London during March 1984. In particular the Working Group will discuss the following topics:

—Maritime Distress System;
—Digital Selective Calling;
—Satellite EPIRBs;
—Preparation for the ITU WARK for Mobile Telecommunications;
—Preparations for CCIR Study Group 8;

Members of the Public may attend up to the seating capacity of the room.

For further information contact Mr. Richard Swanson, U.S. Coast Guard Headquarters (G-TPP-3/63), 2100 Second Street SW., Washington, D.C. 20593. Tel: 202-426-1231.

Dated: December 28, 1983.

Gordon S. Brown,

Chairman, Shipping Coordinating Committee.

[FR Doc. 84-858 Filed 1-12-84; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-84-1]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petitions or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: February 2, 1984.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ———, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination of the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on January 9, 1984.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

comment on these issues in the context of other self-regulatory organization initiatives involving options on over-the-counter securities. *See* File No. SR-NASD-80-10.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
20894	Trans-Colorado Airlines, Inc	14 CFR §135.181(a)(2)	To amend Exemption 3078 to add an additional route over which Trans-Colorado is permitted to operate certain aircraft under instrument flight rules or visual flight rules over-the-top using manufacturer's approved performance data, subject to conditions and limitations.
23835	Aircraft at your call d.b.a. Hospital Air Transport	14 CFR §135.261	To permit petitioner to operate a helicopter in hospital emergency service without complying with the duty time limitations.
23836	Southern California Air Service Inc	14 CFR §135.183	To permit petitioner to operate a short takeoff and landing (STOL) equipped single Cessna Skywagon in the vicinity of San Miguel Island without operating at an altitude that allows it to reach land in the case of engine failure.
23848	August C. Hohl	14 CFR §§141.35(b)(4), (c)(5), and (d)(4)	To permit petitioner to be eligible for designation as a chief flight instructor without meeting the required recency experience.
23843	Hendrik A. Gideonse	14 CFR § 61.161(b)	To permit petitioner to apply for an airline transport pilot certificate with a rotocraft rating without having had at least 1200 hours of flight time as a pilot within the 8 years before the date of exemption.
20846	Braniff Int'l	14 CFR Portions of Part 121, Appendix H	To extend Exempt 3147A, which expires on February 28, 1984, and which allows petitioner to conduct training and checking as permitted in a Phase II simulator without meeting the minimum visual field-of-view requirement, subject to certain conditions.
23840	Safe Flight Instruments Corp	14 CFR § 91.213	To permit petitioner to operate a Citation II aircraft, certified under Part 25, with a single pilot, provided that all requirements of a type certificate, applicable to the Citation II, under Part 23 are met.
23818	United States Gypsum Co	14 CFR Portions of Parts 21 & 91	To permit petitioner to operate on Gulfstream G-1159 and one Falcon 20 aircraft using an FAA-approved minimum equipment list.
23855	Valley Hospital Medical Center	14 CFR §135.261(b)	To permit petitioner to operate its helicopter in a hospital emergency medical evacuation service without complying with duty time limitations, subject to certain conditions.
23857	Project Orbis, Inc	14 CFR § 91.303	To allow petitioner to operate a DC-8-21 aircraft after January 1, 1985, in noncompliance with the operating noise limits in Part 91.
23854	Airline Training Institute	14 CFR §§ 61.157(d)(1), 61.63(d)(2)	To permit trainees to complete a practical test for the issuance of an airline transport pilot certificate or a type rating to be added to any grade of pilot certificate, by substituting for the flight test required by § 61.63(d) (2) and (3) the test requirements in Appendix A to Part 61.
23863	MBB Helicopter Corp	14 CFR § 47.65	Supplemental petition to permit petitioner to obtain an aircraft dealer's registration certificate without meeting the U.S. citizen requirements.
23867	Executive Helicopters	14 CFR § 141.41(a)(iii)	To permit petitioner to use the Helicopter Training Systems, Inc. HTS-100 primary helicopter training system in its Part 141 pilot school.
23862	Ford Motor Co	14 CFR § 21.181	To permit petitioner to operate two Hawker Siddeley aircraft using an FAA-approved minimum equipment list.
13416	Academy Aeronautics	14 CFR § 63.39(b)(2)	To extend Exemption 2095D, which expires March 10, 1984, and which permits flight engineer applicants being trained by Sierra Academy of Aeronautics to show that they can satisfactorily perform the normal duties and procedures of this section in an airplane simulator.
23859	Department of the Army	14 CFR § 101.23(b)	Relief from the unmanned rockets in controlled airspace provisions to allow for the launching of 2.75 "Folding Fin Aerial Rockets in the St. George Island controlled firing area."
23846	Northeastern Int'l. Airways, Inc	14 CFR § 121.291(a)	To permit petitioner to operate four B-727-100 aircraft in a 126-seat configuration without conducting an actual demonstration of emergency evacuation procedures.

[FR Doc. 84-897 Filed 1-12-84; 8:45 am]
BILLING CODE 4910-13-M

National Airspace Review; Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of Task Group 3-4 of the Federal Aviation Administration (FAA) National Airspace Review Advisory Committee. The agenda for this meeting is as follows: A review of the Flow Control Procedures Handbook (FAAH 7210.7) and orders to make data easier to locate and procedures more effective.

DATE: Beginning Monday, January 30, 1984, at 11 a.m., continuing daily, except Saturdays, Sundays, and holidays, not to exceed two weeks.

ADDRESS: The meeting will be held at the Federal Aviation Administration, conference room 9 A/B, 800 Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: National Airspace Review Program Management Staff, room 1005, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591 (202) 426-3560. Attendance is open to the interested public, but limited to the space available. To insure consideration, persons desiring to make statements at the meeting should submit them in writing to the Executive Director, National Airspace Review Advisory Committee, Air Traffic Service, AAT-1, 800 Independence Avenue, SW., Washington, D.C. 20591, by January 23, 1984. Time permitting and subject to the approval of the chairman, these individuals may make oral presentations of their previously submitted statements.

Issued in Washington, D.C. on January 4, 1984.

Karl D. Trautmann,

Manager, Special Projects Staff, Air Traffic Service.

[FR Doc. 84-898 Filed 1-12-84; 8:45 am]
BILLING CODE 4910-13-M

Maritime Administration

Approval of Applicant as Trustee

Notice is hereby given that United Virginia Bank, with offices at 919 East Main Street, Richmond, Virginia, has been approved as Trustee pursuant to Pub. L. 89-346 and 46 CFR 221.21-221.30.

Dated: January 10, 1984.

By Order of the Maritime Administrator.

Georgia P. Stamas,

Secretary.

[FR Doc. 84-900 Filed 1-12-84; 8:45 am]
BILLING CODE 4910-81-M

Research and Special Programs Administration

Applications for Exemptions

AGENCY: Materials Transportation Bureau, D.O.T.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo Vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATES: Comment period closes February 14, 1984.

ADDRESS COMMENTS TO: Dockets Branch, Office of Regulatory Planning and Analysis, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street SW., Washington, DC.

NEW EXEMPTIONS

Application	Applicant	Regulation(s) affected	Nature of exemption thereof
9183-N	Bonar Industries, Inc., Macon, GA	49 CFR 173.154, 173.182, 173.245b	To manufacture mark and sell non-DOT specification reinforced, woven polypropylene bags with polyethylene liner of one metric ton capacity for shipment of various oxidizer and corrosive material (solids). (Modes 1, 2).
9184-N	Cyanamid Canada Inc., East Willowdale, Canada.	49 CFR 173.178	To authorize shipment of calcium carbide classed as a flammable solid in non-DOT specification reinforced, woven polypropylene bags having a 5 mil polyethylene liner not to exceed two metric ton capacity (4,406 pounds). (Mode 1).
9185-N	Atlas Powder International Ltd., Miami, FL	49 CFR 176.410(d)	To authorize shipment of ammonium nitrate fertilizer in either multiwall paper or plastic bags utilizing stevedoring slings and stretch wrapping, loaded aboard cargo vessels exempt from spacing criteria and location. (Mode 3).
9186-N	Alexco Industries, Texas City, TX	49 CFR 173.119(a) and (m), 173.245(a), 178.340-7, 178.342-5, 178.343-5.	To manufacture, mark and sell non-DOT specification cargo tanks complying generally with DOT specification MC-307/312 except for bottom outlet valve variations for transportation of flammable, corrosive or poison B waste liquid or semi-solids. (Modes 1, 3).
9191-N	E.I. du Pont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 179.101 Table Note 4	To authorize shipment of hydrogen fluoride in DOT Specification 112A400W and 114A400W tanks cars that have a wide, dark-colored band encircling the tank. (Mode 2).
9192-N	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 173.304	To authorize shipment of various liquefied compressed gases classes as flammable gas in DOT Specification 4L-112 cylinders. (Mode 1).
9193-N	Schlumberger Well & Schlumberger Offshore Services, Houston, TX.	49 CFR 175.3, Part 173, Subpart G	To authorize shipment of a specially packaged electronic tube charged to 80 psig with sulfurhexafluoride gas, as essentially non-regulated. (Modes 1, 2, 3, 4, 5).
9194-N	Canamid Canada Inc., East Willowdale, Canada.	49 CFR 173.370	To authorize shipment of calcium cyanide, solid, classed as a poison B, in reinforced, woven polypropylene bags with a 5 mil polyethylene liner, not to exceed 2,865 pounds capacity. (Modes 1, 2).
9195-N	Owens-Illinois, Inc., Toledo, OH	49 CFR 173.119	To manufacture, mark and sell DOT Specification 12B fiberboard boxes with inside one quart capacity plastic container other than polyethylene, for shipment of various flammable liquids. (Modes 1, 2, 3).
9196-N	United Technologies, San Jose, CA	49 CFR 173.86(b), 173.92(a), 173.92(b)	To authorize shipment of a rocket motor, Class B explosive, with integral igniter and gas generators, overpacked in a metal container. (Modes 1, 3).
9197-N	Greif Bros. Corp., Springfield, NJ	49 CFR Part 173 Subpart D, Subpart F	To manufacture, mark and sell non-DOT specification polyethylene containers comparable to DOT Specification 34, except for 55 gallon capacity for shipment of various corrosive, flammable and poison B liquids and hydrogen peroxide solutions. (Modes 1, 2, 3).
9198-N	U.S. Department of the Interior, Boise, ID	49 CFR 175.(a)(2)	To authorize transportation of various hazardous materials in non-DOT specification packaging subject to the Department of Interior's inflight operational controls. (Mode 4).
9199-N	Cape Fear Tank Co., Inc., Wilmington, NC	49 CFR 173.34(L), 173.34(i)	To authorize the repair or rebuilding of DOT Specification 4 series cylinders by a method other than as prescribed. (Modes 1, 2).
9200-N	Pacific Northwest Bell, Seattle, WA	49 CFR 173.304(c)(2)	To ship DOT Specification 4B and 4BA cylinders having water capacity less than 200 pounds, when liquefied petroleum gas content has been verified by fixed length dip tube instead of by weight. (Mode 1).
9201-N	Cyanamid Canada, Inc., East Willowdale, Canada.	49 CFR 173.370	To authorize import shipment of calcium cyanide, solid, class B poison in woven polypropylene bags of 2,204 pound capacity overpacked in corrugated boxes in full freight container loads docking at various U.S. ports. (Mode 3).

This notice of receipt of applications for new exemptions is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C. on January 4, 1984.

J. R. Grothe,

Chief, Exemptions Branch Office of Hazardous Materials Regulation Materials Transportation Bureau.

[FR Doc. 84-683 Filed 1-12-84; 8:45 am]

BILLING CODE 4910-60-M

Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Materials Transportation Bureau, DOT

ACTION: List of applications for renewal or modification of exemptions or application to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions for the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comment period closes January 26, 1984.

ADDRESS COMMENTS TO: Dockets Branch, Office of Regulatory Planning and Analysis, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street SW., Washington, DC.

Application No.	Applicant	Renewal of exemption
2732-X	U.S. Department of Energy, Washington, DC.	2732
3549-X	....do	3549
3563-X	....do	3563
4453-X	Ireco Chemicals, Salt Lake City, UT	4453
4460-X	Ethyl Corp., Baton Rouge, LA	4460
5022-X	National Aeronautics and Space Administration, Washington, DC.	5022
5112-X	Austin Powder Co., Cleveland, OH	5112
5243-X	....do	5243
5891-X	U.S. Department of Energy, Washington, DC.	5891
6016-X	Guttman Welding Supply Co., Belle Vernon, PA	6016
6039-X	Rohm and Haas Co., Philadelphia, PA	6039
6113-X	Bay State Gas Co., Canton, MA	6113
6113-X	San Diego Gas & Electric Co., San Diego, CA.	6113
6113-X	Commonwealth Gas Co., New Bedford, MA.	6113
6197-X	Philadelphia Gas Works, Philadelphia, PA.	6197
6333-X	Allied Corp., Morristown, NJ	6333
6464-X	Bay State Gas Co., Canton, MA	6464
6464-X	Commonwealth Gas Co., New Bedford, MA.	6464
6530-X	Air Products and Chemicals, Inc., Allentown, PA	6530
6530-X	Union Carbide Corp., Danbury, CT	6530
6614-X	Hasa Chemicals, Inc., Saugus, CA	6614
6614-X	All Pure Chemical Co., Inc., Tracy, CA.	6614
6691-X	Union Carbide Corp., Danbury, CT	6691
6731-X	U.S. Department of Defense, Washington, DC	6731
6735-X	Great Lakes Chemical Corp., El Dorado, AR.	6735
6765-X	Airco Industrial Gases, Murray Hill, NJ.	6765
6765-X	Bureau of Mines, Amarillo, TX	6765
6768-X	Van De Mark Chemical Co., Inc., Lockport, NY.	6768
6816-X	General Dyanmics Corp., San Diego, CA.	6816
6861-X	Teledyne McCormick Selph;, Hollister, CA	6861
6908-X	U.S. Department of Defense, Washington, DC.	6908
6985-X	U.S. Department of Energy, Washington, DC.	6985
6999-X	U.S. Department of Defense, Washington, DC.	6999
7208-X	National Aeronautics and Space Administration, Washington, DC	7208
7465-X	State of Alaska, Department of Transportation, Juneau, AK.	7465
7542-X	U.S. Cylinders, Inc., Citronelle, AL	7542
7578-X	U.S. Department of Defense, Washington, DC.	7578
7598-X	Pratt & Whitner Aircraft Group, East Hartford, CT	7598
7607-X	Ecology and Environment, Inc., Buffalo, NY	7607
7883-X	Ethyl Corp., Baton Rouge, LA	7883
7883-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE	7883
7915-X	Department of Defense, Washingtonm, DC	7915
7943-X	All Pure Chemical Company, Inc., Tracy, CA.	7943
7943-X	Alstar Co., Tracy, CA	7943
7943-X	Georgia-Pacific Corp., Montebello, CA.	7943
7943-X	Hasa Chemicals, Inc., Saugus, CA	7943
7963-X	Stauffer Chemical Co., Westport, CT.	7963
8080-X	Diamond Shamrock Chemicals Co., Irving, TX (see footnote 1)	8080
8081-X	National Aeronautics and Space Administration, Washington, DC.	8081
8264-X	Hercules, Inc., Wilmington, DE	8264
8265-X	Hercules, Inc., Wilmington, DE	8265
8324-X	Rexnord, Inc., Milwaukee, WI	8324
8329-X	Texas Instruments, Inc., Dallas, TX	8329
8339-X	Eastern Steel Barrel Corp., Piscataway, NJ	8339
8377-X	Teledyne McCormick Selph, Hollister, CA	8377
8522-X	Taylored Foam Inc., Oakland, CA (see footnote 2)	8522
8525-X	Associated Container Transportation (USA), New York, NY.	8525
8647-X	Manne Technical Services, Inc., Stafford, TX	8647
8708-X	Trical, INc., Morgan Hill, CA	8708
8770-X	Eastman Kodak Co., Rochester, NY	8770
8772-X	Armak Co., Chicago, IL	8772
8879-X	Temco Engineering, Tulsa, OK (see footnote 3)	8879
8940-X	Synlex Chemicals, Inc., Boulder, CO (see footnote 4)	8940
9104-X	Chemical Waste Management, Inc. Oak Brook, IL	9104
9116-X	Hoover Universal, Inc., Beatrice NE (see footnote 5)	9116
9138-X	National Aeronautics and Space Administration, Washington, DC (see footnote 6)	9138

[1] To authorize use of true DOT Specification 111A100-W1 tank cars, for shipment of chromic acid, solid

[2] To change company name from Foamco to Taylored Foam, Inc. and to authorized an increase in the depth of each cell in the polystyrene shipping case

[3] To authorize components of cylinder to be made of type 301, 302, 303 and 316 stainless steel in addition to 304 and to increase length of cylinder from 24 inches to not over 29 inches

[4] To authorize use of thirty DOT Specification 5C containers for shipment of sodium, metal dispersion in organic solvent without being overpacked in DOT Specification 17H drums

[5] To authorize additional portable tanks of 300 gallon capacity identical (except for size) to the 400 gallon capacity presently authorized

[6] To authorize highway as an additional mode of transportation

Application No	Applicant	Parties to exemption
5926-P	Rhone-Poulenc Inc., Monmouth Junction, NJ	5926
5971-P	Alltech Associates, Inc., Deerfield, IL	6971
7052-P	Kearney & Trecker Corp., Milwaukee, WI	7052
7052-P	Mok Energy Ltd., Burnaby, BC	7052
7052-P	McDonnell Douglas Corp., St Louis, MO	7052
8129-P	General Foods Corp., Modesto, CA	8129
8129-P	The Sherwin Williams Co., Cleveland OH	8129
8129-P	Ecology Chemical & Refining Co., Manor, PA.	8129
8129-P	Northwestern University, Evanston, IL	8129
8129-P	Waste Technology Services, Inc., Niagara Falls, NY	8129
8129-P	Purdue University, West Lafayette, IN	8129
8129-P	Ralston Purina Co., St Louis, MO	8129
8129-P	Utah State University, Logan, UT	8129
8365-P	Allied Cleaning Specialists, Inc., Los Angeles, CA	8365
8716-P	GTE Products Corp., Waltham, MA	8716
8901-P	Great Lakes Chemical Corp., West Lafayette, IN	8901
8901-P	Hopkins Agricultural Chem. Co., Madison, WI	8901
9081-P	Allied Chemical, Morristown, NJ	9081
9174-P	The National Aeronautics and Space Administration, St Louis, MO	9174

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on January 5, 1984.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 84-802 Filed 1-12-84, 8:45 am]

BILLING CODE 4910-60-M

VOL 49 ISS 9 JA 13 1984 UMI

VETERANS ADMINISTRATION

Privacy Act of 1974; New System of Records

The Privacy Act of 1974 (5 U.S.C. 552a(e)(4)) requires that all agencies publish in the **Federal Register** a notice of the existence and character of their systems of records. Accordingly, the Veterans Administration published and adopted a notice of its inventory of personnel records on September 27, 1977 (42 FR 49726).

Notice is hereby given that the Veterans Administration is adding a new system of records entitled "Administrator's Official Correspondence Records" (75VA001B). This system is authorized under 38 U.S.C. Section 210(c).

The purpose of this new system of records is to control, store and identify correspondence that is sent to the Administrator of Veterans Affairs and the documentation of official actions taken by the Office of the Administrator in response to that correspondence. The system contains hard copies of records, materials, information/inquiries (correspondence) sent to the Administrator of Veterans Affairs by individual citizens, (veterans, nonveterans) organizations, agencies of Federal, state and local governments and public officials, etc., and the official record copy of the decisions or responses of the Administrator and the Deputy Administrator. The system also contains automated records on a Correspondence Tracking System. The Correspondence Tracking System contains name, address, subject, etc., pertaining to the correspondence.

This system contains routine uses as defined by the Privacy Act of 1974. (5 U.S.C. 552a(a)(7)). The Veterans Administration has determined that the following releases of data and information, as provided for in the listed routine use statements, are necessary and proper for this system of records: 1. The records of an individual who is covered by this system may be disclosed to a member of Congress or staff person acting for the member when the member or staff person requests the record on behalf of and at the request of that individual; 2. Any information in this system from correspondence or inquiries sent to the Administrator of Veterans Affairs may be disclosed to Federal or state agencies at the request of the correspondent or inquirer in order for those agencies to help the correspondent with his or her problem. The information disclosed may include the name and address of the correspondent or inquirer and details concerning the nature of the problem specified in the correspondence.

Interested persons are invited to submit written comments, suggestions, or objections, regarding this system of records, to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. All relevant material received before February 13, 1984 will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays) until February 28, 1984. Any person visiting the above address for the purpose of inspecting any such comments will be received by the VA Central Office Veterans Services Unit in room 132.

Visitors to any VA field station will be informed that the records are available for inspection only in VA Central Office and will be furnished the above address and room number.

If no public comment is received during the 30-day review period allowed for public comment, or unless otherwise published in the **Federal Register** by the Veterans Administration, the system of records is effective February 13, 1984.

Approved: December 20, 1983.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

75 VA001B

SYSTEM NAME:

Administrator's Official Correspondence Records (75VA001B).

SYSTEM LOCATION:

Records are maintained in the Office of the Administrator, Executive Secretariat (001B), VA Central Office, Washington, D.C. 20420 with copies located in various other offices throughout Veterans Administration Central Office and Veterans Administration field stations. (Address locations are listed in VA Appendix 1 at the end of this document) The Office of Administration, Office Operations Service (03) keeps records on magnetic media.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records (or information contained in records) may include: (1) Names of individuals (e.g. private citizens, veterans, public officials, organizations); (2) writers' Social Security number and/or veterans' claim number (3) inquiries or correspondence sent to the Administrator of Veterans Affairs by individuals; (4) information pertinent to decisions or responses given by the Administrator or Department or Staff Office Heads; and (5) copies of the decisions or responses of the Administrator, department heads or staff office directors.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38, United States Code, 210(c).

ROUTINE USES FOR MAINTENANCE OF THE SYSTEM, INCLUDING CATEGORIES OF USE AND THE PURPOSES OF SUCH USES:

1. The records of an individual who is covered by this system may be disclosed to a member of Congress or staff person acting for the member when the member or staff person requests the record on behalf of and at the request of that individual.

2. Any information in this system from correspondence or inquiries sent to the Administrator of Veterans Affairs may be disclosed to Federal or state agencies at the request of the correspondent or inquirer in order for those agencies to help the correspondent with his or her problem. The information disclosed may include the name and address of the correspondent or inquirer and details concerning the nature of the problem specified in the correspondence.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In the Office of the Administrator, records of inquiries and correspondence are maintained on paper documents in individual file folders. These files are maintained in file cabinets. Data files supporting the automated system are stored in a secured area located at the Lafayette Building, 811 Vermont Avenue, NW., Washington, D.C. 20420. The Office of Administration data files are stored on magnetic tape.

RETRIEVABILITY:

Records are maintained in alphabetical order by last name of the individual correspondent. When appropriate, records are also filed alphabetically by name of Member of Congress representing the correspondent. Access to the automated system is via terminals located in the secured area referred in SAFEGUARDS. Standard security precautions are used to prohibit access to only authorized personnel.

SAFEGUARDS:

Records are maintained in a manned room during working hours. During nonworking hours, there is limited access to the building with visitor control by security personnel, and the

room where the records are kept is locked. Access to the records is only authorized to VA personnel on a "need-to-know" basis.

RETENTION AND DISPOSAL:

In the Office of the Administrator, records retrieved by last name of Members of Congress are retained in the Administrator's Office for one current year then retired to inactive storage in VA and Federal Archives and Records Center for ten years. All other records in this system are retained in VA for five years then retired to the Washington National Records Center where they are retained for 20 years. Thereafter, they are offered to National Archives for accessioning. After five years automated files are maintained indefinitely on a history file in the Correspondence Tracking System.

SYSTEM MANAGER AND ADDRESS:

Office of the Administrator, Executive Secretariat (001B), VA Central Office, Washington, D.C. 20420.

NOTIFICATION PROCEDURE:

An individual who wishes to determine whether a record is being maintained by the Office of the Administrator (001B) under his or her name or other personal identifier or wants to determine the contents of such records should submit a written request or apply in person to Executive Secretariat (001B).

RECORDS ACCESS PROCEDURES:

An individual who seeks access to or wishes to contest records maintained under his or her name or other personal identifier may write or call or visit the Executive Secretariat.

CONTESTING RECORD PROCEDURES:

(See Records Access Procedures above.)

RECORD SOURCE CATEGORIES:

Individuals (veterans, nonveterans,) attorneys, employees, members of Congress, local and state officials and various private and public organizations.

[FR Doc. 84-948 Filed 1-12-84; 8:45 am]

BILLING CODE 8320-01-M

Advisory Committee on Women Veterans; Meeting

The Veterans Administration gives notice under Pub. L. 92-463 that a meeting of the Advisory Committee on Women Veterans will be held in the Administrator's Conference Room at the Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, DC on February 8 through 10, 1984. The purpose of the Advisory Committee on Women Veterans is to advise the Administrator regarding the needs of women veterans with respect to health care, rehabilitation, compensation, outreach and other programs administered by the Veterans Administration; and the activities of the Veterans Administration designed to meet such needs. The Committee will make recommendations to the Administrator regarding such activities.

The session will convene at 9 a.m. all three days. These sessions will be open to the public up to the seating capacity of the room. Because this capacity is limited, it will be necessary for those wishing to attend to contact Mrs. Barbara Brandau, Program Assistant, Office of the Administrator, Veterans Administration Central Office (phone 202/389-5518), prior to February 6, 1984.

Dated: December 29, 1983.
By direction of the Administrator:

Larry R. Moen,

Deputy Director, Office of Public and Consumer Affairs.

[FR Doc. 84-947 Filed 1-12-84; 8:45 am]

BILLING CODE 8320-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER84-154-000]

Allegheny Power Service Corp.; Filing

January 10, 1984.

The filing Company submits the following:

Take notice that on December 13, 1983 Allegheny Power Service Corporation (Allegheny) tendered for filing an Agreement concerning limited term and supplemental power service among Monongahela Power Company (Monongahela), The Potomac Edison Company (Potomac), West Penn Power Company (West Penn) and Pennsylvania Power & Light Company (Buyer).

Allegheny states that the Agreement sets forth terms pursuant to which Monongahela, Potomac and West Penn will deliver to Buyer 224,000 kilowatts of limited term power and energy and 56,000 kilowatts of supplemental power and energy for 1984 or such other amounts as the parties may agree on from time-to-time in 1984 and in future period.

Allegheny requests an effective date of January 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 25, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-975 Filed 1-12-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC84-8-000]

Arizona Public Service Co.; Filing

January 10, 1984.

Take notice that on January 4, 1984, Arizona Public Service Company (Arizona) tendered for filing an application for sale of certain electrical facilities, including two 69 kV transmission lines and the Apache substation (excluding transformers and capacitors) and related distribution system to Navopache Electric Cooperative, Inc. ("NEC"). After all requisite approvals are obtained, as a result of the sale, transmission service will no longer be provided to Plains Electric Generation and Transmission Cooperative, Inc. ("Plains"), at three of the existing delivery points.

Copies of the filing were served upon Plains, NEC and the Arizona Corporation Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests

should be filed on or before January 30, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-973 Filed 1-12-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-191-000]

Arizona Public Service Co., Filing

January 10, 1984.

The filing Company submits the following:

Take notice that on January 4, 1984, Arizona Public Service Company (Arizona) tendered for filing an Amendment No. 1, dated December 5, 1983, to its Firm Transmission Service Agreement with Southern California Edison Company, FERC Rate Schedule No. 80.

Arizona states that this Amendment provides for an extension of the term of the original Agreement, and also updates the rate level to reflect current factors.

Arizona requests an effective date of June 1, 1984.

Copies of the filing were served upon Southern California Edison and the Arizona Corporation Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 26, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-974 Filed 1-12-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-74-000]

Canal Electric Co.; Order Accepting for Filing and Suspending Rates, Noting Intervention, Ordering Summary Disposition, Denying Request for Waiver of Notice, Conditionally Waiving Advance Filing Limitation, and Establishing Hearing Procedures

Issued January 6, 1984.

On November 8, 1983, Canal Electric Company (Canal) tendered for filing, as an initial rate schedule, an executed power contract between itself, Commonwealth Electric Company (Commonwealth), and Cambridge Electric Light Company (Cambridge).[1] The proposed agreement contains a formula rate applicable to the long-term sale of capacity and energy from Canal's joint ownership interest [2] in Seabrook Nuclear Unit Nos. 1 and 2, which are currently under construction and projected to become commercially operational by July 1985 and February 1988, respectively. The formula rate reflects the inclusion in rate base of 50% of Canal's Seabrook-related construction work in progress (CWIP) other than CWIP associated with pollution control and fuel conversion facilities. The contract provides that the proposed formula rate for non-CWIP charges will become effective on the dates that Seabrook Unit Nos. 1 and 2 become commercially operational. With respect to the SWIP-based charges, Canal requests waiver of the notice requirements to allow for a November 1, 1983 effective date.[3]

In addition to the CWIP-related charges, the demand charge component of the proposed cost of service formula rate reflects Canal's proportionate share of the Seabrook units including the cost of capital, fixed costs associated with the income and property taxes, depreciation expense, non-fuel operation and maintenance expense, and an allowance for estimated decommissioning costs. At the beginning of each calendar year, an estimated monthly demand charge is to be calculated, based upon Canal's estimate of the values of the components of the cost of service formula for that year. Within four months after the end of the year, the estimated demand charge is to be adjusted to reflect actual expenditures. Under the energy charge component of the proposed formula rate, Commonwealth and Cambridge are to be billed Canal's proportionate share of the actual fuel costs associated with each of the Seabrook units.

Notice of Canal's filing was published in the **Federal Register**, with comments due on or before December 5, 1983. On December 5, 1983, the Attorney General of the Commonwealth of Massachusetts (Attorney General) filed a protest and motion to intervene, requesting a five month suspension of the instant filing and a hearing. In support of his request, the Attorney General claims that Canal has failed to provide adequate explanation or support for its requested return on equity or the inclusion of CWIP in rate base. The Attorney General also asserts that Canal's proposed CWIP charges associated with both Seabrook units are excessive, particularly in light of the uncertainty as to whether Seabrook Unit No. 2 will ever be placed in service [4] and the fact that Canal's cost projections are based on outdated data.

On December 20, 1983, Canal filed an answer to the Attorney General's pleading. While not objecting to the motion to intervene, Canal opposes the requests for maximum suspension and the initiation of hearing procedures in this docket.

Discussion

Under Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the Attorney General's timely motion to intervene serves to make him a party to this proceeding.

Upon review of Canal's submittal, the Commission finds that summary disposition is appropriate with respect to one issue. We shall require Canal to amend its method for calculating an AFUDC allowance. We note that Canal proposes to calculate AFUDC on a net-of-tax basis. However, the Commission's policy requires that AFUDC be computed using the gross-of-tax method, unless another regulatory agency having retail jurisdiction over the company

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[1] *See* Attachment for rate schedule designation. Canal, Commonwealth, and Cambridge are subsidiary corporations of Commonwealth Energy System, a holding company. Canal is a principal supplier of wholesale power to Commonwealth and Cambridge and serves no retail customers.

[2] Canal states that it owns a 3.5% interest in the Seabrook plant, which represents approximately 40.5 megawatts of capacity from each unit. Under the proposed agreement, Commonwealth and Cambridge are committed to purchase Canal's entire entitlement in the Seabrook units (with Commonwealth purchasing 71.8% and Cambridge purchasing 28.2% of Canal's entitlement in each unit).

[3] In support of its waiver request, Canal states that it had planned to tender the instant submittal for filing in early 1985. However, in light of the Commission's Order No. 298, 48 FR 24,323 (1983), as modified by 25 FERC ¶ 61,023 (October 4, 1983), which allowed for rate base treatment of CWIP, Canal seeks to collect immediately its costs of financing CWIP associated with the Seabrook units.

[4] The Attorney General references a September 30, 1983 statement in *Valueline* which contends that Seabrook Unit No. 2, although currently approximatley 23% completed, will eventually be cancelled.

requires the net-of-tax method.[5] Since Canal serves no retail customers and is, therefore, not subject to any other ratemaking regulatory body, the company must compute AFUDC using the gross-of-tax method.

Another issue raised by Canal's pleading shall be addressed in a subsequent order. Canal characterizes its rate filing as an initial rate filing to which the Commission's 6% CWIP limitation provisions do not apply. *See* 18 CFR 35.26(d)(1) and (3). This characterization raises issues of interpretation which require more time for consideration than is permitted under the statutory time limits for suspension orders. We shall therefore address this question in a subsequent order to be discussed at the Commission meeting scheduled for January 25, 1984. Pending our subsequent order, discussed above, we shall not require Canal to file revised rates to reflect the summary disposition.

Our preliminary review of Canal's submittal and the pleadings indicates that the proposed formula rate has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept Canal's submittal for filing and suspend its operation as ordered below.

In *West Texas Utilities Company*, Docket No. ER82-23-000, 18 FERC ¶61,189 (1982), we noted that rate filings would ordinarily be suspended for one day where preliminary review indicates that the proposed rates may be unjust and unreasonable but may not generate substantially excessive revenues, as defined in *West Texas*. Our examination of Canal's rates, based on current information, suggests that they may not yield excessive revenues. While we are not prepared to say, in advance of a hearing, that Canal's use of a 15% return on common equity in developing its CWIP-related charges is unreasonable, we believe that it is premature for the Commission to assume that this (or any other) return would be considered reasonable in 1985, when Seabrook Unit No. 1 is expected to become operational, let alone in 1988, when the second unit is scheduled to commence operation. We recognize, however, Canal's motivation in tendering its contract rates at this time in order to recover its construction carrying costs. Thus, we shall permit the company to file the non-CWIP formula rate reflected in its contract more than 120 days in advance of the anticipated commercial operation dates of the Seabrook units (*i.e.*, the effective dates actually intended by the parties for the non-CWIP rates), but only on condition that Canal provide updated support for its requested rate of return in the form of a rate filing, subject to review and suspension, within 120 days of the commercial operation date of each Seabrook unit. In addition, given the advance timing of its submittal, Canal shall make a timely filing pursuant to section 205 of the Federal Power Act prior to initiating any charges reflecting estimated decommissioning costs.[6] With these conditions, we shall permit Canal's non-CWIP charges to become effective, as modified by summary disposition and subject to refund, as of the date that each of the Seabrook units becomes operational. With respect to the CWIP-related portion of its filing, the Commission notes that Canal has not shown good cause for granting waiver of the notice requirements to permit a November 1, 1983 effective date. Therefore, we shall deny the requested waiver and suspend the CWIP-based charges for one day from 60 days after filing, to become effective, on January 9, 1984, subject to refund and to our subsequent order.

The Commission orders:

(A) Summary disposition is hereby ordered, as noted in the body of this order, with respect to Canal's method for computing AFUDC.

(B) Canal's request for waiver of the 60 day notice requirement is hereby denied.

(C) Canal's proposed CWIP-based charges are hereby accepted for filing and suspended for one day, to become effective, subject to our subsequent order and subject to refund, on January 9, 1984; subject to the condition expressed in the body of this order, Canal's formula rate for non-CWIP charges is hereby accepted for filing and suspended, to become effective, as modified by summary disposition and subject to refund, on the dates that Seabrook Unit Nos. 1 and 2 become commercially operational.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of Canal's rates.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days of the date of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Such conference shall be held for purposes of establishing a procedural schedule. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(F) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment

Canal Electric Company, Docket No. ER84-74-000, Rate Schedule Designation

Filed: November 8, 1983.

Designation and Description

Rate Schedule FERC No. 22—Power Contract.

[FR Doc. 84-978 Filed 1-12-84; 8:45 am]
BILLING CODE 6717-01-M

[Project Nos. 4354-001, et al.]

Hydroelectric Applications (Owyhee Project Irrigation Districts, et al.); Notices of Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1a. Type of Application: License (5MW or Less).

b. Project No: 4354-001.

c. Date Filed: April 19, 1983.

d. Applicant: Owyhee Project Irrigation Districts.

e. Name of Project: Owyhee Dam Power Project.

f. Location: On Owyhee River, near Aldrian, on U.S. lands administered by the U.S. Bureau of Reclamation in Malheur county, Oregon.

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[5] *See, Kentucky Utilities Company*, Opinion No. 184, 24 FERC ¶61,157 (August 1, 1983); *Southern California Edison Company*, Opinion No. 145, 20 FERC ¶61,301 (September 10, 1982); *New England Power Company*, Docket Nos. ER83-647-000, *et al.*, 24 FERC ¶61,339 (1983).

[6] Of course, any changes in the requested rate of return or the components of the formula rate methodology would require a rate change filing in any event.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. § 791(a)–825(r).

h. Contact Person: Mr. Gene Stunz, Owyhee Project Power Committee, P.O. Box 1566, Nyssa, Oregon 97913.

i. Comment Date: February 24, 1984.

j. Description of Project: The project will utilize the existing 417-foot-high Owyhee Dam owned by the U.S. Bureau of Reclamation. The proposed project would consist of: (1) a 250-foot-long, 84-inch-diameter concrete tunnel located at the end of an existing tunnel; (2) a 150-foot-long, 72-inch-diameter steel penstock; (3) a powerhouse containing a single generating unit with an installed capacity of 3500 kW; (4) a 50-foot-long tailrace; (5) a switchyard; and (6) a 0.5-mile-long, 69-kV transmission line connecting to an existing transmission line. The Applicant estimates that the average annual energy production would be 12.2 million kWh. The cost to construct the project would be $2,936,000 in 1982 dollars.

k. Purpose of Project: The project power will be sold to the Idaho Power Company or to a utility in the Pacific Northwest.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

2a. Type of Applications: Exemption from Licensing (5MW or Less).

b. Project No: 7427–001.

c. Date Filed: September 22, 1983.

d. Applicant: Little Wood River Irrigation District.

e. Name of Project: Little Wood Reservoir.

f. Location: At the Little Wood River Dam and Reservoir, near Carley, in Blaine County, Idaho.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, 16 U.S.C. §§ 2705 and 2708 as amended.

h. Contact Person: Mr. Alton Patterson, President, Little Wood River Irrigation District, Carley, Idaho 83320.

i. Comment Date: February 13, 1984.

j. Description of Project: The proposed project would utilize irrigation releases from the Applicant's existing Little Wood River Dam and Reservoir and would consist of: (1) a concrete intake structure and a fish screen at the existing outlet; (2) a 370-foot-long, 28-inch to 56-inch diameter penstock; (3) a powerhouse containing two generating units having a total installed capacity of 1925 kW; (3) a tailrace; and (4) a 6-mile-long, 34.5-kV transmission line connecting to an existing Idaho Power Company transmission line. The Applicant estimates the average annual energy production at 4.56 million kWh.

An exemption, if issued, gives an Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

k. Purpose of Project: Project power would be sold to Idaho Power Company.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C, D3a.

3a. Type of Application: Exemption From Licensing (Small Conduit).

b. Project No: 7686–000.

c. Date Filed: October 5, 1983.

d. Applicant: Mutual Energy Company.

e. Name of Project: Jim Knight Hydroelectric Powerplant.

f. Location: On South Gooding Main Canal, near Gooding, in Gooding County, Idaho.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. §§ 2705 and 2708 as amended).

h. Contact Person: Bart M. O'Keefe, President, Mutual Energy Company, 1250 Pine Street, Walnut Creek, California 94596.

i. Comment Date: February 13, 1984.

j. Description of Project: The proposed project would consist of: (1) a 175-foot-long, 4-foot-high concrete overflow weir forming; (2) a forebay at elevation 3665 feet; (3) a semi-underground powerhouse structure containing three submersible turbine/generators at elevation 3643 feet, two having a rated capacity of 120 kW, one with a rated capacity of 75 kW, and a combined annual energy production of 1.59 GWh; (4) a cinderblock control house; (5) a transformer yard; and (6) a 900-foot-long, 43-kV transmission line to an existing Idaho Power Company powerline.

k. *Purpose of Exemption*—An exemption, if issued, gives an Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, D3b.

4a. Type of Application: Exemption (5MW or Less).

b. Project No: 5004–001.

c. Date Filed: May 31, 1983.

d. Applicant: Walker River Irrigation District.

e. Name of Project: Bridgeport Reservoir Hydroelectric Project.

f. Location: On Bridgeport Reservoir on East Walker River, in Mono County, California, near the town of Bridgeport, within the Toiyabe National Forest.

g. Filed Pursuant to: Section 408 of the Federal Energy Security Act, 16 U.S.C. §§ 2705 and 2708 *as amended*.

h. Contact Person: Mr. Jim Weishaupt, Manager, Walker River Irrigation District, P.O. Box J, Yerington, Nevada 89477.

i. Comment Date: February 13, 1984.

j. Description of Project: The proposed project would consist of: (1) an existing 63-foot-high, 900-foot-long dam at elevation 6,469 feet msl; (2) an existing emergency reservoir; (3) an existing 10-foot-high, 17-foot-long, and 17-foot-wide intake structure to be modified; (5) an existing 8-foot-diameter, 150-foot-long intake conduit; (6) an existing 10-foot-diameter, 260-foot-long outlet conduit; (7) two new generating units with a total rated capacity of 960 kW to be installed in the existing intake structure; (8) an extension of the existing gate house bridge; (9) an overflow weir at end of existing outlet conduit; and (10) a one-mile-long 13-kV transmission line, tying into an existing Southern California Edison Company line. The average annual energy output would be 3.1 million kWh.

Purpose of Exemption—An exemption, if issued, gives an Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

k. Purpose of Project: Project power would be sold to the Southern California Edison Company.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C, D3a.

5a. Type of Application: Preliminary Permit.

b. Project No.: 7357–000.

c. Date Filed: June 10, 1983.

d. Applicant: Thistle Lake Hydropower.

e. Name of Project: Thistle Lake Hydropower Project.

f. Location: Spanish Fork River in Utah County, Utah.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. Contact Person: Gregory L. Probst, 10 Exchange Place, Suite 1000, Salt Lake City, Utah 84111.

i. Comment Date: February 10, 1984.

j. Competing Application: Project No. 7316–000, Date Filed May 27, 1983.

k. Project Description: The proposed project would be located at Thistle Lake, which was created by a mud slide that occurred in April 1983. Ownership of the structure and impounded body of water is not clearly defined. It is

anticipated that the structure will be stabilized and that the lake will become permanent. The proposed project would include: (1) the existing 200-foot-high, 800-foot-long dam; (2) an existing 640 acre lake with a capacity of 40,000 acre-feet; (3) an existing 1,500-foot-long, 12-foot-diameter diversion tunnel; (4) a proposed 300-foot-long, 6-foot-diameter steel and concrete penstock; (5) a proposed powerhouse containing one turbine/generator unit with an installed capacity of 950 kW; (6) a proposed 200-foot-long tailrace; (7) a proposed 1,320-foot-long, 138-kV transmission line; and (9) appurtenant facilities. The estimated average annual generation would be 8.3 GWh.

l. Purpose of Project: The Applicant intends to sell the power generated at the proposed facility to one of the public or private utility companies operating in the project area.

m. This notice also consists of the following standard paragraphs: A8, A9, B, C, and D2.

n. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 30 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, a the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $110,000.

6a. Type of Application: Preliminary Permit.

b. Project No: 7394–000.

c. Date Filed: June 23, 1983.

d. Applicant: Lehi City Corporation.

e. Name of Project: Thistle Lake Hydropower Project.

f. Location: Spanish Fork River in Utah County, Utah.

g. Filed Pursuant to: Federal Power Act, 16, U.S.C. §§ 791(a)–825(r).

h. Contact Person: Honorable Garry Sampson, Mayor, Lehi City Corporation, 51 North Center St., Lehi, Utah 84043.

i. Comment Date: February 10, 1984.

j. Competing Application: Project No. 7316–000, Date Filed May 27, 1983.

k. Project Description: The proposed project would be located at Thistle Lake, which was created by a mud slide that occured in April 1983. Ownership of the structure and impounded body of water is not clearly defined. It is anticipated that the structure will be stabilized and that the lake will become permanent. The proposed project would include: (1) the existing 224-foot-high, 800-foot-long dam; (2) an existing 300 acre reservoir; (3) an existing 700-foot-long, 8-foot-diameter steel diversion tunnel; (4) a proposed 900-foot-long, 2-foot-diameter penstock; (5) a proposed power house containing one turbine/generator unit with an installed capacity of 2.0 MW; (6) a proposed 50-foot-long tailrace; (7) a proposed 13-mile-long, 69-kV transmission line; and (8) appurtenant facilities. The estimated average annual generation would be 17.8 GWh.

l. Purpose of Project: The Applicant intends to use the power generated at the site to offset the power needs of its municipal electrical distribution system.

m. This notice also consists of the following standard paragraphs: A8, A9, B, C, and D2.

n. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost for this work would be $220,000.

7a. Type of Application: 5 MW Exemption.

b. Project No.: 4700–002.

c. Date Filed: October 25, 1983.

d. Applicant: Montana Department of Natural Resources and Conservation.

e. Name of Project: Cooney Dam Hydroelectric Project.

f. Location: Red Lodge Creek, Carbon County, Montana.

g. Filed Pursuant to: Section 408 of the energy Security Act of 1980, (16 U.S.C. §§ 2705 and 2708 *as amended*).

h. Contact Person: Mr. Norman Barnard, Montana Department of Natural Resources and Conservation, 32 South Ewing, Helena, Montana 59601.

i. Comment Date: February 13, 1984.

j. Description of Project: The proposed project would be located on the Red Lodge Creek at the existing Cooney Dam, which is owned by the Applicant, and would consist of: (1) an existing 1,080 acre reservoir with a storage capacity of 28,500 acre-feet; (2) an 88-foot-high and 2,370-foot-long earthfill dam; (3) the existing outlet works in the right abutment of the dam consisting of a box-type intake structure, gate shaft, gate control, and a 630-foot-long tunnel drilled through the dam; (4) the proposed upgrading of the outlet works tunnel wall downstream of the control gate with the installation of 63-inch-diameter steel pipe, which would extend 80 feet downstream of the outlet portal of the tunnel to the powerhouse; (5) the proposed construction of a powerhouse with the installation of two turbine/generator units with a total installed capacity of 1,000 kW; (6) the proposed construction of a 4,000-foot-long, 7.2 kW transmission line and the upgrading of an existing 7-mile-long distribution line; and (7) appurtenant facilities. The Applicant estimates the average annual energy production to be 4.1 GWh.

k. Purpose of Project: The Applicant intends to sell the energy produced at the proposed project to the Montana Power Company.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C and D3a.

m. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

8a. Type of Application: Preliminary Permit.

b. Project No: 7830–000.

c. Date Filed: November 14, 1983.

d. Applicant: Florida Water Conservancy District.

e. Name of Project: Lemon Dam Hydro Project.

f. Location: On the Florida River in La Plata County, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. Contact Person: Loyd N. Hess, P.O. Box 1157, Durango, Colorado 81301.

i. Comment Date: February 13, 1984.

j. Competing Application: Project No. 7515, Date Filed: August 8, 1983, Due Date: November 21, 1983.

k. Description of Project: The proposed project would utilize facilities at the U.S. Bureau of Reclamation's Lemon Dam and Reservoir currently operated by the Florida Water Conservancy District, and would consist of: (1) an existing 8-inch outlet pipe capable of releasing 12 cfs to generate power; (2) a proposed power plant with an installed capacity of 119 kW; (3) transmission lines; and (4) appurtenant facilities. Applicant estimates that the average annual energy generation would be 750 MWh. All power generated would be sold to Colorado Ute Electric Association.

1. This notice also consists of the following standard paragraphs: A8, A9, B, C and D2.

m. Proposed Scope of Studies under Permit—Applicant has requested a 36-

month permit to prepare a definitive project report, including preliminary designs, results of geological, environmental, and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with the U.S. Bureau of Reclamation and other Federal, State, and local agencies, preparing a license application, conducting final field surveys, and preparing designs is estimated by the Applicant to be $11,000.

n. Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

a. Type of Application: 5 MW Exemption.

b. Project No.: 5735–001.

c. Date Filed: November 29, 1983.

d. Applicant: The Town of Hopkinton.

e. Name of Project: Hopkinton Project.

f. Location: On the Contoocook River in Hillsborough County, New Hampshire.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. Contact Person: John R. Spencer, Dufresne-Henry, Inc., Precision Park, North Spring Field, Vermont 05150.

i. Comment Date: February 10, 1984.

j. Description of Project: The proposed project would consist of: (1) an existing 325-foot-long and 11-foot-high dam; (2) a reservoir with negligible storage capacity; (3) new intake structures at the northern side of the dam; (4) a new powerhouse with an installed capacity of 249 kW; (5) a new tailrace; (6) a new 100-foot-long transmission line; and (7) other appurtenances. Applicant owns all existing facilities. It estimates an average annual generation of 1,300,000 kWh.

k. Purpose of Project: Project energy would be sold to the Public Service Company of New Hampshire.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C, and D3a.

m. Purpose of Exemption: An exemption, if issued, gives the Exemption priority of control, development, and operation of the project under the terms of the exemption from licensing, and projects the Exemptee from permit or license Applicant that would seek to take or develop the project.

Competing Applications

A1. Exemption for Small Hydroelectric Power Project under 5 MW Capacity—Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license or conduit exemption application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such an application. Any qualified small hudroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license, conduit exemption, or small hydroelectric exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A2. Exemption for Small Hydroelectric Power Project under 5 MW Capacity—Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license or conduit exemption application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license or conduit exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit and small hydroelectric exemption will not be accepted in response to this notice.

A3. License or Conduit Exemption—Any qualified license, conduit exemption, or small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license, conduit exemption, or small hydroelectric exemption application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license, conduit exemption, or small hydroelectric exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

This provision is subject to the following exception: if an application described in this notice was filed by the preliminary permittee during the term of the permit, a small hydroelectric exemption application may be filed by the permittee only (license and conduit exemption applications are not affected by this restriction).

A4. License or Conduit Exemption—Public notice of the filing of the initial license, small hydroelectric exemption or conduit exemption application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing application for license, conduit exemption, small hydroelectric exemption, or preliminary permit, or notices of intent to file competing applications, must be filed in response to and in compliance with the public notice of the initial license, small hydroelectric exemption or conduit exemption application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit: Existing Dam or Natural Water Feature Project—Anyone desiring to file a competing application for preliminary permit for a proposed project at an existing dam or natural water feature project, must submit the competing application to the Commission on or before 30 days after the specified comment date for the particular application (see 18 CFR 4.30 to 4.33 (1982)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

A competing preliminary permit application must conform with 18 CFR 4.33(a) and (d).

A6. Preliminary Permit: No Existing Dam—Anyone desiring to file a competing application for preliminary permit for a proposed project where no dam exists or where there are proposed major modifications, must submit to the Commission on or before the specified comment date for the particular application, the competing application itself, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 60 days

after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.33(a) and (d).

A7. Preliminary Permit—Except as provided in the following paragraph, any qualified license, conduit exemption, or small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license, conduit exemption, or small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent to file a license, conduit exemption, or small hydroelectric exemption application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

In addition, any qualified license or conduit exemption applicant desiring to file a competing application may file the subject application until: (1) a preliminary permit with which the subject license or conduit exemption application would compete is issued, or (2) the earliest specified comment date for any license, conduit exemption, or small hydroelectric exemption application with which the subject license or conduit exemption application would compete; whichever occurs first.

A competing license application must conform with 18 CFR 4.33(a) and (d).

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit applications on notices of intent. Any competing preliminary permit application, or notice of intent to file a competing preliminary permit application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing preliminary permit applications or notices of intent to file a preliminary permit may be filed in response to this notice.

Any qualified small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent to file a small hydroelectric exemption application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

In addition, any qualified license or conduit exemption applicant desiring to file a competing application may file the subject application until: (1) a preliminary permit with which the subject license or conduit exemption application would compete is issued, or (2) the earliest specified comment date for any license, conduit exemption, or small hydroelectric exemption application with which the subject license or conduit exemption application would compete; whichever occurs first.

A competing license application must conform with 18 CFR 4.33(a) and (d).

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a license, small hydroelectric exemption, or conduit exemption application, and be served on the applicant(s) named in this public notice.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 C.F.R. §§ 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Project Management Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency Comments*—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D2. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. *Agency Comments*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined

to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. *Agency Comments*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: January 10, 1984.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-981 Filed 1-12-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2085-000]

William A. Lockwood; Application and Motion for Confidential Treatment

January 10, 1984.

The filing individual submits the following:

Take notice that on December 30, 1983, William A. Lockwood filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Senior Vice President, Citibank, N.A.

Director, Central Louisiana Electric Company.

In addition, Mr. Lockwood has requested confidential treatment be given his compensation by Citibank.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 26, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-980 Filed 1-12-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP84-121-000, CP84-130-000, CP84-149-000]

Michigan Wisconsin Pipe Line Co., et al; Requests Under Blanket Authorizations

January 9, 1984.

Take notice that on December 9, 1983, Michigan Wisconsin Pipe Line Company, (Mich Wisc) [1], One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP84-121-000, on December 13, 1983, as supplemented January 6, 1984, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP84-130-000 and on December 23, 1983, as supplemented January 4, 1984, Northern Natural Gas Company, Division of InterNorth, Inc., (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP84-149-000, requests pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Mich Wisc, Panhandle and Northern (jointly referred to as Companies) propose to transport natural gas on behalf of Gulf States Utilities Company (Gulf States) under the authorizations issued in Docket Nos. CP82-480-000 (Mich Wisc), CP83-83-000 (Panhandle), and CP82-401-000 (Northern), pursuant to Section 7 of the Natural Gas Act, all as more fully described in the requests on file with the Commission and open to public inspection.

The Companies indicate that Gulf States has entered into two gas purchase contracts dated August 12, 1983, and August 25, 1983, with Funk Exploration, Inc., (Funk) to acquire up to 7,650,000 Mcf of gas per contract year, which would be used by Gulf States for the generation of electricity at its Willow Glen facility near Baton Rouge, Louisiana. It is further indicated by Panhandle that the gas to be sold to Gulf States by Funk would be produced from various wells located in Texas and Beaver Counties, Oklahoma. In order that Gulf States may receive its gas, the Companies state that Gulf States has entered into separate gas transportation contracts with each of them.

Specifically, Panhandle proposes to transport 37,500 Mcf of gas on an average day and 40,000 Mcf of gas on a peak day for Gulf States for a term of 120 days effective the date of the contract and from month thereafter ending the earlier of (1) December 31, 1984; (2) the issuance or denial of a certificate by the Commission under Section 7(c) of the Natural Gas Act; or (3) upon one month's written notice from one party to the other cancelling the contract. It is indicated that the gas to be purchased by Gulf States may be gas released by Panhandle and that such supplies would be subject to Section 102 of the Natural Gas Policy Act of 1978. Panhandle indicates that it would receive Gulf States' gas from Funk at various wells located in Texas and Beaver Counties and redeliver the gas on behalf of Gulf States to either Funk Fuels Corporation (FFC) in Texas County or to Mich Wisc at the outlet of Phillips Pipeline Company's (Phillips) plant in Hansford County, Oklahoma, where Panhandle would cause the gas to be delivered to Mich Wisc. It is stated that Panhandle would charge 15 cents per Mcf for the volumes of gas redelivered to FFC and 19.01 cents per Mcf for the volumes of gas redelivered to Mich Wisc. The transportation charges for this service is based upon Panhandle's IT tariff on file with the Commission, it is explanined.

Mich Wisc proposes to transport volumes of gas not to exceed 50,000 Mcf of gas per day on a peak and average day on behalf of Gulf States for an initial term ending June 30, 1985. It is stated that Gulf States would cause Funk through FFC or Panhandle to tender the purchased volumes to Mich Wisc for further transportation to Northern. Mich Wisc states that its system is proposed to be interconnected with the tailgate of Phillips' plant in Hansford County, where Panhandle would cause Phillips to deliver gas to Mich Wisc for Gulf States' account. It is stated that a hot tap to establish an interconnection between Mich Wisc and

[1] It is noted that Mich Wisc changed its name to ANR Pipeline Company after the subject request was filed.

FFC would be constructed in Texas County and that Funk would bear the cost of the facilities. Mich Wisc proposes to deliver equivalent volumes of gas to Northern at an interconnection of the pipeline systems of Northern and Mich Wisc in Kiowa County, Kansas. For this transportation service, Mich Wisc would charge 9.1 cents per dt equivalent for gas received from FFC in Texas County and 12.9 cents per dt for gas received from Phillips in Hansford County and redelivered to Northern, it is stated. In addition, Mich Wisc states that it would charge an AIC not to exceed 5.0 cents and that these rates are based on existing rate schedules of Mich Wisc's FERC Tariff.

Northern proposes to transport and exchange 50,000 Mcf of gas on an average and peak day for the account of Gulf States to a common point on Northern's system in Pecos County, Texas, at which point title of the gas would transfer to Northern and an exchange service would commence, it is submitted. Northern further proposes to cause equivalent thermal quantities of gas to be delivered for the account of Gulf States at the existing facilities of Mich Wisc in St. Mary Parish, Louisiana. It is further proposed that Northern would charge Gulf States 13.0 cents per Mcf which is Northern's backhaul rate on its Kermit to Beaver Line. Northern states that its rates for this transportation are derived from Rate Schedule EUT–1 of its FERC Tariff.

Mich Wisc further states that Northern would direct Mich Wisc to divert quantities of gas currently deliverable to United Gas Pipe Line Company (United) from United to Sugar Bowl Gas Corporation (Sugar Bowl)[2] in St. Mary Parish, Louisiana, at the existing interconnection of Mich Wisc's and Sugar Bowl's facilities. It is indicated that Mich Wisc would charge 1.8 cents per dt equivalent of gas delivered by Mich Wisc to Sugar Bowl for the account of Gulf States plus the reimbursement to Mich Wisc for Sugar Bowl's transportation charges. Pursuant to the terms of a transportation agreement between Mich Wisc and Sugar Bowl, Sugar Bowl would transport gas from Mich Wisc to Gulf States' Willow Glen Station in Iberville Parish, Louisiana. It is further indicated that Mich Wisc would pay Sugar Bowl 15.5 cents per dt equivalent for all gas delivered to Gulf States' Willow Glen Station and that Mich Wisc would be reimbursed for the 15.5 cents per Mcf.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the requests. If no protest is filed within the time allowed therefor, the proposed activities shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–977 Filed 1–12–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER84–189–000]

Northern States Power Co.; Filing

January 10, 1984.

The filing Company submits the following:

Take notice that on January 3, 1984, Northern States Power Company (NSP) tendered for filing Supplement No. 2 to the Transmission Service Agreement between Northern States Power Company (Minnesota), Otter Tail Power Company and United Power Association.

NSP states that the Supplement, dated September 12, 1983, recognizes changes in interconnection facilities between Northern States Power Company and United Power Association that have resulted from load growth, and changing investment obligations under the Transmission Service Agreement dated August 17, 1964. The Transmission Service Agreement is on file with the Commission and designated as FERC Rate Schedule No. 309.

NSP requests an effective date of March 5, 1984.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 26, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–978 Filed 1–12–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER84–190–000]

Pacific Power & Light Co.; Filing

January 10, 1984.

The filing Company submits the following:

Take notice that on January 3, 1983, Pacific Power & Light Company (PP&L) tendered for filing PP&L's Revised Appendix 1 for the state of Montana. The Revised Appendix 1 calculates an average system cost for the state of Montana applicable to the exchange of power between Bonneville Power Administration (Bonneville) and Pacific.

PP&L requests an effective date of August 3, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon Bonneville, the Public Service Commission of the State of Montana and Bonneville's Direct Service Industrial Customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 26, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–979 Filed 1–12–84; 8:45 am]

BILLING CODE 6717–01–M

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[2] It is noted that Sugar Bowl changed its name to Acadian Pipeline Corporation after the subject request was filed.

Office of Conservation and Renewable Energy

[F-012]

Energy Conservation Program for Consumer Products; Petition for Waiver of Furnace Test Procedures from The Catalyte Energy Corporation

AGENCY: Conservation and Renewable Energy Office, Department of Energy.

SUMMARY: Today's notice publishes a "Petition for Waiver" from The Catalyte Energy Corporation (Catalyte) a division of MTD Products Inc. of Cleveland, Ohio, requesting a waiver from the existing Department of Energy (DOE) test procedures for furnaces. Catalyte manufactures residential and commercial heating appliances. The firm has developed a line of high efficiency, gas-fired furnaces and boilers that will recover latent heat by condensing water vapor in the products of combustion before they exit the furnace. The petition requests DOE to grant relief from the test procedure requirements relating to the efficiency attributable to the condensing of flue gases. Catalyte seeks to use a National Bureau of Standards (NBS) condensate test method for determining Annual Fuel Utilization Efficiency (AFUE) and steady-state efficiency instead of the present DOE test procedures which base condensation calculations on the average flue gas temperature. DOE is soliciting comments, data, and information respecting the petition.

DATE: DOE will accept comments, data and information not later than February 13, 1984.

ADDRESSES: Written comments and statements shall be sent to: Department of Energy, Office of Conservation and Renewable Energy, Case No. F-012, Mail Stop CE-112.2, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT:

Michael J. McCabe, U.S. Department of Energy, Office of Conservation and Renewable Energy, Mail Station CE-112.1, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-9127;

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC-33, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-9513.

Background

The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Pub. L. 94-163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act (NECPA), Pub. L. 95-619, 92 Stat. 3266, which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR Part 430, Subpart B.

DOE has amended the prescribed test procedures by adding 10 CFR 430.27, Petitions for Waiver, to allow the Assistant Secretary for Conservation and Renewable Energy temporarily to waive test procedures for a particular basic model. 45 FR 64108 (September 26, 1980). Waivers may be granted when one or more design characteristics of a basic model either prevent testing of the basic model according to the prescribed test procedures or lead to results so unrepresentative of the model's true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

Catalyte's petition seeks a waiver from the DOE test method basing condensation calculations on the average flue gas temperature. Instead, Catalyte requests the use of the condensate measuring method as set forth in Appendix C of National Bureau of Standards' Interagency Report 80-2210, "Recommended Testing and Calculation Procedures for Estimating the Seasonal Performance of Residential Condensing Furnaces and Boilers," dated April 1980, to determine the efficiency of its condensing furnace.

Pursuant to paragraph (b) of 10 CFR 430.27, DOE is hereby publishing the "Petition for Waiver" in its entirety. The petition contains no confidential information. DOE solicits comments, data, and information respecting the petition.

Issued in Washington, D.C., January 9, 1984.

Pat Collins,

Acting Assistant Secretary, Conservation and Renewable Energy.

November 11, 1983.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

Department of Energy, Forrestal Bldg., 1000 Independence Avenue, SW., Washington, D.C. 20585.

Gentlemen:

1. Petition for Waiver—This is a petition for waiver from the Department of Energy test procedure specified in 10 CFR Part 430, Subpart B, Appendix N, amended August 12, 1980. Catalyte Energy Corporation has developed and will be marketing a line of gas fired, forced air condensing furnaces and gas fired, hot water condensing boilers that are required to be tested to the procedures under 10 CFR Part 430, Appendix N, and the Appendix N tests do not fully account for latent heat recovery; therefore, we submit this petition.

2. Petitioners Business—Catalyte Energy Corporation, an MTD Company, is a manufacturer of residential high efficiency gas fired warm air furnaces and gas fired boilers that recover latent heat by condensing the water vapor in the products of combustion. These furnaces and boilers will be manufactured in five sizes ranging from 40,000 BTUH to 120,000 BTUH input. Model numbers are UF series furnaces and GB series boilers.

3. Furnace/Boiler Design Principles—Furnace and boiler models are designed with a primary finned heat exchanger with water as the heat transfer fluid, and a regenerative type blower that pre-mixes gas and air to a unique radiant type burner to obtain higher efficiencies. Condensation of water vapor from the products of combustion occurs in the primary heat exchanger.

4. Current DOE Test Does not Accurately Measure Condensate—10 CFR Part 430, amended August 12, 1980, accounts for condensation of water vapor in the combustion products based on the average flue gas temperature whereas the Catalyte Energy Corporation models UF and GB series condense more water vapor due to film condensing than the present DOE test method predicts. This difference is as high as two percentage points.

5. DOE Test is Unfair to the General Public and Petitioner—For the consumer to justify spending additional dollars for a high efficiency furnace instead of a less efficient, less expensive furnace, Catalyte Energy Corporation believes it is highly important to accurately represent the full energy efficiency of our UF series furnace and GB series boiler. High efficiency furnaces will play a major role in reduced fuel usage and operating costs which will motivate the purchase of this type of furnace. If Catalyte Energy Corporation cannot accurately represent the full energy efficiency of our UF series furnaces and GB series boilers, we will be placed at a marketing disadvantage; and it would be difficult economically to recover high development costs incurred. Failure to grant this petition would also tend to discourage all future development by furnace manufacturers of high efficiency furnaces.

6. Proposed Alternate Test Method—The recommended procedure outlined in Appendix C of Natural Bureau of Standards Publication No. NBSIR 80-2110, April 1981, will more accurately measure the efficiency of condensing furnaces or boilers; and this

petitioner requests that Catalyte Energy Corporation be granted the option to use the procedure as outlined in NBSIR 80–2110. Petitioner also requests, as in the case of Lennox, Arkla, and Heil-Quaker petitions, in-house testing by manufacturers be permitted when manufacturers have their own test facilities.

7. Public Policy—The granting of this petition will advance the nation's energy conservation policy by encouraging the consumer to purchase and use more efficient appliances and by encouraging manufacturers to continue development of high efficiency heating appliances.

8. Other Manufacturers—To our knowledge, there are five other manufacturers in the United States that market furnaces or boilers operating in the condensing mode. Also, to our knowledge, these manufacturers have submitted petitions for waiver. These manufacturers are:

a. Hydrotherm, Inc., Rockland Avenue, Northville, New Jersey, 07647; Boiler Manufacturer

b. Amana Refrigeration, Inc., Main Street, Amana, Iowa, 52204; Furnace Manufacturer

c. Lennox Industries, Inc., Dallas, Texas; Furnace Manufacturer

d. Arkla Industries, Inc., Evansville, Indiana, 47704; Furnace Manufacturer

e. Heil-Quaker Corporation, Nashville, Tennessee, 37204; Furnace Manufacturer

If additional information is required, please contact Harry Ihlenfield, Catalyte Energy Corporation.

Respectfully,

Harry L. Ihlenfield,

Chief Engineer, Catalyte Energy Corporation.

[FR Doc. 84–935 Filed 1–12–84; 8:45 am]

BILLING CODE 6450–01–M

Office of Energy Research

Energy Research Advisory Board Technical Panel on Magnetic Fusion; Cancellation of Meeting

This notice is given to advise of the cancellation of the meeting of the Technical Panel on Magnetic Fusion (January 17, 1984) of the Energy Research Advisory Board as published in the issue of December 16, 1983 (48 FR 55905).

Issued at Washington, D.C. on January 12, 1984.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 84–1144 Filed 1–12–84; 11:29 am]

BILLING CODE 6450–01–M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 9
Friday, January 13, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

[M-397 Amdt. 2, 1/6/84]

Notice of deletion of Item 2 from the January 10, 1984 meeting.

TIME AND DATE: 10:00 a.m., January 10, 1984.

PLACE: Room 1027 (Open), Room 1012 (Closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

2. Docket 40201, *Employee Protection Program. Application on Behalf of Employees of Mackey International Airlines for determination of qualifying dislocation;* Order Denying Motion to Make Audit Reports Public. (Memo 501-I, OGC, BCAA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary, (202) 673-5068.

[S-84-995 Filed 1-10-84; 4:01 am]

BILLING CODE 6320-01-M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Tuesday, January 17, 1984, 9:30 a.m. (Eastern Time).

PLACE: Commission Conference Room No. 2001-C on the 2nd Floor of the Columbia Plaza Office Building, 2401 "F" Street, NW., Washington, D.C. 20507.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Votes.
2. A Report on Commission Operations (Optional).
3. Freedom of Information Act Appeal Request No. 83-10-FOIA-62-BA, concerning a request for a Title VII case file.
4. Freedom of Information Act Appeal No. 83-10-FOIA-135-CL, concerning a request for a closed ADEA file.
5. Management Directive 404: "Theories of discrimination to be Used in Investigating and Making Decisions in Federal Sector EEO Complaints Processing."
6. Request for Commission Approval to Contract for FY 1984 Advanced Management Skills Training.

Closed

1. Litigation Authorization; General Counsel Recommendations.
2. Proposed Withdrawal of Commissioner Charges.
3. Consideration of Certain Commissioner Charges.
4. Consideration of Certain ORA Decisions.

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission Meetings in the Federal Register, the Commission also provides recorded announcements a full week in advance on future Commission sessions. Please telephone (202) 634-6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Secretary to the Commission at (202) 634-6748.

This notice issued January 10, 1984.

Dated: January 10, 1984.

Andrelia James,

Assistant Executive Secretary to the Commission.

[S-84-1039 Filed 1-11-84; 12:45 pm]

BILLING CODE 6750-06-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Changes in Subject Matter of Agency Meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, January 9, 1984, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of Scottsbluff National Bank and Trust Company, Scottsbluff, Nebraska, for consent to merge, under its charter and title, with Scotts Bluff Savings Company, Scottsbluff, Nebraska, a noninsured industrial loan and investment company.

Application of York State Bank and Trust Company, York, Nebraska, an insured State nonmember bank, for consent to merge, under its charter and title, with First York Savings Company, York, Nebraska, a noninsured industrial loan and investment company, and for consent to establish the sole office of First York Savings Company as a branch of the resultant bank.

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: January 9, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-84-1006 Filed 1-10-84; 4:13 pm]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Change in Subject Matter of Agency Meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, January 9, 1984, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,870 Reserves for Losses 170 Open Liquidation Cases

The Board further determined, by the same majority vote, that no earlier notice of this change in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed

meeting by authority of subsections (c)(4), (c)(6), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(9)(B), and (c)(10)).

Dated: January 9, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-84-1007 Filed 1-10-84; 4:13 pm]

BILLING CODE 6714-01-M

5

FEDERAL RESERVE SYSTEM: (BOARD OF GOVERNORS)

TIME AND DATE: 10:00 a.m., Wednesday, January 18, 1984.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank and Branch director appointments. (This item was originally announced for a closed meeting on December 22, 1983.)
2. Review of procedures for safeguarding documents containing national security information while those documents are in the Federal Reserve's custody.
3. Personnel actions (appointments, promotions, asisgnments, reassignments, and salary actions) involving individual Federal Reserve System employees.
4. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: January 10, 1984.

James McAfee,

Associate Secretary of the Board.

[S-84-1022 Filed 1-11-84; 9:41 am]

BILLING CODE 6210-01-M

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federal register

Friday
January 13, 1984

Part II

Nuclear Regulatory Commission

State of Utah; Staff Assessment of Proposed Agreement Between the NRC and the State of Utah; Notice

NUCLEAR REGULATORY COMMISSION

State of Utah; Staff Assessment of Proposed Agreement Between the NRC and the State of Utah

Note.—This document was originally published on Friday, December 30, 1983 at 48 FR 57674. It is reprinted at the request of the Nuclear Regulatory Commission.

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Proposed Agreement with State of Utah.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission is publishing for public comment the NRC staff assessment of a proposed agreement received from the Governor of the State of Utah for the assumption of certain of the Commission's regulatory authority pursuant to Section 274 of the Atomic Energy Act of 1954, as amended.

A staff assessment of the State's proposed program for control over sources of radiation is set forth below as supplementary information to this notice. A copy of the program narrative, including the referenced appendices, appropriate State legislation and Utah regulations, is available for public inspection in the Commission's public document room at 1717 H Street, NW., Washington, D.C. Exemptions from the Commission's regulatory authority, which would implement this proposed agreement, have been published in the **Federal Register** and codified as Part 150 of the Commission's regulations in Title 10 of the Code of Federal Regulations.

DATE: Comments must be received on or before January 30, 1984.

ADDRESSES: All interested persons desiring to submit comments and suggestions for consideration by the Commission in connection with the proposed agreement should send them to the Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

FOR FURTHER INFORMATION CONTACT: John R. McGrath, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone: 301–492–9889, or Robert J. Doda, U.S. Nuclear Regulatory Commission, Region IV, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas, 76011, telephone 817–860–8139.

SUPPLEMENTARY INFORMATION:

Assessment of Proposed Utah Program to Regulate Certain Radioactive Materials Pursuant to Section 274 of the Atomic Energy Act of 1954, as amended.

The Commission has received a proposal from the Governor of Utah for the State to enter into an agreement with the NRC whereby the NRC would relinquish and the State would assume certain regulatory authority pursuant to Section 274 of the Atomic Energy Act of 1954, as amended.

Section 274e of the Atomic Energy Act of 1954, as amended, requires that the terms of the proposed agreement be published for public comment once each week for four consecutive weeks. Accordingly, this notice will be published four times in the **Federal Register.**

I. Background

A. Section 274 of the Atomic Energy Act of 1954, as amended, provides a mechanism whereby the NRC may transfer to the States certain regulator authority over agreement materials [1] when a State desires to assume this authority and the Governor certifies that the State has an adequate regulatory program, and when the Commission finds that the State's program is compatible with that of the NRC and is adequate to protect the public health and safety. Section 274g directs the Commission to cooperate with the States in the formulation of standards for protection against radiation hazards to assure that State and Commission programs for radiation protection will be coordinated and compatible. Further, Section 274j provides that the Commission shall periodically review such agreements and actions taken by the States under the agreements to ensure compliance with the provisions of this section.

B. In a letter dated November 14, 1983, Governor Scott M. Matheson of the State of Utah requested that the Commission enter into an agreement with the State pursuant to Section 274 of the Atomic Energy Act of 1954, as amended, and proposed that the agreement become effective on April 1, 1984. The Governor certified that the State of Utah has a program for control of radiation hazards which is adequate to protect the public health and safety with respect to the materials within the State covered by the proposed agreement, and that the State of Utah desires to assume regulatory responsibility for such materials. The text of the proposed agreement is shown in Appendix A and the narrative portion of the program description is shown in Appendix B.

The specific authority requested is for (1) byproduct material as defined in Section 11e(1) of the Act, (2) source material and (3) special nuclear material in quantities not sufficient to form a critical mass. The State does not wish to assume authority over uranium milling activities nor the commercial disposal of low-level radioactive waste. The State, however, reserves the right to apply at a future date to NRC for an amended agreement to assume authority in these areas. The nine articles of the proposed agreement cover the following areas:

I. Lists the materials covered by the agreement.
II. Lists the Commission's continue authority and responsibility for certain activities.
III. Allows for future amendment of the agreement.
IV. Allows for certain regulatory changes by the Commission.
V. References the continued authority of the Commission for common defense and security for safeguards purposes.
VI. Pledges the best efforts of the Commission and the State to achieve coordinated and compatible programs.
VII. Recognizes reciprocity of licenses issued by the respective agencies.
VIII. Sets forth criteria for termination or suspension of the agreement.
IX. Specifies the effective date of the agreement.

C. Utah Code Annotated 26–1–27 through 26–1–29 authorizes the State Department of Health to issue licenses to, and perform inspections of, users of radioactive materials under the proposed agreement and otherwise carry out a total radiation control program. Utah Radiation Control Regulations URC–10 through URC–80 adopted November 8, 1982 under authority of 26–1–27 through 26–1–29 Utah Code annotated 1953, as amended, provides standards, licensing, inspection, enforcement and administrative procedures for agreement and non-agreement materials. Pursuant to URC–12–165, the regulations are not applicable to agreement materials until the effective date of the agreement. Since January 1, 1983, the State has been licensing and inspecting users of naturally occurring and accelerator produced radioactive materials.

D. The environmental radiation issues with which the Department has been involved include: monitoring assessment of the impact of radioactive fallout from nuclear weapons testing at the Nevada Test Site; monitoring uranium mill tailings, particularly at the Vitro uranium mill; and monitoring indoor radon in Salt Lake County.

[1] A. Byproduct materials as defined in 11e(1);
B. Byproduct materials as defined in 11e(2);
C. Source materials; and
D. Special nuclear materials in quantities not sufficient to form a critical mass.

The Department has also been involved in inspections of x-ray users since 1961 including involvement in the U.S. FDA studies Nationwide Evaluation of X-Ray Trends (NEXT) and Dental Exposure Normalization Technique (DENT).

II. NRC Staff Assessment of Proposed Utah Program for Control of Agreement Materials

Reference: Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority, and Assumption Thereof by States Through Agreement.[2]

Objectives

1. *Protection.* A State regulatory program shall be designed to protect the health and safety of the people against radiation hazards.

Based upon the analysis of the State's proposed regulatory program the staff believes the Utah proposed regulatory program for agreement materials is adequately designed to protect the health and safety of the public against radiation hazards.

Radiation Protection Standards

2. *Standards.* The State regulatory program shall adopt a set of standards for protection against radiation which shall apply to byproduct, source and special nuclear materials in quantities not sufficient to form a critical mass.

Statutory authority to formulate and promulgate rules for controlling exposure to sources of radiation is contained in Utah Code Annotated 26–1–5 and 26–1–27. In accordance with that authority, the State has adopted Radiation Control Regulations on November 8, 1982 which include radiation protection standards which would apply to by product, source and special nuclear naterials in quantities not sufficient to form a critical mass upon the effective date of an agreement between the State and the Commission pursuant to Section 274b of the Atomic Energy Act of 1954 as amended.

Reference: Utah Radiation Control Regulations URC–10 through 80.

3. *Uniformity in Radiation Standards.* It is important to strive for uniformity in technical definitions and terminology, particularly as related to such things as units of measurement and radiation dose. There shall be uniformity on maximum permissible doses and level of radiation and concentrations of radioactivity, as fixed by 10 CFR Part 20 of the NRC regulations based on officially approved radiation protection guides.

Technical definitions and terminology contained in the Utah Radiation Control Regulations including those related to units of measurement and radiation doses are uniform with those contained in 10 CFR Part 20, except that the definition of byproduct material conforms to that contained in the Atomic Energy Act prior to enactment by Congress of Pub. L. 95–604, 92 Stat. 3021 et seq., November 8, 1978, the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA). In view of the fact that the State does not wish to assume authority over uranium milling activities pursuant to UMTRCA the absence of a definition of byproduct material conforming to that contained in Section 11e(2) of the Atomic Energy Act of 1954, as amended, is not viewed as a significant departure and should not be considered an impediment towards signing of a Section 274b agreement for the materials requested.

Reference: URC–12, 24.

4. *Total Occupational Radiation Exposure.* The regulatory authority shall consider the total occupational radiation exposure of individuals, including that from sources which are not regulated by it.

The Utah regulations cover all sources of radiation within the State's jurisdiction and provide for consideration of the total radiation exposure of individuals from all sources of radiation in the possession of a licensee or registrant.

Reference: URC–24–010.020.

5. *Surveys, Monitoring.* Appropriate surveys and personnel monitoring under the close supervision of technically competent people are essential in achieving radiological protection and shall be made in determining compliance with safety regulations.

The Utah requirements for surveys to evaluate potential exposure from sources of radiation and the personnel monitoring requirements are uniform with those contained in 10 CFR Part 20.

References: URC–12–050 (36) and (62), URC–12–100, URC–24–070, and URC–24–085.

6. *Labels, Signs, Symbols.* It is desirable to achieve uniformity in labels, signs, and symbols, and the posting thereof. However, it is essential that there be uniformity in labels, signs, and symbols affixed to radioactive products which are transferred from person to person.

The prescribed radiation labels, signs, and symbols are uniform with those contained in 10 CFR Parts 20, 30 thru 32 and 34. The Utah posting requirements are also uniform with those of Part 20.

References: URC–22–110, URC–24–090, URC–24–095, and URC–48–020.

7. *Instruction.* Persons working in or frequenting restricted areas shall be instructed with respect to the health risks associated with exposure to radioactive materials and in precautions to minimize exposure. Workers shall have the right to request regulatory authority inspections as per 10 CFR 19, Section 19.16 and to be represented during inspections as specified in Section 19.14 of 10 CFR 19.

The Utah regulations contain requirements for instructions and notices to workers that are uniform with those of 10 CFR Part 19.

Reference: URC–48.

8. *Storage.* Licensed radioactive material in storage shall be secured against unauthorized removal.

The Utah regulations contain a requirement for security of stored radioactive material.

Reference: URC–24–120.

9. *Radioactive Waste Disposal.* (a) Waste disposal by material users. The standards for the disposal of radioactive material into the air, water and sewer, and burial in the soil shall be in accordance with 10 CFR Part 20. Holders of radioactive material desiring to release or dispose of quantities or concentrations of radioactive materials in excess of prescribed limits shall be required to obtain special permission from the appropriate regulatory authority.

Requirements for transfer of waste for the purpose of ultimate disposal at a land disposal facility (waste transfer and manifest system) shall be in accordance with 10 CFR 20.

The waste disposal standards shall include a waste classification scheme and provisions for waste form, applicable to waste generators, that is equivalent to that contained in 10 CFR Part 61.

(b) Land Disposal of waste received from other persons. The State shall promulgate regulations containing licensing requirements for land disposal of radioactive waste received from other persons which are compatible with the applicable technical definitions, performance objectives, technical requirements and applicable supporting sections set forth in 10 CFR Part 61. Adequate financial arrangements (under terms established by regulation) shall be required of each waste disposal site licensee to ensure sufficient funds for decontamination, closure and

[2] NRC Statement of Policy published in the **Federal Register** January 23, 1981 (46 FR 7540–7546), and revision of Criterion 9 published in the **Federal Register** July 21, 1983 (48 FR 33376).

stabilization of a disposal site. In addition, Agreement State financial arrangements for long-term monitoring and maintenance of a specific site must be reviewed and approved by the Commission prior to relieving the site operator of licensed responsibility (Section 151(a)(2), Pub. L. 97–425).

Utah Radiation Control Regulations contain provisions relating to the disposal of radioactive materials into the air, water and sewer and burial in soil which are uniform with those of 10 CFR Part 20. The current Utah regulations were adopted prior to the publication of 10 CFR Part 61 and the corresponding changes to § 20.311 of Part 20. The Utah regulations, therefore, have no equivalent to § 20.311 or the waste classification system included in Part 61. Governor Matheson's letter of November 14, 1983 indicated that the State's radiation control regulations will be revised through standard rulemaking procedures to conform to the Federal standard regarding the radioactive waste manifest system and the waste classification system.

Since the waste manifest system does not become effective until December 27, 1983 and Agreement States are normally given three years to formally adopt significant changes to NRC regulations, the absence of these provisions in Utah regulations is not viewed as a significant deficiency at this time and should not be considered an impediment to the proposed agreement. The waste manifest system will be implemented by amendments to the site operator licenses. Utah, as well as other Agreement State, licensees will be required to meet the provisions of the site operator's license if they wish to use the site after December 27, 1983.

References: URC–24–130, 135, 140, 145, 150 and 160.

10. *Regulation Governing Shipment of Radioactive Materials.* The State shall to the extent of its jurisdiction promulgate regulations applicable to the shipment of radioactive materials, such regulations to be compatible with those established by the U.S. Department of Transportation and other agencies of the United States whose jurisdiction over interstate shipment of such materials necessarily continues. State regulations regarding transportation of radioactive materials must be compatible with 10 CFR Part 71.

The Utah regulations conform to those contained in NRC regulations prior to the recent (August 5, 1983) publication of a final rule amending Part 71 to achieve compatibility with the transport regulations of the International Atomic Energy Agency (IAEA). The Agreement States have been notified that these changes are considered matters of compatibility. Utah, as well as the other Agreement States, will need to make corresponding changes to their regulations. The lack of these provisions in the current Utah regulations is not viewed as a significant departure at this time since Agreement States are normally given three years to adopt important NRC rule changes, and should not be considered an impediment to the proposed agreement.

References: URC–12-Appendix A and Appendix B; URC–10-400, 500 and 510.

11. *Records and Reports.* The State regulatory program shall require that holders and users of radioactive materials (a) maintain records covering personnel radiation exposures, radiation surveys, and disposals of materials; (b) keep records of the receipt and transfer of the materials; (c) report significant incidents involving the materials, as prescribed by the regulatory authority; (d) make available upon request of a former employee a report of the employee's exposure to radiation; (e) at request of an employee advise the employee of his or her annual radiation exposure; and (f) unform each employee in writing when the employee has received radiation exposure in excess of the prescribed limits.

The Utah regulations require the following records and reports by licensees and registrants:

(a) Records covering personnel radiation exposures, radiation surveys, and disposals of materials.

Reference: URC–24–170.

(b) Records of receipt and transfer of materials.

Reference: URC–12–080.

(c) Reports concerning incidents involving radioactive materials.

Reference: URC–24–180, 190, 200, and 205.

(d) Reports to former employees of their radiation exposure.

Reference: URC–48–040(3).

(e) Reports to employees of their annual radiation exposure.

Reference: URC–48–040(2).

(f) Reports to employees of radiation exposure in excess of prescribed limits.

Reference: URC–48–040(4).

12. *Additional Requirements and Exemptions.* Consistent with the overall criteria here enumerated and to accommodate special cases and circumstances, the State regulatory authority shall be authorized in individual cases to impose additional requirements to protect health and safety, or to grant necessary exemptions which will not jeopardize health and safety.

The Utah Bureau of Radiation Control is authorized to impose upon any licensee or registrant, by rule, regulation, or order such requirements in addition to those established in the regulations as it deems appropriate or necessary to minimize danger to public health and safety or property.

Reference: URC–12–100(2).

The Bureau may also grant such exemptions from the requirements of the regulations as it determines are authorized by law and will not result in undue hazard to public health and safety or property.

Reference: URC–12–125(1).

Prior Evaluation of Uses of Radioactive Materials

13. *Prior Evaluation of Hazards and Uses, Exceptions.* In the present state of knowledge, it is necessary in regulating the possession and use of byproduct, source and special nuclear materials that the State regulatory authority require the submission of information on, and evaluation of, the potential hazards and the capability of the user or possessor prior to his receipt of the materials. This criterion is subject to certain exceptions and to continuing reappraisal as knowledge and experience in the atomic energy field increase. Frequently there are, and increasingly in the future there may be, categories of materials and uses as to which there is sufficient knowledge to permit possession and use without prior evaluation of the hazards and the capability of possessor and user. These categories fall into two groups—those materials and uses which may be completely exempt from regulatory controls, and those materials and uses in which sanctions for misuse are maintained without pre-evaluation of the individual possession or use. In authorizing research and development or other activities involving multiple uses of radioactive materials, where an institution has people with extensive training and experience, the State regulatory authority may wish to provide a means for authorizing broad use of materials without evaluating each specific use.

Prior to the issuance of a specific license for the use of radioactive materials, the Utah Bureau of Radiation Control will require the submission of information on, and will make an evaluation of, the potential hazards of such uses, and the capability of the applicant.

References: URC–19–220 and URC–22–020. Utah Program Description Section III.F.

Provision is made for the issuance of general licenses for byproduct, source and special nuclear materials in situations where prior evaluation of the licensee's qualifications, facilities, equipment and procedures is not required. The regulations grant general licenses under the same circumstances as those under which general licenses are granted in the Commission's regulations.

References: URC–19–220 and URC–21.

14. *Evaluation Criteria.* In evaluating a proposal to use radioactive materials, the regulatory authority shall determine the adequacy of the applicant's facilities and safety equipment, his training and experience in the use of the materials for the purpose requested, and his proposed administrative controls. States should develop guidance documents for use by license applicants. This guidance should be consistent with NRC licensing and regulatory guides for various categories of licensed activities.

In evaluating a proposal to use agreement materials, the Utah Bureau of Radiation Control will determine that:

(1) The applicant is qualified by reason of training and experience to use the material in question for the purpose requested in accordance with the regulations in such a manner as to minimize danger to public health and safety or property;

(2) The applicant's proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property; and

(3) The issuance of the license will not be inimical to the health and safety of the public.

Other special requirements for the issuance of specific licenses are contained in the regulations.

References: URC–22–040, 070, 090, and 110.

15. *Human Use.* The use of radioactive materials and radiation on or in humans shall not be permitted except by properly qualified persons (normally licensed physicians) possessing prescribed minimum experience in the use of radioisotopes or radiation.

The Utah regulations require that the use of radioactive material (including sealed sources) on or in humans shall be by a physician having substantial experience in the handling and administration of radioactive material and, where applicable, the clinical management of radioactive patients.

Reference: URC–22–070

Inspection

16. *Purpose, Frequency.* The possession and use of radioactive materials shall be subject to inspection by the regulatory authority and shall be subject to the performance of tests, as required by the regulatory authority. Inspection and testing is conducted to determine and to assist in obtaining compliance with regulatory requirements. Frequency of inspection shall be related directly to the amount and kind of material and type of operation licensed, and it shall be adequate to insure compliance.

Utah materials licensees will be subject to inspection by the Bureau of Radiation Control. Upon instruction from the Bureau, licensees shall perform or permit the Bureau to perform such reasonable tests and surveys as the Bureau deems appropriate or necessary. The frequency of inspections is dependent upon the type and scope of the licensed activities and will be at least as frequent, and in most cases more frequent, as inspections of similar licenses by NRC.

References: URC–12–090 and 100; URC–48–050–060–070 and 080; Utah Program Description Section III.G

17. *Inspections Compulsory.* Licensees shall be under obligation by law to provide access to inspectors. **Folios** 807–809 %118.0

Utah regulations state that licensees shall afford the Bureau at all reasonable times opportunity to inspect sources of radiation and the premises and facilities wherein such sources of radiation are used or stored.

Reference: URC–12–090.

18. *Notification of Results of Inspection.* Licensees are entitled to be advised of the results of inspections and to notice as to whether or not they are in compliance.

Following Bureau inspections, each licensee will be notified by letter of the results of the inspection. The letters indicate if the licensee is in compliance and if not, list the areas of noncompliance.

Reference: Utah Program Description Section III.H.

Enforcement

19. *Enforcement.* Possession and use of radioactive materials should be amenable to enforcement through legal sanctions, and the regulatory authority shall be equipped or assisted by law with the necessary powers for prompt enforcement. This may include, as appropriate, administrative remedies looking toward issuance of orders requiring affirmative action or suspension or revocation of the right to possess and use materials, and the impounding of materials; the obtaining of injunctive relief; and the imposing of civil or criminal penalties.

The Bureau of Radiation Control is equipped with the necessary powers for prompt enforcement of the regulations. Where conditions exist that create a clear presence of a hazard to the public health that requires immediate action to protect human health and safety, the Bureau may issue orders to reduce, discontinue or eliminate such conditions. Such orders may be a written directive to modify, suspend or revoke a license, to cease and desist from a given practice or activity, or to take such other action as may be appropriate. License modification orders will be issued when some change in licensee equipment, procedures, or management controls is necessary. Suspension orders will be used to remove an immediate threat to the public health or when a licensee has not responded adequately to other enforcement action. Revocation orders will be used when a licensee is unable or unwilling to comply with Bureau requirements. Cease and desist orders will be used to stop an unauthorized activity that has continued despite notification by the Bureau that such activity is unauthorized. In addition, the State will request from the legislature authority to impose civil penalties for violation of the Utah Radiation Control Regulations.

References: URC–12–130 and 140, Utah Program Description Section III.H., and Governor Matheson's letter dated November 14, 1983.

Personnel

20. *Qualifications of Regulatory and Inspection Personnel.* The regulatory agency shall be staffed with sufficient trained personnel. Prior evaluation of applications for licenses or authorizations and inspection of licensees must be conducted by persons possessing the training and experience relevant to the type and level of radioactivity in the proposed use to be evaluated and inspected.

To perform the functions involved in evaluation and inspection, it is desirable that there be personnel educated and trained in the physical and/or life sciences, including biology, chemistry, physics and engineering, and that the personnel have had training and experience in radiation protection. The person who will be responsible for the actual performance of evaluation and inspection of all of the various uses of byproduct, source and special nuclear

material which might come to the regulatory body should have substantial training and extensive experience in the field of radiation protection.

It is recognized that there will also be persons in the program performing a more limited function in evaluation and inspection. These persons will perform the day-to-day work of the regulatory program and deal with both routine situations as well as some which will be out of the ordinary. These people should have a bachelor's degree or equivalent in the physical or life sciences, training in health physics, and approximately two years of actual work experience in the field of radiation protection.

The foregoing are considered desirable qualifications for the staff who will be responsible for the actual performance of evaluation and inspection. In addition, there will probably be trainees associated with the regulatory program who will have an academic background in the physical or life sciences as well as varying amounts of specific training in radiation protection but little or no actual work experience in this field. The background and specific training of these persons will indicate to some extent their potential role in the regulatory program. These trainees, of course, could be used initially to evaluate and inspect those applications of radioactive materials which are considered routine or more standardized from the radiation safety standpoint, for example, inspection of industrial gauges, small research programs, and diagnostic medical programs. As they gain experience and competence in the field, the trainees could be used progressively to deal with the more complex or difficult types of radioactive material applications. It is desirable that such trainees have a bachelor's degree or equivalent in the physical or life sciences and specific training in radiation protection. In determining the requirement for academic training of individuals in all of the foregoing categories, proper consideration should be given to equivalent competency which has been gained by appropriate technical and radiation protection experience.

It is recognized that radioactive materials and their uses are so varied that the evaluation and inspection functions will require skills and experience in the different disciplines which will not always reside in one person. The regulatory authority should have the composite of such skills either in its employ or at its command, not only for routine functions, but also for emergency cases.

a. *Number of Personnel.* There are approximately 150 NRC specific licenses in the State of Utah. Under the proposed agreement, the State would assume responsibility for about 135 of these licenses. The Bureau of Radiation Control is currently staffed with five professional persons. In addition, there is currently one vacancy in the program. Two individuals will be assigned full time to the materials program. Three others will be trained to provide backup. We estimate the State will need to apply a minimum of 1.4 to 2.0 staff-years of effort to the program. The present personnel together with their assigned responsibilities are as follows:

Larry F. Anderson: Director, Bureau of Radiation Control. Responsible for administration of Bureau programs. Estimated 0.2 staff-year in materials program.

Blaine Howard: Health Physicist. Responsible for licensing and inspection in materials program. Estimated 1.0 staff-year in materials program.

Arnold J. Peart: Radiation Specialist 23. Responsible for licensing and inspection in materials program. Estimated 1.0 staff-year in materials program.

Donald G. Mitchell: Health Physicist. Responsibilities primarily in x-ray program. Will receive training in licensing and inspection in materials program. Estimated 0.1 staff-year in materials program.

Gerald R. Ripley: Health Physicist. Responsibilities primarily in x-ray program. Will receive training in licensing and inspection in materials program. Estimated 0.1 staff-year in materials program.

b. *Training.* The academic and specialized short course training for those persons involved in the administration, licensing and inspection of radioactive materials is shown below.

Larry F. Anderson—B.S. Chemistry, MPA (Health), Brigham Young University.

NIOSH Course 549, *Recognition, Evaluation, and Control of Occupational Hazards.* October, 1972.

NIOSH Course 582, *Sampling and Evaluating Airborne Asbestos Dust.* April 10–12, 1973.

Utah State Division of Health, *Visible Emissions Evaluation Course.* June 19, 1973.

American Industrial Hygiene Association, *Industrial Toxicology Seminar.* A 24-hour course ending April 30, 1975.

OSHA, *Fundamentals of Occupational Injury Investigation.* Short course ending April 1, 1977.

United States Nuclear Regulatory Commission, *Radiological Emergency Response Operations Training Course.* A 64-hour course ending January 27, 1978.

U.S. Environmental Protection Agency, *Grants Administration Seminar.* A 16-hour course ending May 16, 1979.

Safety International Training Center, *Hydrogen Sulfide and Equipment for Instructors.* A 12-hour course ending June 19, 1979.

Rocky Mountain Center for Occupational and Environmental Health, University of Utah, *Health and Exposures in the Smelter Environment.* A 20-hour course ending March 29, 1980.

Blaine Howard—B.S. Math and Physics, Ricks College. M.S. Radiological Health, New York University. M.S. Physics and Math, Brigham Young University.

Medical X-Ray Protection—BRH Rockville, MD.—October 30–Nov. 10, 1972.

Radiological Emergency Response Operations (REPR), Las Vegas and Nevada Test Site, 1978.

"States Role in Radioactive Material Management." The National Legislative Conference, Las Vegas, Dec. 9–11, 1974.

Drinking Water Regulations and Radioanalytical workshop EPA, Denver, Jan. 10–12, 1978.

X-Ray Workshop, Richfield, Utah, Mar. 14–15, 1979.

Actinides in Man and Animals—Workshop, Snowbird, UT., Oct. 15–17, 1979.

Nuclear Medicine—NRC New York City, Sept. 8–12, 1980.

NWTS Annual Information Meeting—Columbus, Ohio, Dec. 8–10, 1980.

Waste Management 1981—American Nuclear Society, Tucson, AR, Feb. 23–27, 1981.

Orientation Course in "Licensing Practices and Procedures"—NRC, Silver Spring, MD., Sept. 14–25, 1981.

Inspection Procedures Course—NRC, Atlanta, GA, July 26–30, 1982.

Arnold J. Peart—B.S. Education, Utah State University (minor—chemistry and math).

Nuclear Regulatory Commission—Orientation Course in licensing practices and procedures, 1982.

Nuclear Regulatory Commission—Medical Use of Radionuclides, 1982.

Federal Emergency Management Agency—Radiological Emergency Response Course, 1982.

Nuclear Regulatory Commission—Radiochemistry for State Regulatory Personnel, 1983.

Dept. of Health and Human Services—Basic Course for Investigators, Diagnostic X-Ray Survey, 1983.

Nuclear Regulatory Commission—Safety Aspects of Industrial Radiography, 1983.

Donald G. Mitchell—B.A. Chemistry and Physics, Brigham Young University. M.S. Physics and Math, University of Wisconsin.

Oak Ridge Assoc. Univ.—Health Physics (10 weeks) 1976.

Reynolds Electrical and Engineering—Rad. Emergency Response, 1978.

Food and Drug Administration—Diagnostic X-Ray Survey, 1979.

U.S. Nuclear Regulatory Commission—Industrial Radiography, 1982.

Eastman Kodak Company—Radiological Imaging, 1982.

Gerald R. Ripley—B.S. Biology, University of Utah. B.S. Pharmacy, University of Utah.

c. *Experience.* Mr. Anderson has been with the Bureau since 1972 and has had supervisory and administration responsibilities since 1978. Mr. Howard has been a health physicist with the State since 1972 and has had experience in health physics since 1954. Mr. Howard was certified by the American

Board of Health Physics in 1978. Mr Peart has been employed by the State since 1975, from 1975 to 1982 as an industrial hygienist and from 1982 as a radiation specialist. Messrs. Howard and Peart have accompanied NRC inspectors on materials inspections in the State of Utah. Mr. Mitchell has been a health physicist with the State since 1975. Prior to 1975 Mr. Mitchell had experience as a radiochemist and a teacher of chemistry and physics. Mr. Ripley has been a health physicist and industrial hygienist with the State since 1979. Mr. Ripley has prior experience as a radiochemist and pharmacist.

Reference: Utah Program Description Section IV and Appendix B.

21. *Conditions Applicable to Special Nuclear Materials, Source Material and Tritium.* Nothing in the State's regulatory program shall interfere with the duties imposed on the holder of the materials by the NRC, for example, the duty to report to the NRC, on NRC prescribed forms (1) transfers of special nuclear material, source material and tritium and (2) periodic inventory data.

The State's regulations do not prohibit or interfere with the duties imposed by the NRC on holders of special nuclear material owned by the U.S. Department of Energy or licensed by NRC, such as the responsibility of licensees to supply to the NRC reports of transfer and inventory.

Reference: URC–12–040 and 125.

22. *Special Nuclear Material Defined.* The definition of special nuclear material in quantities not sufficient to form a critical mass, as contained in the Utah Radiation Control Regulations, is uniform with the definition in 10 CFR Part 150.

Reference URC–12–050, Definition (60).

Administration

23. *Fair and Impartial Administration.* The Utah Health Code provides for administrative and judicial review of actions taken by the Department of Health. Any person may, upon written request, be given an opportunity for an informal hearing before the Department. If the matter cannot be resolved at the informal hearing, the person may then request a hearing before an impartial hearing officer. The person may then file in the district court for judicial review of a final determination of the executive director of the Department.

Reference: Utah Health Code Section 26–23–2.

24. *State Agency Designation.* The Utah Department of Health has been designated as the State's radiation control agency.

References: Utah Health Code 26–1–28. Governor's Matheson's letter dated November 14, 1983.

25. *Existing NRC Licenses and Pending Applications.* The Bureau has made provision to continue NRC licenses in effect temporarily after the transfer of jurisdiction. Such licenses will expire either 90 days after receipt from the Bureau of a notice of expiration or on the date of expiration specified in the federal license, whichever is earlier.

Reference: URC–12–165.

26. *Relations With Federal Government and Other States.* There should be an interchange of Federal and State information and assistance in connection with the issuance of regulations and licenses or authorizations, inspection of licensees, reporting of incidents and violations, and training and education problems.

The proposed agreement declares that the State will use its best efforts to cooperate with the NRC and other Agreement States in the formulation of standards and regulatory programs for the protection against hazards of radiation and to assure that the State's program will continue to be compatible with the Commission's program for the regulation of like materials.

Reference: Governor Matheson's letter dated November 14, 1983, Proposed Agreement Between the State of Utah and the Nuclear Regulatory Commission, Article VI.

27. *Coverage, Amendments, Reciprocity.* The proposed Utah agreement provides for the assumption of regulatory authority under the following categories of materials within the State:

(a) Byproduct materials, as defined by Section 11e(1) of the Atomic Energy Act, as amended.

(b) Source materials.

(c) Special nuclear materials in quantities not sufficient to form a critical mass.

Reference: Proposed Agreement, Article I.

Provision has been made by Utah for the reciprocal recognition of licenses to permit activities within Utah of persons licensed by other jurisdictions. This reciprocity is like that granted under 10 CFR Part 150.

Reference: URC–19–250.

28. *NRC and Department of Energy Contractors.* The State's regulations provide that certain NRC and DOE contractors or subcontractors are exempt from the State's requirements for licensing and registration of sources of radiation which such persons receive, possess, use, transfer, or acquire.

Reference: URC–12–125(2).

III. Staff Conclusion

Section 274d of the Atomic Energy Act of 1954, as amended, states: The Commission shall enter into an agreement under subsection b of this section with any State if:

(1) The Governor of that State certifies that the State has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the materials within the State covered by the proposed agreement, and that the State desires to assume regulatory responsibility for such materials; and

(2) The Commission finds that the State program is in accordance with the requirements of subsection o. and in all other respects compatiable with the Commission's program for the regulation of such materials, and that the State program is adequate to protect the public health and safety with respect to the materials covered by the proposed amendment.

The staff has concluded that the State of Utah meets the requirements of Section 274 of the Act. The State's statutes, regulations, personnel, licensing, inspection and administrative procedures are compatible with those of the Commission and adequate to protect the public health and safety with respect to the materials covered by the proposed agreement. Since the State is not seeking authority over uranium milling activities subsection o. is not applicable to the proposed Utah agreement.

Dated at Bethesda, Maryland, this 20th day of December 1983.

For the U.S. Nuclear Regulatory Commission.

G. Wayne Kerr,

Director, Office of State Programs.

Appendix A—Proposed Agreement Between the United States Nuclear Regulatory Commission and the State of Utah for Discontinuance of Certain Commission Regulatory Authority and Responsibility Within the State Pursuant to Section 274 of the Atomic Energy Act of 1954, As Amended

Whereas, The United States Nuclear Regulatory Commission (hereinafter referred to as the Commission) is authorized under Section 274 of the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act), to enter into agreements with the Governor of any State providing for discontinuance of the regulatory authority of the Commission within the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to by-product materials as defined in sections 11e. (1) and (2) of the Act, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and

Whereas, The Governor of the State of Utah is authorized under Utah Code Annotated 26–1–29 to enter into this Agreement with the Commission; and

Whereas, The Governor of the State of Utah certified on November 14, 1983 that the State of Utah (hereinafter referred to as the State) has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the

materials within the State covered by this Agreement, and that the State desires to assume regulatory responsibility for such materials; and

Whereas, The Commission found on ———, that the program of the State for the regulation of the materials covered by this Agreement is compatible with the Commission's program for the regulation of such materials and is adequate to protect the public health and safety; and

Whereas, The State and the Commission recognize the desirability and importance of cooperation between the Commission and the State in the formulation of standards for protection against hazards of radiation and in assuring that State and Commission programs for protection against hazards of radiation will be coordinated and compatible; and

Whereas, The Commission and the State recognize the desirability of reciprocal recognition of licenses and exemptions from licensing of those materials subject to this Agreement; and

Whereas, This Agreement is entered into pursuant to the provisions of the Atomic Energy Act of 1954, as amended;

Now, therefore, It is hereby agreed between the Commission and the Governor of the State, acting in behalf of the State, as follows:

Article I

Subject to the exceptions provided in Articles II, IV, and V, the Commission shall discontinue, as of the effective date of this Agreement, the regulatory authority of the Commission in the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to the following materials:

A. Byproduct materials as defined in section 11e.(1) of the Act;

B. Source materials; and

C. Special nuclear materials in quantities not sufficient to form a critical mass.

Article II

This Agreement does not provide for discontinuance of any authority and the Commission shall retain authority and responsibility with respect to regulation of:

A. The construction and operation of any production or utilization facility;

B. The export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;

C. The disposal into the ocean or sea of byproduct, source, or special nuclear waste materials as defined in regulations or orders of the Commission;

D. The disposal of such other byproduct, source, or special nuclear material as the Commission from time to time determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed of without a license from the Commission;

E. The land disposal of source, byproduct and special nuclear material received from other persons; and

F. The extraction or concentration of source material from source material ore and the management and disposal of the resulting byproduct material.

Article III

This Agreement may be amended, upon application by the State and approval by the Commission, to include the additional area(s) specified in Article II, paragraph E or F, whereby the State can exert regulatory control over the materials stated therein.

Article IV

Notwithstanding this Agreement, the Commission may from time to time by rule, regulation, or order, require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of such product except pursuant to a license or an exemption from licensing issued by the Commission.

Article V

This Agreement shall not affect the authority of the Commission under subsection 161 b. or i. of the Act to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data or to guard against the loss or diversion of special nuclear material.

Article VI

The Commission will use its best efforts to cooperate with the State and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that State and Commission programs for protection against hazards of radiation will be coordinated and compatible. The State will use its best efforts to cooperate with the Commission and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that the State's program will continue to be compatible with the program of the Commission for the regulation of like materials. The State and the Commission will use their best efforts to keep each other informed of proposed changes in their respective rules and regulations and licensing, inspection and enforcement policies and criteria, and to obtain the comments and assistance of the other party thereon.

Article VII

The Commission and the State agree that it is desirable to provide reciprocal recognition of licenses for the materials listed in Article I licensed by the other party or by any Agreement State. Accordingly, the Commission and the State agree to use their best efforts to develop appropriate rules, regulations, and procedures by which such reciprocity will be accorded.

Article VIII

The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State, or upon request of the Governor of the State, may terminate or suspend all or part of this agreement and reassert the licensing and regulatory authority vested in it under the Act if the Commission finds that (1) such termination or suspension is required to protect the public health and safety, or (2) the State has not complied with one or more of the requirements of section 274 of the Act. The Commission may also, pursuant to section 274j. of the Act, temporarily suspend all or part of this agreement if, in the judgment of the Commission, an emergency situation exists requiring immediate action to protect public health and safety and the State has failed to take necessary steps. The Commission shall periodically review this Agreement and actions taken by the State under this Agreement to ensure compliance with section 274 of the Act.

Article IX

This Agreement shall become effective on ———, 1984, and shall remain in effect unless and until such time as it is terminated pursuant to Article VIII.

Done at Salt Lake City, Utah, in triplicate, this ——— day of ———, 1984.

For the United States Nuclear Regulatory Commission.

Nunzio J. Palladino,

Chairman.

For the State of Utah.

Scott M. Matheson,

Governor.

Appendix B—Narrative Portion of Program Description

State of Utah Bureau of Radiation Control Radiation Regulatory Program

I. Foreword

The 1967 Utah Legislature passed the "Radiation Protection Act" which authorized the State Board of Health to require the registration of ionizing radiation sources and to adopt the necessary rules and regulations for controlling exposure to harmful ionizing radiation (26–1–27). The State Department of Health was designated to establish, carry out and enforce a radiation control program. (26–1–28). The governor was authorized to enter into agreements with the federal government to assume certain responsibilities with respect to sources of ionizing radiation. (26–1–29).

Upon a decision by the Utah Attorney General's office that the 1967 legislation was not sufficient to carry out these functions, the 1981 legislature passed a revised version which overcame the deficiencies by adding authority to license.

Copies of this legislation are enclosed as Appendix A. The Bureau of Radiation Control is now aggressively pursuing Agreement status.

II. History

Previous to 1961, radiation problems received limited attention. During this time attention was called to a proposal to use radioactive tailings from the Vitro uranium mill as fill material in the construction of an interstate highway. The Department of Health maintained its position which had been established earlier in refusing permission to move any of the material for any purpose. This position has continued as Utah sought help from federal agencies to

define the problems associated with uranium mill tailings.

In 1961, a chemist was added and assigned to work ¼ time in radiation related matters. He received training in x-ray from the U.S. Public Health Service and attended a 10 week course in Health Physics at Oak Ridge, Tennessee. He accompanied AEC inspectors as they visited licensees in Utah and inspected x-ray facilities upon request. In 1962 the U.S. Public Health Service assigned one of their staff to survey the x-ray facilities in Utah. He spent just over a year and surveyed all the x-ray facilities in Utah.

In 1962 high levels of radioactive contamination from the Sedan Atomic test at the Nevada Test Site were found in Utah milk. The Health Department diverted the most highly contaminated milk from human use until the Iodine-131 could decay. This called attention to the need for a radiological laboratory in Utah. With the assistance of the U.S. Public Health Service a laboratory was established in 1964 with both wet chemistry and instrumental analysis. The laboratory has been continually upgraded. A lithium drifted germanuim detector with computer electronics was added and, at present, the laboratory has provisional interim certification for drinking water analysis for gross alpha, gross beta, radium-226, radium-228 and tritium.

As a result of the Sedan contamination problem, a milk sampling network was established and weekly samples were analyzed for contamination until well after atmospheric testing was discontinued at the Nevada Test Site. Until 1972 medical and dental x-ray facilities were surveyed upon request and some industrial x-ray facilities were looked at.

In 1972, the Radiation and Occupational Health Section of the Division of Environmental Health was expanded by addition of three more professionals, one a full-time health physicist. Efforts were made to establish radiation control regulations but opposition was encountered and these efforts were unsuccessful. Inspections of x-ray facilities were performed using NCRP Recommendations as a standard. Letters were sent to the facilities specifying items of deficiency. The majority of the installations complied voluntarily with the recommendations. Bureau staff members have accompanied AEC (NRC) inspectors on numerous inspections of Utah licensees, contributing to the inspection report by invitation.

In 1972, Bureau staff assisted the Environmental Protection Agency in sampling for radon and radon daughters on and near the Vitro uranium mill site. A network of samplers was set up and serviced by Radiation and Occupational Health personnel. In 1973, Utah cooperated with the Bureau of Radiological Health in its Nationwide Evaluations of X-ray Trends (NEXT) to gather statistical data about x-ray exposure to the public. This study (NEXT) was continued for a number of years.

In 1975, a second professional health physicist was employed full time in radiological health. With this additional help a dental x-ray program, Dental Exposure Normalization Technique (DENT) was carried out to reduce exposure to patients from dental x-rays. The new techniques which were selected by the dentists reflect a 49% reduction in dental x-ray exposure. Programs were conducted with practitioners of various disciplines to improve radiographic quality while reducing patient exposure. In 1978, radon daughter concentrations were measured in some Salt Lake County businesses which were more than 5 times the maximum continuous levels allowed in uranium mines. This gave additional impetus to bills being introduced into Congress by the Utah delegates which asked for federal assistance for the clean up of uranium mill tailings. These efforts and the efforts of other states culminated in the passage of Pub. L. 95–604 "The Uranium Mill Tailings Radiation Control Act of 1978".

In 1972, an E.P.A. study identified many locations throughout much of Utah where the use of uranium mill tailings as fill material was indicated. Beginning in 1978, indoor radon measurements were made by the Bureau of Radiation Control at those locations in Salt Lake County where uranium mill tailings were used near or under habitable buildings. Through the cooperation of the U.S. Department of Energy, aerial surveys were made to complete the identification of sites where tailings were used in a large part of Salt Lake County and other Utah communities. Some additional businesses were found with high radon concentrations.

In 1979, a third full time health physicist was added to the staff to work with uranium mill tailings remedial action and assist with a new contract with the Bureau of Radiological Health to make compliance surveys of new diagnostic x-ray machines.

In 1980, a fourth full time health physicist was added to the staff to provide technical support for the governor's "High Level Nuclear Waste Task Force". This task force was appointed on June 2, 1980 to oversee the U.S. DOE's field operations in Utah, make recommendations to the governor and communicate information to the people of Utah.

In 1981, a contract was signed with Mound Laboratory for the State to monitor properties near the Vitro Uranium mill. A health physics technician was added to the staff to fill the Mound contract requirements.

In July 1981, the occupational health functions were transferred to the Industrial Commission and the Bureau was renamed the Bureau of Radiation.

In January 1982, the Bureau of Radiation was divided to form the Bureau of Uranium Mill Tailings Management and the Bureau of Radiation Control. The Bureau of Radiation Control under a new director was given the task of preparing a complete radiation control program in preparation for entering an agreement with the U.S. Nuclear Regulatory Commission.

In December 1982, the Bureau of Uranium Mill Tailings Management was combined with the Bureau of Radiation Control with the new organization as indicated on the Function Chart in Appendix B.

The Utah Radiation Control Regulations were formally adopted and became effective on January 1, 1983. Since that date, the Bureau has been licensing and inspecting users of naturally occurring and accelerator produced radioactive materials (NARM). The regulations provide for a "Radiation Technical Advisory Committee" of eight (8) members to advise, comment and provide technical assistance to the Bureau Director.

III. Administrative Policy and Procedures

A. *Introduction and Purpose.* The following procedures are to assure uniformity, continuity and appropriate treatment in all licensing, registration and regulatory practices and to maintain radiation exposures to all persons in the State as low as is reasonably possible.

Procedures are also to assure that emergency response to radiological incidents is correlated with the appropriate government agencies and that the proper information is provided to the public.

Procedures shall also provide for feedback to the Bureau director from the staff on the status of activities in regard to regulatory actions, problem cases, inquiries and need for regulation revisions.

B. *Priority of Responsibilities.* The responsibilities for Radiation Control, after the program is established, shall be given priority in the following order:

1. Emergency response to radiological incidents.
2. Respond to request by workers for inspection.
3. Routine inspection of radiation sources.
4. Reinspection of non-compliant facility and enforcement procedures.
5. Registration or licensing of radiation sources.
6. Review plans as submitted under URC–28–032.
7. Assist licensee in developing program under URC–24–015.

C. *Emergency Response Procedures.* Emergency response to radiological incidents will take precedence over other duties and will require immediate response by one or more technical staff.

1. Names of emergency response team members will be left with the department operator during off duty hours.
2. Emergency response kits will be kept in the office ready for immediate response.
3. When an emergency situation is reported the following information will be obtained.
   a. Name and telephone number of caller.
   b. Alternate contact and telephone number.
   c. Company or agency of caller.
   d. Location of incident.
   e. Type and amount of radioactive material.
   f. Detailed account of the problem.
   g. Shipper address and telephone number.
   h. Consignee address and telephone number.
   i. Who has been called in.
4. The leader of the emergency response team will have successfully completed the NRC Radiological emergency response training course.
5. All questions by the news media will be referred to the Bureau Director.

D. *Procedure for Response to Workers Request for Inspection.* 1. The request for inspection shall be in writing and outline the alleged violations.

2. The request shall be reviewed by bureau personnel and compared to past inspection reports.

3. A copy of the alleged violations will be delivered to the licensee at the time of the inspection.

4. Response to the request by workers that an inspection be performed under URC–48–070 shall be made as soon as practicable, preferably no later than 7 working days from receipt of written request.

5. Following the inspection a written report will be furnished to the complianant of any violations of the Bureau of Radiation Control Regulations.

6. The identity of the individuals requesting the inspection shall be protected as provided for in URC–48–070.

E. *Procedure for Registration of Ionizing Radiation Machines.** The following outline describes the procedures for keeping track of the registration and survey program. In all cases, the registrant should submit a completed BRC Form 10 along with the registrant's signature. Once the secretary has received this application, a registration certificate will be typed on BRC Form 11 and issued to the applicant.

1. Registration.

a. On receipt of an application:

(1) Check to assure that applicant has not previously been registered.

(2) If not registered, obtain new registration number, county-discipline-sequential.

(3) Note if the appropriate fee is enclosed. If any discrepancies are noted, registration and fee is returned for corrective actions by registrant.

b. Initiate folder.

(1) Place application form and a copy of the registration certificate in the folder. Add any other correspondence concerning this registration.

(2) Original copy of registration certificate is sent to the registrant for his files.

c. Registrant's name, address, registration number, inspection due date, and inspection information will be entered on to the word processor.

d. Mail the original certificate to the registrant. If a new registrant, the following will be included with this certificate:

(1) Notice to Employee, BRC Form 4.

(2) Copy of those sections of the Bureau of Radiation Control Regulations that apply.

2. Change in Registration.

a. Address Change.

Change all registration sheets and update word processor and indicate date.

b. Equipment Change.

Change all registration sheets and update word processor and indicate date.

c. Deaths.

(1) Mark all registration sheets accordingly.

(2) Mark manila folder "inactive", only if (4) is completed.

(3) Do not re-issue number.

(4) Locate and maintain surveillance on equipment until it is properly disposed of.

d. Retirements.

(1) Mark all registration sheets accordingly.

(2) Mark manila folder "inactive", if (4) is completed.

(3) Do not re-issue number.

4. Make sure machine is properly disposed of.

3. Procedures for Handling Completed Survey Reports:

After an x-ray unit has been registered, staff members will perform a radiation survey to determine if the registrant meets the Bureau of Radiation Control regulations. During this survey, the staff member(s) will place data on "survey reports". All reporting documents will be held in registrant's file. A letter to the registrant will be issued from the Bureau informing him if he is in compliance or explain items of non-compliance.

a. File result sheet in manila folder. The letter indicating compliance or listing items of non-compliance will be issued within 15 days after completion of inspections. A copy of this will be filed with the survey result sheet in the manila folder.

b. Non-Compliance Survey Reports.

The non-compliance survey reports will be filed on the word processor, 30-day action is required.

4. Follow-up Procedure.

a. Pull non-compliant registrants from word processor on a monthly basis for follow-up. If installation becomes "in compliance" the data on the word processor will be corrected, if non-compliance continues further action will be taken.

b. Send follow-up letters to all appropriate registrants with non-compliances, note issuance of follow-up letter on word processor.

c. If answer is not received during second 30 day period, an additional 15-day notice will be written.

d. If answer is not received during 15-day period, file will be referred to the Attorney General's office for appropriate action.

5. Procedures When "Non-Compliance" Items are corrected.

a. We will accept a written notice with signature that items of non-compliance have been corrected.

b. Upon receiving such information the following will be done:

(1) The compliance action notice from the responsible person will be placed in the manila folder for future inspection and a corrective action letter will be issued by the Bureau.

(2) Result sheet will be marked compliance by indicating date information was received and by what route. The information will be left in the manila folder.

F. *Procedures for Licensing Radioactive Material:* The specific material to be licensed by the State will be: (a) By-product material (as defined under 11(a) of the Atomic Energy Act of 1954 as amended), (b) Source Material, (c) Special nuclear material in quantities not sufficient to form a critical mass. The United States Nuclear Regulatory Commission Guides will be used for evaluation of all radioactive material applications.

1. All applicants must submit a completed state form (e.g., BRC–01 or BRC—02) along with the application fee. Once the application is received, a file folder will be created and a sequence number given.

2. Applications will be reviewed in sequence by assigned staff. Staff reviewing license applications will have completed the NRC course on licensing practices and procedures.

3. Reviewing staff will determine if application is for a new license, renewal or an amended license. Renewal and amended license applications will be referred to the original file.

4. The reviewer shall determine if all requested material has been submitted and fees paid. If material is not complete or if fees have not been paid, the applicant will be notified that no processing of the application will take place until those items are rectified.

5. If the application is in order and fees paid, it will be reviewed using the following guide lines:

a. Does the application meet the requirements of the BRC regulations?

b. Is the applicant qualified by reasons of training and experience?

c. Are the facilites adequate to carry out the proposed activity? (This may include onsite inspections.)

6. If the application meets all the requirements a license will be issued using form BRC–03 and listing any special conditions or limitations which are applicable.

a. Included with the license mailed to the licensee will be a copy of "Notice to Employees" BRC Form–04 and a copy of Bureau of Radiation Control regulations that apply.

b. A copy of the license and the application will be placed in the applicants permanent file.

c. One file on the word processor will be completed for each license, including the name and address of applicant, the license number, the inspection due date, completed inspection date and remarks.

7. If the application does not meet the requirements, the applicant will be notified by letter of any deficiencies, or any additional information and changes which may be necessary.

G. *Inspection priority.*

Priority	Type of license or facility	Inspection frequency	
		Initial (months)	Routine (months)
I	Reserved		
II	Radiography (field), Medical-Broad, Academic Type A, Uranium-By-product.	6	10
III	Hospital x-ray, Orthopedic x-ray Clinics, Radiology x-ray Clinics, Therapeutic x-ray, Accelerators, Radiography (in-house).	6	12
IV	Waste collection, (prepackaged waste only) Industrial, Industrial type B Broad.	6	15
V	Industrial Limited, Academic, Civil Defense, Soil Morsture and Density Gauges, Chiropractic x-ray, other medical x-ray.	6	18–24
VI	Medical limited, Eye Applicator, Gauge Repair, Gauge Use, Chromatography, Light Sources, Leak Test Services, Calibration Sources, Dental X-Ray.	6	12–36
VII	Veterinary x-ray	12	48
VIII	Teletherapy	6	24
IX	Walk-In Type Irradiator	6	12

*Note.—See Definition URC–12–050(43) in Utah Radiation Control Regulations.

*Note.—Other medical x-ray includes all diagnostic x-ray except hospitals, radiology clinics, orthopedic clinics, dental and veterinary x-ray.

H. *Enforcement Procedures.* The United States Nuclear Regulatory Commission Inspection Guides will be used to establish format for inspection procedures.

1. Following an inspection, the licensee will be notified by letter of (a) compliance including the results of the inspection, or (b) the areas of non-compliance and requesting written notification within 30-days describing:

a. Corrective steps which have been taken by the licensee and the results achieved.

b. Corrective steps which will be taken to prevent recurrence; and

c. The date when full compliance will be achieved.

2. If response in not received in 30 days, a second letter will be sent requiring response within 15 days to avoid issuance of an order or other legal proceedings.

3. An order is a written directive to modify, suspend or revoke a license; to cease and desist from a given practice or activity, or to take such other action as may be appropriate.

a. License modification order will be issued when some change in licensee equipment, procedures, or management controls is necessary.

b. Suspension Orders will be used:

(1) To remove a threat to the public health.

(2) When licensee has not responded adequately to other enforcement action.

(3) When the licensee interfers with the conduct of an inspection; or

(4) For any reason not mentioned above for which license revocation is legally authorized.

c. Revocation Orders will be used:

(1) When a licensee is unable or unwilling to comply with bureau requirements;

(2) When a licensee has refused to correct a violation;

(3) When a licensee does not pay a fee required by the bureau.

d. Cease and desist orders are used to stop an unauthorized activity that has continued despite notification by the Bureau that such activity is unauthorized.

e. Orders are made effective immediately, without prior opportunity for hearing, whenever it is determined that the public health, interest or safety so requires, or when the order is responding to a violation involving willfulness. Otherwise, a prior opportunity for a hearing on the modification is afforded.

4. If repetitive serious violations occur, BRC will consider issuing orders in conjunction with other enforcement actions to achieve immediate corrective actions and to deter further recurrence of serious violations.

5. Related administrative actions.

a. In addition to the formal enforcement mechanisms of notice of violation and orders, BRC will also use conferences, bulletins, circulars, information notices, notices of deviation, confirmatory action letters, defined as follows:

(1) Enforcement conferences are meetings held with licensee management to discuss safety, health and compliance with regulatory requirements.

(2) Bulletins, circulars and information notices are written notices to groups of licensees identifying specific problems and calling for or recommending specific actions on their part.

(3) Notice of Deviation are written notices describing a licensees failure to satisfy a commitment.

(4) Confirmatory action letters are letters confirming a licensee's agreement to take certain actions.

I. *Policy For Review of Plans Submitted Under URC-28-032 (Preconstruction Review of Shielding Plans).* 1. Plans should be submitted a minimum of 30 days before anticipated construction.

2. If it appears that additional shielding would be adviseable, this recommendation would be made in writing to those submitting the plans within 30 days of receiving the plans for review.

J. *Policy for Staff Assistance in Developing ALARA Programs in Accordance with URC-24-015 (This Section Requires Implementation of ALARA Programs and Offers Assistance by the Bureau When Requested).* 1. ALARA programs submitted to the Bureau shall be reviewed by the Staff. If the program is deficient, recommendations will be made to upgrade the program.

2. During each inspection, the ALARA program will be reviewed with the registrant or licensee.

3. A list of successful methods will be made and given to those requesting assistance.

K. *Staff Training Policy.* 1. Update training will be conducted on a regular basis to enhance technical proficiency. The goal of in-house training will be to maintain a basic understanding of the following topics:

a. Atomic structure and natural radioactivity.

b. Properties of Alpha and Beta Particles, Gamma Rays, X-Ray and Neutrons.

c. Radiation units and external dose determinations.

d. Biological effects of radiation.

e. Shielding.

f. Operation and calibrations of instruments for measurements of ionizing radiation.

g. Inspection procedures.

h. Special topics as needed.

2. The staff will be sent to national courses in all aspects of Radiation Control as federal or state funds are available.

3. Each staff member will be encouraged to devote some time to personal study and be working toward certification as a health physicist.

L. *Media Relations.* Media relations and the Bureau of Radiation Control can be divided into two general categories: the regular release of information and the information release following an incident involving radioactive material.

Regular Information Release. All information released to the media is to go through the Department of Health's public information officer. The policy for the Division of Environment Health has been to have the draft press release prepared by the bureau and then approved by the divisions director. This is then sent to the public information officer for release.

Telephone press inquiries are generally handled by the bureau director who then briefs the public information officer on the interview. Requests for television interviews are relayed to the public information officer with background as to the reason for the request.

The bureau director is to keep the public information officer current on any aspects of his programs which may attract media attention. This includes briefings on *potentially significant new stories.* The bureau director will also work with the public information officer on specific issues which could or should be brought up in the press. Such briefings are important to keep the public information officer current on concerns and programs of the bureau to give him the necessary background on the bureau's activities. The public information officer will make such arrangements as feature stories, interviews, press conference or other means best suited to the material to be disseminated. The spokesman for the Bureau of Radiation Control is the bureau director or the public information officer.

It is imperative in such situations that timely, accurate and current notices to the public through the press be maintained. Special attention is to be paid to stopping rumors, correcting misinformation and presenting an accurate assessment of the situation which the public can understand. Ignorance and fear can lead to panic. The press can be of great help in preventing panic and in helping make people aware of the real dangers involved, need to evacuate, etc.

A single spokesman for the Department of Health is to be established. Unless otherwise indicated by the Executive Director, Utah Department of Health, this spokesman is the public information officer. He will work closely with the bureau director and division director in his dealings with the press. There should be no unauthorized interviews by staff or others speaking for the Department of Health. Requests for statements or interviews should be directed to the public information officer, division director or bureau director.

The Media and "Incident" Coverage. The public information officer for the Department of Health should be notified immediately of any incident related to radioactivity which is a threat to the public health. Depending on the nature and extent of the incident, his activities will be coordinated with the Division of Comprehensive Emergency Management.

It is advantageous to establish a central press room if the scene of the incident is not accessible. This will make it possible for regular and timely updates.

Statements made on the scene of the incident should be limited to the known facts and not conjecture or possibilities. The press should be referred to the public information officer or bureau director by staff when they are approached by the press for interviews or comments.

IV. Organization, Staff and Equipment

The "Utah Health Code" adopted by the 1981 Utah Legislature created a "Department of Health" from the "Division of Health" of the Department of Social Services. The code gave unto the Department of Health authority to require the registration and licensing of hazardous sources of radiation and to adopt

necessary rules for controlling radiation exposure to such sources. The code also directed the Department of Health to establish, carry out, and enforce a radiation control program pursuant to the adopted rules and any federal-state agreement (The 1981 "Utah Health Code" is contained in Appendix A with pertinent statutes).

The Department of Health is divided into four Divisions. (1) The Division of Health Planning and Facilities; (2) The Division of Environmental Health; (3) The Division of Community Health Services; and (4) The Division of Family Health Services. The Division of Environmental Health is divided into six (6) Bureaus including the Bureau of Radiation Control which includes the functions of the Bureau of Uranium Mill Tailings Management. The Bureau is only concerned with title I UMTRPA activities. A chart showing the organization of the Department of Health and a function chart of the Bureau of Radiation Control are contained in Appendix B. Since this chart was drawn, a recombination of the Bureau of Radiation Control and the Bureau of Uranium Mill Tailings Management was effected with the structure as indicated in the function chart also included in Appendix B. The current staff includes one (1) health physicist certified by the American Board of Health Physics, two (2) health physicists one with extensive experience, and one (1) other staff member undergoing in-house training and attending NRC training courses.

Personnel working in Radioactive Materials Program:

Name	Time (percent)	Responsibilities
Larry F. Anderson	[redacted]	Administrative.
Blaine Howard	100	Licensing and Inspections.
Arnold J. Peart	100	Licensing and Inspections.
Donald G. Mitchell	10	Training in Licensing and Inspection.
Gerald R. Ripley	10	Training in Licensing and Inspection.
New Hire	10	Training in Licensing and Inspection.

Resume's of the current staff are included in Appendix B. The five categories of job descriptions included in the appendix will all be necessary to allow for promotion incentives for the in-house training program. This will allow hiring of individuals with limited experience and involving them in our training program with advancement available when training and experience requirements are reached.

Standard letters, standard forms, and license conditions have been prepared. Copies of the most recent versions of these materials have been included in Appendix C.

The Bureau has on hand sufficient equipment and instrumentation for the adequate conduct of the present Radiation Control Program. An inventory of this equipment is included in Appendix D.

The Utah Legislature has authorized appropriations to carry out the regulatory functions of the Bureau.

V. Emergency Response

All of the current technical staff have attended the training course in Radiological Emergency Response Operations for Radiological Emergency Response Teams of State and local governments formally sponsored by the Office of State Programs, U.S. Nuclear Regulatory Commission. The Bureau has developed a radiological comprehensive emergency management section with the Utah Highway Patrol.

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January 13, 1984

Part III

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions; Notices

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedes Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modification to General Wage Determination Decisions

The numbers of the decisioins being modified and their dates of publication in the **Federal Register** are listed with each State.

Connecticut: CT83–3021	June 3, 1983
Iowa:	
IA83–4050	July 15, 1983.
IA83–4056:	July 29, 1983.
Maryland:	
MD81–3031	May 15, 1981.
MD80–3047	Aug. 29, 1980.
Montana: MT83–5126	Dec. 9, 1983.
New York.	
NY81–3018	Mar. 27, 1981.
NY83–3044	Aug. 26, 1983

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Arkansas:	
AR83–4038 (AR84–4090)	May 13, 1983.
AR83–4039 (AR84–4091)	Do.
AR83–4049 (AR 84–4092)	July 15, 1983.
AR83–4069 (AR 84–4093)	Sept. 16, 1983.
Missouri:	
MO82–4069 (MO84–4095)	Dec. 17, 1982.
MO82–4067 (MO84–4096)	Dec. 27, 1982.
Nebraska: NE83–4062 (NE84–4094)	Sept. 2, 1983.
Pennsylvania: PA83–3002 (PA84–3000)	Sept. 9, 1983.

Signed at Washington, D.C., this 6th day of January 1984.

James L. Valin,

Assistant Administrator.

BILLING CODE 4510–27–M

MODIFICATION

DECISION #CT83-3121-MOD#10 (48 FR 25090-June 3,1983) STATEWIDE, CONNECTICUT	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Carpenters, Millwrights, Piledrivermen, Resilien Floor Layers:		
Building Construction:		
AREA 5:	$14.65	$.90

DECISION NO. I3-405 - MOD. #4 (48 FR 32455 - 7/15/83) Woodbury County, Iowa	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Boilermakers	$17.345	3.00
Electricians	13.34	2.07+ 3-3/4%
Line construction:		
Group 1	16.09	1.00+b+ 7-1/2%
Group 2	13.35	"
Group 3	12.87	"
Group 4	10.46	"
Group 5	10.62	"
Group 6	10.30	"
Group 7	12.39	"

DECISION NO. IA83-4056 - MOD. #10 (48 FR 34611 - 7/29/83) Black Hawk,Cerro Gordo, Clinton,Des Moines, Dubuque,Johnson,Linn & Polk Cos., Iowa	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Line construction (excluding Zones 3 & 5)		
Group 1	16.09	1.00+c+ 7-1/2%
Group 2	12.87	"
Group 3	13.35	"
Group 4	10.46	"
Group 5	10.62	"
Group 6	10.30	"
Group 7	12.39	"

DECISION NO. MD81-3031 - Mod. #11 (46 FR 27051 - May 15, 1981) ALLEGANY & GARRETT CITYS, MD.	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Change Modification #9 published on December 16, 1983 to read Modification #10		

DECISION NO. MD81-3047 - Mod. #14 (45 FR 57912 - August 29, 1980) ALLEGANY & GARRETT CITYS, MD.	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Change Modification #12 published on December 16, 1983 to read Modification #13		

DECISION NO. MT83-8126 - Mod. #1 (48 FR 55254 - December 9, 1983) Statewide, Montana	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CARPENTERS:		
Carpenter	$12.53	2.61
Millwrights	13.53	2.61
Piledrivermen	12.78	2.61
ELECTRICIANS:		
Area 2:		
Electrician	18.05	2.05+ 3-1/2%
Cable Splicers	18.95	2.05+ 3-1/2%

MODIFICATION

DECISION NO. NY81-3018 Mod. #8 (46 FR 19174- March 27, 1981) ALBANY, RENSSELAER, SARATOGA, & SCHENECTADY COUNTIES, NEW YORK	Basic Hourly Rates	Fringe Benefits
CHANGE:		
SCHEDULE #4		
BOILERMAKERS:	$18.16	3.381
BRICKLAYERS:		
CLASS A	14.70	3.01
CLASS B	11.03	3.01
CARPENTERS:		
CLASS A	15.22	2.07
CLASS B	15.72	2.07
CLASS C	17.66	6.685
CLASS D	13.92	2.075+a
CLASS E	11.42	2.07
CLASS F	20.87	6.685
CLASS G	16.27	6.685
CEMENT MASONS: (Heavy & Highway)	13.01	2.55
ELECTRICIANS		
CLASS A	15.70	3.50+3%
CLASS B	16.70	3.50+3%
ELEVATOR CONSTRUCTORS	14.89	3.00 +b+c
ELEVATOR CONSTRUCTORS HELPERS	10.42	3.00 +b+c
ELEVATOR PROBATIONARY	7.445	
IRON WORKERS		
CLASS A	13.90	3.99
CLASS B	14.15	3.99
CLASS C	14.025	3.99
LABORERS		
CLASS A		
GROUP 1	12.65	2.42
GROUP 2	12.80	2.42
GROUP 3	12.825	2.42
GROUP 4	12.875	2.42
GROUP 5	12.925	2.42
GROUP 6	12.90	2.42
GROUP 7	13.125	2.42
CLASS B		
GROUP 1	9.49	2.42
GROUP 2	9.64	2.42
GROUP 3	9.665	2.42
GROUP 4	9.715	2.42
GROUP 5	9.765	2.42
GROUP 6	9.74	2.42
GROUP 7	9.965	2.42

	Basic Hourly Rates	Fringe Benefits
LABORERS:		
(HEAVY & HIGHWAY)		
CLASS A	$11.69	2.40+d
CLASS B	11.89	2.40+d
CLASS C	12.09	2.40+d
CLASS D	12.29	2.40+d
MARBLE, TILE, TERRAZZO WORKER:	13.40	2.35
PLUMBERS:	17.10	2.50
POWER EQUIMPMENT OPERATORS:		
BUILDING CONSTRUCTION		
CLASS A		
CLASS 1	14.66	3.50+g
CLASS 2	15.55	3.50+g
CLASS 3	16.06	3.50+g
CLASS 4	16.25	3.50+g
CLASS B		
CLASS 1	11.00	3.50+g
CLASS 2	11.66	3.50+g
CLASS 3	12.05	3.50+g
CLASS 4	12.53	3.50+g
ROOFERS:		
Roofers	13.50	3.07
PITCH & ASBESTOS	14.00	3.07
SHEET METAL WORKER:	15.37	1.04
SPRINKLER FITTERS:	16.92	3.23

MODIFICATION

DECISION No. NY83-3044 Mod #2 (48 FR 38963 - August 26,1983) Steuben County, New York	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CARPENTERS		
Area 1		
Carpenters	$13.26	3.035
Millwright & pile-drivers	13.36	3.035

Carpenters:

Area 1: Townships of Prattsburg and Pulteney, Village of Hammondsport.

Area 2: Townships of Troupsburg, Hartsville, Prement, Wayland, Jasper, Hornellsville, Avoca, Cohocton, Counsiteo, Howard, Pansville, Wheeler, Cameron, Greenwood, West Union, and Bath, West of a line drawn from the Bath-Cameron Road (Route #10) Then West on Turnpike Road to Shannon Road, North on Shannon Road to Knight Settlement Road, South on Knight Settelment Road to Cochrane Road, West on Conchrean Road to Campbell-Creek Road to Route 53, North on Route 53 to the Wheeler Township Line.

Area 3: Remainder of the County

SUPERSEDEAS DECISION

STATE: ARKANSAS COUNTY: GARLAND, CLARK, HOT SPRING
DECISION NO. AR84-4090 DATE: Date of Publication
SUPERSEDES DECISION NO. AR83-4038 dated May 13, 1983 in 48 FR 21775
DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$15.78	2.27
BOILERMAKERS	16.40	2.465
BRICKLAYERS-STONEMASONS		
Clark & Garland Cos.	12.75	.60
Hot Spring County	12.10	.79
CARPENTERS:		
Carpenters	12.50	1.44
Millwrights-Piledrivermen	13.00	1.46
CEMENT MASONS	12.75	.63
ELECTRICIANS:		
Electricians	13.17	3%+1.80
Cable Splicers	13.295	3%+1.80
ELEVATOR CONSTRUCTORS:		
Journeymen	13.19	2.69+A
Helpers	70%JR	2.69+A
Probationary Helpers	50%JR	
IRONWORKERS	13.40	2.46
LABOPERS:		
Group 1	8.80	1.45
Group 2	9.05	1.45
Group 3	9.20	1.45
Group 4	9.30	1.45
Group 5	9.45	1.45
Group 6	9.70	1.45
Group 7	9.60	1.45
LINE CONSTRUCTION:		
Lineman	13.17	B
Cable Splicers	13.295	B
Groundman	64%JR	B
Truck Drivers with winch	80%JR	B
Truck Drivers (flat bed)	64%JR	B

	Basic Hourly Rates	Fringe Benefits
PAINTERS:		
Brush and roller	$ 9.50	
Paperhanging	10.00	
Sheet rock (tape and float only)	10.00	
Stage and Steel	11.50	
Spray & Sandblasting	12.75	
Painting operating any kind of taping or floating machine	13.25	
PLASTERERS	12.85	
PLUMBERS-PIPEFITTERS:		
Within 10 miles of Garland Co. Courthouse	13.07	1.98
10 miles and over from Garland Co. Courthouse	13.97	1.88
POWER EQUIPMENT OPERS.:		
Group 1	14.09	1.40
Group 2	12.76	1.40
Group 3	12.16	1.40
Group 4	9.99	1.40
ROOFERS	11.91	.30
SHEET METAL WORKERS	12.58	3%+2.02
SPRINKLER FITTERS	14.57	3.23
TILE LAYERS (Garland & Clark Counties)	12.75	.60

FOOTNOTES:

A- 6 months to 5 years - 6%; over 5 years - 8% of basic hourly rate plus 7 paid holidays.
PAID HOLIDAYS:
New Year's Day; Memorial Day; Independence Day; Labor Day;
Thanksgiving Day, Day after Thanksgivings Day; and Christmas Day.

B- 3-3/4% + $1.80

WELDERS: receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii).

SUPERSEDEAS DECISION

DECISION NO. AR84-4090

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DECISION NO. AR84-4090

LABORERS CLASSIFICATION DEFINITIONS

GROUP I - Construction laborer-concrete, wrecking, carpenters, dry-wall, mechanics, excavating, plumbers and electricians laborers, green cutter, blow pipe, and crete pump hose placer

GROUP II - Semi-skilled labor - pipelayers, concrete, clay and mechanical tool, cement mixer, wet or dry finishers and plasterers, mason tenders, mortar mixers, asphalt rakers and shovelers, creosote wood handlers, chuck tender

GROUP III - Skilled "A" - Steelform setters, curb and gutters, grout and cement nozzlemen

GROUP IV - Skilled "B" - Swinging scaffold, barco, 90lb pavement breakers and burners

GROUP V - Nozzleman (gunite, grout, and sandblasters); concrete pump (nozzel placer)

GROUP VI - Powderman and blaster GROUP VII - Wagon drill

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I - Cranes, draglines, shovels and piledrivers with a lifting capacity of 50 tons or over, and operators of all towers, climbing cranes, and derricks required to work 25 feet or over from the ground, blacksmith, mechanics

GROUP II - Hydraulic cranes, cherry pickers, backhoes and all derricks with a lifting capacity less than 50 tons, as specified by the manufacturers, all backhoes, tractor or truck type, all overhead and traveling cranes, or tractors with swinging boom attachments, gradalls, all above equipment irrespective of motive power, leverman (engineer), hydraulic or bucket dredges, irrespective of size

GROUP III - HEAVY EQUIPMENT OPERATORS: All bulldozers, all front end loaders, all sidebooms, skytracks, all push tractors, all pull scrapers, all motor graders, all trenching machines, regardless of size or motive power, all back fillers, central mixing plants, 10S and larger, finishing machines, all boiler firemen high or low pressure, all asphalt spreaders, hydro truck crane, multiple drum hoist, irrespective of motive power, all rotary, cable tool core drill or churn drill, water well and foundation drilling machines, regardless of size, regardless of motive power and dredge tender operator

GROUP IV - LIGHT EQUIPMENT OPERATORS: Oilerdriver motor crane, single drum hoists, winches and air tuggers, irrespective of motive power, winch or A-frame trucks, forklifts, rollers of all types and pull tractors, regardless of size, elevator operators inside and outside when used for carrying workmen from floor to floor and handling building material. Lad-A-Vator, conveyor, batch plant, and mortar or concrete mixers, below 10S, end dump Euclid, pumpcrete, spray machine and pressure grout machine, air compressors, regardless of size, all equipment, welding machines light plants, pumps, all well point system de-watering and protable pumps, space heater, irrespective of size, and motive power, equipment greaser, oiler, asphalt distributor, and like equipment, safety boat operator and deckhand.

WELDERS—receive rate prescribed for craft performing operation to which welding is incidental.

UNLISTED classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii).

SUPERSEDEAS DECISION

STATE: Arkansas COUNTY: Union and Ouachita
DECISION NO. AR84-4091 DATE: Date of Publication
Supersedes Decision No. AR83-4039 dated May 13, 1983 in 48 FR 21774.
DESCRIPTION OF WORK: Building projects (excluding single family homes and apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$15.78	2.27
BOILERMAKERS	16.60	2.645
BRICKLAYERS	12.25	.75
CARPENTERS:		
Carpenters	12.50	1.44
Millwrights, Piledrivermen	13.00	1.46
CEMENT MASONS	12.75	.63
ELECTRICIANS:		
Electricalcontracts $20,000 or less:		
Electricians	15.09	3%%
Cable Splicers	15.39	3%%
Electrical contracts over $20,000:		
Electricians	15.88	3%%
Cable Splicers	16.18	3%%
IRONWORKERS:		
Ouachita County - excluding the Southeastern portion	13.65	2.21
Union County and Southeastern portion of Ouachita County	14.55	2.21
LABORERS:		
Group I	8.80	1.45
Group II	9.05	1.45
Group III	9.20	1.45
Group IV	9.30	1.45
Group V	9.45	1.45
Group VI	9.70	1.45
Group VII	9.60	1.45
LINE CONSTRUCTION:		
Electrical contracts $20,000 or less:		
Linemen, Operators	15.09	3%%
Cable Splicers	15.39	3%%
Electrical contracts over $20,000:		
Linemen, Operators	15.88	3%%
Cable Splicers	16.18	3%%
Electrical contracts $20,000 or less and over $20,000:		
Groundman	65%JR	3%%
Truck Drivers	70%JR	3%%
Winch operator	80%JR	3%%
PAINTERS:		
Brush, Roller, Sheet Rock Work and Paperhanging	$9.00	
Spray and Sandblasting	9.875	
PLASTERERS	12.85	.64
PLUMBERS, PIPEFITTERS	14.75	1.65
POWER EQUIPMENT OPERATORS		
Group I	14.09	1.40
Group II	12.76	1.40
Group III	12.16	1.40
Group IV	9.99	1.40
ROOFERS	11.91	.30
SHEET METAL WORKERS	12.58	3%+ 2.02
SPRINKLER FITTERS	14.57	3.23
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.		

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii)).

DECISION NO. AR84-4091

LABORERS CLASSIFICATION DEFINITIONS

GROUP I - Construction laborer-concrete, wrecking, carpenters, drywall, mechanics, excavating, plumbers and electricians laborers, green cutter, blow pipe, and crete pump hose placer

GROUP II - Semi-skilled labor - pipelayers, concrete, clay and mechanical tool, cement mixer, wet or dry finishers and plasterers, mason tenders, mortar mixers, asphalt rakers and shovelers, creosote wood handlers, chuck tender

GROUP III - Skilled "A" - Steelform setters, curb and gutters, grout and cement puckers

GROUP IV - Skilled "B" - Swinging scaffold, barco, 90lb pavement breakers and burners

GROUP V - Nozzleman (gunite, grout, and sandblasters); concrete pump (nozzel placer)

GROUP VI - Powderman and blaster GROUP VII - Wagon drill

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I - Cranes, draglines, shovels and piledrivers with a lifting capacity of 50 tons or over, and operators of all towers, climbing cranes, and derricks required to work 25 feet or over from the ground, blacksmith, mechanics

GROUP II - Hydraulic cranes, cherry pickers, backhoes and all derricks with a lifting capacity less than 50 tons, as specified by the manufacturers, all backhoes, tractor or truck type, all overhead and traveling cranes, or tractors with swinging boom attachments, gradalls, all above equipment irrespective of motive power, leverman (engineer), hydraulic or bucket dredges, irrespective of size

GROUP III - HEAVY EQUIPMENT OPERATORS: All bulldozers, all front end loaders, all sidebooms, skytracks, all push tractors, all pull scrapers, all motor graders, all trenching machines, regardless of size or motive power, all back fillers, central mixing plants, 10S and larger, finishing machines, all boiler firemen high or low pressure, all asphalt spreaders, hydro truck crane, multiple drum hoist, irrespective of motive power, all rotary, cable tool core drill or churn drill, water well and foundation drilling machines, regardless of size, regardless of motive power and dredge tender operator

GROUP IV - LIGHT EQUIPMENT OPERATORS: Oilerdriver motor crane, single drum hoists, winches and air tuggers, irrespective of motive power, winch or A-frame trucks, forklifts, rollers of all types and pull tractors, regardless of size, elevator operators inside and outside when used for carrying workmen from floor to floor and handling building material. Lad-A-Vator, conveyor, batch plant, and mortar or concrete mixers, below 10S, end dump Euclid, pumpcrete, spray machine and pressure grout machine, air compressors, regardless of size, all equipment, welding machines light plants, pumps, all well point system de-watering and protable pumps, space heater, irrespective of size, and motive power, equipment greaser, oiler, asphalt distributor, and like equipment, safety boat operator and deckhand.

WELDERS—receive rate prescribed for craft performing operation to which welding is incidental.

UNLISTED classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii).

SUPERSEDEAS DECISION

STATE: Arkansas COUNTIES: Sebastian, Crawford & Washington

DECISION NO. AR84-4092 DATE: Date of Publication

Supersedes Decision No. AR83-4049 dated July 15, 1983 in 48 FR 42350.

DESCRIPTION OF WORK: Building projects (excluding single family homes and apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits
SEBASTIAN AND CRAWFORD COS.		
ASBESTOS WORKERS	$15.78	2.27
BOILERMAKERS	16.40	2.64
BRICKLAYERS, STONEMASONS	12.00	.69
CARPENTERS:		
Carpenters	11.54	1.54
Millwrights, Pile-driverman	12.29	1.54
CEMENT MASONS	12.75	.63
ELECTRICIANS:		
Electricians	14.79	8-3/4% +.80
Cable Splicers	15.04	8-3/4% +.80
IRONWORKERS	13.40	2.46
LINE CONSTRUCTION:		
Linemen, Operator	14.54	9-3/4% +.80
Cable Splicers	14.79	9-3/4% +.80
Powderman	90%JR	9-3/4% +.80
Truck Driver	75%JR	9-3/4% +.80
Groundman	65%JR	9-3/4% +.80
MARBLE MASONS, TILE LAYERS & TERRAZZO WORKERS	12.00	
PAINTERS:		
Roller work, sheetwork, finishing by machinery	9.15	
Brush	8.65	
Spray	9.65	
Swing Stage Work	99.15	
Sandblasting, steam cleaning	9.65	
PLASTERERS	12.95	
PLUMBERS, STEAMFITTERS	13.56	1.34
ROOFERS	11.91	.30
SHEET METAL WORKERS	12.58	3%+ +2.02
SPRINKLER FITTERS	14.57	3.23

	Basic Hourly Rates	Fringe Benefits
LABORERS:		
Group I	$8.80	1.45
Group II	9.05	1.45
Group III	9.20	1.45
Group IV	9.30	1.45
Group V	9.45	1.45
Group VI	9.70	1.45
Group VII	9.60	1.45
POWER EQUIPMENT OPERATORS:		
Group I	14.09	1.40
Group II	12.76	1.40
Group III	12.16	1.40
Group IV	9.99	1.40
WASHINGTON COUNTY:		
BRICKLAYERS	9.00	
CARPENTERS	7.92	
CEMENT MASONS	7.67	
ELECTRICIANS	9.51	
GLAZIERS	7.60	
IRONWORKERS	6.87	
LABORERS:		
Common	5.23	
Mason Tenders	5.67	
Plasterers Tender	7.45	
PAINTERS	8.00	
PLASTERERS	11.22	
PLUMBERS, PIPEFITTERS	11.46	1.14
ROOFERS	7.50	
SHEET METAL WORKERS	7.51	
TILE SETTERS	10.00	
TRUCK DRIVERS	6.05	12%
POWER EQUIPMENT OPERATORS		
Asphalt Finishing	6.15	12%
Asphalt Pavers	6.05	12%
Asphalt Rakers	6.39	
Asphalt Dist. Operators	5.82	11%
Bulldozers	5.95	16%
Backhoe	6.65	
Cranes	6.87	
Rollers	6.52	
Motor patrol Operator	6.88	
Foundation Drill Operator	7.29	
Scrapers	5.75	15%

DECISION NO. AR84-4092

LABORERS CLASSIFICATION DEFINITIONS

GROUP I - Construction laborer-concrete, wrecking, carpenters, drywall, mechanics, excavating, plumbers and electricians laborers, green cutter, blow pipe, and crete pump

SUPERSEDEAS DECISION

STATE: ARKANSAS COUNTY: PULASKI & JEFFERSON

DECISION NO. AR84-4093 DATE: Date of Publication

SUPERSEDES DECISION NO. AR83-4069 dated September 16, 1983 in 48 FR 41695

DECISION NO. AR84-4092

LABORERS CLASSIFICATION DEFINITIONS

GROUP I - Construction laborer-concrete, wrecking, carpenters, drywall, mechanics, excavating, plumbers and electricians laborers, green cutter, blow pipe, and crete pump hose placer

GROUP II - Semi-skilled labor - pipelayers, concrete, clay and mechanical tool, cement mixer, wet or dry finishers and plasterers, mason tenders, mortar mixers, asphalt rakers and shovelers, creosote wood handlers, chuck tender

GROUP III - Skilled "A" - Steelform setters, curb and gutters, grout and cement muckers

GROUP IV - Skilled "B" - Swinging scaffold, barco, 90lb pavement breakers and burners

GROUP V - Nozzleman (gunite, grout, and sandblasters); concrete pump (nozzel placer)

GROUP VI - Powderman and blaster GROUP VII - Wagon drill

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I - Cranes, draglines, shovels and piledrivers with a lifting capacity of 50 tons or over, and operators of all towers, climbing cranes, and derricks required to work 25 feet or over from the ground, blacksmith, mechanics

GROUP II - Hydraulic cranes, cherry pickers, backhoes and all derricks with a lifting capacity less than 50 tons, as specified by the manufacturers, all backhoes, tractor or truck type, all overhead and traveling cranes, or tractors with swinging boom attachments, gradalls, all above equipment irrespective of motive power, leverman (engineer), hydraulic or bucket dredges, irrespective of size

GROUP III - HEAVY EQUIPMENT OPERATORS: All bulldozers, all front end loaders, all sidebooms, skytracks, all push tractors, all pull scrapers, all motor graders, all trenching machines, regardless of size or motive power, all back fillers, central mixing plants, 10S and larger, finishing machines, all boiler firemen high or low pressure, all asphalt spreaders, hydro truck crane, multiple drum hoist, irrespective of motive power, all rotary, cable tool core drill or churn drill, water well and foundation drilling machines, regardless of size, regardless of motive power and dredge tender operator

GROUP IV - LIGHT EQUIPMENT OPERATORS: Oilerdriver motor crane, single drum hoists, winches and air tuggers, irrespective of motive power, winch or A-frame trucks, forklifts, rollers of all types and pull tractors, regardless of size, elevator operators inside and outside when used for carrying workmen from floor to floor and handling building material. Lad-A-Vator, conveyor, batch plant, and mortar or concrete mixers, below 10S, end dump Euclid, pumpcrete, spray machine and pressure grout machine, air compressors, regardless of size, all equipment, welding machines light plants, pumps, all well point system de-watering and protable pumps, space heater, irrespective of size, and motive power, equipment greaser, oiler, asphalt distributor, and like equipment, safety boat operator and deckhand.

WELDERS--receive rate prescribed for craft performing operation to which welding is incidental.

UNLISTED classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii).

SUPERSEDEAS DECISION

STATE: ARKANSAS COUNTY: PULASKI & JEFFERSON
DECISION NO. AR84-4093 DATE: Date of Publication
SUPERSEDES DECISION NO. AR83-4069 dated September 16, 1983 in 48 FR 41695
DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$15.78	$2.27
BOILERMAKERS	16.40	2.645
BRICKLAYERS-STONEMASONS	12.00	1.89
CARPENTERS:		
Carpenters	12.50	1.44
Millwrights-Piledrivermen	13.00	1.46
CEMENT MASONS	12.75	.63
ELECTRICIANS:		
Electricians	14.70	3%+2.90
Cable Splicers	14.825	3%+2.90
ELEVATOR CONSTRUCTORS:		
Journeyman	13.19	2.69+A
Helpers	70%JR	2.69+A
Probationary Helpers	50%JR	
GLAZIERS	9.70	.50
IRONWORKERS	13.40	2.46
LABORERS:		
Group 1	8.80	1.45
Group 2	9.05	1.45
Group 3	9.20	1.45
Group 4	9.30	1.45
Group 5	9.45	1.45
Group 6	9.70	1.45
Group 7	9.60	1.45
LINE CONSTRUCTION:		
Lineman-Operators	14.85	B
Cable Splicers	14.975	B
Groundman	9.65	B
Winch Equipment	10.84	B
MARBLE, TILE, & TERRAZZO WORKERS	11.35	.80
PAINTERS:		
Painters, paperhangers, steam cleaners, sheetrock finishers and wall cover hangers	11.25	.63
Spray gun operators and sandblasters	11.85	.63
All skeleton steel and all work on stage, structural steel over 30 feet high	11.50	.63
PLASTERERS	12.85	.64
ROOFERS	11.91	.30
SPRINKLER FITTERS	14.57	3.23
POWER EQUIPMENT OPERATORS:		
Group 1	$14.09	$1.40
Group 2	12.76	1.40
Group 3	12.16	1.40
Group 4	9.99	1.40
PLUMBERS-PIPEFITTERS:		
(including the setting & erecting of all piping in heating-ventilating & air conditioning systems):		
Jefferson County	14.67	1.98
Pulaski County:		
Within 10 miles radius of Pulaski Co. Courthouse	14.30	2.05
Over 10 miles from Pulaski Co. Courthouse	14.60	2.05
SHEET METAL WORKERS:		
(including the installation, dismantling, conditioning, adjustment, alteration, repairing, & servicing of all air-veyor and air handling systems, testing and balancing of all air handling equipment and duct work)	12.58	2.02

FOOTNOTES:
A- 6 mos. to 5 yrs.-6%; over 5 yrs. 8% of basic hourly rate; plus seven paid holidays.
PAID HOLIDAYS: NewYears Day;Memorial Day;Independence Day;Labor Day; Thanksgiving Day;Day after Thanksgiving Day; and Christmas Day.
B- 3-3/4% + $2.20
WELDERS: receive rate prescribed for craft performing operation to which welding is incidental.

DECISION NO. AR84-4093

LABORERS CLASSIFICATION DEFINITIONS

GROUP I - Construction laborer-concrete, wrecking, carpenters, drywall, mechanics, excavating, plumbers and electricians laborers, green cutter, blow pipe, and crete pump hose placer

GROUP II - Semi-skilled labor - pipelayers, concrete, clay and mechanical tool, cement mixer, wet or dry finishers and plasterers, mason tenders, mortar mixers, asphalt rakers and shovelers, creosote wood handlers, chuck tender

GROUP III - Skilled "A" - Steelform setters, curb and gutters, grout and cement muckers

GROUP IV - Skilled "B" - Swinging scaffold, baroo, 90lb pavement breakers and burners

GROUP V - Nozzleman (gunite, grout, and sandblasters); concrete pump (nozzel placer)

GROUP VI - Powderman and blaster GROUP VII - Wagon drill

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I - Cranes, draglines, shovels and piledrivers with a lifting capacity of 50 tons or over, and operators of all towers, climbing cranes, and derricks required to work 25 feet or over from the ground, blacksmith, mechanics

GROUP II - Hydraulic cranes, cherry pickers, backhoes and all derricks with a lifting capacity less than 50 tons, as specified by the manufacturers, all backhoes, tractor or truck type, all overhead and traveling cranes, or tractors with swinging boom attachments, gradalls, all above equipment irrespective of motive power, levelman (engineer), hydraulic or bucket dredges, irrespective of size

GROUP III - HEAVY EQUIPMENT OPERATORS: All bulldozers, all front end loaders, all sidebooms, skytracks, all push tractors, all pull scrapers, all motor graders, all trenching machines, regardless of size or motive power, all back fillers, central mixing plants, 10S and larger, finishing machines, all boiler firemen high or low pressure, all asphalt spreaders, hydro truck crane, multiple drum hoist, irrespective of motive power, all rotary, cable tool core drill or churn drill, water well and foundation drilling machines, regardless of size, regardless of motive power and dredge tender operator

GROUP IV - LIGHT EQUIPMENT OPERATORS: Oilerdriver motor crane, single drum hoists, winches and air tuggers, irrespective of motive power, winch or A-frame trucks, forklifts, rollers of all types and pull tractors, regardless of size, elevator operators inside and outside when used for carrying workmen from floor to floor and handling building material. Lad-A-Vator, conveyor, batch plant, and mortar or concrete mixers, below 10S, end dump Euclid, pumpcrete, spray machine and pressure grout machine, air compressors, regardless of size, all equipment, welding machines light plants, pumps, all well point system de-watering and protable pumps, space heater, irrespective of size, and motive power, equipment greaser, oiler, asphalt distributor, and like equipment, safety boat operator and deckhand.

WELDERS—receive rate prescribed for craft performing operation to which welding is incidental.

UNLISTED classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii).

SUPERSEDEAS DECISION

STATE: Missouri COUNTIES: Pettis and Saline
DECISION NO.: MO84-4095 DATE: Date of Publication
Supersedes Decision NO. MO82-4069 dated December 17, 1982 in 47 FR 56603.
DESCRIPTION OF WORK: Building projects, (excluding single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$17.29	4.35
BOILERMAKERS	17.345	3.00
BRICKLAYERS, STONEMASONS, TILE LAYERS	14.00	.50
CARPENTERS (PETTIS COUNTY):		
Carpenters & Lathers	12.75	1.03
Millwrights	13.25	1.03
Piledrivers	12.875	1.03
CARPENTERS (SALINE COUNTY):		
Carpenters & Lathers	13.55	2.07
Millwrights & Piledrivermen	15.05	2.07
CEMENT MASONS	13.98	
ELECTRICIANS (PETTIS CO.):		
Contracts not exceeding 2000 man hours	15.18	2.51+ 10%
Contracts exceeding 2000 man hours	16.18	2.51+ 10%
ELECTRICIANS (SALINE CO.):		
Contracts not exceeding 2000 man hours	14.58	2.51+ 10%
Contracts exceeding 2000 man hours	16.18	2.51+ 10%
ELEVATOR CONSTRUCTORS:		
Elevator Constructors	16.53	2.465+ a
Elevator Constructors' Helpers	70%JR	2.465+ a
Elevator Constructors' Helpers (Prob.)	50%JR	
GLAZIERS	14.72	2.66+ 15.48%
IRONWORKERS	16.25	4.25
PAINTERS:		
Brush	14.25	
Spray; Sandblasting	15.25	
Machine taping; outside work on swing stages, window jacks, with belts or boatswain's chair	14.75	
PIPEFITTERS	$17.44	3.22
PLASTERERS	13.66	
PLUMBERS	17.96	2.70
ROOFERS	16.48	2.71
SHEET METAL WORKERS	16.75	2.78
SOFT FLOOR LAYERS	11.21	1.95+ 11%
MARBLE & TILE SETTERS	17.02	68+ 1.02
TILE SETTERS FINISHERS	14.40	
TERRAZZO WORKERS	15.31	9.25%
TERRAZZO FINISHERS	13.58	
TERRAZZO BASE MACHINE OP.	13.93	
LABORERS (PETTIS CO.):		
GROUP 1	9.575	2.75
GROUP 2	9.675	2.75
GROUP 3	9.90	2.75
LABORERS (SALINE CO.):		
GROUP 1	10.95	1.85
GROUP 2	11.10	1.85
GROUP 3	11.25	1.85
POWER EQUIPMENT OPERATORS:		
Building Construction		
GROUP 1	15.46	3.75
GROUP 2	15.11	3.75
GROUP 3:		
(a)	10.05	3.75
(b)	13.21	3.75
(c)	10.85	3.75
(d)	13.46	3.75
GROUP 4	15.71	3.75
GROUP 5	15.36	3.75
GROUP 6	15.96	3.75
GROUP 7:		
(a)	15.21	3.75
(b)	14.96	3.75
(c)	12.96	3.75
GROUP 8	16.46	3.75
GROUP 9	15.96	3.75

DECISION NO. MO84-4095

LABORERS CLASSIFICATION DEFINITIONS PETTIS COUNTY

DECISION NO. MO84-4095

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS

DECISION NO. MO84-4095

LABORERS CLASSIFICATION DEFINITIONS PETTIS COUNTY

GROUP 1 - Carpenter tenders; track men; wreckers (alterations or entire project); reinforcing rod carriers; all other general laborers
GROUP 2 - Plumber laborers; stonemasons tenders; air tool operators; sewer work; water lines; conduit pipe; drain tile & duct lines; batter board man or pipe & ditch work; pier hole men working below ground; vibrator man; scaleman; jackhammer; chipping hammer operators; material batch hopper man; spreader or screed man on asphalt machine; brush feeders on/pulverizers; swinging scaffold; cement handlers (bulk or sack); laser beam man; chain or concrete saw
GROUP 3 - Plaster tenders; hod carriers; brick tenders; cutting torch & burner men; asphalt rakers; barco tamper; jackson or any similar tamps; power buggy operator; powderman; mastic kettlemen; sandblasting & gunnite nozzleman; head pipe layer on sewer work; men working in tunnels; head formsetters & stringline men; hot tar applicator

LABORES CLASSIFICATION DEFINTIONS SALINE COUNTY

GROUP 1 - Common labor; wire mesh handlers or setters, carpenter tender; trackmen; flagmen; signalmen; salamander tenders; floor cleaners; landscape men; sod layers; wreckers (for alteration or entire projects)
GROUP 2 - Plumber laborers (conduit pipe, sewer work, drain tile & duct lines, digging & back filling); power tool operators; pier hole diggers (over 10 ft.); vibrator, jacknemmer & chipping hammer operators; chain saw operators, concrete saw operators; brush feeders on pulverizers; reinforcing steel handlers; air tamp operators; ditch witch operators; swinging scaffolds; cutting torch or burner men; georgia buggies (self-propelled); fork lift, hoseman; insulation me
GROUP 3 - Fork lift (masonry); brick tenders; plasterer tenders; stone mason tenders; barco, Jackson or similar tamp operators; asphalt raker; powdermen; mastic hot kettlemen; sandblasting & gunite nozzle men; wagon & churn drill operators

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS
GROUP I - Asphalt paver and spreader; asphalt plant mixer operator; asphalt plant operator; back fillers; backhoe; barber-greene loader; blade-power; boats-power; boilers (2); boring machines; cableways; cherry pickers; chip spreader; concrete ready-mixed plant, portable (job site); concrete mixer paver; crane-overhead; crusher, rock; derricks and derricks cars (power operated); ditching machines; dozers; dredges - any type power; grade-all - similar type; hoist, endless chain-power operated with power travel; loaders; mechanic and welder; mucking machine; orange peels; pumps - material; push cats; scoops; self-propelled rotary drill; shovel, power; side boom; skimmer scoop; testhole machine; throttle man
GROUP II - Boilers (1); Brooms - power operated; chip spreader (front man); clef plane operator; compressors (1) 125' or over; concrete saws, self-propelled); crab - power operated; curb finishing machine; firemen on rigs; flex plane; floating machine: form grader; greaser; hoist, endless chain - power operated; hopper - power operated; hydra hammer; lad-a-vator - similar type; rollers; siphons, jets, and jennies; sub-grader; tractors over 50 h.p.; compressors (2) 125' ft. or over not more than 20' apart; compressors-tandem; compressors single, truck mounted; elevator; finishing machine
GROUP III:
(a) Oilers
(b) Fork lift-masonry
(c) Oiler driver
(d) A-frame trucks; fork lift-all types (except masonry); mixers (w/side loaders); pumps (w/well points) dewatering systems, test or pressure pumps; tractors (except when hauling material) less than-50 h.. p.
GROUP IV
Clamshells, 80 ft. of boom or over (inc. jib); crane or rigs, 80 ft. of boom or over (inc. jib); draglines, 80 ft. of boom or over (inc. jib); pile drivers, 80 ft. of boom or over (incl. jib)
GROUP V
Hoists-each additional drum over 1 drum
GROUP VI
Crane or rigs, over 200 ft. of boom
GROUP VII
Ready Mixed Concrete Plants:
(a) Crane operator
(b) Loader operator & plant man
(c) Conveyor operator
GROUP VIII
Master Mechanic
GROUP IX
Crane-tower or climbing

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)".

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SUPERSEDEAS DECISION

STATE: Missouri
COUNTIES: Jasper, McDonald and Newton
DECISION NUMBER: MO84-4096
DATE: Date of Publication
Supersedes Decision No. 82-4067 dated December 27, 1982, in 47 FR 57618.
DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$16.92	$2.25
BOILERMAKERS	17.345	3.00
BRICKLAYERS; STONEMASONS	13.00	1.45
CARPENTERS:		
Carpenters and Lathers	12.27	1.50
Millwrights and Pile-driversmen	12.52	1.50
ELECTRICIANS	13.09	1.67+8%
ELEVATOR CONSTRUCTORS:		
Mechanics	16.53	2.465+a
Helpers	70%JR	2.465+a
Probationary Helpers	50%JR	
GLAZIERS	15.04	.25
IRONWORKERS	14.60	2.37
LINE CONSTRUCTION:		
Lineman	17.03	.65+8½%
Linemen Operators	16.24	.65+8½%
Groundman	11.03	.65+8½%
Groundman, Powderman	11.91	.65+8½%
PAINTERS:		
Brush, Roller, Tapers, Floor Tile and Carpet Layers, Paperhangers	12.72	.60
Spray	13.22	.60
PLASTERERS	13.05	
PLUMBERS and PIPEFITTERS	13.72	2.13
ROOFERS	12.00	.66
SHEET METAL WORKERS	16.18	1.95
LABORERS:		
General Laborers	10.05	1.65
Mason & Plaster Tenders & Powderman	10.45	1.65
POWER EQUIPMENT OPERATORS:		
Group 1	$13.63	$2.10
Group 2	13.15	2.10
Group 3	12.55	2.10
Group 4	11.95	2.10

DECISION NO. MO84-4096

FOOTNOTE
a. Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit, also 7 Paid Holidays.

LABORERS CLASSIFICATIONS

Group 1: General Laborers, Carpenter Tenders, Trackmen, Wreckers handling and carrying of reinforced steel

Group 2: Pipelayers (conduit pipe, sewer tile, drain tile, duct line with mains); Air Tool Operators; Pier Hole Diggers (over 10'); Vibrators; Jackhammer; Chipping Hammer Operator (air or electric); Asphalt Rakers; Mastic Kettlemen; Sandblasting; Gunnite Nozzlemen; Cutting Torch and Welders; Barco; Jackson or similar Tamp Operators; Powderman

Group 3: Plasterers and Mason Tenders

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

Group 1: Crane; Dragline; Derrick; Drum or Tower Hoist (2 drum); Power Shovel or Back Hoe (on tracks); Piledriver; Power Blade; Motor Patrol; Mechanic; Hydraulic, self-propelled Crane; Stringer or Cherry Picker Crane

Group 2: Bulldozer; Dirt Scoop or Pan; Elevating Grader; Drum or Tower Hoist (1 drum); Loader (track or rubber tire); Tractor, Pusher Roller (asphalt); Tractor or Back Hoe (on rubber tires); Tractor (Compaction Roller or Pull Blade Track)

Group 3: Fork Lift; Roller; Industrial Tractor; Tractor (Compaction Roller or Pull Blade, rubber tire); Distributor (Bituminous); Finishing Machine (concrete paving); Concrete Saw (self-propelled); Air Compressor (600 cu. ft. or over)

Group 4: Oiler; Oiler, driver

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii))

SUPERSEDEAS DECISION

STATE: Nebraska
COUNTIES: Cass,Douglas,Sarpy,Washington,

SUPERSEDEAS DECISION

STATE: Pennsylvania
COUNTIES: Allegheny, Armstrong,

SUPERSEDEAS DECISION

STATE: Nebraska

COUNTIES: Cass,Douglas,Sarpy,Washington, and that portion of Saunders Co. East of Highway #109

DECISION NO.: NE84-4094

DATE: Date of Publication

Supersedes Decision No. NE83-4062, dated September 2, 1983 in 48 FR 40095.

DESCRIPTION OF WORK: Heavy construction (excluding Washington County and that portion of Saunders County east of Highway #109) and Highway construction (excluding bridges across navigable waterways) in all counties.

	Basic Hourly Rates	Fringe Benefits
CARPENTERS:		
Carpenters	$13.33	2.10
Sawmen & Piledriver	13.455	2.10
Creosote	13.58	2.10
Douglas & Sarpy Co.:		
Cement Mason	12.17	2.45
IRONWORKERS:		
Reinforcing & Structural	14.10	2.90
LABORERS: (Douglas,Sarpy & Cass Counties):		
Class 1 - General Laborers	9.70	1.80
Class 2 - Towboats & Dredge Deckhands	9.82	1.80
Class 3 - Rakers & Screedman on Asphalt; Mortar Mixer Concrete Saw Operator Pipelayer & Chain Saw Operator	10.05	1.80
	9.99	1.80
Class 4 - Laborer,Welder	10.10	1.80
Class 5 - Form Setters & Precast Manhole Setter, Inlet Builders	10.43	1.80
Class 6 - Tunnelers, Free Air	10.28	1.80
LINE CONSTRUCTION		
Linemen	15.37	3%+.65
Cable Splicers	16.51	3%+.65
Equipment Operator	13.83	3%+.65
Truck Driver	11.10	3%+.65
Groundmen	10.03	3%+.65
TRUCK DRIVERS:		
Douglas & Sarpy Cos.:		
Single Axle, Jack & Spreader,Tandem Axle Euclid Trucks, Power Lift Form Trucks & Jack & Spreader Trucks, Lowboys, Tractor Trailer Water Pulls, Tandem Dump w/auxiliary End, Dump Trailer	10.27	1.75
Water Pulls	10.62	1.75
TRUCK DRIVERS (Cont'd):		
Lumber Carrier	$10.82	1.75
POWER EQUIPMENT OPERATORS:		
Group 1:		
Oilers, Greasers	8.31	2.00
Group 2:		
Oiler, Driver	8.40	2.00
Group 3:		
Tractors under 35 h.p., Air Compressors, Pumps, Welding Machine, Spray Machine,Form Trenchers,Belt Machine	10.68	1.40
Group 4:		
Concrete Mixer,Forklift Operator,Hydro-hammer	11.13	1.40
Group 5:		
Spreader Oiler	12.17	1.40
Group 6:		
Concrete Spreader, Concrete Finishing Machine,Concrete Pump Operator, Bulldozer, Roller, Traxcavator, 1 Drum Hoist, Oiler Distributor, Asphalt Roller,1 Drum Winch Truck	12.42	1.40
Group 7:		
Blade (Patrol),Scraper	12.82	1.35
Group 8:		
Hoist, 2 Drums;Trenching Machine; Paving Mixer;Piledriver;Heavy Duty Mechanic & Welder;Shovel;Dragline; Clamshell;Orange Peel;Backhoe; Derrick;Crane; Locomotive;Fireman on Boiler;Laydown Machine;Two Drum Winch Truck;Side Boom Cat;Pug Mill Operator on Asphalt Plant;Leverman on Dredge;Engineer on Dredge;Tugboat Operator;Gradall Operator;Rotary Well Drilling Operator;Hydrocrane; Cleveland Type Backfiller;Self-Propelled Spreader Vibrator;Slip Form Paver	13.01	1.35

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Pennsylvania

COUNTIES: Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Cameron, Centre, Clarion, Clearfield, Clinton, Crawford, Elk, Erie, Fayette, Forest, Franklin, Fulton, Greene, Huntingdon, Indiana, Jefferson, Lawrence, McKean, Mercer, Mifflin, Potter, Somerset, Venango, Warren, Washington, Westmoreland

DECISION NUMBER: PA84-3000

DATE: Date of Publication

Supersedes Decision No. PA83-3002 dated September 9, 1983 in 48 FR 40841.

DESCRIPTION OF WORK: Heavy and Highway Construction, excluding Sewage and Water Treatment Plant Projects

HEAVY & HIGHWAY	Basic Hourly Rates	Fringe Benefits
CARPENTERS		
ZONE I	$14.31	30%
ZONE II	14.12	30%
CARPENTER _ WELDER		
ZONE I	14.69	30%
ZONE II	14.50	30%
CARPENTER - BURNER		
ZONE I	14.50	30%
ZONE II	14.31	30%
CEMENT MASONS	14.76	3.84
PILEDRIVERMEN	15.15	30%
PILEDRIVERMEN - WELDER	15.38	30%
IRONWORKERS:		
Reinforcing		
ZONE 1	11.31	3.19
Structural, Ornamental & Reinforcing		
ZONE 2	17.265	3.745
ZONE 3	16.37	4.95
LABORERS		
CLASS I		
ZONE I	12.13	23%
ZONE II	12.02	23%
CLASS II		
ZONE I	12.28	23%
ZONE II	12.19	23%
CLASS III		
ZONE I	12.70	23%
ZONE II	12.70	23%
CLASS IV		
ZONE I	13.63	23%
ZONE II	13.63	23%
LANDSCAPING		
ZONE 1		
CLASS 1		
Landscape laborer to include general landscaping work and the driving of trucks for the distributing of materials on the job site but not to include dump trucks used to transport supplies to the job	10.38	22%
CLASS 2		
Landscape tractor operator to operate small industrial rubber tire tractor equipped with front end loader and back hoe attachment used for the sole purpose of landscape work including soil spreading, but not for heavy and highway work	10.72	22%
ZONE 2		
CLASS 1		
Landscape laborer to include general landscaping work and the driving of trucks for the distributing of materials on the job site but not to include dump trucks used to transport supplies to the job	12.88	20%
LINE CONSTRUCTION:		
ZONE 1		
Linemen	18.06	.80+3 3/8%
Winch Truck Op.	12.39	.80+3 3/8%
Truck Driver	11.68	.80+3 3/8%
Groundman	10.78	.80+3 3/8%
ZONE 2		
Lineman	14.74	.60+3 3/8%
Winch Truck Op.	10.26	.60+3 3/8%
Truck Driver	9.52	.60+3 3/8%
Groundman	8.77	.60+3 3/8%

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	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION: (CONT'D)		
ZONE 3		
Lineman, Dynamite Man, Heavy Equipment Operator	15.64	.65+ 3 3/8%
Winch Truck Op.	10.94	.65+ 3 3/8%
Truck Driver	10.72	.65+ 3 3/8%
Groundman	10.46	.65+ 3 3/8%
LINE CONSTRUCTION (RAILROAD ONLY) Armstrong, Bedford, Blair, Cambria, Centre, Clarion, Clearfield, Fayette, Franklin, Fulton, Greene, Huntingdon, Indiana, Jefferson, Somerset, Washington, Westmoreland Counties:		
Linemen	12.34	.60+ 6%+a
"A" Equipment Operator	12.34	.60+ 6%+a
"B" Equipment Operator	10.78	.60+ 6%+a
PLUMBERS (Bridge - drain Pipe) Allegheny, Washington, Greene, Armstrong Counties	16.40	4.34
POWER EQUIPMENT OPERATPRS: HEAVY & HIGHWAY CONSTRUCTION		
CLASS I		
ZONE I	16.01	23.17%
ZONE II	15.78	23.17%
CLASS II		
ZONE I	15.80	23.17%
ZONE II	15.55	23.17%
CLASS III		
ZONE I	12.83	23.17%
ZONE II	12.59	23.17%
CLASS IV		
ZONE I	12.46	23.17%
ZONE II	12.19	23.17%
CLASS V		
ZONE I	12.26	23.17%
ZONE II	12.02	23.17%
TRUCK DRIVERS: HEAVY & HIGHWAY CONSTRUCTION		
CLASS I		
ZONE 1	13.19	19%
ZONE 2	12.96	19%
CLASS 2		
ZONE 1	13.33	19%
ZONE 2	13.14	19%
CLASS 3		
ZONE 1	13.40	19%
ZONE 2	13.24	19%
CLASS 4		
ZONE 1	13.40	19%
ZONE 2	13.24	19%
CLASS 5		
ZONE 1	13.49	19%
ZONE 2	13.33	19%
CLASS 6		
ZONE 1	13.49	19%
ZONE 2	13.33	19%
CLASS 7		
ZONE 1	13.48	19%
ZONE 2	13.29	19%
CLASS 8		
ZONE 1	13.24	19%
ZONE 2	12.99	19%
CLASS 9		
ZONE 1	13.33	19%
ZONE 2	13.10	19%
ZONE 10		
ZONE 1	13.40	19%
ZONE 2	13.24	19%
CLASS 11		
ZONE 1	13.33	19%
ZONE 2	13.14	19%
CLASS 12		
ZONE 1	13.28	19%
ZONE 2	13.10	19%

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AREA COVERED BY CARPENTERS ZONES

ZONE I - Allegheny, Armstrong, Beaver, Butler, Erie, Fayette, Greene, Lawrence, Mercer, Washington and Westmoreland
ZONE II - Bedford, Blair, Cambria, Cameron, Centre, Clarion, Clinton, Clearfield, Crawford, Elk, Forest, Franklin, Fulton, Huntingdon, Indiana, Jefferson, McKean, Mifflin, Potter, Seomerset, Venango and Warren

AREA COVERED BY IRONWORKERS ZONES

ZONE 1 - Butler, Cambria, Erie, Fayette, Mercer, Washington, Westmoreland, Lawrence, Somerset, Allegheny, Beaver, Armstrong, Blair, Cameron, Centre, Clarion, Clearfield, Crawford, Forest, Greene, Indiana, McKean, Venango, Warren, Bedford, Jefferson, Clinton, Elk, Fulton and Potter Counties

ZONE 2 - Franklin, Huntingdon and Mifflin Counties

ZONE 3 - Allegheny, Armstrong, Beaver, Butler, Cambria, Clarion, Fayette, Indiana, Washington & Westmoreland Counties

AREA COVERED BY LABORERS ZONES

ZONE I - Allegheny, Armstrong, Beaver, Blair, Butler, Cambria, Clarion, Clearfield, Elk, Erie, Fayette, Greene, Indiana, Lawrence, McKean, Mercer, Somerset, Venango, Warren, Washington, Westmoreland

ZONE II - Bedford, Cameron, Centre, Clinton, Crawford, Forest, Franklin, Fulton, Huntingdon, Jefferson, Mifflin, Potter

LABORERS CLASSIFICATION DEFINITIONS

CLASS I - Heavy & Highway Construction Laborers (Including Craft Tenders, handling Salamanders L. P. Gas Heaters or similar etc.); Asphalt Curb Sealer; Asphalt Tamper; Batchman (weigh); Blaster's Helper; Boatman; Brakeman; Change House Attendant; Coffer Dam; Concrete Curing Pitman; Puddler; Drill Runner's Helper, (Including Drill Mounted on Truck, Track, or similar and Davey Drill - Spots-clean-up & Helps to maintain); Electric Brush and or Grinder; Fence Construction (including Fence Machine Operator); Form Stripper and Mover; Gabion (Erectors and Placers); Hydro Jet Cleaner Nozzlemen; Manually moved Emulsion Sprayer; Radio Actuated Traffic Control Operator; Rip Rap Work, Scaffolds and Runways; Sheeters and Shorers; Structural Concrete Top Surfacer; Walk Behind Street Sweeper; Welder's Helper (pipeline); Wood Chipper

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LABORERS (CONT'D)

CLASS II - Air Tool Operator (all types); Asphalt, Batch & Concrete Plant Operator (manually operated) asphalt Rakers; Burner; Caisson Men (open air); Carryable Pumps; Chain Saw Operator (Including attachments); Cribbing (Concrete or steel); Curb Machine Operator (asphalt or concrete - walk behind); Diamond Head Core Driller; Drill Runner's Helper (Tunnel); Fork Lift (walk behind); Form Setter (Road Forms Line Man); Highway Slab Reinforcement Placers (Including Joint and Basket Setters); Hydraulic Pipe Pusher; Liner Plates (Tile or Vitrified Clay); Mechanical Compacting Equipment Operators; Mechanical Joint Sealer, Dope Pot and Tar Kettle; Mortar Mixer (hand or machine); Muckers, Brakemen & All Other Labor (Includes installation of Utility Lines); Pipe Layers (Regardless of material); Portable Single Unit Conveyor; Post Hole Auger (2 or 4 cycle-hand operated); Power Wheelbarrows and Buggies; Rail Porter or Similar; Sand Blaster; Vibrator Operator, All Rail Road Track Work to Include The Following: Adzing Machine, Ballast Router; Bolting Machine; Power Jacks; Rail Drill; Railroad Brakeman; Rail Saw; Spike Drivers (Manually or handheld tool); Spike Pullers; Tamping Machine; Thermitweld

CLASS III - Blacksmith, blaster, brick stone and block pavers and block cutters (wood, belgian and asphalt), cement mortar lining car pusher, cement mortar mixer (pipe relining), cement mortar pipe reliners, concrete saw operator (walk behind), curb cutters and setters, elevated roadway drainage construction, form setter (road forms-lead man), grout machine operator, gunite or dry pack gun (nozzle and machine man), manhole or catch basin (brick, block, concrete or any prefabrication), Miners and drillers (including lining, supporting and form workmen, setting of shields, miscellaneous equipment and jumbos), multi-plate pipe (aligning and securing), placing wire mesh on gunite projects reinforcing steel placers (bending, aligning and securing and cad weld), wagon drill operators (air track or similar), walk behind ditching machine (trencher or similar), welder

CLASS IV - Welder (pipeline); High Burner (any burning not done from deck)

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AREA COVERED BY LANDSCAPE
LABORERS ZONES

ZONE 1 - Allegheny, Armstrong, Beaver, Butler, Clarion, Crawford, Fayette, Greene, Indiana, Jefferson, Lawrence, Mercer, Venango, Washington, Westmoreland, Bedford, Blair, Cambria, Centre, Clearfield, Clinton, Erie, Franklin, Fulton, Huntingdon, Mifflin, Somerset

ZONE 2 - Cameron, Elk, Forest, McKean, Potter, Warren

AREA COVERED BY LINE CONSTRUCTION ZONES

ZONE 1 - Allegheny, Armstrong, Beaver, Bedford, Blair, Cambria, Centre, Clarion, Clearfield, Fayette, Fulton, Greene, Huntingdon, Indiana, Jefferson, Somerset, Washington & Westmoreland Counties

ZONE 2 - Franklin & Mifflin Counties

ZONE 3 - Butler, Cameron, Clinton, Crawford, Elk, Erie, Forest, Lawrence, McKean, Mercer, Venango, Warren & Potter Counties

FOOTNOTE:
a. Paid Holidays: New Year's Day; Declaration Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day and Good Friday.

CLASSIFICATION DEFINITIONS FOR LINE CONSTRUCTION (RAILROAD ONLY)

"A" Equipment Operators:
1. Hoisting equipment - when erecting complete towers, erecting framed structures, erecting steel transmission poles, erecting railroad pole extensions and crossbeams and when operating personnel lift baskets.

2. Tension pulling equipment under energized conditions - paralled with other energized circuits or above energized circuits on the same structure, not to include crossovers. Bunled consuctor stringing, including static conductors on bundled conductor lines.

3. Excavating augures 36" inches in diameter or larger, 5/8 cubic yard backhoe and larger, trencher over four feet in depth, bulldozer D-6 (caterpillar) or larger, and blade on finish grade work

"B" Equipment Operators:
Operators of all other equipment

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AREA COVERED BY POWER EQUIPMENT OPERATORS ZONES

ZONE I - Allegheny, Armstrong, Beaver, Blair, Butler, Cambria, Clarion, Centre, Clearfield, Crawford, Erie, Elk, Fayette, Greene, Indiana, Jefferson, Lawrence, McKean, Mercer, Somerset, Venango, Warren, Washington & Westmoreland Counties

ZONE II - Bedford, Cameron, Clinton, Forest, Franklin, Fulton, Huntingdon, Mifflin, Potter

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

CLASS I - Autograde (C.M.I. & similar); Backfiller; Backhoe - 360° Swing; Cableway; Caisson Drill (similar to Hugh Williams); Central Mix Plant; Cooling Plant; Concrete Paving Mixer; Concrete Pump (self-propelled); Cranes; Cranes (Boom or mast 101 ft. or over up to & including 150 ft. inclusive of job + $.25; Boom or mast over 150 ft. up to & including 200 ft. inclusive of jib + $.50; Boom or mast over 200 ft. inclusive of jib + $.75; Tower-Stationary-Climbing Tower Crane); Derrick; Derrick Boat; Dozer (D-6 & over); Dragline; Dredge; Dredge Hydraulic; Elevating Grader; Franki Pile Machine; Gradall (Remote control or other-wise); Grader (Power-Fine Grade); Helicopter; Hilift (4 cy. and over); Hoist 2 Drums or more (in one unit); Hydraulic Boom TRuck (with pivotal cab) (single motor-Pitman or similar); Kocal; Locomotive (std. Gauge); Metro-chip Harvester or similar; Milling Machine (Roto Mill or Similar); Mix Mobile; Mucking Machine (Tunnel); Pile Driver Machine; Pipe Extrusion Machine; Prespliter Drill (Self contained); Refrigeration Plant (Soil Stabilization) Rough Terrain Crane; Scrapers; Shovel-Power; SliP Form Paver (C.M.I. and similar); Trenching Machine; Tunnel Machine (Mark XXI Jarva or similar) 1 Whirley

CLASS II - Asphalt paving machines (spreader), asphalt plant operator, auger (tractor mtd.), auger (truck mtd.), backhoe (rear pivotal swing) (180 swing), belt loader (euclid or similar), boring machine, cable placer or layer, compactor with blade, concrete batch plant (electronically synchronized), concrete belt placer (C.M.I. and similar), concrete finishing machine and spreader concrete mixer (over 1 cy.), concrete pump (stationary), core drill (truck or skid mtd. - similar to Pen drill), dozer (under D-6), force feedloader, fork lift (lull or similar), grader - power, grease unit operator (head), guard rail post driver (truck mounted), guard rail post driver (skid type), hi-lift (under 4 cy.) hydraulic boom truck (Non-Pivotal cab), job work boat (powered) when assistance is required it shall be a deckhand), jumbo operator, locomotive (narrow guage), mechanic, minor equipment operator (accumulative four units), mucking machine, multi-head saw (groover), overhead crane, roller - power-asphalt, ross carrier, side boom or tractor mounted boom, stone cursher, (screening-washing plants), stone spreader (self-propelled) truck mounted drill (davey or similar), welder and repairman, well point pump operator

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CLASSIFICATION DEFINITIONS
FOR ALL ZONES CONT'D

CLASS III - Broom Finisher (C.M.I. or similar); Compactors/Rollers (Static or Vibratory (Self-propelled); Curb Builder; Minor Equipment Operator (two to three units); Multi-head Tie Tamper, Pavement Breaker (Self-Propelled or ridden); Soil Stabilizer Machine; Tire Repairman; Tractor (Snaking and hauling); Well Driller and Horizontal; Winch or "A" Frame Truck (when hoisting and lowering)

CLASS IV - Ballast Regulator, Compressor, Concrete Mixer (1 cy. & under with skip), Concrete Saw (Ridden or self-propelled), Conveyor, Elevator (Material hauling only), Fork-lift (Ridden or self-propelled), Form Line Machine, Generator, Groute Pump, Heater (Mechanical), Hoist (Single Drum), Ladavator Light Plant, Mulching Machine, Spray Cure Machine (powered Driven), Subgrader, Tie Puller, Tugger and welding Machine (Gas or Diesel)

CLASS V - Deck Hand, Farm Tractor; Fireman on Boiler; Mechanic's Helper; Oiler, Power Broom, Side Delivery Shoulder Spreader

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TRUCK DRIVER CLASSIFICATION DEFINITIONS

DECISION NO. PA84-3000

TRUCK DRIVER CLASSIFICATION DEFINITIONS CONT'D

DECISION NO. PA84-3000

TRUCK DRIVER CLASSIFICATION DEFINITIONS

CLASS 1 - Trucks under 33,000 lbs. gross load category (including all types of trucks such as fuel, dump, flat bottom, pickup and similar equipment. Also parts man and warehouseman)

CLASS 2 - Truck over 33,000 lbs. gross load category (including all types of trucks such as fuel, dump (tandem), flat, bottom, scissors and combination fuel and fuel and grease)

CLASS 3 - Tri-axle Trucks

CLASS 4 - Heavy equipment whose capacity exceeds that for which state licenses are issued - specifically refers to units in excess of 8 feet, width (such as euclids, Athey Wagon, Payloader, Tournawagons and similar equipment when not self-loaded rated under forty-five tons

CLASS 5 - Heavy off-the-road equipment (rated at forty-five tons or over)

CLASS 6 - Bottom or Belly-dump Trucks

CLASS 7 - Heavy Duty Trailer, such as Low Boy, Hi-Boy, Dump Trailer, Pole Trailer A-Frames (when used for transporting materials), Dumpseters, Ross Carriers, Form Trucks, Dual-purpose Trucks (when load has been loaded or unloaded with truck winch, loading, hauling and unloading), Mechanical Tailgate Truck, Bucket Selfloading Trucks, Farm Tractor (when pulling and hauling), Fork Lift Trucks (in storage areas and warehouses), Tar and Asphalt Distributint Trucks, Tar and Asphalt Trailer Trucks, mobile mixer and slurry seal truck

CLASS 8 - Single-axle Ready Mixed Concrete Trucks (such as agitators barrel, redimix concrete trucks, etc.

CLASS 9 - Tandem-axle Ready-mixed Concrete Trucks (such as agitators, barrel, redi-mix concrete trucks, etc.

CLASS 10 - Tri-Axle Ready-Mixed Concrete Trucks (such as agitators, barrel, redi-mix concrete trucks, etc.

DECISION NO. PA84-3000

TRUCK DRIVER CLASSIFICATION DEFINITIONS CONT'D

CLASS 11 - Liquid Tank Trucks - Straight and Semi (including water, sprinkler, oil trucks, etc.)

CLASS 12 - Trucks with Dolly or Trailer

AREA COVERED BY TRUCK DRIVERS ZONES

ZONE 1 - Allegheny, Armstrong, Beaver, Blair, Butler, Cambria, Centre, Clearfield, Crawford, Erie, Fayette, Greene, Indiana, Jefferson, Lawrence, McKean, Mercer, Somerset, Venango, Warren, Washington, Westmoreland

ZONE 2 - Bedford, Cameron, Clarion, Clinton, Elk, Forest, Franklin, Fulton, Huntingdon, Mifflin, Potter

Welders - Rate for craft

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))."

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Part IV

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978; Notice

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Volume 1037]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 9, 1984.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission in the Federal Register.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal, Rd. Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservior
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb

Secretary.

NOTICE OF DETERMINATIONS
ISSUED JANUARY 9, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
CALIFORNIA DEPARTMENT OF CONSERVATION									
-AMERADA HESS CORPORATION				RECEIVED:	12/08/83	JA: CA			
8411024	82-6-0060	0406700113		108		RIO VISTA GAS UNIT #113	RIO VISTA GAS	6.3	PACIFIC GAS & ELE
-ARKOMA PRODUCTION CO				RECEIVED:	12/08/83	JA: CA			
8411025	83-6-0061	0401320207		102-4		STOLICH 7-3	EAST BRENTWOOD	500.0	
8411026	83-6-0070	0401120239		102-4		TORRES 24-1	BOUNDE CREEK	500.0	
-ARMSTRONG PETROLEUM CORP				RECEIVED:	12/08/83	JA: CA			
8411027	83-6-0071	0401120252		102-4		SOUTH SYCAMORE 89-2	GRIMES	100.0	PACIFIC GAS & ELE
-CHEVRON U S A INC				RECEIVED:	12/08/83	JA: CA			
8411029	83-5-0007	0403120250		102-2		SALYER 645X	TULARE LAKE	730.0	HUSKY OIL & GAS C
-HILLIARD OIL & GAS INC				RECEIVED:	12/08/83	JA: CA			
8411023	83-6-0076	0409520588		102-4		SCHROEDER UNIT #1	PUTAH	114.0	PACIFIC GAS & ELE
-HUSKY OIL COMPANY				RECEIVED:	12/08/83	JA: CA			
8411028	83-5-0006	0403120249		102-2		KCDC 81-7	TULARE LAKE	300.0	PACIFIC GAS & ELE
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	12/08/83	JA: CA			
8411030	83-4-0274	0402967934		103		MCKITTRICK FEE #55	CYMRIC	3.0	
-TXO PRODUCTION CORP				RECEIVED:	12/08/83	JA: CA			
8411019	83-6-0075	0410120218		103		BIHLMAN 19-1	SUTTER GAS FIELD	100.0	PACIFIC GAS & ELE
8411020	83-6-0077	0411320759		103		BRANDENBURGER 10-2	TOPHUNTERS LAKE GAS	100.0	PACIFIC GAS & ELE
8411015	83-6-0064	0409520611		102-4		BRIGANTINO 14-1	MILLAR GAS	100.0	PACIFIC GAS & ELE
8411017	83-6-0066	0411320241		102-4		CHRISTIAN 4-I	MALTON BLACK BUTTE	100.0	PACIFIC GAS & ELE
8411021	83-6-0078	0410320147		102-4		COWLEY 36-1	SOUTH CORNING GAS FIE	100.0	PACIFIC GAS & ELE
8411016	83-6-0065	0406720213		102-4		GOMES 2-1	RIO VISTA GAS	100.0	PACIFIC GAS & ELE
8411018	83-6-0072	0401120251		102-4		MATHEWS 4-1	ARBUCKLE GAS FIELD	100.0	PACIFIC GAS & ELE
8411022	83-6-0079	0410320153		102-4		SEARS ET AL 20-1		100.0	PACIFIC GAS & ELE
LOUISIANA OFFICE OF CONSERVATION									
-CARUTHERS PRODUCING CO INC				RECEIVED:	12/05/83	JA: LA			
8410956	83-1168	1701725150		102-4		CADDO PARISH SCH BD #1 SLI RC SU120	CADDO-PINE ISLAND	36.5	
-EXCHANGE OIL & GAS CORPORATION				RECEIVED:	12/05/83	JA: LA			
8410959	83-1172	1705520231		102-4		HOMER MOUTON #1	NORTH MAURICE	2155.0	LOUISIANA INTRAST
-HAMMAN OIL & REFINING CO				RECEIVED:	12/05/83	JA: LA			
8410958	83-1166	1705320785		102-4		HELEN E PINE #1	CHINA	146.0	LOUISIANA GAS SYS
-SHELL OFFSHORE INC				RECEIVED:	12/05/83	JA: LA			
8410957	83-1167	1770920216		102-4		SL 1536 #29 EI 18 AA RB SU	EUGENE ISLAND BLOCK 1	2320.0	MID-LOUISIANA GAS
8410955	83-1169	1770920221		102-5		SL 1666 #4 EI 18 S2 RC SU	EUGENE ISLAND BLOCK 1	0.0	MID-LOUISIANA GAS
OKLAHOMA CORPORATION COMMISSION									
-AMERICAN NAT GAS PROD CO				RECEIVED:	12/05/83	JA: OK			
8410937	26155	3505120681		107-DP		BROWN #1-1	WEST BRADLEY	40.0	MOBIL OIL CORP
8410954	23469	3513920883		108-SA		MENDENHALL #1	WEST DOMBEY	10.0	MICHIGAN WISCONSI
8410901	23467	3513920989		108-PB		VAN HYNING #1-21	WEST DOMBEY	7.0	MICHIGAN WISCONSI
-ANADARKO PRODUCTION COMPANY				RECEIVED:	12/05/83	JA: OK			
8410898	24695	3513921679		103		CITIES SERVICE A-7	HOUGH SOUTH	9.0	PHILLIPS PETROLEU
-ANADARKO RESOURCES CORP				RECEIVED:	12/05/83	JA: OK			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8410860	24844	3500920540		103		KNOX #2 ARC	S E ERICK	365.0	NORTH BLOOMINGTON
-ARCO OIL AND GAS COMPANY				RECEIVED:	12/05/83	JA: OK			
8410932	19470	3506100000		108-PB		A H COX UNIT WELL #1	KINTA	25.5	OKLAHOMA GAS & EL
8410903	13470	3502700000		108-PB		JENNINGS - BRYAN #1	NORTH NORMAN	18.3	NORTHWEST CENTRAL
-ARKOMA PRODUCTION CO				RECEIVED:	12/05/83	JA: OK			
8410891	24859	3507920493		103		ANDEE GIST #1-C	KINTA	50.0	ARKANSAS LOUISIAN
-ARRINGTON PROPERTIES INC				RECEIVED:	12/05/83	JA: OK			
8410839	21676	3511900410		102-4		BERRY #1	LAKE BLACKWELL EAST	10.0	APCO OIL & GAS CO
8410837	21681	3511900000		102-4		HARDY #1	LAKE BLACKWELL EAST	10.0	APCO OIL & GAS CO
8410838	21680	3511900448		102-4		HESS #1	LAKE BLACKWELL EAST	10.0	ARCO OIL & GAS CO
-ATKINSON J V				RECEIVED:	12/05/83	JA: OK		15.0	REM INDUSTRIES IN
8410845	23753	3510521297		108		AUSTIN BILLUPS #1		9.0	REM INDUSTRIES IN
8410847	23756	3510500000		108		C R DICKINSON #12		9.0	REM INDUSTRIES IN
8410848	23757	3510500000		108		C R DICKINSON #15		12.0	REM INDUSTRIES IN
8410846	23754	3510500000		108		HEARLD ROBINSON #2			
-AUTUMN ENERGY CORP				RECEIVED:	12/05/83	JA: OK			
8410849	24758	3503724830		103		GRACE #3	KELLYVILLE	250.0	GOLDEN ARROW GAS
-BEASLEY OIL CO				RECEIVED:	12/05/83	JA: OK			
8410883	24770	3501121805		103		FISHER #1	NORTHWEST OMEGA	100.0	WARREN PETROLEUM
-BLUE QUAIL ENERGY INC				RECEIVED:	12/05/83	JA: OK			
8410862	24816	3501722476		103		IVAN #1	E MUSTANG	64.8	PHILLIPS PETROLEU
-BRACKEN EXPLORATION CO				RECEIVED:	12/05/83	JA: OK			
8410940	24787	3502520531		103		MILLER #1-20	GRIGGS	11.0	PHILLIPS PETROLEU
-BROOKS B B				RECEIVED:	12/05/83	JA: OK			
8410830	24645	3511122268		108		WILLIAMS #2	YOUNGSTOWN	11.0	PHILLIPS PETROLEU
-BRUNAR EXPLORATION CO				RECEIVED:	12/05/83	JA: OK			
8410904	25179	3504700000		102-4		BEEBY #1	N E ELKHORN	146.0	EASON OIL CO
8410906	25177	3504700000		102-4		BEEBY #1-34	N E ELKHORN	146.0	EASON OIL CO
8410907	25176	3504700000		102-4		TOWELL #1	N E ELKHORN	100.0	EASON OIL CO
8410905	25178	3504700000		102-4		TOWELL #2	N E ELKHORN	146.0	EASON OIL CO
8410908	25175	3504700000		102-4		TOWELL #3	N E ELKHORN	200.0	EASON OIL CO
-CANADIAN EXPLORATION CORP				RECEIVED:	12/05/83	JA: OK			
8410863	24800	3501722546		103		ABEL #29-2	RICHLAND	90.0	PHILLIPS PETROLEU
-CLARK RESOURCES INC				RECEIVED:	12/05/83	JA: OK			
8410928	23445	3507323679		102-4		POST 22-1 (SKINNER)	SOONER TREND	195.0	CONOCO INC
-COQUINA OIL CORPORATION				RECEIVED:	12/05/83	JA: OK			
8410953	22802	3500920538		102-2		WALTER #1	N W CARTER	1095.0	
-COTTON PETROLEUM CORPORATION				RECEIVED:	12/05/83	JA: OK			
8410952	22759	3513921665		102-2		HOUSTON "A" #1	DOMBEY WEST-CHESTER	0.0	
-CRASCO OIL CO				RECEIVED:	12/05/83	JA: OK			
8410876	24052	3503722178		108		GREEN LEASE #3 03722178	PICKETT PRAIRIE	0.0	PHILLIPS PETROLEU
-DAVIS OIL COMPANY				RECEIVED:	12/05/83	JA: OK			
8410861	24822	3508720894		103		BROOKS FARMS #1		64.6	
8410859	24864	3501121826		103		FRIESEN #1		766.5	DELHI GAS PIPELIN
-DAWN ENERGY CO				RECEIVED:	12/05/83	JA: OK			
8410833	24627	3515321425		103		LAND COMMISSIONERS #2-13	SOUTHWEST SHARON	250.0	PHILLIPS PETROLEU
-DEVON ENERGY CORPORATION				RECEIVED:	12/05/83	JA: OK			
8410943	20230	3505121293		102-4	103	THOMAS #1-7	CHICKASHA	700.0	ARKANSAS LOUISIAN
-DYNE EXPLORATION CO				RECEIVED:	12/05/83	JA: OK			
8410920	24656	3510721526		103		ARTUSSEE 1-12	SOUTHEAST BRYANT	150.0	PHILLIPS PETROLEU
-EAGLE MINERALS & OIL PROPERTIES INC				RECEIVED:	12/05/83	JA: OK			
8410924	24611	3513723413		103		JOHN V GENTRY 1-A	SHO-VEL-TUM	0.0	GETTY OIL CO
-EARLSBORO OIL AND GAS CO INC				RECEIVED:	12/05/83	JA: OK			
8410895	24635	3509322707		103		CR #1-5	RINGWOOD	0.0	
8410832	24636	3509322703		103		HILLABOLT #2-4	RINGWOOD	0.0	UNION TEXAS PETRO
-EL DORADO DRILLING INC				RECEIVED:	12/05/83	JA: OK			
8410930	22725	3509201180		102-2	103	HARRISON #1		476.7	EL PASO NATURAL G
8410944	22724	3507122557		102-2	103	ROLLY #16		20.1	SUN EXPLORATION &
8410929	22726	3507122634		102-2	103	ROLLY #17		21.9	SUN GAS CO
-EXXON CORPORATION				RECEIVED:	12/05/83	JA: OK			
8410938	24826	3500722373		103		CAMRICK UNIT #2975	CAMRICK	10.0	PHILLIPS PETROLEU
-FRENCH PETROLEUM CORP				RECEIVED:	12/05/83	JA: OK			
8410942	24769	3504321730		103		POLLOCK #1	WEST CANTON	250.0	PHILLIPS PETROLEU
-FUNK EXPLORATION INC				RECEIVED:	12/05/83	JA: OK			
8410945	22741	3500722371		102-4		BEAVER RIVER #1-2	CAMRIC GAS AREA	330.0	PANHANDLE EASTERN
8410948	22745	3513921674		102-4		CAIN #1-29	TYRONE	350.0	NORTHWEST PIPELIN
8410840	20051	3500721171		102-4		CLAPP #1	DOMBEY	35.0	PANHANDLE EASTERN
8410947	22743	3513921664		102-4		OGLETREE "B" #1	EAST LORENA	547.0	NORTHWEST PIPELIN
8410946	22742	3513921669		102-4		YOUNG "B" #1	EAST LORENA	365.0	NORTHWEST PIPELIN
-GREAT SOUTHWESTERN EXPLORATION INC				RECEIVED:	12/05/83	JA: OK			
8410841	15406	3511921386		102-4		BOTTS #1	MARKHAM	1.0	PARKS ENERGY INVE
-GUNDY OIL CO				RECEIVED:	12/05/83	JA: OK			
8410868	22637	3508322114		102-2		ARMSTRONG #1 OTC #083-77872	SOUTH GUTHRIE	10.0	BUCKEYE NATURAL G
-H G & G INC				RECEIVED:	12/05/83	JA: OK			
8410865	22319	3507323631		102-4		ANNUSCHAT #1		0.0	PHILLIPS PETROLEU
-HELMERICH & PAYNE INC				RECEIVED:	12/05/83	JA: OK			
8410877	24457	3513723363		103		HANSON UNIT #2	SHO-VEL-TUM	0.0	MOBIL OIL CORP
-HOLD OIL CORP				RECEIVED:	12/05/83	JA: OK			
8410909	24890	3506321773		103		COLLINS #1-12	SHADY GROVE	125.0	HILL TOP INVESTME
-HUMPHREY JOE ED				RECEIVED:	12/05/83	JA: OK			
8410873	24330	3511122895		103		HUMPHREY #1	MORRIS	8.4	PHILLIPS PETROLEU
-INCA OIL CO				RECEIVED:	12/05/83	JA: OK			
8410887	24766	3510321614		103		HILDRETH #2-A		7.3	EASON OIL CO
8410853	24768	3510321848		103		HILDRETH #3-A		7.3	EASON OIL CO
8410886	24767	3510321896		103		HILDRETH #4-A		7.3	EASON OIL CO
-INEXCO OIL COMPANY				RECEIVED:	12/05/83	JA: OK			
8410950	22751	3503920836		102-2		ARTHUR NEWCOMB #1-13	N W BUTLER	328.0	
8410951	22752	3503920856		102-2		KELLY #1-14	N W HAMMON	500.0	TRANSWESTERN PIPE
-JET OIL COMPANY				RECEIVED:	12/05/83	JA: OK			
8410858	24865	3504723294		103		CLINE "D" #1		4.0	EASON OIL CO
-JIM L HANNA DBA HANNA OIL AND GAS C				RECEIVED:	12/05/83	JA: OK			
8410899	22486	3504723153		102-4		BRAINARD #1		8.8	PANHANDLE EASTERN
8410866	22484	3506120572		102-2		DENNY #1		0.0	
8410898	22485	3504723168		102-4		MOURER #1		0.0	UNION TEXAS PETRO
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	12/05/83	JA: OK			
8410892	22649	3505121396		102-4	103	MCVEY #1-20	N E VERDEN DEEP	2000.0	
-KEITH F WALKER				RECEIVED:	12/05/83	JA: OK			
8410896	22136	3509955614		103		MONTGOMERY #2		1.5	AMINOIL USA INC
-KELLEY OIL CO				RECEIVED:	12/05/83	JA: OK			
8410939	24779	3508100000		103		MATTIE V #1	MATTIE	18.0	MERIDIAN ENERGY I
-LANGFORD ENERGY INC				RECEIVED:	12/05/83	JA: OK			
8410880	24728	3509322589		103		KOEHN 27-1		83.4	PANHANDLE EASTERN
8410881	24729	3509322232		103		LAWRENCE 20-1		124.6	AMINOIL USA INC
-LATCO ENERGY INC				RECEIVED:	12/05/83	JA: OK			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8410908	22685	3507323718		102-4		LONG #2	SOONER TREND	1.0	PHILLIPS PETROLEU
-LEEDE OIL & GAS INC				RECEIVED:	12/05/83	JA: OK			
8410936	26159	3514920313		107-DP		ANTELOPE UNIT #1		912.5	OKLAHOMA GAS & EL
-MEGA II EMERGY & INVESTMENT CORP				RECEIVED:	12/05/83	JA: OK			
8410925	24601	3505321097		103		NBC #1	MAYFLOWER	150.0	MIGHT SERVICE CO
-MOBIL OIL CORP				RECEIVED:	12/05/83	JA: OK			
8410935	6856	3503900000		108-PB		JONES HUNTON UNIT #1	NORTH CUSTER CITY	11.0	NATURAL GAS PIPEL
-MONSANTO COMPANY				RECEIVED:	12/05/83	JA: OK			
8410922	24644	3505321025		103		WALD #3	EAST LAMONT	100.0	FARMLAND INDUSTRI
8410911	24902	3505321168		103		WALD #4	EAST LAMONT	100.0	FARMLAND INDUSTRI
-MONDORF OIL & GAS INC				RECEIVED:	12/05/83	JA: OK			
8410831	24642	3510321944		103		MAX BAETZ #1-31	NW LONE ELM	1.0	
-OFS-TULSA CORP				RECEIVED:	12/05/83	JA: OK			
8410834	23906	3507323655		103		ANITA #1-16	SOONER TREND	90.0	PHILLIPS PETROLEU
-OXLEY PETROLEUM CO				RECEIVED:	12/05/83	JA: OK			
8410915	24785	3505121381		103		HARRIS #3		839.5	MOBIL OIL CORP
8410941	24784	3513500000		103		KELLEY #3		252.9	ARKANSAS LOUISIAN
8410916	24783	3512100000		103		LUCY MAE SMITH #1		22.6	SWAB CORP
-PERKINS ENERGY CO				RECEIVED:	12/05/83	JA: OK			
8410854	24889	3511721795		103		LLOYD 5-21	MARAMEC	16.0	PHILLIPS PETROLEU
8410855	24888	3511721656		103		RICKS "A" #1	MARAMEC	6.0	PHILLIPS PETROLEU
-PETRO-ENERGY EXPLORATION INC				RECEIVED:	12/05/83	JA: OK			
8410844	24752	3504723175		103		WILLIAMS #1-3	SOUTH DOUGLAS FIELD	100.0	EASON OIL CO
-PETRO-LEWIS CORPORATION				RECEIVED:	12/05/83	JA: OK			
8410882	24735	3501700000		108		MEIVES 13-1 WELL ID #5079801	SOONER TREND	8.3	PHILLIPS PETROLEU
8410883	24743	3507300000		108		PRIBYL 4-2	SOONER TREND	7.5	EXXON CORP
-PETROLIA CORP				RECEIVED:	12/05/83	JA: OK			
8410914	24819	3501121786		103		GYPSUM #3-1	CARLTON	0.0	
-PHILCO ENERGY INC				RECEIVED:	12/05/83	JA: OK			
8410896	24631	3511124450		103		INBODY #1	BEGGS DISTRICT	155.0	PHILLIPS PETROLEU
8410864	24632	3511124163		103		SHELTON #1	BRINTON	54.0	SWAB CORP
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	12/05/83	JA: OK			
8410934	9514	3501720806		108-PB		MATTHIES "A" #1		0.0	TRANSOK PIPELINE
-PRODUCERS 88 OIL CORP				RECEIVED:	12/05/83	JA: OK			
8410869	22804	3510721481		102-4		GLEN NORTON -M91	SOUTH CLEARVIEW	180.0	PHILLIPS PETROLEU
-QUAL OIL CO INC				RECEIVED:	12/05/83	JA: OK			
8410913	24846	3505321071		103		SAWYER TRUST #1	WAKITA	128.8	SUN GAS CO
-QUANTUM RESOURCES CORP				RECEIVED:	12/05/83	JA: OK			
8410918	24870	3507323039		103		MCCLELLAND #12-1	SOONER TREND	77.0	CITIES SERVICE OI
-QUASIUS DAVID				RECEIVED:	12/05/83	JA: OK			
8410927	23775	3511100000		108		REDO #3	REDO #3	16.8	PHILLIPS PETROLEU
-RED ROCK EXPLORATION INC				RECEIVED:	12/05/83	JA: OK			
8410835	22614	3505121276		102-4		ORR #1-27	NORTHEAST AMBER	73.0	OKLAHOMA GAS & EL
-RESOURCES INVESTMENT CORPORATION				RECEIVED:	12/05/83	JA: OK			
8410917	24782	3504521133		103		JENKINS #9		75.0	PHILLIPS PETROLEU
-REYNOLDS EXPLORATION CO				RECEIVED:	12/05/83	JA: OK			
8410878	24711	3507323728		103		CRONKITE #2	SOONER TREND	0.0	CONOCO INC
8410879	24712	3507323740		103		FOX #2	SOONER TREND	0.0	CITIES SERVICE CO
8410842	24713	3507323522		103		ROSEMARY #1	SOONER TREND	0.0	CITIES SERVICE CO
-RICHARDSON CONSTRUCTION				RECEIVED:	12/05/83	JA: OK			
8410921	24651	3511100000		103		STORCK #1	OKMULGEE	2.7	PHILLIPS PETROLEU
-RICHARDSON WILLIAM S				RECEIVED:	12/05/83	JA: OK			
8410926	24694	3504900000		108		GRIMES #2	KATIE	18.5	LONE STAR GAS CO
-RICK BUCK OIL & GAS CORP				RECEIVED:	12/05/83	JA: OK			
8410884	24750	3501722509		103		DOROTHY-GRACE #1-28	RICHLAND	50.0	PHILLIPS PETROLEU
-RICKS EXPLORATION CO				RECEIVED:	12/05/83	JA: OK			
8410918	24660	3504321667		103		IRVIN #10-A	WILDCAT	900.0	NATURAL GAS PIPE
8410919	24659	3505121473		103		NITA #32-A		102.0	
-SAMEDAN OIL CORPORATION				RECEIVED:	12/05/83	JA: OK			
8410836	22571	3501722425		102-4		SPEAR #2-8	NO NAME	36.5	PHILLIPS PETROLEU
-SAMSON RESOURCES COMPANY				RECEIVED:	12/05/83	JA: OK			
8410902	I6880	3504321389		102-4		LOUISE #1	EAST PUTNAM	46.0	HYDROCARBON SERVI
-SANTA FE-ANDOVER OIL CO				RECEIVED:	12/05/83	JA: OK			
8410885	24761	3501121862		103		WYMER #29-3		135.0	OKLAHOMA GAS PIPE
-SENECA OIL COMPANY				RECEIVED:	12/05/83	JA: OK			
8410931	19955	3509322547		103		VOTH #1-19		61.0	PAN HANDLE EASTER
-SOUTHLAND ROYALTY CO				RECEIVED:	12/05/83	JA: OK			
8410933	19495	3513900377		108-PB		ELMORE #1	EAST HOOKER	21.5	NORTHERN NATURAL
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	12/05/83	JA: OK			
8410912	24856	3504722540		103		BRAKAGE L UNIT #2	ENID N E	237.0	ARKANSAS LOUISIAN
8410897	22161	3507700000		108-ER		W A BRATTON JR #1		0.0	OKLAHOMA GAS & EL
-TENNECO OIL COMPANY				RECEIVED:	12/05/83	JA: OK			
8410852	24765	3500720936		108		BECKER #1-24	LIBERAL S E	7.0	MICHIGAN-WISCONSI
8410850	24763	3514300000		108		C B THRASHER #1	GUYMON-HUGOTON GAS AR	7.0	NORTHWEST CENTRAL
8410851	24764	3514300000		108		CECIL #1	GUYMON-HUGOTON GAS AR	5.0	NORTHWEST CENTRAL
8410923	24612	3510321974		103		SOUTH LONE ELM CLEVELAND SAND #115	SOUTH LONE ELM	16.0	AMINOIL USA INC
-THE GHK COMPANY				RECEIVED:	12/05/83	JA: OK			
8410872	22849	3501521365		102-2		DIDIER #1-28		279.0	TRANSOK PIPE LINE
8410870	22811	3503920766		102-2		HIGGINS #1-23		300.0	
8410871	22814	3514920276		102-2		JOHNSON 1-20	WILDCAT	0.0	
-TIPPERARY OIL AND GAS CORP				RECEIVED:	12/05/83	JA: OK			
8410867	22534	3508300577		102-4		KIESEL #1	SOUTH GUTHRIE LAKE	108.8	BUCKEYE NATURAL G
-TOWNER PETROLEUM CO				RECEIVED:	12/05/83	JA: OK			
8410874	22631	3501722434		102-4		VERNA LEIGHTON #7-1		0.0	PHILLIPS PETROLEU
-TRIGG DRILLING COMPANY INC				RECEIVED:	12/05/83	JA: OK			
8410843	24747	3508720898		103		GLENDA #1		0.0	LONE STAR GAS CO
-TXO PRODUCTION CORP				RECEIVED:	12/05/83	JA: OK			
8410875	22632	3506120589		102-2		BLANKENSHIP "A" #2	BROOKEN	0.0	
8410949	22758	3512900000		102-2		MOONEY #1	E ROLL	0.0	DELHI GAS PIPELIN
-UNION TEXAS PETROLEUM				RECEIVED:	12/05/83	JA: OK			
8410856	24882	3507300000		108		MARIE WRIGHT #1	CASHION	53.0	CHAMPLIN PETROLEU
8410857	24881	3507300000		108		MUGEN #1	DOVER HENNESSEY	0.0	EXXON CORP
-WESTERN PACIFIC PETROLEUM INC.				RECEIVED:	12/05/83	JA: OK			
8410893	24653	3504723378		103		WYATT #1-1	EAST BROWN	51.0	
-WESTSANDS OIL CORP				RECEIVED:	12/05/83	JA: OK			
8410889	24772	3503725034		103		SQUITO ONE	MOSQUITO CREEK	16.4	ARCO OIL & GAS CO
**********									
WEST VIRGINIA DEPARTMENT OF MINES									
**********									
-ALLEGHENY LAND & MINERAL COMPANY				RECEIVED:	12/05/83	JA: WV			
8410978		4703301072		108		A-688	EAGLE DISTRICT	0.0	CONSOLIDATED GAS
8410987		4708504391		108		A-849	UNION DISTRICT	0.0	CONSOLIDATED GAS
8410979		4708300306		108		A-852	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
8410989		4708504472		108		A-901	GRANT DISTRICT	0.0	CONSOLIDATED GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8410986		4708504366		108		M-565	MURPHY DISTRICT	0.0	CONSOLIDATED GAS
8410994		4708504486		108		M-875	MURPHY DISTRICT	0.0	CONSOLIDATED GAS
8410988		4708504444		108		M-881	GRANT DISTRICT	0.0	CONSOLIDATED GAS
8411014		4708504487		108		M-885	GRANT DISTRICT	0.0	CONSOLIDATED GAS
8411013		4708504495		108		M-900	GRANT DISTRICT	0.0	CONSOLIDATED GAS
8410990		4708504473		108		M-902	GRANT DISTRICT	0.0	CONSOLIDATED GAS
8410991		4708504480		108		M-905	GRANT DISTRICT	0.0	CONSOLIDATED GAS
8410993		4708504481		108		M-907	GRANT DISTRICT	0.0	CONSOLIDATED GAS
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	12/05/83	JA: WV			
8411007		4704101842		108		JOSEPH MORRIS 11441	FREEMANS CREEK	14.0	GENERAL SYSTEM PU
8411004		4704101461		108		S D CAMDEN 10796	FREEMANS CREEK	1.0	GENERAL SYSTEM PU
8411006		4700100325		108		W E WILLIAMSON 10861	PLEASANT	17.0	GENERAL SYSTEM PU
8411003		4709701599		108		WESLEY ODELL 11929	WASHINGTON	15.0	GENERAL SYSTEM PU
8411005		4703300621		108		YOUNG & SMITH 11505	GRANT	21.0	GENERAL SYSTEM PU
-E W VALENTINE				RECEIVED:	12/05/83	JA: WV			
8410999		4708523848		108		E W VALENTINE #M-613	MURPHY DISTRICT	22.7	CONSOLIDATED GAS
-ELDER OIL CO				RECEIVED:	12/05/83	JA: WV			
8410992		4708529710		108		BUNGARDNER #1	BUNGARDNER	4.4	CONSOLIDATED GAS
-INDUSTRIAL GAS CORPORATION				RECEIVED:	12/05/83	JA: WV			
8410960		4700500388		108		ALLEN & PRYOR 23-486	SCOTT	0.8	HOUDAILLE INDUSTR
8410961		4700501163		108		CASSINGHAM 16-359	SCOTT	0.6	HOUDAILLE INDUSTR
8410962		4700500312		108		CASSINGHAM 22-440	SCOTT	1.8	HOUDAILLE INDUSTR
8410967		4709901276		108		E R PRICHARD 9-1103	STONEWALL	11.8	HOUDAILLE INDUSTR
8410969		4709900980		108		G W WORKMAN 4-955	BUTLER	0.6	HOUDAILLE INDUSTR
8410964		4709900977		108		HOARD BALDWIN 38-933	STONEWALL	1.5	HOUDAILLE INDUSTR
8410965		4700501144		108		LITTLE COAL LD CO 89-318	SCOTT	1.6	HOUDAILLE INDUSTR
8410963		4709900860		108		LOUISA COLLINS 7-861	GRANT	1.1	HOUDAILLE INDUSTR
8410966		4700500250		108		PEYTONA COAL CO 22-419	SHERMAN	1.5	HOUDAILLE INDUSTR
8410968		4709900862		108		WILSON COAL LAND CO 68-870	LINCOLN	0.5	HOUDAILLE INDUSTR
-JAMES F SCOTT				RECEIVED:	12/05/83	JA: WV			
8410995		4703302574		108		ISABEL MORGAN S-351	COAL	0.0	CONSOLIDATED GAS
-MARION GAS COMPANY				RECEIVED:	12/05/83	JA: WV			
8410977		4703500922		108		LLOYD BURDETTE #1	RIPLEY	0.0	GAS TRANSPORT INC
-PENNZOIL COMPANY				RECEIVED:	12/05/83	JA: WV			
8410984		4700501032		108		J A WETHERALL #9	YAWKEY-FREEMAN	6.1	CONSOLIDATED GAS
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	12/05/83	JA: WV			
8411009		4708506129		102-4		DONNELLY #1	GOOSE CREEK POOL	135.0	CONSOLIDATED GAS
8411000		4708506178		102-4		GRIFFIN PRODUCING C#2	GRIFFIN	13.0	CONSOLIDATED GAS
8411001		4708506134		102-4		GRIFFIN PRODUCING CO A#2	GRIFFIN	87.6	CONSOLIDATED GAS
8411008		4708506159		102-4		GRIFFIN PRODUCING E#2	GRIFFIN POOL	129.0	CONSOLIDATED GAS
8411011		4708505848		102-4		GRIFFIN PRODUCING G#1 (#111218-2)	GRIFFIN	77.0	CONSOLIDATED GAS
8410983		4785058780		102-4		GRIFFIN-PRODUCING 5613-2 #M-1	GRIFFIN	0.0	CONSOLIDATED GAS
8410982		4708505282		102-3		JUANITA PARKER #1	CISKO	274.0	CONSOLIDATED GAS
8411002		4708505110		102-3		NOBLE ROGERS #7	CISKO POOL	300.0	CONSOLIDATED GAS
8410980		4708505088		102-3		ROGERS #2 NOBLE	CISKO	342.0	CONSOLIDATED GAS
8410981		4708505111		102-3		ROGERS #8 NOBLE	CISKO	83.0	CONSOLIDATED GAS
8411012		4708505773		102-4		SUE DAVIS #1	GOOSE CREEK	32.0	CONSOLIDATED GAS
8411010		4708505863		102-4		SUE DAVIS A#2	GOOSE CREEK POOL	46.0	CONSOLIDATED GAS
-RAINBOW 7 & 8 & 9 80 LTD				RECEIVED:	12/05/83	JA: WV			
8410976		4708504996		108		BERNARD RICHARDS M-1059	CLAY DISTRICT	20.0	CONSOLIDATED GAS
-STONEWALL GAS CO				RECEIVED:	12/05/83	JA: WV			
8410985		4703302591		108		CUMBERLEDGE #1A (77-SH)	UNION	25.0	CONSOLIDATED GAS
-SUNSTATE OIL CO				RECEIVED:	12/05/83	JA: WV			
8410970		4708700124		108		HAROLD #1	UHLER	1.2	CONSOLIDATED GAS
8410974		4708703262		108		HAROLD #2	UHLER	1.2	CONSOLIDATED GAS
8410973		4708701074		108		HAYS #1	UHLER	1.2	CONSOLIDATED GAS
8410971		4708701025		108		JARVIS #1	UHLER	1.2	CONSOLIDATED GAS
8410972		4708701060		108		MATHENY #1	UHLER	1.2	CONSOLIDATED GAS
8410975		4708701213		108		WIMES 2-A	MILLER	9.2	HARRY C BOGGS NAT
-UNITED PETRO LTD				RECEIVED:	12/05/83	JA: WV			
8410996		4701303323		108		HOWARD DYE #1 - UPL	MINNORA GAS	7.0	CONSOLIDATED GAS
8410997		4701303314		108		JOHN CHENOWETH #1	MINNORA GAS FIELD	12.0	CONSOLIDATED GAS
8410998		4701303309		108		SARAH TAYLOR #2	MINNORA GAS	7.0	CONSOLIDATED GAS

[Volume 1038]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 9, 1984

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
ISSUED JANUARY 9, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
OKLAHOMA CORPORATION COMMISSION									
-AN-SON CORPORATION				RECEIVED:	12/06/83	JA: OK			
8411099	25086	3508720864		103		LAWANDA #1	GOLDSBY	91.[illegible]	SUN GAS CO
8411202	24963	3501700000		108		SCHWARZ #1	N CONCHO	6.9	PHILLIPS PETROLEU
-ANADARKO LAND & EXPLORATION CO				RECEIVED:	12/06/83	JA: [illegible]		100.0	TRANSOK PIPELINE
8411125	22857	3512920872		102-4		ALLEN #1-A	S E THOMAS	250.[illegible]	TRANSOK PIPE LINE
8411119	22882	3503920880		103		ATKIN #1-4	LAMBERT SOUTH EAST	9.0	PIONEER GAS PRODU
-ANADARKO PRODUCTION COMPANY				RECEIVED:	12/06/83	JA: OK	LAMBERT SE	19.0	PIONEER GAS PRODU
8411131	24524	3500321004		108		BUCK A 1-36	LAMBERT SOUTH EAST	42.0	PIONEER GAS PRODU
8411130	24523	3500321019		108		CROSS 2-5			
8411171	24869	3500321059		103		TUCKER E 2-21	N W STILLWATER AIRPOR	18.3	ARCO OIL & GAS CO
-ARCO OIL AND GAS COMPANY				RECEIVED:	12/06/83	JA: [illegible]	N W OIL CITY	47.5	LONE STAR GAS CO
8411206	22955	3511922135		102-4		PIGG #2			
8411051	22629	3501922472		102-4		RICKEY #1	KINTA	50.0	ARKANSAS LOUISIAN
-ARKOMA PRODUCTION CO				RECEIVED:	12/06/83	JA: OK			
8411172	24858	3507920493		102-4		ANDEE GIST #1-T	KELLYVILLE	400.0	GOLDEN ARROW GAS
-AUTUMN ENERGY CORP				RECEIVED:	12/06/83	JA: [illegible]			
8411116	24981	3503725165		103		GRACE #4		0.0	BUCKEYE NATURAL G
-BARBOUR ENERGY CORP				RECEIVED:	12/06/83	JA: OK			
8411042	21011	3508321926		102-4		KELLOGG #1-31	SOONER TREND	91.0	EXXON CO USA
-BERRY PETROLEUM CORP				RECEIVED:	12/06/83	JA: OK			
8411181	14339	3504722692		103		TRUITT #1-30	OMEGA	150.0	MUSTANG FUEL CORP
-BETA OIL CO				RECEIVED:	12/06/83	JA: OK			
8411135	24985	3501121791		103		HENRY WEBER #1-2	SOONER TREND	0.0	AMINOIL U S A INC
-BLAIK OIL COMPANY				RECEIVED:	12/06/83	JA: OK			
8411182	17098	3510320609		108-ER		KINDSCHI #1	SOONER TREND/SOUTH FA	360.[illegible]	PHILLIPS PETROLEU
-BOGERT OIL CO				RECEIVED:	12/06/83	JA: OK			
8411142	25015	3509322705		103		KOEHN 1-16		35.0	PHILLIPS PETROLEU
-BRACKEN EXPLORATION CO				RECEIVED:	12/06/83	JA: OK			
8411158	22888	3504321633		102-2		ANNA BETH SMITH 1-6	BLOCKER	118.0	SOUTHEAST TRANSMI
-BROOKS MALL OIL CORP				RECEIVED:	12/06/83	JA: OK			
8411101	25069	3512120786		103		BROWNE #1		91.3	PHILLIPS PETROLEU
-BUCK HARRY F & MAYO ROSS L				RECEIVED:	12/06/83	JA: OK			
8411176	24792	3510929763		103		RICE #2-22		0.0	MID AMERICAN GAS
-CHALLENGE OIL & GAS				RECEIVED:	12/06/83	JA: OK			
8411037	22516	3505320929		102-2		SHELLHAMMER #1	STROUD PRUE	24.0	ALLIED MATERIALS
-CHEROKEE RESOURCE MANAGEMENT				RECEIVED:	12/06/83	JA: OK			
8411161	22936	3508121806		103		HODGE #1	UNION CITY	182.5	DELHI GAS PIPELIN
-CITIES SERVICE COMPANY				RECEIVED:	12/06/83	JA: OK			
8411126	22855	3501722033		102-4		PORTER C #1	SENTINEL FIELD	160.6	PRODUCERS GAS CO
-CONOCO INC				RECEIVED:	12/06/83	JA: OK			
8411050	22618	3514920339		102-2		ELLIS 15-1		0.0	HYDROCARBONS SERV
-CONTINENTAL RESOURCES CORP				RECEIVED:	12/06/83	JA: OK			
8411035	22557	3504321623		102-4	103	CROSS #1-2		30.0	PHILLIPS PETROLEU
-CUESTA EMERGY CORPORATION				RECEIVED:	12/06/83	JA: OK			
8411166	24680	3501722499		103		COREY #1-19			
-DAVIS OIL COMPANY				RECEIVED:	12/06/83	JA: OK			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8411097	25082	3500121727		103		SCHEFFLER #1	COOPER	1.2	
-DAWN ENERGY CO				RECEIVED:	12/06/83	JA: OK			
8411147	24945	3513921757		103		MCDONALD #4-22	N E RICE	51.0	PHILLIPS PETROLEU
-DEMINEX US OIL COMPANY				RECEIVED:	12/06/83	JA: OK			
8411078	24240	3504921784		103		STEPHENS-HATCHER #1	S W PAOLI	23.0	WARREN PETROLEUM
-DIASU OIL & GAS CO INC				RECEIVED:	12/06/83	JA: OK			
8411129	24508	3505300000		103		RAGAINS #2	CHEROKEE-REDFORK	1.0	NORTHWEST CENTRAL
-DLB ENERGY CORP				RECEIVED:	12/06/83	JA: OK			
8411186	22280	3507323724		102-4		GLOVER #2-16	SOONER TREND	100.0	PHILLIPS PETROLEU
-ECC OIL CO				RECEIVED:	12/06/83	JA: OK			
8411128	24489	3514722141		108		HOLDEN #3 NE S31-T25N-R14E	OGLESBY GAS FIELD	16.0	OKAN GAS CO
-EL PASO NATURAL GAS COMPANY				RECEIVED:	12/06/83	JA: OK			
8411045	14512	3500935560		108-PB		PUCKETT #2	ERICK SOUTH	1.0	EL PASO NATURAL G
8411207	23970	3500906796		108		PUCKETT A #1	ERICK SOUTH	1.0	EL PASO NATURAL G
-EQUITY DRILLING CO INC				RECEIVED:	12/06/83	JA: OK			
8411192	23007	3511721676		102-4		DECKER #1 NW/4 S27-T21N-R6E	EAST CASEY	68.0	M J D CATTLE CO
8411196	23049	3511721744		102-4		GREGG-MONROE #1	EAST CASEY	41.0	M J D CATTLE CO
8411195	23048	3511721722		102-4		WEAVER #1 SW/4 S27-T21N-R6E	EAST CASEY	55.0	M J D CATTLE CO
-ESSEX EXPLORATION INC				RECEIVED:	12/06/83	JA: OK			
8411167	24682	3505921182		103		DEES #1	DOBY SPRINGS	201.8	PEOPLES NATURAL G
-EXXON CORPORATION				RECEIVED:	12/06/83	JA: OK			
8411064	22765	3500920530		102-3		PEARL SCOTT GAS UNIT #2	ELK CITY WEST	285.0	EL PASO NATURAL G
8411057	26005	3512920661		107-DP		RHOME MIX #1	WILDCAT	165.0	EL PASO NATURAL G
-F C D OIL CORP				RECEIVED:	12/06/83	JA: OK			
8411180	25137	3505321006		103		EDWIN D #1	N E LAMONT	43.8	FARMLAND INDUSTRI
-FUNK EXPLORATION INC				RECEIVED:	12/06/83	JA: OK			
8411117	22937	3500722407		102-4	103	CECIL #1	DOMBREY	182.0	GULF STATES UTILI
8411058	22744	3500722408		102-4	103	WRIGHT #1-34	WILDCAT	88.0	GULF STATES UTILI
-GEMARA OIL CO				RECEIVED:	12/06/83	JA: OK			
8411047	22585	3512322017		102-4		BROWN #2	WEST OAKMAN	104.0	ARKANSAS LOUISIAN
-GILL JOHN K				RECEIVED:	12/06/83	JA: OK			
8411134	24928	3511124414		103		SIBERTS #1-A	YOUNGSTOWN FIELD	16.8	SHAB CORP
-GRACE PETROLEUM CORPORATION				RECEIVED:	12/06/83	JA: OK			
8411160	22930	3512920696		102-2		LEACH 1-22	WEST STRONG	1.0	EL PASO NATURAL G
-GRAHAM OIL & GAS LTD				RECEIVED:	12/06/83	JA: OK			
8411174	24808	3515321432		103		BELL #1	NW SHARON	1.0	
-GRAHAM-MICHAELIS CORP				RECEIVED:	12/06/83	JA: OK			
8411120	20031	3513900000		108-ER		LEE #1 - 15	CAMRICK	11.0	KN ENERGY INC
8411075	24592	3515300000		108		RENDERGRASS #1 - 12	SW CEDARDALE	18.0	MICHIGAN-WISCONSI
-GULF OIL CORPORATION				RECEIVED:	12/06/83	JA: OK			
8411085	1633	3512920075		108-PB		HORRELL #1	PEEK SOUTH	0.0	PANHANDLE EASTERN
8411179	7595	3505120086		108-PB		JOHN COURTNEY #1	MIDDLESBURG	1.0	MOBIL OIL CORP
-H G & G INC				RECEIVED:	12/06/83	JA: OK			
8411140	25007	350I722459		103		KREMEIER #1-13		1.0	PHILLIPS PETROLEU
8411141	25011	3501721490		103		STANLEY KREMEIER #1-12		1.0	PHILLIPS PETROLEU
-HAMM PRODUCTION CO				RECEIVED:	12/06/83	JA: OK			
8411152	22414	3508321878		108		RAY #2	S COVINGTON	7.6	EASON OIL CO
-HARPER OIL COMPANY				RECEIVED:	12/06/83	JA: OK			
8411149	24980	3507323822		103		ARNOLD #2	N W CLOMBIA	37.0	EXXON CORP
8411115	24979	3504723306		103		HOGE #4	DRUMMOND	180.0	ARKANSAS LOUISIAN
8411077	24343	3507300000		108		SWAIM-POLLARD #1	SOONER TREND	1.0	EXXON CORP
-HAWKINS OIL & GAS INC				RECEIVED:	12/06/83	JA: OK			
8411118	22884	3504521112		102-4	103	HARRELL #1-10 U	W CARMAGO	36.0	PHILLIPS PETROLEU
8411200	23000	3504521090		102-4	103	MCCLEERY 1-9 U	SE ARNETT	36.0	PHILLIPS PETROLEU
8411031	22701	3513921673		102-4		PHILLIPS #1-35	E ADAMS	360.0	PANHANDLE EASTERN
-HESTON OIL CO				RECEIVED:	12/06/83	JA: OK			
8411038	22340	3505320781		102-2		CINK #15-2		766.5	MID-AMERICA GAS I
8411039	22339	3505320649		102-2		MCDONALD #22-1		474.5	MID-AMERICA GAS I
-HPC INC				RECEIVED:	12/06/83	JA: OK			
8411048	21825	3501722409		103		NITZEL #2	S E CALUMET	4.6	PHILLIPS PETROLEU
8411046	21824	3501722412		103		REESE #2		0.0	PHILLIPS PETROLEU
8411188	22508	3501722412		102-4		REESE #2-6	N CALMUT	308.0	PHILLIPS PETROLEU
-INTERNORTH INC				RECEIVED:	12/06/83	JA: OK			
8411157	22885	3512920706		102-2		WALTON 25 #1	SW LEEDEY	0.0	NORTHERN NATURAL
-JIM L HANNA DBA HANNA OIL AND GAS C				RECEIVED:	12/06/83	JA: OK			
8411059	22483	3504723185		102-4		WUERFLEIN #1		1.0	UNION TEXAS PETRO
-JOE D DAVIS				RECEIVED:	12/06/83	JA: OK			
8411164	24353	3512121036		103		WATKINS #1		1.0	ARKANSAS LOUISIAN
-JONES & PELLOW OIL CO				RECEIVED:	12/06/83	JA: OK			
8411203	25079	3506100000		108		DONNA KENNEDY #1	SAYRE	10.0	DELHI GAS PIPELIN
-JORDAN OIL & GAS COMPANY				RECEIVED:	12/06/83	JA: OK			
8411122	22868	3505321010		102-4	103	FRANKIE SKRDLA #2-5	NE BANNER	20.0	FARMLAND INDUSTRI
8411123	22867	3505320722		102-4	103	KRETCHMAR #1-5	NE BANNER	70.0	FARMLAND INDUSTRI
-K P EXPLORATION INC				RECEIVED:	12/06/83	JA: OK			
8411040	21354	3513921281		102-4		WRIGHT #1-34	OPTIMA	360.0	NATURAL GAS PIPEL
8411041	21353	3513921469		102-4		WRIGHT #2-34	OPTIMA	360.0	NATURAL GAS PIPEL
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	12/06/83	JA: OK			
8411084	26271	3504521156		103		BERRYMAN #1-19	ARNETT	386.9	
8411124	22860	3500722414		103		ELAM #1-23	W SLAPOUT	298.0	
8411083	26366	3515121423		103		GARDNER A-1	AVARD	292.0	
8411079	24195	3505121411		103		MORSE #3-36	N W CHICKASHA	36.5	ARKANSAS LOUISIAN
-KEITH F WALKER				RECEIVED:	12/06/83	JA: OK			
8411108	24652	3508520690		103		RAY #2		10.9	AMINOIL USA INC
-KING E L				RECEIVED:	12/06/83	JA: OK			
8411121	24167	3511123625		108		E L KING JR #2 E L KING ETAL	HAMILTON SWITCH	6.0	PHILLIPS PETROLEU
-KIRK BILL E				RECEIVED:	12/06/83	JA: OK			
8411104	25024	3511103018		103		FLECHS #1-RE	BALD HILL	27.0	PHILLIPS PETROLEU
-LEEMAN ENERGY CORP				RECEIVED:	12/06/83	JA: OK			
8411137	24995	3509900000		103		WEIR #1	WEST DAVIS	1.0	AMINOIL USA INC
-LINCOLN ROCK CORP				RECEIVED:	12/06/83	JA: OK			
8411066	22600	3508520668		102-4		BEDO #1	NORTHEAST MARIETTA	25.0	CIMARRON TRANSMIS
8411168	24693	3508520659		103		CLINTON #5	NORTHEAST MARIETTA	5.0	CIMARRON TRANSMIS
-LINDLEY-HOBSON OIL CO				RECEIVED:	12/06/83	JA: OK			
8411187	22502	3503724444		102-4		EDMOND #1	OLIVE	189.0	M P & R PRODUCTIO
-LONG ROYALTY CO				RECEIVED:	12/06/83	JA: OK			
8411173	24850	3501100000		103		CHEYENNE ARAPAHO TRIBAL LANDS #2-6	NORTHWEST CANTON	600.0	PHILLIPS PETROLEU
-MAY PETROLEUM INC				RECEIVED:	12/06/83	JA: OK			
8411162	24717	3508322198		103		JONES #1-11		36.5	EASON OIL CO
-MESA PETROLEUM CO				RECEIVED:	12/06/83	JA: OK			
8411194	23041	3503920711		102-2		BAKER #1-10	REDFORK	85.0	
-MID-CONTINENT PETROLEUM MGMT INC				RECEIVED:	12/06/83	JA: OK			
8411095	25072	3505121422		103		MOSS #1-11	SOUTH CHICKASHA	20.0	TRANSOK INC
-MOBIL OIL CORP				RECEIVED:	12/06/83	JA: OK			
8411087	17817	3504900000		108-PB		C LAMBERT #3	GOLDEN TREND	13.9	WARREN PETROLEUM

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8411072	25166	3501900000		108		GRAHAM DEESE #1-10J J LAHMAN #5	SHO VEL TUM	0.2	LONE STAR GAS CO
-MONTEJAS EXPLOR & PROD CO				RECEIVED:	12/06/83	JA: OK			
8411191	22705	3508322138		102-4		SWINDELL #1	NE COON CREEK	376.0	
-MORGAN & STEINERT INC				RECEIVED:	12/06/83	JA: OK			
8411163	24497	3504723331		103		GROENDYKE #2	SOONER FIELD	150.0	UNION TEXAS PETRO
-MONDORF OIL & GAS INC				RECEIVED:	12/06/83	JA: OK			
8411156	22806	3508322031		102-3		NELSON #1-28	N NAVINA	193.0	
-NORTH CENTRAL DRILLING CO INC				RECEIVED:	12/06/83	JA: OK			
8411100	25064	3508122085		103		SHEREE #1 081-80143	SW STROUD	20.0	NATURAL GAS ENTER
-OFS-TULSA CORP				RECEIVED:	12/06/83	JA: OK			
8411109	24920	3507323771		103		TEDDY #1-23		150.0	CONOCO INC
-ONYX ENERGY CORP				RECEIVED:	12/06/83	JA: OK			
8411114	24944	3504321280		103		MOORE #1-31		505.5	TRANSWESTERN PIPE
8411113	24943	3504723102		103		PRIBIL #1-16		100.0	EXXON CORP
-PENN HOMA OIL & GAS CO				RECEIVED:	12/06/83	JA: OK			
8411144	25028	3510100000		103		ANNIE I	BALD HILL	365.0	PHILLIPS PETROLEU
-PETREX CORP				RECEIVED:	12/06/83	JA: OK			
8411212	22611	3511922132		102-4		FRANKLIN #1	MARKHAM	16.5	PARKS ENERGY INVE
8411213	22612	3511922154		102-4		FRANKLIN #2	MARKHAM	16.5	PARKS ENERGY INVE
-PETRO-LEWIS CORPORATION				RECEIVED:	12/06/83	JA: OK			
8411073	24737	3509300000		108		OLIVER 36-1	SOONER TREND	5.1	PARTNERSHIP PROPE
-PETROLEUM INC				RECEIVED:	12/06/83	JA: OK			
8411053	24798	3507323731		103		HOBBS "C" #1	WEST DOVER	8.0	PHILLIPS PETROLEU
-PETROLEUM RESERVE CORP				RECEIVED:	12/06/83	JA: OK			
8411165	24678	3502720767		103		MILLS 8-2		110.0	SUN EXPLORATION &
-PETROWEST INC				RECEIVED:	12/06/83	JA: OK			
8411093	23047	3513121062		102-2		COOK #1 API NO 13121062	WILDCAT	10.0	DIAMOND 'S' GAS S
8411090	23044	3513122368		102-2		COOK #10 API NO 13122368	WILDCAT	10.0	DIAMOND S GAS SYS
8411091	23045	3513121074		102-2		COOK #2 API #13121074	WILDCAT	10.0	DIAMOND 'S' GAS S
8411092	23046	3513121075		102-2		COOK #4 API NO 13121075	WILDCAT	10.0	DIAMOND 'S' GAS S
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	12/06/83	JA: OK			
8411068	00302	3501535191		108-PB		DAHL #2	CHICKASHA	13.9	ARKANSAS LOUISIAN
8411106	24428	3513921001		103		LATH #3	SOUTH GUYMON - MORROW	0.0	PANHANDLE EASTERN
8411086	15356	3501720727		108-PB		PETIGREW A #1	UNION CITY	10.0	TRANSOK PIPELINE
8411145	25029	3505121443		103		WALTERS A #1	W CHICKASHA	0.0	TRANSOK PIPELINE
-PHOENIX ENERGY CORP				RECEIVED:	12/06/83	JA: OK			
8411146	24927	3507323542		103		POPE #1 (HOSKINS #3)	SOONER TREND	300.0	PHILLIPS PETROLEU
-PREMIER OPERATING CO				RECEIVED:	12/06/83	JA: OK			
8411199	25090	3509322704		103		CHASE #1	SOONER TREND	30.0	UNION TEXAS PETRO
-PSEC INC				RECEIVED:	12/06/83	JA: OK			
8411071	25700	3508121997		107-TF		KREIG #1-28		0.0	EL PASO NATURAL G
-RAMBLER OIL CO				RECEIVED:	12/06/83	JA: OK			
8411151	22356	3505121346		102-4		BROOKSHER #1-17		0.0	TRANSOK PIPELINE
-RATLIFF EXPLORATION CO				RECEIVED:	12/06/83	JA: OK			
8411185	21644	3510920643		102-4	103	CLARKLAND "A" #28-1		0.0	CONOCO INC
8411080	23204	3510920729		102-4	103	CLAPKLAND "A" #28-2		0.0	CONOCO INC
8411076	24406	3510920758		102-4	103	FRETZ #29-1		8.0	
-RED EAGLE OIL CO				RECEIVED:	12/06/83	JA: OK			
8411096	25080	3500320687		103		BUTLER #1	EAST LODER	3.6	RAU ENERGY INC
8411177	24912	3501121833		103		HUSTON #1	N W OKEENE	270.0	PIONEER GAS PRODU
8411178	24913	3501121840		103		MARVA #1	N W OKEENE	182.0	PIONEER GAS PRODU
8411169	24704	3501121802		103		T L OUTHIER #1	N W OKEENE	8.0	PIONEER GAS PRODU
-RESOURCE DEVELOPMENT CO INC				RECEIVED:	12/06/83	JA: OK			
8411081	25184	3508121915		103		ADAMS #1	SOUTH STROUD PRUE	20.0	ALLIED MATERIALS
8411082	25185	3508122039		103		FNB OF IOWA CITY #1-32	WEST STROUD FIELD	150.0	NATURAL GAS ENTER
-RICHARDSON CONSTRUCTION				RECEIVED:	12/06/83	JA: OK			
8411170	24903	3511124412		103		MOSQUITO #1	HECTORVILLE	25.6	PHILLIPS PETROLEU
-RICKS EXPLORATION CO				RECEIVED:	12/06/83	JA: OK			
8411089	23021	3502920297		102-2		CROW #34-A	N E COALGATE	109.0	ARKANSAS LOUISIAN
-ROBINSON BROS DRILLING CO INC				RECEIVED:	12/06/83	JA: OK			
8411069	22563	3514920295		102-4		HOEPFNER #31-1	W BESSIE	0.0	
8411067	22566	3514920286		102-4		KEIL 21-1	E BESSIE	0.0	
8411208	22980	3510920713		102-4		PATSY ANN #33-4	WHEATLAND	330.0	MOBIL OIL CORP
-ROGERS WELL SERVICE INC				RECEIVED:	12/06/83	JA: OK			
8411063	21715	3507100000		103		CLETUS BLUBAUGH #2-A	EAST TONKAWA	10.0	CITIES SERVICE CO
8411056	21717	3507100000		103		FARRIS #3		10.0	CITIES SERVICE CO
-ROYE REALTY & DEVELOPMENT INC				RECEIVED:	12/06/83	JA: OK			
8411153	22722	3506120056		102-4		DIXON #1		182.5	ARKANSAS LOUISIAN
8411155	22798	3560120565		102-4		DIXON #1-29		52.9	ARKANSAS LOUISIAN
8411154	22723	3506120580		102-4	103	MEANS #1		547.5	ARKANSAS LOUISIAN
-S & G DRILLING INC				RECEIVED:	12/06/83	JA: OK			
8411107	24547	3513723419		103		BIFFLE #1-27	SHOLEM ALACHEM	12.0	MOBIL OIL CORP
-SAMSON RESOURCES COMPANY				RECEIVED:	12/06/83	JA: OK			
8411183	18074	3504320313		102-4		CHRISTENSEN #1	EAST PUTNAM	8.7	HYDROCARBON SERVI
8411184	18114	3504321447		102-4	103	CHRISTENSEN #2	EAST PUTNAM	29.6	HYDROCARBON SERVI
8411043	16881	3504321404		102-4	103	LOVE #2	EAST PUTNAM	54.8	HYDROCARBON SERVI
-SANTA FE-ANDOVER OIL CO				RECEIVED:	12/06/83	JA: OK			
8411143	25016	3507323783		103		BROWNLEE #22-1		100.0	PHILLIPS PETROLEU
8411055	24684	3501121865		103		SCHEFFLER #25-2		300.0	OKLAHOMA GAS PIPE
8411052	24823	3501121866		103		SCHEFFLER #25-3		300.0	OKLAHOMA GAS PIPE
8411198	25088	3507323739		103		SCHWARZ #36-2		400.0	DELHI GAS PIPELIN
8411204	25087	3507323720		103		SCHWARZ #36-4		100.0	DELHI GAS PIPELIN
8411190	22542	3505121121		102-2	103	TREADAWAY #34-1		50.0	TRANSOK PIPELINE
8411060	24867	3501121863		103		WYMER #29-4		140.0	OKLAHOMA GAS PIPE
-SENECA OIL COMPANY				RECEIVED:	12/06/83	JA: OK			
8411193	23024	3504321621		102-4		FRANS TRUST #1-21		1040.3	TRANSOK PIPE LINE
-SOUTHLAND ROYALTY CO				RECEIVED:	12/06/83	JA: OK			
8411062	13836	3513921240		108-PB		CRAIG #1-6	CAPLE	16.0	NORTHERN NATURAL
8411054	23455	3515121083		108-PB		RORING #2-29	FREEDOM 76	10.0	PANHANDLE EASTERN
-SOUTHWESTERN EXPLOR CONSULTANTS INC				RECEIVED:	12/06/83	JA: OK			
8411102	25018	3510322007		103		HONEYWELL #2	POLO	0.0	ARCO OIL & GAS CO
-STANTON ENERGY INC				RECEIVED:	12/06/83	JA: OK			
8411065	22763	3503724455		102-4		GREENWOOD 14		150.0	COLORADO GAS CORP
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	12/06/83	JA: OK			
8411132	24620	3505921199		103		PRYOR STELLA C UNIT #2	MOCANE-LAVERNE GAS AR	488.0	COLORADO INTERSTA
-TENNECO OIL COMPANY				RECEIVED:	12/06/83	JA: OK			
8411201	23014	3512920790		102-2	103	LESTER #1-6	EAST CHEYENNE	10.0	DELHI GAS PIPELIN
8411032	22673	3512920906		102-2		MERRICK #1-26	EAST CHEYENNE	460.0	DELHI GAS PIPELIN
8411033	22672	3512920913		102-2		MERRICK #1-33	EAST CHEYENNE	300.0	DELHI GAS PIPELIN
8411105	25063	3501922787		103		SOUTH GRAHAM DEESE SAND UNIT 54-1A	SHO-VEL-TUM	0.5	MOBIL OIL CORP
8411061	24837	3510321993		103		SOUTH LONE ELM CLEVELAND SAND #103	SOUTH LONE ELM	3.0	AMINOIL USA INC
8411088	23011	3510321872		103		SOUTH LONE ELM CLEVELAND SAND #37	SOUTH LONE ELM	2.0	AMINOIL USA INC
-TEXACO INC				RECEIVED:	12/06/83	JA: OK			
8411159	22927	3505320948		102-2		O GRAYSON #1	W POND CREEK POOL	75.2	SUN EXPLORATION &

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-THE WIL-MC OIL CORP				RECEIVED:	12/06/83	JA: OK			
8411148	24958	3505320711		103		MITCHELL A-2	WEST MEDFORD	8.0	EL GRANDE PIPELIN
-THREE SANDS OIL INC				RECEIVED:	12/06/83	JA: OK			
8411150	22952	3510321855		102-2		H T SMITH #1		146.0	ARCO OIL & GAS CO
8411215	22952	3510321855		103		H T SMITH #1		146.0	ARCO OIL & GAS CO
-TOMMY M MOORE				RECEIVED:	12/06/83	JA: OK			
8411127	23919	3511124107		108		LOONEY #1-A	E BEGGS	11.0	PHILLIPS PETROLEU
-TOWNER PETROLEUM CO				RECEIVED:	12/06/83	JA: OK			
8411216	22955	3501521517		102-4	103	CRAIN CHILDREN #12-1		0.0	
8411205	22956	3501521521		102-4	103	FRANKLIN BOLES #12-1		0.0	
-TRANS-WESTERN EXPLORATION INC				RECEIVED:	12/06/83	JA: OK			
8411034	22565	3503920656		102-2	103	MILLER #1-32		1000.0	TRANSOK PIPELINE
-TXO PRODUCTION CORP				RECEIVED:	12/06/83	JA: OK			
8411214	22823	3506120281		102-4		BURRIS "A" #1 -OPER BY HUNT ENERGY	KINTA	292.[illegible]	ARKANSAS LOUISIAN
8411074	24628	3504321738		103		BUTLER "F" #1	N PUTMAN	0.[illegible]	DELHI GAS PIPELIN
8411209	6460	3512900000		108-ER		EAKINS #1	TONKAWA FORMATION	0 0	NORTHWEST CENTRAL
8411103	25023	3515121059		103		HAMPSTEN "B" #1	N FREEDOM	[illegible].0	DELHI GAS PIPELIN
8411070	22532	3512100000		102-4	103	FENFIELD #1	BACHE	[illegible].[illegible]	
8411197	25103	3512120181		108		SHERRILL "A" #1	MCALESTER	131.[illegible]	DELHI GAS PIPELIN
8411210	13769	3504500000		108-ER		STATE #1	MORROW FORMATION	[illegible].[illegible]	NORTHERN NATURAL
8411036	22533	3506120584		102-4	103	TATE "B" #1	KINTA	177.0	
8411136	24993	3509322724		103		WILCOX "B" #1	CHEYENNE	0.0	DELHI GAS PIPELIN
-UNION TEXAS PETROLEUM				RECEIVED:	12/06/83	JA: OK			
8411133	24878	3500300000		108		F DAVIS #2	HODGE II	[illegible].0	PANHANDLE EASTERN
-UNIT DRILLING & EXPLORATION CO				RECEIVED:	12/06/83	JA: OK			
8411098	25084	3504321705		103		KOUNS #2	SQUIRREL CREEK	40.[illegible]	HYDROCARBON SERVI
-VIERSEN & COCHRAN				RECEIVED:	12/06/83	JA: OK			
8411110	24934	3500321060		103		FRANK CROMWELL #1-26	WAKITA TREND	90.[illegible]	
-VISTA EXPLORATION INC				RECEIVED:	12/06/83	JA: OK			
8411111	24938	3514322588		103		JACK GARY #2 WELL	BIXBY	20.[illegible]	PHILLIPS PET CO
8411112	24939	3514322450		103		NIMROD-CARLILE #1 WELL	BIXBY	24.[illegible]	PHILLIPS PET CO
-W R COOK				RECEIVED:	12/06/83	JA: OK			
8411094	25070	3503120490		108		PALMER "A" WELL #11	EAST LAWTON	20.0	MANN INDUSTRIES I
-WARD ENERGY INC				RECEIVED:	12/06/83	JA: OK			
8411175	24802	3508100000		103		WANNAMAKER 28-1		120.0	SUN EXPLORATION &
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The President

Proclamation 5146 of January 12, 1984

National Fetal Alcohol Syndrome Awareness Week, 1984

By the President of the United States of America

A Proclamation

Fetal Alcohol Syndrome (FAS) is one of the major known causes of birth defects with mental retardation and the only one which, at present, is totally preventable.

FAS can result in many serious health problems including prenatal and postnatal growth retardation; developmental disabilities that may cause an infant to experience delays in activities such as walking and speaking; mental retardation; and other organ abnormalities such as heart defects.

In addition, in cases where FAS is not fully present, infants may suffer other alcohol-related birth effects—a series of health risks and problems that include low birthweight; increased prenatal infections; irritability or hyperactivity during the newborn period; birth defects and problems associated with mental impairment. Learning deficits may also occur, although these may not be apparent for a number of years.

Although some questions remain unanswered on consumption of alcohol during pregnancy, research over the past 10 years has established that prenatal alcohol exposure can pose a threat to the health of the unborn child. This knowledge led the Surgeon General of the United States, in 1981, to issue an advisory strongly encouraging women who are pregnant or considering pregnancy to avoid the use of alcohol. In addition, the medical and scientific community, many public and private agencies, and institutions and concerned citizens have, over the years, undertaken valuable efforts to promote public awareness of FAS and related health concerns.

In recognition of the potential for serious consequences of fetal alcohol exposure, and in the interest of increasing public awareness that these consequences are preventable, the Congress, by House Joint Resolution 324 (Public Law 98–188), has designated the week beginning January 15, 1984, as "National Fetal Alcohol Syndrome Awareness Week" and has requested the President to issue a proclamation in observance of that week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week of January 15 through January 21, 1984, as National Fetal Alcohol Syndrome Awareness Week.

I invite the Governors, the chief officials of local governments, and all

Americans to observe this week with appropriate activities, particularly those which seek to protect the health of children through heightened awareness of the consequences of alcohol use during pregnancy.

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of January, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 84-1250
Filed 1-12-84; 10:51 am]
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5 CFR P

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Rules and Regulations

Federal Register
Vol. 49, No. 10
Monday, January 16, 1984

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 731 and 754

Personnel Suitability and Suitability Disqualification Actions

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations governing personnel suitability, and making technical and conforming changes in its regulations regarding suitability disqualification actions. These changes update nomenclature to reflect internal reorganization within OPM; correct certain inconsistencies and omissions; and strengthen and clarify the procedures designed to ensure the according of due process of law to persons adversely affected by suitability decisions made both by OPM and by agencies with suitability authority delegated by OPM.

EFFECTIVE DATE: February 15, 1984.

FOR FURTHER INFORMATION CONTACT: Joseph L. Durant, Chief, Investigations Planning Division, Office of Personnel Investigations (202) 632–6181.

SUPPLEMENTARY INFORMATION: On September 9, 1983, OPM published proposed regulations (48 FR 40731) to amend its regulations on personnel suitability, at 5 CFR Part 731, and on related suitability disqualification actions, at 5 CFR Part 754.

We received comments on those proposed regulations from 5 agencies, 1 union representing Federal employees, and 2 individual agency employees. The comments and our actions on those comments are summarized as follows:

Suitability Redetermination

One union opposed deletion of the automatic nature of the current exception from suitability redeterminations given to persons leaving the Federal service and returning within one year, because there are differences between the candidate applying for a Federal job for the first time and one who was separated from Federal service within the past year. Many persons who leave the Federal service have not had an investigation in a number of years; some may have left the service to preclude an agency from taking disciplinary action; some may have been involved after separation in an activity which raises a question of suitability. For these reasons OPM believes the deletion of the current exception is warranted.

Respondent's Answer

One individual and one agency suggested that respondents to notices of proposed action under § 754.102 be guaranteed the right to an oral response because some people have difficulty expressing themselves effectively in writing. OPM believes this is not generally warranted, since respondents also have MSPB appeal rights, and would frequently delay unnecessarily the taking of final action.

One union suggested that the respondent be notified, at the time of notification of proposed action, of the right to make a written response as well as the right to request an opportunity to make an oral response. OPM intended that the right to make a written response be given and we have specifically stated this in these regulations. OPM has also modified the right to request an opportunity to make an oral response to apply only to employees.

One agency suggested that § 754.103 should include a provision for an employee representative, similar to 5 CFR 1202.31. We have added such a statement, and also in § 754.105 that these actions are not grievable under agency or negotiated grievance procedures.

One agency expressed concern about the shortened time limits for respondent's and agency's response because of delays in the postal system. We agree that more time may be justified, and have changed the time limit in both situations to 30 days from the date of the notice of proposed adverse action.

Appeal Rights

One agency stated that the proposed § 754.105(b) right to continue in a pay status pending final outcome of any appeal to MSPB runs counter to an agency's need to remove an unsuitable employee from the worksite. The agency felt that since employees who win their appeal with MSPB are generally awarded back pay, this is an appropriate remedy in those instances where an employee has been treated unfairly. OPM believes the agency concern is reasonable and OPM intends to publish for comment proposed regulations to this effect.

Miscellaneous

One individual suggested deletions of sentences in § 731.302 (a) and (b) because he felt they were no longer appropriate. This is correct, and we have deleted. He also felt that the reference to 5 CFR 5.4 in § 754.103(b) should be changed to 5 CFR 5.3 as a correction of a typographical error. This correction has been made.

A conforming change has been made to add the word "and" at the end of paragraph (v) of 5 CFR 731.301(a)(1). Also, the last sentence at § 731.301(e) has been changed to delete the reference to agencies assigning to their officers the duties that are assigned to OPM officers in 5 CFR Part 754. This change was made for clarification purposes.

One agency felt some changes in wording would add clarity to §§ 731.302(e), 754.101, and 754.102. These changes have been made.

One agency felt this would be a good opportunity to state that Parts 731 and 754 cover only those actions taken on the basis of suitability for Federal employment; and that these regulations do not apply to actions taken on the basis of national security by an agency pursuant to E.O. 10450 with respect to an employee in a sensitive position. OPM does not feel this is necessary because there have been no known instances of confusion.

One agency felt the § 731.302(e) requirement, in effect, shortens the probationary period by one month, and another agency questioned the need for giving probationary employees rights in suitability cases which are not afforded

these same employees in separation for other reasons. There is no change in the authority of agencies to separate probationers without Part 754 rights under current 5 CFR Part 315 procedures. The 754 procedural requirements are part of the due process now being afforded only to employees against whom an action is proposed under 5 CFR Parts 731 and 754, and no change is warranted, except to apply these procedures to agencies who would be delegated Parts 731 and 754 authority.

E.O. 12291, Federal Regulation

OPM has redetermined that this is not a major rule as defined under Section 1 (b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation would govern only suitability determinations and procedures for according the due process of law to persons adversely affected by these determinations.

List of Subjects

5 CFR Part 731

Administrative practice and procedure, Government employees.

5 CFR Part 754

Administrative practice and procedure, Government employees.

U.S. Office of Personnel Management.

Donald Devine,

Director.

Accordingly, the Office of Personnel Management is amending Parts 731 and 754 of Title 5, Code of Federal Regulations, as follows:

PART 731—PERSONNEL SUITABILITY

1. In 5 CFR 731.202, paragraph (b)(4) is revised, and paragraph (d) is added to read as follows. The introductory text of paragraph (b) is shown for reader convenience.

§ 731.202 OPM determination.

* * * * *

(b) *Specific factors.* Among the reasons which may be used in making a determination under paragraph (a) of this section, any of the following reasons may be considered a basis for disqualification: * * *

(4) Refusal to furnish testimony as required by § 5.4 of this chapter;

* * * * *

(d) *Implementation.* Policies, procedures, criteria, and guidance for the implementation of this Part shall be set forth in issuances of the Federal Personnel Manual System and other appropriate instruments. Agencies exercising authority under this Part by delegation from OPM shall conform to such policies, procedures, criteria, and guidance.

2. In 5 CFR 731(a)(1), paragraph (vi) is removed, paragraph (vii) is redesignated as paragraph (vi), and paragraphs (v) and (vi) are revised to read as follows:

§ 731.301 Jurisdiction.

(a) * * *

(1) * * *

(v) Appointment, or conversion to an appointment, made by an agency of an employee of that agency who has been serving continuously with that agency for at least one year in one or more positions in the competitive service under an appointment subject to investigation; and

(vi) Transfer, provided the one-year, subject-to-investigation period applied to the previous appointment has expired.

3. In 5 CFR 731.302, the section heading is revised, paragraphs (a) and (b) are revised, and paragraph (e) added to read as follows:

§ 731.302 Actions by OPM and other agencies.

(a) For a period of 1 year after the effective date of an appointment subject to investigation under § 731.301, OPM may instruct an agency to remove an appointee when it finds that the appointee is not qualified or is unsuitable for any of the reasons cited in § 731.202.

(b) Therefore, OPM may require the removal of an employee on the basis of either intentional false statement or deception or fraud in examination or appointment; or refusal to furnish testimony.

* * * * *

(e) Before OPM shall take a final suitability disqualification action against an applicant, eligible, appointee, or employee under this Part, the person against whom the action is proposed shall be given notice of the proposed action, an opportunity to answer, notice of the final decision of the action, and notice of rights of appeal, if any, all in accordance with 5 CFR Part 754. Before any agency having delegated authority from OPM under this Part takes a final suitability disqualification action against any person under this Part, the agency shall give such person the same notices and opportunities that OPM would be required to give in such a case under 5 CFR Part 754.

4. 5 CFR Part 754 is revised to read as follows:

PART 754—SUITABILITY DISQUALIFICATION ACTIONS

Sec.

754.101 Scope.
754.102 Notice of proposed action.
754.103 Answer.
754.104 Decision.
754.105 Appeal rights.

Authority: 5 U.S.C. 1302, 3301, 3302, and 7701; E.O. 10577, 3 CFR, 1954–1958 Comp. p. 218; E.O. 11491, 3 CFR, 1966–1970 Comp., p. 861.

§ 754.101 Scope.

(a) *Coverage.* This part sets forth the procedures to be followed when the Associate Director for Compliance and Investigations or his/her designee (referred to in this part as the official), acting under authority of 5 CFR Part 731, proposes to take or to instruct an agency to take, a final suitability disqualification action to remove, or to take other disciplinary action against an applicant or eligible for appointment in, or an appointee or employee in, the competitive service.

(b) *Definition.* In this part, "days" means calendar days and not, for example, work-days.

§ 754.102 Notice of proposed action.

The official shall notify the applicant, eligible, appointee, or employee (hereinafter, the "respondent") in writing of the proposed action and of the charges against him or her. The notice shall state the reasons, specifically and in detail, for the proposed action. The notice shall also state that the respondent has the right to answer this notice in writing. If the respondent is an employee who is no longer subject to investigation by OPM, the notice shall further state that the employee may also make an oral answer, as specified in § 754.103(a). The notice shall further inform the respondent of the time limits for answer as well as the address to which such answer should be made. The official shall send a copy of this notice to the agency, if any, that is involved. The notice shall be served upon the respondent by being mailed to the respondent's last known residence or duty station no less than 30 days prior to the effective date of the proposed

adverse action. If the respondent is employed in the competitive service on the date the notice is served, the respondent shall be entitled to be retained in pay status during the notice period.

§ 754.103 Answer.

(a) *Respondent's answer.* A respondent may answer the charges in writing and furnish affidavits in support of the response. A respondent who is an employee may answer orally to the official. The respondent may be represented by a representative of the respondent's choice, and such representative shall be designated in writing to the official. To be timely an answer, whether it is oral, written, or both, shall be made to the official no more than 30 days after the date of the notice of proposed action. In the event that the employee who is no longer subject to investigation by OPM requests to make an oral answer, the official shall determine the time and place thereof. The official shall consider any answer that the respondent makes in reaching a decision.

(b) *Agency's answer.* In actions proposed by OPM under 5 CFR 5.3, the agency may also answer the notice of proposed adverse action. The time limit for filing an answer is 30 days from the date of the notice. The official shall consider any answer that the agency makes in reaching a decision.

§ 754.104 Decision.

The official shall notify the respondent and the agency of the decision. The decision shall be in writing, be dated, and inform the respondent of the reasons for the decision. The respondent shall also be informed that an adverse decision can be appealed.

§ 754.105 Appeal rights.

(a) A respondent may appeal an adverse decision of the official to the Merit Systems Protection Board under the provisions of the Board's regulations at 5 CFR Part 1201. Such actions may not be grieved under agency or negotiated grievance procedures.

(b) A respondent who appeals under this section and who is, at the time the final adverse action is taken, an employee in the competitive service, shall be entitled to be retained in a pay status until action on appeal, if any, is completed under Part 1201 of this title.

[FR Doc. 84-1120 Filed 1-13-84; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 83-354]

Mexican Fruit Fly; Expansion of Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends § 301.64 ("Subpart-Mexican Fruit Fly") of the domestic quarantine notices (7 CFR 301.64 *et seq.*) by expanding the area listed as a regulated area in Los Angeles County, California. This action is necessary as an emergency measure in order to prevent the artificial spread of the Mexican fruit fly, *Anastrepha ludens* (Loew), into noninfested areas of the United States. The effect of this amendment is to impose certain restrictions on regulated articles moving interstate from the regulated area.

DATES: Effective date of amendment January 16, 1984. Written comments concerning this final rule must be received on or before March 16, 1984.

ADDRESSES: Written comments concerning this rulemaking should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, 6505 Belcrest Road, Room 728, Federal Building, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building, between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Gary Moorehead, Staff Officer, Field Operations Support Staff, Plant Protection and Quarantine, APHIS, USDA, Federal Building, 6505 Belcrest Road, Room 663, Hyattsville, MD 20782, (301) 436-8295.

SUPPLEMENTARY INFORMATION:

Emergency Action

Harvey L. Ford, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists which warrants publication without prior opportunity for a public comment period on this final action because of the possibility that Mexican fruit fly could be spread artificially to noninfested areas of the United States. This situation requires immediate action to better control the spread of this pest.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that prior notice and other public procedure with respect to this emergency final action are impracticable and contrary to the public interest; and good cause is found for making this emergency final action effective less than 30 days after publication of this document in the **Federal Register.** Comments will be solicited for 60 days after publication of this document, and this emergency final action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

Background

The Mexican fruit fly, *Anastrepha ludens* (Loew), is an extremely destructive pest of certain fruits and vegetables. The Mexican fruit fly can cause serious economic loss and it has a short life cycle that allows rapid development of serious outbreaks.

Infestations of Mexican fruit fly were found in portions of Los Angeles County, California, on October 25, 1983. Based on these findings, an emergency rulemaking document, effective upon publication, was published in the **Federal Register** on December 6, 1983 [48 FR 54577-54584]. This document amended the Mexican fruit fly regulations [7 CFR 301.64 *et seq.*] by, among other things, designating a portion of Los Angeles County as a regulated area in § 301.64-3(c).

The portion of Los Angeles County designated as a regulated area by the December 6, 1983, rulemaking document remains infested at this time. In addition, on December 12, 1983, additional Mexican fruit flies were found outside the regulated area in Los Angeles County. These findings were based on trapping surveys conducted by inspectors of the U.S. Department of Agriculture and state agencies of California and indicate that the Mexican fruit fly has spread beyond the outer perimeter of the regulated area in Los Angeles County. Therefore, in order to prevent further spread of the Mexican fruit fly it is necessary as an emergency measure to amend § 301.64-3 of the Mexican fruit fly regulations. This amendment expands the area in Los Angeles County, California, designated as a regulated area prior to the publication of this document by approximately 7 square miles to cover a previously nonregulated portion of Los

Angeles County where Mexican fruit fly has been found and now occurs.

The portion of Los Angeles County that is designated as a regulated area by this rulemaking document is described as follows (the area added by this rulemaking document is italicized):

Los Angeles County

Beginning at the point where the Santa Monica Freeway (Interstate 10) intersects the Harbor Freeway (State Highway 110); then southerly along the Harbor Freeway to its intersection with *El Segundo Boulevard; then easterly along El Segundo Boulevard to its intersection with Alpine Avenue; then northerly along Alpine Avenue to its intersection with Magnolia Avenue; then easterly along Magnolia Avenue to its intersection with Long Beach Boulevard; then northerly along Long Beach Boulevard to its intersection with* Imperial Highway; then easterly along Imperial Highway to its intersection with Garfield Avenue; then northerly along Garfield Avenue to its intersection with Eastern Avenue; then northerly along Eastern Avenue to its intersection with the Santa Ana Freeway (Interstate 5); then northwesterly along the Santa Ana Freeway to its intersection with the Santa Monica Freeway; then westerly along the Santa Monica Freeway to the point of beginning.

Executive Order 12291 and Regulatory Flexibility Act

The interim rule is issued in conformance with Executive Order 12291 and Secretary's Memorandum No. 1512–1, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this interim rule will not have a significant effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. In addition, the review provisions required by sections three, four and seven of Executive Order 12291 have been waived by OMB for purposes of this interim rule.

Mr. Bert W. Hawkins, Administrator of Animal and Plant Health Inspection Service, has determined that this action will not have a significant impact on a substantial number of small entities. This amendment affects the interstate movement of regulated articles from a portion of Los Angeles County, California, previously unregulated that is about 7 square miles in size. It appears that there is very little or no commercial activity that occurs in this area because it is comprised of local private farms. The only commercial activity to be found stems from local street vendors and two or three local nurseries. These enterprises sell regulated articles primarily for intrastate, not interstate, movement.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation, Mexican fruit fly.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, the description of the regulated area in Los Angeles County, California, found in paragraph (c) of § 301.64–3 is revised to read as follows:

§ 301.64–3

* * * * *

(c) The areas described below are designated as regulated areas:

California

Los Angeles County. Beginning at the point where the Santa Monica Freeway (Interstate 10) intersects the Harbor Freeway (State Highway 110); then southerly along the Harbor Freeway to its intersection with El Segundo Boulevard; then easterly along El Segundo Boulevard to its intersection with Alpine Avenue; then northerly along Alpine Avenue to its intersection with Magnolia Avenue; then easterly along Magnolia Avenue to its intersection with Long Beach Boulevard; then northerly along Long Beach Boulevard to its intersection with Imperial Highway; then easterly along Imperial Highway to its intersection with Garfield Avenue; then northerly along Garfield Avenue to its intersection with Eastern Avenue; then northerly along Eastern Avenue to its intersection with the Santa Ana Freeway (Interstate 5); then northwesterly along the Santa Ana Freeway to its intersection with the Santa Monica Freeway; then westerly along the Santa Monica Freeway to the point of beginning.

* * * * *

(Secs. 8 and 9, 37 Stat. 318, as amended (7 U.S.C. 161, 162); secs. 105 and 106, 71 Stat. 32, 71 Stat. 33 (7 U.S.C. 150dd, 150ee); 37 FR 28464, 38477, as amended; 45 FR 8564, 8565)

Done at Washington, D.C., this 10th day of January, 1984.

Harvey L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 84–992 Filed 1–15–84; 8:45 am]

BILLING CODE 3410–34–M

7 CFR Part 319

[Docket No. 83–329]

Khapra Beetle; Interim Rule

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document on an emergency basis amends the "Khapra Beetle Regulations" (7 CFR 319.75) by imposing restrictions on the importation of the following articles which are now designated as restricted articles: (1) Cumin seeds (*Cuminum cyminum*) in jute or burlap bags if from Pakistan; (2) seeds of the plant family Cucurbitaceae if in shipments greater than two ounces, if not for propagation, and if from Afghanistan, Algeria, Bangladesh, Burma, Cyprus, Egypt, India, Iran, Iraq, Israel, Libya, Mali, Mauritania, Morocco, Niger, Nigeria, Pakistan, Saudi Arabia, Senegal, Sri Lanka, Sudan, Syria, Tunisia, Turkey, or Upper Volta; (3) goatskins, lambskins, and sheepskins which are salted but not moist if from Sudan or India; and (4) used burlap bagging not containing cargo and used jute bagging not containing cargo if from Libya, Saudi Arabia or Syria. Additionally, the document amends the provisions concerning phytosanitary certificates of inspection for certain restricted articles to reflect statutory requirements and to provided that a phytosanitary certificate of inspection must be issued not more than 15 days prior to the shipment of the restricted article from the country in which grown, in order for the certificate to be valid. These amendments are necessary in order to protect against introduction of the khapra beetle into the United States.

DATES: The effective date of this interim rule is January 16, 1984. Written comments must be received on or before March 16, 1984.

ADDRESSES: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected in Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Charles E. Miller, Staff Specialist, Biological Assessment Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture,

Room 631, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8367.

SUPPLEMENTARY INFORMATION:

Emergency Action

Harvey L. Ford, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists which warrants publication of this interim rule without prior opportunity for public comment. This action is necessary to protect against the introduction of the khapra beetle into the United States.

Further, pursuant to the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect to this emergency action are impracticable and contrary to the public interest; and that good cause is found for making this interim rule effective less than 30 days after publication of this document in the **Federal Register.** Comments will be solicited for 60 days after publication of this document, and a final document discussing comments received and any amendments required will be published in the **Federal Register** as soon as possible.

Background

This document amends the khapra beetle regulations (contained in 7 CFR 319.75 *et seq.* and referred to below as the regulations). The regulations were established to protect against the introduction into the United States of the khapra beetle.

The khapra beetle is a plant pest that seriously damages cereal products, seeds, cottonseed meal, nut meats, dried fruits, and other products. The pest can cause serious damage to stored products, and when infested products are left undisturbed in storage for long periods of time, total loss can be expected. This insect is a threat to billions of bushels of important stored products in the United States.

Restricted Articles

The regulations are designed to impose restrictions on those articles which are determined to have a significant risk of carrying the khapra beetle at the time of importation, and which require special restrictions in order to protect against the introduction of the khapra beetle. The articles subject to restrictions are designated as restricted articles.

It is necessary to amend the regulations in § 319.75–2 to add the following to the list of restricted articles:

(1) Cumin seed (*Cuminum cyminum*) in jute or burlap bags if from Pakistan;

(2) Seeds of the plant family Cucurbitaceae if in shipments greater than two ounces, if not for propagation, and if from Afghanistan, Algeria, Bangladesh, Burma, Cyprus, Egypt, India, Iran, Iraq, Israel, Libya, Mali, Mauritania, Morocco, Niger, Nigeria, Pakistan, Saudi Arabia, Senegal, Sri Lanka, Sudan, Syria, Tunisia, Turkey, or Upper Volta;

(3) Goatskins, lambskins, and sheepskins which are salted but not moist if from Sudan or India; and

(4) Used burlap bagging not containing cargo and used jute bagging not containing cargo if from Libya, Saudi Arabia or Syria.

The regulations provide that restricted articles are allowed to be imported only if they are imported by the Department for experimental or scientific purposes under certain conditions, or if imported in accordance with requirements concerning permits, methyl bromide treatments, marking and identity, arrival notification, costs and charges, ports of entry, and phytosanitary certificates of inspection.

Pest interception records establish that a significant number of shipments of cumin seeds in jute or burlap bags from Pakistan are infested with khapra beetle at the time of importation. Therefore, it is necessary to impose restrictions on the importation of these articles by designating them as restricted articles. There do not appear to be other feasible methods for preventing the introduction into the United States of khapra beetle that accompany such imported articles.

Pest interception records also establish that except for seeds intended for propagation, any seeds of the plant family Cucurbitaceae from khapra beetle infested countries are likely to carry khapra beetle at the time of importation into the United States. This includes seeds of the plant family Cucurbitaceae from the following twenty-five countries which are known to be infested with the khapra beetle: Afghanistan, Algeria, Bangladesh, Burma, Cyprus, Egypt, India, Iran, Iraq, Israel, Libya, Mali, Mauritania, Morocco, Niger, Nigeria, Pakistan, Senegal, Saudi Arabia, Sri Lanka, Sudan, Syria, Tunisia, Turkey, or Upper Volta. (Previously, only twenty-two of these countries were known to be infested with the khapra beetle; however, based on a review of the scientific literature* the Department has recently found that khapra beetle occurs and appears to be well established in Libya, Saudi Arabia, and Syria.)

There are approximately 640 species in the plant family Cucurbitaceae and only a few species have been offered for importation from khapra beetle infested countries during the past few years. However, based on experience with these seeds, it appears that any of them other than those intended for propagation would be likely to carry the khapra beetle. Experience has shown that such seeds for propagation are not likely to be infested with khapra beetle. This is apparently because such seeds for propagation are customarily cleaned, handled, and stored in a more sanitary manner than those seeds intended for other purposes.

It is not necessary to impose special restrictions on the importation of seeds that are shipped in quantities of two ounces or less because they can be inspected 100 percent to ensure they are not infested with khapra beetle. However, it is necessary to impose restrictions on the importation of seeds of the plant family Cucurbitaceae by designating these as restricted articles if in shipments greater than two ounces, if not for propagation, and if from khapra beetle infested countries. There do not appear to be other feasible methods for preventing the introduction into the United States of khapra beetles that accompany such imported articles.

The regulations are also amended by adding a footnote to § 319.75–2 to help explain which seeds are in the plant family Cucurbitaceae. In this connection, a footnote is added to state that seeds of the plant family Cucurbitaceae include but are not limited to: *Benincasa hispida* (wax gourd), *Citrullus lanatus* (watermelon), *Cucumis anguria* (gherkin), *Cucumis melo* (melon, muskmelon, cantaloupe, honeydew), *Cucumis sativus* (cucumber), *Cucurbita pepo* (pumpkin, squashes, vegetable marrow), *Lagenaria siceraria* (calabash, gourd), *Luffa cylindrica* (dishcloth gourd), *Momordica charantia* (bitter melon), and *Sechium edule* (chayote).

Prior to the effective date of this document the regulations listed as restricted articles goatskins, lambskins, and sheepskins from Sudan or India except that the regulations specifically excluded from the list of restricted articles skins that are fully tanned, blue chromed, pickled in mineral acid, or salted. It is necessary to amend the listing for salted skins.

*A copy of the scientific literature may be obtained by writing to the Biological Assesment Support Staff, USDA, APHIS, PRQ, Room 634, Federal Building, 6505 Belcrest Road, Hyattsville MD 20782.

Based on experience it has been determined that skins that are salted and moist are not hosts of the khapra beetle; however, it has been determined that goatskins, lambskins, and sheepskins from Sudan or India that are salted but not moist present a significant risk of carrying the khapra beetle at the time of importation. Pest interception records indicate that skins that are salted but not moist are hosts of insects related to the khapra beetle. Further, based on experience it appears that articles from infested areas that are hosts of insects related to the khapra beetle are also likely to be infested with khapra beetle at the time of importation. Therefore, it is necessary to impose restrictions on the importation of goatskins, lambskins, and sheepskins from Sudan or India that are salted but not moist by designating them as restricted articles. There do not appear to be other feasible methods for preventing the introduction into the United States of khapra beetle that accompany such imported articles.

It has also been determined that used burlap bagging not containing cargo and used jute bagging not containing cargo from Libya, Saudi Arabia, and Syria present a significant risk of carrying the khapra beetle. Experience has shown that such used burlap bagging and used jute bagging from any khapra beetle infested country presents a significant risk of carrying the khapra beetle. Such burlap and jute bagging have been listed as restricted articles if from any of the twenty-two countries previously known to be infested with the khapra beetle. However, as indicated above, the Department has recently found based on scientific literature that khapra beetle occurs and appears to be well established in Libya, Saudi Arabia, and Syria as well. Therefore, it is necessary to impose restrictions on the importation of such burlap and jute bagging from Libya, Saudi Arabia, and Syria by designating them as restricted articles. There do not appear to be other feasible methods for preventing the introduction into the United States of khapra beetle that accompany such imported articles.

Treatments

Section 319.75–4 of the regulations provides treatments for restricted articles. It is necessary to amend the regulations to provide that prior to movement into the United States from the port of entry, cumin seeds in jute or burlap bags and seeds of the plant family Cucurbitaceae that are designated as restricted articles shall be treated as follows:

1. Fumigation with methyl bromide under a tarpaulin at normal atmospheric pressure in accordance with one of the following schedules:

(i) 40 g/m³ (2½ lb/1000 ft³) for 12 hrs. at 32° C (90° F) or above.
(20 g [oz] minimum gas concentration at 2–4 hrs.).
(15 g [oz] minimum gas concentration at 12 hrs.).
(ii) 56 g/m³ (3½ lb/1000 ft³) for 12 hrs. at 26.5°–31.5° C (80°–89° F).
(30 g [oz] minimum gas concentration at 2–4 hrs.).
(20 g [oz] minimum gas concentration at 12 hrs.).
(iii) 72 g/m³ (4½ lb/1000 ft³) for 12 hrs. at 21°–26° C (70°–79° F).
(40 g [oz] minimum gas concentration at 2–4 hrs.).
(25 g [oz] minimum gas concentration at 12 hrs.).
(iv) 96 g/m³ (6 lb/1000 ft³) for 12 hrs. at 15.5°–20.5° C (60°–69° F).
(50 g [oz] minimum gas concentration at 2–4 hrs.).
(30 g [oz] minimum gas concentration at 12 hrs.).
(v) 120 g/m³ (7½ lb/1000 ft³) for 12 hrs. at 10°–15° C (50°–59° F).
(60 g [oz] minimum gas concentration at 2–4 hrs.).
(35 g [oz] minimum gas concentration at 12 hrs.).
(vi) 144 g/m³ (9 lb/1000 ft³) for 12 hrs. at 4.5°–9.5° C (40°–49° F).
(70 g [oz] minimum gas concentration at 2–4 hrs.).
(40 g [oz] minimum gas concentration at 12 hrs.).

2. Fumigation with methyl bromide in a chamber at normal atmospheric pressure at one of the following schedules:

(i) 40 g/m³ (2½ lb/1000 ft³) for 12 hrs. at 32° C (90° F) or above.
(ii) 56 g/m³ (3½ lb/1000 ft³) for 12 hrs. at 26.5°–31.5° C (80°–89° F).
(iii) 72 g/m³ (4½ lb/1000 ft³) for 12 hrs. at 21°–26° C (70°–79° F).
(iv) 96 g/m³ (6 lb/1000 ft³) for 12 hrs. at 15.5°–20.5° C (60°–69° F).
(v) 160 g/m³ (10 lb/1000 ft³) for 12 hrs. at 10°–15° C (50°–59° F).
(vi) 192 g/m³ (12 lb/1000 ft³) for 12 hrs. at 4.5°–9.5° C (40°–49° F).

3. Fumigation with methyl bromide in a chamber at 660mm (26 inch) vacuum at one of the following schedules:

(i) 128 g/m³ (2½ lb/1000 ft³) for 3 hrs. at 15.5° C (60° F) or above.
(ii) 144 g/m³ (9 lb/1000 ft³) for 3 hrs. at 4.5°–15° C (40°–59° F).
(iii) 160 g/m³ (10 lb/1000 ft³) for 3 hrs. at 1°–4° C (30°–39° F).

Note.—Maximum volume of commodity being treated under subsection (3) shall not exceed 75% of total volume of chamber.

It is necessary that these provisions also now apply to goatskins, lambskins, and sheepskins that are salted but not moist from Sudan or India. It is not necessary to change the wording of the regulations to accomplish this since the regulations already provide that prior to movement into the United States from the port of entry, goatskins, lambskins, and sheepskins, that are designated as restricted articles are required to be treated in accordance with the same methyl bromide treatment schedule set forth above for such cumin seeds and seeds of the plant family Cucurbitaceae.

Further, the regulations already provide treatment provisions for used burlap bagging not containing cargo and used jute bagging not containing cargo. It is necessary that these treatment provisions also apply to these articles if from Libya, Saudi Arabia, or Syria. It is not necessary to change the wording of the regulations to accomplish this since the regulations already provide that prior to movement into the United States from the port of entry burlap bagging and jute bagging designated as restricted articles must be treated in accordance with the following treatment schedule:

1. Fumigation with methyl bromide under a tarpaulin at normal atmospheric pressure at one of the following schedules:

(i) 64 g/m³ (4 lb/1000 ft³) for 24 hrs. at 32° C (90° F) or above.
(10 g [oz] gas concentration in commodity at 4–24 hrs.).
(35 g [oz] gas concentration in space at 4–12 hrs.).
(25 g [oz] gas concentration in space at 12–24 hrs.).
(ii) 96 g/m³ (6 lb/1000 ft³) for 24 hrs. at 26.5°–31.5° C (80°–89° F).
(15 g [oz] gas concentration in commodity at 4–24 hrs.).
(50 g [oz] gas concentration in space at 4–12 hrs.).
(30 g [oz] gas concentration in space at 12–24 hrs.).
(iii) 128 g/m³ (8 lb/1000 ft³) for 24 hrs. at 21°–26° C (70°–79° F).
(20 g [oz] gas concentration in commodity at 4–24 hrs.).
(65 g [oz] gas concentration in space at 4–12 hrs.).
(35 g [oz] gas concentration in space at 12–24 hrs.).
(iv) 192 g/m³ (12 lb/1000 ft³) for 24 hrs. at 15.5°–20.5° C (60°–69° F).
(30 g [oz] gas concentration in commodity at 4–24 hrs.).
(95 g [oz] gas concentration in space at 4–12 hrs.).
(50 g [oz] gas concentration in space at 12–24 hrs.).
(v) 192 g/m³ (12 lb/1000 ft³) for 28 hrs. at 10°–15° C (50°–59° F).
(30 g [oz] gas concentration in commodity at 4–28 hrs.).
(95 g [oz] gas concentration in space at 4–12 hrs.).
(50 g [oz] gas concentration in space at 12–28 hrs.).
(vi) 192 g/m³ (12 lb/1000 ft³) for 32 hrs. at 4.5°–9.5° C (40°–49° F).
commodity at 4–32 hrs.).

[95 g [oz] gas concentration in space at 4–12 hrs.).

[50 g [oz] gas concentration in space at 12–32 hrs.).

2. Fumigation with methyl bromide in a chamber at normal atmospheric pressure at one of the following schedules:

(i) 64 g/m³ (4 lb/1000 ft³) for 24 hrs. at 32° C (90° F) or above.

(ii) 96 g/m³ (6 lb/1000 ft³) for 24 hrs. at 26.5°–31.5° C (80°–89° F).

(iii) 128 g/m³ (8 lb/1000 ft³) for 24 hrs. at 21°–26° C (70°–79° F).

(iv) 192 g/m³ (12 lb/1000 ft³) for 24 hrs. at 15.5°–20.5° C (60°–69° F).

(v) 192 g/m³ (12 lb/1000 ft³) for 28 hrs. at 10°–15° C (50°–59° F).

(vi) 192 g/m³ (12 lb/1000 ft³) for 32 hrs. at 4.5°–9.5° C (40°–49° F).

3. Fumigation with methyl bromide in a chamber at 660mm (26 inch) vacuum at one of the following schedules:

(i) 128 g/m³ (8 lb/1000 ft³) for 3 hrs. at 15.5° C (6° F) or above.

(ii) 144 g/m³ (9 lb/1000 ft³) for 3 hrs. at 4.5–15° C (40°–59° F).

Based on research and field use it has been determined that these treatments for articles added to the list of restricted articles are adequate to destroy any life stages of the khapra beetle without damage to the articles. Except for importation by the Department for experimental or scientific purposes under conditions set forth in § 319.75(c) of the regulations, it appears that such treatments are the only feasible methods for destroying the khapra beetle accompanying such imported restricted articles. Also, such treatments are required to be conducted under the supervision of an inspector in order to assure compliance with the treatment procedures.

Inspection and Phytosanitary Certificates of Inspection

In addition, it is necessary to revise § 319.75–9 to read as follows:

(a) Any seeds, chilies, or peppers designated as restricted articles and grown in a country maintaining an official system of inspection for the purpose of determining whether such article is free from injurious plant diseases, injurious insect pests, and other plant pests shall be accompanied by a phytosanitary certificate of inspection from the plant protection service of such country at the time of importation or offer for importation into the United States. Such certificate may cover more than one article and more than one container kept together during shipment and offer for importation.

(b) Any seeds, chilies, or peppers designated as restricted articles which are accompanied by a valid phytosanitary certificate of inspection are subject to inspection by an inspector at the time of importation into the United States for the purpose of determining whether such article is free of injurious plant diseases, injurious insect pests, and other plant pests, and whether such article is otherwise eligible to be imported into the United States.

(c) Any seeds, chilies, or peppers designated as restricted articles which are grown in a country not maintaining an official system of inspection for the purpose of determining whether such article is free from injurious plant diseases, or injurious insect pests, and other plant pests shall be inspected by an inspector at the time of importation into the United States for the purpose of determining whether such article is free of such diseases and pests and whether such article is otherwise eligible to be imported into the United States.

These provisions appear to be necessary to meet requirements of the Plant Quarantine Act (7 U.S.C. 151 *et seq.*). The Plant Quarantine Act provides that certain articles including plants, fruits, vegetables, roots, bulbs, seeds, and other plant products that are subject to restrictions as a condition of importation must also be subject to additional restrictions relating to phytosanitary certificates of inspection. In this connection the Plant Quarantine Act requires that such articles from a country maintaining an official system of inspection for such articles must be accompanied at the time for importation by a phytosanitary certificate of inspection from an official of the country from which the importation is made, certifying that the article has been thoroughly inspected and is believed to be free from injurious plant diseases and insect pests. The Plant Quarantine Act also provides that these articles imported from countries where no official system of inspection is maintained may be imported under conditions and regulations as the Secretary may prescribe. The provisions in revised § 319.75–9 appear to satisfy these requirements.

In accordance with these provisions of the Plant Quarantine Act, the regulations previously provided that whole chilies and whole red peppers in jute or burlap bags from Pakistan were required to be accompanied at the time of importation by such a phytosanitary certificate of inspection from the plant protection service of Pakistan. However, as noted above, the regulations now include restricted articles subject to these provisions from twenty-five countries. Therefore, in case one or more of these countries become unable to maintain any official system of inspection, it appears to be necessary to include a mechanism for regulating articles from any of these countries not maintaining an official system of inspection.

The regulations are also amended to add a definition of the term "phytosanitary certificate of inspection" in accordance with the requirements of the Plant Quarantine Act. It is also provided that a phytosanitary certificate of inspection must be issued not more than 15 days prior to shipment of the restricted article from the country in which grown, in order for the certificate to be valid. This would help assure that restricted articles would be promptly shipped after inspection in the country in which grown, and consequently reduce the risk of such articles becoming infected or infested with injurious plant diseases, injurious insect pests, or other plant pests after inspection.

Executive Order 12291 and Regulatory Flexibility Act

The interim rule is issued in conformance with Executive Order 12291 and Secretary's Memorandum No. 1512–1, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this interim rule will not have a significant effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

With respect to cumin seed, an importer can avoid these seeds being designated as restricted articles if they are shipped from Pakistan in other than jute or burlap bagging. Further, these seeds are used as spices and represent an insignificant amount of the spices imported into the United States.

Almost all Cucurbitaceae seeds designated as restricted articles would be imported for food and would compete on the market with other types of seeds for use as food. These imported Cucurbitaceae seeds represent an insignificant amount of total Cucurbitaceae seeds and other types of seeds used for food in the United States.

Under the interim rule goatskins, lambskins, and sheepskins from Sudan or India are not being designated as restricted articles if they are salted and moist upon importation. It is anticipated that in order to avoid having such salted skins designated as restricted articles, the articles will also be shipped moist. Shipping such skins moist would not have a significant effect on the cost of preparing and shipping these skins.

Further, it is a common practice in the industry to ship salted skins moist.

There is little, if any, importation of used jute or burlap bagging from Libya, Saudi Arabia, and Syria.

The interim rule will not have a significant effect on United States importers and sellers of the affected articles. Almost all such importers and sellers are involved with a wide range of commodities. Activities involving these articles comprise an insignificant portion of such businesses.

Under the circumstances explained above, Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 7 CFR Part 319

Agricultural commodities, Imports, Plant pests, Plants (Agriculture), Quarantine, Transportation, Nursery stock.

PART 319—FOREIGN QUARANTINE NOTICES

Accordingly, the khapra beetle regulations in 7 CFR Part 319 (7 CFR 319.75 *et. seq.*) are amended as follows:

1. In § 319.75–1, paragraphs (f) through (i) are redesignated as paragraphs (g) through (j) and a new paragraph (f) is added to read as follows:

§ 319.75 Definitions.

* * * * *

(f) *Phytosanitary certificate of inspection.* A document relating to a restricted article, which is issued by a plant protection official of the country in which the restricted article was grown, which is issued not more than 15 days prior to shipment of the restricted article from the country in which grown, which is addressed to the plant protection service of the United States (Plant Protection and Quarantine), which contains a description of the restricted article intended to be imported into the United States, which certifies that the article has been thoroughly inspected, is believed to be free from injurious plant diseases, injurious insect pests, and other plant pests, and is otherwise believed to be eligible for importation pursuant to the current phytosanitary laws and regulations of the United States.

2. Section 319.75–22 is revised to read as follows:

§ 319.75-2 Restricted articles.

The following articles from the specified localities or countries are restricted articles:

(a) Whole chilies (*Capsicum* spp.) and whole red peppers (*Capsicum* spp.) in jute or burlap bags if from Pakistan; [1]

(b) Cumin seeds (*Cuminum cyminum*) in jute or burlap bags if from Pakistan;

(c) Seeds of the plant family Cucurbitaceae [2] if in shipments greater than two ounces, if not for propagation, and if from Afghanistan, Algeria, Bangladesh, Burma, Cyprus, Egypt, India, Iran, Iraq, Israel, Libya, Mali, Mauritania, Morocco, Niger, Nigeria, Pakistan, Saudi Arabia, Senegal, Sri Lanka, Sudan, Syria, Tunisia, Turkey, or Upper Volta.

(d) Brassware and wooden screens from Bombay, India;

(e) Goatskins, lambskins, and sheepskins (excluding goatskins, lambskins, and sheepskins which are fully tanned, blue-chromed, pickled in mineral acid, or salted and moist) from Sudan or India; and

(f) Used burlap bagging not containing cargo and used jute bagging not containing cargo if from Afghanistan, Algeria, Bangladesh, Burma, Cyprus, Egypt, India, Iran, Iraq, Israel, Libya, Mali, Mauritania, Morocco, Niger, Nigeria, Pakistan, Saudi Arabia, Senegal, Sri Lanka, Sudan, Syria, Tunisia, Turkey, or Upper Volta.[3]

§ 319.75–3 [Amended]

3. In § 319.75–3 footnotes 3 and 4 are redesignated as footnotes 4 and 5.

§ 319.75–4 [Amended]

4. In paragraph (a) of § 319.75–4, "and sheepskins" is changed to read, "sheepskins, cumin seeds, and seeds of the plant family cucurbitaceae."

5. Section 319.75–9 is revised to read as follows:

§ 319.75–9 Inspection and phytosanitary certificate of inspection.

(a) Any seeds, chilies, or peppers designated as restricted articles and grown in a country maintaining an official system of inspection for the purpose of determining whether such article is free from injurious plant diseases, injurious insect pests, and other plant pests shall be accompanied by a phytosanitary certificate of inspection from the plant protection service of such country at the time of importation or offer for importation into the United States. Such certificate may cover more than one article and more than one container kept together during shipment and offer for importation.

(b) Any seed, chilies, or peppers designated as restricted articles which are accompanied by a valid phytosanitary certificate of inspection are subject to inspection by an inspector at the time of importation into the United States for the purpose of determining whether such article is free of injurious plant diseases, injurious insect pests, and other plant pests, and whether such article is otherwise eligible to be imported into the United States.

(c) Any seeds, chilies, or peppers designated as restricted articles which are grown in a country not maintaining an official system for the purpose of determining whether such article is free from injurious plant diseases, injurious insect pests, and other plant pests shall be inspected by an inspector at the time of importation into the United States for the purpose of determining whether such article is free of such diseases and pests and whether such article is otherwise eligible to be imported into the United States.

(Secs. 5 and 9; 37 Stat. 316, 318; 7 U.S.C. 159, 162; secs. 105, 106, and 107; 71 Stat. 32–34; 7 U.S.C. 150dd, 150ee, 150ff; 7 CFR 2.17, 2.51, and 371.2(c))

Done at Washington, D.C., this 10th day of January, 1984.

Harvey L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 84–994 Filed 1–13–84; 8:45 am]

BILLING CODE 3410–34–M

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[1] Fresh whole chiles (*Capsicum* spp.) and fresh whole red peppers (*Capsicum* spp.) from Pakistan are prohibited from being imported into the United States under the provisions of 7 CFR 319.56 *et. seq.*

[2] Seeds of the plant family Cucurbitaceae include but are not limited to: *Benincosa hispida* (wax gourd), *Citrullus lanatus* (watermelon), *Cucumis anguria* (gherkin), *Cucumis melo* (melon, muskmelon, cantaloupe, honeydew), *Cucumis sativius* (cucumber), *Cucurbita pepo* (pumpkin, squashes, vegetable marrow), *Lagenaria siceraria* (calabash, gourd), *Luffa cylindrica* (dishcloth gourd), *Momoridica charantia* (bitter melon, and *Sechium edule* (chayote).

[3] Such bagging may be subject to additional restrictions under the provisions in 7 CFR 319.8 *et seq.*

Federal Crop Insurance Corporation

7 CFR Part 404

Western United States Apple Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby revises and reissues the Western United States Apple Crop Insurance Regulations (7 CFR Part 404), effective for the 1984 and succeeding crop years to update the regulations and the policy for insuring apples in the Western United States in

compliance with Secretary's Memorandum No. 1512, requiring that no regulation should exist for more than five years without review as to the need, currency, clarity, and effectiveness. Included among the changes in the policy for insuring apples are (1) an easy to read format; (2) adding fire, earthquake, and volcanic eruption as insurable causes of loss; (3) adding a provision permitting the determination of indemnities based on the acreage report rather than at loss adjustment time; (4) providing for a coverage level if the insured does not select one; (5) adding a 60-day claim for indemnity provision; (6) providing that russetting is no longer a reason for reduction in grade; (7) adding a section allowing appraisals for unharvested acreage following the insurance period; (8) adding a hail/fire provision for appraisals of uninsured causes; (9) adding a provision to clarify the Corporation's liability in cases of loss by fire; (10) changing the cancellation/termination dates; (11) providing that any change in the policy will be available in the service office by a certain date, (12) adding a definition for "service office;" (13) providing for unit determination when the acreage report is filed, and (14) adding a section concerning "descriptive headings."

In addition, FCIC issues a new subsection in the Western United States Apple crop insurance regulations to contain the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The intended effect of this rule is to update the policy for insuring Western United States Apples in accordance with Secretary's Memorandum No. 1512–1, requiring a review of the regulations as to need, currency, clarity, and effectiveness, and to comply with OMB regulations requiring publication of OMB control numbers assigned to information collection requirements in these regulations.

EFFECTIVE DATE: January 16, 1984.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981). This action constitutes a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that (1) This action is not a major rule as defined in Executive Order No. 12291 (February 17, 1981), (2) this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*) and other applicable law.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established in Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

On Thursday, August 4, 1983, FCIC published a notice of proposed rulemaking in the **Federal Register** at 48 FR 35418, outlining the prescribed procedures for insuring apples in the Western U.S., effective for the 1984 and succeeding crop years. Under the provisions of Executive Order No. 12291, and the Administrative Procedure Act (5 U.S.C. 553 (b) and (c)), the public was given an opportunity to submit written comments, data, and opinions on the proposed regulations, but none were received. Therefore, with the exception of minor and non-substantive corrections to language, the regulations as contained in the proposed rule are hereby issued as a final rule to be in effect starting with the 1984 crop year.

List of Subjects in 7 CFR Part 404

Corp insurance, Apples, Western U.S.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby revises and reissues 7 CFR Part 404—Western United States Apple Crop Insurance Regulations, effective for the 1984 and succeeding crop years, to read as follows:

PART 404—WESTERN UNITED STATES APPLE CROP INSURANCE REGULATIONS

Subpart—Regulations for the 1984 and Succeeding Crop Years

Sec.

404.1 Availability of Western U.S. apple insurance.
404.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
404.3 OMB control numbers.
404.4 Creditors.
404.5 Good faith reliance on misrepresentation.
404.6 The contract.
404.7 The application and policy.
Appendix A—Counties Designated for Western Apple Crop Insurance

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77 as amended (7 U.S.C. 1506, 1516).

§ 404.1 Availability of Western U.S. apple insurance.

Insurance shall be offered under the provisions of this subpart on apples in counties in the Western United States within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county there shall be published by appendix to this part the names of the counties in which apple insurance will be offered.

§ 404.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for apples which will be included in the actuarial table on file in service offices for the county and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverage level and price at which indemnities will be computed from among those levels and prices contained in the actuarial table for the crop year.

§ 404.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR Part 404) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

§ 404.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest to any benefit under the contract except as provided by the policy.

§ 404.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the Western U.S. apple insurance contract, whenever:

(a) An insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and

(b) The Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000.00, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 404.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the apple crop as provided in the policy. The contract shall consist of the application, the policy, the appendix, and the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. Copies of forms referred to in the contract are available at the applicable service office.

§ 404.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's share in the apple crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the service office on or before the applicable closing date for the county on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the insurance risk is excessive, and also, for the same reason, may reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1984 and preceding crop years, a contract in the form provided for in this subpart will come into effect as a continuation of an apple contract issued under such prior regulations, without the filing of a new application.

(d) The application for the 1984 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37; 400.38, first published at 48 FR 1023, January 10, 1983) and may be amended from time to time for subsequent crop years. The provisions of the Western United States Apple Insurance Policy are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Western U.S. Apple—Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

AGREEMENT TO INSURE: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Frost;
(2) Freeze;
(3) Wind;
(4) Hail;
(5) Fire;
(6) Earthquake;
(7) Volcanic eruption; or
(8) Fruit-set failure;

unless those causes are excepted, excluded, or limited by the acturial table or section 9e(5).

b. We shall not insure against any loss of production due to:

(1) The neglect or malfeasance of you, any member of your household, your tenants or employees;

(2) The failure to follow recognized good apple management practices;

(3) Damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project; or

(4) Any cause not specified in section 1a as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured shall be a variety of apples established as adapted to the area, which is located on insured acreage and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year shall be apples located on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we shall elect.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured apples at the time insurance attaches.

d. We do not insure any acreage:

(1) Which has not produced a minimum of 250 boxes per acre; or

(2) Which we inspect and consider not acceptable.

e. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to the time insurance attaches.

3. Report of acreage, share, yield, and number of trees.

You shall report on our form:

a. All the acreage of apples in the county in which you have a share;

b. Your share at the time insurance attaches;

c. The number of bearing trees; and

d. The number of loose field boxes produced from the preceding crop year's insurable acreage on each unit.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any apples located in the county. This report shall be submitted annually on or before the reporting date established by the actuarial table. We may determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and number of trees or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production guarantees, coverage levels, and prices for computing indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities are contained in the actuarial table.

b. Coverage level 2 will apply if you have not elected a coverage level.

c. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual premium.

a. The annual premium is earned and payable at the time insurance attaches. The amount is computed by multiplying the production guarantee times the price election

times the premium rate, times the insured acreage, times your share at the time insurance attaches, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	85	85	80	80	80	50
.21 to .40	100	100	95	95	90	90	90	85	90	80	75	75	70	70	85	85
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	85	85	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	85
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.
[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest shall accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract shall be transferred to:

(1) The contract of your estate or surviving spouse in case of your death;

(2) The contract of the person who succeeds you if such person had previously participated in the orchard operation; or

(3) Your contract if you stop orchard operations in one county and start orchard operations in another county.

d. If participation is not contiguous, any premium shall be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a shall be applicable.

6. Deductions for debt. Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period. Insurance attaches for each crop year on November 21 and ends at the earliest of:

a. Total destruction of the apples;

b. Harvest of the apples from the unit;

c. Final adjustment of a loss; or

d. October 31 of the year in which apples are normally harvested.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice of:

(a) The date(s) of damage; and

(b) the causes of damage.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined or damage occurs during harvest, immediate notice shall be given.

(4) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) Total destruction of the apples on the unit;

(b) Harvest of the unit; or

(c) The calendar date for the end of the insurance period.

b. You must obtain written consent from us before you destroy any of the apples which are not to be harvested.

c. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit shall be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the apples on the unit;

(2) Harvest of the unit; or

(3) October 31 of the year in which the apples are normally harvested.

b. We shall not pay any indemnity unless you:

(1) Establish the total production of apples on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of apples to be counted (see section 9e);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this product by your share.

d. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity shall be reduced proportionately.

e. The total production to be counted for a unit shall include all harvested and appraised production.

(1) Apple production which, due to insurable causes, does not grade 80 percent Fancy or better, in accordance with applicable State standards, shall be adjusted as follows:

(a) Production with 21 through 40 percent not grading Fancy or better shall be reduced 2 percent for each percent in excess of 20 percent. The difference between the reduced production and the total production shall be considered cull production.

(b) Production with 41 through 50 percent not grading Fancy or better shall be reduced 40 percent plus an additional 3 percent for each percent in excess of 40 percent. The difference between the reduced production and the total production shall be considered cull production.

(c) Production with 51 through 64 percent not grading Fancy or better shall be reduced 70 percent plus an additional 2 percent for each percent in excess of 50 percent. The difference between the reduced production and the total production shall be considered cull production.

(d) Production with 65 percent or more not grading Fancy or better shall be considered 100 percent cull production.

(e) 30 percent of all cull production, as determined above, shall also be counted as production.

No reduction in grade will be applied to any apple grading less than Fancy due solely to shape, russeting or color.

(2) Appraised production to be counted shall include:

(a) Unharvested production and potential production lost due to uninsured causes and failure to follow recognized good apple management practices;

(b) Not less than the guarantee for any acreage which is abandoned, damaged solely by an uninsured cause, or destroyed by you without our consent.

(3) Any appraisal we have made on insured acreage shall be considered production to count unless such appraised production:

(a) Is harvested; or

(b) Is further damaged by an insured cause.

(4) We may determine the amount of production of any unharvested apples on the basis of field appraisals conducted after the end of the insurance period.

(5) When you have elected to exclude hail and fire as insured causes of loss and the apples are damaged by hail or fire, appraisals for uninsured causes shall be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire."

(6) The commingled production of units will be allocated to such units in proportion to our liability on the harvested acreage of each unit.

f. You shall not abandon any acreage to us.

g. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months if the date notice of denial is mailed to and received by you.

h. We shall pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no event will we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after insurance attaches for any crop year, any indemnity shall be paid to the person(s) we determine to be beneficially entitled thereto.

j. If you have other fire insurance and fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or Fraud.

We may void the contract of all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to Indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may only assign to another party your right to an indemnity for the crop year on our form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right or recovery shall at our option belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. Records and access to farm.

You shall keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all apples produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us shall have access to such records and the farm for purposes related to the contract.

15. Life of contract: Cancellation and termination.

a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity claim shall be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture shall be the date such payment was approved.

d. The cancellation and termination dates are November 20.

e. If you die are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However,* if such event occurs after insurance attaches for any crop year, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

f. The contract shall terminate if no premium is earned for five consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table shall provide the price election which you shall be deemed to have elected. All contract changes shall be available at your service office by August 31 preceding the cancellation date. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of Western U.S. apple crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your sevice office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and related information regarding apple insurance in the county.

b. "Contiguous land" means land which is touching at any point, except that land which is separated by only a public or private right-of-way shall also be considered contiguous.

c. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

d. "Crop year" means the period beginning with the date insurance attaches to the apples and extending through the normal harvest time and shall be designated by the calendar year in which the apples are normally harvested.

e. "Fruit-set failure" means failure of the apple trees to develop blossoms or set fruit due only to adverse weather conditions, but shall not include poor poilination resulting

from inadequate poilinizers in the orchard or failure to set fruit due to spray damage or other manageable causes.

f. "Harvest" means the picking of apples from the trees or from the ground.

g. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

h. "Insured" means the person who submitted the application accepted by us.

i. "Loose field box" means a standard container, accepted by the industry:

(1) Containing a minimum of 35 pounds of apples; or

(2) As designated by the actuarial table.

j. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

k. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

l. "Tenant" means a person who rents land from another person for a share of the apples or a share of the proceeds therefrom.

m. "Unit" means all insurable acreage of apples in the county which are located on contiguous land at the time insurance attaches for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the apples on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement between you and us. Units as herein defined will be determined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss and we may consider any acreage and share of or reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

n. "Western U.S." means those states west of a line extending North-South along the eastern state boundaries of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma and Texas.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy shall be made by us. If you disagree with our determinations you may obtain reconsideration of or appeal those determinations in accordance with appeal regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Appendix A—Counties Designated for Western Apple Crop Insurance

The following counties are designated for Western Apple Crop Insurance under the provisions of 7 CFR 404.1

Crop: Apples, State: Colorado

Delta	Mesa	Montrose

Crop: Apples, State: Idaho

Canyon	Gem	Payette

Crop: Apples, State: Oregon

Umatilla

Crop: Apples, State: Washington

Benton	Douglas	Yakima
Chelan	Grant	
Columbia	Okanogan	

Done in Washington, D.C., on January 3, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Merritt W. Sprague,

Manager.

January 6, 1984.

[FR Doc. 84-1099 Filed 1-13-84; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 415

[Amdt. No. 2]

Forage Production Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Forage Production Crop Insurance Regulations (7 CFR Part 415), effective for the 1984 and succeeding crop year, by: (1) Changing the policy to make it easier to read; (2) eliminating the reduction in production guarantee for unharvested acreage and related provisions; (3) adding a provision permitting the determination of indemnities based on the acreage report rather than at loss adjustment time; (4) adding a provision to provide a coverage level if the insured does not select one; (5) adding a 15-day notice of loss provisions; (6) adding a 60-day claim for indemnity provision; (7) adding a section regarding appraisals following the end of the insurance period for unharvested acreage; (8) adding a hail/fire provision for appraisals for uninsured causes; (9) changing the cancellation/termination dates to conform with farming practices; (10) providing that any change in the policy will be available in the service office by a certain date; (11) adding a definition of "service office;" (12) providing for unit determination when the acreage report is filed, and (13) adding three sections on "descriptive headings," "determinations," and "notices." The intended effect of this rule is to update the policy for insuring forage production in accordance with the provisions of Secretary's Memorandum No. 1512–1. These regulations are further amended to add a new section to contain control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations.

EFFECTIVE DATE: February 15, 1984.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981). The action constitutes a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that: This action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established by Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no

Regulatory Impact Statement was prepared.

On Wednesday , June 22, 1983, FCIC published a notice of proposed rulemaking in the **Federal Register** at 48 FR 28465, amending the policy for insuring forage production in accordance with the provisions of Secretary's Memorandum No. 1512–1. The public was given 60 days in which to submit written comments, data, and opinions on the proposed rule, but none were received. The proposed rule did not include a section containing the OMB control numbers assigned to the information collection requirements of these regulations. The final rule has been further amended to include such data.

Therefore, with the exception of minor and non-substantive corrections to language and the new section containing OMB control numbers, the proposed rule as published is hereby issued as a final rule to be effective beginning with the 1984 crop year.

List of Subjects in 7 CFR Part 415

Crop insurance, Forage production.

Final Rule

PART 415—[AMENDED]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Forage Production Crop Insurance Regulations (7 CFR Part 415), effective for the 1984 and succeeding crop years, in the following instances:

1. The Authority citation for 7 CFR Part 415 is:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. 7 CFR Part 415 is amended in the table of contents by removing the words "Public notice of indemnities paid" from § 415.3, and inserting, in their place, the words "OMB control numbers."

3. 7 CFR 415.3 is revised to read as follows:

§ 415.3 OMB control numbers.

The information collection requirements of these regulations (7 CFR Part 415) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

4. 7 CFR 415.7(d) is amended by revising the Forage Production Crop Policy and Appendix A to Part 415 to read as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Forage Production—Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

AGREEMENT TO INSURE: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following losses occurring within the insurance period:

(1) Adverse weather conditions;
(2) Fire;
(3) Insects;
(4) Plant disease;
(5) Wildlife;
(6) Earthquake; or
(7) Volcanic eruption;

Unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(6).

b. We shall not insure against any loss of production due to:

(1) The neglect or malfeasance of you, any member of your household, your tenants or employees;

(2) The failure to follow recognized good forage production farming practices;

(3) Damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project; or

(4) Any cause not specified in section 1a as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured shall be forage which is planted for harvest as livestock feed, which is grown on insured acreage, and for which we provide a guarantee and premium rate in the actuarial table.

b. The acreage insured for each crop year shall be forage planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we shall elect.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured forage at the time of planting.

d. We do not insure any acreage:

(1) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(2) Which is irrigated and an irrigated practice is not provided for by the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(3) Where forage ground cover is less than 75 percent at the beginning of the insurance period;

(4) Unless approved by us:

(a) Of alfalfa the fourth and succeeding crop years after the year of establishment; or

(b) Of alfalfa-grass mixtures the sixth and succeeding crop years after the year of establishment;

(5) Planted to a type or variety or mixture not established as adapted to the area or excluded by the actuarial table;

(6) Grown with another crop; or

(7) Grown for experimental purposes.

e. Where insurance is provided for an irrigated practice:

(1) You shall report as irrigated only the acreage for which you have adequate facilities and water to carry out a good forage irrigation practice at the time insurance attaches; and

(2) Any loss of production caused by failure to carry out a good irrigation Practice, except failure of the water supply from an unavoidable cause occurring after insurance attaches, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

f. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to the time insurance attaches.

3. Report of acreage, share, and practice.

You shall report on our form:

a. All the acreage of insurable types of forage grown in the county in which you have a share;

b. The practice; and

c. Your share at the time insurance attaches.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any forage grown in the county. This report shall be submitted annually on or before the reporting date established by the actuarial table. We may determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production guarantees, coverage levels, and prices for computing indemnities

a. The production guarantees, coverage levels, and prices for computing indemnities shall be contained in the actuarial table.

b. Coverage level 2 will apply if you have not elected a coverage level.

c. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual premium.

a. The annual premium is earned and payable at the time insurance attaches. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time insurance attaches, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	80	80
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.
[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest shall accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract shall be transferred to:

(1) The contract of your estate or surviving spouse in case of your death;

(2) The contract of the person who succeeds you if such person had previously participated in the farming operation; or

(3) Your contract if you stop farming in one county and start farming in another county.

d. If participation is not continuous, any premium shall be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a shall be applicable.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program adminstered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

a. Insurance attaches on acreage with an adequate stand on:

(1) May 22 (spring seeded) following the year of seeding and October 16 thereafter; or

(2) October 16 (fall seeded) following the year of seeding.

b. Insurance ends at the earliest of:

(1) Total destruction of the forage crop;

(2) Removal from the windrow or removal from the field;

(3) Final adjustment of a loss; or

(4) October 15 of the crop year in which the forage is normally harvested.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) During the period before harvest, the forage on any unit is damaged and you decide not to further care for or harvest any part of it;

(b) You want our consent to put the acreage to another use; or

(c) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the forage and given written consent. You must notify us when such acreage is put to another use.

(2) You must give us notice of probable loss at least 15 days before the beginning of any cutting if you anticipate a loss on any unit.

(3) If probable loss is later determined, immediate notice shall be given.

(4) Notice shall be given within 48 hours after the first harvest is completed if less than 50 percent of the production guarantee is harvested from any unit. Such notice shall include the number of acres harvested and tons produced from each unit.

(5) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) Total destruction of the forage on the unit;

(b) Harvest of the unit; or

(c) October 15, of the crop year in which the forage is normally harvested.

b. You must obtain written consent from us before you destroy any of the forage which is not to be harvested.

c. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit shall be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the forage on the unit;

(2) Final harvest of the unit; or

(3) October 15, of the crop year in which the forage is normally harvested.

b. We shall not pay any indemnity unless you:

(1) Establish the total production of forage on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of forage to be counted (see section 9e);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this product by your share.

d. If the information reported by you results in a lower premium than the actual premium

determined to be due, the indemnity shall be reduced proportionately.

e. The total production to be counted for a unit shall include all harvested and appraised production.

(1) Any production volunteer plants growing in the forage shall be counted as forage on a weight basis.

(2) Appraised production to be counted shall include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good forage farming practices;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause; and

(c) Any appraised production on unharvested acreage.

(3) When forage is harvested as other than air-dry hay, the production to count shall be adjusted to the equivalent of air-dry hay.

(4) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use shall be considered production unless such acreage:

(a) Is not put to another use before harvest of forage becomes general in the county;

(b) Is harvested; or

(c) Is further damaged by an insured cause before the acreage is put to another use.

(5) We may determine the amount of production of any unharvested forage on the basis of field appraisals conducted after the normal time for each cutting for the area.

(6) When you have elected to exclude hail and fire as insured causes of loss and the forage is damaged by hail or fire, appraisals for uninsured causes shall be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire."

(7) The production of units commingled shall be allocated to such units in proportion to our liability on the harvested acreage of each unit.

f. You shall not abandon any acreage to us.

g. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

h. We shall pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no event shall we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after insurance attaches for any crop year, any indemnity shall be paid to the person(s) we determine to be beneficially entitled thereto.

j. If you have other fire insurance and fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we shall be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may only assign to another party your right to an indemnity for the crop year on our form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery at our option shall belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. Records and access to farm.

You shall keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all forage produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us shall have access to such records and the farm for purposes related to the contract.

15. Life of Contract: Cancellation and termination.

a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity claim shall be the date you sign such claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture shall be the date such payment was approved.

d. The cancellation and termination dates are September 15.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However*, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly death of one of the persons shall dissolve the joint entity.

f. The contract shall terminate if no premium is earned for five consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you shall be deemed to have elected. All contract changes will be available at your service office by May 31 preceding the cancellation date. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of forage production crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding forage production insurance in the county.

b. "Alfalfa" means a pure stand of alfalfa or a stand of alfalfa and any other forage in which 60 percent or more of the ground cover is alfalfa.

c. "Alfalfa-grass mixtures" means a mixed stand of alfalfa and grass or other forage in which alfalfa comprises more than 25 percent but less than 60 percent of the ground cover.

d. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

e. "Crop year" means the period from the date insurance attaches until harvest is normally completed and shall be designated by the calendar year in which the forage is normally harvested.

f. "Cutting" means the severance of the forage plant from the land for the purpose of livestock feed.

g. "Established stand" means having at least a 75 percent stand.

h. "Harvest" means the removal from the windrow or field.

i. "Insurable acreage" means the land classified as insurable by us and shown as such in the actuarial table.

j. "Insured" means the person who submitted the application accepted by us.

k. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

l. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

m. "Tenant" means a person who rents land from another person for a share of the forage production or a share of the proceeds therefrom.

n. "Unit" means all insurable acreage of forage in the county on the date insurance attaches:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the forage on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement between you and us. We shall determine units as herein defined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss and we may consider any acreage and share of or reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

o. "Year of establishment" for spring-seeded forage means the calendar year in which the forage is seeded, and for fall-seeded forage means the calendar year immediately following the year in which the forage is seeded.

18. Descriptive headings.

The desriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy shall be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with FCIC Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Appendix A—Counties Designated for Forage Production Crop Insurance

The following counties are designated for Forage Production Crop Insurance under the provisions of 7 CFR 415.1.

Crop: Forage Production, State: California

Fresno	Imperial	Kern

Crop: Forage Production, State: Colorado

Weld

Crop: Forage Production, State: Idaho

Jefferson

Crop: Forage Production, State: New York

Ontario

Crop: Forage Production, State: North Dakota

Morton

Crop: Forage Production, State: Oregon

Malheur

Crop: Forage Production, State: Pennsylvania

Lancaster

Crop: Forage Production, State: Utah

Cache	Millard

Crop: Forage Production, State: Washington

Franklin	Grant

Crop: Forage Production, State: Wisconsin

Dane	Grant	Iowa
Dodge	Green	Lafayette

Approved by the Board of Directors on April 26, 1983.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Merritt W. Sprague,

Manager.

January 6, 1984.

[FR Doc. 84-1067 Filed 1-13-84; 8:45 am]

BILLING CODE 3410-08-M

Farmers Home Administration

Recapture of Section 502 Rural Housing Subsidy

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) is removing from the Code of Federal Regulations (CFR) an internal agency worksheet used to calculate recapture. This worksheet is being removed since the actual method of recapture calculation is already published. The intended effect of this action is to remove an unneeded Exhibit to a regulation from the CFR.

EFFECTIVE DATE: January 16, 1984.

FOR FURTHER INFORMATION CONTACT: Phil Girard, Program Specialist, Single Family Housing, Servicing and Property Management Division, Farmers Home Administration, USDA, Room 5309, South Agriculture Building, Washington, D.C. 20250, telephone (202) 382-1452.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1512-1 which implements Executive Order 12291 and has been determined to be exempt from those requirements because it involves only internal Agency management. Since the method of recapture calculation is contained elsewhere in 7 CFR Part 1951, Subpart I, (Exhibit A) publication of this Agency worksheet is not necessary. It is the policy of this Department that rules relating to public property, loans, grants, benefits or contracts shall be published for comment notwithstanding the exception in 5 USC 553 with respect to such rules. This action, however, is not published for proposed rulemaking since the purpose of this change involves only internal Agency management, and publication for comment is not necessary.

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements." FmHA has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

The Catalog of Federal Domestic Assistance number for section 502 Rural Housing Loans is 10.410.

List of Subjects in 7 CFR Part 1951

Account servicing, Interest credit, Recapture of subsidy, Housing.

Accordingly, Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

PART 1951—SERVICING AND COLLECTIONS

§ 1951.407 [Amended]

1. Section 1951.407(b) is amended by inserting the phrase "[available in any FmHA office]" after the reference "Exhibit C".

§ 1951.410 [Amended]

2. Section 1951.410 is amended by inserting the phrase "[available in any FmHA office]" after the reference "Exhibit C".

Exhibit C—[Removed]

3. Exhibit C is removed.

(42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70)

Dated: December 27, 1983.

Charles W. Shuman,

Administrator, Farmers Home Administration.

[FR Doc. 84-891 Filed 1-13-84; 8:45 am]

BILLING CODE 3410-07-M

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 83-133]

Change in Disease Status of Denmark Because of Foot-and-Mouth Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document adds Denmark to the list of countries declared to be free of rinderpest and foot-and-mouth disease. Denmark was not eligible to be on this list only because it was infected with foot-and-mouth disease. Data furnished to the Department establishes that foot-and-mouth disease has now been eradicated from Denmark. This document also adds Denmark to the list of countries which are declared free of rinderpest and foot-and-mouth disease and from which the importation of meat and other animal products into the United States is subject to special restrictions. This action will allow importation of cattle, sheep, or other ruminants, or swine, or fresh, chilled, or frozen meats of such animals into the United States from Denmark under certain restrictions.

DATES: The effective date of this document is January 16, 1984. Written comments must be received on or before March 16, 1984.

ADDRESS: Written comments concerning this interim rule should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. M. R. Crane, Import/Export Animals and Products Staff, VS, APHIS, USDA, Room 846, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8170.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR Part 94 (the regulations) regulate the importation into the United States of specified animals and animal products in order to prevent the introduction of various diseases, including rinderpest and foot-and-mouth disease, into the United States.

Section 94.1(a)(1) of the regulations provides that rinderpest or foot-and-mouth disease exists in all countries of the world, except those countries listed in § 94.1(a)(2). This document adds Denmark to the list of countries in § 94.1(a)(2) declared to be free of rinderpest and foot-and-mouth disease.

Denmark, which does not have rinderpest, has not had a case of foot-and-mouth disease for one year, since January 14, 1983. It is the policy of Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture (VS, APHIS, USDA), to declare those countries free of foot-and-mouth disease where there has been no case of the disease reported for the previous one-year period. In accordance with this policy, and after review of all pertinent information and documents submitted by the authorities of Denmark, APHIS has concluded that Denmark qualifies for listing in § 94.1(a)(2) of the regulations as a country declared to be free of rinderpest and foot-and-mouth disease.

This document also adds Denmark to the list in § 94.11(a) of countries free of rinderpest and foot-and-mouth disease which are subject to special restrictions on the importation of their meat and other animal products into the United States. The regulations in § 94.11 provide that countries free of rinderpest and foot-and-mouth disease are subject to special restrictions on the importation of their meat and other animal products into the United States if they supplement their national meat supply by the importation of fresh, chilled, or frozen meat of ruminants or swine from countries that are designated in § 94.1(a) to be infected with rinderpest or foot-and-mouth disease; or have a common land border with countries designated as infected with rinderpest or foot-and-mouth disease; or import ruminants or swine from countries designated as infected with rinderpest or foot-and-mouth disease under conditions less restrictive than would be acceptable for importation into the United States. Denmark supplements it meat supply through importations of fresh, chilled, or frozen meat of ruminants and swine from countries affected with foot-and-mouth disease, but not rinderpest. It also imports such meat from the infected countries under conditions less restrictive than would be acceptable for importation into the United States. This meat may be commingled with the meat and animal products produced in Denmark, resulting in an undue risk of introducing foot-and-mouth disease into the United States. In addition, Denmark shares a common land border with the Federal Republic of Germany (West Germany), which is designated in § 94.1(a)(1) as a country infected with rinderpest or foot-and-mouth disease. Thus, even though this document designates Denmark as free of rinderpest and foot-and-mouth disease, the meat and other animal products produced in Denmark may be commingled with the meat and other animal products produced from an infected country, resulting in an undue risk of introducing foot-and-mouth disease into the United States. Therefore, meat of ruminants or swine and other animal products from Denmark shall be imported into the United States only under the restrictions specified in § 94.11 of the regulations.

The effect of these actions by the Department is to allow cattle, sheep, and other ruminants, and swine from Denmark and the meat of such ruminants and swine to be imported into the United States under the applicable provisions of Part 94 of the regulations.

Executive Order 12291 and Regulatory Flexibility Act

This emergency action has been reviewed in conformance with Executive Order 12291 and has been determined to be not a "major rule." The Department has determined that this rule will not have an annual effect on the economy of $100 million or more; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and should have no adverse effects on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. Based on statistics compiled for 1981, the most recent full year during which Denmark exported meat and meat products to the United States, it is anticipated that fresh, chilled, or frozen pork offered for importation into the United States from Denmark will be no more than approximately 14 percent of all such pork products imported into the United States and less than 1 percent of the pork produced in the United States annually. It is also anticipated that fresh, chilled, or frozen beef offered for

importation into the United States from Denmark will comprise no more than approximately 1 percent of total U.S. imports of this type and considerably less than 1 percent of the beef produced in the United States annually. It is also anticipated that casein offered for importation from Denmark will comprise less than approximatley 4 percent of all U.S. casein imports and less than 1 percent of the casein used in the United States annually.

Emergency Action

Dr. E. C. Sharman, Assistant Deputy Administrator, Animal Health Programs, VS, APHIS, USDA, has determined that an emergency situation exists which warrants publication of this interim rule without prior opportunity for a public comment period. It is necessary to relieve restrictions on the importation of cattle, sheep, or other ruminants, or swine, or fresh, chilled, or frozen meats of such animals into the United States from Denmark because it has been found to be free of foot-and-mouth disease. Therefore, these amendments should be made effective immediately in order to relieve restrictions presently imposed but no longer necessary to prevent the introduction and dissemination of the contagion of foot-and-mouth disease into the United States.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency action is unnecessary and contrary to the public interest, and good cause is found for making this emergency action effective less than 30 days after publication of this document in the **Federal Register**. Comments have been solicited for 60 days after publication of this document, and a final document discussing comments received and any amendments required will be published in the **Federal Register** as soon as possible.

For this rulemaking action, the Office of Management and Budget has waived its review process required by Executive Order 12291 and the Department of Agriculture has waived the requirements of Secretary's Memorandum 1512–1.

Alternatives

The only alternative to this amendment is not to declare Denmark free of foot-and-mouth disease. However, this alternative was not adopted because the pertinent information and documents reviewed by Veterinary Services indicates that Denmark qualifies for listing as a country declared to be free of rinderpest and foot-and-mouth disease. In light of the qualification of Denmark as a country free of rinderpest and foot-and-mouth disease, failure to place Denmark on the list of countries declared to be free of rinderpest and foot-and-mouth disease would result in unnecessary and unjustified restrictions upon the entry into the United States of cattle, sheep, or other ruminants, or swine, or fresh, chilled or frozen meat of such animals from Denmark.

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock and livestock products, Meat and meat products, Milk, Foot-and-mouth disease, Rinderpest.

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS), AFRICAN SWINE FEVER, AND HOG CHOLERA: PROHIBITED AND RESTRICTED IMPORTATIONS

Accordingly, 9 CFR Part 94 is amended as follows:

§ 94.1 [Amended]

1. In § 94.1, paragraph (a)(2) is amended by inserting "Denmark" between "Chile" and "Finland".

§ 94.11 [Amended]

2. In § 94.11, paragraph (a) is amended by inserting "Denmark" between "Chile" and "Finland".

(Sec. 2, 32 Stat. 792, as amended; sec. 306, 46 Stat. 689, as amended; secs. 4 and 11, 76 Stat. 130, 132; 19 U.S.C. 1306; 21 U.S.C. 111, 134c, 134f; 7 CFR 2.17, 2.51, and 371.2(d))

Done at Washington, D.C., this 10th day of January, 1983.

Norvan L. Meyer,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 84-927 Filed 1-13-84; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-NM-80-AD; Amdt. 39-4729]

Airworthiness Directives; Gulfstream American Model G-73 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment rescinds an existing Airworthiness Directive (AD) 67-31-07 which requires repetitive inspections of the aileron hinge brackets on the Gulfstream American Model G-73 airplanes. A review of the service records of the aileron hinge brackets shows that the conditions originally anticipated to occur on airplanes of the same type design have not materialized and that this rule is no longer needed.

EFFECTIVE DATE: January 26, 1984.

FOR FURTHER INFORMATION CONTACT: William A. Simmons, Special Programs Branch, Aircraft Certification Division, ASW-190, Federal Aviation Administration, Southwest Region, P.O. Box 1689, Fort Worth, Texas 76101, telephone (817) 877-2556.

SUPPLEMENTARY INFORMATION: The FAA has received petitions to rescind AD 67-31-07 (32 FR 16201, November 28, 1967), or alternately to significantly increase the time between inspections required by the AD. AD 67-31-07 superseded AD 66-16-05 (31 FR 8746, June 24, 1966). Both ADs require repetitive inspections of the part numbers 106325, 106326, and 106327 aileron hinge brackets on the Gulfstream American Model G-73 airplanes for cracks or corrosion and replacement of parts found to be cracked or corroded. The FAA has reviewed the records of service difficulty reports for the wing structure and control system of the Gulfstream American Model G-73 airplanes and the justification presented by the petitioners. The review of the service records of the aileron hinge brackets shows that the conditions originally anticipated to occur on airplanes of the same type design have not materialized and that safety will not be derogated by rescinding AD 67-31-07 inasmuch as it is no longer needed. The FAA has, therefore, determined to grant the petition to rescind this AD. Since this action revokes a rule, it reduces the economic burden on operators of the affected aircraft. The FAA has, therefore, determined that rescinding the AD will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Further, It has been determined that it would be contrary to the public interest to delay effecting the recision pending notice and public procedure for the reason that the AD which requires continuing inspections is no longer necessary in the interest of safety and results in an undue economic burden to those who otherwise must continue to comply with it. For the same reasons, the recision may be made effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by rescinding Amendment 39–514 (32 FR 16201, November 28, 1967), AD 67–31–07.

This amendment becomes effective January 26, 1984.

(Sec. 313(a), 314(a), 601 through 610, and 1102, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves an amendment that rescinds a rule which is no longer necessary and does not impose any additional burden on any person. For these and the other reasons discussed in the preamble: (1) It is not major under Executive Order 12291 (46 FR 13193; February 19, 1981); (2) it is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 25, 1979); and (3) it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Seattle, Washington on January 6, 1984.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 84–1029 Filed 1–13–84; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 95

[Docket No. 23886; Amdt. No. 315]

Operating Rules; IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rule) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: January 19, 1984.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFO–230), Air Transportation Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 95 of the Federal Aviation Regulations (14 CFR Part 95) prescribes new, amended, suspended, or revoked IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in Part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference.

The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment is unnecessary, impracticable, and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 95

Aircraft, Airspace, Aviation safety.

Adoption of the Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, Part 95 of the Federal Aviation Regulations (14 CFR Part 95) is amended as follows effective at 0901 G.m.t. January 19, 1984.

(Secs. 307 and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348 and 1510); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.49(b)(3).)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C. on January 10, 1984.

Kenneth S. Hunt,

Director of Flight Operations.

BILLING CODE 4910–13–M

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES & CHANGEOVER POINTS
AMENDMENT 315 EFFECTIVE DATE, JANUARY 19, 1984

FROM TO MEA
§95.6039 VOR FEDERAL AIRWAY 39
IS AMENDED TO READ IN PART

FROM TO MEA
§95.6029 VOR FEDERAL AIRWAY 29
IS AMENDED TO READ IN PART

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REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES & CHANGEOVER POINTS

AMENDMENT 315 EFFECTIVE DATE, JANUARY 19, 1984

FROM	TO	MEA
§95.6002 VOR FEDERAL AIRWAY 2		
IS AMENDED TO READ IN PART		
KONDO, NY FIX *3000 MRA **1900 MOCA	*WIFFY, NY FIX	**2400
§95.6003 VOR FEDERAL AIRWAY 3		
IS AMENDED TO READ IN PART		
HARVY, VA FIX *5000 MRA **2000 MOCA	*NUTTS, VA FIX	**2500
NUTTS, VA FIX *2000 MOCA	FLAT ROCK, VA VORTAC	*2500
SHAWNEE, VA VORTAC *2500 MOCA	MARTINSBURG, WV VORTAC	*3000
MARTINSBURG, WV VORTAC *3300 MOCA	WESTMINSTER, MD VORTAC	*4000
WITCH, MA FIX *5000 MCA PEASE VOR S BND	*PEASE, NH VOR	2000
§95.6008 VOR FEDERAL AIRWAY 8		
IS AMENDED TO READ IN PART		
GRANTSVILLE, MD VORTAC *4500 MOCA	MARTINSBURG, WV VORTAC	*5000
§95.6010 VOR FEDERAL AIRWAY 10		
IS AMENDED TO READ IN PART		
VOLAN, PA FIX *3100 MOCA	FALLS, PA FIX	*3600
§95.6012 VOR FEDERAL AIRWAY 12		
IS AMENDED TO READ IN PART		
WICHITA, KS VORTAC *4500 MRA	*INDIC, KS FIX	3600
INDIC, KS FIX	EMPORIA, KS VORTAC	1600
§95.6013 VOR FEDERAL AIRWAY 13		
IS AMENDED TO READ IN PART		
DES MOINES, IA VORTAC *[illegible] MCA ANKEN FIX N BND	*ANKEN, IA FIX	2500
NEVADA, IA FIX *2500 MOCA	ALOCK, IA FIX	*[illegible]
ALOCK, IA FIX *2500 MOCA	MASON CITY, IA VORTAC	*[illegible]

FROM	TO	MEA
§95.6014 VOR FEDERAL AIRWAY 14		
IS AMENDED TO READ IN PART		
GENESEO, NY VORTAC *3300 MOCA	BEEPS, NY FIX	*4000
§95.6016 VOR FEDERAL AIRWAY 16		
IS AMENDED TO READ IN PART		
SETER, CA FIX	*BANDS, CA FIX E BND W BND	13000 9000
*13000 MRA WILKI, MA FIX *1600 MOCA	MILIS, MA FIX	*3000
MILIS, MA FIX	BOSTON, MA VORTAC	2000
§95.6019 VOR FEDERAL AIRWAY 19		
IS AMENDED TO READ IN PART		
SANTA FE, NM VORTAC	*LAS VEGAS, NM VORTAC	12500
*10900 MCA LAS VEGAS VORTAC N BND *13000 MCA LAS VEGAS VORTAC W BND		
§95.6020 VOR FEDERAL AIRWAY 20		
IS AMENDED TO READ IN PART		
REIDE, NC FIX *1800 MOCA	SOUTH BOSTON, VA VORTAC	*2300
§95.6022 VOR FEDERAL AIRWAY 22		
IS AMENDED TO DELETE		
OCEANSIDE, CA VORTAC HAILE, CA FIX #AWY UNUSABLE SE BND	HAILE, CA FIX POGGI, LA VORTAC	3000 #5300
§95.6025 VOR FEDERAL AIRWAY 25		
IS AMENDED TO READ IN PART		
RED BLUFF, CA VORTAC BAUDR, CA FIX *7000 MCA *TAMER, CA FIX N BND	BAUDR, CA FIX *TAMER, CA FIX	*[illegible] 5[illegible]
§95.6027 VOR FEDERAL AIRWAY 27		
IS AMENDED TO READ IN PART		
SA[illegible], CA VORTAC *4000 MCA [illegible] FIX S BND	*R[illegible], CA FIX	[illegible]

FROM	TO	MEA
§95.6029 VOR FEDERAL AIRWAY 29		
IS AMENDED TO READ IN PART		
HIKES, PA FIX *2400 MOCA	EAST TEXAS, PA VORTAC	*2900
§95.6030 VOR FEDERAL AIRWAY 30		
IS AMENDED TO READ IN PART		
AKRON, OH VOR/DME	CAPEL, OH FIX	3600
CAPEL, OH FIX *2800 MOCA	VOLAN, PA FIX	*3600
VOLAN, PA FIX	CLARION, PA VORTAC	3600
§95.6031 VOR FEDERAL AIRWAY 31		
IS AMENDED TO READ IN PART		
SELINSGROVE, PA VORTAC *3000 MOCA	WATSO, PA FIX	*3500
FAULT, NY FIX *2200 MOCA	ROCHESTER, NY VORTAC	*2700
§95.6033 VOR FEDERAL AIRWAY 33		
IS AMENDED TO READ IN PART		
AUDRY, PA FIX *3400 MOCA	RASHE, PA FIX	*4000
§95.6034 VOR FEDERAL AIRWAY 34		
IS AMENDED TO READ IN PART		
ROCHESTER, NY VORTAC *2200 MOCA	FAULT, NY FIX	*2700
FAULT, NY FIX *2100 MOCA	BEEPS, NY FIX	*3000
BEEPS, NY FIX *2500 MOCA	ITHACA, NY VORTAC	*3000
ITHACA, NY VORTAC *3500 MOCA	HANCOCK, NY VORTAC	*4000
HANCOCK, NY VORTAC	ROOTE, NY FIX	4000
§95.6035 VOR FEDERAL AIRWAY 35		
IS AMENDED TO READ IN PART		
GLADE SPRING, VA VORTAC STACY, VA FIX	STACY, VA FIX CHARLESTON, WV VORTAC	5000 *4500
*4000 MOCA INDIANHEAD, PA VORTAC *4500 MOCA	JOHNSTOWN, PA VORTAC	*5000
§95.6038 VOR FEDERAL AIRWAY 38		
IS AMENDED TO READ IN PART		
SALEY, WV FIX *5000 MCA BENZO FIX SE BND	*BENZO, WV FIX	3500

FROM	TO	MEA
§95.6039 VOR FEDERAL AIRWAY 39		
IS AMENDED TO READ IN PART		
SOUTH BOSTON, VA VORTAC *2000 MOCA	SHEPS, VA FIX	*3000
SHEPS, VA FIX *2200 MOCA	GORDONSVILLE, VA VORTAC	*3000
SHAWNEE, VA VORTAC *2500 MOCA	MARTINSBURG, WV VORTAC	*3000
CHESTER, MA VORTAC *3200 MOCA	VAPER, MA FIX	*3700
§95.6044 VOR FEDERAL AIRWAY 44		
IS AMENDED TO READ IN PART		
MORGANTOWN, WV VORTAC	KEYER, WV FIX	5000
KEYER, WV FIX *4100 MOCA	MARTINSBURG, WV VORTAC	*5000
KENTON, DE VORTAC *1100 MOCA	LEEAH, NJ FIX	*1800
LEEAH, NJ FIX	ATLANTIC CITY, NJ VORTAC	1800
§95.6045 VOR FEDERAL AIRWAY 45		
IS AMENDED TO READ IN PART		
FREON, NC FIX *5500 MOCA	PULASKI, VA VORTAC	*6000
§95.6046 VOR FEDERAL AIRWAY 46		
IS AMENDED TO READ IN PART		
HAMPTON, NY VORTAC *3600 MOCA	OSSER, NY FIX	*2600
OSSER, NY FIX *1700 MOCA	NANTUCKET, MA VORTAC	*2500
§95.6066 VOR FEDERAL AIRWAY 66		
IS AMENDED TO READ IN PART		
EL PASO, TX VORTAC	HUDSPETH, TX VORTAC	7400
§95.6080 VOR FEDERAL AIRWAY 80		
IS AMENDED TO READ IN PART		
HOLYO, CO FIX *4800 MOCA	NORTH PLATTE, NE VORTAC	*4500

FROM	TO	MEA

§95.6084 VOR FEDERAL AIRWAY 84
IS AMENDED TO READ IN PART

GENESEO NY VORTAC *3300 MOCA	BEEPS NY FIX	*[illegible]

§95.6091 VOR FEDERAL AIRWAY 91
IS AMENDED BY ADDING

SARDI NY FIX *1600 MOCA	ALVERTON NY VORTAC	*2500

IS AMENDED TO READ IN PART

ALBANY NY VORTAC	GLENS FALLS NY VORTAC	3300
GLENS FALLS NY VORTAC *3500 MOCA	ENSON VT FIX	*4000

§95.6092 VOR FEDERAL AIRWAY 92
IS AMENDED TO READ IN PART

GRANTSVILLE MD VORTAC *4500 MOCA	SHAWNEE VA VORTAC	*[illegible]

§95.6093 VOR FEDERAL AIRWAY 93
IS AMENDED TO READ IN PART

PATUXENT MD VORTAC *3000 MOCA	GRACO MD FIX	*[illegible]
LAKE HENRY PA VORTAC	ELLAN NY FIX	4000
ELLAN NY FIX *3000 MOCA	PAWLING NY VORTAC	*4000
CONCORD NH VORTAC	KENNEBUNK ME VORTAC	3000

§95.6102 VOR FEDERAL AIRWAY 102
IS AMENDED TO READ IN PART

CARLSBAD NM VORTAC	HOBBS NM VORTAC	*[illegible]

§95.6103 VOR FEDERAL AIRWAY 103
IS AMENDED TO READ IN PART

BURGS WV FIX *3000 MOCA	BELLAIRE OH VORTAC	*3400

§95.6104 VOR FEDERAL AIRWAY 104
IS AMENDED TO READ IN PART

U.S. CANADIAN BORDER MALAE NY FIX	MASSENA NY VORTAC *PLATTSBURGH NY VORTAC	1500 **4700

*3000 MCA PLATTSBURGH VORTAC W BND
**4200 MOCA

FROM	TO	MEA

§95.6106 VOR FEDERAL AIRWAY 106
IS AMENDED TO READ IN PART

LAKE HENRY PA VORTAC ELLAN NY FIX *3000 MOCA	ELLAN NY FIX PAWLING NY VORTAC	4000 *4000

§95.6107 VOR FEDERAL AIRWAY 107
IS AMENDED TO READ IN PART

SANTA MONICA CA VOR DME	*FILLMORE CA VORTAC	5000

*2500 MCA FILLMORE VORTAC NW BND

§95.6114 VOR FEDERAL AIRWAY 114
IS AMENDED TO DELETE

CLUNK CA FIX VIA N ALTER *1800 MOCA	ARDEL CA FIX VIA N ALTER	*2500

§95.6116 VOR FEDERAL AIRWAY 116
IS AMENDED TO READ IN PART

KEELER MS VORTAC	JACKSON MS VORTAC	3000

§95.6119 VOR FEDERAL AIRWAY 119
IS AMENDED TO READ IN PART

NORTHHEAD PA VORTAC *4100 MOCA	GHARY PA FIX	*5000
FALLS PA FIX *3200 MOCA	CLARION PA VORTAC	*3700
BRADFORD PA VORTAC *4300 MOCA	WELLSVILLE NY VORTAC	*4500

§95.6143 VOR FEDERAL AIRWAY 143
IS AMENDED TO READ IN PART

SHAWNEE VA VORTAC *2500 MOCA	MARTINSBURG WV VORTAC	*3000

§95.6145 VOR FEDERAL AIRWAY 145
IS AMENDED TO READ IN PART

FLOOR NY FIX	WATERTOWN NY VORTAC	*3000

*2500 MOCA

§95.6147 VOR FEDERAL AIRWAY 147
IS AMENDED TO READ IN PART

HIKES PA FIX *2400 MOCA	EAST TEXAS PA VORTAC	*2900

FROM	TO	MEA

§95.6161 VOR FEDERAL AIRWAY 161
IS AMENDED TO READ IN PART

DES MOINES IA VORTAC *3500 MCA ANKEN FIX N BND	*ANKEN IA FIX	2500
NEVAD IA FIX *2500 MOCA	ALOCK IA FIX	*3300
ALOCK IA FIX *2500 MOCA	MASON CITY IA VORTAC	*3000

§95.6162 VOR FEDERAL AIRWAY 162
IS AMENDED TO READ IN PART

LOCKE VA FIX *1300 MOCA	SCOBY MD FIX	*5000
SCOBY MD FIX *2900 MOCA	CARIS PA FIX	*4000
CARIS PA FIX *3100 MOCA	HARRISBURG PA VORTAC	*4000
HARRISBURG PA VORTAC	AETNA PA FIX	4000
EAST TEXAS PA VORTAC *2400 MOCA	ALLENTOWN PA VORTAC	*3000
HUGUENOT NY VORTAC ELLAN NY FIX *3000 MOCA	ELLAN NY FIX PAWLING NY VORTAC	3000 *4000

§95.6163 VOR FEDERAL AIRWAY 163
IS AMENDED TO READ IN PART

SAN ANTONIO TX VORTAC *3000 MOCA	LAMPASAS TX VORTAC	*3500

§95.6164 VOR FEDERAL AIRWAY 164
IS AMENDED TO READ IN PART

BUFFALO NY VORTAC *4000 MOCA	WELLSVILLE NY VORTAC	*4500
WILLIAMSPORT PA VORTAC	BELIF PA FIX	4000
BELIF PA FIX *3500 MOCA	EAST TEXAS PA VORTAC	*4000

§95.6166 VOR FEDERAL AIRWAY 166
IS AMENDED TO READ IN PART

MUSIC WV FIX *3100 MOCA	CLARKSBURG WV VOR DME	*3600
KESSEL WV VORTAC *5000 MRA **4500 MOCA	*CAPON WV FIX	**5000
MARTINSBURG WV VORTAC *3300 MOCA	WESTMINSTER MD VORTAC	*4000
WESTMINSTER MD VORTAC *2300 MOCA	BELAY MD FIX	*3000

FROM	TO	MEA

§95.6167 VOR FEDERAL AIRWAY 167
IS AMENDED TO READ IN PART

HANCOCK NY VORTAC	ELLAN NY FIX	4000
PROVIDENCE RI VORTAC *1500 MOCA	TUTOR MA FIX	*2000
HYANNIS MA VORTAC *1500 MOCA	KENNEBUNK ME VORTAC	*5000

§95.6170 VOR FEDERAL AIRWAY 170
IS AMENDED TO READ IN PART

BRADFORD PA VORTAC	SLATE RUN PA VORTAC	4000
SELINSGROVE PA VORTAC *3300 MOCA	RAVINE PA VORTAC	*4000
BOYER PA FIX *2400 MOCA	MODENA PA VORTAC	*3000
DUPONT DE VORTAC *1400 MOCA	KERNO MD FIX	*2000
KERNO MD FIX *1400 MOCA	SWANN MD FIX	*2500
SWANN MD FIX	PALEO MD FIX	2500

§95.6172 VOR FEDERAL AIRWAY 172
IS AMENDED TO READ IN PART

CEDAR RAPIDS IA VORTAC	USBO IA FIX	2700
USBO IA FIX	LOTTE IA FIX	3300
LOTTE IA FIX	[illegible] IL VORTAC	2700

§95.6174 VOR FEDERAL AIRWAY 174
IS AMENDED TO READ IN PART

HENDERSON WV VORTAC *3600 MOCA	ARLA WV FIX	*4600
ARLA WV FIX *3900 MOCA	ELKINS WV VORTAC	*5000
ELKINS WV VORTAC *6800 MRA **5500 MOCA	KNEAD WV FIX	**6000
KNEAD WV FIX *6300 MOCA	SHAWNEE VA VORTAC	*6800

§95.6175 VOR FEDERAL AIRWAY 175
IS AMENDED BY ADDING

ROSEAU MN VOR *2500 MOCA	U.S. CANADIAN BORDER	*3600

§95.6178 VOR FEDERAL AIRWAY 178
IS AMENDED TO READ IN PART

SLINK WV FIX *5200 MOCA	BLUEFIELD WV VORTAC	*6000

FROM	TO	MEA

§95.6181 VOR FEDERAL AIRWAY 181
IS AMENDED TO READ IN PART

FROM	TO	MEA

§95.6210 VOR FEDERAL AIRWAY 210
IS AMENDED TO READ IN PART

FROM	TO	MEA

§95.6264 VOR FEDERAL AIRWAY 264
IS AMENDED TO READ IN PART

FROM	TO	MEA

§95.6297 VOR FEDERAL AIRWAY 297
IS AMENDED TO READ IN PART

FROM	TO	MEA
§95.6181 VOR FEDERAL AIRWAY 181 IS AMENDED TO READ IN PART		
WATERTOWN SD VORTAC	BANEY ND FIX	4500
WATERTOWN SD VORTAC VIA E ALTER	FARGO ND VORTAC VIA E ALTER	5000
§95.6184 VOR FEDERAL AIRWAY 184 IS AMENDED TO READ IN PART		
RASHE PA FIX *3400 MOCA	AUDRY PA FIX	*4000
§95.6189 VOR FEDERAL AIRWAY 189 IS AMENDED TO READ IN PART		
FRANKLIN VA VORTAC *1400 MOCA	HOPEWELL VA VORTAC	*2000
§95.6196 VOR FEDERAL AIRWAY 196 IS AMENDED TO READ IN PART		
UTICA NY VORTAC *6000 MRA **4400 MOCA	*BECKS NY FIX	**5000
§95.6200 VOR FEDERAL AIRWAY 200 IS AMENDED TO READ IN PART		
UKIAH CA VORTAC *9000 MRA **11000 MCA LAPED FIX S BND	*LAPED CA FIX	6000
LAPED CA FIX	WILLIAMS CA VORTAC	6000
§95.6203 VOR FEDERAL AIRWAY 203 IS AMENDED TO READ IN PART		
NANTUCKET MA VORTAC *1700 MOCA	WACKY RI FIX	*2500
SARANAC LAKE NY VOR/DME *4400 MOCA	MASSENA NY VORTAC	*5000
§95.6205 VOR FEDERAL AIRWAY 205 IS AMENDED TO READ IN PART		
SPARTA NJ VORTAC	PAWLING NY VORTAC	3000
PAWLING NY VORTAC	VEERS CT FIX	3400
VEERS CT FIX	MEDOW CT FIX	6000
MEDOW CT FIX *2500 MOCA	LAYER MA FIX	*6500
BOSTON MA VORTAC *2100 MOCA	PEASE NH VOR	*3000

FROM	TO	MEA
§95.6210 VOR FEDERAL AIRWAY 210 IS AMENDED TO READ IN PART		
SEING OH FIX	CAPEL OH FIX	3600
CAPEL OH FIX *2800 MOCA	VOLAN PA FIX	*3600
VOLAN PA FIX *3100 MOCA	TALLS PA FIX	*3600
BLINK PA FIX *3800 MOCA	TOWEN PA FIX	*7000
LANCASTER PA VORTAC *2300 MOCA	BUCKS PA FIX	*2800
BUCKS PA FIX *2100 MOCA	PROPP PA FIX	*3000
§95.6231 VOR FEDERAL AIRWAY 231 IS AMENDED TO READ IN PART		
CHARL MT FIX	SKOTT MT FIX	10000
SKOTT MT FIX	*KALISPELL MT VOR/DME S BND	**10000
	N BND	**8500
*9000 MCA KALISPELL VOR/DME E BND **7600 MOCA		
§95.6234 VOR FEDERAL AIRWAY 234 IS AMENDED TO READ IN PART		
SAINT JOHNS AZ VORTAC *9500 MCA STONY FIX SW BND **13500 MOCA	*STONY NM FIX	**12000
§95.6249 VOR FEDERAL AIRWAY 249 IS AMENDED TO READ IN PART		
SPARTA NJ VORTAC	SILKY NY FIX	3000
§95.6260 VOR FEDERAL AIRWAY 260 IS AMENDED TO READ IN PART		
HOPEWELL VA VORTAC *1400 MOCA	FRANKLIN VA VORTAC	*2000
§95.6263 VOR FEDERAL AIRWAY 263 IS AMENDED TO READ IN PART		
SANTA FE NM VORTAC	*LAS VEGAS NM VORTAC	12500
*10900 MCA LAS VEGAS VORTAC N BND **11300 MCA LAS VEGAS VORTAC W BND		

FROM	TO	MEA
§95.6264 VOR FEDERAL AIRWAY 264 IS AMENDED TO READ IN PART		
STABO CA FIX	AMTRA CA FIX	3000
SAINT JOHNS AZ VORTAC *10000 MCA SOCORRO VORTAC W BND **11100 MOCA	*SOCORRO NM VORTAC	**12000
§95.6265 VOR FEDERAL AIRWAY 265 IS AMENDED TO READ IN PART		
AUDRY PA FIX *3400 MOCA	RASHE PA FIX	*4000
§95.6276 VOR FEDERAL AIRWAY 276 IS AMENDED TO READ IN PART		
FRANKLIN PA VOR *3200 MOCA	CLARION PA VORTAC	*3700
RAVINE PA VORTAC *4000 MRA **3500 MOCA	*HIKES PA FIX	**4000
HIKES PA FIX *2300 MOCA	YARDLEY PA VORTAC	*4000
CASVI NJ FIX *6000 MRA **1400 MOCA	*GAMBY NJ FIX	**3000
GAMBY NJ FIX *2000 MOCA	MANTA NJ FIX	*6000
§95.6283 VOR FEDERAL AIRWAY 283 IS AMENDED TO READ IN PART		
SEAL BEACH CA VORTAC *6000 MCA JOGIT FIX E BND	*JOGIT CA FIX	4000
§95.6286 VOR FEDERAL AIRWAY 286 IS AMENDED TO READ IN PART		
ELKINS WV VORTAC *5500 MOCA	DERIN WV FIX	*6000
DERIN WV FIX *6100 MOCA	OKFEL VA FIX	*6000
OKFEL VA FIX *5000 MOCA	CASANOVA VA VORTAC	*6000
CASANOVA VA VORTAC *1300 MOCA	FLUKY VA FIX	*3000
BROOKE VA VORTAC *1500 MOCA	GWYNN VA FIX	*2000
§95.6290 VOR FEDERAL AIRWAY 290 IS AMENDED TO READ IN PART		
ROMAN VA FIX *1800 MOCA	BRAIL VA FIX	*5000
FRANKLIN VA VORTAC *1600 MOCA	SUNNS NC FIX	*2000

FROM	TO	MEA
§95.6297 VOR FEDERAL AIRWAY 297 IS AMENDED TO READ IN PART		
JOHNSTOWN PA VORTAC	TALLS PA FIX	4200
TALLS PA FIX *3100 MOCA	VOLAN PA FIX	*3600
VOLAN PA FIX *2800 MOCA	CAPEL OH FIX	*3600
CAPEL OH FIX	AKRON OH VOR/DME	3600
§95.6300 VOR FEDERAL AIRWAY 300 IS AMENDED TO READ IN PART		
CAMPO ME FIX *5200 MOCA	WRAPT ME FIX	*7000
WRAPT ME FIX *5200 MOCA	MILLINOCKET ME VORTAC	*6000
MILLINOCKET ME VORTAC *2200 MOCA	U S CANADIAN BORDER	*3000
§95.6309 VOR FEDERAL AIRWAY 309 IS AMENDED TO READ IN PART		
CHARLESTON WV VORTAC *5000 MRA **3000 MOCA	*RANDE WV FIX	**5000
RANDE WV FIX *3200 MOCA	BURGS WV FIX	*7000
BURGS WV FIX *3000 MOCA	BEL AIRE OH VORTAC	*3400
§95.6312 VOR FEDERAL AIRWAY 312 IS AMENDED TO READ IN PART		
COYLE NJ VORTAC *8000 MRA **1400 MOCA	*LEGGS NJ FIX	**1900
§95.6314 VOR FEDERAL AIRWAY 314 IS AMENDED TO READ IN PART		
U S CANADIAN BORDER *3900 MOCA	MILLINOCKET ME VORTAC	*6000
PRINCETON ME VOR/DME **800 MOCA	U S CANADIAN BORDER	*2500
§95.6319 VOR FEDERAL AIRWAY 319 IS AMENDED BY ADDING		
ANCHORAGE AK VOR/DME *8000 MCA TORTE FIX W BND **6000 MOCA	YONEK AK FIX	3000
	*TORTE AK FIX	**6000
TORTE AK FIX *10000 MCA VEIL FIX E BND **10300 MOCA	*EIELSON AK VOR	**12000

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§95.6319 VOR FEDERAL AIRWAY 319—Continued

VEILL AK FIX	SPARREVOHN AK VOR/DME	*7000
*6000 MOCA		
SPARREVOHN AK VOR/DME	ACRAN AK FIX	*6000
*5300 - MOCA		
ACRAN AK FIX	VIDDA AK FIX	6000
VIDDA AK FIX	WEEKE AK FIX	*3000
*2300 - MOCA		
WEEKE AK FIX	BETHEL AK VORTAC	2000

§95.6322 VOR FEDERAL AIRWAY 322
IS AMENDED TO READ IN PART

PICAA NH FIX	BERLIN NH VOR/DME	*6000
*5100 MOCA		

§95.6346 VOR FEDERAL AIRWAY 346
IS AMENDED TO READ IN PART

U.S. CANADIAN BORDER	MILLINOCKET ME VORTAC	*6000
*5100 MOCA		

§95.6370 VOR FEDERAL AIRWAY 370
IS AMENDED TO READ IN PART

SETER CA FIX	*BANDS CA FIX E BND	13000
	W BND	9000
*13000 MRA		
GARNE CA FIX	*PALM SPRINGS CA VORTAC W BND	12000
	E BND	8000
*11600 MCA PALM SPRINGS VORTAC W BND		

§95.6372 VOR FEDERAL AIRWAY 372
IS AMENDED TO READ IN PART

SEAL BEACH CA VORTAC	*JOGIT CA FIX E BND	4000
*6000 MCA JOGIT FIX		
MARCH CA VOR	*BANDS CA FIX E BND	13000
	W BND	8000
*13000 - MRA		
GARNE CA FIX	*PALM SPRINGS CA VORTAC W BND	12000
	E BND	8000
*11600 MCA PALM SPRINGS VORTAC, W BND		

§95.6373 VOR FEDERAL AIRWAY 373
IS AMENDED TO READ IN PART

GORDONSVILLE VA VORTAC	SABBI VA FIX	*10000
*1800 MOCA		

§95.6375 VOR FEDERAL AIRWAY 375
IS AMENDED TO READ IN PART

CLYFF VA FIX	GORDONSVILLE VA VORTAC	*5000
*3900 MOCA		

§95.6376 VOR FEDERAL AIRWAY 376
IS AMENDED TO READ IN PART

RICHMOND VA VORTAC	GRUBY VA FIX	*2000
*1500 MOCA		
GRUBY VA FIX	IRONS MD FIX	*2500
*1500 MOCA		

§95.6377 VOR FEDERAL AIRWAY 377
IS AMENDED TO READ IN PART

MONTEBELLO VA VOR/DME	KESSEL WV VORTAC	*6000
*5500 MOCA		
HAGERSTOWN MD VOR	HARRISBURG PA VORTAC	*5000
*3600 MOCA		

§95.6378 VOR FEDERAL AIRWAY 378
IS AMENDED TO READ IN PART

BALTIMORE MD VORTAC	BELAY MD FIX	2300
BELAY MD FIX	MODENA PA VORTAC	*2300
*2000 MOCA		

§95.6379 VOR FEDERAL AIRWAY 379
IS AMENDED TO READ IN PART

NOTTINGHAM MD VORTAC	DEALE MD FIX	*1900
*1400 MOCA		

§95.6403 VOR FEDERAL AIRWAY 403
IS AMENDED TO READ IN PART

BUCKS PA FIX	POTTSTOWN PA VORTAC	*3000
*1900 MOCA		
POTTSTOWN PA VORTAC	SOLBERG NJ VORTAC	*3000
*2000 - MOCA		

§95.6405 VOR FEDERAL AIRWAY 405
IS AMENDED TO READ IN PART

BUCKS PA FIX	POTTSTOWN PA VORTAC	*3000
*1900 MOCA		
POTTSTOWN PA VORTAC	BROADWAY NJ VOR/DME	*3000
*2200 - MOCA		

§95.6408 VOR FEDERAL AIRWAY 408
IS AMENDED TO READ IN PART

LUCKE VA FIX	SCOBY MD FIX	*5000
*3300 MOCA		

§95.6431 VOR FEDERAL AIRWAY 431
IS AMENDED TO READ IN PART

HYANNIS MA VORTAC	BOSTON MA VORTAC	*3000
*2100 MOCA		

§95.6433 VOR FEDERAL AIRWAY 433
IS AMENDED TO READ IN PART

SWANN MD FIX	KERNO MD FIX	*2500
*1400 MOCA		
KERNO MD FIX	DUPONT DE VORTAC	*2000
*1400 MOCA		

§95.6447 VOR FEDERAL AIRWAY 447
IS AMENDED TO READ IN PART

CAMBRIDGE NY VORTAC	KERST VT FIX	*5900
*5400 MOCA		
KERST VT FIX	MUDDI VT FIX	*6000
*5500 MOCA		

§95.6457 VOR FEDERAL AIRWAY 457
IS AMENDED TO READ IN PART

MARTINSBURG WV VORTAC	WESTMINSTER MD VORTAC	*4000
*3300 MOCA		

§95.6459 VOR FEDERAL AIRWAY 459
IS AMENDED TO READ IN PART

JEFFY CA FIX	*LOPES CA FIX	9000
*8400 MCA LOPES FIX S BND		

§95.6475 VOR FEDERAL AIRWAY 475
IS AMENDED TO READ IN PART

MILIS MA FIX	BOSTON MA VORTAC	2000

§95.6477 VOR FEDERAL AIRWAY 477
IS AMENDED TO READ IN PART

NAVASOTA TX VORTAC VIA W ALTER	LEONA TX VORTAC VIA W ALTER	3000

§95.6489 VOR FEDERAL AIRWAY 489
IS AMENDED TO READ IN PART

SPARTA NJ VORTAC	KINGSTON NY VORTAC	1000
ALBANY NY VORTAC	GLENS FALLS NY VORTAC	3000

§95.6508 VOR FEDERAL AIRWAY 508
IS AMENDED BY ADDING

KENAI AK VOR/DME	*NEARR AK FIX	3000
*7600 MCA NEARR FIX W BND		
NEARR AK FIX	SPARREVOHN AK VOR/DME	12000
SPARREVOHN AK VOR/DME	ANIAK AK NDB	6000

IS AMENDED TO READ IN PART

SKILA AK FIX	KENAI AK VOR/DME	2000

§95.6536 VOR FEDERAL AIRWAY 536
IS AMENDED TO READ IN PART

MULLAN PASS ID VOR/DME	CELIR MT FIX	*10500
*9500 MOCA		
CELIR MT FIX	*KALISPELL MT VOR/DME SW BND	10500
	NE BND	9000
*9000 MCA KALISPELL VOR/DME E BND		

FROM	TO	MEA	MAA

§95.7034 JET ROUTE NO. 34

§95.8003 VOR FEDERAL AIRWAYS CHANGEOVER POINTS

AIRWAY SEGMENT		CHANGEOVER POINTS

FROM	TO	MEA	MAA
§95.7034 JET ROUTE NO. 34			
	IS AMENDED TO READ IN PART		
NODINE, MN VORTAC	DELLS, WI VORTAC	18000	45000
DELLS, WI VORTAC	BADGER, WI VORTAC	18000	45000
§95.7036 JET ROUTE NO. 36			
	IS AMENDED TO READ IN PART		
NODINE, MN VORTAC	BADGER, WI VORTAC	18000	45000
§95.7068 JET ROUTE NO. 68			
	IS AMENDED BY ADDING		
GOPHER, MN VORTAC	DELLS, WI VORTAC	18000	45000
DELLS, WI VORTAC	BADGER, WI VORTAC	18000	45000
§95.7501 JET ROUTE NO. 501			
	IS AMENDED TO READ IN PART		
ANCHORAGE, AK VOR/DME	SPARREVOHN, AK VOR/DME	18000	45000
SPARREVOHN, AK VOR/DME	BETHEL, AK VORTAC	18000	45000
BETHEL, AK VORTAC	YEARR, AK FIX	#29000	45000
#MEA 35000 ONLY APPLIES TO THAT PORTION FROM YEARR FIX TO ANC CTA/FIR			
§95.7538 JET ROUTE NO. 538			
	IS AMENDED BY ADDING		
BADGER, WI VORTAC	DELLS, WI VORTAC	18000	45000
DELLS, WI VORTAC	DULUTH, MN VORTAC	18000	45000
§95.7594 JET ROUTE NO. 594			
	IS ADDED TO READ		
MASSENA, NY VORTAC	U S CANADIAN BORDER	18000	45000

§95.8003 VOR FEDERAL AIRWAYS CHANGEOVER POINTS

AIRWAY SEGMENT		CHANGEOVER POINTS	
FROM	TO	DISTANCE	FROM
V-166			
	IS AMENDED BY ADDING		
KESSEL, WV VORTAC	MARTINSBURG, WV VORTAC	26	KESSEL
V-187			
	IS AMENDED TO READ IN PART		
ALBUQUERQUE, NM VORTAC	FARMINGTON, NM VORTAC	57	ALBUQUERQUE
V-203			
	IS AMENDED BY ADDING		
CHESTER, MA VORTAC	ALBANY, NY VORTAC	24	CHESTER
V-375			
	IS AMENDED BY ADDING		
ROANOKE, VA VORTAC	GORDONSVILLE, VA VORTAC	48	ROANOKE

§95.8005 JET ROUTES CHANGEOVER POINTS

AIRWAY SEGMENT		CHANGEOVER POINTS	
FROM	TO	DISTANCE	FROM
	J-68		
	IS AMENDED BY ADDING		
DELLS,WI VORTAC	GOPHER, MN VORTAC	114	DELLS
	J-501		
	IS AMENDED TO DELETE		
ANCHORAGE, AK VOR/DME	CAIRN MOUNTAIN, AK NDB	130	ANCHORAGE
SPARREVOHN, AK VOR/DME	BETHEL, AK VORTAC	49	SPARREVOHN

[FR Doc. 84-1030 Filed 1-13-84; 8:45 am]
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Federal Highway Administration

23 CFR Parts 626, 655, and 752

Interstate Highway Projects; Miscellaneous Technical Amendments

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Amendments to final rules.

SUMMARY: This document amends various final rules in Chapter 1 of 23 CFR to incorporate changes made to the Interstate Highway Program by the Federal-Aid Highway Act of 1981. These changes affect the participation of Federal-aid highway funds in Interstate highway projects administered by the States.

EFFECTIVE DATE: February 15, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Boone, Office of the Chief Counsel, (202) 426–0761; or Mr. Robert Ford, Office of Engineering and Operations, (202) 426–0376, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Federal-Aid Highway Act of 1981 (Pub. L. 97–134, 95 Stat. 1699), signed into law by President Reagan on December 29, 1981, significantly restructured the Interstate Highway Program by reducing the cost to complete the Interstate System and by expanding the Interstate 3R Program (resurfacing, restoration and rehabilitation) to a 4R Program through the addition of reconstruction as an eligible item.

The estimate of the cost to complete the Interstate System, better known as the Interstate Cost Estimate (ICE), is mandated by 23 U.S.C. 104(b)(5). Section 104(b)(5) also requires the ICE to be prepared by DOT periodically and submitted to Congress for its approval. The objective is to obtain for each State a revised estimate of the total cost to complete the portion of the Interstate System in that State. Apportionment factors are derived from the ICE.

To achieve the reduced Interstate cost-to-complete, 4(b) of the Act limits the obligation of Interstate construction funds by providing a new definition for Interstate completion. This provision limits funding of Interstate construction projects to those features necessary to provide a minimum level of acceptable service which consists of (1) full access control; (2) a pavement design to accommodate the types and volumes of traffic anticipated for the 20-year life expectancy of the highway segment; (3) essential environmental requirements; and (4) a design of six lanes (exclusive of high occupancy vehicle (HOV) lanes) in rural and urbanized areas of up to 400,000 population and up to eight lanes (exclusive of HOV lanes) in areas of 400,000 population and above as shown in the 1980 Federal Census. Section 4(b) of the Act, with one exception, further limits funding for Interstate construction to previously approved work included in the 1981 ICE, which was approved by the Act as well.

As a result of the Act, many construction features are no longer eligible for Interstate construction funds; e.g., rest areas, pedestrian and bikeway facilities, and fringe parking facilities independent of approved HOV lanes, unless they are considered to be essential environmental requirements. However, those features no longer eligible for Interstate construction funds are eligible for Interstate 4R funds.

This document amends various final rules in chapter 1 of 23 CFR to incorporate the changes made to the Interstate Highway Program by the Federal-Aid Highway Act of 1981 affecting the participation of Federal-aid Interstate funds. The economic impact of this final rule has been found to be so minimal that a full regulatory evaluation is unnecessary. In its review of the need for a regulatory evaluation, the FHWA found that there would be no significant adverse impact on the States or the public. The amendments are merely intended to improve the internal operations of the Interstate Program. For the foregoing reasons and because these changes will only affect State highway agencies, it is certified, under the criteria of the Regulatory Flexibility Act, that this action will not have a significant economic impact on a substantial number of small entities.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under DOT regulatory policies and procedures. Notice and opportunity for comment are not required under the DOT regulatory policies and procedures because this action merely makes changes required by statute and because it is not anticipated that publication for comment would result in the receipt of useful information. A notice of proposed rulemaking is not required under the Administrative Procedure Act because the matters affected relate to grants, benefits, or contracts pursuant to 5 U.S.C. 553(a)(2).

(23 U.S.C. 109, 131, 149, 315, and 319; 49 CFR 1.48(b); Pub. L. 97–134; 95 Stat. 1699)

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

In consideration of the foregoing, title 23, Code of Federal Regulations, Parts 626, 655, and 752 are amended as set forth below.

List of Subjects in Parts 626, 655, and 752

Highways and roads, Pavement design, Rights-of-way—landscape development, Signs.

Issued on: January 6, 1984.

L. P. Lamm,

Deputy Administrator, Federal Highway Administration.

PART 626—PAVEMENT DESIGN POLICY

1. § 626.5, amend paragraph (b) by revising the last sentence to read as follows:

§ 626.5 Policy.

* * * * *

(b) * * * For initial Interstate construction projects, the design period shall be 20 years from the date of authorization of the initial basic construction contract.

* * * * *

2. In § 626.7, amend paragraph (c) by revising it in its entirety, remove paragraph (d), redesignate paragraph (e) as (d), and revise new paragraph (d) in its entirety. Revised paragraphs (c) and (d) read as follows:

§ 626.7 Project procedures.

* * * * *

(c) Federal-aid Interstate (FAI) construction funds, authorized by section 108(b) of the Federal-Aid Highway Act of 1956, as amended, may be used for additional stages of construction only on mainline roadways and ramps, including shoulders, and only when the original project providing for the pavement construction was identified as a stage construction project and the ultimate structural design was documented at the time of approval of the plans, specifications, and estimates. However, FAI construction funds shall not be used for any skid resistant overlay project.

(d) Federal-aid Interstate construction

funds are eligible for necessary attendant costs in conjunction with stage construction projects but FAI construction funds shall not be used for rehabilitation or restoration of the existing pavement.

PART 655—[AMENDED]

Subpart C—National Standards for Specific Information Signs

3. In § 655.310, amend paragraph (c) by revising it to read as follows:

§ 655.310 Procedures.

* * * * *

(c) *Eligibility of funds.* Federal-aid highway funds are eligible to participate in the cost and erection of specific information signs on Federal-aid highways in the same manner that such funds are eligible for other highway traffic control devices on the Federal-aid highway systems. Specific information signing installed as a subsequent phase to a completed Interstate segment is not eligible for Federal-aid Interstate construction funds. Federal-aid highway funds are not eligible to participate in the cost of procuring and installing business signs on sign panels or on ramp signs.

* * * * *

PART 752—LANDSCAPE AND ROADSIDE DEVELOPMENT

4. Section 752.11 is revised to read as follows:

§ 752.11 Federal participation.

(a) Federal-aid highway funds, but generally excluding Interstate construction funds, are available for landscape development; for the acquisition and development of safety rest areas, scenic overlooks, and scenic lands; for the development of information centers and systems; and for the removal of abandoned motor vehicles.

(b) Federal-aid participation may be made in plant establishment periods in or associated with landscaping projects and in the planting of flowering materials supplied by garden clubs and other organizations or individuals.

(c) Federal-aid funds may not be used for assemblage, printing, or distribution of information materials; for temporary or portable information facilities; or for installation, operation, or maintenance of vending machines.

[FR Doc. 84-1088 Filed 1-13-84; 8:45 am]
BILLING CODE 4910-22-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2619

Valuation of Plan Benefits in Non-Multiemployer Plans; Amendment Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This amendment to the regulation on Valuation of Plan Benefits in Non-Multiemployer Plans contains the interest rates and factors for the period beginning February 1, 1984. The interest rates and factors are to be used to value benefits provided under terminating non-multiemployer pension plans covered by Title IV of the Employee Retirement Income Security Act of 1974.

The valuation of plan benefits is necessary because, under section 4041 of the Act, the Pension Benefit Guaranty Corporation and the plan administrator must determine whether a terminating pension plan has sufficient assets to pay all benefits under the plan that are guaranteed by the PBGC under the Title IV plan termination insurance program.

The interest rates and factors set forth in Appendix B to Part 2619 are adjusted periodically to reflect changes in financial and annuity markets. This amendment adopts the rates and factors applicable to plans that terminate on or after February 1, 1984, and will enable the PBGC and plan administrators to value the benefits provided under those plans. These rates and factors will remain in effect until Appendix B of the regulation is again amended.

EFFECTIVE DATE: February 1, 1984.

FOR FURTHER INFORMATION CONTACT: Mrs. Renae R. Hubbard, Special Counsel, Legal Department, Code 250, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006, 202–254–6476 (not a toll-free number).

SUPPLEMENTARY INFORMATION: On January 28, 1981, the Pension Benefit Guaranty Corporation ("PBGC") published a final regulation on Valuation of Plan Benefits in Non-multiemployer Plans (46 FR 9492). That regulation, codified at 29 CFR Part 2619 (1983), sets forth the methods for valuing plan benefits of terminating non-multiemployer plans covered under Title IV of the Employer Retirement Income Security Act of 1974, 29 U.S.C. 1001 *et seq.* (1976), *as amended.* The regulation contains formulas for valuing different types of benefits. Appendix B to the regulation sets forth the interest rates and factors that are to be used in the formulas. Because these rates and factors are intended to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

As published in the 1983 edition of 29 CFR, Appendix B of Part 2619 contains interest rates and factors for valuing benefits in plans that terminated during various periods beginning September 2, 1974 through June 1, 1983. The rates and factors adopted for valuing benefits in plans that terminated on or after June 1, 1983 remained in effect until September 1, 1983. On August 15, 1983, the PBGC published new rates and factors for plans that terminated on or after September 1, 1983 (48 FR 36817). That rate has remained in effect until now and will remain in effect for plan terminations through the end of January, 1984. At this time, however, changes in the financial and annuity markets require an increase in the rates used for valuing benefits. Accordingly, this amendment adds to Appendix B a new set of interest rates and factors for plans that terminate on or after February 1, 1984. This interest rate and these factors will remain in effect until such time as PBGC publishes another amendment concerning the rates.

Generally, the rates will be in effect for at least one month. Any change in the rates normally will be published in the **Federal Register** by the 15th of the month preceding the effective date of the new rates.

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This determination is based on the need to determine and issue new interest rates and factors promptly so that the rates can reflect, as accurately as possible, current market conditions. The PBGC has found that the public interest is best served by issuing the rates and factors on a prospective basis so that plans may be able to calculate the value of plan benefits before submitting a notice of intent to terminate. Also, plans will be able to predict employer liability more accurately prior to plan termination.

Because of the need to provide immediate guidance for the valuation of benefits of plans that will terminate on or after February 1, 1984, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making the rates set forth in this amendment to the final regulation effective less than 30 days after publication.

The PBGC has determined that this is not a "major rule" under the criteria set

forth in Executive Order 12291, February 17, 1981, because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, or innovation.

List of Subjects in 29 CFR Part 2619

Employee benefit plans, Pension insurance, Pensions.

PART 2619—[AMENDED]

In consideration of the foregoing, Part 2619 of Chapter XXVI, Title 29, Code of Federal Regulations, is hereby amended as follows:

1. The authority citation for Part 2619 reads as follows:

Authority: Sections 4002(b)(3), 4041(b), 4044, and 4062(b)(1)(A), Pub. L. 93–406, 88 Stat. 1004, 1020, 1025, 1029 (1974) as amended by Secs. 403(1), 403(d), and 402(a)(7), Pub. L. 96–364, 94 Stat. 1302, 1301, and 1299 (1980) (29 U.S.C. 1302, 1341, 1344, 1382).

2. Rate Set 43 of Appendix B is revised, and Rate Set 44 of appendix B is added to read as follows:

Appendix B—Interest Rates and Quantities Used To Value Immediate and Deferred Annuities

In the table that follows, the immediate annuity rate is used to value immediate annuities, to compute the quantity "G_v" for deferred annuities and to value both portions of a refund annuity. An interest rate of 5% shall be used to value death benefits other than the decreasing term insurance portion of a refund annuity. For deferred annuities, k_1, k_2, k_3, n_1, and n_2 are defined in § 2619.45.

Rate set	For plans with a valuation date		Immediate annuity rate	Deferred Annuities				
	On or after	& before		k_1	k_2	k_3	n_1	n_2
•	•	•	•	•	•	•	•	
43	9–1–83	2–1–84	9.50	1.0875	1.0750	1.0400	7	
44	2–1–84	.....	9.75	1.0900	1.0775	1.0400	7	

Charles Tharp,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 84–1085 Filed 1–13–84; 8:45 am]

BILLING CODE 7708–01–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

Outer Continental Shelf Oil and Gas Operations; Marking of Equipment

AGENCY: Minerals Management Service, Interior.

ACTION: Amendments to OCS Order No. 1.

SUMMARY: The Minerals Management Service (MMS) revises Paragraph 5, *Marking of Equipment*, of OCS Order No. 1.

The revision replaces vague and costly requirements with more specific and cost-effective requirements.

EFFECTIVE DATE: The revision becomes effective on February 15, 1984.

ADDRESSES: Reprints of this Notice may be obtained after February 6, 1984, from the following:

Regional Manager, Alaska OCS Region, Minerals Management Service, P.O. Box 101159, Anchorage, Alaska 99510.

Regional Manager, Atlantic OCS Region, Minerals Management Service, 1951 Kidwell Drive, Suite 601, Vienna, Virginia 22180.

Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, P.O. Box 7944, Metairie, Louisiana 70010.

Regional Manager, Pacific OCS Region, Minerals Management Service, 1340 West Sixth Street, Los Angeles, California 90017.

Minerals Management Service, Offshore Rules and Operations Division, Chief, Branch of Rules, Orders, and Standards, Mail Stop 646, 12203 Sunrise Valley Drive, Reston, Virginia 22091.

FOR FURTHER INFORMATION CONTACT: David A. Schuenke; Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Mail Stop 646; Room 6A110; Minerals Management Service; U.S. Department of the Interior; 12203 Sunrise Valley Drive; Reston, Virginia 22091; telephone (703) 860–7916 or FTS 928–7916.

SUPPLEMENTARY INFORMATION: Under the Outer Continental Shelf (OCS) Lands Act, 43 U.S.C. 1334 et seq., and 30 CFR 250.10 and 250.11, the Director revises Paragraph 5, *Marking of Equipment*, of OCS Order No. 1. This paragraph implements 30 CFR 250.54, Marking of equipment, and is applicable to all Regions of the OCS.

On October 22, 1982, the MMS published a **Federal Register** Notice (47 FR 47088) requesting comments on a proposed revision of Paragraph 5, *Marking of Equipment*. A number of suggestions received in response to that request have been incorporated in the revision of paragraph 5.

Timely comments were received during the comment period from the following organizations:

American Petroleum Institute.
Arco Oil and Gas Company.
Chevron U.S.A. Inc.
Cities Service Company.
Conoco Inc.
Exxon Company, U.S.A.
Gulf Oil Exploration and Production Company.
Mesa Petroleum Company.
Offshore Operators Committee.
Shell Oil Company.
Transcontinental Gas Pipe Line Corporation.
United Gas Pipe Line Company.

Summaries and Discussions of Comments Received

Comment

Ten commenters found the introductory paragraph of paragraph 5 in contradiction with the requirements of subparagraph 5a. The commenters specifically recommended the deletion of the words "All" at the beginning of the paragraph, and "as approved or prescribed by the Deputy Minerals Manager, Offshore Field Operations" in the introductory paragraph.

The commenters indicated that the word "All" implied that every piece of equipment—even small tools—should be marked before being placed in marked containers. The commenters also indicated that the words ", as approved or prescribed by the Deputy Minerals Manager, Offshore Field Operations," implied that additional requirements might be imposed on the operators.

Discussion

We agree with the commenters that the word "All" might be confusing, so we have deleted it from the introductory paragraph, and added words which limit the application of paragraph 5 to correspond with paragraph 4b. We have also deleted the word "items" because it is included in the category of "materials."

The intent of the phrase ", as approved or prescribed by the Deputy Minerals Manager, Offshore Field Operations," was to allow operators latitude in the selection of the marking method and to permit the Deputy Minerals Manager [retitled Regional

Supervisor) the option of disapproving inappropriate markings. It was anticipated that the rejection of a marking method would be rare and that the authority would be exercised only in the most unusual cases. However, we have reviewed the phrase in question and agree that it could be misinterpreted as suggested by the commenters. Therefore, we have deleted the phrase in question and revised the paragraph to require lessees to submit their convention of marking equipment to the Regional Supervisor who will compile a master list of all such markings in the respective Region. The list will be available in the Public Information Office of each Region. The introductory paragraph of paragraph 5 has been revised as follows:

5. *Marking of Equipment.* Materials, equipment, tools, and containers that weigh more than 18 kilograms (40 pounds) and are of such shape or configuration that they are likely to snag or damage fishing devices, used on the OCS are to be properly color coded, stamped, or labeled with the owner's identification in accordance with the requirements indicated in subparagraphs 5a through 5e. The marking convention used by lessees and their contractors shall be submitted by the lessees to the Regional Supervisor, Offshore Field Operations, prior to its use pursuant to this paragraph.

Comment

Two commenters indicated that the words "whenever practicable" (words in 30 CFR 250.54 and the statutory language of the OCS Lands Act Amendments of 1978) should be used in paragraph 5. One of the commenters proposed the following words:

5. Marking of equipment—Whenever practicable, all materials, equipment, tools, containers, and items used on the OCS are to be properly color coded, stamped, or labeled with the owners identification, as approved or prescribed by the Deputy Minerals Manager, Offshore Field Operations, and in accordance with the following requirements.

Discussion

The use of the words "whenever practicable," as suggested by the commenters, would leave compliance with the requirements to mark equipment open to numerous interpretations. We applied the test of practicability in determining the specific requirements of this rule. Therefore, our revision of paragraph 5 remains as stated in the preceding discussion.

We note that the commenters' proposed words contain the phrase "as approved or prescribed by the Deputy Minerals Manager, Offshore Field Operations," which has been found objectionable by 10 commenters. (Refer to our previous discussion above.)

Comment

One commenter proposed the following words for subparagraph 5a:

a. Whenever practicable, all loose material, small tools, and other small objects weighing in excess of forty (40) lbs. and are of such shape or configuration that they may snag or damage fishing devices, shall be kept in a marked container when not in use or during transport over open OCS waters.

Discussion

We reiterate our opinion given above with respect to the use of the words "whenever practicable," and although we agree with the intent of the commenter's suggestion, concerning the use of the words "in excess of forty (40) lbs.," we believe that this intent is incorporated in paragraph 5 as written. (Refer to the discussion of paragraph 5.) Therefore, we have no changed subparagraph 5a.

Comment

The same commenter proposed the following language for subparagraph 5c:

c. Skids supporting skid-mounted equipment, drums, and spools, reels, or portable containers weighing in excess of forty (40) pounds shall be marked with the owner's name prior to use or transport over open OCS waters.

Discussion

We do not agree with the commenter. The words "Skids supporting" contained in the paragraph proposed by the commenter indicate that only skids and not the equipment should be marked. It is the equipment which should be marked—not the skids upon which it is mounted. We agree with the intent of the commenter's suggestion concerning the use of the words "in excess of forty (40) pounds"; however, we believe that this intent is incorporated in paragraph 5 as written. (Refer to the discussion of paragraph 5.) Therefore, we have not changed subparagraph 5c.

Comment

Two commenters indicated that subparagraph 5d should leave the marking method and the material used for marking to the discretion of the operators. One of the commenters stated: "The regulations should state that the means used to mark the equipment will be left to the operator's discretion."

Discussion

Subparagraph 5d, as written, does not specify materials or methods for marking. It leaves materials or methods for marking to the discretion of the operators. Therefore, we believe it is unnecessary to incorporate the statement suggested by the commenter.

Comment

Nine commenters endorsed the suggestion of a committee of offshore operators to revise subparagraph 5e eliminating the requirement to report items listed in 5b and 5c which fall overboard unless those items met the reporting requirements of Paragraph 4 (of OCS Order No. 1). The committee indicated that objects not included in 5b and 5c might not have an impact on fishing devices.

The committee also recommended the deletion of the words "to the District Supervisor and" in order to avoid burdening industry and the MMS with reports (to the District Supervisor) of lost equipment since the MMS could obtain such information from the daily tour sheet during platform inspections or from the U.S. Coast Guard. The committee suggested the following revision:

e. Any equipment or material described in b. and c. above that is lost overboard and which meets the reporting requirements of Paragraph 4, "Identification of Subsea Objects," of OCS Order No. 1 shall be recorded on the daily tour sheet and reported to the U.S. Coast Guard District Commander in accordance with Paragraph 4.

Discussion

We do not agree with the commenters. We are aware that in some areas of the OCS, such as the North Atlantic, drilling debris have an impact on fishing devices. The phrase "* * * and which meets the reporting requirements of Paragraph 4" included in the revision suggested by the committee would exclude reporting of objects lost in water depths greater than 1,000 feet; this exclusion could pose a problem for bottom longline fishing and lobstering activities performed at depths greater than 1,000 feet.

We are also aware that some objects might not be recorded on the tour sheet based on the assumption that they do not have an impact on fishing devices. A report to the District Supervisor will help prevent that possibility and, in addition, will conclusively document site clearance in areas of the OCS which are sensitive to other uses. Therefore, we have not changed subparagraph 5e.

Comment

Two commenters indicated that the Fishermen's Contingency Fund would be sufficient to settle claims; therefore, the marking of equipment requirements would not be necessary.

Discussion

We do not agree. The purpose of the Fishermen's Contingency Fund is to settle claims for damages caused by items whose ownership could not be established. This intent is abundantly clear in the OCS Lands Act Amendments of 1978, section 403(c)(2), which states in part:

* * * no payment may be made by the Secretary from any area account established under this title—

(A) When the damage set forth in a claim was caused by materials, equipment, tools, containers, or other items attributable to a financially responsible party;

* * * * *

Therefore, it is mandatory that the Department of the Interior establish regulations requiring the marking of equipment in accordance with section 403(b) of the act.

Comment

One commenter indicated that it would not be necessary to mark equipment because OCS operators would prevent equipment from going overboard since such equipment is often more valuable than fishing nets. The commenter also indicated that it is a fallacy to assume that equipment (especially larger pieces of oilfield equipment and tubular goods) could be recovered in the nets "so that the MMS could point a finger at the guilty operator."

Discussion

We do not agree. The requirement to mark equipment to ascertain ownership was legislatively established. Experience has also demonstrated that costly equipment has been lost through error and inadvertance. Moreover, the marking requirement does not apply to tubular goods.

Therefore, we have revised Paragraph 5, *Marking of Equipment,* by incorporating the revisions submittted by commenters as stated in the preceding discussions.

Drafting Information

The primary authors of this document are Mario Rivero and Lloyd M. Tracey, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Mail Stop 646; Minerals Management Service; U.S. Department of the Interior; 12203 Sunrise Valley Drive; Reston, Virginia 22091; telephone (703) 860–7916 or FTS 928–7916.

Statement of Significance

The Department of the Interior has determined that this document does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, preparation of an environmental impact statement is not required.

The Department has determined that this document is not a major action under Executive Order 12291 because the economic impact anticipated as consequence of the cost of compliance (estimated to be approximately $2.2 million for the first year and approximately $550,000 for subsequent years) is considerably less than $100 million per annum.

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) because the entities affected by this document are not anticipated to include small entities.

Paperwork Reduction Act

The proposed revision of Paragraph 5, *Marking of Equipment,* published in the **Federal Register** on October 22, 1982 (47 FR 47088), did not contain information collection requirements. However, in response to the comments received, the final revision of paragraph 5 has been modified to require the submittal of marking conventions used by each lessee.

The information collection requirement contained in paragraph 5 of OCS Order No. 1 has been approved by the Office of Management and Budget under 44 U.S.C. 3501 et seq. and assigned clearance number 1010–0037. The information is being collected to compile a master list in each OCS Region. This information will be available to the public at the Public Information Office in each OCS Region to ascertain ownership of equipment in order to settle claims for damages caused by such equipment on the OCS. The obligation to respond is mandatory.

Dated: August 6, 1983.

David C. Russell,

Acting Director.

For the reasons set out in the preamble, Paragraph 5, *Marking of Equipment,* of OCS Order No. 1 is amended as shown.

(1) By revising paragraph 5 for all Regions to read as follows:

5. *Marking of Equipment.* Materials, equipment, tools, and containers that weigh more than 18 kilograms (40 pounds) and are of such shape or configuration that they are likely to snag or damage fishing devices, used on the OCS are to be properly color-coded, stamped, or labeled with the owner's identification in accordance with the requirements indicated in subparagraphs 5a through 5e. The marking convention used by lessees and their contractors shall be submitted by the lessees to the Regional Supervisor, Offshore Field Operations, prior to its use pursuant to this paragraph.

a. All loose material, small tools, and other small objects shall be kept in a marked container when not in use or before transport over open OCS waters.

b. All cable, chain, or wire segments shall be recovered after use and securely stored.

c. Skid-mounted equipment, portable containers, spools or reels, and drums shall be marked with the owner's name prior to use or transport over open OCS waters.

d. All markings shall clearly identify the owner and shall be durable enough to resist the effects of the environmental conditions to which they are exposed.

e. Any equipment or material described in b. and c. above that is lost overboard shall be recorded on the daily tour sheet and reported to the District Supervisor and to the U.S. Coast Guard District Commander in accordance with Paragraph 4, *Identification of Subsea Objects,* of OCS Order No. 1.

(2) By adding subparagraph f. in the Alaska, Atlantic, and Pacific OCS Regions to read as follows:

f. In addition, operators shall verify site clearance after abandonment by appropriate methods as approved by the District Supervisor. Operators will be advised of the specific survey requirements for the site prior to submittal of their Application for Approval to Abandon.

(3) By adding subparagraph f. in the Gulf of Mexico OCS Region to read as follows:

f. In addition, operators shall verify site clearance as stipulated in Notice to Lessees and Operators (NTL) No. 81–5, April 24, 1981.

(4) By adding subparagraph g. in the Alaska OCS Region to read as follows:

g. The above requirements do not apply to operations from gravel islands. Ice-access roads to gravel islands shall be cleared of all debris prior to the spring thaw.

(5) By adding subparagraph g. in the Atlantic, Gulf of Mexico, and Pacific OCS Regions to read as follows:

g. The information collection requirements contained in paragraph 1 of OCS Order No. 1 has been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1010–0037. The information is being collected to compile a master list of materials, equipment, tools, and containers used offshore. The information will be used to ascertain ownership of marked

equipment alleged to have caused damages. Response is mandatory.

(6) By adding subparagraph h. in the Alaska OCS Region to read as follows:

h. The information collection requirements contained in paragraph 1 of OCS Order No. 1 has been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1010–0037. The information is being collected to compile a master list of materials, equipment, tools, and containers used offshore. The information will be used to ascertain ownership of marked equipment alleged to have caused damages. Response is mandatory.

(43 U.S.C. 1334)

[FR Doc. 84-688 Filed 1-13-84; 8:45 am]
BILLING CODE 4310-MR-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 296

Wild and Scenic Rivers; Water Resources Projects

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: The Forest Service hereby establishes uniform standards and procedures by which the agency will consider consenting to construction of water resources projects on components of the Wild and Scenic Rivers System administered by the Secretary of Agriculture. The regulation is promulgated to fulfill an agreement made by the Department of Agriculture in the settlement and dismissal of a lawsuit in which plaintiffs challenged the process and legal interpretations utilized by the Secretary of Agriculture in complying with Section 7 of the Wild and Scenic Rivers Act. The proposed rule was published on September 2, 1981, at 46 FR 44007.

EFFECTIVE DATE: February 15, 1984.

FOR FURTHER INFORMATION CONTACT:

Lawrence W. Hill, Land Management Planning, USDA, Forest Service, P.O. Box 2417, Washington, D.C. 20013 (202) 382–8013; or

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SUPPLEMENTARY INFORMATION: Section 7 of the Wild and Scenic Rivers Act (16 U.S.C. 1278) requires approval by the administering Secretary of any water resources project on any wild and scenic river or on any river designated to be studied for inclusion in the Wild and Scenic Rivers System. This regulation provides a procedure to assist Federal agencies in securing compliance with the requirements of Section 7 in the licensing or other authorization of water resources projects proposed for construction on those Wild and Scenic Rivers or Study Rivers under the jurisdiction of the Secretary of Agriculture. The regulation establishes standards for determining the applicability of Section 7 requirements to particular projects.

The scope and application of Section 7 of the Wild and Scenic Rivers Act was the subject of the lawsuit, *National Wildlife Federation et al.* v. *Bergland*, Civil Action No. 80–1780, U.S.D.C., Dist. of Columbia. In that suit, the plaintiffs challenged the process and legal interpretations utilized by the Secretary of Agriculture in making a Section 7 determination for a water resources project on the Skagit Wild and Scenic River. As part of a Stipulation of Settlement and Dismissal of the lawsuit, the Department of Agriculture agreed to undertake and complete rulemaking on the scope and application of Section 7.

The standards and procedures embodied in this regulation apply only to Wild and Scenic Rivers or Study Rivers administered by the Secretary of Agriculture. Various components and study rivers in the National Wild and Scenic Rivers System are under the jurisdiction of the Department of the Interior and that Department may provide differing procedures for carrying out its responsibilities under Section 7. A list of rivers affected by this regulation as of this date is included as Appendix A.

Regulatory and Environmental Impacts

This final rule has been reviewed under Executive Order 12291, and it has been determined that this regulation is not a major rule. The regulation will have little or no effect on the economy. Section 7 of the Wild and Scenic Rivers Act only applies to Federal agencies, and this regulation streamlines and clarifies for the first time the congressionally mandated review requirements of Section 7. Because the regulation is essentially procedural and applicable only directly to Federal agencies, the regulation will not adversely affect competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete on the foreign market. There are no alternatives to the issuance of a regulation since that is required by the order of a Federal court. Additionally, by better defining the scope of Section 7 through this regulation, the consideration of Wild and Scenic River resources can be better integrated into agency planning and environmental analyses of water resources projects. This should assist planners in identifying management strategies that maximize net benefits.

The Assistant Secretary of Agriculture for Natural Resources and Environment has determined that this action will not have a significant economic impact on a substantial number of small entities because it is principally a procedural regulation applicable to other agencies of the Federal Government and does not directly affect the private sector. Furthermore, the regulation does not result in additional procedures or paperwork not already required by the National Environmental Policy Act or other provisions of law. The issuance of this regulation has been determined not to constitute a major federal action significantly affecting the quality of the human environment. Therefore, an environmental statement has not been prepared.

Consideration of Public Comments

The proposed rule was published September 2, 1981, in the **Federal Register** (46 FR 44007). A period of 30 days was provided for receipt of comments. Comments received later were considered to the extent possible. Comments were received from numerous sources including Federal and State agencies, industry representatives, utilities, and private nonprofit organizations. All comments were considered in the preparation of the final rule. A summary of the major comments and our response follows.

1. Preamble and Section 296.1, General

Several comments challenged introductory statements pertaining to the regulatory impact of the regulation. The regulation does fall under the review requirements of Executive Order 12291; however, it will not have an annual effect on the economy exceeding $100 million, result in a major increase in costs for the private and public sectors, or adversely affect competition or employment. The restrictions and prohibitions to be implemented by this regulation are directly imposed by Section 7 of the Wild and Scenic Rivers Act, 16 U.S.C. 1278. The regulation will not impose costs or additional burdens not already required by the statute. The object of this regulation is to streamline and clarify a process to facilitate compliance with the statutory requirement.

Several respondents asserted that the regulation should not and cannot apply to private land. The regulation is not directed to private land, but rather to Federal assistance in the construction of water resources projects. Federal assistance may go to projects on both private and public lands.

2. Section 296.2, Scope and Application

Two respondents questioned the nonapplication of this regulation to rivers administered by the Department of the Interior. Quite clearly, Section 7 of the Wild and Scenic Rivers Act gives the same authority to both the Secretaries of Agriculture and the Interior for rivers under their respective jurisdiction. The Department of the Interior was not a party to the litigation wherein the Department of Agriculture agreed to promulgate regulations, and the former Department is, therefore, not obligated to issue such regulations. The Department of the Interior was consulted on this regulation, and that Department may adopt the regulation in whole or part in administering its Section 7 responsibilities. Several persons suggested that a list of affected rivers be published with an indication of the administering Department. Such a list is provided as Appendix A.

One comment suggested that the regulation be subject to any interstate compacts or established river basin commission. The intent and purposes of such compacts and commissions are important management considerations, and the Wild and Scenic Rivers Act at Section 13(e) is made expressly subject to such compacts. However, this should not affect the Department's responsibilities to review Federal assistance to water resources projects.

3. Section 296.3, Definitions

By far the largest number of comments pertained to the definition section. One issue concerns the application of section 7 restrictions to preliminary permits issued by the Federal Energy Regulatory Commission (FERC). The Departments of Agriculture and the Interior have consistently held that any activity authorized by the FERC that could affect the free-flowing characteristics of a Wild and Scenic or Study River is subject to Section 7. Furthermore, the administering Secretary is responsible for assessing the impacts of such activities on Wild and Scenic River values. Accordingly, the definition at § 296.3(a)(1), as it pertains to the FERC, is unchanged.

Numerous persons suggested changes to the definition of "water resources projects." We have adopted the suggestion that the definition should more closely parallel the actual language of Section 7 to include any "dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act." A "water resources project" is still principally defined as construction that affects the free-flowing characteristics of the river. We also summarized the statutory definition of "free-flowing" in a new definition.

Some comments suggested that the definition of "construction" is too broad since it could potentially cover such activities as timber harvesting. Timber harvesting or similar activities would not be subject to Section 7 review unless some obstruction or other modification of the free-flowing river characteristics were a result, and such activity was done pursuant to a Federal permit or other Federal authorization or assistance. Accordingly, the definition of "construction" is unchanged.

It was suggested that the definition of "Wild and Scenic River" and "Study River" may be unclear since the protected area also includes adjacent riparian land areas. The definitions have been modified to reflect the entire land area covered by Wild and Scenic River or Study River designations. The "Study River" definition was also modified to reflect the terminable status of study designations, if Congress fails to act for a period of 3 years after a study report recommending designation is submitted to the Congress.

4. Section 296.4, Requirements for Federal Agencies

This section was incorrectly numbered in the proposed rule as § 295.4, and that numbering has been corrected. The major substantive comments dealt with the provisions of subsection (b) requiring a Federal agency to submit to the Secretary a notice of intention to issue a license, permit, or other authorization within 60 days of the proposed date of action. Respondents were concerned that this requirement could result in unnecessary delay and duplication of other procedural requirements. One reviewer suggested that the procedure for Section 7 review be tied with those time periods required for agency review and action under existing regulations of the Council on Environmental Quality.

The process of a 60-day prior notice to the Secretary is designed to ensure that the Secretary has some reasonable time to review the proposed action. The 60-day period was not intended to interfere with other review processes nor to add a layer of review separate and apart from other reviews and consultations required by law. In response to these comments, we have revised the regulation so that an authorizing agency shall notify the Department of Agriculture as soon as practicable in the project authorization process, but not later than 60 days prior to the proposed date of agency action. In this fashion, the Wild and Scenic River issues can be surfaced and resolved in the early stages of project development and governmental review processes. One reviewer suggested that the 60-day requirement might result in unreasonable delay in emergency situations such as road repairs. We have modified the requirement so that the Secretary will give expedited consideration in emergency situations.

5. Section 296.5, Determination

Section 296.5 deals with consent by the Department of Agriculture after receiving an agency's notice of intention to issue a permit, license, or other authorization for a water resources project. At the outset, it is important to clarify that the consent process as provided by this regulation is not intended as a new licensing or permitting requirement and thus does not add a new tier of permits and licenses that a project applicant must receive prior to initiating construction. Rather, the consent process is a finding of fact made by the Secretary of Agriculture that a proposed construction activity will not impair the values of a river under the criteria stated in Section 7 of the Act. Conditional consent or the withholding of consent results from a factual finding that the proposed construction activity will adversely affect wild and scenic river values under the statutory criteria.

As presently written, § 296.5 recognizes that Section 7 of the Wild and Scenic Rivers Act imposes different standards by which the impacts of projects are assessed depending upon the project's location relative to a Wild and Scenic River or Study River. Contrary to the views of some respondents, the proposed location of a project on private land within or outside the boundaries of a Wild and Scenic River does not preclude the legal requirement that the impacts of the project on wild and scenic river values be assessed. One reviewer expressed concern that to apply the Section 7 requirement to all projects above and below a designated Wild and Scenic River or Study River segment could mean that the requirements could apply to projects 100 miles or more downstream. There is no distance limitation in the Wild and Scenic Rivers Act, and it is a fact that distant projects

could directly affect a designated portion of rivers. For example, a dam could inundate a river valley for many miles or pose a barrier to migrating fish. Although the requirements of the Act do apply to such distant projects, it is recognized that generally the farther a project is from a designated portion of a river, the less likely it is that potential effects will unreasonably diminish river values.

The regulation has been reworded to accentuate when consent will be granted rather than when it will not be granted. The regulation has also been modified to correct an error in the proposed regulations. For projects above, below, and outside Study River boundaries, the standard prescribed by Section 7(b) of the Wild and Scenic Rivers Act is one of "diminishment" rather than "unreasonable diminishment." The latter standard applies only to designated Wild and Scenic Rivers rather than Study Rivers.

One reviewer suggested that the consent process stated in § 296.5 should specify criteria by which the determinations of direct and adverse impacts and diminishment of river values should be assessed. In our opinion, the formulation of specific guidelines as to what constitutes direct and adverse effects, or other impacts, would be extremely difficult and possibly counterproductive since every project and every river are different. Furthermore, the values for which a river may be designated a Wild and Scenic River may differ. In some cases, the Congress gives special considerations to one particular value, such as fisheries, which should in turn be given special consideration in any subsequent review of proposed water resource projects. Accordingly, such specific criteria are not included in this regulation.

6. Section 296.6, Environmental Analysis Requirements

The object of this Part is to ensure that from the outset impacts on Wild and Scenic Rivers are considered in any environmental statement or assessment. By integrating Wild and Scenic River issues into an environmental analysis, and by involving the Department of Agriculture in the process at an early stage, unnecessary delays and duplicative analysis can be avoided. Additionally, to the extent practicable, the findings of fact required by Section 7 should be combined and coordinated with other consultative requirements of law.

List of Subjects in 36 CFR Part 296

National Wild and Scenic Rivers System, Water resources.

For the reasons set forth in the preamble, a new Part 296, Wild and Scenic Rivers, Subpart A—Water Resources Projects, is hereby added to Chapter II of Title 36 of the Code of Federal Regulations to read as follows:

Dated: April 29, 1983.

John B. Crowell, Jr.,

Assistant Secretary for Natural Resources and Environment.

PART 296—WILD AND SCENIC RIVERS

Subpart A—Water Resources Projects

Sec.

296.1 General.
296.2 Scope and application.
296.3 Definitions.
296.4 Requirements for Federal agencies.
296.5 Determination.
296.6 Environmental analysis requirements.

Subpart B—[Reserved]

Authority: 16 U.S.C. 551, 1278(c), 1281(d).

§ 296.1 General.

Section 7 of the Wild and Scenic Rivers Act (16 U.S.C. 1278), as amended, provides for the protection of the free-flowing, scenic, and natural values of rivers designated as components or potential components of the National Wild and Scenic Rivers System from the effects of construction of any water resources project.

§ 296.2 Scope and application.

These rules apply to Federal assistance in the construction of water resources projects affecting Wild and Scenic Rivers or Study Rivers administered in whole or part by the Secretary of Agriculture.

§ 296.3 Definitions.

"Act" means the Wild and Scenic Rivers Act (82 Stat. 906, as amended; 16 U.S.C. 1271–1288).

"Construction" means any action carried on with Federal assistance affecting the free-flowing characteristics or the scenic or natural values of a Wild and Scenic River or Study River.

"Federal assistance" means any assistance by an authorizing agency including, but not limited to, the following:

(a) A license, permit, preliminary permit, or other authorization granted by the Federal Energy Regulatory Commission pursuant to sections 4(e) and 4(f) of the Federal Power Act, 16 U.S.C. 797;

(b) A license, permit, or other authorization granted by the Corps of Engineers, Department of the Army, pursuant to the Rivers and Harbors Act of 1899 (33 U.S.C. 401 *et seq.*), and Section 404 of the Clean Water Act (33 U.S.C. 1344); and,

(c) Any other license, permit, or authorization which may be required by an agency or Department of the Federal Government before, during, or after construction of a water resources project.

"Free-flowing" is defined by Section 16(b) of the Act as "existing or flowing in natural condition without impoundment, diversion, straightening, riprapping, or other modification of the waterway" (16 U.S.C. 1287(b)).

"Study Period" means the time during which a river is being studied as a potential component of the Wild and Scenic Rivers System and such additional time as provided in Section 7(b)(ii) of the Act not to exceed 3 additional years during which a report recommending designation is before the Congress, or such additional time as may be provided by statute.

"Study River" means a river and the adjacent area within one quarter mile of the banks of the river which is designated for study as a potential addition to the National Wild and Scenic Rivers System pursuant to Section 5(a) of the Act.

"Water Resources Project" means any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act (41 Stat. 1063) as amended, or other construction of developments which would affect the free-flowing characteristics of a Wild and Scenic River or Study River.

"Wild and Scenic River" means a river and the adjacent area within the boundaries of a component of the National Wild and Scenic Rivers System pursuant to section 3(a) or 2(a)(ii) of the Act.

§ 296.4 Requirements for Federal agencies.

(a) No license, permit, or other authorization can be issued for a Federally assisted water resources project on any portion of a Wild and Scenic River or Study River nor can appropriations be requested to begin construction of such projects, without prior notice to the Secretary of Agriculture, and a determination in accordance with Section 7 of the Act.

(b) As soon as practicable, but no less than 60 days prior to the date of proposed action, the Federal agency shall provide a notice of intent to issue such license, permit, or other authorization to the Chief, Forest

Service, U.S. Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013. The Secretary will, to the extent possible, give expedited consideration to a notice of intent for a project needed to address an emergency situation.

(c) The notice shall include the following information:

(1) Name and location of affected river;

(2) Location of the project;

(3) Nature of the permit or other authorization proposed for issuance;

(4) A description of the proposed activity; and

(5) Any relevant information, such as plans, maps, and environmental studies, assessments, or environmental impact statements.

§ 296.5 Determination.

(a) The Secretary of Agriculture will consent to the issuance of any Federal license, permit, or other authorization if, as a finding of fact, it is determined that:

(1) The water resources project will not have a direct and adverse effect on the values for which a Wild and Scenic River or Study River was designated, when any portion of the project is within the boundaries of said river, or;

(2) The effects of the water resources project will neither invade nor unreasonably diminish the scenic, recreational, and fish wildlife values of a Wild and Scenic River, when any portion of the project is located above, below, or outside the Wild and Scenic River, or;

(3) The effects of the water resources project will neither invade nor diminish the scenic, recreational, and fish and wildlife values of a Study River when the project is located above, below, or outside the Study River during the study period.

(b) If consent is denied, the Secretary may recommend measures to eliminate adverse effects, and the authorizing agencies may submit revised plans for consideration.

§ 296.6 Environmental analysis requirements.

(a) The determination of the effects of a proposed water resources project shall be made in compliance with the National Environmental Policy Act (NEPA). To the extent possible, authorizing agencies should ensure that any environmental studies, assessments, or environmental impact statements prepared for a water resources project adequately address the environmental effects on resources protected by the Wild and Scenic Rivers Act, and that the Department of Agriculture is apprised of ongoing analyses so as to facilitate coordination and identification of Wild and Scenic River related issues.

(b) To the extent practicable, impacts on Wild and Scenic River values will be considered in the context of other review procedures provided by law. Authorizing agencies are encouraged to consult with the Forest Service in order to identify measures which could eliminate any direct and adverse effects, thereby increasing the likelihood of securing consent.

Appendix

List of Wild and Scenic Rivers and Study Rivers Wholly or in Part Under the Jurisdiction of the Secretary of Agriculture

Editorial Note.—The following Appendix will not appear in the Code of Federal Regulations.

Wild and Scenic Rivers

Clearwater, Middle Fork, Idaho
Eleven Point, Missouri
Feather, Middle Fork, California
Rio Grande (In Part), New Mexico
Rogue (In Part), Oregon
Salmon, Middle Fork, Idaho
Salmon, Idaho
Chattooga, North Carolina, South Carolina, Georgia
Rapid, Idaho
Snake, Idaho and Oregon
Flathead (In Part), Montana
Pere Marquette, Michigan
Skagit, Washington
American, North Fork (In Part), California
Saint Joe, Idaho

Study Rivers

Priest, Idaho
Moyie, Idaho
Illinois, Oregon
Encampment, Colorado
Piedra, Colorado
Conejos, Colorado
Elk, Colorado
Los Pinos, Colorado
Dolores (In Part), Colorado
Clarks Fork, Wyoming
Au Sable, Michigan
Mainstee, Michigan
Tuolumne (In Part), California
Snake (In Part), Wyoming
Cache la Poudre, Colorado
Sipsey Fork, Alabama
Salt, Arizona
Verde, Arizona
San Francisco (In Part), Arizona
Kern, North Fork, California
Black Creek, Mississippi
Red, Kentucky
Allegheny, Pennsylvania
Greenbrier, West Virginia
Situk, Alaska
Salmon (In Part), Idaho

[FR Doc. 84-828 Filed 1-16-84; 8:45 am]
BILLING CODE 3410-11-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 2507-2]

Appoval and Promulgation of Implementation Plans; Illinois

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Final rulemaking.

SUMMARY: USEPA announces disapproval of a revision to the Illinois State Implementation Plan (SIP) for TSP. The revision pertains to an alternative control strategy for Granite City Steel Division of National Steel. USEPA's action is based upon a revision which was submitted by the State to satisfy the requirements of Part D of the Clean Air Act (Act).

EFFECTIVE DATE: This final rulemaking becomes effective on February 15, 1984.

ADDRESSES: Copies of the SIP revision, public comments on the notice of proposed rulemaking and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Randolph O. Cano at (312) 886-6035 before visiting the Region V Office).

U.S. Environmental Protection Agency, Air and Radiation Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

Illinois Environmental Protection Agency, Division of Air Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Air and Radiation Branch (5AR-26), Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886-6035.

SUPPLEMENTARY INFORMATION: On December 17, 1982, at 47 FR 56516, the USEPA published a notice of proposed rulemaking (NPR) on the incorporation of an alternative control strategy (ACS) or "bubble" into the Illinois SIP. This ACS was developed for Granite City Steel (GCS), a division of National Steel. In the NPR, USEPA proposed to approve this ACS for Granite City Steel as meeting the requirements of USEPA's proposed Emissions Trading Policy Statement (ETPS), published on April 7, 1982, at 47 FR 15076. Subsequently, on February 16, 1983, at 48 FR 7210, USEPA published a supplemental notice of proposed rulemaking in which it announced the availability of a short-term ambient equivalence demonstration, presented its review of

this demonstration, and solicited public comments. USEPA stated that during the comment period for the second notice it would accept comments on all elements of the proposed SIP revision for GCS.

USEPA received numerous comment letters in response to these notices. Most of the comments received did not raise technical issues but cited economic benefits of the GCS ACS. USEPA cannot consider comments relating to the economic benefits of a proposed SIP revision if the proposed revision does not protect the National Ambient Air Quality Standards (NAAQS) and conform to the ETPS. Two commenters, Citizens for a Better Environment (CBE) and National Steel, offered substantive comments that required a technical response. The National Steel comment letter which was dated April 4, 1983, responded to the issues raised in the comment letter from CBE. Despite the fact that this National Steel comment letter was received after the close of the public comment period, it was considered by USEPA in the development of its final rulemaking. The technical issues contained in the public comments received and the USEPA responses are presented in summary form within this final rulemaking. A more detailed presentation of the issues is contained in the technical support document on this final rule which is available for inspection at the USEPA Region V Office listed in the front of the **Federal Register** notice.

Comment (from CBE): National Steel diluted the casthouse ambient impact when it entered into the Industrial Source Complex (ISC) model an emission rate which is appropriate for area sources and then ran the model with volume source equations. This resulted in great underestimates of predicted TSP concentrations from the casthouse. Also, National Steel assumed that only 26 percent of the particulate emissions from the casthouse are less than 30 μm in diameter. This assumption is incorrect and results in diminished TSP predicted concentrations downwind from the casthouse. USEPA and steel industry data indicate that the majority of the casthouse emissions are less than 30 μm. These errors raise serious questions about whether the ACS will indeed result in a net air quality improvement at the receptor sites in the area.

USEPA Response: USEPA has examined the modeling performed by GCS, and agrees that the input of an improper casthouse emission rate into the ISC model resulted in a severe underestimate of predicted TSP concentrations. National Steel has acknowledged this error and has redone the analysis. Its revised runs predict increases in TSP concentrations of greater than 10 $\mu g/m^3$ on certain days and at certain receptors. USEPA also performed an analysis which used a particulate size distribution for the casthouse comparable to that used in a previous study for a similar source in Ohio. This analysis predicted substantial increases in TSP concentrations over the levels achievable by the implementation of RACT. Therefore, the Granite City Steel ACS, in its present form, does not conform to the requirements of an ambient equivalence demonstration as discussed in USEPA's proposed ETPS and clarifying memorandum (February 17, 1983, "Emission Trading Policy—Technical Clarifications"). Without a demonstration that the greater-than-RACT level emissions from the casthouse do not significantly contribute to periods of violation of the TSP NAAQS, USEPA must disapprove the ACS.

Comment (from National Steel): GCS has corrected the errors in the modeling analysis. The reanalysis shows that the ACS impact was less than the RACT impact on 96 percent of the days/receptors modeled in the screening analysis. The ACS impact exceeded the RACT impact by more than 10 $\mu g/m^3$ on a 24-hour basis (the significance level specified in the proposed ETPS) on only 0.3 percent of the days/receptors modeled in the screening analysis. Further, almost all of the exceedances occurred in an area consisting primarily of railroad right-of-way which is virtually surrounded by plant property and is generally inaccessible to the public. The ACS offers significantly improved TSP air quality as compared to the RACT case and USEPA should promulgate final approval of GCS's ACS.

USEPA Response: The GCS analysis results indicate that the ACS does not meet the ambient tests specified in USEPA's proposed ETPS for "Level II" analysis. That is, the modeling predicts a significant (i.e., greater than 10 $\mu g/m^3$) increase in TSP concentrations on certain days and at certain receptors over the RACT baseline levels. Consequently, the ACS cannot be approved because Illinois has not demonstrated ambient equivalence to the RACT baseline at the proposed ACS casthouse emission levels. It is also noted that GCS has not provided support for the particle size distributions assumed in their analysis.

USEPA also notes that the GCS analysis results indicate a significant ambient air impact at one receptor in a location accessible to the public and not on the railroad right-of-way. USEPA cannot ignore this modeling result which indicates a failure of the ACS to meet the ambient equivalence test.

Comment (from CBE): USEPA may not approve SIP relaxations in areas which lack fully approved plans that are adequate to attain and maintain national ambient air quality standards.

USEPA Response: Whether or not USEPA can approve bubbles where emission limits are relaxed for some sources and made more stringent for other sources, in areas which lack fully approved plans, is now being considered by USEPA in the context of the proposed ETPS. EPA has solicited public comments on this issue on August 31, 1983 (48 FR 39580). Since the GCS ACS is being disapproved for other reasons, this issue need not be addressed at this time.

Comment (from CBE): The uncontrolled emission factor that USEPA used for blast furnace casthouses is too low. USEPA should have used 0.6 lb/ton of hot metal as given in AP–42, Supplement 11 [Compilation of Air Pollution emissions Factors (USEPA, Office of Air Quality Planning and Standards, Research Triangle Park, N.C.)] instead of 0.5 lb/ton.

USEPA Response: USEPA has reviewed the data and approach it used to determine a representative emission factor for uncontrolled casthouse particulate emissions. USEPA has concluded that a factor of 0.6 lb/ton of hot metal is preferable to the 0.5 lb/ton factor, because the method used to determine the 0.6 figure is consistent with the method used to determine the other fugitive particulate emission factors for the iron and steel industry. Even using the emission factor most favorable to GCS this proposed SIP revision cannot be approved since GCS does not have sufficient emission reduction credits to allow this ACS.

Comment (from CBE): The commenter argues that the U.S. Court of Appeals, Seventh Circuit, in its review of USEPA's approval of Illinois Pollution Control Board (IPCB) Rule 203(f), provided a test for determining if the operating program chosen to control fugitive emissions is sufficient to "significantly reduce" these emissions as required by the rule. The commenter claimed that the Seventh Circuit defined "significantly reduce" to mean that "a greater reduction could [not] be achieved by use of another operating program." The commenter argues that USEPA must reject any proposal which

would give a company credit for reducing open source fugitive dust levels, since all such reductions should be required under Rule 203(f).

The commenter also argues, though less directly, that paving and dust suppressant application are reasonably available and cost-effective control techniques that would provide greater emission reduction than a program of watering which USEPA determined was the minimum requirement of the rule.

USEPA Response: USEPA has reviewed the Seventh Circuit's decision and disagrees with the commenter that the Court set forth a test by which a control program must be measured to determine if it is RACT. Instead, the Court addressed only the issue of the rule's enforceability. In the portion of the decision cited by the commenter, the Court is stating only that the standard of "significant reduction" constitutes a standard of performance that is susceptible to proof and is, therefore, enforceable. The Court discussed the "greater reduction" criterion only as a possible example of such proof.

GCS came forward to the State with the ACS program that it claimed would provide emission reductions in excess of those required by the SIP control program already approved by the State for the GCS plant under Rule 203(f). The commenter agrued that since certain control techniques such as paving are more effective than others listed under the rule, they should be considered RACT. However, USEPA has determined that the site-specific factors that warrant consideration of different control techniques under the rule must be brought to bear by the State or source in a demonstration that any alternative program for which emission trading credits are sought does in fact offer emission reductions greater-than-RACT.

In this case, no such demonstration or plant-specific information regarding the cost-effectiveness of the alternative control program was submitted by the State or the company to allow USEPA to determine whether it meets the definition of RACT or goes beyond the RACT requirement and therefore provides potential emission reduction credit. Consequently, USEPA has determined that it is not possible to consider the ACS as a program which provides for emission reductions beyond those required by RACT.*

USEPA Final Determination: Because of comments made by the public interest group, deficiencies have been found in this proposed SIP revision which make it unapprovable. Major errors were discovered in the modeling analysis that was made available to the public on February 18, 1983. Subsequent corrected modeling fails to demonstrate the ambient equivalence required by the proposed ETPS. Also, USEPA has reconsidered the 50 percent control assumption used as the RACT baseline for the road dust credit determination. USEPA has determined that in the absence of site-specific information including costs of implementing various strategies, USEPA has no way of determining what is an appropriate RACT-level of control or whether an emission reduction credit is provided by the ACS. Without such information, USEPA would have to conclude that the level of fugitive control provided by an ACS is RACT, as long as the ACS includes fugitive control measures listed in Rule 203(f). For these reasons, USEPA disapproves the Granite City Steel ACS.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to USEPA, and any USEPA response, are available for public inspection at the USEPA Region V office listed above.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 16, 1984. This action may not be challenged later in proceedings to enforce its requirements. [See 307(b)(2).]

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

(Secs. 110 and 172, Clean Air Act, as amended (42 U.S.C. 7410 and 7502)

Dated: January 6, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart D—Illinois

Title 40 of the Code of Federal Regulations, Chapter I, Part 52 is amended as follows:

Section § 52.725 is amended by adding paragraph (b)(3) as follows:

§ 52.725 Control Strategy: Particulates.

* * * * *

(b) Part D—Disapproval * * *

(3) USEPA disapproves a proposed SIP revision submitted by the State on May 12, 1982, in the form of a May 18, 1981 Consent Decree (Civil Action 81–3009) to which USEPA, Illinois Environmental Protection Agency and National Steel Corporation are parties and a draft Alternative Control Strategy Permit. This submission was modified by the State, September 30, 1982, with the submission of a separate document embodying the elements of the Alternative Control Strategy. This separate document was intended to become an enforceable part of the SIP.

* * * * *

[FR Doc. 84–1040 Filed 1–13–84; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 60

[A–2–FRL 2506–4]

Standards of Performance for New Stationary Sources; Delegation of Authority to the State of New Jersey

AGENCY: Environmental Protection Agency.

ACTION: Notice of Delegation of Authority.

SUMMARY: This notice announces the delegation of authority by the Environmental Protection Agency to the State of New Jersey to implement and enforce additional source categories of the Standards of Performance for New Stationary Sources (NSPS). This delegation was requested by the New Jersey Department of Environmental Protection (NJDEP).

NSPS is an air pollution control requirement set under the Clean Air Act. NSPS are applicable to certain categories of new air pollution sources.

EFFECTIVE DATE: This action was effective September 30, 1983.

FOR FURTHER INFORMATION CONTACT: Francis W. Giaccone, Chief, Air Compliance Branch, Air & Waste Management Division, Region II Office, 26 Federal Plaza, New York, New York 10278 (212) 264–9627.

SUPPLEMENTARY INFORMATION: Section 111(c) of the Clean Air Act directs the Administrator of the Environmental Protection Agency (EPA) to delegate EPA's authority to implement and enforce Standards of Performance for New Stationary Sources (NSPS) to any state which has submitted adequate procedures. Nevertheless, the Administrator still retains concurrent

* USEPA believes that is was incorrect to assume, as it did in the proposed rulemaking, that watering was the minimum RACT requirement of Rule 203(f). In approving that the rule, USEPA was affirming that RACT for open dust sources is represented by a range of control techniques from which an appropriate program must be formulated based on site-specific considerations.

authority to enforce the standards following delegation of authority to a state.

On May 20, 1983 the Commissioner of the New Jersey Department of Environmental Protection (NJDEP) requested that the EPA delegate to the Department the authority to implement and enforce certain additional source categories of NSPS. The following is a complete listing of NSPS delegated to the NJDEP. The source categories now being delegated by today's action are identified with an asterisk (*).

D Fossil-Fuel Fired Steam Generators for Which Construction Commenced After August 17, 1971 (Steam Generators and Lignite Fired Steam Generators
Da Electric Utility Steam Generating Units for Which Construction Commenced After September 18, 1978
E Incinerators
F Portland Cement Plants
G Nitric Acid Plants
H Sulfuric Acid Plants
I Asphalt Concrete Plants
J Petroleum Refineries—(All categories)
K Storage Vessels for Petroleum Liquids Constructed After June 11, 1973, and prior to May 19, 1978
Ka Storage Vessels for Petroleum Liquids Constructed After May 18, 1978
L Secondary Lead Smelters
M Secondary Brass and Bronze Ingot Production Plants
N Iron and Steel Plants
O Sewage Treatment Plants
P Primary Copper Smelters
Q Primary Zinc Smelters
R Primary Lead Smelters
S Primary Aluminum Reduction Plants
T Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants
U Phosphate Fertilizer Industry: Superphosphoric Acid Plants
V Phosphate Fertilizer Industry: Diammonium Phosphate Plants
W Phosphate Fertilizer Industry: Triple Superphosphate Plants
X Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities
Y Coal Preparation Plants
Z Ferroalloy Production Facilities
AA Steel Plants: Electric Arc Furnaces
BB Kraft Pulp Mills
CC Glass Manufacturing Plants
DD Grain Elevators
*EE Surface Coating of Metal Furniture
GG Stationary Gas Turbines
HH Lime Manufacturing Plants
KK Lead Acid Battery Manufacturing Plants
MM Automobile and Light-Duty Truck Surface Coating Operations
NN Phosphate Rock Plants
PP Ammonium Sulfate Manufacturing Plants
*QQ Graphic Arts Industry: Publication Rotogravure Printing
*SS Industrial Surface Coating: Large Appliances
*UU Asphalt Processing and Asphalt Roofing Manufacture

EPA's Findings

EPA's determination that the delegation request be approved was based on the Agency's review of the New Jersey Air Pollution Control Act, N.J.S.A. 26:2C; the State Public Records Act, N.J.S.A. 47:1A–1; and Title 7, Chapters 27 and 27B of the New Jersey Administrative Code. EPA determined that such delegation is, therefore, appropriate and so notified the Commissioner of the DEP in a letter dated September 15, 1983. NJDEP subsequently accepted delegation in a letter dated September 30, 1983. The letter of acceptance also requested the inclusion of an additional condition (dealing with citizen requests for information) which has been granted and included in a letter of final delegation conditions dated November 23, 1983. Copies of all correspondence and EPA's delegation letter are available for public inspection in the Office of the Air Compliance Branch at the Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278.

Consequences of EPA's Action

Effective September 30, 1983, all correspondence, reports and notifications required by the delegated NSPS should be submitted to the Offices of the New Jersey Department of Environmental Protection, Bureau of Air Pollution Control Operations, Division of Environmental Quality at John Fitch Plaza—CN–027, Trenton, New Jersey 08625.

The Office of Management and Budget has exempted this action from the requirements of Section 3 of Executive Order 12991.

This Notice is issued under the authority of Section 111 of the Clean Air Act, as amended (42 U.S.C. Section 7411).

Dated: December 20, 1983.

Jacqueline E. Schafer,

Regional Administrator.

[FR Doc. 84–1031 Filed 1–13–84; 8:45 am]

BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 1–6

[FPR Amdt. 237]

Purchases Under the Trade Agreements Act of 1979

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: This amendment of the Federal Procurement Regulations (FPR) implements a Determination regarding Israel made by the United States Trade Representative pursuant to the Trade Agreements Act of 1979 and the International Agreement on Government Procurement. Israel is added to the list of countries whose products have been exempted from certain requirements of the Buy American Act. The bases for the amendment are the referenced Act and the Agreement.

EFFECTIVE DATE: This regulation is effective for all solicitations with bid opening or proposal receipt dates on or after June 29, 1983.

FOR FURTHER INFORMATION CONTACT: William B. Ferguson, Director, Office of Federal Acquisition and Regulatory Policy (202–566–1043).

SUPPLEMENTARY INFORMATION: The designation of Israel is effective June 29, 1983. Contracting Officers shall make awards to offerors furnishing Israeli products in response to solicitations with bid opening or proposal receipt dates on or after June 29, 1983, if they are otherwise eligible for award. It is not necessary for contracting officers to cancel and resolicit for purposes of allowing competition by firms offering Israeli products. Firms offering Israeli products in response to solicitations with bid opening or proposal receipt dates before June 29, 1983, shall continue to be ineligible for award under those procurements.

The Buy American Act, subject to certain exclusions, has been waived by the President for eligible products originating in designated countries meeting the requirements under Section 301(b) of the Trade Agreements Act of 1979. The waiver is effective when the total price paid for a product is equal to or more than the dollar threshold specified by the United States Trade Representative (now $169,000. The Buy American Act continues to apply to purchases of products that are not eligible products and to procurements which fall below the dollar threshold of the Trade Agreements Act of 1979.

List of Subjects in 41 CFR Part 1–6

Foreign purchases, Government procurement.

Therefore, 41 CFR Chapter 1, is amended as follows:

PART 1–6—FOREIGN PURCHASES

Subpart 1–6.16—Purchases Under the Trade Agreements Act of 1979

1. The authority citation for 41 CFR Part 1 is:

Authority: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c).

2. Section 1–6.1612 is amended to add, in its proper alphabetical sequence, a new designated country as follows:

§ 1–6.1612 Designated countries.

* * * * *

Israel |

* * * * *

Dated: January 3, 1984.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 84–815 Filed 1–13–84; 8:45 am]

BILLING CODE 6820–61–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6583]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the flood plain management requirements of the program. If FEMA receives documentation that the community has adopted the required flood plain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATES: The third date ("Susp.") listed in the fourth column.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 287–0222, 500 C Street, Southwest, FEMA—Room 509, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain mangement measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fourth column, so that as of that date flood insurance is no longer available in the community. However, those communities which, prior to the suspension date, adopt and submit measures documentation of legally enforceable flood plain management measures required by the program, will continue their eligibility for the sale of insurance. Where adequate documentation is received by FEMA, a notice withdrawing the suspension will be published in the **Federal Register**.

In addition, the Director of Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended.) This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that notice and public procedure under 5 U.S.C. 533(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required flood plain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in Section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in noncompliance of the Federal standards required for community participation. In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified	Date certain Federal assistance no longer available in special flood hazard areas
Region II					
New York: Genesee	Corfu, village of	361498A	Oct. 31, 1975, emergency, Jan. 16, 1984 suspended.	Jan. 16, 1976	Jan. 16, 1984
Region III					
Pennsylvania					
Blair	Blair, township of	421386A	Aug. 1, 1975, emergency, Jan. 16, 1984, regular, Jan. 16, 1984, suspended.	Nov. 22, 1974	Do.

State and county	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified	Date certain Federal assistance no longer available in special flood hazard areas
Butler	Buffalo, township of	421416B	July 7, 1975, emergency, Jan. 18, 1984, regular, Jan. 18, 1984, suspended.	Sept. 20, 1974 and Aug. 27, 1976	Do.
Alleghany	Fawn, township of	421285B	Feb. 20, 1975, emergency, Jan. 18, 1984, regular, Jan. 18, 1984, suspended.	Nov. 29, 1974 and Feb. 5, 1982	Do.
Blair	Newry, borough of	422333A	Mar. 10, 1976, emergency, Jan. 18, 1984, regular, Jan. 18, 1984, suspended.	Feb. 7, 1975	Do.
Chester	West Marlborough, township of	422279A	May 20, 1975, emergency, Jan. 18, 1984, regular, Jan. 18, 1984, suspended.	Dec. 13, 1974	Do
West Virginia: Ohio	Triadelphia, town of	540150B	July 16, 1975, emergency, Jan. 18, 1984, regular, Jan. 18, 1984, suspended.	Feb. 8, 1974 and Aug. 27, 1976	Do.
Mingo	Williamson, city of	540138C	Apr. 2, 1975, emergency, Jan. 18, 1984, regular, Jan. 18, 1984, suspended.	May 31, 1974, Sept. 24, 1976, and Jan. 16, 1981.	Do.
Region IV					
Florida: Sarasota	Venice, city of	125154C	Aug. 29, 1970, emergency, Jan. 18, 1984 regular, Jan. 18, 1984 suspended.	July 31, 1971, July 1, 1974, Feb. 20, 1976, and Aug. 15, 1980.	Do.
North Carolina: Haywood	Hazelwood, township of	370123B	Nov. 2, 1974, emergency, Jan. 6, 1983, regular, Jan. 18, 1984, suspended.	Mar. 8, 1974, Aug. 27, 1976, and Jan. 6, 1983.	Do.
Region V					
Indiana: Posey	Mount Vernon, city of	180389B	Jan. 31, 1975, emergency, Jan. 18, 1984, regular, Jan. 18, 1984, suspended.	Feb. 1, 1974 and July 30, 1976	Do.
Miami	Peru, city of	180168B	June 13, 1975, emergency, Jan. 18, 1984, regular, Jan. 18, 1984, suspended.	Jan. 16, 1974 and Oct. 11, 1978	Do.
Wabash	Wabash, city of	180271C	Oct. 28, 1975, emergency, Jan. 18, 1984, regular, Jan. 18, 1984, suspended.	June 7, 1974, July 30, 1976, and Oct. 12, 1979.	Do.
Michigan: Oakland	Highland, township of	260650A	Nov. 24, 1975, emergency, Jan. 18, 1984, regular, Jan. 18, 1984, suspended.	Jan. 18, 1984	Do.
Wisconsin: Rock	Evansville, city of	5503668	Feb. 5, 1975, emergency, Jan. 18, 1984, regular, Jan. 18, 1984, suspended.	June 14, 1974 and May 14, 1976	Do.
Waukesha	Lac La Belle, village of	5505658	May 25, 1976, emergency, Jan. 18, 1984, regular, Jan. 18, 1984, suspended.	Jan. 31, 1975 and Sept. 21, 1979	Do.
Waukesha	Pewaukee, village of	550489	Mar. 24, 1975, emergency, June 15, 1982, regular, Jan. 18, 1984, suspended.	June 15, 1982	Do.
Columbia	Wyocena, village of	550066C	May, 22, 1975, emergency, Jan. 18, 1984, regular, Jan. 18, 1984, suspended.	May 12, 1974, Oct. 10, 1975, and Jan. 26, 1979.	Do.
Region VI					
Louisiana: Caddo Parish	Shreveport, city of	220036	May 10, 1973, emergency, Jan. 18, 1984, regular, Jan. 18, 1984, suspended.	Jan. 3, 1975 and Jan. 9, 1976	Do.
New Mexico: Dona Ana	Las Cruces, city of	355332D	July 24, 1970, emergency, June 11, 1971, regular, Jan. 18, 1984, suspended.	June 11, 1971, July 1, 1974, July 15, 1976, May 6, 1977, and Jan. 12, 1982.	Do.
Region VII					
Missouri: Callaway	Cedar City, city of	2900508	Sept. 18, 1974, emergency, Feb. 2, 1977, regular, Jan. 18, 1984, suspended.	Oct. 18, 1974 and Feb. 2, 1977	Do.

(National Flood Insurance Act of 1968 (title XIII, Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Administrator, Federal Insurance Administration)

Issued: January 9, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84-1044 Filed 1-13-84; 8:45 am]

BILLING CODE 6718-01-M

Proposed Rules

Federal Register
Vol. 49, No. 10
Monday, January 16, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

United States Standards for Grades of Carrots for Processing

Correction

In FR Doc. 84–131 beginning on page 603 in the issue of Thursday, January 5, 1984, make the following corrections:

1. On page 603, column two, **SUPPLEMENTARY INFORMATION,** line four, "12191" should read "12291".

2. On the same page, column two, **SUPPLEMENTARY INFORMATION,** paragraph two, line five, "impart" should read "impact".

3. On the same page, column three, line three should read, "their cooperation, a "Market Survey" ".

4. On the same page, column three, paragraph designated as "(2)", line six, "contacts" should read "contracts" and in line seven "the" should read "that".

PART 51—[AMENDED]

5. On the same page, column three, amendatory language, second line from the bottom, a closed parenthesis should appear after 51.4145.

§ 51.4141 [Corrected]

6. On page 604, column one, § 51.4141(a)(1)(i), "verietal" should read "varietal".

7. On the same page, column two, § 51.4141(e), "tolorances" should read "tolerances".

§ 51.4145 [Corrected]

8. On the same page, column three, § 51.4145(d), line five, "or" should read "of".

9. On the same page, column three, § 51.4145(g), line four, there should be a comma between "specifications" and "loose"; in line nine, "Corrots" should read "Carrots"; and line seventeen should end with a period.

10. On page 605, column one, § 51.4145(k), line seven, "corrot" should read "carrot".

11. On the same page, column one, § 51.4145(l)(i) should end with a period.

BILLING CODE 1505-01-M

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7 CFR Part 984

Walnuts Grown in California; Proposed Free and Reserve Percentages for the 1983–84 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal invites written comments on the establishment of marketing percentages for California walnuts for the 1983–84 marketing year to allocate this season's supplies between domestic and export markets. The 1983–84 marketing year began August 1, 1983. The proposal is intended to make ample supplies of this season's walnuts available for domestic needs and all of the excess available for export. The percentages are authorized by the Federal marketing order for walnuts grown in California.

DATES: Comments must be received by February 17, 1984. Proposed effective dates: August 1, 1983 through July 31, 1984.

ADDRESSES: Send two copies of comments to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, where they will be available for inspection during regular business hours.

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250; (202) 447–5053.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

The authority to establish the free and reserve percentages under consideration is pursuant to § 984.49 of the marketing agreement and Order No. 984, both as amended (7 CFR Part 984), regulating the handling of walnuts grown in California and hereinafter referred to collectively as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal was unanimously recommended by the Walnut Marketing Board, hereinafter referred to as the "Board," which works with USDA in administering the order.

Pursuant to § 989.48 of the order, the Board based its recommendation for free and reserve percentages of 76 percent and 24 percent, respectively, on estimates of supply and combined inshell and shelled domestic trade demand for the current marketing year. Estimated trade demand was adjusted to account for supplies of certified walnuts carried in from the 1982–83 marketing year and for supplies deemed desirable to be carried out on July 31, 1984, for early season domestic use next marketing year until the 1984 crop is available for market.

The estimated 1983 walnut production is well in excess of the 1983–84 marketing year domestic needs. While the proposal is designed to tailor the supply to domestic demand, it would still ensure the availability of ample supplies of walnuts for domestic markets during that year and promote maximum usage.

Supplies in excess of domestic needs would be available chiefly for export. Handlers may also obtain reserve disposition credit for disposing of substandard walnuts in oil, feed, or other outlets the Board determines to be noncompetitive with existing domestic and export markets for merchantable walnuts.

In considering its recommendation, the Board noted the estimates it had made one year earlier for the 1982 crop. These estimates and final results are as follows:

	Estimated kernel weight (1,000 pounds)	Final kernel weight (1,000 pounds)
Supply:		
1. Orchard-Run Production	176,000	187,100
2. Less: Miscellaneous Farm use	800	[illegible]
3. Commercial Production	175,200	186,300

	Estimated kernel weight (1,000 pounds)	Final kernel weight (1,000 pounds)
4. Plus:		
Uncertified Carryin Inshell	187	187
Uncertified Carryin Shelled	17,880	17,880
5. Total Merchantable Supply	193,267	204,367
6. Plus: Substandard Creditable for Reserve	8,000	7,204
7. Total supply subject to regulation	201,267	211,571
Demand:		
8. Inshell Demand	29,250	23,501
9. Plus: Carryout Desirable (actual)	6,750	10,915
10. Less: Certified Carryin	2,790	2,790
11. Adjusted Inshell Demand (availability)	33,210	31,626
12. Shelled Demand	100,000	88,585
13. Plus: Carryout Desirable (actual)	37,500	61,820
14. Less: Certified Carryin	17,465	17,465
15. Adjusted Shelled Demand (availability)	120,035	132,920
16. Total demand (availability) (Item 11 + Item 15)	153,245	164,546
Marketing percentages:		
17. Free Percentage (Item 16 Item 7)	77	
18. Reserve Percentage (100 – Item 17)		

The Board used the estimates given in the table below in making its recommendation for the 1983–84 marketing year. Weight figures for inshell walnuts are converted to their equivalent shelled kernel weights.

	Inshell weight (1,000 pounds)	Conversion factor (percent)	Kernel weight (1,000 pounds)
Supply:			
1. Orchard-Run Production	360,000		
2. Less: Miscellaneous Farm Use	2,000		
3. Commercial Production	358,000	40	143,200
4. Plus: Uncertified Carryin Inshell	11,578	45	5,210
Uncertified Carryin Shelled			30,080
5. Total Merchantable Supply			178,490
6. Plus: Substandard Creditable for Reserve			8,000
7. Total supply subject to regulation			186,490
Demand:			
8. Inshell Demand	65,000		
9. Plus: Desirable Carryout	15,000		
10. Less: Certified Carryin	12,677		
11. Adjusted Inshell Demand	67,323	45	30,295
12. Shelled Demand			105,000
13. Plus: Desirable Carryout			37,500
14. Less: Certified Carryin			31,740
15. Adjusted Shelled Demand			110,760
16. Total demand (Item 11 + Item 15)			141,055

	Inshell weight (1,000 pounds)	Conversion factor (percent)	Kernel weight (1,000 pounds)
Marketing percentages:			
17. Free Percentage (Item 16 – Item 7) 76% (75.6 rounded up by the Board)			
18. Reserve Percentage (100% – Item 17) 24% (24.4 rounded down by the Board)			

List of Subjects in 7 CFR Part 984

Marketing agreements and orders, Walnuts, California.

PART 984—[AMENDED]

Therefore, it is proposed to add § 984.229 to 7 CFR Part 984 as follows: (This section will not appear in the Code of Federal Regulations).

§ 984.229 Free and reserve percentages for California walnuts during the 1983–84 marketing year.

The free and reserve percentages for California walnuts during the marketing year beginning August 1, 1983, shall be 76 percent and 24 percent, respectively.

Dated: January 11, 1984.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 84–1042 Filed 1–13–84; 8:45 am]

BILLING CODE 3410–02–M

Rural Electrification Administration

7 CFR Part 1736

Electric Standards and Specifications

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to amend 7 CFR 1736.97, Electric Standards and Specifications, by issuing a new REA Bulletin 50–4 (D–801), Specifications and Drawings for 34.5/19.9 kV Distribution Line Construction. By issuing this standard, REA will provide borrowers with construction drawings and specifications for an additional choice of distribution voltage for a particular distribution line. Depending on the results of a borrower's economic analysis, the use of 34.5/19.9 kV as a distribution voltage may be more economical than the use of REA's present distribution voltages, 12.5/7.2 kV and 24.9/14.4 kV. Therefore, use of this standard may provide savings to certain borrowers.

DATE: Public comments must be received by REA no later than March 16, 1984.

ADDRESS: Submit written comments to the Director, Engineering Standards Division, Room 1256–S, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Harvey L. Bowles, Engineering Standards Division, Rural Electrification Administration, Room 1256–S, Washington, D.C. 20250, telephone (202) 382–9088. A Draft Impact Analysis has been prepared and is available at the above address.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act of 1936 (Act), as amended (7 U.S.C. 901 et seq.), the Rural Electrification Administration (REA) proposes to amend 7 CFR 1736.97, Electric Standards and Specifications, by issuing a new REA Bulletin 50–4 (D–801), Specifications and Drawings for 34.5/19.9 kV Distribution Line Construction. At the time the agency is prepared to issue this as a final rule, the Director, Office of the Federal Register, will be asked to approve this bulletin for incorporation by reference. This proposed action has been reviewed in accordance with Executive Order 12291, Federal Regulation. This action will not: (1) Have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies; or (3) result in significant adverse effects on competition, employment, investment or productivity, and, therefore, has been determined to be "not major." This action does not fall within the scope of the Regulatory Flexibility Act. This program is listed in the Catalog of Federal Domestic Assistance as 10.850, Rural Electrification Loans and Loan Guarantees.

Background

The Rural Electrification Administration (REA) maintains a system of bulletins that contains construction standards and specifications for materials and equipment which are applicable to electric system facilities constructed by REA electric borrowers in accordance with the REA loan contract. These standards and specifications contain REA's requirement for construction units and material and equipment items commonly used in REA electric borrowers' systems. REA Bulletin 50–4 (D–801), Specifications and Drawings for 34.5/19.9 kV Distribution Line Construction, contains the REA specifications and drawings for assembly units that will be used on 34.5/19.9 kV distribution lines. This standard will be similar to REA's present Specifications and Drawings for 14.4/

24.9 kV Line Construction, except for the use of post insulators and the increased clearances required for 34.5/19.9 kV. In view of the above, REA proposes to amend § 1736.97(b) of 7 CFR Chapter XVII, by issuing REA Bulletin 50–4 (D–801), Specifications and Drawings for 34.5/19.9 kV Distribution Line Construction. Copies of the proposed draft are available upon request from Mr. Bowles at the above address.

List of Subjects in 7 CFR Part 1736

Electric utilities, Engineering standards.

(7 U.S.C. 901 et seq. and 7 U.S.C. 1921 et seq.)

Dated: January 9, 1984.

Harold V. Hunter,

Administrator.

[FR Doc. 84–1078 Filed 1–13–84; 8:45 am]

BILLING CODE 3410–15–M

FEDERAL TRADE COMMISSION

16 CFR Part 455

Trade Regulation Rule Concerning Sale of Used Motor Vehicles

AGENCY: Federal Trade Commission.

ACTION: Extension of time to file comments.

SUMMARY: On December 16, 1983, the Federal Trade Commission published an invitation for public comment in the **Federal Register**, 48 FR 55874. This notice invited written public comments on 16 CFR 455.2(c), 455.6 and the Appendix to the Used Motor Vehicle Trade Regulation Rule (Used Car Rule) for the purpose of determining whether such sections and the appendix should be modified or eliminated. Section 455.2(c) requires that certain major defects delineated in § 455.6 of the rule must be disclosed if known to the dealer. The Appendix to the rule provides examples to illustrate the concept of "knowledge" for the purposes of the rule. Under the rule, known defects must be disclosed on a window sticker ("Used Car Buyers Guide") which must be posted on used cars offered for sale to consumers. The date on which comments would have been due was January 16, 1984. This notice extends the comment period to January 31, 1984. The comment period is being extended because of request for an extension from the National Independent Automobile Dealers Association, the Committee on Consumer Affairs of the Bar of the City of New York, and the National Automobile Dealers Association.

DATE: Comments must be filed no later than January 31, 1984.

ADDRESS: Comments should be addressed to the Secretary, Federal Trade Commission, 6th and Pennsylvania Avenue, NW., Washington, D.C. 20580. All comments should be labeled "Sale of Used Motor Vehicles."

FOR FURTHER INFORMATION CONTACT: Lemuel Dowdy, Federal Trade Commission, 6th and Pennsylvania Avenue NW., Washington, D.C. 20580: (202) 523–3911.

List of Subjects in 16 CFR Part 13

Trade practices, Used motor vehicles.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 84–1033 Filed 1–13–84; 8:45 am]

BILLING CODE 6750–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[OW–FRL–2507–1]

Ocean Dumping; Availability of Supplementary Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability.

SUMMARY: EPA today announces the availability for public review and comment of supplementary information, reports and studies that the Agency is considering in reaching a determination on the designation of the 106–Mile Ocean Waste Dump Site located in the North Atlantic Ocean, for the dumping of aqueous industrial wastes and municipal sewage treatment sludges. This action is necessary to ensure that the public has an opportunity to review and comment on the supplementary information used in association with the designation of an ocean dump site.

DATE: Comments on the supplementary information must be received on or before February 15, 1984.

ADDRESS: Comments should be addressed to: Mr. T. A. Wastler, Chief, Marine Protection Branch (WH–585), Environmental Protection Agency, Washington, D.C. 20460.

The supplementary information is available for public inspection at the following locations:

EPA Public Library Reference Unit (PIRU), Room 2404 (Rear), 401 M Street, SW., Washington, D.C. 20460

EPA Public Library, Region II, 26 Federal Plaza, Room 1002, New York, New York 10007

FOR FURTHER INFORMATION CONTACT: Mr. T. A. Wastler, (202) 755–0356.

SUPPLEMENTARY INFORMATION: On December 20, 1982 (47 FR 56663), EPA proposed to designate the 106-Mile Ocean Waste Disposal Site as an approved ocean dumping site for the authorized disposal of aqueous industrial wastes and municipal sludges. The terms "sewage sludge" and "industrial waste" are used herein in their ordinary sense and *not* as defined by Section 4(b) of Pub. L. 95–153, as revised by Pub. L. 96–572. EPA proposed to restrict the disposal of municipal sludges to a period of five years during which time further studies on the environmental effect of such dumping would be conducted. On May 10, 1983, a public hearing was held in Rehoboth Beach, Delaware, to receive comments concerning the proposed action.

EPA is currently in the process of making a final determination on the designation of the 106–Mile Site. The Agency's determination will be made on the basis of all data and analysis documented in the administrative record. Since the close of the comment period on the proposed site designation, EPA has identified EPA and National Oceanic and Atmospheric Administration technical reports, and other related scientific information which should be a part of the public record for this proceeding. In addition, EPA is making available the public hearing testimony and comments previously received as well as judicial orders pertaining to the ocean dumping of sewage sludge.

In order to ensure that the public has an adequate opportunity to comment on all the material in the public docket, the Agency is hereby soliciting public comment on the available supplementary information. EPA will carefully consider all comments received and address them in the final rulemaking.

Dated: January 9, 1984.

Jack E. Ravan,

Assistant Administrator for Water.

[FR Doc. 84–1043 Filed 1–13–84; 8:45 am]

BILLING CODE 6560–50–M

VOL 49 ISS 10 JA 16 1984 UMI

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 394

[BMCS Docket No. MC-109; Notice No. 84-1]

Notification and Reporting of Accidents

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: In keeping with the administration's stated objectives of reducing the regulatory burden on the nation's business community, the FHWA is proposing to amend Part 394 of the Federal Motor Carrier Safety Regulations (FMCSR). This proposed amendment deals primarily with revising the truck and bus accident report forms. The two forms currently in use—the MCS–50–B (Accidents of Passenger Carriers) and the MCS–50–T (Accidents of Property Carriers) would be consolidated on a single, shorter form employed in a three-pronged system for gathering accident data. The proposed system would both reduce the industry-wide reporting burden, and enhance the quality of the data gathered, especially in terms of the ability to identify accident causation. This action would further reduce the paperwork burden on the motor carrier industry by eliminating the requirement that the carrier file 2 copies of the accident report with the original. Only the original would be required under the new system. An additional burden reduction would be achieved by raising the reporting threshold for property damage accidents from the present $2,000 to $4,000.

DATE: Comments must be received on or before March 16, 1984.

ADDRESS: All comments should refer to the docket number and notice number that appear at the top of this document and should be submitted, preferably in triplicate, to Room 3402, Bureau of Motor Carrier Safety (BMCS), 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. William E. Snow, Bureau of Motor Carrier Safety, (202) 426–9767; or Mr. Edward J. Mullaney, Office of Chief Counsel (202) 426–0346, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The collection of accurate data on accidents involving commercial motor vehicles is vitally important to the achievement of the vehicle safety mission Congress has entrusted to the Department of Transportation. Without detailed information about accidents involving commercial motor vehicles, the causes of such accidents, and their consequences, it would be extremely difficult to make decisions on any type of regulatory action or the allocation of resources to areas that promise the best results in terms of either preventing accidents or reducing their severity. All interstate motor carriers, except private carriers engaged wholly in farm-to-market agricultural transportation, must currently report to the FHWA's Regional Offices accidents which result in a fatality, injury, or $2,000 or more property damage.

The FHWA, having anticipated the need for revision or extension of its accident reporting system, nominated Part 394 for priority review in 1982. The priority review report is available for inspection in the public docket. The review team recommended that the property damage reporting criterion should be raised to $4,000. In general, the data acquisition system depicted in the remainder of this proposal reflects the results of the priority review.

Description of Information Collection System

The proposed MCS–50–BR, "Basic Report," form (See illustration III and IV for form and instructions) would be used by all motor carriers who are required to file accident reports. The MCS–50–ST, "Supplemental Truck Accident Data" form, and the MCS–50–SB, "Supplemental Bus Accident Data" form, would be used on a random sampling basis to generate a detailed extrapolation which is representative of the accident environment. Additional special studies forms would be used selectively to obtain specific data on the causes of reported problems.

At present, over 186,000 interstate motor carriers report a total of approximately 35,000 accidents annually. Approximately 3% of those carriers reporting accidents would be selected randomly and asked for more detailed information about their accidents, using either the MCS–50–ST or MCS–50–SB forms. This 3% figure represents a trade off between statistical rigor and burden reduction. The statisticians consulted agreed that the 3% sample population would be large enough to allow confident statistical references to be drawn but would be small enough to keep the reporting burden at a reasonable level. In addition to the random sampling described above, other members of the accident reporting population may be selected occasionally to complete one of the proposed special studies forms on the basis of responses to certain MCS–50–BR questions. For example, should overall trend analysis show an increasing number of defective brake accidents, a certain as yet undetermined proportion of carriers reporting defective brakes on the MCS–50–BR would be selected to complete the MCS–50–VB, "Failures of Truck and Bus Brake Systems" form. This would provide much needed data to vehicle manufacturers, motor carriers and regulators as to specific causes of those system failures or malfunctions. This, in turn, could benefit the trucking industry by allowing regulatory relaxation where warranted and redirecting program emphasis to where it is needed most. (These special studies would only be used on a limited, "as needed" basis.)

The proposed system was designed both to provide descriptive statistics about accidents and, simultaneously, to identify the causative factors involved and to determine the frequency of each factor's occurrence. The data would also be used for special studies related to rulemaking and regulatory analysis, as well as to compose responses to inquiries from citizens and interest groups. (A better understanding of how these three parts of the data collection system interrelate can be gained by referring to Illustrations I and II provided at the end of this document.)

In terms of identifying the causes of accidents, the MCS–50–BR will be a more effective information gathering instrument because many of the troublesome ambiguities found on the current form have been eliminated. For example, question 10c on the current form addresses more than twenty maneuvers, many of which are not distinct from one another. This has been a constant source of data interpretation problems. This question has been replaced by a pair of two-line questions which, when answered, will tell analysts the respective impact points on the first two vehicles in the accident.

The supplemental forms, the MCS–50–ST and MCS–50–SB were formulated with two purposes in mind. The first of these is to capture some of the overall information (weather, vehicle weight, etc.) about the accident environment that may be missed as a result of the shortened initial report (MCS–50–BR). The second aim of the supplemental forms is to gain a greater degree of detail about a randomly selected group

of accidents than has been available thus far. The supplemental forms routinely delve into key areas related to accident causatin in much greater detail than has been possible to date. The proposition that the most significant accident causes are driver-related rather than vehicle-related is gaining wide acceptance among highway safety specialists. Accordingly, the supplemental forms focus upon such elements as: hours of service, driver experience, medical history, whether or not charges were brought as a result of the accident, and the factors contributing to the accident.

The supplemental forms also address the area of driver-vehicle interaction by gathering information about the type of cargo, size of vehicle, cab configuration, type transmission, etc.

The issue of vehicle-roadway interaction is scrutinized via questions about weather, speed, roadway type, surface, features, designation, and vertical/horizontal alignment.

Finally, detailed information on particulars of the accident is sought. Included are such items as vehicle make, model year, number of and type of axles, and specifics concerning the trailer, the overall condition of the vehicle, and its preventive maintenance record.

All of the information mentioned thus far will result in a much clearer picture of accidents and their environment. The resulting data, in an aggregate sense, will allow safety regulators to focus upon suspected problem areas.

The next step in the analytical process is to determine whether any relationships uncovered are actually of the cause-effect type or are merely associative. This is the point where it may become evident that applied statistical theory can only go so far, and is not always adequate to the task without more information. What may be needed is to use one of the special studies forms to verify or repudiate suspicions about an identified problem area. If a special studies form does not meet the needs of the analysis, a specifically designed engineering or human factors study may be indicated as the only way to localize the underlying causes of identified problems.

The validity of accident data is often questioned. There are good reasons for this. Underreporting of accidents is a problem of which the FHWA is aware. However, the capability exists to minimize this problem. Many of our safety investigators have made arrangements with State authorities to get copies of relevant accident reports from the State files on a routine basis. There are also analytical techniques which can be used to ferret out habitual underreporters. For example, the BMCS keeps a census file with information on more than 186,000 carriers. When this information is cross-tabulated with our accident file, and shows that certain carriers have logged millions of miles with very few accidents, we can follow up with an investigation to determine whether there has been any underreporting. Newspaper accounts of accidents are another source of information which are routinely checked against our accident file to verify that a report was submitted.

Another concern with the validity of the FHWA accident data is generated by the fact that the party supplying the information was involved in the accident and could be suspected of slanting the facts in his favor. This problem is not easily dealt with but these reports are spotchecked and can be run against the National Highway Traffic Safety Administration's (NHTSA) Fatal Accident Reporting System (FARS) in cases where fatalities occurred. Also, these reports are hand and machine edited at the data entry point and obvious discrepancies corrected via telephone contacts with the carriers involved.

Users

The information gathered using the proposed accident reporting system is of interest to a variety of users. Principal among these is the FHWA itself. The FHWA must periodically assess the relationship of its regulations to the current highway safety picture, which is in a constant state of flux due to increasingly unpredictable economic conditions and changes in types and characteristics of motor carriers and the equipment used by them. The FHWA must have an accident reporting system which will provide enough information about what has happened to permit projection of what may reasonably happen. The system must be designed so that the FHWA can determine:

—The number and kind of accidents which are occurring.

—The number of persons killed or seriously injured in these accidents.

—The amount of property damage resulting from these accidents.

—The proximate cause or causes of these accidents.

—The relationship, if any, between each of the proximate causes of accidents and the kind and severity of the resulting injury to persons or property.

—Also, in light of indications that some motor carriers may be reducing their emphasis on safety due to economic pressures, the need for reliable accident data is greater than ever.

The FHWA would use this data with the overall objective of reducing accidents by concentrating upon their causes. The approach proposed is to analyze the accident data—especially in terms of isolating causual factors—then, if and when such analysis revealed specific, accessible problems, a shift in regulatory focus could be made to mitigate or eliminate these accident causation factors. Conversely, if analysis led to the conclusion that an existing regulatory requirement was excessive or unnecessary, that requirement could be relaxed or eliminated. Aside from needing this accident information for regulatory analysis, the FHWA's field staff would use the data in its efforts to enhance the effectiveness of its enforcement program. The field staff would accomplish this by using the improved accident information to make resource allocation decisions. Those carriers having either a disproportionate number of accidents or other documented indicators of unsafe operating practices would be high priority candidates for intensive safety assistance.

The National Highway Traffic Safety Administration (NHTSA) is another user of FHWA accident data. As part of its mission to reduce motor vehicle accidents, the NHTSA monitors the safety performance of commercial motor vehicles operated by interstate motor carriers. Because the severity of truck and bus accidents is usually greater than that of automobile accidents, the NHTSA pays particularly close attention to the FHWA data. The Materials Transportation Bureau (MTB) within the DOT is primarily concerned with the movement of hazardous materials and hazardous wastes. The majority of these movements are by truck. Knowledge about accidents involving these trucks is an integral element of information needed by the MTB to perform its assigned function. Also, members of the Congress refer to the FHWA accident data both individually, in dealings with constituents and interest groups, and collectively when evaluating the accident record of interstate motor carriers for purposes of evaluating legislative initiatives and making budgetary allocations to the DOT.

State governments analyze the accident data to assess the effectiveness of their respective safety programs—especially when comparing their records against those of other States. State legislators use the data when drafting

State laws affecting traffic safety. Also, traffic authorities within the States refer to FHWA data when allocating their resources in efforts to enhance highway safety.

Transportation researchers in both the private and public sectors consider the FHWA data to be an essential component of any meaningful body of truck and bus accident information. Indeed, some have said that, as imperfect as it currently is, it is the only really comprehensive truck and bus data base available. The proposed system is intended to improve the quality of accident causation data while reducing the industry-wide reporting burden. Also, truck and component manufacturers and the insurance industry rely upon FHWA accident data in order to conduct their businesses in a knowledgeable manner. Attorneys use the accident data in civil litigation. Finally, a number of trade journals and association publications quote the FHWA data in articles dealing with legal, economic, and safety issues related to the motor carrier industry.

Other Accident Reporting Systems

Mentioning the numerous users of the FHWA's accident data raises the question as to whether there are duplicative data collection efforts existing between the FHWA and others. A number of factors preclude this. The FHWA is the only organization which collects detailed, comprehensive, nationwide accident statistics covering *all* accidents of interstate motor carriers (resulting in death, injury, or extensive property damage). There is no other existing source of commercial motor vehicle accident information available with a sufficiently comprehensive concentration of detailed data dealing with accidents of interstate motor carriers. Furthermore, there is no industry or other agency data available that could be modified for use to satisfy the FHWA data requirements.

The NHTSA's "Large Truck Accident Causation Study—A Report to Congress" states that the systems in the DOT are not overly duplicative. The FHWA Priority Review Task Force, which deals with 49 CFR Part 394 and is available in the public docket, concurs. The NHTSA's National Accident Sampling System (NASS) is strictly a sample of accidents. Consequently, the number of interstate truck and bus accident reports captured is dangerously small to be used as a base for inferential statistics. The Fatal Accident Reporting System is somewhat duplicative of the FHWA data but only where fatal interstate accidents involving commercial motor vehicles are concerned. The FARS data base includes no information concerning nonfatal accidents of interstate motor carriers. These nonfatal reports make up more than 90% of the accidents reported to the BMCS. Therefore, it is obvious that the FARS data alone would not be adequate for the BMCS to perform its chartered function.

The Research and Special Programs Administration's (RSPA) Materials Transportation Bureau (MTB) is primarily concerned with the hazardous materials incidents, including those caused by truck accidents. However, truck accidents involving hazardous materials transporters which satisfy the FHWA reporting criteria constitute such a small portion of the overall MTB file that the amount of duplication is inconsequential. Also, the MTB is mainly interested in the causes of hazardous materials spills, regardless of the transportation mode involved. While on the other hand, the BMCS is concerned with the causes of truck accidents. This difference in approach is reflected by the fact that the two bureaus ask very different kinds of questions about the same accident, thereby keeping duplication to a minimum.

The Interstate Commerce Commission (ICC) is no longer in the business of collecting its own accident data. It gets some accident-related financial information from carrier annual reports, but this is usually aggregated for accounting purposes. The ICC uses the FHWA accident data when making judgments about the fitness of carriers.

The National Transportation Safety Board (NTSB) collects suggested accident data for the different modes but the level of detail is not very fine. The primary day-to-day function of the NTSB is to investigate catastrophic accidents.

Within the DOT, all accident data acquisition is coordinated by the Department's Accident Data Systems Executive Coordinating Group to ensure compatibility and eliminate redundancy. The DOT remains interested in reducing the overall reporting burden from existing accident reporting systems without compromising safety. We invite any suggestions from the public which would help us to achieve this objective.

Elimination of Redundancy

During the preliminary design phase of the proposed system, the forms in each of the three main areas (see illustrations I and II) were carefully scrutinized to eliminate redundant questions. In a few cases, a question on the MCS–50–BR and one or more on the MCS–50–ST may seem to cover the same ground. The objective of the ST question(s) is clarification and elaboration rather than duplication.

Reporting Criteria, Burden, and Flexibility Act.

Currently, interstate motor carriers are required to use the MCS–50–T (truck) and MCS–50–B (bus) to report accidents involving death, injury, or at least $2,000 property damage. Under the proposed new system, $4,000 would be the property damage reporting criterion. The death and injury criteria would remain virtually the same except for a minor wording change in the bodily injury definition as stated in § 394.3(a)(2). The current language "Bodily injury to a person who, as a result, (of the accident) receives medical treatment away from the scene of the accident" would be changed to read "Bodily injury to a person who, as a result, is transported away from the accident scene to receive medical treatment." The change in meaning is intended to result in the exclusion from mandatory reporting of those accidents purported to cause physical complaints which might surface at some later date. This change should not be construed as an effort to discredit any bona fide injury claims; it is simply an attempt to achieve further clarification of the FMCSR reporting requirements.

Informal, in-house testing of the proposed system has been performed to search for ambiguities and to determine the amount of time required to complete each of the forms in the system being proposed. Additional testing is envisioned. It is planned that a small sample of selected motor carrier personnel will be asked to use the forms to report one of their recent accidents, and to comment upon the composition, sequence, validity and relevance of the questions, the level of difficulty encountered in answering the questions, format/structure, etc. These comments could influence further revisions prior to final rulemaking.

Section 394.7 requires carriers to immediately notify the FHWA of any fatal accidents in which their vehicles are involved. According to the FHWA Regulations Priority Review Report on Part 394, the burden associated with § 394.7 is 179 hours per year.

The requirement in § 394.7 affords us the only reliable source of prompt information on fatal accidents that are often the subject of inquiries by the media or safety interest groups.

Section 394.11 as amended will state, "If, within 30 days after a reportable accident occurs, a person dies as a result of the accident after a motor

carrier has filed his report in accordance with § 394.9, the motor carrier must, as soon as possible after the death, and not later than the time specified in paragraph (b) of this section, give written notice of the death to the Director, Bureau of Motor Carrier Safety, Federal Highway Administration, Washington, D.C. 20590." Admittedly, this is a slight addition to the overall burden generated by Part 394 but without this requirement, the FHWA would not have reliable fatality figures. The Regulations Priority Review Report recommends retention of this section also.

The FHWA has determined that this document contains neither a major proposal under Executive Order 12291 nor a significant proposal under the regulatory policies and procedures of the Department of Transportation.

The current report forms, i.e., MCS–50–T and MCS–50–B, involve a combined reporting burden of 36,750 hours. Because the MCS–50–BR would take approximately 35 minutes to complete as compared to 1 hour for the current MCS–50–T, the changes proposed in this notice would result in a burden reduction of approximately 8,000–12,000 hours (25–35 percent).

Although this action would reduce the industry-wide accident reporting burden by approximately 25 to 35 percent, it would not have a significant economic effect because a burden reduction of 8,000 to 12,000 hours is considered to be relatively minimal given the enormity of the motor carrier industry. Accordingly, a full regulatory evaluation is not required. As previously noted, a priority review report which discusses cost, controversy, and alternatives to the proposed action, has been prepared and is available for inspection in the public docket.

Regarding the Regulatory Flexibility Act, some small organizations would be affected, although not a substantial number. However, in almost all cases, their burden would be less than it is under the current accident reporting system. There are several reasons for this. First, the proposed system was designed to reduce the overall burden on the industry. Secondly, small trucking companies have fewer trucks on the road, and are, therefore, less likely than large companies to have reportable accidents in a given period of time simply as a function of exposure. Finally, raising the reporting threshold for property damage accidents would afford a measure of relief in that those property damage only accidents in the $2,000 to $4,000 range would no longer have to be reported. These cost savings are not considered to be significant.

For the foregoing reasons, under the criteria of the Regulatory Flexibility Act, it is certified that this action will not, if promulgated, have a significant economic impact on a substantial number of small entities.

Accordingly, it is proposed that 49 CFR 394.3(a)(3) be amended to change the property damage reporting criterion from $2,000 to $4,000. Also, 49 CFR 394.9(a) would be amended by eliminating the words "MCS–50–T (property)," and "MCS–50–B (passengers)," and inserting "MCS–50–BR 'Basic Report.'" In addition, paragraph (b) of § 394.9 would be revised and paragraph (c) deleted. In § 394.11, the corrected accident report would be forwarded to the Director, Bureau of Motor Carrier Safety rather than the regional office, as is now the case. Finally, 49 CFR 394.20, Instructions for preparing accident reports, would be deleted (instructions would accompany the respective forms), all as set forth below.

List of Subjects in 49 CFR Part 394

Motor carriers, reporting and recordkeeping requirements.

(49 U.S.C. 304; 49 CFR 1.48(b) and 301.60)
(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

Issued on: January 4, 1984.

Kenneth L. Pierson,

Director, Bureau of Motor Carrier Safety, Federal Highway Administration.

PART 394—[AMENDED]

1. In § 394.3 paragraph (a)(2) and (3) are revised to read as follows:

§ 394.3 Definition of "reportable accident."

(a) * * *

(2) Bodily injury to a person who, as a result, is transported away from the accident scene to receive medical treatment; or

(3) Total damage to all property, aggregating $4,000 or more based upon actual costs of reliable estimates.

* * * * *

2. Section 394.9 is revised to read as follows:

§ 394.9 Reporting of accidents.

(a) Within 30 days after a reportable accident occurs, the motor carrier must file the original Form MCS–50–BR with the Director, Bureau of Motor Carrier Safety, Federal Highway Administration, Washington, D.C. 20590. The motor carrier must fill in the report form completely and accurately with the most reliable information available to him at the time the report is filed.

(b) Supplies of the accident report form MCS–50–BR may be purchased from the Superintendent of Documents, Washington, D.C. 20402, at the prevailing price.

3. In § 394.11, paragraph (a) is revised to read as follows:

§ 394.11 Notice of death after filing report.

(a) If within 30 days after a reportable accident occurs, a person dies as a result of the accident after a motor carrier has filed his report in accordance with § 394.9, the motor carrier must, as soon as possible after the death, and not later than the time specified in paragraph (b) of this section, give written notice of the death to the Director, Bureau of Motor Carrier Safety, Federal Highway Administration, Washington, D.C. 20590.

* * * * *

§ 394.20 [Removed]

4. Section 394.20 is removed.

Appendix A—Illustrations

Editorial Note.—The following appendix will not appear in the code of Federal Regulations.

Illustration I—BMCS Revised Accident Data Collection System

Form Number and Form Name and Use

Initial Report Form

MCS–50–BR Basic Accident Report to be used by both property and passenger motor carriers.

Continuous Sampling Series Detailed Forms

MCS–50–ST Supplemental truck and combination vehicle accident data
MCS–50–SB Supplemental bus accident data

Special Studies Forms

MCS–50–IF (Truck & Bus) Regulated Driver's Injury or Fatality, Medical Qualification History and Health at Time of Accident Data
MCS–50–HS (Truck and Bus) Drivers Hours of Service Data
MCS–50–ET (Truck and Bus) Drivers Employment History, Driving Experience, and Training Data
MCS–50–VR (Truck & Bus) Driver's License Data, Violation and Motor Vehicle Accident Record
MCS–50–HM (Truck & Bus) Hazardous

Materials or Wastes-Spills, Incidents of Fire and Explosion Data

MCS–50–TT (Trucks) Tank Truck and Trailer Data

MCS–50–VN (Trucks) Vehicular Types, Sizes and Weights, Cargo Securement Data

MCS–50–PM (Trucks) Mechanical Condition of Trucks and Combination Vehicles Data

MCS–50–WT (Truck & Bus) Malfunction or Failures of Truck and Bus Wheels, Rims, and Tires

MCS–50–VB (Truck & Bus) Malfunction or Failures of Truck and Bus Brake Systems

MCS–50–BM (Buses) Mechanical Condition of Buses Data

MCS–50–BF Injuries or Fatalities to Bus Occupants Data.

BILLING CODE 4910-22-M

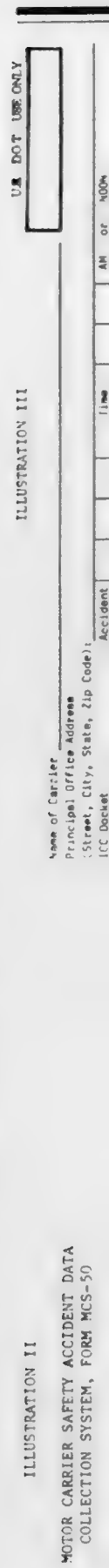

ILLUSTRATION II

MOTOR CARRIER SAFETY ACCIDENT DATA COLLECTION SYSTEM, FORM MCS-50

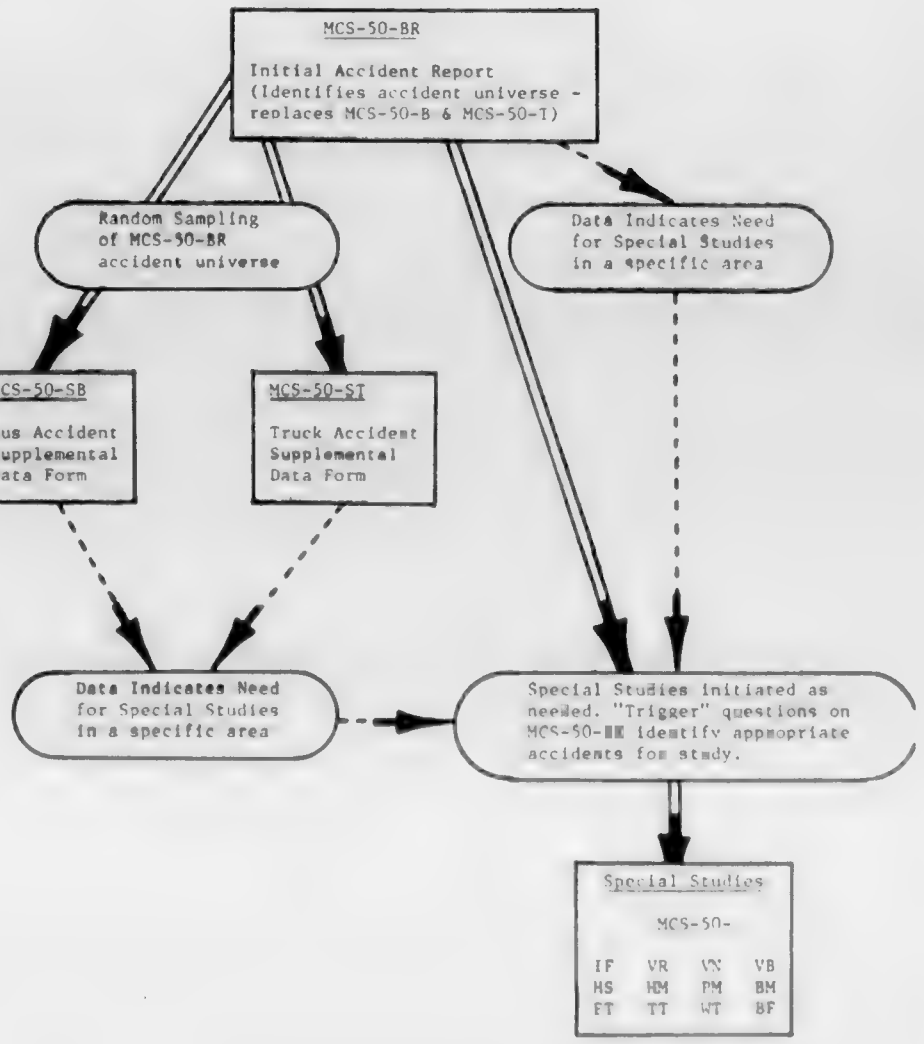

ILLUSTRATION III

USE DOT USE ONLY

Name of Carrier _____

Principal Office Address (Street, City, State, Zip Code): _____

ICC Docket Number: _____ Accident Date: Month Day Year Time of Day: Hour Minute AM or PM NOON MIDNIGHT

Accident Location: Street or Highway Nearest Town or City State

Our Driver's Name: (First) (Middle) (Last) BIRTH DATE Month Day Year

1. In this accident our driver was: A. Not Injured B. Injured C. Killed D. Not applicable (not in vehicle) 1

2A. Total number of persons in our vehicle at time of accident was (If none show 0): 2A

2B. Number of persons in our vehicle, other than driver, who were injured was (If none show 0): 2B

2C. Number of persons in our vehicle, other than driver, who were killed was (If none show 0): 2C

3A. Total number of person(s) in (other) involved motor vehicles was (If none show 0): 3A

3B. Number of (other) motor vehicle's occupants injured was (If none show 0: 3B

3C. Number of (other) motor vehicle's occupants killed was (If none show 0): 3C

3D. Number of non-motor vehicle occupants (pedestrians, etc.) injured was (If none show 0): 3D

3E. Number of non-motor vehicle occupants (pedestrians, etc.) killed was (If none show 0,: 3E

4. Total amount of property damage to all vehicles, cargoes and fixed objects involved is (estimated dollar amount): 4 $

5. Our driver's condition at time of accident is best described as: 5
A. Had been Drinking D. Impaired by Drugs G. Impaired by Fatigue I. Impaired By Physical Injury
B. Impaired by Alcohol E. Ill or Sick H. Impaired By Mental Distraction J. Apparently Normal K. Unknown (explain in narrative)
C. Had taken Drugs F. Dozing/Asleep

6. Our driver's condition at time of accident was determined by: 6A 6B
A. Our company investigation C. Statements/allegations of witness E. Other sources or unknown (explain in narrative.
B. Insurance company findings D. Charges by legal authorities

7. Our vehicle at time of accident was classified as a: 7
A. Automobile C. Truck Tractor without Trailer F. Straight Truck with Trailer G. Truck Tractor with Semi and Full Trailer (Doubles) H. Tractor with Semi and 2 Full Trailers (Triples)
B. Passenger Bus D. Mobile/Modular Home in Tow
C. Straight Truck E. Truck Tractor with Semi-Trailer I. Other Type (describe in narrative)

8. Our vehicle had the following actual, suspected or alleged mechanical defect(s) at time of accident: 8A 8B 8C
A. Engine E. Electrical System I. Wheels/Rims M. Cargo Containment or Tie Down System
B. Drive Train F. Lighting System J. Tires N. Other (specify in narrative)
C. Exhaust System G. Suspension/Axles K. Brake System O. No Known Defects at Time
D. Fuel System H. Steering System L. Coupling System

9. Our vehicle's cargo at time is best described as: (If G or H, Give DOT Specification Number - MC) _____ 9
A. Revenue Passengers - Bus F. Machinery, Oversize Weight Objects K. Driveaway, Towaway Operations
B. Livestock G. Hazardous Materials Waste in a Tanker L. Intermodal Cargo Containers
C. Suspended Meat Product H. Hazardous Residue in an "Empty" Tanker M. General Commodity Freight
D. Metal Sheet/Coils/Bars I. Non-Hazardous type Cargo in a Tanker N. Other (specify in narrative)
E. Spools/Rolls Paper or Cable J. Haz. Material/Waste Cargo NOT in a Tanker O. None - Our vehicle was EMPTY

10. Our accident involved fire and/or explosion. A. Yes B. No C. Unknown (explain in narrative) 10

11. Our vehicle's cargo had an actual, suspected or alleged problem best described as: 11
A. Cargo Shifted - stayed on vehicle C. Passenger Related Incident F. No Known Problem
B. Cargo Spilled or Released D. Other (specify in narrative. E. Unable to Determine

12. The first harmful event to occur in this accident sequence was: 12
A. Our vehicle Jackknifed G. Vehicle System or Part(s), Failed or Malfunctioned K. Our vehicle struck another stopped or parked motor vehicle
B. Skidded/Slid/Spunout M. Our moving vehicle had collision/contact with another moving motor vehicle L. Our vehicle struck other type s) of Fixed Objects
C. Overturned in Roadway N. Our vehicle struck a Pedestrian M. Our vehicle was struck while it was Stopped and/or Parked
D. Ran Off of Roadway J. Our moving vehicle struck/was struck by other type moving object s)
E. Cargo Shifted/Spill/Etc.
F. Cargo Fire/Explosion

13. The second harmful event to occur in the sequence of events was (Identify item in question 12 and enter the alphabetical code for it in the box to the right, if not applicable enter letter F.): 13

14. The initial impact point to our vehicle was: 14
A. Front end B. Left (driver's) side C. Right side D. Rear end E. Other F. Not Applicable

15. The initial impact point to the first (other) vehicle involved was: 15
A. Front end B. Left (driver's) side C. Right side D. Rear end E. Other F. Not applicable

Please complete other side of page

ILLUSTRATION IV

US Department of Transportation
Federal Highway Administration
Bureau of Motor Carrier Safety

MOTOR CARRIER ACCIDENT REPORT

INITIAL REPORT FOR MOTOR CARRIERS OF PROPERTY OR PASSENGERS

Form MCS-50 B R
Replaces: MCS-50-B & MCS-50-T
Expiration Date:
OMB No.

INSTRUCTIONS: An original of this form shall be filed with the Director, Bureau of Motor Carrier Safety, Federal Highway Administration, Washington, D.C. 20590, within 30 days of the occurrence of a reportable accident as required by the Federal Motor Carrier Safety Regulations.

- A copy of this report shall be retained by the motor carrier in its files for 3 years from date of accident.
- All entries shall be typed or printed clearly and legibly.
- Name of Carrier - Enter the name of the motor carrier performing the transportation at the time of the accident. If you were leased to another carrier when the accident occurred, do not submit the report using your company name; instead, give the lessee carrier all the needed information so that the accident can be properly reported in that carrier's name.
- Principal Office Address - Show in the space provided the main office address for your company, do not use address of a terminal or other facility.
- Time of day - enter and indicate whether AM, PM, NOON or MIDNIGHT by circling the correct one.
- Questions number 1 and 5 through 16A require you to circle a letter to indicate your answer and then print the letter in the box on the right hand side of the form.
- Questions number 2, 3 and 17 require you to enter the appropriate number in the boxes provided on the right.
- Questions 6 and 8 may have more than one answer. If so, enter the best or most important in the first (top) answer box, followed by the next best, etc. For example, if an accident was caused primarily by brake failure with electrical system as a contributing factor, the correct response to #8A would be [K] and #8B would be [L], with #8C remaining blank.
- Question 9 refers to "Hazardous Materials/Waste" and "Residue". This should be taken to mean those materials, liquids, and/or substances that have been classified by the U.S. Department of Transportation (in the Title 49 - Code of Federal Regulations, Parts 100-199) as Hazardous Materials, Substances or Hazardous Wastes or Residue thereof.
- Question 12 concerns the first thing that occurred in the sequence of accident events. For example, suppose your vehicle was passing another vehicle and sideswiped it, causing the other vehicle to go off of road and overturn. The sideswipe would be deemed the "First harmful event" and in that case you would place a circle around the letter "H" (Our moving vehicle had collision/contact with another moving motor vehicle), and put a letter "H" in the box to the right. However, if you had sideswiped a horse-drawn wagon (instead of a motor vehicle) you would then circle the letter "J" and place a "J" in the box to the right indicating "Our moving vehicle struck/was struck by other type moving object(s)."
- Question 13 is similar to question number 12 except that it identifies the second thing (if applicable) that occurred.
- Question number 19 requires a narrative type description of the accident by a responsible company or corporate official. It should cover events leading up to the accident, point(s) of contact with other vehicle(s) and/or object in sequence of their occurrence. Describe your own vehicle as vehicle #1 and subsequently involved vehicles as vehicle #2, vehicle #3, etc. Vehicles should be identified clearly, ie., "Chevrolet sedan," "18 wheel Cab over engine tractor with van trailer," "Ford school bus," etc. Include a description of the environment such as 4 lane divided, blacktop highway, ice covered, etc. Specify traffic conditions, speed(s) involved, lighting (dusk, street lights on) and visibility (night, snowing hard, cloudy day, heavy rain, etc.). If there is insufficient space to complete the narrative, continue on a sheet(s) of plain paper, number each sheet consecutively and be sure company name and date of accident is printed/typed across top of each sheet and attach to the form.
- Be sure that the report is dated and signed by a responsible company/corporate official. Print or type the person's name and title and give telephone area code and number.
- Detach these instructions at the perforated line below, prior to mailing.

23

16A. The first other involved moving vehicle in this accident was:

A. School Bus	E. Truck Tractor without a Trailer	I. Railroad Train	16A
B. Other type Bus	F. Truck Tractor with a Semi-Trailer	J. Other type (describe in narrative)	
C. Automobile	G. Truck Tractor with 2 Trailers (Doubles)	K. Not Applicable	
D. Straight Truck	H. Truck Tractor with 3 Trailers (Triples)		

16B. If other vehicle is a commercial vehicle please enter name of the motor carrier:

17. Total number of other motor vehicles involved in this accident was (if none show 0): 17

18. Was your vehicle transporting any Hazardous Material (including a mixed load ? A. Yes B. No 18

19. Narrative accident description by carrier official:

20. Complete diagram below of accident.

Instructions
1. Use dash lines as guides to draw heavy lines
2. Number each vehicle and show direction of travel by arrow
3. Use solid lines to show path of vehicle before accident and dotted after accident
4. Show pedestrian by
5. Show railroad by
6. Show distance and direction to landmarks. Identify landmarks by name and number
7. Indicate location of traffic control devices, regulatory and warning signs.

Indicate North By Arrow In Circle Above

Street or Highway

ROAD SURFACE ☐ Concrete ☐ Black Top ☐ Other (Specify)

Signature of company official submitting report

Print or type: Name Title

Date signed Telephone: Area Code Number

This space for U.S. D.O.T. use only

#20 - Reserved	#21 - Reserved	#22 - Reserved	#23 - Reserved	#24 - Reserved	A.D.M. Control Number

22

[FR Doc. 84-886 Filed 1-13-84; 8:45 am]
BILLING CODE 4910-22-C

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1984 JAN 16 VOL 49 ISS 10

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Findings on Certain Petitions

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of findings on certain petitions.

SUMMARY: The Service reports the initial findings that have been made on the substantiality of information for certain petitions received during the period of September 15, 1983, through November 30, 1983, as required by the Endangered Species Act Amendments of 1982.

DATE: Comments may be submitted until further notice.

ADDRESSES: Interested persons or organizations are requested to submit comments to the Associate Director—Federal Assistance, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials relating to this notice are available for public inspection by appointment during normal business hours at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240; (703/235–2771).

SUPPLEMENTARY INFORMATION: Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended in 1982, requires that the Service make a finding whether a petition to list, reclassify, or delist a species presents substantial scientific or commercial information that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition, and the finding is to be published promptly thereafter in the **Federal Register**. Similarly, section 4(b)(3)(D)(i) of the Act requires a finding within 90 days on a petition to revise critical habitat, with prompt publication of the finding. When a positive finding is made on a petition to list, reclassify, or delist a species, the Service is required to promptly commence a review of the status of the species.

Below is a list of those petitions received since September 15, 1983, for which findings are required by section 4(b)(3)(A) or 4(b)(3)(D)(i); the administrative record for these findings was completed by December 29, 1983, and the findings made on that date are indicated for each taxon. The criteria in 50 CFR 424.14 was used to define and evaluate petitions and to distinguish them from comments.

EVALUATION OF PETITIONS

Species	Action	Petitioner	Date	Substantial information
Orangefin madtom, *Noturus gilbert*.	List	Mr. Noel Burkhead	Oct. 6, 1983	Yes.
Roanoke logperch, *Percina rex*	List	Mr. Noel Burkhead	Oct. 6, 1983	Yes.
Dolloff Cave spider, *Meta dolloff*	List	Mr. Thomas S. Briggs	Oct. 25, 1983	Yes.

For the two fishes in this notice the required status review began with the December 30, 1982, vertebrate notice of review (47 FR 58454–58460). The orangefin madtom is know from the Roanoke River drainage in Virginia and North Carolina and one tributary of the James River in Virginia. The Roanoke logperch is known only from the Roanoke River drainage, including the Dan and Chowan Rivers, all within the State of Virginia. The required status review for the Dolloff Cave spider begins with this notice. It is known only from three neighboring caves in Santa Cruz County, California. The Service hereby solicits data concerning these species now under review for listing. Especially sought is information regarding taxonomy, distribution, any recommended critical habitat for the native species, and threats. Comments received will be considered in any future actions for these taxa.

If a petition is found to present substantial information indicating that an action may be warranted, the Service must decide within 12 months of its receipt whether the requested action is warranted in accord with sections 4(b)(3)(B) and 4(b)(3)(D)(ii) of the Act, as amended.

This notice was prepared by Dr. James D. Williams of the Service's Office of Endangered Species in Washington (703/235–1975), with evaluations by appropriate staff biologists in the Washington Office and Endangered Species Program staff of the Service's Regional Offices and Field Stations.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

(Endangered Species Act of 1973, as amended; Pub. L. 93–205, 87 Stat. 884; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*))

Dated: January 9, 1984.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84–1087 Filed 1–13–84; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 662

[Docket No. 31220–243]

Northern Anchovy Fishery; Correction

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a proposed rule to implement Amendment 5 to the Northern Anchovy Fishery Management Plan that was published on December 23, 1983, at 48 FR 56806. The errors are in the regulations text of that rule.

FOR FURTHER INFORMATION CONTACT: Donna D. Turgeon, 202–634–7432.

SUPPLEMENTARY INFORMATION: The following corrections are made in FR Doc. 83–34178 appearing on pages 56808 and 56810 in the December 23, 1983, issue: On page 56808,in the last column, of the definition *Spawning biomass* "30° N. latitude (San Francisco)" is corrected to read "38° N. latitude (Point Reyes)." On page 56810, § 622.20(a) first column, lines 4 and 17 of paragraph (a), "allocation" is corrected to read "allocations."

Dated: January 11, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84–1112 Filed 1–13–84; 8:45 am]

BILLING CODE 3570–22–M

Notices

Federal Register
Vol. 49, No. 10
Monday, January 16, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Feed Grain Donations for Blackfeet Indian Tribe in Montana

Pursuant to the authority set forth in Section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427) and Executive Order 11336, I have determined that:

1. The chronic economic distress of the needy members of the Blackfeet Indian Tribe in Montana has been materially increased and become acute because of severe and prolonged drought substantially reducing range forage and hay production, thereby creating a serious shortage of feed and causing increased economic distress. This reservation is designated for Indian use and is utilized by members of the Blackfeet Indian Tribe for grazing purposes.

2. The use of feed grain or products thereof made available by the Commodity Credit Corporation for livestock feed for such needy members of the tribe will not displace or interfere with normal marketing of agricultural commodities.

3. Based on the above determinations, I hereby declare the reservation and grazing lands of the tribe to be acute distress areas and authorize the donation of feed grain owned by the Commodity Credit Corporation to livestock owners who are determined by the Bureau of Indian Affairs, Department of the Interior, to be needy members of the tribe utilizing such lands. These donations by the Commodity Credit Corporation may commence upon signature of this notice and shall be made available through May 31, 1984, or to such other time as may be stated in a notice issued by the Department of Agriculture.

Signed at Washington, D.C. on January 11, 1984.

C. Hoke Leggett,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 84-1077 Filed 1-13-84; 8:45 am]
BILLING CODE 3410-05-M

Forest Service

Coronado National Forest Grazing Advisory Board; Meeting

The Coronado National Forest Grazing Advisory Board will meet in Room 7X, in the Federal Building, 301 West Congress, Tucson, Arizona at 10:00 a.m., February 14, 1984. The purpose of this meeting is to discuss allotment management planning and the use of range betterment funds.

The meeting will be open to the public. Persons who wish to attend should notify Larry Allen, Coronado Supervisor's Office, telephone 602-629-6410. Written statements will be filed with the board before or after the meeting.

The board has established the following rule for public participation: Nonmembers are asked to withhold comments until the close of business.

R. B. Tippeconnic,
Forest Supervisor.
January 9, 1984.

[FR Doc. 84-1074 Filed 1-13-84; 8:45 am]
BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

Elemental Sulphur From Canada; Revocation of Antidumping Finding in Part

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Revocation of Antidumping Finding in Part.

SUMMARY: On July 23, 1982, the Department of Commerce published in the **Federal Register** the final results of its first administrative review of the antidumping finding with respect to Hudson's Bay Oil & Gas Company Limited and Gulf Oil Canada Limited. In that notice we concluded that all sales by Hudson's Bay between January 1, 1977 and February 8, 1979, and by Gulf between May 1, 1977 and February 8, 1979, were made at not less than fair value. For the latter company, the Treasury Department determined that all sales were made at not less than fair value from January 1, 1976 through April 30, 1977. However, we postponed action on their applications for revocation.

We are not revoking the finding with respect to Hudson's Bay Oil & Gas Company Limited and Gulf Oil Canada Limited

EFFECTIVE DATE: January 16, 1984.

FOR FURTHER INFORMATION CONTACT: Joseph A. Fargo or Robert J. Marenic, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On December 17, 1973, the Treasury Department published in the **Federal Register** (38 FR 34655) an antidumping finding with respect to elemental sulphur from Canada. On April 9, 1981, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 21214) the preliminary results of its first administrative review of and tentative determination to revoke the finding with respect to Hudson's Bay Oil & Gas Company Limited, Gulf Oil Canada Limited, Chevron Standard Limited, and two other companies. On July 23, 1982, the Department published in the **Federal Register** (47 FR 31911) the final results of that review with regard to Hudson's Bay, Gulf and Chevron, but postponed action on their applications for revocation.

The Department stated that Hudson's Bay, Gulf and Chevron were shareholder members of Cansulex, an organization from which the Department had been unable to obtain information on third-country sales required for the Department's review of shipments made by two other companies covered in the review. The Department further stated that no Cansulex member would be excluded from the finding until Cansulex complied with our repeated requests for information.

On September 9, 1983, in accordance with the determination of the Court of International Trade to reconsider the question of revocation as to Chevron without regard to its affiliation with Cansulex, we published in the **Federal Register** (48 FR 40760-1) a revocation in

part of the antidumping finding on elemental sulphur from Canada with respect to Chevron.

Revocation of Antidumping Finding in Part

In accordance with the Department's decision with regard to Chevron, the Department revokes the antidumping finding on elemental sulphur from Canada with regard to merchandise produced and exported by Hudson's Bay and Gulf. This partial revocation applies to all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after February 8, 1979. The Department will instruct the U.S. Customs Service to proceed with liquidation of this merchandise without regard to antidumping duties.

This revocation in part and notice are in accordance with §§ 353.53 and 353.54 of the Commerce Regulations (19 CFR 353.53, 353.54).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

January 8, 1984.

[FR Doc. 84-1109 Filed 1-13-84; 8:45 am]

BILLING CODE 3510-DS-M

Polychloroprene Rubber From Japan; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on polychloroprene rubber from Japan. The review covers the six known Japanese manufacturers and/or exporters of this merchandise to the United States and generally the period December 1, 1981 through November 30, 1982. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

As a result of the review, the Department has preliminarily determined to require cash deposits of estimated dumping duties equal to the margins calculated on the last known shipments.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 16, 1984.

FOR FURTHER INFORMATION CONTACT: Phyllis Derrick or John Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-3601.

SUPPLEMENTARY INFORMATION:

Background

On March 8, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 9678) the final results of its last administrative review of the antidumping finding on polychloroprene rubber from Japan (38 FR 35393, December 6, 1973) and announced its intent to conduct the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review. The substantive provisions of the Antidumping Act of 1921 and the appropriate Customs Service regulations apply to all unliquidated entries made prior to January 1, 1980.

Scope of the Review

Imports covered by the review are shipments of polychoroprene rubber, an oil resistant synthetic rubber also known as polymerized chlorobutadiene or neoprene, currently classifiable under items 446.1521 and 446.2000 of the Tariff Schedules of the United States Annotated.

The review covers the six known Japanese manufacturers and/or exporters of this merchandise to the U.S. and generally the period December 1, 1981 through November 30, 1982. There were no known shipments of this merchandise to the United States by these firms during the period December 1, 1981 through November 30, 1982, and there are no known unliquidated entries for this period.

As part of the last administrative review of this finding the Department deferred review of certain unliquidated entries of this merchandise exported by Hoei Sanyo and manufactured by Toyo Soda and Showa Neoprene. The manufacturers provided incomplete responses to the Department's questionnaire for these shipments. For these non-responsive firms the Department will use the best information available for assessment and estimated antidumping duties cash deposit rate purposes. The best information available was provided by the petitioner.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the following margins exist:

Manufacturer/exporter	Period	Margin (percent)
Denki Kagaku Kogyo, K.K.	12/01/81-11/30/82	[1]0
Denki Kagaku Kogyo, K.K./ Hoei Sangyo Co., Ltd.	12/01/81-11/30/82	[1]55
Mitsui Bussan K.K.	12/01/81-11/30/82	[1]0
Showa Neoprene, K.K.	12/01/81-11/30/82	[1]0
Showa Neoprene, K.K./Hoei Sangyo Co., Ltd.	10/11/74-11/30/75	0
	12/01/81-11/30/82	[1]0
Suzugo Corporation	12/01/81-11/30/82	[1]55
Toyo Soda Manufacturing Co., Ltd.	12/01/81-11/30/82	[1]0
Toyo Soda Manufacturing Co., Ltd./Hoei Sangyo Co., Ltd.	10/11/74-11/30/74	0
	12/01/81-11/30/82	[1]0

[1]No shipments during the period.

As a result of our review, we preliminarily determine that, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based upon the most recent of the above margins shall be required on all shipments of polychloroprene rubber from these firms. The Department shall not require a cash deposit of estimated antidumping duties for future entries from a new exporter not covered in this or prior reviews, whose first shipments of polycholoroprene rubber occurred after November 30, 1982 and who is unrelated to any reviewed firm. These deposit requirements are effective for all shipments of Japanese polychloroprene rubber entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

December 28, 1983.

[FR Doc. 84-1107 Filed 1-13-84; 8:45 am]

BILLING CODE 3410-DS-M

Stainless Steel Plate From Sweden; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on stainless steel plate from Sweden. The review covers the two known manufacturers and/or exporters and one known third-country reseller of this merchandise to the United States and generally two consecutive periods from June 1, 1980 through May 31, 1982. The review indicates the existence of dumping margins for certain firms during the periods.

As a result of the review, the Department has preliminarily determined to assess dumping duties equal to the calculated differences between United States price and foreign market value on each of their sales during the periods of review.

Where company-supplied information was incomplete or no information was received, we used the best information available for assessment and estimated antidumping duties cash deposit purposes. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 16, 1984.

FOR FURTHER INFORMATION CONTACT: Valerie Newkirk or Susan Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–1130.

SUPPLEMENTARY INFORMATION:

Background

On September 17, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 41151) the final results of its last administrative review of the antidumping finding on stainless steel plate from Sweden (38 FR 15079, June 8, 1973) and announced its intent to immediately conduct the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

The substantive provisions of the Antidumping Act of 1921 ("the 1921 Act") and the appropriate Customs Service regulations apply to all unliquidated entries made prior to January 1, 1980.

Scope of the Review

Imports covered by the review are shipments of stainless steel plate which is commonly used in scientific and industrial equipment because of its resistance to staining, rusting and pitting. Stainless steel plate is currently classifiable under item 607.9005 of the Tariff Schedules of the United States Annotated.

The review covers the two known manufacturers and/or exporters and one known third-country reseller of Swedish stainless steel plate to the United States and generally two consecutive periods from June 1, 1980 through May 31, 1982.

One firm, Axel Johnson Industries Ltd., Canada, a third-country reseller, failed to respond to the Department's questionnaire. For this non-responsive firm, we used the best information available to determine the assessment and estimated antidumping duties cash deposit rates. The best information available for the June 1980 through May 1981 period is the highest rate in that period for responding firms with shipments. The best information available for the June 1981 through May 1982 period is the most recent rate for that firm, i.e. the same rate.

Two firms, Uddeholm/Nyby Uddeholm and Avesta Jernverks Aktiebolag, provided incomplete responses to certain portions of the Department's questionnaire. For these firms we used the best information available for those incomplete portions of their responses to our questionnaire.

United States Price

In calculating United States price the Department used purchase price or exporter's sales price ("ESP"), as defined in section 772 of the Tariff Act, as appropriate. Purchase price was based on the packed f.o.r. price to unrelated purchasers in the United States. ESP was based on the delivered price to unrelated purchasers in the United States. Deductions were made, where applicable, for U.S. and foreign inland freight, ocean freight, marine insurance, U.S. duty, brokerage charges and selling expenses. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act. Home market price was based on either the delivered price to unrelated purchasers or the packed f.o.b. factory price to unrelated purchasers.

Adjustments were made, where applicable, for inland freight, commissions to unrelated parties, quantity discounts, indirect selling expenses to offset U.S. selling expenses for ESP calculations, differences in the cost of packing and certain differences in the physical characteristics of the merchandise. Additional claims for adjustments for differences in the physical characteristics of the merchandise and "clean-cut discounts" were denied because they were not adequately quantified. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist:

	Time period	Margin (percent)
Manufacturer/exporter:		
Uddeholm/Nyby Uddeholm	6/01/80–5/31/81	8.81
	6/01/81–5/31/82	1.30
Avesta Jernverks Aktiebolag	9/22/73–9/31/76	8.81
	6/01/80–5/31/81	0
	6/01/81–5/31/82	[1]
Third-country reseller (country):	6/01/80–5/31/81	8.81
Axel Johnson Industries Ltd. (Canada)	6/01/81–5/31/82	8.81

[1] No shipments during the period.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than five days after the date of publication. The Department will publish the final results of the administravie review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department shall issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the most recent of the above margins shall be required for these firms.

For any future entries from a new exporter not covered in this or prior reviews, whose first shipments of Swedish stainless steel plate occurred after May 31, 1982 and who is unrelated to any reviewed firm, a cash deposit of

1.30 percent shall be required. These deposit requirements are effective for all shipments of Swedish stainless steel plate entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

January 6, 1984.

[FR Doc. 84-1108 Filed 1-13-84; 8:45 am]

BILLING CODE 3510-DS-M

Steel Jacks From Canada; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on steel jacks from Canada. The review covers the one known exporter of this merchandise to the United States and two consecutive periods from September 1, 1980 through August 31, 1982. The review indicates the existence of dumping margins during both periods.

As a result of the review, the Department has preliminarily determined to assess dumping duties equal to the calculated differences between United States price and foreign market value on each shipment during the periods of review. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 16, 1984.

FOR FURTHER INFORMATION CONTACT: Amy Dale or Susan Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-5255/1130.

SUPPLEMENTARY INFORMATION: On August 5, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 35688-9) the final results of its last administrative review of the antidumping finding on steel jacks from Canada (31 FR 11974, September 13, 1966) and announced its intent to conduct the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of steel jacks, currently classifiable under item 664.1057 of the Tariff Schedules of the United States Annotated. The review covers the one known exporter of Canadian steel jacks to the United States, J. C. Hallman Manufacturing Company Limited, and two consecutive periods from September 1, 1980 through August 31, 1982.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act. Purchase price was based on the packed, duty paid, delivered or packed, duty-paid f.o.b. plant price to unrelated purchasers in the United States with deductions, where applicable, for U.S. and Canadian inland freight, U.S. import duties, brokerage and commissions to unrelated parties. We accounted for taxes imposed in Canada but rebated or not collected by reason of the exportation of the merchandise to the United States. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. Home market price was based on the packed, f.o.b. plant price with adjustments, where applicable, for differences in credit expenses, advertising and commissions to unrelated parties. Further adjustments were made for differences in the physical characteristics of the merchandise, in accordance with § 353.16 of the Commerce Regulations. On sales where no commission applied, we denied claimed adjustments for indirect selling expenses to offset commissions to unrelated parties because of the lack of quantification. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist for J. C. Hallman Manufacturing Company:

Time period	Margin (percent)
Sept. 1, 1980-Aug. 31, 1981	27.57
Sept. 1, 1981-Aug. 31, 1982	7.14

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may result disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, dumping duties on all appropriate entries with purchase dates during the periods. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for by section 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the most recent of the above margins shall be required.

This deposit requirement is effective for all shipments of Canadian steel jacks entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

January 5, 1984.

[FR Doc. 84-1106 Filed 1-13-84; 8:45 am]

BILLING CODE 3510-DS-M

University of Alabama in Birmingham; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S.

Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket Number: 83–194R. Applicant: University of Alabama in Birmingham, Birmingham, AL 35294. Instrument: NMR Spectrometer, Model WH–400. Original notice of this resubmitted application was published in the **Federal Register** of May 13, 1983.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it was intended to be used, was being manufactured in the United States at the time the foreign instrument was ordered (September 28, 1978).

Reasons: This application is a resubmission of Docket Number 83–194 which was denied without prejudice to resubmission for informational deficiencies. The foreign instrument (with its Aspect 2000 computer) provides the capability of acquiring data in any of its three memory partitions directly without disk I/O interaction (interleaving data acquisition). The National Institutes of Health advises in its memorandum dated November 2, 1983 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use being manufactured in the United States at the time the foreign instrument was ordered.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which was being manufactured in the United States at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84–1036 Filed 1–13–84; 8:45 am]

BILLING CODE 3510–DS–M

National Oceanic and Atmospheric Administration

Issuance of General Permits To Incidentally Take Marine Mammals

SUMMARY: On December 29, 1983, general permits to take marine mammals incidental to commercial fishing operations in Categories 1, 3, 4, and 5 were issued to the Pacific Coast Federation of Fishermen's Associations (P.O. Box 1626, Sausalito, California 94965) and the North Pacific Fishing Vessel Owners' Association (Building C–3, Room 218, Fishermen's Terminal, Seattle, Washington 98119). These eight permits authorize the taking of 2,215 phocid seals, 4,010 otariid seals and 190 cetaceans within the U.S. fishery conservation zone (FCZ) off California, Oregon, Washington and Alaska, pursuant to 50 CFR 216.24. These general permits are valid through December 31, 1988.

The issuance of these general permits is based on information developed when the general permits were first issued in 1974 and on information developed for and covered in the "Report Based on the Workshop on Stock Assessment and Incidental Take of Marine Mammals Involved in Commercial Fishing Operations" and other relevant studies and reviews conducted since that report was made available (1980). Both the general permits and the supporting documentation are available for public review in the Office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, Room 172, 3300 Whitehaven Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Mr. K. R. Hollingshead, Protected Species Division, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20235, Telephone: (202) 634–7529.

SUPPLEMENTARY INFORMATION:

Background

The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) (MMPA) established a moratorium on the taking of marine mammals. A two-year exemption from the moratorium was established in the MMPA for commercial fishermen. Regulations governing the take of marine mammals incidental to commercial fishing operations were established at the conclusion of the exemption period to allow incidental taking under a permit.

Five General Permit categories are established in these regulations (50 CFR 216.24(b)):

Category 1: Towed or Dragged Gear. Commercial fishing operations utilizing towed or dragged gear such as bottom otter trawls, bottom pair trawls, multi-rig trawls, and dredging gear;

Category 2: Encircling Gear, Purse Seining Involving the Intentional Taking of Marine Mammals. Commercial fishing operations utilizing purse seines to capture tuna by intentionally encircling marine mammals;

Category 3: Encircling Gear, Purse Seining not Involving the Intentional Taking of Marine Mammals. Commercial fishing operations utilizing purse seining, which do not intentionally encircle marine mammals;

Category 4: Staionary Gear. Commercial fishing operations utilizing statioary gear such as traps, pots, weirs, and pound nets; and

Category 5: Other Gear. Commercial fishing operations utilizing trolling, gill nets, hook and line gear, and any gear so classified in the categories above.

Geneal Permit Issuance

This notice addresses the issuance of general permits in Categories 1, 3, 4, and 5. Category 2 general permits are the subject of a separate action (see 45 FR 72178, October 31, 1980). National Environmental Policy Act reviews on the issuance of general permits to commercial fishermen to incidentally take marine mammals were conducted in 1975, 1976, 1977 and 1980. General permits and certificates of inclusion have been issued by the National Marine Fisheries Service (NMFS), each year since 1974 to domestic fishermen. Since 1977 when the Magnuson Fishery Conservation and Management Act of 1976 (MFCMA) extended MMPA jurisdiction to include the 200-mile fishery conservation zone (FCZ), general permits have been issued also to foreign fishermen who fish within the FCZ.

On November 8, 1983 (48 FR 51354) and November 18, 1983 (48 FR 52479) notices were published in the **Federal Register** that applications had been received from the North Pacific Fishing Vessel Owners' Association and from the Pacific Coast Federation of Fishermen's Associations for General Permits under Categories 1, 3, 4, and 5. During the 30-day public review period on these applications, two public comments were received.

Although one commenter recommended the general permits be denied and the second recommended that they be issued, both were concerned about the same problem—unreported takings. The regulations are clear, a fisherman who takes a marine mammal either incidentally or in the course of protecting his gear and catch (as provided in 50 CFR 216.24(d)(III)), must report that taking within 5 days of returning to port. A failure to report will result in an enforcement action if discovered. However, to not issue general permits because of a failure to report, will not result in decreased takings but would result in less information from and cooperation with the fishermen. Recognizing this shortcoming and that the information received from fishermen can never be

more than partial and therefore not quantitatively complete, the NMFS and State Fish and Game agencies have over the past several years funded studies on the interactions between marine mammals and fisheries. These surveys have provided estimates on the magnitude of the incidental take and have been incorporated in this action.

Table 1 summarizes the domestic and foreign applications received in 1983 for general permits effective during 1984 and beyond.

Population estimates and the anticipated impact of regulations on affected marine mammal stocks were made when the general permit system was developed in 1974 (39 FR 32317, September 5, 1974). A workshop convened by the NMFS in Seattle, Washington on January 30–31, and February 1, 1979 updated that information. Participants in the workshop reviewed the best information available and identified research needs relating to the abundance, distribution and population trends of marine mammals. The workshop also addressed the interactions between marine mammals and commercial fishing operations other than purse seining for tuna (Category 2). The report of the workshop was released for public review on April 14, 1980. The information provided in the following sections is abstracted principally from the workshop report, but other source material is used as well. Tables of estimated population size and assessments of the anticipated impact on affected marine mammal species are included.

TABLE 1.—1984 GENERAL PERMIT—COMMERICAL FISHING INCIDENTAL TAKE—REQUEST AND AUTHORIZATION

Applicant/Category	Otariidae						Phocidae				Cetacea		Total	
	Northern sea lion		Northern fur seal		California sea lion		Harbor seal		Elephant seal					
	Requested	Authorized	Requested	Authorized	Requested	Authorized	Requested	Authorized	Requested	Authorized	Requested	Authorized	Requested	Authorized
Domestic (NPFVO):														
I	1,000	1,000	10	10			10	10			10	10	1,030	1,030
III	500	300	5	[illegible]			[illegible]	[illegible]			10	10	715	515
IV	20	[illegible]	[illegible]	[illegible]			5	5					[illegible]	
V	1,000	750	10	10			1,800	1,200			[illegible]	100	3,010	[illegible]
Domestic (PCFFA):														
I	10	10	[illegible]	5	[illegible]	[illegible]	10	10	10	10			[illegible]	[illegible]
III					100	100	25	25			80	[illegible]	[illegible]	175
IV					15	15	[illegible]	5					20	[illegible]
V	50	[illegible]	10	10	1,700	1,700	[illegible]	[illegible]	50	[illegible]	45	[illegible]	2,555	[illegible]
Japan:														
Deepsea I	120	120	10	10			15	15			[illegible]	4	[illegible]	[illegible]
Hokuten I	85	55	[illegible]	5			5	5					[illegible]	65
Longline V	[illegible]		0				[illegible]				[illegible]		[illegible]	[illegible]
Salmon V	25	25	450	450							[illegible]	5,500	5,975	[illegible]
Republic of Korea I	100								100		[illegible]		±	±
West German I	25								10		10		±	±
East German I									[illegible]	A†1	10	A†1	±	±
Portugal I									[illegible]	±	20	A†1	±	±

[a] Dall's porpoise, harbor porpoise, beluga whale.
[b] Pilot whales (30), harbor porpoise (0), Dall's porpoise (5), common (5), whitesided (5) and bottlenosed dolphins (5).
[c] Pilot whales (10), harbor porpoise (0), Dall's porpoise (10) and whitesided dolphins (10).
[d] Pilot whales, harbor porpoise, Atlantic whitesided and bottlesnose dolphins.
[e] Dall's porpoise.
[f] Authorizations have not been issued to Republic of Korea, W. Germany, E. Germany, or Portugal.

Population Estimates/Anticpated Impact of Take

PINNIPEDIA (SEA LION AND SEALS). THE FOLLOWING SUMMARIZES THE ESTIMATED POPULATIONS OF INVOLVED SPECIES

Species	Location	[illegible] population size
Otariidae:		
Northern seal lion (*Eumetopias jubatus*)	Alaska	[illegible]
	British Columbia	[illegible]
	California	5,000–7,000
	Washington	[illegible]
	Oregon	2,000–3,000
California seal lion (*Zalophus californianus*)	California	60,000–70,000
	Oregon/Washington	4,000
	Mexico	45,000
Northern fur seal (*Callorhinus ursinus*)	Eastern Bering Sea	[illegible]
Phocidae:		
Harbor seal (*Phoca vitulina*)	Alaska	270,000
	California	20,000
	Washington	10,000–12,000
	Oregon	4,000–5,000
Northern elephant seal (*Mirounga angustirostris*)	Baja California	35,356
	California/Oregon/Washington	41,000

The impact on these populations of the additional take of pinnipeds authorized by these permits is expected to be as follows:

Sea lions and Fur Seals (*Otariidae*)—Most of the incidental take of otariid seals is expected to be from the northern sea lion stocks in the Bering Sea, Aleutian Islands, and the Gulf of Alaska and the California sea lion stock off California. Some lesser number of animals is expected to be taken from the Pribilof Island fur seal stock as well as northern and California sea lion stocks off the coasts of Washington and Oregon.

The northern sea lion population in Alaska waters appears stable. Data indicate that approximately 2,500 sea lions are killed annually by domestic fishermen, while information from the U.S. observer program which monitors foreign fishing vessels indicates that the foreign incidental take is 200 to 800 sea lions annually. Based on information submitted in the Alaska Waiver proceedings (44 FR 2547–2554, January 11, 1979), a take of this level is not expected to disadvantage the northern sea lion population in Alaskan waters.

The workshop report also indicated that the annual mortality and injury by commercial fishing operations is not expected to adversely affect the population sizes of either the northern sea lion in California, Oregon, or Washington waters, or the northern fur seal since the level of take is believed to be low in comparison to the population size.

Of the estimated 1,560 (1,285 to 1,834) annual California sea lion mortalities due to fishery interactions in California, 952 (678 to 1,277) occur in the shark gill net fishery and 200 occur in the salmon and halibut gill net fishery. A take of 1,800 represents 3.0 to 4.0 percent of the population. Data taken on San Miguel Island rookery which comprise 52 percent of the Southern California Bight population indicates that the population is within its range of OSP and has had an annual average rate of increase of five percent between 1971 and 1981. Multiplying the growth rate of the San Miguel Island rookery and other island rookeries by the published estimates of population size produces an estimate of recruitment of 4,500 to 6,000 sea lions. This estimate indicates that the population is able to sustain the expected level of mortality and would not be disadvantaged by the taking.

Seals (*Phocidae*)—The workshop report indicates that most of the phocid seal take will be harbor seals, with an occasional take of northern elephant seals. The estimated take of harbor seals incidental to commercial fisheries off Alaska is estimated to be 1,500–2,000 in domestic fisheries and only a few (5–25) in foreign fisheries. As this estimate is less than one percent of the Alaskan population size, no effect on the Alaska population is anticipated. Regarding harbor seals in Washington, Oregon, and California, given that the population has increased substantially in the last ten years, there is no indication that the expected level of take is adversely affecting the population in this area. The incidental mortality from commercial fishing operations on the northern elephant seal in Pacific waters is almost negligible in comparison to its population size and is not thought to have a significant impact on population size which is considered to be approaching its carrying capacity.

Cetacea (dolphins, porpoises and whales)—The following summarizes the species invoved in commercial fishing activities and their estimated population sizes:

Species	Location	Estimated population size
Beluga (white whale) (*Delphinaperus leucas*)	Cook Inlet	[illegible]
	Bristol Inlet	2,000
	Bering/Chukchi/Beaufort	15,000
Bottlenose dolphin (*Tursiops truncatus*)	U.S. west coast	580,000
Common dolphin (*Delphinus delphis*)	California	243,000
Dall's porpoise (*Phocoenodes dalli*)	North Pacific Ocean	5,000,000
	California	250,000
Harbor porpoise (*Phocoena phocoena*)	California	2,800
Pacific whitesided dolphin (Lagenorhynchus obliquidens)	Baja and Alta California	24,000
Shortfin pilot whale (*Globicephala macrorhynchus*)	Eastern Tropical Pacific	[illegible]

The taking of beluga whales is estimated to be rare. In the Alaska Waiver decision, the presiding administrative law judge determined that a taking of 10 belugas from the Cook Inlet population and 350 from the Bering-Chukchi Sea population would not disadvantage the populations.

The Dall's porpose is believed to be taken more frequently than other cetacean species in commercial fishing operations; however, the numbers taken are not expected to adversely affect or disadvantage the species. Dall's porpoise are taken in the Japanese mothership and land-based salmon gill net fisheries which are covered by an international convention. The average annual take of Dall porpoise in those fisheries was 3,220 for the period 1955 to 1975, including a high of nearly 20,000 in 1966. In 1980, 1981 and 1982 the annual mortality was 2862, 5903, and 3575 both inside and outside the U.S. FCZ. In an administrative law judge hearing (see 46 FR 27056–88, May 15, 1981) a determination was made that up to 21,763 Dall's porpoise a year could be taken without disadvantaging the population. As Dall's porpoise are rarely taken incidental to inshore domestic fisheries, the annual incidental take issued under the general permits is not expected to adversely affect or disadvantage the population.

The harbor porpoise population is found in bays and sounds from the Bering Sea to central California and is only occasionally sighted offshore. Recent surveys in California indicated the harbor porpoise was the fifth most abundant toothed cetacean with an estimated population peak in the fall of the year at 2,813. The harbor porpoise is rarely taken in offshore trawling operations, however, it is taken in domestic gillnet fisheries. Although the requested take for California, Oregon and Washington waters of 25 animals is less than 1 percent of the population size, no incidental taking of this species is being authorized because of the possibility for an impact on the species from a reported take that may exceed the number of animals requested. Also, no taking will be allowed in Alaskan waters since the population size and the impact on taking in those waters is unknown.

The Pacific bottlenose dolphin population is estimated to be 590,000. It is regularly sighted in waters off the west coast south of Pt. Conception, California. Current taxonomic opinion places all bottlenose dolphins within one species. However, researchers in some parts of the species' range have identified separate inshore and offshore stocks. Such is the case in southern California, where a larger lighter-colored inshore dolphin can be found near the surf line and in bays and estuaries from Baja California, Mexico, to Los Angeles, California. The smaller darker offshore form may be continuous with the tropical population which has been determined to be close to carrying capacity and is not expected to be disadvantaged by incidental fishing mortality. The status of the inshore form is not clear. Its population is unknown, but can be assumed to be quite small due to the narrow band of shallow water habitat off southern California and Baja California, Mexico. Inshore gill net or trammel net fisheries may occasionally take individuals from the inshore form, although reports are rare. However, since a small incidental take could have a relatively significant impact on this form, the general permit for domestic fisheries will limit the killing or injuring of the Pacific stock of bottlenose dolphin to the offshore population.

The common dolphin is the most abundant small cetacean off California. This species' involvement in commercial fisheries occurs chiefly in the domestic southern California "wetfish" purse seine fishery where it is accidentally encircled during fishing operations. The California population has been estimated to be about 243,000 animals. Since incidental mortality of common dolphins is not precisely known, and population estimates by stock do not exist, the impact of incidental mortality cannot be assessed at this time. However, given the small incidental take relative to the large population size, it seems likely that at least the offshore

population is at or near the carrying capacity.

The Pacific whitesided dolphin population is estimated to be 24,000 and is the second most abundant dolphin found off southern California. The population is believed to be at or near carrying capacity. This specics is incidentally taken in the domestic southern California "wetfish" purse seine fishery. The incidental mortality is estimated to be less than 30 animals per year and it is likely that the allowable take will not adversely affect the Pacific whitesided dolphin population.

The Pacific shortfin pilot whale is abundant in southern California waters. This species gathers in areas of high squid concentration which makes annual conflicts with southern California squid purse seiners unavoidable. It has been estimated that approximately 30 animals are killed each year incidental to the squid fisheries and shark gill net. Mortality at this level would not be expected to seriously affect the pilot whale population if confined to the larger seasonal migrant schools which move inshore during the squid season. The NMFS is currently undertaking a nearshore cetacean census off southern California to better determine the status of the various marine mammal populations and the impact of fisheries on them.

The workshop report as well as data available from other studies and reviews supports the conclusion that a take of 2,215 phocid seals, 4,010 otariid seals and 190 cetaceans as requested in the applications from the Pacific Coast Federation of Fishermen's Association (PCFFA) and the North Pacific Fishing Vessel Owners' Association will not adversely impact or disadvantage the affected species or stocks. Accordingly, general permits were issued on December 29, 1983, for the four gear categories listed previously. No take is authorized for species whose estimated population size is unknown, for which the impact on the species is unknown, or for which the species is considered depleted under the MMPA, or listed as threatened for endangered under the Endangered Species Act of 1973.

Dated: January 10, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-1038 Filed 1-13-84; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Receipt of Application for Permit; Bolt Beranek and Newman, Inc.

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531-1544), the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217-222).

1. Applicant:

a. Name: Bolt Beranek and Newman, Inc. (P308A).

b. Address: 10 Moulton Street, Cambridge, Massachusetts 02238.

2. Type of Permit: Scientific Research.

3. Name and Number of Animals: Humpback whale *(Megaptera novaeangliae)* unspecified number.

4. Type of Take: Potential harassment while determining behavioral responses of feeding humpback whales to underwater sound associated with offshore oil and gas exploration and drilling operations.

5. Location of Activity: Stephens Passage/Frederick Sound area of Southeast Alaska.

6. Period of Activity: one year.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802; and

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: January 10, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-1115 Filed 1-13-84; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing New Specific Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Hong Kong

January 11, 1984.

Under the terms of paragraph 7(e)(IV) of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 23, 1982, as amended, between the Governments of the United States and Hong Kong, the United States Government has converted the following categories to specific limit categories for the 1984 agreement year at the indicated limits:

Category	Limit
313	51,527,028 square yards.
315	7,611,932 square yards.
319	31,620,000 square yards.
336	140,458 dozen.
352	4,539,000 dozen.
434	8,633 dozen.
442	63,854 dozen.
604	349,304 pounds.
631	432,480 dozen pairs.
636	204,000 dozen.
642	131,762 dozen.
644	25,500 dozen.
647	280,906 dozen.

The purpose of this notice is to advise the public of these 1984 limits.

Walter C. Lenahan,

Chairman, Committee for Implementation of Textile Agreements.

[FR Doc. 84-1113 Filed 1-13-84; 8:45 am]

BILLING CODE 3510-DR-M

VOL 49 ISS 10 JA 16 1984 UMI

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board; Advisory Committee Meeting

The Defense Science Board will meet in closed session on 22–23 February 1984 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meeting on 22–23 February 1984 the Board will discuss interim findings and tentative recommendations resulting from ongoing Task Force activities associated with Strategic, Tactical, Intelligence/Command, Control and Communications, and Technology Issues. The Board will also discuss plans for future consideration of scientific and technical aspects of specific strategies, tactics, and policies as they may affect the U.S. national defense posture.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. I, (1976)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly these meetings will be closed to the public.

Dated: January 11, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer Department of Defense.

[FR Doc. 84–1111 Filed 1–13–84; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Task Force on International Industry-to-Industry Armaments Cooperation; Advisory Committee Meeting

The Defense Science Board Task Force on International Industry-to-Industry Armaments Cooperation will meet in closed session on 9 February 1984 in the Pentagon, Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meeting on 9 February 1984 the Task Force will continue its review of the Defense Department's policies, plans and procedures which impede or might impede international arms cooperation and thereby have the potential for adversely impacting the collective security of the United States, its friends and Allies. In this context, the Task Force will also analyze the effect current international cooperation policies have on the utility of the US, its friends and Allies to achieve in good order and sustain mobilization capacities.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. I, (1976)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly this meeting will be closed to the public.

Dated: January 11, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84–1110 Filed 1–13–84; 8:45 am]

BILLING CODE 3810–01–M

Corps of Engineers, Department of the Army

Intent To Prepare Draft Environmental Impact Statement (EIS); Baldhill Dam, Lake Ashtabula, Barnes County, North Dakota, Dam Safety Assurance Program Project

AGENCY: U.S. Army Corps of Engineers, St. Paul District, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement.

SUMMARY: Baldhill Dam was built in 1950 on the Sheyenne River in Eastern North Dakota for flood control, water supply, pollution abatement, and recreation. The dam was evaluated for potential safety hazards in light of present-day standards and technical knowledge. As a result of this evaluation, the upgrading of Baldhill Dam is being considered under the provisions of the major Rehabilitation and Dam Safety Assurance Programs. Baldhill Dam is also considered a feature of the Sheyenne River plan for flood control and related purposes.

Four alternatives are being considered in the study of the rehabilitation of Baldhill Dam. These four alternatives range from doing nothing to raising the dam 10 feet and building a new spillway 350 feet long. All of the alternatives would have impacts on the existing Main Public Use Area and fish-rearing ponds.

Scoping letters will be sent to all concerned agencies and individuals to identify the significant issues related to the proposed action and to determine the scope of the issues to be addressed. No scoping meetings are scheduled.

Copies of the draft EIS will be provided to all concerned Federal, State, and local agencies; affected Indian tribes; private organizations; and individuals. Anyone else who is interested in reviewing this draft EIS is invite to do so. Interested parties should contact the St. Paul District, Corps of Engineers, to assure that they are included on the mailing list.

Significant issues identified to date that will be analyzed in depth in the draft EIS include the following: Effects on recreational resources in the project area, effects on the fish-rearing ponds, and relocation of or change to the channel below the spillway.

Review of the project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, Council on Environmental Quality Regulations (40 CFR Parts 1500–1508), and applicable Corps of Engineers regulations and guidance.

Input into the planning process has been received from Federal, State, and local agencies.

The draft EIS is currently scheduled to be available for public distribution in March 1984.

Questions concerning the proposed action and draft EIS can be directd to: Robin R. Blackman, Chief, Environmental Analysis Section, St. Paul District, Corps of Engineers, 1135 U.S. Post Office and Custom House, St. Paul, Minnesota 55101.

Dated: January 6, 1984.

Edward G. Rapp,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 84–1070 Filed 1–13–84; 8:45 am]

BILLING CODE 3710–CY–M

DEPARTMENT OF ENERGY

Office of the Secretary

National Petroleum Council; Renewal

This notice is published in accordance with the provisions of Section 101–6.1029 of the Interim Rule on Advisory Committee Management. Pursuant to Section 14(a)(2)(A) of the Federal Advisory Committee Act, and following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that the National Petroleum Council has been renewed for a 2-year period ending on December 31, 1985.

The renewal of the National Petroleum Council has been determined necessary and in the public interest in

connection with the performance of duties imposed upon the Department of Energy by law. The Committee will operate in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92–463), the Department of Energy Organization Act (Pub. L. 95–91), the GSA Interim Rule on Advisory Committee Management, and other directives and instructions issued in implementation of those acts.

Further information regarding this advisory committee may be obtained from Gloria Decker (202–252–8990).

Issued at Washington, D.C. on January 6, 1984.

K. Dean Helms,

Advisory Committee Management Officer.

[FR Doc. 84–1083 Filed 1–13–84; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. CS84–23–000, et al.]

Natural Gas Companies; Barbara Bramley, et al.; Applications for "Small Producer" Certificates [1]

January 10, 1984.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and § 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make protest with reference to said application should on or before January 24, 1984 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385. 214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No.	Date filed	Applicant
CS84–23–000	12/1/83	Mrs. Barbara Bramley, 2895 Brighton Rd., Shaker Hts., Ohio 44120.
CS84–24–000	12/5/83	Elinor Parsons, 6020 Milton, #1080, Dallas, Texas 75206.
CS84–25–000	12/9/83	A & D Childrens' Trust, 963 Ratcliff, Shreveport, Louisiana 21104.
CS84–26–000	12/12/83	Centurion Resources, Ltd., Newel Road, Dunkirk, New York 14048.
CS84–27–000	12/12/83	S T Joint Venture 1983 B, P.O. Box 552, Westport, Connecticut 06881.
CS84–28–000	12/19/83	Barbara Ann Bruse, 1332 Camino Ecuestre, NW., Albuquerque, New Mexico 87107.
CS84–29–000	12/19/83	McConnell Trust,. 1332 Camino Ecuestre, NW., Albuquerque, New Mexico 87107.
CS84–30–000	12/19/83	J. W. McConnell, Jr., 1332 Camino Ecuestre, NW., Albuquerque, New Mexico 87107.
CS84–31–000	12/21/83	Trinity Resources, Inc., 1010 Lamar Bldg., Suite 905 Houston, Texas 77002.

[FR Doc. 84–1098 Filed 1–13–84; 8:45 am]

BILLING CODE 6717–01–M

City of Portland, Oregon; Application for Commission Certification of Qualifying status of a Small Power Production Facility

January 10, 1984.

On December 7, 1983, Francis J. Ivancie and James L. Doane, of the City of Portland, Oregon, City Hall, Room 303, 1220 SW. Fifth Avenue, Portland, Oregon 97204, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations.

The Portland Groundwater Pumping Station will be a small power production facility. The station will make use of the 450 feet of hydraulic head and the surplus water of 155 cubic feet per second to generate electricity. The total installed generating capacity of the facility will be about 4,500 kilowatts. The station will be located at NE. 162nd Street and Airport Way in Multnomah County, Oregon.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–1099 Filed 1–13–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–672–000]

Baltimore Gas and Electric Co., Order Accepting for Filing and Suspending Rates, Granting Interventions, Granting Waiver of Notice Requirements, and Establishing Hearing Procedures

Issued: January 9, 1984.

On November 10, 1983, Baltimore Gas and Electric Company (BG&E) completed [1] the filing of a letter agreement between BG&E and Public Service Electric and Gas Company PSE&G).[2] The letter agreement, executed on August 10, 1983, provides for the purchase by PSE&G of BG&E's unutilized share of the transmission capability of the Pennsylvania-New Jersey-Maryland Interconnection (PJM) 500 kV EHV transmission system for inporting energy from electric utility systems located to the west of PJM. The letter agreement provides for a rate of $1,050/MW-week for the service, as determined by a sealed bid procedure under which solicitations were made to the various owners of the 500 kV

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

[1] BG&E initially tendered the letter agreement for filing on August 12, 1983. By letter dated October 11, 1983, the Director of the Commission's Office of Electric Power Regulation notified the company that its filing was deficient. In response, BG&E submitted additional information on November 10, 1983.

[2] Designated as: *Baltimore Gas and Electric Co.* Rate Schedule FERC No. 29.

system. BG&E states that the proposed rate is value based, not cost based.

The parties to the letter agreement scheduled the service to commence as of August 15, 1983. Accordingly, BG&E requests waiver of the notice requirements in order that the provisions of the agreement may take effect on the date. BG&E stated, in its transmittal letter acompanying the filing, that in the event the Commission finds any amounts collected under the letter agreement to be in excess of a just and reasonable rate level, it will refund such amounts with interest. In addition, the company requested waiver of the Commission's regulations requiring the submission of cost support data along with the filed rate. BG&E asserted that such information is not germane to the instant transaction.

Notice of the instant filing was published in the **Federal Register** on August 23, 1983 (48 FR 38071), with comments due on or before September 1, 1983. A timely motion to intervene was filed by the Easton Utilities Commission of the Town of Easton, Maryland (Easton). Untimely motions to intervene were filed by: PSE&G; Atlantic City Electric and Gas Company (Atlantic Electric); and Potomac Electric Power Company (PEPCO).[3]

Easton requests that the Commission reject BG&E's filing as deficient for want of cost support data. According to Easton, the parties' allegation that the agreement is "mutually beneficial" to the signatories does not relieve BG&E of its obligation to provide sufficient information for the Commission and other parties to determine whether the filing complies with the mandates of the Federal Power Act. In addition, Easton contends that the filing should be rejected on the ground that it contradicts the provisions of the PJM Interconnection Agreement. In the event that the Commission accepts the instant filing, Easton requests that it be suspended for the maximum five month period, contending that: BG&E's auction procedure is unreasonable and unduly discriminatory; the sealed bid procedure is inconsistent with the allocation methodology accepted by the Commission in *Town of Easton, Maryland* v. *Delmarva Power & Light Co. and Pennsylvania-New Jersey-Maryland Interconnection*, Docket No. EL82–1–000, 24 FERC ¶ 61,251 (1983); and the proposed rate is excessive.

PSE&G and Atlantic Electric support the instant filing and urge the Commission to accept it. They seek intervenor status in the event that the Commission sets BG&E's submittal for hearing. PEPCO, while not raising any substantive objections in its motion to intervene, contends that Easton's allegations amount to an effort to reargue claims rejected by the Commission in Docket No. EL82–1–000.

Timely answers to Easton's motion were filed separately by BG&E and PSE&G. Each company requests that Easton's motions to intervene and for rejection or suspension be denied. BG&E and PSE&G dispute the allegations advanced by Easton and contend that many of the arguments were previously presented and rejected by the Commission in Docket No. EL82–1–000.[4]

Discussion

As indicated, BG&E, PSE&G, and PEPCO contend that Easton's motion to intervene should be denied on the grounds that Easton will not be affected by the allocation procedure used by BG&E in selling its EHV system transmission capability. In essence, BG&E and the other utilities allege that Easton lacks standing to object to the instant transaction. We rejected a similar challenge to Easton's standing in Docket No. EL82–1–000, stating that Easton's interest as a directly affected customer of Delmarva Power & Light Company (Delmarva) [5] in PJM's allocation procedures was "readily evident." 24 FERC at 61,530. In this docket as well we find that Easton may have a legitimate interest that is unrepresented by other parties. Accordingly, we shall, pursuant to Rule 214(c) of the Commission's Rules of Practice and Procedure, grant Easton's motion to intervene. With respect to PSE&G, Atlantic Electric, and PEPCO, we find that, in view of the early stage of this case, the interest for the moving parties in the outcome, and the lack of undue prejudice to the other participants, good cause exists, pursuant to Rule 214, to grant their late motions to intervene.[6]

Easton requests that the Commission reject the instant filing, contending that Schedule 4.02 of the PJM Agreement requires BG&E to assign unused capacity in the EHV transmission system to the other PJM members through an iterative process at a rate of $185/MW-week. Thus, Easton claims that the BG&E–PSE&G letter agreement contradicts the allocation practices and rate established in the PJM Agreement and must be rejected in accordance with the *Mobile-Sierra* [7] doctrine. The signatories to the agreement, on the other hand, contend that their filing is fully in accord with PJM requirements inasmuch as Section 4.02 does not prohibit BG&E's right to sell its share of transmission import capability at a rate other than $185/MW-week. The Commission has reviewed the pertinent provisions of the PJM agreement and, given the information available, is unable to conclude that either of the positions espoused is clearly correct. While Section 4.02 does not expressly preclude bilateral sales such as the one before us, the parties to that transaction have not adequately explained the purpose or need for the provisions of Section 4.02 if separate agreements can be entered into at any time. Given this ambiguity, we shall not reject the instant filing on *Mobile-Sierra* grounds. However, the parties should address this issue in the hearing to be held in this docket.

Easton further contends that the filing should be rejected for lack of necessary cost support data. However, in view of BG&E's submission of additional information, we find that the filing, as completed on November 10, 1983, substantially complies with Part 35 of the Commission's regulations.[8] Therefore, we shall deny the motion to reject BG&E's filing on this ground as well.

Our review of BG&E's filing and the issues raised by Easton indicates that the proposed letter agreement has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or

[3] As good cause for its late-filed pleading, PEPCO states that it had no interest in this docket until Easton filed its request on September 23, 1983, for rehearing of an earlier Commission order in Docket No. EL82–1–000, at which time, PEPCO asserts that its interests as a party to Docket No. EL82–1–000 were invoked in this proceeding. PEPCO contends that its interests may be affected by the outcome of this proceeding as well as the earlier case. PSE&G and Atlantic Electric, on the other hand, do not state and grounds for their late interventions.

[4] PEPCO, in its motion to intervene, states that it supports BG&E's position for the reasons stated in the later's answer.

[5] Pursuant to Section 1.01 of its interconnection agreement with Easton, Delmarva purchases, on Easton's behalf, short-term power from Allegheny Power System. Delmarva transmits this power over its share of the 500 kV system for delivery to Easton.

[6] While the Commission does not condone the failure of PSE&G or Atlantic Electric to state the reason(s) why their interventions were untimely, we believe that PSE&G, as a signatory to the agreement at issue, may be a necessary party to this proceeding and we note that Atlantic Electric has a direct derivative interest since it has agreed to purchase 10% of the BG&E transmission capability obtained by PSE&G at the same terms and rate.

[7] *United Gas Pipe Line Co.*, v. *Mobile Gas Service Corp.* 350 U.S. 332 (1956); *FPC* v. *Sierra Pacific Power Co.*, 350 U.S. 356 (1956).

[8] *See, Municipal Light Boards of Reading and Wakefield, Massachusetts* v. *FPC*, 450 F. 2d 1341 (D.C. Cir. 1971). Given our finding of substantial compliance with the filing regulations, we need not address BG&E's original request for waiver of such regulations.

otherwise unlawful. In particular, questions exist concerning such matters as (1) whether BG&E's sealed bid procedure was unduly discriminatory or preferential, and (2) whether the proposed transmission rate is appropriate for long-term transactions, taking into account considerations of reliability and economy, as opposed to the short-term, economic transactions contemplated by the parties when the August 10, 1983 letter agreement was executed.[9] Accordingly, we shall accept the submittal for filing and suspend it as ordered below.[10]

In *West Texas Utilities Company*, 18 FERC ¶ 61,189 (1982), we explained the Commission's suspension policy and noted that rate filings would ordinarily be suspended for five months where preliminary review indicates that the rates may be unjust and unreasonable and may produce substantially excessive revenues as defined in *West Texas*. Our review of BG&E's filing indicates that it may, under traditional cost of service standards, yield substantially excessive revenues as defined in *West Texas*. However, we note that under the existing PJM pool procedures, BG&E could continue to utilize its share of capability in the EHV system to import energy from resale to other pool members (including PSE&G) on a split-the-savings basis. The return to BG&E might well approach or exceed that realized from the company's sale of its import capability to PSE&G. Furthermore, PSE&G, the directly affected customer, supports the instant filing. In this regard, BG&E's November 10, 1983 submission states that PSE&G has reduced its gross production costs by approximately $2.3 million during the period August 15, 1983–October 2, 1983, for which it has been billed $982,800 by BG&E, due to the use of the latter's unused transmission capability. Given the immediate cost savings (to the affected companies and their customers) apparently available under the agreement, as well as the purchasing utility's concurrence, we believe that a five month suspension may prove counterproductive. Under the circumstances, we are satisfied that a nominal suspension together with a refund contingency is appropriate. Furthermore, we believe that the reasons just stated provide good cause to waive the notice requirements. Accordingly, we shall accept BG&E's submittal for filing and suspend it to become effective as of August 15, 1983, subject to refund and the outcome of a hearing.

The Commission orders:

(A) The motions to intervene filed by Easton, PSE&G, Atlantic Electric, and PEPCO are hereby granted pursuant to the Commission's Rules of Practice and Procedure.

(B) Easton's motions to reject BG&E's filing or, in the alternative, to suspend it for five months are hereby denied.

(C) BG&E's request for waiver of the notice requirements is granted.

(D) BG&E's submittal is hereby accepted for filing and suspended to become effective as of August 15, 1983, subject to refund.

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act [18 CFR, Chapter I], a public hearing shall be held concerning the justness and reasonableness of the BG&E/PSE&G letter agreement.

(F) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a prehearing conference in this proceeding to be held within approximately fifteen (15) days of the date of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. This conference shall be held for purposes of establishing a procedural schedule and defining the appropriate scope of this proceeding. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(G) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 84-1087 Filed 1-13-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-6-000]

El Paso Natural Gas Co.; Motion To Withdraw a Rate Increase Filing

January 10, 1984.

Taken notice that on July 21, 1983, El Paso Natural Gas Company (El Paso) filed, pursuant to Rule 212 of the Commission's Rules of Practice and Procedure (18 CFR 385.212), to withdraw its proposed general rate increase filed in the instant docket.

On October 15, 1982, El Paso filed for a change in rates for natural gas service rendered to jurisdictional customers served under all rate schedules contained in El Paso's FERC Gas Tariff, Original Volume No. 1 and certain rate schedules contained in El Paso's FERC Gas Tariff, Third revised Volume No. 2 and Original Volume No. 2A. By order issued November 12, 1982, the Commission suspended the proposed rate change until April 15, 1983, subject to refund, and consolidated the October 15, 1982 filing with the notice of general rate increase in Docket No. RP82-33-000.

On March 15, 1983, El Paso filed a Stipulation and Agreement in Docket No. RP82-33-000. Paragraph 24.2 of Article XXIV, *Termination of Proceeding*, stated that upon receipt of a final Commission order no longer subject to judicial review approving the Stipulation and Agreement, El Paso would file a motion to withdraw its filing at Docket No. RP83-6-000 within thirty (30) days of the effectiveness of the Stipulation and Agreement. The Commission approved the Stipulation and Agreement by letter order dated May 31, 1983. That order was no longer subject to judicial review as of July 1, 1983.

In keeping with the provisions of the settlement, El Paso filed to withdraw its proposed general rates increase filed in Docket No. RP83-6-000.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211,

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[9] As noted, BG&E and the intervenors other than Easton contended that Easton is now seeking to reargue issues previously decided in Docket No. EL82-1-000. In setting the instant filing for hearing, it is not our intention to reopen questions already resolved in Docket No. EL82-1-000, and we encourage the presiding judge to limit the scope of this proceeding accordingly.

[10] In its answer to Easton's pleading, BG&E submits that the letter agreement with PSE&G represents an initial rate filing that is not subject to suspension under the Federal Power Act. We need not address the initial rate question since the Commission has determined that an initial rate may be suspended in any event. *See* Order No. 303, Docket No. RM83-21-000, "Interpretation of Authority to Suspend Initial Rate Schedules," Final Rule, III *FERC Statutes and Regulations*, ¶ 30,456 (1983); *Middle South Energy, Inc.*, 23 FERC ¶ 61,277 (1983). Furthermore, given our decision below to suspend for a nominal period and BG&E's commitment to refund amounts determined by the Commission to be excessive, the issue presented by BG&E is effectively mooted.

385.214). All such petitions or protests should be filed on or before January 18, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1099 Filed 1-13-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER84-82-000]

Iowa Power and Light Co.; Order Accepting for Filing and Suspending Rates, Noting Intervention, Denying Motion for Rejection, and Establishing Hearing Procedures

Issued: January 9, 1984.

On November 10, 1983, Iowa Power and Light Company (IPL) tendered for filing, under the abbreviated filing requirements of § 35.13(a)(2) of the Commission's regulations, a proposed increase in rates for wholesale service to the Cities of Carlisle and Neola, Iowa (Cities).[1] The proposed rates would increase revenues by approximately $104,000 (16.7%), based on a calendar year 1982 test period. IPL requests that its filing be made effective on January 9, 1984.

IPL's submittal is intended to increase its wholesale rate to the same level as the company's Rate 301, an interim retail rate applicable to IPL's large general service customers which is currently being collected subject to refund, pending State commission disposition. IPL states that, if a final order of the Iowa State Commerce Commission establishes a lower retail rate level for Rate 301, IPL will make corresponding reductions in the proposed wholesale rates together with appropriate refunds. The company does not, however, propose to further increase its wholesale rates in the event that the Iowa Commission ultimately approves a retail rate higher than the current interim rate. As filed, the proposed wholesale rates are developed at a level that will recover revenues significantly less than IPL's claimed wholesale cost of service.

Notice of IPL's filing was published in the **Federal Register**, with comments due on or before December 5, 1983. The Cities filed a timely protest and moition to intervene in which they initially request that the Commission reject the company's filing or issue a deficiency letter. The Cities argue that the filing does not adequately explain the development of the costs underlying the proposed rate increase and fails to satisfy even the abbreviated filing requirements imposed by the Commission. In the alternative, the Cities request a five month suspension of the proposed rates and a hearing.[2] Finally, the Cities request that the Commission impose, as conditions to any rate approval, two specific refinements to IPL's commitment to synchronize the proposed wholesale rates with the retail Rate 301.[3]

IPL responded to the Cities' pleading in an answer filed on December 29, 1983, together with a motion requesting permission to file this answer out of time. On December 30, 1983, the Cities filed a pleading opposing IPL's motion.[4]

Discussion

Under Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the unopposed motion to intervene serves to make the Cities parties to this proceeeding.

Contrary to the Cities' contentions, we find that IPL's submittal substantially complies with the Commission's filing requirements. Accordingly, we shall deny the Cities' request to reject the filing or to issue a deficiency letter.[5] We shall also deny the Cities' request to impose conditions to ensure the synchronization of retail Rate 301 with the proposed wholesale rates. Since no final determination as to the justness and reasonableness of either the retail or the wholesale rate filings has been made, action on the Cities' potential price squeeze assertions would be premature. In any case, we note that IPL has already voluntarily agreed to reduce its proposed wholesale rates, should the Iowa Commission order a lower rate level for the retail Rate 301. Furthermore, even in the absence of IPL's additional commitment not to seek a further wholesale rate increase in this proceeding to track any corresponding retail rate increase, we note that IPL would be precluded, under the filed rate doctrine, from collecting wholesale rates in excess of those filed in this docket without tendering an entirely new rate filing. Because the Cities have not sought the initiation of formal price squeeze procedures and have raised discrimination concerns that are highly speculative given IPL's evident desire for wholesale-retail rate parity, we shall not establish such procedures at this time. If the fears expressed by the Cities ultimately materialize, they will be free to suggest appropriate procedures or remedies at that time.

Our preliminary review of IPL's filing and the Cities' pleading indicates that the rates proposed by IPL have not been shown to be just and reasonable and may be unjust, unreasonable, undulý discriminatory or preferential, or otherwise unlawful. Accordingly, the Commission will accept the proposed rates for filing and suspend them as ordered below.

In *West Texas Utilities Company*, Docket No. ER82-23-000, 18 FERC ¶ 61,189 (1982), the Commission explained its suspension policy and noted that rate filings would ordinarily be suspended for one day if preliminary review indicates that the proposed increase may be unjust and unreasonable but may not generate substantially excessive revenues, as defined in *West Texas*. In the instant proceeding, our preliminary review suggests that the proposed rates may not yield excessive revenues. Accordingly, we shall suspend IPL's proposed rates for one day from 60 days after filing, to become effective on January 11, 1984, subject to refund.[6]

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[1] *See* Attachment for rate schedule designations.

[2] In support of their request for a maximum suspension, the Cities raise numerous cost of service issues including: inclusion of certain production facility costs in the test year; additional rate base adjustments; calculation of cash working capital; allowance for plant held for future use; allowance for fuel stocks; calculation of operating and maintenance expenses; and the proposed rate of return on common equity. The Cities also assert that a five month suspension would allow time for the Iowa Commission to reach a final decision in the retail rate proceeding before the proposed wholesale rates become effective. Given IPL's commitment to track its retail rates in the wholdsale rates, the Cities argue that a maximum suspension would promote rate stability and eliminate unnecessary customer cost and burden.

[3] First, in order to eliminate any doubt as to IPL's commitment not to incease the wholesale rate if the retail rate is increased, the Cities request that the Commission order, as an express condition of any rate approval, the IPL cannot increase the Cities' wholesale rates above the level proposed in this proceeding, regardless of any ultimate retail rate determination. Second, citing potential price squeeze problems, the Cities request that the Commission direct IPL to phase-in its wholesale increase in the event and to the same extent that the Iowa Commission orders IPL to implement its retail rate incease in stages.

[4] We shall deny IPL's motion to file its answer out of time since, as Cities argue, the company failed to demonstrate good cause for its delay in filing. Accordingly, this order does not consider any arguments contained in the IPL answer.

[5] *See Municipal Light Boards of Reading and Wakefield, Massachusetts* v. *FPC*, 450 F.2d 1341 (D.C. Cir. 1971), *cert. denied*, 405 U.S. 989 (1972).

[6] We find the Cities' equitable arguments to be insufficient grounds for imposing a five month suspension. The company has satisfied our criteria for a one day suspension and, even if the imminence of a State commission decision was otherwise a

Continued

The Commission orders:

(A) The Cities' motion to reject IPL's filing is hereby denied.

(B) IPL's proposed rates are hereby accepted for filing and are suspended for one day to become effective, subject to refund, on January 11, 1984.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of IPL's rates.

(D) The Commission staff shall serve top sheets in this proceeding within ten (10) days of the date of this order.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(F) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Lois D. Cashell,

Acting Secretary.

Rate Schedule Designations

Docket No. ER84–82–000

IOWA POWER AND LIGHT COMPANY

Designation	Other party
(1) Supplement No. 11 to Rate Schedule FPC No. 9 (Supersedes Supplement No. 10).	City of Carlisle.
(2) Supplement No. 11 to Rate Schedule FPC No. 13 (Supersedes Supplement No. 10).	City of Neola.

[FR Doc. 84–1100 Filed 1–13–84; 8:45 am]

BILLING CODE 6717–01–M

contributing factor in the suspension decision, we note that the timing of the final retail rate decision is speculative.

[Docket No. TA84–1–14–000 (PGA84–1)]

Lawrenceburg Gas Transmission Corp.; Proposed Change in FERC Gas Tariff

January 10, 1984.

Take notice that on January 4, 1984, Lawrenceburg Gas Transmission Corporation (Lawrenceburg) tendered for filing two revised gas tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1, both of which are dated as issued on December 29, 1983, proposed to become effective February 1, 1984, and identified as follows:

Thirty-second Revised Sheet No. 4
Twenty-ninth Revised Sheet No. 18
Ninth Revised Sheet No. 4–B

Lawrenceburg states that its revised tariff sheets were filed under its Purchased Gas Adjustment provision and Incremental Pricing Surcharge provision.

Copies of this filing were served upon Lawrenceburg's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 17, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–1101 Filed 1–13–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA84–1–5–001]

Midwestern Gas Transmission Co.; Revised Rate Filing

January 10, 1984.

Take notice that on January 4, 1983, Midwestern Gas Transmission Company (Midwestern) tendered for filing Second Substitute Eighth Revised Sheet No. 5 to Original Volume No. 1 of its FERC Gas Tariff to be effective January 1, 1984. Midwestern states that the purpose of this filing is to reflect, as required by the Commission's December 22, 1983 letter order in this proceeding, in its Southern System rates, the reduced rates made effective by its Southern System supplier Tennessee Gas Pipeline Company.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 17, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–1102 Filed 1–13–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP84–39–000]

Pacific Gas Transmission Co.; Changes to Executed Service Agreement To Reduce the Minimum Purchase Obligations of Pacific Gas and Electric Company and Request for Expedited Consideration

January 10, 1984.

Take notice that on January 9, 1984, Pacific Gas Transmission Company tendered for filing a "Notice of Changes to Executed Service Agreement to Reduce the Minimum Purchase Obligations of Pacific Gas and Electric Company and Request for Expedited Consideration."

PGT states that it has agreed with its customer, Pacific Gas and Electric Company, to changes in the executed service agreement between the two companies. PGT states that these changes will permit immediate and significant reductions in the minimum purchase obligations of PGand E with respcet to its purchases of Canadian gas imports from PGT, and also will provide a firm basis for achieving further long-term relief from the presently effective minimum purchase levels. The amendments flow through the PGandE minimum purchase reductions which PGT has been able to obtain from its Canadian gas supplier, Alberta and Southern Gas Co. Ltd., which in turn has

been able to provide PGT such relief because of negotiations with its producer-suppliers in the Province of Alberta, Canada.

The amendments to the executed service agreement reflect a two-phased reduction in PGandE's minimum purchase obligations. For the first phase, for the period from January 1, 1984 through June 30, 1985, specific minimum purchase level reductions are provided. They reduce PGandE's contractual obligations to take Canadian gas, and they reduce the take-or-pay threshold for actual reductions in PGandE's Canadian gas purchases. PGT states that these minimum purchase reductions equate to a total of 141 billion cubic feet or gas over the period January 1, 1984 through June 30, 1985—or an average day amount of 258 million cubic feet per day. According to PGT, PGandE now will have the additional flexibility to purchase such volumes of gas on a strictly "least cost" basis and to better balance its takes of gas from its various suppliers. Similarly, PGandE's take-or-pay threshold for the Canadian supply will be reduced by a total amount of 141 billion cubic feet over the period January 1, 1984 through June 30, 1985. For the second phase, for the period on and after July 1, 1985, continuing through the balance of the term of the service agreement, there are a procedure and timetable established for determining what the specific minimum purchase level reductions should be. This procedure and timetable are set forth in amendments to the Gas Sale contract between Alberta and Southern and PGT, and the amendments to the PGT/PGandE service agreement provide for such further reductions to be flowed through to PGandE. Part of the agreed upon procedure is that the prior, original minimum purchase levels of 90 percent of the daily contract quantity on an annual basis, 80 percent on a monthly bais, and 75 percent on a daily basis, will not be reinstated, and that the future minimum purchase levels will be lower. For the first phase of the reductions, through June 30, 1985, PGandE will be required to purchase 50 percent of the daily contract quantity on an annual basis, and 40 percent on a daily basis; to avoid take-or-pay liability, PGandE will be required to purchase 60 percent of the daily contract quantity on an annual basis.

PGT states that the Federal Energy Regulatory Commission has authorized mimimum purchase reductions to PGandE on two prior occasions, without suspension, in 1981 and 1982. PGT further states that the service agreement changes now proposed would extend and enlarge the prior reductions. The instant service agreement changes are proposed to be implemented through a superceding Service Agreement dated January 1, 1984 between PGT and PGandE, and,through a proposed Sixth Revision of Exhibit "A" to the service agreement. PGT's filing includes these documents and First Revised Original Sheets Nos. 51, 52, 53, 54 and 55, and Original Sheet Nos. 55A and 55B to PGT's FERC Gas Tariff, First Revised Volume No. 1, all of which substitute a new Form of Service Agreement, applicable to service under Rate Schedule PL–1, consistent with the superceding Service Agreement, dated January 1, 1984.

PGT has requested that its filing receive expedited consideration, and that the Commission waive its notice requirements, pursuant to Section 154.51 of its Regulations, 18 CFR 154.51, to allow the minimum purchase reductions to be placed into effect, without suspension, as soon as possible. PGT has further requested that the minimum purchase reductions be permitted an effective date of January 1, 1984—in order to allow PGandE to take full advantage of the proposal negotiated with the Alberta producers. PGT states that there are considerable benefits to PGandE and its customers in terms of enhanced ability to minimize future gas purchase costs and future take-or-pay exposure, from implementing the minimum purchase reductions.

PGT states that corresponding changes to the Gas Sale Contract with Alberta and Southern have been submitted to the Economic Regulatory Administration and the National Energy Board of Canada for the necessary authorizations.

PGT advises that copies of its filing have been mailed to its customers and to interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such petitions or protests should be filed on or before January 17, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–1103 Filed 1–13–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CI83–269–000]

Tenneco Oil Co., et al.; Status Conference

January 10, 1984.

In the matter of Tenneco Oil Company; Houston Oil & Mineral Corporation; Tenneco Exploration, Ltd.; Tenneco Exploration II, Ltd.; and TINCO, Ltd.

Pursuant to the Commission order issued November 10, 1983 [1] in this docket, the Commission Staff shall convene a conference concerning the status of the Tenneflex program to evaluate whether the implementation of Tenneflex is achieving the Commission's purposes in authorizing the program. The conference shall be held at 10:00 a.m. on January 26, 1984, at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

All interested parties and Staff are invited to attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–1104 Filed 1–13–84; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPPM–FRL–2506–6]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests that have been forwarded to the Office of Management and Budget (OMB) for review. The information collection requests listed are available to the public for review and comment.

[1] Findings And Order After Statutory Hearing Issuing Certificates Of Public Convenience And Necessity And Permitting And Approving Limited-Term Abandonment, Docket No. CI83–269–000, slip op. at 18 (November 10, 1983), 25 FERC ¶ 61,234.

FOR FURTHER INFORMATION CONTACT: David Bowers; Office of Standards and Regulations; Information Management Section (PM–223); U.S. Environmental Protection Agency; 401 M Street, S.W.; Washington, D.C. 20460; telephone (202) 382–2742 or FTS 382–2742.

SUPPLEMENTARY INFORMATION:

Drinking Water Programs

• Title: State Drinking Water Supply Program Information (EPA No. 0270).

Abstract: States maintain records and report to EPA on public water system violations, variances or exemptions granted, and changes to States' inventories of public water systems. EPA uses the information to determine national compliance with the Safe Drinking Water Act and the need for revised regulations or policies.

Respondents: State drinking water agencies with primary enforcement responsibility.

General Counsel Programs

• Title: Application for Certification of Pollution Control Facilities (EPA No. 0293).

Abstract: Firms must apply for State and EPA certification in order to obtain rapid amortization of pollution control facilities under 26 U.S.C. 169. Respondents are eligible if certified as furthering policies of prevention and abatement of air and water pollution.

Respondents: Firms which have installed pollution control facilities.

Air Programs

• Title: NSPS for Synthetic Fiber Production Facilities (EPA No. 1156).

Abstract: Repondents must record solvent use rates and notify EPA of the start of construction or reconstruction and anticipated/actual startup dates. The Agency uses this information to identify the population affected by the standard, to monitor compliance and to enforce the standard.

Respondents: Owners or operators of synthetic fiber production facilities.

• Title: NSPS for Rubber Tire Manufacturing Plants (EPA No. 1158).

Abstract: Affected facilities must monitor emissions, maintain records and notify EPA of startups and performance testing. The Agency uses the information to define the population of sources and to enforce compliance with emission regulations.

Respondents: Owners or operators of rubber tire manufacturing plants.

• Title: NSPS for Lime Manufacturing Plants (EPA No. 1159).

Abstract: Respondents must report to EPA and keep records to enable the Agency to determine that the best demonstrated control technology is installed and propertly operated/maintained, thus reducing excess emissions.

Respondents: Owners or operators of rotary kilns in lime manufacturing plants.

Agency PRA Clearance Requests Completed by OMB

EPA No. 0116, Notice of Intent to Certify, was cleared December 16, 1983 (OMB No. 2000–0497).

EPA No. 0938, 40 CFR Part 30 General Regulation for Assistance Programs, was cleared December 14 (OMB No. 2010–0004).

EPA No. 0998, Reporting and Recordkeeping Requirements Associated with Standards of Performance of SOCMI and Oxidation Unit Processes, was cleared December 16 (OMB No. 2060–0053).

EPA No. 1052, New Source Performance Standards for Fossil Fuel-Fired Steam Generators, was disapproved December 16 (OMB comment No. 2060–0026).

Comments on all parts of this notice should be sent to:

David Bowers (PM–223), U.S. Environmental Protection Agency, Office of Standards and Regulations, 401 M Street, S.W., Washington, D.C. 20460, and

Vartkes Broussalian, Wayne Leiss or Carlos Tellez, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, N.W., Washington, D.C. 20503.

Dated: January 9, 1984.

Daniel J. Fiorino,

Acting Director, Regulation and Information, Management Division.

[FR Doc. 84–952 Filed 1–13–84; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Texas; Major Disaster and Related Determinations

[FEMA–696–DR]

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Texas (FEMA–696–DR), dated January 7, 1984, and related determinations.

DATED: January 7, 1984.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 287–0501.

Notice: Notice is hereby given that, in a letter of January 7, 1984, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended, (42 U.S.C. 5121 *et seq.*, Pub. L. 93–288) as follows:

I have determined that the damages resulting from severe freezing temperatures in certain areas of the State of Texas, beginning on or about December 22, 1983, is of sufficient severity and magnitude to warrant a major-disaster declaration under Public Law 93–288. I therefore declare that such a major disaster exists in the State of Texas.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under PL 93–288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area.

The time period prescribed for the implementation of Section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, and redelegad to me, I hereby appoint Mr. Gregory W. Solovey of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Texas to have been affected adversely by this declared major disaster:

Cameron, Hidalgo, Starr and Willacy Counties for Individual Assistance only.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance. Billing Code 6718–02.)

Samuel W. Speck,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 84–1043 Filed 1–13–84; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL RESERVE SYSTEM

First Union Corporation; Proposed Acquisition of Salem Securities, Inc.

First Union Corporation, Charlotte, North Carolina, has applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.4(b)(2) of the Board's Regulation Y

(12 CFR 225.4(b)(2)), for permission to acquire voting shares of Salem Securities, Inc., Winston-Salem, North Carolina.

Applicant states that the proposed subsidiary would engage in securities brokerage activities. These activities would be performed from offices of Applicant's subsidiary in Winston-Salem, North Carolina and the geographic area to be served is North Carolina, South Carolina, Kentucky, Georgia, Virginia, and Maryland. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 2, 1984.

Board of Governors of the Federal Reserve System, January 10, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-1047 Filed 1-13-84; 8:45 am]

BILLING CODE 6210-01-M

Mellon National Corporation, et al.; Proposed de Novo Nonbank Activities by Bank Holding Companies

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President), 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Mellon National Corporation*, Pittsburgh, Pennsylvania (loan solicitation activities; New York): To engage, through its subsidiary Mellon Financial Services Corporation No. 2, in the solicitation of loan business, including commercial and consumer loans, on behalf of Applicant's banking and nonbanking subsidiaries. These loan production activities will be conducted from the offices of Mellon Financial Services Corporation No. 2 located in New York, New York and serving the State of New York. Comments on this application must be received not later than February 8, 1984.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Cowden Bancorp, Inc.*, Springfield, Illinois (insurance activities; Illinois): To act, in the offices of its subsidiary, the State Bank of Cowden, as a broker in the sale of credit life and credit accident and health insurance. These activities would be performed from an office in Cowden, Illinois, and would serve Shelby County, Illinois. Comments on this application must be received not later than January 30, 1984.

2. *Schuyler Bancorp, Inc.*, Springfield, Illinois (banking and insurance activities; Illinois): To act, in the offices of its subsidiary, Schuyler State Bank, as a broker in the sale of credit life and credit accident and health insurance. These activities would be performed from an office in Rushville, Illinois and would serve Schuyler County, Illinois. Comments on this application must be received not later than January 30, 1984.

Board of Governors of the Federal Reserve System, January 10, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-1053 Filed 1-13-84; 8:45 am]

BILLING CODE 6210-01-M

National City Bancorporation; Proposed Acquisition of Diversified Discount and Acceptance Corporation

National City Bancorporation, Minneapolis, Minnesota, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Diversified Discount and Acceptance Corporation, Minneapolis, Minnesota.

Applicant states that the proposed subsidiary would engage in commercial finance activities. These activities would be performed from offices of Applicant's subsidiary in Minneapolis, Minnesota and the geographic area to be served is the State of Minnesota. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 2, 1984.

Board of Governors of the Federal Reserve System, January 10, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-1048 Filed 1-13-84; 8:45 am]

BILLING CODE 6210-01-M

Page Bankshares, Inc., et al.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Page Bankshares, Inc.*, Stanley, Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to The Farmers and Merchants Bank of Stanley, Stanley, Virginia. Comments on this application must be received not later than February 10, 1984.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First Farmers Bancshares, Inc.*, Portland, Tennessee; to become a bank holding company by acquiring 80 percent of the voting shares of The Farmers Bank, Portland, Tennessee. Comments on this application must be received not later than February 8, 1984.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Mason National Bancshares, Inc.*, Mason, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Mason National Bank, Mason, Texas. Comments on this application must be received not later than February 10, 1984.

Board of Governors of the Federal Reserve System, January 10, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-1049 Filed 1-13-84; 8:45 am]

BILLING CODE 6210-01-M

Premier Bancorporation, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated for that application. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to each application, interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than February 8, 1984.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Premier Bancorporation, Inc.*, Libertyville, Illinois; to become a bank holding company by acquiring 96.29 percent of the voting shares of Golf Mill State Bank, Niles, Illinois; 95.96 percent of Grayslake National Bank, Grayslake, Illinois; 95.57 percent of Libertyville National Bank, Libertyville, Illinois; 98.50 percent of First National Bank of Mundelein, Mundelein, Illinois; and 75.05 percent of Premier Bank of Vernon Hills, Vernon Hills, Illinois.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411, Locust Street, St. Louis, Missouri 63166:

1. *Moscow Bancshares, Inc.*, Moscow, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to the Moscow Savings Bank, Moscow, Tennessee.

Board of Governors of the Federal Reserve System, January 10, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-1050 Filed 1-13-84; 8:45 am]

BILLING CODE 6210-01-M

Security Pacific Corp.; Proposed Acquisition of Security Pacific Brokers, Inc., and Financial Clearing and Services Corporation

Security Pacific Corporation, Los Angeles, California, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Security Pacific Brokers, Inc. and Financial Clearing & Services Corporation, both of Los Angeles, California.

Applicant states that the proposed subsidiaries would engage in securities brokerage activities, related securities credit activities, and related incidental activities, where such securities brokerage activities are restricted to buying and selling securities solely as agent for the account of customers and do not include securities underwriting or dealing or investment advice or research services, all in conformance with § 225.4(a)(15) of the Board's Regulation Y. These activities would be conducted, with respect to Security Pacific Brokers, Inc., from offices located in the States of Arizona, California, Colorado, Connecticut, Florida, Louisiana, New Jersey, New York, Tennessee, Texas and Washington, and, with respect to Financial Clearing & Services Corporation, from offices located in the States of California and New York, with both subsidiaries serving the United States, Guam, Puerto Rico and the District of Columbia. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 9, 1984.

Board of Governors of the Federal Reserve System, January 10, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-1061 Filed 1-13-84; 8:45 am]

BILLING CODE 6210-01-M

Union Bankshares, Inc.; Formation of a Bank Holding Company

Union Bankshares, Mena, Arkansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring at least 80 percent of the voting shares of The Union Bank of Mena, Mena, Arkansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Union Bankshares, Mena, Arkansas, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage directly in real estate appraisal activities. These activities would be performed from offices of Applicant in Mena, Arkansas, and the geographic areas to be served are Polk, Scott, Montgomery, and Howard Counties, all in Arkansas. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than February 2, 1984.

Board of Governors of the Federal Reserve System, January 10, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-1052 Filed 1-13-84; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction	Waiting period terminated effective
(1) 83-0981—Minnesota Mutual Life Insurance Company's proposed acquisition of voting securities of Minnesota Mutual Fire & Casualty Company.	Dec. 14, 1983.
(2) 83-1029—Ohio-Sealy Mattress Manufacturing Company's proposed acquisition of voting securities of The Stearns & Foster Company.	Dec. 20, 1983.
(3) 83-0964—Continental Cablevision of Jacksonville's proposed acquisition of voting securities of Area Communications, Incorporated.	Dec. 21, 1983.
(4) 83-1008—NVF Company's proposed acquisition of voting securities of City Investing Company.	Do.
(5) 83-1030—The Equitable Life Assurance Society of the United States' proposed acquisition of voting securities of Arvida Mortgage Company, (Arvida Corporation, UPE).	Do.
(6) 83-1032—Walbridge, Aldinger Company, (John Rakolta, UPE) of voting securities of Manufacturers National Bank of Detroit as Trustee under the Darin & Armstrong, Incorporated Employees Stock Plan, (Darin & Armstrong, UPE).	Do.
(7) 83-1015—Thomas Investments LTD;s (Kenneth R. Thomson, UPE) proposed acquisition of assets of Easton Publishing Company.	Dec. 22, 1983.
(8) 83-0897—Oceaneering International, Incorporated's proposed acquisition of voting securities of Solus Ocean Systems, Incorporated, and SO Management Services Limited, Sea Serv Incorporated.	Do.
(9) 83-0924—Enserch Corporation's proposed acquisition of voting securities of Oceaneering International, Incorporated.	Do.
(10) 83-0996—The Trane Company's proposed acquisition of voting securities Tyler of Refrigeration Company.	Dec. 23, 1983.
(11) 83-1021—American Standard, Incorporated's proposed acquisition of voting securities of The Trane Company.	Do.
(12) 83-1031—Dillard Department Stores, Incorporated's proposed acquisition of assets of Stix, Baer & Fuller Division of Associated Dry Goods Corporation.	Do.
(13) 83-1039—Grocery Supply Company's (Kenneth McKenzie, UPE) proposed acquisition of voting securities of Sweeney & Company, Incorporated, (Annabelle Sweeney Ames, UPE).	Do.
(14) 83-1040—Associated Dry Goods Corporation's proposed acquisition of voting securities of Dillard Department Stores, Incorporated.	Do.
(15) 83-1072—Nelson M. Skalbania's proposed acquisition of voting securities of Malibu Grand Prix Corporation, (Warner Communications Inc.).	Do.
(16) 83-1073—Ira Young's proposed acquisition of voting securities of Malibu Holding Company, (Warner Communications Inc.).	Do.
(17) 83-1052—Great Northern Nekoosa Corporation's proposed acquisition of assets of Timber Realization Company.	Do.
(18) 83-1063—Taylor Energy Company's, (Patrick E. Taylor, UPE) proposed acquisition of assets of Royal Dutch Petroleum Company.	Dec. 27, 1983.
(19) 83-1007—Insilco Corporation's proposed acquisition of voting securities of Thermal Components, Incorporated.	Dec. 30, 1983.
(20) 83-1011—Aktiebolaget Volvo ("AB Volvo") proposed acquisition of voting securities of Hamilton Brothers Petroleum Corporation.	Dec. 29, 1983.

Transaction	Waiting period terminated effective
(21) 83-1025—Cookson Group plc proposed acquisition of assets of Alpha Metals Incorporated, (BTR, plc, UPE).	Do.
(22) 83-1026—International Shipholding Corporation's proposed acquisition of assets of McLean Industries Incorporated.	Do.
(23) 83-1035—American International Group, Incorporated proposed acquisition of voting securities of NEWCO.	Do.
(24) 83-1036—Phibro-Salomon Incorporated's proposed acquisition of voting securities of NEWCO.	Do
(25) 83-1049—Owens-Illinois, Incorporated's proposed acquisition of voting securities of Health Group Incorporated.	Do.
(26) 83-1051—CP Holding Company's proposed acquisition of voting securities of Sterling Colorado Beef Company	Dec. 30, 1983
(27) 83-1066—First Winthrop Corporation's proposed acquisition of assets of 19 Commercial Properties, (John D. and Catherine T. MacArthur Foundation, UPE's).	Dec. 29, 1983.
(28) 83-1075—ESCO Corporation's proposed acquisition of voting securities of Hyster Company.	Dec. 30, 1983
(29) 83-1078—Welsh Carson, Anderson & Stowe, III's proposed acquisition of assets of First Data Processing Incorporated, (First Bank System, Incorporated, UPE).	Dec. 29, 1983.
(30) 83-1080—Driver-Harris Company's proposed acquisition of assets of Amax Specialty Metals (Driver Inc.), Amax Specialty Metals (Canada) Limited, (Amax, Incorporated, UPE)	Do.
(31) 83-1091—Don Dixon's proposed acquisition of voting securities of State Reserve Life Insurance Company.	Do.
(32) 83-1061—Lear Siegler Incorporated's proposed acquisition of voting securities of Bangor Punta Corporation	Dec. 30, 1983.
(33) 83-1069—Lear Siegler Incorporated's proposed acquisition of voting securities of Lone Star Industries, Incorporated.	Do
(34) 83-1060—Westwood Corporation, (Jarrett Woods, UPE) proposed acquisition of assets of Fort Wayne Mortgage Company and Mercury Savings Association of Texas, (J. B. Haralson, UPE).	Jan. 4, 1984
(35) 83-1068—Xerox Corporation's proposed acquisition of voting securities of Van Kampen Merritt Incorporated, (Robert D. Van Kampen, UPE).	Do
(36) 83-1070—Wang Laboratories Incorporated's proposed acquisition of voting securities of VLSI Technology Incorporated.	Do
(37) 83-1074—McDonnell Douglas Corporation's proposed acquisition of voting securities of Hughes Helicopers, Incorporated, (Estate of Howard Robord Hughes, Jr., UPE).	Do.
(38) 83-1107—Crownx Incorporated's proposed acquisition of voting securities of Villacentres Limited, (Alvin G. Libin, UPE).	Jan. 5, 1984
(39) 83-1157—The Travelers Corporation's proposed acquisition of voting securities of Bankers and Shippers Insurance Company of New York, (Republic Hogg Robinson, UPE).	Do.

FOR FURTHER INFORMATION CONTACT: Patricia A. Foster, Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3824.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 84-1072 Filed 1-13-84; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Analysis of Health Interview Survey Data Monitoring Reproductive Outcomes; Open Meetings

The following meetings will be convened by the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control (CDC) and will be open to the public for observation and participation, limited only by the space available:

Analysis of Health Interview Survey Data

Date: January 20, 1984.

Time: 9:00 a.m. to 4:30 p.m.

Place: Conference Room A, NIOSH Ridge Facility, 5555 Ridge Avenue, Cincinnati, Ohio 45213.

Purpose: To review the protocol of an epidemiological study to discover relationships between employment and health by analyzing Health Interview Survey data.

Additional Information May Be Obtained From:

Ms. Sharon Shilling, Division of Surveillance, Hazard Evaluations and Field Studies, NIOSH, CDC, 4676 Columbia Parkway, Cincinnati, Ohio 45226

Telephones:

FTS: 684-4332

Commercial: 513/684-4332

Monitoring Reproductive Outcomes

Date: January 23, 1984.

Time: 9:30 a.m. to 2:30 p.m.

Place: Conference Room A, NIOSH Ridge Facility, 5555 Ridge Avenue, Cincinnati, Ohio 45213.

Purpose: To discuss the protocol of an epidemiological study to utilize parental occupational/industry information on birth and fetal death records to monitor adverse reproductive outcomes.

Additional Information May Be Obtained From:

Joyce Salg, Ph. D., Division of Surveillance, Hazard Evaluations and Field Studies, NIOSH, CDC, 4676 Columbia Parkway, Cincinnati, Ohio 45226

Telephones:

FTS: 684-4332

Commercial: 513/684-4332

Viewpoints and suggestions from industry, organized labor, academia, other government agencies, and the public are invited.

Dated: January 9, 1984.

James O. Mason,

Director, Centers for Disease Control.

[FR Doc. 84-1075 Filed 1-13-84; 8:45 am]

BILLING CODE 4160-19-M

Food and Drug Administration

[Docket No. 83N-0095; DESI No. 11935]

Drug Efficacy Study Implementation; Revocation of the Exemption Category for Oral Prescription Drugs for Cough, Cold, or Allergy ("Paragraph XIV/Category 15"); Followup Notice and Opportunity for Hearing

Correction

In FR Doc. 83-34052 beginning on page 56854 in the issue of Friday, December 23, 1983, make the following corrections.

On page 56855, first column, paragraph numbered 3, fourth line, "CF" should read "FR"; second column, second complete paragraph, first line, "sharing" should read "hearing"; and in the last paragraph, second column, third line, "(1 CFR * * *" should read "(21 CFR * * *".

BILLING CODE 1505-01-M

[Docket No. 84N-0014]]

Phenylbutazone and Oxyphenbutazone Drugs for Human Use; Public Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice of public hearing.

SUMMARY: The Food and Drug Administration (FDA) announces a public hearing to solicit information and views of interested persons on the nonsteroidal anti-inflammatory drugs phenylbutazone and oxyphenbutazone. On December 28, 1983, Public Citizen's Health Research Group (HRG) submitted a petition to the Secretary of Health and Human Services asking the Secretary to suspend approval of the new drug applications for phenylbutazone and oxyphenbutazone. HRG alleges that use of the drugs present an imminent hazard to the public health. Suspension of approval would have the effect of prohibiting the continued marketing of the products. FDA will use information presented at the public hearing, together with other data and information, to develop recommendations to the Secretary on whether the drugs present an imminent hazard to the public health. These drugs are marked by Geigy Pharamaceuticals,

Division of Ciba-Geigy Corp., Ardsley, NY 10502, under the brand names Butazolidin (phenylbutazone) and Tandearil (oxyphenbutazone), and by other manufactureres.

DATE: Written notices of participation should be filed by January 24, 1984. The hearing will begin at 9 a.m. on January 31, 1984. Comments on matters discussed at the hearing should be submitted by February 15, 1984.

ADDRESS: The public hearing will be held at the Lister Hill Center Auditorium, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20014. Written notices of participation and comments should be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, RM. 4–62, 5600 Fishers Lane, Rockville, MD 20857. Oral notices of participation will be accepted from persons who find insufficient the time available for submitting written notice.

FOR FURTHER INFORMATION, OR TO GIVE A NOTICE OF PARTICIPATION ORALLY, CONTACT:

Dorothy Pease, National Center for Drugs and Biologics (HFN–150), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5197.

SUPPLEMENTARY INFORMATION:

Phenylbutazone and oxyphenbutazone are nonsteroidal anti-inflammatory drug products indicated for use in acute gouty arthritis, active rheumatoid arthriits, active ankylosing spondylitis, short-term treatment of acute attacks of degenerative joing disease of the hips and knees not responsive to other treatment, and painful shoulder (peritendinitis, capsulitis, bursitis, and acute arthritis of that joint). The drugs were first marketed during the 1950's early 1960's by Geigy Pharamaceuticals under the brand names Butazolidin (phenylbutazone) and Tandearil (oxyphenbutazone). In addition to Geigy, phenylbutazone is marketed by U.S.V. Laboratories, Division U.S.V. Pharmaceutical Corp., Tuckahoe, MY 10707, under the brand name Azolid, and phenylbutazone is marketed generically by Chelsea Laboratories, Inc., Inwood, NY 11696; Cord Laboratories, Inc., Broomfield, CO 80020; Zenith Laboratories, Inc., Northvale, NJ 07647; and Danbury Pharmacal, Inc., Danbury, CT 06002. These drugs have long been, known to be associated with serious, sometimes fatal, adverse reactions, including bone marrow toxicity, gastrointestinal bleeding, and perforated ulcers.

On December 28, 1983, the Secretary of Health and Human Services received a petition from HRG asking that the Secretary immediately suspend approval of the new drug applications for phenylbutazone and oxyphenbutazone under section 505(e) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 335(e)) on the grounds that the continued marketing of these drugs presents an imminent hazard to the public health. Relying on data with respect to Geigy's Butazolidin and Tandearil, HRG contends that the drugs are associated with many fatal cases of aplastic anemia or pancytopenia (severe depression of red blood cell productions or generalized depression of bone marrow cell production), agranulocytosis (severe depression of white blood cell (granulocyte) production leading to increased susceptibility to infection), leukemia (cancer of the bone marrow), gastrointestinal bleeding, and peptic ulceration. HRG also notes that the drugs are associated with fatal cases of hepatitis, thrombocytopenia (depression of platelet formation), and kidney failure

Although the serious adverse reactions from these drugs are described in their labeling, HRG contends that the rate of serious adverse reactions is greatly understated. Extrapolating the reported adverse experiences from these drugs to their level of use worldwide, HRG estimates that the drugs have been responsible for approximately 10,400 deaths worldwide and perhaps as many as 3,100 deaths in the United States. Because HGR believes equally effective nonsteroidal anti-inflammatory drugs with comparatively less toxicity than phenylbutazone and oxyphenbutazone are now marketed, HRG contends that phenylbutazone and oxphenbutazone provide no unique benefit to outweigh the significant risks associated with their use. Thus, HRG asks that the Secretary remove phenylbutazone and oxphenbutazone from the market as imminent hazards to the public health.

The act requires FDA to withdraw approval of the application for a product if, among other things, information shows that the product is unsafe or ineffective. The usual administrative procedure for withdrawing approval of a product includes notice to the applicant of an opportunity for hearing, an administrative determination of whether a hearing is justified, the conduct of a full evidentiary public hearing before a presiding officer of the preparation of an order denying a hearing, and a decision by the Commissioner of Food and Drugs based on the administrative record. This procedure usually requires at least 6 months, and sometimes much longer. A drug may remain on the market for years while withdrawal proceedings are underway.

The act also provides in section 505(e) that approval of a new drug may be suspended, and the product immediately removed from the market, if it presents an "imminent hazard to the public health." The authority to suspend approval is placed by law in the Secretary (or in the absence of the Secretary, in the officer acting as Secretary) and may not be delegated. If new evidence or further analysis of existing evidence indicates that a life-threatening or other serious risk is present, the summary suspension procedure allows the Secretary to put a prompt end to that risk. If approval is suspended, the Secretary must provide the holder of the new drug application with an opportunity for an expedited hearing on whether the application should be withdrawn and the product permanently removed from the market. The Secretary has invoked the imminent hazard provision only once, on July 25, 1977, by suspending approval of the new drug applications for phenformin, a drug indicated for use in diabetes. The HRG petition asks that the Secretary now invoke the imminent hazard provision of the act to remove phenylbutazone and oxyphenbutazone products from the market.

The Secretary has asked FDA to advise her promptly of the action the agency believes should be taken in response to the HRG petition. A decision to invoke the imminent hazard provision would result in immediate withdrawal of the drugs from the market. Such an action would have an impact on patients now taking the drugs, their physicians, and the involved manufacturers. Before preparing its recommendations to the Secretary, FDA believes that these and other interested persons should have an opportunity to comment to the agency on the petition. Accordingly, a public hearing will be held, on an expedited basis, before the Director of the National Center for Drugs and Biologics to provide an opportunity for such comment. A copy of the HRG petition is available from the Dockets Management Branch (address above).

In order to focus participation at the public hearing, participants should be aware of the following criteria. The validity of using these five criteria in imminent hazard proceedings under the act was reviewed and upheld in *Forsham* v. *Califano*, 442 F. Supp. 203 (D.D.C. 1977). These criteria will be used by the agency in framing its recommendation on the HRG petition:

1. The likelihood that, after the customary administrative process is

completed, the product will be withdrawn from the market.

2. The severity of the harm that could be caused by the drug during the completion of customary administrative proceedings to withdraw the product from the market.

3. The likelihood that the product will cause such harm while the administrative process is being completed.

4. The risk to the health of patients currently taking the product that might be occasioned by the immediate removal of the product from the market, taking into account the availability of other alternatives to the product and the steps necessary for affected persons to adjust to these other alternatives.

5. The availability of other approaches (for example, labeling changes) to protect the public health.

The hearing will be held on January 31, 1984, in Lister Hill Center Auditorium, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20014. The hearing will begin at 9 a.m. The presiding officer will be Harry M. Meyer, M.D., Director of the National Center for Drugs and Biologics.

The procedures governing the hearing are found at 21 CFR Part 15.

Persons who wish to participate are requested to file a notice of participation with the Dockets Management Branch (address above) on or before January 24, 1984. To assure timely handling, any outer envelope should be clearly marked with Docket No. 84N–0014 and the statement. "Phenylbutazone Hearing". The notice of participation should contain the interested person's name, address, telephone number, any business affiliation of the person desiring to make a presentation, a brief summary of the presentation, and the approximate time requested for the presentation. FDA asks that groups having similar interests consolidate their comments and present them through a single representative. FDA will allocate the time available for the hearing among the persons who properly file notices of participation. If time permits, FDA may allow interested persons attending the hearing who did not submit notice of participation in advance of the hearing to make an oral presentation at the conclusion of the hearing.

Persons who find there is insufficient time to submit the required information in writing may give oral notice of participation by telephone to Ms. Dorothy Pease, 301–443–5197. Those participants who give oral notice of participation should also subsequently submit written notice containing the information described above to the Dockets Management Branch (address above) by January 31, 1984. Any outer envelope should be clearly marked with Docket No. 84N–0014 and the statement "Phenylbutazone Hearing".

After reviewing the notices of participation and accompanying information, FDA will schedule each appearance and notify each participant by telephone of the time allotted to the person and the approximate time the person's oral presentation is scheduled to begin. The hearing schedule will be available at the hearing, and after the hearing it will be placed on file in the Dockets Management Branch under Docket No. 84N–0014.

To permit time for all interested persons to submit data, information, or views on this subject, the administrative record of the hearing will remain open for 15 days following the hearing. Persons who wish to provide additional materials for consideration should file these materials with the Dockets Management Branch (address above) by February 15, 1984. To assure timely handling, any outer envelope should be clearly marked with Docket No. 84N–0014 and the statement "Phenylbutazone Hearing".

Dated: January 12, 1984.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 84–1178 Filed 1–12–84; 2:06 pm]

BILLING CODE 4160–01–M

[FDA–225–84–4001]

Memorandum of Understanding With the District of Columbia, Department of Consumer and Regulatory Affairs, and the Baltimore District Office

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has executed a memorandum of understanding with the District of Columbia, Department of Consumer and Regulatory Affairs, and FDA's Baltimore District Office. The purpose of the understanding is to provide more effective consumer protection through the more efficient utilization of the combined resources of the District of Columbia, Department of Consumer and Regulatory Affairs, and FDA's Baltimore District Office.

EFFECTIVE DATE: December 2, 1983.

FOR FURTHER INFORMATION CONTACT: Walter J. Kustka, Intergovernmental and Industry Affairs Staff (HFC–50), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md 20857, 301–443–1583.

SUPPLEMENTARY INFORMATION: In accordance with § 20.108(c) (21 CFR 20.108(c)) stating that all agreements and memoranda of understanding between FDA and others shall be published in the **Federal Register**, the agency is publishing the following memorandum of understanding:

Memorandum of Understanding between the District of Columbia, Department of Consumer and Regulatory Affairs and the Baltimore District Office, U.S. Food and Drug Administration

I. Purpose

This agreement will provide more effective consumer protection through the more efficient utilization of the combined resources of the District of Columbia, Department of Consumer and Regulatory Affairs, and the Baltimore District Office, U.S. Food and Drug Administration (FDA). It will provide the two participating agencies with a format for formal discussion and planning to develop a cooperative program satisfactory to both agencies. This program will provide for cooperative response to public health emergencies, coordination of consumer complaint investigations, joint training efforts, analytical assistance, and mutual exchange of inspectional information.

II. Substance of Agreement

A. *General Provisions.* 1. *Public health emergencies.* During the term of this agreement, the agencies will develop a formal procedure for cooperative response to public health emergencies such as foodborne disease outbreaks, product tampering incidents, recall effectiveness checks, and natural disasters affecting the food and drug supply.

2. *Consumer complaints.* The agencies will develop a coordinated procedure for the more efficient handling of complaints from District of Columbia consumers regarding foods, drugs, and related products including but not limited to medical devices, blood products, and radiological devices for which the agencies share regulatory responsibility.

3. *Training.* The agencies will identify training needs and develop required training activities designed to meet such needs utilizing available resources when possible to reduce expenses.

4. *Analytical assistance.* Within the limits of available resources, FDA's Baltimore District Office's Laboratory will provide the District of Columbia, Department of Consumer and Regulatory Affairs, with analytical support. During the term of this agreement, a procedure will be developed for assay request format, for types of analyses to be performed, for sample delivery, and for assay results reporting format.

5. *Information exchange.* The need for exchanging inspectional information in the form of regulatory reports, correspondence between the regulated industry and the agencies, and records of regulatory action

will be determined during the term of this agreement and, if indicated, a procedure will be developed for handling such exchange.

B. *Program Review.* During the term of this agreement, three joint planning sessions will be held to discuss the cooperative program, establish effective interagency communications, determine regulatory philosophy, implement the requirements set forth in the general provisions of this document, and plan future objectives. The sessions will be alternated between the District of Columbia and Baltimore and will be organized and conducted by FDA's Region III's Director of Intergovernmental Affairs.

III. Name and Address of Participating Parties

A. District of Columbia, Department of Consumer and Regulatory Affairs, 614 H St. NW., Washington, D.C. 20001.

B. Baltimore District Office, Region III, Food and Drug Administration, 900 Madison Ave., Baltimore, MD 21201.

IV. Liaison Officers

A. For the Department of Consumer and Regulatory Affairs: Program Manager, Business Inspection Division (currently Arnold Clark), Business Regulation Administration, District of Columbia, Department of Consumer and Regulatory Affairs, 614 H St. NW., Washington, D.C. 202–724–4113.

B. For the Food and Drug Administration: Supervisory Investigator, FDA Resident Inspection Post (currently John Dietrick), 701 West Broad St., Rm. 309, Falls Church, VA 22046, 703–285–2578.

V. Period of Agreement

This agreement becomes effective upon acceptance by both parties and will continue until December 31, 1984. It may be modified by mutual consent or terminated by either party upon a 30-day written notice to the other.

Approved and accepted for the District of Columbia, Department of Consumer and Regulatory Affairs:

By: s/Carol B. Thompson
Title: Director, Department of Consumer and Regulatory Affairs
Date: December 2, 1983

Approved and Accepted for the Baltimore District Office, U.S. Food and Drug Administration:

By: s/Thomas L. Hooker
Title: District Director, Baltimore District
Date: December 2, 1983

Effective date. This memorandum of understanding became effective December 2, 1983.

Dated: January 9, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–1027 Filed 1–15–84; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. D–84–725; FR–1560c]

Delegation of Authority With Respect to Section 312 Rehabilitation Loan Program

AGENCY: HUD.

ACTION: Notice of delegation of authority.

SUMMARY: This Notice clarifies what powers and authority with respect to the Section 312 Rehabilitation Loan Program the Secretary has delegated to the Assistant Secretary for Housing-Federal Housing Commissioner.

EFFECTIVE DATE: January 9, 1984.

FOR FURTHER INFORMATION CONTACT: Mildred E. Moore, Office of Management, Department of Housing and Urban Development, 451 Seventh Street, SW., 20410; (202) 755–8694. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: This delegation is intended to replace the Delegation of Authority for the Section 312 Rehabilitation Loan Program under section 312 of the Housing Act of 1964 (42 U.S.C. 1452(b)) issued to the Assistant Secretary for Housing-Federal Housing Commissioner on August 14, 1980 at 45 FR 54143. The previous Delegation of Authority for the Section 312 Rehabilitation Loan Program also delegated certain responsibilities regarding the program to the Assistant Secretary for Community Planning and Development. The portion of the delegation made to the Assistant Secretary for Community Planning and Development has recently been superseded by a Consolidated Delegation of Authority published on October 25, 1983 at 48 FR 49384.

Accordingly, the Department has prepared this Notice in order to clarify what responsibilities regarding the Section 312 Rehabilitation Loan Program remain delegated to the Assistant Secretary for Housing-Federal Housing Commissioner.

Section A. Authority Delegated

The Assistant Secretary for Housing-Federal Housing Commissioner is authorized by the Secretary of Housing and Urban Development to exercise the power and the authority of the Secretary under section 312 of the Housing Act of 1964 to manage, repair, lease, and otherwise take all actions necessary to protect the financial interest of the Secretary in properties as to which the Secretary is mortgagee-in-possession and to manage, repair, complete, remodel and convert, administer, dispose of, lease, sell or exchange for cash or credit at public or private sale, pay annual sums in lieu of taxes on, obtain insurance against loss on, and otherwise to deal with properties as to which the Secretary has acquired title under the Section 312 Rehabilitation Loan Program.

Section B. Authority Excepted

There is excepted from the authority delegated under Section A:

1. The power to issue notes or other obligations for purchase by the Secretary of the Treasury.

2. The exercise of powers under section 402(a) of the Housing Act of 1950 (12 U.S.C. 1749(a)).

3. The power to sue or be sued.

Section C. Authority To Redelegate

The Assistant Secretary for Housing-Federal Housing Commissioner is authorized to redelegate to employees of the Department any of the authority delegated to the Assistant Secretary for Housing-Federal Housing Commissioner under Section A, and not excepted under Section B.

Section D. Continuation in Effect of Redelegations

Existing redelegations of authority by the Assistant Secretary for Housing-Federal Housing Commissioner and his or her predecessors with respect to the Section 312 Rehabilitation Loan Program covered by this delegation of authority which are in effect as of the effective date of this document are continued in effect as if issued under this delegation of authority unless and until expressly modified or revoked by a delegation or redelegation of authority issued hereafter.

Section E. Delegations Superseded

This delegation supersedes the Delegation of Authority from the Secretary to the Assistant Secretary for Housing-Federal Housing Commissioner issued on August 14, 1980 at 45 FR 54143.

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d))

Dated: January 9, 1984.

Samuel R. Pierce, Jr.,

Secretary, Department of Housing and Urban Development.

[FR Doc. 84–1025 Filed 1–13–84; 8:45 am]

BILLING CODE 4210–32–M

Office of the Assistant Secretary for Community Planning and Development

[Docket No. D-84-726; FR-1497]

Redelegation of Authority With Respect to the Housing and Community Development Act of 1974 and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of redelegation of authority.

SUMMARY: The Assistant Secretary for Community Planning and Development is redelegating to the Deputy Assistant Secretary for Program Management certain authority with respect to the Housing and Community Development Act of 1974 and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

EFFECTIVE DATE: May 5, 1982.

FOR FURTHER INFORMATION CONTACT: Robert J. Rusin, Office of Management, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410; (202) 755-6087. This is not a toll free number.

SUPPLEMENTARY INFORMATION: Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) created the Community Development Block Grant Program. The Secretary of Housing and Urban Development has delegated to the Assistant Secretary for Community Planning and Development and the General Deputy Assistant Secretary for Community Planning and Development the authority to implement this program, as well as the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, subject to certain exceptions. The scope of responsibilities of the Assistant Secretary and his General Deputy for the aforementioned programs are set forth in a Notice of Consolidated Delegation of Authority published on October 25, 1983 at 48 FR 49384.

In order to promote more efficient program implementation, the Assistant Secretary for Community Planning and Development has determined that authority for certain aspects of the Community Development Block Grant Program and certain provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 should be redelegated to his Deputy Assistant Secretary for Program Management. To this end, the Assistant Secretary signed into effect a redelegation of authority on May 5, 1982. This notice of Redelegation of Authority sets forth the responsibilities of the Assistant Secretary for Community Planning and Development, as specified in the above mentioned October 25, 1983 Consolidated Delegation of Authority for Community planning and Development, which have been redelegated to the Deputy Assistant Secretary for Program Management.

Accordingly, the Assistant Secretary for Community Planning and Development redelegates authority as follows.

Section A. Authority Redelegated

The Deputy Assistant Secretary for Program Management is authorized by the Assistant Secretary for Community Planning and Development to exercise the power and authority of the Assistant Secretary, as delegated in Section A of the Notice of Consolidated Delegation of Authority published on October 25, 1983 at 48 FR 49384, with respect to the following programs, subject to the exceptions specified in Section B of this Notice.

1. Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301).

2. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601).

Section B. Authority Excepted

There is excepted from the authority delegated in Section A:

1. The authority to administer the Secretary's Discretionary Fund under section 107 of Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5307).

2. The authority to issue or waive rules and regulations.

(Consolidated Delegation of Authority to the Assistant Secretary and the General Deputy Assistant Secretary for Community Planning and Development, 48 FR 4938; Sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Dated: January 6, 1984.

Stephen J. Bollinger,

Assistant Secretary for Community Planning and Development.

[FR Doc. 84-1023 Filed 1-13-84; 8:45 am]

BILLING CODE 4210-29-M

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. D-84-724; FR-1838]

Redelegation of Authority

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of redelegation of authority.

SUMMARY: This redelegation of authority delegates from the Assistant Secretary for Housing—Federal Housing Commissioner to the Deputy and Associate Deputy Assistant Secretary for Multifamily Housing Programs, Director and Deputy Directors of the Office of Housing Management (formerly, the Office of Multifamily Financing and Preservation), Regional Administrators—Regional Housing Commissioners (formerly, Regional Administrators), Deputy Regional Administrators, Managers (formerly, Area Managers and Deputy Area Managers) and Directors of the Housing Management Division (formerly, Directors of Housing) the authority to sell Secretary-held, assigned and purchase money multifamily mortgages and deeds of trust.

EFFECTIVE DATE: August 1, 1983.

FOR FURTHER INFORMATION CONTACT: Charles J. Bartlett, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 10410, Room 9228, Telephone (202) 755-7090. This is not a toll free number.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Housing—Federal Housing Commissioner is delegating to certain HUD personnel the authority to enter into contracts with other entities or individuals for the sale and subsequent closing of Secretary-held assigned and purchase money multifamily mortgages and deeds of trust.

On September 8, 1983, HUD implemented a reorganization plan that changed its organizational structure and some of its personnel titles at its headquarters and field offices.

Since the redelegation of authority is effective retroactively to August 1, 1983, certain personnel titles apply from that date to September 8, 1983. They include the following: Deputy and Associate Deputy Assistant Secretary for Multifamily Housing Programs, Director

and Deputy Director of the Office of Mulifamily Financing and Preservation, Regional Administrators, Area Managers, Deputy Area Managers, and Directors of Housing.

Accordingly, the redelegation of authority should read as follows:

The Assistant Secretary for Housing—Federal Housing Commissioner redelegates to the Deputy and Associate Deputy Assistant Secretary for Multifamily Housing Programs, Director and Deputy Directors of the Office of Housing Management (formerly, the Office of Multifamily Financing and Preservation), the Regional Administrators—Regional Housing Commissioners (formerly, Regional Administrators), Deputy Regional Administrators, Managers (formerly, Area Managers and Deputy Area Managers) and Directors of the Housing Management Division (formerly, Directors of Housing) the authority to execute, in the name of the Secretary of HUD, all documents necessary to effectuate the sale of assigned and purchase money multifamily mortgages and deeds of trust including, but not limited to, the endorsement of documents for mortgage insurance.

(Delegation of Authority published at 36 FR 5005 on March 16, 1971; Delegation of Authority published at 48 FR 34339; Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d)).

Dated: January 9, 1984.

W. Calvert Brand,

Acting Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 84-1026 Filed 1-13-84; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Renewal of National Public Lands Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Renewal of National Public Lands Advisory Council.

SUMMARY: Pursuant to the authority contained in Section 14(a) of the Federal Advisory Committee Act (Pub. L. 92-463), the Secretary of the Interior has determined that renewal of the National Public Lands Advisory Council is necessary and in the public interest. Accordingly, notice is hereby given of the renewal of the National Public Lands Advisory Council.

The purpose of the Council is to advise the Secretary of the Interior, through the Director, Bureau of Land Management, on implementation of the Federal Land Policy and Management Act of 1976, Public Law 94-579, as well as on policies and programs of a national scope under the jurisdiction of the Bureau of Land Management.

FOR FURTHER INFORMATION, CONTACT: Karen Slater, Bureau of Land Management (150), Department of the Interior, Washington, D.C. 20240. Telephone: (202) 343-2054.

Robert F. Burford,

Director.

January 10, 1984.

[FR Doc. 84-1054 Filed 1-13-84; 8:45 am]

BILLING CODE 4310-84-M

Intent to Prepare Utah Wilderness Environmental Impact Statement (EIS) and Announcement of Wilderness EIS Scoping Public Meetings in Utah

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Intent for EIS and Announcement of Public Meetings.

SUMMARY: The BLM intends to prepare one EIS covering all BLM Wilderness Study Areas (WSAs) in Utah. That EIS will have about five separate volumes: one volume covering the statewide aspects and about four other volumes covering 73 site specific analyses for the WSAs. Alternatives to be considered will range from designation of no wilderness on BLM administered lands in Utah to designation as wilderness for all WSAs in Utah. Several intermediate alternatives will be formulated to cover a full range of possibilities and also take into account geographic distribution and ecological diversity of the WSAs in Utah. In order to assist with the formulation of alternatives and the identification of significant issues to be addressed in the EIS, the public is invited to participate in the EIS scoping process. This may be done either by mail and/or by public workshop meetings. The BLM wilderness scoping meetings will include a short briefing by BLM officials, distribution of a wilderness scoping packet, and workshop-style discussion groups to facilitate public input.

The following dates and places have been arranged for the wilderness EIS scoping meetings. All meetings will begin at 7:00 p.m.

Vernal—February 21, 1984—BLM Vernal District Office, 170 S. 500 E.

Logan—February 22, 1984—Mountain Fuel Supply Bldg., 45 E. 200 N.

Tooele—February 23, 1984—Tooele County Courthouse, 47 S. Main St.

Price—February 28, 1984—BLM Price Resource Area Office, 900 N. 7th E.

Moab—February 29, 1984—BLM Grand Resource Area Office, Sand Flats Road.

Monticello—March 1, 1984—BLM San Juan Resource Area Office, 28th S. 1st W.

St. George—March 6, 1984—Washington County Library, Assembly Room 505, 50 S. Main St.

Kanab—March 7, 1984—Kane County Courthouse, Commission Room, 70 N. Main St.

Escalante—March 8, 1984—Escalante High School Lunchroom

Loa—March 13, 1984—Community Center, One block west of Courthouse

Delta—March 14, 1984—High School Auditorium, 50 S. 300 N.

Salt Lake City—March 15, 1984—Salt Palace, 100 S. West Temple, Suite D

Participation by mail may be arranged by calling or writing to the contact person noted below. A scoping packet, including map and descriptive information, as well as worksheets for recording comments, will be furnished by mail upon request. In order to be used in timely scoping of the draft EIS, comments must be received by April 16, 1984.

FOR FURTHER INFORMATION CONTACT: Margaret Matthies, Wilderness EIS Coordinator, phone (801) 524-3129 or 588-3129 FTS. Written inquiries or comments should be sent to: State Director (U-933), Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Dated: January 10, 1984.

Roland G. Robison,

State Director.

[FR Doc. 84-1035 Filed 1-13-84; 8:45 am]

BILLING CODE 4310-DQ-M

[M-57954]

Montana; Realty Action; Exchange of Public and Private Lands

Correction

In FR Doc. 83-33892, beginning on page 56651, in the issue of Thursday, December 22, 1983, make the following corrections:

1. In the third column, in the entry for Sec. 35, "Lots 2 & 3, NE¼" should read "Lots 2 & 3, NE¼, NE¼".

2. Also in the third column, under T. 34 N., R. 39 E., in the entry for Sec. 20, "W¼" should read "NW¼".

3. In the third column, in the line starting with T. 35 N., "325E.," should read "35E.,".

BILLING CODE 1505-01-M

[U-53875]

Utah; Order Providing for Opening of Lands

1. In an exchange of lands under the provisions of section 206 of the Act of October 21, 1976, the following described lands have been reconveyed to the United States:

Salt Lake Meridian Utah

T. 40 S., R. 6 W.,
Sec. 22, E½; (surface only)
Containing 320 acres in Kane County.

2. Subject to valid existing rights the provisions of existing withdrawals and the requirements of applicable law the lands described in paragraph one are hereby open to operation of the public lands law generally. All valid applications received at or prior to 10:00 a.m. on February 21, 1984, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operators, Bureau of Land Management, University Club Building 136 East South Temple, Salt Lake City, Utah 84111.

J. K. Latimer,
Acting Chief, Branch of Lands and Minerals Operation

Dated: January 6, 1984

[FR Doc. 84-1034 Filed 1-13-84; 8:45 am]

BILLING CODE 4310-DQ-M

Bureau of Reclamation

Hydrologic Determination; Water Availability From Navajo Reservoir and Upper Colorado River Basin for Interim Use in New Mexico

As required by the Act of June 13, 1962 (Pub. L. 87-483), the Secretary of the Interior shall not enter into long-term contracts (not more than 40 years) for use of water stored in Navajo Reservoir or any other waters of the San Juan River and its tributaries until he has made a hydrologic determination as to water availability, has submitted such determination to the Congress, and the Congress has approved such contracts. The Bureau of Reclamation has evaluated the hydrologic investigations of water availability for Navajo Reservoir, which were done in 1967, recognizing the status of present and projected water use in the Upper Colorado River Basin, the most recent hydrology, the physical availability and the institutional constraints, Compacts, and "laws of the river."

In accordance with procedures established by the Department of the Interior for planning purposes, it is still assumed that up to 5.8 million acre-feet of water can be safely depleted annually in the Upper Colorado River Basin. This assumption is not to be considered as an interpretation of the Upper Basin obligation for water delivery at Lee Ferry under the Colorado River Compact. It represents, rather, a practical and conservative approach for the purpose of the determination required by section 11(a) of the Act of June 13, 1962 (Pub. L. 87-483).

Long-term water service contracts for municipal and industrial uses from Navajo Reservoir involve a projection into the future of estimated water uses and water supplies. The Bureau projection of water supply and depletions from Navajo Reservoir through the year 2039 was formulated with the consultation of the State of New Mexico. A block of Navajo Reservoir interim water supply, as identified in this determination, would be marketed by the United States and be allocated among users in consultation with the New Mexico Interstate Stream Commission.

The availability of an interim water supply from Navajo Reservoir, as allowed in subsection (b) of article III of the Upper Colorado River Compact, permits New Mexico to use waters in excess of its percentage allotment, provided such excess does not impair any of the remaining States' expected rate of development and/or depletion, while continuing to meet water delivery obligations to the Lower Basin.

The public information program is directed toward the general public and also to solicit the views of individuals and groups who are either directly affected by the decision or have some familiarity with the issue. The hydrologic determination is a technical decision by the Secretary of the Interior and, therefore, comments received will be compiled in a "Summary of Comments" document. Comments may not be accommodated in the determination. A copy of the final hydrologic determination will be sent to all interested parties, along with a "Summary of Comments" document.

A discussion of the draft hydrologic determination will be presented through existing forums. For example, on December 16, 1983, the draft hydrologic determination was presented to the New Mexico Interstate Stream Commission in Albuquerque, New Mexico. For further information on the hydrologic determination, inquiries should be addressed to: Regional Director, Bureau of Reclamation, Attention: UC-440, P.O. Box 11568, Salt Lake City, Utah 84147, telephone (801) 524-5435.

Dated: January 10, 1984.

Robert A. Olson,
Acting Commissioner of Reclamation.

[FR Doc. 84-1071 Filed 1-13-84; 8:45 am]

BILLING CODE 4310-DS-M

Minerals Management Service

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Gulf of Mexico Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Availability of Environmental Documents Prepared for OCS Mineral Pipeline Rights-of-Way Application Proposals of the Gulf of Mexico OCS.

SUMMARY: The Minerals Management Service (MMS), in accordance with Federal Regulations (40 CFR 1501.4 and 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related environmental assessments (EAs) and findings of no significant impact (FONSIs), prepared by the MMS for the following pipeline rights-of-way applications proposed on the Gulf of Mexico OCS. This listing includes all proposals for which environmental documents were prepared by the Gulf of Mexico Region in the 3-month period preceding this Notice.

Activity/operator	Location	FONSI date
Superior Oil Company, OCS-G 5928 (amendment) Route change reported 7/25/83	South Marsh Island Area, North Addition, Blocks 243, 244, 245, 246, and Vermilion Area Block 71 (12.24 miles of 12" gas pipeline).	Nov. 29, 1983
Gulf Oil Corporation, OCS-G 5935	Mississippi Canyon Area, Blocks 63, and 107 and South Pass Area Block 49 (4.06 miles of 8" gas/oil pipeline)	Nov. 30, 1983
Challenger Minerals Inc., OCS-G 5936	Main Pass Area, Blocks 64 and 57 (3.02 miles of 10" gas/oil pipeline)	Oct. 3, 1983
Sun Exploration and Production Company, OCS-G 5939.	West Cameron Area, South Addition Blocks 648, 639, 628, 619 and 606 (9.59 miles of 16" gas pipeline).	Oct. 4, 1983
Natural Gas Pipeline Company of America, OCS-G 5941.	South Marsh Island Area, North Addition, Blocks 236 and 235 (2.6 miles of 10" gas pipeline)	Oct. 3, 1983
Internorth Inc., OCS-G 6379	High Island Area, Blocks 199, 173, 172, 160 and 136 (9.82 miles of 10" gas pipeline)	Nov. 23, 1983
Tenneco Oil Company, OCS-G 6380.	South Marsh Island Area, Blocks 160, 157, 144 and 141 (7.3 miles of 8" oil pipeline).	Oct. 3, 1983

Activity/operator	Location	FONSI date
Chevron Pipe Line Company, OCS–G.	Eugene Island Area, Blocks 341 and 327 (1084 miles of 6" oil pipeline).	Nov. 29, 1983.
CNG Producing Company, OCS–G 6384.	West Cameron Area, West Addition Blocks 318, 314 and 315, and West Cameron Area, Blocks 209 and 210.	Nov. 30, 1983.

Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about EAs and FONSIs prepared for activities on the Gulf of Mexico OCS are encouraged to contact the MMS office in the Gulf of Mexico Region.

FOR FURTHER INFORMATION CONTACT: Regional Suprevisor, Leasing and Environment, Gulf of Mexico Region, Minerals Management Service, Post Office Box 7944, Metairie, Louisiana 70010, Phone 504/838–2755.

SUPPLEMENTARY INFORMATION: The MMS prepares EAs and FONSIs for proposals which relate to exploration for and the development/production of oil and gas resources on the Gulf of Mexico OCS. The EAs examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. EAs are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA & 102(2)(C). A FONSI is prepared in those instances where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA

This notice constitutes the public notice of availability of environmental documents required under the NEPA Regulations.

Dated: January 9, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84–1068 Filed 1–13–84; 8:45 am]

BILLING CODE 4310–MR–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–32 (Sub-No. 28X]

Rail Carriers; Boston and Maine Corp.; Abandonment in Cheshire County, NH; Exemption

Boston and Maine Corporation (B&M) filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments.* The line to be abandoned is B&M's Cheshire Branch between milepost 0.0 at Cold River and milepost 0.78 at the New Hampshire-Vermont State Line in Cheshire County, NH, a distance of approximately 0.78 mile.

B&M has certified (1) that no local traffic has moved over the line for at least 2 years and that any overhead traffic on the line can be rerouted over other lines, and (2) that no formal complaint filed by a user of rail service on the line regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in New Hampshire has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines,* 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen,* 360 I.C.C. 91 (1979).

The exemption will be effective on February 15, 1984 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by January 26, 1984, and petitions for reconsideration, including environmental, energy and public use concerns, must be filed by February 6, 1984, with: Office of Secretary, Case Contral Branch, Interstate Commerce Commission, Washington, D.C. 20423.

A copy of any petition filed with the Commission should be sent to B&M's representative: Sidney Weinberg, Iron Horse Park, North Billerica, MA 01862–1685.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ad initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: January 6, 1984.

By the Commission, Richard Lewis, Acting Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 84–1082 Filed 1–13–84; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Office of the Attorney General

Lodging of Consent Judgment Pursuant to Clean Air Act; U.S. v. St. Regis Corp.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on December 22, 1983, a proposed Consent Judgment in *United States* v. *St. Regis Corporation,* Civil Action No. C83–78T was lodged with the United States District Court for the Western District of Washington. The proposed Consent Judgment imposes civil penalties for violations of the Clean Air Act and the Washington State Implementation Plan by visible emissions.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attroney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *St. Regis Corporation,* D.J. Ref. 90–5–2–1–578.

The proposed Consent Judgment may be examined at the office of the United States Attorney, Western District of Washington, 3600 Seafirst Fifth Avenue Plaza, 800 Fifth Avenue, Seattle, Washington 98104 and at the Region X Office of the Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101. Copies of the Consent Judgment may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed Consent Judgment may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

F. Henry Habicht II,

Assistant Attorney General Land and Natural Resources Division.

[FR Doc. 84–1073 Filed 1–13–84; 8:45 am]

BILLING CODE 4410–01–M

MOTOR CARRIER RATEMAKING STUDY COMMISSION

Public Meeting

Correction

FR Doc. 84–363, a notice of a meeting on January 18, 1984, of the Motor Carrier Ratemaking Study Commission was

published in the issue of Friday, January 6, 1984, on page 974 in the section of the issue reserved for Sunshine Act meetings. It should have been published in the regular Notices section of the issue. An announcement of the postponement of the January 18 meeting was published on Thursday, January 12, 1984, on page 1583.

BILLING CODE 1505-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Comments on this information collection must be submitted by February 15, 1984.

ADDRESSES: Send comments to Ms. Ingrid Foreman, Management Assistant, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506; (202–786–0233) or Mr. Joseph Lackey, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., Room 3208, Washington, D.C. 20503; (202–395–6880).

FOR FURTHER INFORMATION CONTACT: Ms. Ingrid Foreman, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506; (202–786–0233) from whom copies of forms and supporting documents are available.

SUPPLEMENTARY INFORMATION: All of the entries are grouped into new forms, revisions, or extensions. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what form will be used for; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form. None of these entries are subject to 44 U.S.C. 3504(h).

New Forms

Title: Summer Stipends
Form Number: Includes 3136–0032, 3136–0003, 128–R0009
Frequency of Collection: Annually
Respondents: Individuals
Use: Application, evaluation, and award process for NEH Summer Stipend program
Estimated Number of Respondents: 5,375
Estimated Hours for Respondents to Provide Information: 16,125

Title: Fellowship Programs: College Teachers, Independent Study and Research Fellowships, Constitutional Fellowships
Form Number: Includes 3136–0032, 3136–0003, 128–R0009
Frequency of Collection: Annually
Respondents: Individuals
Use: Application, evaluation, and award process for NEH Fellowship program
Estimated Number of Respondents: 7,720
Estimated Hours for Respondents to Provide Information: 30,880

Title: Fellowships at Centers for Advanced Study
Form Number: N/A
Frequency of Collection: Annually
Respondents: Centers for Advanced Study and Individuals
Use: Application, evaluation, and award process for NEH Program of Fellowships at Centers for Advanced Study
Estimated Number of Respondents: 65
Estimated Hours for Respondents to Provide Information: 390

Title: Summer Seminars for College Teachers: Directors
Form Number: N/A
Frequency of Collection: Annually
Respondents: Individuals
Use: Application, evaluation, and award process for directors of NEH Summer Seminars for College Teachers Program
Estimated Number of Respondents: 1,215
Estimated Hours for Respondents to Provide Information: 18,225

Title: Summer Seminars for College Teachers: Participants
Form Number: N/A
Frequency of Collection: Annually
Respondents: Individuals
Use: Application, evaluation, and award process for participants in NEH Summer Seminars for College Teachers Program
Estimated Number of Respondents: 94,000
Estimated Hours for Respondents to Provide Information: 94,000

Title: Summer Seminars for Secondary School Teachers: Directors
Form Number: N/A
Frequency of Collection: Annually
Respondents: Individuals
Use: Application, evaluation, and award process for directors of NEH Summer Seminars for Secondary School Teachers
Estimated Number of Respondents: 500
Estimated Hours for Respondents to Provide Information: 7,500

Title: Summer Seminars for Secondary School Teachers: Participants
Form Number: N/A
Frequency of Collection: Annually
Respondents: Individuals
Use: Application, evaluation, and award process for participants in NEH Summer Seminars for Secondary School Teachers
Estimated Number of Respondents: 7,000
Estimated Hours for Respondents to Provide Information: 56,000

Title: General Programs Program Development Guidelines and Application Instructions
Frequency of Collection: Twice a year at each deadline
Respondents: Colleges and universities, libraries, other public institutions, civic, and professional groups
Use: Collection of infomation provides a basis for evaluation of application in the competitive review process
Estimated Number of Respondents: 192
Estimated Hours for Respondents to Provide Information: 50,688

Title: General Programs Younger Scholars Guidelines and Application Instructions
Frequency of Collection: Once a year at each deadline
Respondents: High school and college students under 21
Use: Collection of information provides a basis for evaluation of application in the competitive review process
Estimated Number of Respondents: 129
Estimated Hours for Respondents to Provide Information: 4,128

Title: General Programs Youth Projects Guidelines and Application Instructions
Frequency of Collection: Once a year at each deadline
Respondents: Non-profit organizations such as museums, libraries, historical societies, community and youth groups, colleges, universities and agencies of state or local government
Use: Collection of information provides a basis for evaluation of application in a competitive review process of grant making
Estimated Number of Respondents: 60
Estimated Hours for Respondents to Provide Information: 10,560

Title: General Programs Museums and Historical Organizations Guidelines and Application Instructions
Frequency of Collection: Twice a year at each deadline
Respondents: Museums and cultural organizations
Use: Collection of information provides a basis for evaluation of application in a competitive review process of grant making
Estimated Number of Respondents: 288
Estimated Hours for Respondents to Provide Information: 23,040

Title: General Programs Media Guidelines and Application Instructions
Frequency of Collection: Twice a year at each deadline
Respondents: Colleges and universities, public radio and television stations, private, non-profit organizations, or branches of state and local government
Use: Collection of information provides a basis for evaluation of application in a competitive review process
Estimated Number of Respondents: 407
Estimated Hours for Respondents to Provide Information: 165,474

Title: Reviewer Evaluation
Frequency of Collection: When the application warrants it. On occasion, for example, the panel recommends further review; some applications are reiewed if the budget is very large, and some if panel cannot reach an agreement on a proposal or feel that outside expert advice should be sought
Respondents: Experts in specific field of project
Use: To provide more specific information about the quality or rationale of a project in addition to the regular panelist review
Estimated Number of Respondents: 400 per year
Estimated Hours for Respondents to Provide Information: 800

Title: Panelist Evaluation Form
Frequency of Collection: Experts in field review applications after each application deadline of which there are eight in the Division of General Programs
Respondents: Scholars and experts in specific fields
Use: The collection of information serves as basis for each panelist's evaluation and rating of a proposal. When a panel meets, participants, after discussion based on their notes, then make collectively a final recommendation for each proposal in the competitive process. These forms are used extensively as a base from which to respond to applicants on the reasons why they have not received funding
Estimated Number of Respondents: 270 per year
Estimated Hours for Respondents to Provide Information: 9,990

Title: General Programs Performance Reporting Requirements
Frequency of Collection: One per grant
Respondents: Grantees
Use: Monitoring and evaluating the accomplishments of a grant
Estimated Number of Respondents: 539
Estimated Hours for Respondents to Provide Information: 7,468

Title: Planning and Assessment Studies Program Review Process
Form Number: OP–R 3/83; OP–P 3/83; OP–A 12/83
Frequency of Collection: Once
Respondents: Reviewers, panelists, applicants
Use: Decision-making concerning grant applications
Estimated Number of Respondents: 260
Estimated Hours for Respondents to Provide Information: 2,675

Title: Basic Research Guidelines and Application Instructions
Form Number: Not Applicable
Frequency of Collection: Annual, except Conferences category, which is twice a year
Respondents: Humanities scholars and institutions
Use: Application for Funding
Estimated Number of Respondents: 285
Estimated Hours for Respondents to Provide Information: 60 per respondent

Title: Humanities, Science, and Technology Guidelines and Application Instructions
Form Number: Not Applicable
Frequency of Collection: Annual
Respondents: Humanities Scholars and Institutions
Use: Application for Funding
Estimated Number of Respondents: 150
Estimated Hours for Respondents to Provide Information: 60 per respondent

Title: Travel to Collections Guidelines and Application Instructions
Form Number: Not applicable
Frequency of Collection: Twice a year
Respondents: Humanities Scholars
Use: Application for Funding
Estimated Number of Respondents: 1,000 per collection, or 2,000 per year
Estimated Hours for Respondents to Provide Information: 6 per respondent

Title: Travel to Collections Panel Rating Sheet
Form Number: Not Applicable
Frequency of Collection: Twice a year
Respondents: Humanities scholars
Use: To evaluate applications for funding
Estimated Number of Respondents: 48 per competition, or 96 per year
Estimated Hours for Respondents to Provide Information: 1,200 per competition

Title: Research Resources Guidelines and Application Instructions
Form Number: Not Applicable
Frequency of Collection: Annual
Respondents: Humanities scholars and Institutions
Use: Application for funding
Estimated Number of Respondents: 210
Estimated Hours for Respondents to Provide Information: 68 per respondent

Title: Publications Program Guidelines and Application Instructions
Form Number: Not Applicable
Frequency of Collection: Twice a year
Respondents: Publishers of works in the humanities
Use: Application for funding
Estimated Number of Respondents: 140 per competition, or 280 per year
Estimated Hours for Respondents to Provide Information: 32 per respondent

Title: Reference Works Guidelines and Application Instructions
Form Number: Not Applicable
Frequency of Collection: Annual
Respondents: Humanities Scholars and Institutions
Use: Application for funding
Estimated Number of Respondents: 400
Estimated Hours for Respondents to Provide Information: 60

Title: Panel Comment Sheets
Form Number: Not Applicable
Frequency of Collection: Once per year per respondent
Respondents: Specialists in fields of the humanities or areas related to applications received by the Research Division. Scholars, academic administrators, publishers, archivists, or librarians
Use: To evaluate the quality and relative merits of applications for funding
Estimated Number of Respondents: 195 per year, each evaluating 40–80 applications
Estimated Hours for Respondents to Provide Information: 24–80 to evaluate 40–80 applications, including panel discussion time

Title: Reviewer Comment Sheets
Form Number: Not Applicable
Frequency of Collection: 1–4 instances annually per respondent
Respondents: Specialists in fields of the humanities or topics related to applications received by the Research Division
Use: To record specialist reviewers' evaluations of applications for funding

Estimated Number of Respondents: 7,040 per year
Estimated Hours for Respondents to Provide Information: 1–5 hours per response
Title: Classification of the Amount of Request for Payment on Letter of Credit
Form Number, if applicable: NFAH 1023
Frequency of Collection: Occasionally
Respondents: Grantees
Use: Monitor grantee cash advances
Estimated Number of Respondents: 190
Estimated Hours for Respondents to Provide Information: 8 hours per year per grantee
Respondents: Grantees seeking to match third party offers of funding
Use: To certify donations to projects eligible for NEH matching funds
Estimate Number of Respondents: 500
Estimated Hours for Respondents to Provide Information: ½
Title: NEH Performance Reporting Requirements
Form Number, if applicable: N/A
Frequency of Collection: Varies-Occasional, quarterly, semi-annually and annually
Respondents: All NEH grantees
Use: Provides information to NEH necessary to monitor activities of funded projects
Estimated Number of Respondents: 3,000
Estimated Hours for Respondents to Provide Information: 3
Title: NEH Program Income Policy
Form Number if applicable: N/A
Frequency of Collection: End of grant period and annually
Respondents: Grantees who earn income generated from NEH funded project activities
Use: Monitor informaiton on Program Income and how Federal share of such income is used
Estimated Number of Respondents: 300
Estimated Hours for Respondents to Provide Information: 1
Title: NEH Budget Form and Instructions
Form Number, if applicable: N/A
Frequency of Collection: Occasional, with each NEH Grant Application
Respondents: All NEH Applicants
Use: Provide financial plan for expenditure of funds for projected activities
Estimated Number of Respondents: 2,700
Estimated Hours for Respondents to Provide Information: 3
Title: Division of State Programs: Interim Progress Report Format
Form Number, if applicable: N/A
Frequency of Collection: Biennually
Respondents: 24–28
Use: Application for Benefits; Program Evaluation; Compliance; Program Planning or Management; and Audit
Estimated Number of Respondents: 24–28
Estimated Hours for Respondents to Provide Information: 20 hrs. per response 480–560 total hours
Title: Division of State Programs: Plan for Compliance with the NEH Authorizing Legislation by State Humanities Councils Operating as State Agencies
Form Number, if applicable: N/A
Frequency of Collection: Annually
Respondents: 0
Use: Application for Benefits; and Compliance
Estimated Number of Respondents: 1
Estimated Hours for Respondents to Provide Information: 10 per response
Title: Division of State Programs: Plan for Compliance with the NEH Authorizing Legislation By State Humanities Councils Operating as State Agencies
Form Number, if applicable: N/A
Frequency of Collection: Annually
Respondents: 0
Use: Application for Benefits; and Compliance
Estimated Number of Respondents: 1
Estimated Hours for Respondents to Provide Information: 10 per response
Title: Division of State Programs: Plan for Compliance with the NEH Authorizing Legislation by State Humanities Councils Operating As Citizens' Committees
Form Number, if applicable: N/A
Frequency of Collection: Annually
Respondents: 53
Use: Application for Benefits and Compliance
Estimated Number of Respondents: 53
Estimated Hours for Respondents to Provide Information: 10 hrs. per response 530 total hours
Title: Division of State Programs: Criteria for Review and Proposal Format
Form Number, if applicable: N/A
Frequency of Collecton: Biennually
Respondents: 24–28
Use: Application for Benefits; Program Evaluation; Compliance; Program Planning & Management; and Audit
Estimated Number of Respondents: 24–28
Estimated Hour for Respondents to Provide Information: 160 hrs. per response 3,849–4,480 total hours
Title: Planning and Assessment Studies Program Review Process
Form Number: OP–R 3/83; OP–P 3/83; OP–A 12/83
Frequency of Collecton: Once
Respondents: Reviewers, panelists, applicants
Use: Decision-making concerning grant applications
Estimated Number of Respondents: 260
Estimated Hour for Respondents to Provide Information: 2,675
Title: Negotiation of Indirect Cost Rate Information Needed
Form Number, if applicable: None
Frequency of Collecton: 1 per year from each respondent
Respondents: Not for Profit Institutions
Use: Evaluation of Indirect Cost Rate
Estimated Number of Respondents: 75
Estimated Hour for Respondents to Provide Information: 15
Title: Application Instructions National Endowment for the Humanities Division of Education Programs
Form Number: None
Frequency of Collection: On Occasion
Respondents: Individuals or Households Non-Profit Institutions
Use: Application for Benefits Program Planning or Management Audit
Estimated Number of Respondents: 600
Estimated Hour for Respondents to Provide Information: 72,000
Title: Guidelines and Application Materials High School Humanities Institutes for Historically Black Colleges and Universities
Form Number: None
Frequency of Collecton: On Occasion
Respondents: Individuals and Households Non-Profit Institutions
Use: Application for Benefits Program Planning or Management Audit
Estimated Number of Respondents: 25
Estimated Hour for Respondents to Provide Information: 3,000
Title: National Endowment for the Humanities Division of Education Programs. Review and Evaluation Process Letters and Forms
Form Number: None
Frequency of Collection: On Occasion
Respondents: Individuals or Households Non-Profit Institutions
Use: Program Evaluation Program Planning or Management
Estimated Number of Respondents: 600
Estimated Hour for Respondents to Provide Information: 153,600
Title: Summary Report on Institute Participants (EH)
Form Number: None
Frequency of Collecton: Annually
Respondents: Individuals or Households, Non-Profit Institutions
Use: Program Evaluation General Purpose Statistics Program Planning or Management
Estimated Number of Respondents: 15
Estimated Hour for Respondents to Provide Information: 45
Title: Summary Report for Institute Participants (ES)
Form Number: None
Frequency of Collection: Annually

Respondents: Individuals or Households Non-Profit Institutions
Use: Program Evaluation General Purpose Statistics Program Planning or Management
Estimated Number of Respondents: 25
Estimated Hour of Respondents to Provide Information: 75
Title: Survey of NEH Panelists
Form Number: Not applicable
Frequency of Collecton: Once
Respondents: Persons who have served on NEH application review panels during the fiscal year 1983
Use: To increase the efficiency and effectiveness of the Endowment's proposal review process
Estimated Number of Respondents: 720
Estimated Hour for Respondents to Provide Information: 360

Victor J. Loughnan,
Director of Administration.

[FR Doc. 84-1085 Filed 1-13-84; 8:45 am]
BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-320]

General Public Utilities; Availability of Draft Supplement to the Programmatic Environmental Impact Statement Related to Decontamination and Disposal of Wastes From March 28, 1979 Accident—Three Mile Island Nuclear Station Union 2

Correction

In FR Doc. 84-238 beginning on page 683 in the issue of Thursday, January 5, 1984, make the following correction: In column three, first paragraph, line eight "0638" should read "0683".

BILLING CODE 1505-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Advanced Reactors; Meeting

The ACRS Subcommittee on Advanced Reactors will hold a meeting on January 25 and 26, 1984, at the Argonne National Laboratory, Building 208, Room C-234, Argonne, IL. The Subcommittee will continue the development of the report "Liquid Metal Fast Breeder Reactor (LMFBR) Safety Philosophy and Issues." Notice of this meeting was published December 27, 1983.

In accordance with the procedures outlined in the **Federal Register** on September 28, 1983 (48 FR 44291), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Wednesday, January 25, 1984—8:30 a.m. until the conclusion of business

Thursday, January 26, 1984—8:30 a.m. until the conclusion of business

The Subcommittee will discuss further development of the subject report. This discussion may involve representatives of the NRC Staff, the Department of Energy, plus other interested parties.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Paul Boehnert (telephone 202/634-3267), between 8:15 a.m. and 5:00 p.m. EST.

Dated: January 11, 1984.

John C. Hoyle,
Advisory Committee Management Officer.

[FR Doc. 84-1087 Filed 1-13-84; 8:45 am]
BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Class-9 Accidents; Meeting

The ACRS Subcommittee on Class-9 Accidents will hold a meeting on January 27, 1984, Room 1167, at 1717 H Street, NW., Washington, DC.

In accordance with the procedures outlined in the **Federal Register** on September 28, 1983 (48 FR 44291), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Friday, January 27, 1984—8:30 a.m. Until the Conclusion of Business

The Subcommittee will discuss the revised final Severe Accident Policy Statement.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to cognizant Designated Federal Employee, Mr. Alan B. Wang (telephone 202/634-3267) between 8:15 a.m. amd 5:00 p.m., EST.

Dated: January 9, 1984.

John C. Hoyle,
Advisory Committee Management Officer.

[FR Doc. 84-1086 Filed 1-13-84; 8:45 am]
BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Combined Subcommittee on Emergency Core Cooling Systems (ECCS) and Decay Heat Removal; Meeting

The Combined ACRS Subcommittee on Emergency Core Cooling Systems and Decay Heat Removal will hold a meeting on February 1 and 2, 1984, Room 1046, 1717 H Street, NW., Washington, D.C.

In accordance with the procedures outlined in the **Federal Register** on September 28, 1983 (48 FR 44291), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those

sessions which will be closed to protect proprietary information (Sunshine Act Exemption 4). One or more closed sessions may be necessary to discuss such information. To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Wednesday, February 1, 1984—8:30 a.m. Until the Conclusion of Business

Thursday, February 2, 1984—8:30 a.m. Until the Conclusion of Business

The Subcommittee will discuss the status of feed-and-bleed capability in PWRs.

During the initial portion of the meeting, the Combined Subcommittee, along with any of their consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the PWR Owners Groups, Vendors, Licensees, the NRC Staff, their consultants, and other interested persons regarding this subject.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employees, Mr. Paul Boehnert or Mr. Anthony Cappucci (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EST.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close portions of this meeting to public attendance to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552(c)(4).

Dated: January 11, 1984.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 84–1088 Filed 1–13–84; 8:45 a.m.]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Reactor Radiological Effects; Meeting

The ACRS Subcommittee on Reactor Radiological Effects will hold a meeting on January 23 and 24, 1984, Room 1046, 1717 H Street, NW, Washington, DC. The Subcommittee will review occupational doses associated with TMI–2 cleanup, Sizewell B ALARA strategy and occupational exposures; discuss the formulation of a position regarding de minimis levels; and discuss with DOE representatives the ACRS comments on DOE's review of NRC's radiation protection and health effects research programs. Notice of this meeting was published Tuesday, December 27, 1983 (48 FR 57037).

In accordance with the procedures outlined in the **Federal Register** on September 28, 1983 (48 FR 44291), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Monday, January 23, 1984—8:30 a.m. Until the Conclusion of Business

Tuesday, January 24, 1984—8:30 a.m. Until the Conclusion of Business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, industry and other interested persons.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Ms. R. C. Tang (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., EST.

Dated: January 11, 1984.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 84–1089 Filed 1–13–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–348 and 50–364]

Alabama Power Co. (Joseph M. Farley Nuclear Plant Unit Nos. 1 and 2); Exemption

I

The Alabama Power Company (the licensee) is the holder of Facility Operating License Nos. NPF–2 and NPF–8 which authorized operation of the Joseph M. Farley Nuclear Power Plant Unit Nos. 1 and 2. These licenses provide, among other things, that they are subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

The facility comprises two pressurized water reactors at the licensee's site located near the City of Dothan, Alabama.

II

On November 19, 1980, the Commission published a revised 10 CFR 50.48 and a new Appendix R to 10 CFR Part 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised Section 50.48 and Appendix R became effective on February 17, 1981. Section III of Appendix R contains fifteen subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. One of these fifteen subsections, III.G, is the subject of this exemption request.

Subsection III.G.2 of Appendix R requires that one train of cables and equipment necessary to achieve and maintain safe shutdown shall be maintained free of fire damage by specific use of fire barriers, separation or enclosures. If these conditions are not met, Section III.G.3 requires an alternative shutdown capability independent of the fire area of concern.

III

By letter dated June 18, 1982, the licensee requested an exemption from the technical requirements of Section III.G.2 of Appendix R to CFR Part 50 to the extent that it requires specified fire protection measures for the protection of safe shutdown cables and equipment located inside containment for both units. In our evaluation of these exemptions, we stated that the licensee had not provided a fire hazards analysis which compared the level of safety provided by existing arrangements to that required by Appendix R to 10 CFR Part 50 and, therefore, recommended the denial of these exemptions. By letter dated July 27, 1982, the licensee provided additional information. The

licensee identified three systems that did not meet the requirements of Section III.G inside containment for which exemptions were requested. These three systems are the pressurizer power operated relief valves and block valves, reactor vessel head vent valves and instrumentation for the pressurizer pressure and level indication. The licensee revised the June 18, 1983 exemption request to cover only cables and components of these three systems inside the containment for Units 1 and 2.

IV

The protection for redundant trains of safe shutdown equipment inside containment does not meet the technical requirements of Section III.G because twenty-feet of separation does not exist between redundant cables free of intervening combustibles. Due to the specific configurations and locations of the cables and components within the containment and due to the restricted access to these sub-areas during plant operations, an exposure fire involving the accumulation of significant quantities of transient combustible materials is unlikely. Because the cables in these sub-areas inside containment are qualified to IEEE Standard 383 and are routed in conduit, it is our opinion that a fire of sufficient magnitude to damage redundant cables or components is unlikely.

Based on our evaluation, the existing protection for the containment area of Units 1 and 2 provides a level of fire protection equivalent to the technical requirements of Section III.G of Appendix R. Therefore, the exemption should be granted.

V.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest, are hereby grants an exemption from the requirements of Section III.G.2 of Appendix R to the extent that they apply to the specific systems in the Containment Building as described herein.

The NRC staff has determined that the granting of this Exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

A copy of the Safety Evaluation dated December 30, 1983, related to this action is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the local public document room located at the George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama. A copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland this 30th day of December 1983.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-1090 Filed 1-13-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-358-OL; ASLBP No. 76-317-01 OL]

Cincinnati Gas & Electric Company, et al., William H. Zimmer Nuclear Power Station, Unit 1; Reconstitution of Board

Pursuant to the authority contained in 10 CFR 2.721, the Atomic Safety and Licensing Board for *The Cincinnati Gas & Electric Company, et al.* (William H. Zimmer Nuclear Power Station, Unit 1), Docket No. 50-358-OL, is hereby reconstituted by appointing Administrative Judge Gustave A. Linenberger, Jr., in place of Administrative Judge M. Stanley Livingston, who has resigned from the Atomic Safety and Licensing Board Panel.

As reconstituted, the Board is comprised of the following Administrative Judges:

John H. Frye, III, Chairman
Dr. Frank F. Hooper
Mr. Gustave A. Linenberger, Jr.

All correspondence, documents and other material shall be filed with the Board in accordance with 10 CFR 2.701 (1980). The address of the new Board member is: Administrative Judge Gustave A. Linenberger, Jr., Atomic Safety and Licensing Board, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Bethesda, Maryland, this 9th day of January, 1984.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 84-1092 Filed 1-13-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-440]

Cleveland Electric Illuminating Co. (Perry Nuclear Power Plant, Unit 1); Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director of the Office of Inspection and Enforcement has denied a petition under 10 CFR 2.206 filed by Terry J. Lodge on behalf of Steven Sass and the Sunflower Alliance. As the result of a construction accident that occurred on September 15, 1983 during the attempted lift of the moisture separator from the reactor vessel at Unit 1 of the Perry Nuclear Power Plant, the petitioners has requested that the Director require Cleveland Electric Illuminating Company, the licensee, to open the plant for inspection by the general public, require an investigation into the lifting accident by an independent engineering firm, and initiate a proceeding upon completion of the independent investigation to determine whether the construction permit for Perry Unit 1 should be revoked. In view of the results of inspections and analyses performed subsequent to the lifting incident and the licensee's corrective actions, the Director has determined that the relief requested by the petitioners is not warranted.

The reasons for this decision are more fully described in a "Director's Decision under 10 CFR 2.206" (DD-84-1) which is available for public inspection in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555 and in the local public document room for the Perry plant at the Perry Public Library, 3753 Main Street, Perry, Ohio 44081. A copy of the decision has been provided to the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206(c).

Dated at Bethesda, Maryland, this 9th day of January 1984.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 84-1091 Filed 1-13-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-344 OLA; ASLBP No. 84-498-05 LA]

Portland General Electric Co., et al.; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR

28710 (1972), and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered.

Portland General Electric Co., et al., Trojan Nuclear Plant, Facility Operating License No. NPF–1

This Board is being established pursuant to a notice published by the Commission on December 5, 1983, in the **Federal Register** (48 FR 54550 ff) entitled, "Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing." The amendment would authorize the licensee to increase the storage capacity of the spent fuel pool from the present capacity of 651 fuel assemblies to 1408 fuel assemblies.

The Board is comprised of the following Administrative Judges:

Ivan W. Smith, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dr. Peter A. Morris, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dr. Oscar H. Paris, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Issued at Bethesda, Maryland, this 9th day of January 1984.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 84–1093 Filed 1–13–84; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Open Meeting

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, February 2, 1984.
Thursday, February 9, 1984.
Thursday, February 16, 1984.
Thursday, February 23, 1984.

These meetings will convene at 10 a.m. and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW., Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the prevailing rate system and other matters pertinent to the establishment of prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management thereon.

These scheduled meetings will convene in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would impair to an unacceptable degree the ability of the Committee to reach a consensus on the matters being considered and disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public on the basis of a determination made by the Director of the Office of Personnel Management under the provisions of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public, upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Committee Secretary, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street, NW., Washington, D.C. 20415 (202) 632–9710.

William B. Davidson, Jr.,

Chairman, Federal Prevailing Rate Advisory Committee.

January 11, 1984.

[FR Doc. 84–1119 Filed 1–13–84; 8:45 am]

BILLING CODE 6325–01–M

POSTAL RATE COMMISSION

Knight-Ridder/Viewdata Corp; Notice of Visit

January 11, 1984.

Notice is hereby given that members of the Commission staff will be visiting the Knight-Ridder/Viewdata Corporation in Miami, Florida, on Thursday, January 12, 1984, for the purpose of observing and gaining knowledge of the VIEWTRON videotext system, and to discuss potential impact on Postal Service mail volumes.

A report of the visit will be on file in the Commission's Docket Room.

Charles L. Clapp,

Secretary.

[FR Doc. 84–1094 Filed 1–13–84; 8:45 am]

BILLING CODE 7715–01–M

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

Public Meeting

Notice is hereby given of a meeting of the Prospective Payment Assessment Commission scheduled for Thursday, February 2, 1984, and Friday, February 3, 1984. The meeting will begin at 9:30 a.m., at 200 Independence Avenue, SW., Room 503A, Washington, D.C., and will be open to the public.

Stuart Altman,

Chairman, Prospective Payment Assessment Commission.

[FR Doc. 84–1095 Filed 1–13–84; 8:45 am]

BILLING CODE 1630–02–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 13710; 811–3789]

American Capital Fund, Inc.; Filing of Application

January 10, 1984.

Notice is hereby given that American Capital Fund, Inc. ("Applicant"), 2777 Allen Parkway, Houston, Texas 77019, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an

application on November 4, 1983, for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the complete text of the provisions thereof which are relevant to any consideration of the application.

Applicant registered under the Act on June 28, 1983. The application states that Applicant did not file a registration statement; that it has never made a public offering of its securities; that it has not more than 100 securityholders for purposes of Section 3(c)(1) of the Act and the rules thereunder, and that it does not propose to make a public offering or engage in business of any kind. According to the application, Applicant has no assets, no debts, no securityholders and it is not a party to any administrative proceeding or litigation.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 3, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-1058 Filed 1-13-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13711; 812-5682]

Credit Lyonnais Canada; Application

January 13, 1984.

Notice is hereby given that Credit Lyonnais Canada (the "Applicant") c/o Troland S. Link, Esquire, Davis Polk & Wardwell, One Chase Manhattan Plaza, New York, New York 10005, filed an application on October 20, 1983, and an amendment thereto on December 5, 1983, for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 (the "Act") exempting Applicant from all provisions of the Act so that it will be in a position to issue U.S. dollar-denominated short term notes ("Notes") in the United States. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, a summary of which is set forth below, and the Act and rules thereunder for the provisions thereof which are relevant to a consideration of the application.

The application states that Applicant, a Canadian chartered bank wholly-owned by Credit Lyonnais ("CL"), was incorporated on June 10, 1974, under the laws of Canada. It is further stated that, by order dated August 7, 1979 (Release No. 10814) (the "CL Order"), the Commission exempted CL from all of the provisions of the Act in response to CL's request to sell commercial paper in the United States and possibly to issue and sell long-term debt securities in the United States. According to the application, Applicant offers wholesale banking services through its head office in Montreal and its branches in Calgary and Toronto.

According to the application, Canadian chartered banks are incorporated and governed by the provisions of the Canadian Bank Act ("Bank Act"), which is asserted to be a detailed and comprehensive statute requiring banks to, for example, maintain primary reserves in varying percentages and file with the Canadian government various reports. The application further represents that the Governor in Council (*i.e.*, the Canadian Cabinet) makes regulations and orders covering in detail certain matters dealt with under the Bank Act. Further, it is asserted that, by virtue of its activities in the United States, CL is registered as a bank holding company under the Bank Holding Company Act of 1956 and therefore subject to regulation by the Board of Governors of the Federal Reserve System which governs, among other things, the types of activities in the United States in which CL may engage.

Applicant represents that the Notes will arise out of, or the proceeds of the Notes will be used for, current transactions of Applicant, and the Notes will have other characteristics, including their negotiability, maturity, and minimum denomination, such as to qualify them for the exemption from registration under Section 3(a)(3) of the Securities Act of 1933 (the "1933 Act"). Applicant also represents that it will not issue or sell any Notes until it has received an opinion of its special counsel in the United States that the Notes would be entitled to such exemption. Applicant does not request Commission review or approval of such opinion, and the Commission expresses no opinion as to the availability of such exemption.

Applicant also states that the proposed issue of the Notes and any future issue in the United States of its debt securities shall have received, prior to issuance, on the basis of the guarantee thereof by CL, one of the three highest investment grade ratings from at least one of the nationally recognized investment rating organizations and that Applicant's special counsel in the United States shall have certified that such rating has been received. Applicant states that no such rating will be required to be obtained if, in the opinion of United States counsel for the Applicant, such counsel having taken into account the doctrine of integration for the purpose thereof, an exemption from registration is available with respect to such issue under Section 4(2) of the 1933 Act.

According to Applicant, the Notes will be issued and sold in large ($100,000 minimum) denominations through U.S. commercial paper dealers. Applicant states that it will secure an undertaking from each such dealer that Notes will be sold to institutional investors and other entities and individuals who normally purchase commercial paper and will not be offered for sale to the general public. Applicant states that it will provide each such dealer with sufficient information to provide, and will undertake to insure that each dealer will provide each offeree of the Notes with, a memorandum (the "offering memorandum") which describes the business of CL and Applicant and contains the most recently published financial statements of CL and Applicant. In addition, the offering memorandum will include brief paragraphs highlighting the material differences between generally accepted accounting principles employed by United States banks and (i) French accounting principles applicable to French banks and used by CL and (ii) Canadian accounting principles applicable to Canadian banks and used by the Applicant, as well as any other information that would be required by the CL Order. Applicant further states that the offering memorandum will be at least as comprehensive as those customarily used by United States issuers in offering commercial paper in the United States and will be updated periodically to reflect material changes

in the business or financial status of CL or Applicant.

Applicant states that it may, from time to time, offer and sell in the United States debt securities other than the Notes but will not offer or sell equity securities. Applicant undertakes to provide, directly or through an underwriter or dealer, to any person to which it offers its debt securities in the United States disclosure documents which are at least as comprehensive as those used by United States issuers in U.S. offerings of such securities and will be updated periodically to reflect material changes in the business or financial status of Applicant or CL.

It is stated that, in connection with the proposed issuance and sale of Notes and any future issue of debt securities in the United States, CL and Applicant will each expressly submit to the jurisdiction of New York State and United States Federal courts sitting in The City of New York for the purpose of any suit, action, or proceeding thereon and will each appoint the issuing agent or a corporation with an office in New York City engaged in providing corporate services for lawyers as agent to accept service of process in any action based on the Notes or the guarantees or with respect to the offering and sale of the Notes by means of the offering memorandum and instituted in any State or Federal court by the holder of any Note. Such appointments of an agent to accept service of process and such consents to jurisdiction shall be irrevocable until all amounts due and to become due in respect of the Notes and the guarantees have been paid. In connection with any future offering by the Applicant of debt securities in the United States, Applicant and CL will each appoint an agent to accept service of process in any suit, action, or proceeding brought on the debt securities or the guarantees of CL endorsed thereon and instituted in any State or Federal court by the holder of any debt securities. Applicant and CL will each expressly submit to the jurisdiction of the New York State and United States Federal courts sitting the The City of New York with respect to any such suit, action, or proceeding. Such appointments of an agent to accept service of process and such consents to jurisdiction shall be irrevocable until all amounts due and to become due in respect of such debt securities and such guarantees have been paid.

Applicant asserts that, although it is a Canadian chartered bank offering wholesale banking services and is therefore not a mere vehicle for the sale of securities of CL, the analysis of its application should be the same as that for Credit Lyonnais North America, Inc. ("CLNA"), a wholly-owned Delaware subsidiary of CL which the Commission has also exempted from the provisions of the Act, because all of its proposed Notes or other debt securities (together, the "Securities") will be unconditionally guaranteed by CL. Applicant asserts that, as in the case of the CLNA application, the unconditional guarantee of CL has the effect that the holders of Securities would look to CL as the ultimate obligor. For these reasons, Applicant asserts, the purchase of Securities issued and sold by Applicant would be the equivalent of purchasing obligations of CL. Accordingly, Applicant asserts that the same policy considerations pursuant to which the Commission approved the CL and CLNA exemptions should apply in its case, and the requested exemption should be granted.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 3, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-1000 Filed 1-13-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13708; 812-5667]

National Aviation and Technology Corporation et al.; Application

January 10, 1984.

Notice is hereby given that National Aviation & Technology Corporation (the "Fund"), registered under the Investment Company Act of 1940 ("Act") as an open-end, non-diversified investment company, and AFA Distributors, Inc., 50 Broad Street, New York, New York 10004, which is expected to become the principal underwriter of the Fund's shares if and when a sales charge is imposed on sales of Fund shares ("Applicants") filed an application on October 5, 1983, and an amendment thereto on December 9, 1983, pursuant to Section 6(c) of the Act for an order exempting Applicants from the provisions of Section 22(d) of the Act to the extent necessary to permit Fund stockholders who held shares on a date to be specified by the Board of Directors of the Fund which shall not be later than the effective date of the imposition of sales loads (the "Cutoff Date") to purchase additional shares at net asset value, provided that they held Fund shares continuously from the Cutoff Date to the date of purchase, and provided they represent that they are purchasing for investment and not for distribution, while all other investors would be required to pay net asset value plus the applicable sales load on their purchases. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

According to the application, the Fund has made continuous offerings of its shares on a no-load basis since its conversion to an open-end investment company on May 1, 1979. Applicants state that the Fund currently has both an underwriting agreement and a service agreement with Scudder Fund Distributors, Inc. ("SFD"), and receives investment advice under an investment management agreement with American Fund Advisors, Inc. ("AFA").

Applicants propose that, in order to foster increased sales of the Fund's shares by broker-dealers and consequently to expand the Fund's assets, the Fund will put into effect a sales load schedule that will apply to sales of its shares after approximately April 30, 1984. The application states that if sales loads are so imposed it is contemplated that the present underwriting and service agreements with SFD will be terminated in favor of a new underwriting agreement with AFA Distributors, Inc., pursuant to which the Fund's shares would be offered to the public through broker-dealers with whom AFA Distributors, Inc. has dealer arrangements. Shares would be offered at the public offering price equal to the current net asset value per share plus a sales charge. Applicants represent that the present investment management agreement with AFA, as approved by the shareholders on May 18, 1983, provides for the termination of whatever obligations and responsibilities of AFA would no longer be applicable in the event that the Fund

does become a load fund. Thus, according to the application, the Board of Directors of the Fund is authorized to impose sales charges if the requested exemptive relief is granted, without having to hold a special meeting of stockholders solely for the purpose of obtaining stockholder approval of a new investment management agreement.

Applicants seek an order of exemption from Section 22(d) of the Act, pursuant to Section 6(c) of the Act to permit all stockholders of record as of the Cutoff Date to make any additional purchases of the Fund's shares at any time at net asset value with no sales charge, provided they hold Fund shares continuously from the Cutoff Date to the date of purchase, and provided they represent that they are purchasing for investment and not for distribution, while all other investors would be required to pay net asset value plus the applicable sales load on their purchases.

The Fund undertakes, if the exemption is granted, that it will accept purchase orders for its shares from stockholders purchasing shares at no load after the Cutoff Date only upon written assurance that they are purchasing such shares solely for investment purposes and not for distribution. Moreover, the Fund will make full disclosure in all of its future prospectuses of the fact that stockholders who held Fund shares prior to the Cutoff Date are permitted to make additional purchases at net asset value with no sales charge, and that such purchases are accepted by the Fund only upon obtaining the written assurances described in the preceding sentence.

Applicants contend that the proposed scheme is rationally based, would be fair to both new and existing shareholders, and would produce beneficial results to the Fund. Applicants state that the adoption of sales charges by the Fund is intended to stimulate selling efforts directed at persons who do not now own Fund shares, and existing Fund stockholders, who are familiar with the Fund's investment policy and record of performance and have access on a continuing basis to detailed information about the Fund, should therefore not be required to pay for such sales efforts. Applicants also assert that stockholders who have purchased Fund shares in the past have done so in the reasonable expectation that additional Fund shares purchases could be made by them without payment of a sales charge, and that such persons ought not to be inconvenienced or discouraged from making additional purchases of Fund shares as a result of the adoption of sales charges. In addition, Applicants maintain that the investment representation that will be required from "grandfathered" account stockholders making additional investments as a condition to being exempted from the sales charge will tend to prevent persons not eligible for the exemption from benefiting therefrom.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 6, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-1085 Filed 1-13-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20546; SR-CBOE-83-37]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change

January 10, 1984.

The Chicago Board Options Exchange, Incorporated ("CBOE"), LaSalle at Jackson, Chicago, IL 60604, submitted on November 7, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to permit CBOE to delist particular options series having no open interest while continuing to list other series of the same class that do have open interest.

Notice of the proposed rule change, together with the terms of substance of the proposed rule change, was given by the issuance of a Commission Release (Securities Exchange Act Release No. 20436, December 2, 1983) and by publication in the **Federal Register** (48 FR 55368, December 12, 1983). No comment letters were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-1057 Filed 1-13-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20542; SR-PSE-84-1]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

January 10, 1984.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78(b)(1), notice is hereby given that on January 3, 1984, the Pacific Stock Exchange, Inc. ("PSE") 618 South Spring Street, Los Angeles, CA 90014, filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change extends the PSE's pilot program for the appointment and evaluation of specialists and the creation of new specialist posts ("pilot program") from December 31, 1983 to June 30, 1984. The PSE proposes to amend Section 1(l) and 11(t) of Rule II of the Rules of the board of Governors of the PSE to reflect the pilot program's new scheduled expiration date of June 30, 1984.[1] The Exchange has noted in its filing that it is requesting the six month extension in order to allow the PSE an opportunity to prepare and file an application with the Commission for permanent approval of the pilot program and to permit the Exchange and the Commission to evaluate the operation of

[1] The Commission approved the adoption of the pilot program (SR-PSE-81-5) on May 27, 1981 (Securities Exchange Act Release No. 17818, May 27, 1981; 46 FR 30016, June 4, 1981). The term of the program was subsequently extended several times by the Commission. The Commission most recently approved an extension of the pilot program until December 31, 1983 in SR-PSE-82-15 (Securities Exchange Act Release No. 19555, March 1, 1983; 48 FR 9722, March 8, 1983).

the pilot program to date. The PSE states that the proposed rule change is consistent with Section 6(b) of the Act in general, and in particular Sections 6(b)(5) and 6(b)(7).

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR–PSE–84–1.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6, and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that it will provide the Exchange with the additional time necessary to prepare a request for permanent approval, while permitting the pilot program to remain in effect without interruption. Therefore, the Commission believes it is appropriate to extend the pilot program until June 30, 1984.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–1056 Filed 1–13–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 20544; SR–PSE–83–20]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change

January 10, 1984.

The Pacific Stock Exchange, Inc. ("PSE") 301 Pine Street, San Francisco, CA 94104, submitted on November 28, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder, to add non-member broker-dealer proprietary orders to the current prohibitions against the placing of member's proprietary orders with the PSE's options Order Book Officials.

Notice of the proposed rule change, together with the terms of substance of the proposed rule change, was given by the issuance of a Commission Release (Securities Exchange Act Release No. 20453, December 6, 1983) and by publication in the Federal Register (48 FR 55377, December 12, 1983). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–1059 Filed 1–13–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 20545; SR–Phlx–83–20]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change

January 10, 1984.

The Philadelphia Stock Exchange, Inc. ("Phlx"), 1900 Market Street, Philadelphia, PA 19103, submitted on November 28, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder, to change from "registered representative" to "account executive" the designation of persons eligible, on passing an examination, to solicit or accept foreign currency option orders. The proposal would also add other persons of "appropriate supervisory or managerial rank" to the categories of persons presently eligible (*i.e.*, general partners and officers) to be named Foreign Currency Options Principals.

Notice of the proposed rule change, together with the terms of substance of the proposed rule change, was given by the issuance of a Commission Release (Securities Exchange Act Release No. 20469, December 9, 1983) and by publication in the **Federal Register** (48 FR 55943, December 16, 1983). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–1061 Filed 1–13–84; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Application No. 04/04–5228]

Horn & Hardart Capital Corporation; Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*), has been filed by Horn & Hardart Capital Corporation, 701 Southeast 6th Avenue, Delray Beach, Florida 33444, with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1983).

The officers, directors and sole shareholder of the Applicant are as follows:

Barry W. Florescue, President, Director, 3145 North Ocean Boulevard, Gulf Stream, Florida 33444.

Munir Saltoun, Vice President, Treasurer, Director, 444 East 82nd Street, New York, New York 10028.

Robert F. Byrnes, Secretary, Director, 60 Hillside Drive, Tenafly, New Jersey 07670.

The Horn & Hardart Company, Sole Shareholder, 1163 Avenue of the Americas, New York, New York 10036.

The Applicant, a Florida corporation, will begin operations with $1.0 million of paid-in capital derived from the sale of 5,000 shares of common stock. It will conduct its operations primarily in the State of Florida.

Applicant intends to provide assistance to qualified socially or economically disadvantaged small business concerns.

As a small business investment company under Section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Act, as amended from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose particiaption in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the Applicant under this management, including adequate profitability and financial soundness, in accordance with the Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this notice, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Delray Beach, Florida.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 5, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-1083 Filed 1-13-84; 8:45 am]

BILLING CODE 8025-01-M

[License No. 03/03-5158]

Security Financial and Investment Corporation; Issuance of a License To Operate as a Small Business Investment Company

On June 7, 1983, a notice was published in the **Federal Register** (48 FR 26385), stating that Security Financial and Investment Corporation, located at 8757 Georgia Avenue, Suite 504, Silver Spring, Maryland 20910, has filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1983), for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business on June 22, 1983, to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and other pertinent information, SBA has issued License No. 03/03-5158 to Security Financial and Investment Corporation, on December 29, 1983.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 5, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-1082 Filed 1-13-84; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 3002; Amdt. 2]

Arkansas; Declaration of Physical Disaster Loan Area

Pursuant to the Secretary of Agriculture's Designation, Farmers Home Administration (FmHA) has authorized the acceptance of emergency loan applications in the following area:

STATE OF ARKANSAS

FmHA Number and date	Incident and date
SO-97, amendment 2 Nov 22, 1983.	Drought conditions beginning May 1, 1983, and continuing through Oct. 10, 1983.

Counties

Clark, Drew, Franklin, Hempstead, Hot Spring, Howard, Independence, Lafayette, Lawrence, Madison, Marion, Miller, Perry, Poinsett, Prairie, Pulaski, Searcy, Union.

As a result of this designation. I have determined the above counties in the State of Arkansas constitute a disaster loan area for agricultural enterprises which are ineligible for disaster assistance from the FmHA because of alien status; corporations, partnerships and cooperatives not being primarily engaged in farming, farm owners who do not operate their farms, etc., and for economic injury disaster loans for non-farm small business concerns. The interest rates for eligible applicants under this designation are as follows:

	Percent
Agricultural Enterprises With Credit Available Elsewhere	10.5
Agricultural Enterprises Without Credit Available Elsewhere	8.0
Non-farm Small Businesses (Economic Injury)	8.0

Loan applications for physical disaster loans from eligible agricultural enterprises may be filed for a period not to exceed thirty days from the date of the letter of referral from FmHA, provided that the application for EM assistance from FmHA or the formal written request for a letter of referral by FmHA was filed within the time limits set forth in the FmHA designation. Loan applications for economic injury for non-farm small businesses may be filed until the close of business on May 22, 1984. The number assigned to this disaster is 3002, published on 12-15-83 (48 FR 55798), for physical damage to eligible agricultural enterprises and for economic injury 6095. Eligible enterprises may file applications for loans for physical damage or economic injury at: U.S. Small Business Administration, Area 3 Disaster Office, 2306 Oak Lane, Suite 110, Grand Prairie, Texas 75051; (800) 527-7735 and in Texas (800) 442-7206, or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: January 5, 1984.

Jean Lewis,

Acting Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84-1080 Filed 1-13-84; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 3010; Amdt. 1]

Kansas; Declaration of Physical Disaster Loan Area

Pursuant to the Secretary of Agriculture's Designation, Farmers Home Administration (FmHA) has

authorized the acceptance of emergency loan applications in the following area:

STATE OF KANSAS

FmHA Number and date	Incident and date
SO–103, amendment 1 Dec. 5, 1983.	Drought beginning June 15, 1983, and continuing through Oct. 1, 1983.

Counties

Butler, Cowley, Crawford, Marion, Morris, Wilson. As a result of this designation, I have determined the above counties in the State of Kansas constitute a disaster loan area for agricultural enterprises which are ineligible for disaster assistance from the FmHA because of alien status; corporations, partnerships and cooperatives not being primarily engaged in farming, farm owners who do not operate their farms, etc., and for economic injury disaster loans for non-farm small business concerns.

The interest rates for eligible applicants under this designation are as follows:

Agricultural Enterprises With Credit Available Elsewhere	10.5
Agricultural Enterprises Without Credit Available Elsewhere	8.0
Non-farm Small Businesses (Economic Injury)	8.0

Loan applications for physical disaster loans from eligible agricultural enterprises may be filed for a period not to exceed thirty days from the date of the letter of referral from FmHA, provided that the application for EM assistance from FmHA or the formal written request for a letter of referral by FmHA was filed within the time limits set forth in the FmHA designation. Loan applications for economic injury for non-farm small businesses may be filed until the close of business on June 5, 1984. The number assigned to this disaster is 3010 published 12–15–84 (48 FR 55796) for physical damage to eligible agricultural enterprises and for Economic Injury 6108. Eligible enterprises may file applications for loans for physical damage or economic injury at: U.S. Small Business Administration, Area 3 Disaster Office, 2306 Oak Lane, Suite 110, Grand Prairie, Texas 75051; (800) 527–7735 and in Texas (800) 442–7206, or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: January 5, 1984.

Jean Lewis,

Acting Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84–1084 Filed 1–13–84; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area No. 3018; Amdt. 2]

North Carolina; Declaration of Physical Disaster Loan Area

Pursuant to the Secretary of Agriculture's designation, Farmers Home Administration (FmHA) has authorized the acceptance of emergency loan applications in the following area:

STATE OF NORTH CAROLINA

FmHA Number and date	Incident and date
SO–87, Amendment 2 Nov. 28, 1983.	Drought and high temperatures beginning Mar. 1, 1983 and continuing through Oct. 10, 1983.

Counties

Alexander, Avery, Brunswick, Camden, Carteret, Cherokee, Cumberland. Dare, Nash, Pitt, Robeson, Sampson, Stokes, Tyrrell, Wake, Watauga.

As a result of this designation, I have determined the above Counties in the State of North Carolina constitute a disaster loan area for agricultural enterprises which are ineligible for disaster assistance from the FmHA because of alien statu:: corporations, partnerships and cooperatives not being primarily engaged in farming; farm owners who do not operate their farms, etc., and for economic injury disaster loans for non-farm small business concerns.

The interest rates for eligible applicants under this designation are as follows:

	Percent
Agricultual Enterprises With Credit Available Elsewhere	10.5
Agricultural Enterprises Without Credit Available Elswhere	8.0
Non-farm Small Businesses (Economic Injury)	8.0

Loan applications for Physical Disaster Loans from eligible agricultural enterprises may be filed for a period not to exceed thirty days from the date of the letter of referral from FmHA, provided that the application for EM assistance from FmHA or the formal written request for a letter of referral by FmHA was filed within the time limits set forth in the FmHA designation. Loan applications for economic injury for non-farm small businesses may be filed until the close of business on May 28, 1984. The number assigned to this disaster is 3018, published 12–15–83 (48 FR 55793), for physical damage to eligible agricultural enterprises and for economic injury 6089. Eligible enterprises may file applications for loans for physical damage or economic injury at: U.S. Small Business Administration, Area 2 Disaster Office, 75 Spring Street S.W., Suite 822, Atlanta, Georgia 30303; (404) 221–5822, or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: January 5, 1984.

Jean Lewis,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84–1079 Filed 1–13–84; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area No. 3021; Amdt. 3]

Pennsylvania; Declaration of Physical Disaster Loan Area

Pursuant to the Secretary of Agriculture's Designation, Farmers Home Administration (FmHA) has authorized the acceptance of emergency loan applications in the following area:

STATE OF PENNSYLVANIA

FmHA Number and date	Incident and date
SO–94, amendment 3 Nov. 28, 1983.	Drought conditions beginning July 1, 1983, and continuing through Nov. 20, 1983.

County

Schuylkill

As a result of this designation, I have determined the above county in the State of Pennsylvania constitutes a disaster loan area for agricultural enterprises which are ineligible for disaster assistance from the FmHA because of alien status; corporations, partnerships and cooperatives not being primarily engaged in farming, farm owners who do not operate their farms, etc., and for economic injury disaster loans for non-farm small business concerns.

The interest rates for eligible applicants under this designation are as follows:

	Percent
Agricultural Enterprises With Credit Available Elsewhere	10.5
Agricultural Enterprises Without Credit Available Elsewhere	8.0
Non-farm Small Businesses (Economic Injury)	8.0

Loan applications for physical disaster loans from eligible agricultural enterprises may be filed for a period not to exceed thirty days from the date of the letter of referral from FmHA, provided that the application for EM assistance from FmHA or the formal written request for a letter of referral by FmHA was filed within the time limits set forth in the FmHA designation. Loan applications for economic injury for non-farm small businesses may be filed until the close of business on May 28, 1984. The number assigned to this disaster is 3021, published December 15, 1983 (48 FR 55793), for physical damage to eligible agricultural enterprises and for economic injury 6097. Eligible enterprises may file applications for loans for physical damage or economic injury at: U.S. Small Business Administration, Area 2 Disaster Office, 75 Spring Street S.W. Suite 822, Atlanta, Georgia 30303; (404) 221–5822, or other locally announced locations.

(Catalog of Federal Domestic Assistance programs Nos. 59002 and 59008)

Dated: January 5, 1984.

Jean Lewis,

Acting Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84–1078 Filed 1–13–84; 8:45 am]

BILLING CODE 8025–01–M

[License No. 09/13–0007]

Menlo Venture Corporation; Surrender of License

Notice is hereby given that Menlo Venture Corporation (Menlo), 3000 Sand Hill Road, Menlo Park, California 94025 incorporated under the laws of the State of California on January 13, 1961, has surrendered its License No. 09/13–0007, issued by the Small Business Administration on February 14, 1961.

Menlo has complied with all the conditions set forth by SBA for surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the Regulations promulgated thereunder, the surrender of the license of Menlo is hereby accepted and it is no longer licensed to operate as a small business investment company, as of December 16, 1983.

(Catalog of Federal Domestic assistance Program No. 59.011, Small Business (Investment Companies)

Dated: January 5, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84–1081 Filed 1–13–84; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Deadline for Submission of Preapplications for Airport Grant Funds Under the Airport Improvement Program for Fiscal Year 1984; Correction

The reference to "Section 506" appearing in the second paragraph of the Notice published in the **Federal Register**, Vol. 48, No. 235, page 54739, on December 6, 1983, was incorrect. The correct reference is "Section 505" of the AAIA.

Issued in Washington, D.C. on January 6, 1984.

Paul L. Galis,

Director, Office of Airport Planning and Programming.

[FR Doc. 84–1028 Filed 1–13–84; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

U.S. and Barbados To Conduct Income Tax Treaty Negotiations

The Treasury Department announced that representatives of the United States and Barbados will meet the Bridgetown, Barbados during the week of February 13, 1984 to begin negotiations of an income tax treaty between the two countries.

A previous treaty between the two countries, which was the result of a 1959 extension of the then existing treaty between the United States and the United Kingdom, was terminated by the United States (along with 17 other similar extension treaties) effective January 1, 1984.

The discussions will take into account the model income tax treaties published by the Organization for Economic Cooperation and Development (OECD) and by the United States, as well as any changes in these models necessary to reflect Barbados' status as a developing country.

Anyone wishing to provide information or comments on tax matters related to the forthcoming negotiations is invited to do so by writing to A. W. Granwell, International Tax Counsel, U.S. Treasury Department, Room 3064, Washington, D.C. 20220.

Dated: January 9, 1984.

John E. Chapoton,

Assistant Secretary (Tax Policy).

[FR Doc. 84–1054 Filed 1–13–84; 8:45 am]

BILLING CODE 4810–25–M

UNITED STATES INFORMATION AGENCY

Renewal of Advisory Committees

Effective date; January 13, 1984.

The United States Information Agency announces the renewal of the following advisory committees:

Book and Library Advisory Committee
Radio Program Advisory Committee
Radio Engineering Advisory Committee
New Directions Advisory Committee

The creation and functioning of these committees is considered to be in the public interest.

Dated: January 10, 1984.

Charles Z. Wick,

Director.

[FR Doc. 84–1046 Filed 1–13–84; 8:45 am]

BILLING CODE 8230–01–M

[Delegation Order No. 84–1]

General Counsel and Congressional Liaison; Delegation of Authority

Pursuant to the authority vested in me as Director of this Agency by Reorganization Plan No. 2 of 1977, and by Executive Order 12048 of March 27, 1978, there is hereby delegated to the General Counsel and Congressional Liaison the following described authority:

1. The authority under the Freedom of Information Act (5 U.S.C. 552) to make determinations and responses concerning the granting of initial requests for records relating to the Office of the Director.

2. The authority to redelegate any authority granted herein together with the power of further delegation.

3. Notwithstanding any other provision of this order, the Director may at any time exercise any function or authority delegated herein.

4. All prior delegations of this authority remain in force.

This delegation is effective immediately.

Charles Z. Wick,

Director, United States Information Agency.

January 9, 1984.

[FR Doc. 84–1045 Filed 1–13–84; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Commission on Fair Market Value Policy for Federal Coal Leasing; Meeting Amendment

AGENCY: Commission on Fair Market Value Policy for Federal Coal Leasing, Department of the Interior.

ACTION: Notice of Extension of Previously Announced Meeting.

SUMMARY: Notice is hereby given that the Commission on Fair Market Value Policy for Federal Coal Leasing is extending the previously announced one-day meeting scheduled for January 16, 1984, to include a second day on January 17, 1984. A Business Meeting will be held in the Brick Room at 1925 K St., NW., Washington, D.C. on January 16, 1984, and a combined hearing and business meeting will be held in Room 316 at 1825 K St., NW., Washington, D.C. on January 17, 1984. Both meetings will begin at 9:00 a.m.

FOR FURTHER INFORMATION CONTACT: Wiley Horsley, Special Assistant to the Chairman, Commission on Fair Market Value Policy for Federal Coal Leasing, Suite 400, 1015 20th Street, NW., Washington, D.C. 20036. Phone: (202) 632–6501.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to the authority and requirements of Public Law 98–63, approved July 30, 1983, making supplemental appropriations for fiscal year 1983, and for other purposes, and in accordance with the Federal Advisory Committee Act (Pub. L. 92–463).

The Commission will meet at 9:00 a.m. on January 16, 1984, in the Brick Room at 1015 20th St., NW., Washington, D.C. to discuss draft chapters one through eight of the final report. A second day has been added to hear key witnesses on the subject of the drop in demand in the coal market during the period 1980 through 1982 and to discuss final changes to Chapter Nine—Case Studies. The January 17th meeting will begin at 9:00 a.m. in Room 318 at 1825 K St., NW., Washington, D.C.

Please note that this address is *1825 K St.,* NW. and *not 1925 K St.,* the site of several previous meetings.

Dated: January 13, 1984.

F. Scott Bush,

Executive Director.

[FR Doc. 84–1259 Filed 1–13–84; 11:50 am]

BILLING CODE 4310–10–M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 10
Monday, January 16, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

COMMISSION ON CIVIL RIGHTS

PLACE: Marriott's Hunt Valley Inn, I–83 at Shawan Road, Hunt Valley, Maryland.

DATE AND TIME: January 16, 1984 beginning at 9:00 a.m., January 17, 1984 beginning at 9:00 a.m.

STATUS OF MEETING: (Open to public)

MATTERS TO BE CONSIDERED:

Monday, January 16, 1984

I. Welcome by the Chairman
II. Introduction of Executive Staff, Regional Directors and their respective offices by the Staff Director
III. Overview and Staff Director's Report
IV. Discussion of SAC Membership, Charters, Mission, and Role of Regional Offices
V. Discussion of FY 84 Program
VI. New Program Ideas for FY 84

Tuesday, January 17, 1984

VII. Staff Assistance—Briefing on Procedures
VIII. Commission Policies
IX. *Bratton* v. *City of Detroit*—Voluntary Adoption of Racial Quota in Police Department Promotions (Proposed Commission statement)
X. Rural Alabama Report

PERSON TO CONTACT FOR FURTHER INFORMATION: Barbara Brooks, Press and Communications Division, (202) 376–8312.

Lawrence B. Glick
Solicitor, Federal Register Liaison Officer.

[FR Doc. 84–1105 Filed 1–12–84; 8:45 am]
BILLING CODE 6335–01–M

2

CONSUMER PRODUCT SAFETY COMMISSION

Commission Meeting

TIME AND DATE: 10:00 a.m., Wednesday, January 18, 1984.

LOCATION: Third Floor Hearing Room, 1111 18th Street, NW., Washington, D.C.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. Squeeze Toys: 30 (d) Rule
The Commission will consider issuance of a final rule under provisions of section 30(d) of the Consumer Product Safety Act to transfer regulation of risks of choking and suffocation injuries associated with these toys from the Federal Hazardous Substances Act to the Consumer Product Safety Act.

2. Bassinets: 30 (d) Rule
The Commission will consider issuance of a proposed rule under section 30 (d) of the Consumer Product Safety Act in order to transfer regulation of risks of injury associated with collapse of baby bassinets from the Federal Hazardous Substances Act to the Consumer Product Safety Act.

3. EPA Export Policy: Decision on Reconsideration
The Commission will consider whether or not to reconsider a statement of policy concerning the export of non-complying items subject to the Flammable Fabrics Act standard announced in a Commission memorandum decision and order in the *Matter of Imperial Carpet Mills Inc.*, CPSC Docket 80–2, July 6, 1983.

4. Formaldehyde in Textiles: Status
The staff will brief the Commission on exposure to formaldehyde from textiles and the staff investigation of potential carcinogen effect as well as sensitization.

(For a recorded message containing the latest agenda information, call 301–492–5709)

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, Md. 20207, 301–492–6800.

Signed January 11, 1984.

Sheldon D. Butts,
Deputy Secretary, OS.

[FR Doc. 84–1123 Filed 1–12–84; 9:59 am]
BILLING CODE 6355–01–M

3

CONSUMER PRODUCT SAFETY COMMISSION

Commission Meeting

TIME AND DATE: 10:00 a.m., Thursday, January 19, 1984.

LOCATION: Third Floor Hearing Room, 1111–18th Street, NW., Washington, D.C.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED:

1. Draft Cancer Principles Report
The staff will brief the Commission on the draft proposed principles for identification and evaluation of potential carcinogens which are being developed under the sponsorship of the Office of Science and Technology, Executive Office of the President.

2. Compliance Status Report
The staff will brief the Commission on various compliance matters.

3. Enforcement Matter (OS No. 4540)
The Commission will consider enforcement matter OS No. 4540.

(For a recorded message containing the latest agenda information: call 301–492–5709)

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, MD 20207, 301–492–6800.

Signed: January 11, 1984.

Sheldon D. Butts,
Deputy Secretary, OS.

[FR Doc. 84–1122; Filed 1–12–84; 9:59 am]
BILLING CODE 6355–01–M

4

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Published January 9, 1984, 49 FR 1155.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:00 a.m., January 11, 1984.

CHANGE IN THE MEETING: The following item has been added:

Item No., Docket No., and Company

RP–1 (B)–IN84– , Columbia Gas Transmission Corporation and Exxon Corporation

Kenneth F. Plumb,
Secretary.

[FR Doc. 83–1174 Filed 1–12–84; 1:20 pm]
BILLING CODE 6717–02–M

5

FEDERAL RESERVE SYSTEM

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 49 FR 973, January 6, 1984.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Approximately 11:00 a.m., Wednesday, January 11, 1984, following a recess at the conclusion of the open meeting.

CHANGES IN THE MEETING: Addition of the following closed item(s) to the meeting (that commenced at 9:00 a.m.):

Supervisory and regulatory matter. (This item was originally announced for a closed meeting on November 22, 1983.)

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: January 11, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–1146 Filed 1–12–84; 8:45 am]

BILLING CODE 6210–01–M

6

NATIONAL CREDIT UNION ADMINISTRATION

Notice of change in subject of meeting.

The National Credit Union Administration Board determined that its business required that the previously announced closed meeting on December 7, 1983 include an additional item, which was closed to public obersvation:

Conservatorship. Closed pursuant to exemptions (8) and (9)(A)(ii).

The Board voted unanimously to add this item to the closed agends.

The previously announced items were:

1. Approval of Minutes of Previous Closed Meeting.
2. Personnel Actions. Closed pursuant to exemptions (2) and (6).
3. Special Assistance to Prevent Liquidation Under Section 208 of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).
4. Pursuit of claims acquired in Federal credit union merger. Closed pursuant to exemptions (8), (9)(B) and (10).

The meeting was held at 11:00 a.m., in the 7th Floor Board Room, 1776 G Street, NW., Washington, D.C.

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, telephone (202) 357–1100.

Rosemary Brady,

Secretary of the Board.

[FR Doc. 84–112. Filed 1–12–84; 10:00 am]

BILLING CODE 7535–01–M

7

NATIONAL CREDIT UNION ADMINISTRATION

Notice of previously held emergency meeting.

TIME AND DATE: 9:20 a.m., Thursday, December 22, 1983.

PLACE: 1776 G Street, NW., Washington, D.C., 7th Floor Board Room.

STATUS: Closed.

MATTERS CONSIDERED:

1. Merger.
2. Conservatorship.

The Board unanimously voted that the Agency business required that a meeting be held with less than the seven days advance notice.

The Board voted to close the meeting under exemptions (8) and (9)(A)(ii). The General Counsel certified that the meeting could be closed under those exemptions.

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, telephone (202) 357–1100.

Rosemary Brady,

Secretary of the Board.

[FR Doc. 84–1125 Filed 1–12–84; 10:00 am]

BILLING CODE 7535–01–M

8

NATIONAL CREDIT UNION ADMINISTRATION

TIME AND DATE: 9:30 a.m., Wednesday, January 18, 1984.

PLACE: 1776 G Street NW., Washington, D.C., 7th Floor Board Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Meeting.
2. Review of Central Liquidity Facility Lending Rate.
3. Proposed Rulemaking: Enforcement of Nondiscrimination on the Basis of Handicap in NCUA Programs.
4. Request for Comments on Federal Credit Union Ownership of Fixed Assets.
5. Special Share Insurance Assessment Based on Insurance Year 1983.
6. Community Charter Application for Pritchard Federal Credit Union, Pritchard, Alabama.

RECESS: 10:15 a.m.

TIME AND DATE: 10:30 a.m., Wednesday, January 18, 1984.

PLACE: 1776 G Street NW., Washington, D.C., 7th Floor Board Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Closed Meeting.
2. Special Assistance to Prevent Liquidation Under Section 208(a)(1) of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).
3. Termination of Outstanding Cease and Desist Orders Issued Against Two Federal Credit Unions. Closed pursuant to exemptions (8) and (10).
4. Pursuit of Claims Acquired in Federal Credit Union Merger. Closed pursuant to exemptions (8), (9)(B) and (10).
5. Personnel Actions. Closed pursuant to exemptions (2) and (6).

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, telephone (202) 357–1100.

Rosemary Brady,

Secretary of the Board.

[FR Doc. 84–1124 Filed 1–12–84; 10:00 am]

BILLING CODE 7535–01–M

9

NATIONAL SCIENCE BOARD

DATE AND TIME:

January 19, 1984, 9:00 a.m., Open Session
January 20, 1984, 8:00 a.m., Closed Session
January 19, 1983, 8:40 a.m., Open Session

PLACE: National Science Foundation, Washington, D.C.

STATUS: Most of this meeting will be open to the public. Part of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED AT THE OPEN SESSIONS:

Thursday, January 19, 1984—9:00 a.m.

1. Minutes—November 1983 Meeting
2. Chairman's Items
3. Director's Report

Friday, January 20, 1984—8:40 a.m.

4. Grants, Contracts, and Programs
5. Reports of Board Committees
6. Board Representation at Advisory Committee and Other Meetings
7. Other Business
8. Next Meeting

MATTERS TO BE CONSIDERED AT THE CLOSED SESSION:

Friday, January 20, 1984—8:00 a.m.

A. Minutes—November 1983 Meeting
B. NSB and NSF Staff Nominees
C. Grants, Contracts, and Programs

Margaret L. Windus,

Executive Officer.

[FR Doc. 83–1162 Filed 1–12–84; 12:31 pm]

BILLING CODE 7555–01–M

10

U.S. RAILWAY ASSOCIATION

DATE AND TIME: January 20, 1984; 10:00 a.m.

PLACE: Board Room, Suite 7200, Seventh floor, 955 L'Enfant Plaza North, SW., Washington, D.C.

STATUS: The first portion of the meeting will be closed to the public; the second portion will be open.

MATTERS TO BE CONSIDERED BY THE USRA BOARD OF DIRECTORS AT MEETING:

Portion Closed to the Public (10:00 a.m.):

1. Litigation Report
2. Review of Conrail Confidential and Proprietary Financial Information

Portion Open to the Public (10:30 am.)

3. Approval of Minutes of December 15, 1983 Board Meeting

4. Conrail Request for Waiver of Technical Violations of Financing Agreement
5. Conrail Monitoring Indicators

CONTACT PERSON FOR MORE INFORMATION: Alex Bilanow, (202) 488–8777.

Peter J. Gallagher,

Secretary.

[FR Doc. 84–1175 Filed 1–13–84; 1:30 am]

BILLING CODE 6240–01–M

11

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1324]

TIME AND DATE: 10:15 a.m. (EST), Wednesday, January 18, 1984.

PLACE: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

Agenda Items

Old Business Items

1. Cooperative agreement No. TV–61960A with Duke Power Company for the atmospheric fluidized bed combustion demonstration project.

2. Contract TV–62044A with Duke Power Company for phase II of the atomospheric fluidized bed combustion demonstration project.

New Business Items

A—Budget and Financing Items

A1. Amendment to fiscal year 1984 capital budget for the power program—Automatic discharge unit train rail cars for delivery of coal at the Bull Run Steam Plant.

B—Purchase Awards

B1. Invitation 5–941391—Lease or purchase of coal hopper cars for Bull Run Steam Plant.

B2. Proposal 5–834606—ASME section III stainless steel replacement material and piping fabrication at Browns Ferry Nuclear Plant.[1]

B3. Negotiation 62–947804—Induction heating stress improvement on Browns Ferry Nuclear Plant unit 3.

D—Personnel Items

D1. Revised pay plan and salary schedule for the management schedule employees.

F—Unclassified

F1. Agreement between TVA and State of Tennessee for the purpose of providing recreational releases at Ocoee No. 2 dam and granting an easement for the State to develop, operate, and maintain a recreational area.

F2. Purchase of Tennessee Valley arts and crafts as gifts for representatives of foreign governments.

F3. Appointment of James N. Pate as assistant secretary.

[1] Item approved by individual Board members. This would give formal ratification to the Board's action.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245–0101.

Dated: January 11, 1984.

W. F. Willis,

General Manager.

[FR Doc. 84–1173 Filed 1–13–84; 8:45 am]

BILLING CODE 8120–01–M

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federal register

Monday
January 16, 1984

Part II

Department of Housing and Urban Development

Office of Assistant Secretary for Housing—Federal Housing Commissioner

Manufactured Home Construction and Safety Standards; Manufactured Home Procedural and Enforcement Regulations; Final Rule

VOL 49 ISS 10 JA 16 1984 UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 3282

[Docket No. R-84-926; FR-1443]

Manufactured Home Construction and Safety Standards; Manufactured Home Procedural and Enforcement Regulations

AGENCY: Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends the Manufactured Home Procedural and Enforcement Regulations at 24 CFR Part 3282, Subpart A, to permit manufactured home manufacturers to file with the Secretary requests for alternative construction. Under appropriate circumstances, the Secretary may permit a manufacturer to build homes which, though not in technical compliance with the Federal Manufactured Home Construction and Safety Standards at 24 CFR Part 3280, meet the same level of quality, durability and safety as required by the standards.

EFFECTIVE DATE: Upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, but not before further notice of the effective date is published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Richard Mendlen, Office of Manufactured Housing and Construction Standards, Manufactured Housing Standards Division, Room 3238, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. (202) 755–5798. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: Section 610 of the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5409, prohibits the sale, lease, or offering for sale or lease of any manufactured home which does not comply with the Federal Manufactured Home Construction and Safety Standards (Standards). On August 7, 1981 the Department published a proposed alternative construction rule at 46 FR 40496 to provide manufacturers with a method of dealing with unique circumstances, new technologies and new construction methods without being subjected to possible enforcement action by the Department.

The final rule will permit a manufacturer to request that the Secretary issue an alternative construction letter. Such a request would be appropriate: (1) Where a manufacturer proposes to utilize construction that would be prohibited by the Standards; (2) where such construction would provide performance that is equivalent to or superior to that required by the Standards; and (3) where (a) compliance with the Standards would be unreasonable because of the circumstances of the particular case or (b) the alternative construction would be for purposes of research, testing or development of new techniques or designs. Where these circumstances exist, the Secretary may issue an alternative construction letter stating that no enforcement action will be taken under under the Act based upon specific failures to conform to the Standards or the Manufactured Home Procedural and Enforcement Regulations, provided that certain conditions are met.

The proposed rule is now being published as a final rule with minor modifications. The proposed rule was indentified as proposed 24 CFR 3282.417. The final rule has been redesignated as 24 CFR 3282.14.

The proposed rule listed, at § 3282.417(b), a number of items that had to be included in a request for alternative construction. Two items which would have been required, "[a]n explanation of how the proposed design will promote the purposes of the National Manufactured Housing Construction and Safety Standards Act" and "[o]ther information, data, or certifications the Secretary may deem appropriate," have been deleted from the final rule. The first item is deleted as unnecessary because the Secretary will determine whether the proposed construction promotes the purpose of the Act. The second item is deleted because the other items on the list already require submission of all of the information that is necessary for the Secretary to make a determination.

The proposed rule has been modified in several other respects. The proposed rule, at § 3282.417(c)(2), required manufacturers receiving "no action" letters to post a notice in a prominent location in each affected home informing prospective purchasers that the home does not conform to the Standards. Instead, the final rule, at § 3282.14(e), requires that this notice be given to each prospective purchaser before he or she enters into an agreement to purchase the home. The Department believes that this method will more effectively inform prospective purchasers of the alternative construction utilized in their homes.

A provision has been added to proposed § 3282.417(d) which will enable the Secretary to impose certain conditions in alternative construction letters issued to permit alternative construction for purposes of research, testing or development. This rule will permit testing of new techniques and designs under carefully controlled circumstances so that these experimental homes will provide the same levels of safety, quality and durability as are provided by homes built in compliance with the standards. The final rule provides, at §3282.14(d), that the Secretary may require a manufacturer to bring those homes into compliance with the Standards if the Secretary determines that they are not providing the levels of safety, quality and durability required by the Standards.

The provision at § 3282.417(b)(10) of the proposed rule requiring a manufacturer's Design Approval Primary Inspection Agency (DAPIA) to provide a recommendation on the merits of a request for alternative construction has been deleted from the final rule. Several commenters suggested that this provision be deleted. These commenters noted that DAPIAs would be required to investigate and verify all aspects of a request for alternative construction, and that DAPIAs might have a monetary interest in approving nonconforming designs.

Finally, provisions have been added, at § 3282.14(f), that require manufacturers both to provide the Department with a list of the serial numbers of homes produced under alternative construction procedures, and to include the letters "AC" in the serial numbers of these homes. These provisions will enable the Department to keep accurate records of homes utilizing alternative construction, and will inform inspectors and subsequent purchasers of the use of alternative construction.

Approximately 30 comments were received. A number of commenters oppose adoption of the rule because it addresses the concerns of manufacturers that build units of between 320 and 400 square feet (commonly known as park models). Many manufacturers of park models said that a separate set of standards should be developed and made applicable to these units. In their opinion, manufacturers of park models should not be forced into costly and time-consuming procedures in the hope of receiving discretionary and

rescindable approval to build park models.

This concern has been addressed by the rules published on June 29, 1982 at 47 FR 28091. In the preamble to those manufactured home rules, the Department stated that a separate standard would be developed for structures between 320 and 400 square feet. Until this standard is developed, the Department has temporarily exempted from the present Standards park models that are under 400 square feet. *See* 24 CFR 3282.8(g).

Other commenters suggested that the benefits of an industry-wide standard could be weakened by variances that could become the unofficial but operative construction standard. The alternative construction rule, however, would apply only in limited circumstances affecting a specified number of homes or a particular manufacturer. It is not intended for general applicability.

Further comments urged that the rule should contain more detailed specifications regarding technical criteria manufacturers must submit in order to explain how their design will result in homes of equivalent performance, quality, durability and safety. The Department does not believe that any useful purpose would be served by attempting to specify the nature of technical information which must be submitted. Each request will be different and must be judged on its own individual merit. In fact, a detailed specification of required technical information might cause confusion as attempts are made to determine what is relevant in particular cases.

One commenter suggested that there is no need to notify the consumer that the home does not conform with the Federal Standards. The issuance of an alternative construction letter by the Secretary merely indicates that the Department, in the exercise of its prosecutorial discretion, will not take enforcement action against a manufacturer for failing to comply with the Standards.

However, the manufacturer will still apply a label certifying that the home is in compliance. The purpose of the notice is to advise consumers that the home does not comply with the Standards in certain respects, but that the Department has evaluated the alternative materials or method of construction and found them to provide equivalent levels of safety, durability and quality. The Department believes that it would be misleading to permit labeling of the homes without disclosing that they have not been built in accordance with the Standards.

Finally, a number of comments indicated that the proposed rule is unnecessary because procedures to accomplish its purpose currently exist under 24 CFR 3280.1(b), and that if the Secretary believes an alternative method of construction is in the public interest, it should be made available to all manufacturers and set forth in an interpretative bulletin. Waivers issued under 24 CFR 3280.1(b), however, are of general applicability. Where a waiver is issued, the requirements of the Federal Standards to which the waiver relates may be met either by meeting the specifications set out in the Standards or by meeting any requirements set out in the interpretative bulletin.

In contrast, letter issued under the alternative construction rule will be limited in scope and are not intended for universal application. Because of this limited scope, the Department's rulemaking procedures set forth at 24 CFR Part 3282, Subpart C, are inapplicable. In situations where the alternative construction rule's effect would be equally applicable to all manufactured homes produced, the Department will consider whether a change in the Standards is appropriate.

The collection of information requirements contained in this rule have been submitted to the Office of Management and Budget for review under Section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Please send any comments regarding the collection of information requirements to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington D.C. 20503, Attention: Desk Officer for HUD.

This final rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulation issued by the President on February 17, 1981. The rule does not: (1) Have an annual effect on the economy of one hundred million dollars or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or (3) have significant adverse effect on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. There are a limited number of manufactured home builders. The Department therefore anticipates that this procedure will be used infrequently. In addition, the use of this procedure is voluntary. Manufacturers are not required to submit alternative construction requests.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours at the Office of the Rules Docket Clerk at Room 10278, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

This rule is listed at 48 FR 18080 as item H–3–82 in the Department's Semiannual Agenda of Regulations published on April 25, 1983 pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The catalog of Federal Domestic Assistance program number is 14.171, Manufactured Housing—Mobile Home Construction: 14.804, Manufactured Housing.

List of Subjects in 24 CFR Part 3282

Administrative practice and procedure, Consumer protection, Intergovernmental relations, Investigations, Manufactured homes.

PART 3282—MANUFACTURED HOME PROCEDURAL AND ENFORCEMENT REGULATIONS

Accordingly, the Department amends 24 CFR Part 3282, Subpart A, by adding § 3282.14, as follows:

Subpart A—General

* * * * *

§ 3282.14 Alternative construction of manufactured homes.

(a) *Policy.* In order to promote the purposes of the Act, the Department will permit the sale or lease of one or more manufactured homes not in compliance with the Standards under circumstances wherein no affirmative action is needed to protect the public interest. The Department encourages innovation and the use of new technology in manufactured homes. Accordingly, HUD will permit manufacturers to utilize new designs or techniques not in compliance with the Standards in cases: (1) Where a manufacturer proposes to utilize construction that would be prohibited by the Standards; (2) where such construction would provide performance that is equivalent to or superior to that

required by the Standards; and (3) where (i) compliance with the Standards would be unreasonable because of the circumstances of the particular case, or (ii) the alternative construction would be for purposes of research, testing or development of new techniques or designs. If a request for alternative construction is submitted and the facts are consistent with these principles, the Secretary may issue a letter under paragraph (c) of this section stating that no action will be taken under the Act based upon specific failures to conform to the Standards or these regulations, provided that certain conditions are met. The issuance of a letter under paragraph (c) of this section will not affect any right that any purchaser may have under the Act or other applicable law and will not preclude any further agency action that may become necessary.

(b) *Request for alternative construction.* A manufacturer may submit a request for alternative construction of a manufactured home. The request should be sent to the U.S. Department of Housing and Urban Development, Manufactured Housing Standards Division, 451 Seventh Street, S.W., Washington, D.C. 20410. The request must include:

(1) A copy of the manufactured design or plan for each nonconforming model which a manufacturer plans to build;

(2) An explanation of the manner in which the design fails to conform with the Standards, including a list of the specific standards involved;

(3) An explanation of how the design will result in homes that provide the same level of performance, quality, durability and safety as would be provided under the Standards;

(4) A copy of data adequate to support the request, including applicable test data, engineering calculations or certifications from nationally recognized laboratories;

(5) An estimate of the maximum number of manufactured home units affected and the location, if known, to which the units will be shipped;

(6) An indication of the period of time during which the manufacturer proposes to engage in the manufacture, sale or lease of the nonconforming homes;

(7) A copy of the proposed notice to be provided to home purchasers;

(8) a list of the names and addresses of any dealers that would be selling the nonconforming homes; and

(9) A letter from the manufacturer's DAPIA indicating that the design(s) to which any nonconforming homes would be built meet the Standards in all other respects.

(c) *Issuance of the letter by the Secretary.*—(1) *Contents of the letter.* If the Secretary issues a letter in response to a request for alternative construction, the letter shall include the specific standards affected, an explanation of the proposed activity or design, an explanation of how the request is consistent with the objectives of the Act, and any conditions that the manufacturer must meet.

(2) *Letter sent to IPIA, DAPIA and SAA.* The Secretary shall forward a copy of the letter to the manufacturer's IPIA and DAPIA along with a letter authorizing the DAPIA to approve plans containing the alternative construction, and authorizing the IPIA to permit use of the alternative construction, provided that the conditions set forth in the letter are met. The Secretary shall also forward a copy of the letter to the SAAs in the State of manufacture and the State(s) in which the homes are to be located, if known.

(3) *Alternative construction in additional models.* In cases where the Secretary grants a letter under this paragraph that is not model-specific, the Secretary may permit the manufacturer to include the alternative construction in additional models. In such cases, the DAPIA shall notify the Department of additional models that incorporate the alternative construction.

(d) *Revocation.* The Secretary may revoke or amend a letter issued under paragraph (c) of this section at any time. Such revocation or amendment will be prospective only. Where manufacturers have requested alternative construction for research, testing or development such alternative construction may not achieve the anticipated results. Therefore, the Secretary may require a manufacturer to bring those homes into compliance with the standards if, after the alternative construction has been in use for a period of time specified by the Secretary, these homes are not, in the Secretary's judgment, providing the levels of safety, quality and durability which would have been provided had the homes been built in compliance with the Standards.

(e) *Notice to prospective purchasers.* Manufacturers receiving letters under paragraph (c) of this section shall provide notice to prospective purchasers that the home does not conform to the Standards. Such notice shall be delivered to each prospective purchase before he or she enters into an agreement to purchase the home. The notice shall be in the following form or in such other form as may be approved by the Secretary:

Notice to Purchasers

The Department of Housing and Urban Development has issued a letter to (Name of Manufacturer) concerning the homes in (location if known). As designed, the homes do not meet Federal Manufactured Home Construction and Safety Standards regarding (brief statement of manufacturer's nonconformance).

HUD has evaluated the alternative construction and believes that it provides an equivalent level of quality, durability and safety to that provided by the Standards.

For further information about the specific Federal Standards involved, a copy of the letter issued pursuant to 24 CFR 3282.14(c) is available from this dealer or manufacturer upon request.

(f) *Serial numbers of homes constructed using alternative construction.* Manufacturers shall provide the Department with the serial numbers assigned to each home produced in conformance with the letter issued under paragraph (c) of this section within 90 days of their date of manufacture. Each serial number shall include the letters "AC" to indicate that the homes was produced under alternative construction procedures.

(Sec. 625, National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5424; section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(o))

Dated: December 9, 1983.

W. Calvert Brand,

Acting Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 84-898 Filed 1-13-84; 8:45 am]

BILLING CODE 4210-27-M

federal register

Monday
January 16, 1984

Part III

Office of Management and Budget

Budget Rescissions and Deferrals, Cumulative Report; Notice

VOL 49 ISS 10 JA 16 1984 UMI

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

January 1, 1984.

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of January 1, 1984, of one rescission proposal and 29 dererrals contained in the first four special messages of FY 1984. These messages were transmitted to the Congress on October 3, November 17, December 14 and December 21, 1983.

Rescissions (Table A and Attachment A)

As of January 1, 1984, one rescission proposal totaling $1.7 million was pending before the Congress.

Deferrals (Table B and Attachment B)

As of January 1, 1984, $2,155.4 million in 1984 budget authority was being deferred from obligation and $47,000 in 1984 outlays was being deferred from expenditure. Attachment B shows the history and status of each deferral during FY 1984.

Information From Special Messages

The special messages containing information on the rescission proposal and deferrals covered by this cumulative report are printed in the **Federal Registers** listed below:

Vol. 48, FR p. 45730, Thursday, October 6, 1983
Vol. 48, FR p. 53060, Wednesday, November 23, 1983
Vol. 48, FR p. 56720, Thursday, December 22, 1983
Vol. 48, FR p. 57098, Tuesday, December 27, 1983

David A. Stockman,

Director, Office of Management and Budget.

BILLING CODE 3110-01-M

TABLE A

STATUS OF 1984 RESCISSIONS

	Amount (In millions of dollars)
Rescissions proposed by the President	$ 1.7
Accepted by the Congress	-0-
Rejected by the Congress	-0-
Pending before the Congress	$ 1.7

****

TABLE B

STATUS OF 1984 DEFERRALS

	Amount (In millions of dollars)
Deferrals proposed by the President	$2,902.9
Routine Executive releases through November 1983 (OMB/Agency Releases of $719.4 million and cumulative adjustments of -$25.9 million)	-745.4
Overturned by the Congress	-2.0
Currently before the Congress	$2,155.4 a/

a/ This amount includes $47,000 in outlays for a Department of the Treasury deferral (D84-16).

Attachments

Attachment A - Status of Rescissions - Fiscal Year 1984

As of January 1, 1984 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
DEPARTMENT OF LABOR								
Occupational Safety and Health Administration	R84-1		1,700	12-21-83				
Rescissions, total BA			1,700					

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Attachment B - Status of Deferrals - Fiscal Year 1984

As of January 1, 1984 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 1-1-84
FUNDS APPROPRIATED TO THE PRESIDENT									
Appalachian regional development programs	D84-1	10,000		10-3-83					10,000
International security assistance									
Economic support fund	D84-24	303,880		12-14-83	-271679				32,201
DEPARTMENT OF AGRICULTURE									
Forest Service									
Timber salvage sales	D84-2	6,211		10-3-83					6,211
Expenses, brush disposal	D84-3	42,674		10-3-83					42,674
DEPARTMENT OF COMMERCE									
National Oceanic and Atmospheric Administration									
Promote and develop fishery products and research pertaining to American fisheries	D84-4	33,600		10-3-83	-33600				0
DEPARTMENT OF DEFENSE - MILITARY									
Military construction, all services	D84-5	414,597		10-3-83					
	D84-5A		488,340	12-14-83	-157178				745,759
Family housing, Air Force	D84-6	53,000		10-3-83					
	D84-6A		20,131	12-14-83	-53000				20,131
DEPARTMENT OF DEFENSE - CIVIL									
Wildlife conservation, military reservations									
Wildlife conservation	D84-7	777		10-3-83					777
DEPARTMENT OF ENERGY									
Energy programs									
Uranium supply and enrichment activities	D84-8	130,000		10-3-83					130,000
Fossil energy research and development	D84-21	20,326		11-17-83	-20326				
	D84-21A		500	12-14-83					500
Fossil energy construction	D84-25	38,038	1,962	12-14-83				-26000	14,000
Strategic petroleum reserve	D84-26	12,707		12-14-83					12,707
Alternate fuels production	D84-22	13,800		11-17-83	-12300				1,500
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Centers for Disease Control	D84-27	15,560		12-14-83					15,560
Office of the Assistant Secretary of Health									
Scientific activities overseas (special foreign currency program)	D84-9	6,463		10-3-83					6,463
Social Security Administration									
Limitation on administrative expenses (construction)	D84-10	10,571		10-3-83					
	D84-10A		10,491	12-21-83	-14				21,048
DEPARTMENT OF THE INTERIOR									
Minerals Management Service									
Payments for proceeds, sale of water, Mineral Leasing Act of 1920	D84-11	48		10-3-83					48
National Park Service									
Land acquisition and state assistance (contract authority)	D84-23	30,000		11-17-83					30,000
DEPARTMENT OF JUSTICE									
Federal Prison System	D84-28	22,025		12-14-83					22,025

As of January 1, 1984 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 1-1-84
DEPARTMENT OF STATE									
United States emergency refugee and migration assistance fund..	D84-12	37,928		10-3-83					37,928
United States biilateral science and technology agreements.....	D84-13	2,000		10-3-83					2,000
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration									
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Note: Deferral D84-25 was reported as part of D84-21 in the second special message. In the third special message the deferral was reported separately and adjusted upward slightly.

Note: Of the amount deferred as D84-25, $26 million was transferred to fossil energy research and development pursuant to the 1984 Energy Water Appropriations Act.

Note: All of the above amounts represent budget authority except one general revenue sharing deferral of outlays only.

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An asterisk (*) precedes each entry that has been changed since last week.

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[3] Refer to September 19, 1983, FEDERAL REGISTER, Book II (Federal Acquisition Regulation).

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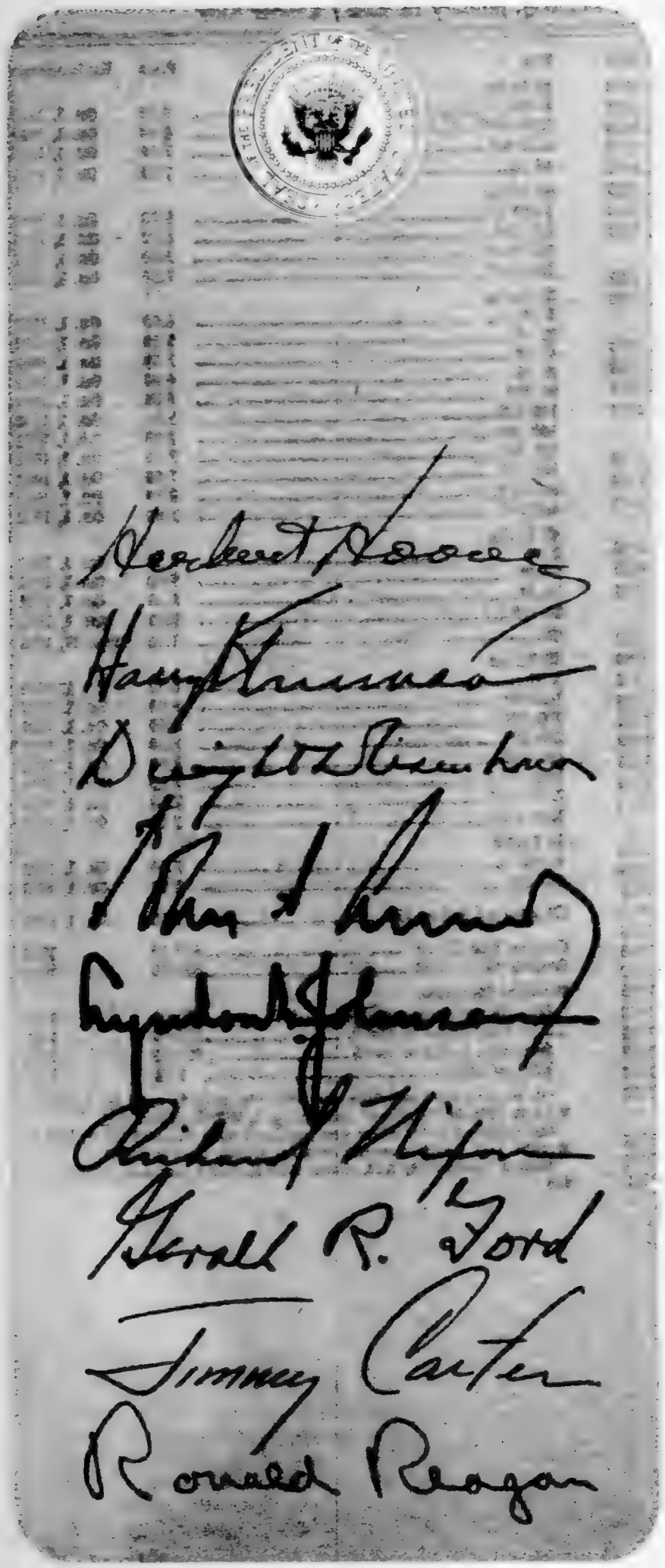

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Title 3—

The President

Proclamation 5147 of January 13, 1984

National Sanctity of Human Life Day, 1984

By the President of the United States of America

A Proclamation

The values and freedoms we cherish as Americans rest on our fundamental commitment to the sanctity of human life. The first of the "unalienable rights" affirmed by our Declaration of Independence is the right to life itself, a right the Declaration states has been endowed by our Creator on *all* human beings—whether young or old, weak or strong, healthy or handicapped.

Since 1973, however, more than 15 million unborn children have died in legalized abortions—a tragedy of stunning dimensions that stands in sad contrast to our belief that each life is sacred. These children, over tenfold the number of Americans lost in all our Nation's wars, will never laugh, never sing, never experience the joy of human love; nor will they strive to heal the sick, or feed the poor, or make peace among nations. Abortion has denied them the first and most basic of human rights, and we are infinitely poorer for their loss.

We are poorer not simply for lives not led and for contributions not made, but also for the erosion of our sense of the worth and dignity of every individual. To diminish the value of one category of human life is to diminish us all. Slavery, which treated Blacks as something less than human, to be bought and sold if convenient, cheapened human life and mocked our dedication to the freedom and equality of all men and women. Can we say that abortion—which treats the unborn as something less than human, to be destroyed if convenient—will be less corrosive to the values we hold dear?

We have been given the precious gift of human life, made more precious still by our births in or pilgrimages to a land of freedom. It is fitting, then, on the anniversary of the Supreme Court decision in *Roe v. Wade* that struck down State anti-abortion laws, that we reflect anew on these blessings, and on our corresponding responsibility to guard with care the lives and freedoms of even the weakest of our fellow human beings.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim Sunday, January 22, 1984, as National Sanctity of Human Life Day. I call upon the citizens of this blessed land to gather on that day in homes and places of worship to give thanks for the gift of life, and to reaffirm our commitment to the dignity of every human being and the sanctity of each human life.

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of January, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 84-1386
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Billing code 3195-01-M

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Presidential Documents

Executive Order 12458 of January 14, 1984

Delegation to the Secretary of State Concerning Foreign Assistance

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 621 of the Foreign Assistance Act or 1961, as amended (22 U.S.C. 2381), and section 301 of Title 3 of the United States Code, and in order to delegate certain functions concerning foreign assistance to the Secretary of State, it is hereby ordered as follows:

Section 1. Section 1–201(a) of Executive Order No. 12163, as amended, is further amended by inserting the following new subparagraphs at the end thereof:

"(23) Section 512 of the Foreign Assistance and Related Programs Appropriations Act, 1982;

"(24) Chapter 8 of Part II of the Act, except that such functions shall be exercised consistent with Section 573(d)(3) thereof;

"(25) The functions vested in the President by Section 101(b) of the Joint Resolution "Making further continuing appropriations for the fiscal year 1984" (Public Law 98–151), insofar as they relate to unnumbered paragraphs concerning El Salvador and Haiti.".

Sec. 2. Section 1–301 of Executive Order No. 12163, as amended, is further amended as follows:

(a) In subsection (a), by striking out "(except chapters 4 and 6 thereof)" and inserting in lieu thereof "(except chapters 4, 6 and 8 thereof)"; and

(b) in subsection (c), by striking out "(except chapters 4 and 6 thereof)" and inserting in lieu thereof "(except chapters 4, 6 and 8 thereof)".

Sec. 3. Section 1–801 of Executive Order No. 12163, as amended, is further amended as follows:

(a) In subsection (b), by striking out "(except chapters 4 and 6 thereof)" and inserting in lieu thereof "(except chapters 4, 6 and 8 thereof)"; and

(b) in subsection (c), by striking out "chapter 6" and inserting in lieu thereof "chapters 6 and 8".

Ronald Reagan

THE WHITE HOUSE,
January 14, 1984.

[FR Doc. 84–1387
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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 906 and 944

Oranges and Grapefruit Grown in Texas, and Imported Oranges; Relaxation of Handling Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule temporarily relaxes the current minimum grade requirement for Texas oranges and grapefruit, the minimum size requirement for Texas grapefruit, and the minimum grade requirement for imported oranges. Such action relating to Texas oranges and grapefruit is designed to provide an outlet for oranges and grapefruit remaining on the trees which may have been affected by a recent severe freeze in the production area.

DATES: Effective January 12, 1984, through June 30, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been certified a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

The amendment of the Texas orange and grapefruit regulation is issued under the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas. The amendment of the orange import regulation is issued under section 8e (7 U.S.C. 608e–1) of the Act. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This final rule is based upon the recommendations and information submitted by the Texas Valley Citrus Committee and upon other available information. It is hereby found that this final rule will tend to effectuate the declared policy of the Act.

This final rule relaxes through June 30, 1984: (1) The current grade requirements for Texas oranges and grapefruit and for imported oranges from U.S. No. 2, to U.S. No. 3 modified to permit additional amounts of dryness or mushy condition, and (2) the current minimum size requirements for Texas grapefruit to pack size 125 with a minimum diameter of 3$^{3}/_{16}$ inches. The current minimum size for U.S. No. 1 grade or better Texas grapefruit is pack size 112 with a minimum diameter of 3$^{5}/_{16}$ inches, and for U.S. No. 2 grade the minimum is pack size 96 with a minimum diameter of 3$^{9}/_{16}$ inches.

This action reflects current crop and marketing conditions and the composition and condition of the remaining supplies for Texas oranges and grapefruit. The Texas Valley Citrus Committee reports that the Texas orange and grapefruit crops have been seriously damaged by recent freezing weather. The committee reports that much of the oranges and grapefruit remaining on the trees will not meet current minimum grade and size requirements, and will likely be abandoned unless current requirements are relaxed. Prompt action is required because the freeze damaged fruit is drying and deteriorating rapidly and will soon become unmarketable, if not harvested and shipped to market soon. A requirement is included to require that the cartons in which such fruit is shipped be marked "Special Grade". This is intended to differentiate such shipments from fruit meeting current minimum grade and size requirements. The grade requirement for imported oranges is being relaxed to conform with the lower grade requirement for Texas oranges, in accordance with the Act.

It is found that it is impracticable and contrary to the public interest to postpone the effective date of this final rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that the time intervening between the date when information upon which this final rule is based became available and the time when this final rule must become effective in order to effectuate the declared policy of the Act is insufficient. Interested persons were given an opportunity to submit information and views on relaxing the grade and size requirements for Texas oranges and grapefruit at an open meeting, at which the committee recommended the action with no opposing votes. It is necessary to effectuate the declared purposes of the Act to make this final rule effective as specified. This final rule relieves restrictions on the handling of oranges and grapefruit, and handlers have been apprised of such provisions and the effective time.

List of Subjects

7 CFR Part 906

Marketing agreement and orders, Oranges, Grapefruit, Texas.

7 CFR Part 944

Food grades or standards, Imports, Oranges.

PART 906—[AMENDED]

Therefore, § 906.365 is amended by adding a new paragraph (c) to such section, and § 944.312 is amended by adding a new paragraph (g) to such section to read as follows (this final rule expires June 30, 1984, and will not be published in the annual Code of Federal Regulations):

§ 906.365 Texas Orange and Grapefruit Regulation 34.

* * * * *

(c) Notwithstanding the requirements specifed for oranges and grapefruit in paragraphs (a) (1) through (4) of this section, during the period (insert date of signature of this final rule), through June 30, 1984, any handler may ship oranges and grapefruit if: (1) Such fruit grades at least U.S. No. 3, except for dryness or mushy condition not exceeding 50 percent of the individual fruit by volume; and (2) such grapefruit are at least pack size 125, except that the minimum diameter limit for such pack size in any lot shall be 3$^{3}/_{16}$ inches in diameter. Applicable grade and size requirements are defined in 7 CFR

51.620–51.653 and 51.680–51.714. Any container of oranges or grapefruit shipped under this section grading less than U.S. No. 2 shall be stamped with the words "Special Grade" in letters ¾ of an inch in height.

§ 944.312 Orange Import Regulation 13.

* * * * *

(g) Nothwithstanding the requirements specified for oranges in this section, during the period (insert date of signature of this final rule), through June 30, 1984, any person may import oranges if they grade at least U.S. No. 3, except for dryness of mushy condition not exceeding 50 percent of the individual fruit by volume. Such grade is defined in 7 CFR 51.680–51.714.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 12, 1984.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84-1215 Filed 1-16-84; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 907

[Navel Orange Reg. 589; Navel Orange Reg. 588, Amdt. 1; Navel Orange Reg. 587, Amdt. 2]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 589 establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period January 20–26, 1984. Regulation 588, Amendment 1, increases the quantity of such oranges that may be shipped during the period January 13–19, 1984, and Regulation 587, Amendment 2, increases the quantity of such oranges that may be shipped during the period January 6–12, 1984. Such action is needed to provide for the orderly marketing of fresh navel oranges for the period specified due to the marketing situation confronting the orange industry.

DATES: This regulation 589 becomes effective January 20, 1984, and the amendments are effective for the periods January 13–19, 1984, and January 6–12, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This regulation and amendments are issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that these actions will tend to effectuate the declared policy of the Act.

These actions are consistent with the marketing policy for 1983–84. The marketing policy was recommended by the committee following discussion at a public meeting on September 27, 1983. The committee met again publicly on January 10, 1984 at Ventura, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is steady.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C.553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information on views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of navel oranges. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (Navel).

PART 907—[AMENDED]

1. Section 907.889 is added as follows:

§ 907.889 Navel Orange Regulation 589.

The quantities of navel oranges grown in California and Arizona which may be handled during the period January 20, 1984, through January 26, 1984, are established as follows:

(a) District 1: 1,500,000 cartons;
(b) District 2: 28 cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

2. Section 907.888 Navel Orange Regulation 588, as amended, paragraphs (a) through (d) are hereby revised to read:

§ 907.888 Navel Orange Regulation 588.

(a) District 1: 1,500,000 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

3. Section 907.887 Navel Orange Regulation 587, as amended, paragraphs (a) through (d) are hereby revised to read:

§ 907.887 Navel Orange Regulation 587.

(a) District 1: 1,400,000 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 11, 1984.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84-1147 Filed 1-16-84; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1033

[Milk Order No. 33]

Milk in the Ohio Valley Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action continues for the months of January through March 1984 the suspension of certain provisions affecting the regulatory status of fluid milk plants under the Ohio Valley Federal milk order. The suspension makes inoperative the requirement that a distributing plant must dispose of not less than 50 percent of its receipts on routes to qualify as a pool plant.

The action was requested by a proprietary handler operating four distributing plants that are fully regulated under the order. This

emergency action is needed to maintain pool status for the handler's distributing plants and to assure producer status for dairy farmers who have been associated with such plants and who have regularly supplied the market's fluid milk needs. It is also needed to accommodate the efficient dispostion of the market's reserve milk supplies. The suspension is based on the record of a public hearing, held at Columbus, Ohio, on October 12 and 13, 1983, where this particular pooling requirement was an issue.

EFFECTIVE DATE: January 17, 1984.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–7183.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing: Issued September 26, 1983; published September 29, 1983 (48 FR 44565).

Suspension Order: Issued December 12, 1983; published December 16, 1983 (48 FR 55829).

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers who supply milk for the area will have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Ohio Valley marketing area.

It is hereby found and determined that for the months of January through March 1984 the following provisions of the order do not tend to effectuate the declared policy of the Act: § 1033.12, paragraph (a)(2).

Statement of Consideration

This action is based on the record of a public hearing held on October 12 and 13, 1983, at Columbus, Ohio, to consider certain proposed amendments to the Ohio Valley order. It continues through March 1984 a previous suspension that was effective for the month of December 1983 (48 FR 55829). The suspension will continue for the months of January through March 1984, to make inoperative the requirement that a distributing plant must dispose of not less than 50 percent of its receipts on routes to qualify as a pool plant.

A continuation of the suspension was requested by Beatrice Foods Company (Beatrice), a proprietary handler who operates four pool distributing plants under the order.

The basis for the handler's request is a continuing downward trend in Class I sales of the handler's distributing plants during a period in which producer receipts have been steadily increasing. The handler states that this marketing situation has been compounded by the recent loss of a major Class I customer. Consequently, the handler expects the total route disposition of the four distributing plants during the next few months to fall below the order's total route disposition requirement for pooling distributing plants. Unless the suspension is continued, the handler asserts that it will be necessary to engage in uneconomic movements of milk, such as transferring milk among distributing plants, to meet the order's total route disposition requirement.

At the hearing, a proposed amendment by Beatrice was considered that would reduce the total route disposition requirement by 10 percentage points each month. The proponent testified that the amendment is necessary to accommodate the pooling of all of the milk received at its four distributing plants from producers which historically have been associated with the market. The handler requested that the total route disposition requirement be suspended pending completion of the hearing proceeding.

Whether or not the total route disposition requirement for distributing plants should be reduced on a permanent basis and to what extent, is a matter to be decided after the hearing record and post-hearing briefs have been thoroughly analyzed. However, there is not adequate time to resolve the handler's pooling problem for the months of January through March 1984 through amendatory action. Continuation of the suspension through March 1984 is the only practical means of providing the immediate relief sought by proponent. Such action is warranted because it will promote orderly marketing pending the final outcome of this issue based on the conclusion of the hearing proceeding.

It is unlikely that this 3-month suspension of the pooling requirement will have a significant adverse impact on producers or handlers serving the market. However, it will eliminate the possibility of a handler making certain uneconomic adjustments to maintain pool plant status for its distributing plants and producer status for the milk of dairy farmers who have been historically associated with such plants and the market's fluid milk needs. Such action also will facilitate the disposal of the market's reserve milk supplies during this 3-month period. For these reasons, the continuation of the suspension should be and hereby is granted.

It is hereby found and determined that notice of proposed rulemaking, public procedure thereon, and thirty days' notice of the effective date hereof are impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area in that substantial quantities of milk of producers who have regularly supplied this market otherwise could be excluded from the marketwide pool;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) The marketing problems that provide the basis for this suspension action were fully reviewed at a public hearing where all interested parties had the opportunity of being heard on this matter.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register**.

List of Subjects in 7 CFR Part 1033

Milk marketing orders, Milk, Dairy products.

PART 1033—[AMENDED]

§ 1033.12 [Amended]

It is therefore ordered, that the aforesaid provisions in § 1033.12 (a)(2) of the Ohio Valley order are hereby suspended for the months of January through March 1984.

Effective Date: January 17, 1984.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

Signed at Washington, D.C., on: January 12, 1984.

Karen K. Darling,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 84-1148 Filed 1-16-84; 8:45 am]

BILLING CODE 3410-02-M

CIVIL AERONAUTICS BOARD

14 CFR Part 241

[Economic Regs. Amdt. No. 51; Reg. ER-1372]

Uniform System of Accounts and Report for Certified Air Carriers

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice that the Officer of Management and Budget (OMB) has approved the extension of the Passenger Origin-Destination reporting requirements as found in Section 19-7 of Part 241 through October 31, 1984, under OMB No. 3024-0017. OMB approval is required under the Paperwork Reduction Act of 1980.

DATES: Adopted: January 11, 1984.

Effective: December 27, 1983.

FOR FURTHER INFORMATION CONTACT: Jack Calloway, Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-6042.

List of Subjects in 14 CFR Part 241

Air carriers, Uniform system of accounts and reports.

Accordingly, the Civil Aeronautics Board amends Part 241 of its Economic Regulations (14 CFR Part 241) by adding a sentence at the end of the note at the end of the table of contents to Part 241 to read:

The reporting requirement contained in § 241.19-7 has been approved by the Officer of Management and Budget under number 3024-0017.

This amendment is issued by the undersigned pursuant to delegation of authority from the Board to the Secretary in 14 CFR 385.24(b).

(Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324)

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-1202 Filed 1-16-84; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 136

[Docket No. 75P-0361]

Standards of Identity for Bakery Products; Stay of Final Decision

AGENCY: Food and Drug Administration.

ACTION: Final rule; stay of final decision following a formal evidentiary public hearing and granting of petitions for reconsideration.

SUMMARY: The Commissioner of Food and Drugs is staying his Final Decision following a formal evidentiary public hearing concerning four amendments to the standards of identity regulations for bakery products. The Commissioner is also granting petitions for reconsideration received on this matter.

DATE: The stay and the granting of the petitions for reconsideration are effective January 17, 1984.

ADDRESS: Petitions for reconsideration may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Theodore E. Herman, Regulations Policy Staff (HFC-10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3480.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 9, 1983 (48 FR 51448), the Commissioner of Food and Drugs issued his Final Decision following a formal evidentiary public hearing concerning four amendments to the standards of identity regulations for bakery products. The amendments had previously been stayed pending completion of the hearing and the Commissioner's review. The Commissioner affirmed the holding in the Initial Decision that lecithin should be permitted as an optional ingredient in egg bread as well as in other bakery products; revised a stayed provision in the regulation that would have permitted as an optional ingredient only those spices that do not impart a color simulating that of egg to the finished product, thereby reversing the Initial Decision on this point; deleted a stayed provision in the regulation that would have placed certain restrictions on the addition to bakery products of coloring as such or as part of another ingredient, thereby reversing the Initial Decision on this point; and approved a provision in the regulation requiring a minimum content of 2.56 percent by weight of whole egg solids (equivalent to one medium-sized egg per pound loaf) to justify the use of the name "egg bread," thereby reversing the holding of the Initial Decision that a minimum content of the yolks of two medium-sized eggs per pound be required.

This Final Decision was effective November 9, 1983. The removal of paragraphs a, b, and c of the stay note at the end of § 136.110 (21 CFR 136.110), the amendment to § 136.110(c)(16), and the removal of § 136.110(c)(17) were to become effective January 9, 1984. The removal of paragraph d of the stay note at the end of § 136.110 and the removal of the stay notes at the end of §§ 136.115 and 136.160 (21 CFR 136.115 and 136.160) were to become effective July 1, 1985. Petitions for reconsideration under 21 CFR 12.139 were to have been submitted by December 9, 1983.

Three petitions for reconsideration were submitted in a timely manner. Two petitions, one from the Tennessee Department of Agriculture, Division of Chemistry, and one from Florida Department of Agriculture and Consumer Services, Division of Foods and Dairies, requested that the Commissioner reconsider the four issues. One petition from the Food and Drug Administration, Bureau of Foods, requested reconsideration of the issues involving restrictions on the use of spices and artificial coloring. The petitions are on file under Docket No. 75P-0361 with the Dockets Management Branch (address above).

Pursuant to 21 CFR 10.33, the Commissioner hereby grants the petitions for reconsideration because it is in the public interest and in the interest of justice. Pursuant to 21 CFR 10.35, the Commissioner hereby orders the stay of his Final Decision and of all amendments ordered by the Final Decision. This stay, which is effective January 17, 1984, is granted because it is in the public interest and in the interest of justice. The Commissioner shall review and rule on the merits of matters raised by the petitions for reconsideration.

List of Subjects in 21 CFR Part 136

Bakery products, Bread, Food standards.

PART 136—BAKERY PRODUCTS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), the removal of paragraphs a,

b, c, and d of the stay note at the end of § 136.110, the amendment to § 136.110(c)(16), the removal of § 136.110(c)(17), and the removal of the stay notes at the end of §§ 136.115 and 136.160 published in the **Federal Register** of November 9, 1983 (48 FR 51448) are stayed.

Effective date: January 17, 1984.

(Secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)))

Dated: January 12, 1984.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 84-1237 Filed 1-13-84; 10:38 am]

BILLING CODE 4160-01-M

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21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Fenbendazole Suspension

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by American Hoechst Corp., Animal Health Division. The supplement provides for changing the marketing status of fenbendazole suspension from prescription to over-the-counter (OTC).

EFFECTIVE DATE: January 17, 1984.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Bureau of Veterinary Medicine (HFV-114), Food And Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: American Hoechst Corp., Animal Health Division, Route 202-206 North, Somerville, NJ 08876, filed a supplement to its approved NADA 104-494 for fenbendazole suspension 10 percent. The drug is indicated for control of large strongyles, small strongyles, pinworms, and ascarids in horses. It has been restricted to use by or on the order of a licensed veterinarian (i.e., prescription use) since its approval on November 15, 1977 (42 FR 59069). The restriction was imposed because the product label stated "The drug may also be administered by stomach tube" and the laity are not considered qualified to insert a stomach tube safely in horses. The firm has deleted any reference to administration by stomach tube from the labeling, thereby eliminating the basis for requiring prescription marketing. The remaining directions for dose syringe use can reasonably be followed by the laity. The firm also holds approvals for granule and paste formulations of fenbendazole which are marketed OTC. Accordingly, the supplement is approved and the regulations are amended to reflect the approval.

This is a Category II supplement (42 FR 64367; December 23, 1977) that does not affect the safety or effectiveness of the drug, therefore, a reevaluation of underlying safety and effectiveness data was not required. Approval of this supplement did not require the generation of new safety or effectiveness data, therefore, a freedom of information summary is not required.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs, Oral use.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended in § 520.905a by revising paragraph (d)(1)(iii), to read as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 520.905a Fenbendazole suspension.

* * * * *

(d) * * *

(1) * * *

(iii) *Limitations.* Administer orally by dose syringe or suitable plastic syringe. Do not use in horses intended for food. Consult a veterinarian for assistance in the diagnosis, treatment, and control of parasitism.

* * * * *

Effective date: January 17, 1984.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: January 10, 1984.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 84-1141 Filed 1-16-84; 8:45 am]

BILLING CODE 4160-01-M

POSTAL SERVICE

39 CFR Part 10

International Express Mail Service to Italy and Thailand

AGENCY: Postal Service.

ACTION: Final action on International Express Mail Service to Italy and Thailand.

SUMMARY: Pursuant to agreements with the postal administrations of Italy and Thailand, the Postal Service intends to begin International Express Mail Service with Italy and Thailand at postage rates indicated in the tables below. Service is scheduled to begin on February 18, 1984.

EFFECTIVE DATE: February 18, 1984.

FOR FURTHER INFORMATION CONTACT: Leon W. Perlinn [202] 245-4414.

SUPPLEMENTARY INFORMATION: By a notice published in the **Federal Register** on December 12, 1983 (48 FR 55299), the Postal Service announced that it was proposing to begin International Express Mail Service to Italy and Thailand. Comments were invited on published rate tables, which are proposed amendments to the International Mail Manual (incorporated by reference in the Code of Federal Regulations, 39 CFR 10.1), and which are to become effective on the date service begins. No comments were received.

Accordingly, the Postal Service states that it intends to begin International Express Mail Service with Italy and Thailand on February 18, 1984 at the rates indicated in the tables below.

List of Subjects in 39 CFR Part 10

Postal service, Foreign relations.

Italy—International Express Mail

Custom designed service [1] [2] up to and including		On demand service [3] up to and including	
Pounds	Rate	Pounds	Rate
1	[illegible]	1	[illegible]
2	31.70	2	[illegible]
3	35.40	3	27.40
4	39.10	4	31.10
5	42.80	5	34.80
6	46.50	6	[illegible]
7	[illegible]	7	42.20
8	53.90	8	45.90
[illegible]	57.60	9	49.60
10	61.30	10	53.30
11	[illegible]	11	57.00
12	[illegible]	12	[illegible]
13	72.40	13	64.40
14	76.10	14	[illegible]
15	[illegible]	15	71.80
16	[illegible]	16	75.50
17	[illegible]	17	79.20
18	[illegible]	18	82.90
19	[illegible]	19	86.60
20	[illegible]	20	90.30
21	102.00	21	94.00
22	105.70	[illegible]	97.70
[illegible]	109.40	[illegible]	101.40
24	113.10	24	105.10
25	116.80	25	[illegible]
26	120.50	26	112.50

Italy—International Express Mail—Continued

Custom designed service [1] [2] up to and including		On demand service [2] up to and including	
Pounds	Rate	Pounds	Rate
27	124.20	27	116.20
28	127.90	28	119.90
29	131.60	29	123.60
30	135.30	30	127.30
31	139.00	31	131.00
32	142.70	32	134.70
33	146.40	33	138.40
34	150.10	34	142.10
35	153.80	35	145.80
36	157.50	36	149.50
37	161.20	37	153.20
38	164.90	38	156.90
39	168.60	39	160.60
40	172.30	40	164.30
41	176.00	41	168.00
42	179.70	42	171.70
43	183.40	43	175.40
44	187.10	44	179.10

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

Thailand—International Express Mail

Custom designed service [1] [2]—Weight not over		On demand service [2]—Weight not over	
Pounds	Rate	Pounds	Rate
1	$29.00	1	$21.00
2	33.50	2	25.50
3	38.00	3	30.00
4	42.50	4	34.50
5	47.00	5	39.00
6	51.50	6	43.50
7	56.00	7	48.00
8	60.50	8	52.50
9	65.00	9	57.00
10	69.50	10	61.50
11	74.00	11	66.00
12	78.50	12	70.50
13	83.00	13	75.00
14	87.50	14	79.50
15	92.00	15	84.00
16	96.50	16	88.50
17	101.00	17	93.00
18	105.50	18	97.50
19	110.00	19	102.00
20	114.50	20	106.50
21	119.00	21	111.00
22	123.50	22	115.50

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

A transmittal letter making these changes in the pages of the International Mail Manual will be published in the **Federal Register** as provided in 39 CFR 10.3 and will be transmitted to subscribers automatically.

(39 U.S.C. 401, 404, 407)

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 84-1161 Filed 1-16-84; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[AMS-FRL 2506-1]

Antitampering and Anti-Fuel Switching Programs To Reduce In-Use Emissions From Motor Vehicles

AGENCY: Environmental Protection Agency.

ACTION: Notice of Availability of Information.

SUMMARY: This Notice announces the availability of an EPA technical report on antitampering and anti-fuel switching programs to reduce in-use emissions from motor vehicles, responds to public comments received on the draft, and presents EPA's policy regarding the application of the report's results in the State Implementation Plan (SIP) process.

EFFECTIVE DATE: Effective January 17, 1984, EPA will begin using the final report to review SIP submissions.

ADDRESS: U.S. Environmental Protection Agency, Office of Mobile Sources (AR-455), 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Alfonse Mannato (EN-397), Field Operations and Support Division, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Telephone: (202) 382-2667.

SUPPLEMENTARY INFORMATION:

I. Background

On June 10, 1983 (48 FR 26840) EPA announced the availability of a draft technical report on antitampering and anti-fuel switching programs to reduce in-use emissions from motor vehicles. The **Federal Register** notice discussed the process for calculating the emission reduction potential of an antitampering program and invited comments on EPA's methodology and assumptions.

Comments on the draft technical report were received from 27 organizations and one private citizen. The organizations included nine State environmental agencies, four local agencies, six oil companies, one automobile manufacturer, and seven trade or public organizations.

II. Discussion of Issues

The comments will be summarized by category.

A. Assumptions and Methodology

The State of New Jersey and the city of Fort Worth, Texas questioned the adequacy of the EPA Tampering Surveys which were used to establish the rates of tampering and fuel switching. Their concerns included the voluntary nature of the surveys, the choice of sites, and lack of adequate sample sizes to support the linear regression methodology developed to predict the rate of future tampering and fuel switching. The Motor Vehicle Manufacturers Association (MVMA) pointed out that examination of individual vehicle data by its member companies revealed that some vehicles were coded as tampered although they were not originally certified with the equipment in question. Consequently the tampering rates listed in the draft report would be somewhat overstated. American Motors suggested that the rates should also reflect the high percentage of vehicles which were coded as arguably tampered.

EPA agrees that the partially voluntary nature of the survey will inevitably introduce a bias, but feels that the survey methodology provides the best estimate available of tampering and fuel switching rates. Efforts were made to assure as complete participation as possible, and the 1982 survey used for the report was more successful than previous surveys in obtaining an unbiased sample. Arguably tampered elements were excluded, and only those cases in which the tampering could be easily identified and which should cause substantial increases in emissions were chosen for analysis. The mistakes in identification noted by MVMA were corrected, and are reflected in the rates in the final document.

Two commenters questioned the appropriateness of the regression procedure to predict tampering and fuel switching rates beyond the range of the data. They also stated that the regression should be forced through zero. EPA uses a regression because there is a need for a predictive model in order to estimate the benefits of an antitampering program which would begin at a future date. EPA chose a linear form for the regression because there are no grounds for presuming any other more complicated shape. EPA also feels that forcing the regression through zero does not adequately model the reality that tampering and fuel switching do not begin immediately when the vehicle is delivered to the original purchaser.

The State of Rhode Island and the city of Fort Worth questioned EPA's use of back-to-back Federal Test Procedure results on well-tuned vehicles for determining emission increases from specific disablements and EPA's assumptions regarding the effectiveness

of antitampering inspections where multiple disablements occur. MVMA pointed out that EPA's estimates of the percent of vehicles equipped with specific components were in error, and provided estimates from its member companies. EPA used MVMA's and other information to correct the estimates in the final report. EPA has also somewhat modified the effectiveness calculations for overlapping disablements and feels that the final report represents the best methodology available. EPA recognizes the limitations of back-to-back test data but no better approach is available and EPA believes use of the back-to-back data will lead to appropriate action on individual SIP submittals.

B. Technical Uncertainties

Several commenters pointed out that new vehicle and emission control technology in recent and future model years might change tampering rates due to improvements in driveability and fuel economy. The technical report assumes that tampering and fuel switching behavior will not change. Although this assumption is unproven, the data available now are not adequate to treat 1981 and later vehicles separately. Future versions of the methodology may revise this assumption as more data on these vehicles at higher mileages are available.

Several commenters also pointed out that there are many unanswered questions in other technical areas such as the ability of the Plumbtesmo test for tailpipe lead deposits to accurately identify poisoned catalysts, the emission effects of casual misfueling, the causes of misfueling behavior, the emission effects of PCV and evaporative canister disablement, and the hydrocarbon composition of emission increases from specific disablements. EPA acknowledges that there are many areas of technical uncertainty, and is pursuing investigations to resolve the more important of these issues. In future versions of the methodology, any new information resulting from these investigations will be incorporated.

C. Fuel Station Enforcement Programs

Comments were received from five oil companies and five trade associations objecting to EPA's design of a fuel station enforcement program which would include prosecuting operators of self-service gasoline stations for allowing misfueling on the part of vehicle owners. The commenters cited the expense of relocating leaded fuel pumps to allow observation by cashiers, the difficulty in identifying vehicles which required unleaded fuel, and the danger to the cashier in challenging vehicle owners who are deliberately misfueling. EPA recognizes the difficulties inherent in enforcing that portion of federal law and regulation which prohibits fuel station owners from introducing or allowing the introduction of leaded fuel into catalyst equipped vehicles. The same problems would exist under a similar State or local prohibition. EPA believes, however, that there is the potential for some control strategy aimed at stopping misfueling at the pump and that, if a workable strategy could be designed, then emission reductions would result. The sizes of the emission reductions would no doubt be sensitive to the specifics of the State or local prohibition, the level and type of surveillance, and the enforcement procedures. In the final report, the single specific emission reduction estimate which appeared in the draft report has been dropped. Areas which wish to pursue the establishment of a fuel station enforcement program are invited to discuss with EPA design criteria and emission reduction potential.

D. Price Equalization Strategies

Most of the same commenters objected to the inclusion of a leaded/unleaded fuel price equalization strategy in the technical document. They objected on the grounds that such a strategy would penalize honest motorists and create market distortions. They also argues that price control strategies do not work and that EPA was seriously overestimating the effect that price equalization would have on fuel switching behavior. EPA recognizes the problems and uncertainties involved in the price equalization approach. The final report no longer contains specific effectiveness estimates for price equalization. Instead, it invites interested States to discuss with EPA the potential effectiveness of their particular proposals to reduce the incentives for tampering and fuel switching or to reduce the availability of aids to tampering and fuel switching such as catalyst substitute devices.

E. Federal Initiatives

All commenters agreed that it was appropriate for States and local areas to establish porograms to deter consumer tampering and fuel switching, however, several suggestions were also made for activities at the Federal level which could reduce tampering and fuel switching. It was suggested that the Federal government should specifically prohibit fuel switching by consumers and should ban the sale of "defeat devices" e.g., catalytic converter test pipes. Such possibilities are under study. It was also suggested that EPA require that fuel filler inlet restrictors be made of stronger materials to make enlargement more difficult, and that EPA require a redesign of underhood emission labels to support antitampering inspecton efforts. Both of these elements are being considered, but the rulemaking and manufacturer lead times necessarily would mean that neither of these changes could take effect immediately, and then would only apply to new model year vehicles.

F. Credit for Additional Strategies

Various commenters requested that EPA establish emission reduction credits for additional approaches to tampering deterrence such as enforcement of complaints against garages and service stations, state prohibition of self-service gasoline dispensing, heavy-duty vehicle inspection, mechanic training, and public education activities. While EPA agrees that all of these activities contribute to an antitampering effort, there are little or no data available to estimate the effect that any of these activities would have in the absence of an inspection program or how much additional deterrence they would contribute if implemented. EPA has attempted in this report to estimate credits for those activities which are believed to be most effective in reducing excess mobile source emissions. EPA is willing, however, to work with any state to derive credits for alternative antitampering and antitampering programs which a state may wish to implement.

Two commenters requested that tampering related to NOx emissions be addressed in the report. EPA has not included it in the final document, but will be establishing NOx credits for antitampering programs in the near future.

G. Additional Program Guidance

Several commenters requested that EPA provide specific guidance on inspection procedures, size of penalties, and types of approvable repairs. In addition a request was made for model regulations and enforcement methodologies. EPA intends to continue to support State and local efforts to

establish programs by issuing detailed guidance and by conducting individual workshops. Interested areas should contact their EPA Regional Offices or the information contact listed above for assistance.

H. State Implementation Plan (SIP) Credits for Antitampering Programs

One commenter requested that EPA clarify whether the reductions achieved through an antitampering program could be applied to the minimum emission reduction requirement established for I/M programs. A second commenter suggested that an antitampering effort be allowed to substitute for the required I/M program. A third commenter recommended that EPA increase the I/M requirement to include the addition of emission control device physical inspections. EPA feels that those elements of a program which consist of inspection, repair, and reinspection of individual vehicles may appropriately be applied to the I/M emission reduction requirement. This specifically excludes credits from the fuel station and price equalization concepts from being applied to the I/M requirement. Such credits may be used for other SIP purposes, such as demonstration of future attainment of a National Ambient Air Quality Standard, demonstration of Reasonable Further Progress, and possibly as an offset in a new source permitting program.

A final issue raised by the commenters was the use of local tampering rates and driving conditions (speed, temperature, etc.) in calculating SIP credits. The new EPA computer model for calculating mobile source emission factors (MOBILE 3) will include tampering and fuel switching effects in the base emission factor and will have the capability to estimate the effect of an antitampering program under local rates and conditions. Areas wishing to establish localized credits will need to contact their EPA Regional Office for assistance.

All credits for antitampering and anti-misfueling programs in individual SIP submissions will be proposed for public comment in the SIP approval process.

Dated: December 30, 1983.

Sheldon Meyers,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 84-1145 Filed 1-16-84; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6498

[A12998, A13014, A13016, A13017, A13360, A13367, A13442, A13452, A17207, A17412]

Arizona; Public Land Order No. 6468: Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order will correct an error in the land description contained in Public Land Order No. 6468 of September 26, 1983.

EFFECTIVE DATE: January 17, 1984.

FOR FURTHER INFORMATION CONTACT: Mario L. Lopez, Arizona State Office, (602) 261-4774.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

The land description in Public Land Order No. 6468 of September 26, 1983, in FR Doc. 83-26576, published at page 44539, in the issue of Thursday, September 29, 1983, is corrected to read as follows:

On page 44539 in the first column, the last line reads sec. 13, lot 1. It should be corrected to read "sec. 13, lot 2."

Dated: January 6, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84-1178 Filed 1-16-84; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6499

[W-29044]

Wyoming; Public Land Order No. 6388, Correction; Partial Revocation of Reclamation Project Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This document will correct an error in the land description contained in Public Land Order No. 6388 of May 16, 1983.

EFFECTIVE DATE: January 17, 1984.

FOR FURTHER INFORMATION CONTACT: Scott Gilmer, Wyoming State Office, 307-772-2089.

SUPPLEMENTARY INFORMATION: By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Acf of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

The description of a parcel of land in Public Land Order No. 6388 of May 16, 1983, as published in FR Doc. 83-13903 appearing at page 23225 in the issue of Tuesday, May 24, 1983, in the second column under T. 27 N., R. 107 W., line 3, reads sec. 25; it is hereby corrected to read sec. 24.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

January 6, 1984.

[FR Doc. 84-1198 Filed 1-16-84; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6500

[W-29542]

Wyoming; Public Land Order No. 6397, Correction, Partial Revocation of Executive Order of May 14, 1915

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This document will correct four errors in the land description contained in Public Land Order No. 6397 of June 16, 1983.

EFFECTIVE DATE: January 17, 1984.

FOR FURTHER INFORMATION CONTACT: Scott Gilmer, Wyoming State Office, 307-772-2089.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

The descriptions of four parcels of land in Public Land Order No. 6397 of June 16, 1983, as published in FR Doc. 83-17288 appearing at page 29695 in the issue of Tuesday, June 28, 1983, are hereby corrected as follows: In the first column under T. 16 N., R. 107 W., line 1 reads "sec. 2, lots through 7 inclusive, E½SW¼," and is corrected to read "sec. 2, lots 5 through 7, inclusive, E½SW¼." In the first column under T. 12 N., R. 108 W., line 1 reads "sec. 1, E½, E½W½," and is corrected to read "sec. 1, E½, E½W½, E½W½W½,"; line 7 reads "sec. 19, lots 1, 8, E½, E½NW¼," and is corrected to read "sec. 19, lots 7, 8, E½, E½NW¼." In the first column under T. 15 N., R. 108 W., line 1 reads "sec. 10, W½W½, W½, S½NE¼SE¼," and is corrected to read "sec. 10, W½E½, W½, S½NE¼SE¼."

Dated: January 6, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84-1177 Filed 1-16-84; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 213

[Docket No. RST-3, Notice No. 6]

Track Safety Standards; Commuter Service Amendment

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Final rule.

SUMMARY: FRA is amending the Track Safety Standards to make them applicable to all track that is used to provide commuter or short-haul passenger service in a metropolitan or suburban area. This action is taken in response to a requirement of the Federal Railroad Safety Authorization Act of 1982 (Pub. L. 97–468, 96 Stat. 2579).

EFFECTIVE DATE: This final rule becomes effective February 16, 1984.

FOR FURTHER INFORMATION CONTACT: Philip Olekszyk, Deputy Associate Administrator for Safety, FRA, Washington, D.C. 20590. Telephone 202–426–0897.

SUPPLEMENTARY INFORMATION: A recent amendment to the Federal Railroad Safety Act of 1970 (Safety Act) (45 U.S.C. 431 *et seq.*) requires that, by January 14, 1984, FRA issue regulations to apply appropriate safety principles to track used for commuter service (Pub. L. 97–468, 96 Stat. 2579).

FRA's current track safety standards (49 CFR Part 213) apply to all standard gage track in the general railroad system of transportation, but exempt track used exclusively for commuter or other short-haul passenger service in a metropolitan or suburban area (49 CFR 213.3). These standards, adopted in 1971, establish minimum requirements for the condition of various components of the track, the relevant geometry parameters for these components, inspection procedures, and mandatory remedial actions.

On September 2, 1983, FRA issued a notice of proposed rulemaking (NPRM) to eliminate that current exclusion insofar as is applies to commuter or short-haul passenger service but to retain the exclusion for track that is used solely for rapid transit service (48 FR 39965). In addition to providing for written comments on the proposal, FR held a public hearing on October 4, 1983, to permit oral comment on the NPRM.

Six commenters responded to the proposed rule. Five expressed support for the proposal. The other commenter did not oppose the proposal, but expressed concern about a longstanding ambiguity over whether its operations should be classified as a rapid transit operation or a commuter operation. Two of the commenters recommended that FRA make additional changes to the regulation. These additional changes would involve: (i) Increasing the frequency for conducting internal rail flaw detection inspections; (ii) establishment of new rules to protect workmen performing track maintenance functions; and (iii) establishment of a requirement that all track used for commuter service meet the FRA standards for class 4 track contained in this regulation.

Since all of these recommended changes are beyond the scope of the notice of proposed changes issued by FRA, they have not been adopted. FRA will review these suggested changes and may address these issues in a future rulemaking. The ambiguity concerning the status of one commenter involves a number of FRA regulations in addition to the Track Safety Standards. Resolution of that issue must await further analysis by FRA and, in any event, does not affect the adoption of a final rule in this proceeding.

Based on the statutory directive, the available facts, and the comments received in response to the proposal, FRA has decided to adopt the changes as proposed in the NPRM. As confirmed by the two commenters who addressed the issue, adoption of the rule will have a relatively limited impact. First, approximately 4,800 miles of track used for commuter service and 300,000 miles of track used for freight or passenger service are already subject to the standards. Second, those operating over unregulated tracks currently adhere on a voluntary basis to the FRA standards or their own more stringent rules. As a consequence, no significant new or additional costs will be imposed by the adoption of this proposal. Conversely, neither FRA, for the reasons set forth in the NPRM, nor the commenters are able to establish a clear estimate of the safety benefits associated with this rule.

Regulatory Impact

This final rule has been evaluated in accordance with existing regulatory policies. It is neither a "major rule" as defined under Executive Order 12291 nor a significant rule under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). The rule contains only a single technical revision to the existing standards and would have an impact only on those entities that operate commuter service over track used exclusively for that purpose.

In general, the rule will not serve to increase the economic burdens of the existing regulation. It is of limited scope and imposes track standards already generally adhered to by commuter service operators. FRA believes that this provision will result, at most, in only a minor increase in recordkeeping burdens and their associated costs in isolated instances. Since the rule contains only a limited, technically oriented proposal, which is expected to have a minimal impact, FRA has determined that further evaluation is not necessary.

The proposed rule will have a direct impact only on the railroads or commuter agencies that own the 384 miles of track used exclusively for commuter or other short-haul passenger service. It will not place any requirements or burdens on the public. Nor will it increase the budgeted expenditures for track maintenance for the track owners, because they already allocate funding for track maintenance sufficient to meet or exceed these standards. The rule will not have any significant impact on any small entity, since no such entity operates over track used exclusively for commuter or other short-haul passenger service. Based on the facts set forth in this final rule, it is certified that the rule will not have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Paperwork Reduction Act

The final rule indirectly contains provisions concerning the collection of information that are subject to the Paper Work Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*, Pub. L. 96–511). These provisions involve the need to record and maintain information concerning inspection activities under the requirements of § 213.7 and § 213.241. These information collection requirements have been submitted to the Office of Management and Budget (OMB). Such requirements apply to all track owners currently subject to the regulation. The expansion of these information collection requirements for the track covered in this proposal will not become effective until approved by OMB. Although FRA specifically solicited comments on the potential paperwork burden imposed by this rule, no comments on this issue were received.

List of Subjects in 49 CFR Part 213

Railroad safety.

In consideration of the foregoing, Part 213, Title 49, Code of Federal Regulations, is amended as set forth below:

The Final Rule

PART 213—[AMENDED]

1. 49 CFR Part 213 is amended by revising § 213.3 to read as follows:

§ 213.3 Application.

(a) Except as provided in paragraph (b) of this section, this part applies to all standard gage track in the general railroad system of transportation.

(b) This part does not apply to track—

(1) Located inside an installation which is not part of the general railroad system of transportation; or

(2) Used exclusively for rapid transit service in a metropolitan or suburban area.

(Sec. 202, 84 Stat. 971 (45 U.S.C. 431); sec. 1.49(m) of the Regulations of the Secretary of Transportation (49 CFR 1.49(m)))

Issued in Washington, D.C. on January 13, 1984.

John H. Riley,

Administrator.

[FR Doc. 84-1282 Filed 1-16-84; 8:45 am]

BILLING CODE 4910-06-M

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49 CFR Part 232

[Docket No. PB-6, Notice No. 3]

Railroad Power Brakes and Drawbars: Technical Amendment

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Technical amendment.

SUMMARY: This technical amendment revises section 232.17(b) to reference standard S-045 from the Manual of Standards and Recommended Practices of the Association of American Railroads (AAR). This action is taken by FRA as a result of action by AAR to move the passenger car periodic brake repair intervals from the AAR Code of Rules for cars in interchange to the Manual of Standards and Recommended Practices.

EFFECTIVE DATE: January 17, 1984.

FOR FURTHER INFORMATION CONTACT: Philip Olekszyk, Office of Safety, Federal Railroad Administration, Washington, D.C. 20590; telephone (202) 426-0897.

SUPPLEMENTARY INFORMATION: FRA has established a requirement (49 CFR 232.17(b)) that brake equipment on railroad cars be cleaned, repaired, lubricated, and tested on a periodic basis. This periodic work, referred to in the railroad industry as COT&S, is done at various intervals depending on the type of brake equipment.

Since 1958, when the requirement was first established, the COT&S intervals for passenger and freight cars have been published in the AAR Code of Rules for cars in interchange, which is issued annually. However, the AAR has removed the passenger car COT&S intervals from the 1984 Code of Rules for cars in interchange, which became effective on January 1, 1984, and has included them in its Manual of Standards and Recommended Practices.

The technical amendment in this notice simply references the new location of the passenger car COT&S intervals. It does not change the substantive requirement for regular maintenance of brake equipment on passenger cars.

In addition, this notice provides a more complete address of the AAR, from which copies of the materials referenced in § 232.17 may be obtained.

Notice and Public Procedure

Since this amendment merely changes a referent in FRA's regulations and imposes no additional burden on any person, FRA finds that notice and comment procedures are not necessary. Also, since confusion could result from an incorrect reference, notice and public procedures are impractical; the rule is being issued on an emergency basis under Executive Order 12291. Similarly, to avoid confusion about the COT&S interval for passenger cars resulting from the revision to AAR Code of Rules, FRA finds good cause to make this amendment effective in less than 30 days upon publication.

Regulatory Impact

This amendment has been evaluated in accordance with existing regulatory policies. It is considered to be nonmajor under Executive Order 12291 and nonsignificant under the DOT policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this amendment has been found to be so minimal that further evaluation is unnecessary. Based on these facts, FRA certifies that the amendment will not have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The amendment will not have any environmental impact and does not involve directly or indirectly any information collection requirements.

List of Subjects in 49 CFR Part 231

Railroad safety.

The Final Rule

PART 232—[AMENDED]

In consideration of the foregoing, § 232.17 of Part 232 of Title 49, Code of Federal Regulations, is amended, effective upon publication, by revising paragraph (b) to read as follows:

§ 232.17 Freight and passenger train car brakes.

* * * * *

(b)(1) Brake equipment on cars other than passenger cars must be cleaned, repaired, lubricated and tested as often as required to maintain it in a safe and suitable condition for service but not less frequently than as required by currently effective AAR Code of Rules for cars in interchange.

(2) Brake equipment on passenger cars must be clean, repaired, lubricated and tested as often as necessary to maintain it in a safe and suitable condition for service but not less frequently than as required in Standard S-045 in the Manual of Standards and Recommended Practices of the AAR.

(3) Copies of the materials referred to in this section can be obtained from the Association of American Railroads, 1920 L Street, N.W., Washington, D.C. 20036.

(72 Stat. 86, 45 U.S.C. 9; sec. 6 (e), (f), 80 Stat. 939, 49 U.S.C. 1655; and sec. 1.49(c) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(c))

Issued in Washington, D.C. on January 13, 1984.

John H. Riley,

Administrator.

[FR Doc. 1281 Filed 1-16-84; 8:45 am]

BILLING CODE 4910-06-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1043

[Ex Parte No. MC-5 (Sub-2A)]

Motor Carriers of Passengers Minimum Amounts of Bodily Injury and Property Damage Liability Insurance

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: Section 18 of the Bus Regulatory Reform Act of 1982 requires the Commission to adopt minimum amounts of coverage for bodily injury and property damage liability for regulated motor carriers of passengers at levels no lower than those prescribed by the Secretary of Transportation under the new financial responsibility requirements of that Act.

The Commission is adopting rules modifying its regulations to reflect the required amounts at the same levels established by the Secretary for each of the new vehicle classifications

established in that Act, namely, (1) those with a seating capacity of 16 passengers or more, and (2) those with a seating capacity of 15 passengers or less.

EFFECTIVE DATE: February 16, 1984.

FOR FURTHER INFORMATION CONTACT:

Alice K. Ramsay, (202) 275–0854;
or
Margaret Richards, (202) 275–1538.

SUPPLEMENTARY INFORMATION:

Introduction

Section 18 of the Bus Regulatory Reform Act of 1982 (96 STAT. 1102–29, Pub. L. 97–261—Sept. 20, 1982 (BRRA)), amended 49 U.S.C. 10927(a)(1) to require motor carriers of passengers to file with the Commission a bond, insurance policy, or other type of security approved by the Commission, in an amount not less than such amount prescribed by the Secretary of Transportation pursuant to the provisions of the BRRA. This filing requirement is a predicate to our issuance of a certificate or permit under sections 10922 or 10923 of Title 49 of the United States Code. Moreover, such a certificate or permit remains in effect only as long as the carrier satisfies the security requirements of these financial responsibility provisions.

The BRRA Requirements

Under the BRRA, the Secretary of Transportation was obliged to establish regulations requiring minimal levels of passenger carrier financial responsibility. Those required levels had to be sufficient to satisfy liability amounts established for public liability and property damage for the transportation of passengers for hire, by motor vehicle, in the United States. The requirements apply specifically to transportation from a place in a State to a place in another State, from a place in a State to another place in such State through a place outside of such State, and between a place in a State and a place outside of the United States.[1]

The minimal level of financial responsibility which may be established by the Secretary under the BRRA are:

(1) For any vehicle with a seating capacity of 16 passengers or more not less than $5,000,000, except that the Secretary is authorized to reduce such amount to an amount not less than $2,500,000 for the 2-year period beginning on November 19, 1983, or any part of such period, and

(2) For any vehicle with a seating capacity of 15 passengers or less not less than $1,500,000, except that the Secretary is authorized to reduce such amount to an amount less than $750,000 for any class of such vehicles or operations for the 2-year period beginning on November 19, 1983, or any part of such period,

predicated on findings by the Secretary, with respect to the particular class of transportation of passengers, that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service.

If the Secretary had not established regulations effective November 19, 1983, to require minimal levels of financial responsibility for any class of transportation of passengers, the levels of financial responsibility for such class of transportation would have been the statutory $5,000,000 minimum amount in the case of motor vehicles with a seating capacity of 16 passengers or more and the $1,500,000 amount in the case of motor vehicles having a seating capacity of 15 passengers or less, until such time as the Secretary, by regulation, changes such amount.

Section 18(h) of the BRRA amended section 10927(a)(1) of Title 49 of the United States Code to authorize the Commission to issue a certificate or permit to a motor carrier of passengers *only* if the carrier files with it a bond, insurance policy, or other type of security approved by the Commission, in an amount not less than such amount as the Secretary of Transportation prescribes pursuant to, or as is required by, the provisions of section 18 of the BRRA. Under section 10927(a)(1) the security must be sufficient to pay, not more than the amount of the security, for each final judgment against the carrier for bodily injury, or death of, an individual resulting from the negligent operation, maintenance, or use of motor vehicles under the certificate or permit, or for the loss or damage to property (except cargo), or both. And, as noted previously, section 10927(a)(1) also provides that a certificate or permit remains in effect only as long as the carrier satisfies these requirements.

Background and Purpose of This Proceeding

In *Ex Parte No. MC–5 (Sub-No. 2), Motor Carriers and Freight Forwarders Insurance Procedures and Minimum Amounts of Liability*, in proposing changes in the Commission's regulations relating to the required limits on filings of evidence of security by insurance and security companies, we observed, at 49 FR 55976 (December 14, 1982):

> We also anticipate much higher limits of liability for motor passenger carriers as a result of the Secretary of Transportation's Implementation of the insurance provisions of the Bus Regulatory Reform Act of 1982.

Later in that same proceeding, in announcing final rules, 48 FR 51777 (November 14, 1983) at 51779, we described the then pending DOT rulemaking proceeding to implement the requirements of the BRRA at limits higher than those in force in the Commission's regulations, saying:

> In light of the certainty of those major changes in limits requirements and the additional requirements of section 18 of the BRRA that the Commission require security "in an amount not less than" prescribed by the Secretary of Transportation, no new limits will be prescribed for passenger carriers in this proceeding at this time. Instead, in order to minimize confusion, we will make changes in section 1043.2(b)(1)(b) as soon after completion of the DOT proceeding as possible.

In the Ex Parte No. MC–5 (Sub-No. 2), proceeding and in *Ex Parte No. MC–5 (Sub-No. 1), Motor Carriers of Property Minimum Amounts of Bodily Injury and Property Damage Liability Insurance*, we have made changes in the Commission's programs and procedures to provide for the filing and acceptance of security for motor carriers, brokers, and freight forwarders. Included among those changes were provisions (1) to recognize any new endorsement or bond form prescribed by DOT; (2) to allow filings by insurance and surety companies that qualify under the State qualifications standards required by DOT; (3) to permit aggregation of coverage through multiple policies from the first dollar of coverage for bodily injury and property damage for motor carriers of passengers, in the same manner as DOT; and (4) to permit the use of either combined single limit or split limit coverage, as does DOT, provided the levels of financial responsibility written meet the required minimums. In short, all that remains for this Commission to do in implementing the requirements of section 18 of the BRRA is to establish limits at least equal to those of DOT, and to set an effective date for filing security under the new rules.

The purpose of this proceeding is to establish those limits and the filing date.

The DOT Rulemaking

Limits

To implement the BRRA requirements the Bureau of Motor Carrier Safety of

[1] "State" means a State of the United States and the District of Columbia for the purposes of this law. Also, certain school bus, taxicab, and commuter vanpool vehicles are exempt from the BRRA requirements in effectively the same terms that they are exempt from the Commission's licensing requirements.

the Federal Highway Administration (FHWA) of the Department of Transportation published a Notice of proposed rulemaking in the **Federal Register** on Tuesday, May 31, 1983 (48 FR 24147), concerning the minimum levels of financial responsibility for motor carriers of passengers. It requested, and received, comments concerning what minimum levels of financial responsibility for motor carriers of passengers would meet best the requirements of the BRRA. On November 17, 1983, it issued a Final Rule, published at 48 FR 52679 (November 21, 1983), establishing minimum levels of financial responsibility for for-hire motor carriers of passengers involved in interstate or foreign transportation. After reviewing the arguments made in the comments, DOT, in pertinent part, said:

> With all things considered (i.e., protection of the public, the stability of the bus industry, the ability of the insurance industry to provide the coverage and the particular needs of small and minority motor carriers), the question which begs to be answered is what *minimum* levels of financial responsibility are sufficient? We stress the word "minimum" as it has appeared since the inception of the Bus Regulatory Reform Act.
>
> The FHWA firmly believes, based on its accident data and the data provided by the insurance industry, that with less than one one-hundredth of one percent of all commercial vehicle accidents resulting in claim settlements of more than $500,000, the lowest levels allowed in the Act are sufficient. This is not to say that the FHWA does not encourage motor carriers of passengers to maintain levels of liability coverage sufficient to cover their assets and fully protect their concerns. What is at issue here is the absolute minimum which must be maintained before a motor carrier of passengers subject to these rules may operate its vehicles on the public highway system.

DOT thus concluded that the minimum levels, for each classification of passenger carrier, from November 19, 1983, until November 19, 1985 (or earlier should the Secretary so decide), should be at the lowest level within the Secretary's discretion under the BRRA, and adopted a rule, 49 CFR 387.33, as follows:

§ 387.33 Financial responsibility, minimum levels.

The minimum levels of financial responsibility referred to in section 387.31 of this subpart are hereby prescribed as follows:

Schedule of Limits—Public Liability

FOR-HIRE MOTOR CARRIERS OF PASSENGERS OPERATING IN INTERSTATE OR FOREIGN COMMERCE

Vehicle seating capacity	Effective dates	
	Nov. 19, 1983	Nov. 19, 1985
(1) Any vehicle with a seating capacity of 16 passengers or more	$2,500,000	$5,000,000
(2) Any vehicle with a seating capacity of 15 passengers or less.*	750,000	1,500,000

* Except as provided in section 387.27(b). (The exceptions relate to vehicles not subject to regulation by the Interstate Commerce Commission.)

Forms

In its final rules, DOT adopted two standard forms, namely, the Form MCS–90B endorsement and the Form MCS–82B Surety Bond. These forms are substantially similar to those previously adopted by DOT for use of property carriers and they meet the requirements of the Commission's rule 49 CFR 1043.7(a), *Forms and Procedures*. Thus, they are recognized by the Commission for use in our motor passenger carrier financial responsibility security program. Commenting on these forms, DOT noted that both forms are currently under review by the Office of Management and Budget under the Paperwork Reduction Act of 1980 and indicated that final action on these forms by OMB is expected within 90 days. It recognized the problem that the insurance industry will have in trying to get the required endorsements into the hands of its passenger carrier clients, saying:

> Time is needed to satisfy the endorsement requirement. In view of this, the Bureau of Motor Carrier Safety does not intend to enforce the requirement that passenger carriers have the endorsement(s) attached to their policies of insurance for 90 days from either the effective date of November 19, 1983, or the date OMB approves the forms, whichever is later.
>
> It should be understood that this is in no way a relaxation of the minimum levels of financial responsibility. All passenger carriers must have the required minimum levels of financial responsibility as of November 19, 1983.

As indicated earlier, the Commission contemplates the use of the DOT endorsement and bond forms. Obviously, however, we cannot require the attachment of Form MCS–909B endorsements to insurance policies or the filing of DOT prescribed surety bond, Form MCS–82B, until they are reviewed and approved by OMB. However, this need not delay the implementation of the Commission's new requirements imposed pursuant to the BRRA. Form BMC 82, which is a surety bond form prescribed for bodily injury and property damage bond filings has been approved by OMB for use through September 30, 1986, and its continued use (on an interim basis) will have the same consequences in this Commission's program as would the filing of Form MCS–82B. As for the endorsement forms, this Commission has been allowing carriers to file OMB approved certificates of insurance (Forms BMC 91 or 91X) without requiring related endorsements being actually attached to the policies of insurance since 1981. This practice can and will be continued with respect to passenger carriers' filings, at little or no inconvenience to the carriers or insurers, from the effective date of our rules until OMB approval of Form MCS–90 is obtained and its use required by DOT.

Discussion

Limits

While the Commission must establish limits of at least $2,500,000 for any vehicle with a seating capacity of 16 passengers or more and of at least $750,000 for any vehicle with a seating capacity of 15 passengers or less, and at least at the statutory limits after January 19, 1985, there is a question whether the limits we require in our program should be higher. We do not believe so.

In the case of each of the classifications, the DOT-required minimum limits are higher than in the Commission's existing program. Taking into account the change in classification as to kind of equipment required under the BRRA, the minimum limits requirements for regulated carriers would rise as follows:

Equipment class	From	DOT minimum
12 passenger capacity or less	$100,000/300,000/50,000	$750,000
13–15 passenger capacity	100,000/500,000/50,000	750,000
16 passengers or more	100,000/500,000/50,000	2,500,000

Recognizing both that DOT found that less than one-hundredth of one percent of all commercial vehicle accidents resulted in claim settlements of more than $500,000 and that there have been no substantial efforts made in recent years by the public to have our existing (even lower) minimum limits raised, we agree with DOT that the lowest levels allowed under the BRRA are sufficient.

In light of the fact that DOT considered carefully in its rulemaking proceeding the question of what limits

should be required to protect the public, the stability of the bus industry, the ability of the insurance industry to provide the coverage, and the particular needs of small and minority motor carriers, we see no need to seek comments on the same question in this proceeding. This conclusion not only is justified by the need to implement the requirements of the BRRA as soon as possible, but also by the fact that any interested person is free to petition the Commission for a rulemaking proceeding to consider higher minimum limits at any time. In the meantime, the public will have the protection intended by the new requirements imposed under the BRRA at the levels found appropriate and sufficient by the DOT. We, therefore, are adopting the same requirements as DOT.

Applicability

In addition to the carrier operations to which the BRRA applies specifically, the Commission's minimum security requirements apply to operations in foreign commerce subject to 49 CFR 1043.11. That section provides that no motor carrier may operate in the United States in the course of transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country unless it meets the security filing and maintenance requirements of section 1043.2(b), a portion of which is the subject of this rulemaking. Those operations in foreign commerce, although not subject to economic regulation by the Commission, must meet financial responsibility requirements at the same minimum limits levels as regulated operations in interstate and foreign commerce, and are automatically included in each change of such requirements. Because the changes being made here have been mandated recently by the Congress for the protection of the public, we see no reason to depart from this policy of automatic inclusion of such trans-United States operations at this time.

Effective Date

We have considered delaying the effective date for filing evidence of security reflecting the higher coverage requirements imposed under these rules adopted in order to give additional notice to the public and to solicit comments. However, to do so would be impracticable and is unnecessary and contrary to the public interest. Because of the limited nature of the changes, the ample notice given in the statute and the related DOT and Commission rulemakings and the fact that the changes are not only both urgently needed for the protection of the public and the least burdensome that we can impose under the BRRA, no such delay is warranted. Therefore, we are making rule changes effective 30 days after publication of this decision and notice in the **Federal Register** under 49 U.S.C. 553(b).

Environmental and Energy Considerations

This action does not significantly affect the quality of the human environment or the conservation of energy resources.

Final Regulatory Flexibility Analysis

Under section 18(h) of the BRRA, this Commission is required to adopt new security limits in an amount not less than such amount as the Secretary of Transportation prescribes pursuant to, or as is required by section 18 of the BRRA. All but the few passenger carriers traveling through the United States in operations between points beyond this country's borders are already subject to the same minimum limits of coverage requirements imposed in this proceeding. With respect to the carriers which are also subject to DOT's requirements, the BRRA does not give the Commission discretion to impose lower requirements. The Commission is obligated to implement the requirements of the BRRA as quickly as possible. Otherwise, the public could be subject to legal complications resulting from differences in the DOT and ICC rules. These rules make ICC and DOT requirements compatible and place the new requirements in a regulatory framework that already recognizes DOT policy determinations with respect to aggregation of coverage, qualifications of insurance companies, and the like. Moreover, the requirements may be met by using DOT forms in every situation where DOT has a prescribed form appropriate to the use. Thus, there is no duplication or overlap of the regulations. As to those carriers serving between points in foreign countries, the limits are, as they have been in the past, established at the same levels as for regulated carriers serving one or more United States points and performing operations in interstate or foreign commerce. This does not duplicate or overlap any regulation of DOT and assures the protection of the public in the same manner, to the same extent, and with respect to the same kind of vehicles as found to be required by DOT in its implementation of the BRRA. No reasonable distinction can or should be made with respect to the safety and financial responsibility issues affecting such regulated and non-regulated operations.

Although a substantial number of small entities will be affected by these rules, the impact on them cannot be lessened because this decision implements the statutory requirements of the BRRA in the least burdensome possible way. There are no significant alternatives which would accomplish the stated objectives of this proceeding or meet the statutory requirements of the BRRA.

A copy of this notice will be served on the Chief Counsel for Advocacy of the Small Business Administration, the Director of the Office of Management and Budget, and the Federal Highway Administrator of DOT.

List of Subjects in 49 CFR Part 1043

Insurance, Motor carriers, Surety bonds

Final rules

Part 1043, Subtitle B, Chapter X of Title 49 of the Code of Federal Regulations, is amended as follows:

PART 1043—SURETY BONDS AND POLICIES OF INSURANCE

In § 1043.2, paragraph (b) under paragraph (b)(1), is revised to read as follows:

§ 1043.2 Security for the protection of the public: Minimum limits.

* * * * *

(b)(1) * * *

(b) *Passenger Carriers*

Kind of Equipment

Vehicle seating capacity	Effective dates	
	Nov. 19, 1983	Nov. 19, 1985
(1) Any vehicle with a seating capacity of 16 passengers or more	$2,500,000	$5,000,000
(2) Any vehicle with a seating capacity of 15 passengers or [illegible]	750,000	1,500,000

* * * * *

Authority: 49 U.S.C. 10321, 10927, and 5 U.S.C. 553.

Decided: January 5, 1984.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-823 Filed 1-16-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination That Bufo Hemiophrys Baxteri (Wyoming Toad) is an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines *Bufo hemiophrys baxteri* (Wyoming toad) to be an endangered species. This toad is now known to occur only in one 40-acre area of privately-owned land in Albany County, Wyoming. Formerly abundant in the Laramie Basin, the toad has virtually disappeared from all known sites; only two immature specimens were located in a 1983 survey. The cause of its precipitous decline is uncertain. The Service requested information on the species in a proposed rule that appeared in the **Federal Register** on January 27, 1983 (48 FR 3794). The determination that *Bufo hemiophrys baxeri* is endangered will implement Federal protection provided by the Endangered Species Act of 1973, as amended.

DATES: This rule becomes effective February 16, 1984.

ADDRESSES: Comments or questions concerning this action should be sent to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225.

FOR FURTHER INFORMATION CONTACT: Dr. James L. Miller, Staff Biologist, Endangered Species Office, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225 (303/234–2496).

SUPPLEMENTARY INFORMATION:

Background

Bufo hemiophrys baxeri (Wyoming toad) was discovered by Dr. George T. Baxter in 1946 (Porter, 1968). A related toad, *Bufo hemiophrys hemiophrys* (Canadian toad), occurs in Manitoba, Alberta, Saskatchewan, Minnesota, Montana, and North and South Dakota. The Wyoming toad a is thought to be a relictual population left behind as glaciers retreated. Some authors (Packard, 1971) have argued that the Wyoming toad is a full species, but Porter (1968) presented evidence that it is subspecifically distinct from *Bufo hemiophrys hemiophrys* (but see comments of J. D. Stewart cited below). The toad is small (2-inch) bufonid with cranial crests fused into a medial "boss." It is the only toad in the Laramie Basin. Since its discovery, Dr. George Baxter has taken students in summer from the University of Wyoming to observe the Wyoming toad. Known breeding places were visited regularly for over 30 years. After very few toads were heard or seen from 1975 through 1979, an intensive survey was conducted throughout the Laramie Basin in 1980. A reward for information on the toad was advertised in local newspapers and resulted in one population being located on private land in Albany County, Wyoming. A number of males were heard calling, but no females were found nor were any tadpoles or egg masses discovered when the area was checked later. The population existed within a 40-acre area and was thought to consist of about 25 individuals; surveys in 1981 revealed only one male and one female. A survey conducted by the State of Wyoming was able to again locate only two toads in this area in 1983. The reasons for the basinwide disappearance are not understood although the leopard frog (*Rana pipiens*) was also found to be suddenly absent from the Laramie Basin. However, the northern chorus frog (*Pseudacris triseriata*) remains abundant in the Laramie Basin. Baxter *et al.* (1982) reviewed the biological status of the species and speculated on possible reasons for decline.

Summary of Comments and Recommendations

In the January 27, 1983, **Federal Register** proposed rule (48 FR 3794) and associated notifications and press releases, all interested parties were requested to submit factual reports or information which might contribute to the development of a final rule. A letter was sent to the Governor of Wyoming notifying him of the proposed rule and soliciting his comments and suggestions. All comments received were considered.

Comments were received from the Wyoming Executive Department, the Wyoming Game and Fish Department, the Colorado Field Office of The Nature Conservancy, Mr. J. D. Stewart of the University of Kansas Museum of Natural History and Dr. George T. Baxter of the University of Wyoming. All comments supported the proposal for listing this species.

The Wyoming Executive Department suggested that any recovery strategy must recognize and protect the private-landowner interests in the affected area and if a viable population is discovered on private lands in the Laramie Basin, it should be relocated to areas of Federal lands where it can receive adequate protection. The Service agrees that any recovery strategy must recognize private landowner rights; only by cooperation may the survival of this unique toad be ensured. However, removal of a viable population from an area solely because it occurs on private land is not biologically justified and may contribute further to the species' precarious status. The Service will carefully consider all viable options to ensure the survival of the toad during the development of a recovery plan and will work closely with private landowners both to protect the unique Wyoming toad and cause minimum disturbance to the lifestyle of Laramie Basin residents.

The Wyoming Game and Fish Department was concerned that viable populations of this species may no longer exist. It conducted a survey in 1983, in conjunction with the University of Wyoming and the U.S. Fish and Wildlife Service, that located only two immature individuals on the same private property in Albany County where a number of calling males had been heard in 1980.

Dr. Mark R. Stromberg of The Nature Conservancy indicated in his response that limited field observations for the toad were conducted in 1982; however, no populations were found at that time.

Mr. J. D. Stewart of the University of Kansas Museum of Natural History indicated that in 1981 and 1982, he collected numerous fossil toad elements from a site in northwestern Kansas that has produced a boreal fauna including many taxa now restricted to the Rocky Mountains. Subsequent study of these elements showed them to belong to the Wyoming toad. Although there is no published information on how to distinguish the bones of *Bufo hemiophrys hemiophrys* from those of *Bufo hemiophrys baxteri*, Stewart has found that the skulls are easily differentiated. His analysis further indicated that the osteological differences between the two "subspecies" exceeds the degree of difference between some recognized species of *Bufo*.

Dr. George T. Baxter of the University of Wyoming commented that this toad is "surely endangered." During 1982, Dr. Baxter surveyed the 40-acre privately-owned area where a number of calling males had been heard in 1980. His search yielded no calls or toads.

No public meeting was requested on the proposed listing, nor were any unfavorable comments received.

Summary of Factors Afffecting the Species

After a thorough review and consideration of all available

information, the Service has determined that *Bufo hemiophrys baxteri* (Wyoming toad) is an endangered species due to one or more of the factors described in Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*). The Service has determined that *Bufo hemiophrys baxteri* is primarily affected by factors A, C, and D.

All five factors and their application to the Wyoming toad are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Historic ranching practices involved flooding the plains adjacent to the Little Laramie River. Changes in irrigation practices due to current increased demand for irrigation water may have resulted in the drying out of former habitats before tadpole development was complete. The specific use and timing of irrigation waters is largely left up to landowners. Local irrigation districts control regional water use. Research is needed on the changes in irrigation practices since 1970 to determine if they may have contributed to the decline.

Drainage of habitat for non-irrigation uses may have contributed to the decline of the toad.

The use of the herbicide Atrazene is known to decimate *Bufo* populations (Beebee, 1973) and it can be introduced into watersheds in sufficient levels to kill *Bufo* eggs or tadpoles. Atrazene is widely available throughout the Laramie Basin. Other herbicides, such as Tordon, are more commonly used than Atrazene, but the effects of these chemicals on amphibians are largely unknown. Herbicides are often used by the Weed and Pest Districts, Wyoming Department of Agriculture, for "noxious" weed control in roadside ponds and along field edges typically used by the Wyoming toad. Basinwide aerial application of Baytex (Fenthion) with diesel fuel began in 1975. This mosquito control technique, applied with little control on drift of the spray, may be highly toxic to bufonids. Some evidence indicates that diesel fuel alone is toxic to amphibians. More research is needed on this topic.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Not applicable for this species.

C. *Disease or predation.* Disease in *Bufo hemiophrys baxteri* has not been studied. However, the extremely small population exists in a limited area and a disease outbreak could be catastrophic. Predation may be a major factor in the decline of the Wyoming toad. The California gull (*Larus californicus*) population has increased greatly in recent years. Local ranchers report that field are literally white with gulls in early spring. Raccoons, foxes, and skunks have all shown population increases. These factors combined could pose a serious threat to the Wyoming toad.

D. *The inadequacy of existing regulatory mechanisms.* The use of herbicides and other chemicals in Wyoming is regulated with regard to effects on fish, but not on amphibians. In fact, bioassay data are lacking on the effects that widely applied chemicals have on amphibians. The apparent inadequacy of the regulations may be due to the lack of recognition of a problem with amphibians.

E. *Other natural or manmade factors affecting its continued existence.* None are known.

Critical Habitat

The Act (Section 3; 50 CFR Part 424) defines "critical habitat" to include (i) specific areas within the geographical area occupied by the species at the time it is listed which are essential to the conservation of the species, and which may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by the species at the time it is listed, upon a determination by the Secretary that such areas are essential for the conservation of the species.

Critical Habitat is not being determined for *Bufo hemiophrys baxteri* since only two immature individuals were located during field surveys in 1983. Indeed, prior to this year, the Wyoming toad was last reported in 1981 from two individuals located in the Laramie Basin; surveys in 1982 did not reveal any toads. The Service therefore believes that critical habitat is not determinable. The Service notes, however, that not all of the potential habitat in the Laramie Basin has yet been surveyed. Should future surveys discover significant breeding populations, these areas could then be considered as critical habitat.

The Wyoming toad is considered an extremely rare amphibian. The publication of the exact area where the toads last bred could lead to jeopardy to any remaining individuals through collection. The best available biological data indicate that, due to apparent low population size, removal of any individuals from the population other than for purposes directly related to conservation could be detrimental to the species' survival

Available Conservation Measures

The Act and its implementing regulations published in the June 24, 1977, **Federal Register** (42 FR 32373–23281; presently under revision to comply with recent amendments) set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These regulations are found at § 17.21 of 50 CFR and are summarized below.

With respect to the Wyoming toad, all prohibitions of Section 9(a)(1) of the Act, as implemented by § 17.21, now apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. When this rule becomes effective, it will also be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions apply to agent of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, the enhancement of propagation or survival of the species, and economic hardship. Section 10(a)(1)(B) of the Act also authorizes permits for the taking of endangered species incidental to otherwise lawful activities.

Section 7 of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is listed as endangered or threatened. Section 7(a)(2) requires Federal agencies to ensure, in consultation with the Service, that activities they authorize, fund, or carry out, are not likely to jeopardize the continued existence of the Wyoming toad. Provisions for interagency cooperation are codified at 50 CFR Part 402. Proposed revised regulations to implement the 1982 amendments to Section 7 have recently been published (June 29, 1983; 48 FR 29989–30004).

National Environmental Policy Act

In accordance with a recommendation from the Council on Environmental Quality (CEQ), the Service has not prepared any NEPA documentation for this rule. The recommendation from CEQ was based, in part, upon a decision in the Sixth Circuit Court of Appeals which held that the preparation of NEPA documentation was not required as a matter of law for listings under the Endangered Species Act. *PLF v. Andrus* 657 F.2d 829 (6th Cir. 1981).

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Authors

The primary author of this rule is Dr. James L. Miller, Region 6 Endangered Species Office, Denver, Colorado (303/234–2496). Dr. C. Kenneth Dodd, Jr. and Mr. John L. Paradiso, Office of Endangered Species, Washington, D.C., served as editors.

References Consulted or Cited

Baxter, G. T., and M. Stone. 1980. Amphibians and reptiles of Wyoming. Wyoming Game and Fish Department Bulletin, Laramie, WY. 137 pp.

Baxter, G. T., and M. Stromberg. 1980. Status Report. Rep. to U.S. Fish and Wildlife Service, Denver, Colorado, U.S.A. 5 pp. (mimeogr.)

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Hazelwood, E. 1970. Frog pond contaminated. Brit. J. Herpetology 4:177–185.

Johnson, C. R., and J. E. Prine. 1976. The effects of sublethal concentrations of organophosphorus insecticides and an insect growth regulator on temperature tolerance in hydrated and dehydrated juvenile western toads, *Bufo boreas*. Comp. Biochem. Physiol. 53A:147–149.

Packard, G. C. 1971. Inconsistency in application of the biological species concept to disjunct populations of anurans in southeastern Wyoming and northcentral Colorado. J. Herpetol. 5:191–193.

Porter, K. P. 1968. Evolutionary status of a relict population of *Bufo hemiophrys* Cope. Evolution 22:583–594.

Sanders, H. O. 1970. Pesticide toxicities to tadpoles of the western chorus frog, *Pseudacris triseriata*, and Fowler's toad, *Bufo woodhousei fowleri*. Copeia 1970:246–251.

Stromberg, M. R. 1981. Wyoming Toad (*Bufo hemiophrys baxteri*) endangered. J. Colo.-Wyo. Acad. Sci. 13(1):47.

Vankirk, E. A. 1980. Report on Population of *Bufo hemiophrys* on Laramie Plain, Albany County, Wyoming. Rep. to Wyoming Natural Heritage Program, The Nature Conservancy, Cheyenne, Wyoming, U.S.A. 6 pp. (mimeogr.)

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Fish, Marine mammals, and Plants (agriculture).

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subpart B of Chapter I, Title 50 of the U.S. Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Section 17.11(h) is amended by adding, in alphabetical order, the following to the List of Endangered and Threatened Wildlife under "Amphibians."

§ 17.11 Endangered and threatened wildlife.

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
.	.	.	.	.	.	.	.
Toad, Wyoming	*Bufo hemiophrys baxteri*	U.S.A. (WY)	Entire	E	138	NA	NA
.	.	.	.	.	.	.	.

Dated: December 20, 1983.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84–1180 Filed 1–16–84; 8:45 am]

BILLING CODE 4310–07–M

Proposed Rules

Federal Register
Vol. 49, No. 11
Tuesday, January 17, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL ELECTION COMMISSION

11 CFR Parts 100 and 101

Payments Received for Testing the Waters Activities

AGENCY: Federal Election Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Federal Election Commission requests comments on its regulations at 11 CFR 100.7(b)(1), 100.8(b)(1), and 101.3. Under these regulations, an individual may receive and expend funds for "testing the waters" activities without triggering the reporting requirements of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. 431 *et seq.* In addition to comments on the current provisions of §§ 100.7(b)(1), 100.8(b)(1), and 101.3, the Commission also seeks comments on two issues concerning: (1) The scope of permissible activities under the "testing the waters" exemptions; and (2) the applicability of the contribution limitations and prohibitions under the Act to funds received or expended for "testing the waters" activities. Please note that any revision of the "testing the waters" regulations adopted by the Commission would not become effective until January 1985 at the earliest. Further information is provided in the supplementary information which follows.

DATES: Comments must be received on or before February 16, 1984.

ADDRESS: Susan E. Propper, Assistant General Counsel, 1325 K Street, NW., Washington, D.C. 20463.

FOR FURTHER INFORMATION CONTACT: Susan E. Propper, Assistant General Counsel, (202) 523–4143 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: Under 2 U.S.C. 431(2), an individual is deemed to be a "candidate" for purposes of the Act if he or she receives contributions or makes expenditures in excess of $5,000 or gives consent to another person to receive contributions or make expenditures on his or her behalf and such contributions or expenditures aggregate in excess of $5,000. The Act thus establishes automatic dollar thresholds for attaining candidate status which trigger the Act's registration and reporting requirements.

Through its regulations, the Commission has established limited exceptions to these automatic thresholds which permit an individual to test the feasibility of a campaign for Federal office without becoming a candidate under the Act. Commonly referred to as the "testing the waters" exceptions, 11 CFR 100.7(b)(1) and 100.8(b)(1) exclude funds received and payments made to determine whether an individual should become a candidate from the definitions of "contribution" and "expenditure." These exemptions however, do not include receipts and disbursements for general public political advertisements, such as television or newspaper advertisements, or efforts to raise funds for use after the individual becomes a candidate.

Nevertheless, an individual who undertakes "testing the waters" activities must keep records of all funds received and payments made in connection with these activities. The Commission's regulations provide that if the person subsequently becomes a candidate, those receipts and disbursements become contributions and expenditures under the Act. Thus, under §§ 100.7(b)(1), 100.8(b)(1), and 101.3, such funds received and payments made must be reported in the first report filed by the candidate's principal campaign committee. Section 101.3 also provides that any excessive or prohibited contributions received during the "testing of waters" period must be refunded within 10 days after the individual becomes a candidate.

The Commission requests comments on whether these regulations should be retained in their present form. In addition, the Commission would like comments on possible revisions to 11 CFR 100.7(b)(1), 100.8(b)(1), and 101.3 in two respects: (A) Possible revision to clarify the scope of permissible activities under the "testing of waters" exemptions; and (B) possible revision regarding the applicability of the contribution limitations and prohibitions to receipts and disbursements for "testing the waters" activities.

A. Scope of Permissible Activities Under the "Testing the Waters" Exemptions

The Commission has issued several advisory opinions in which it determined that the "testing the waters" exemptions apply only to activities designed to evaluate a potential candidacy and not to campaigning. See Advisory Opinions ("AO") 1979–28, 1981–32, 1982–3, and 1982–19. On the basis of these opinions, possible revisions to clarify the scope of permissible activities under the "testing the waters" exemptions would raise the following issues:

1. Should the Commission's regulations be revised to specify the activities that are permissible under the "testing the waters" exemptions?

2. If so, what criteria should the Commission consider in ascertaining whether an activity is directed toward a determination of whether to become a candidate for Federal office and as such is a permissible "testing the waters" activity?

3. What factors should the Commission consider in determining whether an individual has decided to become a candidate and is campaigning rather than "testing the waters"?

Discussion

Since the "testing the waters" exemptions apply only to activities designed to evaluate a potential candidacy, the Commission has attempted to distinguish such activities from those that amount to the establishment of a campaign organization. For example, in AO 1981–32, the Commission determined that the regulations "draw a distinction between activities directed to an evaluation of the feasibility of one's candidacy as distinguished from conduct signifying that a private decision to become a candidate has been made." The Commission has based this distinction on two aspects of the regulations. First, the regulations are explicitly limited "solely" to activities designed to assist in making a determination of whether to run for Federal office. The Commission's distinction has also been based on the fact that the regulations expressly prohibit activities to promote a campaign—the accumulation of funds to be spent once the person becomes a candidate and use of general public political advertising.

Sections 100.7(b)(1) and 100.8(b)(1) specifically state that activities permissible under the exemptions include, but are not limited to, expenses for conducting a poll, telephone calls, and travel to determine whether an individual should become a candidate. Through its advisory opinions, the Commission has also allowed as a part of "testing the waters," the establishment of advisory committees to brief the individual on significant public issues (AOs 1982–19 and 1982–3) and exploratory committees to evaluate potential candidacy in particular states (AO 1979–26). An individual may also travel to attend speaking engagements, meetings and briefings; purchase or lease officer space, office equipment and supplies; and hire political consultants, public relations consultants, and specialists in opinion research. *See* AOs 1982–3 and 1981–32.

The Commission has viewed many other activities as campaigning not within the "testing the waters" exemption. In AO 1981–32, the Commission concluded that no written or oral statement could refer to the individual as a "candidate" for a particular office. The Commission has also determined that an individual may not plan or schedule activities designed to heighten his or her political appeal to the electorate. Moreover, the Commission has decided that to stay within the exemption, funds must be raised only for the purpose of financing the exempt activity. AO 1979–26. Funds received for "testing the waters" that exceed what is reasonably expected to be spent for those purposes would presumably have been raised for future campaign expenditures. Thus, such funds would count toward the $5,000 candidate status threshold unless returned to the donors within 15 days of receipt. *See AO 1981–32.*

Despite the Commission's attempts to limit the scope of the "testing the waters" exceptions concerns have been raised that the exemptions have been expanded to include activities beyond those they were originally intended to encompass. *See* dissents to AOs 1981–32 and 1982–19. One approach to addressing these issues would be to revise the Commission's regulations to clarify that the exemptions do not apply to campaign activities which indicate that the individual has already decided to run for a particular office. Under that approach, §§ 100.7(b)(1) and 100.8(b)(1) could be amended to specifically state that they do not apply to campaigning and to include an illustrative list of specific activities that are not considered "testing the waters" activities. Therefore, the Commission requests comments on specific activities that would be considered permissible "testing the waters" activities.

B. Applicability of Contribution Limitations and Prohibitions to Receipts and Disbursements for "Testing the Waters" Activities.

The "testing the waters" regulations provide that funds received or expended for "testing the waters" become reportable contributions and expenditures if the individual becomes a candidate. However, the regulations do not expressly state whether the contribution limitations and prohibitions apply to receipts and disbursements during the "testing the waters" period. A possible revision to clarify whether the prohibitions and limitations apply to "testing the waters" activities poses the following issues:

1. Should the Commission permit contributions in excess of the limitations of 2 U.S.C. 441a(a) to be accepted for "testing the waters" activities?

2. Should the Commission permit funds from sources prohibited under the Act, such as corporations, labor organizations or national banks, to be used for "testing the waters" activities?

List of Subjects in 11 CFR Parts 100 and 101

Elections, Political candidates.

Discussion

In AO 1982–19, the Commission determined that the prohibitions, limitations, and requirements of the Act become applicable only when an individual becomes a candidate. The Commission thus concluded in that opinion that an individual could accept funds in excess of the contribution limits of 2 U.S.C. 441a(a) and funds from prohibited sources, such as corporations and labor organizations. Receipts and disbursements for "testing the waters" activities become contributions and expenditures under the Act if the individual becames a candidate. Therefore, the Commission found that, pursuant to section 101.3, any funds in excess of the contribution limits or from prohibited sources would have to be refunded or repaid within 10 days after the individual becomes a candidate.

Concerns have been raised that the Commission's interpretation of the regulations in AO 1982–19 has increased the potential for circumvention of the prohibitions and limitations of the Act. The Commission's decision in AO 1982–19 has also resulted in the ironic situation that funds which are permissible when donated subsequently become illegal and must be refunded when the individual becomes a candidate. One approach to resolving these issues would be to revise the regulations to state whether the contribution limitations and prohibitions of the Act apply to receipts and disbursements for "testing the waters". There are two possible avenues which could be taken in this regard. The Commission could decide to reverse its position in AO 1982–19, making funds for "testing the waters" activities subject to the Act's prohibitions and limitations and include a provision to that effect in the regulations. Alternatively, the Commission could retain the current approach. The Commission would like to receive comments on each of these alternatives.

(2 U.S.C. secs. 431(8), 431(9), 432(e)(2) and 438(a)(8))

Dated: January 12, 1984.

Lee Ann Elliott,

Chairman, Federal Election Commission.

[FR Doc. 84–1185 Filed 1–16–84; 8:45 am]

BILLING CODE 6715–01–M

FEDERAL RESERVE SYSTEM

12 CFR Part 220

[Docket No. R–0500]

Credit By Brokers and Dealers; Regulation T

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board is proposing to amend Regulation T (12 CFR Part 220, Credit By Brokers and Dealers) to permit an options clearing agency to accept margin securities to meet its deposit requirements. This action is being taken in order to facilitate the SEC's approval of a proposed Options Clearing Corporation program whereby the class of securities eligible for the options clearing agency's deposit requirements will be expanded.

DATE: Comments should be received on or before February 15, 1984.

ADDRESS: Comments, which should refer to Docket No. R–0500, may be mailed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, D.C. 20551 or delivered to the C Street Entrance between 8:45 a.m. and 5:15 p.m.

FOR FURTHER INFORMATION CONTACT: Laura Homer, Securities Credit Officer, or Robert Lord, Attorney, Division of

Banking Supervision and Regulation (202) 452–2781.

SUPPLEMENTARY INFORMATION: The Options Clearing Corporation ("OCC") has a program ("valued securities program") in which it accepts certain margin securities from its clearing members in satisfaction of their OCC deposit requirements. OCC's activities are subject to Regulation T, which currently permits the deposit only of any underlying securities for classes of option contracts outstanding at the time of the deposit. OCC recently filed a proposed rule change (File No. SR–OCC–83–17) with the SEC to expand its valued securities program by eliminating the requirement that only stocks underlying listed options can be deposited with OCC, and permitting the deposit of any common stocks which (i) are traded on a national securities exchange, or are NASDAQ securities that are designated as National Market System securities pursuant to SEC Rule 11Aa 2-1 (17 CFR 240.11Aa–2), (ii) have last sale reports disseminated on the consolidated tape and (iii) have a market value greater than $10 per share; provided that stocks which are suspended from trading or which are subject to special requirements under exchange margin rules may not be deposited with OCC. The Board believes the rule change proposed by OCC is appropriate and, therefore, is proposing an amendment to Regulation T that, in conjunction with the SEC rule approval, will permit the expanded deposit program to take place without unnecessary delay. The amendment to Regulation T would permit the deposit of any margin security which also meets SEC-approved criteria for clearing deposits.

Initial Regulatory Flexibility Analysis

The change proposed pursuant to this action reduce specific administrative and regulatory burdens. The Board certifies for purposes of 5 U.S.C. 605(b), therefore, that the proposed amendment to Regulation T is not expected to have any adverse impact on a substantial number of small businesses.

List of Subjects in 12 CFR Part 220

Banks, Banking, Borrowers, Brokers, Credit, Federal Reserve System, Margin, Margin requirements.

PART 220—[AMENDED]

Accordingly, pursuant to sections 7, 8, and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g, 78h, and 78w) the Board proposes to amend Regulation T (12 CFR Part 220) as follows:

In § 220.14(b), paragraphs (3) and (4) would be deleted in their entirety, and replaced with a single new paragraph (b)(3), which would read as follows:

§ 220.14 Clearance of securities.

* * * * *

(b) * * *

(3) the deposit consists of any margin security and complies with the rules of the clearing agency which have been approved by the SEC.

By order of the Board of Governors of the Federal Reserve System, January 11, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84–1133 Filed 1–16–84; 8:45 am]

BILLING CODE 6210–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD–FRL–2507–6]

Standards of Performance for New Stationary Sources; Fossil-Fuel-Fired Steam Generators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Reopening of Public Comment Period.

SUMMARY: On October 21, 1983, revisions to the existing new source performance standards for large fossil-fuel-fired steam generating units constructed after August 17, 1971 (40 CFR Part 60, Subpart D) were proposed (48 FR 48960). These revisions would establish sulfur dioxide compliance, emission monitoring, and reporting requirements on a 30-day rolling average basis.

In response to several requests, additional materials have been added to the docket for the proposed revisions and the period for receiving written comments is being reopened for 60 days.

DATES: Comments on the proposed revisions are requested by March 19, 1984.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate, if possible) to: Central Docket Section (LE–131), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Attention: Docket No. A–81–15.

Docket. Docket No. A–81–15 containing supporting information used in developing the proposed revisions is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Fred Porter or Mr. Walter Stevenson, Standards Development Branch, Emission Standards and Engineering Division (MD–13), U.S. Environmental Protection Agency, Research Traingle Park, N.C. 27711. Telephone: (919) 541–5624.

Dated: December 22, 1983.

Joseph A. Cannon,

Assistant Administrator for Air and Radiation.

[FR Doc. 84–1165 Filed 1–16–84; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 90

[PR Docket No. 83–1346, Rm–4539; FCC 83–583]

Amendment To Make Ten Frequencies in 72–76 MHz Band Available to Forest Products Radio Service for Low Power Mobile Operations

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend Part 90 of the Commission's Rules to permit the use of ten 72–76 MHz frequencies in the Forest Products Radio Service for low power mobile operations. Allowing such use would relieve serious frequency congestion that now exists and the low power operations contempated would minimize interference to existing users of these frequencies.

DATES: Comments are due by February 15, 1984 and replies by March 15, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Eugene Thomson, Private Radio Bureau (202) 634–2443.

List of Subjects

47 CFR Part 2

Radio frequency allocations.

47 CFR Part 90

Forest Products Radio Service, Radio.

Notice of Proposed Rule Making

In the matter of amendment of Part 90 of the Rules to make ten frequencies in the 72–76 MHz band available to the Forest Products

Radio Service for low power mobile operations; PR Docket No. 83–1346, RM–4539.

Adopted: December 14, 1983.
Released: January 4, 1984.

By the Commission: Commissioner Patrick not participating.

1. Forest Industries Telecommunications (FIT) has filed a Petition for Rule Making (RM–4539) [1] to amend Part 90 of the Commission's Rules to make ten (10) frequencies in the 72–76 MHz frequency band available for low power mobile operations in the Forest Products Radio Service.[2] These frequencies would be utilized for low power communications within the confines of mills, plants, and logging sites on a shared basis with the Manufacturers, Special Industrial, and Railroad Radio Services, and would be subject to the provisions of § 90.257(b).[3] Theses frequencies also would argument the current use of 154.57 and 154.60 MHz which are low power mobile frequencies shared with, but secondary to, the Business Radio Service, and which FIT claims are badly overloaded, particularly in the Northwestern U.S.

2. In support of their petition, FIT indicates that operations in the Forest Products Radio Service are heavily concentrated in three general areas of the United States: the Northwest (Oregon, Washington, Idaho and Northern California), the Southeast (Georgia, Northern Florida, South Carolina, Mississippi, Eastern Texas and Alabama) and the Northeast (Maine, Vermont and New Hampshire). It claims that annual radio usage growth rates of 8–9% have caused severe crowding and congestion in these three geographic areas. Further, in the Southeastern U.S., congestion on present Forest Products Radio Service channels is increased by sharing with Petroleum and Manufacturers Radio Services. Also complicating the situation in the Pacific Northwest and the Northeast, Canadian operators use many of the Forest Products Radio Service frequencies.

3. FIT expects that the demand for Forest Products frequencies in the Northwest, the Southeast, and the Northeast U.S. will continue to increase and therefore, without some relief, congestion will increase. FIT also indicates it has studied various sharing possibilities and concludes that the 72–76 MHz band would be the most promising. Both the high and low bands of VHF were considered and rejected as unsatisfactory, primarily because the comparative high powers used in these bands would be incompatible with the low power operations sought. Additionally, the long range propagation characteristics of low band VHF would be unacceptable. FIT claims that the 450–470 MHz offset frequencies are also unsatisfactory for logging operations. Use of 450 MHz band equipment has been ineffective in the forest areas because the thinner crystals required in that band could not tolerate the "slam-bang" environment of logging operations. This leaves the 72–76 MHz band as the most likely choice under the Commission's Rules. Finally, FIT states that operations by Forest Products Radio Service users at 72–76 MHz would be in remote rural and forested areas, well away from any significant reception of television stations on channels 4 and 5. Hazards to television reception would be minimal and compliance with § 90.257 of the Commission's Rules would present no difficulty.[4]

4. Comments on the petition were received from the Manufacturers Radio Frequency Advisory Committee (MRFAC) which indicated that they would not oppose FIT's proposed rule changes provided the Commission adopts two limitations:

a. The Forest Products Radio Service sharing of the ten frequencies must be limited to the 13 states that FIT has indicated have the heaviest use by the Forest Products Radio Service.

b. Within those 13 states, FIT members must be excluded from using the frequencies within the boundaries of the 225 largest standard metropolitan statistical areas (SMSAs).

Reply comments were submitted by FIT stating that the restrictions proposed by MRFAC would be inconsistent with interservice sharing concepts and would be unduly restrictive.

5. We have reviewed the petition and comments and there appears to be merit in allowing Forest Products Radio Service eligibles to share the ten 72–76 MHz frequencies requested for low power operations. With regard to the two limitations proposed by MRFAC, which would place certain geographical restrictions on sharing of these frequencies, we feel that such limitations are too restrictive, unnecessary, and would unduly complicate the rules for sharing these frequencies. As indicated in the petition and comments, the great bulk of forest products activity is carried out in the indicated 13 states. Any use of these frequencies elsewhere can be controlled by proper coordination procedures. To prohibit Forest Products Radio Service eligibles from using these frequencies within the boundaries of the 225 largest SMSAs would severely limit the relief that sharing these frequencies would provide. The expected separation of forest products operations from other users of these frequencies and the very low transmitter powers to be used should produce a very low probability of interference among users.

6. We are proposing therefore to extend the authority to use ten 72–76 MHz band frequencies for low power mobile operations to the Forest Products Radio Service. These frequencies are to be shared under identical rules with the Manufacturers, Special Industrial, and Railroad Radio Services, as indicated in the attached Appendix.

7. The Commission certifies that Section 603 of the Regulatory Flexibility Act of 1980 does not apply to the Rules proposed in this Notice of Proposed Rule Making because there will not be any negative economic impact on a substantial number of small entities. On the contrary those small businesses involved in mill and logging operations will benefit by having increased system efficiency and safety. The Secretary shall cause a copy of this Notice of Propose Rule Making, including the above certification, to be published in the **Federal Register**, and to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 605(b) of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164, 50 U.S.C. 601 *et seq.* (1981).

8. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the commission adopts a notice of proposed rule making until the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the Public file.

[1] The petition was filed on June 9, 1983 and placed on public notice on July 7, 1983.

[2] The ten frequencies requested are 72.44, 72.48, 72.52, 72.56, 72.60, 75.44, 75.48, 75.52, 75.56, and 75.60 MHz.

[3] Section 90.257(b) of the Rules specifies the criteria governing the use of 72–76 MHz frequencies by mobile stations in the Special Industrial, Manufacturers, and Railroad Radio Services.

[4] Section 90.257 of the Rules concerns the assignment and use of frequencies in the 72–76 MHz band including TV protection criteria.

Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding, must prepare a written summary of that presentation. On the day of that oral presentation, a written summary must be served on the Commission's Secretary for inclusion in the Public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's Rules, 47 CFR 1.1231.

9. Authority for issuance of this Notice of Proposed Rule Making is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r). Pursuant to the procedures set out in § 1.415 of the Commission's Rules, 47 CFR 1.415, interested persons may file comments on or before February 15, 1984, and reply comments on or before March 15, 1984. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In researching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

10. In accordance with the provisions of § 1.419 of the Commission's Rules, 47 CFR 1.419, formal participants shall file an original and five copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 9 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

11. For further information on this proceeding, contact Eugene Thomson, Private Radio Bureau, Federal Communications Commission, Washington, D.C. (202) 634–2443.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 2—[AMENDED]

Parts 2 and 90 of the Commission's Rules and Regulations are amended as follows:

1. In § 2.106, footnote NG49 to the Table of Frequency Allocations is revised to read:

§ 2.106 Table of frequency allocations.

* * * * *

NG49 The following frequencies may be authorized for low-power (1 watt output) mobile operations in the Manufacturers Radio Service subject to the condition that no interference is caused to the reception of television stations operation on channels 4 and 5 and that their use is limited to a manufacturing facility:

MHz	MHz	MHz	MHz	MHz
72.02	72.10	72.18	72.26	72.34
72.04	72.12	72.20	72.28	72.36
72.06	72.14	72.22	72.30	72.38
72.08	72.16	72.24	72.32	72.40

Further, the following frequencies may be authorized for mobile operations in the Special Industrial Radio Service, Manufacturers Radio Service, Railroad Radio Service and Forest Products Radio Service subject to the condition that no interference is caused to the reception of television stations operating on channels 4 and 5; and that their use is limited to a railroad yard, manufacturing plant, logging site, mill, or similar industrial facility.

MHz	MHz	MHz	MHz	MHz
72.44	72.52	72.60	75.48	75.56
72.48	72.56	75.44	75.52	75.60

* * * * *

PART 90—[AMENDED]

2. In § 90.67, the frequency table in (b) is amended, and limitation (34) is added to (c) to read as follows:

§ 90.67 Forest products radio service.

* * * * *

(b) * * *

FOREST PRODUCTS RADIO SERVICE
FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
* *	* * *	
72–76	Operational Fixed	4
72.44	Mobile	34
72.48	do	34
72.52	do	34
72.56	do	34
72.60	do	34
75.44	do	34
75.48	do	34
75.52	do	34
75.56	do	34
75.60	do	34
152.565	Base or Mobile	29
* *	* * *	

(c) * * *

(34) This frequency is available on a shared basis in the Manufacturers, Forest Products, Special Industrial and Railroad Radio Services and interservice coordination is required. All communications on this frequency must be conducted within the boundaries of a logging site or confines of a plant, factory, lumber or paper mill. All operations on this frequency are subject to the provisions of § 90.257(b).

* * * * *

3. Section 90.73(d)(7) is revised to read as follows:

§ 90.73 Special industrial radio service.

* * * * *

(d) * * *

(7) This frequency is available on a shared basis in the Manufacturers, Forest Products, Special Industrial and Railroad Radio Services and interservice coordination is required. All communications must be conducted within the boundaries or confines of a plant, factory, shipyard, mill, mine, farm, ranch, or construction area. All operations on this frequency are subject to the provisions of § 90.257(b).

* * * * *

4. Section 90.79(d)(4) is revised to read as follows:

§ 90.79 Manufacturers radio service.

* * * * *

(d) * * *

(4) This frequency is available on a shared basis in the Manufacturers, Forest Products, Special Industrial and

Railroad Radio Services and interservice coordination is required.

* * * * *

5. Section 90.91(c)(2) is revised to read as follows:

§ 90.91 Railroad radio service.

* * * * *

(c) * * *

(2) This frequency is available on a shared basis in the Manufacturers, Forest Products, Special Industrial, and Railroad Radio Services and interservice coordination is required. All communications must be within the boundaries or confines of railroad terminals or yards. All operations on this frequency are subject to the provisions of § 90.257(b).

* * * * *

6. Section 90.257 is amended by revising the introductory text of paragraph (b) to read as follows:

§ 90.257 Assignment and use of frequencies in the 72–76 MHz band.

* * * * *

(b) The following criteria shall govern the authorization and use of frequencies within the band 72–76 MHz by mobile stations in the Special Industrial, Manufacturers, Forest Products, and Railroad Radio Services.

* * * * *

[FR Doc. 84-830 Filed 1-16-84; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-1201; RM-4518; MM Docket No. 83-1324; RM-4626]

FM Broadcast Station in Oscoda, Michigan and TV Broadcast Station in Greenville, Texas; Correction

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making; correction.

SUMMARY: On November 10, 1983, the Commission published a Notice of Proposed Rule Making in MM Docket No. 83–1201, concerning the proposed assignment of an FM Broadcast Station in Oscoda, Michigan (48 FR 51657). Inadvertently, the docket number appearing in the preamble of that document was carried as MM Docket No. 83–1145.

Also, on December 22, 1983, the Commission published a Notice of Proposed Rule Making in MM Docket No. 83–1324, concerning the proposed assignment of a TV Broadcast Station in Greenville, Texas (48 FR 56612). Inadvertently, the docket appearing in the preamble of that document was carried as MM Docket No. 83–1234.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau (202) 634–6530.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-1205 Filed 1-16-84; 8:45 am]

BILLING CODE 6712-01-M

GENERAL SERVICES ADMINISTRATION

48 CFR Ch. 5

GSA Implementation of the Federal Acquisition Regulation (FAR); General Services Administration Acquisition Regulation (GSAR)

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice invites written comments on the General Services Administration proposal to establish the General Services Administration Acquisition Regulation (GSAR) as Chapter 5 of the Federal Acquisition Regulations System. The GSAR will implement and supplement the Federal Acquisition Regulation. The new GSAR will supersede the current General Services Administration Procurement Regulations. The following Parts of the proposed GSAR are available for review and comment:

Part 504—Administrative Matters

Part 522—Application of Labor Laws to Government Acquisitions

DATES: Comments are due not later than February 16, 1984.

ADDRESS: Requests for copies of the proposals and comments should be addressed to the Office of GSA Acquisition Policy and Regulations, Office of Acquisition Policy, Room 4026, 18th & F Streets, NW., Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT: Ida Ustad, Office of GSA Acquisition Policy and Regulations, Office of Acquisition Policy (202) 523–4754.

SUPPLEMENTARY INFORMATION:

Impact

The Director, Office of Management and Budget (OMB), by memorandum dated October 4, 1982, exempted agency procurement regulations from Executive Order 12291. The General Services Administration (GSA) certifies that these documents will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The rule does not contain information collection requirements which require approval by OMB under 44 U.S.C. 3501 et seq. This rule provides uniformity with other Federal agencies and reduces the administrative impact on bidders as set forth in OFPP Policy Letter 83–2.

List of Subjects in 48 CFR Chapter 5

General Services Administration Acquisition Regulation and Government procurement.

Dated: December 28, 1983.

Richard H. Hopf III,

Director, Office of GSA Acquisition Policy and Regulations.

[FR Doc. 84-1197 Filed 1-16-84; 8:45 am]

BILLING CODE 6820-01-M

Notices

Federal Register
Vol. 49, No. 11
Tuesday, January 17, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Forest Service

[Docket No. 83-353]

Draft Environmental Impact Statement on the Gypsy Moth Suppression and Eradication Projects

AGENCY: Animal and Plant Health Inspection Service and Forest Service, USDA.

ACTION: Notice.

SUMMARY: This document provides additional information concerning a draft environmental impact statement on Gypsy Moth Suppression and Eradication Projects (DEIS) (USDA FS–DEIS 83–05) that has been prepared and is available for public comment. The DEIS was sent to the Environmental Protection Agency (EPA) on December 28, 1983, by the U.S. Department of Agriculture (USDA) pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969.

DATES: Written comments concerning the DEIS must be received on or before February 25, 1984.

ADDRESSES: Requests for a copy of the DEIS and comments relating to eradication projects conducted by the Animal and Plant Health Inspection Service should be addressed to: R. L. Williamson, Director, National Program Planning Staff, Plant Protection and Quarantine, APHIS, USDA, Room 648, Federal Building, Hyattsville, MD 20782. Requests for a copy of the DEIS and comments relating to suppression projects conducted by the Forest Service should be addressed to Thomas N. Schenarts, Area Director, USDA Forest Service , 370 Reed Road, Broomall, Pennsylvania 19008.

Copies are available for public inspection at the following locations:

Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 302–E, Administrative Building, 14th and Independence Avenue, Washington, DC 20250

Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 663, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782

Northeastern Area, State and Private Forestry, Forest Service, U.S. Department of Agriculture, 370 Reed Road, Broomall, PA 19008

Northeastern Area, State and Private Forestry, Forest Service, U.S. Department of Agriculture, 180 Canfield Street, Morgantown, WV 26505

FOR FURTHER INFORMATION CONTACT: Gary Moorehead, Staff Officer, Field Operations Support Staff, Plant Protection and Quarantine, APHIS, USDA, Room 663, Federal Building, Hyattsville, MD 20782, (301) 436–8295; or Thomas N. Schenarts, Area Director, Insect and Disease Management Staff, Northeastern Area, State and Private Forestry, Forest Service, U.S. Department of Agriculture, 370 Reed Road, Broomall, PA 19008, (215) 461–3158.

SUPPLEMENTARY INFORMATION: The Animal and Plant Health Inspection Service (APHIS) and the Forest Service of the United States Department of Agriculture published a notice in the **Federal Register** on October 11, 1983 (48 FR 46089) of their intent to prepare a programmatic environmental impact statement on the Gypsy Moth Suppression and Eradication Projects (EIS). The decision to prepare the EIS was made because of the need to revise and update an earlier Programmatic Environmental Impact Statement for Gypsy Moth Suppression and Regulatory Program Activities to reflect program and other changes that have occurred since the programmatic EIS was prepared in 1981. The decision by APHIS and the Forest Service to cooperate in the preparation of the EIS was made because it was determined that an indepth and complete study could be done while conserving economic and other resources of both agencies.

In the notice of intent to prepare an EIS published in the **Federal Register** on October 11, 1983, the public was requested to submit comments pertaining to any issues, concerns or questions about suppression programs to the Forest Service, or about eradication programs to APHIS by October 25, 1983. The notice further stated that a copy of the DEIS would be filed with EPA.

The comments received have been considered by APHIS and the Forest Service in preparation of the DEIS. The DEIS was furnished to EPA on December 28, 1983 and a notice was published in the **Federal Register** on January 6, 1984 (49 FR 933) announcing the availability of the document and the comments on the document were due by February 25, 1984. This notice provides additional information advising interested persons that copies are available upon request at the above noted addresses.

Done at Washington, D.C., this 13th day of January 1984.

Robert Buchanan,

Acting Administrator, Animal and Plant Health Inspection Service.

Done at Washington, D.C., this 13th day of January 1984.

F. Dale Robertson,

Associate Chief, Forest Service

[FR Doc. 84–1258 Filed 1–16–84; 8:45 am]
BILLING CODE 3410–34–M

CIVIL AERONAUTICS BOARD

[Docket 41637]

National Express Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-titled matter is assigned to be held on January 20, 1984, at 2:00 p.m. (local time), in Room 1012, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned.

In order to facilitate the conduct of the conference, parties and prospective parties shall, no later than January 18, 1984, submit one copy to each party and four copies to the Judge of: (1) Proposed stipulations; (2) proposed requests for additional information and evidence; (3) statements of positions; and (4) proposed procedural dates.

Dated at Washington, D.C., January 11, 1984.

William A. Kane, Jr.,

Administrative Law Judge.

[FR Doc. 84-1200 Filed 1-16-84; 8:45 am]

BILLING CODE 6320-01-M

Agency Information Collection Activities Under OMB Review

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. 35).

SUMMARY: The Civil Aeronautics Board is requesting the Office of Management and Budget's approval of information collection requirements in Part 327 of the Board's Procedural Regulations, which sets forth the situations when the Civil Aeronautics Board will pay interest to carries on disputed subsidy claims as required by the FY 1983 Transportation Appropriations Act (Pub. L. 97-369) and what a carrier must do to be eligible for such payments. OMB approval is required under the Paperwork Reduction Act of 1980.

DATED: January 10, 1984.

FOR FURTHER INFORMATION CONTACT: Jack Calloway, Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-6042.

SUPPLEMENTARY INFORMATION: Agency Clearance Officer from Whom a Copy of the Collection of Information and Supporting Documents is Available: Robin A. Caldwell (202) 673-5922.

How Often the Collection of Information Must Be Filed: On occasion

Who is Asked or Required to Report: U.S. Certificated and Commuter Air Carriers

Estimate of Number of Annual Responses: 30

Estimate of Number of Annual Hours Needed to Complete the Collection of Information: 90

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-1201 Filed 1-16-84; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[Case No. 649]

Tencom Corp., et al.; Order Temporarily Denying Export Privileges

In The Matter of: Tencom Corporation, 3647 Woodhead Drive, Northbrook, Illinois 60062; Nedim Sulyak, 1303 Landwehr Road, Northbrook, Illinois 60062; Donald Malsom, 1245 North Dearborn Street, Chicago, Illinois 60610, and Najmeddin A. Elyazgi, also known as Colonel Elyazgi, also known as Captain Elyazgi, Okba Air Base, Tripoli, Socialist People's Libyan Arab Jamahiryah (Libya).

The Department of Commerce (the Department), pursuant to the provisions of § 388.19 of the Export Administration Regulations (15 CFR Parts 368-399 (1983)) (the Regulations), has petitioned the Hearing Commissioner for an order temporarily denying all export privileges to Tencom Corporation, of Northbrook, Illinois; its president and sole stickholder, Nedim Sulyak, of Northbrook, Illinois; its vice-president and general manager, Donald Malsom, of Chicago, Illinois, and Najmeddin A. Elyazgi, also known as Colonel Elyazgi, also known as Captain Elyazgi, of Tripoli, Socialist People's Libyan Arab Jamahiryah (Libya) (hereinafter collectively referred to as respondents).

The Department states that respondents were indicted on July 21, 1982, by a federal grand jury in the Northern District of Illinois. The indiictment charged respondents with, *inter alia,* conspiring to illegally export U.S.-origin aircraft parts to Libya between November 1980 and September 1981, fifteen separate counts of exporting U.S.-origin aircraft parts, components and avionics to Libya without the required export license from the Department, and three counts of making false statements on export control documents. [1] On August 15, 1983, following a jury trial, respondents Tencom and Malsom were convicted of, *inter alia,* conspiracy, two counts of making false statements on export control documents and thirteen counts of violating the Export Administration Act. Tencom was also convicted on an additional count of violating the Export Administration Act. Malsom has filed an appeal from his conviction. Sulyak, a Turkish national whose last known address was in Northbrook, Illinois but whom the Department believes now resides in Turkey, and Elyazgi, a member of the Libyan Air Force, did not appear for trial and are currently fugitives from justice.

The Department states further that respondents may in the future attempt to engage in transactions involving U.S.-origin commodities or technical data contrary to the Regulations, unless appropriate action is taken to preclude such attempts. The Department also states that it will initiate administrative proceedings against the respondents in the near future.

Based on the showing made by the Department, I find that an order temporarily denying all export privileges to the respondents is required in the public interest to facilitate enforcement of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (Supp. V 1981)), and the Regulations.

Anyone who is now or may in the future be dealing with the above-named respondents in transactions that in any way involve U.S.-origin commodities or technical data is specifically alerted to the provisions set forth in Paragraph IV below.

Accordingly, it is hereby

Ordered

I. All outstanding validated export licenses in which respondents appear or participate, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Administration for cancellation.

II. The respondents, their successors or assignees, officers, partners, representatives, agents, and empolyees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) as a party or as a representative of a party to a validated export license application, (b) in the preparation or filing of any export license application or reexport authorization, or of any document to be submitted therewith, (c) in the obtaining or using of any validated or general export license or other export control document, (d) in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported, and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondents but also to their agents and employees

[1] Respondents were also indicted on charges that they had violated the Arms Export Control Act, and Act administered by the U.S. Department of State.

and to any successors. After notice and opportunity for comment, such denial may also be made applicable to any person, firm, corporation, or business organization with which respondents are now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or related services.

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Administration, shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with the respondents or any related party, or whereby the respondents or any related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for the respondents or any related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. In accordance with the provisions of § 388.19(b) of the Regulations, the respondents may move at any time to vacate or modify this temporary denial order by filing with the Hearing Commissioner, International Trade Administration, U.S. Department of Commerce, Room 6716, 14th and Constitution Avenue, NW., Washington, D.C. 20230, an appropriate motion for relief and may also request an oral hearing thereon, which, if requested, shall be held before the Hearing Commissioner at the earliest convenient date.

VI. This order is effective immediately. It remains in effect until the final disposition of the administrative proceedings to be initiated against the respondents. A copy of this order and Parts 387 and 388 of the Regulations shall be served upon the respondents.

Dated: January 10, 1984

Thomas W. Hoya,

Hearing Commissioner.

[FR Doc. 84-1182 Filed 1-16-84; 8:45 am]

BILLING CODE 3510-TD-M

Minority Business Development Agency

Minority Business Development Center; Applications

AGENCY: Department of Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications under its Minority Business Development Center (MBDC) program to operate one project for a 12-month period beginning May 1, 1984 in the Fayetteville, North Carolina SMSA. The cost of the project is estimated to be $187,000. The maximum Federal participation amount is $158,950. The minimum amount required for non-Federal participation is $28,050. The award number will be 04-10-84005-01.

Applicants shall be required to contribute at least 15 percent of the total program costs through non-Federal funds. Cost sharing contributions can be in the form of cash contributions, fee for services or in-kind contributions.

CLOSING DATE: February 17, 1984.

ADDRESS: Atlanta Regional Office, Minority Business Development Agency (Appropriate Address), 1371 Peachtree Street, NE., Suite 505, Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Gordon Anderson, Telephone (404) 881-3094.

SUPPLEMENTARY INFORMATION:

A. Scope and Purpose of This Announcement

Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. The MBDC program is specifically designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: Coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit through which and from which information and assistance to and about minority businesses are funneled.

B. Eligible Applicants

Awards shall be open to all individuals, non-profit organizations, for-profit firms, local and state governments, American Indian tribes and educational institutions.

C. Evaluation Process

All proposals received as a result of this announcement will be evaluated by a MBDA review panel.

D. Evaluation Criteria for Minority Business Development Center Applications

The evaluation criteria is designed to facilitate an objective evaluation of competitive applications for the Minority Business Development Center program.

MBDA reserves the right to reject any or all applications, including the application receiving the highest evaluation, and will exercise this right when it is determined that it is in the best interest of the Government to do so (e.g., the apparent successful applicant has serious unresolved audit issues from current or previous grants, contracts or cooperative agreements with an agency of the Federal Government).

Evaluation of proposals will employ the following criteria:

1. *Capability and Experience of Firm/Staff*—provide information that demonstrates the organization's capabilities and prior experiences in addressing the needs of minority business individuals and firms. Provide information that demonstrates the staff's capabilities and prior experiences in providing management and technical assistance to minority individuals and firms. Indicate previous experience in MBE community to be served in terms of: Inventorying resources and opportunities; the brokering thereof; and providing management and technical assistance.

The following are key factors to be considered in this section:

Firm

—The organization's receptivity in the MBE community to be served, i.e., business contacts in the public and private sector; leadership responsibilities; and experience in assisting MBE business persons and firms. (References from clients assisted are pertinent.)

—Background credentials and references for the owners of the organization and a capability statement of what the organization can do.

—Knowledge of the geographic area to be served in terms of the needs of

minority businesses and past ongoing relationships with local, public and private—entities that can possibly enhance the BDC program effort—i.e., Chambers of Commerce, trade associations, venture capital organizations, banks, SBA, HUD, state, city and county government agencies, etc.

Staff

—List personnel to be used. Indicate their salaries, educational level and previous experience. Provide resumes for all professional staff personnel.
—Demonstrate competence among staff to effectuate mergers, acquisitions, spin-offs and joint-ventures.
—Provide organizational chart, job descriptions and qualification standards involving all professional staff persons to be utilized on the project.
—If any contractors are to be utilized, identify and indicate areas and level of experience. *Primary consideration will be given to inhouse capability.*

Note.—All contracting proposed should be in accordance with procurement standards in Attachment O of OMB Circulars A–110 or A–102.

II. *Techniques and Methodology*—specify plans for achieving the goals and objectives of the project. This section should be developed by using the outline of the Work Requirements and the MBDC responsibilities as *guides* and will become part of the award document. Include start-up plan and example of work plan format. Fully explain the procedures for: outreach, screening, assisting and monitoring clients; maintaining the profile inventory of minority businesses; and brokering of new business ownership, market and capital opportunities and prevention of business failures. In summary, address how, when and where work will be done and by whom. Include level of performance.

III. *Resources*—address technical and administrative resources, i.e., computer facilities, voluntary staff time and space; and financial resources in terms of meeting MBDA's 10% cost-sharing requirement and including a fee for services for assistance provided clients. A fee for services in the amount of 10% of the cost of assistance will be charged to all clients receiving management and technical assistance.

Cost-sharing is that portion of project costs not borne by the Federal Government. The composition and amount of cost-sharing are key factors that will be considered in determining the merit of this section. The cost sharing requirement can be met through the following order or priority: (1) Cash contributions; (2) fee for services; and (3) in-kind contributions.

A. *Cash contribution*—means cash that is contributed or donated by the recipient, and other non-Federal sources, i.e., public agencies and institutions, private organizations, corporations and individuals.

B. *Fee for services*—is a charge to a client for assistance provided by the MBDC for M&TA and/or SCS.

C. *In-Kind contribution*—represents the value of non-cash contributions provided by the recipient and other non-Federal sources. The order of priority for in-kind contributions are: High technology systems to be utilized to achieve program objectives; top level staff personnel and real and personal property donated by other public agencies, institutions and private organizations. Property purchased with Federal funds will not be considered as the recipient's in-kind contribution. Under no circumstances can the in-kind contribution exceed 50% of the total non-Federal contribution.

IV. *Costs*—demonstrate in narrative format that costs being proposed will give the minority business client and the government the most effective program possible in terms of quality, quantity, timeliness and efficiency.

Include the principal costs involved for achieving work plan under Cooperative Agreement by completing Part III—the Budget Information Section of the Request for Application.

Provide cost-sharing plan information in terms of methodology and format for billing the costs of management and technical assistance and specialized consulting services to clients.

Total project cost will be evaluated in terms of:

—Clear explanations of all expenditures proposed, and
—The extent to which the applicant can leverage Federal program funds and operate with *economy* and *efficiency*.

In conclusion, the applicant's schedule for start of the MBDC operation should be included in Part II. Part II will be known as the applicant's plan of operation and will be incorporated into the Cooperative Agreement Award.

A detailed justification of all proposed costs is required for Part III and each item must be fully explained.

The failure to supply information in any given category of the criteria will result in the application being considered non-responsive and dropped from competitive review.

All information submitted is subject to verification by MBDA.

E. Disposition of Proposals

Notification of awards will be made by the Grants Officer, U.S. Department of Commerce (DOC) Organizations whose proposals are unsuccessful will be advised by MBDA, DOC.

F. Proposal Instructions and Forms

This program is subject to OMB Circular A–95 requirements.

Questions concerning the preceding information, copies of application forms, and applicable regulations can be obtained at the above address.

Nothing in this solicitation shall be construed as committing MBDA to divide available funds among all qualified applicants.

G. A pre-application conference to assist all interested applicants will be held at the above address on January 31, 1984 at 1:00–4:00 pm.

Dated: January 10, 1984

(11.800 Minority Business Development)

(Catalog of Federal Domestic Assistance)

Carlton L. Eccles,

Deputy Regional Director.

[FR Doc. 84–1195 Filed 1–16–84; 8:45 am]

BILLING CODE 3510–21–M

National Oceanic and Atmospheric Administration

Dismissal of Federal Consistency Appeal of Exxon Company, U.S.A., From Objection by the California Coastal Commission

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of Dismissal of Appeal.

SUMMARY: By letter dated December 2, 1983, Exxon Company, U.S.A. withdrew its appeal to the Secretary of Commerce filed on August 26, 1983, from the consistency objection of the California Coastal Commission (Commission) to Exxon's proposed drilling of three exploratory wells on the Southwest Quarter of OCS–P 0467 in the Santa Rosa Unit in the Santa Barbara Channel. Exxon withdrew its appeal as a result of discussions between Exxon and the Commission which led to a settlement of the matter in dispute. Under the settlement Exxon amended its plan of Exploration to include additional mitigation measures to reduce potential conflicts with the commercial fishing industry. In exchange, the Commission approved the portion of the amended plan of Expolrastion relating to the first of the three wells. In response, the

Secretary has dismissed the appeal effective December 14, 1983.

Notice is hereby given that the appeal by Exxon Company, U.S.A. is dismissed in accordance with NOAA regulations at 15 CFR 930.128 and 930.130(d).

(Federal Domestic Assistance Catalog No. 11.149 Coastal Zone Management Program Administration)

Dated: January 9, 1984.

Timothy R. E. Keeney,

Acting General Counsel, National Oceanic and Atmospheric Administration.

[FR Doc. 84-1121 Filed 1-16-84; 8:45 am]

BILLING CODE 3510-08-M

DEPARTMENT OF COMMERCE

International Trade Administration

DEPARTMENT OF THE INTERIOR

Office of International and Territorial Affairs

Proposed Limit on Duty-Free Insular Watches in Calendar Year 1984

Correction

In FR Doc. 83-32303 appearing on page 54531 in the issue of Monday, December 5, 1983, the following name and title should have appeared immediately below the title for Frank W. Creel:

Richard T. Montoya,

Deputy Assistant Secretary, Territorial and International Affairs.

BILLING CODE 1505-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Establishment of the Air Force Reserve Officer Training Corps Advisory Committee

Under the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Air Force Reserve Officer Training Corps Advisory Committee has been found to be in the public interest in connection with the performance of duties imposed on the Department by law.

This committee will review the programs, policies, and objectives of the Air Force Reserve Officer Training Corps (AFROTC), and make recommendations to the Commander, Air Training Command.

This committee will serve the public interest by seeking to improve the AFROTC program and the quality of its product—commissioned officers in the United States Air Force.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

January 12, 1984.

[FR Doc. 84-1150 Filed 1-16-84; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

Privacy Act of 1974; Amendment to a Notice for a System of Records

AGENCY: Department of the Air Force (DAF), DOD.

ACTION: Amendments to a system notice.

SUMMARY: The Department of the Air Force is amending a notice for a system of records subject to the Privacy Act of 1974. The changes are summarized below and the system notice as amended is set forth below.

DATE: The amendment will be effective February 16, 1984, unless public comments are received which result in a contrary determination.

ADDRESS: Send comments to: Mr. Jon Updike, HQ USAF/DAAD(S), The Pentagon, Washington, DC 20301. Telephone: (202) 694-3431.

FOR FURTHER INFORMATION CONTACT: Contact Mr. Updike at the address and telephone number listed above.

SUPPLEMENTARY INFORMATION: The Department of the Air Force notices for systems of records subject to the Privacy Act of 1984, as amended (5 U.S.C. 552a), have been published in the **Federal Register** at:

FR Doc 82-30348 (47 FR 50004), November 4, 1982

FR Doc 83-1956 (48 FR 4106), January 28, 1983

FR Doc 84-15 (49 FR 700), January 5, 1984

This change does not require an altered system report as required by 5 U.S.C. 552a(o).

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

January 11, 1984.

Amendments

F177 AFAFC M

SYSTEM NAME:

Indebtedness and Claims.

In *Purposes* add caption and insert: "The information is collected to determine eligibility for waiver of erroneous payments and remission of indebtedness or additional payments for services rendered. Also, information is required to attempt collection of all claims arising out of the activities of the United States Air Force. Claims of the United States may be compromised, terminated, or suspended when warranted by the information collected. The records are used by, but not limited to, Air Force Accounting and Finance Center (AFAFC), Director of Accounting and Finance and Deputy Director of Accounting and Finance (HQ USAF/ACF), Assistant Secretary of the Air Force for Manpower and Reserve Personnel (SAF/MR`, United States Air Force Comptroller (HQ USAF/AC). The Commander, AFAFC (AFAFC/CC), uses the information to make final determinations or recommendations to SAF/MR, HQ USAF/AC and to the Comptroller General of the United States; to furnish legal advise to operating officials; to establish debts and to respond to letters received from individuals. After action is complete, files are closed and filed in individual records. SAF/MR and HQ USAF/AC use the file for making final determinations".

In *routine use of records maintained in the system, including categories of users and purposes of such uses:* Delete current entry and insert: "Disclosures of data regarding individuals' indebtedness to the Air Force are routinely made from this system of records to credit reporting agencies under the authority of the Debt Collection Act of 1982 (Pub. L. 97-365). Data necessary to identify the individual involved is disclosed to commercial credit agencies whenever a financial status report is requested for use in the administration of the Federal Claims Collection Act. Disclosures are also made to the Comptroller General of the United States who uses the records to make determinations about the claims. Disclosures may also be made to other Federal agencies when it is determined that an individual against whom the Air Force has a claim is or may be employed by that agency. In addition to other collection assistance provided the information may serve as the basis for a salary offset in accordance with 5 U.S.C. 5514".

In *disclosure to consumer reporting agencies:* Add caption and insert: "Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal

Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3))".

As amended, System F177 AFAFC M reads as follows:

F177 AFAFC M

SYSTEM NAME:

Indebtedness and Claims.

* * * * *

PURPOSES:

The information is collected to determine eligibility for waiver of erroneous payments and remission of indebtedness or additional payments for services rendered. Also, information is required to attempt collection of all claims arising out of the activities of the United States Air Force. Claims of the United States may be compromised, terminated, or suspended when warranted by the information collected. The records are used by, but not limited to, Air Force Accounting and Finance Center (AFAFC), Director of Accounting and Finance and Deputy Director of Accounting and Finance (HQ USAF/ACF), Assistant Secretary of the Air Force for Manpower and Reserve Personnel (SAF/MR), United States Air Force Comptroller (HQ USAF/AC). The Commander, AFAFC (AFAFC/CC), uses the information to make final determinations or recommendations to SAF/MR, HQ USAF/AC and to the Comptroller General of the United States; to furnish legal advice to operating officials; to establish debts and to respond to letters received from individuals. After action is complete, files are closed and filed in individual records. SAF/MR and HQ USAF/AC use the file for making final determinations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Disclosures of data regarding individuals' indebtedness to the Air Force are routinely made from this system of records to credit reporting agencies under the authority of the Debt Collection Act of 1982 (Pub. L. 97–365). Data necessary to identify the individual involved is disclosed to commercial credit agencies whenever a financial status report is requested for use in the administration of the Federal Claims Collection Act.

Disclosures are also made to the Comptroller General of the United States who uses the records to make determinations about the claims. Disclosures may also be made to other Federal agencies when it is determined that an individual against whom the Air Force has a claim is or may be employed by that agency. In addition to other collection assistance provided the information may serve as the basis for a salary offset in accordance with 5 U.S.C. 5514.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12). Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

* * * * *

[FR Doc. 84–1117 Filed 1–16–84; 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board; Meeting

January 9, 1984.

The USAF Scientific Advisory Board Ad Hoc Committee Study on the Feasibility of Air Force Logistics Command's Network Architecture will meet at HQ AFLC, Wright-Patterson AFB, OH on February 10, 1984.

The purpose of the meeting will be to obtain background on design and management plans for AFLC Logistics Force Structure Management System. The meeting will convene at 8:00 a.m. to 5:00 p.m.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (4) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202–697–8845.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 84–1192 Filed 1–16–84; 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board; Science Panel (Augmented) Meeting

January 4, 1984.

The USAF Scientific Advisory Board Air Force Office of Scientific Research (AFOSR) Review Committee will meet February 2–3, 1984 at Bolling AFB, Bldg 410, Room 200, Washington, DC 20332. On 2 Feb, meeting will begin at 8:30 and end at 5:45. On 3 Feb, meeting will begin at 8:30 and end at 3:00. The purpose of the meeting will be to review the balance and composition of the AFOSR Program.

For further information, contact the Scientific Advisory Board Secretariat at 202–697–4811.

Winnibel F. Holmes,

Air Force Federal Register Liaison Office.

[FR Doc. 84–1193 Filed 1–16–84; 8:45 am]

BILLING CODE 3910–01–M

Department of the Army

Privacy Act of 1974; Publication of a Notice for a System of Records

AGENCY: Department of the Army (DoD).

ACTION: Publication of a System Notice.

SUMMARY: The Department of the Army proposes to add a system of records to its inventory of systems of records subject to the Privacy Act of 1974. The system notice for the new system is set forth below.

DATES: This action will be effective without further notice on February 16, 1984.

ADDRESS: Send any comments to: Office of the Adjutant General, (ATTN: Mrs. Dorothy Karkanen), Headquarters Department of the Army, 2461 Eisenhower Ave., Alexandria, VA 22331.

FOR FURTHER INFORMATION CONTACT: Mrs. Dorothy Karkanen, Office of the Adjutant General, Department of the Army, 2461 Eisenhower Ave., Alexandria VA 22331. Telephone: (703) 325–6163.

SUPPLEMENTARY INFORMATION: The notices for the Army systems of records subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a) have been previously published in the **Federal Register**.

A new system report as required by (see 5 U.S.C. 552a(o)) has been submitted for this system.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

January 11, 1984.

System Name:

Out-of-Service Accounts Receivable.

System Location:

U.S. Army Finance and Accounting Center, Ft. Benjamin Harrison, IN 46249.

Categories of Individuals Covered by the System:

Separated and retired military/civilian personnel and other indebted to the U.S. Army.

Categories of Records in the System:

Records of current and former military members and civilian employees' pay accounts showing entitlements,

deductions, payments made, and any indebtedness resulting from deductions on payments exceeding entitlements. These records include, but are not limited to:

a. Individual military pay records, substantiating documents such as military pay orders, pay adjustment authorizations, military master pay account printouts from the Joint Uniform Military Pay System (JUMPS), records of travel payments, financial record data folders, miscellaneous vouchers, personal financial records, credit reports, promissory notes, individual financial statements, and correspondence;

b. Applications for waiver of erroneous payments or for remission of indebtedness with supporting documents, including, but not limited to statements of financial status (personal income and expenses), statements of commanders and/or accounting and finance officers, correspondence with members and employees;

c. Claims of individuals requesting additional payments for service rendered with supporting documents including, but not limited to, time and attendance reports, leave and earning statements, travel orders and/or vouchers, and correspondence with members and employees.

d. Delinquent accounts receivable from field accounting and finance officers including, but not limited to, returned checks, medical services billing, collection records, and summaries of the Army Criminal Investigations Command and/or Federal Bureau of Investigation reports.

e. Reports from probate courts regarding estates of deceased debtors.

f. Reports from bankruptcy courts regarding claims of the United States against debtors.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 3711; 10 U.S.C. 2774; and 12 U.S.C. 1715.

PURPOSE:

Used by the Department of the Army to process, monitor, and post-audit accounts receivable, administer the Federal Claims Collection Act, and answer inquiries pertaining thereto.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information may disclosed to:

a. U.S. Department of Justice/U.S. Attorneys: For legal action and/or final disposition of the debt claims. The litigation briefs (comprehensive, written referral recommendations) will restructure the entire scope of the collection cases.

b. Internal Revenue Service: To obtain locator status for delinquent accounts receivables; (Automated controls exist to preclude redisclosure of solicited IRS address date;) and/or to report write-off amounts as taxable income as pertains to amounts compromised and accounts barred from litigation due to age.

c. Private Collection Agencies: for collection action when the Army has exhausted its internal collection efforts.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records in collection file folders and bulk storage; card files, computer magnetic tapes and printouts; microfiche.

RETRIEVABILITY:

By Social Security Number, name, and substantiating document number; conventional indexing is used to retrieve data.

SAFEGUARDS:

Hard copy records are maintained in areas accessible only to authorized personnel who are properly screened, cleared and trained. Computerized records are accessed only by custodian of the records system and by persons responsible for servicing the records system in the performance of their official duties. Certifying finance and accounting officers have access to debt information to confirm if the debt is valid and collection action is to be continued. Computer equipment and files are located in a separate secured area accessible only to personnel authorized access to that area.

RETENTION AND DISPOSAL:

Individual military pay records and accounts receivables are converted to microfiche and retained for 6 years. Destruction is by shredding. Retention periods for other records vary according to category, but total retention does not exceed 56 years; these records are sent to Federal Records Center, General Services Administration at Dayton, Ohio; destruction is by burning or salvage as waste paper.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Finance and Accounting Center, Indianapolis, IN 46249.

NOTIFICATION PROCEDURE:

Individuals desiring to know whether this system of records contains information about them should contact the System Manager, ATTN: FINCP–F, U.S. Army Finance and Accounting Center, Indianapolis, IN 46249, and should provide sufficient information such as full name, Social Security Number, and military status or other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Individuals seeking access to record in this system pertaining to them should submit a written request as indicated in "Notification Procedure" and furnish information described therein.

CONTESTING RECORD PROCEDURES:

The Army's rules for contesting contents of records are contained in Army Regulation 340–21 (32 CFR Part 505). Specific instructions may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information is received from Department of Defense staff and field installations, Social Security Administration, Treasury Department, financial organizations, and automated system interface.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 84–1118 Filed 1–16–84; 8:45 am]
BILLING CODE 3710–08–M

DELAWARE RIVER BASIN COMMISSION

Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, January 25, 1984, beginning at 1:30 p.m. in the Hancock Room of the Holiday Inn—Independence Mall at 4th and Arch Streets, Philadelphia, Pennsylvania. The hearing will be a part of the Commission's regular business meeting, which is open to the public.

An informal pre-meeting conference among the Commissioners and staff will be open for public observation at about 11:00 a.m. in the Sherman Room of the Holiday Inn.

The subjects of the hearing will be as follows:

Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11, and/or Section 3.8 of the Compact:

1. *Public Service Electric and Gas Company (D–79–66).* A well water supply project to provide an additional source of water for the existing well system at the applicant's Salem Nuclear Generating Station, Lower Alloways Creek Township, Salem County, New Jersey. Withdrawals from the new source, Well No. 6, combined with withdrawals from the existing facilities, will not exceed the existing limitation of 28.7 million gallons per 30-day period as an average during any calendar year.

2. *Blue Mountain Consolidated Water Company (D–81–50 CP).* A well water supply project to augment public water supplies in several boroughs and townships in Northampton and Monroe Counties, Pennsylvania. The project is located in Bushkill Township. Designated as the Knauss Road Well, it is expected to yield about 6.48 million gallons per 30-day period.

3. *Doylestown Township Municipal Authority (D–83–29 CP).* A sewage treatment project to serve residential and commercial customers in Doylestown Township and Bucks County-owned institutional facilities in Doyestown and Warwick Townships in Bucks County, Pennsylvania. Approval of the proposed project would amend the Comprehensive Plan to include a separate tertiary sewage treatment plant for the Kings Plaza area, rather than treatment at a future regional plant as proposed by the June, 1970 Bucks County Sewerage Facilities Plan, included in the Comprehensive Plan by Docket D–71–74 CP. The treatment plant is expected to remove 98 percent BOD and 91 percent suspended solids from an average sewage flow of 0.425 million gallons per day (mgd). Treated effluent will discharge to the Neshaminy Creek in Doylestown Township, Bucks County, Pennsylvania.

4. *Public Service Electric and Gas Company (D–83–36).* Modification of an industrial waste treatment facility at the applicant's Salem Nuclear Generating Station in Lower Alloways Creek Township, Salem County, New Jersey. The facility will be designed for removal of iron, copper, ammonia and suspended solids from an average waste water flow of approximately 0.468 mgd. Treated effluent will discharge to the Delaware River at River Mile 50.4.

Documents relating to these projects may be examined at the Commission's offices and preliminary dockets are available in single copies upon request. Please contact David B. Everett. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

Susan M. Weisman,

Secretary.

January 10, 1984.

[FR Doc. 84–1187 Filed 1–16–84; 8:45 am]

BILLING CODE 6360–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP83–424–001]

Carnegie Natural Gas Co. and Equitable Gas Co.; Amendment

January 11, 1984.

Take notice that on December 15, 1983, Carnegie Natural Gas Company (Carnegie), 800 Regis Avenue, Pittsburgh, Pennsylvania 15236, and Equitable Gas Company (Equitable), 420 Boulevard of the Allies, Pittsburgh, Pennsylania 15219, or jointly referred to as Applicants, filed in Docket No. CP83–424–1 an amendment to its pending application filed in Docket No. CP83–424–000 pursuant to Section 7(c) of the Natural Gas Act so as to reflect the addition of certain exchange points from Carnegie to Equitable, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicants state that in Docket No. CP83–424–000 they requested a certificate authorizing: (1) a new limitation on the amount of gas which Carnegie may deliver to Equitable for subsequent redelivery to Carnegie, (2) new exchange points through which gas delivered by Carnegie to Equitable would be redelivered by Equitable to Carnegie; (3) the abandonment of certain presently existing exchange points and related facilities; and (4) various miscellaneous changes relating to, among others things, units of measurement, liability and a force majeure provision.

Applicants amend their application to add the following points of exchange from Carnegie to Equitable which presently exist both contractually and in the field, but which have not previously specifically been certificated by the Commission:

(1) At a point of connection between Carnegie's 8-inch pipeline and Equitable's 20-inch pipeline on land new or formerly known as Kalmar Farm, Armstrong County, Pennsylvania;

(2) At a point of connection between Carnegie's 2-inch pipeline and Equitable's 4-inch pipeline on land new or formerly known as Mitchell and Morris Farm, Greene County, Pennsylvania, and,

(3) At a point of connection between Carnegie's 4-inch pipeline and Equitable's 4-inch pipeline on land new or formerly known as Sloane-Dusquene No. 2, Westmoreland county, Pennsylvania.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before February 1, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–1151 Filed 1–16–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP84–81–000]

Columbia Gas Transmission Corp. Request Under Blanket Authorization

January 11, 1984

Take notice that on November 18, 1983, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Anenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP84–81–000 a request, as supplemented on January 3, 1984, pursuant to Section 157.205(b) of the Regulations under the Natural Gas Act (18 CFR 157.205(b)) that Columbia proposes to transport natural gas on behalf of the Babcock & Wilcox Company (B&W) under authorization issued in Docket No. CP83–76–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Columbia proposes to transport up to 5,700 dt equivalent of natural gas per day for B&W for a term of one year. Columbia states that the gas to be transported would be purchased

from Union Drilling, Inc., and from Marshburg Pipeline Company c/o Northwest Oil and Gas Drilling and Servicing Company and would be used in various furnaces for the process of steel making and tube making in B&W's Beaver Falls, Koppel and Ambridge plants. Columbia states that it would receive the gas at existing delivery points on its system in West Virginia and Pennsylvania and redeliver such gas to Columbia Gas of Pennsylvania, Inc., the distribution company serving B&W. Columbia states that the gas to be purchased by B&W involves gas supplies released by Columbia and that such supplies are subject to the ceiling price provisions of Sections 103 and 109 of the Natural Gas Policy Act of 1978. Furthermore, Columbia states that depending upon whether its gathering facilities are involved, it would charge either (1) its average system-wide storage and transmission charge, currently 40.11 cents per dt equivalent, exclusive of company-use and unaccounted-for gas, or (2) its average system-wide storage, transmission and gathering charge, currently 44.93 cents per dt equivalent, exclusive of company-use and unaccounted-for gas. Columbia states that it would retain 2.85 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1152 Filed 1-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-155-000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

January 11, 1984.

Take notice that on December 29, 1983, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP84-155-000 a request, pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205), that Columbia proposes to transport natural gas on behalf of Columbus Bituminous Concrete Corporation (CBC Corp.), under authorization issued in Docket No. CP83-76-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commision and open to public inspection.

Specifically, Columbia proposes to transport up to 500 million Btu [1] of natural gas per day for CBC Corp., for a term of one year. Columbia states that the gas to be transported would be purchased from Ohio Shale Pipeline Corporation by CBC Corp. and would be used for asphalt drying at CBC Corp.'s Columbus, Ohio, plant. Columbia would receive the quantities at existing points of receipt on its system and redeliver to Columbia Gas of Ohio, Inc., the distribution company serving CBC Corp.

Columbia states that the gas to be purchased by CBC Corp., involves gas supplies released by Columbia and that such supplies are subject to the ceiling price provisions of section 107 of the Natural Gas Policy Act of 1978. Further, Columbia states that depending upon whether its gathering facilities are involved, it would charge either: (1) Its average system-wide storage and transmission charge, currently 40.11 cents per dt equivalent, exclusive of company-use and unaccounted-for gas, or (2) its average system-wide storage, transmission and gathering charge, currently 44.93 cents per dt equivalent, exclusive of company-use and unaccounted-for gas. Columbia states that it would retain 2.85 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1153 Filed 1-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-158-000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

January 11, 1984.

Take notice that on December 29, 1983, Columbia Gas Transmission Corporation (Columbia), P.O. Box 1273, Charleston, West Virginia 24325-1273, filed in Docket No. CP84-158-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) of the Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to transport natural gas on behalf of Ashland Oil, Inc. (Ashland) under the authorization issued in Docket No. CP83-76-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Columbia proposes to transport for one year up to 225 million Btu equivalent of natural gas per day on behalf of Ashland. Columbia would receive gas from Zenith Oil and Gas, Inc. (Zenith) and Southern Triangle Oil Co. (Southern), at existing points of receipt on Columbia's system and redeliver to Union Light, Heat and Power Company (Union) for ultimate delivery to Ashland it is explained. Columbia states that the gas purchase agreement between Ashland and Zenith and Southern involve certain gas supplies released by Columbia. Columbia states that these supplies are subject to the ceiling price provisions of sections 103 and 108 of the Natural Gas Policy Act of 1978.

Depending upon whether gathering facilities are involved, Columbia states that it would charge either: (1) Columbia's average system-wide storage and transmission costs, exclusive of company-use and unaccounted-for gas, or (2) Columbia's average system-wide storage, transmission and gathering costs, exclusive of company-use and unaccounted-for gas. It is stated that the

[1] All quantities are stated in million Btu pursuant to 18 CFR Section 157.207(e) and have been converted from Mcf or dt based on the assumption that the average energy content of the gas to be transported is 1,000 Btu per cubic foot. Quantities stated in Columbia's transportation agreement are in dt.

storage and transmission charge is currently 40.11 cents per dt equivalent and the storage, transmission and gathering charge is 44.93 cents per dt equivalent. In addition, Columbia proposes to retain 2.85 percent of gas delivered to it for company-use and unaccounted-for gas.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1154 Filed 1-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-127-000]

Consolidated Gas Supply Corp.; Application

January 11, 1984.

Take notice that on December 12, 1983, Consolidated Gas Supply Coroporation (Consolidated), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP84-127-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing changes in the maximum allowable operating pressure (MAOP) of certain pipeline segments, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Consolidated seeks authorization to change the MAOP of various pipeline segments of Consolidated's New York and Pennsylvania transmission mainline. It is explained that in 1982 Consolidated conducted a compliance study on its New York and Pennsylvania transmission lines to determine whether these pipeline segments were in compliance with the U.S. Department of Transportation (DOT) class location requirements set forth in 49 CFR 192.611. Consolidated states that the proposed changes in the MAOP are necessary for the continued safety and reliability of these transmission facilities. The following is a list of facilities for which a reduction in the MAOP is sought along with their certificating docket numbers.

DESCRIPTION OF FACILITIES FOR WHICH THE MAXIMUM ALLOWABLE OPERATING PRESSURE IS SOUGHT TO BE CHANGED AND THEIR CERTIFICATING DOCKET NUMBERS

Docket No.	[illegible]	Line description	Current MAOP	Proposed MAOP
G1306	Nov. 8, 1950	Line 30 from Schenectady Regulating Station to Schenectady Measuring Station.	900	643
G1306	do	Line 30 from Schenectady Measuring Station to Wolf Road.	657	643
G12883	Nov. 18, 1957	Line 545 from LaMunion to Oneida	865	800
G1306	Nov. 4, 1950	Line 532 from Knox to Schenectady Measuring Station.	850	643
CP64-187	July 2, 1974	Line 553 from Sheds to Cazenovia	1,000	900
[illegible]	June 3, 1968	Line TL-383 from Lanhart to South Albany	645	643
G1701	Aug. 24, 1951	Line 539 from Borger Station to Borger Junction.	1,000	900
G1701	do	Line TL-410 from Line 539 to XSN-558	1,000	900
G1701	do	Line TL-411 from XSN-558 to Borger Junction.	720	743
G312	Nov. 4, 1942	Line 1 from Boom to Syracuse	905	900
CP70-170	May 5, 1970	Line 31 from Lindley to Big Flats	1,000	900
G1306	Nov. 8, 1950	Line 31 from Big Flats to Cayuta	990	900
CP68-260	June 3, 1968			
G1701	Aug. 24, 1951	Line 31 from Borger to Freeville Gt	850	746
G1701	do	Freeville Gt. to Syracuse	660	746
G10593	Sept. 18, 1956	Line 544 from Lines 1 and 31 to Groton M & R.	660	900
[illegible]	Mar. 29, 1962	Line 551 from Auburn to Phelps	1,000	800
CP64-56	Nov. 5, 1963	Line 552 from Dow Road to Creigsville	660	650
G1306	Nov. 4, 1950	Line 533 at Craigs	660	650
G801	Apr. 24, 1947	Line 541 from Barks Road to XSN-516	625	650
G1601	May 31,1951	Line 26 from South Bend Station to Coxcomb.	1,000	945
G1601	do	Line 27 from Line 26 to Lines 9 and 19 (at McIlwain).	1,000	945
CP67-307	Apr. 1, 1968	Line TL-380 from McIlwain to South Bend Station.	893	945
G1478	Dec. 20, 1950	Line 280 from Finnefrock to Potter County Header.	945	800
G312	Nov. 4, 1942	Line 4 from Potter County Header to Sabinsville.	860	800
G11779	June 14, 1957	Line 2 from Chatham to Boom	1,080	1,000

Consolidated explains that the project also includes changing the Maximum Allowable Operating Pressure to Line 549 from Bradley Brook Junction to Bradley Brook Station from 1000 psia to 900 psia. This line was constructed as a production line and is exempt from jurisdiction, it is asserted.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 1, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commisssion by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Consolidated to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1155 Filed 1-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-29-001]

Michigan Wisconsin Pipe Line Co.; Change in Tariff

January 11, 1984.

Take notice that on December 28, 1983, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) tendered for filing the following revised sheets to its FERC Gas Tariff, Original Volume No. 1:

Substitute Second Revised Sheet No. 21
Substitute Second Revised Sheet No. 22

An effective date of January 1, 1984, is proposed.

On December 1, 1983, Michigan Wisconsin filed modifications to Section 3 of its FERC Gas Tariff, Original Volume No. 1. In response to questions of the Commission Staff to such filing, clarifications to Subsections 3.4(f) and 3.5 became desirable. Michigan Wisconsin's response to the Commission Staff's questions is to revised only Subsections 3.4(f) and 3.5 (on Second Revised Sheet Nos. 21 and 22).

Michigan Wisconsin states that copies of this filing have been served on all customers subject to the tariff sheet and applicable state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 18, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1156 Filed 1-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-117-006]

Midwestern Gas Transmission Co.; Rate Filing

January 11, 1984.

Take notice that on January 4, 1983, Midwestern Gas Transmission Company (Midwestern) tendered for filing the following tariff sheets to its FERC Gas Tariff to be effective January 1, 1984:

Original Volume No. 1
Third Substitute Eighth Revised Sheet No. 5
Substitute Ninth Revised Sheet No. 6
Original Volume No. 2
Substitute Ninth Revised Sheet No. 37
Fifth Revised Sheet No. 62K
Fourth Revised Sheet No. 62L
Third Revised Sheet No. 62F

Midwestern states that the purpose of the revised tariff sheets is to implement the October 7, 1983 Amended Stipulation and Agreement in this proceeding which was approved by the Commission's letter order dated November 25, 1983.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 18, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1157 Filed 1-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-193-001]

Mountain Fuel Supply Co.; Amendment

January 11, 1984.

Take notice that on December 16, 1983, Mountain Fuel Supply Company (Applicant), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP83-193-001 an amendment to its pending application filed in Docket No. CP82-193-000, pursuant to Section 7(c) of the Natural Gas Act, to reflect a change in routing of the proposed Hyrum line in Utah from that originally proposed, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant indicates that as a result of several environmental and archeological studies, easier terrain and reduced construction costs the proposed pipeline would now originate on Applicant's Main Line No. 48 in Rich County, Utah, Section 33, Township 9 North, Range 7 East, and extend approximately 39.7 miles to a connection with Applicant's high pressure distribution system in the same county, Section 25, Township 10 North, Range 1 East. The revised cost for this amended proposal is estimated to be $13,266,083.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before February 1, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1158 Filed 1-16-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-105-001]

National Fuel Gas Supply Corp.; Motion to Place Into Effect Revised Tariff Sheets

January 11, 1984.

Take notice that on December 30, 1983, National Fuel Gas Supply Corporation (National) tendered for filing a motion to place into effect the following revised sheets to its FERC Gas Tariff, Original Volume No. 1:

Substitute Forty-fourth Revised Sheet No. 4
Substitute First Revised Sheet No. 8a

An effective date of January 1, 1984, is proposed.

National also tendered for filing in the motion to place into effect the following revised sheets to its FERC Gas Tariff, First Revised Volume No. 2:

Substitute Fourth Revised Sheet No. 282
Substitute Fourth Revised Sheet No. 302
Substitute Fourth Revised Sheet No. 322
Substitute Fourth Revised Sheet No. 342

An effective date of January 1, 1984, is proposed.

National states that the above filed tariff sheets were submitted to the Commission on July 1, 1983, and on July

29, 1983, were accepted for filing and suspended until January 1, 1984. The expiration of the suspension period has brought about National's request.

National proposes to implement the results of a settlement reached with all the parties to this proceeding. The Settlement Rates reached by the parties (Docket No. RP83–105), according to National, are set forth in the above listed revised tariff sheets. National seeks immediate implementation of these rates to enable its customers to take full advantage of the reduced rates provided by the Settlement.

National also proposes the establishment of a surcharge mechanism to prevent prejudice to both itself and its customers in the event that the above mentioned settlement is rejected by the Commission. Their proposal provides, in the event of such a rejection, that a surcharge procedure shall be implemented which would give to National the difference between the revenues actually collected under the above mentioned Settlement Rates and the amount of revenues that would have been collected if the rates ultimately approved by the Commission were put into effect. The surcharge would include interest computed in accordance with Section 154.67(c) of the Commission's Regulations from the effective date of the receipt of revenues under the Settlement Rates until the date on which the revenue difference and related interest are recovered by National.

This surcharge procedure is to be implemented only if the current settlement agreement is rejected, *and* if the subsequently approved rates result in revenues that, if they were implemented, would produce revenues that are less than those actually collected under the current settlement agreement. Furthermore, the time period to compute the revenues under the current settlement rates and any subsequent rates which displace the current rates is to be a 12 month period.

To the extent possible, National requests that the Commission grant such waivers as may be necessary for the acceptance and approval of their proposals.

National states that copies of this filing have been served on each person designated on the official service list compiled by the Secretary in this proceeding.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 18, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–1159 Filed 1–16–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP84–124–000]

United Gas Pipe Line Co.; Request Under Blanket Authorization

January 11, 1984.

Take notice that on December 9, 1983, United Gas Pipe Line Company (United), Post Office Box 1478, Houston, Texas 77001, filed in Docket No. CP84–124–000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that United proposes to construct and operate a sales tap for the delivery of gas to Louisiana Gas Service Company (Louisiana Gas) to serve a residential subdivision under the authorization issued in Docket No. CP82–430–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United states that the sales tap would be located on its 4-inch lateral line in Hancock County, Mississippi, and would enable Entex to provide up to 1400 Mcf per day of natural gas for boiler fuel (end-use), under United's Rate Schedule DG–N. It is stated that the sales tap would not cause an increase in the customer's contractual maximum daily quantity nor its entitlements under United's effective curtailment plan.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protect is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–1160 Filed 1–16–84; 8:45 am]

BILLING CODE 6717–01–M

[Project Nos. 5248–999, et al.]

West Slope Power Co., et al.; Public Meeting

January 11, 1984.

Pursuant to Section 306 of the Energy and Water Appropriation Act (Pub. L. 98–50), the Federal Energy Regulatory Commission will be updating a comprehensive water resources analysis covering Merced, Manposa, Madera and Fresno counties in California. This analysis will concentrate, in accordance with Section 306, on hydroelectric development proposed for Whiskey Creek, Nelder Creek and the Lewis Fork of the Fresno River, and immediately related areas.

Public meetings will be held by Commission staff at 8:30 am on January 23, 1984 in the City Council Chambers of Fresno, and at 7:00 p.m. at the North Fork Elementary School Multipurpose Hall in North Fork, for the purpose of informing the public of the intended scope of the analysis, the target resources to be evaluated, the methodology to be employed and the schedule for completion. Input from the public will be welcome.

For further information please contact Joseph Vasapoli (202) 357'8483 or Tom Russo (202) 376–9255.

Kenneth F. Plumb,

Secretary

[FR Doc. 84–1161 Filed 1–16–84; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–42029A; BH FRL 2483–6]

Isophorone; Decision To Adopt Negotiated Testing Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In response to the Interagency Testing Committee's (ITC) designation of isophorone for priority consideration of health effects testing, EPA announced in the **Federal Register** of January 6, 1983, a preliminary decision not to initiate rulemaking under the Toxic Substances Control Act

(TSCA) based on the Agency's tentative acceptance of a program submitted to EPA by the Ketones Program Panel of the Chemical Manufacturers Association (CMA) and on the National Toxicology Program's (NTP) initiation of a long-term bioassay for isophorone. After review and consideration of public comments received, the Agency finds no reason to alter its preliminary decision and has concluded that the CMA testing program, together with the NTP bioassay results, will provide sufficient data to reasonably determine or predict those health effects of isophorone identified by the ITC as being of concern. Therefore, EPA is not proposing a section 4(a) rule at this time to require health effects testing of isophorone.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Room E–543, Washington, D.C. 20460, Toll Free: (800–424–9065), In Washington, D.C.: (554–1404), Outside the USA: (Operator—202–554–1404).

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 4(a) of the Toxic Substances Control Act (TSCA) (Pub. L. 94–469, 90 Stat. 2003 *et seq.;* 15 U.S.C. 2601 *et seq.*) authorizes to EPA to promulgate regulations requiring testing of chemical substances and mixtures in order to develop data relevant to determining the risks that such chemicals may present to health and the environment. Section 4(e) of TSCA established an Interagency Testing Committee (ITC) to recommend to the EPA a list of chemicals to be considered for promulgation of testing rules under section 4(a) of the Act. The ITC placed isophorone on its priority testing list, as published in the **Federal Register** of June 1, 1979 (44 FR 31867). It recommended that isophorone be considered for testing for carcinogenicity, mutagenicity, teratogenicity, and other chronic effects and that an epidemiology study be performed.

EPA issued a notice published in the **Federal Register** of January 6, 1983 (48 FR 727), which announced the Agency's preliminary decision not to propose a rule under section 4(a) of the Toxic Substances Control Act (TSCA) to require health effects testing of isophorone. This decision was based on the Agency's evaluation of a testing proposal submitted by the Ketones Program Panel of the Chemical Manufacturers Association (CMA) and the initiation of a long-term bioassay by the National Toxicology Program (NTP).

A draft of the Ketones Panel proposal was included in the public record (docket number OPTS–42029). The Agency requested comments on its preliminary decision not to develop a test rule for isophorone and on the proposed testing scheme.

This notice responds to public comments and announces the Agency's final decision not to initiate rulemaking at this time to require testing of isophorone pursuant to TSCA section 4(a).

II. EPA's Response to Public Comments

The Agency received comments from the Natural Resources Defense Council (NRDC) and from the Ketones Program Panel of CMA; no other comments were received. The Keytones Program Panel advocated acceptance of the program submitted to EPA and mentioned its intent to meet with EPA scientists at key decision points to discuss proper interpretation of the test data and possible further activities. The Panel's comments also discussed the alterations to be made in the mouse micronucleus study to make it acceptable to the Agency and its agreement with EPA's decision not to require that an epidemiology study be conducted this time.

The January 6 notice had requested comments on EPA's consideration and rejection of toxicokinetics testing at this time; such testing was not recommended by the ITC. The Ketones Program Panel agreed that toxicokinetic studies were not warranted at present.

NRDC raised various legal issues about EPA's acceptance of a negotiated testing agreement. NRDC was also concerned about the setting of schedules for testing. Its basic concerns, along with EPA's response to each, are discussed below in this unit. NRDC did not raise any concerns about the substance of the testing program proposed by the Ketones Program Panel, and NRDC did not comment on EPA's decision not to require an epidemiology study or toxicokinetics testing.

NRDC criticized EPA's policy of accepting negotiated testing agreements in lieu of rulemaking to require testing under section 4 of TSCA. NRDC argued that the "plain language" of TSCA mandates that testing of section 4(e) chemicals must be accomplished by rule. In addition, NRDC contended that negotiated testing has procedural and legal deficiencies. NRDC particularly cited the lack of enforceability of negotiated testing agreements and their failure to encompass other provisions of TCSA which would be triggered by a section 4 rule.

EPA has previously addressed NRDC's general concern about negotiated testing a **Federal Register** notice published on January 5, 1982 (47 FR 335), discussing the negotiated testing program for alkyl phthalates. A more detailed analysis of NRDC's arguments was prepared for inclusion in the public record of that action (docket number OPTS–42005). As was indicated in that notice, EPA believes that neither TSCA nor its legislative history support NRDC's contention that the Congress established rules as the exclusive means for accomplishing testing. EPA believes that negotiated testing is consistent with the statutory purpose that adequate data on chemicals be developed expeditiously by the involved companies.

EPA agrees that negotiated testing is not legally enforceable, but as the Agency previously indicated (47 FR 335), there are compelling practical reasons why it expects that the involved companies will follow their agreements in the vast majority of cases. Furthermore, the Agency disagrees with NRDC's contention that if EPA is forced to develop a rule because of failure of a negotiated program, the entire program will take substantially longer than if EPA had pursued rulemaking from the beginning. Rather, EPA believes that it could conduct an expedited rulemaking which, in many cases, would not substantially lengthen the entire process.

NRDC is correct in asserting that acceptance of a negotiated testing program will not trigger certain other statutory provisions that would have been brought into play if the Agency proposed, and then promulgated, a testing rule for these substances. But, EPA believes that NRDC has considerably exaggerated the practical impact of this difference. Although a negotiated testing program does not trigger the obligation of a manufacturer of a new substance subject to a section 4 rule to submit test data under section 5(b)(1), and to delay manufacturing, that particular requirement only relates to EPA actions under section 4 concerning categories of chemical substances and would not be applicable to isophorone which was nominated as an individual chemical substance by the ITC.

In addition, contrary to NRDC's claim, EPA has the same authority to disclose health and safety data generated from negotiated testing as it would if the testing were conducted under a rule. Section 14(b)(1)(A)(i) concerns data from any health and safety study on a

chemical in "commercial distribution" (which includes all non-category chemical designated by the ITC) and makes no distinction based upon how the Agency receives the data.

EPA's position that negotiated testing is a legally sufficient alternative to section 4 rulemaking was examined by the General Accounting Office (GAO) during 1982. The GAO concluded that "neither section 4(a) nor 4(e) compels the promulgation of a test rule proceeding where adequate test data may be developed pursuant to voluntary testing agreements. We [GAO] further conclude that since voluntary testing agreements are consistent with the significant purposes of section 4, implied authority exists for EPA to negotiate such agreements." (GAO 1982. EPA Implementation of Selected Aspects of the Toxic Substances Control Act. General Accounting Office. December 7, 1982. GAO/RCED–83–62, p. 15).

On the above basis, EPA continues to believe that, where appropriate testing is being undertaken, negotiated testing agreements are an appropriate alternative to rulemaking under section 4 of TSCA.

As discussed in the January 6 notice, the Agency is not requiring the epidemiologic studies recommended by the ITC because there are no documentable health hazards reported for isophorone, and a suitable cohort cannot be identified. Thus, EPA cannot, at this time, design a study which is expected to produce information about the human health effects of isophorone. There were no comments objecting to this decision.

No new substantive issues have arisen during the comment period and consequently the Agency believes that the final study plan submitted by the Ketones Program Panel of CMA and the NTP bioassay are the best means of meeting all the remaining testing needs for isophorone.

III. Testing

1. Study Plans. The CMA's proposed testing program for isophorone is described in the **Federal Register** of January 6, 1983 (48 FR 727). As discussed in the January 6 notice, the mouse micronucleus cytogenetic assay protocol submitted earlier was inconsistent with TSCA and OECD test guidelines. On June 10, 1983, the Ketones Program Panel submitted its final study plan which includes a revised protocol for the mouse micronucleus study which conforms with the OECD test guidelines and is acceptable to the Agency. The final study plans for CMA's testing program for isophorone are in the public record (docket number OPTS–42029) and include:

a. An inhalation teratology study in rats and mice to be conducted in early 1984 (including a range-finding study to be performed in fall of 1983).

b. Mutagenicity studies to be initiated within 60 days of publication of this notice in the **Federal Register**.

2. *Conclusions on the Study Plans.* EPA has reviewed the study plans on isophorone and has concluded that:

a. The teratology study will provide sufficient data to reasonably determine or predict the potential toxic effects on the fetus as a result of isophorone exposure.

b. The mutagenicity studies will provide sufficient data to establish the potential mutagenic effects of isophorone.

The Agency has concluded that this testing program, together with the NTP bioassay results, will provide an adequate basis to evaluate the health effects of isophorone of concern to the ITC. Since no comments suggested otherwise, EPA continues to believe that epidemiologic studies should not be required at this time. Therefore, EPA has determined not to propose, at this time, a section 4(a) rule to require health effects testing of isophorone.

IV. Public Record

EPA has established a public record for this testing decision, docket number [OPTS–42029]. This record includes:

(1) **Federal Register** notice containing the designation of isophorone to the priority list and all comments on isophorone received in response to that notice.

(2) Communications with industry.

(3) Letters.

(4) Contact reports of telephone conversations.

(5) Summaries of EPA's meetings with industry and the public.

(6) Testing proposal and modified protocols.

(7) Published and unpublished data.

(8) **Federal Register** notice requesting comments on the Negotiated Testing Proposal and all comments received in response to the notice.

This record contains the basic information which was considered by EPA in developing this decision, and is available for inspection in the OPTS Reading Room from 8:00 to 4:00 p.m., Monday through Friday (except legal holidays) in Room E–107, 401 M Street, SW., Washington, D.C. 20460. The Agency will supplement this record periodically with additional relevant information as it is received.

(Sec. 4, Pub. L. 94–469, 90 Stat. 2003; (15 U.S.C. 2061))

Dated: January 9, 1984.

William D. Ruckelshaus,

Administrator.

[FR Doc. 84–1187 Filed 1–16–84; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[MM Docket No. 83–1370 et al.; File No. BPCT–830223KH]

Henry C. McCall et al.; Hearing Designation Order

In the matter of Applications of Henry C. McCall, Erie, Pennsylvania (MM Docket No. 83–1370; File No. BPCT–830223KH), Seneca Broadcasting Corp., Erie, Pennsylvania (MM Docket No. 83–1371; File No. BPCT–830428KP), Gannon University Broadcasting, Inc., Erie, Pennsylvania (MM Docket No. 83–1372; File No. BPCT–830429KG) for construction permit.

Adopted: December 19, 1983.

Released: January 9, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Henry C. McCall (McCall),[1] Seneca Broadcasting Corp. (Seneca) and Gannon University Broadcasting, Inc. (Gannon) for authority to construct a new commercial television broadcast station on Channel 66, Erie, Pennsylvania.

2. No determination has been reached that the tower height and location proposed by McCall[2] would not constitute a hazard to air navigation. Accordingly, an issue regarding this matter will be specified.

3. Section II, Item 9, FCC Form 301, inquires whether there are any documents, instruments, contracts or understandings relating to ownership or future ownership rights, including, but not limited to non-voting stock interests beneficial stock ownership interests, options, warrants, or debentures. A positive response to this question must be accompanied by particulars as exhibits. McCall answered "yes" to Item 9; however, he did not submit the required exhibits. McCall will be required to submit his exhibits in the form of an amendment to the presiding Administrative Law Judge within 20 days after this Order is released.

[1] An amendment received June 23, 1983 changed the name from American Cellular System, Inc. to Henry C. McCall.

[2] The Commission is not in receipt of FAA's determination for the tower proposed by McCall.

4. Section V–C, Item 10, FCC Form 301, requires that an applicant submit figures for the area and population within its predicted Grade B contour. McCall has not provided the required population figure. McCall will be required to submit an amendment giving the required information, within 20 days after this Order is released, to the presiding Administrative Law Judge. The effective radiated visual power, antenna height above average terrain and other technical data submitted by the other two applicants, however, indicate that there would be a significant difference in the size of the area and population that each proposes to serve. Consequently, for the purposes of comparison, the area and population which would be within the predicted 64 dBu (Grade B) contour of each of the applicants, together with the availability of other television service of Grade B or greater intensity, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

5. Seneca requests a waiver of § 73.685(e) of the Commission's Rules which limits UHF stations using directional antennas to a ratio of maximum-to-minimum radiation in the horizontal plane of not more than 15 dB. Seneca proposes a directional antenna with maximum-to-minimum radiation of 25.4 dB. Accordingly, an appropriate issue will be specified to determine whether waiver of § 73.685(e) is warranted.

6. Seneca proposes to operate from a site located within 250 miles of the Canadian Border with maximum visual effective radiated power (ERP) of more than 1000 kilowatts. The proposal poses no interference threat to United States television stations; however, it contravenes an agreement between the United States and Canada which limits the maximum visual ERP of United States television stations located within 250 miles of Canada to 1000 kilowatts. *Agreement Effectuated by Exchange of Notes,* T.I.S.A. 2594 (1952). In the event of a grant of the application, the construction permit shall contain a condition precluding station operation with maximum visual ERP in excess of 1000 kilowatts, absent Canadian consent. *South Bend Tribune,* 8 R.R. 2d 416 (1966).

7. Section 73.682(a)(15) of the Commission's Rules states that effective radiated power of the aural transmitter shall not be less than 10 percent nor more than 20 percent of the peak radiated power of the visual transmitter. McCall's aural power is 1 percent of the visual. The applicant will be required to correct this in the form of an amendment to the presiding Administrative Law Judge within 20 days after the release of this Order.

8. Gannon's and Seneca's transmitter site is located 1.6 miles from AM station WLKK, Erie, Pennsylvania. McCall's transmitter site is located 1.8 miles from station WLKK. Consequently, grant of a construction permit to any of the applicants will be conditioned to ensure that WLKK's radiation pattern in not adversely affected by the construction of the proposed station.

9. In Section II, Page 2, FCC Form 301; McCall refers to an Exhibit 2 (Option of Understanding), but no such exhibit was submitted. Accordingly, McCall will be required to submit the exhibit to the presiding Administrative Law Judge within 20 days after the date of the release of this Order.

10. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

11. Accordingly, it is ordered, That pursuant to § 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Henry C. McCall, whether there is a reasonable possibility that the tower height and location proposed would constitute a hazard to air navigation.

2. To determine with respect to Seneca Broadcasting Corp. whether circumstances exist to warrant a waiver of Section 73.685(e) of the Commission's Rules.

3. To determine which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

12. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 1.

13. It is further ordered, That Henry C. McCall shall submit his explanation for answering "yes" to Section II, Item 9, FCC Form 301, to the presiding Administrative Law Judge within 20 days after the release of this Order.

14. It is further ordered, That Henry C. McCall shall submit an amendment stating the population within his predicted Grade B contour, within 20 days after this Order is released, to the presiding Administrative Law Judge.

15. It is further ordered, That, in the event of a grant of Seneca Broadcasting Corp's., application, the construction permit shall be conditioned as follows:

Subject to the condition that operation with effective radiated visual power in excess of 1000 kW after June 1, 1985 is subject to a further extension of consent by Canada.

16. It is further ordered, That, in the event of a grant of any of the applications, the construction permit shall be conditioned as follows:

Prior to construction of the tower authorized herein, permittee shall notify AM Station WLKK so that, if necessary, the AM station may determine operating power by the indirect method and request temporary authority from the Commission in Washington, D.C. to operate with parameters at variance in order to maintain monitoring point field strengths within authorized limits. Permittee shall be responsible for the installation and continued maintenance of detuning apparatus necessary to prevent adverse effects upon the radiation pattern of the AM station. Both prior to construction of the tower and subsequent to the installation of all appurtenances thereon, a partial proof of performance, as defined by § 73.154(a) of the Commission's Rules, shall be conducted to establish that the AM array has not been adversely affected and, prior to or simultaneous with the filing of the application for license to cover this permit, the results submitted to the Commission.

17. It is further ordered, That Henry C. McCall shall submit, to the presiding Administrative Law Judge within 20 days after this Order is released, an appropriate amendment that demonstrates compliance with § 73.685(a)(15) of the Commission's Rules.

18. It is further ordered, That Henry C. McCall shall submit the exhibit described in paragraph nine hereof to the presiding Administrative Law Judge within 20 days after the date of the release of this Order.

19. It is further ordered, That Henry C. McCall shall submit to the presiding Administrative Law Judge within 20 days after this Order is released, the information required by Item 10, Section V–C, FCC Form 301.

20. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in

person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

21. It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 84-1207 Filed 1-16-84; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1440]

Petitions for Reconsideration of Actions in Rulemaking Proceedings

January 11, 1984.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the **Federal Register**. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Communications Protocols Under § 64.702 of the Commission's Rules and Regulations (Gen Docket No. 80-756).

Filed by: Robert W. Barker, Robert B. McKenna & Luisa L. Lancetti, Attorneys for Pacific Northwest Bell Telephone Company, Northwestern Bell Telephone Company & The Mountain States Telephone and Telegraph Company on 1-3-84.

Conrad Reddick, Alfred Winchell Whittaker & John Gibson Mullan, Attorneys for Ameritech on 1-3-84.

Robert D. Lake, Attorney & Joseph H. Weber for American Telephone and Telegraph Company on 1-3-84.

Subject: Amendment of Section 73.1201(b)(2) of the Commission's Rules—Additional City Identification. (BC Docket No. 82-374)

Filed by: Erwin G. Krasnow & Barry D. Umansky, Attorneys for National Association of Broadcasters on 12-9-83.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-1203 Filed 1-16-84; 8:45 am]

BILLING CODE 6712-01-M

Telecommunications Industry Advisory Group Income and Other Account Subcommittee

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group's (TIAG) Income and Other Accounts Subcommittee schedule for Monday and Tuesday, January 30 and 31, 1984. The meeting will begin on January 30 at 8:30 a.m. in the office of GTE Service Corporation, 4500 Fuller Drive, Irving, Texas, and will be open to the public. The agenda is as follows:

I. General Administrative Matters
II. Discussion of Assignments
III. Other Business
IV. Presentation of Oral Statements
V. Adjournment

With prior approval of Subcommittee Chairman Glenn L. Griffin, oral statements, while not favored or encouraged, may be allowed at the meeting if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Griffin ((214) 659-3484) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-1204 Filed 1-16-84; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Federal Open Market Committee, Domestic Policy Directive of November 14-15, 1983.[1]

In accordance with § 217.5 of its rules regarding availability of information, there is set forth below the Committee's Policy Directive issued at its meeting held on November 14-15, 1983.[1]

The following domestic policy directive was issued to the Federal Reserve Bank of New York:

"The information reviewed at this meeting suggests that real GNP is growing at a relatively rapid pace in the current quarter, although the rate of expansion appears to have moderated since the spring and summer. In October, industrial production increased appreciably, following large gains in previous months. Nonfarm payroll employment rose substantially further, and the civilian unemployment rate decline ½ percentage point to 8.8 percent. After changing little on balance during the summer months, retail sales strengthened in September and October. Housing starts and permits declined in September while home sales rose somewhat. Recent data on new orders and shipments indicate further strength in the demand for business equipment. Producer and consumer prices have continued to increase at about the same pace as in other recent months. The index of average hourly earnings rose somewhat more in September and October than in previous months, but over the first ten months of the year the index has risen more slowly than in 1982.

"The foreign exchange value of the dollar has risen since early October against a trade-weighted average of major foreign currencies. The U.S. foreign trade deficit increased considerably in the third quarter, with imports, especially of petroleum, rising faster than exports.

"After slowing substantially over the summer months, growth in M2 accelerated in October, while M3 continued to expand at a moderate rate. Through October, M2 was at a level in the lower portion of the Committee's range for 1983 and M3 in the upper portion of its range. M1 continued to grow at a sluggish pace in October and was in the lower portion of the Committee's monitoring range for the second half of the year. Longer-term market rates have risen somewhat on balance since early October, and short-term rates generally have fluctuated in a narrow range.

"The Federal Open Market Committee seeks to foster monetary and financial conditions that will help to reduce inflation further, promote growth in output on a sustainable basis, and contribute to a sustainable pattern of international transactions. At its meeting in July the Committee reconsidered the growth ranges for monetary and credit aggregates established earlier for 1983 in furtherance of these objectives and set tentative ranges for 1984. The Committee recognized that the relationships between such ranges and ultimate economic goals have become less predictable; that the impact of new deposit accounts on growth of the monetary aggregates cannot be determined with a high degree of confidence; and that the availability of interest on large portions of transaction accounts may be reflected in some

[1] The Record of Policy Actions of the Committee for the meeting of November 14-15 1983, is filed as part of the original document. Copies are available upon request to The Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

changes in the historical trends in velocity.

"Against this background, the Committee at its July meeting reaffirmed the following growth ranges for the broader aggregates; for the period from February-March of 1983 to the fourth quarter of 1983, 7 to 10 percent at an annual rate for M2; and for the period from the fourth quarter of 1982 to the fourth quarter of 1983, 6½ to 9½ percent for M3. The Committee also agreed on tentative growth ranges for the period from the fourth quarter of 1983 to the fourth quarter of 1984 of 6½ to 9½ percent for M2 and 6 to 9 percent for M3. The Committee considered that growth of M1 in a range of 5 to 9 percent from the second quarter of 1983 to the fourth quarter of 1983, and in a range of 4 to 8 percent from the fourth quarter of 1983 to the fourth quarter of 1984, would be consistent with the ranges for the broader aggregates. The associated range for total domestic nonfinancial debt was reaffirmed at 8½ to 11½ percent for 1983 and tentatively set at 8 to 11 percent for 1984.

"The implementing monetary policy, the Committee agreed that substantial weight would continue to be placed on the behavior of the broader monetary aggregates. The behavior of M1 and total domestic nonfinancial debt will be monitored, with the degree of weight placed on M1 over time dependent on evidence that velocity characteristics are resuming more predictable patterns. The Committee understood that policy implementation would involve continuing appraisal of the relationships between the various measures of money and credit and nominal GNP, including evaluation of conditions in domestic credit and foreign exchange markets.

"The Committee seeks in the short run to maintain the existing degree of reserve restraint. The action is expected to be associated with growth of M2 and M3 at annual rates of around 8½ percent from September to December, consistent with the targets established for these aggregates for the year. Depending on evidence about the continuing strength of economic recovery and other factors bearing on the business and inflation outlook, somewhat greater restraint would be acceptable should the aggregates expand more rapidly; lesser restraint might be acceptable in the context of a significant shortfall in growth of the aggregates from current expectations. Given the relatively slow growth in October, the Committee anticipates that M1 growth at an annual rate of around 5 to 6 percent from September to December will be consistent with its fourth-quarter objectives for the broader aggregates, and that expansion in total domestic nonfinancial debt would remain within the range established for the year. The Chairman may call for Committee consultation if it appears to the Manager for Domestic Operations that pursuit of the monetary objectives and related reserve paths during the period before the next meeting is likely to be associated with a federal funds rate persistently outside a range of 6 to 10 percent."

By order of the Federal Open Market Committee, January 10, 1984.

Stephen H. Axilrod,

Secretary.

[FR Doc. 84-1128 Filed 1-16-84; 8:45 am]

BILLING CODE 6210-01-M

Federal Open Market Committee; Authorization for Domestic Open Market Operations

In accordance with the Committee's rules regarding availability of information, notice is given that at the FOMC meeting on November 14–15, 1983, Paragraph 1(a) of the Committee's authorization for domestic open market operations was amended to raise from $4 billion to $5 billion the limit on changes between Committee meetings in System Account holdings of U.S. government and federal agency securities for the intermeeting period from November 16, 1983, through the close of business on December 20, 1983. At its meeting on December 19–20, 1983, the Committee extended the temporary increase to $5 billion in the limit in paragraph 1(a) of the authorization for domestic open market operations for the intermeeting period beginning December 21, 1983.

Note.—For paragraph 1(a) of the authorization, see 36 FR 22697.

By order of the Federal Open Market Committee, January 10, 1984.

Stephen H. Axilrod,

Secretary.

[FR Doc. 84-1129 Filed 1-16-84; 8:45 am]

BILLING CODE 6210-01-M

Bank of Oman Ltd.; Corporation To Do Business Under Section 25(a) of the Federal Reserve Act

An application has been submitted for the Board's approval of the organization of a corporation to do business under section 25(a) of the Federal Reserve Act ("Edge Corporation"), to be know as Bank of Oman Overseas (USA) Inc. Bank of Oman Overseas (USA) (Inc.) would operate as a subsidiary of Bank of Oman Limited, Dubai, United Arab Emirates. The factors that are considered in acting on the application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than February 10, 1984. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, January 11, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-1134 Filed 1-16-84; 8:45 am]

BILLING CODE 6210-01-M

Croghan Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated for that application. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to each application, interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than February 10, 1984.

A. Federal Reserve Bank of Cleveland (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Croghan Bancshares, Inc.*, Fremont, Ohio; to become a bank holding company by acquiring 80 percent of the voting shares of The Croghan Colonial Bank, Fremont, Ohio.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Bezanson Corporation*, Cedar Rapids, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares or assets of JEFCO, Inc., Cedar Rapids, Iowa and thereby indirectly acquire City National Bank of Cedar Rapids, Cedar Rapids, Iowa.

2. *Fayette Bancorp*, Connersville, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of Fayette Bank & Trust Company, Connersville, Illinois.

3. *First Washington Bancorp, Inc.*, Naperville, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to Washington Bank and Trust Company of Naperville, Naperville, Illinois.

4. *Harvest Bancshares, Inc.*, Footville, Wisconsin; to become a bank holding company by acquiring at least 80 percent of the voting shares of Footville State Bank, Footville, Wisconsin.

5. *Minier Financial, Inc.*, Minier, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of First Farmer's State Bank of Minier, Minier, Illinois.

6. *West Central Illinois Bancorp, Inc.*, Monmouth, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of The National Bank of Monmouth, Monmouth, Illinois.

C. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Grant County Bancshares, Inc.*, Elbow Lake Minnesota; to become a bank holding company by acquiring at least 95.60 percent of the voting shares of Bank of Elbow Lake, Elbow Lake, Minnesota and 100 percent of the voting shares of State Bank of Wendell, Wendell, Minnesota.

D. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Prosperity Bancshares, Inc.*, Edna, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Allied First Bank, Edna, Texas.

Board of Governors of the Federal Reserve System, January 11, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-1135 Filed 1-16-84; 8:45 am]

BILLING CODE 6210-01-M

First National Financial Corporation, et al.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Ghicago, Illinois 60690:

1. *First National Financial Corporation*, Marinette, Wisconsin; to become a bank holding company by acquiring at least 80 percent of the voting shares of The First National Bank of Marinette, Marinette, Wisconsin. Comments on this application must be received not later than February 10, 1984.

2. *Shannon Bancorp, Inc.*, Shannon, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank of Shannon, Shannon, Illinois. Comments on this application must be received not later than February 10, 1984.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Spencer Bancshares Inc.*, Spencer, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of The Spencer State Bank, Spencer, Oklahoma. Comments on this application must be received not later than February 10, 1984.

Board of Governors of the Federal Reserve System, January 11, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-1137 Filed 1-16-84; 8:45 am]

BILLING CODE 6210-01-M

North Fork Bancorporation, Inc.; Acquisition of Bank Shares by Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *North Fork Bancorporation, Inc.*, Mattituck, New York; to acquire up to 100 percent of the voting shares or assets of The Bridgehamption National Bank, Bridgehamption, New York. Comments on this application must be received not later than February 10, 1984

Board of Governors of the Federal Reserve System, January 12, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-1138 Filed 1-16-84; 8:45 am]

BILLING CODE 6210-01-M

Pacific Inland Bancorp; Acquisition of Bank Shares by a Bank Holding Company

Pacific Inland Bancorp, Anaheim, California, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to become a bank holding company by acquiring 100 percent of the voting shares of Pacific Inland Bank, Anaheim, California. The factors that are considered in acting on the

application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Pacific Inland Bancorp, Anaheim, California, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Pacific Inland Management Corporation, Anaheim California and its subsidiary Trident Investment Management, Inc., Paramus, New Jersey.

Applicant states that the proposed subsidiary would engage in the activities of acting as an investment advisor. These activities would be performed from offices of Applicant's subsidiary in the states of New Jersey, Illinois and California and serving those three states. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b). Pacific Inland Bancorp also proposes to engage in certain investment activities pursuant to Sections 4(c)(5) and 4(c)(7) of the Act (12 U.S.C. 1843(c)(5) and § 1843(c)(7)).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than February 1, 1984.

Board of Governors of the Federal Reserve System, January 11, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-1138 Filed 1-16-84; 8:45 am]

BILLING CODE 6210-01-M

NCNB Corporation, et al.; Proposed de Novo Nonbank Activities by Bank Holding Companies

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *NCNB Corporation*, Charlotte, North Carolina, (consumer finance and insurance activities, sale of money orders; North Carolina): To engage through its subsidiary, TranSouth Financial Corporation, in making direct loans for consumer and other purposes, purchasing retail installment notes and contracts, selling at retail money orders having a face value of not more than $1,000 and acting as agent for the sale of credit life, credit accident and health and physical damage insurance directly related to its extensions of credit and through its subsidiary, TranSouth Mortgage Corporation, in making direct loans for consumer and other purposes under the general usury statutes, purchasing retail installment notes and contracts, making direct loans to dealers for financing of inventory (floor planning) and working capital purposes and acting as agent for the sale of credit life, credit accident and health and physical damage insurance directly related to its extensions of credit. The credit-related insurance activities are to be conducted in conformance with Section 601 of the Garn-St Germain Depository Institutions Act of 1982. These activities will be conducted from a common office of Applicant's subsidiaries located in Hickory, North Carolina, serving an area consisting of a 25 mile radius of the office. Comments on this application must be received not later than February 2, 1984.

B. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *BancOhio Corporation*, Columbus, Ohio (financing and servicing activities: Ohio and Kentucky): To engage, through its subsidiary, BancOhio Mortgage Company, in making , acquiring or servicing for its own account or for the account of others, all types of residential and commercial mortgage loans and other extensions of credit (including issuing letters of credit and accepting drafts) and other such activities as are incidental thereto. These activities will be conducted from a branch office of Applicant's subsidiary located in Lancaster, Ohio, serving the States of Ohio and Kentucky. Comments on this application must be received not later than February 8, 1984.

Board of Governors of the Federal Reserve System, January 11, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-1139 Filed 1-16-84; 8:45 am]

BILLING CODE 6210-01-M

United Banks Corp., et al.; Engaging de Novo in Permissible Nonbanking Activities

The bank holding companies listed in this notice have filed a notice under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.21(a) of Regulation Y (49 FR 794) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise

noted, such activities will be conducted throughout the United States.

Each notice is available for immediate inspection at the Federal Reserve Bank indicated for that application. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to each notice, interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than February 8, 1984.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *United Banks Corporation,* Hanover, New Hampshire (real estate appraisal activities; New Hampshire): To engage through its subsidiary United Appraisals, Inc., Hanover, New Hampshire, in *de novo* real estate appraisal activities pursuant to section 225.4()a(14) of Regulation Y. These activities will be conducted from an office located in Hanover, New Hampshire, serving the State of New Hampshire.

B. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Midlantic Banks Inc.,* Edison, New Jersey (financing, leasing, and servicing activities; New York): To engage through its subsidiary, Midlantic Commercial Co., in acquiring for its account or the accounts of others, loans and other extensions of credit as would normally be acquired by a factoring company of its type; leasing personal property and equipment on a full payment basis, or acting as agent, broker or advisor in the leasing thereof; and servicing loans, and other extensions of credit for any person. These activities will be conducted from an office located in New York, New York, serving the State of New York.

C. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Northwestern Financial Corporation,* North Wilkesboro, North Carolina (mortgage banking activities; North Carolina, South Carolina): To engage, through its subsidiary, Northwestern Mortgage Corporation, in making, acquiring and servicing first mortgage loans such as would be made by a mortgage banking company. These activities will be conducted from offices in North Charleston and Myrtle Beach, South Carolina; and Hickory, North Carolina, serving North Carolina and South Carolina.

D. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Central Bank Shares, Inc.,* Orlando, Florida (data processing activities; Florida): To engage through its subsidiary, Software Development, Inc., Orlando, Florida, in the activities of sale, support, continued regulatory change updates and development of financial institution software, including: proof of deposit, demand deposit accounting, interest bearing deposit accounting, loans, general ledger accounting, safe deposit box, and central information file. These activities will be conducted from an office in Orlando, Florida, serving the State of Florida.

E. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Norwest Corporation,* Minneapolis, Minnesota (financing, insurance and travelers checks activities; Oregon): To engage through its subsidiary, Norwest Financial System Oregon, Inc., in the activities of consumer finance, sales finance and commercial finance, the sale of credit life, credit accident and health and credit-related property and casualty insurance related to extensions of credit by that company (such sale of credit-related insurance being a permissible activity under Subparagraph D of Title VI of the Garn-St Germain Depository Institutions Act of 1982) and the offering for sale and selling of travelers checks. These activities will be conducted from an office in Clackamus, Oregon. This notification is (i) for the relocation of an existing office in Portland, Oregon, and (ii) to engage *de novo* in the activities of commercial finance from that office, as relocated. Upon relocation, said office will serve Clackamus, Oregon, other nearby suburbs of Portland, Oregon, and Portland, Oregon.

F. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Business Bancorp,* San Jose, California (leasing activities; United States): To engage, *de novo,* in leasing activities with respect to personal property and equipment and real property in accordance with the Board's Regulation Y. These activities will be conducted from its San Jose, California office to serve the United States.

Board of Governors of the Federal Reserve System, January 11, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-1132 Filed 1-16-84: 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

Advisory Committee on Preservation; Meeting

Notice is hereby given that the Executive Committee and the Subcommittee on Long Range Planning of the Advisory Committee on Preservation will meet on February 9, 1984, from 10:00 a.m. to 4:00 p.m. and February 10, 1984, from 9:00 a.m. to 12:00 noon in Room 503 of the National Archives Building, Washington, DC.

The agenda for the meeting will be:

1. Complete draft recommendations concerning preservation policies and practices at the National Archives.

2. Develop plans for preservation technology conference.

3. Review studies on the preservation of permanently valuable machine-readable data.

The meeting will be open to the public. For further information call Alan Calmes, 202–523–3159.

Dated: January 5, 1984.

Robert M. Warner,

Archivist of the United States.

[FR Doc. 84-1196 Filed 1-16-84: 8:45 am]

BILLING CODE 6820-26-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Immunization Practices Advisory Committee; Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), the Centers for Disease Control announces the following Committee meeting:

Name: Immunization Practices Advisory Committee.

Dates: February 7–8, 1984.

Place: Auditorium A, Centers for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

Time: 8:30 a.m.

Type of Meeting: Open.

Contact Person: Jeffrey P. Koplan, M.D. Executive Secretary of Committee Centers for Disease Control (1–2047), 1600 Clifton Road, NE., Atlanta, Georgia 30333. Telephones: FTS: 236–375, Commercial: 404–329–3751.

Purpose: The Committee is charged with advising on the appropriate uses of immunizing agents.

Agenda: The Committee will review and discuss its recommendations on influenza, rabies, pnemococcal, and hepatitis B vaccines, and will discuss rubella guidelines and other matters of interest to the Committee.

Agenda items are subject to change as priorities dictate.

The meeting in open to the public for observation and participation. A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: January 11, 1984.

James O. Mason,

Director, Centers for Disease Control.

[FR Doc. 84–1208 Filed 1–16–84; 8:45 am]

BILLING CODE 4160–M

Food and Drug Administration

Science Advisory Board; Request for Nomination of Members

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) requests nominations for membership on the Science Advisory Board. Seven vacancies exist and seven vacancies will occur on June 30, 1984.

DATE: Nominations are requested as soon as possible, but no later than February 16, 1984.

ADDRESS: Nominations should be submitted to the Executive Secretary, Science Advisory Board, National Center for Toxicological Research, Food and Drug Administration, Jefferson, AR 72079.

FOR FURTHER INFORMATION CONTACT: Ronald F. Coene, National Center for Toxicological Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3155.

SUPPLEMENTARY INFORMATION: The function of the Science Advisory Board is to advise the Director, National Center for Toxicological Research, in establishing and implementing a research program that will assist the Commissioner of Food and Drugs in fulfilling his responsibilities. The Board provides the extra-agency review to ensure that research programs and methodology development at the National Center for Toxicological Research are scientifically sound and pertinent to environmental problems.

Two new members will be appointed for terms commencing July 1, 1984, and ending June 30, 1985. Six new members will be appointed for terms commencing July 1, 1984, and ending June 30, 1986. Six new members will be appointed for terms commencing July 1, 1984, and ending June 30, 1987. Members shall have diversified experience in biomedical research and toxicology. Current needs are in data information systems, diet preparation, statistics, chemistry, molecular mechanisms, pharmacology, in vitro mutagenesis, reproductive and developmental toxicology, animal husbandry, and chemical toxicology.

FDA wants to ensure that women, minority groups, and the physically handicapped are adequately represented on adivsory committees and therefore extends particular encouragement to nominations for appropriately qualified female, minority, and handicapped candidates.

Any interested person may nominate one or more qualified persons for membership. A complete curriculum vitae of the nominee shall be included. Nominations shall state that the nominee is aware of the nomination, is willing to serve as a member of the committee, and appears to have no conflict of interest. FDA will ask potential candidates to provide detailed information concerning financial holdings, consultancies, and research grants or contracts to permit evaluation of possible sources of conflict of interest.

Dated: January 10, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–1140 Filed 1–16–84; 8:45 am]

BILLING CODE 4160–01–M

[Docket NO. 83M–0425]

Syntex Ophthalmics, Inc.; Premarket Approval of the CSI®T (Crofilcon A) Contact Lens

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the supplemental application for premarket approval under the Medical Device Amendments of 1976 of the CSI®T (crofilcon A) Contact Lens, sponsored by Syntex Ophthalmics, Inc., Phoenix, AR. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as rcommended in the submitted labeling.

DATE: Petitions for administrative review by February 16, 1984.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD

FOR FURTHER INFORMATION CONTACT: Charles H. Kyper, National Center for Devices and Radiological Health (HFK–402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7445.

SUPPLEMENTARY INFORMATION: On January 17, 1983, Syntex Ophthalmics, Inc., P.O. Box 39600, Phoenix, AR 85069–9600, submitted to FDA a supplemental application for premarket approval of the CSI®T (crofilcon A) Contact Lens. The SCI®T (crofilcon A) Contact Lens is indicated for extended wear of up to 30 days between each cleaning and disinfection cycle (as recommended by the eye care practitioner) by not-aphakic persons with nondiseased eyes that require a spherical lens in the power range from -20.00 to 0.00 (plano) diopter (D) for the correction of nearsightedness (myopia) or corneal astigmatism not exceeding 2.00 D. The CSI®T (crofilcon A) Contact Lens is to be disinfected using either a heat (thermal) or a chemical (not heat) disinfection system. The application was reviewed by the Ophthalmic Device Section of the Ophthalamic; Ear, Nose, and Throat; and Dental Devices Panel, and FDA advisory committee, which recommended approval of the application. On December 16, 1983, FDA approved the application by a letter to

the sponsor from the Associate Director for Device Evaluation of the Office of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94–295, 90 Stat. 539–583), contact lenses made of polymers other than polymethylmethacrylate (PMMA) and solutions for use with such contact lenses were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), contact lenses made of polymers other than PMMA and solutions for use with such lenses are now regulated as class III medical devices (premarket approval). As FDA explained in a notice published in the **Federal Register** of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly regulated as new drugs. Futhermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of contact lenses or solutions comply with the records and reports provisions of Subpart D of Part 310 (21 CFR Part 310) until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file with the Docket Management Branch (address above) and is available upon request from that office. A copy of all approval final labeling (which may be a draft of the final labeling) is available for public inspection at the National Center for Devices and Radiological Health—contact Charles H. Kyper (HFK–402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Restrictive labeling has been established for approved contact lenses. The labeling for this device states that the lenses are to be used with either a heat (thermal) or a chemical (not heat) disinfecting system that FDA has approved for use with contact lenses made of other than PMMA polymers. This restrictive labeling also informs new users that they must avoid using certain products. The restrictive labeling needs to be updated periodically to refer to new lens solutions that FDA approves for use with approved contact lenses made of other than PMMA polymers. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41–48), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93–637). Furthermore, failure to update restrictive labeling to refer to new solutions that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)). Accordingly, whenever FDA publishes a notice in the **Federal Register** of the agency's approval of a new solution for use with an approved lens, the sponsor of the lens shall correct its labeling to refer to the new solution at the next printing or at any other time FDA prescribes by letter to the sponsor.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA's action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before February 16, 1984, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 10, 1984.

William F. Randolph

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–1142 Filed 1–16–84; 8:45 am]

BILLING CODE 4160–01–M

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Psychopharmacologic Drugs Advisory Committee

Date, time, and place. February 23 and 24, 9 a.m., Conference Rms. G and H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, February 23, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to conclusion; open public hearing, February 24, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to conclusion; Frederick J. Abramek, National Center for Drugs and Biologics (HFN–120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4020.

General function of the committee. The committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of psychiatry and related fields.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The committee will (1) review a new drug application (NDA) for Clozaril ® (clozapine), a neuroleptic drug product, to evaluate its relative risk and benefits.

and (2) discuss neuroleptic drug product labeling: revision of placement and content of information on tardive dyskinesia—a proposed warning statement.

Board of Tea Experts

Date, time, and place. February 27 and 28, 10 a.m., Rm. 700, 850 Third Ave., Brooklyn, NY.

Type of meeting and contact person. Open public hearing, February 27, 10 a.m. to 11 a.m.; open committee discussion, February 27, 11 a.m to 4:30 p.m., February 28, 10 a.m. to 4:30 p.m.; Robert H. Dick, New York Import District, Food and Drug Administration, 850 Third Ave., Brooklyn, NY 11232, 212–965–5739.

General function of the committee. The Board advises on establishment of uniform standards for consumption of all teas imported into the United States pursuant to 21 U.S.C. 42.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the Board.

Open committee discussion. Discussion and selection of tea standards.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced on this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meeting may be requested from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Dated: January 11, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–1179 Filed 1–16–84, 8:45 am]

BILLING CODE 4160–01–M

Social Security Administration

Proposed Availability of Funding for a Grant To Train Refugee Resettlement Program Leadership

AGENCY: Office of Refugee Resettlement (ORR), SSA, HHS.

ACTION: Notice of availability of funding for a grant to train refugee resettlement program leadership.

SUMMARY: This announcement governs the award of a grant to a public entity or a non-profit organization for the establishment of a training program for persons who serve in leadership positions in the various agencies and organizations which constitute the United States refugee resettlement program. The program will include the development and implementation of a limited number of presentations focused upon program management issues which are critical to the efficient operation of refugee resettlement agencies and organizations.

CLOSING DATE: An application must be mailed or hand-delivered by the closing date, March 19, 1984.

Authorization

Authority for this activity is contained in the Immigration and Nationality Act (8 U.S.C. 1522) as amended by the Refugee Act of 1980, Section 412 Pub. L. 96–212. No catalog of Federal Domestic Assistance Number has been issued.

Available Funds

An estimated $75,000 is available for this grant program in fiscal year 1984. The Director estimates that this amount will support one award. However, these estimates do not bind the Office of Refugee Resettlement to a specific number of grants or to the amount of any grant unless the amount is otherwise specified by statute or regulations.

Awards will be for a 12 month period of performance with no further funding anticipated. Funds awarded under this announcement will be made available from fiscal year 1984 appropriations for social service National Discretionary Funds activities which will commence before September 30, 1984.

Note.—Award for training grants are subject to an 8% Departmental limitation on indirect costs.

Applications Submission and Approval Procedures

Applicants may request grant applications (SSA Form 96) from the Office of Refugee Resettlement, HHS, SSA, Grants Management Branch, Room 1332, Switzer Building, 330 C Street, SW., Washington, D.C. 20201, Betsy Andress, Telephone: (202) 245–1715. For program related information, contact: Richard M. Shapiro, Telephone: (202) 245–7276.

Prospective grantees must submit an original application and two copies to the Grants Management Branch by 5:00 p.m. Eastern Standard Time on March 19, 1984.

An independent review panel of experts will evaluate applications on a competitive basis according to the criteria listed in Section V of this Notice and in accordance with the HHS Grants Administration Manual. Final funding decisions will be made by the Director of the Office of Refugee Resettlement.

Applications Delivered by Mail

An application sent by mail must be addressed to the U.S. Department of Health and Human Services, Social Security Administration, Office of Refugee Resettlement, Grants Management Branch, Room 1332, Switzer Building, 330 C Street, SW., Washington, D.C. 20201. An application must show proof of mailing consisting of one of the following:

(1) A legible date U.S. Postal Service Postmark;

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service;

(3) A dated shipping label invoice or receipt from a commercial carrier. If an application is sent through the U.S. Postal Service, the Director does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service. Applicants should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, the applicant should check with its local post office.

Applicants are encouraged to use registered, or, at least, first class mail. Each late applicant will be notified that the application will not be considered.

Applications Delivered by Hand

An application that is hand delivered must be taken to the U.S. Department of Health and Human Services, Social Security Administration, Office of Refugee Resettlement, Grants Management Branch, Room 1332, Switzer Building, 330 C Street, SW., Washington, D.C. 20201. The Grants Management Branch will accept a hand-delivered application between the hours of 8:30 a.m. and 5:00 p.m. Eastern Standard Time daily except Saturday, Sunday or Federal Holidays. Hand-delivered applications will not be accepted after 5:00 p.m. on the closing date.

SUPPLEMENTARY INFORMATION:

I. Background

The United States refugee settlement program operates though a unique partnership of Federal, State, and private sector agencies. The program, as currently constituted, developed in response to the crisis imposed by the need to resettle large numbers of Southeast Asian refugees, and the requirements of the Refugee Act of 1980. Since 1975, over 650,000 Southeast Asians and over 170,000 refugees from other nations have been resettled throughout the Nation.

In these eight years the resettlement program has experienced a number of changes which have significance for the efficient operation of each of several key actors: national and local voluntary agencies, social services contractors, refugee organizations and mutual assistance associations (MAAs), state refugee agencies, the Office of Refugee Resettlement, and the Bureau for Refugee Programs of the Department of State. The changing context and requirements of the program have resulted from such factors as: the impact of the crisis resettlement of Cuban and Haitian entrants, the geographical concentrations of refugees and their impact upon a limited number of communities, reductions in the number of refugees admitted and corresponding reductions in resources, declining voluntary agency resources, implementation of a Federal placement policy, changes in eligibility for welfare reimbursement, and relatively persistent welfare dependency rates. Certain new program initiatives to address problems of impact and cash assistance dependency, such as Favorable Alternative Sites and Targeted Assistance, have been implemented. But the changes in the program have created other new management issues which have not yet been addressed, such as issues relating to the intergovernmental and public/private nature of the program.

These and other contextual, policy, and structural changes require examination by refugee program agency leadership so that they may be able to plan more effectively to manage their agencies under current circumstances and under those conditions which are likely to persist for the next few years.

II. Purpose

The objective of this announcement is to support the establishment of a national training program, consisting of a limited number of presentations of a symposium designed for key administrators and managers of: State refugee agencies, national and local voluntary agencies, refugee organizations and MAAs, and social services providers. The symposium should be designed to provide the participants with an understanding of the general context of the national refugee resettlement program and of current and anticipated structural, policy and procedural changes as they affect the operations of each of the agencies within the program. It is anticipated that the participants, upon completion of a symposium, will have an improved understanding of the impacts upon their respective agencies, and will during the symposium develop an initial plan or listing of actions to improve their organization's effectiveness.

III. Eligible Grantees

State and local governments, public and private non-profit agencies, including institutions of higher education, with demonstrated knowledge of the U.S. refugee resettlement program, and with demonstrated experience in the design and management of leadership training programs addressing complex public policy and program administration issues are eligible for funding under this announcement.

Only those organizations with a demonstrated capability to implement a training program for a national audience in a minimum of three geographically diverse locations are considered eligible for funding under this announcement.

IV. Program Description

1. It is anticipated that the grantee will implement a needs assessment which will identify, through contacts with a limited number of persons in leadership positions within the refugee resettlement program (e.g., State refugee agencies, voluntary agencies, MAAs, Federal officials), the major program administration and management issues.

2. The grantee, it is anticipated, will utilize the needs assessment to develop a symposium, which is not expected to exceed forty hours. The symposium will be designed to provide participants with the information required to develop an action plan to improve the operations of their agencies under current conditions, and in the context of changes likely to occur during the next two years. It is anticipated that the following issues and program areas will be among those identified for inclusion in the curriculum, although a select number of these should be focused upon depending upon the results of a needs identification exercise:

(a) *Placement:* Current status of refugees awaiting resettlement overseas including: numbers; nationalities; demographic, educational and work experience characteristics; the implications of these factors in the administration of an effective resettlement program, particularly the management of agency resources in response to reduced admission rates and the changing characteristics of refugee populations; reduction of unplanned large-scale secondary migration, and the implementation of Planned Secondary Resettlement Programs.

(b) *Service Delivery:* Implementation of cost effective case management; responsiveness to the changing numbers, characteristics and requirements of various refugee populations; techniques assessing community manpower requirements, improvement of job development programs, including creative linkages with Job Training Partnership Act agencies and other community manpower development mainstream resources; improvement of English language training and responsiveness to the language training requirements of local labor markets; building upon the higher levels of language proficiency resulting from changes in the overseas

ESL and CO programs; increased and more effective utilization of MAAs and refugee organizations to deliver a range of services; assessment and utilization of economic development strategies to increase self-sufficiency; etc.

(c) *Program Administration and Management:* Identification of actual administrative options and constraints with respect to: cutback management techniques; planning for short-term and long-term changes; program monitoring, including more effective procedures to quantify costs and improved accountability; fund raising strategies; crisis management; improving state refugee agency staffs' capacity to access and influence state policy and administrative decision-makers; etc.

3. It is anticipated that the symposium will be administered in a minimum of three locations, geographically accessible to the national, state and local refugee program leadership and will be comprised of a cross-section of key refugee resettlement actors.

4. It is anticipated that the symposium format and curriculum will include small group discussions; case studies and action planning processes.

5. It is anticipated that the grantee will design and implement an evaluation which will assess the curriculum and its delivery.

6. The grantee in the final grant report will provide a detailed description of: issues identified in the needs assessment; curriculum; case studies; major refugee resettlement policy and program management issues which emerged during the symposia; a description of the action plans produced by the participants and the results of the evaluation.

V. Application Content

The application should set forth in detail the following:

1. a comprehensive description of the applicant's experience and knowledge of the U.S. refugee resettlement program;

2. a comprehensive description of the applicant's experience in the design and management of leadership training programs addressing complex public policy and public administration issues.

3. a description of the applicable background and experience of the project personnel;

4. a plan for a needs assessment to identify key program administration and management issues and requirements of the various agencies and organizations within the national refugee resettlement program;

5. a preliminary outline for the symposium which is inclusive of the objectives and issues identified in the *Purpose* and under Activities 2. (a), (b) and (c) in the published Announcement, and which will be augmented with the results of the needs assessment;

6. a plan for management of the training program including identification of training sites;

7. a time/task chart which illustrates specific project activities and proposed periods of accomplishment.

VI. Criteria for Evaluating Applications

Applications will be evaluated according to the following criteria:

1. Demonstrated experience with, and knowledge of, the U.S. refugee resettlement program; (15 points)

2. Demonstrated experience in the design and management of leadership training programs addressing complex public policy and public administration issues; (15 points)

3. The extent to which the plan for the needs assessment will identify key program administration and management issues; (10 points)

4. The extent to which the applicant's personnel have demonstrated experience with the design and implementation of public administration and management training programs which include a small group, case study and action planning format; (15 points)

5. The extent to which the proposed symposium plan is responsive to the Notice's discussion of the *Purpose* and the issues identified under *Activities* 2. (a), (b) and (c); (15 points)

6. The adequacy of the proposed plan for managing the training program including the proposed location of training sites; (10 points)

7. The extent to which the time/task chart illustrates specific program activities and proposed periods of accomplishment; (10 points)

8. Adequacy of budget narrative and reasonableness and appropriateness of all cost items; (10 points)

Review and Award Procedure

Applications will be evaluated by a review panel of ORR staff and other experts according to the above criteria, and in accordance with the HHS Grants Administration Manual. The final funding decision will be made by the Director, ORR. It is estimated that the grant award will be issued on or about 30 days after favorable review, subject to the availability of funds.

Executive Order 12372 Notification Process

This program is not covered by the requirements of Executive Order 12372.

Applicable Regulations

The following HHS regulations apply to grants under this Notice:

45 CFR Part 16—Department Grant Appeals Process

45 CFR Part 74—Administration of Grants

45 CFR Part 75—Informal Grant Appeals Process

45 CFR Part 80—Nondiscriminaiton Under Programs Receiving Federal Assistance Through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act of 1967

45 CFR Part 81—Practice and Procedures for Hearings Under Part 80 of this Title

45 CFR Part 84—Nondiscrimination on the Basis of Handicap in Programs and Activities Benefiting from Federal Financial Assistance

45 CFR Part 90—Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance

Records and Reports

The successful grantee will be required to report financial status and program progress quarterly, and separarely from ORR's regular RRP and any prior ORR grant awards. Both Financial Status (SF 269's) and Program Progress Reports will be due 30 days after the first calendar day of each Federal quarter following the effective date of the grant award. Final, financial and program progress reports shall be due 90 days after the expiration or termination of grant support. All progress reports will include information obtained from tracking and evaluation activities and will focus upon project outcomes.

Dated: January 6, 1984.

Phillip N. Hawkes,

Director, Office of Refugee Resettlement.

[FR Doc. 84-1171 Filed 1-16-84; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Grand Traverse Band of Chippewa and Ottawa Indians Establishment of Reservation

January 6, 1984.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.1.

Notice is hereby given that, under the authority of section 7 of the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 467), the

hereinafter described tracts of land, located in Leelanau County, Michigan, were proclaimed to be an Indian reservation, effective January 6, 1984, for exclusive use of Indians entitled by enrollment or by tribal membership to residence at such reservation.

Michigan Meridian

Township 30 North, Range 11 West, Village of Peshawbestown;
Sec. 11. The South 4½ acres of Lot 7 and all of Lots 8, 9, and 10, Block 4, lying Westerly of State Highway M–22;
and that part of Lot one (1) of Block 5 lying North and West of the Leelanau-Manistique Railroad Right-of-Way.

Said lands containing 12.5 acres more or less, being subject to all valid rights, reservations, rights-of-way, and easements of record.

Establishment of this land as a reservation enables the Grand Traverse Band of Ottawa and Chippewa Indians of Michigan to formally organize under Section 16 of said act and to receive the full benefits of the act. The reservation is under the administrative jurisdiction of the Area Director, Minneapolis, Area Office, Bureau of Indian Affairs, 15 South 5th St., Minneapolis, Minnesota, 55402. The official custody of the land records for the reservation is with Aberdeen Title Plant, 115 4th Avenue, SE., Aberdeen, South Dakota 57401, and that office is the office of record for recording and maintenance of these records.

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 84–1184 Filed 1–16–84; 8:45 am]
BILLING CODE 4310–02–M

Bureau of Land Management

Glenwood Springs Resource Management Plan/Record of Decision

AGENCY: USDI, Bureau of Land Management.

ACTION: Notice of availability of Resource Management Plan/Record of Decision.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969 (40 CFR 1505.2), the Department of the Interior, Bureau of Land Management (BLM), has prepared a Record of Decision on the Glenwood Springs Resource Management Plan Environmental Impact Statement.

The BLM has also designated five areas of critical environmental concern (ACECs) within the Glenwood Springs Resource Area pursuant to 43 CFR 1610.7–2.

ADDRESS: Copies of the Record of Decision/Resource Management Plan are available upon request at the Glenwood Springs Resource Area Office, Bureau of Land Management, P.O. Box 1009, Glenwood Springs, Colorado 81602.

FOR FURTHER INFORMATION CONTACT: Alfred Wright, Area Manager, Bureau of Land Management, Glenwood Springs Resource Area Office, P.O. Box 1009, Glenwood Springs, Colorado 81602. Telephone: (303) 945–2341.

SUPPLEMENTARY INFORMATION:

Alternatives Analyzed

Four alternatives for managing 566,000 acres of public land in the Glenwood Springs Resource Area were analyzed in the environmental impact statement:

The Continuation of Current Management Alternative emphasized a level of management similar to the current level. It was the No Action Alternative required by the National Environmental Policy Act.

The Resource Protection Alternative emphasized protection of natural settings and protection and enhancement of fragile and unique resources.

The Economic Development Alternative emphasized development of resources that generate or produce goods, services, employment, and income.

The Preferred Alternative (called the Proposed Plan in the final environmental impact statement) emphasized protection of fragile and unique resources and production and development of renewable and nonrenewable resources.

Environmentally Preferable Alternative

The Preferred Alternative is the environmetally preferable alternative.

Decision

The decision is to adopt the Proposed Plan as the Glenwood Springs Resource Management Plan. Major actions contained in the plan are to—

- Maintain or increase existing wildlife populations when possible,
- Stabilize grazing operations,
- Recommend 10,118 acres as suitable for wilderness designation,
- Protect critical watersheds near Glenwood Springs, Rife, and New Castle and erosion hazard areas scattered throughout the resource area,
- Protect the visual resources throughout the resource area, especially along the Interstate 70 and Highway 82 travel corridors and in Thompson Creek, Bull Gulch, and Deep Creek,
- Leave the majority of the resource area open for mineral exploration and development, but restrict mineral development in some areas having other important and unique resource values,
- Harvest timber at current levels,
- Ensure the continued availability of outdoor recreational opportunities not readily available from other sources, reduce impacts of recreation use, and continue management of the upper Colorado River for floatboating use,
- Dispose of 15,500 acres of mostly small, isolated, and difficult to manage public land,
- Designate 393,615 acres as open, 152,001 acres as limited, and 20,426 acres as closed to motorized vehicle use, and
- Designate five areas of critical environmental concern (ACECs).

ACECs

Scenic values, critical watersheds, wildlife, and cultural values within the five ACECs will be protected by ACEC designation. The five ACECs and their general management are described below:

1. Blue Hills Archaeological District. Designate as a sensitive zone for utility and communication facilities, designate as a fire exclusion zone, restrict off-road vehicle use to existing roads and trails, and classify as a critical watershed because of the soil erosion hazard.

2. Glenwood Springs Debris Flow Hazard Zone. Limit motorized vehicle use to designated roads and trails, designate as a sensitive zone for utility and communication facilities, designate as a fire exclusion zone, prohibit surface facilities for oil and gas development, prohibit timber harvesting, and limit livestock use to light grazing.

3. Bull Gulch, Scenic Area. Designate as unsuitable for utility and communication facilities, manage under visual resource management Class I objectives, identify as a recreation management area, and prohibit vegetation manipulation.

4. Deep Creek, Scenic Area. Designate as unsuitable for utility and communication facilities, manage under visual resource management Class I objective, identify as a recreation management area, and prohibit vegetation manipulation.

5. Lower Colorado River Cooperative Management Area, Riparian and Wildlife Values. Protect important riparian and wildlife habitat on public lands. Main wildlife species of concern include the bald eagle, great blue heron, waterfowl, and other resident species. Identify for cooperative management with Colorado Division of Wildlife, designate as sensitive for utility and communication facilities, exclude livestock grazing with fencing, place

artificial nest boxes for geese and perches for bald eagles, and apply seasonal restrictions on development proposed for areas near crucial habitats.

Mitigation Measures

All practicable measures will be taken to mitigate adverse impacts. These measures will be strictly enforced during implementation. Monitoring will tell how effective these measures are in minimizing envirnomental impacts. Therefore, additional measures to protect the envirnonment may be taken during or following monitoring.

Dated: January 3, 1984.

Bob Moore,

Acting State Director.

[FR Doc. 84-1183 Filed 1-16-84; 8:45 am]

BILLING CODE 4310-84-M

[OR-19646 (WASH)]

Washington; Order Providing for Opening of Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: By Power Site Cancellation No. 321 of July 16, 1973, the U.S. Geological Survey cancelled Power Site Classification No. 153 in its entirety affecting approximately 29,762 acres of land. This action will open 160.95 acres to surface entry and 1,130 acres to such forms of disposition as may by law be made of national forest lands. The balance of 26,471 acres remain closed by other withdrawals or have been conveyed out of Federal ownership.

EFFECTIVE DATE: February 21, 1984.

ADDRESS: Inquiries concerning the lands should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

1. By Power Site Cancellation No. 321 of July 16, 1973, the U.S. Geological Survey cancelled the land withdrawal for Power Site Classification No. 153 of October 1, 1926, in its entirety. The areas described in the Secretarial Order aggregates approximately 29,762 acres.

2. The State of Washington has waived its preference right for highway rights-of-way or material sites as provided by the Federal Power Act of June 10, 1920, 16 U.S.C. 818.

3. At 6:30 a.m., on February 21, 1984, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the following described lands will be open to operation of the public land laws generally. The lands have been and remain open to operation of the mining laws, including the mineral leasing laws.

Willamette Meridian

T. 24 N., R. 11 W.,
Sec. 30, NE¼.
T. 24 N., R. 12 W.,
Sec. 29, Lot 5;
Sec. 30, Lot 10.

The areas described aggregate 160.95 acres in Jefferson County, Washington.

4. At 8:30 a.m., on February 21, 1984, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the following described lands will be open to such forms of disposition as may by law be made of national forest lands. The lands have been and remain open to operation of the mining laws, including the mineral leasing laws.

Willamette Meridian

Olympic National Forest

T. 24 N., R. 9 W., unsurveyed;
Secs. 3 to 6, inclusive, every smallest legal subdivision, any portion of which, when surveyed, will be within ¼ of a mile of Sams River.
T. 24 N., R. 10 W., unsurveyed;
Secs. 1, every smallest legal subdivision, any portion of which, when surveyed, will be within ¼ of a mile of Sams River.
T. 25 N., R. 10 W.,
Sec. 31, S½NE¼, E½SW¼, N½SE¼, and SW¼SE¼;
Sec. 33, portions of lots 6, 9, and 11;
Sec. 34, portions of SW¼SW¼ and S½SE¼.

The areas described aggregate approximately 1,130.00 acres in Jefferson County, Washington.

5. The balance of 26,471 acres will not be open to operation of the public land laws or to such forms of disposition as may by law be made of national forest lands because they are either within other existing withdrawals or have been conveyed out of Federal ownership.

Dated: January 6, 1984.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 84-1186 Filed 1-16-84; 8:45 am]

BILLING CODE 4310-33-M

Boise District Office; Grazing Advisory Board Meeting

ACTIONS: Boise District, Idaho, Grazing Advisory Board Meeting.

SUMMARY: In accordance with Pub. L. 92-463, the Federal Advisory Committee Act, and Pub. L. 94-579, the Federal Land Policy and Management Act, notice is hereby given that the Boise District Grazing Advisory Board will meet February 17, 1984.

SUPPLEMENTARY INFORMATION: The meeting will take place from 8:00 a.m. to 4:00 p.m. in the main floor conference room of the BLM, Boise District Office, 3948 Development Avenue, Boise, Idaho 83705. The public is invited and a public comment period is scheduled from 2:00 p.m. to 3:00 p.m. Major topics for discussion are as follows:

Alternatives for the Echo Pipeline System
Summary of FY-83 7120 Project Expenditures
Report on FY-84 8100 Program
Section 4 Permits
Election of Officers

FOR FURTHER INFORMATION CONTACT: Further information is available from the Boise District, Bureau of Land Management, 3948 Development Avenue, Boise, Idaho 83705, phone (208) 334-1582. Minutes of the meeting will be available for public inspection at the District Office.

J. David Brunner,

Acting District Manager.

December 28, 1983.

[FR Doc. 84-314 Filed 1-16-84; 8:45 am]

BILLING CODE 4310-GG-M

[CA 7004 WR, CA 7006 WR, CA 7019 WR, CA 7020 WR, CA 7061 WR, CA 7072 WR, and CA 7562 WR]

California; Proposed Continuation of Withdrawals of Land; Opportunity for Public Hearing

Correction

In FR Doc 84-311, beginning on page 944, in the issue of Friday, January 6, 1984, in the third column, the thirteenth line from the top should read "T. 11 S., R. 21 E.,".

BILLING CODE 1505-01-M

Approval of the Plan of Operation for Homestake Mining Company's McLaughlin Project, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of permit approval.

SUMMARY: In accordance with 43 CFR 3809 the Ukiah District of the Bureau of Land Management has approved the plan of operations for Homestake Mining Company's McLaughlin Project near Knoxville, California. The findings of the environmental impact statement and the findings of the various permitting agencies indicate that this project will cause no unnecessay or undue degradation of the Federal lands.

FOR FURTHER INFORMATION CONTACT: Stanley R. Whitmarsh, Clear Lake Resource Area Manager, 555 Leslie Street, P.O. Box 940, Ukiah, California 95482, Telephone (707) 462-3873.

Dated: January 9, 1984.

Van W. Manning,

District Manager.

[FR Doc. 84-1188 Filed 1-16-84; 8:45 am]

BILLING CODE 4310-GG-M

[I-19367]

Idaho; Issuance of Land Exchange Conveyance Document; Exchange of Public and Private Lands Camas, Gooding, Jerome and Lincoln Counties

January 6, 1984.

The United States has issued an exchange conveyance document to Thorn Creek Cattle Association, Inc., Shoshone, Idaho, for the following-described lands under Section 206 of the Federal Land Policy and Management Act of 1976.

Boise Meridian, Idaho

T. 9 S., R. 17 E.,
Sec. 22, NW¼NE¼, W½W½NE¼NE¼, SW¼NE¼, W½W½W½SE¼NE¼, NW¼SE¼.
Comprising 135.00 acres of public land.

In exchange for these lands, the United States acquired the following described lands:

Boise Meridian, Idaho

T. 2 S., R. 16 E.,
Sec. 29, NW¼NE¼, E½NW¼, SW¼NW¼;
Sec. 30, S½NE¼, SE¼SW¼, N½SE¼, SW¼SE¼;
Sec. 31, W½NE¼, NE¼NW¼, N½SE¼, SE¼SE¼.
T. 3 S., R. 16 E.,
Sec. 5, SW¼NW¼;
Sec. 6, lots 1, 7, E½SW¼, SE¼NE¼, N½SE¼;
Sec. 7, lot 1.
Comprising 1000.12 acres of private land.

The purpose of this exchange was to acquire the non-Federal land which provides benefits for wildlife, recreation, and range management. The public interest was well served through completion of the exchange.

Louis B. Bellesi,

Deputy State Director for Operations.

[FR Doc. 84-1189 Filed 1-16-84; 8:45 am]

BILLING CODE 4310-GG-M

[Serial No. I-012537 et al.]

Proposed Continuation of Withdrawal, Idaho

AGENCY: Bureau of Land Management, Interior

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes that six withdrawals for the proposed Upper Snake River Project (Burns Creek), be continued for an additional 25 years. The lands involved, totaling 6,940 acres, would remain closed to surface entry and mining but have been and would remain open to mineral leasing.

DATE: Comments or requests for a public meeting should be received within 90 days of the date of publication of this notice.

ADDRESS: Comments or meeting requests should be sent to: Chief, Branch of Land Operations, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706.

FOR FURTHER INFORMATION CONTACT: William E. Ireland, Idaho State Office, 208-334-1597.

The Bureau of Reclamation proposes that the existing land withdrawals for the Upper Snake River Project (Burns Creek), be continued for a period of 25 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The lands are located along the Snake River, partially within the Targhee and Caribou National Forests and within the following-described townships:

Boise Meridian, Idaho

T. 2 N., R. 42 E.
T. 3 N., R. 42 E.
T. 1 N., R. 43 E.
T. 2 N., R. 43 E.
T. 3 N., R. 43 E.

The withdrawn lands in the described townships contain 6,940 acres in Bonneville County.

The purpose of the withdrawals is to protect the lands for the proposed Burns Creek Dam and Reservoir. The withdrawals segregate the land from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawals.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the Chief, Branch of Land Operations, in the Idaho State Office.

Notice is hereby given that an opportuity for a public meeting is afforded in connection with the proposed withdrawal continuation. All interested persons who desire a public meeting for the purpose of being heard must submit a written request to the Chief, Branch of Land Operations, within 90 days from the date of publication of this notice. If the authorized officer determines that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resource. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal willl continue until such final determination is made.

Dated: January 10, 1984.

Vincent S. Strobel,

Chief, Branch of Land Operations.

[FR Doc. 84-1190 Filed 1-16-84; 8:45 am]

BILLING CODE 4310-GG-M

Utah; Public Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Vernal District Grazing Advisory Board will be held on February 22, 1984.

The meeting will begin at 9:00 a.m. in the Conference Room of the Bureau of Land Management Office, 170 South 500 East, Vernal, Utah.

The agenda for the meeting will include: (1) Review of minutes, (2) Status of the Bookcliffs Resource Management Plan, (3) The status of FY 84 range improvement work, (4) BLM-SCS ranch management plans, (5) Utah Division of Wildlife range-wildlife related programs, (6) Maintenance Coop Agreements, (7) Review and rating of cost benefit summaries and allotment categorization for Three Corners Planning Unit, (8) Predator and pest control, and (9) Cooperative Management Plans.

The meeting is open to the public. Interested persons may make oral statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 170 South 500 East, Vernal, Utah by February 21, 1984.

Depending on the number of persons wishing to make statements, the District Manager may establish a per person time limit. Oral statement will be taken beginning at 10:30 a.m., February 22, 1984.

Summary minutes of the Board meeting will be maintained at the District Office and will be available for public inspection and reproductions (during regular business hours) within 30 days following the meeting.

Lloyd H. Ferguson,

District Manager.

[FR Doc. 84-1191 Filed 1-16-84; 8:45 am]

BILLING CODE 4310-DQ-M

Fish and Wildlife Service

Kenai National Wildlife Refuge Comprehensive Conservation Plan/ Environmental Impact Statement and Wilderness Review, Kenai Peninsula Borough, Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and public hearings.

SUMMARY: The U.S. Fish and Wildlife Service has prepared a draft comprehensive conservation plan/ environmental impact statement (CCP/ EIS) for the Kenai National Wildlife Refuge, alaska, pursuant to sections 304(g)(1) and 1317 of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA), Section 3(d) of the Wilderness Act of 1964, and Section 102(2)(C) of the National Environmental Policy Act of 1969. The draft CCP/EIS addresses five alternative strategies for long-term management of the 1.97-million-acre refuge. The plan also reviews about 620,000 acres of non-wilderness lands on the refuge as to their suitability under each management alternative for possible addition to the National Wilderness Preservation System.

DATES: Comments on the draft CCP/EIS must be submitted on or before March 19, 1984 to receive consideration in the preparation of the final CCP/EIS.

One formal public hearing and three public meeting will be held as scheduled below to receive comments on the refuge management alternatives and associated potential impacts, and on the wilderness suitability of non-wilderness lands under each alternative:

Public Hearing: March 6, 1984; 7:30 pm; Central Junior High School, Multia-purpose Room, 15th Avenue and E Street, Anchorage, Alaska

Public Meetings: February 28, 1984; 7:30 pm; Kenai Borough Assembly Chambers, Soldotna, Alaska

February 29, 1984; 7:30 pm; Homer High School, Team Teaching Room, Homer, Alaska

March 1, 1984; 7:30 pm; Seward Elementary School, School Library, Seward, Alaska

Written and oral testimony will be accepted at the public hearing and will be transcribed for the official record. Written and oral comments will also be accepted at the public meetings.

Comments received during the public meeting, testimony given during the public hearing, and all written comments received prior to the above date will receive consideration in preparation for the fianl CCP/EIS.

ADDRESS: Comments should be addressed to: Regional Director, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503 (Attn: William Knauer).

FOR FURTHER INFORMATION CONTACT: William Knauer, Wildlife Resources, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503, Telephone (907) 786-3399.

Persons wishing copies of this draft CCP/EIS for review should immediately contact Mr. Knauer. Copies have been sent to all agencies that participated in the scoping process and to all agencies and persons that have already requested copies. Copies of the draft CCP/EIS are also available for review at the above location, at the Kenai National Wildlife Refuge Office, Soldotna Alaska, and at the following locations:

U.S. Fish and Wildlife Service, Division of Refuge Management, 18th and C Streets NW, Department of the Interior, Washington, DC 20240

U.S. Fish and Wildlife Service, Wildlife Resources, Lloyd 500 Building, Suite 1692, 500 NE Multnomah Street, Portland, OR 97232

U.S. Fish and Wildlife Service, Wildlife Resources, 500 Gold Avenue SW, Room 1306, Albuquerque, NM 87103

U.S. Fish and Wildlife Service, Wildlife Resources, Federal Building, Fort Snelling, Twin Cities, MN 55111

U.S. Fish and Wildlife Service, Wildlife Resources, Richard B. Russell Federal Building, 75 Spring Street, Atlanta, GA 30303

U.S. Fish and Wildlife Service, Wildlife Resources, 134 Union Boulevard, Lakewood, CO 80225

A summary of the draft CCP/EIS has also been prepared for genaral distribution. Copies of this summary will be sent to all individuals and organizations who participated in scoping or received editions of the planning bulletin. The summary is also available upon request from Mr. William Knauer at the address listed previously.

SUPPLEMENTARY INFORMATION: The draft CCP/EIS for the Kenai National Wildlife Refuge was developed by the U.S. Fish and Wildlife Service, Department of the Interior to fulfill the requirements of Section 304 of ANILCA relating to preparation of comprehensive conservaion plans and the requirements of Section 1317 of ANILCA and Section 3(d) of the Wilderness Act relating to general wilderness suitability review of non-wilderness refuge lands.

Major issues addressed by the plan include fish and wildlife management, access, recreation and public use, oil and gas exploration and leasing, and wilderness management. The draft CCP/ EIS addresses five alternatives for long-range management of the refuge including one that would continue current management (the no-action alternative). The other four alternatives cover a broad spectrum of management emphasis ranging from maximum to minimum use of refuge resources. A preferred alternative, representing an intermediate or balanced approach to management of the refuge, is identified.

The plan also addresses the general wilderness suitability of 620,000 acres of non-wilderness refuge lands under each management alternative. This complies with Section 1317(a) of ANILCA which requires the Secretary of the Interior to review, in accordance with section 3(d) of the Wilderness Act, all non-wilderness refuge lands in Alaska as to their suitability for preservation as wilderness and report his recommendations to the President by 1985.

Other government agencies and the general public contributed to the development of this draft CCP/EIS. The Notice of Intent to prepare the draft CCP/EIS was published in the February 11, 1981 **Federal Register**. Four public meetings were held during November, 1980 in Seward, Soldotna, Homer, and Anchorage, Alaska. Several editions of a planning bulletin were sent to more than 1,300 persons and organizations. During June, 1982, a series of workshops were held in Soldotna to help define issues involving refuge resources.

DATE: January 9, 1984.

Jan E. Riffe,

Acting Regional Director.

[FR Doc. 84-1163 Filed 1-16-84; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Applications

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is

provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: New York Zoological Society, Bronx, NY, PRT 2-11312.

The applicant requests a permit to import 8-12 young captive gavials (*Gavialis gangeticus*) from various zoos in India for enhancement of propagation and survival.

Applicant: Sherwood Costen, Point Pleasant, WV, APP #584306.

The applicant requests a permit to purchase in interstate commerce four Hawaiian (nene) geese (*Branta sandvicensis*), from Walter B. Sturgeon, Lee, NH, for enhancement of propagation.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1001 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: January 12, 1984.

Larry LaRochelle,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 84-1198 Filed 1-16-84; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

ODECO Oil and Gas Co., Receipt of a Proposed Plan of Development/ Production

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Plan of Development/ Production (POD/P).

SUMMARY: Notice is hereby given that ODECO Oil and Gas Company has submitted a POD/P describing the activities it proposes to conduct on Lease OCS-G 3164, Block 135, Ship Shoal Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Dulac, Louisiana.

DATE: The subject POD/P was deemed submitted on January 9, 1984.

ADDRESSES: A copy of the subject POD/P is available for public review at the Office of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Warren Williamson, Minerals Management Service, Gulf of Mexico Region; Rules and Production; Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 838-0864.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the POD/P and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in POD/Ps available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: January 9, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84-1194 Filed 1-16-84; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before January 6, 1984. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by February 1, 1984.

Carol D. Shull,

Chief of Registration, National Register.

DISTRICT OF COLUMBIA

Buildings at 1000 Block of Seventh Street, and 649-651 New York Avenue, NW, 1005-1035 7th St., and 649-651 New York Ave., NW

KENTUCKY

Todd County

Elkton vicinity, *Reeves, W. L., House,* KY 102

NEW YORK

New York County

New York City, *St. Cecilia's Church and Convent,* 112-120 E. 160th St.

Queens County

New York City, *Lent Homestead and Cemetery,* 78-03 19th Rd.

Richmond County

New York City, *Poillon-Seguine-Britton House,* 360 Great Kills Rd.

Suffolk County

Amagansett, *Pleasants House,* NY 27
Orient, *Terry-Mulford House,* NY 25

OKLAHOMA

Canadian County

Yukon, *Yukon Public Library,* 512 Elm St

Tillman County

Frederick vicinity, *Laney, J.D., House,* SW of Frederick

TEXAS

Harris County

Houston, *Clayton, William L., Summer House,* 3376 Inwood Dr.

TRUST TERRITORY OF THE PACIFIC ISLANDS

Mariana Islands Distict

Rota, *Ginalagan Defense Complex,* Singapalo
Saipan, *Kalabera Archeological District,* Laderan Kalaberan Lichan
Saipan, *Unai Lagua Japanese Defense Pillbox,* Unai Lagua

WISCONSIN

Ashland County

Ashland, *West Second Street Historic District,* W. 2nd St. from Ellis Ave. to 6th Ave.

Milwaukee County

Milwaukee, *Astor on the Lake,* 924 E. Juneau Ave.

[FR Doc. 84-1229 Filed 1-16-84; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Forms Under Review by Office of Management and Budget

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Lee Campbell (202) 275-7238.

Comments regarding this information collection should be addressed to Lee Campbell, Interstate Commerce Commission, Room 1325, 12th and Constitution Ave., NW., Washington, DC 20423 and to Gary Waxman, Office of Management and Budget, Room 3228 NEOB, Washington, DC 20503, (202) 395–7340.

Type of Clearance: Extension
Bureau/Office: Bureau of Accounts
Title of Form: Quarterly Report of Freight Commodity Statistics
OMB Form No.: 3120–0031
Agency Form No.: QCS
Frequency: Quarterly-Annually
Respondents: Class I Railroads
No. of Respondents: 30
Total Burden Hrs.: 15,600

Type of Clearance: Extension
Bureau/Office: Office of Compliance & Consumer Assistance
Title of Form: Motor Carrier & Freight Forwarder Cargo Liability Surety Bond
OMB Form No.: 3120–0090
Agency Form No.: BMC–83
Frequency: On occasion
Respondents: ICC Regulated Motor Carriers & Freight Forwarders
No. of Respondents: 150
Total Burden Hrs.: 37.5

Type of Clearance: Extension
Bureau/Office: Office of Compliance & Consumer Assistance
Title of Form: Property Brokers Surety Bond
OMB Form No.: 3120–0091
Agency Form No.: BMC–84
Frequency: On occasion
Respondents: ICC Regulated Property Brokers
No. of Respondents: 125
Total Burden Hrs.: 31

Type of Clearance: Extension
Bureau/Office: Office of Compliance & Consumer Assistance
Title of Form: Endorsement for Motor Carrier Freight Forwarder Bodily Injury & Property Damage Policies of Insurance
OMB Form No.: 3120–0086
Agency Form No.: BMC–90
Frequency: On occasion
Respondents: ICC Regulated Motor Carriers & Frieght Forwarders
No. of Respondents: 11,000
Total Burden Hrs.: 2,750

Type of Clearance: Extension
Bureau/Office: Office of Compliance & Consumer Assistance
Title of Form: Cargo Certificate of Insurance—Motor Carriers & Frieght Forwarders
OMB Form No.: 3120–0095
Agency Form No.: BMC–34
Frequency: On occasion
Respondents: ICC Regulated Motor Carriers & Freight Forwarders
No. of Respondents: 5,850
Total Burden Hrs.: 1,463

Type of Clearance: Extension
Bureau/Office: Office of Compliance & Consumer Assistance
Title of Form: Endorsement for Motor Carrier and Freight Forwarder Cargo Policies of Insurance
OMB Form No.: 3120–0087
Agency Form No.: BMC–32
Frequency: On occasion
Respondents: ICC Regulated Motor Carriers & Freight Forwarders
No. of Respondents: 5,850
Total Burden Hrs.: 1,463

Type of Clearance: Extension
Bureau/Office: Office of Compliance & Consumer Assistance
Title of Form: Notice of Cancellation—Motor Carrier, Freight Forwarder & Property Broker Surety Bond
OMB Form No.: 3120–0082
Agency Form No.: BMC–36
Frequency: On occasion
Respondents: ICC Regulated Motor Carriers, Freight Forwarders & Property Brokers
No. of Respondents: 68
Total Burden Hrs.: 17

Type of Clearance: Extension
Bureau/Office: Office of Compliance & Consumer Assistance
Title of Form: Notice of Cancellation—Motor Carrier & Freight Forwarder Certificate of Insurance
OMB Form No.: 3120–0081
Agency Form No.: BMC–35
Frequency: On occasion
Respondents: ICC Regulated Carriers & Freight Forwarders
No. of Respondents: 9,661
Total Burden Hrs.: 2,415

Type of Clearance: Extension
Bureau/Office: Office of Compliance & Consumer Assistance
Title of Form: Bodily Injury & Property Damage Certificate of Insurance Motor Carriers & Freight Forwarders
OMB Form No.: 3120–0096
Agency Form No.: BMC–91
Frequency: On occasion
Respondents: ICC Regulated Motor Carriers & Freight Forwarders
No. of Respondents: 11,000
Total Burden Hrs.: 2,750

James H. Bayne,
Acting Secretary

[FR Doc. 84–1169 Filed 1–16–84; 8:45 am]
BILLING CODE 7035–01–M

[OP2–021; MCF–15553]

Motor Carriers Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register** and *ICC Register*. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or*

to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a signle operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Decided: Janaury 10, 1984.

By the Commission, Review Board Members Parker, Krock and Dowell.

James H. Bayne,

Acting Secretary.

MC-F-15553, filed December 21, 1983, CENTRAL TRANSPORT, INC. AND GLS LEASCO, INC.—CONTROL—THE MASON AND DIXON LINES, INCORPORATED AND THE MASON AND DIXON TANKS LINES, INC. Representative: Kim D. Mann, 1600 Wilson Boulevard, Suite 1301, Arlington, VA 22209. Central Transport, Inc. (Central), a motor carrier, and its affiliate, GLS Leasco, Inc. (GLS), a noncarrier, seek authority for their acquisition of control of Mason and Dixon Lines, Incorporated (M&D) and its wholly-owned subsidiary, Mason and Dixon Tank Lines, Inc. (Tank Lines), through purchase of all of the outstanding capital stock of M&D; and for acquisition by Centra, Inc. (CenTra), a noncarrier and sole stockholder of Central and GLS, and T. J. Moroun and M. J. Moroun, individuals, who control CenTra, through majority stock ownership and management of control of the operating rights and property through the transaction. Under the terms of separate contracts between the parties, Central will acquire approximately 78 percent of M&D's common stock. The remaining 22 percent of M&D's stock is now held by noncarrier Crown Enterprises, Inc. (Crown). GLS will acquire all of Crown's stock and thus acquire indirect control of M&D and Tank Lines through the transaction. M&D, a common and contract carrier pursuant to certificates and permits in No. MC-59583, is authorized to transport general commodities between all points in the US. Tank Lines, a common and contract carrier pursuant to certificates and permits in No. MC-61403, is authorized to transport commodities in bulk between points in the US (except AK and HI). Central is affiliated, directly or indirectly, with the following motor carriers subject to the Commission's jurisdiction: C.T. Transport, Inc. (MC-141609), Superior Forwarding Company, Inc. (MC-75406), General Highway Express, Inc. (MC-97841), Port Side Transport, Inc. (which purchased the operating rights of Brada Miller Freight System, Inc. in No. MC-F-14764), Adams Cartage, Limited (MC-135365), and U.S. Truck Company, Inc. (MC-59336). In addition, Central has agreed to purchase all of the stock of Tucker Freight Lines, Inc. (MC-30504) and is now operating the latter's rights pursuant to a temporary lease approved in No. MC-F-15466TA.

Notes.—(1) A temporary authority application has been filed by Central to control through management the operating rights and property of M&D and Tank Lines.

(2) Approval herein is not intended as approval of any relationship between the carriers mentioned herein and those controlled by A. A. Moroun, an officer, director and shareholder in CenTra, Inc.

[FR Doc. 84-1170 Filed 1-16-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-32; Sub-29X]

Boston and Maine Corporation; Abandonment; in Merrimack County, NH; Exemption

Boston and Maine Corporation (B&M) filed a notice of exmeption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments.* The line segment to be abandoned is the Concord and Claremont Branch located in The City of Concord, Merrimack County, NH, extending between milepost 1.75 and milepost 2.88, a distance of 1.13 miles.

B&M has certified (1) that no local traffic has moved over the line for at least 2 years, and that overhead traffic on the line segment can be rerouted over other lines, and (2) that no formal complaint filed by a user of rail service on the line regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in New Hampshire has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines,* 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

The exemption will be effective on February 16, 1984 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by January 27, 1984 and petitions for reconsideration, including environmental, energy and public use concerns, must be filed by February 6, 1984 with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Sidney Weinberg, Iron Horse Park, North Billerica, MA 01862-1685.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: January 5, 1984.

By the Commission, Richard Lewis, Acting Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-1168 Filed 1-16-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-14,605]

Del Truck Equipment, Incorporated, Buffalo, New York; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

According to Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a certification of eligibility to apply for worker adjustment assistance on October 6, 1983 to workers of Del Truck Equipment, Incorporated, in Buffalo, New York under petition number TA-W-14,605. The Notice of Certification was published in the **Federal Register** on October 18, 1983 (48 FR 38302).

Based on additional information furnished to the Office of Trade Adjustment Assistance by the International Association of Machinists and Aerospace Workers (IAMAW) and an official of Del Truck Equipment,

Incorporated on separation of Del Truck workers engaged in the production of truck bodies at the Buffalo, New York facility, the Department is amending that portion of the certification to cover the additional separated workers by changing the June 18, 1982 termination date to November 30, 1982.

The amended certification for TA-W-14,605 is hereby issued as follows:

All workers of Del Truck Equipment, Incorporated, Buffalo, New York who became totally or partially separated from employment on or after April 19, 1982 and before November 30, 1982 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 10th day of January 1984.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 84-1216 Filed 1-16-84; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-14, 936]

Isaacson Steel Company, Seattle, Washington; Affirmative Determination Regarding Application for Reconsideration

By an application dated December 9, 1983, the International Association of Bridge, Structural and Ornamental Iron Workers requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance on behalf of former workers of the Isaacson Steel Company, Seattle, Washington. The determination was published in the **Federal Register** on December 2, 1983 (48 FR 54403).

The application for reconsideration claims that the Department's survey on lost bids was not adequate.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is therefore granted.

Signed at Washington, D.C., this 10th day of January 1984.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Acturial Services, UIS

[FR Doc. 84-1217 Filed 1-16-84; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Meeting

January 11, 1983.

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), as amended, notice is hereby given that the National Advisory Committee on Oceans and Atmoshpere (NACOA) will hold a meeting on Monday, Tuesday, and Wednesday, January 30-31, and February 1, 1984. The meetings on all three days will be held in Rooms 416 and B-100 at 2001 Wisconsin Avenue, NW., Washington, D.C. The committee, consisting of 18 non-Federal members appointed by the President from academia, business and industry, public interest organizations, and State and local government, was established by Congress by Pub. L. 95-63, on July 5, 1977. Its duties are to (1) undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to carrying out of the programs administered by the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to the Congress sitting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and submit other reports as may from time to time be requested by the President or Congress.

The tentative agenda is as follows:

Monday, January 30, 1984

9:00 a.m.–12:00 noon
Plenary (Room 416)
9:00 a.m.–9:30 a.m.
- Announcements

9:30 a.m.–12:00 noon
- Topic: Research on Climate and the Effects of "Nuclear Winter"

Speakers: Alan D. Hecht, Director, National Climate Program Office; Peter Lunn, Defense Nuclear Agency; TBA
12:00 noon–1:00 p.m.
Lunch
1:00 p.m.–5:00 p.m.
Panel Meetings
1:00 p.m.–3:00 p.m.
- Weather Services Panel; Chairman: Warren Washington (Room B-100)

Topic: Panel Work Session
Speakers: None
1:00 p.m.–5:00 p.m.
- Shipbuilding Panel; Chairman: Don Walsh (Room 416)

Topic: Panel Work Session
Speakers: None
5:00 p.m.
Recess

Tuesday, January 31, 1984

8:30 a.m.–12:00 noon
Panel Meetings
8:30–12:00 noon
- Radioactive Waste Disposal Panel; Chairman: John Knauss (Room 416)Topic: Panel Work Session

Speakers: None
10:00–12:00 noon
- Underwater Technology Panel; Chairman: Sylvia Earle (Room B-100)

Topic: Panel Work Session
Speakers: None
12:00–1:00 p.m.
Lunch
1:00 p.m.–3:00 p.m.
Plenary
- Panel Reports
- Other Business

3:00 p.m.
Adjourn
3:00–6:00 p.m.
Panel Meeting
- Exclusive Economic Zone Panel, Chairman: Don Walsh (Room 416)

Speakers: David A. Ross, Director, Marine Policy & Ocean Management Center, Woods Hole Oceanographic Institution; James "Bud" Walsh, Counsel for American, Tunaboat Association; TBA Representative of fishing industry; TBA Representative of the Department of State
6:00 p.m.
Recess

Wednesday, February 1, 1984

8:30 a.m.–12:00 noon
Panel Meeting
- Exclusive Economic Zone Panel; Chairman: Don Walsh (Room 416)

Speakers: Michael Danaher, Office of Legal Advisor, Oceans, International Environmental and Scientific Affairs, Department of State; Benard Oxman, University of Miami School of Law; TBA Representative of public environmental group
12:00 noon–1:00 p.m.
Lunch
1:00 p.m.–3:30 p.m.
Panel Meeting
- Exclusive Economic Zone Panel, Room 416)

Topic: Panel Work Session
3:30 p.m.
Adjourn

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Steven N. Anastasion, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 330 Whitehaven Street, NW., Washington, DC 20235.

Dated: January 11, 1984.

Steven N. Anastasion,

Executive Director

[FR Doc. 84-1114 Filed 1-16-84; 8:45 am]

BILLING CODE 3510-12-M

NATIONAL SCIENCE FOUNDATION

Committee on Equal Opportunities in Science and Technology; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Women in Science and Technology.

Place: Rm. 1242, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Date: Thursday and Friday, February 2–3, 1984.

Time: Thursday, 9–5 p.m.; Friday, 9–3 p.m.

Type of Meeting: Open.

Contact Person: Ms. Jane Stutsman, Executive Secretary of the Committee, National Science Foundation, Rm. 516, 1800 G Street, NW., Washington, D.C. 20550. Telephone: 202/357–9418.

Purpose of Subcommittee: Responsible for all Committee matters relating to the participation in and opportunities for education, training, and research for women in science and technology, and the impact of science and technology on women.

Summary Minutes: May be obtained from the contact person at the above stated address.

Agenda: The Subcommittee is asked to consider mechanisms to increase participation of women in Foundation programs and research projects; to provide advice to the Director for the modification of NSF policies and procedures relating to women appointments on advisory committees, as well as to suggest a modification of the internal distribution of funds to implement this program.

Dated: January 12, 1984.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 84–1209 Filed 1–16–84; 8:45 am]

BILLING CODE 7555–01–M

Subpanel on Regulatory Biology; Meeting

In accordance with Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Subpanel on Regulatory Biology of the Advisory Panel for Physiology, Cellular and Molecular Biology.

Date and Time: February 1, 2, and 3, 1984 (8:30 am to 5:00 pm).

Place: Conference Room 338, National Science Foundation; 1800 G Street NW, Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Bruce L. Umminger, Program Director, Regulatory Biology, Room 332, National Science Foundation, Washington, DC 20550, Telephone 202/357–7975.

Purpose of Subpanel: To provide advice and recommendations concerning support for research in regulatory biology.

Agenda: To review and evaluate research proposals land projects as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 94–463. The Committee Management Officer delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: January 12, 1984.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 84–1211 Filed 1–16–84; 8:45 am]

BILLING CODE 7555–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 20547; File No. SR–OCC–83–23]

Filing and Immediate Effectiveness of Proposed Rule Change Filed by the Options Clearing Corporation

January 10, 1984.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78S(b)(1), notice is hereby given that on December 19, 1983, the Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments from persons interested in the proposed rule change.

The proposed rule change contains a credit and security agreement ("Agreement") between OCC and the Bank of America National Trust and Savings Association ("Bank") relating to the settlement of foreign currency options.[1] Under the Agreement, OCC will maintain an account with the Bank's London branch ("London Account"). Pursuant to OCC instruction, the Bank will accept underlying foreign currency deliveries from, and make such deliveries to, OCC Clearing Members from this account in respect of the settlement of foreign currency options exercises. Moreover, the proposal authorizes the Bank to overdraw OCC's London Account to effect delivery of underlying foreign currencies to Receiving Clearing Members, regardless of the failure of Delivering Clearing Members to deliver the foreign currencies to OCC. The Bank will overdraw the London Account in the amount in which foreign currencies to be delivered to OCC Clearing Members exceeds the amounts of foreign currencies received from Delivering Clearing Members.

The Agreement protects the Bank in several ways. First, the aggregate overdraft amount cannot exceed the lesser of $100 million or OCC's Collateral Value.[2] Second, as part of the OCC Collateral Value, the Bank has a security interest in a defaulting clearing member's assets available to OCC on default under Chapter XI of OCC's Rules, including all of the failing Clearing Member's OCC margin deposits.[3] Third, if the overdraft is not repaid by OCC by the end of the fifth banking day after which it was made, the Bank will purchase in the spot market a sufficient amount of foreign currency to cover the overdraft and will charge OCC the purchase price. If OCC fails to pay that purchase price the next banking day in immediately available funds, the Bank may charge OCC's Collateral Account.

The Agreement contains other miscellaneous technical provisions relating to, among other things, interest rates. The Bank will charge OCC one rate for overdrafts in pounds sterling and another rate for overdrafts in other currencies. The Agreement also contains: (1) Conditions precedent to its effectiveness; (2) positive covenants, such as OCC's agreement to use the proceeds of each overdraft to perform its delivery function according to the

[1] The Commission recently approved amendments to OCC's foreign currency options settlement procedures and rules that create the regulatory framework for OCC's having one U.S. agent bank in London as its correspondent for purposes of foreign currency options settlement. Securities Exchange Act Release No. 20404 (November 21, 1983), 48 FR 53621 (November 28, 1983). Previously, to effect settlement of foreign currency options exercises, OCC had to establish banking relations in each country of origin of the foreign currency.

[2] Collateral Value, as defined in the Agreement, includes, among other items, the amount in an OCC Collateral Account at the San Francisco Branch of the Bank, which consists of cash settlement amounts paid by Receiving Clearing Members (*see* Chapter XVI of OCC's Rules), and the value of the Bank's security interest (*see* discussion *infra*). The Bank has no rights against any OCC assets other than those included in the Collateral Value.

[3] Pursuant to the Agreement, however, the Bank has no rights against any of a Clearing Member's margin deposit exceeding the amount of default in the option currency.

relevant option contract; and (3) provisions that set out circumstances that would enable the Bank to terminate its obligation to extend to OCC credit under the Agreement, *e.g.*, when OCC fails to pay the bank interest due under the Agreement for five days after the Bank gives OCC a written notice to pay and when an involuntary petition is filed against OCC under any bankruptcy statute. Additional provisions state that the Agreement, which was executed by the parties on December 7, 1983, may be terminated in the sole discretion of either party. Such termination is effective 90 days after written notice.

OCC states that, as a result of the Agreement, Clearing Members due to receive foreign currency will receive that currency even when Delivering Clearing Members have not met their foreign currency obligations. OCC believes that the proposed rule change is consistent with Section 17A(b) of the Act in that it will promote the prompt and accurate clearance and settlement of securities.

The proposed rule change has become effective under Section 19(b)(3)(A) of the Act and Rule 19b–4 thereunder. At any time within sixty days of the filing of such proposed rule change, the Commission can summarily abrogate the rule change if the Commission decides that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

If you wish to comment on the proposal, please submit your written comments to the Commission within twenty-one days from the date this notice is published in the **Federal Register**. Please file six copies of your comments with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Please make sure that your comments refer to File No. SR–OCC–83–23.

Copies of the filing, exhibits, and comments can be inspected at the Securities and Exchange Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing also are available at OCC's principal office.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–1172 Filed 1–16–84; 8:45 am]

BILLING CODE 8010–01–M

[Securities Act Rel. No. 6503; Securities Exchange Act Rel. No. 20551; Investment Company Act Rel. No. 13714; File No. HO–1556]

Transactions in Washington Public Power Supply System Securities

January 11, 1984.

The Securities and Exchange Commission ("Commission") announced the issuance of a Formal Order of Investigation In the Matter of Transactions in Washington Public Power Supply System Securities, File No. HO–1556.

In light of recent Ninth Circuit decision, the Commission has ordered that the Formal Order of Investigation in this matter be made public and that all subpoenas issued in this investigation be made available to the public for review. The Commission, however, has further ordered that it will not attempt to identify "targets" in this investigation and will not give individual personal notice of the issuance of subpoenas to anyone other than the recipient of the subpoena. In view of the special circumstances of this case, the Commission believes that these procedures comply with applicable law.

All subpoenas issued in this investigation will be available for review at the Commission's Seattle Regional Office, Federal Building, Room 3040, 915 Second Avenue, Seattle, Washington, and at the Commission's Washington, D.C. Office, 450 Fifth Street, N.W., Public Reference Room, Room 1024, Washington, D.C. The Commission cautions that no inferences should be drawn with respect to those persons or entities to whom subpoenas are issued.

The Commission does not generally make its formal orders of investigation public, identify "targets" in its investigations, nor give notice of subpoenas to anyone other than the recipient of the subpoena, or the recipient's counsel. Except for the above procedures concerning making the subpoenas publicly available and the Formal Order public, all other aspects of this investigation will remain non-public pursuant to the Commission's Rules Relating to Investigations, 17 CFR 203.1–203.8.

For Further Information Contact: Securities and Exchange Commission Public Reference Room, Room 1024, 450 Fifth Street, N.W., Washington, D.C. 20549; (202) 272–7450.

Supplementary Information: The Securities and Exchange Commission today authorized the publication of the Formal Order of Investigation in this matter which follows:

In the matter of transactions in Washington Public Power Supply System Securities, File No. HO–1556; order directing private investigation and designating officers to take testimony.

I

Members of the staff have reported information to the Commission which tends to show that:

A. From 1973 through 1982, the Washington Public Power Supply System ("the Supply System"), a Washington State municipal corporation and a joint operating agency, issued, offered for sale, and sold to members of the public and others, notes and revenue bonds ("Supply System securities"), to finance the construction of five nuclear power plants ("the plants") in Washington State. These Supply System securities were underwritten and sold by various broker-dealers and underwriters and received "ratings" from certain rating services.

B. Since 1973, Supply System securities have been, and continue to be, purchased, sold and otherwise traded by underwriters, broker-dealers, investment companies, members of the investing public and other persons.

C. From 1973 to the present, while Supply System securites were offered, sold, purchased, underwritten or traded, the Supply System and other persons prepared, assisted in the preparation of, disseminated, or caused to be disseminated information, including Official Statements, documents, and oral information, which information was disseminated to purchasers and sellers of Supply System securities, members of the investing public, and others, and which information may have contained untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, in light of the circumstances under which they were made, not misleading, concerning, among other things:

(1) The Supply System's financial operations, condition and practices, including budgets, construction and financing costs and schedules, and estimated costs to complete the plants;

(2) The Supply System's ability to raise capital for the construction of the plants;

(3) The Supply System's ability to complete the construction of the plants;

(4) The participation and obligations of Bonneville Power Administration in Supply System operations, including, among other things, the financing of the plants;

(5) The role of certain municipalities, public utility districts and rural electrical cooperatives ("the Participants") in the financing of the plants, including, among other things, the requisite authority of the Participants to enter into certain agreements and the obligations incurred in certain agreements;

(6) The opinions of bond counsel and special counsel contained in Official Statements;

(7) The need for electricity in the Pacific Northwest region of the United States; and

(8) The investment risks involved in the purchase of Supply System securities.

D. From 1973 to the present, certain institutions and persons, including underwriters, broker-dealers, investment companies, and investment advisers, may have purchased, sold or effected transactions in Supply System securities in breach of certain fiduciary duties or while in possession of material non-public information.

E. From 1973 to the present, certain broker-dealers, underwriters or other persons may have:

(a) Purchased or sold Supply System securities at prices, including any mark-up or mark-down, which were not fair and reasonable;

(b) Recommended, purchased or sold Supply System securities without disclosure of known material information concerning the Supply System; or

(c) Recommended, purchased or sold Supply System securities without making reasonable inquiry concerning the suitability of such investment for the customer, or without reasonable grounds to believe that such investment was suitable for the customer, or with reason to believe that such investment was unsuitable for the customer.

F. While engaged in the activities described herein, certain persons, including the Supply System, its officers, directors, and staff, counsel to the Supply System, underwriters, broker-dealers and others, directly or indirectly, made use of, and are making use of, the mails and means and instrumentalities of transportation and communication in interstate commerce.

II

The Commission, having considered the staff's report and deeming the above described acts and practices, if true, to be in possible violation of Section 17(a) of the Securities Act of 1933 ("the Securities Act"); Sections 10(b), 15(c), and 15B(c) of the Securities Exchange Act of 1934 ("the Exchange Act"), and Rules 10b–5 and 15cl–2 thereunder; Rules G–17, G–19, G–30 and G–32 of the Municipal Securities Rulemaking Board; and Section 36(a) of the Investment Company Act of 1940 ("the Investment Company Act"), finds it necessary and appropriate and hereby:

Orders, pursuant to the provisions of Section 20(a) of the Securities Act, Section 21(a) of the Exchange Act, and Section 42(a) of the Investment Company Act, that a private investigation be made to determine whether the aforesaid persons or any other persons have engaged in any of the reported acts or practices or in any act or practice of similar purport or object; and

It is further ordered, pursuant to the provisions of Section 19(b) of the Securities Act, Section 21(b) of the Exchange Act, and Section 42(b) of the Investment Company Act, that, for the purposes of such private investigation, John M. Fedders, William H. Kuehnle, Katherine A. Malfa, S. Beville May, David C. Worley, Alfred J. Trifiro, Jack H. Bookey and Stephen C. Anderson are each designated officers of this Commission and empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda and other records deemed relevant or material to the investigation, or deemed reasonably calculated to lead to the discovery of information relevant or material to such investigation, and to perform all other duties in connection therewith as authorized by law; and the above-named officers are authorized to issue subpoenas *duces tecum* and subpoenas *ad testificandum* in this investigation without giving individual personal notice of such subpoenas to anyone other than the recipient of the subpoena or the recipient's counsel;

It is further ordered, in light of the position expressed by the Ninth Circuit Court of Appeals in *O'Brien* v. *Securities and Exchange Commission*, 704 F.2d 1065 (9th Cir.), *reh. denied*, [Current] CCH Fed. Sec. L. Rep. ¶ 99,565 (1983), *cert. granted*, —— U.S. —— (Jan. 9, 1984), that the institution of this formal investigation be publicly announced; that the Formal Order of Investigation in this matter be published; that a copy of each subpoena issued in this investigation be made available to the public for review; but, that, due to the special circumstances of this investigation, the Commission will not attempt to identify "targets" in this investigation and will not give individual personal notice of the issuance of subpoenas to anyone other than the recipient of the subpoena or the recipient's counsel.

All subpoenas issued in this investigation will be available for review at the Commission's Seattle Regional Office, Federal Building, 915 Second Avenue, Room 3040, Seattle, Washington and at the Commission's Washington, D.C. Office, 450 Fifth Street, NW., Public Reference Room, Room 1024, Washington, D.C.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–1214 Filed 1–16–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 20549; File No. SR–MSE–83–7]

Midwest Stock Exchange, Inc.; Filing of Proposed Rule Change

January 11, 1984.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 30, 1983, the midwest Stock Exchange, Inc. ("MSE") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The MSE is proposing to amend Article VIII, Rule 15 of the Exchange's rules to increase the exemptive level of reportable gratuities which may be given to any one employee of an MSE member organization during a calendar year from $50 to $100. Rule 15(a) currently requires a member or member organization that gives any compensation to an employee of the Exchange or of another member or member organization or other financial concern to first obtain written consent of the recipient's employer and to retain such consent for a minimum of 3 years. Currently, gratuities valued at $50 or less in total given to any one person specified in Rule 15(a) are exempt from the rule's consent and retention requirements. The Exchange has stated in its filing that the purpose of the amendment is to provide for the effects of inflation as well as to reduce the burden of administrative paperwork required when small gifts are given during the holiday season. The proposed rule will continue to require that a record of all gratuities be retained and remain available for inspection for at least three years. The Exchange states that the proposed rule change is consistent with Section 6(b)(5) of the Act in that it is designed to prevent

fraudulent acts and practices which might arise in connection with the giving of gifts to employees of members without such members' knowledge.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Reference should be made to File No. SR–MSE–83–7.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–1213 Filed 1–16–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–20543; File No. SR–NASD–83–21]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 30, 1983 the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested person.

I Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Association proposed to amend Article III of the Rules of Fair Practice by adding new Section 38 and to amend both the present and pending Code of Procedure for Handling Trade Practice Complaints by adding procedures to implement the proposed rule. The proposed rule provides the NASD with authority to prescribe certain remedial courses of action which a member must follow during periods of financial or operational difficulty.

II. Self-Regulatory Organization's Statements Regarding the Proposed Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.

Proposed Article III, Section 38 of the Rules of Fair Practice provides the Association with authority to impose certain remedial courses of action which must be followed in instances where a member, as defined in Section 38(a), is experiencing financial and/or operational difficulties. The rule was developed as a result of the recommendation of the Securities and Exchange Commission and was related to the Commission's determination at that time to lower certain minimum net capital requirements and relax other provisions of the net capital rule. The Commission reasoned that the lower net capital requirements should be at least offset by an increase in the ability of the Association to respond quickly in a situation involving a deteriorating financial or operational condition. The Commission also noted that the New York Stock Exchange and various other exchanges had long established rules which gave these self-regulatory organizations substantial authority to act to reduce and/or restrict the business activities of their members under certain circumstances. (See, e.g., N.Y.S.E. Rule 326.) The Association believes that the rule as proposed would provide an effective regulatory tool in prescribing remedial actions for applicable members which are in or approaching financial/operational difficulty and would increase the effectiveness of the Association's ability to reduce and/or eliminate customer exposure for these members.

As proposed, the rule addresses two levels of possible financial and or operational difficulties. First, it restricts a member from expanding its business whenever certain early warning financial criteria relating to minimum net capital ratio requirements and/or scheduled capital withdrawals are exceeded. Second, it covers a deteriorating situation in which another set of warning criteria with lower tolerances are exceeded. In such situations the proposed rule requires a member to reduce or eliminate certain facets of its business.

During the process of reviewing comments and finalizing the rule, the Board of Governors determined to shift the focus of initiative from the member to the Association, acting through its District Surveillance Committees. As a result, the Association's rule differs from the New York Stock Exchange's Rule 326 in that the Association would control the imposition of restrictions or other types of remedial actions rather than have the rule be self-operative and leaving to the member's discretion what might be an appropriate course of action should one of the rule's parameters be broken.

Thus the phrase "when so directed by the Association" will ensure that members are following appropriate courses of remedial action, ones which will address the nature of the problem and not further expose customer funds and securities to undue risk. Given this fact and, the diverse nature of the Association's membership, and the Association's past experience in successfully handling problem firms the Association's Board of Governors determined this aspect of Association control to be important.

Finally, proposed Section 38 of Article III is accompanied by an Explanation of the Board of Governors. The Explanation includes examples of conditions that might cause the Association to determine that a member is in or approaching financial and/or operational difficulties. Also included are examples of the types of remedial actions that might be selected to correct the problems. The list of possible problems and remedial actions is not intended to be nor is it all inclusive. Rather, the list and Explanation in general is intended to facilitate the members' understanding of how the proposed rule would be administered and implemented by citing both hypothetical problems and corrective actions as simple examples.

The addition of proposed Section 29 to the current Code of Procedure for Handling Trade Practice Complaints and the substitution of proposed Article X in the pending Code of Procedure for the present Article X (and subsequent renumbering) provide special procedures to implement the provisions of the proposed rule. Specifically, the procedures provide for the creation of a special Surveillance Committee of the Board of Governors and a special District Surveillance Committee to direct the implementation of the rule. Also provided for are the opportunity for an impartial hearing, an independent review by the Board of Governors and the right of appeal to the Securities and Exchange Commission.

The proposed rules are consistent with the provisions of Section 15A (b)(6) and (b)(8) of the Securities Exchange Act in that they are designed to protect investors and the public interest and in that they provide members with a fair procedure regarding the Association's limitation or prohibition on services offered by a member.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule changes will not result in a burden on competition except insofar as it provides the Association with the authority to prescribe certain remedial courses of action for a specified class of members which they must follow during periods of financial or operational difficulty. The Association believes that this authority is essential to enable it to take appropriate measures before a deteriorating financial situation results in serious financial harm to the member or its customers. The rule is intended to address such problems in a timely fashion to protect the member, the investing public and other members. Thus, the Association believes that any potential burden upon the membership is outweighted by the regulatory benefits of such restrictions.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Association received 15 comment letters on the proposed rule. Each letter was reviewed by the Association's Capital and Margin Committee and the full Board of Governors. The general concerns expressed in these letters and the Board's decision regarding such are described below. General headings are used since similar points are made in more than one letter.

Applicability of the Rule—In response to the comments, the Board agreed that as to dual members (i.e., firms which are members of two or more self-regulatory organizations), the proposed rule would be limited solely to those members which have been designated to the NASD by the Securities and Exchange Commission pursuant to Rule 17d-1 (the regulatory allocation rule for financial responsibility).

The question of whether the rule should include introducing firms as well as firms carrying customer accounts was also addressed by the Board. It noted that certain introducing firms, particularly those engaged in market making activities or those which hold positions for their own accounts, could potentially pose some risk and exposure as a result of such activities. However, it observed that those firms which intorduced strictly agency business, the so-called "$5,000" firms under the net capital rule, posed no such problems. The Committee therefore concluded that the rule should only be applicable to firms required to maintain $25,000 in capital in accordance with the applicable provisions of the net capital rule irrespective of whether such firms carry customer accounts.

Rule Was Too Vague And/Or Placed Too Much Power With the Associaton's Staff—A number of commentators stated that because of the vagueness of Subsections (b)(2) and (c)(2) of the proposed rule, too much discretion would be left with the Association staff in interperting these provisions.

It should be emphasized that under the rule, the staff's function is simply to obtain the necessary facts and make recommendations to the District Surveillance Committee. It has no decision-making authority as to implementation of the rule in any case. It would be the responsibility of the District Surveillance Committee, not the staff, to determine whether the provisions of the rule should be implemented. The proposed rule authorized the District Surveillance Committee not the staff, to precribe the limitations by which the member would be obligated to abide.

Additionally, the procedure adopted by the Board makes available to a member ample opportunity for appeal of the District Surveillance Committee's decision to the Board of Governors and thereafter to the Securities and Exchange Commission.

The Board therefore concluded that no changes should be made to the proposed rule based on these comments.

The Proposed Rule Imposes More Restrictive Criteria Than Rule 17a–11, the SEC's "Early Warning" Rule—Serveral commentators noted that SEC Rule 17a–11 already provided an "early warning" measure with respect to brokerdealers and that the early warning threshold was set at 120%, significantly less than the 150% prescribed in the proposed rule. In response, the Board noted that the purpose of the proposed rule differs from the Commission's rule in that the proposed rule is designed to have a remedial effect on a member. In other words, the rule's approach is to put the Association on notice well before a firm reaches the more "critical" stage of 17a–11 reporting in order that corrective measures may be taken early enough to ensure the continuing viability of the firm. In the Board's opinion, sufficient lead time is necessary in order to address a firm's difficulties before they become irreversible.

The Board therefore determined that the early warning financial criteria as contained in the proposed rule were appropriate and should be retained.

Examples Cited in the "Explanation of the Board of Governors"—Commentators also noted that some situations and remedies specified in the companion explanation to the rule were too narrow in scope, unduly harsh, or not truly indicative is some cases of a firm's true financial health.

The Board emphasized that the instances cited in the "Explanation" are merely examples of problems and suggested remedies and are not intended to be "automatic" in their application. The language of the rule and the accompanying Explanation make it sufficiently clear that these situations are provided as further explanation and were simply illustrative of situations and corrective actions which could be imposed depending on the circumstances.

The Board therefore determined not to alter the "Explanation of the Board of Governors" as a result of these comments.

Other Areas—One letter noted that the proposed rule did not speak to how and when any restrictions imposed by the rule would be lifted. The Board agreed and revised the procedure to vest responsibility for lifting the imposed restrictions in the District Surveillance Committee. Thus, restrictions once imposed would remain in effect until lifted or modified by the District Surveillance Committee.

Another Commentator suggested that the procedure be changed to provide that a hearing on an order issued by the district Surveillance Committee be requested within five (5) business days of the receipt of the notice rather than three (3) business days after the issuance of the notice.

The Board noted that, in most instances, these notices would be hand-delivered to the member and therefore agreed that receipt of notice would not be difficult to document. The Board therefore determined to amend the procedure retaining the specified time frames, but changing the starting point from "issuance" to "receipt of." A request for a hearing would, therefore, have to be made within three business days of receipt of the notice.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commssion will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication. For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 10, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-1212 Filed 1-16-84; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 05/05-0193]

Equity Resource Company, Inc.; Issuance of a Small Business Investment Company License

On December 1, 1983, a notice was published in the **Federal Register** (48 FR 54310) stating that an application has been filed by Equity Resource Capital, Inc., 202 South Michigan Street, South Bend, Indiana 46601, with the Small Business Administration (SBA) pursuant to § 107.102 of Revision 6 of the Rules and Regulations governing small business investment companies (48 FR 45014 (September 30, 1983)) for a license as a small business investment company.

Interested parties were given until close of business December 16, 1983, to submit their comments to SBA. One comment was received and given due consideration.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 05/05-0193 on December 27, 1983, to Equity Resource Company, Inc. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 50.011, Small Business Investment Companies)

Dated: January 10, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-1218 Filed 1-16-84; 8:45 am]

BILLING CODE 8025-01-M

[License No. 05/05-0194]

1st Source Capital Corporation; Issuance of a Small Business Investment Company License

On November 18, 1983, a notice was published in the **Federal Register** (48 FR 52436) stating that an application has been filed by 1st Source Capital Corporation, 100 North Michigan Street, South Bend, 46601, with the Small Business Administration (SBA) pursuant to § 107.102 of Revision 6 of the Rules and Regulations governing small business investment companies (48 FR 45014 (September 30, 1983)) for a license as a small business investment company.

Interested parties were given until close of business December 16, 1983, to submit their comments to SBA. One comment was received and given due consideration.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 05/05-0194 on December 23, 1983, to 1st Source Capital Corporation to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 50.011, Small Business Investment Companies)

Dated: January 10, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-1220 Filed 1-16-84; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 05/05-0185]

Indiana First SBIC, Inc.; Application for a License to Operate as a Small Business Investment Company

Notice is hereby given that the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of Revision 6 of the SBA Regulations (48 FR 45014 (September 30, 1983)), by Indiana First SBIC, Inc., 9102 North Meridian Street, Indianapolis, Indiana 46260 for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. *et. seq.*).

The proposed officers, directors and shareholders are:

Lloyd R. Howe, 219 Cheshire Circle, Noblesville, Indiana 46060, President, Treasurer, Director

Stanley M. Barkley, RFD #5, Box 11-B, Bloomfield, Indiana 47424, Secretary, Director

John W. Burkhart, 11740 East SR 334, Zionsville, Indiana 46077, Director

John R. Meyer, 7767 Spring Hill Road, Indianapolis, Indiana 46260, Director

Corporation for Innovation Development, One North Capital, Suite 520, Indianapolis, Indiana 46204, Shareholder, 14.3 to 21.7

The Corporation for Innovation Development was formed by the Indiana Legislature in 1981 as a private corporation with the stated purpose of encouraging investment in the State of Indiana, to encourage the expansion of business and industry to provide

additional jobs within the State and, to encourage research and development activities within the State.

The percentage of ownership by the Corporation for Innovation Development and the above named officers and directors depends on the success of a private placement of the Applicant's common stock.

The Applicant will begin operations with a capitalization of between $1,150,000 to $1,748,000 depending upon the success of the private placement, and will be a source of equity capital and long term loan funds for qualified small business concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of the publication of this Notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington 20416.

A copy of the Notice will be published in a newspaper of general circulation in Indianapolis, Indiana.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 5, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-1221 Filed 1-16-84; 8:45 am]

BILLING CODE 8025-01-M

[License No. 03/03-0166]

Thompson Venture Group, Inc., Issuance of a Small Business Investment Company License

On June 21, 1983, a notice was published in the **Federal Register** (48 FR 28384), stating that an application has been filed by Thompson Venture Group, Inc., 1725 K Street, NW., Washington, D.C. 20036 with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1983)) for a license as a small business investment company.

Interested parties were given until close of business July 6, 1983, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA has issued License No. 03/03-0166 on December 29, 1983, to Thompson Venture Group, Inc. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 10, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-1219 Filed 1-16-84; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 3004; Amdt. 1]

Georgia; Declaration of Physical Disaster Loan Area Pursuant to Pub. L. 98-166

Pursuant to the Secretary of Agriculture's Designation, Farmers Home Administration (FmHA) has authorized the acceptance of emergency loan applications in the following area:

State of Georgia

FmHA number and date	Incident and date
SO-92, Amendment 1 Nov. 28, 1983.	Severe drought and extreme high temperatures occurring from May 1, 1983, through Oct. 10, 1983. *Severe frost freezing temperatures occurring on Apr. 18, 1983, through Apr. 22, 1983, and high winds and hail occurring on Apr. 23, 1983, followed by extended drought and extreme high temperatures occurring from May 1, 1983, through Oct. 10, 1983.

*Effingham, Liberty, Talaferro, and Treutlen.

Counties

Atkinson, Bartow, Burke, Butts, Candler, Clay, Crawford, Decatur, Dougherty, Early, Gilmer, Grady, Irwin, Jefferson, Jones, McIntosh, Macon, Montgomery, Morgan, Murray, Muscogee, Peach, Pickens, Quitman, Rabun, Towns, Union, Upson, Walker, Washington and Whitfield.

As a result of this designation, I have determined the above counties in the State of Georgia constitute a disaster loan area for agricultural enterprises which are ineligible for disaster assistance from the FmHA because of alien status; corporations, partnerships and cooperatives not being primarily engaged in farming, farm owners who do not operate their farms, etc., and for economic injury disaster loans for non-farm small business concerns.

The interest rates for eligible applicants under this designation are as follows:

	Percent
Agricultural Enterprises With Credit Available Elsewhere	10.5
Agricultural Enterprises Without Credit Available Elsewhere	8.0
Non-farm Small Businesses (Economic Injury)	8.0

Loan applications for physical disaster loans from eligible agricultural enterprises may be filed for a period not to exceed thirty days from the date of the letter of referral from FmHA, provided that the application for EM assistance from FmHA or the formal written request for a letter of referral by FmHA was filed within the time limits set forth in the FmHA designation. Loan applications for economic injury for non-farm small businesses may be filed until the close of business on May 28, 1984. The number assigned to this disaster is 3004, published December 15, 1983 (48 FR 55793), for physical damage to eligible agricultural enterprises and for economic injury 6093. Eligible enterprises may file applications for loans for physical damage or economic injury at: U.S. Small Business Administration, Area 2 Disaster Office, 75 Spring Street SW., Suite 822, Atlanta, Georgia 30303; (404) 221-5822, or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: January 6, 1984.

Jean Lewis,

Acting Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84-1224 Filed 1-16-84; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2113]

New York; Declaration of Disaster Loan Area

The area bounded by Howard St. on the north, South Division St. on the south, Emslie St. on the east and Jefferson St. on the west in the City of Buffalo, Erie County, New York, constitutes a disaster area because of damage resulting from an explosion and fire which occurred on December 27, 1983. Eligible persons, firms, and organizations may file applications for physical damage until the close of business on March 12, 1984, and for economic injury until the close of business on October 11, 1984, at the address listed below: U.S. Small Business Administration, Buffalo Branch Office, Federal Building, Room 1311, 111

West Huron Street, Buffalo, New York 14202, or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

	Percent
Homeowners with credit available elsewhere	12.500
Homeowners without credit available elsewhere	6.250
Businesses with credit available elsewhere	11.000
Businesses without credit available elsewhere	8.000
Businesses (EIDL) without credit available elsewhere	8.000
Other (non-profit organizations including charitable and religious organizations)	10.500

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: January 11, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84-1222 Filed 1-16-84; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 3024; Amdt. 2]

Tennessee; Declaration of Physical Disaster Loan Area Pursuant to Pub. L. 98-166

Pursuant to the Secretary of Agriculture's Designation, Farmers Home Administration (FmHA) has authorized the acceptance of emergency loan applications in the following area:

State of Tennessee

FmHA Number and date	Incident and date
SO-95, Amendment 2 Nov. 28, 1983.	Drought and high temperatures beginning May 1, 1983, and continuing through Nov. 1, 1983.

Counties

Campbell, Cocke, Coffee, Cumberland, Franklin, Greene, Hamblen, Polk, Washington.

As a result of this designation, I have determined the above counties in the State of Tennessee constitute a disaster loan area for agricultural enterprises which are ineligible for disaster assistance from the FmHA because of alien status; corporations, partnerships and cooperatives not being primarily engaged in farming, farm owners who do not operate their farms, etc., and for economic injury disaster loans for non-farm small business concerns.

The interest rates for eligible applicants under this designation are as follows:

	Percent
Agricultural Enterprises With Credit Available Elsewhere	10.5
Agricultural Enterprises Without Credit Available Elsewhere	8.0
Non-farm Small Businesses (Economic Injury)	8.0

Loan applications for physical disaster loans from eligible agricultural enterprises may be filed for a period not to exceed thirty days from the date of the latest of referral from FmHA, provided that the application for EM assistance from FmHA or the formal written request for a letter of referral by FmHA was filed within the time limits set forth in the FmHA designation. Loan applications for economic injury for non-farm small businesses may be filed until the close of business on May 28, 1984. The number assigned to this disaster is 3024, published December 15, 1983 (48 FR 55793), for physical damage to eligible agricultural enterprises and for economic injury 6098. Eligible enterprises may file applications for loans for physical damage or economic injury at: U.S. Small Business Administration, Area 2 Disaster Office, 75 Spring Street SW., Suite 822, Atlanta, Georgia 30303; (404) 221-5822, or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: January 5, 1984.

Jean Lewis,

Acting Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84-1225 Filed 1-16-84; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2114]

Texas; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that the Counties of Cameron, Hidalgo, Starr, and Willacy in the State of Texas, constitute a disaster loan area because of damage resulting from severe freezing temperatures beginning on or about December 22, 1983. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on March 8, 1984, and for economic injury until October 8, 1984, at: U.S. Small Business Administration, 222 E Van Buren, Suite 500, Harlingen, Texas 78550, or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

	Percent
Homeowners with credit available elsewhere	12.500
Homeowners without credit available elsewhere	6.250
Businesses with credit available elsewhere	11.000
Businesses without credit available elsewhere	8.000
Businesses (EIDL) without credit available elsewhere	8.000
Other (non-profit organizations including charitable and religious organizations)	10.500

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: January 12, 1984.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84-1223 Filed 1-16-84; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 3026; Amdt. 2]

Virginia; Declaration of Physical Disaster Loan Area Pursuant to Pub. L. 98-166

Pursuant to the Secretary of Agriculture's Designation, Farmers Home Administration (FmHA) has authorized the acceptance of emergency loan applications in the following area:

State of Virginia

FmHA Number and date	Incident and date
SO-90, Amendment 2 Nov. 22, 1983.	Drought beginning May 1, 1983, and continuing through Oct. 10, 1983.

Counties

Appomattox, Augusta, Buckingham, Clarke, Fluvanna, Frederick, Greenville, Hanover, Highland, James City, Loudoun, Madison, Mecklenburg, Montgomery, Nelson, Orange, Prince William, Rockbridge, Rockingham, Shenandoah, Spotsylvania, Stafford, Warren, and Wythe.

As a result of this designation, I have determined the above counties in the State of Virginia constitute a disaster loan area for agricultural enterprises which are ineligible for disaster assistance from the FmHA because of alien status; corporations, partnerships and cooperatives not being primarily engaged in farming, farm owners who do not operate their farms, etc., and for economic injury disaster loans for non-farm small business concerns.

The interest rates for eligible applicants under this designation are as follows:

	Percent
Agricultural Enterprises With Credit Available Elsewhere	10.5

	Percent
Agricultural Enterprises Without Credit Available Elsewhere	8.0
Non-farm Small Business (Economic Injury)	8.0

Loan applications for physical disaster loans from eligible agricultural enterprises may be filed for a period not to exceed thirty days from the date of the letter of referral from FmHA,. provided that the application for EM assistance from FmHA or the formal written request for a letter of referral by FmHA was filed within the time limits set forth in the FmHA designation. Loan applications for economic injury for non-farm small businesses may be filed until the close of business on May 22, 1984. The number assigned to this disaster is 3026, published December 15, 1983 (48 FR 55793), for physical damage to eligible agricultural enterprises and for economic injury 6091. Eligible enterprises may file applications for loans for physical damage or economic injury at: U.S. Small Business Administration, Area 2 Disaster Office, 75 Spring Street SW., Suite 822, Atlanta, Georgia 30303; (404) 221–5822, or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: January 5, 1984.

Jean Lewis,

Acting Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84–1228 Filed 1–16–84; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area No. 3026; Amdt. 3]

Virginia; Declaration of Physical Disaster Loan Area Pursuant to Pub. L. 98–166

Pursuant to the Secretary of Agriculture's Designation, Farmers Home Administration (FmHA) has authorized the acceptance of emergency loan applications in the following area:

State of Virginia

FmHA Number and date	Incident and date
SO–90, Amendment 3 Nov. 28, 1983.	Drought beginning May 1, 1983 and continuing through Oct. 10, 1983.

Counties

Alleghany, Bath, Botetourt, Carroll, Chesterfield, Henrico, Mathews New Kent, Page, Roanoke, Tazewell, and York.

As a result of this designation, I have determined the above counties in the State of Virginia constitute a disaster loan area for agricultural enterprises which are ineligible for disaster assistance form the FmHA because of alien status: corporations, partnerships and cooperatives not being primarily engaged in farming, farm owners who do not operate their farms, etc., and for economic injury disaster loans for non-farm small business concerns. The interest rates for eligible applicants under this designation are as follows:

	Percent
Agricultural Enterprises With Credit Available Elsewhere	10.5
Agricultural Enterprises Without Credit Available Elsewhere	8.0
Non-farm Small Businesses (Economic Injury)	8.0

Loan applications for physical disaster Loans from eligible agricultural enterprises may be filed for a period not to exceed thirty days from the date of the letter of referral from FmHA, provided that the application for EM assistance from FmHA or the formal written request for a letter of referral by FmHA was filed within the time limits set forth in the FmHA designation. Loan applications for economic injury for non-farm small businesses may be filed until the close of business on May 28, 1984. The number assigned to this disaster is 3026, published December 15, 1983 (48 FR 55793), for physical damage to eligible agricultural enterprises and for economic injury 6091. Eligible enterprises may file applications for loans for physical damage or economic injury at: U.S. Small Business Administration, Area 2 Disaster Office, 75 Spring Street SW., Suite 822, Atlanta, Georgia 30303; (404) 221–5822, or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: January 5, 1984.

Jean Lewis,

Acting Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84–1227 Filed 1–16–84; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area No. 3026; Amdt. 4]

Virginia; Declaration of Physical Disaster Loan Area Pursuant to Pub. L. 98–166

Pursuant to the Secretary of Agriculture's Designation, Farmers Home Administration (FmHA) has authorized the acceptance of emergency loan applications in the following area:

State of Virginia

FmHA Number and date	Incident and date
SO–90, Amendment 4 Dec. 9, 1983.	Drought beginning May 1, 1983, and continuing through Oct. 10, 1983.

Counties

Bland, Franklin, Halifax, and Henry.

As a result of this designation, I have determined the above counties in the State of Virginia constitute a disaster loan area for agricultural enterprises which are ineligible for disaster assistance from the FmHA because of alien status; corporations, partnerships and cooperatives not being primarily engaged in farming, farm owners who do not operate their farms, etc., and for economic injury disaster loans for non-farm small business concerns.

The interest rates for eligible applicants under this designation are as follows:

	Percent
Agricultural Enterprises With Credit Available Elsewhere	10.5
Agricultural Enterprises Without Credit Available Elsewhere	8.0
Non-farm Small Businesses (Economic Injury)	8.0

Loan applications for physical disaster loans from eligible agricultural enterprises may be filed for a period not to exceed thirty days from the date of the letter of referral from FmHA, provided that the application for EM assistance from FmHA or the formal written request for a letter of referral by FmHA was filed within the time limits set forth in the FmHA designation. Loan applications for economic injury for non-farm small businesses may be filed until the close of business on June 11, 1984. The number assigned to this disaster is 3026, published December 15, 1983 (48 FR 55793), for physical damage to eligible agricultural enterprises and for economic injury 6091. Eligible enterprises may file applications for loans for physical damage or economic injury at: U.S. Small Business Administration, Area 2 Disaster Office, 75 Spring Street SW., Suite 822, Atlanta, Georgia 30303, (404) 221–5822, or other locally announced locations.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: January 5, 1984.

Jean Lewis,

Acting Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 84-1228 Filed 1-16-84; 8:45 am]

BILLING CODE 9025-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements; Submittals to OMB December 20-Janaury 6, 1984

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements, transmitted by the Department of Transportation, during the period Dec. 20-Jan. 6, 1984, to the Office of Management and Budget (OMB) for its approval. This notice is published in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT: John Windsor, John Chandler, or Annette Wilson, Information Requirements Division, M-34 Office of the Secretary of Transportation, 400 7th Street, SW., Washington, D.C. 20590, (202) 426-1887 or Gary Waxman or Sam Fairchild, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, D.C. 20503, (202) 395-7340.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for approval under that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements.

As needed, the Department of Transportation will publish in the **Federal Register** a list of those forms, reporting and recordkeeping requirements that it has submitted to OMB for review and approval under the Paperwork Reduction Act. The list will include new items imposing paperwork burdens on the public as well as revisions, renewals and reinstatements of already existing requirements. OMB approval of an information collection requirement must be renewed at least once every three years. The published list also will include the following information for each item submitted to OMB:

(1) A DOT control number.

(2) An OMB approval number if the submittal involves the renewal, reinstatement or revision of a previously approved item.

(3) The name of the DOT Operating Administration or Secretarial Office involved.

(4) The title of the information collection request.

(5) The form number used, if any.

(6) The frequency of required responses.

(7) The persons required to respond.

(8) A brief statement of the need for, and uses to be made of, the information collection.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "For Further Information Contract" paragraph set forth above.

Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the **"FOR FURTHER INFORMATION CONTACT"** paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 5 days from the date of publication is needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB from Dec. 20-Jan. 6, 1984:

DOT No: The following items published September 30, 1983, have been combined: 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229
OMB No: These OMB clearance requests have been resubmitted as one requirement: 2130-0006; 2130-0007; 2130-0039; 2130-0042; 2130-0043; and 4 new items
By: Federal Railroad Administration
Title: Railroad Signal System Requirements (all signal system items combined)
Forms: FRA-F-6180.14 and FRA-F-6180.47
Frequency: Annually and on occasion
Respondents: Individuals, railroads, state and local governments

Need/Use: The Federal Railroad Administration needs the information to assure that automatic signal systems are tested and maintained in safe and suitable condition and that modifications or malfunctions are reported.

DOT No: 2323
OMB No: 2115-0133
By: U.S. Coast Guard
Title: Foreign Freight and Passenger Vessel Reports
Forms: CG-4504, CG-840S-1A and CG-840-2A
Frequency: On occasion
Respondents: Owners/operators of foreign flag vessel or freight ship

Need/Use: This information collection is used by Coast Guard personnel to ensure that specified foreign flag vessels meet the applicable federal requirements for safety and environmental protection. This information collection is needed for effective administration of our foreign vessel boarding programs.

DOT No: 2324
OMB No: 2115-0136
By: U.S. Coast Guard
Title: Excursion Parties
Forms: CG-949, CG-950
Frequency: On occasion
Respondents: Passenger vessel owners/operators

Need/Use: This information collection requirement contains both recordkeeping and reporting requirements. The requirement is used when the owner/operator of a USCG-inspected passenger vessel desires to deviate from his vessel's operating limitations. The owner/operator applies to the Coast Guard for a permit to carry additional passengers. The Officer in Charge, Marine Inspection, examines the vessel and its inspection record to determine whether or not to grant such a request.

DOT No: 2325
OMB No: 2115-0135
By: U.S. Coast Guard
Title: Display of Plans
Forms: N/A
Frequency: On occasion
Respondents: Owners/operators of certain USCG-inspected merchant vessels

Need/Use: This recordkeeping requirement is a safety aid. Vessel owners/operators are required to have these plans available in case of shipboard fire, flooding or other emergencies. The information contained on the plans will be used by shipboard personnel during routine duties, such as maintenance, as well as during emergency conditions such as fire or flooding. If non-shipboard personnel assist, the plans will familiarize them

with the vessel and its subsystems. The plans are checked by Coast Guard Marine Inspections periodically to help ensure all information is correct and up-to-date.

DOT No: 2326
OMB No: 2115–0134
By: U.S. Coast Guard
Title: Carrying of Persons in Addition to the Crew
Forms: None
Frequency: On occasion
Respondents: Owners/operators of certain types of commercial vessels

Need/Use: This information collection is part of the Coast Guard commercial vessel safety programs of Title 46 CFR. The purpose of this collection is to allow some cargo vessels and some vessels engaged in certain fisheries to carry persons in addition to the normal crew without having to meet the more stringent material requirements for passenger carrying vessels. This information collection requirement reduces the regulatory burden that would otherwise be imposed on certain vessels owners/operators.

DOT No: 2327
OMB No: 2115–0138
By: U.S. Coast Guard
Title: Records and Reports of Inspections
Forms: CG–840AA, 840BB and 2832
Frequency: On occasion
Respondents: Owners and operators of flag vessels

Need/Use: This recordkeeping requirement is needed to enforce the Coast Guard commercial vessel safety program as described in Title 46 CFR. The Coast Guard uses these records to document the construction, alteration, repair and maintenance of U.S. merchant vessels in order to ensure the safety of life and property at sea.

DOT No: 2328
OMB No: 2115–0139
By: U.S. Coast Guard
Title: Ship's Stores Certification for Hazardous Materials Aboard Ships
Forms: None
Frequency: On occasion
Respondents: Manufacturers of dangerous products

Need/Use: This information collection is needed to regulate use of ships' stores. The documentation provides a means for the manufacturers of a dangerous product to obtain approval for the project to be used on board domestic vessels. The reporting information is used by the Coast Guard in the following ways: (1) To determine whether a product meets the Coast Guard definitions of hazardous materials and to properly classify it; (2) to make certain that the instructions on the label are adequate to protect users on vessels from bodily harm; and (3) to maintain records at Headquarters for all certified proucts so that in case of an excessive exposure or accident the proper safeguards may be taken.

DOT No: 2329
OMB No: New
By: U.S. Coast Guard
Title: Barges Carrying Bulk Hazardous Materials
Forms: None
Frequency: On occasion
Respondents: Barge Operators

Need/Use: This information collection is needed to determine that a barge meets prescribed safety standards and to ensure that barges' crew members have the information necessary to operate the barges safely. The information is used by: (1) The Coast Guard technical offices to evaluate barge design; (2) Coast Guard port safety and marine inspection personnel responsible for enforcing the regulations; (3) by the crew members in operations related to cargoes; and (4) by other people boarding the barges to avoid danger from cargo operations.

DOT No: 2330
OMB No: 2137–0039
By: Research & Special Programs Administration
Title: Hazardous Materials Incident Report
Forms: DOT F–5800.1
Frequency: On occasion
Respondents: Carriers of Hazardous Materials

Need/Use: The Materials Transportation Bureau uses this information to evaluate the adequacy of existing regulations and to determine when Federal action is needed for clean-up or emergency response.

DOT No: 2331
OMB No: New
By: Research & Special Programs Administration
Title: Air Carrier Operations in 49 CFR 175
Forms: None
Frequency: On occasion
Respondents: Shippers and Air Carriers

Need/Use: To assure that the requirements for transporting hazardous materials by air carriers are complied with so as to adequately protect the general public from the dangers inherent in this transportation.

DOT No: 2332
OMB No: New
By: Research and Special Programs Administration
Title: Battery Exception Approval
Forms: None
Frequency: One time for each type of battery to be shipped
Respondents: Manufacturers and shippers of batteries

Need/Use: To determine approval or denial of requests for authorization to ship batteries as essentially non-regulated items under 49 CFR 173.260(g).

DOT No: 2333
OMB No: New
By: Research and Special Programs Administration
Title: Consigning & Unloading Tank Cars of Compressed Gas on Carriers' Tracks
Forms: None
Frequency: On occasion
Respondents: Shippers of hazardous materials

Need/Use: The Federal Railroad Administration uses this requirement to make sure that rail carriers are aware of the storage of hazardous materials in rail cars on their tracks.

DOT No: 2334
OMB No: New
By: Research and Special Programs Administration
Title: Container-on-Flatcar or Trailer Service Approval
Forms: None
Frequency: When applying to use an intermodal container
Respondents: Shippers of hazardous materials

Need/Use: The Federal Railroad Administration uses this information to determine if a specific intermodal container, containing hazardous materials, is safe for use in their transportation in either trailer or container service on flatcars.

DOT No: 2335
OMB No: New
By: Research and Special Programs Administration
Title: Class A Explosives Car Certificate
Forms: None
Frequency: After inspection of rail car loaded with Class A explosives
Respondents: Rail carriers and shippers of Class A explosives

Need/Use: To ensure that carriers and shippers of Class A explosives are inspecting shipments before, during, and after loading to ascertain that rail cars are properly loaded for safe transportation.

DOT No: 2336
OMB No: New
By: Research and Special Programs Administration
Title: AAR Tank Car Approvals
Forms: None
Frequency: On occasion

Respondents: Manufacturers of tank cars

Need/Use: Federal Railroad and Transportation officials use this information to ascertain that tank car tanks used for transportation of hazardous materials are designed and constructed in accordance with the specifications set forth in the regulations and will be safe to use in the transportation of hazardous materials.

DOT No: 2337
OMB No: New
By: Research & Special Programs Administration
Title: Exemption Copy Maintenance Requirement
Forms: None
Frequency: One-time for each exemption
Respondents: Shippers

Need/Use: To verify that the packagings being used in connection with the shipment or transportation of the hazardous material concerned is conducted under the authority of an exemption issued in conjunction with the Hazardous Materials Regulations.

DOT No: 2338
OMB No: 2115–0143
By: U.S. Coast Guard
Title: Evidence of U.S. Citizenship or Lawful Alien Status for Workers on the Outer Continential Shelf (OCS)
Forms: None
Frequency: Recordkeeping retention period 3 years
Respondents: Companies with crew facilities and vessels engaged in oil and gas extraction on the Outer Continental Shelf (OCS)

Need/Use: Needed to ensure compliance with congressional mandate to man such facilities with U.S. citizens or aliens who are lawfully admitted to the U.S. for permanent residence.

DOT No: 2339
OMB No: 2132–0502
By: Urban Mass Transportation Administration
Title: Section 3, Urban Discretionary Financial Reporting
Forms: None
Frequency: Quarterly
Respondents: State and local governments

Need/Use: Needed and used as a management tool and for audit purposes by the Urban Mass Transportation Administration and state and local governments.

DOT No: 2340
OMB No: 2132–0503
By: Urban Mass Transportation Administration
Title: Section 5, Urban Formula Financial Reporting
Forms: None
Frequency: Quarterly
Respondents: State and local governments

Need/Use: The reports are needed and used as a management tool and for audit purposes by the Urban Mass Transportation Administration and state and local governments.

DOT No: 2341
OMB No: 2132–0505
By: Urban Mass Transportation Administration
Title: Progress Report
Forms: None
Frequency: Quarterly
Respondents: State and local governments

Need/Use: The reports are needed and used by the Urban Mass Transportation Administration and state and local governments to monitor Federal grant activities, assess accomplishments, identify problem areas, and cost overruns.

DOT No: 2342
OMB No: 2132–0015
By: Urban Mass Transportation Administration
Title: Supporting Services/Cost Allocation Plan
Forms: None
Frequency: On occasion
Respondents: State and local governments

Need/Use: The plan is needed for audit purposes and must be submitted only if a grantee desires reimbursement for administrative costs in connection with a capital grant.

DOT No: 2343
OMB No: 2137–0037
By: Research & Special Programs Administration
Title: Drum Retester ID Registration
Forms: Reconditioner Registration Data Sheet
Frequency: One time
Respondents: Drum reconditioners

Need/Use: To verify to Materials Transportation Bureau and drum owners that drum reconditioners or retesters have the proper equipment, documentation and reference material necessary to recondition drums used for transportation of hazardous materials.

DOT No: 2344
OMB No: 2127–0002
By: National Highway Traffic Safety Administration
Title: Importation of Motor Vehicles and Motor Vehicle Equipment Subject to Federal Motor Vehicle Safety Standards
Forms: HS Form 7
Frequency: On occasion
Respondents: Importers of motor vehicles and motor vehicle equipment

Need/Use: An importer must declare compliance of a vehicle with all applicable Federal Motor Vehicle Safety Standards if the vehicle was manufactured on or after January 1, 1968. Nonconforming vehicles are allowed under specific exceptions such as importation under bond.

DOT No: 2345
OMB No: New
By: Federal Railroad Administration
Title: Supplemental Qualifications Statement for Railroad Safety Inspector Applicants
Forms: FRA–F–120
Frequency: On occasion
Respondents: Individuals, Federal employees

Need/Use: The Federal Railroad Administration uses this information to determine the specialized qualifications of applicants for Railroad Safety Inspector positions.

Issued in Washington, D.C. on January 10, 1984.

Jon H. Seymour,
Acting Deputy Assistant Secretary for Administration.

[FR Doc. 84–1127 Filed 1–16–84; 8:45 am]
BILLING CODE 4910–62–M

Federal Railroad Administration

[Docket No. RSSI–84–1; Notice 1]

Special Safety Inquiry; Rail Passenger Equipment

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of special safety inquiry.

SUMMARY: FRA is initiating a General Safety Inquiry to obtain information from the public to assist in assessing the potential impact of technological developments and operational changes on rail passenger equipment. This information will be used in determining the future need, if any, for establishing minimum criteria for the condition of various safety critical components such as wheels, axles, and bearings.

DATES: (1) A two-day public hearing will begin at 10 a.m. on May 29, 1984.

(2) Prepared statements and comments to be made at the hearing should be submitted to the Docket Clerk at least seven days before the hearing date; the written comments should be submitted by May 21, 1984.

(3) Persons desiring to participate in a hearing should notify the Docket Clerk at least seven days before the hearing.

ADDRESSES: (1) Hearing location—Room 2230, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590

(2) Docket Clerk, Office of Chief Counsel (RCC–30), FRA, Washington, D.C. 20590. Telephone 202–426–8285.

FOR FURTHER INFORMATION CONTACT:
Principal Program Person: Philip Oleksyzk, Deputy Associate Administrator for Safety, Federal Railroad Administration, Washington, D.C. 20590, telephone 202–426–0896
Principal Attorney: Lawrence I. Wagner, Office of Chief Counsel, Federal Railroad Administration, Washington, D.C. 20590, telephone 426–8836.

SUPPLEMENTARY INFORMATION: Section 702 of the Rail Safety and Service Improvement Act of 1982 (Pub. L. 97–468), enacted on January 14, 1983, amended section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) to require the issuance of any necessary rules relating to rail passenger equipment and a report to Congress. In that report FRA concluded that rail passenger service has compiled an excellent safety record, one that can be attributed to the rail industry's operational and safety practices as well to FRA's extensive safety regulations.

To enhance that record, FRA is undertaking five safety initiatives: (1) A final rule extending coverage of its Track Safety Standards (49 CFR Part 213) to include all track used exclusively for commuter service; (2) a final rule amending its Power Brake Standards (49 CFR Part 232) to preserve the inspection and testing requirements for passenger car brake equipment; (3) guidelines on the flammability and smoke emission characteristics of materials used in the construction of rail passenger equipment; (4) a joint FRA-industry examination of emergency procedures; and (5) this safety inquiry. The public notices concerning the first two actions appear elsewhere in today's issue of the **Federal Register**.

Background

Equipment and Operations

Twenty rail passenger operators, including commuter authorities, provide regularly scheduled rail passenger revenue service throughout the year. Appendix A lists those operators and authorities, provides information on the passenger operations of each member of that group, and illustrates the locations at which such passenger service is provided.

The 20 operators and authorities (passenger service providers) provide passenger service over 138 distinct routes totalling 28,500 route miles. In 1982, this group operated more than 1.5 million trains, comprised of from one to 18 cars, and carried 344 million passengers. The operators and authorities employ more than 9,200 train operating employees and almost 13,000 equipment maintenance and service personnel.

A wide variety of equipment of differing age and design features is dedicated to providing this service. More than 750 diesel-electric and electric locomotives are used to haul 3,770 passenger-carrying coaches and control cab cars. In addition, approximately 3,000 self-propelled, passenger-carrying units, which include diesel-electric, electric, and turbo powered equipment, are in service.

There also are a variety of passenger operations that provide service for excursion, educational, recreational or private transportation purposes. These operations normally use a limited number of cars that are frequently historical or antiquated equipment. Such operations typically involve low speed trains carrying very limited numbers of passengers on a seasonal basis.

Safety Record

Rail passenger service in the United States has compiled a remarkable safety record, which is reflected in the passenger casualty statistics derived from reports filed with FRA by all railroads (including the commuter authorities) under its accident reporting rules (49 CFR Part 225). During the period 1978 through 1982, when the rail passenger industry carried 1.5 billion passengers, 36 passenger fatalities and 3,642 passenger injuries were associated with rail passenger service. Of the 36 fatalities, 26 were not directly associated with train operations.

During this period, passenger trains were also involved in accidents that resulted in 90 deaths and 573 injuries to non-rail passengers: 73 of those killed and 37 of those injured were occupants of motor vehicles involved in rail-highway grade crossing accidents; fifteen of those killed and 527 of those injured were railroad employees; and two trespassers were killed and nine injured.

As these data show, extraordinarily few passenger casualties occurred during the five-year period. Of the 1.5 billion passengers transported during those years, a single passenger had a one in 400,000 chance of becoming a passenger casualty.

The risk of becoming a casualty during passenger operations as the result of defective equipment is extremely low. FRA cannot identify any passenger fatality and only 49 passengers who were injured as the result of defective equipment during the five-year period studied. If railroad employee casualties are added to those passenger statistics, FRA can identify only 48 additional people who were injured during the period.

This outstanding safety record was cited by many of the commenters who responded to an earlier FRA Safety Inquiry. That proceeding, initiated on April 22, 1983 (47 FR 17365), drew responses from seventeen commenters who generally urged that FRA not propose the adoption of passenger car safety standards in the absence of a safety record establishing the need for such additional rules.

Existing Regulations

Locomotives used in passenger service have either electric, diesel-electric, or turbine-driven propulsion systems. Hauled vehicles are those passenger-carrying cars, such as coaches, sleepers, and food service cars, that require separate locomotive power. Self-propelled vehicles resemble traditional passenger coaches, but are equipped with their own propulsion systems that permit them to move as a single unit or in multiple units.

Both locomotives and self-propelled passenger vehicles are subject to FRA's Locomotive Safety Standards (49 CFR Part 229), which establish minimum requirements for the significant mechanical and structural components of locomotives. The rules address the condition of wheels and axles in terms of stress or fatigue cracking and wear. Similarly, the rules set standards for the brake, suspension, coupling, and electrical systems as well as the crashworthiness of the car body. In addition, specific inspection and testing procedures are required. Locomotives and self-propelled vehicles are also subject to FRA's Safety Appliance Standards (49 CFR Part 231), which specify design features for exterior steps, ladders, and handholds.

Coaches, sleepers, baggage, and food service are subject to FRA's Power Brake Standards (49 CFR Part 232) and Safety Appliance Standards. The Power Brake rules establish minimum operational and periodic inspection requirements and minimum periodic testing requirements for the brake systems on these cars. In addition, approximately 300 of these vehicles are equipped with a control compartment and control machinery that permit these cars to remotely control attached locomotives. These are known as "cab control cars." The control devices must be inspected and tested as though they were located on a locomotive.

All the passenger carrying vehicles also are subject to FRA's Safety Glazing

Standards (49 CFR Part 223). The glazing rules require passenger cars, built or rebuilt after June 30, 1980, to have improved glazing materials in all windows to protect passengers from being struck by external projectiles. In addition, the rules require retrofitting of existing equipment and the installation of emergency egress capability.

Future Needs

The historically low casualty rate for passenger equipment is clear evidence of the special care taken by the operators of that equipment and, FRA believes, the efficacy of its safety regulatory program. Nevertheless, FRA believes there is a need to explore further the future safety of rail passenger equipment.

Railroad passenger cars were, until recently, primarily owned by individual railroads, and their frequent operation over the lines of other railroads necessitated standard agreements about the interchange of these cars. These agreements generally reflected consensus opinions about design, inspection, testing, and maintenance requirements. With the emergence of a growing number of publicly funded bodies as the owners and operators of rail passenger equipment in circumscribed service areas, the need for agreements and consensus standards has decreased signficantly. One illustration of this trend is the recent decision of the Association of American Railroads to delete from its interchange rules the provisions relating to passenger cars effective January 1, 1984.

Although these provisions can now be found in the AAR Manual, that document has a more limited distribution and a less binding effect. In addition, many passenger service operators are not members of the AAR and do not necessarily subscribe to the AAR recommendations. For example, after investigating a particular type of commuter car during 1982, FRA determined that both the design and the recommended maintenance practices of the AAR for the suspension system of that equipment were not being adhered to by the equipment operator. FRA's investigatory efforts in this area are detailed in a January 1983 report. A copy of that report has been placed in the docket.

FRA believes that these events could portend a trend in which the individual operators become more insular. Such a trend, if it occurs, could generate a need to establish some other mechanism to assure uniform minimum criteria for design and component maintenance for all passenger equipment. FRA is also concerned because the AAR recommended practices do not address issues such as the flammability and smoke emission characteristics of the components used in the construction of passenger equipment.

Although the occurrence of injury-threatening fires on rail passenger cars is rare, the fire that occurred aboard a sleeping car near Gibson, California on June 23, 1982 illustrates the existence of a potential problem. To address this issue, at least on an intrim basis, FRA will publish in a subsequent issue of the **Federal Register** recommended guidelines on the flammability and smoke emission characteristics for materials to be used in all new and rebuilt passenger cars. The degree of voluntary adherence to these guidelines must still be determined and will strongly influence the need for future additional action in this important area.

A second factor prompting FRA's analysis of the possible need to adopt uniform standards is the technological developments and operational changes in passenger service that may have reduced the effectiveness of some of FRA's existing rules. These changes, which have been introduced gradually, have been widely adopted. For example, passenger cars of recent vintage are usually equipped with disc brakes rather than the traditional clasp brakes found on freight cars, and the use of cab control equipment is now widespread. The use of disc brakes is not addressed by the FRA's rules, and the operational changes due to cab control equipment limit the necessity of meeting certain FRA inspection and testing requirements that are triggered by the disassembly and reassembly of passenger trains.

FRA believes that the future import of these technological and operational changes should be explored in a public forum. Although FRA has responded elsewhere in today's **Federal Register** to the AAR interchange rule elimination so as to obviate any potential confusion about the proper inspection and testing intervals for passenger car brakes, there may still be a need for additional changes to these rules.

Public Participation Requested

FRA is initiating this Safety Inquiry to facilitate a discussion of these issues and to provide an opportunity for meaningful participation by all affected parties. Accordingly, a public hearing will be held on May 29, 1984 in Washington, D.C.

FRA specifically requests that the National Railroad Passenger Corporation (Amtrak), the American Public Transit Association (APTA), the Association of American Railroads (AAR), the American Short Line Railroad Association (ASLRA), public authorities that operate commuter rail passenger service, other rail carriers that transport passengers, rail passenger organizations, rail labor and employee organizations, and other interested parties, participate actively in the hearing by providing knowledgeable witnesses and pertinent technical, manufacturing, safety and cost data. FRA asks that these witnesses be prepared to present detailed information on their positions.

Prepared statements should be submitted at least seven days before the hearing date to the Docket Clerk, Office of Chief Counsel (RCC–30), Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590.

Persons desiring to participate in the hearing should notify the Docket Clerk at least seven days before the appropriate hearing and indicate the amount of time they will need to present their views.

(Secs. 202 and 208, Federal Railroad Safety Act of 1970 (45 U.S.C. 431 and 437). Sec. 1.49(n) of the regulations of the Office of the Secretary, 49 CFR 1.49(n)).

Issued in Washington, D.C. on January 13, 1984.

John H. Riley,
Administrator.

Appendix A—Long Distance Rail Passenger Operators and Commuter Operators/Authorities

Long Distance Rail Passenger Operators

Alaska Railroad
National Railroad Passenger Corporation (Amtrak)

Commuter Operators and Authorities

—Private Railroads Providing Contract Service—
Boston and Maine Corporation
Burlington Northern Railroad Company
Baltimore and Ohio Railroad Company
Chicago and North Western Transportation Company
Chicago South Shore and South Bend Railroad
Grand Trunk Western Railroad Company
Illinois Central Gulf Railroad
National Railroad Passenger Corporation (Amtrak)
Norfolk and Western Railway Company
Southern Pacific Transportation Company
—Public Railroads and Authorities—
Long Island Rail Road Company
Metro North Commuter Railroad

New Jersey transit Rail Operations, Inc.
Northeast Illinois Regional Commuter Rail Corporation
Pittsburgh and Lake Erie Railroad
Port Authority Trans-Hudson
San Diego Metropolitan Transit Development Board
Southeastern Pennsylvania Transportation Authority
Staten Island Rapid Transit Operating Authority

RAIL PASSENGER SERVICE OPERATORS

Metropolitan area and operation	Authorizing agency	[redacted]	Employees		Equipment		Passenger miles (annual) (millions)	No. of passengers (annual) (millions)	No. of trains (annual)
			Operating	Mechanical	Locomotives [1]	Coaches			
I. Long Distance:									
Nationwide: National Railroad Passenger Corporation	U.S. Department of Transportation	23,000	[2]2,100	5,941	364	2,003	4,002	19.0	76,683
State of Alaska: Alaska Railroad	U.S. Department of Transportation	654	156	158	14	44	14	0.2	554
Subtotal: Long Distance		23,654	2,256	6,099	378	2,047	4,016	19.2	77,237
II. Commuter: Boston & Maine Corp.	Massachusetts Bay Transportation Authority	242	352	292	153	82	175	10.0	70,200
New York/New Jersey/Connecticut:									
Long Island Railroad	Metropolitan Transportation Authority	323	1,882	2,165	856	246	2,319	83.0	231,556
Metro North Commuter Railroad	Metropolitan Transoportation Authority	268	1,500	1,700	682	152	1,326	47.7	194,000
Staten Island Rapid Transit Oper Authority	Metropolitan Transportation Authority	15	[redacted]	40	52	...	47	5.7	45,656
New Jersey Transit Rail Operations	New Jersey Transit Corporation	272	1,342	772	619	292	721	33.5	132,236
Port Authority Trans. Hudson	Port Authority of New York and New Jersey	15	298	248	298	...	255	53.0	312,569
Subtotal: NY/NJ/CN		893	5,106	4,923	2,507	690	4,668	222.9	916,017
Philadelphia: Southeastern Pennsylvania Transit Authority	Southeastern Pennsylvania Transit Authority	[redacted]	433	380	351	...	115	19.6	195,646
Baltimore/Washington, D.C.:									
Baltimore and Ohio Railroad Company	Maryland Department of Transportation	111	[redacted]	26	15	22	17	1.3	4,572
National Railroad Passenger Corporation.	Maryland Department of Transportation	40	9	N/A	12	0	14	5	2,520
Pittsburgh									
Pittsburgh and Lake Erie Railroad	Beaver County Transportation Authority	31	14	16	2	4	2	0.1	512
Baltimore and Ohio Railroad Company	Port Authority of Allegheny County	17	44	17	5	7	5	0.3	5,080
Detroit: Grand Trunk Western Railroad Company (not in service)	Southeastern Michigan Transportation Authority	26	15	15	5	30	4	0.3	1,530
Chicago									
Northeast Illinois Regional Commuter Rail Corporation	Regional Transportation Authority	133	338	271	107	144	274	13.0	37,250
Burlington Northern	Regional Transportation Authority	38	115	124	51	105	220	11.6	19,552
Chicago and Northwestern Transit Company	Regional Transportation Authority	168	240	337	126	232	505	21.8	47,151
Illinois Central Gulf	Regional Transportation Authority	77	168	235	171	...	228	12.0	57,824
Norfolk and Western	Regional Transportation Authority	23	10	22	4	11	16	0.8	1,040
Chicago South Shore and South Bend Railroad.	Northern Indiana Transportation District	90	59	52	44	...	[redacted]	2.4	3,120
Subtotal		529	[redacted]	1,041	503	492	1,306	61.6	165,337
San Francisco: Southern Pacific Transportation Company	California Department of Transportation	47	192	62	11	83	116	4.5	13,954
San Diego: San Diego Trolley Incorporated	City of San Diego	16	29	25	24	...	33	4.0	49,244
Subtotal: Commuter		2,212	7,192	8,797	3,588	1,410	8,455	325.1	1,425,212
Grand Total		25,866	9,448	12,896	3,966	3,457	10,471	344.3	1,502,449

[1] Also includes passenger cars capable of being self-propelled
[2] Does not include carrier personnel

[FR Doc. 84-1260 Filed 1-16-84; 8:45 am]
BILLING CODE 4910-06-M

UNITED STATES INFORMATION AGENCY

Advisory Panel on International Educational Exchange; Meeting

The Advisory Panel on International Educational Exchange will hold its fourth meeting on Saturday and Sunday, January 28 and 29, 1984, at the Time-Life Building, Avenue of the Americas and West 51st Street, New York City.

The meeting will have as its main business the drafting of an interim report to the Director of the U.S. Information Agency identifying issues of major concern in international educational exchange. Discussions at the meeting will center on the national interest in international educational exchange affecting programs in both the public and private sectors. Premature disclosure of this information is likely to frustrate significantly implementation of Advisory Panel recommendations because they will involve a discussion

of future Agency policies and programs (5 U.S.C. 552(c)(9)(B).

The agenda for this meeting follows:

Saturday, January 28, 1984

9:00 a.m.–12:30 p.m.
Formal approval of the minutes of the third meeting of the Advisory Panel
Work on draft interim report to the Director of the U.S. Information Agency on Advisory Panel activities
12:30 p.m.–2:00 p.m.
Luncheon
2:00 p.m.–4:30 p.m.
Continue work on draft interim report

Sunday, January 19, 1984

10:00 p.m.–12:30 p.m.
Continue work on draft interim report
12:30 p.m.–2:00 p.m.
Luncheon
2:00 p.m.–3:30 p.m.
Finalize and approve interim report
3:30 p.m.–4:30 p.m.
Discussion of arrangement for formal presentation of the interim report to the Director of the U.S. Information Agency
Discussion of arrangements for fifth and sixth meetings of the Advisory panel

Adjournment

Determination to Close Advisory Panel Meeting of January 28/29, 1984

Based on the information provided to the United States Information Agency by the Advisory Panel on International Educational Exchange, I hereby determine that the meeting scheduled by the Panel for January 28 and 29, 1984, may be closed to the public.

The Advisory Panel on International Educational Exchange has requested that its January 28–29, 1984, meeting be closed because it will involve the drafting of an interim report to the Director of the United States Information Agency identifying issues of major concern in international educational exchange. Premature disclosure of this information is likely to frustrate significantly implementation of Advisory Panel recommendations because they will involve a discussion of future Agency policies and programs.

(5 U.S.C. 552b(c)(9)(B))

Dated: January 10, 1984.

Charles Z. Wick,
Director.

[FR Doc. 84–1130 Filed 1–16–84: 8:45 am]
BILLING CODE 8230–01–M

United States Advisory Commission on Public Diplomacy; Meeting

The United States Advisory Commission on Public Diplomacy will meet on January 18, 1984 at 11 a.m. in Room 840, 301 Fourth Street, SW., Washington, D.C. Thomas Harvey, General Counsel of the U.S. Information Agency, will discuss Congressional relations activities with USIA. Because the Chairman of the Commission has been out of the country, a decision to hold this meeting could not be made previously.

Please call Elizabeth Fahl, (202) 485–2468, if you plan to attend the meeting because entrance to the building is controlled.

Dated: January 11, 1984.

Charles N. Canestro,
Management Analyst, Federal Register Liaison.

[FR Doc. 84–1131 Filed 1–16–84: 8:45 am]
BILLING CODE 8230–01–M

VETERANS ADMINISTRATION

Agency Forms Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

SUMMARY: The Veterans Administration has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains a proposed new collection, an extension, and a revision and lists the following information: (1) The department or staff office issuing the form; (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(h) of Public Law 96–511 applies.

ADDRESS: Copies of the proposed forms and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (004A2), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 389–2146. Comments and questions about the items on this list should be directed to the VA's OMB Desk Officer, Dick Eisinger, Office of Management and Budget, 726 Jackson Place, NW, Washington, DC 20503, (202) 395–6880.

DATES: Comments on the forms should be directed to the OMB Desk Officer on or before March 19, 1984.

Dated: January 12, 1984.
By direction of the Administrator.

Dominick Onorato,
Associate Deputy Administrator for Information Resources Management.

Extension

1. Department of Veterans Benefits
2. Verification of Pursuit of Course Leading to a Standard College Degree
3. VA Form 22–6553
4. On occasion
5. Farms, non-profit institutions, small business or organizations
6. 4,326 responses
7. 71,379 hours
8. Not applicable

Revision

1. Department of Veterans Benefits
2. Claim for Monthly Payments, National Service Life Insurance
3. VA Form 29–4125a
4. On occasion
5. Individuals or households
6. 14,420 responses
7. 3,605 hours
8. Not applicable

. . . . .

New Collection

1. Department of Veterans Benefits
2. Verification of VA-Related Indebtedness
3. VA Form 26–8937
4. On occasion
5. Individuals or households
6. 80,000 responses
7. 6,667 hours
8. Not applicable

[FR Doc. 84–1024 Filed 1–16–84, 8:45 am]
BILLING CODE 8320–01–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30367]

Pocono Northeast Railway, Inc.—Trackage Rights Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts Pocono Northeast Railway, Inc., from the requirements of prior approval under 49 U.S.C. 11343 in connection with its acquisition of overhead trackage rights over a 3.2-mile line owned by Delaware and Hudson Railway Company in Scranton, PA.

DATES: Exemption effective on January 16, 1984. Petitions to reopen must be filed by February 6, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 30367 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423;
(2) Petitioner's representative: Peter A. Gilbertson, Witkoski, Weiner, McCaffrey and Brodsky, P.C., 1575 Eye Street, NW., Washington, DC 20005, (202) 628–2000.

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FOR FURTHER INFORMATION CONTACT:
Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION:
Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423 or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: January 10, 1984.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

James H. Bayne,
Acting Secretary.

[FR Doc. 84–1420 Filed 1–16–84; 11:27 am]
BILLING CODE 7035–01–M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 11
Tuesday, January 17, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL COMMUNICATIONS COMMISSION

January 11, 1984.

Change in Time for Closed Meeting To Issue Instructions Following Oral Argument

The Federal Communications Commission previously announced on December 21, 1983 its intention to hold a closed meeting for issuing instructions after hearing Oral Arguments in the Chicago cellular proceeding (CC Docket No. 82–721) and the Pittsburg cellular proceeding (CC Docket No. 82–796).

This closed meeting has now been rescheduled to be held following the Regular Open and Closed Meetings, Thursday, January 12, 1984, in Room 856, at 1919 M Street NW., Washington, D.C.

The meeting may be continued the following work day to allow the Commission to complete appropriate action.

The prompt and orderly conduct of Commission business requires this change and no earlier announcement of the change was possible.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84–1206 Filed 1–12–84; 5:03 pm]

BILLING CODE 6712–01–M

2

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

January 11, 1984.

TIME AND DATE: 10:00 a.m., Wednesday, January 18, 1984.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Roger Sammons v. Mine Services, Inc., Docket No. SE 82–15–D. (Issues include whether the judge erred in concluding that the miner was not discriminatorily discharged in violation of the Mine Act.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, agenda clerk; (202) 653–5632.

Jean Ellen,

Agenda Clerk.

[FR Doc. 84–1236 Filed 1–13–84; 10:24 am]

BILLING CODE 6735–01–M

3

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

January 12, 1984.

TIME AND DATE: 10:00 a.m., Wednesday, January 25, 1984.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument on the following:

1. Secretary of Labor, MSHA on behalf of Phillip Cameron, and United Mine Workers of America v. Consolidation Coal Company, Docket No. WEVA 82–190–D. (Issues include whether the judge erred in dismissing the miners' discrimination complaint)

TIME AND DATE: Following oral argument.

STATUS: Closed (pursuant to 5 U.S.C. § 552b(c)(10))

MATTERS TO BER CONSIDERED: The Commission will consider and act upon the above case.

It was determined by a majority vote of Commissioners that this meeting be closed.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, agenda clerk; (202) 653–5632.

Jean Ellen,

Agenda Clerk.

[FR Doc. 84–1305 Filed 1–13–84; 3:21 pm]

BILLING CODE 6735–01–M

4

INTERNATIONAL TRADE COMMISSION

[USITC SE–84–5]

TIME AND DATE: 2:30 p.m., Tuesday, January 24, 1984.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints:
   a. Certain vacuum bottles (Docket No. 1010).
5. Investigation TA–406–10 (Ferrosilicon from the U.S.S.R.)—briefing and vote on injury.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary; (202) 523–0161.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–1311 Filed 1–13–84; 3:59 pm]

BILLING CODE 7020–02–M

5

INTERNATIONAL TRADE COMMISSION: EXECUTIVE RESOURCES BOARD (ERB)

[USITC ERB–84–1]

TIME AND DATE: 11:00 a.m., Tuesday, January 24, 1984.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

Issues

1. OPM Sponsored Women's Executive Leadership Program.
2. New Executive Development Program Participants Individual Development Plans.
3. Presidential Exchange Nominations.
4. Robert Hughes' SES Developmental Program.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary; (202) 523–0161.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–1312 Filed 1–13–84; 3:59 pm]

BILLING CODE 7020–02–M

6

INTERNATIONAL TRADE COMMISSION

[USITC SE-84-6]

TIME AND DATE: 10:00 a.m., Thursday, January 26, 1984.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Investigation TA-406-10 (Ferrosilicon from the U.S.S.R.)—briefing and vote on remedy, if necessary.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary; (202) 523-0161.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-1313 Filed 1-13-84; 3:59 pm]

BILLING CODE 7020-02-M

7

NATIONAL TRANSPORTATION SAFETY BOARD

[NM-84-4]

TIME AND DATE: 9 a.m., Tuesday, January 24, 1984.

PLACE: Conference Rooms 8 ABC, 8th Floor, 800 Independence Ave., SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Aircraft Accident Report:* Eastern Air Lines, Inc., Lockheed L-1011, N3343EA, Miamai, Florida, May 5, 1983.

2. *Recommendations* to the Federal Aviation Administration regarding flightcrew and flight attendant emergency training, lifevest standards, and FAA maintenance surveillance activities.

3. *Recommendation* to Federal Aviation Administration regarding installation of evacuation devices meeting TSO-C69A on newly manufactured aircraft and removal from service of devices which do not meet order.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming; (202) 382-6525.

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

January 13, 1984.

[FR Doc. 84-1279 Filed 1-13-84; 8:45 am]

BILLING CODE 4910-58-M

8

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATON PLANNING COUNCIL

AGENCY HOLDING THE MEETING: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council)

ACTION: Notice of meeting to be held pursuant to the Government in the Sunshine Act (5 U.S.C. 552b).

STATUS: Open.

TIME AND DATE: 10:00 a.m., January 17, 1984.

PLACE: Small Auditorium, Sea-Tac Airport, Seattle, Washington.

MATTERS TO BE CONSIDERED: This will be a portion of a meeting of the Council's Fish and Wildlife Committee at which a quorum of the full Council may be present. That portion of the meeting will consist of a consultation to discuss Phase I of the Anadromous Fish Program Goals Study. The consultation was publicly announced on January 9, 1984 with the mailing of a notice to the 60 entities on the Council's fish and wildlife consultation mailing list and the Council's Fish Propagation Panel. At its January 12 meeting in Seattle, Washington, the Council, by recorded vote, determined that agency business required that notice of the potential presence of a quorum of the Council at the consultation could not be issued earlier. Such notice was subsequently issued at the earliest practicable time.

FOR FURTHER INFORMATION CONTACT: Ms. Bess Wong (503) 222-5161.

Edward Sheets,

Executive Director.

[FR Doc. 84-1284 Filed 1-13-84; 12:11 pm]

BILLING CODE 0000-00-M

federal register

Tuesday
January 17, 1984

Part II

Department of Justice

Office of Juvenile and Delinquency Prevention

Position Statement on Minimum Requirements of Section 223(a)(14) of the JJDP Act, as Amended; Notice

VOL 49 ISS 11 JA 17 1984 UMI

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

Position Statement on Minimum Requirements of Section 223(a)(14) of the JJDP Act, as Amended

AGENCY: Office of Juvenile Justice and Delinquency Prevention.

ACTION: Notice of issuance of position statement on the minimum requirements of the jail removal mandate of Section 223(a)(14) of the Juvenile Justice and Delinquency Prevention (JJDP) Act, as amended.

SUMMARY: The Office of Juvenile Justice and Delinquency (OJJDP) is issuing a position statement on the minimum requirements of Section 223(a)(14) of the JJDP Act. The position statement addresses the jail removal requirements when a juvenile facility and an adult jail or lockup is in the same building or on the same grounds.

In determining whether or not a facility in which juveniles are detained or confined is an adult jail or lockup under the requirements of Section 223(a)(14), OJJDP will assess the separateness of the two facilities by determining whether four requirements contained in the position statement are met.

SUPPLEMENTARY INFORMATION:

Position Statement: Minimum Requirements for Juvenile Justice and Delinquency Prevention Act, Section 223(a)(14) (Jail Removal)

I. Background

Section 223(a)(14) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, requires States, as a condition for the receipt of formula grant funds, to: "provide that, . . . no juvenile shall be detained or confined in any jail or lockup for adults, . . ."

States have until December, 1985 to achieve compliance with this statutory provision. Section 223(c) of the Act allows two additional years, if substantial compliance is achieved by December, 1985.

The definitions of an adult jail and an adult lockup, as contained in 28 CFR Part 31, Subpart 31.304 (m) and (n), dated December 31, 1981, are:

Adult Jail. A locked facility, administered by State, county, or local law enforcement and correctional agencies, the purpose of which is to detain adults charged with violating criminal law, pending trial. Also considered as adult jails are those facilities used to hold convicted adult criminal offenders sentenced for less than one year.

Adult Lockup. Similar to an adult jail except that an adult lockup is generally a municipal or police facility of a temporary nature which does not hold persons after they have been formally charged.

States and localities have told OJJDP that the application of the definition of an adult jail and lockup has presented difficulty where a separate juvenile detention facility and an adult jail or lockup share a common building or are on common grounds. To assist in resolving this issue an OJJDP position statement is being provided.

In determining whether removal, pursuant to the statute, has been accomplished when the juvenile and adult facilities are in a common building or on common grounds, OJJDP will, upon request by the State, assess whether the juvenile and adult facilities are separate; i.e., that there are separate structural areas, staffs, administrations, and programs.

Set forth below are requirements which will be used to determine acceptability in the event both juveniles and adults are detained in one physical structure. Additionally, while these requirements are mandatory, it is noted that special and unique conditions may allow deviations from the statute. Such conditions will be addressed on a case-by-case basis.

Following the statement of "MANDATORY REQUIREMENTS" is a discussion of factors which are recommended to the states and which will be used by OJJDP in determining whether the criteria have been met. In addition, OJJDP has available many standards, policies and conditions of juvenile detention which will help jurisdictions meet the norm of good practice, meet accreditation standards, and meet legal requirements associated with detaining juveniles. This information is available from OJJDP.

II. Mandatory Requirements

In determining whether or not a facility in which juveniles are detained or confined is an adult jail or lockup under the requirements of Section 223(a)(14), in circumstances where the juvenile and adult facilities are located in the same building or on the same grounds, each of the following four criteria must be met in order to ensure the requisite separateness of the two facilities:

A. Total separation between juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities.

B. Total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping, and general living activities.

C. Separate juvenile and adult staff, including management, security staff, and direct care staff such as recreational, educational, and counseling. Specialized services staff, such as cooks, bookkeepers, and medical professionals who are not normally in contact with detainees or whose infrequent contacts occur under conditions of separation of juveniles and adults, can serve both.

D. In states that have established state standards or licensing requirements for secure juvenile detention facilities, the juvenile facility meets the standards and is licensed as appropriate.

III. Discussion

The four mandatory requirements must be fully met to ensure juveniles are not placed in, or subjected to, the same environment as adult offenders, thus meeting the minimum requirements of Section 223(a)(14) of the JJDP Act, as amended. In determining whether the criteria are met, the following list of factors is provided and will be used by OJJDP. Although the list is not exhaustive, it does enumerate conditions which enhance the separateness of juvenile and adult facilities when they are located in the same building or on the same grounds.

A. Juvenile staff are employee full-time by a juvenile service agency or the juvenile court with responsibility only for the conduct of the youth-serving operations. Juvenile staff are specially trained in the handling of juveniles and the special problems associated with this group.

B. A separate juvenile operations manual, with written procedures for staff and agency reference, specifies the function and operation of the juvenile program.

C. There is minimal sharing between the facilities of public lobbies or office/support space for staff.

D. Juveniles do not share direct service or access space with adult offenders within the facilities including entrance to and exit from the facilities. All juvenile facility intake, booking and admission processes take place in a separate area and are under the direction of juvenile facility staff. Secure juvenile entrances (sally ports, waiting areas) are independently controlled by

juvenile staff and separated from adult entrances. Public entrances, lobbies and waiting areas for the juvenile detention program are also controlled by juvenile staff and separated from similar adult areas. Adult and juvenile residents do not make use of common passageways between intake areas, residential spaces, and program/service spaces.

E. The space available for juvenile living, sleeping and the conduct of juvenile programs conforms to the requirements for secure juvenile detention specified by prevailing case law, prevailing professional standards of care, and by State code.

F. The facility is formally recognized as a juvenile detention center by the State agency responsible for monitoring, review, and/or certification of juvenile detention facilities under State law. Certification of an area to hold juveniles within an adult jail or lockup (as provided by some State codes) may not conform to this. Basically, the State does not license the facility in which juveniles are held as a jail or lockup.

These and other conditions would serve to enhance the separateness of juvenile and adult facilities located in the same building or on the same grounds, thus ameliorating the destructive nature of juvenile jailing cited by Congress as the foundation for the 1980 amendment requiring removal of juveniles from adult jails and lockups.

In most cases, the States should have little difficulty in applying these four requirements and related factors to determine if sufficient separation exists to justify OJJDP concurring with a state finding that a separate juvenile detention facility exists where there is a common building or common grounds situation with a facility that is an adult jail or lockup. A *de minimis* allowance will be made for the occasions when juveniles are detained for a length of time and under conditions not in conformance with the Act. OJJDP will provide assistance and advice to States in the application of the criteria and relevant factors to any specific situation.

FOR FURTHER INFORMATION CONTACT: Doyle Wood, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Ave., NW., Washington, D.C. 20531, (202) 724–8491.

Alfred S. Regnery,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 84–1143 Filed 1–16–84; 8:45 am]

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federal register

Tuesday
January 17, 1984

Part III

Environmental Protection Agency

40 CFR Part 60

Standards of Performance for New Stationary Sources; Fluid Catalytic Cracking Unit Regenerators; Proposed Rule and Public Hearing

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-2184-8]

Standards of Performance for New Stationary Sources; Fluid Catalytic Cracking Unit Regenerators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The proposed standards would limit emissions of sulfur oxides (SO_x) from new, modified, and reconstructed fluid catalytic cracking unit (FCCU) regenerators. The proposed standards implement Section 111 of the Clean Air Act and are based on the Administrator's determination that emissions from petroleum refineries cause, or contribute significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare. The intent is to require new, modified, and reconstructed FCCU regenerators at petroleum refineries to use the best demonstrated system of continuous emission reduction, considering costs, environmental, energy, and nonair quality health impacts.

A public hearing will be held to provide interested persons and opportunity for oral presentations of data, views, or arguments concerning the proposed standards.

DATES: *Comments.* Comments must be received on or before April 3, 1984.

Public Hearing. If any one contacts EPA requesting to speak at a public hearing by February 28, 1984. A public hearing will be held on March 6, 1984 beginning at 9:00 a.m. Persons interested in attending the hearing should call Mrs. Shelby Journigan at (919) 541–5578 to verify that a hearing will occur.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by February 28, 1984.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (A–130), Attention: Docket Number A–79–09, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by February 28, 1984, the public hearing will be held at ERC Auditorium RTP, North Carolina. Persons interested in attending the hearing should call Mrs. Shelby Journigan at (919) 541–5578 to verfiy that a hearing will occur. Persons wishing to present oral testimony should notify Mrs. Shelby Journigan Standards Development Branch (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5578.

Background Information Document. The background information document (BID) for the proposed standards may be obtained from the U.S. EPA Library (MD–35), Research Triangle Park, North Carolina 27711, telephone number (919) 541–2777. Please refer to "Fluid Catalytic Cracking Unit Regenerators—Background Information for Proposed Standards," EPA–450/3–82–013a.

Docket. Docket Number A–79–09, containing supporting information used in developing the proposed standards, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Susan Wyatt, Standards Development Branch, Emission Standards and Engineering Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telphone number (919) 541–5578.

SUPPLEMENTARY INFORMATION: A background information document has been prepared that contains information on fluid catalytic cracking unit operations, available control technologies for sulfur oxides (SO_x) emissions, and analysis of the environmental, energy, and economic impacts of regulatory alternatives. The information contained in this document is summarized in this preamble. All references used for the information contained in the preamble can be found in this document.

Proposed Standards

The proposed standards would limit SO_x emissions from new, modified, and reconstructed FCCU regenerators. The proposed standards would require 90 percent SO_x (reported as SO_2) emission reduction or 50 vppm SO_x in the flue gas, whichever is less stringent.

However, if the emissions with no add-on control device are less than 9.8 kg of SO_x/1,000 kg of coke burn-off in the regenerator or the sulfur content of the fresh FCCU feed is less than 0.30 weight percent, the regenerator would not be required to meet the limit of 90 percent emission reduction or 50 vppm. The 90 percent emission reduction or 50 vppm requirement is based on the use of flue gas desulfurization (FGD) equipment. Plant owners or operators may choose, however, to use SO_x reduction catalysts, hydrotreaters, or low sulfur feeds to meet the 9.8 kg SO_x/1,000 kg coke burn-off or 0.30 cut-offs. For the purposes of the proposed standards, the regenerator combustion air blower(s) is considered part of the regenerator.

The proposed standards define a "fluid catalytic cracking unit" to include fluidized bed treatment processes requiring the continuous regeneration of catalyst or contract materials by burning off coke and other deposits. New, modified, and reconstructed refinery process units fitting this definition would be required to achieve the FCCU carbon monoxide, particulate, and opacity standards and the proposed SO_x standard.

To determine compliance with the proposed standard (except for the feed sulfur level requirement), Reference Methods 1 thorugh 4 and Method 8 in Appendix A of 40 CFR Part 60 would be used. Continuous monitoring of the concentration of SO_2 in the regenerator flue gas would be required to ensure that SO_x control systems are being properly operated and maintained. To determine compliance with the proposed alternate feed sulfur level standard, ASTM methods D129, D1266, D1552, or D2622 would be used. A regular sampling and analysis program would be required to ensure that the sulfur content of the fresh feed to the FCCU remains, on average, below 0.3 weight percent. For the proposed standards, reporting of periods of excess SO_2 emissions or excess feed sulfur levels is required. Refiners would have to keep records of all monitoring data for 2 years in accordance with the General Provisions.

The proposed standards would also amend the standards in Subpart J for fuel gas combustion devices by deleting an incorrect duplication of the definition of excess emissions of SO_2.

Summary of Environmental, Energy, and Economic Impacts

The proposed emission standard is based in the use of flue gas scrubbers, which have been demonstrated on FCCU's. However, it is expected that many refiners would use an SO_x reduction catalyst, naturally occurring low sulfur FCCU feeds, or hydrotreated FCCU feeds to meet the proposed standards. The proposed standards would reduce the estimated nationwide SO_x emissions from a projection of 17 newly constructed, modified, and reconstructed FCCU regenerators by about 69,000 Mg/year, assuming FGD is

used for all facilities with feed sulfur levels above 0.30 percent, or by about 63,000 Mg/yr, assuming those same facilities are able to use SO_x reduction catalysts to maintain emissions below 9.8 kg SO_x/1,000 kg coke burn-off.

If sodium-based flue gas scrubbers were used to control SO_x emissions from newly constructed, modified, and reconstructed FCCU regenerators, wastewater discharges would increase by about 2.2 Mm^3/yr in the fifth year of the standards. The treated discharges from sodium-based systems would contain about 90 Mg/yr of suspended solids and chemical oxygen demand (COD), and about 110 Gg/yr of dissolved solids in the fifth year of the standards. These wastewater discharges would constitute a small portion of the total refinery wastewater flow. Sodium-based scrubbers may not be applicable in inland refinery locations or areas where water availability or wastewater discharge is restricted. Other SO_x control systems which can reduce the quantity of water required or wastewater discharged are available. The Wellman-Lord, dual alkali, citrate, and spray drying systems have lower water and wastewater requirements than sodium-based scrubbers. These systems are similar in cost to the sodium-based scrubber. Wastewater discharges would not increase with the use of SO_x reduction catalysts.

Solid waste impacts occur as a result of particulate capture and sludge production by scrubbers. The particulates captured by scrubbing systems are mainly catalyst fines. Emissions of particulates are limited to 1.0 kg of particulate/1,000 kg of coke burn-off in the regenerator under an existing standard. Since particulate control would be required in the absence of an SO_x standard, the proposed standard does not incrementally increase the dry weight of solid wastes due to particulate capture. In a scrubber, these solids would be wet and thus be heavier and encompass a larger volume than the dry wastes which would be collected if an electrostatic precipitator were used to meet the particulate standard.

Sodium-based scrubbers would produce about 14 Gg/yr of solid wastes in the fifth year of the standard. Other types of scrubber systems also produce solid wastes. The amount of sludge produced varies significantly depending on the type of scrubber system. In the worst case situation, if the proposed standards were met by only using dual alkali scrubbers, solid waste discharges would increase by about 250 Gg/yr in the fifth year of the standard. The use of SO_x reduction catalysts would cause no increase in solid waste.

The proposed standards would have small impacts on nationwide energy consumption. Scrubbers would increase FCCU energy consumption for new and modified/reconstructed units from about 0.2 to 2.0 percent, depending on the regeneration mode of the FCCU and type of venturi scrubber used. SO_x reduction catalysts would have a negligible impact on FCCU energy consumption.

The proposed standards would result in a total nationwide capital cost for SO_x control during the first 5 years after the effective date of the standards of about $72 million, assuming scrubbers are used for all facilities with feed sulfur levels above 0.30 percent. The use of the catalyst technology would require little outlay for capital equipment. Fifth-year annual cost if the same facility operate scrubbers would be about $35 million under the proposed standards. Operational costs of using the emerging catalyst technology would be about $10 million to $20 million if SO_x reduction catalysts were used by all affected facilities with feed sulfur levels above 0.30 percent to meet the proposed standards.

The economic impact of the proposed standards would be small even if all plants use flue gas scrubbers. Price increases in refined products to account for costs of meeting the proposed standards are, at most, 0.4 percent. Even without passing through price increases, the proposed standards are not expected to reduce the profitability of FCCU operations to the point where planned investments would be postponed. The proposed standards would not adversely affect the construction of new FCCU's.

Rationale

Selection of Source and Pollutants

New source performance standards (NSPS) for petroleum refineries were promulgated on March 8, 1974 (39 FR 9315). These standards regulate the emission of particulate matter and carbon monoxide, and the opacity of flue gases from FCCU regenerators and FCCU regenerator carbon monoxide incinerator-waste heat boilers. These regulations apply to any affected facility which commenced construction or modification after June 11, 1973. Standards promulgated on March 15, 1978, (43 FR 10868) regulate the emissions of SO_2 from fuel gas combustion devices.

Catalytic cracking is a petroleum refinery process in which hydrocarbon molecules in the presence of a catalyst are fractured or broken into smaller molecules. The catalyst allows the selective fracturing of heavy distillates to light products. At many petroleum refineries, catalytic cracking is used to convert gas oils or residual feedstocks into gasoline and middle distillate blending stocks. Catalytic cracking is also used to produce light olefins, such as propylenes and butylenes, for gasoline alkylation and petrochemical production, and to produce cycle oils for use as blending components in heating oils and fuel oils.

Fluid catalytic cracking is a continuous process that involves the mixing of the feedstock with a stream of fine, suspended, catalyst particles. Upon completion of the cracking reactions, the cracked hydrocarbon vapors pass to a fractionating column where the vapors are distilled into the desired products. The spent catalyst, deactivated during the cracking process, is transferred to a regenerator. There, a carbon residue called coke, which deposits on the catalyst particles during the cracking reaction, is burned off. The reactivated catalyst is then recycled back to the catalytic cracking process. Particulate matter, carbon monoxide (CO), SO_x, nitrogen oxides (NO_x), and volatile organic compounds (VOC) are emitted to the atmosphere from the regenerator as a consequence of coke combustion.

The Clean Air Act amendments of 1977 require that the Administrator review and, if appropriate, revise established standards for new stationary sources at least every 4 years (Section 111(b)(1)(B)). On the basis of a review of compliance data available in the Agency's regional offices and a review of literature describing recent control technologies applicable to FCCU regenerators, the Agency concluded on October 22, 1979, (44 FR 60759) that the existing regulations for particulates and CO accurately reflect the performance capability of best demonstrated control technologies (considering cost, nonair quality, health and environmental, and energy impacts) and, hence, that revisions are not necessary at this time. The proposed amendments to Subpart J do not change the existing standards for particulates and CO. The existing regulations do not include emission limits for NO_x, SO_x, and VOC.

The potential SO_x emissions from new, modified, and reconstructed FCCU regenerators are significant. FCCU regenerators emit both SO_2 and sulfur trioxide (SO_3). Data from source tests indicate that SO_3 usually comprises less than 10 percent of the total SO_x emissions. However, with high excess air and certain types of catalysts or

catalyst additives. SO_3 can comprise a substantial portion of the SO_x emissions. FCCU's currently emit an estimated 413,000 Mg/year of SO_x. Over 100 Mg/day of SO_x can be emitted by a large unit. These values are expected to increase in the future as the availability of low sulfur feeds decreases. Baseline emissions of SO_x from new, modified, and reconstructed FCCU's are expected to be about 78,800 Mg/yr by 1987.

The 4-year review of standards for petroleum refineries identified technologies that are demonstrated for the control of SO_x emissions from FCCU regenerators. Based on the existence of these control technologies, it was concluded in the review that a program should be undertaken to assess the applicability, cost, performance, and nonair environmental impacts of these technologies. As a result of this assessment, the Agency concluded that there exists for controlling these emissions a system that is adequately demonstrated within the meaning of Section 111(a)(1). Therefore, the Agency decided to develop a standard for SO_x emissions. Such a standard would control both SO_2 and SO_3 emissions from FCCU regenerators.

Nitrogen oxides form mainly from the oxidation of nitrogen compounds in the catalyst coke. New, modified, and reconstructed FCCU's could, by 1987, emit 700 to 7,000 Mg of NO_x per year, based on current emission levels. NO_x emissions may increase beyond these projected levels if the nitrogen content of FCCU feedstocks increases. There are no demonstrated technologies for the control of NO_x emissions from FCCU's. Results of a program undertaken by EPA to assess baseline NO_x emissions do not indicate that an SO_x standard which would increase the use of the emerging SO_x reduction catalyst technology would increase NO_x emissions. NO_x emissions can be reassessed at the next 4-year review of this standard when SO_x reduction catalysts are in commercial use to determine if these catalysts increase NO_x emissions from FCCU's.

VOC emissions are of concern because of their roles as oxidant precursors and as potentially hazardous compounds. VOC emission levels from FCCU regenerators using high temperature (*in situ*) regeneration or from regenerators using CO oxidation promoting catalysts, however, are unknown. The 4-year review of new source performance standards for petroleum refineries (October 2, 1979, 44 FR 60759) identified this as an area for future study by EPA's Office of Research and Development. VOC emissions from FCCU regenerators were not considered for regulatory development at this time.

Three types of catalytic cracking units, Houdriflow, Thermofor, and fluid, are employed by the petroleum refining industry to produce gasoline blending stocks and other products. As of January 1980, 2 refineries used the Houdriflow process, and 15 refineries used the Thermofor process. The number of operating Houdriflow and Thermofor units has steadily decreased in the last 10 years as refiners replace these units with more profitable FCCU's. This trend is expected to continue. Since no Houdriflow or Thermofor units are expected to be built, modified, or reconstructed in the next 5 years, these units were not considered further in the development of the standards. Because of this, the proposed standards apply only to FCCU regenerators. The technological and economic advantages of FCCU's, as compared to Thermofor and Houdriflow units, would outweight the cost increase of meeting the proposed FCCU SO_x emission limit.

Several refining companies have developed fluid catalytic cracking units which can process residual feedstocks. These are known as heavy oil crackers. An analysis comparing SO_x emissions from heavy oil FCC units to typical FCC units was performed. Results of this analysis showed that the control technology upon which the proposed standard is based is applicable to heavy oil crackers. For this reason, heavy oil crackers are covered by the proposed SO_x standards.

To upgrade residual feedstocks and to increase gasoline and middle distillate product yields, a new process termed asphalt residual treatment (ART) is being offered to refinning companies. An ART unit is similar to an FCCU in equipment configuration and operation. The major differences between the two processes are an ART unit uses a noncatalytic contact material and does not require a fractionating column. Coke, metals, sulfur, and nitrogen compounds in the feedstock accumulate on the contact material. The spent contact materials is transferred to a regenerator where the coke and other deposits are burned off. The regenerated contact materials is recycled back to the riser/reactor. An FCCU can be converted to an ART unit by replacing the catalyst with a noncatalytic contact material. Because coke containing sulfur is burned in the ART process regenerator as in the FCCU regenerator, the flue gases from both processes contain SO_x, CO, and particulates. For this reason, the proposed standards require that an ART unit or any other similar type of fluidized bed treatment unit achieve the FCCU CO, particulate, and opacity standards and the proposed FCCU SO_x standard. The proposed standards define a "fluid catalytic cracking unit" to include fluidized bed treatment units such as the ART unit.

The FCCU is a pivotal unit in many refineries. Up to 50 percent of the total crude oil input to a refinery is ultimately processed in the FCCU. There an estimated 129 petroleum refineries presently operating one or more FCCU's. Individual unit processing throughput capacities range from about 380day to about 21,500 m^3 day. It is estimated that 10 new units will be built and that approximately seven FCCU's will be modified or reconstructed, such that they would be affected by standards, in the first 5 years of the standards (1982–1986). This will occur in spite of decreasing gasoline demand because growth in FCCU processing is an intergral part of refiner's efforts to increase residual processing capacity and obtain more valuable products from feedstocks of decreasing quality. The FCCU also is an important contributor to the high octane unleaded gasoline pool and the distillate product inventory for which demand is increasing.

Selection of the Affected Facility

The FCCU is composed of a reactor, regenerator, and fractionator. SO_x is produced when sulfur-laden coke deposits are burned off the cracking catalyst or contract material in the regenerator. The amount of SO_x emitted to the atmosphere is directly dependent on the amount of coke burned off the cracking catalyst or contact material and on the amount of sulfur on the coke. Coke burn-off rates and coke sulfur contents vary routinely in an FCCU regenerator in response to changing feedstocks and product demand. Maximum SO_x emissions occur when the FCCU regenerator is operating at its maximum design coke burn-off rate and when sulfur content coke is being burned off.

In choosing the affected facility, the Agency must decide which piece or group of equipment is the appropriate unit for separate emission standards in the particular industrial context involved. The Agency must do this by examining the situation in light of the terms and purpose of Section 111. One major consideration in this examination is that the use of a narrower designation results in bringing replacement equipment under standards of performance sooner. If, for example, and entire plant is designated as the affected facility, no part of the plant would be

covered by the standard unless the plant as a whole is "modified" or "reconstructed." If, on the other hand, each piece of equipment is designated as the affected facility, then as each piece is replaced, the replacement piece will be a new source subject to the standard. Since the purpose of Section 111 is to minimize emissions by application of the best demonstrated control technology at all new and modified sources (considering cost, other health and environmental effects, and energy requirements), there is a presumption that a narrower designation of the affected facility is proper. This ensures that new emission sources within plants will be brought under the coverage of the standards as they are installed. This presumption can be overcome, however, if the Agency concludes either that (a) a broader designation of the affected facility would result in greater emissions reduction than would a narrow designation, or where (b) the narrower designation, while yielding greater emission reductions, would do so only with exorbitant incremental impacts, as compared to the broader designation.

In the case of FCCU's, SO_x is generated in and emitted to the atmosphere from the regenerator. The designation of each regenerator of each individual FCUU as the affected facility would lead to bringing replacement equipment under the NSPS sooner then any other designation and would adhere to the purpose of Section 111 as described above. In addition, a narrow (single regenerator) designation would not have unreasonable impacts. Therefore, in the proposed standards, each FCCU regenerator is designated as the affected facility. Thus, multiple FCCU regenerators at a refinery would each be considered separately.

FCCU regenerator operations and components were examined to determine which parts should be included in the affected facility designation. The maximum amount of coke that can be burned off in a regenerator, and thus the maximum SO_x emission rate, is limited by the regenerator combustion air blower and by regenerator vessel design constraints. An air blower provides air to support coke combustion and maintain catalyst or contact material particle fluidization in the regenerator. The maximum blower air delivery rate determines the maximum oxygen input rate to the regenerator and thus the maximum design coke burn-off rate. Because the combustion air blower can affect the amount of emissions from a regenerator, it was decided to include the blower and its associated ducting and valves in the affected facility.

When suitable blower capacity is available, the regenerator vessel design may influence the maximum coke burn-off rate and SO_x emissions. During coke burn-off, heat is released. As the coke burn-off rate increases, regenerator internal temperatures may exceed design specifications. To maintain the coke burn-off rate, and thus the FCCU throughput, a refiner may have to improve the regenerator operation. This may envolve alteration or replacement of such regenerator internal components as the air distribution system, standpipes, slide valves, plenum chamber, overflow weirs, regenerator grid and seals, the refractory lining, and cyclones. Because these components are integral to the operation of an FCCU regenerator, they are included in the affected facility. Component replacement usually occurs during a turnaround, when the FCCU is shutdown for repair. Typically, FCCU's are scheduled for a turnaround every 2 to 4 years.

In summary, due to the direct infllluence of the regenerator and the regenerator combustion air blower on SO_x emissions, the FCCU regenerator is designated the affected facility. This affected facility includes the combustion air blower and regenerator internal components and is consistent with the affected facility for the CO and particulate standards (40 CFR 60.102, 40 CFR 60.103).

Control Technology

There are three basic techniques applicable to reducing SO_x emissions from FCCU regenerators. These techniques are flue gas desulfurization (FGD), SO_x reduction catalysts, and feed hydrotreating. In addition, certain FCCU process changes may affect SO_x emissions. Transfer line (riser) cracking, and high temperature or CO-promoted regeneration can reduce coke production and therefore SO_x mass emissions on a per unit of feed basis. Hqwever, as is often the case, these modifications increase FCCU processing capacity. Thus, SO_x mass emissions from the unit may actually increase as owners operate their units at higher throughput levels. FGD processes remove SO_x from the regenerator flue gases and convert it into liquid waste, solid waste, or salable product. An emerging technique for controlling regenerator SO_x emissions involves the use of special FCCU SO_x reduction catalysts. These catalysts integrate the SO_x control mechanism with the FCCU process so that SO_x emissions control is achieved without add-on control devices. Feed hydrotreating is a refinery process used to improve products and process operations that also reduces regenerator SO_x emissions indirectly by reducing the sulfur content of the FCCU feed.

FGD systems are operating on seven FCCU regenerator flue gas streams at five refineries to reduce particulate and SO_x emissions. All of these operting systems are sodium-based wet gas venturi scrubbers.They have been installed on new and existing FCCU regenerators and are applicable to heavy oil crackers. Some of these FCCU regenerators operate in the high temperature regeneration mode, and others operate in the conventional regeneration mode followed by CO incinerator waste heat boilers. A citrate scrubber is currently being constructed to control SO_x emissions from an FCCU operating in the high temperature regeneration mode.

Two types of sodium-based wet gas venturi scrubbers are in use on FCCU regenerator flue gas streams. Selection of the appropriate type of scrubber for a specific application depends on the pressure of the flue gas entering the scrubber. The flue gas from conventional regenerators followed by CO incinerator waste heat boilers does not have sufficient pressure to pass through a venturi throat. In these instances, jet ejector venturi scrubbers have been installed.

The jet ejector venturi consists of a spray nozzle and venturi throat. The scrubbing liquor is prayed into the venturi through the nozzle, inducing a draft and drawing the regenerator flue gas into the scrubber. Flue gas originating in regenerators which operate in the complete CO combustion mode has sufficient pressure to pass through a venturi throat. Wet-wall type high energy venturis have been applied under these conitions. Because jet ejector venturi scrubbers must supply energy to the flue gas, they consume more energy than high energy venturi scrubbers. There are, however, no differences in the emissions control achieved by the two scrubbing systems. Based on the fact that high energy venturi scrubbers have been used effectively on new FCCU regenerators and jet ejector venturi scrubbers have been retrofitted onto existing regenerators, it is judged that this control technology could be applied to all FCCU regenerators.

Sodium-based FGD systems use an aqueous solution of sodium hydroxide, sodium carbonate, or sodium bicarbonate to absorb SO_x from the regenerator flue gas reacts with the sodium-based scrubbing liquor to form

primarily sodium sulfite, bisulfite, and sulfate. These salts are purged from the system in the form of dissolved solids and released with the refinery wastewater. The purge also removes particulate matter, mainly catalyst fines, from the scrubbing system. The catalyst fines are settled from the purge stream and disposed as solid waste to landfills or other disposal sites.

One sodium-based high energy venturi scrubber system, installed on a newly constructed FCCU regenerator, was evaluated by the Agency. The regenerator at this plant was operated in the high temperature regeneration mode. The test program included 12 days of continuous monitoring for SO_2 at the inlet and outlet of the scrubber and a total of 23 modified Reference Method 8 tests to measure SO_x concentrations at the inlet and outlet. Reference Method 8 was modified by adding (a) a heated glass fiber filter between the probe and isopropanol impinger to remove particulate matter, and (b) slightly acidifying the isopropanol to eliminate any potential ammonia interference. Reference Method 8 was used in this testing program to enable the Agency to determine SO_3 content of the flue gas. Test periods for each run were about 1 hour at the inlet and 1.5 hours at the outlet. Continuous monitoring results were averaged over a 1-hour period from a series of data points taken every 5 minutes. These hourly values were also averaged over a 24-hour period to yield daily values. The relative accuracy of the continous monitoring system was within 20 percent of the manual Method 8 results.

The scrubber inlet SO_x concentrations varied between about 10.7 and 13.2 kg SO_x/1,000 kg coke burn-off during Method 8 sampling. The sulfur content of the FCCU feed ranged between 0.3 and 0.6 weight percent. Outlet SO_x concentrations determined by the Method 8 tests varied from about 0.6 to 1.2 kg SO_x/1,000 kg coke burn-off. During these tests, the scrubber achieved an average emission reduction of 92 percent. All of these tests showed emissions of less than 50 vppm.

The continuous monitor used during this testing program measured the concentration of SO_2 in the FCCU flue gas. Scrubber inlet SO_2 concentrations, as measured by this continuous monitor, varied from about 410 to 740 vppm in response to FCCU feed sulfur fluctuations between 0.3 and 0.6 weight percent during the 12-day continuous monitoring period. These emissions were also expressed in terms of process rate variables, specifically coke burn-off. The inlet mass loading ranged from 12.6 to 24.4 kg SO_2/1,000 kg of coke burn-off. The mean inlet loading over the test period was 18.6 kg SO_2/1,000 kg of coke burn-off. Scrubber outlet SO_x concentrations, determined by continuous monitoring, varied from about 12 to 120 vppm. In terms of coke burn-off, scrubber SO_2 emissions varied from about 0.4 to 4.0 kg SO_2/1,000 kg coke burn-off, with a mean emission rate of about 1.3 kg SO_2/1,000 kg of coke burn-off. During continuous monitor testing, the scrubber achieved SO_2 emission reductions ranging from 82 to 98 percent, with an average emission reduction of 93 percent. Emission reductions of less than 90 percent were the result of operation of the scrubber system in a manner that did not represent its technological capabilities.

State compliance and company guarantee tests using EPA Reference Methods 6 and 8 have been performed on FCCU regenerators with sodium-based jet ejector and high energy venturi scrubbers. In four Method 6 on two scrubber systems, average outlet SO_2 concentrations ranged between about 5 and 100 vppm. In four Method 8 tests on four scrubber systems, average outlet SO_x concentrations ranged from 9 to 92 vppm. For these tests, emissions were not reported in terms of coke burn-off. Additional information concerning sodium-based venturi scrubber performance can be found in Appendix C of the background information document.

No FCCU's processing high sulfur feeds were available for testing. Since regenerator flue gas SO_x concentrations may be as high as 2,700 vppm, scrubber outlet concentrations under these conditions were evaluated. Information on sodium-based scrubber operation at high inlet SO_x concentrations was obtained from Agency tests of a coal-fired industrial boiler. FCCU regenerator flue gas is similar to the flue gases generated by fossil fuel-fired boilers in flow rate, temperature, and in the composition of nitrogen, oxygen, carbon dioxide (CO_2), CO, particulates, SO_x, and NO_x. Thus, SO_x control technologies applicable to fossil fuel-fired boilers are also applicable to FCCU regenerators.

Fossil fuel-fired boilers emit high concentrations of SO_x when burning high sulfur fuels. At one facility the Agency conducted a continuous monitoring program on a sodium-based scrubber system installed on a boiler that was burning coal with 3.25 to 3.73 weight percent sulfur. This scrubber was designed for 90 percent removal of SO_2 at 2,000 vppm inlet. Daily average SO_2 emissions ranged from 1,653 to 2,154 vppm at the scrubber inlet and 21 to 66 vppm at the scrubber outlet. The 36-day average was 1,798 vppm SO_2 at the scrubber inlet and 46 vppm at the scrubber outlet with an average SO_2 removal efficiency of 97 percent. Fifteen minute average SO_2 emissions reached a high of 2,790 vppm at the scrubber inlet. The corresponding outlet concentration was 41 vppm, which represents a scrubber removal efficiency of 98 percent. Thus, sodium-based scrubbing systems will substantially reduce high flue gas SO_x concentrations and are applicable over the expected range of FCCU regnerator SO_x emissions.

Other FGD systems are not presently used on FCCU regenerator flue gas streams. However, because of the above discussed similarities between FCCU regenerator flue gases and the flue gases generated by coal-fired industrial and utility boilers, FGD systems that are being used on industrial and utility boilers to control SO_x emissions may also be used on FCCU regenerators. FGD systems presently installed on industrial and utility boilers include calcium-based, double alkali, Wellman-Lord, spray drying, magnesium oxide, citrate, and other systems. SO_x control efficiencies of 90 percent or greater are demonstrated for scrubbing systems installed on coal-fired boilers having flue gas SO_x emissions similar to the expected range of FCCU regenerator SO_x emissions.

An emerging technology for the control of FCCU regenerator SO_x emissions uses special catalysts which influence the movement of sulfur within the FCCU. SO_x formed during catalyst regeneration are captured on these special catalysts, thus preventing emissions to the atmosphere. In the FCCU reactor and separator vessel, the captured SO_x is transformed into hydrogen sulfide and vented with the cracked hydrocarbon vapors to the fractionator and ultimately to the refinery sulfur plant. Reductions of 50 to 90 percent have been achieved in small scale bench and pilot plant tests. In two commercial scale tests, SO_x emissions went from 12.2 and 9.9 kg SO_x/1,000 kg coke burn-off before addition of the SO_x reduction catalyst to 2.5 and 4.2 kg SO_x/1,000 kg coke burn-off with the catalyst in place for 1 percent sulfur feeds. These results represent SO_x reduction catalyst performance of 80 and 60 percent, respectively. Tests of developmental SO_x reduction catalyst performance are located in the docket for these proposed standards. Based on commercial and developmental test data, the Agency anticipates that SO_x reduction catalysts will achieve 80 percent control of SO_x emissions from FCCU regenerators

processing a 1 to 2 percent sulfur feed when fully developed.

Tests of SO_x reduction catalyst performance on FCCU's with conventional, CO-promoted regenerators indicate that these catalysts could increase emissions of NO_x from FCCU regenerators. In an effort to determine whether the use of SO_x reduction catalysts would increase NO_x emissions, an NO_x emissions assessment program was conducted. Most of the units which would be affected by an SO_x standard are expected to use high temperature regeneration. The data show no significant NO_x emissions difference between high temperature regenerators operating with and without SO_x reduction catalysts. Consequently, the results of the assessment program do not indicate that the use of SO_x reduction catalysts by sources affected by a standard would increase NO_x emissions. NO_x emissions can be reassessed at the next 4-year review of the standard.

Hydrotreating is a refinery process used to pretreat catalytic cracking feeds and other process feeds by removing sulfur, nitrogen, and metals compounds. Also, hydrotreating is used to stabilize and to improve the quality of finished products (e.g., kerosene, fuel oils, lubricating oils) prior to being sold. The decision by a refiner to install a hydrotreating unit is based primarily on process and economic considerations. Feeds are hydrotreated to remove sulfur to lower the sulfur content of refinery products; to remove metal, nitrogen, and sulfur compounds to prevent poisoning of catalysts used in refinery processes and, consequently, achieve longer runs, better cracking selectivity, and improved product yield; and to remove corrosive compounds to prolong the operating life of refinery process equipment.

In feed hydrotreating, all or a portion of the FCCU feed is heated and passed over or through a catalyst bed in the presence of hydrogen at high pressures. The hydrogen replaces the sulfur in the hydrocarbon molecules, forming primarily saturated hydrocarbons, and reacts with the sulfur to form hydrogen sulfide. The hydrogen sulfide is converted to elemental sulfur in the refinery sulfur plant. When the desulfurized feed is charged to an FCCU, the sulfur content of the coke which is burned-off the cracking catalyst in the regenerator is lower than if the same undesulfurized feed is charged to the FCCU. Lower SO_x emissions from the regenerator result when the lower sulfur coke is burned.

Hydrotreating units are technically capable of reducing FCCU feedstock sulfur levels by over 98 percent. Feed sulfur contents in the range of 0.1 to 0.3 weight percent can be achieved by hydrotreating either high sulfur gas oil or residuum. For example, commercial performance data reported by one oil company for hydrotreating a Middle East vacuum gas oil showed a feed sulfur content reduction from 2.2 to 0.2 weight percent. Similar levels of sulfur reduction have been reported for hydrotreating gas oils obtained from domestic crude oil stocks. Hydrotreating Kuwait residuum containing 3.8 weight percent sulfur has resulted in feed sulfur content reductions to levels as low as 0.1 weight percent. Desulfurized feed sulfur level of 0.3 weight percent has been reported for hydrotreating Alaskan residuum.

Although hydrotreating processes are capable or reducing FCCU feed sulfur contents to levels less than 0.3 weight percent, refiners sometimes choose to hydrotreat to higher sulfur levels due to economic considerations. The investment required by a refiner to install and operate a hydrotreating unit varies significantly depending on the type of hydrotreating process selected, characteristics of the feedstock treated, and the level of sulfur reduction desired. Typical capital costs for hydrotreating units range from $2,000 to over $10,000 per cubic meter of feed per stream day (m^3/sd). In general, the costs for hydrotreating gas oils are at the lower end of the range, and the costs for hydrotreating residuum are at the upper end of the range. For example, the capital costs for a 2,500 m^3/sd hydrotreating unit processing Middle East vacuum gas oil at 90 percent desulfurization is approximately $8 million.

The capital cost for an 8,000 m^3/sd hydrotreating unit processing Arabian heavy residuum at 93 percent desulfurization is approximately $80 million. Because a net consumption of hydrogen occurs during hydrotreating, hydrogen costs can be significant. In most refineries, sufficient hydrogen to handle normal hydrotreating requirements is available as a by product from catalytic reforming. However, if separate hydrogen manufacturing facilities are needed, the capital costs for a new hydrotreating unit at a specific refinery will be higher than the costs estimated for the example hydrotreating units. Due to these large capital costs associated with the process, hydrotreating was not considered as a candidate for best demonstrated technology for control of SO_x emissions from FCCU regenerators.

Regulatory Alternatives

Regulatory alternatives were developed which represent technically feasible levels of control for reducing SO_x emissions from FCCU regenerators. Based on a review of technical support data and an evaluation of control system preformance, four regulatory alternatives were selected.

Model plants were developed for new, modified, and reconstructed FCCU regenerators to allow the Agency to analyze and to compare the environmental, energy, and economic impacts of each regulatory alternative. Six model plant types were selected to represent future FCCU processing throughputs and feed sulfur contents. FCCU throughputs selected for the model plants were 2,500 m^3/day and 8,000 m^3/day. Three feed sulfur contents were selected; 0.3, 1.5, and 3.5 weight percent sulfur. Model plant SO_x emissions were calculated from these FCCU throughputs and feed sulfur contents. Ten new FCCU regenerators were projected by the Agency to be constructed in the first 5 years of the standard. The projected number of new FCCU regenerators were equally divided among the large and small model units. The majority of these regenerators were assumed to be processing 1.5 weight precent sulfur feed. This is because most FCCU's are projected to process feeds with sulfur contents between 1 and 2 weight percent in the future. From growth and size information presented in the background information document, Appendix E, the Agency projected that seven FCCU regenerators would be modified or reconstructed during the first 5 years of the standard and that they would be best represented by the large model unit. The majority of these regenerators were also assumed to process 1.5 weight percent sulfur feed.

Under Regulatory Alternative I, no Federal standards would be developed. Instead, State regulations would be relied upon to limit SO_x emissions from FCCU regenerators. The format of State regulations applicable to SO_x emissions from the FCCU regenerator vary from concentration limits to mass limits. In some States, a bubble concept is used and an emission limit is set for the whole refinery rather than specifically for the FCCU regenerator. When the regulatory alternatives were developed, one of the formats being considered for the proposed standards was kg SO_x/1,000 kg coke burn-off. This was chosen as the format for the analysis of

comparing the alternatives. Model plant SO_x emissions under Alternative I would range from less than 13 to about 90 kg of SO_x/1,000 kg coke burn-off depending on the sulfur content of the feed processed by the FCCU. Existing units are subject to the particulate NSPS. Because of this, the cost and impact of particulate control is considered a part of the baseline case.

Three other alternations reflect levels of control achievable with flue gas scrubbing. The three alternatives represent successively increasing levels of control and emissions reductions. Different levels were examined to allow for an assessment of the SO_x reduction catalyst technology. The flue gas scrubber system considered controls particulate as well as SO_x emissions, therefore, addition of an electrostatic precipitator (ESP) for particulate control is not required. Because the cost and impacts of particulate control are included in the baseline case, ESP costs have been credited to the cost of these scrubber systems in order to determine the net costs of the three alternatives.

Regulatory Alternatives II, III, and IV are 13.0 kg of SO_x/1,000 kg coke burn-off in the regenerator (approximately 400 vppm of SO_x in the flue gas); 9.8 kg SO_x/1,000 kg coke burn-off (about 300 vppm); and 6.5 kg SO_x/1,000 kg coke burn-off (about 200 vppm), respectively. The most stringent of these, Alternative IV, was established based on the performance of sodium-based scrubbers during testing. As discussed in the section, Control Technology, the average scrubber outlet SO_x emission rate during a 12-day continuous monitoring test period was about 1.3 kg SO_x/1,000 kg of coke burn-off in the regenerator. These emissions reflect a mean scrubber SO_x removal efficiency of about 93 percent. To account for the higher FCCU regenerator SO_x emissions which result when high sulfur content feeds are charged to the FCCU, Regulatory Alternative IV was established as 6.5 kg SO_x/1,000 kg of coke burn-off (about 200 vppm).

Alternative III, 9.8 kg SO_x/1,000 kg coke burn-off, and Alternative II, 13.0 kg SO_x/1,000 kg coke burn-off, reflect lower scrubber performance and use of SO_x reduction catalysts. Regulatory Alternative III, 9.8 kg of SO_x/1,000 kg of coke burn-off (about 300 vppm), can be met over the expected range of FCCU feeds by flue gas scrubbers. Regulatory Alternative II, 13.0 kg SO_x/1,000 kg coke burn-off (about 400 vppm) would require a lesser degree of FCCU regenerator SO_x emission control than Alternatives III or IV.

The model plants were used to evaluate the impacts of implementing the regulatory alternatives. These impacts, discussed in the following section, were calculated based on the use of sodium-based scrubbers to meet the regulatory alternatives, because scrubbers are the only technology which has been "adequately demonstrated" in the context of Section 111 of the Clean Air Act for the control of SO_x emissions from FCCU regenerators.

Impacts of Regulatory Alternatives

Under Alternative I, in the absence of additional standards of performance, nationwide FCCU regenerator SO_x emissions would increase by 78,800 Mg/yr in the fifth year of the standard due to new, modified, and reconstructed FCCU regenerators. There are no other environmental, energy, and economic impacts since Alternative I does not require the use of SO_x emission control systems other than those already in use of meet State regulations.

The use of flue gas scrubbers to meet Alternatives II, III, and IV would result in increased nationwide water, solid waste, energy, and economic impacts. Under Alternative II, SO_x emissions from FCCU regenerators would be reduced by about 58,700 Mg/yr from the baseline level in the fifth year of the standard.

The use of flue gas scrubbers to meet Regulatory Alternative II would result in water impacts since these control devices use water to collect particulates and SO_x. Under Alternative II, wastewater discharges would increase by about 2.2 Mm^3/yr in the fifth year of the standard. Typical treatment presently employed to improve the quality of scrubber wastewater includes aeration for removal of chemical oxygen demand (COD) and settling for removal of suspended solids. The treated wastestream would contain about 87 Mg/yr of suspended solids, at least 109 Gg/yr of dissolved solids, and 87 Mg/yr of COD. These wastewater discharges would constitute a small portion of the total refinery wastewater flow.

During normal FCCU regenerator operation, particulate matter is emitted to the atmosphere. These emissions are limited by the particulate new source performance standard to 1.0 kg of particulate matter/1,000 kg of coke burn-off in the regenerator. Under Alternative II, use of sodium-based venturi flue gas scrubbers does not result in incremental discharges, on a dry basis, of solid wate over the amount which would be discharged in the absence of additional regulations. The dry weight of solid wastes generated in the normal operation of the FCCU under all the regulatory alternatives is about 14 Gg/yr in the fifth year of the standard. Sodium scrubber solid waste would be wet, however, and would be heavier and encompass a larger volume than the dry solid wastes which would be collected from electrostatic precipitators in the absence of additional regulations. Under Regulatory Alternative II, the increment of solid wastes generated over baseline levels would be about 13 Gg/yr in the fifth year of the standard, assuming the wastes consists of 50 percent by weight of water. Other SO_x control systems, which require less water and discharge less wastewater than sodium-based scrubbers, produce solid wastes. Negligible increases in solid wastes over baseline levels would occur if Regulatory Alternative II is met with the Wellman-Lord scrubber system. In the worst case situation, if dual alkali scrubbing systems are used to meet Alternative II, about 230 Gg/yr of incremental solid wastes would be discharged in the fifth year of the standard.

Energy is required to operate scrubber and waste treatment systems pumps, valves, and instruments. Under Alternative II, the incremental energy requirements associated with the use of sodium-based flue gas scrubbers on newly constructed and modified units are from 0.2 to 2.0 percent of the energy required to operate the FCCU depending on the regeneration mode of the FCCU and type of venturi scrubber used. Energy impacts for scrubbers would thus be relatively small.

The total capital and annual costs of meeting Alternative II were calculated for the petroleum refinery industry. Capital costs include the purchase and installation of flue gas scrubbing equipment, waste treatment facilities, and materials handling equipment. Annual costs include capital charges, utilities, maintenance and repairs, and routine operating labor.

The total nationwide capital cost to refiners for the installed sodium-based flue gas scrubbing systems to meet Alternative II on the 17 new, modified, and reconstructed FCCU regenerators through the first 5 years of the standard would be about $72 million. The nationwide annual cost of using sodium flue gas scrubbers in the fifth year of the standard would be about $32 million.

Under Regulatory Alternative III, SO_x emissions from FCCU regenerators would be reduced by about 64,000 Mg/yr from the baseline level in the fifth year of the standard. The use of flue gas scrubbing systems to meet Alternative III would increase nationwide wastewater discharges by about 2.4 Mm^3/yr in the fifth year of the standard. With sodium-based scrubbers, the

treated wastewater discharges would contain about 100 Mg/yr of suspended solids and COD, and about 120 Gg/yr of dissolved solids in the fifth year of the standard. Incremental solid waste discharges from sodium-based scrubbers would be about 14 Gg/yr in the fifth year of the standard. Incremental solid wastes would be negligible if the Wellman-Lord scrubber system were used to meet Alternative III. In the worst case, incremental solid waste discharges would be about 250 Gg/yr in the fifth year of the standard if dual alkali systems were used to meet Alternative III. Energy impacts associated with using scrubbers to meet Alternative III are the same as those for Alternative II since the majority of the energy consumed by a scrubbing system is used to pump the scrubbing liquor and waste slurries through the system. The use of scrubbers would increase the total amount of energy consumed by new and modified/reconstructed FCCU's by 0.2 to 2.0 percent.

The total nationwide capital cost to refiners for the installed sodium-based flue gas scrubbers to meet Alternative III on the 17 new, modified, and reconstructed FCCU regenerators through the first 5 years of the standard would be about $81 million. Fifth-year nationwide annual costs of the standard with flue gas scrubbing would be about $35 million.

Regulatory Alternative IV would require the highest degree of SO_x emissions control. Under Alternative IV, SO_x emissions from FCCU regenerators would be reduced by about 68,700 Mg/yr from the baseline level in the fifth year of the standard. Under Alternative IV, wastewater discharges would increase by about 2.4 Mm^3/yr in the fifth year of the standard. Wastewater discharges are about the same as those under Alternative III because of the need to remove suspended solids from the scrubbing system. The quantity of suspended solids, consisting mainly of captured catalyst fines, and the incremental solid wastes generated are the same for Alternatives III and IV. The treated wastestream under Alternative IV would contain about 100 Mg/yr of suspended solids and COD, and about 130 Gg/yr of dissolved solids in the fifth year of the standard. No increase in incremental solid wastes would occur if the Wellman-Lord scrubber system were used, while the dual alkali system would increase incremental solid waste discharges by approximately 260 Gg/yr in the fifth year of the standard. Energy impacts, as with Alternatives II and III, account for about 0.2 to 2.0 percent of the energy consumed by new and modified/reconstructed FCCU regenerators.

The total nationwide capital cost to refiners of using sodium-based flue gas scrubbing to meet Regulatory Alternative IV through the first 5 years of the standard is about $81 million. The nationwide annual cost of using flue gas scrubbing to meet Alternative IV is about $37 million.

The economic impacts of each of the regulatory alternatives are small. Expected price increases in refined products to account for the costs of meeting the standard are, at most, 0.4 percent for new, modified, and reconstructed units with flue gas desulfurization. Even without passing through price increases, none of the regulatory alternatives are expected to reduce the profitability of FCCU operations to the point where planned investments would be postponed.

Selection of Basis of Proposed Standard

Standards of performance for new sources established under Section 111 of the Clean Air Act must reflect the application of the best technological system of continuous emission reduction, taking into consideration the cost, any nonair quality health and environmental impacts, and energy requirements of achieving such emission reduction, which the Administrator determines has been adequately demonstrated.

Flue gas scrubbers which meet Regulatory Alternative IV, 6.5 kg of So_x/1,000 kg of coke burn-off (200 vppm), have been designed and are presently in operation at several refineries. The Agency has concluded that scrubbers would consistently achieve the emission limit of Alternative IV over the complete range of expected FCCU feedstock sulfur contents. Further, the nonair environmental, energy, cost, and economic impacts of using flue gas scrubbers to meet Regulatory Alternative IV, discussed in the Impacts of Regulatory Alternatives section, are considered reasonable in light of emissions reductions achieved by this technology. In addition, the costs of flue gas scrubbers applied to heavy oil crackers are about the same in terms of emission reduction achieved as those FCCU's used in the model plant analysis. Thus, Regulatory Alternative IV is a reasonable basis for the standard.

It appears, however, that regenerator SO_x emissions can be limited with significantly reduced costs and negligible water, energy, and solid waste impacts through the use of SO_x reduction catalysts. Actual annual costs of using SO_x reduction catalysts are uncertain due to the limited commercial experience with the technology; however, no capital costs are anticipated. Cost estimates, provided from commercial scale tests, indicate that the annual cost of the catalyst technology is about $0.30 to $0.60/$m^3$ of feed processed by the FCCU. If all affected facilities used SO_x reduction catalysts, SO_x emissions control would cost about $10 million to $20 million in the fifth year of the standard.

Nonair impacts associated with the use of SO_x reduction catalysts may also be significantly less than scrubber nonair impacts. If the emerging catalyst technology were used to meet the regulatory alternatives, refinery wastewater discharges would not increase significantly. Since the catalyst technology achieves *in-situ* control of SO_x, incremental solid waste impacts would also be negligible. The solid waste generated by the FCCU is not expected to increase through application of the catalyst technology. The catalyst technology would increase the sulfur production at the refinery sulfur plant by approximately 3 percent. This incremental sulfur would be sold with the other sulfur already produced by the refinery. The incremental energy requirements associated with using the emerging SO_x reduction catalyst technology would be very small.

Based on preliminary commercial-scale tests, the Agency expects that SO_x reduction catalysts will allow refiners to achieve 80 percent reduction in FCCU regenerator SO_x emissions. To meet Regulatory Alternative IV, catalysts could be used in FCCU's which process feeds with up to about 1.0 weight percent sulfur. It is anticipated, however, that most refiners will be processing FCCU feeds with sulfur contents greater than 1.0 weight percent. Thus, few refiners would be able to use the emerging, less costly catalyst technology to reduce SO_x emissions if Alternative IV were used as the sole basis of the proposed standard. SO_x reduction catalysts could be used to meet Regulatory Alternative III in FCCU's which process feeds with up to about 1.7 weight percent sulfur. This is within the range of sulfur contents for commonly expected future FCCU feedstocks since most FCCU's are expected to be processing feeds with 1 to 2 weight percent sulfur.

High sulfur feeds may produce excessive amounts of coke which inhibit FCCU throughput, produce less desirable high sulfur products, contaminate cracking catalysts due to high metals or other constituents, or produce unfavorable product yields.

Refiners may not effectively use these feedstocks without upgrading. Upgrading of potential FCCU feeds may be accomplished through blending of the undesirable feeds with high quality feeds or through hydrotreating. If refiners with undesirable feeds hydrotreat or blend, the resulting feed would probably have a sulfur content of less than 1.7 weight percent sulfur to enable SO_x reduction catalysts to be used to meet Alternative III. Thus, it is expected that SO_x reduction catalysts would be an option for many refiners to use to meet Regulatory Alternative III.

The nationwide annual fifth-year costs for Regulatory Alternative IV using flue gas scrubbing alone are about $37 million. Nationwide annual fifth-year costs for Regulatory Alternative III using flue gas scrubbing alone are about $35 million. In contrast, the costs associated with using SO_x reduction catalysts alone to meet Regulatory Alternative III are $10 million to $20 million. Catalysts would be an option available to many refiners for meeting Regulatory Alternative III. Since these catalysts would have limited applicability to refiners for meeting Regulatory Alternative IV, significant control cost increases would be incurred by refiners if the proposed standard were based solely on the alternative achievable by presently demonstrated control technology, Alternative IV. Therefore, because of the large differences in control costs and the relatively small difference in emissions reduction between the use of catalyst technology under Alternative III and flue gas scrubbers under Alternative IV (i.e. 63,800 vs. 68,700 Mg/yr), the Agency is establishing an alternative standard at the level of Alternative III. A refiner meeting the alternative standard (i.e., 9.8 kg SO_x/1,000 kg coke burn-off) without an add-on control device such as a flue gas scrubber would not be required to use such additional control. This alternative standard allows refiners the flexibility to use effective SO_x control technologies which may be significantly less costly than flue gas scrubbing systems. Also, incremental water, solid waste, and energy impacts may be reduced through the use of the catalyst technology. Although many refiners are expected to use catalysts, a few refiners feeding the highest sulfur feeds to the FCCU may use scrubbers. The cost per Mg emission reduction of using scrubbers are judged to be reasonable when the emissions are higher than 9.8 kg SO_x/1,000 kg coke burn-off. For this reason, Alternative II was not considered further.

In summary then, the basis of the standard is Alternative IV, which represents flue gas scrubber technology. Flue gas scrubbers are the best demonstrated technology with reasonable costs and environmental impacts for new, modified, and reconstructed FCCU regenerators. However, an alternative standard is included to provide refiners the option to use the emerging SO_x reduction catalyst technology. The cost of scrubbers, while reasonable and affordable in itself, is expensive when compared to the cost of the catalyst technology which is capable of meeting 9.8 kg SO_x/1,000 kg of coke burn-off.

Selection of Format of Proposed Standards

Section 111(h) of the Clean Air Act requires the promulgation of standards of performance, establishing allowable emission limitatiohs for a category of stationary sources, whenever it is feasible to promulgate and enforce standards which meet these requirements. Emission limitations are applicable to FCCU regenerators and several formats were considered for the standard including percent reduction, concentration, and mass/unit production.

As discussed earlier, SO_x emissions are generated in the FCCU regenerator during the combustion of sulfur containing coke deposits on the cracking catalyst. The SO_x is vented with other flue gases to the atmosphere through a stack.

A percent reduction format, unlike mass or concentration formats, has the advantage of reflecting best demonstrated technology for all plants regardless of the uncontrolled emission rate. The uncontrolled emission rate can vary significantly depending on the feed sulfur level. With the other formats, the control technology may not need to perform at the level of efficiency which it is capable of achieving on gas streams will low uncontrolled emissions in order to comply with the standard. Determination of compliance with a percent reduction standard requires measurement of both uncontrolled and controlled emissions. If a scrubber or other type of add-on control device is used to comply with the standard, uncontrolled emissions can be determined by measuring the SO_x in the flue gas before it enters the control device. Because the percent reduction format would reflect best demonstrated technology regardless of the feed sulfur level, and both uncontrolled and controlled emissions can be measured, a percent reduction format was chosen for flue gas scrubbers or other add-on control devices. The Agency requests comments on this approach.

EPA wants to make clear that the use of percent reduction in this standard does not reflect a change in EPA's policy toward the use of percent reduction requirements as it may be applied in any other new source standards. In this case EPA believes a percent control standard is appropriate because it best reflects the performance of add-on control devices while, as discussed below, not limiting the use of other potentially lower cost control alternatives.

The percent reduction format was also considered for the SO_x reduction catalyst technology. If SO_x reduction catalyst is used to comply with the standard, uncontrolled emissions cannot be measured. Consideration was given to calculating the uncontrolled emissions based on the amount of sulfur in the feed. However, the ratio of uncontrolled SO_x emissions to the sulfur content of the feed varies widely for a given feedstock. In addition, SO_x emissions resulting from a given feedstock can differ from one FCCU to another and can vary over time at a given unit, depending on unit design and operation. Consequently, the level of uncontrolled emissions cannot be satisfactorily determined based on the amount of sulfur in the feedstock. Therefore, the concentration and mass/unit production formats were considered for the use of SO_x reduction catalysts.

A format expressed in terms of concentration would limit the SO_x concentration in the FCCU regenerator exhaust. When SO_x emissions are expressed in volume parts per million (vppm), the allowable emissions do not vary with FCCU throughput for a given feed sulfur content. SO_x emissions reported in vppm are independent of coke production. In addition to the dependence of SO_x concentration on FCCU feedstock sulfur, the concentration of SO_x in FCCU regenerator flue gas is sensitive to the coke hydrogen content.

Two forms of the mass unit production format were considered. The first of these mass formats would limit, for example, the number of kilograms of SO_x that could be emitted by an FCCU regenerator with each cubic meter of FCCU feed that is processed. The disadvantage of the kg/m^3 format is that SO_x emissions are not necessarily related to the FCCU throughput, but are directly related to coke production. In the course of normal FCCU operations, refiners may periodically adjust the coke production rate with only minor changes in FCCU throughput to optimize

the yields of certain products. Thus, emissins on a kg/m³ basis may vary, even with a given FCCU feedstock, as the refiner optimizes the FCUU product slate.

The second mass/unit production format considered would limit the kilograms of SO_x that could be emitted by FCCU regenerators for each 1,000 kg of coke burned-off in the regenerator. The advantage of this format is the direct relationship between format and regenerator operations. The FCCU regenerator is a coke burning process subunit that emits SO_x in amounts dictated by the coke sulfur content. The kg/1,000 kg coke burn-off format recognizes the importance of the coke burning process by accounting for variations in coke production. For this reason, the format chosen for the proposed standard for technologies which are not add-on control devices, such as SO_x reduction catalysts, is kg of SO_x/1,000 kg coke burn-off.

In summary, the format of the proposed standard for add-on control technologies, such as flue gas scrubbers, is a percent reduction format. However, in order not to preclude the use of SO_x reduction catalysts to comply with the standard, an alternate format of kg SO_x/1,000 kg of coke burn-off is provided for control technologies which are not add-on control devices.

Selection of the Numerical Emission Limit

As described in the section titled Selection of Basis of Proposed Standard, flue gas scrubbers were selected as the best demonstrated technology. A percent reduction format was selected for flue gas scrubbers. As discussed in the Control Technology section, SO_x emission reductions of 90 percent or concentrations of 50 vppm, whichever results in greater emissions, have been demonstrated for sodium-based scrubbers on FCCU regenerators with low sulfur feeds. A 50 vppm ceiling exists because of the difficulty of achieving 90 percent reduction on very low sulfur flue gas. For high sulfur flue gas, sodium-based scrubbers can achieve emission reductions of greater than 90 percent, as demonstrated on coal-fired boilers. In addition, other types of scrubbing systems applied to coal-fired boilers have been demonstrated to achieve 90 percent emission reduction or better. Because flue gas scrubbers are capable of achieving 90 percent SO_x emission reduction or 50 vppm SO_x in the flue gas, whichever is less stringent, these values were chosen as the numerical limits for add-on control devices.

As concluded in the section titled Basis of Proposed Standard, the proposed standard would also include an alternative standard at the level of Alternative III to allow refiners the option to use sulfur oxides reduction catalysts. The format selected in the Format of Proposed Standards section for the catalyst technology is kg SO_x/1,000 kg of coke burn-off. Alternative III is 9.8 kg SO_x/1,000 kg of coke burn-off. Therefore, if a refiner can achieve 9.8 kg SO_x/1,000 kg of coke burn-off without using an add-on control device, no additional control would be required.

Catalyst regeneration is a continuous process. As a result, the SO_x emissions from the catalyst regenerator are almost constant for a constant FCCU feed type. Thus, the numerical emission limit is not very sensitive to the time interval over which a compliance test is taken. The proposed standard requires a performance test consisting of three runs. Each run is to consist of at least 1 hour of sampling. Thus, the effective averaging time of the proposed standard is 3 hours. Test data showing the achievability of the proposed standard, discussed in the section title Control Technology, were taken over periods of about 1 to 1.5 hours per run.

Because the format of the standard is different from the format used in the regulatory alternative analysis, the emission reduction and annualized costs of the standard are slightly different from those for Alternative IV. Assuming all 17 projected new, modified, or reconstructed FCCU regenerators use flue scrubbers to meet the standard of 90 percent SO_x emission reduction or 50 vppm, whichever is less stringent, nationwide emission reduction in the fifth year of the standard would be about 71,000 Mg/yr. The nationwide annualized costs would be $37 million in the fifth year. If all 17 units use sulfur oxides reduction catalysts to achieve 9.8 kg SO_x/1,000 kg of coke burn-off, the fifth-year nationwide emission reduction would be about 64,000 Mg/yr and annualized costs in the range of $10 million to $20 million.

Selection of Alternative Feed Sulfur Standard

The sulfur content of feedstocks processed by catalytic cracking is a primary factor affecting SO_x emissions from an FCCU regenerator. The amount of sulfur contained in coke deposits on the cracking catalysts is determined by the type and amount of sulfur compounds in the FCCU feed. In general, processing a high sulfur FCCU feed results in higher SO_x emissions than processing a low sulfur FCCU feed. The sulfur compound composition of the FCCU feed will vary depending on the crude oil source. Hydrotreating of feedstocks prior to processing by catalytic cracking removes sulfur compounds from the FCCU feed.

Hydrotreating of FCCU feeds reduces the sulfur content of gasoline and other refinery products obtained by catalytic cracking. Lower sulfur contents in gasoline results in reduced SO_x emissions to the atmosphere from the combustion of gasoline in motor vehicles. The petroleum refining industry has argued that the contribution made by hydrotreating FCCU feeds to overall reduction of SO_x emissions to the atmosphere should be credited towards achieving the FCCU regenerator emission level. The decision by a refiner to hydrotreat FCCU feeds, however, is based primarily on process and economic considerations. Hydrotreating units are so expensive that the decision of whether to install a hydrotreating unit will be made by a refiner independent of whether there is an emission standard for FCCU regenerators. That is, a refiner having an FCCU subject to the NSPS and hydrotreating the FCCU feed would install the hydrotreating unit regardless of whether or not the FCCU was subject to the standard. The applicability of FGD systems for reducing FCCU regenerator emissions is the same in terms of technical feasibility and reasonableness of costs and economics when an FCCU is using a feed with a certain sulfur level, regardless of whether the feed has been hydrotreated or not. Accordingly, the credits from hydrotreating should not be considered in determining best demonstrated technology for an emissions standard for FCCU's. It is appropriate, however, to consider whether the costs are reasonable for using an FGD system to control FCCU regenerator SO_x emissions when the FCCU feed sulfur levels are very low due either to hydrotreating or to naturally occurring low sulfur contents. Therefore, the Agency analyzed the costs of using FGD systems at different FCCU feed sulfur levels to determine if the costs were unreasonable for any cases.

The approach selected for analyzing FGD system costs required estimating the cost per megagram of SO_x emission reduction by using a sodium-based FGD system to control regenerator SO_x emissions from a 2,500 m³/day model plant FCCU. A sodium-based FGD system was selected for the analysis because this type of system has been installed on new and existing FCCU regenerators, and serves as the basis for the proposed standard. By calculating

annual costs as well as the quantity of SO_x controlled for representative feed sulfur levels, it was possible to plot a curve showing the cost per Mg of SO_x emission reduction as a function of FCCU feed sulfur level. The cost curve allows the comparison of FGD system cost per Mg of SO_x emission reduction over the entire range of feed sulfur levels refiners could process in the future.

The cost curve does not necessarily represent the actual amounts of money that will be spent to install and to operate an FGD system for any particular FCCU regenerator. Rather, the costs are estimates and are representative of facilities likely to be built. The costs for an FGD system will vary according to FGD system design, FCCU feed sulfur composition and content, FCCU size, refinery layout and land availability, refinery geographic location, characteristics and quantity of chemicals required for the FGD system, sludge disposal method and disposal site location, and company preferences and policies. However, the cost curve does provide a useful guide for judging the reasonableness of using FGD systems at different FCCU feed sulfur levels.

As expected, the cost curve shows that the cost per megagram of SO_x emission reduction increases as FCCU feed sulfur level decreases. Although there is no precise point where costs are clearly unreasonable, the curve begins to rise steeply around a feed sulfur content of 0.3 weight percent. The Agency also noted that FCCU feed sulfur levels around 0.3 weight percent often occur as a result of refiners processing naturally occurring low sulfur feed or hydrotreating high sulfur feeds. However, even though hydrotreating units have been shown to be capable of reducing FCCU feed sulfur levels to less than 0.3 weight percent, a particular refiner may choose to hydrotreat to a higher level due to economic considerations. If refiners were allowed to meet an FCCU feed sulfur standard of 0.3 weight percent, then some refiners who would otherwise hydrotreat to a somewhat higher level may decide to adjust unit performance to achieve a level of 0.3 weight percent.

If an alternative FCCU feed sulfur level standard was set at 0.3 weight percent, then the cost per megagram of SO_x emission reduction using an FGD system would be greatest for refiners processing FCCU feeds containing slightly greater than 0.3 weight percent sulfur. The cost curve for the application of an FGD system to the small FCCU shows that the potential cost per megagram of SO_x emission reduction is approximately $1,700 for FCCU feed sulfur levels of 0.3 weight percent. However, these are the refiners who are most likely to be able to use and to choose SO_x reduction catalysts. The costs of controlling SO_x emissions from FCCU regenerators using SO_x reduction catalysts are estimated to be lower than the costs of using FGD systems. Thus, the Agency does not expect refiners processing feeds with sulfur levels slightly greater than 0.3 to actually incur a cost near $1,700 to remove a megagram of SO_x emission. However, because the possibility exists that a refiner may still have to use an FGD system to control FCCU regenerator SO_x emissions even when processing low sulfur feeds, it is reasonable to provide refiners with the alternative FCCU feed sulfur level of 0.3 weight percent. The Agency requests comments on this feed sulfur cut-off level.

For purposes of analyzing and comparing the environmental, energy, and economic impacts of each regulatory alternative, the Agency projected that 17 FCCU regenerators will be newly constructed, modified, or reconstructed by the fifth year of an NSPS. The impacts of the proposed standards will differ from the regulatory alternative impacts because the model plants assumed to be processing feeds containing 0.3 weight percent sulfur would comply with the alternative feed sulfur standard. Therefore, the impacts of the proposed standard that are presented in the section "Summary of Environmental, Energy, and Economic Impacts" were projected assuming that 15 FCCU's processing 1.5 or 3.5 weight percent sulfur feed would use FGD systems or catalyst technology, and that 2 FCCU's would meet the alternative feed sulfur standard and would not need additional controls. No credits or impacts were attributed to the two FCCU's meeting the alternative feed sulfur standard.

Modification/Reconstruction Considerations

Modification, as defined in § 60.14 of 40 CFR Part 60, occurs when any physical or operational change to an existing facility results in an increase in the emission rate to the atmosphere of any pollutant to which a standard applies.

Investigation of FCCU's indicated that there are several physical changes in the regenerator which could increase emissions. Increases in SO_x emissions can occur when physical changes are performed to increase the coke burn-off rate of the regenerator. This can be accomplished by increasing the combustion air flow rate, increasing regenerator internal pressure, or enriching the regenerator combustion air with oxygen. However, according to § 60.14(e)(2), such changes would not be considered a modification unless they required a capital expenditure, as defined in § 60.2. For example, the replacement of or addition to the regenerator combustion air blower could be considered a modification if SO_x emissions increased and if capital expenditure as defined in § 60.2 were incurred.

SO_x emissions from the FCCU regenerator may be increased by increasing the sulfur content of the FCCU feedstock. The FCCU feed sulfur content varies routinely because of variations in the crudes processed by a refinery. However, according to § 60.14(e)(4), the use of an alternative fuel or raw material, if the existing facility was designed to accommodate that alternative fuel or raw material, does not constitute a modification. Thus, in most instances, a change in the sulfur content of the FCCU feedstock would not be considered a modification. If physical changes were performed on the regenerator to accommodate a particular FCCU feed, however, the changes could be considered a modification.

Reconstruction, as defined in § 60.15 of 40 CFR Part 60, occurs when the fixed capital cost of replacement components of an existing facility exceeds 50 percent of the fixed capital cost that would be required to construct a comparable entirely new facility, and it is shown that it is technically and economically feasible to meet the applicable standards. If the owner or operator proposes a replacement of components that would exceed the 50 percent criterion, the Administrator would determine, on a case-by-case basis, whether a reconstruction had taken place and whether the existing facility would become an affected facility under the standards. The Agency promulgated the reconstruction provisions to ensure that essentially new facilities due to reconstruction would be subject to "new source" performance standards.

If one considers the 50 percent cost factor which triggers reconstruction strictly on a project-by-project basis, a wide variety of interpretations can arise as to what a "project" during which components are replaced entails. In many cases, it would not be possible to determine the original intent of the FCCU owner or operator. In order to reduce the number of subjective determinations concerning intent in these cases, the reconstruction provisions will be applied on a basis

which considers the expenditures made toward a facility over a fixed time period.

To eliminate the ambiguity in the current wording of Section 60.15 and further the intent underlying Section 111 (as described above), the Agency is clarifying the meaning of "proposed" component replacements in § 60.15. Specifically, the Agency is interpreting "proposed" replacement components under § 60.15 to include components which are replaced pursuant to all continuous programs of component replacement which commence (but are not necessarily completed) within the period of time determined by the Agency to be appropriate for the individual NSPS involved. The Agency is selecting a 2-year period as the appropriate period for purposes of the proposed FCCU NSPS. Thus, the Agency will count toward the 50 percent reconstruction threshold the "fixed capital cost" of all depreciable components replaced pursuant to all continuous programs of reconstruction which commence within any 2-year period following proposal of these standards. In the Administrator's judgment, the 2-year period provides a reasonable, objective method of determining whether an owner of an FCCU is actually "proposing" extensive component replacement, within the Agency's original intent in promulgating Section 60.15.

FCCU regenerators usually operate 2 to 4 years continuously before maintenance is performed. The brief period in which the FCCU is shut down for maintenance and repair is called a turnaround. During a typical turnaround, such items as the air distribution system, standpipes, slide valves, plenum chamber, catalyst overflow weirs, regenerator grid and seals, and the regenerator refractory lining are inspected and repaired or replaced as required. Replacement of these items would be included in the determination of the 50 percent replacement cost. However, typical FCCU regenerator repairs and replacements during a turnaround are expected to cost less than 50 percent of the replacement cost of a new regenerator. Therefore, with a 2-year reconstruction period, the FCCU would not become reconstructed due to typical turnarounds.

One FCCU modernization that may be considered a reconstruction of the FCCU regenerator is conversion of a conventional regenerator to a high temperature regenerator. This type of conversion normally requires the replacement of cyclones, the plenum chamber, cyclone diplegs, the regenerator grid and seals, and the catalyst overflow weir. These components must be constructed from stainless steel rather than carbon steel in order to withstand the higher temperatures. Consequently, the costs of conversion to high temperature regeneration may be greater than 50 percent of the cost to construct a new FCCU regenerator.

Selection of Performance Test Method

To determine compliance with the proposed 90 percent emission reduction standard, EPA Method 8 would be used to measure the concentration of SO_x in the FCCU regenerator flue gas both upstream and downstream of the add-on control device. Testing must be conducted upstream and downstream from the control device simultaneously to determine the percent reduction in regenerator SO_x emissions. EPA Reference Method 2 would be used to determine the velocity and volumetric flow rate of the flue gas stream before and after the control device. Velocity traverses would be preformed as specified in EPA Reference Method 1. Moisture in the flue gas would be measured by EPA Reference Method 4.

To determine compliance with the proposed alternative standard of 9.8 kg of SO_x per 1,000 kg of coke burn-off, EPA Reference Method 8 would be used to measure the concentration of SO_x in the FCCU regenerator flue gas. If a fired CO incinerator is used for control of CO emissions from an FCCU regenerator, testing will be conducted upstream from the CO incinerator. EPA Reference Method 2 would be used to determine the velocity and volumetric flow rate of the flue gas stream after the control device. Velocity traverses would be performed as specified in EPA Reference Method 1. Reference Methods 3 and 4 would be used to determine gas composition and moisture content, respectively. The results of these tests would be used to calculate the SO_x emission rate in terms of coke burn-off.

The coke burn-off rate in kg/hour would next be determined in accordance with the procedure described in 40 CFR 60.106(a)(4), using the results of the reference method tests. To calculate the SO_x emission rate in kg SO_x/1,000 kg of coke burn-off in the regenerator, the SO_x emission rate is divided by the coke burn-off rate and multiplied by 1,000.

If an owner or operator elected to meet the proposed standards by limiting the feed sulfur level to 0.3 weight percent, the performance test method would require the sampling of the FCCU fresh feed. For FCCU's processing a single fresh feed stream, refiners would be required to sample the feed at only one location. Where the fresh feed is injected into the FCCU at multiple locations, sampling the fresh feed at each location would be necessary. Refiners can vary the FCCU fresh feed components and, thus, change the sulfur content of the fresh feed on a daily or even hourly basis. Currently, most refiners manually sample the FCCU fresh feed once per day. Automated sampling equipment for sampling the hot, pressurized FCCU fresh feed has not been demonstrated. Consequently, the required frequency at which samples are to be collected must be comprehensive to ensure that fluctuations in FCCU feed sulfur levels are measured, yet at the same time, be practical with respect to manual sampling techniques. Although FCCU fresh feed sulfur content may change on an hourly basis, requiring samples to be collected once per hour is not practical using manual sampling techniques. An alternative interval is to sample once per 8-hour shift. This interval is frequent enough to measure major fluctuations in the fresh feed sulfur level and is reasonable considering current refinery sampling practices. Therefore, the performance test method would require the sampling of FCCU fresh feed once every 8-hour shift.

The American Society for Testing and Materials (ASTM) has specified four analytical test methods for determination of sulfur in petroleum products. These are ASTM D129 (General Bomb Method), ASTM D1266 (Lamp Method), ASTM D1552 (High Temperature Method), and ASTM D2622 (X-Ray Spectrographic Method). All four of the ASTM methods yield results having similar repeatability and reproducibility. However, none of the methods appear to be universally applicable to all FCCU fresh feeds. Since all four ASTM methods yield similar results in terms of repeatability and reproducibility, it is reasonable to allow a refiner to utilize any one of the four methods for FCCU fresh feed sulfur determinations provided proper attention to potential interferences, as specified in the individual methods, is assured.

The level of the alternate feed sulfur standard was selected based on consideration of the cost per Mg of sulfur removed for applying scrubbers to FCCU's with different feed sulfur levels. The level selected, 0.3 weight percent, represents an average rather than an instantaneous feed sulfur level. Refiners who select to comply with this alternate standard may do so either through the use of low sulfur feeds or hydrotreating.

The sulfur content of FCCU fresh feed at any one refinery varies with time due to changes in the crude oils processed by the refinery. Processing units, such as the hydrocracker, coker, and vacuum distillation unit, contribute to the FCCU fresh feed. Normal fluctuations in these process units, even with a constant crude source, also affect the sulfur content of the FCCU fresh feed. These factors can interact and result in complex sulfur variability patterns which may be difficult for refiners to predict. Consequently, it is impractical to determine compliance with the FCCU feed sulfur standard based on the sulfur content of each FCCU fresh feed sample analyzed. However, it is reasonable to determine compliance based on an average of feed sulfur samples.

A daily averaging time was considered, however, it was judged to be too short to account for sampling variability. Also, a daily averaging time would constrain the operator's flexibility in combing multiple feeds. A weekly averaging time would reduce sampling variability. In addition, the operator would maintain operational flexibility in selecting the feed mix. Therefore, a weekly averaging time was selected.

To ensure compliance with the 0.3 weight percent fresh feed standard, refiners would sample and analyze the FCCU fresh feed once each 8-hour shift. Where the fresh feed is injected into the FCCU at multiple locations and sampling the fresh feed at each location is necessary, the volumetric flow rate at each location at the time of sampling would need to be determined. The sulfur content of the fresh feed for each 8-hour shift would be calculated as the flow weighted average of all the points sampled. Compliance would be based on a 7-day average of these feed sulfur determinations. A 7-day average would provide 13 data points per quarter. this is considered adequate for evaluating compliance.

Selection of Monitoring Requirements

Continuous monitoring is necessary to ensure proper operation and maintenance of SO_x emission control equipment. There are presently no demonstrated continuous monitoring systems commercially available which monitor FCCU regenerator SO_x emissions. Equipment is available, however, to continuously monitor SO_2 emissions in a concentration format. Monitoring the concentration of SO_2 in the FCCU regenerator flue gas would indicate whether the SO_x emission control system is being properly operated and maintained. The performance specifications for continuous SO_2 monitors are found in Appendix B of 40 CFR 60. For any system installed to monitor SO_2 concentration, a recording device must also be installed so that a permanent time record of the results is produced.

Anticipated costs for continuous monitoring depend on the type of monitor used. The capital cost for a typical extractive SO_2 monitoring system, including installation and a data acquisition system, is $59,000 (1981 dollars). The capital cost for a typical *in-situ* SO_2 monitor, including installation and data acquisition system, is $80,000. Anticipated annual costs for either system, including operation and maintenance labor, equipment, and supplies, is $11,000. Costs for these monitoring systems are reasonable in terms of the emission reductions realized through proper operation and maintenance of the control equipment. Detailed technical and cost information is provided in the background information document, Volume I, Appendix D.

For those plants using add-on control technology to attain the 90 percent reduction (or 50 vppm) limit, a vppm level needs to be defined as an indicator of excess emissions. To do so, an indicator of excess emissions for the proposed percent reduction standard would be established during an initial compliance test. During this test, inlet and outlet scrubber SO_x concentration would be measured, and a representative feed (in terms of sulfur content) would be used. The excess emissions level would be defined as the scrubber outlet concentration (dry, O_2-free basis) measured during the performance test. SO_x emission levels greater than this value would indicate that the scrubber may not be operating or maintained properly.

EPA recognizes that an excess emission level based on outlet concentration does not provide as precise an indicator of scrubber performance as would be provided by two monitors—one before and one after the control device. Comments are invited on this approach.

For those plants that are seeking to demonstrate compliance with the 9.8 kg SO_x/1,000 kg coke burn-off emission limit, a method of equating SO_2 emissions in vppm with the emission limit is needed. This equivalent level in vppm would then be used to define excess emissions.

An analysis using the model plant parameters showed that the proposed 9.8 kg SO_x/1,000 kg coke burn-off emission limit is approximate equivalent to an SO_x concentration of 300 vppm. The hydrogen content of the catalyst coke, however, influences the relationship between SO_x emissions reported in terms of coke burn-off and vppm. Normal changes in coke hydrogen would cause up to a 5 percent variation between SO_x emissions reported in vppm and coke burn-off. And, since continuous SO_x monitors are not demonstrated, excess emissions are defined as SO_2 emissions, recorded by the continuous monitoring device, in excess of 300 vppm (dry, O_2-free basis). However, refiners whose equivalency differs from 300 vppm may use an alternative approach to defining excess emissions upon approval by the Administrator. By this alternate approach, the equivalency between SO_2 emissions reported in vppm and coke burn-off would be established during stack testing and equated to the proposed SO_x emission standard. Comparing the averaged continuous monitoring readings to 300 vppm or equivalent level (dry, O_2-free basis), as described above, will enable the enforcement agency to examine continuous monitor records and documentation of periods of excess emissions to determine proper operation and maintenance of the SO_x control system.

Sulfur trioxide usually constitutes less than 10 percent of SO_x emissions from FCCU's. An increase in the excess O_2 content of the regenerator flue gas or use of certain catalysts or additives, such as CO promoters SO_x reduction catalysts, within the FCCU regenerator may substantially increase the SO_3 content of the FCCU flue gas. Since any increase in SO_3 would not be measured by a continuous SO_2 monitor, it is reasonable to require the use of continuous monitors to measure the O_2 content of the flue gas. Recording the addition of promoters and SO_x reduction catalysts along with the O_2 content of the flue gas will give an indication of potential increases in SO_3 emissions. Because refiners routinely monitor the O_2 content of the FCCU regenerator flue gas on a continuous basis as well as catalysts additions, no additional costs to the refiner are expected as a result of these requirements. These requirements would serve to further ensure proper operation and maintenance of the SO_x control system. The performance specifications for continuous oxygen monitors are found in Appendix B of 40 CFR Part 60. Continuous feed sulfur monitcrs are not demonstrated and are, therefore, not required for the alternative feed sulfur level standard.

Impacts of Reporting/Recordkeeping Requirements

The proposed standards FCCU regenerators require refiners to submit notification and compliance reports in accordance with the General Provisions (40 CFR Part 60, Subpart A). Notification requirements include notification of construction, notification of anticipated initial start-up, notification of initial start-up, and notification of modification or reconstruction. These notifications enable the Agency to keep abreast of facilities subject to the standards of performance. Refiners are required to report the results of performance tests and evaluations of continuous monitor performance. These reports would show that a facility is meeting the standard initially. In addition, refiners are required to submit reports of excess emissions on a quarterly basis.

The proposed SO_x emission standards require continuous monitoring systems which would indicate whether the emission control system installed to comply with the standard is being properly operated and maintained. The alternate feed sulfur standard requires that feed sulfur samples be collected and analyzed to ensure compliance. Monitoring and the compilation of continuous monitoring or feed sulfur test data are essential for both the owner or operator and the Agency to ensure proper operation and maintenance of control equipment or to ensure compliance with the alternate feed sulfur standard. A responsible owner or operator would need to compile continuous monitoring and feed sulfur test data in a usable form to determine when adjustments to the control system are needed to ensure that it is performing at its intended effectiveness level regardless of whether the Agency requires it.

For the proposed percent reduction standard, excess emissions are established by a compliance test and are equal to the SO_x concentration on a dry, O_2-free basis of the stack gases at the scrubber outlet. For the proposed 9.8 kg SO_x/1,000 kg coke burn-off emission limit, excess emissions are defined as SO_2 emissions in excess of 300 vppm on a dry, O_2-free basis. For the proposed alternate feed sulfur standard, excess emissions are defined as averaged FCCU feed sulfur levels in excess of 0.3 weight percent. Quarterly reporting of all periods of excess emissions is required. Records of continuous monitoring data, addition of promoters or SO_x reduction catalysts, excess emissions, and continuous monitoring calibrations must be maintained by the operator of the affected facility and be available for inspection by the Agency for 2 years.

The resources needed by the industry to complete necessary reports, maintain records, and to collect, prepare, and use the reporting through the first 5 years after proposal of the standard would be a total of 13.0 person-years for the 17 projected units covered by the proposed standards.

Correction of the Standard for Fuel Gas Combustion Devices

This proposed rule would amend the standard in Subpart J for fuel gas combustion devices to delete an incorrect paragraph. The paragraph to be deleted (40 CFR 60.105(e)(4)) contains the definition of excess SO_x emissions for fuel gas combustion devices that was in effect before the standard was amended on March 15, 1978. The 1978 amendments redefined excess SO_x emission for fuel gas combustion devices in paragraph 40 CFR 60.105(e)(3)(i) but failed to delete the former defintion.

Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB, marked "Attention: Desk Office for EPA." The final rule will respond to any OMB or public comments on the information collection requirements.

Public Hearing

A public hearing will be held to discuss the proposed standard in accordance with Section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact the Agency at the address given in the **ADDRESSES** section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the **ADDRESSES** section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section in Washington, D.C. (see **ADDRESSES** section of this preamble).

Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered in the development of this proposed rulemaking. The principal purposes of the docket are (1) to allow interested parties to readily identify and locate documents so that they can effectively participate in the rulemaking process, and (2) to serve as the record in case of judicial review (except for interagency review materials (section 307(d)(7)(A).

Miscellaneous

In accordance with Section 117 of the Act, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. The Administrator will welcome comments on all aspects of the proposed regulation, including economic and technological issues, and on the proposed test methods.

This regulation will be reviewed 4 years from the date of promulgation as required by the Clean Air Act. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, improvements in emission control technology, and reporting requirements.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any new source standard of performance promulgated under Section 111(b) of the Act. An economic impact assessment was prepared for the proposed regulations and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the proposed standards to ensure that the proposed standards would represent the best system of emission reduction considering costs. The economic impact assessment is included in the background information document.

"Major Rule" Determination

Under Executive Order 12291, the Agency is required to judge whether a regulation is a "major rule" and, therefore, is subject to certain requirements of the Order. The Agency has determined that this regulation would result in none of the economic effects set forth in Section 1 of the Order as grounds for finding a regulation to be a "major rule." Fifth-year annual costs of the proposed standards would be less than $35 million for the 17 newly constructed, modified, and reconstructed units projected to be affected by the standards during the first 5 years. This corresponds to a cost of $510/Mg SO_2 removed for flue gas

scrubbers. If SO_x reduction catalysts are used, fifth-year annual costs are expected to be from $10 million to $20 million or $200 to $400/Mg SO_x removed. Price increases less than 0.4 percent are expected to result from implementation of these proposed standards. The Agency has also concluded that this rule is not "major" under any of the criteria established in the Executive Order. The Agency has concluded, therefore, that the proposed regulation is not a "major rule" under Executive Order 12291.

This regulation was submitted to OMB for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA responses to those comments are available for public inspection in Docket Number A–79–09, Central Docket Section, at the address given in the **ADDRESSES** section of this preamble.

Regulatory Flexibility

The Regulatory Flexibility Act of 1980 requires the identification of potentially adverse impacts of Federal regulations upon small business entities. The Act specifically requires the completion of a Regulatory Flexibility Analysis in those instances where small business impacts are possible. Determination of the need to perform a Regulatory Flexibility Analysis is based upon the definition and consideration of three factors: (1) the maximum size of a small business, (2) the number of small businesses affected, and (3) the expected economic impacts.

The Small Business Administration (SBA) has defined small petroleum refineries as those that employ fewer than 1,500 persons. This total number of employees, which includes subsidiaries and othe affiliated operations, has been specified by SBA (13 CFR Part 121) for the purpose of its various loan and assistance programs. Based on this definition, 18 of the FCCU's located in the United States are currently operated by small businesses.

If the respective affected facilities were distributed proportionately between large and small refineries, two or three units would be built by small refineries. However, due to the discontinuance of the entitlements program, very little construction is anticipated at small refineries. Thus, the percentage of the small refining businesses affected will be well below the level of concern.

Regardless of the number of small businesses affected, economic impacts are expected to be small. The cost of the proposed standards should be capable of being included in the prices of refined petroleum products, and in all cases price increases are expected to be less than 0.4 percent. Therefore, because the proposed standards do not affect a substantial number of small businesses and will not entail significant economic impacts, a Regulatory Flexibility Analysis has not been conducted.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, sulfuric acid plants, Waste treatment and disposal, Zinc, Tires, Incorporation by reference, Can surface coating, Sulfuric acid plants, Industrial organic chemicals, Organic solvent cleaners, Fossil fuel-fired steam generators.

Dated: December 29, 1983.

Alvin L. Alm,

Acting Administrator.

PART 60—[AMENDED]

It is proposed to amend 40 CFR Part 60, Subpart J, as follows:

1. Section 60.100 is amended by revising paragraph (b) and adding paragraph (c) to read as follows:

§ 60.100 Applicability and designation of affected facility.

* * * * *

(b) Any fluid catalytic cracking unit regenerator or fuel gas combustion device under paragraph (a) of this section which commences construction or modification after June 11, 1973, or any Claus sulfur recovery plant under paragraph (a) of this section which commences construction or modification after October 4, 1976, is subject to the requirements of this part except as provided in paragraph (c).

(c) Any fluid catalytic cracking unit regenerator under paragraph (b) of this section which commences construction or modification before January 17, 1984 is exempted from § 60.104(b), except if modification or reconstruction occurs after January 17, 1984.

2. Section 60.101, is amended by adding paragraphs (m), (n), (o), and (p) to read as follows:

§ 60.101 Definitions.

* * * * *

(m) "Fluid catalytic cracking unit" means a refinery process unit in which petroleum derivatives are continuously charged; hydrocarbon molecules in the presence of a catalyst suspended in a fluidized bed are fractured into smaller molecules, or react with a contact material suspended in a fluidized bed to improve feedstock quality for additional processing; and the catalyst or contact material is continuously regenerated by burning off coke and other deposits. The unit includes the riser, reactor, regenerator, air blowers, spent catalyst or contact material stripper, catalyst or contact material recovery equipment, and regenerator equipment for controlling air pollutant emissions and for heat recovery.

(n) "Fluid catalytic cracking unit regenerator" means the portion of the fluid catalytic cracking unit in which coke burn-off and catalyst or contact material regeneration occurs, and includes the fluid catalytic cracking unit regenerator combustion air blower(s).

(o) "Fresh feed" means any petroleum derivative feedstock stream charged directly to the riser or reactor of a fluid catalytic cracking unit except for petroleum derivatives recycled within the fluid catalytic cracking unit.

(p) "Contact material" means any substance formulated to remove metals, sulfur, nitrogen, or any other contaminant from petroleum derivatives.

3. Section 60.104 is amended by revising the section heading and adding paragraph (b) to read as follows:

§ 60.104 Standards for sulfur oxides.

* * * * *

(b) On and after the date on which the performance test required to be conducted by § 60.8 is completed, each owner or operator subject to the provisions of this subpart shall comply with one of the following conditions for each affected facility:

(1) Reduce sulfur oxides (SO_x) emissions to the atmosphere by 90 weight percent averaged over three hours and measured simultaneously at the inlet and outlet to the add-on control device, or to 50 vppm on a dry, O_2-free basis, averaged over three hours and measured after the add-on control device, whichever is less stringent.

(2) Maintain emissions to the atmosphere, using no add-on control device, so that they are no greater than 9.8 kg of sulfur oxides, reported as sulfur dioxide (SO_2), per 1,000 kg of coke burn-off, averaged over 3 hours.

(3) Process in the fluid catalytic cracking unit no fresh feed which contains sulfur in quantities greater than 0.30 percent by weight of fresh feed, averaged over 7 days.

* * * * *

4. Section 60.105 is amended by removing paragraph (e)(4), and by revising paragraphs (c) and (e)(3) introductory text, and adding paragraphs (a)(7), (a)(8), (a)(9), (e)(3)(iii), (e)(3)(iv), and (e)(3)(v) to read as follows:

§ 60.105 Emission monitoring.

(a) * * *

(7) An instrument for continuously monitoring and recording concentrations of sulfur dioxide (SO_2) in the gases discharged into the atmosphere from any fluid catalytic cracking unit regenerator for which the owner or operator has elected to comply with § 60.104(b)(1) or (2). The span of this continuous monitoring system shall be set at 500 ppm.

(8) An instrument for continuously monitoring and recording concentrations of oxygen (O_2) in the gases discharged into the atmosphere from any fluid catalytic cracking unit regenerator for which the owner or operator has elected to comply with § 60.104(b) (1) or (2). If an incinerator-waste heat boiler is used to combust the exhaust gases from the fluid catalytic cracking unit regenerator then concentrations of O_2 shall be monitored at a location between the regenerator outlet and the incinerator-waste heat boiler inlet. The span of this continuous monitoring system shall be set at 10 percent.

(9) The use of carbon monoxide promotor catalysts or sulfur oxides reduction catalysts for any fluid catalytic cracking unit regenerator for which the owner or operator has elected to comply with § 60.104(b) (1) or (2) shall be recorded daily.

* * * * *

(c) The average coke burn-off rate (thousands of kilograms per hour) and hours of operation shall be recorded daily for any fluid catalytic cracking unit regenerator subject to § 60.102 or § 60.103, or for which the owner or operator has elected to comply with § 60.104(b)(2).

* * * * *

(e) For purposes of reports under § 60.7(c), periods of excess emissions that shall be reported are defined as follows:

(1) * * *

(2) * * *

(3) Sulfur oxides.

(iii) Any 3-hour period during which the average concentration of SO_2 at 0 percent oxygen on a dry basis in the gases discharged into the atmosphere from any fluid catalytic cracking-unit regenerator for which the owner or operator has elected to comply with § 60.104(b)(1) exceeds the add-on control device outlet 3-hour SO_2 concentration at 0 percent oxygen on a dry basis measured during the most recent compliance test, as measured by a continuous monitoring device outlined in paragraph (e)(7) of this section. The owner or operator may apply to use an alternate method of determining excess emissions subject to the approval of the Administrator.

(iv) Any 3-hour period during which the average concentration of SO_2 in the gases discharged into the atmosphere from any fluid catalytic cracking unit regenerator for which the owner or operator has elected to comply with § 60.104(b)(2) exceeds 300 vppm at 0 percent oxygen on a dry basis, as measured by a continuous monitoring device outlined in paragraph (a)(7) of this section. The owner or operator may apply to use another level for excess emissions based on an equivalency of vppm to the standard established from emission testing subject to the approval of the Administrator.

(v) Any 7-day period during which the average sulfur content of the fresh feed charged directly to a fluid catalytic cracking unit for which the owner or operator has elected to comply with § 60.104(b)(3) exceeds 0.3 weight percent of fresh feed.

* * * * *

5. Section 60.106 is amended by adding paragraphs (e), (f), and (g) to read as follows:

§ 60.106 Test methods and procedures.

* * * * *

(e) For the purpose of determining compliance with § 60.104(b)(1), the following reference methods and calculation procedures shall be used:

(1) For gases released to the atmosphere from the fluid catalytic cracking unit regenerator: Method 8 shall be used for the concentration of SO_x; Method 1 shall be used for velocity traverses; Method 2 for determining velocity and volumetric flow rate; Method 3 for determining gas composition; and Method 4 for determining moisture content. Testing shall be conducted at the add-on control device inlet and outlet simultaneously to determine the percent emission reduction achieved by the control device. Sampling time for each run shall be at least 60 minutes.

(2) Percent reduction in sulfur oxides emissions shall be determined by the following equation:

$R = (100 \text{ percent})(S_i - S_o)/S_i$

Where:

R = SO_x emission reduction, percent

S_i = SO_x emission rate measured at the inlet to the add-on control device, kg/hr

S_o = SO_x emission rate measured at the outlet from the add-on control device, kg/hr

(3) Outlet concentrations of SO_x from the add-on control device less than 50 vppm, reported on a dry O_2-free basis shall be determined by using Method 8 for the concentration of SO_x; Method 1 for velocity traverses; Method 2 for velocity and volumetric flow rates; and Method 3 for gas compositions. Testing shall be conducted at the add-on control device outlet. Sampling time for each run shall be at least 60 minutes.

(f) For the purpose of determining compliance with § 60.104(b)(2), the following reference methods and calculation procedures shall be used:

(1) For gases released to the atmosphere from the fluid catalytic cracking unit regenerator: Method 8 shall be used for the concentration of SO_x; Method 1 shall be used for velocity traverses; Method 2 for determining velocity and Volumetric flow rate; Method 3 for gas analysis; and Method 4 for determining moisture content. The sampling site for determining SO_x concentration by Method 8 shall be the same as for determining volumetric flow rate by Method 2. Sampling time for each run shall be at least 60 minutes.

(2) Where the gases discharged by the fluid catalytic cracking unit regenerator pass through an incinerator-waste heat boiler in which auxiliary or supplemental gaseous, liquid, or solid fossil fuel is burned, the testing described in § 60.106(f)(1) shall be performed at a point between the regenerator outlet and the incinerator-waste heat boiler inlet.

(3) Coke burn-off rate shall be determined using the procedure outlined in paragraph (a)(4) of this section.

(4) Sulfur oxides emission shall be determined by the following equation:

$S_E = (60 \times 10^{-6}) Q_{RV} C_{SO}$

Where:

S_E = sulfur oxides emission rate, kg/hr.

60×10^{-6} = conversion factor, min-kg/hr-mg.

Q_{RV} = volumetric flow rate of gases discharged into the atmosphere from the fluid catalytic cracking unit regenerator following the emission control system, as determined by Method 2, dscm/min.

C_{SO} = sulfur oxides concentration reported as SO_2 discharged into the atmosphere, as determined by Method 8, mg/dscm.

(5) For each run, emissions expressed in kg/1,000 kg coke burn-off in the regenerator shall be determined by the following equation:

$S_S = 1{,}000\ (S_E/R_C)$

Where:

S_S = sulfur oxides emission rate, kg/1,000 kg of coke burn-off in the fluid catalytic cracking unit regenerator.

1,000 = conversion factor, kg to 1,000 kg.

S_R = sulfur oxides emission rate expressed as SO_2, kg/hr
R_C = coke burn-off rate, kg/hr.

(g) For the purpose of determining compliance with § 60.104(b)(3), the following analytical methods and calculation procedures shall be used:

(1) One fresh feed sample shall be collected once per 8-hour period.

(2) Fresh feed samples shall be analyzed separately by using any one of the following analytical test methods: ASTM D129 (General Bomb Method), ASTM D1552 (High Temperature Method), ASTM D2622 (X-ray Spectrographic Method) or ASTM D1266 (Lamp Method).

(3) If a fresh feed sample cannot be collected at a single location, then the fresh feed sulfur content shall be determined as follows:

(i) Individual samples shall be collected once per 8-hour period for each separate fresh feed stream charged directly to the riser or reactor of the fluid catalytic cracking unit. For each sample location the fresh feed volumetric flow rate at the time of collection the fresh feed sample shall be measured using the same method and be recorded.

(ii) Each fresh feed sample shall be analyzed separately using the methods specified in 60.106(g)(2). The same test method shall be used to analyze all fresh feed samples.

(iii) Fresh feed sulfur content shall be calculated using the following equation:

$$S_f = \sum_{i=1}^{n} \frac{S_i Q_i}{Q_f}$$

Where:
S_f = fresh feed sulfur content expressed in percent by weight of fresh feed.
n = number of separate fresh feed streams charged directly to the riser or reactor of the fluid catalytic cracking unit.
Q_f = total volumetric flow rate of fresh feed charged to the fluid catalytic cracking unit.
S_i = fresh feed sulfur content expressed in percent by weight of fresh feed for the "ith" sampling location.
Q_i = volumetric flow rate of fresh feed stream for the "ith" sampling location.

(4) Compliance with § 60.104(b)(3) shall be determined once per 7-day period by calculating the arithmetic 7-day average fresh feed sulfur content expressed in percent by weight of fresh feed using all 21 of the fresh feed sulfur content values for the 7-day period.

* * * * *

6. Section 60.107 is added to read as follows:

§ 60.107 Reporting and recordkeeping requirements.

(a) Each owner or operator subject to § 60.104(b) shall notify the Administrator of the specific provisions of § 60.104(b) [§ 60.104 (b)(1), (b)(2), or (b)(3)] with which the owner or operator has elected to comply. Notification shall be submitted with the notification of initial startup required by § 60.7(a)(3). If an owner or operator elects at a later date to use an alternative provision of § 60.104(b) with which he or she will comply, then the Administrator shall be notified by the owner or operator 90 days before implementing a change and, upon implementing the change, a performance test shall be performed as specified by § 60.106.

(b) Owners or operators who have elected to comply with § 60.104(b) (1) or (2) shall conduct continuous monitoring system performance evaluations during each performance test of the fluid catalytic cracking unit regenerator SO_x control system. These results shall be reported to the Agency along with the results of the performance test.

7. Section 60.108 is added to read as follows:

§ 60.108 Reconstruction.

For purposes of this subpart:

(a) Under § 60.15, the "fixed capital cost of the new components" includes the fixed capital cost of all depreciable components which are or will be replaced pursuant to all continuous programs of component replacement which are commmenced within any 2-year period following January 17, 1984. For purposes of this paragraph, "commenced" means that an owner or operator has undertaken a continuous program of component replacement or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of component replacement.

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414))

[FR Doc. 84-1161 Filed 1-16-84; 8:45 am]
BILLING CODE 6560-50-M

federal register

Tuesday
January 17, 1984

Part IV

Office of Management and Budget

Budget Deferrals

OFFICE OF MANAGEMENT AND BUDGET

Budget Deferrals

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report seven new deferrals of budget authority totaling $1,832,465,000 and seven revised deferrals of budget authority totaling $2,734,156,870.

The actions affect programs in Funds Appropriated to the President, the Departments of Agriculture, Commerce, Defense (Military and Civil), Health and Human Services, Justice, State and the United States Information Agency.

The details of the deferrals are contained in the attached reports.

Ronald Reagan,

The White House, January 12, 1984.

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SUMMARY OF SPECIAL MESSAGES FOR FY 1984 (In thousands of dollars)

CONTENTS OF SPECIAL MESSAGE (in thousands of dollars)

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Deferral #	Item	Budget Authority
	Funds Appropriated to the President	
	International Security Assistance	
D84-30	Foreign military sales credit	1,315,000
D84-24A	Economic support fund	2,571,571
D84-31	Military assistance	426,970
	Department of Agriculture	
	Forest Service	
D84-3A	Expenses, brush disposal	55,072
D84-2A	Timber salvage sales	15,421
	Department of Commerce	
	International Trade Administration	
D84-32	Participation in U.S. expositions	550
	Department of Defense (Military)	
D84-33	Environmental restoration, defense	75,000
	Department of Defense (Civil)	
D84-7A	Wildlife conservation, military reservations	1,162
	Department of Health and Human Services	
	Office of the Assistant Secretary for Health	
D84-9A	Scientific activities overseas (special foreign currency program)	7,034
	Department of Justice	
	Bureau of Prisons	
D84-28A	Buildings and facilities	45,777
	Department of State	
	Bureau of Refugee Programs	
D84-12A	United States emergency refugee and migration assistance fund	38,120
	United States Information Agency	
D84-34	Salaries and expenses	2,400
D84-35	Salaries and expenses (special foreign currency program)	2,900
D84-36	Acquisition and construction of radio facilities	9,645
	Total, deferrals	4,566,622

SUMMARY OF SPECIAL MESSAGES
FOR FY 1984
(in thousands of dollars)

	Rescissions	Deferrals
Fifth special message:		
New items	---	1,832,465
Revisions to previous special messages	---	2,314,199
Effects of fifth special message	---	4,146,664
Amounts from previous special messages that are changed by this message (change noted above)	---	419,958
Subtotal, rescissions and deferrals	---	4,566,622
Amounts from previous special messages that are not changed by this message	1,700	2,482,902
Total amount proposed to date in all special messages	1,700	7,049,524

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DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Funds Appropriated to the President	New budget authority (P.L. 98-151): $1,315,000,000
Bureau: International Security Assistance	Other budgetary resources:
Appropriation title & symbol: Foreign Military Sales Credit 1141082 1/	Total budgetary resources: 1,315,000,000
	Amount to be deferred: Part of year: 1,315,000,000
	Entire year:
OMB identification code: 11-1082-0-1-152	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: The President is authorized by the Arms Export Control Act to sell or finance by credit or guarantees articles and defense services to friendly countries to facilitate the common defense. Public Law 98-151 provides appropriations of $1,315,000,000 for fiscal year 1984 to enable the President to carry out those authorities. Under section 2 of the Arms Export Control Act, the Secretary of State determines whether there shall be a sale to a country and the amount thereof. Executive Order 11958 further requires the Secretary of State to obtain the prior concurrence of the Secretaries of Defense and Treasury, respectively, regarding standards and criteria for credit and guaranty transactions that are based upon national security and financial policies.

These funds have been deferred pending approval of specific loans to eligible countries by the Departments of State, Defense and the Treasury. Consultation among these Departments will ensure that each approved program is consistent with the foreign, national security and financial policies of the United States and will not exceed the limits of available funds.

Estimated Program Effect: None.

Outlay Effect: None.

1/ This account was the subject of a similar deferral in 1983 (83-21).

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of P.L. 93-344.

This report updates Deferral No. D84-24, transmitted to the Congress on December 14, 1983.

This revision to a previous International Security Assistance deferral in the Economic support fund increases the amount deferred from $303,880,000 to $2,571,571,000, an increase of $2,267,691,000. The increase reflects the additional funds available under P.L. 98-151.

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Funds Appropriated to the President (AID)	New budget authority (P.L. 98-151): $2,903,250,000*
Bureau: International Security Assistance	Other budgetary resources:
Appropriation title & symbol: Economic Support Fund 1141037 1/	Total budgetary resources: 2,903,250,000*
	Amount to be deferred: Part of year: 2,571,571,000*
	Entire year:
OMB identification code: 11-1037-0-1-152	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: * Pursuant to the Foreign Assistance Act of 1961, as amended, the President is authorized to furnish assistance to promote economic or political stability in foreign countries on such terms and conditions as he may determine. P.L. 98-151 provides continuing appropriations of $2,903,250,000 of grant and loan Economic Support Funds to enable the President to carry out those authorities. Under Part II, Chapter 4 of the Foreign Assistance Act, the Secretary of State is responsible for policy decisions and justifications for such economic support programs, including the countries and amounts to be provided. Executive Order No. 12163 of September 29, 1979, further delegates the President's responsibilities under chapter 4 to the Secretary of State insofar as they relate to policy decisions and justifications for economic support programs. These functions will be exercised in cooperation with the Administrator of the Agency for International Development.

The funds are deferred pending approval of specific loans and grants to eligible countries by the Secretary of State. This will insure that each approved program is consistent with the foreign, national security and financial policies of the U.S. and will not exceed the limits of available funds.

Estimated Program Effect: None.

Outlay Effect: None.

1/ This account was the subject of a similar deferral in 1983 (83-22.

* Revised from previous report.

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Funds Appropriated to the President	New budget authority (P.L. 98-151): $510,000,000
Bureau: International Security Assistance	Other budgetary resources: 5,470,000
Appropriation title & symbol: Military Assistance 1141080 1/	Total budgetary resources: 515,470,000
	Amount to be deferred: Part of year: 426,970,000
	Entire year:
OMB identification code: 11-1080-0-1-152	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act ☐ Other
Grant program: ☒ Yes ☐ No	
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

JUSTIFICATION

Pursuant to the Foreign Assistance Act (FAA) of 1961, as amended, the President is authorized to furnish grant military assistance to any friendly country or international organization if he finds that it will strengthen the security of the United States or promote world peace. Public Law 98-151 makes continuing appropriations of $510,000,000 of grant Military Assistance (MAP) funds for fiscal year 1984 to enable the President to carry out this authority. Executive Order No. 12163 of September 29, 1979, as amended, delegates certain of the President's functions under the FAA to the Secretaries of State and Defense. $426,970,000 is being deferred pending approval of specific country programs by the Departments of State, Treasury, and Defense. Consultation among these Departments will ensure that each approved program is consistent with the foreign, national security and financial policies of the United States and will not exceed the limit of available funds.

Estimated Program Effect. None.

Outlay Effect: None.

1/ This account was the subject of a similar deferral in 1983 (83-24

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SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of P.L. 93-344.

This report updates Deferral No. D84-3 transmitted to the Congress on October 3, 1983.

This revision to a deferral of Department of Agriculture funds for brush disposal increases the amount previously reported as deferred from $42,674,154 to $55,072,019. This net increase of $12,397,865 is attributable to an adjustment in the balance brought forward on October 1, 1983.

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Agriculture	New budget authority (P.L. 16 USC 490): $ 48,300,000
Bureau: Forest Service	Other budgetary resources: 55,072,019 *
Appropriation title & symbol: Expenses, Brush Disposal 12X5206 1/	Total budgetary resources: 103,372,019 *
	Amount to be deferred: Part of year: — ; Entire year: 55,072,019 *
OMB identification code: 12-9922-0-2-302	Legal authority (in addition to sec. 1013): [X] Antideficiency Act; [ ] Other
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual; [ ] Multiple-year ____ (expiration date); [X] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other

Justification * Purchasers of National Forest timber deposit the estimated cost to the Forest Service of disposing of brush and other debris resulting from their cutting operations pursuant to 16 USC 490. Disposal operations related to deposits made during certain periods of the year cannot be initiated until weather conditions permit. Thus, seasonal factors frequently require deferring use of deposits until the following fiscal year. The current fiscal year reserve of $55.1 million was established pursuant to the Antideficiency Act (31 U.S.C. 1512) as a reserve for contingencies, compared with reserves of $42.7 million in 1983 and $49.3 million in 1982.

Estimated Program Effect: None.

Outlay Effect: None.

1/ This account was the subject of a similar deferral in FY 1983 (D83-3).
* Revised from previous report.

SUPPLEMENTARY REPORT

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(C), P.L. 93-344

This report updates Deferral No. D84-2 transmitted to the Congress on October 3, 1983.

This revision to a deferral of Department of Agriculture timber salvage funds increases the amount previously reported as deferred from $6,211,000 to $15,420,710. This net increase of $9,210,710 is attributable to an adjustment in the balance brought forward on October 1, 1983.

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Agriculture	New budget authority (P.L. 94-588) $ 12,775,000
Bureau Forest Service	Other budgetary resources 15,420,710 *
Appropriation title & symbol: Timber Salvage Sales .2X5204 1	Total budgetary resources 28,195,710 *
	Amount to be deferred: Part of year —; Entire year 15,420,710 *
OMB identification code: 12-9930-0-2-302	Legal authority (in addition to sec 1013): [X] Antideficiency Act; [ ] Other
Grant program [ ] Yes [X] No	
Type of account or fund: [ ] Annual; [ ] Multiple-year ____ (expiration date); [X] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other

Justification: The Secretary is authorized to require purchasers of sales involving dead, damaged, insect infested, or down timber to make monetary deposits into a designated fund to cover the costs associated with such sales.

The National Forest Management Act of 1976 provided the salvage sale fund to meet catastrophes that occur during a given year or when other market conditions occur so that immediate action can take place to harvest the dead and dying trees. Sufficient reserves must be held in order to meet these catastrophes.

This deferral is necessary in this account because of the time lag between the deposit of receipts from salvage sales and the expenditures of funds to cover costs associated with making additional sales on that National Forest. The collections becoming available in the current year are estimated and the related salvage sale operations may not necessarily be planned in the same year.

Estimated Program Effect: None.

Outlay Effect: None.

[illegible] This account was the subject of a [illegible] in FY 1983 [illegible]

* Revised from previous report

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Commerce	New budget authority (P.L. ____): $ ---
Bureau: International Trade Administration	Other budgetary resources: 4,353,000
Appropriation title & symbol: Participation in United States Expositions (132 51805 1/)	Total budgetary resources: 4,353,000
	Amount to be deferred: Part of year: $ ---; Entire year: 4,353,000
OMB identification code: 13-1808-0-1-376	Legal authority (in addition to sec. 1013): [X] Antideficiency Act; [ ] Other
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual; [X] Multiple-year: September 30, 1985 (expiration date); [ ] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other

Justification: This account provides for Federal participation in the Louisiana World Exposition to be held in New Orleans, Louisiana, in 1984. Funding requirements are determined by the construction and operator schedules of the Federal exhibits at the exposition and the amount being deferred will not be needed until F. 1985. This deferral is made under the provisions of the Antideficiency Act (31 U.S.C. 665).

Estimated Program Effect: None.

Outlay Effect: None.

1/ This account was the subject of a similar deferral during FY 1983 (83-4).

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Defense - Military	New budget authority (P.L. 98-212): $150,000,000
Bureau:	Other budgetary resources: 0
Appropriation title & symbol: Environmental Restoration, Defense 9740810	Total budgetary resources: 150,000,000
	Amount to be deferred: Part of year: $ 75,000,000; Entire year: ___
OMB identification code: 97-0810-0-1-051	Legal authority (in addition to sec. 1013): [X] Antideficiency Act; [ ] Other
Grant program: [ ] Yes [X] No	
Type of account or fund: [X] Annual; [ ] Multiple-year: ___ (expiration date); [ ] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other

Justification: This new appropriation was created by Congress for the purpose of consolidating the separate efforts of three military departments and the Defense Logistics Agency. The amounts originally programmed by DOD for restoration of the environment at military installations for this program in 1984 totaled $69 million. The Congress has appropriated $150 million to fund both the $69 million Administration program, and to encourage the departments to develop and execute a more agressive program aimed at reducing the nationwide backlog of hazardous waste, demolition of deteriorated buildings, and clean-up of debris on military installations.

Of the appropriated amount, $75 million can be constructively used at this time. The military services and Defense Logistics Agency's new program for use of the remaining $75 million is still under review by the staff of the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics). Release from reserve and apportionment of the remainder will be made at such time as the unreviewed portion of this program has been approved.

Estimated Program Effect: None.

Outlay Effect: None.

SUPPLEMENTARY REPORT

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency	New budget authority: $ 1,690,000

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D84-7 transmitted to the Congress on October 3, 1983.

This revision to a deferral of Department of Defense wildlife conservation funds increases the amount previously reported as deferred from $776,775 to $1,161,531. This net increase of $384,756 is attributable to increased estimates of receipts and adjustments in unobligated balances brought forward on October 1, 1983.

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Defense - Civil	New budget authority $ 1,690,000
Bureau	(16 U.S.C. 670f) 1,181,531 *
Appropriation title & symbol	Other budgetary resources 2,871,531 *
See coverage section below	Total budgetary resources
	Amount to be deferred: Part of year $ ____
	Entire year 1,161,531 *
OMB identification code: See coverage section below	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program [ ] Yes [X] No	[ ] Other ____
Type of account or fund: [ ] Annual	Type of budget authority: [X] Appropriation
[ ] Multiple-year ____ (expiration date)	[ ] Contract authority
[X] No-year	[ ] Other ____

Coverage: * 1/

Appropriation	Symbol	OMB Identification Code	Amount Deferred
Wildlife Conservation, Army	21x5095	21-5095-0-2-303	$824,109 *
Wildlife Conservation, Navy	17x5095	17-5095-0-2-303	141,225 *
Wildlife Conservation, Air Force	57x5095	57-5095-0-2-303	196,197 *
			$1,161,531 *

Justification: These are permanent appropriations. The budgetary resources consist of anticipated receipts and unobligated balances generated from hunting and fishing fees collected on military reservations pursuant to 16 U.S.C. 670. They may be used only in accordance with the purpose of the law--to carry out a program of natural resources conservation. These funds are being deferred because: (1) installations may be accumulating funds over a period of time to fund a major project, and (2) there is a seasonal relationship between the collection of fees and their subsequent expenditure. Most of the fees are collected during the winter and spring months, while most of the program work is performed during the summer and fall months. This necessitates that funds collected in a prior year be deferred in order to be available to finance the program during the summer and fall months. Additional amounts will be apportioned if program requirements are identified. This deferral is made under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Effect: None.

Outlay Effect: None.

[illegible] subject of a similar deferral during FY 1983 (D83-[illegible]).

* Revised from previous report

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SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of P.L. 93-344

This report updates Deferral No. D84-9 transmitted to the Congress on October 3, 1983.

This revision of a deferral for the Scientific Activities Overseas Program of the Department of Health and Human Services increases the previously reported deferral amount from $6,463,119 to $7,034,371. This increase results from a actual unobligated balance brought forward into fiscal year 1984 that is higher than estimated.

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Health & Human Services	New budget authority (P.L. ____): $ ____
Bureau: Office of the Assistant Secretary for Health	Other budgetary resources: 12,680,399 *
Appropriation title & symbol: Scientific Activities Overseas (Special Foreign Currency Program) 75x1102 1/	Total budgetary resources: 12,680,399 *
	Amount to be deferred: Part of year: ____ Entire year: 7,034,371 *
OMB identification code: 75-1102-0-1-552	Legal authority (in addition to sec 1013): [X] Antideficiency Act [ ] Other ____
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Justification: The Scientific Activities Overseas Program is funded with appropriations which consist of excess foreign currencies owned by the United States. The currencies of Burma, Guinea, India, and Pakistan held by the Treasury have been designated as excess to normal U.S. needs. Funds for this program, which remain available until expended, are used for scientific research projects in those countries.

The amount of funds to be obligated during FY 1984 and the amount to be deferred for the entire year were determined after a careful review of the scientific merit of project proposals in the countries for which excess currency is available. The research projects in those countries that will contribute toward meeting U.S. scientific needs have been selected for funding in FY 1984. The amount being deferred is excess to current program requirements and is being reserved for contingencies under provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None.

Outlay Effect: None.

1/ This account was the subject of a similar deferral in FY 1983 (D83-104).
* Revised from previous report.

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of P.L. 93-344.

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Justice	New budget authority: $ 47,711,000*

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of P.L. 93-344.

This report updates Deferral No. D84-28, transmitted to the Congress on December 14, 1983.

This revision to a previous Federal Prison System deferral increases the amount deferred from $22,025,000 to $45,777,000, an increase of $23,752,000. This increase reflects increased budgetary resources available for Building and facilities.

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Justice	New budget authority (P.L. ____): $ 47,711,000 *
Bureau: Federal Prison System	Other budgetary resources: 103,422,082 *
Appropriation title & symbol: Buildings and Facilities 15X1003 1/	Reimbursements: 11,972,000 *
	Total budgetary resources: 163,105,082 *
	Amount to be deferred: Part of year: ____ Entire year: 45,777,000 *
OMB identification code: 15-1003-0-1-753	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other ____
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Justification: * This appropriation finances planning, acquisition of sites and construction of new penal and correctional facilities as well as construction, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions. Projects are undertaken to reduce overcrowding, close old and antiquated penitentiaries and provide a safe and humane environment for staff and inmates. The deferral contains $19,915,000 for the Los Angeles Metropolitan Correctional Center, $1,050,000 for the Phoenix FCI, $1,060,000 for Oakdale Alien Detention Center, $1,700,000 for the Northeast Level 2/3, $16,874,000 for the Northeast Level 4, and $5,178,000 for modernization. Due to the time required for planning design efforts and selection of contractors, it would be impossible to complete those projects, for which funding is deferred, during FY 1984.

Estimated Program Effect: None.

Outlay Effect: None.

1/ This account was the subject of a similar deferral in 1983 (D83-35).

* Revised from previous report.

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report revises Deferral No. D84-12 transmitted to the Congress on October 3, 1983.

The amount deferred for the United States Emergency Refugee and Migration Assistance Fund is $38,120,239, an increase of $192,239 from the amount previously reported as deferred. This increase results from higher unobligated balances carried forward into fiscal year 1984 than originally estimated.

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of State	New budget authority (P.L. _____) $ _____
Bureau: Bureau of Refugee Programs	Other budgetary resources $ 38,120,239 *
Appropriation title & symbol: United States Emergency Refugee and Migration Assistance Fund, Executive 1/ 11X0040	Total budgetary resources $ 38,120,239
	Amount to be deferred: Part of Year $ 38,120,239 *
	Entire Year $
OMB identification code: 11-0040-0-1-151	Legal authority (in addition to Section 1013): ☒ Antideficiency Act ☐ Other _____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☐ Multiple-year _____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other _____

Justification: *Section 501(a) of the Foreign Relations Authorization Act, 1976 (Public Law 94-141) and Section 414(b)(1) of the Refugee Act of 1980 (Public Law 96-212) amended section 2(c) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601) by authorizing a fund not to exceed $50 million to enable the President to provide emergency assistance for unexpected urgent refugee and migration needs.

Executive Order No. 11922 of June 16, 1976, allocated all funds appropriated to the President for the Emergency Fund to the Secretary of State but reserved for the President the determination of assistance to be furnished and the designation of refugees to be assisted by the Fund.

The Emergency Fund contains $38,120,239 in unobligated balances from prior-year authority. This amount has been deferred pending Presidential decisions required by Executive Order No. 11922 and to achieve the most economical use of appropriations. Funds will be released as the President determines assistance to be furnished and designates refugees to be assisted by the Fund. This deferral action is taken under the provisions of 31 U.S.C. 1512.

Estimated Program Effect: None.

Outlay Effect: None.

1/ This account was the subject of a similar deferral during fiscal year 1983.
* Revised from previous report.

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: U.S. Information Agency	New budget authority (P.L. 98-166): $471,853,000
Bureau:	Other budgetary resources: 6,370,912
Appropriation title & symbol: 6740201 - 67X0201 Salaries and Expenses Salaries and Expenses (no Years)	Total budgetary resources: 478,223,912
	Amount to be deferred: Part of year: $ ____ Entire year: 2,400,000
OMB identification code: 67-0201-0-1-154	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other ____
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual [ ] Multiple year ____ (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Justification: The United States Information Agency (USIA) is authorized by the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431, et. seq.), the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2451, et. seq.), Executive Order 11034 of June 25, 1962, as amended, and Reorganization Plan No. 2 of 1977 to carry out international communication, cultural and education exchange programs.

The Departments of Commerce, Justice, and State, the Judiciary, and related agencies Appropriations Act, 1984 (P.L. 98-166, approved November 28, 1983), appropriated $471,853,000 for expenses required to carry out international communication activities. Of this amount, $5,509,000 shall remain available until expended.

We estimate that $2,400,000 of funds budgeted for U.S. participation in the international exposition in Tsukuba, Japan will not be obligated during 1984. These funds will be used, in later years, primarily to cover onsite expenses that will accrue shortly before the official opening of the exposition.

This deferral action is taken in accordance with 31 U.S.C. 1512.

Estimated Program Effect: None.

Outlay Effect: None

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: U.S. Information Agency	New budget authority (P.L. 98-166): $10,450,000
Bureau:	Other budgetary resources: 3,367,446
Appropriation title & symbol: 67X0205 Salaries and Expenses 1/ (Special Foreign Currency Program)	Total budgetary resources: 13,817,446
	Amount to be deferred: Part of year: $ ____ Entire year: 2,900,000
OMB identification code: 67-0205-1-154	Legal authority (in addition to sec. 1013): [ ] Antideficiency Act [ ] Other ____
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual [ ] Multiple year ____ (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Justification:

The Appropriations Act for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1984 (P.L. 98-166, approved November 28, 1983) appropriated $10,450,000 to remain available until expended for the "Salaries and Expenses (Special Foreign Currency Program)" account. The account is used for payment of USIA local program expenses in U.S.-owned foreign currencies in those countries where the Department of Treasury determines that the supply of local currency is in excess of the normal requirement of the U.S. Government. In fiscal year 1984, the "excess currency" countries are Burma, Guinea, India and Pakistan.

As a result of exchange rate savings and recoveries of prior year obligations realized during fiscal year 1983 the beginning-of-year unobligated balance for this account was $3,367,446, which is significantly more than the sum estimated in the 1984 budget. The deferred amount of $2,900,000 represents funds that will not be obligated during this fiscal year under current program plans. Accordingly, these funds are reserved for use in succeeding years

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: U.S. Information Agency Bureau:	New budget authority (P.L. 98-166): $31,000,000 Other budgetary resources: 65,489,573 Total budgetary resources: 96,489,573
Appropriation title and symbol: 11X0204 Acquisition and Construction of Radio Facilities	Amount to be deferred: Part of year: Entire year: 9,645,000
OMB identification code: 11-0204-0-1-154	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other:
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual [ ] Multiple-year (expiration date:) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other:

Justification:

The Appropriations Act for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1984 (P.L. 98-166, approved November 28, 1983) appropriated $31,000,000 to remain available until expended for the "Acquisition and Construction of Radio Facilities" account primarily to enhance the transmitting capacity of the Voice of America's world-wide broadcasting system.

This $31,000,000, together with funds appropriated in prior years, will be used to maintain and improve existing VOA facilities and to modernize and expand transmitter facilities in East Asia, Africa, the Near East and Europe. It is now estimated that $9,645,000 will not be obligated during fiscal year 1984. These funds will be utilized in succeeding years for major construction projects in the Philippines, Sri Lanka, Liberia, and Botswana.

This deferral action is taken in accordance with the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None.

Outlay Effect: None.

[1] This account was the subject of a similar deferral in [illegible]-83-8.

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Title 3—

The President

Executive Order 12459 of January 16, 1984

Amending the Generalized System of Preferences

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including Title V of the Trade Act of 1974 (19 U.S.C. 2461 *et seq.*), as amended, section 604 of the Trade Act of 1974 (19 U.S.C. 2483), and section 503(a)(2)(A) of the Trade Agreements Act of 1979 (93 Stat. 251), and as President of the United States of America, in order to modify, as provided by section 504(a) of the Trade Act of 1974 (19 U.S.C. 2464(a)), the limitations on preferential treatment for eligible articles from countries designated as beneficiary developing countries, and to adjust the original designation of eligible articles, it is hereby ordered as follows:

Section 1. In order to subdivide and amend the nomenclature of existing items for purposes of the Generalized System of Preferences (GSP), the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202) are modified as provided in Annex I to this Order, attached hereto and made a part hereof.

Sec. 2. Annex II of Executive Order No. 11888 of November 24, 1975, as amended, listing articles that are eligible for benefits of the GSP when imported from any designated beneficiary country, is amended as follows:

(a) by deleting TSUS items 654.02, 654.03, 654.06, 654.09, 654.11, 654.14, 654.15, and 654.20; and

(b) by inserting in numerical sequence TSUS items 654.16, 654.25, 654.35, 654.45, 654.50, 654.65, 654.70, and 654.75.

Sec. 3. Annex III of Executive Order No. 11888, as amended, listing articles that are eligible for benefits of the GSP when imported from all designated beneficiary developing countries except those specified in general headnote 3(c)(iii) of the TSUS, is amended as follows:

(a) by deleting TSUS items 654.04, 654.07, 654.12, and 654.13; and

(b) inserting in numerical sequence TSUS items 654.08, 654.30, 654.40, 654.55, and 654.60.

Sec. 4. General headnote 3(c)(iii) of the TSUS, listing articles that are eligible for benefits of the GSP except when imported from the beneficiary developing countries listed opposite articles, is modified as follows:

(a) by inserting in numerical sequence the TSUS item number and country "654.08 . . . Taiwan"; and

(b) by deleting the TSUS item numbers and countries "654.04 . . . Republic of Korea and Taiwan", "654.07 . . . Taiwan", "654.12 . . . Taiwan", and "654.13 . . . Hong Kong" and by inserting in lieu thereof "654.30 . . . Republic of Korea and Taiwan", "654.40 . . . Taiwan", "654.55 . . . Taiwan", and "654.60 . . . Hong Kong", respectively.

Sec. 5. In order to provide staged reductions in the rates of duty for the new TSUS items created by Annex I to this Order, Annex III to Proclamation No. 4707 of December 11, 1979, is amended by Annex II to this Order, attached hereto and made a part hereof.

Sec. 6. Whenever the column 1 rate of duty in the TSUS for any item specified in Annex I to this Order is reduced to the same level as, or to a lower level than, the corresponding rate of duty inserted in the column entitled "Rates of

Duty LDDC" by Annex I to this Order, the rate of duty in the "Rates of Duty LDDC" column for such item shall be deleted from the TSUS.

Sec. 7. The amendments and modifications made by this Order shall be effective with respect to articles both: (1) imported on and after January 1, 1976, and (2) entered, or withdrawn from warehouse for consumption, on and after January 17, 1984.

Ronald Reagan

THE WHITE HOUSE,
January 16, 1984.

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ANNEX I

MODIFICATIONS OF THE TARIFF SCHEDULES OF THE UNITED STATES

Notes:

1. Bracketed matter is included to assist in the understanding of ordered modifications.

2. The following items, with or without preceding superior descriptions, supersede matter now in the Tariff Schedules of the United States (TSUS). The items and superior descriptions are set forth in columnar form, and material in such columns is inserted in the columns of the TSUS designated "Item", "Articles", "Rates of Duty 1", "Rates of Duty LDDC", and "Rates of Duty 2", respectively.

(a) Item 654.02 is superseded by:

	[Articles...:] [Articles,...:] [Of...:] "Enameled or glazed with vitreous glasses: Cooking and kitchen ware of steel.....	[See Annex II]	2.7% ad val.	35.5% ad val.
654.16	Other.....	[See Annex II]	2.7% ad val.	35.5% ad val."

(b) Items 654.03, 654.04, 654.06, 654.07, 654.09, 654.11, 654.12, 654.13, 654.14, 654.15, and 654.20 are redesignated as 654.25, 654.30, 654.35, 654.40, 654.45, 654.50, 654.55, 654.60, 654.65, 654.70, and 654.75, respectively.

ANNEX II

Annex III to Presidential Proclamation 4707 of December 11, 1979, is amended by deleting from Section A 1/ of that Annex TSUS item numbers 654.02, 654.04, and 654.06 with their corresponding rates of duty and footnotes and by inserting in numerical sequence the following TSUS item numbers, rates of duty, and footnotes therein:

Item in TSUS as modified by Annex II	Rate from which staged	Rates of duty 1/, effective with respect to articles entered on and after January 1—							
		1980	1981	1982	1983	1984	1985	1986	1987
654.02	3.4% ad val.	3.3%	3.2%	3.1%	3.1%	3% 4/	4/	4/	4/
654.04	3/	3/	3/	3/	6.2% 3/	5.9% 3/	3/	3/	3/
654.06	3/	3/	3/	3/	6.2% 3/	5.9% 3/	3/	3/	3/
654.08	4/	4/	4/	4/	4/	3% 4/	2.9%	2.8%	2.7%
654.16	4/	4/	4/	4/	4/	3% 4/	2.9%	2.8%	2.7%
654.30	3/	3/	3/	3/	3/	5.9% 3/	5.6%	5.2%	4.9%
654.35	3/	3/	3/	3/	3/	5.9% 3/	5.6%	5.2%	4.9%

Footnote 4 for items 654.02, 654.08, and 654.16:

4/ Item 654.02 is discontinued effective January 17, 1984, and is superseded by items 654.08 and 654.16.

Footnote 3 for items 654.04, 654.06, 654.30, and 654.35:

3/ Item 654.05 was discontinued effective March 31, 1983, and is superseded by items 654.04 and 654.06. Items 654.04 and 654.06 are redesignated as items 654.30 and 654.35, respectively, effective January 17, 1984.

1/ Section A of that Annex is also amended by redesignating items 654.03, 654.07, 654.09, 654.11, 654.12, 654.13, 654.14, 654.15, and 654.20 as items 654.25, 654.40, 654.45, 654.50, 654.55, 654.60, 654.65, 654.70, and 654.75, respectively, effective January 17, 1984.

[FR Doc. 84-1558
Filed 1-17-84; 10:51 am]
Billing code 3195-01-C

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Rules and Regulations

Federal Register
Vol. 49, No. 12
Wednesday, January 18, 1984

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 446]

Lemons Grown in California and Arizona; Limitation of Handling

Correction

In FR Doc. 84–1149, appearing on page 1667 in the issue of Friday, January 13, 1984, the third, fourth, and fifth from last lines in column two should read:

Russell L. Hawes,
Acting Deputy Director,
Fruit and Vegetable Division,
Agricultural Marketing Service.

BILLING CODE 1505-01-M

7 CFR Part 1207

Potato Research and Promotion Plan, Amendment Regarding Potato Board Member Term of Office

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment changes the three year term of office for Potato Board members. As amended, the terms of Potato Board members will begin on March 1 and end on the last day of February. This will coordinate the terms of office with the annual Board meeting.

EFFECTIVE DATE: January 18, 1984.

FOR FURTHER INFORMATION CONTACT: Kurt Kimmel, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250 (202) 475–3929.

SUPPLEMENTARY INFORMATION: The rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "nonmajor" rule. Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

The Potato Board is the administrative agency established by the Potato Research and Promotion Plan (7 CFR Part 1207). The Plan is effective under the Potato Research and Promotion Act (7 U.S.C. 2611–2627).

Notice was published in the December 6, 1983, **Federal Register** (48 FR 54639). It afforded interested persons an opportunity to submit written comments through December 21, 1983. None was received.

The term of office of Board members currently begins on April 1 and ends on the last day of March. Since the annual Board meetings have historically been held in April, this enabled new Board members to participate fully at such meetings. However, the Board has recently determined that holding the annual meeting in March would better serve to avoid conflicts with planting schedules. Therefore, the Board has requested that the terms of office of its members be readjusted by one month in order to allow the new members to assume their duties before the annual meeting. Under the amendment, the terms of office of current Board members which have been scheduled to end on the last day of March in 1984, 1985, or 1986 will automatically terminate on the last day of February of that same year. The date for submitting nominees for the Board will also be readjusted by one month in order to give the Secretary sufficient time to complete the selection process.

After consideration of all relevant matters, including the proposal in the notice, it is found that the following amendment should be approved.

It is further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that (1) this amendment should become effective as soon as possible so that Board members can be selected prior to the March annual meeting, (2) this amendment does not impose any additional restrictions on handlers or producers, and (3) notice was given by publication in the December 6, 1983, **Federal Register**.

List of Subjects in 7 CFR Part 1207

Administrative practice and procedure, Advertising, Agricultural research, Potatoes.

PART 1207—[AMENDED]

The amendment is as follows:

1. In § 1207.503 paragraph (a) is revised to read as follows:

§ 1207.503 Nominations.

(a) Pursuant to § 1207.322 of the plan, the Board shall hold or cause to be held a meeting or meetings of producers in the producing sections or States each year to nominate members for the Board. One individual shall be nominated for each position to become vacant. A list of nominees shall be submitted to the Secretary for his consideration by January 1 of each year.

* * * * *

2. In § 1207.504 paragraph (a) is revised to read as follows:

§ 1207.504 Term of office.

(a) The term of office of Board members shall be for three years and shall begin March 1 and end on the last day of February.

* * * * *

(Title III of Pub. L. 91–670; 84 Stat. 2041; 7 U.S.C. 2611–2627; as amended)

Dated January 13, 1984 to become effective upon publication.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84–1286 Filed 1–17–84; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Addition of Executive Air Charter

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule adds Executive Air Charter to the list of carriers which have entered into agreements with the Service to guarantee the passage through the United States in immediate

and continuous transit of aliens destined to foreign countries.

EFFECTIVE DATE: November 29, 1983.

FOR FURTHER INFORMATION CONTACT: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536, Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: This amendment to 8 CFR 238.3 is published pursuant to 5 U.S.C. 552. The Commissioner of Immigration and Naturalization Service entered into an agreement with Executive Air Charter on November 29, 1983 to guarantee passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

The agreement provides for the waiver of certain documentary requirements and facilitates the air travel of passengers on international flights while passing through the United States.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely makes an editorial change to the listing of transportational lines.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule will not have a significant impact on a substantial number of small entities.

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(a) of E.O. 12291.

List of Subjects in 8 CFR Part 238

Airlines, Aliens, Government contracts, Travel, Travel restriction.

Accordingly, 8 CFR Part 238 is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

§ 238.3 [Amended]

In § 238.3 Aliens in immediate and continuous transit, the listing of transportation lines in paragraph (b) *Signatory lines* is amended by:

Adding in alphabetical sequence, "Executive Air Charter."

(Secs. 103, 66 Stat. 173 (8 U.S.C. 1103); 238, 66 Stat. 202 (8 U.S.C. 1228))

Dated: January 10, 1984.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations Immigration and Naturalization Service.

[FR Doc. 84–1273 Filed 1–17–84; 8:45 am]

BILLING CODE 4410–10–M

8 CFR Part 238

Contracts With Transportation Lines; Addition of Tower Air Inc.

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule adds Tower Air Inc. to the list of carriers which have entered into agreements with the Service to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

EFFECTIVE DATE: December 19, 1983.

FOR FURTHER INFORMATION CONTACT: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536, Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: This amendment to 8 CFR 238.3 is published pursuant to 5 U.S.C. 552. The Commissioner of Immigration and Naturalization Service entered into an agreement with Tower Air Inc. on December 19, 1983 to guarantee passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

The agreement provides for the waiver of certain documentary requirements and facilitates the air travel of passengers on international flights while passing through the United States.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely makes an editorial change to the listing of transportational lines.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule will not have a significant impact on a substantial number of small entities.

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(a) of E.O. 12291.

List of Subjects in 8 CFR Part 238

Airlines, Aliens, Government contracts, Travel, Travel restriction.

Accordingly, 8 CFR Part 238 is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

§ 238.3 [Amended]

In § 238.3 Aliens in immediate and continuous transit, the listing of transportation lines in paragraph (b) *Signatory lines* is amended by:

Adding in alphabetical sequence, "Tower Air, Inc."

(Secs. 103, 66 Stat. 173 (8 U.S.C. 1103); 238, 66 Stat. 202 (8 U.S.C. 1228))

Dated: January 10, 1984.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations Immigration and Naturalization Service.

[FR Doc. 84–1274 Filed 1–17–84; 8:45 am]

BILLING CODE 4410–10–M

FEDERAL RESERVE SYSTEM

12 CFR Part 265

[Docket No. R–0503]

Rules Regarding Delegation of Authority; Preemption Determinations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is amending its Rules Regarding Delegation of Authority to delegate to the Director of its Division of Consumer and Community Affairs the authority to make determinations under the Equal Credit Opportunity Act (Regulation B) and the Home Mortgage Disclosure Act (Regulation C) regarding the effect of those acts on similar state laws. The Board is also making editorial revisions and a correction to the delegation rules.

EFFECTIVE DATE: January 30, 1984.

FOR FURTHER INFORMATION CONTACT: Margaret Stewart, Senior Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, (202) 452–2412.

SUPPLEMENTARY INFORMATION: (1) The Board is amending its Rules Regarding Delegation of Authority to delegate to the Director of its Division of Consumer and Community Affairs the authority to make determinations regarding the effect on state laws of two federal acts for which the Board has rulemaking responsibility. Section 705(f) of the Equal Credit Opportunity Act, implemented by Regulation B, and section 306(a) of the Home Mortgage Disclosure Act, implemented by Regulations C, authorize the Board to determine whether a state law is inconsistent with and therefore preempted by federal law. By this amendment to § 265.2(h), the Director of the Division of Consumer and Community Affairs is authorized to make those determinations on behalf of the Board. The Board has determined that delegation of this authority is necessary and appropriate due to the

highly technical nature of these decisions, and because they will be made under standards set forth in the statutes and implementing regulations.

(2) The Board is also revising two existing provisions in § 265.32(h). These provisions, which delegate authority to the Director of the Division of Consumer and Community Affairs to make preemption determinations under the Truth in Lending Act and the Electronic Fund Transfer Act, are redesignated as paragraphs (h)(3) and (h)(4), and are revised for clarity. The revisions conform the language in all of the paragraphs relating to delegation of preemption authority and do not affect the substance of the delegations.

(3) By this action, the Board is also reinstating a delegation provision relating to its Consumer Advisory Council. This provision, which was contained in § 265.2(h)(2) as it existed prior to February 2, 1983, was inadvertently deleted due to an error in the numbering of a delegation action taken earlier this year (48 FR 4458, February 1, 1983). The provision is now reinstated and the remaining paragraphs redesignated as necessary.

(4) The Board finds that the notice, opportunity for comment, and deferral of effective date procedures of 5 U.S.C. 553(b) are unnecessary in connection with this proceeding because it relates to agency procedures. For the same reason, the expanded rulemaking procedures set forth in the Board's policy statement of January 15, 1979 (44 FR 3957), will not be followed in connection with this proceeding.

List of Subjects in 12 CFR Part 265

Authority delegations (Government agencies), Banks, banking, Federal Reserve System.

(5) Pursuant to the provisions of section 11(k) of the Federal Reserve Act (12 U.S.C. 248(k)), the Board amends 12 CFR 265.2 by revising and redesignating paragraphs (h)(2) and (h)(3) as (h)(3) and (h)(4), respectively; by reinstating paragraph (h)(2) as it existed prior to February 2, 1983; and by adding paragraphs (h)(5) and (h)(6), to read as follows:

§ 265.2 Specific functions delegated to Board employees and to Federal Reserve Banks.

* * * * *

(h) * * *

(2) Pursuant to section 703(b) of the Consumer Protection Act (15 U.S.C. 1691b(b)), to call meetings of and consult with the Consumer Advisory Council established under that section, to approve the agenda for such meetings, and to accept any resignation from Consumer Advisory Council members.

(3) Pursuant to sections 111, 171(a) and 186(a) of the Truth in Lending Act (15 U.S.C. 1610(a), 1666j(a) and 1667e(a)) and the Board's Regulation Z (12 CFR 226.28) and Regulation M (12 CFR 213.7), to determine whether a state law is inconsistent with the federal act and regulations.

(4) Pursuant to section 919 of the Electronic Fund Transfer Act (15 U.S.C. 1693q) and the Board's Regulation E (12 CFR 205.12), to determine whether a state law is inconsistent with the federal act and regulation.

(5) Pursuant to section 705(f) of the Equal Credit Opportunity Act (15 U.S.C. 1691d(f)) and the Board's Regulation B (12 CFR 202.11), to determine whether a state law is inconsistent with the federal act and regulation.

(6) Pursuant to section 306(a) of the Home Mortgage Disclosure Act (12 U.S.C. 2805(a)) and the Board's Regulation C (12 CFR Part 203), to determine whether a state law is inconsistent with the federal act and regulation.

* * * * *

By order of the Board of Governors of the Federal Reserve System, January 12, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-1287 Filed 1-17-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 312

[Docket No. 82N-0394]

New Drug, Antibiotic, and Biologic Drug Product Regulations; Export Provisions

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations governing the investigational use of human drugs. This final rule will revise the process by which export of investigational drugs is authorized. This final rule will streamline the process by which current export authorization requests are reviewed and will add an optional procedure under which such requests may be submitted.

EFFECTIVE DATE: January 18, 1984.

FOR FURTHER INFORMATION CONTACT: Steven H. Unger, National Center for Drugs and Biologics (HFN-7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; 301-443-3650.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 9, 1983 (48 FR 26720), FDA proposed to revise its regulations governing the investigational use of new drugs for human use. Among other provisions, FDA proposed to amend the rules that govern the export of investigational drugs to revise the process by which such drugs can be shipped abroad in the absence of an effective investigational new drug application (IND). (In the proposal, the section on imports was incorrectly printed as § 312.63 rather than § 312.110. This error was corrected in the **Federal Register** of July 12, 1983 (48 FR 31890).) In this document, FDA is adopting, with the revisions discussed below, these specific provisions of the investigational drug regulations.

The Federal Food, Drug, and Cosmetic Act (the act) prohibits, under section 310(d) and 505(a) (21 U.S.C. 331(d) and 355(a)), the introduction or delivery for introduction into interstate commerce of any new drug without an approved application under section 505(b) of the act or an exemption under section 505(i) of the act. That prohibition extends to imports and exports of unapproved new drugs under the act's definition of the term "interstate commerce" in section 201(b) of the act (21 U.S.C. 321(b)). Thus, an unapproved new drug may not be imported into, or exported from, the United States unless it is subject to an exemption provided by FDA for an investigational new drug. The investigational new drug regulations describe the conditions under which this exemption may be obtained.

Although biological products are not new drugs under section 505 of the act, the import or export of an unlicensed biological product is prohibited under section 351(a) of the Public Health Service Act (42 U.S.C. 262(a)). An unlicensed biological product may not be imported into, or exported from, the United States unless it is subject to an exemption provided by FDA for an investigational biological product. The biological product regulations (21 CFR 601.21) apply to biological products the investigational regulations for new drugs. Thus, the investigational new drug regulations also describe the conditions under which unlicensed investigational biological products may be exported.

The June 9, 1983 document proposed to retain the agency's current policy on export of an investigational new drug or biological product subject to an IND by providing that such drug may be

exported from the United States if an IND is in effect for it and each person to whom it is shipped is an investigator named in the IND. The document also proposed to modify the procedures under which FDA may authorize export of an investigational new drug or biological product that is not subject to an IND. Whereas current regulations require that requests for export under these procedures must include a request from an authorized official of the government of the importing country and be processed through the Department of State, the agency proposed to modify this procedure by providing the following two alternative mechanisms under which an investigational new drug could be exported in these circumstances:

1. If FDA authorized export in response to a request submitted by a drug or biologic firm containing sufficient information to satisfy FDA that the drug or biological product was appropriate for investigational use, that the drug or biological product would be used for investigational purposes only, and that the drug or biological product could legally be used by the consignee in the importing country for the proposed investigational use (proposed § 312.110(b)(2)(i)); or

2. If FDA authorized export in response to a request submitted by an authorized official of the government of the importing country, submitted directly to the FDA, that specified that the government had adequate information about the drug or biological product and the proposed use, that the drug or biological product would be used for investigational purposes only, and that the drug could legally be used in the importing country (proposed § 312.110(b)(2)(ii)).

Under both of these procedures, FDA will continue to coordinate the export of unapproved drugs with the Department of State.

FDA is now issuing as a final rule these two alternative procedures governing authorization for export of an investigational new drug or biological product without being under an effective IND (§ 312.110(b)(2) (i) and (ii)). As these provisions expand upon possible export rights, and as no adverse comments were received on the proposed changes, FDA believes that firms should have an opportunity to use these revisions as soon as possible. Moreover, timely publication of these provisions is needed to avoid compelling American firms to export new technologies abroad in circumstances where that result is not desired. Therefore, FDA has decided to issue as a final rule these specific provisions apart from the remaining sections of the proposed rule and to make them effective on date of publication (5 U.S.C. 553(d) (1), (3)).

Interested persons were given until August 8, 1983, to file written comments on the proposal. Following is a summary of the comments received on the specific export provisions and FDA's responses to them.

1. One comment suggested that rather than requiring an affirmative agency response to an export request, the agency adopt a screening procedure for export authorization requests like that used for IND's. Under such a procedure, an export request would be deemed authorized if the agency failed to respond to the request within a specified period of time.

FDA believes that it is appropriate to insist that export of an investigational drug be conditioned on the receipt of an affirmative agency response authorizing such export. Requiring affirmative agency response ensures that an inappropriate export request will not be authorized through an inadvertent failure to act. This is especially important in the export authorization context where, once a drug shipment is made, FDA loses control over the regulated article.

2. One comment suggested that FDA provide a time period for responding to an export authorization request.

FDA does not believe a time period for responding to export authorization requests is necessary. FDA notes that even under the current system, in which the requests are processed through the Department of State, there has been little delay in agency action in processing requests. The agency is confident that under the revised procedures—in which requests are submitted directly to the agency—there will be even less delay and therefore even less reason to adopt a specific time period for review.

3. One comment recommended that the word "or" should be inserted between § 312.110(b)(2) (i) and (ii) to clarify that two different ways are provided for authorizing exports.

FDA agrees and has revised the regulation accordingly.

4. One comment expressed concern about the extent of information a drug firm would be required to submit to support an export authorization request submitted under § 312.110(b)(2)(i). Under that section, FDA will authorize export if it is satisfied that the drug is appropriate for investigational use in human subjects, that the drug will be used for investigational purposes only, and that the drug may legally be used by the consignee in the importing country. The comment expressed concern that the amount of information needed to satisfy the agency might be considerable and that its acquisition and transmittal to FDA would represent a significant burden to the exporting drug company.

FDA believes that the amount of information needed to support an export request under § 312.110(b)(2)(i) should usually not represent a significant burden to the exporting drug company, and will often involve less information than would be required to obtain an IND. The agency will be willing to discuss content requirements with drug firms on a case-by-case basis. At the same time, FDA notes that it is obliged under section 505(i) of the act (21 U.S.C. 351(i)) to promulgate appropriate procedures for the shipment of investigational drugs in interstate commerce. FDA interprets this statutory command to mean that the agency must have adequate information about the drug to make an independent determination of the appropriateness of a drug for interstate shipment for investigation use. FDA believes this obligation applies under the act whether an investigational drug is to be shipped within the United States or from the United States to another country.

5. One comment suggested that once the agency receives a foreign government's request for export authorization under § 312.110(b)(2)(ii), FDA should authorize export "automatically."

As in the past, FDA will accord considerable deference to the request of a foreign government to authorize shipment of an investigational drug. Nevertheless, FDA views its responsibilities for the regulation for the interstate shipment of investigational drugs as obligating the agency to make a determination that the requested shipment is appropriate. FDA does not believe, therefore, that the regulation should be amended as suggested by the comment.

6. On its own initiative, FDA is revising the procedures in § 312.110(b)(2)(ii) governing export authorization requests submitted by foreign governments to require that such requests specify the quantity of the drug to be shipped per shipment and the frequency of expected shipments. The information, which is also required in export authorization requests submitted by drug firms, will help FDA determine the scope of any proposed investigational use in a foreign country.

The agency has determined pursuant to 21 CFR Part 25 (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact

on the human environment. Therefore, neither an environment assessment nor an environmental impact statement is required.

The agency has examined the economic impact of this rule and has determined that it does not require either a regulatory impact analysis, as specified in Executive Order 12291, or a regulatory flexibility analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96–354). Specifically, the agency concludes that, because the rule will streamline the process by which current export authorization requests are reviewed and add an optional procedure under which such requests may be submitted, the economic impact associated with the procedures should be reduced. Therefore, the agency concludes that this rule is not a major rule as defined in Executive Order 12291. Further, the agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

Section 312.110 of this final rule contains information collection requirements that were submitted for review and approval to the Director of the Office of Management and Budget (OMB), as required by section 3504(h) of the Paperwork Reduction Act of 1980. The requirements were approved and assigned OMB control number 0910–0162.

List of Subjects in 21 CFR Part 312

Drugs, Medical research.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 501, 502, 503, 505, 506, 507, 701, 52 Stat. 1049–1053 as amended, 1055–1056 as amended, 55 Stat. 851, 59 Stat. 463 as amended (21 U.S.C. 351, 352, 353, 356, 357, 371)) and the Public Health Service Act (secs. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 312 is amended as follows:

PART 312—NEW DRUGS FOR INVESTIGATIONAL USE

§ 312.1 [Amended]

1. In § 312.1 *Conditions for exemption of new drugs for investigational use* in paragraph (a)(2) by removing the undesignated paragraph that begins with *"Provided, however,* * * *," following Form FD–1571.

2. By adding a new Subpart E consisting of § 312.110, to read as follows:

Subpart E—Miscellaneous

§ 312.110 Import and export requirements.

(a) [Reserved]

(b) *Exports.* An investigational new drug intended for export from the United States complies with the requirements of this part as follows:

(1) [Reserved]

(2) If FDA authorizes shipment of the drug for use in clinical investigation. Authorization may be obtained as follows:

(i) Through submission to the International Affairs Staff (HFY–50), Associate Commissioner for Health Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, of a written request from the person that seeks to export the drug. A request must provide adequate information about the drug to satisfy FDA that the drug is appropriate for the proposed investigational use in humans, that the drug will be used for investigational purposes only, and that the drug may be legally used by that consignee in the importing country for the proposed investigational use. The request shall specify the quantity of the drug to be shipped per shipment and the frequency of expected shipments. If FDA authorizes exportation under this paragraph, the agency shall concurrently notify the government of the importing country of such authorization; or

(ii) Through submission to the International Affairs Staff (HFY–50), Associate Commissioner for Health Affairs, FDA, of a formal request from an authorized official of the government of the country to which the drug is proposed to be shipped. Such a request must specify that the foreign government has adequate information about the drug and the proposed investigational use, that the drug will be used for investigational purposes only, and that the foreign government is satisfied that the drug may legally be used by the intended consignee in that country. Such a request shall specify the quantity of drug to be shipped per shipment and the frequency of expected shipments.

(iii) Authorization to export an investigational drug under paragraph (b)(2) (i) or (ii) of this section may be revoked by FDA if the agency finds that the conditions underlying its authorization are no longer met.

(3) This paragraph applies only where the drug is to be used for the purpose of clinical investigation. Export of an investigational drug for commercial marketing or for use in routine medical practice is not permitted.

(The information collection requirements of this section were approved by the Office of Management and Budget and assigned OMB Control number 0910–0162)

Effective date January 18, 1984.

(Secs. 501, 502, 503, 505, 506, 507, 701, 52 Stat. 1049–1053 as amended, 1055–1056 as amended, 55 Stat. 851, 59 Stat. 463 as amended (21 U.S.C. 351, 352, 353, 356, 357, 371); secs. 351, 58 Stat. 702 as amended (42 U.S.C. 262))

Dated: January 9, 1984.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 84–1400 Filed 1–16–84; 12:28 pm]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 26

Employment Assistance for Adult Indians

November 29, 1983.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs is publishing a final rule to describe a program to assist adults to obtain employment. This program has been in existence in some form since 1948, but has never been described in the Code of Federal Regulations. These new regulations fully describe the eligibility criteria, application procedures, and eliminates some client benefits such as grant expenditures for home purchase and medical costs.

EFFECTIVE DATE: February 17, 1983.

FOR FURTHER INFORMATION CONTACT: Robert F. Delaware, Division of Job Placement and Training, Bureau of Indian Affairs, 1951 Constitution Avenue, N.W., Washington, D.C. 20245, telephone number (202) 343–3668.

SUPPLEMENTARY INFORMATION: The authority to issue rules and regulations is vested in the Secretary of the Interior by 25 U.S.C. 2 and 9, 5 U.S.C. 301.

This final rule is published in exercise of rulemaking authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Nothing in these regulations should be construed to guarantee funding for the Employment Assistance for Adult Indians program. All financial benefits for participants and contracts associated with this program are dependent upon the availability of funds. The Bureau of Indian Affairs published proposed rules on October 14.

1977 (42 FR 55229). Revised regulations were drafted and published again as reproposed regulations on August 31, 1982. (47 FR 38355). The comment period on the reproposed rules closed on September 30, 1982. Comments were reviewed and considered and changes were made or not made as indicated below:

A. Changes Made Due to Comments Received

(1) Paragraph (g) of § 26.1, definition of "Indian" has been changed to conform to the most recent standard Bureau definition. Some commenters recommended that the "one-fourth degree or more blood quantum" remain in the definition. The definition includes this recommendation.

(2) Paragraphs (h), (j), and (l) of § 26.1 have been changed to conform to the most recent standard Bureau definition of "Indian tribe," "Reservation," and "Tribal governing body."

(3) A new § 26.3 is added to Subpart A for information collection purposes to meet the requirements of the new guidelines issued by the Office of Management and Budget (OMB). The individual applicant is required to submit an Application for Training or Employment Assistance before a determination can be made as to the applicant's eligibility to participate in this program. The form has been approved by OMB in accordance with 44 U.S.C. 3504(h). The clearance number is 1076–0062. The title of Subpart A is changed to reflect this new section. OMB has also approved requesting information relating to employment of an Indian person under clearance number 1076–0061.

(4) Paragraph (a) of § 26.4 has been changed to explain that the applicant should apply, be funded and receive services at the servicing office nearest to his/her residence at the time of making an application.

(5) Some commenters suggested that paragraph (e) of § 26.5 be changed to clearly explain "repeat employment services". Paragraph (e) has been changed to adopt the suggestion.

(6) Several commenters objected to paragraph (b) of § 26.7 relating to the thirty (30) percent for administration and seventy (70) percent for participant costs at the service delivery area. This has been modified to include the overall "funds appropriated for any fiscal year" rather than "service delivery area." Editorial changes were made relative to the four subparagraphs under paragraph (b) of § 26.7.

(7) Some commenters recommended minor and administrative changes. Examples of the changes made are contained in paragraph (b)(1) of § 26.6 by explicitly stating that the high school student must be at least 17 years of age; paragraph (b)(2) of § 26.6 by adding the words "as allowed by the Area Director"; eliminating the words "maternity benefits" from paragraph (d) of § 26.6; and eliminating the phrase "financial assistance may be provided for transportation to job interviews when such interviews are verified as required for job placement" in paragraph (e)(6) of § 26.6.

B. Proposed Changes Not Adopted

(1) One commenter suggested a 50-mile radius be established for "near reservation" as used in paragraph (a) of § 26.5 "Near reservation" conforms to the definition found in 25 CFR 20.1(r) and it would lead to confusion to have different definitions of "near reservation" for different services provided by the Bureau.

(2) One commenter suggested that health and accident insurance be included in paragraph (b) of § 26.7. No change was made since medical benefits are being eliminated from the program.

The primary author of this document is Robert F. Delaware, Bureau of Indian Affairs, Division of Job Placement and Training, telephone number (202) 343–3668.

It has been determined that this document is not a major rule as defined in Executive Order 12291 because it will have no economic impact on the public and it will not have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, Pub. L. 95–354. These rules apply to individual Indians who complete an application to participate in this program and these individuals are not classified as small entities.

This regulation does not significantly affect the environment. An environmental impact statement is not required under the National Environmental Policy Act of 1969.

The information collection requirements contained in §§ 26.4 and 26.6 have been approved by OMB under 44 U.S.C. 3504(h) and assigned clearance numbers 1076–0062, and 1076–0061. This approval will expire on January 31, 1986.

List of Subjects in 25 CFR Part 26

Administrative practice and procedure, Community development, Employment—manpower, Grant programs—Indians, Employment assistance—Indians.

Part 26 is added as a new part to Subchapter D of Chapter I of Title 25 of the Code of Federal Regulations and reads as follows:

PART 26—EMPLOYMENT ASSISTANCE FOR ADULT INDIANS

Subpart A—Definitions, Scope of the Employment Assistance Program and Information Collection

Sec.
26.1 Definitions.
26.2 Scope of the Employment Assistance Program.
26.3 Information collection.

Subpart B—Administrative Procedures

26.4 Filing applications.
26.5 Selection of applicants.
26.6 Program services and client participation.
26.7 Financial assistance for program participants.

Subpart C—Appeals

26.8 Appeals.

Authority: 25 U.S.C. 13.

Subpart A—Definitions, Scope of the Employment Assistance Program and Information Collection

§ 26.1 Definitions.

(a) "Agency Office" means the current organization unit of the Bureau which provides direct services to the governing body or bodies and members of one or more specified Indian tribes.

(b) "Appeal" means a written request for correction of an action or decision claimed to violate a person's legal rights or privileges as provided in Part 2 of this chapter.

(c) "Applicant" means an individual applying under this part.

(d) "Application" means the process through which a request is made for assistance or services.

(e) "Area Director" means the Bureau official in charge of an Area Office.

(f) "Contract Office" means the office established by a tribe or tribes who have a contract to administer the Employment Assistance Program.

(g) "Indian" means any person of Indian or Alaska native descent who is an enrolled member of any of those tribes listed or eligible to be listed in the Federal Register pursuant to 25 CFR 83.6 as recognized by and receiving services from the Bureau of Indian Affairs or a descendant of one-fourth degree or more Indian blood of an enrolled member; and any person not a member of one of the listed or eligible to be listed tribes who possesses at least one-half degree of Indian blood which is not derived from a tribe whose relationship is terminated by an Act of Congress.

(h) "Indian tribe" means any Indian tribe, band, nation or other organized group or community including any Alaska Native Village which is recognized by the Secretary of the

Interior as having special rights and responsibilities and is recognized as eligible for the services provided by the United States to Indians because of their status as Indians.

(i) "Near reservation" means those areas or communities adjacent or contiguous to reservations which are designated by the Assistant Secretary upon recommendation of the local Bureau superintendent, which recommendation shall be based upon agreement with the tribal governing body of those reservations, as locales appropriate for the extension of financial and/or social services, on the basis of such general criteria as:

(1) Number of Indian people native to the reservation residing in the area,

(2) Geographical proximity of the area to the reservation, and

(3) Administrative feasibility of providing an adequate level of services to the area. The Assistant Secretary shall designate each area and publish the designations in the **Federal Register**.

(j) "Reservation" means any bounded geographical area established or created by treaty, statute, executive order or interpreted by court decision and over which a Federally recognized Indian Tribal entity may exercise certain jurisdiction.

(k) "Superintendent" means the Superintendent or Officer in Charge of any one of the Agency offices of the Bureau of Indian Affairs or his/her authorized representative.

(l) "Tribal governing body" means the recognized entity empowered to exercise the governmental authority of a Federally recognized tribe.

§ 26.2 Scope of the Employment Assistance Program.

The purpose of the Employment Assistance Program is to assist Indian people who have a job skill to obtain and retain permanent employment. Within that framework, the program provides services to eligible Indians, as provided in § 26.5, including vocational counseling and employment services on reservations and at other home areas, in communities near reservations and in off-reservation areas. Support services are also included, as provided in § 26.6.

§ 26.3 Information collection.

The information collection requirements contained in §§ 26.4 and 26.6 have been approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3504(h) and are assigned clearance numbers 1076–0062 and 1076–0061. Information necessary for an application for employment assistance will be submitted on an application form which may be obtained at a local Bureau of Indian Affairs Agency or tribal program contractor office. This information is being collected for the purpose of applying for Federal assistance. The information will be used to determine if an Indian person is eligible to participate in this program and to determine the amount of assistance needed. The obligation to respond is a requirement to obtain the benefits.

Subpart B—Administrative Procedures

§ 26.4 Filing applications.

(a) Application for Employment Assistance services must be filed at Bureau of Indian Affairs Agency offices, or at facilities under contract with the Bureau or contract offices which are located on or near reservations or other geographic areas of eligibility. Applications are approved by the Agency Superintendent or designated contractor. An eligible applicant should apply, be funded and receive services at the servicing office nearest to his/her residence at the time of application.

(b) For clarity and uniformity, application forms used will be in accordance with the requirements of the Paperwork Reduction Act, section 3504(h) of Pub. L. 96–511.

§ 26.5 Selection of applicants.

(a) Applicants must be adult Indians residing on or near Indian reservations and demonstrate a need for employment services.

(b) An applicant must be unemployed or underemployed in order to receive employment services.

(c) Selection of applicants shall be made without regard to sex or marital status.

(d) Only those applicants who declare a desire and intent to accept and retain full time permanent employment at the employment location chosen shall be selected, with the exception of those individuals participating in the temporary summer placement program as provided in § 26.6(b)(1).

(e) Repeat employment services involving expenditure of grant funds are to be determined on an individual basis, considering ability, prior performance, need and motivation. No client shall automatically be entitled to funded repeat services. No more than two (2) funded repeat services for a client shall be allowed. Exceptions may be made if additional funded services not provided would create extreme hardship on the client. Applications are to be submitted with proper justification for repeat service to the Area Director for approval or disapproval.

§ 26.6 Program services and client participation.

(a) When a request is made for employment services, the applicant shall be offered assistance to assess his/her job skills and work experience and to relate these to available employment opportunities. In many cases, applicants for placement services will already possess training skills, and/or experience sufficient for entry into job placement. In other cases, applicants may be encouraged to consider further education or training options as a preliminary to permanent employment. In any case, vocational counseling appropriate to the individual situation shall be made available.

(b) Services may be provided either with or without the expenditure of financial grants depending upon the type of service requested and the need for financial assistance. Funds shall not be provided to finance temporary employment except for the following:

(1) High school students who are at least 17 years of age or college students participating in summer placement programs to gain work experience and temporary income may receive limited funding as needed to enable such persons to secure and hold summer jobs. This special service will not count against the number of services allowed under § 26.5(e).

(2) Persons who have moved to an off-reservation area for permanent employment, through services of the Employment Assistance program, may at times be required to accept temporary employment until permanent employment is available. Such persons may receive funds as needed within established limitations and justifiable circumstances, as allowed by the Area Director, until permanent employment is found and/or the need is met.

(c) Permanent employment shall normally be defined as employment which is generally anticipated to be of one year or more in duration. Employment in the construction or other trades where moving from one job to another is generally required of persons engaged in such occupations shall be considered as permanent employment.

(d) In those cases where applicants apply and are selected for employment services in off-reservation urban locations, a variety of services may be provided, based upon individual client needs and requests for assistance. These may include advice in rental of housing, shopping, money management, community adjustment, counseling, applying for and seeking employment, and emergency financial assistance for up to six months from the date of entry

into this program. Continuing non-financial assistance, as needed, shall remain indefinitely available.

(e) Assistance as needed may be provided to enable clients who move for employment to an off-reservation urban or non-urban area to accept a specific job offer. In such cases, however, transportation or financial assistance may be provided only after confirmation has been obtained from the employer, giving details of employment, including the following:

(1) Job title,
(2) Beginning wage,
(3) Date to start work,
(4) First payday,
(5) First full payday, and
(6) A statement that the job is anticipated to be of a permanent nature.

§ 26.7 Financial assistance for program participants.

(a) Individuals or families with a family member participating in the Employment Assistance program may be granted financial assistance, as needed, based upon rates established by the Area Director for the respective areas or jurisdictions within those areas.

(b) Not more than thirty (30) percent of the funds appropriated for any program year may be used to pay for the costs of administration. Administrative costs include salaries and fringe benefits of direct program administrative positions such as program director or program officer, program/financial analyst, labor market analyst, clerical personnel, travel costs, materials, supplies, equipment, space and utilities. The remaining seventy (70) percent of funds available may be used for transportation and subsistence enroute to employment location; subsistence for one month or until the first paycheck from employment is received; emergency assistance is allowed where verified emergencies justify such grants and must have Area Director approval; and supportive services. Supportive services includes tools for employment, initial union dues, transportation of household effects, security and safety deposits, personal appearance and housewares, child care, and costs of employment counselors engaged in providing services to applicants (salaries, fringe benefits and travel costs).

(c) Marital status of applicants is not a consideration for determining eligibility for services, but this factor is a consideration for determining appropriate subsistence grants. Proof of a legal relationship requiring support shall be required as a basis for application of family subsistence rates. In the case of married persons, proof of marriage shall be required to satisfy this requirement.

(d) Financial assistance shall not be used to supplement the income of a person already employed.

Subpart C—Appeals

§ 26.8 Appeals.

The decision of any Bureau official under this part can be appealed pursuant to the procedures in 25 CFR Part 2.

(Catalog of Federal Domestic Assistance Program No. 15.108 Indian Employment Assistance)

John W. Fritz,
Acting Assistant Secretary—Indian Affairs.

[FR Doc. 84-1231 Filed 1-17-84; 8:45 am]
BILLING CODE 4310-02-M

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25 CFR Part 27

Vocational Training for Adult Indians

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs is publishing a final rule that amends existing regulations to implement a vocational training program for adult Indians. The amended regulations fully describe the eligibility criteria, application procedures, and eliminates some client benefits such as grant expenditures for home purchase and medical costs.

EFFECTIVE DATE: February 17, 1984.

FOR FURTHER INFORMATION CONTACT: Robert F. Delaware, Division of Job Placement and Training, Bureau of Indian Affairs, 1951 Constitution Avenue, NW., Washington, D.C. 20245, telephone number (202) 343-3668.

SUPPLEMENTARY INFORMATION: The authority to issue rules and regulations is vested in the Secretary of the Interior by 25 U.S.C. 2 and 9, 5 U.S.C. 301.

This final rule is published in exercise of rulemaking authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Nothing in these regulations should be construed to guarantee funding for the Vocational Training for Adult Indians program. All financial benefits for participants and contracts associated with this program are dependent upon the availability of funds.

The Bureau of Indian Affairs published proposed rules on October 14, 1977 (42 FR 55231). Revised regulations were drafted and published again as reproposed regulations on August 31, 1982 (47 FR 38358). The comment period on the reproposed rules closed on September 30, 1982. Comments were reviewed and considered and changes were made or not made as indicated below:

A. Changes Made Due to Comments Received

(1) Paragraph (i) of § 27.1, definition of "Indian", has been changed to conform to the most recent standard Bureau definition. Some commenters recommended that the "one-fourth degree or more blood quantum" remain in the definition. The definition includes this recommendation.

(2) Paragraphs (j), (l) and (n) of § 27.1 have been changed to conform to the most recent standard Bureau definition of "Indian tribe", "Reservation", and "Tribal governing body."

(3) Section 27.2 has been changed to reflect the purpose of authorizing law for this program. Part-time training has been eliminated since it does not comply with the intent of the law.

(4) A new § 27.3 is added to Subpart A for information collection purposes to meet the requirements of the new guidelines issued by the Office of Management and Budget (OMB). The individual applicant is required to submit an Application for Training or Employment Assistance before a determination can be made as to the applicant's eligibility to participate in this program. The form has been approved by OMB in accordance with 44 U.S.C. 3504(h). The clearance number is 1076-0062. The title of Subpart A is changed to reflect this new section. OMB has also approved requesting training progress reports from training institutions under clearance number 1076-0069, and requesting information from an on-the-job training contractor concerning expansion of his/her enterprise prior to awarding a contract to start a third year under clearance number 1076-0063.

(5) Paragraph (a) of § 27.4 has been changed to explain that the applicant should apply, be funded and receive services at the servicing office nearest to his/her residence at the time of making application.

(6) One commenter suggested that paragraph (a) of § 27.5 be changed to read "Applicants must be adult Indians residing on or near Indian Reservations". This has been done to clearly explain the selection of applicants.

(7) Several commenters recommended the words "or married Indians" be

deleted from paragraph (b) of § 27.5. They felt these words could be interpreted that this program advocates early marriage. Paragraph (b) of § 27.5 has been changed by deleting the words "or married Indians".

(8) Paragraphs (c) and (d) of § 27.5 have been changed to clearly explain the selection of applicants. Paragraph (c) had these words added to the first sentence, "or is underemployed and without additional training would result in extreme hardship for the applicant." Paragraph (d) had this sentence added, "Non-Indian spouses shall not be eligible for training". Paragraph (e) of § 27.5 was deleted in its entirety except the last sentence which is included in paragraph (d) as stated in the previous sentence.

(9) Paragraph (f) of § 27.5 is hereby redesignated (e) and Paragraph (g) of § 27.5 is hereby redesignated (f).

(10) Several commenters recommended that paragraph (b) of § 27.7 reflect "cooperative education". Paragraph (b) is changed to include "cooperative education".

(11) One commenter suggested that paragraph (c) of § 27.7 be changed to include "Area Director" and delete "agency office". Paragraph (c) is changed by deleting the words "Agency Office" and adding the words "Area Director".

(12) Several commenters recommended that § 27.9 include reference to on-the-job training contractors and that reimbursement may be one-half of the starting hourly wage rate and the hourly wage rate must be at least the established minimum wage rate. Paragraph (c) is added to § 27.9 to reflect this recommendation.

(13) Several commenters suggested that changes be made to paragraph (a) of § 27.10. Suggested changes were to delete reference to "Part time training" as the intent of the authorizing law does not include "part time training"; eliminate medical benefits since this is a costly area for this program; and delete personal appearance and housewares, furniture, tools for employment, child care, shipment of household goods, security deposits and other required expenses as deemed and maternity benefits. Paragraph (a) was changed to include subparagraphs (1) "transportation to the place of training," (2) "tuition and related training costs," (3) "subsistence while in training", because they were in the intent of the authorizing law and subparagraphs (4) "supportive services" and (5) "emergency assistance" are allowed should the Area Director need to authorize payment of a justifiable expense.

(14) Several commenters objected to paragraph (b) of § 27.10 relating to the thirty (30) percent for administration and seventy (70) percent for training costs at the service delivery area. This has been modified to include the overall "funds appropriated for any fiscal year" rather then "service delivery area." Editorial changes were made relative to the five subparagraphs under paragraph (a) of § 27.10

B. Proposed Changes Not Adopted

(1) One commenter suggested a 50-mile radius be established for "near reservation", as used in paragraph (a) of § 27.5. "Near reservation" conforms to the definition found in 25 CFR 20.1(r) and it would lead to confusion to have different definitions of "near reservation" for different services provided by the Bureau.

(2) One commenter questioned the change in age as stated in paragraph (b) of § 27.5. This is not a change in age but explains what criteria a person over thirty-five (35) years of age must meet in order to be eligible for adult vocational training.

(3) One commenter suggested that paragraph (c) of § 27.7 be changed so that adult vocational training program contractors under Pub. L. 93-638 could approve training courses. Approval of training courses is not being given to adult vocational training program contractors until experience indicates that such approval should be more widely authorized than provided by § 27.7.

(4) One commenter suggested that health and accident insurance be included in paragraph (a) of § 27.10. No change was made since medical benefits is being eliminated from the program.

The primary author of this document is Robert F. Delaware, Bureau of Indian Affairs, Division of Job Placement and Training, telephone number (202) 343-3668.

It has been determined that this document is not a major rule as defined in Executive Order 12291 because it will have no economic impact on the public and it will not have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, Pub. L. 95-354. These rules apply to individual Indians who complete an application to participate in this program and these individuals are not classified as small entities.

This regulation does not significantly affect the environment. An environmental impact statement is not required under the National Environmental Policy Act of 1969.

The information collection requirements contained in §§ 27.4, 27.6 and 27.9 have been approved by OMB under 44 U.S.C. 3504(h) and assigned clearance numbers 1076-0062, 1076-0063 and 1076-0069. This approval will expire on January 31, 1986.

List of Subjects in 25 CFR Part 27

Administrative practice and procedure, Vocational education, Manpower training programs, Grant programs—Indians and adult education.

Part 27 of Subchapter D of Chapter 1 of Title 25 of the Code of Federal Regulations is revised to read as follows:

PART 27—VOCATIONAL TRAINING FOR ADULT INDIANS

Subpart A—Definitions, Scope of the Vocational Training Program and Information Collection

Sec.
27.1 Definitions.
27.2 Scope of the vocational training program.
27.3 Information collection.

Subpart B—Administrative Procedures

27.4 Filing applications.
27.5 Selection of applicants.
27.6 Satisfactory progress during training.
27.7 Approval of courses for vocational training at institutions.
27.8 Approval of apprenticeship training.
27.9 Approval of on-the-job training.
27.10 Financial assistance for trainees.
27.11 Contracts and agreements.

Subpart C—Appeals

27.12 Appeals.

Authority: Sec. 1, Pub. L. 84-959, 70 Stat. 986 as amended by Pub. L. 88-230, 77 Stat. 471 (25 U.S.C. 309).

Subpart A—Definitions, Scope of the Vocational Training Program and Information Collection

§ 27.1 Definitions.

(a) "Agency Office" means the current organization unit of the Bureau which provides direct services to the governing body or bodies and members of one or more specified Indian tribes.

(b) "Appeal" means a written request for correction of an action or decision claimed to violate a person's legal rights or privileges as provided in Part 2 of this chapter.

(c) "Applicant" means an individual applying under this part.

(d) "Application" means the process through which a request is made for assistance or services.

(e) "Area Director" means the Bureau official in charge of an Area Office or his/her authorized representative.

(f) "Assistant Secretary" means the Assistant Secretary of the Interior for

Indian Affairs or his/her authorized representative.

(g) "Contract Office" means the office established by a tribe or tribes who have a contract to administer the adult vocational training program.

(h) "Full time" institutional training is:

(1) An institutional trade or technical course offered on a clock-hour basis below the college level, involving shop practices as an integral part thereof when a minimum of thirty (30) hours per week of attendance is required with not more than 2½ hours of rest periods per week allowed.

(2) An institutional vocational course offered on a clock-hour basis below the college level in which theoretical or classroom instruction predominates when a minimum of twenty-five (25) hours per week net of instruction is required, or

(3) An institutional undergraduate vocational course offered by a college or university on a quarter or semester-hour basis when a minimum of twelve (12) semester credit hours or its equivalent is required.

(i) "Indian" means any person of Indian or Alaska native descent who is an enrolled member of any of those tribes listed or eligible to be listed in the **Federal Register** pursuant to 25 CFR 83.6 as recognized by and receiving services from the Bureau of Indian Affairs or a descendant of one-fourth degree or more Indian blood of an enrolled member and any person not a member of one of the listed or eligible to be listed tribes who possesses at least one-half degree of Indian blood which is not derived from a tribe whose relationship is terminated by an Act of Congress.

(j) "Indian tribe" means any Indian tribe, band, nation or other organized group or community, including any Alaska native village, which is recognized by the Secretary of the Interior as having special rights and responsibilities and is recognized as eligible for the services provided by the United States to Indians because of their status as Indians.

(k) "Near reservation" means those areas or communities adjacent or contiguous to reservations which are designated by the Assistant Secretary upon recommendation of the local Bureau superintendent, which recommendation shall be based upon agreement with the tribal governing body of those reservations, as locales appropriate for the extension of financial assistance and/or social services, on the basis of such general criteria as:

(1) Number of Indian people native to the reservation residing in the area,

(2) Geographical proximity of the area to the reservation, and

(3) Administrative feasibility of providing an adequate level of services to the area. The Assistant Secretary shall designate each area and publish the designations in the **Federal Register**.

(l) "Reservation" means any bounded geographical area established or created by treaty, statute, executive order or as interpreted by court decision and over which a Federally recognized Indian tribal entity may exercise certain jurisdiction.

(m) "Superintendent" means the Superintendent or Officer in Charge of any of the Agency offices of the Bureau of Indian Affairs or his/her authorized representative.

(n) "Tribal governing body" means the recognized entity empowered to exercise the governmental authority of a Federally recognized tribe.

§ 27.2 Scope of the vocational training program.

The purpose of the vocational training program is to assist Indian people to acquire the job skills necessary for full time satisfactory employment. Within that framework, the program provides testing, vocational counseling or guidance to assist program participants to make career choices relating personal assets to training option and availability of jobs in the labor market. The program provides for full time institutional training in any vocational or trade school as provided in § 27.7. Apprenticeship and on-the-job training are also provided. Institutional, apprenticeship, or on-the-job training courses shall not exceed twenty-four (24) months in length, with the exception that Registered Nurses training may be for periods not to exceed thirty-six (36) months. Individual program recipients may not receive more than twenty-four (24) months of full-time training, except that Registered Nursing students may receive not more than thirty-six (36) months of training.

§ 27.3 Information collection.

The information collection requirements contained in section 27.4, 27.6 and 27.9 have been approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3504(h) and are assigned clearance numbers 1076–0062, 1076–0063 and 1076–0069. Information necessary for an application for vocational training assistance will be submitted on an application form which may be obtained at a local Bureau of Indian Affairs Agency or tribal program contractor office. This information is being collected for the purpose of applying for Federal assistance. The information will be used to determine if an Indian individual is eligible to participate in this program and to determine the amount of assistance needed. The obligation to respond is a requirement to obtain the benefits.

Subpart B—Administrative Procedures

§ 27.4 Filing applications.

(a) Applications for adult vocational training services must be filed at Bureau of Indian Affairs agency offices, or at facilities under contract with the Bureau or contract offices located on or near reservations or other geographic areas of eligibility. Applications are approved by the Agency Superintendent or designated contractor. An eligible applicant should apply, be funded and receive services at the servicing office nearest to his/her residence at the time of application.

(b) For clarity and uniformity, application forms used will be in accordance with the requirements of the Paperwork Reduction Act, Sec. 3504(h) of Pub. L. 96–511.

§ 27.5 Selection of applicants.

(a) Applicants must be adult Indians residing on or near Indian reservations.

(b) Eligible individuals shall be at least eighteen (18) years of age, except that high school graduates shall be eligible at the age of seventeen (17) years. Also, while the program is designed primarily for persons between the ages of eighteen (18) and thirty-five (35), persons over the age of thirty-five (35) shall be eligible, assuming training and permanent employment to be otherwise feasible in terms of health and physical capability.

(c) An applicant must be in need of training in order to obtain reasonable and satisfactory employment or is underemployed and without additional training would result in extreme hardship for the applicant, and is in need of financial assistance in order to obtain such training. It must also be feasible for the applicant to pursue training.

(d) Selection of applicants shall be made without regard to sex or marital status, providing they meet the requirements of paragraphs (a), (b), and (c) of this section. Non-Indian spouses shall not be eligible for training.

(e) No more than two (2) repeat training services will be allowed. Repeat training services will be on a lower priority than the initial service and will be determined on an individual basis, considering need, ability, prior performance and present motivation of the applicant. In order to be in need of

repeat institutional training, an applicant must be unemployed, underemployed, or unable to work in his/her primary occupation due to physical or other disabilities. Time spent in on-the-job training programs will be deducted from the maximum of institutional training eligibility.

(f) Only those applicants who willingly declare intent to accept full time employment as soon as possible after completion of training shall be selected. Plans may subsequently change, but the intent of the training program is preparation for employment, and this must be the initial intent of program participants. The program is not meant to serve as a preliminary to immediate further education.

§ 27.6 Satisfactory progress during training.

An individual who enters training pursuant to the provisions of this part is required to make satisfactory progress in training. Individuals in institutional vocational training courses are required to give evidence of progress by authorizing the institution attended to provide grade and/or progress reports to the appropriate Bureau of Indian Affairs or contract office. Program participants shall maintain a reasonable standard of conduct. Failure to meet these requirements due to reasons within the trainee's control may result in termination of training benefits.

§ 27.7 Approval of courses for vocational training at institutions.

(a) A course of vocational training at any institution, public or private, offering vocational training may be approved by the Assistance Secretary; *provided:*

(1) The institution is accredited by a recognized national regional accrediting association; or

(2) The institution is approved for training by a state agency authorized to make such approvals; and

(3) It is determined that there is reasonable certainty of employment for graduates of the institution in their respective fields of training.

(b) Cooperative education (a combination of classroom theory with related practical job experience) is considered as valuable learning experience and is specifically allowed and encouraged.

(c) Vocational training courses offered through Indian tribal governments need not be accredited but must show reasonable expectation of leading to employment and be approved by the Area Director.

§ 27.8 Approval of apprenticeship training.

A program of apprenticeship training may be approved when such training:

(a) Is offered by a corporation or association which has furnished such training to bona fide apprentices for at least one year preceding participation in this program;

(b) Is under the supervision of a State apprenticeship agency, a State Apprenticeship Council, or the Federal Apprenticeship Training Services;

(c) Leads to an occupation which requires the use of skills that normally are learned through training on the job and employment which is based upon training on the job rather than upon such elements as length of service, normal turnover, personality, and other personal characteristics; and

(d) Is identified expressly as apprenticeship training by the establishment offering it.

§ 27.9 Approval of on-the-job training.

(a) On-the-job training contracts shall be approved only by the official to whom such authority has been delegated in the 10 BIAM.

(b) On-the-job training may be approved when such training is offered by a corporation, small business, association, tribe or tribal enterprise which provides an on-the-job training program offering definite potential for skilled permanent employment.

(c) Yearly on-the-job training contractual agreements with a specific contractor shall not be renewed beyond the second year without review and written approval from the Assistant Secretary-Indian Affairs. Extension of contracts exceeding two years will be based upon a contractors demonstrated expansion of the enterprise, need for additional trainees, and placement of trainees completing the program.

(d) Reimbursement to the on-the-job training contractor may include one-half of the hourly wage paid during the training period with the contractor paying the other half. The hourly rate must be at least the established minimum wage under the Fair Labor Standards Act of 1938, as amended.

§ 27.10 Financial assistance for trainees.

(a) Applicants entering full-time training under this part may be granted financial assistance as needed, based upon rates established by the Area Director for the respective areas, or jurisdictions within those areas. Trainees may be assisted to secure educational grants from other sources for which they qualify. Such income shall be considered in computing amounts of financial assistance to be provided by the Bureau of Indian Affairs. Marital status of trainees is not a consideration for determining eligibility for training, but this factor is a consideration in determining appropriate subsistence grants. Proof of a legal relationship requiring support shall be required as a basis for application of family subsistence rates. In the case of married persons, proof of marriage shall be required to satisfy this requirement. Financial assistance may be provided for transportation and subsistence enroute to training; tuition and related training costs; subsistence while in training; emergency assistance is allowed where verified emergencies justify such grants and must have Area Director approval; and supportive services while in training. Supportive services includes tools for employment, initial union dues, transportation of household effects, security and safety deposits, personal appearance and housewares, child care, and cost of vocational training counselors engaged in providing services to trainees (salaries, fringe benefits and travel costs).

(b) Not more than thirty (30) percent of the funds appropriated for any program year may be used to pay for the costs of administration. Administrative costs include salaries and fringe benefits of direct program administrative positions such as program director or program officer, program/financial analyst, labor market analyst, clerical personnel, travel costs, materials, supplies, equipment, space and utilities.

§ 27.11 Contracts and agreements.

Training facilities and services required for programs of vocational training may be arranged through contracts or agreements with agencies, establishments or organizations. These may include:

(a) Indian tribal governing bodies,

(b) Appropriate Federal, State or local government agencies,

(c) Public or private schools which have a recognized reputation in vocational education as successfully obtaining employment for graduates in the fields of training approved by the Assistant Secretary or his/her authorized representative for purposes of the program,

(d) Educational firms to operate residential training centers, or

(e) Corporations and associations or small business establishments with apprenticeship or on-the-job training programs leading to skilled employment.

Subpart C—Appeals

§ 27.12 Appeals.

The decisions of any Bureau official under this part can be appealed pursuant to the procedures in 25 CFR Part 2.

(Catalog of Federal Domestic Assistance Program No. 15.108 Indian Employment Assistance)

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 84-1232 Filed 1-17-84; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7934; EE-11-78]

Income Tax; Taxable Years Beginning After December 31, 1953; Early Termination of Qualified Plans

Correction

In FR Doc. 84-643 beginning on page 1182 in the issue of Tuesday, January 10, 1984, make the following corrections.

1. On page 1182, third column, second complete paragraph, fifteenth line, "(the date final regulations are published in the **Federal Register**)", should have read "January 10, 1984".

2. On page 1183, second column, third line of § 1.401-4(c)(7)(i), "section 412(b)(2))" should have read "section 412(h)(2))".

BILLING CODE 1505-01-M

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26 CFR Parts 1 and 55

[T.D. 7936]

Real Estate Investment Trusts and Regulated Investment Companies

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to deficiency dividends paid by certain regulated investment companies (RICs) and real estate investment trusts (REITs). Changes to the applicable tax law were made by the Tax Reform Act of 1976 and the Revenue Act of 1978. A RIC or REIT whose income is adjusted by a determination will be affected by the regulations.

DATES: The regulations apply to certain court decisions or other determinations occurring after October 4, 1976, for REITs, and after November 6, 1978, for RICs.

FOR FURTHER INFORMATION CONTACT: Michel A. Dazé of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, Attention: CC:LR:T (202-566-3458, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains final amendments to the Income Tax Regulations (26 CFR Part 1) under section 860 of the Internal Revenue Code, which relates to deficiency dividends of RICs and REITs. These regulations were published in proposed form in the **Federal Register** on March 31, 1980 (45 FR 20925).

Section 1601 of the Tax Reform Act of 1976 (Pub. L. 94-455, 90 Stat. 1742) added a new section 859 to the Code. This section established a procedure by which a REIT could be relieved from the payment of a deficiency in (or be allowed a credit or refund with respect to) certain income taxes that are determined by taking into account the deduction for dividends paid. This procedure allows an additional deduction for dividends paid by a REIT after a determination with respect to its income tax liability. Subject to certain limitations, the deficiency dividend is included in the deduction for dividends paid for the taxable year to which the determination applies. A REIT that pays a deficiency dividend is subject to interest and penalties determined with respect to the amount of the deduction allowed. Section 859 applied to determinations with respect to REITs after October 4, 1976.

Section 362 of the Revenue Act of 1978 (Pub. L. 95-600, 92 Stat. 2448) extended the privilege of paying deficiency dividends to RICs, effective with respect to determinations after November 6, 1978. The 1978 Act also consolidated the deficiency dividend provisions for both RICs and REITs into new section 860 of the Code.

A number of provisions in the proposed regulations substantially duplicated proposed regulations published in the **Federal Register** on July 7, 1978 (43 FR 29317), which dealt with the taxation of REITs and included rules for applying the deficiency dividend procedure of former section 859 to REITs. Since final REIT regulations were published on February 6, 1981 (46 FR 11254), the substance of many of the amendments proposed on March 31, 1980, has already been incorporated into the Income Tax Regulations. Where the REIT regulations and the proposed regulations differed on matters of style not affecting substance, these final regulations occasionally follow the language of the proposed regulations. The final regulations conform the REIT regulations to section 362 of the 1978 Act and provide rules for applying the deficiency dividend procedure to both RICs and REITs.

Prior to the 1978 Act, section 860 dealt with accounting periods for REITs. The 1978 Act amended the section and redesignated it as section 859. The REIT regulations, which did not reflect the changes made by the 1978 Act, added § 1.860-1 to the Income Tax Regulations (§ 1.860-1 merely followed the language of former section 860). Because this Treasury decision does not provide rules under the new section 859, § 1.860-1 has simply been removed.

Comments

Only one comment was received that recommended a change in the regulations as proposed. This comment related to a RIC that has interest income that is excluded from gross income under section 103(a)(1) of the Code. In general, under section 852(a)(1)(B) a RIC which has exempt interest income must distribute dividends which equal or exceed 90 percent of the excess of the exempt interest over certain nondeductible expenses related to that interest. However, in order for a RIC to pay a deficiency dividend, section 860(d)(1) requires that there must be (1) an increase in its investment company taxable income (determined without the dividends paid deduction), (2) an increase in its undistributed net capital gain, or (3) a decrease in its deduction for dividends paid. Section 1.860-2(a)(1) of the proposed regulations provided that since an increase in tax exempt interest does not come within any of these categories, such an increase does not afford the RIC the opportunity to pay a deficiency dividend. This result obtains notwithstanding that the increase may result in the RIC's disqualification.

The commentator argued that the legislative history of section 860 makes clear that Congress enacted that section to ensure that a RIC would not be disqualified as the result of an audit adjustment increasing its income. The commentator urges that Congress intended this result to apply whether the adjusted "income" is exempt interest or other income subject to tax.

After careful consideration, the commentator's suggestion was not adopted. In the case of a RIC, section 860(d)(1)(A) requires an increase in

undistributed investment company taxable income (or certain other adjustments not pertinent here) as a condition to the payment of a deficiency dividend. However investment company taxable income does not include exempt interest income. It is clear that Congress recognized this because section 852(a)(1) requires the RIC to distribute the *sum* of (1) 90 percent of its investment company taxable income (computed without the dividends paid deduction) and (2) 90 percent of the excess of its exempt interest income over certain nondeductible expenses related to that income. Moreover, in the "technical corrections" section of the 1978 Act, Congress amended the requirements for RIC status (section 851) to specifically provide that exempt interest income is to be treated as gross income in determining if 90 percent of the RIC's gross income is from interest (or other qualified sources), and if its gain from certain short-term sales is less than 30-percent of its gross income. The amendments were considered necessary because without them a RIC investing all or most of its assets in tax-exempt obligations could fail to meet the 90-percent and 30-percent tests if it recognized a relatively small amount of nonqualifying income. (Report of the Committee on Ways and Means accompanying H.R. 6715 (H. Rep. No. 95–745, 95th Cong. 2nd Sess. (1978).) Congress, however, did not include a similar provision treating exempt interest as investment company taxable income for purposes of the deficiency dividend procedure.

Accordingly, the final regulations follow the explicit language of section 860(d)(1)(A) and adopt the rule, as proposed, that holds that an increase in exempt interest income is not an adjustment which affords a RIC the opportunity to pay a deficiency dividend.

Change to the Proposed Regulations

One minor substantive change is made to the regulations as proposed (in addition to stylistic changes not affecting substance and changes reflecting the final REIT regulations). As adopted, the final regulations make clear that the RIC or REIT does not have to distribute the full amount of the adjustment to its income in order to pay a deficiency dividend. Thus the RIC or REIT may pay the maximum amount of deficiency dividends allowed by section 860 or it may choose to pay a lesser amount.

Regulatory Flexibility Act and Executive Order 12291

The Commissioner of Internal Revenue has determined that this final rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Because the notice of proposed rulemaking for this regulation was filed with the **Federal Register** on March 31, 1980, no regulatory flexibility analysis is required.

Paperwork Reduction Act

The collection of information requirements contained in these regulations have been submitted to the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1980. These requirements have been approved by OMB.

Drafting Information

The principal author of these regulations is Duane H. Pellervo of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects

26 CFR 1.0–1—1.58–8

Income taxes, Tax liability, Tax rates, Credits.

26 CFR 1.301–1—1.385–6

Income taxes, Corporations, Corporate distributions, Corporate adjustments, Reorganizations.

26 CFR 1.441–1—1.483–2

Income taxes, Accounting, Deferred compensation plans.

26 CFR 1.851–1—1.860–5

Income taxes, Investment companies, Real estate investment trusts.

26 CFR Part 55

Excise taxes, Real estate investment trust.

Adoption of Amendments to the Regulations

Accordingly, Part 1 and Part 55 of Title 26 of the Code of Federal Regulations are amended as follows:

PART 1—[AMENDED]

Paragraph 1. Section 1.46–4(b)(2) is amended as follows:

1. The fourth sentence of paragraph (b)(2) is revised to read as set forth below.

2. The fifth sentence of paragraph (b)(2) is amended by removing "See section 859(d)" and inserting in lieu thereof "See section 860(f)"

§ 1.46–4 Limitations with respect to certain persons.

* * * * *

(b) Regulated investment companies and real estate investment trusts. * * *

(2) * * * The amount of the deduction for dividends paid includes the amount of deficiency dividends (other than capital gains deficiency dividends) taken into account in computing investment company taxable income or real estate investment trust taxable income for the taxable year. * * *

* * * * * *

Par. 2. Section 1.50B–5(b)(2) is amended as follows:

1. The fourth sentence of paragraph (b)(2) is revised to read as set forth below.

2. The fifth sentence of paragraph (b)(2) is amended by removing "See section 859(d)" and inserting in lieu thereof "See section 860(f)".

§ 1.50B–5 Limitations with respect to certain persons.

* * * * *

(b) Regulated investment companies and real estate investment trusts. * * *

(2) * * * The amount of the deduction for dividends paid includes the amount of deficiency dividends (other than capital gains deficiency dividends) taken into account in computing investment company taxable income or real estate investment trust taxable income for the taxable year. * * *

* * * * * *

Par. 3. Section 1.316–1 is amended as follows:

1. The first sentence of paragraph (d) is amended by removing "under section 859 (relating to deficiency dividends), was a real estate investment trust (within the meaning of section 856)" and inserting in lieu thereof "under section 860 (relating to deficiency dividends), was a regulated investment company (within the meaning of section 851), or a real estate investment trust (within the meaning of section 856)".

2. The first sentence of paragraph (d) is further amended by removing "in section 859(d)" and inserting in lieu thereof "in section 860(f)".

3. Example (7) under paragraph (e) is amended as follows:

a. The second sentence of example (7) is amended by removing "of section 859" and inserting in lieu thereof "of

section 860", and by removing "under section 859(d)" and inserting in lieu thereof "under section 860".

b. Example (7) is amended by adding a new sentence at the end thereof, to read as follows:

§ 1.316–1 Dividends.

* * * * *

(e) * * *

Example (7). * * * See section 316(b)(3).

Par. 4. Section 1.381(c)(25)–1 is amended as follows:

1. The heading of § 1.381(c)(25)–1 is amended by removing "real estate investment trust" and inserting in lieu thereof "a qualified investment entity".

2. Paragraph (a)(1) is amended by removing "a real estate investment trust (within the meaning of section 856, as in effect for the applicable tax year)" and inserting in lieu thereof "a qualified investment entity (within the meaning of section 860(b))".

3. Paragraph (a)(2) is amended as follows:

a. The first sentence of paragraph (a)(2) is amended by removing "section 859(c)" and inserting in lieu thereof "section 860(e)".

b. The first sentence of paragraph (a)(2) is amended by inserting "852(b)," between "56(a)," and "857(b)(1)".

c. The first sentence of paragraph (a)(2) is amended by removing "section 859" and inserting in lieu thereof "section 860"

d. The second sentence of paragraph (a)(2) is amended by removing "section 859" and inserting in lieu thereof "section 860".

4. Paragraph (b) is amended by removing "section 859(d)" in the first sentence and inserting in lieu thereof "section 860(f)".

5. Paragraph (c) is amended as follows:

a. The first and fourth sentences of paragraph (c) are amended by removing "form" and inserting in lieu thereof "Form".

b. The second sentence of paragraph (c) is amended by removing "paragraph (b)(2) of § 1.859–2" and inserting in lieu thereof "§ 1.860–2(b)(2)".

§ 1.441–1 [Amended]

Par. 5. Section 1.441–1(b)(3) is amended by removing "see section 860 and § 1.860–1" in the last sentence and inserting in lieu thereof "see section 859".

§ 1.442–1 [Amended]

Par. 6. Section 1.442–1 is amended as follows:

1. Paragraph (a)(1) is amended by removing "see section 860 and § 1.860–1" in the last sentence and inserting in lieu thereof "see section 859".

2. Paragraph (c)(1) is amended by removing "§ 1.860–1" in the first sentence and inserting in lieu thereof "under section 859".

Par. 7. Section 1.852–4 is amended as follows:

1. Paragraph (c)(1) is amended by removing "not later than 45 days (30 days for a taxable year ending before February 26, 1964) after the close of its taxable year" in the first sentence and inserting in lieu thereof "within the period specified in paragraph (c)(4) of this section".

2. Paragraph (c)(2) is amended by adding a new sentence at the end thereof, to read as set forth below.

3. A new paragraph (c)(4) is added after paragraph (c)(3), to read as set forth below.

§ 1.852–4 Method of taxation of shareholders of regulated investment companies.

* * * * *

(c) *Definition of capital gain dividend.* * * *

(2) *Shareholder of record custodian of certain unit investment trusts.* * * * If a notice under paragraph (c)(1) of this section is mailed within the 120-day period following the date of a determination pursuant to paragraph (c)(4)(ii) of this section, the 120-day period and the 130-day period following the date of the determination shall be substituted for the 45-day period and the 55-day period following the close of the regulated investment company's taxable year prescribed by this subparagraph (2).

* * * * *

(4) *Mailing of written notice to shareholders.* (i) Except as provided in paragraph (c)(4)(ii) of this section, the written notice designating a dividend or part thereof as a capital gain dividend must be mailed to the shareholders not later than 45 days (30 days for a taxable year ending before February 26, 1964) after the close of the taxable year of the regulated investment company.

(ii) If a determination (as defined in section 860(e)) after November 6, 1978, increases the excess for the taxable year of the net capital gain over the deduction for capital gains dividends paid, then a regulated investment company may designate all or part of any dividend as a capital gain dividend in a written notice mailed to its shareholders at any time during the 120-day period immediately following the date of the determination. The aggregate amount designated during this period may not exceed this increase. A dividend may be designated if it is actually paid during the taxable year, is one paid after the close of the taxable year to which section 855 applies, or is a deficiency dividend (as defined in section 860(f)), including a deficiency dividend paid by an acquiring corporation to which section 381(c)(25) applies. The date of a determination is established under § 1.860–2(b)(1).

* * * * *

§ 1.856–0 [Amended]

Par. 8. Section 1.856–0 is amended by removing "Act of 1978" and inserting in lieu thereof "Act of 1978, other than the changes made by section 362 of the Act, relating to deficiency dividends".

§ 1.856–7 [Amended]

Par. 9. Section 1.856–7(d) is amended as follows:

1. The first sentence of paragraph (d) is amended by removing "(as defined in section 859(c))".

2. The third sentence is amended by removing "§ 1.859–2(b)(1) (other than the second sentence and the last sentence of §1.859–2(b)(1)(iv)) shall apply" and inserting in lieu thereof "section 860(e) and § 1.860–2(b)(1) (other than the second, third, and last sentences of § 1.860–2(b)(1)(ii)) shall apply".

Par. 10. Section 1.856–9 is amended as follows:

1. Paragraph (a) is amended by removing "(as defined in section 859(c))" in the third sentence and by adding a new sentence to the end thereof, to read as set forth below.

2. Paragraph (c) is amended as follows:

a. The second sentence of paragraph (c) is amended by removing "section 859(c) (1) or (2) shall be determined in accordance with section 859(c) and subdivision (i), (ii), or (iii) of § 1.859–2(b)(1)" and inserting in lieu thereof "section 860(e) (1) or (2) shall be determined in accordance with section 860(e) and § 1.860–2(b)(1)(i)".

b. The third sentence of paragraph (c) is amended by removing "section 859(c)(3)" and inserting in lieu thereof "section 860(e)(3)".

3. Paragraph (e) is amended by removing "section 859(c)(3)" in the first sentence and inserting in lieu thereof "section 860(e)(3)".

§ 1.856–9 Election with respect to property held for sale in a taxable year beginning before October 5, 1976.

(a) *In general.* * * * For purposes of section 1608(d)(2) of the Tax Reform Act of 1976 and this section, the definition of "determination" in section 860(e) shall apply.

* * * * *

§ 1.857–6 [Amended]

Par. 11. Section 1.857–6(f)(2) is amended as follows:

1. The first sentence of paragraph (f)(2) is amended by removing "section 859(c)" and inserting in lieu thereof "section 860(e)".

2. The third sentence of paragraph (f)(2) is amended by removing "section 859(d)" and inserting in lieu thereof "section 860(f)".

3. The last sentence of paragraph (f)(2) is amended by removing "§ 1.859–2(b)(1)" and inserting in lieu thereof "§ 1.860–2(b)(1)".

Par. 12. Section 1.860–1 is removed and § 1.859–1 is redesignated as § 1.860–1 and revised to read as follows:

§ 1.860–1 Deficiency dividends.

Section 860 allows a qualified investment entity to be relieved from the payment of a deficiency in (or to be allowed a credit or refund of) certain taxes. "Qualified investment entity" is defined in section 860(b). The taxes referred to are those imposed by sections 852(b) (1) and (3), 857(b) (1) or (3), the minimum tax on tax preferences imposed by section 56 and, if the entity fails the distribution requirements of section 852(a)(1)(A) or 857(a)(1) (as applicable), the corporate income tax imposed by section 11(a) or 1201(a). The method provided by section 860 is to allow an additional deduction for a dividend distribution (that meets the requirements of section 860 and § 1.860–2) in computing the deduction for dividends paid for the taxable year for which the deficiency is determined. A deficiency divided may be an ordinary dividend or, subject to the limitations of sections 852(b)(3)(C), 857(b)(3)(C), and 860(f)(2)(B), may be a capital gain dividend.

Par. 13. Section 1.859–2 is redesignated as § 1.860–2 and revised to read as follows:

§ 1.860–2 Requirements for deficiency dividends.

(a) *In general*—(1) *Determination, etc.* A qualified investment entity is allowed a deduction for a deficiency dividend only if there is a determination (as defined in section 860(e) and paragraph (b)(1) of this section) that results in an adjustment (as defined in section 860(d) (1) or (2)) for the taxable year for which the deficiency dividend is paid. An adjustment does not include an increase in the excess of (i) the taxpayer's interest income excludable from gross income under section 103(a) over (ii) its deductions disallowed under section 265 and 171(a)(2).

(2) *Payment date and claim.* The deficiency dividend must be paid on, or within 90 days after, the date of the determination and before the filing of a claim under section 860(g) and paragraph (b)(2) of this section. This claim must be filed within 120 days after the date of the determination.

(3) *Nature and amount of distribution.* (i) The deficiency dividend must be a distribution of property (including money) that would have been properly taken into account in computing the dividends paid deduction under section 561 for the taxable year for which tax liability resulting from the determination exists if the property had been distributed during that year. Thus, if the distribution would have been a divided under section 316(a) if it had been made during the taxable year for which the determination applies, and the distribution may qualify under sections 316(b)(3), 562(a), and 860(f)(1), even though the distributing corporation, trust, or association has no current or accumulated earnings and profits for the taxable year in which the distribution is actually made. The amount of the distribution is determined under section 301 as of the date of the distribution.

The amount of the deduction is subject to the applicable limitations under sections 562 and 860(f)(2). Thus, if the entity distributes to an individual shareholder property (other than money) which on the date of the distribution has a fair market value in excess of its adjusted basis in the hands of the entity, the amount of the deficiency dividend in the individual's hands for purposes of section 316(b)(3) is determined by using the property's fair market value on that date. Nevertheless, the amount of the deficiency dividend the entity may deduct is limited, under § 1.562–1(a), to the adjusted basis of the property and the amount taxable to the individual as a dividend is determined by reference to the current and accumulated earnings and profits for the year to which the determination applies.

(ii) The qualified investment entity does not have to distribute the full amount of the adjustment in order to pay a deficiency dividend. For example, assume that in 1983 a determination with respect to a calendar year regulated investment company results in an increase of $100 in investment company taxable income (computed without the dividends paid deduction) for 1981 and no other change. The regulated investment company may choose to pay a deficiency dividend of $100 or of any lesser amount and be allowed a dividends paid deduction for 1981 for the amount of that deficiency dividend.

(4) *Status of distributor.* The corporation, trust, or association that pays the deficiency dividend does not have to be a qualified investment entity at the time of payment.

(5) *Certain definitions to apply.* For purposes of sections 860(d) (defining adjustment) and (f)(2) (limitations) the definitions of the terms "investment company taxable income," "real estate investment trust taxable income," and "capital gains dividends" in sections 852(b)(2), 857(b)(2), 857(b)(3)(c), and 857(b)(3)(c) apply, as appropriate to the particular entity.

(b) *Determination and claim for deduction*—(1) *Determination.* For purposes of applying section 860(e), the following rules apply:

(i) The date of determination by a decision of the United States Tax Court, the date upon which a judgment of a court becomes final, and the date of determination by a closing agreement shall be determined under the rules in § 1.547–2(b)(1) (ii), (iii), and (iv).

(ii) A determination under section 860(e)(3) may be made by an agreement signed by the district director or another official to whom authority to sign the agreement is delegated, and by or on behalf of the taxpayer. The agreement shall set forth the amount, if any, of each adjustment described in subparagraphs (A), (B), and (C) of section 860(d) (1) or (2) (as appropriate) for the taxable year and the amount of the liability for any tax imposed by section 11(a), 56(a), 852(b)(1), 852(b)(3)(A), 857(b)(1), 857(b)(3)(A), or 1201(a) for the taxable year. The agreement shall also set forth the amount of the limitation (determined under section 860(f)(2)) on the amount of deficiency dividends that can qualify as capital gain dividends and ordinary dividends, respectively, for the taxable year. An agreement under this subdivision (ii) which is signed by the district director (or other delegate) shall be sent to the taxpayer at its last known address by either registered or certified mail. If registered mail is used, the date of registration is the date of determination. If certified mail is used, the date of the postmark on the sender's receipt is the date of determination. However, if a dividend is paid by the taxpayer before the registration or postmark date, but on or after the date the agreement is signed by the district director (or other delegate), the date of determination is the date of signing.

(2) *Claim for deduction.* A claim for deduction for a deficiency dividend shall be made, with the requisite declaration, on Form 976 and shall contain the following information and have the following attachments:

(i) The name, address, and taxpayer identification number of the corporation, trust, or association;

(ii) The amount of the deficiency and the taxable year or years involved;

(iii) The amount of the unpaid deficiency or, if the deficiency has been paid in whole or in part, the date of payment and the amount thereof;

(iv) A statement as to how the deficiency was established (*i.e.*, by an agreement under section 860(e)(3), by a closing agreement under section 7121, or by a decision of the Tax Court or court judgment);

(v) Any date or other information with respect to the determination that is required by Form 976;

(vi) The amount and date of payment of the dividend with respect to which the claim for the deduction for deficiency dividends is filed;

(vii) The amount claimed as a deduction for deficiency dividends;

(viii) If the amount claimed as a deduction for deficiency dividends includes any amount designated (or to be designated) as capital gain dividends, the amount of capital gain dividends for which a deficiency dividend deduction is claimed;

(ix) Any other information required by the claim form;

(x) A certified copy of the resolution of the trustees, directors, or other authority authorizing the payment of the dividend with respect to which the claim is filed; and

(xi) A copy of any court decision, judgment, agreement, or other document required by Form 976.

(3) *Filing claim.* The claim, together with the accompanying documents, shall be filed with the district director, or director of the internal revenue service center, with whom the income tax return for the taxable year for which the determination applies was filed. In the event that the determination is an agreement with the district director (or other delegate) described in section 860(e)(3) and paragraph (b)(1)(ii) of this section, the claim may be filed with the district director with whom (or pursuant to whose delegation) the agreement was made.

(The reporting requirements of this section have been assigned OMB Control Number 1545–0045.)

Par. 14. Section 1.859–3 is redesignated as § 1.860–3 and revised to read as follows:

§ 1.860–3 Interest and additions to tax.

(a) *In general.* If a qualified investment entity is allowed a deduction for deficiency dividends with respect to a taxable year, under section 860(c)(1) the tax imposed on the entity by chapter 1 of the Code (computed by taking into account the deduction) for that year is deemed to be increased by the amount of the deduction. This deemed increase in tax, however, applies solely for purposes of determining the liability of the entity for interest under subchapter A of chapter 67 of the Code and for additions to tax and additional amounts under chapter 68 of the Code. For purposes of applying subchapter A of chapter 67 and chapter 68, the last date prescribed for payment of the deemed increase in tax is considered to be the last date prescribed for the payment of tax (determined in the manner provided in section 6601(b)) for the taxable year for which the deduction for deficiency dividends is allowed. The deemed increase in tax is considered to be paid as of the date that the claim for the deficiency dividend deduction described in section 860(g) is filed.

(b) *Overpayments of tax.* If a qualified investment entity is entitled to a credit or refund of an overpayment of the tax imposed by chapter 1 of the Code for the taxable year for which the deficiency dividend deduction is allowed, then, for purposes of computing interest, additions to tax, and additional amounts, the payment (or payments) that result in the overpayment and that precede the filing of the claim described in section 860(g) will be applied against and reduce the increase in tax that is deemed to occur under section 860(c)(1).

(c) *Examples.* This section is illustrated by the following examples:

Example (1). Corporation X is a real estate investment trust that files its income tax return on a calendar year basis. X receives an extension of time until June 15, 1978, to file its 1977 income tax return and files the return on May 15, 1978. X does not elect to pay any tax due in installments. For 1977, X reports real estate investment trust taxable income (computed without the dividends paid deduction) of $100, a dividends paid deduction of $100, and no tax liability. Following an examination of X's 1977 return, the district director and X enter into an agreement which is a determination under section 860(e)(3). The determination is dated November 1, 1979, and increases X's real estate investment trust taxable income (computed without the dividends paid deduction) by $20 to $120. Thus, taking into account the $100 of dividends paid in 1977, X has undistributed real estate investment trust taxable income of $20 as a result of the determination. X pays a dividend of $20 on November 10, 1979, files a claim for a deficiency dividend deduction of this $20 pursuant to section 860(g) on November 15, 1979, and is allowed a deficiency dividend deduction of $20 for 1977. After taking into account this deduction, X has no real estate investment trust taxable income and meets the distribution requirements of section 857(a)(1). However, for purposes of section 6601 (relating to interest on underpayment of tax), the tax imposed by chapter 1 of the Code on X for 1977 is deemed increased by this $20, and the last date prescribed for payment of the tax is March 15, 1978 (the due date of the 1977 return determined without any extension of time). The tax of $20 is deemed paid on November 15, 1979, the date the claim for the deficiency dividend deduction is filed. Thus, X is liable for interest on $20, at the rate established under section 6621, for the period from March 15, 1978, to November 15, 1979. Also, for purposes of determining whether X is liable for any addition to tax or additional amount imposed by chapter 68 of the Code (including the penalty prescribed by section 6697), the amount of tax imposed on X by chapter 1 of the Code is deemed to be increased by $20 (the amount of the deficiency dividend deduction allowed), the last date prescribed for payment of such tax is March 15, 1978, and the tax of $20 is deemed to be paid on November 15, 1979. X, however, is not subject to interest and penalties for the amount of any tax for which it would have been liable under section 11(a), 56(a), 1201(a), or 857(b) had it not been allowed the $20 deduction for deficiency dividends.

Example (2). Assume the facts are the same as in example (1) except that the district director, upon examining X's income tax return, asserts an income tax deficiency of $4, based on an asserted increase of $10 in real estate investment trust taxable income, and no agreement is entered into between the parties. X pays the $4 on June 1, 1979, and files suit for refund in the United States District Court. The District Court, in a decision which becomes final on November 1, 1980, holds that X did fail to report $10 of real estate investment trust taxable income and is not entitled to any refund. (No other item of income or deduction is in issue.) X pays a dividend of $10 on November 10, 1980, files a claim for a deficiency dividend deduction of this $10 on November 15, 1980, and is allowed a deficiency dividend deduction of $10 for 1977. Assume further that $4 is refunded to X on December 31, 1980, as the result of the $10 deficiency dividend deduction being allowed. Also assume that any assessable penalties, additional amounts, and additions to tax (including the penalty imposed by section 6697) for which X is liable are paid within 10 days of notice and demand, so that no interest is imposed on such penalties, etc. X's liability for interest for the period March 15, 1978, to June 1, 1979, is determined with respect to $10 (the amount of the deficiency dividend deduction allowed). X's liability for interest for the period June 1, 1979, to November 15, 1980, is determined with respect to $6, *i.e.*, $10 minus the $4 payment. X is entitled to interest on the $4 overpayment for the period described in section 6611(b)(2), beginning on November 15, 1980.

Par. 15. Section 1.859–4 is redesignated as § 1.860–4 and revised to read as follows:

§ 1.860–4 Claim for credit or refund.

If the allowance of a deduction for a deficiency dividend results in an overpayment of tax, the taxpayer, in order to secure credit or refund of the overpayment, must file a claim on Form 1120X in addition to the claim for the deficiency dividend deduction required under section 860(g). The credit or refund will be allowed as if on the date of the determination (as defined in section 860(e)) two years remained before the expiration of the period of limitations on the filing of claim for refund for the taxable year to which the overpayment relates.

(The reporting requirements of this section have been assigned OMB Control Number 1545–0045)

Par. 16. A new section 1.860–5 is added to read as follows:

§ 1.860–5 Effective date.

(a) *In general.* Section 860 and §§ 1.860–1 through 1.860–4 apply with respect to determinations after November 6, 1978.

(b) *Prior determination of real estate investments trusts.* Section 859 (as in effect before the enactment of the Revenue Act of 1978) applies to determinations with respect to real estate investment trusts occurring after October 4, 1976, and before November 7, 1978. In the case of such a determination, the rules in §§ 1.860–1 through 1.860–4 apply, a reference in this chapter 1 to section 860 (or to a particular provision of section 860) shall be considered to be a reference to section 859 (or to the corresponding substantive provision of section 859), as in effect before enactment of the Revenue Act of 1978, and "qualified investment entity" in §§ 1.381(c)25–1(a) and 1.860–1 through 1.860–3 means a real estate investment trust.

PART 55—[AMENDED]

§ 55.4981–1 [Amended]

Par. 17. Section 55.4981–1 is amended by removing "section 859(d)" in the fourth sentence and inserting in lieu thereof "section 860(f)".

This Treasury decision is issued under the authority contained in the following sections of the Internal Revenue Code of 1954: section 860(e) (92 Stat. 2849, 26 U.S.C. 860(e)); section 860(g) (92 Stat. 2850, 26 U.S.C. 860(g)); and section 7805 (68A Stat. 917, 26 U.S.C. 7805).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: December 28, 1983.

Ronald A. Pearlman,

Acting Assistant Secretary of the Treasury.

[FR Doc. 84–1375 Filed 1–17–84; 8:45 am]

BILLING CODE 4830–01–M

VETERANS ADMINISTRATION

DEPARTMENT OF DEFENSE

38 CFR Part 21

Post-Vietnam Era Veterans' Educational Assistance Program; Eligibility for Education Loans

AGENCY: Veterans Administration and Department of Defense.

ACTION: Final regulations.

SUMMARY: These regulations implement a provision of the Omnibus Budget Reconciliation Act of 1981 which affects those people receiving educational assistance under the Post-Vietnam Era Veterans' Educational Assistance Program (VEAP). The act provides that these people are no longer eligible for education loans from the VA (Veterans Administration).

EFFECTIVE DATE: October 1, 1981.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420 (202–389–2092).

SUPPLEMENTARY INFORMATION: On pages 34975 and 34976 of the **Federal Register** of August 2, 1983 there was published a notice of intent to amend Part 21 to show that VEAP participants are no longer eligible for education loans from the VA.

Interested people were given 30 days in which to submit comments, suggestions or objections regarding the proposal. The VA and the Department of Defense received no comments, suggestions or objections. Accordingly, the agencies are making the regulations final without change and are revoking 38 CFR 21.5500.

The VA and the Department of Defense have determined that these regulations do not contain a major rule as that term is defined by Executive Order 12291, Federal Regulation. The annual effect on the economy will be less than $100 million. The proposal will not result in any major increases in costs or prices for anyone. It will have no significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans' Affairs and the Secretary of Defense hereby certify that these regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), these regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because these regulations will affect only individual benefit recipients. They will have no significant economic impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

The Catalog of Federal Domestic Assistance number for the program affected by these regulations is 64.120.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: November 18, 1983.

By Direction of the Administrator

Everett Alvarez, Jr.,

Deputy Administrator.

Approved: December 22, 1983.

E. A. Chavarrie,

Deputy Assistant Secretary of Defense.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Part 21, Title 38, Code of Federal Regulations is amended to read as set forth below:

1. In § 21.5292, paragraph (e)(2) is revised as follows:

§ 21.5292 Reduced monthly contributions for certain individuals.

* * * * *

(e) *Application of sections to this portion of the pilot program.*

* * * * *

(2) Except as amended in paragraph (e)(1) of this section, §§ 21.5001 through 21.5300 apply without change to this portion of the pilot program. (Sec. 903, Pub. L. 96–342; 94 Stat. 1115; 38 U.S.C. 1798(a)(2), Pub. L. 97–35, 95 Stat. 782)

2. In § 21.5294, paragraph (d)(3)(v) and (4) is revised and paragraph (d)(3)(vi) is removed so that the revised material reads as follows:

§ 21.5294 Transfer of entitlement.

* * * * *

(d) *Application of sections to this portion of the pilot program.*

* * * * *

(3) * * *

(v) Sections 21.5132 through 21.5300. (38 U.S.C. 1798(a)(2)); Public Law 97-35, 95 Stat. 782)

(vi) [Reserved]

(4) Section 21.5131 (a) and (b) does not apply to this portion of the pilot program. (Sec. 903, Pub. L. 96-342, 94 Stat. 1115)

§ 21.5500 [Removed]

3. The centerhead "Education Loans" and § 21.5500 are removed.

[FR Doc. 84-1289 Filed 1-17-84; 8:45 am]

BILLING CODE 8320-01-M

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38 CFR Part 21

Post-Vietnam Era Veterans' Educational Assistance Program, Programs of Education

AGENCY: Veterans Administration and Department of Defense.

ACTION: Final regulation.

SUMMARY: This regulation, issued jointly by the Veterans Administration and Department of Defense, states which paragraphs of 38 CFR 21.4230 do not apply to programs of education pursued under the Post-Vietnam Era Veterans' Educational Assistance Program (VEAP). This regulation will eliminate any confusion that may exist in this area.

EFFECTIVE DATE: December 22, 1983.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420 (202-389-2092).

SUPPLEMENTARY INFORMATION: On pages 35145 and 35146 of the **Federal Register** of August 3, 1983, there was published a notice of intent to amend part 21 to show which paragraphs of 38 CFR 21.4230 do not apply to VEAP.

Interested people were given 30 days in which to submit comments, suggestions or objections regarding the proposal. The Veterans Administration and the Department of Defense received no comments, suggestions or objections. Accordingly, the agencies are making the regulation final without change.

The Veterans Administration and the Department of Defense have determined that this regulation is not a major rule as that term is defined by Executive Order 12291, Federal Regulation. The annual effect on the economy will be less than $100 million. The regulation will not result in any major increases in costs or prices for anyone. It will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans' Affairs and the Secretary of Defense hereby certify that this regulation will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), this regulation, therefore, is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

This certification can be made because this regulation contains a technical change which does not affect basic Veterans Administration policy. It will have no significant economic impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

The Catalog of Federal Domestic Assistance number for the program affected by this regulation is 84.120.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Educations, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: November 18, 1983.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

Approved: December 22, 1983.

E. A. Chavarrie,

Deputy Assistant Secretary of Defense.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Part 21, Title 38, Code of Federal Regulations is amended as set forth below. Section 21.5230 is revised as follows:

§ 21.5230 Programs of education.

In the administration of benefits payable under chapter 32, title 38, United States Code, the Veterans Administration will apply § 21.4230—Requirements (except paragraphs (d)(2), (e) and (f) of this section) in the same manner as it is applied in the administration of Chapters 34 and 36. (38 U.S.C. 1641)

[FR Doc. 84-1290 Filed 1-17-84; 8:45 am]

BILLING CODE 8320-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Circular No. 2540]

43 CFR Parts 3000, 3040, 3100, 3110, and 3120

Minerals Management and Oil and Gas Leasing; Amendments Clarifying the Regulations on Minerals Management and Oil and Gas Leasing of Federal Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Final Rulemaking.

SUMMARY: This final rulemaking amends the provisions of the recently published oil and gas leasing regulations in Groups 3000 and 3100 of Title 43 of the Code of Federal Regulations to clarify certain of those provisions and to reduce the regulatory burden imposed on the public.

EFFECTIVE DATE: January 18, 1984.

ADDRESS: Inquiries or suggestions should be sent to: Director (620), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240

FOR FURTHER INFORMATION CONTACT: Jeff Zabler, (202) 343-7722; or Robert C. Bruce, (202) 343-8735

SUPPLEMENTARY INFORMATION: This final rulemaking amends the oil and gas leasing regulations published in the **Federal Register** on July 22, 1983 (48 FR 33648). These amendments make changes in the final rulemaking that reflect the intention of the Department of the Interior in the major rewrite of the regulations in Group 3100. In some instances, the changes made by the new provisions were not adequately expressed and this amendment clarifies the intent of several of the changes. None of the changes made by this final rulemaking impose any additional burdens on the public. As an example, the preamble to the oil and gas leasing regulations states: "A new combined offer to lease and lease form is being

developed which will be used for all onshore oil and gas leasing, except for leasing in the National Petroleum Reserve—Alaska." However, the new combined form will cover leasing in the National Petroleum Reserve—Alaska. Even though this misstatement is not part of the regulations themselves, the misconception conveyed by the statement needs to be clarified. There are other changes of this type that need to be made and this final rulemaking makes those changes. The amendments are as follows:

1. Section 3000.0–5(1), page 33659, is amended by replacing the subpart number and adding a section citation in the last sentence of the paragraph. The subpart number in the final rulemaking was an error and should read subpart 3102 rather than subpart 3112. Stock ownership, stockholding or stock control are considered in accountable acreage computation under section 3101.2.

2. Section 3045.4(c), page 33661, is amended by inserting a comma in the first sentence. This amendment corrects an oversight in the final rulemaking.

3. Section 3100.0–3(d), page 33663, is amended by inserting the phrase "or gas" in the first sentence. This amendment clarifies the section and brings it into conformance with other language in section 3100.0–3, which discusses oil and gas. The amendment continues the existing policy of permitting drainage leases for either oil or gas in order to protect the interest of the United States.

4. Section 3101.1–2, page 33665, is being amended by removal of the last sentence of the section. This sentence was inadvertently left in the final rulemaking when the section immediately preceding it was removed. The sentence has no relationship to the language preceding it and is deleted.

5. Section 3101.2–5, page 33665, is amended to clarify that operating, drilling or development contracts approved by the Secretary of the Interior under section 3105.3 are excluded from accountable acreage computation. This amendment will eliminate possible confusion about what contracts are included when computing acreage.

6. Section 3101.8, page 33666, is amended by deleting the phrase "containing oil and gas" to make it clear that the United States will consult with surface owners prior to leasing lands containing a reservation of oil or gas to the United States. The language of the final rulemaking seems to require that the consultation occur only when the existence of oil or gas has been confirmed. The amendment made by this final rulemaking continues the existing policy with reference to consultation with surface owners where the United States holds a reservation of the mineral estate, including oil or gas.

7. Section 3102.4, page 33667, is amended by changing the requirement in this section that all documents be holographically signed to a requirement that only the original of all documents, except assignments, be holographically signed. In the case of assignments, the Mineral Leasing Act requires that three originally executed copies of assignments be filed for approval. It was the original intent of the regulations that only the original of most documents would have to be holographically signed. This amendment clarifies this point and reduces the burden imposed on the public by the signature requirement. Another amendment to this section moves the parenthetical example from the end of the section to the end of the second sentence. The example illustrates the requirement that documents signed by anyone other than the present or potential lessee be rendered in a manner that reveals the name of the present or potential lessee, the name of the signatory and their relationship. The example as it appears in the final rulemaking can be construed to apply to the sentence stating that submission of a qualifications number will not meet the filing requirement, except for offers filed under section 3112.6–1. This amendment will avoid confusion.

8. Section 3103.1–2(a), page 33667, is amended to require that remittances shall be made payable to the Department of the Interior—Bureau of Land Management. A recent audit by the Office of the Inspector General of the Department of the Interior identified an internal control weakness involving the payee inscriptions used on checks payable to Departmental offices. The Office of the Inspector General audit concluded that the opportunity to convert United States funds for personal use, no matter how slight, exists whenever the payee inscription appearing on a check does not fully identify the recipient organization. By a memorandum dated June 8, 1983, the Principal Deputy Assistant Secretary for Policy Budget and Administration for the Department of the Interior requested, based on the audit and recommendations, that all Departmental components receiving payments issue instructions requesting all payments be made payable to the Department of the Interior followed by the initials of the recipient agency. The final rulemaking did not provide for this administrative change and this amendment complies with that Department request.

9. Section 3105.4–1, page 33670, is amended by removing the requirement that an application filed under this section be sent to the Director, Bureau of Land Management. The Washington Office would have to forward the application to the appropriate District Office for processing because the case file is located there. This unnecessary step would delay the process. The amendment places no additional burden on the public and, in fact, should speed up the approval process.

10. Section 3107.1, page 33672, is amended by including another type of cooperative agreement, a communitization agreement, to those covered by the section. This type of agreement should have been included in the final rulemaking but was inadvertently omitted.

11. Section 3111.1–1(a), page 33676, is amended to make it clear that each copy of the offer must show evidence of signature. The section did not intend, as it could be read, to require that each copy be holographically signed but that they only show evidence of a signature, which may be exact copies, a stamp or a signature.

12. Sections 3111.3–1, page 33677, is amended to clarify the point that future interest offers may be made up to the date of vesting. The amendment clarifies the intent of the final rulemaking.

13. Section 3111.3–4(a), page 33677, is amended by adding language that brings the rental requirement in this section into conformance with other sections of the final rulemaking. In all other sections of the final rulemaking, rental is stated in terms of the annual amount per acre or fraction thereof.

14. Section 3112.2–1(g), page 33678, is amended by adding language that clarifies the intent of this paragraph of the final rulemaking to include applications that are rejectable because of their failure to meet the instructions and filing requirements set out on the application form and in subpart 3112. Another amendment to this paragraph removes language that appears to limit the application form requirements only to those that cover actions that would prevent automated processing of the application form.

The requirements on the form include requirements that go beyond automated processing. The requirement that an application form must be in a condition that permits automated processing has been moved to section 3112.3 by this final rulemaking, where it more appropriately belongs. The third amendment to this paragraph adds an

"s" to the end of the word "requirement" in subparagraph (2).

15. Section 3112.3, page 33679, is amended in several respects by this final rulemaking. All of the amendments are designed to clarify the intent of the final rulemaking. The first change, a combination of the amendments in A. and C., is an amendment to paragraph (a) that combines the language of the first part of the paragraph with that following subparagraph (2) to make the section clearer. A second change to paragraph (a) is the addition of language that makes it clear that a copy of the application, not the original, is what will be returned. The original application form will be retained. This was the intent of the final rulemaking. The original form, if returned to the applicant, might be altered so as to remove the basis for its being deemed unacceptable.

A third change to paragraph (a) is the addition of language to paragraph (a)(2) that clarifies that an application will be deemed unacceptable if it is received in a state that prevents its automated processing. This requirement, which has not been changed, is being moved from § 3112.2–1(g) because it more properly fits in this section.

Another change is that paragraph (b) is amended to clarify the point that the original application form will not be returned when it is deemed unacceptable. As explained earlier in this preamble, there is the possibility that a returned original might be altered to remove the basis for its being deemed unacceptable and an appeal filed. To prevent this, a copy of each such application will be returned and that will be the basis of any appeal that may be filed. The copy then can be compared to the original application form to determine if the appeal has merit. Also changed in this section is the requirement that the remitter be the party to whom the filing fee is returned. Instructions in the Bureau of Land Management's manual will provide guidance as to the party to whom a copy of the unacceptable application is to be returned.

Paragraph (d) is being amended to remove the word "application" and substitute for it the word "filing". This amendment brings this paragraph into conformance with other sections of 43 CFR Subpart 3112 that refer to "filing fees" rather than to "application fees". A final change to this paragraph removes the requirement that the filing fee be returned to the remitter. This amendment is similar to the one made to paragraph (b) and is being made for the same reasons.

The amendment to paragraph (f) of this section is similar to the amendment discussed in item number 14 of this preamble and is made to carry out the intent of the final rulemaking and make this section conform with section 3112.2–1(g) and other sections of the final rulemaking of July 22, 1983.

The amendment to paragraph (h) of this section is similar to others made to earlier paragraphs of this section and makes this paragraph consistent with other provisions of the final rulemaking.

16. Section 3112.4–1(a), page 33679, is amended by removing the reference to section 3112.3 and replacing it with subpart 3112. The provisions for finding an application unacceptable or rejectable are contained throughout subpart 3112 and the public is responsible for all of those requirements as well as the requirements on the application form itself. This change gives the public a clearer picture of the requirements that must be met and makes the paragraph consistent with other parts of the final rulemaking.

17. Section 3112.4–2, page 33679, is amended by revising its title. The title in the final rulemaking does not describe the content of the section concerning omitted applications and the new title provided by the amendment does provide a better description of the contents of the section, while making no change in the requirements of the section.

18. Section 3112.5–1(c), page 33679, is amended by removing the phrase "first qualified" and replacing it with the word "selected". This amendment will bring this section into conformance with other sections of the final rulemaking that refer to the selectee rather than the first qualified applicant. This phrase was changed in several places in the final rulemaking but was overlooked in this particular section.

19. Section 3112.7, page 33680, is amended to make it consistent with the intent of the final rulemaking. The final rulemaking intended that a parcel that is offered for leasing under the simultaneous leasing program that receives no applications will then be available for leasing under subparts 3110 and 3111. The section as it appeared in the final rulemaking of July 22, 1983, can be read to mean that no parcel offered under the simultaneous leasing program can be offered for lease under the over-the-counter program if an offer is received on any offered parcel on the simultaneous list. This is clearly not the intent of the section and the change clarifies this point.

20. Section 3120.3, page 33681, is being amended to make it consistent with other sections of the final rulemaking. The lands that are offered for lease under part 3100 are generally referred to as parcels, not tracts. This amendment changes the word "tracts" to "parcels" without changing the impact on the public.

The principal author of this final rulemaking is Raul E. Martinez, Division of Fluid Mineral Leasing, Bureau of Land Management, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

The Department of the Interior has determined that because this final rule making is an amendment to the final rulemaking that was published on July 22, 1983, the determination relating to the final rulemaking of July 22, 1983, is applicable to this amendment and that this amendment is not a major rule for purposes of Executive Order No. 12291. Likewise, the determinations made pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) and the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) for the final rulemaking of July 22, 1983, are applicable to this final rulemaking.

There are no additional information collection requirements contained in this final rulemaking that require approval of the Office of Management and Budget under 44 U.S.C. 3507.

The amendments made by this final rulemaking that are minor in nature and are corrections that reflect the intention of the Department of the Interior in the major rewrite of the regulations in Group 3100 that were published in the **Federal Register** on July 22, 1983 (48 FR 33648). In some instances, the new provisions did not adequately express the intended meaning and these amendments clarify the intent of several of the changes. In other instances, the amendments correct mistakes in the regulations. None of the changes made by this final rulemaking impose any additional burdens on the public, but, in fact, should clarify the regulations for the public. For these reasons, this final rulemaking is being made effective upon publication.

List of Subjects

43 CFR Part 3000

Public lands—classification, Public lands—mineral resources.

43 CFR Part 3040

Oil and gas exploration, Public lands—mineral resources.

43 CFR Part 3100

Administrative practice and procedure, Environmental protection, Mineral royalties, Oil and gas exploration, Oil and gas reserves, Public lands—mineral resources.

43 CFR Part 3110

Administrative practice and procedure, Mineral royalties, Oil and gas exploration, Oil and gas reserves, Public lands—mineral resources.

43 CFR Part 3120

Administrative practice and procedure, Mineral royalties, Oil and gas exploration, Oil and gas reserves, Public lands—mineral resources.

Under the authority of the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351–359), the Alaska National Interests Lands Conservation Act (16 U.S.C. 3101 et seq.), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 760 et seq.), the Act of May 21, 1930 (30 U.S.C. 301–306), the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35), the Independent Offices Appropriations Act of 1952 (31 U.S.C. 483a), the Department of the Interior Appropriations Act, Fiscal Year 1981 (Pub. L. 96–514) and the Attorney General's Opinion of April 2, 1941 (40 Op. Att. Gen. 41), Part 3040, Group 3000 and Parts 3100, 3110 and 3120, Group 3100, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

Dated: December 27, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

PART 3000—[AMENDED]

§ 3000.0–5 [Amended]

1. Section 3000.0–5, page 48 FR 33659, is amended by removing from the last sentence the citation "subpart 3112" and replacing it with the citation "section 3101.2 and subpart 3102".

PART 3040—[AMENDED]

§ 3045.4 [Amended]

2. Section 3045.4(c), page 48 FR 33661, is amended by adding in the first sentence immediately following the phrase "notice of intent" a comma.

PART 3100—[AMENDED]

§ 3100.0–3 [Amended]

3. Section 3100.0–3(d), page 48 FR 33663, is amended by adding in the first sentence immediately following the word "oil" the phrase "or gas".

§ 3101.1–2 [Amended]

4. Section 3101.1–2, page 48 FR 33665, is amended by removing the last sentence in its entirety.

§ 3101.2–5 [Amended]

5. Section 3101.2–5, page 48 FR 33665, is amended by inserting in the third sentence immediately after the word "co-lessees" the phrase ", except those operating, drilling or development contracts subject to § 3101.2–3 of this title,".

§ 3101.8 [Amended]

6. Section 3101.8, page 48 FR 33666, is amended by deleting in the first sentence the phrase "containing oil and gas".

§ 3102.4 [Amended]

7. Section 3102.4, page 48 FR 33667, is amended by removing at the beginning of the section the phrase "All applications, offers," and replacing it with the phrase "All applications, the original of offers," and by moving the parenthetical phrase that appears at the end of the section and adding it at the end of the second sentence of the section.

§ 3103.1–2 [Amended]

8. Section 3103.1–2(a), page 48 FR 33667, is amended by removing from the end of the section the phrase "Bureau of Land Management." and replacing it with the phrase "Department of the Interior—BLM."

§ 3105.4–1 [Amended]

9. Section 3105.4–1, page 48 FR 33670, is amended by removing from the end thereof the word "Director." and replacing it with the phrase "proper BLM office."

§ 3107.1 [Amended]

10. Section 3107.1, page 48 FR 33672, is amended by inserting in line six immediately after the word "approved" the phrase "communitization agreement or".

PART 3110—[AMENDED]

§ 3111.1–1 [Amended]

11. Section 3111.1–1(a), page 48 FR 33676, is amended by inserting in the fourth sentence immediately after the phrase "offer to lease" the phrase ", with each copy showing evidence of having been signed,".

§ 3111.3–1 [Amended]

12. Section 3111.3–1, page 48 FR 33677, is amended by removing from the first sentence of paragraph (c) the phrase "less than 1 year" and adding in its place the phrase "at any time".

§ 3111.3–4 [Amended]

13. Section 3111.3–4(a), page 48 FR 33677, is amended by adding at the end of the second sentence the phrase "per acre or fraction thereof."

PART 3112—[AMENDED]

§ 3112.2 [Amended]

14. Section 3112.2–1(g), page 48 FR 33678, is amended by adding in the second sentence immediately after the word "unacceptable" the phrase "or rejectable" and by removing from the end of subparagraph (1) the phrase "in a manner that permits automated processing" and by adding an "s" to the word "requirement" in subparagraph (2).

§ 3112.3 [Amended]

15. Section 3112.3, page 48 FR 33679, is amended by:

A. Revising the introductory text of paragraph (a) to read:

"(a) Any Part B application form shall be deemed unacceptable and a copy returned if, in the opinion of the authorized officer, it:";

B. Amending subparagraph (a)(2) by removing at the end thereof the word "or" and adding the phrase "that prevents its automated processing; or";

C. Amending subparagraph (a)(4) by removing the colon and replacing it with a period and removing all the remainder of paragraph (a);

D. Amending paragraph (b) by removing the phrase "form returned as" and replacing it with the phrase "form deemed" and by inserting immediately following the word "returned" a period and removing all the rest of paragraph (b);

E. Amending paragraph (d) by removing the word "application" and replacing it with the word "filing" and by inserting immediately after the word "returned" a period and removing all the rest of paragraph (d);

F. Amending paragraph (f) by removing immediately after the word "Failure" the phrase "to reject or" and

by adding immediately after the word "unacceptable" the phrase "or rejectable";

G. Amending paragraph (h) by removing the phrase "resubmit the returned" and replacing it with the phrase "submit a copy of the returned".

§ 3112.4–1 [Amended]

16. Section 3112.4–1(a), page 48 FR 33679, is amended by removing the citation "§ 3112.3 of this title," and replacing it with the citation "subpart 3112 of this title,".

§ 3112.4–2 [Amended]

17. Section 3112.4–2, page 48 FR 33679, is amended by revising the title to read:

"§ 3112.4–2 Omitted application: selection procedure."

§ 3112.5–1 [Amended]

18. Section 3112.5–1(c), page 48 FR 33679, is amended by removing from the first sentence the phrase "first qualified" and replacing it with the word "selected".

§ 3112.7 [Amended]

19. Section 3112.7, page 48 FR 33680, is amended by removing from the first sentence the word "any" and replacing it with the word "a".

PART 3120—[AMENDED]

§ 3120.3 [Amended]

20. Section 3120.3, page 48 FR 33681, is amended by removing from the title the word "tract" and replacing it with the word "parcel" and by removing from the section the word "tract(s) and replacing it with the word "parcel(s)".

[FR Doc. 84–1280 Filed 1–17–84; 8:45 am]

BILLING CODE 4310–84–M

43 CFR Public Land Order 6501

[ES 16211]

Michigan; Revocation of Executive Order Dated February 26, 1885

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive order which reserved land for lighthouse purposes. Title to the surface estate has been conveyed to the State of Michigan. The land will be opened to mineral leasing.

EFFECTIVE DATE: February 15, 1984.

FOR FURTHER INFORMATION CONTACT: Barry E. Crowell, Eastern States Office, 703–235–2846.

By viture of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order of February 26, 1885, which reserved the following described land for lighthouse purposes, is hereby revoked in its entirety:

Michigan Meridian

South Fox Island

T. 34 N., R. 13 W.,
Sec. 21, fractional.

The area described contains 9.65 acres, more or less, in Leelanau County, Michigan.

2. The land has been determined to be "property" within the meaning of the Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. 472. As such, the surface estate has been conveyed to the State of Michigan.

3. The land will be opened to applications and offers under the mineral leasing laws at 8 a.m., February 15, 1984.

Inquiries concerning the land should be addressed to the Director, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304.

Dated: January 10, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84–1244 Filed 1–17–84; 8:45 am]

BILLING CODE 4310–84–M

Proposed Rules

Federal Register
Vol. 49, No. 12
Wednesday, January 18, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1736

Electric Standards and Specifications

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to amend 7 CFR Part 1736, Electric Standards and Specifications, by revising REA Bulletin 50–17(DT–5B), REA Specification for Wood Crossarms (Solid and Laminated), Transmission Timbers and Pole Keys; and REA Bulletin 50–18(DT–5C), REA Specification for Wood Poles, Stubs and Anchor logs. These two bulletins contain the REA specifications for timber products to be purchased by REA borrowers. The main changes being proposed are: (1) Eliminate the requirement for REA to maintain a list of acceptable timber treating plants and acceptable timber inspection agencies, (2) extend the provisions of the Quality Assurance Plan that presently applies to poles so that it will also apply to crossarms, and (3) permit, at the option of borrowers, the sulfate formulations of chromated copper arsenate (CCA). These changes are intended to place with the borrowers more responsibility for assuring quality of timber products.

REA also proposes to amend 7 CFR Part 1736, Electric Standards and Specifications, by issuing a new REA Bulletin 50–24(DT–19), REA Specification for Quality Control and Inspection of Timber Products. This new bulletin contains material which is currently contained in REA Bulletin 44–4, Quality Control and Inspection of Timber Products. The main change in this publication is to coordinate with the changes in the timber treatment specifications by eliminating the provision of REA maintaining a list of acceptable timber treating plants and a list of acceptable timber inspection agencies. When REA Bulletin 50–24 (DT–19) is issued, REA Bulletin 44–4 will be rescinded.

REA Bulletins 50–17 and 50–18 have previously been approved for incorporation by reference in 7 CFR Part 1736, Electric Standards and Specifications. The notice appeared in the **Federal Register** (48 FR 31852) on July 12, 1983. REA Bulletin 44–4 was approved for incorporation by reference in 7 CFR Part 1701, by notice in the **Federal Register** (46 FR 63479) on December 31, 1981.

DATE: Public comments must be received by REA no later than March 19, 1984.

ADDRESS: Submit written comments to the Director, Engineering Standards Division, Room 1256–S, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Mr. Archie W. Cain, Director, Engineering Standards Division, Rural Electrification Administration, Room 1256–S, Washington, D.C. 20250, telephone (202) 382–9082. The Draft Impact Analyses describing the options considered in developing these proposed rules and the impact of implementing each option are available on request from Mr. Cain at the above address.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 et seq.), the Rural Electrification Administration (REA) proposes to amended 7 CFR Part 1736, Electric Standards and Specifications, by revising REA Bulletin 50–17(DT–5B), REA Specification for Wood Crossarms (Solid and Laminated), Transmission Timbers and Pole Keys; and REA Bulletin 50–18(DT–5C), REA Specification for Wood Poles, Stubs and Anchor Logs. REA also proposes to amend 7 CFR Part 1736, Eletric Standards and Specifications, by issuing a new Specification, REA Bulletin 50–24(DT–19), REA Specification for Quality Control and Inspection of Timber Products. This proposed action has been reviewed in accordance with Executive Order 12291, Federal Regulation. The action will not: (1) Have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, state or local government agencies; or (3) result in significant adverse effects on competition, employment, investment or productivity, and, therefore, has been determined to be "not major." This action does not fall within the scope of the Regulatory Flexibility Act. This program is listed in the Catalog of Federal Domestic Assistance as 10.850, Rural Electrification Loans and Loan Guarantees.

Background

The Rural Electrification Administration (REA) maintains a system of bulletins that contain construction standards and specifications for materials and equipment which are applicable to electric system facilities constructed by REA electric borrowers in accordance with the REA loan contract. These standards and specifications contain REA's requirements for construction units and material items and equipment units commonly used in REA electric borrower's systems. REA Bulletin 50–17(DT–5B), REA Specification for Wood Crossarms (Solid and Laminated), Transmission Timbers and Pole Keys; REA Bulletin 50–18(DT–5C), REA Specification for Wood Poles, Stubs and Anchor Logs; and the proposed Bulletin 50–24(DT–19), REA Specification for Quality Control and Inspection of Timber Products, will contain REA's requirements for timber products and the quality control provisions to be applied to them for purchase of such items by REA borrowers. REA proposes to revise these rules by eliminating the REA listing of acceptable timber treating plants and acceptable independent inspection agencies and to replace the listings with a system for monitoring direct control by REA borrowers of timber quality. REA also proposes to extend provisions for use of the Quality Assurance Plan provided in the January 1982 revision of REA specification DT–5C to crossarms purchased under REA specification DT–5B. REA proposes to include sulfate formulations of chromated copper arsenate (CCA) at the option of the purchaser, and various minor changes and corrections to bring the specifications in line with current industry standards and practices. The primary reason for reissuing REA Bulletin 44–4, Quality Control and Inspection of Timber Products, as REA Bulletin 50–24(DT–19), REA Specification for Quality Control and Inspection of Timber Products, is to

group it with the other bulletins dealing with similar subjects; i.e., bulletins concerning materials and equipment applicable to electric system facilities constructed by REA electric borrowers in accordance with the REA loan contract. REA Bulletin 44–4 has previously been approved for incorporation by reference in 7 CFR Part 1701 of the **Federal Register** (46 FR 63479) on December 31, 1981. Copies of the proposed REA specifications are available upon request from Mr. Cain at the address indicated above. All written comments made pertaining to this action will be made available for public inspection during regular business hours at the above address. In view of the above, REA proposes to amend § 1736.97(b) of 7 CFR Chapter XVII by revising REA Bulletin 50–17(DT–5B), REA Specification for Wood Crossarms (Solid and Laminated), Transmission Timbers and Pole Keys; and REA Bulletin 50–18(DT–5C), REA Specification for Wood Poles, Stubs and Anchor Logs; and by issuing REA Bulletin 50–24(DT–19), REA Specification for Quality Control and Inspection of Timber Products.

Authority: 7 U.S.C. 901 et seq. and 7 U.S.C. 1921 et seq.

List of Subjects in 7 CFR Part 1736

Electric utilities, Engineering standards.

Dated: January 12, 1984.

Harold V. Hunter,

Administrator.

[FR Doc. 84–1288 Filed 1–17–84; 8:45 am]

BILLING CODE 3410–15–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79–76–224 (Colorado–35 Addition)]

High-Cost Gas Produced From Tight Formations; Notice of Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (Supp. V. 1981), to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1983)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Colorado that the "J" Sand Formation be designated as a tight formation under § 271.703(d).

DATES: Comments on the proposed rule are due on February 27, 1984.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on January 27, 1984.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Victor Zabel, (202) 357–8616.

SUPPLEMENTARY INFORMATION:

In the matter of high-cost gas produced from tight formations; Docket No. RM79–76–224, (Colorado–35 Addition).

Issued: January 12, 1984.

I. Background

On December 15, 1983, the State of Colorado Oil and Gas Conservation Commission (Colorado) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (18 CFR 271.703 (1983)), that the "J" Sand Formation located in Adams County, Colorado, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Colorado's recommendation that the "J" Sand Formation be designated a tight formation should be adopted. Colorado's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Colorado recommends that a portion of the "J" Sand Formation, adjacent to that acreage granted tight formation designation in Order No. 313,[1] be designated as a tight formation. The recommended area is approximately 640 acres and consists of Section 8, Township 2 South, Range 63 West, 6th P.M. to the northeast of the existing designated area. The top of the recommended formation appears at an average depth of 7,574 feet and the thickness of the formation is approximately 98 feet.

[1] Order No. 313, issued July 12, 1983, 24 FERC ¶ 61,045.

III. Discussion of Recommendation

Colorado claims in its submission that evidence gathered through information and testimony presented at a public hearing in Cause No. NG–37 convened by Colorado on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Colorado further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, [Reg. Preambles 1977–1981] FERC Stats. and Regs. ¶30,180 (1980), issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Colorado that the "J" Sand Formation, as described and delineated in Colorado's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before February 27, 1984. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–224 (Colorado–35 Addition), and should give reasons including supporting data for any recommendations. Comments should include the name,

title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of the desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than January 27, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

Accordingly, the Commission proposed to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Colorado's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended as follows:

1. The authority citation for Part 271 reads as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.;* Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703 is amended by revising paragraph (d)(139) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(139) *"J" Sand Formation in Colorado. RM79–76 (Colorado–35).*

(i) *Delineation of formation.* The "J" Sand Formation is located in Adams, Arapahoe, and Elbert Counties, Colorado, approximately 12 miles east of the city of Denver. The "J" Sand Formation in Adams County, underlies Township 2 South, Range 63 West, Sections 7, 8, 18, 19, 30, 31 and S½ of Section 32; Township 2 South, Range 64 West, Sections 10 through 15, 22 through 27, and 34 through 36; Township 2 South, Range 65 West, Sections 25 through 36; Township 3 South, Range 63 West, Sections 1 through 12; Township 3 South, Range 64 West, Sections 1 through 36; Township 3 South, Range 65 West, Sections 1 through 36. In Arapahoe County the "J" Sand Formation underlies Township 4 South, Range 64 West, Sections 1 through 30 and 32 through 36; Township 4 South, Range 65 West, Sections 1 through 30; Township 5 South, Range 63 West, Sections 1 through 36; Township 5 South, Range 64 West, Sections 1 through 5, 8 through 17, 20 through 29, and 32 through 36. In Elbert County the subject formation underlies Township 6 South, Range 63 West, Sections 1 through 35; Township 6 South, Range 64 West, Sections 1 through 5, 8 through 17, 20 through 29, and 34 through 36; Township 7 South, Range 63 West, Sections 4 through 9, 16 through 21, and 28 through 33; Township 7 South, Range 64 West, Sections 1 through 3, 10 through 15, 22 through 27, and 34 through 36.

(ii) *Depth.* The "J" Sand Formation ranges in thickness from 40 to 95 feet, and begins at the base of the "D" Sand and extends to the top of the Skull Creek Shale. The average depth to the top of the "J" Sand Formation is approximately 8,100 feet.

[FR Doc. 84–1373 Filed 1–17–84; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 25

Transitional Rule for Increased Annual Gift Tax Exclusion and Unlimited Exclusion for Certain Transfers

Correction

In FR Doc. 84–236 beginning on page 896 in the issue of Friday, January 6, 1984, make the following correction.

On page 897, third column, the sixth line of "*Example (3)*" in § 25.2503–6(c) should have read:

"payments made by D to C do not qualify for the exclusion under section 2503(e) of the Code and are".

BILLING CODE 1505–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 942

Public Hearing on the Status of the Tennessee Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Scheduling of public hearing evening session.

SUMMARY: On December 21, 1983, the Director, OSM, scheduled a public hearing and public comment period to provide an opportunity for interested persons to express their concerns on the implementation of the Tennessee program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) (48 FR 56403). The hearing was scheduled for 10:00 a.m. on January 26, 1984, in Knoxville, Tennessee. On January 9, 1984, the Director received a citizen group request that all or part of the public hearing, scheduled for January 26, be held in the evening. In response to that request, the Director is scheduling an evening session to be held in addition to the already scheduled daytime session.

DATES: OSM has scheduled a public hearing on January 26, 1984, to be held in two sessions at the address below. The first session will begin at 10:00 a.m. and the second session at 7:00 p.m. Persons wishing to testify at the public hearing are urged to contact Mr. James Curry, Field Office Director, at the address and telephone number shown under "**FOR FURTHER INFORMATION CONTACT**" by the day before the hearing, so they may be placed on the speakers' agenda.

ADDRESS: Both sessions of the public hearing on the status of the Tennessee permanent regulatory program will be held at: The Hyatt House, 500 Hill Avenue, SE., Blount North Room, Knoxville, Tennessee 37901.

FOR FURTHER INFORMATION CONTACT:

Carl C. Close, Special Assistant to the Assistant Director, Program Operations and Inspection, Office of Surface Mining, 1951 Constitution Avenue, NW., Washington, D.C. 20240; Telephone: (202) 343–4225.

James Curry, Knoxville Field Office Director, Office of Surface Mining Reclamation and Enforcement, 530 Gay Street, SW., Suite 400, Knoxville, Tennessee 37902; Telephone: (615) 524–7648.

SUPPLEMENTARY INFORMATION: On December 21, 1983, the Director scheduled a public hearing to be held on January 26, 1984, in Knoxville, Tennessee, to provide an opportunity for interested persons to express their concerns on the implementation of the Tennessee program under the Surface Mining Control and Reclamation Act of 1977 (48 FR 56403). Information on the events leading up to the hearing, the purpose and scope of the hearing, and the hearing rules and procedures is contained in the December 21, 1983 **Federal Register** notice.

On January 9, 1984, OSM received a written request from a citizen group, Save Our Cumberland Mountains (SOCM), that all or part of the hearing, scheduled for January 26 in Tennessee, be held in the evening.

In response to this request and in an effort to maximize the participation of interested individuals, the Director is scheduling an evening session beginning at 7:00 p.m., to be held in addition to the daytime hearing session.

Dated: January 13, 1984.

James R. Harris,

Director, Office of Surface Mining.

[FR Doc. 84-1337 Filed 1-17-84; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD Regulation 6010.8-R, Amdt. No.]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Pacemaker Telephonic Monitoring

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed amendment of rule.

SUMMARY: This proposed rule will amend DoD Regulation 6010.8-R (32 CFR Part 199) which implements the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS). The proposed rule will allow coverage for transtelephonic monitoring of pacemakers which is currently excluded under the CHAMPUS Basic Program. Transtelephonic monitoring of pacemakers is an effective means of alerting the physician to pacemaker malfunction and serves to increase patient comfort and reduce the cost of medical care.

DATES: Written public comments must be received on or before February 17, 1984.

ADDRESS: Office of the Civilian Health and Medical Program of the Uniformed Services, OCHAMPUS, Policy Branch, Aurora, CO 80045.

FOR FURTHER INFORMATION CONTACT: David E. Bennett, Policy Branch, OCHAMPUS, Aurora, Colorado 80045, telephone 303-361-8608.

SUPPLEMENTARY INFORMATION: In FR Doc. 77-7834 appearing in the **Federal Register** on April 4, 1977 (42 FR 17972), the Office of the Secretary of Defense published its Regulation, DoD 6010.8-R, "Implementation of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)," as Part 199. Section 199.10(g)(56) of the Part specifically excludes services or advice rendered by telephone or other telephonic device, including remote monitoring. This restriction prevents the payment of transtelephonic monitoring of pacemakers under the CHAMPUS Basic Program.

Transtelephonic monitoring of paced patients has been routinely used as a complementary method to outpatient visits to a physician's office or specialized cardiac unit in a hospital or clinic. This method serves to increase patient comfort by avoiding unnecessary trips to the physician's office, reducing the burden on the hospitals' specialized cardiac units and reducing the cost of pacemaker monitoring. Transtelephonic monitoring is a convenient and effective means of alerting the physician to incorrect positioning or malfunctioning of electrodes, failure of the generator's electronic circuitry and impending battery exhaustion.

Under the proposed rule all telephonic service is excluded except for transtelephonic monitoring of pacemakers. Diagnostic monitoring of pacemakers will be payable using Medicare's current utilization parameters for development and reimbursement of transtelephonic monitoring claims. If the utilization parameters are exceeded, written justification will be required from the physician that more frequent monitoring is medically necessary.

Section 605(b) of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) requires that each federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues regulations which would have a significant impact on a substantial number of small entities. The Secretary certifies, pursuant to section 605(b) of Title 5, United States Code, enacted by the Regulatory Flexibility Act (Pub. L. 96-354), that this regulation will not have a significant economic impact on a substantial number of small businesses, organizations or government jurisdictions.

We have determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It is not, therefore, a "major rule" under Executive Order 12291.

List of Subjects in 32 CFR Part 199

Health insurance, Military personnel, Handicapped.

Accordingly, 32 CFR, Chapter I, is amended as follows:

PART 199—IMPLEMENTATION OF THE CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES

Section 199.10 is amended by revising paragraph (g)(56) to read as follows:

§ 199.10 Basic program benefits.

* * * * *

(g) * * *

(56) *Telephonic Services.* Services or advice rendered by telephone or other telephonic device, including remote monitoring except for transtelephonic monitoring of pacemakers.

* * * * *

(10 U.S.C. 1079, 1086; 5 U.S.C. 301)

Dated: January 13, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 84-1271 Filed 1-17-84; 8:45 am]

BILLING CODE 3810-01-M

VETERANS ADMINISTRATION

38 CFR Part 21

Emergency Veterans' Job Training Program

Correction

In FR Doc. 83-34663, beginning on page 57529, in the issue of Friday, December 30, 1983, on page 57533, in the first column, the section now reading "§ 21.4621" should read "§ 21.4610".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-10-FRL 2507-3]

Approval and Promulgation of State Implementation Plan: Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: By this notice, EPA proposes to take the following actions on the Fairbanks Carbon Monoxide State Implementation Plan (SIP) revisions submitted on September 29, 1982 and January 5, 1983: (1) To disapprove the inspection and maintenance (I/M) program and the attainment demonstration portion of the SIP; (2) to approve the SIP elements dealing with basic transportation needs, conformity and control measures other than (I/M); (3) to impose a prohibition on construction or modification of major stationary sources of carbon monoxide (CO) if the proposed finding of SIP deficiency is made final; and (4) to remove all conditions on the 1979 Fairbanks CO Attainment Plan approved by EPA on December 30, 1980 (45 FR 85744). EPA will be initiating the Federal Highway funding limitation process simultaneously with this proposal in accordance with the terms of the April 10, 1980 joint EPA/DOT policy statement (45 FR 24692). The SIP disapproval may also result in limitations on Clean Air Act (CAA) and sewage treatment plant funding. However, an additional **Federal Register** notice and opportunity for comment will be provided prior to actually imposing any of these funding limitations. This notice supercedes an earlier proposal published in the **Federal Register** on February 3, 1983 (48 FR 5122).

Because the existing SIP does not contain enforceable measures to assure attainment of the CO standard EPA has notified the Alaska Department of Environmental Conservation and the Fairbanks North Star Borough that a SIP revision must be submitted. This revision must contain a commitment to implement an I/M program and demonstrate attainment of the CO standard by December 31, 1987.

DATE: Comments must be received on or before February 17, 1984.

ADDRESSES: Comments Should Be Addressed To: Laurie M. Kral, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101.

Copies of the materials submitted to EPA may be examined during normal business hours at:

Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101
State of Alaska, Department of Environmental Conservation, 3220 Hospital Drive, Juneau, AK 99811

FOR FURTHER INFORMATION CONTACT: Loren C. McPhillips, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101, Telephone No. (206) 442-7369, FTS. 399-7369.

SUPPLEMENTARY INFORMATION:

I. Background

On December 30, 1980 (45 FR 85744) EPA conditionally approved the first phase of the Fairbanks carbon monoxide (CO) State Implementation Plan (SIP). At that time an extension of the attainment date for the CO standard to December 31, 1987 was also approved.

The second phase of the Fairbanks CO SIP was officially submitted to EPA on September 29, 1982 and was further updated by the Alaska Department of Environmental Conservation (ADEC) on January 5, 1983. The September 29 SIP revision indicated that a 45.2 percent reduction in 1979 baseline emissions is necessary in order to attain the eight-hour CO standard prior to December 31, 1987. Part of this reduction will come from the Federal Motor Vehicle Emission Control Program. Another portion of the required reduction (21 percent) was to come from a mandatory vehicle inspection and maintenance (I/M) program. The September 29 SIP revision committed to adoption of an I/M program if the cold temperature emissions study showed such a program to be effective.

On February 3, 1983 (48 FR 5122) EPA proposed to approve the Fairbanks CO SIP but noted that EPA would not take final action to approve the SIP until ADEC either fully committed to implement I/M or adopted other equally effective control measures.

II. Plan Review

A. Disapprovable Elements of the SIP

Subsequent to the publication of the proposed SIP approval, and based on results from the second year of the cold temperature emissions study, ADEC concluded that I/M would be an effective measure. ADEC also, however, decided that local officials should finance and implement the program. The January 5, 1983 update of the SIP submitted by ADEC included a schedule indicating that I/M would begin by September 1984 but contained no assurance that local officials were committed to implement the program.

On April 6, 1983, the Commissioner of the Alaska Department of Environmental Conservation (ADEC) sent a letter to the Mayor of Fairbanks affirming the State's desire that Fairbanks establish an I/M program, but indicating that the State will not fund initial capital costs of an I/M facility. The letter also indicated that the State would not take direct action to establish a program if local officials chose not to proceed. On May 2, 1983, the Fairbanks North Star Borough (FNSB) Assembly passed a resolution which indicated that several more steps needed to be taken before a valid commitment to I/M would be made. Further, it was clear that any such commitment would be contingent on State funding, despite the earlier indication from the State that funds would not be available. In recognition of these events, EPA sent a letter on May 10, 1983 to the Presiding Officer of the FNSB Assembly stating: "The net result of these two actions is that there is not an adequate commitment to implement an I/M program." Since Section 172(b)(10) of the Clean Air Act requires that a Part D plan contain evidence that States and local government are committed to implement and enforce the elements of the plan, it is now clear that these portions of the original Fairbanks Carbon Monoxide Attainment Plan can not be approved. Based on this deficiency, EPA is now proposing to disapprove the I/M and attainment demonstration portions of the plan.

B. Approvable Elements of the SIP

EPA is proposing to approve the remaining control strategies, excluding I/M, that were contained in the original SIP. The following is a list of control measures that still contain adequate commitments for implementation or continued implementation:

1. Federal Motor Vehicle Emission Control Program
2. Transit Improvements
3. Traffic Improvements
4. Vehicle Preheating
5. District (Centralized) Heating System

The commitment to these measures ensures that the requirements for basic transportation needs are satisfied and that improved mobility will be emphasized. Therefore, EPA is proposing to approve the element dealing with basic transportation needs as well as the five elements listed above.

Conformity will be determined in accordance with the procedures set

forth in the SIP. After determining conformity of the plans and programs, all Federal aid projects will still be evaluated in accordance with procedures specified in the National Environmental Policy Act. If the analysis indicates that the project will create new violations or exacerbate existing violations, then the project will not be constructed without modifications to the project or plan sufficient to maintain reasonable further progress toward attainment.

Therefore, EPA's is also proposing to approve the element of the plan dealing with Conformity of Federal Actions with the SIP. A detailed discussion of these approvable elements is contained in the February 3, 1983 (48 FR 5133) Federal Register Notice.

C. Removal of Previous Conditions

In response to EPA's conditions of approval on the 1979 SIP (December 30, 1979 (45 FR 85744)) FNSB has included in the 1982 SIP revision: (1) An expanded 1980 CO emission inventory to include emissions from off-street parking, (2) verification that population projections for air and water planning activities are consistent and (3) a procedure for determining conformity of Federal projects with the SIP.

The fourth condition dealt with the new source alternatives analysis required by Section 172(b)(11)(A) of the Act and is no longer required in this case. Because Fairbanks has not adopted a CO emission allowance as part of their SIP, new or modified major (100 tons per year) CO sources cannot be permitted in the nonattainment area. Since this prohibits construction of new or modified major CO sources, it also negates the need at this time for the new source alternatives analysis procedure required by the Act. Before the construction of a new source is permitted, an additional SIP revision, which identifies a growth allowance and provides for the required new source alternatives analysis mentioned above, would have to be submitted and approved by EPA.

III. Proposed Action

The EPA proposes: (1) To disapprove the Fairbanks I/M program and the attainment demonstration portions of the plan; (2) to approve the SIP elements contained in the Fairbanks CO attainment plan, which was submitted to EPA on September 29, 1982 and January 5, 1983, dealing with basic transportation needs, conformity and control measures other than I/M; (3) to impose, as required by Section 110(a)(2)(I) of the Clean Air Act, a prohibition on construction or modification of major stationary sources of CO if the proposed finding of SIP deficiency is made final, and (4) to remove the four conditions on the EPA approval of the 1979 Fairbanks CO SIP which EPA imposed on December 30, 1980 (45 FR 85744).

Disapproval may also result in restriction of Federal funding pursuant to Sections 176(a) and 316(b) of the Clean Air Act. Under Section 176(a), EPA and the Department of Transportation must limit funds for air quality planning and transportation projects in any nonattainment area where transportation control measures are necessary for attainment and where EPA finds that a state has not submitted, or made reasonable efforts to submit, a plan meeting the requirements of Section 172.

Section 316 states that the Administrator may restrict grants for sewage treatment works if the State does not have the effect or is not carrying out an approved SIP which accommodates the direct and indirect air quality impacts from the new sewage treatment capacity.

EPA will publish a separate notice of proposed rulemaking and provide an opportunity for comment before imposing any of these funding restrictions. For more information on the scope of the restrictions and the procedures EPA will follow, see 45 FR 24692 (April 10, 1980) (air quality planning and transportation grants) and 45 FR 53382 (August 11, 1980) (sewage treatment grants).

Because the existing SIP does not contain enforceable measures to assure attainment of the CO standard EPA has notified ADEC and Fairbanks North Star Borough that a SIP revision must be submitted. This revision must contain a commitment to implement an I/M program and must demonstrate attainment of the CO standard by December 31, 1987.

If an approvable SIP is submitted before EPA takes final action to disapprove the plan or to impose growth or funding restrictions, then EPA will discontinue the disapproval process and propose approval of the new SIP. If however EPA takes final action to disapprove the plan and impose the contruction ban, the ban would then remain in effect until an approvable plan is submitted and approved. Removal of any funding restrictions would be carried out in accordance with the policies cited in the preceding paragraph.

Under Executive Order 12291, EPA must assess the economic impact of any proposed or final rule. Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), EPA must assess the impact of proposed or final rules on small entities.

If EPA takes final action to disapprove this SIP, a moratorium on the construction and modification of major stationary sources of carbon monoxide will go into effect in the Fairbanks area. Accordingly it is clear that final disapproval would likely affect some small entities EPA has previously tried to quantify the impacts of Clean Air Act rules on the construction and modification of sources, but has been unable to do so because it cannot obtain reliable information on future plans for business growth. Consequently, EPA is making no quantified assessment of the potential impacts of this proposed action.

Additionally, even if this action were to have some impact, the Agency could not modify its action. Under the Clean Air Act the imposition of a construction moratorium is automatic and mandatory when ever the Agency determines that a plan for a nonattainment area fails to meet the requirements of Part D of the Act. Further information including a statement on the Regulatory Flexibility Act, can be found in the General Preamble to proposed rulemakings published on February 3, 1983 (48 FR 5022).

Under Executive Order 12291, Today's action is not "major". It has been submitted to the Office of Management and Budget for review.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur dioxide, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: August 30, 1983.

L. E. Edwin Coat,

Deputy Administrator.

[FR Doc. 84-1282 Filed 1-17-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-10-FRL 2377-1]

Approval and Promulgation of State Implementation Plan; Idaho

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: By this notice, EPA proposes to take the following actions on the Boise-Ada County Carbon Monoxide (CO) Attainment Plan revisions submitted on December 23, 1982: (1) To disapprove the motor vehicle inspection and maintenance (I/M) program and the attainment demonstration portions of

the Plan; (2) to approve the SIP elements dealing with basic transportation needs, conformity and control measures other than I/M; and (3) to impose prohibition on construction or modification of major stationary sources of CO as required by Section 110(a)(2)(I) of the Clean Air Act (CAA) if the proposed disapproval of the SIP is made final. This notice supercedes an earlier proposal published in the **Federal Register** on February 3, 1983, (48 FR 5133). EPA will be initiating the Federal Highway funding limitation process simultaneously with this proposal in accordance with the terms of the April 10, 1980 joint EPA/Department of Transportation (DOT) policy statement (45 FR 24692). Disapproval of the SIP may also result in limitations on Clean Air Act and sewage treatment plant funding. However, an additional **Federal Register** notice and opportunity for public comment will be provided prior to actually imposing any of these funding limitations.

To prevent the imposition of the construction and funding restrictions the State must submit a SIP revision which contains a commitment to implement an I/M program and demonstrate attainment of the CO standard by December 31, 1987.

Today's proposed actions are authorized by sections 110, 171–178, and 316 of the Clean Air Act.

DATE: Comments must be received on or before February 17, 1984.

ADDRESSES: Copies of the materials submitted to EPA may be examined during normal business hours at:

Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101
State of Idaho, Department of Health and Welfare, 450 W. State Street, Statehouse, Boise, Idaho 83720.

Comments should be addressed to: Laurie M. Kral, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101.

FOR FURTHER INFORMATION CONTACT: Loren C. McPhillips, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101, Telephone No. (206) 442–7369, FTS. 399–7369.

SUPPLEMENTARY INFORMATION:

I. Background

On October 23, 1980 (45 FR 70252) EPA approved the first phase of the Boise-Ada County CO SIP. In that Notice EPA called for implementation of an I/M program by December 31, 1982 for a decentralized program or by December 31, 1983 for a centralized program. In addition, EPA approved the State's request for an extension of the CO attainment date to December 31, 1987.

On November 6, 1982 a draft of the second phase CO SIP was submitted to EPA. A hearing was held on December 14, 1982, and the draft SIP was adopted without change and submitted to EPA on December 23, 1982. On February 3, 1983 EPA published a proposal (48 FR 5133) to approve the SIP. As explained in the February 3, 1983 proposal, a 53 percent reduction in CO emissions is required for attainment in the Boise-Ada County area by December 31, 1987. The I/M program was designed to produce a 21 percent reduction of emissions. Other measures, such as the Federal Motor Vehicle Emission Control Program and implementation of certain transportation controls, are relied on to produce the remaining 32 percent reduction. Without the I/M reduction the projected attainment date is beyond 1990. Thus, the major control measure and principal source of CO reduction contained in the SIP was a mandatory vehicle I/M program.

II. Plan Review

A. Disapproved Elements of the SIP

EPA originally proposed to approve the Boise-Ada County CO attainment plan on February 3, 1983. Since that time the ordinances on which the I/M portion of the plan was based have been found to be defective and the original program design and schedule have been abandoned. Based upon these events, EPA has concluded that the I/M portion of the CO plan is no longer approvable.

On February 9, 1983, the Ada County Commissioners took official action repealing the original I/M ordinance and rescinding the Joint Powers Agreement with the City of Boise that established an Air Quality Board to implement the I/M program. The Commissioners were sued by the Ada County Highway District and restrained from publishing their repealer action. Failure to timely publish such action renders it ineffective as a matter of State law. On March 16, 1983, the Commissioners reinstated the Joint Powers Agreement. However, because the Commissioners raised legal questions about the validity of the I/M ordinance in their defense of the suit brought by the Highway District, the Idaho Attorney General's office was asked to issue an opinion on the legality of the ordinance. In its opinion issued on May 24, 1983, that office concluded that the ordinance is defective and suggested certain changes which would resolve any questions about the ordinance's validity. The city of Boise promptly proposed to revise its ordinance to bring it into accord with the Attorney General's opinion. However, on August 24, 1983 the County adopted an ordinance that would significantly modify the I/M program design and date of implementation. Clearly the I/M program contained in the original December 1982 SIP revision has been adandoned.

Section 172(b)(10) of the Act requires that Part D Plans contain evidence that State and local government are committed to implement and enforce the elements of the Plan. Based upon the events cited above, EPA now finds that the required commitment to the I/M program is not contained in the Plan as originally submitted to EPA in December of 1982.

Additionally, section 172(c) of the Act requires that the Plan contain enforceable measures to assure attainment of the standards not later than December 31, 1987. Recognizing the defects noted in the Attorney General's opinion, EPA has now determined that the I/M ordinance contained in the December 1982 SIP is unenforceable. As a result the plan also fails to satisfy the section 172(c) requirement. For these reasons, EPA must conclude that the Part D Plan for Boise-Ada County CO as submitted on December 23, 1982, fails to satisfy Part D requirements and must, therefore, be disapproved. Because the attainment demonstration is based upon the implementation of an I/M program, the attainment demonstration is also being proposed for disapproval.

Additionally, EPA believes that the responsible agencies have not made reasonable efforts to submit an approvable plan. Accordingly, EPA is initiating the procedures contained in the April 10, 1980 joint policy statement (45 FR 24692) regarding the application of section 176(a) funding limits on highway projects and air grants. However, actual application of section 176 funding limits will not occur without a separate notice in the **Federal Register**.

It should be noted that City and County officials are making a renewed effort to overcome the deficiencies described above. As mentioned earlier, on August 24, 1983 the County officials adopted a new I/M ordinance calling for the implementation of a decentralized I/M program by August 1984. On September 12, 1983 the city also adopted the same ordinance. EPA supports this effort and is planning to defer final action on this proposed disapproval if a letter containing a realistic schedule for revising the SIP is submitted to EPA. If an approvable SIP revision is submitted in accordance with the schedule, it is EPA's intent to terminate this

disapproval Notice; if now, final action will be taken.

B. Approvable Elements of the SIP

EPA is proposing to approve the remaining control strategies, excluding I/M, that were contained in the original SIP. The following is a list of control measures that still contain adequate commitments for implementation or continued implementation:

1. Mechanics training
2. Public transit improvement and expansion
3. Parking management program
4. Traffic flow improvements
5. Bicycle program
6. Park and ride lots
7. Drive-in management ordinance
8. Staggered work hours
9. Cold start education

The commitment to these measures ensures that the requirements for basic transporation needs are satisfied and that improved mobility will be emphasized. Therefore, EPA is proposing to approve the element dealing with basic transportation needs.

Additionally, the SIP revision contains procedures to ensure that Federal actions will be reviewed for conformity with the SIP in a manner consistent with the criteria contained in the April 1, 1980 notice on conformity (45 FR 21590). Procedures for specifically evaluating Department of Transportation plans and programs are included in the SIP. After determining conformity of the plans and programs, all federal aid projects will still be evaluated in accordance with procedures specified in the National Environmental Policy Act. If the analysis indicates that the project will create new violations or exacerbate existing violations, then the project will not be constructed without modifications to the project or plan sufficient to maintain reasonable further progress toward attainment.

Therefore, EPA is also proposing to approve the element of the plan dealing with Conformity of Federal Actions with the SIP. A detailed discussion of these approvable elements is contained in the February 3, 1983 (48 FR 5133) **Federal Register** Notice.

III. Proposed Rulemaking Action

EPA is proposing: (1) To disapprove the I/M and the attainment demonstration portions of the Boise-Ada County CO Plan revisions submitted on December 23, 1982; (2) to approve the SIP elements dealing with basic transportation needs, conformity and control measures other than I/M; and (3) to impose a prohibition on construction or modification of major stationary sources of CO if the proposed finding of SIP deficiency is made final.

Disapproval, if finalized, may also result in restriction of federal funding pursuant to sections 176(a) and 316(b) of the Clean Air Act. Under section 176(a), EPA and the Department of transportation must limit funds for air quality planning and transportation projects in any air quality control region where transportation control measures are necessary for attainment and where EPA finds that a State has not submitted, or made reasonable efforts to submit, a plan meeting the requirements of section 172. Section 316 states that the Administrator may restrict grants for sewage treatment works if the State does not have the effect or is not carrying out an approved SIP which accommodates the direct and indirect air quality impacts from the new sewage treatment capacity.

EPA will publish a separate notice of proposed rulemaking and provide an opportunity for comment before imposing any of these funding restrictions. For more information on the scope of the restrictions and the procedures EPA will follow, see 45 FR 24692 (April 10, 1980) (air quality planning and transportation grants) and 45 FR 53382 (August 11, 1980) (sewage treatment grants).

Because the existing SIP does not contain enforceable measures to assure attainment of the CO standard EPA has notified IDHW and ADA Planning that a SIP revision must be submitted. This revision must contain a commitment to implement an I/M program and must demonstrate attainment of the CO standard by December 31, 1987.

If an approvable SIP is submitted before EPA takes final action to disapprove the plan or to impose growth or funding restrictions, the EPA will discontinue the disapproval process and propose approval of the new SIP. If however EPA takes final action to disapprove the plan and impose the construction ban, the ban would then remain in effect until an approvable plan is submitted and approved. Removal of any funding restrictions would be carried out in accordance with the policies cited in the preceding paragraph.

Under Executive Order 12291, EPA must assess the economic impact of any proposed or final rule. Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), EPA must assess the impact of proposed or final rules on small entities.

If EPA takes final action to disapprove this SIP, a moratorium on the construction and modification of major sationary sources of carbon monoxide will go into effect in the Boise-Ada County area. Accordingly, it is clear that final disapproval would likely affect some small entity. EPA has previously tried to quantify the impacts of Clean Air Act rules on the construction and modification of sources, but has been unable to do so because it cannot obtain reliable information on future plans for business growth. Consequently, EPA is making no quantified assessment of the potential impacts of this proposed action.

Additionally, even if this action were to have some impact, the Agency could not modify its action. Under the Clean Air Act the imposition of a construction moratorium is automatic and mandatory when even the Agency determines that a plan for a nonattainment area fails to meet the requirements of Part D of the Act. Further information including a statement on the Regulatory Flexibility Act, can be found in the General Preamble to proposed rulemakings published on February 3, 1983 (48 FR 5022).

Under Executive Order 12291, Today's action is not "major". It has been submitted to the Office of Management and Budget (OMB) for review.

Interested parties are invited to comment on all aspects of this proposed Disapproval of the Idaho SIP revision. Comments should be submitted, preferably in triplicate, to the address listed in the front of this Notice. Public comments postmarked by February 17, 1984, will be considered in any final action EPA takes on this proposal.

(Sections 110(a), 172, 176, and 316 of the Clean Air Act (42 U.S.C. 7410(a), 7502 and 7616)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur Dioxide, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: September 23, 1983.

L. E. Coat,

Acting Administrator.

[FR Doc. 84-1281 Filed 1-17-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[Docket No. AW050VA; A-3-FRL 2507-8]

Commonwealth of Virginia Proposed Revision to the Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Commonwealth of Virginia has submitted a revision of the Regulations for the Control and Abatement of Air Pollution for the Portsmouth Municipal Incinerator. The revision consists of a variance from Part IV, Rule EX–7 (§ 4.71), of the Virginia State Implementation Plan (SIP). This action will waive the Total Suspended Particulate (TSP) emissions standard until Feb. 15, 1985 by which time the incinerator will be completely phased-out. EPA is proposing approval of this SIP revision, as the variance meets all of the applicable requirements of the Clean Air Act and 40 CFR Part 51.

DATE: Comments must be submitted on or before February 17, 1984.

ADDRESSES: Copies of the proposed SIP revision and the accompanying support document are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III Air Management Branch, Curtis Building, Sixth & Walnut Streets, Philadelphia, PA 19106, Attn: Mr. Harold A. Frankford

Virginia State Air Pollution Control Board, Room 801, Ninth Street Office Building, Richmond, Virginia 23219, Attn: Mr. John M. Daniel

All comments on the proposed revision submitted within 30 days of publication of this Notice will be considered and should be directed to Mr. James E. Sydnor, Chief, of the MD/VA/DC/DE Section (3AW13) at the EPA, Region III address. Please reference the EPA Docket Number found in the heading of this Notice.

FOR FURTHER INFORMATION CONTACT: Mr. Harold Frankford (3AW13) at the Region III address stated above or telephone 215/597–8392.

SUPPLEMENTARY INFORMATION:

Background

On May 6, 1983, the Commonwealth of Virginia submitted to the EPA, Region III a variance from Rule EX–7, § 4.71 of the Commonwealth of Virginia Regulations for the Control and Abatement of Air Pollution. This variance would allow the City of Portsmouth Municipal Incinerator to discharge particulate matter in excess of 0.14 grains per standard cubic feet of dry flue gas corrected to 12% carbon dioxide.

The Commonwealth of Virginia also certified that the variance was subject to a public hearing on February 25, 1983 in Virginia Beach as required by 40 CFR Section 51.4.

The proposed revision will terminate on Feb. 15, 1985, by which time the incinerator operations will have ceased. The variance places the following conditions on the incinerator operations:

1. All operating personnel must be certified in the operation of the incinerator and air pollution control regulations.

2. The operating load of the Municipal Incinerator shall not exceed 360 tons per day or 15 tons per hour.

3. Emissions from the Municipal Incinerator shall not exceed 116 lbs. per hour or 435 tons per year.

4. The Municipal Incinerator shall be properly maintained in good working order at all times.

5. All public complaints concerning the Municipal Incinerator shall be kept on file and reported to the Virginia Region VI Office ([804] 499–6845) as soon as possible but no later than 4 daytime business hours after the complaint is received.

6. The Board personnel at reasonable times shall have access to the facility to investigate incidents or review records.

7. A final compliance must be met by Feb. 15, 1985.

Compliance Schedule

June 30, 1983—City of Portsmouth reports to the State Air Pollution Control Board on the Status of repairs to the incinerator and the progress being made toward establishment of the regional landfill.

January 1, 1984—Interim report to the State Air Pollution Control Board on progress being made toward establishment of the regional landfill.

June 30, 1984—Interim report to the State Air Pollution Control Board on progress being made toward establishment of the regional landfill.

November 30, 1984—Notification to the State Air Pollution Control Board on landfill completion.

January 1, 1985—Notification to the State Air Pollution Control Board of complete phase-out of the Municipal Incinerator.

Currently, the incinerator emits TSP at a rate of 116.3 lbs/hr. While this rate exceeds the SIP-approved incinerator standard, the Commonwealth demonstrated that the variance will not violate the ambient air quality standards for TSP. The PT MAX model was used to predict the conditions at the period of highest instantaneous concentration. This model predicted that the incinerator emissions would cause an 8.7 ug/m^3 increase in the 24 hour concentration. Therefore, expected TSP concentration from this source, combined with the higest 24 hour concentration measured at 137 mg/m^3 will not exceed the TSP secondary standard of 150 mg/m^3. Also, the facility operates with an opacity reported below 20% which complies with Virginia's Air Regulation 4.22.

EPA Evaluation/Actions

The EPA has reviewed the information for the revision submitted by the Commonwealth of Virginia and believes that it meets the requirements of 40 CFR Part 51. Although the original May 6, 1983 variance request did not address the issue of PSD increment consumption, Virginia informed EPA on November 9, 1983 that the Portsmouth Incinerator was emitting the same TSP emissions rate at the time the baseline was triggered in the Portsmouth area as that which this variance request allows. Therefore, this SIP revision only has to address the ambient TSP standard but not PSD increment consumption. In view of the above evaluation, EPA proposes to approve this variance request as a revision to the Virginia SIP.

The public is invited to submit comments to the above noted addresses on whether the EPA should approve this revision to the Virginia SIP. All comments received on or before February 17, 1984 will be considered.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator has certified that SIP approvals under sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. See 45 FR 8709 (January 27, 1982). The action if promulgated, constitutes a SIP approval under sections 110 and 172 within the terms of the January 27, 1981 certification.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(42 U.S.C. 7401–7642)

Dated: December 6, 1983.

Stanley Laskowski,

Acting Regional Administrator.

[FR Doc. 84–1283 Filed 1–17–84; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 145

[OW–FRL–2508–5]

Georgia Department of Natural Resources; Underground Injection Control; Primacy Application

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of public hearing.

SUMMARY: The purpose of this notice is to announce that: (1) The Environmental Protection Agency (EPA) has received a complete application from the State of Georgia requesting primary enforcement responsibility for the Underground Injection Control (UIC) Program; (2) the application is now available for inspection and copying; (3) public comments are requested; and (4) a public hearing will be held.

The proposed comment period will provide EPA the breadth of information and public opinion necessary to approve, disapprove, or approve in part and disapprove in part the application of the Georgia Department of Natural Resources (GDNR) to regulate Classes I, II, III, IV, and V injection wells. This application is made under section 1422 of the Safe Drinking Water Act.

DATES: Requests to present oral testimony should be filed by February 10, 1984. The Public Hearing will be held on February 22, 1984 at 10:00 a.m. and will continue until the end of the testimony. Written comments must be received by March 9, 1984.

EPA reserves the right to cancel the hearing should there be no significant public interest. Those informing EPA of their intention to testify will be notified of the cancellation.

ADDRESSES: Comments and requests to testify should be mailed to David Peacock, Environmental Protection Agency, Region IV, 345 Courtland Street, NE, Atlanta, Georgia 30365. Copies of the application and pertinent material are available between 9:00 a.m. and 4:00 p.m., Monday through Friday at the following locations:

Environmental Protection Agency, Region IV, Library, 1st Floor, 345 Courtland Street, Atlanta, Georgia 30365, PH: (404) 881–4216

Georgia Department of Natural Resources, Environmental Protection Division, 270 Washington Street, SW, Atlanta, Georgia 30334, PH: (404) 656–5660

The hearing will be held in the U.S. EPA First Floor Conference Room 106, 345 Courtland Street, NE., Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: David Peacock, Environmental Protection Agency, Region IV, 345 Courtland Street, NE, Atlanta, Georgia 30365. PH: (404) 881–3866. Comments should also be sent to this address.

SUPPLEMENTARY INFORMATION: The Underground Injection Control (UIC) program seeks to protect as "underground sources of drinking water" (USDWs) all aquifers capable of yielding a significant amount of water containing less than 10,000 mg/1 of total dissolved solids. At present, the State of Georgia has no Class I, II, III, or IV injection wells and 4 inventoried Class V injection wells. Class V wells will be studied to assess whether further regulatory measures are required. The State of Georgia does not intend to exempt any aquifers at this time.

The terms listed below comprise a complete listing of the thesaurus terms associated with 40 CFR Part 145, which sets forth the requirements for a State requesting the authority to operate its own permit program of which the Underground Injection Control program is a part. These terms may not all apply to this particular notice.

List of Subjects in 40 CFR Part 145

Indians—lands, Reporting and recordkeeping requirements, Intergovernmental relations, Penalties, Confidential business information, Water supply.

This application from the Georgia Department of Natural Resources is for the regulation of all injection wells in the State. The application includes a description of the State Underground Injection Control Program, copies of all applicable statutes and rules, a statement of legal authority and a proposed memorandum of agreement between the Georgia Department of Natural Resources and the Region IV office of the Environmental Protection Agency.

(42 U.S.C. 300)

Dated: January 12, 1984.

Jack E. Ravan,

Assistant Administrator for Water.

[FR Doc. 84–1285 Filed 1–17–84; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[Gen. Docket No. 83–989; FCC 83–582]

Enforcement of Prohibitions Against the Use of Common Carriers for the Transmission of Obscene Materials

AGENCY: Federal Communications Commission.

ACTION: Further notice of inquiry and notice of proposed rulemaking.

SUMMARY: The Commission requests further comment on the issues raised in its notice of inquiry in Docket 83–989 in light of the subsequent amendments to Section 223, 47 U.S.C. 223. The Commission also proposes to adopt rules and regulations in accordance with amended Section 233(c), which requires the Commission to adopt rules within 180 days curtailing access to "dial-a-porn" types of services by children, while permitting access by adults. The further notice of inquiry permits full consideration of all relevant issues in the Commission's ongoing inquiry in Docket 83–989, while the notice of proposed rulemaking permits the Commission to undertake its statutory rulemaking duty under section 223(c).

DATES: Comments must be received on or before January 23, 1984. Reply Comments must be received on or before March 1, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Sharon B. Kelley, Holly Berland, Office of General Counsel, (202) 632–6990.

Further Notice of Inquiry and Notice of Proposed Rulemaking

In the matter of enforcement of prohibitions against the use of common carriers for the transmission of obscene materials, Gen. Docket No. 83–989; FCC 83–582.

Adopted: December 14, 1983.
Released: December 20, 1983.
By the Commission.

1. On September 9, 1983, the Commission adopted a Notice of Inquiry ("NOI") in the above-referenced docket (September 23, 1983, 49 FR 43348). A large part of the inquiry focused on the scope of the Commission's authority to take action against "dial-a-porn" services under Section 223 of the Comunications Act, 47 U.S.C. 223,[1] and the extent to which the Commission ought to exercise its discretion to use any such authority. The comment period closed on December 19, 1983.

2. On December 8, 1983, a bill that amends Section 223 became law. (A copy is attached to this Notice.) The amendment answers some of the questions raised in the Notice of Inquiry regarding the Commission's authority,[2]

[1] By express statutory language, the application of Section 223 is limited to the use of telephones or telephone facilities. Therefore, the legislation does not apply to the provision of non-telephonic services by common carriers.

[2] For example, the amendment seems to answer the questions raised in ¶11 of the Notice of Inquiry by its prohibition of obscene or indecent communications via dial-of-porn services when the obscene or indecent communications are made to persons under eighteen years of age or to unconsenting adults—unless a defendant has attempted to restrict minors' access in accordance with FCC rules and regulations. The bill also gives the Commission explicit authority to impose fines for violations.

but leaves other questions unanswered.[3] It also requires the Commission to prescribe, within 180 days of the bill's enactment, rules and regulations that restrict access to the telephone communications at issue by persons under 18 years of age, while retaining adult access.[4] We issue this further notice of inquiry in order to permit and encourage the public to comment on the issues raised in the NOI with reference to the amended Section 223 rather than the old Section 223, where pertinent. We issue this notice of proposed rulemaking in order to solicit comments and suggestions on the rules and regulations that the Commission must adopt pursuant to section 223(c) if practicable.

3. We thus seek comment on all questions and issues raised in the notice of inquiry that are affected, but not answered, by the amendment. In addition, we seek ideas and comments on rules and regulations that are technically and economically feasible which could limit access to adults. In this regard, we note that many of these message services are "dial-it" services which permit multiple callers to access the same recording simultaneously. Requiring an operator to take a credit card number would not be economically practicable in the case of such services, since operator intervention on an individual call basis would entail substantial administrative burdens. We seek comments, however, on whether some variaion of an automated screening device might be feasible, such as an access code that requires no operator assistance (as with some long distance services where manual entry of a several-digit access code is required for completion of the call). With respect to non dial-it message services, should the same system be used or could a credit card be required? Because access codes or credit cards are not issued to minors by the companies, we solicit comments from the public as to whether such screening devices would meet the requirements of amended Section 223(b)(2). Therefore, we are seeking comments as to what is feasible and state our intention to adopt a rule requiring such a device if practicable.

4. We also seek comments as to the technical and economic feasibility as well as the desirability of blocking access to dial-a-porn numbers from coin telephones. Since many calls placed by children to dial-a-porn services originate from coin telephones, this proposal might effectively limit the hours when such services are available to children while only marginally impeding adults' access to such services.[5]

5. Another possible regulation would limit the hours of operation of these telephone services to those hours of the day when a majority of parents can be expected to be home and therefore responsible for their children's behavior. In *FCC* v. *Pacifica Foundation*, 438 U.S. 726 (1978), the Supreme Court suggested that the time of day could affect whether certain conduct was prohibited by the obscenity laws. We seek comment on whether prohibiting operation between 8 a.m. and 9 p.m. Eastern Time (to encompass 6 a.m. to 6 p.m. in all Continental U.S. time zones) plus 6 a.m. to 6 p.m. in Hawaii and Alaska, would be a reasonably effective restriction.

6. Other possible restrictions could focus on limiting advertisements of the telephone number, *viz.*, restricting advertisements to the inside pages of the magazines available only to persons over eighteen. However, the Commission may not have authority to impose restrictions on any medium other than broadcast and related services. We further solicit comment on whether any advertising restrictions by the Commission would be valid under the criteria for permissible governmental restrictions on commercial speech, as set forth by the Supreme Court in *Central Hudson Gas & Electric Corp. v. Public Service Commission*, 447 U.S. 557 (1980).

7. In addition, we seek suggestions from the public as to other time, place and manner regulations that would permit adults to have access to these services while restricting access by children. It would seem necessary that any regulation we adopt give adults continued access to these services, lest we risk violating *Butler v. Michigan*, 352 U.S. 380 (1957). In *Butler*, the Court struck down as unconstitutional a statute that had the effect of preventing adults from having access to materials that were judged to have a potentially deleterious influence on children. *Id.* at 382–83. The Court refused to reduce the adult population to reading what was fit for children. *Id.* at 383. We see no reason why that same principle would not apply here. If, therefore, there are no feasible specific restrictions that permit adult access while limiting children's access, then less specific measures may have to suffice.[6]

8. We ask commenters to be as specific as possible, both in their initial suggestions and in any criticisms of other suggestions. We also ask that commenters not merely criticize but, if possible, suggest solutions to their perceived problems. It is possible that one of the restrictions mentioned above, either alone or in combination with another, may meet the objectives of Section 223. Because of the 180-day deadline imposed on the Commission for adopting regulations pursuant to amend Section 223(c), we do not anticipate granting any extensions of time for the filing of comments or reply comments.

9. As required by Section 603 of the Regulatory Flexibility Act, the FCC has prepared an initial regulatory flexibility analysis (IFRA) of the expected impact of the proposed rule changes on small entities. The IRFA is set forth in Appendix A. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the Notice, but they must have a separate and distinct heading designating them as responses to the regulatory flexibility analysis. The Secretary shall cause a copy of the *Notice*, including the initial regulatory flexibility analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act (Pub. L. No. 96–354, 94 Stat. 1164, 50 U.S.C. 601 *et seq.* (1982)).

10. For the purposes of the non-restricted notice and comment rulemaking portion of this docket (as distinguished from the notice of inquiry portion), members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a *Notice of Proposed*

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[3] Although in his remarks inserted into the Congressional Record, Congressman Bliley proffers his answers to the questions raised in the NOI, 129 Cong. Rec. H10559–10561 (Nov. 18, 1983), we respectfully believe that comment from the public is warranted on all questions not explicitly answered by the statutory language. *See* 5 U.S.C. 553(b).

[4] As the legislative history notes, the Commission is limited by the constraints of what is practicable and constitutional. *See also* ¶7, *infra*. Thus, although we intend to make every effort to fashion rules that serve their intended purpose while being both practicable and constitutional, we note that adoption of specific regulations may not be feasible. *See* 105 Cong. Rec. E 5967–5976 (remarks by Congressman Kastenmeier) (December 14, 1983). In that event, the Commision may consider adopting goal-oriented regulation, such as requiring each message service provider to submit for Commission consideration their plan to limit access to individuals eighteen years and older. The public is also requested to comment on the desirability of this type of regulation.

[5] A regulation which would prevent the use of coin telephones to reach dial-a-porn services would place parents in a better position to control and supervise their children's exposure to obscene or indecent communications. As Congressman Kastenmeier noted:

> [i]t seems to me that parental responsibility must play a role here. If a family's telephone bill shows long distance calls—including any to a dial-a-porn number—it should be up to the parents, not the Congress or the FCC, to set rules which limit access by children to these messages. *See* Cong. Rec. E 5967 (Dec. 14, 1983).

[6] *See* note 4, *supra*.

Rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comment/pleading and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously filed written comments for the proceeding must prepare a written summary of that presentation; and, on the day of oral presentation, must serve that written summary on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it related. *See* generally, § 1.1231 of the Commission's Rules, 47 CFR 1.1231.

11. This *Notice of Proposed Rulemaking* is issued pursuant to authority contained in Sections 4(i) and 223(c) of the Communications Act of the 1934, as amended. Interested parties may file comments on or before January 23, 1984 and reply comments on or before March 1, 1984.[1] All relevant and timely comments filed in response to this *Notice* will be considered by the Commission. In accordance with the provisions of § 1.419 of the Commission Rules, an original and five copies of all comments, replies, briefs and other documents filed in this proceeding shall be furnished to the Commission. Further, members of the general public who wish to participate informally in the proceeding may submit one copy of their comments, specifying the docket number in the heading. All comments should be submitted to the Commission's Secretary. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided the fact of the Commission's reliance on such information is noted in the Report and Order.

12. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

13. For further information concerning this proceeding, contact Sharon Kelley or Holly Berland, Office of General Counsel, (202) 632–6990.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[1] The January 26 deadline for filing reply comments on our initial notice of inquiry is hereby supplanted by these new filing deadlines.

Appendix A—Initial Regulatory Flexibility Analysis

1. *Reason for Action*: Section 8(c) of the Federal Communications Commission Authorization Act of 1983, Public Law 98–214, approved Dec. 8, 1983, requires the Commission to adopt rules and regulations limiting access to "dial-a-porn" types of services to persons 18 years of age or older.

2. *Objectives*: The Commission proposes to adopt rules that will curtail children's access to these services while retaining reasonable access for adults. The Commission has suggested certain possibilities but requires comment as to the technical feasibility of its suggestions before deciding whether to adopt them.

3. *Legal basis*: Action proposed herein is taken pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 4(i) and Section 8(c) of the Federal Communications Commission Authorization Act of 1983, Pub. L. 98–214, approved Dec. 8, 1983.

4. *Description of potential impact and number of small entities affected.* This action will have primary effect on sponsors of dial-a-porn types of services. It is unclear how many such sponsors there are when all kinds of message services (rather than dial-it services only) are included. To a lesser degree, telephone companies may be affected by this action. While it is not clear that telephone companies are subject to liability under the statute, it is possible that the rules adopted pursuant to this action may reduce the amount of revenues earned by the carriers if the volume of calls is reduced. We therefore ask small entities to comment on the impact they foresee of the rules we have proposed and of any others suggested.

5. *Recording, record keeping and other compliance requirements.* None.

6. *Federal rules which overlap, duplicate or conflict with this rule.* None.

7. *Any significant alternatives minimizing impact on small entities and consistent with the state objective.* None.

BILLING CODE 6712-01-M

VOL 49 ISS 12 JA 18 1984 UMI

(c) The Federal Communications Commission shall issue

Appendix B—H.R. 2755

[FR Doc.

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Appendix B—H.R. 2755

CLARIFICATION AND ADMINISTRATION OF SECTION 223

SEC. 8. (a) Section 223 of the Communications Act of 1934 (47 U.S.C. 223) is amended--

(1) by striking out "$500" and inserting in lieu thereof "$50,000";

(2) by inserting "(a)" before "Whoever"; and

(3) by adding at the end thereof the following new subsection: "(b)(1) Whoever knowingly--

"(A) in the District of Columbia or in interstate or foreign communication, by means of telephone, makes (directly or by recording device) any obscene or indecent communication for commercial purposes to any person under eighteen years of age or to any other person without that person's consent, regardless of whether the maker of such communication placed the call; or

"(B) permits any telephone facility under such person's control to be used for an activity prohibited by subparagraph (A), shall be fined not more than $50,000 or imprisoned not more than six months, or both.

"(2) It is a defense to a prosecution under this subsection that the defendant restricted access to the prohibited communication to persons eighteen years of age or older in accordance with procedures which the Commission shall prescribe by regulation.

"(3) In addition to the penalties under paragraph (1), whoever, in the District of Columbia or in interstate or foreign communication, intentionally violates paragraph (1)(A) or (1)(B) shall be subject to a fine of not more than $50,000 for each violation. For purposes of this paragraph, each day of violation shall constitute a separate violation.

"(4)(A) In addition to the penalties under paragraphs (1) and (3), whoever, in the District of Columbia or in interstate or foreign communication, violates paragraph (1)(A) or (1)(B) shall be subject to a civil fine of not more than $50,000 for each violation. For purposes of this paragraph, each day of violation shall constitute a separate violation.

"(B) A fine under this paragraph may be assessed either—

"(i) by a court, pursuant to a civil action by the Commission or any attorney employed by the Commission who is designated by the Commission for such purposes, or

"(ii) by the Commission after appropriate administrative proceedings.

"(5) The Attorney General may bring a suit in the appropriate district court of the United States to enjoin any act or practice which violates paragraph (1)(A) or (1)(B). An injunction may be granted in accordance with the Federal Rules of Civil Procedure."

(b) Section 223(a) of the Communications Act of 1934 (as redesignated by subsection (a) of this section) is amended in paragraph (2) by inserting (a) of this section) is amended in paragraph (2) by inserting "facility" after "telephone".

[FR Doc. 84-337 Filed 1-17-84; 8:45 am]
BILLING CODE 6712-01-C

(c) The Federal Communications Commission shall issue regulations pursuant to section 223(b)(2) of the Communications Act of 1934 (as added by subsection (a) of this section) not later than one hundred and eighty days after the date of the enactment of this Act.

(d) The Commission shall act on all complaints alleging violation of section 223 of the Communications Act of 1934 which are pending on the date of the enactment of this Act within ninety days of such date of enactment.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

Indian Snakes Added to Appendix III of Endangered Species Convention

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of amendment to appendix; request for comments.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) regulates international shipment of certain wildlife and plant species, which are listed in appendices to this treaty. Appendix III includes species that any Party nation identifies as being subject to regulation within its jurisdiction for the purpose of preventing or restricting exploitation, and as needing the cooperation of other Parties in the control of trade.

The Republic of India has submitted seven species of snakes for inclusion in Appendix III: *Atretium schistosum, Cereberus rhynchops, Naja naja, Natrix piscator, Ophiophagus hannah, Ptyas mucosus,* and *Vipera russellii.* The Service requests comments on whether the United States should enter a reservation on any of these Appendix III amendments. Presently, the Service intends to support the listings.

DATES: The Appendix III amendments enter into effect on February 12, 1984, for all Parties except those entering a reservation. Nations that are Parties to CITES May only enter reservations on or before that date. For this reason, the Service will only be able to consider all comments received by February 3, 1984, in determining whether the United States should enter a reservation.

ADDRESS: Please send correspondence concerning this notice to the Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Materials received will be available for public inspection from 7:45 a.m. to 4:15 p.m., Monday through Friday, in room 537, 1717 H Street, NW, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dr. Richard L. Jachowski, at address given above, or telephone (202) 653–5948.

SUPPLEMENTARY INFORMATION: The CITES Secretariat circulated a notification to all Party nations on November 15, 1983, to inform them of the present amendment. In accordance with the provisions of paragraph 1 of Article XVI of CITES, the Government of the Republic of India submitted to the Secretariat the following species for inclusion in Appendix III:

Class Reptilia
  Order Squamata
    Family Colubridae
      Atretium schistosum (olive keelback water snake)
      Cerberus rhynchops (dog-faced water snake)
      Natrix piscator (checkered keelback water snake)
      Ptyas mucosus (Indian rat snake)
    Family Elapidae
      Naja naja (Indian cobra)
      Ophiophagus hannah (king cobra)
    Family Viperidae
      Vipera russellii (Russell's viper)

In accordance with the provisions of CITES Article XVI, paragraph 2, inclusion of these species in Appendix III will take effect 90 days after the date of the notification, i.e. on February 12, 1984, for all Parties except those entering a reservation.

The trade in specimens of species included in Appendix III requires export permits from the nation that has included the species in the appendix, and from other nations it requires prior presentation of certificates of origin or, in the case of re-export, certificates from the nation of re-export. Any specimen of this species, whether alive or dead, will be covered by the provisions of CITES, as will any readily recognizable part or derivative.

As a Party to CITES, the United States has an opportunity to reserve on amendments to the appendices. Article XVI of CITES enables any Party to exempt itself from implementing CITES for a particular species if it makes a reservation with respect to that species. It must do so during the period of 90 days after the Secretariat notifies the Parties of an amendment placing the species in Appendix III.

The Service requests comments on whether the United States should enter a reservation on this recent amendment. At this time, the Service does not propose to recommend a reservation. It would consider doing so only if evidence is presented to show that implementation of the amendment would be contrary to the interests or laws of the United States.

Note.—The Department has determined that this is not a major rule under Executive Order 12291 and does not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601). This rule would implement a change in the list of species in the CITES appendices that has been initiated by India, and to which the United States will be bound unless it enters a reservation. Even if the United States were to reserve on the listing, international trade with nonreserving Parties would require CITES certificates or equivalent documents.

List of Subjects in 50 CFR Part 23

Endangered and threatened wildlife, Exports, Fish, Imports, Plants (agriculture), Treaties.

PART 23—[AMENDED]

Accordingly, the Service proposes to amend the list of species contained in § 23.23 of Part 23, Title 50 of the Code of Federal Regulations, by adding the species named above to the list of species included in Appendix III.

(16 U.S.C. 1631)

Dated: January 3, 1984.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84–1477 Filed 1–17–84; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 49, No. 12
Wednesday, January 18, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Summer Food Service Program for Children; Program Reimbursement Rates for 1984

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice informs the public of the annual adjustments to the reimbursement rates for meals served in the Summer Food Service Program for Children. These adjustments reflect changes in the Consumer Price Index and are required by the statute governing the Program.

EFFECTIVE DATE: January 1, 1984.

FOR FURTHER INFORMATION CONTACT: Stanley C. Garnett, Child Nutrition Division, Food and Nutrition Service, U.S. Department of Agriculture, Alexandria, Virginia 22302; (703) 756–3620.

SUPPLEMENTARY INFORMATION:

Classification

This notice has been reviewed under Executive Order 12291 and has not been classified as major because it will not have an annual effect on the economy of $100 million, will not cause a major increase in costs or prices, and will not have a significant economic impact on competition, employment, investment, productivity, innovation or on the ability of U.S. enterprises to compete with foreign based enterprises in domestic or foreign markets. This notice has also been reviewed with regard to the requirements of Pub. L. 96–354. Robert E. Leard, Administrator of Food and Nutrition Service, has certified that this notice does not have a significant economic impact on a substantial number of small entities.

In accordance with the Paperwork Reduction Act of 1980, (44 U.S.C. 3507), no new recordkeeping or reporting requirements have been included that are subject to approval from the Office of Management and Budget.

Background

Pursuant to Section 13 of the National School Lunch Act (42 U.S.C. 1761) and the regulations governing the Summer Food Service Program for Children (7 CFR Part 225), notice is hereby given of adjustments in Program payments for meals served to children participating in the Summer Food Service Program for Children during the 1984 Program. Adjustments are based on changes in the food away from home series of the Consumer Price Index for all Urban Consumers for the period November 1982 through November 1983. The new reimbursement rates in cents are as follows:

Maximum per Meal Reimbursement Rates

Operating Costs:	
Breakfast	81.75
Lunch or Supper	146.50
Supplement	38.50
Administrative Costs:	
a. For meals served at rural or self-preparation sites:	
Breakfast	7.50
Lunch or Supper	14.00
Supplement	3.75
b. For meals served at other types of sites:	
Breakfast	6.00
Lunch or Supper	11.50
Supplement	3.00

The total amount of payments to State agencies for disbursement to Program sponsors will be based upon these Program reimbursement rates and the number of meals of each type served. The above reimbursement rates, before being rounded-off to the nearest quarter cent, represent a 4.3 per cent increase in payment rates over those for 1983. This represents the percentage of increase during 1983 (from 311.4 in November 1982 to 324.8 in November 1983) in the food away from home series of the Consumer Price Index for all Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

Definitions

The terms used in this Notice shall have the meanings ascribed to them in the regulations governing the Summer Food Service Program for Children (7 CFR Part 225).

(Catalog of Federal Domestic Assistance Programs No. 10.559)

(Sec. 2, Pub. L. 95–166, 91 Stat. 1325, (42 U.S.C. 1761); sec. 5, Pub. L. 95–627, 92 Stat. 3620, (42 U.S.C. 1761); sec. 809, Pub. L. 97–35, 95 Stat. 527 (42 U.S.C. 1761))

Dated: January 12, 1984.

Robert E. Leard,

Administrator, Food and Nutrition Service.

[FR Doc. 84–1333 Filed 1–17–84; 8:45 am]
BILLING CODE 3410–30–M

Rural Electrification Administration

Wolverine Power Supply Cooperative, Inc.; Environmental Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality Regulations (40 CFR Party 1500), and the REA Bulletin 20–21:320–21, Environmental Policies and Procedures, has made a Finding of No Significant Impact with respect to a request by Wolverine Power Supply Cooperative, Inc. (WPSC) for additional financing assistance for their continued participation in the Enrico Fermi Unit No. 2 Nuclear Plant (Fermi 2) (the proposed project). The project consists of one 1093 MW boiling water nuclear reactor and a 64 percent interest in the existing Tittabawassee to Kenowa-Thetford 345 kV transmission line presently ownd by Consumers Power Company. WPSC owns 20 percent of the generation project. The remaining 80 percent is owned by the Detroit Edison Company.

FOR FURTHER INFORMATION CONTACT: REA's Finding of No Significant Impact and Environmental Assessment (EA) and WPSC's Borrower's Environmental Reports (BER's), may be reviewed in the Office of the Director, Northeast Area—Electric, Room 0241, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, telephone (202) 382–1420, or at the Offices of WPSC (Raymond R. Cristell, Manager), P.O. Box 369, Boyne City, Michigan 49712, telephone (616) 582–6572.

SUPPLEMENTARY INFORMATION: Fermi 2 is being built by Detroit Edison and is located in Frenchtown Township, Monroe County, Michigan on Lake Erie. As of October 1983, the plant was approximately 97 percent complete. The projected date of commercial operation is December 1984. The existing Tittabawassee to Kenowa-Thetford transmission line in Midland and Saginaw counties, was constructed by Consumers Power Company.

As a result of litigation settlement ("settlement") between plaintiffs Mr. Rodney Bailey, Mr. Robert A. Asberger, and Mr. Bruce Sanderson, and defendants, REA, Mr. Joe S. Zoller, Mr. David A. Hamil, and WPSC, issued by the United States District Court in Grand Rapids, Michigan, on August 8, 1983, a public meeting was held for the purpose of taking statements from the public before any additional loan was made. Notices were published in the newspapers of the cities specified in the "settlement" and the meeting, chaired by REA, was held on November 9, 1983, at the Traverse City Senior High School, Traverse City, Michigan. Written and oral statements prsented were made part of the public record and are being responded to by REA. No new environmental concerns were expressed at this meeting.

In connection with the current request for financing assistance, two BER's were submitted by WPSC, updating information on the project status of construction-related and design changes which could potentially affect the environment. WPSC advertised in local newspaper disclosing the request for additional financing and requesting comments for a 30-day period. No comments other than those from the public meeting were received. Based upon REA's review of the BER's and additional information, REA concludes that the REA Final Environmental Statement and the collective data continues to be an adequate environmental analysis of the proposed project.

REA prepared an EA concerning the proposed project and its impacts, and has determined that continued participation is an acceptable way for WPSC to meet its members' needs. REA has concluded that approval of additional financing assistance for the project would not constitute a major Federal action significantly affecting the quality of the human environment. An environmental impact statement is not necessary.

This program is listed in the Catalog of Federal Domestic Assistance as 10–850—Rural Electrification Loans and Loan Guarantees.

Dated: January 11, 1984.

Harold V. Hunter,

Administrator.

[FR Doc. 84–1285 Filed 1–17–84; 8:45 am]

BILLING CODE 3410–15–M

Continental Telephone Company of Missouri, Wentzville, Missouri; Proposed Loan Guarantee

AGENCY: Rural Electrification Administration (REA).

ACTION: Proposed loan guarantee.

SUMMARY: Under the authority of Pub. L. 93–32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 320–22, "Guarantee of Loans for Telephone Facilities," dated February 4, 1975, published in proposed form in the **Federal Register** September 16, 1974 (Vol. 39 No. 180, pages 33228–33229), notice is hereby given that the Administrator of REA will consider providing a gurantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $23,800,000 to Continental Telephone Company of Missouri, Wentzville, Missouri. This loan guarantee will be used to finance the construction of facilities to extend telephone service to new subscribers and improve telephone service for existing subscribers.

FOR FURTHER INFORMATION CONTACT: Mr. Eugene J. Fix, President, Continental Telephone Company of Missouri, P.O. Box 307, Wentzville, Missouri 63385.

SUPPLEMENTARY INFORMATION: Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed program, including the engineering and economic feasibility studies and the proposed schedule for advances to the borrower of the guaranteed loan funds from Mr. Eugene J. Fix at the address given above.

In order to be considered, proposals must be submitted on or before February 17, 1984 to Mr. Eugene J. Fix. The right is reserved to give such consideration and to make such evaluation or other disposition of all proposals received as Continental Telephone Company of Missouri and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 320–22 are available from the Director, Public Information Office, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

This program is listed in the Catalog of Federal Domestic Assistance as 10.851—Rural Telephone Loans and Loan Guarantees.

Dated: January 12, 1984.

Harold V. Hunter,

Administrator.

[FR Doc. 84–1335 Filed 1–17–84; 8:45 am]

BILLING CODE 3410–15–M

DEPARTMENT OF COMMERCE

Bureau of the Census

Costs Comparison Reviews Scheduled for Commercial or Industrial Activities Performed by Government Personnel in the Bureau of the Census

Notice is hereby given that pursuant to Office of Management and Budget (OMB) Circular A–76 and Department of Commerce Administrative Order 201–41, the Census Bureau intends to conduct cost comparisions of commercial or industrial activities performed by Government personnel at the Census Bureau and, if applicable, to issue an invitation for bids or request for proposals after the start date scheduled for each review. The following commercial or industrial activities are scheduled for review and supersede the activities published in the **Federal Register** on July 31, 1980:

Activity	Location	Review start	Review completion
Publication distribution services	Suitland, MD Jeffersonville, IN.	Dec. 1, 1983	Nov. 30, 1985.
Mail/messenger services	Suitland, MD	Feb. 1, 1984	Jan. 31, 1986.
Motor vehicle services	do	April 1, 1984	March 31, 1986.
Health services	do	June 1, 1984	May 31, 1986.
Manual labor services	do	Aug. 1, 1984	July 31, 1986.
Design and graphic services	do	Oct 1, 1984	Sep. 30, 1986.
Editorial services	do	Dec. 1, 1984	Nov. 30, 1986.

Each invitation for bids or requests for proposals will be announced in the Commerce Business Daily.

A contract or contracts may or may not result from the cost comparison of each activity. Results of cost comparison of an activity will be made available to responding bidders or offerors, and other interested parties.

For further information contact: Michael S. McKay, Bureau of the Census, Organization and Management Systems Division, Washington, D.C. 20233 (301/763–7452).

Dated: January 13, 1984.

C. L. Kincannon,

Deputy Director, Bureau of the Census.

FR Doc. 84–1272 Filed 1–17–84; 8:45 am]

BILLING CODE 3510–07–M

International Trade Administration

[A–429–009, A–485–010, A–461–011]

Replacement Parts for Self-Propelled Bituminous Paving Equipment From Canada; Final Results of Administrative Review of Antidumping Finding

Correction

In FR Doc. 84–621 beginning on page 1263 in the issue of Tuesday, January 10, 1984, make the following correction.

On page 1264, first column, in the table, the information for the following two companies should have appeared as set forth below:

Manufacturer	Time period	Margin (percent)
* * * * *		
Babcock Allatt, Ltd.	12/1/78–8/31/79	0
	9/1/79–8/31/81	4.20
Barber-Greene Canada Ltd	9/1/80–8/31/81	(1)0

* * * * *

BILLING CODE 1505–01–M

National Bureau of Standards

National Voluntary Laboratory Accreditation Program

AGENCY: National Bureau of Standards, Commerce.

ACTION: Publication of NVLAP quarterly report (October 1–December 31, 1983).

SUMMARY: The National Bureau of Standards (NBS) announces laboratory accreditation actions for the fourth quarter of 1983. The status of all NVLAP laboratory accreditation programs (LAPs) is summarized.

FOR FURTHER INFORMATION CONTACT: Mr. John W. Locke, Manager, Laboratory Accreditation, TECH B141, National Bureau of Standards, Washington, DC, 20234, (301) 921–3431.

SUPPLEMENTARY INFORMATION: This report has been prepared in accordance with section 7a.17(a), 7b.17(a), 7c.17(a) of the National Voluntary Laboratory Accreditation Program (NVLAP) Procedures (15 CFR Parts 7a, 7b, and 7c).

New Accreditations Granted

Seven laboratories were newly accredited during the fourth quarter of 1983. Pertinent information regarding each newly accredited laboratory, including the test methods for which they were accredited, are set out below.

Concrete Lap

Ritchie Laboratories, Attn: Donald J. Brockel, 1820 North Mosley, P.O. Box 4048, Wichita, KS 67204, Phone: (316) 263–9937, Accreditation Renewal Date: January 1, 1985

NVLAP code and designation	Short title
O2/M01 ASTM C31	Making and curing concrete test specimens in the field.
O2/M03 ASTM C172	Sampling fresh concrete.
O2/P01 ASTM C143	Slump of Portland Cement concrete.
O2/W01 ASTM C138	Unit weight, yield, and air content (gravimetric) of concrete.
O2/A01 ASTM C231	Air content of freshly mixed concrete by the pressure method.
O2/S01 ASTM C39	Compressive strength of cylindrical concrete specimens.
O2/A02 ASTM C173	Air content of freshly mixed concrete by the volumetric method.

Stove Lap

Northwest Testing Laboratories, Inc., Attn: Paul Irish, P.O. Box 17126, Portland, OR 97217, Phone: (503) 288–7086, Accreditation Renewal Date: January 1, 1985

Omni Environmental Services Solid Fuel Testing Laboratory, Attn: Gary E. Nelke, 10950 SW 5th Street, Suite 245, Beaverton, OR 97005, Phone: (503) 643–3755, Accreditation Renewal Date: January 1, 1985

R.F. Geisser & Associates, Inc., Attn: Russell F. Geisser, P.O. Box 4526, 120 Pershing Street, East Providence, RI 02914, Phone: (401) 438–7320, Accreditation Renewal Date: January 1, 1985

Stove Testing Lab, Attn: R. Conrad, 2721 North Hayden Island Drive, Portland, OR 97217, Phone: (503) 283–9711, Accreditation Renewal Date: January 1, 1985

Warnock Hersey International, Inc., Attn: James J. Husom, 8612 Fairway Place, Middleton, WI 53562, Phone: (608) 836–4400, Accreditation Renewal Date: January 1, 1985

NVLAP code and short title	Section of UL 737, 5th edition (Mar. 1, 1982)	Section of UL 1482, 2nd edition (Jan. 24, 1983)
Physical/Fire test group (04/F00):		
04/F01 Test installation	[illegible]	[illegible]
04/F02 Temperature Measurement	9	[illegible]
04/F04 Radiant Fire Test	11	11
04/F05 Coal Fire Test		14
04/F06 Brand Fire Test	12	12
04/F07 Flash Fire Test	13	13
04/F08 Strength Tests	15	[illegible]
04/F09 Stability Test	16	[illegible]
04/F10 Glazing Test	14	15
Mobile home test group (04/M00):		
04/M01 Test installation	17	17
04/M02 Toxic Gas	17	17
04/M03 Drop Test	17	17
Electrical test group (04/E00):		
04/E01 Test voltages	33	[illegible]
04/E02 Temperature measurements, electrical components	34	[illegible]
04/E03 Input test	[illegible]	35
04/E04 Temperature test, electrical components	36	[illegible]
04/E05 Leakage current	[illegible]	[illegible]
04/E06 Dielectric withstand	37	[illegible]
04/E07 Locked rotor (stalled motor) temperature	[illegible]	[illegible]
04/E08 Power cord strain relief	[illegible]	[illegible]

Acoustics LAP

Armstrong World Industries Technical Center, Acoustics Laboratory, Attn: G. Robert Spalding, 2500 Columbia Avenue, P.O. Box 3511, Lancaster, PA 17604, Phone: (717) 397–0611, Accreditation Renewal Date: January 1, 1985

NVLAP code and designation	[illegible]
08/P03 ASTM C423–81	Sound absorption and sound absorption coefficients.
08/P07 ASTM E492–82	Impact sound transmission through floor-ceiling assemblies.

Accreditation for Additional Test Methods

Seven other laboratories previously accredited under the identified LAPs added test methods to their lists of accredited test methods. The LAPs, the laboratories and the test methods are:

Insulation Lap

Certainteed Corporation, Insulation Group, R & D Laboratory, Blue Bell, PA added two test methods:

(1) California Energy Commission tests for insulating materials: Corrosiveness—Mineral fiber blankets and loose-fill (NVLAP 01/C03); and,

(2) California Energy Commission tests for insulating materials: Bond strength—Spray applied cellulose (NVLAP 01/S12).

Jim Walter Research Corporation, St. Petersburg, FL added ASTM C272.

Water Absorption of Core Materials for Structural Sandwich Constructions.

Olin Corporation, Physical Testing Laboratory, New Haven, CT added two test methods:

(1) ASTM D2842, Water absorption; Rigid cellular plastics; and

(2) ASTM D2126, Response to thermal and humid aging (proc. C); Rigid cellular plastics.

Owens-Corning Fiberglas Corporation, Technical Center Laboratory, Granville, OH added three test methods:

(1) California Energy Commission tests for insulating materials: Corrosiveness—Mineral fiber blankets and loose-fill (NVLAP 01/C03);

(2) ASTM D2126, Response to thermal and humid aging (proc. G); Rigid cellular plastics; and,

(3) California Energy Commission tests for insulating materials: Installed compressed thickness (NVLAP 01/D29).

United States Testing Company, Inc., Tulsa Division, Tulsa, OK added ASTM E96, Water vapor transmission; thin sheets (proc. A).

Concrete Lap

The Walt Keeler Company, Inc., Wichita, KS added ASTM C173, Air Content of Freshly Mixed Concrete by the Volumetric Method.

Conrock Co. Testing Laboratory, Los Angeles, CA added ASTM C173, Air Content of Freshly Mixed Concrete by the Volumetric Method.

Renewed Accreditations

The following laboratories were reaccredited during the fourth quarter of 1983 for one or more test methods available under NVLAP. The effective date of their reaccreditation is January 1, 1984, and it expires on December 31, 1984. Each laboratory received a certificate of accreditation and a corresponding list of test methods for which each is accredited. Anyone wishing to now the test methods for which each laboratory has been reaccredited should request the listing from the laboratory directly or from Mr. Locke at the address given above. Note that laboratories may change the test methods for which they are accredited from year to year, so the user should secure the current list of accredited test methods.

Insulation Lap

Butler Manufacturing Company, Research Center, Grandview, MO
Certainteed Corporation, Insulation Group, R & D Laboratory, Blue Bell, PA
Commercial Testing Company, Dalton, GA
Dow Chemical USA, Foam Products Research, Product Evaluation, Granville, OH
Dynatech R/D Company, Thermophysics Laboratory, Cambridge, MA
Factory Mutual Research Corporation, Norwood, MA
Geoscience Ltd., Solana Beach, CA
Hardwood Plywood Manufacturers Association, Reston, VA
Jim Walter Research Corporation, St. Petersburg, FL
Insta-Foam Products, Inc., Joliet, IL
Lander Thermal Conductivity Laboratory, Minneapolis, MN
Manville Corporation, R & D Center, Denver, CO
NAHB Research Foundation, Inc., Rockville, MD
Olin Corporation, Physical Testing Laboratory, New Haven, CT
Owens-Corning Fiberglas Corporation, Technical Center Laboratory, Granville, OH
Owens-Corning Fiberglas Corporation, Plant Laboratory, Barrington, NJ
Owens-Corning Fiberglas Corporation, Plant Laboratory, Delmar, NY
Owens-Corning Fiberglas Corporation, Plant Laboratory, Fairburn, GA
Owens-Corning Fiberglas Corporation, Plant Laboratory, Kansas City, KS
Owens-Corning Fiberglas Corporation, Plant Laboratory, Newark, OH
Owens-Corning Fiberglas Corporation, Plant Laboratory, Santa Clara, CA
Owens-Corning Fiberglas Corporation, Plant Laboratory, Waxahachie, TX
Sparrell Engineering Research Corporation, Damariscotta, ME
Twin City Testing and Engineering Laboratory, Inc., St. Paul, MN
Underwriters Laboratories, Inc., Northbrook, IL
Underwriters Laboratories, Inc., Santa Clara, California Division, Santa Clara, CA
United States Testing Company, Inc., Hoboken, NJ
United States Testing Company, Inc., California Division, Los Angeles, CA
United States Testing Company, Inc., Tulsa Division, Tulsa, OK

Concrete Lap

Aguirre Engineers, Inc., Englewood, CO
The Arundel Corporation, Greenspring Laboratory, Baltimore, MD
Central Ready-Mixed Concrete, Research & Technical Center, Milwaukee, WI
Conrock Co. Testing Laboratory, Los Angeles, CA
Construction Technology Laboratory, a Division of Portland Cement Association, Skokie, IL
Contractors Supply Corporation of West Virginia, Inc., Wheeling, WV
Engineering Testing Laboratory, Akron, OH
General Testing Laboratories, Inc., Kansas City, MO
Genstar Stone Products Company, Quality Control Laboratory, White Marsh, MD
Gulf Coast Testing Laboratory, Inc., Corpus Christi, TX
The H.C. Nutting Company, Cincinnati, OH
Herron Consultants, Inc., Cleveland, OH
Kelso Industries, Inc., Quality Control Laboratory, Galveston, TX
Parratt-Wolff, Inc., East Syracuse, NY
R.W. Sidley, Inc., Quality Control Laboratory, Thompson, OH
Smith-Emery Company, Los Angeles, CA
Standard Testing and Engineering Company, Oklahoma City, OK
STS Consultants, Ltd., Northbrook, IL
The Tanner Companies, United Metro Division Laboratory, Phoenix, AZ
Texas Testing Laboratories, Inc., Dallas TX
Twin City Testing and Engineering Laboratory, Inc., St. Paul, MN
W.R. Grace & Company, Construction Products Division, Cambridge, MA
The Walt Keeler Company, Inc., Wichita, KS

Carpet Lap

American Carpet Laboratories, Inc., Ringgold, GA
Bigelow-Sanford, Inc., Technical Services, Greenville, SC
Bigelow-Sanford, Inc., Georgia Rug Mill, Summerville, GA
C.H. Masland and Sons, Carlisle, Pa
Certified Testing Laboratories, Inc., Dalton, GA
Chisholm Trail Testing and Engineering Company, Inc., Decatur, TX
Commercial Testing Company, Dalton, GA
Coronet Carpets, Coronet Industries, Dalton, GA
E & B Carpet Mills, Dalton, GA
Factory Mutual Research Corporation, Norwood, MA
Galaxy Carpet Mills, Inc., Galaxy Testing Laboratory, Chatsworth, GA
Hardwood Plywood Manufacturers Association, Reston, VA
Independent Textiles Testing Service, Inc., Dalton, GA
Shaw Industries, Inc., QC Lab, Dalton, GA
Southwest Research Institute, Department of Fire Technology, San Antonio, TX
Underwriters Laboratories Inc., Northbrook, IL
United States Testing Company, Inc., Hoboken, NJ

United States Testing Company, Inc., California Division, Los Angeles, CA
World Carpets, Quality Control Physical Testing, Dalton, GA

Stove Lap

Arnold Greene Testing Laboratories, Inc., Auburn, MA
PFS Corporation, Madison, WI
Underwriters Laboratories Inc., Northbrook, IL
Underwriters Laboratories Inc., Santa Clara, California Laboratory, Santa Clara, CA

Acoustics Lap

Jim Walter Research Corporation, St. Petersburg, FL
Intest Laboratories, Inc., Minneapolis, MN
Manville Corporation, R & D Center, Denver, Co
Owens-Corning Fiberglas Corporation, Technical Center Laboratory, Granville, OH

Voluntary Terminations

The following laboratories voluntarily terminated their accreditation during the fourth quarter of 1983.

Insulation Lap

LOUISIANA-PACIFIC CORPORATION, PABCO R & D LABORATORY, Fruita, CO
INTEST LABORATORIES, INC., Minneapolis, MN

Concrete Lap

Capitol Cement, San Antonio, TX
Fox & Associates of Arizona, Inc., Phoenix, AZ
Hales Testing Laboratories, Inc., Hayward, CA
Material Service Corporation, Chicago, IL
Northern Testing Laboratories, Inc., Boise Area Laboratory, Boise, ID
Nothern Testing Laboratories, Inc., Billings Area Laboratory, Billings, MT
Northern Testing Laboratories, Inc., Great Falls Area Laboratory, Great Faills, MT
Testing Engineers, Inc., Oakland Division, Oakland, CA
Testing Engineers, Inc., Santa Clara Division, Santa Clara, CA

Carpet Lap

Walter Carpets, West Point Pepperell, City of Industry, CA

Stove Lap

Energy Systems, Inc., Auburn, AL
The Energy Testing Laboratory of Maine, South Portland, ME

Status of Existing LAPs

Insulation LAP Status

The LAP for thermal insulation materials has 62 test methods for which accreditation may be granted; 33 laboratories are currently accredited to perform one or more of these test methods.

Concrete LAP Status

The LAP for freshly mixed field concrete has two groups of test methods and one optional test method for which accreditation can be granted; 38 laboratories are currently accredited under the Concrete LAP.

Carpet LAP Status

The LAP for carpet has 12 test methods for whch accreditation may be granted; 22 laboratories are currently accredited for one or more of these test methods.

Stove LAP Status

The LAP for solid fuel room heaters has 20 test methods for which accreditation may be granted; eight laboratories are currently accredited under the Stove LAP.

Dosimetry LAP Status

The LAP for personnel dosimetry processors has eight radiation test categories for which accreditation may be granted; 24 processors have applied for accreditation in one or more of these categories. Applicants will participate in proficiency testing and receive on-site assessments in 1984, before accreditation decisions are made.

LAPs Under Development

Pressure Calibration Services LAP—Public hearings on the proposed LAP were held at NBS on October 19, 1983. A decision regarding issuance of a final finding of need is expected early in 1984.

Commercial Products LAP—A final finding of need was published in the **Federal Register** on October 5, 1983, (48 FR 45448–45453). Approximately 60 test methods will be offered for paper and related products, 120 test methods for paint and related coatings and materials, and five test methods for mattresses.

Photographic Film LAP—Thus far, 26, test methods have been proposed for the Film LAP. A workshop will be held at NBS in May, 1984, to select critical factors for each method and prepare implementing documentation.

Electromagnetic Calibration Services LAP—The LAP was suspended on November 18, 1983, due to the lack of funds for the development of a Measurement Assurance Program (MAP). The LAP will be reinstated if a MAP can be implemented or a satisfactory alternative found.

Activated Carbon LAP—ASTM Committee D28 requested a LAP for activated carbon testing on September 20, 1983. Since this request was initiated by a private sector organization it is covered by Part 7c of the NVLAP procedures. The LAP was announced in the **Federal Register** on October 27, 1983, (48 FR 49685–49687).

Proposed LAPs

Ceramic Tile LAP—Alternative approaches are being considered to implement this LAP which was requested by the Tile Council of America. The small number of potential participating laboratories causes practical limitations in funding and maintaining the program.

Fire Extinguishers LAP—A preliminary finding of need was published in the **Federal Register** on October 5, 1983, (48 FR 45453–45455). A public hearing was held at NBS on November 29, 1983. Public comments at the hearing were opposed to the LAP. Some positive written comments have been received. A decision on the LAP will be made early in 1984 after considering all of the comments.

Dated: January 13, 1984.

Certifying Officer, National Bureau of Standards, Department of Commerce.

[FR Doc. 84–1286 Filed 1–17–84; 8:45 am]
BILLING CODE 3510–13–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Increasing the Import Limit for Certain Cotton Textile Products Produced or Manufactured in Brazil

January 13, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below the Commissioner of Customs, to be effective on January 13, 1984. For further information contact Diana Bass, International Trade Specialist, 202/377–4212.

Background

A CITA directive dated March 11, 1983, as amended, established restraint limits for specified categories of cotton and man-made fiber textiles and textile products, including Category 313 (cotton sheeting), produced or manufactured in Brazil and exported during the twelve-

month period which began on April 1, 983. In the CITA directive published below the limit for Category 313 is being increased from 26,215,000 square yards to 29,098,650 square yards by the application of carryover provided under the terms of the Bilateral Cotton and Man-Made Fiber Textile Agreement of March 31, 1982 between the Governments of the United States and the Federative Republic of Brazil.

A description of the textile categories in terms of T.S.U.S.A numbers was published in the **Federal Register** on December 13, 1982, (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

January 13, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of March 11, 1983 from the Chairman of the Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton and man-made fiber textiles and textile products, produced or manufactured in Brazil.

Effective on January 13, 1984, you are directed to increase the restraint limit established for Category 313 in the directive of March 11, 1983, as amended, to 29,098,650 square yards [1] according to the terms of the Bilateral Cotton and Man-Made Fiber Textile Agreement of March 31, 1982 between the Governments of the United States and the Federative Republic of Brazil.[2]

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textiles and Apparel.

[FR Doc. 84-1336 Filed 1-17-84; 8:45 am]
BILLING CODE 3510-DR-M

[1] The level has not been adjusted to account for any imports exported after March 31, 1983.

[2] The agreement provides, in part, that (1) within the aggregate and group limits, specific limits may be exceeded by designated percentages; (2) specific limits may be increased by carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Meeting Change

The following change has occurred for the meeting of the Army Science Board Functional Subgroup on Planning, Concepts, and Management Support which was announced in the **Federal Register** issue of Wednesday, January 4, 1984 (49 FR 494), FR Doc 84-61:

Dates of Meeting

Thursday and Friday, February 9, and 10, 1984 (instead of Thursday and Friday, February 19, and 20, 1984).

Maria P. Winters,

Acting Administrative Officer.

[FR Doc. 84-1249 Filed 1-17-84; 8:45 am]
BILLING CODE 3710-08-M

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Wednesday and Thursday, February 8, and 9, 1984.

Place: The Pentagon, Washington, D.C.

Agenda

The ASB 1984 Summer Study on High Performance Personnel Policy for Army 21 will hold its kick-off meeting of briefings and discussions for this study effort. The scope of this study will cover Leadership, Personnel Factors in Weapons System Performance, and Manning a Ready Force. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. For further information please contact Sally Warner, the ASB Administrative Officer, at (202) 695-3039 or 697-9703.

Maria P. Winters,

Acting Administrative Officer.

[FR Doc. 84-1247 Filed 1-17-84; 8:45 am]
BILLING CODE 3710-08-M

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Friday, February 24, 1984.

Place: The Pentagon, Washington, D.C.

Agenda

The ASB Functional Subgroup Chairs (Planning, Concepts and Management Support; Weapons Systems; C³I; Human Capabilities/Resources; Logistics & Support Systems; and, Research and New Initiatives) will meet to determine the approach of conducting effectiveness reviews of Army laboratories and to match up the Functional Subgroups with specific Army labs. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. For further information please contact Sally Warner, the ASB Administrative Officer, at (202) 695-3039 or 697-9703.

Maria P. Winters,

Acting Administrative Officer.

[FR Doc. 84-1248 Filed 1-17-84; 8:45 am]
BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

National Advisory Council on Adult Education; Meeting

AGENCY: National Advisory Council on Adult Education, Department of Education.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Governmental Relations and Legislation Committee of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATE: February 9-10, 1984, 9:00 a.m. to 5:00 p.m.

ADDRESS: King Charles Inn, 237 Meeting St., Charleston, S.C.

FOR FURTHER INFORMATION CONTACT: Helen Banks, Administrative Assistant, National Advisory Council on Adult Education, 425 13th St., NW., Washington, D.C. 20004 (202/376-8892).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under section 313 of the Adult Education Act (20 U.S.C. 1201). The Council is established to:

Advise the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the

coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Committee is open to the public. The proposed agenda includes:

Collation of testimony on the Adult Education Act and preparation of a preliminary report to the full Council.

Records are kept of all Council proceedings, and are available for public inspection at the office of the National Advisory Council on Adult Education, 425 13th St., NW., Suite 323, Washington, D.C., 20004, from the hours of 8:00 a.m. to 4:30 p.m.

Signed at Washington, D.C. on January 13, 1984.

Rick Ventura,

Executive Director, National Advisory Council on Adult Education.

[FR Doc. 84-1254 Filed 1-17-84; 8:45 am]

BILLING CODE 4000-01-M

Grants for Special Educational Programs for Students Whose Families Are Engaged in Migrant and Other Seasonal Farmwork—College Assistance Migrant Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Application Notice for Fiscal Year 1984.

SUMMARY: Applications are invited for new grants under the College Assistance Migrant Program (CAMP) to provide academic and supporting services and financial assistance to students who are engaged, or whose families are engaged, in migrant and other seasonal farmwork.

The authority for this program is contained in Section 418A of Title IV of the Higher Education Act, as amended by Pub. L. 98-374. (20 U.S.C. 1070d-2)

Eligible applicants are institutions of higher education (IHEs) and other public or nonprofit private agencies in cooperation with IHEs.

The purpose of CAMP is to provide grants to IHEs and other agencies, in cooperation with IHEs, to design and implement projects of academic and supporting services and financial assistance to address the special educational needs of migrant and seasonal farmworker students and to enhance the opportunity of these students for success at the postsecondary education level.

Closing date for transmittal of applications: An application for a grant must be mailed or hand delivered by March 9, 1984.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.149, Washington, D.C. 20202.

An application must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education. If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark; or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or first class mail. Each late applicant will be notified that its application will not considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: The Secretary awards CAMP grants to IHEs and other agencies, in cooperation with IHEs, for projects of academic and supporting services and financial assistance to address the special educational needs of migrant and seasonal farmworker students and to enhance the opportunity of these students for sucess at the postsecondary education level.

The Secretary makes these grants to IHEs and other agencies, in cooperation with IHEs, to assist migrant and seasonal farmworker students who are enrolled or are admitted for enrollment on a full-time basis in the first academic year at an IHE. CAMP provides assistance to help migrant and seasonal farmworker students in—

(1) Making the transition from secondary school to postsecondary school;

(2) Generating the motivation necessary to succeed in postsecondary school; and

(3) Developing the skills necessary to succeed in postsecondary school.

Available funds: The Secretary estimates that there will be $1.2 million available for fiscal year 1984 grants. The Secretary estimates these funds will support four (4) projects, with most awards ranging between $250,000 and $350,000. These estimates, however, do not bind the U.S. Department of Education to a specific number of grants nor to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program inrformation packages are expected to be ready for mailing by January 25, 1984. They may be obtained by writting to Division of Migrant Edcuation Programs, Compensatory Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue SW. (Regional Office Building 3, Room 3616), Washington, D.C. 20202.

An application must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information package is only intended to aid applicants in applying for assistance under this program. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those specifically imposed under the statute and regulations governing this program. The Secretary urges that the narrative portion of an application be as brief as possible. The Secretary also urges that an applicant not submit information that is not requested.

Applicable regulations: The regulations that apply to CAMP include the following:

(1) The Migrant Education High School Equivalency Program and Colleges Assistance Migrant Regulations (34 CFR Part 206) that were

published in the **Federal Register** on July 6, 1981 (at 46 FR 35072).

(2) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, and 78).

Further information: For further information, contact Mr. Louis J. McGuinness, Director, Division of Migrant Education Programs, Compensatory Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SE (Regional Office Building 3, Room 3616), Washington, D.C. 20202. Telephone (202) 245-9231.

(20 U.S.C. 1070d-2)

(Catalog of Federal Domestic Assistance No. 84.149; Migrant Education/College Assistance Migrant Program)

Dated: January 13, 1984.

Lawrence F. Davenport,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 84-1270 Filed 1-17-84; 8:45 am]

BILLING CODE 4000-01-M

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Deputy Under Secretary for Management invites comments on the proposed information collection requests as required by the Paperwork Reduction Act.

DATES: Interested persons are invited to submit comments on or before February 17, 1984.

ADDRESSES: Written comments or requests should be addressed to Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208 New Executive Office Building, Washington, D.C. 20503 and/or Margaret Webster, Department of Education, 400 Maryland Avenue, SW., Room 4074, Switzer Building, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster, (202) 426-7304.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The requirement for public consultation may be amended or waived by OMB to the extent that the public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform the statutory obligations.

The Deputy Under Secretary for Management publishes this notice containing proposed information requests prior to the submission of these requests to the Office of Management and Budget. Public comment is invited and copies of the requests may be obtained from the addresses named above.

Dated: January 13, 1984.

Charles L. Heatherly,

Deputy Under Secretary for Management.

Office of Bilingual Education and Minority Languages Affairs

Extension

Application for Grants Under Bilingual Vocational Training and Instructor Training Programs
ED 791
Annually
State or Local Government; Non-Profit Institutions
Reporting Burden:
Responses: 75
Burden Hours: 3000

Abstract: Eligible applicants submit an application which describes a bilingual vocational training or a bilingual vocational instructor training program that will meet a purpose described in the law governing these programs.

Financial Status Report for Transition Program for Refugee Children
ED 443
Annually
State and Local Governments
Reporting Burden:
Responses: 54
Burden Hours: 5,352

Abstract: Grantees use this form annually to report on the status of grant funds.

Application for Continuation Grants Under Bilingual Education
ED 4561-1
Annually
State or Local Governments; Non-Profit Institutions
Reporting Burden:
Response: 600
Burden Hours: 9600

Abstract: This form is used by applicants for continuation awards under title VII of the Elementary and Secondary Education Act as amended. The Act authorizes the award of grants to State and local educational agencies, institutions of higher education, and non-profit organizations that meet the conditions of the Act and governing regulations.

Demonstration of Compliance with Terms and Conditions of the Bilingual Education Fellowship Contract
ED 4561-3
Annually
Individuals or Households
Reporting Burden:
Responses: 1400
Burden Hours: 380

Abstract: Regulations require the fellowship recipients to demonstrate compliance with terms and conditions of the Bilingual Education Fellowship Program Contract. Recipients must either work in an approved activity or repay financial assistance.

Reinstatement

Financial Status and Performance Reports for Bilingual Vocational Training and Instructor Training Programs
ED 924
Annually
State or Local Governments; Non-Profit Institutions
Reporting Burden:
Responses: 18
Burden Hours: 216

Abstract: Grantees are required under EDGAR (75.720) to submit annual financial status and performance reports for the Bilingual Vocational training and Instructor Training Programs. The reports are used to monitor grantee expenditures and compliance plus determine whether and to what extent progress is being made toward the objectives of the grant.

Office of Special Education and rehabilitative Services

Extension

Performance reports for Pub. L. 94-142 and Pub. L. 89-313
ED 873
Annually
State or Local Governments
Reporting Burden:
Responses: 58
Burden Hours: 261

Abstract: States receiving Pub. L. 94-142 funds and/or funds for The State Operated Program for Handicapped Children under Chapter I of the Education Consolidation and Improvement Act (Subtitle D of Title V, Pub. L. 97-35, commonly referred to as Pub. L. 89-313 program). States must submit a performance report on their programs.

Performance Report for Special Education Programs-Discretionary Grant Programs ED 9037-1
End of the grant award period (usually a three-year period)

State or Local Governments; Businesses or Other For-Profit; Non-Profit Institutions
Reporting Burden:
Responses: 400
Burden Hours: 6000

Abstract: This report is used by Special Education Programs (SEP) to determine whether and to what extent progress is being made by grantees toward achieving project goals and objectives. Grantees will be required to submit a performance report only at the expiration of the award period.

Grant Application under Education for the Handicapped Programs
ED 9037
Annually
State or Local Governments; Businesses or Other For-Profit; Non-Profit Institutions
Reporting Burden:
Responses: 3040
Burden Hours: 92,560

Abstract: The application provides instructions and information necessary for grantees and potential grantees to submit a request for Federal assistance. The information submitted is used by SEP to determine grant eligibility, acceptability of applications, and amount of grant award.

New Collection

Parent Survey
ED 925
One time survey
Individuals or Households
Reporting Burden:
Responses: 100
Burden Hours: 50

Abstract: The parent survey study is being conducted as part of a contract to conduct research on the education of severely handicapped children. The survey will provide information on severely handicapped school age children as perceived by their parents. The data will be matched with the educational needs of the children and instructional strategies developed.

Reinstatement

Annual Vocational Rehabilitation Program/Cost Report
ED–2
Annually
State or Local Governments
Reporting Burden:
Responses: 84
Burden Hours: 395

Abstract: The data reported on the ED–2 report, submitted by State Vocational Rehabilitation Agencies for each fiscal year, are used to administer and manage the Basic Support Program; to analyze expenditures; to evaluate program accomplishments; and to review for indications of problem areas.

Existing Collection-Unapproved

Report of Children Transferring to Local Educational Agency Programs
State Agencies or Local Educational Agencies
Recordkeeping Burden:
Recordkeepers: 10,000
Burden Hours: 10,000

Abstract: The State Education Agency must maintain data each year on the number of handicapped children who leave State operated or supported programs and return to local school systems, but are still included for Federal assistance under The State Operated Program for Handicapped Children under Chapter 1 of the Education Consolidation and Improvement Act.

State Agency Projects
State Agencies and Local Educational Agencies
Recordkeeping Burden:
Recordkeepers: 158
Burden Hours: 500

Abstract: The State educational agency must maintain on file all applications submitted by public agencies that operate programs for handicapped children under The State Operated Program for Handicapped Children under Chapter I of the Education Consolidation and Improvement Act (Subtitle D of Title V of Pub. L. 97–35, commonly known as Pub. L. 89–313 program).

List of Hearing Officers
Regulatory or Compliance
State and Local Governments
Recordkeeping Burden:
Recordkeepers: 16,000
Burden Hours: 1,600

Abstract: Each public agency located in a State receiving EHA–B funds must maintain a list of names and qualifications of the hearing officers.

Local Educational Agencies-project Information
State and Local Governments
Recordkeeping Burden:
Recordkeepers: 10,000
Burden Hours: 10,000

Abstract: The State agency must maintain on file all project applications for subgrants under Pub. L. 94–142 submitted by LEA's who serve handicapped children transferred from public institutions.

Recordkeeping Requirement for Local Educational Agency (LEA) Application State or Local Governments
Recordkeeping Burden:
Recordkeepers: 10,000
Burden Hours: 10,000

Abstract: The State agency must maintain on file all applications submitted by LEAs which serve as the basis for distributing subgrants to approximately 15,000 operating school districts which participate in Education of the Handicapped Act-Part B.

Captioned Films for the Deaf: Application and User Feedback Forms
ED 928;-1;-2
Six times per year.
Individuals or Households; Non-Profit Institutions
Reporting Burden:
Responses: 64,700
Burden Hours: 2,135

Abstract: U.S. Education Department provides for a free loan service of captioned films for the educational, cultural, and recreational advancement of deaf persons. Eligible parties must apply for services. The user feedback forms are used to evaluate the service provided by the loan program (i.e., circulation numbers).

Office of Vocational and Adult Education

New

Analysis of Students' Basic Skill Performance in Selected Instructional Delivery Systems
ED 928
On Occasion
Individuals or Households; State or Local Governments; Businesses or Other For-Profit
Reporting Burden:
Responses; 2,530
Burden Hours: 4,046

Abstract: The need is to determine the relationships between students' basic skill development and participation in different curricular programs. Findings should lead to better basic skill performance in school and work setting. The respondents are high school juniors and seniors enrolled in academic, general, and vocational programs as well as their teachers and work site supervisors.

Extension

Annual Evaluation Report of the State Advisory Councils for Vocational Education
ED 576–5
Annually
State or Local Governments
Reporting Burden:
Responses: 53
Burden Hours: 19,875

Abstract: The Vocational Education Act requires State Advisory Councils to submit an annual evaluation report to the State Board, the National Council, and the Secretary of Education. Program staff use the information primarily to determine the type and degree of

technical assistance needed by each State.

Financial Status and Performance Reports for the Adult Education State Program
ED 365
Annually
State or Local Governments
Reporting Burden:
Responses: 57
Burden Hours: 570

Abstract: State Education Agencies receiving grants under the Adult Education State Program submit annual Financial Status and Performance Reports. Program officials use the data collected in accounting for the expenditure of funds and for monitoring program activities required by the approved State Plan.

Financial Status and Performance Reports for Direct Grants—Office of Vocational and Adult Education (OVAE)
ED 360, 360–1
Annually
State or Local Governments
Reporting Burden:
Responses: 35
Burden Hours: 280

Abstract: Grant officers and project officers use the Financial Status and Performance Reports to monitor the expenditure and use of funds as well as grantees' progress in completing approved activities under direct grants from OVAE.

Application for Vocational Education Direct Grant Programs
ED 3176
Annually
State or Local Governments
Reporting Burden:
Responses: 100
Burden Hours: 2,000

Abstract: Applicants use the form to request consideration for vocational education direct grant awards. Program officials use the information to establish eligibility and to assign a quality ranking to the application. Grants officers use the information to negotiate a grant award.

Annual Plan and Accountability Report for Vocational Education
ED 576–3, 576–4
State or Local Governments
Annually
Reporting Burden:
Responses: 53
Burden Hours: 9,911

Abstract: The Vocational Education Act requires State Boards for Vocational Education to submit annual plans and reports in order to receive federal funds for vocational education programs. Program staff review the plans and reports to ensure that proposed and past activities comply with the various requirements of the Vocational Education Act.

Reinstatement

State Plan for Adult Education
ED 652
Triennially
State or Local Governments
Reporting Burden:
Responses: 55
Burden Hours: 11,000

Abstract: The Adult Education Act requires State Education Agencies to submit State Plans every three years in order to receive Federal funds for adult education programs. Program staff review the plans to ensure that the proposed activities comply with the requirements of the Adult Education Act.

Office of Postsecondary Education

Revision

Student Aid Report
ED 255–1
Annually
Individuals or Households; Business or Other For-Profit; Non-profit Institutions; Small Businesses or Organizations
Reporting Burden:
Response: 10,071,600
Burden Hours: 2,300,000

Abstract: This form contains parental and/or student income and asset information which is used to determine the amount of federal aid the student receives for educational purposes.

Fiscal Operations Report and Application to Participate in the National Direct Student Loan, Supplemental Educational Opportunity Grants and College Work-Study Program and Recordkeeping Requirement.
ED 646; 646–1
Annually
State or Local Government; Non-Profit Institutions
Reporting Burden:
Responses: 5,100
Burden Hours: 191,709
Recordkeeping Burden:
Recordkeepers: 15,300
Burden Hours: 27,050,400

Abstract: The application data is used to compute the amount of funds needed by each institution during the award period. The Fiscal Operation's Report data is used to assess program effectiveness and accountability of funds expended during the award period.

Higher Education Act—Title IV, Quality Control Project, and Recordkeeping Requirement
ED 628–2
On Occasion
Individuals or Households; Non-Profit Institutions; Businesses or Other For-Profit
Reporting Burden:
Responses: 8,400
Burden Hours: 8,400
Recordkeeping Burden:
Recordkeepers: 125
Burden Hours: 30,000

Abstract: Payment errors in the Campus-Based and Guaranteed Loan Student Programs have never been assessed. Information from audits and program reviews seem to indicate program-wide payment error to be even higher than the $624 million for Pell Grant in 1982–83. The purpose of this project is to determine the program-wide errors rates, the types and probable causes of errors, and to recommend corrective actions to reduce or eliminate the detected and critical errors in the HEA Title IV programs.

Average Cost Report and Recordkeeping Requirements
ED 932
Annually
State or Local Governments; Non-Profit Institutions
Reporting Burden:
Responses: 7,100
Burden Hours: 586
Recordkeeping Burden:
Recordkeepers: 7,100
Burden Hours: 586

Abstract: The computation of the Pell Grant Award reqires the average cost of attendance at the institution which the student attends.

Extension

National Direct (Defense) Student Loan (NDSL) Program Assignment Form
ED 553
On Occasion
Individuals or Households
Reporting Burden:
Responses: 120,000
Burden Hours: 60,000
Recordkeeping Burden:
Recordkeepers: 120,000
Burden Hours: 30,000

Abstract: This form is used to collect pertinent information from NDSL participating institutions on defaulted student loan borrows. The form serves as the transmittal document for the assignment of defaulted accounts to the Department of Education for collection.

Federal Loan Transaction Statement
ED 1199
On Occasion
Businesses or Other For-Profit; Small Businesses or Organizations
Reporting Burden:

Responses: 15,000
Burden Hours: 85,000
Recordkeeping Burden:
Recordkeepers: 15,000
Burden Hours: 85,000

Abstract: This form is used by the Department to bill lenders for insurance premiums. It is also used by lenders to report changes in the status of existing loans and to report loans that have been paid in full.

Application for Certification for Participation in Programs under Title IV of the Higher Education Act of 1965, as amended.
ED 633
Annually
Businesses or Other For-Profit
Reporting Burden:
Responses: 2,800
Burden Hours: 5,600

Abstract: This form is used by colleges, universities and vocational schools to apply for certification to participate in student financial assistance programs under Title IV, of the Higher Education Act of 1965 as amended.

Office of Elementary and Secondary Education

New

Asbestos School Hazard Detection and Control Program Status Report
ED 930
Semi-Annually
State or Local Governments
Reporting Burden:
Responses: 118
Burden Hours: 35,400

Abstract: The Asbestos Hazards School Safety Task Force, charged with identifying health and safety hazards associated with asbestos materials, needs current information from States on the scope and severity of the asbestos problem in the nation's schools and in order to discharge responsibilities to assist the Secretary in formulating standards and procedures.

Career Education Annual Report
ED 825
Annually
State Educational Agencies
Reporting Burden:
Responses: 53
Burden Hours: 848

Abstract: The Office of Elementary and Secondary Education proposes to collect data under the Career Education Incentive Act (Pub. L. 95–207). This information will be analyzed by the staff and will provide the basis for making recommendations to the states in the administration and close out of the program.

College Assistance Migrant Program (CAMP) and Recordkeeping Requirement
ED 819–1
Annually
Individuals or Households; State or Local Governments; Non-Profit Institutions
Reporting Burden:
Responses: 30
Burden Hours: 600
Recordkeeping Burden:
Recordkeepers: 5
Burden Hours: 490

Abstract: Pub. L. 96–374 states that "the Secretary shall maintain and expand existing secondary and postsecondary * * * college assistance migrant program projects, which shall be designed to provide service to students of families who are engaged in migrant and seasonal farmwork." The services provide assistance for the target population in their first year of college.

Financial Status and Performance Reports for the Follow Through Program.
ED 4473–1; –2
Annually
Local Educational Agencies; Other Public and Non-Profit Private Agencies Organizations, and Institutions
Reporting Burden:
Responses: 103
Burden Hours: 3,090

Abstract: These reports are used to obtain data necessary to meet the Secretary's statutory and regulatory oversight responsibilities relative to the Follow Through Program

Consoldiated Application for Grants under the Indian Education Act
ED 917; –1, 2; 3 (Formerly ED 736, 444, 267, and 737)
Annually
State or Local Educational Agencies; Indian Tribes, Indian Organizations, Indian Institutions, Institutions of Higher Education and Federally supported elementary and secondary schools for Indian Children
Reporting Burden:
Responses: 1,401
Burden Hours: 42,030

Abstract: Application forms for Part A-Entitlement Grants, Part A-Indian Controlled Schools, Part B-Special Programs and Projects, and Part C-Special Programs for Adult Indians, will be consolidated into one form for use by applicants annually.

Extension

Report of Contract Awarded and State Educational Agency Report of Minimum Requirements for School Construction
ED 4038 and 4038–1
Annually
State and Local Governments
Reporting Burden:
Responses: 300
Burden Hours: 300

Abstract: This is a report on contracts for new school buildings; the data is needed to determine per pupil construction costs in each as the basis for payments under Pub. L. 81–815 section 5.

Reinstatement

Application for Women's Educational Equity Act (WEEA) Program
ED 436–1
Annually
Individuals or Households; State or Local Governments; Non-Profit Institutions
Reporting Burden:
Responses: 750
Burden Hours: 15,000

Abstract: Public agencies (including state and local educational agencies, public colleges and universities), private non-profit organizations, and individuals are required to submit an annual application to receive funds under the WEEA Program. Applications are reviewed to insure that funds are used for programs that most effectively will achieve the purposes of the Act.

Existing Collection—Unapproved

Financial Status Report for the Women's Educational Equity Act
ED 436–2
Annually
State or Local Governments; Non-Profit Institutions; Individuals or Households
Reporting Burden:
Responses: 67
Burden Hours: 67

Abstract: Regulations require all grantees to report on the expenditure of funds.

Office for Civil Rights

Reinstatement

Fall 1984 Elementary and Secondary School Civil Rights Survey
ED 101 and ED 102
State or Local Schools
Biennially and for some every six years
Reporting Burden:
Responses: 45,000
Burden Hours: 315,000

Abstract: The information will be used to evaluate the compliance status of schools with Federal Civil Rights statutes, court orders, executive orders.

and to facilitate compliance reviews and complaint investigations.

Office of Educational Research and Improvement

New

High School and Beyond Second Follow-up Survey
Ed 2441–1; 2441–2
One time
Individuals and Households
Reporting Burden:
Responses: 27,199
Burden Hours: 27,199

Abstract: In reponse to the need for policy relevant time series data on a nationally representative sample of high school students, NCES instituted the National Longitudinal Studies (NLS) program. One major component ofthe NLS program is the High School and Beyond (HS&B) study. HS&B is a nationally representative sample of 1980 high school sophomores and seniors. HS&B data is used to study longitudinally the educational, vocation and personal development of high school students.

Survey of Local Educational Agency's (LEA) Teacher Incentive Plans
Ed 931
One Time
State or Local Governments
Reporting Burden:
Responses: 1,000
Burden Hours: 500

Abstract: This project will survey a sample of LEA's to examine their use of different forms of incentive to attract or retain teachers, particularly in shortage areas.

1985 Survey of 1983–84 College Graduates
ED 2385
Biennially
Individuals or Households
Reporting Burden:
Responses: 18,000
Burden Hours: 3,060

Abstract: This survey will be used by the National Center for Education Statistics (NCES) to produce a report on the supply and demand of persons newly qualified to teach, as well as several reports on new college graduates in the job market.

Annual Performance and Financial Reports—Secretary's Discretionary Grant Program
ED 914–1–2
Annually
Individuals or Households; State or Local Governments; Businesses or other For-Profit; Non-Profit Institutions; Small Businesses or Organizations
Reporting Burden:
Responses: 22
Burden Hours: 176

Abstract: These forms are used to account for funds spent and objectives achieved under grants awarded for the improvement of education.

Pilot Study for NCES Redesign
ED 2456
One time—pilot study
Businesses or Other For-Profit; Non-Profit Institutions
Reporting Burden:
Responses: 3,600
Burden Hours: 4,320

Abstract: Forms will be used to survey a sample of postsecondary education providers. The information collected will be used to determine how the survey works as a package, assist in the preparation of the final survey packages, assess the reliability of the data, elements, and estimate the respondent burden of the total survey system.

Public School Survey
ED 2457
Triennially
State or Local Governments
Reporting Burden:
Responses: 10,000
Burden Hours: 5,000

Abstract: This public survey will provide policymakers with basic statistical and issue-oriented data on public elementary and secondary schools which are not currently being collected by NCES. The respondents will be public school administrators and teachers.

Revision

Fall Enrollment and Compliance Report, 1984
ED 2300—2.3 A and B
Annually
Businesses or Other For-Profit; Non-Profit Institutions
Reporting Burden:
Responses: 3,350
Burden Hours: 8,375

Abstract: College enrollment data are needed by the Department of Education, State educational researchers, planning and budget officers and individual colleges for use in economic and financial planning, policy formulation, funding allocation, and in compliance enforcement by the Office for Civil Rights.

Degrees and Other Formal Awards Conferred Between July 1, 1983, and June 30, 1984
ED Form 2300–2.1A–1 2.1B–1; 2.1C
Annually
State or Local Governments; Businesses or Other For-Profit; Non-Profit Institutions
Reporting Burden:
Responses: 3,325
Burden Hours: 4,988

Abstract: These data are used by Department of Education, States and institutions in financial and academic planning. They are also used by the Department of Labor in formulating occupational outlook projections and by the National Occupational Information Coordinating Committee in assessing manpower needs.

Institutional Characteristics of Colleges and Universities, 1984–85
ED 2300–1; 1A
Annually
Businesses or Other For-Profit; Non-Profit Institutions
Reporting Burden:
Responses: 3,450
Burden Hours: 1,211

Abstract: This survey collects and/or confirms characteristics of institutions of higher education in order to maintain the Higher Education General Information System survey control file. It includes the name and address of institution, the Federal Interagency Committee on Education code, entity number, telephone number, and tuition and fees information. Institutional accreditation is also verified.

Extension

Salaries, Tenure, and Fringe Benefits of Full-time Instructional Faculty, 1984–85
ED 2300–3
Annually
State or Local Governments; Businesses or Other For-Profit; Non-Profit Institutions
Reporting Burden:
Responses: 3,350
Burden Hours: 13,400

Abstract: Faculty salary data are used by the Department of Education to monitor salaries proposed in grants and contracts; by State higher educational officials in preparing budget; and by colleges in establishing compensation packages.

State-Level Personnel Exchange (Elementary-Secondary)
ED 2428–1; –2
Quarterly
State or Local Government
Reporting Burden:
Responses: 32
Burden Hours: 48

Abstract: NCES is mandated to assist State and local educational agencies, including State agencies responsible for postsecondary education, in improving and automating their statistical and data collection activities. As part of its assistance programs, NCES has established a State Level Personnel

Exchange to facilitate the interchange of information and expertise among States.

State-Level Personnel Exchange (Postsecondary)
ED 2436–1;–2;–3
Annually
State or Local Governments
Reporting Burden:
Responses: 60
Burden Hours: 30

Abstract: NCES is mandated to assit State and local educational agencies, including State agencies responsible for postsecondary education, in improving and automating their statistical and data collection activities. As part of its assistance programs, NCES has established a State Level Personnel Exchange to facilitate the interchange of information and expertise among States.

Financial Statistics of Institutions of Higher Education, 1984
ED 2300–4
Annually
State or Local Governments; Businesses or Other For-Profit; Non-Profit Institutions
Reporting Burden:
Responses: 3,325
Burden Hours: 8,312

Abstract: College financial statistics are needed by the Department of Education to report on the condition of education and to determine eligibility for participation in the Title III program of the Higher Education Act of 1965. These data are used by the Bureau of Census to report finances of state and local governments, and by the Bureau of Economic Analysis to develop the Gross National Product.

Local Education Agency (LEA) Fiscal Report Part IV
ED 2445
Annually
State or Local Governments
Reporting Burden:
Responses: 16,000
Burden Hours: 8,000

Abstract: NCES has been mandated under Section 406 of the General Education Provision Act to collect LEA fiscal data to produce equity profiles.

Reinstatement

State Expenditures for Postsecondary Education for Fiscal Years Ending 1983 and 1984
ED 2440
Annually
State or Local Governments
Reporting Burden:
Responses: 57
Burden Hours: 570

Abstract: This survey will collect data for such indirect forms of State support as student aid, expenditures for some public 2-year postsecondary institutions (vocational-technical institutes), tuition reciprocity agreements, aid to proprietary institutions, and central services (library and computer support). Such data will make possible more accurate comparisons among States and will enable Federal agencies to identify the extent to which States change expenditure patterns in response to changing Federal priorities.

Residence and Migration of College Students, Fall 1984
ED 2300–2.8
Biennially
State or Local Governments; Businesses or Other For-Profit; Non-Profit Institutions
Reporting Burden:
Responses: 3,350
Burden Hours: 5,025

Abstract: Residence and migration data are needed by the Department of Education, States, educational researchers, planning and budget officers and individual colleges for use in economic and financial planning and policy formulation, particularly with regard to tracking the migration of students from state to state, which has a direct impact on college costs, student financial needs, and the sources of such funds.

[FR Doc. 84–1283 Filed 1–17–84; 8:45 am]
BILLING CODE 4000–01–M

Training of Interpreters for Deaf Individuals

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Application Notice Establishing Closing Date for Transmittal of Fiscal Year 1984 Noncompeting Continuation Applications.

SUMMARY: Applications are invited for noncompeting continuation grants under the Training of Interpreters for Deaf Individuals Program.

Authority for this program is contained in Section 304(d) of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 774(d)).

Applications may be submitted by public or private non-profit agencies or organizations including public or private non-profit postsecondary institutions.

The purpose of this program is to train skilled manual and oral interpreters available for employment in public and private agencies involved in the provision of health, education, welfare, rehabilitation, employment and related services to deaf people. This program was established to assist in the training of a sufficient number of interpreters to meet the communication needs of deaf individuals.

Closing date for transmittal of applications: To be assured of consideration for funding, applications for noncompeting continuation awards should be mailed or hand delivered on or before April 2, 1984. If a noncompeting application is late, the Department of Education may lack sufficient time to review it and may decline to accept it.

Applications delivered by mail: Applications must be addressed to the Department of Education, Application Control Center, Attention: 84.129W, Washington, D.C. 20202.

An application must show proof of mailing consisting of one of the following:

(1) A legible dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered by Hand: Hand-delivered applications must be taken to the Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th & D Streets, SW., Washington, D.C.

The application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Available Funds: $900,000 have been appropriated for this program and will be awarded for noncompeting continuations for 1984. Ten awards were made in Fiscal Year 1983.

This funding level does not bind the Department to a specific number of grants or to the amount of any grant, unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages will be mailed to grantees that are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the application package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed thirty (30) pages in length. The Secretary further urges applicants to submit only information that is requested.

Applicable regulations: The regulations applicable to this program are the Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, and 78.

Further information: For further information contact Mrs. Carol Inman, Acting Director, External Affairs, Office of Special Education and Rehabilitative Services, U.S. Department of Education, Room 3119, Mary E. Switzer Building, 330 C Street, SW., Washington, D.C. 20201. Telephone: (202) 245–0177.

(Catelog of Federal Domestic Assistance No. 84.129W, Training of Interpreters for Deaf Individuals)

Dated: January 12, 1984.

Madeleine Will,

Assistance Secretary.

[FR Doc. 84–1209 Filed 1–17–84; 8:45 am]

BILLING CODE 4000–01–M

Intergovernmental Advisory Council on Education; Meeting

AGENCY: Intergovernmental Advisory Council on Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a meeting of the Intergovernmental Advisory Council on Education. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATES: February 9–10, 1984.

ADDRESS: Quality Inn, Capitol Hill, 415 New Jersey Avenue NW., Washington, D.C. 20001 (room will be posted).

FOR FURTHER INFORMATION CONTACT: Laverne Johnson, Office of the Deputy Under Secretary for Intergovernmental and Interagency Affairs, Department of Education, 400 Maryland Avenue SW., Washington, D.C. 20202; (202) 472–6464.

SUPPLEMENTARY INFORMATION: The Intergovernmental Advisory Council on Education was established under section 213 of the Department of Education Organization Act (20 U.S.C. 3423). The Council is established to provide assistance and make recommendations to the Secretary and the President concerning intergovernmental policies and relations pertaining to education.

The meeting of the Council is open to the public. The meeting is scheduled for 9 a.m. to 5 p.m. on February 9 and will continue on February 10 from 9 a.m. to 3 p.m.

The proposed agenda includes:

—Discussion on Intergovernmental Issues relating to Education
—Review of Draft Council Report
—Discussion on Activities for fiscal year 1984.

Records are kept of all Council proceedings and are available for public inspection at the office of the Intergovernmental Advisory Council on Education, 400 Maryland Avenue SW., Room 3047, Washington, D.C.

Signed at Washington, D.C. on January 13, 1984.

A. Wayne Roberts,

Deputy Under Secretary for Intergovernmental and Interagency Affairs.

[FR Doc. 84–1327 Filed 1–17–84; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER84–193–000]

Arkansas Power & Light Co.; Filing

January 13, 1984.

The filing Company submits the following:

Take notice that on January 6, 1984, Arkansas Power & Light Company (AP&L) tendered for filing a Letter dated December 9, 1983 between AP&L and the Louisiana Energy & Power Authority (LEPA) for transmission services through the system of AP&L to the system of Louisiana Power & Light Company to permit a sale by the Southwestern Power Administration to LEPA of 8 MW of capacity and associated energy. AP&L requests that Rate Schedule FERC No. 95 with the City of Ruston, Louisiana be cancelled simultaneously with the acceptance for filing and effectiveness of the agreement contained in the filing.

AP&L requests an effective date of January 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 31, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–1339 Filed 1–17–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER84–194–000]

Arkansas Power & Light Co.; Filing

January 13, 1984.

The filing Company submits the following:

Take notice that on January 6, 1984, Arkansas Power & Light Company (AP&L) tendered for filing a Letter Agreement dated December 14, 1983 between AP&L and the Cajun Electric Power Cooperative, Inc. (CAJUN) for transmission services through the system of AP&L to the system of Louisiana Power & Light Company to permit a sale by the Southwestern Power Administration to CAJUN of 43 MW of capacity and associated energy.

AP&L requests an effective date of January 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 31, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1340 Filed 1-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES84-24-000]

Boston Edison Co.; Renotice of Application [1]

January 13, 1984.

Take notice that on December 23, 1983, Boston Edison Company (Applicant) filed an application, pursuant to Section 204 of the Federal Power Act, seeking an order authorizing the issuance of $140,000,000 of short-term debt securities with a maturity of not later than December 31, 1987.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 23, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1341 Filed 1-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES84-22-000]

Citizens Utilities Co.; Application

January 13, 1984.

Take notice that on December 30, 1983, Citizens Utilities Company (Applicant) filed an application seeking an order pursuant to Section 204 of the Federal Power Act, authorizing the issuance of short-term promissory notes during the period ending January 24, 1986, in ar. aggregate principal amount not to exceed $35,000,000 at any one time.

Any person desiring to be heard or to make any protest with reference to the application should on or before January 31, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1344 Filed 1-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-156-000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

January 13, 1984.

Take notice that on December 29, 1983, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP84-156-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to transport natural gas on behalf of Genstar Stone Products, Division of Flintkote Company, Subsidiary of Genstar Corporation (Genstar), under the authorization issued in Docket No. CP83-76-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Columbia proposes to transport up to 1 billion Btu of natural gas per day for Genstar for a term of one year. Columbia states that the gas to be transported would be purchased from Target Exploration, Inc. (Target), by Genstar and would be used for bituminous concrete dryer and calcium carbonate dryer in Genstar's plant in Cockeysville, Maryland.

Columbia states that it has released certain gas supplies, which Genstar has purchased from Target, and that these supplies are subject to the ceiling price provisions of Section 107 of the Natural Gas Policy Act of 1978. Columbia indicates that it would receive the gas at an existing delivery point in Washington County, Ohio, and redeliver such gas to Baltimore Gas and Electric Company, the distribution company serving Genstar.

Further, Columbia states that depending upon whether its gathering facilities are involved, it would charge either (1) its average system-wide storage and transmission charge, currently 40.11 cents per dt equivalent of gas, exclusive of company-use and unaccounted-for gas, or (2) its average system-wide storage, transmission and gathering charge, currently 44.93 cents per dt, exclusive of company-use and unaccounted-for gas. Columbia states that it would retain 2.85 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1345 Filed 1-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-157-000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

January 13, 1984.

Take notice that on December 29, 1983, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP84-157-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to transport natural gas on behalf of Harbison-Walker Refractories, Division of Dresser Industries (Harbison-Walker), under the authorization issued in Docket No. CP83-76-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Columbia proposes to transport up to 2 billion Btu of natural gas per day for Harbison-Walker for a term of one year. Columbia states that the gas to be transported would be purchased from POI Energy, Inc. (POI), in Ohio, Pennsylvania, Kentucky, and West Virginia, by Harbison-Walker and would be used to displace fuel oil for industrial manufacturing purposes in Harbison-Walker's Baltimore, Maryland plant.

The gas purchase agreement between POI and Harbison-Walker indicates that Columbia has released certain gas supplies of POI. Columbia states that

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[1] Corrects a notice issued January 4, 1984 (49 FR 1123, January 9, 1984).

these supplies are subject to the ceiling price provisions of Sections 102, 103 and 107 of the Natural Gas Policy Act of 1978. It is further indicated that Harbison-Walker has purchased this released gas from POI. Columbia states that it would receive the gas from POI in Ohio, Pennsylvania, Kentucky, and West Virginia, and redeliver the gas to Baltimore Gas and Electric Company (BG&E), the distributor serving Harbison-Walker, in Baltimore, Maryland.

Further, Columbia states that depending upon whether its gathering facilities are involved, it would charge either (1) its average system-wide storage and transmission charge, currently 40.11 cents per dt equivalent, exclusive of company-use and unaccounted-for gas, or (2) its average system-wide storage, transmission and gathering charge, currently 44.93 cents per dt equivalent, exclusive of company-use and unaccounted-for gas. Columbia states that it would retain 2.85 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1346 Filed 1-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2087-000]

Charles Duchen; Application

January 13, 1984.

The filing individual submits the following:

Take notice that on January 5, 1984, Charles Duchen filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director—Iowa Power and Light Company

Chairman of Executive Committee and Director—Younkers, Inc.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 1, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1343 Filed 1-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES84-25-000]

Gulf States Utilities Co.; Application

January 13, 1984.

On December 30, 1983, Gulf States Utilities Company (Applicant) filed an application, pursuant to section 204 of the Federal Power Act, seeking authorization to issue up to $100,000,000 Principal Amount of First Mortgage Bonds, in one or more series over a two-year period, and pursuant to § 34.2 of the Regulations under the Federal Power Act, and seeking exemption from the Commission's competitive bidding requirements for such issuance.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 31, 1984 file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D. C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1349 Filed 1-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-197-000]

Kansas Gas & Electric Co.; Filing

January 13, 1984.

The filing Company submits the following:

Take notice that on January 9, 1984, Kansas Gas and Electric Company (KG&E) tendered for filing a proposed change in its FPC Electric Service Tariff No. 122. The proposed Amendatory Agreement changes the minimum and maximum amounts of power for the City of Haven, Kansas.

KG&E states that the Amendatory Agreement is necessary because the present demands are being exceeded.

KG&E requests an effective date of December 7, 1983.

Copies of this filing were served upon the City of Haven, Kansas and the State Corporation Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 31, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1351 Filed 1-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES84-26-000]

Pacific Power & Light Co.; Application

January 13, 1984.

Take notice that on December 30, 1983, Pacific Power & Light Company (Pacific) filed its application with the Federal Energy Regulatory Commission, pursuant to section 204 of the Federal Power Act, seeking an order (1) disclaiming jurisdiction over transactions designed to reduce Pacific's exposure to fluctuations in interest rates by entering into arrangements with financial institutions under which arrangements it would exchange payments based on its obligations in respect of certain series of Floating Rate Monthly Demand Pollution Control Revenue Bonds in the amount of not more than $345 million issued or to be issued by the County of Sweetwater, Wyoming, and the City of Forsyth, Montana, or (2) authorizing Pacific to enter into the transactions and exempting the transactions from the

Commission's competitive bidding requirements, or (3) authorizing the proposed exchanges to the extent jurisdiction exists.

Any person desiring to be heard or to make protest with reference to the application should, on or before January 30, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with 18 CFR 385.211 or 385.214, respectively. The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1352 Filed 1-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2089-000]

John Ruan; Application

January 13, 1984.

The filing individual submits the following:

Take notice that on January 5, 1984, John Ruan filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following Positions:

Director—Iowa Power and Light Company
Director—Equitable of Iowa Companies

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 1, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1350 Filed 1-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2088-000]

Dwight H. Swanson; Application

January 13, 1984.

The filing individual submits the following:

Take notice that on January 5, 1984, Dwight H. Swanson filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Chairman, Chief Executive Officer and Director—Iowa Power and Light Company
Director and Member of Executive Committee—Bankers Life Company

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 1, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inpsection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1347 Filed 1-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-120-000]

Alaska Timber Corp.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 13, 1984.

On December 17, 1983, Alaska Timber Corporation, (Applicant) of P.O. Box 69, Klawock, Alaska 99925, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The small power production facility is located one mile south of the City of Klawock, Alaska. The primary energy source for the facility is biomas in the form of wood waste. The first electric generator, which is presently operating, was installed in 1982, The second electric generator is presently being installed and will be operational in mid-1984. The completed facility will consist of steam boilers and two electric generators which have a combined electric power production capacity of 4 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1338 Filed 1-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-113-000]

Calaveras Hydro Partners Limited Partnership; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 13, 1984.

On December 19, 1983, Calaveras Hydro Partners Limited Partnership, (Applicant) of 1715 Soo Line Building, Fifth and Marquette, Minneapolis, Minnesota 55402, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The small power production facility will be located in Calaveras County, California. The primary energy source for the facility will be water. The facility will consist of three turbine generator units with a combined electric power production capacity of 240 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 or 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1342 Filed 1-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-112-000]

E. I. du Pont de Nemours & Co.—Spruance Plant; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

January 13, 1984.

On December 19, 1983, E. I. du Pont de Nemours and Co., (Applicant) of 1007 Market Street, Wilmington, Delaware 19898, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of Commission's rules.

The topping-cycle cogeneration facility will be located at the Applicant's Spruance Textile Fibers Plant in Richmond, Virginia. The primary energy source for the facility will be coal. The useful thermal energy output, which will be in the form of steam, will be used in process heating applications. The electric power production capacity of the facility will be 10 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1348 Filed 1-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Volumes 1037 and 1038]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Correction

The two documents in Part IV of the issue of Friday, January 13, 1984, beginning on pages 1858 and 1862, respectively, were inadvertently published without their file lines. These should have read:

[FR Doc. 84-982 Filed 1-12-84; 8:45 am]

and

[FR Doc. 84-983 Filed 1-12-84; 8:45 am]

and should have appeared on pages 1861 and 1865, respectively, at the end of each document.

BILLING CODE 1505-01-M

[Docket No. CP84-162-000]

Colorado Interstate Gas Co.; Application

January 12, 1984

Take notice that on December 30, 1983, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP84-162-000 an application, as supplemented on January 6, 1984, pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of an average of 6,000 Mcf of natural gas per day for Stauffer Chemical Company of Wyoming (Stauffer) and the construction and operation of facilities to permit the delivery of gas to Stauffer, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport for two years an average of 6,000 Mcf of natural gas for Stauffer. Stauffer would use the gas for drying uses in the manufacture of soda ash, it is stated. It is indicated that Stauffer has purchased gas in Carbon County, Wyoming, from Sun Exploration and Production Company (Sun), and that this gas has been released by Applicant from a gas purchase agreement between Applicant and Sun. Applicant states that these gas supplies are subject to the ceiling price provisions of sections 102 and 103 of the Natural Gas Policy Act of 1978. It is stated that Applicant would charge Stauffer 1 cent per Mcf for this transportation by displacement from Carbon County, Wyoming, to Sweetwater County, Wyoming. Applicant asserts that this rate reflects transportation by displacement and the economic benefits given to Applicant and its customers by Sun in return for releasing gas to Stauffer. These benefits, it is claimed, include concessions regarding take-or-pay liabilities, reductions in daily take-or-pay volume obligations, and reduction in the price of flowing gas.

To accomplish the delivery of gas to Stauffer Applicant further proposes to construct and operate a tap and related facilities in Sweetwater County, Wyoming. These facilities are estimated to cost $32,100, which would be financed by funds on hand, funds from operations, short-term borrowings, or long-term financing.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 30, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1369 Filed 1-17-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-701-000]

Florida Power Corp.; Refund Report

January 12, 1984.

Take notice that on December 19, 1983, Florida Power Corporation (Florida) submitted for filing a revised Refund Report pursuant to a Commission Order issued on November 3, 1983.

Florida states that subsequent to the issuance of the original refunds, some minor errors were discovered with respect to the original computations of refunds and interest.

Any person desiring to be heard or to protest said filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 20, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1372 Filed 1-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-192-000]

Sierra Pacific Power Co.; Filing

January 12, 1984.

The filing Company submits the following:

Take notice that on January 3, 1984, Sierra Pacific Power Company (Sierra) tendered for filing its fifth energy charge revision to reflect decreased purchased power costs resulting from reduction in capacity purchases from Pacific Gas and Electric Company (PG&E).

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Streeet, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 27, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1371 Filed 1-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER77-59, ER77-473 and ER80-241]

Superior Water, Light and Power Co.; Refund Report

January 12, 1984.

Take notice that on December 21, 1983, Superior Water, Light and Power Company (Superior) submitted for filing a Refund Report in compliance with a Commission letter dated December 1, 1983.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 20, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1370 Filed 1-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-23-002]

Consolidated Gas Supply Corp.; Proposed Changes In FERC Gas Tariff

January 12, 1984.

Take notice that Consolidated Gas Supply Corporation (Consolidated) on January 9, 1984 tendered for filing proposed changes to its FERC Gas Tariff Third Revised Volume No. 1. The proposed changes, shown on Second Substitute Thirty-Fifth Revised Sheet No. 16, are proposed to be effective November 10, 1983 in lieu of Substitute Thirty-Five Revised Sheet No. 16 filed December 21, 1983. The tariff sheet corrects mathematical errors to the commodity component of the sales rate schedules.

Consolidated requested a waiver of any of the Commission's Rules and Regulations as may be deemed necessary to permit the revised tariff sheet to become effective as proposed.

Copies of the filing were served upon Consolidated's jurisdictional customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR Sections 385.214 and 385.211). All petitions or protests should be filed on or before Jan. 19, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1357 Filed 1-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA84-1-22-002 (PGA84-1)]

Consolidated Gas Supply Corp.; Proposed Changes In FERC Gas Tariff

January 12, 1984.

Take notice that Consolidated Gas Supply Corporation (Consolidated) on January 9, 1984, filed a tariff sheet proposing a special, out-of-period, PGA rate decrease to reflect in its rates immediately a rate decrease from one of its major pipeline suppliers. The rate revisions, shown on Thirty-Seventh Revised Sheet No. 16 would be effective January 1, 1984 and would be scheduled to remain in effect until March 1, 1984, when superseded by Consolidated's regular semi-annual PGA.

Consolidated's proposal would reduce its Rate Schedule RQ rates by 15.12 cents per dekatherm in the commodity component and 25.00 cents per dekatherm in the demand component.

Consistent rate changes are proposed in Consolidated's other sales rate schedules. No changes in the currently effective PGA surcharge rate of 31.53 cents per dekatherm or other components of Consolidated's rates are proposed.

Consolidated requests waiver of the notice requirements to make its rates effective retroactive to January 1, 1984. Waiver of the PGA time-of-filing requirements is also requested to permit the proposed rates to become effective outside of Consolidated's normal six-month, March 1st and September 1st, PGA rate change schedule. Consolidated cites the recent Commission practice of accepting out-of-period PGA filings and the need to mitigate the effects of a colder-than-normal winter to support the requested waivers.

Copies of the filing were served upon Consolidated's jurisdictional customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR Sections 385.214 and 385.211). All such petitions or protests should be filed on or before Jan. 19, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1358 Filed 1-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-2001]

East Tennessee Natural Gas Co.; Revised Rate Filing

January 12, 1984.

Take notice that on January 6, 1984, East Tennessee Natural Gas Company (East Tennessee) tendered for filing Substitute Eighth Revised Sheet No. 4 to Original Volume No. 1 of its FERC Gas Tariff to be effective January 1, 1984. East Tennessee states that the purpose of this filing is to reflect, as required by the Commission's December 22, 1983 letter order in this proceeding, in its rates, the reduced rates made effective by its supplier Tennessee Gas Pipeline Company.

East Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before January 20, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any persons wishing to become a party must file a petition to intervene. Copies of the filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1359 Filed 1-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-28-001]

Panhandle Eastern Pipe Line Co. Change in Tariff

January 12, 1984

Take notice that on January 6, 1984, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the following revised sheets to its FERC Gas Tariff, Original Volume No. 1:

First Substitute Forty-Seventh Revised Sheet No. 3-A
First Substitute Twenty-Fourth Revised Sheet No. 3-B

The proposed effective date of these tariff sheets is January 1, 1984.

Panhandle states that these revised tariff sheets reflect a rate reduction of 23.20¢ per Dt, resulting from reduced gas purchased costs from Panhandle's pipeline supplier, Trunkline Gas Company (Trunkline), during the remaining period of Panhandle's current PGA which continues through February 29, 1984. Trunkline filed an out-of-cycle PGA adjustment in Docket No. TA84-1-30-001, to be effective January 1, 1984, which reflects the temporary suspension of purchases of regasified LNG from Trunkline LNG Company. The subject Trunkline filing was approved by Commission's Order dated December 28, 1983 to be effective January 1, 1984, subject to refund and certain conditions.

The instant Panhandle rate reduction is a limited revision to the PGA rate adjustment which became effective September 1, 1983, and, in compliance with the Commission's order dated January 3, 1984 in this proceeding, reflects only the reduced gas purchase costs from Trunkline.

Panhandle further states that it had previously advised the Commission that it would reflect this Trunkline reduction in its March 1, 1984 PGA adjustment, based on a number of factors including: Timing differences between the remaining PGA periods for Panhandle and Trunkline; differences in the various states in our market area regarding our customers PGA formats and periods in which our customers pass-through such rate changes; assisting our customers in achieving greater rate stability by having a smaller increase in the PGA filing to be effective March 1, 1984; and a reduction in Panhandle's deferred purchased gas cost account. As the Commission noted in its December 28, 1983 order it was Panhandle's understanding that its customers supported this approach to handling the Trunkline reduction. Notwithstanding the above, Panhandle is making this instant filing in compliance with the Commission's order of January 3, 1984.

To the extent required, Panhandle requests that the Commission grant such waivers as may be necessary for the acceptance of these tariff sheets to become effective January 1, 1984.

Panhandle states that copies of this filing have been served on all customers subjects to the tariff sheet and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before Jan. 20, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1360 Filed 1-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-2605-000, et al.]

Phillips Petroleum Co.; Applications for Certificates, Abandonments of Service and Petitions To Amend Certificates [1]

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before January 31, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-2605-000, G-2625-001, G-3356-000, D, Dec. 21, 1983.	Phillips Petroleum Co., 346 HS&L Building, Bartlesville, Okla. 74004.	El Paso Natural Gas Co., Discharge of Phillips' Seminole, Goldsmith, Fullerton, and Eunice Plants.	(1)	
G-4579-021, D, June 13, 1983	Cities Service Oil and Gas Corp., P.O. Box 300, Tulsa, Okla. 74102.	Northern Natural Gas Co., Section 29-26S-32W, Finney County, Kans.	(2)	
G-5715-003, Dec. 9, 1983	Cabot Petroleum Corp., 921 Main Street, Suite 900, Houston, Tex. 77002.	Northern Natural Gas Co	(3)	
G-9011-000, D, Nov. 14, 1983	Northern Natural Gas Producing Co., Nine Greenway Plaza, Suite 2700, Houston, Tex. 77046.	Northern Natural Gas Co., Hugoton Field, Finney County, Kans.	(4)	
G-11936-000, D, Jan. 9, 1984	Mobil Producing Texas & New Mexico Inc., Houston, Tex.	Tennessee Gas Transmission Co., Edinburg Field, Hidalgo County, Tex.	(5)	
CI67-522-000, D, Dec. 19, 1983	Cities Service Oil and Gas Corp., P.O. Box 300, Tulsa, Okla. 74102.	United Gas Pipe Line Co., Jackson Parish, La	(6)	
CI79-676-001, E, Oct. 13, 1983	Pennzoil Company (successor in interest to Pennzoil Producing Co.), P.O. Box 2967, Houston, Tex. 77001.	Tennessee Gas Pipeline Co., Nichols Field, Hidalgo County, Tex.	(7)	
CI83-163-001, C, Dec. 14, 1983	Texaco Inc., P.O. Box 60252, New Orleans, La. 70160.	Bridgeline Gas Distribution Co., South Marsh Island Block 236 Field, (OCS-G-4437) and certain portions of OCS-0310, Offshore Louisiana.	(8)	
CI84-148-000, A, Dec. 20, 1983	TBP Offshore Co., P.O. Box 2009, Amarillo, Tex. 79189.	Michigan Wisconsin Pipe Line Co., Blocks A-351 and A-368, High Island Area, East Addition, South Extension, Offshore Texas.	(9)	14.65
CI84-149-000 (CI64-1301), B, Dec. 22, 1983.	Conoco Inc., P.O. Box 2197, Houston, Tex. 77252	El Paso Natural Gas Co., Aneth, Bluff and Boundary Butte Fields, San Juan County, Utah.	(10)	
CI84-150-000, A, Dec. 22, 1983	Transpetco I, Dorchester Place, 5735 Pineland Place, P.O. Box 31049, Dallas, Tex. 75231.	Natural Gas Pipeline Co. of America, Ochiltree County, Tex.	(11)	
CI84-152-000, F, Jan. 6, 1984	Shell Western E&P Inc. (Partial Successor in Interest to Shell Oil Company) P.O. Box 4684, Houston, Tex. 77210.	United Gas Pipe Line Co., Gibson Field, Terrebonne County, La.	(12)	
CI84-153-000, F, Jan. 6, 1984	do	United Gas Pipe Line Co., West Lake Verret Field, St. Martin County, La.	(13)	
CI84-154-000, F, Jan. 6, 1984	do	Tennessee Gas Pipeline Co., Clovelly Field, La Fourche County, La.	(13)	
CI84-155-000, F, Jan. 6, 1984	do	El Paso Natural Gas Co., James Ranch Field, Eddy County, N. Mex.	(13)	
CI84-156-000, F, Jan. 6, 1984	do	Montana-Dakota Utilities Co., Pavillion et al., Fremont County, Wyo.	(13)	
CI84-157-000 (CI61-94), B, Dec. 19, 1983.	Amoco Production Co., P.O. Box 3092, Houston, Tex. 77001.	Texas Eastern Transmission Corp., Willow Springs Field, Gregg County, Tex.	(14)	
CI84-158-000 (CI80-207), B, Dec. 19, 1983.	Cities Service Oil and Gas Corp., P.O. Box 300, Tulsa, Okla. 74102.	Panhandle Eastern Pipe Line Co., Texas County, Okla.	(14)	
CI84-159-000, A, Dec. 23, 1983	Chevron U.S.A. Inc., P.O. Box 7309, San Francisco, Calif. 94120.	Natural Gas Pipeline Co. of America, South Marsh Island Block 6, Offshore, Louisiana.	(15)	15.025
CI84-160-000, A, Dec. 27, 1983	Exxon Corp., P.O. Box 2180, Houston, Tex. 77252-2180.	Texas Eastern Transmission Corp., Mississippi Canyon Blocks 280, 281, 324 and 325, Offshore Louisiana.	(16)	15.025
CI84-161-000, B, Dec. 27, 1983	Grace Petroleum Corp., Broadway Executive Park, 6501 North Broadway, Oklahoma City, Okla. 73116.	Atlantic Richfield Co., Toe Nail Field, Schleicher County, Tex.	(17)	
CI84-162-000 (CI62-1059), B, Dec. 27, 1983.	Tenneco Oil Co., P.O. Box 2511, Houston, Tex. 77001.	El Paso Natural Gas Co., Basin Dakota Field, San Juan County, N. Mex.	(18)	
CI84-151-000, A, Jan. 5, 1984	ANR Production Co., 5075 Westheimer, Suite 1100, Houston, Tex. 77056.	ANR Pipeline Co., South Niles Field, Caddo County, Okla.	(19)	14.73
CI84-163-000, B, Dec. 28, 1983	Adolph Beren, H. H. Beren, I. H. Beren, d/b/a Okmar Oil Co., (small producer) and on behalf of affiliates Robert M. Beren & Sheldon K. Beren (small producers), 970 Fourth Financial Center, Wichita, Kans. 67202-2297.	Arkansas Louisiana Gas Co., Southwest Waukomis Field, Garfield County, Okla.	(18)	
CI84-164-000 (G-7076), B, Dec. 28, 1983.	Cities Service Oil and Gas Corp., P.O. Box 300, Tulsa, Okla. 74102.	Consolidated Gas Supply Corp., Weston-Jane Lew Field, Lewis County, Wyo.	(20)	
CI84-165-000 (CI67-206), B, Dec. 29, 1983.	Pauley Petroleum Inc., P.O. Box 2535, Midland, Tex. 79702.	El Paso Natural Gas Co., Section 2, T-25-S, R-31-E, Eddy County, N. Mex.	(21)	
CI84-166-000, B, Jan. 3, 1984	Doran and Associates	Consolidated Gas Supply Corp., Snodgrass Well #1, Gilmer County, W. Va.	(22)	
CI84-167-000, B, Jan. 3, 1984	Aldor	Consolidated Gas Supply Corp., Yingling Well #1, Clearfield County, Pa.	(23)	
CI84-168-000, A, Jan. 6, 1984	Mobil Producing Texas & New Mexico Inc., Nine Greenway Plaza, Suite 2700, Houston, Tex. 77046.	Michigan Wisconsin Pipe Line Co., High Island Blocks A-585 and S/2 A-596, East Breaks Blocks 127, 128 and 129, Offshore Texas.	(23)	14.65
CI84-169-000, A, Jan. 6, 1984	Exxon Corp., P.O. Box 2180, Houston, Tex. 77252-2180.	Northwest Pipeline Corp., Fogarty Creek Unit, Sublette County, Wyo.	(24)	14.65
CI84-170-000, A, Jan. 6, 1984	TGG Offshore 1980, Ltd., 3050 Post Oak Boulevard, Suite 200, Houston, Tex. 77056.	Transcontinental Gas Pipe Line Corp., Vermilion Block 78 Platform, OCS, Louisiana.	(25)	15.025
CI84-171-000, A, Jan. 10, 1984	Exxon Corp., P.O. Box 2180, Houston, Tex. 77252-2180.	Mountain Fuel Supply Co., Dry Piney Field, Sublette County, Wyo.	(26)	14.73
CI84-172-000, B, Jan. 10, 1983	Horizon Oil & Gas Co., P.O. Box 1020, Dallas, Tex. 75221.	Panhandle Eastern Pipeline Co., Hallock "B" #1-36 Section 36-T32S-R29W, Meade County, Kans. (Morrow).	(27)	
CI83-381-000, D, Mar. 14, 1983	Terra Resources, Inc., 5416 South Yale Avenue, Suite 400, Tulsa, Okla. 74101.	Montana-Dakota Utilities, Bowman 1-7, 2-7, 1-8 and 2-8, Swanson Creek Field, Phillips County, Mont.	(28)	

[1] Contract covering this sale expired by its own term and no gas is available to maintain the surplus volume requirements of that contract.

[5] Royalty owner in the McMillan "A" No. 1 well located in Section 29-26S-32W, Finney County, Kansas, has requested that Applicant furnish natural gas for the purpose of fueling a water pumping engine in order to irrigate agricultural crops to be grown on lands encompassed in the McMillan "A" No. 1 wells's proration unit. The gas purchaser has agreed to release for this high priority purpose, subject to the Commission's approval.
[6] Applicant is filing to add two additional delivery points.
[7] To release gas for irrigation fuel.
[8] By assignment of oil, gas and mineral lease dated July 11, 1983, Mobil Producing Texas & New Mexico Inc. assigned to Miramar Petroleum Inc. certain leases and said assignment
[9] By Assignment of Operating Rights and Bill of Sale executed September 17, 1982 Cities Service sold the Tremont N #1 well and assigned leases covering operating rights in said well to Mr. Robert L. Cone.
[10] Pennzoil's interest in this field belonged to Pennzoil Company rather than Pennzoil Producing Company.
[11] Applicant is filing to add additional acreage.
[12] Applicant is willing to accept a permanent certificate conditioned to the applicable price provided for the NPGA, and applicable to the categories of gas sold under the contract
[13] The primary term of the gas contract expired November 20, 1983. No casinghead gas is sold from Conoco's remaining leasehold interest subject to Rate Schedule 275.
[14] Applicant is filing under Gas Purchase Contract dated December 27, 1968.
[15] Effective as of January 1, 1984, Shell Oil Company assigned a portion of its interest in certain properties to Shell Western E&P Inc.
[16] The Davis Gas Unit "E" is the only acreage dedicated to the gas sales contract covered by Rate Schedule 283. Our records indicate Well No. 1, the only well on the unit, was plugged and abandoned on July 29, 1960. Due to the lack of sales from dedicated acreage and the fact that there are no plans for further drilling on this unit, Amoco desires to cancel the rate schedule and abandon the sale of Texas Eastern Transmission Corporation.
[17] The N/2 NW/4 Section 31-5N-13ECM, Texas County, Oklahoma (6244-6316 feet) has never been productive though it has been designated Tract 6 of the Postle Keyes Sand Unit Cities' interest in gas produced from the Postle Keyes Sand Unit is sold under its Rate Schedule No. 191.
[18] Applicant is filing under Gas Purchase Contract dated March 24, 1983
[19] Applicant is filing under Gas Purchase Contract dated November 3, 1983.
[20] Depletion; Uneconomical.
[21] Surrendered leases.
[22] Uneconomical to compress gas.
[23] Cities has had no interest in gas production from the subject acreage since December, 1977.
[24] Pauley unable to deliver gas to El Paso due to inability of well to buck El Paso's line pressure. Remaining life of well is questionable due to potential of watering out as a result of the well being completed in water driven reservoir.
[25] Uneconomic to continue to operate.
[26] Applicant is filing under Gas Sales Contract dated July 1, 1983.
[27] Applicant is filing under Gas Purchase Contract dated October 5, 1977.
[28] Applicant is filing under Gas Purchase Contract dated October 5, 1981
[29] Applicant is filing under Gas Purchase Contract dated December 7, 1978.
[30] Depleted.
[31] Terra Resources Inc. has sold its interest covered under the Rate Schedule, effective November 1, 1982.
[32] Applicant is filing under Gas Sales Contract dated December 31, 1982
Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession

[FR Doc. 84-1353 Filed 1-17-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER84-195-000]

Southern California Edison Co.; Filing

January 13, 1984

The filing Company submits the following:

Take notice that on January 6, 1984, Southern California Edison Company (Edison) tendered for filing an agreement entitled "Power Exchange Agreement Between Southern California Edison Company and Imperial Irrigation District" ("Agreement), which has been executed by Edison and Imperial Irrigation District ("IID").

Edison states that under the terms and conditions of the Agreement, Edison and IID will exchange the energy associated with Edison's geothermal resources in the Imperial Valley for capacity and equal amounts of associated energy from IID's system purchase from El Paso Electric Company.

Edison requests an effective date of January 31, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the Imperial Irrigation District.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 31, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1354 Filed 1-17-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER84-196-000]

Southwestern Electric Power Co.; Filing

January 13, 1984

The filing Company submits the following:

Take notice that on January 9, 1984, Southwestern Electric Power Company (SWEPCO) tendered for filing an Agreement For Purchase And Sale Of Electric Power And Energy (Agreement) between SWEPCO and the United States of America, acting through the Secretary, Department of Energy, as represented by the Administrator, Southwestern Power Administration (SWPA), dated November 14, 1983, which provides for the sale by SWEPCO to SWPA of emergency and replacement energy. The term of the Agreement is from November 14, 1983 until midnight, December 31, 1985 unless either party gives at least 90 days' advance written notice to terminate the Agreement as of December 31, 1984.

SWEPCO requests an effective date of November 14, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been served upon the Arkansas Public Service Commission, Louisiana Public Service Commission, Public Utilities Commission of Texas and the Southwestern Power Administration.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 31, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1355 Filed 1-17-84; 8:45 am]
BILLING CODE 6717-01-M

Conservation and Renewable Energy Subcommittee of the National Energy Extension Service Advisory Board; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public

Law 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Conservation and Renewable Energy Subcommittee of the National Energy Extension Service Advisory Board

Date and time: Thursday, February 2, 1984—8:30 a.m.–5:00 p.m. Friday, February 3, 1984—8:30 a.m.–2:00 p.m.

Place: 1117 North 19th Street, Suite 1100, Arlington, VA 22209.

Contact: William H. H. King, Department of Energy, Forrestal Building—6A-081, 1000 Independence Avenue SW., Washington, D.C. 20585, Telephone: 202-252-8290.

Purpose of the parent Board: The Board was established to carry on a continuing review of the National Energy Extension Service and the plans and activities of each State in implementing Energy Extension Service programs.

Tentative agenda:

Thursday, February 2, 1984

Working Session
Planning for Fifth Annual Report
Public Comment (10 minute rule)

Friday, February 3, 1984

Working Session
Planning for Fifth Annual Report
Public Comment (10 minute rule)

Public participation: The meeting is open to the public. The Chairperson of the Subcommittee is empowered to conduct the meeting in a fashion that will, in his/her judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Subcommittee will be permitted to do so either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact William H. H. King at 202-252-8290. Requests must be received at leat 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C., between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on January 16, 1984.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 84-1529 Filed 1-17-84; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-66105; PH-FRL 2505-6]

Certain Pesticide Products; Intent To Cancel Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice lists the names of firms requesting voluntary cancellation of registration of their pesticide products in compliance with section 6(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended. Distribution or sale of these products after the effective date of cancellation will be considered a violation of the Act unless continued registration is requested.

EFFECTIVE DATE: February 17, 1984.

ADDRESS: By mail, submit comments to:

Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: By mail: Lela Sykes, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 718C, CM#2, 1921 Jefferson Davis Highway, Arlington, VA. (703-557-2126).

SUPPLEMENTARY INFORMATION: EPA has been advised by the following firms of their intent to voluntarily cancel registration of their pesticide products.

Registration No	Product name	Registrant	Date registered
16-140	Dragon Brush and Poison Ivy Killer	Dragon Chemical Corp., P.O. Box 7311, Roanoke, Va 24019	Mar. 30, 1983.
100-513	AATREX-Propachlor Herbicide	Ciba-Geigy Corp., P.O. Box 11422 Greensboro, NC 27409	Jan. 5, 1971.
100-519	AATRAM 20G Herbicide	....do	Jan. 26, 1972.
100-531	Ciba-Geigy Methidathion 60S	....do	Apr. 10, 1974.
108-31	Roach and Ant Killer	W. T. Rawleigh Co., 223-225 E. Main St., Freeport, IL 61032	Jan 26, 1959.
224-26	R-55 Repellent 18E	Phillips Petroleum Co., Bartlesville, OK 74004	Oct. 2, 1972.
228-19	Riverdale Weedestroy 44 Isopropyl Ester	Riverdale Chemical Co., 220 East 17th St., Chicago Heights, IL 60411	Feb 19, 1951.
239-833	Ortho Grain Fumigant (73)	Chevron Chemical Co., 940 Heneley St., Richmond, CA 94804	Aug. 24, 1955.
239-2152	Ortho Yard and Patio Insect Spray	....do	Oct. 26, 1965.
239-2310	Ortho Fogger Insecticide	....do	Nov. 17, 1969.
241-231	Cygon Concentrate Systemic Insecticide for Formulation Purpose Only.	American Cyanamid Co., Agricultural Division, P.O. Box 400, Princeton, NJ 08540	May 9, 1974.
279-1814	Endrin 1.6 Methyl Parathion 1.6 Emulsifiable	FMC Corporation, 2000 Market St., Philadelphia, PA 19103	July 28, 1961.
400-281	Animert WP	Uniroyal Chemical 74 Amity Road, Bethany, Ct 06525	Dec. 29, 1982.
436-10	Standard's Super Fly Shy	Standard Chemical Mfg. Co., P.O. Box 3844, Omaha, NE 68103-0844	June 26, 1955.
436-13	Standard's Beef Mineral Pre-Mix Medicated	....do	June 8, 1964.
436-14	Standard's Summer Mineral Medicated	....do	Oct. 22, 1965.
436-22	Standard's Pasture Mineral Medicated	....do	Oct. 27, 1972.
528-29	Amsco's Creosote Wood Preserver	Union Oil Company of California, 1900 East Golf Road, Schaumburg, IL 60195	June 14, 1957.
528-52	Amsco's Penta Seal Ready to Use Water Repellent Wood Preserver	....do	Dec. 23, 1964.
528-56	Amsco's Penta Treat 1-10 Concentrate Wood Preserver	....do	Dec. 23, 1975.
528-57	Barcoste Creosote Wood Preserver	....do	Dec. 19, 1975.
572-142	Rockland Hog Lice Insecticide Granules	Rockland Chemical Co., Inc., P.O. Box 809, West Caldwell, NJ 07006-0140	Mar. 12, 1964.
595-275	Thiodan Maneb Dust	Haviland Agricultural, 1845 Sterling NW., Grand Rapids, MI 49504	May 4, 1966
655-37	Prentox Antu Technical Powder	Prentiss Drug and Chemical Co., Inc., C.B. 2000, 21 Vernon St., Floral Park, NY 11001	Nov. 19, 1953.
655-74	Prentox Toxaphene 8 LBS Emulsifiable	....do	Feb. 1, 1955.
655-535	Prentox DDVP-Ronnel Emulsifiable Concentrate	....do	Sept. 23, 1975.
707-88	TOK E-25 Agricultural [1] Herbicide	Rohm and Haas Company, Independence Mall West, Philadelphia, PA 19105	Dec. 7, 1966.
707-92	TOK WP-50 [1]	....do	Oct. 30, 1968.
707-111	TOK Technical [1]	....do	Apr. 17, 1973.
998-69	Supro	Southern Mill Creek Products Co., Inc., P.O. Box 1096, Tampa, FL 33601	Aug. 13, 1958.
1145-109	Amoco Industrial Weed Killer B	Amoco Oil Company, 910 South Michigan Ave., Chicago, IL 60680	Apr. 8, 1967.
1258-784	Olin Anilo Granular	Olin Corporation, P.O. Box 991, Little Rock, AR 72203	Mar. 29, 1967
1258-785	Olin Anilo 65 Wettable Powder	....do	Apr. 8, 1967.
1439-144	Chem O BAM 48 Solution	Tifa Limited, Tifa Square, Millington, NJ 07946	Nov. 18, 1960.
1574-12	Stanhome Ant and Roach Spray	Stanley Home Products, Inc., 333 Western Ave., Westfield, MA 01085	Jan. 3, 1956.
1678-2	No. 125-WT5 Toxic Ceraseal Water Repellent Sealer	Lawter International, Inc., 990 Skokie Blvd., Northbrook, IL 60062	June 19, 1951.

Registration No.	Product name	Registrant	Date registered
1678-12	Cerasea Textiles Fortified with Silicones	....do	June 15, 1967
1990-458	Quick Pick Liquid Defoliant	Farmland Industries, Inc., P.O. Box 7305, Kansas City, MO 64116	June 25, 1981.
1990-468	Basil 10 Granular	....do	Do.
2139-124	Prevex Fungicide for Control of Pythium and Phytophthora in Ornamentals.	Nor-Am Agricultural Products, Inc., 350 West Shuman Blvd., Naperville, IL 60566	June 30, 1983.
2337-78	DeMert Raw Roach, Ant and Wasp Spray	DeMert and Dougherty, Inc., 814 Commerce Drive, Suite 310, Oak Brook, IL 60521	May 3, 1974.
2476-8	Apperson Swimming Pool Algaecide	Apperson Chemicals, Inc., P.O. Box 2555, Jacksonville, FL 32203	Dec. 4, 1972.
2486-77	Naled 14 Concentrate	Blackhawk Chemical Corp., 4100 East Washington Blvd., Los Angeles, CA 90023	Feb. 14, 1968.
2749-51	Ovex Miticide	Acsto Agricultural Chemicals Corp., 126-02 Northern Blvd., Flushing, NY 11368	Mar. 9, 1970.
2919-1	Shur-Death Insect Spray	Gabos Pest Control, 1428 South Delsea Drive, Vineland, NJ 08360	Dec. 27, 1965.
3051-74	AGCO Diazinon AG500	Agricultural Products Co., Inc., P.O. Drawer A, Mesquite, NM 88049	Oct. 9, 1974.
3051-75	AGCO Diazinon 4E Insecticide	....do	Nov. 21, 1975.
3282-51	6-12 Plus Insect Repellent Towelette	The D-Con Co., Inc., 225 Summit Ave., Montvale, NJ 07645	Jan. 15, 1971.
3282-52	6-12 Plus Insect Repellent Cream	....do	Apr. 5, 1976
3282-53	Sportsmate Premium Insect Repellent Liquid	....do	Feb. 21, 1973.
3282-54	Sportsmate Premium Insect Repellent Spray	....do	Do.
4090-125	Topcide Post Emergence Herbicide	Gulf Oil Chemicals Co., P.O. Box 3766, Houston, TX 77253	Jan. 8, 1970.
4643-11	Aqua-Serv A-105 Bactenostat and Algaecide	Deerborn Chemical Co., 300 Genesee St., Lake Zunch, IL 60047	June 30, 1967.
5481-63	Western Exterminators Ant and Roach Killer Pressurized	Amvac Chemical Corp., 4100 E. Washington Blvd., Los Angeles, CA 90023	Sept. 24, 1968.
5602-80	Hub States Formula 42	Hub States Corp., 419 East Washington St., Indianapolis, IN 46204	Apr. 7, 1971.
5640-1	Penta Chlorophenol Wood Preservative Ready to Use	Hansen-Kinney Company, P.O. Box 1203, Great Falls, MT 59401	Apr. 12, 1957.
5640-2	Penta Chlorophenol Wood Preservative Conc. 1 to 10	....do	Do.
5685-3	Van-Color Pen-Co-Rap Wood Preservative	The O'Brien Corp., P.O. Box 864, Brunswick, GA 31521	May 16, 1963.
5685-6	Ful-Lite Wood Preservative Green 2-8477	....do	Oct. 7, 1980
5887-34	Black Leaf Tedion Pressure—Fumigator	Black Leaf Products Co., P.O. Box 418, Elgin, IL 60120	Sept. 30, 1983.
5978-5	Jim Frost Cotton Defoliant	North Louisiana Chemicals, Inc., P.O. Box 127, Gilliam, LA 71029	Nov. 19, 1965.
6718-19	Amway Deter Shoe and Sock Spray	Amway Corporation, 7575 East Fulton Road, ADA, MI 49355	Mar. 27, 1973.
6830-78	Octagon Pyrethrin-Diazinon Residual Spray	Octagon Process Inc., 596 River Road, Edgewater, NJ 07020	Sept. 14, 1973.
7173-21	Chemper L.V. Brush Killer 2/2	Lipha Chemicals, Inc., Chempar Products Division, 660 Madison Ave., New York, NY 10021.	Apr. 13, 1962.
7685-48	Garbage Can Insecticide	Chemical Packaging Corp., P.O. Box 9947, Fort Lauderdale, FL 33310	June 24, 1971.
7611-12	Cooper Insecticidal Mineral	Centra Soya, P.O. Box 1400, Fort Wayne, IN 46801-1400	Oct. 12, 1972.
7621-1	Penta Wood Preservative Ready to Use	Conroe Creosoting Co., P.O. Box 9, Conroe, TX 77305	May 21, 1962.
8203-7	Agrox D-L Insecticide Seed Treatment	Chipman Inc., c/o Registration Section, Agricultural Chemicals Division, ICI Americas Inc., Wilmington, DE 19892.	Apr. 25, 1967.
8203-14	Agrox 3-Way Plus	....do	June 11, 1971.
9404-54	Sunniland Weed and Feed	Sunniland Corporation, P.O. Box 1687, Sanford, FL 32771	Mar. 9, 1983.
9445-5	Inter-State Rose Dust	Inter-State Nurseries, 504 E Street, Hamburg, IA 51640	June 6, 1967.
9515-15	Chlorobenzilate Technical	Trans Chemic Industries, Inc., 150 Meadowland Parkway, Secaucus, NJ 07094	June 15, 1973.
11603-12	Chlorobenzilate Technical	Agan Chemical Mfgrs., Ltd., c/o Solchem, Inc., Two Park Ave., New York, NY 10016	Dec. 1, 1972.
15091-1	MBC87 Preplant Soil Fumigant	V-J Growers Supply, R.R. #1 Box 1115, Boynton Beach, FL 33437	May 26, 1976.
15091-3	MBS-98	....do	May 13, 1976.
25014-1	Enterprise Wood Preservative Water Repellent Penta Protects Wood 2026.	The Enterprise Companies, P.O. Box 10,000, Wheeling, IL 60090	Jan. 15, 1974.
34704-172	Parathion, Maneb, Copper 1.5-3.6-4.5 Dust	Platte Chemical Co., P.O. Box 667, Greeley, CO 80632	Apr. 13, 1982.
46267-1	Our Best Roach Killer	Purity Products Co., P.O. Box 6550, Fort Worth, TX 76115	Dec. 22, 981.
46945-218	Mitrol E-4	Uniroyal Chemical, 74 Amity Road, Bethany, CT 06525	Sept. 30, 1974.

[1] Nitrofen was undergoing special review to determine the risks and benefits associated with its use. During this review process, Rohm and Haas, the sole registrant for nitrofen, requested cancellation of all registrations and revocation of all tolerances.

The Agency has agreed that each cancellation shall be effective February 17, 1984, unless within this time the registrant, or other interested person with the concurrence of the registrant, requests that the registration be continued in effect. The registrants were notified by certified mail of this action.

The Agency has determined that the sale and distribution of these products produced on or before the effective date of cancellation may legally continue in commerce until the supply is exhausted, or for one year after the effective date of cancellation, whichever is earlier; provided that the use of these products is consistent with the label and labeling registered with EPA. Furthermore, the sale and use of existing stocks have been determined to be consistent with the purposes of FIFRA as amended. Sale or distribution of any quantity of any of these products produced after the effective date of cancellation will be considered to be a violation of the Act.

Requests that the registration of these products be continued may be submitted in triplicate to the Registration Support and Emergency Response Branch, Registration Division (TS-767C), office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Comments may be filed regarding this notice. Written comments should bear a notation indicating the document control number "[OPP-66105]" and the specific registration number. Any comments filed regarding this notice will be available for public inspection in Rm. 236, CM#2, at the above address from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 6(a)(1) of FIFRA as amended, 86 Stat. 973, 89 Stat. [751, 7 U.S.C. 136))

Dated: December 30, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 84-800 Filed 1-17-84; 8:45 am]

BILLING CODE 6560-50-M

[OPP-31065A; PH-FRI 2507-6]

American Cyanamid Co.; Approval of Application to Conditionally Register a Pesticide Product Involving a Changed Use Pattern

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has conditionally approved the application by American Cyanamid Co. to register the insecticide Guardian Insecticide Cattle Ear Tags involving a changed used pattern pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: By mail: Timothy Gardner, Product Manager PM 17, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401,

M Street., SW., Washington, D.C. 20460. Office location and telephone number Rm. 207, CM #2, 1921 Jefferson David Highway, Arlington, VA 22202, (703–557–2690).

SUPPLEMENTARY INFORMATION: EPA received an application from American Cyanamid Co., PO Box 400, Princeton NJ 08540, to register the insecticide product Guardian Insecticide Cattle Ear Tags containing 7.5 percent of the active ingredient flucythrinate, (+)cyano(3-phenoxyphenyl)methyl(+)-4-(difluoromethoxy-alpha-(1-methylethyl)benzeneacetate. The application proposed a changed use pattern of the product to include use on cattle, calves, and as a cattle ear tag.

The product, EPA Registration Number 241–171, was conditionally registered on November 16, 1983 for general use. The notice of application to register the product was not published in the **Federal Register** as required by section 3(c)(4) of FIFRA, as amended. Interested parties may submit comments within 30 days from the date of publication of this notice for consideration in the final registration.

A copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the product manager. Requests for data must be made in accordance with the provisions of the Freedom of Information Act, and must be addressed to the Freedom of Information Office (A–101), EPA, 401 M St., SW., Washington, D.C. 20460. Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

(Sec. 3(c)(2) FIFRA, as amended)

Dated: January 6, 1984.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 84–1160 Filed 1–17–84; 8:45 am]

BILLING CODE 6560–50–M

[SAB–FRL–2508–4]

Science Advisory Board, Subcommittee on Strategic and Long-Term Research Planning; Open Meeting

Under Pub. L. 92–463, notice is hereby given that a one-day meeting of the Subcommittee on Strategic and Long-Term Research Planning will be held on February 3, 1984, in Conference Room S353, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. The meeting will begin at 9:00 a.m. and the estimated time of adjournment is 5:00 p.m.

The purpose of this meeting is to begin a review of EPA's research centers program. Two major issues for SAB consideration are (1) examining what environmental areas or themes will be of the highest priority in the future and (2) assisting the Office of Research and Development (ORD) in conducting a scientific review of the centers associated with ORD's undertaking of a scientific and management review of the program. The SAB's assistance is being solicited to review the effectiveness of the research centers program as a means of carrying out ORD's mission, advising on the quality of work performed by the centers, and advising ORD on the issue of the competitive renewal of centers. Four research quality review criteria will be used to evaluate the centers program:

(1) *The Research Program.* From a scientific point of view, is the research program well designed and focused?

(2) *Research Quality and Control.* Are there acceptable peer review procedures to ensure the quality of research projects and publications?

(3) *Quality Assurance.* What measures are taken to define the quality of research data generated?

(4) *Non-Center Considerations.* Are there any considerations outside the center director's control that may have an impact on this evaluation?

The members of this new Subcommittee are Dr. John Neuhold, Utah State University, Chairman; Dr. Edward Ferrand, New York City Department of Environmental Protection; Dr. Leonard Greenfield, Miami, Florida; Dr. Francis McMichael, Carnegie-Mellon University; Dr. N. Robert Frank, The Johns Hopkins School of Hygiene and Public Health; Dr. Morton Lippmann, New York University; Dr. Daniel Menzel, Duke University Medical Center; Dr. James Porter, Energy and Environmental Engineering, Inc.; Dr. Raymond Loehr, Cornell University; Dr. James Whittenberger, Southern Occupational Health Center, University of California, Irvine; and Dr. Clayton Callis, Monsanto Fibers and Intermediates Company.

The meeting is open to the public. Any member of the public wishing to attend or obtain information should contact Mrs. Ilene F. Stein, Science Advisory Board, by close of business January 31, 1984. The telephone number is (202) 382–2552.

Dated: January 11, 1984.

Terry F. Yosie,

Staff Director, Science Advisory Board.

[FR Doc. 84–1284 Filed 1–17–84; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

National Industry Advisory Committee Emergency Broadcast Subcommittee; Meeting

Pursuant to the provisions of Public Law 92–463, announcement is made of a public meeting of the Emergency Broadcast Subcommittee of the National Industry Advisory Committee (NIAC) to be held Tuesday, January 31, 1984. The Subcommittee will meet at 9:30 A.M. at the first floor conference room of the National Association of Broadcasters, 1771 N Street, N.W., Washington, D.C.

Purpose

To consider emergency communications matters.

Agenda

1. Opening remarks by Chairman.
2. Old business.
3. Discussion of FCC proposal regarding management of the Emergency Broadcast System.
4. New business.
5. Adjournment.

Any member of the public may attend or file a written statement with the Subcommittee either before or after the meeting. Any member of the public wishing to make an oral statement must consult with the Subcommittee prior to the meeting. Those desiring more specific information about the meeting may telephone the NIAC Executive Secretary in the FCC Emergency Communications Division at (202) 634–1549.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84–1589 Filed 1–17–84; 9:49 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Existing Regulation.

Title: Voluntary Agreements under Sec. 708 of the DPA.

Abstract: Data collected will be used for National Defense Preparedness by the DOD and supporting agencies under

a voluntary program as provided for under Section 708 of the DP Act and FEMA's 44 CFR Part 332. Currently MarAd's Product Tanker Agreement is the only active voluntary agreement.

Type of Respondents: Federal Agencies or Employees.

Number of Respondents: 1.

Burden Hours: 8.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 287–9906, 500 C. Street, SW, Washington, D.C. 20472.

Comments should be directed to Ken Allen, Desk Officer for FEMA, Office of Information and Regulatory Affairs, OMB, Room 3235, New Executive Office Building, Washington, DC 20503.

Walter A. Girstantas,

Director, Administrative Support.

[FR Doc. 84–1257 Filed 1–17–84; 8:45 am]

BILLING CODE 6718–01–M

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Extension of 3067–0021.

Title: Notice of Loss, Adjuster's Report: Part One, Part Two, Part Three, Worksheet—Contents—Personal Property, Worksheet—Building, Worksheet—Building (cont'd) Proof of Loss.

Abstract: The forms are necessary for the continued proper performance of FEMA's functions related to identifying policyholders for flood damages to their properties.

Type of Respondents: Individuals or Households, State or Local Governments, Farms, Businesses or Other For-Profit, Federal Agencies or Employees, Non-Profit Institutions, Small Businesses or Organizations.

Number of Respondents: 41,208.

Burden Hours: 164,832.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 287–9906, 500 C Street, SW., Washington, D.C. 20472.

Comments should be directed to Ken Allen, Desk Officer for FEMA, Office of Information and Regulatory Affairs, OMB, Rm. 3235, New Executive Office Building, Washington, D.C. 20503.

Walter A. Girstantas,

Director, Administrative Support.

[FR Doc. 84–1256 Filed 1–17–84; 8:45 am]

BILLING CODE 6718–01–M

National Emergency Training Center, Board of Visitors for the National Fire Academy; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name: Board of Visitors (BOV) for the National Fire Academy (NFA).

Dates of Meeting: February 6–7, 1984.

Place: National Fire Academy, Emmitsburg, MD.

Time: 9:00 a.m. to 5:00 p.m.

Proposed Agenda

February 6–7: Approval of Minutes; Old Business; New Business; Annual Report; FY85 Preparations.

The meeting will be open to the public with approximately 20 seats available on a first-come, first-serve basis. Members of the general public who plan to attend the meeting should contact Mr. Joseph Donovan, Superintendent, National Fire Academy, 16825 South Seton Avenue, Emmitsburg, MD 21727 (telephone number 301–447–6771) on or before January 31, 1984.

Minutes of the meeting will be prepared by the Board and will be available for public viewing in the Associate Director's Office, Building N, National Emergency Training Center, Emmitsburg, MD. Copies of the minutes will be available upon request 30 days after the meeting.

Dated: January 3, 1984.

Fred J. Villella,

Associate Director for Training and Fire Programs, National Emergency Training Center.

[FR Doc. 84–1255 Filed 1–17–84; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL HOME LOAN BANK BOARD

Home Savings and Loan Association, Rocky Mount, North Carolina; Final Action Approval of Conversion Application

December 16, 1983.

Notice is hereby given that on November 17, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Home Savings and Loan Association, Rocky Mount, North Carolina, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 84–1316 Filed 1–17–84; 8:45 am]

BILLING CODE 6720–01–M

FEDERAL RESERVE SYSTEM

First National Bancshares of Scott City, Ltd., et al.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First National Bancshares of Scott City, Ltd.*, Scott City, Kansas; to become a bank holding company by acquiring at least 50 percent of the voting shares of First National Bank of Scott City, Scott City, Kansas. Comments on this application must be received not later than February 10, 1984.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Rake Bancorporation*, Rake, Iowa; to become a bank holding company by

acquiring at least 90.96 percent of the voting shares of State Savings Bank, Rake, Iowa. Comments on this application must be received not later than February 10, 1984.

Board of Governors of the Federal Reserve System, January 12, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-1293 Filed 1-17-84; 8:45 am]

BILLING CODE 6210-01-M

Manly State Bancshares, Inc.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The bank holding company listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to acquire control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to the application, interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding this application must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than February 2, 1984.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Manly State Bancshares, Inc.*, Mason City, Iowa, to acquire Hanlontown Insurance Agency, Hanlontown, Iowa, and thereby engage in the sale of general insurance in a town with a population not exceeding 5,000.

Board of Governors of the Federal Reserve System, January 12, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-1295 Filed 1-17-84; 8:45 am]

BILLING CODE 6210-01-M

Sunset Financial Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 18142(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated for that application. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to each application, interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than February 10, 1984.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Sunset Financial Corp.*, Miami, Florida, to acquire 80 percent of the voting shares of Universal Bank, Boynton Beach, Florida.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *County Bankshares, Inc.*, Blue Island, Illinois, to acquire 100 percent of the voting shares of Heritage Bank of Oak Lawn, Oak Lawn, Illinois.

2. *First Freeport Corporation*, Freeport, Illinois, to acquire 100 percent of voting shares of First City Bancshares, Inc., Dixion, Illinois, and thereby indirectly acquire City Bank and Trust Company, Dixon, Illinois.

3. *First Heyworth Corp.* Heyworth, Illinois, to become a bank holding company by acquiring 100 percent of the voting shares of Farmers State Bank of Heyworth, Heyworth, Illinois.

4. *Gainer Corporation*, Merrillville, Indiana, to acquire 80 percent or more of the voting shares of Hoosier State Bank of Indiana, Hammond, Indiana.

5. *Keystone Bancshares, Inc.*, Kankakee, Illinois, to acquire 80 percent or more of the voting shares of Illinois Trust and Savings Bank, Ottawa, Illinois.

6. *Swea City Bancorporation, Inc.*, Swea City, Iowa, to become a bank holding company by acquiring 91.4 percent of the voting shares of Swea City State Bank, Swea City, Iowa.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First State Bancshares, Inc.*, Farmington, Missouri, to become a bank holding company by acquiring 97.6 percent of the voting shares of First State Bank of Farmington, Farmington, Missouri.

Board of Governors of the Federal Reserve System, January 12, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-1294 Filed 1-17-84; 8:45 am]

BILLING CODE 6210-01-M

Republic Bancorp, Inc.; Engaging de Novo in Permissible Nonbanking Activities

The bank holding company listed in this notice has filed a notice under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated for that application. Once the application has

been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to the notice, interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding this application must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than February 9, 1984.

A. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President), 411 Locust Street, St. Louis, Missouri 63166:

1. *Republic Bancorp, Inc.*, Louisville, Kentucky, to engage through its subsidiary, Eagle Processing, Inc., Louisville, Kentucky in data processing and data transmission services and facilities (including data processing documentation and operating personnel).

Board of Governors of the Federal Reserve System, January 12, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-1299 Filed 1-17-84; 8:45 am]

BILLING CODE 6210-01-M

Bankers Southwest Corporation; Engaging de novo in Permissible Nonbanking Activities

The bank holding company listed in this notice has filed a notice under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to the notice, interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding this application must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than February 10, 1984.

A. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Bankers Southwest Corporation*, Dallas, Texas, to acquire American Southwest Corporation, Dallas, Texas, and thereby engage in acting as an investment and financial advisor to the extent of furnishing general economic information and advice, general economic statistical forecasting services and industry studies, as well as providing portfolio investment advice to any other person and serving as an advisory company for a mortgage or real estate investment trust; providing bookkeeping and data processing for the internal operations of Bankers Southwest Corporation, its subsidiaries and for others; and leasing personal and real property or acting as an agent, broker, or advisor in leasing such property.

Board of Governors of the Federal Reserve System, January 13, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-1384 Filed 1-17-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Dockets Nos. 79N-0339 and 79N-0340; DESI Nos. 8615 and 10210]

Prednisolone Acetate and Sodium Sulfacetamide With or Without Neomycin Sulfate for Ophthalmic Use; Drugs for Human Use; Drug Efficacy Study Implementation; Termination of Postponement of Requirement for Revised Labeling; Amendment

Correction

In FR Doc. 84-531 beginning on page 1288 in the issue of Tuesday, January 10, 1984, make the following corrections:

1. On page 1288, column two, in the heading, lines two and three, "DESI Nos. 8165 and 10210" should read "DESI Nos. 8615 and 10210".

2. On page 1289, column two, paragraph five, line one, "ANDA 12-813" should read "NDA 12-813".

BILLING CODE 1505-01-M

Health Resources and Services Administration

Health Maintenance Organizations

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice; qualified health maintenance organizations.

SUMMARY: This notice sets forth the names, addresses, service areas, and dates of qualification of entities determined by the Secretary to be federally qualified health maintenance organizations (HMOs).

FOR FURTHER INFORMATION CONTACT: Frank H. Seubold, Ph.D., Associate Director for Health Maintenance Organizations, Bureau of Health Maintenance Organizations and Resources Development, Room 9-05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-4106.

SUPPLEMENTARY INFORMATION: Regulations (42 CFR 110.605(e)) issued under Title XIII of the Public Health Service Act require that a list and description of all newly qualified HMOs be published on a periodic basis in the **Federal Register**. This notice is an accumulation of information regarding those HMOs that have been qualified since the last such list was published on November 9, 1982. There are three categories of qualified HMOs: operational, transitionally qualified, and preoperational (see 42 CFR 110.602).

This list includes HMOs that have changed from one category to another. Information concerning service area revisions and name changes during the period will be published separately.

The following entities have been determined to be qualified HMOs under Section 1310 (d) of the Public Health Service Act (42 U.S.C. 300e–9(d)):

(Operational Qualified Health Maintenance Organization: 42 CFR 110.603(a))

1. FHP, Inc. (Staff Model, see section 1310(b)(1) of the Act), 9930 Talbert Avenue, Fountain Valley, California 92708. On July 29, 1977, FHP, Inc., then named Family Health Program, was approved as a transitionally qualified HMO (see 42 CFR 110.603(b)). On November 8, 1982, FHP, Inc., was officially notified that it had successfully completed its transitional phase and was deemed to be an operational qualified HMO. *Effective date*: August 1, 1981.

Note.—The service area was published on July 1, 1981 in the **Federal Register**, 46 FR 34516.

2. CIGNA Healthplan of Arizona, Inc. (Medical Group Model, see section 1310(b)(1) of the Act), 2720 E. Camelback Road, Phoenix, Arizona 85016. On August 3, 1978, INA Healthplan of Arizona, Inc. (currently CIGNA Healthplan of Arizona, Inc.) was approved as a transitionally qualified HMO (see 42 CFR 110.603(b)). On May 18, 1983, CIGNA Healthplan of Arizona, Inc., was officially notified that it had successfully completed its transitional phase and was deemed to be an operational qualified HMO. *Effective date*: August 3, 1981.

Note.—The service area was published on July 1, 1981 in the **Federal Register**, 46 FR 34519.

3. Take Care Corporation (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act), 1950 Franklin Street, Oakland, California 94659. On June 27, 1979, Take Care Corporation was approved as a transitionally qualified HMO (see 42 CFR 110.603(b)). On March 16, 1983, Take Care Corporation was officially notified that it had successfully completed its transitional phase and was deemed to be an operational qualified HMO. *Effective date*: July 1, 1982.

Note.—The service area was published on July 1, 1981 in the **Federal Register**, 46 FR 34523; and a subsequent revision to the service area was published on June 17, 1982 in the **Federal Register**, 47 FR 26240.

4. Alle-Kiski Valley Health Plan, Inc. (Medical Group Model, see section 1310(b)(1) of the Act), Harmar Health Center, Russellton Road, Cheswick, Pennsylvania 15024. The service area comprises the following zip codes in the following counties:

Armstrong

15613	16201	16238
15618	16212	16244
15630	16219	16249
15673	[illegible]	16250
15682	16228	16262
15736	16229	16263
16047	16236	

Butler

16023	16047	16056
16046	16055	16059

Allegheny

15006	15049	15139
15007	15051	15144
[illegible]	[illegible]	15147
15014	15075	15215
15024	[illegible]	15221
15030	[illegible]	15235
15032	15091	15238
15044	15101	[illegible]

Westmoreland

15068	15632	15673
15618	15641	15680
15628	15656	15684
15629	15668	[illegible]
15630	15670	15690

Indiana

15681	15748	15774

Date of qualification: October 4, 1982.

5. The Watts Health Founadation, Inc./dba/United Health Plan of Los Angeles, California (Medical Group Model, see section 1310(b)(1) of the Act), 10300 Compton Avenue, Los Angeles, California 90002. the service area comprises the following zip codes in Los Angeles and Orange Counties:

Los Angeles County

Alhambra	91801–04
Altadena	91001
Arcadia	91006
Artesia	90701
Azusa	91702
Baldwin Park	91706
Bell	90201
Bellflower	90706
Beverly Hills	90210–15
Burbank	91501–23
Carson	90745–46
Cerritos	90701
Compton	90220–24
Covina	91722–23
Cudahy	90201
Culver City	90230
Dominguez Hills	90747
Downey	90240–42
Duarte	91010
El Monte	91731–34
El Segundo	90245
Encino	91316 and 91435
Flintridge	91011
Gardena	90247–49
Glendale	91201–14
Harbor City	90710
Hawaiian Gardens	90716
Hawthorne	90250
Hermosa Beach	90254
Huntington Park	90255
Inglewood	90301–10
La Canada	91011–23
Lakewood	90712–16
La Mirada	[illegible]
La Puente	91744–49
Lawndale	90260
Lennox	[illegible]
Lomita	90717
Long beach	90801–48
Los Angeles	90001–101
Lynwood	[illegible]
Manhattan Beach	[illegible]
Maywood	[illegible]
Monrovia	91016
Montebello	[illegible]
Monterey Park	91754
Montrose	[illegible]
North Hollywood	91601–12
North Long Beach	[illegible]
Norwalk	[illegible]
Pacific Palisades	90272
Palos Verdes Est.	[illegible]
Panorama City	[illegible]
Paramount	[illegible]
Pasadena	91101–31
Pico Rivera	[illegible]
Portuguese Bend	[illegible]
Redondo Beach	90254 and 90277–78
Reseda	91355
Rosemead	91770
San Gabriel	91775–78
San Marino	[illegible]
San Pedro	90731–33
Santa Fe Springs	[illegible]
Santa Monica	90401–06
Sierra Madre	91024
Signal Hill	[illegible]
South El Monte	91733
South Gate	[illegible]
South Pasadena	[illegible]
Tarzana	91356
Temple City	[illegible]
Torrance	90501–10
Van Nuys	91316 and 91401–24
Venice	[illegible]
Westchester	[illegible]
West Covina	91790–93
Whittier	90601–12
Willowbrook	90222
Wilmington	90744–49

Orange County

Anaheim	92801–06
Buena Park	90620–24
Costa Mesa	[illegible]
Cypress	[illegible]
Fullerton	2631–38
Garden Grove	92640–45
Huntington Beach	2646–49
La Habra	[illegible]
La Palma	[illegible]
Los Alamitos	[illegible]
Midway City	92655
Santa Ana	92701–06
Seal Beach	[illegible]
Stanton	[illegible]
Sunset Beach	[illegible]
Surfside	90743
Westminister	[illegible]

Date of qualification: November 8, 1982.

6. ConnectiCare, Inc. (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act), 999 Asylum Avenue, Suite 600, Hartford, Connecticut 06105. The service area comprises the following towns with the following zip codes:

Andover

06232

Avon

06001 06085

Bloomfield

06002

Bristol

06010

Burlington

06013

Canton

06059 06019 06020

Colchester

06415

Columbia

06237

Cromwell

06416

East Granby

06026 06081

East Hampton

06424

East Hartford

06108

East Windsor

06016 06026 06066

Ellington

06029

Enfield

06082

Farmington

06032

Glastonbury

06033 06025 06073

Granby

06035 06060 06090

Hartford

06101 06106 06118
06102 06110 06119
06103 06112 06120
06104 06114
06105 06117

Hartland

06027

Hebron

06248

Manchester/Bolton

06040

Marlborough

06447

Middletown

06457

Newington

06111

Plainville

06062

Plymouth

06782

Portland

06480

Rocky Hill

06067

Simsbury

06070 06089 06092

Somers

06071 06072

Southington

06489

South Windsor

06074

Suffield

06093 06078

Vernon

06066

West Hartford

06107

Wethersfield

06109

Windsor

06004

Windsor Locks

06096

Berlin

06037

Date of qualification: November 8, 1982.

7. Total Health Care (Individual Practice Association Model, see section 1320(b)(2)(A) of the Act), 3637 Broadway, P.O. Box 23163, Kansas City, Missouri 64141. The service area comprises the following zip codes in the following counties in Missouri and Kansas.

MISSOURI

Clay

64010 64024 64048
64060 64068 64072
64089 64118 64117
64118 64119 64155
64156 64157 64158
64100 64161 64165
64166 64187

Jackson

64015 64127 64088
64030 64130 64105
64053 64133 64109
64056 64137 64112
64063 64145 64120
64075 64149 64125
64102 64016 64128
64108 64050 64131
64111 64054 64134
64114 64067 64138
64124 64090 64146
64029 64106 64132
64052 64110 64136
64055 64113 64139
64058 64123 64147
64070 64126
64101 64129

Platte

64018 64079 64098
64150 64151 64152
64153 64154 64163
64164 64339 64444

KANSAS

Johnson

66018 66021 66030
66061 66062 66083
66085 66202 66203
66204 66205 66206
66207 66208 66209
66210 66211 66212
66213 66214 66215
66216 66217 66218
66219 66220 66221
66223 66224

Wyandotte

66012 66101 66105
66103 66104 66111
66106 66109 66115
66112 66113
66118 66102

Date of qualification: December 1, 1982. (Achieved preoperational qualification on October 1, 1982.)

8. Medical Foundation of Bellaire (Medical Group Model, see section 1310(b)(1) of the Act), 3000 Guernsey Street, Bellaire, Ohio 43906. The service area comprises the following zip codes in the following counties in Ohio and West Virginia:

OHIO

Belmont

All

Monroe

All

Harrison

43907 43976 43989
43973 43981 44693
43974 43983 44699

WEST VIRGINIA

Ohio

All

Marshall

All

Wetzel

26055 26155 26419
26149 26159 26575

Jefferson

43901 43939 43948
43917 43941 43963
43918 43943 43971

Date of qualification: December 20, 1982.

9. HealthShield, Inc. (Staff Model, see section 1310(b)(1) of the Act), 160 Union Street, Poughkeepsie, New York 12601. The service area comprises all of

Dutchess, Putnam, and Ulster Counties, and the towns of Cornwall, Crawford, Highlands, Montgomery, New Windsor, and Newburgh in Orange County. *Date of qualification:* January 1, 1983. (Achieved preoperational qualification on December 21, 1982.)

10. Kansas City Health Care (Staff Model, see section 1310(b)(1) of the Act), 6950 Squibb Road, Suite 200, Shawnee Mission, Kansas 66202. The service area comprises all of Johnson and Wyandotte Counties in Kansas and the following zip codes in Jackson County, Missouri:

64101	64102	64109
64106	64108	64112
64110	64111	64120
64113	64114	64127
64123	64124	64146
64131	64145	
64147	64105	

Date of qualification: February 1, 1983. (Achieved preoperational qualification on January 3, 1983.)

11. Maxicare Texas, Inc. (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act), 6900 Fannin Street, Suite 1125, Houston, Texas 77030. The service area comprises the following zip codes in Texas:

77001–99	77412	77520–1
77201	77413	77530
77205–9	77421	77536
77211	77429	77545
77303–4	77433	77547
77336–9	77449	77562
77373	77450	77571
77375	77459	77581
77379	77469	77584
77380–1	77477–9	77586–7
77401	77489	77598
77411	77501–7	

Date of qualification: March 4, 1983.

12. Group Health Association of Northeastern Minnesota, Inc. (Medical Group Model, see section 1310(b)(1) of the Act), 307 North First Street, Virginia, Minnesota 55792. The service area comprises the following political subdivisions of northeastern Minnesota:

A. Lake County in entirety
B. St. Louis County
Alango Township
Angora Township
Ault Township
Aurora Village
Babbitt Village
Balkan Township
Bassett Township
Beatty Township
Biwabik Township
Breitung Township
Buhl Village
Cedar Valley Township
Cherry Township
Chisholm City
Clinton Township
Calvin Township
Cook Village
Cotton Township
Ellsburg Township
Elmer Township
Ely City
Embarrass Township
Eveleth City
Fayal Township
Field Township
Franklin Village
French Township
Gilbert City
Great Scott Township
Hibbing Village
Hoyt Lakes Village
Hugler Township
Kelsey Township
Kinney Village
Lowell Township
Lieding Township
Linden Grove Township
McDavitt Township
Meadowlands Village
Missabe Mountain Township
Marcon Township
Morse Township
Mountain Iron Village
Nichols Township
Northland Township
Orr Village
Owens Township
Payne Township
Portage Township
Sandy Township
Stuntz Township
Sturgeon Township
Tiovola Township
Tower City
Vermillion Lake Township
Virginia City
Waasa Township
White Township
Willow Valley Township
Winton Village
Wuori Township
Unorg. Territory of Birth Lake
Unorg. Territory of Fermory
Unorg. Territory of Gheen
Unorg. Territory of Hoyt Lakes
Unorg. Territory of Hiekala Lake
Unorg. Territory of Jonette Lake
Unorg. Territory of McCormock Lake
Unorg. Territory of N.E. St. Louis
Unorg. Territory of N.W. St. Louis
Unorg. Territory of Sand Lake
Unorg. Territory of White Face Reservoir
C. Itasca County
Bearville Township
Boney Village
Carpenter Township
Coleraine Village
Goodland Township
Greenway Township
Iron Range Township
Keewatin Village
Lawrence Township
Lone Pine Township
Nashwauk Township
Unorg. Territory of N.E. Itasca (Partial)

Date of qualification: March 7, 1983.

13. Health Maintenance Organization of New Jersey, Inc. (Direct Contract Model, see section 1310(b)(2)(B) of the Act), 600 Alexander Road, Princeton, New Jersey 08540. The service area comprises the following counties of New Jersey: Gloucester, Camden, Burlington, Mercer, and Monmouth. *Date of qualification:* March 31, 1983.

14. Tampa Bay Health Plan, Ltd. (Direct Contract Model, see section 1310(b)(2)(B) of the Act), 9500 Koger Blvd., Suite 200, St. Petersburg, Florida 33702. The service area comprises all of Pinellas County. *Date of qualification:* April 1, 1983.

15. Southshore Health Plan, Inc. (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act), 2327 New Road, Northfield, New Jersey 08225. On December 29, 1978, Southshore Health Plan, Inc., was approved as a transitionally qualified HMO (see 42 CFR 110.603(b)). On April 26, 1983, Southshore Health Plan, Inc., was officially notified that it had successfully completed its transitional phase and was deemed to be an operational qualified HMO. Effective date: April 26, 1983.

Note.—The service area was published published on July 1, 1981 in the Federal Register, 46 FR 34523.

16. Kaiser Foundation Health Plan of Colorado (Medical Group Model, see section 1310(b)(1) of the Act), 600 Grant Street, Suite 600, Denver, Colorado 80203. On October 27, 1977, Kaiser Foundation Health Plan of Colorado was approved as a transitionally qualified HMO (see 42 CFR 110.603(b)). On May 10, 1983, Kaiser Foundation Health Plan, Inc., One Kaiser Plaza, Oakland, California 94612, was officially notified that Kaiser Foundation Health Plan of Colorado had successfully completed its transitional phase and was deemed to be an operational qualified HMO. *Effective date:* May 10, 1983.

Note.—The service area was published on July 1, 1981 in the Federal Register, 46 FR 34521.)

17. Kaiser Foundation Health Plan of Ohio (Medical Group Model, see section 1310(b)(1) of the Act), 1300 East 9th Street, Suite 1100, Cleveland, Ohio 44114. On October 27, 1977, Kaiser Foundation Health Plan of Ohio was approved as a transitionally qualified HMO (see 42 CFR 110.603(b)). On May 10, 1983, Kaiser Foundation Health Plan, Inc., One Kaiser Plaza, Oakland, California 94612, was officially notified that Kaiser Foundation Health Plan of Ohio had successfully completed its transitional phase and was deemed to be an operational qualified HMO. *Effective date:* May 10, 1983.

Note.—The service area was published on July 1, 1981 in the Federal Register, 46 FR 34520; and a subsequent revision to the service area was published on January 28, 1982 in the Federal Register, 47 FR 4140.

18. Kaiser Foundation Health Plan of Oregon (Medical Group Model, see 1310(b)(1) of the Act), 3600 N. Interstate Avenue, Portland, Oregon 97227. On

October 27, 1977, Kaiser Foundation Health Plan of Oregon was approved as a transitionally qualified HMO (see 42 CFR 110.603(b)). On May 10, 1983, Kaiser Foundation Health Plan, Inc., One Kaiser Plaza, Oakland, California 94612, was officially notified that Kaiser Foundation Health Plan of Oregon had successfully completed its transitional phase and was deemed to be an operational qualified HMO. *Effective date:* May 10, 1983.

Note.—The service area was published on July 1, 1981 in the Federal Register, 46 FR 34520.

19. Planned Health Inc. (Direct Contract Model, see section 1310(b)(2)(B) of the Act), 3160 Reid Drive, Corpus Christi, Texas 78404. The service area comprises all of the zip codes in Nueces and San Patricio Counties. *Date of qualification:* May 17, 1983.

20. Heart of America Health Maintenance Organization (Medical Group Model, see section 1310(b)(1) of the Act), Human Service Center, Rugby, North Dakota 58368. The service area comprises the following zip codes in the following counties:

Pierce

58313	58336	58375
58350	58373	58385

McHenry

58710	58732	58747
58712	58736	58788
58713	58741	58789
58717	58744	

Rolette

58316	58354	58369
58329	58366	85371
58353	58367	

Bottineau

58318	58360	58364
58748	58783	
58749	58793	

Benson

58332	58343	58357
58333	58346	58364
58340	58348	58388

Towner

58317	58331
58324	58365

Wells

58418	58337	58451
58422	58341	58486
58436	58342	

Date of qualification: July 28, 1983.

21. HealthGuard Services, Inc./SelectCare (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act), P.O. Box 10106, Eugene, Oregon 97440. HealthGuard Services, Inc./SelectCare began operations on July 27, 1983, having purchased the assets and business belonging to Lane Group Health Services, Inc./SelectCare, P.O. Box 10106, Eugene, Oregon 97440, a qualified HMO. When HealthGuard Services, Inc./Selectcare became a qualified HMO, Lane Group Health Services, Inc./SelectCare surrendered its qualification status. *Effective date:* August 9, 1983.

Note.—The service area for HealthGuard Services, Inc./SelectCare is the service area of Lane Group Health Services, Inc./SelectCare published on July 1, 1981 in the Federal Register, 46 FR 34521.

22. West Michigan Health Care Network (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act), 2845 44th Street, S.W., Grandville, Michigan 49418. The service area comprises the following zip codes in Kent, Ottawa, and Allegan counties:

Kent

49301	49330	49504
49302	49341	49505
[illegible]	49343	49506
49315	49345	49507
49316	[illegible]	49508
49317	49501	49509
49319	49502	49511
49321	[illegible]	49331

Ottawa

49401	[illegible]	49448
49403	49427	49456
49404	[illegible]	49460
49409	[illegible]	49464
49417	49434	
49423	[illegible]	

Allegan

49311	[illegible]	49335
49314	[illegible]	49447
49323	49408	49453
49344	[illegible]	

Effective date: October 12, 1983.

(Transitionally Qualified Health Maintenance Organizations; 42 CFR 110.603(b))

23. The Health Plan of America (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act), 2200 Powell Street, Suite 760, Emeryville, California 94608. The service area comprises all of San Francisco, Napa, and Solano Counties, and the following zip codes in the following counties:

San Mateo

Brisbane	94005
Burlingame	94010
Daly City	94014–17
El Granada	94018
Emerald Lake	94062
Foster City	94404
Half Moon Bay	94019
Hillsborough	94010
Millbrae	94030
Miramar	94019
Montara	94037
Moss Beach	94038
Pacifica	94044
Redwood Park	94062
San Bruno	94066
San Mateo	94401–04
South San Francisco	94080

Contra Costa

Canyon	94516
Danville	94526
Lafayette	94549
Moraga	94556
Orinda	94566
San Ramon	94583

Los Angeles

Burbank	91501–23
Canoga Park	91303–07
Chatsworth	91311
Encino	91436 and 91316
Lake View Terrace	91342
Newhall	91321
North Hollywood	91601–12
Northridge	91324–30
Pacoima	91331
Panorama City	91402
Reseda	91335
San Fernando	91340–49
Saugus	91350, 91351, 91355
Sepulveda	91343
Sherman Oaks	91403 and 91423
Sunland	91040
Sun Valley	91352
Tarzana	91356
Tujunga	91042
Valencia	91355
Van Nuys	91401–04 and 91316
Woodland Hills	91364–71
City of Los Angeles	90004, 90006, 90007, 90010, 90017, 90020, 90026, 90028, 90029, 90038, 90039, 90057

Santa Clara

Campbell	96008
Cupertino	95014
Los Gatos	95030
Milpitas	95035
Monta Vista	95014
Monte Sereno	95030
Mountain View	94040–43
San Jose	95110–43
Santa Clara	95050–54
Saratoga	95070
Sunnyvale	94086–88

Alameda

Alameda	94501
Albany	94706
Berkeley	94701–10
Castro Valley	94546
Fremont	94536–38
Hayward	94541–46
Newark	94560
Oakland	94601–27
Pleasanton	94566
San Leandro	94577–79
San Lorenzo	94580
Sunol	94586
Union City	94587

Orange

Ananeim	92801–07
Costa Mesa	92626–27
Garden Grove	92640–45
Orange	92665–69
Santa Ana	92701–28
Stanton	90680
Tustin	92680
USMC Air Station	92709
Villa Park	92667

Date of qualification: October 18, 1982.

24. Group Health Plan Community Network of Northeast Ohio (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act), 2800 Euclid

Avenue, Suite 490, Cleveland, Ohio 44115. The service area comprises Cuyahoga County, Geauga County, Lake County, Lorain County, Summit County, Wayne County, and Medina County. *Date of qualification:* December 13, 1982.

25. Health Plan of Nevada, Ltd. (Medical Group Model, see section 1310(b)(1) of the Act), 801 South Rancho Drive, Suite A–4, Las Vegas, Nevada 89106. The service area comprises all of Clark County. *Date of qualification:* December 24, 1982.

26. Tufts Associated Health Maintenance Organization, Inc./dba/ Tufts Associated Health Plan (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act), 221 Washington Street, Newton Corner, Massachusetts 02158. The service area comprises all of Suffolk County and the following cities and towns in the following counties:

Essex

Lynn, Lynnfield, Nahant, Saugus

Middlesex

Acton, Arlington, Ashland, Ayer, Bedford, Belmont, Billerica, Boxborough, Brookline, Burlington, Cambridge, Carlisle, Chelmsford, Concord, Dedham, Dunstable, Everett, Framingham, Groton, Harvard, Hudson, Lexington, Lincoln, Littleton, Malden, Marlborough, Maynard, Medford, Melrose, Natick, Pepperell, Reading, Sherborn, Somerville, Stoneham, Stow, Stoughton, Sudbury, Tyngsborough, Wakefield, Waltham, Watertown, Wayland, Westford, Weston, Winchester, Woburn

Norfolk

Braintree, Canton, Dover, Holbrook, Medfield, Milton, Needham, Newton, Norwood, Qunicy, Randolf, Sharon, Walpole, Wellesley, Westwood, Weymouth

Plymouth

Hingham, Hunn

Worcester

Southborough

Date of qualification: December 30, 1982.

27. Physicians Health Plan of Minnesota (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act), 500 Opus Center, 9900 Bren Road East, Minnetonka, Minnesota 55343. The service area comprises the following zip codes in the following counties:

Anoka

55303	55006	55011
55433	55434	55070
55014	55421	
55304	55432	

Benton

[illegible]	56333	[illegible]
56357	56379	56371

Carver

55311	55315	55339
55318	55322	55368
[illegible]	55367	55388
55386	55387	
55397	55317	

Dakota

55129	55337	55010
55121	55122	55123
55124	55024	55031
[illegible]	55044	55150
55120	55065	[illegible]
55075	55085	55118

Hennepin

55316	55323	55343
55331	55340	55359
55356	55357	55403
55401	55402	55406
55404	55405	55409
55407	55408	55412
55410	55411	55415
55413	55414	55418
55416	55417	55436
55419	55420	55440
55437	55438	55443
55441	55442	55450
55444	55445	55392
55361	55364	55384
55369	55374	55421
55375	55391	55424
55422	55423	55428
55426	55427	55431
55429	55430	
55435	55327	

Isanti

55006	55008	55017
55029	55040	55080

Mille Lacs

56313	56330	56342
56353	56359	[illegible]
56371	56366	

Ramsey

55101	55102	55103
55104	55105	55106
55107	55108	55109
55110	55111	55112
55113	55114	55116
55117	55119	

Scott

56011	55020	55378
55054	55372	
55379	55352	

Sherburne

55377	55319	55308
55309	55362	55398
55327	55320	

Stearns

56316	56312	56325
56378	[illegible]	56352
56376	56371	56356
56331	56307	[illegible]
56369	56374	56310
56321	56375	56340
56377	56301	

Washington

55001	55003	[illegible]
55025	55038	55042
55043	55115	55047
55055	55071	55073
55082	55090	

Wright

55301	55390	[illegible]
55301	55302	55313
55314	55318	55320
55321	55325	[illegible]
55328	55349	55358
55359	55362	55363
55373	55380	[illegible]
55382	[illegible]	[illegible]

Date of qualification: March 23, 1983.

28. Institute for Preventive Medicine (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act), 521 Georgia Street, Vallejo, California 94590. The service area comprises the following zip codes in California:

94510	94512	94547
94533	94535	94559
94553	94558	94572
94589	94571	94590
94585	94589	94599
94501	94592	95647
95620	95625	95694
95664	95688	
95696	94525	

Date of qualification: April 1, 1983.

29. Greater Flint HMO (Staff Model, see section 1310(b)(1) of the Act), G–3245 Beecher Road, Flint, Michigan 48504. The service area comprises all the zip codes in Genesee County, Lapeer County, and Shiawassee County. *Date of qualification:* May 25, 1983.

30. Southern Health Plan, Inc./dba/ IPA Apple Plan (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act), 301 Jefferson Avenue, P.O. Box 97, Memphis, Tennessee 38101. The service area comprises Shelby County, Tipton County, and Fayette County. *Date of qualification:* July 20, 1983.

31. Health Care Network (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act), 20800 Greenfield Road, Oak Park, Michigan 48237. The service area comprises Wayne County, Oakland County, and Macomb County. *Date of qualification: September 12, 1983.*

(Qualified Regional Components: 42 CFR 110.603(e))

32. Prudential Health Care Plan, Inc., of Richmond, Virginia (Medical Group Model, see section 1301(b)(1) of the Act), an operational qualified regional component of Prudential Health Care Plan, Inc., Roseland, New Jersey 07068. The service area comprises the following zip codes:

Bowling Green	22427
Corbin	[illegible]
Ladysmith	22501
Milford	22514
Port Royal	22535
Rappahannock Acad.	[illegible]
Ruther Glen	22546
Sparta	22552
Woodford	[illegible]
Amelia	23002
Ashland	23005

Aylett	23009
Barhamsville	23011
Beaumont	23014
Beaverdam	23015
Bumpass	23024
Charles City	23030
Crozier	23039
Dabneys	23042
Doswell	23047
Fife	23054
Glen Allen	23060
Goochland	23063
Gum Springs	23065
Hadensville	23067
Hanover	23069
Highland Spgs.	23075
Jetersville	23083
King William	23086
Lanexa	23089
Louisa	23093
Macon	23101
Maidens	23102
Manakin Sabot	23103
Mangohick	23104
Mannboro	23105
Manquin	23106
Mechanicsville	23111
Midlothian	23113
Mineral	23117
Moseley	23120
New Kent	23124
Oilville	23129
Powhatan	23139
Providence Forge	23140
Quinton	23141
Rockville	23146
Ruthville	23147
Sandston	23150
Sandy Hook	23153
State Farm	23160
Studley	23162
Trevilians	23170
Univ. of Richmond	23173
West Point	23181
Monpelier	23192
Richmond	23210–99
Petersburg	23801–05
Carson	23830
Chester	23831
Chesterfield	23832
Church Road	23833
Colonial Heights	23834
DeWitt	23840
Dinwiddie	23841
Disputanta	23842
Ford	23850
Hopewell	23860
McKenney	23872
Prince George	23875
Sutherland	23885
Wilsons	23894

Effective date: December 30, 1982.

33. CIGNA Healthplan of Texas, Inc., Houston, Texas (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act), an operational qualified regional component of CIGNA Healthplan of Texas, Inc., Dallas, Texas 75240. The service area comprises the following zip codes:

Houston	77001 and 77099
Main Post Office	77201
Airport	77205
Garden Oaks	77206
Gulfgate	77207
Civic Center	77208
Ellington	77209
V.A. Hospital	77211
Conroe	77301 and 77305
Huffman	77336
Huffsmith	77337
Humble	77338
Kingwood	77339
Magnolia	77355
New Caney	77356
Patton Village	77357
Pinehurst	77362
Porter	77365
Riverside	77367
Spring	77373
Tomball	77375
Spring	77379
Woodlands	77380 and 77381
Bellaire	77401
Addicks	77410
Alief	77411
Barker	77413
Beasley	77417
Booth	77421
Brookshire	77423
Cypress	77429
Dewalt	77433
Fulshear	77441
Guy	77444
Hockley	77447
Katy	77449 and 77450
Missouri City	77459
Needville	77461
Pattison	77466
Richmond	77469
Rosenberg	77471
San Felipe	77473
Simonton	77476
Stafford	77477
Sugarland	77478 and 77479
Thompsons	77481
Waller	77484
Missouri City	77489
Pasadena	77501 and 77507
Alta Loma	77510
Alvin	77511
Arcadia	77517
Bacliff	77518
Baytown	77520 and 77521
Channelview	77530
Deer Park	77536
New Waverly	77538
Dickinson	77539
Fresno	77545
Friendswood	77546
Galena Park	77547
Highlands	77562
Kemah	77565
LaPorte	77571
League City	77573
Liverpool	77577
Manvel	77578
Pearland	77581
Rosharon and Arcola	77583
Pearland	77584
Seabrook	77586
South Houston	77587
Webster	77598

Effective date: January 1, 1983. (Achieved preoperational status on December 13, 1982 as INA Health Plan of Texas, Inc., Houston, Texas.)

34. Peak Health Plan of Pueblo, Colorado (Medical Group Model, see section 1310(b)(1) of the Act), an operational qualified regional component of Peak Health Plan of Colorado Springs, Colorado 80903. The service area comprises all of Pueblo County. *Effective date*: January 20, 1983.

35. SHARE of St. Louis County, Minnesota (Medical Group Model, see section 1301(b)(1) of the Act), an operational qualified regional component of SHARE of Bloomington, Minnesota 55420. The service area comprises the following zip codes in St. Louis County:

Aurora	55705
Hibbing	55746
Biwabik	55708
Hoyt Lakes	55750
Mountain Iron	55768
Virginia	55792
Gilbert	55741
Eveleth	55734
Chisholm	55719
Buhl	55713
Tower	55790
Cook	55723
Babitt	55706
Embarrass	55732
Britt	55710
Ely	55731
Orr	55771
McKinley	55761
Iron Junction	55751
Forbes	55738
Parkville	55773
Kinney	55758
Melvide	55799
Zim	55799

Effective date: January 24, 1983.

36. Prudential Health Care Plan of Oklahoma, Inc., Tulsa, Oklahoma (Medical Group Model, see section 1310(b)(1) of the Act), an operational qualified regional component of Prudential Health Care Plan of Oklahoma, Inc., Oklahoma City, Oklahoma 73112. The service area comprises all of Tulsa County and the following zip codes in the following other counties:

Creek

74039	74047
74041	74066

Osage

74060	74063

Wagoner

74429	74454

Pawnee

74163

Rogers

74017	74036	74054

Effective Date: February 16, 1983.

37. Prudential Health Care Plan of Memphis, Tennessee (Medical Group Model, see section 1310(b)(1) of the Act), an operational qualified regional component of Prudential Health Care Plan, Inc., Roseland, New Jersey 07068. On November 3, 1982, the Prudential Health Care Plan, Inc. (PHCP) acquired Health First, a federally qualified HMO in Memphis, Tennessee. Subsequent to this acquisition, PHCP requested that Prudential Health Care Plan of Memphis, Tennessee (PruCare of Memphis), formerly Health First, be approved as a federally qualified

regional component of PHCP. On March 7, 1983, PruCare of Memphis was officially notified that its request had been approved. When PruCare of Memphis became a qualified HMO, Health First surrendered its qualification status. *Effective date:* March 23, 1983.

Note.—The service area for PruCare of Memphis is the service area of Health First published on March 25, 1981 in the **Federal Register**, 46 FR 18640.

38. Maxicare Indiana, Inc., Northwest Indiana (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act), an operational qualified regional component of Maxicare Indiana, Inc., Indianapolis, Indiana 46205. The service area comprises the counties of LaPorte, Starke, St. Joseph, and Marshall. *Effective date:* June 30, 1983.

39. Maxicare Indiana, Inc., Indianapolis (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act), an operational qualified regional component of Maxicare Indiana, Inc., Indinapolis, Indiana 46205. The service area comprises the counties of Marion, Boone, Hamilton, Hancock, Shelby, Johnson, Morgan, and Hendricks. *Effective date*: June 30, 1983.

40. Maxicare Indiana, Inc., Southern Indiana (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act, an operational qualified regional component of Maxicare Indiana, Inc., Indianapolis, Indiana 46205. The service area comprises the counties of Vanderburgh, Posey, Gibson, Pike, Dubois, Perry, Spencer, and Warrick. *Effective date*: June 30, 1983.

41. CIGNA Healthplan of Arizona, Inc., Tucson (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act), an operational qualified regional component of CIGNA Healthplan of Arizona, Inc., Phoenix, Arizona 85016. On March 31, 1983, CIGNA Healthplan of Arizona, Inc. (CIGNA-Arizona) assumed the assets and liabilities of INA Healthplan of Tucson, Inc., a federally qualified individual practice association model HMO. On June 20, 1983, CIGNA-Arizona was offically notified that CIGNA Healthplan of Arizona, Inc., Tucson, formerly INA Healthplan of Tucson, Inc., had been approved as a regional component of CIGNA-Arizona. *Effective date*: July 20, 1983.

Note.—The service area for CIGNA Healthplan of Arizona, Inc., Tucson is the service area of INA Healthplan of Tucson, Inc. published on July 31, 1981 in the **Federal Register**, 46 FR 39225. As a result of its merger with CIGNA-Arizona, INA Healthplan of Tucson, Inc. relinquished its qualification status.

42. Lifeguard, Inc. of Contra Costa County, California (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act), an operational qualified regional component of Lifeguard, Inc. of Campbell, California 95008. The service area comprises the following zip codes in Alameda, Contra Costa, and Solano counties:

Alameda	94501
Alamo	94507
Albany	94706
Antioch	94509
Benicia	94510
Berkeley	94701–94710
Berkeley	94720
Bethel Island	94511
Brentwood	94513
Byron	94514
Canyon	94516
Castro Valley	94546
Clayton	94517
Concord	94518–94524
Cordelia	94585
Crockett	94525
Danville	94526
Danville	94583
Diablo	94528
Dublin	94566
El Cerrito	94530
El Sobrante	94803
Emeryville	94608
Fairfield	94525 and 94533
Hercules	94547
Kensington	94707
Knightsen	94548
Lafayette	94549
Livermore	94550
Manteca	95336
Martinez	94553
Moraga	94556
Oakland	94601–94615
Oakland	94617–94619
Oakland	94621
Oakland	94623
Oakland	94661
Oakland	94662
Oakland	94664
Oakley	94561
Orinda	94563
Pecheco	94553
Piedmont	94611
Pinole	94564
Pittsburg	94565
Pleasant Hill	94523
Port Costa	94569
Rheem Valley	94570
Richmond	94801
Pt. Richmond	94808
Rodeo	94572
St. Mary's	94575
San Pablo	94806
San Ramon	94582 and 94583
Tassajara	94582
Tracy	95376
Vacaville	95688
Vallejo	94590
Walnut Creek	94595–94598

Effective date: September 2, 1983. (Achieved preoperational status on August 1, 1983.)

43. Health Care Plus, Inc., of Douglas County, Kansas (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act), an operational qualified regional component of Health Care Plus, Inc. of Wichita, Kansas 67201. The service area comprises Douglas County. *Effective date:* September 1, 1983.

44. Vermilion Health Assurance Plan of Danville, Illinois (Individual Practice Association Model, see section 1310(b)(2)(A) of the Act), an operational qualified regional component of HMO Illinois, Inc. of Chicago, Illinois 60601–5655. The service area comprises the following counties in Illinois and Indiana:

Illinois

Ford, Iroquois, Champaign, Vermilion

Indiana

Fountain, Vermillion, Wasser

Effective date: September 16, 1983.

Files containing detailed information regarding qualified HMOs will be available for public inspection between the hours of 8:30 a.m. and 4:30 p.m. on Tuesdays and Thursdays except for Federal holidays, in the Office of Health Maintenance Organization, Bureau of Health Maintenance Organizations and Resources Development, Department of Health and Human Services, Rm. 9–11 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Questions about the qualification review process or requests for information about qualified HMOs should be sent to the same office.

Dated: January 11, 1984.

Robert Graham, M.D.,

Administrator, Health Resources and Services Administration.

[FR Doc. 84–1242 Filed 1–17–84; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Grazing Adminstration—Exclusive of Alaska; Schedule of Grazing Fees for 1984

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Livestock Grazing Fees for the 1984 Fee Year.

SUMMARY: Pursuant to the authority vested in the Secretary of the Interior, notice is hereby given of the schedule of fees for the 1984 fee year, beginning March 1, 1984, and ending February 28, 1985, for livestock grazing on public lands under the administration of the Bureau of Land Management.

For the purposes of establishing charges, one animal unit month shall be considered equivalent to grazing use by one cow, five sheep, or one horse for one month.

Pursuant to Department of the Interior regulations (43 CFR 4130.5–1(a)), as published in the **Federal Register** on January 10, 1079 (44 FR 2173), fees on all public lands administered by the Bureau of Land Management shall be $1.37 per animal unit month.

Bills shall be issued in accordance with the rates prescribed in this notice.

EFFECTIVE DATE: March 1, 1984.

ADDRESS: Any suggestion or inquiries should be sent to: Director (220) Bureau of Land Management, 18th and C Streets, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Judy Nelson, (202) 653–9210.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

January 9, 1984.

[FR Doc. 84–1230 Filed 1–17–84; 8:45 am]

BILLING CODE 4310–84–M

Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

SUMMARY: Under the Provisions of Pub. L. 97–451, a petition of reinstatement of oil and gas lease M 54929, Dawson County, Montana, was timely filed and accompanied by the required rental accruing from the date of termination, October 1, 1983.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16⅔% respectively. Payment of a $500 administration fee has been made.

Having met all the requirements for reinstatement of the lease as set out in Sec. 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective as of the date of termination, subject to the original terms and conditions of the lease, the increased rental and royalty rates cited above, and reimbursement for cost of publication of this Notice.

Dated: January 9, 1984.

Cynthia L. Embretson,

Chief, Fluids Adjudication Section.

[FR Doc. 84–1246 Filed 1–17–84; 8:45 am]

BILLING CODE 4310–DN–M

[M 59023 (ND)]

North Dakota; Conveyance of Public Land

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of Conveyance of Public Land in Mountrail County, North Dakota.

SUMMARY: Notice is hereby given that pursuant to Section 203 of the Act of October 21, 1976 (43 U.S.C. 1713 (1976)), the following described land was conveyed to John O. and Lois D. Enander.

Fifth Principal Meridian, North Dakota

T. 155 N., R. 91 W.,
Sec. 5, lot. 3.
Containing 39.83 acres.

The purpose of this notice is to inform State and local governmental officials and other interested parties of the conveyance of the land to John O. and Lois D. Enander.

January 6, 1984.

Edward H. Croteau,

Chief, Lands Adjudication Section.

[FR Doc. 84–1243 Filed 1–17–84; 8:45 am]

BILLING CODE 4310–84–M

Colorado; Craig District Grazing Advisory Board Meeting

Notice is hereby given in accordance with Public Law 92–463, that a meeting of the Craig District Grazing Advisory Board will be held on February 24, 1984, at the Holiday Inn, 300 Colorado Highway 13, Craig, Colorado 81625. The meeting will convene at 10:00 a.m.

The agenda for the meeting will include: (1) Election of officers; (2) plans for range improvement projects in FY '85 and FY '86; (3) status of fiscal year 1984 projects; (4) newly written allotment management plans in White River Resource Area; (5) nominations for Cooperative Management Agreements; (6) status of Kremmling Resource Management Plan; (7) the expenditure of advisory board funds for range improvements.

The meeting is open to the public. Interested persons may make oral statements to the board between 10:00 and 11:00 a.m. on February 29, 1984, or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 455 Emerson Street, Craig, Colorado 81625, by February 21, 1984. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Larry Bauer,

Acting District Manager.

[FR Doc. 84–1306 Filed 1–17–84; 8:45 am]

BILLING CODE 4310–JB–M

Known Geothermal Resources Area; Dixie Valley, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Additions to the Dixie Valley Known Geothermal Resources Area, Nevada.

SUMMARY: Pursuant to the authority vested in the Secretary of the Interior by Sec. 21(a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), the delegations of authority in 235 Departmental Manual 1.1 K, Bureau of Land Management, the following lands are hereby added to the Dixie Valley Known Geothermal Resource Area, effective September 1, 1983.

Nevada

Dixie Valley Known Geothermal Resources Area Mt. Diablo Meridian, Nevada

T. 23 N., R. 36 E
Sec. 1;
Sec. 2;
Sec. 11.
T. 25 N., R. 37 E
Sec. 12;
Sec. 23.
T. 25 N., R. 38 E
Sec. 8;
Sec. 18.
T. 26 N., R. 37 E
Sec. 35;
Sec. 36.

The above area aggregates 5739.00 acres, more or less.

Dated: January 6, 1984.

Roger J. McCormack,

Associate State Director, Nevada.

[FR Doc. 84–1307 Filed 1–17–84; 8:45 am]

BILLING CODE 4310–84–M

Minerals Management Service

Oil, Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: This Notice announces that ODECO Oil & Gas Company, Unit Operator of the Ship Shoal Block 113 Federal Unit Agreement No. 14–08–001–2931, submitted on December 30, 1983, a proposed annual plan of development/production describing the activities it proposes to conduct on the Ship Shoal Block 113 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and

that it is available for public review at the offices of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Records Management Section, Room 143, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 838–0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in development and production plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: January 9, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84–1245 Filed 1–17–84; 8:45 am]

BILLING CODE 4310–MR–M

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting Raymond A. Hicks at 303–231–3147.

Comments and suggestions on the requirement should be made directly to the Office of Information and Regulatory Affairs, Attention: Desk Officer for the Department of the Interior, Office of Management and Budget, Washington, D.C. 20503.

Title: Request for Product Valuation Proposal

Frequency: As required

Description of Respondents: Lessees of Federal and/or Indian Lands who produce oil, gas, and/or gas products.

Annual Responses: 600

Annual Burden Hours: 14,400

Bureau Clearance Officer: Dorothy Christopher, 703–435–6213

Dated: November 21, 1983.

Robert E. Boldt,

Associate Director for Royalty Management.

[FR Doc. 84–1304 Filed 1–17–84; 8:45 am]

BILLING CODE 4310–MR–M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–209 (Preliminary) and 731–TA–157 through 160 (Preliminary)]

Carbon Steel Wire Rod From Argentina, Mexico, Poland, and Spain

Determinations

On the basis of the record[1] developed in the subject investigations, the Commission determines, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Spain of carbon steel wire rod, provided for in item 607.17 of the Tariff Schedules of the United States (TSUS), which are alleged to be subsidized by the Government of Spain (investigation No. 701–TA–209 (Preliminary).[2]

The Commission also determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from the following countries of carbon steel wire rod, provided for in item 607.17 of the TSUS, which are alleged to be sold in the United States at less than fair value: Argentina (investigation No. 731–TA–157 (Preliminary)), Mexico (investigation No. 731–TA–158 (Preliminary)), Poland (investigation No. 731–TA–159 (Preliminary)), and Spain (investigation No. 731–TA–160 (Preliminary)).[2]

Background

On November 23, 1983, a petition was filed with the U.S. International Trade Commission and the U.S. Department of Commerce by counsel on behalf of Atlantic Steel Co., Continental Steel Co., Georgetown Steel Corp., North Star Steel Co.-Texas, and Raritan River Steel Co., alleging that imports of carbon steel wire rod from Spain, provided for in item 607.17 of the Tariff Schedules of the United States (TSUS), are being subsidized. Petitions were also filed on behalf of the same firms alleging that imports of carbon steel wire rod provided for in TSUS item 607.17, from Argentina, Mexico, Poland, and Spain are being sold in the United States at less than fair value. Accordingly, effective November 23, 1983, the Commission instituted preliminary countervailing and antidumping investigations under sections 703(a) and 733(a), respectively, of the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise.

Notice of the institution of the Commission's investigations and of the public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** on November 30, 1983 (48 FR 54139). The conference was held in Washington, D.C., on December 14, 1983, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission furnished its report to the U.S. Department of Commerce on January 9, 1984. The information in the report was obtained from responses to Commission questionnaires, from information presented at the public conference, from interviews by members of the Commission's staff, from information provided by other Federal agencies, from the Commission's files, from submissions by the interested parties, and from other sources. A public version of the Commission's report, Carbon Steel Wire Rod from Argentina, Mexico, Poland, and Spain, Publication 1476, January 1984, contains the views of the Commission and information developed during the investigations.

By order of the Commission.

Issued: January 9, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–1324 Filed 1–17–84; 8:45 am]

BILLING CODE 7020–02–M

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(i)).

[2] Commissioner Stern also determines that there is a reasonable indication that an industry in the United States is threatened with material injury.

[Investigation No. 22–46]

Certain Articles Containing Sugar

December 16, 1983.

Findings

With respect to articles covered by Proclamation No. 5071.—On the basis of the information developed during this

investigation, the Commission finds that—

(1) Blended sirups provided for in Tariff Schedules of the United States (TSUS) item 155.75, containing sugars derived from sugar cane or sugar beets, capable of being further processed with similar or other ingredients, and not prepared for marketing to the retail consumers in the identical form and package in which imported; and

(2) Articles containing over 65 percent by dry weight of sugars derived from sugar cane or sugar beets, whether or not mixed with other ingredients, capable of being further processed or mixed with similar or other ingredients, and not prepared for marketing to the retail consumers in the identical form and package in which imported, all the foregoing articles, provided for in TSUS items 155.75 and 183.05, except articles within the scope of other import restrictions provided for in part 3 of the Appendix to the TSUS,

are practically certain to be imported into the United States under such conditions and in such quantities as to materially interfere [1] with the price support program for sugar cane and sugar beets of the U.S. Department of Agriculture.

The Commission is equally divided on whether articles provided for in TSUS items 156.45 and 183.01, as described above in (2), are being, or are practically certain to be, imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price support program for sugar cane and sugar beets of the U.S. Department of Agriculture. Chairman Eckes and Commissioner Lodwick find in the affirmative [2] and Commissioners Stern and Haggart find in the negative.

With respect to other articles.—The Commission finds that—

(1) Articles provided for in TSUS items 183.01 and 183.05, containing not less than 25 percent but not over 65 percent by dry weight of any sugars or blends of sugars provided for in subpart A of part 10 of schedule 1 of the TSUS, whether or not mixed with other ingredients, and capable of being further processed or mixed with similar or other ingredients; and

(2) All other articles, wherever classified in the TSUS, containing over 65 percent by dry weight of sugars derived from sugarcane or sugar beets, whether or not mixed with other ingredients, and capable of being further processed or mixed with similar or other ingredients, except articles the subject of the Commission's affirmative determination and except articles within the scope of other import restrictions provided for in part 3 of the Appendix to the TSUS,

are not being, and are not practically certain to be, imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price support program for sugar cane and sugar beets of the U.S. Department of Agriculture.

Recommendations

Chairman Eckes and Commissioner Lodwick recommend that the President continue, for such time as is necessary, the zero quotas on the articles the subject of Proclamation 5071.

Commissioners Stern and Haggart recommend that the President modify the quotas set forth in Proclamation 5071 so as: (1) To permit the entry of 165,000 short tons (128,000 short tons raw sugar equivalent) per year of the blended sugar sirups (provided for in TSUS item 155.75) and certain other articles containing over 65 percent by dry weight of sugar (provided for in TSUS items 155.75 and 183.05) which are the subject of their affirmative determination; and (2) to exclude from the quotas articles containing over 65 percent by dry weight of sugar provided for in TSUS items 156.45 and 183.01.

Background

On June 29, 1983, the Commission received a letter from the President directing it to make an investigation under section 22(a) of the Agricultural Adjustment Act (7 U.S.C. 624(a)) to determine whether certain articles containing sugar are being, or are practically certain to be, imported under such conditions, at such prices, and in such quantities as to render or tend to render ineffective, or materially interfere with, the price support program of the Department of Agriculture for sugar cane and sugar beets.

Notice of the Commission's investigation was published in the **Federal Register** on July 13, 1983 (47 FR 32093). A public hearing was held in Washington, D.C. on October 25, 1983. All interested parties were afforded an opportunity to appear and to present information for consideration by the Commission.

The Commission furnished its report to the President in accordance with section 22(a) of the Agricultural Adjustment Act on December 16, 1983. The information in the report was obtained from responses to Commission questionnaires, from information presented at the public hearing, from interviews by members of the Commission's staff, from information provided by other Federal agencies, and from the Commission's files, submissions by the interested parties, and other sources. A public version of the Commission's report, Certain articles containing sugar (investigation No. 22–46), Publication 1462, January 1984, contains the views of the Commission and information developed during the investigation.

By order of the Commission.
Issued January 9, 1984.

Kenneth R. Mason,
Secretary.

[FR Doc. 84–1326 Filed 1–17–84; 8:45 am]
BILLING CODE 7020–02–M

[1] Commissioner Stern finds that such imports are practically certain to tend to materially interfere with the price support program for sugar cane and sugar beets of the U.S. Department of Agriculture.

[2] More specifically, Chairman Eckes and Commissioner Lodwick find that such articles are practically certain to be imported into the United States under such conditions and in such quantities as to materially interfere with the price support program.

[Investigation No. 337–TA–162]

Certain Cardiac Pacemakers and Components Thereof; Commission Determination Not To Review Initial Determination Amending the Prayer for Relief

AGENCY: U.S. International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (I.D.) (Order No. 15) to amend the prayer for relief to include a prayer for a cease and desist order.

AUTHORITY: 19 U.S.C. 1337, 47 FR 25134, June 10, 1982, and 48 FR 20226, May 5, 1983(to be codified at 19 CFR 210.53 (c) and (h)).

SUPPLEMENTARY INFORMATION: On November 14, 1983, complainant Medtronic moved (Motion No. 162–11) to amend the complaint and notice of investigation to include a prayer for relief in the form of a cease and desist order, on the ground that it had learned during discovery that there are inventories of alleged infringing pacemakers in the United States which could not be reached by an exclusion order. On December 13, 1983, the presiding officer issued an I.D. granting the motion. No petitions for review were received and no comments from other Government agencies were received. On January 6, 1984, the Commission determined not to review the I.D.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, telephone 202–523–0493.

Issued January 6, 1984.
By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 84–1322 Filed 1–17–84; 8:45 am]
BILLING CODE 7020–02–M

[Investigation No. 337-TA-75]

Certain Large Video Matrix Display Systems and Components Thereof; Denial of Motion for Reconsideration

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined to deny the motion for a stay of all proceedings and for reconsideration of the Commission's Action and Order of September 16, 1983, as modified on November 14, 1983, filed by complainant Stewart-Warner Corporation in the above-captioned investigation.

Authority: Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and § 210.24(a) of the Commission's Rules of Practice and Procedure (19 CFR 210.24(a)).

SUPPLEMENTARY INFORMATION: On June 1, 1981, the Commission determined in investigation No. 337–TA.75, that there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation and sale of certain large video matrix display systems and components thereof, which infringe claims of U.S. Letters Patent Nos. 3,594,762 ('762), 3,941,9269('926), and 4,009,335 ('335). The Commission issued an order excluding the infringing merchandise and components thereof manufactured by respondent SSIH Equipment SA of Bienne, Switzerland, from entry into the United States for the remaining terms of the patents except under license from the patent owner. See USITC Pub. No. 1158 (June 1981) (46 FR 32694). On August 10, 1981, the Commission modified its exclusion order so that it was effective solely against articles infringing the claims of U.S. Letters Patent 3,594,762, (See 46 FR 4217), because of a decision by a United States District Court that the '926 and '335 patents were not valid. The Commission's determination and the modified excusion order became final on August 19, 1981.

Respondent SSIH Equipment SA subsequently appealed the Commission's determination to the U.S. Court of Customs and Patent Appeals, one of the predecessor courts to the U.S. Court of Appeals for the Federal Circuit (CAFC). On July 15, 1983, the CAFC rendered a judgment which reversed the Commission's determination in part, vacated the exclusions order, and remanded the case to the Commission for reconsideration of infringement, injury, and public interest issues.

Pursuant to the CAFC's mandate, on September 16, 1983, the Commission issued an Action and Order remanding to the administrative law judge the issues of whether claim 12 of U.S. Letters Patent 3,594,762 is infringed and whether the acts of respondents in investigation No. 337–TA–75 have the effect or tendency to destroy or substantially injure an efficiently and economically operated industry in the United States.

Concurrently with SSIH's appeal of the Commission's determination, complainant Stewart-Warner Corp. (S-W) appealed to the Court of Appeals for the Sixth Circuit the Federal district court decision holding the '335 and '926 patents invalid. The Sixth Circuit upheld the district court's decision on the validity of the '335 patent but reversed the lower court on the validity of the '926 patent. The Sixth Circuit then remanded the case to the district court for consideration of whether the '926 patent is invalid as obvious under 35 U.S.C. 103.

Both S-W and SSIH then requested the Commission to modify its Action and Order of September 16, 1983. Both parties requested a remand to the administrative law judge but on different issues.

Upon review of the Sixth Circuit's decision and the submission of the parties, the Commission determined to modify its Action and Order of September 16, 1983, and remand to the administrative law judge the issues of alleged inequitable conduct in the prosecution of the '762, '335, and '926 patents, enforceability of the '762 and '926 patents, and injury to the relevant domestic industries. (See 46 FR 53188).

On December 2, 1983 complainant Stewart-Warner Corporation filed a motion for stay of all proceedings and reconsideration of the aforementioned actions and orders directing remand to the administrative law judge. An opposition to said motion was submitted by respondent SSIH on December 7, 1983.

On January 9, 1984, the Commission determined to deny the motion of Stewart-Warner Corp. for reconsideration and for a stay of proceedings.

Copies of all non confidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretry, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Catherine R. Field, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone (202) 523–0198.

Issued: January 11, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–1320 Filed 1–17–84; 8:45 am]

BILLING CODE 7035-02-M

[Investigation No. 337-TA-155]

Certain Liquid Crystal Display Watches With Rocker Switches; Receipt of Initial Determination Terminating Respondents on the Basis of Consent Order Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a consent order agreement: Madison Watch Co., Jupiter Time Corp., Collins Industrial Co., Ltd., Dunbar Electronics Corp., Ltd., M. Z. Berger Co. and Sharp International Corp.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on January 13, 1984.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

Written Comments: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the

Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

Issued January 13, 1984.
By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–1318 Filed 1–17–84; 8:45 am]
BILLING CODE 7020–02–M

[Investigation No. 337–TA–140]

Certain Personal Computers and Components Thereof; Extension of Time for Commission Decision on Whether To Order Review of Initial Determination

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has extended until January 20, 1984, the time by which it must decide whether to review the initial determination on violation of section 337 issued in the above-captioned investigation.

Authority: The authority for the Commission's disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in §§ 210.53–.57 of the Commission's Rules of Practice and Procedure (19 CFR 210.53–.57 as amended by 48 FR 20226, 21115).

SUPPLEMENTARY INFORMATION: The initial determination on violation of section 337 was filed on December 9, 1983, and was served on the parties on December 12, 1983. In the absence of the extension of time, the time provided in the Commission's rules for deciding whether to order review of the initial determination would have expired on January 10, 1983.

Copies of the nonconfidential version of the initial determination and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Wayne W. Harrington, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0480.

Issued: January 9, 1984.
By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–1319 Filed 1–17–84; 8:45 am]
BILLING CODE 7020–02–M

[Investigation No. 337–TA–149]

Certain Radar Detectors and Accompanying Owner's Manuals; Commission Decision Not To Review Initial Determination Terminating Investigation on the Basis of Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined not to review an initial determination (I.D.) to terminate this investigation on the basis of a settlement agreement.

Authority: 19 U.S.C. 1337, 74 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1983 (to be codified at 19 CFR 210.53(c) and (h)).

SUPPLEMENTARY INFORMATION: Notice of the I.D. was published in the **Federal Register** of December 29, 1983, 48 FR 57387.

Copies of the initial determination and all other non-confidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Frank Schuchat, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0421.

By order of the Commission.
Issued: January 11, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–1321 Filed 1–17–84; 8:45 am]
BILLING CODE 7020–02–M

[Investigation No. 337–TA–179]

Certain Spherical Roller Bearings and Components Thereof and Tools and Equipment for the Manufacture Thereof; Order No. 1

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge John J. Mathias as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register**.

Issued: January 10, 1984.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 84–1317 Filed 1–17–84; 8:45 am]
BILLING CODE 7020–02–M

[Investigations Nos. 731–TA–131, 132, and 138 (Final)]

Certain Welded Carbon Steel Pipes and Tubes From the Rebublic of Korea and Taiwan

AGENCY: United States International Trade Commission.

ACTION: The Commission hereby revises the date of its public hearing in connection with the subject antidumping investigations to March 27, 1984.

EFFECTIVE DATE: January 13, 1984.

FOR FURTHER INFORMATION CONTACT: Robert Carpenter (202–523–0399), Office of Investigations, U.S. International Trade Commission, Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION: The Commission instituted these final antidumping investigations effective October 28, 1983 (48 FR 54908, Dec. 7, 1983), and scheduled a hearing to be held in connection therewith for March 20, 1984 (48 FR 57385, Dec. 29, 1983). However, in response to a request from counsel for the petitioner in the subject investigations, the Commission is revising its schedule as described below.

The Commission's hearing, which was to have been held on March 20, 1984, has been rescheduled to begin at 10 a.m. on March 27, 1984, in the Hearing Room, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. A public version of the prehearing staff report containing preliminary findings of fact in these investigations will be placed in the public record on March 9, 1984. The deadline for filing prehearing briefs is March 20, 1984, and the deadline for filing posthearing briefs is April 2, 1984.

By order of the Commission.
Issued: January 13, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–1325 Filed 1–17–84; 8:45 am]
BILLING CODE 7020–02–M

[Investigations Nos. 731-TA-161 and 162 (Preliminary)]

Titanium Sponge From Japan and the United Kingdom

Determinations

On the basis of the record [1] developed in the subject investigations, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of titanium sponge [2] from Japan (investigation No. 731-TA-161 (Preliminary)), which allegedly are being, or are likely to be, sold in the United States at less than fair value (LTFV).[3]

Background

On November 28, 1983, petitions were filed in proper form with the Commission and the Department of Commerce by counsel on behalf of the RMI Company, Niles, Ohio, alleging that imports of titanium sponge from Japan and the United Kingdom are being or are likely to be, sold in the United States at LTFV within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. § 1673). Accordingly, effective November 28, 1983, the Commission instituted preliminary antidumping investigations Nos. 731-TA-161 and 162 (Preliminary) under section 733(a) of the Act to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise.

Notice of the institution of the Commission's investigations and of a conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** on December 7, 1983 (48 FR 543910). A clarification of the scope of the Commission's investigations was published in the **Federal Register** on December 14, 1983 (48 FR 55645). The conference was held in Washington, D.C., on December 20, 1983, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its report on these investigations to the Secretary of Commerce on January 12, 1984. A public version of the Commission's report, Titanium Sponge From Japan and the United Kingdom (investigations Nos. 731-TA-161 and 162 (Preliminary), USITC Publication 1477, January 1984) contains the views of the Commission and information developed during the investigation.

By order of the Commission.

Issued: January 12, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-1323 Filed 1-17-84; 8:45 am]

BILLING CODE 7020-02-M

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(i).

[2] For purposes of these investigations, the term "titanium sponge" includes all imports of such merchandise, whether entered into the United States under item 629.14 of the Tariff Schedules of the United States (TSUS) or under the provisions of part 3A of schedule 8 of the TSUS.

[3] Commissioner Haggart determines that there is a reasonable indication that an industry is materially injured by reason of imports of titanium sponge from Japan and the United Kingdom, which allegedly are being, or are likely to be, sold in the United States at less than fair value (LTFV).

INTERSTATE COMMERCE COMMISSION

[OP4F-892]

Motor Carriers; Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 USC 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 USC 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1182.2 (d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time periods specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

James H. Bayne,

Acting Secretary.

MC-F-15552, filed December 21, 1983. BRENTON B. HOLTER, ET AL. (P.O. BOX 31, GROVE CITY, PA 16127)—CONTINUANCE IN CONTROL—GROVE CITY BUS LINES, INC. (GROVE CITY) AND EARTH TOURS, INC. (EARTH TOURS) (P.O. BOX 31, GROVE CITY, PA 16127). Representative: Jeremy Kahn, 1726 M Street, NW., Suite 702, Washington, DC 20036. Applicants, all of whom are non carrier individuals, seek authority to continue in control of Grove

City and Earth Tours upon institution of operations by Earth Tours in interstate or foreign commerce under Certificate No. MC–168817. Brenton Holter is the sole shareholder of Grove City. His relatives, Shari Holter, Brenda Holter, and Karen Holter each hold 25 shares of Earth Tours and are officers and directors thereof. Evelyn Holter is an officer and a director of Grove City. Grove City is a motor common and contract carrier operating under MC–123916 and subnumbers thereunder. The common carrier authority authorizes generally the transportation of passengers and their baggage and express and newspapers, over regular and irregular routes, from, to or between named points in the United States. The contract authority authorizes the transportation of passengers and their baggage, in charter operations, between points in the United States (including Alaska and excluding Hawaii), under continuing contract(s) with Earth Tours, Inc. By a decision served November 2, 1983, Earth Tours was granted authority to transport passengers, in charter and special operations, between points in the United States.

Note.—Earth Tours filed a common carrier application in MC–168817 which was published in the **Federal Register** on July 8, 1983. As a condition to a grant of the authority, applicant was required to file this continuance in control application or submit an affidavit indicating why such approval is unnecessary.

[FR Doc. 84–1253 Filed 1–17–84; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

Correction

The document in Part III of the issue of Friday, January 13, 1984, beginning on page 1842, was inadvertently published without a billing code or file line. These should have appeared at the end of the document, on page 1855, and should have read:

[FR Doc. 84–746 Filed 1–12–84; 8:45 am]

BILLING CODE 4510–27–M

BILLING CODE 1505–01–M

MERIT SYSTEMS PROTECTION BOARD

Microfiche Publication of Air Traffic Controller Initial Decisions

AGENCY: Merit Systems Protection Board.

ACTION: Notice of Publication of Initial Decisions in ATC Cases.

SUMMARY: The Merit Systems Protection Board announces the publication on microfiche of the more than 11,000 initial decisions made by the Board's regional offices on appeals growing out of the August 1981 strike of air traffic controllers. A paper index with a subject section and lead-case section is included. The cost of the "Federal Employee Appeals Decisions, Air Traffic Controller Cases," is $150. To order, contact the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; (703) 487–4650, and specify the above title and stock No. PB83–922750. The microfiche may also be viewed and copied at the Information Services Division, address below.

FOR FURTHER INFORMATION CONTACT: Ada R. Kimsey, Chief, Publications Management Branch, Information Services Division, Office of the Secretary, Suite 1404, 5205 Leesburg Pike, Falls Church, VA 22041 (703) 756–6388.

SUPPLEMENTARY INFORMATION: This is a special edition of the regular microfiche and index of Board initial decisions made at the regional level. Other publications of the MSPB include *Decisions of the United States Merit Systems Protection Board* (volumes of Board final orders and precedential interlocutory actions indexed according to the Board's key number system), and *The Digest*, a monthly summarizing orders and listing all issuances for the month; also key-numbered.

Dated: January 10, 1984.

For the Board.

Herbert E. Ellingwood,

Chairman.

[FR Doc. 84–1378 Filed 1–17–84; 8:45 am]

BILLING CODE 7400–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 84–02]

NASA Advisory Council, Aeronautics Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Informal Advisory Subcommittee on Aerodynamics.

DATES: Date and time: January 26, 1984, 8:30 a.m. to 4:30 p.m.; January 27, 1984, 8:30 a.m. to 4:30.

ADDRESS: National Aeronautics and Space Administration, Langley Research Center, Building 1219, Room 225, Hampton, VA 23665.

FOR FURTHER INFORMATION CONTACT: Mr. Clinton E. Brown, National Aeronautics and Space Administration, Code RTF, Washington, D.C. 20546 (202/453–2763).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Aerodynamics was established to provide advice and coordination of NASA Aerodynamics research programs with efforts in other agencies, universities, and industry. The Subcommittee, chaired by Dr. Eli Reshotko, is comprised of 13 members. The meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including the Subcommittee members and participants). The first 1984 meeting of the Informal Subcommittee on Aerodynamics was originally scheduled for the first day of February at the Langley Research Center; however, a conflict arose unexpectedly at the Center that made it impossible for certain specific researchers to attend and provide their inputs to the presentations. A new date was sought and the 26th and 27th of January were found to be the only days within a month of the original date that a full attendance of members could be had.

Type of meeting: Open.

Agenda

January 26, 1984

8:30 a.m.—Welcome and Introduction of New Members.
9 a.m.—National Transonic Facility.
11:30 a.m.—Turbulent Drag Reduction.
1:30 p.m.—The NASA Laminar Flow Research Program.
4:30 p.m.—Adjourn.

January 27, 1984

8:30 a.m.—Research in Magnetic Suspension.
9 a.m.—Subcommittee Member Reports and Comments.
11 a.m.—Tour of National Transonic Facility.

1:30 p.m.—Discussion of 1984 and 1985 Office of Aeronautics and Space Technology Budget.
2 p.m.—New Initiatives for 1986.
3 p.m.—Recommendations and Replies to Questions.
4 p.m.—Plans for next Meeting.
4:30 p.m.—Adjourn.

Dated: January 11, 1984

Richard L. Daniels

Director, Management Support Office, Office of Management.

[FR Doc. 84-1239 Filed 1-17-84; 8:45 am]

BILLING CODE 7510-01-M

[Notice 84-03]

NASA Advisory Council, Space Systems Technology Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems Technology Advisory Committee, Informal Advisory Subcommittee on Aerothermodynamics.

DATES: Date and time: February 2, 1984, 8:30 a.m. to 5 p.m.; February 3, 1984, 8:30 a.m. to 5 p.m.

ADDRESS: National Aeronautics and Space Administration, Langley Research Center, Building 1232, Room 236, Hampton, VA 23665.

FOR FURTHER INFORMATION CONTACT: Mrs. Lana M. Couch, National Aeronautics and Space Administration, Code RSC, Washington, DC 20546 (202/453-2864).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on Aerothermodynamics was established to provide advice and coordination of NASA Aerothermodynamics research programs with efforts in other agencies, universities, and industry. The Subcommittee chaired by Professor Seymour Bogdonoff, is comprised of 7 members. The meeting will be open to the public up to the seating capacity of the room (approximately 40 persons including the Subcommittee members and participants).

Type of meeting: Open.

Agenda

February 2, 1984

8:30 a.m.—Welcome and Introduction.
9:15 a.m.—Space Systems Division and Aerothermodynamic Capabilities.
10:15 a.m.—Past Contributions.
11:15 a.m.—Current Program.
1 p.m.—Current Program continued.
4 p.m.—Future Directions.
5 p.m.—Adjourn.

February 3, 1984

8:30 a.m.—Scramjet/Ramjet Internal Aerothermodynamics.
12:15 p.m.—Aerothermal Loads.
4 p.m.—Committee Discussion.
5 p.m.—Adjourn.

Dated: January 11, 1984.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

[FR Doc. 84-1240 Filed 1-17-84; 8:45 am]

BILLING CODE 7510-01-M

[Notice 84-04]

Aerospace Safety Advisory Panel; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the Aerospace Safety Advisory Panel.

DATE: Date and time: February 15, 1984, 2 p.m. to 4 p.m.

ADDRESS: National Aeronautics and Space Administration, Review Center Room 7002, 400 Maryland Avenue SW, Federal Building 6, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Gilbert L. Roth, Code LB, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-8341).

SUPPLEMENTARY INFORMATION: The Panel will present its annual report to the NASA Administrator. This is pursuant to carrying out its statutory duties for which the Panel reviews, evaluates, and advises on those program activities, systems, procedures, and management policies that contribute to risk and the identification and assessment of these for management. Priority is given to those programs that involve the safety of manned flight. The major subjects will be the Space Shuttle Program, Space Flight Operations, and Aeronautical Operations.

Type of meeting: Open.

Dated: January 11, 1984.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

[FR Doc. 84-1241 Filed 1-17-84; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL CREDIT UNION ADMINISTRATION

Agency Forms Submitted to the Offic of Management and Budget for Clearance

The following are those packages submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 CFR Chapter 35).

Subject: 12 U.S.C. 1788 Special Assistance to Federally Insured Credit Unions (3133-0071).

One portion of this provision directs that contacts between the NCUA Board and a credit union involving any assets acquired by the Board must have been approved by the credit union's board of directors and reflected as such in its minutes and records.

Respondents: Federally Insured Credit Unions.

Subject: 12 U.S.C. 1756 and 1782 Letter of Understanding and Agreement for Special Assistance (3133-0016).

The provision requires, among other things, that federally insured credit unions receiving special assistance to avoid liquidation periodically provide NCUA financial information.

Respondents: Federally Insured Credit Unions.

Subject: 12 CFR Part 745 Clarification and Definition of Account Insurance Coverage (3133-0028).

The regulation requires that a credit union provide a question and answer booklet on insurance of accounts to each member with $5,000 or more in shares.

Respondents: Federally Insured Credit Unions.

Subject: 12 U.S.C. 1781 Application for Insurance Accounts—State-Chartered Credit Unions (3133-0011).

The referenced part requires that those state-chartered credit unions opting for Federal insurance must make application and meet standards.

Respondents: State-Chartered Credit Unions.

Subject: 12 U.S.C. 1781 Certification—State Supervisory Authority (3133-0009).

A State chartered credit union applying for Federal insurance must provide a statement from its supervisory authority that in his/her opinion the credit union qualifies for Federal insurance coverage.

Respondents: State-Chartered Credit Unions.

Subject: Monthly Sample Federal/State Credit Unions (3133-0001).

Credit Union Monthly survey provides financial and economic data that serves as a basis for estimating consumer

savings and credit, growth in assets, savings, investments and for monitoring trends and developments at all U.S. credit unions. The information is used for supervisory purposes, program planning and management purposes, and publication of industry statistics purposes.

Respondents: Participating Federal and State Credit Unions.

Subject: Federal Credit Union Loans to Members (New).

This rule sets out the method by which Federal credit unions may make loans to their members.

Respondents: Federal Credit Unions.

Subject: Federal Credit Union Act, Section 125 12 U.S.C. 1771—Conversion from Federal to State Credit Union and from State to Federal Credit Union (3133–0023).

Section 125 of the Federal Credit Union Act provides application and approval procedures for credit unions desiring to convert chartering authority. This submission updates paperwork reduction reporting requirements based upon a regulatory review completed by the NCUA Board.

Respondents: Federal and State-Chartered Credit Unions.

Subject: 12 CFR Part 708—Mergers of Credit Unions (3133–0024).

Section 708 of the NCUA Rules and Regulations provides application procedures that enable one or more credit unions to merge with a single continuing credit union where at least one of the credit unions is a Federal credit union of federally insured state credit union.

Respondents: Federal and Federally Insured State Credit Unions.

Subject: Article IX, Section 3 of the Federal Credit Union Bylaws (3133–0058).

Article IX, Section 3 of the Federal Credit Union Bylaws requires that Credit Committees of Federal Credit Unions maintain complete and accurate minutes of their meetings.

Respondents: Federal Credit Unions.

Subject: Community Development Credit Union (CDCU) Program (New).

The program has zone reporting requirements to assure that credit union member services made are recognized and considered.

Respondents: CDCU Program Participants.

Subject: 12 CFR 724.1 Trustees and Custodians of Pension Plans (3133–0035).

A Federal credit union acting as trustee or as custodian of a Keogh plan or an individual retirement account must maintain individual records for each member/participant showing all transactions in detail.

Respondents: Federally Chartered Credit Unions.

OMB Desk Officer: Judith McIntosh.

Copies of the above information collection clearance packages can be obtained by calling the National Credit Union Administration, Special Projects Officer, on 202–357–1080.

Written comments and recommendations for listed information collections should be sent directly to the OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503, Attn: Judith McIntosh.

Dated: January 1, 1984.

Rosemary Brady,

Secretary of the NCUA Board.

[FR Doc. 84–1251 Filed 1–17–84; 8:45 am]

BILLING CODE 7535–01–M

NUCLEAR REGULATORY COMMISSION

Applications for Licenses to Export; Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application" please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses. Copies of the applications are on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register.** Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, The Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission, and the Executive Secretary, Department of State, Washington, D.C. 20520.

In its review of applications for licenses to export production or utilization facilities, special nuclear materials or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported. The table below lists all new major applications.

Dated this 10th day of January 1984 at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

James V. Zimmerman,

Assistant Director, Export/Import and International Safeguards, Office of International Programs.

NRC Export Applications

Names of applicant, date of application, date received, application No.	Material type	Material in kilograms		End-use	Country of destination
		Total element	Total isotope		
General Electric Co., Dec. 21, 1983, Dec. 27, 1983, XSNMO2100.	4.0 percent, enriched uranium	337,000	7,170	Initial core plus one reload each for SINOP-GE Units 1 and 2	Turkey.
General Electric Co., Dec. 21, 1983, Dec. 27, 1983, XR 147.		(1)	(1)		Do.
Edlow International, Co., Dec. 23, 1983, Dec. 28, 1983, XSNMO2101.	3.45 percent, enriched uranium.	9,655	333	Reload fuel for Genkai 1	Japan.

[1] SINOP—GE Units 1 and 2, 1220 MWe each, Boiling Water Reactors (BWR)

[FR Doc. 84–1328 Filed 1–17–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50-263]

Northern States Power Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed no Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–22, issued to Northern States Power Company (the licensee), for operation of the Monticello Nuclear Generating Plant located in Wright County, Minnesota.

The amendment would revise the Technical Specifications to increase the time delay setpoints of the Reactor Protection System (RPS) power monitoring system from 100 milliseconds to four seconds. The amendment would allow an undervoltage, over voltage, or under frequency condition to exist for up to four seconds. The change does not affect RPS response time. To support the amendment request, the licensee has submitted a letter from General Electric Company that states the conclusions reached from a study extending the electrical protection assembly time delays up to four seconds.

The licensee has determined that no adverse effects occur to the RPS as a result of this delay, and that the additional time would increase the stability of the alternate RPS power source and would prevent premature trips from occurring during routine switching operations. Other changes requested in the February 15, 1983 application will be noticed separately.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The example most similar to the amendment proposed by the licensee is one of the examples of amendment involving a significant hazards consideration: "* * * (iii) A significant relaxation in limiting conditions for operation not accompanied by compensatory changes, conditions or actions that maintain a commensurate level of safety.

In its application for amendment, the licensee states that although the time delay is being increased from 100 milliseconds to 4 seconds, which could be considered a significant relaxation of a Limiting Condition for Operation, (LCO), the change is accompanied by conditions that maintain a commensurate level of safety. The increase from 100 milliseconds to 4 seconds in the time delay has been determined by the licensee to have no adverse effects on the safety function of the RPS. Rather, safety will be enhanced because the change will increase the stability of the alternate source supplying the RPS bus and will help alleviate unnecessary plant trips that result from normal switching operation.

The change proposed by the licensee is similar to the example cited above in that the change in the time delay can be considered a relaxation in a limiting condition for operation. However, the proposed change differs significantly from the example in that the change is accompanied by conditions that result in an enhancement in safety. Thus, the proposed change does not involve the factors cited in the example which would result in a determination by the staff that a significant hazards consideration exists.

Therefore, for the reasons discussed above, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By February 17th, 1984, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any

limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Domenic B. Vassallo: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; and to Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)—(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Dated at Bethesda, Maryland, this 10th day of January, 1984.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 84–1329 Filed 1–17–84; 8:45 am]

BILLING CODE 7590–01–M

Docket Nos. 50–282 and 50–306]

Northern States Power Co.; Prairie Island Nuclear Generating Plant Unit Nos. 1 and 2; Exemption

I

The Northern States Power Company (the licensee) is the holder of Facility Operating License Nos. DPR–42 and DPR–60 which authorize operation of the Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2. These licenses provide, among other things, that they are subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

The facility comprises two pressurized water reactors at the licensee's site located in Goodhue County, Minnesota.

II

On November 19, 1980, the Commission published a revised 10 CFR 50.48 and a new Appendix R to 10 CFR Part 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised § 50.48 and Appendix R became effective on February 17, 1981. Section III. of Appendix R contains fifteen subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. One of these fifteen subsections, III.G., is the subject of this exemption request. Specifically, Subsection III.G.2 requires that one train of cables and equipment necessary to achieve and maintain safe shutdown be maintained free of fire damage by one of the following means:

a. Separation of cables and equipment and associated non-safety circuits of redundant trains by a fire barrier having a 3-hour rating. Structural steel forming a part of or supporting such fire barriers shall be protected to provide fire resistance equivalent to that required of the barrier;

b. Separation of cables and equipment and associated non-safety circuits or redundant trains by a horizontal distance of more than 20 feet with no intervening combustibles or fire hazards. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area; or

c. Enclosure of cables and equipment and associated non-safety circuits of one redundant train in a fire barrier having a 1-hour rating. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area.

III

By letters dated February 17 and March 11, 1983 and supplemented by letters dated May 16 and September 2, 1983, the licensee requested an exemption from installing a fixed suppression system in fire areas described below as required by Subsection III.G.2 of Appendix R. The Auxiliary Building ground floor level is one fire area which is designated as two fire zones—58 and 73. The Auxiliary Building mezzanine level is the second fire area which is designated as two fire zones—59 and 74. The two fire areas are enclosed by three-hour rated walls with the three-hour rated seals provided for combustible pathway penetrations. The two fire zones within the fire areas are separated from the nearest area of concern by approximately 100 feet. The acceptability of the exemption request for the four fire zones within these two fire areas is addressed below. More details are contained in the NRC staffs' related Safety Evaluation (SE) dated January 9, 1984, which is included herein by reference.

IV

Auxiliary Building Ground Floor Level Unit 1 (Fire Zone 58)

Auxiliary Building Ground Floor Level Unit 2 (Fire Zone 73)

The licensee requested an exemption from Subsection III.G.2. to the extent that these fire zones lack an automatic fire suppression system.

The combustible in fire zone 58 is cable insulation containing a fuel load of 10,354 Btu/ft² which, if totally consumed, would result in a fire severity of approximately 8 minutes on the ASTM E–119 standard time-temperature curve. The combustible in fire zone 73 is cable insulation containing a fuel load of 8,000 Btu/ft² which, if totally consumed, would result in a fire severity of approximately 6 minutes on the ASTM E–119 standard time-temperature curve. Fire protection in these zones consists of smoke detectors, standpipe hose stations and portable fire extinguishers. All redundant hot shutdown equipment is separated by greater than 20 feet free of intervening combustibles. The redundant power, control and instrument cables are installed in open horizontal cable trays between 11 and 18 feet above the floor. The divisions are separated by approximately 8 feet horizontally and are installed 3 feet below the ceiling.

The licensee has committed to enclose all Divison B safe shutdown cable in a one-hour fire rated barrier and to similarly enclose Division A safe shutdown cable trays in the vicinities of the motor control centers and coordinates identified in the NRC's Safety Evaluation for each zone.

The fuel load in these zones, including anticipated transients combustibles, is low. Hazardous quantities of transient combustibles would not be expected in these fire zones for several reasons. First, the zones are not adjacent to or near any major plant traffic route. Second, maintenance and operations in these zones do not involve the use of combustible materials. Third, accessibility to these zones is restricted to personnel performing essential duties in the zones because of potential radiation hazards. On this basis, we agree with the licensee that any fires in these zones resulting from transient combustibles would be of low severity and short duration.

Due to the presence of the smoke detection system and the availability of adequate manual fire fighting equipment, the fire brigade would be expected to extinguish a postulated fire before significant damage occurred. During the time a fire is being detected and extinguished as a result of fire brigade intervention, the one-hour fire-rated barriers enclosing safe shutdown cable trays and spatial separation between safe shutdown equipment provide reasonable assurance that one shutdown division will remain free of fire damage.

Based on our evaluation, we conclude that, with the existing fire protection combined with the licensee's commitment to provide an additional level of fire protection for fire zones 58 and 73, fire protection features are equivalent to the requirements specified in Subsection III.G.2 of Appendix R and therefore the licensee's requested exemption is granted for these fire zones.

Auxiliary Building Mezzanine Level Unit 1 (Fire Zone 59)

Auxiliary Building Mezzanine Level Unit 2 (Fire Zone 74)

The licensee requested an exemption from Subsection III.G.2 to the extent that these fire zones lack an automatic fire suppression system.

The combustible in fire zone 59 is cable insulation containing a fuel load of 20,000 Btu/ft², which, if totally consumed, would result in a fire severity of approximately 15 minutes on the ASTM E–119 standard time-temperature curve. Similarly the combustible in fire zone 74 is cable insulation containing a fuel load of 18,111 BtU/ft², which, if totally consumed, would result in a fire severity of approximately 14 minutes on the ASTM E–119 standard time-temperature curve. The fire protection in these zones consists of smoke detectors, standpipe hose stations and portable fire extinguishers. These fire zones contain motor control centers and redundant division cables for safe shutdown equipment. The motor control centers are separated by approximately 28 feet free from intervening combustibles. The redundant cables are installed in open horizontal trays between 13 and 19 feet above the floor. Each division is separated by approximately 8 feet and installed within 3 feet of the ceiling. To further increase the level of fire protection in these zones, the licensee committed to enclose all redundant Division B safe shutdown cables in a one-hour fire rated barrier.

The fuel load in these zones, including anticipated transients combustibles, is low. Hazardous quantities of transient combustibles would not be expected in these fire zones for several reasons. First, the zones are not adjacent to or near any major plant traffic route. Second, maintenance and operations in these zones do not involve the use of combustible materials. Third, accessibility to these zones is restricted to personnel performing essential duties in the zones because of potential radiation hazards. On this basis, we agree with the licensee that any fires in these zones resulting from transient combustibles would be of limited severity and duration.

Because smoke detectors are installed in the fire zones and because of the availability of adequate manual fire fighting equipment, the fire brigade would be expected to extinguish a postulated fire before significant damage occurred. During the time a fire is being detected and extinguished as a result of fire brigade intervention, the one-hour fire rated barriers enclosing safe shutdown cable trays and spatial separation between safe shutdown equipment will provide reasonable assurance that one safe shutdown division will remain free of fire damage.

Based on our evaluation, we conclude that, with the existing fire protection combined with the licensee's commitment to provide an additional level of fire protection for zones 59 and 74, the fire protection features are equivalent to the requirements specified in Subsection III.G.2 of Appendix R and therefore the licensee's requested exemption is granted for these fire zones.

These exemptions are contingent upon the licensee's maintenance of administrative control of transient conbustibles which are equivalent to those specified in Sections III.K.1 through III.K.8 of Appendix R of 10 CFR Part 50 and any characterization of transient combustibles or design features which are specifically discussed in the NRC staff's Safety Evaluation.

V

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or common defense and security and is otherwise in the public interest and hereby grants an exemption from the requirements of Subsection III.G.2. of Appendix R to 10 CFR Part 50 to the extent discussed in Section IV above.

The NRC staff has determined that the granting of this Exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Maryland this 9th day of January, 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-1330 Filed 1-17-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-225]

Rensselaer Polytechnic Institute; Renewal of Facility Operating License and Negative Declaration

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 5 to Facility Operating License No. CX-22 for the Rensselaer Polytechnic Institute (the licensee) that renews the license for operation of the critical experiment reactor located in Schenectady, New York. The facility is a research reactor that has been operating at steady state power levels not in excess of 100 watts (thermal).

The amendment extends the duration of Facility License No. CX-22 for twenty years from the date of issuance of this amendment.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter 1. Those findings are set forth in the license amendment. Notice of the proposed issuance of this action was published in the **Federal Register** on October 25, 1979 at 44 FR 61473. No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has prepared an environmental impact appraisal for the renewal of the Facility Operating License and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action.

For further details with respect to this action, see (1) the application for amendment dated May 14, 1979, as supplemented, (2) Amendment No. 5 to License CX-22, and (3) the Commission's related Safety Evaluation Report (NUREG-1023) and Environmental Impact Appraisal. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C.

The Safety Evaluation Report (Document No. NUREG-1023) can also be purchased, at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Bethesda, Maryland, this 2nd day of December 1983.

For the Nuclear Regulatory Commission.

Dino C. Scaletti,

Acting Chief, Standardization & Special Projects Branch, Division of Licensing.

[FR Doc. 84-1331 Filed 1-17-84; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 20552; (SR-CBOE-80-16)]

Chicago Board Options Exchange, Inc.; Order Extending Partial Approval of Proposed Rule Change on a Summary and Temporary Basis

January 12, 1984.

I. Introduction

On June 9, 1980, the Chicago Board Options Exchange Incorporated ("CBOE"), LaSalle at Jackson, Chicago, IL 60604, filed with the Commission, pursuant to the Securities Exchange Act of 1934 (the "ACT") and Rule 19b-4 thereunder, copies of a proposed rule change to modify its operations and procedures relating to options market makers. Among other things, the proposed rule change created a single class of market makers by eliminating supplemental appointments, increased the number of options classes in which market makers were permitted to have appointments, and established a new Exchange committee responsible for evaluating the performance of and taking disciplinary action against market makers. The proposed rule change also prescribed minimum requirements concerning the extent to which a market maker's trading activity must be conducted in person.[1] The rule change was approved by the Commission on February 12, 1981,[2] but the 1981 approval order was vacated on April 5, 1982, by the United States Court of Appeals for the Seventh Circuit in *Clement* v. *Securities and Exchange Commission*, an action challenging the minimum requirement for in-person market maker transactions, and the matter was remanded to the Commission.[3]

On May 11, 1982, with extensions thereafter effective until January 11, 1984, the Commission reviewed the rule filing and summarily and temporarily approved those portions of the proposed rule change not addressed in *Clement*.[4] During this interval, the Commission awaited certain amendments to the proposal and additional information from CBOE.[5] The Commission also solicited and evaluated public comment upon the proposed rule change.[6]

Further information has been received from the CBOE concerning the impact of CBOE's previous in-person requirement prior to that requirement's elimination by *Clement* v. *Securities and Exchange Commission*.[7] The Commission expects to act soon with respect to the proposed in-person rule. In the interim, it will be necessary for the Commission to extend for an additional 30 days its summary and temporary approval of those portions of the proposed rule change not at issue in *Clement*.[8]

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[1] Notice of the proposed rule change was published in Securities Exchange Act Release No. 16919 (June 24, 1980), 45 FR 43914 (1980). Subsequently, on July 9, 1980, the CBOE filed an amendment to the proposed rule change excluding certain closing transactions from the calculations of transactions required to be executed in person by market makers and requiring the recording of additional information on market maker orders. Notice of the amendment to the proposed rule change was published in Securities Exchange Act Release No. 17012 (July 25, 1980), 45 FR 51325 (1980).

[2] Securities Exchange Act Release No. 17535 (February 12, 1981), 46 FR 13055 (1981) ("1981 Approval Order").

[3] *Clement* v. *Securities and Exchange Commission*, 674 F.2d 641 (7th Cir. 1982).

[4] *See* Securities Exchange Act Release Nos. 18727 (May 11, 1982), 47 FR 21169 (1982); 18983 (August 16, 1982), 47 FR 37020 (1982); 19203 (November 1, 1982), 47 FR 50790 (1982); 19386 (December 30, 1982), 48 FR 915 (1983); 19641 (March 29, 1983), 48 FR 14795 (1983); and 19923 (June 28, 1983), 48 FR 31133 (1983); 20082 (August 12, 1983), 48 FR 37755 (1983); 20228 (September 23, 1983), 48 FR 44982 (1983); and 20382 (November 10, 1983), 48 FR 52529 (1983); and 20475 (December 13, 1983), 48 FR 56291 (1983).

[5] CBOE filed a substantive amendment to the proposed rule change on October 19, 1982. *See* Securities Exchange Act Release No. 19203 (November 1, 1982), 47 FR 50790 (1982). The Commission also received a letter from CBOE requesting approval of its proposed "in-person" rule on a pilot basis. *See* letter of May 10, 1983, from Anne Taylor, Secretary and Associate General Counsel, CBOE, to Richard Chase, Division of Market Regulation, Securities and Exchange Commission. File No. SR-CBOE-80-16.

[6] The public comments received since the beginning of November 1982 are discussed in Securities Exchange Act Release Nos. 19386 (December 30, 1982), 48 FR 915 (1983); 19641 (March 29, 1983), 48 FR 14795 (1983); and 20082 (August 12, 1983), 48 FR 37755 (1983), and are available for public inspection in File No. SR-CBOE-80-16. A further letter from CBOE, noted in the preceding footnote, is discussed in Securities Exchange Act Release No. 19923 (June 28, 1983), 48 FR 31133 (1983).

[7] *See* letter of Anne Taylor, Secretary and Associate General Counsel, CBOE to Kevin Fogarty, Division of Market Regulation, Securities and Exchange Commission, September 22, 1983. File No. SR-CBOE-80-16.

[8] CBOE has consented to this extension of partial approval.

Copies of the original submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the CBOE.

It is therefore ordered, that the proposed rule change referenced above, and to the extend indicated above, be, and it hereby is, approved until February 10, 1984.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-1275 Filed 1-17-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20548; File No. SR-NASD-83-20]

Self-Regulatory Organizations; Proposed Rule Change; National Association of Securities Dealers, Inc.; Exemption to the "Free-Riding and Withholding" Interpretation Provided by Section 13 of Schedule E to the Association's By-Laws

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 20, 1983, the National Association of Securities Dealers, Inc. ("Association") filed with the Securities Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been revised by the self-regulatory organization on January 4, 1984. The Commission is publishing this notice to solicit comments on the proposed rule change thereto from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Association is proposing to amend Section 13 to Schedule E under Article IV, Section 2 ("Schedule E") of the Association's By-Laws as follows (new language is italicized and deleted language is bracketed):

Notwithstanding the provisions of the Board of Governors' Interpretation With Respect To "Free-Riding and Withholding," a member may sell securities issued by a member or an affiliate of a member *which is subject to Section 9 hereof* of [its] *the member's* employees; potential employees resulting from *an* intended merger[s], acquisition[s], or other business combination of members resulting in one public successor corporation[,]; [or] persons associated with [it] *the member;* and the immediate family of such employees or associated persons without limitation as to amount and regardless of whether such persons have an investment history with the member as required by that Interpretation[.]; *provided, however, that in the case of an offering of equity securities for which a bona fide independent market does not exist, such securities shall not be sold, transferred, assigned, pledged, or hypothecated for a period of six months following the effective date of the offering.*

II. Self-Regulatory Organization's Statement Regarding the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and the basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

The Association is proposing to amend Section 13 of Schedule E to clarify those circumstances under which employees and other persons associated with a member, and their families, (collectively "related persons") may make purchases out of a public offering of the member's securities or the securities of a member's affiliate which is treated as an offering of a member's securities under Sechedule E. Such purchases would ordinarily be prohibited pursuant to paragraph (2) of the Board of Governors' Interpretation With Respect to "Free-Riding and Withholding" (the "Interpretation").

Section 13 is proposed to be amended to clarify that the exception to the Interpretation is only available with respect to purchases of a member's own securities or those issued by a non-member where the offering is treated as an offering by a member firm under Section 9 of Schedule E. Section 9 of Schedule E subjects an offering by a non-member issuer to the provisions of Schedule E to the same extent as if the offering were of securities issued by the member. Such non-members whose offerings are subject to Section 9 are usually the parent or holding company of a member firm (referred to herein for convenience as a "holding company"). An offering of securities by a member's holding company is subject to Section 9 if part of the proceeds of the offering are directed to a member, if the securities are being issued in exchange for securities of a member, or if the offering would result in the public ownership of a member. The proposed amendment would clarify that the "affiliate" referenced in Section 13 is one "which is subject to Section 9 hereof."

The Association also proposes to amend Section 13 to clarify that persons associated with a member who are not employees, e.g. directors, are included within the exception to the Interpretation.

In addition, the Association is proposing to amend Section 13 to require that related persons of a member hold securities of the member (or its holding company where treated as an offering by a member under Section 9) purchased in a public offering of equity securities for which no independent market exists for a period of six months following the offering.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Association believes this rule change presents no impact on competition which is not necessary in furtherance of the purposes of the Securities Exchange Act of 1934, as amended.

(C) Self-Regulatory Organization's Statement of Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Association requests accelerated effectiveness pursuant to Section 19(b)(2)(B) with respect to the proposed rule change. In recent months the number of public offerings of member firm securities has increased dramatically. In light of the current active market for such securities, the Association believes that the proposed holding period on securities acquired by persons related to a member is

necessary for the protection of investors and the maintenance of fair and orderly markets.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 11, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-1278 Filed 1-17-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20550; File No. SR-PSE-83-24]

Self-Regulatory Organization; Proposed Rule Change; the Pacific Stock Exchange Inc.; Special Fee To Finance Improved Exchange Facilities

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that of December 20, 1983, the Pacific Stock Exchange Incorporated ("PSE") or ("Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE is proposing to address the interrelated questions of improved Exchange facilities and the methods of financing such facilities by imposing a special fee on each of the 503 memberships outstanding as of December 15, 1983, and any memberships issued upon the exercise of rights prior to the close of business on December 30, 1983, payable pursuant to one of the following alternatives as determined by the owner:

(a) $6,000 payable by December 30, 1983.

(b) Payable at the rate of $290 per month for two years commencing January 1984 for a total aggregate amount of $6,960.

(c) Payable at the rate of $185 per month for four years commencing January 1984 for a total aggregate amount of $8,880.

The PSE's Board of Governors has adopted a policy beginning with calendar year 1984 which would provide for a partial reduction of Exchange charges available to members in good standing as of the end of any calendar year beginning in 1984 and ending in 1983 if a member's special fee has been fully paid at the end of such calendar year. The maximum reduction permitted for any one membership is $6,000.

In the event of a sale of a membership, the purchaser shall be treated as if he had chosen alternative (c) and must continue to pay the special fee in accordance with that alternative irrespective of the alternative selected by the seller of the membership and irrespective of that portion of the special fee received from the seller by the Exchange.

Any new memberships issued pursuant to outstanding rights subsequent to December 30, 1983, will be deemed to have chosen alternative (c) on the date of issuance but the right of prepayment shall continue to be available.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed special fee on each of the 503 PSE memberships outstanding as of December 15, 1983, and any memberships issued upon the exercise of rights prior to the close of business on December 30, 1983, is intended to raise adequate financing for contemplated facilities improvements to the Los Angeles and San Franciso Equity Floors and the San Francisco Options Floor.

The proposed special fee is consistent with Section 6(b)(4) of the Securities Exchange Act of 1934 which permits the Exchange to provide for the equitable allocation of reasonable dues, fees and other charges among its members.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change imposes no burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments on the proposed rule change were solicited from all members of the PSE. The only written coments received from members were contained in a petition signed on behalf of approximately 140 memberships on the Options Floor. The petiton requested the Board of Governors of the PSE to delay any further action on facilities expansion until existing alternatives could be considered. In response to the petition, the PSE Board of Governors requested Exchange staff to distribute to the membership a detailed analysis of the proposed facilities projects and their related cost. In additon, several Governors and the PSE staff met with members on five separate occasions to discuss the various alternative financing plans and any alternative proposals for facilities expansion and improvement.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of the Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if its appears to the Commission

that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the Submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned, self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 11, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-1277 Filed 1-17-84; 8:45 am]

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Philadelphia Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

January 12, 1984.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of:

National Intergroup, Inc.; Common Stock, $5 Par Value (File No. 7-7307)

This security is listed and registered on one or more other national securities exchange and is reported on the consolidated transaction reporting system

Interested persons are invited to submit on or before February 2, 1984 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the trading information available to it, that the extension of unlisted privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons

Secretary.

[FR Doc. 84-1278 Filed 1-17-84; 8:45 am]

BILLING CODE 8010-01-M

[812-5694; Rel. No. 13717]

Credit Commercial de France et al.; Filing of Application for an Order Pursuant to Section 6(c) of the Act Exempting the Applicants From All Provisions of the Act

January 12, 1984.

Notice is hereby given that Credit Commercial de France ("CCF") c/o George M. Cohen, Esq., Cleary, Gottlieb, Steen & Hamilton, One State Street Plaza, New York, New York 10004, and Credit Commercial de France North America Inc. ("CCF North America") (collectively, the "Applicants") filed an application on November 10, 1983, for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 (the "Act") exempting them from all provisions of the Act. The Applicants represent that CCF North America is a corporation organized under the laws of the State of Delaware and a wholly-owned subsidiary of CCF, a bank organized under the laws of the Republic of France. All persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the text of the Act for the various provisions thereof, including Section 6(c), pertinent to a consideration of the application.

The Applicants represent that, as of December 31, 1982, CCF was the eighth largest French bank and the 112th largest bank in the world on the basis of total deposits, and that CCF engages both in its home country and throughout the world in deposit-taking, credit extension and other activities which constitute "full service" commercial banking. The Applicants state that CCF North America is a Delaware finance company, formed on October 31, 1983, as a financing vehicle for CCF; that they expect that the proceeds of offerings made by CCF North America (except for amounts needed to repay maturing securities issued by CCF North America and to meet its expenses) will be relent to or deposited with CCF; and that payment of the principal of and interest on securities issued from time to time by CCF North America will be unconditionally guaranteed by CCF.

The Applicants propose that CCF North America issue and sell in the United States unsecured short-term promissory notes of the type generally referred to as commercial paper (the "Notes"). The Notes will be denominated in United States dollars, be of prime quality and be issued in bearer form in minimum denominations of $100,000. The Notes will be direct liabilities of CCF North America and will rank *pari passu* among themselves and equally with all other unsecured indebtness of CCF North America. The guarantees by CCF of the Notes will rank *pari passu* will all other unsecured indebtedness of CCF (including its deposit liabilities). The Applicants undertake to ensure that the Notes will be issued and sold through one or more major American commercial paper dealers to the types of investors who normally participate in the United States commercial paper market and that the Notes will not be advertised or otherwise offered for sale to the general public.

The Applicants undertake to ensure that the dealer or dealers will provide each offeree of the Notes, prior to any sale of Notes to such offeree, with a memorandum which describes the business of CCF and CCF North America and contains CCF's most recent publicly available financial statements, which shall have been audited in such manner as is customarily done for CCF by its French auditors, accompanied by a description of any material differences between the accounting principles applicable to CCF in the preparation of such financial statements and generally accepted accounting principles applicable to banks in the United States. The memorandum will be updated as promptly as practicable to reflect any material changes in the business and financial condition of CCF or CCF North America and will be at least as comprehensive as those customarily used in offering commercial paper in the United States.

The Applicants state that it is intended that the characteristics of the Notes and the manner of offering to investors will be such as to qualify the Notes for exemption from registration under Section 3(a)(3) of the Securities Act of 1933, as amended (the "1933 Act"). The Applicants represent that they will not issue and sell the Notes until an opinion of special legal counsel in the United States has been received to the effect that the proposed issuance of commercial paper described in the application is entitled to the exemption afforded by Section 3(a)(3) of the 1933 Act. The Applicants do not request Commission review or approval of such counsel's opinion, and the Commission expresses no position as to the availability of such an exemption.

The Applicants or either of them may, from time to time, offer other debt securities for sale in the United States. Any such securities issued by CCF North America would be unconditionally guaranteed by CCF. In connection with any such offering, the Applicants undertake to ensure that offerees will be provided, prior to any sale of such debt securities, with disclosure documents at least as comprehensive in their description of CCF and CCF North America and their respective businesses and financial statements as the dealer's memorandum referred to above and in no event less comprehensive than is customary for offerings in the United States of similar debt securities. In addition, any future offering of securities of either of the Applicants which is subject to the registration requirements of the 1933 Act will be made pursuant to offering documents which comply with the requirements of the 1933 Act. The Applicants consent to any order granting the relief requested pursuant to Section 6(c) of the Act being expressly conditioned upon its compliance with the undertakings regarding disclosure documents.

The Applicants state that they appoint a bank or branch of a foreign bank in the United States as authorized agent to issue the Notes from time to time. The Applicants represent that each will appoint such bank or branch, or some other United States person which normally acts in such capacity to accept any process which may be served in any action based on the Notes or the guarantees relating thereto and instituted in any State or Federal court by the holder of any such security. The Applicants undertake expressly to accept the jurisdication of any State or Federal court in the City and State of New York in respect of any such action. Such appointment of an authorized agent to accept service of process and to become due in respect of the securities have been paid. The Applicants will also be subject to suit in any other court in the United States which would have jurisdiction because of the manner of the offering of such security or otherwise.

The Applicants also undertake, in connection with any future offering in the United States of their securities, to appoint an agent to accept any process which may be served in any action based on such securities (or guarantee thereof by CCF) and instituted in any State or Federal court by any holder of any such securities. The Applicants further undertake that they will expressly accept the jurisdication of any State or Federal court in the City and State of New York in respect of any such action. Such appointment of an agent to accept service of process and such consent to jurisdiction will be irrevocable until all amounts due and to become due in respect of such securities have been paid. The Applicants will also be subject to suit in any other court in the United States which would have jurisdiction because of the manner of the offering of such securities or otherwise.

The Applicants represent that the presently proposed issue of commerical paper and all future issues of securities offered for sale in the United States by CCF or CCF North America shall have received, prior to issuance, one of the three highest investment grades from at least one nationally recognized statistical rating organization and that its United States counsel shall have certified that such rating has been received, provided, however, that no such rating shall be required to be obtained, if, in the opinion of such United Stated counsel, such counsel having taken into acount for the purposes thereof the doctrine of "integration" referred to in various releases and no-action letters made public by the Commission, an exemption from registration is available with respect to such issue under Section 4(2) of the 1933 Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 6, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-1382 Filed 1-17-84, 8:45 am]

BILLING CODE 8010-01-M

[812-5648; Rel. No. 13716]

Ivy Fund, Inc. and Hingham Management Inc.; Application for an Order Pursuant to Section 17(d) of the Act and Rule 17d-1 Thereunder Approving Certain Transactions From the Provisions of Section 17(a) of the Act

January 12, 1984.

Notice is hereby given that Ivy Fund, Inc. ("Fund"), and Hingham Management Inc. ("Manager," together with the Fund, "Applicant") 40 Industrial Park Road, Hingham, MA 02403, filed an application on September 15, 1983, and an amendment thereto on December 2, 1983, for an order of the Commission pursuant to section 17(d) of the Investment Company Act of 1940 ("Act") and Rule 17d-1 thereunder, approving certain proposed transactions, and pursuant to Section 17(b) of the Act, exempting certain proposed transactions from the provisions of Section 17(a) of the Act. All interested persons are referred to the application on file with the Commission for the facts and representations contained therein, which are summarized below, and to the Act and the rules thereunder for the text of all relevant provisions.

Applicants state that the Fund is a Delaware corporation registered under the Act as an open-end, diversified, management investment company. The Fund is internally managed; it provides directly or contracts for the services needed for its operations. The Fund's principal investment objective is long-term capital growth, primarily through investment in equity securities. Consideration of current income is secondary to this principal objective. As of August 31, 1983, the Fund had net assets of $104,176,245.

Applicants state that the Fund's investment adviser is Furman Selz

Mager Dietz & Birney Incorporated ("Furman Selz"), which has entered into a sub-advisory contract with Grantham, Mayo, Van Otterloo & Co. ("Grantham, Mayo") pursuant to which Grantham, Mayo develops, recommends and implements an investment program and strategy for the Fund. Thus, although Furman Selz is contractually obligated to provide advisory services to the Fund, Grantham, Mayo in fact provides all such services. Applicants state that the purpose of this arrangement is to provide the Fund with an opportunity to reduce its advisory expenses through a partial credit for brokerage commissions paid by the Fund on brokerage transactions placed with Furman Selz, but that the amount of such reductions has not been material in recent years. Furman Selz receives compensation from the Fund at the rate of .5 of 1% per annum of the Fund's average annual net assets. The percentage amount is reduced by an amount equal to 50% of the aggregate of all compensation retained by Furman Selz (net of fees paid to others for execution and for clearance and settlement services) in connection with Fund portfolio transactions placed with it. Furman Selz, and not the Fund, is obligated to compensate Grantham, Mayo for its services under the subadvisory contract. Grantham, Mayo is paid by Furman Selz at the rate of .5 of 1% of the Fund's average annual net assets. In the event that the Fund's expenses for any fiscal year exceed the lowest applicable expense limitation of any state in which shares of the Fund are qualified for sale, the advisory fee otherwise payable under these arrangments (before any reduction on account of brokerage) is reduced to .4 of 1% of the Fund's average net assets to the extent necessary to comply with such limitation. The Fund acts as its own distributor and transfer agent.

Applicants state that Grantham, Mayo has notified the Fund that it is not willing to continue to serve as investment adviser to the Fund unless; (i) Its subadvisory fee is increased to .6 of 1% of the Fund's average annual net assets and (ii) the Fund takes action to maintain a net asset size of not more than $100 million. The request for an increase in the subadvisory fee paid to Grantham, Mayo is currently under consideration by the directors of the Fund for their approval, whether or not the externalization and reorganization transactions are also submitted.

Applicants state that the request that the Fund limit its growth presents certain unique problems to a "stand alone," internally managed investment company such as the Fund. As one alternative response to this request, Messrs. Peers and Watson proposed a new management arrangement involving: (i) The externalization of the administrative functions now performed internally by officers and employees of the Fund and (ii) the reorganization of the Fund as a series company. After consideration of the various alternatives, the Fund's board of directors approved this proposal and determined to submit it to the Fund's shareholders.

Applicants state that the Manager is a newly formed corporation, whose stock is owned principally by Michael R. Peers and William M. Watson, each of whom is an officer and director of the Fund. Under the proposed new arrangement, the Manager would contract with the Fund to provide advisory, management and administrative services. While the Manager would be contractually obligated to provide investment advisory services to the Fund, the Manager would enter into subadvisory contracts with unrelated investment advisory firms which would in fact provide all advisory services to the Fund. The subadvisers would develop, recommend and implement investment programs and strategies, and would be responsible for making all portfolio security and brokerage decisions, subject to the supervision of the Manager and, ultimately, of the Fund's board of directors. The Manager would perform all shareholder accounting, shareholder servicing, administrative and other management functions necessary to carry on the affairs of the Fund, and would provide at its own expense the office space and equipment, shareholder communication capability, bookkeeping, accounting, internal legal, clerical, secretarial and administrative services, and executive and other personnel necessary. The Manager would pay any salaries, fees and expenses of those directors of the Fund who are employees of or consultants to the Manager or any affiliate of the Manager. The Manager would also pay, or reimburse the Fund for, all expenses for the primary purpose of soliciting new investments in the Fund, although the Fund would continue to act as its own distributor.

Applicants state that the Manager would utilize substantially the same personnel and facilities as are now employed by the Fund in providing itself with management services. Messrs. Peers and Watson and the three other present employees of the Fund would all become employees of the Manager. The Manager would purchase from the Fund the computer hardware and software, and the furniture, furnishings and other equipment now used by the Fund in this connection, and would obtain an assignment from the Fund of its real estate lease. Those assets would be purchased for cash in an amount equal to the greater, at the time of transfer, of their book value where relevant) or appraised value, as established by an independent appraiser and approved by the disinterested directors of the Fund. The book value of those assets at June 30, 1983, was $75,237, representing less than 0.1% of the Fund's assets.

Applicants state that simultaneously with the externalization of administrative functions, the Fund would be reorganized as a series company. It is expected that the Fund initially would have two portfolio series designated "Ivy Institutional Investors Fund" and "Ivy Growth Fund," respectively. The investment objectives and policies of each portfolio would be similar to the present objective and policies of the Fund. Ivy Institutional Investors Fund would be offered on a limited basis primarily to institutions and other tax-exempt investors. Ivy Growth Fund would be offered to the general public in substantially the same manner as Fund shares are currently offered. Grantham, Mayo initially would serve as the subadviser for the Ivy Institutional Investors Fund; new investment advisory firms yet to be selected would serve as subadviser for Ivy Growth Fund. All shares of the Fund outstanding at the time of the reorganization would be converted into shares of Ivy Growth Fund. However, in order to afford current shareholders an opportuntiy to continue to have their investment managed by Grantham, Mayo, they would be informed by special notice that they would have the opportuntiy for a period of not less than three months to exchange their shares of Ivy Growth Fund on a net asset value basis for shares of Ivy Institutional Investors Fund, without regard to any minimum investment requirement that may be established.

Applicants state that under its contract, the Manager would receive compensation from the Fund at the rate of 1.1% per annum of the Fund's average annual net assets. The Manager, and not the Fund, would be obligated to compensate the subadvisers for their services under the subadvisory contracts. It is expected that Grantham, Mayo will be compensated at an annual rate of .6 of 1% of the average annual net assets of the Ivy Institutional Investors Fund and that the compensation

payable to the subadviser for Ivy Growth Fund will not exeeced this rate.

Applicants represent that the proposed management fee was determined with a view to minimizing any possible increase in total operating expenses due to the proppsed externalization of administrative functions. According to pro forma and comparative financial information furnished with the application, the operating expenses of the Fund in each of the three most recent of the four years would have been slightly higher under the proposed new managemnt arrangement than they were under the Fund's present internal management arrangement and would have been slightly lower in the prior year. However, Applicants assert that a comparable increase could be expected as a result of the increased subadvisory fee requested by Grantham, Mayo (from .5 of 1% to .6 of 1%), even if the externalization proposal is not consummated. Financial information furnished with the application indicates that the externalization of administrative functions alone would have accounted for only an insignificant increase in expense level in each of 1981 and 1982 and for minor decreases in each of the prior two years. That financial information reflects the discontinuance of the distribution plan currently in effect pursuant to Rule 12b–1. As one of the conditions of any order that might issue on the application, the Fund would undertake not to implement another distribution plan pursuant to Rule 12b-1 for a period of three years following consummation of the proposed externalization.

Applicants state that in connection with the proposed externalization, the Manager would give the following undertakings to the Fund:

1. Each Shareholder of the Manager will represent to the Fund that he has no present intention of selling any of his shareholdings in the Manager.

2. All shares of the Manager would be subject to an option by the Manager (or by other holder(s) of shares in the Manager) for a three-year period to repurchase such shares for their book value (which would exclude any value attributable to the management contract) upon the death or termination of employment of the share-holder, or upon a proposed voluntary or involuntary transfer of the shareholder's shares.

3. For a period of five years, the approval of Fund shareholders would be required of the terms of any sale by an owner of shares in the Manager and receipt of consideration by the seller in excess of the book value of the shares sold.

4. In the case of any sale by an owner of shares in the Manager within three years, the selling owner would be obligated to pay to the Fund a percentage of any "Sale Profit" arising therefrom equal to 100% in the first year, 66.67% in the second year, and 33.33% in the third year. For this purpose, the "Sale Profit" would be the excess of the net profits derived from the sale over the book value of the shares sold (after reducing such excess on account of any cumulative operating loss incurred by the Manager since its incorporation), or, if the Manager had clients at the time of the sale in addition to the Fund, an allocated portion of such excess. The "allocated portion" would be that portion of such excess value fairly attributable to the management agreement with the Fund, that allocation to be proposed initially by the Manager and to be subject to the approval of the board of directors of the Fund, including a majority of those directors who are not interested persons of the Managers or of the Fund.

5. The Manager will provide management services to the Fund under the proposed management contract for at least three years at a management fee which may not be increased (provided that, subject to the approval of the directors and of the shareholders of the Fund in accordance with Section 15 of the Act, the Manager would be able to pass through to the Fund any increase in subadvisory fees above .6 of 1%).

6. At least 70% of the members of the board of directors of the Fund would be persons who are not interested persons of the Manager. Such disinterested directors would retain control of the audit committee, disinterested director nominating committee and proxy machinery; and would direct any committee that might be designated by the board at any time to review brokerage allocation.

7. For a period of five years, each of the principals of the Manager would stand available to serve as an officer of the Fund in whatever capacity the board of directors might wish, so long as the management contract remained in effect.

8. The management contract would state that the Manager "will not undertake any seriously conflicting duties of loyalty which would affect its prior fiduciary duty" to the Fund.

9. For a period of five years, the Manager would give the Fund advance notice in writing of any proposal by the Manager to take on new clients of material significance and would provide to the board of directors any information relevant to a determination of the effect that any proposed additional client would have on the Manager's ability to carry out its obligations to the Fund.

Applicants state that the primary purpose of the proposed new arrangement is to permit the Fund to maintain its relationship with Grantham, Mayo, while maintaining (or enhancing) the Fund's ability to market new shares and thus to maintain (or expand) its asset base and concomitant economies of scale. The benefits of the proposed new arrangement are summarized in the application as follows. The proposed arrangement would permit the Fund to retain its relationship with Grantham, Mayo, and would also utilize substantially the same personnel as are now employed by the Fund in providing itself with management services, thereby ensuring continuity of management and administration of the Fund. Continued growth of the asset base of the Fund will enable the Fund to hold down or possibly reduce the ratio of total operating expenses to average net assets. Such economies of scale are possible as the relatively fixed operating expenses borne directly by the Fund are spread over a larger asset base. Similar economies can be expected in those expenses assumed by the Manager. Although in the latter instance such economies would not be of immediate benefit to the Fund because of the fixed management fee, the disinterested directors of the Fund intent to negotiate "breakpoints" in the advisory fee if substantial growth in the net assets of the Fund results in the realization of such economies by the Manager. The risk of decline in assets is aggravated by the fact that the Fund currently offers only one type of investment product: a growth-oriented equity product which at times may be generally out of favor with the investing public. The proposed arrangement would provide an independent entity, the Manager, which could bear the risks and promotional expenses involved in offering additional investment company products as new Fund series. The proposed arrangement would provide the opportunity, under an external management structure, for the personnel who carry on the business of the Fund to have an equity participation in a profit-oriented investment advisory firm and other personnel incentives, with a consequently increased likelihood of attracting, motivating and retaining superior management personnel. Because of the relatively small number of internally managed funds, most regulatory initiatives relating to investment companies are

geared to the conventional external management structure. Thus, questions which can be answered in common for the vast majority of the industry often require special consideration by internally managed funds. The additional risks and expenses associated with the unconventional structure of the Fund in a highly regulated environment will be eliminated by the proposed change to external management.

The Applicants state that, in analyzing the proposal, the disinterested directors reviewed among other things: (i) Pro forma financial information demonstrating the impact of the externalization on the Fund's operating expenses, (ii) comparative information regarding the performance of the Fund and other funds with similar objectives and (iii) pro forma financial information regarding the Manager.

Applicants further state that the disinterested directors considered the following additional factors in deciding to approve the proposal:

1. The proposal provides an opportunity to freeze a significant portion of the Fund's current operating expenses for a three year period.

2. The undertakings to be made by the Manager in connection with the externalization will effectively prevent the shareholders of the Manager from realizing any "windfall" profits on the sale of the Manager.

3. The proposal preserves the separation of the administrative and advisory functions which affords the Fund greater flexibility in terminating advisory relationships in the face of unsatisfactory performance.

4. The board of directors of the Fund would retain control of the Fund in fact due to the requirement that at least 70% of the directors will be persons who are not interested persons of the Manager and that such disinterested directors will retain control of the audit committee and disinterested director nominating committee (as well as any brokerage committee that might be established in the future). The disinterested directors would also continue to exercise their statutory responsibility for approving the continuance of, and any changes in, the contracts with the Manager and the subadvisers.

5. The Manager will undertake to notify the Fund in advance of new clients of material significance. (In this regard the disinterested directors acknowledge that the board of directors would be under a fiduciary duty, if it believed that the quality of services to the Fund would be impaired by such action, to take such steps as it might deem necessary, including renegotiation of the fee payable to the Manager.)

For the reasons stated above, the Applicants request that the Commission enter an order pursuant to Sections 17(b) and 17(d) of the Act and Rule 17d–1 thereunder to permit them to enter into the proposed new management arrangements described in the application, and to undertake transactions and arrangements incidental thereto.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 1, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–1381 Filed 1–17–84; 8:45 am]

BILLING CODE 8010–01–M

[File No. SR–OCC–83–17; Rel. No. 20558]

Options Clearing Corp. ("OCC"); Order Granting Accelerated Approval of Proposed Rule Change

January 13, 1984.

On August 8, 1983, OCC filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), (the "Act") and Rule 19b–4 thereunder, a proposed rule change that expands the types of assets that clearing members may deposit to satisfy their OCC margin obligations. Notice of the proposed rule change, together with the terms of substance of the proposed rule change, was given by publication of Securities Exchanges Act Release No. 20114 (August 25, 1983), 48 FR 39549 (August 31, 1983). On November 16, 1983, OCC filed a substantive amendment to the proposal. That amendment was published for comment in Securities Exchange Act Release No. 20482 (December 8, 1983), 48 FR 55982 (December 16, 1983). No letters of comment were received.

OCC's margin rules [1] require, in general, that a clearing member deposit margin on aggregate short positions [2] and on certain options exercised by that member. OCC Rule 604(d) currently provides that margin may be deposited in the form of: (a) Cash or certain checks; (b) U.S. Government securities; [3] (c) letters of credit; [4] or (d) underlying common stocks. [5] The proposed rule change would amend OCC Rule 604(d) to permit OCC clearing members to meet their martin obligations by depositing certain common stocks not underlying options. Those stocks must have a market value greater than ten dollars per share and must be either: (1) Exchange-listed securities that have last sale reports collected and disseminated pursuant to a consolidated transaction reporting plan; [6] or (2) over-the-counter ("OTC") securities designated as National Market System securities under Rule 11Aa2–1 (17 CFR 240.11Aa2–1) ("NMS securities"). [7] The proposal

[1] *See* OCC Rules 601–613. OCC's margin requirements should be distinguished from customer margin requirements in Regulation T, 12 CFR 220.1, *et seq.* Regulation T governs, among other things, the amount of money that a broker-dealer's customer can borrow to purchase securities and the amount and type of collateral that those customers must deposit to secure their obligations. In contrast, OCC's daily margin requirements are imposed on OCC's clearing members with respect to the positions that they maintain each day at OCC and help ensure that those members need their obligations to OCC.

[2] *See* OCC Rule 601 for the method of computing margin on aggregate short positions.

[3] *See* OCC Rule 604(b).

[4] In January 1983, the Commission approved certain aspects of, and some amendments to, the use of letters of credit for OCC margin purposes. *See* Securities Exchange Act Release No. 19422 (January 12, 1983), 48 FR 2661 (January 20, 1983).

[5] In August 1982, the Commission approved File No. SR–OCC–82–11, which authorized OCC to accept stocks underlying listed options for OCC margin purposes. *See* Securities Exchange Act Release No. 18894 (August 20, 1982), 47 FR 37731 (August 26, 1982) (the "Underlying Stocks Order").

[6] Under the Consolidated Tape Association Plan filed with the Commission under § 11A of the Act and Rule 11Aa3–2 (17 CFR 240.11Aa3–2), not all listed stocks are reported through a consolidated reporting system. Only stocks that substantially meet the New York or American Stock Exchanges' listing standards are reported. Those standards generally set forth high minimum requirements relating to, among other things, the issue's public float, the market value of that float, and the issuer's net tangible assets. *See New York Stock Exchange Guide*, (CCH), ¶ 2495 and *American Stock Exchange Guide*, (CCH), at ¶ 10,001, *et seq.*

[7] NMS securities are certain designated OTC securities. Section 11A(a)(2) of the Act directs the Commission to designate, by rule, securities qualified for trading in the National Market System ("NMS"). Under the authority, the Commission adopted Rule 11Aa2–1 (17 CFR 240.11Aa2–1), which establishes criteria for designating as NMS securities certain actively traded NASDAQ

[illegible]

does not modify the existing limitation that stocks of any one issuer cannot be valued at an amount greater than ten percent of the clearing member's aggregate margin requirement. Nor does the proposal change OCC's right to preclude from deposit for OCC margin purposes otherwise eligible securities issues that are suspended from trading in the issue's primary market or are subject to special margin requirements because of the issue's volatility, lack of liquidity, or similar characteristics.[8] Finally, the proposed rule change would change the basis for determining the maximum loan value [9] of the hypothecable securities from the "daily underlying security marking price" [10] to the previous day's closing price of such stock in that stock's primary market or, if the stock was not traded in its primary market on that day, the lowest reported bid quotation for that stock at or about the close of trading of such day.

On January 11, 1984, the Board of Governors of the Federal Reserve System ("the Board") amended Regulation T [11] to enable OCC's clearing members to deposit for OCC margin purposes any security that: (1) Qualifies as a "margin security" under Regulation T; [12] and (2) complies with OCC's Rules as approved by the Commission. In conjunction with filing the proposal with the Commission, OCC requested that the Board amend Regulation T to expand the universe of securities that members can deposit to satisfy OCC margin requirements. [13] Regulation T previously had restricted such margin deposits to securities underlying outstanding classes of listed options.

In its filing, OCC states that the proposal essentially extends the concept of allowing clearing members to use a defined class of common stocks to secure their OCC margin obligations, a concept that was approved by the Commission in the Underlying Stocks Order. Based on OCC's experience to date, however, OCC now believes that the expected benefits to OCC's clearing members from current OCC Rule 604(d) have not materialized to the degree anticipated.[14] Stocks underlying standardized listed option contracts, which, as noted *supra*, currently can be used to secure clearing members' OCC margin obligations, largely have been unavailable for that purpose due to general heavy industry demand.[15] OCC believes that the proposal will accomplish the results intended by OCC in File No. SR–OCC–83–11. OCC also believes that the proposal's greater than ten dollar minimum market value, in conjunction with the requirements that the securities issues be exchange-listed or NMS securities, will ensure that OCC: (1) Can easily monitor the value of its margin deposits on a daily basis; and (2) in the case of clearing member default, can easily sell the member's deposited securities quickly with minimal adverse market impact. [16]

Finally, OCC states that its proposed rule change is consistent with Section 17A(b)(3) (A) and (F) of the Act assures the safeguarding of securities and funds which are in its custody or control or for which it is reasonable under Sections 17A(b)(3) (A) and (F) of the Act.

The Commission agrees with OCC that the proposal is consistent with the Act and, thus, believes the proposal should be approved. While the Commission acknowledges that common stocks generally may present more potential for financial exposure to OCC than other types of allowable OCC margin assets, *e.g.*, U.S. Government securities, the Commission recognizes that the proposal continues the financial safeguards already approved by the Commission in the Underlying Securities Order. In addition, the Commission believes that the proposal's eligibility criteria, *i.e.*, the requirements that the issue be valued at greater than ten dollars and be an exchange-listed or an

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securities. In addition to OCC's per share market value requirement, securities eligible for deposit would have to satisfy the "Tier 1" criteria of Rule 11Aa2–1(b)(4)(i). Those criteria, among other things, include: (1) The issuer must have net tangible assets of at least $2 million and capital and surplus of at least $1 million; (2) the issue must have a publicly held float of at least 500,000 shares; (3) the aggregate market value of those shares must be at least $5 million; and (4) the average monthly trading volume during the six months preceding the most recent qualification date must be at least 600,000 shares. Designation of a security as a NMS security requires broker-dealers trading the security to submit last-sale reports on a real-time basis. *See* Securities Exchange Act Release No. 17549 (February 17, 1981), 46 FR 13992 (February 25, 1981).

[8] Under OCC's current margin program, OCC each day monitors the dollar levels of each clearing member's margin deposits and also monitors whether pledged assets continue to qualify as "good" margin collateral, *i.e.*, if bonds have matured or if letters of credit soon are to expire. OCC requires clearing members to make additional margin deposits as required. *See* Chapter VI of OCC's Rules.

[9] Stock deposited with OCC to meet OCC margin requirements is assigned a value each day by OCC. Under OCC Rule 604(d), stock deposited in satisfaction of OCC's margin requirements is valued at its maximum loan value under Regulation U (17 CFR 221.1, *et seq.*) or at 70% of its current market value, whichever is less. Thus, at present, such stock is valued at 50% of its current market value. OCC's restriction on valuing securities at no more than 70 percent of their market value, *i.e.*, reducing value by 30 percent, is similar to the treatment of those securities under the Commission's Net Capital Rule (Rule 15c3–1, 17 CFR 240.15c3–1) in that the basic method for computing net capital includes a 30 percent reduction, or "haircut," of the value of securities held by the broker-dealer.

[10] The "daily underlying security marking price" is defined in OCC Rule 602 to be, among other things, "the closing price for such underlying security on the primary market for such underlying security during the preceding trading day or, if it was not traded in the primary market, the highest reported asked quotation (for call options) or the lowest reported bid quotation (for put options) for the underlying security at or about the close of trading on such day."

[11] The Federal Reserve Board has amended subsection 14(b) of Regulation T, 12 CFR 221.14(b), to state: Deposit of securities with options clearing agency. The provisions of this part shall not apply to the deposit of securities with an options clearing agency for the purpose of meeting its deposit requirements if:

(1) The clearing agency issues options on securities;

(2) The clearing agency is registered with the SEC;

(3) *The deposit consists of any margin security and complies with the rules of the clearing agency which have been approved by the Securities and Exchange Commission.* (Change in italics.) *See* 49 FR —— (January —, 1984).

[12] Under 12 CFR 220.1(o), a "margin security" is "any registered security, OTC margin stock, OTC margin bond, or any security issued by either an open-end investment company or unit investment trust which is registered under section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a–8)."

[13] *See* letter dated September 28, 1983, to Ms. Laura Homer, Securities Credit Officer, Board of Governors of the Federal Reserve System from Mr. Wayne P. Luthringshausen, Chairman of the Board and President of OCC.

[14] In approving File No. SR–OCC–82–11, the Commission considered a number of expected benefits to OCC clearing members. Those benefits included: (1) Allowing clearing members greater flexibility in meeting their OCC financial obligations; (2) enhancing significantly clearing members' ability to use idle inventory of hypothecable securities; and (3) avoiding the need for clearing members to tie up cash or to obtain U.S. Government securities or letters of credit to secure OCC margin obligations. The Commission and OCC anticipated that significant cost savings for clearing members would have resulted.

[15] OCC states that underlying stocks are in heavy demand for such other uses as stock loans and conversion transactions involving combinations of stock and options positions.

[16] OCC's margin deposits and close-out procedures provide the primary line of protection against losses incident to participant default. When a writer-clearing member defaults on its contractual obligations, OCC ordinarily suspends it from OCC membership. OCC takes custody of most of the member's assets pledged to OCC, including margin and clearing fund deposits, and places them in a "liquidating settlement account." *See* OCC Rule 1104. after buy-ins and sell-outs in the best available market, pursuant to OCC Rules 910 and 911, the outstanding liabilities of the suspended clearing member are satisfied from that member's liquidating settlement account. OCC first charges liabilities against the suspended clearing member's margin deposit. If the margin deposits are exhausted, then the suspended member's clearing fund assets are charged. If there is still a deficiency, OCC, in its discretion, may elect to charge the deficiency, in whole or in part, to OCC's current earnings. Alternatively, OCC, among other things, can pledge solvent clearing members' clearing fund assets or draw down solvent clearing members' clearing fund contributions on a *pro rata* basis. *See* OCC By-law, Art. VIII. Because clearing fund deposits are "good" assets for net capital purposes under Rule 15c3–1, a *pro rata* assessment could cause clearing members to violate that Rule.

NMS security, should enable OCC to monitor the market values of those securities easily. Moreover, the Commission believes that the eligibility criteria will ensure OCC that it can rely on a readily available, sufficiently active, liquid, and deep market to sell expeditiously deposited securities of a defaulting OCC clearing member. Without that assurance, the reliability of OCC's margin program, which is its primary safeguard against financial exposure from clearing member default, would be reduced. Thus, OCC and its solvent clearing members would be exposed to unacceptably increased risk.[17]

Finally, the Commission believes that the proposal's change in the method for determining the market value of OCC margin stock is reasonable. Under the proposal, that value is deemed to be the stock's closing price in its primary market during the preceding trading day or, if it was not traded in the primary market, the lowest reported bid quotation for that stock at or about the close of the trading day. Currently, this determination is based on the stock's daily underlying security marking price" as defined in OCC Rule 602. Because unamended OCC Rule 604(d) is limited to underlying stocks, that basis was appropriate. Under the proposal, however, a much broader universe of stocks will be eligible for deposit at OCC for OCC margin purposes. The proposal's basis for measuring market value must reflect that broader universe of stocks.

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act, particularly Section 17A, and the rules and regulations thereunder applicable to registered clearing agencies. Because the Commission received no comments and because the Board recently approved the amendment to Regulation T, as discussed above, the Commission believes that OCC should be able to implement its proposal at the earliest possible time. Thus, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

[17] *See* note 16 *supra*.

For the Commission by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-1379 Filed 1-17-84; 8:45 am]

BILLING CODE 8010-01-M

[File Nos. 22-12745]

Revlon, Inc.; Application and Opportunity for Hearing

January 13, 1984.

Notice is hereby given that Revlon, Inc. (the "Company") has filed an application pursuant to clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Commission that the trusteeship of The Chase Manhattan Bank (National Association) ("Chase") under an Indenture of the Company dated as of July 15, 1980 (the "1980 Indenture"), which was heretofore qualified under the Act, and the proposed trusteeship of Chase as successor trustee under an Indenture of the Company dated as of May 1, 1975 (the "Morgan Indenture"), heretofore qualified under the Act with Morgan Guaranty Trust Company of New York as Trustee, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Chase from acting as Trustee under the 1980 Indenture and the Morgan Indenture.

The provisions of Section 310(b) of the Act, which are among those of the 1980 Indenture, provide in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in such section), it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of this Section provides, with certain exceptions stated therein, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities of the same issuer are outstanding.

The present application, filed pursuant to clause (ii) of Section 310(b)(1) of the Act, seeks to exclude the Morgan Indenture from the operation of Section 310(b)(1) of the Act.

The effect of the proviso contained in clause (ii) of Section 310(b)(1) of the Act on the matter of the present application is such that the Morgan Indenture may be excluded from the operation of Section 310(b)(1) of the Act with respect to the 1980 Indenture if the Company shall have sustained the burden of proving, by this application to the Commission and after opportunity for hearing thereon, that the trusteeship of Chase under the 1980 Indenture and under the Morgan Indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Chase from acting as trustee under the 1980 Indenture and the Morgan Indenture. In support of its application the Company alleges that:

(1) The Company issued and sold $100,000,000 aggregate principal amount of its 8.45% Notes due May 1, 1985 (the "Notes") under the Morgan Indenture and $200,000,000 aggregate principal amount of its 10⅞% Sinking Fund Debentures due July 15, 2010 (the "Debentures") under the 1980 Indenture;

(2) At August 31, 1983, the Company had $100,000,000 of its Notes and $160,000,000 of its Debentures outstanding. The Notes and Debentures were registered under the Securities Act of 1933 (File Nos. 2-53585 and 2-68345, respectively) and the Morgan Indenture and the 1980 Indenture were qualified under the Trust Indenture Act of 1939;

(3) Morgan Guaranty has resigned as Trustee under the Morgan Indenture pursuant to Section 7.10(a) thereof, such resignation to become effective upon acceptance of appointment by a successor trustee;

(4) Chase has agreed to accept appointment as successor trustee under the Morgan Indenture subject to a finding by the Commission that the trusteeship of Chase under the 1980 Indenture and the Morgan Indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors or holders of Notes or Debentures to disqualify Chase from acting as trustee under the 1980 Indenture and the Morgan Indenture;

(5) The 1980 Indenture and the Morgan Indenture are wholly unsecured and rank pari passu inter se;

(6) The Company is not in default under the 1980 Indenture, the Debentures, the Morgan Indenture, or the Notes;

(7) Such differences as exist between the 1980 Indenture and the Morgan Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Chase from acting as trustee under the 1980 Indenture and the Morgan Indenture.

The Company has waived notice of hearing, hearing and any and all rights to specify procedures under the Rules of Practice of the Securities and Exchange Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the offices of the Commission's Public Reference Section, 450 5th Street, NW., Washington, D.C. 20549.

Notice is further given that an order granting the application may be issued by the Commission at any time on or after February 13, 1984, unless prior thereto a hearing upon the application is ordered by the Commission, as provided in clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939. Any interested person may, not later than February 10, 1984, submit to the Commission, his views or any additional facts bearing upon this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request the hearing or advice as to whether the hearing is ordered will receive all notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after such date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-1380 Filed 1-17-84; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-12906]

Union Camp Corp.; Application and Opportunity for Hearing

January 13, 1984.

Notice is hereby given that Union Camp Corporation, a Virginia corporation (the "Applicant"), has filed an application under clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding that the trusteeship of First National State Bank ("FNSB") under an indenture heretofore qualified under the Act and under another indenture entered into and not qualified under the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify FNSB from acting as trustee under any such indenture.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest, it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such Section provides, in effect, with certain exceptions that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under such indenture.

The Company alleges that:

(1) FNSB is presently acting as trustee under an Indenture dated as of October 1, 1982 (the "Union Camp Indenture") between FNSB, as trustee, and Applicant pursuant to which $75,000,000 principal amount of 12¾% Sinking Fund Debentures Due 2012 (the "1982 Debentures") and $75,000,000 principal amount of 11% Sinking Fund Debentures Due 2013 (the "1983 Debentures" and collectively with the 1982 Debentures, the "Debentures") of the Applicant were originally issued. $75,000,000 of the principal amount of the 1982 Debentures and $75,000,000 of the principal amounts of the 1983 Debentures were outstanding as of December 29, 1983.

On December 29, 1983, FNSB entered into an indenture (the "Authority Indenture") with the New Jersey Economic Development Authority, in connection with the issuance of $3,800,000 principal amount of Economic Development Bonds (Union Camp Corporation—Series B Project).

(2) The Debentures were registered under the Securities Act of 1933, as amended (File No. 2-79498), and the Union Camp Indenture was qualified under the Act. The Union Camp Indenture contains the provisions permitted by the proviso of Section 310(b)(1) of the Act.

(3) No default exists under the Union Camp Indenture. The Applicant's obligations in respect of the Union Camp Indenture and its obligations in connection with the Authority Indenture are, generally unsecured obligations of Applicant ranking *pari passu inter se.*

(4) Such differences as exist between the Union Camp Indenture and the Authority Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify FNSB from acting both as trustee under the Union Camp Indenture and the Authority Indenture.

The Applicant has waived: (a) Notice of hearing; (b) hearing on the issues raised by this application; and (c) all rights to specify procedures under Rule 8(b) of the Commission's Rules of Practice.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the Commission's Public Reference Room at 450 Fifth Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than February 9, 1984, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed to: Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-1383 Filed 1-17-84; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Bancorp Venture Capital, Inc.; Application for a License To Operate as a Small Business Investment Company.

[Application No. 09/09-0335]

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1984)), for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

Applicant and address: Bancorp Venture Capital, Inc., 2633 Cherry Avenue, Signal Hill, California 90806.

Proposed Private Capital: $1,000,000.

Area of operations: Principally Orange County and San Diego County, California.

The proposed officers, directors and stockholder of the Applicant are as follows:

Paul R. Blair, 176779 San Simeon, Fountain Valley, California 92708—President and Director

George W. West. Jr., 3436 Stanbridge Avenue, Long Beach, California 92708—Chief Financial Officer, Secretary and Director

Raymond A. Elston, 8 Ramadsa, Irvine, California—Director

Home Interstate Financial Services, Inc., a wholly owned Subsidary of Home Interstate Bancorp, Inc., Home Bank—100 percent common, 100 percent preferred.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the Applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice should be published in a newspaper of general circulation in the Signal Hill, California area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 10, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment

[FR Doc. 84-1366 Filed 1-17-84; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-5278]

Broad Arrow Investment Corp.; Notice of Surrender of License

Notice is hereby given that, pursuant to § 107.105 of the Small Business Administration's (SBA) Rules and Regulations governing Small Business Investment Companies (13 CFR 107.105 (1983)), Broad Arrow Investment Corporation (BAIC), P.O. Box 2231R, Morristown, New Jersey 07960, incorporated under the laws of the State of Delaware has surrendered its License No. 02/02-5278, which was issued by SBA on October 1, 1970.

BAIC has complied with all conditions set forth by SBA for surrender of its license.

Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the above cited Regulation, the License of BAIC is hereby accepted effective January 5, 1984 and it is no longer licensed to operate as a small business investment company.

Dated: January 13, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-1367 Filed 1-17-84; 8:45 am]

BILLING CODE 8025-01-M

Reporting and Recordkeeping Requirement Under OMB Review

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirement to OMB for review and approval, and to publish notice in the **Federal Register** that the agency has made such a submission.

DATE: Comments must be received on or before February 23, 1984. If you anticipate commenting on a submission but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the Agency Clearance Officer of your intent as early as possible.

COPIES: Copies of the proposed forms, the requests for clearance (S.F. 83), supporting statements, instructions, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the item listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer

Elizabeth M. Zaic, Small Business Administration, 1441 L St. N.W., Room 200, Washington, D.C. 20416, Telephone: (202) 653-8538

OMB Reviewer

J. Timothy Sprehe, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, Washington, D.C. 20503, Telephone: (202) 395-4814

Forms Submitted for Review

Title: National Training Participant Evaluation Questionnaire
Form No. SBA 20
Frequency: On Occasion
Description of Respondents: Participants in Management Assistance Training
Annual Responses: 100,000
Annual Burden Hours: 24,705
Type of Request: Revision

Title: Management Overview and Field Analysis/OMA Publications
Form No. SBA 1396
Frequency: On Occasion
Description of Respondents: Readers of Management Assistance Publications
Annual Responses: 246
Annual Burden Hours: 1,625
Type of Request: New.

Dated: January 12, 1984.

Elizabeth M. Zaic,

Chief, Paperwork Management Branch, Small Business Administration.

[FR Doc. 84-1365 Filed 1-17-84; 8:45 am]

BILLING CODE 8025-01-M

[License No. 01/01-0326]

Granite State Capital, Inc., Issuance of Small Business Investment Company License

On October 14, 1983, a Notice was published in the **Federal Register** (48 FR 46907) stating that an application had been filed by Granite State Capital. Inc., 10 Fort Eddy Road, Concord, New Hampshire 03301 with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies [13 CFR 107.102 (1983)] for a license as a small business investment company (SBIC).

Interested parties were given until the close of business October 29, 1983, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued license No. 01/01–0328 to Granite State Capital, Inc. to operate as a SBIC.

Dated: January 10, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84–1364 Filed 1–17–84; 8:45 am]

BILLING CODE 8025–01–M

[Application No. 02/02–0471]

Transatlantic Venture Fund, L.P.; Application for a License To Operate as a Small Business Investment Company

An Application for a License to operate as a small business investment company, under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*) has been filed by Transatlantic Venture Fund, L.P. (Transatlantic), 505 Park Avenue, New York, New York 10022, with the Small Business Administration pursuant to 13 CFR 107.102 (1983).

Transatlantic is a New York limited partnership to be managed by Sanford Simon, d/b/a Amivest Corporate Services, a New York general partnership pursuant to a Management Agreement.

The General Partners and major limited partner with percentage of partnership unit are as follows:

Sanford R. Simon, 7002 Boulevard East, 31E, Guttenberg, New Jersey—General partner

Emmanuel Sella, 121 East 84th Street, New York, New York 10021—General partner

Jarenko Investments N.V. Netherlands Antilles—75%

Transatlantic, will begin operations with $2,500,000 paid-in capital and will conduct its activities in the State of New York but will consider investments in businesses in all areas of the United States.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed management and owner, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is hereby given that any person may not later than 15 days from the date of publication of this notice submit to SBA written comments on the proposed Applicant. Any such communications should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: January 10, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment

[FR Doc. 84–1363 Filed 1–17–84; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[BS-Ap-No. 2185]

Union Pacific Railroad Co.; Public Hearing

The Union Pacific Railroad Company has petitioned the Federal Railroad Administration (FRA) seeking approval of the proposed discontinuance of the automatic block signal system currently installed on its line between Oakley, Kansas, and Mesa, Colorado, a distance of approximately 247 miles. This proceeding is identified as FRA Block Signal Application Number 2185.

After examining the carrier's proposal and the available facts, the FRA has determined that a public hearing is necessary before a final decision is made on this proposal.

Accordingly, a public hearing is hereby set for 10:00 a.m. on March 15, 1984, in Room 239 of the Federal Office Building at 1961 Stout Street in Denver, Colorado.

The hearing will be an informal one and will be conducted in accordance with Rule 25 of the FRA Rules of Practice (49 CFR Part 211.25), by a representative designated by the FRA.

The hearing will be a nonadversary proceeding and, therefore, there will be no cross-examination of persons presenting statements. The FRA representative will make an opening statement outlining the scope of the hearing. After all initial statements have been completed, those persons who wish to make brief rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures, if necessary for the conduct of the hearing, will be announced at the hearing.

Issued in Washington, D.C. on January 12, 1984.

J. W. Walsh,

Associate Administrator for Safety.

[FR Doc. 84–1287 Filed 1–17–84; 8:45 am]

BILLING CODE 4910–06–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

List of Countries Requiring Cooperation With an International Boycott

In order to comply with the mandate of section 999(a)(3) of the Internal Revenue Code of 1954, the Department of the Treasury is publishing a current list of countries which may require participation in, or cooperation with, an international boycott [within the meaning of section 999(b)(3) of the Internal Revenue Code of 1954]. The list is the same as the prior quarterly list published in the **Federal Register.**

On the basis of the best information currently available to the Department of the Treasury, the following countries may require participation in, or cooperation with, an international Boycott [within the meaning of section 999(b)(3) of the Internal Revenue Code of 1954].

Bahrain
Iraq
Jordan
Kuwait
Lebanon
Libya
Oman
Qatar
Saudi Arabia
Syria
United Arab Emirates
Yemen, Arab Republic
Yemen, Peoples Democratic Republic of

John E. Chapoton,

Assistant Secretary for Tax Policy.

[FR Doc. 84–1288 Filed 1–17–84; 8:45 am]

BILLING CODE 4810–25–M

Internal Revenue Service

Form 990 Advisory Committee; Meeting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of meeting of Form 990 Advisory Committee.

SUMMARY: This notice sets forth the schedule and proposed agenda of the initial meeting of the Form 990 Advisory Committee. This notice also describes the functions of the Committee and

gives the name and affiliation of each Committee member.

FOR FURTHER INFORMATION CONTACT: Robert W. Gardiner, Employee Plans and Exempt Organizations Operations Division, Internal Revenue Service, Room 2218, 1111 Constitution Avenue, NW, Washington, DC 20224, telephone 202–566–3137 (not a toll-free call).

SUPPLEMENTARY INFORMATION: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that the initial meeting of the Form 990 Advisory Committee will be held on February 2, 1984, beginning at 9:00 a.m. in Room 3313, Internal Revenue Service Building, 1111 Constitution Avenue, NW, Washington, DC. The entire meeting will be open to the public.

Establishment of the Committee was announced in the **Federal Register** on May 18, 1983. The Committee's purpose and function are to advise and make recommendations to the Tax Forms Coordinating Committee of the Internal Revenue Service regarding Forms 990 and 990–PF and the instructions to those forms. These forms are annual information returns required to be filed by charitable and other tax-exempt organizations described in section 501(c) of the Internal Revenue Code and by nonexempt charitable trusts described in section 4947(a)(1) of the Code.

Proposed agenda items for meeting include briefings by Internal Revenue Service officials on the current Forms 990 and 990–PF and instructions, the uses made by the Service of information reported on the forms, and the procedures for the public disclosure of returns filed with the Service. The initial meeting is intended to provide background information that will allow for consideration of specific proposals for revisions to the current forms at the next meeting of the Committee later this year.

Written statements may be submitted to the Committee by the public, preferably as far in advance of the meeting as practicable, and oral statements may be presented at the meeting if time permits. All such statements should be limited to matters involving the line items and parts of the current Forms 990 and 990–PF, the instructions to those forms, and any suggestions for changes to those forms and/or instructions.

Members who have been appointed to the Committee are:

Ronald J. Bossio, Financial Accounting Standards Board, Stamford, CT;
Robert O. Bothwell, Executive Director, National Committee for Responsive Philanthropy, Washington, DC;
Thomas R. Buckman, President, The Foundation Center, New York, NY;
Larry W. Campbell, Registrar of Charitable Trusts, Department of Justice, State of California, Sacramento, CA;
John Edie, General Counsel, Council on Foundations, Washington, DC;
Catharine W. Hantzis, Assistant Attorney General, Commonwealth of Massachusetts, Boston, MA;
Bruce R. Hopkins, Bruce R. Hopkins, P.C. Washington, DC;
Douglas S. Keyt, Vice President, The Northern Trust Company, Chicago, IL;
Daniel Kurtz, Assistant Attorney General, State of New York, New York, NY;
David E. Ormstedt, Assistant Attorney General, State of Connecticut, Hartford, CT;
Timothy J. Racek, Arthur Andersen & Company, New York, NY;
Gabriel Rudney, Senior Research Associate, Institute for Social and Policy Studies, Yale University, New Haven, CT;
Samuel L. Steinwurtzel, C.P.A. Florham Park, NJ; and
Russy D. Sumariwalla, Senior Fellow, United Way of America, Alexandria, VA.

Internal Revenue representatives on the Committee are:

S. Allen Winborne (chairman), Assistant Commissioner (Employee Plans and Exempt Organizations);
Robert I. Brauer (vice chairman), Director, Tax Forms and Publications Division;
Billy M. Hargett, Director, EP/EO Operations Division;
Joseph A. Tedesco, Director, Exempt Organizations Technical Division; and
Howard M. Schoenfeld, Special Assistant for Exempt Organization Matters.

Dated: January 13, 1984.

S. Allen Winborne,

Assistant Commissioner, (Employee Plans and Exempt Organizations).

[FR Doc. 84–1374 Filed 1–17–84; 8:45 am]

BILLING CODE 4830–01–M

UNITED STATES INFORMATION AGENCY

Book and Library Advisory Committee; Meeting

The Book and Library Advisory Committee will meet on Wednesday, January 25, 1984, in the new headquarters of the United States Information Agency, Room 325, 301 4th Street, SW., Washington, DC 20547, from 10:30 a.m. to 4:00 p.m. followed by an evening session from 5:00 p.m. to 7:00 p.m. in the Patrick Henry Building.

Agenda topics will include Donated Book Program, book and library enhancements, piracy/private property protection problems relating to books and libraries, and the Press Conference at the Library of Congress announcing the Benjamin Report.

The public is welcome, but seating is limited. Please contact Louis Wheeler on (202) 485–2377 for further information.

Dated: January 12, 1984.

Charles N. Canestro,

Management Analyst, Federal Register Liaison.

[FR Doc. 84–1234 Filed 1–17–84; 8:45 am]

BILLING CODE 8230–01–M

President's International Youth Exchange Initiative; Selective Assistance Through Limited Grant Support to Not-for-Profit Organizations

This is to amend the announcement on the above subject printed in the **Federal Register** on January 4, 1984, page 544.

Under Program Proposal Content, B. Federal Republic of Germany, add:

7. A program to bring together young Germans and Americans who share an interest in sports in fora such as workshops, camps and other educational activities (excluded are teams for the purpose of competition.)

Dated: January 13, 1984.

Charles N. Canestro,

Management Analyst, Federal Register Liaison.

[FR Doc. 84–1358 Filed 1–17–84; 8:45 am]

BILLING CODE 8230–01–M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

SUMMARY: The Veterans Administration has submitted to OMB for review the following proposal for the collection of infomation under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains a proposed reinstatement and lists the following information: (1) The department or staff office issuing the form; (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total

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number of hours needed to fill out the form; and (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies.

ADDRESSES: Copies of the proposed form and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (004A2), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 389–2146. Comments and questions about the items on this list should be directed to the VA's OMB Desk Officer, Dick Eisinger, Office of Management and Budget, 726 Jackson Place, NW, Washington, DC 20503, (202) 395–6880.

DATES: Comments on the form should be directed to the OMB Desk Officer on or before March 19, 1984.

Dated: January 13, 1984.

By direction of the Administrator:

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management.

Reinstatement

1. Office of the General Counsel
2. Application for Accreditation as Service Organization Representative
3. VA Form 2–21
4. On occasion
5. Individuals or households
6. 720 responses
7. 175 hours
8. Not applicable

[FR Doc. 84–1291 Filed 1–17–84; 8:45 am]

BILLING CODE 8320–01–M

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Sunshine Act Meetings

Federal Register

Vol. 49, No. 12

Wednesday, January 18, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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Federal Reserve System	4

1

DEPARTMENT OF EDUCATION

January 13, 1984.

AGENCY: National Council on Educational Research.

ACTION: The NCER will have a meeting on January 23 and 24, 1984.

MATTERS TO BE DISCUSSED AND EVENTS TO TAKE PLACE:

January 23, 1984

9:30 a.m–10:00 a.m.
Swearing in of new Council Members
10:00 a.m–11:30 a.m.
Report from the Director of NIE
11:30 a.m–2:00 p.m.
Lunch
2:00 p.m–4:00 p.m.
Committee Reports

January 24, 1984

9:30 a.m–11:00 a.m.
1. Committee Report
2. Executive Director Report

DATE: January 23 and 24, 1984.

TIME: January 23 (9:30–4:00); January 24 (9:30–11:00)

ADDRESS: NIE, 1200 19th Street, NW., Room 823, Washington, D.C. 20208.

FOR FURTHER INFORMATION CONTACT: Patricia Hines, NCER Associate, NCER, 2000 L Street, NW., 617B, Washington, D.C. 20036, (202) 254–7490.

Patricia Hines,
NCER Associate
Authorizing Official.

[FR Doc. 84–1332 Filed 1–13–84; 4:41 p.m.]
BILLING CODE 4000–01–M

2

COUNCIL ON ENVIRONMENTAL QUALITY

January 13, 1984.

TIME AND DATE: Thursday, January 26, 1984 10:30 a.m.

PLACE: Conference Room, 722 Jackson Place, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Progress Report on the projects of the Global Issues Working group.
2. Other business.

CONTACT PERSON FOR MORE INFORMATION: Dinah Bear, 395–5754.

Dinah Bear,
General Counsel.

[FR Doc. 84–1238 Filed 1–13–84; 10:25 am]
BILLING CODE 3125–01–M

3

FEDERAL ENERGY REGULATORY COMMISSION

January 11, 1984.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–4109), 5 U.S.C. 552b:

TIME AND DATE: 10:00 a.m., January 18, 1984.

PLACE: 825 North Capitol Street, NE., Washington, D.C. 20426, Room 9306.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

(1) Saranac Energy Corporation, Project No. 4021
(2) Cumberland Power Corporation, Project No. 7118
(3) Belle Fourche Pipeline Company, Docket No. IN82–1
(4) United Gas Pipeline Company, Docket No. IN81–1
(5) Certain Sales of Natural Gas Produced in the West Panhandle Field, Carson and Gray Counties, Texas
(6) Various Producer-Owned Natural Gas Processing Plants, Docket No. IN83–2
(7) I. L. Morris, Docket No. IN79–2
(8) Florida Gas Transmission Company, Docket No. IN78–2

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357–8400.

Kenneth F. Plumb.
Secretary.

[FR Doc. 84–1361 Filed 1–13–84; 5:09 pm]
BILLING CODE 6717–01–M

4

FEDERAL RESERVE SYSTEM

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10:00 a.m., Monday, January 23, 1984.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank and Branch director appointments.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Date: January 13, 1984.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 84–1362 Filed 1–16–84; 9:10 am]
BILLING CODE 6210–01–M

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Part II

Department of Health and Human Services

Office of Community Services

Availability of Funds and Requests for Applications Under the Community Services Discretionary Authority; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Community Services

[Program Announcement No. OCS-84-3]

Availabilty of Funds and Requests for Applications Under the Community Services Discretionary Authority

AGENCY: Office of Community Services, HHS.

ACTION: Annoncement of availability of funds and requests for applications under the Community Services discretionary authority.

SUMMARY: The Office of Community Services (OCS) announces that competing applications will be accepted for new grants pursuant to the Secretary's discretionary authority under Section 681 of Title VI of Public Lae 97–35, the Community Services Block Grant Act. (42 U.S.C. 9901, et seq.). This program announcement consists of four parts. Part I covers general information, discusses the overall purposes of the OCS Discretionary Program, lists the funding authority and briefly describes the FY 1984 competitive review process. Part II describes the program priority areas in which grants will be awarded. Part III describes the application process, who is eligible to apply, what funds are expected to be available and the review and selection criteria. Part IV gives specific guidance on how to prepare and submit an application under each separate published program priority area.

DATE: The closing date for submission of applications is March 15, 1984. Applicants may meet this deadline either by delivering or mailing the application on or before March 15th in accordance with the detailed instructions in Part IV below. Late applications will be returned to the senders without consideration in the competition.

FOR FURTHER INFORMATION CONTACT: OCS/Office of State and Project Assistance/Division of Discretionary Grants, 1200 19th Street, NW., Room 518, Washington, D.C. 20506, (202) 632–6634.

Part I—Overall Guidance

A. Scope of This Program Announcement

Section 681 of the Community Services Block Grant (CSBG) Act authorizes the Secretary of Health and Human Services to make funds available to support ongoing activities of national or regional significance to alleviate the causes of poverty in distressed communities.

Applicants must fully demonstrate that the project they are proposing represents an ongoing program activity as defined below. Applicants must show that the proposed activity is clearly related to the purposes of the CSBG Act, i.e., to alleviate the causes of poverty in distressed communities.

For purposes of this announcement, the term "ongoing activity" means an activity that is actually in progress, that will continue to move towards meeting specific goals and objectives with OCS support, and that has a meaningful and measurable impact on the area and population to be served. The term "national or regional significant" means activities that directly address the causes of poverty in a way that can be replicated in another part of the region or country. Projects under this announcement must result in direct benefits targeted towards low-income people as defined in the most recent Annual Revision of Poverty Income Guidelines, published in the **Federal Register**, February 17, 1983, pp. 7010–7011.

OCS will grant funds for only one year. Accordingly, each applicant must clearly demonstrate its ability to carry out its work plan with the funds awarded without substantial start-up costs and to achieve measurable results within the one year of funding. Applicants should demonstrate their ability to continue operating as viable organizations and their ability to continue to meet their project objectives after the cessation of OCS funding.

An applicant can be engaged in a *qualified* "ongoing activity" without having been a recipient of funds from OCS or the former Community Services Administration (CSA). Organizations previously funded by CSA or OCS may apply but such an application would constitute an application for new funding, rather than an application for continuation funding. This is a particularly relevant reminder for successful applicants under the FY 1982 and FY 1983 OCS Discretionary Programs. All acceptable applications will be considered in competition with each other within each program priority area.

The FY 1984 program will be conducted under the same basic overall policies established by the FY 1982 and FY 1983 OCS Discretionary Programs. The overall OCS policy direction is to promote self-sufficiency in terms of jobs; income and ownership opportunities for low-income individuals; a better standard of living for rural low-income individuals in terms of housing, water and waste water treatment; and to implement new and innovative strategies for addressing the special needs of migrant and seasonal farmworkers. The OCS believes that these policy objectives can be best met at the local level through local organizations that can coordinate linkages with other private and public sector initiatives and enhance private sector involvement.

B. FY 1984 Application Process

The Fiscal Year 1984 discretionary grant process provides for a single application. All timely applications will be initially screened by OCS staff to determine their completeness and conformance with the requirements of this announcement, using the screening factors listed below in Part III. Those applications which pass this screenng will be given further consideration by referral to reviewers for scoring and explicative comment based on the criteria detailed in Part III and the specific requirements contained under each published program priority area. Following the final review by the Director of OCS and his staff, it is anticipated that awards under this announcement will be made in July, 1984.

Part II—Program Priority Areas

A. Priority Area 1.0: Urban and Rural Community Economic Development

The overall purpose of this priority area is to encourage the development of special programs by which the residents of urban and rural low-income areas may, through self-help and mobilization of the community-at-large, with appropriate Federal assistance, improve the quality of their economic and social environment in such a way as to contribute to the elimination of poverty and the establishment of permanent economic and social benefits.

1. *Narrative Description*

The Office of Community Services will provide funds to a limited number of for-profit and non-profit corporations for business and community development activities at the local level. Funding for these activities will be limited to investment capital and will require the submission of business or community development proposals that meet the test of feasibility.

The purpose of this priority area is not only provision of resources to eligible applicants, but also the broader objectives of arresting tendencies toward dependency, chronic unemployment, and community deterioration in urban and rural areas.

To this end, the program seeks to attract additional private capital into distressed communities, including enterprise zones, build and expand the ability of local institutions to better serve the economic needs of local residents, and provide new employment and ownership opportunities for low-income people through business, physical or commercial development.

OCS is interested in providing funding support for a limited number of demonstration projects that are unique and innovative such as those which provide training and employment in high technology. These projects must further Administration goals of public-private partnerships, and new Federal initiatives such as urban and rural enterprise zones. OCS is particularly interested in receiving applications that stress public-private partnerships that are directed toward the development of economic self-sufficiency through a focus on economic expansion.

Applications must show significant impact on creating new permanent private sector jobs, and maintaining existing jobs, targeted towards the unemployed and underemployed.

A distressed community enterprise zone is defined as a geographic urban neighborhood or rural community of high unemployment and pervasive poverty. Applicants located in a State or Federally-designated enterprise zone, in which a legislative entity has enacted a program of tax and regulatory relief to encourage business development, are encouraged to submit applications. These applications must be linked with and complement ongoing enterprise zone initiatives, and may be for either a business venture or a demonstration of innovative ways of involving the poverty community in the implementation of the enterprise zone concept.

Because of the exacerbation of poverty and unemployment along the U.S.-Mexican border resulting from the devaluation of the Mexican peso, OCS will give special emphasis to the issuance of up to $3 million worth of grants to applicants proposing economic development projects in the 36 counties of California, Arizona, New Mexico and Texas which border on Mexico.

Applicants are expected to describe clearly how they plan to leverage their own resources and requested OCS funds with those of private sources and of other government agencies.

2. *Technical Work Plan Requirements*

Each application submitted under this program priority area must include a valid and complete Business Plan as part of its project narrative as required in Part IV of the Standard Form (SF) 424. This form will be available to applicants as part of the application kit (defined in Part III, D below).

The Business Plan is one of the major components in the required project narrative that will be evaluated by OCS in terms of feasibility and community benefits. Therefore, the Business Plan must be well prepared and address all the major elements of a business plan as detailed in guidelines included in the application kits. The use of these guidelines should produce a complete and professional business plan that makes an orderly presentation of the facts as required by this program announcement. Common sense should be used in applying the guidelines to develop a business plan for each venture.

Project narratives should contain a full and accurate description of the proposed use of the requested financial assistance, whether it is for a business enterprise or a physical or commercial development project. The project narrative must show how increased employment, income, and ownership opportunities will be provided by the proposed project. The applicant must also clearly document an ability to strengthen linkages with, or leverage from, other private and public resources. Evidence of a commitment on the part of the private sector to participate in the proposed project must be fully documented.

The Business Plan must demonstrate to OCS that there is reasonable assurance that the amount of the requested OCS funds, together with other funds available, is adequate for the completion of the project or achievement of the purposes for which an allocation of OCS funds is to be made.

Because the Business Plan guidelines were written to cover a variety of possibilities, rigid adherence to them is not possible nor even desirable for all ventures. For example, a plan for a service business would not require a discussion of manufacturing or product design.

The guidelines include the following twelve sections: Summary Business Plan; The Venture and its Industry; Products and Services; Market Research and Evaluation; Marketing Plan; Design and Development Plans; Manufacturing and Operations Plan; Management Team; Overall Schedule; Critical Risks and Assumptions; Community Benefits; and the Financial Plan.

Applicants which do not include a Business Plan as part of this application may be found non-responsive and their applications may be disqualified and returned to them.

Any applicant applying under this priority area must document that it has been previously involved in substantial economic development activities and has a record of successful project implementation which justifies a high degree of confidence in the success of the proposed project.

Each applicant must document that it has a firmly established and quantifiable record of performance that shows the following capabilities:

—To plan and implement major activities such as (a) business development, (b) commercial development, (c) physical development, or (d) financial services;
—To leverage and mobilize dollars from such sources as (a) the private sector (corporations, banks, etc.), (b) foundations, (c) the public sector, (d) State and local governments, or (e) individuals;
—To establish and maintain relationships within the community (with public officials, financial institutions, corporations, other community organizations, and residents);
—To maintain an asset base and organizational structure which is sound in terms of (a) net worth, (b) stability, and (c) capability;
—To develop and maintain a stable and diversified overall program in terms of business, physical and community development activities that have provided needed permanent jobs, services and other benefits to community residents, and impact on community-wide economic problems and needs;
—To recruit and maintain both a qualified and demonstrably competent staff and a functioning board of directors that is capable of setting appropriate policy, making necessary program decisions, and providing adequate programmatic oversight;
—To have in place sound administrative and fiscal systems and controls, and;
—To establish and maintain partnerships with the private sector in such forms as financial support, volunteerism, or executives on loan.

B. Priority Area 2.0 Assistance For Rural Housing and Community Facilities Development

The purpose of this priority area is to target funds in a limited number of low-income rural communities to address two major needs in rural areas—Housing (except for new construction) and Water and Waste Water Treatment.

For purposes of this section, *rural* is defined to include all territory of a state that is not within the outer boundary of any municipality (other than a county or parish) having a population of 25,000 or more and its immediate adjacent urbanized area with a population density of more than 100 persons per square mile according to the latest decennial census.

1. *Priority Area 2.1: Rural Housing Repairs and Rehabilitation*

The overall purpose of this priority area is to assist low-income residents in rural communities: (a) In rehabilitating or repairing existing substandard housing units; (b) in converting non-residential buildings to residential use; and/or (c) in developing innovative ways to meet housing needs. However, grants will not be made for construction of new housing units under this discretionary program.

We will consider applications from such entities as rural housing development corporations, cooperatives and other public and private organizations with proven accomplishments in the area of rural housing.

a. *Narrative Description*

Proposals should fully describe how the proposed use of funds will result in tangible improvements in the housing conditions of the rural poor, including one or more of the following:

—Interior or exterior structural repairs including weatherization and alternative energy systems;
—Provision of job opportunities to local unskilled residents while assuring quality work;
—Provision of technical assistance and professional services related to housing and community planning by community-based design and planning organizations. Such projects shall be conducted with maximum use of the voluntary services of professional and community personnel;
—Development of innovative housing strategies to help low-income rural residents acquire housing.

b. *Specific Application Requirements*

Each applicant must include in Part IV, Program Narrative of the SF 424, a full discussion of the project including the following sections:

—*Analysis of Needs/Priorities.* The nature and extent of the problem addressed with adequate description and documentation which identifies specific housing needs of the rural poor in the area targeted and a rationale for the strategies and priorities for which OCS support is requested.
—*Job Creation.* The number of new permanent direct jobs to be created, and the number of permanent jobs maintained by the proposed project including the number of unskilled workers residing in the target area to be trained and placed.
—*Basic Housing Data for Targeted Area.* Information on the status of housing in the targeted area, including but not limited to vacancy rates, housing deficiencies, characteristics of any housing units to be repaired, new construction inventory, values, rents and mortgage rates.

2. *Priority Area 2.2: Rural Community Facilities Development (Water and Waste Water Treatment Systems Development)*

The purpose of this priority area is to help low-income rural communities to develop the capability and expertise to establish and maintain affordable, adequate and appropriate water and waste water treatment facilities.

OCS will consider applications from Regional Technical Resource Centers and public or private organizations with proven technical expertise and accomplishments in water and waste treatment programs.

a. *Specific Application Requirements*

Each applicant must include in Part IV of the SF 424, a full discussion of how the proposed use of funds will result in tangible improvements in the quality of water and waste water treatment systems for the rural poor, including one or more of the following:

—Assisting rural communities in the operation and management of water and waste water facilities;
—Developing local expertise and capability in water and waste water development and engineering services;
—Improving the adequacy and dissemination of information on engineering services to rural communities; and
—Improving State and local water and waste water service delivery systems to serve rural communities more adequately.

Funds are not available under this area for the construction or hook-up of water and waste water treatment systems, nor for operating subsidies for such systems. However, applicants should coordinate projects with the Farmers Home Administration (FmHA) and other Federal and State agencies to ensure that funds for hardware for local community projects are available.

3. *Priority Area 3.0 Assistance to Migrant and Seasonal Farmworkers*

The purpose of this priority area is to fund a limited number of projects which focus exclusively on the problems and special needs of migrant and seasonal farmworkers and which will contribute towards improving their quality of life and advancing them toward self-sufficiency.

The following are definitions of terms for purposes of this section:

Migrant farmworker means an individual who works in agricultural employment of a seasonal or other temporary nature, and who is required to be absent overnight from his permanent place of residence.

Seasonal farmworker means an individual who works in agricultural employment of a seasonal or other temporary nature and is *not* required to be absent overnight from his permanent place of residence.

(Special consideration will be given to projects that emphasize the involvement of private sector in addressing the unique problems of low-income farmworkers, with priority afforded to migrants, since local commuting farmworkers have greater access to other social services and proverty programs.)

Two farmworker needs that applicants are particularly encouraged to address are the permanent need for longer term employment and for support in the areas of nutrition and housing. With respect to employment problems, OCS encourages the submission of proposals that aim to: (a) assist low-income farmworkers directly in improving their job skills so as to qualify them for longer term and permanent full-time employment in agriculture, and (b) assist low-income farmworkers who wish to leave agricultural employment and find jobs in other lines of work. With respect to farmworkers' needs in the areas of nutrition and housing, OCS will entertain proposals that directly assist in such areas as crisis relief nutritional activities, the development of self-help systems of food production, and activities in the areas of home repair, rehabilitation, and ownership.

Under the Community Services Block Grant Act, States may use block grant funds to provide services and assistance to migrant and seasonal farmworkers. Applications submitted under this discretionary grant priority area must not duplicate services or grants provided by the States through block grant funds in the specific State to be served by the applicant.

The OCS recognizes the special needs of migrant and seasonal farmworkers and this announcement reflects Congressional guidance in this area. Therefore, organizations with a primary focus on serving migrants and seasonal farmworkers are encouraged to apply only under this program priority area.

Part III—Application Process

A. Eligible Applicants

Any public or private incorporated organization, either for-profit or non-profit, may submit an application under this announcement.

For-profit applicants are cautioned that any income accruing to a program or project as a result of an OCS grant must be used for project costs or other programmatic activities benefiting the low-income population and may not be used for dividends or other distributions to shareholders.

B. Available Funds

The Office of Community Services expects to award approximately $25,500,000 in the third quarter of FY 1984 for new grants.

The funding available for each program priority area is summarized below:

FUNDING SUMMARY

Program priority area	Availability of fiscal year 1984 funds
1.0 Urban and rural community economic development	$18,790,000
2.0 Rural housing and community facilities development	3,840,000
3.0 Assistance for migrants and seasonal farmworkers	2,660,000

OCS expects to make approximately 75 new awards pursuant to this announcement. These awards are expected to range from $50,000 to $1,000,000, with a typical award expected to be in the area of $300,000. Actual grants may vary widely and eligible applicants requesting smaller or larger awards should also apply.

Projects will be funded under this authority for a period not to exceed twelve months, and each project will have a termination date. However, at the discretion of the Director, shorter or longer project periods may be established. The demonstrated capacity of a grantee to secure other sources of project funds—before, during, and after the termination date of the OCS grant period—will be an important evaluation criterion for all the program priority areas. If a project is intended to continue beyond the OCS grant termination date, the applicant must demonstrate that it will be able to continue with other sources of funding.

C. Grantee Share of the Project

The OCS will accept applications that include administrative costs. Grant funds are extremely limited and no awards for only administrative costs will be made. No more than 10% of the OCS discretionary funds requested may be used for administrative purposes. Favorable consideration will be given to applications where administrative costs are less than 10% of total project funds from all sources.

Administrative costs are defined to be those costs necessary to project, monitor, account for and apply to the approved project properly, those federal funds awarded. Administrative costs must be identifiable from the grantee's accounts to allow OCS to be able to verify that the grantee has not exceeded the 10% administrative cost limitation. Costs associated with the internal operational management of the approved project are *not* considered to be administrative costs.

In all cases where an applicant has been awarded and claims an indirect cost rate approved by the Department of Health and Human Services, the Defense Contracting Agency or some other Federal agency, this rate should be documented in the application and will ordinarily be recognized by OCS and applied to any OCS grant award. However, it is understood that both administrative and indirect costs are part of and not in addition to the amount of funds awarded in the subject grant. (In most cases, the indirect cost rate approved will include not only administrative costs but also other allowable costs that were negotiated under the grantee's approved indirect cost rate. Thus, the approved indirect cost rate may often exceed the normal 10% administrative cost restrictions which otherwise apply to OCS discretionary grants. In such cases, the entire approved indirect cost rate will be approved.)

The applicant is required to leverage private or public funds with each OCS dollar awarded. This match may be one private sector dollar or two public sector dollars to each dollar of OCS discretionary funds awarded in priority areas 1.0, 2.1 and 2.2; for projects submitted under Program Priority Area 3.0, Assistance to Migrants and Seasonal Farmworkers, a match of one private or public sector dollar to each dollar of OCS discretionary funds awarded is required. Matching funds must be definite, or contingent only on receipt of the OCS grant. Speculative match, or match based on independent contingencies (such as receipt of another grant) will not be counted towards the matching requirement. Funds expected to be raised as a result of the grant, whether from program income or otherwise (e.g., from the formation of a Minority Enterprise Small Business Investment Companies [MESBIC]) will not be counted, except that for *existing* businesses or projects, projected income based on the realistic extrapolation of past performance will be acceptable. The OCS will also not consider applications that are geared towards the establishment of new, or investment in existing revolving loan funds, Small Business Investment Companies or MESBICS.

D. Application Process

Organizations wishing to compete for an award under this announcement must submit an application by March 15, 1984. Applications received in response to this announcement will be reviewed by OCS staff and outside reviewers.

1. *Availability of Forms*

Applications for awards under the OCS Discretionary Program must be submitted on standard forms provided for that purpose. Application kits containing copies of these forms as well as detailed technical instructions for preparing the application may only be obtained by writing to: Office of State and Project Assistance, Division of Discretionary Programs, Office of Community Services, 1200 19th Street, NW., Room 518, Washington, D.C. 20506, Attn: OCS–84–3–DP.

Your request for an application kit must include a postcard or 3 × 5 card which contains the following information formatted as below:

Name of Requesting Organization
Address (including Zip Code)
Name of Contact Person at Organization
Phone Number
Program Priority Area

Telephone requests for application kits will not be honored.

Application kits will be mailed to those requesting them beginning January 31, 1984.

2. *Application Submission*

An original signed application and two copies must be submitted to: Office of Grants Management, Office of Community Services, 1200 19th Street, NW., Room 548–L Washington, D.C. 20506, Attn: OCS–84–3–DP.

The application cover must contain a Program Priority Area designation in the lower right hand corner. The following

Program Priority Area designations must be used:

UR—for Urban and Rural Community Economic Development projects.

RH—for Rural Housing projects,

RF—for Rural Community Facilities projects,

MS—for Migrant and Seasonal Farmworker projects.

All applications must include, as the first item, a Table of Contents with page numbers noted for each major section and subsection (Executive Summary, Narrative Description, Technical Work Plan Requirements, Financial Plan, etc.). Please number all pages at the bottom center and *number all pages consecutively,* including the pages which make up any appendices. (This will facilitate review as well as future referencing once the application becomes part of the Agency's permanent files.)

Applications will need to be duplicated by OCS to allow for the review process and therefore must be uniform in composition. They must he submitted on 8½×11 inch paper only. They must not include colored, oversized or folded materials. (Please do not include organizational brochures or other promotional materials in the proposal unless they have been copied to conform with the size requirements noted above.)

To further facilitate duplication, please submit applications in binders that will allow for easy separation and reassembly. While applications must be comprehensive, we encourage conciseness and brevity in the presentation of materials and caution you to avoid unnecessary duplication of the same information.

Failure to comply with the above formatting requirements may result in disqualification and return of an application.

3. *Intergovernmental Review*

The OCS Discretionary Grants Program is not covered by Executive Order 12372, nor the Department's regulations (45 CFR Part 100), which provide for review of proposed Federal assistance by State and local governments.

Therefore applicants for funds under this announcement are not subject to these clearance procedures and requirements. Nevertheless, applicants are urged to inform and to coordinate their activities with State and local governments where such information and coordination is appropriate or necessary for the success of the project.

4. *Application Consideration*

Complete applications that conform to the requirements of this Program Announcement will be reviewed competitively and evaluated by Federal officials and qualified persons outside of the Federal government. Each complete application will be referred to non-OCS reviewers for a numerical score and explicative comments based solely on responsiveness to program priority area guidelines and review criteria published in this notice. The results of these reviews will assist the Director and OCS programs staff in considering competing applications. Evaluation scores will weigh heavily in funding decisions but will not be the only criteria considered. Applications will generally be considered in order of the mean reviewer scores though highly ranked applications are not guaranteed funding.

The Director may consider any of the factors such as: Comments of reviewers and State and Local Officials; staff evaluation and input concerning specific projects; geographical distribution of funding; the previous program performance of applicants, especially those that had previous HHS or CSA grants; audit reports and investigative reports; and applicants' progress in resolving any final audit disallowances owning to OCS or CSA.

OCS reserves the option of discussing applications with other Federal or non-Federal funding sources to determine the applicant's performance record relating to the above factors.

The official award document is the Notice of Financial Assistance Awarded, which sets forth in writing to the recipient the amount of funds awarded, the purpose of the award, other terms and conditions of the award, the effective date of the award, the budget period for which support is given, the total project period for which support is contemplated and the total recipient participation.

Applicants are reminded that grantees are prohibited from using Federal grant funds to engage in any activity designed to influence legislation or appropriations pending before Congress.

E. Criteria of OCS Screening and Review of All Applications

All applications that meet the published deadline for submission will be screened to determine completeness and conformity to the requirements of this announcement.

Only complete and conforming applications will then be reviewed and evaluated competitively.

1. *Screening Requirement:* In order for an application to be in conformance it must meet all of the following requirements:

(a) *Standard Form 424:* The application must include an SF 424, completed according to instructions. Items 23a, 23b and 23c of Part I of this form must be signed by an official of the applicant organization having authority to obligate the applicant legally.

(b) *Number of copies:* A signed original application and *two* copies must be submitted.

(c) *Executive Summary:* A narrative summary of the project, not to exceed five pages, must be included in each application, immediately following the table of contents. This summary must directly address the program specifics within this announcement and the evaluation criteria contained below. (Applicants are cautioned that OCS will not accept a 5 page executive summary as the complete application or as a substitute for a properly detained Part IV, Program Narrative of the SF 424.)

(d) *OCS' Priorities:* The project contained in the application must specifically address a single program priority area as stated in the announcement. An application which does not identify one program priority area or which shows multiple program priority areas will be deemed non-conforming *and may be disqualified and returned to the applicant.*

(e) *Multiple Submittals:* A project can only be proposed once under this announcement. Multiple submittals of the same—or essentially the same—project as applications under different priority areas will be deemed non-conforming and may be disqualified and returned to the applicant.

(f) *OCS Target Populations:* The applicant must clearly target the specific outcomes and benefits of the project to low-income people as defined in the Annual Revision of Poverty Guidelines, most recently published in the **Federal Register,** February 17, 1983.

(g) *Match Requirements:* A match of one contributed private sector or two public sector dollars to each OCS discretionary dollar sought must be documented for all program priority areas, except Migrants and Seasonal Farmworker Programs. The match requirement of Migrant and Seasonal Farmworkers is one private or public sector dollar to each OCS dollar.

(h) *Support from other Government Agencies or Private Institutions:*

Each applicant must provide a list of all financial assistance (loans, loan guarantees, grants, contracts, cooperative agreements or other investment assistance) received from any government agency (Federal, State

or local) or private institution during the three-year period beginning March 15, 1981 and ending March 15, 1984. In the case of applicants which are units of government (e.g., a city or county) which receive extensive assistance from many sources, the funding history need be only for that office or agency which is actually conducting the activities for which the OCS grant if being requested. The list must include the title of the project or program for which assistance was received, the name and address of the governmental agency or private institution which provided the assistance and the name and telephone number of the responsible official or program officer within the agency or institution, who administered the assistance. The list should be certified by the applicant as accurate and complete. Where no assistance has been received during the three year period in question the applicant must specifically so certify.

Special Note.—Failure to provide OCS with the above information by the deadline for submission of an application may disqualify the applicant from further consideration. In addition, should OCS discover that the applicant has omitted or distorted any information submitted as part of its application, it may be grounds for no further review of the application or for the recovery of any grant award already made.

APPLICATIONS MUST MEET ALL OF THE ABOVE REQUIREMENTS TO BE CONSIDERED.

2. *Criteria for Review and Evaluation of Applications:*

Applications which are judged to be in complete compliance with the announcement will be reviewed on a competitive basis. The OCS will use qualified individuals other than OCS employees to conduct a formal objective review of the applications.

Each reviewer will give a numerical score for each application reviewed. These numerical scores will be supported by explicative statements on a formal rating form describing major strengths and major weaknesses under each applicable criteria published in this notice. An overall rating will include the reviewer's judgment of each application. The reviewers will be instructed to assign one of the following ratings to each application consistent with the points given under the evaluation criteria: (a) Not recommended for funding; (b) recommended for funding with conditions; of (c) unconditionally recommended for funding.

The indepth evaluation and review process will use the following criteria coupled with the specific requirements contained under each program priority area.

a. CRITERION I: *PROJECT IMPLEMENTATION AND TECHNICAL APPROACH PLAN AND PROGRAM EVALUATION (Maximum: 25 points)*

(1). *Project Implementation Component (sub-rating: 15 points)*

The application must contain a detailed and specific work plan that is both sound and feasible to accomplish the identified goals and objectives over the proposed project period.

(2). *Technical Approach Component (sub-rating: 5 points)*

The application must contain a well defined and carefully designed technical approach which identifies problems, defines issues and can be expected to attain the objectives of the project fully.

(3). *Evaluation Component (sub-rating: 5 points)*

All proposals should include a self-evaluation component. The evaluation, data collection and analysis procedures should be specifically oriented to assess the degree to which the stated goals and objectives are achieved. Qualitative and quantitative measures should be used to the maximum extent possible.

b. CRITERION II: *SIGNIFICANT AND BENEFICIAL IMPACT (Maximum: 25 points)*

Projects funded under this announcement must produce permanent and measurable results that directly impact on the causes of poverty.

The OCS strategy is to target limited funds into low-income communities which in combination with other private and public resources, will increase the economic and social self-sufficiency of residents. Project objectives must be compatible with the achievement of, or capable of achieving, the specific program priority area objectives defined in this program announcement.

The following are examples of specific impact measures for the various program priority areas:

(1) Area 1.0: *Urban and Rural Community Economic Development:* The number of new permanent direct jobs to be created and/or maintained; increase in taxes paid; new technical skills development and associated career opportunities for community residents; development of the community's economic and physical assets; the amount of private dollars to be leveraged or mobilized; or the degree of involvement by private sector individuals, corporations, and foundations in the implementation of the project.

(2) Area 2.1: *Rural Housing Repair and Rehabilitation:* The number of sub-standard housing units to be repaired and/or rehabilitated; the number of low-income residents who will be helped to purchase or acquire adequate housing; the number of low-income people to be employed in such projects; total private and public (non-OCS) dollars mobilized; and justifications for selecting target communities that are based on the housing needs of local residents and which show the types and amounts of assistance that have been provided in the community in previous years.

(3) Area 2.2: *Rural Community Facilities:* The number of rural communities provided with technical and advisory services; the number of rural poor individuals directly served by applicant supported improved water and waste water systems; the decrease in the number of inadequate water systems related to applicant activity; the number of newly-established and applicant supported treatment systems (all of the above may be expressed in terms of equivalent connections); the increase in local capacity in engineering and other areas of expertise; and the amount of private and public dollars to be leveraged and/or mobilized.

(4). Area 3.0: *Assistance to Migrants and Seasonal Farmworkers:* The number of farmworkers who have improved their agricultural skills and thus improved their agricultural employment situation; the number of farmworkers who have gained longer term or permanent private sector employment in areas outside agriculture; the number of farmworkers who have received help in the areas of nutrition and housing; the number of housing units repaired or rehabilitated; the degree and kind of such help; non-OCS dollars mobilized; and the degree of private sector involvement utilized in developing and carrying out projects funded under this announcement.

c. CRITERION III: *ORGANIZATIONAL CAPABILITY AND CAPACITY (Maximum: 15 points)*

(1). *Staffing (sub-rating: 3 points)*

The application must fully describe the experience and skills of the staff to show that they are well qualified to successfully implement the project.

(2). *Staff Responsibilities (sub-rating: 3 points)*

The assigned responsibilities of staff must be appropriate to the tasks identified for the project. Sufficient time of senior staff must be budgeted to assure timely implementation and cost-effective management of the project.

(3) *Specific Program Priority Area Expertise (sub-rating: 3 points)*

Each applicant must document competence in the specific program priority area under which an application is submitted. Where the applicant has a

history of two or more years of prior achievement in that area, the documentation must address the success and effectiveness of projects undertaken, their cost effectiveness, delivery of services to low-income populations, and the permanent benefits provided. Applicants with a history of less than two years of prior achievement in the program area should so identify themselves. Documentation provided by these applicants must address related achievements and competence of each cooperating or sponsoring organization, the commitment of these organizations to the applicant organization and the project and the revelant experiences and achievements of key personnel including board members, executive staff and project management staff.

(4). *Management History (sub-rating: 3 points)*

The applicant must fully document a history of sound and effective management practices, timely and adequate financial and program progress reporting, and audit compliance. Applicants with less than 2 years of such corporate management history should so identify themselves. These applicants should submit any available documentation on their management practices and progress reporting along with a certification by a Certified Public Accountant to the sufficiency of the applicant's financial management system to protect adequately any Federal funds awarded under the application submitted.

(5). *Applicant Resources (sub-rating: 3 points)*

The applicant must show that it has adequate facilities, resources and experience to carry out successfully the work plan (tasks and activities) specified in the project application.

d. CRITERION IV: *PUBLIC-PRIVATE PARTNERSHIPS (Maximum: 25 points)*

The Office of Community Services will give special consideration to applications which demonstrate a capacity to leverage and mobilize other sources of project related funds and assistance, specifically from the private sector. This demonstrated ability will remain an important evaluation criterion. The application should clearly show these relationships with appropriate written documentation. In addition, OCS requires each applicant to address how other sources of funding will be mobilized and used to benefit the low-income target population.

Projects which can demonstrate commitment of private sector funds or other non-OCS public funding support in excess of the minimum required under this announcement, and are estimated by OCS to also have a high potential for success, will receive greater consideration than those which only meet minimum requirements in mobilizing funds.

Each applicant must also provide a detailed description of the amount, type (cash, in-kind contributions, training and technical assistance, etc.), and sources (Federal, State, local, corporate and private) of funding, as well as other significant support the applicant has received within the past three years from any source.

e. CRITERION V: *BUDGET APPROPRIATENESS AND REASONABLENESS (Maximum: 10 points)*

Each applicant should carefully review the requirements of the specific program priority area and the budget submitted must coincide with these requirements.

The proposed request for funds must be commensurate with the level of effort necessary to accomplish the goals and objectives of the project. The estimated cost to the government of the project must also be reasonable in relation to the value of the anticipated results.

The contribution of any other private and/or public sector agencies or organizations must be assured in writing in the application when it is submitted.

Part IV: Instructions for Completing Applications, Closing Date and Delivery of Applications

A. Submission Date

The closing date for applications submitted under this program announcement is March 15, 1984. Applications may be mailed or hand delivered to: Office of Grants Management, HHS/Office of Community Services, 1200 19th Street, NW., Room 548–L, Washington, D.C. 20506, Attn: OCS–84–3–DP.

Hand delivered applications will be accepted during the normal working hours of 8:45 a.m. to 5:30 p.m., Monday through Friday, (excluding Federal legal holidays) up through the closing date of March 15, 1984. All other applications must be postmarked or dated by a commercial carrier not later than midnight, March 15, 1984. An application will be considered to be received on time under either one of the following two circumstances:

1. The application was sent by registered or certified mail or by private commercial carrier no later than the closing date, as evidenced by a U.S. Postal Service date postmark or by commercial carrier dating, unless it arrives to late to be considered by the independent reviewers. Applicants are responsible for assuring that the U.S. Post Office or private commercial carrier dates the application package Applicants should be aware that not all post offices or private commercial carriers provide a dated postmark unless specifically instructed to do so.

2. The application is received on or before the closing date by the Department of Health and Human Services, Office of Community Services in Washington, D.C. at the address indicated above. In establishing the date of receipt of hand delivered applications, reliance will be placed on documentary evidence of receipt maintained by HHS/OCS. Any application not meeting the above closing date criteria will be disqualified and returned to the applicant.

B. Application Package

Each application must include:

1. A signed original and two additional copies of the application. The original of the application must bear the original signatures of the certifying representative of the applicant organization. In order to facilitate processing do not include extraneous materials such as agency promotional brochures, slides, tapes, film clips, etc. It is not feasible to use such items in the review process, and they will be discarded if included.

2. A self-addressed, stamped postcard so that acknowledgment of receipt can be returned. (This requirement applies even if the application is accompanied by a "return receipt requested card".) All applications will be assigned an identification number which will be noted by OCS on the acknowledgment. This number and the program priority area must be referred to in all subsequent communication with OCS concerning the application. If you do not receive the acknowledgment within three weeks after the deadline date, please notify OCS by telephone (202) 653–9241.

Special Note.—After an identification number is assigned and the applicant has been notified of the number, applications will be filed serially by the number to aid in quick retrieval. It is not possible for OCS staff to provide a timely response to inquiries about a specific application unless this number and the program priority area are given.

C. Contents of Applications

Each copy of the application must contain in the order listed, each of the following (more detailed instructions will be included in the OCS Application Kit):

1. A Table of Contents as noted in Part III, above;

2. Executive Summary no more than the equivalent of 5 single spaced typed pages;

3. Standard Form 424, Part I, Federal Assistance completed according to instructions;

4. Standard Form 424, Part II, Project Approval Information—items 1 through 10, with attachments;

5. Standard Form 424, Part III, Budget Information—Sections A through F with attachments; and

5. Standard Form 424, Part IV, Project Narrative, fully describing the project being proposed in response to this announcement. The narrative should be fully responsive to the specific requirements contained under each program priority area and address the review criteria.

Applications once submitted are considered final and no additions will be accepted by OCS.

Applicants are cautioned to carefully read the specific requirements contained under each program priority area and detailed in the application kit.

Again, applicants are reminded that failure to meet the specific programmatic formatting and submission requirements stated herein may result in the disqualification and return of an application.

Dated: January 13, 1984.

Jerrold B. Speers,

Acting Director, Office of Community Services.

[FR Doc. 84-1252 Filed 1-17-84; 8:45 am]

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Part III

Federal Reserve System

12 CFR Part 205

Electronic Fund Transfers; Proposed Rule and Proposed Update to Official Staff Commentary

12 CFR Part 226

Truth in Lending; Credit Cards; Issuance and Liability; Proposed Rule

12 CFR Part 226

Truth in Lending; Official Staff Commentary Revision; Proposed Rule

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FEDERAL RESERVE SYSTEM

12 CFR Part 205

[Reg. E; Docket No. R-0502]

Electronic Fund Transfers; Proposed Rule and Proposed Update to Official Staff Commentary

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule and proposed update to official staff commentary.

SUMMARY: The Board is publishing for comment proposed amendments to Regulation E. The proposals would amend the regulation (1) to cover, within the definition of electronic fund transfer, transfers resulting from debit card transactions that are processed electronically but do not involve an electronic terminal at point of sale, and extend the time periods for error resolution with respect to these transfers; and (2) to provide more flexibility for the disclosure of charges for electronic fund transfers on periodic statements. The notice also contains a number of proposed changes to the official staff commentary.

DATE: Comments must be received on or before February 24, 1984.

ADDRESS: Comments may be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or delivered to the C Street entrance, 20th and C Streets NW., Washington, D.C., between 8:45 a.m. and 5:15 p.m. weekdays. Comments may be inspected in Room B-1122 between 8:45 a.m. and 5:15 p.m. weekdays. All material submitted should refer to Docket No. R-0502.

FOR FURTHER INFORMATION CONTACT: Regarding the regulation and commentary, contact: Gerald P. Hurst (Staff Attorney), Jesse B. Filkins (Senior Attorney), or John C. Wood (Senior Attorney), Division of Cosumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, (202) 452-3667 or (202) 452-2412. Regarding the economic impact analysis, contact: Frederick J. Schroeder, staff economist, Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, (202) 452-2584.

SUPPLEMENTARY INFORMATION:

1. General

The Electronic Fund Transfer Act (15 U.S.C. 1693 *et seq.*) governs any transfer of funds that is electronically initiated and that debits or credits a consumer's account. This statute is implemented by the Board's Regulation E (12 CFR Part 205). The Board is proposing an amendment to the regulation to cover transfers resulting from debit card transactions at the point of sale that do not involve electronic terminals but that are processed electronically. The Board believes that coverage of these transfers is necessary in order to effectuate the primary purpose of the Electronic Fund Transfer (EFT) Act—the providing of individual consumer rights with respect to electronic fund transfers. The Board is also publishing a proposed amendment to provide more flexibility in the disclosure of electronic fund transfer charges on periodic statements, by allowing disclosure of these charges as a total amount or on a transaction-by-transaction basis.

The comment period ends on February 24. Comments must be received on or before that date to ensure consideration. The Board believes that prompt resolution of these matters is essential and in the public interest to provide necessary clarification regarding the scope of the EFT Act's coverage.

2. Transfers Resulting From Point-of-Sale Transactions

The Electronic Fund Transfer Act defines an electronic fund transfer (EFT) as:

> Any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account.

The act and regulation include specific examples of transfers that are EFTs, such as automated teller machine transactions and direct deposits, but the coverage is not narrowly defined nor is it limited to the examples given.

There has been some uncertainty about whether the act and regulation cover transfers resulting from transactions that involve the use of a debit card for the purchase of goods or services, but do not involve an electronic terminal. Because the debit card is used to create a sales slip, either by the use of an imprinter or by having the account or card number entered into the cash register, these transactions are often referred to as paper-based point-of-sale (POS) transactions. The vast majority of the debit cards used in this way are issued by financial institutions participating in the Visa and MasterCard systems.

The debit card functions in a fashion that is virtually identical to a credit card; this is true not only of procedures at the point of sale, but also of procedures during processing. With a credit card, however, the consumer is billed for transactions, while in a debit card transaction a transfer is made from the consumer's asset account.

All transactions resulting from use of debit cards involve sales slips, even transactions at a merchant with terminals or cash registers that electronically capture the transaction information. The presence of the sales slip has caused many institutions to regard the transfers resulting from these transactions as paper-based rather than electronic, and has created uncertainty within the industry as to whether the transfers are EFTs covered by the act and Regulation E. Some institutions treat the transfers as covered while other institutions' disclosures indicate that only transfers resulting from transactions made by use of the card at electronic terminals are covered.

The fact that many financial institutions view the transfers resulting from these POS transactions as not covered by Regulation E leaves the rights and responsibilities of a considerable number of consumers subject only to their contracts with the individual financial institutions. The absence of coverage by the act could be particularly troublesome for consumers who are under the impression that they have protections that do not exist under agreements with their financial institutions. Two factors may lead consumers to believe they are protected by federal law, either the Truth in Lending Act or the Electronic Fund Transfer Act: (1) The similarities between the debit card and credit card, both in appearance and function; and (2) the lack of consumer understanding of possible legal distinctions when the same debit card is used in a POS transaction that involves electronic data capture at the point of sale, and in one that does not.

While the Board is not aware of consumer problems resulting from the uncertainty about coverage, there have been numerous inquiries from financial institutions and concern has been expressed by consumer representatives and other agencies about the applicability of the act and Regulation E to these POS transactions.

In addition, as a policy matter it is important to consider congressional purpose. In passing the EFT Act, Congress intended to define the rights and liabilities of consumers, financial institutions, and intermediaries in the developing systems involving EFTs—primarily by establishing individual consumer rights, such as limited liability

for unauthorized use and the right to prompt resolution of errors. The Board believes that, in order to effectuate this congressional purpose, Regulation E should be amended to cover transfers resulting from these POS transactions.

The Board believes it is important that the coverage issue be resolved at this time because the number of debit cards being used in POS transactions is increasing. According to industry information, at the end of 1978 approximately 400,000 accounts with 590,000 cardholders were accessible by debit cards.[1] By the end of 1982, there were more than 3 million accounts with almost 4½ million cardholders. By the end of 1983, the number of debit cardholders was expected to exceed 6 million. There has also been an increase in the number and dollar volume of transactions made with these cards. Figures from industry sources indicate that approximately 50 million transactions with a value of approximately $2.4 billion were made at the point of sale in the past year. It is estimated that more than 90 percent of these transactions at the point of sale did not involve electronic data capture at the time of the transaction.

Electronic Initiation

An EFT is generally defined in terms of a transfer that is initiated electronically. In the case of POS transactions, the majority result in truncation of the sales slip at the merchant's financial institution. The instructions to debit the consumer's asset account are converted into an electronic form, usually magnetic tape, at that point. Once truncation occurs, the processing involves electronics and culminates in the electronic debiting of funds from the consumer's account at the account-holding institution.

When a consumer uses an automated teller machine (ATM) owned or operated by the account-holding financial institution, fund transfers are made directly from the consumer's account. In POS transactions, several steps are often involved before a fund transfer is made from a consumer's account. In such cases, one could focus on any one of these steps to determine how or when the transfer of funds from the consumer's account is "initiated." For example, one could focus on the point at which the card is run through the imprinter, the point when the data on the sales slip is converted to an electronic form and transmitted to the account-holding institution, or the point at which the account-holding institution actually receives the order or instruction to debit the consumer's asset account. The Board believes that specifying the first step in the POS transaction as determinative of the initiation issue would result in a narrow reading of the Act's coverage, and would significantly undermine the purposes of the Act.

Congress clearly intended to include within coverage of the act fund transfers resulting from the use of new instruments referred to as debit cards when it described the covered transfers generally as being initiated electronically. The transfers resulting from POS transactions are as much the result of the use of a debit card as are transfers with debits cards at ATM's or at electronic terminals at points of sale. The Board believes that whether these fund transfers are covered does not depend on whether there is an electronic terminal at the point of sale, but on whether there is electronic ordering, instructing, or authorizing involved in the debiting or crediting of a consumer asset account. Most of the fund transfers resulting from POS transactions involve electronic ordering, instructing, or authorizing, and thus are EFTs for purposes of coverage.

In some instances, the merchant's financial institution may be the same as the consumer's account-holding institution. It can be argued that in these POS transactions the funds transfer from the consumer's account does not involve electronic initiation, and thus should not be covered by the act. Excluding them from coverage, however, would result in continued uncertainty as to the protections available to consumers in this narrow class of transactions. Moreover, it does not seem equitable or rational to determine consumer rights based upon whether an account relationship exists with a particular institution. Consequently, the Board is seeking comment on whether it should cover *all* fund transfers resulting from point-of-sale debit card transactions.

"Similar Paper Instrument" Exclusion

The EFT definition in the act excludes transactions "originated by check, draft, or similar paper instrument." The Board believes that this exclusion is not applicable to the fund transfers that result from POS transactions because the transactions arguably are originated with the card (or the card in combination with the sales slip), not by the sales slip alone. More importantly, although the transaction involves a paper sales slip, that sales slip is not a paper instrument that is "similar" to a check or a draft.

The exclusion from the act's coverage for transactions originated by "check, draft, or similar paper instrument" was directed at excluding check truncation systems, in light of the potentially broad coverage of the EFT definition. The word "similar" has special significance related to negotiability. Checks and drafts are negotiable instruments under the Uniform Commercial Code (UCC) and are subject to its provisions; the sales slip used in POS transactions are not negotiable instruments, because they are not conditional and are not payable to order or bearer.

The sales slip clearly play a part in effectuating transactions in the debit card payment system and, in that sense, they function in much the same way that checks do in a check truncation payment system. However, there is a significant difference—again related to negotiability. The check payment system is governed by Article 3 and 4 of the UCC. The rules for sales slip transactions, on the other hand, are in many respects unclear. Because sales slips are not negotiable instruments, Article 3 does not apply. Article 4 applies to both negotiable and non-negotiable instruments, but even these rules may not apply with respect to sales slips, because financial institutions may insert provisions in their agreements with consumers that alter the UCC rules.

In the absence of uniform rules that establish the rights and responsibilities for all parties to these transactions, the Board believes that a sales slip cannot and should not be viewed as a "similar paper instrument" just because it functions in the payments world somewhat like a check.

Board's Authority for Defining Coverage

The Board is given broad rulewriting authority under the EFT Act—authority that was viewed by the Congress as essential to the act's effectiveness. The scope of the act's coverage is an area where it appears that Congress particularly wanted the Board to have flexibility and to exercise its rulewriting authority. For example, the act expressly provides that if EFT services are made available to consumers by a person other than a financial institution holding a consumer's account, "the Board shall by regulation assure that the disclosures, protections, responsibilities, and remedies" created by the EFT Act

[1] The reference to debit cards and the numbers given for accounts, cardholders, and transactions refers only to the debit cards that have been issued for use for POS transactions. There are millions of debit cards that have been issued by financial institutions for use in automated teller machines. These ATM cards and the transfers resulting from their use are clearly covered by Regulations E.

are made applicable to such persons and services.

The EFT Act gives the Board broad authority to prescribe regulations that will carry out the purposes of the act, and to deal with questions regarding coverage. (In exercising this authority, the Board has in some cases refined the act's coverage—for example, by excluding intrainstitutional electronic fund transfers and by defining coverage of telephone-initiated EFTs as being limited to transfers made under a written agreement.) The Senate reports accompanying Senate bills S. 3156 and S. 3499 (S. Rep. No. 915, 95th Cong., 1st Sess. 9, and S. Rep. No. 1273, 95th Cong., 1st Sess. 25 and 26) state that:

> The definition of "electronic fund transfer" is intended to give the Federal Reserve Board flexibility in determining whether new or developing electronic services should be covered by the act and, if so, to what extent. . . . Whether [a] service should be covered by the act requires a determination of whether such transfers will be initiated electronically, whether current laws provide adequate consumer safeguards, and whether coverage is necessary to achieve the act's basic objectives. This delegation of authority to the Board is an important aspect of this legislation as it would enable the Board to examine new services on a case-by-case basis and would contribute substantially to the act's overall effectiveness.

The first—whether the fund transfers are initiated electronically—has been discussed above. In summary, it is the Board's view that while the *purchase transaction* may not result in simultaneous data capture for electronic transmittal to the account-holding institution, the *transaction information* necessary to make the fund transfer is convered to electronics and is transmitted electronically to the account-holding institution. Thus the transfer is deemed to have been initiated electronically.

The other two issues mentioned in the Senate reports—whether other laws provide adequate consumer protections and whether coverage is necessary to achieve the act's objectives—are both questions that relate to the policy considerations underlying the act.

As noted above, approximately nine out of every ten POS transactions using debit cards are made at non-electronic terminals. There appears to be little or no consumer protection offered by state laws or other federal laws in regard to these POS transactions. If these POS transactions are not covered by Regulation E, important safeguards will be lacking. For example, a consumer could be subject to unlimited liability for the unauthorized use of a lost or stolen debit card, and the rights and responsibilities of the parties in the resolution of errors would be undefined. In light of the lack of safeguards, coverage by Regulation E is necessary to achieve the basic objectives of the EFT Act—that is, to establish the rights and responsibilities of the parties to the transfers and, as the primary objective, to provide for individual consumer rights.

In summary, the Board believes that:

- The definition of an EFT encompasses all transfers of funds that are initiated electronically. When the instructions contained on a sales slip are converted to and transmitted in an electronic form, the financial institution holding the consumer asset account unquestionably is ordered, authorized, or instructed to debit the consumer's account by electronic means. As a result, the transfer of funds resulting from these POS debit card transactions are initiated electronically and the resulting transfers are EFTs.
- Neither the POS transactions nor the fund transfers are excluded from the definition of an electronic fund transfer. Even though there is an exclusion for "transaction[s] originated by check, draft, or similar paper instrument," the Board believes this exclusion is limited to negotiable instruments and for that reason does not apply to POS debit card transactions.
- The broad authority given to the Board to carry out the purposes of the act supports coverage so as to ensure that the purpose of the act is effectuated—that is, that the rights and responsibilities of all the parties to the transfers are established.

The Board therefore proposes amending Regulation E to cover transfers resulting from these POS transactions.

The Board requests specific comment on whether the regulation should be amended to cover *all* transfers resulting from point-of-sale debit card transactions, including those transfers resulting from transactions where the merchant's financial institution is the same as the account-holding institution. This would avoid the possibility of continued uncertainty as to the consumer protections for those transactions.

Extension of Periods for Error Resolution

Many financial institutions are already complying with the regulation for certain transactions because (1) the debit cards are capable of being used at merchant terminals or cash registers that capture data electronically; and (2) many of the debit cards that have been issued for POS transactions are also capable of being used for transactions at ATMs. However, some institutions will probably have to make changes in their programs, including the giving of new or corrected disclosures, in order to comply with Regulation E coverage.

The Board has considered the extent of the compliance burden that might result from coverage of these POS transactions by Regulation E. Some of the regulatory requirements would not apply to those transfers, and hence represent no compliance problem. For example, unless they capture data electronically, the sales registers at point of sale are not *electronic terminals* for purposes of the regulation, even though the transfers are characterized as *electronic fund transfers*. Thus the requirement that terminal receipts be given would not apply. Similarly, in the absence of an electronic terminal, the periodic statement need not include a terminal location—a disclosure that would otherwise be required and that, if applicable, might represent a significant problem.

One regulatory provision that appears to require an adjustment is error resolution, specifically with regard to the time limits for resolution of an error. Regulation E permits the financial institution to take up to 45 calendar days to resolve an error, but requires in such cases that the financial institution provisionally recredit the consumer's account by the tenth business day. When an error is alleged, it is often necessary to obtain documentation of the transaction in order to verify the date, amount, etc. of the transaction. Obtaining documentation, usually in the form of a copy of the sales slip, often takes longer than 10 business days. The time limits are of particular concern to securities firms that offer access to consumers' asset management accounts by means of debit cards. These firms encounter delays in obtaining copies of sales slips because they usually are not dealing directly with the financial institutions that truncated the sales slips, but are working through the financial institution that issued the debit cards on the firm's behalf.

Note.—The act and regulation contain an exemption for certain securities-related transfers, but that exemption is limited to transfers the *primary purpose* of which is the purchase or sale of securities. Transfers resulting from a consumer's use of a debit card to purchase goods or services are not excluded from coverage even though securities may be redeemed as a result of the transaction.

To facilitate compliance, the Board proposes to amend the regulation to allow 20 business days for the resolution of error allegations related to these POS transfers prior to requiring that the financial institution provisionally recredit the consumer's account, and to allow the financial institution up to 90 days for ultimate resolution of these

errors. These extended time periods are the same as those that the Board approved for resolution of errors involving EFTs that are initiated in a foreign country. The Board believes that this modification would minimize the potential compliance burden to financial institutions without resulting in a significant reduction in consumer protection.

In order to further minimize the effect of covering these transfers, the Board also proposes that the requirements of the regulation applicable to these transfers have a delayed effective date of six months from the date of final action by the Board—except for the limitations on unsolicited issuance and consumer liability for unauthorized transfers, which would take effect upon adoption of the amendment. This would provide financial institutions with lead time for changes that may be necessary to comply with requirements such as error resolution procedures and the furnishing of new corrected disclosures.

The board requests comment as to the effects of these proposed amendments (including cost information), whether the proposed extension of the time periods for error resolution is necessary in order to facilitate industry compliance, and whether extending those time periods would have an adverse impact on consumers.

3. Disclosure of EFT Charges

Regulation E currently requires that the periodic statement disclose, as a total sum, all charges assessed against the account during the statement period for electronic fund transfers or for the right to make such transfers, or for account maintenance. Some financial institutions would like to itemize EFT charges on a transaction-by-transaction basis, rather than disclose a total charge. The Board believes that disclosure of EFT charges on a transaction-by-transaction basis is likely to be at least as informative to the consumer as the disclosure of a total figure. The Board therefore proposes an amendment to the regulation that would permit disclosure of charges on an itemized basis. Disclosure of a total amount would continue to be permitted as an alternative, at the institution's option.

4. Economic Impact Analysis

While representing only a small share of all transactions by consumers at point of sale, paper-based debit transactions have grown substantially in number since enactment of the Electronic Fund Transfer Act. The proposed extension of Regulation E coverage to these transactions would provide benefit through the definition of rights and responsibilities of parties involved in these transactions. The costs of implementing and complying with the proposed amendments are not expected to be great for three reasons:

While all financial institutions will have to familiarize themselves with the proposed rules changes, relatively few institutions currently issue debit cards and will have to comply. Regulation E applies only to financial institutions, defined to include (1) depository institutions and any other person who, directly or indirectly, holds an EFT-accessibly account belonging to a consumer; and (2) any person who issues an EFT access device and agrees with a consumer to provide EFT services. The proposed amendments will primarily affect only the relatively few financial institutions not already covered by Regulation E and offering point-of-sale debit cards that can be used in transactions that may not involve electronic terminals. The impact of the proposed amendments is expected to be small because of the relatively narrow class of affected institutions and because most issuers of POS debit cards provide other EFT services to consumers. For these reasons, these institutions will already have established the compliance procedures required by the proposed amendments.

The large credit and debit card associations are expected to help streamline compliance for most affected institutions. It is anticipated that most of the issuers affected will belong to the major credit card associations. While a significant and growing number of transactions will be covered, the issuers and their associations have well-established systems and methods in place for resolving errors, providing documentation, and otherwise controlling credit card transactions. The amendments as proposed are unlikely to impose a significant additional burden on these systems.

Additional information about the number and type of entities, particularly small entities, likely to experience a significant cost or operational impact from the proposed amendments would be useful.

The terminal receipt requirements would not apply and an extension of error resolution procedure time limits would minimize the impact of the proposed amendments. An important feature of the proposed amendments is the absence of any terminal receipt requirements. Because the terminals involved in paper-based debit card transactions are not electronic terminals for purposes of the act and regulation, no documentation at POS is required by the regulation. In any case, the consumer would normally receive some form of documentation. Furthermore, because there is no required terminal receipt, there is no obligation to conform the information in periodic statements with the information on POS receipts. Periodic statements must identify third parties to whom funds were transferred by EFT, but this information would appear in any case as the merchant identification for each transaction.

The proposed amendments also extend the time periods allowed for error resolution. The modification would allow 20 business days for error resolution before the provisional recrediting provisions of Regulation E take effect, with a maximum of 90 days for error resolution. The existing regulation allows 10 business days and 45 days, respectively, for error resolution, except that 20 business days and 90 days, respectively are allowed for error resolution with respect to EFTs initiated in foreign countries. In preliminary discussions, industry representatives have indicated that the proposed time limits appear adequate for resolving most errors. These provisions eliminate some of the potentially most costly requirements of the regulation, without significantly reducing the consumer protections intended by the act.

In summary, the compliance requirements of the proposals are not expected be very burdensome. Nonetheless, most financial institutions are likely to incur some cost associated with familiarizing themselves with and interpreting these amendments to determine whether the specific provisions apply. Those institutions to which the amendments apply will have to incur the costs of revising operating manuals and procedures. The assistance that the large credit and debit card organizations provide to their members is expected to streamline compliance for most institutions and minimize the burden of compliance requirements.

Information on problems that might arise for institutions in attempting to comply with the proposed amendments would be useful. Also, information on the impact of the compliance requirements for small entities is particularly solicited.

Section 904(a)(2) of the EFT Act requires the Board to prepare an analysis of the economic impact of any regulations under the act. In addition, section 603 of the Regulatory Flexibility Act (5 U.S.C. 603) requires that proposed regulations be accompanied by an initial regulatory flexibility analysis. The

foregoing analysis satisfies both of these requirements.

5. Update to staff commentary

The Board is also publishing for comment an update to the official staff commentary, interpreting Regulation E (EFT–2, Supp. II to 12 CFR Part 205). This represents the second periodic update; the first was published on April 6, 1983 (48 FR 14880).

The questions that have been added are self-explanatory, and respond to inquiries received by the staff. Question 2–21.5 and the proposed revision to question 2–24 are contingent on the Board's adoption in final form of the proposed regulatory amendment covering point-of-sale transactions, discussed above. Question 3–3.5 codifies a longstanding position, first presented in a Federal Register notice of May 3, 1979 (44 FR 25850). Question 6–6.5 regarding consumer negligence addresses a question that has arisen from time to time and reflects the Board's longstanding position, which is based on the statutory provisions and legislative history of the act.

Questions 5–1.5 and 7–5.5 address the addition of new accounts. The positions taken in questions 7–15.5 and 9–31.5 parallel interpretations under the Regulation Z commentary (Supp. I to CFR Part 226), and address questions that have arisen in the context of developing interchange systems, as do questions 7–8.5 and 9–40.5. Revised question 9–31 would implement the Board's proposed change to § 205.9(b)(3), discussed above. Two questions deal with preauthorized debits. Question 10–18.5 is new. Question 10–19 contains a proposed modification to the current interpretation, in response to requests for further guidance from representatives of automated clearing houses. Finally, question 12–1 revises the position currently stated in the commentary, which may be misleading regarding the preemptive effect of federal law.

List of Subjects in 12 CFR Part 205

Banks, banking, Consumer protection, Electronic fund transfers, Federal Reserve System, Penalties.

Regulatory Text

PART 205—[AMENDED]

Certain conventions have been used to highlight the proposed revisions. New language is shown inside bold-faced arrows, while language that would be deleted is set off with brackets. Pursuant to the authority granted in section 904 of the Electronic Fund Transfer Act, 15 U.S.C. 1693b, the Board proposes to amend Regulation E, 12 CFR Part 205, by revising §§ 205.2(g), 205.9(b)(3), and 205.11(c)(4), as follows:

§ 205.2 Definitions and rules of construction.

* * * * *

(g) "Electronic fund transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephone, or computer or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account. The term includes, but is not limited to, point-of-sale transfers, automated teller machine transfers, direct deposits or withdrawals of funds, and transfers initiated by telephone. ►It includes transfers resulting from point-of-sale transactions that do not involve an electronic terminal but do involve the conversion of transaction information into an electronic form for transmission to the account-holding institution.◄ The term does not include payments made by check, draft, or similar paper instrument at an electronic terminal.

* * * * *

§ 205.9 Documentation of transfers.

* * * * *

(b) *Periodic statements.* * * *

(3) The [total] amount of any fees or charges, other than a finance charge under 12 CFR 226.7(f), assessed against the account during the statement period for electronic fund transfers or the right to make such transfers, or for account maintenance.

* * * * *

§ 205.11 Procedures for resolving errors.

* * * * *

(c) *Investigation of errors.* * * *

(4) If a notice of an error involves an electronic fund transfer that was not initiated in a state as defined in § 205.2(k), ►or involves an electronic fund transfer resulting from a point-of-sale transaction that did not involve an electronic terminal,◄ the applicable time periods for action in paragraphs (c), (e), and (f) of this section shall be 20 business days in place of 10 business days, and 90 calendar days in place of 45 calendar days.

* * * * *

7. Text of Proposed Commentary Revision

Conventions used above to highlight the proposed regulatory changes (bold-faced arrows and brackets) have also been used to highlight the proposed changes to the commentary. The proposed revision to the Official Staff Commentary on Regulation E (EFT–2, Supp. II to 12 CFR Part 205) reads as follows:

Supplement II—Official Staff Interpretations

Section 205.2—Definitions and rules of construction.

* * * * *

►Q2–21.5: *Fund transfer—POS transaction.* A consumer uses a debit card at point of sale (POS) to purchase goods or services. The card is used to generate a sales slip that is later truncated. The payment data is converted to electronic form for transmittal to the account-holding institution, where the consumer's asset account is debited for the amount of the transaction. Is this transfer subject to the regulation?

A: Yes. the definition of "electronic fund transfer" covers transfers of this type even when no electronic terminal is involved since the account-holding institution is ordered, instructed, or authorized to debit the consumer's account by electronic means. However, because no electronic terminal is involved, a terminal receipt is not required and the periodic statement need not disclose teminal location. (§§ 205.2(g), and 205.9(a) and (b)(1)(iv))◄

* * * * *

Q2–24: *Point-of-sale terminals.* Does the regulation cover POS [transfers] ►transactions◄ in which the consumer presents an access device, ►such as a debit card,◄ and does the terminal receipt requirement apply?

A: The regulation applies to transfers [initiated at point-of-sale terminals] ►resulting from point-of-sale debit card transactions whether or not an electronic terminal is involved, if the payment data is transmitted in electronic form; but terminal receipts are required only if there is an electronic terminal. Point-of-sale terminals are electronic terminals for purposes of the regulation◄ if they capture data electronically, for debiting or crediting to the consumer's asset account, using the consumer's access device—for example, when the consumer's personal identification number is required, in part, to activate the terminal. [Terminal receipts would be required in such cases.] ►(See question 2–21.5.)◄ (§ 205.2(h))

* * * * *

Section 205.3—Exemptions.

* * * * *

►Q3–3.5: *Securities exemption—asset management accounts.* Some consumer financial services include both an electronic fund transfer service and the purchase and sale of securities. An example is a program involving a debit card issued by a bank or other card issuer, which the consumer uses to purchase goods or services, and a money market mutual fund held with a broker. Debits are processed by the card issuer and transmitted via electronic means to the broker for payment from the money market mutual fund. Are such transfers exempt from the regulation under the securities exemption?

A: No. The regulation exempts only transfers whose "primary purpose" is the purchase or sale of securities—for example, a telephone order to a stockbroker to buy or sell securities. In the case of POS transactions, the purchase or sale of securities is not the primary purpose of the transfers. Rather, the primary purpose of the use of the card and the resulting transfer is, for example, to purchase goods or services or to obtain cash, and redemption of securities is incidental thereto. (§ 205.3(c))◄

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Section 205.5—Issuance of Access Devices.

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►Q5–1.5: *Issuance—addition of new accounts.* A consumer has been issued an access device for accessing an asset account. The account-holding institution wants to make an additionl account accessible to the consumer by means of the same access device. May the institution do so without a request by the consumer?

A: No. Making an additional account accessible through an existing access device is equivalent to issuing an access device for that account. Such issuance is subject to the unsolicited issuance provisions. (Additional disclosures may be required in some circumstances. See question 7–5.5.) (§ 205.5 (a)(1))◄

* * * * *

Section 205.6—Liability of Consumer for Unauthorized Transfers.

* * * * *

Q6–6.5: *Consumer negligence.* A consumer writes the PIN on a piece of paper and keeps it with the ATM card, or writes it on the card itself—actions that may constitute negligence under state law. Do such actions affect the liability for unauthorized transfers that may be imposed on the consumer?

A: No. Negligence on the consumer's part is not a factor in determining liability under the act and Regulation E. The extent of the consumer's liability is determined by the promptness in reporting loss or theft of an access device or unauthorized transfers appearing on a periodic statement. (§ 205.6(b))

* * * * *

Section 205.7—Initial Disclosure of Terms and Conditions.

Q7–5.5: *Addition of new accounts.* A consumer arranges for electronic fund transfers to and from an account, and receives disclosures. Later, the consumer arranges for transfers involving an additional account at the same financial institution. Does the addition of the new account require further disclosures?

A: The addition of a new account would require the institution to furnish any of the required disclosures that differ from those previously given. (See questions 5–1.5 and 7–6.) (§ 205.7(a))

* * * * *

Q7–6.5: *Addition of service—in interchange system.* A financial institution operates electronic terminals through which consumers can access their accounts, and gives the required disclosures regarding the service. Later, the institution joins an interchange or shared system of terminals, giving consumers access to terminals operated by other institutions in the system. Are new disclosures required?

A: The institution must provide any of the required disclosures that differ from those previously given. (§ 205.7(a))

* * * * *

Q7–15.5: *Charges—in interchange system.* In a shared or interchange system, a charge sometimes is imposed either by the system or by the terminal operator, for the use of terminals operated by an entity other than the account-holding institution. Must such charges be disclosed in initial disclosures?

A: A charge assessed by the interchange system must be disclosed. Charges assessed by terminal-operating institutions, on the other hand, are not within the purview of the account-holding institution's relationship with its customer and therefore need not be disclosed. (See question 4–1.) (§§ 205.7)a)(5) and 205.4(a))

Section 205.9—Documentation of Transfers.

* * * * *

Q9–31: *Periodic statements—charges.* What charges must be disclosed on the periodic statement?

A: Financial institutions should disclose either (1) the total charges assessed against the account during the statement period for electronic fund transfers or the right to make transfers; or (2) the total charges assessed during the period for account maintenance (including both EFT and non-EFT and both fixed feed and per-item charges); or (3) charges for electronic fund transfers, shown on a transfer-by-transfer basis, and the charge (if any) for the right to make transfers. (§ 205.9(b)(3))

Q9–31.5: *Periodic statements—charges in interchange system.* In a shared or interchange system a charge is imposed, either by the system or by the terminal operator, for the use of terminals operated by an entity other than the account-holding financial institution. Must such charges be disclosed on the periodic statement?

A: Yes; an exception applies, however, if the charge was imposed by a terminal-operating institution and was included in the amount of the transfer. (§ 205.9(a)(1), (b)(1)(i), and (b)(3))

* * * * *

Q9–40.5: *Receipts/periodic statements—interchange system; terminal location.* In a shared or interchange system, a consumer uses terminals operated by entities other than the account-holding institution. The terminal operators have terminals at more than one location, and the terminal receipts include a street address, city, and state in addition to the name of the terminal operator. In contrast, the periodic statement provided by the account-holding institution identifies the terminal location for these transfers by listing the name of the terminal operator and the city and state. Does this identification comply with the regulation?

A: Yes. For transfers initiated at non-proprietary terminals, the account-holding institution may describe the location by naming the entity at whose place of business the terminal is located (or which owns or operates the terminal), plus the city and state. It need not repeat on the periodic statement the street address given on the terminal numbers shown on the receipt by the terminal operator. (§ 205.9(a)(5) and (b)(1)(iv))

* * * * *

Section 205.10—Preauthorized Transfers.

* * * * *

10–18.5: *Preauthorized debits—authorization.* A consumer telephones the financial institution or designated payee to arrange for preauthorized electronic fund transfers from the consumers's account, and subsequently receives a form for authorizing the fund transfers. The consumer signs and returns one copy of the form, and retains a copy. Does this procedure comply with the regulation?

A: Yes; the confirmation form serves as the required written authorization. The regulation does not mandate a prescribed format. (§ 205.10(b))

Q10–19: *Preauthorized debits—stop-payment order.* On October 10, a consumer orally orders the financial institution to stop payment on a $30 utility bill that is scheduled to be paid on October 15. The payment is stopped. The consumer properly confirms the order in writing on October 17. On October 30 the utility company resubmits the $30 debit. Must the financial institution stop payment on the resubmitted item? How might the financial institution comply with the consumer's stop-payment request?

A: Yes. The institution may accomplish this, for example, by suspending all subsequent payments to the designated payee until the consumer notifies the institution that payments should resume. The act and regulation establish the consumer's right to stop payment of preauthorized electronic fund transfers. The institution may comply with the regulation and respond to the consumer's request by determining, when the consumer orally requests the financial institution to stop payment on an item, whether (1) the consumer wishes to revoke the payment authorization to the designated payee for all future payments, in which case the institution may suspend all subsequent payments to the designated payee until the consumer notifies the institution that payments should resume; or (2) the consumer wishes only the particular payment to be stopped, in which case the payment must be stopped even if it is resubmitted. (§ 205.10(c))

* * * * *

Section 205.12—Relation to State Law.

Q12–1: *Preemption of state EFT laws—specific determinations.* The regulation prescribes standards for determining whether state laws that govern electronic fund transfers are preempted by the act and the regulation. If, under these standard, state law is inconsistent with the federal law, is the state law it automatically preempted by operation of law, absent a Board determination of preemption?

A: No. A specific determination of preemption will be made by the Board. Interested parties seeking a determination should follow the procedures set forth in the regulation. If the state law is inconsistent

with the federal law and is not more protective than the federal, the state law is preempted even if the Board has not issued a determination on the question. (§ 205.12(a) and (b))

* * * * *

By order of the Board of Governors of the Federal Reserve System, January 12, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-1289 Filed 1-17-84; 8:45 am]

BILLING CODE 6210-01-M

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12 CFR Part 226

[Reg. Z; Doc. No. R-0501]

Truth in Lending; Credit Cards; Issuance and Liability

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board is publishing for comment a proposed amendment to revised Regulation Z (Truth in Lending). The proposal would clarify that credit cards issued for use with transactions that are exempt from all other provisions of the regulation are subject to the Regulation Z provisions governing the issuance of credit cards and the liability for unauthorized use. Questions concerning the applicability of these two credit card provisions have come from both the public and private sectors. The proposed amendment would resolve any remaining uncertainty that the issuance and liability protections apply to all credit cards regardless of use or cardholder status.

DATE: Comments must be received on or before February 24, 1984.

ADDRESS: Comments should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or delivered to the C Street entrance 20th and C Streets, N.W., Washington, D.C. between 8:45 a.m and 5:15 p.m. To aid in their consideration, comments should include a reference to Doc. No. R-0501. Comments may be inspected in Room B-1122 between 8:45 a.m. and 5:15 p.m.

FOR FURTHER INFORMATION CONTACT: Regarding the regulation: Ruth R. Amberg, Senior Attorney, or Lynn C. Goldfaden or Richard Garabedian, Staff Attorneys, in the Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 2051, at (202) 452-3667 or (202) 452-3867. Regarding the economic impact analysis: Robert Kurtz, Economist, Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, at (202) 452-2915.

SUPPLEMENTARY INFORMATION: (1) *General.* Section 226.3 of Regulation Z would be amended to make clear that the restriction on unsolicited issuance of credit cards in § 226.12(a) and the provision in § 226.12(b) limiting a cardholder's liability for unauthorized use of a credit card to a maximum of $50 (both based on the 1970 credit card amendments to the Truth in Lending Act) apply to credit cards issued for use in transactions that are exempt from other sections of the regulation. Questions concerning the applicablity of these two credit card provisions have come from both the public and private sectors. The proposed amendment would resolve any remaining uncertainty that the issuance and liability protections apply to all credit cards, regardless of use or cardholder status. The proposed amendment would not affect the application of the exemptions to the other provisions of the regulation, such as the cost disclosure, rescission, and advertising requirements.

The comment period ends on February 24. Comments must be received on or before that date to ensure consideration. The Board believes a prompt resolution of these matters is essential and in the public interest in order to provide clarification on the scope of the credit card protections.

(2) *Scope.* The Regulation Z exemptions most likely to be affected are those for (1) credit extended by registered broker-dealers for the purchase of securities or commodities, (2) extensions of credit for more than $25,000 (if unsecured by real estate or by the consumer's dwelling), and (3) credit extended by a regulated public utility for utility services, including credit extended by telephone companies. Business credit transactions also are generally exempt from the regulation; however, the regulation presently makes clear that the credit card provisions on unsolicited issuance and liability for unauthorized use apply to cards issued for obtaining business-purpose credit. Although the types of exempt transactions most commonly made with credit cards are business transactions, telephone calls, and securities purchases, the proposed amendment would make clear that *all* credit cards are covered by the provisions on issuance and liability for unauthorized use, so that the amendment also would affect credit cards issued for use with other types of transactions that are exempt under Regulation Z. (The regulation also exempts certain student loans and home fuel budget plans.)

The vast majority of the credit cards that will be affected by this amendment are telephone calling cards. Other than those used in consumer asset management accounts, there appear to be comparatively few cards issued for use with fixed credit lines over $25,000 that are not secured by real estate or a dwelling. Moreover, if the Board adopts the proposed amendment to cover all debit card transactions involving electronics under Regulations E (published elsewhere in this **Federal Register** issue), that regulation will govern the issuance and liability for unauthorized use of the majority of cards in consumer asset management accounts. (See the rule in § 226.12(i) of Regulation Z that designates which regulation applies when a transaction involves both an asset account and a credit extension.) Furthermore, many of the cards in consumer asset management accounts in which credit may be extended without first accessing an asset account are already covered by Regulation Z because they can be used to obtain non-exempt credit. For these reasons, this discussion will focus on telephone credit cards.

(3) *Telephone credit cards.* Questions regarding the applicability of the credit card amendments to telephone cards have become important primarily because of the millions of telephone credit cards that have been issued in recent years; the fact that many paper telephone cards are being replaced by plastic cards which resemble and function much like retail credit cards; and the structural changes in the telecommunications industry that even further expand the number of companies likely to issue cards. Although the Board understands that the current policies of the major telephone card issuers comply with the spirit of the credit card provisions, the proposed amendment would assure that these protections continue in the future.

The Board is concerned that, unless the credit card provisions apply to these cards, consumers who use credit cards in connection with credit programs involving exempt transactions will not have any federal protections restricting unsolicited issuance of such cards and limiting their liability for the unauthorized use of the card. Although there is no evidence of a pattern of abuse at this time, this lack of legal protection may have a serious impact in the future in light of the scope of these programs and the indications of their continued growth.

Approximately 47 million telephone cards have been issued, with most of them having been issued by a few of the 1,600 telephone companies. The use of cards is being encouraged as the companies seek to eliminate the substantial fraud losses and other costs associated with operator-assisted calls billed to third parties, as well as to provide consumers with easier access to telephone services. Presently, the major card issuers only issue cards upon request, and follow a policy of not imposing liability on a consumer for unauthorized charges made on a card. However, unless the credit card protections in Truth in Lending apply to these cards, it is unknown what policies will be set by these companies in the future. It is possible that the companies will reverse their past policies and seek to impose some liability on the cardholder whose card is used for unauthorized calls. The Board is not aware of any other laws specifically providing protections regarding unauthorized telephone card charges, and welcomes additional information on the subject.

Unsolicited issuance of cards presents the risk that a card may be stolen before it reaches the consumer. Since the consumer would not be expecting the card, the first sign of the theft could be a bill for unauthorized charges. Because the card contains all of the information necessary for immediate use, nothing insulates the consumer form unauthorized charges being made with the card. Although the Board has expressed concern in the past that restrictions on unsolicited issuance of typical retail credit cards might inhibit competition, it believes that the potential risk of unsolicited issuance of these cards outweighs any benefits of enhanced competition, as the cards may be used easily by anyone who has possession of them. Unlike the typical credit card, there is no face-to-face contact when the card is used, and no unique identifier of the cardholder, such as a secret personal identification number, or a signature to compare.

The Board also believes that since credit cards used by businesses and for business purposes are subject to the protections, it seems reasonable to conclude that credit cards used by consumers for personal credit transactions should be subject to the same protections. Consumers who use telephone cards, for example, are in no better position to protect themselves form the risks arising from unsolicited issuance and unauthorized use fo these cards than with other credit cards. Further, the policy underlying the public utilities exemption—that is, that other regulatory bodies would provide the needed protections on rates—does not appear to exists when the question concerns credit card issuance and liability for unauthorized use.

(4) *Particular issues for comment.* Although the vast majority of the existing telephone credit cards are issued by a relatively few large entities, there are many small companies in the industry that are or may become involved in card issuance. Therefore, the Board solicits comment on the potential impact of the amendment on small companies in the telecommunications or other potentially affected industries that currently have credit card programs, or that might develop them in the future.

The Board also solicits comment on other regulatory, operational, or cost factors that might be relevant to the proposal.

If the amendment is adopted, the Board will consider appropriate action to minmize initial compliance costs associated with the amendment. For example, the Board recognizes that some outstanding cards or agreements may contain language that is inconsistent with the liability limitation rules. (Some cards may reflect, for instance, that the cardholder is responsible for all charges made with the card.) Therefore, the Board solicits comment on whether it should stipulate that card issuers need not replace existing cards or agreements merely to change misleading language; rather, as new cards are issued or new agreements printed according to the normal replacement schedule, the inconsistent language would have to be modified to accurately reflect the limits. The limited liability protection would, of course, be effective notwithstanding the conflicting language. Such an accommodat in would avoid costly expenditures for mass issuance of replacement cards or agreements, and yet effectuate the goals of the amendment because consumers would have the benefits of the liability protection.

Furthermore, the Board is aware that American Telephone & Telgraph (AT&T)—as part of its plan to automate telephone use—is in the process of issuing, without request, a substitute card to all consumers who have either an existing Bell System card or a card issued by an independent company that can be used for service over AT&T facilities. While this distribution will probably be substantially complete before the effective date of the proposed amendment, the issuance of cards after that date may raise questions of unsolicited issuance because AT&T cannot void the existing credit cards when it issues the new cards. However, because of the unique circumstances involved, and the time, cost, and effort already devoted by AT&T to the project of automating card use the Board solicits comment on waiving the unsolicited issuance prohibition if there are any cards that have not yet been issued as part of this one-time substitution by the effective date of this amendment.

(5) *Economic Impact Analysis.* The Board's Division of Research and Statistics has prepared an economic impact analysis. A copy of the analysis may be obtained from Publications Services, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, at (202) 452–3245.

List of Subjects in 12 CFR Part 226

Advertising, Bank, banking, Consumer protection, Credit, Federal Reserve System, Finance, Penalties, Truth in lending.

(6) *Text of proposed revision.* Pursuant to the authority granted in section 105 of the Truth in Lending Act (15 U.S.C. 1604 as amended), the Board proposes to amend Regulation Z, 12 CFR Part 226, by removing footnote 4 to § 226.3(a) and adding a new footnote 4 to § 226.3 to read as follows:

[4] The provisions governing the issuance of credit cards and the liability for their unauthorized use in § 226.12 (a) and (b) apply to all credit cards, even if the credit cards are issued for use in connection with extensions of credit that otherwise are exempt under this section.

§ 226.3 Exempt transactions.

This regulation does not apply to the following:[4] * * *

* * * * *

By order of the Board of Governors of the Federal Reserve System, January 12 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-1298 Filed 1-17-84; 8:45 am]

BILLING CODE 6210-01-M

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12 CFR Part 226

[Reg. Z; TIL-1]

Truth in Lending; Official Staff Commentary Revision

AGENCY: Board of Governors of the Federal System.

ACTION: Proposed official staff interpretation.

SUMMARY: The Board is publishing for comment a proposed change to the official staff commentary to Regulation Z (Truth in Lending). The commentary

applies and interprets the requirements of Regulation Z with regard to consumer credit transactions and is a substitute for individual staff interpretations of the regulation. The proposal addresses the scope of the securities transaction exemption contained in § 226.3(d) of Regulation Z and is intended to clarify its application.

DATE: Comments must be received on or before February 24, 1984.

ADDRESS: Comments should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or delivered to the C Street entrance, 20th and C Streets, N.W., Washington, D.C. between 8:45 a.m. and 5:15 p.m. Comments should include a reference to TIL–1. Comments may be inspected in Room B–1122 between 8:45 a.m. and 5:15 p.m.

FOR FURTHER INFORMATION CONTACT: Ruth R. Amberg, Senior Attorney, or Richard Garabedian, Staff Attorney, in the Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, at (202) 452–3667.

SUPPLEMENTARY INFORMATION: (1) *General.* Effective October 13, 1981, an official staff commentary was published to intepret Regulation Z (12 CFR Part 226). The commentary is designed to provide guidance to creditors in applying the regulation to specific transactions and is updated periodically to address significant questions that arise. The present proposal is not a general update, but rather a specific proposal addressing the relationship of the securities transaction exemption to consumer asset management accounts. The proposal is being published at this time, rather than with the most recent proposed update (48 FR 54642, December 6, 1983), because the Board's staff is also now publishing for comment a proposed update to Regulation E (Electronic Fund Transfers), some portions of which address the impact of that regulation on consumer asset management accounts. As both Regulations E and Z may be applicable to these accounts, the preparation of comments will be significantly aided if financial service providers can consider the impact of both regulations at the same time. It is expected that if this proposal is adopted it will be issued in final form in March 1984 with optional compliance until the uniform effective date of October 1 for mandatory compliance with commentary revisions.

Certain conventions have been used to highlight the proposed revisions. New language is shown inside bold-faced arrows, while language that would be deleted is set off with brackets.

(2) *Proposed revision.* Following is a brief description of the proposed revision to the commentary:

Subpart A—General

§ 226.3 Exempt transactions.

3(d) *Securities or commodities accounts.*

This section would be revised to clarify the scope of the exemption for securities or commodities transactions. The need for clarification has arisen largely in the context of consumer financial services that combine transaction and investment features ("consumer asset management accounts") and are offered by brokerage and investment firms.

Consumer asset management accounts permit the consumer to place assets (for example, cash and securities) in one account for the purpose of engaging in consumer transactions, investing excess cash balances in high-yield funds (for example, a money market mutual fund), and buying and selling securities. Typically, if the cash balances and liquidated money market shares are insufficient to pay for the consumer purchase, credit is extended by the broker and such credit is collateralized by securities in the account.

Regulation Z (12 CFR 226.3(d)) provides an exemption for "transactions in securities or commodities accounts in which credit is extended by a broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission". The exemption is based on § 104(2) of the Truth in lending Act. The legislative history of the exemption indicates that it was placed in the act to exempt credit extended by a registered broker-dealer for purchasing or carrying securities. The exemption was premised on the Securities and Exchange Commission's adopting regulations requiring credit disclosures substantially similar to those required by the act. In response, the SEC adopted regulations (17 CFR 240.10b–16) requiring detailed disclosure of credit terms in connection with any securities transaction.

The proposed commentary amendment would make clear that credit that is extended by a broker-dealer through a consumer asset management account and is not for a securities transaction—but is for the payment of other goods and services—remains subject to Regulation Z. (Of course, credit extended by broker-dealers for non-securities transactions outside the context of such an account is also subject to the regulation.) Protections comparable to those in Regulation Z (including, for example, error resolution procedures) do not appear to exist for this category of transactions; comment is solicited on this point. The proposal also reflects the relationship between Regulations E and Z in consumer asset management accounts if electronic fund transfers are involved.

List of Subjects in 12 CFR Part 226

Advertising, Banks, banking, Consumer protection, Credit, Federal Reserve System, Finance, Penalties, Truth in lending.

(3) *Text of Revision.* New language is shown inside bold-faced arrows, while language that would be deleted is set off with brackets. The proposed revision to the commentary (Supplement I to Part 226) reads as follows:

Supplement I—Official Staff Commentary—TIL–1

Subpart A—General

* * * * *

Section 226.3—Exempt Transactions

* * * * *

3(d) *Securities or Commodities Accounts.*

1. *Coverage.* This exemption does not apply to [a transaction with a broker registered solely with the state or to a separate credit extension in which the proceeds are used to purchase securities.] ►the following:

• A transaction with a broker registered solely with the state.

• A separate credit extension in which the proceeds are used to purchase securities.

• A transaction that does not involve the purchase or carrying of securities, even if it is processed through a plan that may also be used to purchase or carry securities offered by a registered broker-dealer. For example, under certain types of consumer asset management accounts, a consumer may purchase any number of goods and services that do not involve securities. Payment for such items may be made, in some cases, by credit extend on the maximum loan value of the securities in the plan. Although Regulation Z applies to these non-securities transactions, note that if electronic fund transfers are involved in these plans, Regulation E supersedes provisions of Regulation Z regarding card issuance and liability for unauthorized use, as well as the procedures for resolving errors (except for § 226.13(d) and (g). ◄

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(15 U.S.C. 1604)

Board of Governors of the Federal Reserve System, January 12, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84–1297 Filed 1–17–84; 8:45 am]

BILLING CODE 6210–01–M

federal register

Wednesday
January 18, 1984

Part IV

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978; Notice

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Volume 1039]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 12, 1984.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd, Springfield, VA 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
- 102–2: New well (2.5 Mile rule)
- 102–3: New well (1000 Ft rule)
- 102–4: New onshore reservoir
- 102–5: New reservoir on old OCS lease

Section 107–DP: 15,000 feet or deeper
- 107–GB: Geopressured brine
- 107–CS: Coal Seams
- 107–DV: Devonian Shale
- 107–PE: Production enhancement
- 107–TF: New tight formation
- 107–RT: Recompletion tight formation

Section 108: Stripper well
- 108–SA: Seasonally affected
- 108–ER: Enhanced recovery
- 108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS

ISSUED JANUARY 12, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
ALABAMA OIL & GAS BOARD									
-ALABAMA METHANE PRODUCTION CO				RECEIVED:	12/08/83	JA: AL			
8411249	10-13-8327PD	0112520039		107-CS		AMPCO 25-11 #4	CEDAR COVE COAL DEGAS	27.0	
8411245	10-13-8326PD	0112520038		107-CS		AMPCO 25-13 #3	CEDAR COVE COAL DEGAS	1.1	
8411250	10-13-8328PD	0112520096		107-CS		AMPCO 25-14 #5	CEDAR COVE COAL DEGAS	29.0	
8411257	10-13-8325PD	0112520022		107-CS		AMPCO 26-15 #2	CEDAR COVE COAL DEGAS	15.7	
-AMOCO PRODUCTION CO				RECEIVED:	12/08/83	JA: AL			
8411253	1-20-832PD	0100320107		102-4		H L WILLIAMS 6 #1	SOUTH WEEKS BAY	365.0	AMOCO PRODUCTION
8411254	1-20-837PD	0100320110		102-4		S C LIPSCOMB UNIT 7-9 #1	SOUTH WEEKS BAY	365.0	AMOCO PRODUCTION
-BLACK WARRIOR METHANE CORP				RECEIVED:	12/08/83	JA: AL			
8411248	12-2-836PD	0112520143		107-CS		SHOOK 36-16-1	BROOKWOOD COAL DEGASI	180.0	SOUTHERN NATURAL
-BROOKWOOD GAS & OIL INC				RECEIVED:	12/08/83	JA: AL			
8411256	6-30-832PD	0112520073		107-CS		ABSTON 26-11-1	BROOKWOOD DEGAS	0.0	
-BROWNING & WELCH INC				RECEIVED:	12/08/83	JA: AL			
8411246	12-2-834PD	0105720319		102-2		J B ATKINSON 6-1 #1	BLUFF FIELD	116.0	HOWELL PIPELINE C
-CLAYTON W WILLIAMS JR				RECEIVED:	12/08/83	JA: AL			
8411247	12-2-835PD	0100320125		102-4		ALBERT LIPSCOMB 20-1 #1	CYPRESS POINT	442.0	
-COALTECH INC				RECEIVED:	12/08/83	JA: AL			
8411260	12-2-8313PD	0112520117		102-2		REICHHOLD CHEMICAL 3-11 #2	HOLT COAL DEGASIFICAT	6.9	REICHHOLD CHEMICA
8411261	12-2-8314-PD	0112520068		102-2		REICHHOLD CHEMICAL 3-6 #1	HOLT COAL DEGASIFICAT	25.0	REICHHOLD CHEMICA
-GRACE PETROLEUM CORPORATION				RECEIVED:	12/08/83	JA: AL			
8411251	12-2-831PD	0107520010		108		H W MATTHEWS #1	DUG HILL	0.0	NORTHWEST ALABAMA
-HOWELL PETROLEUM CORP				RECEIVED:	12/08/83	JA: AL			
8411259	12-2-839PD	0105720315		102-2		FOWLER 14-1	DAVIS CHAPEL EXTENSIO	91.0	NORTHWEST ALABAMA
-MICHIGAN OIL COMPANY				RECEIVED:	12/08/83	JA: AL			
8411255	1-20-835PD	0107520433		102-4		R PERKINS 33-11	NORTH FAIRVIEW OIL	45.0	HOWELL PETROLEUM
-MWJ PRODUCING COMPANY				RECEIVED:	12/08/83	JA: AL			
8411252	12-2-833PD	0105720320		102-4		DUBOSE 27-8 #1	BETHEL CHURCH	235.0	
-SUPERIOR OIL CO				RECEIVED:	12/08/83	JA: AL			
8411258	12-2-838PD	0129720208		107-DP		ANNIE M HILL ET AL UNIT 39 #3	MOVICO	625.0	
LOUISIANA OFFICE OF CONSERVATION									
-CRYSTAL OIL AND LAND COMPANY				RECEIVED:	12/07/83	JA: LA			
8411221	83-0983	1701521887		102-4		BARNETT "B" #1 SLI RB SUB	ARKANA	6.6	ARKANSAS LOUISIAN
8411220	83-0982	1701521890		102-4		BARNETT "C" #1 SLI RB SUC	ARKANA	105.9	ARKANSAS LOUISIAN
8411218	83-0984	1701521914		102-4		BARNETT "E" #1 SLI RB SUI	ARKANA	51.1	ARKANSAS LOUISIAN
8411223	83-0981	1701521907		102-4		M E EASLEY #1 SLI RB SUD	ARKANA FIELD	29.2	ARKANSAS LOUISIAN
8411222	83-0980	1701521917		102-4		M E EASLEY "A" #1 SLI RB SUE	ARKANA	12.4	ARKANSAS LOUISIAN
-DAVIS OIL COMPANY				RECEIVED:	12/07/83	JA: LA			
8411219	83-0985	1701902118		102-4		HACK RA SUM ST ROMAIN #2	SOUTH BELL CITY	840.0	DOW INTRASTATE GA
-MAY PETROLEUM INC				RECEIVED:	12/07/83	JA: LA			
8411229	83-1525	1705520196		103		M E MCCONNELL #3 BOL MEX 2 RA SUA	SOUTH DUSON	1095.0	TRANSCONTINENTAL
-SAMANTHA PETROLEUM CORP				RECEIVED:	12/07/83	JA: LA			
8411227	82-3444	1708120453		102-2	103	GUILLOT #5	GAY ISLAND	50.0	UNITED GAS PIPE L
8411230	82-3443	1708120460		102-2	103	GUILLOT #7	GAY ISLAND	50.0	UNITED GAS PIPE L
8411228	82-3441	1708120486		102-2	103	GUILLOT A-3	GAY ISLAND	50.0	UNITED GAS PIPE L

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-SUPERIOR OIL CO				RECEIVED:	12/07/83	JA: LA			
8411226	83-1519	1702321798		103		S L 344 #27	GRAND LAKE	100.0	TRUNKLINE GAS CO
-TEXAS PRODUCTION CORP				RECEIVED:	12/07/83	JA: LA			
8411224	81-2618	1701320406		102-4		PIPES #1	BRYCELAND	215.4	TEXAS EASTERN GAS
-TIPPERARY OIL AND GAS CORP				RECEIVED:	12/07/83	JA: LA			
8411217	83-0986	1701724766		102-4		HENRY BANGO #1 HOSS RB SUA	LONGWOOD (HOSSTON)	360.0	PRODUCER'S GAS CO
-TXO PRODUCTION CORP				RECEIVED:	12/07/83	JA: LA			
8411225	82-2104	1703121834		102-4		MABORS #2	GRAND CANE	262.8	DELHI GAS PIPELIN
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MONTANA BOARD OF OIL & GAS CONSERVATION									
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-ENSERCH EXPLORATION INC				RECEIVED:	12/08/83	JA: MT			
8411232	7-83-112	2509121508		102-2		HOVEN #1-12	PLENTYWOOD	0.0	PHILLIPS PETROLEU
8411233	7-83-113	2509121508		103		HOVEN #1-12	PLENTYWOOD	0.0	PHILLIPS PETROLEU
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NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
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-SOUTHLAND ROYALTY CO				RECEIVED:	12/07/83	JA: NM			
8411268		3001523133		102-4		J E B STUART "13" COM #1	ANGELL RANCH	18.0	EL PASO NATURAL G
8411265		3001522309		102-4		PALMILLO-STATE COMM #1	TURKEY TRACK NORTH	175.0	EL PASO NATURAL G
8411264		3001522380		102-4		STATE "19" COM #1	SOUTH MILLMAN	150.0	NATURAL GAS PIPEL
8411263		3001522625		102-4		STATE "19" COM #2	SOUTH MILLMAN	[illegible].0	EL PASO NATURAL G
8411262		3001523460		102-4		STATE "30-A" COM #1	SOUTH MILLMAN	187.0	EL PASO NATURAL [illegible]
8411266		3001522884		102-4		STATE "30" COM #1	ANGELL RANCH	150 0	EL PASO NATURAL G
8411267		3001522836		102-4		STATE "32" COM #1	WINCHESTER	55 0	EL PASO NATURAL G
8411269		3001523805		102-4		WILLIAMS STATE COM #1	ANGELL RANCH	197.0	EL P[illegible]O NATURAL G
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NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
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-GYPSUM ENERGY MANAGEMENT CO				RECEIVED:	12/02/83	JA: NY			
8411234	5782	3103717402		103	107-TF	DOKTOR #1	HURON CREEK	14.0	U S GYPSUM CO
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OHIO DEPARTMENT OF NATURAL RESOURCES									
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-A & R COMPANY				RECEIVED:	12/07/83	JA: OH			
8411275		3416726486		107-TF		CHAS D FOGLE TRUST #2 OH-45-3402	LAWRENCE	1.0	COLUMBIA GAS TRAN
8411272		3416724911		107-TF		DARLENE LUKSHIN #1 OH-27-1801	NEWPORT	12.0	COLUMBIA GAS TRAN
8411270		3416724716		107-TF		DEAN E ABICHT #3 OH-15-1103	NEWPORT	10.0	COLUMBIA GAS TRAN
8411273		3416724979		107-TF		DEAN E ABICHT #4 OH-23-1104	NEWPORT	5.0	COLUMBIA GAS TRAN
8411274		3416725926		107-DV		HERBERT WEBER #1 OH-32-3301	NEWPORT	4.0	
8411271		3416724906		107-TF		LARRY HAYNES #1 OH-29-1901	NEWPORT	8.0	COLUMBIA GAS TRAN
8411276		3416726703		107-TF		RALPH CARSON #1-A OH-50-3801	GRANDVIEW	12.0	RIVER GAS CO
8411277		3416727381		107-TF		RALPH CARSON #2 OH-51-3802	GRANDVIEW	12.0	RIVER GAS CO
-AKRON OIL CORP				RECEIVED:	12/07/83	JA: OH			
8411278		3403125149		103		JOHNS #1	PERRY	5.0	
-CA D' ORA INC				RECEIVED:	12/07/83	JA: OH			
8411281		3416723809		108		BONAR W T #2	DUNHAM	0.5	
8411279		3416723381		108		OXBOW #1	DUNHAM	5.0	
8411282		3416723943		108		OXBOW #2	DUNHAM	6.0	
8411284		3416725482		108		OXBOW #3	DUNHAM	4.0	
8411285		3416725674		108		OXBOW #5	DUNHAM	3.0	
8411280		3416723794		108		PAUL LOUDIN #1	DUNHAM	0.8	
8411283		3416724044		108		PIGGOTT #1	DUNHAM	0.4	
-CUYAHOGA EXPLORATION & DEVELOPMENT				RECEIVED:	12/07/83	JA: OH			
8411289		3411122746		107-DV		HERMAN RITCHIE #1	FRANKLIN	23.4	
8411286		3411122604		107-DV		HERMAN RITCHIE #2	FRANKLIN	27.0	
8411287		3411122605		107-DV		HERMAN RITCHIE #3	FRANKLIN	18.0	
8411291		3416727402		107-DV		LULU B KOON #1	LIBERTY	57.2	
8411290		3411122981		107-DV		ROSE #3	WASHINGTON	38.5	
8411288		3411122643		107-DV		STONER LAND #1	FRANKLIN	49.3	
-D G HANEY INC				RECEIVED:	12/07/83	JA: OH			
8411292		3416727511		107-DV		JOHNSON #1	LUDLOW	10.0	RIVER GAS CO
-ENERGY DEVELOPMENT CORP				RECEIVED:	12/07/83	JA: OH			
8411303		3415122816		108		BAKER WELL #1		[illegible] 0	ANCHOR HOCKING CO
8411305		3415123007		108		HERSHBERGER-BAKER UNIT WELL #1-A		[illegible] 0	ANCHOR HOCKING CO
8411304		3415122833		108		LEEMAN-BAKER UNIT WELL #1		6.0	ANCHOR HOCKING CO
8411296		3413321279		108		LEETE #1		[illegible].0	ANCHOR HOCKING CO
8411302		3415122689		108		PALMER #1		[illegible].0	ANCHOR HOCKING CO
8411301		3415122688		108		PALMER #2		[illegible].0	ANCHOR HOCKING CO
8411300		3415122687		108		SIBILA #1		[illegible].0	ANCHOR HOCKING CO
8411295		3413320911		108		SPROGIS #1		10.0	ANCHOR HOCKING CO
8411299		3413321515		108		SPROGIS #2		[illegible].0	ANCHOR HOCKING CO
8411297		3413321506		108		THOMPSON ALGER #1		[illegible].0	ANCHOR HOCKING CO
8411298		3413321507		108		THOMPSON-ALGER #3		10.0	ANCHOR HOCKING CO
-ENTERPRISE ENERGY CORP				RECEIVED:	12/07/83	JA: OH			
8411306		3411523269		103	107-TF	RAY #3	MEIGSVILLE	18.2	
-ENVIROGAS INC				RECEIVED:	12/07/83	JA: OH			
8411308		3400922868		103	107-TF	PEABODY COAL #22D	DOVER	18.2	
8411307		3400922853		103	107-TF	PEABODY COAL #8D	DOVER	18.2	
-EVERFLOW EASTERN INC				RECEIVED:	12/07/83	JA: OH			
8411309		3409921596		103	107-TF	GETTMAN #1	JACKSON	0.0	
-FORTUNE GAS AND OIL INC				RECEIVED:	12/07/83	JA: OH			
8411310		3411521831		108		E MAUTZ #1	RURALDALE	7.5	VESCORP INDUSTRIE
-GENERAL ELECTRIC CO				RECEIVED:	12/07/83	JA: OH			
8411311		3405520523		103	107-TF	AIRPORT INDUSTRIAL PARK UNIT #2	MIDDLEFIELD	20.0	EAST OHIO GAS CO
-GREENLAND PETROLEUM CO				RECEIVED:	12/07/83	JA: OH			
8411312		3412123052		107-TF		SMITH #2	JACKSON	150.0	EAST OHIO GAS CO
-HERALD OIL & GAS CO				RECEIVED:	12/07/83	JA: OH			
8411327		3410522774		107-TF		CHARLES RIFFLE #1	SALISBURY	23.7	COLUMBIA GAS TRAN
-HOPEWELL OIL AND GAS DEVELOPMENT CO				RECEIVED:	12/07/83	JA: OH			
8411313		3411523239		103	107-TF	EVA SPRING #1	YORK	0.0	NATURAL GAS & OIL
-J D DRILLING CO				RECEIVED:	12/07/83	JA: OH			
8411315		3410522790		107-DV		AGNES BROWN #4	CHESTER	8.0	COLUMBIA GAS TRAN
8411314		3410522771		107-DV		GRUESER-FRECKER #2	CHESTER	9.0	COLUMBIA GAS TRAN
-J O B INC				RECEIVED:	12/07/83	JA: OH			
8411316		3416727534		107-DV		ARZA PRYOR #3	GRANDVIEW	0.0	RIVER GAS CO
8411317		3416727535		107-DV		ARZA PRYOR #4	GRANDVIEW	3.0	RIVER GAS CO
-JEFFREY G MORAN				RECEIVED:	12/07/83	JA: OH			
8411318		3408924803		103		KENNETH F & ZONA A BOYER #2	EDEN	20.0	
-KENNETH C VARNER				RECEIVED:	12/07/83	JA: OH			
8411319		3408924517		103		KENNETH C VARNER #1	FALLSBURG	10.0	
-LOMAK PETROLEUM INC				RECEIVED:	12/07/83	JA: OH			
8411320		3411523157		107-TF		OHIO POWER #8 MD	BRISTOL	35.0	CNG DEVELOPMENT C
-NORTH COAST PETROLEUM INC				RECEIVED:	12/07/83	JA: OH			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8411322		3413322716		103		DREGER-HAUCK #5	FREEDOM	339.3	
8411321		3413322409		103		RESNICK #6	ROVENNA	19.5	
8411323		3413323083		103		WINDMILL #3	ROVENNA	191.0	
-PARKSIDE PETROLEUM OF	OHIO INC			RECEIVED:	12/07/83	JA: OH			
8411324		3411122953		107-DV		CHRISTMAN #1	SENECA	15.0	COLUMBIA GAS TRAN
8411326		3411123020		107-DV		CLAUSE #1	SENECA	15.0	COLUMBIA GAS TRAN
8411325		3411122954		107-DV		PFALZGRAF #1	SENECA	15.0	COLUMBIA GAS TRAN
-PAUL J OBERMILLER				RECEIVED:	12/07/83	JA: OH			
8411337		3416923565		103	107-TF	GLADE & ESTHER BOSS #1	MILTON	12.0	COLUMBIA GAS TRAN
8411336		3416923543		103	107-TF	H R HARTMAN (FEE) #2	MILTON	12.0	COLUMBIA GAS TRAN
8411334		3410323491		103	107-TF	JOSEPH & ELIZABETH RAMSIER #2A	WADSWORTH	12.0	COLUMBIA GAS TRAN
8411335		3410323492		103	107-TF	K RUPP ETAL #1	GUILFORD	12.0	COLUMBIA GAS TRAN
8411329		3410323446		103	107-TF	LETHA ZOOK #1	GUILFORD	12.0	COLUMBIA GAS TRAN
8411330		3410323461		103	107-TF	M & T RAMSIER #2	WADSWORTH	12.0	COLUMBIA GAS TRAN
8411331		3410323462		103	107-TF	M & T RAMSIER #3	WADSWORTH	12.0	COLUMBIA GAS TRAN
8411332		3410323489		103	107 TF	M & T RAMSIER #4	WADSWORTH	12.0	COLUMBIA GAS TRAN
8411333		3410323490		103	107-TF	M & T RAMSIER #5	WADSWORTH	12.0	COLUMBIA GAS TRAN
8411328		3410323408		103	107-TF	MERLE HARTZLER #1	WADSWORTH	12.0	COLUMBIA GAS TRAN
8411338		3416723590		103	107-TF	MELSON & ALDINE RAMSIER #1	MILTON	12.0	COLUMBIA GAS TRAN
-PINETOP ESTATES				RECEIVED:	12/07/83	JA: OH			
8411339		3415321254		103	107-TF	HEMPHILL #2	BATH	0.0	EAST OHIO GAS CO
8411340		3415321502		103	107-TF	LAVERY #1	NORTH HAMPTON	0.0	EAST OHIO GAS CO
-POI ENERGY INC				RECEIVED:	12/07/83	JA: OH			
8411341		3408722295		103	107-TF	TURNER #1	ANDOVER	24.0	
-R GENE BRASEL DBA BRASEL & BRASEL				RECEIVED:	12/07/83	JA: OH			
8411342		3405326741		107-TF		CLARK HAGER #13	ADDISON	1.0	COLUMBIA GAS TRAN
-RELIANCE ENERGY				RECEIVED:	12/07/83	JA: OH			
8411293		3408322128		108		DWIGHT VANWINKLE #1-A		0.0	COLUMBIA GAS TRAN
8411294		3408322131		108		DWIGHT VANWINKLE 2-A		0.0	COLUMBIA GAS TRAN
-RSC ENERGY CORP				RECEIVED:	12/07/83	JA: OH			
8411343		3402920731	D	108		RALPH KETTERING #1		18.0	EAST OHIO GAS CO
-SHONGUM OIL & GAS INC				RECEIVED:	12/07/83	JA: OH			
8411344		3416923624		107-TF		BUTCHER #1	DOYLESTOWN	8.0	
-WILLIAM F HILL				RECEIVED:	12/07/83	JA: OH			
8411345		3407524125		103		C R MCDOWELL #5	MONROE	8.0	COLUMBIA GAS TRAN
-WILLIAM M TIPKA				RECEIVED:	12/07/83	JA: OH			
8411350		3415721808		108		CLARENCE CAMPBELL #1		3.0	EAST OHIO GAS CO
8411353		3415722562		108		DAVIDSON #3		12.0	EAST OHIO GAS CO
8411355		3415722634		108		DAVIDSON #4		12.0	EAST OHIO GAS CO
8411347		3409920660		108		LEAR #1		9.0	EAST OHIO GAS CO
8411346		3409920546		108		PATTON #1		11.0	EAST OHIO GAS CO
8411348		3415721660		108		R KAISER #2		6.0	EAST OHIO GAS CO
8411349		3415721718		108		R KAISER #4		6.0	EAST OHIO GAS CO
8411351		3415722346		108		RUFENACHT #1		3.0	EAST OHIO GAS CO
8411352		3415722434		108		RUFENACHT #2		6.0	EAST OHIO GAS CO
8411356		3415722678		108		SAUSER #1		6.0	EAST OHIO GAS CO
8411354		3415722698		108		WEIGAND #1		7.0	EAST OHIO GAS CO
-WILLIAMSFIELD SYNDICATE INC				RECEIVED:	12/07/83	JA: OH			
8411357		3400721827		103	107-TF	FLACK #W-1	WILLIAMSFIELD	27.0	
8411358		3400721851		103	107-TF	WHITE #W-1	WILLIAMSFIELD	27.0	
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PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES									
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-ANGERMAN ASSOCIATES INC				RECEIVED:	12/09/83	JA: PA			
8411462	20181	3712921998		108		BROTHERTON UNIT #1 - WES-21998	W PENNA - UPPER DEVON	7.0	INDUSTRIAL ENERGY
-CNG DEVELOPMENT CO				RECEIVED:	12/09/83	JA: PA			
8411509	21640	3702120211		102-2		AARON LEAMER #2 CMGD #76	SUSQUEHANNA TWP	6.0	
8411464	21325	3706327505		103		GERALD T KIME #2 CMGD #90	MONTGOMERY TOWNSHIP	47.0	
8411465	21324	3706327579		103		RAY S ROWLEY #1	MONTGOMERY TOWNSHIP	4.0	
8411466	21325	3706327513		103		VICTOR C KANTZ #2 CMGD #94	MONTGOMERY TOWNSHIP	9.0	
-DOC-MCC SERVICE CO				RECEIVED:	12/09/83	JA: PA			
8411461	19803	3712921911		108		CLAY G STROHM 1209-3	EAST HUNTINGDON	19.5	TEXAS EASTERN TRA
8411460	19805	3712922054		108		FRANK L SMITH 1598-4	EAST HUNTINGDON	14.5	TEXAS EASTERN TRA
-FAIRMAN DRILLING CO				RECEIVED:	12/09/83	JA: PA			
8411471	21344	3706327526		103		FAIRMAN DRILLING CO #3 F-3757	MARCHAND	25.0	CONSOLIDATED GAS
8411472	21346	3706327399		103		HAROLD JONES #2 F-3713	INDIANA	21.0	PEOPLES NATURAL G
8411470	21343	3706327400		103		HAROLD JONES #3 F-3714	INDIANA	21.0	PEOPLES NATURAL G
8411473	21358	3706327401		103		MARIE WARNER #1 F-3711	INDIANA	25.0	PEOPLES NATURAL G
-FOX OIL & GAS INC				RECEIVED:	12/09/83	JA: PA			
8411463	21267	3703321463		102-4		285 - E BUTERBAUGH #3	BURNSIDE TWP	25.5	COLUMBIA GAS TRAN
8411498	21445	3703321649		102-4		286 - E BUTERBAUGH #5	BURNSIDE TOWNSHIP	25.5	COLUMBIA GAS TRAN
-MARK RESOURCES CORP				RECEIVED:	12/09/83	JA: PA			
8411503	21602	3708520530		107-TF		ALLEGRETTE/KRAUSE #1	DELAWARE	30.0	NATIONAL FUEL GAS
8411504	21603	3708520530		102-3		ALLEGRETTE/KRAUSE #1	DELAWARE	30.0	NATIONAL FUEL GAS
-MERIDIAN EXPLORATION CORP				RECEIVED:	12/09/83	JA: PA			
8411496	21411	3703922004		102-2		EDMINSTER #676-1	ROCKDALE	0.0	COLUMBIA GAS TRAN
8411495	21412	3703922004		107-TF		EDMINSTER #676-1	ROCKDALE	0.0	COLUMBIA GAS TRAN
8411496	21415	3703921972		102-2		HENNING #699-3	ROCKDALE	0.0	NATIONAL FUEL SUP
8411497	21416	3703921972		107-TF		HENNING #699-3	ROCKDALE	0.0	NATIONAL FUEL SUP
8411490	21405	3703922008		102-2		LENOX #667-1	ROCKDALE	0.0	COLUMBIA GAS TRAN
8411491	21406	3703922008		107-TF		LENOX #667-1	ROCKDALE	0.0	COLUMBIA GAS TRAN
8411488	21397	3703922012		102-2		LENOX #669-2	ROCKDALE	30.0	COLUMBIA GAS TRAN
8411489	21398	3703922012		107-TF		LENOX #669-2	ROCKDALE	30.0	COLUMBIA GAS TRAN
8411474	21359	3703921956		102-2		MOSKO #701-2	ROCKDALE	30.0	NATIONAL FUEL GAS
8411475	21360	3703921956		107-TF		MOSKO #701-2	ROCKDALE	30.0	NATIONAL FUEL GAS
8411492	21407	3703922007		102-2		WALTON #671-1	ROCKDALE	30.0	COLUMBIA GAS TRAN
8411493	21408	3703922007		107-TF		WALTON #671-1	ROCKDALE	30.0	COLUMBIA GAS TRAN
-NATIONAL FUEL GAS SUPPLY CORP				RECEIVED:	12/09/83	JA: PA			
8411467	21335	3704721192		103		HALL & KAUL #6257	JONES	28.0	GENERAL SYSTEM PU
8411508	21556	3704721190		103		PA STATE FOREST 6255	CLERMONT	2.2	GENERAL SYSTEM PU
8411502	21595	3704721389		103		PA STATE FOREST 6269	CLERMONT	30.0	GENERAL SYSTEM PU
-PHILLIPS PRODUCTION CO				RECEIVED:	12/09/83	JA: PA			
8411469	21348	3706327572		103		JOHN PAUL WILLIAMMEE ET AL #2	GRANT	25.0	
8411501	21592	3706522816		103		WILLIAM F BEYER III ET AL #1	BELL	35.0	
-QUAKER STATE OIL REFINING CORP				RECEIVED:	12/09/83	JA: PA			
8411515	21652	3712328315		108		JONES LOT - 01	GLADE POOL	0.0	NATIONAL FUEL GAS
8411513	21650	3712328323		108		JONES LOT - 014	GLADE POOL	0.0	NATIONAL FUEL GAS
8411523	21660	3712328324		108		JONES LOT - 015	GLADE POOL	0.0	NATIONAL FUEL GAS
8411524	21661	3712328325		108		JONES LOT - 016	GLADE POOL	0.0	NATIONAL FUEL GAS
8411525	21662	3712328326		108		JONES LOT - 017	GLADE POOL	0.0	NATIONAL FUEL GAS
8411516	21653	3712328125		108		JONES LOT - 018	GLADE POOL	0.0	NATIONAL FUEL GAS
8411512	21649	3712328327		108		JONES LOT - 019	GLADE POOL	0.0	NATIONAL FUEL GAS
8411517	21654	3712328316		108		JONES LOT - 02	GLADE POOL	0.0	NATIONAL FUEL GAS
8411511	21648	3712328328		108		JONES LOT - 027	GLADE POOL	0.0	NATIONAL FUEL GAS
8411526	21663	3712328329		108		JONES LOT - 028	GLADE POOL	0.0	NATIONAL FUEL GAS
8411527	21669	3712328330		108		JONES LOT - 029	GLADE POOL	0.0	NATIONAL FUEL GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8411518	21655	3712328317		108		JONES LOT - 03	GLADE POOL	0.7	NATIONAL FUEL GAS
8411510	21647	3712328331		108		JONES LOT - 030	GLADE POOL	0.8	NATIONAL FUEL GAS
8411519	27656	3712328318		108		JONES LOT - 05	GLADE POOL	0.8	NATIONAL FUEL GAS
8411520	21657	3712328319		108		JONES LOT - 06	GLADE POOL	0.8	NATIONAL FUEL GAS
8411521	21658	3712328320		108		JONES LOT - 07	GLADE POOL	0.8	NATIONAL FUEL GAS
8411522	21659	3712328321		108		JONES LOT - 08	GLADE POOL	0.8	NATIONAL FUEL GAS
8411514	21651	3712328322		108		JONES LOT - 09	GLADE POOL	0.8	NATIONAL FUEL GAS
8411528	21665	3712332345		108		JONES 04	GLADE	0.8	NATIONAL FUEL GAS
-QUESTA PETROLEUM CO				RECEIVED:	12/09/83	JA: PA			
8411468	21327	3706327317		103		HOWARD B SPROWLS #1	CONEMAUGH	25.0	
-REX-HIDE REALTY INC				RECEIVED:	12/09/83	JA: PA			
8411459	19692	3706326746		108		OSCAR T GOOD ET UX #1	WEST MAHONING	18.0	T W PHILLIPS GAS
-SNYDER BROTHERS INC				RECEIVED:	12/09/83	JA: PA			
8411499	21543	3706522800		103		MUMAU AND SONS #1	PUNXSUTAWNEY BOROUGH	10.0	T W PHILLIPS GAS
-TETRA ENERGY GROUP LTD				RECEIVED:	12/09/83	JA: PA			
8411507	21606	3704923040		107-TF		JIM GREGOR #1	UNION CITY FIELD EMMO	8.1	COLUMBIA GAS TRAN
8411505	21604	3704923037		107-TF		ROBERT DAVIS #1	UNION CITY FIELD EMMO	6.3	COLUMBIA GAS TRAN
8411506	21605	3704923038		103		ROBERT DAVIS #2	UNION CITY FIELD EMMO	72.0	COLUMBIA GAS TRAN
8411508	21608	3704923001		107-TF		RON BEM #1	UNION CITY FIELD EMMO	13.5	COLUMBIA GAS TRAN
-WAINOCO OIL & GAS CO				RECEIVED:	12/09/83	JA: PA			
8411486	21380	3703921995		102-2		CHARLES KOLAJA #1 (W-219A)	ATHENS FIELD	16.0	COLUMBIA GAS TRAN
8411487	21381	3703921995		107-TF		CHARLES KOLAJA #1 (W-219A)	ATHENS FIELD	16.0	COLUMBIA GAS TRAN
8411482	21372	3703921985		102-3		JAMES A KERR #1 (W-179A)	ATHENS FIELD	16.0	COLUMBIA GAS TRAN
8411483	21373	3703921985		107-TF		JAMES A KERR #1 (W-179A)	ATHENS FIELD	16.0	COLUMBIA GAS TRAN
8411476	21366	3703921983		102-3		JOHN WATSON #1 (W-155A)	ATHENS FIELD	16.0	COLUMBIA GAS TRAN
8411477	21367	3703921983		107-TF		JOHN WATSON #1 (W-155A)	ATHENS FIELD	16.0	COLUMBIA GAS TRAN
8411478	21368	3703921986		102-2		MERLIN F KUNZ #2 (W-163A)	ATHENS FIELD	16.0	COLUMBIA GAS TRAN
8411479	21369	3703921986		107-TF		MERLIN F KUNZ #2 (W-163A)	ATHENS FIELD	16.0	COLUMBIA GAS TRAN
8411480	21370	3703921984		102-2		NINA MOORE HAMRICK #1 (W-177A)	ATHENS FIELD	16.0	COLUMBIA GAS TRAN
8411481	21371	3703921984		107-TF		NINA MOORE HAMRICK #1 (W-177A)	ATHENS FIELD	16.0	COLUMBIA GAS TRAN
8411484	21378	3703921987		102-2		RAYMOND W MCKINNEY #1 (W-218A)	ATHENS FIELD	16.0	COLUMBIA GAS TRAN
8411485	21379	3703921987		107-TF		RAYMOND W MCKINNEY #1 (W-218A)	ATHENS FIELD	16.0	COLUMBIA GAS TRAN
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WEST VIRGINIA DEPARTMENT OF MINES									
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-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	12/07/83	JA: WV			
8411238		4704103184		108		DANA S BLAKE 12764	COLLINS SETTLEMENT	15.0	GENERAL SYSTEM PU
8411237		4704100833		108		LEWIS COUNTY FARM 10346	HACKERS CREEK	11.0	GENERAL SYSTEM PU
8411236		4700101613		108		WILLIAM LANTZ 12730	PHILIPPI	6.0	GENERAL SYSTEM PU
-HAUGHT INC				RECEIVED:	12/07/83	JA: WV			
8411242		4708505410		108		A M EDGELL H-1303	MURPHY DISTRICT	1.0	CONSOLIDATED GAS
8411240		4708503862		108		L W DAVIS H-544	UNION DISTRICT	5.0	CARNEGIE NATURAL
8411241		4708505409		108		MARY ELLIOTT HEIRS H-1296	MURPHY DISTRICT	1.0	CONSOLIDATED GAS
8411239		4702100482		108		O WOLF #1 A068	GLENVILLE DISTRICT	5.0	EQUITABLE GAS CO
-PALEO INC				RECEIVED:	12/07/83	JA: WV			
8411244		4700700891		108		HUNTER #1	ARNETT	1.0	CONSOLIDATED GAS
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	12/07/83	JA: WV			
8411235		4708506171		102-4		ORPHA RIGGS #1	CLAY	188.0	CONSOLIDATED GAS
-UNITED PETRO LTD				RECEIVED:	12/07/83	JA: WV			
8411243		4701303160		108		THOMAS KELLAM #1	ORMA-MINNORA GAS FIEL	20.0	CONSCLIDATED GAS
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** DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, LOS ANGELES,CA									
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-UNION OIL COMPANY OF CALIF				RECEIVED:	12/08/83	JA: CA 2			
8411231	OCS-P-25-83	0431120551		102-5		SANTA CLARA UNIT WELL #5-18	CALIFORNIA OFFSHORE	0.0	PACIFIC LIGHTING
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** DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, ALBUQUERQUE,NM									
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-AMOCO PRODUCTION CO				RECEIVED:	12/05/83	JA: NM 4			
8411440	NM-1390-83PB	3004506258		108-PB		C A MCADAMSB #2	BASIN	0.0	EL PASO NATURAL G
8411442	NM-1391-83PB	3004509109		108-PB		ELLIOTT GAS COM K #1	BLANCO	0.0	EL PASO NATURAL G
8411443	NM-1392-83PB	3004520297		108-PB		ELLIOTT GAS COM T #1	BLANCO	0.0	EL PASO NATURAL G
8411444	NM-1394-83PB	3004506798		108-PB		GALLEGOS CANYON UNIT #147	BASIN	0.0	EL PASO NATURAL G
8411441	NM-1393-83PB	3004507158		108-PB		GALLEGOS CANYON UNIT #175	BASIN	0.0	EL PASO NATURAL G
8411448	NM-1398-83PB	3004507275		108-PB		GALLEGOS CANYON UNIT #198	BASIN	0.0	EL PASO NATURAL G
8411446	NM-1398-83PB	3004511739		108-PB		GALLEGOS CANYON UNIT #240	BASIN	0.0	EL PASO NATURAL G
8411445	NM-1395-83PB	3004511687		108-PB		GALLEGOS CANYON UNIT #241	BASIN	0.0	EL PASO NATURAL G
8411447	NM-1396-83PB	3004507832		108-PB		GALLEGOS CANYON UNIT COM D #160	BASIN	0.0	EL PASO NATURAL G
8411439	NM-1389-83PB	3004521016		108-PB		HOLMBERG GAS COM A #1	MT NEBO	0.0	EL PASO NATURAL G
-DEPCO INC				RECEIVED:	12/05/83	JA: NM 4			
8411451	NM-1465-83PB	3003906632		108-PB		MKL #10	SOUTH BLANCO - PC	0.0	EL PASO NATURAL G
8411453	NM-1467-83PB	3003906554		108-PB		MKL #11	SOUTH BLANCO - PC	0.0	EL PASO NATURAL G
8411452	NM-1466-83PB	3003900000		108-PB		MKL #6	SOUTH BLANCO - PC	0.0	EL PASO NATURAL G
-EL PASO NATURAL GAS COMPANY				RECEIVED:	12/05/83	JA: NM 4			
8411409	NM-1409-83PB	3004521141		108-PB		ATLANTIC C #12	BLANCO	0.0	EL PASO NATURAL G
8411432	NM-1434-83PB	3004512093		108-PB		ATLANTIC C #8	BLANCO	0.0	EL PASO NATURAL G
8411419	NM-1419-83PB	3004505844		108-PB		BALLARD #10	BALLARD	0.0	EL PASO NATURAL G
8411390	NM-1479-83PB	3004520274		108-PB		BOLACK B #6	SOUTH BLANCO	0.0	EL PASO NATURAL G
8411405	NM-1405-83PB	3004520446		108-PB		BOLACK B #7	SOUTH BLANCO	0.0	EL PASO NATURAL G
8411426	NM-1428-83PB	3004511712		108-PB		BOLACK B#5	SOUTH BLANCO	0.0	EL PASO NATURAL G
8411388	NM-1477-83PB	3003982340		108-PB		CANYON LARGO UNIT #107	OTERO	0.0	EL PASO NATURAL G
8411373	NM-1452-83PB	3003905960		108-PB		CANYON LARGO UNIT #79	BALLARD	0.0	EL PASO NATURAL G
8411374	NM-1451-83PB	3004520311		108-PB		CASE #10	AZTEC	0.0	EL PASO NATURAL G
8411393	NM-1484-83PB	3004512192		108-PB		DAY A #8	BLANCO	0.0	EL PASO NATURAL G
8411391	NM-1482-83PB	3004513037		108-PB		DAY B #7	SOUTH BLANCO	0.0	EL PASO NATURAL G
8411392	NM-1481-83PB	3004520444		108-PB		DRYDEN #5	SOUTH BLANCO	0.0	EL PASO NATURAL G
8411411	NM-1411-83PB	3004520670		108-PB		FEVILLE A #4	AZTEC	0.0	EL PASO NATURAL G
8411434	NM-1436-83PB	3004520355		108-PB		FILAN #6	BASIN	0.0	EL PASO NATURAL G
8411398	NM-1376-83PB	3004511769		108-PB		FLORANCE #6	BLANCO	0.0	EL PASO NATURAL G
8411379	NM-1458-83PB	3004507163		108-PB		FLORANCE C #10	BASIN	0.0	EL PASO NATURAL G
8411402	NM-1404-83PB	3004520453		108-PB		FLORANCE C #13	SOUTH BLANCO	0.0	EL PASO NATURAL G
8411412	NM-1414-83PB	3004506342		108-PB		FLORANCE D #1	SOUTH BLANCO	0.0	EL PASO NATURAL G
8411417	NM-1417-83PB	3004523753		108-PB		FLORANCE E #2	BLANCO	0.0	EL PASO NATURAL G
8411366	NM-1443-83PB	3004520819		108-PB		GRAMBLING A #4	SOUTH BLANCO	0.0	EL PASO NATURAL G
8411410	NM-1412-83PB	3004521040		108-PB		GRAMBLING A #5	SOUTH BLANCO	0.0	EL PASO NATURAL G
8411370	NM-1447-83PB	3004521149		108-PB		HARDIE #9	BLANCO	0.0	EL PASO NATURAL G
8411438	NM-1440-83PB	3004520923		108-PB		HARDIE E #6	SOUTH BLANCO	0.0	EL PASO NATURAL G
8411413	NM-1413-83PB	3004520678		108-PB		HARTMAN #2	AZTEC	0.0	EL PASO NATURAL G
8411360	NM-1488-83PB	3004511785		108-PB		HEATON #20	AZTEC	0.0	EL PASO NATURAL G
8411376	NM-1453-83PB	3004520316		108-PB		HEATON #23	AZTEC	0.0	EL PASO NATURAL G
8411371	NM-1450-83PB	3004520883		108-PB		HUBBELL #9	OTERO	0.0	EL PASO NATURAL G
8411431	NM-1431-83PB	3004505916		108-PB		HUERFANITO UNIT #92	BASIN	0.0	EL PASO NATURAL G
8411400	NM-1401-83PB	3004520531		108-PB		HUERFANO UNIT #186	BASIN	0.0	EL PASO NATURAL G
8411394	NM-1483-83PB	3004520419		108-PB		HUERFANO UNIT #190	BASIN	0.0	EL PASO NATURAL G
8411423	NM-1423-83PB	3004520608		108-PB		HUERFANO UNIT #201	BASIN	0.0	EL PASO NATURAL G
8411378	NM-1455-83PB	3004520390		108-PB		HUERFANO UNIT #54	BASIN	0.0	EL PASO NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8411408	NM-1418-83PB	3004506321		108-PB		HUERFANO UNIT #74	FULCHER KUTZ	0.0	EL PASO NATURAL G
8411428	NM-1438-83PB	3004505743		108-PB		HUERFANO UNIT NP #23	HUERFANO	0.0	EL PASO NATURAL G
8411385	NM-1463-83PB	3004511680		108-PB		HUGHES #22	BLANCO	0.0	EL PASO NATURAL G
8411403	NM-1482-83PB	3004520793		108-PB		KELLY B #2	BLANCO	0.0	EL PASO NATURAL G
8411377	NM-1456-83PB	3003906218		108-PB		KLEIN #5	SOUTH BLANCO	0.0	EL PASO NATURAL G
8411369	NM-1448-83PB	3003982322		108-PB		LINDRITH UNIT #40	SOUTH BLANCO	0.0	EL PASO NATURAL G
8411424	NM-1426-83PB	3003905458		108-PB		LINDRITH UNIT #41	SOUTH BLANCO	0.0	EL PASO NATURAL G
8411395	NM-1486-83PB	3003905519		108-PB		LINDRITH UNIT #48	SOUTH BLANCO	0.0	EL PASO NATURAL G
8411361	NM-1487-83PB	3003905206		108-PB		LINDRITH UNIT #53	SOUTH BLANCO	0.0	EL PASO NATURAL G
8411362	NM-1439-83PB	3003920920		108-PB		LINDRITH UNIT #58	SOUTH BLANCO	0.0	EL PASO NATURAL G
8411389	NM-1480-83PB	3003920093		108-PB		LINDRITH UNIT #72	SOUTH BLANCO	0.0	EL PASO NATURAL G
8411406	NM-1408-83PB	3003920636		108-PB		LINDRITH UNIT #75	SOUTH BLANCO	0.0	EL PASO NATURAL G
8411364	NM-1441-83PB	3003920964		108-PB		LINDRITH UNIT #83	SOUTH BLANCO	0.0	EL PASO NATURAL G
8411387	NM-1478-83PB	3004505816		108-PB		MCCONNELL #2	BALLARD	0.0	EL PASO NATURAL G
8411383	NM-1462-83PB	3004505564		108-PB		MCMANUS #10	BALLARD	0.0	EL PASO NATURAL G
8411384	NM-1461-83PB	3004512070		108-PB		NEUDECKER #4	AZTEC	0.0	EL PASO NATURAL G
8411422	NM-1424-83PB	3004512081		108-PB		NEUDECKER #5	AZTEC	0.0	EL PASO NATURAL G
8411404	NM-1406-83PB	3004521569		108-PB		NYE #14 FT & CM	AZTEC-OTERO	0.0	EL PASO NATURAL G
8411438	NM-1432-83PB	3004512074		108-PB		PIERCE #4	BLANCO	0.0	EL PASO NATURAL G
8411418	NM-1420-83PB	3004520469		108-PB		PIERCE #6	BLANCO	0.0	EL PASO NATURAL G
8411429	NM-1429-83PB	3003906332		108-PB		QUANTIUS #3	SOUTH BLANCO	0.0	EL PASO NATURAL G
8411415	NM-1415-83PB	3003906412		108-PB		REAMS A #2	SOUTH BLANCO	0.0	EL PASO NATURAL G
8411396	NM-1485-83PB	3004508643		108-PB		RIDDLE A #5	BLANCO	0.0	EL PASO NATURAL G
8411359	NM-1489-83PB	3003907009		108-PB		RINCON UNIT #116	SOUTH BLANCO	0.0	EL PASO NATURAL G
8411420	NM-1422-83PB	3003906802		108-PB		RINCON UNIT #26	SOUTH BLANCO	0.0	EL PASO NATURAL G
8411421	NM-1421-83PB	3003906822		108-PB		RINCON UNIT #9	SOUTH BLANCO	0.0	EL PASO NATURAL G
8411435	NM-1435-83PB	3003906558		108-PB		RINCON UNIT #95	SOUTH BLANCO	0.0	EL PASO NATURAL G
8411437	NM-1437-83PB	3004520281		108-PB		ROELOFS #4	BLANCO	0.0	EL PASO NATURAL G
8411436	NM-1438-83PB	3004512100		108-PB		ROELOFS A #5	BLANCO	0.0	EL PASO NATURAL G
8411380	NM-1457-83PB	3004512078		108-PB		RUSSELL #6	SOUTH BLANCO	0.0	EL PASO NATURAL G
8411427	NM-1427-83PB	3003921007		108-PB		SAN JUAN 27-4 UNIT #116	TAPACITO	0.0	EL PASO NATURAL G
8411386	NM-1476-83PB	3003906862		108-PB		SAN JUAN 27-4 UNIT #25	BLANCO	0.0	EL PASO NATURAL G
8411363	NM-1488-83PB	3003920577		108-PB		SAN JUAN 28-6 UNIT #135	BASIN	0.0	EL PASO NATURAL G
8411381	NM-1460-83PB	3003920038		108-PB		SAN JUAN 28-6 UNIT #136	BASIN	0.0	EL PASO NATURAL G
8411372	NM-1449-83PB	3003907175		108-PB		SAN JUAN 28-6 UNIT #37	BLANCO	0.0	EL PASO NATURAL G
8411414	NM-1416-83PB	3003906913		108-PB		SAN JUAN 28-7 UNIT #14	SOUTH BLANCO	0.0	EL PASO NATURAL G
8411416	NM-1418-83PB	3003906898		108-PB		SAN JUAN 28-7 UNIT #17	SOUTH BLANCO	0.0	EL PASO NATURAL G
8411407	NM-1407-83PB	3003921184		108-PB		SAN JUAN 28-7 UNIT #205	LARGO	0.0	EL PASO NATURAL G
8411367	NM-1446-83PB	3003921106		108-PB		SAN JUAN 28-7 UNIT #213	OTERO	0.0	EL PASO NATURAL G
8411365	NM-1444-83PB	3003920862		108-PB		SAN JUAN 28-7 UNIT #215	BASIN	0.0	EL PASO NATURAL G
8411368	NM-1445-83PB	3003921082		108-PB		SAN JUAN 28-7 UNIT #240	OTERO	0.0	EL PASO NATURAL G
8411399	NM-1378-83PB	3003907291		108-PB		SAN JUAN 28-7 UNIT #27	BLANCO	0.0	EL PASO NATURAL G
8411397	NM-1377-83PB	3003960071		108-PB		SAN JUAN 28-7 UNIT NP #68	BLANCO	0.0	EL PASO NATURAL G
8411375	NM-1454-83PB	3003908118		108-PB		SAN JUAN 29-7 UNIT #100	BASIN	0.0	EL PASO NATURAL G
8411425	NM-1425-83PB	3003982393		108-PB		SAN JUAN 32-5 UNIT #3	BASIN	0.0	EL PASO NATURAL G
8411382	NM-1459-83PB	3004509207		108-PB		STEWART #6	BASIN	0.0	EL PASO NATURAL G
8411433	NM-1433-83PB	3004512098		108-PB		TAPP #5	SOUTH BLANCO	0.0	EL PASO NATURAL G
8411401	NM-1400-83PB	3004521088		108-PB		VANDERWART A #7	BLANCO	0.0	EL PASO NATURAL G
-NORTHERN NATURAL GAS PRODUCING CO				RECEIVED:	12/05/83	JA: NM 4			
8411458	NM-1387-83PB	3004508088		108-PB		NYE FED #3	BLANCO - MESAVERDE	0.0	EL PASO NATURAL G
-SOUTHLAND ROYALTY CO				RECEIVED:	12/05/83	JA: NM 4			
8411450	NM-1381-83PB	3004508787		108-PB		HARG #1	AZTEC - PC	0.0	EL PASO NATURAL G
8411449	NM-1379-83PB	3004524158		108-PB		STATE LIMG #2	BASIN-DAKOTA	0.0	EL PASO NATURAL G
-TENNECO OIL COMPANY				RECEIVED:	12/05/83	JA: NM 4			
8411455	NM-1472-83PB	3004511659		108-PB		FLORANCE #56	BLANCO - PC	0.0	EL PASO NATURAL G
8411454	NM-1474-83PB	3004511872		108-PB		FLORANCE #64	BASIN - DAKOTA	0.0	NORTHWEST PIPELIN
8411457	NM-1475-83PB	3004511822		108-PB		FLORANCE #67	BASIN-DAKOTA	0.0	NORTHWEST PIPELIN
8411456	NM-1469-83PB	3004511679		108-PB		MICHENER #1	BASIN - DAKOTA	0.0	NORTHWEST PIPELIN

[FR Doc. 84-1378 Filed 1-17-84; 8:45 am]

BILLING CODE 6717-01-C

[Volume 1040]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 12, 1984.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
- 102–2: New well (2.5 Mile rule)
- 102–3: New well (1000 Ft rule)
- 102–4: New onshore reservoir
- 102–5: New reservoir on old OCS lease

Section 107–DP: 15,000 feet or deeper
- 107–GB: Geopressured brine
- 107–CS: Coal Seams
- 107–DV: Devonian Shale
- 107–PE: Production enhancement
- 107–TF: New tight formation
- 107–RT: Recompletion tight formation

Section 108: Stripper well
- 108–SA: Seasonally affected
- 108–ER: Enhanced recovery
- 108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS
ISSUED JANUARY 12, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-ADA OIL EXPLORATION CORP				RECEIVED:		12/09/83 JA: TX			
8411578	F-03-072802	4247700000		102-2		ANITA NEINAST #2	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
8411564	F-03-071722	4247700000		102-2		GUS UNIT #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-ALTA ENERGY CORP				RECEIVED:		12/09/83 JA: TX			
8411657	F-7C-075543	4246132026		103		WOOLEY "A" #2	SPRABERRY (TREND AREA	13.8	PHILLIPS PETROLEU
-AMERICAN STAR ENERGY & MINERALS COR				RECEIVED:		12/09/83 JA: TX			
8411575	F-10-072632	4223331593		103		JATEN STAR #0312	WEST PANHANDLE FIELD	350.6	MITCHELL ENERGY P
-AMINOIL USA INC				RECEIVED:		12/09/83 JA: TX			
8411551	F-7B-071324	4235330862		102-2	103	HERRERA #1	VOGAN	49.0	LTX INC
8411552	F-7B-071325	4235330983		102-4	103	REDWAY #1	VOGAN	9.0	LTX INC
8411550	F-7B-071323	4235330923		102-4	103	RIGGS #1	VOGAN	137.0	LTX INC
-AMOCO PRODUCTION CO				RECEIVED:		12/09/83 JA: TX			
8411648	F-8A-075510	4230330935		103		BERREY-WILCOXSON #2	ANTON-IRISH	7.0	WESTAR TRANSMISSI
8411649	F-8A-075511	4221933882		103		ELLWOOD "A" #155	SMYER	6.0	AMOCO PRODUCTION
8411687	F-08-075621	4200333572		103		FULLERTON SAN ANDRES UNIT #76	FULLERTON SAN ANDRES	8.0	AMOCO PRODUCTION
8411651	F-8A-075513	4221934016		103		LEVELLAND UNIT #796	LEVELLAND	163.0	AMOCO PRODUCTION
8411650	F-8A-075512	4221934018		103		LEVELLAND UNIT #801	LEVELLAND	107.0	AMOCO PRODUCTION
8411686	F-06-075620	4240131622		102-4		MARY R SANER GAS UNIT #1	APPLEBY N (TRAVIS PEA	146.0	UNITED GAS PIPELI
8411685	F-06-075619	4234730885		102-4		ROSINE BLOUNT MCFADDIN #1	APPLEBY N (TRAVIS PEA	183.0	UNITED GAS PIPELI
8411684	F-06-075618	4234730969		102-4		ROSINE BLOUNT MCFADDIN G/U "B" #1	APPLEBY N (TRAVIS PEA	114.0	UNITED GAS PIPELI
8411688	F-08-075622	4249531606		103		T G HENDRICK T-89-C #7	HENDRICK	38.0	PHILLIPS PETROLEU
-ANADARKO PRODUCTION COMPANY				RECEIVED:		12/09/83 JA: TX			
8411699	F-10-075647	4237500000		108		MASTERSON H-1R	PANHANDLE WEST/RED CA	16.0	WESTAR TRANSMISSI
8411700	F-10-075648	4237500000		108		MASTERSON I-1R	PANHANDLE WEST/RED CA	18.0	WESTAR TRANSMISSI
8411701	F-10-075649	4237500000		108		MASTERSON J-1R	PANHANDLE WEST/RED CA	11.0	WESTAR TRANSMISSI
8411702	F-10-075650	4237500000		108		MASTERSON Q-1R	PANHANDLE WEST/RED CA	19.0	WESTAR TRANSMISSI
8411703	F-10-075651	4234100008		108		SNEED B-10R	PANHANDLE WEST/RED CA	19.0	WESTAR TRANSMISSI
-ARCO OIL AND GAS COMPANY				RECEIVED:		12/09/83 JA: TX			
8411539	F-03-069006	4270830228		102-4		STATE LEASE 59454 BLOCK 24-L #B-2	HIGH ISLAND BLOCK 24-	730.0	UNITED TEXAS TRAN
-ARRINGTON BROTHERS				RECEIVED:		12/09/83 JA: TX			
8411689	F-10-075626	4206531443		103		ARRINGTON RANCH "A" (05504) #1-47	PANHANDLE CARSON COUN	11.0	GETTY OIL CO
-AZTEC PETROLEUM CORP				RECEIVED:		12/09/83 JA: TX			
8411695	F-01-075638	4232332115		102-4		AZTEC - BARCLAY 71-1	CHITTIM (5100 NORTH)	150.0	MAN-GAS TRANSMISS
-BELL O M				RECEIVED:		12/09/83 JA: TX			
8411629	F-7B-074941	4236731228		102-4		HUGH M COOPER #1	DENNIS SW (2490)	8.0	NORTHERN GAS PROD
-BOBBY BONNER				RECEIVED:		12/09/83 JA: TX			
8411714	F-08-075675	4200333569		103		ARGO KNIGHT #3	FUHRMAN MASCHO	6.0	PHILLIPS PETROLEU
-BRAZOS PETROLEUM CO				RECEIVED:		12/09/83 JA: TX			
8411632	F-08-074960	4231732720		103		MARGIE BENTLEY #1	SPRABERRY (TREND AREA	18.0	PHILLIPS PETROLEU
-BUCK WHEAT RESOURCES INC				RECEIVED:		12/09/83 JA: TX			
8411558	F-7B-071615	4213334670		102-4		T P SIMPSON #10	HAWK-EYE (ADAMS BRANC	11.0	SOUTHWESTERN GAS
8411557	F-7B-071614	4213334705		102-4		T P SIMPSON #11	HAWK-EYE (ADAMS BRANC	20.0	SOUTHWESTERN GAS
8411556	F-7B-071613	4213334725		102-4		T P SIMPSON #12	HAWK-EYE (ADAMS BRANC	20.0	SOUTHWESTERN GAS
8411555	F-7B-071612	4213334727		102-4		T P SIMPSON #14	HAWK-EYE (ADAMS BRANC	10.0	SOUTHWESTERN GAS
8411563	F-7B-071620	4213334350		102-4		T P SIMPSON #2	HAWK-EYE (ADAMS BRANC	2.0	SOUTHWESTERN GAS
8411562	F-7B-071619	4213334351		102-4		T P SIMPSON #3	HAWK-EYE (ADAMS BRANC	10.0	SOUTHWESTERN GAS

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8411561	F-7B-071618	4213334352		102-4		T P SIMPSON #4
8411560	F-7B-071617	4213334538		102-4		T P SIMPSON #7
8411559	F-7B-071616	4213334539		102-4		T P SIMPSON #8
-BURK ROYALTY CO				RECEIVED:	12/09/83	JA: TX
8411628	F-09-07480	4268731670		103		WYRICK OIL UNIT #1
-BURNETT OIL CO INC				RECEIVED:	12/09/83	JA: TX
8411636	F-01-075088	4231131744		102-4	103	FELIX H MORALES #3
8411635	F-01-075087	4231131888		102-4	103	M WHEELER #3
-C E JACOBS CO				RECEIVED:	12/09/83	JA: TX
8411599	F-7B-073915	4244734690		102-4		HENDRICK 75D #6 (19114)
-C J WARREN OIL COMPANY				RECEIVED:	12/09/83	JA: TX
8411638	F-7C-075106	4210533611		103		UNIVERSITY OF TEXAS-236-2A
-C R TARRANT PRODUCTION CO				RECEIVED:	12/09/83	JA: TX
8411549	F-7B-071055	4213333880		102-4		C R RAY #1
-CABOT PETROLEUM CORP				RECEIVED:	12/09/83	JA: TX
8411708	F-10-075658	4223331611		103		YAKE CABOT-FAULCONER #10-4
-CAMTRO EXPLORATION INC				RECEIVED:	12/09/83	JA: TX
8411738	F-04-075709	4248900888		102-4	103	H G RITCHIE #1 107452
-CHEVRON U S A INC				RECEIVED:	12/09/83	JA: TX
8411641	F-08-075483	4222733012		103		G M DODGE #67
8411642	F-08-075484	4222733066		103		G M DODGE #68
8411728	F-8A-075708	4241532392		103		SACROC UNIT #166-17
-COMO RESOURCES INC				RECEIVED:	12/09/83	JA: TX
8411546	F-03-070188	4247300000		102-4		PORTAMOVA UNIT #1
-CONOCO INC				RECEIVED:	12/09/83	JA: TX
8411607	F-08-074146	4200332305		108		W H BONER A #33 ID #1663
-COTTON PETROLEUM CORPORATION				RECEIVED:	12/09/83	JA: TX
8411569	F-10-071966	4235731060		102-4		HALIBURTON "A" #1
-COUROIL INC				RECEIVED:	12/09/83	JA: TX
8411594	F-10-073720	4239330940		102-2		ALPHA #1-7
-CRYSTAL OIL AND LAND COMPANY				RECEIVED:	12/09/83	JA: TX
8411619	F-06-074548	4206730427		102-4		CRYSTAL RAMBO #1-U
8411596	F-06-073866	4206730426		102-4		HAYNES #1-U
-DALLAS SUNBELT OIL & GAS INC				RECEIVED:	12/09/83	JA: TX
8411534	F-7B-062319	4213333854		103		BROWN #1
-DIAMOND CHEMICAL CO				RECEIVED:	12/09/83	JA: TX
8411698	F-10-075821	4235700000		108		ELLIS RANCH #1-845T
-DURANGO OPERATING CO INC				RECEIVED:	12/09/83	JA: TX
8411644	F-7B-075496	4205933898		102-4		FRANK WINDHAM #2 (18978)
8411643	F-7B-075495	4205933984		102-4		FRANK WINDHAM #3 (18978)
-EADS OPERATING CO				RECEIVED:	12/09/83	JA: TX
8411579	F-03-072803	4207131393		102-4		STATE TRACT 303 WELL #1
-ENER-G'S				RECEIVED:	12/09/83	JA: TX
8411634	F-10-075052	4206531515		103		GINA #3 (ID #05488)
-ENERGETICS OPERATING CO				RECEIVED:	12/09/83	JA: TX
8411696	F-10-075632	4234131093		103		MASTERSON H-26
8411693	F-10-075631	4234131093		103		MASTERSON H-27R
8411692	F-10-075630	4234131022		103		MASTERSON H-28
8411691	F-10-075629	4234131019		103		MASTERSON H-29 (03839)
-ESTATE OIL & GAS CORP				RECEIVED:	12/09/83	JA: TX
8411565	F-06-071729	4220330868		103		DAVIS-STONE #1
-EXXCEL PRODUCTION CO				RECEIVED:	12/09/83	JA: TX
8411749	F-10-075762	4217931465		103		CLINT #3 (ID #05413)
8411751	F-10-075761	4217931467		103		FELIX #6 (ID #05118)
-EXXON CORPORATION				RECEIVED:	12/09/83	JA: TX
8411652	F-04-07553	4235532112		102-4		FLOUR BLUFF OIL UNIT III 1-F 10316
8411631	F-04-074947	4204731266		102-4		MCGILL BROS 496 (107441)
8411646	F-04-075507	4226130824		102-4		SARITA FIELD OIL & GAS 184-D 10263
8411622	F-03-074636	4220131536		103		TOMBALL LEWIS OIL UNIT 1 #1
-FARGO ENERGY CORP				RECEIVED:	12/09/83	JA: TX
8411573	F-03-072466	4214931567		102-2		HOLSTIEN "A" #1
-FLAG-REDFERN OIL CO				RECEIVED:	12/09/83	JA: TX
8411640	F-08-075357	4231732664		102-4	103	ROBB "34" #1
-FROST OIL CO INC				RECEIVED:	12/09/83	JA: TX
8411591	F-7C-073574	4208100000		102-4		ADELE FROST #2-269
-GETTY OIL COMPANY				RECEIVED:	12/09/83	JA: TX
8411678	F-8A-075589	4207931685		103		XIT UNIT WELL #33-X
-GHR ENERGY CORP				RECEIVED:	12/09/83	JA: TX
8411668	F-04-075576	4250530266		108		A VILLARREAL 1-S ID #059177
8411677	F-04-075588	4250530286		108		E VILLARREAL #1 ID #063308
8411669	F-04-075577	4247932545		108		HEREFORD #16 ID #088229
8411670	F-04-075578	4250530893		108		J M SALINAS #1 ID #074918
8411666	F-04-075563	4250530511		108		LA PERLA #11
8411671	F-04-075579	4250531055		108		LA PERLA RANCH #24 ID #097101
8411676	F-04-075587	4247932294		108		R MARTINEZ #1 ID #086022
-GRAHAM ENERGY LTD				RECEIVED:	12/09/83	JA: TX
8411548	F-7C-070838	4208131177		103		WIMBERLY #2
-GULF OIL CORPORATION				RECEIVED:	12/09/83	JA: TX
8411717	F-08-075678	4247532877		103		ESTES E W #262
8411725	F-08-075695	4213534267		103		GOLDSMITH C A ETAL #1385
8411734	F-08-075738	4213534268		103		GOLDSMITH C A ETAL #1386
8411733	F-08-075736	4213534299		103		GOLDSMITH SAM ANDRES UNIT #1383
8411716	F-08-075677	4247532882		103		HUTCHINGS STOCK ASSN #1218
8411715	F-08-075676	4247532915		103		HUTCHINGS STOCK ASSN #1221
8411655	F-08-075539	4247532848		103		HUTCHINGS STOCK ASSN #1237
8411654	F-08-075538	4247532918		103		HUTCHINGS STOCK ASSN #1243
8411726	F-08-075696	4247532855		103		HUTCHINGS STOCK ASSN #1266
8411606	F-10-074121	4229531212		107-TF		PEARL WHEAT #3-765
8411653	F-08-075537	4238931332		103		TXL "BM" (MCT-C) #4
8411727	F-08-075698	4238931332		102-4		TXL "BM" (MCT-C) #4
-HARKINS & COMPANY				RECEIVED:	12/09/83	JA: TX
8411611	F-04-074463	4213135785		102-4	103	A S SERNA #1 WELL 098429
-HARRIS R FENDER				RECEIVED:	12/09/83	JA: TX
8411661	F-06-075553	4242330672		102-4		DON M MILLSAP #1
-HARRY E NELSON				RECEIVED:	12/09/83	JA: TX
8411614	F-03-074504	4233930595		103		J W WOODS UNIT #5
-HARWOOD EXPLORATION INC				RECEIVED:	12/09/83	JA: TX
8411574	F-04-072526	4224900000		102-4		JAIME GARCIA #1
8411610	F-04-074357	4213136280		102-4		MARIA B ADAME #1
-HIGHLAND RESOURCES INC				RECEIVED:	12/09/83	JA: TX
8411576	F-05-072642	4216130812		103	107-TF	ZEMO KING G U I #2 WELL
-HUFO PRODUCTION CORP				RECEIVED:	12/09/83	JA: TX
8411531	F-10-056151	4234130786		103		BRENT 59-1
-INVESTEK INC				RECEIVED:	12/09/83	JA: TX

FIELD NAME	PROD	PURCHASER
HAWK-EYE (ADAMS BRANC	10.0	SOUTHWESTERN GAS
HAWK-EYE (ADAMS BRANC	15.0	SOUTHWESTERN GAS
HAWK-EYE (ADAMS BRANC	10.0	SOUTHWESTERN GAS
WILBARGER COUNTY REGU	0.0	KIBO COMPRESSOR C
AWP (OLMOS)	0.0	HPI TRANSMISSION
AWP (OLMOS)	0.0	HPI TRANSMISSION
C E J (STRAWN)	54.0	DELHI GAS PIPELIN
WEGER (SAN ANDRES)	14.8	J L DAVIS
GERGE (STRAWN)	99.0	SOUTHWESTERN GAS
PANHANDLE HUTCHINSON	13.0	PANHANDLE EASTERN
RITCHIE (NORTH)	500.0	
IATAN EAST HOWARD	18.6	GETTY OIL CO
IATAN EAST HOWARD	31.8	GETTY OIL CO
KELLY - SNYDER	4.0	EL PASO NATURAL G
BROOKSHIRE DOME (MIOC	192.0	TEJAS-SOUTHWESTER
FUHRMAN MASCHO	21.6	PHILLIPS PETROLEU
ELLIS RANCH (DOUGLAS)	0.0	PHILLIPS PETROLEU
LEDRICK RANCH (MORROW	365.0	SOUTHERN NATURAL
RODESSA	0.0	BRECKENRIDGE GASO
RODESSA	22.5	BRECKENRIDGE GASO
EASTLAND COUNTY REGUL	1.0	LONE STAR GAS CO
ELLIS RANCH	9.0	NATURAL GAS PIPEL
DURANGO (COOK)	32.0	LONE STAR GAS CO
DURANGO (COOK)	7.0	LONE STAR GAS CO
BAYVIEW M (10,380')	27.0	
PANHANDLE CARSON	40.0	GETTY OIL CO
PANHANDLE (RED CAVE)	33.7	COLORADO INTERSTA
PANHANDLE (RED CAVE)	77.7	COLORADO INTERSTA
PANHANDLE (RED CAVE)	8.7	COLORADO INTERSTA
PANHANDLE (RED CAVE)	50.8	COLORADO INTERSTA
LANSING M (PETTIT)	146.0	ARKANSAS LOUISIAN
PANHANDLE GRAY	50.0	CABOT PIPELINE CO
PANHANDLE GRAY	64.0	CABOT PIPELINE CO
FLOUR BLUFF (M-99)	36.5	ARMCO STEEL CORP
KELSEY DEEP (ZONE 25	237.0	TRUNKLINE GAS CO
SARITA (5-Q SW)	5.5	NATURAL GAS PIPEL
TOMBALL (LEWIS 5930)	18.3	NATURAL GAS PIPEL
GIDDINGS (AUSTIN CHAL	73.0	PHILLIPS PETROLEU
STANTON SE	18.2	PHILLIPS PETROLEU
RAY	0.0	LONE STAR GAS CO
LEVELLAND	11.0	CITIES OIL & GAS
EXSUN (QUEEN CITY 11	1.0	UNITED TEXAS TRAN
EXSUN (WILCOX 7900)	1.6	UNITED TEXAS TRAN
BASHARA-HEREFORD	3.0	UNITED TEXAS TRAN
J M SALINAS (MIDWAY 6	9.0	UNITED TEXAS TRAN
LA PERLA RANCH (8350)	8.0	EL PASO NATURAL G
LA PERLA RANCH (WILCO	0.0	EL PASO NATURAL G
LA MANAGANA (LOBO 880	3.0	UNITED TEXAS TRAN
SILVER (ODOM)	0.0	
WARD-ESTES NORTH	6.2	CABOT CORP
GOLDSMITH (5600)	25.0	PHILLIPS PETROLEU
GOLDSMITH (5600)	35.0	PHILLIPS PETROLEU
GOLDSMITH	9.6	PHILLIPS PETROLEU
WARD-ESTES NORTH	3.0	CABOT CORP
WARD-ESTES NORTH	3.7	CABOT CORP
WARD-ESTES NORTH	17.6	CABOT CORP
WARD-ESTES NORTH	5.7	CABOT CORP
WARD-ESTES NORTH	3.0	CABOT CORP
PEERY (CLEVELAND)/CLE	21.2	TRANSWESTERN PIPE
JESS BURNER (DELAWARE	12.4	CONOCO INC
JESS BURNER (DELAWARE	12.4	CONOCO INC
LOS REYES FIELD	450.0	DELHI GAS PIPELIN
DRISKELL LAKE (RODESS	400.0	LONE STAR GAS CO
WILLIS WEST	0.0	MORGAS CO
PALITO BLANCO	365.0	SOUTHERN GAS PIPE
PALITO BLANCO (PROPOS	29.2	SOUTHERN GAS PIPE
TEAGUE TOWNSITE (COTT	600.0	LONE STAR GAS CO
BRENT (PANHANDLE MOOR	0.0	PANHANDLE EASTERN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8411656	F-09-075548	4223700000		103		J E HENDERSON "A" #4	WELL (CONGLOMERATE)	36.0	SOUTHWESTERN GAS
-J B HERRMANN				RECEIVED:	12/09/83	JA: TX			
8411645	F-10-075498	4223331646		103		KILLOUGH #1	PANHANDLE FIELD	18.6	PHILLIPS PETROLEU
-JJB OIL & GAS INC				RECEIVED:	12/09/83	JA: TX			
8411674	F-7B-075582	4236732548		102-4		HICKS #1 (107315)	MCDANIEL (CONGL)	70.0	TEXAS UTILITIES F
8411673	F-7B-075581	4236732057		102-4		JOHNSON #1A (107438)	WEATHERFORD SE (1900)	22.0	TEXAS UTILITIES F
-KLAUSE & KLAUS OIL CO				RECEIVED:	12/09/83	JA: TX			
8411681	F-10-075596	4206531380		103		ONEAL "A" (05380) #2	PANHANDLE CARSON COUN	3.0	GETTY OIL CO
-L & B OIL CO INC				RECEIVED:	12/09/83	JA: TX			
8411697	F-08-075641	4217331446		102-4		BAILEY #3	DEWEY LAKE S (WOLFCAM	56.0	PHILLIPS PETROLEU
-MAGUIRE OIL COMPANY				RECEIVED:	12/09/83	JA: TX			
8411538	F-03-068851	4220100000		108		DOOLEY #8C	ALCO MAG	0.2	TEXAS EASTERN TRA
-MARATHON OIL COMPANY				RECEIVED:	12/09/83	JA: TX			
8411598	F-7C-073882	4238332628		103		UNIVERSITY -3955- WELL #190	BIG LAKE	7.6	DORCHESTER GAS PR
-MATTHEWS JAMES R				RECEIVED:	12/09/83	JA: TX			
8411658	F-7B-075544	4241735098		103		BUTLER #1 ID #106525	MATTHEWS PUTTER	120.0	LONE STAR GAS CO
-MITCHELL ENERGY CORPORATION				RECEIVED:	12/09/83	JA: TX			
8411545	F-09-069887	4236700000		108		A D ROWDEN #1 871468	BOONSVILLE (BEND CONG	0.0	SOUTHWESTERN GAS
8411529	F-09-032980	4249700000		108-ER		EFFIE OWENS #1	BOONSVILLE BEND CONGL	0.0	NATURAL GAS PIPEL
8411553	F-09-071408	4249700000		108		J J FRANK #1 #052410	BOONSVILLE/BEND CONGL	0.0	NATURAL GAS PIPEL
8411618	F-09-074538	4249732518		102-4		W T SMITH #2	NEWARK E (BARNETT SHA	195.0	SOUTHWESTERN GAS
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	12/09/83	JA: TX			
8411664	F-8A-075557	4231933913		103		EAST MALLET UNIT #118	SLAUGHTER	0.7	AMOCO PRODUCTION
8411675	F-8A-075583	4221933910		103		EAST MALLET UNIT #119	SLAUGHTER	11.0	AMOCO PRODUCTION
-MORAN EXPLORATION INC				RECEIVED:	12/09/83	JA: TX			
8411662	F-7C-075554	4223531548		108		MAYER "A" WELL #3 RRC 08568	SPRABERRY (TREND AREA	6.1	NORTHERN NATURAL
8411663	F-7C-075555	4238330257		108		ROCKER B "C" #5 RRC #06270	SPRABERRY (TREND AREA	17.7	NORTHERN NATURAL
-MR OIL CO				RECEIVED:	12/09/83	JA: TX			
8411748	F-08-075760	4247532807		103		JOHNSON "B" #20 RRC #07329	WARD-ESTES NORTH	8.0	WESTERN COUNTIES
-MUELLER ENGINEERING CORP				RECEIVED:	12/09/83	JA: TX			
8411600	F-04-073936	4250500000		103		D M V DE VASQUEZ #2-C	ZAPATA (QUEEN CITY)	56.5	REATA INDUSTRIAL
-NATURA ENERGY CORP				RECEIVED:	12/09/83	JA: TX			
8411711	F-03-075665	4237330539		102-4		ALABAMA-COUSHATTA #1-9	CAMP RUBY (MIDWAY SAN	150.0	HOUSTON PIPELINE
-NATURAL GAS ANADARKO INC				RECEIVED:	12/09/83	JA: TX			
8411627	F-10-074747	4239330943		103		CARRIE #1-190	MORRISON RANCH (MORRO	180.0	DIAMOND SHAMROCK
8411624	F-10-074735	4235731392		103		EZ #1-90	FRANSWORTH S E (MORRO	18.0	PHILLIPS PETROLEU
8411625	F-10-074736	4235731253		103		TAMLIN #1-89	FARNSWORTH SE (MORROW	16.0	PHILLIPS PETROLEU
8411626	F-10-074744	4235731389		103		WAIDE #1-87	FARNSWORTH S E (MORRO	24.0	PHILLIPS PETROLEU
-NEUMIN PRODUCTION CO				RECEIVED:	12/09/83	JA: TX			
8411589	F-02-07327	4205731242		103		STATE TRACT 26 WELL #5	LAVACA BAY (F-39)	336.0	ALUMINUM CO OF AM
8411593	F-02-073718	4205700000		102-4		STATE TRACT 38 WELL #1	LAVACA BAY	945.0	ALUMINUM CO OF AM
-NEWTON OIL & GAS CORP				RECEIVED:	12/09/83	JA: TX			
8411598	F-03-073487	4248130968		102-4		G H HARFST "D" #1	WHARCO SHILLING (FRIO	270.0	VICTORIA GAS CORP
-NORTH STAR ENERGY INC				RECEIVED:	12/09/83	JA: TX			
8411637	F-7B-075096	4236331848		103		BALL #1-D (076163)	STRAWN EAST (MARBLE F	54.0	LONE STAR GAS CO
-ORLA PETCO INC				RECEIVED:	12/09/83	JA: TX			
8411633	F-08-075012	4210931642		102-4		HYLAND #2	GERALDINE (DELAWARE 3	164.2	TEXACO INC
-PARIS PETROLEUM CORP				RECEIVED:	12/09/83	JA: TX			
8411731	F-7C-075727	4235331405		103		JAHEW JAMESON "G" #3	SILVER (CANYON)	214.0	SUN GAS CO
-PARKER & PARSLEY INC				RECEIVED:	12/09/83	JA: TX			
8411588	F-08-073259	4232900000		103		STOUT #1	SPRABERRY (TREND AREA	15.0	PHILLIPS PETROLEU
-PENTA ENERGY CORP				RECEIVED:	12/09/83	JA: TX			
8411756	F-03-075774	4204130863		102-2		MILAM #1-L - #16733	KURTEN (GEORGETOWN)	90.0	FERGUSON CROSSING
8411755	F-03-075773	4204130863		102-2		MILAM #1-U - 16732	KURTEN (BUDA)	90.0	FERGUSON CROSSING
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	12/09/83	JA: TX			
8411724	F-08-075692	4213508966		108		GOLDSMITH AND UNIT P-89 (21193)	GOLDSMITH (CLEAR FORK	14.0	EL PASO NATURAL G
8411723	F-08-075691	4213502716		108		GS ANDECTOR UNIT #U-14 21193	GOLDSMITH (CLEAR FORK	11.0	EL PASO NATURAL G
8411605	F-10-074049	4217931385		103		HUSTED #6	PANHANDLE GRAY	0.0	
8411602	F-10-073991	4217931425		103		LEHMAN #9	PANHANDLE GRAY	0.0	
8411712	F-10-075669	4217900000		108		SIN-HARRAH #4	PANHANDLE GRAY	0.0	GETTY OIL CO
-RIO PETROLEUM INC				RECEIVED:	12/09/83	JA: TX			
8411729	F-10-075703	4221131607		103		HOOVER #2	BIG TIMBER CREEK (DOU	70.0	DIAMOND CHEMICALS
-ROBERT E BYRNE				RECEIVED:	12/09/83	JA: TX			
8411667	F-7B-075574	4213335145		102-4		JOHNSON #2 (18522)	REB (MARBLE FALLS)	54.0	LONE STAR GAS CO
-SAMSON RESOURCES COMPANY				RECEIVED:	12/09/83	JA: TX			
8411530	F-10-052996	4235700000		107-TF		JIM DODSON #1-834	ELLIS RANCH (CLEVELAN	134.5	TRANSWESTERN PIPE
-SANTA FE ENERGY PRODUCTS CO				RECEIVED:	12/09/83	JA: TX			
8411613	F-03-074487	4214931573		102-2		VON ROSENBERG #1	GIDDINGS (AUSTIN-CHAL	0.0	CLAJON GAS CO
-SAVAGE OIL CO				RECEIVED:	12/09/83	JA: TX			
8411718	F-7C-075679	4210500000		108		JOE BEAN #1	DONHAM (GRAYBURG)	16.0	PERMIAN CORP
8411719	F-7C-075680	4210500000		108		SOUTHLAND ROYALTY CO "A" #1	DONHAM (GRAYBURG)	11.4	PERMIAN CORP
-SEAGULL ENERGY CORP				RECEIVED:	12/09/83	JA: TX			
8411540	F-03-069085	4232131262		103		G L HARRISON ET AL DRLG UNIT #1-U-T	WILDCAT	360.0	
-SEAGULL ENERGY E & P INC				RECEIVED:	12/09/83	JA: TX			
8411541	F-03-069298	4232131262		103		G L HARRISON ET AL DRLG UNIT #1-L-T	PHEASANT S W (FRIO J)	400.0	SEAGULL ENERGY CO
-SHA-JAM CORP				RECEIVED:	12/09/83	JA: TX			
8411535	F-03-066668	4228731218		102-2		BERTHA ANN #1	GIDDINGS (AUSTIN CHAL	54.7	PHILLIPS PETROLEU
-SHELL OIL CO				RECEIVED:	12/09/83	JA: TX			
8411572	F-01-072408	4231131840		102-4		BRACKEN #15	A W P (OLMOS)	100.0	HOUSTON PIPELINE
8411543	F-01-069437	4231131803		102-4		BRACKEN ET AL #11	A W P (OLMOS)	250.0	HOUSTON PIPELINE
-SOUTH TEXAS DRILLING & EXPL INC				RECEIVED:	12/09/83	JA: TX			
8411595	F-09-073757	4207700000		103		MAURICE LUTZ #1	CLAY COUNTY REGULAR	36.0	FAGADAU ENERGY CO
-SOUTHLAND ROYALTY CO				RECEIVED:	12/09/83	JA: TX			
8411601	F-08-073955	4213533175		103		MIDLAND FARMS #8	NORTH COWDEN	6.9	AMOCO PRODUCTION
-STEINBERGER DAVID				RECEIVED:	12/09/83	JA: TX			
8411665	F-09-075559	4207732962		102-4		VIETH #1	DEER CREEK (ISRAEL 50	8.0	FAGADAU ENERGY CO
-STEVE STAMPER				RECEIVED:	12/09/83	JA: TX			
8411713	F-09875671	4223735495		103		BOAZ #4	BRYSON EAST	10.0	LONE STAR GAS CO
8411680	F-09-075595	4223735505		103		PEAVY #5	BRYSON EAST	11.0	LONE STAR GAS CO
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	12/09/83	JA: TX			
8411732	F-10-075731	4223300000		108		D B KIRK #2	HANSFORD (MORROW LOWE	16.0	TRANSWESTERN PIPE
8411722	F-08-075688	4213500000		108		EAST GOLDSMITH SAN ANDRES #7-1	GOLDSMITH EAST	2.0	PHILLIPS PETROLEU
8411660	F-10-075547	4235700000		108		HOMER GURLEY #1L	FARNSWORTH N (MISSISS	15.0	NATURAL GAS PIPEL
8411753	F-04-075767	4242700000		108		J F HALL STATE -A- #4U	RINCON NORTH	2.0	TRANSCONTINENTAL
8411752	F-02-075766	4239100000		108		J M OBRIEN #6-1	GRETA	18.0	UNITED TEXAS TRAN
8411659	F-7B-075546	4213300000		108		R S HARRIS #4	EASTLAND COUNTY REGUL	2.0	LONE STAR GAS CO
8411754	F-04-075768	4235500000		108		RICHARD KING #1-12	RICHARD KING	2.0	DELHI GAS PIPELIN
-SUPERIOR OIL CO				RECEIVED:	12/09/83	JA: TX			
8411542	F-02-06934	4228531710		102-4	103	W M GRANBERRY #2	SWEET HOME (MIDWAY)	18.0	UNITED TEXAS TRAN
-TAMARACK PETROLEUM CO INC				RECEIVED:	12/09/83	JA: TX			
8411707	F-8A-075657	4221933567		103		STONE #1 (RRC #64017)	LEVELLAND	1.0	CITIES SERVICE CO
8411706	F-8A-075656	4221933611		103		STONE #2 (RRC #64017)	LEVELLAND	1.5	CITIES SERVICE CO
8411705	F-8A-075655	4221933736		103		STONE #3 (RRC #64017)	LEVELLAND	1.5	CITIES SERVICE CO
8411704	F-8A-075654	4221933699		103		STONE #4 (RRC #64017)	LEVELLAND	1.0	CITIES SERVICE CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-TAYLOR, CLAYTON & HAWLEY				RECEIVED:	12/09/83	JA: TX			
8411547	F-10-070213	4217931865		103		TAYLOR "TH" #2	PANHANDLE GRAY COUNTY	3.0	PHILLIPS PETROLEU
-TED TRUE INC				RECEIVED:	12/09/83	JA: TX			
8411587	F-10-073159	4234130985		103		BRENT 25-7	PANHANDLE MOORE COUNT	0.0	HOUSTON PIPE LINE
8411586	F-10-073158	4234130986		103		BRENT 25-8	PANHANDLE MOORE COUNT	0.0	HOUSTON PIPE LINE
8411615	F-10-074521	4234100000		103		BRENT 59-2	PANHANDLE MOORE COUNT	0.0	HOUSTON PIPE LINE
8411616	F-10-074522	4234100000		103		BRENT 59-5	PANHANDLE MOORE COUNT	0.0	HOUSTON PIPE LINE
8411617	F-10-074523	4234100000		103		BRENT 59-6	PANHANDLE MOORE COUNT	0.0	HOUSTON PIPE LINE
8411582	F-10-073152	4234130957		103		BRENT 63-07	PANHANDLE MOORE COUNT	0.0	HOUSTON PIPE LINE
8411532	F-10-056160	4234100000		103		BRENT 63-1	PANHANDLE MOORE COUNT	0.0	PANHANDLE EASTERN
8411585	F-10-073155	4234130949		103		BRENT 63-3	PANHANDLE MOORE COUNT	0.0	HOUSTON PIPE LINE
8411584	F-10-073154	4234130996		103		BRENT 63-5A	PANHANDLE MOORE COUNT	0.0	HOUSTON PIPE LINE
8411583	F-10-073153	4234130956		103		BRENT 63-6	PANHANDLE MOORE COUNT	0.0	HOUSTON PIPE LINE
8411581	F-10-073151	4234030958		103		BRENT 63-8	PANHANDLE MOORE COUNT	0.0	HOUSTON PIPE LINE
-TENNECO OIL COMPANY				RECEIVED:	12/09/83	JA: TX			
8411533	F-04-061682	4221530934		102-4		MCALLEN FIELDWIDE UNIT #47	MCALLEN	500.0	TRUNKLINE GAS CO
-TEON ENERGY INC				RECEIVED:	12/09/83	JA: TX			
8411571	F-83-072362	4228700000		102-2		FALKENBERG "A" -1- #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-TEXACO INC				RECEIVED:	12/09/83	JA: TX			
8411737	F-10-075743	4217900000		108		A CHAPMAN "A" MCT-3 #10	PANHANDLE GRAY COUNTY	0.3	COLTEXO CORP
8411738	F-10-075744	4217900000		108		A CHAPMAN "A" MCT-3 #11	PANHANDLE GRAY COUNTY	0.3	COLTEXO CORP
8411736	F-10-075742	4217900000		108		A CHAPMAN "A" MCT-3 #40	PANHANDLE GRAY COUNTY	1.3	COLTEXO CORP
8411698	F-10-075645	4206500130		108		J C MCCONNELL "A" #8	PANHANDLE CARSON COUN	1.6	GETTY OIL CO
8411735	F-10-075741	4217900000		108		J C SHORT #4	PANHANDLE GRAY COUNTY	0.6	COLTEXO CORP
8411612	F-8A-074476	4221934057		103		MONTGOMERY ESTATE DAVIES MCT-2 #102	LEVELLAND	0.0	AMOCO PRODUCTION
8411577	F-8A-072687	4221933826		103		MONTGOMERY ESTATE DAVIES MCT-2 #99	LEVELLAND	48.2	AMOCO PRODUCTION
8411746	F-8A-075752	4241500000		108		P L FULLER MCT-1 #128	KELLY-SNYDER	2.3	TEXACO INC
8411747	F-8A-075753	4241500000		108		P L FULLER MCT-1 #129	KELLY-SNYDER	2.3	TEXACO INC
8411741	F-8A-075747	4241500000		108		P L FULLER MCT-1 #212	KELLY-SNYDER	2.3	TEXACO INC
8411623	F-08-074661	4243131354		103		R E GLASS #5	CONGER (PENN)	9.1	VALERO TRANSMISSI
8411745	F-08-075751	4238900000		108		REEVES "AC" FEE #1	FORD EAST (DELAWARE S	1.7	CONOCO INC
8411742	F-08-075748	4238900000		108		REEVES "AC" FEE #2	FORD EAST (DELAWARE S	2.1	CONOCO INC
8411744	F-08-075750	4238900000		108		REEVES "AC" FEE #6	FORD EAST (DELAWARE S	0.5	CONOCO INC
8411739	F-10-075745	4217900222		108		ROBERT JACKSON #1	PANHANDLE GRAY COUNTY	4.7	COLTEXO CORP
8411740	F-10-075746	4217900000		108		ROBERT JACKSON #3	PANHANDLE GRAY COUNTY	2.5	COLTEXO CORP
8411743	F-10-075749	4217900000		108		ROBERT JACKSON #4	PANHANDLE GRAY COUNTY	1.3	COLTEXO CORP
8411588	F-8A-072952	4250132283		103		ROBERTS UNIT #2138	WASSON	8.8	SHELL OIL CO
8411578	F-8A-07234	4250132284		103		ROBERTS UNIT #3345	WASSON	4.8	SHELL OIL CO
8411608	F-08-074211	4243131346		103		STERLING "J" FEE #7	CONGER (PENN)	0.0	VALERO TRANSMISSI
8411609	F-08-074213	4243131353		103		STERLING "O" FEE #7	CONGER (PENN)	0.0	VALERO TRANSMISSI
8411592	F-08-073605	4243131345		102-4		STERLING "T" FEE #6	CONGER SW	0.0	VALERO TRANSMISSI
8411679	F-10-075593	4206500000		108		T J BONEY MCT-2 #65	PANHANDLE CARSON COUN	0.3	GETTY OIL CO
-THOMAS C CANAN				RECEIVED:	12/09/83	JA: TX			
8411621	F-7B-074625	4242933624		102-4		SATTERWHITE #1	MUNNERLYN (MISS)	36.0	WARREN PETROLEUM
-TIBURON PETROLEUM CO				RECEIVED:	12/09/83	JA: TX			
8411604	F-7C-074003	4238300000		103		ROCKER B-31-1	SPRABERRY (TREND AREA	0.0	
-TRIPLE J INVESTMENTS INC				RECEIVED:	12/09/83	JA: TX			
8411536	F-06-067907	4220300000		103	107-TF	ROGERS	WASKOM (LOWER COTTON	500.0	ARKANSAS LOUISIAN
-TXO PRODUCTION CORP				RECEIVED:	12/09/83	JA: TX			
8411554	F-04-071541	4213136219		102-4		BARRERA C-1	J R (5618')	0.0	REATA INDUSTRIAL
8411597	F-02-073867	4228531578		102-4		KORINEK G U 1	KEMPER EAST	0.0	UNITED GAS PIPELI
8411568	F-02-071947	4246900000		102-4		KORINEK G U 5	KEMPER E (5650')	0.0	UNITED GAS PIPELI
8411683	F-02-073998	4228500000		102-4		KORINEK G U 6	KEMPER EAST	0.0	UNITED GAS PIPELI
8411567	F-02-071799	4246900000		102-4		KORINEK GAS UNIT 4	KEMPER EAST (5650')	0.0	UNITED GAS PIPELI
8411566	F-02-071796	4229700000		102-4		MCCLELLAND 20	OAKVILLE (WILCOX 9700	0.0	DELHI GAS PIPELIN
-USEMCO INC				RECEIVED:	12/09/83	JA: TX			
8411630	F-7B-074946	4236732482		103		FRANKLIN #1	POOLVILLE SW (CONGL 4	50.0	SOUTHWESTERN GAS
-VALERO PRODUCING CO				RECEIVED:	12/09/83	JA: TX			
8411696	F-08-075648	4231732707		103		BLAGRAVE #2	HILL RANCH (MISSISSIP	0.0	
-VERNON E FAULCONER INC				RECEIVED:	12/09/83	JA: TX			
8411537	F-06-068749	4236500000		108-ER		EBB ALLEN #1 #029480	BETHANY (PETTIT LOWER	0.0	UNITED GAS PIPE L
-VICTORIA EXPLORATION CO INC				RECEIVED:	12/09/83	JA: TX			
8411544	F-02-069845	4217531728		102-4		POST-BALLARD UNIT #1	SCHROEDER (5300 YEGUA	0.0	DELHI GAS PIPELIN
-W B D OIL & GAS CO				RECEIVED:	12/09/83	JA: TX			
8411750	F-10-075763	4234130949		103		SANDRA #2 (ID #05396)	PANHANDLE MOORE	40.0	DIAMOND CHEMICALS
-W R EDWARDS JR				RECEIVED:	12/09/83	JA: TX			
8411709	F-10-075663	4223300000		103		BARNHILL #501	PANHANDLE HUTCHINSON	0.0	TRANS-PAN PIPELIN
8411710	F-10-075664	4223300000		103		BARNHILL #511	PANHANDLE HUTCHINSON	0.0	TRANS-PAN PIPELIN
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	12/09/83	JA: TX			
8411721	F-08-075684	4210333220		103		P J LEA ETAL (TR A) #150	LEA (SAN ANDRES)	14.9	EL PASO NATURAL G
8411720	F-08-075683	4210333252		103		P J LEA ETAL (TR B) #154	LEA SOUTH (CLEARFORK)	12.1	EL PASO NATURAL G
-WAYNE HARPER				RECEIVED:	12/09/83	JA: TX			
8411647	F-09-075509	4209732298		103		WM HOWELL "C" WELL #3	SIVELLS BEND FIELD	29.0	SIVELLS GAS LTD
-WILLIAMS BOB				RECEIVED:	12/09/83	JA: TX			
8411620	F-7B-074585	4242933715		102-4		COPELAND RANCH #8	NEELY (BEND CONGL)	12.0	TEXAS UTILITIES F
-WILLIAMS PETROLEUM CO				RECEIVED:	12/09/83	JA: TX			
8411672	F-09-075580	4207700000		103		ROLLINS #1	BLUE GROVE (CADDO)	500.0	SANFORD P FAGADAU
-WILSON MINERALS INC				RECEIVED:	12/09/83	JA: TX			
8411639	F-7B-075210	4208322868		103		RUTHERFORD-WILSON 2	COLEMAN COUNTY REGULA	30.0	BRADY CITY OF
-WY-VEL CORP				RECEIVED:	12/09/83	JA: TX			
8411682	F-10-075598	4206531395		103		ENSEARCH (05518) #1	PANHANDLE	2.9	KERR-MCGEE CORP
8411683	F-10-075599	4206531398		103		RICHARDSON (05530) #1	PANHANDLE	65.3	KERR-MCGEE CORP

[FR Doc. 84-1377 Filed 1-17-84; 8:45 am]

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Rules and Regulations

Federal Register
Vol. 49, No. 13
Thursday, January 19, 1984

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 56, 59, and 70

Increase in Fees and Charges

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule.

SUMMARY: The charges for Federal egg, poultry, and rabbit grading; and the Federal mandatory egg products inspection service overtime rate are changed to reflect increased costs associated with these programs. These amendments are being implemented on an interim basis without a prior proposal because of the Agency's need to increase these rates and charges to cover increased costs of these services. Also, the interim final rule is being published for comment as a means of providing full public participation in the rulemaking process prior to promulgation of the final rule.

DATES: Interim final rule effective February 1, 1984; comments must be received on or before February 15, 1984.

ADDRESS: Written comments may be mailed to D. M. Holbrook, Chief, Standardization Branch, Poultry Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 3944, South Agriculture Building, Washington, D.C. 20250. (For further information regarding comments, see "Comments" under Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Larry W. Robinson, Assistant to the Director, Poultry Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 3938, South Agriculture Building, Washington, D.C. 20250, (202) 447–3271.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

An initial determination has been made that this interim final rule is not a major rule under Executive Order 12291. It will not (i) result in an annual effect on the economy of $100 million or more, (ii) result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (iii) have significant effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This regulation has been reviewed for cost effectiveness under U.S. Department of Agriculture Secretary's Memorandum 1512–1 implementing Executive Order 12291. It increases fees and charges to cover escalating costs of providing Federal voluntary grading services and Federal mandatory egg products inspection overtime service. Federal laws require that users pay for these services. It is anticipated that these increases will not have a significant economic effect on producers, packers, and consumers. Alternatively, the Agency could have requested appropriations to subsidize voluntary programs and denied overtime egg products inspection service. However, such actions would require a change in the intent of these laws, would increase the Federal Budget, and would not adhere to the President's economic recovery plan. Furthermore, any denial or disruption of grading/inspection services due to inadequate fees and charges could result in adverse impacts on the orderly marketing of poultry, rabbits, eggs, and egg products and on the quality of products available to consumers.

Effect on Small Entities

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), because (i) the fees and charges merely reflect, on a cost-per-unit-graded/inspected basis, a minimal increase in the costs currently borne by those entities utilizing the services; and (ii) competitive effects are offset under the major voluntary programs (resident shell egg and poultry grading) through administrative charges based on the volume of product handled; i.e., the cost to users increases in proportion to increased volume.

Comments

Interested persons are invited to submit written comments concerning these interim final amendments. Comments must be sent in duplicate to the Standardization Branch and should bear a reference to the date and page of this issue of the **Federal Register**. Comments submitted pursuant to this document will be made available for public inspection in the Washington, D.C., Standardization Branch during regular business hours.

Background

The Agricultural Marketing Act of 1946, as amended, provides for the collection of fees approximately equal to the cost of providing Federal voluntary egg, poultry, and rabbit grading. The Egg Products Inspection Act requires that the cost for overtime inspection be borne by the user of the service. The fees for these services are determined by the grader's or inspector's salary and fringe, cost of supervision, travel, and other overhead and administrative costs.

Last year's fee increase was based primarily on a 4.0-percent salary increase and a loss in appropriated funding used to offset a portion of overhead costs. Since then, program costs have continued to rise.

Federal employees received in January 1984 a 3.5-percent increase in conformity with the Federal Pay Comparability Act of 1970. Likewise, payments for workmen's compensation and medicare have increased 0.5 percent and approximately 0.1 percent, respectively.

Costs of supervision and other overhead and administrative costs have also increased for the same reasons. They are covered by an administrative service charge assessed on each case of shell eggs and each pound of poultry handed in plants using resident grading service. In 1982, these rates were established at $0.024 per case of shell eggs and $0.00024 per pound of poultry. These rates are being changed to $0.025 per case of shell eggs and $0.00025 per pound of poultry. Also, these charges

were set at a minimum of $120 and a maximum of $1,200 per billing period for each official plant. These figures will be changed to $125 and $1,250, respectively.

Due to the situations described above, the hourly rate for mandatory overtime egg products inspection service is increased from $16.56 to $17.20. Administrative charges for the resident voluntary rabbit grading and nonresident voluntary continuous poultry and egg grading programs will continue to be based on 25 percent of the grader's total salary costs. The minimum charge per billing period for these programs is increased from $120 to $125 per official plant.

Overall, fees and charges will be increased about 3.5 percent.

The Agency is implementing these fee amendments effective February 1, 1984, because increased revenues are urgently needed to cover the costs of services, and because a determination of the level of charges could not be completed until the salary increase had been enacted. Therefore, it has been determined that the following amendments must be adopted immediately on an interim final basis. A final rule will be promulgated in the **Federal Register** after evaluation of comments received in response to this notice. Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this interim final rule is impracticable, unnecessary, and contrary to the public interest, and good cause is found for making this interim final rule effective less than 30 days after publication of this document in the **Federal Register**.

Information Collection Requirements and Recordkeeping

Information collection requirements and recordkeeping provisions contained in 7 CFR Parts 56, 59, and 70 have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35, and 7 CFR Part 56 has been assigned OMB No. 0581–0128; and 7 CFR Part 59 has been assigned OMB Nos. 0581–0113 and 0581–0114; and 7 CFR Part 70 has been assigned OMB No. 0581–0127.

List of Subjects

7 CFR Part 56

Shell eggs, Voluntary grading service.

7 CFR Part 59

Shell eggs, Egg products, Mandatory inspection service.

7 CFR Part 70

Poultry, Poultry products, Rabbit products, Voluntary grading service.

Accordingly, under authority contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*), and the Egg Products Inspection Act (21 U.S.C. 1031–1056), the U.S. Department of Agriculture hereby amends the Regulations Governing the Grading of Shell Eggs and United States Standards, Grades, and Weight Classes for Shell Eggs (7 CFR Part 56); the Regulations Governing the Inspection of Eggs and Egg Products (7 CFR Part 59); and the Regulations Governing the Voluntary Grading of Poultry Products and Rabbit Products and United States Classes, Standards, and Grades (7 CFR Part 70) as set forth below:

PART 56—GRADING OF SHELL EGGS AND U.S. STANDARDS, GRADES, AND WEIGHT CLASSES FOR SHELL EGGS

1. Section 56.52 is amended by revising paragraph (a)(4) to read as follows:

§ 56.52 Continuous grading performed on a resident basis.

* * * * *

(a) * * *

(4) An administrative service charge based upon the aggregate number of 30-dozen cases of all shell eggs handled in the plant per billing period multiplied by $.025, except that the minimum charge per billing period shall be $125 and the maximum charge shall be $1,250. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

2. Section 56.54 is amended by revising paragraph (a)(2) to read as follows:

§ 56.54 Charges for continuous grading performed on a nonresident basis.

* * * * *

(a) * * *

(2) An administrative service charge equal to 25 percent of the grader's total salary costs. A minimum charge of $125 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

PART 59—INSPECTION OF EGGS AND EGG PRODUCTS (EGG PRODUCTS INSPECTION ACT)

3. Section 59.126 is revised to read as follows:

§ 59.126 Overtime inspection service.

When operations in an official plant require the services of inspection personnel beyond their regularly assigned tour of duty on any day, or on a day outside the established schedule, such services are considered as overtime work. The official plant shall give reasonable advance notice to the inspector of any overtime service necessary and shall pay the Service for such overtime at an hourly rate of $17.20 to cover the cost thereof.

PART 70—VOLUNTARY GRADING OF POULTRY PRODUCTS AND RABBIT PRODUCTS AND U.S. CLASSES, STANDARDS, AND GRADES

4. Section 70.76 is amended by revising paragraph (a)(2) to read as follows:

§ 70.76 Charges for continuous poultry grading performed on a nonresident basis.

* * * * *

(a) * * *

(2) An administrative service charge equal to 25 percent of the grader's total salary costs. A minimum charge of $125 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

5. Section 70.77 is amended by revising paragraphs (a)(4) and (a)(5) to read as follows:

§ 70.77 Charges for continuous poultry or rabbit grading performed on a resident basis.

* * * * *

(a) * * *

(4) For poultry grading: An administrative service charge based upon the aggregate weight of the total volume of all live and ready-to-cook poultry handled in the plant per billing period computed in accordance with the following: Total pounds per billing period multiplied by $.00025, except that the minimum charge per billing period shall be $125 and the maximum charge shall be $1,250. The minimum charge also applied where an approved application is in effect and no product is handled.

(5) For rabbit grading: An administrative service charge equal to 25 percent of the grader's total salary costs. A minimum charge of $125 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

(Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*); Egg Products Inspection Act (21 U.S.C. 1031–1056)).

Done at Washington, D.C., on January 16, 1984.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 84-1441 Filed 1-18-84; 8:45 am]

BILLING CODE 3410-02-M

Federal Crop Insurance Corporation

7 CFR Part 442

[Amdt. No. 2]

Prevented Planting Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule; correction.

SUMMARY: The final rulemaking on the Prevented Planting Crop Insurance Regulations, published in the **Federal Register** on Tuesday, December 13, 1983 (48 FR 55418–55421), contained an error of omission in that Appendix A, listing the counties wherein prevented planting crop insurance is otherwise authorized to be offered, was inadvertently omitted. This notice is being published to correct that error.

EFFECTIVE DATE: January 19, 1984.

ADDRESS: Any suggestions or inquiries on this notice should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3325. The correction is as follows:

SUPPLEMENTARY INFORMATION: On page 55421, following Section 20., and the words "receipt of the written notice.", and before the words "Approved by the Board of Directors on * * *", insert the following:

APPENDIX A

Counties Designated for Prevented Planting Crop Insurance—7 CFR Part 442

In accordance with the provisions of 7 CFR 442.1, the following counties are designated for prevented planting crop insurance:

Indiana: Posey, Vanderburgh
Minnesota: Kittson, Marshall
Mississippi: Leflore, Sunflower
Ohio: Brown, Highland.

Done in Washington, D.C., on January 10, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: January 11, 1984.

Approved by:

Michael Bronson,

Acting Manager.

[FR Doc. 84-1391 Filed 1-18-84; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Stabilization and Conservation Service

7 CFR Part 770

Special Programs of Payment in Kind for Acreage Diversion for 1984 and Subsequent Crops of Wheat, Feed Grains, Upland Cotton, Extra Long Staple Cotton, and Rice

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: A proposed rule was published in the **Federal Register** on January 4, 1984 (49 FR 409) which would amend the regulations at 7 CFR Part 770 and make them applicable to any programs of payment in kind for acreage diversion for any of the 1984 and subsequent crops of wheat, corn, grain sorghum, barley, oats, upland cotton, extra long staple cotton, or rice which are announced by the Secretary of Agriculture. It was also proposed that payments in kind received under such programs with respect to 1984 and subsequent crops be taken into account in the application of the payment limitation regulations set forth at 7 CFR Part 795. This final rule discusses the comments which were received and adopts the proposed regulations without change.

EFFECTIVE DATE: January 16, 1984.

ADDRESS: Grant Buntrock, Director, Cotton, Grain, and Rice Price Support Division, USDA–ASCS, Room 3630, South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Grant Buntrock, ASCS, (202) 447–7641.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures implementing Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified "not major". It has been determined that this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local governments, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The titles and numbers of the Federal assistance programs to which this final rule applies are: Cotton Production Stabilization, 10.052; Feed Grain Production Stabilization, 10.055; Rice Production Stabilization, 10.065; and Wheat Production Stabilization, 10.058; as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since the Agricultural Stabilization and Conservation Service is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore neither an Environmental Assessment nor an Environmental Impact Statement is needed.

A proposed rule was published in the **Federal Register** on January 4, 1984 (49 FR 409) which would amend the regulations at 7 CFR Part 770 and make them applicable to any programs of payment in kind for acreage diversion for any of the 1984 and subsequent crops of wheat, corn, grain sorghum, barley, oats, upland cotton, extra long staple cotton, or rice which are announced by the Secretary of Agriculture. It was also proposed that payments in kind received under such programs with respect to 1984 and subsequent crops be taken into account in the application of the payment limitation regulations set forth at 7 CFR Part 795.

Comments Received

Comments of the proposed rule were received from five individuals, two Congressmen, and one national farm organization. The following summarizes the comments and discusses the issues raised:

1. Two individuals suggested that the amount of the limitation on the total payments (excluding disaster payments) that a person may receive annually under one or more of the feed grain, rice, upland cotton, extra long staple cotton, and wheat programs should be raised from $50,000 to reflect the increased costs to producers over the last 20 years and to recognize that larger units are

now required if farming is to be economical. This suggestion has not been adopted. Section 1101 of the Agriculture and Food Act of 1981, as amended, provides for a payment limitation of $50,000.

2. The national farm organization and one Congressman commented that wheat received as compensation under the program of payment in kind for 1984 wheat should not be taken into account when the $50,000 payment limitation is applied. The organization and the Congressman stated that applying the payment limitation to such compensation will greatly reduce participation in the program by larger producers and thereby cause the 1984 wheat program to fail to achieve its objective. The organization and the Congressman recommended that this provision of the proposed rule should be rescinded in the interest of encouraging the maximum possible participation.

As noted in the proposed rule, the General Counsel of the General Accounting Office (GAO) has recently taken the position that compensation received under the program of payment in kind for 1983 crops should be subject to the payment limitation. The Department is also involved in litigation with respect to this issue. While the Department does not agree with the position taken by GAO, it proposed that the 1984 and subsequent payment in kind programs be subject to the payment limitation in order to resolve this issue. The Department continues to believe that uncertainty over the application of the limitation to the payment in kind program must be avoided. Therefore, the proposed rule has not been changed.

3. Three individuals stated that the Agricultural Stabilization and Conservation Service ("ASCS") had, in earlier internal instructions issued to county ASCS offices with respect to the provisions of the 1984 wheat program, indicated that the $50,000 payment limitation would not apply to wheat received as payment in kind under the program. These individuals stated that they had relied upon these internal instructions and planted their fall-seeded wheat accordingly. They claimed that making the payment limitation applicable to compensation under the payment in kind program, as provided for in the proposed rule, will cause them losses which they will be unable to recover by changes in their spring plantings. One Congressman made a similar point commenting that since the payment limitation question was not mentioned in the announcement of the 1984 program, producers assumed that the 1983 policy would be continued and made their fall plantings accordingly.

The reasons for the Department's decision to apply the payment limitation to the payment in kind program have already been described. The fact that some producers have acted on the basis of an internal ASCS document issued prior to that decision is not a sufficient basis for reversing the decision. Serious question as to whether the payment limitation applies to the payment in kind program were not raised until after most fall seeded wheat had been planted. In particular, the GAO opinion concluding that the limitation did apply was not received by the Department until November 1, 1983. The Department has acted to resolve the uncertainty created by these questions by applying the limitation to the 1984 and subsequent payment in kind programs. The Department regrets that the issue was not raised by GAO and others before some producers had already completed their planting of fall seeded wheat for the 1984 crop year.

4. The program of payment in kind for 1984 wheat provides that producers will receive as compensation under the program a quantity of wheat which is pledged as collateral for a CCC price support loan, redeemed, and sold to CCC. The loan may have been for 1983 or earlier crop production or it may be for 1984 harvested production under a special "harvest for PIK" procedure. In either case, it normally is wheat which the producer grew and harvested. Unlike the 1983 program, producers will not receive as compensation other wheat owned by CCC which was acquired from other producers independently of the payment in kind program. Instead, producers who are unable to harvest all of the production required due to conditions beyond the producer's control will be released from their obligations under the program contract.

One Congressman commented that this new provision for 1984 is a disincentive for producers to participate in the program. A producer whose 1984 crop of wheat totally fails and who has no outstanding wheat loans for earlier years would be released from the contract rather than receiving compensation under the program. Accordingly, the Congressman suggested that the same provision which was applicable to the 1983 program should be utilized.

Experience with the 1983 wheat program shows that producers expect to receive as payment in kind compensation wheat of the same class as they normally produce and which is located in a nearby elevator. It proved impossible to satisfy totally these expectations under the 1983 program. There was not complete correlation between the areas of high participation in the program, including the classes of wheat grown by participating producers, and the classes and storage locations of wheat in existing CCC-owned inventories. Accordingly, meeting producer expectations in 1984 would again prove to be difficult, expensive, and impossible to achieve fully. On the other hand, it is not believed that this provision will significantly lower producer participation. A producer who participates in the program of payment in kind for 1984 wheat at the 20 percent level and plants the full permitted acreage of wheat could have the harvested yield for the farm in 1984 reduced by up to 70 percent and still receive full compensation under the "harvest for PIK" procedure. A producer whose wheat is completely destroyed due to hail would still be able, in many of the wheat growing areas, to plant a short maturity crop on the acreage that is released under the contract. Such a producer would also still be able to receive deficiency payments, if applicable, for the destroyed acreage under the 1984 acreage reduction program for wheat. For these reasons, it has been decided not to change the provisions of the proposed rule.

The information collection requirements of this subpart have been approved by the Office of Management and Budget (OBM) for purposes of the Paperwork Reduction Act and OMB number 0560–0092 has been assigned.

The regulations previously appearing at 7 CFR Part 770 with respect to the 1983 crops of wheat, corn, grain sorghum, upland cotton, and rice shall remain applicable to such crops.

List of Subjects in 7 CFR Part 770

Cotton, Feed grains, Price support program, Wheat, Rice.

Final Rule

Accordingly, effective for the 1984 and subsequent crops of wheat, feed grains, upland cotton, extra long staple cotton, and rice, the proposed regulations at 7 CFR Part 770 as published in the **Federal Register** on January 4, 1984 (49 FR 410) are adopted as a final rule without change as set forth below.

Signed at Washington, D.C. on January 16, 1984.

John R. Block,

Secretary.

Part 770 of 7 CFR Ch. VII is revised to read as follows:

PART 770—SPECIAL PROGRAMS OF PAYMENT IN KIND FOR ACREAGE DIVERSION FOR THE 1984 AND SUBSEQUENT CROPS OF WHEAT, FEED GRAINS, UPLAND COTTON, EXTRA LONG STAPLE COTTON, AND RICE

Sec.

770.1 General description of program.
770.2 Obligations of operators and producers.
770.3 Obligations of the Department.
770.4 Other contract provisions.
770.5 Contracting procedures.
770.6 Miscellaneous provisions.
770.7 Paperwork Reduction Act assigned number.

Authority: Secs. 101(i), 103(g), 103(h), 105B and 107B of the Agricultural Act of 1949, as amended (7 U.S.C. 1441, 1444, 1444(d), 1444(g), 1444(h), and 1445b–1) and the Commodity Credit Corporation Charter Act (15 U.S.C. 714).

§ 770.1 General description of program.

(a) The Department of Agriculture, through the Commodity Credit Corporation, will enter into contracts with operators and producers who agree to reduce the acreage normally planted to a commdity specified in § 770.1(b) and devote an equivalent acreage to an approved conserving use in return for compensation in the form of the commodity for which the planted acreage is reduced. This part describes the general terms and conditions of these contracts and the procedures under which the Department will enter into such contracts.

(b) This special program is available throughout the United States, including Puerto Rico, for the 1984 and subsequent crops of wheat, corn, grain sorghum, barley, oats, upland cotton, extra long staple cotton, or rice as announced by the Secretary of Agriculture (the "Secretary").

§ 770.2 Obligations of operators and producers.

(a) The contract between the Department and the operator of a farm and any other producers on the farm will impose the following obligations on the operator and any other producers:

(1) The operator and any other producers will be required to comply with all of the requirements of any other acreage reduction or paid diversion program established by the Department for any commodity included in the contract.

(2) The operator and any other producers will be required to devote a percentage of the farm's acreage base for any commodity included in the contract to an approved conserving use in addition to any other acreage reduction or paid diversion. This percentage will depend on the contract between the Department and the operator and any other producers.

(i) The Department may enter into a contract with the operator of a farm and any other producer on the farm which provides for devoting a percentage of the farm's acreage base for one or more commodities to an approved conserving use, with a commensurate reduction in permitted acreage, if the operator and any other producers wish to do so. The operator and any other producers may select the commodities to be included in the contract, except that the Department may require that the contract include either both crops or neither crop of corn and grain sorghum or barley and oats. Compensation to operators and other producers under these contracts will be based on a fixed percentage of the farm yield for each of the commodities included in the contract. See § 770.3(a)(1). The percentage or range of percentages will be announced by the Secretary.

(ii) In addition, the Department may, in some cases, enter into a contract with the operator of a farm and any other producers on the farm which requires the operator and any other producers to devote 100 percent of the farm's acreage base for one or more commodities to an approved conserving use. These contracts will be awarded on a competitive bid basis and the compensation to an operator and any other producers under one of these contracts will be based on the percentage of the established yield for the farm for each of the commodities included in the contract which was bid by the operator and any other producers. See § 770.5(b).

(3) If the operator of a farm or any other producers on the farm have outstanding farmer owned reserve loans obtained prior to a date specified by the Secretary or regular price support loans for which they have pledged as security a commodity which the Department is obligated to pay them under the contract they must, at the time they request payment of the commodity, sell the commodity to the Department, if required by the Secretary up to the quantity of the commodity the Department is obligated to pay them. The purchase price shall be equal to the cost of liquidating the loan or the portion of the loan for which the quantity of the commodity sold to the Department is pledged as collateral, except that, in the case of a farmer owned reserve loan, the price will be reduced by the amount of any unearned advance storage payments received under the loan.

(4) To the extent that the operator or any other producers have loans to which paragraph (a)(3) of this section applies at the time they enter into the contract, they may liquidate those loans or forfeit the commodity securing them only to the extent that the liquidation or forfeiture does not reduce the quantity of the commodity pledged as security for the loans still held by the operator and such other producers below the quantity of the commodity the Department is obligated to pay the operator and such other producers under the contract. The commodities pledged as security for loans that must be held under this paragraph will be used by the Department to compensate the operator and any other producers under the contract. See § 770.3(a)(2)(i).

(b) The contract shall provide for the payment of liquidated damages in the event that the operator or any other producers fail to comply with their obligations under the contract. The purpose of a program of payment in kind is to obtain a diversion of acreage from production of the applicable crops of commodities in order to adjust the total national acreage of such commodities to desirable goals. Once a contract has been entered into between the Department and producers, the Department, and other segments of the agricultural community, act based upon the assumption that the contract will be fulfilled and the reduction in acreage will be obtained. The Department's action include budgeting and planning for programs in subsequent crop years, as well as making the necessary arrangements to compensate producers through payment in kind. A producer's failure to comply with a contract undermines the basis for these actions, damages the credibility of the Department's programs with other segments of the agricultural community, and requires additional expenditures in subsequent crop years to offset the effect of the increased production in the current crop year. While the adverse effects on the Department of the producer's failure to comply with a contract are obvious, it would be impossible to compute the actual damage suffered by the Department.

§ 770.3 Obligations of the Department.

(a) The contract between the Department and the operator of a farm and any other producers on the farm will impose the following obligations on the Department:

(1) The Department will be required to compensate the operator and any other producers for devoting acreage to an approved conserving use by payment of

a quantity of the commodity or commodities that would otherwise have been produced, unless the substitution of a different commodity is provided for in the contract. The quantity shall be the yield for the farm for a commodity multiplied by the acreage devoted to a conserving use in accordance with the provisions of the contract less the acreage devoted to a conserving use as required under any acreage reduction and cash land diversion program which is in effect for the commodity, multiplied by a percentage determined as follows:

(i) For contracts awarded on a competitive bid basis, the percentage shall be the percentage bid by the operator and any other producers.

(ii) For contracts other than those awarded on a competitive bid basis, the percentage shall be the percentage announced by the Secretary.

(2) The contract will provide that the commodities will be paid in the following manner:

(i) To the extent that the operator and any other producers have outstanding regular price support or farmer owned reserve loans for which they have pledged as security a commodity which they must sell to the Department, the commodities sold to the Department will be paid to the operator and such other producers. See § 770.2(a)(3).

(ii) To the extent that a commodity cannot be paid using the procedure described in paragraph (a)(2)(i) of this section, the producer may be required to pledge as collateral for a price support loan eligible quantities of the crop produced in the current crop year and then be paid the commodity using the procedure described in paragraph (a)(2)(i) of this section.

(iii) To the extent that a commodity cannot be paid using the procedures described in paragraphs (a)(2)(i) and (ii) of this section, the contract may provide that the commodity shall be paid out of stocks available to the Department for that purpose. Alternatively, as announced by the Secretary, the contract may provide that the producer will be released from the obligations under the contract rather than receiving any quantity of the commodity.

(3) The contract will provide that the commodities will be paid upon request of the operator and any other producers at any time during the five month period with a date announced for the commodity in the area where the area where the farm is located.

(4) The contract may contain special arrangements and requirements with respect to the Department's obligations to producers who are active members of a marketing cooperative.

§ 770.4 Other contract provisions.

(a) The contract between the Department and the operator of a farm and any other producers on the farm will establish standards for the grade and other characteristics affecting the quality of any commodity the Department is obligated to pay to the operator and any other producers. It will further provide for adjustments in the quantity of a commodity paid to this operator and any other producers to compensate for any difference between these standards and the grade and other characteristics affecting the quality of the commodity paid to the operator and any other producers. For the purpose of determining these adjustments, a commodity paid under the procedure described in § 770.3(a)(2)(i) shall be treated as having the grade and other characteristics affecting its quality which it was treated as having at the time that the price support or farmer owned reserve loan for which it was pledged as security was made.

(b) The contract between the Department and the operator of a farm and any other producers on the farm shall contain such other provisions as the Department determines appropriate to carry out the program established by this part.

§ 770.5 Contracting procedures.

(a) An operator of a farm and any other producers on the farm may enter into a contract with the Department, which provides for devoting a percentage of the farm's acreage base, as determined in accordance with § 770.2, to an approved conserving use. The contract may be entered into at the appropriate county ASCS office prior to the close of business on a date to be announced by the Secretary.

(b) An operator of a farm and any other producers on the farm may submit a bid for a contract with the Department, which provides for devoting 100 percent of the farm's acreage base for one or more commodities to an approved conserving use. The bid may be submitted to the appropriate county ASCS office prior to the close of business on a date to be announced by the Secretary.

(1) The operator and any other producers may select the commodities to be included in the bid, except that the Department may require that the bid include either both crops or neither crop of corn and grain sorghum, or barley and oats.

(2) The bid shall state the percentage of the established yield for the farm for each of the commodities included in the bid to be used in determining the compensation to be paid to the operator and any other producers under the contract if the bid is accepted. The operator and any other producers may select any percentage, except that the maximum percentage and other conditions will be announced by the Secretary.

(c) After the final date for submitting bids, the bids in each county shall be ranked for each commodity, treating corn and grain sorghum or barley and oats as single commodities, if so required by the Department, on the basis of the percentage of established yield to be used in determining compensation stated in the bids, with the lowest percentage being ranked highest. In the case of identical bids, they shall be ranked in the order received or, where an appointment procedure was utilized by the county ASCS office during the course of which producers submitted bids, a lottery shall be conducted to determine the order by which such bids should be ranked. The bids for each commodity shall then be accepted in rank order. The Department will establish the number of acres for which bids will be accepted for each commodity in each county, based on particular supply/demand situations, conditions in local communities, and other relevant factors. In no case will more than 50 percent of the total of the acreage bases for a commodity in a county be removed from production of the commodity under the program established by this part and any other acreage reduction or diversion program established under Part 713 of this chapter. Acceptance of a bid under this subsection with respect to a commodity shall terminate any contractual obligations with respect to that commodity entered into under paragraph (a) of this section.

§ 770.6 Miscellaneous provisions.

(a) Part 795 of this chapter contains regulations which govern the applicability of the payment limitations imposed by section 1101 of the Agriculture and Food Act of 1981. Payments in kind received under the programs established by this part with respect to 1984 and subsequent crops shall be taken into account in the application of the payment limitation regulations set forth at Part 795 of this chapter. The value assigned to the payment in kind for this purpose will be based upon the county price support loan rate applicable to the commodity for the crop year for which the payment in kind program has been implemented.

(b) Part 713 of this chapter contains regulations which govern regular annual acreage reduction and diversion and

other programs for wheat, feed grains, cotton and rice. Sections 713.60 through 713.74 of that part concerning land eligible for designation as conserving use acreage and the obligations of producers with respect to the use of that acreage shall apply to the program established by this part.

(c) In addition, the following provisions of this title concerning general program administration also apply to the program established by this part:

(1) Part 707—Payments Due Persons Who have Died, Disappeared, or Have Been Declared Incompetent.

(2) Part 718—Determination of Acreage and Compliance.

(3) Part 780—Appeal Regulations.

(4) Part 790—Incomplete Performance Based Upon Action Or Advice of an Authorized Representative of the Secretary.

(5) Part 791—Authority to Make Payments Where There Has Been a Failure to Comply Fully with the Program.

(6) Part 1403—Interest on Delinquent Debts.

(7) Section 110 of Part 713 concerning protection of tenants and sharecroppers.

(d) When any person who had an interest as a producer in the commodity or would have had an interest in the commodity as a producer if the commodity had been planted (herein called "predecessor") is succeeded on the farm by another producer (herein called "successor") after a contract has been executed, any payment in kind which is due and owing shall be divided between the predecessor and successor on such basis as the predecessor, successor, and the Department agree is fair and equitable, the contract shall be revised accordingly, and the successor shall sign the revised contract.

(e) Assignments with repect to quantities of a commodity which can be received by a producer as payment in kind will be recognized by the Department only if such assignment is made on Form CCC–479, Assignment of Payment-In-Kind, executed by the assignor and assignee, and filed with the county committee.

(f) Except as provided in paragraph (e) of this section, any payment in kind or portion thereof which is due any person shall be made without regard to questions of title under State law, and without regard to any claim of lien against the commodity, or proceeds thereof, which may be asserted by any creditor, except for a levy by the Internal Revenue Service.

§ 770.7 Paperwork Reduction Act assigned number.

The information collection requirements contained in these regulations (7 CFR Part 770) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Control Number 0560–0092.

[FR Doc. 84-1531 Filed 1-17-84; 8:51 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 905

[Orange, Grapefruit, Tangerine and Tangelo Reg. 6, Amdt. 29]

Oranges, Grapefruit, Tangerines and Tangelos Grown in Florida; Amendment of Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This action: (1) Lowers the minimum diameter requirement for domestic shipments of Florida white seedless grapefruit and imports of white seedless grapefruit from 3$^{9}/_{16}$ inches to 3$^{5}/_{16}$ inches; and (2) lowers the minimum diameter requirement for domestic shipments for Florida Temple oranges from 2$^{8}/_{16}$inches to 2$^{4}/_{16}$ inches and requires domestic and export shipments of Florida Temple oranges to meet the requirements of U.S. No. 1 Golden. The change in minimum size and grade of such fruit recognizes the grade and size composition of the remaining fruit supply and is consistent with the available crop in the interest of growers and consumers.

EFFECTIVE DATES: January 16, 1984 for Temple oranges and January 23, 1984 for white seedless grapefruit.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities.

The amendment is issued under the marketing agreement and Order No. 905 (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines and tangelos grown in Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Citrus Administrative Committee, and upon other available information. It is hereby found that the regulation of Florida white seedless grapefruit, and Temple oranges as hereinafter provided, will tend to effectuate the declared policy of the act.

The minimum grade and size requirements, specified herein, reflect the committee's and the Department's appraisal of the need to revise the size requirements applicable to Florida white seedless grapefruit, and the grade and size requirements applicable to Florida Temple oranges in recognition of the recent freeze in Florida. The freeze has resulted in some fruit loss and increased market demand for the remaining fruit supply. Specification of these requirements assures that the available supply of such marketable fruit reaches the consumer.

Under section 8e of the act (7 U.S.C. 608e–1), whenever specified commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality or maturity requirements as those in effect for the domestically produced commodity. Thus, size requirements for imported white seedless grapefruit will also change to conform to the size requirements for domestic shipments of Florida white seedless grapefruit.

It is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared purposes of the act. This amendment relieves restrictions on shipments of Florida white seedless grapefruit, Temple oranges and imports of white seedless grapefruit. Handlers have been apprised of such provisions and the effective dates.

List of Subjects in 7 CFR Part 905

Marketing agreements and orders, Florida, Grapefruit, Oranges, Tangelos, Tangerines.

PART 905—[AMENDED]

Accordingly, the provisions of § 905.306 are amended by revising the following entries in Table I paragraph (a), applicable to domestic shipments, and Table II paragraph (b), applicable to export shipments, to read as follows:

§ 905.306 Orange, grapefruit, tangerine and tangelo regulation 6.

(a) * * *

TABLE I

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
* * *	* * *	* * *	* * *
Grapefruit: Seedless, white.	1/23/84–8/19/84.	Improved No. 2 (External), U.S. No. 1 (Internal).	3⅜
	On and after 8/20/84.	Improved No. 2 (External), U.S. No. 1 (Internal).	3⅜
Oranges: Temple.	1/16/84–8/19/84.	U.S. No. 1 Golden.	2⅝
	On and after 8/20/84.	U.S. No. 1	2⅝
* * *	* * *	* * *	* * *

(b) * * *

TABLE II

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
* * *	* * *	* * *	* * *
Oranges: Temple.	1/16/84–8/19/84.	U.S. No. 1 Golden.	2⅝
	On and after 8/20/84.	U.S. No. 1	2⅝
* * *	* * *	* * *	* * *

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 16, 1984.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84-1513 Filed 1-18-84; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Parts 959 and 979

Expenses and Rates of Assessment for Specified Marketing Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses of the committees functioning under Marketing Orders 959 and 979. Funds to administer these programs are derived from assessments on handlers of the fruits and vegetables regulated under the orders.

EFFECTIVE DATES: August 1, 1983—July 31, 1984 (§ 959.224); October 1, 1983—September 30, 1984 (§ 979.206).

FOR FURTHER INFORMATION CONTACT: Robert F. Matthews, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250; (202) 447–5764.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "nonmajor" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

These marketing orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). These actions are based upon the recommendations and information submitted by each committee established under the respective marketing orders, and upon other information. It is found that the expenses and rates of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice and engage in public rulemaking and good cause exists for not postponing the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). Each order requires that the rate of assessment for a particular fiscal period shall apply to all assessable fruits and vegetables handled from the beginning of such period. To enable the committee to meet current fiscal obligations, approval of the expenses is necessary without delay. It is necessary to effectuate the declared policy of the act to make these provisions effective as specified and handlers have been apprised of such provisions, and the effective time.

List of Subjects in 7 CFR Parts 959 and 979

Marketing agreements and orders, Onions, Melons, Texas.

Sections 959.223 (M.O. 959) and 979.205 (M.O. 979) are removed and new sections are added as follows: (The following sections prescribe annual expenses and assessment rates and will not be published in the Code of Federal Regulations.)

PART 959—ONIONS GROWN IN SOUTH TEXAS

§ 959.224 Expenses and assessment rate.

Expenses of $230,150 by the South Texas Onion Committee are authorized, and an assessment rate of $0.03 per 50-pound container or equivalent quantity is established for the fiscal period ending July 31, 1984. Unexpended funds may be carried over as a reserve.

PART 979—MELONS GROWN IN SOUTH TEXAS

§ 979.206 Expenses and assessment rate.

(a) Expenses of $118,600 by the South Texas Melon Committee are authorized, and an assessment rate of $0.01 per carton of melons is established for the fiscal period ending September 30, 1984.

(b) In accordance with the provisions of § 979.42, late payment charges of one and one-half percent per month shall be charged on the unpaid balance for each past due account. An account is past due 30 days after the billing date. Unexpended funds may be carried over as a reserve.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 16, 1984.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84-1512 Filed 1-18-84; 8:45 am]

BILLING CODE 3410-02-M

Food Safety and Inspection Service

9 CFR Parts 301, 317, 320 and 381

[Docket No. 82-018F]

Policy Governing Inspection of Packaging Materials

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the Federal meat and poultry products inspection regulations to clarify the Food Safety and Inspection Service (FSIS) policy on the use by federally inspected establishments of various packaging materials for meat and poultry products. Inspectors are authorized to prevent the use of any packaging materials that might lead to the adulteration of product. The current FSIS policy of providing an advisory evaluation of packaging materials prior to use, to ensure they will be permitted to be used in the establishment, has been misinterpreted to be a mandatory premarket approval procedure. The

policy therefore requires clarification and revision. This final rule defines "packaging material" and requires that official establishments receive from the suppliers of their packaging materials, and retain in their files, written guaranties that the materials are in compliance with the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended, and all applicable food additive regulations; that inspectors view such guaranties as establishing that the described packaging materials are in compliance with the FFDCA and all applicable food additive regulations unless the inspector has specific reason to believe otherwise; that FSIS continue to evaluate packaging materials upon request; and that FSIS institute a monitoring program to ensure written guaranties can be substantiated.

EFFECTIVE DATE: July 17, 1984.

FOR FURTHER INFORMATION CONTACT: Charles Edwards, Chief, Product Safety Branch, Food Ingredient Assessment Division, Science, Food Safety and Inspection Service, U.S. Department of Agriculture, Bldg. 306, BARC East, Beltsville, MD 20705, (301) 344–2566.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has made a determination that this final rule is not a major rule under Executive Order 12291. It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. This regulation provides that federally inspected meat and poultry establishments obtain and keep on file a written guaranty from packaging suppliers that packaging is in compliance with the FFDCA and all applicable food additive regulations. This will result in a more simple, timely, and economical way than is now available for official establishments to demonstrate to inspectors that packaging materials comply with the food additive laws.

Effect on Small Entities

The Administrator, FSIS, has determined that this final rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 95–354 (5 U.S.C. 601). The rule may have a very minor impact on costs to those official establishments where no records of packaging materials used are currently kept. Thus, the increased cost to small entities within this class is not expected to be significant. Otherwise, no increased cost to official establishments is expected.

Background

The Poultry Products Inspection Act (PPIA) and the Federal Meat Inspection Act (FMIA) authorize Federal inspectors in official establishments subject to either Act to prevent product which may be adulterated from entering into commerce (21 U.S.C. 451 *et seq.* and 601 *et seq.*). Product may become adulterated in a number of ways, including by migration of substances from containers.

A meat or poultry-product is adulterated if it bears or contains any food additive which is unsafe within the meaning of section 409 of the FFDCA (21 U.S.C. 453(g)(2)(c) and 601(m)(2)(c)). Section 409 of the FFDCA provides that all food additives are unsafe unless found by the Food and Drug Administration (FDA) to be safe for their intended use (21 U.S.C. 438). FDA lists approved food additives and other substances that might become components of food, together with conditions of use for such products, in its regulations (21 CFR Parts 170–189). These listings include indirect food additives such as packaging materials which may become components of the foods due to their contact with the foods. Therefore, packaging or other food contact materials that might become components of food and that are intended for use in federally inspected establishments must comply with all applicable regulations promulgated under the FFDCA or be deemed "unsafe."

Furthermore, a meat or poultry product may be adulterated under the PPIA and FMIA "if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health" (21 U.S.C. 453(g)(6) and 601(m)(6)).

Thus, Federal inspectors in official establishments are authorized to inspect packaging materials intended for use with food products subject to the FMIA and the PPIA. Although there are currently no regulations in Title 9 of the Code of Federal Regulations that deal specifically with packaging materials for meat and poultry products, § 17.16 of the Meat and Poultry Inspection Manual explains the inspectors' authority in this regard by stating: "Generally, packages and packaging materials need not be sampled; however, if the inspector has reason to doubt their acceptability, he requires the plant or supplier to show a letter of acceptance, and permits use of materials on the basis of such letter."

Under current policy, if an inspector questions the safety of a packaging material, the Food Ingredient Assessment Division (FIAD), Science, FSIS, evaluates the material's chemical acceptability and advises the inspector and establishment of its findings. There is on regulatory requirement for prior review and approval of packaging materials, and packaging materials may be sold to and used by official establishments without any prior approval by any central USDA authority. However, a Federal inspector may inspect and disallow the use of a packaging material, and may retain any product contained in it if he/she has reason to doubt the chemical acceptability of the packaging material.

Since 1972, FSIS has provided as a free service to industry a prior evaluation of packaging materials and other resinous or polymeric materials which may be used in a food contact setting. This service resulted from discussions in the late 1960's with the packaging industry concerning ways to confirm acceptance of materials when inspectors question their acceptability. Prior evaluation (not approval) of those materials in that context can be advantageous to all involved. This can help to prevent unnecessary confrontations and costly delays for the food industry that may result when an inspector questions the acceptability of a packaging material. FIAD's written response serves as evidence to the inspector that the material is in compliance with the FFDCA and all applicable food additive regulations. If not in compliance, the materials are unsafe within the meaning of the FFDCA, the use of which would result in an adulterated product.

To obtain the service, the supplier of the material must advise FIAD of the intended use and provide a statement of composition for the material to be evaluated. The evaluation process requires approximately 6 weeks at the end of which FIAD provides a written response indicating whether or not it can confirm that the material meets the appropriate regulatory criteria. These responses can then be provided to Federal inspection officials as proof of acceptance.

During 1981, the American Paper Institute (API) expressed its belief that the FSIS system for prior evaluation of packaging materials is excessive and undesirably limits competition and

innovation to the detriment of the packaging industry and consumers. This view was also expressed early in 1982 by the American Meat Institute and the National Broiler Council.

On May 18, 1982, FSIS received a petition from the API, the Paperboard Packaging Council (PPC), and the Fibre Box Association (FBA) requesting that FSIS amend its policy governing the evaluation of packaging materials.

The petitioners assert that "for many years a letter from FSIS confirming regulatory compliance has been necessary, as a practical matter, to market packaging products for use with meat and poultry" because "USDA inspectors have often made continued plant operation conditional on the availability of USDA letters of acceptance for such packaging." The petitioners stated that the current FSIS system of voluntary prior evaluation of packaging materials imposes unnecessary delays and inefficiencies on the marketing process. They content that the delays caused by the system often result in the loss of commercial opportunities.

The petitioners requested that FSIS "adopt a packaging program that does not require premarket review for packaging" and issue a statement of policy discontinuing the issuance of letters of acceptability and indicating that USDA inspectors "may not prohibit the entry of packaging from USDA inspected plants merely because such packaging is not accompained by such a letter."

FSIS concluded that although the petition may have been based on the misconception that the current assessment program is mandatory, the petition was for the most part meritorious. Therefore, on November 10, 1982, FSIS published in the **Federal Register** (47 FR 50914) a proposed rule clarifying the fact that any premarket assessment of packaging material is strictly voluntary and instituting a simple procedure whereby the supplier of the packaging shall provide an accompanying written guaranty that the materials used in the packaging comply with FDA regulations.

This guaranty would be kept on file by the establishments and would be accepted by Federal inspectors to establish that the materials are in compliance with the FFDCA and applicable food additive regulations. The use by FSIS of this guaranty will be consistent with the provisions regarding guaranties under Sections 301(h) and 303(c) (2) and (3) of the FFDCA (21 U.S.C. 331(h) and 333(a) (2) and (3)). Guarantors, therefore, may refer to FDA's regulations concerning guaranties and their suggested forms (21 CFR 7.12 and 7.13). Furthermore, FSIS would undertake a monitoring program involving a series of limited surveys of official establishments, conducted on a random basis, to determine what packaging materials are being used. FSIS would then request an inspector from each of the selected establishments to collect information on a specific number of packaging materials. From the information received, FSIS would review the materials to assure compliance with applicable food additive regulations.

Discussion of Comments

FSIS received 43 comments in response to the proposed rule—25 from suppliers and component manufacturers of packaging materials, 9 from packaging material trade associations, 3 from meat and poultry processors, and 6 from meat and poultry trade associations. All commenters supported the intent of the proposed rule, with 14 recommending changes either substantive in nature or merely for clarification. The following is a summary of the issues raised by the commenters and FSIS's response to each:

Letter of Guaranty

1. *Comment.* Seven commenters believed that the phrase "all applicable food additive regulations" could be misinterpreted to preclude the use of lawful substances (e.g., GRAS (generally recognized as safe), prior-sanctioned, and nonmigrating substances) which are not covered by a specific food additive regulation. They suggested that the wording be changed to "compliance with the Federal Food, Drug, and cosmetic Act, as amended, and all applicable food additive regulations."

Response. FSIS believes that this suggestion is valid. It was not FSIS's intent to exclude GRAS, prior-sanctioned, nor nonmigrating substances. Therefore, wording of the final rule has been amended, as suggested, to avoid that misinterpretation.

2. *Comment.* Three commenters stated that the specific means of assurance should not be mandated. The manufacturer should be free to use the letter of guaranty, assurance letter, guaranty form, suitable invoice stamp, or similar written communication.

Response. The intent of the proposed rule was to obtain a guaranty from the supplier of finished packaging materials. The form of such guaranty is not as important as the content. The text of the proposed rule used the phrase "letter of guaranty" and the content of such "letters of guaranty" was specified. As long as the required information is provided, FSIS sees no reason why it must be supplied in a mandated format. Therefore, to remove the implication that the guaranty must be in the form of a letter, FSIS has changed the phrase "letter of guaranty" to read "guaranty" in the final rule.

3. *Comment.* One commenter recommended that suppliers be permitted to provide letters of guaranty from component manufacturers to fulfill the requirement of supplying a guaranty. Another commenter suggested that the convertor (one who converts unfinished materials into a finished product) be required, along with the packaging manufacturer, to supply a guaranty.

Response. Responsibility for providing a guaranty for the finished packaging material rests with the suppliers under whose trade name and firm name the material is presented at the official establishments. Such suppliers should obtain from their component manufacturers and convertor any assurances that they deem appropriate in order to provide that guaranty. However, it is not appropriate that suppliers of the finished material provide guaranties from their component manufacturers to USDA. This would create additional paperwork and confusion. Establishments would be required to retain several papers for a single material. Therefore, FSIS advises that guaranties from component manufacturers will not fulfill the guaranty requirement of the final rule. Also, FSIS will not require a guaranty from the convertor unless the material is marketed to the official establishment under that firm's name and brand name or code designation. To avoid any confusion as to who shall supply the guaranty, FSIS has revised the final rule to refer only to "suppliers" of the packaging material rather than "manufacturers." This is in keeping with the requirement that responsibility for providing the guaranty rests with the suppliers.

4. *Comment.* One commenter believed that guaranties required from packaging manufacturers need only be given for those packaging material components which, in the intended use of the packaging material, come into direct contact with food. The commenter recommended that USDA apply this concept (FDA's functional barrier concept) for inks. It was stated that inks separated by a functional barrier should be excluded from the need for certification of compliance with food additive regulations. However, an opposing commenter suggested that

USDA publish a list of acceptable printing inks and continue its evaluation of printing inks.

Response. The "functional barrier" concept is applied by FSIS to food products under its jurisdiction. However, FDA regulations concerning packaging materials explicitly require consideration of food type and conditions of use as factors in determining safe use. Therefore, the "functional barrier" concept is applied by FSIS in light of all the circumstances surrounding the use of the packaging material.

Suppliers of packaging materials should base guaranties given for their finished packaging materials (including inks used on such materials) on compliance of the materials with the FFDCA. Therefore, printing inks in contact with meat or poultry must consist of appropriately regulated substances, prior-sanctioned substances, GRAS substances, substances not reasonably expected to become a component of the food, or substances otherwise lawfully permitted in food packaging materials. Inks that are separated from meat or poultry by an effective barrier to migration of ink components need not comply with the food additive regulations if, under the conditions of use, they are not expected to be food additives within the meaning of the FFDCA. However, suppliers should be prepared to verify that the inks are not food additives. Suppliers, as a good manufacturing practice, should not use toxic ink components, even if such inks are not intended to be food additives, because of the possibility of accidental contamination. FSIS will continue working with FDA to assure consistent policies in this area and to resolve any printing ink issues that may arise.

5. *Comment.* Two commenters suggested that guaranties should specify the packaging material use for which the guaranty is given, in order to avoid unauthorized use and to insure that there is no misunderstanding among manufacturers, official establishments, and inspectors.

Response. FSIS agrees. Existing requirements limit certain materials to specified amounts and use conditions. Both the nature of a material and its use must be clearly understood in order to determine whether it is acceptable. Suppliers must necessarily include the use conditions specified for approval under the FFDCA in order to give a guaranty on any given material. To make this quite clear, the final rule has been amended to require that guaranties specify the applicable conditions of use. Such conditions shall include temperature limits and any other pertinent limits specified under the FFDCA and food additive regulations.

6. *Comment.* One commenter contended that the use of the term "guaranty" is inappropriate as it would create a second class of guaranties. The present class refers to substances intended as food or direct additives to food. The commenter suggested the use of another term such as letter of compliance.

Response. The term "guaranty" is commonly used and well understood in the food industry in connection with food additives. The FFDCA has express provisions regarding guaranties which are found in sections 301(h) and 303(c)(2) and (3) (21 U.S.C. 331(h) and 333(a)(2) and (3)). Under the FFDCA, the term "food additive" is defined as ". . . any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food (including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food) * * *." The definition of "food additive" includes indirect additives, such as packaging material components, as well as direct additives. Therefore, the term "guaranty" is properly used in reference to indirect additives and is commonly used within the meat and poultry inspection program to designate a supplier's written assurance that substances comply with the FFDCA. Thus, FSIS determines that the use of the term "guaranty" is appropriate as set forth in this final rule. However, for clarity, FSIS has revised the final rule by defining "guaranty" in §§ 317.20(b) and 381.144(b) as a "statement of assurance."

7. *Comment.* One commenter stated that the introductory sentence in § 317.20(b) of the proposed rule implies that a letter of guaranty should accompany each shipment, and recommend some clarification.

Response. The proposed §§ 317.20(b) and 381.144(b) indicate that packaging materials must be accompanied or covered by a guaranty. This was not intended to imply that a written guaranty must actually accompany each shipment. However, if the guaranty does not accompany the shipment, the material must be covered by a continuing guaranty previously given. Since, as the commenter further stated, the implication is dispelled as the regulation continues, FSIS concludes that there is no need to reword the text of the final rule.

8. *Comment.* One commenter contended that multiplant firms (official establishments) should be allowed to maintain guaranty letters at a central location as long as they are available for the inspector within 24 hours.

Response. The guaranty is intended to provide assurance that uses of packaging materials comply with the FFDCA and all applicable regulations. FSIS inspectors are to accept such guaranties to establish that materials do comply. Therefore, it is anticipated that inspectors will routinely require that files of guaranties be available for review. The capability of plants to make copies available within 24 hours as the commenter suggested is doubtful. This invites confrontations between plant management and inspectors which this rule is intended to eliminate. From a practical standpoint, FSIS does not believe this suggestion is feasible. FSIS recommends that plants with central purchasing functions consider implementing systems which make copies of all applicable guaranties available at each plant.

Monitoring Program

9. *Comment.* One commenter opposed the requirement for the "complete chemical composition" as part of the monitoring program and suggested requiring instead "detailed proof of compliance with FDA regulations."

Response. The monitoring program is intended to verify suppliers' guaranties for their packaging materials. In order to confirm a material's approval for use under the FFDCA, FSIS will in any case need the complete chemical composition; i.e., a complete listing of ingredients used in the manufacture of the packaging material. It should be noted that under the monitoring program, FSIS will not require the chemical composition of the packaging prior to selection for review. As indicated in § 317.20(d), selection of a material for review does not in itself affect a material's acceptability. Materials may continue to be used during the review period. The suggestion of requiring "detailed proof of compliance with FDA regulations" may cause confusion in that it does not differentiate between the guaranty and FSIS's need for specific compositional information. Therefore, FSIS concludes that the requirement for complete chemical composition will stand as proposed.

10. *Comment.* One suggestion was made that the regulation be written to state that packaging materials monitoring will be "conducted on a random basis."

Response. FSIS's intent is that the monitoring be random. However, FSIS reserves the authority to monitor problems revealed by the random monitoring on a selective basis. FSIS believes this is necessary in order to fulfill its responsibility to insure that materials used to package meat and poultry are approved under the FFDCA. Therefore, the description of the packaging monitoring program will remain as proposed.

Lists of Acceptable/Unacceptable Materials

11. *Comment.* Four commenters opposed the listing of packaging materials that are found to be unacceptable. They believed that there is no need for a listing because the FFDCA provides adequate remedies and penalties. The major concerns were marketing problems due to the system of being listed, competitor's misuse of the listings, and errors in the listing.

Response. Penalties under the FFDCA may be applied only by FDA. FSIS receives its authority and responsibility under the FMIA and PPIA. FSIS concludes that the listing is necessary to provide inspection personnel with timely information concerning unacceptable packaging materials. The listing will be distributed through the FSIS issuance system (e.g., MPI Bulletin or FSIS Notice). The listing of packaging materials which could adulterate meat and poultry products will serve as an interagency communication of administrative findings made under this regulation. Sections 317.20(e) and 381.144(e) state that before approval to use a packaging material is finally denied, the official establishment, as well as the supplier, shall be given the opportunity to present their views to the Administrator. If the official establishment and the supplier do not accept the Administrator's determination, a hearing will be held to resolve the dispute. Approval to use the materials pending the outcome will be denied only if the Administrator determines that there is an imminent hazard to public health. Furthermore, the provisions of § 317.20 (d) and (e) and 381.144 (d) and (e) allow ample opportunity for suppliers to avoid having their materials listed.

12. *Comment.* One commenter suggested that FSIS publish a list of acceptable packaging materials.

Response. Establishing a list of acceptable materials would nullify the intent of this rule. Publication of such a list would tend to perpetuate the misperception that premarket approval is mandatory. Therefore, FSIS does not consider it appropriate to publish a list of packaging materials currently recognized as acceptable.

Voluntary Evaluation Service

13. *Comment.* One commenter stated that voluntary evaluation should be limited to components of packaging materials which may reasonably be expected to come into direct contact with food. The commenter also stated that continuing the voluntary evaluation may lead users of packaging materials to believe that they are better protected from liability with FSIS acceptance letters. On the other hand, two commenters supported retention of the voluntary prior evaluation service.

Response. The purpose of this rule is to clarify FSIS's intent that any premarket assessment of packaging materials is voluntary. FSIS has determined that its voluntary prior-evaluation program is perceived as mandatory and that this perception fosters over-reliance by inspectors on acceptance letters. However, there is a need for official establishments to be able to provide inspectors with tangible assurances of the safety of packaging materials. Therefore, the rule provides for written guaranties which inspectors will accept as assurance that packaging materials comply with the FFDCA. The monitoring program is intended to verify such guaranties. These provisions are intended to eliminate the misperception concerning mandatory prior evaluation by providing another means by which assurances can be made by inspectors. It is not intended to curtail a service to the industry which many may find useful. Therefore, it is not appropriate that FSIS discontinue its voluntary evaluation program.

Current Procedures

14. *Comment.* Twelve commenters expressed the view that the present system has resulted in delays because of misinterpretation of requirements by industry, customers, or inspectors. One of these commenters also stated that part of the problem (i.e., misinterpretation as mandatory prior evaluation requirement) has resulted from the inability to reference a USDA regulation or policy statement.

Response. FSIS agrees that misperceptions concerning voluntary prior evaluation and the absence of a regulation or policy statement concerning the inspection of packaging materials has contributed to delays in the marketing process. This regulation's clear statement of FSIS policy should alleviate this problem. The provisions in this rule are consistent with current practices within the food industry and will continue to provide the necessary assurance that meat and poultry products are not adulterated by packaging materials.

Miscellaneous

15. *Comment.* Two commenters recommended that, if the proposed rule is made a final rule, FSIS allow official establishments a grace period of 6 months to obtain the required guaranties.

Response. FSIS agrees that some phase-in period is necessary. To allow for an orderly phase-in, FSIS has made this final rule effective 180 days after publication. The Agency believes that suppliers of packaging materials have a responsibility to use this period to help make the requirements of this regulation known to the regulated industry and to take the action necessary to assure that the regulated industry is not disrupted because guaranties are not in place.

16. *Comment.* FSIS should make it clear that the rule is applicable to packaging materials only and not to all materials used in establishments (e.g., aprons, gloves, and surface coatings).

Response. This rule applies only to packaging materials. The term "packaging material" means any cloth, paper, plastic, or metal material used to form a container, wrapper, label, or cover for meat and poultry products. The provisions of this rule are not applicable to personal equipment such as gloves, aprons, and smocks, nor to surface coatings applied to equipment or structural surfaces. These items will continue to be handled as in the past. The final rule has been amended to include a definition for "packaging material."

Final Rule

After careful consideration of the comments received on the proposed rule, FSIS has determined to adopt the proposal as published, with the modifications previously discussed herein.

This rule does not limit the inspectors' authority to question the safety or sanitation of a packaging material if the inspector determines that cause exists for suspecting it is out of compliance, nor does it preclude any appropriate action under the FMIA or PPIA in the event of possible adulteration or misbranding of product.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB #0583–0015.

List of Subjects

9 CFR Part 301

Meat inspection, Meat and meat food products.

9 CFR Part 317

Meat inspection, Packaging and containers.

9 CFR Part 320

Meat inspection, Reporting and recordkeeping requirements.

9 CFR Part 381

Poultry products inspection, Packaging and containers, Reporting and recordkeeping requirements.

1. The authority citation for Parts 301, 317 and 320 reads as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 1254.

PART 301—[AMENDED]

2. Section 301.2 is amended by adding a new paragraph (xxx) to read as follows:

§ 301.2 Definitions.

* * * * *

(xxx) *Packaging material.* Any cloth, paper, plastic, metal, or other material used to form a container, wrapper, label, or cover for meat products.

* * * * *

PART 317—[AMENDED]

3. A new § 317.20 (9 CFR 317.20) is added to the Federal meat inspection regulations to read as follows:

§ 317.20 Packaging materials.

(a) Edible products may not be packaged in a container which is composed in whole or in part of any poisonous or deleterious substances which may render the contents adulterated or injurious to health. All packaging materials must be safe for their intended use within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act, as amended (FFDCA).

(b) Packaging materials entering the official establishment must be accompanied or covered by a guaranty, or statement of assurance, from the packaging supplier under whose brand name and firm name the material is marketed to the official establishment. The guaranty shall state that the material's intended use complies with the FFDCA and all applicable food additive regulations. The guaranty must identify the material, e.g., by the distinguishing brand name or code designation appearing on the packaging material shipping container; must specify the applicable conditions of use, including temperature limits and any other pertinent limits specified under the FFDCA and food additive regulations; and must be signed by an authorized official of the supplying firm. The guaranty may be limited to a specific shipment of an article, in which case it may be part of or attached to the invoice covering such shipment, or it may be general and continuing, in which case, in its application to any article or other shipment of an article, it shall be considered to have been given at the date such article was shipped by the person who gives the guaranty. Guaranties consistent with the Food and Drug Administration's regulations regarding such guaranties (21 CFR 7.12 and 7.13) will be acceptable. The management of the establishment must maintain a file containing guaranties for all food contact packaging materials in the establishment. The file shall be made available to Program inspectors or other Department officials upon request. While in the official establishment, the identity of all packaging materials must be traceable to the applicable guaranty.

(c) The guaranty by the packaging supplier will be accepted by Program inspectors to establish that the use of material complies with the FFDCA and all applicable food additive regulations.

(d) The Department will monitor the use of packaging material in official establishments to assure that the requirements of paragraph (a) of this section are met, and may question the basis for any guaranty described under paragraph (b) of this section. Official establishments and packaging suppliers providing written guaranties to those official establishments will be permitted an opportunity to provide information to designated Department officials as needed to verify the basis for any such guaranty. The required information will include, but is not limited to, manufacturing firm's name, trade name or code designation for the material, complete chemical composition, and use. Selection of a material for review does not in itself affect a material's acceptability. Materials may continue to be used during the review period. However, if information requested from the supplier is not provided within the time indicated in the request—a minimum of 30 days—any applicable guaranty shall cease to be effective, and approval to continue using the specified packaging material in official establishments may be denied. The Administrator may extend this time where reasonable grounds for extension are shown, as, for example, where data must be obtained from suppliers.

(e) The Administrator may disapprove for use in official establishments packaging materials whose use cannot be confirmed as complying with FFDCA and applicable food additive regulations. Before approval to use a packaging material is finally denied by the Administrator, the affected official establishment and the supplier of the material shall be given notice and the opportunity to present their views to the Administrator. If the official establishment and the supplier do not accept the Administrator's determination, a hearing in accordance with applicable rules of practice will be held to resolve such dispute. Approval to use the materials pending the outcome of the presentation of views or hearing shall be denied if the Administrator determines that such use may present an imminent hazard to public health.

(f) Periodically, the Administrator will issue to inspectors a listing, by distinguishing brand name or code designation, of packaging materials that have been reviewed and that fail to meet the requirements of paragraph (a) of this section. Listed materials will not be permitted for use in official establishments. If a subsequent review of any material indicates that it meets the requirements of paragraph (a), the material will be deleted from the listing.

(g) Nothing in this section shall affect the authority of Program inspectors to refuse a specific material if he/she determines the material may render products adulterated or injurious to health.

PART 320—[AMENDED]

4. Section 320.1 of the Federal meat inspection regulations (9 CFR 320.1) is amended by adding a new paragraph (b)(5) and a reference to the OMB Control Number to read as follows:

§ 320.1 Records required to be kept.

* * * * *

(b) * * *

(5) Guaranties provided by suppliers of packaging materials under § 317.20.

* * * * *

(Approved by the Office of Management and Budget under OMB #0583-0015)

PART 381—[AMENDED]

5. The authority citation for Part 381 reads as follows:

Authority: 71 Stat. 441, as amended, 76 Stat. 663, 86 Stat. 619, as amended; 21 U.S.C. 451 *et seq.*, 7 U.S.C. 450, 33 U.S.C. 1254.

6. Section 381.1 is amended by adding a new paragraph (b)(59) to read as follows:

§ 381.1 Definitions.

* * * * *

(b)(59) *Packaging material.* Any cloth, paper, plastic, metal, or other material used to form a container, wrapper, label, or cover for poultry products.

* * * * *

7. A new § 381.144 is added to Subpart N of the poultry products inspection regulations to read as follows:

§ 381.144 Packaging materials.

(a) Edible products may not be packaged in a container which is composed in whole or in part of any poisonous or deleterious substances which may render the contents adulterated or injurious to health. All packaging materials must be safe for the intended use within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act, as amended (FFDCA).

(b) Packaging materials entering the official establishment must be accompanied or covered by a guaranty, or statement of assurance, from the packaging supplier under whose brand name and firm name the material is marketed to the official establishment. The guaranty shall state that the material's intended use complies with the FFDCA and all applicable food additive regulations. The guaranty must identify the material, e.g., by the distinguishing brand name or code designation appearing on the packaging material shipping container; must specify the applicable conditions of use, including temperature limits and other pertinent limits specified under the FFDCA and food additive regulations; and must be signed by an authorized official of the supplying firm. The guaranty may be limited to a specific shipment of an article, in which case it may be part of or attached to the invoice covering such shipment, or it may be general and continuing, in which case, in its application to any article or other shipment of an article, it shall be considered to have been given at the date such article was shipped by the person who gives the guaranty. Guaranties consistent with the Food and Drug Administration's regulations regarding such guaranties (21 CFR 7.12 and 7.13) will be acceptable. The management of the establishment must maintain a file containing guaranties for all food contact packaging materials in the establishment. The file shall be made available to Program inspectors or other Department officials upon request. While in the official establishment, the identity of all packaging materials must be traceable to the applicable guaranty.

(c) The guaranty by the packaging supplier will be accepted by Program inspectors to establish that the use of material complies with the FFDCA and all applicable food additive regulations.

(d) The Department will monitor the use of packaging materials in official establishments to assure that the requirements of paragraph (a) of this section are met, and may question the basis for any guaranty described under paragraph (b) of this section. Official establishments and packaging suppliers providing written guaranties to those official establishments will be permitted an opportunity to provide information to designated Department officials as needed to verify the basis for any such guaranty. The required information will include, but is not limited to, manufacturing firm's name, trade name or code designation for the material, complete chemical composition, and use. Selection of a material for review does not in itself affect a material's acceptability. Materials may continue to be used during the review period. However, if information requested from the supplier is not provided within the time indicated in the request—a minimum of 30 days—any applicable guaranty shall cease to be effective and approval to continue using the specified packaging material in official establishments may be denied. The Administrator may extend this time where reasonable grounds for extension are shown, as, for example, where data must be obtained from suppliers.

(e) The Administrator may disapprove for use in official establishments packaging materials whose use cannot be confirmed as complying with the FFDCA and applicable food additive regulations. Before approval to use a packaging material is finally denied by the Administrator, the affected official establishment and the supplier of the material shall be given notice and the opportunity to present their views to the Administrator. If the official establishment and the supplier do not accept the Administrator's determination, a hearing in accordance with applicable rules of practice will be held to resolve such dispute. Approval to use the materials pending the outcome of the presentation of views or hearing shall be denied if the Administrator determines that such use may present an imminent hazard to public health.

(f) Periodically, the Administrator will issue to inspectors a listing, by distinguishing brand name or code designation, of packaging materials that have been reviewed and that fail to meet the requirements of paragraph (a) of this section. Listed materials will not be permitted for use in official establishments. If a subsequent review of any material indicates that it meets the requirements of paragraph (a), the material will be deleted from the listing.

(g) Nothing in this section shall affect the authority of Program inspectors to refuse a specific material if he/she determines the material may render products adulterated or injurious to health.

8. Section 381.175 of the poultry products inspection regulations (9 CFR 381.175) is amended by adding a new paragraph (b)(2) and a reference to the OMB Control Number to read as follows:

§ 381.175 Records required to be kept.

* * * * *

(b) * * *

(2) Guaranties provided by suppliers of packaging materials under § 381.144.

(Approved by the Office of Management and Budget under OMB #0583-0015)

Done at Washington, DC, on January 9, 1984.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 84-1442 Filed 1-18-84; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 29

[Docket No. 84-1]

Adjustable-Rate Mortgages

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency ("Office") is revising its Adjustable-Rate Mortgage ("ARM") regulation (12 CFR Part 29) to exempt ARM loans with open-end credit features from the periodic disclosure requirements specified in § 29.7 (b) and (c). This revision will enhance the ability of national banks to design ARM loans with open-end credit features without unduly reducing disclosures to borrowers. The disclosure requirements for closed-end ARMs remain unchanged.

EFFECTIVE DATE: Jaunary 19, 1984.

FOR FURTHER INFORMATION CONTACT: Nancy Jones or David Nebhut, Financial Economists, Economic and Policy Analysis Division (202) 447-1924, or Jonathan L. Levin, Senior Attorney, Legal Advisory Services Division (202)

447–1880, Office of the Comptroller of the Currency, Washington, D.C. 20219.

SUPPLEMENTARY INFORMATION:

Special Analyses

The Secretary of the Treasury has certified that this regulation will not have a "significant impact on a substantial number of small businesses," as that phrase is used in the Regulatory Flexibility Act; therefore, no regulatory flexibilty analysis has been prepared. The revised regulation eases the burden of existing requirements. The effect of the revisions is expected to be beneficial rather than adverse, and small entities are generally expected to share the benefits of the revisions with larger institutions.

A Regulatory Impact Analysis is not required because the Office has determined that the regulation is not a "major rule" as defined by Executive Order 12291. The regulation will not have an annual effect on the economy of $100 million or more, will not result in a major increase in costs or prices to consumers, individual industries, Federal, state, or local government agencies, or geographic regions, nor will it have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises.

The Office has determined that a delayed effective date is unwarranted in that the revisions to the ARM regulation relieve restrictions on the ability of national banks to offer new loan programs of benefit to the public.

Background and Analysis

On October 17, 1983, the Office published a proposed rule that would have revised the periodic disclosure requirements specified in § 29.7 (b) and (c) for ARM loans with open-end credit features (48 FR 47001). The Office proposed that, for open-end ARMs, notice of any interest-rate changes when accompanied by payment changes, and payment changes for reasons other than an interest-rate change, be made at least fifteen days before payment at the new level is due. Through that Notice of Proposed Rulemaking the Office also solicited public comment on the advisability of requiring national banks to make prior disclosures to borrowers of rate and/or payment changes for ARM loans with open-end credit features.

Under 12 CFR 29.7(b) of the ARM regulation, as adopted on March 7, 1983 (48 FR 9506), certain information is required to be disclosed to borrowers not later than one business day after an interest-rate change is implemented and, if such interest-rate change is accompanied by a payment change, at least 25 days before a payment at the new level is due. Section 29.7(c) of the ARM regulation requires that certain items be disclosed to borrowers at least 25 days before a payment change may take effect if, under the bank's adjustable-rate mortgage program, a payment change may occur for reasons other than an interest-rate change.

The periodic disclosure requirements contained in Part 29 were designed for closed-end, long-term ARM loans. For such ARM plans, the Office has received no information indicating that the required disclosures are unduly burdensome for banks. In contrast, the timing requirements of the periodic disclosure notice present severe technical difficulties for banks interested in offering open-end ARMs with standard billing cycles.

ARMs with open-end credit features, unlike closed-end ARMs, are designed to accommodate repeated advances from, and payments to, an established line-of-credit throughout the billing cycle. Typically, borrowers are required to make a minimum periodic payment based upon the interest charged for the billing cycle just ended and the outstanding loan balance. Ordinarily, the bank does not know the outstanding balance until the billing cycle has ended and the payment for the preceding month has been received. This many not allow sufficient time for both processing charges and credits and then notifying the borrower 25 days before the next payment is due as required by Part 29. Where the bank provides a grace period in each billing cycle for the receipt of late payments, the timing of disclosures becomes all the more difficult.

Furthermore, the requirement that banks provide notice of interest-rate changes not accompanied by payment changes within one business day of implementation effectively precludes the use of an interest-rate index that changes more frequently than monthly or on an irregular basis. This raises the interest-rate risk to the bank and may result in a higher interest rate being charged to the borrower than if the bank were able to change the interest rate more frequently.

For ARM plans with open-end credit features, other Federal agencies rely upon the disclosure requirements applicable to open-end credit plans under Federal Reserve Regulation Z (12 CFR part 226). The National Credit Union Administration does not impose periodic disclosure requirements on ARMs made by Federal credit unions (12 CFR 701.21–6B). To facilitate ARMs with open-end credit features for Federal savings and loan associations, the Federal Home Loan Bank Board recently removed its requirement that prior notice of an adjustment to the payment, the balance, or the interest rate be given to adjustable-rate open-end credit borrowers (12 CFR 545.33; 48 FR 23061 May 23, 1983).

General Summary of Comments

The Office received 26 comment letters in response to its proposed revisions to 12 CFR 29.7 (b) and (c) for ARMs with open-end credit features. Letters were received from 21 national and state-chartered banks, two law firms (one commenting on behalf of 45 banks), a trade association, a diversified financial services company, and a private citizen.

All but one of the respondents favored reducing or eliminating the periodic disclosure requirements in the regulation with respect to open-end ARMs in order to improve the ability of banks to offer such loan programs. The remaining respondent advocated retaining the existing periodic disclosure requirements for open-end ARMs.

Nineteen of the respondents, approximately three-quarters of those commenting, recommended that the final rule exempt open-end ARMs from § 29.7 (b) and (c). These respondents felt that the timing of periodic disclosures under Part 29 is not compatible with the ordinary structure of open-end credit plans. Many of them indicated that the disclosures required under Federal Reserve Regulation Z ensure adequate notification to borrowers without reducing desirable flexibility in product design. A number of these respondents contended that retention of any periodic disclosure requirements for open-end ARMs would place national banks at a competitive disadvantage to Federal savings and loan associations because the Federal Home Loan Bank Board regulations do not impose periodic notice requirements on open-end ARMs.

Three respondents proposed variations of the Office's proposal to reduce advance notice of payment changes from 25 to 15 days. One respondent favored the adoption of the revisions as proposed.

Two respondents recommended that the definition of an adjustable-rate mortgage, contained in § 29.1 of the regulation, be expanded to include non-purchase-money loans secured by real estate. They argued that such a revision would be consistent with the stated intent of the Office to facilitate open-end ARMs.

In issuing the proposed rule the Office did not intend to expand the coverage of the ARM regulations. The Office intended only to solicit public comment on revising periodic disclosure requirements applicable to ARM loans with open-end credit features. Accordingly, loans secured by a lien on a one- to four-family dwelling that do not involve the financing or refinancing of the purchase of the dwelling remain outside the scope of Part 29.

Final Rule

The final rule exempts ARMs that satisfy the definition of "open-end credit" under Federal Reserve Regulation Z (12 CFR 226.2(a)(20)) from the periodic disclosure requirements contained in 12 CFR 29.7 (b) and (c). Such loans will continue to be subject to the disclosure requirements specified in § 29.7 (a), (d), and (e) and to the disclosure requirements applicable to open-end credit contained in Regulation Z. The disclosure requirements for closed-end ARMs remain unchanged.

The exemption of open-end ARMs from the periodic disclosure requirements of the ARM regulation will have several benefits. The exemption will facilitate the offering of such plans by banks and will subject banks to the same disclosure requirements as those governing Federal savings and loan associations, credit unions, and most other housing lenders. Borrowers will benefit from the increased number and types of institutions able to offer open-end ARM loans. At the same time, borrowers will continue to receive timely disclosures by way of periodic statements issued by banks in compliance with Regulation Z.

Under the final rule the nature of the disclosure items made to borrowers under Regulation Z will change little from those which would be received were § 29.7 (b) and (c) to continue to be applicable to open-end ARMs. Regulation Z requires a lender to provide periodic disclosures for all open-end credit accounts which show a debit or credit balance of more than $1 at the end of a billing cycle or which have had a finance charge imposed during the billing cycle. The notice must include the following items:

- The previous balance;
- An identification of transactions that occur during the billing cycle;
- Any credits made to the account during the billing cycle;
- The periodic rate(s) used to calculate the finance charge, the corresponding annual percentage rate(s), and (as applicable) the fact that the periodic rate(s) may vary;
- The balance(s) on which the finance charge was computed;
- The amount of the finance charge;
- The annual percentage rate(s);
- Any other charges, other than finance charges, imposed during the billing cycle;
- The closing date of the billing cycle and the outstanding balance on that date; and
- If a free-ride period is provided, the date by which payment must be made to avoid additional finance charges.

The periodic disclosure requirements under § 29.7 (b) and (c) contain four items that are not required to be disclosed under Regulation Z: The past index value, the current index value, the previous interest rate, and foregone interest-rate increases. Interest rate adjustments must be based on the movements of an index that is initially disclosed and is readily verifiable by the borrower, and under Regulation Z, each periodic statement will disclose the current interest rate. Therefore, the Office believes that the burden imposed on banks by adding to the disclosure requirements of Regulation Z is not justified by a correspondingly appreciable benefit to borrowers.

Exemption of open-end ARMs from the 25-day prior notification requirement for payment changes and the one business-day notification requirement for interest-rate changes should have no adverse effect on borrowers. Regulation Z provides for timely notification to open-end credit borrowers. More specifically, § 226.5(b)(2)(ii) of Regulation Z requires the creditor to mail or deliver periodic statements at least 14 days before the date by which, or the time period within which, the new balance or any portion of the new balance must be paid in order to avoid additional finance or other charges. Also, § 226.6(a)(2) requires the creditor to furnish the borrower with variable rate disclosures before the first transaction is made under the open-end credit plan. If such disclosures are not made, a subsequent rate increase is considered a change in terms that, under § 226.9(c), requires the creditor to mail or deliver to the borrower a written notice at least 15 days before the effective date of such change.

Furthermore, the extensive disclosures required under § 29.7(a) of the ARM regulation at the initiation of every ARM loan will continue to provide borrowers with essential information concerning the nature and terms of their open-end ARMs, as well as the impact on their payments of changes in the outstanding loan balance and interest rate.

List of Subjects in 12 CFR Part 29

National banks, Adjustable-rate mortgages.

Accordingly, for the reasons set forth above, Part 29 is amended by amending § 29.7 (b) and (c) as follows:

1. The authority citation for Part 29 reads as follows:

Authority: 12 U.S.C. 1 et seq.; 12 U.S.C. 93a; and 12 U.S.C. 371.

The information collection requirements contained in this Part have been assigned OMB Control No. 1557–0139.

2. By amending 12 CFR 29.7 (b) and (c) by revising the introductory text as follows:

§ 29.7 Disclosure.

* * * * *

(b) Timely notice in writing of interest-rate changes which contains the information set forth in paragraphs (b)(1) through (b)(6) of this section shall be provided to the borrower. For purposes of this subsection, timely notice means notice sent to the borrower not later than one business day after an interest-rate change is implemented, and, if such interest-rate change is accompanied by a payment change, at least 25 days before a payment at the new level is due, *except that* this subsection shall not apply to adjustable-rate mortgage loans qualifying as "open-end credit," as that term is defined under 12 CFR 226.2(a). The bank shall notify the borrower in writing of the following items:

* * * * *

(c) Timely notice in writing of payment changes which contains the information set forth in paragraphs (c)(1) through (c)(4) of this section shall be provided to the borrower. For purposes of this subsection, timely notice means that for payment changes occurring for reasons other than an interest-rate change, including, but not limited to, a limit on negative amortization, notice be sent to the borrower at least 25 days before a payment at the new level is due, *except that* this subsection shall not apply to adjustable-rate mortgage loans qualifying as "open-end credit," as that term is defined under 12 CFR 226.2(a). The bank shall notify the borrower in writing of the following items:

* * * * *

Doyle L. Arnold,

Acting Comptroller of the Currency.

[FR Doc. 84–1503 Filed 1–18–84; 8:45 am]

BILLING CODE 4810–33–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-ASW-33; Amdt. 39-4787]

Airworthiness Directives; Societe Nationale Industrielle Aerospatiale (SNIAS) Models SA315, SA316, and SA319 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that establishes a finite service life for certain original and repaired main gearbox support "A" frame assemblies installed on Aerospatiale Models SA315, SA316, and SA319 series helicopters. It is necessary to establish a finite service life after analyzing results of additional fatigue tests of the "A" frames. Failure of an "A" frame due to possible fatigue cracks in the lower end-fitting may result in loss of the main gearbox and rotor head.

DATES: Effective February 21, 1984.

Compliance required as prescribed in the AD. The Director of the Federal Register approved for this AD, the incorporation by reference on February 21, 1984.

ADDRESSES: The applicable service information may be obtained from Aerospatiale Helicopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75051, Attention: Customer Support.

These documents may be examined at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas, or Rules Docket in Room 916, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Chris Christie, Manager, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium, or James H. Major, Helicopter Policy and Procedures Staff, Aircraft Certification Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone number (817) 877-2549.

SUPPLEMENTARY INFORMATION:

A proposal was published to amend Part 39 of the Federal Aviation Regulations (FAR) to include an AD requiring a finite service life for certain original and repaired main gearbox support "A" frame assemblies and requiring replacement of certain affected assemblies within 50 hours' of service for Aerospatiale Models SA315, SA316, and SA319 series helicopters.

The proposal was published in the **Federal Register** on September 29, 1983 (48 FR 44572). Aerospatiale Service Bulletins were issued to inform operators of new limitations on the service life of the main gearbox support "A" frame assemblies installed on Aerospatiale Models SA315, SA316, and SA319 series helicopters. The results of fatigue tests of new "A" frames dictate new service life limits for certain original and repaired "A" frames. Four different part number "A" frames are affected and the service life varies from 1,600 to 11,000 hours' time in service according to the eye end-fitting used and to the model helicopter on which it is installed.

Two "A" frame supports attach the main gearbox to the fuselage of each of these helicopters. Failure of an "A" frame leg eye end-fitting due to possible fatigue cracks may result in loss of the main gearbox and main rotor head.

The two service bulletins are incorporated by reference rather than duplicate or repeat the content of these bulletins in the AD. These bulletins will not be subject to frequent change.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received. The proposal is adopted without change.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety, Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the FAR (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Societe Nationale Industrielle Aerospatiale (SNIAS): Applies to Models SA315, SA316, and SA319 series helicopters, certificated in all categories, that are equipped with main gearbox "A" frame support assemblies, P/N 315A21.04.000, 315A21.05.000, 3160S22.04.000, and 000.1, or 3160S22.05.000, and 000.1

Compliance required as indicated, unless already accomplished.

To prevent possible in-flight failure of an "A" frame due to fatigue cracks in either lower eye end-fitting, accomplish the following:

(a) For Model SA315 series helicopters, comply with Lama SA315 Service Bulletin No. 01.18, Revision A, within 50 hours' time in service after the effective date of this AD. This bulletin establishes a finite service life for certain identified original and repaired "A" frame assemblies and permits only one-time replacement/repair of an eye end-fitting on each "A" frame assembly. Replacing a repair eye end-fitting with another repair eye end-fitting is prohibited.

Note.—The service bulletin establishes a 3,200-hour service life limit for certain original and repaired "A" frames and a 1,600-hour service life limit for certain other original and repaired "A" frames.

(b) For Models SA316 and SA319 series helicopters, comply with Alouette Service Bulletin No. 01.49, Revision A, within 50 hours' time in service after the effective date of this AD. This bulletin establishes a finite service life for certain identified original and repaired "A" frame assemblies for these helicopters and permits only one-time replacement/repair of an eye end-fitting on each "A" frame assembly. Replacing a repair eye end-fitting with another repair eye end-fitting is prohibited.

Note.—The service bulletin establishes for the Model SA3160, an 11,000-hour service life limit for certain original and repaired "A" frames and a 5,500-hour service life limit for certain other original and repaired "A" frames. For the Models SA316B and C and SA319B helicopters, the service bulletin retains the present 3,200-hour service life limit for certain original and repaired "A" frames and establishes a 1,600-hour service life for certain other original and repaired "A" frames.

(c) Aircraft may be flown in accordance with FAR 21.197 and 21.199, to a base where compliance may be accomplished.

(d) The Director of the Federal Register approved the incorporation by reference of the manufacturer's specifications and procedures identified and described in this directive pursuant to 5 U.S.C. 552(a)(1). Persons may obtain copies of the service bulletins upon request to Aerospatiale Helicopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75051, Attention: Customer Support. The documents may be examined at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Round, Fort Worth, Texas. A file on this AD which includes the incorporated material in full is maintained at the regional office in Forth Worth, Texas. These materials are incorporated as they exist on the date of the approval and a notice of a change to the service life limits stated in these documents will be published in the **Federal Register**.

(e) Equivalent means of complying with this AD must be approved by the Manager, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium.

This amendment become effective February 21, 1984.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) [Revised, Pub. L. 97-449, January 12, 1983]; 14 CFR 11.89)

Note.—One hundred thirty-eight helicopters will be affected for an anticipated and estimated expense of $150.000. These aircraft are owned by large entities. The FAA has determined that this regulation is not considered major under Executive Order

12291, or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is certified that this regulation will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final regulatory evaluation prepared for this action is contained in the docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Fort Worth, Texas on December 14, 1983.

Roger G. Knight,

Acting Director, Southwest Region.

[FR Doc. 84-1407 Filed 1-18-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-ANE-32; Amdt. 39-4786]

Airworthiness Directives; Pratt & Whitney Aircraft Models JT9D-7R4D, 7R4D1, 7R4E1, 7R4E3, 7R4G2, and 7R4H1 Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the **Federal Register** and makes effective as to all persons an amendment adopting a new airworthiness directive (AD), which modifies a telegraphic AD previously made effective as to all known U.S. owners and operators of Pratt & Whitney JT9D-7R4 series engines.

Fuel nozzle replacement or cleaning is required on JT9D-7R4D, 7R4D1, 7R4E1, 7R4E3, 7R4G2, and 7R4H1 turbofan engines. This action prevents excess carbon build-up on fuel nozzles causing a deterimental effect on burner efficiency and engine starting characteristics. Lack of response to power lever advancement, and in some events, inability to restart inflight could otherwise result.

DATES: Effective date February 21, 1984.

The Director of the **Federal Register** approved the incorporation by reference of certain publications in 14 CFR 39.13 effective on February 21, 1984.

Compliance schedule—as prescribed in the text of the AD.

ADDRESSES: The applicable service documents may be obtained from Pratt & Whitney Aircraft, Commercial Products Division, 400 Main Street, East Hartford, Connecticut 06108, or The Boeing Company, P.O. Box 3707, Seattle Washington 98124.

A copy of each of the service documents is contained in the Rules Docket, FAA, Office of the Regional Counsel, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and may be examined weekdays, except Federal holidays, between 8:00 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Gordon Vertescher, Transport Engine Section, ANE-141, Engine Certification Branch, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7347.

SUPPLEMENTARY INFORMATION: A number of incidents occurred where JT9D-7R4 engines failed to respond to power level advancement and in some cases were unable to be restarted following an inflight shutdown. During one B-767 incident in August 1983, a dual engine power loss occurred during descent. This event was followed by three other single engine events, two which resulted in unsuccessful attempts to restart following shutdown. Successful single engine landings were made.

After the initial event interim action was taken. First, a general notice (GENOT) was issued recommending inflight idle operation be maintained above 40 percent N_1 at altitudes above 10,000 feet. Second, AD No. 83-NM-90-AD requiring modifications of idle control electrical circuitry to prevent speed below flight idle and a modification to the hydromechanical fuel control unit was issued.

Further investigation of these incidents concluded fuel nozzle coking as the cause. Build-up of soft carbon on the fuel nozzle primary orifice discharge section can result in a spray angle reduction. This reduction has a significant detrimental effect on burner efficiency and engine starting characteristics.

On October 28, 1983, emergency telegraphic AD No. T83-22-52 was issued requiring fuel nozzle replacement. An equivalent means of compliance for B-747-300 and B-767 aircraft was approved on November 2, 1983. This equivalent means of compliance provided for on-wing nozzle cleaning.

This directive requires replacement or cleaning of all JT9D-7R4 fuel nozzles. It also clarifies the compliance interval presented in the telegraphic message of October 28, 1983, by addressing various engine models.

Approximately 55 U.S. based engines are affected by this AD. The estimated cost to U.S. airlines for a 1 year period is $325,000. This figure includes costs for capital investment, maintenance, and loss due to aircraft out of service. Therefore, the rule is not considered to be major under the criteria of Executive Order 12291. It is certified that the rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act because the rule will affect only air carriers using B-747-300, B-767, A-320, and A-300-600 aircraft in which JT9D-7R4 series engines are installed; none of which are believed to be small entities.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by telegraphic AD T83-22-52 to all known U.S. owners and operators of certain B-767 aircraft. These conditions still exist and the AD as modified, is hereby published in the **Federal Register** as an amendment to Section 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13), is amended by adding the following new AD:

Pratt & Whitney Aircraft

Applies to Pratt & Whitney JT9D-7R4 series engines incorporating fuel nozzles, P/N 792842 and P/N 794731, which have accumulated 625 total cycles or more. Unless already accomplished refurbish fuel nozzles as follows:

(1) For fuel nozzles installed in JT9D-7R4D and -7R4E engines refurbish in accordance with Pratt & Whitney Aircraft All Operator Wire JT9/73-13/PSE:DAB:3-10-14-1 or Boeing 767-SL-73-1 with the following schedule:

A. Within the next 75 cycles if neither Pratt & Whitney Service Bulletin JT9D-7R4-73-4 dated May 3, 1983, nor Pratt & Whitney Aircraft Special Instruction No. 77F-83 is incorporated;

B. Within the next 150 cycles if either Pratt & Whitney Service Bulletin JT9D-7R4-73-4 dated May 3, 1983, or Pratt & Whitney Aircraft Special Instruction No. 77F-83 is incorporated;

C. Refurbish nozzles at intervals not to exceed 700 cycles thereafter.

(2) For fuel nozzles installed in JT9D-7R4D1, -7R4E1, -7R4E3, -7R4G2, and -7R4H1 engines refurbish in accordance with Pratt & Whitney Aircraft All Operator Wire JT9/73-13/PSE:DAB:3-10-14-1 or Boeing 747-SL-73-14 or Pratt & Whitney Aircraft Manual P/N 785057 TR72-1 with the following schedule:

A. Within the next 150 cycles.

B. At intervals not to exceed 700 cycles thereafter.

Note.—Cone angle check is not mandatory after sonic cleaning in accordance with Pratt & Whitney Aircraft All Operator Wire JT9/73–13/PSE:DAB:3–10–14–1. Upon request of an operator, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Engine Certification Branch, Federal Aviation Administration, New England Region.

Pratt & Whitney Aircraft All Operator Wire JT9/73–13/PSE:DAB:3–10–14–1, Pratt & Whitney Aircraft Service Bulletin JT9D–7R4–73–4 dated May 3, 1983, Pratt & Whitney Aircraft Special Instruction No. 77F–83, Boeing Service Letter 747–SL–73–14, Boeing Service Letter 767–SL–73–1, and Pratt & Whitney Aircraft Manual P/N 785057 TR72–1 identified and described in this directive are incorporated herein and made by reference a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received the referenced service documents from the manufacturers may obtain copies upon request to Pratt & Whitney Aircraft, Division of United Technologies Corporation, 400 Main Street, East Hartford, Connecticut 06108 or The Boeing Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA, new England Region, 12 New England Executive Park, Burlington, Massachusetts 01803. A historical file on this AD which includes the material in full is maintained by the FAA at the New England Region Office.

This amendment becomes effective on February 21, 1984.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a) 1421, 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); 14 CFR 11.89.)

Note.—The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It is certified that this action involves an emergency regulation under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, and evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

Note.—The incorporation by reference provisions of this document were approved by the Director of the Federal Register on February 21, 1984. The referenced documents are available at the Federal Register.

Issued in Burlington, Massachusetts, on December 14, 1983.

Louis R. Musacchio,

Acting Director, New England Region.

[FR Doc. 84–1406 Filed 1–6–84; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Parts 71 and 75

[Airspace Docket No. 83–AWA–23]

Alteration of VOR Federal Airways and Jet Routes; State of Louisiana; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: The FAA issued a final rule Airspace Docket No. 83–AWA–23 published in the **Federal Register** on November 2, 1983 (48 FR 50510) that realigned VOR Federal Airways V–114, V–212, V–245 and Jet Routes J–50 and J–58 and established new airways V–542 and V–544. Due to equipment malfunctions of the Esler, LA, VOR, this rule is suspended until further notice pending correction of the equipment problems.

EFFECTIVE DATES: January 19, 1984.

FOR FURTHER INFORMATION CONTACT: Boyd B. Archer, Airspace and Air Traffic Rules Branch (AAT–230), Airspace-Rules and Aeronautical Information Divsion, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8626.

SUPPLEMENTARY INFORMATION:

History

On November 2, 1983, the FAA published a final rule that realigned VOR Federal Airways V–114, V–212, V–245 and Jet Routes J–50 and J–58 and established new airways V–542 and V–544 (48 FR 50510). Due to equipment malfunctions of the Esler, LA, VOR, this rule is suspended until further notice pending correction of the equipment problems.

List of Subjects in 14 CFR Parts 71 and 75

VOR Federal airways, Jet routes, Aviation Safety.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me, **Federal Register** Document 83–29669, as published in the **Federal Register** on November 2, 1983 (48 FR 50510) is suspended until further notice.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983)); and 14 CFR 11.69).

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on January 13, 1984.

John W. Baier,

Acting Manager, Airspace-Rules and Aeronautical Informaton Division.

[FR Doc. 84–1408 Filed 1–18–84; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 436, 448, and 449

[Docket No. 83N–0400]

Antibiotic Drugs; Updating and Technical Changes

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic regulations by making corrections and minor noncontroversial technical changes in the regulations providing for accepted standards for antibiotic and antibiotic-containing drugs for human use. These changes will result in more accurate and usable regulations.

DATES: Effective January 19, 1984; comments, notice of participation, and request for hearing by February 21, 1984; data, information, and analyses to justify a hearing by March 19, 1984.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, National Center for

Drugs and Biologics (HFN-140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: FDA is amending the antibiotic drug regulations by making corrections and minor noncontroversial technical changes in antibiotic drug regulations that provide for accepted standards for antibiotic and antibiotic-containing drugs intended for human use. In two instances, the need for a change was called to FDA's attention by industry representatives. To aid the reader in understanding the types of amendments in this document, the amendments are grouped into two general classes for discussion in this preamble: monograph corrections and technical changes.

Monograph Corrections

1. In §§ 436.310(d), 436.311(d), 436.313(e), 436.326(e), 436.327(d), 436.330(d), and 436.333(d), the first sentence has been revised to correctly describe the procedure for pouring the developing solvent into the chromatography tank for the thin layer chromatographic identity test.

2. In § 448.513e(a)(1), the words "per gram" in the seventh sentence are corrected to read "per container."

Technical Changes

1. In § 436.33(b), the test dose concentration for the item "Amikacin sulfate" in the third column of the table is changed from 5 milligrams to 1.2 milligrams. The sole manufacturer has submitted adequate data to support this change.

2. In §§ 449.4 and 449.4a, paragraphs (a)(1)(v) and (b)(5) are removed and paragraph (a)(3)(i) is revised to reflect the deletion of the pH specification for the bulk drug, amphotericin B. The sole manufacturer has submitted adequate data to support this revision.

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 436

Antibiotics.

21 CFR Part 448

Antibiotics, Peptide.

21 CFR Part 449

Antibiotics, Antifungal.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 701(f) and (g), 52 Stat. 1055-1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371(f) and (g))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 436, 448, and 449 are amended as follows:

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

1. Part 436 is amended:

§ 436.33 [Amended]

a. In § 436.33 *Safety test*, paragraph (b) is amended in the table in the third column by changing the concentration "5 mg" to read "1.2 mg" for the item "Amikacin sulfate."

b. In § 436.310(d) by revising the first sentence to read as follows:

§ 436.310 Thin layer chromatography identity test for mitomycin.

* * * * *

(d) *Procedure.* Pour the developing solvent into the solvent trough on the bottom of the tank and onto the paper lining the walls of the tank. * * *

* * * * *

c. In § 436.311(d) by revising the first sentence to read as follows:

§ 436.311 Thin layer chromatography identity test for amoxicillin.

* * * * *

(d) *Procedure.* Pour the developing solvent into the glass trough on the bottom of the tank and onto the paper lining the walls of the tank. * * *

* * * * *

d. In § 436.313(e) by revising the first sentence to read as follows:

§ 436.313 Thin layer chromatographic identity test for cephacetrile sodium.

* * * * *

(e) *Procedure.* Pour the developing solvent into the glass trough on the bottom of the tank and onto the paper lining the walls of the tank. * * *

* * * * *

e. In § 436.326(e) by revising the first sentence to read as follows:

§ 436.326 Thin layer chromatographic identity test for cefoxitin sodium.

* * * * *

(e) *Procedure.* Pour the developing solvent into the glass trough on the bottom of the tank and onto the paper lining the walls of the tank. * * *

* * * * *

f. In § 436.327(d) by revising the first sentence to read as follows:

§ 436.327 Thin layer chromatographic identity test for cyclacillin.

* * * * *

(d) *Procedure.* Pour the developing solvent into the glass trough on the bottom of the tank. * * *

* * * * *

g. in § 436.330(d) by revising the first sentence to read as follows:

§ 436.330 Thinlayer chromatographic identity test for bacampicillin.

* * * * *

(d) *Procedure.* Pour the developing solvent into the glass trough on the bottom of the tank and onto the paper lining the walls of the tank. * * *

* * * * *

h. In § 436.333(d) by revising the first sentence to read as follows:

§ 436.333 Thin layer chromatographic identity test for moxalactam.

* * * * *

(d) *Procedure.* Pour the developing solvent into the glass trough on the bottom of the tank and onto the paper lining the walls of the tank. * * *

* * * * *

PART 448—PEPTIDE ANTIBIOTIC DRUGS

2. Part 448 is amended in § 448.513e by revising the seventh sentence in paragraph (a)(1) to read as follows:

§ 448.513e Bacitracin zinc-neomycin sulfate-polymyxin B sulfate topical aerosol.

(a) * * *

(1) * * * It contains not more than an average of 10 microorganisms per container. * * *

* * * * *

PART 449—ANTIFUNGAL ANTIBIOTIC DRUGS

3. Part 449 is amended:

a. In § 449.4 by removing paragraph (a)(1)(v) and redesignating paragraph (a)(1)(vi) and (vii) as paragraph (a)(1)(v) and (vi); by revising paragarph (a)(3)(i) as set forth below; and by removing paragraph (b)(5) and redesignating paragraph (b)(6) and (7) as paragraph (b)(5) and (6):

§ 449.4 Amphotericin B.

(a) * * *

(3) * * *

(i) Results of test and assays on the batch for potency, amphotericin A content, safety, loss on drying, residue on iginition, and identity.

* * * * *

b. In § 449.4a by removing paragraph (a)(1)(v) and redesignating paragraph (a)(1)(vi) and (vii) as paragraph (a)(1)(v)

and (vi); by revising paragarph (a)(3)(i) as set forth below; and by removing paragraph (b)(5) and redesignating paragraph (b)(6) and (7) as paragraph (b)(5) and (6):

§ 449.4a Amphotericin B for use in parenteral products.

(a) * * *

(3) * * *

(i) Results of test and assays on the batch for potency, amphotericin A content, safety, loss on drying, residue on iginition, and identity.

* * * * *

These amendments institute changes that are corrective, editorial, or of a minor substantive nature. Because the amendments are not controversial and because when effective they provide notice of accepted standards, FDA finds that prior notice, public procedure, and delayed effective date are unnecessary and not in the public interest. The amendments, therefore, are effective January 19, 1984. Interested persons may, however, on or before February 21, 1984, submit written comments on this regulation to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch, between 9 a.m. and 4 p.m., Monday through Friday.

Any Person who will be adversely affected by this regulation may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before February 21, 1984, a written notice of participation and request for hearing, and (2) on or before March 19, 1984, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 430.20.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch, between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall be effective January 19, 1984.

(Secs. 507, 701(f) and (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371(f) and (g))

Dated: January 13, 1984.

Philip L. Paquin,

Acting Associate Director for Regulatory Affairs.

[FR Doc. 84–1403 Filed 1–18–84; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 640

[Docket No. 83N–0135]

Additional Standards for Human Blood and Blood Products; Normal Serum Albumin (Human) and Plasma Protein Fraction (Human)

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the biologics regulations on the additional standards for Normal Serum Albumin (Human) and Plasma Protein Fraction (Human) by revising a cautionary labeling statement about administering these products. FDA is revising the cautionary labeling statement to clarify the meaning and intent of that statement.

EFFECTIVE DATE: January 19, 1985.

FOR FURTHER INFORMATION CONTACT: Joseph Wilczek, National Center for Drugs and Biologics (HFN–813), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301–443–1306.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 29, 1983 (48 FR 34480), FDA proposed to amend §§ 640.84(a)(2) and 640.94(b) (21 CFR 640.84(a)(2) and 640.94(b)) of the biologics regulations to clarify a cautionary labeling statement for Normal Serum Albumin (Human) and Plasma Protein Fraction (Human). Interested persons were given until September 27, 1983, to submit written comments regarding the proposed rule. The agency received two comments and both comments fully supported the proposed change. Accordingly, the agency is amending the cautionary labeling statement in §§ 640.84(a)(2) and 640.94(b), as proposed.

Normal Serum Albumin (Human) and Plasma Protein Fraction (Human) are injectable biological products derived from fractionation of human blood and are similar in nature. Either product may be used in treating a burn patient to overcome loss of fluid, in treating a shock/trauma patient, or in replacing plasma proteins in a patient with a lower than normal level of protein in the blood.

The current regulations in §§ 640.84(a)(2) and 640.94(b) require that each of the above products be labeled with the statement "Do Not Use if Turbid, or More Than 4 Hours After the Container Has Been Entered." Some users of these products have misinterpreted this warning as advising that the entire contents of the container be infused into a patient within 4 hours after the container is first entered. The agency intended, however, that the required labeling statement caution users to begin administration of these products within 4 hours after the container is first entered. The agency, therefore, proposed to clarify the cautionary labeling statement to read "Do Not Use if Turbid. Do Not Begin Administration More Than 4 Hours After the Container Has Been Entered." To preclude any unnecessary costs to manufacturers, the agency proposed that any final rule based on the proposal be effective 1 year after the date of its publication in the **Federal Register**.

The agency has determined pursuant to 21 CFR 25.24(d)(13) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

In accordance with Executive Order 12291 and the Regulatory Flexibility Act, the agency has considered the impact of the final rule. FDA believes that the labeling change will have a minimal effect on manufacturers of biological products because the final rule only clarifies an existing labeling requirement. There are currently 14 licensed manufacturers of Normal Serum Albumin (Human) and 5 licensed manufacturers of Plasma Protein

Fraction (Human), and the revised labeling statement relieves a burden on certain users of the biological products who have misinterpreted the meaning of the current labeling requirement. The agency concludes that the final rule to amend the labeling of the two products does not warrant designation as a major rule under any of the criteria under section 1(b) of Executive Order 12291. The agency certifies that a regulatory flexibility analysis is not required because the final rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 21 CFR Part 640

Blood.

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 640 is amended as follows:

PART 640—ADDITIONAL STANDARDS FOR HUMAN BLOOD AND BLOOD PRODUCTS

1. In § 640.84 by revising paragraph (a)(2), to read as follows:

§ 640.84 Labeling.

* * * * *

(a) * * *

(2) The cautionary statement placed in a prominent position on the label, "Do Not Use if Turbid. Do Not Begin Administration More Than 4 Hours After the Container Has Been Entered.";

* * * * *

2. In § 640.94 by revising paragraph (b), to read as follows:

§ 640.94 Labeling.

* * * * *

(b) The cautionary statement placed in a prominent position on the label, "Do Not Use if Turbid. Do Not Begin Administration More than 4 Hours After the Container Has Been Entered."

Effective date. This regulation is effective January 19, 1985.

(Sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262))

Dated: December 27, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-1402 Filed 1-18-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD 84-005]

Safety and Security Zones

AGENCY: Coast Guard, DOT.

ACTION: Notice of Temporary Rules Issued.

SUMMARY: This document gives notice of temporary safety zones, security zones and special local regulations. Periodically the Coast Guard must issue safety zones, security zones and special local regulations for limited periods of time in limited areas. Safety zones are established around areas where there has been a marine casualty or when a vessel carrying a particularly hazardous cargo is transiting a restricted or congested area. Security zones are temporarily established in response to a risk to national security present in a particular area. Special local regulations are issued to assure the safety of participants and spectators of regattas and other marine events.

DATES: The following list includes zones that were established between October 17, 1982 and December 10, 1983 and have since been terminated.

ADDRESS: The complete text of any of these temporary regulations may be examined at, and is available on request from Executive Secretary, Marine Safety Council (G-CMC), U.S. Coast Guard Headquarters, 2100 Second St. SW., Washington, D.C. 20593.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Novak, Deputy Executive Secretary, Marine Safety Council at (202) 426-1477.

SUPPLEMENTARY INFORMATION: The local Captain of the Port must be immediately responsive to the safety needs of the waters within his jurisdiction; therefore, he has been delegated the authority to issue these regulations. Since Marine events and emergencies usually take place without advance notice or warning, timely publication of notice in the **Federal Register** is often precluded. However, the affected public is informed through Local Notices to Mariners, press releases, and other means. Moreover, actual notification is frequently provided by Coast Guard patrol vessels enforcing the restrictions imposed in the zone to keep the public informed of the regulatory activity. Because most mariners are notified by Coast Guard officials on scene prior to enforcement action, Federal Register notice is not required to place the special local regulations, security zone or safety zone in effect. However, the Coast Guard, by law, must publish in the **Federal Register** notice of substantive rules adopted. To discharge this legal obligation without imposing undue expense on the public, the Coast Guard publishes a periodic list of these temporary Special Local Regulations, security zones and safety zones. Permanent safety zones are not included in this list. Permanent zones are published in their entirety in the **Federal Register** just as any other rulemaking. Temporary zones are also published in their entirety if sufficient time is available to do so before they are placed in effect or terminated.

Non-major safety zones, special local regulations and security zones, have been exempted from review under E.O. 12291 because of their emergency nature and temporary effectiveness.

The following regulations were placed in effect temporarily during the period 17 October 1982 through 10 December 1983:

Docket No.	Location	Type	Date
1. COTP Boston, MA, Reg. 83-01	Boston Harbor, Boston, MA	Safety Zone	Oct. 28, 1983.
2. CGD02-83-01	Ohio River, Louisville, KY	Special Local Regulations	May 1, 1983.
3. CGD03-83-34	Sea Girt Fishing Reef, NJ	Safety Zone	Nov. 19, 1982.
4. CGD03-83-10	N.Y. Harbor, Hudson River NY	Security Zone	Apr. 19, 1983.
5. CGD03-83-11	Lower Hudson River, Manhattan, NY	Safety Zone	Apr. 29, 1983.
6. CGD03-83-12	Lower Hudson River, NY	Security Zone	Apr. 27, 1983.
7. CGD03-83-13	Ocean City, NJ	Special Local Regulations	May 26, 1983.
8. CGD03-83-15	New London Harbor, CT	Security Zone	May 21, 1983.
9. CGD03-83-17	Lower Hudson River, NY&NJ	Safety Zone	Do.
10. CGD03-83-18	Thames River, New London, CT	Special Local Regulations	June 5, 1983.
11. CGD03-83-19	Barnegat Bay, NY	Special Local Regulations	Do.
12. CGD03-83-12	East River, New York NY	Safety Zone	July 1, 1983.
13. CGD03-83-23	Lake Champlain, VT	Safety Zone	July 4, 1983.
14. CGD03-83-27	Coney Island, NY	Special Local Regulations	July 1, 1983.
15. CGD03-83-31	Manasquan Inlet, NJ	Special Local Regulations	July 13, 1983.
16. CGD03-83-32	New York Harbor, NY, Newark Bay, NJ	Safety Zone	July 19, 1983.
17. CGD03-83-33	Connecticut River, CT	Special Local Regulations	July 6, 1983.
18. CGD03-83-35	Navesink River, Redbank, NJ	Special Local Regulations	Aug. 13, 1983.

Docket No.	Location	Type	Date
19. CGD03-83-43	Sandy Hook Channel, Raritan Bay, Arthurkill, NY&NJ	Safety Zone	Aug. 6, 1983.
20. CGD03-83-47	New York Harbor, NY and Newark Bay, NJ	Safety Zone	Aug. 23, 1983.
21. CGD03-83-52	New York Harbor, NY and Newark Bay, NJ	Safety Zone	Sept. 15, 1983.
22. CGD03-83-53	Upper East River, NY	Safety Zone	Sept. 23, 1983.
23. CGD03-83-54	Lower Hudson River, NY	Security Zone	Sept. 25, 1983.
24. CGD03-83-55	Lower Hudson River, NY	Security Zone	Sept. 26, 1983.
25. CGD03-83-56	New York Harbor, NY Newark Bay, NJ	Safety Zone	Oct. 2, 1983.
26. CGD03-83-57	Long Island Sound, Little Neck Bay, Kings Point, NY	Safety Zone	Oct. 15, 1983.
27. CGD03-83-61	Upper NY Bay, New York, NJ	Safety Zone	Do.
28. CGD03-83-62	Long Island Sound, Little Neck Bay, NY	Safety Zone	Do.
29. CGD03-83-63	Sendey Hook Channel, Raritan Bay, Arthurkill, NY&NJ	Safety Zone	Nov. 6, 1983.
30. CGD03-83-64	Sandy Hook Channel, Raritan Bay, Arthurkill, NY&NJ	Safety Zone	Nov. 7, 1983.
31. CGD03-83-65	Sandy Hook Channel, Raritan Bay, Arthurkill, NY&NJ	Safety Zone	Nov. 9, 1983.
32. COTP New Haven, CT, Reg. 83-01	New Haven Harbor, CT	Safety Zone	July 4, 1983.
33. COTP New London, CT, Reg. 83-02	New London Harbor, CT	Safety Zone	June 19, 1983.
34. COTP New London, CT, Reg. 83-03	New London Harbor, CT	Security Zone	May 18, 1983.
35. COTP New London, CT, Reg. 83-08	New London Harbor, CT	Security Zone	May 19, 1983.
36. CGD05-83-02	Elizabeth River, Norfolk, VA	Special Local Regulations	June 10, 1983.
37. CGD05-83-03	Elizabeth River, Norfolk, VA	Special Local Regulations	June 1, 1983.
38. COTP Wilmington, NC, Reg. 83-03	Upper Cape Fear River, Wilmington, NC	Safety Zone	Oct. 2, 1983.
39. COTP Wilmington, NC, Reg. 83-04	Port of Morehead City, NC	Safety Zone	Apr. 24, 1983.
40. COTP Wilmington, NC, Reg. 83-05	Port of Morehead City, NC	Safety Zone	June 3, 1983.
41. COTP Wilmington, NC, Reg. 83-06	Port Wilmington, NC	Safety Zone	June 7, 1983.
42. COTP Wilmington, NC, Reg. 83-07	Port Wilmington, NC	Safety Zone	June 8, 1983.
43. COTP Wilmington, NC, Reg. 83-08	Cape Fear River, Wilmington, NC	Safety Zone	Aug. 24, 1983.
44. COTP Wilmington, NC, Reg. 83-09	Cape Fear River, Southport, NC	Safety Zone	Oct. 3, 1983.
45. COTP Baltimore, MD, Reg. 83-04	Baltimore Harbor, Baltimore, MD	Safety Zone	July 4, 1983.
46. COTP Baltimore, MD, Reg. 83-06	Baltimore Harbor, Baltimore, MD	Safety Zone	June 12, 1983.
47. COTP Baltimore, MD, Reg. 83-07	Long Point, Patuxent River, MD	Safety Zone	July 2, 1983.
48. COTP Baltimore, MD, Reg. 83-13	Baltimore Harbor, Baltimore, MD	Safety Zone	Sept. 23, 1983.
49. COTP Baltimore, MD, Reg. 83-14	Baltimore Harbor, Baltimore, MD	Safety Zone	Sept. 25, 1983.
50. COTP Baltimore, MD, Reg. 83-15	Baltimore Harbor, Baltimore, MD	Safety Zone	Nov. 19, 1983.
51. COTP Hampton Roads, VA, Reg. 83-09	Elizabeth River, Norfolk, VA	Safety Zone	May 23, 1983.
52. COTP Hampton Roads, VA, Reg. 83-10	Back River, Hampton, VA	Safety Zone	May 27, 1983.
53. COTP Hampton Roads, VA, Reg. 83-11	James River, Hog Point, VA	Security Zone	May 28, 1983.
54. COTP Hampton Roads, VA, Reg. 83-12	James River, Neport News, VA	Safety Zone	June 30, 1983.
55. COTP Hampton Roads, VA, Reg. 83-13	Elizabeth River, Norfolk, VA	Safety Zone	July 3, 1983.
56. COTP Hampton Roads, VA, Reg. 83-14	James River, VA	Safety Zone	July 12, 1983.
57. COTP Hampton Roads, VA, Reg. 83-17	Pamlico Sound, NC	Safety Zone	Aug. 24, 1983.
58. COTP Hampton Roads, VA, Reg. 83-18	James River, Newport News, VA	Safety Zone	Sept. 7, 1983.
59. COTP Hampton Roads, VA, Reg. 83-19	James River, Newport News, VA	Safety Zone	Sept. 9, 1983.
60. COTP Hampton Roads, VA, Reg. 83-20	Elizabeth River, NC, Chesapeake, VA	Safety Zone	Sept. 25, 1983.
61. COTP Hampton Roads, VA, Reg. 83-21	James River, Newport News VA	Safety Zone	Sept. 26, 1983.
62. COTP Hampton Roads, VA, Reg. 83-23	Chesapeake Bay, Hampton, VA	Safety Zone	Oct. 25, 1983.
63. CGD07-83-12	Atlantic Ocean, Florida	Special Local Regulation	Oct. 9, 1983.
64. CGD07-83-13	Savannah River, Savannah, GA	Security Zone	Oct. 27, 1983.
65. CGD07-83-18	North Fork New River, Ft. Lauderdale, FL	Safety Zone	Dec. 5, 1983.
66. CGD07-83-19	Arroyo Sereno Canal, Coral Gables, FL	Safety Zone	Do.
67. COTP Savannah, GA, Reg. 83-01	East River, Brunswick, GA	Security Zone	May 2, 1983.
68. COTP Savannah GA, Reg. 83-07	Port of Savannah, GA	Security Zone	July 23, 1983.
69. COTP Miami, FL, Reg. 83-02	Miami River, Miami, FL	Safety Zone	Mar. 25, 1983.
70. COTP Miami, FL, Reg. 83-03	Highland Beach, FL	Security Zone	May 8, 1983.
71. COTP Miami, FL, Reg. 83-04	Miami River, Miami, FL	Safety Zone	May 11, 1983.
72. COTP Jacksonville, FL, Reg. 83-06	St. Johns River, Jacksonville, FL	Security Zone	Aug. 5, 1983.
73. CGD08-83-01	USS City of Corpus Christi, TX	Safety Zone	Mar. 16, 1983.
74. COTP Corpus Christi, TX, Reg. 82-01	Corpus Christi Ship Channel, TX	Safety Zone	Dec. 1, 1983.
75. COTP New Orleans, LA, Reg. 83-01	Barataria Bay	Safety Zone	Jan. 2, 1983.
76. COTP New Orleans, LA, Reg. 83-02	Mississippi Canyon	Safety Zone	June 14, 1983.
77. COTP New Orleans, LA, Reg. 83-03	Belmont Crossing, Lower Mississippi River	Safety Zone	Aug. 4, 1983.
78. COTP New Orleans, LA, Reg. 83-04	Mississippi River Mile 189.4	Safety Zone	Sept. 14, 1983.
79. COTP New Orleans, LA, Reg. 83-05	Mississippi River, Gulf Outlet	Safety Zone	Sept. 23, 1983.
80. COTP New Orleans, LA, Reg. 83-24	Lower Mississippi River	Safety Zone	Oct. 19, 1983.
81. CGD09-83-15	Grand Traverse Bay, MI	Special Local Regulation	Sept. 3, 1983.
82. CGD09-83-16	Lake Michigan, Chicago, IL	Special Local Regulation	July 15, 1983.
83. CGD11-83-05	Queensway Bay, Long Beach, CA	Cancel Safety Zone	Nov. 22, 1983.
84. CGD11-83-17	Colorado River, AZ	Special Local Regulation	Apr. 16, 1983.
85. CGD11-83-34	Colorado River, AZ	Special Local Regulation	May 28, 1983.
86. CGD11-83-45	Colorado River, AZ	Special Local Regulation	June 25, 1983.
87. CGD11-83-51	San Pedro Channel, CA	Special Local Regulation	July 2, 1983.
88. CGD11-83-54	Glorietta Bay, Coronado, CA	Special Local Regulation	June 30, 1983.
89. CGD11-83-102	Colorado River, AZ	Safety Zone	Nov. 5, 1983.
90. COTP Los Angeles/Long Beach, CA, Reg. 83-02	Long Beach Harbor, CA	Safety Zone	Feb. 27, 1983.
91. COTP Los Angeles/Long Beach, CA, Reg. 83-03	Long Beach Harbor, CA	Safety Zone	Do.
92. COTP Los Angeles/Long Beach, CA, Reg. 83-05	San Pedro Bay, CA	Safety Zone	Apr. 5, 1983.
93. COTP Los Angeles/Long Beach, CA, Reg. 83-06	Manna Del Ray Harbor, CA	Safety Zone	Apr. 29, 1983.
94. COTP Los Angeles/Long Beach, CA, Reg. 83-07	San Pedro Bay, CA	Safety Zone	May 20, 1983.
95. COTP Los Angeles/Long Beach, CA, Reg. 83-10	San Pedro Bay, CA	Safety Zone	Aug. 6, 1983.
96. COTP Los Angeles/Long Beach, CA, Reg. 83-11	Los Angeles Harbor, CA	Safety Zone	Sept. 2, 1983.
97. COTP Los Angeles/Long Beach, CA, Reg. 83-80	San Pedro Bay, CA	Safety Zone	June 9, 1983.
98. COTP MSO San Diego, CA, Reg. 83-02	M/V LAURA	Safety Zone	Oct. 2, 1983.
99. COTP MSO San Diego, CA, Reg. 83-04	Point Loma, Pacific Ocean	Safety Zone	July 1, 1983.
100. COTP MSO San Diego, CA, Reg. 83-05	Point Loma, Pacific Ocean	Safety Zone	Aug. 5, 1983
101. CGD13-83-09	Shilshole Bay, Seattle, WA	Special Local Regulation	Apr. 30, 1983.
102. CGD13-83-10	Columbia River Kennewick, WA	Special Local Regulation	July 26, 1983.
103. CGD13-83-11	Columbia River, Portland, OR	Special Local Regulation	May 15, 1983.
104. COTP Honolulu, HA, REG 83-01	Lahaina, Maui	Safety Zone	Nov. 10, 1983.

Dated: January 11, 1984.

C. M. Holland,

Captain, U.S. Coast Guard, Executive Secretary, Marine Safety Council.

[FR Doc. 84-1459 Filed 1-18-84; 8:45 am]

BILLING CODE 4910-14-M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 101

[FPMR Temp. Reg. E-79, Supp. 2]

Temporary Regulations; Processing Adjustments

AGENCY: Office of Federal Supply and Services, GSA.

ACTION: Temporary regulation.

SUMMARY: This supplement to the Federal Property Management Regulations (FPMR), Temporary Regulation, lowers the minimum line item dodllar value from $100 to $50 for processing adjustments (credit/debit billings to customers) by GSA on validated shipping-type (item) and packaging discrepancy reports cited in FPMR Temporary Regulations E–79. This change was made to standardize reporting and adjustment levels at $50. The effect will be an improvement in service to customers.

DATES: Effective date: November 1, 1983. Expiration date: April 30, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. James W. Jeremiah, Director, Requisition Management Division (703–557–8570).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; or major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

Subchapter E—[Amended]

In 41 CFR Chapter 101, a reference to FPMR Temp. Reg. E–79, Supplement 2, is added to the list in the appendix to Subchapter E, and the following note is added to the text:

[FPMR Temp. Reg. E-79, Supp. 2]

Note.—Supplement 2 to FPMR Temporary Regulation E–79 is filed with the original document, and its text does not appear in this volume.

(Sec. 205(c), 63 Stat. 390; 40 486(c))

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 84–1314 Filed 1–18–84; 8:45 am]

BILLING CODE 6820–AM–M

41 CFR Part 101–29

[FPMR Amdt. E–255]

Procurement and Requisitioning of Items and Services

AGENCY: Office of Federal Supply and Services, GSA.

ACTION: Final rule.

SUMMARY: This regulation amends the policy regarding the use of commercial item description (CID's) by removing the restriction on agency use of a CID as the procurement document when the contract is with a mandatory source of supply.

EFFECTIVE DATE: January 19, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Walter L. Eckbreth, Director, Policy and Procedures Division (703–557–0536).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. Therefore, a Regulatory Impact Analysis has not been prepared. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 4 CFR Part 101–29

Government property management.

PART 101–29—FEDERAL PRODUCT DESCRIPTIONS

1. The authority citation for Part 101–29 reads as follows:

Authority: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

2. The table of contents for Part 101–29 is amended by removing the entry for 101–29.504, Use of Federal Product descriptions by mandatory sources of supply.

Subpart 101–29.5—Use of and optional use of Federal Product Descriptions and Agency Product Descriptions

§ 101–29.504 [Removed]

3. Section 101–29.504 is removed.

Dated: December 23, 1983.

Ray Kline,

Acting Administrator of General Services.

FR Doc. 84–1315 Filed 1–18–84; 8:45 am]

BILLING CODE 6820–24–M

41 CFR Part 101–42

[FPMR Amdt. H–147]

Recovery of Precious Metals

AGENCY: Office of Federal Supply and Services, GSA.

ACTION: Final rule.

SUMMARY: The current requirement for each agency to consider the feasibility of recovering precious metals, particularly silver from used hypo solution and scrap film, is contained in 41 CFR 101–42.3. This revision clarifies agency responsibilities in the Government-wide precious metals recovery program, provides further guidelines on the recovery of silver by agencies regardless of the amount of precious metals bearing materials generated, and expands the options for civil agency participation in the Department of Defense (DOD) Precious Metals Recovery Program. This revision also clarifies reporting requirements and information to be provided to the General Services Administration (GSA) on Standard Form (SF) 291, Report of Activities Generating Precious Metals. These changes result from recommendations made by the General Accounting Office and the GSA Inspector General.

EFFECTIVE DATE: January 19, 1984.

FOR FURTHER INFORMATION CONTACT: John Hansley, Sales Division, (703–557–0814).

SUPPLEMENTARY INFORMATION: GSA determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more, a major increase in costs to consumers or others, or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule, has determined that the potential benefits to society from this rule outweigh the potential costs and has

maximized the net benefits, and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101–42

Government property management, Surplus Government property.

For the reasons set out in the preamble, 41 CFR Part 101–42 is amended as set forth below.

PART 101–42—PROPERTY REHABILITATION SERVICES AND FACILITIES

Subpart 101–42.3 is revised as follows:

* * * * *

Subpart 101–42.3—Recovery of Precious Metals

Sec.

101–300 Scope of subpart.
101–301 General.
101–302 Agency responsibilities.
101–302–1 Precious metals recovery surveys.
101–302–2 Agency reporting requirements.
101–302–3 Precious metals recovery program monitor.
101–302–4 Internal audits.
101–303 Recovery of silver from precious metals bearing materials.
101–303–1 Guidelines for the recovery of silver from used hypo solution and scrap film.
101–303–2 Recovery of silver from used hypo solution.
101–303–3 Recovery of silver from scrap film.
101–304 Recovery and use of precious metals through the DOD Precious Metals Recovery Program.
101–304–1 Civil agency participation in the DOD Precious Metals Recovery Program.
101–304–2 Use of DOD-recovered fine precious metals.

* * * * *

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Subpart 101–42.3—Recovery of Precious Metals

§ 101–42.300 Scope of subpart.

This subpart prescribes the policy and procedures for recovery of precious metals from articles of excess and surplus personal property.

§ 101–42.301 General

GSA is responsible for the initiation and development of Government-wide precious metals recovery programs, and for the issuance and administration of applicable contracts, except those issued and administered by DOD for precious metals recovery and refinement operations. Situations will occur where, in terms of economy, efficiency, and environmental quality, it is in the best interest of the Government to recover precious metals from articles of excess and surplus personal property instead of using other methods of disposal. GSA will determine when Government-wide recovery is appropriate on the basis of an evaluation of the supply-demand factor, the price of the commodity, the cost of recovering the precious metal, and applicable guidelines or regulations on pollution control.

§ 101–42.302 Agency responsibilities.

Heads of executive agencies are responsible for establishing, maintaining, and pursuing a program for recovery of precious metals. The provisions of §§ 101–42.302–1 through 101–42.302–4 provide guidance with respect to surveys, reporting requirements, assignment of program monitors, and internal audits. Precious metals that may be designated for recovery include gold, silver, and metals in the platinum family. Examples of silver bearing scrap and waste include used photographic fixing (hypo) solution, photographic and X-ray film, silver alloys, and dental scrap. Other examples of precious metals bearing materials include electronic scrap, ADPE, welding and brazing wire, annodes, and batteries. Certain strategic and critical materials, lists of which are issued from time to time as provided in § 101–14.106, may also be designated for recovery.

§ 101–42.302–1 Precious metals recovery surveys.

Each agency shall identify those activities that generate silver or other precious metals (including used hypo solution, scrap film, and other precious metals bearing materials). Activities identified as generating precious metals bearing materials shall be surveyed to obtain information regarding actual or potential precious metals recovery. Estimates of potential recovery may be obtained through use of testing papers for hypo solution; various charts, tables, and scales for scrap film, assays of samples of precious metals bearing materials; or other acceptable methods of estimating potential precious metals content.

§ 101–42.302–2 Agency reporting requirements.

(a) Each agency shall submit a consolidated annual report (based on fiscal year) containing information regarding precious metals recovery to the Manager, Federal Precious Metals Recovery Programs, General Services Administration (FMS), Washington, D.C. 20406. The consolidated report, Standard Form 291, Report of Activities Generating Precious Metals (interagency report control number 1529–GSA–SA), shall be submitted within 45 calendar days after the end of the fiscal year. Agency requests for a waiver to the annual reporting requirement shall be submitted to the above GSA program manager for approval.

(b) Section 101–42.4901–291 illustrates Standard Form 291, Report of Activities Generating Precious Metals. The report provides for specific information regarding the types of silver and other precious metals bearing materials processed or generated. The report requires information to be submitted as to the potential amount of precious metals to be recovered from the precious metals bearing material as well as the actual amount of precious metals recovered. Significant differences between the potential and actual amount of precious metals recovered shall be explained on Standard Form 291. When reporting estimated savings use either: (1) The market value on the date of the transaction for material delivered to the DOD system; or (2) the amount of proceeds when material is sold under contract. All sales should be identified by contract number. Market value determination should be identified by source and date.

§ 101–42.302–3 Precious metals recovery program monitor.

Each agency should designate an individual to monitor its precious metals recovery program. Responsibilities of the precious metals monitor should include conducting and coordinating surveys, implementing and improving recovery procedures; monitoring the agency's recovery program; and submitting the consolidated annual report to GSA.

§ 101–42.302–4 Internal audits.

Each agency should require periodic internal audits of its precious metals recovery program. The internal audits should be of such frequency and scope as to provide for proper control over the recovery, storage, and disposition of precious metals bearing materials. Primary elements for review should include document control and record maintanance; storage facilities and security controls; methods of recovery and equipment operation; and procedures for recovering precious metals through service contracts or disposal through sales contracts.

§ 101–42.303 Recovery of silver from precious metals bearing materials.

(a) Each agency should recover silver regardless of the quantity of used hypo solution or scrap film generated. Installation of a silver recovery unit

consistent with the quantity of used hypo solution generated or storage of used hypo solution or scrap film until a processible quantity is obtained are two alternatives. If an activity generates small quantities of hypo solution and tests show that there is a minimal amount of silver per gallon of solution, arrangements should be made, to the extent feasible, with another activity in the area which is using a recovery unit to receive and process the hypo solution. When the actual amount of silver recovered is substantially less than the estimated amount potentially recoverable, agencies should fully document the reason for the substantial difference.

(b) When recovery by an agency is not economically feasible and consolidation with other activities is not practical, the GSA regional Customer Service Bureau serving the area or DLA (in accordance with § 101–42.304) should be contacted for assistance. If it is determined that silver recovery cannot be recovered economically by Government-owned equipment or by a commercial recovery contractor, the hypo solution, scrap, film, or other silver bearing materials should be disposed of in accordance with Part 101–45 and in an environmentally acceptable manner.

§ 101–42.303–1 Guidelines for the recovery of silver from used hypo solution and scrap film.

The basic factors that determine the potential quantity of recoverable silver are: The amount of used hypo solution or scrap film generated, the amount and type of film processed, and the physical layout and available recovery equipment of the photographic facility. Since these factors may vary for each facility, a single method of recovery cannot be prescribed.

§ 101–42.303–2 Recovery of silver from used hypo solution.

Used hypo solution should be processed to recover the maximum amount of silver from the solution, consistent with overall economic feasibility and environmental considerations. Recovery can be effected either by Government-owned equipment or through use of commercial recovery contracts. Various types and sizes of equipment using metallic replacement or electrolytic methods of recovery are available which permit economic silver recovery from both large and small quantities of used hypo solution.

§ 101–42.303–3 Recovery of silver from scrap film.

Scrap film, the silver content of which varies according to the type of film and the degree of exposure, is a major source of recovered silver. One method of recovering silver from scrap film is by burning the film in specially designed and approved incinerators. The burning reduces the film to high content silver bearing ash which can be econonically processed to produce fine silver. Recovery onsite by controlled burning should only be accomplished at those activities or installations where approved facilities exist and the local code on burning permits it. A common alternative method of recovery is through periodic disposal of accumulated scrap film by sale in accordance with Part 101–45.

§ 101–42.304 Recovery and use of precious metals through the DOD Precious Metals Recovery Program.

Civil agencies may use the DOD Precious Metals Recovery Program as prescribed in §§ 101–42.304–1 and 101–42.304–2.

§ 101–42.304–1 Civil agency participation in the DOD Precious Metals Recovery Program.

(a) Civil agencies wishing to participate in the DOD precious metals recovery system should contact the Manager, DOD Precious Metals, Recovery Program, Attention: DLA–SIP, Cameron Station, Alexandria, VA 22314, for further information regarding the following plans:

(1) *Plan I.* An appraisal or survey of the agency's precious metals recovery potential and a recommendation as to appropriate recovery techniques and equipment.

(2) *Plan II.* DLA acceptance of photographic wastes, excess, and other precious metals bearing materials at Defense Property Disposal Offices (DPDO) or other disposition sites.

(3) *Plan III.* Disposition and shipping instructions for recovered precious metals bearing materials not authorized for acceptance at local DPDO's.

(4) *Plan IV.* Assistance and recommendations as needed in the administration and operation of the agency's precious metals recovery program including, an appraisal or survey of recovery potential; the furnishing of recovery and other supporting equipment; the training of personnel in the operation of recovery equipment; and the prescribing of procedures for the security and disposition of precious metals bearing materials. This plan will, in most cases, require a formal Memorandum of Understanding between DLA and the participating agency.

(b) DLA will provide recovered fine precious metals to participating agencies for use as Government Furnished Materials (GFM) or other authorized internal uses in accordance with § 101–42.304–2.

§ 101–42.304–2 Use of DOD-recovered fine precious metals.

To determine the need for recovered fine precious metals as GFM to reduce new procurement costs, each agency shall review procurements for which fine precious metals will be required by a contractor. Each agency having requirements for recovered fine precious metals as GFM or for other authorized internal uses should submit a request to the Commander, Defense Industrial Supply Center (DISC), Attention: DISC–ODBA/YC, 700 Robbins Avenue, Philadelphia, Pennsylvania 19111. Recovered fine precious metals will be provided to agencies for use as GFM or for other authorized internal uses on an "as-needed-when-available" basis. There is a nominal charge for the recovered fine precious metals to cover the administrative and processing costs. However, such costs are substantially lower than the market price of precious metals. Normally, the amount of recovered fine precious metals authorized for sale to individual civil agencies will not be restricted, except in those instances when the precious metal involved is not available in sufficient quantities to satisfy all requirements. No minimum ordering quantity is prescribed. Requiring activities should contact DISC to assure asset availability prior to the requisitioning of any quantity of precious metal other than silver. Advance inquiry for silver should be made only when requirements exceed 5,000 troy ounces.

Dated: December 23, 1983.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 84–1309 Filed 1–18–84; 8:45 am]

BILLING CODE 6820–24–M

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41 CFR Part 105–60

Freedom of Information

AGENCY: Office of Policy and Management Systems, GSA.

ACTION: Final rule.

SUMMARY: The General Administration (GSA) has amended its regulations to reflect the transfer of responsibility within GSA for administering the Freedom of Information Act. Also included is the current fee schedule, and the Administrator has been added to the list of persons authorized to accept subpoenas.

EFFECTIVE DATE: January 19, 1984.

ADDRESS: General Services Administration (ORAR), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Mr. William W. Hiebert, GSA Freedom of Information Act (FOIA) Officer (202–535–7647).

SUPPLEMENTARY INFORMATION: GSA's regulations implementing the Freedom of Information Act are being amended to:

a. Correct the telephone number for the GSA Headquarters reading room;

b. Change the search fees from $5 per hour to $6 per hour and if a professional staff member performs the search from $10 per hour to $15 per hour;

c. Reflect the transfer of responsibility from the Director of Public Information or Assistant Regional Administrator for External Affairs to the GSA FOIA Officer or the Regional FOIA Officer;

d. Clarify the extension of time limits;

e. Add the Administrator to the list of persons authorized to accept subpoena duces tecum; and

f. Inform the requester that if prepayment is not received within 20 workdays from the date of our letter, additional charges may be incurred.

This regulation was published as a proposed rule in the **Federal Register** on July 12, 1983 (48 FR 31890). GSA received no comments.

List of Subjects in 41 CFR Part 105–60

Freedom of Information.

PART 105-60—[AMENDED]

Accordingly 41 CFR Part 105–60 is amended as follows:

Subpart 105–60.3—Availability of Opinions, Orders, Policies, Interpretations, Manuals, and Instructions

1. The authority citation for Part 105–60 reads as follows:

Authority: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

2. Section 105–60.303 is amended by revising the introductory test and the telephone number for GSA Headquarters in the Central Office in paragraph (a) and by revising paragraph (c) to read as follows:

§ 105–60.303 Rules for public inspection and copying.

(a) *Locations.* Reading rooms or selected areas containing the materials available for public inspection and copying, described in § 105–60.302, are located in the following places:

Central Office

(GSA Headquarters), Washington, DC. Telephone: 202–535–7786 * * *

* * * * *

(c) *Copying.* GSA will furnish reasonable copying services at fees specified in § 105–60.305. The fees will be posted in each reading room or selected area. In suitable circumstances, a member of the public may receive authorization to copy materials personally under the procedures determined by the authorizing official (the GSA FOIA Officer in the Central Office or the Regional FOIA Officer in the regional offices).

* * * * *

3. Section 105–60.305–6 is revised to read as follows:

§ 105–60.305–6 Prepayment of fees over $10.

GSA will require prepayment of fees for search and reproduction which are likely to exceed $10. When the anticipated total fee exceeds $10, the requester will receive notice to prepay and will be advised if prepayment is not received within 20 workdays from the date of our letter, he may incur additional charges for time spent searching an additional time for the records.

4. Section 105–60.305–8(b) is amended by revising paragraph (b) to read as follows:

§ 105–60.305–8 Fee schedule.

* * * * *

(b) *Search fees.* (1) The standard search fee is $6 per hour or fraction thereof beyond the initial half hour used to locate the requested records.

(2) When GSA must use professional staff to search for the requested records because clerical staff would be unable to locate them, the search fee is $15 per hour or fraction thereof beyond the initial half hour used to locate the requested records.

(3) When the search includes nonpersonnel expenditures to locate and extract requested records, such as computer time or transportation expenses, the applicable fee is the direct cost to GSA.

Subpart 105–60.4—Described Records

5. Section 105–60.402–1 is revised to read as follows:

§ 105–60.402–1 Submission of requests for described records.

For records located in the GSA Central Office, the requester should submit a request in writing to the GSA FOIA Officer, General Services Administration (ATRAR), Washington, DC 20405. For records located in the GSA regional offices, the requester should submit a request to the FOIA Officer in the Office of Project Control and Oversight for the relevant region, at the address listed in § 105–60.303(a). Requests should include the words "Freedom of Information Request" prominently marked on both the face of the request letter and the envelope. The 10-workday time limit for agency decisions set forth in § 105–60.402–2 begins with receipt of a request in the office of the appropriate official identified in this section. A requester who has questions concerning an FOIA request may consult the GSA FOIA Officer, 18th and F Streets, NW, Washington, DC 20405, (202) 535–7647.

6. Section 105–60.403 is amended by revising paragraphs (a), (b), and (c) to read as follows:

§ 105–60.403 Appeal within GSA.

(a) A requester who receives a denial in whole or in part of a request may appeal that decision within GSA. The requester shall direct the appeal to the GSA FOIA Officer, General Services Administration (ATRAR), Washington, DC 20405, regardless of whether the denial being appealed was made in the Central Office or in a regional office.

(b) The GSA FOIA Officer must receive an appeal no later than 30 calendar days after receipt by the requester of the initial denial of access.

(c) The requester must appeal in writing and include a brief statement of the reasons he or she thinks GSA should release the records and enclose copies of the initial request and denial. The appeal letter should include the words "Freedom of Information Appeal" on both the face of the appeal letter and on the envelope. GSA has 20 workdays after receipt of an appeal to make a determination with respect to the appeal. The 20-workday time limit shall not begin until the GSA FOIA Officer receives the appeal.

* * * * *

7. Section 105–60.404 is revised to read as follows:

§ 105–60.404 Extension of time limits.

In unusual circumstances the Associate Administrator for Policy and Management Systems, the Director of Administrative Services, the GSA FOIA Officer, or the regional Director of Project Control and Oversight may extend the time limits prescribed in §§ 105–60.402 and 105–60.403. If necessary, more than one extension of time may be taken. However, the total extension of time shall not exceed 10 workdays with respect to a particular

request. The extension may be divided between the initial and appeal stages or within a single stage. GSA will provide a written notice to the requester of any extension of time limits.

Subpart 105–60.6—Subpoenas or Other Legal Demands for Records

8. Section 105–60.601–1 is amended by revising paragraph (b) to read as follows:

§ 105–60.601–1 GSA administrative records.

* * * * *

(b) The Administrator, the General Counsel, Deputy General Counsel, Assistant General Counsels, Inspector General, and, with respect to records in a GSA regional office, the Regional Administrator and Regional Counsel are the only GSA employees authorized to accept service of a subpoena duces tecum or other legal demands on behalf of GSA.

Dated: October 27, 1983.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 84–1306 Filed 1–18–84; 8:45 am]

BILLING CODE 4820–24–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 172, 173, and 179

[Docket HM–139F; Amdt. Nos. 172–88, 173–171, 179–33]

Conversion of Individual Exemptions Into Regulations of General Applicability

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Final rule.

SUMMARY: This action is being taken to incorporate into the Department's Hazardous Materials Regulations (HMR), a number of changes based on the data and analyses supplied in selected exemption applications or from existing exemptions. The need for this action has been created by the public demand to make available new packagings and shipping alternatives that have proven themselves safe under the Department's exemptions program. The intended effect of these amendments is to provide wider access to the benefits of transporation innovations recognized and shown to be effective and safe.

EFFECTIVE DATE: These amendments are effective Feburary 15, 1984. However, compliance with the regulations as amended herein, is authorized immediately.

FOR FURTHER INFORMATION CONTACT: Darrell L. Raines, Chief, Exemptions and Regulations Termination Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Washington, D.C. 20590, (202)–472–2726.

SUPPLEMENTARY INFORMATION: On August 8, 1983, the MTB published Notice No. 83–5 (48 FR 35970) under Docket HM–139F which proposed to amend the Hazardous Materials Regulations by incorporating the provisions of certain DOT exemptions into the general regulations. The public comment period ended October 12, 1983.

The MTB received three comments requesting changes to Docket HM–139F.

The proposed addition of "Film developer" to the § 172.101 Table has been withdrawn from this rulemaking because "Film developer" is not presently recognized by ICAO as a proper shipping name. Shipments may continue to be made under the terms and conditions specified in DOT–E 7032 and DOT–E 7040.

The proposed addition of footnote (L) (lower case) in § 173.31(c) has been changed to footnote (t) because of the confusion between the letter (l) and the number (1). The notice proposed to amend § 173.245(a)(38) by adding diethanolamine as an additional commodity to be shipped in DOT Specification 57 steel portable tanks. The Texaco Chemical Company, a producer of diethanolamine, stated that to their knowledge, there is no literature to indicate that diethanolamine is corrosive. A further review of our files indicates that the commenter is correct and diethanolamine has not been added to § 173.245(a)(38) as proposed. In § 173.272 the proposed amendment of paragraph (i)(22) to include DOT Specification 115A60W6 stainless steel tank cars for the transportation of Oleum has been added as a new paragraph (i)(23) for easier reading and compliance.

The proposed change regarding scrap paper is no longer necessary because Docket No. HM–166–0 (48 FR 52306), November 17, 1983, removed the entry from the § 172.101 Table but inadvertenly omitted the removal of § 173.1075. Section 173.1075 has been removed by this rulemaking.

Included in this rulemaking but not included in the notice is a correction in the § 172.101 Table for the entry "Di-(2-ethylhexyl) peroxydicarbonate, *not more than 67% in solution. See* Organic peroxide, liquid or solution, n.o.s." The "67%" has been corrected to read "77%".

Except for the above changes, these amendments are essentially the same as proposed in the notice.

The Material Transportation Bureau has determined that this document is not a "major rule" under the terms of Executive Order 12291 or significant under DOT's regulatory policies and procedures (44 FR 11034). A final regulatory evaluation was not prepared as the economic impact of these amendments has been found to be minimal.

For the reasons, I certify that this amendment will not have a significant economic impact on a substantial number of small entities.

List of Subjects

49 CFR Part 172

Hazardous materials transportation, Labeling, Packaging and containers.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers.

49 CFR Part 179

Hazardous materials transportation, Railroad safety.

In consideration of the foregoing, 49 CFR Parts 172, 173, and 179 are amended as follows:

PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

1. In § 172.101, the Hazardous Materials Table is amended by revising two entries to read as follows:

§ 172.101 Hazardous Materials Table.

+EAW	Hazardous materials descriptions and proper shipping names	Hazard class	Identification number	Label(s) required (if not excepted)	Packaging		Maximum net quantity in one package		Water shipments		
					Exceptions	Specific requirements	Passenger carrying aircraft or railcar	Cargo only aircraft	Cargo vessel	Passenger vessel	Other requirements
(1)	[2]	[3]	3(A)	(4)	5(a)	5(b)	[6(a)]	[6(b)]	7(a)	7(b)	7(c)
E	(Revise) Acetic acid, glacial (*RQ-1000/454*).	Corrosive material.	UN2789	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	Stow separate from nitric acid or oxidizing materials.
	Di-(2-ethylhexyl) peroxydicarbonate, *not more than 77% in solution. See* Organic peroxide, liquid *or* solution, n.o.s.		UN2123								

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

2. In § 173.31(c), Retest Table 1 is amended by adding a footnote reference "t" for the DOT-105A300W entry and adding a footnote "t" at the end of the table to read as follows:

§ 173.31 Qualification, maintenance, and use of tank cars.

* * * * *

(c) * * *

RETEST TABLE 1

Specification	Retest interval years [1]			Retest pressure—p.s.i.			
	Tank and interior heater systems			Safety relief valve	Safety relief valve		
	Up to 10 years	Over 10 to 22 years	Over 22 years		Tank	Start to discharge	Vapor tight
.	.	.	.	.	.	.	.
Revise DOT-105A300W	c,f,i,t	a,f,i,t	a,f,i,t	a,i,k	see	g,n	n
.	.	.	.	.	.	.	.

[1] Tanks in sodium metal service may be visually inspected at least once every 10 years instead of being retested hydrostatically. Date of the visual inspection must be stenciled on the tank near the other required markings.

. . . . . .

3. In § 173.33, paragraph (d)(1)(i) is amended by adding the following sentence at the end to read as follows:

§ 173.33 Qualification, maintenance, and use of cargo tanks.

* * * * *

(d) * * *

(1) * * *

(i) * * * Tanks used only in sodium metal service may have a complete internal visual inspection at least once every 5 years instead of a hydrostatic or pneumatic test.

* * * * *

4. In § 173.154, paragraphs (a)(4) and (a)(20) are revised, paragraphs (a)(22) and (a)(23) are added to read as folows:

§173.154 Flammable solids, organic peroxide solids and oxidizers not specifically provided for.

(a) * * *

(4) Specification MC 303, MC 304, MC 306, MC 307, MC 311 or MC 312 (§§ 178.341, 178.342, 178.343 of this subchapter). Tank motor vehicles. Tanks must conform with § 178.340–8. Discharge valves must be located inside the tank or at a point outside the tank where the line enters or leaves the tank. The valve seat must be located inside the tank or within the welded flange, its companion flange, nozzle, or coupling. Each product discharge opening shall have a secondary closing means, remote from tank filling or discharge openings, for operation in event of fire or other accident. Tanks may have heating coils if an inorganic heating medium is used. Authorized only for sodium perchlorate or magnesium perchlorate, wet, with 10 percent or more of water, equally distributed within the cargo tank. Specification MC 311 and MC 312 also authorized for potassium nitrite solution. Only Specification MC 304 and MC 307 are authorized for transportation by vessel.

(20) As prescribed in § 173.163(a)(7). Authorized only for ammonium persulfate, hydrated calcium hypochlorite, potassium persulfate, sodium carbonate peroxide, sodium chlorate, dry, sodium perborate monohydrate and sodium persulfate.

* * * * *

(22) Specification 44P (§ 178.241 of this subchapter). All plastic bags. Authorized only for ammonium persulfate, potassium persulfate, sodium carbonate peroxide, sodium perborate monohydrate and sodium persulfate. Net weight may not exceed 81 pounds.

(23) Specification 44B or 44C (§§ 178.236, 178.237 of this subchapter). Multiwall paper bags. Authorized only for ammonium persulfate, dibasic lead phosphite, potassium persulfate, sodium carbonate peroxide, sodium perborate monohydrate and sodium persulfate.

5. In § 173.188, paragraph (a)(4) is added to read as follows:

§ 173.188 Phosphoric anhydride.

(a) * * *

(4) Specification 56 (§ 178.252 of this subchapter). Stainless steel portable tanks.

* * * * *

6. In § 173.245, the last sentence in paragraphs (a)(29), and (a)(31) are revised, paragraph (a)(32) is revised and the third sentence in paragraph (a)(38) is revised to read as follows:

§ 173.245 Corrosive liquids not specifically provided for.

(a) * * *

(29) * * * MC 303 is authorized only for monoethanolamine; *primary amyl alcohol;* and phosphoric acid and solutions thereof; MC 306 constructed aluminum is authorized only for monoethanolamine *primary amyl alcohol.*

* * * * *

(31) * * * MC 306 is authorized only for monoethanolamine, primary amyl alcohol, phosphoric acid and solutions thereof.

(32) Specification 103AW, 103A–ALW, 103ANW, 103BW, 103CW, 103EW, 105A100W, 105A200ALW,

109A200ALW, 111A100F2, 111A60ALW2, 111A60W2, 111A60W5, or AAR–201A80W (§§ 179.100, 179.101, 179.200, 179.201 of this subchapter). Tank cars. Specification 105A200ALW tank cars authorized only for acetic anhydride and ammonium hydroxide. Specification 105A100W tank cars authorized only for ammonium hydroxide and dimethyl chlorothiophosphate. AAR–201A80W and 109A200ALW tank cars authorized only for ammonium hydroxide.

* * * * *

(38) * * * Authorized only for acetic acid, glacial; acetic acid solutions; compound, cleaning liquid; compound, rust preventing *or* compound, rust removing; monoethanolamine; *orthochlorophenol;* paint *or* paint related material; *primary amyl alcohol;* and phosphoric acid not exceeding 85 percent strength. * * *.

* * * * *

7. In § 173.247, paragraph (a)(18) is revised to read as follows:

§ 173.247 Acetyl bromide; acetyl chloride; acetyl iodide; antimony pentachloride; benzoyl chloride; boron trifluoride-acetic acid complex; chromyl chloride; dichloroacetyl chloride; diphenyl methyl bromide solutions; pyrosulfuryl chloride; silicon chloride; sulfur chloride (mono and di); sulfuryl chloride, thionyl chloride; tin tetrachloride (anhydrous); titanium tetrachloride; trimethyl acetyl chloride.

(a) * * *

(18) Specification 3E1800 (§ 178.42 of this subchapter). Cylinder authorized only for thionyl chloride, anhydrous and titanium tetrachloride, anhydrous.

* * * * *

8. In § 173.252, paragraphs (g)(4) and (g)(5) are added to read as follows:

§ 173.252 Bromine.

* * * * *

(g) * * *

(4) Specification 33A (§ 178.150 of this subchapter). Polystyrene case (nonreusable container) having not more than four inside glass jugs of not over 80 fluid ounces (2.5 liters) each. The polystyrene case must be further overpacked in a strong fiberboard box of at least 275-pound test and adequately cushioned. Not authorized for transportation by aircraft.

(5) Specification 15A (§ 178.168 of this subchapter). Wooden boxes (having an authorized gross weight of not less than 100 pounds) having not more than four inside glass jugs of not over 80 fluid ounces (2.5 liters) each. Jugs must be cushioned with an appropriate absorbent material. Not authorized for transportation by aircraft.

9. In § 173.272, paragraph (h) is revised and paragraph (i)(23) is added to read as follows:

§ 173.272 Sulfuric acid.

* * * * *

(h) *Sulfuric acid concentration of over 100.5 percent:* Authorized packaging is described in paragraphs (i)(1)-(4), (17), and (19)-(23) of this section.

(i) * * *

(23) Specification 115A60W6 (§ 179.220 of this subchapter). Tank cars. Tanks must be constructed of Type 304 or 316 stainless steel. Bottom outlets must be rendered inoperative and blanked off.

* * * * *

10. In § 173.277, paragraph (a)(1) is revised to read as follows:

§ 173.277 Hypochlorite solutions.

(a) * * *

(1) Specification 15A, 15B, 15C, 19A or 19B (§§ 178.168, 178.169, 178.170, 178.190, 178.191 of this subchapter) wooden boxes or Spec. 12A or 12B (§§ 178.210, 178.205 of this subchapter) fiberboard boxes with inside glass, earthenware or polyethylene packagings of not more than 1 gallon capacity each. Gross weight must not exceed 65 pounds nor contain more than 4 glass or earthenware inside packagings if their capacity is greater than 5 pints each, or more than six such polyethylene packagings.

* * * * *

11. In § 173.315, the table following paragraph (a)(1) is amended by adding an entry to read as follows:

§ 173.315 compressed gases in cargo tanks and portable tanks.

(a) * * *

(1) * * *

Kind of gas	Maximum permitted filling density		Specification container required	
	Percent by weight (see Note 1)	Percent by volume (see par. (f) of this section)	Type (see Note 2)	Minimum design pressure (psig)
(ADD) Vinyl methyl ether	68	See Notes 7 and 13.	MC 330, MC 331.	100

12. In § 173.346, paragraph (a)(10) is revised to read as follows:

§ 173.346 Poison B liquids not specifically provided for.

(a) * * *

(10) Specification 103,[1] 103W, 103A[1] 103ALW, 103AW, 103BW, 104,[1] 104W, 105A100,[1] 105A1100W, 109A300ALW, 111A60ALW1, 111A60F1, 111A60W1, 111A60W2, 111A100F2, 111A100W4, 112A400W, 114A400W, or 115A60W6 (§§ 179.100, 179.101, 179.200, 179.201, 179.220, 179.221 of this subchapter). Tanks cars. Specification 103BW tank cars must be rubber-lined and are authorized only for arsenic acid as prescribed in § 173.348 of this subchapter.

* * * * *

13. In § 173.347, paragraph (a)(2) is revised to read as follows:

§ 173.347 Aniline oil.

(a) * * *

(2) Specification 103,[1] 103W, 103A,[1] 103AW, 104W, 105A100W, 111A60F1, 111A60W1, 111A60W2, 111A100F2, 112A200W, 112A400F, or 114A340W, (§§ 179.100, 179.101, 179.200, 179.201, of this subchapter). Tank cars.

* * * * *

14. In § 173.352, paragraph (a)(4) is revised ro read as follows:

§ 173.352 Sodium and potassium cyanide solutions, and cyanide solution, n.o.s.

(a) * * *

(4) Specification 103,[1] 103W, 103A[1] 103AW, 105A400W, 111A60F1, 111A60W1, 111A60W2, 111A100F2, 112A400W, or 114A400W (§§ 179.100, 179.101, 179.200, 179.201, of this subchapter). Tank cars.

* * * * *

15. In § 173.353, paragraph (a)(8) is added to read as follows:

§ 173.353 Methyl bromide and methyl bromide mixtures.

(a) * * *

(8) Specification 51 (§ 178.245 of this subchapter). Steel portable tanks having a design pressure of not less than 250 pounds per square inch and equipped with a spring-load safety relief device.

* * * * *

16. In § 173.353a, paragraph (a) is revised to read as follows:

§ 173.353a Methyl bromide, liquid, and nonflammable, nonliquefied compressed gas mixtures.

(a) Methyl bromide, liquid, and nonflammable, nonliquefied compressed gas mixtures must be packed in specification containers as noted in §173.353a(a)(2), (3), (4), (5), (6), (8)and (c).

* * * * *

17. In § 173.365, paragraph (a)(3) is added to read as follows:

§173.365. Poison B solids not specifically provided for.

(a) * * *

(3) Specification 44D (§ 178.238 of this subchapter). Multiwall paper bags. Where extensible Kraft is used, the

minimum total basis weight must be 260 pounds and the outer wall may be no less than 60 pounds basis weight. Bag must have a metal foil inner liner. Net weight not over 50 pounds each. For transportation by vess., bags must be unitized or containerized. Not authorized for transportation by aircraft. Authorized only for carbamate pesticide mixtures containing not more than 15 percent active ingredient.

* * * * *

18. In §173.374, paragraph (a)(5) is added to read as follows:

§173.374 Nitrochlorobenzene, meta or para.

(a) * * *

(5) Specification 105A400W, 112A400W or 114A400W (§§ 179.100, 179.101 of this subchapter). Tank cars.

PART 179—SPECIFICATION FOR TANK CARS

19. In §179.102–11, the heading and the introductory text of paragraph (a) are revised to read as follows:

§179.102–11 Liquefied petroleum gas, butadiene, anhydrous ammonia, methylacetylene-propadiene, stabilized, chlorodifluoromethane, or vinyl chloride.

(a) Tank cars used to transport liquefied petroleum gas, butadiene, anhydrous ammonia, methylacetylene-propadiene, stabilized, chlorodifluoromethane, or vinyl chloride may, as an alternate, coform with the following special requirements: * * *.

* * * * *

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A to Part 1)

Issued in Washington, D.C. on January 10, 1983.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 84–1303 Filed 1–18–84; 8:45 am]

BILLING CODE 4910–60–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1201

[Docket No. 36988]

Alternative Methods of Accounting for Railroad Track Structures

AGENCY: Interstate Commerce Commission.

ACTION: Amendment to final rule.

SUMMARY: The Interstate Commerce Commission is amending the Final Rule on Alternative Methods of Accounting for Railroad Track Structures served February 17, 1983, to include certain revised operating expense accounts, specific instructions for engineering costs and other capitalized general expenditures, and certain other minor changes. This action is necessary to accommodate the ratable depreciation accounting adopted in the final rule and to align certain operating expense accounts with the changes that were made in the property accounts.

DATES: Effective for the reporting year beginning January 1, 1983.

FOR FURTHER INFORMATION CONTACT: Bryan Brown, Jr., (202) 275–7448.

SUPPLEMENTARY INFORMATION: By Final Rule served February 17, 1983 (48 FR 7182, February 18, 1983), the Commission changed the method of accounting for railroad track structure from retirement-replacement-betterment (RRB) to ratable depreciation (DA)[1]. This final rule addressed certain changes to the Uniform System of Accounts for Railroads (49 CFR 1201, Subpart A) involving definitions, instructions and property accounts.

One of the basic differences between RRB and DA is that certain accounting entries that are treated as expenses under RRB are treated as assets under DA. Our earlier decision required changes in the railroad property (asset) associated expense accounts.

We are aligning these operating expense accounts with the changes that were made in the property accounts. We are eliminating the expense function of track laying and surfacing (function 17) and assigning these expenses to the repair and maintenance functions of Ties (13), Rail and Other Track Material (14), and Ballast (16). We have also eliminated the separate accounting for other track material expenses (because these items will already be captured in the asset accounts), and opened all natural expense categories (salaries and wages, materials, purchased services, and other expenses) for track repair and maintenance accounts (which should not be reflected in the asset accounts).

The capitalization or expense of a particular amount of track work rests on each Class I railroad's establishment of a standard unit of property. However, the account segmentation for expensing a repair or capitalizing an improvement should be similar to avoid different systems of data capture by the different railroads. This change eliminates different account aggregation.

We are replacing property accounts 1, Engineering, and 77 Other Expenditures; General with instructions. Presently, Instruction 2–7(c) provides for the removal of engineering costs from Account 1 when property is retired. Since ratable depreciation has been adopted, it follows that engineering costs should be assigned to the applicable property accounts. If such costs cannot be directly assigned, the accounting should be based on some equitable method determined by the railroad. New Instruction 2–23 addresses the accounting for engineering costs.

Account 77 also provides for an equitable portion of other general expenditures to be cleared with the retirement of applicable property. These costs should now be assigned directly to individual property accounts based on an equitable allocation. We have introduced Instruction 2–24 to address these expenditures.

Further, we are revising property accounts 3, Grading, and 11, Ballast, to eliminate references to RRB accounting for the cost of old ballast. Since we have adopted ratable depreciation, this accounting is no longer permitted.

We are also removing the item "loading scrap track material" from the list of maintenance expenses in Note B, Account 9, Ballast. The adoption of net salvage value precludes the charging of such costs to maintenance expense.

Finally, we will add Schedule 205(c) to the 1983 Annual Report Form R–1 restatement schedules. This schedule will present five years of data required to process regressions of track structure running and switching expense. Schedule 205(c) will be deleted from the Form R–1 after 1983.

We are making these rule changes effective without seeking public comment. We believe that the usual notice and comment procedures of 5 U.S.C. 553(b) are unnecessary, because the rule changes are simply technical modifications that were inadvertently not adopted in our earlier decision prescribing a new accounting system. These rule changes do not affect the financial results that will obtain under the prescribed DA procedures, but simply permit the carriers to accommodate all of their accounts to the new system. Any party desiring reconsideration of these technical changes (as opposed to our policy determination to convert to DA) should file a petition within 20 days of the date of service of this decision.

We are also making these changes effective immediately rather than on 30 days' notice because the DA procedures prescribed in our earlier decision were made effective for the reporting year beginning January 1, 1983. Under those circumstances, publication of these rule

[1] Although we are no longer requiring the railroads to report data under RRB, we have required them temporarily to maintain such data in their own records so that it can be used in regulatory proceedings when appropriate.

changes on 30 days' notice would be impracticable.

Regulatory Flexibility Act

This final rule will not have a significant economic impact on a substantial number of small entities. This action directly affects Class I railroads having annual operating revenues of $50 million or more. It revises the Uniform System of Accounts for Class I railroads without requiring substantive accounting system modifications, and without substantially changing the financial results reported by individual railroads.

This action does not significantly affect the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1201

Railroads, Uniform System of Accounts.

This action is taken under authority of 5 U.S.C. 553 and 49 U.S.C. 11166.

We are adopting the changes in Appendix A to 49 CFR Part 1201, Subpart A.

Decided: January 10, 1984.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

James H. Bayne,

Acting Secretary.

PART 1201—[AMENDED]

Appendix A

For reasons set out in the preamble, Part 1201, Subpart A, of Chapter X, Title 49 of the Code of Federal Regulations is amended as shown.

1. Definition 29 is amended by revising the first paragraph of paragraph (a)(1) and the second paragraph of paragraph (a)(2) as follows:

* * * * *

(29) (a) "Activities" are as follows:

(1) "Way and Structures" activity refers to repairing, maintaining, leasing, renting, depreciating, and retiring right-of-way and trackage, structures, buildings, and facilities. It includes all natural expense object subclassifications such as salaries and wages, fringe benefits, material and supplies, lease rentals, purchased services, casualties, depreciation and retirements, where such objects are in the performance or support of the functions, as defined above, in the Way and Structures activity. Specifically included are all natural expense objects in the performance of the above described functions on property of the type included in property accounts 2 through 45 excluding 44, whether such property is owned or leased. The costs of operating work trains in support of the Way and Structures activity are to be included herein.

* * * * *

(2) * * *

This activity excludes all expenses related to road property as described in property accounts 2 through 45 excluding 44, all of which should be charged to the Way and Structures activity. It also excludes expenses in performance of, or support for Transportation, General and Administrative activities, property used for noncarrier operations, nonoperating property and interest or other fixed charges.

* * * * *

2. Definition 29 is further amended by revising paragraphs (c)(13), (14) and (16) and by removing and reserving paragraphs (15) and (17) as follows:

(29) * * *

(c) "Functions are as follows:

* * * * *

(13) Repair and Maintenance, Ties—Cross, switch, bridge, and other track ties. This function includes expenses associated with unloading, distributing and placing ties in tracks.

(14) Repair and Maintenance, Rails and Other Track Material—All track material used in repair of tracks except ballast and ties. This function includes expenses associated with unloading and installing rail and other track material.

(15) [Reserved.]

(16) Repair and Maintenance, Ballast—Gravel, stone, slag, cinders, sand and like material. This function includes expenses associated with worktrain service and labor expended in placing ballast.

(17) [Reserved.]

* * * * *

3. In Instructions for Property Accounts:

a. Instruction 2–7, *Additions to and retirements of property—General,* is amended by revising paragraph (c) to read as follows:

2–7 Additions to and retirements of property—General

* * * * *

(c) An equitable proportion of a balance in property accounts 76, "Interest During Construction," and 80, "Other elements of investment," applicable to retired property shall be cleared from these accounts concurrently with the retirement accounting. Unless provided for otherwise, interest costs shall be capitalized in accordance with generally accepted accounting principles.

* * * * *

b. Instructions 2–23 and 2–24 are added to read as follows:

2–23 Accounting for engineering costs

(a) The pay and expenses of engineers, assistants and clerks engaged in the survey and construction of new lines and extensions shall be included in the cost of the particular property involved. This accounting treatment also applies in making additions to and improvements of the carriers road, including wharves and docks.

List of Officers and Employees

Chief engineer.
Assistant engineers.
Bridge and signal engineer.
Architects and draftsmen.
Chief clerk and other clerks.
Transitmen and levelmen.
Rodmen and chainmen.
Cooks and porters on business cars.

Items of Expense and Supplies

Atlases and maps.
Barometers.
Books for office use.
Business car service.
Cameras; compasses.
Camp equipage.
Chains for surveyors.
Drawing boards.
Drawing instruments.
Field glasses.
Furniture repairs and renewals.
Heating and lighting.
Magnets and magnifiers.
Official train service.
Paper, blue-print.
Periodicals and newspapers.
Photographic supplies.
Printing and stationery.
Provisions for business cars.
Rent and repairs of offices.
Rods for surveyors.
Sextants and slide rules.
Telegraph and telephone service.
Traveling expenses.
Triangles and tripods.

(b) When employees listed in (a) above are engaged in the repair and maintenance of the roadway, their pay and expenses shall be charged to the appropriate operating expense accounts.

(c) Expenditures for tentative or preliminary surveys shall be carried in account 743, "Other deferred debits," until it is determined whether or not to continue the work. If the project is continued, expenditures for all surveys shall be transferred to the appropriate property account and, if abandoned, to appropriate income accounts.

(d) The cost of designing, making plans and specificaitons, and supervising the construction of equipment shall be included in the cost of the particular equipment.

(e) Fees and expenses of architects specially employed for designing or supervising the construction of buildings

shall be included in the accounts appropriate for the cost of the buildings constructed.

2–24 Accounting for other general expenditures

Expenditures of a general nature that are attributable but not directly assignable to original construction or important expansion of road shall be equitably assigned to the cost of specific units or segments of property. These expenditures include the pay and expenses of executive and general officers and their assistants engaged exclusively with such construction, law expenses (other than organization expenses), stationery and printing, and taxes before property is used in transportation operations.

4. In Property Accounts, accounts 1, Engineering, and 77, Other Expenditures: General, are removed.

5. Property Account 3, Grading, is amended by removing paragraph (d). "DETAILS OF ROADBED AND ITEMS OF EXPENSE" which follows paragraph (d) is retained.

6. Property Account 9, Rails and Other Track Material, is amended by removing the item "Loading scrap track materials" from Note B.

7. Property Account 11, Ballast, is amended by removing Note D and redesignating Note E as Note D.

8. In the table entitled, "Function Code Use—Way and Structures", which follows Joint Facility Revenue Account 122:

a. Function codes "15, Other track material," and "17, Track Laying and surfacing," are removed.

b. Function code 14, rails, is revised to read "14, Rails and other track material."

9. In the Operating Expense Account Explanations,

a. Under *Salaries and Wages—Control—11–00–00:*

1. "Salaries and Wages—Way and Structures—Running—" is amended by revising the list of functions to read as follows:

Repair and Maintenance—	
Roadway	11–XX–10
Tunnels and subways	11–XX–11
Bridges and culverts	11–XX–12
Ties	11–XX–13
Rails and other track material	11–XX–14
Ballast	11–XX–16
Signals and interlockers	11–XX–19
Highway grade crossings	11–XX–22
Dismantling retired property	11–XX–39
Road property and equipment damaged	11–XX–48
Other—Other	11–XX–99

2. "Salaries and Wages—Way and Structures—Switching—" is amended by revising the list of functions to read as follows:

Repair and Maintenance—	
Roadway	11–XX–10
Tunnels and subways	11–XX–11
Bridges and culverts	11–XX–12
Ties	11–XX–13
Rails and other track material	11–XX–14
Ballast	11–XX–16
Signals and interlockers	11–XX–19
Highway grade crossings	11–XX–22
Dismantling retired property	11–XX–39
Road property and equipment damaged	11–XX–48
Other—Other	11–XX–99

b. Under *Materials, tools, supplies, fuels, lubraicants— Control —21–00–00:*

1. "Materials, Tools, Supplies, Fuels, Lubricants—Way and Structures—Running—" is amended by revising the list of functions to read as follows:

Repair and Maintenance—	
Roadway	21–XX–10
Tunnels and subways	21–XX–11
Bridges and culverts	21–XX–12
Ties	21–XX–13
Rails and other track material	21–XX–14
Ballast	21–XX–16
Signals and interlockers	21–XX–19
Highway grade crossings	21–XX–22
Dismantling retired property	21–XX–39
Road property and equipment damaged	21–XX–48
Other—Other	21–XX–99

2. "Materials, Tools, Supplies, Fuels, Lubricants—Way and Structures—switching—" is amended by revising the list of functions to read as follows:

Repair and maintenance—	
Roadway	21–XX–10
Tunnels and subways	21–XX–11
Bridges and culverts	21–XX–12
Ties	21–XX–13
Rails and other track material	21–XX–14
Ballast	21–XX–16
Signals and interlockers	21–XX–19
Highway grade crossings	21–XX–22
Dismantling retired property	21–XX–39
Road property and equipment damaged	21–XX–48
Other—Other	21–XX–99

c. Under *Repairs billed by others—Debit—Control—39–00–00:*

1. "Repairs Billed by Others—Debit—Way and Structures—Running—" is amended by revising the list of functions to read as follows:

Repair and maintenance—	
Roadway	39–XX–10
Tunnels and subways	39–XX–11
Bridges and culverts	39–XX–12
Ties	39–XX–13
Rails and other track material	39–XX–14
Ballast	39–XX–16
Signals and interlockers	39–XX–19
Highway grade crossings	39–XX–22
Road property and equipment damaged	39–XX–48

2. "Repairs Billed by Others—Debit—Way and Structures—Switching—" is amended by revising the list of functions to read as follows:

Repair and maintenance—	
Roadway	39–XX–10
Tunnels and subways	39–XX–11
Bridges and culverts	39–XX–12
Ties	39–XX–13
Rails and other track material	39–XX–14
Ballast	39–XX–16
Signals and interlockers	39–XX–19
Highway grade crossings	39–XX–22
Road property and equipment damaged	39–XX–48

d. Under *Repairs billed to Others—Credit—Control—40–00–00:*

1. "Repairs Billed to Others—Debit—Way and Structures—Running—" is amended by revising the list of functions to read as follows:

Repair and maintenance—	
Roadway	40–XX–10
Tunnels and subways	40–XX–11
Bridges and culverts	40–XX–12
Ties	40–XX–13
Rails and other track material	40–XX–14
Ballast	40–XX–16
Signals and interlockers	40–XX–19
Highway grade crossings	40–XX–22
Road property and equipment damaged	40–XX–48

2. "Repairs Billed to Others—Debit—Way and Structures—Switching—" is amended by revising the list of functions to read as follows:

Repair and maintenance—	
Roadway	40–XX–10
Tunnels and subways	40–XX–11
Bridges and culverts	40–XX–12
Ties	40–XX–13
Rails and other track material	40–XX–14
Ballast	40–XX–16
Signals and interlockers	40–XX–19
Highway grade crossings	40–XX–22
Road property and equipment damaged	40–XX–48

e. Under *Other purchased services—Control—40–00–00:*

1. "Other Purchased Services—Way and Structures—Running—" is amended by revising the list of functions to read as follows:

Repair and maintenance—	
Roadway	41–XX–10
Tunnels and subways	41–XX–11
Bridges and culverts	41–XX–12
Ties	41–XX–13
Rails and other track material	41–XX–14
Ballast	41–XX–16
Signals and interlockers	41–XX–19
Highway grade crossings	41–XX–22
Dismantling retired property	41–XX–39
Road property and equipment damaged	41–XX–48
Other—Other	41–XX–99

2. "Other Purchased Services—Way and Structures—Switching—" is amended by revising the list of functions to read as follows:

Repair and maintenance—	
Roadway	41–XX–10
Tunnels and subways	41–XX–11

Bridges and culverts	41-XX-12
Ties	41-XX-13
Rails and other track material	41-XX-14
Ballast	41-XX-16
Signals and interlockers	41-XX-19
Highway grade crossings	41-XX-22
Dismantling retired property	41-XX-39
Road property and equipment damaged	41-XX-48
Other—Other	41-XX-99

f. Under *Other expenses—Control—61-00-00:*

1. "Other Expenses—Way and Structures—Running—" is amended by revising the list of functions to read as follows:

Repair and maintenance—	
Roadway	61-XX-10
Tunnels and subways	61-XX-11
Bridges and culverts	61-XX-12
Ties	61-XX-13
Rails and other track material	61-XX-14
Ballast	61-XX-16
Signals and interlockers	61-XX-19
Highway grade crossings	61-XX-22
Dismantling retired property	61-XX-39
Road property and equipment damaged	61-XX-48
Other—Other	61-XX-99

2. "Other Expenses—Way and Structures—Switching—" is amended by revising the list of functions to read as follows:

Repair and maintenance—	
Roadway	61-XX-10
Tunnels and subways	61-XX-11
Bridges and culverts	61-XX-12
Ties	61-XX-13
Rails and other track material	61-XX-14
Ballast	61-XX-16
Signals and interlockers	61-XX-19
Highway grade crossings	61-XX-22
Dismantling retired property	61-XX-39
Road property and equipment damaged	61-XX-48
Other—Other	61-XX-99

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Proposed Rules

Federal Register
Vol. 49, No. 13
Thursday, January 19, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 125

Procurement Assistance

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The Small Business Administration today proposes rules governing the debarment and suspension of business concerns and individuals from participating in direct SBA procurement or acquisitions contracts. These rules have no application to SBA's financing or guarantee assistance programs. These rules do not apply to SBA's section 8(a) program, nor do they apply to SBA's set-aside programs in conjunction with other agencies or other SBA assistance programs. The purpose of these rules is to ensure that SBA, in its own direct contracting, deals only with responsible business concerns and individuals. These rules would implement Federal Procurement Regulations (FPR) Temporary Regulations 65 (47 FR 43692, October 4, 1982) which established a system for making agency procurement debarments and suspensions effective throughout the Executive branch of the Government. Chapter 1 of title 13 of the Code of Federal Regulations (CFR) would be amended, by adding a new § 125.11, to take into account these rules.

DATE: Comments must be received by March 19, 1984.

ADDRESS: Written comments should be addressed to Mr. Donald R. Templeman, Acting Associate Administrator for Procurement and Technical Assistance, U.S. Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Mr. Donald R. Templeman, (202) 653–6635.

SUPPLEMENTARY INFORMATION: Proposed § 125.11–1 states that the scope of these regulations is to prescribe the policies, procedures, and causes governing the debarment and suspension of contractors by SBA. In addition, this section states that these regulations provide for the listing of debarred and suspended contractors, and of contractors declared ineligible, and for the consequences of such listing.

Proposed § 125.11–2 states that these regulations do not apply to recipients of SBA financial or guarantee assistance, and that they do not apply to SBA's "section 8(a) program," "set-aside" programs, or other SBA assistance programs. The purpose of this section is to clarify the fact that these rules apply only to suspension and debarment actions of procurement contractors dealing directly with SBA.

Proposed § 125.11–3 sets forth the general policies SBA would follow in making debarment and suspension decisions. These policies are essentially the same as those prescribed in FPR Temporary Regulation 65. This section states that SBA shall solicit offers from, award contracts to, and consent to subcontracts only with responsible business concerns and individuals.

Proposed § 125.11–4 contains definitions of various terms used in these regulations. The definitions of "adequate evidence," "affiliates," "agency," "consolidated list of debarred, suspended, and ineligible contractors," "contractor," "conviction," "debarment," "debarring official," "indictment," "ineligible," "legal proceedings," "preponderance of the evidence," "suspending official," and "suspension," are derived essentially verbatim from FPR Temporary Regulation 65.

Proposed § 125.11–5 states the consequences of listing a contractor as debarred, suspended or declared ineligible. Proposed § 125.11–5(a) states that debarred or suspended contractors are excluded from receiving contracts unless SBA determines that there is a compelling reason for such action. In addition, this subsection provides that SBA shall not solicit offers from, award contracts to, or consent to subcontracts with these contractors. Again, these actions can be taken if SBA determines there to be a compelling reason for such action.

Proposed § 125.11–5(c) states that contractors listed as having been declared ineligible on the basis of statutory or other regulatory procedures are excluded from receiving contracts and subcontracts under the conditions and for the period prescribed in the statute or regulations. SBA cannot solicit offers from, award contracts to, or consent to subcontracts with these contractors. However, unlike debarred or suspended contractors in § 125.11–5(a), these actions cannot be taken with declared ineligible contractors even if SBA determines there to be a compelling reason for such action.

Proposed § 125.11–5(b)(1) provides that SBA may continue contracts or subcontracts in existence at the time the contractor was debarred or suspended unless SBA's Administrator directs otherwise. Proposed § 125.11–5(d)(2) states that SBA shall not renew or extend the duration of current contracts or subcontracts of debarred or suspended contractors unless SBA's Administrator gives compelling reasons for renewal or extension. In addition, proposed § 125.11–5(e) disallows approval by SBA when a debarred or suspended contractor is proposed as a subcontractor unless the SBA Administrator or the Associate Administrator for Procurement and Technical Assistance gives compelling reasons for the approval.

Proposed § 125.11–6 describes the cause, procedures, period and scope of debarment.

Proposed § 125.11–6(a)(1) states that although one of the specified causes for debarment exists, the regulations do not *require* that the contractor be debarred. This section provides that the seriousness of the contractor's acts and any mitigating factors will be taken into account in making any debarment decision. Proposed § 125.11–6(a)(2) states that the debarment applies to all divisions or other organizational elements of the debarred contractor, unless the debarment is expressly limited to specific divisions, organizational elements, or commodities. This section further states that the debarring official can extend the debarment to include affiliates of the debarred contractor in appropriate situations. Proposed § 125.11–6(a)(3) make the debarment effective throughout the Executive Branch of the Government, unless an acquiring agency's head states compelling reasons justifying continued business dealings between that agency and the contractor.

Proposed § 125.11–6(b) specifies three causes for which a contractor may be

debarred. These causes are identical to those prescribed in FPR Temporary Regulation 65. They are (1) the convinction of, or civil judgment against, the contractor for any one of the several stated offenses, (2) the serious violation of the terms of a government contract or subcontract, or (3) any other compelling or serious cause that affects the present responsibility of a government contractor or subcontractor.

Proposed § 125.11–6(c) sets forth the procedures of the debarment process. These procedures are essentially the same as those provided for in FPR Temporary Regulation 65. SBA's Associate Administrator for Procurement and Technical Assistance will be the debarring and suspending official at SBA. Such official should, pursuant to proposed § 125.11–6(c)(1), seek the assistance of SBA's Office of Inspector General for any appropriate or necessary factfinding.

Proposed § 125.11–6(c)(2) states that SBA's established procedures governing the debarment decisionmaking process are to be as informal as practicable, in accord with principles of fundamental fairness and due process of law. These procedures allow the contractor to submit information in opposition to the proposed debarment, and to appear before SBA's Office of Hearings and Appeals where the debarring official determines that a dispute concerning material facts exists and the contractor requests a hearing.

Proposed § 125.11–6(c)(3) states that debarment shall be initiated by giving the contractor notice of the proposal to debar. This section prescribed seven items of which the contractor is to be advised in such notice, including that within 30 days after receipt of such notice, the contractor may submit information and argument in opposition to the proposed debarment.

Proposed § 125.11–6(c)(4) sets forth the decisionmaking procedures the debarring officcial would follow in making a final decision whether or not to impose debarment. In actions based upon a conviction or judgment, or in which there is no genuine dispute over material facts, proposed § 125.11–6(c)(4)(i) provides that the debarring official shall render a decision based on all the information in the administrative record, including any submission made by the contractor. If no suspension is in effect, the decision must be made within 30 working days after receipt of any information and argument submitted by the contractor, unless the period is extended for good cause. Where additional proceedings are necessary to determine the answer to disputed material facts, proposed § 125.11–6(c)(4)(ii) provides that there be written findings of fact; the decision of the debarring official is then to be based on the facts as found, together with any information and argument submitted by the contractor and any other information in the administrative record. Where it has been determined that there is a dispute as to material facts, the regulations require the debarring official to refer such matters to SBA's Office of Hearings and Appeals for findings of fact. The debarring official would be authorized to set aside the facts so found only if he specifically determines the findings to be clearly erroneous.

In any action where the proposed debarment is not based upon a conviction or civil judgment, proposed § 125.11–6(c)(4)(iii) provides that the cause for debarment be established by a preponderance of the evidence.

Proposed § 125.11–6(c)(5)(i) states that if the debarring official descides to impose debarment, prompt notice of this decision must be given to the contractor and any affiliates involved. This section specifies what must be included in the notice given to the contractor. Proposed § 125.11–6(c)(5)(ii) states that the contractor and any affiliates involved must also be promptly notified where debarment is not imposed.

Proposed § 125.11–6(d) sets forth the requirements governing the period of debarments. These requirements are essentially the same as those set forth in FPR Temporary Regulation 65. The period for a debarment will be commensurate with the seriousness of the cause(s); however, it will generally not be longer than three years.

Proposed § 125.11–6(e) prescribes the provisions governing the scope of debarment. These provisions are essentially identical with those set forth in FPR Temporary Regulation 65. Included is the provision which states that the conduct of any officer, director, shareholder, partner, employee, or other individual associated with a contractor may be imputed to the contractor if the conduct occurred in connection with the duties done for the contractor, or with the contractor's knowledge, approval, or acquiescence. The purpose of this provision is to ensure that a contractor cannot hide behind the actions of others.

Proposed § 125.11–7 describes the causes, procedures, period and scope of suspension. These provisions are similar in nature to those of the debarment process.

Proposed § 125.11–7(a)(2) states that suspension is a serious action to be imposed on the basis of adequate evidence, pending the completion of investigation or legal proceedings, when immediate action is necessary to protect the government's interest. This section states that in determining the adequacy of the evidence, SBA will consider how much information is available, how credible it is given the circumstances, whether or not important allegations are corroborated, and what references can reasonably be drawn as a result. An examination of any basic documents or physical evidence will be included in an assessment of adequate evidence. The circumstances are important in determining if there is "adequate evidence."

Consistent with debarment, proposed § 125.11–7(a)(3) states that a suspension applies to all divisions or other organizational elements of the contractor, unless it is expressly limited to specific divisions, organizational elements, or commodities. The suspension may also be applied to affiliates in appropriate instances. Proposed § 125.11–7(a)(4) makes the suspension effective throughout the Executive Branch of the Government in the same manner as with debarments.

Proposed § 125.11–7(b) specifies the causes for suspension. These are the identical causes, with one additional cause, as those set forth in FPR Temporary Regulation 65. There must be adequate evidene of one of the causes for there to be a suspension. The offenses that are stated to be a cause for debarment in proposed § 125.11–6(b)(1) are also stated in proposed § 125.11–7(b) to be a cause for suspension. In addition, an indictment for any one of these offenses constitutes adequate evidence for suspension under proposed § 125.11–7(b)(2). Adequate evidence of any other serious or compelling matter that affects the responsibility of a contractor is also a cause for suspension under proposed § 125.11–7(b)(4). In addition, these proposed rules add another cause under proposed § 125.11–7(b)(3). Under the terms of that section, a serious violation of the terms of a Government contract or subcontract would be sufficient justification for a suspension, just as this would be a valid cause for debarment under proposed § 125.11–6(b)(2).

Proposed § 125.11–7(c) sets forth the procedures of the suspension process. These procedures are essentially the same as those provided for in FPR Temporary Regulation 65. The same referral and investigation procedures which apply for debarments under proposed § 125.11–6(c)(1) also apply to suspensions under proposed § 125.11–7(c)(1). Proposed § 125.11–7(c)(2) calls for an informal decisionmaking process which affords the contractor an opportunity to submit information and

argument in opposition to the suspension. Where SBA's debarring official determines that a dispute regarding material facts exists, the contractor may, upon request, appear before SBA's Office of Hearings and Appeals.

Proposed § 125.11–7(c)(3) states that a contractor and any named affiliates must immediately be given notice of any suspension. This section prescribes what is to be included in such notice. For example, the contractor must be advised that within 30 days after receipt of the notice he may submit information and argument in opposition to the suspension; and that additional proceedings to determine disputed facts material to the suspension will be conducted unless the action is based on an indictment or a determination is made, on the basis of Department of Justice advice, that substantial interests of government in pending or contemplated legal proceedings based on the same facts as the suspension would be prejudiced.

Proposed § 125.11–7(c)(4)(i) states that in actions based on an indictment in which no dispute over material facts is raised, or in which additional proceedings to determine disputed material facts have been denied based on Department of Justice advice, the suspending official's decision must be based on all the information in the administrative record, including submissions made by the contractor. In actions in which additional proceedings are necessary because of disputed facts, the suspending official must base his decision under proposed § 125.11–7(c)(4)(ii) on the written findings of fact, any information and argument submitted by the contractor, and any other information in the administrative record. The same rules which apply to debarments under proposed § 125.11–6(c)(4)(ii)(B) concerning referral of matters involving disputed material facts and rejection of such findings apply to suspensions under proposed § 125.11–7(c)(4)(ii)(B). The contractor is to be given prompt notice of the suspending official's decision under proposed § 125.11–7(c)(4)(iv).

Proposed § 125.11–7(d) sets forth the requirements governing the period of suspensions. These requirements are essentially the same as those set forth in FPR Temporary Regulation 65. Suspensions are intended to be only temporary in nature, generally lasting no longer than 12 months (but in no case longer than 18 months), and these regulations indicate that point.

Proposed § 125.11–7(e) states that the scope of suspension shall be the same as that for debarment, except that the procedures governing suspensions are imposed.

SBA has determined that these rules do not constitute major rules for the purpose of Executive Order 12291. They are procedural in nature and in and of themselves do not impose costs upon the businesses which might be affected by them. In addition, since these rules are procedural in nature, they do not constitute rules which are covered by the Regulatory Flexibility Act, 5 U.S.C. 501, *et seq.*

List of Subjects in 13 CFR Part 125

Government contracts, Government procurement, Small businesses.

Therefore, pursuant to the authority contained in section 5(b)(6) of the Small Business Act, 15 U.S.C. 634(b)(6), Part 125 of 13 CFR is proposed to be amended by adding the following new § 125.11 consisting of §§ 125.11–1 through 125.11–7.

Dated: December 6, 1983.

James C. Sanders,

Administrator.

PART 125—PROCUREMENT ASSISTANCE

* * * * *

Debarment and Suspension

Sec.

125.11 Debarment and suspension.
125.11–1 Scope.
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125.11–7 Suspension.

Authority: Sec. 5(b)(6), Small Business Act, 15 U.S.C. 634(b)(6).

Debarment and Suspension

§ 125.11 Debarment and Suspension.

§ 125.11–1 Scope.

(a) These regulations:

(1) Prescribe policies and procedures governing the debarment and suspension of contractors by SBA for the causes given in §§ 125.11–6(b) and 125.11–7(b);

(2) Provide for the listing of these debarred and suspended contractors, and of contractors declared ineligible (see the definition of "ineligible" in § 125.11–4); and

(3) Set forth the consequences of this listing.

(b) These regulations do not prescribe policies and procedures governing declarations of ineligibility. However, they do cover the listing of ineligible contractors and the effect of this listing.

§ 125.11–2 Applicability.

These regulations apply to contractors doing business directly with SBA. They do not apply to recipients of SBA financial or guarantee assistance.

§ 125.11–3 Policy.

(a) SBA shall solicit offers from, award contracts to, and consent to subcontracts with responsible business concerns and individuals only. Debarment and suspension by SBA are discretionary actions that, taken in accordance with these regulations, are appropriate means to effectuate this policy.

(b) The serious nature of debarment and suspension requires that these sanctions be imposed only in the public interest, for the Government's protection and not for purposes of punishment. SBA shall impose debarment or suspension to protect the Government's interest and only for the causes and in accordance with the procedures set forth in these regulations.

§ 125.11–4 Definitions.

"Adequate evidence" means information sufficient to support the reasonable belief that a particular act or omission has occurred.

"Affiliates." Business concerns or individuals are affiliates if, directly or indirectly, (a) either one controls or can control the other or (b) a third party controls or can control both.

"Agency," as used in these regulations means, SBA, or any other agency of the Executive Branch consistent with the context in which the term is used.

"Consolidated list of debarred, suspended, and ineligible contractors" means a list compiled, maintained, and distributed by the General Services Administration containing the names of contractors debarred or suspended by agencies under the procedures of OMB Policy Letter 82–1 (June 24, 1982), as well as contractors declared ineligible under other statutory or regulatory authority.

"Contractor," as used in these regulations, means any individual or other legal entity that: (a) submits offers for or is awarded, or reasonably may be expected to submit offers for or be awarded, a contract by SBA or a subcontract under a contract with SBA, or (b) conducts business with SBA as an agent or representative of another contractor.

"Conviction" means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.

"Debarment," as used in these regulations, means action taken by a debarring official under § 125.11–6 to exclude a contractor from Government contracting for a reasonable, specified period; a contractor so excluded is "debarred."

"Debarring official" means (a) the SBA Administrator or (b) a designee authorized by the SBA Administrator to impose debarment. That designated official is the SBA's Associate Administrator for Procurement and Technical Assistance.

"Indictment" means indictment for a criminal offense. An information or other filing by competent authority charging a criminal offense shall be given the same effect as an indictment.

"Ineligible," as used in these regulations, means excluded from Government contracting (and subcontracting, if appropriate) pursuant to statutory, Executive order, or regulatory authority other than these regulations; for example, the Davis-Bacon Act and its related statutes and implementing regulations, the Service Contract Act, the Equal Employment Opportunity Acts and Executive orders, the Walsh-Healey Public Contracts Act, the Buy American Act, and the Environmental Protection Acts and Executive orders.

"Legal Proceedings" means any civil judicial proceeding to which the Government is a party or any criminal proceeding. The term includes appeals from such proceedings.

"Preponderance of the evidence" means proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

"Suspending official" means (a) the SBA Administrator or (b) a designee authorized by the SBA Administrator to impose suspension. That designated official is SBA's Associate Administrator for Procurement and Technical Assistance.

"Suspension," as used in these regulations, means action taken by a suspending official under § 125.11–7 to disqualify a contractor temporarily from Government contracting; a contractor so disqualified is "suspended."

§ 125.11–5 Effect of listing.

(a) Contactors debarred or suspended under § 125.11–6 or 125.11–7, as well as those debarred or suspended pursuant to the appropriate procedures of any other agency, are excluded from receiving contracts, and SBA shall not solicit offers from, award contracts to, or consent to subcontracts with these contractors, unless SBA determines that there is a compelling reason for such action (see § 125.11–5 (e) and 125.11–6(a)(3) and 125.11–7(a)(4)).

(b) SBA will establish a list of its debarred or suspended contractors, and the Associate Administrator for Procurement and Technical Assistance will distribute this list to the General Services Administration within five working days after the action becomes effective.

(c) Contractors listed as having been declared ineligible on the basis of statutory or other regulatory procedures are excluded from receiving contracts and, if applicable; subcontracts, under the conditions and for the period set forth in the statute or regulation. SBA shall not solicit offers from, award contracts to, or consent to subcontracts with these contractors under those conditions and for that period.

(d) *Continuation of current contracts.* (1) Notwithstanding the listing of a contractor for the causes set forth in these regulations, SBA may continue contracts or subcontracts in existence at the time the contractor was debarred or suspended, unless SBA's Administrator directs otherwise. A decision as to the type of termination action, if any, to be taken will be made only after review by agency contracting and technical personnel and by counsel to ensure the propriety of the proposed action.

(2) SBA shall not renew current contracts or subcontracts of debarred or suspended contractors, or otherwise extend their duration, unless SBA's Administrator or the Associate Administrator for Procurement and Technical Assistance states in writing the compelling reasons for renewal or extension.

(e) *Restrictions on subcontracting.* When a debarred or suspended contractor is proposed as a subcontractor for any subcontract subject to SBA's consent, approval shall not be given unless the SBA Administrator or the Associate Administrator for Procurement and Technical Assistance states in writing the compelling reasons for this approval.

§ 125.11–6 Debarment.

(a) *General.* (1) The debarring official may, in the public interest, debar a contractor for any of the causes in paragraph (b), of this section using the procedures in paragraph (c) of this section. The existence of a cause for debarment under paragraph (b) of this section, however, does not necessarily *require* that the contractor be debarred; the seriousness of the contractor's acts or omissions and any mitigating factors will be considered in making any debarment decision.

(2) Debarment constitutes debarment of all divisions or other organizational elements of the contractor, unless the debarment decision is limited by its terms to specific divisions, organizational elements, or commodities. The debarring official may extend the debarment decision to include any affiliates of the contractor if they are (i) specifically named and (ii) given written notice of the proposed debarment and an opportunity to respond (see paragraph § 125.11–7(c)(3)).

(3) A contractor's debarment shall be effective throughout the Executive Branch of the Government, unless an acquiring agency's head or a designee states in writing the compelling reasons justifying continued business dealings between that agency and the contractor.

(b) *Causes for debarment.* The debarring official may debar a contractor for any of the causes listed in paragraphs (b)(1) through (3) of this section:

(1) Conviction of or civil judgment for—

(i) Commission of fraud or a criminal offense in connection with (A) obtaining, (B) attempting to obtain, or (C) performing a public contract or subcontract;

(ii) Violation of Federal or State antitrust statutes relating to the submission of offers;

(iii) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or

(iv) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of a Government contractor or subcontractor.

(2) Violation of the terms of a Government contract or subcontract so serious as to justify debarment, such as—

(i) Willful failure to perform in accordance with the terms of one or more contracts; or

(ii) A prolonged history of failure to perform, or of extremely unsatisfactory performance of, one or more contracts.

(3) Any other cause so serious or compelling that it affects the present responsibility of a Government contractor or subcontractor.

(c) *Procedures*—(1) *Investigation and referral.* Whenever cause for debarment becomes known to a contracting officer, the matter shall be referred through the Assistant Administrator for Administration to the Associate Administrator for Procurement and Technical Assistance. Information

concerning actual or suspected fraudulent or criminal conduct and other irregularities which might serve as the basis for debarment of a concern or an individual should be forwarded by the Associate Administrator for Procurement and Technical Assistance to SBA's Office of Inspector General. Upon receipt of such reports, or upon otherwise becoming aware of such actual or suspected conduct and irregularities, the Office of Inspector General will conduct, supervise, or coordinate such investigation as that Office deems necessary and, pursuant to any such investigation, will forward a report or findings to the Associate Administrator for Procurement and Technical Assistance.

(2) *Decisionmaking process.* (i) SBA has established procedures governing the debarment decisionmaking process that are as informal as practicable, consistent with principles of fundamental fairness and due process of law. These procedures afford the contractor (and any specifically named affiliates) an opportunity to submit, in person, in writing, or through a representative, information and argument in opposition to the proposed debarment.

(ii) In actions not based upon a conviction or judgment, if it is found that the contractor's submission in opposition raises a genuine dispute over facts material to the proposed debarment, SBA shall also—

(A) Afford the contractor an opportunity to appear with counsel before SBA's Office of Hearings, and Appeals, submit documentary evidence, present witnesses, and confront any person the agency presents; and

(B) Make a transcribed record of the proceedings and make it available at cost to the contractor upon request, unless the contractor and the agency, by mutual agreement, waive the requirement for a transcript.

(3) *Notice of proposal to debar.* Debarment shall be initiated by advising the contractor and any specifically named affiliates, by certified mail, return receipt requested—

(i) That debarment is being proposed;

(ii) Of the reasons for the proposed debarment in terms sufficient to put the contractor on notice of the conduct or transaction(s) upon which it is based;

(iii) Of the cause(s) relied upon under § 125.11–6(b) for proposing debarment;

(iv) That, within 30 days after receipt of the notice, the contractor may submit, in person, in writing, or through a representative, information and argument in opposition to the proposed debarment, including any additional specific information that raises a genuine dispute over the material facts;

(v) Of SBA's procedures governing debarment decisionmaking;

(vi) Of the potential effect of the proposed debarment; and

(vii) If no suspension is in effect under § 125.11–7, that no contracts will be awarded to the contractor pending a debarment decision.

(4) *Debarring official's decision.* (i) In actions based upon a conviction or judgment, or in which there is no genuine dispute over material facts, the debarring official shall make a decision on the basis of all the information in the administrative record, including any submission made by the contractor. If no suspension is in effect under § 125.11–7, the decision shall be made within 30 working days after receipt of any information and argument submitted by the contractor, unless the debarring official extends this period for good cause.

(ii)(A) In actions in which additional proceedings are necessary as to disputed material facts, written findings of fact shall be prepared. The debarring official shall base the decision on the facts as found, together with any information and argument submitted by the contractor and any other information in the administrative record.

(B) The debarring official shall refer matters involving disputed material facts to SBA's Office of Hearings and Appeals for findings of fact. The debarring official may reject any such findings, in whole or in part, only after specifically determining them to be clearly erroneous.

(C) The debarring official's decision shall be made after the conclusion of the proceedings with respect to disputed facts.

(iii) In any action in which the proposed debarment is not based upon a conviction or civil judgment, the cause for debarment must be established by a preponderance of the evidence.

(5) *Notice of debarring official's decision.* (i) If the debarring official decides to impose debarment, the contractor and any affiliates involved shall be given prompt notice by certified mail, return receipt requested—

(A) Referring to the notice of proposed debarment;

(B) Specifying the reasons for debarment;

(C) Stating the period of debarment, including effective dates (see § 125.11–6(d) of this section); and

(D) Advising that the debarment is effective throughout the Executive Branch of the Government unless the head of an acquiring agency or a designee makes the statement called for by paragraph (a)(3) of this section.

(ii) If debarment is not imposed, the debarring official shall promptly notify the contractor and any affiliates involved, by certified mail, return receipt requested.

(d) *Period of debarment.* (1) Debarment shall be for a period commensurate with the seriousness of the cause(s). Generally, a debarment should not exceed 3 years. If suspension precedes a debarment, the suspension period shall be considered in determining the debarment period.

(2) The debarring official may extend the debarment for an additional period, if that official determines that an extension is necessary to protect the Government's interest. However, a debarment may not be extended solely on the basis of the facts and circumstances upon which the initial debarment action was based. If debarment for an additional period is determined necessary, the procedures of paragraph (c) of this section shall be followed to extend the debarment.

(3) The debarring official may reduce the period or extent of debarment, upon the contractor's request, supported by documentation, for reasons such as—

(i) Newly discovered material evidence;

(ii) Reversal of the conviction or judgment upon which the debarment was based;

(iii) Bona fide change in ownership or management;

(iv) Elimination of other causes for which the debarment was imposed; or

(v) Other reasons the debarring official deems appropriate.

(e) *Scope of debarment.* (1) The fraudulent, criminal, or other seriously improper conduct of any officer, director, shareholder, partner, employee, or other individual associated with a contractor may be imputed to the contractor when the conduct occurred in connection with the individual's performance of duties for or on behalf of the contractor, or with the contractor's knowledge, approval, or acquiescence. The contractor's acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.

(2) The fraudulent, criminal, or other seriously improper conduct of a contractor may be inputed to any officer, director, shareholder, partner, employee, or other individual associated with the contractor who participated in, knew of, or had reason to know of the contractor's conduct.

(3) The fradulent, criminal, or other seriously improper conduct of one

contractor participating in a joint venture or similar arrangement may be imputed to other participating contractors if the conduct occurred for or on behalf of the joint venture or similar arrangement or with the knowledge, approval, or acquiescence of these contractors. Acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.

§ 125.11-7 Suspension.

(a) *General.* (1) The suspending official may, in the public interest, suspend a contractor for any of the causes in paragraph (b) of this section using the procedures in paragraph (c) of this section.

(2) Suspension is a serious action to be imposed on the basis of adequate evidence, pending the completion of investigation or legal proceedings, when it has been determined that immediate action is necessary to protect the Government's interest. In assessing the adequacy of the evidence, SBA will consider how much information is available, how credible it is given the circumstances, whether or not important allegations are corroborated, and what references can reasonably be drawn as a result. This assessment will include an examination of basic documents such as contracts, inspection reports, and correspondence.

(3) Suspension constitutes suspension of all divisions or other organizational elements of the contractor, unless the suspension decision is limited by its terms to specific divisions, organizational elements, or commodities. The suspending official may extend the suspension decision to include any affiliates of the contractor if they are (i) specifically named and (ii) given written notice of the suspension and an opportunity to respond (see paragraph (c)(3) of this section).

(4) A contractor's suspension shall be effective throughout the Executive Branch of the Government, unless an acquiring agency's head or a designee states in writing the compelling reasons justifying continued business dealings between that agency and the contractor.

(b) *Causes for suspension.* (1) The suspending official may suspend a contractor suspected, upon adequate evidence, of—

(i) Commission of fraud or a criminal offense in connection with (A) obtaining (B) attempting to obtain, or (C) performing a public contract or subcontract;

(ii) Violation of Federal or State antitrust statutes relating to the submission of offers;

(iii) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or

(iv) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of a Government contractor or subcontractor.

(2) Indictment for any of the causes in paragraph (1) above constitutes adequate evidence for suspension.

(3) Violation of the terms of a Government contract or subcontract so serious as to justify suspension, such as—

(i) Willful failure to perform in accordance with the terms of one or more contracts; or

(ii) A prolonged history of failure to perform or of extremely unsatisfactory performance of, one or more contracts.

(4) The suspending official may upon adequate evidence also suspend a contractor for any other cause so serious or compelling that it affects the present responsibility of a Government contractor or subcontractor.

(c) *Procedures.*—(1) *Investigation and referral.* Whenever cause for suspension becomes known to a contracting officer, the matter shall be referred through the Assistant Administrator for Administration to the Associate Administrator for Procurement and Technical Assistance. Information concerning actual or suspected fraudulent or criminal conduct and other irregularities which might serve as the basis for suspension of a concern or an individual should be forwarded by the Associate Administrator for Procurement and Technical Assistance to SBA's Office of Inspector General. Upon receipt of such reports, or upon otherwise becoming aware of such actual or suspected conduct and irregularities, the Office of Inspector General will conduct, supervise, or coordinate such investigation as that Office deems necessary and, pursuant to any such investigation, will forward a report or findings to the Associate Administrator for Procurement and Technical Assistance.

(2) *Decisionmaking process.* (i) SBA has established procedures governing the suspension decisionmaking process that are as informal as is practicable, consistent with principles of fundamental fairness and due process. These procedures afford the contractor (and any specifically named affiliates) an opportunity, following the imposition of suspension, to submit, in person, in writing or through a representative, information and argument in opposition to the suspension.

(ii) In actions not based on an indictment, if it is found that the contractor's submission in opposition raises a genuine dispute over facts material to the suspension and if no determination has been made, on the basis of the Department of Justice advice, that substantial interests of the Government in pending or contemplated legal proceedings based on the same facts as the suspension would be prejudiced, SBA will also—

(A) Afford the contractor an opportunity to appear with counsel before SBA's Office of Hearings and Appeals, submit documentary evidence, present witnesses and confront any person SBA presents; and

(B) Make a transcribed record of the proceedings and make it available at cost to the contractor upon request, unless the contractor and the agency, by mutual agreement, waive the requirement for a transcript.

(3) *Notice of suspension.* When a contractor and any specifically named affiliates are suspended, they shall be immediately advised by certified mail, return receipt requested—

(i) That they have been suspended and that the suspension is based on an indictment or other adequate evidence that the contractor has committed irregularities (A) of a serious nature in business dealings with the Government or (B) seriously reflecting on the propriety of further Government dealings with the contractor; any such irregularities shall be described in terms sufficient to place the contractor on notice without disclosing the Government's evidence;

(ii) That the suspension is for a temporary period pending the completion of an investigation and such legal proceeding as may ensue;

(iii) Of the cause(s) relied upon under subsection 125.11-7(b) for imposing suspension;

(iv) Of the effect of the suspension;

(v) That, within 30 days after receipt of the notice, the contractor may submit, in person, in writing or through a representative, information and argument in opposition to the suspension, including any additional specific information that raises a genuine dispute over material facts; and

(vi) That additional proceedings to determine disputed material facts will be conducted unless (A) the action is based on an indictment or (B) a determination is made, on the basis of Department of Justice advice, that the substantial interests of the Government in pending or contemplated legal

proceedings based on the same facts as the suspension would be prejudiced.

(4) *Suspending official's decision.* (i) In actions (A) based on an indictment, (B) in which the contractor's submission does not raise a genuine dispute over material facts; or (C) in which additional proceedings to determine dispute material facts have been denied on the basis of Department of Justice advice, the suspending official's decision shall be based on all the information in the administrative record, including any submission made by the contractor.

(ii)(A) In actions in which additional proceedings are necessary as to disputed material facts, written findings of fact shall be prepared. The suspending official shall base the decision on the facts as found, together with any information and argument submitted by the contractor and any other information in the administrative record.

(B) The suspending official shall refer matters involving disputed material facts to SBA's Office of Hearings and Appeals for findings of fact. The suspending official may reject any such findings, in whole or in part, only after specifically determining them to be clearly erroneous.

(C) The suspending official's decision shall be made after the conclusion of the proceedings with respect to disputed facts.

(iii) The suspending official may modify or terminate the suspension or leave it in force (for example, see paragraph (d)(3) of this section for the reasons for reducing the period or extent of debarment). However, a decision to modify or terminate the suspension shall be without prejudice to the subsequent imposition of suspension by any agency or the imposition of debarment by any agency.

(iv) Prompt written notice of the suspending official's decision shall be sent to the contractor by certified mail, return receipt requested.

(d) *Period of suspension.* (1) Suspension shall be for a temporary period pending the completion of investigation and any ensuing legal proceedings, unless sooner termination by the suspending official or as provided in this paragraph.

(2) If legal proceedings are not initiated within 12 months after the date of the suspension notice, the suspension shall be terminated unless an Assistant Attorney General requests its extension, in which case it may be extended for an additional 6 months. In no event may a suspension extend beyond 18 months, unless legal proceedings have been initiated within that period.

(3) The suspending official shall notify the Department of Justice of the proposed termination of the suspension, at least 30 days before the suspension period is to expire, to give that Department an opportunity to request an extension.

(e) *Scope of suspension.* The scope of suspension shall be the same as that for debarment (see § 125.11–6(e)), except that the procedures of paragraph (c), of this section shall be used in imposing suspension.

[FR Doc. 84–1388 Filed 1–18–84; 8:45 am]
BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 84–ASW–2]

Proposed Designation of Transition Area; Carlisle, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes to designate a transition area at Carlisle, AR. The intended effect of the proposed action is to provide controlled airspace for aircraft executing a new standard instrument approach procedure (SIAP) to the Carlisle Municipal Airport. This action is necessary since a new SIAP utilizing the Little Rock VORTAC is being developed and the proposed 700-foot transition area will provide protection for aircraft arriving/departing the airport under instrument flight rules (IFR). Coincident with this proposed action, the airport will change from visual flight rules (VFR) to IFR.

DATES: Comments must be received on February 21, 1984.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW–535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 877–2630.

SUPPLEMENTARY INFORMATION:

History

Federal Aviation Regulation Part 71, Subpart G 71.181 as republished in Advisory Circular AC 70–3A dated January 3, 1983, contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Designation of the transition area at Carlisle, AR, will necessitate an amendment to this subpart. This amendment will be required at Carlisle, AR, since there is a proposed SIAP to the Carlisle Municipal Airport utilizing the Little Rock VORTAC.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 84–ASW–2." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O.

Box 1689, Fort Worth, TX 76101, or by calling (817) 877-2630. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

List of Subjects in 14 CFR Part 71

Control zones, Transition areas, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Carlisle, AR New

That airspace extending upwards from 700 feet above the surface within a 6.5-mile radius of the Carlisle Municipal Airport (latitute 34°48'30"N., longitude 91°42'45"W.)

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.61(c).)

Note.—The FAA has determined that this regulation only involve an established body of technical regulations for which frequent and routine amendments are necesary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on January 10, 1984.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 84-1405 Filed 1-18-84; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 373 and 376

[Docket No. 40110-04]

Amendments to Distribution License Procedure

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Proposed rule with request for comments.

SUMMARY: The Office of Export Administration (OEA) proposes to amend the "Distribution License" procedure, an authorization to export certain commodities under an international marketing program to consignees that have been approved in advance as foreign distributors or users. OEA has determined that these regulatory changes, as well as the institution of an extensive program of audits of Distribution License holders and consignees, will better assure this licensing procedure does not result in illegal diversion contrary to U.S. national security. This rule would require submission of a more complete description of the commodities to be exported under a Distribution License. This rule also would ensure that exporters applying for a Distribution License has sufficient experience with basic licensing procedures and sufficient oveseas business to comply fully with the Distribution License procedure. Before these proposed changes are published in final form, OEA will determine which will apply to existing Distribution Licenses and which will apply only to new applications or license renewals.

OEA is reviewing some items on the Commodity Control List (Supplement No. 1 to § 399.1 of the Regulations) for possible exclusion from the Distribution License procedure. This rule proposes to exclude some such items for all destinations except those included in Supplement No. 2 to Part 373 of the Regulations.

The proposed rule modifies the provisions dealing with direct shipments to customers of approved consignees by limiting such shipments to the country in which the consignee is located. This rule also proposes to eliminate the provision that allows approved distributors to make shipments under the permissive reexport provisions of § 374.2 of the Regulations.

The public is invited to make specific comments on each proposed change, and to specify and substantiate anticipated workload impact and economic impact for each proposed change. Comments should specify no only the impact if the proposed changes are applied retroactively to all existing Distribution Licenses, but also the impact if the proposed changes are applied only to new license applications and to license extensions and renewals.

DATE: Comments must be received by February 21, 1984.

ADDRESS: Written comments (six copies when possible) should be sent to: Procedures Branch, Office of Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, D.C. 20044. Mark "COMMENTS" on the face of the envelope.

FOR FURTHER INFORMATION CONTACT: Vincent Greenwald, Office of Export Administration (Telephone: (202) 377-3856).

SUPPLEMENTARY INFORMATION: The period for submission of comments will close Febraury 21, 1984. All comments received before the close of the comment period will be considered by the Department in the Development of final regulations. While comments received after the end of the comment period will be considered if possible, their consideration cannot be assured. Public comments will become a matter of public record. Comments that are accompanied by a request that the information be treated confidentially because of its business proprietary nature or for any other reason will be accepted on the conditions described below.

Public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, comments in written form are preferred. If oral comments are received, they must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 4001-B, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling (201) 377-3031.

The Office of Export Administration (OEA) is especially interested in receiving comments on the business and economic effects of the proposed regulations. Because providing such comments may involve the disclosure of proprietary business information, OEA

will accept comments on a confidential basis.

Persons may request confidential treatment for their comments involving proprietary information on paperwork burden, lost sales, or any other aspects of the business or economic impact of the proposed regulations. The request must include a full statement of the reasons why confidential treatment should be granted. The business or financial information for which confidential treatment is requested should be submitted to OEA on sheets of paper separate from any nonconfidential information submitted. The top of each page should be marked with the term "Confidential Business Information." OEA will either accept the submission in confidence or, if the submission fails to meet the standards for confidential treatment, will return it.

A nonconfidential summary must accompany each submission of confidential information. The summary will be made available for public inspection.

Information accepted by OEA as privileged under section 12(c) of the Export Administration Act and subsections (b) (3) or (4) of the Freedom of Information Act (5 U.S.C. 552(b) (3) and (4)) will be kept confidential and will not be available for public inspection, except according to law.

This rule proposes to establish a requirement that a foreign consignee submit a listing of countries in which U.S.-origin commodities received under the Distribution License will be sold (including names and addresses of customers); the listing will be updated quarterly. The Office of Export Administration has submitted this proposal to the Office of Management and Budget (OMB) for review under Section 3504(h) of the Paperwork Reduction Act of 1980. The public is invited to submit comments on this proposed reporting requirement to the Office of Information and Regulatory Affairs of OMB, New Executive Office Building, Washington, D.C. 20503, Attention: Desk Officer of International Trade Administration.

List of Subjects in 15 CFR Parts 373 and 376

Exports.

Accordingly, the Office of Export Administration proposes to amend the Export Administration Regulations (15 CFR Parts 368–399) as follows:

PART 373—[AMENDED]

§ 373.1 [Amended]

1. Section 373.1 is amended by adding the following sentence to the end of the first (undesignated) paragraph—

"* * * Improper use or failure to comply with the conditions of any special licensing procedure described in this Part 373 may, in addition to any enforcement action, result in the loss of export privileges under that licensing procedure."

2. In § 373.3, that part of paragraph (c)(1)(ii) that appears before (*a*), paragraphs (c)(1)(iii), (c)(2), and (d)(3)(ii) (D) and (G) are revised; and pargraphs (c) (4) and (5), and (d)(3)(iii) (A) and (B) are added, reading as follows:

§ 373.3 Distribution license.

* * * * *

(c) *Eligible exporters and consignees.*

(1) * * *

(ii) An agent, representative, or any other person or firm distributing the commodities to be exported under this license pursuant to a written agreement, either with the U.S. exporter or its wholly-owned subsidiary, that has been in effect for at least one year and that—

* * * * *

(iii) An end-user importing the commodities for his own use or for use in the production or manufacture of commodities, who has been importing from the U.S. exporter for at least one year.

* * * * *

(2) Prerequisite experience and volume of business. In order to be considered for a Distribution License, a new applicant must have received approval from OEA for at least fifty individual validated export licenses during the 12 months before applying for a Distribution License. These fifty individual validated licenses must have covered exports to countries that will be receiving U.S. exports under the Distribution License (see § 373.3(a)(1)).

* * * * *

(4) Unless a distributor meets the qualifications for reexports contained in § 373.3(i), no commodities received by an approved consignee under a Distribution License may be reexported without specific prior written approval from OEA. The written approval may be included on the validated Distribution License, a validated form ITA–6052, or a validated form ITA–699P. In addition, no commodity received by an approved consignee under this License may be resold or reexported to any person located in any country *not* listed in Supplement No. 2 to Part 373, until the consignee has obtained the following certification from the purchaser:

We (*purchasers*) understand that the commodities obtained from (*name of distributor*) were authorized for export by the U.S. Government under a special Distribution Licensing procedure on the condition that such commodities would not be reexported without specific prior written approval of the U.S. Government. Accordingly, we acknowledge that the commodities obtained under (*order No., contract No., etc.*) will not be reexported from (*name of country*) without such approval.

Such certifications must be retained by the approved consignee for a period of two years after the sales transaction. Consignee may be required to submit such certifications for inspection or audit by OEA. When a continual business relationship is anticipated, the certification may be modified to apply to all transactions, may be valid through the normal validity and extension period of the license, and shall be retained for two years beyond that period.

(5) Notification of special restricitons. It is the responsibility of the exporter to notify all consignees of any special conditions or restricitons applicable to goods received under a Distribution License.

* * * * *

(d) * * *

(3) * * *

(ii) * * *

* * * * *

(D) List separately on the application, or on an attachment, a general description of each type of commodity to be exported, the appropriate Export Control Commodity Number from the Commodity Control List (CCL) (Supplement No. 1 to § 399.1) for each, and the appropriate paragraph designation—(a), (a)(1), (a)(1)(i), etc.—under the Export Control Commodity Number. Only commodities included in a CCL entry specifically listed on the application and approved by OEA may be exported under a Distribution License. (The listing of the CCL entries by Export Control Commodity Number and aragraph designation will generally constitute a sufficient description of the commodities being shipped. However, the exporter is encouraged to include as specific a description as possible in order to speed up the processing of the application.) OEA may impose more specific limits on the commodities covered by the license.

* * * * *

(G) Leave blank item 9(a), "Quantity," the processing code under item 9(c), and item 9(d), "Unit Price" and "Total Price."

* * * * *

(iii) * * *

(A) Listing of customers. With each form ITA–6052, attach a listing of the countries in which the foreign consignee wishes to sell U.S.-origin commodities received under the Distribution License. This listing shall include the country in which the foreign consignee is located *and* the countries in the consignee's authorized sales territory, giving for each such country the names and addresses of every customer to which the distributor expects to sell. (Changes to this listing shall be submitted quarterly.) This listing is *not* required for customers located in countries listed in Supplement No. 2 to Part 373, nor is it required of end-users as described in § 373.3(c)(1)(iii).

(B) Certification of sales territory. The ultimate consignee(s) listed in item 7 of the license application (or on the attached sheet) must submit written certification on the Form ITA–6052, or on a separate attachment, of (*1*) at least 6 sales during the previous year within each country in the assigned sales territory, or (*2*) an average of 6 sales per year over the preceding 3 years within each country in that territory. Each time that a particular Distribution License is extended, the consignee must submit a written statement certifying the continued authenticity of the assigned sales territory and evidence that sufficient sales are anticipated in that territory to justify the extension of a Distribution License authorization.

* * * * *

3. Paragraph (e) of § 373.3 is amended by redesignating paragraphs (1), (2) and (3) as (2), (3) and (4) respectively, and by adding a new (e)(1); paragraph (f) is amended by adding a sentence to the end of (f)(1), changing the final period in (f)(2)(ii) to a semicolon and adding the word "and", and adding paragraphs (f)(2) (iii) and (iv), reading as follows:

§ 373.3 Distribution license.

* * * * *

(e) *Action on license applications.* (1) Pre-approval review. The Distribution License procedure authorizes multiple export transactions without a review and approval of each individual transaction by OEA. Thus, before approving such a License, OEA must be fully satisfied that the persons benefiting from this special licensing procedure can be relied upon to adhere to the conditions of the license and the Regulations, and that the approval of the application will not be detrimental to U.S. interests. To permit OEA to make such judgments, each application will be reviewed by OEA and OEE to establish the reliability of the parties to the license. Such review may entail an audit of past export transactions, inspection of documents, and interviews in the United States and abroad. If OEA cannot verify the appropriateness of this special licensing procedure or establish the reliability of the proposed parties to the license, it may deny the application or modify it by eliminating persons from the application or by removing certain commodities or countries included in the application. However, failure to obtain approval to participate in this special licensing procedure does not preclude the filing of an application for an individual validated license or reexport authorization.

* * * * *

(f) *Action on Form ITA–6052.* (1) Validation. * * * OEA will advise the exporter if any customers on the attached list (see § 373.3(d)(3)(iii)(A)) are not acceptable recipients of U.S.-origin commodities.

(2) * * *

(iii) Advise the consignee that he may not resell or reexport any commodities received under the Distribution License in countries *not* listed in Supplement No. 2 to Part 373 until the purchaser has furnished the certification required by § 373.3(c)(4); and

(iv) Advise the consignee of any customers listed on the attachment to Form ITA–6052 that have been found unacceptable by OEA. This notification should advise the consignee to submit to OEA quarterly lists of any changes in customers, and also make clear that the consignee does not need to report and await OEA approval *before* making sales to new customers. Customers may be added at any time, as long as they are listed in the next quarterly submission, and sales to listed customers may continue unless the distributor is specifically notified that a customer is unacceptable.

* * * * *

4. Paragraph (i)(4) of § 373.3 is removed, and paragraph (j) is amended by removing the phrase "or to a customer in another country who has been authorized to receive reexports under the provisions of § 373.3(i)" in the first sentence, and by adding a last sentence reading as follows: "in addition, if the shipment is to a country of destination *not* listed in Supplement No. 2 to Part 373, the certification described in § 373.3.(c)(4) must be obtained by the consignee before the shipment of the commodities."

5. Paragraph (k)(1) of § 373.3 is amended by inserting the following sentence at the beginning of the undesignated flush paragraph following the indented certification:

"In addition, the exporter shall submit a certification of sales territory (see paragraph (d)(3)(iii)(B) of this section)."

6. Paragraph (k)(1) of § 373.3 is amended by inserting a new next-to-last sentence to paragraph (iii), reading as follows:

"* * * In addition, before an extension can be granted, the ultimate consignee must submit the certification required by paragraph (d)(3)(iii)(B) of this section. * * *"

7. Paragraph (l) of § 373.3 is amended by adding a paragraph (4)(i), reading as follows:

§ 373.3 Distribution license.

* * * * *

(l) *Records*

* * * * *

(4) *Inspection of records.*

* * * * *

(i) The records of both U.S. exporters and approved consignees will be audited by OEA at regular intervals. As part of the audit procedure, a consignee may be required on occasion to submit to OEA a listing of all sales under this License during the previous month.

* * * * *

8. The following entries are added/revised in Supplement No. 1 to Part 373, "Commodities Excluded from Certain Special License Procedures," *each with a footnote* reading "Distribution License is available for shipment to countries listed in Supplement No. 2 to Part 373." : Entry 1355 is added between 3336 and 1357; entry 1522 is revised, and an entry 1529 is added immediately following it; entry 1564 is added (following 1555), and an additional entry 1565 is added following the present two entries numbered 1565; and entries 1572 and 1584 are added between 1570 and 1585, reading as follows:

§ 373.3 Distribution license.

* * * * *

Supplement No. 1—Commodities Excluded from Certain Special License Procedures

* * * * *

1355 sub-entries (b)(1)(ii), (iii), (v) and (x), (b)(2), and (b)(6)(ii) only.

Semiconductor material processing equipment; crystal pullers that are rechargeable without opening, or that are magnetic, or that are computer controlled; molecular beam epitaxial growth equipment; electron beam systems; all masks and mask-making equipment, *except*:

Hard surface coated substrates defined in paragraph (b)(2)(ii);

Photo-optical mask fabrication equipment defined in paragraph (b)(2)(v) that does not exceed the performance capabilities of U.S.-designed photolithographic step and repeat cameras and pattern generator systems

introduced in volume into the market before December 31, 1976;

Manual types of mask inspection equipment defined in paragraph (b)(2)(vi);

Photo-optical Contact and Proximity mask align and expose equipment defined in paragraph (b)(2)(vii), and projection aligners that can produce useful pattern sizes no finer than 3 micrometers; and

Contact image transfer equipment defined in paragraph (b)(2)(x).

Microcircuit and microcircuit assemblies test equipment defined in paragraph (b)(6)(ii), *except*:

Analog test equipment for TV, OP amps and voltage regulators; A/D and D/A circuit test equipment; and

Digital test equipment with test data rates of 10 MHz or less defined in paragraph (b)(6)(ii).

* * * * *

1522 Lasers and laser systems and specially designed components and parts therefor, as follows: machine tools containing or which are designed to contain lasers described on the Commodity Control List under entry 1522A, single aperture lasers with an output greater than one thousand joules per nanosecond, and tunable diode lasers.

1529 Cesium frequency standards.

Instruments designed for use at frequencies greater than 26 GHz, and capable of being controlled by an external signal.

FFT signal analyzers with "zoom" capabilities having a resolution better than .02 Hz.

* * * * *

1564 Semiconductor devices that have a high-speed processing capability with a functional throughout rate of greater than 5×10^{11} gate-Hz/cm^2.

1565 * * *

1565 * * *

1565 Home personal and small business computers having an XPDR greater than 30 Mbps; specialized processing units that have an "equivalent multiply rate" in excess of 2 million (product) operations per second. (*See § 376.10(a)(4)(xxiv) for the definition of "equivalent multiply rate."*)

1572 All electron beam recorders.

Analog recorders with the following characteristics:

Bandwidth greater than 2 MHz for longitudinal machines and video machines modified for transient free recording.

Specifically desinged for underwater use.

Tape speed greater than 120 ips, consistent with limits imposed on bandwidth.

Having 28 recording channels.

A time basis error better than ± .2 microseconds, consistent with limits imposed on bandwidth.

High density digital recorders having a density of 16K flux reversals per inch or greater (one flux reversal = 1 bit).

1584 Cathode ray oscilloscopes having amplifier bandwidths greater than 350 MHz.

Oscilloscopes hving cathode-ray tubes incorporating microchannel plate electron multipliers capable of operating at frequencies greater than 1000 MHz.

Digital oscilloscopes with sequential sampling of the input signal at an interval of less than 2 nanoseconds.

PART 376—[AMENDED]

9. Section 376.10 is amended by adding paragraphs (a)(4) (xxv) and (xxvi), reading as follows:

§ 376.10 Electronic computers and related equipment.

(a) *Digital computers.*

* * * * *

(4) *Definitions of terms.*

* * * * *

(xxv) "Equivalent multiply rate" is defined as the greater number of multiplication operations that can be performed per second, neglecting setup or pipeline filling operations. This rate is based on the maximum rate achievable fully utilizing all hardware architectural features (including multiple or staged (pipelined) arithmetic units); assuming optimal operand lengths of 16 bits or greater and optimal operand locations in the "most immediate memory"; and ignoring initialization, interrupts, and data reordering times:

(*a*) If the basic multiplication operation includes multiple simultaneous multiplications either because of complicated computational arithmetic operations (complex multiplication, convolution, recursive filtering) or parallel pipelining, the "equivalent multiply rate" is the basic multiply rate times the number of multiplies that can be performed simultaneously;

(*b*) If multiple arithmetic units are used within a single processing unit, the "equivalent multiply rate" is the "equivalent multiply rate" of one unit multiplied by the number of units;

(*c*) If multiple processing units of the same or different types (*e.g.*, array processor, image enhancement processor) are contained in a system, the "equivalent multiply rate" is the sum of the "equivalent multiply rates" of each of the processing units.

(xxvi) "Most immediate memory" is defined as the portion of "main memory" most directly accessible by the central processing unit:

(*a*) For single level "main memories," the "most immediate memory" is the internal memory;

(*b*) For hierarchical "main memories," the "most immediate memory" is

(*1*) The cache memory,

(*2*) The instruction stack, or

(*3*) The data stack.

* * * * *

(Secs. 4, 5, 13 and 15, Pub. L. 96–72, 93 Stat. 503 as amended, 50 U.S.C. app. 2401 *et seq.*; Executive Order No. 12214 (45 FR 29783, May 6, 1980); Executive Order No. 12451 of December 20, 1983 (48 FR 56563, December 22, 1983)

Dated: January 16, 1984.

John K. Boidock,

Director, Office of Export Administration, International Trade Administration.

[FR Doc. 84–1537 Filed 1–18–84; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 20

Financial Assistance and Social Services Program

January 13, 1984.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule, correction and extension of comment period.

SUMMARY: The Bureau of Indian Affairs is correcting an inadvertent error in a proposed rule which was published on Wednesday, January 11, 1984 (FR Doc. 84–647) on page 49 FR 1381 relating to the financial assistance and social services program. Because of the correction the comment period is extended.

DATES: Comments must be received on or before February 21, 1984.

ADDRESS: Written comments should be addressed to: Chief, Division of Social Services, Bureau of Indian Affairs, 1951 Constitution Avenue, N.W., Washington, D.C. 20245.

SUPPLEMENTARY INFORMATION: The Bureau of Indian Affairs is correcting a proposed rule which was published in the **Federal Register** on Wednesday, January 11, 1984 (FR Doc. 84–647) on page 1381 by removing the following language under the third paragraph of the Supplementary Information portion of the Preamble: "However, since the general assistance program is federally funded, the Bureau, to avoid placing excessive hardship on recipients, is proposing a 'floor' or minimum payment level of not less than one-third of the national poverty levels as established annually by the Department of Commerce. Also," The following phrase is also removed from § 20.1(s): "except that no payment level shall be less than one-third of the national annual poverty level as published by the U.S. Department of Commerce."

John W. Fritz,

Deputy Assistant Secretary, Indian Affairs (Operations).

[FR Doc. 84–1233 Filed 1–18–84; 8:45 am]

BILLING CODE 4310-02-M

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 901

Reopening and Extension of Public Comment Period on Proposed Amendment to the Alabama Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Reopening and Extension of Public Comment Period.

SUMMARY: On August 29, 1983, the Alabama Surface Mining Commission (ASMC) submitted to OSM a set of statutory and regulatory amendments intended, in part, to meet most of the Secretary of the Interior's conditions of approval on the Alabama State program approved under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). On September 28, 1983, OSM published a notice in the **Federal Register** announcing receipt and invited public comment on the adequacy of the proposed amendment (48 FR 44233–44236). The public comment period ended on October 28, 1983.

A review of Alabama's proposed amendment by OSM identified several concerns relating to records of blasting operations and Alabama's small operator assistance program. OSM notified the ASMC about its concerns and on December 22, 1983, ASMC responded by submitting modifications to its proposed amendment.

Accordingly, OSM is hereby reopening and extending the comment period on Alabama's August 29, 1983 proposed amendment as modified on December 22, 1983. This action is being taken in order to provide the public an opportunity to reconsider the adequacy of Alabama's proposed amendment as modified by the State.

DATE: Written comments, data or other relevant information relating to this rulemaking not received on or before 4:00 p.m. February 3, 1984 will not necessarily be considered.

ADDRESSES: Written comments should be mailed or hand delivered to: John T. Davis, Director, Birmingham Field Office, Office of Surface Mining Reclamation and Enforcement, 228 West Valley Avenue, 3rd Floor, Homewood, Alabama 35209.

Copies of the Alabama program, a listing of any scheduled public meetings, and all written comments received in response to this notice will be available for review at the OSM and State regulatory authority offices listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Room 5315, 1100 L Street, N.W., Washington, D.C. 20240

Office of Surface Mining Reclamation and Enforcement, 228 West Valley Avenue, 3rd Floor, Homewood, Alabama 3520

Alabama Surface Mining Commission, Central Bank Building, 2nd Floor, 811 Second Avenue, Jasper, Alabama 35501

FOR FURTHER INFORMATION CONTACT: John T. Davis, Director, Birmingham Field Office, Office of Surface Mining Reclamation and Enforcement, 228 West Valley Avenue, 3rd Floor, Homewood, Alabama 35209; Telephone: (205) 254–0890.

SUPPLEMENTARY INFORMATION: Information regarding the general background on the Alabama State program, including the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Alabama program can be found at 47 FR 22020–22038 (May 20, 1982) and 48 FR 34026 (July 27, 1983).

At the time of the Secretary's conditional approval, Alabama agreed to meet 13 conditions. On August 29, 1983, the ASMC submitted a proposed amendment which was intended, in part, to meet all but three of the Secretary's conditions of approval.

OSM announced receipt of the amendment and initiated a public comment period on September 28, 1983 (48 FR 44233–44236). The public comment period ended on October 28, 1983. A public hearing scheduled for October 24, 1983, was not held because no one expressed a desire to present testimony.

During a concurrent review of Alabama's proposed amendment by OSM, the following concerns were identified:

1. Alabama rule 880–X–10D–32 does not require that blasting records be maintained by the operator of underground mining operations at the mine site and that such records be made available to the public and regualtory authority upon request. Such requirements are specified under 30 CFR 817.68.

2. Alabama rule 880–X–8N–.09(1)(a) concerning the State's small operator assistance program (SOAP) does not require that all coal produced by operations owned by members of the applicant's family and the applicant's relatives be attributed to the applicant unless it is established that there is no direct or indirect business relationship between or among them. Such requirements are set forth under 30 CFR 795.6(a)(2)(iv).

3. Alabama's rules do not contain a requirement prohibiting an applicant for SOAP assistance from organizing or reorganizing his or her company solely for the purpose of obtaining SOAP assistance. Such a requiremment is prescribed by 30 CFR 795.6(a)(4).

4. Alabama's rules omit liability requirements for reimbursing the regulatory authority for the costs of laboratory services in situations where the permit is sold, transferred or assigned to another person and the transferee's total actual and attributed production exceeds the 100,000 ton annual production limit during any consecutive 12 month period of the remaining term of the permit.

After discussions between OSM and ASMC about these four concerns, ASMC submitted a modification to its August 29, 1983 amendment. The modification was received on December 22, 1983, and consists of a set of emergency rules intended to correct each of the four deficiencies.

The Secretary of the Interior, through OSM, hereby requests public comments on the adequacy of Alabama's August 29, 1983, amendments in light of the State's December 22, 1983 modifications. The public comment period is hereby extended to February 3, 1984. All public comments should be submitted to the location shown above under "**ADDRESSES**" by that date in order to be considered by the Secretary in this rulemaking.

Dated: January 13, 1984.

Carl C. Close,

Assistant Director, Program Operations and Inspection, Office of Surface Mining.

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

[FR Doc. 84–1458 Filed 1–18–84; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Part 925

Missouri Permanent Regulatory Program; Review of State Program amendment

AGENCY: Office of Surface Mining reclamation and Enforcement (OSM), Interior.

ACTION: Reopening and extension of public comment period.

SUMMARY: OSM is reopening the period for review and comment on a program amendment submitted by the State of Missouri to amend the Missouri

permanent regulatory program (hereinafter referred to as the Missouri program) which was conditionally approved by the Secretary of the Interior under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment includes statutory and regulatory changes to the performance bond requirements of the Missouri program. Specifically, OSM is reopening the comment period to allow the public sufficient time to consider and comment on the minutes of a meeting and discussions held between OSM and the State on November 17 and 18, 1983, and a subsequent letter from the State. The meeting concerned preliminary findings made by OSM as a result of review of the State's amendment.

DATE: Written comments not received on or before 4:00 p.m., February 3, 1984 will not necessarily be considered in the decision on whether to approve or disapprove the proposed program amendment.

ADDRESSES: Written comments should be sent to: Mr. Richard Rieke, Field Office Director, Kansas City Field Office, Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106; Telephone: (816) 374–3920.

Copies of the Missouri program, the proposed modifications to the program, a listing of any scheduled public meetings and all written comments received in response to the notice will be available for public review at the OSM Field Office listed above and at the OSM Headquarters Office and the Office of State regulatory authority listed below, during normal business hours Monday through Friday, excluding holidays.

Office of Surface Mining, Room 5315, 1100 L Street NW., Washington, D.C. 20240

Missouri Department of Natural Resources, Land Reclamation Commission, 1026 D Northeast Drive, Jefferson City, Missouri 65102

FOR FURTHER INFORMATION CONTACT: Mr. Richard Rieke, Field Office Director, Kansas City Field Office, Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106; Telephone: (816) 374–3920.

SUPPLEMENTARY INFORMATION: The Missouri program was approved on November 21, 1980 (45 FR 77017–77028). The approval was conditioned on the correction of 23 minor deficiencies, which were included in three conditions, (a), (b), and (c). Condition (a) consisted of (a)(1) through (a)(21). The Secretary removed the first six elements of condition (a)(1), conditions (a)(2) through (a)(21), and conditions (b) and (c) on May 11, 1982 (47 FR 20116–20119). The Secretary removed the last element of condition (a)(1) on January 17, 1983 (48 FR 1956).

Information pertinent to the general background, revisions, modifications, and amendments to the permanent program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Missouri program can be found in the November 21, 1980 **Federal Register**.

On April 13, 1983, Missouri submitted a proposed program amendment (Administrative Record No. MO–253), consisting of enacted legislation (Senate Bill 737) and promulgated regulations to amend the performance bond provisions of the Missouri program.

The proposed amendment creates and implements a coal mine land reclamation fund to be used to complete reclamation after the proceeds from any applicable performance bond have been exhausted. All permittees are required to pay an assessment to the fund based on the tonnage of coal sold or otherwise disposed of.

On May 9, 1983, OSM published a notice in the **Federal Register** announcing receipt of the amendment, a public comment period and opportunity to request a public hearing (48 FR 20764). The public comment period closed on June 8, 1983. No public hearing was held because none was requested. On November 17, 1983, OSM met with the State to discuss the amendment. Those discussions were continued during a conference call on November 18, 1983. Minutes of the discussions held during the meeting and conference call have been placed in the Administrative Record (Admin. Record No. MO–258), as has a December 22, 1983 letter from the State commenting on the minutes of the meeting (Admin. Record No. MO–259).

In accordance with the provisions of 30 CFR 732.15, OSM is reopening the comment period and is seeking comments on the substantive adequacy of the proposed amendment in light of the meeting notes and the State's response.

List of Subjects in 30 CFR Part 925

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

(Pub. L. 95–87 (30 U.S.C. 1201 *et seq.*))

Dated: January 11, 1984.

Carl C. Close,

Acting Assistant Director, Program Operations and Inspection.

[FR Doc. 84–1457 Filed 1–18–84; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–9–FRL–2503]

Federal Assistance Limitations; State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to limit certain federal funding assistance for Fresno County, California. These limitations apply to funds provided under the Clean Air Act and the Surface Transportation Assistance Act. The Environmental Protection Agency (EPA) is taking this action pursuant to Section 176(a) of the Clean Air Act (Act), because the State of California has failed to make reasonable efforts to submit a State Implementation Plan (SIP) for Fresno County that considers each of the elements in Section 172 of the Act.

Section 172(b)(11)(B) of the Act, as amended, requires the implementation of an inspection and maintenance (I/M) program in areas which have obtained extensions of the December 31, 1982 deadline for attaining the National Ambient Air Quality Standards for ozone (03) and/or carbon monoxide (CO). The Fresno County portion of the 1979 SIP revision (47 FR 28617; July 1, 1982) makes this demonstration for O_3 and CO in Fresno County. Fresno County is therefore required to implement I/M. Further, pursuant to Section 172(b)(10) of the Act, the SIP is required to include written evidence that Fresno County has adopted, by legally enforceable document, the necessary requirements and schedules and timetables for compliance, and is committed to implement and enforce the appropriate elements of the plan.

Fresno County has apparently not requested the State to implement an I/M program at the earliest technically feasible date. As a result, EPA is today proposing to find that the State of California has failed to submit, and is not making reasonable efforts to submit, a SIP for Fresno County that considers each of the elements of Section 172 of the Act. If EPA takes final action

affirming these findings, the funding limitations will apply in Fresno County, California.

DATES: Written comments must be submitted to EPA on or before February 21, 1984. EPA will schedule a public hearing on this proposed action and will announce the date and location in the **Federal Register**.

ADDRESSES: Send any comments to: Regional Administrator, Attn: Air Management Division, Air Programs Branch (A–2), Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105.

Copies of all materials related to EPA's proposed action may be inspected during normal business hours at the above address or at the following locations:

California Air Resources Board, 1102 "Q" Street, Sacramento, CA 95812
Fresno County Air Pollution Control District, 1221 Fulton Mall, Fresno, CA 93721.

FOR FURTHER INFORMATION CONTACT: Jerry Clifford, Air Programs Branch (A–2), Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, Telephone (415) 974–8067 (FTS) 454–8067.

SUPPLEMENTARY INFORMATION:

A. Background

Congress amended the Clean Air Act, 42 U.S.C. 7401 et. seq., in 1977 to address the major health problem posed by the state's failure to attain the National Ambient Air Quality Standards. Congress required states to revise their State Implementation Plans (SIPs) to provide for attainment of the standards by December 31, 1982, and to submit the revised plans to EPA by January 1, 1979. For areas with serious ozone (O_3) or carbon monoxide (CO) problems that could demonstrate they could not attain these standards by the end of 1982 even with the implementation of all reasonably available measures, Congress allowed an extension of the attainment date beyond 1982 and up to December 31, 1987. (Section 172(a)(2)).

In return for this extension, Congress required states to submit additional air pollution control measures in their 1979 SIP revisions. (Section 172(b)(11)). One such additional measure was a schedule for implementation of an inspection and maintenance (I/M) program along with certification that the State and local governments had the legal authority to implement and enforce that program. (Sections 172(b)(10) and 172(11)(B)). Six major urban areas of California, including Fresno County, requested extensions of the attainment deadlines for O_3 for and/or CO to 1987 and were required to implement I/M.

To ensure that federal funds do not further contribute to the already serious air pollution problem, and to encourage state cooperation, Congress adopted Section 176(a). Section 176(a) of the Act requires withholding of certain federal assistance funds for highway construction and air quality planning grants if the EPA Administrator finds that a state has failed to submit, or is not making reasonable efforts to submit, a SIP which considers each of the elements of Section 172 of the Act, including the requirement for I/M. On April 10, 1980, after prior notice and public comment, EPA and the Department of Transportation (DOT) published their final policies and procedures for imposing funding restrictions under Section 176(a). (45 FR 24692). This notice should be used as reference in reviewing today's notice.

On December 12, 1980, EPA previously imposed federal funding restrictions on highway construction and sewage treatment project grants in all six urban areas of California required to implement I/M. (45 FR 81756). These restrictions under Section 176(a) and 316(b) of the Act were imposed at that time because the Administrator determined that the State Legislature was not making reasonable efforts to adopt authorizing I/M legislation as required for all 1979 plans for extension areas.

On September 10, 1982, the Governor of California signed legislation authorizing the State Department of Consumer Affairs to implement a biennial I/M program in these six urban areas upon the request of the local air pollution control districts. EPA subsequently removed those funding limitations on October 12, 1982 after determining that the State was now making reasonable efforts to satisfy the Act's requirements.

Although the enabling legislation established the foundation for State development and operation of an I/M program in the six areas required to have an I/M program, the legislation authorized implementation only upon the request of the local air pollution control districts. Eight air pollution control districts have responsibilities in the six areas required to implement I/M. By May, 1983, seven of the eight districts requested I/M implementation, and the State Bureau of Automotive Repair, within the Department of Consumer Affairs, is developing a program to begin in these areas in March, 1984. These areas include the South Coast, the San Francisco Bay Area and the San Diego Air Basins, Ventura County and the Sacramento Metropolitan area. Fresno County is the only area which failed to make a request at that time.

The Fresno County Air Pollution Control Board is the local government entity with responsibility for making the request to implement. On March 15, 1983, the matter of I/M was discussed before the Board with a staff recommendation to request implementation of the I/M program within the entire County. At that time, the Board deferred action on the request to have the I/M program implemented in Fresno County.

On September 15, 1983, one year after enabling I/M legislation was signed by the Governor, EPA notified affected Federal, State and local agencies and officials that we were initiating the EPA/DOT procedures for imposing the funding limitations under Section 176(a). This notification started a 30-day consultation period in accordance with these procedures. Between September 15, 1983, and the date of this notice, EPA officials have consulted with several Federal, State an local officials in an effort to resolve this issue. The following is a summary of the events which have occurred since EPA initiated this consultation period:

September 15, 1983

- The EPA Acting Regional Administrator, John Wise, notified the Federal Highway Administration (FHWA) Regional Administrator, by letter and by telephone, that the 30-day consultation period was being initiated.
- The EPA Acting Regional Administrator also notified U.S. Senators Alan Cranston and Pete Wilson, U.S. Congressmen Charles Pashayan, Jr. and Tony Coelho, the Chairman of the California Air Resources Board and the Director of the California Department of Transportation.
- EPA Region 9 staff notified the Chairman of the Fresno County Air Pollution Control Board, the Fresno County Air Pollution Control Officer, the Council of Fresno County Governments, the County Administrative Officer, the Mayor of Fresno, the Acting Director of the Fresno County Health Department, the Director of the City Public Works Department and the Chief of the State Bureau of Automotive Repair.

September 22, 1983

- EPA transmitted a listing of highway projects which may be affected by the funding restrictions to Fresno County Supervisor Sharon Levy.

September 26, 1983

• The EPA Acting Regional Administrator met with Fresno County Supervisors Sharon Levy and Deran Koligian, and County Administrative Officer Allan Colman.

September 27, 1983

• EPA Region 9 Air Programs Branch Chief, David L. Calkins, testified before the Fresno City Council.

October 7, 1983

EPA Regional staff met with FHWA Regional staff to discuss the Section 176(a) schedule and procedures for Fresno County.

October 14, 1983

• The EPA Administrator, William D. Ruckelshaus, Assistant Administrator for Air and Radiation, Joseph A. Cannon, and the Director of the Office of Mobile Sources, Richard Wilson, met with U.S. Congressman Charles Pashayan, Jr., Fresno County Supervisors Sharon Levy and Deran Koligian, and Assistant County Administrative Officer Jim Edmonds.

October 31, 1983

• The EPA, Acting Regional Administrator and representative Air Management Division staff met with Fresno County Supervisors Sharon Levy and Deran Koligian, and representative Fresno County staff, as well as a representative from the State Air Resources Board to discuss the Fresno County air quality situation as it relates to the entire San Joaquin Valley Air Basin. At that time, EPA discussed the Clean Air Act requirements for I/M as well as the impact of I/M on expeditious attainment of the 03 and CO standards in Fresno County. Supervisor Levy requested that EPA consider a proposal that would require I/M to begin in Fresno County on October 31, 1984.

November 4, 1983

• Acting Assistant Administrator for Air and Radiation, Joseph A. Cannon, sent a letter to Jeff Reich, Chairman of the Fresno County Board of Supervisors, reiterating the legal matter for I/M as it relates to sanctions. The letter also indicates the possibility of a short extension of the startup date beyond March, 1984, if technically justified by the State Bureau of Automotive Repair. Further, Mr. Cannon specifically required Board action by November 30, 1983 to forestall formal **Federal Register** notice proposing 176(a) sanctions for Fresno County.

November 29, 1983

• The Fresno County Board of Supervisors adopted a resolution declaring their intent to implement the I/M program by October 31, 1984.

• David P. Howekamp, Region 9 Director of the Air Management Division, sent a letter to John Grow, chief of the Bureau of Automotive Repair, requesting a formal determination of the earliest technically and logistically feasible date at which I/M could be implemented in Fresno County, provided the Board made such a request no later then November 30, 1983.

November 30, 1983

• The Chairman of the Fresno County Board of Supervisors, Jeff Reich, sent a letter to Joseph Cannon, Acting Administrator for Air and Radiation, explaining the action taken by the Board on November 29. Mr. Reich attached the Board's resolution to his letter to Mr. Cannon.

December 1, 1983

• John Grow, Chief of the Bureau of Automotive Repair, responded to David Howekamp's letter of November 29, 1983, and indicated that had the Board voted for immediate implementation on November 29, the first inspection notices would have reached Fresno County residents on or about April 15, 1984.

December 14, 1983

• Joseph A. Cannon, Assistant Administrator for Air and Radiation, responded to Mr. Reich's letter of November 30, 1983. The Assistant Administrator requested the Board of Supervisors to identify the date that the Board intends vehicle testing to begin and to submit a copy of the Board's formal request to the BAR within one week of receipt of this letter.

December 20, 1983

• Jeff Reich, Chairman of the Fresno County Board of Supervisors, responded to Mr. Cannon's letter dated December 14, 1983. Mr. Reich stated, "* * * it is the Board's desire to permit the BAR to take its 5½ month start up period beginning mid-June and to formally begin the inspection program October 31, 1984." Mr. Reich also indicated that the Board had not formally requested the BAR to implement the I/M program.

The formal 30-day consultation period expired on October 15, 1983, and the extended deadline of November 30, 1983 has also passed. Although Fresno County declared their intent to implement the I/M program by October 31, 1984, it appears that there are no technical reasons for postponing the startup of actual vehicle testing beyond May 15, 1984. EPA policy required all I/M programs for urbanized areas with attainment date extensions to start testing vehicles no later than December 31, 1982. EPA, therefore, cannot find that additional delay beyond May 15, 1984 represents "reasonable efforts" to comply with the I/M requirement.

B. Proposed Findings and Actions

Based on the failure of the Fresno County Air Pollution Control Board to request the State to implement an I/M program at the earliest technically feasible date, and thus preventing the State from submitting an approvable 1979 SIP which considers each of the elements of Section 172, EPA proposes the following actions:

1. EPA proposes to find that the State of California has failed to submit, and is not making reasonable efforts to submit, an approvable 1979 SIP for Fresno County which considers each of the elements required by Section 172 of the Act; and

2. EPA proposes to impose federal funding restrictions on Fresno County, California, under Section 176(a) of the Act.

During the public comment period, EPA will consider any comments on this issue. If the Fresno County Air Pollution Control Board appropriately amends their request for State implementation of the I/M program prior to final EPA action on this matter, EPA will withdraw this proposal. If the Board fails to remedy this situation before EPA takes final action, the funding limitations would become effective on the date final rulemaking is published in the **Federal Register**. Upon final rulemaking, the Secretary of Transportation shall not approve any projects or award any grants in Fresno County under the Surface Transportation Assistance Act except for safety, mass transit, or transportation improvement projects related to air quality improvement or maintenance. Further, the Administrator of EPA shall not approve any projects or award any grants in Fresno County authorized by the Clean Air Act unless they qualify for the exemptions noted in the April 10, 1980 policy notice. Although, pursuant to Section 316 of the Act EPA has the discretion to withhold certain grants for the construction of sewage treatment works available under Section 201(g) of the Clean Water Act (33 U.S.C. 1251 et. seq.), we are not proposing to impose these restrictions on Fresno County at this time. EPA would publish a separate notice of proposed rulemaking and provide an opportunity for comment before

imposing these additional funding restrictions on sewage treatment works. For more information on the scope and procedures for these restrictions, see 45 FR 24692 (April 10, 1980) and 45 FR 53382 (August 11, 1980).

C. Request for Comment

Interested parties are invited to comment on all aspects of these proposed actions regarding the California SIP. EPA is specifically soliciting comment on its proposed finding that the State is not making reasonable efforts to submit a SIP for Fresno County that satisfies the requirements of Section 172 of the Act, and on when the funding limitations, if imposed, should be removed.

If EPA imposes the funding limitations, EPA is interested in removing the funding limitations as soon as possible after the State demonstrates that reasonable efforts are being made to comply with the requirements of Section 172 of the Act. Fresno County has had reasonable opportunity since September, 1982 to request State implementation of the I/M program. Further, Fresno County has failed to act in good faith within the additional time EPA provided, to November 30, 1983, to request implementation as soon as is technically feasible. Accordingly the Agency is proposing to require actual vehicle testing under the I/M program in Fresno County as a basis for finding these proposed actions regarding the California SIP. EPA is specifically soliciting comment on its proposed finding that the State is not making reasonable efforts to submit a SIP for Fresno County that satisfies the requirements of Section 172 of the Act, and on when the funding limitations, if imposed, should be removed.

EPA will consider all comments received within 30-days of the publication of this notice. The comment deadline is February 21, 1984.

D. Regulatory Impact

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et.seq., the Agency must prepare a regulatory flexibility analysis assessing the impact of any proposal or final rule on small entities. Under 5 U.S.C. 605(b), this requirement may be waived if the Agency certifies that the rule will not have a significant economic effect on a substantial number of small entities. Small entities include small business, small not-for-profit enterprises, and governmental entities with jurisdiction over populations of less than 50,000.

If EPA takes final action to find that the State has failed to submit, and is not making reasonable efforts to submit, a SIP for Fresno County that considers each of the elements required by Section 172, certain highway construction funds under the Surface Transportation Assistance Act and air quality planning funds under the Clean Air Act will be withheld from Fresno County. Thus, some small entities will be affected by final EPA action.

EPA has in the past made efforts to quantify the impacts of the Clean Air Act restrictions under Section 176(a) but has been unable to do so with any degree of reliability. EPA's lack of success is due in large part to the exemptions authorized for safety, mass transit, or transportation improvement projects related to air quality improvement or maintenance. Careful review and evaluation of each highway project is necessary to determine whether or not a project is exempt. Consequently, EPA is making no quantified assessment of the potential economic impact on small entities from today's proposal.

Final action on today's proposals also could result in withholding of Section 105 funds from Fresno County. However, EPA funds the Fresno County Air Pollution Control District which has responsibility for the entire county. Since the Fresno County 1980 population estimate from the U.S. Bureau of Census is greater than 500,000, the governmental entities affected by any funding limitations do not fall within the definition of "small entities."

Additionally, although EPA believes that a final action might have some impact on small entities, this impact cannot affect the Agency's actions. Under the Clean Air Act, the imposition of the funding restrictions in Section 176(a) are automatic and mandatory whenever the Agency determines that a state has not submitted, or is not making reasonable efforts to submit, a SIP which considers each of the elements of Section 172.

Under Executive Order 12291, EPA must judge whether a regulation is major and therefore, subject to the requirement of a "Regulatory Impact Analysis." The fiscal 1983–84 Section 105 grant to the Fresno County Air Pollution Control District is $182,000. This amount approximates the amount of future Clean Air Act funds which may be withheld annually from Fresno County if sanctions are imposed. In addition, EPA reviewed a listing of highway projects contained in the State and Regional Transportation Improvement Programs for 1983–87. Our review of this listing indicates that less than $35 million in total highway construction costs will be affected by the funding sanctions in any given year between 1983 and 1987. The actual amount affected by sanctions in any year would be less than $35 million if any proposed projects satisfy the criteria for exemption. Therefore, the regulation is not major since it will not have an economic impact exceeding $100 million per year.

Authority: [Secs. 110, 172, 176(a), 301 and 316 of the Clean Air Act, as amended; 42 U.S.C. 7410, 7502, 7506(a), 7601.

Under Executive Order 12291, this action is not "major". It has been submitted to the Office of Management and Budget (OMB) for review.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Carbon monoxide, Intergovernmental relations.

Dated: November 4, 1983.

John Wise,

Acting Regional Administrator.

[FR Doc. 84–1508 Filed 1–18–84; 8:45 am]

BILLING CODE 6560–50–M

Notices

Federal Register
Vol. 49, No. 13
Thursday, January 19, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

January 13, 1984.

The Department of Agriculture has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information.

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 108-W Admin. Bldg., Washington, D.C. 20250 (202) 447–4414.

Comments on any of the items listed should be submitted directly to: Office of Information and Regualtory Affairs, Office of Management and Budget, Washington, D.C. 20503, ATTN: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extension (Burden Change)

- Agricultural Marketing Service: Plan for Estimating Daily Livestock Slaughter Under Federal Inspection, Daily, Businesses: 17,680 responses; 583 hours; not applicable under 3504(h), James A. Ray (202) 447–6231.
- Statistical Reporting Service: Fruit, Nut and Specialty Crops, On Occasion, Monthly, Annually, Farms, Businesses: 58,778 responses; 16,627 hours; not applicable under 3504(h), Lee Sandberg (202) 0535–0039.

New

- Food and Nutrition Service: Evaluataion of the Alternataive Demonstration Project, FNS–46, FNS–250, FNS–256, Monthly, Quarterly, Semi-Annually, Individuals or Households, State or Local Governments, Business or Other For-Profit Federal Agencies or Employees, Non-Profit Institutions, Small Businesses or Organizations: 3,161 responses; 982 hours; not applicable under 3504(h), Carol Olander (703) 756–7115.
- Forest Service: Timber Sale Operating Plans, On Occasion, Businesses or Other For-Profit, Small Businesses or Organizations: 1,000 responses; 5,000 hours; not applicable under 3504(h), Rex Baumback (703) 475–3757.

Reinstatement

- Economic Research Service: Farmland Market Survey, Annually, Farms, Small Businesses: 4,500 responses; 1,875 hours; not applicable under 3504(h), William H. Heneberry (202) 382–8000.

Susan B. Hess,

Acting Department Clearance Officer.

[FR Doc. 84–1334 Filed 1–18–84; 8:45 am]

BILLING CODE 3410–01–M

Agricultural Stabilization and Conservation Service

Feed Grain Donations for the Northern Cheyenne Indian Tribe in Montana

Pursuant to the authority set forth in Section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427) and Executive Order 11336, I have determined that:

1. The chronic economic distress of the needy members of the Northern Cheyenne Indian Tribe in Montana has been materially increased and become acute because of severe and prolonged drought substantially reducing range forage and hay production, thereby creating a serious shortage of feed and causing increased economic distress. The reservation is designated for Indian use and is utilized by members of the Northern Cheyenne Indian Tribe for grazing purposes.

2. The use of feed grain or products thereof made available by the Commodity Credit Corporation for livestock feed for such needy members of the tribe will not displace or interfere with normal marketing of agricultural commodities.

3. Based on the above determination, I hereby declare the reservation and grazing lands of the tribe to be acute distress areas and authorized the donation of feed grain owned by the Commodity Credit Corporation to livestock owners who are determined by the Bureau of Indian Affairs, Department of the Interior, to be needy members of the tribe utilizing such lands. These donations by the Commodity Credit Corporation may commence upon signature of this notice and shall be made available through May 31, 1984, or to such other time as may be stated in a notice issued by the Department of Agriculture.

Signed at Washington, D.C. on January 16, 1984.

C. Hoke Leggett,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 84–1511 Filed 1–18–84; 8:45 am]

BILLING CODE 3410–05–M

Forest Service

Fremont National Forest Grazing Advisory Board; Meeting

The Fremont National Forest Grazing Advisory Board will meet at 10:00 a.m. on Friday, March 2, 1984 at the Forest Supervisor's Office, 34 North D Street, Lakeview, Oregon 97630. The purpose of this meeting is:

1. Disucss use of range betterment funds.

2. Review range allotment management planning.

The meeting will be opened to the public. Persons who wish to attend should notify Ralph B. Roberts, 34 North D Street, Lakeview, Oregon 97630, phone

947–2151. Written statement may be filed with the Borad before or after the meeting.

The committee has established the following rules for public participation:

1. Must have pre-notice and placed on agenda.

2. Time limit will be announced at meeting.

3. May be oral or written.

4. General public.

a. Open input on agenda items permitted.

b. May present topics or concerns if prearranged.

Dated: January 10, 1984.

Russell M. Betts,

Acting Forest Supervisor.

[FR Doc. 84–1472 Filed 1–18–84; 8:45 am]

BILLING CODE 3410–11–M

Gila National Forest Grazing Advisory Board; Meeting

The Gila National Forest Grazing Advisory Board will meet at 10:00 a.m., February 9, 1984 in the conference room, Federal building, 2610 North Silver Street, Silver City, New Mexico.

The agenda for the meeting is:

1. Review Program for Range Betterment Funds

2. Review Allotment Management Plans

The meeting will be open to the public.

Dated: January 10, 1984.

Kenneth C. Scoggin,

Forest Supervisor.

[FR Doc. 84–1419 Filed 1–18–84; 8:45 am]

BILLING CODE 3410–11–M

Packers and Stockyards Administration

Deposting of Stockyards

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

Facility No., name, and location of stockyard	Date of posting
TN–180 M. L. Hickerson's Livestock Market, Manchester, Tennessee.	Apr. 19, 1982.
MS–157 Corinth Livestock Commission Co., Corinth, Mississippi.	Oct. 10, 1978.

Notice or other public procedure has not proceded promulgation of the foregoing rule. There is no legal justification for not promptly deposting a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a change relieving a restriction and may be made effective in less than 30 days after publication in the **Federal Register**. This notice shall become effective upon publication in the **Federal Register**.

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 *et seq.*)

Done at Washington, D.C., this 12th day of January, 1984.

Jack W. Brinckmeyer,

Chief, Financial Protection Branch, Livestock Marketing Division.

[FR Doc. 84–1440 Filed 1–18–84; 8:45 am]

BILLING CODE 3210–02–M

Soil Conservation Service

Jacobs Creek Watershed, Pennsylvania; Intent To Prepare Environmental Impact Statement

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Council on Environmental Quality Guidelines (40 CFR Part 1500), and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Jacobs Creek Watershed, Westmoreland and Fayette Counties, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: James H. Olson, State Conservationist, Soil Conservation Service, Box 985 Federal Square Station, Harrisburg, Pennsylvania 17108, telephone (717) 782–4453.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the action may cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. James H. Olson, State Conservationist, has determined that the preparation and review of an environmental impact statement is need for this project.

The project concerns a plan for flood prevention and watershed protection. Already installed are two multiple-purpose dams for flood prevention and recreational uses. The features remaining to be installed include a flood prevention dam, modified channel improvement works, and accelerated land treatment measures. A draft environmental impact statement will be prepared for the remaining project features and circulated for review by agencies and the public. The Soil Conservation Service invites participation and consultation of agencies and individuals that have special expertise, legal jurisdiction, or interest in the preparation of the draft environmental impact statement. Further information on the proposed action may be obtained from James H. Olson, State Conservationist, at the above address or telephone (717) 782–4453.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program.

Dated: January 10, 1984.

James H. Olson,

State Conservationist.

[FR Doc. 84–1412 Filed 1–18–84; 8:45 am]

BILLING CODE 3410–16

Kirby Ditch Company, Inc., Farm Irrigation RC&D Measure, Wyoming; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Kirby Ditch Company, Inc., Farm Irrigation RC&D Measure in Hot Springs County, Wyoming.

FOR FURTHER INFORMATION CONTACT: Mr. Frank S. Dickson, Jr., State Conservationist, Soil Conservation Service, Room 3124, 100 East B Street, Casper, Wyoming 82601, telephone 307–261–5201.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the projects will not cause significant local, regional, nor national impacts on the environment. As a result of these findings, Mr. Frank S. Dickens, Jr., State Conservationist, has determined that the preparation and review of an

environmental impact statement are not needed for this project.

The measure plan addresses replacing an existing flume with an inverted siphon, constructing an access road, and installing a Parshall flume water measuring device, a trashrack, and a pipe drop wasteway structure.

The Finding of No Significant Impact (FONSI) and Environmental Assessment Summary (EAS) have been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI and the EAS are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Frank S. Dickson, Jr.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Dated: January 11, 1984.

Ronnie L. Clark,

Deputy State Conservationist.

[FR Doc. 84–1417 Filed 1–18–84; 8:45 am]

BILLING CODE 3410–16–M

CIVIL RIGHTS COMMISSION

Colorado Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Colorado Advisory Committee to the Commission will convene at 9:00 a.m. and will end at 1:00 p.m., on February 4, 1984, at the Quality Inn, I–25 and Speer Blvd., Denver, Colorado 80202. The purpose of this meeting is to discuss the new U.S. Commission on Civil Rights and current projects.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Chairperson, Minoru Yasui, at (303) 575–2621 or the Rocky Mountain Regional Office at (303) 837–2211.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 16, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–1525 Filed 1–18–84; 8:45 am]

BILLING CODE 6335–01–M

Illinois Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Illinois Advisory Committee to the Commission will convene at 11:00 a.m. and will end at 2:00 p.m., on February 3, 1984, at the Conference Room, Regional Office of USCCR, 230 South Dearborn, Room 3280, Chicago, Illinois 60604. The purpose of this meeting is to hear reports on the status of ongoing projects and discuss State Civil rights actions.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Chairperson, Mr. Thomas J. Pugh, at (309) 671–7431 or the Midwestern Regional Office at (312) 353–8048.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 16, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–1522 Filed 1–18–84; 8:45 am]

BILLING CODE 6335–01–M

Massachusetts Advisory Committee; Agenda and Notice of Public Meeting

The Massachusetts Advisory Committee to the U.S. Commission on Civil Rights postponed a meeting announced for November 21, 1983, and will now meet on January 24, 1984 from 4:00 to 6:00 p.m. in the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110.

The purpose of the meeting is to discuss plans for a conference on affirmative action and other project ideas for the coming year.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Chairperson, Bradford Brown, at 617–548–5123 or the New England Regional Office at 617–223–4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 16, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–1528 Filed 1–18–84; 8:45 am]

BILLING CODE 6335–01–M

North Dakota Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the North Dakota Advisory Committee to the Commission will convene at 1:00 p.m. and will end at 5:00 p.m., on February 10, 1984, at the Holiday Inn, 3803 13th Avenue South, Fargo, North Dakota 58108. The purpose of this meeting is to discuss the new U.S. Commission on Civil Rights and possible future projects.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Chairperson, Robert Feder, at (701) 235–5515 or the Rocky Mountain Regional Office at (303) 837–2211.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 16, 1984.

John I. Binkley,

Advisory Committee Management Office.

[FR Doc. 84–1523 Filed 1–18–84; 8:45 am]

BILLING CODE 6335–01–M

Rhode Island Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Rhode Island Advisory Committee to the Commission will convene at 10:00 a.m. and will end at 12:00 noon, on February 1, 1984, at Davole Square, 3rd Floor Function Room, Point and Eddy Streets, Providence, Rhode Island.

The purpose of the meeting is to hear from knowledgeable parties about the probable impact on employment of minorities and women in connection with proposed "greenhouse compact" of economic development.

Person desiring additional information, or planning a presentation to the Committee, should contact the New England Regional Office at 617–223–4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 16, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84-1527 Filed 1-18-84; 8:45 am]

BILLING CODE 6335-01-M

South Dakota Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the South Dakota Advisory Committee to the Commission will convene at 9:00 a.m. and will end at 3:00 p.m., on February 17, 1984, at the Travelodge, 125 Main Street, Rapid City, South Dakota. The purpose of this meeting is to discuss the new U.S. Commission on Civil Rights and current projects.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Chairperson, Rae Johnson, at (605) 747-2312 or the Rocky Mountain Regional Office at (303) 837-2211.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 16, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84-1526 Filed 1-18-84; 8:45 am]

BILLING CODE 6335-01-M

Utah Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Utah Advisory Committee to the Commission will convene at 7:00 p.m. and will end at 9:00 p.m., on February 7, 1984, at the Howard Johnson Motor Lodge, Uintah Room, 122 West South Temple, Salt Lake City, Utah 84101. The purpose of this meeting is to review the Advisory Committee statement, *The elderly, Fair Housing, and Education Issues*, and the regionwide report on *Block Grants, Federal Funding, and Indian Reservations*.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Chairperson, Linda M. Dupont-Johnson, at (801) 533-4061 or the Rocky Mountain Regional Office at (303) 837-2211.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 16, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84-1524 Filed 1-18-84; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

President's Commission on Industrial Competitiveness

AGENCY: Office of Economic Affairs, Commerce.

ACTION: Notice of Meetings.

SUMMARY: This notice announces the forthcoming meetings of the President's Commission on Industrial Competitiveness (Commission). The Commission was established by Executive Order 12428 on June 28, 1983 and its charter was approved on August 23, 1983. The Commission shall review means of increasing the long-term competitiveness of United States industries at home and abroad, with particular emphasis on high technology, and provide appropriate advice to the President through the Cabinet Council on Commerce and Trade and the Department of Commerce.

Time and Place: The following subcommittees of the Commission will meet on February 2, 1984 from 8:00-12:00 and 1:00-2:00: Committee on Research, Development and Manufacturing, Committee on Capital Resources, Committee on Human Resources, Committee on Marketing and International Trade.

The meeting place will be the: International Meeting Center, William Penn Hotel, 530 William Penn Place, Pittsburgh, PA 15230.

The full Commission will meet on February 3, 1984 from 8:00-12:00 at: The Ballroom, William Penn Hotel, 530 William Penn Place, Pittsburgh, PA 15230.

The subcommittees of the Commission may, if necessary reconvene on February 3, 1984 from 1:30-4:30.

Public Participation: The meeting will be open to public attendance. A limited number of seats will be available for the public on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: J. Paul Royston, President's Commission on Industrial Competitiveness, 736 Jackson Place, NW., Washington, DC 20503, telephone: 202-395-4527 on substantive issues or Marilyn McLennan, Chief, Information Management Division, 202-377-4217, on issues regarding administration of the Commission.

SUPPLEMENTARY INFORMATION: The purpose of the full Commission meeting is to discuss proposed recommendations to improve the competitiveness of U.S. industries in international trade.

Egils Milbergs,

Executive Director, President's Commission on Industrial Competitiveness.

[FR Doc. 84-1478 Filed 1-18-84; 8:45 am]

BILLING CODE 3510-18-M

Office of the Secretary

Economic Advisory Board; Renewal

In accordance with the provisions of the Federal Advisory Committee Act 5 U.S.C. App. I, and after consultation with the General Services Administration, the Secretary of Commerce has determined that the renewal of the Economic Advisory Board is in the public interest.

The Advisory Board was first established by the Secretary of Commerce on January 12, 1967. Its purpose is to advise the Secretary of Commerce on economic policy issues. It has discharged this mission regularly by convening quarterly to discuss various specific industry situations in terms of consumer spending, capital spending, and inventory status; the near-term outlook and policies; and the outlook, in terms of output and employment, for the forthcoming several quarters.

In renewing the Advisory Board, the Secretary has reaffirmed the importance of the timely and accurate information it has provided concerning business conditions and the current state of the economy. The Secretary has also requested that members of the Advisory Board, in addition to presenting their individual forecasts, also provide their analyses of specific economic issues as designated by the chairperson, the Under Secretary for Economic Affairs.

As initally chartered under the Federal Advisory Committee Act in January 1973, the Economic Advisory Baord will continue with a balanced representation of 16 members, with the Under Secretary for Economic Affairs serving as chairperson, and will operate in compliance with the provisions of the Federal Adviosry Committee Act.

Copies of the Committee's revised charter will be filed with appropriate committees of the Congress.

Inquiries or comments may be addressed to the Committee Control Officer, Virginia R. Marketti, Office of the Under Secretary for Economic Affairs, Room 4848, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 277-3523.

Dated: December 27, 1983.

Dennis C. Boyd,

Director for Management and Information Systems.

[FR Doc. 84-1463 Filed 1-18-84; 8:45 am]

BILLING CODE 3510-CW-M

National Technology Medal Evaluation Committee; Establishment

AGENCY: Office of the Assistant Secretary for Productivity, Technology and Innovation, Commerce.

ACTION: Notice of establishment.

SUMMARY: In accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. (1982)) and after consultation with GSA, the Secretary of Commerce has determined that the establishment of the National Technology Medal Evaluation Committee is in the public interest in connection with the performance of duties imposed on the Secretary by the Stevenson-Wydler Technology Innovation Act of 1980 (Pub. L. 96-480, 15 U.S.C. 3711).

The Committee will provide the Secretary through the Steering Committee (chaired by the Assistant Secretary for Productivity, Technology and Innovation and consisting of the Director of the National Bureau of Standards and the Commissioner of the Patent and Trademark Office), after review of nominations from all sources, with an evaluation of the nominations and recommend a priority listing of nominees deserving the National Technology Medal.

The Committee to be appointed by the Secretary will consist of between six and twelve members with three-year terms and rotating memberships selected so as to provide a balanced representation from U.S. industry, government, professional organizations, and academia. Members selected shall have an understanding of, or experience with, developing and utilizing technological innovations or shall be familiar with the education, training, and employment of technological manpower. Members selected shall also be familiar with the objectives and rationale for this award.

The Committee will function solely as an advisory body, and in compliance with the provisions of the Federal Advisory Committee Act. Its charter will be filed under the Act, 15 days from the date of the publication of this notice.

Interested persons are invited to submit comments regarding the establishment of the National Technology Medal Evaluation Committee. Such comments, as well as any inquiries, may be addressed to Dr. Philip Goodman, the Senior Technical Adviser, Office of the Assistant Secretary for Productivity, Technology and Innovation, Room 4824, U.S. Department of Commerce, Washington, D.C. 20230, phone: 202-377-0825 or to Linda Engelmeier, Management Analyst, phone: 202-377-4217.

Dated: January 10, 1984.

Dennis C. Boyd,

Director for Management and Information Systems.

[FR Doc. 84-1464 Filed 1-18-84; 8:45 am]

BILLING CODE 3510-CW-M

International Trade Administration

[A-469-007]

Antidumping Duty Order: Potassium Permanganate From Spain

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: In separate investigations, the United States Department of commerce and the United States International Trade Commission (ITC) have determined that potassium permanganate from Spain, is being sold at less than fair value and that potassium permanganate from Spain is materially injuring a United States industry. Therefore, all entires, or warehouse withdrawals, for consumption, of potassium permanganate from Spain made on or after August 9, 1983, the date on which the Department published its "Suspension of Liquidation" notice in the **Federal Register**, will be liable for the possible assessment of antidumping duties. Further, a cash deposit of estimated antidumping duties must be made on all such entries, and withdrawals from warehouse, for consumption, on or after the date of publication of this antidumping duty order in the **Federal Register**.

EFFECTIVE DATE: January 19, 1984.

FOR FURTHER INFORMATION CONTACT: Mrs. Loc T. Nguyen, Office of Investigations International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-1785.

Scope of Investigation

The merchandise covered by this order is potassium permanganate, an inorganic chemical produced in free flowing, technical and pharmaceutical grades. Potassium permangante is currently classifiable under item 420.2800 of the Tariff Schedules of the United States Annotated (TSUSA).

In accordance with section 733 of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673 b), on August 9, 1983, the Department published its preliminary determination that there was reason to believe or suspect that potassium permanganate from Spain was being sold at less than fair value (48 Fed. Reg. 36177). On November 28, 1983, the Department published its final determination that these imports were being sold at less than fair value (48 Fed. Reg. 53589).

On January 6, 1984, in accordance with section 735(b) of the Act (19 U.S.C. 1673(d)), the ITC notified the Department that such importations are materially injuring a United States industry.

Therefore, in accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department directs United States Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of potassium permanganate from Spain. These antidumping duties will be assessed on potassium permanganate entered, or withdrawn from warehouse, for consumption, on or after August 9, 1983, the date on which the Department published its "Suspension of Liquidation" notice in the **Federal Register**.

On and after the date of publication of this notice, United States Customs officers must require, at the same time as importers would normally deposit estimated Customs duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins listed below:

Manufacturer/producers/exporters	Weighted-average margin (in percent)
Asturquimica	5.49
All other manufacturers/producers/exporters	5.49

This determination constitutes an antidumping duty order, with respect to potassium permanganate from Spain, pursuant to section 736 of the Act (19 U.S.C. 1673e) and section 353.48 of the Commerce Regulations (19 CFR 353.48).

We have deleted from the Commerce Regulations Annex 1 to 19 CFR Part 353.

which listed antidumping findings and orders currently in effect. Instead, interested parties may contact the Office of Information Services, Import Administration, for copies of the updated list of orders currently in effect.

Notice of Review

In accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) the Department hereby gives notice that it is commencing an administrative review of this order on January 19, 1984. For further information regarding this review, contact Mr. William Mathews at (202) 377–5253.

This notice is published in accordance with section 736 of the Act (19 U.S.C. 1673e) and section 353.48 of the Commerce Regulations (19 CFR 353.48).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

January 13, 1984.

[FR Doc. 84-1461 Filed 1-18-84; 8:45 am]
BILLING CODE 3510-DS-M

[A-475-004]

Certain Tapered Journal Roller Bearings and Parts Thereof From Italy; Final Determination of Sales at Less Than Fair Value

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that certain tapered journal roller bearings and parts thereof (TJRB) from Italy are being sold in the United States at less than fair value. Therefore, we have notified the U.S. International Trade Commission (ITC) of our determination, and the ITC will determine, within 45 days of publication of this notice, whether these imports are materially injuring, or are threatening to materially injure, a U.S. industry. We have directed the U.S. Customs Service to continue to suspend the liquidation of entries of the subject merchandise which are entered, or withdrawn from warehouse, for comsumption, on or after August 30, 1983.

EFFECTIVE DATE: January 19, 1984.

FOR FURTHER INFORMATION CONTACT: David Johnston, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377–2239.

SUPPLEMENTARY INFORMATION:

Final Determination

We have determined that TJRB from Italy are being sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (19 U.S.C. 1673d)(the Act).

We found that the foreign market value of TJRB from Italy exceeded the United States price on 100 percent of sales. These margins ranged from 21.2 percent to 25.2 percent. The overall weighted-average margin on all sales compared is 24.7 percent *ad valorem*.

Case History

On January 26, 1983, we received a petition filed by counsel for Brenco, Inc. In accordance with the filing requirements of § 353.36 of the Commerce Department Regulations (19 CFR 353.36), petitioner alleged that TJRB from Italy are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or threaten to materially injure, a United States industry.

On February 16, 1983, we presented a questionnaire in Italy to RIV–SKF Industrie S.p.A. (RIV), the only exporter to the U.S. of the subject merchandise. RIV submitted its response on April 15, 1983. We sent a supplemental questionnaire to counsel for RIV on May 10, 1983. RIV submitted its supplemental response on May 26, 1983 and July 20, 1983.

On June 16, 1983, we determined, pursuant to section 733(c)(1)(B) of the Act, that the case was extraordinarily complicated and that additional time was necessary to make our preliminary determination. Accordingly, we postponed our preliminary determination until not later than August 24, 1983 (48 FR 28520).

On August 24, 1983, we preliminarily determined that TJRB from Itlay were being, or were likely to be, sold in the United States at less than fair value (48 FR 39270). On September 14, 1983, we received a letter from RIV requesting that our final detemination be extended until not later than January 12, 1984. In accordance with section 735(a)(2) of the Act, we extended our final determination until that date (48 FR 43365). On September 22 and 23, 1983, we verified the responses of RIV at its offices in Turin, Italy. On October 12 through 14, 1983, we verified the responses of SKF Canada Ltd. (SKF Canada) at its offices in Scarborough, Ontario, Canada. On October 31, 1983, we held a hearing to allow interested parties an opportunity to comment on our preliminary determination in accordance with section 353.47 of the Commerce Regulations.

Scope of Investigation

For purposes of this investigation, the term "certain tapered journal roller bearings and parts thereof" covers two-row tapered roller bearings and parts thereof including cone and cup assemblies in sets, cone assemblies and cups sold separately, and other parts which may or may not be lubricated, sealed at the manufacturer's factory, and/or unitized. This investigation includes only those tapered journal roller bearings with assembled outside diameters between 6.5 and 10.875 inches, that meet the specifications established by the Association of American Railroads in Specification M–934–81. Tapered journal roller bearings and parts thereof are currently classified under items 680.3932, 680.3934, 680.3938, and 680.3940 of the *Tariff Schedules of the United States Annotated* (TSUSA).

We investigated 100 percent of RIV's sales of TJRB to the United States during the period from August 1, 1982 to January 31, 1983.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price for sales by RIV because the merchandise was sold to unrelated purchasers before importation into the United States. We calculated the purchase price based on the f.o.b. Italian port packed price. We made deductions for Italian inland freight.

Foreign Market Value

In accordance with section 773(a)(1)(B) of the Act, we calculated foreign market value based on the prices at which the subject merchandise is sold in Canada because such or similar merchandise was not sold in the home market. Since RIV sells to SKF Canada, an organization related to RIV, we have used the prices at which SKF Canada sells the subject merchandise to unrelated customers in Canada in accordance with section 773(a)(3) of the Act. In accordance with § 353.5(c) of the Commerce Regulations, we selected Canada as the third country to be used for fair value comparisons because the TJRB exported to Canada are as similar to the TJRB exported to the United

States as are those exported to other countries, and the volume of the TJRB exported to Canada was the largest sales volume to any country outside the home market or the United States containing both types of TJRB.

We calculated the third country prices on the basis of delivered, packed prices to unrelated purchasers in Canada. From these prices we deducted Italian and Canadian inland freight, ocean freight, marine insurance, import duties, and federal sales tax. Since the Act requires the addition of U.S. packing costs to unpacked Canadian prices, we have done this for our final determination.

We allowed a circumstance of sale adjustment for differences in credit expenses in accordance with § 353.15(a) of the Commerce Regulations. We also deducted directly related commissions in accordance with § 353.15(a) of the Commerce Regulations. The following claims were disallowed in calculating foreign market value. SKF Canada requested circumstance of sale adjustments for the salaries and travel expenses of a product manager, a salesman and a serviceman, as well as warehousing expenses. We disallowed these claims because we do not consider these items to be circumstances of sale bearing a direct relationship to sales of TJRB in Canada.

Respondent Comments

Comment 1

The Department should use RIV's sales to Canada as the basis for determining foreign market value because the transactions between RIV and SKF Canada are conducted as if the companies were unrelated. That RIV deals with SKF Canada on an arms-length basis is established by the fact that RIV's prices to Unity, its unrelated United States distributor, are comparable to the prices at which RIV sells to SKF Canada, its related Canadian distributor. Moreover, the market conditions in the United States and Canada are comparable. Further, Canadian customs authorities accept that the invoiced values of the TJRB imported from RIV reflect their fair market value, and Italian tax authorities have not found that RIV's export prices are internal transfer prices.

DOC Position

Section 353.22(b) of the Commerce Regulations Requires that sales to related purchasers ordinarily not be used in the determination of foreign market unless those sales are demonstrated to be at prices comparable to those sold to persons unrelated to the seller. RIV cannot so demonstrate because it does not sell similar merchandise to unrelated purchasers in Canada. We are unable to accept as arms-length and to use the prices at which RIV sells the subject merchandise to SKF Canada on the basis of the other factors cited by RIV to show that it transacts business with SKF Canada as if the companies were unrelated. The similarity of prices in sales to SKF Canada and Unity is not meaningful as a measure of arms-length transactions since the sales are subject to different market forces inherent in sales to different countries. Further, there is no indication of the reasons for which the Canadian customs authorities regard the invoice value of imported merchandise as reflective of its fair market value, nor has information been provided which substantiates that the Italian tax authorities do not regard as transfer prices the prices which RIV charges SKF Canada. We are not persuaded, based upon the above factors, that RIV and SKF Canada transact business in an arms-length fashion. Therefore, we determine, in accordance with section 773(a)(3) of the Act, that the appropriate prices to use in determining foreign market value are those at which SKF Canada sells to unrelated end users.

Comment 2

If the Department uses SKF Canada's resales as the basis for determining foreign market value, it should make circumstance of sale adjustments for directly related costs of the salaries and expenses of SKF Canada's railway segment employees and certain warehousing expenses.

DOC Position

Section 353.15(a) of the Commerce Regulations provides that the differences in circumstances of sale for which allowances will be made are limited, in general, to those circumstances which bear a direct relationship to the sales under consideration. In considering the requested adjustment for the salaries and expenses of certain railway segment employees, we note first that, although the respondent has provided methods by which to allocate these costs, because the railway segment markets products other than TJRB and, therefore, these costs have been allocated largely based upon estimates of time spent by the employees on the sale of TJRB, we cannot consider these costs as being directly related to the sales under consideration. Second, since the salaries and travel expenses of the railway segment employees are borne by SKF Canada regardless whether particular sales of TJRB are made, these expenses cannot be considered directly related to sales of TJRB. Therefore, we have not allowed this claim.

The warehousing expenses for which RIV is claiming a circumstance of sale adjustment consists of the allocated portion of SKF Canada's total warehousing operation. They are pre-sale expenses incurred on the warehousing of TJRB retained as inventory. Since these expenses are not directly related to sales of TJRB, we disallowed this claim.

Comment 3

The Department should not make an adjustment for differences in credit expenses because, according to section 353.15, adjustments are to be made for differences in credit terms and not for differences in credit experience. Even if the Department chooses to base its adjustment on the actual credit expense experience, we should not focus exclusively on the cost to RIV of the different credit experiences, but rather should not make the adjustment because the different credit experiences have not had an effect on the market value of the merchandise under investigation, in that they have not affected the prices charged to Unity or to SKF Canada's customers.

Additionally, the Department should not make the adjustment because an analysis of the acutal costs to RIV of the delayed payments cannot now accurately be computed and because it is not presently possible to determine that RIV has suffered or will suffer any economic costs resulting in a decrease in the value received from Unity. RIV has received and continues to receive an advantage in Unity's late payments by virtue of the devaluation of the Italian lira against the U.S. dollar. Additionally, RIV has been charging interest to Unity's account for overdue invoice amounts and, under its conditions of sale, has the right to collect such interest from Unity.

DOC Position

In making a circumstance of sale adjustment for differences in credit expenses, we consider the actual difference in payment experience in the two markets and not merely the offered terms of payment. To calculate the adjustment only on the basis of a difference in terms of credit unreasonably ignores real differences in credit experience where, as here, even though the terms of credit in both markets are net 30 days, the seller receives payment on vario us dates later

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than those required under the terms of sale.

We cannot accept respondent's alternative argument that no adjustment should be made because the differences in credit costs have not affected the price (i.e. the value) of the merchandise. As a result of Unity's delayed payment, RIV has borne additional costs. These costs are even greater than the additional costs borne by RIV due to the delay in payment by SKF Canada's customers. The fact that RIV has chosen not to increase its prices to account for the inability on the part of its customers to make payments on a timely basis does not dispose of the fact that RIV has had differing credit experiences in the two markets. To the contrary, it indicates that RIV is absorbing its costs in the American market relative to the Canadian market, an occurrence which the Act was intended to address. Since use of the cost criterion provides a means by which to redress this situation, we have used the differences in credit costs in the two markets to calculate a circumstance of sale adjustment.

Finally, we have been able to calculate the costs to RIV of the delayed payments in each market by applying the appropriate interest rate to the number of days for which payment was outstanding. That RIV has benefited from Unity's late payment due to the devaluation of the Italian lira does not eliminate the fact that actual differences existed in payment experience in the two markets. It means only that the loss incurred was compensated for as the result of an unrelated change in Italian monetary policy. With the exception of situations described in § 353.56(b) of the Commerce Regulations (19 CFR 353.56(b)), fluctuations in the value of currency are events which we cannot properly consider in making price comparisons. However, if, in the future, RIV exercises its right to collect overdue invoice amounts, then we will take such payments into account in the course of any review under section 751 of the Act to the extent that such payments are actually made.

Comment 4

Differences in level of trade may reasonably be expected to result in different prices. Therefore, the Department should make a level of trade adjustment based upon the difference between the considerable distribution costs assumed by SKF Canada in its sales of TJRB to end users and the minimal selling costs incurred by RIV in its sales to Unity.

DOC Position

We recognize that in certain circumstances, where sales are made at different levels of trade, an adjustment for such differences may be appropriate. However, we are unable to make such an adjustment in the instant case since we have been provided with no information establishing the price differential which would exist were there sales in Canada at the distributor level. In considering whether to make a level of trade adjustment, we cannot assume that cost differences associated with sales made at different levels of trade may reasonably be expected to result in price differences. In order to establish that there are differences which affect price comparability, information substantiating that the differences in the prices are the result of differences in the cost of selling at one level of trade as compared to the other must be submitted. Since the information provided is not sufficient to substantiate respondent's claimed cost-based adjustment, we did not make an adjustment.

Comment 5

The Department should make adjustments for export duty rebates to the United States price in accordance with section 772(d) of the Act. It should make a corresponding adjustment to the foreign market value in accordance with section 773(a)(4) of the Act.

DOC Position

We have not made the requested adjustment because payments made under Italian Law 639, pursuant fo which this rebate is administered, are paid on all qualifying exports regardless whether a company actually pays duties or is relieved of the obligation to pay such duties upon importation of the merchandise. Even if RIV showed that it paid import duties on material used in the production of TJRB, or was relieved of the obligation to pay such duties, there is no direct link between the duties paid by Italian companies and the rebate of such duties by the Italian government. Since there has been no showing that the payments to RIV under Italian Law 639 are rebates of import duties previously paid or uncollected, we have not allowed the requested adjustment to United States price. Since no adjustment to United States price is being allowed, it is no longer necessary to consider wheter a corresponding adjustment to foreign market value should be allowed pursuant to section 773(a)(4) of the Act.

Comment 6

The Department should not offset the commissions paid by SKF Canada against the indirect selling expenses incurred by RIV on its sales to the United States because the offset provision is designed to take into account only those selling expenses in one market that are analogous to the expenses in the other market.

DOC Position

Section 353.15(c) of the Commerce Regulations provides that reasonable allowances for other selling expenses generally will be made in cases where a reasonable allowance is made for commissions in one of the markets under consideration, the amount of such allowance being limited to the actual other selling expenses incurred in the one market, or the total amount of the commission allowed in such other market, whichever is less. This regulation does not require that the other selling expenses actually incurred in one market be analogous to the commissions paid in the other market, but does require that the other selling expenses actually incurred in one market be limited by the lesser of either the commissions or the other selling expenses in either market. Therefore, we have used the indirect selling expenses to offset the commissions in accordance with this provision of our regulations.

Petitioner Comments

Comment 1

The Department has properly used SKF Canada's sales to unrelated purchasers in determining foreign market value because RIV is not in a position to demonstrate that sales prices to SKF Canada are comparable to those at which such merchandise is sold, or offered for sale, to unrelated purchasers in Canada.

DOC Position

We agree with petitioner's comment (see the Department's position for Respondent's Comment 1).

Comment 2

The Department properly refused to make circumstance of sale adjustments advanced by RIV because commissions for SKF Canada's sales have already been deducted from the foreign market value and the requested adjustments do not bear a direct relationship to the sales in question.

*[See also Final Affirmative Countervailing Duty Determination: Forged Undercarriage Components from Italy in which the export rebates in question were determined to be countervailable export subsidies.)

DOC Position

We have disallowed the requested circumstance of sale adjustments (see DOC position for Respondent's Comment 2).

Verification

In accordance with section 776(a) of the Act, we verified data used in making this determination in this investigation, by using standard verification procedures which included on-site examination of company records and selected original source documentation containing relevant information.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of TJRB from Italy, which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average margin amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. The suspension of liquidation will remain in effect until further notice. The weighted-average margins are as follows:

Manufacturers/producers/exporters	Weighted-average margins (percent)
RIV-SKF Industrie S.p.A.	24.7
All Other Manufacturers/Producers/Exporters	24.7

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will make its determination whether these imports are materially injuring, or threatening to materially injure, a U.S. industry within 45 days of the publication of this notice.

If the ITC determines that material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue an antidumping order, directing Customs officers to assess an antidumping duty on TJRB from Italy entered, or withdrawn, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value of the merchandise exceeds the U.S. prices.

This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Dated: January 12, 1984.

William T. Archey,

Acting Assistant for Trade Administration.

[FR Doc. 84-1462 Filed 1-18-84; 8:45 am]

BILLING CODE 3510-DS-M

[A-485-006]

Carbon Steel Plate From Romania; Preliminary Results of Administrative Review of Suspension Agreement

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of suspension agreement.

SUMMARY: The Department of Commerce has conducted an administrative review of the agreement to suspend the antidumping investigation on hot-rolled carbon steel plate from Romania. The review covers the one known exporter of this merchandise to the United States and the period January 4, 1983 through October 31, 1983. There were no known shipments of this merchandise to the United States during the period, and there are no known unliquidated entries.

As a result of the review, the Department has preliminarily determined that the one known exporter has complied with the terms of the suspension agreement. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 19, 1984.

FOR FURTHER INFORMATION CONTACT: Michael J. Altier or John Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-3601.

SUPPLEMENTARY INFORMATION:

Background

On January 4, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 317) a notice of suspension of the antidumping duty investigation of hot-rolled carbon steel plate from Romania. In the notice the Department also announced its intent to conduct an administrative review of the suspension agreement, as provided for in section 751 of the Tariff Act of 1930 ("the Tariff Act"). The Department has now conducted that administrative review.

Scope of the Review

For purposes of the review the term "carbon steel plate" covers hot-rolled carbon steel plate currently classifiable in items 607.6615, 607.9400, 608.0710, and 608.1100 of the Tariff Schedules of the United States Annotated.

This review covers the period January 4, 1983 through October 31, 1983, and Metalimportexport, the only known exporter to the United States of Romanian carbon steel plate covered by the suspension agreement.

Terms of the Suspension Agreement

Metalimportexport agreed to make any necessary price adjustments to eliminate completely any sales of carbon steel plate at less than the Department's estimated foreign market value, as determined by the Department on the basis of the price of such or similar merchandise in the surrogate country, with appropriate adjustments.

Metalimportexport agreed to deliver a report to the Department within 15 days of the beginning of each calendar quarter, itemizing all sales of carbon steel plate during the preceding quarter which were exported to the United States directly from Romania or through third countries. Metalimportexport also agreed to provide the Department with any additional information required to ensure that Metalimportexport is fully complying with the terms of the agreement. Further, Metalimportexport agreed to cooperate with the verification of Romanian information. During the period January 4, 1983 through September 30, 1983, there were no exports of this merchandise to the United States.

Preliminary Results of the Review and Compliance With the Agreement

Since there have been no shipments of Romanian carbon steel plate to the United States for the period, and the other terms of the agreement have been met, we preliminarily determine that Metal import export has complied with the suspension agreement.

Pursuant to the terms of the suspension agreement the Romanian government was advised on November 23, 1983 of the estimated foreign market value effective until January 3, 1984. The estimated foreign market value was

calculated in accordance with the methodolgy used for purposes of the preliminary determination of sales at less than fair value (47 FR 25646). That determination used the net base price for Finnish carbon steel plate (European Grade FE 37–B), with additions for quality and size extras, for purposes of comparison with the Romanian hot-rolled carbon steel plate entering the United States market during the period of investigation.

During the course of our review the cooperating Finnish producer supplied updated home market sales information covering the period August 1, 1983 through October 31, 1983, which was verified.

There were no shipments of the subject merchandise to the United States from Romania during the period of our review. There were, however, importations into Finland of carbon steel plate from Romania during the period. Based upon its analysis of the type of Romanian steel entering Finland during the period of review, the Finnish producer advised Commerce officals that in its opinion the appropriate basis of product comparison for such steel would be the base price of European grade FE 37–B without adjustment for quality or size extras.

We believe that the Romanian shipments of certain steel into Finland during the period of our review represent the best evidence of what the mix and variety of Romanian batch shipments into the United States would have been during the period of our review had any, in fact, occurred. Accordingly, for purposes of this preliminary determination the Finnish home market base price for European grade FR 37–B, without quality or size extras, was used to determine the estimated foreign market value under the terms of the suspension agreement.

The estimated foreign market value will be effective for all entries, or withdrawals from warehouse, for consumption of Romanian carbon steel plate on or after the publication date of the final results of this review. It shall remain in effect until our next semiannual notification. It is based on verified home market prices in Finland, the previously chosen surrogate country, and on advice from the Finnish manufacturer.

Pursuant to the agreement, we will consider comments on changing surrogates, our proposed change in methodology, which values extras as zero, and other changes in our methodology. Interested parties may submit written comments on these priliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made within 5 days of the date of publication. The Department will publish the final results of the administrative review including the results of it analysis of any such comments or hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

January 13, 1984.

[FR Doc. 84–1505 Filed 1–18–84; 8:45 am]

BILLING CODE 3510–DS–M

[A–401–004]

Certain Carton Closing Staples and Staple Machines From Sweden; Allowance of Security in Lieu of Estimated Duties Pending Early Determinations of Antidumping Duties

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Allowance of security in lieu of estimated duties pending early determinations of antidumping duties.

SUMMARY: The Department of Commerce has determined that it has sufficient information from Josef Kihlberg Trading AB and Grytgols Bruks AB to conduct expedited reviews of the antidumping duty orders on certain carton closing staples and staple machines from Sweden with respect to such merchandise manufactured by these firms. The Department will determine the appropriate foreign market values and United States prices by March 19, 1984. We will permit Kihlberg and Grytgols to post bonds or other security in lieu of the cash deposits of estimated antidumping duties for the covered merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and on or before March 19, 1984.

EFFECTIVE DATE: January 19, 1984.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or Susan Crawford, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–3813/1130.

SUPPLEMENTARY INFORMATION:

Background

On December 20, 1983, the Department of Commerce ("the Department") published in the **Federal Register** antidumping duty orders on certain carton closing staples and staple machines from Sweden (48 FR 56250–51). The Department announced that, in addition to deposits of estimated normal customs duties, Customs officers were to require cash deposits of estimated antidumping duties on all merchandise entered, or withdrawn from warehouse, for consumption on or after December 20, 1983.

On December 12, 1983, Josef Kihlberg Trading AB and Grytgols Bruks AB requested that the Department waive the requirements for cash deposits of estimated antidumping duties and conduct expedited reviews pursuant to section 736(c) of the Tariff Act of 1930 ("the Tariff Act").

Before granting waivers of cash deposits of estimated antidumping duties we must be satisfied that we will be able to determine the appropriate foreign market values and United States prices within 90 days after the date of publication of the orders. The Department is satisfied that it will be able to do so.

Accordingly, the Department is instructing the Customs Service to waive the cash deposits of estimated antidumping duties and accept bonds or other security for covered staples and staple machines manufactured by Kihlberg and for covered staples manufactured by Grytgols entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and on or before March 19, 1984.

Interested parties may submit written comments within 30 days from the date of publication of this notice and may request disclosure and/or a hearing within 10 days after the date of publication. The Department will determine the results of these expedited reviews by March 19, 1984, including the results of its analysis of any such comments or hearing.

This notice is published in accordance with section 736(c)(2) of the Tariff Act (19 U.S.C. 1673(e)(c)(2)).

Dated: January 13, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84–1504 Filed 1–18–84; 8:45 am]

BILLING CODE 3510–DS–M

Export Trade Certificate of Review; Application

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and invites interested parties to submit information relevant to the determination of whether a certificate should be issued.

DATES: Comments on these applications must be submitted on or before February 8, 1984.

ADDRESS: Interested parties should submit their written comments, original and five (5) copies, to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, D.C. 20230.

Comments should refer to this application as "Export Trade Certificate of Review, application number 84–00001."

FOR FURTHER INFORMATION CONTACT: Charles S. Warner, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377–5131, or Eleanor Roberts Lewis, Assistant General Counsel for Export Trading Companies, Office of General Counsel, 202/377–0937. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (Pub. L. 97–290) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 48 FR 10596–10604 (Mar. 11, 1983) (to be codified at 15 CFR Part 325). A certificate of review protects its holder and the members identified in it from private treble damage actions and from civil and criminal liability under Federal and state antitrust laws for the export trade, export trade activities and methods of operation specified in the certificate and carried out during its effective period in compliance with its terms and conditions.

Standards for Certification

Proposed export trade, export trade activities, and methods of operation may be certified if the applicant establishes that such conduct will:

1. Result in neither a substantial lessening of competition or restraint of trade within the United States nor a substantial restraint of the export trade of any competitor of the applicant,
2. Not unreasonably enhance, stabilize, or depress prices within the United States of the goods, wares merchandise, or services of the class exported by the applicant,
3. Not constitute unfair methods of competition against competitors engaged in the export of goods, wares, merchandise, or services of the class exported by the applicant, and
4. Not include any act that may reasonably be expected to result in the sale for consumption or resale within the United States of the goods, wares, merchandise, or services exported by the applicant.

The Secretary will issue a certificate if he determines, and the Attorney General concurs, that the proposed conduct meet these four standards. For a further discussion and analysis of the conduct eligible for certification and of the four certification standards, see "Guidelines for the Issuance of Export Trade Certificates of Review," 48 FR 15937–10 (April 13, 1983).

Request for Public Comments

The Office of Export Trading Company Affairs (OETCA) is issuing this notice in compliance with section 302(b)(1) of the Act which requires the Secretary to publish a notice of the application in the **Federal Register** identifying the persons submitting the application and summarizing the conduct proposed for certification. The OETCA and the applicant have agreed that this notice fairly represents the conduct proposed for certification. Through this notice, OETCA seeks written comments from interested persons who have information relevant to the Secretary's determination to grant or deny the application below. Information submitted by any person in connection with the application(s) is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552).

The OETCA will consider the information received in determining whether the proposed conduct is "export trade," "export trade activities," or a "method of operation" as defined in the Act, regulations and guidelines and whether it meets the four certification standards. Based upon the public comments and other information gathered during the analysis period, the Secretary may deny the application or issue the certificate with any terms or conditions necessary to assure compliance with the four standards.

The OETCA has received the following application for an Export Trade Certificate of Review:

Applicant: International Raw Materials Ltd., Philadelphia Bourse Building, Suite 730, Philadelphia, PA 19106
Application No.: 84–00001
Date Received: January 3, 1984
Date Deemed Submitted: January 6, 1984
Members in Addition to Applicant: None

Summary of application: International Raw Materials Ltd. (IRM), submitted an application seeking certification for the following export trade activities and methods of operation for its export trade worldwide.

A. Export Markets

IRM expects to export its goods and services worldwide.

B. Export Trade

Anhydrous sodium carbonate (Soda ash).

C. Export Trade Activities and Methods of Operation

Background. The domestic United States soda ash industry consists of a limited number of major producers. Applicant has had, and continues to have, various commercial relationships with some of the major producers, and considers itself expert in all aspects of the export marketing and shipping of soda ash product. Nevertheless, prior to Commerce Department approval of a proposed Export Trade Certificate of Review, applicant believes that it cannot, without potential legal jeopardy, solicit from the major producers the market information which would enable applicant to propose a set of specific contractual relationships.

Phase I Activities. Accordingly, the instant application addresses only the first phase of applicant's intended activities. Upon the issuance of an Export Trade Certificate of Review approving the Phase I activities described herein, applicant intends to complete such activities as promptly as possible, and thereafter, utilizing the information so obtained, to apply for a subsequent Certificate of Review, covering the specific Phase II activities hereinafter described.

Applicant seeks certification in order to permit it to solicit and exchange production, marketing, pricing, distribution and other information related to the export of soda ash from some or all the major producers, for the purposes, and on the terms and conditions, specified herein.

All information obtained by the applicant pursuant to approval of this application would be treated by applicant as confidential, and information obtained from any one of the major producers would not be

disclosed to any other of the major procedures, except in aggregate or coded fashion, sufficient to conceal the source of said information.

Upon its acquisition and review of information relating to the export marketing, pricing and distribution practices and objectives of the major producers, and their soda ash production capabilities, applicant intends to commission an Economic Feasibility Study ("the Study"). The purpose of the Study will be to analyze all of the applicant's export-related activities which relate to soda ash (including applicant's port and terminaling operations, its logistical infrastructure and overseas marketing capabilities) in the context of the activities of the major producers. It will then be possible to determine whether combining some or all of the soda ash export activities of the major producers, together with the full range of export-related facilities and services provided by applicant, would be economically advantageous, and beneficial to the U.S. soda ash industry in the international marketplace. The Study will specifically analyze any domestic competitive impact which might result from such a combination, as well as the projected effects on domestic U.S. soda ash export levels, and the profitability of the major producers and the applicant.

The results of the Economic Feasibility Study, coded or aggregated as appropriate, will be distributed to each of the major producers who have opted to participate in it. Thereafter, assuming the economic feasibility of the proposed activities, applicant will develop a Business Plan, utilizing the information obtained. The Business Plan would identify the proposed members of the intended combination, and set forth the requirements for membership. It would also define the activities to be undertaken by applicant and the major producers.

Phase II Activities. In the event that a Phase I Certificate of Review is issued, such a Business Plan could suggest the following types of activities which may be applied for under a Phase II Certificate of Review: formation of a common stockpile; coordination of transportation; provision of terminaling services; territorial sales arrangements, purchasing quotas; pricing practices; profit sharing agreements, and other activities as might be appropriate. As stated above, the activities described herein as Phase II activities are *not* within the scope of the instant application, but would instead be submitted for approval in a subsequent and separate Application for an Export Trade Certificate of Review.

Dated: January 16, 1984.

Irving P. Margulies,
Deputy General Counsel.

[FR Doc. 84-1530 Filed 1-18-84; 8:45 am]
BILLING CODE 3510-DR-M

[A-428-007]

Certain Tapered Journal Roller Bearings and Parts Thereof From the Federal Republic of Germany; Final Determination of Sales at Not Less Than Fair Value

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that certain tapered journal roller bearings and parts thereof (TJRB) from the Federal Republic of Germany (Germany) are not being, nor are likely to be, sold in the United States at less than fair value. Therefore, we are terminating this investigation.

EFFECTIVE DATE: January 19, 1984.

FOR FURTHER INFORMATION CONTACT: Raymond G. Busen or David Johnston, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 377-1278 or 377-2239.

SUPPLEMENTARY INFORMATION:

Case History

On January 26, 1983, we received a petition filed by counsel for Brenco, Inc. In accordance with the filing requirements of § 353.36 of the Commerce Department Regulations (19 CFR 353.36), petitioner alleged that TJRB from Germany are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or threaten to materially injure, a United States industry.

On February 16, 1983, we presented a questionnaire in Germany to FAG Kugelfischer Georg Schafer and Co. (FAG), the only known German producer of the subject merchandise. We received the response on April 26, 1983. We sent a supplemental questionnaire to FAG on May 11, 1983. We received the supplemental response on June 1, 1983.

On June 10, 1983, petitioner asked the Department to extend the period for the preliminary determination until 210 days after the date of receipt of the petition in accordance with section 733(c)(1)(A) of the Act. On June 16, 1983, we postponed our preliminary determination until not later than August 24, 1983 (48 FR 28681).

On August 24, 1983, we preliminarily determined that TJRB from Germany were not being, nor were likely to be, sold in the United States at less than fair value (48 FR 39269).

On August 31, 1983, we received a letter from petitioner requesting that the final determination be extended until not later than January 12, 1984. In accordance with section 735(a)(2)(B) of the Act, we extended our final determination until that date (48 FR 43365). On October 5, 1983, we verified the responses of FAG at its head offices in Schweinfurt, Germany. Since we based foreign market value on sales of the subject merchandise by FAG to Canada, on November 8 and 9, 1983, we verified those portions of the responses relating to FAG's sales to Canada at FAG Bearings Ltd. (FAG Canada) offices in Stratford, Ontario, Canada. Since we based the United States price on the exporter's sales price of the subject merchandise, on November 15, 1983, we verified the exporter's sales price information contained in the responses at Roller Bearing Industries, Inc. in Richmond, Virginia.

Scope of Investigation

For purposes of this investigation, the term "certain tapered journal roller bearings and parts thereof" covers two-row tapered journal roller bearings and parts thereof including cone and cup assemblies in sets, cone assemblies and cups sold separately, and other parts which may or may not be lubricated, sealed at the manufacturer's factory, and/or unitized. This investigation includes only those tapered journal roller bearings with assembled outside diameters between 6.5 and 10.875 inches, that meet the specifications established by the Association of American Railroads On Specifications M-934-81. Tapered journal roller bearings and parts thereof are currently classified under items 680.3932, 680.3934, 680.3938, and 680.3940 of the *Tariff Schedules of the United States Annotated* (TSUSA).

We investigated 100 percent of FAG's sales of TJRB to the United States during the period from August 1, 1982 to January 31, 1983.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772(c) of the Act, we used the exporter's sales price of the subject merchandise to represent the United States price for sales by FAG because the merchandise was sold to unrelated purchasers after importation into the United States. We calculated the exporter's sales price based on the cif, duty paid, delivered, packed price. We made deductions for foreign inland freight, ocean freight, insurance, United States inland freight, customs duties, brokerage, credit expenses and other selling expenses incurred in the United States.

Foreign Market Value

In accordance with section 773(a)(1)(B) of the Act, we calculated foreign market value based on the prices at which the subject merchandise is sold in Canada because such or similar merchandise was not sold in the home market. Since FAG sells to FAG Canada, an organization related to FAG, we have used the prices at which FAG Canada sells the subject merchandise to unrelated customers in Canada, in accordance with section 773(a)(2) of the Act. In accordance with § 353.5(c) of the Commerce Regulations, we selected Canada as the third country to be used for fair value comparisons because the TJRB exported to Canada are as similar to the TJRB exported to the United States as are those exported to other countries, and the volume of FAG's sales to Canada is its largest sales volume to any country outside the home market or the United States.

We calculated the third country prices on the basis of delivered, packed prices to unrelated purchasers in Canada. From these prices we deducted German inland freight and insurance, Canadian inland freight, brokerage, import duties and ocean freight. We made a deduction for credit expenses which were directly related to the sales under consideration pursuant to § 353.15(a) of the Commerce Regulations. We also made a deduction for all actual selling expenses incurred in the Canadian market up to the amount of other selling expenses incurred in the United States market, in accordance with § 353.15(c) of the Commerce Regulations. We made no adjustment for differences in packing costs because these costs were the same in both markets.

Verification

In accordance with section 776(a) of the Act, we verified the information used in making this determination by using standard verification procedures including on-site examination of company records and selection of original source documentation containing relevant information.

Comments

No comments other than those addressed in the above analysis were submitted by respondent or petitioner.

Final Determination

We have determined that TJRB from Germany are not being, nor are likely to be, sold in the United States at less than fair value, as provided in section 735(a) of the Act. Our final determination of sales at not less than fair value terminates this investigation.

In accordance with section 735(d) of the Act, we will notify the ITC of our determination. This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Dated: January 12, 1984.

William T. Archey,

Acting Assistant Secretary for Trade Administration.

[FR Doc. 84-1426 Filed 1-18-84; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-012]

Certain Tapered Journal Roller Bearings and Parts Thereof from Japan; Final Determination of Sales at Less than Fair Value

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that certain tapered journal roller bearings and parts thereof (TJRB) from Japan are being sold in the United States at less than fair value. Therefore, we have notified the U.S. International Trade Commission (ITC) of our determination, and the ITC will determine, within 45 days of publication of this notice, whether these imports are materially injuring, or are threatening to materially injure, a U.S. industry. We have directed the U.S. Customs Service to continue to suspend the liquidation of entries of the subject merchandise which are entered, or withdrawn from warehouse, for consumption, on or after August 30, 1983.

EFFECTIVE DATE: January 19, 1984.

FOR FURTHER INFORMATION CONTACT: Raymond Busen, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 377-1278.

SUPPLEMENTARY INFORMATION:

Final Determination

We have determined that TJRB from Japan are being sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act).

We found that the foreign market value of TJRB from Japan exceeded the United States price on 100 percent of sales. These margins ranged from 11.7 percent to 38.2 percent. The overall weighted-average margin on all sales compared is 12.5 percent *as valorem.*

Case History

On January 26, 1983, we received a petition filed by counsel for Brenco, Inc. In accordance with the filing requirements of § 353.36 of the Commerce Department Regulations (19 CFR 353.36), petitioner alleged that TJRB from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or threaten to materially injure, a United States industry.

On February 16, 1983, we presented a questionnaire in Japan to Koyo Seiko Co., Ltd. (Koyo), the only known exporter to the United States of the subject merchandise. We received the response on April 4, 1983. We sent supplemental questionnaires to Koyo on April 21 and July 14, 1983. We received the supplemental responses on May 20 and August 1, 1983.

On June 16, 1983, we determined, pursuant to section 733(c)(1)(B) of the Act, that the case was extraordinarily complicated and that additional time was necessary to make our preliminary determination. Accordingly, we postponed our preliminary determination until not later than August 24, 1983 (48 FR 28520).

On August 24, 1983, we made a preliminary determination that TJRB from Japan were being sold in the United States at less than fair value (48 FR 39272). On September 6, 1983, we received a letter from Koyo requesting that the final determination be extended until not later than January 12, 1984. In accordance with section 735(a)(2)(A) of the Act, we extended our final determination until that date (48 FR

43365). On September 12 through 15, 1983, we verified the responses of Koyo at its offices in Osaka, Japan. On September 19 and 20, 1983, we verified the responses of Australian Koyo Ltd. at its offices in Sydney, Australia.

Scope of Investigation

For purposes of this investigation, the term "certain tapered journal roller bearings and parts thereof" covers two-row tapered roller bearings and parts thereof including cone and cup assemblies in sets, cone assemblies and cups sold separately, and other parts which may or may not be lubricated, sealed at the manufacturer's factory, and/or unitized. This investigation includes only those tapered journal roller bearings with assembled outside diameters between 6.5 and 10.875 inches, that meet the specifications established by the Association of American Railroads in Specification M–934–81. Tapered journal roller bearings and parts thereof are currently classified under items 680.3932, 680.3934, 680.3938, and 680.3940 of the *Tariff Schedules of the United States Annotated* (TSUSA).

We investigated 100 percent of Koyo's sales of TJRB to the United States during the period from August 1, 1982 to January 31, 1983.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772(c) of the Act, we used the exporter's sales price of the subject merchandise to represent the United States price for sales by Koyo because the merchandise was first sold to unrelated purchasers after importation into the United States. We calculated the exporter's sales price based on the c.i.f., duty paid, delivered packed price. We made deductions for Japanese inland freight, ocean freight, marine insurance, United States inland freight, customs duties, brokerage, commissions, discounts for prompt payment, credit expenses and other selling expenses incurred in the United States.

Foreign Market Value

In accordance with section 773(a)(1)(B) of the Act, we calculated foreign market value based on the prices at which the subject merchandise is sold in Australia because such or similar merchandise was not sold in the home market. We selected Australia as the third country for fair value comparisons because the sales to Australian purchasers included all three types of TJRB exported to the United States. Furthermore, two types were identical in both markets while the third type was similar.

We calculated the third country prices on the basis of delivered, packed prices to unrelated purchasers in Australia. From these prices we deducted Japanese inland freight, insurance, brokerage, ocean freight, marine insurance, and Australian brokerage, import duty, inland freight and insurance. We also made a deduction for all actual selling expenses incurred in the Australian market up to the amount of other selling expenses incurred in the United States market, in accordance with § 353.15(c) of the Commerce Regulations.

We also made an allowance, where appropriate, for differences in physical characteristics, in accordance with § 353.16 of the Commerce Regulations.

We made deductions, where appropriate, for technical assistance and engineering services costs and for credit costs in accordance with § 353.15 of the Commerce Regulations. The credit costs for both markets were computed on the basis of actual interest expense incurred on each sale. We made no adjustment for differences in packing costs because these costs were the same in both markets.

The following claims were disallowed in calculating foreign market value because they did not meet the requirements of § 353.15 of the Commerce Regulations. Koyo requested a circumstance of sale adjustment for consulting fees, credit costs, and entertainment. We did not make a circumstance of sale adjustment for consulting fees because the expense consisted primarily of a monthly retainer and was not directly related to the sales under investigation. We did not make a circumstance of sale adjustment for credit costs on one sale because it was an imputed interest cost on carrying inventory and was regarded as a general business cost. We did consider credit costs and entertainment to be indirect selling expenses and included the amounts in the offset to United States selling expenses as required by § 353.15(c) of the Commerce Regulations. We also disallowed Koyo's claim for interest expense incurred on sales by Koyo to Australian Koyo Ltd. because the firms are related and the intra-company transfer of funds in the form of interest expense is not a corporate expense. Furthermore, this was not an interest expense incurred on sales to the first unrelated purchaser.

Verification

In accordance with section 776(a) of the Act, we verified the information used in making this determination by using standard verification procedures, including on-site examination of company records and selection of original source documentation containing relevant information.

Comments

No comments other than those addressed in the above analysis were submitted by respondent or petitioner.

Supension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of TJRB from Japan, which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average margin amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. The suspension of liquidation will remain in effect until further notice. The weighted-average margins are as follows:

Manufacturers, producers and exporters	Weighted-average margins percent
Koyo Seiko Co., Ltd	12.5
All Other Manufacturers/Producers/Exporters	12.5

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will make its determination whether these imports are materially injuring, or threatening to materially injure, a U.S. industry within 45 days of the publication of this notice.

It the ITC determines that material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of

liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue an antidumping order, directing Customs officers to assess an antidumping duty on TJRB from Japan entered, or withdrawn, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value of the merchandise exceeds the U.S. prices. This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Dated: January 12, 1984.

William T. Archey,

Acting Assistant Secretary for Trade Administration.

[FR Doc. 84-1427 Filed 1-18-84; 8:45 am]

BILLING CODE 3510-DS-M

Subcommittee on Export Administration of the President's Export Council; Closed Meeting

A closed meeting of the President's Export Council Subcommittee on Export Administration will be held February 1, 1984, 9:00 a.m.–3:30 p.m., Herbert C. Hoover Building, Room 6802, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Subcommittee provides advice on matters pertinent to those portions of the Export Administration Act of 1979 that deal with United States policies of encouraging trade with all countries with which the United States has diplomatic or trading relations, and of controlling trade for national security and foreign policy reasons.

Agenda: Discussion of matters properly classified under Executive Order 12356, dealing with matters pertaining to the control of exports for national security, foreign policy or short supply reasons under the Export Administration Act. A Notice of Determination to close meetings or portions of meetings of the Subcommittee to the public on the basis of 5 U.S.C. 522b(c)(1) was approved on February 2, 1983, in accordance with the Federal Advisory Committee Act. A copy of the Notice is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce (202) 377–4217.

For further information, contact Debbie Kappler (202) 377–1455.

Dated: January 13, 1984.

William T. Archey,

Deputy Assistant Secretary for Trade Administration.

[FR Doc. 84-1429 Filed 1-18-84; 8:45 am]

BILLING CODE 3510-DT-M

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council and its Administrative Subcommittee; Public Meetings

AGENCY: Natonal Marine Fisheries Service, NOAA, Commence.

SUMMARY: The Caribbean Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265 as amended), has established an Administrative Subcommittee. The Council and its Administrative Subcommittee will hold separate meetings. The Council will hold its 49th regular public meeting to consider fishery management plans (FMPs) under development, and to discuss other Council matters. The Administrative Subcommittee will meet to discuss issues related to its regular administrative operations.

DATES: The Council's public meeting will convene on Tuesday, February 28, 1984, at approximately 2:00 p.m., adjourning at approximately 5:00 p.m., reconvening on Wednesday, February 29, at approximately 9 a.m., and will adjourn at approximately noon. The Council's Administrative Subcommittee will convene on Tuesday, February 28, at approximately 10:30 a.m., and will adjourn at approximately noon. All meetings will take place at the Conference Room of the Hotel Pierre, De Diego Avenue, Santurce, Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, Suit 1108, Banco de Ponce Building, Hato Rey, Puerto Rico 00918. Telephone (809) 753–4926.

Dated: January 16, 1984.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 84-1453 Filed 1-18-84; 8:45 am]

BILLING CODE 3510-22-M

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Western Pacific Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265, as amended), will convene a public meeting to review foreign fishing permit applications; discuss draft assessment of crustaceans; discuss the draft fishery management plan (FMP) for billfish and discuss the status of the draft Pelagics FMP; review the annual report of the Spiny Lobster FMP and the Seamount Groundfish Preliminary Management Plan (PMP); discuss foreign and domestic enforcement of the Billfish PMP and the Spiny Lobster FMP, respectively; as well as conduct other Council business. The Council will also convene a session of the meeting which will be closed to the public, to discuss personnel matters.

DATES: The open sessions of the meetings will be held on January 30, 1984 (1:30 to 5:30 p.m.); and on January 31 (9 a.m. to 3 p.m.). The closed session will be held on January 30 (10 a.m. to noon). The meetings will take place at the Ala Moana American Hotel, Hibiscus II Room, Honolulu, Hawaii.

FOR FURTHER INFORMATION CONTACT: Western Pacific Fishery Management Council, 1164 Bishop Street, Room 1405, Honolulu, Hawaii 96813, Telephone: (808) 523–1368.

Dated: January 13, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-1454 Filed 1-18-84; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing New TSUSA Numbers Required on Export Visas for Certain Cotton and Man-Made Fiber Textile Products From the Philippines

January 16, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on January 20.

1984. For further information contact Carl Ruths, International Trade Specialist, 202/377–4212.

A CITA directive of November 21, 1979 established, effective on January 1, 1980, a new visa and exempt certification mechanism for cotton, wool and man-made fiber textile and apparel products exported from the Philippines which are subject to the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of November 24, 1982, as amended, between the Governments of the United States and the Republic of the Philippines. A further directive dated October 26, 1983 (48 FR 50146) directed the U.S. Customs Service, effective on January 1, 1984, to deny entry for consumption, or withdrawal from warehouse for consumption of apparel products in certain specified categories, including Categories 335 pt. (girls' and infants' cotton coats), 635 pt. (girls' and infants' man-made fiber coats) and 648 pt. (girls' and infants' man-made fiber trousers), for which the export visas fail to specify the correct designation (T or NT) in the context of the correct category. On January 1, 1984, certain of the TSUSA numbers identifying traditional (T) products in Categories 335 pt., 635 pt., and 648 pt., were changed as follows:

Category 335(T) will add TSUSA Nos. 383.3455 and 383.3494.

In Category 635(T) TSUSA No. 383.8119 will replace 383.8117.

In Catetory 648(T) TSUSA No. 383.1955 will replace 383.1940.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

January 16, 1984.

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of November 21, 1979, as amended, which established a visa and exempt certification for certain cotton, wool and man-made fiber textile products, produced or manufactured in the Philippines and exported on and after January 1, 1980.

Effective on January 20, 1984, the TSUSA numbers for Categories 335(T), 635(T), and 648(T) will be changed as follows for goods exported on and after January 1, 1984.

Category 335(T) will add TSUSA Nos. 383.3455, and 383.3494.

In Category 635(T) TSUSA No. 383.8119 will replace 383.8117.

In Category 648(T) TSUSA No. 383.1955 will replace 383.1940.

The Committee for the Implementation of Textile Agreement has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84–1507 Filed 1–18–84; 8:45 am]

BILLING CODE 3510–DR–M

Establishing a New Export Visa Requirement for Certain Cotton, Wool, and Man-Made Fiber Textile and Apparel Products Produced or Manufactured in the Socialist Republic of Romania; Correction

January 11, 1984.

On January 4, 1984 a notice was published in the Federal Register (49 FR 493) announcing establishment of an export visa requirement for certain cotton, wool, and man-made fiber textile and apparel products, produced or manufactured in Romania and exported on and after February 1, 1984. The letter to the Commissioner of Customs which followed that notice described the details of the new visa arrangement and referred to a facsimile of the visa stamp to be used by the Government of Romania. The facsimile was not published with the letter. A copy of that stamp follows this notice.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

VISA AUTHORIZED FOR USE BY THE GOVERNMENT OF THE SOCIALIST REPUBLIC OF ROMANIA FOR COTTON, WOOL AND MAN-MADE FIBER TEXTILE AND APPAREL PRODUCTS EXPORTED TO THE UNITED STATES

[FR Doc. 84–1508 Filed 1–18–84; 8:45 am]

BILLING CODE 3510–DR–M

Adjusting the Import Limit for Certain Cotton Apparel Products from Haiti

January 16, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on January 19, 1984. For further information contact

Carl Ruths, International Specialist (202) 377–4212.

Background

A CITA directive dated February 23, 1983 (48 FR 8325), as amended, established limits for certain specific categories of cotton and man-made fiber textile products, including Category 337 (cotton playsuits), produced or manufactured in Haiti and exported during the agreement year which began on March 1, 1983.

Effective on January 19, 1984, the limit for Category 337 is being increased from 112,203 dozen to 124,545 dozen to account for the application of carryover

from the previous agreement year, as provided under the terms of the Bilateral Cotton, Wool and Man-made Fiber Textile Agreement of March 25 and April 1, 1982, as amended, between the Governments of the United States and Haiti.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

January 16, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of February 23, 1983 from the Chairman of the Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton and man-made fiber textile products, produced or manufactured in Haiti and exported during the twelve-month period which began on March 1, 1983.[1]

Effective on January 19, 1984, paragraph 1 of the directive of February 23, 1983 is hereby further amended to include an adjusted level of restraint for Category 337 of 124,545 dozen.[2]

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-1428 Filed 1-18-84; 8:45 am]

BILLING CODE 3510-DR-M

[1] The agreement provides, in part, that: (1) Specific limits shall be increased by seven percent annually; (2) a specific limit may be exceeded in any agreement year by not more than seven percent of its square yards equivalent total, provided that the amount of the increase is compensated for by an equivalent decrease in one or more specific limits; (3) specific limits may also be increased for carryover and carryforward up to 11 percent of the applicable category limit; and (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[2] The limit has not been adjusted to account for any imports exported after February 28, 1983.

DEPARTMENT OF DEFENSE

Office of the Secretary

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, March 6, 1984; Tuesday, March 13, 1984; Tuesday, March 20, 1984; and Tuesday, March 27, 1984 at 10:00 a.m. in room 1E801, The Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Pub. L. 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b. (c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b. (c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy & Requirements) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552 b(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b. (c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D264, the Pentagon, Washington, D.C. 20301.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-1432 Filed 1-18-84; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

National Petroleum Council, Thermal Task Group of the Committee on Enhanced Oil Recovery; Meeting

Notice is hereby given that the Thermal Task Group of the Committee on Enhanced Oil Recovery will meet in January 1984. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Enhanced Oil Recovery will investigate the technical and economic aspects of increasing the Nation's petroleum production through enhanced oil recovery. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location, and agenda of the Thermal Task Group meeting follows:

The Thermal Task Group will hold its twelfth meeting on Friday, January 25, 1984, starting at 8:30 a.m., in the Desert Suite of the Canyon Hotel, 2850 South Palm Canyon Drive, Palm Springs, California.

The tentative agenda for the Thermal Task Group meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Review progress of Task Group study assignments.
3. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Thermal Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Thermal Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform G. J. Parker, Office of Oil, Gas and Shale Technology, Fossil Energy, 301/353-3032, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading

Room, Room IE–190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on January 12, 1984.

Donald L. Bauer,

Principal Deputy Assistant Secretary for Fossil Energy.

[FR Doc. 84–1550 Filed 1–18–84; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

Action Taken on Consent Order With World Oil Company

AGENCY: Economic Regulatory Administration (ERA), United States Department of Energy.

ACTION: Notice of Action Taken on Consent Order with World Oil Company.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces that it has adopted a Consent Order with World Oil Company as a final order of the DOE.

EFFECTIVE DATE: January 19, 1984.

FOR FURTHER INFORMATION CONTACT: Michael West, Esq., San Francisco Office, Economic Regulatory Administration, Department of Energy, 333 Market Street (Sixth Floor), San Francisco, California 94105; (415) 974–7114.

SUPPLEMENTARY INFORMATION: On June 13, 1983, the ERA published a notice in the **Federal Register** that it had executed a proposed Consent Order with World Oil Company (World) which would become effective no sooner than thirty (30) days after publication of that notice. 48 FR 27129. Pursuant to 10 CFR 205.199J(c), interested person were invited to submit comments concerning the terms and conditions of the proposed Consent Order.

The Consent Order resolves certain potential civil liability arising out of the Mandatory Petroleum Price and Allocation Regulations, 10 CFR Parts, 205, 211, and 212, in connection with the reporting of entitlements obligations and the sale of refined petroleum products during the period August 20, 1973 through January 27, 1981. The Consent Order requires a cash payment to DOE of $1,100,000.00 within 10 days after the effective date of the Consent Order. It also requires a dismissal with prejudice of *World Oil Company v. Edwards*, No. 82–0914 MRP (C.D. Cal.) and a waiver of any and all claims World may have to funds now held by DOE in escrow under the *In Re EDG, Inc. Consent Order*, Case No. 930S00173 (EDG). The amount of that escrow previously claimed by World is $858,281.93 including interest as of May 16, 1983.

As proposed, the consent order provided that $900,000 would be paid to the State of California because of DOE's inability to identify persons injured by World's activities, and the balance to go to the DOE for subsequent disposition in resolution of an entitlement program dispute. DOE has determined that it will hold in escrow both the $1,100,000 payment under the Consent Order and the funds from the above identified escrow account pending a determination concerning the appropriate disposition of these funds as discussed below.

Three comments were received by the July 13, 1983 deadline, and two thereafter. All five comments received were considered by ERA. The comments were exclusively from officials of state agencies. None of the commenters objected to the Consent Order and they generally agreed with the original remedy proposed to the extent it provided for refunds to states. Some suggested, however, that any undistributed refund amounts should be distributed to the States. One of the commenters, citing the decision of the Temporary Emergency Court of Appeals in *Citronelle-Mobile Gathering, Inc. v. Edwards*, 669 F.2d 171 (1982), suggested that it would be unlawful to deposit any of the funds received in the United States Treasury. Another commenter suggested that use of the funds distributed to California should not be restricted to the five energy conservation programs specified in the original proposed Consent Order. Two separate comments from officials of the State of California suggested that payment to the State Treasurer was inconsistent with a recent mechanism established by the State of California for receipt of such funds.

After considering the comments questioning the use of the funds, ERA has determined that the Consent Order should be made final but that further consideration ought to be given to the proposed remedy. To date, ERA has not yet determined an appropriate distribution for the funds to be paid pursuant to the consent order. Nevertheless, rather than hold this proceeding in abeyance, ERA has decided to make the consent order final and to resolve later the appropriate disposition of the payments under the consent order. Accordingly, the Consent Order, as made final, provides that the $1,100,000 payment by World will be placed in, and the EDG funds will be maintained in, a DOE interest bearing escrow account until an appropriate distribution is determined.

Having considered all comments received, ERA has determined that the proposed World Consent Order should be made final with the modification described above, effective on the date of publication of this Notice.

Issued in San Francisco on the 4th day of January 1984.

Raymond G. Gong,

Chief Counsel, Economic Regulatory Administration, San Francisco Office.

[FR Doc. 84–1551 Filed 1–18–84; 8:45 am]

BILLING CODE 6450–01–M

Proposed Remedial Order; Petrade International, Inc.

AGENCY: Economic Regulatory Administration, U.S. Department of Energy.

ACTION: Notice of Proposed Remedial Order to Petrade International, Inc.

SUMMARY: Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice of a Proposed Remedial Order which was issued to Petrade International, Inc. (Petrade) 11 Greenway Plaza, Suite 1710, Houston, Texas 77046. This Proposed Remedial Order alleges that Petrade charged prices in excess of its actual purchase prices in violation of §§ 212.86, 210.62(c) and 205.202 during the period April 1978 through December 1978 in the amount of $1,007,075.65. The Proposed Remedial Order also alleges violations in the pricing of crude oil of § 212.183 during the period April 1978 through January 1980 in the amount of $3,407,652.97.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: U.S. Department of Energy, Economic Regulatory Administration, ATTN: Sandra K. Webb, Director, One Allen Center, Suite 610, 500 Dallas Street, Houston, Texas 77002.

Within fifteen (15) days of publication of this Notice any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, in accordance with 10 CFR 205.193.

Issued in Houston, Texas on the 20th day of December 1983.

Sandra K. Webb,

Director, Houston Office, Economic Regulatory Administration.

[FR Doc. 84-1544 Filed 1-18-84; 8:45 am]

BILLING CODE 6450-01-M

Texas Armada Refining Company; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Texas Armada Refining Company (TARCO), 12625 Callaway Cemetery Road, Euless, Texas 76039. This Proposed Remedial Order charges TARCO with pricing violations in the amount of $5,864,289 in connection with increased non-product costs in excess of those permitted in 10 CFR Part 212, Subpart E during the period February 1, 1976 through December 31, 1979.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James A. Martin, Manager, Litigation Support Group, Economic Regulatory Administration, Department of Energy, 1341 W. Mockingbird Lane, Suite 200E, Dallas, Texas 75247 or calling (214) 767-7483. Within fifteen (15) days of publication of this Notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, Forrestal Building, 1000 Independence Avenue, SW. Room 6F-055, Washington, D.C. 20585, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas on the 16th day of December 1983.

Ben Lemos,

Director, Dallas Office, Economic Regulatory Administration.

[FR Doc. 84-1552 Filed 1-18-84; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Secondary and Tertiary Storage Task Group of the Coordinating Subcommittee of the National Petroleum Council's Committee on Petroleum Inventories and Storage Capacity; Meeting

Notice is hereby given that the Secondary and Tertiary Storage Task Group of the Coordinating Subcommittee of the National Petroleum Council's Committee on Petroleum Inventories and Storage Capacity will meet in February 1984. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and gas industries. The Committee on Petroleum Inventories and Storage Capacity will study and update the analysis of minimum operating levels as well as update the estimates of total storage capacity available for use. The Subcommittee was established to assemble information, and report to the Committee on matters relating to petroleum inventories and petroleum product storage capacities. The Secondary and Tertiary Task Group of the Subcommittee was established to develop a methodology to estimate more precisely the storage capactiy in the secondary distribution system and tertiary storage segment.

The Secondary and Tertiary Storage Task Group will hold its meeting on Wednesday and Thursday, February 1-2, 1984, starting at 9:00 a.m., in Conference Room 2673 of the Marathon Tower, 5555 San Felipe, Houston, Texas.

The tentative agenda for the Task Group meeting follows.

1. Review the final data from the survey of the secondary petroleum distribution system.

2. Discuss the final estimates of the inventory and storage in the secondary petroleum distribution system and tertiary storage segment.

3. Review the draft report.

4. Discuss any other matters pertinent to the overall assignment of the Task Group.

5. Public Comment (10 minute rule).

The meeting is open to the public. The Chairman of the Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should contact Jimmie L. Petersen, Office of Oil and Gas, Energy Information Administration, Forrestal Building, Room 2H-058, Washington, D.C., 202/252-6401, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review approximately 30 days following the meeting at the Freedom of Information Public Reading Room, Room 1E-190, Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours to 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on January 16, 1984.

J. Erich Evered,

Administrator, Energy Information Administration.

[FR Doc. 84-1553 Filed 1-18-84; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CI84-173-000]

ANR Production Co.; Application for Limited-Term Partial Abandonment and Limited-Term Certificate of Public Convenience and Necessity

January 13, 1984.

Take notice that on January 11, 1984, ANR Production Company filed an application for (1) permission and approval for limited-term partial abandonment of the sale to Transcontinental Gas Pipe Line Corporation from Mustang Island Block A-85, Offshore Texas that had been previously authorized in Docket No. CI83-188-000, and (2) a limited-term certificate of public convenience and necessity, with pregranted abandonment, authorizing the sale of "surplus" gas from such block to Entex, Inc.

Applicant is requesting authorization for the reason that Transco is unable to purchase from ANR for its system supply the volumes of gas which are capable of being produced from Mustang Island Block A-85. Because of facilities constraints east of station 50 on the Transco system, Transco is also unable to transport said gas to its customers under the Transco ISP and CCP programs. ENTEX, on the other hand, is willing and able to purchase up to 25,000 dekatherms (dth) per day from this block. Transco has agreed to release the gas as surplus to its system requirements for the limited term through October 28, 1984.

Applicant seeks authorization for the period from the date of authorization through October 28, 1984.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before January 23, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure [18 CFR

385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1486 Filed 1-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5088-001]

California Lumber; Surrender of Preliminary Permit

January 13, 1984.

Take notice that California Lumber, Permittee for the West Branch Feather River Hydroelectric Project, FERC No. 5088, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 5088 was issued on January 31, 1983 and would have expired on January 31, 1985. The project would have been located on West Branch Feather River in Butte County, California.

California Lumber filed the request on November 7, 1983, and the surrender of the preliminary permit for Project No. 5088 is deemed accepted as of November 7, 1983, and effective as of 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1487 Filed 1-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-110-000]

Cody Gas Co.; Petition for a Declaratory Order

January 16, 1984.

Take notice that on December 1, 1983, Cody Gas Company (Petitioner), 1155 Sheridan Avenue, Cody, Wyoming 82414, filed in Docket No. CP84-110-000 a petition pursuant to § 1.7(c) of the Commission's Rules of Practice and Procedure (18 CFR 1.7(c)) and pursuant to section 1(c) of the Natural Gas Act for an order declaring certain pipeline is exempt from the provisions of the Natural Gas Act, the Natural Gas Policy Act of 1978 and the rules and regulations of the Commission, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

It is stated that Petitioner is negotiating with Husky Pipeline Company to purchase a 3½-inch O.D. pipeline approximately 34.6 miles long which begins at the facilities of Montana-Dakota Utilities Co. at Elk Basin in Wyoming, with a jog of approximately 1½ miles into Montana, and terminates at a point in Park County, Wyoming. Petitioner states that there are no taps or any other outlets on the portion of the pipeline that lies within the state of Montana. It is further stated that all gas entering the pipeline at Elk Basin, Wyoming, would be consumed in Wyoming.

Petitioner requests that the Commission find the subject pipeline exempt from the jurisdiction of the Commission under the Natural Gas Act.

Any person desiring to be heard or to make protest with reference to said petition should on or before February 6, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1482 Filed 1-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-112-000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

January 13, 1984.

Take notice that on December 1, 1983, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP84-112-000 a request, as supplemented January 6, 1984, pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to transport natural gas on behalf of CertainTeed Corporation (CertainTeed) under the authorization issued in Docket No. CP83-76-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Specifically, Columbia proposes to transport up to 800 dt equivalent of natural gas per day on behalf of CertainTeed for a term of one year. Columbia states that the gas to be transported would be purchased from POI Energy, Inc. (POI), by CertainTeed and would be used for combustion engineering in CertainTeed's plant in York, Pennsylvania. Columbia states that it would receive the gas at various existing delivery points in Holms, Trumbull, Monroe, Medina, Washington and Wayne Counties, Ohio, Indiana County, Pennsylvania, and Raleigh County, West Virginia, and redeliver such gas to Columbia Gas of Pennsylvania, the distribution company serving CertainTeed. Columbia further states that it has released certain gas supplies of POI which Certain Teed has purchased from POI. Columbia states that these supplies are subject to the ceiling price provisions of Sections 102, 103 and 107 of the Natural Gas Act of 1978.

Further, Columbia states that depending upon whether its gathering facilities are involved, it would charge either (1) its average system-wide storage and transmission charge, currently 40.11 cents per dt, exclusive of company-use and unaccounted-for gas, or (2) its average system-wide storage, transmission and gathering charge, currently 44.93 cents per dt, exclusive of company-use and unaccounted-for gas. Columbia states that it would retain 2.85 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for

authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1488 Filed 1-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-53-000]

Columbia Gas Transmission Corp. Request Under Blanket Authorization

January 13, 1984.

Take notice that on November 8, 1983, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP84-53-000 a request, as supplemented January 4, 1983, pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to transport natural gas on behalf of Chemetals Incorporated (Chemetals) under the authorization issued in Docket No. CP83-76-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Columbia proposes to transport up to 1,460 dt equivalent of natural gas per day for Chemetals for a term of one year. Columbia states that the gas to be transported would be purchased from Yankee Resources, Inc. (Yankee), by Chemetals and would be used primarily for boiler fuel in Chemetals' Baltimore, Maryland plant. Columbia states that it would receive the gas at existing delivery points in Carroll, Perry, Trumbull, Columbiana, Hocking, Noble, Licking and Coshocton Counties, Ohio, and Rockingham County, Virginia, and redeliver such gas to Baltimore Gas and Electric Company, the distribution company serving Chemetals. Columbia further states that it has released certain gas supplies of Yankee which Chemetals has purchased from Yankee. Columbia states that these supplies are subject to the ceiling price provisions of sections 102, 103, 107 and 108 of the Natural Gas Policy Act of 1978.

Further, Columbia states that depending upon whether its gathering facilities are involved, it would charge either (1) its average system-wide storage and transmission charge, currently 40.11 cents per dt, exclusive of company-use and unaccounted-for gas, or (2) its average system-wide storage, transmission and gathering charge, currently 44.93 cents per dt, exclusive of company-use and unaccounted-for gas. Columbia states that it would retain 2.85 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1489 Filed 1-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-90-000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

January 13, 1984.

Take notice that on November 23, 1983, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 24314, filed in Docket No. CP84-90-000 a request, as supplemented on January 6, 1984, pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to transport natural gas under the authorization issued in Docket No. CP83-76-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Columbia proposes to transport up to 400 dt equivalent of natural gas per day on behalf of Trumbull Asphalt Division of Owens-Corning Fiberglas Corporation (Trumbull Asphalt). Columbia states that it would receive the quantities at existing points of delivery on its system and redeliver to Columbia Gas of Ohio, Inc. for ultimate delivery to Trumbull Asphalt's plant in Medina, Ohio.

Columbia states that the gas to be purchased by Trumbull Asphalt involves gas supplies released by Columbia and that such supplies are subject to the ceiling price provisions of section 103 of the Natural Gas Policy Act of 1978.

Further, Columbia states that depending upon whether its gathering facilities are involved, it would charge either (1) its average system-wide storage and transmission charge, currently 40.11 cents per dt equivalent, exclusive of company-use and unaccounted-for gas, or (2) its average system-wide storage, transmission and gathering charge, currently 44.93 cents per dt equivalent, exclusive of company-use and unaccounted-for gas. Columbia states that it would retain 2.85 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1490 Filed 1-18-84; 8:45 am]

BILLING CODE 6717-01-M

Columbia Gas Transmission Corp.; Prior Notice Requests

January 13, 1984.

Take notice that Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in the referenced dockets requests pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to transport natural gas on behalf of specific end-users under the authorization issued in Docket No. CP83-76-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests which are on file with the Commission and open to public inspection.

The Appendix hereto provides specific details for each of the referenced dockets under which Columbia proposes to transport natural gas. Columbia states that the gas to be transported would be received at existing delivery points on its system

and that it would redeliver the gas to the distributor serving the particular end-user. Columbia states that the gas to be purchased by the end-users involves gas supplies released by Columbia (except for Docket No. CP84–177–000) and that such supplies are subject to the ceiling price provisions of the National Gas Policy Act of 1978 (NGPA) (See Appendix for the NGPA sections under which gas was released). Further, Columbia states that depending upon whether its gathering facilities are involved, it would charge either (1) its average system-wide storage and transmission charge, currently 40.11 cents per dt, exclusive of company-use and unaccounted-for gas, or (2) its average system-wide storage, transmission and gathering charge, currently 44.93 cents per dt, exclusive of company-use and unaccounted-for gas. Columbia states that it would retain 2.85 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the specific request in which it has an interest. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the particular request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

APPENDIX

Docket No. CP84–	Distribution company	End-user	Producer/supplier	Transportation Volumes (MMBtu/Day)	NGPA sections
167–000	CWV [5]	Quaker State Oil Refining Corp., Newell, W VA	Quaker State Oil Refining Corp	4,100	103, 107, and 108.
176–000	COH [1]	General Electric Co. Coshocton, Ohio	Ohio Shale Pipeline Corp	1,800	103, 107.
177–000	CPA [2]	Weiland Chemical, Inc., Newall, PA	Berea Oil & Gas Corp	1,000	Not applicable.
181–000	BG&E [3]	United States Gypsum Co., Baltimore, MD	Fox Oil & Gas Inc	2,500	102, 103.
185–000	City of Richmond, D.P.U.[4].	Manchester Board & Paper Co., Inc., Richmond, VA	Morgan-Pennington, Inc	450	103.
186–000	COH [1]	Weyerhaeuser Co., Mt. Vernon, Ohio	Energy Management, Inc	100	102, 103, 107, and 108.
188–000	COH [1]	Mar-Zane, Inc., Division of Shelley & Sands Inc., Hayden-ville, Ohio.	Shelly & Sands, Inc	150	103, 107.
189–000	BG&E [3]	Maryland Cup, Corp., Owings Mills MD & Baltimore, MD	POI Energy, Inc	1,500	102, 103, and 107.
190–000	CWV [5]	Goodyear Tire & Rubber Co., Apple Grove, W VA	Victory Development Co	1,600	102,103.
191–000	CWV [5]	Koopers Co. Inc., Follansbee, W VA	([6])	1,040	103.

[1] Columbia Gas of Ohio, Inc.
[2] Columbia Gas of Pennsylvania, Inc.
[3] Baltimore Gas & Electric Company
[4] Columbia will deliver to Commonwealth Pipeline Corp., which will redeliver to City of Richmond, Department of Public Utilities.
[5] Columbia Gas of West Virginia, Inc.
[6] Ludco, Inc.; Jerry C. Olds and/or Rodney L. Johnson; Jack Moran; Richard C. Meyer, Inc.; W.E. Shrider Co., Inc.; Jeff Moran, Jeffery G. Moran.

[FR Doc. 84–1491 Filed 1–18–84; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. CP84–168–000]

Columbia Gas Transmission Corp.; and Columbia Gulf Transmission Co.; Request Under Blanket Authorization

January 13, 1984.

Take notice that on January 4, 1984, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, and Columbia Gulf Transmission Company (Columbia Gulf), 3805 West Alabama Avenue, Houston, Texas, 77027, filed jointly in Docket No. CP84–168–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia and Columbia Gulf propose to transport natural gas on behalf of St. Regis Corporation (St. Regis) under the authorizations issued in Docket Nos. CP83–76–000 and CP83–496–000, respectively, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Columbia and Columbia Gulf propose to transport up to 3.5 billion Btu of natural gas per day for St. Regis for a term of one year. It is stated that the gas to be transported would be purchased from Exxon Corporation (Exxon) in Louisiana and would be used for boiler fuel in St. Regis's York, Pennsylvania, plant.

The gas purchase agreement between Exxon and St. Regis indicates that Columbia has released certain gas supplies of Exxon. It is stated that these supplies are subject to the ceiling provisions of sections 102 and 103 of the Natural Gas Policy Act of 1978. It is indicated that St. Regis has purchased this released gas from Exxon. It is further indicated that Columbia Gulf would receive the gas from Exxon in Louisiana or offshore Louisiana, would deliver the gas to Columbia at existing points of interconnection between Columbia and Columbia Gulf, and the gas would be transported by Columbia to Columbia Gas of Pennsylvania, Inc. (CPA), the distributor serving St. Regis in York, Pennsylvania.

It is stated that depending upon whether the receipt point is offshore or onshore, Columbia Gulf would charge either (1) its average system-wide unit onshore transmission charge, currently 26.19 cents per dt equivalent, exclusive of company-use and unaccounted-for gas, or (2) its average system-wide offshore transmission charge, currently 44.63 cents per dt equivalent, exclusive of company-use and unaccounted-for gas. It is further stated that Columbia would charge its average system-wide storage and transmission charge, currently 40.11 cents per dt equivalent, exclusive of company-use and unaccounted-for gas. Columbia Gulf states that, for company-use and unaccounted-for gas, it would retain 3.33 percent of the total quantity of gas delivered into its system for offshore

transportation and 2.58 percent for onshore transportation. Columbia states that it would retain 2.85 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1492 Filed 1-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-169-000]

Columbia Gas Transmission Corp. and Columbia Gulf Transmission Co., Request Under Blanket Authorization

January 13, 1984.

Take notice that on January 4, 1984, Columbia Gas Transmission Corporation (Columbia Gas), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, and Columbia Gulf Transmission Company (Columbia Gulf), 3805 West Alabama Avenue, Houston, Texas, 77027, filed jointly in Docket No. CP 84-169-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia Gas and Columbia Gulf propose to transport natural gas on behalf of The Proctor and Gamble Manufacturing Company (P&G) under the authorization issued in Docket Nos. CP83-76-000 and CP83-496-000, respectively, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Columbia Gas and Columbia Gulf propose to transport up to 3 billion Btu of natural gas per day for P&G for a term of one year. Applicants state that the gas to be transported would be purchased from Exxon Corporatoin (Exxon) by P&G and would be used for boiler fuel in P&G's facility in Baltimore, Maryland.

Columbia Gas states that it has released certain gas supplies which P&G has purchased from Exxon, and that these supplies are subject to the ceiling price provisions of sections 102(c) and 103 of the Natural Gas Policy Act of 1978. It is indicated that Columbia Gulf would receive up to 3,000 dt equivalent of natural gas per day delivered into its pipeline system at existing interconnections with Exxon and would transport such gas for Baltimore Gas and Electric Company (BG&E), the distribution company serving P&G. It is indicated that Columbia Gulf would deliver the gas to existing points of interconnection with Columbia Gas, located in the state of Louisiana, and Columbia Gas would then redeliver the gas to BG&E at an existing delivery point on BG&E's pipeline system.

Further, Columbia Gas states that depending upon whether the receipt point is offshore or onshore, it would charge either its average system-wide unit onshore or offshore transmission costs which are currently 26.19 cents per dt equivalent and 44.63 cents per dt equivalent, respectively, exclusive of company-use and unaccounted-for gas. Columbia Gas states that it would retain 3.33% of the total quantity of gas delivered into its system for transportation offshore and 2.58% transportation onshore for company-use and unaccounted-for gas. Columbia Gas indicates that it would charge its average system-wide storage and transmission costs which is currently 40.11 cents per dt equivalent, exclusive of company-use and unaccounted-for gas. Columbia Gas states that it would retain 2.85 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1493 Filed 1-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-170-000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

January 13, 1984.

Take notice that on January 4, 1984, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP84-170-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to transport natural gas on behalf of Bethlehem Steel Corporation (Bethlehem Steel) under the authorization issued in Docket No. CP83-76-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Specifically, Columbia proposes to transport up to 4,550 dt equivalent of natural gas per day on behalf of Bethlehem Steel for a term of one year. Columbia states that the gas to be transported would be purchased from Industrial Energy Services Company, by Bethlehem Steel and would be used for boilers and reheat furnaces at Bethlehem Steel's Steelton, Pennsylvania, plant. It is stated that Columbia would receive the gas at various existing delivery points in Pennsylvania, and redeliver such gas to UGI Corporation, the distribution company serving Bethlehem Steel. Columbia further states that the gas to be purchased by Behtlehem Steel involves gas supplies released by Columbia and that such supplies are subject to the ceiling price provisions of Section 103 of the Natural Gas Policy Act of 1978.

Further, Columbia states that depending upon whether its gathering facilities are involved, it would charge either (1) its average system-wide storage and transmission charge, currently 40.00 cents per dt equivalent, exclusive of company-use and unaccounted-for gas, or (2) its average system-wide storage, transmission and gathering charge, currently 44.93 cents per dt equivalent, exclusive of company-use and unaccounted-for gas. Columbia states that it would retain 2.85 percent of the total quantity of gas delivered into

its system for company-use and unaccounted-for gas.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1494 Filed 1-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-171-000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

January 13, 1984.

Take notice that on January 4, 1984, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP84-171-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to transport natural gas on behalf of Bethlehem Steel Corporation (Bethlehem Steel) under the authorization issued in Docket No. CP83-76-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Specifically, Columbia proposes to transport up to 4,000 dt equivalent of natural gas per day on behalf of Bethlehem Steel for a term of one year. Columbia states that the gas to be transported would be purchased from Industrial Energy Services Company, by Bethlehem Steel and would be used for boilers and reheat furnaces at Bethlehem Steel's Bethlehem, Pennsylvania, plant. It is stated that Columbia would receive the gas at various existing delivery points in Pennsylvania, and redeliver such gas to UGI Corporation, the distribution company serving Bethlehem Steel. Columbia further states that the gas to be purchased by Bethlehem involves gas supplies released by Columbia and that such supplies are subject to the ceiling price provisions of section 103 and 108 of the Natural Gas Policy Act of 1978.

Further, Columbia states that depending upon whether its gathering facilities are involved, it would charge either (1) its average system-wide storage and transmission charge, currently 40.11 cents per dt equivalent, exclusive of company-use and unaccounted-for gas, or (2) its average system-wide storage, transmission and gathering charge, currently 44.93 cents per dt equivalent, exclusive of company-use and unaccounted-for gas. Columbia states that it would retain 2.85 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1495 Filed 1-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-193-000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

January 13, 1984.

Take notice that on January 12, 1984, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP84-193-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to transport natural gas on behalf of Empire Detroit Steel, Division of Cyclops Corporation (Empire), under the authorization issued in Docket No. CP83-76-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Columbia proposes to transport up to 7.5 billion Btu of natural gas per day for Empire for a term of one year. It is stated that the gas to be transported would be purchased from Ohio Gas Marketing (OGM) and would be used for boiler fuel and space heating in Empire's Mansfield, Ohio, plant.

It is indicated that Columbia has released certain gas supplies of OGM and that these supplies are subject to the ceiling provisions of sections 102, 103, 107 and 108 of the Natural Gas Policy Act of 1978. It is further indicated that Empire has made arrangements to purchase this released gas from OGM. Columbia states that it would receive the gas from OGM and redeliver the gas to Columbia Gas of Ohio, Inc. (COH), the distributor serving Empire in Mansfield, Ohio. Further, Columbia states that depending upon whether its gathering facilities are involved, it would charge either (1) its average system-wide storage and transmission charge, currently 40.11 cents per dt equivalent, exclusive of company-use and unaccounted-for gas, or (2) its average system-wide storage transmission and gathering charge, currently 44.93 cents per dt equivalent, exclusive of company-use and unaccounted-for gas. Columbia states that it would retain 2.85 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1496 Filed 1-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP74-9-000]

Consolidated Gas Supply Corp., et al.; Petition To Amend

January 16, 1984.

Take notice that on December 12, 1983, Consolidated Gas Supply Corporation (Consolidated), 445 West Main Street, Clarksburg, West Virginia 26301, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, National Fuel Gas Supply Corporation (National Fuel), 10 Lafayette Square, Buffalo, New York 14203, and Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521, Houston, Texas 77252, referred to collectively as Petitioners, filed in Docket No. CP74-9-000 a petition to amend the order issued on January 22, 1974,[1] in Docket No. CP74-9, pursuant to Section 7(c) of the Natural Gas Act, to authorize additional exchange points for the exchange of natural gas, all as more fully set forth in the petition on file with the Commission and open to public inspection.

Petitioners state that the order of January 22, 1974, authorized an exchange of natural gas among the Petitioners and the construction of facilities necessary to effect such exchanges. It is stated that the Petitioners request amendment of such order to authorize additional exchange points for the receipt of gas by National Fuel from Consolidated and the delivery of such gas as part of the subject exchange, in accordance with an amendatory agreement between Consolidated and National Fuel dated November 21, 1983. It is further stated that the proposed points of exchange deliveries are those existing delivery points specified in any of Consolidated's presently effective service agreements with National Fuel.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before Feb. 6, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1461 Filed 1-18-84; 8:45 am]

BILLING CODE 6717-01-M

[1] This proceeding was commenced before the F.P.C. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

[Docket No. ER84-91-000]

Delmarva Power & Light Co.; Order Accepting for Filing and Suspending Rates, Denying Motion To Reject, Noting Intervention, and Establishing Hearing Procedures

Issued January 13, 1984.

On November 14, 1983, Delmarva Power & Light Company ("Delmarva") tendered for filing, pursuant to the abbreviated filing requirements of § 35.13(a)(2) of the Commission's regulations, amendments to its Interconnection Agreement with the Easton Utilities Commission and the Town of Easton, Maryland ("Easton").[1] Under the Interconnection Agreement, Delmarva purchases lower priced short-term power through the Pennsylvania-New Jersey-Maryland ("PJM") Interconnection from the Allegheny Power System ("APS") for resale to Easton. The proposed amendments would permit Delmarva to recover by means of formula rates (1) the savings foregone by Delmarva by not utilizing the APS power it sells to Easton and (2) the revenues foregone by allowing Easton to use the PJM transmission facilities instead of selling excess transfer capability to other PJM members. The proposed changes are expected to increase revenues. Delmarva requests an effective date of Janury 13, 1984, with respect to charges to recover the foregone savings. With respect to charges to recover the foregone revenues, Delmarva requests an effective date of January 14, 1984, but states that it would accept a suspension to such date as the Commission permits revisions to the PJM Interconnection Agreement in Docket No. ER83-736-000.[2]

Notice of the filing was published in the **Federal Register**, with comments due by December 9, 1983.[3] On December 16, 1983, Easton filed a timely protest and motion to intervene.[4] In addition, Easton moves for rejection of the filing or the issuance of a deficiency letter. In support of its motion to reject the filing, Easton states that Delmarva has not complied with the Commission's regulations requiring the submission of cost support and other data in connection with revisions of filed rate schedules. Specifically, Easton disputes Delmarva's claim that the transactions in question are not subject to reasonable prediction and therefore fit within the "abbreviated filing" provisions of section 35.13(a)(2). Easton asserts that Delmarva has ample information available to it with which to develop a reasonable prediction of foregone savings over a forecasted twelve month period.

If the filing is not rejected, Easton requests that the Commission issue an order deferring the effective date by interpreting the contract between Delmarva and Easton as prohibiting Delmarva from placing the proposed formula rates into effect prior to a determination by the Commission that the formula rates are just and reasonable. In the alternative, Easton moves for a five month suspension of the rates, contending, *inter alia*, that the rates: are anticompetitive; bear no relation to the real cost of providing service to Easton; would yield an excessive return on investment; and would eliminate the benefits to Easton of purchasing short-term power.

On January 3, 1984, Delmarva answered Easton's protest and motion to intervene. While Delmarva does not oppose Easton's intervention, Delmarva does oppose the motions to reject or to issue a deficiency letter, to defer the effective date until the proposed changes are determined by the Commission to be just and reasonable, and to suspend for five months. Delmarva contends that its filing is an abbreviated filing within the Commission's rules due to the difficulty of developing reliable test period data and because the transactions involved are short-term. Delmarva further asserts that the contract between itself and Easton permits Delmarva to unilaterally make changes in charges as it deems necessary, and that Easton's interpretation of the contract conflicts

[1] *See* Attachment A for rate schedule designations.

[2] These revisions to the PJM Interconnection Agreement affect Delmarva's foregone revenues inasmuch as they revise the rates that PJM members will be assessed for the use of other PJM members' unused share of transfer capacity in the PJM 500 kV transmission grids. Therefore, to the extent that Delmarva uses the "tranafer capability" of the transmission facilities to deliver energy to Easton in any hour, Delmarva foregoes the opportunity of reducing its systemwide production costs and foregoes the opportunity to recover revenues.

[3] The Commission subsequently extended the comment period to December 16, 1983, pursuant to a motion filed by Easton.

[4] On December 23, 1983, Easton filed a supplement to its protest.

with the plain language of the agreement. Finally, Delmarva disputes Easton's claims that the proposed changes are anticompetitive and do not properly reflect Delmarva's costs. Delmarva states that it is but one of many owners of the 500kV system and has no monopoly power in that market. Concerning its costs, Delmarva asserts that the instant filing is designed to recover only the costs imposed on Delmarva from serving Easton. Moreover, Delmarva states that if these costs are not recovered from Easton they will be borne by Delmarva's firm power customers, thus violating the principle of cost causation.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), Easton's unopposed motion to intervene serves to make it a party to this proceeding.

We shall deny Easton's motion to reject the filing or to issue a deficiency letter, inasmuch as our review indicates that the submittal substantially complies with our regulations,[5] and that further cost support information is not necessary.

As noted, Easton requests an order declaring that the proposed formula rates cannot become effective until after a finding by the Commission that the rates are just and reasonable. The Interconnection Agreement between Delmarva and Easton provides that Delmarva may file for modification of either the charges set forth in sections (f) and (g) of Schedule 1.01 or the terms and conditions of that Schedule other than those charges under section 205 of the Federal Power Act. However, the Interconnection Agreement limits the effective date for changes in terms and conditions to the later of (1) the date of issuance by the Commission of a final order finding the proposed modification to be just and reasonable or (2) December 31, 1983. While Delmarva states that the proposed changes revise the charges provided for in Schedule 1.01 section (g), Easton contends that the proposed changes are additional charges not already provided for in sections (f) and (g), and are, therefore, subject to the limitation on an effective date applicable to changes in terms and conditions. We find the foregone savings and foregone revenues formula rates to be modifications or changes of the existing rate contained in section (g) of Schedule 1.01, rather than a change in terms and conditions. Accordingly, we shall deny Easton's request to defer the effectiveness of the proposed changes until after the Commission issues a final order finding the changes to be just and reasonable.

Our review of Delmarva's submittal and the pleadings indicates that the proposed formula rates have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. We shall therefore accept Delmarva's rates for filing and suspend them as ordered below.

In *West Texas Utilities Company*, Docket No. ER82-23-000, 18 FERC ¶ 61,189 (1982), we explained the Commission's suspension policy and noted that rate filings would ordinarily be suspended for one day where preliminary review indicates that the proposed rates may be unjust and unreasonable but may not produce substantially excessive revenues, as defined in *West Texas*. Because our review suggests that Delmarva's formula rates may not yield excessive revenues, we shall suspend the foregone savings formula rate for one day from 60 days after filing, to become effective, subject to refund, on January 14, 1984, and we shall suspend the foregone revenues formula rate, to become effective, subject to refund, on the date that the Commission allows PJM transmission rate revisions in Docket No. ER83-736-000 to become effective.

The Commission orders:

(A) The motion to reject Delmarva's filing or to issue a deficiency letter is hereby denied.

(B) The motion to defer the effective date of the proposed amendments until after the issuance of a final Commission order finding the amendments to be just and reasonable is hereby denied.

(C) Delmarva's proposed rates are hereby accepted for filing; the foregone savings formula rate is suspended for one day from 60 days after filing, to become effective, subject to refund, on January 14, 1984, and the foregone revenues formula rate is suspended, to become effective, subject to refund, on the date the Commission permits revisions to the PJM Interconnection Agreement to become effective in Docket No. ER83-736-000.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Proceduce and the regulations under the Federal Power Act [18 CFR, Chapter I], a public hearing shall be held concerning the justness and reasonableness of Delmarva's formula rates.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days of the date of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(F) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A—Delmarva Power & Light Co., Docket No. ER84-91-000

Rate Schedule Designations

Filed:

Designations	Descriptions
(1) Rate Schedule FERC No. 71 (Redesignation of Rate Schedule FPC No. 11).	Interconnection Agreement (dated Oct. 15, 1970).
(2) Supplement No. 1 to Rate Schedule FERC No. 71 (Redesignation of Supplement No. 1 to Rate Schedule FPC No. 11).	Amendment to Interconnection Agreement (dated Sept. 27, 1972).
(3) Supplement No. 2 to Rate Schedule FERC No. 71 (Redesignation of Supplement No. 2 to Rate Schedule FPC No. 11).	Supplement Agreement (dated May 29, 1975).
(4) Supplement No. 3 to Rate Schedule FERC No. 71 (Redesignation of Supplement No. 3 to Rate Schedule FPC No. 11).	Supplemental Agreement (dated Mar. 20, 1981).
(5) Supplement No. 4 to Rate Schedule FERC No. 71 (Redesignation of Supplement No. 4 to Rate Schedule FPC No. 11).	Supplemental Agreement dated May 31, 1981 (settlement agreement in Docket No. EL82-1-000).
(6) Supplement No. 5 to Rate Schedule FERC No. 71 (Redesignation of Supplement No. 5 to Rate Schedule FPC No. 11).	Schedule 1.01.
(7) Supplement No. 6 to Rate Schedule FERC No. 71..	Revised Schedule 1.01 (exhibit A-1).
(8) Supplement No. 7 to Rate Schedule FERC No. 71 (Supersedes Supplement No. 6)..	(Exhibit A-2).

[FR Doc. 84-1498 Filed 1-18-84; 8:45 am]

BILLING CODE 6717-01-M

[5] *See Municipal Light Boards of Reading and Wakefield, Massachusetts* v. *FPC*, 450 F.2d 1341 (D.C. Cir. 1971), *cert. denied*, 405 U.S. 989 (1972).

[Project No. 2232-047]

Duke Power Co.; Application for Change in Land Rights

January 16, 1984.

Take notice that Duke Power Co., Licensee for the Catawba-Wateree Project, FERC No. 2232, on March 31, 1983, filed an application for approval of an easement affecting project land and waters at the Lake Hickory development of the project. The easement would enable Lake Hickory Development Corporation to construct and operate a sewer line that would discharge approximately 30,000 gallons per day of treated effluent into the waters of Lake Hickory. The application also include a proposal by the Licensee for the lease of approximately 0.21 acre of land to Lake Hickory Development Corporation for the construction of a boat dock at Lake Hickory. The Lake Hickory development is located in Burke County, North Carolina.

Correspondence with the Licensee should be directed to: Mr. John E. Lansche, Legal Department, P.O. Box 33189, Charlotte, North Carolina 28242.

Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant). If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Motion to Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025–26 (1983). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before February 29, 1984.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Deputy Director, Project Management Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 298 RB at the above address.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1483 Filed 1-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-102-000]

Montaup Electric Co.; Order Rejecting Purchased Power Adjustment Clause, Noting Interventions, and Terminating Docket

Issued January 13, 1984.

On November 16, 1983, Montaup Electric Company (Montaup) tendered for filing a proposed purchased power adjustment clause (PPAC) to reflect changes in the cost of purchased capacity under Montaup's long-term unit purchase agreements.[1] Montaup proposes that the PPAC supplement and revise its firm power wholesale rates to two Montaup affiliates, Eastern Edison Company and Blackstone Valley Electric Company and to three non-affiliated customers, Newport Electric Corporation, Pascoag Fire District, and the Town of Middleborough.[2] Montaup contends that the PPAC is required to protect Montaup from underrecovery of its costs through its base rates. Montaup states that its base rates reflect test period projections based on inaccurate estimates provided by Montaup's nonaffiliated long-term suppliers.

Under the proposed PPAC, monthly adjustments resulting in rate increases are limited to monthly increments that do not exceed five percent of the base demand charge in order to eliminate large rate fluctuations. Amounts in excess of the five percent limitation are deferred to the following month (or months) until recovery is complete. There is no limitation on monthly rate decreases. The PPAC also provides for the filing of an annual statement (should the PPAC result in a net increase in revenues above those that would be collected in the absence of the clause) on a calendar year basis comparing Montaup's average monthly demand charge per kilowatt-month as billed to customers for the year (including the effect of the PPAC) with the average demand cost per kilowatt-month for the year based on actual costs at the rate of return reflected in the base demand charge. If the "as-billed" cost exceeds the actual cost, Montaup will refund the difference with interest, with refunds limited to the amounts collected under the PPAC.[3] Furthermore, revenues collected under the provisions of the PPAC are subject to refund for sixty (60) days following the filing of the statement or until a final order issues from the Commission resolving any dispute as to the collected revenues.

Montaup requests waiver of the notice requirements to allow the PPAC to become effective on December 28, 1983, the date the firm power rates filed in Docket No. ER84-55-000 became effective.

Notice of the filing was published in the **Federal Register** with comments due on or before December 9, 1983. The Attorney General of the State of Rhode Island and the Rhode Island Division of Public Utilities and Carriers (Rhode Island) filed a timely intervention and protest which raised no substantive issues but requested that the Commission reject the PPAC.

The Attorney General of the Commonwealth of Massachusetts (Massachusetts) also filed a timely intervention, protest, and request for rejection of the PPAC. If the PPAC is not rejected, Massachusetts alternatively seeks a five month suspension of the PPAC and compliance with the Commission's full notice requirements. If the PPAC is accepted without a five month suspension, Massachusetts requests that the PPAC be consolidated with Docket No. ER84-55-000. In support of its requests, Massachusetts states that the proposed PPAC is contrary to Commission precedent, and creates disincentives for economic purchases of power and energy. Massachusetts further contends that the underestimates recited by Montaup are part of the risk of doing business.

Montaup's three nonaffiliated customers (Customers) also filed a timely intervention, protest and request for rejection of the PPAC, or in the alternative, a rejection of that portion of the PPAC that permits collection of costs incurred during the effective period of superseded tariffs. If the PPAC

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[1] Montaup purchases capacity from seven suppliers: Connecticut Yankee Atomic Power Company, Yankee Atomic Electric Company, Maine Yankee Atomic Power Company, Vermont Yankee Nuclear Power Corporation, Boston Edison Company (Pilgrim Unit No. 1), Canal Electric Company (Canal Unit No. 1), City of Taunton, Massachusetts (Cleary Unit No. 9), and Maine Electric Power Company (Coleson Cove Unit Nos. 1, 2, and 3 owned and operated by the New Brunswick Power Commission).

[2] In Docket No. ER84-55-000, the Commission accepted for filing and suspended for one day Montaup's proposed increase in rates for firm power service to become effective, subject to refund, December 28, 1983.

[3] The effect of the limitation is that customers will receive the benefits of cost decreases only to the extent that such decreases are less than or equal to the surcharge collected under the PPAC.

is not rejected entirely, Customers request that the PPAC be consolidated with Docket No. ER84–55–000 and thus, be considered in the Commission's determination in that docket of the appropriate suspension period and return on equity. In support of their requests, Customers contend that Commission precedent favors rejection of the PPAC and that in any event many of Montaup's expenses are either not likely to reoccur or may easily be forecasted.

On December 9, and 20, 1983, Montaup filed answers to the pleadings of Rhode Island, Massachusetts, and Customers. Montaup alleges that the PPAC comports with Commission precedent; that Customers fail to demonstrate that the PPAC will expose them to overrecovery; that the inaccurate estimates of Montaup's suppliers have been reoccurring and unpredictable; that Montaup's suppliers occasionally bill Montaup for costs incurred during the effective period of a superseded tariff making such costs attributable to current service; that protests with regard to the creation of any disincentives are inapposite since the PPAC only reflects changes in purchased capacity costs (not energy) under long-term agreements.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the unopposed interventions of Rhode Island, Massachusetts, and the Customers serve to make them parties to this proceeding.

The Commission has generally looked with disfavor upon automatic cost adjustment clauses which track only one cost component.[4] Our policy has been to permit automatic clauses in only a few instances: fuel adjustment clauses, research and development cost adjustments, full cost of service formula tariffs, and interchange rates based on incremental costs. Automatic adjustment clauses are exceptions to the notice and review provisions of the Federal Power Act and approval of such clauses as the rate is a departure from the traditional regulatory scheme.

The Commission's clear precedent in disallowing any automatic adjustments which track selected cost components (except as noted above) requires that the instant PPAC is summarily rejected. The situation presented by Montaup cannot be substantively distinguished from the other instances where a PPAC has been rejected. We stated in *Central Illinois Light Company* that we have "consistently applied a basic policy against isolated, self-policing *automatic* pass-through clauses for electric utilities that could in effect bypass or nullify the express statutory supervisory responsibilities of this Commission." Montaup argues that the PPAC is not "self-policing" and will not "bypass" Commission supervision because provisions within the PPAC permit Commission review and refunds. While we agree that Montaup's PPAC provides for Commission review of the "true-up" of actual versus "as-billed" demand costs, it nonetheless automatically increases the rates to recover selected costs. Decreased costs are only taken into account to the extent that they are equal to or less than increased costs. Thus, the PPAC guarantees unlimited recovery of purchased power cost increases, while placing a cap on rate adjustments to reflect cost decreases. This selective type of rate adjustment is what we have found in the past and continue to find objectionable.

In *Nantahala Power and Light Company*, 57 FPC 803 (1977), we rejected the company's PPAC stating: "The purchased power costs are only one component in an electric utility's cost of service and to permit automatic increases to flow through to wholesale customers for this one cost item while other costs items could be decreasing, would be inequitable." Montaup contends that its PPAC reflects offsetting decreases in other cost components, but, as noted, the decreases in other cost components will be passed on to customers only to the extent that other costs decrease as much as or less than purchased power costs increase.

In *Lockhart Power* and *Central Kansas Power Company, supra*, we likewise disallowed PPACs similar to that proposed by Montaup. Montaup purchases about fifty per cent of its requirements, whereas Lockhart and Central Kansas purchased sixty-five per cent and eighty per cent of their requirements, respectively. In addition, Lockhart made claims similar to Montaup of financial distress and unpredictable purchased power costs.

We have, however, recently accepted for filing a PPAC submitted by Superior Water, Light and Power Company. But the situation in *Superior* is unique and wholly unlike that presented in this docket. Superior purchases about ninety-five per cent of its requirements from its parent company and therefore its PPAC effectively operated as a proxy for a comprehensive cost of service tariff which adjusts all cost components.

We find unpersuasive Montaup's argument that it lacks sufficent detailed knowledge to substitute figures in its test period projections for the low estimations provided by its suppliers. We are likewise unpersuaded that the only solution to Montaups problem with its supplier's estimates is a PPAC. Given the trend of inaccurate estimates provided by Montaup's suppliers over the past seven years, Montaup should reasonbly be expected to include the expected cost overruns in developing its test period projections. Purchased power is but one cost item which a utility must project. It is the utility's responsibility to put forward accurate projections using both information from its vendors as well as its informed analysis and judgment of the vendor's assumptions and reliability and of the general economic climate and trend.

The Commisson orders:

(A) Montaup's proposed purchased power adjustment clause is rejected.

(B) Docket No. ER84–102–000 is terminated.

(C) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–1499 Filed 1–18–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP84–77–000]

Northwest Central Pipeline Corp., Request Under Blanket Authorization

January 16, 1984.

Take notice that on November 18, 1983, Northwest Central Pipeline Corporation (Northwest Central), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP84–77–000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Northwest Central proposes to abandon by reclaim certain measuring and appurtenant facilities in Woods County, Oklahoma, and to abandon the transportation and exchange of gas through said facilities under its authorization issued in docket No. CP82–479–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in its request on file with the

[4] *See Nantahala Power and Light Company*, Opinion No. 139, Docket No. ER76–828–000, 19 FERC ¶ 61,152 (1982); *Central Power and Light Company*, Docket Nos. EL79–28 and ER79–600, 11 FERC ¶ 61,102 (1980); *Central Illinois Light Company*, Docket No. ER76–919, Opinion, No. 81, 10 FERC ¶ 61,102 (1980); *Central Kansas Power Company*, Docket Nos. E–9469 and ER76–377, Opinion No. 29, 4 FERC ¶ 61,337 (1978); and *Nantahala Power and Light Company*, Docket No. E–9181, 57 FPC 803 (1977).

Commission and open to public inspection.

Northwest Central states that Zenith Natural Gas Company (Zenith) has advised that gas service is no longer needed at this location. The estimated cost to reclaim these facilities is $2,400, with an estimated salvage value of $1,710.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1484 Filed 1-18-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER81-779-004]

Pennsylvania Power Co.; Order Accepting for Filing Compliance Rates, Subject to Refund and Denying Motions To Reject and To Compel

Issued January 13, 1984.

On October 7, 1981, Pennsylvania Power Company (Penn Power) submited for filing a proposed two-step rate increase. By order dated January 21, 1982, 18 FERC ¶ 61,043 the Commission accepted Penn Power's submittal for filing, suspended the Phase A rates for one day, granted Penn Power's request to make the Phase B rates effective, subject to refund, upon issuance of the initial decision in this proceeding, such rates to reflect the findings of that decision, and set the proposed two-step increase for hearing. The Presiding Administrative Law Judge phased the proceedings, and the initial decision in Phase I was issued on June 20, 1983. 23 FERC ¶ 63,115. Accordingly, on August 4, 1983, as revised on September 23 and October 24, 1983,[1] Penn Power submitted for filing revised Phase B rates and cost of service data.[2] Penn Power requests an effective date of June 20, 1983 for the Phase B rates.

Notices of the original and revised compliance filings were published in the **Federal Register** with comments due on or before September 6, 1983, and November 21, 1983, respectively.[3] On September 6, 1983, five Pennsylvania Boroughs (Boroughs) [4] filed a protest to Penn Power's August 4, 1983 compliance filing. Boroughs request that the Commission reject the filing, contending that Penn Power's submittal of increased rates is inconsistent with certain ordering paragraphs of the initial decision which directed refunds and that the submittal is premature, because certain cost of service issues remain unresolved. If Penn Power's compliance filing is not rejected, Boroughs request that Penn Power be required to provide additional workpapers. Boroughs also allege that Penn Power's treatments of deferred fuel expense and interest expense for its income tax calculation were incorrect.[5] Finally, Boroughs contend that Penn Power's proposed effective date of June 20, 1983 (the date of the initial decision) would result in retroactive ratemaking and that the compliance rates, if accepted for filing, should become effective only on the date of acceptance. On October 7, 1983, Boroughs filed a motion to compel production of additional workpapers and stated that Penn Power has refused to respond to data requests for workpapers supporting the company's compliance filing. On November 4, 1983, Boroughs filed a protest to the October 24, 1983 revision to the compliance filing, in which protest Boroughs reiterate their request for additional workpapers.

On September 23, 1983, Penn Power filed a response to Boroughs' September 6, 1983 pleading, requesting denial of Boroughs' requests for rejection of the compliance filing and for production of additional workpapers.

Discussion

Boroughs partially base their request for rejection on the contention that the compliance filing is premature, because certain cost of service issues remain unresolved and because the Commissions's January 21, 1982, order envisioned that the Phase B rates would reflect an initial decision that resolved all outstanding cost of service issues. Boroughs further contend that the June 20, 1983, initial decision does not meet this requirement because: (1) The Commission has not ruled on the exceptions to the initial decision, (2) the treatment adopted for abandoned plant leaves unresolved the actual amounts to be amortized, and (3) the Quarto coal issue was reserved for Phase II of the proceeding.

We note that the Commission's order of January 21, 1982, expressly directed Penn Power to implement its Phase B rates, subject to refund, at the time of the issuance of the initial decision. This necessarily required that the Phase B rates become effective before exceptions to the initial decision could be considered. Furthermore, resolution of all cost of service issues before implementation of the Phase B rates is unnecessary for the protection of the Boroughs, because the January 21, 1982, order directed that the Phase B rates would be collected subject to refund.

In any event, only the Quarto coal issue is left unresolved by the initial decision in Phase I.[6] As to the issue of abandonment costs, the Administrative Law Judge's treatment of abandoned plant does not leave the annual cost of service effect unresolved. Rather, the initial decision only leaves variable the length of the ultimate amortization period.

We note, however, that the Commission's order did not address the possibility of a phased proceeding, leaving open the question of whether the issuance of the first or second phase initial decision would establish the effective date for the Phase B rates. We believe that any ambiguity on this issue is best resolved by allowing implementation of the Phase B rates upon the issuance of the Phase I initial decision. Penn Power could have implemented the Phase B rates, subject to refund, after a five month suspension, on June 23, 1982, nearly one year before the initial decision was issued. Instead, Penn Power voluntarily deferred recovery of the Phase B rates pending an initial decision. We, therefore, believe that it would be inappropriate to further delay recovery of the Phase B rates by

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[1] Penn Power revised its compliance filing in response to a September 20, 1983 letter from the Office of Electric Power Regulation advising the company that its compliance filing was deficient with respect to the findings of the initial decision and the stipulation of the parties which was adopted by the initial decision.

[2] *See* Attachment for rate schedule designations and affected parties.

[3] 48 FR 38885 and 52629 (1983).

[4] The Boroughs are Ellwood City, Grove City, Wampum, New Wilmington and Zelienople, Pennsylvania.

[5] We note that Penn Power corrected its treatments of deferred fuel expense and interest expense in its revised compliance filings.

[6] Moreover, our review indicates that the Quarto coal issue, which was phased by the Administrative Law Judge, could only have a nominal impact on ultimate base rates since the primary cost of service effect of the Quarto coal issue is flowed through the allowable fuel expense in the fuel adjustment clause.

Penn Power and that the January 21, 1982, order should be interpreted as allowing for implementation of the Phase B rates at the time of the issuance of the first initial decision in this proceeding.

Boroughs also request rejection of the filing on the basis that the submittal of increased rates is inconsistent with the refund language contained in ordering paragraphs (3) and (5) of the decision.[7] We note that, although the justness and reasonableness of both steps of the proposed increase were the subject of the initial decision (with the exception of the reserved Quarto coal issue), only the Phase A rates were in effect prior to issuance of the decision. We further note that the Phase A rates generate revenues at a lower level than that found to be just and reasonable by the Administrative Law Judge, although the Law Judge would not have known this prior to the compliance filing. Thus, the refund provision in the decision is inapplicable in this case, since the rates approved by the Administrative Law Judge are higher than the Phase A rates which were in effect. Inasmuch as the revised Phase B rates result in revenue levels that exceed the Phase A rates, the Phase A rates will be effective during a locked-in period, from January 24, 1982, through June 20, 1983, and no refunds are required at this time. Therefore, we find Boroughs' objections based on the initial decision's refund language to be groundless and we shall deny Boroughs' motion to reject on this basis.

Boroughs argue that, to the extent the compliance rates are accepted for filing, an effective date as of the date of this order should be assigned. Boroughs contend that Penn Power's proposed effective date of June 20, 1983 (the date of the initial decision) constitutes retroactive ratemaking. We also find this allegation to be without merit, since the Boroughs were put on notice by the January 21, 1982, order that the Phase B rates would be prospective from the date of the initial decision. We shall, therefore, accept Penn Power's compliance rates for filing to become effective, subject to refund, on June 20, 1983.

With respect to Boroughs' requests for production of additional workpapers and for rejection for failure to provide workpapers, our review indicates that Penn Power has submitted adequate cost data in support of its rates to determine the necessary adjustments to the original cost of service study submitted by Penn Power in support of the proposed Phase B rates and has complied with the initial decision. We shall, therefore, deny Boroughs' motion for production of workpapers.

The Commission orders:

(A) Boroughs' motion to reject Penn Power's compliance filing is hereby denied.

(B) Boroughs' motion to compel the production of additional workpapers is hereby denied.

(C) Penn Power's compliance rates are hereby accepted for filing to become effective, subject to refund, on June 20, 1983.

(D) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment—Pennsylvania Power Co. Rate Schedule Designations

Docket No. ER81–779–004

Designation	Other party	Description
Supplement No. 14 to Rate Schedule FPC No 30 (Supersedes Supplement No. 3).	New Wilmington	Rate level B.
Supplement No. 4 to Rate Schedule FPC No. 31 (Supersedes Supplement No. 3).	Wampum	Do.
Supplement No. 4 to Rate Schedule FPC No. 32 (Supersedes Supplement No. 3).	Zelienople	Do.
Supplement No. 4 to Rate Schedule FPC No. 33 (Supersedes Supplement No. 3).	Ellwood City	Do.
Supplement No. 4 to Rate Schedule FPC No. 34 (Supersedes Supplement No. 3).	Grove City	Do.

[FR Doc. 84–1500 Filed 1–18–84; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 7139–001]

Springfield Associates No. 4; Surrender of Preliminary Permit

January 13, 1984.

Take notice that Springfield Associates No. 4, Permittee for Wiley Creek, Project No. 7139, has requested that its preliminary permit be terminated. The Preliminary Permit was issued on October 19, 1983, and would have expired on September 30, 1985. The project would have been located on Wiley Creek within the Willamette National Forest in Lane County, Oregon.

Springfield Associates No. 4 filed the request on November 14, 1983, and the surrender of the preliminary permit for Project No. 7139 is deemed accepted as of November 14, 1983, and effective as of 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–1497 Filed 1–18–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP84–123–000]

United Gas Pipe Line Co.; Request Under Blanket Authorization

January 16, 1984.

Take notice that on December 9, 1983, United Gas Pipe Line Company (United), Post Office Box 1478, Houston, Texas 77001, filed in Docket No. CP84–123–000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that United proposes to construct and operate a sales tap for the delivery of gas to Louisiana Gas Service Company (Louisiana Gas) to serve a residential subdivision under the authorization issued in Docket No. CP82–430–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United states that the sales tap would be located on its 10-inch Covington line in St. Tammany Parish, Louisiana, and would enable Louisiana Gas to provide up to 92 Mcf of natural gas per day for residential end-use, under United's Rate Schedule G–N. It is stated that the requested sales tap would not cause an increase in the customer's contractual maximum daily quantity nor its entitlements under United's effective curtailment plan.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–1485 Filed 1–18–84; 8:45 am]

BILLING CODE 6717–01–M

[7] 23 FERC at p. 65,307.

ENVIRONMENTAL PROTECTION AGENCY

[Docket Nos. 518, 520, 521 and 527; OPP-FRL-2508-7]

Pesticide Products Containing Strychnine

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Objections and Requests for Hearing.

SUMMARY: Notice is hereby given, pursuant to section 164.8 of the rules of practice (40 CFR 164.8) issued under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136 *et seq.*), that objections and requests for a hearing were filed by registrants, users and vendors of pesticide products containing strychnine in connection with the Administrator's notice of intent to cancel registrations, and deny applications for certain users of strychnine, dated September 30, 1983, 48 FR 48522 *et seq.* (October 19, 1983). These proceedings have been consolidated for hearing by order of the Chief Administrative Law Judge dated January 5, 1984.

For information concerning the issues involved and other details of these proceedings, interested persons are referred to the dockets of these proceedings on file with the Hearing Clerk, Environmental Protection Agency (Mail Code A-110), Room 3708, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460 (202-382-4865).

Dated: January 11, 1984.

Marvin E. Jones,

Administrative Law Judge.

[FR Doc. 84-1451 Filed 1-19-84; 8:45 am]

BILLING CODE 6560-50-M

[SAB-FRL-2506-8]

Science Advisory Board; Environmental Effects, Transport and Fate Committee; Open Meeting

Under Pub. L. 92-463, notice is hereby given of a one-day meeting of the Science Advisory Board's Environmental Effects, Transport and Fate Committee. The meeting will be held on February 6, 1984 at the U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. in room 3906-08. The meeting will begin at 9:15 a.m. and will adjourn at approximately 4:30 p.m.

The Committee will be meeting to receive background information from Agency staff on two issues. These include 1) assessment of environmental impacts following incineration of hazardous wastes at sea, and 2) development of indicators to define and measure ocean degradation. These briefings will enable the Committee to determine an appropriate course of action to carry out its independent scientific review.

The meeting is open to the public. Any member of the public wishing to attend, obtain information or submit comments to the Committee should contact Dr. Terry F. Yosie, Director, Science Advisory Board (202) 382-4126 or Dr. Douglas B. Seba, Executive Secretary, Environmental Effects, Transport and Fate Committee (202) 382-2552 by close of business January 31, 1984.

Terry F. Yosie,

Staff Director, Science Advisory Board.

January 12, 1984.

[FR Doc. 84-1450 Filed 1-18-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[Docket No. FEMA-REP-6-LA-3]

Louisiana; Radiological Emergency Preparedness Plans

AGENCY: Federal Emergency Management Agency.

ACTION: Notice of receipt of plans.

SUMMARY: This is a notice that the State of Louisiana has submitted Radiological Emergency Preparedness Plans to the Federal Emergency Management Agency, Region VI, for review and approval. These plans include the Louisiana Peacetime Radiological Response Plan and Attachment 3 to this plan which is the Peacetime Radiological Response Plan for the River Bend Station.

DATE: December 27, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Stephens, Regional Director, FEMA Region VI, Federal Center, 800 North Loop 288, Denton, Texas 76201-3698; (817) 387-5811.

SUPPLEMENTARY INFORMATION: This provides notice in accordance with 44 CFR Part 350.6 of the FEMA Final Rule, "Review and Approval of State and Local Radiological Emergency Plans and Preparedness," that on December 27, 1983, the Federal Emergency Management Agency Region VI office received the State of Louisiana's Radiological Emergency Preparedness Plans. These plans include the State of Louisiana Peacetime Radiological Response Plan which is Annex J, Appendix 7 to the Louisiana Preparedness Plans for Emergency Operations and Attachment 3, which is the Louisiana Peacetime Radiological Response Plan for the River Bend Station and offsite emergency response plans for the five local governing bodies (parishes) which are within the Plume Exposure Pathway Emergency Planning Zones of the nuclear plant.

Copies of these plans will be made available upon request in accordance with the fee schedule for FEMA Freedom of Information Act request. This schedule, which covers exemption from the fee, is set forth in subpart C of 44 CFR, Part 5. There are 402 pages in the document: reproduction fees are 10¢ a page prepaid with a request for a copy.

Comments regarding the plans may be submitted in writing to Mr. Jerry Stephens, Regional Director, at the above address within 30 days of this **Federal Register** Notice.

FEMA Final Rule 44 CFR 350.10 requires that a public meeting be held prior to the approval of the plans. A public meeting will be held in the vicinity of the River Bend Plant and will be noted in the local newspapers at least two weeks prior to the meeting date.

Jerry Stephens,

Regional Director.

[FR Doc. 84-1404 Filed 1-18-84; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL HOME LOAN BANK BOARD

[84-14]

Prices for Federal Home Loan Bank Services

Dated: January 12, 1984.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice of prices for Federal Home Loan Bank services.

SUMMARY: The Office of District Banks and the Office of Policy and Economic Research of the Federal Home Loan Bank Board are publishing, pursuant to delegated authority, the prices charged by the Federal Home Loan Banks for (1) processing and settlement of items and (2) demand deposit services offered to member institutions.

FOR FURTHER INFORMATION CONTACT: Ashley C. Speir, Jr., (202-377-6656) Office of District Banks, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: Section 11(e) of the Federal Home Loan Bank Act (12 U.S.C. 1431(e)) authorizes the Federal Home Loan Banks (1) to accept demand deposits from member institutions, (2) to be drawees of

payment instruments, (3) to engage in collection and settlement of payment instruments drawn on or issued by members and eligible institutions, and (4) to engage in such incidental activities as are necessary to the exercise of such authority.

Section 11(e)(2)(B) of the Bank Act (12 U.S.C. 1431(e)(2)(B)) requires the Federal Home Loan Banks to charge fees for services authorized in that section, which fees are "to be determined and regulated by the Board consistent with the principles set forth in section 11A(c) of the Federal Reserve Act." Board regulations at 12 CFR 534.6 require that the Director of the Office of District Banks and the Director of the Office of Policy and Economic Research (or their designees) review, approve, and publish these fees at least annually. The regulations specify that the fees must be reviewed in accordance with the following pricing principles:

(1) In determining the fees for service provided under this Part, a Federal Home Loan Bank must take into account all direct and indirect costs of providing the services.

(2) Prices must reflect the imputed rate of return that would have been earned and the taxes that would have been paid if the Bank were a private corporation, by using a cost of capital adjustment factor applied to those assets used in providing services authorized under this Part.

(3) All costs must be fully recovered within a period not exceeding five years. The prices charged for collection, processing, and settlement services must yield at least a competitive rate of return within a period not exceeding five years after offering such services.[1]

In accordance with these principles, the Director of the Office of District Banks and the Director of the Office of Policy and Economic Research have reviewed and approved the current prices for Federal Home Loan Bank services, which are published herewith. The services and their prices are divided into two categories: (1) Services involved in the processing and settlement of items drawn on or issued by member institutions (Schedule A); and (2) service relating to demand deposit accounts maintained by member institutions with the Banks (Schedule B).

The services described in the attached schedules are not identical for any two Banks, as each Bank's program is tailored to meet the needs of the member institutions in the Bank's district. Furthermore, the volume of services rendered varies significantly among the districts, with the result that the costs of providing the services also vary from district to district. In light of these considerations, the Board continues its practice of approving separate district fee structures rather than adopting a uniform pricing scheme. This policy is consistent with the Congressional intent that pricing encourage competition.

It is not required that each processing step or transaction performed by a Bank be specifically priced. This policy permits the Banks to establish fee schedules that are in line with the marketing practices of providers of correspondent services in each district. However, total revenue from services must be sufficient to cover costs. In the case of item processing an settlement services, fees must be sufficient to recover all start-up costs within five years. Demand deposit service expenses must be recovered annually, because the Banks have provided these services for many years, and thus have attained mature service volumes.

The price analysis incorporates an imputed cost of capital adjustment factor of fifteen percent. This adjustment factor is required by 12 CFR 534.6(b)(2) in order to yield a fee structure competitive with prices charged by private-sector servicers. The current fifteen-percent figure was derived in accordance with a formula which is described in detail at 45 FR 64161 (Sept. 29, 1980).

The directors of the Office of District Banks and the Office of Policy and Economic Research of the Federal Home Loan Bank Board hereby give notice of the following fee schedules for Federal Home Loan Bank services:

Schedule A: Item Processing and Settlement Services

District 1.—Federal Home Loan Bank of Boston

[Services not provided]

District 2.—Federal Home Loan Bank of New York

Service	Fee
Settlement (per month)	$75.00
Standard Intercept (per item)	.02
Standard Intercept-Delayed Check (per item)	.02
Check Safekeeping:	
First 100,000 items/month (per item)	.015
100,001 plus items/month (per item)	.010
Bulk Filing	
First 100,000 items/month (per item)	.020
100,001 plus items/month (per item)	.015

District 2.—Federal Home Loan Bank of New York—Continued

Service	Fee
Statement Rendering:	
Bulk Filing with items (per statement)	.30
Check Safekeeping without items (per statement)	.05
Stop Payment, Suspect Item, and Certified Item File (per entry)	1.00
Automatic Item Returns (per item)	2.50
Photocopies (per copy)	2.00
Original Item Retrieval (per item)	4.00
Datafax High Dollar Items (per item)	1.00
Counter Item Filing (per item)	.02
Counter Item Sorting (per item)	.005
Notices or Advertising Inserts (per insert)	.005
Microfilm Monthly History (per 100,000 items)	5.00
Now Transaction History-Additional Copies (per fiche card)	1.00
Held Paid Item Filming (per item)	.02

District 3.—Federal Home Loan Bank of Pittsburgh

Service	Fee
Processing:	
First 10,000 items/month (per item)	$0.0375
Next 20,000 items/month (per item)	.0325
Next 20,000 items/month (per item)	.0300
50,001 plus items/month (per item)	.0225

District 4.—Federal Home Loan Bank of Atlanta

Service	Fee
Settlement only (per month)	$50.00
Daily Delivery:	
Same Day (per item)	.03
Next Day (per item)	03
Bulk Filing (per item)	.04
Statement Matching (per item)	.07
Truncation (per item)	.03
Return Items (per item)	2.50
Caution/Alert (Stop Payment) (per item)	2.00
Facsimile:	
Large Dollar (per item)	2.00
On Request (per item)	2.00
Bookkeeping and Account Number Rejects (per item)	2.00
Over-the-Counter Items (per item)	01
Photocopies (per item)	2.50
Finesort (Check Number)—Special Accounts	.01

NOTE.—The monthly billing for service options (other than Settlement Only) is $75.00

District 5.—Federal Home Loan Bank of Cincinnati

Service	Fee
Settlement Only (per month)	$50.00
Check Retrieval or Inspection of Original Item (per item)	1.50
Photocopy (per copy)	1.00
Advertising Insertion (per item)	.01
Posted- "on-us" (per item)	.03
Statement Stuffing Service for Truncated Statements (per statement)	.01
Statement Stuffing of Deposit Tickets and Dishonored Notices (per item)	.09
Return Items Processed by Bank (per item)	2.50
Additional Sorting Upon Request	
Fine Sorting (per item)	.005
Cycle Sorting (per item)	.005

[1] By Resolution No. 82-211, the Board proposed to substitute a ten-year rule for this five-year requirement. 47 FR 57293 (December 23, 1982). No final action has been taken with respect to the proposal; however, the Board still has it under consideration.

SERVICE

Items/Month	Daily return unsorted	Daily return sorted	Truncation	Bulk filing w/ stuffing	Bulk filing w/out stuffing
0 to 10,000	$.0375	$.0400	$.0400	$.0775	$.0425
10,001 to 25,000	.0300	.0325	.0325	.0700	.0350
25,001 to 50,000	.0250	.0275	.0275	.0650	.0300
50,001 to 75,000	.0200	.0225	.0225	.0600	.0250
75,001 to 100,000	.0150	.0175	.0175	.0550	.0200
100,001 to 125,000	.0100	.0125	.0125	.0500	.0150
125,001 to 150,000	.0075	.0100	.0100	.0475	.0125
150,001 and over	.0050	.0075	.0075	.0450	.0100

DISTRICT 6.—FEDERAL HOME LOAN BANK OF INDIANAPOLIS

Service	Fee
Settlement Only (per month)	$40.00
Minimum Processing Fee (per month)	40.00
Over-the-Counter Items (per item)	.035
Microfilm	.035
Exception Safekeeping Statements	.25
Photocopies and Facsimiles	2.00
Facsimile Items for Signature Verification on Day of Presentment	(1)

[1] No charge.

SERVICE

Item per/month	Safekeeping	Turnaround (daily or cycled)	Complete
0 to 5,000	$.045	$.053	$.077
5,001 to 10,000	.037	.048	.075
10,001 to 15,000	.036	.044	.073
15,001 to 25,000	.031	.037	.072
25,001 to 50,000	.030	.033	.070
50,001 to 75,000	.026	.030	.066
75,001 to 100,000	.023	.027	.065
100,001 to 125,000	.021	.024	.064
125,001 to 150,000	.019	.022	.063
150,001 to 175,000	.017	.020	.062
175,001 and up	.014	.016	.059

DISTRICT 7.— FEDERAL HOME LOAN BANK OF CHICAGO

SERVICE

Items per month	Daily returns	24-hour delay	Bulk file	Truncation
0 to 25,000	$.0250	$.0240	$.0230	$.0200
25,001 to 50,000	.0245	.0235	.0225	.0195
50,001 to 75,000	.0240	.0230	.0220	.0190
75,001 to 100,000	.0235	.0225	.0215	.0185
100,001 and up	.0230	.0220	.0210	.0180

Service	Fee
Counter Items (per item)	$0.025
Return Items (per item)	4.00
Photocopies (per item)	3.00
Facsimile of Items (per page)	2.00
Cash letter Facsimile (per page)	2.00
Special Sorts (per item)	.016
Monthly Recap (per item)	.0025
Data Transmission (per item)	.0030

DISTICT 8.—FEDERAL HOME LOAN BANK OF DES MOINES

SERVICES

Volume level	Basic line (truncated)	Daily/cycle [1]	Monthly [1]	Monthly/film [1]
1 to 10,000	$.021	$.016	$.021	$.026
10,001 to 25,000	.019	.014	.019	.024
25,001 to 50,000	.017	.012	.017	.022
50,001 to 75,000	.015	.010	.015	.020
75,001 to 175,000	.0125	.0075	.0125	.0180
Bulk Pricing (175,001 to over)	.012	.008	.010	.015

OTHER SERVICES

Service	Fee
Tape and Transmission Preparation	$.0002
Key Punch (rejects)	.04
Photo Copies	2.75
Signatures Verified	[2].70
Counter Items With Microfilm	.04
Facsimile Transmission	1.00
Microfiche—Monthly Reports	1.50
Microfiche—Copies	.18
Return Items	2.50
Stop Payments	2.00
Original Item Return	2.75
Certified Checks	.50
Counter Items Without MICR Encoding	.10
Facsimile Transmission of Daily Cash Letter	1.00
NOW Transaction Inquiry	1.00
Telephone Advice on Missing Account No	.50
Microfilm Copies for Audit	10.00
Telephone Check Inquiry	1.00

NOTE.—Minimum processing fee of $40.00 per month will apply for total NOW services.

[1] Fees for daily/cycle return, monthly return or monthly return with microfilm are in addition to the basic (truncated) fee.

[2] Dollar amount variable by association.

DISTRICT 9.—FEDERAL HOME LOAN BANK OF DALLAS

SERVICE

Basic service—Items/Month	Cycle-Daily [1]	Truncation
Tier 1: 0 to 50,000	$.035	$.030
Tier 2: 50,001 to 100,000	.030	.025
Tier 3:100,001 to 150,000	.025	.020
Tier 4: 150,001 to 200,000	.020	.015
Tier 5: 200,001 to Over	.014	.010

Special Services (Per Item)	Fee
Counter Item Integration	$.036
Receive, microfilm, and fine sort with checks presently on hand at the FHLBank and store for truncation or delivery to association	
Return Items	3.00
Fee for sorting and returning any items (NSF's, stop payments, etc.) An additional $.50 will be added to reflect Federal Reserve Bank charges for checks processed through FRB Dallas, Houston, San Antonio and El Paso.	
Stop Payment File	2.00
Fee for receiving and placing on file holds, stop pays, closed accounts, etc.	
Photocopies or Original Check Retrieval	1.50
Postage	(2)

[1] An additional $.006 for month end.

[2] Actual cost.

DISTRICT 10—FEDERAL HOME LOAN BANK OF TOPEKA

Service	Fee
1. Settlement—with FHLBank Processing	(1)
2. Settlement only	[2] $50.00
3. Truncation	[3] 0.02
4. Bulk Filing and Return	[4] .006
Special Services	
1. Item Retrieval or Photocopy	[5] $2.00
2. Return Items (NSF, stop pay, etc.)	[6] 2.50
3. Counter Items (Microfilmed and filed)	[7] 0.05
4. Facsimile Transmission for NOW detail listing of items paid	[8] 1.50

[1] No charge.
[2] Per month.
[3] Per item.
[4] $1.00/per item—over [illegible] items.
[5] Per transmission.

Notes.—The costs for bulk filing, sorting, storage and settlement for associations utilizing FHLBank processing are included in our pricing policy.

There are no transportation charges imposed by the FHLBank related to check delivery for processing.

There are no minimum monthly charges for NOW processing.

Fees will be adjusted to reflect any future charges that may be imposed by the Federal Reserve System.

FHLBank service prices may be changed with a ninety-day advance written notice to the user.

The FHLBank will not assume check printing expenses for NOW drafts.

District 11.—Federal Home Loan Bank of San Francisco

Service	Volume price based on total items per month				
	Less than 50,000	50,000 to 250,000	250,000 to 500,000	500,000 to 1,000,000	1,000,000 and more
Basic capture service (Minimum charge $300/month):					
Capture/fine sort/microfilm	$.0375	$.0325	$.0275	$.0200	$.0175
Return item processing	2.00	1.75	1.50	1.25	1.00
Comprehensive NOW Service (Minimum charge $600/month):					
Capture/file/microfilm/fine sort	.0375	.0325	.0275	.0200	.0175
Statement preparation (taruncated	.15	.15	.15	.15	.15
Statement preparation (bar-encoded	.35	.325	.30	.275	.25
Return item processing	2.00	1.75	1.50	1.25	1.00
Additional Services:					
Photocopies	1.00	1.00	1.00	1.00	1.00
Over-the-counter items	.04	.04	.04	.04	.04
Statement inserts	.05	.05	.03	.03	.03

District 12—Federal Home Loan Bank of Seattle

Items/per month	Service			
	Daily return	Truncation	Bulk file	Statement stuffing
A. Seattle processing center:				
0 to 50,000	$.0250	$.0300	$.0350	$.0600
50,001 to 100,000	.0200	.0250	[illegible]	.0550
100,001 to 200,000	.0175	.0225	.0275	.0525
200,001 and up	.0150	.0200	.0250	.0500
B. Honolulu processing center:				
0 to 50,000	.0350	.0400	.0450	.0700
50,001 to 100,000	[illegible]	.0350	.0400	.0650
100,001 to 200,000	.0275	[illegible]	.0375	.0625
200,001 and up	.0250	.0300	.0350	.0600
C. Additional services and charges:				

Service	Seattle center	Honolulu center
Transportation charges for items outside of the Seattle Federal Reserve clearing district (except for Regional Processing Centers) (per item)	$.005	$.005
Return Item Handling (per item	.75	.50
Facsimile Transmissions (per item)	.75	.50
Large Dollar Verification (per item)	.75	.50
Research Requests (per item)	.75	.50
Fine Sort Only (per item)	.006	.006
Settlement Only (per month)	125.00	125.00

Schedule B: Demand Deposit Services

District 1.—Federal Home Loan Bank of Boston

Service	Fee
Checks and Items Paid (per item)	$.08
Deposits (per item)	.20
Debit and Credit Memos (per item)	.10
Account Maintenance (per month)	3.00
Stop Payments (per item)	1.00
Special Statements (per statement)	1.00
Wire Transfers Out (per item)	2.50
Account Reconciliation:	
Issue Items (per item)	.04
Card or Tape Items (per item)	.02

District 2.—Federal Home Loan Bank of New York

Service	Fee
Teller Checks and Money Orders: [1]	
First 10,000 items/month (per item)	$.195
10,001 plus items/month (per item)	.145
Wire Transfers:	
In (per wire)	[2]
Out (per wire)	7.50
Depository Transfer Checks (per check)	1.00
Collections:	
Coupon Processing, Bond Redemption, and Recurring Payments (per transaction)	4.00

[1] The indicated fee covers all aspects of check service including the cost of the blank instruments, stop payment orders, inquiries, and photocopies of paid items stored on microfilm. Blank stock is resupplied automatically, and other forms such as stop payment orders, photo request cards, check control sheets, and address labels are supplied on request.
[2] No charge.

District 3.—Federal Home Loan Bank of Pittsburgh

Service	Fee
Deposit Processing Service:	
Deposit Ticket Entry (per entry)	$.15
Deposit Transfer Voucher (per entry)	.25
Mail Deposit Ticket Entry (per entry)	.25
Deposit Item Processing (per item)	.02
Deposit Item Encoding (per item)	[illegible]
Deposit Item Return (per item)	1.00
Deposit Item Photocopy (per item)	2.00
Deposit Pickup (per pickup)	6.75
Check and Money Order Clearing Service:	
Clearing Item Processing (per item)	0887
Clearing Item Reconciliation Copy Processing:	
By Manual Input (per item)	.0295
By Magnetic Tape Input (per item)	0098
Clearing Item Fine Sorting for Return with Bank Statements (per item)	.02
Stop-Payment Orders (per entry)	4.50
Imprinting Checks and Money Orders	[1]
Wire Transfer of Funds:	
Outgoing (per transfer)	3.75
Incoming (per transfer)	1.25
Lockbox Service	
Lockbox Item Processing (per item)	.11
Deposit Item Processing (per item)	.02
Deposit Ticket Entry (per entry)	.15
Transportation (per month)	20.00

[1] Actual cost

District 4.—Federal Home Loan Bank of Atlanta

Service	Fee
Checks paid [1] (per item):	
Monthly statement w/items fine sorted	$0.12
Monthly statement w/items truncated	[illegible]
Stop payment (per item)	[illegible]
Deposit Transfer Checks (OTC) (per item)	2.50
Wire Transfers:	
In (per transfer)	2.50
Out (per transfer)	3.30
Account Reconciliation Service	
Full reconciliation-magnetic tape ($20.00 min./mo.)	[2] [illegible]
Full reconciliation-paper issue ($20.00 min./mo).	
—Encoded amounts	[3] .0425
—Unencoded amounts	[3] .06
Partial reconciliation ($10.00 min./mo.)	[3] .03
Deposit Processing:	
Unencoded checks (per item)	.0525
Encoded checks (per item)	0350
Foreign checks (per item)	2.50
Bond Coupons (per envelope)	3.00
Deposited checks returned (per entry)	2.50
Automated Clearinghouse (ACH) Service:	
Originating—$15.00 per tape plus per item	03
Receiving—$50.00 settlement per month plus per item charge	.03
Settlement Only Services:	
Automated Clearinghouse (ACH) (per month)	[illegible]
Currency and Coin (per month)	[illegible]
Treasury Tax and Loan (TT&L) (per month)	50.00
Savings Bonds (per month)	[illegible]
Deposit of Items at Fed (per month)	[illegible]
Currency and Coin Service (Full): $50.00 settlement/month plus per order	2.50

[1] The Checks paid charge includes at no additional charge Monthly account maintenance, internal transfers, special statement drops, photocopies, and return of items not paid
[2] Per issue.
[3] Per item.

District 5.—Federal Home Loan Bank of Cincinnati

Service	Fee	
	Encoded	Unencoded
Items per Month:		
0 to 25,000	$.0475	$.0575
25,001 to 50,000	.0450	.0550
50,001 to 75,000	.0425	.0525
75,001 to 100,000	0400	.0500
100,001 to Over	0375	0475

Item disbursement	Per item charge printing paid by	
	FHLB	Association
Original Item		
General Disbursement, etc	$.135	$.055
Money Order	.105	055
Dividend	.095	055
Christmas Club	200	055
Unreconciled	.200	160
Disbursement-Reconciliation:		
Magnetic Tape	.043	.043
Advices	.060	040
Other Services	[1]	
Stop Payments	2.00	
Wire Transfer-Out	4.00	
Charges	.11	
Credits	.11	
Photocopies	1.00	
Depository Transfer Check (DTC)	2.00	
Photocopy	1.00	
Dishonored Item.		
a. Returned to Association	1.00	
b. Automatically Re-deposited	[2]	
Non-Cash Collection Service:		
a. Non-Cash Item	3.50	
b. Security Coupon Collection (per envelope)	3.50	
c. Coupon Return Item	5.00	
d. Foreign Item	2.50	
e. U.S. Treasury and Gov't Agency Coupons	[3]	

[1] Per item charge.
[2] Check deposit fee
[3] No charge

District 6.—Federal Home Loan Bank of Indianapolis

Service	Paid check charge	Advices	
		Paper	Tape
Quarterly transaction volume.			
First 3,750	$.13	$.05	$.025
Next 9,000	.11	.04	.02
Next 12,250	.09	.04	.02
Next 25,000	.08	.03	.015
All over 50,000	.07	.02	.01

Overdrafts in excess of $10,000 are assessed a charge at the variable advance rate.

Collected balances will earn at an interest rate that approximates the 91 day Treasury Bill rate.

Other services	Metropolitan area	
	Detroit	Indianapolis
Cash Item Deposited—		
Unencoded	$.06	$.07
—Pre-encoded		.04
Return Item	.75	.75
Photocopies	2.00	2.00
Mortgage Remittance	Fee	
Per Deposit Item Received	$.15	
Truncation of Coupons	.02	

Courier charges are assessed for each delivery at various rates, depending upon the distances traveled and other cost considerations.

Service charges for the coin and currency program are $25.00 per delivery by armored truck service in the Metropolitan Areas of Indianapolis and Detroit while fees vary outside the metropolitan areas depending upon distance involved.

DISTRICT 7.—FEDERAL HOME LOAN BANK OF CHICAGO

Service	Fee	
Checks and money orders paid items/month per association	Non-truncated accounts	Truncated accounts
A. Demand Accounts:		
0 to 7,500	$.110	$.090
7,501 to 10,000	.100	.080
10,001 to 12,500	.090	.070
12,501 to 15,000	.080	.060
15,001 to 25,000	.075	.055
25,001 to and up	.070	.050
Ancillary Service Fees:		
Fine Sorting (per item)	.015	
Recons:		
—Non-Encoded Items (per item)	.055	
—Encoded Items (per item)	.020	
—Magnetic Tape Items (per item)	.020	
Stop Payments (pre stop) placed	7.00	
Photocopies (per item)	3.00	
Account Maintenance (per account per month)	10.00	
Additional Statements (per statement)	5.00	
Checks Supplied by Bank	(1)	
Request for Money Order Forms	(1)	
Postage Courier	(1)	
B. Deposit Processing:		
Checks Deposit Drawn On:		
FHLB/Chicago—FHLB Intercept Customers (per item)	.015	
City of Chicago Financial Institutions (Routing Numbers 0710, 2710) (per item)	.042	
Postal Money Orders (0020, 0119) (per item)	.042	
U.S. Treasury Checks (0050, 0051) (per item)	.042	
Chicago RCPC Financial Institutions: (Routing Numbers 0711, 0712, 0719, 2711, 2712, 2719)	[illegible]	
Transit Items—Other District Financial Institutions	[illegible]	
Check Encoding (per item)	.035	
Return Items:		
Re-Deposits	(2)	
Charge Backs (per item)	1.00	
Food Stamps (per item)	.02	
Coupons Deposited (per envelope)	2.50	
Coin and Currency Orders (plus costs)	2.00	
C. Money Transfers:		
Wire Transfers:		
In	2.00	
Out	4.00	
Out/Third Party	6.00	
Quick Drafts	2.00	

[1] Actual cost.
[2] No charge.

DISTRICT 8—FEDERAL HOME LOAN BANK OF DES MOINES

Service	Fee
Account Maintenance	$5.00
Account Reconciliation	5.00
Check Printing Costs	Actual
Drafts Paid:	
Truncated	.04
—Non-Truncated	.05

DISTRICT 8—FEDERAL HOME LOAN BANK OF DES MOINES—Continued

Service	Fee
Stop Payments	5.00
Ledger Credits	[illegible]
Ledger Debits	.10
Bankwires in:	
—Without Phone Advice	2.50
—With Phone Advice	3.50
Bankwires out:	
Without Phone Advice	4.00
—With Phone Advice	[illegible]
Special Cut-off Statements	3.00
Account Reconciliation Tape Issues	[illegible]
Issue Encoding	.04
Safekeeping Transactions	10.00
Retail Repo customers, per page (plus $25.00 Main. Fee)	.25
Pledge Agreements	[illegible]
Deposited Items Returned	[illegible]
Food Stamps Deposited	.02
Coupons Deposited (per envelope)	2.50
Coin and Currency Orders	2.00
Misc. Coin and Currency	Actual
Microfilm Processing	4.00
Microfilm Duplication	5.00
Miscellaneous Film Processing	Actual
Messenger	Actual
Miscellaneous Charges	1.00

Deposit processing fees item	Encoded	Unencoded
a. Des Moines Center:		
Local	$.025	$.0425
Regional	.035	[illegible]
Regional—Premium	.040	.0575
Transit	.0475	.065
b. Minneapolis Center:		
Local	.025	[illegible]
Regional	.030	.0475
Regional-Premium	.035	[illegible]
Country	.030	.0475
Transit	.055	.0725
c. Kansas City Center:		
Local	.020	.0375
Country	.035	.0525
Transit	.0575	.075
d. St. Louis Center:		
Local	.0275	.0400
Regional	.0350	.0525
Regional-Premium	.040	.0575
Country	.035	.0525
Transit	.0550	.0725

Lockbox Service	Fee
1. Basic Service	$.13
2. Transmit via user supplied equipment	.01
3. Transmit via FHLBank supplied equipment	.015
4. Data prep. for transmission	.04
5. Re-enter/Reprocess item	[illegible]
6. Keypunch or MICR encode from handwritten document	[illegible]
7. Keypunch or MICR encode from pre-printed document	.04
8. Photocopies	[illegible]
9. Microfilm copies	2.75
10. Storage	N/A
11. Due on sale edit	.005
12 Write loan account number on check	[1].001
13. Write check number, amount and/or loan number on envelope and return	[1].001
14. Pull selected checks to be non-processed	[1].001
15 Check postmark/sort by date	.001
16. Call L.B. totals posted	[2] 1.00
17. Telephone verification of account number, etc	[1].50
18. Process additions to savings or checking accts	.25
19. Process additions to principal, escrow, etc	[1].002
20. Sort and batch envelopes by type of return in sequence	[1].001
21. Batch payments by type in processing	.001
22. Process multiple payments	.001
23. Process late fees/delinquents, when total amount due not shown	[illegible]
24. Process "certified funds required"	.001
25. Screen envelopes for attention line	.001

Lockbox Service	Fee
26. Sort and package output	1.00
27. Date stamp checks, coupons, etc	.005
28. Microfilm checks, coupons, etc	.01
29. Courier/postage	[4]
30. Post Office box rental	[4]
31. Local messenger service	[4]
32. Minimum monthly billing	[illegible].00
33. Modified processing; open and screen performed by member	[illegible]
34 Pull system rejects/hot file rejects	.02
35 Update hot file (manual)	[3].50
36. Update hot file (data transmission)	[3].015
37. Process payments to hot file	[1] [3].004

[1] Per item.
[2] Per day.
[3] Addition.
[4] Actual.
[5] Up to 5,000 per account; over 5,000 billed at $.002/item

DISTRICT 9.—FEDERAL HOME LOAN BANK OF DALLAS

Service	Fee (per item)
Checks/Money Orders paid (standard check furnished)	$.15
Truncation	(1)
Reconciliation of Check/Money Order:	
—Magnetic tape	.02
—MICR	[illegible]
Fine Sort	[illegible]
Deposits	[3].04
Credits/Adjustments	(1)
Wire:	
—In	2.00
—Out	4.00
Check Withdrawals	5.00
Stop Payments	5.00
Exception Item Return	2.50
Depository Transfer Checks	4.00
Photocopy	2.50
Transmatic Returns	2.50
Voids	(1)
Checks/Money Order Forms (above standard check)	(2)
Paid Items Mailed to Association	(2)
Overdrafts (per daily occurance and interest penalty at Category II advance rate plus 1%)	10.00

[1] No charge.
[2] Per check.
[3] Actual costs.

DISTRICT 10.—FEDERAL HOME LOAN BANK OF TOPEKA

Service	Fee
Checks Paid	[1] $.15
Truncated	[1].12
Outgoing Wire Transfers	[1] 4.00
Incoming Wire Transfer	[1] 2.00
Basic Demand Service (Tape Transmission):	
Cycle	[1].11
Truncated	[1].08
Safekeeping Charges (per transaction):	
Physical Securities	[illegible]
Wireable Securities	30.00
Pass-Through Reserves (per month)	[illegible]

DISTRICT 11.—FEDERAL HOME LOAN BANK OF SAN FRANCISCO

[illegible]	Fee
Debits (items paid)	[1] $.08
Fine-sorting	[1].01
Deposits	[1].25
Reconcilement issue:	
Tape	[1].03
MICR	[1].08
Photocopy	[2] 1.00
Stop Payment	[2] 5.00
Passthrough reserve (per month required)	25.00
Wire Transfers:	
Incoming	[2] 3.00
Outgoing	[2] 5.00

DISTRICT 11.—FEDERAL HOME LOAN BANK OF SAN FRANCISCO—Continued

Service	Fee
Overdraft charges	(2)

[1] Per item.
[2] Each.
[3] Bank's average daily Federal funds rate plus 2% ($25.00 minimum).

DISTRICT 12.—FEDERAL HOME LOAN BANK OF SEATTLE

Service	Fee
Account Maintenance (per month)	$3.50
Wire Transfers Out (per wire)	3.00
Wire Transfers In (per wire)	2.00
Pre-Autorized Deposit Transfers (per check)	1.25
Stop Payments (per stop)	3.25
Government Recurring Payments (per item)	.25
Unreconciled checks paid and fine sorted (per item)	.075
Checks paid and reconciled—tape entry (per item)	.065
Checks paid and reconciled—register entry (per item)	.095
Check Supplies	(1)

[1] Actual cost.

By the Federal Home Loan Bank Board.

S. G Frank Haas III,

Director, Office of District Banks.

Eric I. Hemel,

Director, Office of Policy and Economic Research.

[FR Doc. 84-1310 Filed 1-18-84; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 955-R]

A. B. Barone Forwarding, Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of A. B. Barone Forwarding, Inc., 1251 Riviera Avenue, New Orleans, LA 70122 was cancelled effective December 10, 1983.

By letter dated October 26, 1983, A. B. Barone Forwarding, Inc., was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 955-R would be automatically revoked unless a valid surety bond was filed with the Commission.

A. B. Barone Forwarding, Inc. has failed to furnish a valid bond.

Therefore, by virture of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 9.09(f) dated September 27, 1983;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 955-R be and is hereby revoked effective December 10, 1983.

It is ordered, that Independent Ocean Freight Forwarder License No. 955-R issued to A. B. Barone Forwarding, Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon A. B. Barone Forwarding, Inc.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 84-1439 Filed 1-18-84; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2706]

BVT America, Inc.; Order of Revocation

On December 9, 1983, BVT America, Inc., 2260-K Landmeier Road, P.O. Box 836, Elk Grove Village, IL 60007, requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 2706.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 9.09(e) dated September 27, 1983;

It is ordered, that Independent Ocean Freight Forwarder License No. 2706, be revoked effective December 9, 1983, without prejudice to reapplication for a license in the future.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon BVT America, Inc.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 84-1434 Filed 1-18-84; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2171]

Continental Cargo Corp.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Continental Cargo Corp., 8273 N.W. 66th Street, Miami, FL 33166 was cancelled effective December 7, 1983.

By letter dated November 28, 1983, Continental Cargo Corp. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2171 would be automatically revoked unless a valid surety bond was filed with the Commission.

Continental Cargo Corp. has failed to furnish a valid bond.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 9.09(f) dated September 27, 1983;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2171 be and is hereby revoked effective December 7, 1983.

It is ordered, that Independent Ocean Freight Forwarder License No. 2171 issued to Continental Cargo Corp. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Continental Cargo Corp.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 84-1435 Filed 1-18-84; 8:45 am]

BILLING CODE 6730-01-M

Independent Ocean Freight Forwarder License Applicants; R.S. International

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the followng applicants should not receive a license are requested to communicate with the Director, Bureau of Tariffs, Federal Maritime Commission, Washington, D.C. 20573.

Richard H. Schenider d.b.a. R. S. International, 701 W. Manchester Blvd., Suite 203, Inglewood, CA 90301.

Lyon Worldwide Shipping, Inc., 3633 136th Pl., S.E., Bellevue, WA 98006, Officers: George A. Deborn, Chairman/Chief; Remo S. Galvagno, President; Robert B. Temple, Vice President

Berman International Transportation, Inc., 3150 River Road, Suite 113, Des Plaines, IL 60018, Officers Bradley A. Berman, President/Director

S–D–C Air Freight, Inc., 6080 N.W. 84th Avenue, Miami, FL 33166, Officers: Richard Cazan-Cassini, President; Ralf Steevens, Secretary; Henry Diz, Treasurer
EX-IM Business Services Corporation, 411 First Avenue S.E., Suite 320, Cedar Rapids, Iowa 52406, Officer: Howard Jay Ohsman, President
Peter A. Allen d.b.a. World Freight Services, 717 Minot Court, Elk Grove Village, Il 60007
Darrell W. Naquin d.b.a. Traco International, 5261 Laurel Street, New Orleans, LA 70115

By the Federal Maritime Commission.

Dated: January 16, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84–1433 Filed 1–18–84; 8:45 am]

BILLING CODE 6730–01–M

[Independent Ocean Freight Forwarder License No. 1481–R]

Michael Alan Baker; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Michael Alan Baker, 11443 Rose Avenue, Los Angeles, CA 90066 was cancelled effective December 7, 1983.

By letter dated November 28, 1983, Michael Alan Baker was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1481–R would be automatically revoked unless a valid surety bond was filed with the Commission.

Michael Alan Baker has failed to furnish a valid bond.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 9.09(f) dated September 27, 1983;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 1481–R be and is hereby revoked effective December 7, 1983.

It is ordered, that Independent Ocean Freight Forwarder License No. 1481–R issued to Michael Alan Baker be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Michael Alan Baker.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 84–1437 Filed 1–18–84; 8:45 am]

BILLING CODE 6730–01–M

[Independent Ocean Freight Forwarder License No. 2114–R]

Trans Container Line, Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Trans Container Line, Inc., 8600 W. 67th Street, Hogkins, IL 60525 was cancelled effective December 14, 1983.

By letter dated November 28, 1983, Trans Container Line, Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder Linense No. 2114–R would be automatically revoked unless a valid surety bond was filed with the Commission.

Trans Container Line, Inc. has failed to furnish a valid bond.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 9.09(f) dated September 27, 1983;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2114–R be and is hereby revoked effective December 14, 1983.

It is ordered, that Independent Ocean Freight Forwarder License No. 2114–R issued to Trans Container Line, Inc. be returned to the Commission for cancellation.

It is further order, that a copy of this Order be published in the **Federal Register** and served upon Trans Container Line, Inc.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 84–1438 Filed 1–18–84; 8:45 am]

BILLING CODE 6730–01–M

[Independent Ocean Freight Forwarder License No. 306]

W. C. Auger & Company; Order of Revocation

On December 20, 1983, W. C. Auger & Company, P.O. Box 2250, San Francisco, CA 94126, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 306 for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 9.09(e) dated September 27, 1983;

It is ordered, that Independent Ocean Freight Forwarder License No. 306, be revoked effective December 20, 1983, without prejudice to reapplication for a license in the future.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon W. C. Auger & Company.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 84–1436 Filed 1–18–84; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Alaska Pacific Bancorporation, et al.; Engaging de Novo in Permissible Nonbanking Activities

The bank holding companies listed in this notice have filed a notice under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated for that application. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to each notice, interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would

not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than February 9, 1984.

A. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President), 101 Market Street, San Francisco, California 94105:

1. *Alaska Pacific Bancorporation,* Anchorage, Alaska, to engage through its subsidiary Alaska Pacific Mortgage Company, Anchorage, Alaska in mortgage lending, pursuant to § 225.4(a)(1) of Regulation Y (12 CFR 225.4(a)(1) (1983)) and loan servicing, pursuant to § 225.4(a)(3) of the Regulation Y (12 CFR 225.4(a)(3) (1983)).

2. *BankAmerica Corporation,* San Francisco, California to expand the data processing activities of its subsidiary Decimus Corporation, San Francisco, California to include providing to others any one or more of the following: data processing or data transmission services (including, without limitation, timesharing services), or access thereto by any technologically feasible means, where the data are financial, banking or economic and the services are provided pursuant to a written agreement so describing and limiting the services; data bases and access thereto by any technologically feasible means, where the data are financial, banking or economic; data processing hardware or data transmission hardware where the hardware is offered only in conjunction with software designed for the processing or transmission of financial, banking or economic data and where the general purposes hardware does not constitute more than 30 percent of the cost of any packaged offering and where the provision of the hardware is otherwise in accordance with § 225.123(e); software that is designed and marketed for the processing or transmission of financial, banking or economic data and where the software is provided pursuant to a written agreement so describing and limiting its use; and other facilities (e.g., documentation and operating personnel) to the extent permitted by § 225.4(a)(8) and 225.123(e). Decimus will also engage in incidental data processing activities as permitted by § 225.123(e), serving the United States, pursuant to § 225.4(a)(8) of Regulation Y (12 CFR 225.4(a)(3) (1983)).

3. *Empire Bancorp,* Rancho Cucamonga, California, to engage through its subsidiary Haven Escrow Company, Inc., Covina, California in acting as escrow agent for the purchase and sale of real and personal property, the execution of all documents and the acceptance and dispersal of funds relating to loan transactions, and all other activities engaged in by an escrow agent, pursuant to § 225.4(a)(4) of Regulation Y (12 CFR 225.4(a)(4) (1983)).

4. *Valley Capital Corporation,* Las Vegas, Nevada, to engage through its subsidiary Valley Capital Mortgage Company, Inc., Las Vegas, Nevada in providing portfolio investment advice to any person for investments in real property; and making or acquiring for its own account and for the account of others, loans and other extensions of credit, pursuant to § 225.4(a) (1) and (5) of Regulation Y (12 CFR 225.4(a) (1) and (5) (1983)).

5. *Valley Capital Corporation,* Las Vegas, Nevada, to engage through its subsidiary Valley Computer Corporation, Las Vegas, Nevada in data processing and data transmission services, data bases or facilities (including data processing and data transmission hardware, software, documentation and operating personnel), pursuant to § 225.4(a)8 of Regulation Y (12 CFR 225.4(a)(8) (1983)).

Board of Governors of the Federal Reserve System, January 16, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-1517 Filed 1-18-84; 8:45 am]

BILLING CODE 6210-01-M

Mellon National Corporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated for that application. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to each application, interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than February 13, 1984.

A. Federal Reserve Bank of Cleveland (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Mellon National Corporation,* Pittsburgh, Pennsylvania; to merge with Northwest Pennsylvania Corp., Oil City, Pennsylvania (indirectly acquiring Northwest Bank, Oil City, Pennsylvania, and Union Bank & Trust Co., Erie, Pennsylvania.)

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *South Louisiana Financial Corporation,* Houma, Louisiana; to become a bank holding company by acquiring 98.235 percent of the voting shares of South Louisiana Bank, Houma, Louisiana.

C. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Orion Bancorporation, Inc.,* Orion, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of State Bank of Orion, Orion, Illinois.

D. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Sunstate Bancshares, Inc.,* Phoenix, Arizona; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Casa Grande Valley (In Organization), Casa Grande, Arizona.

Board of Governors of the Federal Reserve System, January 16, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-1516 Filed 1-18-84; 8:45 am]

BILLING CODE 6210-01-M

Montgomery Bancorp, et al.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or

assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C., 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Montgomery Bancorp,* Troy, North Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Montgomery, Troy, North Carolina. Comments on this application must be received not later than February 13, 1984.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Plains Bancshares, Inc.,* Plains, Texas; to become a bank holding company by acquiring at least 80 percent of the voting shares of Plains State Bank, Plains, Texas. Comments on this application must be received not later than February 13, 1984.

Board of Governors of the Federal Reserve System, January 13, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-1518 Filed 1-18-84; 8:45 am]

BILLING CODE 6210-01-M

RIHT Financial Corporation, et al.; Proposed de Novo Nonbank Activities by Bank Holding Companies

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *RIHT Financial Corporation,* Providence, Rhode Island (mortgage banking and servicing activities; northern Florida): To engage through its subsidiary, RIHT Mortgage Corporation, in the origination, sale and servicing of residential and commercial mortgage loans. These activities would be conducted from an office to be located in Altamonte Springs, Florida. The service area for the proposed activities would be northern Florida. Comments on this application must be received not later than February 8, 1984.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Illinois Corporation,* Evanston, Illinois (consumer finance and credit insurance activities; Illinois, Florida, Georgia, Kansas, Kentucky, Louisiana, North Carolina, Oklahoma, Texas, Virginia): To engage, through its subsidiary, First Illinois Finance Company (doing business as Mercury Finance Company), in making and acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a consumer finance company; and acting as agent for the sale of credit life and accident and health insurance directly related to its extensions of credit, as permitted under section 601(A) of the Garn-St Germain Depository Institutions Act of 1982. These activities would be conducted from offices located in the States of Illinois, Florida, Georgia, Kansas, Kentucky, Louisiana, North Carolina, Oklahoma, Texas and Virginia, and serving those states. Comments on this application must be received not later than February 2, 1984.

Board of Governors of the Federal Reserve System, January 16, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-1521 Filed 1-18-84; 8:45 am]

BILLING CODE 6210-01-M

St. Clair Agency, Inc.; Formation of a Bank Holding Company

St. Clair Agency, Inc., St. Clair, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent of the voting shares of St. Clair State Bank, St. Clair, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

St. Clair Agency, Inc., St. Clair, Minnesota, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to continue to engage in the activities of selling general insurance in a town with a population of less than 5,000 persons. These activities would be performed by Applicant in St. Clair, Minnesota and the geographic areas to be served are St. Clair, Minnesota and surrounding areas within a 15 mile radius of St. Clair, Minnesota. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party

commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. not later than February 13, 1984.

Board of Governors of the Federal Reserve System, January 13, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-1519 Filed 1-18-84; 8:45 am]

BILLING CODE 6210-01-M

WCN Bancorp, Inc., et al., Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *WCN Bancorp, Inc.*, Wisconsin Rapids, Wisconsin; to acquire 80 percent or more of the voting shares or assets of The Wood County National Bank of Wisconsin Rapids, Wisconsin Rapids, Wisconsin. Comments on this application must be received not later than February 7, 1984.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First Laurel Security Co.*, Laurel, Nebraska; to acquire 100 percent of the voting shares or assets of Security State Bank, Allen, Nebraska. Comments on this application must be received not later than February 13, 1984.

2. *Hastings State Company*, Hastings, Nebraska; to acquire 100 percent of the voting shares or assets of First Savings Company of Hastings, Inc., Hastings, Nebraska. Comments on this application must be received not later than February 13, 1984.

C. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *River Forest Bancorp.* River Forest, Illinois; to acquire 80 percent of the voting shares or assets of Lincoln National Bank, Chicago, Illinois. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Chicago. Comments on this application must be received not later than February 13, 1984.

Board of Governors of the Federal Reserve System, January 13, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-1520 Filed 1-18-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Consumer Participation: Notice of Open Meetings; Correction

AGENCY: Food and Drug Administration.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that announced the February 3, 1984 consumer exchange meeting of FDA's Boston District Office. The notice published in the **Federal Register** of January 3, 1984 (49 FR 155).

SUPPLEMENTARY INFORMATION: In FR Doc. 83-34762, appearing at page 155 in the issue of Tuesday, January 3, 1984, beginning in the third column on page 155 and ending in the first column on page 156, the last paragraph beginning with "BOSTON DISTRICT OFFICE" is corrected to read as follows:

"BOSTON DISTRICT OFFICE, chaired by Frederick R. Carlson, District Director. The topics to be discussed are: Drug Use and the Elderly, Tamper-Resistant Packaging Update, Direct-to-Consumer Advertising of Prescription Drugs Update.

DATE: Friday, February 3, 1984, 9:30 a.m. to 12 m.

ADDRESS: Conference Room, Food and Drug Administration, 585 Commercial St., Boston, MA 02109.

FOR FURTHER INFORMATION CONTACT: Carolyn L. Hommel, Consumer Affairs Officer, Food and Drug Administration, 585 Commercial St., Boston, MA 02109, 617-223-5857.".

Dated: January 12, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-1399 Filed 1-18-84; 8:45 am]

BILLING CODE 4160-01-M

Medical Radiation Advisory Committee; Request for Nominations for Membership

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for membership on the Medical Radiation Advisory Committee. Three vacancies will occur on June 30, 1984.

DATE: Nominations must be received by February 21, 1984.

ADDRESS: Nominations and curricula vitae must be sent to Kay A. Levin, National Center for Devices and Radiological Health (HFK-50), Food and Drug Administration, 12720 Twinbrook Parkway, Rockville, MD 20852, 301-443-3516.

FOR FURTHER INFORMATION CONTACT: Gordon C. Johnson, National Center for Devices and Radiological Health (HFK-200), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7034.

SUPPLEMENTARY INFORMATION: The function of the Medical Radiation Advisory Committee is to advise the Secretary of Health and Human Services, Assistant Secretary for Health, and the Commissioner of Food and Drugs in the formulation of policy and development of a coordinated program relating to the medical application of radiation directed at obtaining the maximum diagnostic information and therapeutic benefits per unit of radiation exposure through optimum utilization of professional and technical resources and radiation related equipment.

The committee meets approximately twice a year and has advised FDA on programs related to the medical and dental use of radiation, diagnostic imaging and therapeutic radiation devices, training and education of medical radiation users, and the development of policy statements on the effective use of medical radiation.

Among its current activities, the committee reviews radiological training and education programs, advises on radiation devices guidelines and standards, and considers efficacy in relation to the selection and character of medical and dental uses of radiation.

The committee consists of 13 members, including the chair selected by the Secretary from among authorities in the fields of medicine, dentistry, public health, physics, engineering, and related health sciences who are knowledgeable about the theory, applications, and use of radiation in the healing arts. For the 1984 membership, the Medical Radiation Advisory Committee will have particular need for candidates with knowledge of medical diagnosis and decisionmaking, diagnostic imaging technology, and health care delivery. Members are invited to serve for overlapping terms of 4 years. Effective July 1, 1984, there will be a total of three vacancies on this committee. Interested persons are invited to submit names of qualified candidates and accompanying curriculum vitae and pertinent information.

In a previous notice published in the **Federal Register** of March 9, 1982 (47 FR 10086), FDA requested nominations of qualified persons to replace members whose terms expired on June 30, 1982. Eligible individuals nominated in response to that notice who were not selected will be reconsidered for the subject vacancies.

FDA has a special interest in assuring that women, minority groups, and the physically handicapped are adequately represented on advisory committees and therefore extends particular encouragement to nominations for appropriately qualified female, minority, and physically handicapped candidates.

Any interested person may nominate one or more qualified persons for membership. A complete curriculum vitae of the nominee shall be included. A business address and telephone number where the person can be reached during the day should be included. Nominations shall state that the nominee is aware of the nomination, is willing to serve as a member of the committee, and appears to have no conflict of interest that would preclude committee membership. Potential candidates will be asked by FDA to provide detailed information concerning such matters as financial holdings, consultancies, and research grants or contracts to permit evaluation of possible sources of conflict of interest.

Dated: January 12, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-1401 Filed 1-18-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Environment and Energy

[Docket No. NI-118]

Intended Environmental Impact Statements

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is intended to be prepared under HUD programs as described in the appendix Locust Grove Farm, Deptford Township, Gloucester County, New Jersey. This Notice is required by the Council on Environmental Quality under its rules (40 CFR 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning the are to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project areas, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdication by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Each Notice shall be effective for one year. If one year after the publication of a Notice in the **Federal Register** a Draft EIS has not been filed on a project, then the Notice for that project shall be cancelled. If a Draft EIS is expected more than one year after the publication of the Notice in the **Federal Register** then a new and updated Notice of Intent will be published.

Dated: January 16, 1984.

Francis G. Haas,

Deputy Director, Office of Environment and Energy.

Appendix

EIS on Locust Grove Farm, Deptford Township, Gloucester County, New Jersey

The Department of Housing and Urban Development intends to prepare an Environmental Impact Statement (EIS) for the subject project on the Locust Grove Farm at Deptford Township, New Jersey. The Department hereby solicits comments and information for consideration in this EIS.

Description: Deptford Investment Corporation has filed an application for the Department of Housing and Urban Development to accept Locust Grove Farm for Mortgage Insurance under Section 203(b) of Title II of the National Housing Act of 1934, as amended. It is a residential planned community of 4,496 dwellings on 448 acres (including 63.5 acres of open space) on the south side of Turkey Hill Road between Caulfield Avenue (Route 645) and Almonesson Road (Route 621).

Need: An EIS is proposed due to HUD threshold requirements, impact of the project upon wetlands and possible archeological finds in the project area.

Alternatives: At this time the HUD alternatives include: accept the project as proposed; accept the project with conditions or modifications; or no project. The "no project" alternative would mean that the project could be developed without HUD participation and not be subject to Federal environmental laws and regulations.

Scoping: No formal scoping is anticipated for this project. It is the intent of this Notice to be considered a part of the process used for scoping the Environmental Impact Statement. Any responses to this Notice will be used to help determine significant environmental issues, and to identify data which the EIS should address.

Comments: Comments should be sent within 21 days following publication of the Notice in the **Federal Register** to: Elmer L. Roy, Manager, HUD Office, 519 Federal Street, Parkade Building, Camden, New Jersey 08103. The commercial telephone number of this office is (609) 757-5107 and the FTS number is 8-488-5081.

[FR Doc. 84-1455 Filed 1-18-84; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-8599]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Secs. 14(h)(5) and 14(h)(7) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(h)(5), 1613(h)(7)) (ANCSA), will be issued to Debra Jean (Titus) Wallace, for approximately 160 acres. The lands involved are within the Seward Meridian, Alaska:

T. 1 N., R. 1 W.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the ANCHORAGE DAILY NEWS upon issuance of the decision. For information

on how to obtain copies, contract the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in 43 Code of Federal Regulation (CFR), Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until February 21, 1984 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Retained Lands Unit, Easements
Division of Land and Water Management, Alaska Department of Natural Resources, Pouch 7-005, Anchorage, Alaska 99510
Debra Jean (Titus) Wallace, P.O. Box 10068, Klatt Station, Anchorage, Alaska 99502
Chugach Natives, Inc., 903 West Northern Lights Blvd., Suite 201, Anchorage, Alaska 99503

Barbara A. Lange,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 84-1414 Filed 1-18-84; 8:45 am]

BILLING CODE 4310-JA-M

[AA-8608]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Secs. 14(h)(5) and 14(h)(7) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(h)(5), 1613(h)(7)), (ANCSA), will be issued to Donald Hooper Wallace, Jr., for approximately 160 acres. The lands involved are within the Seward Meridian, Alaska:

T. 1 N., R. 1 W.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the Anchorage Daily News upon issuance of the decision. For information on how to obtain copies, contact the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until February 21, 1984 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of an requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Retained Lands Unit, Easements
Division of Land and Water Management, Alaska Department of Natural Resources, Pouch 7-005, Anchorage, Alaska 99510
Donald Hooper Wallace, Jr., 4020 McPhee 6&6, Anchorage, Alaska 99504
Chugach Natives, Inc., 903 West Northern Lights Blvd., Suite 201, Anchorage, Alaska 99503

Barbara A. Lange,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 84-1415 Filed 1-18-84; 8:45 am]

BILLING CODE 4310-JA-M

[F-14907-A Through F-14907-I]

Alaska Native Claims Selection; NANA Regional Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that the decision to issue conveyance to NANA Regional Corporation, Inc. as successor in interest to Noatak Napaaktukmeut Corporation published in the **Federal Register** on January 4, 1983 is modified as to pages 344 and 345.

The time limits for filing an appeal are:

1. Parties receiving service of this modified decision by personal service or certified mail, return receipt requested, shall have thirty days from receipt of this modified decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have

been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of this modified decision by regular mail which is not certified, return receipt requested, shall have until February 21, 1984 to file an appeal.

Copies can be obtained by contacting the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is: NANA Regional Corporation, Inc., Successor in Interest to Noataka Napaaktukmeut Corporation, P.O. Box 49, Kotzebue, Alaska 99752.

Except as modified by this decision, the decision of December 30, 1982, stands as written.

Barbara A. Lange,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 84-1416 Filed 1-18-84; 8:45 am]

BILLING CODE 4310-84-M

Montana; Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Pub. L. 97-451, a petition for reinstatement of oil and gas lease M 56563, Toole County, Montana, was timely filed and accompanied by the required rental accruing from the date of termination, December 1, 1983.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rental at a rate of $10 per acre and royalty at a rate of not less than 16⅔ percent computed on a sliding scale based upon the average production per well per day, at a rate which shall be not less than 4 percentage points greater than the competitive royalty schedule attached to the lease. Payment of a $500 administration fee has been made.

Having met all the requirements for reinstatement of the lease as set out in Sec. 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective as of the date of termination, subject to the original terms and conditions of the lease, the increased rental and royalty rates cited above, and reimbursement for cost of publication of this Notice.

Dated: January 10, 1984.

Cynthia L. Embretson,

Chief, Fluids Adjudication Section.

[FR Doc. 84-1471 Filed 1-18-84; 8:45 am]

BILLING CODE 4310-84-M

Nevada; Filing of Plats of Survey

January 10, 1984.

1. The Plats of Survey of lands described below were officially filed at the Nevada State Office, Reno, Nevada, effective at 10:00 a.m., on January 3, 1984.

Mount Diablo Meridian, Nevada

T. 1 S., R. 40 E.,
Group No. 600.

T. 2 S., R. 40 E.,
Group No. 600.

T. 34 N., R. 52 E.,
Supplemental Plat.

The above surveys were accepted December 16, 1983.

The purpose of this notice is to inform the public and interested State and local government officials of the filing of plats of survey. Inquires concerning these surveys shall be addressed to the Nevada State Office, Bureau of Land Management, 300 Booth Street, P.O. Box 12000, Reno, Nevada 89520.

Wm. J. Malencik,

Deputy State Director, Operations.

[FR Doc. 84-1468 Filed 1-18-84; 8:45 am]

BILLING CODE 4310-84-M

Nevada; Filing of Plat of Survey and Order Providing for Opening of Lands

January 10, 1984.

1. The Plat of Survey of lands described below will be officially filed at the Nevada State Office, Reno, Nevada, effective at 10:00 a.m., on March 5, 1984.

Mount Diablo Meridian, Nevada

T. 1 S. R. 40½ E.

2. The land within the above township is mountainous in the western half with elevations between 5,300 and 5,950 ft. above sea level and gently rolling in the eastern half with elevations between 4,800 and 5,300 ft. above sea level. The soil is gravelly with volcanic rocks in the mountains and gravelly with some sand in the eastern part. The undergrowth consists of sagebrush and scattered cacti.

Access to the township is provided by trail roads crossing from east to west, extending only to the foothills.

Prinicpal users of the area consist of mining enthusiasts, as there is evidence of numerous prospects throughout the township.

There are no improvements within the township.

3. Subject to valid existing rights, the provisions of existing withdrawals and classifications, and the requirements of applicable law, the lands are hereby open to such applications and petitions as may be permitted. All such valid applications received at or prior to 10:00 a.m. on March 5, 1984, shall be considered as simultaneously filed at the time. Those received thereafter shall be considered in order of filing.

Inquires concerning these lands shall be addressed to the Nevada State Office, Bureau of Land Management, 300 Booth Street, P.O. Box 12000, Reno, Nevada 89520.

Wm. J. Malencik

Deputy State Director, Operations.

[FR Doc. 84-1469 Filed 1-18-84; 8:45 am]

BILLING CODE 4310-84-M

[M-57784]

Realty Action; Exchange of Public Lands in Custer County, Montana

AGENCY: Bureau of Land Management, Miles City District, Interior.

ACTION: Notice.

SUMMARY: The following described public lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

	Acres
T. 9 N., R. 50 E., PMM,	
Sec. 24, W½	[illegible]
T. 9 N., R. 51 E., PMM,	
Sec. 28, lots 2-5, 8,9, NE¼	244.53
Sec. 32, lots, 1,4,5	83.53
Sec. 33, lot 5, N½SE¼, SE¼SE¼	151.29
Total	[illegible]

In exchange for these lands, the Federal Government will acquire scattered tracts of non-federal land in Custer County from Buford Griffin, described as follows:

	Acres
T. 9 N., R. 50 E., PMM,	
Sec. 27	[illegible]
T. 9 N., R. 51 E., PMM,	
Sec. 22, SE¼	320.00
Sec. 25, NW¼	160.00
Sec. 34, W½SE¼	80.00
T. 9 N., R. 52 E., PMM,	
Sec. 30, lots 1-3, E½NW¼, NE¼SW¼, W½SE¼	318.27
Total	1,518.27

The purpose of this exchange is to aggregate the existing isolated public lands into an area which will be accessible to the public. The exchange is consistent with the Bureau's planning and has been discussed with Custer County Commissioners (on May 4, 1983) and officials of the State of Montana. They agreed there is no need for a public hearing. The public interest will be served by making the exchange.

The value of the lands to be exchanged is approximately equal and the acreage will be adjusted or money will be used to equalize the values.

SUPPLEMENTARY INFORMATION: The publication of this notice segregates the public lands described above from settlement, sale, location and entry under the public land laws, including the mining laws, but not from exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976.

The exchange will be made subject to:

1. A reservation to the United States of a right-of-way for ditches or canals in accordance with 43 U.S.C. 945.

2. The reservation to the United States of all minerals in the federal land being transferred.

3. All valid existing rights (e.g. rights-of-way, easements, and leases of record.)

4. The reservation of a road easement to the United States, 30 feet total width, 3,240 feet in length, along an existing road within T. 9 N., R. 51 E., PMM, Sec. 28: NE¼.

DATE: For a period of 45 days from the date of this notice, interested parties may submit comments to the Bureau of Land Management at the address shown below. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of Interior.

FOR FURTHER INFORMATION CONTACT: Miles City District Office, P.O. Box 940, Garryowen Road, Miles City, Montana 59301.

Dated: January 11, 1984.

Ray Brubaker,

District Manager.

[FR Doc. 84-1479 Filed 1-18-84; 8:45 am]

BILLING CODE 4310-DN-M

Realty Action; Sale of Public Lands in Lincoln County, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, sale of public lands in Lincoln County, Idaho.

DATE: The bid opening will be held on Friday, March 30, 1984, beginning at 10:00 a.m.

SUMMARY: Based on public supported land use plans the following described land has been examined, and identified as suitable for disposal by public sale under Section 203 of the Federal Land Policy and Management Act (FLPMA) of 1976 (90 Stat. 2750, U.S.C. 1713), at no less than the appraised fair market value which will be available in the Shoshone District Office after March 1, 1984.

Parcel No	Legal description	Acres
I-18298, Parcel 1	T. 5 S., R. 18 E., Boise Meridian, Idaho, Sec. 4: NW¼SE¼SW¼	10.0
I-20425, Parcel 2.	T. 5 S., R. 18 E., Boise Meridian, Idaho, Sec. 9: N½NW¼NW¼-NW¼; SW¼NW¼NW¼NW¼.	7.5

Sealed bids are being solicited for each parcel offered for sale. Acceptable bids must be at the appraised value or higher.

Sale Parcel I-18298 will be offered for *Direct Sale* to Gordon Connell, based on historic use and value added improvements. Failure of the proponent to submit the required amount within 30 days from the date of the sale will result in cancellation of the sale to him. This parcel would then be withdrawn from further sale offerings and remain under BLM control.

Sale Parcel I-20425 will be offered for sale through Competitive Bidding. "Sealed bids only will be accepted" and no bids will be accepted for less than the appraised value. Bids must include all the lands contained in the parcel.

The patent for each parcel will be subject to the following conditions:

1. A right-of-way for ditches and canals constructed by the authority of the United States. Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All minerals including Oil & Gas shall be reserved to the United States, as required by Section 209(a) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1719.

3. All valid existing rights and reservations of record on the date of patenting.

ADDRESS: The bid opening will be held at the Shoshone District Office, Bureau of Land Management, 400 West F Street, P.O. Box 2B, Shoshone, Idaho 83352. Additional information concerning this land and terms and conditions of sale and bidding instructions can be obtained from Ervin Cowley at the above address, or by calling (208) 886-2206.

SUPPLEMENTARY INFORMATION: For a period of 45 days from the date of this notice, interested parties may submit comments to the Shoshone District Manager regarding the proposed action. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of Interior.

FOR FURTHER INFORMATION CONTACT: Charles J. Haszier, District Manager, Shoshone District Office, 400 West F Street, Shoshone, Idaho 83352; 208-886-2208.

Dated: January 13, 1984.

Charles J. Haszier,

District Manager.

[FR Doc. 84-1466 Filed 1-18-84; 8:45 am]

BILLING CODE 4310-84

[W-81467]

Wyoming: Realty Action; Proposed Noncompetitive Sale of Public Lands in Johnson County, Wyoming—Amendment

Summary

This notice amends a previous Notice of Realty Action to add an omitted additional patent reservation in the Proposed Noncompetitive Sale of Public Lands published in the **Federal Register**, Vol. 48, No. 155, page 36345, issue of August 10, 1983 (FR Doc. 83-21748).

The omitted patent reservation is as follows:

A flood plain restriction is imposed under Section 3(d) of Executive Order 11988 of May 24, 1977, under Section 4 of Executive Order 11990 of May 24, 1977, and under Section 208 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713 (1976), which constitutes a covenant that the land may not be further developed or expanded for residential building for public service installations or for similar type use and structures needing flood protection. If municipal sewage facilities become available to the land, the existing septic tank leach field system will be replaced and if the existing structures are ever destroyed or moved, no new structures will be erected on the site.

For a period of 45 days from the date of this notice, interested parties may submit comments to the Bureau of Land Management, Casper District Office, 951 Rancho Road, Casper, Wyoming 82601. Any adverse comments will be evaluated by the district manager who may vacate or modify this realty action and issue a final determination. In absence of any action by the district manager, this realty action will become a final determination.

James W. Monroe,

District Manager.

[FR Doc. 84-1473 Filed 1-18-84; 8:45 am]

BILLING CODE 4310-22-M

[AZAZ012000004]

Realty Action; Sale of Public Lands in Mohave County, Arizona; Correction

In FR Doc 83–30738, page 51983, published Tuesday, November 15, 1983, the heading should read Noncompetitive Sale of Public Land in Mohave Co., instead of "competitive sale".

Dated: January 12, 1984.

G. William Lamb,

District Manager.

[FR Doc. 84–1418 Filed 1–18–84; 8:45 am]

BILLING CODE 4310–84–M

[Group 670]

California; Filing of Plat of Survey

January 11, 1984.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California, immediately:

Mount Diablo Meridian, Sonoma County

T. 11 N., R. 9 W.

2. This plat, representing the dependent resurvey of a portion of the subdivisional lines, and certain boundaries of mineral surveys in T. 11 N., R. 9 W., Mount Diablo Meridian, under Group No. 670, California, was accepted December 5, 1983.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records and Information Section.

[FR Doc. 84–1397 Filed 1–18–84; 8:45 am]

BILLING CODE 4310–84–M

[N–36893]

Realty Action; Noncompetitive Sale of Public Lands in Humboldt County, Nevada

The following land has been examined and identified as suitable for disposal by direct sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750); 43 U.S.C. 1713) at no less than fair market value:

Mount Diablo Base & Meridian

T. 35 N., R. 38 E.,
Sec. 6, N1/2N1/2N1/2NE1/4NW1/4SW1/4, N1/2N1/2N1/2NE1/4SW1/4.

The above-described land comprising 6.25 acres, is being offered as a direct sale to District Court Judge Richard J. Legarza, who will act as intermediary and deed the property to the individual landowners as the property is paid for. This land disposal effort by the Bureau of Land Management will solve a surveying error that affects several property owners in the Grass Valley Road vicinity.

The sale is consistent with the Bureau of Land Management's planning system and has been an item of discussion with landowners. Bureau policy is that public lands will be disposed of in an attempt to achieve resolution of inadvertent trespass actions involving substantial improvements on the public lands. The public interests will be served by offering these lands for direct sale to the District Court Judge. The proposed sale has been reviewed by the Humboldt County commissioners. The land will not be offered for sale until 60 days after the date of this notice.

The patent, when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

All mineral deposits in the land so patented, and to it, or persons authorized by it, the right to prospect, mine, and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

And will be subject to:

1. Those rights for powerline purposes which have been granted to Sierra Pacific Power Company, its successors or assigns, by Permit No. Nev-057840, under the Act of March 4, 1911, 36 Stat. 1253, 43 U.S.C. 961.

2. Those rights for roadway purposes which have been granted to the Humboldt County Commissioners, their successors or assigns, by Permit No. N–37919, under the Act of October 21, 1976, 90 Stat. 2776, 43 U.S.C. 1761.

3. Those rights granted by oil and gas lease N–34359, made under Section 29 of the Act of February 25, 1920, 41 Stat. 437, and the Act of March 4, 1933, 47 Stat. 1570. This patent is issued subject to the right of the prior permittee or lessee to use so much of the surface of said land as is required for oil and gas exploration and development operations, without compensation to the patentee for damages resulting from proper oil and gas operations, for the duration of oil and gas lease, N–34359, and any authorized extension of that lease. Upon termination or relinquishment of said oil and gas lease, this reservation shall terminate.

Detailed information concerning the sale is available for review at the Winnemucca District Office, Bureau of Land Management, 705 East Fourth Street, Winnemucca, Nevada 89445.

For a period of 45 days from the date of publication in the **Federal Register**, interested parties may submit comments to the State Director at P.O. Box 12000, Reno, Nevada 89520. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. If no action is taken by the State Director, this realty action will become a final determination of the Department of the Interior.

Dated: January 10, 1984.

Robert J. Neary,

Acting District Manager.

[FR Doc. 84–1390 Filed 1–18–84; 8:45 am]

BILLING CODE 4310–84–M

Realty Action; Sale of Public Land in Gilliam County, Oregon

The following described land has been identified as suitable for disposal by sale under 43 CFR Part 2750 (90 Stat. 2743, 43 U.S.C. 1713), at no less than the appraised fair market value.

Parcel No.	Legal description	Acreage	Fair market value
1	T. 1 S., R. 19 E., Will. Mer., Sec. 29, NE¼NW¼.	40	$2,100
2	T. 1 S., R. 19 E., Will. Mer., Sec. 32, SE¼NE¼.	40	2,300
3	T. 2 S., R. 19 E., Will. Mer., Sec. 23, SW¼SE¼.	40	5,000
4	T. 1 S., R. 21 E., Will. Mer., Sec. 35, NE¼SE¼.	40	2,000
5	T. 1 S., R. 22 E., Will. Mer., Sec. 12, NE¼SE¼.	40	2,800
6	T. 1 S., R. 22 E., Will. Mer., Sec. 32, SW¼SW¼.	40	1,600
7	T. 2 S., R. 22 E., Will. Mer., Sec. 32, NE¼NE¼.	40	2,400
8	T. 3 S., R. 22 E., Will. Mer., Sec. 4, SW¼NW¼.	40	1,500

The parcels are difficult and uneconomic to manage as part of the public lands and are not suitable for management by another federal agency. There are no significant resource values which will be affected by this disposal and the sale of these parcels will allow agricultural development of suitable portions. Physical access is by foot to Parcels No. 1, 2, 3 and 5. Parcels No. 4, 6, 7 and 8 have roads to them but only Parcels No. 6 and 8 have legal access. The sale is consistent with BLM plans

for disposal of these tracts and the public interest is served by offering this land for sale.

Sealed bids are being solicited for each parcel and no oral bidding will take place.

No tract will be sold for less than the appraised fair market value. Designated bidders must submit a sealed bid for at least the appraised value, to exercise their right to meet the high sealed bid.

The sale will be held on March 21, 1984, at 10:00 AM in the Prineville District Office, 184 E. 4th Street. At that time, all sealed bids will be opened and the apparent high bidders declared.

All parcels are being offered for sale through modified competitive bidding with the exception of Parcels No. 6 and 8 which will be sold under competitive bidding procedures. The following designated bidders have preference right to meet the high bid:

Parcel No. 1: Gordon and Elaine Moore
Parcel No. 2: Gordon and Elaine Moore, Art Van Guilder
Parcel No. 3: Dough and Edith Shull
Parcel No. 4: John Weimar
Parcel No. 5: Herbert and May Ekstrom, William Zinter
Parcel No. 7: Bill Hill and Patty McCoin

Modified competitive bidding procedures are being used to recognize the needs of adjoining landowners and historical use by these landowners. Preference to meet the high selling bid is authorized under Section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713; 43 CFR 2711.3–2(a)(2).

Federal law requires that individuals be 18 years of age or over and a U.S. citizen, and corporations be subject to the laws of any State of the United States.

Sealed or written bids will be considered only if received by the Bureau of Land Management, P.O. Box 550, Prineville, Oregon 97754, prior to 4:00 PM, Tuesday, March 20, 1984. A separate written bid must submitted for each parcel desired.

All sealed bids will be opened and publicy declared at 10:00 AM, March 21, 1984, in the Prineville District Office.

If two or more envelopes containing valid bids for Parcels Nos. 6 and 8 are of the same amount, the determination of which is to be considered the qualifying bid shall be by drawing. The same procedure shall apply to designated bidders, bidding on Parcels Nos. 1, 2, 3, 4, 5 and 7. However, should the high sealed bid be received from an individual who is not acting in the capacity of a designated bidder, all designated bidders will be notified through registered mail that they have 30 days to either meet the high bid or submit a second sealed bid of greater value. Failure to agree to meet the high bid within the 30 day period immediately following the sale, shall consititute a waiver of all preference rights. All sealed bids received from designated bidders exercising their right to meet the high bid will be opened and the high bidder declared immediately following the 30 day period. If two or more bids of equal amounts are received from the designated bidders, the qualifying bid shall then be determined by drawing, immediately following the opening of the sealed bids.

2. The BLM may accept or reject any all offers, or withdraw any land or interest in land from sale if, in the opinion of the authorized officer, consumation of the sale would not be fully consistent with the Federal Land Policy and Management Act or other applicable laws.

3. A reservation to the United States for ditches and canals constructed by the authority of the United States Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

4. A bid will also constitute an application for conveyance of the entire mineral estate except for oil and gas which will be reserved to the United States. The mineral interests being offered for conveyance have no known mineral value. The declared high bidder will be required to deposit a $50.00 nonreturnable filing fee (43 CFR 2720.1–2(c)).

5. The sale will be subject to all valid existing rights.

Those parcels not sold pursuant to this Notice of Realty Action will continue to be available for sale on a sealed bid basis. All sealed bids for available parcels will be opened at 10:00 AM on the first Wednesday of each month and must be received in the Prineville Office by 4:00 PM the last working day prior to the monthly drawing. Priority will not be given to first filed bids.

Detailed information concerning the sale, including the planning documents, environmental assessment and the record of public involvement, is available for review at the District Office, Bureau of Land Management, P.O. Box 550, Prineville, Oregon 97754. For a period of 45 days after the issuance of this notice, the public and interested parties may submit comments to the District Manager, at the above address. Any adverse comments received as a result of the Notice of Realty Action or notification to the congressional committees and delegations pursuant to Pub. L. 97–394, will be evaluated by the District Manger who may vacate or modify this realty action and issue a final determination. In the absense of any action by the District Manager, this realty action will become a final determination of the Department of the Interior. Interested parties should continue to check with the District Office to keep themselves advised of any changes.

James L. Hancock,

Associate District Manager.

[FR Doc. 84–1389 Filed 1–17–84; 8:45 am]

BILLING CODE 4310–33–M

[OR 36619 (WA)]

Realty Action; Sale Public Land in Chelan County, Washington

The following described land has been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976, (90 Stat. 2750, 43 U.S.C. 1713), at no less than the appraised fair market value:

WILLAMETTE MERIDIAN, CHELAN COUNTY, WASHINGTON

Parcel No.	Legal description	Acreage	Value
1	T. 28 N., R. 21 E., Sec. 14, W½SE¼.	80.00	$28,000
2	T. 28 N., R. 21 E., Sec. 24, SW¼NE¼.	40.00	21,400
3	T. 28 N., R. 22 E., Sec. 19, Lot 3.	25.51	8,200
4	T. 28 N., R. 22 E., Sec. 23, SE¼SE¼.	40.00	20,000
5	T. 28 N., R. 22 E., Sec. 26, NE¼SW¼.	40.00	20,000

The sale will be held on March 21, 1984, at 10:00 a.m. at the Bureau of Land Management, Spokane District Office, East 4217 Main Avenue, Spokane, Washington 99202.

These isolated parcels are difficult and uneconomic to manage as part of the public lands and are not suitable for management by another federal agency. There are no significant resource values which will be affected by this disposal. Legal access is available to Parcels #2 and #3 by county road. There is no legal access to Parcels #1, #4 and #5. The sale is consistent with the BLM's planning for the land involved and the public interest would be served by offering this land for sale.

The patent issued to all the parcels will be subject to:

1. A reservation to the United States for ditches and canals (43 U.S.C. 945).

2. A reservation to the United States for all mineral rights (43 U.S.C. 1719).

Additionally:

a. Patents to Parcels #1, #2 and #3 will be subject to the transmission line

right-of-way SP 020026 granted to Chelan County P.U.D. No. 1.

b. Patent to Parcel #3 will be subject to a reservation to the United States for the pumping station and associated facilities right-of-way OR 8729 (WA).

c. All other easements, encumbrances, reservations, and restrictions of record.

The above described land will be offered for sale by sealed bids only, using competitive bidding procedures (43 CFR 2711.3–1). No bid will be accepted for less than the appraised value, and bids for a parcel must include all the land in the parcel. Federal law requires that individuals be 18 years of age or over and U.S. citizens, and corporations be subject to the laws of any State of the United States.

Bids must be made by the principal or his duly qualified agent, by sealed bids mailed or delivered to the Spokane District Office. Bids must be received at the Bureau of Land Management, Spokane District, at the above address, before 10:00 a.m., March 21, 1984, to be considered. Each sealed bid must be accompanied by postal money order, bank draft, or cashier's check, made payable to the Bureau of Land Management for not less than one-fifth of the amount of each bid. The sealed envelope must be marked in the lower left-hand corner as follows: "Public Sale Bid Parcel No. , Serial No. OR 36619. Sale held March 21, 1984."

If two or more envelopes are received containing valid bids of the same amount for the same parcel, the successful bid shall be determined by drawing. The highest qualifying sealed bid on each parcel will be the sale price. The successful bidder will be required to pay the remainder of the sale price within 30 days. Failure to submit the full sale price within 30 days shall cancel sale of the specific parcel and the bidder's deposit will be forfeited. All unsuccessful bids will be returned.

If any of the parcels are not sold on March 21, 1984, they will remain available for sale on a continuing basis until removed from market. Bids will be solicited on these parcels at the Bureau of Land Management, Spokane District Office during regular business hours. All sealed bids received will be opened the first Wednesday of each month. To be considered, bids must be received by 10:00 a.m. on the day of the bid opening.

Detailed information concerning the sale, including the planning documents, environmental assessment, land report, and fair market appraisal, is available for review at the Bureau of Land Management, Spokane District Office, at the above address.

For a period of 45 days after the date of issuance of this notice, the public and interested parties may submit comments to the Spokane District Manager, at the above address. Any adverse comments received as a result of the Notice of Realty Action or notification to the Congressional committees and delegations pursuant to Pub. L. 97–394 will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become a final determination of the Department of the Interior. Interested parties should continue to check with the District Office to keep themselves advised of changes.

Date of Issue: January 10, 1984.

Jerry L. Kidd,

Acting District Manager.

[FR Doc. 84–1385 Filed 1–18–84; 8:45 am]

BILLING CODE 4310–84–M

[W–81072]

Realty Action Sales of Public Lands in Lincoln County, Wyoming

January 11, 1984.

The following described lands have been determined to be suitable for disposal by sale pursuant to Section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713, at no less than the fair market value ($379,000.00).

Sixth Principial Meridian, Wyoming

T. 20 N., R. 117 W.,
Sec. 14: E½, SW¼NW¼, SW¼.
Containing 520 acres.

The land is to be sold noncompetitively to The Pittsburg and Midway Coal Mining Company, at the appraised fair market value. The purpose of this sale is to provide land for the placement of out of pit material removed during mining operations.

The sale will be made on approximately March 15, 1984.

The sale of these lands will serve important public objectives which cannot be achieved on lands other than public land. These objectives outweigh the values derived by livestock grazing which is the present and projected use of the land.

The Direct sales method has been selected because the subject parcel is an integral part of a project of public importance and speculative bidding would jeopardize the timely completion and economic viability of the project. The existing adjacent energy producing resources would not be recovered, thus the existing business would be threatened if the tract were purchased by any other party.

The environmental assessment written for this action considered alternative sites which were rejected because of greater environmental and economic negative effects. The sale is consistent with the Pioneer Trails Management Framework Plan which has been reviewed by the public, with input from local, county and state government officials.

The terms and conditions applicable to the sale are:

1. The total purchase price for the land will be paid at the time of the sale.

2. The patent will contain a reservation for ditches and canals.

3. All minerals will be reserved to the United States.

4. The Pittsburg and Midway coal Mining Company shall take the real estate subject to the continued use for a two-year period of the allottes within the Cumberland-Uinta Grazing Allotment. The purchaser is entitled to receive annual grazing fees, in an amount not to exceed that which would be authorized under the Federal grazing fee published annually in the **Federal Register**.

5. The patent will be subject to all valid existing rights.

6. Federal law requires that the patentee be a U.S. citizen, or in the case of corporations, be authorized to own real estate in the State in which the sale is offered. Proof of this requirement has been established.

Detailed informatin concerning the sale is available for review at the Bureau of Land Management, Kemmerer Resource Area Office, 415 U.S. Highway 30 North, Diamondville, Wyoming 83101.

For a period of forty-five (45) days from the date of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyoming 82902. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action. In the absence of any action by the District Manager, this realty action will become a final determination of the Department of the Interior.

Don Sweep,

District Manager, Rock Springs District.

[FR Doc. 84–1386 Filed 1–18–84; 8:45 am]

BILLING CODE 4310–23–M

Conveyance and Order Providing for Opening of Public Lands; Phillips County, Montana

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of Conveyance and Order Providing for Opening of Public Lands in Phillips County, Montana.

SUMMARY: Notice is hereby given that pursuant to Section 206 of the Act of October 21, 1976 (43 U.S.C. 1716 (1976)), the following described land was conveyed to Michael K. Morrison and Paula Morrison:

Principal Meridian, Montana

T. 34 N., R. 29 E.,
Sec. 2, SE¼; and
Sec. 14, NE¼.
Containing 320 acres.

All of the oil and gas deposits were reserved to the United States.

In exchange for above land, the United States acquired the following described land in Phillips County, Montana:

Principal Meridian, Montana

T. 33 N., R. 28 E,
Sec. 5, lots 1, 2, 3 and 4, and S½N½.
Containing 313.72 acres.

This order restores the lands acquired by the United States to the operation of the public land laws generally.

Dates: At 9 a.m. on March 5, 1984, the lands shall be open to the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All applications received at or prior to 9 a.m. on March 5, 1984, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

January 13, 1984.

John A. Kwiatkowski,

Deputy State Director Division of Lands and Renewable Resources.

[FR Doc. 84-1383 Filed 1-1-84; 8:45 am]

BILLING CODE 4310-84-M

Susanville District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given, in accordance with Public Law 94-579 (FLPMA), that a meeting of the Susanville District Grazing Advisory Board will be held on March 5, 1984.

The meeting will begin at 10:00 a.m. at the Surprise Resource Area Office of the Bureau of Land Management, 602 Cressler Street, Cedarville, California. The agenda will include a discussion of predator control, Cooperative Management Agreements, Advisory Board funds, wild horses, 1984 project progress report, 1985 project priorities, wilderness studies, and other items as appropriate.

The meeting is open to the public. Interested persons may make oral statements to the board between 3:30 p.m. and 4:30 p.m. on March 5, 1984 or file a written statement for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 1090, Susanville, California 96130, by February 27, 1984. Depending upon the number of persons wishing to make oral statements, a per person list limit may be established.

Summary minutes of the board meeting will be maintained in the District Office, and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

C. Rex Cleary,

District Manager.

[FR Doc. 84-1398 Filed 1-18-84; 8:45 am]

BILLING CODE 4310-40-M

Minerals Management Service

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Alaska Outer Continental Shelf

AGENCY: Minerals Management Service, Interior

ACTION: Notice of availability of environmental documents prepared for Outer Continental Shelf (OCS) mineral prelease and exploration proposals on the Alaska OCS.

SUMMARY: The Minerals Management Service (MMS), in accordance with Federal regulations (40 CFR, Sections 1501.4 and 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related environmental assessments (EA's) and findings of no significant impact (FONSI's) prepared by the MMS for the following oil and gas prelease and exploration activities proposed on the Alaska OCS. The listing includes all proposals for which environmental documents were prepared by the Alaska OCS Region in the 3-month period preceding this notice.

Activity/Operator: Exploration Drilling Program (Fur Seal Island) for Beaufort Sea (Harrison Bay area); Texaco USA, as operator for itself and others.

Location: Texaco USA is proposing to build a gravel island located at the common boundary of Leases OCS-Y 0344, 0345, 0352, and 0353, situated about 28 miles northwest of Oliktok Point. From this island location, Texaco proposes to drill up to five exploratory wells. The first well will be drilled into Lease OCS-Y 0353. Depending upon the results of drilling, testing, and evaluation of this well, subsequent wells will be drilled into other leases. The location of the gravel island is described as follows:

Lease and Well Nos.: OCS-Y 0344, OCS-Y 0345, OCS-Y 0352, OCS-Y 0353 No. 1.

Latitude/Longitude: 70°38'18.97"N, 150°47'39.55"W.

Environmental Assessment: No. AK-83-04.

FONSI Date: December 16, 1983.

Activity/Operator: Exploration Drilling Program for Norton Basin; Exxon Company USA, as operator for itself and Elf Aquitaine, Inc.

Location: Exxon Company USA proposes to drill up to 16 exploratory wells from a jackup drilling rig at locations 45 to 83 miles south of Nome. Depending upon the results of drilling, testing, and evaluation of the initial well, subsequent wells may be drilled at other locations. Potential sites are described as follows:

Lease	Location	Latitude	Longitude
OCS-Y 0404	2423'FWL 1556'FSL	63.81018N	164.96494W.
OCS-Y 0406	4621'FWL 4435'FNL	63.79395N	164.97136W.
OCS-Y 0414	2170'FEL 2816'FNL	63.71188N	164.72198W.
OCS-Y 0414	5548'FEL 6066'FSL	63.69314N	164.74299W.
OCS-Y 0415	5245'FWL 7826'FSL	63.69782N	164.67641W.
OCS-Y 0415	1208'FWL 1078'FSL	63.67945N	164.70143W.
OCS-Y 0433	1975'FEL 4975'FSL	63.47348N	164.33781W.
OCS-Y 0434	1193'FWL 4334'FNL	63.49097N	164.31796W.
OCS-Y 0430	4504'FEL 6859'FSL	63.52124N	164.25564W.
OCS-Y 0430	5259'FWL 75'FSL	63.50293N	164.29283W.
OCS-Y 0430	6849'FWL 4186'FNL	63.53430N	164.26231W.
OCS-Y 0398	5123'FWL 5615'FSL	63.90462N	164.08500W.
OCS-Y 0398	2936'FEL 7484'FSL	63.90943N	164.04005W.
OCS-Y 0399	2645'FWL 3485'FNL	63.92233N	164.00503W.
OCS-Y 0399	7655'FEL 638'FNL	63.92971N	163.97073W.
OCS-Y 0393	1111'FEL 2735'FSL	63.93876N	163.92978W.

Environmental Assessment: No. AK–83–05.

FONSI Date: December 28, 1983.

SUPPLEMENTARY INFORMATION: The MMS prepares EA's and FONSI's for proposals which relate to exploration for oil and gas resources on the Alaska OCS.

The EA's examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. EA's are used as a basis for determining whether or not approval of the proposal constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA Section 102(2)(C). A FONSI is prepared in those instances where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

The FONSI and associated EA for the activities listed above are available for public inspection between the hours of 8 a.m. and 4 p.m., Monday through Friday (excluding lunch hour, 11:30 a.m. to 12:30 p.m.) at: Minerals Management Service, Alaska OCS Region, Office of the Regional Supervisor, Field Operations, 800 A Street, Suite 205, Anchorage, Alaska 99501, Phone: (907) 261–2255.

Persons interested in reviewing specific environmental documents, or obtaining information about EA's and FONSI's prepared for activities on the Alaska OCS, are encouraged to contact the above listed MMS office.

This notice constitutes the public notice of availability of environmental documents required under the NEPA regulations.

Irven F. Palmer, Jr.,

Acting Regional Manager.

[FR Doc. 84–1413 Filed 1–18–84; 8:45 am]

BILLING CODE 4310–MR–M

National Outer Continental Shelf Advisory Board, Pacific Regional Technical Working Group Committee; Meeting

AGENCY: Minerals Management Service, Pacific OCS Region, Interior.

ACTION: National Outer Continental Shelf Advisory Board, Pacific Regional Technical Working Group Committee; notice and agenda for meeting.

SUPPLEMENTARY INFORMATION: This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92–463.

The Pacific Regional Technical Working Group Committee of the National OCS Advisory Board is scheduled to meet from 9 a.m. to 4 p.m., February 28 and 29, 1984, at the Federal Building, 1340 West Sixth Street, Room 254–6, Los Angeles, California.

The Agenda for the meeting covers the following topics: (a) status of leases and exploration/development; (b) status of Lease Sale No. 73; (c) Lease Sale No. 73 Memorandum of Agreement with the State of California; (d) Upcoming lease offerings under the current 5–year schedule; (e) Gorda Ridge Polymetallic Sulphide Minerals Lease Offering; and f) Environmental Studies.

The meeting is open to the public. Interested persons may make oral or written presentations to the committee. Such requests should be made no later than February 13, 1984, to: Fred Jacobs, Pacific OCS Office, 1340 West Sixth Street, Room 275, Los Angeles, California 90017, (213) 688–3389. Requests to make oral statements should be accompanied by a summary of the statement to be made.

Minutes of the meeting will be available for public inspection and copying at the following locations:

Pacific OCS Region, 1340 West Sixth Street, Room 275, Los Angeles, CA 90017; and

Office of Offshore Information Services, Minerals Management Service, Department of the Interior, Washington, DC 20240

Dated: January 1, 1984.

James W. Sutherland,

Acting Deputy Regional Manager, Pacific OCS Region.

[FR Doc. 84–1394 Filed 1–18–84; 8:45 am]

BILLING CODE 4310–MR–M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Mobil Producing Texas & New Mexico, Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 6273, Block 128, East Breaks Area, offshore Texas.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, phone (504) 838–0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: January 10, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84–1475 Filed 1–18–84; 8:45 am]

BILLING CODE 4310–MR–M

Outer Continental Shelf; Oil, Gas, and Sulphur Operations; Plan of Development and Production; Superior Oil Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of receipt of a proposed Plan of Development/Production (POD/P).

SUMMARY: Notice is hereby given that the Superior Oil Company has submitted a POD/P describing the activities it proposes to conduct on Lease OCS 0797, Block 105, Eugene Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject POD/P was deemed submitted on January 13, 1984. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject POD/P is available for public review at the Office of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the POD/P

and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans*, Post Office Box 44396, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Mr. Warren Williamson, Minerals Management Service, Gulf of Mexico Region; Rules and Production; Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; phone (504) 838–0817.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the POD/P and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the POD/P for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Manaagement Service makes information contained in POD/Ps available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1974, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: January 10, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84–1470 Filed 1–18–84; 8:45 am]

BILLING CODE 4310–MR–M

Outer Continental Shelf; Oil, Gas, and Sulfur Operations; Plan of Development and Production; Texas U.S.A.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Plan of Development/ Production (POD/P).

SUMMARY: Notice is hereby given that Texaco U.S.A. has submitted a POD/P describing the activities it proposes to conduct on Lease OCS 0310, Block 242, South Marsh Island Area, Offshore Louisiana. Proposed plans for the above area provide for the development and production of hydro-carbons with support activities to be conducted from onshore bases located at Louisa and Morgan City, Louisiana.

DATE: The subject POD/P was deemed submitted on January 13, 1984.

ADDRESS: A copy of the subject POD/P is available for public review at the Office of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Michael Joseph, Minerals Management Service; Gulf of Mexico Region; Rules and Production, Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; phone (504) 838–0867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the POD/P and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in POD/Ps available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: January 13, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84–1474 Filed 1–18–84; 8:45 am]

BILLING CODE 4310–MR–M

Outer Continental Shelf; Oil, Gas, and Sulfer Operations; Plan of Development and Production; Texas Eastern Exploration Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Plan of Development/ Production (POD/P).

SUMMARY: Notice is hereby given that Texas Eastern Exploration Company, has submitted a POD/P describing the activities it proposes to conduct on Lease OCS–G 4093, Block 463, West Cameron Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Sabine Pass, Texas.

DATE: The subject POD/P was deemed submitted on December 13, 1983. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject POD/P is available for public review at the Office of the Regional Manager, Gulf of Mexico Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the POD/P and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans*, Post Office Box 44396, Baton Rouge, Louisiana 70805

FOR FURTHER INFORMATION CONTACT: Mr. Hossein Hekmatdoost, Minerals Management Service, Gulf of Mexico Region; Rules and Production; Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; phone (504) 838–0873.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the POD/P and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the POD/P for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in POD/P available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: January 13, 1984.

John L. Rankin,

Regional Manager, Gulf of Mexico Region.

[FR Doc. 84-1476 Filed 1-18-84; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Cape Cod National Seashore, South Wellfleet, Massachusetts, Cape Cod National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770 (5 U.S.C. App. 1 section 10)), that a meeting of the Cape Cod National Seashore Advisory Commission will be held on Friday, February 3, 1984.

The Commission was established pursuant to Public Law 91-383 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Cape Cod National Seashore.

At the 1:30 PM meeting the Commission will consider the following:

1. Revisions to 36 CFR.
2. Contracting Out.
3. Private Sector Support.

The meeting is open to the public. It is expected that 30 persons will be able to attend the session in addition to the Commission members.

Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the official listed below at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from Herbert Olsen, Superintendent, Cape Cod National Seashore, South Wellfleet, MA 02663, telephone (617) 349-3785. Minutes of the meeting will be available for public information and copying two weeks after the meeting at the Office of the Superintendent, Cape Cod National Seashore, So. Wellfleet, Massachusetts.

Dated: January 10, 1984.

Herbert Olsen,

Superintendent, Cape Cod National Seashore.

[FR Doc. 84-1411 Filed 1-18-84; 8:45 am]

BILLING CODE 4310-70-M

Mining Plan of Operations at Gates of the Arctic National Park and Preserve; Availability

Notice is hereby given that pursuant to the provisions of section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9A, Cinco Mining has filed plans of operations on lands embracing the mining claim groups on Bonanza Creek, Conglomerate Creek, Mascot Creek and Washington Creek within Gates of the Arctic National Park and Preserve. These plans are available for inspection during normal business hours at the Alaska Regional Office, National Park Service, 2525 Gambell Street, Anchorage, Alaska.

Robert Peterson,

Acting Regional Director, Alaska Region.

[FR Doc. 84-1410 Filed 1-18-84; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30366]

Rail Carriers; the Baltimore and Ohio Railroad Co.; Discontinuance of Service Exemption; York County, PA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from formal review under 49 U.S.C. 10903 *et seq.* the discontinuance of service by The Baltimore and Ohio Railroad Company over 0.32 miles of railroad of the Western Maryland Railway Company, between Point of Switch 851+85.5 and Valuation Station 868+96 in York County, PA, subject to conditions for protection of employees.

DATES: This exemption is effective on February 20, 1984. Petitions to stay must be filed by January 30, 1984. Petitions for reconsideration must be filed by February 8, 1984.

ADDRESSES: Send pleadings referring to Docket No. 30366 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) Petitioner's representative: Rene J. Gunning, Suite 2204, 100 North Charles Street, Baltimore, MD 21201

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423 or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: January 12, 1984.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-1424 Filed 1-18-84; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30335]

Rail Carriers; Blue Rock Transportation Co.; Exemption From 49 U.S.C. Subtitle IV

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from 49 U.S.C. Subtitle IV the operation by the Blue Rock Transportation Company of approximately 4.24 miles of railroad between milepost 249.2 near Thrifton and milepost 245.01, near the Blue Rock quarry of American Aggregates Corporation in Fayette, Ross and Highland Counties, OH.

DATES: This exemption is effective on February 21, 1984. Petitions for reconsideration must be filed by February 8, 1984. Petitions to stay the effective date must be filed by January 30, 1984.

ADDRESS: Send pleadings referring to Finance Docket No. 30335 to:Q02

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) Petitioner's representative: A. Charles Tell, Baker & Hostetler, 100 East Broad Street, Columbus, OH 43215 (614) 220-1541

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423 or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: January 12, 1984.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-1421 Filed 1-18-84; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30347]

Rail Carriers; Border Pacific Railroad, Inc., Exemption From 49 U.S.C. 10901, 10746, and 11301

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts the Border Pacific Railroad, Inc., from the provisions of 49 U.S.C. 10901, 10746, and 11301 in connection with respectively: (1) acquisition and operation of 31.6 miles of track between milepost 73.6 at Rio Grande City, TX, and milepost 42.0 at Mission, TX, and the acquisition of operating rights over 2 miles of track between milepost 42.0 and milepost 40.0 at Mission; (2) transportation of certain industrial sand owned by an affiliate; and (3) issuance of 1000 shares of $1 par stock and assumption of an obligation with respect to a promissory note for an amount not exceeding $430,000.

DATES: This exemption is effective on January 16, 1984. Petitions to reopen must be filed by February 8, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 30347 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) Petitioner's representative: Stephen A. Nauheim, 1708 New Hampshire Avenue, N.W., Washington, DC 20009

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room, 2227, Interstate Commerce Commission, Washington, DC 20423 or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: January 12, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison.

James H. Bayne,

Acting Secretary.

[FR Doc. 84–1423 Filed 1–18–84; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to Resource Conservation and Recovery Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on January 10, 1984, a proposed consent decree in *United States* v. *Hooker Chemicals & Plastics Corp., et al., (S-Area Landfill),* Civil Action No. 79–988 was lodged with the United States District Court for the Western District of New York. The proposed consent decree concerns containment and remediation of hazardous chemicals disposed of in the S-Area Landfill site in Niagara Falls, New York.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. and should refer to *United States, the State of New York,* v. *Hooker Chemicals and Plastics Corp., et al., (S-Area Landfill),* DOJ Ref. 90–7–1–41.

The proposed consent decree may be examined at the office of the United States Attorney, 502, U.S. Courthouse, Buffalo, New York 14202, and at the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, Room 900, New York, New York 10278. Copies of the proposed consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, 9th & Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $23.40, (10 cents per page reproduction cost) payable to the Treasurer of the United States.

Mary L. Walker,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 84–1396 Filed 1–18–84; 8:45 am]

BILLING CODE 4410–01–M

Proposed Stipulation of Facts and Judgment Order To Require Defendant to Cease Illegal Emissions of Volatile Organics From Its Paint Baking Ovens in Cincinnati, Ohio

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed stipulation of facts and judgment order in *United States of America* v. *F. H. Lawson Co.,* Civil No. C–1–83–0717, were lodged with the United States District Court for the Southern District of Ohio on December 23, 1983.

The proposed judgement order requires defendant to reformulate the paints used in its metal fabrication processes to ensure that its facility is operated in compliance with volatile organic emission limitations under the Clean Air Act, 42 U.S.C. 7401 *et seq.* The order requires compliance with those limitations by December 31, 1983 and also imposes a civil penalty for past violations.

The proposed stipulation of facts and judgment order may be examined at the office of the United States Attorney, Room 220, U.S. Post Office and Courthouse Building, Fifth and Walnut Streets, Cincinnati, Ohio 45202; at the Region V Office of the Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois; and at the Office of the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Tenth and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed stipulation of facts and judgment order may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. Please forward a check in the amount of $1.20 ($.10 per page) for each copy requested.

The Department of Justice will receive written comments relating to the proposed stipulation of facts and judgement order for a period of thirty days from the date of this notice. Comments should be directed to the Assistant Attorney General for the Land and Natural Resources Division of the Department of Justice, Tenth and Pennsylvania Avenue, N.W., Washington, D.C. 20530 and should refer to *United States of America* v. *F. H. Lawson Co.,* D.J. Ref. 90–5–2–1–456.

F. Henry Habicht, II

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 84–1392 Filed 1–17–84; 8:45 am]

BILLING CODE 4410–01–M

LEGAL SERVICES CORPORATION

Announcement of Availability of Funds To Develop and Implement IOLTA Programs

AGENCY: Legal Services Corporation.

ACTION: Notice.

SUMMARY: The Legal Services Corporation (LSC) announces the continued availability of funds for grants to develop and implement Interest on Lawyers' Trust Accounts (IOLTA) Programs. All applications received before the date of this announcement will be considered. LSC

has extended its previous deadline of December 31, 1983, for acceptance of applications. LSC has given prior informal notice to eligible parties.

DATE: All applications for grant funds must be received on or before April 30, 1984.

FOR FURTHER INFORMATION CONTACT: Heidi J. Ackerman, Assistant Director, Office of Program Development, Legal Services Corporation, 733 Fifteenth Street, NW., Washington, D.C. 20005; (202) 272–4340.

SUPPLEMENTARY INFORMATION: The LSC grants are intended to assist in the development and implementation of state-wide IOLTA programs. LSC intends these grants to foster IOLTA programs which will serve as a source of private sector funding to supplement federal funding for the direct delivery of civil legal services to poor persons.

LSC has made available up to $550,000 to States for IOLTA development and implementation grants. Developmental grants range from $1,000 to $2,500 and are for States in the process of planning IOLTA programs. Implementation grants range from $10,000 to $25,000 and are limited to States with IOLTA programs approved by their enacting authority. A state that has received a developmental grant may be eligible for an implementation grant.

All IOLTA program grant proposals must be submitted to LSC's Office of Program Development.

John C. Meyer,

Deputy General Counsel.

[FR Doc. 84–1385 Filed 1–18–84; 8:45 am]

BILLING CODE 6820–35–M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Agency Clearance Officer—Kenneth A. Fogash (202) 272–2700

Upon written request copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, D.C. 20549

Extension—Regulation B and Related Forms, No. 270–102

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission has submitted for an extension of clearance Regulation B under the Securities Act of 1933 (the "1933 Act") (17 CFR 230.300 thru 17 CFR 230.346) and the schedules and forms for offering sheets pertaining to fractional undivided interests in oil and gas rights offered pursuant to the exemption under Regulation B (17 CFR 239.101). Regulation B and the schedules and forms thereunder provide a basis for the exemption from registration under the 1933 Act for certain fractional undivided interests in oil and gas rights.

Submit comments to OMB Desk Officer: Ms. Katie Lewin, (202) 395–7231, Office of Information and Regulatory Affairs, NEOB, Room 3235, Washington, D.C. 20503.

Dated: January 13, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–1536 Filed 1–18–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 20562; File No. SR–MSTC–83–19]

Self-Regulatory Organizations; Order Approving Proposed Rule Change of Midwest Securities Trust Co.

January 13, 1984.

On October 31, 1983, the Midwest Securities Trust Company ("MSTC") submitted a proposed rule change[1] to the Commission pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(2), and Rule 19b–4 thereunder. The proposed rule change would amend MSTC's Bylaws to confrom with the Act and the Division of Market Regulation's standards for full registration of clearing agencies.

The proposed rule change would amend MSTC's Bylaws in several respects. The change would: (i) Define the powers of the Board of Directors; (ii) eliminate the classes of directors and expand the Board from 13 to 17 directors; (iii) establish a nominating committee to select candidates with a view towards providing fair representation of a cross-section of MSTC's participants; and (iv) set forth the composition and responsibilities of the compensation, finance and nominating committees.

During the course of the full registration review process, this rule change was specifically considered by the Commission and the Commission indicated its preliminary belief that it was consistent with the provisions of the Act and the Division's Standards concerning full registration of clearing agencies. For the reasons discussed in the Full Registration Order,[2] the Commission finds that the proposed rule change is consistent with the Act and the rules thereunder applicable to registered clearing agencies, and in particular the requirements of Section 17A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–1534 Filed 1–18–84; 8:45 am]

BILLING CODE 8010–01–M

[1] File No. SR–MSTC–83–19, notice of which was given in Securities Exchange Act Release No. 20452 (December 6, 1983), 48 FR 55940 (December 16, 1983). No comments were received regarding this proposed rule change.

[2] *See* Securities Exchange Act Release No. 20221 (September 23, 1983), 48 FR 45167 (October 3, 1983).

[Release No. 20563; File No. SR–NSCC–83–11]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by National Securities Clearing Corp.

January 13, 1984.

On July 22, 1983, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1) and Rule 19b–4 thereunder, the National Securities Clearing Corporation ("NSCC") filed a proposed rule change with the Securities and Exchange Commission that would amend NSCC Rule 4, section 2, relating to the use and investment of members' cash contributions to NSCC's clearing fund. Notice of the proposed rule change was published in Securities Exchange Act Release No. 20152 (September 2, 1983), 48 FR 40809 (September 9, 1983). The Commission has not received any comments on the proposal.

I. Description

The proposed rule change would enable NSCC to invest the cash portion of NSCC members' clearing fund contributions in certificates of deposit or similar deposits (collectively "CD's") issued by banks and insured by the Federal Deposit Insurance Corporation ("FDIC"). The proposed rule change further provides that NSCC cannot invest more than $100,000 per member, or other maximum FDIC insurance limit,[1] in any one approved bank

[1] The $100,000 per member restriction for investment in a single FDIC-insured bank is necessary to stay within the FDIC's current deposit insurance limits. NSCC, however, would be able to deposit $100,000 for each of a number of members in one FDIC-insured bank. NSCC also could deposit the entire cash portion of a member's clearing fund deposit in a number of FDIC insured banks in increments of $100,000 per bank.

("FDIC-insured bank"). Currently, NSCC may invest the cash portion of its clearing fund only in securities issued, or guaranteed as to principal interest, by the United States or its agencies. NSCC also could pledge CD's as collateral for loans for approved purposes, as currently authorized under NSCC Rule 4 for other clearing fund assets.

A. FDIC's Requirements for Pass-Through Insurance

Based on correspondence between NSCC and the FDIC concerning the proposed rule change, and descriptions of NSCC's clearing fund and financial protective mechanisms, including insolvency procedures, the FDIC determined that pass-through insurance would be available for NSCC members' cash clearing fund contributions [2] deposited in FDIC-insured banks. The availability of such insurance, however, would be contingent on satisfaction of, and continued compliance with, certain FDIC requirements.[3] In its correspondence, NSCC informed the FDIC that NSCC (1) maintains a clearing fund to guarantee settlement for its members; (2) administers clearing fund assets, which it places in custody accounts at FDIC-insured banks; (3) deposits in separate bank accounts its retained earnings and fees received from members; and (4) records those earnings and fees on NSCC's books separate from members' clearing fund custody accounts. NSCC assured the FDIC that each member's *pro rata* ownership of deposited clearing fund contributions could be traced, [4] and that each member would have an ascertainable interest in such funds. NSCC also informed the FDIC that a solvent member's level of clearing fund deposits ultimately would not be reduced to satisfy obligations of a defaulting member, although NSCC might make direct assessments against solvent members or initially withdraw funds from the members' clearing fund accounts that the members would be required to replace.[5]

Based on these facts, the FDIC decided that insurance would be available to each NSCC clearing member on a pass-through basis when an FDIC-insured bank holding clearing fund cash deposits (*i.e.*, CD's) closes because of financial or operational difficulties, providing the following three conditions are met. First, the account records of the closed depository bank must clearly indicate that the custodian bank or NSCC made these deposits in its capacity as a fiduciary and that these deposits are segregated from any other funds that the custodian bank or NSCC has deposited with that depository bank (12 CFR 330.1(b)(1)). Second, the account records of the custodian bank or NSCC, maintained in good faith and in the regular course of business, must indicate the name and ascertainable *pro rata* interest of the owner of any portion of the custodial deposit (12 CFR 330.101). Third, the beneficial interest of each member also must be determinable without evaluation of contingencies (12 CFR 330.1(c)).[6]

II. NSCC's Rationale

NSCC seeks both to gain a higher rate of return for members on their cash clearing fund contributions and to safeguard those contributions in accordance with the requirements of Section 17A of the Act. NSCC believes that investment of members' funds in insured CD's may generate a higher yield than investment in government securities. As a user-governed self-regulatory organization, NSCC believes it should maximize the yield from investment of members' contributions to the extent consistent with maintaining the safety and liquidity of those funds. As provided by NSCC Rule 4, NSCC pays the interest earned from the investment of a member's cash contributions directly to that member. Consequently, payment of interest from NSCC's investment of a member's cash contribution to that member increases the member's income and, in effect reduces the member's net fees for NSCC's services. Furthermore, NSCC believes that investment of members' cash contributions in FDIC-insured CD's provides a high degree of safety and liquidity for such contributions, consistent with NSCC's regulatory responsibilities.

NSCC states that the proposed rule change is consistent with the Securities and Exchange Act of 1934, as amended, in that it would provide adequate protection for the safekeeping of funds in the possession and control of NSCC by assuring that FDIC pass-through insurance coverage would be available for such funds.

III. Discussion

The Commission is approving NSCC's proposal to invest in FDIC-insured CD's because such investment, while decreasing clearing fund costs for members, would be insured by the United States Government and would have appropriate liquidity for clearing fund purposes. Moreover, the Commission believes that NSCC's use of those CD's as security for loans for authorized purposes is reasonable and also consistent with NSCC's current practices and Commission orders.[7]

Section 17A(b)(3)(f) of the Act requires NSCC "to assure the safeguarding of securities and funds which are in . . . [its] custody or control . . . or for which it is responsible." To guide clearing agencies in complying with Section 17A, the Commission published the Division of Market

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[2] The non-cash portion of NSCC's clearing fund, which consists of certain U.S. Government securities and letters of credit, was specifically excluded from insurance coverage.

[3] *See* letter dated June 22, 1983, to J. Eugene Marans, Esq., of Cleary, Gottlieb, Steen & Hamilton ("NSCC's outside counsel") (Exhibit 1 to File No. SR–NSCC 83–11) from Barbara Meese, Attorney, of the FDIC's Office of General Counsel (the "FDIC letter").

[4] The FIDC makes pass-through insurance coverage of trust or custodial interests contingent upon fulfillment of the recordkeeping requirements of § 330.1(b) (12 CFR 330.1 (b) (1982)). Such compliance ensures that the interests of beneficial owners, *i.e.*, NSCC's members, can be ascertained from the records of the custodian bank or the fund administrator, *i.e.*, NSCC.

[5] In its letter, the FDIC stated that pass-through insurance would not be available if the funds of one member could be used to satisfy the liabilities of another. NSCC assured the FDIC that NSCC would use the following procedures in case of loss or liability. First, NSCC would proceed directly against the defaulting member and also would use any clearing fund assets that the member had deposited in the clearing fund to satisfy the loss. If the member's clearing fund contribution is below the required amount under NSCC Rule 4, NSCC would require that member to contribute additional clearing fund assets to bring its deposit up to that level. If the member fails to eliminate the deficiency, NSCC could take disciplinary action against the member. If the failing member became insolvent or if the loss or liability was not attributable to any particular member, NSCC would apply its operating revenues and then its retained earnings to the loss. To satisfy any remaining liability or loss, NSCC, as a final resort, would make a *pro rata* assessment of the other members. At that point, NSCC would have the option of assessing the *pro rata* charges (1) against the solvent members directly, or (2) against the members' deposits in the clearing fund. Under the first approach, clearing fund assets of such a member would not be drawn down at all. Under the second approach, clearing fund assets would be initially drawn down to satisfy the loss or liability, but the withdrawal would be covered by subsequent additional member deposits as required by NSCC Rule 4, §5. Consequently under either option, any particular member's interest in the clearing fund ultimately would not be reduced to satisfy another member's loss or liability. *See* the FDIC letter, *supra* note 3. Furthermore, a member subject to a *pro rata* assessment could withdraw from NSCC membership upon timely notice and thus limit its liability under that assessment to its required clearing fund deposit as computed immediately before the assessment. *See* NSCC Rule 4, §8. In any event, while several NSCC members have become insolvent in the last few years, NSCC never has had to make a *pro rata* assessment.

[6] *Id.* at 3.

[7] *See* Securities Exchange Act Release No. 19230 (November 10, 1982), 47 FR 51969 (November 18, 1982).

Regulation's (the "Division") standards for clearing agencies.[8] In relevant part, the Registration Standards require that a clearing agency have a clearing fund which "is in cash or highly liquid securities and . . . is limited in the purposes for which it may be used."[9] To ensure the integrity of the clearing fund and the ready availability of assets to NSCC in the case of member default, the Registration Standards limit the investments that a clearing agency may make with the cash portion of its clearing fund "to United States Government obligations or any other investments which provide safety and liquidity of the principal invested."[10] In addition, a clearing agency should make such investments "in light of the clearing agency's fiduciary responsibilities."[11]

The Commission believes that NSCC's investment in FDIC-insured CD's would assure the safety of the clearing fund. Investing in CD's under certain circumstances can be considered to be a conservative, safe investment strategy. Because the proposed CD's would be fully insured by a federal government agency, the Commission is of the view that the safety of NSCC's CD investment strategy in all respects approximates the safety of direct United States Government obligations. Second, the FDIC, as well as other federal and state bank agencies, approve, inspect, and regulate the banks that would be issuing the FDIC-insured CD's. The Commission believes that such regulatory oversight should help to assure the financial integrity of NSCC's deposits.

NSCC also must ensure that its investment of members' cash contributions provides a ready source of funds to satisfy the obligations of defaulting members or to serve other clearing fund needs. If a participant becomes insolvent and cannot meet its settlement obligations, and if payment on letters of credit pledged by members is delayed by issuing banks, NSCC must have access to other sufficient liquid assets that could be used to satisfy the defaulting participant's settlement obligations.[12] Accordingly, it is critical that NSCC, as well as any other clearing agency, maintains sufficient liquid collateral to ensure the ready availability of needed cash.[13]

The Commission believes that NSCC's proposed investment in FDIC-insured CD's ensures the continued liquidity of members' cash clearing fund contributions. First, if an FDIC-insured bank that had issued CD's to NSCC failed, NSCC could expect the FDIC to honor the CD's within several business days.[14] Absent the occurrence of a default by an NSCC member, this brief time period could run without any effects on NSCC.[15] Second, even if such a default were to occur at the same time the CD issuing bank fails, the Commission believes that the risk of a delay is immaterial because NSCC has undertaken to spread its CD investments among several banks to reduce the risk of cash flow problems from payment delay on the obligations of a single failed bank. Indeed, the proposal requires NSCC to invest a member's cash contributions in excess of $100,000 in more than one bank.[16] Even in case of an unexpected cash need, NSCC could terminate CD's prior to the designated maturity date, although NSCC would be forced to forfeit as a penalty the interest earned on the redeemed CD's in excess of the standard short-term rate. Third, as discussed below, NSCC under its Rules could choose to pledge longer-term CD's not issued by the failing bank or other clearing fund assets as collateral for short-term loans to provide immediate cash to satisfy NSCC's obligations. Thus, despite the potential for some delay in FDIC payment in certain circumstances, the Commission believes that investment in FDIC-insured CD's in the controlled form provided by NSCC, assures a continued high level of liquidity for the cash portion of NSCC's clearing fund.

The Commission also is approving NSCC's proposal to pledge CD's for authorized purposes, as it is currently authorized to pledge other clearing fund assets.[17] The Commission has determined previously that pledging clearing fund assets in lieu of making *pro-rata* assessments against solvent members[18] is a responsible practice.[19] Pledging clearing fund assets does not reduce the level of those assets and enables NSCC to obtain funds expeditiously to protect itself and its member's against financial exposure, thereby increasing the clearing fund's liquidity.

The Commission notes, however, that NSCC should be scrupulous in complying with the FDIC's requirements for pass-through protection of NSCC's CD investments. If NSCC were to fail to comply with those requirements, those investments in the Commission's view would become unsafe because members' contributions no longer would be insured by the FDIC. In that circumstance, NSCC immediately would have to convert the CD's into other acceptable types of clearing fund investments, such as U.S. Government securities.

IV. Conclusion

Based on the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies and, in particular, the requirements of Section 17A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-1535 Filed 1-18-84; 8:45 am]

BILLING CODE 8010-01-M

[8] *See* Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920 (June 23, 1980) ("Registration Standards").

[9] *Id.* at 41929.

[10] *Id.*

[11] *Id.* In its Release ordering the full registration of NSCC and other clearing agencies, the Commission noted that registered clearing agencies must continue to comply with the requirements of Section 17A(b) of the Act and the Division's Registration Standards, including the Standards discussed above. Securities Exchange Act Release No. 20221 (September 23, 1983), 48 FR 45167, 45171 (October 3, 1983).

[12] *See* Securities Exchange Act Release No. 19422 (January 2, 1983), 48 FR 2481 (January 19, 1983).

[13] In fact, in 1981 NSCC increased the portion of a member's clearing fund obligation that must be paid in cash from $10,000 of $50,000 if the clearing member relies on letters of credit to satisfy any part of its clearing fund obligations. *See* NSCC Procedures, Section XIV.

[14] The FDIC has authority to honor the obligations of a failed insured bank either through direct payment to depositors or through assuming bank's purchase of the assets and liabilities of the failed bank. *See* 12 U.S.C. 1821 and 1823. In most cases, FDIC honors the accounts of failed banks through purchase and assumption agreements under which accounts, including CD obligations, in effect are honored on the next business day.

[15] A similar risk of payment delay exists if a bank in which NSCC has deposited cash were to fail, although NSCC currently does not restrict cash deposits in any one bank to $100,000 per market.

[16] One NSCC member has a cash contribution of approximately $4.7 million, wich would require investment in about 47 banks if NSCC invested the total sum in CD's.

[17] NSCC rule 4 sets forth the purposes for which the pledging of clearing fund assets is authorized. Under Rule 4 NSCC is also required to repay loans made as a result of losses or liabilities of NSCC within 30 days.

[18] *Pro-rata* assessments against the fund also have the effect of reducing the aggregate good capital available for broker-dealer members to meet the requirements of the Commission's Net Capital Rule (Rule 15c3-1, 17 CFR 240.15c3-1).

[19] *See* note 4, *supra.*

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[Release No. 20561; SR-PSE-83-21]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change

January 13, 1984.

The Pacific Stock Exchange, Inc. ("PSE"), 618 South Spring Street, Los Angeles, CA 90014, submitted on November 28, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder. PSE proposes to permit the use of hand signals on the options floor of the PSE in certain limited circumstances. Specifically, hand signals would be allowed (1) to request and relay information concerning current quotations and market size; and (2) to relay information changing the limits of, decreasing the size of, or cancelling orders. According to the PSE the proposed rule change is necessary to facilitate communications on the options floor.

Notice of the proposed rule change, together with the terms of substance of the proposed rule change, was given by the issuance of a Commission Release (Securities Exchange Act Release No. 20457, December 7, 1983) and by publication in the **Federal Register** (48 FR 55660, December 14, 1983). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change is approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–1533 Filed 1–18–84; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 09/09–0184]

Grocers Capital Company, Inc.; Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Grocers Capital Company, Inc. (Grocers), 2601 S. Eastern Avenue, Los Angeles, California 90040, a Federal Licensee under the Small Business Investment Act of 1958, as amended, has filed an application with the Small Business Administration pursuant to § 107.903 of the Regulations governing small business investment companies (13 CFR 107.903 (1984)) for approval of a conflict of interest transaction.

Grocers proposes to loan $50,000 to Big D Ranch Markets, Inc., 6191 Atlantic Avenue, Long Beach, California 90805. The proceeds of the loan will be used to purchase equipment or inventory from Grocers Equipment Company (G.E.C.) and/or Certified Grocers of California, Ltd. (Certified), Associates of the Licensee.

All of Grover's stock is owned by subsidiaries of Certified, a retailer owned grocery cooperative. G.E.C., a subsidiary of Certified, is a 41 percent shareholder of Grocers and is defined as an Associate by § 107.3 of the SBA Rules and Regulations.

As a result, Grocer's financing to Big D Ranch Markets, Inc. (Big D) falls within the purview of §§ 107.3 and 107.903(b)(5) of the SBA Regulations. Grocer's loan to Big D requires prior written approval of SBA.

Notice is hereby given that any person may, not later than fifteen (15) days from the date of publication of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice will be published in a newspaper of general circulation in Long Beach, California area.

(Catalog of Federal Domestic Assistance Program No. 59.011. Small Business Investment Companies)

Dated: January 13, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84–1540 Filed 1–18–84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Participation of Private-Sector Representatives on U.S. Delegations

As announced in Public Notice No. 623 (43 FR 37783), August 24, 1978, the Department is submitting its October–December 1983 list of U.S. accredited Delegations which included private-sector representatives.

Publication of this list is required by Article IV (c) (4) of the guidelines published in the **Federal Register** on August 24, 1978.

Dated: January 6, 1984.

Kevin E. Carroll,

Director, Office of International Conferences.

United States Delegation to the Eighth Assembly of Parties, International Telecommunications Satellite Organization (INTELSAT), Washington, D.C., October 3–7, 1983

Representative

The Honorable William Schneider, Jr., Under Secretary for Security Assistance, Science and Technology, Department of State.

Alternate Representative

The Honorable Diana Lady Dougan, Ambassador, Coordinator for International Communication and Information Policy, Department of State

John T. Gilsenan, Office of Internation Communications Policy, Bureau of Economic and Business Affairs, Department of State

Advisers

Willard Demory, Federal Communications Commission

Willard R. Nichols, Assistant to the Chairman, Federal Communications Commission

Raul Rodriguez, National Telecommunications and Information Administration, Department of Commerce

Jack D. Smith, Chief, Common Carrier Bureau, Federal Communications Commission

Francis Urbany, National Telecommunications and Information Administration, Department of Commerce

Private Sector Adviser

Andrea D. Maleter, Communications Satellite Corporation, Washington, D.C.

United States Delegation to the 5th Session, General Assembly and Executive Council, World Tourism Organization (WTO), New Delhi, October 3–14, 1983

Representative

Paul J. Byrnes, Director, Office of Technical Specialized Agencies, Bureau of International Organization Affairs, Department of State

Alternate Representative

Jean O'Brien, Senior Policy Analyst, United States Travel and Tourism Administration, Department of Commerce

Advisers

Thomas A. Johnson, Office of the Legal Adviser, Department of State
James E. Leader, Labor Attache, United States Embassy, New Delhi

Private Sector Adviser

Chuck Y. Gee, Dean, School of Travel Industry Management, University of Hawaii, Honolulu, Hawaii

United States Delegation to the Meeting of Experts from Tea-Exporting Countries on Minimum Export Standards, Second Session, and Meeting of the Intergovernmental Group of Experts on Tea, Fourth Session, Geneva, October 3–14, 1983

Representative

Joan Plaisted, Office of the U.S. Trade Representative, Geneva

Alternate Representative

Jack Ferraro, U.S. Mission, Geneva

Private Sector Advisers

Alan G. Davies, Plant Manager, Tetley Incorporated, Williamsport, Pennsylvania (October 3–7)
Bruce Lister, Chief of Research, The Nestle Company, White Plains, New York (October 3–7)

United States Delegation to the Meeting of Working Party III/4 of the International Telephone and Telegraph Consultative Committee, International Telecommunication Union (ITU), Geneva, October 5–7, 1983

Representative

Earl S. Barbely, Director, Office of International Communications Policy, Bureau of Economic and Business Affairs, Department of State

Adviser

Wendell Harris, Common Carrier Bureau, Federal Communications Commission

Private Sector Advisers

Wendell E. Lind, American Telephone and Telegraph Company, Bedminister, New Jersey
John O'Boyle, ITT World Communications, Inc., Secaucus, New Jersey
Denis W. O'Shea, IBM Corporation, Armonk, New York
Peter L. Scott, American Telephone and Telegraph Company, Morris Plains, New Jersey
Federick W. Voege, Western Union Telegraph Company, Upper Saddle River, New Jersey
Joseph O. Wellington, Communications Satellite Corporation, Washington D.C.

United States Delegation to the Twelfth Session of the Subcommittee on Bulk Chemicals, International Maritime Organization (IMO) London, October 10–14, 1983

Representative

Fritz Wybenga, Marine Technical and Hazardous Materials Division, United States Coast Guard, Department of Transportation

Alternate Representative

Emmanuel P. Pfersich, Marine Technical and Hazardous Materials Division, United States Coast Guard, Department of Transportation

Advisers

Harvey Clew, Shipping Attache, United States Embassy, London
Michael D. Morrissette, Marine Technical and Hazardous Materials Division, United States Coast Guard, Department of Transportation
Philip P. Wieczynski, Lieutenant Commander, Marine Technical and Hazardous Materials Division, United States Coast Guard, Department of Transportation

Private Sector Advisers

Frederick R. Adamchak, Senior Petroleum Engineer, Marathon Oil Company, Findlay, Ohio
Robert H. Conn, Jr., Marine Engineer, Shell Oil Company, Houston, Texas

United States Delegation to the Committee on Fisheries (15th Session) and World Conference on Fisheries Management and Development, Food and Agriculture Organization (FAO), Rome, October 10–19, 1983

Representative

William G. Gordon, Assistant Administrator for Fisheries, National Oceanographic and Atmospheric Administration, Department of Commerce

Alternate Representative

James A. Storer, Director, Office of Fisheries Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State

Advisers

Jack T. Brawner, Director, Southeast Regional Office, National Marine Fisheries Service, St. Petersburg, Florida
Prudence Fox, Chief, International Fisheries Development and Services Division, National Marine Fisheries Service, Department of Commerce
Michael Metelits, U.S. Mission to the United Nations Agencies for Food and Agriculture, Rome

Private Sector Advisers

James Salisbury, Vice-Chairman, New England Council, Gloucester, Massachusetts
Wadsworth Y. H. Yee, Chairman, Western Pacific Council, Honolulu, Hawaii

United States Delegation to the Committee for Coordination of Joint Prospecting for Mineral Resources in South Pacific Offshore Areas (CCOP/SOPAC), Economic and Social Commission for Asia and the Pacific (ESCAP), Nuku'alofa, October 11–19, 1983

Representative

Robert Rowland, Deputy Chief, Office of Energy and Marine Geology, Geological Survey, Department of the Interior

Alternate Representative

Russell J. Surber, Deputy Chief of Mission, United States Embassy, Suva

Adviser

H. Gary Greene, Branch of Pacific Marine Geology, Gelogical Survey, Department of the Interior

Private Sector Adviser

Charles Helsley, Director, Hawaiian Institute of Geophysics, University of Hawaii, Honolulu, Hawaii

United States Delegation to the United Nations Conference on an International Code of Conduct on the Transfer of Technology, United Nations Conference on Trade and Development (UNCTAD), Genva, October 17 to November 4, 1983

Representative

John P. Riley, Deputy Director, Office of Business Practices, Bureau of Economic and Business Affairs, Department of State

Alternate Representative

Dieter Hoinkes, United States Patent and Trademark Office, Department of Commerce

Adviser

Jon Berlin, United States Mission, Geneva
Stephen Bond, United States Mission, Geneva
W. David Braun, Foreign Commerce Section, Antitrust Division, Department of Justice
George Dempsey, United States Mission, Geneva
Richard P. Schepard, Special Consultant, Department of State

Private Sector Advisers

David G. Gill, U.S. Council for International Business, New York, New York
Robert E. Muir, Caterpillar Tractor Company, Peoria, Illionis

United States Delegation to the Third Assembly of Parties, International Maritime Satellite Organization (INMARSAT), London, October 18–20, 1983

Representative

Earl S. Barbely, Director, Office of International Communications Policy, Bureau of Economic and Business Affairs, Department of State

Advisers

John T. Gilsenan, Office of International Communications Policy, Bureau of Economic and Business Affairs, Department of State
Robert McIntire, Federal Communications Commission
Edward O'Connor, Transportation Attaché, United States Embassy, London
Raul Rodriguez, National Telecommuincations and Information, Administration, Department of Commerce

Private Sector Adviser

Robert D. Bourne, Communications Satellite Corporation, Washington, D.C.

United States Delegation to the International Institute for Cotton (IIC) and International Cotton Advisory Committee (ICAC) Meetings, Memphis, Tennessee, October 22–29, 1983

Representative

Everett G. Rank, Administrator, Agricultural Stabilization and Conservation Service, Department of Agriculture

Alternate Representatives

John A. Barcas, Tropical Products Division, Bureau of Economic and Business Affairs, Department of State
Gordon H. Lloyd, Tobacco, Cotton, and Seeds Division, Foreign Agricultural Service, Department of Agriculture

Advisers

Charles V. Cunningham Agricultural Stabilization and Conservation Service, Department of Agriculture
Leonard Mobley, Industry Assessment Division, Office of Textiles, Department of Agriculture

Private Sector Advisers

David Cox, Vice President, Cotton Incorporated, Raleigh, North Carolina
Peter E. Hirschfeld, President, Cotton Council International, Washington, D.C.
Kevin L. McDermott, Chief Economist, AMCOT, Inc., Bakersfield, California
Herman F. Riddle, President, American Cotton Shippers Association, Memphis, Tennessee
Marion Rhodes, President Emeritus, New York Cotton Exchange, New York, New York
Earl Sears, Executive Vice President and Secretary, National Cotton Council, Memphis, Tennessee

United States Delegation to the Chemicals Group/Management Committee Meeting, Organization for Economic Cooperation and Development (OECD), Paris, October 25–26, 1983

Representative

Marsha Williams, Acting Director, Office of Toxic Substances, Environmental Protection Agency

Alternate Representative

Robert Reinstein, Director, Energy and Chemical Trade Policy, Office of the U.S. Trade Representative, Executive Office of the President

Private Sector Advisers

Donald D. McCollister, Director, International Regulatory Affairs for Health and Environmental Sciences, The DOW Chemical Company, Midland, Michigan
S. Jacob Scherr, Attorney, Natural Resources Defense Council, Washington, D.C.

United States Delegation to the 30th Annual Meeting of the International North Pacific Fisheries Commission (INPFC), Anchorage, Alaska, October 30–November 4, 1983

Commissioners

The Honorable Elmer E. Rasmusen, Chairman, National Bank of Alaska, Anchorage, Alaska
The Honorable Dayton L. Alverson, Managing Partner, Natural Resources Consultants, Inc., Seattle, Washington
The Honorable Robert W. McVey, Regional Director, Alaska Region, National Marine Fisheries Service, Juneau, Alaska
The Honorable Robert M. Thorstensen, Chairman, Icicle Seafoods, Seattle, Washington

Advisers

Christine L. Dawson, Office of Fisheries Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
Douglas W. McCaleb, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce

Private Sector Advisers

Robert Moss, Chairman, Advisory Committee, Commercial Fisherman, Homer, Alaska
Robert Alverson, Fishing Vessel Owner's Association, Seattle, Washington
Joan Bergy, Consumer Product Safety Commission, Seattle, Washington
Al Burch, Fisherman, Kodiak, Alaska
David Cline, National Audubon Society, Anchorage, Alaska
Joe Easley, Pacific Regional Fishery Management Council, Coos Bay, Oregon
William Deshler, Pacific Pearl Seafoods, Seattle, Washington
Bart Eaton, Fisherman, Issaquah, Washington
Jessie Foster, Fisherman, Quinhagek, Alaska
John Gilbert, Bumble Bee Seafoods, Seattle, Washington
John Hanson, Fisherman, Alakanuk, Alaska
Gordon Jensen, Alaska Board of Fisheries, Petersburg, Alaska
Richard B. Lauber, Association of Pacific Fisheries, Juneau, Alaska
Charles H. Meacham, Anchorage, Alaska
Henry Mitchell, Bering Sea Fisherman's Association, Anchorage, Alaska
Robert Mulcahy, Alaska State Legislature, Juneau, Alaska
Walter Smith, Alaska Fisherman's Union, Everett, Washington
Keith Specking, North Pacific Fishery Management Council, Juneau, Alaska
Jeff Stephan, United Fishermen's Marketing Association, Kodiak, Alaska
Clement Tillion, Fisherman, Homer, Alaska

United States Delegation to the Annual Meeting of the International Commission for the Conservation of Atlantic Tuna (ICCAT), Madrid, October 31–November 15, 1983

Commissioners

The Honorable Carmen J. Blondin, Deputy Assistant Administrator for Fisheries Resource Management, National Oceanic and Atmospheric Administration, Department of Commerce
The Honorable Frank B. Carlton, Savannah, Georgia
The Honorable John McGowan, Astoria, Oregon

Advisers

Brian S. Hallman, Office of Oceans and Fisheries Affairs, Bureau of Oceans

and International Environmental and Scientific Affairs, Department of State
Michael Parrack, National Marine Fisheries Service, National Oceanic and Oceanic Atmospheric Administration, Department of Commerce, Miami, Florida
Barbara Rothschild, Office of International Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce
Gary T. Sakagawa, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce

Congressional Adviser

The Honorable Edwin B. Forsythe, United States House of Representatives

Congressional Staff Advisers

William H. MacKenzie, Minority Professional Staff, Merchant Marine and Fisheries Committee, United States House of Representatives
George J. Mannina, Jr., Chief Minority Counsel, Merchant Marine and Fisheries Committee, United States House of Representatives

Private Sector Advisers

Gordon C. Broadhead, Living Marine Resources, Inc., San Diego, California
Anthony Nizetich, Star Kist Foods, Terminak Island, California
John Stokes, Newbury, Massachusetts

United States Delegation to the International Telecommunication Union (ITU), Working Parties XVII/1,2,3, and Their Special Rapporteurs' Groups, Vienna, November 2–11, 1983

Representative

This de Has, Institute for Telecommunication Sciences, National Telecommunications and Information Administration, Department of Commerce, Boulder, Colorado

Adviser

Robert Fenichel, National Communications System, Department of Defense

Private Sector Advisers

Lawrence Smith, Information Systems, American Telephone and Telegraph Company, Morristown, New Jersey
Dale Walsh, General Datacom, Danbury, Connecticut

United States Delegation to the Study Group 1, International Radio Consultative Committee, International Telecommunication Union (CCIR/ITU), Geneva, November 2–18 1983

Delegate

William F. Utlaut, Director, Institute for Telecommunication Sciences, National Telecommunications and Information Administration, Department of Commerce, Boulder, Colorado

Advisers

Leslie A. Berry, Mathematician, Spectrum Division, National Telecommunications and Information Administration, Department of Commerce
David J. Cohen, Electronics Engineer, National Telecommunications and Information Administration, Annapolis, Maryland
William L. Kilpatrick, Chief, Equipment Construction and Installation Branch, Federal Communications Commission, Powder Springs, Georgia
William A. Luther, International Advisor, Field Operations Bureau, Federal Communications Commission
Paul A. Major Electronic Engineer, U.S. Army Communications-Electronics Command, Fort Monmouth, New Jersey
Robert J. Mayher, Chief, Spectrum Engineering and Analysis Division, National Telecommunications and Information Administration, Department of Commerce
Richard E. Shrum, Deputy Director, Office of International Communications Policy, Bureau of Economic and Business Affairs

Private Sector Adviser

Paul D. Newhouse, Scientific Adviser, Illinois Institute of Technology Research Institute, Annapolis, Maryland

United States Delegation to the Study Group 5, International Radio Consultative Committee, International Telecommunication Union (ITU/CCIR), Geneva, November 2–22, 1983

Chairman

Harold T. Dougherty, Consultant, Institute for Telecommunication Sciences, National Telecommunications and Information Administration, Department of Commerce, Boulder, Colorado

Advisers

John F. Cavanagh, Branch Head, Dahlgren Laboratory, Naval Surface Weapons Center, Department of the Navy, Dahlgren, Virginia
William A. Daniel, Staff Engineer, Research Division, Federal Communications Commission, Washington, D.C.
William E. Frazier, Staff Engineer, Federal Systems, National Telecommunications and Information Administration, Department of Commerce, Annapolis, Maryland
Richard E. Shrum, Deputy Director, Office of International Communications Policy, Bureau of Economic and Business Affairs, Department of State

Private Sector Advisers

David V. Rogers, Member, Technical Staff, ComSat Laboratories, Clarksburg, Maryland
Howard J. Sartori, Telecommunications Consultant, Arco Oil and Gas Company, Dallas, Texas
Ernest K. Smith, Spectrum Engineer, Jet Propulsion Laboratory, California Institute of Technology, Pasadena, California

United States Delegation to the Twelfth Session of the Administrative and Legal Committee, International Union for the Protection of New Plant Varieties (UPOV), Geneva, November 7–10, 1983

Representative

Stanley D. Schlosser, Office of Legislation and International Affairs, Patent and Trademark Office, Department of Commerce

Private Sector Advisers

Leo Donahue, Executive Director, National Association of Plant Patent Owners, Washington, D.C.
William Schapaugh, Executive Director, American Seed Trade Association, Washington, D.C.

United States Delegation to the 13th Session of the Assembly, International Maritime Organization (IMO), London, November 7–18, 1983

Representative

James S. Gracey, Admiral, Commandant, United States Coast Guard, Department of Transportation

Alternate Representative

William Sergeant, Deputy Director for Transportation and Telecommunications Agencies, Bureau of International Organization Affairs, Department of State

Advisers

Harvey Clew, Shipping Attache, United States Embassy, London
Timothy Josiah, Lieutenant Commander, Office of Marine Environment and

Sytems, United States Coast Guard, Department of Transportation
Clyde T. Lusk, Jr., Rear Admiral, Chief, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation
Robert L. Markle, Merchant Vessel Inspection Division, United States Coast Guard, Department of Transportation
Daniel F. Sheehan, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation
Paul E. Versaw, Captain, Chief, International Affairs Staff, United States Coast Guard, Department of Transportation
Gerard P. Yoest, International Affairs Staff, United States Coast Guard, Department of Transportation

Private Sector Adviser

Donald C. Hintze, Captain (Ret.), National Ocean Industries Association, Washington, D.C.

United States Delegation to the Meeting of the Committee on Administration, Meeting of the International Natural Rubber Organization (INRO), Kuala Lumpur, November 8–11, 1983

Representative

Robert Pastorino, Chief, Industrial and Strategic Materials Division, Bureau of Economic and Business Affairs, Department of State

Advisers

James Gagnon, United States Embassy, Kuala Lumpur
Seward L. Jones, Office of International Sector Policy, International Resources Division, Department of Commerce
Donald M. Phillips, Director of Commodity Policy, Office of the U.S. Trade Representative, Executive Office of the President

Private Sector Adviser

Howard Chapel, Goodyear Orient Private Ltd., Singapore

United States Delegation to the Civil Aviation Planning Committee (CAPC), North Atlantic Treaty Organization (NATO), Brussels, November 9–10, 1983

Representative

George W. Barry, Office of Emergency Transportation, Department of Transportation

Advisers

Frederic Ackerson, Civil Emergency Planning Officer, U.S. Mission to NATO, Brussels
Joel A. Hawkins, Lt. Colonel, USAF, Office of Joint Chiefs of Staff, J–4, Department of Defense
Philip E. Lauden, Colonel, USAF, Headquarters, Military Airlift Command (XPW), Scott Air Force Base, Illinois

Private Sector Adviser

Frank P. Motola, North Merrick, New York

United States Delegation to the International Telecommunications Union (ITU), CCITT Working Party XI/6, Geneva, November 9–18, 1983

Representative

Thijs de Haas, Institute for Telecommunication Sciences, National Telecommunications and Information Administration, Department of Commerce, Boulder, Colorado

Adviser

Frank McClelland, National Communications System, Department of Defense

Private Sector Advisers

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Rolfe Buhrke, Bell Laboratories, American Telephone and Telegraph Company, Naperville, Illinois
Eric Scace, GTE Telenet, Vienna, Virginia

United States Delegation to the Meeting of the Inro Council, Committee on Buffer Stock Operations, Committee on Statistics, and Committee on Other Measures, International Natural Rubber Organization (INRO), Kuala Lumpur, November 10–18, 1983

Representative

Donald M. Phillips, Director of Commodity Policy, Office of the U.S. Trade Representative, Executive Office of the President

Alternate Representative

Robert Pastorino, Chief, Industrial and Strategic Materials Division, Bureau of Economic and Business Affairs, Department of State

Advisers

James Gagnon, United States Embassy, Kuala Lumpur
Seward L. Jones, Office of International Sector Policy, International Resources Division, Department of Commerce

Private Sector Adviser

Howard Chapel, Goodyear Orient Private Ltd., Singapore

United States Delegation to the Insurance Committee and Joint Working Group of the Insurance Committee on Invisible Transactions, Organization for Economic Cooperation and Development (OECD), Paris, November 15–16, 1983

Representative

Brant Free, Director, Office of Service Industries, Department of Commerce

Private Sector Advisers

Ronald K. Shelp, Vice President, American International Underwriters Corporation, New York, New York
Arthur S. Underwood, Vice President, Meade Reinsurance Company, Paris, France

United States Delegation to the International Telecommunications Union (ITU), CCITT Working Teams 2, 3, 4, and Working Party XVIII/2 Geneva, November 21–December 2, 1983

Representative

Thijs de Haas, Institute for Telecommunication Sciences, National Telecommunications and Information Administration, Department of Commerce, Boulder, Colorado

Adviser

Wendell Harris, Common Carrier Bureau, Federal Communications Commission

Private Sector Advisers

Robert Amy, IBM Corporation, Research Triangle Park, North Carolina
Warren S. Gifford, Bell Laboratories, American Telephone and Telégraph Company, Holmdel, New Jersey
Virgil Johannes, Bell Laboratories, American Telephone and Telegraph Company Holmdel, New Jersey
Demosthenes Kostas, GTE Service Corporation, Stamford, Connecticut

United States Delegation to the Study Group 2 International Radio Consultative Committee, International Telecommunication Union (ITU/CCIR), Geneva, November 21–December 7, 1983

Chairman

Harold G. Kimball, Director, Communications and Data Systems Division, Office of Space Tracking and Data Systems, National Aeronautics and Space Administration

Advisers

John Kiebler, Senior Communications Engineer, Communications Division,

National Aeronautics and Space Administration
Donald Miller, Chief, Systems Planning Group, National Oceanic and Atmospheric Administration, Department of Commerce
Richard Shrum, Deputy Director, Office of International Communications Policy, Bureau of Economic and Business Affairs, Department of State
A. R. Thompson, Scientist, National Radio Astronomy Observatory, Associated Universities, Inc., Socorro, New Mexico

Private Sector Advisers

Norman de Groot, Superviser, Spectrum Management Group, Jet Propulsion Laboratory, California Institute of Technology, Pasadena, California
John J. Kelleher, Private Consultant, Annandale, Virginia
Paul Locke, Senior Associate, National Scientific Laboratories, Systematics General Corporation, Sterling, Virginia
John Postelle, Senior Engineer, National Scientific Laboratories, Systematics General Corporation, Sterling, Virginia

United States Delegation to the Study Group 7, International Radio Consultative Committee, International Telecommunication Union (ITU/CCIR), Geneva, November 23–December 2, 1983

Delegate

Hugh S. Fosque, Director of Advanced Systems, Office of Space Tracking and Data Systems, National Aeronautic and Space Administration

Advisers

Roger E. Beehler, Chief, Time/Frequency Services, National Bureau of Standards, Department of Commerce, Boulder, Colorado
Harris Stover, Defense Communications Engineering Center, Defense Communications Agency, Reston, Virginia
Gernot M. R. Winkler, Director, Time Service Division, U.S. Naval Observatory, Washington, D.C.

Private Sector Advisers

Lauren J. Rueger, Head, Advanced Technology Planning Office, Space Department, Applied Physics Laboratory, The Johns Hopkins University, Laurel, Maryland
Richard L. Sydnor, Group Supervisor, Time and Frequency Systems Research, Telecommunications Science and Engineering Division, Pasadena, California

United States Delegation to the International Wheat Council, London, November 29–December 1, 1983

Representative

The Honorable Daniel G. Amstutz, Under Secretary for International Affairs and Commodity Programs, Department of Agriculture

Alternate Representatives

Gerald J. Monroe, Director, Office of Food Policy and Programs, Bureau of Economic and Business Affairs, Department of State
Donald J. Novotny, Director, Grain and Feed Division, Foreign Agricultural Service, Department of Agriculture
Frank J. Piason, Deputy Director for Marketing, Grain and Feed Division, Foreign Agricultural Service, Department of Agriculture

Advisers

Michael Goldman, Food Policy Division, Bureau of Economic and Business Affairs, Department of State
Cleveland Marsh, Agricultural Attaché, United States Embassy, London
Turner Oyloe, Agricultural Counsellor, United States Embassy, London

Private Sector Adviser

Nelson Denlinger, Vice President, U.S. Wheat Associates, Washington, D.C.

United States Delegation to the Special Session of the Committee for Information, Computer, and Communications Policy, Organization for Economic Cooperation and Development (OECD), London, November 30—December 2, 1983

Representative

The Honorable Diana Lady Dougan Coordinator for International Communication and Information Policy, Department of State

Alternate Representative

The Honorable Abraham Katz, U.S. Representative to the Organization for Economic Cooperation and Development, Paris

Advisers

James L. Gorman, Transportation and Telecommunications Affairs, Bureau of Economic and Business Affairs, Department of State
Lucy Hummer, Office of the Legal Adviser, Department of State
Kenneth Leeson, Office of the Coordinator for International Communication and Information Policy, Department of State
Edward O'Connor, U.S. Embassy, London
Teresita Schaffer, Director, Office of International Trade, Bureau of Economic and Business Affairs, Department of State
Frank Urbany, National Telecommunications and Information Administration, Department of Commerce

Congressional Staff Adviser

Jane Bortnick, Congressional Research Service, Library of Congress

Private Sector Advisers

Ronald W. Brown, Legal Counsel for Consumer Affairs, International Telephone and Telegraph, New York, New York
Lloyd Kaufman, Computer and Business Equipment Manufacturer's Association (CBEMA), Washington, D.C.
Charles Miller, American Telephone and Telegraph, Washington, D.C.
Kathleen M. White, Assistant Vice President, Citibank, New York, New York

United States Delegation to the 19th Session of the Marine Environment Protection Committee (MEPC), International Maritime Organization (IMO), London, December 5–9, 1983

Representative

Bobby F. Hollingsworth, Rear Admiral, Chief, Office of Marine Environment and Systems, United States Coast Guard, Department of Transportation

Alternate Representative

Roger T. Rufe, Commander, Assistant Chief, Environmental Response Division, Office of Marine Environment and Systems, United States Coast Guard, Department of Transportation

Congressional Adviser

The Honorable William O. Lipinski, United States House of Representatives

Advisers

Joseph J. Angelo, Marine Systems Evaluation Branch, United States Coast Guard, Department of Transportation
Robert C. Blumberg, Deputy Director, Office of Oceans and Polar Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
Harvey Clew, Shipping Attache, United States Embassy, London
Timothy W. Josiah, Lieutenant Commander, Chief, Environmental Coordination Branch, United States Coast Guard, Department of Transportation

Ernest J. Williams, Commander, Chief, Port Safety Enforcement Branch, United States Coast Guard, Department of Transportation

Private Sector Adviser

Joseph J. Cox, Director of Marine Affairs, American Institute of Merchant Shipping, Washington, D.C.

United States Delegation to the Committee on Tungsten, United Nations Conference on Trade and Development (UNCTAD), Geneva, December 12–16, 1983

Representative

Frederick Siesseger, Director, International Resources Division, Department of Commerce

Alternate Representative

James Reilly, Industrial and Strategic Materials Division, Bureau of Economic and Business Affairs, Department of State

Advisers

Jack G. Ferraro, United States Mission, Geneva
Joan Plaisted, Office of the U.S. Trade Representative, Geneva

Private Sector Advisers

Louis Brooks, Managing Director, Union Carbide Corporation, London
C. Eric Ho, President, AMAX Tungsten, Greenwich, Connecticut

[FR Doc. 84-1465 Filed 1-18-84; 8:45 am]
BILLING CODE 4710-19-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 84-007]

Polar Icebreaker Requirements Study

AGENCY: Coast Guard, DOT.

ACTION: Request for Public Comment.

SUMMARY: The U.S. Coast Guard is conducting a Polar Icebreaker Requirements Study. The study is to determine national requirements for icebreaking ships capable of operating in the polar regions. The Coast Guard requests comments from commercial ship owners and operators on their capabilities for providing traditional escort, rescue, and research icebreaking services to the government. This information will provide background for the study.

DATE: To insure full consideration, comments should be received on or before March 5, 1984.

ADDRESS: Comments should be mailed to: Executive Secretary, Polar Icebreaker Requirements Study, U.S. Coast Guard Headquarters (G-OIO), Room 3106, 2100 Second St., SW, Washington, DC 20593. Documents filed are available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: CDR W. A. Caster, USCG, U.S. Coast Guard Headquarters (G-OIO), Room 3106, 2100 Second Street, SW., Washington, DC 20593. Phone (202) 426-1870. Office hours: 7:15 am–3:45 pm.

SUPPLEMENTARY INFORMATION: The Polar Icebreaker Requirements Study will evaluate the capabilities of the private sector for providing traditional escort, rescue, and research icebreaking services to the government. This request does not constitute a proposal. The Coast Guard will not pay for any costs incurred as the result of firms submitting comments. Comments submitted to the Coast Guard will not be returned.

Notification of this study will also be published in the Commerce Business Daily in January 1984.

The completed study may be obtained upon request from: U.S. Coast Guard Headquarters (G-OIO), Room 3106, 2100 Second St., SW, Washington, DC 20593.

Dated: January 9, 1984.

N. C. Venzke,

Rear Admiral, U.S. Coast Guard, Chief, Office of Operations.

[FR Doc. 84-1460 Filed 1-18-84; 8:45 am]
BILLING CODE 4910-14-M

Federal Aviation Administration

National Airspace Review; Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of Task Group 1-1 of the Federal Aviation Administration (FAA) National Airspace Review Advisory Committee. The agenda for this meeting is as follows: A review of special use airspace categories under Part 73 and related procedures is necessary for adequacy and redefinition.

DATE: Beginning Monday, February 13, 1984, at 11 a.m. continuing daily, except Saturdays, Sundays, and holidays, not to exceed two weeks.

ADDRESS: The meeting will be held at the Federal Aviation Administration, conference room 7A/B, 800 Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: National Airspace Review Program Management Staff, room 1005, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, 426-3560. Attendance is open to the interested public, but limited to the space available. To insure consideration, persons desiring to make statements at the meeting should submit them in writing to the Executive Director, National Airspace Review Advisory Committee, Associate Administrator for Air Traffic, AAT-1, 800 Independence Avenue, SW., Washington, D.C. 20591, by February 6. Time permitting and subject to the approval of the chairman, these individuals may make oral presentations of their previously submitted statements.

Issued in Washington, D.C., on January 12, 1984.

Karl D. Trautmann,

Manager, Special Projects Staff, Air Traffic Service.

[FR Doc. 84-1409 Filed 1-18-84; 8:45 am]
BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

Safety Defect Investigation of Custom Wheels Manufactured by Fenton Manufacturing Corp.; Public Proceeding Cancelled

The National Highway Traffic Safety Administration has cancelled the public proceeding announced in the **Federal Register** of November 30, 1983 (48 FR 54159) regarding its initial determination of a safety-related defect in certain custom wheels manufactured from 1974 through 1982 by the Fenton Manufacturing Corporation of Pacific Palisades, California. The meeting was to be held at 10 a.m. on January 17, 1984, in Room 2230 of the Department of Transportation Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

(Sec. 152, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1412); delegation of authority at 49 CFR 1.51 and 49 CFR 501.8)

Issued on January 13, 1984.

George L. Parker,

Associate Administrator for Enforcement.

[FR Doc. 84-1443 Filed 1-18-84; 8:45 am]
BILLING CODE 4910-59-M

Research and Special Programs Administration

Grants and Denials of Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of grants and denials of applications for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in December 1983. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

RENEWAL AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
2805-X	DOT-E 2805	Union Carbide Corporation, Danbury, CT	49 CFR 172.101, 173.315(a)(1)	To authorize shipment of liquefied ethylene in non-DOT specification insulated cargo tanks. (Mode 1.)
3128-X	DOT-E 3128	U.S. Department of Defense, Washington, DC.	49 CFR 173.304, 175.3	To authorize use of non-DOT specification cylinders, for transportation of a Class C explosive and a liquefied nonflammable gas. (Modes 1, 2, 3, and 4.)
3569-X	DOT-E 3569	NL McCullough/NL Industries, Inc., Houston, TX.	49 CFR 173.246, 172.101 column 4, 175.3.	To authorize use of non-DOT specification nonrefillable cylinders for transportation shipment of a liquid oxidizer. (Modes 1, 2, 3, and 4.)
3630-X	DOT-E 3630	Ashland Services Company, Dublin, OH	49 CFR 177.839(a), 177.839(b)	To become a party to Exemption 3630. (Mode 1.)
4291-X	DOT-E 4291	Kerr-McGee Chemical Corporation, Oklahoma City, OK.	49 CFR 173.239a(a)(2)	To authorize use of a non-DOT specification aluminum portable tank, for transportation of a certain oxidizer. (Modes 1 and 2.)
4453-X	DOT-E 4453	Alamo Explosives Company, Inc., Houston, TX.	49 CFR 173.114a(h)(3)	To authorize use of non-DOT specification bulk, hopper-tank, for transportation of blasting agent, n.o.s., or ammonium nitrate-fuel oil mixtures. (Mode 1.)
4453-X	DOT-E 4453	Maynes Explosives Company, Lee's Summit, MO.	49 CFR 173.114a(h)(3)	To authorize use of a non-DOT specification bulk, hopper-tank, for transportation of blasting agent, n.o.s., or ammonium nitrate-fuel oil mixtures. (Mode 1.)
4453-X	DOT-E 4453	Austin Powder Company, Cleveland, OH	49 CFR 173.114a(h)(3)	To authorize use of a non-DOT specification bulk, hopper-tank, for transportation of blasting agent, n.o.s., or ammonium nitrate-fuel oil mixtures. (Mode 1.)
4453-X	DOT-E 4453	Atlas Powder Company, Dallas, TX	49 CFR 173.114a(h)(3)	To authorize use of a non-DOT specification bulk, hopper-tank, for transportation of blasting agent, n.o.s., or ammonium nitrate-fuel oil mixtures. (Mode 1.)
4884-P	DOT-E 4884	Air Products and Chemicals, Inc., Pensacola, FL.	49 CFR 173.302(a)(1), 175.3, 178.61	To become a party to Exemption 4884. (Modes 1, 2, 3, 4, and 5.)
5112-X	DOT-E 5112	Department of Defense, Washington, DC	49 CFR 173.62(a), 177.834(L)(1), 177.835(k).	To authorize use of specially designed Kettle drum type aluminum containers, for transportation of Class A explosives. (Mode 1.)
5243-X	DOT-E 5243	Hercules, Incorporated, Wilmington, DE	49 CFR 173.103(a), 173.66(g)(1), 177.835(g).	To authorize modified DOT specification packaging for the transportation of Class C or Class A explosives. (Modes 1, 2, and 3.)
5243-X	DOT-E 5243	E. I. du Pont de Nemours & Company, Inc., Wilmington, DE.	49 CFR 173.103(a), 173.66(g)(1), 177.835(g).	To authorize modified DOT specification packaging for the transportation of Class C or Class A explosives. (Modes 1, 2, and 3.)
5736-X	DOT-E 5736	Northern Petrochemical Company, Morris, IL.	49 CFR 172.101, 173.314(c)	To authorize use of non-DOT specification tank car tanks for transportation of a flammable gas. (Modes 2 and 3.)
5948-X	DOT-E 5948	Department of Energy, Washington, DC	49 CFR 173.398(c)	To authorize shipment of radioactive waste materials in ATMX 500 or 600 rail cars. (Mode 2.)
5967-X	DOT-E 5967	Rocket Research Corp., Redmond, WA	49 CFR 173.304(a)(2), 175.3, 178.44	To authorize an alternate gas generator assembly similar to the one presently authorized. (Modes 1, 2, 4, and 5.)
61113-X	DOT-E 6113	Valley Gas Company, Cumberland, RI	49 CFR 172.101, 173.315(a)	To authorize use of a non-DOT specification cargo tank, for transportation of certain flammable gases. (Mode 1.)
6250-X	DOT-E 6250	U.S. Department of Defense, Washington, DC.	49 CFR 173.101, 173.102, 173.69, 173.79, 173.87, 173.92, 173.94, 176.83, 177.848.	To authorize transport of partially dis-assembled aircraft with explosive components (ejection seat and canopy related devices) remaining installed. (Modes 1 and 3.)
6267-X	DOT-E 6267	Georgia-Pacific Corp., Montebello, CA	49 CFR 173.217(a)	To authorize use of DOT and non-DOT specification doubled-faced fiberboard boxes, for shipment of certain oxidizing materials. (Modes 1, 2, and 3.)
6538-P	DOT-E 6538	Optimus, Incorporated, Bridgeport, CT	49 CFR 173.304(d)(3)(ii), 178.33	To become a party to Exemption 6538. (Modes 1 and 3.)
6543-P	DOT-E 6543	Rohn and Haas Co., Philadelphia, PA	49 CFR 173.119, 173.135(a)(6), 173.136(a)(5), 173.245, 173.247, 173.271, 175.3.	To become a party to Exemption 6543. (Modes 1, 2, 3, and 4.)
6563-X	DOT-E 6563	Made Medical Products, Inc., Carlstadt, NJ.	49 CFR 173.302(a)(1), 175.3	To authorize shipment of certain nonflammable gases, in non-DOT specification steel cylinders, made in compliance with DOT Specification 3E with certain exceptions. (Modes 1, 2, 3, 4, and 5.)
6563-X	DOT-E 6563	Bemco Inc., Chatham, Ontario, Canada	49 CFR 173.302(a)(1), 175.3	To authorize shipment of certain nonflammable gases, in non-DOT specification steel cylinders, made in compliance with DOT Specification 3E with certain exceptions. (Modes 1, 2, 3, 4, and 5.)
6700-X	DOT-E 6700	Container Corporation of America, Wilmington, DE.	49 CFR 178.19, Part 173, Subpart F	To authorize manufacture, marking, and sale of non-DOT specification polyethylene drums, for transportation of corrosive liquids and an oxidizer. (Modes 1, 2, and 3.)
6759-P	DOT-E 6759	Buckley Power Company, Englewood, CO	49 CFR 173.87, 177.835(g)(2)	To become a party to Exemption 6759. (Mode 1.)
6801-X	DOT-E 6801	Phillips Petroleum Company, Bartlesville, OK.	49 CFR 173.119(a)(7), 173.119(e)(1)	To authorize use of a one-gallon glass bottle, packed in a DOT Specification 12B fiberboard box, for shipment of certain flammable liquids. (Mode 1, and 2.)
6816-X	DOT-E 6816	U.S. Department of Defense, Washington, DC.	49 CFR 173.53(p)	To authorize shipment of completely assembled liquid and solid fueled missiles in packaging prescribed in 173.57(a). (Modes 1, 2, and 3.)
6824-X	DOT-E 6824	Georgia-Pacific Corp., Montebello, CA	49 CFR 173.217(a)	To authorize packagings not provided for in the Hazardous Materials Regulations, for shipment of certain oxidizing materials. (Modes 1, 2, and 3.)
6913-X	DOT-E 6913	Conoco, Inc., Houston, TX	49 CFR 173.315(a)(1)	To authorize transport of vinyl chloride in a non-DOT specification cargo tank. (Mode 1.)
6927-P	DOT-E 6927	Bromine Compounds Ltd., Beer-Sheva, Israel.	49 CFR 173.353	To become a party to Exemption 6927. (Modes 1 and 3.)
6978-X	DOT-E 6978	Liquid Energy Corporation, The Woodlands, TX.	49 CFR 173.315(a)(1), 173.315(c)(1)	To authorize use of an insulated DOT Specification MC-331 cargo tank, for transportation of a flammable compressed gas. (Mode 1.)
6984-P	DOT-E 6984	Buckley Powder Company, Englewood, CO.	49 CFR 173.103(a)(1), 173.66(g), 177.835(g)(2)(i).	To become a party to Exemption 6984. (Mode 1.)
7052-P	DOT-E 7052	TNR Technical, Farmingdale, NY	49 CFR 172.101, 175.3	To become a party to Exemption 7052. (Modes 1, 2, 3, and 4.)
7205-X	DOT-E 7205	U.S. Department of Defense, Washington, DC.	49 CFR 46 CFR 146.29-99	To authorize certain stowage deviations in the transportation of military explosives by vessel. (Mode 3.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7280-X	DOT-E 7280	U.S. Department of Defense, Washington, DC.	49 CFR 176.905(c), 176.905(d)	To authorize fuel tanks to be ¾ full instead of ¼ full and vehicles to be transported with battery cables connected if the holds or compartments of a vessel in which vehicles are loaded are mechanically ventilated. (Mode 3.)
7536-X	DOT-E 7536	U.S. Department of Defense, Washington, DC.	49 CFR 146.29-41	To authorize an increase to the maximum allowable draft weights for five and ten ton rated booms, for shipment of military explosives. (Mode 3.)
7605-X	DOT-E 7605	U.S. Department of Defense, Washington, DC.	49 CFR 173.101, 173.102, 173.113, 173.87, 173.92, 175.3, 176.83, 177.848.	To authorize transport of certain explosives contained in a partially dis-assembled aircraft or canopy assembly. (Modes 1, 3, and 4.)
7616-X	DOT-E 7616	Missouri Pacific Railroad Company, Omaha, NE.	49 CFR 172.204(a), 172.204(d)	To authorize carrier to certify the shipping papers on behalf of the shipper when transporting certain hazardous materials by rail. (Mode 2.)
7616-X	DOT-E 7616	Union Pacific Railroad Company, Omaha, NE.	49 CFR 172.204(a), 172.204(d)	To authorize carrier to certify the shipping papers on behalf of the shipper when transporting certain hazardous materials by rail. (Mode 2.)
7616-X	DOT-E 7616	The Kansas City Southern Railway Co., Kansas City, MO.	49 CFR 172.204(a), 172.204(d)	To authorize carrier to certify the shipping papers on behalf of the shipper when transporting certain hazardous materials by rail. (Mode 2.)
7616-X	DOT-E 7616	The Western Pacific Railroad Company, Omaha, NE.	49 CFR 172.204(a), 172.204(d)	To authorize carrier to certify the shipping papers on behalf of the shipper when transporting certain hazardous materials by rail. (Mode 2.)
7835-X	DOT-E 7835	Liquid Air Corporation, San Francisco, CA.	49 CFR 177.848, Part 107 Appen. B(1)	To authorize transport of compressed gas cylinders bearing the flammable gas label, the oxidizer label, or the poison gas label and tank car tanks bearing the poison gas label on the same vehicle. (Mode 1.)
7835-X	DOT-E 7835	Airco Industrial Gases, Riverton, NJ	49 CFR 177.848, Part 107 Appen. B(1)	To authorize transport of compressed gas cylinders bearing the flammable gas label, the oxidizer label, or the poison gas label and tank car tanks bearing the poison gas label on the same vehicle. (Mode 1.)
7835-X	DOT-E 7835	Scientific Gas Products, Inc., South Plainfield, NJ.	49 CFR 177.848, Part 107 Appen. B(1)	To authorize transport of compressed gas cylinders bearing the flammable gas label, the oxidizer label, or the poison gas label and tank car tanks bearing the poison gas label on the same vehicle. (Mode 1.)
7835-X	DOT-E 7835	Liquid Carbonic Corporation, Chicago, IL	49 CFR 177.848, Part 107 Appen. B(1)	To authorize transport of compressed gas cylinders bearing the flammable gas label, the oxidizer label, or the poison gas label and tank car tanks bearing the poison gas label on the same vehicle. (Mode 1.)
7835-X	DOT-E 7835	Matheson Gas Products, Inc., Secaucus, NJ.	49 CFR 177.848, Part 107 Appen. B(1)	To authorize transport of compressed gas cylinders bearing the flammable gas label, the oxidizer label, or the poison gas label and tank car tanks bearing the poison gas label on the same vehicle. (Mode 1.)
7835-X	DOT-E 7835	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 177.848, Part 107 Appen. B(1)	To authorize transport of compressed gas cylinders bearing the flammable gas label, the oxidizer label, or the poison gas label and tank car tanks bearing the poison gas label on the same vehicle. (Mode 1.)
7876-P	DOT-E 7876	J. T. Baker Chemical Company, Phillipsburg, NJ.	49 CFR 173.299(a), 175.3	To become a party to Exemption 7876. (Modes 1, 2, 3, and 4.)
7907-X	DOT-E 7907	Hercules, Incorporated, Wilmington, DE	49 CFR 173.127, 173.184, 178.224	To renew and to authorize the use of DOT-E 7768 polyethylene drums, for shipment of nitrocellulose, wet with not less than 20 percent water, classed as a flammable solid. (Modes 1 and 2.)
8129-P	DOT-E 8129	McCloskey Varnish Company, Philadelphia, PA.	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)
8129-P	DOT-E 8129	Harvey Mudd College, Claremont, CA	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)
8129-P	DOT-E 8129	Tonawanda Tank Transprt Service, Inc., Buffalo, NY.	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)
8129-P	DOT-E 8129	Waste Conversion, Inc., Hatfield, PA	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)
8129-P	DOT-E 8129	General Electric, San Jose, CA	49 CFR 177.834(k), Part 173, Subparts D, E, F, H, Subparts K, L, M, O.	To become a party to Exemption 8129. (Mode 1.)
8206-X	DOT-E 8206	Rexnord, Inc., Milwaukee, WI	49 CFR 173.245(a)(17), 175.3, 178.131	To authorize shipment of certain corrosive liquids, n.o.s., in two one-quart tin cans, overpacked in a modified 26-gage, unlined DOT Specification 37A five-gallon drum, also containing a one-gallon tin can of non-hazardous resin mix. (Modes 1, 2, 3, and 4.)
8207-X	DOT-E 8207	Rexnord, Inc., Milwaukee, WI	49 CFR 173.245(a)(17), 175.3, 178.131	To authorize shipment of certain corrosive liquids, n.o.s., in a one-quart tin can, placed in a molded polyethylene liner, overpacked in a modified 28 guage, unlined DOT Specification 37A 2-gallon drum, also containing a non-hazardous resin mix. (Modes 1, 2, 3, and 4.)
8279-X	DOT-E 8279	Hamler Industries, Inc., Chicago Heights, IL.	49 CFR 178.337-17	To authorize use of a DOT Specification MC-330 cargo tank with a reproduced identification plate, for shipment of nonflammable gases. (Mode 1.)
8309-X	DOT-E 8309	Carrier Corporation, Syracuse, NY	49 CFR 173.306(e)(ii)	To authorize shipment of refrigerating machines having two charged vessels containing more than 2,000 pounds of Freon (Group I refrigerant) but not more than 10,000 pounds. (Modes 1, 2, and 3.)
8348-X	DOT-E 8348	Frell, Inc., Corpus Christi, TX	49 CFR 173.119(a), 173.119(m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.348-5.	To authorize manufacture, marking and sale of non-DOT specification cargo tanks complying generally with DOT Specification MC-312 except for bottom outlet valve variation, for transport of flammable or corrosive waste, liquids or semi-solids. (Mode 1.)
8354-X	DOT-E 8354	Fauvet-Girel, Paris, France	49 CFR 173.123, 173.315	To authorize use of a non-DOT specification portable tank, for transportation of certain liquefied petroleum gasses and other gases classed as flammable liquids and flammable gases. (Modes 1, 2, and 3.)
8378-P	DOT-E 8378	Cooper Biomedical, Inc., Malvern, PA	49 CFR 173.268, 175.3	To become a party to Exemption 8378. (Modes 1, 2, 4.)
8386-X	DOT-E 8386	J. J. Mauget Co., Burbank, CA	49 CFR 172.101, 172.400	To authorize transport of a Class B poison in special pressure sealed polyethylene capsules without the POISON label. (Mode 1.)
8445-P	DOT-E 8445	Waste Conversion, Inc., Hatfield, PA	49 CFR Part 173, Subpart D, E, F, & H	To become a party to Exemption 8445. (Mode 1.)
8509-P	DOT-E 8509	LCP Chemicals & Plastics, Inc., Edison, NJ.	49 CFR 173.263(a)(9), 179.201-1	To become a party to Exemption 8509. (Mode 2.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8548–X	DOT–E 8548	Solvent Service, Inc., San Jose, CA	49 CFR 173.119(a), 173.119(m), 173.245(a), 173.346(a), 178.340–7, 178.342–5, 178.343–5.	To manufacture, mark and sell certain non-DOT specification cargo tanks complying with DOT Specification MC–307/MC–312 except for bottom outlet valve variations for transportation of flammable, corrosive waste liquid or semi solids. (Mode 1.)
8554–P	DOT–E 8554	W. S. Hatch Company, Woods Cross, UT	49 CFR 173.114a, 173.154, 173.93	To become a party to Exemption 8554. (Mode 1.)
8660–X	DOT–E 8660	Hach Company, Ames, IA	49 CFR 172.400, 172.402(a)(2), 172.402(a)(3),173.126, 173.136, 173.237, 173.246.	To authorize shipment of hazardous materials, which are required to bear the POISON label, to be shipped without the label when packaged, in a specially designed composite type. (Mode 1.)
8691–P	DOT–E 8691	Welland Chemical Ltd., Sarnia, Ontario, Canada.	49 CFR 173.333	To become a party to Exemption 8691. (Modes 1, 2, and 3.)
8693–X	DOT–E 8693	Matheson Gas Products, Inc., Gloucester, MA.	49 CFR 173.230	To authorize water as an additional mode of transportation. (Modes 1 and 3.)
8706–X	DOT–E 8706	Great Lakes Chemical Corp., El Dorado, AR.	49 CFR 173.357(b)(2)	To authorize use of non-DOT specification steel drums (overpacked, palletized and containerized), for shipment of a Class B poison. (Modes 1 and 3.)
8720–X	DOT–E 8720	Applied Environments Corporation. Woodland Hills, CA.	49 CFR 173.302(a), 175.3	To authorize manufacture, marking and sale of non-DOT specification welded high pressure non-refillable cylinders, for shipment of nonflammable and nonliquefied gases. (Modes 1, 2, and 4.)
8725–X	DOT–E 8725	CNG Fuel Cylinder Corporation, Long Beach, CA.	49 CFR 173.302(a)	To aduthorize manufacture, marking and sale of non-DOT Specification fiber reinforced plastic hoop wrapped cylinders, for shipment of certain compressed gases. (Mode 1.)
8732–X	DOT–E 8732	ICI Americas, Incorporated, Wilmington, DE.	49 CFR 173.245	To authorize use of a DOT Specification MC–303 and MC–306 cargo tanks, made of aluminum or steel for transportation of a corrosive material. (Mode 1.)
8732–X	DOT–E 8732	Delta Solvents & Chemicals Co., Longview TX.	49 CFR 173.245	To authorize use of a DOT Specification MC–303 and MC–306 cargo tanks, made of aluminum or steel for transportation of a corrosive material. (Mode 1.)
8732–X	DOT–E 8732	Ashland Services Company, Dublin, OH	49 CFR 173.245	To authorize use of a DOT Specification MC–303 and MC–306 cargo tanks, made of aluminum or steel for transportation of a corrosive material. (Mode 1.)
8732–X	DOT–E 8732	Union Carbide Corporation, Danbury, CT	49 CFR 173.245	To authorize use of a DOT Specification MC–303 and MC–306 cargo tanks, made of aluminum or steel for transportation of a corrosive material. (Mode 1.)
8736–X	DOT–E 8736	Pressure Transport, Inc., Austin, TX	49 CFR 173.301(d)(2), 173.302(a)(3)	To renew and to better identify the flammable, noncorrosive gases. (Mode 1.)
8767–X	DOT–E 8767	Hydraulic Research-Textron, Pacomia, CA.	49 CFR 173.302(a), 175.3	To authorize manufacture, marking and sale of non-DOT specification welded high pressure non-refillable cylinders, for shipment of nonflammable, nonliquefied gases. (Modes 1, 2, and 4.)
8792–X	DOT–E 8792	Digital Equitment Corporation, Northborough, MA.	49 CFR Parts 100–199	To authorize rail as an addiional mode of transportation. (Modes 1, 2, and 3.)
8814–X	DOT–E 8814	Structural Composites Industries, Inc., Pomona, CA.	49 CFR 173.302(a)(1), 175.3	Request modifiction in method used to determine bending stresses in cylinders. (Modes 1, 2, 3, and 4.)
8870–X	DOT–E 8870	Everpure, Inc., Westmont, IL	49 CFR 172.101, 173.286, 175.3	To authorize water as an additional mode of transportation. (Modes 1, 2, 3, 4, and 5.)
8871–X	DOT–E 8871	Chase Bag Co., Oak Brook, IL	49 CFR 173.182, 173.217, 173.245(b)	To authorize trichloro-s-triazinetrione, dry, oxidizer as an additional commodity. (Modes 1, 2, and 3.)
8915–X	DOT–E 8915	Union Carbide Corporation, Danbury, CT	49 CFR 173.301(d), 173.302(a)(3)	To authorize water as an additional mode of transportation. Modes 1 and 3.)
8927–X	DOT–E 8927	HTL Industries, Inc., Duarte, CA	49 CFR 173.302(a), 175.3, 178.44	To modify certain physical test criteria and marking requirements. (Modes 1, 2, 4, and 5.)
8988–P	DOT–E 8988	Welex, Houston, TX	49 CFR 172.101, 173.110, 173.80	To become a party to Exemption 8988. (Modes 1 and 3.)
8988–P	DOT–E 8988	Schlumberger Offshore Services, Houston, TX.	49 CFR 172.101, 173.110, 173.80	To become a party to Exemption 8988. (Modes 1 and 3.)
8988–P	DOT–E 8988	The Dia-Log Company, Houston, TX	49 CFR 172.101, 173.110, 173.80	To become a party to Exemption 8988. (Modes 1 and 3.)
9034–P	DOT–E 9034	Union Carbide Corporation, Danbury, CT	49 CFR 173.302, 173.304, 173.328, 173.334, 175.3.	To become a party to Exemption 9034. (Modes 1, 2, 3, 4, and 5.)
9035–X	DOT–E 9035	Rohm and Haas Co., Philadelphia, PA	49 CFR 173.245	Request increase in water capacity of portable tanks from 2,000 to 2,500 gallons. (Mode 1.)
9073–X	DOT–E 9073	Natico, Inc., Chicago, IL	49 CFR 178.116–6(a)	To authorize water as an additional mode of transportation (Modes 1, 2, and 3.)
9140–X	DOT–E 9140	Crown Rotational Molded Products, Inc., Marked Tree, AR.	49 CFR 173.119, 173.256, 173.266, 178.19, 178.253, Part 173 Subpart F.	To authorize water as an additional mode of transportation (Modes 1, 2, and 3.)

NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8736–N	DOT–E 9155	Pressure Transport, Inc., Austin, TX	49 CFR 173.301(d)(2), 173.302(a)(3)	To authorize use of DOT Specification 3AAX cylinders made of 4130X steel, for transportation of a refinery source natural gas. (Mode 1.)
9105–N	DOT–E 9105	Sea-Land Service, Inc., Elizabeth, NJ	49 CFR 176.76(g)(3)	To authorize below deck stowage of DOT Specification IM 101 and IM 102 portable tanks containing a flammable liquid. (Mode 3.)
9106–N	DOT–E 9106	Kitty Hawk Airways, Inc., Dallas, TX	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize carriage of certain Class A, B and C explosives not permitted for air shipment or in quantities greater than those prescribed for air shipment. (Mode 4.)
9108–N	DOT–E 9108	The Ensign-Bickford Company, Simsbury, CT.	49 CFR 173.77	To authorize transport of an irritating explosive in a plastic bag, packed in a DOT Specification 12H fiberboard box. (Mode 1.)
9115–N	DOT–E 9115	Mauser Packaging, Ltd., New York, NY	49 CFR Part 173, Subpart H	To authorize manufacture, marking and sale of DOT Specification 34 polyethylene drums, for shipment of various Class B poison liquids. (Modes 1, 2, and 3.)
9120–N	DOT–E 9120	Dresser Industries, Inc., Houston, TX	49 CFR 173.304(a), 173.34(d), 175.3	To authorize use of a non-DOT specification pressure vessel, for transportation of certain flammable gases. (Modes 1, 2, 3, and 4.)
9127–N	DOT–E 9127	FMC Corporation, Livonia, MI	49 CFR 173.217(a)(8)	To authorize shipment of trichloro-s-trazinetrione dry, classed as an oxidizer, in two polyethylene containers of 20 pounds capacity each, overpacked in DOT Specification 12B fiberboard boxes. (Mode 1.)

NEW EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9129-N	DOT-E 9129	Weldex Corporation, Grafton, MA	49 CFR 173.34, Part 107 Appendix B	To authorize repairing, rebuilding, retesting, marking and sale of any DOT Specification 4B, 4BA and 4BW low pressure steel cylinders (Modes 1, 2, 3, 4,and 5.)
9135-N	DOT-E 9135	Morton Thiokol, Inc., Elkton, MD	49 CFR 173.92	To authorize shipment of rocket motors having excessive gross weight, in a non-DOT specification metal shipping container (Mode 1.)
9138-N	DOT-E 9139	Davidson Specialty Chemicals Company, Baltimore, MD.	49 CFR 173.233	To authorize shipment of activated nickel catalyst, in DOT Specification 6D metal drum equipped with spring-loaded type vent. (Mode 1.)
9142-N	DOT-E 9142	EVA Eisenbahn-Verkehrsmittel GmbH, Dusseldort, West Germany	49 CFR 173.315, 178.245	To authorize use of a non-DOT Specification IMO Type 5 portable tank, for transportation of liquefied compressed gases. (Modes 1, 2, and 3.)
9143-N	DOT-E 9143	McCarthy Tank and Steel Company, Bakersfield, CA.	49 CFR 173.119, 173.245, 173.343-5, 173.346, 178.340-7, 178.342-5	To authorize manufacture, marking and sale of non-DOT specification cargo tanks complying in general with DOT Specification MC-307/312 except for bottom outlet valve variations for shipment of waste flammable, corrosive or poison B liquids or semi-solids (Mode 1.)
9171-N	DOT-E 9171	Starstruck, Inc., Redwood City, CA	49 CFR 172.101, 172.402, 173.134, 173.86.	To authorize shipment of a launch vehicle assembly containing hazardous materials (Modes 1 and 3.)

EMERGENCY EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 9187-N	DOT-E 9187	Baker Sand Control, Houston, TX	49 CFR 172.101, 175.320(a)	To authorize transport of Class A explosives on cargo aircraft only (Mode 4.)
EE 9190-N	DOT-E 9190	Pennwalt Corporation, Buffalo, NY	49 CFR 173.101, 177.821(c)	To authorize shipment of methyl ethyl peroxide solution with an active oxygen content greater than 9%, in DOT Specification 2E bottles packed in DOT Specification 12B fiberboard boxes. (Mode 1.)

WITHDRAWALS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9044-N	O'Neal, Jones & Feldman, Inc., Saint Louis, MO	49 CFR 172.400, 173.25(a), 175.30(a)(3)	To authorize shipment of limited quantities of a poison B liquid, n.o.s. in specially designed composite type packaging without labelling (Modes 1, 4, and 5.)
9087-N	O. I. Corporation, College Station, TX	49 CFR 173.245	To authorize shipment of chromic acid solution, containing less than 35 percent chromic acid by weight, classed as corrosive liquid, n.o.s. contained in glass ampules packed in styrofoam containers surrounded with a polyethylene pad, overpacked in a fiberboard box. (Mode 1.)
9137-N	Federal Express Corporation, Memphis, TN	49 CFR 172.406(e), 172.500(a), 172.504, 172.512(b)	To transport various hazardous materials packed in a freight container to which is affixed one "DANGEROUS" placard instead of four placards prescribed for the classification/s of the material (Modes 1 and 4.)

DENIALS

8773-N	Request by Applied Technology, Inc., Barnwell, SC to authorize the transportation of radioactive materials aboard motor vehicle when the combined transport index exceeds 50 and/or the separation criteria cannot be met; to extend the operation of "exclusive use vehicle" to more than one consignor, and to allow more latitude in the instructional constraints therefore; and to allow relief from the radiation dose rate limit of 2 millirems/hour in any normal occupied position in the motor vehicle denied December 19, 1983

Issued in Washington, D.C., on January 12, 1984.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 84-1509 Filed 1-18-84; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Public Information Collection Requirements Submitted to OMB for Review

Dated: January 13, 1984.

On January 13, 1984, the Department of the Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 535-6020. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7227, 1201 Constitution Avenue, N.W., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545-0241
Form Number: 6177
Type of Review: Extension
Title: General Assistance Program Determination

OMB Number: 1545-0036
Form Number: 952
Type of Review: Revision
Title: Consent to Fix Period of Limitation on Assessment of Income Taxes

OMB Number: 1545–0718
Form Number: 941–M
Type of Review: Revision
Title: Employer's Monthly Federal Tax Return
OMB Reviewer: Norman Frumkin (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

U.S. Customs Service

OMB Number: 1515–0060
Form Number: CF 1300
Type of Review: Revision
Title: Master's Oath of Vessel in Foreign Trade
OMB Number: 1515–0061
Form Number: CF 1304
Type of Review: Extension
Title: Crew's Effects Declaration
OMB Number: 1515–0052
Form Number: CF 4609
Type of Review: Extension
Title: Petitoin for Remission or Mitigation of Forfeitures and Penalties
OMB Number: 1515–0059
Form Number: CF 1303
Type of Review: Extension
Title: Ships' Stores Declaration
OMB Reviewer: Judy McIntosh (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

Cathy Thomas,
Departmental Reports Management Office.

[FR Doc. 84–1543 Filed 1–18–84; 8:45 am]
BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 13
Thursday, January 19, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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COMMODITY FUTURES TRADING COMMISSION

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 56304.
PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11:00 a.m., January 20, 1984

CHANGES IN THE MEETING: The time of the meeting has been changed to 2 p.m.

Jane K. Stuckey,
Secretary of the Commission.

[FR Doc. 84-1583 Filed 1-17-84; 11:30 am]
BILLING CODE 6331-01-M

2

FEDERAL COMMUNICATIONS COMMISSION

FCC to Hold a Closed Commission Meeting Thursday, January 19, 1984.

The Federal Communications Commission will hold a Closed Meeting on the subject listed below on Thursday, January 19, 1984 following the Open Meeting, which is scheduled to commence at 9:30 A.M., in Room 856, at 1919 M Street, NW., Washington, D.C.

Agenda, Item No. and Subject

Hearing—1—Applications for Review of a Review Board Decision, FCC 83R-10, released February 11, 1983, granting the application of Alamo Broadcasting Corporation (Alamo) for a new UHF television station in the San Antonio, Texas, comparative UHF proceeding (Docket Nos. 81-647, 648 and 649).

This item is closed to the Public because it concerns Adjudicatory Matters (See 47 CFR 0.603(j)).

The following persons are expected to attend:

Commissioners and their Assistants
Managing Director and members of his staff
General Counsel and members of his staff
Chief, Office of Public Affairs and members of his staff

Action by the Commission January 11, 1984. Commissioners Fowler, Chairman; Quello, Dawson, Rivera and Patrick voting to consider this item in Closed Session.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: January 13, 1984.

William J. Tricarico,
Secretary, Federal Communications Commission.

[FR Doc. 84-1541 Filed 1-17-84; 9:55 am]
BILLING CODE 6712-01-M

3

FEDERAL COMMUNICATIONS COMMISSION

FCC to Hold Open Commission Meeting, Thursday, January 19, 1984.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, January 19, 1984, which is scheduled to commence at 9:30 A.M., in Room 856, at 1919 M Street, NW., Washington, D.C.

Agenda, Item No. and Subject

General—1—*Title:* Amendment of the regulations to expand the notification and verification equipment authorization procedures. *Summary:* This Report and Order places certain categories of equipment under the notification procedures. That equipment is used and verification under rule Parts 5, 15, 21, 73, 74, 78 and 94.

General—2—*Title:* Requirements for Licensed Operators in Various Radio Services; Docket 83-322; RM-3292, RM-2643. *Summary:* The Commission will consider comments filed in Docket 83-322 and adoption of a Report and Order concerning the requirements for licensed operators in the Experimental Broadcast, International Broadcast, and Auxiliary Broadcast Service; the Private Land Mobile, Fixed, and Personal Radio Services; and the Domestic Public Fixed and Cable Television Relay Services; as well as certain changes in commercial radio operator licensing procedures and policies.

Issued: January 13, 1984.

Private Radio—1—*Title:* Update of the Commission's rules governing requirements for radiotelegraph auto alarm receivers, automatic-alarm-signal keying devices and ship radar installations in the Maritime Mobile Service. *Summary:* The FCC will consider whether to adopt a Notice of Proposed Rule Making which proposes to amend its rules to revise the requirements applicable to radiotelegraph automatic alarm receivers, signal keying devices and ship radar installations to be used upon large oceangoing vessels.

Private Radio—2—*Title:* Amendment of Part 90 of the Commission's Rues and Regulations to reserve frequencies for emerency electrical alarm protection. *Summary:* The Commission will consider whether to adopt a *Notice of Proposed Rule Making* which proposes to modify certain rules regarding the use of frequencies by central station electrical protection companies.

Common Carrier—1—*Title:* Metromedia Telecommunications, Inc. *Summary:* The Commission will consider the Application for Review filed by Mobile Communications Corporation of America with respect to applications for 900 MHz local paging service.

Common Carrier—2—*Title:* In the Matter of MTS and WATS Market Structure CC Docket No. 78-72, Phase I. *Summary:* The Commission will consider issues raised in petitions for further reconsideration or clarification of the access charge rules.

Policy—1—*Title:* Deregulation of Radio. *Summary:* The Commission will consider what information regarding nonentertainment programming we should require radio broadcasters to keep and to make available to the public and the Commission in view of the new regulatory scheme for commercial radio.

This meeting may be continued the following work day to allow the commission to complete appropriate action.

Additional inforamtion concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

William J. Tricarico,
Secretary, Federal Communications Commission.

[FR Doc. 84-1542 Filed 1-17-84; 9:55 am]
BILLING CODE 6712-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Change in Subject Matter of Agency Meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, January 16, 1984, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Memorandum re: Approval of Liquidation Asset Management Information System (LAMIS) Project.

By the same majority vote, the Board further determined that no earlier notice of this change in the subject matter of the meeting was practicable.

Dated: January 16, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-1672 Filed 1-17-84; 2:04 pm]

BILLING CODE 6714-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, January 16, 1984, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of Bank of Keystone, Keystone, Nebraska, an insured State nonmember bank, for consent to purchase certain assets of and assume the liability to pay certain deposits made in Arthur County Co-operative Credit Association, Arthur, Nebraska, and for consent to establish the sole office of Arthur County Co-operative Credit Association as a branch of Bank of Keystone.

Amendment to a condition imposed by the Board in approving the application of Diablo Bank (formerly Diablo State Bank), Danville, California, for consent to relocate its main office from 355 N. Hartz Avenue to 156 Diablo Road, Danville, California.

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: January 16, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-1673 Filed 1-17-84; 2:04 pm]

BILLING CODE 6714-01-M

6

FEDERAL ELECTION COMMISSION

FEDERAL REGISTER NO. 84-960

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, January 19, 1984, 10:00 a.m.

The following item has been carried over from the meeting of January 12: Draft Advisory Opinion #1983-36, J. Curtis Herge on behalf of NCPAC.

* * * * *

DATE AND TIME: Tuesday, January 24, 1984, 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance. Litigation. Audits. Personnel.

* * * * *

DATE AND TIME: Thursday, January 26, 1984, 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, D.C. (Fifth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of Dates of Future Meetings
Correction and Approval of Minutes
Eligibility Report for Candidates to Receive Presidential Primary Matching Funds
Draft Advisory Opinion #1983-45, Harry Kresky on behalf of Dennis Serrette3
Draft Advisory Opinion #1983-48, Rebecca L. Burke on behalf of American Association of Nurse Anesthetists
Revised Fiscal Year 1984 Management Plan/ First Quarter Reallocations
December 1983/First Quarter Budget Execution Report
Routine Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone 202-523-4065

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 84-1674 Filed 1-17-84; 2:28 pm]

BILLING CODE 6715-01-M

7

FEDERAL RESERVE SYSTEM

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 49 FR 1447, January 11, 1984.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Monday, January 16, 1984.

CHANGES IN THE MEETING: Addition to the following closed item(s) to the meeting: Proposed legislation regarding Federal Reserve System budgets.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452-3204.

January 16, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-1514 Filed 1-16-84; 4:25 pm]

BILLING CODE 6210-01-M

8

FEDERAL RESERVE SYSTEM

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:

49 FR 1447, January 11, 1984

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Monday, January 16, 1984

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item(s) was added:

1. Federal Reserve Bank and Branch director appointments. (This item originally announced for a closed meeting on December 22, 1983.)
2. Supervisory and regulatory matter. (This item previously announced for a closed meeting on January 11, 1984.)

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: January 16, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-1515 Filed 1-16-84; 4:25 p.m.]

BILLING CODE 6210-01-M

9

LEGAL SERVICES CORPORATION

Appropriations and Audit Committee Meeting.

TIME AND DATE: It will commence at 2:00 P.M. and continue until all official business is completed; Friday, January 27, 1984.

PLACE: General Services Administration, Central Office Auditorium, 18th and "F" Streets, NW., Washington, D.C.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda
2. Approval of Draft Minutes of July 20, 1983 Appropriations and Audit Committee Meeting
3. Presentation of Corporation Audit for Fiscal Year 1983/Acceptance
4. Final Fiscal Year 1983 consolidated Operating Budget—Staff Report
5. Board Allocation of Fiscal Year 1983 Carryover Funds
6. Proposed Fiscal Year 1984 Consolidated Operating Budget Including Carryover
7. Staff Report on Selection of Auditor

CONTACT PERSON FOR MORE INFORMATION: Lea Anne Bernstein, Office of the President, (202) 272–4040

Date Issued: January 17, 1984.

Donald P. Bogard,

President.

[FR Doc. 84–1690 Filed 1–17–84; 3:43 pm]

BILLING CODE 6820–35

10

NATIONAL COUNCIL ON THE HANDICAPPED

TIME AND DATE:

9:00 a.m.—5:00 p.m., February 1, 1984
9:00 a.m.—5:00 p.m., February 2, 1984
9:00 a.m.—12:00 p.m., February 3, 1984

PLACE: La Bodega Room, Biltmore Hotel, 1260 Channel Drive, Santa Barbara, CA 93108.

STATUS: Open Meeting.

MATTERS TO BE CONSIDERED:

General Business including:
- Approval of minutes
- Input from consumers/policy issues
- Annual Report
- Program Review Reports
- 1984 NCH Goals

Presentations:
- Little People of America
- Robotics by Odetics, Inc.
- Media Presentation on Realities of Disability

PLEASE NOTE: Any person requiring an interpreter or other special services, please contact NCH Staff no later than Janaury 25, 1984.

CONTACT FOR MORE INFORMATION: Harvey C. Hirschi, Executive Director, NCH, 202–245–0752.

Harvey C. Hirschi,

Ex. Director, National Council on the Handicapped.

[FR Doc. 84–1671 Filed 1–17–84; 2:04 pm]

BILLING CODE 4000–01–M

11

NUCLEAR REGULATORY COMMISSION

DATE: Week of January 16, 1984 (Revised) and Week of January 23, 1984.

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open and Closed.

MATTER TO BE DISCUSSED:

Week of January 16

Monday, January 16

10:00 a.m.
- Discussion of Corrosion in PORV's at TMI–1 (Public Meeting) (As Announced)

2:00 p.m.
- Discussion of Future Steps in TMI–1 Restart (Closed—Ex. 5 & 10) (As Announced)

Thursday, January 19

3:30 p.m.
- Affirmation/Discussion and Vote (Public Meeting) (New Item)
  - a. Policy Statement on Regionalization (Tentative)
  - b. NRC Response to Court Decision Vacating Interim Rule on Environmental Qualification Deadline (Tentative) (*Postponed* from January 12)

Week of January 23

Monday, January 23

1:30 p.m.
- Affirmation/Discussion and Vote (Public Meeting)
  - a. Modification of Commission Memorandum and Order Regarding Operation of Diablo Canyon Nuclear Power Plant

1:40 p.m.
- Discussion of Pending Investigations on Diablo Canyon (Open/Closed—Ex. 5 & 7)

Thursday, January 26

2:00 p.m.
- Status of Certain Enforcement Actions (Closed—Ex. 5 & 7)

3:30 p.m.
- Affirmation/Discussion and Vote (Public Meeting)
  - a. Modification of Commission Memorandum and Order Regarding Operation of Diablo Canyon Nuclear Power Plant (if necessary)

Friday, January 27

9:30 a.m.
- Briefing on Possible Uses of Special Nuclear Material Available in the Non-Power Reactor Community (Closed—Ex. 1)

11:15 a.m.
- Comments on Implications of a Proposed Rule Regarding Use of HEU in Domestic Research Reactors (Public Meeting)

2:00 p.m.
- Discussion of International Implications of Conversion of Domestic Research Reactors to LEU Use (Open/Closed to be determined)

3:30 p.m.
- Discussion of Physical Security at Domestic Research Reactors (Closed—Ex. 1)

ADDITIONAL INFORMATION: Briefing on BWR Pipe Replacement held on January 12 (title change). Steam Generator Generic Requirements scheduled for Friday, January 13, *Postponed.* Comments by Parties on Diablo Canyon Criticality and Low Power Operation scheduled for January 17, *postponed.* Discussion of Pending Investigations scheduled for January 17, *postponed.*

TO VERIFY THE STATUS OF MEETINGS CALL: (Recording)—(202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Dated: January 12, 1984.

Walter Magee,

Office of the Secretary.

[FR Doc. 84–1699 Filed 1–17–84; 3:54 pm]

BILLING CODE 7590–01–M

12

POSTAL SERVICE

Notice of Vote to Close Meeting.

At its meeting on January 9–10, 1984, the Board of Governors of the United States Postal Service unanimously voted to close to public observation its meeting, scheduled for February 8, 1984, in Los Angeles, CA. The meeting will involve a discussion of possible strategies in anticipated collective bargaining negotiations, pursuant to chapter 12 title 39 United States Code, involving parties to the 1981 National Agreements, between the Postal Service and four labor organizations representing certain postal employees, which are scheduled to expire in July 1984.

The meeting is expected to be attended by the following persons: Governors Babcock, Camp, McKean, Peters, Ryan, Sullivan, Voss and Waldman; Postmaster General Bolger; Deputy Postmaster General Finch; Secretary of the Board Harris; General Counsel Cox; Senior Assistant Postmaster General Morris; and Counsel to the Governors Califano.

The Board is of the opinion that public access to any discussion of possible strategies that Postal Service management may decide to adopt, or the

positions it may decide to assert, in any collective bargaining sessions that may take place would be likely to frustrate action to carry out those strategies or assert those positions successfully. In making this determination, the Board is aware that the effectiveness of the collective bargaining process in labor-management relations has traditionally depended on the ability of the parties to prepare strategies and formulate positions without prematurely disclosing them to the opposite party. The public has a particular interest in the integrity of this process as it relates to the Postal Service, since the outcome of the negotiations between the Postal Service and the various postal unions, and consequently the cost, quality and efficiency of postal operations, may be adversely affected if the process is altered.

Accordingly, the Board of Governors has determined that, pursuant to section 552b(c)(3) of title 5, United States Code, and § 7.3(c) of title 39, Code of Federal Regulations, this portion of the meeting is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. 552(b)), because it is likely to disclose information prepared for use in connection with the negotiation of collective bargaining agreements under chapter 12 of title 39, United States Code, which is specifically exempted from disclosure by section 410(c)(3) of title 39, United States Code. The Board has determined further that, pursuant to section 552b(c)(9)(B) of title 5, United States Code, and § 7.3(i) of title 39, Code of Federal Regulations, the discussion is exempt, because it is likely to disclose information the premature disclosure of which is likely to frustrate signficantly proposed Postal Service action. Finally, the Board of Governors has determined that the public has an interest in maintaining the integrity of the collective bargaining process and that the public interest does not require that the Board's discussion of its possible collective bargaining strategies and positions be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and § 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the meeting to be closed may properly be closed to public observation, pursuant to section 552b(c)(3), and (9)(B) of title 5 and section 410(c)(3) of title 39, United States Code, and section 7.3(c), and (i) of title 39, Code of Federal Regulations.

David F. Harris,

Secretary.

[FR Doc. 84-1444 Filed 1-17-84; 10:32 am]

BILLING CODE 7710-12-M

13

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of January 23, 1984, at 450 Fifth Street, NW., Washington, D.C.

A closed meeting will be held on Tuesday, January 24, 1984, at 9:30 a.m.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10).

Chairman Shad and Commissioners Longstreth, Treadway and Cox voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, January 24, 1984, 9:30 a.m., will be:

Settlement of administrative proceedings of an enforcement nature.
Institution of injunctive actions.
Formal orders of investigation.
Settlement of injunctive action.
Litigation matter.
Institution of administrative proceeding of an enforcement nature.

AT TIMES CHANGES IN COMMISSION PRIORITIES REQUIRE ALTERATIONS IN THE SCHEDULING OF MEETING ITEMS. FOR FURTHER INFORMATION AND TO ASCERTAIN WHAT, IF ANY, MATTERS HAVE BEEN ADDED, DELETED OR POSTPONED, PLEASE CONTACT: Bruce Kohn at (202) 272-3195.

George A. Fitzsimmons,

Secretary.

January 13, 1984.

[FR Doc. 84-1538 Filed 1-17-84; 9:31 am]

BILLING CODE 8010-01-M

14

SECURITIES AND EXCHANGE COMMISSION

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENTS: (To be published).

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, January 10, 1984.

CHANGE IN THE MEETING: Additional items.

The following items will be considered at a closed meeting scheduled for Tuesday, January 17, 1984, following the 9:30 a.m. open meeting.

Settlement of injunctive action and institution of administrative proceeding of an enforcement nature.
Regulatory matter regarding financial institution.

Chairman Shad and Commissioners Treadway and Cox determined that Commission business required the above changes and that no earlier notice thereof was possible.

AT TIMES CHANGES IN COMMISSION PRIORITIES REQUIRE ALTERATIONS IN THE SCHEDULING OF MEETING ITEMS. FOR FURTHER INFORMATION AND TO ASCERTAIN WHAT, IF ANY, MATTERS HAVE BEEN ADDED, DELETED OR POSTPONED, PLEASE CONTACT: JoAnn Zuercher at (202) 272-2014.

George A. Fitzsimmons,

Secretary.

January 16, 1984.

[FR Doc. 84-1643 Filed 1-17-84; 1:30 pm]

BILLING CODE 8010-01-M

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Part II

Federal Communications Commission

47 CFR Part 2

Implementation of the Final Acts of the World Administrative Radio Conference, Geneva, 1979; Final Rule (2nd Report and Order)

VOL 49 ISS 13 JA 19 1984 UMI

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[Gen. Docket No. 80-739; FCC 83-511]

Implementation of the Final Acts of the World Administrative Radio Conference, Geneva, 1979

AGENCY: Federal Communications Commission.

ACTION: Final rule (2nd Report and Order).

SUMMARY: The Federal Communications Commission amends Part 2 of its Rules to implement domestically the Final Acts of the 1979 World Administrative Radio Conference. This action brings the Commission's Rules into conformity with international regulations. This provides domestic radio spectrum users with protection from harmful interference as provided by international regulations.

EFFECTIVE DATE: February 21, 1984.

ADDRESS: Federal Communications Commissions, 2025 "M" Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mr. Fred Thomas/Mr. William Torak, Office of Science and Technology, 2025 "M" Street NW., Washington, D.C. 20554, (202) 653-8171/(202) 632-7025.

List of Subjects in 47 CFR Part 2

Frequency allocations, Treaties, Radio.

Second Report and Order

In the matter of amendment of Part 2 of the Commission's Rules regarding implementation of the final acts of the World Administrative Radio Conference, Geneva, 1979.

Adopted: November 8, 1983.
Released: December 8, 1983.

By the Commission: Commissioner Rivera absent.

Purpose

1. The purpose of this proceeding is to implement into Part 2 of the Commission's Rules and Regulations the Final Acts of the 1979 World Administrative Radio Conference (1979 WARC). This is necessary as the Final Acts of the 1979 WARC, which comprise an international treaty, became effective internationally on January 1, 1982, for administrations that have ratified the treaty. The United States ratified the treaty on September 6, 1983. Therefore, it now has the force of law in the United States and we are obliged to adhere to its provisions. Further, we take this opportunity to modify the format of § 2.106, Table of Frequency Allocations, to remove obsolete and outdated provisions from Part 2 of the Commission's Rules and to ensure that Part 2 is consistent with rules recently adopted in other proceedings.

Background

2. The 1973 Plenipotentiary Conference of the International Telecommunication Union (ITU) resolved that a World Administrative Radio Conference (WARC) should be convened in 1979 to revise, as necessary, the international Radio Regulations. The ITU Plenipotentiary noted that since 1959, the year of the last such general revision, various world administrative radio conferences had amended the Radio Regulations on specific points without having been able to harmonize the decisions taken because of the limited nature of their agendas. It also noted that as a result of technical advances, some of the Radio Regulations needed reconsideration. The Administrative Council of the ITU issued an initial agenda for the 1979 WARC in 1976. The 1979 WARC began on September 24, 1979 and concluded on December 6, 1979; of the then 154 member nations of the ITU, 150 were represented at the Conference. The Conference considered more than 15,000 individual proposals dealing with numerous aspects of world telecommunications.

3. The Commission's effort in preparation for the 1979 WARC began in late 1974 when an FCC Steering Committee, having overall management responsibility, and four specialized functional committees were established. Also, twenty-two industry advisory committees were created, each representing a particular radio service, in order to study spectrum requirements and to suggest appropriate changes to the Radio Regulations.

4. At about the same time, the National Telecommunications and Information Administration (NTIA), which at the time was the Office of Telecommunications Policy under the Executive Office of the President, established a preparatory infrastructure within the Interdepartment Radio Advisory Committee (IRAC) that was analogous to that of the Commission's. Throughout the preparation, coordination between the FCC and the Executive Branch took place.

5. In 1975, the Commission instituted a public proceeding, Docket 20271, which served as the vehicle by which comments and recommendations were obtained from the public regarding the proposals that the United States would make to the Conference. Nine Notices of Inquiry were issued between 1975 and 1978; of those, three were concerned primarily with the development of proposals for changes to the international Table of Frequency Allocations.[1]

6. Throughout the preparation period, many parties, which represented diverse interests and perspectives, contributed to the development of proposals by participating in the advisory committees and by responding to the Notices of Inquiry. A Report and Order (FCC 78-849, 44 FR 2683), which contained a comprehensive set of recommended proposals representing the combined thinking of the Commission and the Executive Branch, was issued in December 1978. The Department of State used those recommended proposals to develop the formal U.S. proposals that were submitted to the ITU for consideration by the 1979 WARC.

7. Of the more than 15,000 proposals considered by the 1979 WARC, over 900 had been submitted by the United States. Most of the U.S. proposals were attained, either in entirety or in substantial part. In January of 1980, we released a Public Notice (No. 25215) that reported general results of the 1979 WARC.

8. The Commission prepared for national implementation of the Final Acts by issuing five Notices of Inquiry (NOIs) and a Notice of Proposed Rule Making (NPRM).[2] These Inquiries and

[1] The Third Notice of Inquiry (FCC 78-1099, 41 FR 54309), Fifth Notice of Inquiry (FCC 77-349, 42 FR 27756) and Eight Notice of Inquiry (FCC 78-265, 43 FR 18748) solicited comments, and treated comments, regarding a revised international Table of Frequency Allocations.

[2] The First Notice of Inquiry was adopted by the Commission on November 25, 1980 (FCC 80-695, 46 FR 3060) and released on December 30, 1980. It proposed modifications to §§ 2.100 through 2.105, § 2.106 (Table of Frequency Allocations) up through 28 MHz, and the addition of § 2.107. The Second Notice of Inquiry was adopted by the Commission on May 21, 1981 (FCC 81-247, 46 FR 31693) and released on June 15, 1981. It proposed modifications to § 2.106 from 28 MHz through 1215 MHz. The Third Notice of Inquiry was adopted by the Commission on July 16, 1981 (FCC 81-323, 46 FR 40536) and released on August 7, 1981. It proposed modifications to § 2.1 (Definitions) and to § 2.106 from 1215 MHz through 40.5 GHz. The Fourth Notice of Inquiry was adopted by the Commission on October 1, 1981 (FCC 81-457, 46 FR 60221) and released on October 16, 1981. It proposed modifications to § 2.106, from 40.5 GHz through 400 GHz, and to Subpart C of Part 2, the Emission Designators. The Fifth Notice of Inquiry was adopted by the Commission on May 13, 1982 (FCC 82-213, 47 FR 25982) and released on June 7, 1982. The Notice of Proposed Rule Making was adopted by the Commission on November 18, 1982 (FCC 82-506, 48 FR 3790) and released December 30, 1982. It proposed modifications to Part 2 Subparts A and B (§§ 2.1 through 2.108).

the NPRM solicited public comment on proposed modifications to Part 2 of the Rules that we felt were necessary and appropriate to make Part 2 as consistent as possible with the Final Acts and to satisfy our domestic allocation needs. This Second Report and Order is limited in scope to the issues addressed in the NPRM with the exception of the band 11.7–12.2 GHz, which was addressed in the First Report and Order in this proceeding.[3] Further notices of proposed rule making and reports and orders will be issued to cover the implementation of remaining relevant provisions of the Final Acts of the 1979 WARC.

9. Parties filing Comments and Reply Comments to the Notice of Proposed Rule Making are listed in Appendix A.[4]

Intentions

10. The international treaty has the force of law in the United States, and we are obliged to adhere to its provisions. In our domestic implementation actions, we must take full account of the international provisions even though in some instances they do not fully agree with those that the United States had proposed. The treaty does provide some flexibility, however, through Radio Regulation No. 342 that states:

> Administrations of the Members shall not assign to a station any frequency in derogation of either the Table of Frequency Allocations given in this Chapter or the other provisions of these Regulations, except on the express condition that harmful interference shall not be caused to services carried on by stations operating in accordance with the provisions of the Convention and these Regulations.

This enables the enactment of domestic provisions different from international provisions in cases where the physical characteristics of the radio spectrum and of the domestic uses permit operations within the stated interference constraint. In a few instances, the United States had serious reservations about the allocation actions taken by the 1979 WARC. Therefore, the U.S. delegation made protocol statements which said the U.S. would not accept certain decisions of the Conference and which further stated the U.S. intentions in regard to those decisions; these are shown at Appendix B.

11. In conformity with a specific objective in Conference preparation, a number of the U.S. proposals were intentionally drawn to provide flexibility in making domestic regulatory decisions and were obtained at the 1979 WARC. In those cases, the Commission, in coordination with NTIA, which is responsible for developing provisions for the Government sector, proposed and discussed appropriate choices in the NOIs and the NPRM in this Docket.

12. In the NOIs and NPRM, the Commission proposed a new format for the Table of Frequency Allocations, § 2.106. We are adopting this new format, which includes for informational purposes the international table of Frequency Allocations for all Regions of the world as well as the domestic allocations observed by the Government sector. The new format also eliminates redundancy in the Table by replacing the columns previously headed "Class of Stations" and "Nature of Service/ Station" by a column headed "Rule Part(s)". This new column provides a cross reference to appropriate rule parts that contain the assignments of channels and other specific provisions pertaining to the different services. We also took the opportunity afforded by this general review to perform an overall "clean-up" of Part 2 of our domestic Rules and Regulations. Some of the existing provisions were functionally obsolete and served no useful purpose, while others required up-dating to make them current. The appropriate editorial modifications were discussed in the NOIs and NPRM. Finally, we have included modifications that were recently adopted in separate Commission proceedings. The result is a document which we believe is more simple, clear, accurate and timely. The applications and contents of the Table are described in § 2.105.

Discussion

13. We are adopting here essentially all of the revisions to Subpart A (Definitions) and Subpart B (Allocations, Assignments, and Use of Radio Frequencies) of Part 2 of our Rules which we proposed and discussed in the NPRM. However, we are making several appropriate changes as a result of the comments and reply comments received in response to the NPRM. We are also making several editorial changes in Part 2 to incorporate various Commission decisions made after the NPRM was issued. The revised Part 2 is contained in Appendix C. The following discussion will focus on the comments and replies and on other areas where we believe change from our proposal is appropriate.

Subpart A

14. Revisions to § 2.1 (Definitions) of the Rules were presented in the Third NOI and the NPRM. We are modifying our definitions to be consistent with the international definitions approved at the 1979 WARC. We are deleting definitions that are particular to, and contained in, Commission Rule Parts other than Part 2 and definitions that are common terms which can be readily found in dictionaries.

15. We received no comments in response to the NPRM on this section and will therefore adopt § 2.1 as proposed in the NPRM.

Subpart B

16. Amendments to Rule §§ 2.100–2.108 were proposed in the NPRM to bring these sections into compliance with the international Radio Regulations. These rule sections address topics such as the nomenclature and assignment of frequencies, government and non-government use of frequencies and the international Table of Frequency Allocations.[5]

17. There were no comments filed addressing §§ 2.100–2.105, 2.107 and 2.108. However, we are editorially modifying proposed § 2.105(d)(5) which addresses column 6 of the Table, "FCC USE DESIGNATORS, RULE PART(S)". We wish to clarify that the entries in this column are not allocations but are cross references to applicable rule parts and are provided for informational purposes only.

18. The following paragraphs will highlight the bands of the Table of Frequency Allocations in § 2.106 for which we receive specific comments in response to the NRPM and the bands which require editorial modification. We have modified the format of the Table as discussed in the NOIs and NPRM. The Table now includes, for informational purposes only, the international and Government allocations. Channelling plans have been removed from the allocation Table but may be found in the operating rules of each service. As discussed above, a cross reference to the applicable rule part(s) is located in column 6 of the Table.

19. In the bands between 10 and 490 kHz AAR requested that footnote US294 (see Appendix C), which identifies the operations of Power Line Carriers and which was adopted by the Commission in Docket 82–9 (released January 27, 1983), be included in the Table. This action in Docket 82–9 was taken by the Commission after the NPRM in the instant proceeding was adopted and, therefore, was not included in the proposal. We have added US294 to the

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[3] The First Report and Order in this proceeding was adopted by the Commission on June 2, 1983, (FCC 83–272, 48 FR 27541) and released on June 10, 1983. It addressed the issues of the 11.7–12.2 GHz band.

[4] Parties filing comments to the NPRM will be referred to hereafter by the abbreviations listed after their names in Appendix A.

[5] See Appendix C of the NPRM for a complete listing of the proposed allocations.

revised Table in Appendix C to reflect this decision.

20. With respect to the 535–1605 kHz AM broadcasting band, AT&T requested that footnote NG128 be modified to allow Subsidiary Communications Authorizations (SCA) consistent with action taken in BC Docket 81–896. It requested the footnote be modified to permit AM broadcast licensees or permittees to transmit signals intended for utility load management. We are making the requested change to conform NG128 to the Commission's decision. We are also modifying the footnote to conform it to the Commission's First Report and Order in BC Docket 82–536,[6] broadening the permitted uses of subcarriers by FM broadcast stations. These modifications are incorporated in NG128 in Appendix C.

21. For the 1900–2000 kHz band, the commenters focused on the status of amateur users. The Commission proposed to allocate the band for Government and non-Government radiolocation use on a primary basis and for amateur use on a restrictive secondary basis as set forth in US290 and NG15. Comments were received from ARRL, CHESTER, HUTCHINSON and ONI. Reply Comments were filed by NOIA, ONI and RACAL–DECCA. ARRL, CHESTER, and HUTCHINSON claimed that this band is an important band to the amateur community and that it is imperative that an amateur allocation be maintained. CHESTER requested that amateurs be allowed to continue to operate on a secondary basis when radiolocation operations move into the band. ARRL, however, requested a primary amateur allocation and a secondary radiolocation allocation. ARRL claimed that radiolocation usage in this band is inefficient, that the spectrum requirements of radiolocation may not require the use of this band, particularly if LORAN–C or NAVSTAR navigation systems were used instead, and that a smaller allocation for rediolocation such as the allocation in Region 1 would be more appropriate. ARRL further noted that this band was allocated for amateur use prior to World War II but that the amateurs were preempted to provide spectrum for radionavigation. ARRL went on to argue that, since the radionavigation requirements no longer exist for this band, it should be returned for amateur use.

22. ONI, on the other hand, requested deleting the temporary amateur allocation in US290 (see Appendix C) to provide an exclusive allocation to the radiolocation service in the 1900–2000 kHz band. In the alternative, it requests at least modifying US290 to provide for a cut-off date of amateur operations once radiolocation operations begin in the band. It claimed that radiolocation operations will commence as soon as implementing rules are adopted, as the band is needed by radiolocation and current equipment can be tuned or easily modified to operate in this band. RACAL–DECCA supported this argument in its reply comments noting that it too is prepared to make use of this band once this rule making is completed. ONI went on to argue that amateur operations will be incompatible with radiolocation in this band and that there will be little opportunity for amateurs to use this band before the commencement of radiolocation operations.

23. In their reply comments NOIA, ONI and RACAL–DECCA refuted the claims made by ARRL. They claimed: (1) that radiolocation requirements have been increasing over the years and that this is well documented, (2) that radiolocation operations, due to improved engineering, have become increasingly efficient over the years, (3) that the radiolocation users' requirements for precision are greater than can be satisfied by existing navigation systems such as LORAN–C and NAVSTAR, (4) that the spectrum requirements for Region 1 are not analogous to the requirements of the United States and (5) that the spectrum needs of the United States prior to World War II are wholly irrelevant to the spectrum needs of the United States for the 1980's and 1990's. They further claimed that the proposed allocation of 100 kHz on an exclusive basis for both services represents a valid balancing of competing interests and provides the most efficient means of operation for both services, allowing maximum spectrum utilization and efficiency.

24. The purpose of allocating this band to the radiolocation service was to provide reaccommodation spectrum for radiolocation users that will have to move out of the 1605–1705 kHz band when AM broadcasting is implemented in that band. This is still a valid requirement and, therefore, we will adopt the primary radiolocation allocation that was proposed in the NPRM. However, as this allocation was made for reaccommodation purposes and not to provide additional spectrum for radiolocation needs and because this reaccommodation process should take a number of years, we feel that the amateurs can still make some use of the band for the near term without causing interference to radiolocation users. Finally, it is noted that the proposed amateur allocation is secondary and should provide adequate protection to the radiolocation service upon commencement of its operations. Therefore, we are also maintaining US290 as proposed.

25. As highlighted in the NPRM, we also were to re-evaluate the need to maintain NG15 in the 1900–2000 kHz band to protect continuing Region 2 LORAN–A operations. We have made the re-evaluation and found it is necessary to retain this footnote at least through January 1, 1984.

26. In the 10,100–10,150 kHz band, we included in the NPRM footnote US295, which was adopted by Order of the Commission on October 28, 1982 in RM–3855 (FCC 82–469). The footnote was provided to permit amateur use of the band on a secondary basis pending adoption of this Report and Order. Since this item provides for amateur operations on a primary basis in the 10,100–10,150 kHz band, the footnote is no longer necessary and has been deleted.

27. With respect to the 27.54–28.0 MHz band, which is allocated for Government fixed and mobile use on a primary basis, FIT requested a footnote to reflect non-Government use of certain frequencies on a secondary basis to government operations. This would reflect an IRAC agreement that allows FIT members access to this band. Its suggested text is as follows:

NG———. Channels 27555, 27615, 27635, 27655, 27765, and 27860 KHz are available to eligibles in the Forest Products Radio Service on a secondary basis to Government operations including experimental stations. Operations in the Forest Products Radio Service on these channels will not exceed 150 watts and are limited to the states of Washington, Oregon, Maine, North Carolina, South Carolina, Tennessee, Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas (eastern portion).

While all non-Government use of this band will continue to be coordinated through existing IRAC procedures, we believe the suggestion of FIT has merit. We will therefore adopt the footnote US298 to recognize this non-Government use.

28. The bands between 157.45 MHz and 162.0125 MHz were proposed for land mobile and maritime mobile use, and the 928–929 MHz, 947–960 MHz, and 2110–2200 MHz bands were proposed for fixed use. AAR is concerned that these bands are also specifically being allocated to the Domestic Public Land Mobile Service (DPLMS) because this

[6] The Commission adopted a Report and Order in BC Docket 82–536 on April 7, 1983 which was released May 19, 1983 (FCC 83–154, 48 FR 28445).

use is reflected in column 6 of the Table. However, column 6, like column 7 of the Table, is not an allocation. It provides a cross reference to applicable portions of the operating rules and identifies existing uses of the bands. For example, DPLMS (Part 22) use of the bands between 157.45 MHz and 162.0125 MHz is provided by § 22.601 of the Rules, which is why it is cross referenced in column 6. Therefore, there is no need to modify the Table.

29. The 216–220 MHz band, which had previously been limited to telemetry and radiolocation uses, was recently allocated to primary maritime mobile use with previous users retained generally on a secondary basis. However, maritime mobile use was restricted geographically by footnote NG121, which we proposed to retain. WATERCOM requested that footnote NG121 be deleted to allow broader maritime mobile operation. WATERCOM noted that the Commission is considering this issue in General Docket 81–822. However, Docket 81–822 was concluded by a Report and Order adopted by the Commission on April 14, 1982 (FCC 82–175, 47 FR 18881), which expanded the original operating area permitted by NG121 by addition of the Gulf Intracoastal Waterways. A further separate proceeding would have to be initiated to address the removal of NG121 as requested by WATERCOM, as this issue is outside the scope of this proceeding.

30. For the 220–225 MHz band, we proposed shared Government/non-Government primary fixed and mobile, Government secondary rediolocation and non-Government primary amateur use. Previously, the only authorized non-Government use was amateur, which was secondary to the government radiolocation service. MOTOROLA supported the allocation proposed in the NPRM. MOTOROLA argued that the proposed allocation provides the Commission flexibility to reconsider the best use of this band. ARRL, on the other hand, requested that the primary non-Government fixed and mobile allocations be deleted. ARRL claimed the band is needed by the amateur community, especially if Commission action in Docket 83–28 establishes a codeless class of amateur license. ARRL was, however, not opposed to some Government use of the band.

31. The spectrum requirements for this band are currently undefined. However, as noted in the NPRM there is an FCC/NTIA working group developing an allocation plan for this band. Therefore, we will maintain all three allocations—amateur, fixed and mobile—pending the results of this effort. It is noted that no assignments will be made to the fixed and mobile services until the allocation and service rules are finalized.

32. For the 420–430 MHz band, which we proposed for Government primary radiolocation use and non-Government secondary amateur use, we also proposed adding footnote NG135 to the Table to protect Canadian fixed and mobile operations from interference by U.S. amateur operations. Amateurs could not operate north of Line A as defined in § 2.1 of our Rules without a waiver. ARRL recognized the Commission's responsibility to protect Canadian operations from harmful interference but suggested that the Commission mechanism for processing of waivers filed by amateur licensees to operate within Line A should be streamlined as much as possible. Waivers will be considered based on appropriate technical considerations. Due to treaty obligations, such waivers must be subject to successful prior coordination with the Canadian Administration. ARRL's concern is noted but is inappropriate for consideration in this proceeding.

33. The 470–512 MHz band is allocated for UHF television broadcasting and land mobile use on a coequal primary basis. However, the land mobile allocation is restricted to certain television channels by footnote NG66 (see Appendix C). CPOA requested that this allocation be expanded to encompass the entire band. It claimed that this would alleviate some of the current congestion experienced by public safety users. In their reply comments LA COUNTY and LA SHERIFF requested that television channels in this band be reallocated for land mobile use. They noted the LA SHERIFF's petition (RM–3975), which requests the reallocation of television channels 15 and 16 in the Los Angeles area for safety of life operations. This issue is beyond the scope of the rulemaking proposals in the instant proceeding. It must be addressed in a separate proceeding such as RM–3975.

34. The 512–608 MHz and 614–806 MHz bands are also allocated for UHF television broadcasting on a primary basis. In the NPRM we proposed to allow fixed and mobile use on a secondary basis. We received 23 comments and 9 reply comments. With the exception of M/A–COM they may be categorized as follows: those with land mobile interest (API, FIT, IAFC, LA COUNTY, LA SHERIFF, LMCC, MOTOROLA, NABER, SIRSA, UTC, CPOA and CPRA) and those with broadcasting interest (ALPTA & NILPT, AMST, CBS, CPB, COSMOS, CUB, COX, INTV, NAB, NAPTS, NBC, NUBA and SPRINGFIELD). M/A–COM's comments in these bands supported the proposed fixed and mobile secondary allocation but for reasons other than land mobile use. It claimed that these bands would be suitable for low power mobile video transmitters for electronic newsgathering operations and noted that such operations currently exist in other countries.

35. Those with land mobile interest requested that the Commission allocate these bands on co-equal primary basis among the broadcasting, fixed and mobile services. They jointly claimed that the flexibility attained in these bands at the 1979 WARC should be preserved by providing a domestic primary co-equal allocation for land mobile and that anything less would be a departure from the U.S. position at the '79 WARC. Noting the projected land mobile spectrum requirements in the Private Radio Bureau's Interim Report of Future Land Mobile Telecommunication Requirements released in PR Docket 82–10,[7] they claimed the bands were needed to meet future land mobile spectrum requirements. Further, they claimed that failure to accord the mobile service a primary allocation would result in unrestrained broadcast growth, particularly by low power television, and this would effectively preclude any non-broadcast use of the band and eclipse the flexibility obtained at the 1979 WARC. API also noted that sharing between the land mobile and broadcasting services has been done successfully for a number of years in the 470–512 MHz bands and that it could be done successfully in this band as well.

36. Those with broadcasting interest, in both comments and reply comments, requested that the secondary fixed and mobile allocations be deleted from the Table. They claimed that domestic fixed and mobile allocations were not required by the 1979 WARC Final Acts and are not necessary to maintain the flexibility provided by the Final Acts. They noted the report by Dale N. Hatfield Associates, "The Role of New Technologies and Spectrum Management in Meeting the Demand for Private Land Mobile Radio Telecommunications Capacity" (Hatfield Report), November 18, 1982.

[7] PR Docket 82–10, "Interim Report on Future Private Land Mobile Telecommunications Requirements," was released on September 20, 1982 in FCC Public Notice 6576. The Private Radio Bureau's final report, "Future Private Land Mobile Telecommunications Requirements" was released September 18, 1983.

and claimed that additional allocations for land mobile are not necessary as its forseeable spectrum requirements can be met by the present and "reserve" allocations if highly spectrum-efficient technologies, such as cellular and amplitude compandored systems, are used. They also argued that the proposed sharing would actually amount to a reallocation to the land mobile service as broadcast use of the band would be pre-empted. Further, they argued that the band is needed for broadcasting because of the growing requirement for conventional UHF television and the high demand for new low power broadcasting facilities.

37. In their reply comments those with land mobile interest objected to the characterization that sharing these bands would be a reallocation. They claimed that geographic sharing would allow both services to use this portion of the spectrum and would make efficient use of this scarce resource by using frequencies that now lie fallow. With regard to land mobile spectrum needs and the Hatfield Report, they argued that the land mobile community is now taking advantage of spectrum saving technologies and will continue to introduce new technologies as they develop. However, they claimed that some of the new technologies discussed in the Hatfield Report are still in a developmental stage and others will not provide the type of service that land mobile users require. Therefore, they argued access to additional spectrum will still be required and that these bands are the most likely source of spectrum to satisfy this need.

38. There were comments from both those with land mobile interest and those with broadcast interest that requested this issue be resolved in PR Docket 82-10, where they claimed all of the pro and cons of reallocating this band may be fully considered.

39. We believe that it would be premature to resolve this issue before the results of the internal land mobile studies have been analyzed in conjunction with the spectrum needs of the broadcasting service. Therefore, we will remove the proposed secondary fixed and mobile allocations from these bands and will reserve this issue for further consideration. This action should not be interpreted as either supporting or foreclosing the future designation of these bands for land mobile on a primary or secondary basis.

40. In the 806–890 MHz bands, which were proposed for primary land mobile use with footnote NG138 allowing for secondary mobile-satellite use in the land mobile reserve bands, comments were filed by API, APPA, AT&T, COMSAT, IAFC, LMCC, MCI, MOBILSAT, MOTOROLA, NASA, SIRSA, SKYLINK and UTC. Reply comments were filed by API, AT&T, LMCC, MOBILSAT, NASA, NABER and SKYLINK. APPA, COMSAT, MOBILSAT, NASA and SKYLINK all requested either that international footnote 700 (see Appendix C) be adopted or that domestic footnote NG138 (see NPRM Appendix C) be modified to provide a primary allocation for the mobile-satellite service (MSS) in this band. MOTOROLA, SIRSA, API and IAFC all supported NG138 as proposed, which allocates MSS on a secondary basis in the reserve bands between 806–890 MHz. AT&T, LMCC, NABER and UTC all requested that the allocation for MSS be deleted from this band. MCI, while taking no position on this issue in this proceeding, suggested that the proposed allocation to MSS would be more appropriately handled in the rulemaking proceeding requested by NASA, RM–4247,* as there are significant questions that should be resolved before considering the adoption of the allocation.

41. Those requesting a primary allocation of MSS argued that MSS will not be feasible or reliable if it is preemptible as a secondary service. They argued that the proposed secondary MSS allocation is an unexplained and unjustifiable departure from the United States' advocacy of a primary MSS allocation at the 1979 WARC. They also claimed that the need for additional spectrum for terrestrial cellular services has not been demonstrated. They further argued that MSS will be an economically viable service, which they claim is supported by interested parties filing in RM–4247.

42. Those that supported proposed footnote NG138 did so emphasizing that the bands are important for terrestrial land mobile operations and that satellite operations should not be afforded any protection from terrestrial operations but should be required to protect terrestrial operations. Those opposed to the allocation argued that the reserve spectrum is needed to meet the growing land mobile demand and that this spectrum should be retained to accommodate known land mobile requirements instead of allocating it to an experimental system. They argued that it would be far more efficient to use the spectrum for terrestrial systems that will be able to serve many millions of subscribers with a better grade of service than an MSS system like the one proposed by NASA could. They argued that the NASA system could optimistically only serve about a quarter of a million subscribers. They further argued that a secondary allocation to MSS could in practice result in a permanent MSS allocation due to the large investment involved and the long life of a satellite (8–10 years). AT&T went on to argue that authorizing MSS in this band is likely to reduce aggregate demand, which is needed to support land mobile service outside the large urban areas. Further, it argued that before any allocation, primary or secondary, is made for MSS, all the issues involving sharing, including sharing criteria, should be fully examined.

43. In its reply comments AT&T added that the MSS market and technology are unproven and that such a system may never be commercially feasible. Further, AT&T agreed with MCI that it would be premature to reallocate any of the 800 MHz reserve bands to MSS until the issues of RM–4247, *supra*, are resolved. In their reply comments MOBILSAT, NASA and SKYLINK claimed that those with land mobile interest, which requested the reserve bands be used to satisfy future terrestrial land mobile needs, failed to document their needs and overlooked the basic predicate of cellular technology that spectrum will be conserved through reuse by "cell-splitting" as demand within a particular cell or market area grows. They also rejected the AT&T argument that, because terrestrial systems are more efficient, the reserve bands should be allocated for terrestrial systems; they claimed that the terrestrial systems will never meet the needs of the non-urban dwellers. NASA claimed that up to 40% of the population lies beyond the metropolitan areas where terrestrial cellular services are most likely. Further, NASA claimed that MSS will complement rather than compete with terrestrial services to provide a nationwide integrated mobile radio system and that MSS will stimulate demand for terrestrial systems, not reduce it. NASA also rejected the argument that a primary MSS allocation in this band will risk a complete foreclosure of the use of this band by terrestrial land mobile services. It noted that terrestrial mobile services have been allocated all but 14 MHz of this band, that the NASA petition only requests 8 MHz for MSS, and that the remaining 6 MHz of reserve spectrum can be kept in reserve to await

* RM–4247, "Amendment of Parts 2, 22 and 25 of the Commission's Rules Relative to Satellite Augmentation of Terrestrial Cellular and Non-Cellular Mobile Communications Systems Through Establishment of a Mobile Satellite Service", was filed on November 24, 1982 by National Aeronautics and Space Administration.

development of the terrestrial mobile and MSS services. NASA also requested that 890–896 MHz be kept in reserve until the results of the experimental use of 821–825 MHz and 866–870 MHz have been evaluated. MOBILSAT, NASA and SKYLINK also agreed with MCI that this allocation issue could best be resolved in NASA's pending petition for rulemaking, RM–4247, which NASA noted has produced over 50 well focused comments on both sides of the issue.

44. We agree that this issue could best be resolved in NASA's petition for rulemaking RM–4247 where the arguments on both sides may be more fully developed. Therefore, we will remove proposed footnote NG138 from the Table and in the future make any appropriate modifications to the Table according to Commission action taken regarding RM–4247 or in any other appropriate proceeding. This action should not be interpreted as either supporting or foreclosing designation of these bands for mobile-satellite use.

45. The 902–928 MHz band is used for Government radiolocation, operation of industrial, scientific and medical (ISM) equipment, and automatic vehicle monitoring systems. The NPRM proposed to continue these uses and to provide a secondary allocation for amateur use. Comments were filed by LMCC and MOTOROLA. Both requested the Commission to add a mobile allocation on a secondary basis in this band. LMCC also requested that a primary fixed allocation be included in this band. They argued that this was the U.S. proposal to the 1979 WARC and that there is no rational basis to abandon the flexibility obtained there prior to any specific radio service allocation proceeding. The fixed and mobile allocations obtained at the 1979 WARC in this band were intended to provide flexibility for possible future domestic allocations. We do not believe the record here justifies a change in the domestic allocation table. Thus, we will maintain the allocations in this band as proposed in the NPRM. However, should an adequate showing be made in the future, we will, of course, consider appropriate action.

46. For the 947–960 MHz fixed band, comments were filed by MOTOROLA and NAB. NAB requested that NG9 be deleted. NG9 reads as follows:

NG9 Aural broadcast intercity relay stations may be authorized to use the band 947–952 MHz on the condition that harmful interference will not be caused to other classes of stations operating in accordance with the Table of Frequency Allocations.

47. It argued this is an unnecessary note. We agree. We will delete NG9 from the Table as it is no longer consistent with the new format of the allocation Table. This footnote is not an allocation but an assigment plan and is already contained in Part 74.

48. MOTOROLA requested a primary mobile allocation be added to the 952–960 MHz band. It argued that this flexibility was obtained at the 1979 WARC and should be maintained domestically. We do not agree. We feel the band is too heavily used by the fixed service to be of any value for the mobile service at this time and for the foreseeable future. Therefore, we will maintain the rest of the allocations in this band as proposed in the NPRM.

49. For the 1435–1535 MHz mobile band, which has been used for aeronautical telemetering, AFTRCC requested that footnote US78 (see Appendix C) be modified as proposed in its Petition for Rulemaking, RM–4077. US78 specifies certain frequencies for manned and for unmanned aircraft. AFTRCC would have us modify US78 by adding the 2310–2390 MHz band and removing some of the restrictions now governing the use of the frequencies between manned and unmanned use. However, modification of US78 as requested is outside the scope of this proceeding and should appropriately be handled in RM–4077. Thus, we are retaining footnote US78 without change.

50. The 2200–2290 MHz and 7450–7550 MHz bands were proposed for Government use, including space research in the 2200–2290 MHz band and meteorological-satellite in the 7450–7550 MHz band. COMSAT requested that a primary non-Government space research allocation be made in these bands. It argued that these bands would be needed because of the President's decision that the civil operational remote sensing capability is to be transferred to the private sector. Further, it argued that by making a primary allocation for space research in this proceeding we would eliminate the necessity for a future rule making proceeding and would still allow the Commission to judge specific applications before allowing any operations in these bands.

51. These bands are heavily used by government operations and there are no current requirments for non-Government use. Therefore, we will maintain these bands as proposed in the NPRM. However, if the operations of the remote sensing satellites are in the future turned over to the private sector, then we will review the non-Government requirements for these bands and make any appropriate arrangements to satisfy those needs at that time.

52. The 2310–2390 MHz band has been used by amateurs on a secondary basis. However, because of the proposed aeronautical telemetry allocation for this band, we proposed to delete the amateur allocation. ARRL and WALMSLEY asked that this allocation be retained. ARRL requested that the Commission investigate the possibility of geographical sharing between amateurs and aeronautical telemetering. WALMSLEY claimed this is the best band for amateurs to learn through experimentation and that the straight line propagation properties of these frequencies plus use of directive antennas make the protection of some small users of this band unnecessary. Therefore, he requested the proposal to exclude the amateurs from this band not be adopted.

53. As noted in the NPRM, there is little evidence to support the ARRL proposal of sharing this band between aeronautical telemetering and the amateur service and no new information was filed in response to the NPRM to support such sharing. Therefore, we are maintaining the allocations in this band as proposed in the NPRM. However, it should be noted, as was also stated in the NPRM, that the bands immediately adjacent to this band are available for amateur use.

54. AFTRCC asked that proposed footnote US276 for this band (see Appendix C) be modified to clarify the term "aeronautical telemetry". It requested that this term be defined like the term "aeronautical telemetering mobile stations" in § 2.1 of the Commission's Rules. We agree that US 276 should be clarified, and we are adopting the following language:

US276 Use of the band 2310–2390 MHz by the mobile service is limited to aeronautical telemetering and associated telecommand operations for flight testing of manned or unmanned aircraft, missiles or major components thereof. Exceptionally, all other mobile telemetering users shall be secondary.

55. The 2500–2690 MHz bands are allocated for both terrestrial and satellite services internationally. However, with NG102, we have restricted the fixed satellite use for common carriers to Alaska and the Pacific area and for educational use in the contiguous states. COMSAT has requested that this footnote be deleted and that a primary fixed-satellite service (FSS) allocation be made in this band. It argued this would provide flexibility to use the band for international fixed-satellite use, such as for feeder links for maritime satellite operations.

56. As noted in the NPRM, the international allocations provide the

necessary flexibility to add a primary fixed-satellite service allocation to the domestic Table if it is determined in a future rulemaking proceeding that such an allocation is needed and compatible. However, at the present time, it appears that any type of satellite service will have difficulty sharing due to the extensive terrestrial use of this band. Therefore, we will maintain the allocations for this band as proposed in the NPRM.

57. The 3400–3600 MHz, 3600–3700 MHz, 4500–4800 MHz, and 5850–5925 MHz bands are now allocated internationally for both terrestrial and fixed satellite services. Domestically, however, these bands have been used for government radiolocation, particularly for military purposes. Our proposal would retain the government radiolocation use of these bands and permit limited intercontinental fixed-satellite use in all but the 3400–3600 MHz band if no interference is caused. COMSAT was concerned that primary unrestricted allocations for the FSS had not been made in the 3400–3600 MHz, 3600–3700 MHz, 4500–4800 MHz and 5850–5925 MHz bands. It noted that INTELSAT is currently studing all of these bands for FSS—in particular the 3625–3700 MHz and the 5850–5925 MHz bands. It argued that at some point steps must be taken to bring the domestic Table in line with the 1979 WARC allocations for these bands and suggested a three step plan to accomplish this.

58. As previously stated in the NPRM, the allocations in these bands for the federal government are vital for both domestic national defense systems and national defense systems that operate on a world wide basis. The limited access proposed for the FSS is consistent with future INTELSAT projected requirements. Therefore, we will maintain the allocations proposed in the NPRM. Any additional use of these bands by the fixed-satellite service will require a separate rulemaking proceeding.

59. IN the 5925–7075 MHz band, CORF commented that international footnotes 809 and 791 appear to have been inadvertently omitted from the non-Government column of the Table. International footnotes 809 and 791 were proposed for domestic adoption in the appropriate bands in the NPRM (see MPRM Appendix C, Column 5, bands 6425–6525 MHz, 6525–6875 MHz, 6875–7075 MHz, 7075–7125 MHz and 7125–8450 MHz). We are adopting these footnotes as proposed (see Appendix C), and, thus, providing adequate notification.

60. The 6425–6525 MHz band used for common carrier services has also been used for television pickup on a secondary basis, as specified in footnote NG122 (see Appendix C). AT&T requested the footnote NG122 be modified to clarify that secondary operation is available only to television pickup stations operating under Part 74. We agree. For clarification we will add the phrase "under Part 74" to footnote NG122. The modified footnote will read as follows:

NG122 Television Pickup stations may be authorized under Part 74 in the 6425–6525 MHz band on secondary basis to stations operating in accordance with the Table of Frequency Allocations.

61. The 10.6–10.68 GHz band was proposed for shared Government/non-Government primary earth exploration-satellite use and space research use and non-Government primary fixed use. Footnote US277 also proposed a primary radio astronomy allocation and listed radio astronomy sites to be protected. Comments were filed by M/A–COM and CORF. M/A–COM was concerned about US277 (see NPRM Appendix C) because the actual coordinates of the radio astronomy sites were not listed. It requested this information be added to the note. CORF supported the radio astronomy allocation made by footnote US277. For clarification we will modify US277 by adding the coordinates to the radio astronomy sites. The modified footnote is stated in Appendix C.

62. The 10.7–11.7 GHz band bas been used primarily for common carrier fixed and fixed-satellite services and the 12.75–13.25 GHz band has been used for a variety of microwave services. We proposed to continue these allocations and to include a fixed-satellite allocation for the 12.75–13.25 GHz band. Both fixed-satellite allocations would be available only for international systems pursuant to footnote NG104. HUGHES requested that consideration be given to allocating an additional 500 MHz of bandwidth to the domestic fixed-satellite service (FSS). It claimed the domestic requirements for FSS are growing rapidly, and existing allocations will not be able to meet the demand. It noted that coordination with the fixed service will be necessary but claimed that it will be no worse than the coordination problems now experienced at C-band.

63. The intent of our WARC proposals for these bands and of the allocations proposed in the NPRM was to provide additional FSS allocations for international use. Allocations for the domestic fixed-satellite service in these bands is outside the scope of this proceeding. Therefore, we will maintain the allocations purposed in the NPRM.

64. In the 12.2–12.7 MHz band, which was proposed for primary fixed and broadcasting-satellite use, comments were filed by AAR, AMST, CBS, CPOA, CPRA, LA SHERIFF, NAB, USSB and UTC and reply comments by LA COUNTY, LA SHERIFF and STC. AAR, LA SHERIFF, UTC, CPOA, and CPRA in their comments and LA COUNTY and LA SHERIFF in their reply comments were all interested in maintaining a terrestrial fixed allocation. They noted the U.S. Senate's proviso attached to its advice and consent to ratification of the 1979 WARC Treaty, which stated that the introduction of broadcasting-satellite operations must be carried out in a manner that minimizes unreasonable disruptions to existing users. With this in mind, AAR requested that NG139 (see Appendix C) be modified by adding the following sentence at the end of the footnote:

The introduction of a Direct Broadcasting Satellite Service into the 12.2–12.7 GHz band shall be carried out in a manner which minimizes unreasonable disruptions to existing uses on that band.

It claimed this addition would accurately reflect the views of the U.S. Senate. In their reply comments both LA COUNTY and LA SHERIFF supported ARR's proposed modification. However, LA COUNTY requested the phrase "and without compromising existing systems' configuration and reliability" be added.

65. In its comments and reply comments LA SHERIFF requested that DBS operations be confined to those areas not already served by more conventional forms of television. It claimed that this was the original intent of DBS and that current users of this band in large urban areas will have a difficult, and in some cases an impossible, task of developing an acceptable alternative if they are displaced by DBS. UTC requested the Commission to maintain flexibility with the fixed service in this band until after the 1983 RARC, noting that the BSS allocation may be reduced at the conference, which would allow continued use of the band by terrestrial services. CPOA and CPRA arguments were much the same as LA SHERIFF; however, CPOA requested co-sharing of the band between the fixed service and the broadcasting-satellite service while CPRA requested that BSS be given only secondary status in this band.

66. In its reply comments STC claimed that the comments regarding fixed use of this band are misplaced as the instant proceeding merely conforms the Table

to actions taken by the Commission in General Docket 80–603. Nevertheless, STC responded to the claims made in support of the fixed service continued use of this band, noting that, should the United States not be allotted the entire band for DBS at the 1983 RARC, the fixed service could be allowed to continue using the unallocated portion of the band. It also responded that none of the commenters who claimed that suitable replacement spectrum for the fixed service was not available provided any support for this claim and that the contention that DBS should be confined to rural areas was very narrow in outlook and would deny the benefits provided by DBS to the urban areas.

67. AMST, CBS, NAB and USSB in their comments and STC in its reply comments addressed the issue of terrestrial broadcasting in this band. AMST, CBS and NAB claimed that deleting the terrestrial broadcasting allocation from this band is both unnecessary and undesirable and requested that such an allocation be put back into the Table. USSB and STC opposed terrestrial broadcasting in this band and supported deleting the allocation.

68. Those in favor of the terrestrial broadcasting allocation argued that the Commission should maintain the flexibility in this band obtained at the 1979 WARC, especially until after the 1983 RARC, as there may be possibilities for sharing. Further, they argued that this band would provide an opportunity to implement high-resolution television broadcasting.

69. USSB argued that the feasibility test conducted by CBS, submitted as late comments to the Third NOI in this proceeding, demonstrated, if anything, that terrestrial video broadcasting in the 12 GHz band is impractical due to the limited service area at this frequency and the large amount of spectrum needed for each channel. STC in its reply comments supported USSB arguments.

70. USSB on a separate issue requested that the Commission allow non-conforming satellite uses of this band on a secondary basis by adding a footnote. In particular it was interested in operating low power service channels to receive program material from its member stations.

71. We agree with STC that the comments regarding the fixed use of this band are misplaced. The issue was fully addressed and considered by the Commission in General Docket 80–603. Further, we do not believe the proposed modification of NG139 as proposed by AAR will be of any great value, as the Commission is fully cognizant of the reaccommodation problems facing the existing fixed users of this band and we will make every effort to minimize disruptions to their service.[9] With regard to the results of the 1983 RARC, the U.S. obtained the required spectrum and orbital allocations to implement the DBS service. Therefore, there will be no need for further Commission action to implement the results of the 1983 RARC with regard to the allocation issues of this band. With regard to the request for a terrestrial broadcasting allocation for this band, the comments presented no new evidence that the problem of sharing this band between terrestrial and space services can be overcome. Finally, the USSB request for a footnote to allow nonconforming satellite use of this band is outside the scope of this proceeding. Therefore, we do not believe any changes to this band are appropriate at this time and are adopting the allocations in this band as presented in the NPRM.

72. For the 18.6–18.8 GHz band, we proposed to add allocations for shared Government/non-Government primary earth exploration-satellite and space-research use to the allocations for non-Government primary fixed, fixed-satellite and mobile (except aeronautical mobile) use. We also proposed power limits for the fixed and mobile services in the band (US254) and a power flux density limit for the fixed-satellite service (US255) (see Appendix C). Comments were filed by COMSAT and M/A–COM. COMSAT felt the power limits on the fixed-satellite service would be more stringent than necessary and exceed the limits contained in the Final Acts of the 1979 WARC and would, therefore, be ineffective because other countries will not be bound by these limits. M/A–COM suggested more flexibility is needed in footnote US254 since both passive sensor technology and microwave transmission technology will evolve over the years and suggested the addition of the following sentence to US254:

> Prior to January 1, 1990, a re-evaluation of microwave sensor technology will be undertaken by the U.S. Government to determine whether these power limits continue to be appropriate.

73. As noted in the NPRM, the power limits of these footnotes were U.S. proposals to the 1979 WARC and are required to keep interference to the satellite sensors below a harmful level. With regard to the M/A–COM proposed modification to US254, this is not required or appropriate as the Commission may re-evaluate these power limits at any time and the public may petition for such a re-evaluation at any time. Therefore, we will maintain the allocation for this band proposed in the NPRM.

74. In the 22.5–23.0 GHz band, we proposed non-Government primary broadcasting-satellite use and shared Government/non-Government fixed and mobile use. We also proposed a shared Government/non-Government inter-satellite allocation in the 22.55–23.00 MHz segment. GE and M/A–COM objected to a primary broadcasting-satellite (BSS) allocation and a secondary fixed allocation and requested a co-equal primary fixed and mobile allocation along with the BSS allocation. They argued the band is poorly suited for BSS because 22.235 GHz is the center of the water absorption band and BSS operation will not be able to handle the rain fades that will occur. Therefore, GE argued that there is no reason to believe that BSS will ever develop in this band. GE and M/A–COM also argued that the band is needed by fixed operations and that the proposed allocation would destroy the pairing for the common carrier portion of the band. Further, they claimed that a co-equal primary allocation would retain the flexibility necessary for the Commission to make an appropriate choice in the future after the technology develops. M/A–COM further argued that BSS technology is such that it does not expect that a second band will be needed for BSS until some time between 1995 and 2003. GE argued that the proposed NPRM leaves a threat over the fixed service users that they would become secondary to BSS operations.

75. In its reply comments STC rejected GE and M/A–COM arguments, noting that the BSS allocation is only 500 MHz while the fixed service still has a primary allocation of 1900 MHz in the 22 GHz band and has primary allocations in nearby bands at 17.7–19.7 GHz and 27.5–29.5 GHz. Further, it noted that this is the only other band allocated to BSS below 40 GHz besides the 12 GHz allocation and that the problems in sharing this band between the fixed service and BSS will be no less than those now encountered between the two services at 12 GHz.[10]

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[9] On September 9, 1983, the Commission adopted a Report and Order in Docket 82–334, which provides reaccommodation spectrum for fixed users.

[10] The STC assessment that 22.5–23.0 GHz is the only other band allocated for BSS below 40 GHz is not quite correct as there is a BSS allocation at 2.5–2.655 GHz, even though the band is heavily used by other services.

76. The Commission action in the First Report and Order in this proceeding has provided for BSS use of the FSS band, 11.7–12.2 GHz. Due to this action, it now appears questionable as to whether BSS use of the 22.5–23.0 GHz will be required in the foreseeable future. Therefore, we are providing the fixed and mobile services a primary allocation.

77. For the 47.2–49.2 GHz part of the 47.2–50.2 GHz band and the 74.0–75.5 GHz band, we are adding footnote US297. It reads as follows:

US297 The bands 47.2–49.2 GHz and 74.0–75.5 GHz are also available for feeder links for the broadcasting-satellite service.

This footnote is editorial in nature as it does not add any allocations nor does it restrain any allocations. It is included for informational purposes only for future planners of the spectrum above 40 GHz.

Other Matters

78. AAR, AT&T and FIT all supported the new format of the Table, noting its simple and clear style. AAR and FIT, however, requested that a separate "assignment table" be placed in Part 2 of the Rules immediately after the allocations table to provide information lost by the new format. There would be little advantage in providing an assignment table in Part 2 as it would just contain information now available elsewhere in the operating rules. Therefore, we will not incorporate an assignment table into Part 2.

79. CORF stated its dissatisfaction with footnote US74, which provides radio astronomy operations protection from adjacent band radiation (see Appendix C), noting that new communications techniques, such as spread-spectrum, could render adjacent radio astronomy bands useless under US74. The protection level provided by US74 has been a long standing policy of the Commission. Modification of this policy would require a complete rulemaking proceeding that could adequately address all of the issues involved. Therefore, modification of US74 is inappropriate in this proceeding and we will maintain US74 as proposed. CORF also was concerned with footnote US246 (see Appendix C), which states "no stations will be authorized to transmit" in certain bands. It claimed this does not preclude the use of passive bands for certain low power or experimental systems that do not require authorization, and it therefore requested the phrase be replaced by "all transmissions are prohibited" as used in international footnote 721 (see Appendix C). The phrase "no stations will be authorized to transmit" was selected for footnote US246 because its terms and restrictions are definable, enforceable and consistent with adopted Commission policy. Therefore, we feel that US246 as proposed in the NPRM will better serve all parties involved.

80. CORF requested that footnote US117 (see Appendix C) be modified by adding the National Radio Astronomy Observatory, Socorro, New Mexico to the list of observatories in the footnote, that footnote NG56 (see Appendix C) be modified by adding the phrase "radio astronomy observations in the 73–74.6 MHz band" to the items to which mobile-radio remote control transmissions must not cause interference, that footnote US257 (see Appendix C) be modified by deleting "and Five College Radio Astronomy Observatory Quabbin Reservoir (near Amherst, MA)" and that footnotes US7 (see Appendix C) and NG14 (see Appendix C) be modified by deleting the word "plate" since the power limits should also apply to transmitters using solid state devices.

81. We will make the editorial modifications requested by CORF to footnotes US7 and US257 (see Appendix C for text). However, its requested modification to US117 and NG56 is more than editorial and is beyond the scope of this proceeding. The requested protection for the National Radio Astronomy Observatory, Socorro, New Mexico, is being accomplished through agreements among the executive branch agencies concerned; therefore modification to US117 is not required. CORF's requested modification to footnote NG14 appears to be a typographic error as NG15 seems to be the appropriate footnote. We agree that NG15 needs to be clarified by replacing the word "plate" by "final amplifer" (see Appendix C for text), and we will make that change.

82. CORF also recommended that the Commission adopt the following policy regarding the development of fixed and mobile service in bands above 20 GHz that are shared with passive services:

* * * where a choice can be made, fixed systems having low transmitter power requirements and employing narrow antenna beams should be utilized in bands shared with passive services. Conversely, other types of fixed systems should be allocated in bands not shared with passive services. Development of mobile systems, which typically have broad antenna beam coverage, should be avoided in the shared bands, as should any system which emits significant power at elevation angles greater than approximately 10 degrees.

This policy proposed by CORF is beyond the scope of this proceeding and should be considered in a separate rulemaking proceeding that could adequately address all of the issues involved.

83. Footnotes US31, US77, NG47 and NG128 were modified and new footnotes US294 and NG141 were added by recent Commission actions.[11] We are incorporating these changes here.

Administrative

Regulatory Flexibility Act Final Analysis

I. *Need for and objective of final rules:*

84. The objective is to implement the Final Acts of the 1979 World Administrative Radio Conference into Part 2 of the Rules. This action is necessary as Section 303(r) of the Communications Act of 1934, as amended, mandates the Commission to make rules and regulations as necessary to carry out the provisions of international treaties. Further it will provide domestic systems, operating within the provisions of the treaty, rights to international protection from harmful interference as provided for by the Final Acts.

II. *Summary of issues raised by public comments:*

85. There were no comments filed addressing the matters discussed in the initial regulatory flexibility analysis.

III. *Alternatives to the rule:*

86. It does not appear that there are any significant alternatives to the adopted rules that would accomplish the stated objectives. No public comment was received regarding such alternatives.

87. Accordingly, it is ordered, That pursuant to the authority found in Section 4(i), 301 and 303(r) of the Communications Act of 1934, as amended (47 U.S.C. 154(i), 301, 303(r)), Part 2 of the Commission's Rules and

[11] Commission action in Docket 82–182, released December 17, 1982, (FCC 82–506, 47 FR 56852) modified US31, which assign channel in the aeronautical mobile service in the 121, 9375–123.0875 MHz band; an Order adopted December 8, 1982, released December 14, 1982 modified US77, which authorizes Government operations in the 156.25–157.0375 MHz band; a Report and order in Docket 80–112 and 80–116, released July 15, 1983, (FCC 83–243, 48 FR 33873) modified NG47, which assign channels to fixed operations in the 2500–2690) MHz band; a Report and Order in Docket 82–536 released May 19, 1983, (FCC 83–154, 48 FR 28445) modified NG128, which allows AM broadcast licensees to transmit signals intended for utility load management; a Report and Order in Docket 82–9 released January 27, 1983, (FCC 83–34, 48 FR 5922) added US294, which authorizes Power Line Carrier systems in the spectrum below 490kHz; a Report and Order in Docket 82–694 released July 22, 1983 (FCC 83–348, 48 FR 34039) added NG141, which authorizes meteor burst communications by fixed stations in Alaska.

Regulations is amended as specified in Appendix C. These amendments become effective 30 days after publication of the Second Report and Order in the **Federal Register**. Because a number of issues in this proceeding have not yet been resolved, we are leaving this docket open.

88. Points of contact on this matter are William Torak, (202) 632–7025 and Fred Thomas, (202) 653–8171.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

In response to the Notice of Proposed Rule Making in General Docket 80–739, the following submitted timely comments:

(1) Aerospace & Flight Test Radio Coordinating Council—AFTRCC
(2) American Low Power Television Association and National Institute for Low Power Television—ALPTA & NILPT
(3) American Petroleum Institute (Central Committee on Telecommunications)—API
(4) American Public Power Association—APPA
(5) American Radio Relay League—ARRL
(6) American Telephone and Telegraph Co.—AT&T
(7) Association of American Railroads—AAR
(8) Association of Maximum Service Telecasters—AMST
(9) CBS, Inc.—CBS
(10) Communications Satellite Corporation—COMSAT
(11) Corporation for Public Broadcasting—CPB
(12) Cosmos Broadcasting Corporation and Multimedia—COSMOS
(13) Council for UHF Broadcasting—CUB
(14) Cox Communications, Inc. and WPHL–TV, Inc.—COX
(15) Forest Industries Telecommunications—FIT
(16) General Electric Company—GE
(17) Goldfarb, Marc E. (Amateur)—GOLDFARB
(18) Hutchinson, Richard (Amateur)—HUTCHINSON
(19) International Association of Fire Chiefs, Inc.—IAFC
(20) Independent Television Stations, Association of—INTV
(21) Los Angeles County Sheriff's Department—LA SHERIFF
(22) Land Mobile Communication Council—LMCC
(23) M/A–COM, Inc.—M/A–COM
(24) MCI Telecommunications Corporation—MCI
(25) Mobile Satellite Corporation—MOBILSAT
(26) Motorola, Inc.—MOTOROLA
(27) National Academy of Sciences (Committee on Radio Frequencies)—CORF
(28) National Aeronautics and Space Administration—NASA
(29) National Association of Broadcasters—NAB
(30) National Association of Public Television Stations—NAPTS
(31) National Broadcasting Company, Inc.—NBC
(32) National UHF Broadcasters Association—NUBA
(33) Offshore Navigation, Inc.—ONI
(34) Special Industrial Radio Service Association, Inc.—SIRSA
(35) Skylink Corporation—SKYLINK
(36) Southern Pacific Satellite Company—SPSC
(37) Satellite Television Corporation—STC
(38) Springfield Television Corporation—SPRINGFIELD
(39) United Satellite Communications, Inc.—USCI
(40) Utilities Communications System, Inc.—UTC
(41) Waterway Communications Systems, Inc.—WATERCOM
(42) Western Union Telegraph Company—WESTERN UNION

The following submitted late comments:

(1) California Peace Officer's Association—CPOA
(2) California Public-Safety Radio Association, Inc.—CPRA
(3) Hughes Aircraft Company—HUGHES
(4) United States Satellite Broadcasting Company, Inc.—USSB
(5) Walmsley, Heru Ra (Amateur)—WALMSLEY

The following submitted timely reply comments:

(1) American Petroleum Institute (Central Committee on Telecommunications)—API
(2) American Telephone and Telegraph Company—AT&T
(3) Association of Maximum Service Telecaster—AMST
(4) Communications Satellite Corporation—COMSAT
(5) Cosmos Broadcasting Corporation, Cox Communications, Inc., and Multimedia, Inc.—COSMOS
(6) Direct Broadcast Satellite Corporation—DBSC
(7) Forest Industries Telecommunications—FIT
(8) GTE Satellite Corporation—GSAT
(9) Los Angeles, County of—LA COUNTY
(10) Los Angeles County Sheriff's Department—LA SHERIFF
(11) Land Mobile Communication Council—LMCC
(12) Mobile Satellite Corporation—MOBILSAT
(13) Motorola, Inc.—MOTOROLA
(14) National Aeronautics and Space Administration—NASA
(15) National Association of Business and Educational Radio, Inc.—NABER
(16) National Ocean Industries Association—NOIA
(17) Offshore Navigation, Inc.—ONI
(18) RCA American Communications, Inc.—RCA
(19) Racal-Decca Survey, Inc.—RACAL–DECCA
(20) Satellite Television Corporation—STC
(21) Skylink Corporation—SKYLINK
(22) Southern Pacific Satellite Company—SPSC
(23) United Satellite Communications, Inc.—USCI
(24) United States Satellite Broadcasting Company, Inc.—USSB

Appendix B: Final Protocol Statements

No. 32

For the Federal Republic of Germany, Belgium, Denmark, the United States of America, Greece, Iceland, Italy, Luxembourg, Norway, the Kingdom of the Netherlands, Portugal, the United Kingdom of Great Britain and Northern Ireland, Turkey:

The above-mentioned administrations reserve their right to operate systems in the mobile-satellite service in the frequency range 235–399.9 MHz under the provisions of the relevant footnote to the Table of Frequency Allocations, subject only to coordination as prescribed in Article N13A. The additional provision of this footnote imposes a condition of non-interference which could lead to a request to cease operation of a previously coordinated satellite system in the case where an administration, despite having agreed to such a satellite system, puts into service or merely plans a system that might receive harmful interference. Such a condition is unacceptable to the above administrations.

No. 38

For the United States of America:

The delegation of the United States of America formally declares that the United States of America does not, by signature of these Final Acts on its behalf, accept certain decisions taken by this Conference in regard to the Table of Frequency Allocations and the

associated footnotes, and therefore the United States of America:

1. In view of the fact that this Conference has failed to provide adequate allocations for the HF broadcasting service, particularly at 6 and 7 MHz, reserves on this matter as indicated in a separate statement made jointly with the delegations of Saudi Arabia, Cyprus, Spain, Greece, the United Kingdom, Sri Lanka and Zambia;

2. Reserves the right to operate stations in the mobile-satellite service in the frequency range 235 to 399.9 MHz as indicated in a separate statement made jointly with the delegations of the Federal Republic of Germany, Belgium, Denmark, Greece, Iceland, Italy, Luxembourg, Norway, the Netherlands, Portugal, the United Kingdom and Turkey;

3. In the operation of stations in the radiolocation service on a primary basis in the bands 430–440 MHz, 5 650–5 850 MHz, 8 500–8 750 MHz, 8 850–9 000 MHz, 9 200–9 300 MHz, 9 500–9 800 MHz, 10 000–10 500 MHz, 13.4–14 GHz, 15.7–17.3 GHz and 33.4–36 GHz, cannot guarantee protection to or coordination with other services;

4. Reserves the right to operate stations of fixed, mobile and radiolocation services on a primary basis in bands as specified in the footnotes pertinent to frequency bands 470–806 MHz, 890–960 MHz, without the condition specified in these footnotes that make such operations subject to agreement under Article N13A. The United States will coordinate its usage of such services with neighboring administrations which are affected;

5. In view of the fact that the Conference failed to provide adequate allocations for the HF maritime mobile service, particularly below 12 MHz, states its intention to satisfy maritime mobile requirements in the several HF bands below 10 MHz allocated to the mobile service on a primary basis.

Appendix C

Subpart A of Part 2 of title 47 CFR is revised as follows:

Subpart A—Terminology

§ 2.1 Terms and definitions.

(a) Where a term or definition appears in this Part of the Commission's Rules, it shall be the definitive term or definition and shall prevail throughout the Commission's Rules.

(b) The source of each definition is indicated as follows:

CONV—*International Telecommunication Convention*, Malaga-Torremolinos, 1973.

RR—*Radio Regulations*, Geneva, 1982.

FCC—Federal Communications Commission.

(c) The following terms and definitions are issued:

Accepted Interference.[1] Interference at a higher level than defined as permissible interference and which has been agreed upon between two or more administrations without prejudice to other administrations. (RR)

Active Satellite. A satellite carrying a station intended to transmit or retransmit radiocommunication signals. (RR)

Active Sensor. A measuring instrument in the earth exploration-satellite service or in the space research service by means of which information is obtained by transmission and reception of radio waves. (RR)

Administration. Any governmental department or service responsible for discharging the obligations undertaken in the Convention of the International Telecommunication Union and the Regulations. (CONV)

Aeronautical Earth Station. An Earth station in the fixed-satellite service, or, in some cases, in the aeronautical mobile-satellite service, located at a specified fixed point on land to provide a feeder link for the aeronautical mobile-satellite service. (RR)

Aeronautical Fixed Service. A radiocommunication service between specified fixed points provided primarily for the safety of air navigation and for the regular, efficient and economical operation of air transport. (RR)

Aeronautical Fixed Station. A station in the aeronautical fixed service. (RR)

Aeronautical Mobile-Satellite Service. A mobile-satellite service in which mobile earth stations are located on board aircraft; survival craft stations and emergency position-indicating radiobeacon stations may also participate in this service. (RR)

Aeronautical Mobile Service. A mobile service between aeronautical stations and aircraft stations, or between aircraft stations, in which survival craft stations may participate; emergency position-indicating radiobeacon stations may also participate in this service on designated distress and emergency frequencies. (RR)

Aeronautical Radionavigation-Satellite Service. A radionavigation-satellite service in which earth stations are located on board aircraft. (RR)

Aeronautical Radionavigation Service. A radio-navigation service intended for the benefit and for the safe operation of aircraft. (RR)

Aeronautical Station. A land station in the aeronautical mobile service.

Note.—In certain instances, an aeronautical station may be located, for example, on board ship or on a platform at sea. (RR)

Aircraft Earth Station. A mobile earth station in the aeronautical mobile-satellite service located on board an aircraft. (RR)

Aircraft Station. A mobile station in the aeronautical mobile service, other than a survival craft station, located on board an aircraft. (RR)

Allocation (of a frequency band). Entry in the Table of Frequency Allocations of a given frequency band for the purpose of its use by one or more terrestrial or space radiocommunication services or the radio astronomy service under specified conditions. This term shall also be applied to the frequency band concerned. (RR)

Allottment (of a radio frequency or radio frequency channel). Entry of a designated frequency channel in an agreed plan, adopted by a competent conference, for use by one or more administrations for a terrestrial or space radiocommunication service in one or more identified countries or geographical area and under specified conditions. (RR)

Altitude of the Apogee or Perigee. The altitude of the apogee or perigee above a specified reference surface serving to represent the surface of the Earth. (RR)

Amateur-Satellite Service. A radiocommunication service using space stations on earth satellites for the same purposes as those of the amateur service. (RR)

Amateur Service. A radiocommunication service for the purpose of self-training, intercommunication and technical investigations carried out by amateurs, that is, by duly authorized persons interested in radio technique solely with a personal aim and without pecuniary interest. (RR)

Amateur Station. A station in the amateur service. (RR)

Assigned Frequency. The centre of the frequency band assigned to a station. (RR)

Assigned Frequency Band. The frequency band within which the emission of a station is authorized; the width of the band equals the necessary bandwidth plus twice the absolute value of the frequency tolerance. Where space stations are concerned, the assigned frequency band includes twice the maximum Doppler shift that may occur

[1] The terms "permissible interference" and "accepted interference" are used in the coordination of frequency assignments between administrations.

in relation to any point of the Earth's surface. (RR)

Assignment (of a radio frequency or radio frequency channel). Authorization given by an administration for a radio station to use a radio frequency or radio frequency channel under specified conditions. (RR)

Base Station. A land station in the land mobile service. (RR)

Broadcasting-Satellite Service. A radiocommunication service in which signals transmitted or retransmitted by space stations are intended for direct reception by the general public.

Note.—In the broadcasting-satellite service, the term "direct reception" shall encompass both individual reception and community reception. (RR)

Broadcasting Service. A radiocommunication service in which the transmissions are intended for direct reception by the general public. This service may include sound transmissions, television transmissions or other types of transmission. (CONV)

Broadcasting Station. A station in the broadcasting service. (RR)

Carrier Power (of a radio transmitter). The average power supplied to the antenna transmission line by a transmitter during one radio frequency cycle taken under the condition of no modulation. (RR)

Characteristic Frequency. A frequency which can be easily identified and measured in a given emission.

Note.—A carrier frequency may, for example, be designated as the characteristic frequency. (RR)

Class of Emission. The set of characteristics of an emission, designated by standard symbols, e.g., type of modulation, modulating signal, type of information to be transmitted, and also if appropriate, any additional signal characteristics. (RR)

Coast Earth Station. An earth station in the fixed-satellite service or, in some cases, in the maritime mobile-satellite service, located at a specified fixed point on land to provide a feeder link for the maritime mobile-satellite service. (RR)

Coast Station. A land station in the maritime mobile service. (RR)

Community Reception (in the broadcasting-satellite service). The reception of emissions from a space station in the broadcasting-satellite service by receiving equipment, which in some cases may be complex and have antennae larger than those for individual reception, and intended for use: (1) by a group of the general public at one location; or (2) through a distribution system covering a limited area. (RR)

Coordinated Universal Time (UTC). Time scale, based on the second (SI), as defined and recommended by the CCIR, [2] and maintained by the Bureau International de l'Heure (BIH).

Note.—For most practical purposes associated with the Radio Regulations, UTC is equivalent to mean solar time at the prime meridian (0 degrees longitude), formerly expressed in GMT. (RR)

Coordination Area. The area associated with an earth station outside of which a terrestrial station sharing the same frequency band neither causes nor is subject to interfering emissions greater than a permissible level. (RR)

Coordination Contour. The line enclosing the coordination area. (RR)

Coordination Distance. Distance on a given azimuth from an earth station beyond which a terrestrial causes nor is subject to interfering emissions greater than a permissible level. (RR)

Deep Space. Space at a distance from the Earth approximately equal to, or greater than, the distance between the Earth and the Moon. (RR)

Duplex Operation. Operating method in which transmission is possible simultaneously in both directions of a telecommunication channel.[3] (RR)

Earth Exploration-Satellite Service. A radiocommunication service between earth stations and one or more space stations, which may include links between space stations in which:

(1) Information relating to the characteristics of the Earth and its natural phenomena is obtained from active sensors or passive sensors on earth satellites;

(2) Similar information is collected from air-borne or earth-based platforms;

(3) Such information may be distributed to earth stations within the system concerned;

(4) Platform interrogation may be included.

Note.—This service may also include feeder links necessary for its operation. (RR)

Earth Station. A station located either on the earth's surface or within the major portion of earth's atmosphere and intended for communication:

(1) With one or more space stations; or

(2) With one or more stations of the same kind by means of one or more reflecting satellites or other objects in space. (RR)

Effective Radiated Power (e.r.p) (in a given direction). The product of the power supplied to the antenna and its gain relative to a half-wave dipole in a given direction. (RR)

Emergency Position-Indicating Radiobeacon Station. A station in the mobile service the emissions of which are intended to facilitate search and rescue operations. (RR)

Emission. Radiation produced, or the production of radiation, by a radio transmitting station.

Note.—For example, the energy radiated by the local oscillator of a radio receiver would not be an emission but a radiation. (RR)

Equivalent Isotropically Radiated Power (e.i.r.p.). The product of the power suppled to the antenna and the antenna gain in a given direction relative to an isotropic antenna. (RR)

Equivalent Monopole Radiated Power (e.m.r.p.) (in a given direction). The product of the power supplied to the antenna and its gain relative to a short vertical antenna in a given direction. (RR)

Equivalent Satellite Link Noise Temperature. The noise temperature referred to the output of the receiving antenna of the earth station corresponding to the radio-frequency noise power which produces the total observed noise at the output of the satellite link excluding the noise due to interference coming from satellite links using other satellites and from terrestrial systems. (RR)

Experimental Station. A station utilizing radio waves in experiments with a view to the development of science or technique.

Note.—This definition does not include amateur stations. (RR)

Facsimile. A form of telegraphy for the transmission of fixed images, with or without half-tones, with a view to their reproduction in a permanent form.

Note.—In this definition the term telegraphy has the same general meaning as defined in the Convention. (RR)

Feeder Link. A radio link from an earth station at a specified fixed point to a space station, or vice versa, conveying information for a space radiocommunication service other than for the fixed-satellite service. (RR)

Fixed-Satellite Service. A radiocommunication service between earth stations at a specified fixed point when one or more satellites are used; in some cases this service includes satellite-to-satellite links, which may also be effected in the inter-statellite service; the fixed-satellite service may also include feeder links for other space radiocommunication services. (RR)

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[2] The full definition is contained in CCIR Recommendation 460–2.

[3] In general, duplex operation and semi-duplex operation require two frequencies in radiocommunication; simplex operation may use either one or two.

Fixed Service. A radiocommunication service between specified fixed points. (RR)

Fixed Station. A station in the fixed service. (RR)

Frequency-Shift Telegraphy. Telegraphy by frequency modulation in which the telegraph signal shifts the frequency of the carrier between predetermined values. (RR)

Frequency Tolerance. The maximum permissible departure by the centre frequency of the frequency band occupied by an emission from the assigned frequency or, by the characteristic frequency of an emission from the reference frequency.

Note.—The frequency tolerance is expressed in parts in 10^6 or in hertz. (RR)

Full Carrier Single-Sideband Emission. A single-sideband emission without suppression of the carrier. (RR)

Gain of an Antenna. The ratio, usually expressed in decibels, of the power required at the input of a loss free reference antenna to the power supplied to the input of the given antenna to produce, in a given direction, the same field strength or the same power flux-density at the same distance. When not specified otherwise, the gain refers to the direction of maximum radiation. The gain may be considered for a specified polarization.

Note.—Depending on the choice of the reference antenna a distinction is made between:

(1) Absolute or isotropic gain (Gi), when the reference antenna is an isotropic antenna isolated in space;

(2) Gain relative to a half-wave dipole (Gd), when the reference antenna is a half-wave dipole isolated in space whose equatorial plane contains the given direction;

(3) Gain relative to a short vertical antenna (Gv), when the reference antenna is a linear conductor, much shorter than one quarter of the wavelength, normal to the surface of a perfectly conducting plane which contains the given direction. (RR)

Geostationary Satellite. A geosynchronous satellite whose circular and direct orbit lies in the plane of the Earth's equator and which thus remains fixed relative to the Earth; by extension, a satellite which remains approximately fixed relative to the Earth. (RR)

Geostationary Satellite Orbit. The orbit in which a satellite must be placed to be a geostationary satellite. (RR)

Geosynchronous Satellite. An Earth satellite whose period of revolution is equal to the period of rotation of the Earth about its axis. (RR)

Harmful Interference [4]. Interference which endangers the functioning of a radionavigation service or of other safety services or seriously degrades, obstructs, or repeatedly interrupts a radiocommunication service operating in accordance with these [international Radio] Regulations. (RR)

Inclination of an Orbit (of an earth satellite). The angle determined by the plane containing the orbit and the plane of the Earth's equator. (RR)

Individual Reception (in the broadcasting-satellite service). The reception of emissions from a space station in the broadcasting-satellite service by simple domestic installations and in particular those possessing small antennae. (RR)

Industrial, Scientific and Medical (ISM) (of radio frequency energy) Applications. Operation of equipment or appliances designed to generate and use locally radio-frequency energy for industrial, scientific, medical, domestic or similar purposes, excluding applications in the field of telecommunications. (RR)

Instrument Landing System (ILS). A radionavigation system which provides aircraft with horizontal and vertical guidance just before and during landing and, at certain fixed points, indicates the distance to the reference point of landing. (RR)

Instrument Landing System Glide Path. A system of vertical guidance embodied in the instrument landing system which indicates the vertical deviation of the aircraft from its optimum path of descent. (RR)

Instrument Landing System Localizer. A system of horizontal guidance embodied in the instrument landing system which indicates the horizontal deviation of the aircraft from its optimum path of descent along the axis of the runway. (RR)

Interference. The effect of unwanted energy due to one or a combination of emissions, radiations, or inductions upon reception in a radiocommunication system, manifested by any performance degradation, misinterpretation, or loss of information which could be extracted in the absence of such unwanted energy. (RR)

Inter-Satellite Service. A radiocommunication service providing links between artificial earth satellites. (RR)

Ionospheric Scatter. The propagation of radio waves by scattering as a result of irregularities or discontinuities in the ionization of the ionosphere. (RR)

Land Mobile-Satellite Service. A mobile-satellite service in which mobile earth stations are located on land. (RR)

Land Mobile Service. A mobile service between base stations and land mobile stations, or between land mobile stations. (RR)

Land Mobile Station. A mobile station in the land mobile service capable of surface movement within the geographical limits of a country or continent.

Land Station. A station in the mobile service not intended to be used while in motion. (RR)

Left-Hand (or Anti-Clockwise) Polarized Wave. An elliptically or circularly-polarized wave, in fixed plane, normal to the direction of propagation, whilst looking in the direction of propagation, rotates with time in a left hand or anti-clockwise direction. (RR)

Line A. Begins at Aberdeen, Washington, running by great circle arc to the intersection of 48° N., 120° W., thence along parallel 48° N., to the intersection of 95° W., thence by great circle arc through the southernmost point of Duluth, Minn., thence by great circle arc to 45° N., 85° W., thence southward along meridian 85° W., to its intersection with parallel 41° N., thence along parallel 41° N., to its intersection with meridian 82° W., thence by great circle arc through the southernmost point of Bangor, Maine, thence by great circle arc through the southernmost point of Searsport, Maine, at which point it terminates. (FCC)

Line B. Begins at Tofino, B.C., running by great circle arc to the intersection of 50° N., 125° W., thence along parallel 50° N., to the intersection of 90° W., thence by great circle arc to the intersection of 45° N., 79°30′ W., thence by great circle arc through the northernmost point of Drummondville, Quebec (Lat. 45°52′ N., Long 72°30′ W.), thence by great circle arc to 48°30′ N., 70° W., thence by great circle arc through the northernmost point of Compbellton, N.B., thence by great circle are through the northernmost point of Liverpool, N.S., at which point it terminates. (FCC)

Line C. Begins at the intersection of 70° N., 144° W., thence by great circle arc to the intersection of 60° N., 143° W., thence by great circle arc so as to include all of the Alaskan Panhandle. (FCC)

Line D. Begins at the intersection of 70° N., 138° W., thence by great circle arc to the intersection of 61°20′ N., 139° W. (Burwash Landing), thence by great circle arc to the intersection of 60°45′ N., 135° W., thence by great circle arc to the intersection of 56° N., 128° W., thence south along 128° meridian to Lat. 55° N., thence by great circle arc to the intersection of 54° N., 130° W., thence by great circle arc to Port Clements, thence

[4] See Resolution 46 of the *Radio Regulations*.

to the Pacific Ocean where it ends. (FCC)

Maritime Mobile-Satellite Service. A mobile-satellite service in which mobile earth stations are located on board ships; survival craft stations and emergency position-indicating radiobeacon stations may also participate in this service. (RR)

Maritime Mobile Service. A mobile service between coast stations and ship stations, or between ship stations, or between associated on-board communication stations; survival craft stations and emergency position-indicating radiobeacon stations may also participate in this service. (RR)

Maritime Radionavigation-Satellite Service. A radionavigation-satellite service in which earth stations are located on board ships. (RR)

Maritime Radionavigation Service. A radionavigation service intended for the benefit and for the safe operation of ships. (RR)

Marker Beacon. A transmitter in the aeronautical radionavigation service which radiates vertically a distinctive pattern for providing position information to aircraft. (RR)

Mean Power (of a radio transmitter). The average power supplied to the antenna transmission line by a transmitter during an interval of time sufficiently long compared with the lowest frequency encountered in the modulation taken under normal operating conditions. (RR)

Meteorological Aids Service. A radiocommunication service used for meteorological, including hydrological, observation and exploration. (RR)

Meteorological-Satellite Service. An earth exploration-satellite service for meteorological purposes. (RR)

Mobile Earth Station. An earth station in the mobile-satellite service intended to be used while in motion or during halts at unspecified points. (RR)

Mobile-Satellite Service. A radiocommunication service:

(1) Between mobile earth stations and one or more space stations, or between space stations used by this service; or

(2) Between mobile earth stations by means of one or more space stations.

Note.—This service may also include feeder links necessary for its operation. (RR)

Mobile Service. A radiocommunication service between mobile and land stations, or between mobile stations. (CONV)

Mobile Station. A station in the mobile service intended to be used while in motion or during halts at unspecified points. (RR)

Mult-Satellite Link. A radio link between a transmitting earth station and a receiving earth station through two or more satellites, without any intermediate earth station.

Note.—A multisatellite link comprises one up-link, one or more satellite-to-satellite links and one down-link. (RR)

Necessary Bandwidth. For a given class of emission, the width of the frequency band which is just sufficient to ensure the transmission of information at the rate and with the quality required under specified conditions. (RR)

Occupied Bandwidth. The width of a frequency band such that, below the lower and above the upper frequency limits, the mean powers emitted are each equal to a specified percentage Beta/2 of the total mean power of a given emission.

Note.—Unless otherwise specified by the CCIR for the appropriate class of emission, the value of Beta/2 should be taken as 0.5%. (RR)

On-Board Communication Station. A low-powered mobile station in the maritime mobile service intended for use for internal communications on board a ship, or between a ship and its lifeboats and life-rafts during lifeboat drills or operations, or for communication within a group of vessels being towed or pushed, as well as for line handling and mooring instructions. (RR)

Orbit. The path, relative to a specified frame of reference, described by the centre of mass of a satellite or other object in space subjected primarily to natural forces, mainly the force of gravity. (RR)

Out-of-band Emission. Emission on a frequency or frequencies immediately outside the necessary bandwidth which results from the modulation process, but excluding spurious emissions. (RR)

Passive Sensor. A measuring instrument in the earth exploration-satellite service or in the space research service by means of which information is obtained by reception of radio waves of natural origin. (RR)

Peak Envelope Power (of a radio transmitter). The average power supplied to the antenna transmission line by a transmitter during one radio frequency cycle at the crest of the modulation envelope taken under normal operating conditions. (RR)

Period (of a satellite). The time elapsing between two consecutive passages of a satellite through a characteristic point on its orbit. (RR)

Permissible Interference. Observed or predicted interference which complies with quantitative interference and sharing criteria contained in these [international Radio] Regulations or in CCIR Recommendations or in special agreements as provided for in these Regulations. (RR)

Port Operations Service. A maritime mobile service in or near a port, between coast stations and ship stations, or between ship stations, in which messages are restricted to those relating to the operational handling, the movement and the safty of ships and, in emergency, to the safety of persons.

Note.—Messages which are of a public correspondence nature shall be excluded from this service. (RR)

Port Station. A coast station in the port operations service. (RR)

Power. Whenever the power of a radio transmitter etc. is referred to it shall be expressed in one of the following forms, according to the class of emission, using the arbitrary symbols indicated:

(1) Peak envelope power (PX or pX);

(2) Mean power (PY or pY);

(3) Carrier power (PZ or pZ).

Note 1.—For different classes of emission, the relationships between peak envelope power, mean power and carrier power, under the conditions of normal operation and of no modulation, are contained in CCIR Recommendations which may be used as a guide.

Note 2.—For use in formulae, the symbol "p" denotes power expressed in watts and the symbol "p" denotes power expressed in decibels relative to a reference level. (RR)

Primary Radar. A radiodetermination system based on the comparison of reference signals with radio signals reflected from the position to be determined. (RR)

Protection Ratio. The minimum value of the wanted-to-unwanted signal ratio, usually expressed in decibels, at the receiver input determined under specified conditions such that a specified reception quality of the wanted signal is achieved at the receiver output. (RR)

Public Correspondence. Any telecommunication which the offices and stations must, by reason of their being at the disposal of the public, accept for transmission. (CONV)

Radar. A radiodetermination system based on the comparison of reference signals with radio signals reflected, or retrainsmitted, from the position to be determined. (RR)

Radar Beacon (RACON). A transmitter-receiver associated with a fixed navigational mark which, when triggered by a radar, automatically returns a distinctive signal which can appear on the display of the triggering radar, providing range, bearing and identification information. (RR)

Radiation. The outward flow of energy from any source in the form of radio waves. (RR)

Radio. A general term applied to the use of radio waves. (CONV)

Radio Altimeter. Radionavigation equipment, on board an aircraft or spacecraft or the spacecraft above the Earth's surface or another surface. (RR)

Radio Astronomy. Astronomy based on the reception of radio waves of cosmic origin. (RR)

Radio Astronomy Service. A service involving the use of radio astronomy. (RR)

Radio Astronomy Station. A station in the radio astronomy service. (RR)

Radiobeacon Station. A station in the radionavigation service the emissions of which are intended to enable a mobile station to determine its bearing or direction in relation to radiobeacon station. (RR)

Radiocommunication. Telecommunication by means of radio waves. (CONV)

Radiocommunication Service. A service as defined in this Section involving the transmission, emission and/or reception of radio waves for specific telecommunication purposes.

Note.—In these [international Radio] Regulations, unless otherwise stated, any radiocommunication service relates to terrestrial radiocommunication. (RR)

Radiodetermination. The determination of the position, velocity and/or other characteristics of an object, or the obtaining of information relating to these parameters, by means of the propagation properties of radio waves. (RR)

Radiodetermination-Satellite Service. A radiocommunication service for the purpose of radiodetermination involving the use of one or more space stations. (RR)

Radiodetermination Service. A radiocommunication service for the purpose of radiodetermination. (RR)

Radiodetermination Station. A station in the radiodetermination serviice. (RR)

Radio Direction-Finding. Radiodetermination using the reception of radio waves for the purpose of determining the direction of a station or object. (RR)

Radio Direction-Finding Station. A radiodetermination station using radio direction-finding. (RR)

Radiolocation. Radiodetermination used for purposes other than those of radionavigation. (RR)

Radiolocation Land Station. A station in the radiolocation service not intended to be used while in motion. (RR)

Radiolocation Mobil Station. A station in the radiolocation service intended to be used while in motion or during halts at unspecified points. (RR)

Radiolocation Service. A radiodetermination service for the purpose of radiolocation. (RR)

Radionavigation. Radiodetermination used for the purposes of navigation, including obstruction warning.

Radionavigation Land Station. A station in the radionavigation service not intended to be used while in motion. (RR)

Radionavigation Mobile Station. A station in the radionavigation service intended to be used while in motion or during halts at unspecified points. (RR)

Radionavigation-Satellite Service. A radiodetermination-satellite service used for the purpose of radionavigation. This service may also include feeder links necessary for its operation. (RR)

Radionavigation Service. A radiodetermination service for the purpose of radionavigation. (RR)

Radiosonde. An automatic radio transmitter in the meteorological aids service usually carried on an aircraft, free ballon, kite or parachute, and which transmits meteorological data. (RR)

Radiotelegram. A telegram, originating in or intended for a mobile station or a mobile earth station transmitted on all or part of its route over the radiocommunication channels of the mobile service or of the mobile-satellite service. (RR)

Radiotelemetry. Telemetry by means of radio waves. (RR)

Radiotelephone Call. A telephone call, originating in or intended for a mobile station or a mobile earth station, transmitted on all or part of its route over the radiocommunication channels of the mobile service or of the mobile-satellite service. (RR)

Radiotelex Call. A telex call, originating in or intended for a mobile station or a mobile earth station, transmitted on all or part of its route over the radiocommunication channels of the mobile service or the mobile-satellite service. (RR)

Radio Waves or Hertzian Waves. Electromagnetic waves of frequencies arbitrarily lower than 3,000 GHz, propagated in space without aritificial guide. (RR)

Reduced Carrier Single-Sideband Emission. A single-sideband emission in which the degree of carrier suppession enables the carrier to be reconstrituted and to be used for demodulation. (RR)

Reference Frequency. A frequency having a fixed and specified position with respect to the assigned frequency. The displacement of this frequency with respect to the assigned frequency has the same absolute value and sign that the displacement of the characteristic frequency has with respect to the centre of the frequency band occupied by the emission. (RR)

Reflecting Satellite. A satellite intended to reflect radiocommunication signals. (RR)

Right-Hand (or Clockwise) Polarized Wave. An Elliptically or circularly-polarized wave, in which the electric field vector, observed in any fixed plane, normal to the direction of propagaton, whilst looking in the direction of propagation, rotates with time in a right-hand or clockwise direction. (RR)

Safety Service. Any radiocommunication service used permanently or temporarily for the safeguarding of human life and property. (CONV)

Satellite. A body which revolves around another body of preponderant mass and which has a motion primarily and permanently determined by the force of attraction of that other body. (RR)

Satellite Link. A radio link between a transmitting earth station and a receiving earth station through one satellite. A satellite link comprises one up-link and one down-link. (RR)

Satellite Network. A satellite system or a part of a satellite system, consisting of only one satellite and the cooperating earth stations. (RR)

Satellite System. A space system using one or more artificial earth satellites. (RR)

Secondary Radar. A radiodetermination system based on the comparison of reference signals with radio signals retransmitted from the position to be determined. (RR)

Semi-Duplex Operation. A method which is simplex operation at one end of the circuit and duplex operation at the other.[3] (RR)

Ship Earth Station. A mobile earth station in the maritime mobile-satellite service located on board ship. (RR)

Ship Movement Service. A safety service in the maritime mobile service other than a port operations service, between coast stations and ship stations, or between ship stations, in which messages are restricted to those relating to the movement of ships. Messages which are of a public correspondence nature shall be excluded from this service. (RR)

Ship's Emergency Transmitter. A ship's transmitter to be used exclusively on a distress frequency for distress, urgency or safety purposes. (RR)

Ship Station. A mobile station in the maritime mobile service located on board a vessel which is not permanently

moored, other than a survival craft station. (RR)

Simplex Operation. Operating method in which transmission is made possible alternatively in each direction of a telecommunication channel, for example, by means of manual control. [3] (RR)

Single-Sideband Emission. An amplitude modulated emission with one sideband only. (RR)

Spacecraft. A man-made vehicle which is intended to go beyond the major portion of the Earth's atmosphere. (RR)

Space Operation Service. A radiocommunication service concerned exclusively with the operation of spacecraft, in particular space tracking, space telemetry, and space telecommand.

Note.—These functions will normal be provided within the service in which the space station is operating. (RR)

Space Radiocommunication. Any radiocommunication involving the use of one or more space stations or the use of one or more reflecting satellites or other objects in space. (RR)

Space Research Service. A radiocommunication service in which spacecraft or other objects in space are used for scientific or technological research purposes. (RR)

Space Station. A station located on an object which is beyond, is intended to go beyond, or has been beyond, the major portion of the Earth's atmosphere. (RR)

Space System. Any group of cooperating Earth stations and/or space stations employing space radiocommunication for specific purposes. (RR)

Space Telecommand. The use of radiocommunication for the transmission of signals to a space station to initiate, modify or terminate functions of equipment on a space object, incuding the space station. (RR)

Space Telemetry. The use of telemetry for transmission for a space station of results of measurements made in a spacecraft, including those relating to the functioning of the spacecraft. (RR)

Space Tracking. Determination of the orbit, velocity or instanteneous position of an object in space by means of radiodetermination, excluding primary radar, for the purpose of following the movement of the object. (RR)

Special Service. A radiocommunication service, not otherwise defined in this Section, carried on exclusively for specific needs of general utility, and not open to public correspondence. (RR)

Spurious Emission. Emission on a frequency or frequencies which are outside the necessary bandwidth and the level of which may be reduced without affecting the corresponding transmission of information. Spurious emissions include harmonic emissions, parasitic emissions, intermodulation products and frequency conversion products, but exclude out-of-band emissions. (RR)

Standard Frequency and Time Signal-Satellite Service. A radiocommunication service using space stations on earth satellites for the same purposes as those of the standard frequency and time signal service.

Note.—This service may also include feeder links necessary for its operation. (RR)

Standard Frequency and Time Signal Service. A radiocommunication service for scientific, technical and other purposes, providing the transmission of specified frequencies, time signals, or both, of stated high precision, intended for general reception. (RR)

Standard Frequency and Time Signal Station. A station in the standard frequency and time signal service. (RR)

Station. One or more transmitters or receivers or a combination of transmitters and receivers, including the accessory equipment, necessary at one location for carrying on a radiocommunication service, or the radio astronomy service.

Note.—Each station shall be classified by the service in which it operates permanently or temporarily. (RR)

Suppressed Carrier Single-Sideband Emission. A single-sideband emission in which the carrier is virtually suppressed and not intended to be used for demodulation. (RR)

Survival Craft Station. A mobile station in the maritime mobile service or the aeronautical mobile service intended solely for survival purposes and located on any lifeboat, life-raft or other survival equipment. (RR)

Telecommand. The use of telecommunication for the transmission of signals to initiate, modify or terminate functions of equipment at a distance. (RR)

Telecommunication. Any transmission, emission or reception of signs, signals, writing, images and sounds or intelligence of any nature by wire, radio, optical or other electromagnetic systems. (CONV)

Telegram. Written matter intended to be transmitted by telegraphy for delivery to the addressee. This term also includes radiotelegrams unless otherwise specified.

Note.—In this definition the term telegraphy has the same general meaning as defined in the Convention. (CONV)

Telegraphy. [4] A form of telecommunication which is concerned in any process providing transmission and reproduction at a distance of documentary matter, such as written or printed matter or fixed images, or the reproduction at a distance of any kind of information in such a form. For the purposes of the [international] Radio Regulations, unless otherwise specified therein, telegraphy shall mean a form of telecommunication for the transmission of written matter by the use of a signal code. (RR)

Telemetry. The use of telecommunication for automatical indicating or recording measurements at a distance from the measuring instrument. (RR)

Telephony. [4] A form of telecommunication set up for the transmission of speech or, in some cases, other sounds. (RR)

Television. A form of telecommunication for the transmission of transient images of fixed or moving objects. (RR)

Terrestrial Radiocommunication. Any radiocommunication other than space radiocommunication or radio astronomy. (RR)

Terrestrial Station. A station effecting terrestrial radiocommunication.

Note.—In these [international Radio] Regulations, unless otherwise stated, any station is a terrestrial station. (RR)

Tropospheric Scatter. The propagation of radio waves by scattering as a result of irregularities or discontinuities in the physical properties of the troposphere. (RR)

Unwanted Emissions: Consist of spurious emissions and out-of-band emissions. (RR)

(Secs. 4, 303, 48 stat. 1066, 1082, as amended, 47 U.S.C. 154, 303)

Subpart B of Part 2 is revised as follows:

Subpart B—Allocation, Assignment, and Use of Radio Frequencies

Sec.

2.100 International regulations in force.
2.101 Nomenclature of frequencies.
2.102 Assignment of frequencies.
2.103 Government use of non-Government frequencies.
2.104 International Table of Frequency Allocations.
2.105 United States Table of Frequency Allocations.
2.106 Table of Frequency Allocations.
2.107 Radio Astronomy Station notification.
2.108 Policy regarding the use of the Fixed-Satellite Allocations in the 3.6–3.7, 4.5–4.8 and 5.85–5.925 GHz Bands.

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

Subpart B—Allocation, Assignment, and Use of Radio Frequencies

§ 2.100 International regulations in force.

The international *Radio Regulations* (Geneva, 1982), became effective internationally on 1 January 1982, and nationally on September 6, 1983. They are incorporated to the extent practicable in this Part.

§ 2.101 Nomenclature of frequencies.

Band No.	Frequency subdivision	Frequency range
4	VLF (very low frequency).	Below 30 kHz.
5	LF (low frequency)	30 to 300 kHz.
6	MF (medium frequency).	300 to 3000 kHz.
7	HF (high frequency)	3 to 30 MHz.
8	VHF (very high frequency).	30 to 300 MHz.
9	UHF (ultra high frequency).	300 to 3000 MHz.
10	SHF (super high frequency).	3 to 30 GHz.
11	EHF (extremely high frequency).	30 to 300 GHz.
12		300 to 3000 GHz.

§ 2.102 Assignment of frequencies.

(a) Except as otherwise provided in this section, the assignment of frequencies and bands of frequencies to all stations and classes of stations and the licensing and authorizing of the use of all such frequencies between 9 kHz and 400 GHz, and the actual use of such frequencies for radiocommunication or for any other purpose, including the transfer of energy by radio, shall be in accordance with the Table of Frequency Allocations in § 2.106.

(b) On the condition that harmful interference will not be caused to services operating in accordance with the Table of Frequency Allocations the following exceptions to paragraph (a) of this section may be authorized:

(1) In individual cases the Commission may, without rule making proceedings, authorize on a temporary basis only, the use of frequencies not in accordance with the Table of Frequency Allocations for projects of short duration or emergencies where the Commission finds that important or exceptional circumstances require such utilization. Such authorizations are not intended to develop a service to be operated on frequencies other than those allocated such service.

(2) A station for the development of techniques or equipment to be employed by services set forth in column 5 of the Table of Frequency Allocations may be authorized the use of frequencies allocated to those services or classes of stations.

(3) Experimental stations pursuant to Part 5, may be authorized the use of any frequency or frequency band not exclusively allocated to the passive services (including the Radio Astronomy Service).

(4) In the event a band is reallocated so as to delete its availability for use by a particular service, the Commission may provide for the further interim use of the band by stations in that service for a temporary, specific period of time.

(c) Non-Government stations may be authorized to use Government frequencies in the bands above 25 MHz if the Commission finds, after consultations with the appropriate Government agency or agencies, that such use is necessary for coordination of Government and non-Government activities: Provided, however, that:

(1) Non-Government operation on Government frequencies shall conform with the conditions agreed upon by the Commission and the National Telecommunications and Information Administration (NTIA) (the more important of which are contained in paragraphs (c) (2), (3), and (4) of this section);

(2) Such operations shall be in accordance with NTIA rules governing the service to which the frequencies involved are allocated;

(3) Such operations shall not cause harmful interference to Government stations and, should harmful interference result, that the interfering non-Government operation shall immediately terminate; and

(4) Non-Government operation has been certified as necessary by the Government agency involved and this certification has been furnished, in writing, to the non-Government licensee with which communication is required.

(d) Aircraft stations may communicate with stations of the maritime mobile service. They shall then conform to those provisions of the international *Radio Regulations* which relate to the maritime mobile service. For this purpose aircraft stations should use the frequencies allocated to the maritime mobile service. However, having regard to interference which may be caused by aircraft stations at high altitudes, maritime mobile frequencies in the bands above 30 MHz shall not be used by aircraft stations in any specific area without the prior agreement of all administrations of the area in which interference is likely to be caused. In particular, aircraft stations operating in Region 1 should not use frequencies in the bands above 30 MHz allocated to the maritime mobile service by virtue of any agreement between administrations in that Region.

(e) Non-Government services operating on frequencies in the band 25–50 MHz must recognize that it is shared with various services of other countries; that harmful interference may be caused by skywave signals received from distant stations of all services of the United States and other countries radiating power on frequencies in this band; and that no protection from such harmful interference generally can be expected. Persons desiring to avoid such harmful interference should consider operation on available frequencies higher in the radio spectrum not generally subject to this type of difficulty.

(f) The stations of a service shall use frequencies so separated from the limits of a band allocated to that service as not to cause harmful interference to allocated services in immediately adjoining frequency bands.

(g) In the bands above 25 MHz which are allocated to the non-Government land mobile service, fixed stations may be authorized on the following conditions:

(1) That such stations are authorized in the service shown in Column 5 of the Table of Frequency Allocations in the band in question;

(2) That harmful interference will not be caused to services operating in accordance with the Table of Frequency Allocations.

(h) Special provisions regarding the use of spectrum allocated to the fixed and land mobile services below 25 MHz by non-Government stations.

(1) Only in the following circumstances will authority be extended to stations in the fixed service to operate on frequencies below 25 MHz.

(i) With respect to aeronautical fixed stations, only when a showing can be made that more suitable facilities are not available.

(ii) With respect to fixed stations, except aeronautical fixed stations, only to:

(A) Provide communication circuits in emergency and/or disaster situations, where safety of life and property are concerned;

(B) Provide standby and/or backup facilities to satellite and cable circuits used for international public correspondence;

(C) Provide standby and/or backup communications circuits to regular domestic communication circuits which have been disrupted by disasters and/or emergencies;

(D) Provide communication circuits wholly within the State of Alaska and

the United States insular areas in the Pacific; and

(E) Provide communication circuits to support operations which are highly important to the national interest and where other means of telecommunication are unavailable.

(2) Only in the following circumstances will authority be extended to stations in the land mobile service to operate below 25 MHz.

(i) Provide communication circuits in emergency and/or disaster situations, where safety of life and property are concerned;

(ii) Provide standby and/or backup communications circuits to regular domestic communication circuits which have been disrupted by disasters and/or emergencies;

(iii) Provide communication circuits wholly within the State of Alaska and the United States insular areas in the Pacific; and

(iv) Provide communication circuits to support operations which are highly important to the national interest and where other means of telecommunication are unavailable.

(3) Except in the State of Alaska and the United States Pacific insular areas, the Commission does not intend to seek international protection for assignments made pursuant to (h) (1)(ii) and (2) of this section; this results in the following constraints upon the circuits/assignments.

(i) The Commission will not accept responsibility for protection of the circuits from harmful interference caused by foreign operations.

(ii) In the event that a complaint of harmful interference resulting from operation of these circuits is received from a foreign source, the offending circuit(s) must cease operation on the particular frequency concerned.

(iii) In order to accommodate the situations described in (h)(3) (i) and (ii) of this section, equipments shall be capable of transmitting and receiving on any frequency in the bands assigned to the particular operation and capable of immediate change among the frequencies.

§ 2.103 Government use of non-Government frequencies.

Government stations may be authorized to use non-Government frequencies in the bands above 25 MHz if the Commission finds that such use is necessary for coordination of Government and non-Government actitivies: Provided, however, That:

(a) Government operation on non-Government frequencies shall conform with the conditions agreed upon by the Commission and the National Telecommunications and Information Administration (the more important of which are contained in paragraphs (b), (c), and (d) of this section);

(b) Such operations shall be in accordance with Commission rules governing the service to which the frequencies involved are allocated;

(c) Such operations shall not cause harmful interference to non-Government stations and, should harmful interference result, that the interfering Government operation shall immediately terminate; and

(d) Government operation has been certified as necessary by the non-Government licensees involved and this certification has been furnished, in writing, to the Government agency with which communication is required.

§ 2.104 International Table of Frequency Allocations.

(a) The International Table of Frequency Allocations (columns 1, 2 and 3 of § 2.106) is included for international purposes only.

(b) *Regions.* To facilitate the international allocating of the radio spectrum, the International Telecommunication Union (ITU) has divided the world into three Regions [1] as shown in Figure 1 and described below:

(1) Region 1 includes the area limited on the East by line A (lines A, B and C are defined below) and on the West by line B, excluding any of the territory of Iran which lies between these limits. It also includes that part of the territory of Turkey and the Union of Soviet Socialist Republics (U.S.S.R.) lying outside of these limits, the territory of the Mongolian Peoples' Republic, and the area to the North of the U.S.S.R. which lies between lines A and C.

(2) Region 2 includes the area limited on the East by line B and the West by line C.

(3) Region 3 includes the area limited on the East by line C and on the West by line A, except the territories of the Mongolian Peoples' Republic, Turkey, the territory of the U.S.S.R. and the area to the North of the U.S.S.R. It also includes that part of the territory of Iran lying outside of those limits.

(4) The lines A, B and C are defined as follows:

(i) Line A extends from the North Pole along meridian 40° West of Greenwich to parallel 40° North; thence by great circle arc to the intersection of meridian 60° East and the Tropic of Cancer; thence along the meridian 60° East to the South Pole.

(ii) Line B extends from the North Pole along meridian 10° West of Greenwich to its intersection with parallel 72° North; thence by great circle arc to the intersection of meridian 50° West and parallel 40° North; thence by great circle arc to the intersection of meridian 20° West and to the South Pole.

(iii) Line C extends from the North Pole by great circle arc to the intersection of parallel 65°30′ North of the international boundary in Bering Strait; thence by great circle arc to the intersection of meridian 165° East of Greenwich and parallel 50° North; thence by great circle arc to the intersection of meridian 170° West and parallel 10° North; thence along parallel 10° North to its intersection with meridian 120° West; thence along meridian 120° West to the South Pole.

(c) *Areas.* To further assist in the international allocation of the radio spectrum, the ITU has established several special geographical areas and they are defined below.

(1) The "African Broadcasting Area" consists of:

(i) African countries, parts of countries, territories and groups of territories situated between the parallels 40° South and 30° North;

(ii) Islands in the Indian Ocean west of meridian 60° East of Greenwich, situated between the parallel 40° South and the great circle arc joining the points 45° East, 11°30′ North and 60° East, 15° North; and

(iii) Islands in the Atlantic Ocean east of Line B, situated between the parallel 40° South and 30° North.

(2) The "European Broadcasting Area" is bounded on the West by the western boundary of Region 1, on the East by the meridian 40° East of Greenwich and on the South by the parallel 30° North so as to include the western part of the U.S.S.R., the northern part of Saudi Arabia and that part of those countries bordering the Mediterranean within these limits. In addition, Iraq and Jordan are included in the European Broadcasting Area.

(3) The "European Maritime Area" is bounded on the North by a line extended along parallel 72° North from its intersection with meridian 55° East of Greenwich to its intersection with meridian 5° West, then along meridian 5° West to its intersection with parallel 67° North, thence along parallel 67° North to its intersection with meridian 30° West; on the West by a line extending along meridian 30° West to its intersection with parallel 30° North; on the South by a line extending along parallel 30° North to a line extending along meridian 43° East to its

[1] It should be noted that where the words "region" or "regional" are without a capital "R", they do not relate to the three Regions here defined for purpose of frequency allocation.

intersection with parallel 60° North, thence along parallel 60° North to its intersection with meridian 55° East and thence along meridian 55° East to its intersection with parallel 72° North.

(4) The "Tropical Zone" (see Figure 1) is defined as:

(i) The whole of that area in Region 2 between the Tropics of Cancer and Capricorn;

(ii) The whole of that area in Region 1 and 3 contained between the parallel 30° North and 35° South with the addition of:

(iii) The area contained between the meridian 40° East and 80° East of Greenwich and the parallels 30° North and 40° and

(iv) That part of Libya North of parallel 30° North.

(v) In Region 2, the Tropical Zone may be extended to parallel 33° North, subject to special agreements between the countries concerned in that Region.

(5) A sub-Region is an area consisting of two or more countries in the same Region.

(d) *Categories of Service.*

(1) Any segment of the radio spectrum can be allocated to one or more radio services [2] either on a worldwide or Regional basis. In the case where an allocation has been made to more than one service, such services are listed in the following order:

(i) Services the names of which are printed in "capitals" [example: FIXED]; these are called "primary" services;

(ii) Services, the names of which are printed in "capitals" between oblique strokes [example: /RADIOLOCATION/]; these are called "permitted" services;

(iii) Services, the names of which are printed in "normal characters" [example: Mobile]; these are called "secondary" services.

(2) Additional remarks pertaining to an allocation are printed in "normal characters" [example: MOBILE except aeronautical mobile].

(3) Permitted and primary services have equal rights, except that, in the preparation of frequency plans, the primary services, as compared with the permitted services, shall have prior choice of frequencies.

(4) *Stations of a secondary service:*

(i) Shall not cause harmful interference to stations of primary or permitted services to which frequencies are already assigned or to which frequencies may be assigned at a later date;

(ii) Cannot claim protection from harmful interference from stations of a primary or permitted service to which frequencies are already assigned or may be assigned at a later date;

(iii) Can claim protection, however, from harmful interference from stations of the same or other secondary service(s) to which frequencies may be assigned at a later date.

(5) Where a band is indicated in a footnote of the International Table (i.e., columns 1, 2, and 3 of § 2.106) as allocated to a service "on a secondary basis" in an area smaller than a Region, or in a particular country, this is a secondary service.

(6) Where a band is indicated in a footnote of the International Table as allocated to a service "on a primary basis", or "on a permitted basis" in an area smaller than a Region, or in a particular country, this is a primary service or a permitted service only in that area country.

(e) *Additional allocations.*

(1) Where a band is indicated in a footnote of the International Table as "also allocated" to a service in an area smaller than a Region, or in a particular country, this is an "additional" allocation, i.e., an allocation which is added in this country area or in this country to the service or services which are indicated in the International Table.

(2) If the footnote does not include any restriction on the service or services concerned apart from the restriction to operate only in a particular area or country, stations of this service or these services shall have equality of right to operate with stations of the other primary service or services indicated in the International Table.

(3) If restrictions are imposed on an additional allocation in addition to the restriction to operate only in a particular area or country, this is indicated in the footnote of the International Table.

(f) *Alternative allocations.*

(1) Where a band is indicated in a footnote of the International Table as "allocated" to one or more services in an area smaller than a Region, or in a particular country, this is an "alternative" allocation, i.e., an allocation which replaces, in this area or in this country, the allocations indicated in the International Table.

(2) If the footnote does not include any restriction on stations of the service or services concerned, apart from the restriction to operate only in a particular area or country, these stations of such a service or services shall have an equality of right to operate with stations of the primary service or services, shall have an equality of right to operate with stations of the primary service or services, indicated in the International Table, to which the band is allocated in other areas or countries.

(3) If restrictions are imposed on stations of a service to which an alternative allocation is made, in addition to the restriction to operate only in a particular country or area, this is indicated in the footnote.

(g) *Miscellaneous provision.*

(1) Where it is indicated that a service may operate in a specific frequency band subject to not causing harmful interference, this means also that this service cannot claim protection from harmful interference caused by other services to which the band is allocated under Chapter III of the international *Radio Regulations.*

(2) Except if otherwise specified in a footnote, the term "fixed service" does not include systems using ionospheric scatter propagation.

(h) *Format of the International Table.*

(1) The heading of the International Table includes three columns (columns number 1, 2 and 3 of § 2.106), each of which corresponds to one of the Regions. Where an allocation occupies the whole of the width of the Table or only two of the three columns, this is a world-wide allocation or a Regional allocation, respectively.

(2) The frequency band referred to in each allocation is indicated in the left-hand top corner of the part of the Table concerned.

(3) Within each of the categories specified in paragraph (c)(1) of this section, services are listed in alphabetical order according to the French language.[3] The order of listing does not indicate relative priority within each category.

(4) In the case where there is a parenthetical addition to an allocation in the International Table [example: FIXED-SATELLITE (space-to-earth)], that service allocation is restricted to the type of operation so indicated.

(5) The footnote references which appear in the International Table below the allocated service or services apply to the whole of the allocation concerned.

(6) The footnote references which appear to the right of the name of a service are applicable only to that particular service.

(7) In certain cases, the names of countries appearing in the footnotes have been simplified in order to shorten the text.

[1] Definitions of the various radio services used in columns 1 through 3 of § 2.106 are contained in § 2.1.

[3] French is used to keep this table consistent with the Internation Table as published by ITU.

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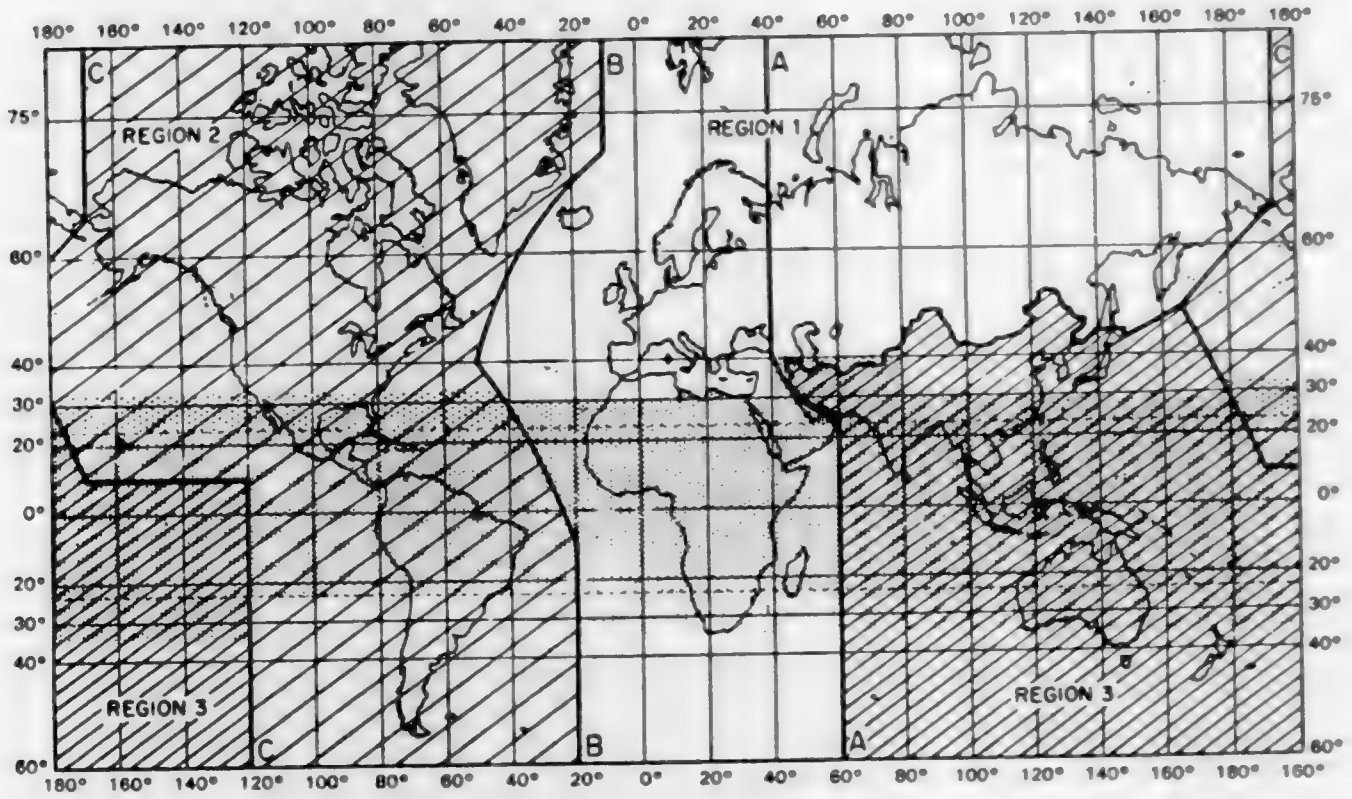

The shaded part represents the Tropical Zone as defined in Nos. 406 to 410 and 411.

Figure 1. Chart of the International Regions and Zones as defined in the International Table of Frequency Allocations. [Note: The shaded part represents the Tropical Zone as defined by § 2.104(a)(4).]

§ 2.105 United States Table of Frequency Allocations.

(a) The United States Table of Frequency Allocations (columns 4 through 7 of § 2.106) is based on the International plan for Region 2 because the relevant area of jurisdiction is located primarily in Region 2 [1] (i.e., the 50 States, the District of Columbia, the Caribbean insular areas [2] and some of the Pacific insular areas [3]).[4] Because there is a need to provide radio spectrum for both federal government and non-federal government operations, the United States Table is divided into the Government Table of Frequency Allocation and the Non-Government Table of Frequency Allocations. The Government plan, as shown in column 4 of § 2.106, is administered by the National Telecommunications and Information Administration (NTIA) [5], whereas the non-Government plan, as shown in column 5 of § 2.106, is administered by the Federal Communications Commission (FCC) [6]

(b) In the United States, radio spectrum may be allocated to either Government or non-Government use exclusively, or for shared use. In the case of shared use, the type of service(s) permitted need not be the same [e.g., Government FIXED, non-Government MOBILE]. The terms used to designate categories of service [7] in columns 4 and 5 of § 2.106, correspond to the terms employed by the International Telecommunication Union (ITU) in the international *Radio Regulations*.

(c) *Categories of services.*

(1) Any segment of the radio spectrum may be allocated to the Government and/or non-Government sectors either on an exclusive or shared basis for use by one or more radio services. In the case where an allocation has been made to more than one service, such services are listed in the following order:

(i) Services, the names of which are printed in "capitals" [example: FIXED]; these are called "primary" services;

(ii) Services, the names of which are printed in capitals between oblique strokes [example: /RADIOLOCATION/]; these are called "permitted services";

(iii) Services, the names of which are printed in "normal characters" [example: Mobile]; these are called "secondary" services.

(2) Permitted and primary services have equal rights, except that, in the preparation of frequency plans, the primary services, as compared with the permitted services, shall have prior choice of frequencies.

(3) Stations of a secondary service:

(i) Shall not cause harmful interference to stations of primary or permitted services to which frequencies are already assigned or to which frequencies may be assigned at a later date.

(ii) Cannot claim protection from harmful interference from stations of a primary or permitted service to which frequencies are already assigned or may be assigned at a later date; and

(iii) Can claim protection, however, from harmful interference from stations of the same or other secondary service(s) to which frequencies may be assigned at a later date.

(d) *Format of the United States Table.*

[1] See § 2.104(a)(1) for definition of Region 2.

[2] The Caribbean insular areas are: The Commonwealth of Puerto Rico; the unincorporated territory of the United States Virgin Islands; and Navassa Island, Quita Sueno Bank, Roncador Bank, serrana Bank and Serranilla Bank.

[3] The Pacific insular areas located in Region 2 are: Johnston Island and Midway Island.

[4] The operation of stations in the Pacific insular areas located in Region 3 are generally governed by the International plan for Region 3 (i.e., column 3 of § 2.106). The Pacific insular areas located in Region 3 are: the Commonwealth of the Northern Mariana Islands; the unincorporated territory of American Samoa; the unincorporated territory of Guam; and Baker Island, Howland Island, Jarvis Island, Kingman Reef, Palmyra Island and Wake Island.

[5] Section 305(a) of the Communications Act of 1934, as amended; Executive Order 12046 (28 March 1978) and Department of Commerce Organization Order 10-10 (9 May 1979).

[6] The Communiations Act of 1934, as amended.

(1) The frequency band referred to in each allocation, column 4 for Government and column 5 for non-Government, is indicated in the left-hand top corner of the column. If there is no service or footnote indicated for a band of frequencies in either column 4 or 5, then the Government or the non-Government sector, respectively, has no access to that band except as provided for by §2.102.

(2) The Government allocation plan, given in column 4, is included for informational purposes only.

(3) In the case where there is a parenthetical addition to an allocation in the United States Table [example: FIXED-SATELLITE (space-to-earth)], that service allocation is restricted to the type of operation so indicated.

(4) The following symbols are used to designate footnotes in the United States Table:

(i) Any footnote not prefixed by a letter, denotes an international footnote. Where such a footnote is applicable, without modification, to the United States Table, the symbol appears in the United States Table (column 4 or 5) and denotes a stipulation affecting both the Government and non-Government plans.

(ii) Any footnote consisting of the letters US followed by one or more digits, e.g., US, denotes a stipulation affecting both the Government and non-Government plans.

(iii) Any footnote consisting of the letters NG followed by one or more digits, e.g., NG1, denotes a stipulation applicable only to the non-Government plan (column 5).

(iv) Any footnote consisting of the letter G following by one or more digits, e.g., G1, denotes a stipulation applicable only to the Government plan (column 4).

(5) Column 6 provides a reference to indicate which Rule Part(s) (e.g., Private Land Mobile Radio Services, Domestic Public Land Mobile Radio Services, etc.) are given assignments within the allocation plan specified in column 5 for any given band of frequencies. The exact use that can be made of any given frequency or frequencies (e.g., channelling plans, allowable emissions, etc.) is given in the Rule Part(s) so indicated. The Rule Parts in this column are not allocations. They are provided for informational purposes only.

(6) Column 7 is used to denote certain frequencies which have national and/or international significance.

§ 2.106 Table of Frequency Allocations.

International table			United States table		FCC use designators	
Region 1—allocation kHz	Region 2—allocation kHz	Region 3—allocation kHz	Government*	Non-Government	Rule part(s)	Special-use frequencies
			Allocation kHz	Allocation kHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Below 9	(Not allocated). 444 445		Below 9. (Not allocated) 444 445	Below 9 (Not allocated) 444 445		
9–14	RADIONAVIGATION		9–14 RADIONAVIGATION. US18 US294	9–14 RADIONAVIGATION US18 US294		
14–19.95	FIXED MARITIME MOBILE 448 446 447		14–19.95 FIXED MARITIME MOBILE US288 US294	14–19.95 Fixed US288 US294	INTERNATIONAL FIXED PUBLIC (23)	
19.95–20.05	STANDARD FREQUENCY AND TIME SIGNAL (20 kHz).		19.95–20.05 STANDARD FREQUENCY AND TIME SIGNAL US294	19.95–20.05 STANDARD FREQUENCY AND TIME SIGNAL. US294		20 kHz Standard Frequency
20.05–70	FIXED MARITIME MOBILE 448 447 449		20.05–59 FIXED MARITIME MOBILE US288 294	20.05–59 FIXED US288 294	INTERNATIONAL FIXED PUBLIC (23).	
			59–61 STANDARD FREQUENCY AND TIME SIGNAL US294	59–61 STANDARD FREQUENCY AND TIME SIGNAL. US294		60kHz Standard Frequency
			61–70 FIXED MARITIME MOBILE US288 US294	61–70 FIXED US288 US294	INTERNATIONAL FIXED PUBLIC (23)	
70–72 RADIONAVIGATION 451	70–90 FIXED. MARITIME MOBILE 448 MARITIME RADIONAVIGATION 451 Radiolocation.	70–72 RADIONAVIGATION 451 Fixed. Maritime Mobile 448. 450	70–90 FIXED MARITIME MOBILE. Radiolocation US288 US294	70–90 FIXED. Radiolocation US288 US294	INTERNATIONAL FIXED PUBLIC (23). Private Land Mobile (90).	

International table			United States table		FCC use designators	
			Government	Non-Government	Rule part(s)	Special-use frequencies
Region 1—allocation kHz	Region 2—allocation kHz	Region 3—allocation kHz	Allocation kHz	Allocation kHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
72–84 FIXED. MARITIME MOBILE 448 RADIONAVIGATION 451 447	452	72–84 FIXED. MARITIME MOBILE 448 RADIONAVIGATION 451				
84–86 RADIONAVIGATION 451		84–86 RADIONAVIGATION 451 Fixed. Maritime Mobile 448 450				
86–90 FIXED. MARITIME MOBILE 448 RADIONAVIGATION 447		86–90 FIXED. MARITIME MOBILE 448 RADIONAVIGATION 451				
90–110	RADIONAVIGATION 453 Fixed. Maritime Mobile 448 454		90–110 RADIONAVIGATION 453 US18 US104 US294	90–110 RADIONAVIGATION 453 US18 US104 US294	Private Land Mobile (90).	
110–112 FIXED. MARITIME MOBILE. RADIONAVIGATION. 454	110–130 FIXED. MARITIME MOBILE. MARITIME RADIONAVIGATION 451 Radiolocation.	110–112 FIXED. MARITIME MOBILE. RADIONAVIGATION 451 454	110–130 FIXED. MARITIME MOBILE. Radiolocation. 454 US294	110–130 FIXED. MARITIME MOBILE. Radiolocation. 454 US294	INTERNATIONAL FIXED PUBLIC (23). MARITIME (81 & 83). Private Land Mobile (90).	
112–115 RADIONAVIGATION 451	452 454	112–117.6 RADIONAVIGATION 451 Fixed. Maritime Mobile.				
115–117.6 RADIONAVIGATION 451 Fixed. Maritime Mobile. 454 456		454 455				
117.6–126.0 FIXED. MARITIME MOBILE. RADIONAVIGATION 451 454		117.6–126.0 FIXED. MARITIME MOBILE. RADIONAVIGATION 451 454				
126–129 RADIONAVIGATION 451		126–129 RADIONAVIGATION 451 Fixed. Maritime Mobile. 454 455				
129–130 FIXED. MARITIME MOBILE. RADIONAVIGATION 451 454		129–130 FIXED. MARITIME MOBILE. RADIONAVIGATION 451 454				
130.0–148.5 MARITIME MOBILE. /FIXED/. 454 457 458	130–160 FIXED. MARITIME MOBILE.	130–160 FIXED. MARITIME MOBILE. RADIONAVIGATION.	130–160 FIXED. MARITIME MOBILE.	130–160 FIXED. MARITIME MOBILE.	INTERNATIONAL FIXED PUBLIC (23). MARITIME (81 & 83).	
148.5–255.0 BROADCASTING	454	454	454 US294	454 US294		
	160–190 FIXED. 459	160–190 FIXED. Aeronautical Radionavigation.	160–190 FIXED. MARITIME MOBILE. 459 US294	160–190 FIXED. 459 US294	INTERNATIONAL FIXED PUBLIC (23). MARITIME (81 & 83).	

International table			United States table		FCC use designators	
Region 1—allocation kHz	Region 2—allocation kHz	Region 3—allocation kHz	Government	Non-Government	Rule part(s)	Special-use frequencies
(1)	(2)	(3)	Allocation kHz (4)	Allocation kHz (5)	(6)	(7)
	190–200 AERONAUTICAL RADIONAVIGATION.		190–200 AERONAUTICAL RADIONAVIGATION. US18 US226 US294	190–200 AERONAUTICAL RADIONAVIGATION. US18 US226 US294		
458 460 461 462	200–285 AERONAUTICAL RADIONAVIGATION. Aeronautical Mobile.		200–275 AERONAUTICAL RADIONAVIGATION. Aeronautical Mobile. US18 US294	200–275 AERONAUTICAL RADIONAVIGATION Aeronautical Mobile. US18 US294	AVIATION (87).	
255–283.5 BROADCASTING. /AERONAUTICAL RADIONAVIGATION/ 463 458 462 464			275–285 AERONAUTICAL RADIONAVIGATION. Aeronautical Mobile. Maritime Radionavigation (radiobeacons). US18 US294	275–285 AERONAUTICAL RADIONAVIGATION. Aeronautical Mobile. Maritime Radionavigation (radiobeacons). US18 US294		
283.5–315.0 MARITIME RADIONAVIGATION (radiobeacons) 466 /AERONAUTICAL RADIONAVIGATION/. 458 465	285–315 MARITIME RADIONAVIGATION (radiobeacons) 466 /AERONAUTICAL RADIONAVIGATION/.		285–325 MARITIME RADIONAVIGATION (radiobeacons) 466 Aeronautical Radionavigation (radiobeacons). US18 US294	285–325 MARITIME RADIONAVIGATION (radiobeacons) 466 Aeronautical Radionavigation (radiobeacons). US18 US294	AVIATION (87).	
315–325 AERONAUTICAL RADIONAVIGATION. Maritime Radionavigation (radiobeacons) 466 465 467	315–325 MARITIME RADIONAVIGATION (radiobeacons) 466 Aeronautical Radionavigation.	315–325 AERONAUTICAL RADIONAVIGATION. MARITIME RADIONAVIGATION (radiobeacons) 466				
325–405 AERONAUTICAL RADIONAVIGATION. 485	325–335 AERONAUTICAL RADIONAVIGATION. Aeronautical Mobile Maritime Radionavigation (radiobeacons).	325–405 AERONAUTICAL RADIONAVIGATION. Aeronautical Mobile	325–335 AERONAUTICAL RADIONAVIGATION (radiobeacons). Aeronautical Mobile. Maritime Radionavigation (radiobeacons). US18 US294	325–335 AERONAUTICAL RADIONAVIGATION (radiobeacons). Aeronautical Mobile. Maritime Radionavigation (radiobeacons). US18 US294	AVIATION (87).	
	335–405 AERONAUTICAL RADIONAVIGATION. Aeronautical Mobile.		335–405 AERONAUTICAL RADIONAVIGATION (radiobeacons). Aeronautical Mobile. US18 US294	335–405 AERONAUTICAL RADIONAVIGATION (radiobeacons). Aeronautical Mobile. US18 US294	AVIATION (87).	
405–415 RADIONAVIGATION 468 485	405–415 RADIONAVIGATION 468 Aeronautical Mobile.		405–415 RADIONAVIGATION 468 Aeronautical Mobile. US18 US294	405–415 RADIONAVIGATION 470 Aeronautical Mobile US18 US294	AVIATION (87)	
415–435 AERONAUTICAL RADIONAVIGATION. /MARITIME MOBILE/ 470 485	415–495 MARITIME MOBILE 470 469 471		415–435 AERONAUTICAL RADIONAVIGATION. MARITIME MOBILE 470 US294	415–435 AERONAUTICAL RADIONAVIGATION. MARITIME MOBILE 470 US294	AVIATION (87). MARITIME (81 & 83).	
435–495 MARITIME MOBILE 470 Aeronautical Radionavigation. 465 471			435–495 MARITIME MOBILE 470 471 US231 US294	435–495 MARITIME MOBILE 470 471 US231 US294	MARITIME (81 & 83).	
495–505	MOBILE (distress and calling). 472		495–505 MOBILE (distress and calling). 472	495–505 MOBILE (distress and calling). 472	MARITIME (81 & 83).	500 kHz: Distress and calling frequency.

International table			United States table		FCC use designators	
			Government	Non-Government		
Region 1—allocation kHz	Region 2—allocation kHz	Region 3—allocation kHz	Allocation kHz	Allocation kHz	Rule part(s)	Special-use frequencies
(1)	(2)	(3)	(4)	(5)	(6)	(7)
505.0–526.5 MARITIME MOBILE 470 /AERONAUTICAL RADIONAVIGATION/ 473	505.0–510.0 MARITIME MOBILE 470 471	505.0–526.5 MARITIME MOBILE 470 /AERONAUTICAL RADIONAVIGATION/. Aeronautical Mobile Land Mobile.	505–510 MARITIME MOBILE 470 471	505–510 MARITIME MOBILE 470 471	MARITIME (81 & 83).	
	510–525 MOBILE. AERONAUTICAL RADIONAVIGATION.		510–525 AERONAUTICAL RADIONAVIGATION (radiobeacons). MARITIME MOBILE (Ships only). US14 US18 US225 US232	510–525 AERONAUTICAL RADIONAVIGATION (radiobeacons). MARITIME MOBILE (Ships only). US14 US18 US225 US232	AVIATION (87). Maritime (81 & 83).	
465 471 474 475 476	525–535	471	525–535	525–535		
526.5–1606.5 BROADCASTING. 478	BROADCASTING 477 AERONAUTICAL RADIONAVIGATION.	526.5–535.0 BROADCASTING. Mobile. 479	MOBILE. AERONAUTICAL RADIONAVIGATION (radiobeacons). US18 US221 US239	MOBILE. AERONAUTICAL RADIONAVIGATION (radiobeacons). US18 US221 US239	AVIATION (87) PRIVATE LAND MOBILE (90)	530 kHz: Travelers information.
	535–1605 BROADCASTING.	535.0–1606.5 BROADCASTING.	535–1605	535–1605 BROADCASTING NG 128	RADIO BROADCASTING (AM) (73).	
	1605–1625		1605–1615	1605–1615		
1606.5–1625.0 MARITIME MOBILE. /FIXED/. /LAND MOBILE/. 483 484	BROADCASTING 480 481	1606.5–1800 FIXED. MOBILE. RADIOLOCATION. RADIONAVIGATION. 482	MOBILE. 480 US221	MOBILE. 480 US221	AUXILIARY BROADCASTING (74). PRIVATE LAND MOBILE (90).	1610 kHz: Travelers information.
			1615–1625 480 US237	1615–1625 BROADCASTING 480 US237	AUXILIARY BROADCASTING (74). Private Land Mobile (90).	
1625–1635 RADIOLOCATION 487 485 486	1625–1705 BROADCASTING 480 /FIXED/. /MOBILE/. Radiolocation		1625–1705 Radiolocation. 480 US238	1625–1705 BROADCASTING 480 Radiolocation. US238	AUXILIARY BROADCASTING (74). Private Land Mobile (90).	
1635–1800 MARITIME MOBILE /FIXED/. /LAND MOBILE/. 483 484 488	481 1705–1800 FIXED. MOBILE. RADIOLOCATION. AERONAUTICAL RADIONAVIGATION.		1705–1800 FIXED. MOBILE. RADIOLOCATION. US240	1705–1800 FIXED. MOBILE. RADIOLOCATION. US240	DISASTER (99). INTERNATIONAL FIXED PUBLIC (23). MARITIME (81 & 83). PRIVATE LAND MOBILE (90).	
1800–1810 RADIOLOCATION 487 485 486	1800–1850 AMATEUR.	1800–2000 AMATEUR. FIXED. MOBILE except aeronautical mobile. RADIONAVIGATION. Radiolocation.	1800–1900	1800–1900 AMATEUR.	AMATEUR (97).	
1810–1850 AMATEUR. 490 491 492 493	489					

International table			United States table		FCC use designators	
Region 1—allocation kHz	Region 2—allocation kHz	Region 3—allocation kHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation kHz	Allocation kHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1850–2000 FIXED. MOBILE except aeronautical mobile. 484 488 495	1850–2000 AMATEUR. FIXED. MOBILE except aeronautical mobile. RADIOLOCATION. RADIONAVIGATION. 489 494	489	1900–2000 RADIOLOCATION. US290	1900–2000 RADIOLOCATION. US290 NG15	PRIVATE LAND MOBILE (90) Amateur (97).	
2000–2025 FIXED. MOBILE except aeronautical mobile (R). 484 495	2000–2065 FIXED. MOBILE.		2000–2065 FIXED MOBILE.	2000–2065 MARITIME MOBILE NG19	MARITIME (81 & 83).	
2025–2045 FIXED. MOBILE except aeronautical Mobile (R). Meteorological Aids 496 484 495						
2045–2160 MARITIME MOBILE. /FIXED/. /LAND MOBILE/. 483 484	2065–2107 MARITIME MOBILE 497 496		2065–2107 MARITIME MOBILE 497	2065–2107 MARITIME MOBILE 497	MARITIME (81 & 83)	
	2107–2170 FIXED. MOBILE.		2107–2170 FIXED. MOBILE.	2107–2170 FIXED. MARITIME MOBILE. LAND MOBILE. NG19	AVIATION (87). INTERNATIONAL FIXED PUBLIC (23). MARITIME (81 & 83). PRIVATE LAND MOBILE (90).	
2160–2170 RADIOLOCATION 487 485 486 499						
2170.0–2173.5	MARITIME MOBILE.		2170–2173.5 MARITIME MOBILE.	2170–2173.5 MARITIME MOBILE.	MARITIME (81 & 83).	
2173.5–2190.5	MOBILE (distress and calling). 500 501		2173.5–2190.5 MOBILE (distress and calling). 500 501 US279	2173.5–2190.5 MOBILE (distress and calling). 500 501 US279	AVIATION (87). MARITIME (81 & 83).	2 182 kHz: Distress and calling.
2190.5–2194.0	MARITIME MOBILE.		2190.5–2194 MARITIME MOBILE	2190.5–2194 MARITIME MOBILE	MARITIME (81 & 83).	
2194–2300 FIXED. MOBILE except aeronautical mobile (R). 484 495 502	2194–2300 FIXED. MOBILE. 502		2194–2495 FIXED MOBILE.	2194–2495 FIXED. LAND MOBILE. MARITIME MOBILE NG19	AVIATION (87). INTERNATIONAL FIXED PUBLIC (23). MARITIME (81 & 83). PRIVATE LAND MOBILE (90).	
2300–2498 FIXED. MOBILE except aeronautical mobile (R). BROADCASTING 503	2300–2495 FIXED. MOBILE. BROADCASTING 503.					
495	2495–2501		2495–2505	2495–2505		
2498–2501	STANDARD FREQUENCY AND TIME SIGNAL (2500 kHz).		STANDARD FREQUENCY AND TIME SIGNAL.	STANDARD FREQUENCY AND TIME SIGNAL.		2500 kHz: Standard frequency.

International table			United States table		FCC use designations	
			Government	Non-Government	Rule part(s)	Special-use frequencies
Region 1—allocation kHz	Region 2—allocation kHz	Region 3—allocation kHz	Allocation kHz	Allocation kHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
STANDARD FREQUENCY AND TIME SIGNAL (2500 kHz).						
2501–2502	STANDARD FREQUENCY AND TIME SIGNAL. Space Research.					
2502–2625 FIXED. MOBILE except aeronautical mobile (R).	2502–2505 STANDARD FREQUENCY AND TIME SIGNAL.		G108			
484 495 504	2505–2850 FIXED. MOBILE.		2505–2850 FIXED. MOBILE.	2505–2850 FIXED. LAND MOBILE. MARITIME MOBILE.	AVIATION (87). INTERNATIONAL FIXED PUBLIC (23). MARITIME (81 & 83). PRIVATE LAND MOBILE (90).	
2625–2650 MARITIME MOBILE. MARITIME RADIO-NAVIGATION. 484						
2650–2850 FIXED. MOBILE except aeronautical mobile (R). 484 495			US285	US285		
2850–3025	AERONAUTICAL MOBILE (R). 501 505		2850–3025 AERONAUTICAL MOBILE (R). 501 505 US283	2850–3025 AERONAUTICAL MOBILE (R). 501 505 US283	AVIATION (87).	
3025–3155	AERONAUTICAL MOBILE (OR).		3025–3155 AERONAUTICAL MOBILE (OR).	3025–3155 AERONAUTICAL MOBILE (OR).		
3155–3200	FIXED. MOBILE except aeronautical mobile (R). 506 507		3155–3230 FIXED. MOBILE except aeronautical mobile (R).	3155–3230 FIXED. MOBILE except aeronautical mobile (R).	AVIATION (87). INTERNATIONAL FIXED PUBLIC (23). MARITIME (81 & 83). PRIVATE LAND MOBILE (90).	
3200–3230	FIXED MOBILE except aeronautical mobile (R). BROADCASTING 503. 506					
3230–3400	FIXED. MOBILE except aeronautical mobile. BROADCASTING 503 506 508		3230–3400 FIXED. MOBILE except aeronautical mobile. Radiolocation.	3230–3400 FIXED. MOBILE except aeronautical mobile. Radiolocation.	AVIATION (87). INTERNATIONAL FIXED PUBLIC (23). MARITIME (81 & 83). PRIVATE LAND MOBILE (90).	
3400–3500	AERONAUTICAL MOBILE (R).		3400–3500 AERONAUTICAL MOBILE (R). US283	3400–3500 AERONAUTICAL MOBILE (R). US283	AVIATION (87).	
3500–3900 AMATEUR 510 FIXED. MOBILE except aeronautical mobile. 484	3500–3750 AMATEUR 510 509 511	3500–3900 AMATEUR 510 FIXED. MOBILE.	3500–4000 510	3500–4000 AMATEUR 510	AMATEUR (97).	
	3750–4000					

International table			United States table		FCC use designators	
			Government	Non-Government	Rule part(s)	Special-use frequencies
Region 1—allocation kHz	Region 2—allocation kHz	Region 3—allocation kHz	Allocation kHz	Allocation kHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
3800–3900 FIXED. AERONAUTICAL MOBILE (OR). LAND MOBILE.	AMATEUR 510 FIXED. MOBILE except aeronautical mobile (R). 511 512 514 515					
3900–3950 AERONAUTICAL MOBILE (OR). 513		3900–3950 AERONAUTICAL MOBILE. BROADCASTING.				
3950–4000 FIXED. BROADCASTING.		3950–4000 FIXED. BROADCASTING. 516				
4000–4063	FIXED. MARITIME MOBILE 517 516		4000–4438 MARITIME MOBILE 520 US82 US212 US236	4000–4438 MARITIME MOBILE 520 US82 US212 US236	INTERNATIONAL FIXED PUBLIC (23). MARITIME (81 & 83)	
4063–4438	MARITIME MOBILE 520 518 519					
4438–4650 FIXED. MOBILE except aeronautical mobile (R).		38–4650 ED. BILE except eronautical mobile.	4438–4650 FIXED. MOBILE except aeronautical mobile (R).	4438–4650 FIXED. MOBILE except aeronautical mobile (R).	AVIATION (87). INTERNATIONAL FIXED PUBLIC (23). MARITIME (81 & 83) PRIVATE LAND MOBILE (90).	
4650–4700	AERONAUTICAL MOBILE (R).		4650–4700 AERONAUTICAL MOBILE (R). US282 US283	4650–4700 AERONAUTICAL MOBILE (R). US282 US283	AVIATION (87).	
4700–4750	AERONAUTICAL MOBILE (OR).		4700–4750 AERONAUTICAL MOBILE (OR).	4700–4750 AERONAUTICAL MOBILE (OR).		
4750–4850 FIXED. AERONAUTICAL MOBILE (OR). LAND MOBILE BROADCASTING 503	4750–4850 FIXED. MOBILE except aeronautical BROADCASTING 503	4750–4850 FIXED. BROADCASTING 503 Land Mobile.	4750–4850 FIXED. MOBILE except aeronautical mobile.	4750–4850 FIXED. MOBILE except aeronautical mobile (R).	AVIATION (87). INTERNATIONAL FIXED PUBLIC (23). MARITIME (81 & 83).	
4850–4995	FIXED. LAND MOBILE. BROADCASTING 503.		4850–4995 FIXED. MOBILE.	4850–4995 FIXED.	AVIATION (87). INTERNATIONAL FIXED PUBLIC (23). MARITIME (81 & 83).	
4995–5003	STANDARD FREQUENCY AND TIME SIGNAL (5000 kHz).		4995–5005 STANDARD FREQUENCY AND TIME SIGNAL.	4995–5005 STANDARD FREQUENCY AND TIME SIGNAL.		5000 kHz: Standard frequency.
5003–5005	STANDARD FREQUENCY AND TIME SIGNAL. Space Research.		G106			
5005–5060	FIXED. BROADCASTING 503		5005–5060 FIXED.	5005–5060 FIXED.	AVIATION (87). INTERNATIONAL FIXED PUBLIC (23). MARITIME (81 & 83). PRIVATE LAND MOBILE (90).	
5060–5250	FIXED. Mobile except aeronautical mobile.		5060–5450 FIXED. MOBILE except aeronautical mobile.	5060–5450 FIXED. MOBILE except aeronautical mobile.	AVIATION (87). INTERNATIONAL FIXED PUBLIC (23). MARITIME (81 & 83).	

International table			United States table		FCC use designators	
			Government	Non-Government	Rule part(s)	Special-use frequencies
Region 1—allocation kHz	Region 2—allocation kHz	Region 3—allocation kHz	Allocation kHz	Allocation kHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
	521				PRIVATE LAND MOBILE (90).	
5250–5450	FIXED. MOBILE except aeronautical mobile.					
5450–5480 FIXED. AERONAUTICAL MOBILE (OR). LAND MOBILE.	5450–5480 AERONAUTICAL MOBILE (R).	5450–5480 FIXED. AERONAUTICAL MOBILE (OR). LAND MOBILE.	5450–5680 AERONAUTICAL MOBILE (R).	5450–5680 AERONAUTICAL MOBILE (R).	AVIATION (87).	
5480–5680	AERONAUTICAL MOBILE (R). 501 505		501 505 US283	501 505 [illegible]		
5680–5730	AERONAUTICAL MOBILE (OR). 501 505		5680–5730 AERONAUTICAL MOBILE (OR). 501 505	5680–5730 AERONAUTICAL MOBILE (OR). 501 505		
5730–5950 FIXED. LAND MOBILE.	5730–5950 FIXED. MOBILE except aeronautical mobile (R).	5730–5950 FIXED. MOBILE except aeronautical mobile (R).	5730–5950 FIXED. MOBILE except aeronautical mobile (R).	5730–5950 FIXED. MOBILE except aeronautical mobile (R).	AVIATION (87). INTERNATIONAL FIXED PUBLIC (23). MARITIME (81 & 83).	
5950–6200	BROADCASTING.		5950–6200 BROADCASTING. US280	5950–6200 BROADCASTING. US280	RADIO BROADCAST (HF) (73).	
6200–6525	MARITIME MOBILE 523. 522		6200–6525 MARITIME MOBILE 523. 522 US82 US284	6200–6525 MARITIME MOBILE 523. 522 US82 US284	MARITIME (81 & 83).	
6525–6685	AERONAUTICAL MOBILE (R).		6525–6685 AERONAUTICAL MOBILE (R). US283	6525–6685 AERONAUTICAL MOBILE (R). US283	AVIATION (87).	
6685–6765	AERONAUTICAL MOBILE (OR).		6685–6765 AERONAUTICAL MOBILE (OR).	6685–6765 AERONAUTICAL MOBILE (OR).		
6765–7000	FIXED. Land Mobile 525 524		6765–7000 FIXED. Mobile. 524	6765–7000 FIXED. Mobile 524	AVIATION (87). INTERNATIONAL FIXED PUBLIC (23).	6780 ± 15 kHz: Industrial, scientific, and medical frequency.
7000–7100	AMATEUR 510 AMATEUR-SATELLITE. 526 527		7000–7300	7000–7100 AMATEUR 510 AMATEUR-SATELLITE.	AMATEUR (97).	
7100–7300 BROADCASTING.	7100–7300 AMATEUR 510 526	7100–7300 BROADCASTING.	510 526	7100–7300 AMATEUR 510 526	AMATEUR (97).	
7300–8100	FIXED. Land Mobile. 529		7300–8100 FIXED. Mobile.	7300–8100 FIXED. Mobile.	AVIATION (87). INTERNATIONAL FIXED PUBLIC (23). MARITIME (81 & 83). PRIVATE LAND MOBILE (90).	
8100–8195	FIXED. MARITIME MOBILE.		8100–8815 MARITIME MOBILE.	8100–8815 MARITIME mobile.	MARITIME (81 & 83).	
8195–8815	MARITIME MOBILE. 501		501 US82 US236 US241	501 US82 US236 US241		
8815–8965			8815–8965	8815–8965		

International table			United States table		FCC use designators	
			Government	Non-Government	Rule part(s)	Special-use frequencies
Region 1—allocation kHz	Region 2—allocation kHz	Region 3—allocation kHz	Allocation kHz	Allocation kHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
	AERONAUTICAL MOBILE (R).		AERONAUTICAL MOBILE (R).	AERONAUTICAL MOBILE (R).	Aviation (87).	
8965-9040	AERONAUTICAL MOBILE (OR).		[illegible] AERONAUTICAL MOBILE (OR).	8965-9040 AERONAUTICAL MOBILE (OR).		
9040-9500	FIXED.		[illegible] FIXED.	9040-9050 FIXED	Aviation (87). INTERNATIONAL FIXED PUBLIC (23). MARITIME (81 & 83)	
9500-9900	BROADCASTING. 530 531		9500-9900 BROADCASTING. US235	9500-9900 BROADCASTING US235	RADIO BROADCAST (HF) (73). INTERNATIONAL FIXED PUBLIC (23).	
9900-9995	FIXED.		[illegible] FIXED.	9900-9995 FIXED.	AVIATION (87). INTERNATIONAL FIXED PUBLIC (23).	
9995-10003	STANDARD FREQUENCY AND TIME SIGNAL (10000 kHz). 501		9995-10005 STANDARD FREQUENCY AND TIME SIGNAL. 501 G106	9995-10005 STANDARD FREQUENCY AND TIME SIGNAL. 501		10000 kHz: Standard frequency.
10003-10005	STANDARD FREQUENCY AND TIME SIGNAL. Space Research. 501					
10005-10100	AERONAUTICAL MOBILE (R). 501		10005-10100 AERONAUTICAL MOBILE (R). 501 US283	10005-10100 AERONAUTICAL MOBILE (R). 501 US283	AVIATION (87).	
10100-10150	FIXED. Amateur 510.		10100-10150 510 US247	10100-10150 AMATEUR 510 US247	AMATEUR (97).	
10150-11175	FIXED. MOBILE except aeronautical mobile (R).		10150-11175 FIXED MOBILE except aeronautical mobile (R).	10150-11175 FIXED. MOBILE except aeronautical mobile (R).	10150-11175 AVIATION (87). INTERNATIONAL FIXED PUBLIC (23)	
11175-11275	AERONAUTICAL MOBILE (OR).		11175-11275 AERONAUTICAL MOBILE (OR)	11175-11275 AERONAUTICAL MOBILE (OR).		
11275-11400	AERONAUTICAL MOBILE (R).		11275-11400 AERONAUTICAL MOBILE (R) US283	11275-11400 AERONAUTICAL MOBILE (R) US283	AVIATION (87).	
11400-11650	FIXED		11400-11650 FIXED.	11400-11650 FIXED	AVIATION (87). INTERNATIONAL FIXED PUBLIC (23).	
11650-12050	BROADCASTING. 530 531		11650-12050 BROADCASTING US235	11650-12050 BROADCASTING US235	RADIO BROADCAST (HF) (73). INTERNATIONAL FIXED PUBLIC (23).	
12050-12230	FIXED.		12050-12230 FIXED.	12050-12230 FIXED.	AVIATION (87). INTERNATIONAL FIXED PUBLIC (23).	
12230-13200	MARITIME MOBILE.		12230-13200 MARITIME MOBILE.	12230-13200 MARITIME MOBILE.	INTERNATIONAL FIXED PUBLIC (23).	

International table			United States table		FCC use designations	
			Government	Non-Government	Rule part(s)	Special-use frequencies
Region 1—allocation kHz	Region 2—allocation kHz	Region 3—allocation kHz	Allocation kHz	Allocation kHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
	532		US82 US235	US82 US235	MARITIME (81 & 83)	
13200–13260	AERONAUTICAL MOBILE (OR).		13200–13260 AERONAUTICAL MOBILE (OR).	13200–13260 AERONAUTICAL MOBILE (OR).		
13260–13360	AERONAUTICAL MOBILE (R).		13260–13360 AERONAUTICAL MOBILE (R). US283	13260–13360 AERONAUTICAL MOBILE (R) US283	AVIATION (87).	
13360–13410	FIXED. RADIO ASTRONOMY. 533		13360–13410 RADIO ASTRONOMY. 533 G115	13360–13410 RADIO ASTRONOMY.		
13410–13600	FIXED. Mobile except aeronautical mobile (R). 534		13410–13600 FIXED Mobile except aeronautical mobile (R). 534	13410–13600 FIXED.	AVIATION (87). INTERNATIONAL FIXED PUBLIC (23).	13560 ±7 kHz: Industrial, scientific and medical frequency
13600–13800	BROADCASTING. 531		13600–13800 BROADCASTING. US235	13600–13800 BROADCASTING US235	RADIO BROADCAST (HF) (73) INTERNATIONAL FIXED PUBLIC (23).	
13800–14000	FIXED. Mobile except aeronautical mobile (R).		13800–14000 FIXED. Mobile except aeronautical mobile (R).	13800–14000 FIXED	AVIATION (87). INTERNATIONAL FIXED PUBLIC (23).	
14000–14250	AMATEUR 510 AMATEUR-SATELLITE.		14000–14350 510	14000–14250 AMATEUR 510 AMATEUR-SATELLITE.	AMATEUR (97)	
14250–14350	AMATEUR 510 535			14250–14350 AMATEUR 510	AMATEUR (97).	
14350–14990	FIXED. Mobile except aeronautical mobile (R).		14350–14990 FIXED. Mobile except aeronautical mobile (R).	14350–14990 FIXED.	AVIATION (87) INTERNATIONAL FIXED PUBLIC (23)	
14990–15005	STANDARD FREQUENCY AND TIME SIGNAL (15000 kHz). 501		14990–15010 STANDARD FREQUENCY AND TIME SIGNAL 501 G106	14990–15010 STANDARD FREQUENCY AND TIME SIGNAL 501		15000 kHz: Standard frequency
15005–15010	STANDARD FREQUENCY AND TIME SIGNAL. Space Research.					
15010–15100	AERONAUTICAL MOBILE (OR)		15010–15100 AERONAUTICAL MOBILE (OR).	15010–15100 AERONAUTICAL MOBILE (OR).		
15100–15600	BROADCASTING 531		15100–15600 BROADCASTING. US235	15100–15600 BROADCASTING. US235	RADIO BROADCAST (HF) (73) INTERNATIONAL FIXED PUBLIC (23).	
15600–16360	FIXED. 536		15600–16360 FIXED.	15600–16360 FIXED.	AVIATION (87). INTERNATIONAL FIXED PUBLIC (23).	
16360–17410	MARITIME MOBILE. 532		16360–17410 MARITIME MOBILE. US82 US235	16360–17410 MARITIME MOBILE. US82 US235	MARITIME (81 & 83).	

International table			United States table		FCC use designators	
			Government	Non-Government	Rule part(s)	Special-use frequencies
Region 1—allocation kHz	Region 2—allocation kHz	Region 3—allocation kHz	Allocation kHz	Allocation kHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
17410–17550	FIXED.		17410–17550 FIXED.	17410–17550 FIXED.	AVIATION (87). INTERNATIONAL FIXED PUBLIC (23).	
17550–17900	BROADCASTING. 531		17550–17900 BROADCASTING. US235	17550–17900 BROADCASTING. US235	RADIO BROADCAST (HF) (73). INTERNATIONAL FIXED PUBLIC (23).	
17900–17970	AERONAUTICAL MOBILE (R).		17900–17970 AERONAUTICAL MOBILE (R). US283	17900–17970 AERONAUTICAL MOBILE (R). US283	AVIATION (87).	
17970–18030	AERONAUTICAL MOBILE (OR).		17970–18030 AERONAUTICAL MOBILE (OR).	17970–18030 AERONAUTICAL MOBILE (OR).		
18030–18052	FIXED.		18030–18068 FIXED.	18030–18068 FIXED.	INTERNATIONAL FIXED PUBLIC (23). MARITIME (81 & 83).	
18052–18068	FIXED. Space Research.					
18068–18168	AMATEUR 510 AMATEUR-SATELLITE. 537 538		18068–18168 510 US248	18068–18168 AMATEUR 510 AMATEUR-SATELLITE. US248	AMATEUR (97). INTERNATIONAL FIXED PUBLIC (23). MARITIME (81 & 83).	
18168–18780	FIXED.		18168–18780 FIXED.	18168–18780 FIXED.	AVIATION (87). INTERNATIONAL FIXED PUBLIC (23).	
18780–18900	MARITIME MOBILE. 532		18780–18900 MARITIME MOBILE. US235	18780–18900 MARITIME MOBILE. US235	INTERNATIONAL FIXED PUBLIC (23). MARITIME (81 & 83).	
18900–19680	FIXED.		18900–19680 FIXED.	18900–19680 FIXED.	AVIATION (87). INTERNATIONAL FIXED PUBLIC (23).	
19680–19800	MARITIME MOBILE. 532		19680–19800 MARITIME MOBILE. US235	19680–19800 MARITIME MOBILE. US235	MARITIME (81 & 83).	
19800–19990	FIXED.		19800–19990 FIXED.	19800–19990 FIXED.	AVIATION (87). INTERNATIONAL FIXED PUBLIC (23).	
19990–19995	STANDARD FREQUENCY AND TIME SIGNAL. Space Research. 501		19990–20010 STANDARD FREQUENCY AND TIME SIGNAL. 501 G106	19990–20010 STANDARD FREQUENCY AND TIME SIGNAL. 501		20000 kHz: Standard frequency.
19995–20010	STANDARD FREQUENCY AND TIME SIGNAL (20000 kHz). 501					
20010–21000	FIXED. Mobile.		20010–21000 FIXED. Mobile.	20010–21000 FIXED.		
21000–21450	AMATEUR 510 AMATEUR-SATELLITE.		21000–21450 510	21000–21450 AMATEUR 510 AMATEUR-SATELLITE.	AMATEUR (97).	

International table			United States table		FCC use designators	
			Government	Non-Government	Rule part(s)	Special-use frequencies
Region 1—allocation kHz	Region 2—allocation kHz	Region 3—allocation kHz	Allocation kHz	Allocation kHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
21450 21850	BROADCASTING. 531		21450–21850 BROADCASTING. US235	21450–21850 BROADCASTING. US235	INTERNATIONAL FIXED PUBLIC (23). RADIO BROADCAST (HF) (73).	
21850–21870	FIXED. 539		21850–21924 FIXED.	21850–21924 FIXED.	AVIATION (87). INTERNATIONAL FIXED PUBLIC (23).	
21870–21924	AERONAUTICAL FIXED.		US293	US293		
21924–22000	AERONAUTICAL MOBILE (R).		21924–22000 AERONAUTICAL MOBILE (R).	21924–22000 AERONAUTICAL MOBILE (R).	AVIATION (87).	
22000–22855	MARITIME MOBILE. 532 540		22000–22855 MARITIME MOBILE. US235 US82	22000–22855 MARITIME MOBILE. US235 US82	INTERNATIONAL FIXED PUBLIC (23). MARITIME (81 & 83).	
22855–23000	FIXED. 540		22855–23000 FIXED.	22855–23000 FIXED.	AVIATION (87). INTERNATIONAL FIXED PUBLIC (23).	
23000–23200	FIXED. Mobile except aeronautical mobile (R). 540		23000–23200 FIXED. Mobile except aeronautical mobile (R).	23000–23200 FIXED.	AVIATION (87). INTERNATIONAL FIXED PUBLIC (23).	
23200–23350	AERONAUTICAL FIXED. AERONAUTICAL MOBILE (OR).		23200–23350 AERONAUTICAL MOBILE (OR).	23200–23350 AERONAUTICAL MOBILE (OR).		
23350–24000	FIXED. MOBILE except aeronautical mobile 541 542		23350–24890 FIXED. MOBILE except aeronautical mobile.	23350–24890 FIXED.	AVIATION (87). INTERNATIONAL FIXED PUBLIC (23).	
24000–24890	FIXED. LAND MOBILE. 542					
24890–24990	AMATEUR 510 AMATEUR-SATELLITE. 542 543		24890–24990 510 US248	24890–24990 AMATEUR 510 AMATEUR-SATELLITE. US248	AMATEUR (97).	
24990–25005	STANDARD FREQUENCY AND TIME SIGNAL (25000 kHz).		24990–25010 STANDARD FREQUENCY AND TIME SIGNAL. G106	24990–25010 STANDARD FREQUENCY AND TIME SIGNAL.		25000 kHz: Standard frequency.
25005–25010	STANDARD FREQUENCY AND TIME SIGNAL. Space Research.					
25010–25070	FIXED. MOBILE except aeronautical mobile.		25010–25070	25010–25070 LAND MOBILE. NG112	PRIVATE LAND MOBILE [90].	
25070–25210	MARITIME MOBILE. 544		25070–25210 MARITIME MOBILE. US235 US281	25070–25210 MARITIME MOBILE. US235 US281 NG112	MARITIME (81 and 83). PRIVATE LAND MOBILE [90].	

International table			United States table		FCC use designators	
			Government	Non-Government	Rule part(s)	Special-use frequencies
Region 1—allocation kHz	Region 2—allocation kHz	Region 3—allocation kHz	Allocation kHz	Allocation kHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
25210–25550	FIXED. MOBILE except aeronautical mobile.		25210–25330	25210–25330 LAND MOBILE.	PRIVATE LAND MOBILE (90).	
			[illegible] FIXED. MOBILE except aeronautical mobile.	25330–25550		
25550–25670	RADIO ASTRONOMY. 545		25550–25670 RADIO ASTRONOMY. 545 US74 US249	25550–25670 RADIO ASTRONOMY. 545 US74 US249		
25670–26100	BROADCASTING.		[illegible] BROADCASTING. US25	25670–26100 BROADCASTING. US25	AUXILIARY BROADCASTING (74). RADIO BROADCAST (HF) (73).	
26100–26175	MARITIME MOBILE. 544		26100–26175 MARITIME MOBILE. US235	26100–26175 MARITIME MOBILE. US235	AUXILIARY BROADCASTING (74). MARITIME (81 and 83).	
26175–27500	FIXED. MOBILE except aeronautical Mobile.		26175–26480	26175–26480 LAND MOBILE.	AUXILIARY BROADCASTING (74).	
			[illegible] FIXED. MOBILE except aeronautical mobile. US10	26480–26950 US10		
			26950–27540	26950–26960 FIXED. 546	INTERNATIONAL FIXED PUBLIC (23).	
	548			26960–27230 MOBILE except aeronautical mobile. 548	PERSONAL (95).	27120±160 kHz: Industrial, scientific, and medical frequency.
				27230–27410 FIXED. MOBILE except aeronautical mobile. 546	PERSONAL (95). PRIVATE LAND MOBILE (90).	
27500–28000	METEOROLOGICAL AIDS. FIXED. MOBILE.		548	27410–27540 LAND MOBILE.	PRIVATE LAND MOBILE (90).	
			27540–28000 FIXED. MOBILE.	27540–28000		

§ 2.106 Table of Frequency Allocations.

International table			United States table		FCC use designators	
			Government	Non-Government	Rule part(s)	Special-use frequencies
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
28.0–29.7	AMATEUR. AMATEUR-SATELLITE.		28.0–29.7	28.0–29.7 AMATEUR. AMATEUR-SATELLITE.	AMATEUR (97).	
29.7–30.005			29.7–29.89	29.7–29.8		

International table			United States table		FCC use designators	
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Government	Non-Government	Rule part(s)	Special-use frequencies
(1)	(2)	(3)	Allocation MHz (4)	Allocation MHz [5]	[6]	(7)
	FIXED. MOBILE.			LAND MOBILE.	PRIVATE LAND MOBILE (90).	
				[illegible] FIXED.	AVIATION (87) INTERNATIONAL FIXED PUBLIC (23).	
			29.89–29.91 FIXED. MOBILE.	29.89–29.91		
			29.91–30.0	29.91–30.0 FIXED.	AVIATION (87). INTERNATIONAL FIXED PUBLIC (23)	
			30.0–30.56 MOBILE. Fixed.	30.0–30.56		
30.005–30.01 FIXED. MOBILE. SPACE RESEARCH. SPACE OPERATIONS (satellite identification).						
30.01–37.5 FIXED. MOBILE.			30.56–32.0	30.56–32.0 LAND MOBILE. NG124	PRIVATE LAND MOBILE [illegible].	
			32.0–33.0 FIXED. MOBILE.	32.0–33.0		
			33.0–34.0	33.0–34.0 LAND MOBILE. NG124	PRIVATE LAND MOBILE [illegible].	
			34.0–35.0 FIXED. MOBILE.	34.0–35.0		
			35.0–36.0	35.0–35.19 LAND MOBILE. NG124	PRIVATE LAND MOBILE (90)	
				35.19–35.69 LAND MOBILE. NG124	DOMESTIC PUBLIC LAND MOBILE (22). PRIVATE LAND MOBILE [illegible].	
				35.69–36.0 LAND MOBILE. NG124	PRIVATE LAND MOBILE (90).	
			36.0–37.0 FIXED. MOBILE. US220	36.0–37.0 US220		
			37.0–37.5	37.0–37.5 LAND MOBILE. NG124	PRIVATE LAND MOBILE (90).	
37.5–38.25 FIXED. MOBILE. Radio Astronomy.			37.5–38.0 Radio Astronomy. 547	37.5–38.0 LAND MOBILE. Radio Astronomy. 547 NG59 NG124	PRIVATE LAND MOBILE (90).	
			38.0–38.25 FIXED. MOBILE. RADIO ASTRONOMY.	[illegible] RADIO ASTRONOMY.		

International table			United States table		FCC use designators	
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
	547		547 US81	547 US81		
38.25–39.986	FIXED. MOBILE.		38.25–39.0 FIXED MOBILE.	38.25–39.0		
39.986–40.02	FIXED. MOBILE. Space Research.		39.0–40.0	39.0–40.0 LAND MOBILE. NG124	PRIVATE LAND MOBILE (90).	
40.02–40.98	FIXED. MOBILE. 548		40.0–42.0 FIXED. MOBILE. US210 US220	40.0–42.0 548 US210 US220		40.68 MHz ± .02 MHz: Industrial, scientific and medical frequency.
40.98–41.015	FIXED. MOBILE. Space Research. 549 550 551					
41.015–44.0	FIXED. MOBILE. 549 550 551		42.0–46.6	42.0–43.19 LAND MOBILE. NG124 NG141	PRIVATE LAND MOBILE (90).	
				43.19–43.69 LAND MOBILE. NG124	DOMESTIC PUBLIC LAND MOBILE (22) PRIVATE LAND MOBILE (90).	
44.0–47.0	FIXED. MOBILE. 551 552			43.69–46.6 LAND MOBILE. NG124 NG141	PRIVATE LAND MOBILE (90).	
			46.6–47.0 FIXED MOBILE.	46.6–47.0		
47.0–68.0 BROADCASTING.	47.0–50.0 FIXED MOBILE.	47.0–50.0 FIXED. MOBILE. BROADCASTING.	47.0–49.6	47.0–49.6 LAND MOBILE. NG124	PRIVATE LAND MOBILE (90).	
			49.6–50.0 FIXED MOBILE.	49.6–50.0		
553 554 555 559 561	50.0–54.0 AMATEUR. 556 557 558 560		50.0–54.0	50.0–54.0 AMATEUR.	AMATEUR (97).	
	54.0–68.0 BROADCASTING. Fixed. Mobile. 562	54.0–68.0 FIXED. MOBILE. BROADCASTING.	54.0–72.0	54.0–72.0 BROADCASTING.	RADIO BROADCAST (TV) (73). Auxiliary Broadcasting (74).	
68.0–74.8 FIXED. MOBILE except aeronautical mobile.	68.0–72.0 BROADCASTING. Fixed. Mobile. 563	68.0–74.8 FIXED. MOBILE.				

International table			United States table		FCC use designators	
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
564 565 567 568 571 572	72.0–73.0 FIXED. MOBILE.	566 568 571 572	72.0–73.0	72.0–73.0 FIXED MOBILE. NG3 NG49 NG56	DOMESTIC PUBLIC LAND MOBILE (22). PERSONAL (95) PRIVATE LAND MOBILE [redacted]	
	73.0–74.6 RADIO ASTRONOMY. 569 570		73.0–74.6 RADIO ASTRONOMY. 569 US74	73.0–74.6 RADIO ASTRONOMY 569 US74 NG133		
	74.6–74.8 FIXED. MOBILE. 572		74.6–74.8 FIXED. MOBILE. 572 US273	74.6–74.8 FIXED. MOBILE 572 US273		
74.8–75.2	AERONAUTICAL RADIONAVIGATION. 572		74.8–75.2 AERONAUTICAL RADIONAVIGATION. 572	74.8–75.2 AERONAUTICAL RADIONAVIGATION 572	AVIATION (87).	75 MHZ Marker Beacon
75.2–87.5 FIXED. MOBILE except aeronautical mobile. 565 571 572 575 578	75.2–75.4 FIXED. MOBILE. 571 572		75.2–75.4 FIXED. MOBILE. 572 US273	75.2–75.4 FIXED. MOBILE. 572 US273		
	75.4–76.0 FIXED. MOBILE.	75.4–87.0 FIXED. MOBILE. 573 574 577 579	75.4–76.0	75.4–76.0 FIXED. MOBILE NG3 NG49 NG56	DOMESTIC PUBLIC LAND MOBILE (22). PERSONAL (95) PRIVATE LAND MOBILE (90)	
	76.0–88.0 BROADCASTING. Fixed. Mobile. 576		76.0–88.0	76.0–88.0 BROADCASTING NG129	RADIO BROADCAST (TV)(73). Auxiliary Broadcasting (74).	
87.5–100.0 BROADCASTING. 581 582	88–100 BROADCASTING	87.0–100.0 FIXED MOBILE. BROADCASTING. 580	88–108	[redacted] BROADCASTING. US93 NG2 NG128 NG129	RADIO BROADCAST (FM) (73) Auxiliary Broadcasting (74).	
100–108	BROADCASTING. 582 583 584 585 586 587 588 589 590					
108.0–117.975	AERONAUTICAL RADIONAVIGATION.		108.0–117.975 AERONAUTICAL RADIONAVIGATION. US93	108.0–117.975 AERONAUTICAL RADIONAVIGATION US93		
117.975–136.0	AERONAUTICAL MOBILE (R). 501 591 592 593 594		117.975–121.9375 AERONAUTICAL MOBILE (R). 501 591 592 593 US26 US28	117.975–121.9375 AERONAUTICAL MOBILE (R) 501 591 592 593 US26 US28	AVIATION (87).	
			121.9375–123.0875 591 US30 US31 US33 US80 US102 US213	121.9375–123.0875 AERONAUTICAL MOBILE 591 US30 US31 US33 US80 US102 US213	AVIATION (87).	
			123.0875–123.5875 AERONAUTICAL MOBILE	123.0875–123.5875 AERONAUTICAL MOBILE	AVIATION (87).	123.1 MHz for SAR Scene-of-Action Communication.

International table			United States table		FCC use designators	
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
			591 593 US32 US33 US112	591 593 US32 US33 US112		
			123.5875–128.8125 AERONAUTICAL MOBILE (R). 591 US26	123.5875–128.8125 AERONAUTICAL MOBILE (R). 591 US26	AVIATION (87).	
			128.8125–132.0125 591	128.8125–132.0125 AERONAUTICAL MOBILE (R). 591	AVIATION (87).	
			132.0125–136.0 AERONAUTICAL MOBILE (R). 591 US26	132.0125–136.0 AERONAUTICAL MOBILE (R). 591 US26	AVIATION (87).	
136.0–137.0	AERONAUTICAL MOBILE (R). FIXED. Mobile except aeronautical mobile (R). 591 595		136.0–137.0 591 US244	136.0–137.0 AERONAUTICAL MOBILE (R). 591 US244	AVIATION (87). SATELLITE COMMUNICATIONS (25).	
137.0–138.0	SPACE OPERATION (space-to-Earth). METEOROLOGICAL-SATELLITE (space-to-Earth). SPACE RESEARCH (space-to-Earth). Fixed. Mobile except aeronautical mobile (R). 596 597 598 599		137.0–138.0 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth).	137.0–138.0 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth).	SATELLITE COMMUNICATIONS (25).	
138.0–143.6 AERONAUTICAL MOBILE (OR). 600 601 602 604	138.0–143.6 FIXED MOBILE /RADIOLOCATION/. Space Research (space-to-Earth).	138.0–143.6 FIXED. MOBILE. Space Research (space-to-Earth). 599 603	138.0–144.0 FIXED MOBILE.	138.0–144.0		
143.6–143.65 AERONAUTICAL MOBILE (OR). SPACE RESEARCH (space-to-Earth). 601 602 604	143.6–143.65 FIXED. MOBILE SPACE RESEARCH (space-to-Earth). /RADIOLOCATION/.	143.6–143.65 FIXED MOBILE. SPACE RESEARCH (space-to-Earth). 599 603				
143.65–144.0 AERONAUTICAL MOBILE (OR). 600 601 602 604	143.65–144.0 FIXED. MOBILE. /RADIOLOCATION/. Space Research (space-to-Earth).	143.65–144.0 FIXED. MOBILE. Space Research (space-to-Earth). 599 603	US10 G30	US10		
144.0–146.0	AMATEUR 510 AMATEUR-SATELLITE. 605 606		144.0–146.0 510	144.0–146.0 AMATEUR 510 AMATEUR-SATELLITE.	AMATEUR (97).	
146.0–149.9 FIXED. MOBILE except aeronautical Mobile (R).	146.0–148.0 AMATEUR.	146.0–148.0 AMATEUR. FIXED. MOBILE.	146.0–148.0	146.0–148.0 AMATEUR.	AMATEUR (97).	
608	607 148.0–149.9 FIXED MOBILE. 608	607	148.0–149.9 FIXED MOBILE. 608 US10 G30	148.0–149.9 608 US10	SATELLITE COMMUNICATION (25).	
149.9–150.05	RADIONAVIGATION-SATELLITE.		149.9–150.05 RADIONAVIGATION SATELLITE.	149.9–150.05 RADIONAVIGATION SATELLITE.		

International table			United States table		FCC use designators	
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
	609					
150.05–153.0 FIXED MOBILE except aeronautical mobile. RADIO ASTRONOMY.	150.05–156.7625 FIXED. MOBILE		150.05–150.8 FIXED MOBILE. US216 G30	150.05–150.8 US216		
			150.8–156.2475	150.8–152.0 LAND MOBILE. NG51 NG112 NG124	PRIVATE LAND MOBILE (90)	
				152.0–152.255 LAND MOBILE US216	DOMESTIC PUBLIC LAND MOBILE (22)	
610 612	611 613		613 US216			
				152.255–152.495 LAND MOBILE. NG124	PRIVATE LAND MOBILE (90).	
				152.495–152.855 LAND MOBILE. NG4	DOMESTIC PUBLIC LAND MOBILE (22)	
				152.855–156.2475 LAND MOBILE. 613 NG4 NG112 NG117 NG124	PRIVATE LAND MOBILE (90) AUXILIARY BROADCASTING (74).	
153.0–154.0 FIXED. MOBILE except aeronautical mobile (R) Meteorological Aids.						
154.0–156.7625 FIXED. MOBILE except aeronautical mobile (R) 613						
			156.2475–157.0375	156.2475–157.0375 MARITIME MOBILE NG117		
156.7625–156.8375	MARITIME MOBILE (distress and calling) 501 613					
156.8375–174.0 FIXED MOBILE except aeronautical mobile.	156–8375–174.0 FIXED. MOBILE		613 US77 US106 US107 US266	613 US77 US106 US107 US266		
			157.0375–157.1875 MARITIME MOBILE. 613 US214 US266 G109	157.0375–157.1875 613 US214 US266	Private Land Mobile (90).	
613 614 615	613 616 617 618		157.1875–157.45 613 US223 US266	157.1875–157.45 MARITIME MOBILE. 613 US223 US266 NG111	MARITIME (81 and 83)	
			157.45–161.575	157.45–157.755 LAND MOBILE 613 US266 NG111 NG124	PRIVATE LAND MOBILE (90)	
				157.755–158.115 LAND MOBILE.	DOMESTIC PUBLIC LAND MOBILE (22).	

International table			United States table		FCC use designators	
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
				613		
			613 US266	158.115–161.575 LAND MOBILE NG6 613 NG6 NG28 NG70 NG112 NG124	DOMESTIC PUBLIC LAND MOBILE (22). PRIVATE LAND MOBILE (90).	
			161.575–161.625 613 US77	161.575–161.625 MARITIME MOBILE. 613 US77 NG6 NG17	DOMESTIC PUBLIC LAND MOBILE (22). MARITIME (81 and 83)	
			161.625–161.775 613	161.625–161.775 LAND MOBILE. 613 NG6	AUXILIARY BROADCASTING (74). DOMESTIC PUBLIC LAND MOBILE (22).	
			161.775–162.0125 613 US266	161.775–162.0125 MARITIME MOBILE. 613 US266 NG6	DOMESTIC PUBLIC LAND MOBILE (22). MARITIME (81 and 83).	
			162.0125–173.2 FIXED. MOBILE. 613 US8 US11 US13 US216 US223. G5	162.0125–173.2 613 US8 US11 US13 US216 US223.	Auxiliary Broadcasting (74). Private Land Mobile (90).	
			173.2–173.4	173.2–173.4 FIXED. Land Mobile. NG124	Private Land Mobile (90).	
			173.4–174.0 FIXED. MOBILE. G5	173.4–174.0		
174–233 BROADCASTING. 621 623 626 629	174–216 BROADCASTING. Fixed. Mobile. 620	174–233 FIXED. MOBILE. BROADCASTING. 619 624 625 626	174–216	174–216 BROADCASTING. NG115	RADIO BROADCAST (TV) (73). Auxiliary Broadcasting (74).	
	216–220 FIXED. MARITIME MOBILE. Radiolocation 627		216–220 MARITIME MOBILE. Aeronautical Mobile. Fixed. Land Mobile. Radiolocation 627 US210 US229 US274 G2	216–220 MARITIME MOBILE. Aeronautical Mobile. Fixed. Land Mobile. 627 US210 US229 US274 NG121	MARITIME (81 and 83). Private Land Mobile (90).	
	220–225 AMATEUR. FIXED. MOBILE. Radiolocation 627		220–225 FIXED. MOBILE. Radiolocation 627	220–225 AMATEUR. FIXED. MOBILE.	AMATEUR (97).	
223–230 BROADCASTING. Fixed Mobile. 622 628 629 631 632 633 634 635.		223–230 FIXED.	Fixed.	MOBILE.		Mobile.
	225–235 FIXED. MOBILE.	636 637	225.0–328.6 FIXED. MOBILE.	225.0–328.6		
230–235 FIXED. MOBILE.		230–235 FIXED. MOBILE.	501 592 642 644	501 592 642 644.		

International table			United States table		FCC use designators	
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
629 632 633 634 635 638 639.		AERONAUTICAL RADIONAVIGATION. 637	G30 G100			
235–267	FIXED. MOBILE 501 592 635 640 641 642					
267–272	FIXED. MOBILE. Space Operation (space-to-Earth) 641 643					
272–273	SPACE OPERATION (space-to-Earth) FIXED MOBILE 641					
273–322	FIXED. MOBILE 641					
322.0–328.6	FIXED. MOBILE. RADIO ASTRONOMY 644					
328.6–335.4	AERONAUTICAL RADIONAVIGATION 645		328.6–335.4 AERONAUTICAL RADIONAVIGATION. 645	328.6–335.4 AERONAUTICAL RADIONAVIGATION 645		
335.4–399.9	FIXED. MOBILE. 641		335.4–399.9 FIXED. MOBILE. G30 G100	335.4–399.9		
399.9–400.05	RADIONAVIGATION-SATELLITE 609		399.9–400.05 RADIONAVIGATION-SATELLITE.	399.9–400.05 RADIONAVIGATION-SATELLITE		
400.05–400.15	STANDARD FREQUENCY AND TIME SIGNAL-SATELLITE. (400.1 MHz) 646 647		400.05–400.15 STANDARD FREQUENCY AND TIME SIGNAL-SATELLITE. 646	400.05–400.15 STANDARD FREQUENCY AND TIME SIGNAL-SATELLITE. 646		400.1 MHz Standard frequency.
400.15–401.0	METEOROLOGICAL AIDS METEOROLOGICAL-SATELLITE (space-to-Earth). SPACE RESEARCH (space-to-Earth). Space Operation (space-to-Earth). 647		400.15–401.0 METEOROLOGICAL AIDS (radiosonde). METEOROLOGICAL-SATELLITE (space-to-Earth). SPACE RESEARCH (space-to-Earth). Space Operation (space-to-Earth). US70	400.15–401.0 METEOROLOGICAL AIDS (radiosonde) SPACE RESEARCH (space-to-Earth). Space Operation (space-to-Earth). US70	SATELLITE COMMUNICATION (25)	
401–402	METEOROLOGICAL AIDS. SPACE OPERATION (space-to-Earth). Earth Exploration-Satellite (Earth-to-space). Fixed. Meteorological-Satellite (Earth-to-space). Mobile except aeronautical mobile.		401–402 METEOROLOGICAL AIDS (radiosonde). SPACE OPERATION (space-to-Earth). Earth Exploration-Satellite (Earth-to-space). Meteorological-Satellite (Earth-to-space). US70	401–402 METEOROLOGICAL AIDS (radiosonde). SPACE OPERATION (space-to-Earth). Earth Exploration-Satellite (Earth-to-space). Meteorological-Satellite (Earth-to-space). US70	SATELLITE COMMUNICATIONS (25)	
402–403			402–403	402–403		

International table			United States table		FCC use designators	
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
	METEOROLOGICAL AIDS. Earth Exploration-Satellite (Earth-to-space). Fixed. Meteorological-Satellite (Earth-to-space). Mobile except aeronautical mobile.		METEOROLOGICAL AIDS (radiosonde) Earth Exploration-Satellite (Earth-to-space) Meteorological-Satellite (Earth-to-space). US70	METEOROLOGICAL AIDS (radiosonde). Earth Exploration-Satellite (Earth-to-space). Meteorological-Satellite. (Earth-to-space). US70		
403–406	METEOROLOGICAL AIDS. Fixed. Mobile except aeronautical mobile. 648		[illegible] METEOROLOGICAL AIDS (radiosonde). US70 G6	403–406 METEOROLOGICAL AIDS (radiosonde). US70		
406.0–406.1	MOBILE-SATELLITE (Earth-to-space). 649		406.0–406.1 MOBILE-SATELLITE (Earth-to-space). [illegible]	406.0–406.1 MOBILE-SATELLITE (Earth-to-space). 649		
406.1–410.0	FIXED. MOBILE except aeronautical mobile. RADIO ASTRONOMY. 648 650		406.1–410.0 FIXED. MOBILE. RADIO ASTRONOMY. US13 US74 US117 G5 G8	406.1–410.0 RADIO ASTRONOMY. US13 US74 US117		
410–420	FIXED. MOBILE except aeronautical mobile.		410–420 FIXED. MOBILE. US13 G5	410–420 US13		
420–430	FIXED. MOBILE except aeronautical mobile. Radiolocation. 651 652 653		420–450 RADIOLOCATION. 664 668 US7 US87 US217 US228 G2 G8 G105	420–450 Amateur. [illegible] US7 US87 US217 US228 NG135	Amateur (97).	
430–440 AMATEUR. RADIOLOCATION. 653 654 655 656 657 658 659 661 662 663 664 665	430–440 RADIOLOCATION. Amateur. 653 658 659 660 663 664					
440–450	FIXED. MOBILE except aeronautical mobile. Radiolocation. 651 652 653 666 667 668					
450–460	FIXED. MOBILE. 653 668 669 670		450–460 668 669 670 US87 G105	450–451 LAND MOBILE. 668 US87	AUXILIARY BROADCASTING (74). SATELLITE COMMUNICATION (25).	
				451–454 LAND MOBILE. NG112 NG124	PRIVATE LAND MOBILE (90).	
				454–455 LAND MOBILE. NG12 NG112	DOMESTIC PUBLIC LAND MOBILE (22).	
				455–456 LAND MOBILE.	AUXILIARY BROADCASTING (74).	

International table			United States table		FCC use designators	
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
				456–459 LAND MOBILE 669 670 NG112 NG124	PRIVATE LAND MOBILE (90)	
				459–460 LAND MOBILE NG12 NG112	DOMESTIC PUBLIC LAND MOBILE (22)	
460–470	FIXED MOBILE. Meterological-Stateflite (space-to-Earth). 669 670 671 672		460–470 Meterological Satellite (space-to-Earth). 669 670 671 US201 US209 US216	460–462.5375 LAND MOBILE 671 US201 US209 NG124	PRIVATE LAND MOBILE (90)	
				462.5375–462.7375 LAND MOBILE 671 US201	PERSONAL (95).	
				462.7375–467.5375 LAND MOBILE. 669 671 US201 US209 US216 NG124	PRIVATE LAND MOBILE [90]	
				467.5375–467.7375 LAND MOBILE. 669 671 US201	PERSONAL (95).	
				467.7375–470.0 LAND MOBILE. 669 670 671 US201 US216 NG124	PRIVATE LAND MOBILE (90).	
470–790 BROADCASTING.	470–512 BROADCASTING Fixed. Mobile. 674 675	470–585 FIXED. MOBILE. BROADCASTING 673 677 679	470–512	470–512 BROADCASTING LAND MOBILE. NG66 NG114 NG127	RADIO BROADCAST (TV) (73). DOMESTIC PUBLIC LAND MOBILE (22) PRIVATE LAND MOBILE (90) Auxiliary Broadcasting (74)	
676 680 681 682 683 684 685 686 687 689 693 694	512–608 BROADCASTING. 678	585–610 FIXED MOBILE. BROADCASTING. RADIONAVIGATION 688 689 690	512–608	512–608 BROADCASTING.	RADIO BROADCAST (TV) (73). Auxiliary Broadcasting (74).	
	608–614 RADIO ASTRONOMY. Mobile-Satellite except aeronautical mobile-satellite (Earth-to-space).	610–890 FIXED MOBILE. BROADCASTING.	608–614 RADIO ASTRONOMY. US74 US246	608–614 RADIO ASTRONOMY. US74 US246		
790–862 FIXED. BROADCASTING	614–806 BROADCASTING. Fixed. Mobile. 675 692 693		614–806 DBROADCASTING	614–806 RADIO BROADCAST (TV) (73). Auxiliary Broadcasting (74). NG30 NG43		

International table			United States table		FCC use designators	
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
694 695 696 697 698 699 702	806–890		806–902	806–821 LAND MOBILE. NG30 NG43 NG63	PRIVATE LAND MOBILE (90).	
862–890 FIXED. MOBILE except aeronautical mobile. BROADCASTING 703.	FIXED. MOBILE. BROADCASTING.					
699 704	700	677 688 689 690 691 693 701	US116 US268 G2	821–825 LAND MOBILE. NG30 NG43 NG63	Reserve.	
				825–845 LAND MOBILE. NG30 NG43 NG63	DOMESTIC PUBLIC LAND MOBILE (22).	
				845–851 LAND MOBILE. NG30 NG63	Reserve.	
				851–866 LAND MOBILE NG30 NG63	PRIVATE LAND MOBILE (90)	
				866–870 LAND MOBILE. NG30 NG63	Reserve.	
				870–890 LAND MOBILE. NG30 NG63	DOMESTIC PUBLIC LAND MOBILE (22).	
890–942 FIXED. MOBILE except aeronautical mobile. BROADCASTING 703. Radiolocation. 704	890–902 FIXED. MOBILE except aeronautical mobile. Radiolocation. 705	890–942 FIXED. MOBILE. BROADCASTING. Radiolocation. 706		890–902 LAND MOBILE. US116 US268	Reserve.	
	902–928 FIXED. Amateur. Mobile except aeronautical mobile. Radiolocation. 705 707		902–928 RADIOLOCATION. 707 US215 US218 US267 US275 G11 G59	902–928 707 US215 US218 US267 US275	Amateur (97).	915 ± 13 MHz: Industrial, scientific and medical frequency.
	928–942 FIXED. MOBILE except aeronautical mobile. Radiolocation. 705		928–947 US116 US215 US268 G2	928–929 FIXED. US116 US215 US268	DOMESTIC PUBLIC LAND MOBILE (22). PRIVATE LAND MOBILE (90) PRIVATE OPERATIONAL FIXED MICROWAVE (94).	
				929–932 LAND MOBILE US116 US215 US268	DOMESTIC PUBLIC LAND MOBILE (22). PRIVATE LAND MOBILE (90).	
				932–947 LAND MOBILE. US116 US215 US268 NG64	Reserve.	
942–960 FIXED. MOBILE except aeronautical mobile.	942–960 FIXED. Mobile.	942–960 FIXED. MOBILE. BROADCASTING.	947–960	947–960	AUXILIARY BROADCASTING (74).	

International table			United States table		FCC use designators	
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
BROADCASTING 703 699 704	708	701		FIXED	DOMESTIC PUBLIC LAND MOBILE (22) INTERNATIONAL FIXED PUBLIC (23) PRIVATE OPERATIONAL FIXED MICROWAVE (94)	
960–1215	AERONAUTICAL RADIONAVIGATION. 709		960–1215 AERONAUTICAL RADIONAVIGATION. 709 US224	960–1215 AERONAUTICAL RADIONAVIGATION 709 US224	AVIATION (87)	
1215–1240	RADIOLOCATION. RADIONAVIGATION-SATELLITE (space-to-Earth) 710. 711 712 713		1215–1240 RADIOLOCATION. RADIONAVIGATION-SATELLITE (space-to-Earth) 713 G56	1215–1240 713		
1240–1260	RADIOLOCATION. RADIONAVIGATION-SATELLITE (space-to-Earth) 710. Amateur. 711 712 713 714		1240–1300 RADIOLOCATION.	1240–1300 Amateur.	Amateur (97)	
1260–1300	RADIOLOCATION Amateur. 664 711 712 713 714		664 713 714 G56	664 713 714		
1300–1350	AERONAUTICAL RADIONAVIGATION 717 Radiolocation 715 716 718		1300–1350 AERONAUTICAL RADIONAVIGATION 717 Radiolocation 718 G2	1300–1350 AERONAUTICAL RADIONAVIGATION 717 718	AVIATION (87)	
1350–1400 FIXED. MOBILE. RADIOLOCATION. 718 719 720	1350–1400 RADIOLOCATION 714 718 720		1350–1400 RADIOLOCATION Fixed. Mobile. 714 718 720 G2 G27 G114	1350–1400 714 718 720		
1400–1427	EARTH EXPLORATION-SATELLITE (passive). RADIO ASTRONOMY SPACE RESEARCH (passive). 721 722		1400–1427 EARTH EXPLORATION-SATELLITE (passive). RADIO ASTRONOMY SPACE RESEARCH (passive). 722 US74 US246	1400–1427 EARTH EXPLORATION-SATELLITE (passive) RADIO ASTRONOMY SPACE RESEARCH (passive). 722 US74 US246		
1427–1429	SPACE OPERATION (Earth-to-space). FIXED. MOBILE except aeronautical mobile 722		1427–1429 SPACE OPERATION (Earth-to-space). FIXED. MOBILE except aeronautical mobile. 722 G30	1427–1429 SPACE OPERATION (Earth-to-space) Fixed (telemetering) Land Mobile (telemetering and telecommand). 722	Private Land Mobile (90) Satellite Communications (25)	
1429–1525 FIXED. MOBILE except aeronautical mobile. 722	1429–1525 FIXED. MOBILE 723 722		1429–1435 FIXED. MOBILE. 722 G30	1429–1435 Land Mobile (telemetering and telecommand) Fixed (telemetering) 722	Private Land Mobile (90)	
1525–1530 SPACE OPERATION (space-to-Earth). FIXED. Earth Exploration-Satellite. Mobile except aeronautical mobile 724 722 725	1525–1530 SPACE OPERATION (space-to-Earth). Earth Exploration-Satellite. Fixed. Mobile 723 722	1525–1530 SPACE OPERATION (space-to-Earth). FIXED. Earth Exploration-Satellite. Mobile 723 724 722	1435–1530 MOBILE (aeronautical telemetering). 722 US78	1435–1530 MOBILE (aeronautical telemetering). 722 US78	AVIATION (87).	

International table			United States table		FCC use designators	
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1530–1535 SPACE OPERATION (space-to-Earth). MARITIME MOBILE-SATELLITE (space-to-Earth). Earth Exploration-Satellite. Fixed. Mobile except aeronautical mobile. 722 726	1530–1535 SPACE OPERATION (space-to-Earth). MARITIME MOBILE-SATELLITE (space-to-Earth). Earth Exploration-Satellite. Fixed. Mobile 723 722 726		1530–1535 MARITIME MOBILE-SATELLITE (space-to-Earth) Mobile (aeronautical telemetering) 722 US78 US272	1530–1535 MARITIME MOBILE-SATELLITE (space-to-Earth). Mobile (aeronautical telemetering). 722 US78 US272	AVIATION (87). SATELLITE COMMUNICATION (25).	
1535–1544	MARITIME MOBILE-SATELLITE (space-to-Earth) 722 727		1535–1544 MARITIME MOBILE-SATELLITE (space-to-Earth). 722	1535–1544 MARITIME MOBILE-SATELLITE (space-to-Earth) 722	MARITIME (81 and 83). SATELLITE COMMUNICATIONS (25).	
1544–1545	MOBILE-SATELLITE (space-to-Earth). 722 727 728		1544–1545 MOBILE-SATELLITE (space-to-Earth). 722 728	1544–1545 MOBILE-SATELLITE (space-to-Earth). 722 728	MARITIME (81 and 83). SATELLITE COMMUNICATION (25).	
1545–1559	AERONAUTICAL MOBILE-SATELLITE (R) (space-to-Earth). 722 727 729 730		1545–1559 AERONAUTICAL MOBILE-SATELLITE (R) (space-to-Earth). 722 729	1545–1559 AERONAUTICAL MOBILE-SATELLITE (R) (space-to-Earth) 722 729	AVIATION (87).	
1559–1610	AERONAUTICAL RADIONAVIGATION. RADIONAVIGATION-SATELLITE (space-to-Earth). 722 727 730 731		1559–1610 AERONAUTICAL RADIONAVIGATION. RADIONAVIAGATION-SATELLITE (space-to-Earth) 722 US39 US40 US208 US260	1559–1610 AERONAUTICAL RADIONAVIGATION. RADIONAVIGATION-SATELLITE (space-to-Earth) 722 US39 US40 US208 US260	AVIATION (87).	
1610–1626.5	AERONAUTICAL RADIONAVIGATION. 722 727 730 732 733 734		1610–1626.5 AERONAUTICAL RADIONAVIGATION. 722 732 733 734 US39 US40 US208 US260	1610–1626.5 AERONAUTICAL RADIONAVIGATION. 722 732 733 734 US39 US40 US208 US260	AVIATION (87).	
1626.5–1645.5	MARITIME MOBILE-SATELLITE (Earth-to-space). 722 727 730		1626.5–1645.5 MARITIME MOBILE-SATELLITE (Earth-to-space). 722 US39	1626.5–1645.5 MARITIME MOBILE-SATELLITE (Earth-to-space). 722 US39	MARITIME (81 and 83). SATELLITE COMMUNICATION (25).	
1645.5–1646.5	MOBILE-SATELLITE (Earth-to-space). 722 728		1645.5–1646.5 MOBILE-SATELLITE (Earth-to-space). 722 728 US39	1645.5–1646.5 MOBILE-SATELLITE (Earth-to-space). 722 728 US39	MARITIME (81 and 83). SATELLITE COMMUNICATION (25).	
1646.5–1660	AERONAUTICAL MOBILE-SATELLITE (R) (Earth-to-space). 722 727 730 735		1646.5–1660 AERONAUTICAL MOBILE-SATELLITE (R) (Earth-to-space). 722 735 US39	1646.5–1660 AERONAUTICAL MOBILE-SATELLITE (R) (Earth-to-space). 722 735 US39	AVIATION (87).	
1660–1660.5	AERONAUTICAL MOBILE-SATELLITE (R) (Earth-to-space). RADIO ASTRONOMY. 722 735 736		1660–1660.5 AERONAUTICAL MOBILE-SATELLITE (R) (Earth-to-space). RADIO ASTRONOMY. 722 735 736	1660–1660.5 AERONAUTICAL MOBILE-SATELLITE (R) (Earth-to-space). RADIO ASTRONOMY. 722 735 736	AVIATION (87).	
1660.5–1668.4	RADIO ASTRONOMY. SPACE RESEARCH (passive). Fixed. Mobile except aeronautical mobile.		1660.5–1668.4 RADIO ASTRONOMY. SPACE RESEARCH (passive).	1660.5–1668.4 RADIO ASTRONOMY. SPACE RESEARCH (passive).		

International table			United States table		FCC use designations	
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
	722 736 737 738 739		722 US74 US246	722 US74 US246		
1668.4–1670.0	METEOROLOGICAL AIDS. FIXED. MOBILE except aeronautical mobile. RADIO ASTRONOMY 722 736		1668.4–1670.0 METEOROLOGICAL AIDS (radiosonde). RADIO ASTRONOMY. 722 736 US74 US99	1668.4–1670.0 METEOROLOGICAL AIDS (radiosonde). RADIO ASTRONOMY 722 736 US74 US99		
1670–1690	METEOROLOGICAL AIDS. FIXED. METEOROLOGICAL-SATELLITE (space-to-Earth). MOBILE except aeronautical mobile. 722		1670–1690 METEOROLOGICAL AIDS (radiosonde). METEOROLOGICAL-SATELLITE (space-to-Earth). 722 US211	1670–1690 METEOROLOGICAL AIDS (radiosonde). METEOROLOGICAL-SATELLITE (space-to-Earth). 722 US211		
1690–1700 METEOROLOGICAL AIDS METEOROLOGICAL-SATELLITE (space-to-Earth). Mobile except aeronautical mobile. 671 722 741	1690–1700 METEOROLOGICAL AIDS. METEOROLOGICAL-SATELLITE (space-to-Earth). 671 722 740 742		1690–1700 METEOROLOGICAL-AIDS (Radiosonde). METEOROLOGICAL-SATELLITE (space-to-Earth). 671 722	1690–1700 METEOROLOGICAL-AIDS (Radiosonde). METEOROLOGICAL-SATELLITE (space-to-Earth). 671 722		
1700–1710 FIXED. METEOROLOGICAL-SATELLITE (space-to-Earth). Mobile except aeronautical mobile. 671 722	1700–1710 FIXED METEOROLOGICAL SATELLITE (space-to-Earth). MOBILE except aeronautical mobile. 671 722 743		1700–1710 FIXED METEOROLOGICAL-SATELLITE (space-to-Earth). 671 722 G116	1700–1710 METEOROLOGICAL-SATELLITE (space-to-Earth). Fixed. 671 722		
1710–2290 FIXED. Mobile.	1710–2290 FIXED. MOBILE.		1710–1850 FIXED. MOBILE. 722 US256 G42	1710–1850 722 US256		
722 744 746 747 748 750	722 744 745 746 747 748 749 750		1850–1990	1850–1990 FIXED.	1850–1990 PRIVATE OPERATIONAL-FIXED MICROWAVE (94).	
			1990–2110 US90 US111 US219 US222	1990–2110 FIXED. MOBILE. US90 US111 US219 US222 NG23 NG118	AUXILIARY BROADCASTING (74).	
			2110–2200 US111 US252	2110–2200 FIXED. US111 US252 [illegible]	DOMESTIC PUBLIC FIXED (21). PRIVATE OPERATIONAL-FIXED MICROWAVE (94).	
			2200–2290 FIXED. MOBILE. SPACE RESEARCH (space-to-Earth) (space-to-space) G101	2200–2290		
2290–2300 FIXED. SPACE RESEARCH (space-to-Earth) (deep space). MOBILE except aeronautical mobile.	2290–2300 FIXED. MOBILE except aeronautical mobile. SPACE RESEARCH (space-to-Earth) (deep space).		2290–2300 FIXED. MOBILE except aeronautical mobile. SPACE RESEARCH (space-to-Earth) (deep space only).	2290–2300 SPACE RESEARCH (space-to-Earth) (deep space only).		
2300–2450	2300–2450		2300–2310	2300–2310		

International table			United States table		FCC use designators	
			Government	Non-Government	Rule part(s)	Special-use frequencies
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
FIXED. Amateur. Mobile. Radiolocation. 664 752	FIXED. MOBILE. RADIOLOCATION. Amateur. 664 751 752		RADIOLOCATION Fixed. Mobile. US253 G2	Amateur. US253	Amateur (97).	
			2310–2390 MOBILE. RADIOLOCATION. Fixed. US276 G2	2310–2390 MOBILE US276		
			2390–2450 RADIOLOCATION. 664 752 G2	2390–2450 Amateur. 664 752	Amateur (97).	
2450–2500 FIXED. MOBILE. Radiolocation. 752 753	2450–2500 FIXED. MOBILE. RADIOLOCATION. 752		2450–2500 752 US41	2450–2500 FIXED. MOBILE. Radiolocation. 752 US41	AUXILLIARY BROADCASTING (74). PRIVATE OPERATIONAL-FIXED MICROWAVE (94). PRIVATE LAND MOBILE (90).	2450 ± 50 MHz: industrial, scientific and medical frequency.
2500–2655 FIXED 762 763 764 MOBILE except aeronautical mobile. BROADCASTING-SATELLITE 757 760 720 753 756 758 759	2500–2655 FIXED 762 764 FIXED-SATELLITE (space-to-Earth) 761 MOBILE except aeronautical mobile. BROADCASTING-SATELLITE 757 760 720 755	2500–2535 FIXED 762 764 FIXED SATELLITE (space-to-Earth) 761 MOBILE except aeronautical mobile. BROADCASTING-SATELLITE 757 760 754 2535–2655 FIXED 762 764 MOBILE except aeronautical mobile. BROADCASTING-SATELLITE 757 760 720	2500–2655 720 US205 US269	2500–2655 FIXED. BROADCASTING-SATELLITE. 720 US205 US269 NG47 NG101 NG102	AUXILLIARY BROADCASTING (74).	
2655–2690 FIXED 762 763 764 MOBILE except aeronautical mobile. BROADCASTING-SATELLITE 757 760 Earth Exploration-Satellite (passive). Radio Astronomy. Space Research (passive). 758 759 765	2655–2690 FIXED 762 764 FIXED-SATELLITE (Earth-to-space) (space-to-Earth) 761 MOBILE except aeronautical mobile. BROADCASTING-SATELLITE 757 760 Earth Exploration-Satellite (passive). Radio Astronomy. Space Research (passive). 765	2655–2690 FIXED 762 764 FIXED-SATELLITE (Earth-to-space) 761 MOBILE except aeronautical mobile. BROADCASTING-SATELLITE 757 760 Earth Exploration-Satellite (passive). Radio Astronomy. Space Research (passive). 765 766	2655–2690 Earth Exploration-Satellite (passive). Radio Astronomy. Space Research (passive). US205 US269	2655–2690 FIXED BROADCASTING-SATELLITE. Earth Exploration-Satellite (passive). Radio Astronomy. Space Research (passive). US205 US269 NG47 NG101 NG102	AUXILIARY BROADCASTING (74). PRIVATE OPERATIONAL-FIXED MICROWAVE (94).	
2690–2700	EARTH EXPLORATION-SATELLITE (passive). RADIO ASTRONOMY. SPACE RESEARCH (passive). 767 768 769		2690–2700 EARTH EXPLORATION-SATELLITE (passive). RADIO ASTRONOMY. SPACE RESEARCH (passive). US74 US246	2690–2700 EARTH EXPLORATION-SATELLITE (passive). RADIO ASTRONOMY. SPACE RESEARCH (passive). US74 US246		
2700–2900	AERONAUTICAL RADIONAVIGATION 717. Radiolocation. 770 771		2700–2900 AERONAUTICAL RADIONAVIGATION 717. METEOROLOGICAL AIDS. Radiolocation. 770 US18 G2 G15	2700–2900 717 770 US18		
2900–3100			2900–3100	2900–3100		

International table			United States table		FCC use designators	
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Government Allocation MHz	Non-Government Allocation MHz	Rule part(s)	Special-use frequencies
(1)	(2)	(3)	(4)	(5)	(6)	(7)
	RADIONAVIGATION 773 774 775 Radiolocation. 772		MARITIME RADIONAVIGATION 774 775 Radiolocation. US44 US286 G56	MARITIME RADIONAVIGATION 774 775 Radiolocation. US44 US286	MARITIME (81 and 83).	
3100–3300	RADIOLOCATION. 713 776 777 778		3100–3300 RADIOLOCATION. 713 776 778 US110 G59	3100–3300 Radiolocation. 713 776 778 US110		
3300–3400 RADIOLOCATION 778 779 780	3300–3400 RADIOLOCATION. Amateur. Fixed. Mobile. 778 780	3300–3400 RADIOLOCATION. Amateur. 778 779	3300–3500 RADIOLOCATION. 664 778 US108 G31	3300–3500 Amateur Radiolocation. 664 778 US108	Amateur (97).	
3400–3600 FIXED. FIXED-SATELLITE (space-to-Earth). Mobile. Radiolocation.	3400–3500 FIXED. FIXED-SATELLITE (space-to-Earth). Amateur. Mobile. Radiolocation 784 664 783					
781 782 785	3500–3700 FIXED. FIXED-SATELLITE (space-to-Earth). MOBILE except aeronautical mobile Radiolocation 784		3500–3600 AERONAUTICAL RADIONAVIGATION (ground-based). RADIOLOCATION US110 G59 G110	3500–3600 Radiolocation. US110		
3600–4200 FIXED. FIXED-SATELLITE (space-to-Earth). Mobile.	786		3600–3700 AERONAUTICAL RADIONAVIGATION (ground-based). RADIOLOCATION US110 US245 G59 G110	3600–3700 FIXED-SATELLITE (space-to-Earth). Radiolocation. US110 US245		
	3700–4200 FIXED. FIXED-SATELLITE (space-to-Earth). MOBILE except aeronautical mobile. 787		3700–4200	3700–4200 FIXED FIXED-SATELLITE (space-to-Earth). NG41	DOMESTIC PUBLIC FIXED (21). SATELLITE COMMUNICATIONS (25).	
4200–4400	AERONAUTICAL RADIONAVIGATION 789 786 790 791		4200–4400 AERONAUTICAL RADIONAVIGATION. 791 US261	4200–4400 AERONAUTICAL RADIONAVIGATION 791 US261	AVIATION (87)	
4400–4500	FIXED. MOBILE.		4400–4500 FIXED. MOBILE.	4400–4500		
4500–4800	FIXED. FIXED-SATELLITE (space-to-Earth). MOBILE. 792		4500–4800 FIXED. MOBILE US245	4500–4800 FIXED-SATELLITE (space-to-Earth). US245		
4800–4990	FIXED. MOBILE 793 Radio Astronomy. 720 778 794		4800–4990 FIXED. MOBILE. 720 778 US203 US257	4800–4990 720 778 US203 US257		
4990–5000	FIXED. MOBILE except aeronautical mobile. RADIO ASTRONOMY. Space Research (passive). 795		4990–5000 RADIO ASTRONOMY. Space Research (passive). US74 US246	4990–5000 RADIO ASTRONOMY. Space Research (passive). US74 US246		
5000–5250			5000–5250	5000–5250		

International table			United States table		FCC use designators	
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
	AERONAUTICAL RADIONAVIGATION. 733 796 797		AERONAUTICAL RADIONAVIGATION. 733 796 797 US211 US260	AERONAUTICAL RADIONAVIGATION. 733 796 797 US211 US260	AVIATION (87).	
5250–5255	RADIOLOCATION. Space Research. 713 798		5250–5350 RADIOLOCATION.	5250–5350 Radiolocation		
5255–5350	RADIOLOCATION. 713 798		713 US110 G59	713 US110		
5350–5460	AERONAUTICAL RADIONAVIGATION 799 Radiolocation.		5350–5460 AERONAUTICAL RADIONAVIGATION 799 RADIOLOCATION. US48 G56	5350–5460 AERONAUTICAL RADIONAVIGATION 799 Radiolocation. [illegible]	AVIATION (87).	
5460–5470	RADIONAVIGATION 799 Radiolocation.		5460–5470 RADIONAVIGATION 799 Radiolocation. US49 US65 G56	5460–5470 RADIONAVIGATION 799 Radiolocation. US49 US65		
5470–5650	MARITIME RADIONAVIGATION 772 Radiolocation.		5470–5600 MARITIME RADIONAVIGATION. Radiolocation. US50 US65 US286 G56	5470–5600 MARITIME RADIONAVIGATION Radiolocation. US50 US65 US286	MARITIME (81 and 83).	
	800 801 802		5600–5650 MARITIME RADIONAVIGATION. METEOROLOGICAL AIDS. Radiolocation. 802 US51 US65 G56	5600–5650 MARITIME RADIONAVIGATION. METEOROLOGICAL AIDS. Radiolocation. 802 US51 US65	MARITIME (81 and 83).	
5650–5725	RADIOLOCATION. Amateur. Space Research (deep space). 664 801 803 804 805		5650–5850 RADIOLOCATION.	[illegible] Amateur.	Amateur (97). Industrial, Scientific, and Medical Equipment (18).	58000 ± 75 MHz Industrial, scientific and medical frequency.
5725–5850 FIXED-SATELLITE (Earth-to-space). RADIOLOCATION. Amateur. 801 803 805 806 807 808	5725–5850 RADIOLOCATION. Amateur. 803 805 806 808		664 806 808 G2	644 806 808		
5850–5925 FIXED. FIXED-SATELLITE (Earth-to-space). MOBILE. 806	5850–5925 FIXED. FIXED-SATELLITE (Earth-to-space). MOBILE. Amateur. Radiolocation. 806	5850–5925 FIXED. FIXED-SATELLITE (Earth-to-space). MOBILE. Radiolocation. 806	5850–5925 RADIOLOCATION. 806 US245 G2	5850–5925 FIXED-SATELLITE (Earth-to-space). Amateur. 806 US245	Amateur (97).	
5925–7075	FIXED. FIXED-SATELLITE (Earth-to-space). MOBILE. 791 809		5925–7125 791 809	5925–6425 FIXED. FIXED SATELLITE (Earth-to-space). NG41	DOMESTIC PUBLIC FIXED (21). SATELLITE COMMUNICATIONS (25).	
				6425–6525 FIXED-SATELLITE (Earth-to-space). MOBILE. 791 809 NG122	DOMESTIC PUBLIC FIXED (21). Auxiliary Broadcasting (74).	
				6525–6875		

International table			United States table		FCC use designators	
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
				FIXED. FIXED-SATELLITE (Earth-to-space). 809	PRIVATE OPERATION-FIXED MICROWAVE (94).	
				7075–7075 FIXED. FIXED-SATELLITE (Earth-to-space). MOBILE. 809 NG118	AUXILIARY BROADCASTING (74).	
7075–7250 FIXED. MOBILE. 809 810 811				7075–7125 FIXED. MOBILE. 809 NG118	AUXILIARY BROADCASTING (74).	
			7125–7190 FIXED. 809 US252 G116	7125–8450 809 US252 US258		
			7190–7235 FIXED. SPACE RESEARCH (Earth-to-space). 809			
			7235–7250 FIXED. 809			
7250–7300 FIXED. FIXED-SATELLITE (space-to-Earth). MOBILE. 812			7250–7300 FIXED-SATELLITE (space-to-Earth). MOBILE-SATELLITE (space-to-Earth). Fixed. G117			
7300–7450 FIXED. FIXED-SATELLITE (space-to-Earth). MOBILE except aeronautical mobile. 812			7300–7450 FIXED. FIXED-SATELLITE (space-to-Earth). Mobile-Satellite (space-to-Earth). G117			
7450–7550 FIXED. FIXED-SATELLITE (space-to-Earth). METEOROLOGICAL-SATELLITE (space-to-Earth). MOBILE except aeronautical mobile.			7450–7550 FIXED. FIXED-SATELLITE (space-to-Earth). METEOROLOGICAL-SATELLITE (space-to-Earth). Mobile-Satellite (space-to-Earth). G104 G117			
7550–7750 FIXED. FIXED-SATELLITE (space-to-Earth). MOBILE except aeronautical mobile.			7550–7750 FIXED. FIXED-SATELLITE (space-to-Earth). Mobile-Satellite (space-to-Earth). G117			
7750–7900 FIXED. MOBILE except aeronautical mobile.			7750–7900 FIXED.			
7900–7975 FIXED. FIXED-SATELLITE (Earth-to-space). MOBILE. 812			7900–8025 FIXED-SATELLITE (Earth-to-space). MOBILE-SATELLITE (Earth-to-space). Fixed.			
7975–8025 FIXED. FIXED-SATELLITE (Earth-to-space). MOBILE. 812			G117			
8025–8175	8025–8175	8025–8175	8025–8175			

International table			United States table		FCC use designators	
			Government	Non-Government		
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Allocation MHz	Allocation MHz	Rule part(s)	Special-use frequencies
(1)	(2)	(3)	(4)	(5)	(6)	(7)
FIXED. FIXED-SATELLITE (Earth-to-space). MOBILE. Earth Exploration-Satellite (space-to-Earth) 813 815	EARTH EXPLORATION-SATELLITE (space-to-Earth). FIXED. FIXED-SATELLITE (Earth-to-space). MOBILE 814	FIXED. FIXED-SATELLITE (Earth-to-space). MOBILE. Earth Exploration-Satellite (space-to-Earth) 813 815	EARTH EXPLORATION-SATELLITE (space-to-Earth). FIXED. FIXED-SATELLITE (Earth-to-space). Mobile-Satellite (Earth-to-space) (no airborne transmission). US258 G117			
8175–8215 FIXED. FIXED-SATELLITE (Earth-to-space). METEOROLOGICAL-SATELLITE (Earth-to-space). MOBILE. Earth Exploration-Satellite (space-to-Earth) 813 815	8175–8215 EARTH EXPLORATION-SATELLITE (space-to-Earth). FIXED. FIXED-SATELLITE (Earth-to-space). METEOROLOGICAL-SATELLITE (Earth-to-space). MOBILE 814	8175–8215 FIXED. FIXED-SATELLITE (Earth-to-space). METEOROLOGICAL-SATELLITE (Earth-to-space). MOBILE. Earth Exploration-Satellite (space-to-Earth) 813 815	8175–8215 EARTH EXPLORATION SATELLITE (space-to-Earth). FIXED. FIXED-SATELLITE (Earth-to-space). METEOROLOGICAL-SATELLITE (Earth-to-space). Mobile-Satellite (Earth-to-space) (no airborne transmissions). US258 G104 G117			
8215–8400 FIXED. FIXED-SATELLITE (Earth-to-space). MOBILE. Earth Exploration-Satellite (space-to-Earth) 813 815	8125–8400 EARTH EXPLORATION-SATELLITE (space-to-Earth). FIXED. FIXED-SATELLITE. (Earth-to-space). MOBILE 814	8215–8400 FIXED. FIXED-SATELLITE (Earth-to-space). MOBILE. Earth Exploration-Satellite (space-to-Earth) 813 815	8215–8400 EARTH EXPLORATION SATELLITE (space-to-Earth). FIXED FIXED-SATELLITE (Earth-to-space). Mobile-Satellite (Earth-to-space) (no airborne transmissions). US258 G117			
8400–8500	FIXED. MOBILE except aeronautical mobile. SPACE RESEARCH (space-to-Earth) 816 817 816		8400–8450 FIXED. SPACE RESEARCH (space-to-Earth) (deep space only).			
			8451–8500 FIXED. SPACE RESEARCH (space-to-Earth).	8450–8500 SPACE RESEARCH (space-to-Earth).		
8500–8750	RADIOLOCATION. 713 819 820		8500–9000 RADIOLOCATION. 713 US53 US110 G54	8500–9000 Radiolocation. 713 US53 US110		
8750–8850	RADIOLOCATION. AERONAUTICAL RADIONAVIGATION 821 822					
8850–9000	RADIOLOCATION. MARITIME RADIONAVIGATION 823 824					
9000–9200	AERONAUTICAL RADIONAVIGATION 717 Radiolocation. 822		9000–9200 AERONAUTICAL RADIONAVIGATION 717 Radiolocation. US48 US54 G2 G19	9000–9200 AERONAUTICAL RADIONAVIGATION 717 Radiolocation. US48 US54	AVIATION (87).	
9200–9300	RADIOLOCATION. MARITIME RADIONAVIGATION 772 823 824		9200–9300 MARITIME RADIONAVIGATION. RADIOLOCATION. US110 G59 772 823	9200–9300 MARITIME RADIONAVIGATION. Radiolocation. US110 772 823		

International table			United States table		FCC use designators	
			Government	Non-Government		
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Allocation MHz	Allocation MHz	Rule part(s)	Special-use frequencies
(1)	(2)	(3)	(4)	(5)	(6)	(7)
9300–9500	RADIONAVIGATION 774 775 Radiolocation. 825		9300–9500 RADIONAVIGATION 774 775 Meteorological Aids. Radiolocation. US51 US66 US67 US71 G56	9300–9500 RADIONAVIGATION 774 775 Meteorological Aids. Radiolocation. US51 US66 US67 US71		
9500–9800	RADIOLOCATION. RADIONAVIGATION. 713		9500–10,000 RADIOLOCATION.	9500–10,000 Radiolocation.		
9800–10,000	RADIOLOCATION. Fixed. 826 827 828		713 828 US110	713 828 US110		

§ 2.106 Table of Frequency Allocations.

International table			United States table		FCC use designators	
			Government	Non-Government		
Region 1—allocation GHz	Region 2—allocation GHz	Region 3—allocation GHz	Allocation GHz	Allocation GHz	Rule part(s)	Special-use frequencies
(1)	(2)	(3)	(4)	(5)		(7)
10.0–10.45 FIXED. MOBILE. RADIOLOCATION. Amateur. 828	10.00–10.45 RADIOLOCATION. Amateur. 828 829	10.00–10.45 FIXED. MOBILE. RADIOLOCATION. Amateur. 828	10.0–10.45 RADIOLOCATION. 828 US58 US108 G32	10.0–10.45 Amateur. Radiolocation. 828 US58 US108 NG42	Amateur (97). Private Land Mobile (90).	
10.45–10.5	RADIOLOCATION. Amateur. Amateur-Satellite. 831		10.45–10.50 RADIOLOCATION. US58 US108 G32	10.45–10.50 Amateur. Amateur-Satellite. Radiolocation. US58 US108 NG42 NG134	Amateur (97). Private Land Mobile (90).	
10.50–10.55 FIXED. MOBILE. Radiolocation.	10.50–10.55 FIXED. MOBILE. RADIOLOCATION.		10.50–10.55 RADIOLOCATION. US59	10.50–10.55 RADIOLOCATION. US59	PRIVATE LAND MOBILE (90).	
10.55–10.60	FIXED. MOBILE except aeronautical mobile. Radiolocation.		10.55–10.60	10.55–10.60 FIXED.	DOMESTIC PUBLIC FIXED (21).	
10.60–10.68	EARTH EXPLORATION-SATELLITE (passive). FIXED. MOBILE except aeronautical mobile. RADIO ASTRONOMY. SPACE RESEARCH (passive). Radiolocation. 831 832		10.60–10.68 EARTH-EXPLORATION-SATELLITE (passive). SPACE REASEARCH (passive). US265 US277	10.60–10.68 EARTH EXPLORATION-SATELLITE (passive). FIXED. SPACE RESEARCH (passive). US265 US277	DOMESTIC PUBLIC FIXED (21).	
10.68–10.70	EARTH EXPLORATION-STATELLITE (passive). RADIO ASTRONOMY. SPACE RESEARCH (passive). 833 834		10.68–10.70 EARTH-EXPLORATION-SATELLITE (passive). RADIO ASTRONOMY. SPACE RESEARCH (passive). US74 US246	10.68–10.70 EARTH EXPLORATION-STATELLITE (passive). RADIO ASTRONOMY. SPACE RESEARCH (passive). US74 US246		
10.7–11.7 FIXED. FIXED-SATELLITE (space-to Earth). (Earth-to-apace) 835 MOBILE except aeronautical mobile.	10.7–11.7 FIXED. FIXED-SATELLITE (space-to-Earth). MOBILE except aeronautical mobile.		10.7–11.7 US211	10.7–11.7 FIXED. FIXED-SATELLITE (space-to-Earth). US211 NG41 NG104	DOMESTIC PUBLIC FIXED (21).	
11.7–12.5	11.7–12.1	11.7–12–2	11.7–12.2	11.7–12.2		

International table			United States table		FCC use designators	
Region 1—allocation GHz	Region 2—allocation GHz	Region 3—allocation GHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation GHz	Allocation GHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
FIXED. BROADCASTING. BROADCASTING-SATELLITE. Mobile except aeronautical mobile. 838 840	FIXED 837 FIXED-SATELLITE (space-to Earth). Mobile except aeronautical mobile. 836 839 840	FIXED. MOBILE except aeronautical mobile. BROADCASTING. BROADCASTING-SATELLITE. 838 840	839 840	FIXED.SATELLITE (space-to Earth). Mobile except aeronautical mobile. 836 840 NG143 NG145	DOMESTIC PUBLIC FIXED (21). SATELLITE COMMUNICATION (25).	
	12.1–12.3 FIXED 837 FIXED-SATELLITE (space-to-Earth). MOBILE except aeronautical mobile. BROADCASTING. BROADCASTING-SATELLITE. 839 840 841 842 843 844	12.2–12.5 FIXED. MOBILE except aeronautical mobile. BROADCASTING.	12.2–12.7	12.2–12.7 FIXED. BROADCASTING-SATELLITE.	INTERNATIONAL PUBLIC (23). PRIVATE OPERATIONAL-FIXED MICROWAVE (94). DIRECT BROADCAST SATELLITE SERVICE (100).	
	12.3–12.7 FIXED. MOBILE except aeronautical mobile. BROADCASTING. BROADCASTING-SATELLITE. 839 840 843 844 846	836 840 845 12.5–12.75 FIXED. FIXED-SATELLITE (space-to-Earth). MOBILE except aeronautical mobile. BROADCASTING-SATELLITE 847	839 840 843 844	839 840 843 844 NG139		
12.5–12.75 FIXED-SATELLITE (space-to-Earth) (Earth-to-space). 840 848 849 850	12.7–12.75 FIXED. FIXED-SATELLITE. MOBILE except aeronautical mobile. 840	840	12.7–12.75 840	12.7–12.75 FIXED. FIXED-SATELLITE (Earth-to-space). MOBILE. 840 NG53 NG118	AUXILIARY BROADCASTING (74). CABLE TELEVISION RELAY (78). PRIVATE OPERATIONAL-FIXED MICROWAVE (94).	
12.75–13.25	FIXED. FIXED-SATELLITE (Earth-to-space). MOBILE Space Research (deep space) (space-to-Earth).		12.75–13.25 US251	12.75–13.25 FIXED. FIXED-SATELLITE (Earth-to-space). MOBILE. US251 NG53 NG104 NG118	AUXILIARY BROADCASTING (74). CABLE TELEVISION RELAY (78). DOMESTIC PUBLIC FIXED (21). PRIVATE OPERATIONAL-FIXED MICROWAVE (94).	
13.25–13.40	AERONAUTICAL RADIONAVIGATION 851 852 853		13.25–13.40 AERONAUTICAL RADIONAVIGATION 851 Space Research (Earth-to-space)	13.25–13.40 AERONAUTICAL RADIONAVIGATION 851 Space Research (Earth-to-space).	AVIATION (87).	
13.4–14.0	RADIOLOCATION. Standard Frequency and Time Signal-Satellite (Earth-to-space). Space Research. 713 853 854 855		13.4–14.0 RADIOLOCATION. Standard Frequency and Time Signal-Satellite (Earth-to-space). Space Research 713 US110 G59	13.4–14.0 Radiolocation. Standard Frequency and Time Signal-Satellite (Earth-to-space). Space Research 713 US110	PRIVATE LAND MOBILE (90).	
14.00–14.25			14.0–14.2	14.0–14.2		

International table			United States table		FCC use designations	
Region 1—allocation GHz	Region 2—allocation GHz	Region 3—allocation GHz	Government	Non-Government	Rule part(s)	Special-use frequencies
(1)	(2)	(3)	Allocation GHz (4)	Allocation GHz (5)	(6)	(7)
	FIXED-SATELLITE (Earth-to-space) 858 RADIONAVIGATION 856 Space Research. 857 859		RADIONAVIGATION. Space Research. US287 292	FIXED-SATELLITE (Earth-to-space). RADIONAVIGATION Space Research. US287 US292	Aviation (87). Maritime (81 & 83). SATELLITE COMMUNICATION (25).	
			14.2–14.3 FIXED-SATELLITE (Earth-to-space) US287	14.2–14.3 FIXED-SATELLITE (Earth-to-space) US287	SATELLITE COMMUNICATION (25).	
4.25–14.30	FIXED-SATELLITE (Earth-to-space) 858 RADIONAVIGATION 856 Space Research. 857 859 860 861					
14.3–14.4 FIXED. FIXED-SATELLITE (Earth-to-space) 858 MOBILE except aeronautical mobile. Radionavigation-Satellite. 859	14.3–14.4 FIXED-SATELLITE (Earth-to-space) 858 Radionavigation-Satellite. 859	14.3–14.4 FIXED. FIXED-SATELLITE (Earth-to-space) 858 MOBILE except aeronautical mobile. Radionavigation-Satellite. 859	14.3–14.4 US287	14.3–14.4 FIXED-SATELLITE (Earth-to-space). US287	SATELITE COMMUNICATION (25).	
14.40–14.47	FIXED. FIXED-SATELLITE (Earth-to-space) 858 MOBILE except aeronautical mobile. Space Research (space-to-Earth). 859		14.4–14.5 Fixed. Mobile. 862 US203 US234 US287	14.4–14.5 FIXED-SATELLITE (Earth-to-space). 862 US203 US234 US287	SATELLITE COMMUNICATION (25).	
14.47–14.50	FIXED. FIXED-SATELLITE (Earth-to-space) 858 MOBILE except aeronautical mobile. Radio Astronomy. 859 862					
14.5–14.8	FIXED. FIXED-SATELLITE (Earth-to-space) 863 MOBILE. Space Research.		14.5000–14.7145 FIXED. Mobile. Space Research.	14.50–15.35		
			14.7145–15.1365 MOBILE. Fixed. Space Research. G119			
14.80–15.35	FIXED. MOBILE. Space Research. 720		15.1365–15.35 FIXED. Mobile. Space Research. 720 US211	720 US211		
15.35–15.40	EARTH EXPLORATION-SATELLITE (passive). RADIO ASTRONOMY SPACE RESEARCH (passive). 864 865		15.35–15.40 EARTH EXPLORATION-SATELLITE (passive). RADIO ASTRONOMY. SPACE RESEARCH (passive). US74 US246	15.35–15.40 EARTH EXPLORATION-SATELLITE (passive). RADIO ASTRONOMY. SPACE RESEARCH (passive). US74 US246		
15.4–15.7	AERONAUTICAL RADIONAVIGATION. 733 797		15.4–15.7 AERONAUTICAL RADIONAVIGATION. 733 797 US211 US260	15.4–15.7 AERONAUTICAL RADIONAVIGATION. 733 797 US211 US260	AVIATION (87).	
15.7–16–6	RADIOLOCATION.		15.7–16.6 RADIOLOCATION.	15.7–17.2 Radiolocation.	Private Land Mobile (90).	

International table			United States table		FCC use designators	
Region 1—allocation GHz	Region 2—allocation GHz	Region 3—allocation GHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation GHz	Allocation GHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
	866 867		US110 G59			
16.6–17.1	RADIOLOCATION. Space Research (deep space) (Earth-to-space). 866 867		16.6–17.1 RADIOLOCATION. Space Research (deep space) (Earth-to-space). US110 G59	US110		
17.1–17.2	RADIOLOCATION. 866 867		17.1–17.2 RADIOLOCATION. US110 G59			
17.2–17.3	RADIOLOCATION. Earth Exploration-Satellite (active). Space Research (active). 866 867		17.2–17.3 RADIOLOCATION. Earth Exploration-Satellite (active). Space Research (active). US110 G59	17.2–17.3 Radiolocation. Earth Exploration-Satellite (active). Space Research (active). US110	Private Land Mobile (90).	
17.3–17.7	FIXED-SATELLITE (Earth-to-space) 869 Radiolocation. 866		17.3–17.7 Radiolocation. US259 US271 G59	17.3–17.7 FIXED-SATELLITE (Earth-to-space). US259 US271 NG140		
17.7–18.1	FIXED. FIXED-SATELLITE (space-to-Earth) (Earth-to-space) 869 MOBILE.		17.7–17.8 US271	17.7–17.8 FIXED. FIXED-SATELLITE (space-to-Earth) (Earth-to-space). MOBILE. US271 NG140 NG144	AUXILIARY BROADCASTING (74). CABLE TELEVISION RELAY (78) DOMESTIC PUBLIC FIXED (21) PRIVATE OPERATIONAL-FIXED MICROWAVE (94).	
			17.8–18.6 870	17.8–18.6 FIXED. FIXED-SATELLITE (space-to-Earth). MOBILE. 870 NG144	AUXILIARY BROADCASTING (74). CABLE TELEVISION RELAY (78). DOMESTIC PUBLIC FIXED (21). PRIVATE OPERATIONAL-FIXED MICROWAVE (94).	
18.1–18.6	FIXED. FIXED-SATELLITE (space-to-Earth). MOBILE. 870					
18.6–18.8 FIXED. FIXED-SATELLITE (space-to-Earth) 872 MOBILE except aeronautical mobile. Earth Exploration-Satellite (passive). Space Research (passive). 871	18.6–18.8 EARTH EXPLORATION-SATELLITE (passive). FIXED. FIXED-SATELLITE (space-to-Earth) 872 MOBILE except aeronautical mobile. SPACE RESEARCH (passive). 871	18.6–18.8 FIXED FIXED-SATELLITE (space-to-Earth) 872 MOBILE except aeronautical mobile. Earth-Exploration-Satellite (passive). Space Research (passive). 871	18.6–18.8 EARTH EXPLORATION-SATELLITE (passive). SPACE RESEARCH (passive). US254 US255	18.6–18.8 EARTH EXPLORATION-SATELLITE (passive). FIXED. FIXED-SATELLITE (space-to-Earth). MOBILE except aeronautical mobile. SPACE RESEARCH (passive). US254 US255	AUXILIARY BROADCASTING (74). CABLE TELEVISION RELAY (78). DOMESTIC PUBLIC FIXED (21). PRIVATE OPERATIONAL-FIXED MICROWAVE (94).	
18.8–19.7	FIXED. FIXED-SATELLITE (space-to-Earth). MOBILE.		18.8–19.7	18.8–19.7 FIXED. FIXED-SATELLITE (space-to-Earth). MOBILE.	AUXILIARY BROADCASTING (74). CABLE TELEVISION RELAY (78). DOMESTIC PUBLIC FIXED (21). PRIVATE OPERATIONAL-FIXED MICROWAVE (94).	
19.7–20.2	FIXED-SATELLITE (space-to-Earth). MOBILE-SATELLITE (space-to-Earth). 873		19.7–20.2	19.7–20.2 FIXED SATELLITE (space-to-Earth). Mobile-Satellite (space-to-Earth).		
20.2–21.2			20.2–21.2	20.2–21.2		

International table			United States table		FCC use designators	
Region 1—allocation GHz	Region 2—allocation GHz	Region 3—allocation GHz	Government	Non-Government	Rule part(s)	Special-use frequencies
	(2)	(3)	Allocation GHz (4)	Allocation GHz (5)	(6)	(7)
	FIXED-SATELLITE (space-to-Earth). MOBILE-SATELLITE (space-to-Earth). Standard Frequency and Time Signal-Satellite (space-to-Earth). 873		FIXED-SATELLITE (space-to-Earth). MOBILE-SATELLITE (space-to-Earth). Standard Frequency and Time Signal-Satellite (space-to-Earth). G117	Standard Frequency and Time Signal-Satellite (space-to-Earth).		
21.2–21.4	EARTH EXPLORATION-SATELLITE (passive). FIXED. MOBILE. SPACE RESEARCH (passive).		21.2–21.4 EARTH EXPLORATION-SATELLITE (passive). FIXED. MOBILE. SPACE RESEARCH (passive). US263	21.2–21.4 EARTH EXPLORATION-SATELLITE (passive). FIXED. MOBILE. SPACE RESEARCH (passive). US263	21.2–21.4 DOMESTIC PUBLIC FIXED (21). PRIVATE OPERATIONAL-FIXED MICROWAVE (94).	
21.4–22.0	FIXED. MOBILE.		21.4–22.0 FIXED. MOBILE.	21.4–22.0 FIXED. MOBILE.	DOMESTIC PUBLIC FIXED (21). PRIVATE OPERATIONAL-FIXED MICROWAVE (94).	
22.00–22.21	FIXED. MOBILE except aeronautical mobile. 874		22.00–22.21 FIXED. MOBILE except aeronautical mobile. 874	22.00–22.21 FIXED MOBILE except aeronautical mobile. 874	DOMESTIC PUBLIC MOBILE (22). PRIVATE OPERATIONAL-FIXED MICROWAVE (94).	
22.21–22.50	EARTH EXPLORATION-SATELLITE (passive). FIXED. MOBILE except aeronautical mobile. RADIO ASTRONOMY. SPACE RESEARCH (passive). 875 876		22.21–22.50 EARTH EXPLORATION-SATELLITE (passive). FIXED. MOBILE except aeronautical mobile. RADIO ASTRONOMY. SPACE RESEARCH (passive). 875 US263	22.21–22.50 EARTH EXPLORATION SATELLITE (passive). FIXED. MOBILE except aeronautical mobile. RADIO ASTRONOMY. SPACE RESEARCH (passive). 875 US263	DOMESTIC PUBLIC FIXED (21). PRIVATE OPERATIONAL-FIXED MICROWAVE (94).	
22.50–22.55 FIXED. MOBILE.	22.50–22.55 BROADCASTING-SATELLITE 877 FIXED. MOBILE. 878		22.50–22.55 FIXED. MOBILE. US211	22.50–22.55 BROADCASTING-SATELLITE. FIXED. MOBILE. US211	DOMESTIC PUBLIC FIXED (21). PRIVATE OPERATIONAL-FIXED MICROWAVE (94).	
22.55–23.00 FIXED. INTER-SATELLITE. MOBILE. 879	22.55–23.00 BROADCASTING-SATELLITE 877 FIXED. INTER-SATELLITE. MOBILE. 878 879		22.55–23.00 FIXED. INTER-SATELLITE. MOBILE. 879 US278	22.55–23.00 BROADCASTING-SATELLITE. FIXED. INTER-SATELLITE. MOBILE. 879 US278	DOMESTIC PUBLIC FIXED (21). PRIVATE OPERATIONAL-FIXED MICROWAVE (94).	
23.00–23.55	FIXED. INTER-SATELLITE. MOBILE. 879		23.00–23.55 FIXED. INTER-SATELLITE. MOBILE. 879 US278	23.00–23.55 FIXED. INTER-SATELLITE. MOBILE. 879 US278	DOMESTIC PUBLIC FIXED (21). PRIVATE OPERATIONAL-FIXED MICROWAVE (94).	
23.55–23.60	FIXED. MOBILE.		23.55–23.60 FIXED. MOBILE.	23.55–23.60 FIXED. MOBILE.	DOMESTIC PUBLIC FIXED (21). PRIVATE OPERATIONAL-FIXED MICROWAVE (94).	
23.6–24.0	EARTH EXPLORATION-SATELLITE (passive). RADIO ASTRONOMY SPACE RESEARCH (passive). 880		23.6–24.0 EARTH EXPLORATION-SATELLITE (passive). RADIO ASTRONOMY. SPACE RESEARCH (passive). US74 US246	23.6–24.0 EARTH EXPLORATION-SATELLITE (passive). RADIO ASTRONOMY. SPACE RESEARCH (passive) US74 US246		
24.00–24.05	AMATEUR. AMATEUR-SATELLITE. 881		24.00–24.05 881 US211	24.00–24.05 AMATEUR. AMATEUR-SATELLITE. 881 US211	AMATEUR (97).	

International table			United States table		FCC use designators	
Region 1—allocation GHz	Region 2—allocation GHz	Region 3—allocation GHz	Government	Non-Government	Rule part(s)	Special-use frequencies
	(2)	(3)	Allocation GHz (4)	Allocation GHz (5)	(6)	(7)
24.05–24.25	RADIOLOCATION. Amateur. Earth Exploration-Satellite (active). 881		24.05–24.25 RADIOLOCATION. Earth Exploration-Satellite (active). 881 US110 G59	24.05–24.25 Amateur Radiolocation. Earth Exploration-Satellite (active). 881 US110	Amateur (97). Private Land Mobile (90).	24.125 ± 125 GHz: Industrial, scientific and medical frequency.
24.25–25.25	RADIONAVIGATION.		24.25–25.25 RADIONAVIGATION.	24.24–25.25 RADIONAVIGATION.	AVIATION (87).	
25.25–27.00	FIXED. MOBILE. Earth Exploration-Satellite (space-to-space). Standard Frequency and Time Signal-Satellite (Earth-to-space).		25.25–27.00 FIXED MOBILE Earth Exploration-Satellite (space-to-space). Standard Frequency and Time Signal-Satellite (Earth-to-space).	25.25–27.00 Earth Exploration-Satellite (space-to-space). Standard Frequency and Time Signal-Satellite (Earth-to-space).		
27.0–27.5 FIXED. MOBILE. Earth Exploration-Satellite (space-to-space).	27.0–27.5 FIXED. FIXED-SATELLITE (Earth-to-space). MOBILE. Earth Exploration-Satellite (space-to-space).		27.0–27.5 FIXED. MOBILE. Earth-Exploration-Satellite (space-to-space).	27.0–27.5 Earth Exploration Satellite (space-to-space).		
27.5–29.5	FIXED. FIXED-SATELLITE (Earth-to-space). MOBILE.		27.5–29–5	27.5–29.5 FIXED FIXED-SATELLITE (Earth-to-space). MOBILE.	DOMESTIC PUBLIC FIXED (21).	
29.5–30.0	FIXED-SATELLITE (Earth-to-space). Mobile-Satellite (Earth-to-space). 882 883		29.5–30.0 882	29.5–30.0 FIXED-SATELLITE (Earth-to-space). Mobile-Satellite (Earth-to-space). 882		
30.0–31.0	FIXED-SATELLITE (Earth-to-space). MOBILE-SATELLITE (Earth-to-space). Standard Frequency and Time Signal-Satellite (space-to-Earth). 883		30.0–31.0 FIXED-SATELLITE (Earth-to-space). MOBILE-SATELLITE (Earth-to-space). Standard Frequency and Time Signal-Satellite (space-to-Earth). G117	30.0–31.0 Standard Frequency and Time Signal-Satellite (space-to-Earth).		
31.0–31.3	FIXED. MOBILE. Standard Frequency and Time Signal-Satellite (space-to-Earth) Space Research 884. 885 886		31.0–31.3 Standard Frequency and Time Signal-Satellite (space-to-Earth). 886 US211	31.0–31.3 FIXED. MOBILE. Standard Frequency and Time Signal-Satellite (space-to-Earth). 886 US211	DOMESTIC PUBLIC FIXED (21). PRIVATE OPERATIONAL-FIXED MICROWAVE (94).	
31.3–31.5	EARTH EXPLORATION-SATELLITE (passive). RADIO ASTRONOMY. SPACE RESEARCH (passive). 887		31.3–31.8 EARTH EXPLORATION-SATELLITE (passive). RADIO ASTRONOMY. SPACE RESEARCH (passive).	31.3–31.8 EARTH EXPLORATION-SATELLITE (passive). RADIO ASTRONOMY. SPACE RESEARCH (passive).		
31.5–31.8 EARTH EXPLORATION-SATELLITE (passive). RADIO ASTRONOMY. SPACE RESEARCH (passive). Fixed. Mobile except aeronautical mobile. 885 889	31.5–31.8 EARTH EXPLORATION-SATELLITE (passive). RADIO ASTRONOMY. SPACE RESEARCH (passive). 888	31.5–31.8 EARTH EXPLORATION-SATELLITE (passive). RADIO ASTRONOMY. SPACE RESEARCH (passive). Fixed. Mobile except aeronautical mobile. 886				
31.8–32.0	RADIONAVIGATION. Space Research. 890 891 892		31.8–32.0 RADIONAVIGATION. US69 US211 US262	31.8–32.0 RADIONAVIGATION. US69 US211 US262		
32.0–32.3			32.0–33.0	32.0–33.0		

International table			United States table		FCC use designations	
Region 1—allocation GHz	Region 2—allocation GHz	Region 3—allocation GHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation GHz	Allocation GHz		
(1)	(2)	(3)	(4)	(5)	[illegible]	(7)
	INTER-SATELLITE RADIONAVIGATION. Space Research. 890 891 892 893		INTER-SATELLITE RADIONAVIGATION.	INTER-SATELLITE RADIONAVIGATION.		
32.3–33.0	INTER-SATELLITE RADIONAVIGATION. 892 893		893 US69 US262 US278	893 US69 US262 US278		
33.0–33.4	RADIONAVIGATION. 892		33.0–33.4 RADIONAVIGATION. US69	33.0–33.4 RADIONAVIGATION. [illegible]		
33.4–34.2	RADIOLOCATION. 892 894		33.4–36.0 RADIOLOCATION. 897 US110 US252 G34	33.4–36.0 [illegible] 897 US110 US252	Private Land Mobile (90).	
34.2–35.2	RADIOLOCATION. Space Research 895 896 894					
35.2–36.0	METEOROLOGICAL AIDS. RADIOLOCATION. 894 897					
36.0–37.0	EARTH EXPLORATION- SATELLITE (passive). FIXED. MOBILE. SPACE RESEARCH (passive). 898		36.0–37.0 EARTH EXPLORATION- SATELLITE (passive). FIXED. MOBILE. SPACE RESEARCH (passive). 898 US263	36.0–37.0 EARTH EXPLORATION- SATELLITE (passive). FIXED. MOBILE. SPACE RESEARCH (passive). 898 US263		
37.0–37.5	FIXED. MOBILE. [illegible]		37.0–38.6 FIXED. MOBILE.	37.0–38.6 FIXED. MOBILE.	DOMESTIC PUBLIC FIXED (21). PRIVATE OPERATIONAL-FIXED MICROWAVE (94).	
37.5–39.5	FIXED. FIXED-SATELLITE (space-to-Earth). MOBILE.		38.6–39.5 US291	38.6–39.5 FIXED. MOBILE. FIXED-SATELLITE (space-to-Earth). US291	DOMESTIC PUBLIC FIXED (21). PRIVATE OPERATIONAL-FIXED MICROWAVE (90). Auxiliary Broadcasting (74).	
39.5–40.5	FIXED. FIXED-SATELLITE (space-to-Earth). MOBILE. MOBILE-SATELLITE (space-to-Earth).		39.5–40.0 FIXED-SATELLITE (space-to-Earth). MOBILE-SATELLITE (space-to-Earth). US291 G117	39.5–40.0 FIXED. FIXED-SATELLITE (space-to-Earth). MOBILE. MOBILE-SATELLITE (space-to-Earth). US291	DOMESTIC PUBLIC FIXED (21). PRIVATE OPERATIONAL-FIXED MICROWAVE (94). Auxiliary Broadcasting (74).	
			40.0–40.5 FIXED-SATELLITE (space-to-Earth). MOBILE-SATELLITE (space-to-Earth). G117	40.0–40.5 FIXED-SATELLITE (space-to-Earth). MOBILE-SATELLITE (space-to-Earth).		
40.5–42.5			40.5–42.5	40.5–42.5		

International table			United States table		FCC use designators	
			Government	Non-Government	Rule part(s)	Special-use frequencies
Region 1—allocation GHz (1)	Region 2—allocation GHz (2)	Region 3—allocation GHz (3)	Allocation GHz (4)	Allocation GHz (5)	(6)	(7)
	BROADCASTING-SATELLITE. /BROADCASTING/. Fixed. Mobile.		US211	BROADCASTING-SATELLITE. /BROADCASTING/. Fixed. Mobile. US211		
42.5–43.5	FIXED. FIXED-SATELLITE (Earth-to-space) 901 MOBILE except aeronautical mobile. RADIO ASTRONOMY. 900		42.5–43.5 FIXED. FIXED-SATELLITE (Earth-to-space). MOBILE except aeronautical mobile. RADIO ASTRONOMY. 900	42.5–43.5 FIXED FIXED-SATELLITE (Earth-to-space). MOBILE except aeronautical mobile. RADIO ASTRONOMY. 900		
43.5–47.0	MOBILE 902 MOBILE-SATELLITE. RADIONAVIGATION. RADIONAVIGATION-SATELLITE. 903		43.5–45.5 FIXED-SATELLITE (Earth-to-space). MOBILE-SATELLITE (Earth-to-space). G117	43.5–45.5		
			45.5–47.0 MOBILE. MOBILE-SATELLITE (Earth-to-space). RADIONAVIGATION. RADIONAVIGATION-SATELLITE. 903	45.5–47.0 MOBILE. MOBILE-SATELLITE (Earth-to-space). RADIONAVIGATION. RADIONAVIGATION-SATELLITE. 903		
47.0–47.2	AMATEUR. AMATEUR-SATELLITE.		47.0–47.2	47.0–47.2 AMATEUR. AMATEUR-SATELLITE.	AMATEUR (97).	
47.2–50.2	FIXED. FIXED-SATELLITE (Earth-to-space) 901. MOBILE 905. 904		47.2–50.2 FIXED. FIXED-SATELLITE (Earth-to-space). MOBILE. 904 US264 US297	47.2–50.2 FIXED. FIXED-SATELLITE (Earth-to-space). MOBILE. 904 US264 US297		
50.2–50.4	EARTH EXPLORATION-SATELLITE (passive). FIXED. MOBILE. SPACE RESEARCH (passive).		50.2–50.4 EARTH EXPLORATION-SATELLITE (passive). FIXED. MOBILE. SPACE RESEARCH (passive). US263	50.2–50.4 EARTH EXPLORATION-SATELLITE (passive). FIXED. MOBILE. SPACE RESEARCH (passive). US263		
50.4–51.4	FIXED. FIXED-SATELLITE (Earth-to-space). MOBILE Mobile-Satellite (Earth-to-space).		50.4–51.4 FIXED. FIXED-SATELLITE (Earth-to-space). MOBILE. MOBILE-SATELLITE (Earth-to-space). G117	50.4–51.4 FIXED. FIXED-SATELLITE (Earth-to-space). MOBILE. MOBILE-SATELLITE (Earth-to-space).		
51.4–54.25	EARTH EXPLORATION-SATELLITE (passive). SPACE RESEARCH (passive). 906 907		51.4–54.25 EARTH EXPLORATION-SATELLITE (passive). RADIO ASTRONOMY. SPACE RESEARCH (passive). US246	51.4–54.25 EARTH EXPLORATION-SATELLITE (passive). RADIO ASTRONOMY. SPACE RESEARCH (passive). US246		
54.25–58.2	EARTH EXPLORATION-SATELLITE (passive). FIXED. INTER-SATELLITE. MOBILE 909. SPACE RESEARCH (passive). 908		54.25–58.2 EARTH EXPLORATION-SATELLITE (passive). FIXED. INTER-SATELLITE. MOBILE 909 SPACE RESEARCH (passive). US263	54.25–58.2 EARTH EXPLORATION-SATELLITE (passive). FIXED. INTER-SATELLITE. MOBILE 909. SPACE RESEARCH (passive). US263		
58.2–59.0	EARTH EXPLORATION-SATELLITE (passive). SPACE RESEARCH (passive). 906 907		58.2–59.0 EARTH EXPLORATION-SATELLITE (passive). RADIO ASTRONOMY. SPACE RESEARCH (passive). US246	58.2–59.0 EARTH EXPLORATION-SATELLITE (passive). RADIO ASTRONOMY SPACE RESEARCH (passive). US246		

International table			United States table		FCC use designators	
Region 1—allocation GHz	Region 2—allocation GHz	Region 3—allocation GHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation GHz	Allocation GHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
59–64	FIXED. INTER-SATELLITE. MOBILE 909 RADIOLOCATION 910 911		59–64 FIXED. INTER-SATELLITE. MOBILE 909 RADIOLOCATION 910 911	59–64 FIXED. INTER-SATELLITE. MOBILE 909 RADIOLOCATION 910 911		61.25 GHz ± 250 MHz: industrial, scientific and medical frequency.
64–65	EARTH EXPLORATION-SATELLITE (passive). SPEACE RESEARCH (passive). 906 907		64–65 EARTH EXPLORATION-SATELLITE (passive). RADIO ASTRONOMY. SPACE RESEARCH (passive). US246	64–65 EARTH EXPLORATION-SATELLITE (passive). RADIO ASTRONOMY. SPACE RESEARCH (passive). US246		
65–66	EARTH EXPLORATION-SATELLITE. SPACE RESEARCH. Fixed. Mobile.		65–66 EARTH EXPLORATION-SATELLITE. SPACE RESEARCH. Fixed. Mobile.	65–66 EARTH EXPLORATION-SATELLITE. SPACE RESEARCH. Fixed. Mobile.		
66–71	MOBILE 902 MOBILE-SATELLITE. RADIONAVIGATION. RADIONAVIGATION-SATELLITE. 903		66–71 MOBILE 902 MOBILE-SATELLITE. RADIONAVIGATION. RADIONAVIGATION-SATELLITE. 903	66–71 MOBILE 902 MOBILE-SATELLITE. RADIONAVIGATION. RADIONAVIGATION-SATELLITE. 903		
71–74	FIXED. FIXED-SATELLITE (Earth-to-space). MOBILE. MOBILE-SATELLITE (Earth-to-space). 906		71–74 FIXED. FIXED-SATELLITE (Earth-to-space). MOBILE. MOBILE-SATELLITE (Earth-to-space). US270	71–74 FIXED. FIXED-SATELLITE (Earth-to-space). MOBILE. MOBILE-SATELLITE (Earth-to-space). US270		
74.0–75.5	FIXED. FIXED-SATELLITE (Earth-to-space). MOBILE.		74.0–75.5 FIXED. FIXED-SATELLITE (Earth-to-space). MOBILE. US297	74.0–75.5 FIXED. FIXED-SATELLITE (Earth-to-space). MOBILE. US297		
75.5–76.0	AMATEUR. AMATEUR-SATELLITE.		75.5–76.0	75.5–76.0 AMATEUR. AMATEUR-SATELLITE.	AMATEUR (97).	
76–81	RADIOLOCATION. Amateur. Amateur-Satellite. 912		76–81 RADIOLOCATION. 912	76–81 RADIOLOCATION. Amateur. Amateur-Satellite. 912	Amateur (97).	
81–84	FIXED. FIXED-SATELLITE (space-to-Earth). MOBILE. MOBILE-SATELLITE (space-to-Earth).		81–84 FIXED. FIXED-SATELLITE (space-to-Earth). MOBILE. MOBILE-SATELLITE (space-to-Earth).	81–84 FIXED. FIXED-SATELLITE (space-to-Earth). MOBILE. MOBILE-SATELLITE (space-to-Earth).		
84–86	FIXED. MOBILE. BROADCASTING. BROADCASTING-SATELLITE. 913		84–86 FIXED. MOBILE. 913 US211	84–86 FIXED. MOBILE. BROADCASTING. BROADCASTING-SATELLITE. 913 US211		
86–92	EARTH EXPLORATION-SATELLITE (passive). RADIO ASTRONOMY. SPACE RESEARCH (passive). 907		86–92 EARTH EXPLORATION-SATELLITE (passive). RADIO ASTRONOMY. SPACE RESEARCH (passive). US74 US246	86–92 EARTH EXPLORATION-SATELLITE (passive). RADIO ASTRONOMY. SPACE RESEARCH (passive). US74 US246		
92–95	FIXED. FIXED-SATELLITE (Earth-to-space). MOBILE. RADIOLOCATION. 914		92–95 FIXED. FIXED-SATELLITE (Earth-to-space). MOBILE. RADIOLOCATION. 914	92–95 FIXED. FIXED-SATELLITE (Earth-to-space). MOBILE. RADIOLOCATION. 914		

International table			United States table		FCC use designators	
			Government	Non-Government	Rule part(s)	Special-use frequencies
Region 1—allocation GHz	Region 2—allocation GHz	Region 3—allocation GHz	Allocation GHz	Allocation GHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
85–100	MOBILE 902. MOBILE-SATELLITE. RADIONAVIGATION. RADIONAVIGATION-SATELLITE. Radiolocation. 903 904		95–100 MOBILE 902. MOBILE-SATELLITE. RADIONAVIGATION. RADIONAVIGATION-SATELLITE. Radiolocation. 903 904	95–100 MOBILE 902. MOBILE-SATELLITE. RADIONAVIGATION. RADIONAVIGATION-SATELLITE. Radiolocation. 903 904		
100–102	EARTH EXPLORATION-SATELLITE (passive). FIXED. MOBILE. SPACE RESEARCH (passive). 722		100–102 EARTH EXPLORATION-SATELLITE (passive). SPACE RESEARCH (passive). 722 US246	100–102 EARTH EXPLORATION-SATELLITE (passive). SPACE RESEARCH (passive). 722 US246		
102–105	FIXED. FIXED-SATELLITE (space-to-Earth). 722		102–105 FIXED. FIXED-SATELLITE (space-to-Earth). 722 US211	102–105 FIXED. FIXED-SATELLITE (space-to-Earth). 722		
105–116	EARTH EXPLORATION-SATELLITE (passive). RADIO ASTRONOMY. SPACE RESEARCH (passive). 722 907		105–116 EARTH EXPLORATION-SATELLITE (passive). RADIO ASTRONOMY. SPACE RESEARCH (passive). 722 US74 US246	105–116 EARTH EXPLORATION-SATELLITE (passive). RADIO ASTRONOMY. SPACE RESEARCH (passive). 722 US74 US246		
116–126	EARTH EXPLORATION-SATELLITE (passive). FIXED. INTER-SATELLITE. MOBILE 909 722 915 916		116–126 EARTH EXPLORATION-SATELLITE (passive). FIXED. INTER-SATELLITE. MOBILE 909 SPACE RESEARCH (passive). 722 915 916 US211 US263	116–126 EARTH EXPLORATION-SATELLITE (passive). FIXED. INTER-SATELLITE. MOBILE 909 SPACE RESEARCH (passive). 722 915 916 US211 US263		122.5 ± 5 GHz: Industrial scientific and medical frequency.
126–134	FIXED. INTER-SATELLITE. MOBILE 909 RADIOLOCATION 910		126–134 FIXED. INTER-SATELLITE. MOBILE 909 RADIOLOCATION 910	126–134 FIXED. INTER-SATELLITE. MOBILE 909 RADIOLOCATION 910		
134–142	MOBILE 902 MOBILE-SATELLITE. RADIONAVIGATION. RADIONAVIGATION-SATELLITE. Radiolocation. 903 917 918		134–142 MOBILE 902 MOBILE-SATELLITE. RADIONAVIGATION. RADIONAVIGATION-SATELLITE. Radiolocation 903 917 918	134–142 MOBILE 902 MOBILE-SATELLITE. RADIONAVIGATION. RADIONAVIGATION-SATELLITE. Radiolocation. 903 917 818		
142–144	AMATEUR. AMATEUR-SATELLITE.		142–144	142–144 AMATEUR. AMATEUR-SATELLITE.	AMATEUR (97).	
144–149	RADIOLOCATION. Amateur. Amateur-Satellite. 918		144–149 RADIOLOCATION. 918	144–149 RADIOLOCATION. Amateur. Amateur-Satellite. 918	Amateur (97).	
149–150	FIXED. FIXED-SATELLITE (space-to-Earth). MOBILE.		149–150 FIXED. FIXED-SATELLITE (space-to-Earth). MOBILE.	149–150 FIXED. FIXED-SATELLITE (space-to-Earth). MOBILE.		
150–151	EARTH EXPLORATION-SATELLITE (passive). FIXED. FIXED-SATELLITE (space-to-Earth). MOBILE. SPACE RESEARCH (passive). 919		150–151 EARTH EXPLORATION-SATELLITE (passive). FIXED. FIXED-SATELLITE (space-to-Earth). MOBILE. SPACE RESEARCH (passive). 919 US263	150–151 EARTH EXPLORATION-SATELLITE (passive). FIXED. FIXED-SATELLITE (space-to-Earth). MOBILE. SPACE RESEARCH (passive). 919 US263		
151–164			151–164	151–164		

International table			United States table		FCC use designators	
			Government	Non-Government	Rule part(s)	Special-use frequencies
Region 1—allocation GHz	Region 2—allocation GHz	Region 3—allocation GHz	Allocation GHz	Allocation GHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
	FIXED. FIXED-SATELLITE (space-to-Earth). 211		FIXED. FIXED-SATELLITE. 211	FIXED. FIXED-SATELLITE. 211		
164–168	EARTH EXPLORATION-SATELLITE (passive). RADIO ASTRONOMY. SPACE RESEARCH (passive). US246		164–168 EARTH EXPLORATION-SATELLITE (passive). RADIO ASTRONOMY. SPACE RESEARCH (passive). US246	164–168 EARTH EXPLORATION-SATELLITE (passive). RADIO ASTRONOMY. SPACE RESEARCH (passive). US246		
168–170	FIXED. MOBILE.		168–170 FIXED. MOBILE.	168–170 FIXED. MOBILE.		
170.0–174.5	FIXED. INTER-SATELLITE. MOBILE 909. 919		170.0–174.5 FIXED. INTER-SATELLITE. MOBILE 909. 919	170.0–174.5 FIXED. INTER-SATELLITE. MOBILE 909. 919		
174.5–176.5	EARTH EXPLORATION-SATELLITE (passive). FIXED. INTER-SATELLITE. MOBILE 909. SPACE RESEARCH (passive). 919		174.5–176.5 EARTH EXPLORATION-SATELLITE (passive). FIXED. INTER-SATELLITE. MOBILE 909. SPACE RESEARCH (passive). 919 US263	174.5–176.5 EARTH EXPLORATION-SATELLITE (passive). FIXED. INTER-SATELLITE. MOBILE 909. SPACE RESEARCH (passive). 919 US263		
176.5–182.0	FIXED. INTER-SATELLITE. MOBILE 909 919		176.5–182.0 FIXED. INTER-SATELLITE. MOBILE 909 919 US211	176.5–182.0 FIXED. INTER-SATELLITE. MOBILE 909. 919 US211		
182–185	EARTH EXPLORATION-SATELLITE (passive). RADIO ASTRONOMY. SPACE RESEARCH (passive). 920 921		182–185 EARTH EXPLORATION-SATELLITE (passive). RADIO ASTRONOMY. SPACE RESEARCH (passive). US246	182–185 EARTH EXPLORATION-SATELLITE (passive). RADIO ASTRONOMY. SPACE RESEARCH (passive). US246		
185–190	FIXED. INTER-SATELLITE. MOBILE 909 919		185–190 FIXED. INTER-SATELLITE. MOBILE 909 919 US211	185–190 FIXED. INTER-SATELLITE. MOBILE 909 919 US211		
190–200	MOBILE 902 MOBILE-SATELLITE. RADIONAVIGATION. RADIONAVIGATION-SATELLITE. 722 903		190–200 MOBILE 902 MOBILE-SATELLITE. RADIONAVIGATION. RADIONAVIGATION-SATELLITE. 722 903	190–200 MOBILE 902 MOBILE-SATELLITE. RADIONAVIGATION. RADIONAVIGATION-SATELLITE. 722 903		
200–202	EARTH EXPLORATION-SATELLITE (passive). FIXED. MOBILE. SPACE RESEARCH (passive). 722		200–202 EARTH EXPLORATION-SATELLITE (passive). FIXED. MOBILE. SPACE RESEARCH (passive). 722 US263	200–202 EARTH EXPLORATION-SATELLITE (passive). FIXED. MOBILE. SPACE RESEARCH (passive). 722 US263		
202–217	FIXED. FIXED-SATELLITE (Earth-to-space). MOBILE. 722		202–217 FIXED. FIXED-SATELLITE (Earth-to-space). MOBILE. 722	202–217 FIXED. FIXED-SATELLITE (Earth-to-space). MOBILE. 722		
217–231	EARTH EXPLORATION-SATELLITE (passive). RADIO ASTRONOMY. SPACE RESEARCH (passive). 722 907		217–231 EARTH EXPLORATION-SATELLITE (passive). RADIO ASTRONOMY. SPACE RESEARCH (passive). 722 US74 US246	217–231 EARTH EXPLORATION-SATELLITE (passive). RADIO ASTRONOMY. SPACE RESEARCH (passive). 722 US74 US246		
231–235			231–235	231–235		

International table			United States table		FCC use designators	
Region 1—allocation GHz	Region 2—allocation GHz	Region 3—allocation GHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation GHz	Allocation GHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
	FIXED. FIXED-SATELLITE (space-to-Earth). MOBILE. Radiolocation.		FIXED. FIXED-SATELLITE (space-to-Earth). MOBILE. Radiolocation. US211	FIXED. FIXED-SATELLITE (space-to-Earth). MOBILE. Radiolocation. US211		
235–238	EARTH EXPLORATION-SATELLITE (passive). FIXED. FIXED-SATELLITE (space-to-Earth). MOBILE. SPACE RESEARCH (passive).		235–238 EARTH EXPLORATION-SATELLITE (passive). FIXED. FIXED-SATELLITE (space-to-Earth). MOBILE. SPACE RESEARCH (passive). US263	235–238 EARTH EXPLORATION-SATELLITE (passive). FIXED. FIXED-SATELLITE (space-to-Earth). MOBILE. SPACE RESEARCH (Passive). US263		
238–241	FIXED. FIXED-SATELLITE (space-to-Earth). MOBILE. Radiolocation.		238–241 FIXED. FIXED-SATELLITE (space-to-Earth). MOBILE. Radiolocation.	238–241 FIXED. FIXED-SATELLITE (space-to-Earth). MOBILE. Radiolocation.		
241–248	RADIOLOCATION. Amateur. Amateur-Satellite. 922		241–248 RADIOLOCATION. 922	241–248 RADIOLOCATION. Amateur. Amateur-Satellite.	Amateur (97).	245 ± .1 GHz: Industrial scientific and medical frequency.
248–250	AMATEUR. AMATEUR-SATELLITE.		248–250	248–250 AMATEUR. AMATEUR-SATELLITE	AMATEUR (97).	
250–252	EARTH EXPLORATION-SATELLITE (passive). SPACE RESEARCH (passive). 923		250–252 EARTH EXPLORATION-SATELLITE (passive). SPACE RESEARCH (passive). 923	250–252 EARTH EXPLORATION-SATELLITE (passive). SPACE RESEARCH (passive). 923		
252–265	MOBILE 902 MOBILE-SATELLITE. RADIONAVIGATION. RADIONATIVATION-SATELLITE. 903 923 924 925		252–265 MOBILE 902 MOBILE-SATELLITE. RADIONAVIGATION. RADIONAVIGATION-SATELLITE. 903 923 924 US211	252–265 MOBILE 902 MOBILE-SATELLITE. RADIONAVIGATION. RADIONAVIGATION-SATELLITE. 903 923 924 US211		
265–275	FIXED. FIXED-SATELLITE (Earth-to-space). MOBILE. RADIO ASTRONOMY. 926		265–275 FIXED. FIXED-SATELLITE (Earth-to-space). MOBILE. RADIO ASTRONOMY. 926	265–275 FIXED. FIXED-SATELLITE (Earth-to-space). MOBILE RADIO ASTRONOMY. 926		
275–400	(Not allocated)		275–300 FIXED. MOBILE. 927	275–300 FIXED. MOBILE. 927		
	927		Above 300. (Not allocated). 927	Above 300. (Not allocated). 927	Amateur (97).	

International Footnotes

444 Administrations authorizing the use of frequencies below 9 kHz shall ensure that no harmful interference is caused thereby to the services to which the bands above 9 kHz are allocated (see also No. 1816).

445 Administrations conducting scientific research using frequencies below 9 kHz are urged to advise other administrations that may be concerned in order that such research may be afforded all practicable protection from harmful interference.

446 *Additional allocation:* In Bulgaria, Hungary, Poland, the German Democratic Republic, Czechoslovakia, and the U.S.S.R., the band 14—17 kHz is also allocated to the radionavigation service on a permitted basis.

447 The stations of services to which the bands 14—19.95 kHz and 20.5—70 kHz and in Region 1 also the bands 72—84 kHz and 86—90 kHz are allocated may transmit standard frequency and time signals. Such stations shall be afforded protection from harmful interference. In Bulgaria, Hungary, Mongolia, Poland, Czechoslovakia, and the U.S.S.R., the frequencies 25 kHz and 50 kHz will be used for this purpose under the same conditions.

448 The use of the bands 14—19.95 kHz, 20.05—70 kHz, 70—90 kHz (72—84 kHz and 86—90 kHz in Region 1) and 90—110 kHz by the maritime mobile service is limited to cost radiotelegraph stations (A1A and F1B only). Exceptionally, the use of class J2B or J7B emissions is authorized subject to the necessary bondwidth not exceeding that normally used for class A1A or F1B emissions in the bands concerned.

449 *Additional allocation:* In Bulgaria, Hungary, Poland, the German Democratic Republic, Czechoslovakia, and the U.S.S.R.,

the band 67—70 kHz is also allocated to the radionavigation service on a permitted basis.

450 *Different category of service:* In Bangladesh, Iran and Pakistan the allocation of the bands 70—72 kHz and 84—86 kHz to the fixed and maritime mobile services is on a primary basis (see No. 425).

451 The use of the bands 70—90 kHz (70—86 kHz in Region 1) and 110—130 kHz (112—130 kHz in Region 1) by the radionavigation service is limited to continuous wave systems.

452 In Region 2, the establishment and operation of stations in the maritime radionavigation service in the bands 70—90 kHz and 110—130 kHz shall be subject to agreement obtained under the procedure set forth in Article 14 with administrations whose services, operating in accordance with the Table, may be affected. However, stations of the fixed, maritime mobile and radiolocation services shall not cause harmful interference to stations in the maritime radionavigation service under such agreements.

453 Administrations which operate stations in the radionavigation service in the band 90—110 kHz are urged to coordinate technical and operating characteristics in such a way as to avoid harmful interference to the services provided by these stations.

454 Only classes A1A or F1B, A2C, A3C, F1C or F3C emissions are authorized for stations of the fixed service in the bands allocated to this service between 90 kHz and 160 kHz (148.5 kHz in Region 1) and for stations of the maritime mobile service in the bands allocated to this service between 110 kHz and 160 khz (148.5 kHz in Region 1). Exceptionally, class J2B or J7B emissions are also authorized in the bands between 110 kHz and 160 kHz (148.5 kHz in Region 1) for stations of the maritime mobile service.

455 *Different category of service:* In Bangladesh, Iran and Pakistan, the allocation of the bands 112—117.6 kHz and 126—129 kHz to the fixed and maritime mobile services is on a primary basis (see No. 425).

456 *Different category of service:* In Federal Republic of Germany, the allocation of the band 115—117.6 kHz to the fixed and maritime mobile services is on a primary basis (see No. 425) and to the radionavigation service on a secondary basis (see No. 424).

457 *Additional allocation:* In Bulgaria, Hungary, Mongolia, Poland, the German Democratic Republic, Roumania, Czechoslovakia, and the U.S.S.R., the band 130—148.5 kHz is also allocated to the radionavigation service on a secondary basis. Within and between these countries this service shall have an equal right to operate.

458 In Region 1, the change of the band limits from 150 kHz and 285 kHz to 148.5 kHz and 283.5 kHz respectively shall take place on 1 February 1986 for the lower limit and 1 February 1990 for the upper limit (see Resolution 500).

459 In the Region 2 polar areas (north of 60° N and south of 60° S) which are subject to auroral disturbances, the aeronautical fixed service is the primary service in the band 160—190 kHz.

460 *Alternative allocation:* In Angola, Botswana, Burundi, the Congo, Malawi, Rwanda, South Africa and Zaire, the band 160—200 kHz is allocated to the fixed service on a primary basis.

461 *Additional allocation:* In Somalia, the band 200—255 kHz is also allocated to the aeronautical radionavigation service on a primary basis.

462 *Alternative allocation:* In Angola, Botswana, Burundi, Cameroon, Central African Republic, the Congo, Ethiopia, Kenya, Lesotho, Madagascar, Malawi, Mozambique, Namibia, Nigeria, Oman, Rwanda, South Africa, Swaziland, Tanzania, Chad, Zaire, Zambia and Zimbabwe, the band 200—283.5 kHz is allocated to the aeronautical radionavigation service on a primary basis.

463 *Different category of service:* In Sudan and Yemen (P.D.R. of), the allocation of the band 255—283.5 kHz to the aeronautical radionavigation service is on a primary basis (see No. 425).

464 *Alternative allocation:* In Tunisia, the band 255—283.5 kHz is allocated to the broadcasting service on a primary basis.

465 Norwegian stations of the fixed service situated in northern areas (north of 60° N) subject to auroral disturbances are allowed to continue operation on four frequencies in the bands 283.5—490 kHz and 510—526.5 kHz.

466 In the band 285—325 kHz (283.5—325 kHz in Region 1), in the maritime radionavigation service, radiobeacon stations may also transmit supplementary navigational information using narrow-band techniques, on condition that the prime function of the beacon is not significantly degraded.

467 *Different category of service:* In the U.S.S.R., and the Black Sea areas of Bulgaria, Roumania and Turkey, the allocation of the band 315—325 kHz to the maritime radionavigation service is on a primary basis (see No. 425) under the following conditions:

(a) In the Black Sea and White Sea areas, the maritime radionavigation service is the primary service and the aeronautical radionavigation service is the permitted service;

(b) In the Baltic Sea area, the assignment of frequencies in this band to new stations in the maritime or aeronautical radionavigation services shall be subject to prior consultation between the administrations concerned.

468 The frequency 410 kHz is designated for radio direction-finding in the maritime radionavigation service. The other radionavigation services to which the band 405—415 kHz is allocated shall not cause harmful interference to radio direction-finding in the band 406.5—413.5 kHz.

469 *Additional allocation:* In Afghanistan, Australia, China, the Overseas French Territories of Region 3, India, Japan and Papua New Guinea, the band 415—495 kHz is also allocated to the aeronautical radionavigation service on a permitted basis.

470 The use of the bands 415—495 kHz and 505—526.5 kHz (505—510 kHz in Region 2) by the maritime mobile service is limited to radiotelegraphy.

471 The bands 490—495 kHz and 505—510 kHz shall be subject to the provisions of No. 3018 until the provisions of Recommendation 200 have been implemented.

472 The frequency 500 kHz is the international distress and calling frequency for radiotelegraphy. The conditions for its use are prescribed in Article 38.

473 In Region 1, in the band 505—526.5 kHz, the administrations which operate stations of the aeronautical radionavigation service shall take the technical steps necessary to avoid harmful interference to the maritime mobile service.

474 In the Federal Republic of Germany, Belgium, Spain, France, Iceland, Italy, Norway, the Netherlands, the United Kingdom, Sweden and Yugoslavia, the frequency 518 kHz is used on an experimental basis for the transmission by coast stations of meteorological and navigational warnings to ships, by means of narrowband direct-printing telegraphy.

475 In the band 515.5—526.5 kHz, Austria may continue to operate only those broadcasting stations listed in Additional Protocol III to the Final Acts of the Regional Administrative LF/MF Broadcasting Conference (Regions 1 and 3), Geneva, 1975. This operation is allowed until the entry into force of a revision of the Geneva Plan, 1975, and subject to not causing harmful interference to the maritime mobile and aeronautical radionavigation services.

476 *Additional allocation:* In the United Kingdom, the band 519.5—526.5 kHz is also allocated to the broadcasting service on a secondary basis for the transmission of public utility information.

477 In Region 2, in the band 525—535 kHz the carrier power of broadcasting stations shall not exceed 1 kilowatt during the day and 250 watts at night.

478 *Additional allocation:* In Angola, Botswana, Lesotho, Malawi, Mozambique, Namibia, South Africa, Swaziland, Zambia and Zimbabwe, the band 526.5—535 kHz is also allocated to the mobile service on a secondary basis.

479 *Additional allocation:* In China, the band 526.5—535 kHz also allocated to the aeronautical radionavigation service on a secondary basis.

480 In Region 2, the use of the band 1 605—1 705 kHz by stations of the broadcasting service shall be subject to a plan to be established by a regional administrative radio conference (see Recommendation 504).

481 In Region 2, until the dates decided by the regional administrative radio conference referred to in No. 480, the band 1 605—1 705 kHz is allocated to the fixed, mobile and aeronautical radionavigation services on a primary basis and to the radiolocation service on a secondary basis (see Recommendation 504).

482 *Additional allocation:* In Australia, Indonesia, New Zealand, the Philippines, Singapore, Sri Lanka and Thailand, the band 1 606.5—1 705 kHz is also allocated to the broadcasting service on a secondary basis.

483 *Different category of service:* In Bulgaria, Hungary, Mongolia, Nigeria, Poland, the German Democratic Republic, Chad, Czechoslovakia and the U.S.S.R., the allocation of the bands 1 606.5—1 625 kHz, 1 635–1 800 kHz and 2 107—2 160 kHz to the fixed and land mobile services is on a primary basis (see No. 425).

484 Some countries of Region 1 use radiodetermination systems in the bands 1 606.5—1 625 kHz, 1 635—1 800 kHz, 1 850—2 160 kHz, 2 194–2 300 kHz, 2 502—2 850 kHz and 3 500—3 800 kHz. The establishment and operation of such systems are subject to agreement obtained under the procedure set forth in Article 14. The radiated mean power of these stations shall not exceed 50 W.

485 *Additional allocation:* In Angola, Bulgaria, Hungary, Mongolia, Nigeria, Poland, the German Democratic Republic, Chad, Czechoslovakia and the U.S.S.R., the bands 1 625—1 635 kHz, 1 800—1 810 kHz and 2 160—2 170 kHz are also allocated to the fixed and land mobile services on a primary basis subject to agreement obtained under the procedure set forth in Article 14.

486 In Region 1, in the bands 1 625—1 635 kHz, 1 800—1 810 kHz and 2 160—2 170 kHz (except in the countries listed in No. 485 and those listed in No. 499 for the band 2 160—2 170 kHz), existing stations in the fixed and mobile except aeronautical mobile services (and stations of the aeronautical mobile (OR) service in the band 2 160—2 170 kHz) may continue to operate on a primary basis until satisfactory replacement assignments have been found and implemented in accordance with Resolution 38.

487 In Region 1, the establishment and operation of radiolocation stations in the bands 1 625—1 635 kHz, 1 800—1 810 kHz and 2 160—2 170 kHz shall be subject to agreement obtained under the procedure set forth in Article 14 (see also No. 486). The radiated mean power of radiolocation stations shall not exceed 50 W. Pulse systems are prohibited.

488 In the Federal Republic of Germany, Denmark, Finland, Hungary, Ireland, Israel, Jordan, Malta, Norway, Poland, the German Democratic Republic, the United Kingdom, Sweden, Czechoslovakia and the U.S.S.R., administrations may allocate up to 200 kHz to their amateur service in the band 1 715—1 800 kHz and 1 850—2 000 kHz. However, when allocating the bands within this range to their amateur service, administration shall, after prior consultation with administrations of neighbouring countries, take such steps as may be necessary to prevent harmful interference from their amateur service to the fixed and mobile services of other countries. The mean power of any amateur station shall not exceed 10 W.

489 In Region 2, Loran stations operating in the band 1 800—2 000 kHz shall cease operation by 31 December 1982. In Region 3, the Loran system operates either on 1 850 kHz or 1 950 kHz, the bands occupied being 1 825—1 875 kHz and 1 925—1 975 kHz respectively. Other services to which the band 1 800—2 000 kHz is allocated may use any frequency therein on condition that no harmful interference is caused to the Loran system operating on 1 850 kHz or 1 950 kHz.

490 *Alternative allocation:* In the Federal Republic of Germany, Angola, Austria, Belgium, Bulgaria, Cameroon, the Congo, Denmark, Egypt, Spain, Ethiopia, France, Greece, Italy, Lebanon, Luxembourg, Malawi, the Netherlands, Portugal, Syria, the German Democratic Republic, Somalia, Tanzania, Tunisia, Turkey and the U.S.S.R., the band 1 810—1 830 kHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

491 *Additional allocations:* In Saudi Arabia, Iraq, Israel, Libya, Poland, Roumania, Chad, Czechoslovakia, Togo and Yugoslavia, the band 1 810—1 830 kHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

492 In Region 1, the use of the band 1 810—1 850 kHz by the amateur service is subject to the condition that satisfactory replacement assignments have been found and implemented in accordance with Resolution 38, for frequencies to all existing stations of the fixed and mobile, except aeronautical mobile, services operating in this band (except for the stations of the countries listed in Nos. 490, 491 and 493). On completion of satisfactory transfer, the authorization to use the band 1 810—1 830 kHz by the amateur service in countries situated totally or partially north of 40° N shall be given only after consultation with the countries mentioned in Nos. 490 and 491 to define the necessary steps to be taken to prevent harmful interference between amateur stations and stations of other services operating in accordance with Nos. 490 and 491.

493 *Alternative allocations:* In Burundi and Lesotho, the band 1 810—1 850 kHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

494 *Alternative allocation:* In Argentina, Bolivia, Chile, Mexico, Paraguay, Peru, Uruguay and Venezuela, the band 1 850—2 000 kHz is allocated to the fixed, mobile except aeronautical mobile, radiolocation and radionavigation services on a primary basis.

495 In Region 1, in making assignments to stations in the fixed and mobile services in the bands 1 850—2 045 kHz, 2 194—2 498 kHz, 2 502—2 625 kHz and 2 650—2 850 kHz, administrations should bear in mind the special requirements of the maritime mobile service.

496 In Region 1, the use of the band 2 025—2 045 kHz by the meteorological aids service is limited to oceanographic buoy stations.

497 In Region 2, except in Greenland, coast stations and ship stations using radiotelephony in the band 2 065—2 107 kHz shall be limited to class R3E or J3E emissions and to a peak envelope power not exceeding 1 kW. Preferably, the following carrier frequencies should be used: 2 065.0 kHz, 2 079.0 kHz, 2 082.5 kHz, 2 086.0 kHz, 2 093.0 kHz, 2 096.5 kHz, 2 100.0 kHz and 2 103.5 kHz. In Argentina, Brazil, and Uruguay, the carrier frequency 2 068.5 kHz and 2 075.5 kHz are also used for this purpose, while the frequencies within the band 2 072—2 075.5 kHz are used as provided in No. 4245.

498 In Regions 2 and 3, provided no harmful interference is caused to the maritime mobile service, the frequencies between 2 065 kHz and 2 107 kHz may be used by stations of the fixed service com ## Saudi Arabia, Botswana, Ethiopia, Iraq, Lesotho, Libya, Malawi, Somalia, Swaziland and Zambia, the band 2 160—2 170 kHz is also allocated to the fixed and mobile, except aeronautical mobile (R), services on a primary basis. The mean power of stations in these services shall not exceed 50 W.

500 The frequency 2 182 kHz is the international distress and calling frequency for radiotelephone. The conditions for the use of the band 2 173.5—2 190.5 kHz are prescribed in Articles 38 and 60.

501 The frequency 2 182 kHz, 3 023 kHz, 5 680 kHz, 8 364 kHz, 121.5 MHz, 156.8 MHz and 243 MHz may also be used, in accordance with the procedures in force for terrestrial radiocommunication services, for search and rescue operations concerning manned space vehicles.

The same applies to the frequency 10 003 kHz, 14 993 kHz and 19 993 kHz, but in each of these cases emissions must be confined in a band of ±3 kHz about the frequency.

502 *Alternative allocation:* In Belgium, Cyrus, Denmark, Spain, France, Greece, Iceland, Italy, Malta, Norway, the Netherlands, Portugal, the United Kingdom, Singapore, Sri Lanka, Sweden, Turkey and Yugoslavia, the band 2 194—2 300 kHz is allocated to the maritime mobile service on a primary basis and the fixed and land mobile services on a permitted basis.

503 For the conditions for the use of the band 2 300—2 495 kHz (2 498 kHz in Region 1), 3 200—3 400 kHz, 4 750—4 995 kHz and 5 005—5 060 kHz by the broadcasting service, see Nos. 406 to 410, 411 and 2666 to 2673.

504 *Alternative allocation:* In Belgium, Cyrus, Denmark, Spain, France, Greece, Iraq, Italy, Malta, Norway, the Netherlands, Portugal, the United Kingdom, Sweden, Turkey and Yugoslavia, the band 2 502—2 625 kHz is allocated to the maritime mobile service on a primary basis and to the fixed and land mobile services on a permitted basis.

505 The carrier (reference) frequencies 3 023 kHz and 5 680 kHz may also be used, in accordance with Nos. 2980 and 2984 respectively, by stations of the maritime mobile service engaged in coordinated search and rescue operations.

506 Administrations are urged to authorize the use of the band 3 155—3 195 kHz to provide a common world-wide channel for low power wireless hearing aids. Additional channels for these devices may be assigned by administrations in the bands between 3 155 kHz and 3 400 kHz to suit local needs.

It should be noted that the frequencies in the range 3 000 kHz to 4 000 kHz are suitable for hearing aid devices which are designed to operate over short distances within the induction field.

507 *Alternative allocation:* In Belgium, Cameroon, Cyprus, Ivory Coast, Denmark, Egypt, Spain, France, Greece, Iceland, Italy, Liberia, Malta, Norway, the Netherlands, the United Kingdom, Singapore, Sri Lanka, Sweden, Togo, Turkey and Yugoslavia, the band 3 155—3 200 kHz is allocated to the maritime mobile service on a primary basis and to the fixed and land mobile services on a permitted basis.

508 *Additional allocation:* In Australia, Brazil, Canada, the United States, Japan, Mexico, New Zealand, Peru and Uruguay, the band 3 230—3 400 kHz is also allocated to the radiolocation service on a secondary basis.

509 *Additional allocation:* In Honduras, Mexico, Peru and Venezuela, the band 3 500—3 750 kHz is also allocated to the fixed and mobile services on a primary basis.

510 For the use of these bands allocated to the amateur service at 3.5 MHz, 7.0 MHz, 10.1 MHz, 14.0 MHz, 18.068 MHz, 21.0 MHz, 24.89 MHz and 144 MHz in the event of natural disasters, see Resolution 640.

511 *Additional allocation:* In Brazil, the band 3 700—4 000 kHz is also allocated to the radiolocation service on a primary basis.

512 *Alternative allocation:* In Argentina, Bolivia, Chile, Ecuador, Paraguay, Peru and Uruguay, the band 3 750—4 000 kHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

513 *Alternative allocation:* In Botswana, Lesotho, Malawi, Mozambique, Namibia, South Africa, Swaziland, Zambia and Zimbabwe, the band 3 900—3 950 kHz is allocated to the broadcasting service on a primary basis. The use of this band by the broadcasting service is subject to agreement obtained under the procedure set forth in Article 14 with neighbouring countries having services operating in accordance with the Table.

514 *Additional allocation:* In Canada, the band 3 950—4 000 kHz is also allocated to the broadcasting service on a primary basis. The power of broadcasting stations operating in this band shall not exceed that necessary for a national service within the frontier of this country and shall not cause harmful interference to other services operating in accordance with the Table.

515 *Additional allocation:* In Greenland, the band 3 950—4 000 kHz is also allocated to the broadcasting service on a primary basis. The power of the broadcasting stations operating in this band shall not exceed that necessary for a national service and shall in no case exceed 5 kW.

516 In Region 3, the stations of those services to which the band 3 995—4 005 kHz is allocated may transmit standard frequency and time signals.

517 The use of the band 4 000—4 063 kHz by the maritime mobile service is limited to ship stations using radiotelephony (see No. 4373).

518 In Afghanistan, Argentina, Australia, Botswana, China, India, Swaziland, Chad and the U.S.S.R., in the bands 4 063—4 123 kHz, 4 130—4 133 kHz and 4 408—4 438 kHz, stations of limited power in the fixed service which are situated at least 600 km from the coast may operate on condition that harmful interference is not caused to the maritime mobile service.

519 On condition that harmful interference is not caused to the maritime mobile service, the frequencies in the bands 4 063—4 123 kHz and 4 130—4 438 kHz may be used exceptionally by stations in the fixed service communicating only within the boundary of the country in which they are located with a mean power not exceeding 50 W.

520 For the use of the carrier frequency 4 125 kHz in the zone of Regions 1 and 2 south of latitude 15° N., including Mexico, and in the zone of Region 3 south of latitude 25° N., see No. 2982.

521 *Different category of service:* In the U.S.S.R., the allocation of band 5 130—5 250 kHz to the mobile, except aeronautical mobile, service is on a primary basis (see No. 425).

522 On condition that harmful interference is not caused to the maritime mobile service, the bands 6 200—6 213.5 kHz and 6 220.5—6 525 kHz may be used exceptionally by stations in the fixed service, communicating only within the boundary of the country in which they are located, with a mean power not exceeding 50 W. At the time of notification of these frequencies, the attention of the International Frequency Registration Board will be drawn to the above conditions.

523 For the use of the carrier frequency 6 215.5 kHz in the zone of Region 3 south of latitude 25° N., see No. 2986.

524 The band 6 765—6 795 kHz (centre frequency 6 780 kHz) is designated for industrial, scientific and medical (ISM) applications. The use of this frequency band for ISM applications shall be subject to special authorization by the administration concerned, in agreement with other administrations whose radiocommunication services might be affected. In applying this provision, administrations shall have due regard to the latest relevant CCIR Recommendations.

525 *Different category of service:* In Mongolia and the U.S.S.R., the allocation of the band 6 765—7 000 kHz to the land mobile service is on a primary basis.

526 *Additional allocation:* In Angola, Iraq, Kenya, Rwanda, Somalia and Togo, the band 7 000—7 050 kHz is also allocated to the fixed service on a primary basis.

527 *Alternative allocation:* In Egypt, Ethiopia, Guinea, Libya, Madagascar, Malawi and Tanzania, the band 7 000—7 050 kHz is allocated to the fixed service on a primary basis.

528 The use of the band 7 100—7 300 kHz in Region 2 by the amateur service shall not impose constraints on the broadcasting service intended for use within Region 1 and Region 3.

529 In Region 3, the stations of those services to which the band 7 995—8 005 kHz is allocated may transmit standard frequency and time signals.

530 On condition that harmful interference is not caused to the broadcasting service, frequencies in the bands 9 775—9 900 kHz, 11 650—11 700 kHz and 11 975—12 050 kHz may be used by stations in the fixed service communicating only within the boundary of the country in which they are located, each station not using a total radiated power exceeding 24 dBW.

531 The bands 9 775—9 900 kHz, 11 650—11 700 kHz, 11 975—12 050 kHz, 13 600—13 800 kHz, 15 450—15 600 kHz, 17 550—17 700 kHz and 21 750—21 850 kHz are allocated to the fixed service on a primary basis subject to the procedure described in Resolution 8. The use of these bands by the broadcasting service shall be subject to provisions to be established by the world administrative radio conference for the planning of HF bands allocated to the broadcasting service (see Resolution 508). Within these bands, the date of commencement of operations in the broadcasting service on a planned channel shall not be earlier than the date of completion of satisfactory transfer, according to the procedures described in Resolution 8, of all assignments to stations in the fixed service operating in accordance with the Table and other provisions of the Radio Regulations, which are recorded in the Master Register and which may be affected by broadcasting operations on that channel.

532 The bands 12 230—12 330 kHz, 16 360—16 460 kHz, 17 360—17 410 kHz, 18 780—18 900 kHz, 19 680—19 800 kHz and 22 720—22 kHz are allocated to the fixed service on a primary basis subject to the procedure described in Resolution 8. The use of these bands by the maritime mobile service shall be subject to provisions to be decided by a competent world administrative radio conference. The date of commencement of operations in the maritime mobile service on a frequency in accordance with the above-mentioned provisions shall not be earlier than the date of completion of satisfactory transfer, in accordance with the procedure described in Resolution 8, of all assignments to stations in the fixed service operating in accordance with the Table and other provisions of the Radio Regulations which are recorded in the Master Register and which may be affected by maritime mobile operations on that frequency.

533 In making assignments to stations of other services to which the band 13 360—13 410 kHz is allocated, administrations are urged to take all practicable steps to protect the radio astronomy service from harmful interference. Emissions from space or airborne stations can be particularly serious sources of interference to the radio astronomy service (see Nos. 343 and 344 and Article 36).

534 The band 13 553—13 567 kHz (centre frequency 13 560 kHz) is designed for industrial, scientific and medical (ISM) applications. Radiocommunication services operating within this band must accept harmful interference which may be caused by these applications. ISM equipment operating in this band is subject to the provisions of No. 1815.

535 *Additional allocation:* In Afghanistan, China, the Ivory Coast, Iran and the U.S.S.R., the band 14 250—14 350 kHz is also allocated to the fixed service on a primary basis. Stations of the fixed services shall not use a radiated power exceeding 24 dBW.

536 In Region 3, the stations of those services to which the band 15 995—16 005 kHz is allocated may transmit standard frequency and time signals.

537 The band 18 068—18 168 kHz is allocated to the fixed service on primary basis subject to the procedure described in Resolution 8. The use of this band by the amateur and amateur-satellite service shall be subject to the completion of satisfactory transfer of all assignments to stations in the fixed service operating in this band and recorded in the Master Register, in accordance with the procedure described in Resolution 8.

538 *Additional allocation:* In the U.S.S.R., the band 18 068—18 168 kHz is also allocated to the fixed service on a primary basis for use

within the boundary of the U.S.S.R., with a peak envelope power not exceeding 1 kW.

539 *Alternative allocation:* In Bulgaria, Hungary, Mongolia, Poland, Czechoslovakia and the U.S.S.R., the band 21 850—21 870 kHz is allocated to the aeronautical fixed and the aeronautical mobile (R) services on a primary basis.

540 *Additional allocation:* In Nigeria, the band 22 720—23 200 kHz is also allocated to the meteorological aids service (radiosondes) on a primary basis.

541 The use of the band 23 350—24 000 kHz by the maritime mobile service is limited to inter-ship radiotelegraphy.

542 *Additional allocation:* In Kenya, the band 23 600—24 900 kHz is also allocated to the meteorological aids service (radiosondes) on a primary basis.

543 The band 24 890—24 900 kHz is allocated to the fixed and land mobile services on a primary basis subject to the procedure described in Resolution 8. The use of this band by the amateur and amateur-satellite services shall be subject to the completion of the satisfactory transfer of all assignments to fixed and land mobile stations operating in this band and recorded in the Master Register, in accordance with the procedure described in Resolution 8.

544 The bands 25 110—25 210 kHz and 26 100—26 175 kHz are also allocated to the fixed and land mobile services on a primary basis subject to the procedure described in Resolution 8. The use of these bands on an exclusive basis by the maritime mobile service shall be subject to provisions to be decided by a competent world administrative radio conference. The date of commencement of operations in maritime mobile service on a frequency in accordance with the above-mentioned provisions shall not be earlier than the date of completion of satisfactory transfer, in accordance with the procedure described in Resolution 8, of all assignments to stations in the fixed and land mobile services operating in accordance with the Table and other provisions of the Radio Regulations recorded in the Master Register and which may be affected by such maritime mobile operations on that frequency.

545 The band 25 500—25 600 kHz is allocated to the fixed and mobile, except aeronautical mobile, service on a primary basis subject to the procedure described in Resolution 8. The use of the band by the radio astronomy service shall be subject to the completion of the satisfactory transfer of all assignments to stations in the fixed and mobile, except aeronautical mobile, services operating in this band and recorded in the Master Register, in accordance with the procedure described in Resolution 8. The band 25 600—25 670 kHz is allocated to the broadcasting service on a primary basis, subject to provisions to be established by the world administrative radio conference for the planning of HF bands allocated to the broadcasting service (see Resolution 508). After completion of all the above-mentioned provisions, all emissions capable of causing harmful interference to the radio astronomy service in the band 25 550—25 670 kHz shall be avoided. The use of passive sensors by other services will also be authorized.

546 The band 26 957—27 283 kHz (center frequency 27 120 kHz) is designated for industrial, scientific and medical (ISM) applications. Radiocommunication service operating within this band must accept harmful interference which may be caused by these applications. ISM equipment operating in this band is subject to the provisions of No. 1815.

547 In making assignments to stations of other services to which the band 37.5—38.25 MHz is allocated, administrations are urged to take all practicable steps to protect the radio astronomy service from harmful interference. Emissions from space or airborne stations can be particularly serious sources of interference to the radio astronomy service (see Nos. 343 and 344 and Article 36).

548 The band 40.66—40.70 MHz (centre frequency 40.68 MHz) is designated for industrial, scientific and medical (ISM) applications. Radiocommunication services operating within this band must accept harmful interference which may be caused by these applications. ISM equipment operating in this band is subject to the provisions of No. 1815.

549 *Additional allocation:* In Botswana, Burundi, Lesotho, Malawi, Namibia, Rwanda, South Africa, Swaziland, Zaire, Zambia and Zimbabwe and band 41—44 MHz is also allocated to the aeronautial radionavigation service on a primary basis.

550 *Additional allocation:* In Iran and Japan, the band 41—44 MHz is also allocated to the radiolocation service on a secondary basis.

551 *Additional allocation:* In France and Monaco, the band 41—47 MHz is also allocated to the broadcasting service on a primary basis until 1 January 1986 and, in the United Kingdom, until 1 January 1987.

552 *Additional allocation:* In Australia and New Zealand, the band 44—47 MHz is also allocated to the broadcasting service on a primary basis.

553 *Additional allocation:* In Hungary, Kenya, Mongolia, Czechoslovakia and the U.S.S.R., the bands 47—48.5 and 56.5—58 MHz are also allocated to the fixed and land mobile services on a secondary basis.

554 *Additional allocation:* In Albania, the Federal Republic of Germany, Austria, Belgium, Bulgaria, Denmark, Finland, France, Gabon, Greece, Italy, Lebanon, Liechtenstein, Luxembourg, Mali, Malta, Morocco, Nigeria, Norway, the Netherlands, Poland, the German Democratic Republic, the United Kingdom, Senegal, Sweden, Switerland, Tunisia, Turkey and Yugoslavia, the band 47—68 MHz, and in Rozmania, the band 47—58 MHz, are also allocated to the land mobile service on a permitted basis. However, stations of the land mobile service in the countries mentioned in connection with each band referred to in this footnote shall not cause harmful interference to, or claim protection from, existing or planned broadcasting stations of countries other than those mentioned in connection with the band.

555 *Additional allocation:* In Angola, Cameroon, Congo, Nadagascar, Mozambique, Somalia, Sudan, Tanzania, Chad and Yemen (P.D.R.), the band 47—68 MHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a permitted basis.

556 Alternative allocation: In New Zealand, the band 50—51 MHz is allocated to the fixed, mobile and broadcasting services on a primary basis; the band 53—54 MHz is allocated to the fixed and mobile services on a primary basis.

557 Alternative allocation: In Afghanistan, Bangladesh, Brunei, India, Indonesia, Iran, Malaysia, Pakistan, Singapore and Thailand, the band 50—54 MHz is allocated to the fixed, mobile and broadcasting services on a primary basis.

558 *Additional allocation:* In Australia, China and the Democratic People's Republic of Korea, the band 50—54 MHz is also allocated to the broadcasting service on a primary basis.

559 *Additional allocation:* In Botswana, Burundi, Lesotho, Malawi, Namibia, Rwanda, South Africa, Swaziland, Zaire, Zambia and Zimbabwe, the band 50—54 MHz is also allocated to the amateur service on a primary basis.

560 *Additional allocation:* In New Zealand, the band 51—53 MHz is also allocated to the fixed and mobile services on a primary basis.

561 *Additional allocation:* In Botswana, Burundi, Lesotho, Malawi, Mali, Namibia, Rwanda, South Africa, Swaziland, Zaire, Zambia and Zimbabwe, the band 54—68 MHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

562 Different category of service: In the French Overseas Departments in Region 2, Guyana, Jamaica and Mexico, the allocation of the band 54—68 MHz to the fixed and mobile services is on a primary basis (see No. 425).

563 Different category of service: In Cuba, the French Overseas Departments in Region 2, Guyana, Jamaica and Mexico, the allocation of the band 68—72 MHz to the fixed and mobile services is on a primary basis (see No. 425).

564 *Additional allocation:* In Bulgaria, Hungary, Poland, Roumania and Czechoslovakia, the band 68—73 MHz is allocated to the broadcasting service on a primary basis and used in accordance with the decisions in the Final Acts of the Special Regional Conference, Geneva, 1960.

565 *Additional allocation:* In Mongolia and the U.S.S.R., the bands 68—73 MHz and 76—87.5 MHz are allocated to the broadcasting service on a primary bais. The services to which these bands are allocated in other countries and the broadcasting service in Mongolia and the U.S.S.R., are subject to agreements with the neighboring countries concerned.

566 *Additional allocation:* In Australia, China, the Republic of Korea, the Philippines, the Democratic People's Republic of Korea and Western Samoa, the band 68—74 MHz is also allocated to the broadcasting service on a primary basis.

567 *Additional allocation:* In Bulgaria, Hungary, Mongolia, Poland, Czechoslovakia and the U.S.S.R., the band 73—74 MHz is also allocated to the broadcasting service on a primary basis. The use of this band by the broadcasting service in Bulgaria, Hungary, Mongolia, Poland, Czechoslovakia and the

U.S.S.R., is subject to agreement obtained under the procedure set forth in Article 14.

566 In making assignments to stations of other services to which the band 73—74.6 MHz is allocated, administrations are urged to take all practicable steps to protect the radio astronomy service from harmful interference. Emissions from space or airborne stations can be particularly serious sources of interference to the radio astronomy service (see Nos. 343 and 344 and Article 36).

569 In Region 2, the fixed, mobile and broadcasting services previously authorized in the band 73—74.6 MHz may continue to operate on a non-interference basis to the radio astronomy service until 31 December 1985.

570 *Additional allocation:* In Columbia, Costa Rica, Cuba, El Salvador, Ecuador, Guatemala, Guyana, Honduras and Nicaragua, the band 73—74.6 MHz is also allocated to the fixed and mobile services on a secondary basis.

571 *Additional allocation:* In Bulgaria, China, Hungary, Mongolia, Poland, Czechoslovakia and the U.S.S.R., the bands 74.6—74.8 and 75.2—75.4 MHz are also allocated to the aeronautical radionavigation service, on a primary basis, for ground-based transmitters only.

572 *Additional allocation:* The frequency 75 MHz is assigned to aeronautical marker beacons. Administrations shall refrain from assigning frequencies close to the limits of the guardband to stations of other services which, because of their power or geographical position, might cause harmful interference or otherwise place a constraint on marker beacons.

Until 31 December 1989, administrations in Regions 2 and 3 should refrain from assigning frequencies to other services in the bands 74.6—74.8 MHz and 75.2—75.4 MHz.

In the future every effort should be made to improve further the characteristics of airborne receivers and to limit the power of transmitting stations close to the limits 74.8 and 75.2 MHz.

573 *Additional allocation:* In Western Samoa, the band 75.4—87 MHz is also allocated to the broadcasting service on a primary basis.

574 *Additional allocation:* In China, the Republic of Korea, Japan, the Philippines and the Democratic People's Republic of Korea, the band 76—87 MHz is also allocated to the broadcasting service on a primary basis.

575 *Additional allocation:* In Bulgaria, Hungary, Poland, Roumania and Czechoslovakia, the band 76—87.5 MHz is also allocated to the broadcasting service on a primary basis and used in accordance with the decisions contained in the Final Acts of the Special Regional Conference, Geneva, 1960.

576 *Different category of service:* In the United States, the French Overseas Departments in Region 2, Guyana, Jamaica, Mexico and Paraguay the allocation of the band 76—88 MHz to the fixed and mobile services is on a primary basis (see No. 425).

577 In Region 3 (except in the Republic of Korea, India, Japan, Malaysia, the Philippines, Singapore and Thailand) the band 79.75—80.25 MHz is also allocated to the radio astronomy service on a primary basis. In making assignments to stations of other services, administrations are urged to take all practicable steps in the band to protect the radio astronomy service from harmful interference. Emissions from space or airborne stations can be particularly serious sources of interference to the radio astronomy service (see Nos. 343 and 344 and Article 36).

578 *Alternative allocation:* In Albania, the band 81—87.5 MHz is allocated to the broadcasting service on a primary basis and used in accordance with the decisions contained in the Final Acts of the Special Regional Conference, Geneva, 1960.

579 *Additional allocation:* In Afghanistan and Australia the band 85—87 MHz is also allocated to the broadcasting service on a primary basis. The introduction of the broadcasting service in these countries is subject to special agreements between the administrations concerned.

580 *Additional allocation:* In New Zealand, the band 87—88 MHz is allocated to the land mobile service on a primary basis.

581 *Additional allocation:* In the Federal Republic of Germany, Spain, France, Ireland, Italy, Liechtenstein, Monaco, the United Kingdom, Switzerland and Yemen (P.D.R. of), the band 87.5—88 MHz is also allocated to the land mobile service on a permitted basis and subject to agreement obtained under the procedure set forth in Article 14.

582 *Additional allocation:* In the United Kingdom the band 97.6—102.1 MHz is also allocated to the land mobile service on a permitted basis until 31 December 1989. The use of this band by the land mobile service is restricted to those stations in operation on 1 January 1980. The withdrawal of land mobile stations will be arranged in consultation with the administrations concerned.

583 In Region 1, existing systems in the fixed and mobile, except aeronautical mobile (R), services may continue to use the band 100—104 MHz on a primary basis until the date of entry into force of the new regional broadcasting agreement referred to in Resolution 510 or 1 January 1985, whichever is the earlier date.

584 Broadcasting stations in the band 100—108 MHz in Region 1 shall be established and operated in accordance with an agreement and associated plan for the band 87.5—108 MHz to be drawn up by a regional broadcasting conference (see Resolution 510). Prior to the date of entry into force of this agreement, broadcasting stations may be introduced subject to agreement between administrations concerned, on the understanding that such an operation shall in no case prejudice the establishment of the plan.

585 *Additional allocation:* In China, the Republic of Korea, the Philippines and Singapore, the band 100—108 MHz is also allocated to the fixed and mobile services on a permitted basis.

586 *Alternative allocation:* In New Zealand the band 100—108 MHz is allocated to the land mobile service on a primary basis and to the broadcasting service on a secondary basis.

587 *Additional allocation:* In Austria, Bulgaria, Hungary, Israel Kenya, Mongolia, Poland, Syria, the German Democratic Republic, the United Kingdom, Somalia, Czechoslovakia and the U.S.S.R., the band 104—108 MHz is also allocated to the mobile, except aeronautical mobile (R), service on a permitted basis until 31 December 1995 and, thereafter, on a secondary basis.

588 *Additional allocation:* In Finland and Yugoslavia, the band 104—108 MHz is also allocated to the fixed service on a permitted basis, until 31 December 1995. The effective radiated power of any station shall not exceed 25 W.

589 *Additional allocation:* In France, Roumania, Sweden, Turkey and Yughoslavia, the band 104—108 MHz is also allocated to the mobile, except aeronautical mobile (R), service on a permitted basis until 31 December 1995.

590 *Additional allocation:* In Italy, the band 104—108 MHz is also allocated to the land mobile service on a primary basis until the date of entry into force of the new regional broadcasting agreement referred to in Resolution 510 or 1 January 1985 which ever is the earlier date.

591 Subject to agreement obtained under the procedure set forth in article 14, the band 117.975—137 MHz is also allocated to the aeronautical mobile-satellite (R) service on a secondary basis and on the condition that harmful interference is not caused to the aeronautical mobile (R) service.

592 The bands 121.45—121.55 MHz and 242.95—243.05 MHz are also allocated to the mobile-satellite service for the receptio on board satellites of emissions from emergency position-indicating radiobeacons transmitting at 121.5 MHz and 243 MHz.

593 In the band 117.975—136 MHz, the frequency 121.5 MHz is the aeronautical emergency frequency and where required the frequency 123.1 MHz is the aeronautical frequency auxiliary to 121.5 MHz. Mobile stations of the maritime mobile service may communicate on these frequencies for safety purposes with stations of the aeronautical mobile service.

594 *Additional allocation:* In Angola, Bulgaria, Hungary, Iran, Iraq, Japan, Mongolia, Mozambique, Papua New Guinea, Poland, the German Democratic Republic, Roumania, Czechoslovakia and the U.S.S.R., the band 132—136 MHz is also alocated to the aeronautical mobile (RO) service on a permitted basis.

595 Until 1 January 1990, the band 136—137 MHz is also allocated to the space operation service (space-to-Earth), meteorological-satellite service (space-to-Earth) and the space research service (space-to-Earth) on a primary basis. The introduction of stations of the aeronautical mobile (R) service shall only occur after that date and shall be effected in accordance with internationally agreed plans for that service. After 1 January 1990, the band 136—137 MHz will also be allocated to the above-mentioned space radiocommunication services on a secondary basis (see Recommendation 404).

596 *Different category of service:* In Afghanistan, Saudi Arabia, Bahrain, Brunei, China, the United Arab Emirates, India, Indonesia, Iran, Iraq, Kuwait, Malaysia, Oman, Pakistan, Qatar, Singapore, Thailand,

Yemen A.R. and Yemen (P.D.R. of), the allocation of the band 137—138 MHz to the fixed and mobile, except aeronautical mobile (R), services is on a primary basis (see No. 425).

597 *Different category of service:* In Israel, Jordan and Syria, the allocation of the band 137—138 MHz to the fixed and mobile, except aeronautical mobile, services is on a primary basis (see No. 425).

598 *Different category of service:* In Austria, Bulgaria, Egypt, Finland, Greece, Hungary, Lebanon, Mongolia, Poland, the German Democratic Republic, Roumania, Czechoslovakia, the U.S.S.R. and Yogoslavia, the allocation of the band 137—138 MHz to the aeronautical mobile (OR) service is on a primary basis.

599 *Additional allocation:* In Australia, the band 137—144 MHz is also allocated to the broadcasting service on a primary basis until that service can be accommodated within regional broadcasting allocations.

600 *Additional allocation:* In the Federal Republic of Germany, Austria, Belgium, France, Israel, Italy, Liechtenstein, Luxembourg, the United Kingdom, Sweden, Switzerland and Czechoslovakia, the bands 138—143.6 MHz and 143.65—144 MHz are also allocated to the space research service (space-to-Earth) on a secondary basis.

601 *Additional allocation:* In the Federal Republic of Germany, Saudi Arabia, Austria, Bahrain, Belgium, Denmark, the United Arab Emirates, Spain, Finland, Greece, Ireland, Israel, Kenya, Kuwait, Liechtenstein, Luxembourg, Mali, Malta, Norway, the Netherlands, Qatar, the United Kingdom, Sweden, Switzerland, Somalia, Tanzania, Tunisia, Turkey and Yugoslavia, the band 138—144 MHz is also allocated to the maritime mobile and land mobile services on a primary basis.

602 *Alternative allocation:* In Angola, Botswana, Burundi, Cameroon, the Central African Republic, the Congo, Gabon, Gambia, Ghana, Guinea, Iraq, Jordan, Lesotho, Liberia, Libya, Malawi, Mozambique, Namibia, Nigeria, Oman, Rwanda, Sierra Leone, South Africa, Swaziland, Chad, Togo, Zaire, Zambia and Zimbabwe, the band 138—144 MHz is allocated to the fixed and mobile services on a primary basis.

603 *Additional allocation:* In China, the band 138—144 MHz is also allocated to the radiolocation service on a primary basis.

604 *Additional allocation:* In Ethiopia, Finland, Kenya, Malta, Somalia, Sudan, Tanzania, Yemen A.R. and Yugoslavia, the band 138—144 MHz is also allocated to the fixed service on a primary basis.

605 *Additional allocation:* In Singapore, the band 144—145 MHz is also allocated to the fixed and mobile services on a primary basis. Such use is limited to systems in operation on or before 1 January 1980, which in any case shall cease by 31 December 1995.

606 *Additional allocation:* In China, the band 144—146 MHz is also allocated to the aeronautical mobile (OR) service on a secondary basis.

607 *Alternative allocation:* In Afghanistan, Bangladesh, Cuba, Guyana and India, the band 146—148 MHz is allocated to the fixed and mobile services on a primary basis.

608 Subject to agreement obtained under the procedure set forth in Article 14, the band 148—149.9 MHz may be used by the space operation service (Earth-to-space). The bandwidth of an individual transmission shall not exceed ±25 kHz.

609 Emissions of the radionaviagation-satellite service in the bands 149.9—150.05 MHz and 399.9—400.05 MHz may also be used by receiving earth stations of the space research service.

610 In making assignments to stations of other services to which the band 150.05—153 MHz is allocated, administrations are urged to take all practicable steps to protect the radio astronomy service from harmful interference. Emissions from space or airborne stations can be particularly serious sources of interference to the radio astronomy service (see Nos. 343 and 344 and Article 36).

611 *Additional allocation:* In Australia and India, the band 150.05—153 MHz is also allocated to the radio astronomy service on a primary basis.

612 *Additional allocation:* In Sweden and Switzerland the band 150.05—153 MHz is also allocated to the aeronautical mobile (OR) service on a secondary basis.

613 The Frequency 156.8 MHz is the international distress, safety and calling frequency for the maritime mobile VHF radiotelephone service. The conditions for the use of this frequency are contained in Article 38.

In the bands 156—156.7625 MHZ, 156.8375—157.45 MHz, 160.6—160.975 MHz and 161.475—162.05 MHz, each administration shall give priority to the maritime mobile service on only such frequencies as are assigned to stations of the maritime mobile srvice by that admnistration (see Article 60).

Any use of frequencies in these bands by stations of other servics to which they are allocated should be avoided in areas where such use might cause harmful interference to the maritime mobile VHF radiocommunication service.

However, the frequency 156.8 MHz and the frequency bands in which priority is given to the mobile maritime service may be used for radiocommunications on inland waterways subject to agreement between interested and affected administrations and taking into account current frequency usage and existing agreements.

614 *Alternative allocation:* In France and Monaco, the band 162—174 MHz is allocated to the broadcasting service on a primary basis until 1 January 1985.

615 *Alternative allocation:* In Morocco, the band 162—174 MHz is allocated to the broadcasting service on a primary basis. The use of this band shall be subject to agreement with administrations having services, operating or planned, in accordance with the Table which are likely to be affected. Stations in existence on 1 January 1981, with their technical characteristics as of that date, are not affected by such agreement.

616 *Additional allocation:* In China, the band 163—167 MHz is also allocated to the space operation service (space-to-Earth) on a primary basis subject to agreement obtained under the procedure set forth in Article 14.

617 *Additional allocation:* In Afghanistan, China and Pakistan, the band 167—174 MHz is also allocated to the broadcasting service on a primary basis. The introduction of the broadcasting service into this band shall be subject to agreement with the neighbouring countries in Region 3, whose services are likely to be affected.

618 *Additional allocation:* In Japan, the band 170—174 MHz is also allocated to the broadcasting service on a primary basis.

619 *Additional allocation:* In China, the band 174—184 MHz is also allocated to the space research (space-to-Earth) and the space operation (space-to-Earth) services on a primary basis subject to agreement obtained under the procedure set forth in Article 14. These services shall not cause harmful interference to, or claim protection from, existing or planned broadcasting stations.

620 *Different category of service:* In Mexico, the allocation of the band 174—216 MHz to the fixed and mobile services is on a primary basis (see No. 425).

621 *Additional allocation:* In Austria, the Federal Republic of Germany, Belgium, Denmark, Finland, France, Italy, Liechtenstein, Monaco, Norway, the Netherlands, the United Kingdom, Sweden, Switzerland and Yemen (P.D.R. of) the band 174—223 MHz is also allocated to the land mobile service on a permitted basis. However, the stations of the land mobile service shall not cause harmful interference to, nor claim protection from, broadcasting stations, existing or planned, in countries other than those listed in this footnote.

622 *Different category of service:* In Austria, the Federal Republic of Germany, Belgium, Denmark, Spain, Finland, France, Israel, Italy, Liechtenstein, Luxembourg, Monaco, Norway, the Netherlands, Portugal, the United Kingdom, Sweden, Switzerland and Yemen (P.D.R. of), the band 223—230 MHz is allocated to the land mobile service on a permitted basis. However, the stations of the land mobile service shall not cause harmful interference to, nor claim protection from, broadcasting stations, existing or planned, in countries other than those listed in this footnote.

623 *Additional allocation:* In Congo, Ethiopia, Gambia, Guinea, Kenya, Libya, Malawi, Mali, Uganda, Senegal, Sierra Leone, Somalia, Tanzania, and Zimbabwe, the band 174—223 MHz is also allocated to the fixed and mobile services on a secondary basis.

624 *Additional allocation:* In Bangladesh, India, Pakistan, and the Philippines, the band 200—216 MHz is also allocated to the aeronautical radionavigation service on a primary basis.

625 *Additional allocation:* In Australia and Papuaa New Guinea, the bands 204—208 MHz and 222—223 MHz are also allocated to the aeronautical radionavigation service on a primary basis.

626 *Additional allocation:* In China, India and Thailand, the band 216—223 MHz is also allocated to the aeronautical radionavigation service on a primary basis and to the radiolocation service on a secondary basis.

627 In Region 2, the band 216—225 MHz is also allocated to the radiolocation service on

a primary basis until 1 January 1990. On and after 1 January 1990, no new stations in that service may be authorized. Stations authorized prior to 1 January 1990 may continue to operate in a secondary basis.

628 *Additional allocation:* In Somalia, the band 216—225 MHz is also allocated to the aeronautical radionavigation service on a primary basis, subject to not causing interference to existing or planned broadcating services in other countries.

629 *Additional allocation:* In Oman, the United Kingdom and Turkey, the band 216—235 MHz is also allocated to the radiolocation service on a secondary basis.

630 *Additional allocation:* In Japan, the band 222—223 MHz is also allocated to the aeronautical radionavigation service on a primary basis and to the radiolocation service on a secondary basis.

631 *Different category of service:* In Spain and Portugal, the band 223—230 MHz is allocated to the fixed service on a permitted basis (see No. 425). Stations of this service shall not cause harmful interference to, or claim protection from, broadcasting stations of other countries, whether existing or planned, that operate in accordance with the Table.

632 *Additional allocation:* In Saudi Arabia, Bahrain, the United Arab Emirates, Israel, Jordan, Oman, Qatar and Syria, the band 223—235 MHz is also allocated to the aeronatutical radionavigation service on a permited basis.

633 *Additional allocation:* In Spain and Portugal, the band 223—235 MHz is also allocated to the aeronautical radionavigation service on a permitted basis until 1 January 1990, subject to or not causing harmful interference to existing or planned broadcasting stations in other countries.

634 *Additional allocation:* In Sweden, the band 223—235 MHz is also allocated to the aeronautical radionavigation service on a permitted basis, until 1 January 1990, subject to agreement obtained under the procedure set forth in Article 14, and on condition that no harmful interference is caused to existing and planned broadcasting stations in other countries.

635 *Alternative allocation:* In Botswana, Lesotho, Namibia, South Africa, Swaziland and Zambia, the bands 223—238 MHz and 246—254 MHz are allocated to the broadcasting service on a primary basis subject to agreeement obtained under the procedure set forth in Article 14.

636 *Alternative allocation:* In New Zealand, Western Samoa, Niue and Cook Islands, the band 225—230 MHz is allocated to the fixed, mobile and aeronautical radionavigation services on a primary basis.

637 *Additional allocation:* In China, the band 225—235 MHz is also allocated to the radio astronomy service on a secondary basis.

638 *Additional allocation:* In Nigeria, the band 230—235 MHz is also allocated to the aeronautical radionavigation service on a primary basis, subject to agreement obtained under the procedure set forth in Article 14.

639 *Additional allocation:* In Yugoslavia, the band 230—235 MHz is also allocated to the aeronautical radionavigation service on a primary basis, until 1 January 1995. The use of this band by the aeronautical radionavigation service in Yngoslavia is restricted to the stations in operation by 1 January 1980.

640 *Additional allocation:* In New Zealand, the band 235—239.5 MHz is also allocated to the aeronautical radionavigation service on a primary basis.

641 Subject to agreement obtained under the procedure set forth in Article 14, the bands 235—322 MHz and 335.4—399.9 MHz may be used by the mobile-satellite service, on condition that stations in this service do not cause harmful interference to those of other services operating or planned to be operated in accordance with the Table.

642 The frequency 243 MHz is the frequency in this band for use by survival craft stations and equipment used for survival purposes.

643 Subject to agreement obtained under the procedure set forth in Article 14, the band 267—272 MHz may be used by administrations for space telemetry in their countries on a primary basis.

644 In making assignments to stations of other services to which the band 322—328.6 MHz is allocated, administrations are urged to take all practicable steps to protect the radio astronomy service from harmful interference. Emissions from space or airborne stations can be particularly serious sources of interference to the radio astronomy service (see Nos. 343 and 344 and Article 36).

645 Limited to Instrument Landing Systems (glide path).

646 Emissions shall be confined in a band of ± 25 kHz about the standard frequency 400.1 MHz.

647 *Additional allocation:* In Afghanistan, Saudi Arabia, Austria, Bahrain, Bulgaria, Colombia, Costa Rica, Cuba, Egypt, the United Arab Emirates, Ecuador, Hungary, Indonesia, Iran, Iraq, Israel, Kuwait, Liberia, Malaysia, Nigeria, Oman, Pakistan, the Philippines, Poland, Qatar, Syria, the German Democratic Republic, Roumania, Singapore, Somalia, Sri Lanka, Czechoslovakia, Thailand, the U.S.S.R. and Yugoslavia, the band 400.05—401 MHz is also allocated to the fixed and mobile services on a primary basis.

648 *Additional allocation:* In Canada, the bands 405.5—406 MHz and 406.1—410 MHz are also allocated to the mobile-satellite, except aeronautical mobile-satellite, service (Earth-to-space), on a primary basis, subject to agreement obtained under the procedure set forth in Article 14.

649 The band 406—406.1 MHz is reserved solely for the use and development of low-power (not to exceed 5 W) emergency position-indicating radiobeacon (EPIRB) system using space techniques.

650 In making assignments to stations of other services to which the band 406.1—410 MHz is allocated, administrations are urged to take all parcticable steps to protect the radio astronomy service from harmful interference. Emissions from space or airborne stations can be particularly serious sources of interference to the radio astronomy service (see Nos. 343 and 344 and Article 36).

651 *Different category of service:* In Australia, the United States, India, Japan and the United Kingdom, the allocation of the bands 420—430 MHz and 440—450 MHz to the radiolocation service is on a primary basis (see No. 425).

652 *Additional allocation:* In Australia, the United States, Jamaica and the Philippines, the bands 420—430 MHz and 440—450 MHz are also allocated to the amateur service on a secondary basis.

653 *Additional allocation:* In China, India, the German Democratic Republic, the United Kingdom and the U.S.S.R., the band 420—460 MHz is also allocated to the aeronautical radionavigation service (radio altimeters) on a secondary basis.

654 *Different category of service:* In France, the allocation of the band 430—434 MHz to the amateur service is on a secondary basis (see No. 424).

655 *Different category of service:* In Denmark, Libya, Norway and Sweden, the allocation of the bands 430—432 MHz and 438—440 MHz to the radiolocation service on a secondary basis (see No. 424).

656 *Alternative allocation:* In Denmark, Norway and Sweden, the bands 430—432 MHz and 438—440 MHz are allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

657 *Additional allocation:* In Finland, Libya and Yugoslavia, the bands 430—432 MHz and 438—440 MHz are also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

658 *Additional allocation:* In Afghanistan, Algeria, Saudi Arabia, Bahrain, Bangladesh, Brunei, Burundi, Egypt, the United Arab Emirates, Ecuador, Ethiopia, Greece, Guinea, India, Indonesia, Iran, Iraq, Israel, Italy, Jordan, Kenya, Kuwait, Lebanon, Liechtenstein, Libya, Malaysia, Malta, Nigeria, Oman, Pakistan, the Philippines, Qatar, Syria, Singapore, Somalia, Switzerland, Tanzania, Thailand and Togo, the band 430—440 MHz is also allocated to the fixed service on a primary basis and the bands 430—435 MHz and 438—440 MHz are also allocated to the mobile, except aeronautical mobile, service on a primary basis.

659 *Additional allocation:* In Angola, Bulgaria, Cameroon, Congo, Gabon, Hungary, Mali, Mongolia, Niger, Poland, the German Democratic Republic, Roumania, Rwanda, Chad, Czechoslovakia and the U.S.S.R., the band 430—440 MHz is also allocated to the fixed service on a primary basis.

660 *Different category of service:* In Argentina, Colombia, Costa Rica, Cuba, Honduras, Panama and Venezuela, the allocation of the band 430—440 MHz to the amateur service is on a primary basis (see No. 425).

661 In Region 1, except in the countries mentioned in No. 662, the band 433.05—434.79 MHz (centre frequency 433.92 MHz) is designated for industrial scientific and medical (ISM) applications. The use of this frequency band for ISM applications shall be subject to special authorization by the administration concerned, in agreement with other administrations whose radiocommunications services might be affected. In applying this provision.

administrations shall have due regard to the latest relevant CCIR Recommendations.

662 In the Federal Republic of Germany, Austria, Liechtenstein, Portugal, Switzerland and Yugoslavia, the band 433.05—434.79 MHz (centre frequency 433.92 MHz) is designated for industrial, scientific and medical (ISM) applications. Radiocommunication services of these countries operating within this band must accept harmful interference which may be caused by these applications. ISM equipment operating in this band is subject to the provisions of No. 1815.

663 *Additional allocation:* In Brazil, France and the French Overseas Departments in Region 2, and India, the band 433.75—434.25 MHz is also allocated to the space operation service (Earth-to-space) on a primary basis until 1 January 1990, subject to agreement obtained under the procedure set forth in Article 14. After 1 January 1990, the band 433.75—434.25 MHz will be allocated in the same countries to the same service on a secondary basis.

664 In the bands 435—438 MHz, 1 260—1 270 MHz, 2 400—2 450 MHz, 3 400—3 410 MHz (in Regions 2 and 3 only) and 5 650—5 670 MHz, the amateur-satellite service may operate subject to not causing harmful interference to other services operating in accordance with the Table (see No. 435). Administrations authorizing such use shall ensure that any harmful interference caused by emissions from a station in the amateur-satellite service is immediately eliminated in accordance with the provisions of No. 2741. The use of the bands 1 260—1 270 MHz and 5 650—5 670 MHz by the amateur-satellite service is limited to the Earth-to-space direction.

665 *Additional allocation:* In Austria, the band 438—440 MHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

666 *Additional allocation:* In Canada, New Zealand and Papua New Guinea, the band 440—450 MHz is also allocated to the amateur service on a secondary basis.

667 *Different category of service:* In Canada, the allocation of the band 440—450 MHz to the radiolocation service is on a primary basis (see No. 425).

668 Subject to agreement obtained under the procedure set forth in Article 14, the band 449.75—450.25 MHz may be used for the space operation service (Earth-to-space) and the space research service (Earth-to-space).

669 In the maritime mobile service, the frequencies 457.525 MHz, 457.550 MHz, 457.575 MHz, 467.525 MHz, 467.550 MHz and 467.575 MHz may be used by on-board communication stations. The use of these frequencies in territorial waters may be subject to the national regulations of the administration concerned. The characteristics of the equipment used shall conform to those specified in Appendix 20.

670 In the territorial waters of Canada, the United States and the Philippines, the preferred frequencies for use by on-board communication stations shall be 457.525 MHz, 457.550 MHz, 457.575 MHz and 457.600 MHz paired, respectively, with 467.750 MHz, 467.775 MHz, 467.800 MHz and 467.825 MHz. The characteristics of the equipment used shall conform to those specified in Appendix 20.

671 Earth exploration-satellite service applications, other than the meteorological-satellite service, may also be used in the bands 460—470 MHz and 1 690—1 710 MHz for space-to-Earth transmissions subject to not causing harmful interference to stations operating in accordance with the Table.

672 *Different category of service:* In Afghanistan, Bulgaria, China, Cuba, Hungary, Japan, Mongolia, Poland, Czechoslovakia and the U.S.S.R, the allocation of the band 460—470 MHz to the meteorological-satellite service (space-to-Earth) is on a primary basis (see No. 425) and is subject to agreement obtained under the procedure set forth in Article 14.

673 *Additional allocation:* In China, the band 470—485 MHz is also allocated to the space research (space-to-Earth) and the space operation (space-to-Earth) services on a primary basis subject to agreement obtained under the procedure set forth in Article 14, subject to not causing harmful interference to existing and planned broadcasting stations.

674 *Different category of service:* In Mexico and Venezuela, the allocation of the band 470—512 MHz to the fixed and mobile services is on a primary basis (see No. 425), subject to agreement obtained under the procedure set forth in Article 14.

675 *Different category of service:* In Chile, Colombia, Ecuador, the United States, Guyana and Jamaica, the allocation of the bands 470—512 MHz and 614—806 MHz to the fixed and mobile services is on a primary basis (see No. 425), subject to agreement obtained under the procedure set forth in Article 14.

676 *Additional allocation:* In Burundi, Cameroon, the Congo, Ethiopia, Israel, Kenya, Libya, Senegal, Sudan, Syria, and Yemen (P.D.R. of), the band 470—582 MHz is also allocated to the fixed service on a secondary basis.

677 *Alternative allocation:* In Pakistan, the bands 470—582 MHz and 610—890 MHz are allocated to the broadcasting service on a primary basis.

678 *Additional allocation:* In Costa Rica, El Salvador, Ecuador, the United States, Guatemala, Guyana, Honduras, Jamaica and Venezuela, the band 512—608 MHz is also allocated to the fixed and mobile services on a primary basis, subject to agreement obtained under the procedure set forth in Article 14.

679 *Additional allocation:* In India, the band 549.75—550.25 MHz is also allocated to the space operation service (space-to-Earth) on a secondary basis.

680 *Additional allocation:* In the United Kingdom, the following bands are also allocated to the aeronautical radionavigation service on a primary basis: 582—590 MHz until 31 December 1987; 598—606 MHz until 31 December 1994. All new assignments to stations in the aeronautical radionavigation service in these bands are subject to the agreement of the administrations of the following countries: the Federal Republic of Germany, Belgium, Denmark, Spain, France, Ireland, Luxembourg, Morocco, Norway and the Netherlands.

681 *Additional allocation:* In Belgium, the band 582—606 MHz is also allocated to the radionavigation service on a primary basis until 31 December 1984.

682 *Additional allocation:* In France and Italy, the band 582—606 MHz is also allocated to the radionavigation service on a permitted basis until 1 January 1990.

683 *Additional allocation:* In Oman, the band 582—606 MHz is also allocated to the radionavigation service on a secondary basis.

684 *Additional allocation:* In Israel, Libya, Syria and Sudan, the band 582—790 MHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a secondary basis.

685 *Additional allocation:* In Denmark and Kuwait, the band 590—598 MHz is also allocated to the aeronautical radionavigation service on a primary basis until 1 January 1995.

686 *Additional allocation:* In the United Kingdom, the band 598—590 MHz is also allocated to the aeronautical radionavigation service on a primary basis. All new assignments to stations in the aeronautical radionavigation service, including those transferred from the adjacent bands, shall be subject to coordination with the administrations of the following countries: the Federal Republic of Germany, Belgium, Denmark, Spain, France, Ireland, Luxembourg, Morocco, Norway and the Netherlands.

687 *Additional allocation:* In the African Broadcasting Area (see Nos. 400 to 403), the band 606—614 MHz is also allocated to the radio astronomy service on a permitted basis.

688 *Additional allocation:* In China, the band 606—614 MHz is also allocated to the radio astronomy service on a primary basis.

689 In Region 1, except in the African Broadcasting Area (see Nos. 400 to 403), and in Region 3, the band 606—614 MHz is also allocated to the radio astronomy service on a secondary basis. In making assignments to stations or other services to which the band is allocated, administrations are urged to take all practicable steps to protect the radio astronomy service from harmful interference. Emissions from space or airborne stations can be particularly serious sources of interference to the radio astronomy service (see Nos. 343 and 344 and Article 36).

690 *Additional allocation:* In India, the band 606—614 MHz is also allocated to the radio astronomy service on a primary basis.

691 *Additional allocation:* In New Zealand, the band 610—620 MHz is also allocated to the amateur service on a secondary basis.

692 *Different category of service:* In Costa Rica, El Salvador and Honduras, the allocation of the band 614—806 MHz to the fixed service is on a primary basis (see No. 425), subject to agreement obtained under the procedure set forth in Article 14.

693 Within the frequency band 620—790 MHz, assignments may be made to television stations using frequency modulation in the broadcasting-satellite service subject to agreement between administrations concerned and those having services, operating in accordance with the Table, which may be affected (see Resolutions 33 and 507). Such stations shall not produce a power flux-density in excess of the value

−129 dB(W/m²) for angles of arrival less than 20° (see Recommendation 705) within the territories of other countries without the consent of the administrations of those countries.

694 *Additional allocation:* In Bulgaria, Hungary, Mongolia, Poland, the German Democratic Republic, Roumania, Czechoslovakia and the U.S.S.R., the band 645—862 MHz is also allocated to the aeronautical radionavigation service on a permitted basis.

695 *Alternative allocation:* In Spain and France, the band 790—830 MHz is allocated to the broadcasting service on a primary basis.

696 *Alternative allocation:* In Greece, Italy, Morocco and Tunisia, the band 790—838 MHz is allocated to the braodcasting service on a primary basis.

697 *Additional allocation:* In the Federal Republic of Germany, Denmark, Finland, Israel, Liechtenstein, Norway, the Netherlands, Sweden, Switzerland and Yugoslavia, the band 790—830 MHz, and in these same countries and in Spain and France, the band 830—862 MHz are also allocated to the mobile, except aeronautical mobile, service, on a primary basis. However, mobile service stations in the countries mentioned in connection with each band referred to in this footnote shall not cause harmful interference to or claim protection from, stations of services operating in accordance with the Table in countries other than those mentioned in connection with the band.

698 *Additional allocation:* In Austria the band 790—862 MHz is also allocated to the mobile, except aeronautical mobile, on a secondary basis.

699 *Additional allocation:* In Norway and Sweden, the bands 806—890 MHz and 942—960 MHz are also allocated to the mobile-satellite, except aeronautical mobile-satellite, service on a primary basis. The use of this service is limited to operation within national boundaries and subject to agreement obtained under the procedure set forth in Article 14. This service shall not cause harmful interference to services operating in accordance with the Table.

700 *Additional allocation:* In Region 2, the band 806—890 MHz is also allocated to the mobile-satellite, except aeronautical mobile-satellite, service on a primary basis. The use of this service is intended for operation within national boundaries and subject to agreement obtained under the procedure set forth in Article 14.

701 *Additional allocation:* In Region 3, the bands 806—890 MHz and 942—960 MHz are also allocated to the mobile-satellite, except aeronautical mobile-satellite service on a primary basis. The use of national boundaries and subject to agreement obtained under the procedure set forth in Article 14. This service shall not cause harmful interference to services operating in accordance with the Table.

702 *Alternative allocation:* In Italy, the band 838—854 MHz is allocated to the broadcasting service on a primary basis as from 1 January 1995.

703 In Region 1, in the band 862—960 MHz, stations of the broadcasting service shall be operated only in the African Broadcasting Area (see Nos. 400 to 403) excluding Algeria, Egypt, Libya and Morocco. Such operations shall be in accordance with the Final Acts of the African VHF/UHF Broadcasting Conference, Geneva, 1963.

704 *Additional allocation:* In Bulgaria, Hungary, Mongolia, Poland, the German Democratic Republic, Roumania, Czechoslovakia and the U.S.S.R., the band 862—960 MHz is also allocated to the aeronautical radionavigation service on a permitted basis until 1 January 1998. Up to this date, the aeronautical radionavigation service may use the band, subject to agreement obtained under the procedure set forth in Article 14. After this date, the aeronautical radionavigation service may continue to operate on a secondary basis.

705 *Different category of service:* In the United States, the allocation of the band 890—942 MHz to the radiolocation service is on a primary basis (see No. 425) and subject to agreement obtained under the procedure set forth in Article 14.

706 *Different category of service:* In Australia, the allocation of the band 890—942 MHz to the radiolocation service is on a primary basis (see No. 425).

707 In Region 2, the band 902—928 MHz (centre frequency 915 MHz) is designated for industrial, scientific and medical (ISM) applications. Radiocommunication service operating within this band must accept harmful interference which may be caused by these applications. ISM equipment operating in this band is subject to the provisions of No. 1815.

708 *Different category of service:* In the United States, the allocation of the bands 942—947 MHz and 952—960 MHz to the mobile service is on a primary basis (see No. 425) and subject to agreement obtained under the procedure set forth in Article 14.

709 The band 960—1 215 MHz is reserved on a worldwide basis for the use and development of airborne electronic aids to air navigation and any directly associated ground-based facilities.

710 Use of the radionavigation-satellite service in the band 1 215—1 260 MHz shall be subject to the condition that no harmful interference is caused to the radionavigation service authorized under footnote 712.

711 *Additional allocation:* In Afghanistan, Angola, Saudi Arabia, Bahrain, Bangladesh, Cameroon, China, the United Arab Emirates, Ethiopia, Guinea, Guyana, India, Indonesia, Iran, Iraq, Israel, Japan, Jordan, Kuwait, Lebanon, Libya, Malawi, Morocco, Mozambique, Nepal, Nigeria, Oman, Pakistan, the Philippines, Qatar, Syria, Somalia, Sudan, Sri Lanka, Chad, Thailand, Togo and Yemen (P.D.R. of), the band 1 215—1 300 MHz is also allocated to the fixed and mobile services on a primary basis.

712 *Additional allocation:* In Algeria, the Federal Republic of Germany, Austria, Bahrain, Belgium, Benin, Burundi, Cameroon, China, Denmark, the United Arab Emirates, France, Greece, India, Iran, Iraq, Kenya, Liechtenstein, Luxembourg, Mali, Mauritania, Norway, Oman, Pakistan, the Netherlands, Portugal, Qatar, Senegal, Somalia, Sudan, Sri Lanka, Sweden, Switzerland, Tanzania, Turkey and Yugoslavia, the band 1 215—1 300 MHz is also allocated to the radionavigation service on a primary basis.

713 In the bands 1 215—1 300 MHz, 3 100—3 300 MHz, 5 250—5 350 MHz, 8 550—8 650 MHz, 9 500—9 800 MHz and 13.4—14.0 GHz, radiolocation stations installed on spacecraft may also be employed for the earth exploration-satellite and space research services on a secondary basis.

714 *Additional allocation:* In Canada and the United States the bands 1 240—1 300 MHz and 1 350—1 370 MHz are also allocated to the aeronautical radionavigation service on a primary basis.

715 *Additional allocation:* In Indonesia, the band 1 300—1 350 MHz is also allocated to the fixed and mobile services on a primary basis.

716 *Alternative allocation:* In Ireland and the United Kingdom, the band 1 300—1 350 MHz is allocated to the radiolocation service on a primary basis.

717 The use of the bands 1 300—1 350 MHz, 2 700—2 900 MHz and 9 000—9 200 MHz by the aeronautical radionavigation service is restricted to ground-based radars and to associated airborne transponders which transmit only on frequencies in these bands and only when actuated by radars operating in the same band.

718 In making assignments to stations of other services, administrations are urged to take all practicable steps to protect the spectral line observations of the radio astronomy service from harmful interference in the band 1 330—1 400 MHz. Emissions from space or airborne stations can be particularly serious sources of interference to the radio astronomy service (see Nos. 343 and 344 and Article 36).

719 In Bulgaria, Hungary, Mongolia, Poland, the German Democratic Republic, Roumania, Czechoslovakia and the U.S.S.R., the existing installations of the radionavigation service may continue to operate in the band 1 350—1 400 MHz.

720 The bands 1 370—1 400 MHz, 2 640—2 655 MHz, 4 950—4 990 MHz and 15.20—15.35 GHz are also allocated to the space research (passive) and earth exploration-satellite (passive) services on a secondary basis.

721 All emissions in the band 1 400—1 427 MHz are prohibited.

722 In the bands 1 400—1 727 MHz, 101—120 GHz and 197—220 GHz, passive research is being conducted by some countries in a programme for the search for intentional emissions of extra-terrestrial origin.

723 In Region 2, in Australia and Papua New Guinea, the use of the band 1 435—1 535 MHz by the aeronautical mobile service for telemetry has priority over other uses by the mobile service.

724 *Different category of service:* In Afghanistan, Saudi Arabia, Bahrain, Bulgaria, Cameroon, Egypt, the United Arab Emirates, France, Hungary, Iran, Iraq, Israel, Kuwait, Lebanon, Morocco, Mongolia, Oman, Poland, Qatar, Syria, the German Democratic Republic, Roumania, Czechoslovakia, the U.S.S.R., Yemen (P.D.R. of) and Yugoslavia, the allocation of the band 1 525—1 530 MHz to the mobile, except aeronautical mobile, service is on a primary basis (see No. 425).

725 *Additional allocation:* In the U.S.S.R., the band 1 525—1 530 MHz is also allocated to the aeronautical mobile service on a primary basis.

728 The allocation to the maritime mobil-satellite service in the band 1 530—1 535 MHz shall be effective from 1 January 1990. Up to that date the allocation to the fixed service shall be on a primary basis in Regions 1 and 3.

727 *Additional allocation:* In Afghanistan, Saudi Arabia, Bahrain, Bangladesh, Congo, Egypt, the United Arab Emirates, Ethiopia, Iran, Iraq, Israel, Jordan, Pakistan, Qatar, Sudan, Sri Lanka, Syria, Somalia, Chad, Thailand, Togo, Yemen (P.D.R. of) and Zambia, the bands 1 540—1 645.5 and 1 646.5—1 660 MHz are also allocated to the fixed service on a secondary basis.

728 The use of the bands 1 544—1 545 MHz (space-to-Earth) and 1 645.5—1 646.5 MHz (Earth-to-space) by the mobile-satellite service is limited to distress and safety operations.

729 Transmissions in the band 1 545—1 559 MHz from terrestrial aeronautical stations directly to aircraft stations, or between aircraft stations, in the aeronautical mobile (R) service are also authorized when such transmissions are used to extend or supplement the satellite-to-aircraft links.

730 *Additional allocation:* In the Federal Republic of Germany, Austria, Bulgaria, Cameroon, Guinea, Hungary, Indonesia, Libya, Mali, Mongolia, Nigeria, Poland, the German Democratic Republic, Roumania, Senegal, Czechoslovakia and the U.S.S.R., the bands 1 550—1 645.5 and 1 646.5—1660 MHz are also allocated to the fixed service on a primary basis.

731 *Alternative allocation:* In Sweden, the band 1 590—1 610 MHz is allocated to the aeronautical radionavigation service on a primary basis.

732 The band 1610—1626.5 MHz is reserved on a worldwide basis for the use and development of airborne electronic aids to air navigation and any directly associated ground-based or satellite-borne facilities. Such satellite use is subject to agreement obtained under the procedure set forth in Article 14.

733 The band 1 610—1 626.5 MHz, 5 000—5 250 MHz and 15.4—15.7 GHz are also allocated to the aeronautical mobile-satellite (R) service on a primary basis. Such use is subject to agreement obtained under the procedure set forth in Article 14.

734 The band 1 610.6—1 613.8 MHz is also allocated to the radio astronomy service on a secondary basis for spectral line observations. In making assignments to stations of other services to which the band is allocated, administrations are urged to take all practicable steps to protect the radio astronomy service from harmful interference. Emissions from space or airborne stations can be particularly serious sources of interference to the radio astronomy service (see Nos. 343 and 344 and Article 36).

735 Transmissions in the band 1 646.5—1 660.5 MHz from aircraft stations in the aeronautical mobile (R) service directly to terrestrial aeronautical stations, or between aircraft stations, are also authorized when such transmissions are used to extend or supplement the aircraft-to-satellite links.

736 In making assignments to stations of other services to which the band 1 660—1 670 MHz is allocated, administrations are urged to take all practicable steps to protect the radio astronomy service from harmful interference. Emissions from space or airborne stations can be particularly serious sources of interference to the radio astronomy service (see Nos. 343 and 344 and Article 36).

737 *Different category of service:* In Afghanistan, Saudi Arabia, Bahrain, Benin, Bulgaria, Cameroon, the Central African Republic, the Congo, Cuba, Egypt, the United Arab Emirates, Ethiopia, Hungary, India, Indonesia, Pakistan, Poland, Qatar, Syria, the German Democratic Republic, Singapore, Somalia, Sri Lanka, Chad, Thailand, Czechoslovakia, Tunisia, the U.S.S.R., Yemen A.R., Yemen (P.D.R. of) and Yugoslavia, the allocation of the band 1 660.5—1 668.4 MHz to the fixed and the mobile, except aeronautical mobile, services is on a primary basis until 1 January 1990.

738 *Additional allocation:* In Bangladesh, India, Indonesia, Nigeria, Pakistan, Sri Lanka and Thailand, the band 1 660.5—1 668.4 MHz is also allocated to the meteorological aids service on a secondary basis.

739 In view of the successful detection by radio astronomers of two hydroxyl spectral lines in the region of 1 665 MHz and 1 667 MHz, administrations are urged to give all practicable protection in the band 1 660.5—1 668.4 MHz for future research in radio astronomy, particularly by eliminating air-to-ground transmissions in the meteorological aids service in the band 1 664.4—1 668.4 MHz as soon as practicable.

740 *Additional allocation:* In Afghanistan, Costa Rica, Cuba, India, Iran, Malaysia, Pakistan, Singapore, Sri Lanka and Thailand, the band 1 690—1 700 MHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

741 *Different category of service:* In Saudia Arabia, Austria, Bahrain, Bulgaria, the Congo, Egypt, the United Arab Emirates, Ethiopia, Guinea, Hungary, Iraq, Israel, Jordan, Kenya, Kuwait, Lebanon, Mauritania, Mongolia, Oman, Poland, Qatar, Syria, the German Democratic Republic, Roumania, Somalia, Tanzania, Czechoslovakia, the U.S.S.R., Yemen A.R., Yemen (P.D.R. of) band 1 690—1 700 MHz to the fixed and mobile, except aeronautical mobile, service is on a primary basis (see No. 425).

742 *Additional allocation:* In Australia and Indonesia, the band 1 690—1 700 MHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a secondary basis.

743 *Additional allocation:* In India, Indonesia, Japan and Thailand, the band 1 700—1 710 MHz is also allocated to the space research service (space-to-Earth) on a primary basis.

744 The band 1 718.8—1 722.2 MHz is also allocated to the radio astronomy service on a secondary basis for spectral line observations. In making assignments to stations of other services to which the band is allocated, administrations are urged to take all practicable steps to protect the radio astronomy service from harmful interference. Emissions from space or airborne stations can be particularly serious sources of interference to the radio astronomy service (see Nos. 343 and 344 and Article 36).

745 Subject to agreement obtained under the procedure set forth in Article 14 and having particular regard to tropospheric scatter systems, the band 1 750—1 850 MHz may also be used for space operation (Earth-to-space) and space research (Earth-to-space) services in Region 2, in Afghanistan, Australia, India, Indonesia, Japan and Thailand.

746 *Additional allocation:* In Bulgaria, Cuba, Hungary, Mali, Mongolia, Poland, the German Democratic Republic, Roumania, Czechoslovakia and the U.S.S.R., the band 1 770—1 790 MHz is also allocated to the meteorological-satellite service on a primary basis, subject to agreement obtained under the procedure set forth in Article 14.

747 Subject to agreement obtained under the procedure set forth in Article 14, the band 2 025—2 110 MHz may also be used for Earth-to-space and space-to-space transmissions in the space research, space operation and earth exploration-satellite services. The services using space-to-space transmissions shall operate in accordance with the provisions of Nos. 2557 to 2560 and shall not cause harmful interference to the other space services.

748 Subject to agreement obtained under the procedure set forth in Article 14, the band 2 110—2 120 MHz may also be used for Earth-to-space transmissions in the space research (deep space) service.

749 Subject to agreement obtained under the procedure set forth in Article 14, the band 2 110—2 120 MHz may also be used in Japan for the space research (Earth-to-space) and space operation (Earth-to-space) services until 31 December 1990.

750 Subject to agreement obtained under the procedure set forth in Article 14, the band 2 200—2 290 MHz may also be used for space-to-Earth and space-to-space transmissions in the space research, space operations and earth exploration-satellite services. These services shall operate in accordance with the provisions of Nos. 2557 to 2560; the space-to-space transmissions shall not cause harmful interference to the other space services.

751 In Australia, the United States and Papua New Guinea, the use of the band 2 310—2 390 MHz by the aeronautical mobile service for telemetry has priority over other uses by the mobile services.

752 The band 2 400—2 500 MHz (centre frequency 2 450 MHz) is designated for industrial, scientific and medical (ISM) applications. Radio services operating within this band must accept harmful interference which may be caused by these applications. ISM equipment operating in this band is subject to the provisions of No. 1815.

753 In France, the band 2 450—2 550 MHz is allocated on a primary basis to the radiolocation service and on a secondary basis to the fixed and mobile services (see Nos. 424 and 425). Such use is subject to agreement with the administrations having services, operating or planned to operate in accordance with the Table, which may be affected.

754 Subject to agreement obtained under the procedure set forth in Article 14, the band 2 500—2 535 MHz may also be used in Region 3 for the mobile-satellite (space-to-Earth), except aeronautical mobile-Satellite, service for operation limited to within national boundaries.

755 *Additional allocation:* In Canada, the band 2 500—2 550 MHz is also allocated to the radiolocation service on a primary basis.

756 *Additional allocation:* In the United Kingdom, the band 2 500—2 600 MHz is also allocated to the radiolocation service on a secondary basis.

757 The use of the band 2 500—2 690 MHz by the broadcasting-satellite service is limited to national and regional systems for community reception and such use shall be subject to agreement obtained under the procedure set forth in Article 14. The power flux-density at the Earth's surface shall not exceed the values given in Nos. 6561 to 6564.

758 *Alternative allocation:* In the Federal Republic of Germany and Greece, the band 2 500—2 690 MHz is allocated to the fixed service on a primary basis.

759 *Alternative allocation:* In Bulgaria and the U.S.S.R., the band 2 500—2 690 MHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

760 In the design of systems in the broadcasting-satellite service in the bands between 2 500—2 690 MHz, administrations are urged to take all necessary steps to protect the radio astronomy service in the band 2 690—2 700 MHz

761 The use of the bands 2 500—2 690 MHz in Region 2 and 2 500—2 535 MHz and 2 655—2 690 MHz in Region 3 by the fixed-satellite service is limited to national and regional systems; such use shall be subject to agreement obtained under the procedure set forth in Article 14, giving particular attention to the broadcasting-satellite service in Region 1. In the direction space-to-Earth, the power flux-density at the Earth's surface shall not exceed the values given in Nos. 2561 to 2564.

762 Administrations shall make all practicable efforts to avoid developing new tropospheric scatter systems in the band 2 500—2 690 MHz.

763 Subject to agreement obtained under the procedure set forth in Article 14, the band 2 500—2 690 MHz may be used for tropospheric scatter systems in Region 1.

764 When planning new tropospheric scatter radio-relay links in the band 2 500—2 690 MHz; all possible measures shall be taken to avoid directing the antennae of these links toward the geostationary-satellite orbit.

765 In making assignments to stations of other services, administrations are urged to take all practicable steps to protect the radio astronomy service from harmful interference in the band 2 655—2 690 MHz. Emissions from space or airborne stations can be particularly serious sources of interference to the radio astronomy service (see Nos. 343 and 344 and Article 36).

766 Subject to agreement obtained under the procedure set forth in Article 14, the band 2 655—2 690 MHz may also be used in Region 3 for the mobile-satellite (Earth-to-space), except aeronautical mobile-satellite, service for operation limited to within national boundaries.

767 *Additional allocation:* In the Federal Republic of Germany and Austria, the band 2 690—2 695 MHz is also allocated to the fixed service on a primary basis. Such use is limited to equipment in operation by 1 January 1985.

768 All emissions in the band 2 690—2 700 MHz are prohibited, except those provided for by Nos. 767 and 769.

769 *Additional allocation:* In Afghanistan, Saudi Arabia, Bahrain, Bulgaria, Cameroon, the Central African Republic, the Congo, the Ivory Coast, Cuba, Egypt, the United Arab Emirates, Ethiopia, Gabon, Guinea, Guinea-Bissau, Hungary, Iran, Iraq, Israel, Lebanon, Malaysia, Malawi, Mali, Morocco, Mauritania, Mongolia, Nigeria, Oman, Pakistan, the Philippines, Poland, Qatar, the Syria, German Democratic Republic, Roumania, Singapore, Somalia, Sri Lanka, Czechoslovakia, Tunisia, Thailand, the U.S.S.R., Yemen A.R., Yemen (P.D.R. of), Yugoslavia, Zaire and Zambia, the band 2 690—2 700 MHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis. Such use is limited to equipment in operation by 1 January 1985.

770 In the band 2 700—2 900 MHz, ground-based radars used for meteorological purposes are authorized to operate on a basis of equality with stations of the aeronautical radionavigation service.

771 *Additional allocation:* In Canada, the band 2 850—2 900 MHz is also allocated to the maritime radionavigation service, on a primary basis, for use by shore-based radars.

772 In the bands 2 900—3 100 MHz, 5 470—5 650 MHz and 9 200—9 300 MHz, the use of shipborne transponder systems shall be confined to the sub-bands 2 930—2 950 MHz, 470—5 480 MHz and 9 280—9 300 MHz.

773 The use of the band 2 900—3 100 MHz by the aeronautical radionavigation service is limited to ground based radars.

774 In the bands 2 900—2 920 MHz and 9 300—9 320 MHz in the maritime radionavigation service, the use of shipborne radars other than those existing on 1 January 1976 is not permitted.

775 In the bands 2 920—3 100 MHz and 9 320—9 500 MHz in the maritime radionavigation service, the use of fixed-frequency radar beacons (racons) on land or at sea is not permitted.

776 In the band 3 100—3 300 MHz, radar beacons (racons) and shipborne radars on merchant ships may operate within the band 3 100—3 266 MHz.

777 *Additional location:* In Bulgaria, Canada, Cuba, Hungary, Mongolia, Poland, the German Democratic Republic, Roumania, Czechoslovakia and the U.S.S.R., the band 3 100—3 300 MHz is also allocated to the radionavigation service on a primary basis.

778 In making assignments to stations of other service, administrations are urged to take all practicable steps to protect the spectral line observations of the radio astronomy service from harmful interference in the bands 3 260—3 267 MHz, 3 332—3 339 MHz, 3 345.8—3 352.5 MHz and 4 825—4 835 MHz. Emissions from space or airborne stations can be particularly serious sources of interference to the radio astronomy service (see Nos. 343 and 344 and Article 36).

779 *Additional allocation:* In Afghanistan, Saudi Arabia, Bahrain, Bangladesh, China, the Congo, the United Arab Emirates, India, Indonesia, Iran, Iraq, Israel, Japan, Kuwait, Lebanon, Libya, Malaysia, Oman, Pakistan, Qatar, Syria, Singapore, Sri Lanka and Thailand, the band 3 300—3 400 MHz is also allocated to the fixed and mobile services on a primary basis. The countries bordering the Mediterranean shall not claim protection for their fixed and mobile services from the radiolocation service.

780 *Additional location:* In Bulgaria, Cuba, Hungary, Mongolia, Poland, the German Democratic Republic, Roumania, Czechoslovakia and the U.S.S.R., the band 3 300—3 400 MHz is also allocated to the radionavigation service on a primary basis.

781 *Additional allocation:* In the Federal Republic of Germany, Israel and the United Kingdom, the band 3 400—3 475 MHz is also allocated to the amateur service on a secondary basis.

782 *Different category of service:* In Austria, the allocation of the band 3 400—3 500 MHz to the radiolocation service is on a primary basis (see No. 425), subject to the agreement of the administrations of the following countries: Hungary, Italy, the German Democratic Republic, Czechoslovakia and Yugoslavia. Such use is limited to ground-based stations. However, this administration is urged to cease operations by 1985. After this date this administration shall take all practicable steps to protect the fixed-satellite service and coordination requirements shall not be imposed on the fixed-satellite service.

783 *Different category of service:* In Indonesia, Japan, Pakistan and Thailand, the allocation of the band 3 400—3 500 MHz to the mobile, except aeronautical mobile, service is on a primary basis (see No. 425).

784 In Regions 2 and 3, in the band 3 400—3 600 MHz the radiolocation service is allocated on a primary basis. However, all administrations operating radiolocation systems in this band are urged to cease operations by 1985. Thereafter, administrations shall take all practicable steps to protect the fixed-satellite service and coordination requirements shall not be imposed on the fixed-satellite service.

785 In Denmark, Norway and the United Kingdom, the fixed, radiolocation and fixed-satellite services operate on a basis of equality of rights in the band 3 400—3 600 MHz. However, these administrations operating radiolocation systems in this band are urged to cease operations by 1985. After this date these administrations shall take all practicable steps to protect the fixed-satellite service and coordination requirements shall not be imposed on the fixed-satellite service.

786 In Japan, in the band 3 620—3 700 MHz, the radiolocation service is excluded.

787 *Additional allocation:* In New Zealand, the band 3 700—3 770 MHz is also allocated to the radiolocation service on a secondary basis.

788 *Additional allocation:* In the Federal Republic of Germany, Denmark, Norway and Sweden, the band 4 200—4 210 MHz is also allocated to the fixed service on a secondary basis.

739 Use of the band 4 200—4 400 MHz by the aeronautical radionavigation service is reserved exclusively for radio altimeters installed on board aircraft and for the associated transponders on the ground. However, passive sensing in the Earth exploration-satellite and space research services may be authorized in this band on a secondary basis (no protection is provided by the radio altimeters).

790 *Additional allocation:* In China, Iran, Libya, the Philippines and Sri Lanka, the band 4 200—4 400 MHz is also allocated to the fixed service on a secondary basis.

791 The standard frequency and time signal-satellite service may be authorized to use the frequency 4 202 MHz for space-to-Earth transmissions and the frequency 6 427 MHz for Earth-to-space transmissions. Such transmissions shall be confined within the limits of ±2 MHz of these frequencies and shall be subject to agreement obtained under the procedure set forth in Article 14.

792 *Alternative allocation:* In Belgium, Norway, the Netherlands and the United Kingdom, the band 4 500—4 800 MHz, is allocated to the fixed and mobile services on a primary basis. Such use shall not impose power flux-density limitations on the fixed-satellite service greater than those given in No. 2566.

793 In the bands 4 825—4 835 MHz and 4 950—4 990 MHz, the allocation to the mobile service is restricted to the mobile, except aeronautical mobile, service.

794 *Different category of service:* In Argentina, Australia and Canada, the allocation of the bands 4 825—4 835 MHz and 4 950—4 990 MHz to the radio astronomy service is on a primary basis. In making assignments to stations of other services to which these bands are allocated, administrations are urged to take all practicable steps to protect the radio astronomy service from harmful interference. Emissions from space or airborne stations can be particularly serious sources of interference to the radio astronomy service (see Nos. 343 and 344 and Article 36).

795 In making assignments to stations of other services to which the band 4 990—5 000 MHz is allocated, administrations are urged to take all practicable steps to protect the radio astronomy service from harmful interference. Emissions from space or airborne stations can be particularly serious sources of interference to the radio astronomy service (see Nos. 343 and 344 and Article 36).

796 The band 5 000—5 250 MHz is to be used for the operation of the international standard system (microwave landing system) for precision approach and landing. The requirements of this system shall take precedence over other uses of this band.

797 The bands 5 000—5 250 MHz, and 15.4—15.7 GHz are also allocated to the fixed-satellite service and the inter-satellite service, for connection between one or more earth stations at specified fixed points on the Earth and space stations, when these services are used in conjunction with the aeronautical radionavigation and/or aeronautical mobile (R) service. Such use shall be subject to agreement obtained under the procedure set forth in Article 14.

798 *Additional allocation:* In Austria, Bulgaria, Hungary, Libya, Mongolia, Poland, the German Democratic Republic, Roumania, Czechoslovakia and the U.S.S.R., the band 5 250—5 350 MHz is also allocated to the radionavigation service on a primary basis.

799 The use of the band 5 350—5 470 MHz by the aeronautical radionavigational service is limited to airborne radars and associated airborne beacons.

800 *Additional allocation:* In Afghanistan, Austria, Bulgaria, Hungary, Iran, Mongolia, Poland, the German Democratic Republic, Roumania, Czechoslovakia and the U.S.S.R., the band 5 470—5 650 MHz is also allocated to the aeronautical radionavigation service on a primary basis.

801 *Additional allocation:* In the United Kingdom, the band 5 470—5 850 MHz is also allocated to the land mobile service on a secondary basis. The power limits specified in Nos. 2502, 2505, 2506 and 2507 shall apply in the band 5 725—5 850 MHz.

802 Between 5 600 MHz and 5 650 MHz, ground-based radars used for meterological purposes are authorized to operate on a basis of equality with stations of the maritime radionavigation service.

803 *Additional allocation:* In Afghanistan, Saudi Arabia, Bahrain, Bangladesh, Cameroon, Central African Republic, China, Congo, the Republic of Korea, Egypt, the United Arab Emirates, Gabon, Guinea, India, Indonesia, Iran, Iraq, Israel, Japan, Jordan, Kuwait, Lebanon, Libya, Madagascar, Malaysia, Malawi, Malta, Niger, Nigeria, Pakistan, the Philippines, Qatar, Syria, Singapore, Sri Lanka, Tanzania, Chad, Thailand and Yemen (P.D.R. of) the band 5 650—5 850 MHz is also allocated to the fixed and mobile services on a primary basis.

804 *Different category of service:* In Bulgaria, Cuba, Hungary, Mongolia, Poland, the German Democratic Republic, Czechoslovakia and the U.S.S.R., the allocation of the band 5 670—5 725 MHz to the space research service is on a primary basis (see No. 425).

805 *Additional allocation:* In Bulgaria, Cuba, Hungary, Mongolia, Poland, the German Democratic Republic, Czechoslovakia and the U.S.S.R., the bank 5 670—5 850 MHz is also allocated to the fixed service on a primary basis.

806 The band 5 725— 5 875 MHz (centre frequency 5 800 MHz) is designated for industrial, scientific and medical (ISM) applications. Radiocommunication services operating within this band must accept harmful interference which may be caused by these applications. ISM equipment operating in this band is subject to the provisions of No. 1815.

807 *Additional allocation:* In the Federal Republic of Germany, the band 5 755—5 850 MHz is also allocated to the fixed service on a primary basis.

808 The band 5 830—5 850 MHz is also allocated to the amateur-satellite service (space-to-Earth) on a secondary basis.

809 In the band 6 425—7 075 MHz, passive microwave sensor measurements are carried out over the oceans. In the band 7 075—7 250 MHz, passive microwave sensor measurements are carried out. Administrations should bear in mind the needs of the earth exploration-satellite (passive) and space research (passive) services in their future planning of this band.

810 Subject to agreement obtained under the procedure set forth in Article 14, in Region 2, the band 7 125—7 155 MHz may be used for Earth-to-space transmissions in the space operation service.

811 Subject to agreement obtained under the procedure set forth in Article 14, the band 7 145—7 235 MHz may be used for Earth-to-space transmissions in the space research service. The use of the band 7 145—7 190 MHz is restricted to deep space; no emissions to deep space shall be effected in the band 7 190—7 235 MHz.

812 The bands 7 250—7 375 MHz (space-to-Earth) and 7 900—8 025 MHz (Earth-to-space) may also be used by the mobile-satellite service. The use of these bands by this service shall be subject to agreement obtained under the procedure set forth in Article 14.

813 In the band 8 025—8 400 MHz the power flux-density limits specified in No. 2570 shall apply in Regions 1 and 3 to the earth exploration-satellite service.

814 In Region 2, aircraft stations are not permitted to transmit in the band 8 025—8 400 MHz.

815 Subject to agreement obtained under the procedure set forth in Article 14, the band 8 025—8 400 MHz may be used for the earth exploration-satellite service (space-to-Earth) in Bangladesh, Benin, Cameroon, China, the Central African Republic, the Ivory Coast, Egypt, France, Guinea, Upper Volta, India, Iran, Israel, Italy, Japan, Kenya, Libya, Mali, Niger, Pakistan, Senegal, Somalia, Sudan, Sweden, Tanzania, Zaire and Zambia, on a primary basis.

816 In the space research service, the use of the band 8 400—8 450 MHz is limited to deep space.

817 *Different category of service:* In Belgium, Israel, Luxembourg, Malaysia, Singapore and Sri Lanka, the allocation of the band 8 400—8 500 MHz to the space research service is on a secondary basis (see No. 424).

818 *Alternative allocation:* In the United Kingdom, the band 8 400—8 500 MHz is allocated to the radiolocation and space research services on a primary basis.

819 *Additional allocation:* In Saudi Arabia, Bahrain, Bangladesh, Burundi, Cameroon, China, the Congo, Costa Rica, Egypt, the United Arab Emirates, Gabon, Guinea, Guyana, Indonesia, Iran, Iraq, Israel, Jamaica, Kuwait, Libya, Malaysia, Mali, Morocco, Mauritania, Nepal, Niger, Nigeria, Oman, Pakistan, Qatar, Syria, Senegal, Singapore, Somalia, Sri Lanka, Tanzania, Chad, Thailand, Togo and Tunisia, the band 8 500—8 750 MHz is also allocated to the fixed and mobile services on a primary basis.

820 *Additional allocation:* In Bulgaria, Hungary, Mongola, Poland, the German Democratic Republic, Rounmania, Czechoslovakia and the U.S.S.R., the band 8 500—8 750 MHz is also allocated to the land mobile and radionavigation services on a primary basis.

821 The use of the band 8 750—8 850 MHz by the aeronautical radionavigation service is

limited to airborne doppler navigation aids on a centre frequency of 8 800 MHz.

822 *Additional allocation:* In Algeria, the Federal Republic of Germany, Bahrain, Belgium, China, the United Arab Emirates, France, Greece, Indonesia, Iran, Libya, the Netherlands, Qatar, Sudan and Thailand, the bands 8 825—8 850 MHz and 9 000—9 200 MHz are also allocated to the maritime radionavigation service, on a primary basis, for use by shore-based radars only.

823 In the bands 8 850—9 000 MHz and 9 200—9 225 MHz, the maritime radionavigation service is limited to shore-based radars.

824 *Additional allocation:* In Austria, Bulgaria, Cuba, Hungary, Mongolia, Poland, the German Democratic Republic, Roumania, Czechoslovakia and the U.S.S.R., bands 8 850—9 000 MHz and 9 200—9 300 MHz are also allocated to the radionavigation service on a primary basis.

825 The use of the band 9 300—9 500 MHz by the aeronautical radionavigation service is limited to airborne weather radars and ground-based radars. In addition, ground-based radar beacons in the aeronautical radionavigation service are permitted in the band 9 300—9 320 MHz on condition that harmful interference is not caused to the maritime radionavigation service. In the band 9 300—9 500 MHz, ground-based radars used for meteorological purposes have priority over other radiolocation devices.

826 *Different category of service:* In Afghanistan, Saudi Arabia, Austria, Bahrain, Bangladesh, Cameroon, the Republic of Korea, Egypt, the United Arab Emirates, Ethiopia, Guyana, India, Indonesia, Iran, Iraq, Israel, Jamaica, Japan, Jordan, Kuwait, the Lebanon, Liberia, Malaysia, Nigeria, Pakistan, Qatar, Singapore, Somalia, Sudan, Sri Lanka, Sweden, Thailand, Trinidad and Tobago, and Yemen (P.D.R. of), the allocation of the band 9 800—10 000 MHz to the fixed service is on a primary basis (see No. 425).

827 *Additional allocation:* In Bulgaria, Hungary, Mongolia, Poland, the German Democratic Republic, Roumania, Czechoslovakia and the U.S.S.R., the band 9 800—10 000 MHz is also allocated to the radionavigation service on a primary basis.

828 The band 9 975—10 025 MHz is also allocated to the meteorological-satellite service on a secondary basis for use by weather radars.

829 *Additional allocation:* In Costa Rica, Ecuador, Guatemala, and Honduras, the band 10—10.45 GHz is also allocated to the fixed and mobile services on a primary basis.

830 *Additional allocation:* In the Federal Republic of Germany, Angola, China, Ecuador, Spain, Japan, Kenya, Morocco, Nigeria, Sweden, Tanzania and Thailand, the band 10.45—10.5 GHz is also allocated to the fixed and mobile services on a primary basis.

831 In the band 10.6—10.68 GHz, the fixed and mobile, except aeronautical mobile, services shall be limited to a maximum equivalent isotropically radiated power of 40 dBW and the power delivered to the antenna shall not exceed −3 dBW. These limits may be exceeded subject to agreement obtained under the procedure set forth in Article 14. However, in Afghanistan, Saudi Arabia, Bahrain, Bangladesh, China, the United Arab Emirates, Finland, India, Indonesia, Iran, Iraq, Japan, Kuwait, Lebanon, Nigeria, Pakistan, the Philippines, Qatar, Syria and the U.S.S.R., the restrictions on the fixed and mobile, except aeronautical mobile, services are not applicable.

832 In making assignments to stations of other services to which the band 10.6—10.68 GHz is allocated, administrations are urged to take all practicable steps to protect the radio astronomy service from harmful interference. Emissions from space or airborne stations can be particularly serious sources of interference to the radio astronomy service (see Nos. 343 and 344 and Article 36).

833 All emissions in the band 10.68—10.7 GHz are prohibited except for those provided for by No. 834.

834 *Additional allocation:* In Saudi Arabia, Bahrain, Bulgaria, Cameroon, China, Colombia, the Republic of Korea, Costa Rica, Cuba, Egypt, the United Arab Emirates, Ecuador, Hungary, Iran, Iraq, Israel, Japan, Kuwait, Lebanon, Mongolia, Pakistan, Poland, Qatar, the German Democratic Republic, Roumania, Czechoslovakia, the U.S.S.R. and Yugoslavia, the band 10.68—10.7 GHz is also allocated to the fixed and mobile, except aeronautical mobile, service on a primary basis. Such use is limited to equipment in operation by 1 January 1985.

835 In Region 1, the use of the band 10.7—11.7 GHz by the fixed-satellite service (Earth-to-space) is limited to feeder links for the broadcasting-satellite service.

836 In Region 2, in the band 11.7—12.1 GHz, transponders on space stations in the fixed-satellite service may be used additionally for transmissions in the broadcasting-satellite service, provided that such transmissions do not have a maximum e.i.r.p. greater than 53 dBW per television channel and do not cause greater interference or require more protection from interference than the coordinated fixed-satellite service frequency assignments. With respect to the space services, this band shall be used principally for the fixed-satellite service. The upper limit of this band shall be modified in accordance with the decisions of the 1983 Regional Administrative Radio Conference for Region 2 (see No. 841).

837 *Different category of service:* In Canada, Mexico and the United States, the allocation of the band 11.7—12.2 GHz to the fixed service is on a secondary basis (see No. 424).

838 In the band 11.7—12.5 GHz in Regions 1 and 3 the fixed, fixed-satellite, mobile, except aeronautical mobile, and broadcasting services, in accordance with their respective allocations, shall not cause harmful interference to broadcasting-satellite stations operating in accordance with the provisions of Appendix 30.

839 The use of the band 11.7—12.7 GHz in Region 2 by the fixed-satellite and broadcasting-satellite services is limited to national and sub-regional systems and is subject to previous agreement between the administrations concerned and those having services, operating or planned to operate in accordance with the Table, which may be affected (see Articles 11, 13, 14, and Resolution 33).

840 For the use of the band 11.7—12.75 GHz in Regions 1, 2 and 3, see Resolutions 31, 34, 504, 700 and 701.

841 The 1983 regional administrative radio conference for Region 2 will divide the band 12.1—12.3 GHz into two sub-bands. It will allocate the lower sub-band to the fixed-satellite service and the upper sub-band to the broadcasting-satellite, broadcasting, mobile except aeronautical mobile, and fixed services, all services being on a primary basis.

842 *Additional allocation:* The bands 12.1—12.3 GHz in Brazil and Peru and 12.2—12.3 GHz in the United States are also allocated to the fixed service on a primary basis.

843 In the band 12.1—12.7 GHz, the Region 2 space services, existing or planned before the 1983 regional administrative radio conference for Region 2, shall not impose restrictions on the elaboration of the Plan for the broadcasting-satellite service in Region 2 and shall be operated under the conditions set forth by that conference.

844 In Region 2, in the band 12.1—12.7 GHz, existing and future terrestrial radiocommunication services shall not cause harmful interference to the space services operating in accordance with the broadcasting-satellite plan to be prepared at the 1983 regional administrative radio conference for Region 2, and shall not impose restrictions on the elaboration of such a plan. The lower limit of this band shall be modified in accordance with the decisions of that conference for the Region 2 (see No. 841).

845 In Region 3 the band 12.2—12.5 GHz is also allocated to the fixed-satellite (space to Earth) service limited to national and sub-regional systems. The power flux-density limits in No. 2574 shall apply to this frequency band. The introduction of the service in relation to the broadcasting-satellite service in Region 1 shall follow the procedures specified in Article 7 of Appendix 30 with the applicable frequency band extended to cover 12.2—12.5 GHz.

846 In Region 2, in the band 12.3—12.7 GHz, assignments to stations of the broadcasting-satellite service made available in the plan to be established by the 1983 regional administrative radio conference for Region 2 may also be used for transmissions in the fixed-satellite service (space-to-Earth), provided that such transmissions do not cause more interference or require more protection from interference than the broadcasting-satellite service transmissions operating in accordance with that plan. With respect to the space services, this band shall be used principally for the broadcasting-satellite service. The lower limit of this band shall be modified in accordance with the decisions of that conference for Region 2 (see No. 841).

847 The broadcasting-satellite service in the band 12.5—12.75 GHz in Region 3 is limited to community reception with a power flux-density not exceeding −111 (dBW/m^2) as defined in Annex 8 of Appendix 30.

848 *Additional allocation:* In Algeria, Angola, Saudi Arabia, Bahrain, Cameroon, the Central African Republic, the Congo, the Ivory Coast, Egypt, the United Arab Emirates,

Ethiopia, Gabon, Ghana, Guinea, Iraq, Israel, Jordan, Kenya, Kuwait, Lebanon, Libya, Madagascar, Mali, Morocco, Mongolia, Niger, Nigeria, Qatar, Syria, Senegal, Somalia, Sudan, Chad, Togo, Yemen (P.D.R. of) and Zaire, the band 12.5—12.75 GHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

849 *Additional allocation:* In the Federal Republic of Germany, Belgium, Denmark, Spain, Finland, France, Greece, Liechtenstein, Luxembourg, Monaco, Norway, Uganda, the Netherlands, Portugal, Roumania, Sweden, Switzerland, Tanzania, Tunisia and Yugoslavia, the band 12.5—12.75 GHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a secondary basis.

850 *Additional allocation:* In Austria, Bulgaria, Hungary, Poland, the German Democratic Republic, Czechoslovakia and the U.S.S.R., the band 12.5—12.75 GHz is also allocated to the fixed service and the mobile, except aeronautical mobile, service on a primary basis. However, stations in these services shall not cause harmful interference to fixed-satellite earth stations of countries in Region 1 other than those mentioned in this footnote. Coordination of these earth stations is not required with stations of the fixed and mobile services of the countries mentioned in this footnote.

851 The use of the band 13.25—13.4 GHz by the aeronautical radionavigation service is limited to Doppler navigation aids.

852 Subject to agreement obtained under the procedure set forth in Article 14, the band 13.25—13.4 GHz may also be used in the space research service (Earth-to-space) on a secondary basis.

853 *Additional allocation:* In Bangladesh, India and Pakistan, the band 13.25—14 GHz is also allocated to the fixed service on a primary basis.

854 *Additional allocation:* In Afghanistan, Algeria, Angola, Saudi Arabia, Bahrain, Cameroon, the Republic of Korea, Egypt, the United Arab Emirates, Finland, Gabon, Guinea, Indonesia, Iran, Iraq, Israel, Jordan, Kuwait, Lebanon, Madagascar, Malaysia, Malawi, Mali, Malta, Morocco, Mauritania, Niger, Nigeria, Pakistan, Qatar, Syria, Senegal, Singapore, Sri Lanka, Sudan, Sweden, Chad, Thailand and Tunisia, the band 13.4—14 GHz is also allocated to the fixed and mobile services on a primary basis.

855 *Additional allocation:* In Austria, Bulgaria, Hungary, Japan, Mongolia, Poland, the German Democratic Republic, Roumania, the United Kingdom, Czechoslovakia and the U.S.S.R., the band 13.4—14 GHz is also allocated to the radionavigation service on a primary basis.

856 The use of the band 14—14.3 GHz by the radionavigation service shall be such as to provide sufficient protection to space stations of the fixed-satellite service (see Recommendation 708).

857 *Additional allocation:* In Afghanistan, Algeria, Angola, Saudi Arabia, Australia, Bahrain, Bangladesh, Botswana, Cameroon, China, the Republic of Korea, Egypt, the United Arab Emirates, Gabon, Guatemala, Guinea, India, Indonesia, Iran, Iraq, Israel, Japan, Kenya, Kuwait, Lesotho, Lebanon, Malaysia, Malawi, Mali, Malta, Morocco, Mauritania, Niger, Pakistan, the Philippines, Qatar, Syria, Senegal, Singapore, Somalia, Sudan, Sri Lanka, Switzerland, Tanzania, Chad, Thailand and Yemen (P.D.R. of), the band 14—14.3 GHz is also allocated to the fixed service on a primary basis.

858 The band 14—14.5 GHz may be used, within the fixed-satellite service (Earth-to-space), for feeder links for the broadcasting-satellite service, subject to coordination with other networks in the fixed-satellite service. Such use for feeder links is reserved for countries outside Europe and for Malta.

859 The band 14—14.5 GHz is also allocated to the land mobile-satellite service (Earth-to-space) on a secondary basis.

860 *Additional allocation:* In the Federal Republic of Germany, Austria, Belgium, Denmark, Spain, Finland, France, Greece, Ireland, Iceland, Italy, Jordan, Libya, Liechtenstein, Luxembourg, Norway, the Netherlands, Portugal, the United Kingdom, Sweden, Switzerland, Turkey and Yugoslavia, the band 14.25—14.3 GHz is also allocated to the fixed service on a primary basis.

861 *Additional allocation:* In Japan, Pakistan, the United Kingdom and Thailand, the band 14.25—14.3 GHz is also allocated to the mobile, except aeronautical mobile, service on a primary basis.

862 In making assignments to stations of others services to which the band 14.47—14.5 GHz is allocated, administrations are urged to take all practicable steps to protect spectral line observations of the radio astronomy service from harmful interference. Emissions from space or airborne stations can be particularly serious sources of interference to the radio astronomy service (see Nos. 343 and 344 and Article 36).

863 The use of the band 14.5—14.8 GHz by the fixed-satellite service (Earth-to-space) is limited to feeder links for the broadcasting-satellite service. This use is reserved for countries outside Europe and for Malta.

864 All emissions in the band 15.35—15.4 GHz are prohibited, except those provided for by No. 865.

865 *Additional allocation:* In Afghanistan, Saudi Arabia, Bahrain, Cameroon, Egypt, the United Arab Emirates, Guinea, Pakistan, Iran, Iraq, Israel, Kuwait, Lebanon, Libya, Qatar, Syria, Somalia and Yugoslavia, the band 15.35—15.4 GHz is also allocated to the fixed and mobile services on a secondary basis.

866 *Additional allocation:* In Afghanistan, Algeria, Angola, Saudi Arabia, Austria, Bahrain, Bangladesh, Cameroon, Costa Rica, Egypt, El Salvador, the United Arab Emirates, Finland, Guatemala, India, Indonesia, Iran, Kuwait, Libya, Malaysia, Malawi, Malta, Morocco, Mozambique, Nepal, Nicaragua, Oman, Pakistan, Qatar, Singapore, Somalia, Sudan, Sri Lanka, Sweden, Tanzania, Chad, Thailand, Yemen (P.D.R. of) and Yugoslavia, the band 15.7—17.3 GHz is also allocated to the fixed and mobile services on a primary basis.

867 *Additional allocation:* In Israel, the band 15.7—17.3 GHz is also allocated to the fixed and mobile services on a primary basis. These services shall not claim protection from, or cause harmful interference to services operating in accordance with the Table in countries other than those included in 866.

868 *Additional allocation:* In Afghanistan, Algeria, the Federal Republic of Germany, Angola, Saudi Arabia, Austria, Bahrain, Bangladesh, Cameroon, Costa Rica, El Salvador, the United Arab Emirates, Finland, Guatemala, Honduras, India, Indonesia, Iran, Iraq, Israel, Japan, Kuwait, Libya, Nepal, Nicaragua, Pakistan, Qatar, Sudan, Sri Lanka, Sweden, Thailand and Yugoslavia, the band 17.3—17.7 GHz is also allocated to the fixed and mobile services on a secondary basis. The power limits given in Nos. 2505 and 2508 shall apply provisionally (see Resolution 101).

869 The use of the band 17.3—18.1 GHz by the fixed-satellite service (Earth-to-space) is limited to feeder links for the broadcasting-satellite service.

870 The band 18.1—18.3 GHz is also allocated to the meteorological-satellite service (Earth-to-space) on a primary basis. Its use is limited to geostationary satellites and shall be in accordance with the provisions of No. 2578.

871 In making assignments to stations in the fixed and mobile services, administrations are invited to take account of passive sensors in the earth-exploration satellite and space research services operating in the band 18.6—18.8 GHz. In this band, administrations should endeavor to limit as far as possible both the power delivered by the transmitter to the antenna and the e.i.r.p. in order to reduce the risk of interference to passive sensors to the minimum.

872 In assigning frequencies to stations in the fixed-satellite service in the direction (space-to-Earth), administrations are requested to limit as far as practicable the power flux-density at the Earth's surface in the band 18.6—18.8 GHz, in order to reduce the risk of interference to passive sensors in the earth exploration-satellite and space research services.

873 *Additional allocation:* In Afghanistan Algeria, Angola, Saudi Arabia, Bahrain, Bangladesh, Brazil, Cameroon, China, the Congo, the Republic of Korea, Costa Rica, Egypt, the United Arab Emirates, Gabon, Guatemala, Guinea, India, Indonesia, Iran, Iraq, Israel, Japan, Kenya, Kuwait, Malaysia, Mali, Morocco, Mauritania, Nepal, Niger, Nigeria, Pakistan, the Philippines, Qatar, Syria, Singapore, Somalia, Sudan, Sri Lanka, Tanzania, Tunisia, Chad, Thailand, Togo and Zaire, the band 19.7—21.2 GHz is also allocated to the fixed and mobile services on a primary basis. This additional use shall not impose any limitation on the power flux-density of space stations in the fixed-satellite service.

874 In making assignments to stations of other services, administrations are urged to take all practicable steps to protect the spectral line observations of the radio astronomy service in the band 22.01—22.21 GHz from harmful interference. Emissions from space or airborne stations can be particularly serious sources of interference to the radio astronomy service (see also Nos. 343 and 344 and Article 36).

875 In making assignments to stations of other services, administrations are urged to

take all practicable steps to protect the radio astronomy service from harmful interference in the band 22.21—22.5 GHz. Emissions from space or airborne stations can be particularly serious sources of interference to the radio astronomy service (see also Nos. 343 and 344 and Article 36).

876 The use of the band 22.21—22.5 GHz by the earth exploration-satellite (passive) and space research (passive) services shall not impose constraints upon the fixed and mobile, except aeronautical mobile services.

877 In Regions 2 and 3, the broadcasting-satellite service is authorized in the band 22.5—23.0 GHz, subject to agreement obtained under the procedure set forth in Article 14.

878 *Additional allocation:* In Japan, the band 22.5—23 GHz is also allocated to the broadcasting service on a primary basis.

879 In making assignments to stations of other services, administrations are urged to take all practicable steps to protect the spectral line observations of the radio astronomy service in the bands 22.81—22.86 GHz and 23.07—23.12 GHz from harmful interference. Emissions from space or airborne stations can be particularly serious sources of interference to the radio astronomy service (see Nos. 343 and 344 and Article 36).

880 All emissions in the band 23.6—24 GHz are prohibited.

881 The band 24—24.25 GHz (centre frequency 24.125 GHz) is designated for industrial, scientific and medical (ISM) applications. Radiocommunication services operating within this band must accept harmful interference which may be caused by these applications. ISM equipment operating in this band is subject to the provisions of No. 1815.

882 The band 29.95—30 GHz may be used for space-to-space links in the earth exploration-satellite service for telemetry, tracking, and control purposes, on a secondary basis.

883 *Additional allocation:* In Afghanistan, Saudi Arabia, Bahrain, Cameroon, China, the Republic of Korea, the United Arab Emirates, Ethiopia, India, Indonesia, Iran, Iraq, Israel, Japan, Kenya, Kuwait, Lebanon, Malaysia, Mali, Morocco, Mauritania, Nepal, Pakistan, Qatar, Syria, Singapore, Somalia, Sudan, Sri Lanka, Chad and Thailand, the band 29.5—31 GHz is also allocated to the fixed and mobile services on a secondary basis. The power limits specified in Nos. 2505 and 2508 shall apply.

884 In the band 31—31.3 GHz the power flux-density limits specified in No. 2542 shall apply to the space research service.

885 *Different category of service:* In Bulgaria, Cuba, Hungary, Mongolia, Poland, the German Democratic Republic, Czechoslovakia and the U.S.S.R., the allocation of the band 31—31.3 GHz to the space research service is on a primary basis (see No. 425).

886 In making assignments to stations of other services, administrations are urged to take all practicable steps to protect the radio astronomy service from harmful interference in the band 31.2—31.3 GHz. Emissions from space or airborne stations can be particularly serious sources of interference to the radio astronomy service (see Nos. 343 and 344 and Article 36).

887 All emissions in the band 31.3—31.5 GHz are prohibited.

888 In Regions 1 and 3, in making assignments to stations of other services to which the band 31.5—31.8 GHz is allocated, administrations are urged to take all practicable steps to protect the radio astronomy service from harmful interference. Emissions from space or airborne stations can be particularly serious sources of interference to the radio astronomy service (see Nos. 343 and 344 and Article 36).

In Region 2, all emissions in the band 31.5—31.8 GHz are prohibited.

889 *Different category of service:* In Bulgaria, Egypt, Hungary, Mongolia, Poland, the German Democratic Republic, Roumania, Czechoslovakia and the U.S.S.R., the allocation of the band 31.5—31.8 GHz to the fixed and mobile, except aeronautical mobile, services is on a primary basis (see No. 425).

890 *Different category of service:* In Australia, Spain and the United States, the allocation of the band 31.8—32.3 GHz to the space research (deep space) service in the space-to-Earth direction is on a primary basis (see No. 425). This use shall not impose power flux density constraints on the inter-satellite service in the band 32—32.3 GHz.

891 *Different category of service:* In Bulgaria, Cuba, Hungary, Mongolia, Poland, the German Democratic Republic, Czechoslovakia and the U.S.S.R., the allocation of the band 31.8—32.3 GHz to the space research service is on a primary basis (see No. 425).

892 Subject to agreement obtained under the procedure set forth in Article 14, the band 31.8—33.8 GHz may also be used in Japan for space-to-Earth transmissions in the fixed-satellite service up to 31 December 1990.

893 In designing systems for the inter-satellite and radionavigation services in the band 32—33 GHz, administrations shall take all necessary measures to prevent harmful interference between these two services, bearing in mind the safety aspects of the radionavigation service (see Recommendation 707).

894 *Additional allocation:* In Afghanistan, Saudi Arabia, Bahrain, Bangladesh, Egypt, the United Arab Emirates, Spain, Finland, Gabon, Guinea, Indonesia, Iran, Iraq, Israel, Kenya, Kuwait, Lebanon, Libya, Malaysia, Malawi, Mali, Malta, Morocco, Mauritania, Nepal, Niger, Nigeria, Oman, Pakistan, the Philippines, Qatar, Syria, Senegal, Singapore, Somalia, Sudan, Sri Lanka, Sweden, Tanzania, Thailand, Togo, Tunisia, Yemen A.R. and Zaire, the band 33.4—36 GHz is also allocated to the fixed and mobile services on a primary basis.

895 *Different category of service:* In Australia, Spain and the United States, the allocation of the band 34.2—34.7 GHz to the space research (deep space) (Earth-to-space) service is on a primary basis (see No. 425).

896 *Different category of service:* In Bulgaria, Cuba, Hungary, Poland, Mongolia, the German Democratic Republic, Czechoslovakia and the U.S.S.R., the allocation of the band 34.2—35.2 GHz to the space research service is on a primary basis (see No. 425).

897 Radars located on spacecraft may be operated on a primary basis in the band 35.5—35.6 GHz.

898 In making assignments to stations of other services, administrations are urged to take all practicable steps to protect the spectral line observations of 36.43—36.5 GHz from harmful interference. Emission from space or airborne stations can be particularly serious sources of interference to the radio astronomy service (see Nos. 343 and 344 and Article 36).

899 Subject to agreement obtained under the procedure set forth in Article 14, the band 37—39 GHz may also be used in Japan for Earth-to-space transmissions in the fixed-satellite service up to 31 December 1990.

900 In making assignments to stations of other services to which the band 42.5—43.5 GHz is allocated, administrations are urged to take all practicable steps to protect the radio astronomy service from harmful interference, especially in the bands 42.77—4287 GHz, 43.07—43.17 GHz, and 43.37—43.47 GHz, which are used for spectral line observations of silicon monoxide. Emissions from space or airborne stations can be particularly serious souces of interference to the radio astronomy service (see Nos. 343 and 344 and Article 36).

901 The allocation of the spectrum for the fixed-satellite service in the bands 42.5—43.5 GHz and 47.2—50.2 GHz for Earth-to-space transmission is greater than that in the band 37.5—39.5 GHz for space-to-Earth transmission in order to accommodate feeder links to broadcasting satellites. Administrations are urged to take all practicable steps to reserve the band 47.2—49.2 GHz for feeder links for the broadcasting-satellite service operating in the band 40.5—42.5 GHz.

902 In the bands 43.5—47 GHz, 66—71 GHz, 95—100 GHz, 134—142 GHz, 190—200 GHz and 252—265 GHz, stations in the land mobile service may be operated subject to not causing harmful interference to the space radiocommunication services to which these bands are allocated (see No. 435).

903 In the bands 43.5—47 GHz, 66—71 GHz, 95—100 GHz, 134—142 GHz, 190—200 GHz and 252—265 GHz, satellite links connecting land stations at specified fixed points are also authorized when used in conjunction with the mobile-satellite service or the radionavigation-satellite service.

904 The bands 48.94—49.04 GHz and 97.88—98.08 GHz are also allocated to the radio astronomy service on a primary basis for spectral line observations. In making assignments to stations of other services to which these bands are allocated, administrations are urged to take all practicable steps to protect the radio astronomy service from harmful interference. Emissions from space or airborne stations can be particularly serious sources of interference to the radio astronomy service (see Nos. 343 and 344 and Article 36).

905 In the band 48.94—49.04 GHz, all emissions from airborne stations are prohibited.

906 In the bands 51.4—54.25 GHz, 58.2—59 GHz, 64—65 GHz and 72.77—72.91 GHz, radio astronomy observations may be carried

out under national arrangements. Administrations are urged to take all practicable steps to protect radio astronomy observations in these bands from harmful interference.

907 In the bands 51.4—54.25 GHz, 58.2—59 GHz, 64—65 GHz, 86—92 GHz, 105—116 GHz and 217—231 GHz, all emissions are prohibited.

908 *Additional allocation:* In the Federal Republic of Germany, Japan and the United Kingdom, the band 54.25—58.2 GHz is also allocated to the radiolocation service on a primary basis.

909 In the bands 54.25—58.2 GHz 59—64 GHz, 116—134 GHz, 170—182 GHz and 185—190 GHz, stations in the aeronautical mobile service may be operated subject to not causing harmful interference to the inter-satellite service (see No. 435).

910 In the bands 59—64 GHz and 126—134 GHz, airborne radars in the radiolocation service may be operated subject to not causing harmful interference to the inter-satellite service (see No. 435).

911 The band 61—61.5 GHz (centre frequency 61.25 GHz) is designated for industrial, scientific and medical (ISM) applications. The use of this frequency band for ISM applications shall be subject to special authorization by the administrations concerned in agreement with other administrations whose radiocommunication services might be affected. In applying this provision administrations shall have due regard to the latest CCIR Recommendations.

912 In the band 78—79 GHz, radars located on space stations may be operated on a primary basis in the earth exploration-satellite service and in the space research service.

913 In the band 84—86 GHz, stations in the fixed, mobile and broadcasting services shall not cause harmful interference to broadcasting-satellite stations operating in accordance with the decisions of the appropriate frequency assignment planning conference for the broadcasting-satellite service.

914 The band 93.07—93.27 GHz is also used by the radio astronomy service for spectral line observations. In making assignments to stations of the services to which this band is allocated, administrations are urged to take all practicable steps to protect radio astronomy observations from harmful interference. Emissions from space or airborne stations can be particularly serious sources of interference to the radio astronomy service (see Nos. 343 and 344 and Article 36).

915 The band 119.98—120.02 GHz is also allocated to the amateur service on a secondary basis.

916 The band 122—123 GHz (centre frequency 122.5 GHz) is designated for industrial, scientific and medical (ISM) applications. The use of this frequency band for ISM applications shall be subject to special authorization by the administration concerned in agreement with other administrations whose radiocommunication services might be affected. In applying this provision administrations shall have due regard to the latest CCIR Recommendations.

917 In the bands 140.69—140.98 GHz all emissions from airborne stations, and from space stations in the space-to-Earth direction, are prohibited.

918 The band 140.69—140.98 GHz, 144.68—144.98 GHz, 145.45—145.75 GHz and 146.82—147.12 GHz are also allocated to the radio astronomy service on a primary basis for spectral line observations. In making assignments to stations of other services to which the bands are allocated, administrations are urged to take all practicable steps to protect the radio astronomy service (see Nos. 343 and 344 and Article 36).

919 The bands 150—151 GHz, 174.42—175.02 GHz, 177—177.4 GHz, 178.2—178.6 GHz, 181—181.46 GHz and 186.2—186.6 GHz are also allocated to the radio astronomy service on a secondary basis for spectral line observation. In making assignments to stations of other services to which these bands are allocated, administrations are urged to take all practicable steps to protect the radio astronomy service from harmful interference. Emissions from space or airborne stations can be particularly serious sources of interference to the radio astronomy service (see Nos. 343 and 344 and Article 36).

920 *Additional allocation:* In the United Kingdom the band 182—185 GHz is also allocated to the fixed and mobile services on a primary basis.

921 In the band 182—185 GHz all emissions are prohibited except those under the provisions of No. 920.

922 The band 244—246 GHz (centre frequency 245 GHz) is designated for industrial, scientific and medical (ISM) applications. The use of this frequency band for ISM applications shall be subject to special authorization by the administration concerned in agreement with other administrations whose radiocommunication services might be affected. In applying this provision administrations shall have due regard to the latest CCIR Recommendations.

923 The bands 250—251 GHz and 262.24—262.76 GHz are also allocated to the radio astronomy service on a primary basis for spectral line observations. In making assignments to stations of other services spectral line observations. In making assignments to stations of other services to which the band is allocated, administrations are urged to take all practicable steps to protect the radio astronomy service from harmful interference. Emissions from space or airborne stations can be particularly serious sources of interference to the radio astronomy service (see Nos. 343, 344 and Article 36).

924 The band 257.5—258 GHz is also allocated to the radio astronomy service on a secondary basis for spectral line observations. In making assignments to stations of other services to which the band is allocated, administrations are urged to take all practicable steps to protect the radio astronomy service from harmful interference. Emissions from space or airborne stations can be particularly serious sources of interference to the radio astronomy service (see Nos. 343, 344 and Article 36).

925 In the Federal Republic of Germany, Agentina, Spain, France, Finland, India, Italy, the Netherlands and Sweden, the band 261—265 GHz is also allocated to the radio astronomy service on a primary basis. In making assignments to stations of other services to which the band is allocated, administrations are urged to take all practicable steps to protect the radio astronomy service from harmful interference. Emissions from space or airborne stations can be particularly serious sources of interference to the radio astronomy service (see Nos. 343 and 344 and Article 36).

926 In making assignments to stations of other services to which the band 265—275 GHz is allocated, administrations are urged to take all practicable steps to protect the radio astronomy service from harmful interference, especially in the bands 265.64—266.16 GHz, 267.34—267.86 GHz and 271.74—272.26 GHz, which are used for spectral line observations. Emissions from space or airborne stations can be particularly serious sources of interference to the radio astronomy service (see Nos. 343, 344 and Article 36).

927 The frequency band 275 GHz—400 GHz may be used by administrations for experimentation with, and development of, various active and passive services. In this band a need has been identified for the following spectral line measurements for passive services:

(a) Radio astronomy service: 278—280 GHz and 343—348 GHz.

(b) Space research service (passive) and earth exploration-satellite service (passive): 275—277 GHz, 300—302 GHz, 324—326 GHz, 345—347 GHz, 363—365 GHz and 379—381 GHz.

Future research in this largely unexplored spectral region may yield additional spectral lines and continuum bands of interest to the passive services. Administrations are urged to take all practicable steps to protect these passive services from harmful interference until the next competent world administrative radio conference.

United States Footnotes

(These footnotes, each consisting of the letters US followed by one or more digits, denote stipulations applicable to both Government and non-Government stations.)

US7 In the band 420–450 MHz and within the following areas, the peak envelope power output of a transmitter employed in the amateur service shall not exceed 50 watts, unless expressly authorized by the Commission after mutual agreement, on a case-by-case basis, between the Federal Communications Commission Engineer in Charge at the applicable District office and the Military Area Frequency Coordinator at the applicable military base:

(a) Those portions of Texas and New Mexico bounded on the south by latitude 31°45′ North, on the east by 104°00′ West, on the north by latitude 34°30′ North, and on the west by longitude 107°30′ West;

(b) The entire State of Florida including the Key West area and the areas enclosed within a 200-mile radius of Patrick Air Force Base, Florida (latitude 28°21′ North, longitude 80°43′ West), and within a 200-mile radius of Eglin Air Force Base, Florida (latitude 30°30′ North, longitude 86°30′ West);

(c) The entire State of Arizona;

(d) Those portions of California and Nevada south of latitude 37°10′ North, and the areas enclosed within a 200 mile radius of the Pacific Missile Test Center, Point Mugu, California (latitude 34°09′ North, longitude 119°11′ West);

(e) In the State of Massachusetts within a 160-kilometer (100 mile) radius around locations at Otis Air Force Base, Massachusetts (latitude 41°45′ North, longitude 70°32′ West);

(f) In the State of California within a 240-kilometer (150 mile) radius around locations at Beale Air Force Base, California (latitude 39°08′ North, longitude 121°26′ West);

(g) In the State of Alaska within a 160-kilometer (100 mile) radius of Clear, Alaska (latitude 64°17′ North, longitude 149°10′ West). (The Military Area Frequency Coordinator for this area is located at Elmendorf Air Force Base, Alaska.)

(h) In the State of North Dakota within a 160-kilometer (100 mile) radius of Concrete, North Dakota (latitude 48°43′ North, longitude 97°54′ West). (The Military Area Frequency Coordinator for this area can be contacted at: HQ SAC/SXOE, Offutt Air Force Base, Nebraska 68113.)

US8 The use of the frequencies 170.475, 171.425, 171.575, and 172.275 MHz east of the Mississippi River, and 170.425, 170.575, 171.475, 172.225 and 172.375 MHz west of the Mississippi River may be authorized to fixed, land and mobile stations operated by non-Federal forest firefighting agencies. In addition, land stations and mobile stations operated by non-Federal conservation agencies, for mobile relay operation only, may be authorized to use the frequency 172.275 MHz east of the Mississippi River and the frequency 171.475 MHz west of the Mississippi River. The use of any of the foregoing nine frequencies shall be on the condition that no harmful interference will be caused to Government stations.

US10 The use of the frequencies 26.62, 143.90 and 148.15 MHz may be authorized to Civil Air Patrol land stations and Civil Air Patrol mobile stations.

US11 The use of the frequencies 166.250 and 170.150 MHz may be authorized to non-Government remote pickup broadcast base and land mobile stations and to non-Government base, fixed and land mobile stations in the public safety radio services (the sum of the bandwidth of emission and tolerance is not to exceed 25 kHz, except that authorizations in existence as of December 20, 1974, using a larger bandwidth are permitted to continue in operation until December 20, 1979) in the continental United States (excluding Alaska) only, except within the area bounded on the west by the Mississippi River, on the north by the parallel of latitude 37°30′ N., and on the east and south by that arc of the circle with center at Springfield, Illinois, and radius equal to the airline distance between Springfield, Illinois, and Montgomery, Alabama, subtended between the foregoing west and north boundaries, on the condition that harmful interference will not be caused to Government stations persent or future in the Government band 162–174 MHz. The use of these frequencies by remote pickup broadcast stations will not be authorized for locations within 150 miles of New York City; and use of these frequencies by the public safety radio services will not be authorized except for locations within 150 miles of New York City.

US13 For the specific purpose of transmitting hydrological and meteorological data in co-operation with agencies of the Federal Government, the following frequencies may be authorized to non-Government fixed stations on the condition that harmful interference will not be caused to Government stations.

MHz		
169.425	171.025	406.125
169.450	171.050	406.175
169.475	171.075	409.675
169.500	171.100	409.725
169.525	171.125	412.625
170.225	171.825	412.675
170.250	171.850	412.725
170.275	171.875	412.775
170.300	171.900	
170.325	171.925	

Licensees holding a valid authorization on June 11, 1962, to operate on the frequencies 169.575, 170.375 or 171.975 MHz may continue to be authorized for such operations on the condition that harmful interference will not be caused to Government stations.

US14 When 500 kHz is being used for distress purposes, ship and coast stations may use 512 kHz for calling.

US18 Navigation aids in the US and possessions in the bands 9–14 kHz, 90–110 kHz, 190–415 kHz, 510–535 kHz, 2700–2900 MHz are normally operated by the U.S. Government. However, authorizations may be made by the FCC for non-Government operation in these bands subject to the conclusion of appropriate arrangements between the FCC and the Government agencies concerned and upon special showing of need for service which the Government is not yet prepared to render.

US25 The use of frequencies in the band 25.85–26.1 MHz may be authorized in any area to non-Government remote pickup broadcast base and mobile stations on the condition that harmful interference is not caused to stations in the broadcasting service.

US26 The bands 117.975–121.4125 MHz, 123.5875–128.8125 MHz and 132.0125–136.0 MHz are for air traffic control communications.

US28 The band 121.5875–121.9375 MHz is for use by aeronautical utility land and mobile stations, and for air traffic control communications.

US30 The band 121.9375–123.0875 MHz is available to FAA aircraft for communications pursuant to flight inspection functions in accordance with the Federal Aviation Act of 1958.

US31 Except as provided below the band 121.9375–123.0875 MHz is for use by private aircraft stations.

The frequencies 122.700, 122.725, 122.750, 122.800, 122.950, 122.975, 123.000, 123.050 and 123.075 MHz may be assigned to aeronautical advisory stations. In addition, at landing areas having a part-time or no airdrome control tower or FAA flight service station, these frequencies may be assigned on a secondary non-interference basis to aeronautical utility mobile stations, and may be used by FAA ground vehicles for safety related communications during inspections conducted at such landing areas.

The frequencies 122.850, 122.900 and 122.925 MHz may be assigned to aeronautical multicom stations. In addition, 122.850 MHz may be assigned on a secondary noninterference basis to aeronautical utility mobile stations. In case of 122.925 MHz, US213 applies.

Air carrier aircraft stations may use 122.000 and 122.050 MHz for communication with aeronautical stations of the Federal Aviation Administration and 122.700, 122.800, 122.900 and 123.000 MHz for communications with aeronautical stations pertaining to safety of flight with and in the vicinity of landing areas not served by a control tower.

Frequencies in the band 121.9375–122.6875 MHz may be used by aeronautical stations of the Federal Aviation Administration for communication with private aircraft stations only, except that 122.000 and 122.050 MHz may also be used for communication with air carrier aircraft stations concerning weather information.

US32 Except for the frequencies 123.3 and 123.5 MHz, which are not authorized for Government use, the band 123.1125–123.5875 MHz is available for FAA communications incident to flight test and inspection activities pertinent to aircraft and facility certification on a secondary noninterference basis.

US33 The band 123.1125–123.5875 MHz is for use by flight test and aviation instructional stations. The frequency 121.950 MHz is available for aviation instructional stations.

US39 Radio altimeters are permitted to use the band 1600–1660 MHz only until such time as international standardization of other aeronautical radionavigation systems or devices requires the discontinuance of radio altimeters in this band.

US40 The band 1592.5–1622.5 MHz is allotted provisionally, but on a primary basis, for the collision avoidance function, noting the continued use of existing altimeters in the band 1600–1660 MHz.

US41 The Government radiolocation service is permitted in the band 2450–2500 MHz on condition that harmful interference is not caused to non-Government services.

US44 The non-Government radiolocation service may be authorized in the band 2900–3100 MHz on the condition that no harmful interference is caused to Government services.

US48 The non-Government radiolocation service may be authorized in the bands 5350–5460 MHz and 9000–9200 MHz on the condition that it does not cause harmful interference to the aeronautical radionavigation service or to the Government radiolocation service.

US49 The non-Government radiolocation service may be authorized in the band 5460–5470 MHz on the condition that it does not cause harmful interference to the aeronautical or maritime radionavigation services or to the Government radiolocation service.

US50 The non-Government radiolocation service may be authorized in the band 5470–5600 MHz on the condition that it does not cause harmful interference to the maritime radionavigation service or to the Government radiolocation service.

US51 In the band 5600–5650 MHz and 9300–9500 MHz, the non-Government radiolocation service shall not cause harmful interference to the Government radiolocation service.

US53 In view of the fact that the band 13.25–13.4 GHz is allocated to doppler navigation aids, Government, and non-Government airborne doppler radars in the aeronautical radionavigation service are permitted in the band 8750–8850 MHz only on the condition that they must accept any interference that may be experienced from stations in the radiolocation service in the band 8500–10000 MHz.

US54 Temporarily, and until certain operations of the radiolocation service in the band 9000–9200 MHz can be transferred to other appropriate frequency bands, the aeronautical radionavigation service may, in certain geographical areas, be subject to receiving some degree of interference from the radiolocation service.

US58 In the band 10000–10500 MHz, pulsed emissions are prohibited, except for weather radars on board meteorological satellites in the band 10000–10025 MHz. The amateur service and the non-Government radiolocation service, which shall not cause harmful interference to the Government radiolocation service, are the only non-Government services permitted in this band. The non-Government radiolocation service is limited to survey operations as specified in footnote US108.

US59 The band 10.5–10.55 GHz is restricted to systems using type NON (AO) emission with a power not to exceed 40 watts into the antenna.

US65 The use of the band 5460–5650 MHz by the maritime radionavigation service is limited to shipborne radars.

US66 The use of the band 9300–9500 MHz by the aeronautical radionavigation service is limited to airborne radars and associated airborne beacons. In addition, ground-based radar beacons in the aeronautical radionavigation service are permitted in the band 9300–9320 MHz on the condition that harmful interference is not caused to the maritime radionavigation service.

US67 The use of the band 9300–9500 MHz by the meteorological aids service is limited to ground-based radars. Radiolocation installations will be coordinated with the meteorological aids service and, insofar as practicable, will be adjusted to meet the requirements of the meteorological aids service.

US69 In the band 31.8–33.4 GHz, ground-based radionavigation aids are not permitted except where they operate in cooperation with airborne or shipborne radionavigation devices.

US70 The meteorological aids service allocation in the band 400.15–406.0 MHz does not preclude the operation therein of associated ground transmitters.

US71 In the band 9300–9320 MHz, low-powered maritime radionavigation stations shall be protected from harmful interference caused by the operation of land-based equipment.

US74 In the bands 25.55–25.67, 73.0–74.6, 406.1–410.0, 608–614, 1400–1427, 1660.5–1670.0, 2690–2700 and 4990–5000 MHz and in the bands 10.68–10.7, 15.35–15.4, 23.6–24.0, 31.3–31.5, 86–92, 105–116 and 217–231 GHz, the radio astronomy service shall be protected from extraband radiation only to the extent that such radiation exceeds the level which would be present if the offending station were operating in compliance with the technical standards or criteria applicable to the service in which it operates.

US77 Government stations may also be authorized:

(a) Port operations use on a simplex basis by coast and ship stations of the frequencies 156.6 and 156.7 MHz;

(b) Duplex port operations use of the frequency 157.0 MHz for ship stations and 161.6 MHz for coast stations;

(c) Inter-ship use of 156.3 MHz on a simplex basis; and

(d) Vessel traffic services under the control of the U.S. Coast Guard on a simplex basis by coast and ship stations on the frequencies 156.25, 156.55, 156.6 and 156.7 MHz.

(e) Navigational bridge-to-bridge and navigational communications on a simplex basis by coast and ship stations on the frequencies 156.375 and 156.65 MHz.

US78 In the band 1435—1535 MHz, the frequencies between 1435 and 1485 MHz will be assigned primarily for the flight testing of manned aircraft, or major components thereof; the frequencies between 1485 and 1535 MHz will be assigned primarily for the flight testing of unmanned aircraft and missiles or major components thereof. Included as permissible usage for aeronautical telemetering stations in the band 1435—1535 MHz is telemetry associated with launching and re-entry into the earth's atmosphere, as well as any incidental orbiting prior to re-entry, of manned or unmanned objects undergoing flight tests. In the band 1530—1535 MHz the maritime mobile-satellite service will be the only primary service after 1 January 1990.

US80 Government stations may use the frequency 122.9 MHz subject to the following conditions:

(a) All operations by Government stations shall be restricted to the purpose for which the frequency is authorized to non-Government stations, and shall be in accordance with the appropriate provisions of the Commission's Rules and Regulations, Part 87, Aviation Services;

(b) Use of the frequency is required for coordination of activities with Commission licensees operating on this frequency; and

(c) Government stations will not be authorized for operation at fixed locations.

US81 The band 38.0—38.25 MHz is used by both Government and non-Government radio astronomy observatories. No new fixed or mobile assignments are to be made and Government stations in the band 38.0—38.25 MHz will be moved to other bands on a case-by-case basis, as required, to protect radio astronomy observations from harmful interference. As an exception, however, low powered military transportable and mobile stations used for tactical and training purposes will continue to use the band. To the extent practicable, the latter operations will be adjusted to relieve such interference as may be caused to radio astronomy observations. In the event of harmful interference from such local operations, radio astronomy observatories may contact local military commands directly, with a view to effecting relief. A list of military commands, areas of coordination, and points of contact for purposes of relieving interference may be obtained upon request from the Office of the Chief Scientist, Federal Communications Commission, Washington, D.C. 20554.

US82 The assignable frequencies in the bands 4143.6—4146.6 kHz, 6218.6—6224.6 kHz, 8291.1—8297.3 kHz, 12,429.2—12,439.5 kHz, 16,587.1—16,596.4 kHz and 22,124—22,139.5 kHz may be authorized on a shared non-priority basis to Government and non-Government ship and coast stations (SSB telephony, with peak envelope power not to exceed 1 kW).

US87 The frequency 450 MHz, with maximum emission bandwidth of 500 kHz, may be used by Government and non-Government stations for space telecommand at specific locations, subject to such conditions as may be applied on a case-by-case basis.

US90 In the band 2025—2110 MHz earth-to-space and space-to-space transmissions may be authorized in the space research and earth exploration-satellite services subject to such conditions as may be applied on a case-by-case basis. Such transmissions shall not cause harmful interference to non-Government stations operating in accordance with the Table of Frequency Allocations. All space-to-space transmissions reaching the earth's surface shall adhere to a power flux density of between −144 and −154 (dbw/(m^2)/4 kHz depending on the angle of arrival per ITU Radio Regulation 2557 and shall not cause harmful interference to the other space services.

US93 In the conterminous United States, the frequency 108.0 MHz may be authorized for use by VOR test facilities, the operation of which is not essential for the safety of life or property, subject to the condition that no interference is caused to the reception of FM broadcasting stations operating in the band 88—108 MHz. In the event that such interference does occur, the licensee or other agency authorized to operate the facility shall discontinue operation on 108 MHz and shall not resume operation until the interference has been eliminated or the complaint otherwise satisfied. VOR test facilities operating on 108 MHz will not be protected against interference caused by FM broadcasting stations operating in the band 88—108 MHz not shall the authorization of a VOR test facility on 108 MHz preclude the Commission from authorizing additional FM broadcasting stations.

US99 In the band 1668.4—1670.0 MHz, the meteorological aids service (radiosonde) will avoid operations to the maximum extent practicable. Whenever it is necessary to operate radiosondes in the band 1668.4—1670 MHz within the United States, notification of the operations shall be sent as far in advance

as possible to the Electromagnetic Management Unit, National Science Foundation, Washington, D.C. 20550.

US102 In Alaska only, the frequency 122.1 MHz may also be used for air carrier air traffic control purposes at locations where other frequencies are not available to air carrier aircraft stations for air traffic control.

US104 The LORAN Radionavigation System has priority in band 90—110 kHz in the United States and possessions. Radiolocation land stations making use of LORAN type equipment may be authorized to both Government and non-Government on a secondary service basis for offshore radiolocation activities only at specific locations and subject to such technical and operational conditions (e.g., power, emission, pulse rate and phase code, hours of operation), including on-the-air testing, as may be required on a case-by-case basis to ensure protection of the LORAN radionavigation system from harmful interference and to ensure mutual compability among radiolocation operators. Such authorizations to stations in the radiolocation service are further subject to showing of need for service which is not currently provided and which the Government is not yet prepared to render by way of the radionavigation service.

US106 The frequency 156.75 MHz is available for assignment to non-Government and Government stations for environmental communications in accordance with an agreed plan.

US107 The frequency 156.8 MHz is the national distress, safety and calling frequency for the maritime mobile VHF radiotelephone service for use by Government and non-Government ship and coast stations. Guard bands of 156.7625—156.7875 and 156.8125—156.8375 MHz are maintained.

US108 Within the bands 3300—3500 MHz and 10000—10500 MHz, survey operations, using transmitters with a peak power not to exceed five watts into the antenna, may be authorized for Government and non-Government use on a secondary basis to other Government radiolocation operations.

US110 In the frequency bands 3100—3300 MHz, 3500—3700 MHz, 5250—5350 MHz, 8500—9000 MHz, 9200—9300 MHz, 9500—10000 MHz, 13.4—14.0 GHz, 15.7—17.3 GHz, 24.05—24.25 GHz and 33.4—36.0 GHz, the non-Government radiolocation service shall be secondary to the Government radioactive service and to airborne doppler radars at 8800 MHz, and shall provide protection to airport surface detection equipment (ASDE) operating between 15.7—16.2 GHz.

US111 In the band 1990—2120 MHz, Government space research earth stations may be authorized to use specific frequencies at specific locations for earth-to-space transmissions. Such authorizations shall be secondary to non-Government use of this band and subject to such other conditions as may be applied on a case-by-case basis.

Corpus Christi, Tex., 27°39′N., 097°23′W.
Fairbanks, Alaska, 64°59′N., 147°53′W.
Goldstone, Calif., 35°18′N., 116°54′W.
Greenbelt, Md., 39°00′N., 076°50′W.
Guam, Mariana Is., 13°19′N., 144°44′E.
Kauai, Hawaii, 22°08′N., 159°40′W.
Merritt Is., Fla., 28°29′N., 080°35′W.
Rosman, N.C., 35°12′N., 082°52′W.
Wallops Is., Va., 37°57′N., 075°20′W.

US112 The frequency 123.1 MHz is for search and rescue communications. This frequency may be assigned for air traffic control communications at special aeronautical events on the condition that no harmful interference is caused to search and rescue communications during any period of search and rescue operations in the licale involved.

US116 In the bands 890–902 and 928–942 MHz, no new assignments are to be made to Government radio stations after July 10, 1970, except, on a case-by-case basis, to experimental stations and to additional stations of existing networks in Alaska. Government assignments, existing prior to July 10, 1970, to stations in Alaska may be continued. All other existing Government assignments shall be on a secondary basis to stations in the non-Government land mobile service and shall be subject to adjustment or removal from the bands 890–902 and 928–942 MHz at the request of the FCC.

US117 In the band 406.1–410 MHz, all new authorizations will be limited to a maximum 7 watts per kHz of necessary bandwidth; existing authorizations as of November 30, 1970 exceeding this power are permitted to continue in use.

New authorizations in this band stations, other than mobile stations, within the following areas are subject to prior coordination by the applicant through the Electromagnetic Spectrum Management Unit, National Science Foundation, Washington, D.C. 20550, (202–357–9696):

Arecibo Observatory:

Rectangle between latitudes 17°30′N. and 19°00′N. and between longitudes 65°10′ W. and 68°00′W.

Owens Valley Radio Observatory:

Two contiguous rectangles, one between latitudes 36°N. and 37°N. and longitudes 117°40′W. and 118°30′W. and the second between latitudes 37°N. and 38°N. and longitudes 118°W. and 118°50′W.

Sagamore Hill Radio Observatory:

Rectangle between latitudes 42°10′N. and 43°00′N. and longitudes 70°31′W. and 71°31′W.

Table Mountain Solar Observatory (NOAA), Boulder, Colorado (407–409 MHz only):

Rectangle between latitudes 39°30′N. and 40°30′N. and longitudes 104°30′W. and 106°00′W. or the Continental Divide whichever is farther east.

The non-Government use of this band is limited to the radio astronomy service and as provided by footnote US13.

US201 In the band 460–470 MHz, space stations in the earth exploration-satellite service may be authorized for space-to-earth transmissions on a secondary basis with respect to the fixed and mobile services. When operating in the meteorological-satellite service, such stations shall be protected from harmful interference from other applications of the earth exploration-satellite service. The power flux produced at the earth's surface by any space station in this band shall not exceed −152 dBW/m¾ kHz.

US203 Radio astronomy observations of the formaldehyde line frequencies 4825–4835 MHz and 14.470–14.500 GHz may be made at certain radio astronomy observatories as indicated below:

BANDS TO BE OBSERVED

4 GHz	14 GHz	Observatory
X		National Astronomy and Ionosphere Center, Arecibo, Puerto Rico
X	X	National Radio Astronomy Observatory, Green Bank, W. Va.
X	X	National Radio Astronomy Observatory, Socorro, New Mexico
X	X	Hat Creek Observatory (U of Calif.), Hat Creek, Cal
X	X	Haystack Radio Observatory (MIT-Lincoln Lab), Tyngsboro, Mass.
X	X	Owens Valley Radio Observatory (Cal Tech.), Big Pine, Cal
	X	Five College Radio Astronomy Observatory Quabbin Reservoir (near Amherst), [redacted]

Every practicable effort will be made to avoid the assignment of frequencies to stations in the fixed or mobile services in these bands. Should such assignments result in harmful interference to these observations, the situation will be remedied to the extent practicable.

US205 Tropospheric scatter systems are prohibited in the band 2500–2690 MHz.

US208 Planning and use of the band 1559–1626.5 MHz necessitate the development of technical and/or operational sharing criteria to ensure the maximum degree of electromagnetic compatibility with existing and planned systems within the band.

US209 The use of frequencies 460.6625, 460.6875, 460.7125, 460.7375, 460.7625, 460.7875, 460.8125, 460.8375, 460.8625, 465.6625, 465.6875, 465.7125, 465.7375, 465.7625, 465.7875, 465.8125, 465.8375, and 465.8625 MHz may be authorized, with 100 mW or less output power, to Government and non-Government radio stations for one-way, non-voice bio-medical telemetry operations in hospitals, or medical or convalescent centers.

US210 Use of frequencies in the bands 40.66–40.70 and 216–220 MHz may be authorized to Government and non-Government stations on a secondary basis for the tracking of, and telemetering of scientific data from, ocean buoys and wildlife. Airborne wildlife telemetry in the 216–220 MHz band will be limited to the 216.0–216.1 MHz portion of the band. Operation in these two bands is subject to the technical standards specified in: (a) Section 8.2.42 of the NTIA Manual for Government use, or (b) Section 5.106 of the Commission's Rules for non-Government use.

US211 In the bands 1670–1690, 5000–5250 MHz and 10.7–11.7, 15.1365–15.35, 15.4–15.7, 22.5–22.55, 24–24.05, 31.0–31.3, 31.8–32.0, 40.5–42.5, 84–86, 102–105, 116–126, 151–164, 176.5–182, 185–190, 231–235, 252–265 GHz, applicants for airborne or space station assignments are urged to take all practicable steps to protect radio astronomy observations in the adjacent lands from harmful interference; however, US74 applies.

US212 The use of the carrier frequency 4383.8 kHz (assigned frequency 4385.2 kHz),

maximum power 150 watts peak envelope power, may be authorized to non-Government stations in the amateur, fixed and mobile services, and to Government stations, in the State of Alaska for emergency communications. No airborne operations will be permitted on this frequency. Additionally, all stations operating on this frequency must be located in or within 50 nautical miles of the State of Alaska.

US213 The frequency 122.925 MHz is for use only for communications with or between aircraft when coordinating natural resources programs of Federal or State natural resources, agencies, including forestry management and fire suppression, fish and game management and protection and environmental monitoring and protection.

US214 The frequency 157.1 MHz is the primary frequency for liaison communications between ship stations and stations of the United States Coast Guard.

US215 Emissions from microwave ovens manufactured on and after January 1, 1980, for operation on the frequency 915 MHz must be confined within the band 902–928 MHz. Emissions from microwave ovens manufactured prior to January 1, 1980, for operation on the frequency 915 MHz must be confined within the band 902–940 MHz. Radiocommunications services operating in the band 928–940 MHz must accept any harmful interference from the operation of microwave ovens manufactured before January 1, 1980.

US216 The frequencies 150.775 and 150.790, and the bands 152–152.0150, 163.2375–163.2625, 462.9375–463.1875 and 467.9375–468.1875 MHz are authorized for Government/non-Government operations in medical radio communications systems.

US217 Pulse-ranging radiolocation systems may be authorized for Government and non-Government use in the 420–450 MHz band along the shorelines of Alaska and the contiguous 48 states. Spread spectrum radiolocation systems may be authorized in the 420–435 MHz portion of the band for operation within the contiguous 48 States and Alaska. Authorizations will be granted on a case-by-case basis; however, operations proposed to be located within the zones set forth in US228 should not expect to be accommodated. All stations operating in accordance with this provision will be secondary to stations operating in accordance with the Table of Frequency Allocations.

US218 The bans segments 902–912 MHz and 918–923 MHz are available for Automatic Vehicle Monitoring (AVM) Systems subject to not causing harmful interference to the operation of Government stations authorized in these bands. These systems must tolerate any interference from the operation of industrial, scientific, and medical (ISM) devices and the operation of Government stations authorized in these bands.

US219 In the band 2025–2110 MHz Government Earth resources satellite Earth stations in the Earth exploration-satellite service may be authorized to use the frequency 2106.4 MHz for Earth-to-space transmission for tracking, telemetry, and telecommand at the sites listed below. Such transmissions shall not cause harmful interference to non-Government operations:

Sioux Falls, South Dakota, 43°32′03.1″ N., 96°45′42.8″ W.
Fairbanks, Alaska, 64°58′36.6″ N., 147°30′54.2″ W.

US220 The frequencies 36.25 and 41.71 MHz may be authorized to Government stations and non-Government stations in the petroleum radio service, for oil spill containment and cleanup operations. The use of these frequencies for oil spill containment or cleanup operations is limited to the inland and coastal waterway regions.

US221 Use of the mobile service in the bands 525–535 kHz and 1605–1615 kHz is limited to distribution of public service information from travelers information stations operating on 530 or 1610 kHz.

US222 In the band 2025–2035 MHz geostationary operational environmental satellite Earth stations in the space research and Earth exploration-satellite services may be authorized on a coequal basis for Earth-to-space transmissions for tracking, telemetry, and telecommand at the sites listed below:
Wallops Is., Va. 37°50′48″ N., 75°27′33″ W.
Seattle, Wash. 47°34′15″ N., 122°33′10″ W.
Honolulu, Hawaii 21°21′12″N., 157°52′36″W.

US223 Within 75 miles of the United States/Canada border on the Great Lakes and Saint Lawrence Seaway, use of coast transmit frequency 162.025 MHz and ship station transmit frequency 157.425 MHz (VHF maritime mobile service channel 88) may be authorized for use by the maritime mobile service for public correspondance.

US224 Government systems utilizing spread spectrum techniques for terrestrial communication, navigation and identification may be authorized to operate in the band 960–1215 MHz on the condition that harmful interference will not be caused to the aeronautical radionavigation service. These systems will be handled on a case-by-case basis. Such systems shall be subject to a review at the national level for operational requirements and electromagnetic compatibility prior to development, procurement or modification.

US225 In addition to its present Government use, the frequency band 510–525 kHz is available to Government and non-Government aeronautical radionavigation stations inland of the Territorial Base Line as coordinated with the military services. In addition, the frequency 510 kHz is available for non-Government ship-helicopter operations when beyond 100 nautical miles from shore and required for aeronautical radionavigation.

US226 In the State of Hawaii, stations in the aeronautical radionavigation service shall not cause harmful interference to U.S. Navy reception from its station at Honolulu on 198 kHz.

US228 Applicants for operation in the band 420 to 450 MHz under the provisions of US217 should not expect to be accommodated if their area of service is within the following geographic areas:

(a) All areas listed in Footnote US7.

(b) In the State of Massachusetts within a 160 kilometers (100 miles) radius around the locations of Otis Air Force Base, Massachusetts (latitude 41°45′ North, longitude 70°32′ West).

(c) In the State of California within a 240 kilometer (150 mile) radius of Beale Air Force Base, California (latitude 39°08′ North, longitude 121°26′ West).

(d) In the State of Alaska, within a 160 kilometer (100 mile) radius of Clear, Alaska (latitude 64°17′ North, longitude 149°10′ West).

(e) In the State of North Dakota, within a 160 kilometer (100 mile) radius of Concrete, North Dakota (latitude 48°43′ North, longitude 97°54′ West).

(f) Those portions of Texas and New Mexico bounded on the south by latitude 31° 45′ North, on the east by longitude 104°00′ West, on the north by latitude 34°30′ North, and on the West by longitude 107°30′ West.

US229 Assignments to stations in the fixed and mobile services may be made on the condition that no harmful interference is caused to the Navy SPASUR system currently operating in the southern United States in the frequency band 216.88–217.08 MHz.

US231 When an assignment cannot be obtained in the bands between 200 and 525 kHz, which are allocated to aeronautical radionavigation, assignments may be made to aeronautical radiobeacons in the maritime mobile band 435–490 kHz, on a secondary basis, subject to the coordination and agreement of those agencies having assignments within the maritime mobile band which may be affected. Assignments to aeronautical radionavigation radiobeacons in the band 435–490 kHz shall not be a bar to any required changes to the maritime mobile radio service and shall be limited to Government not employing voice emissions.

US232 The frequency 518 kHz may be used by coast stations operated by the U.S. Coast Guard for the transmission of meteorological and navigational warnings to ships by means of narrow-band direct-printing telegraphy.

US234 In the band 14.4–14.5, all Government fixed and mobile stations, effective December 31, 1981, shall be on a secondary basis to stations in the non-Governemnt fixed-sateliite service. Exceptionally, the Government operations listed below, which were in existence on December 31, 1981, may continue to operate on a coequal primary basis with stations in the non-Government fixed-satellite service until December 31, 1986.

Operation	Points of communication
Point Mugu, CA	From 34°07′N., 119°07′W. to 34°00′N., 119°38′W.
Fort Bragg, NC	From 35°06′N., 79°05′W. to 35°10′N., 79°01′W.
Vandenberg, CA	Transportable terminals within 25 km radius of 34°44′N., 120°35′W.
Bolling AFB, DC	Transportable terminals within 25 km radius of 38°50′N., 77°01′W.

US235 Until implementation procedures and schedules are determined by future conferences of the International Telecommunication Union, the bands 9775–9900, 11650–11700, 11975–12050, 13600–13800, 15450–15600, 17550–17700 and 21750–21850 kHz, to be implemented by the broadcasting service and the bands 12230–12330, 16360–16460, 17380–17410, 18780–18900, 19680–19800,

22720–22855, 25110–25210, and 26100–26175 kHz, to be implemented by the maritime mobile service, are allocated as an alternative allocation to the fixed service.

US236 Until implementation procedures and schedules are determined by future conferences of the International Telecommunication Union, the bands 4000–4063 and 8100–8195 kHz are also allocated on a primary basis to the fixed service.

US237 Until implementation procedures and schedules are determined by a future Regional Conference of the International Telecommunication Union, the band 1615–1625 kHz is also allocated on a primary basis to the radiolocation service.

US238 Until implementation procedures and schedules are determined by a future Regional Conference of the International Telecommunication Union, the band 1625–1705 kHz is allocated to the radiolocation service on a primary basis as a different category of service.

US239 Aeronautical radionavigation stations (radiobeacons) may be authorized, primarily for off-shore use, in the band 525–535 kHz on a non-interference basis to travelers information stations.

US240 The bands 1715–1725 and 1740–1750 kHz are allocated on a primary basis and the bands 1705–1715 kHz and 1725–1740 kHz on a secondary basis to the aeronautical radionavigation service, (radiobeacons).

US241 On the condition that harmful interference is not caused to the maritime mobile service, frequencies in the band 8195–8815 kHz may be used exceptionally by fixed stations communicating only within the United States and its possessions with a mean power not exceeding 250 watts.

US243 In the band 220–225 MHz, stations in the radiolocation service have priority until 1 January 1990.

US244 Until 1 January 1990, the band 136–137 MHz is allocated as an alternative allocation to the space operation (space-to-earth), meteorological-satellite service (space-to-earth) and the space research service (space-to-earth) on a primary basis. After 1 January 1990, no new assignments will be made to the above space services and existing stations will become secondary to the aeronautical mobile (R) service stations as the latter service is introduced in the band.

US245 The fixed-satellite service is limited to international inter-continental systems and subject to case-by-case electromagnetic compatibility analysis.

US246 No stations will be authorized to transmit in the bands 608–614 MHz, 1400–1427 MHz, 1660.5–1668.4 MHz, 2690–2700 MHz, 4990–5000 MHz, 10.68–10.70 GHz, 15.35–15.40 GHz, 23.6–24.0 GHz, 31.3–31.8 GHz, 51.4–54.25 GHz, 58.2–59.0 GHz, 64–65 GHz, 86–92 GHz, 100–102 GHz, 105–116 GHz, 164–168 GHz, 182–185 GHz and 217–231 GHz.

US247 The band 10100–10150 kHz is allocated to the fixed service on a primary basis outside the United States and possessions. Transmissions of stations in the amateur service shall not cause harmful interference to this fixed service use and stations in the amateur service shall make all necessary adjustments (including termination of transmission) if harmful interference is caused.

US248 Until reaccommodation actions of the International Telecommunication Union are completed, the bands 18068–18168 kHz and 24890–24990 kHz are allocated as an alternative allocation to the fixed service. In the interim, assignments to stations in the fixed service shall be made in accordance with the policy set forth in 8.2.13 of the NTIA Manual of Regulations and Procedures and Part 2, Section 2.102(h) of the FCC Rules and Regulations. However, assignments to the fixed service in these bands shall be terminated no later than 1 July 1989.

US249 The band 25550–25600 kHz is allocated as an alternative allocation to the fixed and mobile, except aeronautical mobile, services until 1 January 1985. Assignments to stations in these services in this band shall be terminated no later than 1 January 1985.

US251 The band 12.75–13.25 GHz is also allocated to the space research, (deep space) (space-to-earth) service for reception only at Goldstone, California. 35°13′ N. 116°54′ – W.

US252 The bands 2110–2120, 7145–7190 MHz, and 34.2–34.7 GHz are also allocated for earth-to-space transmissions in the space research service, limited to deep space communications at Goldstone, California.

US253 In the band 2300–2310 MHz, the fixed and mobile services shall not cause harmful interference to the amateur service.

US254 In the band 18.6–18.8 GHz the fixed and mobile services shall be limited to a maximum equivalent isotropically radiated power of +35 dBW and the power delivered to the antenna shall not exceed −3 dBW.

US255 In the band 18.6–18.8 GHz the fixed satellite service shall be limited to a power flux density at the Earth's surface of −101 dbW/M² in a 200 MHz band for all angles of arrival.

US256 Radio astronomy observations may be made in the band 1718.8–1722.2 MHz on an unprotected basis. Agencies providing other services in this band in the geographic areas listed below should bear in mind that their operations may affect those observations, and those agencies are encouraged to minimize potential interference to the observations in so far as it is practicable.

National Astronomy and Ionosphere Center, Arecibo, Puerto Rico
Rectangle between latitudes 17°30′ N. and 19°00′ N. and between longitudes 65°10′ W. and 68°00′ W.

Haystack Radio Observatory, Tyngsboro, Massachusetts
Rectangle between latitudes 41°00′ N. and 43°00′ N. and between longitudes 71°00′ W. and 73°00′ W.

National Radio Astronomy Observatory, Green Bank, West Virginia
Rectangle between latitudes 37°00′ N. and 39°15′ N. and longitudes 78°30′ W. and 80°30′ W.

National Radio Astronomy Observatory, Socorro, New Mexico
Rectangle between latitudes 32°30′ N. and 35°30′ N. and between longitudes 106°00′ W. and 109°00′ W.

Owens Valley Radio Observatory, Big Pine, California
Two contiguous rectangles, one between latitudes 36°00′ N. and 37°00′ N. and between longitudes 117°40′ W. and 118°30′ W. and the second between latitudes 37°00′ N. and 38°00′ N. and longitudes 118°00′W and 118°50′ W.

Hat Creek Observatory, Hat Creek, California
Rectangles between latitudes 40°00′ N. and 42°00′ N. and between longitudes 120°15′ W. and 122°15′ W.

US257 Radio astronomy observations may be made in the 4950–4990 MHz band at certain Radio Astronomy Observatories indicated below:

Hat Creek Observatory, Hat Creek, California
Rectangle between latitudes 40°00′ N. and 42°00′ N. and between longitudes 120°15′ W. and 122°15′ W.

Owens Valley Radio Observatory, Pine, California
Two contiguous rectangles, Big one between latitudes 36°00′ N. and 37°00′ N. and longitudes 117°40′ W. and 118°30′ W. and the second between latitudes 37°00′ N. and 38°00′ N. and longitudes 118°00′ W. and 118°50′ W.

Haystack Radio Observatory, Tyngsboro, Massachusetts
Rectangle between latitudes 41°00′ N. and 43°00′ N. and between longitudes 71°00′ W. and 73°00′ W.

National Astronomy and Ionosphere Center, Arecibo, Puerto Rico
Rectangle between latitudes 17°30′ N. and 19°00′ N. and between longitudes 65°10′ W. and 68°00′ W.

National Radio Astronomy Observatory, Socorro, New Mexico
Rectangle between latitudes 32°30′ N. and 35°30′ N. and longitudes 106°00′ W. and 109°00′ W.

National Radio Astronomy Observatory, Green Bank, West Virginia
Rectangle between latitudes 37°30′ N. and 39°15′ N. and longitudes 78°30′ W. and 80°30′ W.

Every practicable effort will be made to avoid the assignment of frequencies in the band 4950–4990 MHz to stations in the fixed and mobile services within the geographic areas given above. In addition, every practicable effort will be made to avoid the assignment of frequencies in this band to stations in the aeronautical mobile service which operate outside of those geographic areas, but which may cause harmful interference to the listed observatories. Should such assignments result in harmful interference to these observatories, the situation will be remedied to the extent practicable.

US258 In the band 8025–8400 MHz, the non-Government earth exploration-satellite service (space-to-earth) is allocated on a primary basis. Authorizations are subject to a case-by-case electromagnetic compatibility analysis.

US259 Stations in the radiolocation service in the band 17.3–17.7 GHz, shall be restricted to operating powers of less than 51 dBW eirp after feeder link stations for the broadcasting-satellite service are authorized and brought into use.

US260 Aeronautical mobile communications which are an integral part of

aeronautical radionavigation systems may be satisfied in the bands 1559–1626.5 MHz, 5000–5250 MHz and 15.4–15.7 GHz.

US261 The use of the band 4200–4400 MHz by the aeronautical radionavigation service is reserved exclusively for airborne radio altimeters. Experimental stations will not be authorized to develop equipment for operational use in this band other than equipment related to altimeter stations. However, passive sensing in the earth-exploration satellite and space research services may be authorized in this band on a secondary basis (no protection is provided from the radio altimeters).

US262 The band 31.8–32.3 GHz is also allocated for space-to-earth transmissions in the space research service, limited to deep space communications at Goldstone, California.

US263 In the frequency bands 21.2–21.4, 22.21–22.5, 36–37, 50.2–50.4, 54.25–58.2, 116–126, 150–151, 174.5–176.5, 200–202 and 235–238 GHz, the space research and earth exploration-satellite services shall not receive protection from the fixed and mobile services operating in accordance with the Table of Frequency Allocations.

US264 In the band 48.94–49.04 GHz, airborne stations shall not be authorized.

US265 In the band 10.6–10.68 GHz, the fixed service shall be limited to a maximum equivalent isotropically radiated power of 40 dBW and the power delivered to the antenna shall not exceed −3dBW per 250 kHz.

US266 Licensees in the public safety radio services holding a valid authorization on June 30, 1958, to operate in the frequency band 156.27–157.47 MHz or on the frequencies 161.85, 161.91 or 161.97 MHz may, upon proper application, continue to be authorized for such operation, including expansion of existing systems, until such time as harmful interference is caused to the operation of any authorized station other than those licensed in the public safety radio service.

US267 In the band 902–928 MHz, amateur radio stations shall not operate within the States of Colorado and Wyoming, bounded by the area of: latitude 39°N. to 42°N. and longitude 103°W. to 108°W.

US268 The bands 890–902 MHz and 928–942 MHz are also allocated to the radiolocation service for Government ship stations (off-shore ocean areas) on the condition that harmful interference is not caused to non-Government land mobile stations. The provisions of footnote US116 apply.

US269 In the band 2500–2690 MHz, applicants for space station assignments are urged to take all practicable steps to protect radio astronomy observations in the adjacent band, 2690–2700 MHz, from harmful interference. Further, all applicants are urged to coordinate their proposed system through the Electromagnetic Management Unit, National Science Foundation, Washington, D.C. 20550, prior to system development.

US270 The band 72.77–72.91 GHz is also allocated to the radio astronomy service. Applicants for frequency assignments in this band are urged to take all practicable steps to protect radio astronomy observations from harmful interference.

US271 The use of the band 17.3–17.8 GHz by the fixed-satellite service (earth-to-space) is limited to feeder links for broadcasting-satellite service.

US272 The allocation to the maritime mobile-satellite service in the band 1530–1535 MHz shall be effective from 1 January 1990. Up to that date the allocation to the mobile service will be on a primary basis.

US273 In the 74.6–74.8 MHz and 75.2–75.4 MHz bands stations in the fixed and mobile services are limited to a maximum power of 1 watt from the transmitter into the antenna transmission line.

US274 In the 216–220 MHz band fixed, aeronautical mobile and land mobile stations are limited to telemetering and associated telecommand operations.

US275 The band 902–928 MHz is allocated on a secondary basis to the amateur service subject to not causing harmful interference to the operations of Government stations authorized in this band or to Automatic Vehicle Monitoring (AVM) systems. Stations in the amateur service must tolerate any interference from the operations of industrial, scientific and medical (ISM) devices, AVM systems and the operations of Government stations authorized in this band.

US276 Use of the band 2310–2390 MHz by the mobile service is limited to aeronautical telemetering and associated telecommand operations for flight testing of manned or unmanned aircraft, missiles, or major components thereof. Exceptionally all other mobile telemetering uses shall be secondary.

US277 The band 10.6–10.68 GHz is also allocated on a primary basis to the radio astronomy service. However, the radio astronomy service shall not receive protection from stations in the fixed service which are licensed to operate in the one hundred most populous urbanized areas as defined by the U.S. Census Bureau. The following radio astronomy sites have been coordinated for observations in this band: National Radio Astronomy Observatory, Green Bank, West Virginia; (38°26'08"N.; 79°49'42"W.) National Radio Astronomy Observatory, Socorro, New Mexico; (34°04'43"N.; 107°37'04"W.), Harvard Radio Astronomy Station, Fort Davis, Texas; (30°38'08"N.; 103°56'42"W.), Hat Creek Observatory, Hat Creek, California; (40°49'03"N.; 121°28'24"W.), Owens Valley Radio Observatory, Big Pine, California; (37°13'54"N.; 118°17'36"W.), Naval Research Laboratory, Maryland Point, Maryland (38°22'26"N.; 77°14'00"W.).

US278 In the 22.55–23.55 and 32–33 GHz bands non-geostationary intersatellite links may operate on a secondary basis to geostationary intersatellite links.

US279 The frequency 2182 kHz may be authorized to fixed stations associated with the maritime mobile service for the sole purpose of transmitting distress calls and distress traffic, and urgency and safety signals and messages.

US280 The frequency 6147.5 kHz may be authorized for simplex operation by non-Government coast and ship radiotelephone stations operating in the Mississippi River system on the condition that harmful interference shall not be caused to stations operating in accordance with the Table of Frequency Allocations.

US281 In the band 25.07–25.11 MHz non-Government stations in the industrial radio services shall not cause harmful interference to, and must accept interference from, stations in the maritime mobile service operating in accordance with the International Table of Frequency Allocations.

US282 In the band 4650–4700 kHz frequencies may be authorized for non-Government communication with helicopters in support of off-shore drilling operations on the condition that harmful interference will not be caused to services operating in accordance with the Table of Frequency Allocations.

US283 In the bands 2850–3025 kHz, 3400–3500 kHz, 4650–4700 kHz, 5450–5680 kHz, 6525–6685 kHz, 10005–10100 kHz, 11275–11400 kHz, 13260–13360 kHz and 17900–17970 kHz frequencies in these bands may be authorized for non-Government flight test purposes on the condition that harmful interference will not be caused to services operating in accordance with the Table of Frequency Allocations.

US284 The carrier frequencies 6451.9 and 6455.0 kHz may be authorized to non-Government ship telephone and coast telephone stations operating in the Mississippi River maritime mobile service system on the condition that harmful interference will not be caused to services operating in accordance with the Table of Frequency Allocations and that any interference from such services must be accepted.

US285 Under exceptional circumstances, the frequencies 2638 and 2738 kHz may be authorized to coast stations.

US286 In the bands 2900–3100 MHz and 5470–5600 MHz the use of shipborne transponder systems shall be confined to the subbands 2930–2950 MHz and 5470–5480 MHz.

US287 The band 14–14.5 GHz is also allocated to the non-Government land mobile-satellite service (earth-to-space) on a secondary basis.

US288 The use of the bands 14–19.95 kHz, 20.05–70 kHz and 70–90 kHz by the maritime mobile service is limited to coast radiotelegraph stations (A1A and F1B only). Exceptionally, the use of class J2B or J7B emissions is authorized subject to the necessary bandwidth not exceeding that normally used for class A1A or F1B emissions in the bands concerned.

US290 In the band 1900–2000 kHz amateur stations may continue to operate on a secondary basis to the radiolocation service, and in accordance with NG15, pending a decision as to their disposition through a future rule making proceeding in conjunction with the implementation of the standard broadcasting service in the 1625–1705 kHz band.

US291 Television pickup stations in the mobile service may be authorized to use frequencies in the band 38.6–40 GHz on a secondary basis to stations operating in accordance with the Table of Frequency Allocations.

US292 In the band 14.0–14.2 GHz stations in the radionavigation service shall operate on a secondary basis to the fixed-satellite service.

US293 The band 21850–21870 kHz is allocated as an alternative allocation to the radio astronomy service until 1 January 1985.

US294 In the spectrum below 490 kHz electric utilities operate Power Line Carrier (PLC) systems on power transmission lines for communications important to the reliability and security of electric service to the public. These PLC systems operate under the provisions of Part 15 of the Federal Communications Commission's Rules and Regulations or Chapter 7 of the National Telecommunications and Information Administration's Manual of Regulations and Procedures for Federal Radio Frequency Management, on an unprotected and noninterference basis with respect to authorized radio users. Notification of intent to place new or revised radio frequency assignments or PLC frequency uses in the bands below 490 kHz is to be made in accordance with the Rules and Regulations of the FCC and NTIA, and users are urged to minimize potential interference to the degree practicable. This footnote does not provide any allocation status to PLC radio frequency uses.

US296 In the bands designated for Ship wideband telegraphy, facsimile and special transmission systems, the following assignable frequencies are available to non-Government stations on a shared basis with Government stations: 2070.5, 2072.5, 2074.5, 2076.5, 4160.6, 4168, 6238.6, 6242.6, 8326, 8341.5, 12485, 12489, 16654, 16658, 22186 and 22190 kHz.

US297 The bands 47.2–49.2 GHz and 74.0–75.5 GHz are also available for feeder links for the broadcasting-satellite service.

US298 Channels 27555, 27615, 27635, 27655, 27765, and 27860 kHz are available to eligibles in the Forest Products Radio Service on a secondary basis to Government operations including experimental stations. Operations in the Forest Products Radio Service on these channels will not exceed 150 watts and are limited to the states of Washington, Oregon, Maine, North Carolina, South Carolina, Tennessee, Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas (eastern portion).

Non-Government Footnotes

(These footnotes, each consisting of the letters "NG" followed by one or more digits, denote stipulations applicable only to the non-Government.)

NG2 Facsimile broadcasting stations may be authorized in the band 88–108 MHz.

NG3 Control stations in the domestic public mobile radio service may be authorized frequencies in the band 72–73 and 75.4–76 MHz on the condition that harmful interference will not be caused to operational fixed stations.

NG4 The use of the frequencies in the band 152.84–153.38 MHz may be authorized, in any area, to remote pickup broadcast base and mobile stations on the condition that harmful interference will not be caused to stations operating in accordance with the Table of Frequency Allocations.

NG6 Stations in the public safety radio services authorized as of June 30, 1958, to use frequencies in the band 159.51–161.79 MHz in areas other than Puerto Rico and the Virgin Islands may continue such operation, including expansion of existing systems, on the condition that harmful interference will not be caused to stations in the services to which these bands are allocated. In Puerto Rico and the Virgin Islands this authority is limited to frequencies in the band 160.05–161.37 MHz. No new public radio service system will be authorized to operate on these frequencies.

NG12 Frequencies in the bands 454.40–455 MHz and 459.40–460 MHz may be assigned to domestic public land and mobile stations to provide a two-way air-ground public radiotelephone service.

NG15 The Amateur Service may use the sections of the band 1900 to 2000 kHz which are not required for LORAN–A in accordance with the following conditions:

(1) The use of these frequencies by the Amateur Service shall not be a bar to the expansion of the radionavigation (LORAN–A) service;

(2) The Amateur Service shall not cause harmful interference to the radionavigation (LORAN–A) service;

(3) Only types A1A (A1) and amplitude modulated double and single sideband telephony emission shall be employed.

(4) Amateur operation shall be limited to the maximum transmitter peak envelope power output values specified below:

States of—	Maximum transmitter peak envelope power output in watts			
	1900–1925kHz	1925–1950kHz	1950–1975kHz	1975–2000kHz
	Day /night	Day /night	Day /night	Day /night
Maine, Massachusetts, New Hampshire, Rhode Island	150/35	0	0	150/35
Connecticut, Delaware, Maryland, New Jersey, New York, Pennsylvania, Vermont, District of Columbia	300/75	0	0	300/75
Kentucky, North Carolina, Ohio, South Carolina, Tennessee, Virginia, West Virginia	750/150	0	0	750/150
Florida, Georgia, Illinois, Indiana, Michigan, Wisconsin	750/150	150/35	150/35	750/150
Alabama, Arkansas, Iowa, Minnesota, Mississippi, Missouri	1500/300	300/75	300/75	1500/300
The remainder of the states and territories	1500/300	1500/300	1500/300	1500/300

(b) This footnote is applicable up through January 1, 1984 and shall be considered as temporary until that time in the sense that it shall remain subject to cancellation or to revisions, in whole or in part, by order of the Commission without hearing whenever the Commission shall deem such cancellation or revision to be necessary or desirable, in the light of the priority within this band of the LORAN-A system or radionavigation.

NG17 Stations in the land transportation radio services authorized as of May 15, 1958 to operate on the frequency 161.61 MHz may, upon proper application, continue to be authorized for such operation, including expansion of existing systems, on the condition that harmful interference will not be caused to the operation of any authorized station in the maritime mobile service. No new land transportation radio service system will be authorized to operate on 161.61 MHz.

NG19 Fixed stations associated with the maritime mobile service may be authorized, for purposes of communication with coast stations, to use frequencies assignable to ship stations in this band on the condition that harmful interference will not be caused to services operating in accordance with the Table of Frequency Allocations.

NG23 Frequencies in the band 2100–2200 MHz may also be assigned to stations in the international fixed public radio service located south of 25°30' north latitutde in the State of Florida and in U.S. Possessions in the Caribbean area, provided, however, no new assignments in the band 2150–2162 MHz will be made to such stations after February 25, 1974.

NG28 The frequency band 160.86–161.40 MHz is available for assignment to remote pickup base and remote pickup mobile stations in Puerto Rico and the Virgin Islands only on a shared basis with the land transportation radio service.

NG30 Stations in the international fixed public radiocommunication service in Florida, south of 25°30' north latitude, may be authorized to use frequencies in the band 716–890 MHz on the condition that harmful interference will not be caused to the broadcasting service of any country. This is an interim allocation the termination of which will later be specified by the Commission when it is determined that equipments are generally available for use in bands allocated internationally to the fixed service.

NG41 Frequencies in the bands 3700–4200 MHz, 5925–6425 MHz, and 10.7–11.7 GHz may also be assigned to stations in the international fixed public and international control services located in U.S. Possessions in the Caribbean area.

NG42 Non-Government stations in the radiolocation service shall not cause harmful interference to the amateur service.

NG43 Fixed stations in the domestic public radio services in Alaska, south of 56° north latitude and east of 134° west longitude, may be authorized to use frequencies in the band 800–830 MHz, on the condition that harmful interference will not be caused to the broadcasting service of any country.

NG47 In the band 2500–2690 MHz, channels in 2500–2686 MHz, and the corresponding response frequencies 2686.0625–2689.8125 MHz, may be assigned to stations in the Instructional Television Fixed Service (Part 74 of this Chapter, CFR 47); channels in 2596–2644 MHz and response frequencies 2686.5625–2689.6875 MHz may be assigned to Multipoint Distribution Service stations (Part 21 of this Chapter CFR 47); and channels 2650–2656 MHz, 2662–2668 MHz and 2674–2680 MHz and response frequencies 2686.9375 MHz, 2687.9375 MHz and 2688.9375 MHz may be assigned to stations in the

Operational Fixed Service (Part 94 of this Chapter, CFR 47). In Alaska, however, frequencies within the band 2655–2690 MHz are not available for assignment to terrestrial stations.

NG49 The following frequencies may be authorized on a secondary basis for low-power (1 watt input) mobile operations in the Manufacturers Radio Service subject to the condition that no interference is caused to the reception of television stations operation on channels 4 and 5 and that their use is limited to a manufacturing facility:

MHz		
72.02	72.16	72.30
72.04	72.18	72.32
72.06	72.20	72.34
72.08	72.22	72.36
72.10	72.24	72.38
72.12	72.26	72.40
72.14	72.28	

Further, the following frequencies may be authorized on a primary basis for mobile operations in the Special Industrial Radio Service, Manufacturers Radio Service, and Railroad Radio Service subject to the condition that no interference is caused to the reception of television stations operating on channels 4 and 5; and that their use is limited to a railroad yard, manufacturing plant, or similar industrial facility.

MHz		
72.44	72.60	75.56
72.48	75.44	75.60
72.52	75.48	
72.56	75.52	

NG51 In Puerto Rico and the Virgin Islands only, the bands 150.8–150.98 MHz and 150.98–151.49 MHz are allocated exclusively to the business radio service.

NG53 In the band 12.7–13.15 GHz, television pickup stations and CARS pickup stations shall be assigned channels on a co-equal basis and shall operate on a secondary basis to fixed stations operating in accordance with the Table of Frequency Allocations. In the 13.15–13.20 GHz band television pickup stations and CARS pickup stations shall be assigned on an exclusive basis in the top one hundred markets, as set out in Section 76.51.

NG56 In the bands 72.0–73.0 and 75.4–76.0 MHz, the use of mobile radio remote control of models is on a secondary basis to all other fixed and mobile operations. Such operations are subject to the condition that interference will not be caused to common carrier domestic public stations, to remote control of industrial equipment operating in the 72–76 MHz band, or to the reception of television signal on channels 4 (66–72 MHz) or 5 (76–82 MHz). Television interference shall be considered to occur whenever reception of regularly used television signals is impaired or destroyed, regardless of the strength of the television signal or the distance to the television station.

NG59 The frequencies 37.60 and 37.85 MHz may be authorized only for use by base, mobile, and operational fixed stations participating in an interconnected or coordinated power service utility system.

NG63 Television Broadcast translator stations holding valid licenses on November 15, 1971, to operate in the frequency band 806–890 MHz (channels 70–83), may continue to operate in this band, pursuant to periodic license renewals, on a secondary basis to the land mobile radio service.

NG64 Broadcast auxiliary stations licensed as of July 10, 1970, to operate in the frequency band 942–947 MHz may continue to so operate pending a decision as to their disposition through a future rule making proceeding.

NG66 The frequency band 470–512 MHz is allocated for use in the broadcasting and land mobile radio services. In the land mobile services it is available for assignment in the domestic public, public safety, industrial, and land transportation radio services at, or in the vicinity of 13 urbanized areas of the United States, as set forth in the table below, and subject to the standards and conditions set forth in Parts 22 and 90 of this chapter, CFR 47.

Urbanized area	TV channel
New York-Northeastern New Jersey	14, 15
Los Angeles	14, 20
Chicago-Northwestern Indiana	14, 15
Philadelphia, Pa.-New Jersey	19, 20
Detroit, Michigan	15, 16
San Francisco-Oakland, California	16, 17
Boston, Mass.	14, 16
Washington, D.C.-Maryland-Virginia	17, 18
Pittsburgh, Pa.	14, 18
Cleveland, Ohio	14, 15
Miami, Florida	14
Houston, Texas	17
Dallas, Texas	16

NG70 In Puerto Rico and the Virgin Islands only, the bands 159.240–159.435 and 160.410–160.620 MHz are also available for assignment to base stations and mobile stations in the special industrial radio service.

NG101 The use of the band 2500–2690 MHz by the broadcasting-satellite service is limited to domestic and regional systems for community reception of educational television programming and public service information. Such use is subject to agreement among administrations concerned and those having services operating in accordance with the table, which may be affected. Unless such agreement includes the use of higher values, the power flux density at the earth's surface produced by emissions from a space station in this service shall not exceed those values set forth in Part 73 of the rules for this frequency band.

NG102 The frequency bands 2500–2655 MHz (space-to-earth) and 2655–2690 MHz (earth-to-space) are allocated for use in the fixed-satellite service as follows:

(a) For common carrier use in Alaska, for intra-Alaska service only, and in the mid and western Pacific areas including American Samoa, the Trust Territory of the Pacific Islands, Guam and Hawaii;

(b) For educational use in the contiguous United States, Alaska and the mid and western Pacific areas including American Samoa, the Trust Territory of the Pacific Islands, Guam and Hawaii.

Such use is subject to agreement with administrations having services operating in accordance with the table, which may be affected. In the band 2500–2655 MHz, unless such agreement includes the use of higher values, the power flux density at the earth's surface produced by emissions from a space station in this service shall not exceed the values set forth in Part 25 of the Rules for this frequency band.

NG104 The use of the bands 10.7–11.7 and 12.75–13.25 GHz in the fixed-satellite service is limited to international systems, i.e., other than domestic systems.

NG111 The band 157.4375–157.4625 MHz may be used for one way paging operations in the special emergency radio service.

NG112 The frequencies 25.04, 25.08, 150.980, 154.585, 158.445, 159.480, 454.000 and 459.000 MHz may be authorized to stations in the petroleum radio service for use primarily in oil spill containment and cleanup operations and secondarily in regular land mobile communication.

NG114 In the offshore Louisiana gulf coast area, the band 488–494 MHz (TV Channel 17) is allocated to the domestic public and industrial radio services in accordance with the regulation set forth in Part 22 and 90, respectively.

NG115 In the 174 to 216 MHz band wireless microphones may be authorized to operate on a secondary, non-interfering basis, subject to terms and conditions set forth in Part 74 of these Rules and Regulations.

NG117 The frequency 156.050 and 156.175 MHz may be assigned to stations in the maritime mobile service for commercial and port operations in the New Orleans Vessel Traffic Service (VTS) area and the frequency 156.250 MHz may be assigned to stations in the maritime mobile service for port operating in the New Orleans and Houston VTS areas.

NG118 Television translator relay stations may be authorized to use frequencies in this band on a secondary basis to stations operating in accordance with the Table of Frequency Allocations.

NG120 Frequencies in the 928–929 and 952–960 MHz bands may be assigned for multiple address systems as specified in Part 94.

NG121 In the band 216–220 MHz, the maritime mobile service is limited to operation along the Mississippi River and connecting waterways, and the Gulf Intracoastal Waterway.

NG122 Television Pickup stations may be authorized under Part 74 in the 6425–6525 MHz band on a secondary basis to stations operating in accordance with the Table of Frequency Allocations.

NG124 In the public safety radio service allocations within the bands 30–50 MHz, 150–174 MHz and 450–470 MHz, police radio service licenses are authorized to operate low powered radio transmitters on a secondary, non-interference basis in accordance with the provisions of Sections 2.803 and 90.19(f)(5) of the Rules.

NG127 In Hawaii, the frequency band 488–494 MHz is allocated exclusively to the fixed service for use by common carrier control and repeater stations for point-to-point inter-island communications only.

NG128 In the band 535–1605 kHz, AM broadcast licensees or permittes may use the AM carrier to transmit signals intended for

utility load management. In the band 88–108 MHz, FM broadcast licensees or permittees are permitted to use subcarriers on a secondary basis to transmit signals intended for both broadcast and non-broadcast purposes.

NG129 In Alaska, the bands 76–88 MHz and 88–100 MHz are also allocated to the Fixed service on a secondary basis. Broadcast stations operating in these bands shall not cause interference to non-Government fixed operations authorized prior to January 1, 1982.

NG133 Stations authorized in the band 73–74.6 MHz as of December 1, 1961 may continue to operate until December 31, 1985. Such stations shall not be required to afford protection to radio astronomy observations within the United States and possessions, however, such stations must afford protection to the observatories of other countries.

NG134 In the band 10.45–10.5 GHz non-Government stations in the radiolocation service shall not cause harmful interference to the amateur and amateur-satellite services.

NG135 In the 420–430 MHz band the amateur service is not allocated north of line A (def. § 2.1). All amateur radio stations shall operate north of line A in accordance with the Agreement between the United States and Canada.

NG139 Pending adopting of further specific rules concerning usage of the band 12.2–12.7 GHz by the fixed and broadcasting-satellite services, systems in these services may be authorized subject to the condition that adjustments in certain systems design or technical parameters may become necessary during the systems lifetime. The necessity for such adjustments, and their extent, will be dependent upon the Final Acts of the 1983 Regional Administrative Radio Conference and subsequent Commission decisions.

NG140 Pending adopting of further specific rules concerning usage of the band 17.3–17.8 GHz by the fixed-satellite service for the purpose of providing feeder links to the broadcasting-satellite service, systems may be authorized for this purpose subject to the condition that adjustments in certain systems design or technical parameters may become necessary during the system lifetime. The necessity for such adjustments, and their extent, will be dependent upon the Final Acts of the 1983 Regional Administrative Radio Conference and subsequent Commission decisions.

NG141 The frequencies 42.40 MHz and 44.10 MHz are authorized on a primary basis in the State of Alaska for meteor burst communications by fixed stations in the Rural Radio Service operating under the provisions of Part 22 of this Chapter. The frequencies 44.20 MHz and 45.90 MHz are authorized on a primary basis in Alaska for meteor burst communications by fixed private radio stations operating under the provisions of Part 90 of the Chapter. The private radio station frequencies may be used by Common Carrier stations on a secondary, noninterference basis and the Common Carrier frequencies may be used by private radio stations for meteor burst communications on a secondary, noninterference basis. Users shall cooperate to the extent practical to minimize potential interference. Stations utilizing meteor burst communications shall not cause harmful interference to stations of other radio services operating in accordance with the Table of Frequency Allocations.

NG143 In the band 11.7–12.2 GHz protection from harmful interference shall be afforded to transmissions from space stations not in conformance with international footnote 839 only if the operations of such space stations impose no unacceptable constraints on operations or orbit locations of space stations in conformance with 839.

NG144 Stations authorized as of September 9, 1983 to use frequencies in the band 17.7–19.7 GHz may, upon proper application, continue to be authorized for such operation.

NG145 In the band 11.7–12.2 GHz, transponders on space stations in the fixed-satellite service may be used additionally for transmissions in the broadcasting-satellite service, provided that such transmissions do not have a maximum e.i.r.p. greater than 53 dBW per television channel and do not cause greater interference or require more protection from interference than the coordinated fixed-satellite service frequency assignments. With respect to the space services, this band shall be used principally for the fixed-satellite service.

Government (G) Footnotes

(These footnotes, each consisting of the letter "G" followed by one or more digits, denote stipulations applicable only to the Government)

G2 In the bands 216–225, 420–450 (except as provided by US217) 890–902, 928–942, 1300–1400, 2300–2450, 2700–2900, 5650–5925 and 9000–9200 MHz, the Government radiolocation is limited to the military services.

G5 In the bands 162.0125–173.2, 173.4–174, 406.1–410 and 410–420 MHz, the fixed and mobile services are all allocated on a primary basis to the Government non-military agencies.

G6 Military tactical fixed and mobile operations may be conducted nationally on a secondary basis: (1) to the meteorological aids service in the band 403–406 MHz; and (2) to the radio astronomy service in the band 406.1–410 MHz. Such fixed and mobile operations are subject to local coordination to ensure that harmful interference will not be caused to the services to which the bands are allocated.

G8 Low power Government radio control operations are permitted in the band 420–450 MHz.

G11 Government fixed and mobile radio services, including low power radio control operations, are permitted in the band 902–928 MHz on a secondary basis.

G15 Use of the band 2700–2900 MHz by the military fixed and shipborne air defense radiolocation installations will be fully coordinated with the meteorological aids and aeronautical radionavigation services. The military air defense installations will be moved from the band 2700–2900 MHz at the earliest practicable date. Until such time as military air defense installations can be accommodated satisfactorily elsewhere in the spectrum, such operations will, insofar as practicable, be adjusted to meet the requirements of the aeronautical radionavigation service.

G19 Use of the band 9000–9200 MHz by military fixed and shipborne air defense radiolocation installations will be fully coordinated with the aeronautical radionavigation service, recognizing fully the safety aspects of the latter. Military air defense installations will be accommodated ultimately outside this band. Until such time as military defense installations can be accommodated satisfactorily elsewhere in the spectrum such operations will, insofar as practicable, be adjusted to meet the requirements of the aeronautical radionavigation services.

G27 The fixed and mobile services are limited to the military service.

G30 In the bands 138–144, 148–149.9, 150.05–150.8, 225–328.6 335.4–399.9, 1427–1429 and 1429–1435 MHz, the fixed and mobile services are limited primarily to operations by the military services.

G31 In the 3300–3500 MHz, the Government radiolocation is limited to the military services, except as provided by footnote.

G32 Except for weather radars on meteorological satellites in the band 9975–10025 MHz and for Government survey operations (see footnote US108), Government radiolocation in the band 10000–10500 MHz is limited to the military services.

G34 In the band 34.4–34.5 GHz, weather radars on board meteorological satellites for cloud detection are authorized to operate on the basis of equality with military radiolocation devices. All other non-military radiolocation in the band 33.4–36.0 GHz shall be secondary to the military services.

G42 Space command, control, range and range rate systems for earth station transmission only (including installations on certain Navy ships) may be accommodated on a co-equal basis with the fixed and mobile services in the band 1761–1842 MHz. Specific frequencies required to be used at any location will be satisfied on a coordinated case-by-case basis.

G56 Government radiolocation in the bands 1215–1300, 2900–3100, 5350–5650 and 9300–9500 MHz is primarily for the military services; however, limited secondary use is permitted by other Government agencies in support of experimentation and research programs. In addition, limited secondary use is permitted for survey operations in the band 2900–3100 MHz.

G59 In the bands 902–928 MHz, 3100–3300 MHz, 3500–3700 MHz, 5250–5350 MHz, 8500–9000 MHz, 9200–9300 MHz, 13.4–14.0 GHz, 15.7–17.7 GHz and 24.05–24.25 GHz, all Government non-military radiolocation shall be secondary to military radiolocation, except in the subband 15.7–16.2 GHz airport surface detection equipment (ASDE) is permitted on a co-equal basis subject to coordination with the military departments.

G100 The bands 235–322 MHz and 335.4–399.9 MHz are also allocated on a primary basis to the mobile-satellite service, limited to military operations.

G101 In the band 2200–2290 MHz, space operations (space-to-earth) and (space-to-

space), and earth exploration-satellite (space-to-earth) and (space-to-space) services, may be accommodated on a co-equal basis with fixed, mobile and space research services.

G104 In the bands 7450–7550 and 8175–8215 MHz, it is agreed that although the military space radio communication systems, which include earth stations near the proposed meteorological-satellite installations will precede the meteorological-satellite installations, engineering adjustments to either the military or the meteorological-satellite systems or both will be made as mutually required to assure compatible operations of the systems concerned.

G105 In the band 420–460 MHz, radio altimeter operations are limited to military services and to existing equipments which may continue to operate until January 1, 1985 on the condition that harmful interference is not caused to stations of services operating in accordance with the Table of Frequency Allocations.

G106 The bands 2501–2502, 5003–5055 kHz, 10003–10005 kHz, 15005–15010 kHz, 19990–19995 kHz, 20005–20010 kHz and 25005–25010 kHz are also allocated on a secondary basis to the space research service. The space research transmissions are subject to immediate temporary or permanent shutdown in the event of interference to the reception of the standard frequency and time broadcasts.

G109 All assignments in the band 157.0375–157.1875 MHz are subject to adjustment to other frequencies in this band as long term U.S. maritime VHF planning develops, particularly that planning incident to support of the National VHF–FM Radiotelephone Safety and Distress System (See Doc. 15624/1–1.9.111/1.9.125).

G110 Government ground-based stations in the aeronautical radionavigation service may be authorized between 3500–3700 MHz where accommodation in the 2700–2900 MHz band is not technically and/or economically feasible.

G114 In the band 1350–1400 MHz, the frequency 1381.05 MHz with emissions limited to ±12 MHz is also allocated to fixed and mobile satellite services (space-to-earth) for the relay of nuclear burst data.

G115 In the band 13360–13410 kHz, the fixed service is allocated on a primary basis outside the conterminous United States. Within the conterminous United States, assignments in the fixed service are permitted, and will be protected for national defense purposes or, if they are to be used only in an emergency jeopardizing life, public safety, or important property under conditions calling for immediate communication where other means of communication do not exist.

G116 The band 7125–7155 MHz is also allocated for earth-to-space transmissions in the Space Operations Service at a limited number of sites (not to exceed two), subject to established coordination procedures.

G117 In the bands 7250–7750 and 7900–8400 MHz and 20.2–21.2, 30–31, 39.5–40.5, 43.5–45.5 and 50.4–51.4 GHz the Government fixed-satellite and mobile-satellite services are limited to military systems.

G118 Government fixed stations may be authorized in the band 1700–1710 MHz only if spectrum is not available in the band 1710–1850 MHz.

G119 In the band 14714.5–15136.5 MHz, assignments in the Fixed Service which were in existence as of January 1, 1982 may continue on a primary basis until January 1, 1990.

§ 2.107 Radio astronomy station notification.

(a) Pursuant to No. 1492 of Article 13 and Section F of Appendix 3 to the international *Radio Regulations* (Geneva, 1982), operators of radio astronomy stations desiring international recognition of their use of specific radio astronomy frequencies or bands of frequencies for reception, should file the following information with the Commission for inclusion in the Master International Frequency Register:

(1) The center of the frequency band observed, in kilohertz up to 28,000 kHz inclusive, in megahertz above 28,000 kHz to 10,500 MHz inclusive and in gigahertz above 10,500 MHz.

(2) The date (actual or foreseen, as appropriate) when reception of the frequency band begins.

(3) The name and location of the station, including geographical coordinates in degrees and minutes.

(4) The width of the frequency band (in kHz) observed by the station.

(5) The antenna type and dimensions, effective area and angular coverage in azimuth and elevation.

(6) The regular hours of reception (in UTC) of the observed frequency.

(7) The overall receiving system noise temperature (in kelvins) referred to the output of the receiving antenna.

(8) The class of observations to be taken. Class A observations are those in which the sensitivity of the equipment is not a primary factor. Class B observations are those of such a nature that they can be made only with advanced low-noise receivers using the best techniques.

(9) The name and mailing address of the operator.

(b) The permanent discontinuance of observations, or any change to the information above, should also be filed with the Commission.

(c) Observations being conducted on frequencies or frequency bands not allocated to the radio astronomy service should be reported as in paragraph (a) of this section for information purposes. Information in this category will not be submitted for entry in the Master International Frequency Register and protection from interference will not be afforded such operations by stations in other services.

§ 2.108 Policy regarding the use of the fixed-satellite allocations in the 3.6–3.7, 4.5–4.8, and 5.85–5.925 GHz Bands.

The use of the fixed-satellite allocations in the United States in the above bands will be governed by footnote US245. Use of the fixed-satellite service allocations in these bands is for the international fixed-satellite service, that is, for international inter-continental communications. Case-by-case electromagnetic compatibility analysis is required with all users of the bands. It is anticipated that one earth station on each coast can be successfully coordinated. Specific locations of these earth stations depend upon service requirements and case-by-case EMC analyses that demonstrate compatible operations.

[FR Doc. 84–1300 Filed 1–18–84; 8:45 am]
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Thursday
January 19, 1984

Part III

Environmental Protection Agency

40 CFR Part 60

Review and Proposed Revision of Standards of Performance for New Stationary Sources: Kraft Pulp Mills; Proposed Rule

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[FRL 2406–4]

Review and Proposed Revision of Standards of Performance for New Stationary Sources: Kraft Pulp Mills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Review and proposed rule.

SUMMARY: A review of the standards of performance for kraft pulp mills (40 CFR 60.280, Subpart BB) has been completed. Today's proposal, which is based on information gathered during the review, would make five changes to these standards. These revisions would: (1) Exempt black liquor oxidation systems from the standards; (2) revise the existing total reduced sulfur (TRS) standard for smelt dissolving tanks; (3) revise the units of the TRS standard for smelt dissolving tanks; (4) delete the requirement to monitor the combustion temperature in lime kilns, power boilers, or recovery furnaces; and (5) change the frequency of excess emission reports from quarterly to semi-annually.

In the overall context of this source category, all of the proposed changes to the existing standards of performance are minor. Nevertheless, they are appropriate because they change the numerical emission limit for smelt dissolving tanks to reflect the performance of best demonstrated technology, improve the overall cost effectiveness of the existing standards with little increse in TRS emissions, and streamline reporting and record keeping requirements.

A public hearing will be held, if requested, to provide interested persons an opportunity for oral presentations of data, views, or arguments concerning the proposed revisions.

DATES: *Comments.* Comments must be received on or before March 9, 1984.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by January 25, 1984, a public hearing will be held on February 21, 1984 beginning at 9:00 a.m. Persons interested in attending the hearing should call Ms. Shelby Journigan at (919) 541–5578 to verify that a hearing will occur.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by February 13, 1984.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (A–130), Attention: Docket No. A–82–36, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

Public Hearing. If a public hearing is held, it will be held at the Environmental Research Center Auditorium, Corner of Highway 54 and Alexander Drive, Research Triangle Park, N.C., Research Triangle Park, North Carolina. Persons wishing to present oral testimony should notify Ms Shelby Journigan, Standards Development Branch (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5578.

Docket. Docket No. A–82–36, containing supporting information used in developing the proposed standards, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT:

About the Standards. Mr. Fred Porter, Standards Development Branch, Emission Standards and Engineering Division, MD–13, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5624.

For Further Technical Information Contact: Mr. Ken Durkee, Industrial Studies Branch, Emission Standards and Engineering Division, MD–13, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5595.

SUPPLEMENTARY INFORMATION:

Background

On September 24, 1976, new source performance standards (NSPS) were proposed for kraft pulp mills under Section 111 of the Clean Air Act (41 FR 42012). These regulations were promulgated on February 23, 1978 (43 FR 7568). The standards limit emissions of particulate matter and TRS from new or modified recovery furnaces, smelt dissolving tanks, lime kilns, digester systems, multiple effect evaporator systems, black liquor oxidation systems, brown stock washer systems, and condensate stripper systems that have been constructed, modified, or reconstructed after September 24, 1976.

The particulate matter emission limits are: 0.10 gram per dry standard cubic meter (g/dscm) at 8 percent oxygen for recovery furnaces; 0.10 gram per kilogram of black liquor solids (dry weight) (g/kg BLS) for smelt dissolving tanks; 0.15 g/dscm at 10 percent oxygen for lime kilns burning gas; and 0.30 g/dscm at 10 percent oxygen for lime kilns burning oil. Visible emissions from recovery furnaces are limited to 35 percent opacity.

The TRS emission limits are: 5 parts per million (ppm) by volume at 8 percent oxygen from straight kraft recovery furnaces; 25 ppm by volume at 8 percent oxygen from cross recovery furnaces; 8 ppm by volume at 10 percent oxygen from lime kilns; and 5 ppm by volume at the actual oxygen content of the untreated gas stream from digester systems, multiple-effect evaporator systems, brown stock washer systems, black liquor oxidation systems, and condensate stripper systems. TRS emissions from smelt dissolving tanks are limited to 0.0084 g/kg BLS.

The standards also require continuous monitoring, recordkeeping, and excess emission reporting. The opacity of recovery furnace exhaust gases must be monitored continuously, and a record of these measurements must be maintained. The concentration of TRS emissions from all affected facilities except smelt dissolving tanks must be monitored continuously and a record of these measurements must be maintained. However, this TRS monitoring requirement will not be implemented until performance specifications for the monitoring equipment are promulgated. The performance specifications were proposed on July 20, 1981 (46 CFR 37287) and will be promulgated shortly. Kraft pulp mills regulated by the NSPS will have 12 months from the date of promulgation to install the TRS monitors. The incineration temperature of effluent gases from digesters, brown stock washers, multiple-effect evaporators, black liquor oxidizers, or condensate strippers must be monitored. Finally, the gas stream pressure drop and liquid supply pressure for any scrubber controlling emissions from lime kilns or smelt dissolving tanks must be continuously monitored. Records of 12-hour average TRS concentrations and 12-hour oxygen concentrations must be maintained on a daily basis. Quarterly reports of excess TRS emissions, excess opacities, and inadequate incineration temperatures are required as well.

As required by Section 111(a)(1) of the Clean Air Act, the promulgated standards reflected application of "the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impact and energy requirements) the Administrator determines has been

adequately demonstrated." For convenience, this is referred to as "best demonstrated technology" or "BDT."

Section 111(b)(1)(B) requires review and, if appropriate, revision of NSPS every 4 years. A principal purpose of this review and revision is to insure that the standards reflect a current assessment of best demonstrated technology. Thus, if there now exists an adequately demonstrated technology that yields greater emission reduction than required by the standards, more stringent standards will be established reflecting the performance of that technology. On the other hand, if the standard is found to require application of technology that is not adequately demonstrated (for either technical or cost reasons, for example), more lenient standards will be established reflecting the best technology that is adequately demonstrated.

A review of the standards of performance for kraft pulp mills has recently been completed. The findings of this review are presented in the following sections of this notice. The first two sections summarize the industry growth and changes in emission control technology that have occurred since proposal of the NSPS. Subsequent sections discuss the findings of the review for each of the kraft pulp mill facilities regulated by the NSPS. This discussion parallels the order in which the affected facilities are used in the kraft pulping process.

Findings and Conclusions

Industry Growth

IN 1976 there were about 120 kraft pulp mills located in 28 States throughout the United States. The production capacity of these plants ranged from 200 to 2,500 tons of pulp per day. A typical mill produced 800 tons of pulp per day.

Since proposal of the NSPS in 1976, 91 affected facilities have been constructed at 24 existing and two new kraft pulp mills. This industry growth has occurred primarily in the Southeastern United States. Typical production capacity for the two new plants is 1,000 tons of pulp per day.

The growth in annual pulp production has averaged 3.5 percent from 1976 through 1981. Current growth forecasts indicate that pulp production declined by 2.3 percent in 1982, but will rise to a 4.6 percent annual growth rate by late 1983.

Best Demonstrated Technology

At proposal of the NSPS, the best demonstrated technologies for control of particulate matter emissions from kraft pulp mills were considered to be: (1) Electrostatic precipitators for recovery furnaces, (2) venturi scrubbers for lime kilns, and (3) wet scrubbers for smelt dissolving tanks. As explained in the following sections, these devices continue to be considered best demonstrated technologies for control of particulate matter emissions in this industry.

At proposal, the best demonstrated technologies for controlling TRS emissions from kraft pulp mills were considered to be: (1) Incineratin of the exhaust gases from digestors, evaporators, washers, black liquor oxidation systems, and condensate strippers; (2) the use of water in smelt dissolving tanks that is low in sulfides and TRS compounds; (3) process controls and either black liquor oxidation or noncontact evaporators for recovery furnaces; and (4) process controls, proper mud washing, and caustic scrubbing for lime kilns. As explained below, these technologies continue to be considered best demonstrated technology for TRS emissions in this industry—with one exception. The exception is incineration of TRS emissions from black liquor oxidation systems.

The Kraft Pulping Process

The kraft pulping process begins with the chemical pulping of wood chips in a digester. Next, the chemicals are separated from the pulp in a series of washers and the pulp is processed into an intermediate of finished product. The remainder of the kraft process is designed to recover chemicals and heat for reuse in the digester. Initially, the chemicals are concentrated in multiple effect evaporators and combusted in a furnace to recover sodium and sulfur. The molten chemicals, or smelt, that collect at the bottom of the recovery furnace are dissolved in a smelt dissolving tank and transferred to a causticizing tank where quicklime is added. This completes the regeneration of the chemicals that are used in the digester. The precipitate remaining in the causticizing tank is then calcined in a lime kiln to recover quicklime. Condensed vapor streams from several of the pulping facilities are transferred to a condensate stripping system before recycle or discharge to a water treatment pond.

Digester and Multiple-Effect Evaporator Systems

In the digester, wood chips are cooked with sodium sulfide and sodium hydroxide at elevated temperatures and pressures. Spent cooking liquor from the disgester is combined with discharge from brown stock washers to form dilute black liquor. This black liquor is then concentrated in a series of multiple effect evaporators to facilitate combustion.

Exhaust gases from digesters and multiple effect evaporates contain TRS compounds. Normally, TRS emissions from these facilities are combined for treatment. The TRS standard for digesters and evaporators is based on incineration of exhaust gases in either a lime kiln, power boiler, or incinerator. No other control techniques for reducing TRS emissions from digesters and evaporators have been demonstrated.

Thirteen digesters and twelve multiple effect evaporators have been installed since proposal of the existing standards. Each of these digesters and evaporators is in compliance with the TRS standard. The cost of incinerating the TRS emissions from these facilities is the aggregate of the component costs of pipes and blowers that collect the gas streams, and pipes and controls used to deliver and inject the gases into the kiln, boiler, or incinerator. The annualized costs, emission reductions, and cost effectiveness for TRS control in this manner are about $67,000, 410 tons of TRS removed, and $160 per ton of TRS removed, respectively.

Based on the performance and costs cited above, no changes are proposed to the best demonstrated technology for controlling TRS emissions or to the TRS standard for digesters and evaporators.

Brown Stock Washers

Brown stock washers remove the black liquor from the pulp produced by the digesters. Emissions containing TRS compounds are generated in the washers as volatile sulfur compounds are vaporized in the washer exhaust gases. The standard for TRS emissions from brown stock washers is based on incineration of the exhaust gases. No other control techniques for reducing TRS emissions from brown stock washers have been demonstrated.

Ten brown stock washers are regulated by the existing standards; each of these washers is in compliance with the TRS standards. Three of these washers are vacuum drum washers, while seven are the newer diffusion washers. Virtually all new washers are expected to be diffusion washers.

In contrast to the vacuum washer, the diffusion washer is a closed reactor. Ideally, there is no air introduced into this washer, and little or no gas is generated during the washing process. Therefore, the mass of the TRS compounds in the exhaust gas is considered to be very small in

comparison to the mass of TRS in the exhaust gas from vacuum drum washers. In fact, two diffusion washers subject to the NSPS were not required to be controlled by their permitting agencies because no gases were vented from the washers. Vent gases from the other five diffusion washers subject to the standard are being incinerated in either a lime kiln, recovery furnace or incinerator, and therefore, are in compliance with the NSPS.

The annualized costs, emission reductions beyond uncontrolled levels, and overall cost effectiveness of incinerating TRS emissions from diffusion washers are estimated to be $44,000, 50 tons of TRS compounds annually and $900 per ton of TRS removed. These estimates are based on the assumption that TRS emission rates from diffusion washers are essentially the same as those from vacuum drum washers. These cost estimates and the performance discussed confirm the reasonableness of the TRS standard for diffusion washers.

The air flows and TRS emissions from diffusion washers, however, may be significantly lower than those of vacuum washers. An industry testing program to quantify these parameters for diffusion washers is currently in progress and the results of this study will be available later this year. If the TRS emissions from diffusion washers are significantly lower than those of vacuum washers, the diffusion washers may be able to meet the TRS standard without controls. If this is the case, then the units of the standard could be changed to permit compliance on a mass basis or diffusion washers could be exempted from the standards. Neither of these approaches would require control of TRS emissions from diffusion washers.

The costs of incinerating TRS emissions from vacuum washers are somewhat higher than the costs of incinerating TRS emssions from diffusion washers. This is because of the larger hoods and exhaust gas volumes associated with vacuum drum washers. The annualized costs, emission reductions beyond uncontrolled levels, and overall cost effectiveness of incinerating TRS emissions from vacuum washers are about $120,000, 50 tons of TRS removed annually, and $2,300 per ton of TRS compounds removed, respectively. This cost effectiveness is based on the installation of a vacuum washer in a new mill. If a vacuum washer is installed in an existing mill, the cost effectiveness may be significantly higher. This is because the exhaust gases might have to be conveyed a long distance to reach an incineration device. Thus, where vacuum washers must be installed and located some distance from an incineration device, an exemption from the incineration requirement is reasonable. This exemption is discussed further below.

Recovery Furnace Systems

Recovery furnaces combust concentrated black liquor to recover chemicals and produce steam. Pollutants generated by this combustion include particulate matter and TRS compounds. Sixteen recovery furnaces have been installed or modified since proposal of the NSPS and thus are regulated by the standards. Two of these furnaces concentrate the black liquor (before combustion) by bringing the liquor into direct contact with furnace exhaust gases in a direct contact evaporator. To prevent the exhaust gases from absorbing TRS compounds from the liquor, the liquor is oxidized in a black liquor oxidation system to reduce the concentration of sulfides. The other fourteen furnaces concentrate black liquor in noncontact evaporators. These noncontact furnaces eliminate the need for black liquor oxidation. Most future recovery furnace installations are expected to be the noncontact type.

The particulate matter standard for recovery furnaces is based on the use of electrostatic precipitators and performance test data available from 13 NSPS recovery furnaces indicate that each is in compliance with the particulate matter emission limit. (Performance test data for particulate matter control are not available for the other three NSPS recovery furnaces.) All use ESP's to recover sodium sulfates and carbonates from the furnace exhaust. Particulate matter emissions from ESP's on new and modified recovery furnaces range from 0.007 to 0.080 gram per dry standard cubic meter (g/dscm). These ESP's achieve emission reductions (beyond uncontrolled levels) of 29,000 to 37,000 tons per year of particulate matter. Their total annualized costs of $980,000 to $1,100,000 are offset by the value of the sodium sulfate and carbonate recovered, which ranges from about $3,300,000 to $4,200,000 annually. Thus, the overall cost effectiveness of particulate matter emission control is a savings of about $80 per ton of particulate matter removed. The incremental emission reduction, costs, and cost effectiveness (beyond the recovery level that the mill would achieve in the absence of standards) are 830 to 1,200 tons per year, $150,000 to $140,000 annually, and about $180 to $120 per ton of particulate matter removed

During review of the recovery furnace particulate matter standard, the potential for gradual ESP deterioration was investigated to insure that the recovery furnace particulate matter emission limit adequately reflected long-term ESP performance. While most of the installations subject to the NSPS have operated for less than 3 years, data are available from one unit that has been operating since 1973 (see BID pages 4–4 and 4–5). This information indicates that, with maintenance of about 900 hours annually, ESP performance has remained below the NSPS emission limit over the 9-year period. Thus, the recovery furnace aprticulate matter emission limit is reasonable, because it reflects long-term ESP performance.

The performance and cost information discussed above indicates that no revisions to best demonstrated technology or to the particulate standard for recovery furnaces, therefore, are appropriate.

TRS emissions from a recovery furnace system can originate in both the recovery furnace and the direct contact evaporator, if this type of evaporator is used. Most new recovery furnace systems use noncontact evaporators and most future furnaces are expected to use noncontact evaporators. There may be some situations, however, in which direct contact evaporators must be used. Pulping of some hardwoods, for example, may require the use of a direct contact furnace. Controlled TRS emissions are about the same from a noncontact recovery furnace and a direct contact recovery furnace with a black liquor oxidation system. Consequently, from the viewpoint of TRS emissions control, neither furnace has a distinct advantage over the other.

Best demonstrated technology for controlling TRS emissions from direct contact recovery furnaces is maintenance of proper combustion conditions and black liquor oxidation. No other control techniques for reducing TRS emissions have been demonstrated for direct contact recovery furnaces. Black liquor oxidation (BLO) inhibits the reaction between the recorvery furnace exhaust gases and black liquor in the direct contact evaporator that generates TRS. TRS emissions from the two new direct contact recovery furnaces are 0.1 and 2.8 ppm. The total annualized costs and TRS emission reduction of the direct contact furnace system are about $770,000 and 2,400 tons per year, respectively. Thus, the cost effectiveness of controlling TRS emissions from a direct contact recovery

furnace system with BLO is about $320 per ton of TRS removed.

In the noncontact furnace systems, best demonstrated technology for controlling TRS emissions from the furnace is the maintenance of proper combustion conditions and black liquor feed rates to the furnace. No other control techniques for reducing TRS emissions have been demonstrated for noncontact recovery furnaces. Performance tests data available from 10 of these noncontact recovery furnace systems indicate that TRS emissions at the furnace exists are in compliance with the TRS emission limit. (Performance test data for TRS emission control are not availabe for the other six NSPS recovery furnaces.) TRS emissions from these recovery furnaces range from 1.8 to 4.4 parts per million (ppm).

The total incremental annualized costs and TRS emission reduction achieved by a noncontact recovery furnace over an uncontrolled direct contact recovery furance are about $450,000 and 2,400 tons per year, respectively. Thus, the overall cost-effectiveness of controlling TRS emission through the use of a noncontact recovery furnace is about $200 per ton of TRS removed.

Recently, four kraft pulp mills with "wet-bottom" ESP's on noncontact recovery furnaces subject to the NSPS have experienced problems in achieving the TRS emission limit. Wet-bottom ESP's use unoxidized black liquor to remove particulate matter that is collected in the ESP. While the exhaust gases from these noncontact recovery furances reportedly meet the TRS emission standard, the gases apparently absorb TRS compounds as they pass over the unoxidized black liquor in the wet-bottom ESP. Only within the past several months, as these new facilities have completed start-up and initiated performance testing, has this problem become evident.

The application of wet-bottom ESP's that use unoxidized black liquor to NSPS recovery furnaces has occurred since proposal of the NSPS. These ESP's were installed after tests of wet-bottom ESP's using unoxidized liquor on two recovery furnaces not subject to the NSPS revealed that they could comply with the NSPS particulate matter and TRS emission limits.

Of the eight noncontact recovery furnacs with wet-bottom ESP's three have been able to deomonstrate compliance with the standard, and modifications to another have enabled it to achieve compliance. However, despite identical modifications made to the remaining noncontact recovery furnaces with wet-bottom ESP's, they have failed to demonstrate compliance to date.

In an attempt to focus resources and attention in this situation, the industry has turned to its technical association, the National Council for Air and Stream Improvement (NCASI). In response, NCASI has initiated a study to determine the factors which influence TRS emissions from noncontact recovery furnace wet-bottom ESP's using unoxidized black liquor and to evaluate alternaitve means of bringing these recovery furnaces into compliance with the TRS standard. The results of this study will be available in about a year.

In conclusion, the available data show that new recovery furnaces can achieve the TRS standard through the use of dry-bottom ESP's and, at least in some cases, with wet-bottom ESP's. However, the problems being experienced at some mills with wet-bottom ESP's indicate that any future decision by a mill owner to install a wet-bottom ESP should be made only after careful consideration of information specific to the individual mill and the results of the NCASI study as it evolves. With respect to furnaces which are now on-line with wet-bottom ESP's, careful evaluation indicates that the only reasonable course of action is to delay completion of the review of the TRS standard for recovery furnaces until the NCASI study is complete. The progress of this study will be followed closely and, at its conclusion, the results will be evaluated to determine the appropriate action to take.

Recovery furnaces are also sources of sulfur dioxide (SO_2) and nitrogen oxide (NO_x) emissions. Emission tests conducted during development of the NSPS indicate that a typical recovery furnace may emit as much as 600 tons per year of SO_2 and 300 tons per year of NO_x. While no techniques for SO_2 controls have been demonstrated in this industry, it may be possible to transfer SO_2 controls that have been applied to industrial and utility boilers. However, a preliminary analysis of the costs of applying a technique such as wet scrubbing to recovery furnaces indicates that the cost effectiveness of such control may approach $3,000 per ton of SO_2 removed. Because of the magnitude of this control costs, no revisions to the NSPS to regualte SO_2 emissions are proposed. Additionally, no revisions to the NSPS to regulate NO_x emissions from recovery furnaces are proposed, because no techniques for reducing these NO_x emissions have been demonstrated.

Black Liquor Oxidation Systems

Since proposal of the NSPS, two black liquor oxidation (BLO) systems have been installed with direct contact recovery furnaces. As discussed previously, BLO is designed to decrease TRS emissions from direct contract evaporators by oxidizing the sodium sulfides in the black liquor. The sulfides may be oxidized by bubbling either air or molecular oxygen through the black liquor. By-products of the air-liquor reaction are TRS compounds; there are no by-products from the oxygen-liquor reaction.

To control TRS emissions from BLO systems that use air, the gases containing TRS compounds are generally vented from the BLO tank through a condenser and preheater before being used as combustion air in a power boiler. The annualized costs, emission reductions, and cost effectiveness of this TRS control method are about $150,000, 16 tons of TRS removed annually, and about $9,200 per ton of TRS removed, respectively. As mentioned above, molecular oxygen could be used in BLO systems rather than air. This would preclude the need to control TRS emissions. The cost of a molecular oxygen system, however, is significantly higher than that mentioned above for control of TRS emissions from BLO systems that use air. Costs approach $500,000 annually for the supply of molecular oxygen alone.

When the NSPS was proposed, the TRS standard for BLO systems was based on incineration of the exhaust gases in a power boiler or other combustion device. This is because the cost of the other demonstrated TRS emission control technique for BLO systems (the use of molecular oxygen) was found to be unreasonable.

There is no absolute criterion available for establishing what cost per ton of TRS removed may be reasonable. However, a cost effectiveness in the range of $9,200 per ton of TRS removed is very high compared to the cost effectiveness of controlling other pollutants regulated by new source performance standards (typically, $3,000 or less per ton in 1982 dollars). Consequently, considering that TRS emissions from BLO tanks are a relatively small part (about 0.5 percent) of the total uncontrolled TRS emissions from a kraft pulp mill, this $9,200 cost per ton of TRS removed is unreasonable. Thus, incineration of TRS emissions from BLO tanks is no longer considered to be best demonstrated technology. Because there are no other demonstrated techniques for reducing

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TRS emissions from BLO tanks with costs lower than those of incineration, a revision to the NSPS exempting these facilities from regulation is proposed.

The national economic and environmental impacts of the proposed revision are a cost savings of $500,000 annually and an increase in TRS emissions of 16 tons annually. These projections assume that the mill with the molecular oxygen BLO system will stop using this system upon promulgation of the proposed revision. The increased TRS emissions represent 42 percent of the mill's controlled TRS emissions but only about 0.5 percent of its uncontrolled emissions.

Smelt Dissolving Tanks

Molten smelt that accumulates on the floor of the recovery furnace is dissolved in water in the smelt tank. As the molten smelt contacts the water, a large volume of steam is evolved. This steam, which is vented from the smelt tank, contains entrained particulate matter and TRS compounds.

Sixteen new smelt dissolving tanks are subject to the existing standards of performance. Review of particulate matter emission performance test results from 12 of the smelt dissolving tanks indicates that each is in compliance with the particulate matter standard. (Performance test data for particulate matter control are not available for the other four smelt tanks.) A wetted fan scrubber or venturi scrubber is being used to remove particulate matter (as sodium sulfates carbonates) from the gas stream exhausted from each smelt tank. The particulate matter standard for smelt tanks is based on the use of wet scrubbers. No other control techniques for reducing particulate mattter emissions from smelt dissolving tanks are demonstrated. Particulate matter emissions from scrubbers on new and modified smelt dissolving tanks range from 0.025 to 0.095 gram per kilogram of black liquor solids. The total annualized costs of about $69,000 for this particulate matter control are offset by the value of the 1,300 tons of sodium sulfate and carbonate recovered (beyond uncontrolled levels), which is about $140,000 annually. Thus, the overall cost effectiveness of the scrubbers is a savings of about $55 per ton of particulate matter removed. The incremental emission reduction, costs, and cost effectiveness (beyond the recovery level that the mill would establish in the absence of standards) are 180 tons annually, $29,000, and $160 per ton of particulate matter removed. No changes are proposed to best demonstrated technology or to the particulate matter standard for smelt disolving tanks.

There are no TRS control devices for smelt dissolving tanks. Emissions of TRS compounds are governed by the concentration of reduced sulfur compounds either in the smelt from the recovery furnace or in the water in the smelt tank. The best demonstrated technology for controlling TRS emissions from smelt dissolving tanks is to use a liquid that is low in sulfides and TRS compounds—such as fresh water or recycled water from the lime mud washer—in the smelt tank and particulate control device. There are no other demonstrated technologies for controlling TRS emissions from smelt tanks. Review ot TRS performance test results from nine smelt dissolving tanks indicates that all but one are complying with the TRS emission standard. (Performance test data for TRS emission control are not available for the other seven smelt tanks.) TRS emissions from new and modified smelt dissolving tanks that are in compliance ranged from 0.001 to 0.007 gram per kilogram of black liquor solids (g/kg BLS). While there is no cost associated with this process control technique, it reduces TRS emissions by 30 tons per year.

The single smelt tank that was not in compliance with the smelt tank TRS emission standard was using a liquid that was low in sulfides and TRS compounds during its compliance test. Subsequently, fresh water and water-caustic solutions were employed in an attempt to achieve compliance. However, TRS emissions ranged as high as 0.016 g/kg BLS during these tests, in spite of the use of best demonstrated technology. Consequently, to insure that the TRS standard for smelt tanks can be achieved by best demonstrated technology, a revision to this standard is proposed to increase the emission limit from 0.0084 g/kg BLS to 0.016 g/kg BLS. This proposed change is consistent with the observed performance of best demonstrated technology for controlling TRS emissions from smelt tanks.

There would be no economic impact associated with the proposed change in the TRS standard for smelt tanks. The proposed revision will permit the kraft pulp mill that cannot meet the existing TRS standard for smelt tanks to increase its TRS emissions by 3 tons annually. This represents about 0.2 percent of the kraft pulp mill's uncontrolled TRS emissions and, at most, 8 percent of its controlled TRS emissions. Based on the past performance of smelt tanks subject to the NSPS, it is expected that one more smelt tank will emit TRS compounds at the level of the proposed limit during the next 5 years. Thus, the cumulative impact of the proposed TRS standard in the fifth year following proposal is an increase in TRS emissions of 6 tons annually.

Compliance with the TRS standard for smelt dissolving tanks is calculated by summation of the mass emission rates of each TRS compound measured with Method 16 [as described in Section 60.285(d)(3) of the regulation]. Since promulgation of this compliance procedure, a less expensive and simpler performance test method has been proposed. This test method, Method 16A, does not yield results for each individual TRS compound; rather, it yields a single value for TRS emissions expressed as hydrogen sulfide (H_2S). To permit the use of Method 16A in determining compliance with the TRS standard for smelt dissolving tanks, a revision to the standards is proposed to change the units of the smelt tank standard from pounds per ton of black liquor solids dry weight to pounds per ton of black liquor solids expressed as H_2S.

Lime Kilns

Lime Kilns are used at kraft pulp mills to regenerate quicklime from the precipitate that collects at the bottom of a causticizing tank. As the kiln calcines the precipitate, both particulate matter and TRS emissions are generated. At proposal of the NSPS, the particulate matter standard was based on the use of venturi scrubbers, while the TRS standard was based on the use of process controls, proper mud washing, and caustic scrubbing.

Nineteen lime kilns are subject to the NSPS. Performance test data from 15 kilns indicate that each is in compliance with the particulate matter emission limit. (Performance test data for particulate matter control are not available for the other four kilns.) The particulate matter emissions ranged from 0.027 to 0.144 g/dscm for gas-fired kilns and from 0.071 to 0.185 g/dscm for oil-fired kilns. Fourteen of these kilns control particulate emissions (calcium carbonate and calcium oxide) with venturi scrubbers. One mill, however, has installed an ESP for particulate emission control. The total annualized costs of about $230,000 for venturi scrubber control of particulate matter emissions are offset by the value of the 13,000 tons of sodium sulfate and carbonate removed, which is about $780,000. Thus, the overall cost effectiveness of the scrubbers is a savings of about $43 per ton of particulate matter removed. The

incremental costs (beyond the recovery level that the mill would establish in the absence of standards), emission reductions, and cost effectiveness are $29,000, 180 tons of particulate matter annually, and $160 per ton of particulate matter removed respectively.

ESP's are capable of achieving greater reductions in particulate matter emissions that venturi scrubbers. However, they are not capable of reducing TRS emissions from the lime kiln. Venturi scrubbers, on the other hand, can achieve substantial reductions in TRS emissions, as well as in particulate matter emissions. The incremental cost (beyond that of venturi scrubbers alone) of standards based on control of emissions by using ESP's and venturi scrubbers in series is about $3,200 per ton of particulate matter removed. Considering the magnitude of this cost, and the performance of venturi scrubbers in achieving both particulate matter and TRS emission reductions, venturi scrubbers continue to be the basis for the particulate matter standard.

The best demonstrated technology for control of TRS emissions from lime kilns is a combination of good process controls, adequate mud washing, and the use of caustic in the scrubber (if necessary). No other control techniques for reducing TRS matter emissions from lime kilns have been demonstrated. Review of performance test data available from 13 new kilns indicates that each is in compliance with the TRS emission limit. (Performance test data for TRS emission control are not available for the other six kilns.) The TRS emissions ranged from 0.5 to 7.3 ppm. The annualized cost, TRS emission reductions, and overall cost effectiveness of these control techniques are about $110,000, 120 tons annually, and $890 per ton of TRS removed, respectively. These costs do not take any credit for the particulate matter emission control achieved by the scrubber. However, they do include the cost of caustic addition to the scrubber, and the cost of the energy needed to raise the cold-end kiln temperature by 100° F.

The one lime kiln mentioned above which is controlled with an ESP is trying to meet the TRS emission limit by relying only on good process control and mud washing. While the kiln has not completed a performance test for TRS emissions, preliminary indications are that some 12-hour average TRS concentrations are in excess of the standard. This kiln, however, has been operating for only a few months and is still in the process of start-up. Consequently, the plant is still "debugging" and optimizing the operation of the lime kiln and the mud washers. The plant engineers believe that improved mud washing practices—possibly in conjunction with mud oxidation—will result in compliance with the TRS standard.

Lime kilns are also sources of NO_x emissions. Emission tests conducted during development of the NSPS indicate that a typical lime kiln may emit as much as 200 tons per year of NO_x. No revision to the NSPS to regulate this pollutant is proposed, however, because no techniques for control of NO_x have been demonstrated in this industry.

Condensate Stripping System

When the exhaust gases from the digester and evaporators are condensed, some TRS compounds are dissolved in the condensate. To prevent the release of TRS compounds with the condensed liquid that is discharged to water treatment ponds, some kraft pulp mills strip the TRS compounds from the liquid prior to discharge. Other plants recycle the condensate.

Three condensate strippers have been installed since proposal of the standards. Each of these condensate strippers is in compliance with the TRS standards. The best demonstrated technology for reducing TRS emissions in the vent gases from these strippers is incineration in a lime kiln, power boiler, or incinerator. No other control technologies for reducing TRS emissions from condensate strippers have been demonstrated. The cost of incineration control of TRS emissions includes the costs of pipes and blowers that collect the gas streams, and pipes and controls used to deliver and inject the gases into the kiln, boiler, or incinerator. The annualized costs, TRS emission reductions, and cost effectiveness for control of condensate stripper TRS emissions in this manner are about $12,000, 330 tons, and about $37 per ton of TRS emissions, respectively.

No change is proposed to the best demonstrated technology or to the TRS standard for condensate strippers

Power Boilers and Water Treatment Ponds

The existing standards regulate all process gas streams identified as major sources of particulate matter emissions and TRS emissions at kraft pulp mills except for power boilers and water treatment ponds. Power boilers are a source of particulate matter and nitrogen oxide emissions and, depending on the fuel fired, sulfur dioxide emissions. Power boilers that are capable of firing more than 250 million Btu's of fossil fuel an hour are regulated under Subpart D, 40 CFR 60. Standards of performance for boilers that fire less than 250 million Btu's of fuel an hour are currently being developed.

Water treatment ponds are a source of TRS emissions at some kraft pulp mills. Many new mills reduce TRS emissions from their treatment ponds by treating effluent condensate streams in a condensate stripper prior to discharging them to the ponds. However, due to reactions that may occur in the ponds, the use of condensate strippers does not insure that TRS emission reductions will occur. Moreover, no technique for measuring fugitive TRS emissions is available. Thus, the magnitude of TRS emissions from treatment ponds cannot be quantified, the performance of condensate strippers cannot be determined, and those treatment pond design parameters which minimize reactions producing TRS emissions cannot be investigated. Consequently, an equipment standard that would require the use of condensate strippers to reduce TRS emissions from treatment ponds is not considered reasonable at this time.

Exemption for Brown Stock Washers and Black Liquor Oxidation Systems

Presently, the NSPS include an exemption from the requirement to incinerate TRS emissions from black liquor oxidation systems and brown stock washers when incineration is not economically feasible. This exemption was based on the belief that TRS emissions from these facilities would be controlled by incineration in recovery furnaces. The exemption was included because some older recovery furnaces do not have the capability to accept these gases safely without altering the furnaces. The costs associated with these alterations was considered unreasonable. However, information obtained during the review of the standards indicates that power boilders are being used as the incineration device instead of recovery furnaces. Thus, the rationale that originally supported the exemption is no longer appropriate. However, as discussed earlier, when new vacuum drum washers installed at existing mills must be located a long distance away from an incineration device, the cost of incineration control may be unreasonable. For this reason, and because no other control techniques with lower costs are considered demonstrated, the exemption is retained in the revised standards.

Temperature Monitoring Requirement

The standards currently require the installation of a monitor to measure the combustion temperature at the point of incineration of effluent gases which have been combusted in an incinerator or other device not regulated by the standards. Review of this requirement indicates that it is unnecessary for power boilers, recovery furnaces, or lime kilns. Flame temperatures and residence times required to operate these facilities generally exceed the 1,200°F and ½ second considered necessary for adequate incineration of TRS emissions. Therefore, when adequate temperature and residence time are demonstrated at the point the effluent gases are incinerated, a requirement to monitor combustion temperatures in these facilities is not needed. As a result, a revision is proposed to the standards to require combustion temperature monitoring only when effluent gases are combusted in an incinerator.

Impacts of Reporting and Recordkeeping Requirements

Three types of reports are associated with the existing standards of performance. First are notification requirements, which inform enforcement personnel of facilities subject to the standards. Second is reporting of the results of performance tests that are conducted to determine compliance with the standards. Third are quarterly reports that identify periods of excess emissions recorded by each continuous emission monitor. These reports are required by the General Provisions of 40 CFR Part 60, which apply to all standards of performance. No other reports are required by the existing standards.

Today's proposal would make two minor changes to these reporting requirements. The first change would be to delete the requirement to monitor and report combustion temperatures in lime kilns, power boilers, and recovery furnaces. The second change would be to revise the frequency of excess emission reports from quarterly to semi-annually. These changes would have a negligible impact on the reporting burdens required by the existing NSPS.

Pursuant to the Paperwork Reduction Act of 1980 (Pub. L. 96–511), EPA estimated the reporting and recordkeeping requirements imposed by the NSPS. During the next 2 years the standards are in effect the total industry-wide burden of the reporting and recordkeeping requirements will be about 26,000 person-hours, based on 8 respondents in 2 years.

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this proposed rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and have been assigned OMB control number 2060–0021. Comments on these requirements should be submitted to the Office of Information Regulatory Affairs of OMB marked Attention: Desk Officer for EPA. The final rule package will respond to any OMB or public comments on the information collection requirements.

Public Hearing

A public hearing will be held, if requested, to discuss the proposed standards in accordance with Section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the **ADDRESSES** section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the **ADDRESSES** section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section in Washington, D.C. (see **ADDRESSES** section of this preamble).

Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered in the development of this proposed rulemaking. The principal purposes of the docket are: (1) To allow interested parties to identify and locate documents so that they can effectively participate in the rulemaking process; and (2) to serve as the record in case of judicial review, except for interagency review materials (Sec. 307(d)(7)(A)).

Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980 (RFA), the impacts of the standards on small businesses were considered. Applicable guidelines define a small business as "any business concern which is independently owned and operated and not dominant in its field as defined by the Small Business Administration Regulations under Section 3 of the Small Business Act." The Small Business Administration has determined that any firm classified in the SIC 2611 (which includes kraft pulp mills) that employs less than 750 workers will be considered small in regard to the Small Business Act.

It is quite possible that some kraft pulp mills qualify as small businesses and are affected by the standards. If a substantial number of small businesses are affected by a regulation, and any of the following four criteria are met, the impact of the regulation on a small business is considered significant.

Under the first criterion, the impact is judged to be significant if the regulation causes the average total cost of production to increase by 5 percent or more. The standards do not cause an increase in the average total cost of production as high as 5 percent. Thus, the impacts of the standards on small businesses are not significant from an average total cost standpoint.

The second criterion for significance relates compliance costs to sales for small versus large businesses. If compliance costs as a percent of sales for small businesses are at least 10 percent higher than compliance costs as a percent of sales for larger businesses, the impact is judged to be significant.

The total annualized cost of compliance as a percent of sales is much less than 10 percent greater for a small plant than for a large plant. The small business impact of the standards is not significant by this measure.

A third criterion to measure the significance of an impact on small businesses compares the capital cost of compliance with the capital available to small firms. It is difficult to determine how much capital is available to a firm. A reasonable approach is to recognize that the capital available to a small firm building a new kraft pulp mill at least equals the capital cost of the plant itself. The capital cost of compliance with the standards is about 2 percent of plant capital cost. Therefore, the capital costs of compliance do not represent a significant portion of capital available to small businesses.

The fourth criterion for significance is whether the regulation is likely to result in closures of small businesses. The standards will not result in any closure of firms of any size.

The standards, therefore, do not have a significant impact on small businesses.

Miscellaneous

As prescribed by Section 111, establishment of standards of performance for kraft pulp mills was preceded by the Administrator's determination that these sources contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. In accordance with Section 117 of the Act, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal

departments and agencies. The Administrator will welcome comments on all aspects of the proposed regulation, including economic and technological issues.

This regulation will be reviewed 4 years from the date of promulgation as required by the Clean Air Act.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any revision of a new source standard of performance promulgated under Section 111(b) of the Act that the Administrator determines to be a substantial revision. An economic impact assessment was prepared for the proposed revisions and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the proposed revisions to ensure that the revised standards would represent the best system of emission reduction considering costs. The economic impact assessment is included in the BID.

The cost effectiveness of each regulatory alternative was evaluated in order to determine the least costly way to reduce emissions and to assure that the controls required by this rule are reasonable relative to other regulations. In this case, the proposed revisions will not impact particulate matter emissions from this industry, but may increase emissions of TRS by about 22 tons per year in the fifth year following today's proposal. This estimate is based on the assumption that, in the fifth year, one BLO tank will not control TRS emissions, and two smelt tanks will emit TRS compounds at the level of the proposed TRS standard. The economic impact associated with the proposed revisions is an annual savings of $500,000 in the fifth year following proposal. The savings accrues from avoided operating costs for the BLO tank will no longer control TRS emissions.

Under Executive Order 12291, a judgement must be made as to whether a regulation is "major" and therefore subject to the requirement of a regulatory impact analysis. This regulation is not considered major. The proposed revision would have a minimal impact on the economy with a slight decrease in the air pollution control system expenditures by 1987. No impacts on costs or prices of products are anticipated. The proposed standard would not adversely affect competition, employment, or the ability of the industry to compete with foreign pulp mills.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

List of Subject in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc, Tires, Incorporation by reference, Can surface coating, Sulfuric acid plants, Industrial organic chemicals, Organic solvent cleaners, Fossil fuel-fired steam generators.

Dated: December 28, 1983.

Alvin L. Alm,

Acting Administrator.

PART 60—[AMENDED]

It is proposed to amend 40 CFR Subpart BB as follows:

* * * * *

1. In § 60.280, paragraphs (a) and (b) are revised to read as follows:

§ 60.280 Applicability and designation of affected facility.

(a) The provisions of this subpart are applicable to the following affected facilities in kraft pulp mills: Digester system, brown stock washer system, multiple-effect evaporator system, recovery furnace, smelt dissolving tank, lime kiln, and condensate stripper system. In pulp mills where kraft pulping is combined with neutral sulfite semichemical pulping, the provisions of this subpart are applicable when any portion of the material charged to an affected facility is produced by the kraft pulping operation.

(b) Except as noted in § 60.283(a)(1)(iv), any facility under paragraph (a) of this section that commences construction or modificaiton after September 24, 1976, is subject to the requirements of this subpart.

* * * * *

2. In § 60.283, the introductory text of paragraph (a)(1) is revised to read as indicated below. Additionally, subparagraphs (a)(1)(iv) and (a)(1)(v) and paragraph (a)(4) are revised to read as indicated below:

§ 60.283 Standard for total reduced sulfur (TRS).

(a) * * *

(1) From any digester system, brown stock washer system, multiple-effect evaporator system, or condensate stripper system any gases which contain TRS in excess of 5 ppm by volume on a dry basis, corrected to 10 percent oxygen, unless the following conditions are met:

* * * * *

(iv) It has been demonstrated to the Administratior's satisfaction by the owner or operator that incinerating the exhaust gases from a new, modified, or reconstructed brown stock washer system is technologically or economically not feasible. Any exempt system will become subject to the provisions of this subpart if the facility is changed so that the gases can be incinerated.

(v) The gases from the digester system, brown stock washer system, or condensate stripper system are controlled by a means other than combustion. In this case, this system shall not discharge any gases to the atmosphere which contain TRS in excess of 5 ppm by volume of a dry basis, corrected to the actual oxygen content of the untreated gas stream.

* * * * *

(4) From any smelt dissolving tank any gases which contain TRS in excess of 0.016 g/kg black liquor solids as H_2S (0.033 lb/ton black liquor solids as H_2S).

* * * * *

3. In § 60.284, both the introductory text of paragraph (a)(2) and paragraph (b)(1) are revised to read as indicated below. Additionally, the intorductory text of paragraph (d) is revised, and paragraph (d)(3) is revised to read as indicated below:

§60.284 Monitoring of emissions and operations.

(a) * * *

(2) Continuous monitoring systems to monitor and record the concentration of TRS emissions on a dry basis and the percent of oxygen by volume on a dry basis in the gases discharged into the atmosphere from any lime kiln, recovery furnace, digester system, brown stock washer system, multiple-effect evaporator system, or condensate stripper system, except where the provisions of § 60.283(a)(1) (iii) or (iv) apply. These systems shall be located downstream of the control device(s) and the spans of these continuous monitoring system(s) shall be set:

* * * * *

(b) * * *

(1) For any incinerator, a monitoring device which measures the combustion temperature at the point of incineration of effluent gases which are emitted from any digester system, brown stock washer system, multiple-effect evaporator system, black liquor oxidation system, or condensate stripper system where the provisions of

§ 60.283(a)(1)(iii) apply. The monitoring device is to be certified by the manufacturer to be accurate within ±1 percent of the temperature being measured.

* * * * *

(d) For the purpose of reports required under § 60.7(c), any owner or operator subject to the provisions of this subpart shall report semiannually periods of excess emissions as follows:

* * * * *

(3) For emissions from any digester system, brown stock washer system, multiple-effect evaporator system, or condensate stripper system periods of excess emissions are: All 12-hour average TRS concentrations above 5 ppm by volume unless the provisions of § 60.283(a)(1) (i), (ii), or (iv) apply.

* * * * *

(Sec. 114, Clean Air Act as amended (42 U.S.C. 7414))

* * * * *

[FR Doc. 84-663 Filed 1-18-84; 8:45 am]

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January 19, 1984

Part IV

Department of Education

34 CFR Part 241

Law-Related Education Program; Proposed Rule and Notice for New Project Applications

VOL 49 ISS 13 JA 19 1984 UMI

DEPARTMENT OF EDUCATION

34 CFR Part 241

Law-Related Education Program

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to issue regulations for the Law-Related Education Program to provide Federal financial assistance for projects to support law-related education programs that educate people about the legal system and the principles on which it is based. The proposed regulations would authorize the establishment of priorities for particular types of projects and would establish criteria for the evaluation of grant applications.

DATE: Comments must be received on or before March 5, 1984.

ADDRESS: Comments should be addressed to Dr. George R. Rhodes, Jr., Director, Division of Educational Support, State and Local Educational Programs, Office of Elementary and Secondary Education. U.S. Department of Education, 400 Maryland Avenue, SW. (Room 2011, FOB–6), Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Rita Ray, Program Officer, Law-Related Education Program, Division of Educational Support, U.S. Department of Education, Room 2025, FOB–6, 400 Maryland Avenue, SW., Washington, D.C. 20202. (202) 472–7960.

SUPPLEMENTARY INFORMATION:

A. Overview of the Law-Related Education Program

In Fiscal Years 1980, 1981, and 1982, the statutory authority for the Law-Related Education Program was the Law-Related Education Act of 1978, enacted as Part G of Title III of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978, Pub L. 95–561, 92 Stat. 2216 (20 U.S.C. 3001–3003). Effective September 30, 1982, the Education Consolidation and Improvement Act of 1981 (ECIA) repealed the Law-Related Education Act of 1978. The Congressional Conference Committee on the second continuing resolution for Fiscal Year 1983 (Pub. L. 97–377) directed that $1 million be reserved from the Secretary's Discretionary Program to fund law-related education projects. As a result, FY 1983 awards were made under the authority of Section 583 of ECIA, which authorizes the Secretary's Discretionary Program. For FY 1984 awards, the Conference Committee Report on the Education Appropriation Act, 1984 (Pub. L. 98–139) directs the Secretary to use $1 million for law-related education projects previously authorized by Title III–G of the Elementary and Secondary Education Act.

The purpose of law-related education is to enable non-lawyers, including children, youth, and adults, to be more informed citizens concerning the law, the legal process, the legal system, and the fundamental principles upon which these are based.

The proposed regulations provide for the Secretary annually to give priority to one or more of several types of projects described in proposed § 241.10 and to establish limits or requirements for the scope of the service areas under these projects. In FY 1984, the Secretary proposes to focus on projects that support the institutionalization of an existing model law-related education program in elementary and secondary school classrooms.

B. Overview of These Proposed Regulations

These proposed regulations relate to—

- General matters such as the description of this program, eligibility of a grantee, and regulations and definitions that apply to this program;
- The type of projects that will be funded; and
- How a grant is made to a successful applicant, including the selection criteria for reviewing an application.

C. Application of Other Statutes and Regulations

(1) An LEA that receives a grant under this program must provide for the equitable participation of private school persons in the project, in accordance with Section 586 of ECIA. (20 U.S.C. 3862).

(2) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, and 79, are applicable to this program.

Executive Order 12291

These proposed regualtions have been reviewed in accordance with Executive Order 12291.

They are classified as non-major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act

The Secretary certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities. This program provides assistance to local educational agencies, State agencies, and public or private nonprofit agencies, organizations, or institutions.

These regulations describe the program and establish minimal application requirements. They will not have a significant economic impact on small entities participating in the program.

Intergovernmental Review

The program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79 (48 FR 29158; June 24, 1983). The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

In accordance with the Order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations. Written comments and recommendations may be sent to the address given at the beginning of this preamble. All comments received on or before March 5, 1984 will be considered in developing the final regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 2011, FOB–6, 400 Maryland Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Paperwork Reduction Requirements

The information collection requirements contained in these proposed rules will be sent to OMB for review under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

Comments concerning information collection requirements *only* should be addressed to the Office of Information and Regulatory Affairs, Office of Management and Budget, New

Executive Office Building, Room 3208, 17th and Pennsylvania Avenue, NW., Washington, D.C. 20503. Attention: Desk Officer for the U.S. Department of Education. All other comments regarding these proposed regulations should be sent to the Department of Education at the address given at the beginning of this preamble.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 241

Education, Educational study programs, Elementary and secondary education, Grant programs—education, Law.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these proposed regulations.

(Catalog of Federal Domestic Assistance No. 84.123, Law-Related Education Program)

Dated: January 13, 1984.

T. H. Bell,

Secretary of Education.

The Secretary proposes to amend Title 34 of the Code of Federal Regulations to add a new Part 241 as follows:

PART 241—LAW-RELATED EDUCATION PROGRAM

Subpart A—General

Sec.

241.1 What is the Law-Related Education Program?
241.2 Who is eligible to apply for a grant under the Law-Related Education Program?
241.3 What regulations apply to the Law-Related Education Program?
241.4 What definitions apply to the Law-Related Education Program?

Subpart B—What Types of Projects Does the Secretary Assist under This Program?

241.10 What types of projects does the Secretary assist?
241.11 What priority may the Secretary select?

Subpart C—How Does One Apply for a Grant? (Reserved)

Subpart D—How Does the Secretary Make a Grant?

241.30 How does the Secretary evaluate an application?
241.31 What selection criteria does the Secretary use?

Subpart E—What Conditions Must Be Met by a Grantee?

241.40 What provisions must be made for participation of private school children?

Authority: Section 583 of the Education Consolidation and Improvement Act of 1981 (Pub. L. 97-35) (20 U.S.C. 3851).

Subpart A—General

§ 241.1 What is the Law-Related Education Program?

The Law-Related Education Program is designated to provide persons with knowledge and kills pertaining to the law, the legal process, the legal system, and the fundamental principles and values on which these are based. The purpose of the program is to enable children, youth, and adults to become a more informed citizens.

(20 U.S.C. 3851)

§ 241.2 Who is eligible to apply for a grant under the Law-Related Education Program?

(a) A State educational agency (SEA), local educational agency (LEA), or other public or nonprofit private agency, organization, or institution may apply for a grant.

(b) An applicant may apply singly or jointly with other eligible applicants, as provided in 34 CFR 75.127 through 75.129.

(20 U.S.C. 3850)

§ 241.3 What regulations apply to the Law-Related Education Program?

The following regulations apply to the Law-Related Education Program:

(a) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, 78, and 79),

and

(b) The regulations in this Part 241.

(20 U.S.C. 3474)

§ 241.4 What definitions apply to the Law-Related Education Program?

(a) *Definitions in EDGAR:* The following terms used in this part are defined in 34 CFR Part 77:

Applicant
Application
EDGAR
Elementary school
Local educational agency
Nonprofit
Private
Project
Public
Secondary school
Secretary
State
State educational agency

(b) *Definition that applies to this program:*

The following definition applies to the Law-Related Education Program:

"Institutionalization" means the incorporation of law-related education materials and processes—and their adaptation, as appropriate—as an integral part of ongoing system-wide activities using State and local funding sources.

(20 U.S.C. 3474, 3851)

Subpart B—What Types of Projects Does the Secretary Assist Under This Program?

§ 241.10 What types of projects does the Secretary assist?

The Secretary may fund applications proposing projects that include, but are not limited to, those designed to—

(a) Support the institutionalization of existing model law-related education programs in elementary and secondary school classrooms;

(b) Provide assistance from established law-related education programs to other State and local educational agencies to enable them to institutionalize successfuly law-related education programs;

(c) Support projects to develop, test, demonstrates, and disseminate new approaches or techniques in law-related education that can be used or adapted and eventually institutionalized by other agencies and institutions; or

(d) Support one or more contracts for specific activities in law-related education outside of the grant competition under these regulations.

(20 U.S.C. 3851)

§ 241.11 What priorities may the Secretary select?

(a) Each year, the Secretary may select for priority one or more of the types of projects listed in § 241.10.

(b) The Secretary may establish limits or requirements for the scope of the service area under one or more of the types of projects under § 241.10, such as State-wide, system-wide, regional, or national projects.

(c) The Secretary publishes the selected priorities, and limits or requirements for the scope of service areas, if any, in a notice in the **Federal Register**.

(20 U.S.C. 3474, 3851)

Subpart C—How Does One Apply for a Grant? (Reserved)

Subpart D—How Does the Secretary Make a Grant?

§ 241.30 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application submitted under this program on the basis of the criteria in § 241.31 of these regulations.

(b) The Secretary awards up to 100 points for the extent to which an application meets these criteria.

(c) The maximum possible points for each complete criterion is indicated in parentheses after the heading for each criterion.

(20 U.S.C. 3474, 3851)

§ 241.31 What selection criteria does the Secretary use?

The Secretary uses the following selection criteria in evaluating each application:

(a) *Institutionalizing law-related education.* (35 points)

The likely success of the project in helping to institutionalize law-related education programs as measured by the extent and quality of activities that contribute to—

(1) An increase in the number of educators and others who are competent in law-related education;

(2) The development of partnerships among State educational agencies, local educational agencies, and other public and private agencies for the implementation of law-related education programs in the classroom.

(b) *Plan of operation.* (15 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that ensures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective; and

(v) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(c) *Quality of key personnel.* (15 points)

(1) The Secretary reviews each application for information that shows the quality of the key personnel the applicant plans to use in the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (c)(2) (i) and (ii) of this section plans to commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(3) To determine the qualifications of a person, the Secretary considers evidence of past experience and training, in fields related to the objectives of the project, as well as other information that the applicant provides.

(d) *Quality of project.* (15 points)

The likely quality of the project as measured by the following—

(1) Evidence of applicability to classroom use and age-level of students, of the applicant's materials, programs, or approaches in law-related education;

(2) The applicant's and the staff's experience in and knowledge of law-related education;

(3) How the project addresses a diversity of learning approaches that are—

(i) Appropriate to the students to whom the project is directed;

(ii) Designed to address gains not only in students' knowledge, but also in their skills;

(iii) Balanced and based on sound scholarship and do not advocate particular legal or political viewpoints; and

(4) The involvement of the appropriate State educational agency or agencies in the planning and conduct of the project.

(e) *Budget and Cost effectiveness.* (8 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(f) *Evaluation plan.* (7 points)

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project. (See 34 CFR 75.590, Evaluation by the grantee.)

(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project and, to the extent possible, are objective and quantifiable.

(g) *Adequacy of resources.* (5 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(20 U.S.C. 3474, 3851)

Subpart E—What Conditions Must Be Met by a Grantee?

§ 241.40 What provisions must be made for participation of private school children?

An LEA that receives a grant under this program must provide for the equitable participation of private school children in the project, in accordance with Section 586 of ECIA.

(20 U.S.C. 3862)

[FR Doc. 84-1430 Filed 1-18-84; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF EDUCATION

Law-Related Education Program; Application for New Projects for Fiscal Year 1984

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Application Notice for New Projects for Fiscal Year 1984.

SUMMARY: Applications are invited for new projects under the Law-Related Education Program.

Authority for this program is contained in Section 583 of the Education Consolidation and Improvement Act of 1981 (ECIA) (Pub. L. 97-35), which authorizes the Secretary's Discretionary Program.

This program issues awards to State educational agencies, local educational agencies, and other public and nonprofit private agencies, organizations, and institutions.

The purpose of law-related education is to enable non-lawyers, including children, youth, and adults, to be more informed citizens concerning the law, the legal process, the legal system, and the fundamental principles upon which these are based.

Law-related education may include a variety of learning approaches in subject areas such as: fundamental legal principles and the values on which they are based; the Bill of Rights and other constitutional law; the role and limits of law in a democratic society both past and present; the Federal, State, and local lawmaking process; the role of law in avoiding and resolving conflicts; development and administration of specific rules of law by Federal, State, or local governments and examination in a general or theoretical way of how rules of governance are developed and administered; the administration of the criminal, civil, and juvenile justice systems; and issues of authority, freedom, enforcement, and punishment.

(20 U.S.C. 3851)

Closing Date for Transmittal of Applications: An application for a grant must be mailed or hand delivered by March 15, 1984.

Applications Delivered by Mail: an application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.123, Law-Related Education Program, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service Postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education. If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (a) A private metered postmark; or (b) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information and Program Priorities: Proposed regulations governing grants under the Law-Related Education Program are being published in this issue of the **Federal Register**. The proposed regulations list three examples of types of projects that can be supported with grant awards. These examples are listed in § 241.10(a) through § 241.10(c) of the proposed regulations.

The propsed rules also permit the Secretary to select one or more of the project types for priority. For fiscal year 1984, subject to publication of final regulations, the Secretary has selected for priority § 241.10(a)—projects that support the institutionalization of existing law-related education programs in elementary and secondary school classrooms.

The emphasis on this type of project was selected for FY 84 for two reasons—

(a) There are highly regarded law-related education programs in many States and school districts throughout the Nation, including programs that have been funded under the Law-Related Education Act and by other sources. However, many school districts do not have effective programs, or any programs at all. It is appropriate to build on the successes of existing programs, to institutionalize them, and to strengthen their capacity to serve as resources that will help address these unmet needs.

(b) For the most part, future Federal financial support for particular law-related education programs will depend on decisions by State educational agencies and local educational agencies as to how to spend funds they administer under other Department of Education programs, particularly the block grant program authorized by Chapter 2 of ECIA. Projects that have system-wide applicability can contribute to more effective use of State and locally-administered Federal funds for law-related education. Projects that include strategies to institutionalize classroom law-related education can address the problem that many local educators are not aware of the potential value of law-related education and how it can be integrated into the curriculum. Therefore, institutionalization projects can promote informed choices by cognizant State and local officials concerning whether and how best to support law-related education activities with the block grant funds or with State and local funds.

In addition to the points awarded under the Selection Criteria listed in § 241.31, the Secretary will award up to 10 points to an application on the basis of the proportion of the proposed project activities that address the selected priority.

Projects supported under this program will be for a period of one year.

Intergovernmental Review: On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an integovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance,

• Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated, and

• Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States which have established a process, designated a single point of contact, and have selected this program for review:

State	
Arizona	New Jersey
Arkansas	New Mexico
California	New York
Connecticut	North Carolina
Delaware	Ohio
District of Columbia	Oklahoma
Florida	Oregon
Hawaii	Rhode Island
Illinois	South Carolina
Indiana	South Dakota
Iowa	Tennessee
Kentucky	Utah
Louisiana	Vermont
Maryland	Virginia
Michigan	Washington
Missouri	Wisconsin
Montana	Wyoming
Nebraska	Puerto Rico
Nevada	Northern Mariana Island
New Hampshire	

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by May 14, 1984 to the following address:

The Secretary, U.S. Department of Education, Room 4181, 84.123, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone Number (202) 245–7913. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Available Funds: The appropriation for this program for fiscal year 1984 is $1,000,000. It is planned that these funds will be used to support one national project, an estimated eleven additional State-wide, regional, and system-wide projects and one or two contracts. These numbers will depend in part on the distribution of successful applications among projects of different scope.

It is estimated that a nation-wide project would require about $100,000–$150,000, State-wide projects would require about $50,000–$100,000, regional projects would require about $25,000–$75,000, and system-wide projects would require approximately $10,000–$50,000.

Approximately 10 percent of the available funds will be reserved for contracts for specific activities in law-related education outside of the grant competition under these regulations. If the Secretary decides not to award any contracts, the 10 percent will be added to the available funds for grants.

These allocations are only estimates and do not bind the Department of Education to a specific number of awards unless that number is otherwise specified by statute or regulations.

Applicants should be aware that the availability of funds for this competition is being contested in litigation in the United States District Court for the Northern District of Illinois, Eastern Division *(United States v. Board of Education of the City of Chicago,* Docket No. 80 C 5124). Any obligation of these funds is currently enjoined by the court.

Application Forms: Application forms and program information packages will be ready for mailing on January 31, 1984. The program information package may be obtained by writing to the Division of Educational Support, Law-Related Education Program, U.S. Department of Education, 400 Maryland Avenue, SW. (Room 2011, FOB–6), Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary strongly urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(1) Regulations governing the Law-Related Education Program as proposed to be codified in 34 CFR Prt 241. (Applications are being accepted based on the notice of proposed rulemaking for the Law-Related Education Program which is published in this issue of the **Federal Register**. If any substantive changes are made in the final regulations for this program, applicants will be given an opportunity to revise their applications.)

(2) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, and 79.

Further Information: For further information, contact Rita Ray, Program Officer, Law-Related Education Program, Division of Educational Support, U.S. Department of Education, 400 Maryland Avenue, SW. (Room 2025, FOB–6), Washington, D.C. 20202. Telephone (202) 472–7960.

(20 U.S.C. 3851)

(Catalog of Federal Domestic Assistance No. 84.123, Law-Related Education Program)

Dated: January 9, 1984.

T. H. Bell,

Secretary of Education.

[FR Doc. 84–1431 Filed 1–18–84; 8:45 am]

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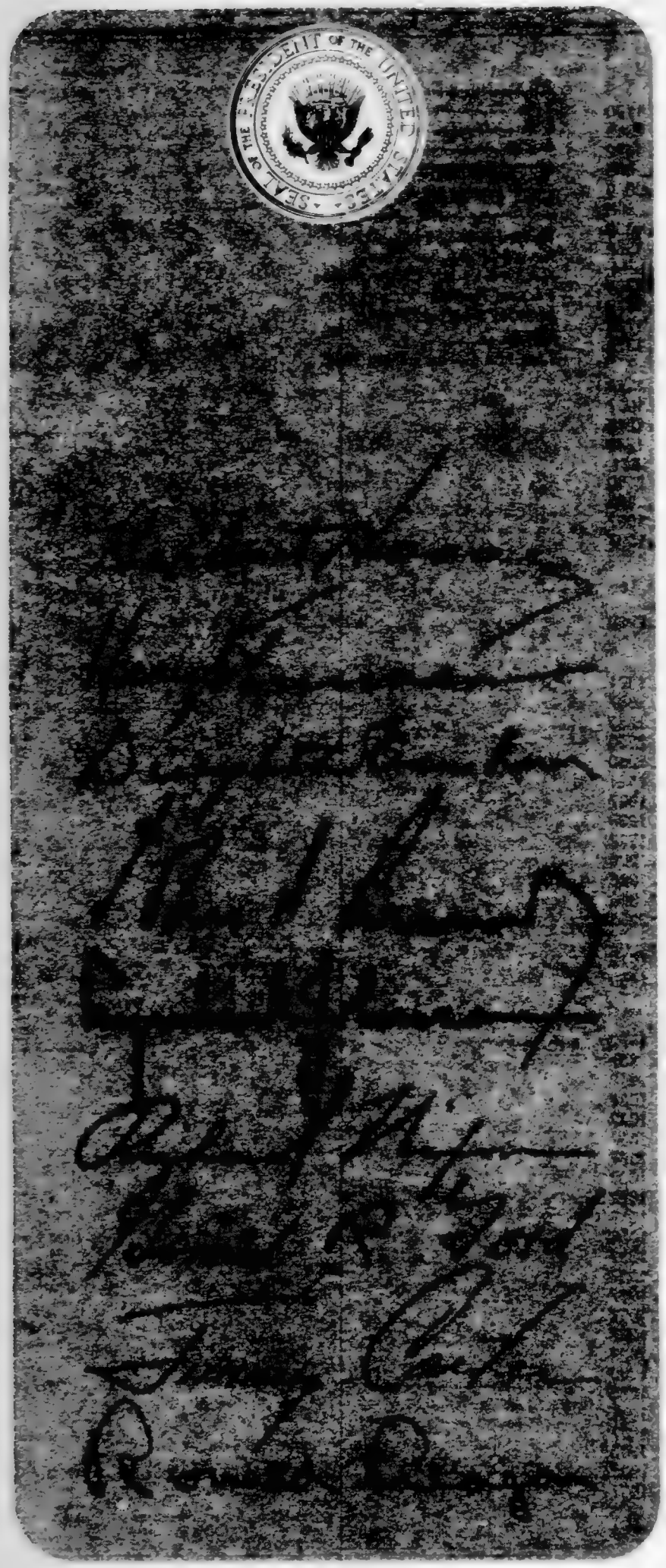

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DEPART

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ACTION:

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Rules and Regulations

Federal Register
Vol. 49, No. 14
Friday, January 20, 1984

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 225

Summer Food Service Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes permanent 60 and 90 day deadlines for the submission of claims and reports for Federal reimbursement in the Summer Food Service Program (SFSP). Exceptions to these time limits may be granted at the discretion of the Food and Nutrition Service. This final rule also specifies appeal rights regarding requests for exceptions from these time limits. This rule will ensure that timely and accurate reporting of participation data is submitted and will result in improved fiscal accountability at the local, State, and Federal levels. The current regulations for the SFSP remain unchanged in other respects and shall be used to administer the Program in 1984.

EFFECTIVE DATE: This final rule is effective February 21, 1984.

FOR FURTHER INFORMATION CONTACT: Stanley C. Garnett (703) 756–3620.

SUPPLEMENTARY INFORMATION:

Classification

This rulemaking has been reviewed in accordance with Executive Order 12291 and has not been classified as major because it will not have an annual effect on the economy of $100 million, will not cause a major increase in costs or prices, and will not have a significant economic impact on competition, employment, investment, productivity, innovation or the ability of U.S. enterprises to compete with foreign based enterprises. This rule has also been reviewed with regard to the requirements of Pub. L. 96–354, the Regulatory Flexibility Act. The Administrator of the Food and Nutrition Service has certified that this rule does not have a significant economic impact on a substantial number of small entities.

This final rule establishes the same reporting deadlines for 1984 as existed for 1983. The requirements for the SFSP Claim for Reimbursement Form (FNS–143) have been approved by the Office of Management and Budget (OMB) for use through September 30, 1984 (0584–0041). The monthly report (FNS–44) was approved by OMB for use through December 31, 1985 (0584–0057).

Background

Other than the revisions set forth in this regulation, the current Summer Food Service Program regulations published on February 18, 1982, (47 FR 6790) and amended on January 4, 1983, (48 FR 374) remain in effect. This rule makes permanent the 60 and 90 day deadlines for claim and report submission which were mandated for Fiscal Year 1983 by Pub. L. 97–370 and for Fiscal Year 1984 by Pub. L. 98–151. These deadlines will result in more timely disbursement of funds to sponsors and will enable the Department to more closely monitor program operations and make projections for the following year.

On November 3, 1983, (48 FR 50743) the Department proposed to permanently establish the 60 and 90 day deadlines for submission of claims and reports.

Interested parties were given 30 days in which to submit their comments on that proposal. In response to the proposed rule, the Department received 11 comments—one from a food advocacy group, five from State agencies and five from Food and Nutrition Service Regional and Washington Offices. The commentors were generally supportive of the Department's proposal but several has specific concerns and recommendations. The Department has made every effort to incorporate into this final rule all commentor suggestions which clarify or improve the overall approach to revised claim and report submission requirements as set forth in the proposed rule.

The remainder of this preamble will discuss the specific changes from the proposal that are made in this final rule. For ease of reference, the changes are presented under the same headings as in the preamble of the proposed rule. All other provisions of the proposed rule have been retained; however, in some cases, minor editorial changes have been made for clarification purposes.

1. *Deadlines for submission of Final Claims and Reports.*—One commentor pointed out that § 225.11 paragraph (c)(3), which was redesignated paragraph (c)(2) by the proposal, is not consistent with the 60 day claim submission deadline. Under this paragraph, sponsors which operate less than 10 days in the final month of operation must submit a combined claim for that month and the preceding month within 10 days of the last day of operation. The Department acknowledges that this provision was overlooked in the proposal and has provided, in this final rule, that combined claims for final months of operation be submitted within 60 days of the last day of operation.

Another commentor pointed out that the proposed language in § 225.11 paragraph (c)(5), which prohibits payment of claims not filed within 60 days, should be limited to the payment of Federal program funds. That commentor indicated that in the absence of an exception from FNS, State agencies would have the option of using State funds to pay late claims. This is correct and the Department has revised this paragraph to make it clear that only Federal program funds are affected by the 60 day claim submission requirements.

2. *Adjustments/3. Exceptions.*—The proposed rule provides that downward adjustments in final claims for reimbursement and final reports of program operations shall always be made regardless of when it is determined that such adjustments are necessary. One commentor suggested that is be made clear that FNS authorization is not required for downward adjustments. The Department agrees and has revised § 225.10(c) and § 225.11(c)(5) accordingly.

Three commentors expressed concern that the proposal provides for upward adjustments to claim and reports only if an exception is granted by FNS whereas

downward adjustments are required to be made without FNS exception. It was pointed out that audits and administrative reviews routinely reveal the need for legitimate upward adjustments and that State agencies should have the authority to make such adjustments without obtaining exceptions from FNS. The Department is sensitive to these concerns and has revised the language dealing with upward adjustments in this final rule to indicate that FNS "authorization" and not "an exception" is needed to make upward adjustments in claims and reports. This language will enable the Department to provide both general authorization for upward adjustments in certain specific situations and case-by-case authorization in all other instances. The Department will issue guidance concerning this authorization. It should be noted that a general authorization as described above will only be applicable to making upward adjustments to claims or reports and not to paying claims or reports submitted after the 60/90 day submission deadlines. Any exceptions to these deadlines will be handled on a case-by-case basis.

4. *Appeals.*—One commenter pointed out that the sponsor appeal rights specified in § 225.15(a) should not apply to the denial of claims that are submitted after the 60-day deadline since State agencies would be obligated by the rule to deny payment of Federal funds for such claims. In such cases, the State agency would decide whether or not to forward the sponsor's request for an exception to FNS. This decision is the "State action" that would be subject to sponsor appeal. The Department agrees with the commentor and has revised § 225.15a) accordingly.

5. *Sanctions.*—No significant changes from the proposed rule were suggested by commentors or made in this area.

List of Subjects in 7 CFR Part 225

Food assistance programs, Grant programs—health, Infants and children, Reporting and recordkeeping requirements, Surplus agriculture commodities.

PART 225—SUMMER FOOD SERVICE PROGRAM

Accordingly, 7 CFR Part 225 is amended as follows:

1. § 225.4(c) is revised and a new sentence is added to the end of paragraph (e) to read as follows:

§ 225.4 Payment to State agencies and use of Program funds.

* * * * *

(c) *Remaining funds.* FNS shall make available any remaining Program funds due within 45 days of the receipt of valid Claims or Reimbursement from sponsors by the State agency. However no payment shall be made for claims submitted later than 60 days after the month covered by the claim unless an exception is granted by FNS.

* * * * *

(e) * * * If a State agency fails to submit timely and accurate reports under § 225.10(c) of this part, State administrative funds payable under this paragraph shall be subject to sanction. For such failure, FNS may recover, withhold or cancel payment of up to one hundred percent of the funds payable to the State agency under this paragraph during the fiscal year.

* * * * *

2. Section 225.10(c) and the first sentence of paragraph (d) are revised to read as follows:

§ 225.10 Records and reports.

* * * * *

(c) Each State agency shall submit to FNS a final report on the Summer Food Service Program Operations (FNS–44) for each month no more than 90 days following the last day of the month covered by the report. States shall not receive Program funds for any month for which the final report is not postmarked and/or submitted within this time limit unless FNS grants an exception. Upward adjustments to a State's report shall not be made after 90 days from the month covered by the report unless authorized by FNS. Downward adjustments shall always be made without FNS authorization, regardless of when it is determined that such adjustments need to be made. Adjustments to a State's report shall be reported to FNS in accordance with procedures established by FNS. Each State agency shall also submit to FNS a quarterly Financial Status Report (SF–269) on the use of Program funds. Such reports shall be submitted no later than 30 days after the end of each fiscal year quarter. Obligations shall be reported only for the fiscal year in which they occur. Action may be taken against the State agency, in accordance with § 225.4(e), for failure to submit accurate and timely reports.

(d) the State agency must submit to FNS a final Financial Status Report no later than 120 days after the end of the fiscal year, on a form (SF–269) provided by FNS. * * *

* * * * *

3. Section 225.11(c)(2), (c)(5), and (c)(6) are removed, and paragraphs (c) (3), (4), (7), (8), (9), (10), (11), (12) and (13) are redesignated as paragraph (c) (2), (3), (4), (5), (6), (7), (8), (9) and (10). In addition, newly redesignated paragraphs (c)(2), (c)(4) and (c)(5) are revised to read as follows:

§ 225.11 Program payments.

* * * * *

(c) * * *

(2) Sponsors which operate less than 10 days in the final month of operations shall submit a combined claim for the final month and the immediate preceding month within 60 days of the last day of operation.

* * * * *

(4) Claims for reimbursement shall report information in accordance with the financial management system established by the State agency, and in sufficient detail to justify the reimbursement claimed and to enable the State agency to provide Reports of Summer Food Service Program Operations required under § 225.10(c). In submitting a claim for reimbursement, each sponsor shall certify that the claim is correct and that records are available to support this claim. The cost of meals served to adults performing necessary food service labor may be included in the claim. Furthermore, the State agency may choose to allow sponsors to include the cost of disallowed children's meals, in accordance with § 225.13(e) (1) and (2), in its report of operating costs on its claim for reimbursement. In no case shall the cost of meals in excess of the site's approved level of meal service established under § 225.7(j) be considered allowable.

(5) A final claim for Reimbursement shall be postmarked and/or submitted to the State agency not later than 60 days after the last day of the month covered by the claim. State agencies may establish shorter deadlines at their discretion. Claims not filed within the 60 day deadline shall not be paid with Program funds unless FNS determines that an exception should be granted. The State agency shall promptly take corrective action with respect to any Claim for Reimbursement as determined necessary through its claim review process or otherwise. In taking such corrective action, State agencies may make upward adjustments in Program funds claimed on claims filed within the 60 day deadline if such adjustments are completed within 90 days of the last day of the month covered by the claim and are reflected in the final Program Operations Report (FNS–44). Upward adjustments in Program funds claimed which are not reflected in the final FNS–44 for the month covered by the claim cannot be made unless authorized by FNS. Downward adjustments in Program funds claimed shall always be made

without FNS authorization, regardless of when it is determined that such adjustments are necessary.

* * * * *

4. Section 225.15(a) is revised to read as follows:

§ 225.15 Appeal procedures.

(a) Each State agency shall establish a procedure to be followed by an applicant requesting a review of a denial of an application for participation, a denial of a request by a sponsor for an advance payment, a denial of a claim by a sponsor for reimbursement (except for late submission under § 225.11(c)(5)), a denial by the State agency to forward to FNS an exception request by the sponsor for payment of a late claim or a request for an upward adjustment to a claim, a claim against a sponsor for remittance of a payment, the termination of the sponsor or a site, a denial of a sponsor's application for a site, a denial of a food service management company's application for registration, or revocation of a food service management company's registration. Appeals shall not be allowed on decisions made by FNS with respect to late claims or upward adjustments under § 225.11(c)(5).

* * * * *

5. In § 225.16, a new paragraph (e)(13) is added to read as follows:

§ 225.16 Procedures for food service management companies.

* * * * *

(e) * * *

(13) The food service management companies shall submit all costs incurred pertaining to the sponsor's food service operation in sufficient time to allow the sponsor to prepare and submit the claim for reimbursement to meet the 60 day submission deadline.

* * * * *

6. Section 225.19(e) is revised to read as follows:

§ 225.19 Operational responsibilities of sponsors.

* * * * *

(e) Sponsors shall submit claims for reimbursement in accordance with this part. All final claims must be submitted to the State agency within 60 days following the last day of the month covered by the claim.

* * * * *

(Sec. 2, Pub. L. 95–627, 92 Stat. 3603, 42 U.S.C. 1766)

Dated: January 16, 1984.

Robert E. Leard,

Administrator, Food and Nutrition Service.

[FR Doc. 84–1775 Filed 1–19–84; 8:45 am]

BILLING CODE 3410–30–M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 447; Lemon Reg. 446, Amdt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 210,000 cartons during the period January 22–28, 1984, and increases the quantity of lemons that may be shipped to 230,000 cartons during the period January 15–21, 1984. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

DATES: The regulation becomes effective January 22, 1984, and the amendment is effective for the period January 15–21, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy currently in effect. The committee met publicly on January 17, 1984, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons continues steady.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing Agreements and Orders, California, Arizona, Lemons.

PART 910—[AMENDED]

1. Section 910.747 is added as follows:

§ 910.747 Lemon regulation 447.

The quantity of lemons grown in California and Arizona which may be handled during the period January 22, 1984, through January 28, 1984, is established at 210,000 cartons.

2. Section 910.746 Lemon Regulation 447 (49 FR 1667) is revised to read as follows:

§ 910.746 Lemon regulation 446.

The quantity of lemons grown in California and Arizona which may be handled during the period January 15, 1984, through January 21, 1984 is established at 230,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 18, 1984.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84–1848 Filed 1–19–84; 11:41 am]

BILLING CODE 3410–02–M

Commodity Credit Corporation

7 CFR Part 1464

Tobacco Loan Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim rule.

SUMMARY: This interim rule amends the regulations at 7 CFR Part 1464 to require that producers of flue-cured tobacco must produce such tobacco on an acreage which does not exceed the effective farm acreage allotment in order for the producers to be eligible to receive price support on flue-cured tobacco. The effect of this amendment is to eliminate a program which is commonly referred to as the "4 leaf program." The "4 leaf program" is being eliminated because the need for which the program was originally instituted no longer exists.

DATES: Effective January 17, 1984. Comments must be received by March 20, 1984 in order to be assured of consideration.

ADDRESS: Send comments to the Director, Tobacco and Peanuts Division, USDA–ASCS, P.O. Box 2415, Washington, D.C. 20013. All written submissions made pursuant to this notice will be made available for public inspection in Room 5750, South Building, USDA, Fourteenth Street and Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Jack S. Forlines, Agricultural Program Specialist, Tobacco and Peanuts Division, USDA–ASCS, P.O. Box 2415, Washington, D.C. 20013; (202) 382–0200. The Final Regulatory Impact Analysis covering this rule will be available on request from Mr. Forlines.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified "not major." The provisions of this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies or a geographic region; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Information collection requirements contained in this regulation (7 CFR Part 1464) have been approved by the Office of Management and Budget (OMB) in accordance with the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB number 0560–0076.

The title and number of the Federal Assistance Program to which this rule applies are: Title—Commodity Loan and Purchases; Number—10.051, as set forth in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Commodity Credit Corporation ("CCC") is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Producers of flue-cured tobacco need to be informed of the provisions of this rule as soon as possible because they are making their planting decisions at this time. Accordingly, it has been determined that this interim rule shall become effective upon the date of filing with the Director, Office of the Federal Register without prior opportunity for public comment. However, the public is invited to comment on this interim rule for a period of 60 days after the date of publication in the **Federal Register**. A final document discussing comments received and any amendments to this interim rule which may be considered necessary will be published in the **Federal Register** as soon as possible.

Before the implementation of the "4 leaf program," a large percentage of lower stalk marketings of flue-cured tobacco was pledged as collateral for price support loans. This resulted in a substantial quantity of such tobacco in loan stocks and created the potential for substantial losses to the Commodity Credit Corporation. On March 6, 1978, the tobacco loan program regulations, 7 CFR 1464.7, were amended to permit flue-cured tobacco producers who agreed not to harvest the four bottom leaves on each stalk of tobacco produced on the farm to be eligible for price support loans for their tobacco if the planted acreage of tobacco did not exceed 120 percent of the effective farm acreage allotment. This provision has been commonly referred to as the "4 leaf program." A later amendment to the regulations changed the percentage from 120 percent to 110 percent.

While the implementation of the "4 leaf program" contributed to a reduction in the use of such tobacco as collateral for price support loans, substantial quantities of lower stalk tobacco were still being pledged as loan collateral. Therefore, beginning with the 1980 crop of flue-cured tobacco, the Department announced that price support loans would not be available for certain grades of lower stalk tobacco. As a result of this action, the quantities of lower stalk tobacco pledged as collateral have been reduced dramatically and it is anticipated that the quantities of such tobacco will remain at levels which will not adversely affect its marketability. Thus, the "4 leaf program" is no longer needed. Accordingly, this interim rule eliminates the "4 leaf program" effective with the 1984 crop of flue-cured tobacco.

List of Subjects in 7 CFR Part 1464

Price support program, Tobacco.

PART 1464—[AMENDED]

Accordingly, 7 CFR Part 1464 is amended as follows:

1. The table of contents is amended by adding § 1464.11 to read as follows:

* * * * *

Sec.

1464.11 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

2. The authority citation for Part 1464 reads as follows:

Authority: Secs. 4 and 5, 62 Stat. 1070 as amended (15 U.S.C. 714b, 714c); Secs. 101, 106, 401, 403, 63 Stat. 1051, as amended, 1054, 74 Stat. 6 (7 U.S.C. 1441, 1445, 1421, 1423).

3. In § 1464.7, paragraphs (b) and (c) are revised to read as follows:

Tobacco Loan Program

§ 1464.7 Eligible producers.

* * * * *

(b) All the tobacco produced on the farm is produced on acreage which does not exceed the acreage allotment.

(c) If acreage allotments and marketing quotas are in effect for a kind of tobacco, the producer has reported the acreage planted to tobacco on the farm for the applicable year to the local county ASC committee in accordance with Part 718 of this chapter.

* * * * *

4. A new § 1464.11 is added to read as follows:

§ 1464.11 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in this regulations (7 CFR Part 1464) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Control Number 0560–0076.

Signed at Washington, D.C. on, December 30, 1983.

C. Hoke Leggett,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 84-1585 Filed 1-17-84; 11:39 am]

BILLING CODE 3410-05-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-ANE-10; Amdt. 39-4792]

Airworthiness Directives; Garrett Turbine Engine Co., Engine Models TSE 331-3 and TPE 331-1, -2, -3, -5 and -6 Series Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes a currently effective Airworthiness Directive (AD) applicable to turbine sections of Garrett Turbine Engine Company (GTEC) TSE 331-3 and TPE 331-1, -2, -3, -5, and -6 series engines. The supersedure amendment is needed since the existing AD is being significantly amended by both more and less restrictive changes.

DATES: Effective January 25, 1984, Compliance schedule—As prescribed in the body of AD.

Incorporation of Reference—The Director of the Federal Register approved the incorporation of reference of the manufacturer's Service Bulletins referred to in this AD on January 11, 1984.

ADDRESSES: The applicable service information may be obtained from Garrett Turbine Engine Company, P.O. Box 5217, Phoenix, Arizona 85010; telephone 602-231-1000. A copy of the service information is contained in the FAA Rules Docket, New England Region, Office of the Regional Counsel, Attn: Docket No. 82-ANE-10, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Bob Liddiard, Aerospace Engineer, ANM-174W, Western Aircraft Certification Field Office, Northwest Mountain Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009; telephone 213-536-6380.

SUPPLEMENTARY INFORMATION: Amendment 39-4528, 48 FR 1031, AD 82-27-07, is the currently effective AD being superseded. The supersedure is necessary to:

(1) Reduce the initial inspection period of certain Part Number (P/N) 868630-1, -2, -3, -4, and -7 third stage turbine wheels from 1500 cycles to 1000 cycles, since an additional wheel failed at less than 1500 cycles.

(2) Increase life limits for the first and second stage turbine wheels, and simplify the AD by eliminating the requirements to differentiate between types of service to which the turbine wheels may be subjected. This is based on newly acquired empirical and analytical data in conjunction with service experience which show that increased wheel life limits are justified and that these new limits, which correlate with low cycle fatigue (LCF) phenomena, are most appropriately controlled by limiting the number of engine cycles rather than engine hours.

(3) Incorporate the P/N 867569-3 first stage turbine wheel to the cyclic life limit section of the AD. This P/N had not been previously included.

(4) Require cyclic life recording for all affected turbine wheels introduced into service prior to March 24, 1978.

(5) Delete the requirement for calendar date replacement of third stage turbine stator assembly and seals since there is no effect on flight safety, on a calendar basis.

Since a situation exists affecting continued airworthiness of these engines that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Incorporation of reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by superseding AD 82-27-07 with the following new AD:

Garrett Turbine Engine Company (GTEC, formerly AiResearch Manufacturing Company of Arizona): Applies to GTEC Engine Models TSE331-3 and TPE331-1, -2, -3, -5, and -6 series engines.

Compliance required as indicated, unless already accomplished.

To reduce the possibility of rapid destruction of the engine turbine, accomplish the following:

(a) Inspect in accordance with the following schedule, P/N 868630-1, -2, -3, -4, and -7 third stage turbine wheels, identified by serial number (S/N) below, in accordance with paragraph 2 of GTEC Service Bulletin (SB) No. TPE/TSE331-72-0351, dated April 14, 1982, or equivalent approved by the Manager, Western Aircraft Certification Field Office. Remove from service, prior to further flight, third stage turbine wheels not meeting the inspection criteria. Third stage turbine wheels meeting the inspection criteria may be continued in service to the life limits of paragraph (d) herein.

Wheel total cycles	[illegible]
Less Than 900	Before accumulation of 1,000 cycles.
900 or more, and less than 1,000.	Within the next 100 cycles.
1,000 or more, and less than 1,200.	Within the next 50 cycles.
More than 1,200	Within the next 10 cycles.

Notes.—For purposes of this AD, a cycle is defined as any operating sequence involving an engine start, aircraft takeoff and landing, followed by engine shutdown, and one cycle shall be counted for each such operational sequence.

For purposes of this AD, turbine wheels which comply with paragraph 2 of GTEC SB No. TPE/TSE/331-72-0351 or an equivalent approved by the Manager, Western Aircraft Certification Field Office, must have the SB annotated on the life limited parts log card which is located either with the third stage wheel assembly or with the engine log book.

S/N 0-01345-419, 420, 421, 422, 423, 424, 425, 426, 428, 430, 431, 432, 433, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 458, 459, 461, 463, 1296, 1298, 1299, 1301, 1302, 1304, 1305, 1306, 1307, 1308, 1309, 1311, 1312, 1313, 1314, 1315, 1316, 1317, 1318, 1319, 1320, 1321, 1322, 1323, 1324, 1325, 1326, 1328, 1329, 1330, 1331, 1332, 1335, 1336, 1338, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2364, 2365, 2366, 2367, 2369, 2371, 2372, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2529, 3106, 3107, 3109, 3110, 3111, 3112, 3113, 3114, 3118, 3119, 3121, 3122, 3123, 3124, 3125, 3126, 3127, 3128, 3129, 3130, 3131, 3132, 3133, 3134, 3135, 3136, 3140, 3141, 3145, 3146, 3147, 3149, 3150, 3152, 3153, 3737, 15426, 15427, 15428, 15429, 15432, 15433, 18246, 18247, 18248, 18250, 18251, 18252, 18253, 18256, 18258, 18259, 18260, 18262, 18263, 18264, 18265, 18266, 18286, 18287, 18288, 18289, 18302, 18304, 18305, 18310, 18311, 18316, 18317, 18318, 18320, 18321, 18323, 18324, 18325, 18326, 18328, 18329, 18330, 18414, 18415.

(b) Remove from service according to the following schedule, P/N 868630-1, -2, -3, -4, and -7 third stage turbine wheels identified by S/N below:

Wheel total cycles	Remove:*
Less than 1,300	Before accumulation of 1,500 cycles.
1,300 or more and less than 2,550.	Before accumulation of 2,600 cycles or within the next 200 cycles whichever occurs first.
2,550 or more	Within the next 50 cycles.

* No wheel listed below may exceed 1,500 total cycles in service after June 1, 1983.

S/N 0-01345-18350, 18623, 18659, 18660, 18663, 18669, 18672, 18673, 18674, 18676, 18677, 18678, 19294, 19295, 19321, 19980, 19983, 19984, 19985, 19986, 19987, 19988, 19989, 19990, 19991, 19992, 19993, 19994, 19995, 19996, 19997, 19998, 19999, 20000, 20001, 20002, 20003, 20004, 20008, 20009, 20010, 20011, 20012, 20013, 20014, 20015, 20016, 20017, 20018, 20019, 20020, 20021, 20022, 20023, 20024, 20025, 20026, 20130, 20588, 20589, 20590, 20591, 20592, 20593, 20594, 20595, 20596, 20597, 20598, 20599, 20600, 20601, 20602, 20603, 20604, 20605, 20606, 20607, 20608, 20609, 20611, 20612, 20613, 20614, 20615, 20616, 20617, 20618, 20619, 20620, 20621, 20622, 20623, 20624, 20625, 20626, 20627, 20628, 20629, 20630, 20631, 30632, 20633, 20634, 20635, 20637, 20779, 21869, 21870, 21871, 21872, 21873, 21874, 21875, 21876, 21877, 21878, 21879, 21880, 21881, 21882, 21883, 21884, 21885, 21886, 21887, 21888, 21889, 21890, 21891, 21892, 21893, 21894, 21895, 21896, 21897, 21898, 21899, 21900, 21903, 21904, 21905, 21906, 21907, 21908, 21909, 21910, 21911, 21914, 22332, 22333.

(c) Inspect, prior to accumulating 2600 total wheel cycles, P/N 868630-1, -2, -3, -4, and -7 third stage turbine wheels introduced into service on or after March 24, 1978, and not listed by S/N in paragraph (a) or (b) herein, in accordance with paragraph 2 of GTEC SB No. TPE/TSE/331-72-0351, dated April 14, 1982, or equivalent approved by the Manager, Western Aircraft Certification Field Office. Remove from service prior to further flight third stage turbine wheels not meeting the inspection criteria. Third stage turbine wheels meeting the inspection criteria may be continued in service to the life limits of paragraph (d) herein.

(d) Remove from service the following turbine wheels within the cyclic life limits specified below:

Wheel stage	Part number	Cycle life
First	867569-1, -3, -7	5,700 cycles.
Second	868272-1, -2, -3, -4	5,400 cycles.
Third	868630-1, -2, -3, -4, -7	3,600 cycles.
Third	868630-8	4,300 cycles.
Third	895539-1, -2, -3, -4	2,000 cycles.

Turbine wheels listed in this paragraph introduced into service prior to March 24, 1978, were not required to have their cyclic lives recorded. As of the effective date of this AD, lives of these wheels shall be converted to cycles by crediting each hour of operation with 1.5 cycles (i.e: 3500 hrs × 1.5=5250 cycles). Actual cycles, if known, may be used in lieu of this conversion. Thereafter, wheel operating life shall be accrued in cycles.

Remove from service in accordance with the following schedule P/N 895539-1, -2, -3, and -4 third stage turbine wheels which exceed the above-listed cyclic limits after converting from hours to cycles:

Wheel total cycles	Remove
2,000 to 3,750	Within the next 300 cycles.
3,751 to 4,500	Within the next 175 cycles.
4,501 to 5,250	Within the next 75 cycles.

Remove from service within the next 300 cycles or 10 months in service, whichever comes first after the effective date of this amendment, P/N 867569-1, -3, -7, P/N 868272-1, -2, -3, -4, and P/N 868630-1, -2, -3, -4, -7 turbine wheels which exceed the above-listed cyclic limits after converting from hours to cycles.

(e) Prior to accumulating an additional 2700 cycles after February 11, 1982, on all affected engines containing P/N 868630-1, -2, -3, or -4 or P/N 895539-1, -2, -3, or -4 third stage turbine wheels, or upon next removal of the third stage turbine wheel, after September 9, 1982, whichever occurs earlier, either:

(1) Remove curvic coupling gasket, P/N 868892-2, located forward of third stage turbine wheel, and replace it with a serviceable P/N 868892-9 curvic coupling gasket or subsequently approved part number gasket as prescribed in paragraph 2 of GTEC SB No. TPE331-72-0300, dated September 9, 1981, or an equivalent approved by the Manager, Western Aircraft Certification Field Office; or,

(2) Replace the third stage turbine wheel with a P/N 868630-7, P/N 868630-8, or an equivalent approved by the Manager, Western Aircraft Certification Field Office.

Note.—The P/N 868630-1, -2, -3, or -4 turbine wheel may be modified to the P/N 868630-7 third stage turbine wheel design by compliance with instructions provided in GTEC SB No. TPE331-72-0327, dated December 14, 1981, or an equivalent approved by the Manager, Western Aircraft Certification Field Office.

(f) Remove the third stage turbine seal P/N 868259-1 and replace with a serviceable P/N 868259-2 or subsequently approved part number seal as prescribed in paragraph 2 of GTEC SB No. TPE331-72-0380, dated November 17, 1982, or an equivalent approved by the Manager, Western Aircraft Certification Field Office, upon next removal of the third stage turbine wheel from all affected engines after February 1, 1983.

(g) Remove third stage turbine stators P/N 868379-1 from all affected engines and replace with a serviceable P/N 868379-3 or subsequently approved part number stator, as prescribed in paragraph 2 of GTEC SB No. TPE331-72-0384, dated November 17, 1982, or an equivalent approved by the Manager, Western Aircraft Certification Field Office, no later than next removal of the third stage turbine wheel after 2000 hours stator third stage total time, or time since new, or time since overhaul.

Note.—Operating time and cycles are to be recorded in the Engine Log Book for P/N 868379-3 and subsequent P/N turbine stators.

(h) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate aircraft to a base for the accomplishment of inspections or modifications required by this AD.

(i) Alternative inspections, modifications, or other actions which provide an equivalent level of safety may be used when approved by the Manager, Western Aircraft Certification Field Office, FAA Northwest Mountain Region.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Garrett Turbine Engine Company, Attn: Customer Service Engineering, Department 77-4, P.O. Box 5217, Phoenix, Arizona 85010. These documents also may be examined at FAA Rules Docket, Federal Aviation Administration, New England Region, Office of the Regional Counsel, Burlington, Massachusetts 01803.

This AD supersedes AD 82-27-07, Amendment 39-4528, which became effective January 7, 1983.

This amendment becomes effective January 25, 1984.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); (49 U.S.C. 106(g) revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.89.)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive order 12291. It is impracticable for the agency to follow the procedures of order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11035; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "For Further Information Contact."

Issued in Burlington, Massachusetts, on December 22, 1983.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 84-1561 Filed 1-19-84; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 231, 241, 251, and 271

[Release Nos. 33-6504; 34-20560; 35-23199; IC-13718]

Public Statements by Corporate Representatives

AGENCY: Securities and Exchange Commission.

ACTION: Publication of interpretation.

SUMMARY: The Commission is reminding registrants that the antifraud provisions of the federal securities laws apply to all public statements by persons speaking on behalf of the registrant. This release provides guidance to these persons concerning their public statements.

FOR FURTHER INFORMATION CONTACT: Alan L. Dye, Division of Corporation Finance, Securities and Exchange

Commission, Washington, D.C. 20549, (202) 272–2573.

SUPPLEMENTARY INFORMATION: One of the primary purposes of the federal securities laws is to ensure that the investing public is provided with complete and accurate information about companies whose securities are publicly traded. In addition to filing the periodic reports required under the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. 78a, et seq.], publicly held companies disclose current information about themselves in a variety of ways, including public announcements, press releases, interviews with media representatives, and discussions with groups whose members have a particular interest in the company's affairs. The Commission has long encouraged corporate disclosure through these informal channels as a complement to the disclosure requirements of the Exchange Act.[1]

It has come to the Commission's attention, however, that companies and their spokesmen may not be exercising the care and attention necessary under the federal securities laws when addressing audiences other than investors and the marketplace.[2] The antifraud provisions of the federal securities laws [3] apply to all company statements that can reasonably be expected to reach investors and the trading markets, whoever the intended primary audience. Thus, as with any communications to investors, such statements should not be materially misleading, as the result of either misstatement or omission. To the extent that the standard for accuracy and completeness embodied in the antifraud provisions is not met, the company and any person responsible for the statements may be liable under the federal securities law.[4]

Public companies and their spokesmen need to be mindful of these obligations under the federal securities laws when making statements that can reasonably be expected to be made known to the market. Examples of such statements are statements made in or concerning rate filings or other publicly available filings with government agencies, or negotiations with creditors, labor unions, or other groups whose cooperation or assistance may be sought by the company. While the Commission is aware of the interest a company has in making the best case available to further its interests in any of these contexts, companies must not serve such interests at the risk of misleading the investing public. To do so would have serious consequences under the antifraud provisions of the securities laws. Company spokemen should therefore take care that all statements that can reasonably be expected to reach investors and the securities markets adhere to the facts.

List of Subjects

17 CFR Parts 231 and 241

Reporting and recordkeeping requirements, Securities.

17 CFR Part 251

Reporting and recordkeeping requirements, Securities, Utilities.

17 CFR Part 271

Investment companies, Securities.

Text of Amendment

In accordance with the foregoing, Title 17, Chapter II, of the Code of Federal Regulations is amended as follows:

PARTS 231, 241, 251 AND 271—[AMENDED]

1. Parts 231, 241, 251 and 271 are amended by adding this Release No. 33–6504; 34–20560; 35–23199; IC–13718 (January 13, 1984) to the lists of interpretive releases.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–1532 Filed 1–19–84; 8:45 am]

BILLING CODE 8010–01–M

[1] *See, e.g.,* Release No. 34–8995 (October 15, 1970) [35 FR 16733] and Release No. 34–18271 (November 19, 1981).

[2] This release does not address the obligations of privately held issuers or companies whose securities are being offered or sold. The Commission's position regarding "gun-jumping" is discussed in Release No. 33–3844 (October 8, 1957) [22 FR 8359]; Release No. 33–4987 (June 5, 1964) [29 FR 7317]; Release No. 33–5009 (October 7, 1969) [34 FR 16870]; and Release No. 33–5180 (August 16, 1971) [36 FR 16506].

[3] *See* Section 17 of the Securities Act of 1933 [15 U.S.C. 77a, et seq.] and Section 10(b) of the Exchange Act, and the rules thereunder, particularly Rule 10b–5 [17 CFR 240.10b–5].

[4] *See, e.g., SEC. v. Texas Gulf Sulphur Co.,* 401 F. 2d 833, 858–60 (2d Cir. 1968), *cert. denied,* 394 U.S. 976 (1969). Moreover, misstatements may be violative of the antifraud rules even though there is no contemporaneous trading in the company's securities by insiders or by the corporation itself. *Heit v. Weitzen,* 402 F. 2d 909 (2d Cir. 1968), *cert. denied,* 395 U.S. 903 (1969). Where corporate misstatements are material and are reasonably relied on by the trading public, the company may be liable for any resulting damages. *See HSL, Inc. v. Daniels,* [Current Binder] Fed. Sec. L. Rep. (CCH) ¶ 99,557 (N.D. Ill. 1983), discussing the "fraud on the market" theory which permits traders who are harmed by misstatements to recover damages even though they were unaware of and did not rely on the misstatements. This theory of liability assumes that traders rely on the integrity of a marketplace that has established a trading price for the company's securities which takes into account the false or misleading information.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7932]

Income Tax; Information Returns of Barter Exchanges

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to final rule.

SUMMARY: This document contains a correction to the **Federal Register** publication beginning at 48 FR 57485 of the final regulations which were the subject of Treasury Decision 7932 relating to information returns of barter exchanges.

EFFECTIVE DATE: The amendments to the regulations that are the subject of this correction are effective after December 31, 1983.

FOR FURTHER INFORMATION CONTACT: Cynthia Grigsby of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, Washington, D.C. 20224, telephone 202–566–3935 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On December 30, 1983, the **Federal Register** published final regulations (48 FR 57485) relating to information returns of barter exchanges. The amendments are issued under the authority of sections 6045 and 7805 of the Internal Revenue Code of 1954 (96 Stat. 600, 26 U.S.C. 6045, 68A Stat. 917, 26 U.S.C. 7805).

Need for a Correction

As published, Treasury Decision 7932 incorrectly includes the phrase "corporate clients or members" rather than the phrase "corporate member or client". This error appears in the heading of § 1.6045–1(f)(2)(ii), on page 57485 in the right-hand column.

Correction of Publication

PART 1—[AMENDED]

§ 1.6045–1 [Corrected]

Accordingly, the publication of Treasury Decision 7932 which was subject of FR Doc. 83–34786, is corrected by removing the phrase "corporate

clients or members" from the heading of § 1.6045–1(f)(2)(ii), in the right-hand column of page 57485 and adding the phrase "corporate member or client" in its place.

George H. Jelly,

Director, Legislation and Regulations Division.

[FR Doc. 84–1716 Filed 1–19–84; 8:45 am]

BILLING CODE 4830–01–M

26 CFR Part 1

[T.D. 7932]

Income Tax; Information Returns of Barter Exchanges

In FR Doc. 83–34768 beginning on page 57485 in the issue of Friday, December 30, 1983, make the following correction:

On page 57485, first column, in the last line of the **SUMMARY**, "generally affect exchanges" should have read "generally affect barter exchanges".

BILLING CODE 1505–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[A–9–FRL 2508–2]

Delegation of New Source Performance Standards (NSPS); Clark County Health District, State of Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Delegation of authority.

SUMMARY: The EPA hereby places the public on notice of its delegation of NSPS authority to the Clark County Health District (CCHD). This action is necessary to bring the NSPS program delegation up to date with recent EPA promulgations and amendments of these categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift the primary program responsibility for the affected NSPS categories from EPA to State and local governments.

EFFECTIVE DATE: December 19, 1983.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, New Source Section (A–3–1), Air Operations Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974–8236, FTS 454–8236.

SUPPLEMENTARY INFORMATION: The CCHD has requested authority for delegation of certain NSPS categories. Delegation of authority was granted by a letter dated December 2, 1983 and is reproduced in its entirety as follows:

Michael H. Naylor, P.E., Director, Air Pollution Control Division, Clark County Health District, P.O. Box 4426, 625 Shadow Lane, Las Vegas, NV 89127.

Dear Mr. Naylor: In response to your request of November 15, 1983, I am pleased to inform you that we are delegating to your agency authority to implement and enforce certain categories of New Source Performance Standards (NSPS). We have reviewed your request for delegation and have found your present programs and procedures to be acceptable. This delegation includes authority for the following source categories:

NSPS	40 CFR Part 60, subpart
Surface Coating of Metal Furniture	EE.
Lead-Acid Battery Manufacturing Plants	KK.
Phosphate Rock Plants	NN
Graphic Arts Industry: Publication Rotogravure Printing.	QQ.
Industrial Surface Coating: Large Appliances	SS.
Metal Coil Surface Coating	TT
Asphalt Roofing and Asphalt Roofing Manufacture.	UU

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Part 60, including use of EPA's test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,

Judith E. Ayres,

Regional Administrator.

With respect to the areas under the jurisdiction of the CCHD, all reports, applications, submittals, and other communications pertaining to the above listed NSPS source categories should be directed to the CCHD at the address shown in the letter that appears in this notice.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

This Notice is issued under the authority of Section 111 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*).

Under the Regulatory Flexibility Act I certify that this rule will not have a significant economic impact on a substantial number of small entities.

Dated: December 22, 1983.

John Wise,

Acting Regional Administrator.

[FR Doc. 84–1446 Filed 1–19–84; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 60

[A–9–FRL 2508–1]

Delegation of New Source Performance Standards (NSPS), State of Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Delegation of authority.

SUMMARY: The EPA hereby places the public on notice of its delegation of NSPS authority to the Nevada Department of Conservation and Natural Resources (NDCNR). This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift the primary program responsibility for the affected NSPS categories from EPA to the State government.

EFFECTIVE DATE: November 17, 1983.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, New Source Section (A–3–1), Air Operations Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974–8236 FTS 454–8236.

SUPPLEMENTARY INFORMATION: The NDCNR has requested authority for delegation of certain NSPS categories. Delegation of authority was granted by letters dated October 14, 1983 and November 2, 1983 and are reproduced in their entirety as follows:

October 14, 1983.

Mr. Richard Serdoz,

Air Quality Officer, Division of Environmental Protection, Nevada Department of Conservation & Natural Resources, 201 South Fall Street, Carson City, NV

Dear Mr. Serdoz: In response to your request of September 22, 1983, I am pleased to inform you that we are delegating to your agency authority to implement and enforce the New Source Performance Standard (NSPS) category in 40 CFR Part 60: Subpart XX—Standards of Performance for Bulk Gasoline Terminals. We have reviewed your request for delegation and have found your present programs and procedures to be acceptable.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Part 60, including use of EPA approved test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the **Federal Register** in the near future.

Sincerely,

John Wise,

Acting Regional Administrator.

November 2, 1983.

Mr. Richard Serdoz,
Air Quality Officer, Division of Environmental Protection, Nevada Department of Conservation and Natural Resources, 201 South Fall Street, Carson City, NV

Dear Mr. Serdoz: In response to your request of October 10, 1983, I am pleased to inform you that we are delegating to your agency authority to implement and enforce the New Source Performance Standard (NSPS) category in 40 CFR Part 60: Subpart WW—Standards of Performance for Beverage Can Surface Coating Industry. We have reviewed your request for delegation and have found your present programs and procedures to be acceptable.

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Part 60, including use of EPA approved test methods and procedures. The delegation is effective upon the date of this letter unless the USEPA receives written notice from you of any objections within 10 days of receipt of this letter. A notice of this delegated authority will be published in the *Federal Register* in the near future.

Sincerely,

John Wise,
Acting Regional Administrator.

With respect to the areas under the jurisdiction of the NDCNR, all reports, applications, submittals, and other communications pertaining to the above listed NSPS source categories should be directed to the NDCNR at the address shown in the letters that appear in this notice.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

This Notice is issued under the authority of Section 111 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*).

Under the Regulatory Flexibility Act I certify that this rule will not have a significant economic impact on a substantial number of small entities.

Dated: December 22, 1983.

John Wise,
Acting Regional Administrator.

[FR Doc. 84-1445 Filed 1-19-84; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 81

[AD-FRL 2510-2]

Designation of Areas for Air Quality Planning Purposes; Correction

AGENCY: Environmental Protection Agency.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule redesignating the Town of Lincoln, Maine, nonattainment for the primary and secondary total suspended particulate (TSP) National Ambient Air Quality Standards (NAAQS), which was published on December 20, 1983 (48 FR 56219-21). The regulatory text portion of the notice was inadvertently omitted. Accordingly, EPA is hereby publishing the text of the amendment to 40 CFR § 81.320 that was announced on December 20, 1983.

FOR FURTHER INFORMATION CONTACT: Peter Hagerty, Air Management Division, EPA, Region I, Room 2312, JFK Federal Building, Boston, Massachusetts 02203, (617) 223-5625.

§ 81.320 Maine.

MAINE—TSP

Designated areas	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
AQCR 109—(Downeast) Bangor/Brewer		X		
Baileyville		X		
Lincoln	X	X		
Rest of Region				X

Dated: January 13, 1984.

Sheldon Meyers,
Acting Assistant Administrator for Air and Radiation.

PART 81—DESIGNATION OF AIR QUALITY CONTROL REGIONS

Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. In § 81.320 the attainment status designation table for TSP for AQCR 109 is revised to read as follows:

[FR Doc. 84-1660 Filed 1-19-84; 8:45 am]
BILLING CODE 6560-50-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1309 and 1310

[Ex Parte No. MC-169]

Motor Carriers; Expansion of Zone of Reasonableness for Motor Common Carriers of Property and Freight Forwarders

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: Pursuant to 49 U.S.C. 10708(d)(2), the Commission has exercised its authority to expand the zone of rate freedom (ZORF), which permits motor common carriers of property and freight forwarders to reduce or increase rates within a 10 percent zone without Commission interference, by increasing the present zone from 10 percent to 15 percent. The Commission concluded that the statute does not authorize cumulative increases in the ZORF boundaries. In addition, the Commission has adopted rules which will streamline its tariff filing requirements governing rates and charges filed pursuant to zone of rate freedom authority.

EFFECTIVE DATE: These rules will be effective February 21, 1984.

FOR FURTHER INFORMATION CONTACT: Leonard L. Arnaiz (202) 275-7831
or
Howell I. Sporn (202) 275-7691.

SUPPLEMENTARY INFORMATION: We instituted this proceeding by a notice of proposed rulemaking published at 48 FR 20780, May 9, 1983.

Additional information is contained in the Commission's Decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (D.C. Metropolitan area) or toll free (800) 424-5403.

Energy and Environmental Considerations

We affirm our preliminary determination that this decision will not significantly affect the quality of the human environment or conservation of energy resources.

Regulatory Flexibility Analysis

The notice indicated our preliminary conclusion that this action would have no significant economic impact on a substantial number of small entities. We suggested that carriers and freight forwarders would be beneficially affected because the new rules would give them additional flexibility in responding to market demands and simplify requirements for tariff filings. We also suggested that shippers would likewise be beneficially affected since they too would benefit from the carriers' ability to be more responsive to their needs and may benefit as well from simplified tariffs and the reduced carrier

costs in filing them. We affirm our prior conclusions in this regard.

List of Subjects

49 CFR Part 1309

Freight, Freight forwarders, Motor carriers, and Moving of household goods.

49 CFR Part 1310

Exports, Freight,

Imports, Intermodal transportation, Maritime carriers, and Motor carriers.

This decision is issued pursuant to 49 U.S.C. §§ 10321 and 10708(d)(2) and 5 U.S.C. § 553.

Decided: January 10, 1984.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

James H. Bayne,

Acting Secretary.

Appendix

PART 1309—[AMENDED]

Title 49 Parts 1309 and 1310 are amended as follows:

§ 1309.8 [Amended]

1. Paragraph (a) of § 1309.8 is removed.

2. Paragraph (b) of § 1309.8 is redesignated as paragraph (a), and in the newly redesignated paragraph (a) paragraphs (2), (3), and (6) are revised and paragraph (4) is removed and reserved as follows:

§ 1309.8 Zone of rate freedom.

(a) *Letters of transmittal*

* * * * *

(2) If the application of the proposed rate, charge, or provision would result in an increase in charges, the letter shall state that the proposed increase in the aggregate is not more than 15 percent [1] above that in effect 1 year prior to the effective date of the proposed increase.

(3) If the application of the proposed rate, charge, or provision would result in a reduction in charges, the letter shall state that the proposed reduction in the aggregate shall be no more than 15 percent [1] below the lesser of that in effect on July 1, 1980 (or the date, if after July 1, 1980, on which a rate, charge, or provision first became effective for a service not provided by the freight forwarder on July 1, 1980), or that in effect 1 year prior to the effective date of the proposed reduction.

(4) [Reserved]

* * * * *

(6) The freight forwarder will also be required in the letter to certify that the rates or provisions do not exceed the amount allowed by Section 10708(d)(3)(A or B); and that the rates or provisions fall within the 15 percent [1] zone; also, if the rate is more than 15 percent [1] above the rate in effect one year earlier, to include in the statement whether the proposed rate has been subject to general rate increases during the previous year, what percent increase was taken, the bureaus which published the increase, and the effective date.

3. A new paragraph (b) is added to § 1309.8 to read as follows:

§ 1309.8 Zone of rate freedom

* * * * *

(b) The letter need not identify the number of the item (or page) and tariff in which the rate, charge, or provision may be found that was in effect one year prior to the date of the proposed rate, or on July 1, 1980, or later, as appropriate. However, if the rate is protested, the carrier, in its reply to the protest, must make such identification.

PART 1310—[AMENDED]

§ 1310.1 [Amended]

4. Section 1310.1 is amended by revising paragraphs (c)(6) (ii), (iii), (iv), and (vi) as follows.

§ 1310.1 Filing tariffs (rule 1).

* * * * *

(c) *Letters of transmittal* * * *

(6) * * *

(ii) If the application of the proposed rate, charge, or provision would result in an increase in charges, the letter shall state that the proposed increase in the aggregate is not more than 15 percent [1] above that in effect 1 year prior to the effective date of the proposed increase.

(iii) If the application of the proposed rate, charge, or provision would result in a reduction in charges, the letter shall state that the proposed reduction in the aggregate shall be no more than 15 percent [1] below the lesser of that in effect on July 1, 1980 (or the date, if after July 1, 1980, on which a rate, charge, or provision first became effective for a service not provided by the carrier on July 1, 1980), or that in effect 1 year prior to the effective date of the proposed reduction.

(iv) The letter need not identify the number of the item (or page) and tariff in which the rate, charge, or provision may be found that was in effect one year prior to the date of the proposed reduction, or on July 1, 1980 or later, as appropriate. However, if the rate is protested, the carrier, in its reply to the protest, must make such identification.

* * * * *

(vi) The carrier will also be required in the letter to certify that the rate or provisions do not exceed the amount allowed by Section 10708(d)(3)(A or B) and that the rates or provisions fall within the 15 percent [1] zone; also, if the rate is more than 15 percent [1] above the rate in effect one year earlier, to include in the statement whether the proposed rate has been subject to general rate increases during the previous year, what percent increase was taken, the bureau which published the increase, and the effective date.

* * * * *

§ 1310.4 [Amended]

5. Section 1310.4 is amended by removing and reserving paragraph (f)(6).

§ 1310.5 [Amended]

6. Section 1310.5 is amended by removing and reserving paragraph (m).

[FR Doc. 84-1587 Filed 1-19-84; 8:45 am]

BILLING CODE 7035-01-M

[1] This percentage shall be increased or decreased, as the case may be, by the percentage change in the Producers Price Index, as published by the Department of Labor that has occurred during the one-year period prior to the effective date of the proposed rate. 49 U.S.C. 10708(d)(3)(B).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 675

[Docket No. 31214-236]

Foreign Fishing; Groundfish of the Bering Sea and Aleutian Islands Area

Correction

In FR Doc. 84-152 beginning on page 396 in the issue of Wednesday, January 4, 1984, make the following corrections.

1. On page 400, third column, the table in § 611.93(c)(2)(i) should have been set forth as follows:

Latitude	*Longitude*
52°51′ N.	178°30′ W.
52°51′ N.	179°00′ E.
51°15′ N.	179°00′ E.
51°15′ N.	178°30′ W.
52°51′ N.	178°30′ W.

2. On page 402, first column, the table in § 675.20(d), should have been set forth as follows:

Latitude	*Longitude*
54°36′ N.	164°55′42″ W. (Cape Sarichef Light)
54°48′ N.	170°00′ W.
55°30′ N.	170°00′ W.
55°30′ N.	166°47′ W.
56°00′ N.	167°45′ W.
56°00′ N.	166°00′ W.
56°30′ N.	166°00′ W.
56°30′ N.	163°00′ W.
55°16′ N.	166°10′ W.
54°36′ N.	164°55′42″ W.

BILLING CODE 1505-01-M

Proposed Rules

Federal Register
Vol. 49, No. 14
Friday, January 20, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 381

[Docket No. 82-023P]

New Line Speed Inspection System for Broilers and Cornish Hens

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to amend the Federal poultry products inspection regulations by establishing an alternate voluntary method of post-mortem inspection for broilers and cornish hens known as the "New Line Speed" (NELS) inspection system. The NELS inspection system would require three inspectors on each eviscerating line to inspect the whole carcass of all birds; each inspector inspecting every third bird. Establishments would be responsible for performing the necessary trim of designated outside defects on the passed carcasses and for operating a quality control program designed to assure that poultry as shipped is wholesome and properly prepared. The proposed rule would also establish staffing and facility requirements for the proposed system based on work measurement data. Studies show that application of the NELS inspection system to broiler and cornish hen production lines would result in an increase in the number of birds per minute that can be inspected effectively. This would allow increased efficiency in the use of Department resources and those of the poultry industry, while still providing consumers with wholesome and otherwise unadulterated products.

DATE: Comments must be received on or before March 20, 1984.

ADDRESS: Written comments should be sent in duplicate to the Regulations Office, Attn: Annie Johnson, FSIS Hearing Clerk, Room 2637, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250. Oral comments may be directed to Dr. John C. Prucha, (202) 447-3219. (See also "Comments" under Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Dr. John C. Prucha, Director, Slaughter Inspection Standards and Procedures Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-3219.

SUPPLEMENTARY INFORMATION:

Executvie Order 12291

The Agency has made a determination that this proposed rule is not a major rule under Executive Order 12291. It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The principal effect of this proposed rule is to offer the Department and industry an alternative to current inspection procedures for broilers and cornish hens which would result in increased productivity. If an establishment would choose to operate under the NELS inspection system, certain new requirements would be placed upon the establishment; however, these requirements would be counterbalanced by the dollar gain resulting from the increased productivity.

Effect on Small Entities

The Administrator, FSIS, has determined that this proposed rule would not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601). The NELS inspection system, if adopted, would merely be an alternate inspection procedure; any establishment adopting NELS and meeting the requirements of the system would do so voluntarily.

Paperwork Requirements

This proposed rule would require establishments opting to operate under the NELS system to develop and submit to the Administrator for approval a partial quality control program designed to assure that poultry is wholesome and properly prepared. Such establishments would also be required to maintain certain records to fulfill their obligation under the approved partial quality control programs. The recordkeeping and reporting requirements contained in this proposed regulation have been submitted to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act.

Comments

Interested persons are invited to submit written comments concerning this proposed rule. Written comments should be sent in duplicate to the Regulations Office and should refer to the docket number appearing in the heading of this document. Any person desiring an opportunity for oral presentation of views on this proposed rule must make such request to Dr. John C. Prucha so that arrangements may be made for such views to be presented. A transcript will be made of all oral presentations. All comments submitted pursuant to this notice will be made available for public inspection in the Regulations Office between 9:00 a.m. and 4:00 p.m., Monday through Friday.

Background

The United States has had mandatory poultry inspection since 1959. The Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*) (PPIA) requires, among other provisions, that the Secretary of Agriculture, through appointed inspectors, carry out a post-mortem examination of the carcasses of each bird processed in each official establishment processing poultry for commerce or otherwise subject to inspection under the Act. This post-mortem inspection is performed by veterinarians or trained food inspectors under veterinary supervision. Working on a moving production line, inspectors view the exterior, interior, and viscera (internal organs) of each bird slaughtered for the purpose of detecting disease or other conditions which could render the carcass or any part thereof

unfit for human food. In performing the examination, the inspectors follow standardized inspection procedures and initiate actions consistent with their findings. The procedures are designed to provide assurance that only wholesome carcasses and parts are passed for human food.

Post-mortem inspection of meat and poultry requires a large portion of the Department's expenditures for meat and poultry inspection. Consequently, the Department's ongoing responsibility for efficient utilization of its resources is especially important with respect to post-mortem inspection. Use of the most efficient post-mortem inspection procedures and staffing standards is necessary to minimize costs to the public. After conducting tests with the NELS inspection system, the Department believes that this system can enable both the Department and the industry to become more efficient with no loss in consumer protection.

Poultry Inspection Procedures

There are presently two inspection procedures used for inspecting broilers and cornish hens, namely traditional inspection and modified traditional inspection. The NELS inspection systems would be an additional inspection procedure, available to plant operators committing themselves to having specified facilities and procedures that assure wholesome and properly prepared poultry, which would allow both the Department and plant operators to better utilize their resources.

A. *Traditional Inspection Procedure.* Traditional inspection is a procedure by which one inspector inspects the whole bird and is responsible for the proper disposition of the bird, including any required trimming, before it leaves the inspection station. The traditional inspection procedure was satisfactory to FSIS and the poultry industry for many years.

B. *Modified Traditional Inspection (MTI) Procedure.* In the middle 1970's, the development of automated evisceration equipment, as well as improvements in genetics, nutrition, health, and flock management, allowed the poultry industry to present uniform lots of birds to inspectors faster than inspectors could properly inspect the birds under the traditional inspection procedure. Therefore, a new inspection procedure was developed in 1978 which allowed better utilization of inspection resources and permitted the poultry industry to take advantage of these new technologies and production improvements. This new procedure, called "modified traditional inspection" (MTI), allows industry to run an eviscerating line at speeds of up to 70 birds per minute.

MTI reduces the number of motions required of each of three inspectors on the line by splitting post-mortem inspection into two functional tasks. One task is the outside inspection of each prepositioned carcass, using a mirror to observe surfaces not directly visible. Plant personnel then reposition the carcass and its attached viscera for inside and viscera inspection.

C. *New Line Speed (NELS) Inspection System.* Since the implementation of MTI, the poultry industry has continued to make significant technological advances. Consequently, many establishments can present uniform lots of birds to inspectors faster than 70 birds per minute. This has been made possible by the increased use and further refinement of automated equipment, and through better control of the production process. In such cases, the inspection process has again become a limiting factor in establishment productivity, and restricts the return investment on the development and installation of modern, innovative equipment and facilities. Merely expanding the use of current inspection procedures would not alleviate this restraint given the limits on the line speeds attainable under those procedures. Furthermore, merely increasing the use of current procedures would be inefficient, and would place demands upon Department resources which would be difficult to meet.

Recent studies have reinforced the Department's longstanding view that Federal inspection is more efficient and effective in establishments where quality control is emphasized. This is in contrast to establishments which do not have or maintain the facilities, personnel or procedures necessary to assure the highest practicable degree of quality control. Such establishments may tend to rely on Federal inspection as a substitute for the proper control of their own operations, to place the Federal inspectors in a burdensome, quasi-supervisory role not appropriate under the PPIA. The NELS inspection procedure would eliminate much of the need for post-mortem inspectors to act in such a role. It would require that participating establishments have and maintain specific quality control facilities, personnel and procedures, as spelled out in a written partial quality control agreement approved by the Department, and would thereby assure the inspector in charge that certain functions are being effectively performed by the plant.

The proposed "New Line Speed", or "NELS" inspection system, utilizes three post-mortem inspectors on each eviscerating line. Each inspects the outside (with the aid of a mirror), the inside, and the viscera of every bird presented; each is presented every third bird on the line. The inspectors determine whether the bird should be condemned, salvaged, retained for disposition by a veterinarian, reprocessed, or proceed down the line as a passed bird subject to reinspection.

After post-mortem inspection is completed at the inspection stations, plant employees would independently perform any necessary outside trim on all passed carcasses after the giblets are harvested. Under traditional and MTI inspection procedures, the inspector is responsible for identifying those carcasses needing to be trimmed, directing the establishment employee to trim the defects, and verifying that the bird has been properly trimmed. However, the NELS inspection system shifts the responsibility of performing specified outside trim to the establishment employees.

Thus, the complete NELS inspection system consists of three inspectors performing the NELS inspection procedure, and an inspector monitoring the application of the approved partial QC program and assuring that the program is being followed.

Poultry Carcass On-Line Quality Control (PCOLQC) Program

The poultry carcass on-line quality control (PCOLQC) program is a statistically based sampling system designed to assure control of an establishment's processing operations. It would be the basis for approving use of the NELS inspection system in any establishment. The program consists of two parts—plant quality control (QC) and the Department's monitoring of the QC program.

The plant QC program would be a partial QC program, applied for and approved by the Administrator under § 381.145 (9 CFR 381.145) and the requirements in the proposed regulation. It would consist of identifying all points on the eviscerating line critical to the quality of the carcass, and, in operation, checking periodically at each point to determine compliance with predetermined standards. Products not meeting the standards would be subject to corrective actions predetermined and described in the approved QC program.

A carcass reinspection station is located at a point on the eviscerating line after the carcasses have been trimmed and washed. At this point,

carcasses are sampled and examined, and findings are reported by plant quality control personnel as prescribed in the PCOLQC.

The Department's monitoring program would consist primarily of reviewing data and if necessary sampling product at those points on the eviscerating line critical to the performance of inspection activities and the wholesomeness of product.

Under the NELS inspecion system, USDA inspectors will be responsible for carcass inspection and for monitoring the plant's application of the quality control program—for reviewing all data collected under the partial QC program and for conducting regular verification and evaluation sampling and observations to assure that the plant's data are accurate and truthful, and that ready-to-cook poultry conforms to all applicable regulatory requirements.

Designing and Testing the NELS Inspection System

Under the NELS inspection system, inspection consists of (1) inspection of all birds by three FSIS inspectors, each inspecting every third bird, and (2) carcass reinspection. The NELS system relies upon the independent trimming of defects from carcasses by plant personnel as specified in the partial QC agreement, prior to reinspection.

The NELS system was developed in two phases. In the first phase, the system was tested by utilizing three inspectors performing post-mortem inspection and a fourth inspector who reinspected each carcass. Effectiveness studies to test the system and compare it with both traditional and MTI procedures were conducted.[1] Testing was performed in one plant using MTI for comparison, and in two plants using traditional inspection for comparison.

The effectiveness test results indicated that there were no significant differences in error rates among traditional inspection, MTI, and NELS inspection. For example, there was no significant difference in the error rates of the three procedures for trim errors or for errors in condemning birds that should have been passed.

The second phase consisted of designing and incorporated the PCOLQC program into the NELS inspection system. This QC program is designed to enable the plant to control its processing and trimming operations without the direct intervention of the inspector and results in product which meets predetermined standards.

[1] A copy of the report is available for public inspection in the office of the FSIS Hearing Clerk.

Inspection Rates/Line Speeds

In conjunction with the effectiveness study, the amount of work performed by the inspectors using the NELS inspection procedure was measured by the Department. These data were used to determine both the time required to perform the task of inspection and the maximum line speeds.

The maximum line speed achievable under NELS is 91 birds per minute. This speed may be reached when all plant conditions are optimal. The inspector in charge is responsible for reducing the line speed when, in his/her judgment, the exising NELS system would not permit adequate inspection because the birds are not presented properly or the health conditions of a particular flock dictate a need for a more extended inspection procedure.

Impact of the NELS Inspection System and Facility Requirements

The NELS system is an alternate way of inspecting broilers and cornish hens. NELS would allow establishments to run their eviscerating lines at a faster rate than is now available under other inspection methods. It would, however, require establishments to develop and submit to the Administrator for approval a partial QC program designed to assure that poultry is wholesome and properly prepared. As previously discussed, the new system would also require the industry to be responsible for trimming specified defects on the outside of bird carcasses after the giblets are harvested.

Establishments also must meet certain equipment and facility requirements in order to utilize the NELS system. The eviscerating line would have minimum height requirements higher than those found in traditional and MTI procedures to allow for maximum adjustment of the inspection platform. Specific measurements and adjustments would be required for the adjustable platform to minimize the physical effort placed upon the inspector.

The NELS system would also require a specific floor space configuration of the inspection station. The configuration of the presenter, inspector, and helper proved to be the most effective during the tests. An establishment employee must be placed before each inspector to present the birds. During the testing of the NELS system, the manner of presentation of the birds to the inspector was shown to have a direct impact on the amount of work placed upon the inspector and on the consequent ability of the establishment to operate at higher line speeds. Another establishment employee, the helper, must be placed after the inspector to mark carcasses for trimming before reinspection and to perform certain related tasks as directed by the inspector.

A minimum lighting requirement of 200 footcandles would be necessary at each NELS inspection and reinspection station. This level, which is above the 150 footcandles required for MTI, is necessary to facilitate the inspection of the inside surfaces of birds moving at higher line speeds. A minimum color rendering index (CRI) value for the type of lighting would also be required at each inspection and reinspection station. The type of lighting is important since many available types of light in poultry processing establishments mask certain disease conditions and hinder the inspector in the performance of his/her job.

These specific requirements, along with certain other facility changes, would involve some cost to those establishments choosing to operate under the NELS system. However, FSIS anticipates those costs would be outweighed by savings resulting from higher line speeds gained by operating under the NELS system.

List of Subjects 9 CFR Part 381

Facilities, Poultry products inspection, Post-mortem, Quality control, Recordkeeping requirements.

Proposed Rule

PART 381—[AMENDED]

The poultry products inspection regulations would be revised as follows:

1. The authority citation for Part 381 reads as follows:

Authority: 71 Stat. 441, as amended, 21 U.S.C. 451 *et seq.*, 33 U.S.C. 1254.

2. Section 3816.36 (9 CFR 381.36) would be amended by adding a new paragraph (d) to read as follows:

§ 381.36 Facilities required.

. . . . . .

(d) Facilities for the New Line Speed (NELS) inspection system. The following requirements for lines operating under the NELS inspection system are in addition to the normal requirements to obtain a grant of inspection and to the requirements for NELS in § 381.76(b) and (c).

(1) The following provisions shall apply to every inspection station:

(i) The conveyor line shall be level for the entire length of the inspection station. The vertical distance from the bottom of the shackles to the top of the adjustable platform (paragraph (d)(f)(iv)

of this section) in its lowest position shall not be less than 60 inches.

(ii) Floor space shall consist of 6 feet along the conveyor line for the establishment employee presenting the birds, 4 feet for the inspector, and 4 feet for the establishment helper. A total of at least 42 feet along the conveyor line shall be supplied for three inspection stations.

(iii) Selectors or "kickouts" shall be installed so the three inspection stations will receive birds on 18-inch centers with no intervening birds to impede inspection. The selector must move the bird to the edge of the trough for the presenter, inspector, and establishment helper. The selectors must be smooth, steady, and consistent in moving the birds parallel and through the inspection station. Birds shall be selected and released smoothly to avoid splashing the mirror (paragraph (d)(1)(vii) of this section) and swinging when entering the inspection station. Guide bars shall not extend in front of the inspection station mirror to avoid obstructing the inspector's view.

(iv) Each inspector's station shall have an easily and rapidly adjustable platform, with a minimum of 14 inches of vertical adjustment, which covers the entire length of the station (4 feet) and has a minimum width of 2 feet. The platform shall be designed with a 42-inch high rail on the back side and with ½-inch foot bumpers on both sides and front to allow safe working conditions.

(v) Conveyor line stop/start switches shall be located within easy reach of each inspector.

(vi) A trough complying with § 381.53(g)(4) of this Part shall extend beneath the conveyor at all places where processing operations are conducted from the point where the carcass is opened to the point where the trimming has been performed. The trough must be of sufficient width to preclude trimmings, drippage, and debris from accomulating on the floor or platforms. The clearance between the suspended carcasses and the trough must be sufficient to preclude contamination of carcasses by splash.

(vii) A distortion-free mirror, at least 3 feet wide and 2 feet high, shall be mounted at each inspection station so that it can be adjusted between 5 and 15 inches behind the shackles, tilt up and down, tilt from side to side, and be raised and lowered. The mirror shall be positioned in relation to the inspection platform so that the inspector can position himself/herself opposite it from 8 to 12 inches from the downstream edge. The mirror must be maintained abrasion free.

(viii) A minimum of 200 footcandles of shadow-free lighting with minimum color rendering index value of 85 [1] where the birds are inspected to facilitate inspection, notwithstanding the requirement of § 381.52(b). A light shall also be positioned above and slightly in front of the mirror to facilitate the illumination of the bird and mirror surfaces.

(ix) "On-line" handrinsing facilities shall be provided for and within easy reach of each inspector and each establishment presenter and helper.

(x) Hangback racks shall be provided for and positioned within easy reach of the establishment helpers.

(xi) Each inspection station shall be provided with receptacles for condemned carcasses and parts. Such receptacles shall conform to the requirements of § 381.53(m).

(2) The following provisions shall apply only to the reinspection station:

(i) Floor space shall consist of 6 feet along the conveyor line. The space shall be level and protected from all traffic and overhead obstructions.

(ii) The vertical distance from the bottom of the shackles to the floor shall not be less than 60 inches.

(iii) A table, at least 3 feet wide and 2 feet deep, shall be provided for reinspecting the sampled birds.

(iv) A minimum of 200 footcandles of shadow free lighting with a mimimum color rendering index of 85 [1] on the table surface.

(v) A recorder counter shall be positioned within easy reach above the table for recording defects on the sampled birds.

(vi) A separate clip board holder shall be provided for holding the recording sheets.

(vii) On-line handrinsing facilities shall be provided for and shall be within easy reach of persons working at the station.

(viii) Handback racks designed to hold 10 carcasses shall be provided for and positioned within easy reach of the person at the station.

3. Section 381.76 (9 CFR 381.76) would be amended by revising the section heading and paragraph (b)(1) and (2), and by adding new paragraphs (b)(4) and (c) to read as follows:

§ 381.76 Post-mortem inspection, when required; extent; traditional, modified traditional, and New Line Speed (NELS) post-mortem inspection; rate of inspection.

* * * * *

(b)(1) There are three systems of post-mortem inspection: modified traditional inspection, NELS inspection and traditional inspection, which shall be used in the following circumstances:

(i) Modified traditional inspection shall be used only for young chickens if: [1]

(*a*) The operator requests modified traditional inspection and the Administrator determines that the system will result in no loss of inspection efficiency; or

(*b*) The Administrator determines that modified traditional inspection will increase inspector efficiency.

(ii) NELS shall be used only for broilers and cornish hens if:

(*a*) The operator requests NELS inspection, and

(*b*) The Administrator determines that the establishment has the intent and capability to operate at line speeds greater than 70 birds per minute, meets all the facility requirements in § 381.36(d), and receives approval of its partial quality control program as specified in paragraph (c) of this section.

(iii) Traditional inspection shall be used when neither modified traditional inspection nor NELS inspection is used.

(2) The requirements of paragraph (a) of this section are applicable to all three inspection systems.

(3) * * *

(4) The following requirements are also applicable to NELS inspection:

(i) Inspection under NELS is conducted in two phases, a post-mortem inspection phase and a reinspection phase.

(*a*) Post-mortem inspection. The establishment shall provide three inspection stations on each eviscerating line in compliance with the facility requirements in § 381.36(d)(1). The three inspectors shall inspect the inside, viscera, and outside of all birds presented. Each inspector shall be presented every third bird on the line. Each inspector shall be flanked by two establishment employees—the presenter and the helper. The presenter shall ensure that the bird is properly eviscerated and presented for inspection with the back side toward the inspector and the viscera leading. The inspector shall determine which birds shall be salvaged, reprocessed, retained for disposition by a veterinarian, or allowed to proceed down the line as a passed bird subject to reinspection. Poultry carcasses with certain obvious, readily observable outside defects not requiring condemnation of the entire carcass and specified in the partial quality control

[1] This requirement may be met by the cool white type of fluorescent lighting.

[1] The standards in § 381.170(a) of the regulations (9 CFR 381.170(a)) specify which classes of chickens constitute young chickens.

agreement as defects the establishment shall remove, shall be passed by the inspector, but shall be subject to reinspection to ensure the physical removal of the specified defects. The helper, under the supervision of the inspector, shall mark such carcasses for trim. Trimming of birds passed subject to reinspection shall be performed by other establishment employees after post-mortem inspection and prior to reinspection.

(*b*) A reinspection station shall be located at the end of each line. This station shall comply with the facility requirements in § 381.36(d)(2). The inspector shall ensure that establishments have performed the indicated trimming of carcasses passed subject to reinspection by visually monitoring, checking data, and/or gathering samples at the station and at other critical points on the line. Specific reinspection activities shall be based on the establishment's partial quality control system and its performance under that system as determined by the inspector.

(ii) The approved quality control program for the establishment shall include critical control points on the line, which shall be monitored by the inspector. Establishment quality control employees shall operate the poultry carcass on-line quality control program and shall make immediately available to inspection personnel any and all data collected and maintained under the approved partial quality control program.

(iii) An inspector shall monitor the establishment's application of the poultry carcass on-line quality control program and shall take corrective action when he/she determines that the establishment has failed to maintain or correct its process as described in the approved quality control program.

(iv) The maximum inspection rate for NELS shall be 91 birds per minute per eviscerating line.

(c) Applying for and terminating the Partial Quality Control Agreement for the NELS inspection system.

(1) Any owner or operator of an official establishment preparing poultry products who wishes to apply for the NELS system must submit to the Administrator a partial quality control program designed to assure that poultry is wholesome and properly prepared and shall request a determination as to whether or not that program is adequate to result in product being in compliance with the requirements of the Act and, therefore, qualify for the NELS inspection system. Such a request shall, as a minimum, include:

(i) A letter to the Administrator from the establishment owner or operator stating the objective of the program and willingness to adhere to the requirements of the program as approved by the Department; that all data and information generated under the program will be maintained and be available to departmental personnel to enable the Department to monitor compliance; that plant quality control personnel will have authority to halt production or shipping of product in cases where the submitted quality control program requires it; and that the owner or opeator (or his/her designee) will be available for consultation at any time departmental personnel consider it necessary.

(ii) Identification of establishment quality control personnel. In the case of an establishment having one or more full-time persons whose primary duties are related to the quality control program, agreement that such people shall ultimately report to an establishment official whose quality control responsibilities are independent of or not predominantly production responsibilities. In the case of an establishment which does not have full-time quality control personnel, detailed information indicating the nature of the duties and responsibilities of the person who will be responsible for the quality control program.

(iii) Detailed information concerning the manner in which the program will function. Such information shall include, but not be limited to, the critical check or control points on each eviscerating line from the unloading area to the finished product, the nature and frequency of tests to be made at each check point, the nature of charts and other records that will be maintained by the official establishment, the type of deficiencies the program is designed to identify and control, the defect criteria which will be used and the points at which corrective action will occur and the nature of the corrective action—ranging from the least to the most severe.

(2)(i) The Administrator shall evaluate the submitted partial quality control program in accordance with the provisions of this paragraph. If it is determined by the Administrator that the partial quality control program will result in finished products being in full compliance with the requirements of the Act and regulations thereunder, the partial quality control program will be approved and implemented, under departmental supervision, as soon thereafter as practicable.

(ii) In any situtation where the program is found by the Administrator to be unacceptable, written notification shall be given to the applicant of the basis for the denial. The applicant will be afforded a reasonable opportunity to modify the program in accordance with the notification. The applicant shall also be afforded a reasonable opportunity to submit a written statement in response to this notification of denial and/or to request a hearing on the denial. If the applicant requests a hearing and the Administrator, after review of the applicant's answer to the notice, finds the initial determination to be correct, the applicant must file with the Hearing Clerk of the Food Safety and Inspection Service the notification, answer and the request for hearing, which shall constitute the complaint and answer in the proceeding, which shall thereafter be conducted in accordance with Rules of Practice which shall be adopted for this proceeding.

(iii) The approved partial quality control program constitutes an operating agreement between the establishment and the Department. The establishment owner or operator shall be responsible for the effective operation of the approved partial quality control program, and to obtain approval of any changes required in that program, to assure continuing compliance with the requirements of the Act and regulations thereunder. The Secretary shall provide the Federal inspection necessary, as determined by the operating conditions at the establishment, to carry out his responsibilities under the Act.

(3) The approval of the partial quality control program under the NELS inspection system may be terminated at any time by the owner or operator of the official establishment upon written notice to the Administrator. The establishment will be provided inspection under one of the two remaining inspection systems, as appropriate.

(4) The approval of the partial quality control program under the NELS inspection system will terminate upon receipt by the establishment of written notice from the Administrator (or his designee). Such notice will specify the deficiency and will be issued:

(i) If unwholesome or otherwise adulterated poultry products are found by the Administrator to have been prepared for or distributed in commerce by the subject establishment, or

(ii) If the establishment fails to comply with the quality control program to which it has agreed.

(5) The establishment owner or operator receiving notice that approval has terminated may respond to the notice, in writing, to the Administrator

within 30 days of receipt of such notice. In those instances where there are issues of fact, a hearing under applicable Rules of Practice will be provided to the establishment owner or operator to resolve the conflict. The Administrator's termination of approval shall remain in effect pending the final determination of the proceeding.

(6) If approval of the partial quality control program under the NELS inspection system has been terminated in accordance with the provisions of this section, an application and request for approval of the same or modified quality control program will not be evaluated by the Administrator for at least 2 months from the termination date. In order for the Department to provide the Federal inspection required under the Act, an establishment whose quality control program has been terminated will be allowed to continue operating under the traditional or modified traditional inspection system, provided all requirements of the Act and regulations thereunder are met.

Done at Washington, D.C., on January 9, 1984.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 84-1723 Filed 1-19-84; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

Consideration of Amendments to the Pennsylvania Permanent Program Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Reopening of public comment period.

SUMMARY: OSM is reopening the period for review and comment on certain amendments submitted by the Commonwealth of Pennsylvania to its program for the regulation of surface coal mining and reclamation in the State. The amendments relate to (1) citizen complaint procedures, (2) inspection frequency, (3) enforcement procedures, and (4) the civil penalty program. OSM is reopening the comment period to allow the public sufficient time to consider and comment on the proposed amendments.

DATES: Written comments, data or other relevant information must be received on or before 4:00 p.m. February 6, 1984 to be considered.

ADDRESS: Comments should be sent or hand-delivered to: Robert Biggi, Director, Harrisburg Field Office, Office of Surface Mining, 101 South 2nd Street, Harrisburg, Pennsylvania 17101.

FOR FURTHER INFORMATION CONTACT: Robert Biggi, Director, Harrisburg Field Office, Office of Surface Mining, 101 South 2nd Street, Harrisburg, Pennsylvania 17101; Telephone: (717) 782-4036.

SUPPLEMENTARY INFORMATION: On September 7, 1982, OSM received, pursuant to the 30 CFR 732.17 State program amendment procedures, revised inspection and enforcement policy statements. On October 14, 1983, OSM published a notice in the **Federal Register** announcing receipt of the amendments to the Pennsylvania program and inviting public comment thereon (48 FR 46817-46819). The public comment period ended November 14, 1983. The public hearing scheduled for November 3, 1983, was not held because no one expressed a desire to present testimony.

On January 17, 1984, OSM received additional material from Pennsylvania responding to issues raised on December 15, 1983, by OSM in a meeting with the Department of Environmental Resources regarding the Pennsylvania amendments. This material consists of an explanatory letter, a new policy statement pertaining to citizen complaint procedures, and revised policy statements pertaining to inspections, enforcement, and civil penalties.

OSM is reopening the comment period for an additional 15 days to allow the public sufficient time to review and comment on the above Pennsylvania amendments. Written comments should be specific, pertain only to the issues proposed in this rulemaking and include explanations of why the commenter believes or does not believe that the proposed amendment includes the same or similar procedural requirements as provided in 30 CFR Parts 842, 843 and 845.

This announcement is made in keeping with OSM's commitment to public participation as a vital component in fulfilling the purposes of the Surface Mining Control and Reclamation Act of 1977.

Dated: January 17, 1984.

William B. Schmidt,

Assistant Director, Program Operations and Inspection.

[FR Doc. 84-1686 Filed 1-19-84; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 799

[OPTS-42043; TSH-FRL 2477-8]

1,2-Dichloropropane; Proposed Test Rule

Correction

In FR Doc. 84-326 beginning on page 899 in the issue of Friday, January 6, 1984, in the heading, the OPTS number should have appeared as set forth above.

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 84-19; RM-4564; FCC 84-10]

Repeal of the "Regional Concentration of Control" Provisions of the Commission's Multiple Ownership Rules

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to repeal or relax the Commission's regional concentration of control provisions of §§ 73.35(b)(1), 73.240(a)(2), 73.636(a)(2) of the Rules. These sections prohibit any party from directly or indirectly owning, operating, or controlling three commercial AM, FM, or television stations where any two stations are within 100 miles of the third, and where there is primary service contour overlap between any of the stations. This rule making is being instituted because the existing rule has produced inconsistent and anomalous results in the cases and may be imposing substantial costs on both the public and the broadcasting industry. Moreover, the significant growth in media outlets in recent years strongly suggests a need to reevaluate the assumptions underlying regional concentration restraints in general.

DATES: Comments are due by February 21, 1984 and replies by March 7, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes, Mass Media Bureau, (202) 632-7792.

List of Subjects in 47 CFR Part 73

Radio and television broadcasting.

Notice of Proposed Rule Making

In the matter of repeal of the "Regional Concentration of Control" Provisions of the Commission's multiple ownership rules (MM Docket No. 84-19, RM-4564).

Adopted: January 12, 1984.
Released: January 17, 1984.

By the Commission: Commissioner Rivera dissenting and issuing a statement.

Introduction

1. Before the Commission is a petition for rule making filed by the National Association of Broadcasters ("NAB"), seeking repeal of the "regional concentration of control" provisions of §§ 73.35(b)(1), 73.240(a)(2), and 73.636(a)(2) of the Commission's Rules.[1] These sections, which are identical, prohibit any party from directly or indirectly owning, operating, or controlling three commercial AM, FM, or television stations where any two stations are located within 100 miles of the third, and where there is primary service contour overlap between any of the stations.[2] The rule provides for two exceptions. First, AM-FM combinations may be considered as one station if their communities of license meet certain geographical criteria. Second, applications raising regional concentration issues based on contour overlaps involving UHF television stations are treated on a case-by-case basis.[3]

2. Based upon our review of the petition, the comments filed in response thereto and our own experience in administering the rule, we believe that the commencement of a rule making proceeding is warranted to determine whether the existing regional concentration provisions should be repealed. We are particularly concerned that our regional ownership rules inadequately reflect the significant changes in the telecommunications marketplace that have occurred in recent years.

Background

3. The three-station regional concentration of control rule is the Commission's most recent multiple ownership provision. In the past, as the Commission developed fixed limits on the number of stations that a party could control on a national basis, there was a belief by the Commission that the common ownership, operation, or control of a smaller number of stations in close proximity to one another or in a small geographic area may precipitate a concentration of control contary to the public interest.[4] Accordingly, when the Commission adopted its "seven station rule" limiting common ownership, operation, or control to no more than 7 AM, 7 FM, and 7 television stations (of which only 5 may be VHF), the Commission also set forth specific factors for determining, on a case-by-case basis, whether a particular regional ownership pattern would constitute an undue concentration of control. Specifically, §§ 73.35(b), 73.240(a)(2), and 73.636(a)(2) of the Rules provided that:

> In determining whether there is such a concentration of control, consideration will be given to the facts of each case with particular reference to such factors as the size, extent and location of areas served, the number of people served, classes of stations involved, and the extent of other competitive service to the areas in question.[5]

The authority to make these case-by-case determinations was delegated to the Chief of the Broadcast Bureau, except for cases involving the "acquisition of a third broadcast station within 100 miles of a presently owned station," which were referred to the Commission, *en banc*, for consideration. *See Order*, 43 FCC 2d 638, 639 (1973).

4. This case-by-case approach proved to be burdensome to applicants who found themselves conducting extensive media surveys to disprove the possibility that grant of an application would result in a regional concentration of control contrary to the public interest. It also led to a lack of predictability because, even though most applications raising regional concentration issues were granted, applicants were nevertheless unsure as to the significance of each of the factors weighed by the Commission. *See, e.g., Clarksburg Publishing Company v. FCC*, 225 F. 2d 511 (D.C. Cir. 1955); *Wichita-Hutchinson Co., Inc.*, 17 R.R. 2d 1235 (1969); and *Forum Communications Co.*, 34 R.R. 2d 1163 (1975).[6] As a result, the Commission decided, upon its own motion, to issue a *Notice of Proposed Rule Making* in Docket No. 20548, 54 FCC 2d 331 (1975), looking toward the establishment of a "fixed" regional concentration standard in lieu of the case-by-case approach. The *Notice* proposed as its primary option to prohibit the acquisition of a fifth commonly owned broadcast facility within any single state.

5. After reviewing the comments in Docket No. 20548, the Commission abandoned its proposed limitation of four stations per state because it was clearly shown that such a rule would be inequitable in the larger states while not actually preventing the development of regional concentrations of control in "cluster areas" between states. *First Report and Order* in Docket No. 20548, 63 FCC 2d 824, 827-28 (1977). Instead, the Commission adopted the present rule prohibiting the acquisition of a station or the modification of facilities if this would result in the common ownership of three broadcast stations where any two are within 100 miles of the third, and where there is primary service contour overlap between any of the stations. The Commission based this rule upon a review of all recent applications where concentration of control issues were raised by the staff and referred to the Commission, *en banc*, for determination. This review revealed that "the probability that a concentration of control will result where there is no overlap of the primary service contours of the commonly owned stations is too unlikely to require

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[1] Public notice of the petition was given August 19, 1983, Report No. 1421, Mimeo No. 6028. Eight parties filed comments in response to this notice and are listed in Appendix A. No reply comments were filed.

[2] The term "primary service contour" refers to the predicted or measured 0.5 mV/m contour for AM stations, the predicted 1.0 mV/m contour for FM stations, and the predicted Grade B contour for TV stations, computed in accordance with §§ 73.183, 73.186, 73.313, and 73.684 of the Commission's Rules.

[3] *See* Note 11 to §§ 73.35, 73.240, and 73.636 of the Commission's Rules. The full text of the rule, as applied to each broadcast service, is attached as Appendix B.

[4] For example, in 1941, the Commission adopted § 4.226 of the Rules permitting the common ownership of a maximum of three "experimental television stations. However, the rule also stated that "no person . . . shall directly or indirectly, own, operate, or control more than one television station except upon a showing . . . that such ownership, operation, or control would not result in the concentration of control of television broadcasting facilities in a manner inconsistent with public interest, convenience, or necessity. . . ." 6 FR 2282, 2284-85 (1941).

[5] *Report and Order* in Docket No. 8967, 18 FCC 288, 296-297 (1953).

[6] For example, the presence of a substantial number of other media services was a significant factor in the *Forum* case in which the Commission granted an application for a construction permit for a satellite television station in Pierre, South Dakota, even though the grant resulted in the common ownership of a fifth VHF television station and a seventh broadcast station in a contiguous two state area. However, in the *Wichita-Hutchinson* case, the Commission denied an application for the transfer of control of a VHF television station in Hutchinson, Kansas, which would have resulted in the transferee's controlling four television stations in a three state area, as well as newspaper interests in one of these states, even though there were two other VHF television stations and 25 AM and FM stations serving the Wichita-Hutchinson market.

extensive showings from applicants in such cases." [7] Accordingly, the Commission decided that, generally, it would not raise regional concentration issues unless both the "overlap" and "distance" factors were present. However, the Commission reserved the right to request concentration showings "where specific allegations of fact coming to the Commission's attention, or other substantial and material questions of fact noticed by the Commission, raise the possibility that a grant of an application would create a concentration of control and be inconsistent with the public interest." [8]

6. The Commission subsequently modified the *First Report and Order* in Docket No. 20548 to provide for ad hoc consideration of regional concentration issues involving UHF television stations and to clarify its single market AM–FM combination exception to the rule. *See Memorandum Opinion and Order* in Docket No. 20548, 67 FCC 2d 54, 57–58 (1977). A petition for partial reconsideration or clarification of the *Memorandum Opinion and Order*, filed by Great Trails Broadcasting Corporation, is still pending, along with responsive pleadings filed by Group One Broadcasting Co. and Lares Broadcasting Corporation. To the extent still relevant, these pleadings are incorporated and will be considered in this proceedings.[9]

NAB's Petition

7. NAB believes that the existing regional concentration rule is arbitrary and that subsequent developments in the telecommunications marketplace have rendered it obsolete. Specifically, NAB contends that the rule has been applied mechanically without regard to the diversity of voices or programming in any given region, with the adverse effect of precluding station acquisitions and improvements in facilities that would otherwise serve the public interest. For example, it notes that in the recent case of *Tri-State Broadcasting, Inc.*, 52 R.R. 2d 1013 (1982), the Commission strictly applied the rule to block the transfer of control of a radio station without regard to the *de minimis* nature of the contour overlap involved. Generally, NAB suggests that "a review of the current rule might well disclose that in the vast majority of cases there is no more danger of concentration of control inimical to the public interest where there is overlap than where there is not." [10]

8. NAB also asserts that the remedy is not to return to the burdensome case-by-case approach but rather to determine, in the context of a rule making, whether any regional concentration restraints are necessary in light of the increasing competition within the telecommunications marketplace. In this regard, NAB points out that by 1977, the year in which the current rule was adopted, there were 8,505 authorized radio stations (4,536 AM and 3,969 FM) and 1,029 television stations, but that as of January 1, 1983, there were 9,798 radio stations (4,828 AM and 4,970 FM) and 1,276 television stations.[11] NAB states that this represents increases of 15.2% and 24.0% in the number of radio and television stations, respectively, over the past six years. NAB believes that this dramatic increase in the number of broadcast voices is merely one of the new developments that has rendered the rule unnecessary. Equally significant, according to NAB, is the growth and authorization of new non-broadcast media delivery systems. For example, NAB notes that, in 1977, there were 3,832 cable television systems serving 11,900,000 subscribers, and that, in 1982, there were almost 1,000 more systems serving approximately 21,000,000 subscribers.[12] Additionally, NAB states that:

> [In] 1983, there are . . . at least 99 multipoint distribution services with 564,655 subscribers; 206 operating low power television stations and at least 8,500 pending applications for new ones; [and] eight entities authorized to begin providing Direct Broadcast Satellite Service * * *.[13]

As a result of these significant developments, NAB believes that regional concentration limitations are no longer necessary to promote competition and diversity of voices and program sources because these goals are already being accomplished by the marketplace.

9. NAB also contends that repeal of the regional concentration rule would result in several public interest benefits. NAB believes that it would enable broadcasters in marginal economic situations, such as in rural areas, to benefit from the economies of scale of limited multiple ownership and, thus, could result in the activation of some unused channels and frequencies currently considered as too great an economic risk. Additionally, NAB believes that the Commission would be freed of the burden of adjudicating requests for waiver and could utilize its resources in other more important areas. Moreover, repeal of the rule would, according to NAB, have the beneficial effect of promoting diversity of voices and competition by removing a restriction that only applies to commercial broadcasters and not to other media competitors. Finally, NAB asserts that repeal of the rule could benefit new, smaller-scale entrants to the broadcast industry and could result in increased minority ownership of broadcast stations.

10. NAB does not contend "that there might never be legitimate concerns about undue regional concentration." It does argue, however, that regulatory intervention is not required to redress such situations. Rather, it believes that the Commission should "leave what regulation proved to be necessary to the antitrust laws and to the marketplace itself, the natural regulator of program diversity and operation in the public interest." NAB Petition at 10.

Comments

11. With one exception, the commenting parties support NAB's petition seeking repeal of the three-station regional concentration rule. Generally, these parties reiterate NAB's arguments that the arbitrary application of the rule has prevented station acquisitions and improvements in facilities, and that changes in the

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[7] *First Report and Order* in Docket No. 20548, 63 FCC 2d 824, 828 (1977).

[8] *Id.*

[9] Great Trails argues that commonly owned AM and FM stations should be considered in the same "market" and counted as one station for purposes of the regional concentration rule based on the contour encompassment standards used in the Commission's "one-to-a-market" rules rather than on the "15 mile/urbanized area" criteria adopted in the *Memorandum Opinion and Order*. Great Trails also contends that the Commission should permit reasonable improvements of facilities by stations that are "grandfathered" under the rule. In this latter regard, we note that Congress recently amended Section 310 of the Communications Act to permit facilities improvements by such "grandfathered" stations and that this aspect of Great Trails' request would appear therefore to be moot. *See* Act of December 8, 1983, Pub. L. 98–214, § 7. It should be emphasized that this amendment is intended to permit changes in transmitter location, antenna height, or power but not changes in frequency or class of station. Moreover, the Committee stated in its report that "this section addresses an exception to existing Commission rules and does not express any intent with respect to the ability of the Commission to revise or modify these rules." H.R. Rep. No. 98–356, 98th Cong., 1st Sess. (1983) at 19.

[10] NAB Petition for Rule Making at 5.

[11] NAB's source for these statistics is the *Broadcasting/Cablecasting Yearbook*, 1983 edition, at B–384. As of November 30, 1983, Commission records show 10,112 authorized radio stations (4,891 AM and 5,221 FM) and 1,407 authorized TV stations.

[12] For figures about cable television, NAB relies upon *Television Factbook*, 1981–82 edition, at 83–a. The 1982–83 edition of the *Television Factbook* indicates that there were 25 million cable subscribers and 5,600 systems as of January 1, 1983. *Id.* at 1560.

[13] NAB Petition for Rule Making at 7. NAB bases these figures upon its own publication, *Profile: Broadcasting 1983*, as well as upon FCC sources.

telecommunications marketplace have rendered the rule unnecessary. With respect to the arbitrariness of the rule, there is a clear consensus that the rule is applied without regard to diversity of programming or concerns about oligopolistic control of the media which prompted promulgation of the rule in the first place. As examples of this, Great Trails Broadcasting Corporation ("Great Trails") points out that in the case of *Radio Soo, Inc.*, 50 R.R. 2d 373 (1981), the acquisition of a second AM–FM combination within a 60 mile area was permitted, and in *Millard V. Oakley*, 45 R.R. 2d 661 (1979), a construction permit was granted for a third AM station within 100 miles of two other stations, resulting in the common ownership of five radio stations in eastern Tennessee. Great Trails believes that it is anomalous to permit such ownership situations because of a lack of primary service contour overlap but to prohibit, by strict application of the rule, other concentrations of ownership merely because of the existence of *de minimis* overlap. Great Trails also agrees that the rule has the adverse effect of preventing improvement in stations' facilities and that this is unfair to many FM licensees who must, according to the Commission's recent *Report and Order* in BC Docket No. 80–90, maximize facilities or ultimately lose their protected status as Class B or C stations.[14]

12. Other commenting parties (Viacom International, Inc., and Beasley Broadcasting Corporation) emphasize that, even if there existed well-founded concerns over oligopolistic control of the broadcast media, other sections of the Commission's multiple ownership rules, such as the "duopoly" and "one-to-a-market" provisions, are more appropriate for dealing with such concerns.[15] In any event, all of the parties supporting NAB's petition agree that the current diversity in the telecommunications marketplace has outstripped the need for the rule. Viacom and the National Radio Broadcasters Association ("NRBA") buttress NAB's showing in this regard by noting that 30,000 applications were recently filed for systems in the new multichannel multipoint distribution service, which will ultimately provide further competition and diversity of voices. Finally, several commenting parties note that, due to the dramatic changes in the marketplace, the Commission has recently refused to adopt multiple ownership rules for cable television, low power television and direct broadcast satellite services.

13. Citizens Communications Center ("Citizens") opposes NAB's petition, alleging that NAB has not set forth any factual or legal basis for repeal of the rule. Specifically, Citizens contends that NAB has not shown that any changes in current network practices and ownership patterns have occurred that would warrant the commencement of a rule making proceeding. Citizens further believes that NAB's objection to the rule on the basis of its "arbitrariness" is misplaced. In this regard, Citizens asserts that practically all regulations relying upon objective standards, such as the instant rule, are arbitrary to some extent, but that this does not undermine the basic rationality of the rule. Cases marginally violative of the rule can always be addressed through appropriate waiver procedures. Moreover, Citizens questions whether there actually is sufficient diversity in the telecommunications marketplace to warrant repeal of the rule. It asserts that, as long as there are more prospective applicants than there are frequencies, the Commission should retain the rule in order to promote competition and the diversity of voices.

Discussion

14. After reviewing NAB's petition and the comments filed in connection with it, we believe that a rule making proceeding to reexamine our current regional ownership limitations is clearly warranted. First, the existing rule does not appear to have produced rational results. Second, the rule may be imposing significant costs on both the public and the broadcast industry. Finally, dramatic changes in the telecommunications marketplace, particularly the availability of many new broadcast and nonbroadcast outlets, may have obviated the need for any rule in this area, or at least may warrant substantial relaxation of the present restrictions.

15. *The 100-Mile Rule.* To begin with, our experience in administering the current rule leads us to the conclusion that it is arbitrary. In particular, the rule's rigid "minimum distance" and "contour overlap" criteria have not proved effective in accurately or consistently identifying circumstances in which undue concentration of control may occur and may actually have prevented consideration of factors plainly relevant to such determinations, such as the level of competing service. This has produced quite anomalous results in the cases. For example, in *WFGL, Incorporated*, 68 FCC 2d 892 (1982), an application to assign an AM–FM combination was dismissed even though the proposed assignee had shown that the community in question was separated from other commonly-owned stations by extensive mountainous terrain and numerous competing broadcast stations, thus offsetting any potential for concentration of control of the media. Similarly, in *Tri-State Broadcasting, Inc.*, 52 R.R. 2d 1013 (1982), the acquisition of an AM station was prevented without regard to the *de minimis* nature of the contour overlap involved (4% of the coverage area of the other two stations) and despite the fact that the overlap actually predated the adoption of the rule. Moreover, the inflexible requirements of the rule compelled this result notwithstanding a showing that the closest commonly owned station was 85 miles distant and was separated by the much larger market of Ft. Wayne, Indiana, that had numerous and more dominant broadcast outlets.[16]

16. Other cases, of similar potential concern but technically outside the scope of the rule, have been treated quite differently. For example, in *Millard V. Oakley*, 45 R.R. 2d 661 (1979), a construction permit was granted for a third AM station within 100 miles of two other stations, resulting in common ownership of five radio stations in eastern Tennessee. Despite the geographic proximity of the stations involved, the rule was not triggered because measurements revealed that there was no primary service contour overlap. In resolving an informal objection based on concentration concerns, the Commission determined that, regardless of the operation of the "fixed" rule, no concentration of control was likely because "the cities involved are quite small . . . [and] there is no indication that the cities' broadcast facilities compete with each other for

[14] *See Report and Order* in BC Docket No. 80–90, 53 R.R. 2d 1550 (1983).

[15] The "duopoly" rule prohibits the common ownership, operation, or control of two broadcast stations in the same service whose relevant contours overlap. The "one-to-a-market" rule prohibits ownership, operation, or control of more than one AM–FM combination, or one television station, or one daily newspaper in a market. However, overlap situations involving UHF television stations are considered on a case-by-case basis. These rules are found in §§ 73.35(a), 73.240(a)(1), and 73.636(a)(1) of the Commission's Rules.

[16] It should be noted that both the *WFGL* and *Tri-State* cases involved requests for waiver of the "fixed" regional concentration rule. In such cases, the Commission had held that an applicant for waiver would have to show more than the presence of factors which under the former case-by-case approach, would have justified an exception. *See also, Piedmont Service Corporation*, 68 FCC 2d 992 (1978) and *Robeson Broadcasting Corporation*, 52 R.R. 2d 1412 (1982).

advertising revenue."[17] Additionally, the Commission noted that there was no evidence of anticompetitive behavior by the applicant.

17. Similarly, in the recent case of *Acadian Television Corporation*, 51 R.R. 2d 743 (1982), an assignee was permitted to acquire a VHF television station in Lafayette, Louisiana, even though it already controlled a clear channel AM facility and FM and VHF broadcast stations in New Orleans. Although there was primary service contour overlap of the television stations, the rule did not apply because the stations were located approximately 125 miles apart. Because a petition to deny had been filed raising concentration questions, the Commission substantively addressed the issue, concluding that the presence of numerous other broadcast outlets, as well as the lack of any evidence of unfair business practices, militated against the possibility of an undue concentration of control. It is particularly striking here that, in finding no danger of concentration, the Commission explicitly relied on factors such as the presence of numerous other broadcast stations, while this very consideration was deemed unpersuasive in cases within the ambit of the rule, such as *Tri-State Broadcasting, Inc., supra.*

18. In our view, the anomalous results illustrated by the above cases call into serious question the continued advisability of our current approach to regional concentration of control issues. Our doubts in this regard are reinforced by our concern that the stringency and strict application of the existing rule may be imposing unwarranted, and possibly counterproductive, costs on both the public and the broadcast industry. In this connection, the rule may have prohibited the acquisition of stations which could have resulted in enhanced program service in given markets. Similarly, in cases such as *Piedmont Service Corporation*, 68 FCC 2d 992 (1978), the rule has precluded the improvement of existing facilities that may have provided a first daytime or nighttime broadcast service in certain areas.

19. Moreover, it has been suggested that the rule restricts various economies of scale inherent in the multiple ownership of stations that, were they available, might actually contribute to diversification of viewpoints.[18] For example, permitting increased multiple ownership on a regional basis could afford a broadcaster access to larger audiences and advertising bases that might justify incurring the costs of providing additional programing to the public. Regional networking, with the cost benefits such arrangements could provide in terms of program development and distribution, also might be facilitated. Additionally, certain organizational and operational efficiencies may accrue from greater multiple ownership. The resources saved by such efficiencies could then be turned to expanding programing or activating unused allocations that might be viewed as too great an economic risk absent the benefits of multiple ownership. We invite interested parties to address our analysis of the existing regional concentration of control provisions and request that they specifically review the benefits and detriments of the current rule.

20. *Marketplace Developments.* Beyond the specific difficulties surrounding the existing regional concentration rule, we believe that the significant growth in media outlets in recent years clearly constitutes a substantial change in circumstances that strongly suggests a need to reevaluate our assumptions in setting regional ownership constraints, including whether such constraints, in any form, are still necessary.[19] In adopting regional ownership limitations, we were concerned with avoiding undue ownership concentration of the media within a given area. Specifically, the Commission sought through its ownership restrictions to enhance the diversity of viewpoints available to the public and to preserve economic competition in the broadcast media.[20] However, as the number of competing voices in the marketplace rises, the potential influence of any given combination of commonly owned outlets is diluted and our concern with the impact of such combinations on diversity and levels of competition declines accordingly.

21. The increase in the number and variety of media voices in telecommunications markets is well documented and substantial. Specifically, we note that the number of authorized radio and television stations has increased by 18.9% and 36.7%, respectively, since the "fixed" regional concentration rule was adopted six years ago. Moreover, these figures are likely to increase due to several Commission actions in the allocation of radio and television frequencies. For example, in Docket No. 20642, we permitted the shared use of Class I–A clear channel frequencies, which may ultimately result in the addition of more than 100 new AM stations.[21] Similarly, our recent action in BC Docket No. 80–90 could create approximately 500 new FM stations.[22] We also have granted over 300 construction permits, with some 11,000 additional applications still pending, in the new low power television service.

22. It is also true, as NAB points out, that the broadcast industry faces additional competition from the expansion or authorization of new media delivery systems, which have the potential of promoting even greater diversity of ownership and viewpoints. As noted earlier, the growth in the cable industry has been quite significant, with cable subscribers totalling approximately 25 million as of January 1, 1983.[23] Moreover, Commission records reveal that, as of September 9, 1983, approximately 16,500 applications were filed for systems in the newly authorized multichannel multipoint distribution service.[24] Additionally, eight entities have been authorized to provide direct broadcast satellite ("DBS") service, with each operator capable of providing two or ten channels of programing to all television households in the United States. Although these companies might not commence DBS service until 1986, at least one entity is already providing "satellite-to-home" television

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[17] *Millard V. Oakley*, 45 R.R. 2d 661, 664 (1979).

[18] *See, e.g.*, A. Parkman, *An Economic Analysis of the FCC's Multiple Ownership Rules*, 31 Admin. L. Rev. 205, 217–221 (1979). *See also Notice of Proposed Rule Making* in Gen. Docket No. 83–1009, 48 FR 49438, published October 25, 1983, at para. 38.

[19] In recognition of these dynamic changes, we already have instituted rule making proceedings looking toward revision of the national multiple ownership rules ("seven station" rule) and repeal of the network/cable cross-ownership prohibition. *Notice of Proposed Rule Making* in Gen. Docket No. 83–1009, 48 FR 49438, published October 25, 1983; *Notice of Proposed Rule Making* in CT Docket No. 82–434, 47 FR 39212, published September 7, 1982. Similarly, these marketplace changes largely motivated our recent deregulation of the commercial radio service and our pending proposal to deregulate the commercial television service. *Report and Order* in BC Docket No. 79–219, 84 FCC 2d 968 (1981), *recon. granted in part* 87 FCC 2d 797 (1981), *aff'd. in part and remanded in part sub non. Office of Communication of the United Church of Christ v. FCC*, 707 F.2d 1413 (D.C. Cir. 1983); *Notice of Proposed Rule Making* in MM Docket No. 83–670, 48 FR 37239, published August 17, 1983.

[20] *See First Report and Order* in Docket No. 20548, 63 FCC 2d 824, 827 (1977). *See also First Report and Order* in Docket No. 18110, 22 FCC 2d 306, 307 (1970).

[21] *Report and Order* in Docket No. 20642, 78 FCC 2d 1345 (1980), *recon. denied*, 46 R.R. 2d 1077 (1980), *aff'd sub nom. Loyola University v. FCC*, 670 F.2d 1222 (D.C. Cir. 1982).

[22] *Supra* note 14.

[23] *Supra* note 12.

[24] FCC Public Notice, Mimeo No. 327, October 24, 1983.

programing to subscribers by use of the fixed satellite band.[25] Further competition can be expected from satellite master antenna systems, conventional multipoint distribution systems and subscription television stations in certain markets, and other distribution services. Accordingly, we request comments concerning the impact of this continuing growth of both broadcast and nonbroadcast outlets on the diversity of voices and levels of competition in modern telecommunications market and whether changes in this regard warrant elimination or substantial relaxation of our regional concentration requirements.[26]

23. Given this significant increase in the number of media outlets, as well as the arbitrary results and clear costs associated with the regional ownership provisions, our initial judgment is that the rule should be repealed. However, to the extent that commenting parties recommend relaxation rather than elimination of the rule, they should explicitly address the question of how the rule should be changed and what effect the proposed changes are expected to have. We also solicit information concerning the effect of our Commission ownership constraints, such as the "duopoly" and "one-to-a-market" rules, on the continued need for regional concentration of control provisions. Similarly, we seek comments on whether and to what extent non-Commission restrictions on concentration of control such as the antitrust laws, should affect our decision. In this connection, we specifically request comment on NAB's suggestion that the antitrust laws and the marketplace itself are better suited to redressing any concentration concerns that might arise if there are still situations where the general growth in media outlets has not yet produced adequately competitive or diverse markets.

24. Commenters are also invited to address the nature and extent of the costs imposed by regional ownership limitations, particularly those which may be adversely affecting our diversity and competition goals. In this connection, we specifically direct the attention of commenting parties to the possible economies of scale which may be lost by continued application of regional ownership constraints and the effect these "opportunity costs" might have on impeding the expansion of diversity and competition. Similarly, parties should address the impact of such constraints in preventing the expansion of existing facilities, thus frustrating the extension of new service.

Administrative Matters

25. Accordingly, it is ordered, that the Petition for Rule Making (RM–4564) filed by the National Association of Broadcasters is granted.

26. This action is taken pursuant to the authority contained in Sections 4(i) and (j), 303 and 313 of the Communications Act of 1934, as amended.

27. Pursuant to procedures set out in § 1.415 of the Commission's Rules, interested parties may file comments on or before February 21, 1984, and reply comments on or before March 7, 1984. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

28. In accordance with the provisions of § 1.419 of the Rules, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting 1 copy. All timely comments will be considered, regardless of the number of copies submitted. In any event, all comments must contain reference to the appropriate docket number (MM Docket No. 84–19). All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its Headquarters, 1919 "M" Street NW., Washington, D.C. 20554. For general information on how to file comments, please contact the FCC Consumer Assistance and Small Business Division at (202) 632–7000.

29. As required by Section 603 of the Regulatory Flexibility Act, the FCC has prepared an initial regulatory flexibility analysis ("IRFA") of the expected impact on small entities of the proposals advanced herein. The IRFA is set forth in Appendix "C". Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the *Notice*, but they must have a separate and distinct heading designating them as responses to the regulatory flexibility analysis. The Secretary shall cause a copy of this *Notice*, including the initial regulatory flexibility analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration, as required by Section 603(a) of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 50 U.S.C. 601 *et seq.*, (1981)).

30. For purposes of this nonrestricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the time a Public Notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments and formal oral arguments) addressing the merits of a pending proceeding and containing matters not fully covered in any previously filed written comments for the proceeding. Any person who submits a written *ex parte* presentation must submit a copy of that presentation to the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation must prepare a written summary of it which must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. *See generally*, § 1.231 of the Commission's Rules.

31. For further information regarding this proceeding, contact Andrew J. Rhodes, Mass Media Bureau, (202) 632–7792.

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[25] *See GTE Satellite Corporation*, 90 FCC 1009 (1982), *recon. denied, FCC 83–271, released June 23, 1983. See also Satellite Business System*, FCC 83–403, released November 2, 1983.

[26] Various methodologies have been suggested concerning the means we might use to gauge levels of diversity and competition for purposes of reevaluating our ownership rules. *See, e.g., Notice of Proposed Rule Making* in Gen. Docket No. 83–1009, 48 FR 49438, published October 25, 1983; and *Notice of Proposed Rule Making* in CT Docket No. 82–434, 47 FR 39212, published September 7, 1982. *See also* J. D. Levy and F.O. Setzer, *Measurement of Concentration in Home Video Markets*, FCC Office of Plans and Policy, December 23, 1982. Parties are invited to consider the suitability of these approaches, as well as others, in the context of our regional concentration proposals.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

List of Commenters

American Broadcasting Companies, Inc., Beasley Broadcasting Corporation, Citizens Communications Center, Great Trails Broadcasting Corporation, Knight Quality Stations, National Radio Broadcasters Association, Viacom International, Inc.

Joint Statement of: Forward Communications Corporation, Group One Broadcasting Company, May Broadcasting Company, Ralph C. Wilson Industries, Inc., Wilson Communications, Inc., WKRG–TV, Inc.

Appendix B

The "Three-Station Regional Concentration Rule"

Sections 73.35(b) (1) and (2) [AM], 73.240(a) (2) and (3) [FM], and 73.636(a) (2) and (3) [TV] of the Commission's Rules provide:

"No license for an AM [FM] [television] broadcast station shall be granted to any party (including all parties under common control) if such party, or any stockholder, officer or director of such party, directly or indirectly owns, operates, controls, or has any interest in, or is an officer or director of any other AM [FM] [television] broadcast station if the grant of such license would result in a concentration of control of AM [FM] [television] broadcasting in a manner inconsistent with the public interest, convenience or necessity. The Commission, however, will in any event consider that there would be such a concentration of control contrary to the public interest, convenience or necessity for any party or any of its stockholders, officers or directors to have a direct or indirect interest in, or be stockholders, officers or directors of . . . three broadcast stations in one or several services, where any two are within 100 miles of the third (measured city to city), if there is primary contour overlap of any of the stations."

"The reference points which shall be used for city-to-city measurements are those listed in the Index to the *National Atlas of the United States of America*, United States Department of the Interior, Geological Survey, Washington, D.C., 1970. (Future editions will supersede). In the case of any community of license which is not referenced by the National Atlas, such as a newly established community, the point of reference shall be the main post office until such town is referenced. The National Atlas is available for reference at most public libraries and at the FCC in Washington."

Note 11: For the purposes of the three station regional concentration provision of this section, (a) an application raising a regional concentration of control issue which involves overlap of or by one or more UHF television stations will be treated on a case-by-case basis, consistent with the precedents of UHF determinations made under the one-to-a-market proscriptions of this section, and (b) AM and FM broadcast stations licensed to communities which are within 15 miles (city reference point to reference point) and/or within the same urbanized area (as mapped by the U.S. Bureau of the Census), will be considered as a combination and counted as one station."

Appendix C

Initial Regulatory Flexibility Analysis

I. *Reason for Action.* Based on its experience in administering the regional concentration of control rule, the Commission believes that a rule making proceeding is warranted to determine the extent of problems associated with the present rule, as well as whether there is still a need for any type of regional ownership restraints. Specifically, the rule is arbitrary and does not appear to have produced rational results in the cases. Additionally, it may actually work against enhancing diversity of viewpoints and increasing levels of competition by imposing unnecessary costs on the broadcast industry. Moreover, the significant changes in the telecommunications marketplace, particularly the availability of many new broadcast and non-broadcast voices, raises the question of whether the marketplace itself is achieving the goals of the rule.

II. *Objectives.* The Commission seeks to review the benefits and detriments of the present regional concentration of control rule, with particular attention to the question of whether the instant rule has been effective in achieving its goals. Further, the Commission seeks to determine whether the increased levels of competition and diversity of viewpoints within telecommunications markets warrant repeal or substantial relaxation of our regional concentration requirements.

III. *Legal Basis.* The action taken by the *Notice* is authorized by Sections 4 (i) and (j), 303 and 313 of the Communications Act of 1934, as amended.

IV. *Description, Potential Impact and Number of Small Entities Affected.* Adoption of the proposals set forth in this *Notice* would permit increased multiple ownership of commercial AM, FM and television stations on a regional basis. Under the present rule, the common ownership, operation, or control of a third AM, FM or television station is prohibited if such station is located within 100 miles of two other stations and there is primary service contour overlap between any of the stations. A substantial number of existing broadcast stations potentially subject to this rule are small entities. However, the impact of either repeal or relaxation of the rule on those stations owned by small entities is not known. In any event, the Commission believes that several benefits to all broadcasters, including small entities, may flow from this proposal. For example, repeal or relaxation of the rule may permit broadcasters to realize certain economies of scale which, in turn, may result in greater efficiency and increased programming.

V. *Recording, Record Keeping and Other Compliance Requirements.* The proposed repeal or relaxation of the rule would eliminate the need for broadcasters, including small entities, to file for waiver of the rule. It is estimated that approximately 712 long-form broadcast applications raise regional concentration issues each year.

VI. *Federal Rules which Overlap, Duplicate or Conflict with this Rule.* None.

VII. *Any Significant Alternatives Minimizing Impact on Small Entities and Consistent with the Stated Objective.* None other than those advanced in the *Notice.*

Dissenting Statement of Commissioner Henry M. Rivera

Re: Notice of Proposed Rulemaking Regarding Repeal of the Regional Concentration of Control Rules

I dissent to the issuance of this NPRM because it portends considerable further erosion [1] of the FCC's longstanding and meritorious broadcast ownership diversification objectives without substantial countervailing public interest benefits.[2] Had the NPRM

[1] *See generally Notice of Proposed Rulemaking*, FCC 83–440, —— FCC 2d ——, 48 FR 49438, 49453–55 (Oct. 25, 1983) (Dissenting Statement of Commissioner Henry M. Rivera).

[2] For example, the Notice's suggestion that without the rule broadcasters are likely to produce more programming is speculative at best. The argument that if the rule is repealed existing broadcasters may activate unused allocations is similarly unpersuasive as a justification for repealing the rule. There is no dearth of applicants for radio and television authorizations and, thus, no inducement is needed on this score.

seriously analyzed alternatives to the current rules short of repeal, I could have agreed in principal with its issuance.[3] However, the Notice makes plain that the outcome of this proceeding is almost certainly the elimination of the regional concentration rules. That being the case, I cannot endorse it. Perhaps the commenting parties will persuade me that the FCC's prior commitment to maximizing diffusion of broadcast ownership will not be seriously compromised if these rules are repealed, but I remain to be convinced.

[FR Doc. 84-1691 Filed 1-19-84; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Findings on Pending Petitions and Description of Progress on Listing Actions

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of findings on pending petitions and description of progress on listing actions.

SUMMARY: The Service announces its findings on pending petitions to revise the lists of endangered and threatened plant and animal species. Provisions of the Endangered Species Act Amendments of 1982 (Amendments) required that these findings be made within one year of the effective date of the Amendments. This notice also includes a summary of the Service's progress in revising the lists since passage of the Amendments.

DATE: The findings described in this notice were made on October 13, 1983. The description of the Service's progress in revising the lists is current as of that same date.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240; (703/235-2771).

SUPPLEMENTARY INFORMATION: Section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended in 1982 (16 U.S.C. 1531 *et seq.*) requires that, for any petition to revise the lists of endangered and threatened wildlife and plants that contains substantial scientific or commercial information, findings be made within 12 months of the date of receipt of the petition. Provisions at Section 2(b)(1) of the Amendments require that petitions pending on the date of enactment of the Amendments (hereafter called pending petitions) be treated as having been filed on that date. Findings (hereafter called 12-month findings) on these petitions were therefore made on October 13, 1983. This notice reports these findings and describes the Service's progress in revising the lists of endangered and threatened wildlife and plants during the year following the enactment of the Amendments.

Findings

The petitioned actions that are the subjects of this notice are those for which a previous determination had been made that the petition contained substantial scientific or commercial information indicating that the petitioned action may be warranted. Some of these determinations were made and announced in the **Federal Register** before the enactment of the Amendments. The remainder of these determinations were announced in the **Federal Register** on February 15, 1983 (48 FR 6752-6753).

Subsequent to the February 15, 1983, **Federal Register** notice, the Service has determined that the petition for designation of critical habitat for the Higgins' eye pearly mussel is not a petition requiring published findings under the Act. The petition review provision in Section 4(b)(3)(D) of the Act applies to petitions to revise existing critical habitat, not to petitions to designate critical habitat in the first instance (see proposed Section 4 regulations, 48 FR 36062 (August 8, 1983) proposed to be codified at 50 CFR 424.14(d)). Although further published findings under the Act on this particular petition are therefore unnecessary, it has nevertheless been considered as a general petition for rule under the Administrative Procedure Act (5 U.S.C. 553). The Service has determined that such designation would be inappropriate in this case, and has so informed the petitioner.

Section 4(b)(3)(B) of the Act requires that the Service make one of the following 12-month findings on each petition containing substantial information: (i) The petitioned action is not warranted; (ii) the petitioned action is warranted and the petitioned action will be proposed promptly; or (iii) the petitioned action is warranted but precluded by other efforts to revise the lists, and expeditious progress is being made in listing and delisting species.

Petitioned actions found to be warranted ((ii) above) will be the subjects of proposals that will be published soon or have already been published in the **Federal Register**. Findings of "not warranted" and "warranted but precluded" ((i) and (iii) above, respectively) for pending petitions are reported here.

The Service's 12-month findings of "not warranted" or "warranted but precluded" on pending petitions on animal taxa are given in Table 1. Petitioned actions that are found to be not warranted are indicated by the word "No" in the "Warranted?" column opposite the name of the affected species. Species that are the subjects of petitioned actions that are found to be warranted but precluded are designated with either "Yes" or "Yes*" in the "Warranted?" column. ("Yes" and "Yes*" correspond to categories 1 and 2, respectively, in the general animal notices of review. The general notice for vertebrate animals was published on December 30, 1982 (47 FR 58454-58460), and can be consulted on the definitions of these category designations. The general notice on invertebrate animals is currently being prepared.)

In the case of the petitions for the bobcat *(Lynx rufus)* and the river otter *(Lutra canadensis)*, reported as "not warranted," the Service has considered available information and existing regulatory mechanisms (such as the Convention on International Trade in Endangered Species of Wild Fauna and Flora) and believes that listing action under Section 4(a) of the Act is not warranted at this time. An additional finding of "warranted but precluded" is made herein in the case of 58 foreign bird species for which listing was petitioned in 1980 by Dr. Warren B. King, Chairman, United States Section, International Council for Bird Preservation. The Service published a notice of review for these species on May 12, 1981 (46 FR 26464). Readers should refer to that notice for the names of the species involved. Publication of a proposal to list these species is planned during the present fiscal year (ending September 30, 1984).

[3] While a persuasive case for outright repeal has not been made, few rules cannot be improved by periodic reexamination, and these are probably no exception.

TABLE 1.—12 MONTH FINDINGS ON PENDING PETITIONS ON ANIMAL SPECIES.

Species	Petitioner	Date	Status review	Warranted
Muscular sponge, *Anheteromeyenia biceps*	Ronald M. Cowden	June 17, 1974	Apr 22, 1975 (40 FR 17764)	No.
Carolina sponge, *Corvomeyenia carolinensis*	do	do	do	Yes.*
Oklawaha sponge, *Dosilia palmeri*	do	do	do	Yes.*
Kissimmee sponge, *Ephydatia subtilis*	do	do	do	Yes.*
Pennsylvania sponge, *Heteromeyenia longistylis*	do	do	do	Yes.*
Oneida sponge, *Spongilla heterosclerita*	do	do	do	Yes.*
Spongy sponge, *Spongilla spongiosa*	do	do	do	No
Central Missouri cave amphipod, *Allocrangonyx hubrichti*	National Speleological Society	Sept. 9, 1974	Apr. 28, 1975 (40 FR 18476)	Yes.*
Oklahoma cave amphipod, *Allocrangonyx pellucidus*	do	do	do	Yes.*
Kansas well amphipod, *Bactrurus hubrichti*	do	do	do	No
Anomalous spring amphipod, *Crangonyx anomalus*	do	do	do	No
Appalachian Valley cave amphipod, *Crangonyx antennatus*	do	do	do	No
Pennsylvania cave amphipod, *Crangonyx dearolfi*	do	do	do	Yes.*
Hobb's cave amphipod, *Crangonyx hobbsi*	do	do	do	Yes.*
Minor cave amphipod amphipod, *Crangonyx minor*	do	do	do	No.
Packard's cave amphipod, *Crangonyx packardi*	do	do	do	No.
Illinois cave amphipod, *Gammarus acherondytes*	do	do	do	Yes.*
Bousfield's amphipod, *Gammarus bousfieldi*	do	do	do	Yes.*
Noel's amphipod, *Gammarus desperatus*	do	do	do	Yes.*
Diminutive amphipod, *Gammarus hyalleloides*	do	do	do	Yes.*
Pecos amphipod, *Gammarus pecos*	do	do	do	Yes.*
Allegheny cave amphipod, *Stygobromus (=Stygonectes) alleghenensis*	do	do	do	No
Tidewater interstitial amphipod, *Stygobromus (=Apocrangonyx) araeus.*	do	do	do	Yes.*
Arizona cave amphipod, *Stygobromus arizonensis*	J. Holsinger	July 12, 1974	do	Yes.*
Balcones cave amphipod, *Stygobromus (=Stygonectes) balconis.*	National Speleological Society	Sept. 9, 1974	do	Yes.*
Barr's cave amphipod, *Stygobromus (=Stygonectes) barri*	do	do	do	Yes.*
Bifurcated cave amphipod, *Stygobromus (=Stygonectes) bifurcatus*	do	do	do	Yes.*
Bowman's cave amphipod, *Stygobromus (=Stygonectes) bowmani*	do	do	do	Yes.*
Clanton's cave amphipod, *Stygobromus (=Stygonectes) clantoni*	do	do	do	Yes.*
Burnsville Cove cave amphipod, *Stygobromus (=Stygonectes) conradi.*	do	do	do	Yes.*
Cooper's cave amphipod, *Stygobromus (=Stygonectes) cooperi*	do	do	do	Yes.*
Cascade Cave amphipod, *Stygobromus (=Stygonectes) dejectus*	do	do	do	Yes.*
Elevated spring amphipod, *Stygobromus (=Stygonectes) elatus*	do	do	do	Yes.*
Greenbrier Cave amphipod, *Stygobromus (=Stygonectes) emarginatus.*	do	do	do	Yes.*
Ephemeral cave amphipod, *Stygobromus (=Apocrangonyx) ephemerus.*	do	do	do	No.
Central Kentucky cave amphipod, *Stygobromus exilis*	do	do	do	Yes.*
Ezell's Cave amphipod, *Stygobromus (=Stygonectes) flagellatus*	do	do	do	No.
Shenandoah Valley cave amphipod, *Stygobromus (=Stygonectes) gracilipes.*	do	do	do	Yes.*
Gracy's cave amphipod, *Stygobromus gradi*	J. Holsinger	July 12, 1974	do	Yes.*
Devil's Sinkhole amphipod, *Stygobromus (=Stygonectes) hadenoecus.*	National Speleological Society	Sept. 9, 1974	do	Yes.*
Hars's cave amphipod, *Stygobromus harai*	J. Holsinger	July 12, 1974	do	Yes.*
Amphipod (no common name), *Stygobromus heteropodus*	National Speleological Society	Aug. 9, 1974	do	Yes.*
Malheur Cave amphipod, *Stygobromus hubbsi*	J. Holsinger	July 12, 1974	do	Yes.*
Tidewater amphipod, *Stygobromus (=Stygonectes) indentatus*	National Speleological Society	Sept. 9, 1974	do	No.
Iowa amphipod, *Stygobromus iowae*	do	do	do	Yes.*
Long-legged cave amphipod, *Stygobromus (=Stygonectes) longipes*	do	do	do	No.
Rubicus cave amphipod, *Stygobromus (=Apocrangonyx) Lucifugus*	do	do	do	Yes.*
Mackenzie's cave amphipod, *Stygobromus mackenziei*	J. Holsinger	July 12, 1974	do	No
Southwestern Virginia cave amphipod, *Stygobromus mackini*	National Speleological Society	Sept. 9, 1974	do	Yes.*
Mountain cave amphipod, *Stygobromus (=Stygonectes) montanus*	do	do	do	Yes.*
Morrison's cave amphipod, *Stygobromus (=Stygonectes) morrisoni*	do	do	do	Yes.*
Bath County cave amphipod, *Stygobromus (=Stygonectes) mundus*	do	do	do	Yes.*
Norton's cave amphipod, *Stygobromus (=Apocrangonyx) nortoni*	do	do	do	Yes.*
Onondaga cave amphipod, *Stygobromus onondagaensis*	do	do	do	No.
Oregon cave amphipod, *Stygobromus oregonensis*	J. Holsinger	July 12, 1974	do	Yes.*
Ozark cave amphipod, *Stygobromus (=Stygonectes) ozarkensis*	National Speleological Society	Sept. 9, 1974	do	Yes.*
Minute cave amphipod, *Stygobromus (=Apocrangonyx) parvus*	do	do	do	Yes.*
Peck's cave amphipod, *Stygobromus (=Stygonectes) pecki*	do	do	do	Yes.*
Pizzini's cave amphipod, *Stygobromus (=Stygonectes) pizzinii*	do	do	do	Yes.*
Wisconsin well amphipod, Stygobromus putealis	do	do	do	Yes.*
Reddell's cave amphipod, *Stygobromus (=Stygonectes) reddelli*	do	do	do	Yes.*
Alabama well amphipod, *Stygobromus smithi*	do	do	do	Yes.*
Spring cave amphipod, *Stygobromus (=Stygonectes) spinatus*	do	do	do	Yes.*
Stellmack's cave amphipod, *Stygobromus (=Stygonectes) stellmacki.*	do	do	do	Yes.*
Subtle cave amphipod, *Stygobromus (=Apocrangonyx) subtilis*	do	do	do	No.
Potomac groundwater amphipod, *Stygobromus (=Stygonectes) tenuis potomacus.*	do	do	do	Yes.*
Wengerors' cave amphipod, *Stygobromus wengerorum*	J. Holsinger	July 12, 1974	do	Yes.*
Palm Springs cave crayfish, *Procambarus acherontis*	National Speleological Society	Sept. 9, 1974	do	Yes.*
Texas cave shrimp, *Palaemonetes antrorum*	do	do	do	Yes.*
Squirrel Chimney cave shrimp, *Palaemonetes cummingi*	do	do	do	Yes.*
Alabama cave shrimp, *Palaemonias alabamae*	do	do	do	Yes.*
Columbia River tiger beetle, *Cicindela columbica*	Gary Shook	Dec. 15, 1979	Mar. 3, 1980 (45 FR 13786)	Yes.*
Wilbur Springs shore bug, *Saldula usingeri*	A. Andrade, Friends of Wilbur	Mar. 7, 1979	July 25, 1979 (44 FR 43709)	No.
Uncompahgre fritillary butterfly, *Bolona acrocnema*	Lawrence F. Gall	Nov. 5, 1979	Feb. 6, 1980 (45 FR 8029)	Yes.*
Florida atala butterfly, *Eumaeus atala florida*	Jo Brewer	Oct. 23, 1974	Mar. 20, 1975 (40 FR 12691)	No.
Bay checkerspot butterfly, *Euphydryas editha bayensis*	Bruce A. Wilcox, Dennis D. Murphy, and Paul R. Ehrlich.	Oct. 21, 1980	Feb. 13, 1981 (46 FR 43709)	Yes.*
Mitchell's woodsatyr butterfly, *Neonympha (Euptychia) mitchellii*	R. Charles	Nov. 19, 1974	Mar. 20, 1975 (40 FR 17757)	No.
Atossa fritillary butterfly, *Speyeria adiaste atossa*	Jo Brewer	Oct. 23, 1974	Mar. 20, 1975 (40 FR 17757)	No.
West's sphinx moth, *Euproserpinus westi*	Karolis Bagdonas	Jan 26, 1981	June 26, 1981 (46 FR 33063)	Yes.*
San Francisco tree lupine moth, *Grapholitha edwardsiana*	Richard A. Arnold and Jerry A. Powell	Dec. 12, 1982	Feb. 15, 1980 (48 FR 6752)	Yes.*
Bliss Rapids snail, Hydrobiidae (species and genus undescribed)	Peter A. Bowler	Feb. 07, 1980	Apr. 23, 1980 (45 FR 27723)	Yes.*

TABLE 1.—12 MONTH FINDINGS ON PENDING PETITIONS ON ANIMAL SPECIES.—Continued

Species	Petitioner	Date	Status review	Warranted
Snake River physa snail, *Physa* sp.	do	do	do	Yes.*
Ozark cavefish, *Amblyopsis rosea*	Missouri Department of Conservation	July 23, 1982	Dec. 30, 1982 (47 FR 58454)	Yes.*
Niangua darter, *Etheostoma nianguae*	Ozarks Endangered Species Task Force	Dec. 10, 1980	Apr. 19, 1981 (46 FR 21208)	Yes.*
Shoshone sculpin, *Cottus greenei*	P.A. Bowler	Dec. 13, 1979	Mar. 26, 1980 (45 FR 19853)	Yes.*
Bonneville cutthroat trout, *Salmo clarki utah*	P.G. Sanchez, Desert Fishes Council	Oct. 23, 1979	Mar. 26, 1980 (45 FR 19857)	Yes.*
Mananas crow, *Corvus kubaryi*	Internat. Counc. Bird Preservation	Nov. 24, 1980	May 12, 1981 (46 FR 26464)	Yes.*
Mananas fruit dove, *Ptilinopus roseicapillus*	do	do	do	Yes.*
Rufous-fronted fantail, *Rhipidura rufifrons uraniae*	Paul M. Calvo, Governor of Guam	Dec. 23, 1981	Dec. 30, 1982 (47 FR 58454)	Yes.*
Mananas gallinule, *Gallinula chloropus guami*	Internat. Counc. Bird Preservation	Nov. 24 1980	May 12, 1981 (46 FR 26464)	Yes.*
Tule white-fronted goose, *Anser albifrons elgasi*	do	do	do	No.
Puerto Rican sharp-shinned hawk, *Accipiter striatus venator*	do	do	do	Yes.*
Puerto Rican broad-winged hawk, *Buteo platypterus brunnescens*	do	do	do	Yes.*
Guam Micronesian kingfisher, *Halcyon cinnomomina cinnomomina*	do	do	do	Yes.*
Truk monarch, *Metabolus rugensis*	do	do	do	Yes.*
Ponape short-eared owl, *Asio flameus ponapensis*	Internat. Counc. Bird Preservation	Nov. 24, 1980	May 12, 1981 (46 FR 26464)	Yes.*
Virgin Islands screech owl, *Otus nudipes newtoni*	do	do	do	Yes.*
Palau blue-faced parrotfinch, *Erythrura trichroa pelewensis*	do	do	do	Yes.*
Palau Nicobar pigeon, *Caloenas nicobarica pelewensis*	do	do	do	Yes.*
Radak Micronesian pigeon, *Ducula oceanica raatakensis*	do	do	do	Yes.*
Truk Micronesian pigeon, *Ducula oceanica teraoki*	do	do	do	Yes.*
Guam rail, *Rallus owstoni*	do	do	do	Yes.*
Amak song sparrow, *Melospiza conspicillata rotensis*	do	do	do	Yes.*
Interior least tern, *Sterna albifrons athalasso*	Oklahoma Ornithological Society	Nov. 17, 1975	Dec. 30, 1982 (47 FR 58454)	Yes.*
Arizona Bell's *vireo Verio bellii arizonae*	James M. Graves	Nov. 8, 1979	Feb. 6 1980 (45 FR 8030)	No.
Least Bell's vireo, *Vireo bellii pusillus*	do	do	do	Yes.*
Truk greater white-eye, *Rukia ruki*	Internat. Counc. Bird Preservation	Nov. 24 1980	May 12, 1981 (46 FR 26464)	Yes.*
Rota bridled white-eye, *Zosterops conspicillata rotensis*	do	do	do	Yes.*
Palau white-breasted woodswallow, *Artamus leucorhynchus pelewensis.*	do	do	do	Yes.*
Bobcat, *Lynx rufus*	Defenders of Wildlife	Jan. 20, 1977	July 13, 1977 (42 FR 35896)	No.
Woodland caribou, *Rangifer tarandus montanus*	Jan Strobeck, C.E. Knoder, W.D. Carner and J. M. Conley.	Oct. 24, 1982	Feb. 09, 1981 (46 FR 11567)	Yes.*
Marten, *Martes americana americana*	Sierra Club	June 25, 1975	Aug. 25, 1976 (41 FR 35855)	No.
Choctawhatchee beach mouse, *Peromyscus polionotus allophrys*	S. R. Humphrey	June 16, 1982	Oct. 6, 1982 (47 FR 44125)	Yes.*
Alabama beach mouse, *Peromyscus polionotus ammobates*	D. C. Holliman	Nov. 2, 1982	Dec. 30, 1982 (47 FR 58454)	Yes.*
Perdido Key beach mouse, *Peromyscus polionotus trissyllepsis*	S. R. Humphrey	June 16, 1982	Oct. 6, 1982 (47 FR 44125)	Yes.*
River otter, *Lutra canadensis*	Fund for Animals	Apr. 11, 1977	July 26, 1977 (42 FR 38395)	No.
Silver rice rat, *Oryzomys argentatus*	Center for Action on Endangered Species.	Apr. 12, 1980	July 14, 1980 (45 FR 47365)	Yes.*

"Not warranted" and "warranted but precluded" findings for pending plant petitions are announced in this notice by categories; their application to individual taxa is published in a supplementary plant notice of review in the November 28, 1983, **Federal Register** (48 FR 53640–53670). The plant notice category number opposite the name of each taxon that is the subject of a pending petition indicates the Service's finding on that taxon. Findings of "not warranted" on the petitioned action are hereby reported by the designation of subcategories 3A, 3B, or 3C for such taxa. Findings of "warranted but precluded" are hereby reported by the designation of category 1, 1*, 1**, 2, or 2* for such subject taxa. The complete definitions of these category numbers are described in the supplement to the 1980 general plant notice (45 FR 82479).

Section 4(b)(3)(C)(i) of the Act requires that a petition found to be warranted but precluded be treated as an accepted petition newly submitted on the date of the finding. A finding on such a petition must then be made again within 12 months of the date of the first 12-month finding.

Progress in Revision of the Lists

Section 4(b)(3)(B)(iii) of the Act states that petitioned actions may be found to be warranted but precluded by other listing actions when it is also found that the Service is making expeditious progress in revising the lists. The Service's progress in revising the lists since October 13, 1982, the effective date of the Amendments, is described in this section of the present notice. The described activities preclude immediate action on the "warranted but precluded" petitioned actions.

Section 4(g) of the Amendments requires the Service to establish agency guidelines so that revisions of the lists may take place efficiently and effectively. The Service accordingly established listing priority guidelines in a notice published in the **Federal Register** (48 FR 43098–43105) on September 21, 1983. The Service has further complied with Section 4 by proposing (48 FR 38062–38069; published August 8, 1983) to revise listing procedures to comply with the Amendments. A final rule establishing these procedures is now being prepared for publication in the **Federal Register**.

The Service's progress in revising the lists during the 12-month period following the effective date of the Amendments is represented by the publication in the **Federal Register** of final listing actions on 28 species, proposed listing actions on 83 species, and emergency listings on 8 species. The number of species affected by each type of listing action published during this period is presented in Table 2.

TABLE 2—LISTING ACTIONS DURING THE 1-YEAR PERIOD FOLLOWING THE EFFECTIVE DATE OF THE ENDANGERED SPECIES ACT AMENDMENTS OF 1982

Type of action	Number of species affected
Final endangered status with critical habitat	8
Emergency endangered status with critical habitat	2
Emergency endangered status	3
Final endangered status	8
Final threatened status	12
Proposed change from threatened to endangered status	1
Proposed endangered status with critical habitat	12
Proposed threatened status with critical habitat	3
Proposed endangered status	45
Proposed threatened status	14
Final change from endangered and threatened to threatened by similarity of appearance	1
Proposed change from endangered to threatened status	2
Final removal from lists	3
Proposed removal from lists	6

As of October 13, 1983, the Service's Washington Office of Endangered Species was also reviewing documents that would propose or make final listing actions on 95 species. The type of action and numbers of affected species are given in Table 3.

TABLE 3.—POSSIBLE LISTING ACTIONS FOR WHICH THE SERVICE WAS REVIEWING DRAFT DOCUMENTS ON OCTOBER 13, 1983

Type of action	Number of species affected
Final endangered status	3
Final threatened status with critical habitat	2
Final threatened status	1
Proposed endangered status with critical habitat	[illegible]
Proposed threatened status with critical habitat	13
Proposed endangered status	5
Proposed threatened status	3
Proposed change from threatened to threatened by similarity of appearance	1
Final removal from lists	1
Proposed removal from lists	[illegible]
Final designation of critical habitat	[illegible]

The Service has also identified 173 species for which listing documents are to be developed during the fiscal year beginning October 1, 1983. The numbers of species affected and types of listing actions are given in Table 4. The Service anticipates that listing actions in addition to these will be identified during the fiscal year.

TABLE 4.—POSSIBLE LISTING ACTIONS FOR WHICH THE SERVICE EXPECTS TO DEVELOP DRAFT LISTING DOCUMENTS DURING THE FISCAL YEAR BEGINNING OCTOBER 1, 1983

Type of action	Number of species affected
Final endangered status with critical habitat	14
Final endangered status	[illegible]
Final threatened status with critical habitat	[illegible]
Final threatened status	[illegible]
Proposed endangered status with critical habitat	13
Proposed threatened status with critical habitat	[illegible]
Proposed endangered status	[illegible]
Proposed threatened status	[illegible]
Proposed change from endangered to threatened status	15
Final removal from lists	1
Proposed removal from lists	12

The Service has also funded status surveys for 29 species during the 12-month period following passage of the Amendments. These surveys are designed to gather any additional data needed to make a determination on whether the subject species are eligible for protection under the Act.

The general plant and animal notices of review are important tools for gathering data on species that are candidates for listing and informing interested parties of the Service's general views on the status of present and past candidate species. A general notice on vertebrate animals was published on December 30, 1982 (47 FR 58454–58460). A supplemental general notice on plants was published on November 28, 1983 (48 FR 53640–53670). The Service will soon publish the first general notice of review on invertebrate animals.

Provisions of the Amendments that address the handling of petitions have made it necessary for the Service to implement extensive new procedures for conforming to deadlines and making findings on petitions. These internal procedures have been developed during the 12 months since the effective date of the Amendments and have been set down by the Service in an interim document entitled *Petition Management Guidelines*, which is available from the Service on request (see "**FOR FURTHER INFORMATION CONTACT:**" above).

Author

This notice was prepared by Dr. Steven M. Chambers, Office of Endangered Species, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240; (703/235–1975).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

(Pub. L. 93–205, 87 Stat. 884; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*))

Dated: January 10, 1984.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84–1210 Filed 1–19–84; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 49, No. 14
Friday, January 20, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

International Trade Administration

[C-408-001]

Sodium Gluconate From the European Communities; Preliminary Results of Administrative Review of Suspension Agreement

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of suspension agreement.

SUMMARY: The Department of Commerce has conducted an administrative review of the agreement suspending the countervailing duty investigation on sodium gluconate from the European Communities. The review covers the period June 1, 1982 through October 31, 1982.

As a result of the review, the Department has preliminarily determined that the signatories have complied with the terms of the suspension agreement and that their combined shipments constituted more than 85 percent of the imports of sodium gluconate into the United States from the European Communities during the period of review. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 20, 1984.

FOR FURTHER INFORMATION CONTACT: Al Jemmott or Brian Kelly, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On June 1, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 24411) the final results of its last administrative review and supplement to the agreement suspending the countervailing duty investigation on sodium gluconate from the European Communities ("the EC") (46 FR 58132, November 30, 1981). The Department also announced its intent to conduct the next administrative review. As required by section 751(a)(1) of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of the chemical sodium gluconate from the EC. Such merchandise is currently classifiable under item 437.5250 of the Tariff Schedules of the United States Annotated. The review covers the period June 1, 1982 through October 31, 1982 and two programs: production refunds and export restitution payments. Funds for these programs are provided through the Guidance and Guarantee Fund operated under the Common Agricultural Policy of the EC.

The review covers the original signatory to the agreement, Joh. A. Benckiser GmbH of West Germany, and the supplemental signatory, Akzo Chemie Nederland B. V. of the Netherlands. Akzo did not become subject to the terms of the suspension until June 1, 1983; however, the firm responded to our questionnaire for the period of review.

Analysis of Programs

(1) Production Refunds

The EC provides production refunds to companies involved in the transformation of certain agricultural goods into manufactured products. Dextrose and glucose, ingredients used in the production of sodium gluconate, are manufactured products of corn and potatoes and are eligible for production refunds. Akzo and Benckiser received no production refunds for merchandise shipped to the United States during the period of review.

(2) Restitution Payments

Restitution payments are fixed on a periodic basis and granted when the world price of sodium gluconate is lower than the EC "market" price. Akzo and Benckiser did not apply for or receive export restitution payments or any equivalent payments from the EC for merchandise shipped to the United States during the period of review.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that Akzo and Benckiser have complied with the terms of the suspension agreement for the period June 1, 1982 through October 31, 1982. The agreement can remain in force only so long as shipments covered by the agreement account for at least 85 percent of the exports of such merchandise to the United States. Our information indicates that Akzo and Benckiser accounted for 88 percent of the imports into the United States of EC sodium gluconate during the review period.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: January 13, 1984.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 84-1582 Filed 1-19-84; 8:45 am]
BILLING CODE 3510-DS-M

International Trade Administrative

[Case No. 650]

Arnold I. Mandel, et al.; Order Temporarily Denying Export Privileges

In the matter of: Arnold I. Mandel, P.O. Box 1368, 24763 Restive Way, Grass Valley, California, 95945, Rona K. Link Mandel, a/k/a Rona K. Link, P.O. Box 1368, 24763 Restive Way, Grass Valley, California, 95945, TIRRCO, P.O. Box

1368, 24763 Restive Way, Grass Valley, California, 95945, and 215 Club Drive, San Carlos, California, 94070.

The Department of Commerce (the Department), pursuant to the provisions of § 388.19 of the Export Administration Regulations (15 CFR Parts 368–399 (1983)) (the Regulations), has petitoned the Hearing Commissioner for an order temporarily denying all export privileges to Arnold I. Mandel and Rona K. Link Mandel, also known as Rona K. Link, of Grass Valley, California and their company, TIRRCO, located in Grass Valley and San Carolos, Californonia (hereinafter collectively referred to as respondents).

The Department states that the respondents are under investigation by the Department's Office of Export Enforcement. The Department states further that its investigation gives it reason to believe: (1) That respondents exported U.S.-origin commodities to the United Kingdom and Hong Kong without authorization from the Department for those exports; (2) that respondents made false and misleading statements to officials of the United States Government in effecting the export of U.S.-origin commodities from the United States to the United Kingdom and Hong Kong by representing on the documents accompanying those exports that the commodites described theron were being exported under a validated export license when in truth and in fact respondents had not obtained a validated export license from the Department authorizing the export of those commodities; (3) that respondents engaged in the unauthorized use of export control documents by seeking to obtain export licences and by obtaining an export license for the purpose of facilitating and effecting the export of U.S.-origin goods other than as set forth in the export license and the export license applications; (4) that respondents exported U.S.-origin commodities with knowledge or reason to know that violations of the Export Administration Act and the Regulations were intended to occur with respect to those exports, and (5) that respondents may attempt further exports contrary to the Regulations, either directly or through the known related parties, unless appropriate action is taken to preclude such attempts.

Based on the showing made by the Department, I find that an order temporarily denying all export privileges to Arnold I. Mandel, Rona K. Link Mandel, and TIRRCO, and to parties related to them, is required in the public interest to facilitate enforcement of the Export Administration Act of 1979, as amended (50 U.S.C. app. Sections 2401–2420 (Supp. V 1981)), and the Regulations and to permit completion of the Department's investigation.

Anyone who is now or may in the future be dealing with the above-named respondents or any related party in transactions that in any way involve U.S.-origin commodities or technical data is specifically alerted to the provisions set forth in Paragraph IV below.

Accordingly, it is hereby Ordered:

I. All outstanding validated export licenses in which respondents or any related party appear or participate, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Administration for cancellation.

II. The respondents, their successors or assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to a validated export license application, (b) in the preparation or filing of any export license application or reexport authorization, or of any document to be submitted therewith, (c) in the obtaining or using of any validated or general export license or other export control document, (d) in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported, and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondents, but also to their agents and employees and to any successors. After notice and opportunity for comment, such denial may also be made applicable to any person, firm, corporation, or business organization with which respondents are now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or related services. Those parties now known to be affiliated with at least one of the respondents, and which are accordingly subject to the provisions of this order, are:

CES, 2 Kansas Street, Suite M–8, San Francisco, California 94103

U.S. Equipment Remarketing, Inc., 1230 High Street, #224, Auburn, California 95603

and

P.O. Box 1368, 24763 Restive Way, Grass Valley, California 95945

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Administration, shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with the respondents or any related party, or whereby the respondents or any related party may obtain any benefit therefrom or have any interest in or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for the respondent or any related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. In accordance with the provisions of § 388.19(b) of the Regulations, the respondents or any related party may move at any time to vacate or modify this temporary denial order by filing with the Hearing Commissioner, International Trade Administration, U.S. Department of Commerce, Room 6716, 14th and Constitution Avenue, NW., Washington, D.C. 20230, an appropriate motion for relief and may also request an oral hearing thereon, which, if requested, shall be held before the Hearing Commissioner at the earliest convenient date.

VI. This order is effective immediately. It remains in effect until the final disposition of any administrative or judicial proceedings initiated against the respondents as a result of the ongoing investigation. A

copy of this order and Parts 387 and 388 of the Regulations shall be served upon the respondents and the above-named related parties.

Dated: January 16, 1984, 11:45 a.m., EST.

Thomas W. Hoya,

Hearing Commissioner.

[FR Doc. 84-1675 Filed 1-19-84; 8:45 am]

BILLING CODE 3510-01-M

Armand Hammer Foundation; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No.: 83-116. Applicant: The Armand Hammer Foundation, Los Angeles, CA 90024. Instrument: AGA Infrared Equipment. Manufacturer: AGA Infrared Systems AB, Sweden. Intended use: See notice at 48 FR 13215.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument permits nondestructive examination of concealed or covered artifacts for anthropological research, dating and education. The instrument operates in the 2 to 5 micron region, is temperature sensitive to better than 0.2°C, and capable of displaying a full grey scale equivalent to a range of 2°C. The National Bureau of Standards advises in its memorandum dated November 10, 1983 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use. We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-1618 Filed 1-19-84; 8:45 am]

BILLING CODE 3510-DS-M

National Bureau of Standards; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 83-269. Applicant: National Bureau of Standards, Washington, D.C. 20234. Instrument: Fluorescence Decay Instrument. Manufacturer: Photochemical Research Associates, Inc., Canada. Intended use: See notice at 48 FR 38870.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides high (single-photon) sensitivity (detection of fluorescence lifetimes down to 250 picoseconds) and a pulse-excitation fluorometer which allows determination of fluorescence decays of two (2) or more components. The National Institutes of Health advises in its memorandum dated November 2, 1983 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Statutory Import Programs Staff.

[FR Doc. 84-1678 Filed 1-19-84; 8:45 am]

BILLING CODE 3510-DS-M

State University of New York at Buffalo; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 83-262. Applicant: State University of New York at Buffalo, Buffalo, NY 14260. Instrument: Polarizing Fourier Transform Spectrometer System and Accessories. Manufacturer: SPECAC, Analytical Accessories, Ltd., United Kingdom. Intended Use: See notice on 48 FR 36504.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides null-free spectral analysis at low wavenumbers (10 cm^{-1} or lower) which is in the region of greatest interest to the applicant. The National Bureau of Standards advises in its memorandum dated November 1, 1983 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-1680 Filed 1-19-84; 8:45 am]

BILLING CODE 3510-DS-M

University of California; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No.: 83-279. Applicant: University of California, Davis, Davis, CA 95616. Instrument: Myograph with Electronic Box/Power Supply and Accessories. Manufacturer: J. P. Trading, Denmark. Intended use: See notice at 48 FR 39266.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign

instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The instrument is capable of detecting and recording (simultaneous measurement of circumferential wall tension) the very small forces generated by the smallest blood vessels. The National Institutes of Health advises in its memorandum dated November 23, 1983 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use. We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-1681 Filed 1-19-84; 8:45 am]

BILLING CODE 3510-DS-M

University of Pennsylvania; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 83-261. Applicant: University of Pennsylvania, Philadelphia, PA 19104. Instrument: Micromanipulator, MS-500. Manufacturer: Max Frankenberger, West Germany. Intended use: See notice at 48 FR 36503.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument permits penetration of live epithelial cell membranes with minimal vibration in the cell's X-Y plane. The National Institutes of Health advises in its memorandum dated November 2, 1983 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use. We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which was being manufactured in the United States at the time of purchase.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-1677 Filed 1-19-84; 8:45 am]

BILLING CODE 3510-DS-M

University of Utah; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No.: 83-321. Applicant: University of Utah, Salt Lake City, UT 84112. Instrument: Excimer Laser Pumped Dye Laser System and Accessories. Manufacturer: Lambda Physik, West Germany. Intended use: See notice at 48 FR 47041.

Comments: None. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, was being manufactured in the United States at the time of purchase (January 31, 1983).

Reasons: The foreign instrument provides a combination of the lowest possible amplified spontaneous emission (ASE) and high power. Low (e.g., 0.1 percent) ASE enhances spectral quality. The National Bureau of Standards advises in its memorandum dated November 17, 1983 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which was being manufactured in the United States at the time of purchase.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-1679 Filed 1-19-84; 8:45 am]

BILLING CODE 3510-DS-M

Bicycle Tires and Tubes From Taiwan; Redetermination of Sales at Less Than Fair Value and Suspension of Liquidation

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of redetermination of sales at less than fair value and suspension of liquidation.

SUMMARY: On December 5, 1983, the United States Court of International Trade (The Court) entered an order affirming the remand results and redetermination of sales at less than fair value in the antidumping investigation of bicycle tires and tubes from Taiwan. In accordance with the Court's order, the Department of Commerce (the Department) has directed the U.S. Customs Service to suspend liquidation of all entries of the subject merchandise, except bicycle tires and tubes produced by Nan Kang Rubber and Industrial Corp. (Nan Kang), which are entered, or withdrawn from warehouse, for consumption on or after the day after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margins as described in the "Suspension of Liquidation" section of this notice. This case is being referred to the United States International Trade Commission for a determination whether these imports are materially injuring, or are threatening to materially injure, a United States industry.

EFFECTIVE DATE: January 23, 1984.

FOR FURTHER INFORMATION CONTACT: Stuart S. Keitz, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone (202) 377-1769.

SUPPLEMENTARY INFORMATION:

Background

On December 28, 1978, the Department of the Treasury published a notice of "Determination of Sales at Not Less Than Fair Value and Discontinuance of Antidumping

Investigation" in the case of Bicycle Tires and Tubes from the Republic of China (43 FR 61066). The determination stated that either no margins, de minimis margins, or margins considered to be minimal were found on sales of the subject merchandise.

The petitioner challenged the determination in court, and on May 12, 1982, the Court remanded the case to the Secretary of Commerce for reevaluation of certain standards applied in reaching the determination, for recalculation of certain deductions and adjustments to purchase price and home market price, and for redetermination of dumping margins, if necessary. The Court's remand did not include Nan Kang, and, as no margins were found for this firm in the original negative determination, Nan Kang is excluded from the redetermination.

On October 11, 1983, the Department issued its remand results and affirmative redetermination. Based on its recalculation, the Department redetermined that certain bicycle tires and tubes from Taiwan were, or were likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended, by the Trade Act of 1974 (19 U.S.C. 160 *et seq.*), and that the weighted-average margins set forth below existed. The remand results and affirmative redetermination of sales at less than fair value were accepted by the petitioner (plaintiff), and the following stipulation was entered with the Court:

(1) Plaintiff accepts the remand results and affirmative redetermination issued on October 11, 1983 except that plaintiff points out and defendant agrees that in addition to the margins of sales at less than fair value set forth for Cheng Shin Rubber Industrial Co., Ltd., Kenda Rubber Tire Corp., Ltd., and Hwa Fong Rubber Industrial Co., Ltd., the affirmative redetermination should include a weighted average of those margins which is to be applied to entries of the subject merchandise from exporters other than the three named producer/exporters except Nan Kang. The parties agree that the weighted average margin for "all other manufacturers/exporters" is 3.65 percent and that the following weighted-average dumping margins exist for Taiwan manufacturers of bicycle tires and tubes:

Manufacturer/exporter	Time period	Margin (percent)
Cheng Shin Rubber Industrial Co., Ltd	9/1/77-2/28/78	1.66
Kenda Rubber Tire Corp., Ltd	9/1/77-2/28/78	7.02
Hwa Fong Rubber Industrial Co., Ltd	9/1/77-2/28/78	3.30
All others except Nan Kang	9/1/77-2/28/78	3.65

(2) If this Court enters an opinion and order affirming the aforementioned remand results and redetermination and the agreement set forth above regarding the weighted average margins for all other Taiwan manufacturers of bicycle tires and tubes except Nan Kang, the International Trade Administration (ITA) shall expedite the publication of the Court's decision in the **Federal Register**, and shall direct the United States Customs Service (a) to suspend liquidation of all bicycle tires and tubes from Taiwan entered, or withdrawn from warehouse, for consumption commencing the day after the date of publication of this Court's decision affirming the remand results and antidumping redetermination; and (b) to require a cash deposit or bond in the amount indicated above for each entry of the subject merchandise for which liquidation is ordered suspended.

On December 5, 1983, the Court affirmed the stipulation and entered an order in accordance therewith.

Scope of the Redetermination

The merchandise covered by the redetermination is pneumatic bicycle tires and tubes of rubber or plastic, whether sold together as units or separately, and currently classifiable under item numbers 772.48 and 772.57 of the *Tariff Schedules of the United States*, respectively.

Suspension of Liquidation

In accordance with the Court's order, we are directing the United States Customs Service to suspend liquidation of all entries of bicycle tires and tubes from Taiwan, except those produced by Nan Kang, which are entered, or withdrawn from warehouse, for consumption, on or after the day after the date of publication of this notice in the **Federal Register**. Except for Nan Kang, the Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to the redetermination exceeds the United States price. The suspension of liquidation will remain in effect until further notice. The weighted-average margins are as follows:

Manufacturers/producers exporters	Time period	Weighted-average margin percentage
Cheng Shin Rubber Industrial Co., Ltd	9/1/77-2/28/78	1.66
Kenda Rubber Tire Corp. Ltd	9/1/77-2/28/78	7.02
Hwa Fong Rubber Industrial Co., Ltd	9/1/77-2/28/78	[illegible]
All other manufacturers/producers/exporters except Nan Kang Rubber and Industrial Corp	9/1/77-2/28/78	[illegible]

International Trade Commission (ITC) Notification

We will notify the ITC of our redetermination and will refer the case to them for an injury determination. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to the investigation and redetermination. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If the ITC determines that such injury does exist, we will issue an antidumping order directing Customs officers to assess an antidumping duty on bicycle tires and tubes from Taiwan, except those produced by Nan Kang, entered or withdrawn from warehouse, for consumption after the suspension of liquidation equal to the amount by which the foreign market value exceeds the United States price. This notice is published pursuant to Court order of December 5, 1983.

William T. Archey,

Acting Assistant Secretary for Trade Administration.

January 10, 1984.

[FR Doc. 84-1712 Filed 1-19-84; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF COMMERCE

International Trade Administration

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Limit on Duty-Free Insular Watches in Calendar Year 1984

On December 5, 1983, the Departments proposed to establish for calendar year 1984 a total quantity of watches and watch movements which may be entered free of duty and shares of this total which may be entered from the Virgin Islands, Guam, and American Samoa (48 FR 54531).

We invited comments on the proposal from interested persons.

We received no comments. Accordingly, the amounts for calendar year 1984 will be as shown in the following table:

Territory	Share
Virgin Islands	3,000,000
Guam	1,200,000
American Samoa	600,000
Total	4,800,00

Richard T. Montoya,

Deputy Assistant Secretary, Territorial and International Affairs, Department of the Interior.

Frank W. Creel,

Acting Director, Statutory Import Programs Staff, Department of Commerce.

[FR Doc. 84-1678 Filed 1-19-84; 8:45 am]

BILLING CODE 3510-DS-M
BILLING CODE 4310-10-M

DEPARTMENT OF COMMERCE

National Bureau of Standards

National Voluntary Laboratory Accreditation Program (NVLAP); Establishment

AGENCY: National Bureau of Standards, Commerce.

ACTION: Notice of formal establishment of a program for accrediting laboratories that test commercial products (paint, paper, and mattresses).

SUMMARY: Under the National Voluntary Laboratory Accreditation Program (NVLAP), the National Bureau of Standards (NBS) announces the formal establishment of a laboratory accreditation program (LAP) for laboratories that test commercial products (Commercial Products LAP). Initially, the LAP will cover test methods for paints and related coatings, paper and paper products, and mattresses. A separate notice appearing in this issue of the **Federal Register** includes the fees for this LAP. Laboratories that are interested in becoming accredited under the Commercial Products LAP may request an application package by contacting the Manager, Laboratory Accreditation, National Bureau of Standards.

DATES: Each laboratory that submits a completed application which is postmarked no later than April 1, 1984, will be included in the first group of laboratories to be evaluated for accreditation. Applications received after that date will be included in subsequent groups as they can be scheduled.

FOR FURTHER INFORMATION CONTACT: John W. Locke, Manager, Laboratory Accreditation, National Bureau of Standards, TECH B141, Washington, D.C. 20234; (301) 921-3431.

SUPPLEMENTARY INFORMATION:

Background. This notice is issued in accordance with section 7a.8 of the NVLAP procedures (15 CFR Part 7a). Establishment of this laboratory accreditation program (LAP) for laboratories that test commercial products (Commercial Products LAP) follows the request letter from the International Coalition for Procurement Standards (ICPS) dated March 18, 1983. The ICPS letter identified a number of standards and test methods for paints and related coatings, paper and paper products, and mattresses for initial inclusion in the LAP. Additional standards and test methods have been included based upon requests received after the preliminary finding of need notice which was published on May 20, 1983 (45 FR 22771-22775). The notice annoucing the final finding of need for this LAP was published on October 5, 1983 (48 FR 45448-45453). Other related products, standards and tests methods may be added in response to requests as long as they are covered by the ASTM Book of "Standards for the Purchasing Community" which defines the scope of this LAP. The purpose of the LAP is to nationally recognize laboratories capable of performing tests in accordance with the designated test methods.

Accreditation Process. The accreditation process for this LAP is described below, followed by an appendix of operational information for this LAP.

Dated: January 13, 1984.

Ernest Ambler,

Director, National Bureau of Standards.

Accreditation Process for the Commercial Products LAP

Requesting an Application. Any testing laboratory interested in becoming accredited under this LAP should contact the Manager, Laboratory Accreditation, National Bureau of Standards, TECH B141, Washington, D.C. 20234, (301) 921-3431. He will send an application package as explained below. All laboratories submitting applications postmarked by April 1, 1984, and accompanied by the requisite fee or purchase order will be scheduled for an initial on-site visit as part of the first group of laboratories considered for accreditation under this LAP. Applications received after this date will be included in subsequent groups of laboratories to be considered for accreditation.

Application Package. The application package includes an application form with a test method selection list and fee schedule, and the Commercial Products LAP Handbook which describes the general requirements for accreditation.

Fees. In a separate notice appearing in this issue of the **Federal Register**, NBS announces the fees for the Commercial Products LAP. The fees notice provides interested laboratories with the information needed to calculate the annual fee associated with the scope of accreditation desired. This fee must be paid before any accreditation decision is made. Also, failure to pay an annual renewal fee will lead to automatic expiration of accreditation at the end of the laboratory's accreditation period.

Enrollment. After payment of the required accreditation fee, the laboratory will be scheduled for an on-site visit and will be notified of any additional written information which must be supplied, and of any applicable proficiency testing requirements which must be completed for the evaluation.

Basic Conditions for Accreditation. To be accredited under the NVLAP procedures, a laboratory must agree in writing to the following conditions:

(1) Be examined and audited, initially and on a continuing basis;

(2) Pay accreditation fees and charges;

(3) Avoid reference by itself and forbid others utilizing its services from referencing its accredited status under NVLAP in consumer media and in product advertising or on product labels, containers, and packaging or the contents therein, or in any other way which might convey the concept of product certification by NBS (Note: A NVLAP accredited laboratory may advertise its accredited status on its letterhead, brochures, and test reports as well as in trade publications and other laboratory services publications.);

(4) Maintain compliance with applicable general and specific criteria and with applicable requirements of the NVLAP procedures (15 CFR Part 7a); and

(5) Participate in proficiency testing that may be required for attaining or maintaining accreditation.

Criteria. The NVLAP general and specific criteria for evaluating laboratories, which are described in sections 7a.19-7a.30 of the NVLAP procedures (15 CFR 7a.19-7a.30), address a laboratory's organizational structure, technical management, professional and ethical business practices, and system for assuring the quality of test results. The criteria also address aspects of a laboratory directly related to the reliable performance of each test method for which the laboratory desires accreditation, including staff competence and training, facilities and equipment, test plans, calibration procedures, recordkeeping,

data handling procedures, and quality control checks and audits.

On-site Visits. Regularly scheduled on-site visits are conducted to assess a laboratory's compliance with the NVLAP criteria. In addition, monitoring visits of limited scope are used to assure that accredited laboratories continue to comply with the criteria or to resolve any testing problems that an accredited laboratory may appear to have. The on-site assessor will conduct an exit interview with the laboratory's management at the conclusion of an on-site visit to summarize the assessor's findings. Each laboratory is notified whenever deficiencies are identified and is given an opportunity to correct those deficiencies before formal accreditation recommendations are prepared for any action is started to revoke accreditation. The laboratory must permit the on-site assessor to review and examine any records or other documents required by the criteria. Also, if a hearing under 5 U.S.C. 556 has been instituted under the NVLAP procedures, the laboratory must permit NBS personnel to review and copy any records or other documents required by the criteria. Failure of the laboratory to cooperate with the on-site assessor will be grounds for the initiation of adverse accreditation action.

Proficiency Testing. Proficiency testing is an integral part of the NVLAP accreditation process. While the existence of facilities, equipment, and personnel which satisfy the criteria indicates a laboratory's overall capability to obtain good results, an analysis of actual test results for certain test methods is also necessary to determine if the overall capability does in fact produce the desired results. A laboratory's failure to participate fully in the conduct of required proficiency testing may also be grounds for the initiation of adverse accreditation action.

Evaluation and Recommendations. An evaluation team composed primarily of peers in the applicable testing areas uses the following information to review each laboratory:

(1) Written information supplied by the laboratory;

(2) Results of proficiency testing; and

(3) Written reports of the assessor regarding on-site visits to the laboratory.

If additional deficiencies are identified beyond those cited during the on-site visit, the laboratory is given written notification of those deficiencies and a reasonable period (ordinarily 30 days) in which to correct or resolve them. After review of the above information and the laboratory's response to any notification of deficiencies, an accreditation recommendation for the laboratory will be made by the evaluation team.

Accreditation Decision. Aided by the recommendation of the evaluation team, a decision is made whether to grant or deny initial accreditation for new laboratories or renewal for currently accredited laboratories. The laboratory is notified by letter of the decision. If accreditation denial is proposed, the notification letter will state the reason.

Appeals. When denial of accreditation is proposed, a laboratory has 30 days from the date of receipt of the notification to request a hearing. The notification will specify to whom a request for a hearing should be sent. If a hearing is not requested, the denial becomes final. If a hearing is requested, it is held pursuant to 5 U.S.C. 556.

Accreditation Period. Laboratories are granted accreditation for one year with individual laboratory anniversary dates occurring on the first of January, April, July, or October. A laboratory will be assigned one of these anniversary dates which is closest to the time that the decision to grant accreditation is made but in no case shall the anniversary date be less than 12 months from the date of the decision.

Accreditation Renewal. Each accredited laboratory is sent a renewal application form before its current accreditation expires (anniversary date). If acted upon promptly by the laboratory, the lead time will be sufficient to complete the renewal evaluation before the current accreditation expires. The laboratory may use the renewal application form to add or drop test methods for the new accreditation period.

Termination. Any accredited laboratory may voluntarily terminate its accreditation at any time. Likewise, an applicant laboratory may voluntarily terminate its application at any time prior to the completion of action on the application. The matter of refunds is covered in section 7a.15 of the NVLAP Procedures (15 CFR 7a.15).

Revocation. If the Director of NBS or designee finds that an accredited laboratory has violated the terms of its accreditation, the Director or his designee may, after consultation with the laboratory, notify that laboratory that he proposes to revoke its accreditation. The laboratory has 39 days in which to appeal a proposed revocation by requesting a hearing. A proposed revocation will specify to whom a request for a hearing should be sent. If a hearing is not requested, the revocation becomes final. If a hearing is requested, it is held pursuant to 5 U.S.C. 556.

Public Notification. Accreditation actions are published in the **Federal Register** within 30 days of such action and in NVLAP quarterly and annual reports.

Compliance with Existing Laws. NVLAP accreditation does not relieve the laboratories from the necessity of observing and complying with existing federal, state, and local statutes, ordinances, or regulations that may be applicable to its operations, including consumer protection and antitrust laws.

Appendix—Operational Information for the Commercial Products LAP

On-site Visits. Regularly scheduled on-site visits will occur every two years. In addition, laboratories will be subject to monitoring visits.

Test Methods. The test methods included in the Commercial Products LAP are listed in the Appendix to the notice of fees for the Commercial Products LAP which appears in this issue of the **Federal Register**. Applicant laboratories may be accredited for one or more of the test methods listed.

Proficiency Testing. NBS recognizes that there may be existing or developing collaborative reference or round-robin testing programs that could be adopted as an integral part of proficiency testing requirements for this LAP. Those parties responsible for such programs are invited to identify themselves and the details of their program for consideration and use as a proficiency testing program for this LAP. Interested parties should contact the Manager, Laboratory Accreditation, NBS, TECH B141, Washington, D.C. 20234; (301) 921-3431. To be accepted for use as a proficiency testing program for this LAP, the program must:

(1) Be ongoing and open to anyone interested in participating;

(2) Issue written reports of its results which include statistical analyses of submitted data and identification of statistical outliers;

(3) Have published descriptions of its programs and procedures which are available to anyone;

(4) Have adequate procedures for the distribution, control, and characterization of testing samples; and

(5) Be willing to provide the identity of participating laboratories and their individual results if they are also participating in the LAP.

NBS may select one or more of these programs for use as a requirement in this LAP. This selection would be based on minimum cost to the laboratories seeking accreditation and availability of

programs to meet the overall needs of the LAP.

[FR Doc. 84-1564 Filed 1-19-84; 8:45 am]
BILLING CODE 3510-13-M

National Voluntary Laboratory Accreditation Program (NVLAP); Fees

AGENCY: National Bureau of Standards, Commerce.

ACTION: Notice of fees for the laboratory accreditation program for commercial products.

SUMMARY: Under the National Voluntary Laboratory Accreditation Program (NVLAP), the National Bureau of Standards (NBS) announces the fees for the laboratory accreditation program (LAP) for laboratories that test commercial products (Commercial Products LAP). A separate notice appearing in this issue of the **Federal Register** describes the accreditation process for the Commercial Products LAP. Laboratories that are interested in becoming accredited under this LAP may request an application package by contacting the Manager, Laboratory Accreditation, National Bureau of Standards.

EFFECTIVE DATE: February 21, 1984.

FOR FURTHER INFORMATION CONTACT: John W. Locke, Manager, Laboratory Accreditation, National Bureau of Standards, TECH B141, Washington, DC 20234; (301) 921-3431.

SUPPLEMENTARY INFORMATION:

Background. In a separate notice in this issue of the **Federal Register**, NBS announced the formal establishment of a laboratory accreditation program (LAP) for laboratories that test commercial products (Commercial Products LAP). Pursuant to section 7a.8 of the NVLAP procedures, notice is hereby given of the fees which the Director of the National Bureau of Standards (NBS) has established for the Commercial Products LAP.

Basis of Fees. NVLAP fees are based on the premise that all operational costs incurred by NBS in evaluating laboratories seeking accreditation are recovered from fees charged to the applicant laboratories. Fees pay for processing applications, preparing evaluation reports and certificates, as well as the work-hours, travel, and per diem costs of assessors involved in the evaluation process. The fees vary depending on the assessment time, which in turn depends on complexity of test methods and frequency of visits to the laboratories.

Administrative Fee. An annual administrative fee of $800 will be charged each participating laboratory. This fee is based on the estimated administrative costs for operating the LAP.

LAP Initiation Fee. This is a one-time fee of $600 for new applicants in this LAP. The fee is based on higher costs for processing new applicants, assisting new applicants and initial assessment.

Test Method Fee. There is a fee associated with each test method. The total cost of test method fees is obtained by summing individual fees for those test methods in which the applicant requests accreditation. Minimum and maximum fees are imposed for this LAP. The total test method fees are limited by a minimum of $600 and a maximum of $3,000. Laboratories already enrolled in other LAPs are not required to pay the minimum for this LAP if they apply for test methods whose fees total less than $600.

Fees for Foreign Laboratories. Foreign laboratories are offered NVLAP accreditation on the same basis and involving the same criteria as is required of domestic laboratories. However, the cost of the assessor's travel time and expenses and the cost of mailing proficiency testing materials outside of the continental United States will be added to the normal fees.

Special Evaluation Fee. For those applicants requiring faster service than the normal evaluation schedule allows, a fee to cover the extra travel and labor expenses to carry out the special evaluation may be charged. Extra fees will be discussed with the applicant before being imposed.

The fee model for the Commercial Products LAP is outlined below.

Dated: January 16, 1984.

Ernest Ambler,

Director, National Bureau of Standards.

Appendix—Commercial Products LAP Fee Model

Administrative Fee: $800.

Initiation Fee: $600.

Total Test Method Fee: The Total Test Method Fee is the sum of the individual test method fees for those test methods in which a laboratory seeks accreditation, except where the minimum or maximum total test method fees apply. The minimum is $600. The maximum is $3,000. The minimum is assessed when the sum of the individual fees is less than that amount. (Note that laboratories already enrolled in other LAPs are not subject to this minimum.) The maximum is assessed when the sum exceeds that amount. The individual test method fees are given in the following table listing the test methods.

TABLE—TEST METHODS FOR COMMERCIAL PRODUCTS LAP

NVLAP code	Test method designation	Short title	Test method fee (dollars)
		Paints and Related Coatings and Materials	
Measurements of Intrinsic Physical Properties			
09/A01	ASTM D56-82	Flash Point by Tag Closed Tester	70
09/A02	ASTM D93-80	Flash Point by Pensky-Martens Closed Tester	70
09/A03	ASTM D153-82	Specific Gravity of Pigments	70
09/A04	ASTM D185-78	Coarse Particles in Pigments, Pastes and Paints	70
09/A05	ASTM D281-31 (1980)	Oil Absorption of Pigments by Spatula Rub-Out	70
09/A06	ASTM D387-81	Color and Strength of Color Pigments With a Mechanical Muller	70
09/A07	ASTM D523-80	Specular Gloss	70
09/A08	ASTM D562-81	Consistency of Paints Using the Stormer Viscometer	70
09/A09	ASTM D1005-51 (1971)	Dry Film Thickness of Organic Coatings	70
09/A10	ASTM D1186-81	Dry Film Thickness of Non-magnetic Coatings Applied to a Ferrous Base	70
09/A11	ASTM D1200-82	Viscosity of Paints, Varnishes, and Lacquers by Ford Viscosity Cup	70
09/A12	ASTM D1210-79	Fineness of Dispersion of Pigment-Vehicle Systems	70
09/A13	ASTM D1212-79	Wet Film Thickness of Organic Coatings	70
09/A14	ASTM D1296-79	Odor of Volatile Solvents and Diluents	70
09/A15	ASTM D1310-82	Flash-Point of Liquids by Tag Open-Cup Apparatus	70
09/A16	ASTM D1400-81	Dry Film Thickness of Non-conductive Coatings Applied to a Nonferrous Metal Base	70
09/A17	ASTM D1475-60 (1980)	Density of Paint, Varnish, Lacquer, and Related Products	70
09/A18	ASTM D1544-80	Color of Transparent Liquids (Gardner Color Scale)	70
09/A19	ASTM D1729-82	Visual Evaluation of Color Differences of Opaque Materials	70

TABLE—TEST METHODS FOR COMMERCIAL PRODUCTS LAP—Continued

NVLAP code	Test method designation	Short title	Test method fee (dollars)
09/A20	ASTM D2244-79	Instrumental Evaluation of Color Difference of Opaque Materials	70
09/A21	ASTM D3278-82	Flash Point of Liquids by Setaflash Closed Tester	70
09/A22	ASTM D3363-74 (1980)	Film Hardness by Pencil Test	70
09/A23	ASTM D3793-79	Low-Temperature Coalescence of Latex Paint Films	70
09/A24	ASTM D4061-81	Specific Luminance of Horizontal Coatings	70
09/A25	ASTM D4212-82	Viscosity by Dip-Type Viscosity	70
09/A26	ASTM E97-82	45- deg, O-deg Directional Reflectance Factor of Opaque Specimens by Broad-Band Filter Reflectometry	70
09/A27	ASTM E308-66 (1981)	Spectrophotometry and Description of Color in CIE 1931 System	70
09/A28	ASTM E313-73	Indexes of Whiteness and Yellowness of Near-White Opaque Materials	70
09/A29	ASTM E430-78	Gloss of High-Gloss Surfaces by Goniophotometry	70
Measurements of Performance and Performance Change			
09/B01	ASTM D279-73 (1979)	Bleeding of Pigments	100
09/B02	ASTM D332-80	Tinting Strength of White Pigments	100
09/B03	ASTM D344-39 (1976)	Relative Dry Hiding Power of Paints	100
09/B04	ASTM D610-68 (1981)	Rusting on Painted Steel Surfaces	100
09/B05	ASTM D659-80	Chalking of Exterior Paints	100
09/B06	ASTM D660-44 (1981)	Checking of Exterior Paints	100
09/B07	ASTM D661-44 (1981)	Cracking of Exterior Paints	100
09/B08	ASTM D662-44 (1981)	Erosion of Exterior Paints	100
09/B09	ASTM D711-75	No-Pick-Up Time of Traffic Paint	100
09/B10	ASTM D714-56 (1981)	Blistering of Paints	100
09/B11	ASTM D772-47 (1981)	Flaking (Scaling) of Exterior Paints	100
09/B12	ASTM D821-47 (1974)	Abrasion, Erosion or a Combination of Both in Road Service Tests of Traffic Paints	100
09/B13	ASTM D868-48 (1981)	Bleeding of Traffic Paint	100
09/B14	ASTM D869-78	Settling of Traffic Paint	100
09/B15	ASTM D870-54 (1980)	Water Immersion Test of Organic Coatings on Steel	100
09/B16	ASTM D913-51 (1981)	Chipping of Traffic Paint	100
09/B17	ASTM D968-81	Abrasion Resistance of Organic Coatings by the Falling Abrasive Tester	100
09/B18	ASTM D969-54 (1981)	Bleeding of Traffic Paint	100
09/B19	ASTM D1308-79 (1981)	Effect of Household Chemicals on Clear and Pigmented Organic Finishes	100
09/B20	ASTM D1309-56 (1975)	Settling Properties of Traffic Paint During Storage	100
09/B21	ASTM D1360-79	Fire-Retardancy of Paints (Cabinet Method)	100
09/B22	ASTM D1543-63 (1981)	Color Permanence of White Architectural Enamels	100
09/B23	ASTM D1640-69 (1974)	Drying, Curing, or Film Formation of Organic Coatings at Room Temperature	100
09/B24	ASTM D1737-62 (1979)	Elongation of Attached Organic Coatings with Cylindrical Mandrel Apparatus	100
09/B25	ASTM D2197-68 (1979	Adhesion of Organic Coatings	100
09/B26	ASTM D2243-82	Freeze-Thaw Resistance of Latex and Emulsion Paints	100
09/B27	ASTM D2248-73 (1982)	Detergent Resistance of Organic Finishes	100
09/B28	ASTM D2366-68 (1980)	Moisture Blister Resistance of Exterior House Paints on Wood	100
09/B29	ASTM D2486-79	Scrub Resistance of Interior Latex Flat Wall Paints	100
09/B30	ASTM D2801-69 (1981)	Leveling Characteristics of Paints by Draw-Down Method	100
09/B31	ASTM D2805-80	Hiding Power of Paints	100
09/B32	ASTM D3273-82	Resistance to Growth of Mold on the Surface of Interior Coatings in an Environmental Chamber	100
09/B33	ASTM D3274-82	Surface Disfigurement of Paint Films by Fungal Growth or Soil and Dirt Accumulation	100
09/B34	ASTM D3450-80	Washability Properties of Interior Architectural Coatings	100
09/B35	ASTM D3456-75 (1981)	Susceptability of Paint Films to Microbiological Attack	100
09/B36	ASTM D3623-78a (1982)	Antifouling Panels in Shallow Submergence	100
09/B37	ASTM D4060-81	Abrasion Resistance of Organic Coatings by the Taber Abraser	100
09/B38	ASTM D4062-81	Leveling of Paints by Draw-Down Method	100
09/B39	ASTM D4213-82	Wet Abrasion Resistance of Interior Paint by Weight Loss	100
09/B40	ASTM D4214-82	Chalking of Exterior Paint Films	100
09/B41	Fed. Std. 141, Method 4494	Sag Test (Multinotch Blade	100
09/B42	Fed. Std. 141, Method 4061	Drying Time	100
Measurement of Chemical Properties and Compositions			
09/C01	ASTM D34-73 (1979)	Chemical Analysis of White Pigments	100
09/C02	ASTM D95-70 (1980)	Water in Petroleum Products and Bituminous Materials by Distillation	100
09/C03	ASTM D521-61	Chemical Analysis of Zinc Dust (Metallic Zinc Powder)	100
09/C04	ASTM D563-80	Phthalic Anhydride Content of Alkyd Resins and Resin Solutions	100
09/C05	ASTM D611-82	Aniline Point and Mixed Aniline Point of Petroleum Products and Hydrocarbon Solvents	100
09/C06	ASTM D1078-78	Distillation Range of Volatile Organic Liquids	100
09/C07	ASTM D1133-78	Kauri-Butanol Value of Hydrocarbon Solvents	100
09/C08	ASTM D1208-78	Common Properties of Certain Pigments	100
09/C09	ASTM D1259-61 (1980)	Nonvolatile Content of Resin Solutions	100
09/C10	ASTM D1306-80	Phthalic Anhydride Content of Alkyd Resins and Esters Containing Other Dibasic Acids (Gravimetric)	100
09/C11	ASTM D1353-78	Nonvolatile Matter in Volatile Solvents for Use in Paint, Varnish, Lacquer and Related Products	100
09/C12	ASTM D1364-78	Water in Volatile Solvents (Fischer Reagent Titration Method)	100
09/C13	ASTM D1394-76 (1981)	Chemical Analysis of White Titanium Pigments	100
09/C14	ASTM D1397-80	Unsaponifiable Matter in Alkyd Resins and Resins Solutions	100
09/C15	ASTM D1398-77	Fatty Acid Content of Alkyd Resins and Alkyd Resin Solutions	100
09/C16	ASTM D1399-81	Unsaponifiable Content of Tricresyl Phosphate	100
09/C17	ASTM D1467-72 (1981)	Fatty Acids Used in Protective Coatings	100
09/C18	ASTM D1469-73 (1981)	Total Rosin Acid Content of Coating Vehicles	100
09/C19	ASTM D1541-60 (1979)	Total Iodine Value of Drying Oils and Their Derivatives	100
09/C20	ASTM D1613-81	Acidity in Volatile Solvents and Chemical Intermediates Used in Paint, Varnish, Lacquer and Related Products	100
09/C21	ASTM D1639-70 (1981)	Acid Value of Organic Coating Materials	100
09/C22	ASTM D1644-75 (1981)	Nonvolatile Content of Varnishes	100
09/C23	ASTM D1652-73 (1980)	Epoxy Content of Epoxy Resins	100
09/C24	ASTM D2075-66 (1981)	Iodine Value of Fatty Amines, Amidoamines, and Diamines	100
09/C25	ASTM D2078-64 (1981)	Acid Value and Amine Value of Fatty Quaternary Ammonium Chlorides	100
09/C26	ASTM D2369-81	Volatile Content of Paints	100
09/C27	ASTM D2371-73 (1979)	Pigment Content of Solvent-Type Paints	100
09/C28	ASTM D2697-73 (1979)	Volume Nonvolatile Matter in Clear or Pigmented Coatings	100
09/C29	ASTM D2698-73 (1979)	Pigment Content of Solvent-Type Paints by High-Speed Centrifuging	100
09/C30	ASTM D2832-69 (1980)	Nonvolatile Content of Paint and Paint Materials	100
09/C31	ASTM D3009-72 (1981)	Composition of Turpentine by Gas Chromatography	100
09/C32	ASTM D3271-76 (1981)	Direct Injection of Solvent-Base Paints into a Gas Chromatograph for Solvent Analysis	100
09/C33	ASTM D3272-76 (1981)	Vacuum Distillation of Solvents from Solvent-Base Paints for Analysis	100
09/C34	ASTM D3355-78	Low Concentrations of Lead, Cadmium, and Cobalt in Paint by Atomic Absorption Spectroscopy	100

TABLE—TEST METHODS FOR COMMERCIAL PRODUCTS LAP—Continued

NVLAP code	Test method designation	Short title	Test method fee (dollars)
09/C35	ASTM D3624-78	Low Concentration of Mercury in Paint by Atomic Absorption Spectroscopy	100
09/C36	ASTM D3718-78	Low Concentration of Chromium in Paint by Atomic Absorption Spectroscopy	100
09/C37	ASTM D3723-78	Pigment Content of Water-Emulsion Paints by Low-Temperature Ashing	100
09/C38	ASTM D3792-79	Water Content of Waterborn Paints by Direct Injection into a Gas Chromatograph	100
09/C39	ASTM D3960-81	Volatile Organic Contents (VOC) of Paints and Related Coatings	100
09/C40	ASTM D4017-81	Water in Paints and Paint Materials by Karl Fischer Method	100
Test Sample Conditioning and Preparation			
09/D01	ASTM B117-73 (1979)	Salt Spray (Fog) Testing	70
09/D02	ASTM D609-73 (1980)	Preparation of Steel Panels for Testing Paints, Varnish, Lacquer, and Related Products	70
09/D03	ASTM D822-80 (1981)	Operating Light-and-Water-Exposure Apparatus (Carbon-Arc Type) for Testing Paint, Varnish, Lacquer, and Related Products.	70
09/D04	ASTM D823-53 (1980)	Producing Films of Uniform Thickness of Paint, Varnish, Lacquer, and Related Products on Test Panels	70
09/D05	ASTM D1006-73 (1981)	Exterior Exposure Tests of Paints on Wood	70
09/D06	ASTM D1014-66 (1973)	Exterior Exposure Tests of Paints on Steel	70
09/D07	ASTM D1654-79	Painted or Coated Specimens Subjected to Corrosive Environments	70
09/D08	ASTM D1730-67 (1973)	Preparation of Aluminum and Aluminum-Alloy Surfaces for Painting	70
09/D09	ASTM D1734-63 (1980)	Making and Preparing Concrete and Masonry Panels for Testing Paint Finishes	70
09/D10	ASTM D2247-68 (1980)	Coated Metal Specimens at 100% Relative Humidity	70
09/D11	ASTM D2372-73 (1979)	Separation of Vehicle Solvent-Type Paints	70
09/D12	ASTM D3361-81	Operating Light-and-Water-Exposure Apparatus (Unfiltered Carbon-Arc Type) for Testing Paint, Varnish, Lacquer, and Related Products Using the Dew Cycle.	70
09/D13	ASTM D3924-82	Standard Environment for Conditioning and Testing Paint, Varnish, Lacquer, and Related Materials	70
09/D14	ASTM G23-81	Operating Light-Exposure Apparatus (Carbon-Arc Type) With and Without Water for Exposure of Nonmetallic Materials.	70
09/D15	ASTM G26-77	Operating Light-Exposure Apparatus (Xenon-Arc Type) With and Without Water for Exposure of Nonmetallic Materials.	70
09/D16	ASTM G53-77	Operating Light- and Water-Exposure Apparatus (Fluorescent UV-Condensation Type) for Exposure of Nonmetallic Materials.	70
		Paper and Related Products	
Paper and Paperboard			
09/E01	TAPPI T208-OS-78	Moisture in Wood, Pulp, Paper and Paperboard by Toluene Distillation	70
09/E02	TAPPI T402-OM-83, ASTM D685	Standard Conditioning and Testing Atmospheres for Paper, Board, Pulp Handsheets and Related Products	100
09/E03	TAPPI T403-OS-76, ASTM D774	Bursting Strength of Paper	70
09/E04	TAPPI T404-OM-82, ASTM D828	Tensile Breaking Strength and Elongatio of Paper and Paperboard (Using Pendulum-Type Tester)	70
09/E05	TAPPI T410-OM-83	Grammage of Paper and Paperboard (Weight per Unit Area)	70
09/E06	TAPPI T411-OM-83	Thickness (Caliper) of Paper and Paperboard	70
09/E07	TAPPI 412-OM-83, ASTM D644	Moisture in Paper and Paperboard	70
09/E08	TAPPI T414-OM-82, ASTM D689	Internal Tearing Resistance of Paper	70
09/E09	TAPPI T425-OM-81	Opacity of Paper (15/Diffuse Illumenant A, 89% Reflectance Backing and Paper Backing)	70
09/E10	TAPPI T435-OM-83	Hydrogen Ion Concentration (pH) of Paper Extracts—(Hot Extraction Method)	100
09/E11	TAPPI T452-OM-83	Brightness of Pulp, Paper and Paperboard (Directional Reflectance at 457 nm)	70
09/E12	TAPPI T459-OM-83 ASTM D2482	Surface Strength of Paper (Wax Pick Test)	70
09/E13	TAPPI T460-OM-83, ASTM D726	Air Resistance of Paper	70
09/E14	TAPPI T470-OM-70	Edge Tearing Resistance of Paper (Finch Method)	70
09/E15	TAPPI T480-OS-76	Specular Gloss of Paper and Paperboard at 75 Degrees	70
09/E16	TAPPI T489-OS-76	Stiffness of Paperboard	70
09/E17	TAPPI T494-OM-81	Tensile Breaking Properties of Paper and Paperboard (Using Constant Rate of Elongation Apparatus)	70
09/E18	TAPPI T511-OM-83, ASTM D2176	Folding Endurance of Paper (MIT Tester)	70
09/E19	TAPPI T538-PM-82	Sheffield Smoothness of Paper and Paperboard (Air Flow Method)	70
09/E20	TAPPI T809-OM-82	Flat (Crush of Corrugating Medium (CMT Test)	70
09/E21	TAPPI T818-oM-82, ASTM D1164	Ring Crush of Paperboard	70
Paper Specifications			
09/F01	ASTM D3208-81 para.11	Manifold Papers for Permanent Records	70
09/F02	ASTM D3290-81 para. 11.2	Bond and Ledger Papers for Permanent Records	70
Pressure Sensitive Tapes			
09/G01	ASTM D3330-81, D3330M-81	Test for Peel Adhesion of Pressure-Sensitive Tape at 180-deg Angle	70
09/G02	ASTM D3652-78	Test for Thickness of Pressure-Sensitive Tapes	70
09/G03	ASTM D3654-82, D3654M-82	Test for Holding Power of Pressure-Sensitive Tapes	70
09/G04	ASTM D3662-78	Test for Bursting Strength of Pressure Sensitive and Gummed Tapes	70
09/G05	ASTM D3715-78	Practice for Quality Assurance of Pressure-Sensitive Tapes	70
09/G06	ASTM D3759-79	Test for Tensile Strength and Elongation of Pressure-Sensitive Tapes	70
09/G07	ASTM D3811-79	Test for Unwind Force of Pressure-Sensitive Tapes	70
09/G08	ASTM D3815-79	Practice for Accelerated Aging of Pressure-Sensitive Tapes by Carbon-Arc Exposure Apparatus	70
Packaging			
09/H01	ASTM D642-78	Compression Test for Shipping Containers	100
09/H02	ASTM D895-78	Test for Water Vapor Permeability of Packages	70
09/H03	ASTM D1008-64 (1977)	Tests for Water Vapor Transmission of Shipping Containers	70
Federal Test Method Standard for Preservation, Packaging, and Packaging Materials:	FED STD 101C		
09/H04	Method 4035	Water Absorption by Cushioning Materials	70
09/H05	Method 4047	Accelerated Aging of Pressure-Sensitive Packaging Tapes (Heat and Humidity; or Heat Only)	70
09/H06	Method 5001	Assembly and Disassembly Test of Containers of Complete Packs	70
09/H07	Method 5005.1	Cornerwise Drop (Rotational) Test	70
09/H08	Method 5007.1	Drop Test (Free Fall)	70
09/H09	Method 5008.1	Edgewise Drop (Rotational) Test	70
09/H10	Method 5009.2	Leaks in Containers	70
09/H11	Method 5011.1	Mechanical Handling Test	70
09/H12	Method 5012	Pendulum-Impact Test	70
09/H13	Method 5013	Revolving Hexagonal Drum Test	70
09/H14	Method 5014	Rollover Test	70
09/H15	Method 5015	Shipping Test	70

TABLE—TEST METHODS FOR COMMERCIAL PRODUCTS LAP—Continued

NVLAP code	Test method designation	Short title	Test method fee (dollars)
09/H16	Method 5016.1	Superimposed Load Test (Stackability with Dunnage)	70
09/H17	Method 5017	Superimposed Load Test (Uniformally Distributed, without Dunnage)	70
09/H18	Method 5018	Tipover Test	70
09/H19	Method 5019.1	Vibration (Repetitive Shock) Test	70
09/H20	Method 5020.1	Vibration (Sinusoidal Motion) Test	70
09/H21	Method 5023	Incline-Impact Test	70
09/H22	Method 5026	Penetration of Packaging Materials by Water	70
		Mattresses	
09/K01	16 CFR Part 1632 Sec. 1632.4	Flammability of Mattresses; Test Procedure	100
09/K02	MIL-R-0020092J(SH) Sec. 4.4	Rubber Sheets and Assembled and Molded Shapes, Cellular, Synthetic Open Cell (Foamed Latex); Test Methods.	130
09/K03	MIL-M-18251F Sec. 4.5.1	Mattresses and Mattress Ticks; Test Methods	100
09/K04	CCC-C-436D Sec. 4.4	Cloth, Ticking Twill, Cotton; Test Methods	100
09/K05	V-M-96H Sec. 4.4.1.1 and Sec. 4.5	Mattress, Bed, Innerspring; Test Methods	130
09/K06	AH&MA/NABM	Cornell Testing Procedure for Support Firmness (ANCOR tester)	70

[FR Doc. 84-1585 Filed 1-19-84; 8:45 am]
BILLING CODE 3510-13-M

Status Report on Voluntary Product Standards

AGENCY: National Bureau of Standards, Commerce.

ACTION: Development, maintenance, and withdrawal of certain voluntary standards.

SUPPLEMENTARY INFORMATION: On January 20, 1983, the Department of Commerce (Department) announced in the **Federal Register** (48 FR 2581) the status of 19 standards classified as Voluntary Product Standards and specified the retention of seven standards for a period of one year. The announcement was made in accordance with the revised "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10). The current status of all existing Voluntary Product Standards is identified below.

The following Voluntary Product Standards will continue to be maintained by the Department:

Standard and Proponent Organization

PS 1-83 "Construction and Industrial Plywood"—American Plywood Association
PS 20-70 "American Softwood Lumber Standard"—American Lumber Standards Committee
PS 73-77 "Carbonated Soft Drink Bottles"—Glass Packaging Institute

The Department has agreed to the development of a Voluntary Product Standard for the production of carbonated soft drinks in glass bottles, which was requested by the National Soft Drink Association. It has been determined that this standards project meets the six requirements for Department sponsorship stated in § 10.0(b) of the mentioned Procedures.

In accordance with § 10.13 of the mentioned Procedures, notice is hereby given of the withdrawal of the following standards:

PS 56-73 "Structural Glued Laminated Timber"—American Institute of Timber Construction
PS 67-76 "Marking of Gold Filled and Rolled Gold Plate Articles Other Than Watchcases"—Jewelers Vigilance Committee
PS 68-76 "Marking of Articles Made of Silver in Combination with Gold"—Jewelers Vigilance Committee
PS 69-76 "Marking of Articles Made Wholly or in Part of Platinum"—Jewelers Vigilance Committee
PS 70-76 "Marking of Articles Made of Karat Gold"—Jewelers Vigilance Committee
PS 71-76 "Marking of Jewelry and Novelties of Silver"—Jewelers Vigilance Committee
PS 72-76 "Toy Safety"—American Society for Testing and Materials

This action is taken in furtherance of the Department's announced intentions as set forth in the January 20, 1983, notice to withdraw these standards. The effective date for the withdrawal of the standards will be March 21, 1984. This withdrawal action terminates the authority to refer to these standards as voluntary standards developed under the Department of Commerce procedures. The organizations listed above with each standard have assumed responsibility for these standards.

FOR FURTHER INFORMATION CONTACT: Karl G. Newell, Jr., Office of Product Standards Policy, National Bureau of Standards, Washington, D.C. 20234. Telephone: (301) 921-3287.

Dated: January 10, 1984.
Ernest Ambler,
Director.
[FR Doc. 84-938 Filed 1-19-84; 8:45 am]
BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Marine Mammals; Issuance of Letters of Authorization; CGG American Services Inc. and Geophysical Service Inc.

An amendment made to the Marine Mammal Protection Act in 1981 directs the Secretary to allow, on request, the taking of small numbers of non-depleted marine mammals incidental to specific activities in specified geographical areas, if the Secretary makes certain findings concerning the affects of the activities and establishes regulations covering these activities. In 1982, the National Marine Fisheries Service issued Regulations Governing Small Takes of Marine Mammals Incidental to Specified Activities. These included specific regulations allowing the taking of ringed seals incidental to on-ice seismic activities in the Beaufort Sea. Any company or contractor wishing to be covered by these regulations must apply for and receive a Letter of Authorization, which is valid for one operating year. We have received two applications for a Letter of Authorization to conduct on-ice seismic activities in the Beaufort Sea in 1984. We have determined that the requests are consistent with the findings made for the specific regulations and that the level of taking will have a negligible impact on the ringed seals species or stock and its habitat and its availability

for subsistence use. Therefore, notice is being given that the National Marine Fisheries Service issued two Letters of Authorization under the authority of the Marine Mammal Protection Act of 1972, as amended, to conduct activities allowed under 50 CFR Part 228, Subpart B—Taking of Ringed Seals Incidental to on-Ice Seismic Activities to the following:

CGG American Services Inc., 699 Hampshire Road, Suite 203, Westlake Village, California 91361, Issued on January 1984

Geophysical Service Inc., 5801 Silverado Way, Anchorage, Alaska 99502, Issued on January 1984.

These Letters of Authorization are valid for 1984 and are subject to the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing Small Takes of Marine Mammals Incidental to Specified Activities (50 CFR Part 228, Subparts A and B).

These Letters of Authorization are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: January 13, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management National Marine Fisheries Service.

[FR Doc. 84–1555 Filed 1–19–84; 8:45 am]

BILLING CODE 3510–22–M

[Modification No. 3 to Permit No. 346]

Marine Mammal Permit Applications; National Zoological Park, Smithsonian Institution

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Scientific Research Permit No. 346 issued to the National Zoological Park, Smithsonian Institution, Washington, D.C. on July 16, 1981, as modified on July 7, 1982 (47 FR 30562) and July 29, 1983 (48 FR 35693), is further modified to extend the period of authorized taking for two years.

Accordingly, Section B–5 is deleted and replaced by: "5. This permit is valid with respect to the activities authorized herein until December 31, 1985."

This modification became effective January 1, 1984.

The Permit as modified and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731; and

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: January 13, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84–1557 Filed 1–19–84; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals; Receipt of Application for Permit; New York Aquarium

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:
   a. Name New York Aquarium (P112E).
   b. Address Boardwalk West 8th Street, Brooklyn, New York 11224.
2. Type of Permit, Public Display.
3. Name and Number of Animals: Belukha Whales (Delphinapterus leucas) 3.
4. Type of Take: Live Import.
5. Location of Activity: Canada, Western Hudson Bay.
6. Period of Activity: 2 Years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this appliction should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: January 13, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84–1556 Filed 1–19–84; 8:45 am]

BILLING CODE 3510–22–M

Mid-Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265 as amended), will meet to discuss Atlantic mackerel, squid and butterfsih quotas; joint ventures; status of fishery management plans; and other fishery management and administrative matters.

DATES: The meeting will begin at approximately 9:00 a.m., and February 15, 1984, and adjourn at approximately noon, February 16, 1984. The meeting may be lengthened or shortened depending upon progress on the agenda. The Council may go into closed session to discuss personnel and/or other national security matters.

ADDRESS: The meeting will be held at Quality Inn/Colony 7, Baltimore-Washington Parkway (I–295) at Maryland Rt. 32, Box 7, Annapolis Junction, Maryland 20701 (adjacent to Fort Meade) Phone: 301–725–510.

FOR FURTHER INFORMATION CONTACT:
John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115—Federal Building, 300 South New Street, Dover, Delaware 19901, Phone: 302–674–2331.

Dated: January 17, 1984.

Roland Finch,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 84–1719 Filed 1–19–84; 8:45 am]
BILLING CODE 3510–22–M

North Pacific Fishery Management Council; Amended Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice.

SUMMARY: The North Pacific Fisheries Management Council, its Scientific and Statistical Committee (SSC) and Advisory Panel (AP) will meet in Juneau, Alaska, during the week of January 30, 1984. there have been changes in the agenda, in the starting time for some meetings, and additional workgroup and plan team meetings have been added to the schedule published on January 13, 1984 (49 FR 1784). The changes and additions are as follows:

The SSC and the AP meetings will begin at 1:00 p.m. on Monday, January 30, 1984. Either committee may hold an evening session on Monday, January 30.

A workgroup to discuss procedures for the joint meetings between the Council and the Alaska Board of Fisheries will meet at the Baranof Hotel in Juneau at 1:30 p.m., on Tuesday, January 31. Meeting site will be posted at the hotel. The Council' Permit Review Committee will meet at 3:30 p.m., on January 31, in the Baranof.

The Council's Plan Maintenance Team for salmon will meet at 8:30 a.m. on January 30, in the Alaska NMFS Conference Room. the Council's workgroup on net-marked salmon will meet at 8:30 a.m., January 30, in the Alaska NMFS Conference Room also.

For Bering Sea/Aleutian Islands groundfish, the Council may resubmit the amendment for the proposed Fishery Development Zone to Secretarial Review.

Also on the Council's agenda will be consideration of management proposals to promote a developmental halibut fishery in the Bering Sea by residents of the Pribilof and Nelson Islands. A draft Environmental Assessment of these management proposals is available to the public and a copy may be requested by contacting: Ron Miller, Special Advisor, North Pacific Fishery Management Council, Box 103136, Anchorage, Alaska 99510, phone (907) 274–4563.

All meetings are open to the public.

FOR FURTHER INFORMATION CONTACT:
Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 103136, anchorage, Alaska.

Dated: January 17, 1984.

Roland Finch,

Director, Office of Fisheries Management National Marine Fisheries Service.

[FR Doc. 84–1717 Filed 1–19–84; 8:45 am]
BILLING CODE 3510–22–M

Pacific Fishery Management Council; Public Meeting of Groundfish Task Group

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of the forthcoming meeting of the Groundfish Task Group of the Pacific Fishery Management Council. The Council was established by Sec. 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94–265, as amended), and the Council has established this advisory group to assist in carrying out Council responsibilities.

DATE: January 19, 1984.

ADDRESS: The meeting will be held in Room 298, Smith Memorial Center, Portland State University, 724 S.W. Harrison, Portland, Oregon 97201.

FOR FURTHER INFORMATION CONTACT:
Mr. Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, Oregon 97201, (503–221–6352).

SUPPLEMENTARY INFORMATION:

Agenda: (Open session 8:30 a.m.) The major item for discussion is whether or not the line on which 1984 *Sebastes* complex trip limits and frequencies are based should be relocated. The public may submit oral or written comments regarding this matter.

Dated: January 17, 1984.

Roland Finch,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 84–1718 Filed 1–19–84; 8:45 am]
BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishing Import Limits for Certain Cotton Apparel Products Exported from the People's Republic of China

January 17, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs, to be effective on January 20, 1984. For further information contact Diana Bass, International Trade Specialist (202) 377–4212.

Background

On November 1, 1983 a notice was published in the **Federal Register** (48 FR 50387) which, among other things, established an import restraint limit for cotton underwear in Category 352, produced or manufactured in the People's Republic of China and exported during the ninety-day period which began on October 22, 1983 and extended through January 19, 1984. The notice also stated that the People's Republic of China is obligated under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, if no mutually satisfactory solution is reached on levels for this category during consulations, to limit its exports during the twelve-month period following the ninety-day consultation period to 739,786 dozen.

The United States Government has decided, pending further consulations concerning this category to control imports of cotton textile products in Category 352 exported during the twelve-month period at the level described above. The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of the People's Republic of China, further notice will be published in the **Federal Register**.

In the event the limit established for the ninety-day period has been exceeded, such excess amounts, if they are allowed to enter, will be charged to the level established for the twelve-month period.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14,

1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

January 17, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (U.S.C. 1854), pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of August 19, 1983, betweeen the Governments of the United States and the People's Republic of China and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 20, 1984, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 352, produced or manufactured in the People's Republic of China and exported during the twelve-month period beginning on January 20, 1984 and extending through January 19, 1985, in excess of 739,786 dozen.[1]

Textile products in Category 352 which have been exported to the United States during the ninety-day period which began on October 22, 1983 shall be subject to this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of the People's Republic of China and with respect to imports of cotton textile products from China has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 533. This letter will be published in the **Federal Register.**

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-1584 Filed 1-19-84; 8:45 am]
BILLING CODE 3510-DR-M

[1] The level has not been adjusted to account for any imports exported before January 20, 1984.

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Addition to Procurement List

SUMMARY: This action adds to Procurement List 1984 a commodity to be produced by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: January 20, 1984.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On August 5, 1983, the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (48 FR 35695) of proposed addition to Procurement List 1984, October 18, 1983 (48 FR 48415).

After consideration of the relevant matter presented, the Committee has determined that the commodity listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The action will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The action will not have a serious economic impact on any contractor for the commodity listed.

c. The action will result in authorizing small entities to produce a commodity procured by the Government.

Accordingly, the following commodity is hereby added to Procurement List 1984:

Class 7210

Sheet, Bed, Disposable; 7210-00-139-6376

C. W. Fletcher,

Executive Director.

[FR Doc. 84-1583 Filed 1-19-84; 8:45 am]
BILLING CODE 6820-33-M

Proposed Additions to Procurement List

SUMMARY: The Committee has received proposals to add to Procurement List 1984 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

Comments Must Be Received on or Before: February 22, 1984.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1984, October 18, 1983 (48 FR 48415):

Class 2540

Kit, Deep Water Fording: 2540-00-780-0844

Class 6532

Slippers, Convalescent Patient's: 6532-00-079-7899, 6532-00-079-7902, 6532-00-079-7904, 6532-00-241-6393, 6532-00-079-7794

Class 7510

Binder, Award Certificate: 75102-00-755-7077

Class 8115

Box Shipping: 8115-01-093-3730

SIC 0782

Grounds Maintenance, Federal Center, 620 Central Avenue, Alameda, California
Grounds Maintenance, U.S. Court of Appeals, 7th and Mission Streets, San Francisco, California

C. W. Fletcher,

Executive Director.

[FR Doc. 84-1584 Filed 1-19-84; 8:45 am]
BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Draft Guidance on Written Guarantees

AGENCY: Office of the Secretary, DOD.

ACTION: Notice.

SUMMARY: By this notice, the Department of Defense seeks written comments on proposed guidance to implement section 794 of the Department of Defense Appropriations Act, 1984 (Pub. L. 98-212), which provides that no funds may be obligated or expended for the procurement of a weapon system unless the contractors for such system provide certain written guarantees to the United States. The proposed guidance provides specific direction to heads of DOD Components with respect to DOD policy and

procedures, developed as a result of Section 794, for requiring and obtaining such guarantees at the weapon system or Component level or both in connection with the procurement of weapon systems by the Department of Defense.

DATES: Written comments must be received by February 12, 1984.

ADDRESS: Office of the Deputy Under Secretary of Defense for Research and Engineering (Acquisition Management), The Pentagon, Room 2A330, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT: Mr. Ron Bulmer, (202) 695–4235.

SUPPLEMENTARY INFORMATION: Development of guidance to meet the statutory requirements of section 794 has required revision of, or tradeoffs between a number of fundamental procurement policies. Our practice of applying warranties when appropriate in competitive firm fixed price type contracts has been modified by the statutory requirement to include guarantees in all procurements that qualify regardless of whether competitive or not and regardless of contract type. Section 794 requires acquisition of guarantees for weapon systems which reverses long standing DOD policy of using warranties selectively at the subsystem and Component level rather than the systems level.

Implementation of section 794, a copy of which is reproduced below, is anticipated to require increased surveillance and enforcement of guarantee provisions by contract administration facilities both within the government and within industry. Since there will be significant assumption of risk by defense prime contractors as a result of this statute, in all probability, greater risks will have to be shared by subcontractors and vendors.

SEC. 794. (a) Except as otherwise provided in this section, none of the funds appropriated by this or any other Act may be obligated or expended for the procurement of a weapon system unless the prime contractor or other contractors for such system provides the United States with written guarantees—

(1) that the system and each component thereof were designed and manufactured so as to conform to the Government's performance requirements as specifically delineated (A) in the production contract, or (B) in any other agreement relating to the production of such system entered into by the United States and the contractor;

(2) that the system and each component thereof, at the time they are provided to the United States, are free from all defects (in materials and workmanship) which would cause the system to fail to conform to the Government's performance requirements as specifically delineated (A) in the production contract, or (B) in any other agreement relating to the production of such system entered into by the United States and the contractor; and

(3) that, in the event of a failure of the weapon system or a component to meet the conditions specified in clauses (1) and (2)—

(A) the contractor will bear the cost of all work promptly to repair or replace such parts as are necessary to achieve the required performance requirements; or

(B) if the contractor fails to repair or replace such parts promptly, as determined by the Secretary of Defense, the contractor will pay the costs incurred by the United States in procuring such parts from another source.

(b) A written guarantee provided pursuant to subsection (a) shall not apply in the case of any weapon system or component thereof which has been furnished by the Government to a contractor.

(c) The Secretary of Defense may waive the requirements of subsection (a) in the case of weapon system if the Secretary—

(1) determines that the waiver is necessary in the interest of the national defense or would not be cost-effective; and

(2) notifies the Committees on Armed Services and Appropriations of the Senate and the House of Representatives in writing of his intention to waive such requirements with respect to such weapon system and includes in the notice an explanation of the reasons for the waiver.

(d) The requirements for written guarantees provided in subsection (a) hereof shall apply only to contracts which are awarded after the date of enactment of this Act and shall not cover combat damage.

Policy Guidance

Section 794 of the Department of Defense Appropriations Act, 1984 requires that written guarantees be obtained in connection with the procurement of weapon systems. This guidance is issued to provide for implementation of section 794. It sets forth the policy and procedures for requiring and obtaining such guarantees at the weapon system and/or component level.

1. Definitions

For purposes of this guidance:

(a) "Weapon System" is equipment which, without substantial modification, is or can be used directly by armed forces to carry out combat missions. By way of illustration, the term includes bombers, fighter aircraft, attack helicopters, combat naval vessels, strategic and tactical missiles, tanks, combat vehicles, small arms, torpedoes, bombs and artillery. The term includes software, ordnance, related support equipment, such as ground handling equipment, training devices, test equipment, and their accessories.

(b) A "component" is an assembly or any combination of parts, subassemblies, and assemblies mounted together in manufacture, assembly, maintenance, or rebuild. Spare parts, per se, are not deemed components unless otherwise fitting this definition.

(c) A "procurement" is a direct contract between the government and a contractor for the production of a weapon system and/or components thereof, *irrespective of contract type.*

(d) A "specified performance requirement" is any specifically delineated mandatory performance requirement set forth *anywhere* in a government production contract for a weapon system or in any other agreement relating to the production of such system incorporated or referenced in such contract.

(e) "Conform" means designed and manufactured so as to meet or achieve, or both, the government's specified performance requirement.

(f) "Bear the cost of" means at no increase in contract price irrespective of contract type. The written guarantees set forth in a contract award for the production of a weapon system shall be a separately priced firm fixed price line item.

(g) "At no cost to the government" means that the costs will not be reimbursed the contractor directly or indirectly under the production contract for the weapon system or any other government contract (except for the firm fixed price guarantee line item).

2. This guidance applies only to contract awards made after March 14, 1984.

For purposes of this guidance:

(a) A modification to a contract to add additional quantities constitutes a contract award.

(b) The exercise of a priced production option even when no further definition or negotiation of terms is required constitutes a contract award.

(c) The notice to proceed with quantities after the first year quantity in a multi-year procurement *does not* constitute a contract award.

(d) The placement of an order under a basic agreement or basic ordering agreement constitutes a contract award.

(e) The definitization of an existing redeterminable contract *does not* constitute a new award.

(f) The definitization of a letter contract constitutes a contract award.

3. Except to the extent otherwise provided herein, all government contracts for the production of a weapon system or components thereof shall contain a clause:

(a) Guaranteeing that the weapon system and each component thereof were designed and manufactured so as to conform to the government's specified performance requirements and that, at the time of delivery to the government, the weapon system and each component thereof are free from such defects in materials and workmanship as would cause the system to fail to conform to

the government's specified performance requirements delineated in the contract.

(b) Guaranteeing that the contractor will bear the cost of all work promptly to repair or replace such parts as are necessary to achieve the rquired performance requirements and providing that if the contractor fails to repair or replace parts promptly as required by the contract, the contractor will reimburse the government for any cost incurred by the government in procuring such parts from another source.

4. A model clause that may be used for this purpose in contracts for less complex weapon systems is attached. For complex systems, when different types of requirements (see paragraph 5) are present, special guarantee clauses may be written.

5. The written guarantees called for herein pertaining to design and manufacture so as to conform to the government's specified performance requirements will *generally* be of *either or both of* two types:

(a) When the specified performance requirement(s) is a test or demonstration and the requirements(s) is deemed to be satisfied upon the satisfactory completion of the specified test or demonstration, for example, of a first prototype or production unit, the guarantee shall provide that, in the event of a failure of a weapon system or component to complete satisfactorily the specified test or demonstration, the contractor shall perform promptly all design and manufacture work as necessary to conform to the government's specified performance requirements at no increase in contract price and at no cost to the government and to complete satisfactorily the specified test or demonstration at no increase in contract price.

(b) When the specified performance requirement(s) consists of the operation of the system without designated failures for a specified period or interval, the guarantee shall, at a minimum, provide that, in the event of a failure of a weapon system or component thereof within the stipulated period to meet the designated performance requirement(s), the contractor shall promptly, at no increase in contract price and at no cost to the government, perform all work to (1) design and manufacture the system and each component thereof so as to conform to the government's specified performance requirements as specifically delineated and/or (2) repair and/or replace such parts as necessary, to meet the designated performance requirement at no increase in contract price and at no cost to the government.

6. In contracts for weapon systems, however, there are *two* types of guarantees: One for performance to insure conformity of design and manufacture to specifically delineated performance requirements (as set forth above); and, one for freedom from *all* defects in materials and workmanship which would cause the system not to achieve the specified performance requirements. The latter is a separate and distinct guarantee provision which would attach to *all* delivered end items under the weapon system contract for a specified period of time. These guarantees are not mutually exclusive and *both* will be contained within a single contract for a weapon system or components thereof.

7. Consistent with the policy stated in DAR 1–324, the contract may provide such *additional* warranty protection and remedies thereof as may be deemed appropriate by the government in the circumstances.

8. The duration of the written guarantee shall be tailored, as appropriate, to the specific contract award. The duration of the written guarantee(s) within any given contract award *need not be the same for all specified performance requirements.*

9. Payment for the written guarantee shall be made on a pro-rata basis at time of delivery of the contract end items covered by the guarantee.

10. During negotiation of a proposed contract, care must be taken to identify firm and/or prescribed performance requirements that have been included in the specifications and other relevant documents in order to avoid later dispute. These performance requirements should be reviewed to assure that they are realistic and achievable and that the performance requirements specified in the contract accurately reflect the needs for the weapon system. Unless otherwise indicated by the government, *all* specified performance requirements fall under the performance guarantee(s). If it should be determined that a written guarantee at the weapon system level is not cost-effective or otherwise not in the interest of the national defense, the identification and examination of appropriate components of the weapon system for applicability of a written guarantee(s) is also required. This examination should include a review of individual performance parameters (such as durability) for application of a written guarantee if comprehensive coverage is determined to be infeasible.

11. During negotiation of the contract, each circumstance(s) that could have the effect of voiding the guarantee should be identified and specifically delineated in the contract. For example, if the guarantee would be voided, in whole or in part, by the subsequent incorporation of spare parts that were not predetermined to be a duplicate of the replaced part, this should be the subject of negotiation. Contracting officers should not agree that any circumstance(s) will void the guarantee unless the relationship between the circumstance(s) and the performance requirements is direct and the circumstance(s) identified as voiding the warranty is beyond the control of and not attributable to any fault of the contractor.

12. The firm fixed price of the guarantee(s) should be identified separately. In order to facilitate the identification of the cost of the guarantee, it shall be set forth in the contract as a separate line item.

(a) In determining whether use of a guarantee is cost effective to the government, the benefits to be derived from the guarantee must be related to the costs of the guarantee to the government. Guarantee costs arise from the contractor's charge for accepting the deferred liability created by the guarantee and from the government's administration and enforcement of the guarantee. In most cases, contractors will quote a higher price to provide the guarantee. Competition will be a major factor in the price quoted by the contractor to the government for the guarantee. In addition, the experience of the contractor in producing the item is another major factor in the cost of the guarantee since it may rely on an actuarial basis to assess financial risk. As a further consideration, the estimated cost to the government for correction or replacement by the contractor, by another source, or by the government, in the absence of a guarantee, should be compared to the guarantee costs considered above.

(b) There are other factors which must be considered in determining whether the guarantee is cost effective such as any indirect costs to the Government necessary to maintain the guarantee in effect. For example, if certain spare parts must be purchased only from designated suppliers in order to keep the guarantee in effect, the estimate of the loss to the government attributable to this limitation on competition should be estimated. By way of a second example, the effect on breakout and competitive procurement of weapon system components should be considered.

13. The waiver authority granted in Subsection 794(c) is hereby delegated to the Secretaries of the Army, Navy, and Air Force and to the Directors of

Defense Agencies with authority to redelegate not below the level of the Vice or Assistant Commander of a Major Command or the Assistant Director of a Defense Agency. Class waivers for specific programs may be granted, when justified. Class waivers may not be approved below the level of the Assistant Secretary of the Military Department or the Director of a Defense Agency. A written record will be kept of each waiver granted, together with supporting documentation, to meet the reporting requirements to the Congress. A waiver of the guarantee requirements in whole or in part set forth above must be:

(a) Supported by a written determination that the waiver is necessary in the interest of the national defense or would not be cost-effective.

(b) An intention to waiver such requirements must be forwarded to the committees on Armed Services and Appropriations of the Senate and the House of Representatives in writing, including in the notice an explanation of the reasons for the waiver(s).

(c) Notification of all class waivers will be sent to the DoD Acquisition Executive.

14. This guidance is effective immediately.

Guarantee

(a) Notwithstanding inspection and acceptance by the government of supplies furnishes under this contract or any provision of this contract concerning the conclusiveness thereof, the contractor guarantees:

(1) That line item —— and each component thereof are designed and manufactured so as to conform to the performance requirements of this contract and all other supplementary agreements relating to the production under this contract of line item —— entered into by the United States and the contractor, and

(2) That line item —— and each component thereof, at the time of delivery, are free from all defects in materials and workmanship which would cause the line item to fail to conform to the performance requirements of this contract and all other supplementary agreements relating to the production under this contract of line item —— entered into by the United States and the contractor: provided, however, that with respect to government-furnished property the contractor's guarantee shall extend only to its proper installation so as not to degrade its performance and/or reliability, unless the contractor performs some modifications or other work on such property, in which case the contractor's warranty shall extend to such modification or other work.

(b) In the event of a failure of line item —— to meet the conditions specified in subparagraphs (a)(1) or (a)(2) above:

(1) The contractor will promptly repair or replace such parts as are necessary to achieve the required performance requirements and the contractor shall bear all costs in connection therewith, or

(2) If the contractor fails to repair or replace such parts promptly, as determined by the contracting officer, the contractor will pay the costs incurred by the government in procuring such parts from another source and in accomplishing the repair.

(c) The contractor will also prepare and furnish to the government data and reports applicable to any correction required under this clause (including revision and updating of all affected data called for under this contract) at no increase in contract price or cost to the government.

(d) When items covered under the guarantee are returned to the contractor, in pursuance to this clause, the contractor will bear the transportation costs from the place of delivery specified in the contract (irrespective of the f.o.b. point or point of acceptance) to the contractor's plant and return.

(e) If the government determines that it does not require repair or replacement of defective or nonconforming supplies, the government shall be entitled to an equitable adjustment in the price of such supplies.

(f) The contractor shall be notified in writing of any failure of line item —— or any component thereof subject to the guarantee set forth in paragraph (a) above within —— days after discovery of the failure. Upon election by the government of a remedy in accordance with paragraph (b) or (c) above, the contractor will, notwithstanding any disagreement regarding the guarantee, comply with such direction. In the event it is later determined that the failure was not subject to the guarantee set forth in paragraph (a) above, the contract price will be equitably adjusted.

(g) The guarantee provisions of this clause do not apply to combat damage.

(h) For purposes of this clause, the term "performance requirements" means only those performance characteristics that are mandatory. The term "performance requirements" does not include performance characteristics that are described as goals or objectives.

(i) The rights and remedies of the Government provided in this clause are in addition to, and do not limit, any rights the government may have under any other clause of the contract. Disputes arising under this clause will be resolved in accordance with the clause of this contract entitled Disputes.

Dated: January 17, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-1628 Filed 1-19-84; 8:45 am]

BILLING CODE 3810-01-M

Department of The Air Force

Intent To Prepare a Draft Environmental Impact Statement (EIS)

The National Guard Bureau proposes to relocate the 146 Tactical Airlift Wing with its 16 C-130E's from Van Nuys Airport to NAS Pt Mugu, CA.

With 500 general aviation aircraft based at Van Nuys and over a half million annual operations, air traffic and flying safety are primary reasons for the move. The 146 TAW already accomplishes its traffic pattern and instrument training at other airfields having fewer aircraft movements. The 146 TAW is currently limited to initial takeoff and full stop landing at Van Nuys.

The National Guard Bureau has completed a preliminary survey for candidate sites. Two alternate location sites are Norton AFB, San Bernardino County and Air Force Plant No. 42, Palmdale, Los Angeles County. There will be no change in the number of military and civilian personnel employed.

The enviornmental analysis will cover such topics as prime and unique farmlands, floodplains, wetlands, noise, air quality, water quality, biotic communities, compatible land use, and socioeconomic impact.

Participation in the environmental analysis process by interested federal, state, and local agencies, as well as interested private organizations and individuals, is invited. Public meetings will be held in early March 1984 to review the proposed action and facilitate public involvement in the environmental analysis. Exact time and place of meetings will be announced in the local new media.

It is estimated the draft EIS will be available for public review and comment in August 1984. Questions concerning the proposal, public meeting(s) and EIS may be directed to Mr. Don Williams, ANGSC/DEV, Andrews AFB, MD 20331, (301) 981-6693.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 84-1563 Filed 1-19-84; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army, Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Department of the Army Permit To Construct a Peat Processing Plant in Milford and Bradley, Maine

AGENCY: Army Corps of Engineers, DOD, New England Division.

ACTION: Notice of intent to prepare a draft environmental impact statement.

SUMMARY: 1. The New England Division of the Corps of Engineers will be reviewing an application to be made by Signal Cleanfuels, Inc. of Hampton, New

Hampshire under Section 404 of the Clean Water Act to discharge fill and dredged material in wetlands known as Sunkhaze Bog, adjacent to Sunkhaze Stream, and Chemo Bog, adjacent to Great Works Stream, and under Section 10 of the River and Harbor Act of 1899 to construct an outfall structure in the Penobscot River in Milford and Bradley, Maine. The discharges are in conjunction with a proposal by Signal Companies to extract and process peat for fuel production. The peat would be extracted from the bogs via a floating harvesting platform using a clam-shell type excavator and transported via slurry pipeline to the process plant. The project would produce 278,000 tons per year (equal to about one million barrels of oil) of peat fuel known as "PDF", a low-sulfur, low-ash, water-proof solid fuel that would be sold to residential, commercial and industrial markets. The plant is expected to take two years to construct and will operate for twenty years.

2. Approximately 2,000–5,000 acres of wetland habitat would be changed to open water habitat. A buffer zone of 50 to 100 yards of peat would be left around the periphery of the bogs and adjacent to any exising streams or brooks in the bogs. A series of ponds, some with islands, would be present. The shoreline surrounding the ponds would be graded to a shallow slope and revegetated with aquatic plants creating a wildlife habitat.

3. Significant environmental impacts will be addressed in the Environmental Impact Statement. The EIS will include the positive and negative economic and environmental impacts of a peat mining facility including construction and operational phases, the need for the facility, alternatives to the proposed energy project (non-fossil and fossil fuel), alternative methods of peat extraction, and alternative locations of the proposed project. Potential environmental issues include the effects on groundwater/surface water quality and existing hydrological conditions, air quality, noise, wetlands, fisheries and wildlife, socioeconomic conditions and historic-archaeological resources.

4. New England Division will seek assistance to develop and review EIS information by coordinating with other agencies who have the appropriate jurisdiction or expertise. Coordination will be made, but will not be limited to, with the following Federal agencies for their assistance: U.S. Environmental Protection Agency for water discharges, air quality and noise impacts; U.S. Fish and Wildlife Service for wetland and aquatic resources; HUD for community economic analyses; FEMA for floodplains; Department of Transportation for road and access concerns; and National Marine Fisheries Service for the anadromous fisheries program.

5. Scoping meetings will be held on January 26, 1984 at 9:00 a.m. at the Augusta Civic Center, Augusta, Maine and at 7:00 p.m. at the Milford Municipal Building, Milford, Maine.

6. As part of the environmental process the New England Division invites public comments on the proposed project and the EIS. It is estimated that the DEIS will be made available to the public in November 1984. A public notice describing the project will be issued when the Draft EIS is issued to the public for review and comment. Questions concerning the development of the EIS should be addressed to Sue Brown, Impact Analysis Branch, U.S. Army Corps of Engineers, 424 Trapelo Road, Waltham, Massachusetts 02254 (617–647–8138). Questions specifically conerning the processing of the Department of the Army permit should be addressed to Janet O'Neill, Regulatory Branch, U.S. Army Corps of Engineers, 424 Trapelo Road, Waltham, Massachusetts 02254 (617–647–8498).

Dated: January 10, 1984.

Edward D. Hammond,

Deputy Division Engineer, Corps of Engineers.

[FR Doc. 84–1467 Filed 1–19–84; 8:45 am]

BILLING CODE 3710–24–M

Department of the Navy

Naval Research Advisory Committee Panel on Future Training Space; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Naval Research Advisory Committee Panel on future Training Space will meet on February 7, 1984, at the Pentagon, Room 1E801, Washington, D.C. and on February 8, 1984, at Naval Air Station, Oceana, Virginia. Sessions of the meeting will commence at 8:45 a.m. and terminate at 3:00 p.m. on February 7, 1984, and commence at 8:45 a.m. and terminate at 4:30 p.m. on February 8, 1984. All sessions will be closed to the public.

The entire agenda for the meeting will consist of discussions relating to the Navy's training and electronic warfare capabilities on various naval systems. These matters constitute classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. The classified and non-classified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

FOR FURTHER INFORMATION CONTACT: Commander M. B. Kelley, U.S. Navy, Office of Naval Research (Code 100N), 800 North Quincy Street, Arlington, Virginia 22217, Telephone number: (202) 696–4870.

Dated: January 17, 1984.

William F. Roos, Jr.,

Lieutenant, JAGC, Naval Reserve, Alternate Federal Register Liaison Officer.

[FR Doc. 84–1668 Filed 1–19–84; 8:45 am]

BILLING CODE 3810–AE–M

Naval Research Advisory Committee; Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Naval Research Advisory Committee Working Group on Amphibious Operations will meet on February 6 and 7, 1984, at the Office of Naval Research, Arlington, Virginia. The first session of the meeting will comence at 9:30 a.m. and terminate at 12:45 p.m. on February 6, 1984. The second session will commence at 12:45 p.m. and terminate at 3:15 p.m. on February 6, 1984. The third session will commence at 3:15 p.m. and terminate at 4:15 p.m. on February 6, 1984. The fourth session will commence at 8:30 a.m. and terminate at 11:30 a.m. on February 7, 1984. All sessions of the meeting will be held in room 915, Office of Naval Research. The second session from 12:45 p.m. to 3:15 p.m. on February 6, 1984 will be open to the public. The remaining three sessions will be closed to the public.

The purpose of the meeting is to discuss the various Marine Corps funding programs and the Navy's use of Artificial Intelligence (AI). The open session will generally cover presentations on the Marine Corps' Basic Research (6.1), Exploratory Development (6.2) and Independent Research and Development (IR&D) Programs. The remaining sessions of the meeting will consist of classified information that is specifically authorized under criteria established by Executive order to be kept secret in the

interest of national defense and is in fact properly classified pursuant to such Executive order. The Secretary of the Navy has therefore determined in writing that the public interest requires that the first, third, and fourth sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander M. B. Kelley, U.S. Navy, Office of Naval Research (Code 100N), 800 North Quincy Street, Arlington, VA 22217, Telephone number (202) 696–4870.

Dated: January 17, 1984.

William F. Roos, Jr.,

Lieutenant, JACC, Naval Reserve, Alternate Federal Register Liaison Officer.

[FR Doc. 84–1689 Filed 1–19–84; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

Office of Energy Research

Energy Research Advisory Board; Cancellation of Meeting

This notice is given to advise of the cancellation of the meetings of the Energy Research Advisory Board (February 2–3, 1984) as published in the issue of December 23, 1983 (48 FR 56828)

Issued at Washington, on January 16, 1984.

Howard H. Raiken,

Deputy Advisory Committee, Management Officer.

[FR Doc. 84–1627 Filed 1–17–84; 12:50 pm]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP84–159–000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

January 16, 1984.

Take notice that on December 29, 1983, Columbia Gas Transmission Corporation (Columbia Transmission), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, and Columbia Gulf Transmission Company (Columbia Gulf), 3805 West Alabama Avenue, Houston, Texas 77027, filed jointly in Docket No. CP84–159–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that they propose to transport natural gas on behalf of Armco, Inc. (Armco), under authorization issued in Docket Nos. CP83–76–000 and CP83–496–000, respectively, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Columbia Transmission and Columbia Gulf propose to transport up to 44 billion Btu of natural gas per day for Armco for a term of one year. Columbia Transmission and Columbia Gulf state that the gas to be transported would be purchased from Exxon Corporation by Armco and that Armco would use those volumes in slab furnaces, open hearth furnaces, boilers, coating line operations and refractory furnaces in its Middletown, Ohio, plant. Columbia Transmission and Columbia Gulf state that they would receive the gas at existing delivery points on their systems in Virginia and Ohio and redeliver such gas to Cincinnati Gas Electric Company, the distribution company serving Armco.

Columbia Transmission and Columbia Gulf state that the gas to be purchased by Armco involves gas supplies released by Columbia Transmission and that such supplies are subject to the ceiling price provisions of Sections 102, 103, 107 108 of the Natural Gas Policy Act of 1978. Further, Columbia Gulf states that depending upon whether its receipt point is offshore or onshore, it would charge either (1) its average system-wide unit onshore transmission charge, currently 26.19 cents per dt equivalent, exclusive of company-use and unaccounted-for gas, or (2) its average system-wide unit offshore transportation charge, currently 44.63 cents per dt, exclusive of company-use and unaccounted-for gas. Columbia Gulf state that it would retain 3.33 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas for volumes transported from offshore and would retain 2.85 percent of the total quantity transported onshore. Columbia Transmission states it would charge Armco its average system-wide unit storage and transmission charge, currently 40.11 cents per dt equivalent, exclusive of company-use and unaccounted-for gas. Columbia Transmission states that it would retain 2.85 percent of the total quantity of gas delivered into its systems for company-use and unaccounted-for gas.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–1629 Filed 1–19–84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84–109–000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

January 16, 1984.

Take notice that on November 30, 1983, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP84–109–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to transport natural gas on behalf of The Faultless Rubber Company (Faultless) under the authorization issued in Docket No. CP83–76–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Columbia proposes to transport up to 600 dtequivalent of natural gas per dayb for Faultless for a term of one year. Columbia states that the gas to be transported would be purchased from Gabriel Oil and Gas Company by Faultless and would be used primarily for boler fuel in Faultless's Ashland, Ohio, Plant. Columbia states that it would receive the gas at existing delivery points on its system in Ohio, and redeliver such gas to columbia Gas of Ohio, INc., the distribution company serving faultless. further, Columbia states that depending upon whether its gathering facilities are involved, it would charge either (1) its average system-wide storage and transmission charge, currently 40.11 cents system-wide storage and transmission charge, currently 40.11 cents per dt, exclusive of company-use and unaccounted-for gas, or (2) its average system-wide storage, transmission and gathering charge, currently 44.93 cents per dt, exclusive of company-use and unaccounted-for gas. Columbia states that it would retain 2.85 percent of the total quantity of gas

delivered into its system for company-use and unaccounted-for gas.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, theproposed activity shall be deemed to be authorized effective the day after the time allowed for filing aprotest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1630 Filed 1-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-108-000]

Columbia Gas Transmission Corp. and Columbia Gulf Transmission Co.; Request Under Blanket Authorization

January 16, 1984.

Take notice that on November 30, 1983, Columbia Gas Transmission Corporation (Columbia), P.O. Box 1273, Charleston, West Virginia 25325-1273 and Columbia Gulf Transmission Company, (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP84-104-000 a joint request, as supplemented on January 6, 1984, pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Applications propose to transport natural gas on behalf of NEVAMAR Corporation (NEVAMAR) for use as boiler fuel under authorizations issued in Docket Nos. CP-83-76-000 and CP83-496-000, respectively, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Applicants propose to transport for one year up to 1,800 dt equivalent of natural gas per day for NEVAMAR. It is indicated that Exxon Corporation would deliver natural gas to Columbia Gulf in St. Mary, Terrebonne, and Jefferson Parishes, Louisiana, which Columbia Gulf would transport and deliver equivalent volumes to Columbia. It is further stated that in turn Columbia would transport and deliver equivalent volumes of natural gas to Baltimore Gas and Electric Company (BG&E) in Odenton, Maryland. The gas purchase agreement between Exxon and NEVAMAR states that it is contingent upon the release of gas by Columbia. Columbia states that is has released this gas and that these supplies are subject to the ceiling price provisions of Sections 102 and 103 of the Natural Gas Policy Act of 1978. It is further indicated that NEVAMAR would purchase this released natural gas from Exxon and that BG&E is the distribution company serving NEVAMAR in Odenton, Maryland.

For this transportation Applicants state Columbia Gulf would charge NEVAMAR its average system-wide onshore or offshore transmission cost, exclusive of company-use and unaccounted-for gas, currently 26.19 cents per dt and 44.63 cents per dt, respectively. Columbia Gulf would retain 2.58 percent and 3.33 percent of the gas delivered to it from onshore and offshore, respectively, for company-use and unaccounted-for gas. Applicants also state that Columbia would charge NEVAMAR its average system-wide storage and transmission cost, exclusive of company-use and unaccounted-for gas, currently 40.11 cents per dt. In addition Columbia would retain 2.85 percent of the gas delivered to it for company-use and unaccounted-for gas.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1631 Filed 1-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-111-000]

Columbia Gas Transmission Corp. and Columbia Gulf Transmission Co. Request Under Blanket Authorization

January 16, 1984.

Take notice that on December 1, 1983, Columbia Gas Transmission Corporation (Columbia Gas), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, and Columbia Gulf Transmission Company (Columbia Gulf), 3805 West Alabama Avenue, Houston, Texas 77027, filed in Docket No. CP84-111-000 a request, as supplemented on January 6, 1984, pursuant to § 157.205(b) of the Regulations under the Natural Gas Act (18 CFR 157.205(b)) that Columbia Gas and Columbia Gulf propose to transport natural gas on behalf of Appleton Papers, Inc. (Appleton), under authorization issued in Docket Nos. CP83-76-000 and CP83-496-000, respectively, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Columbia Gas and Columbia Gulf propose to transport up to 1,400 dt equivalent of natural gas per day for Appleton for a term of one year. It is stated that the gas to be transported would be purchased from Exxon Corporation (Exxon) by Appleton and would be used primarily for boiler fuel and for paper dryers in Appleton's Camp Hill, Pennsylvania, plant.

It is explained that Columbia Gulf would receive the quantities of gas at existing points of delivery in Louisiana and redeliver to Columbia Gas which would redeliver to UGI Corporation for ultimate delivery to Appleton. The gas purchase agreement between Exxon and Appleton indicates the Columbia Gas has released certain gas supples of Exxon. It is stated that these supplies are subject to the ceiling price provisions of Sections 102 and 103 of the Natural Gas Policy Act of 1978.

For this transportation, it is stated that Columbia Gas would charge Appleton its average system-wide storage and transmission costs, exclusive of company-use and unaccounted-for gas, currently 40.11 cents per dt. It is also stated that Columbia Gulf would charge Appleton depending upon whether the receipt point is offshore or onshore, its average system-wide unit onshore or offshore transmission costs, exclusive of

company-use and unaccounted-for gas. Columbia Gulf's current charges are 26.19 cents per dt for onshore and 44.63 cents per dt for offshore. In addition, Columbia Gas and Columbia Gulf state that they would retain a percentage of the gas delivered for company-use and unaccounted-for gas. The percentage for Columbia Gas is currently 2.85 percent while the percentage for Columbia Gulf is 3.33 percent for transportation from offshore and 2.58 percent from onshore.

It is indicated that gas requested to be transported hereunder has been flowing since June 27, 1983, pursuant to Section 284.202 of the Commission's Regulations and that since November 4, 1983, the transportation is pursuant to Section 157.209 of the Regulations. It is asserted that the continuation of this transportation would permit Appleton to continue receiving the gas it would have, had Order No. 30 not been terminated.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1632 Filed 1-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-160-000]

Columbia Gas Transmission Corp., Request Under Blanket Authorization

January 16, 1984.

Take notice that on December 29, 1983, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, Filed in Docket No. CP84-160-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to transport natural gas on behalf of Armco, Inc. (Armco), under authorization issued in Docket No. CP83-76-000 pursuant to Section 7 of the Natural GAs Act, all as more fully set forth in the request which is on file with the commission and open to public inspection.

Specifically, Columbia proposes to transport up to 2.7 billion Btu of natural gas per day for Armco for a term of one year. Columbia states that the gas to be transported would be purchased from Yankee Resources, Inc., by Armco and that Armco would use those volumes in space heating, reheating steel and boiler fuel in its Baltimore, Maryland, plant. Columbia states that it would receive the gas at existing delivery points on its system in Virginia and Ohio and redeliver such gas to Baltimore Gas and Electric Company, the distribution company serving Armco. Columbia states that the gas to be purchased by Armco involves gas supplies released by Columbia and that such suples are subject to the ceiling price provisions of Sections 103 and 109 of the Natural gas Policy Act of 1978.

Further, Columbia states that depending upon whether its gathering facilities are involved, it would charge either (1) its average system-wide storage and trasmission charge, currently 40.11 cents per dt equivalent, exclusive of company-use and unaccounted-for gas, or (2) its average system-wide storage, transmission and gathering charge, currently 44.93 cents per dt equivalent, exclusive of company-use and unaccounted-for gas. Columbia states that it would retain 2.85 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas.

Any person of the Commission's staff may, within 45 days after issuance of the instant notice by the commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If aprotest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1633 Filed 1-19-84; 8:45 am]

BILLING CODE 6717-01-M

Consolidated Gas Supply Corp., et al.; Petition To Amend

[Docket No. CP74-9-000]

January 16, 1984

Take notice that on December 12, 1983, Consolidated Gas Supply Corporation (Consolidated), 445 West Main Street, Clarksburg, West Virginia 26301, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, National Fuel Gas Supply Corporation (National Fuel), 10 Lafayette Square, Buffalo, New York 14203, and Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521, Houston, Texas 77252, referred to collectively as Petitioners, filed in Docket No. CP74-9-000 a petition to amend the order issued on January 22, 1974,[1] in Docket No. CP74-9, pursuant to Section 7(c) of the Natural Gas Act, to authorize an additional exchange point for the exchange of natural gas, all as more fully set forth in the petition on file with the Commission and open to public inspection.

Petitioners state that the order of January 22, 1974, authorized an exchange of natural gas among the Petitioners and the construction of facilities necessary to effect such exchanges. It is stated that the Petitioners request amendment of such order to authorize additional exchange points for the receipt of gas by National Fuel from Consolidated and the delivery of such gas as part of the subject exchange, in accordance with an amendatory agreement between Consolidated and National Fuel dated November 21, 1983. It is further stated that the proposed points of exchange deliveries are those existing delivery points specified in any of Consolidated's presently effective service agreements with National Fuel.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before Feb. 6 1984, file with the Federal Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the National Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding.

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[1] This proceeding was commenced before the F.P.C. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1634 Filed 1-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP84-85-000, CP84-101-000, CP84-135-000, and CP84-136-000]

National Fuel Gas Supply Corp.; Petitions for Waiver of Rule

January 16, 1984.

Take notice that on January 12, 1984, National Fuel Gas Supply Corporation (Petitioner), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket Nos. CP84-85-000, CP84-101-000, CP84-135-000, and CP84-136-000 petitions for waiver of that part of Section 157.209(e)(1) of the Regulations under the Natural Gas Act (18 CFR 157.209(e)(1) which provides that service under the automatic authorization under said rule, pursuant to a certificate of public convenience and necessity issued pursuant to Section 7(c) of the Natural Gas Act, shall not exceed a single term of 120-days.

In Docket Nos. CP84-85-000, CP84-101-000, CP84-135-000, and CP84-136-000 Petitioner has filed prior notice requests pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas in interstate commerce on behalf of National Fuel Gas Distribution Corporation for the account of Airco Carbon Division of BOC, Inc., The Goodyear Tire and Rubber Co., Darling and Co., and Sorrento Cheese Co., respectively, pursuant to petitioner's certificate of public and convenience and necessity in Docket No. CP83-4-000. In Docket No. CP84-85-000 Petitioner notes that service commenced September 22, 1983, notice of its request was issued January 4, 1984, and the 120-day authorization extends through January 19, 1984. In Docket No. CP84-01-000 Petitioner notes that service commenced September 13, 1983, notice of its request was issued January 4, 1984, and the 120-day authorization extended through January 10, 1984. In Docket No. CP84-135-000 Petitioner notes that service commenced October 11, 1983, notice of its request was issued January 4, 1984, and the 120-day authorization extends through February 7, 1984. In Docket No. CP84-136-000 Petitioner notes that service commenced October 10, 1983, notice of its request was issued January 4, 1984, and the 120-day authorization extends through February 6, 1984. In each instance the 45-day period before which service could be authorized under the certificate issued in Docket No. CP83-4-000, as provided by 157.205(d) of the Regulations under the Natural Gas Act, would terminate subsequent to the termination of the 120-day authorization.

In Docket Nos. CP84-85-000, CP84-135-000, and CP84-136-000 Petitioner states that should it be forced to cease transportation at the end of each 120-day period, the consumer of gas would be forced to use higher-cost fuel oil. Also, it is submitted, Petitioner and all of its customers would suffer because the transportation transactions relieve Petitioner from exposure to take-or-pay obligations to Petitioner's producers and all transportation revenues are credited to Petitioner's customers in accordance with the Commission's Regulations. In Docket No. CP84-101-000 Petitioner states that the same circumstances pertain except that service has already ceased and the gas consumer is using higher-cost fuel oil.

Any person desiring to be heard or to make any protest with reference to said petitions should on or before January 20, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1635 Filed 1-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-154-000]

National Fuel Gas Supply Corp.; Application

January 16, 1984.

Take notice that on December 28, 1983, National Fuel Gas Supply Corporation (Applicant), 308 Seneca Street, Oil City, Pennsylvania 16310, filed in Docket No. CP84-154-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas, off-system, to Consolidated Edison Company of New York, Inc. (Con Edison), for its system supply, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization to sell up to 120,000 Mcf of natural gas per day to Con Edison during a one-year period beginning January 13, 1984, or the date when authorization is received, whichever is later. Applicant states it would make such sales on an interruptible basis under a service agreement entered into pursuant to its Rate Schedule I-1. Applicant further states that transportation would be provided to Con Edison by Texas Eastern Transmission Corporation (TETCO), Transcontinental Gas Pipe Line Corporation (Transco), and/or Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), on a self-implementing basis pursuant to Part 284 of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 6, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1636 Filed 1-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-145-000]

Northwest Central Pipeline Corp.; Application

January 16, 1984.

Take notice that on December 20, 1983, Northwest Central Pipeline Corporation (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP84-145-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of approximately 5.3 miles of 20-inch pipeline loop and appurtenant facilities on its Sedalia 12-inch transmission pipeline in Johnson County, Missouri, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that this additional pipeline loop is necessary to increase capacity on the line to meet its peak day market demand east of Peculiar, Missouri, and that it is a continuation of the looping of the Ottawa-Sedalia 12-inch transmission pipeline.

Applicant further states that the proposed facilities would cost approximately $1,200,000, and would be financed from treasury cash.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 6, 1984, file with the Federal Energy Regulatory Commission, Washingon, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public covenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb;

Secretary.

[FR Doc. 84-1637 Filed 1-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-446-003]

Texas Eastern Transmission Corp.; Amendment

January 16, 1984.

Take notice that on December 8, 1983, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP82-446-003 pursuant to Section 7(c) of the Natural Gas Act a third amendment to its application filed in Docket No. CP82-446-000 so as to reflect a proposal: (1) To transport volumes of natural gas sold by Consolidated Gas Supply Corporation (Consolidated) pursuant to the Phase Ia proposals currently pending in Docket Nos. CP81-107, *et al.;* (2) to construct and operate facilities necessary to render a firm transportation service for these volumes and (3) to exchange equivalent quantities of natural gas with Algonquin Gas Transmission Corporation (Algonquin), all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant explains that this amendment is part of the ongoing negotiations relating to the Canadian import hearings in *Boundary Gas, Inc.,* Docket Nos. CP81-107-000, *et al. Applicant states that, by this amendment, it seeks authorization* to provide a firm transportation service for a two-stage sale of natural gas by Consolidated to seven purchasers.[1]

Specifically, Applicant proposes to transport the following quantities of natural gas for the Stage I period (November 1, 1984, until commencement of State II):

Purchaser	Daily quantities (dt).	
	Nov. 1, 1984 to Oct. 31, 1985	Nov. 1, 1985 to Oct. 31, 1986
Algonquin	18,413	20,433
Elizabethtown	1,500	1,500
Public Service	5,988	5,988
Total	25,901	27,921

During the Stage II period (November 1, 1986, to October 31, 2009), Applicant proposes to transport the following quantities of natural gas:

Purchaser	Daily quantity (dt)
Algonquin	63,360
Brooklyn Union	2,560
Con Edison	3,075
Elizabethtown	1,520
LILCO	1,110
New Jersey	1,060
Public Service	12,315
Total	85,000

Applicant also requests authorization to exchange on a firm basis up to 23,000 dts equivalent of natural gas per day with Algonquin for a two year period beginning November 1, 1984.

Applicant states that, in order to provide the requested transportation services, it seeks authorization to build the following facilities:

Stage I

(a) 3.0 miles of 30-inch pipeline on Applicant's Penn-Jersey system.

Stage II

(a) 4.0 miles of 30-inch pipeline on Applicant's Penn-Jersey system.

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[1] The seven purchasers are Algonquin, The Brooklyn Union Gas Company (Brooklyn Union), Consolidated Edison of New York, Inc. (Con Edison), Elizabethtown Gas Company (Elizabethtown), Long Island Lighting Company (LILCO), New Jersey Natural Gas Company (New Jersey), and Public Service Electric and Gas Company (Public Service).

(b) 6.75 miles of 24-inch pipeline on Applicant's Tamarack Perulack system.

(c) 4,000 horsepower compression at Lambertville, New Jersey.

Applicant states the total cost of these facilities would be $26,533,000. Applicant also states that, upon completion of these facilities, the estimated monthly charge for the transportation services would equate to 15.45 cents per dt equivalent for Stage I and 28.58 cents per dt equivalent for Stage II.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before February 6, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have theretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1638 Filed 1-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RM81-19, ST84-67, *et al.*]

Tennessee Gas Pipeline Co.; Self-Implementing Transactions

January 16, 1984.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations and Section 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA). The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline pursuant to Section 284.102 of the Commission's Regulations.

A "C" indicates transportation by an intrastate pipeline pursuant to § 284.122 of the Commission's Regulations. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.122(b)(2), the table lists the proposed rate and expiration date for the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission.

A "D" indicates a sale by an intrastate pipeline pursuant to § 284.142 of the Commission's Regulations and Section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

A "E" indicates an assignment by an intrastate pipeline pursuant to § 284.163 of the Commission's Regulations and Section 312 of the NGPA.

An "F(157)" indicates transportation by an interstate pipeline for an end-user pursuant to § 157.209 of the Commission's Regulations.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G(LT)" or "G(LS)" indicates transportation, sales or assignments by a local distribution company pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

A "G(HT)" or "G(HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Kenneth F. Plumb,

Secretary.

Docket No.[1] and Transporter/and seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate(¢/MMBtu)
ST84-67 Tennessee Gas Pipeline Co	Houston Pipe Line Co	11-01-83	B		
ST84-68 Southern Natural Gas Co	Chattanooga Natural Gas Co	11-01-83	B		
ST84-69 Transcontinental Gas Pipe Line Corp	Delmarva Power and Light Co	11-02-83	B		
ST84-70 Transcontinental Gas Pipe Line Corp	Philadelphia Gas Works	11-02-83	B		
ST84-71 Transcontinental Gas Pipe Line Corp	South Jersey Gas Co	11-02-83	B		
ST84-72 Transcontinental Gas Pipe Line Corp	Tennessee Gas Pipeline Co	11-02-83	G		
ST84-73 United Gas Pipe Line Co	Intrastate Gathering Corp	11-01-83	B		
ST84-74 Tennessee Gas Pipeline Co	Cajun Natural Gas Co	11-03-83	B		
ST84-75 Tennessee Gas Pipeline Co	Cajun Natural Gas Co	11-09-83	B		
ST84-76 Tennessee Gas Pipeline Co	Transcontinental Gas Pipe Line Corp	11-03-83	G		
ST84-77 Tennessee Gas Pipeline Co	Delhi Gas Pipeline Corp	11-03-83	B		
ST84-78 Tennessee Gas Pipeline Co	Creole Gas Pipeline Corp	11-03-83	B		
ST84-79 Michigan Wisconsin Pipe Line Co	Westar Transmission Co	11-03-83	B		
ST84-80 Southern Natural Gas Co	Alabama Gas Corp	11-04-83	B		
ST84-81 Liberty Natural Gas Co	Neches Gas Distribution Co	11-04-83	C		
ST84-82 Northern Natural Gas Co	Gulf States Utilities Co	11-04-83	F(157)		
ST84-83 Delta Natural Gas Co., Inc	Columbia Gas Transmission Corp	11-04-83	C		
ST84-84 Texas Gas Transmission Corp	Quivira Gas Co	11-07-83	B		
ST84-85 Transcontinental Gas Pipe Line Corp	South Jersey Gas Co	11-07-83	B		
ST84-86 Florida Gas Transmission Co	Dow Pipeline Co	11-07-83	B		
ST84-87 Westar Transmission Co	Transwestern Pipeline Co	11-07-83	D		
ST84-88 Tennessee Gas Pipeline Co	Texas Gas Transmission Corp	11-07-83	G		
ST84-89 Panhandle Eastern Pipe Line Co	KOGAF Enterprises	11-07-83	F(157)		
ST84-90 United Gas Pipe Line Co	Tennessee Gas Pipeline Co	11-08-83	G		
ST84-91 United Gas Pipe Line Co	Neches Gas Distribution Co	11-08-83	B		
ST84-92 Transcontinental Gas Pipe Line Corp	Public Service Company of N. Caroline	11-09-83	B		
ST84-93 Texas Eastern Transmission Corp	Natural Gas Pipeline Company of America	11-09-83	G		
ST84-94 Texas Eastern Transmission Corp	Natural Gas Pipeline Company of America	11-09-83	G		
ST84-95 Texas Eastern Transmission Corp	Natural Gas Pipeline Company of America	11-09-83	G		
ST84-96 Oklahoma Natural Gas Co	Bridgeline Gas Distribution Co	11-09-83	B		
ST84-97 Panhandle Eastern Pipe Line Co	Gulf States Utilities Co	11-09-83	F(157)		
ST84-98 Northern Natural Gas Co	Northern Gas Products	11-10-83	F(157)		
ST84-99 Transwestern Pipeline Co	Northwest Central Pipeline Corp	11-10-83	G		
ST84-100 United Gas Pipe Line Co	B & A Pipeline Co	11-10-83	B		
ST84-101 Producer's Gas Co	Cajun Natural Gas Co	11-10-83	C	04-09-84	37.50

Docket No.[1] and Transporter/and seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate(¢/MMBtu)
ST84-102 Consolidated Gas Supply Corp	Columbia Gas Transmission Corp	11-10-83	G		
ST84-103 Columbia Gas Transmission Corp	Consolidated Gas Supply Corp	11-10-83	G		
ST84-104 Northern Natural Gas Co	Peoples Natural Gas Co	11-14-83	B		
ST84-105 National Fuel Gas Supply Corp	Sorrento Cheese Co., Inc	11-14-83	F(157)		
ST84-106 National Fuel Gas Supply Corp	Darling & Co	11-14-83	F(157)		
ST84-107 Texas Gas Transmission Corp	ARMCO Inc	11-14-83	F(157)		
ST84-108 El Paso Natural Gas Co	Intratex Gas Co	11-05-83	B		
ST84-109 Delta Natural Gas Co., Inc	Johnson County Gas Co., Inc	11-14-83	C		
ST84-110 Transcontinental Gas Pipe Line Corp	North Carolina Natural Gas Corp	11-15-83	B		
ST84-111 Transcontinental Gas Pipe Line Corp	Delhi Gas Pipeline Corp	11-16-83	B		
ST84-112 Dow Intrastate Gas Co	United Gas Pipe Line Co	11-14-83	C		
ST84-113 Sea Robin Pipeline Co	United Gas Pipe Line Co	11-17-83	G		
ST84-114 Northern Natural Gas Co	Pioneer Transmission Corp	11-18-83	B		
ST84-115 Northern Natural Gas Co	Florida Gas Transmission Co	11-18-83	G		
ST84-116 Houston Pipe Line Co	Texas Eastern Transmission Corp	11-21-83	C		
ST84-117 Tennessee Gas Pipeline Co	Berkshire Gas Co	11-21-83	B		
ST84-118 East Ohio Gas Co	Transcontinental Gas Pipe Line Corp	11-21-83	C		
ST84-119 Michigan Consolidated Gas Co	Transcontinental Gas Pipe Line Corp	11-21-83	C		
ST84-120 Michigan Consolidated Gas Co	Transcontinental Gas Pipe Line Corp	11-21-83	B		
ST84-121 Transcontinental Gas Pipe Line Corp	Public Service Electric and Gas Co	11-21-83	B		
ST84-122 Transcontinental Gas Pipe Line Corp	City of Lexington, N. Carolina	11-21-83	B		
ST84-123 Transcontinental Gas Pipe Line Corp	Houston Pipe Line Corp	11-21-83	B		
ST84-124 Consolidated Gas Supply Corp	Transcontinental Gas Pipe Line Corp	11-22-83	G		
ST84-125 Natural Gas Pipeline Company of America	Mississippi River Transmission Corp	11-22-83	G		
ST84-126 Natural Gas Pipeline Company of America	Pioneer Transmission Corp	11-22-83	B		
ST84-127 Panhandle Eastern Pipe Line Co	Chrysler Corp., *et al*	11-22-83	F(157)		
ST84-128 Channel Industries Gas Co	Florida Gas Transmission Co	11-23-83	C		
ST84-129 Columbia Gas Transmission Corp	Allied Corp	11-23-83	F(157)		
ST84-130 Columbia Gas Transmission Corp	Anchor Hocking Corp	11-23-83	F(157)		
ST84-131 Columbia Gas Transmission Corp	Anchor Hocking Corp	11-23-83	F(157)		
ST84-132 Columbia Gas Transmission Corp	Anchor Hocking Corp	11-23-83	F		
ST84-133 Columbia Gas Transmission Corp	Anchor Hocking Corp	11-23-83	F		
ST84-134 Mid Louisiana Gas Co	Georgia-Pacific Corp	11-25-83	F(157)		
ST84-135 Columbia Gas Transmission Corp	Bethlehem Steel Corp	11-23-83	F(157)		
ST84-136 Columbia Gas Transmission Corp	Bethlehem Steel Corp	11-23-83	F		
ST84-137 Columbia Gas Transmission Corp	Chattanooga Glass Co	11-23-83	F(157)		
ST84-138 Columbia Gas Transmission Corp	Chattanooga Glass Co	11-23-83	F		
ST84-139 Columbia Gas Transmission Corp	Chemetals, Inc	11-23-83	F(157)		
ST84-140 Columbia Gas Transmission Corp	Chemetals, Inc	11-23-83	F		
ST84-141 Columbia Gas Transmission Corp	Green's Dairy, Inc	11-23-83	F(157)		
ST84-142 Columbia Gas Transmission Corp	Koppers Co., Inc	11-23-83	F(157)		
ST84-143 Columbia Gas Transmission Corp	Koppers Co., Inc	11-23-83	F		
ST84-144 Columbia Gas Transmission Corp	Locke Insulators, Inc	11-23-83	F(157)		
ST84-145 Columbia Gas Transmission Corp	Locke Insulators, Inc	11-23-83	F		
ST84-146 Columbia Gas Transmission Corp	Mobay Chemical Corp	11-23-83	F(157)		
ST84-147 Columbia Gas Transmission Corp	Mobay Chemical Corp	11-23-83	F		
ST84-148 Columbia Gas Transmission Corp	Penn Fuel Gas, Inc	11-23-83	F		
ST84-149 Columbia Gas Transmission Corp	Vulcan Material Co	11-23-83	F(157)		
ST84-150 Columbia Gas Transmission Corp	Vulcan Material Co	11-23-83	F		
ST84-151 Columbia Gas Transmission Corp	W. R. Grace and Co	11-23-83	F(157)		
ST84-152 Columbia Gas Transmission Corp	W. R. Grace and Co	11-23-83	F		
ST84-153 National Fuel Gas Supply Corp	Booth Oil Co., Inc	11-25-83	F(157)		
ST84-154 National Fuel Gas Supply Corp	PPG Industries, Inc	11-25-83	F(157)		
ST84-155 Northwest Central Pipeline Corp	Transwestern Pipeline Co	11-25-83	G		
ST84-156 Colorado Interstate Gas Co	Mountain Fuel Supply Co	11-28-83	G		
ST84-157 Northern Natural Gas Co	Watertown Municipal Utilities	11-29-83	F(157)		
ST84-158 Intrastate Gathering Corp	Natural Gas Pipeline Company of America	11-29-83	C		
ST84-159 Natural Gas Pipeline Co. of America	Texas Eastern Transmission Corp	11-30-83	G		
ST84-160 Tennessee Gas Pipeline Co	Transcontinental Gas Pipe Line Corp	11-29-83	G		
ST84-161 Natural Gas Pipeline Co. of America	Texas Eastern Transmission Corp	11-30-83	G		
ST84-162 Delhi Gas Pipeline Corp	United Gas Pipe Line Co	11-30-83	C		
ST84-163 United Gas Pipe Line Co	Interastate Gathering Corp	11-30-83	B		
ST84-164 Tennessee Gas Pipeline Co	Fitchburg Gas and Electric Co	11-30-83	B		

[1] The noticing of these filings does not constitute a determination of whether the filings comply with the Commission's Regulations.
[2] The intrastate pipeline has sought Commission approval of its transportation rate pursuant to Section 284.123(b)(2) of the Commission's Regulations (18 CFR 284.123(b)(2)). Such rates are deemed fair and equitable if the Commission does not take action by the date indicated.

[FR Doc. 84-1639 Filed 1-19-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA84-1-31-005 (PGA84-1, IPR84-1)]

Arkansas Louisiana Gas Co.; Filing of Revised Tariff Sheets Reflecting Tariff Adjustment

January 16, 1984.

Take notice that on January 11, 1984, Arkansas Louisiana Gas Company (Arkla) tendered for filing 1st Substitute 35th Revised Sheet No. 4 to its FERC Gas Tariff First Revised Volume No. 1, Rate Schedule No. G-2 to become effective February 1, 1984.

This filing corrects an error in the surcharge rate contained on 35th Revised Sheet No. 4 which was filed December 30, 1983 to become effective February 1, 1984. Thirty-fifth Revised Sheet No. 4 reflected a surcharge rate of (4.86¢) per Mcf in lieu of the current effective surcharge rate of (4.82¢) as reflected on 1st Substitute 35th Revised Sheet No. 4.

Arkla also states that copies of the revised tariff sheet and supporting data are being mailed to Arkla's jurisdictional customers and other interested parties affected by this tariff change.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests

should be filed on or before January 20, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1609 Filed 1-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-2-21-000 (PGA82-2, IPR82-2, AP82-2)]

Columbia Gas Transmission Corp.; Filing of Surcharge Report

January 16, 1984.

Take notice that on January 9, 1984, Columbia Gas Transmission Corporation (Columbia) tendered for filing a surcharge report summarizing the surcharge collections and associated retroactive payments, pursuant to Ordering Paragraphs (D) and (E) of the Commission's Order issued August 27, 1982.

On July 30, 1982, Columbia filed revised tariff sheets [1] with a proposed effective date of September 1, 1982. As part of the filing Columbia proposed to implement a special twelve-month surcharge to recover retroactive payments to producers pursuant to Order Nos. 93 and 93-A. Columbia proposed to recover these payments over the twelve-month period beginning September 1, 1982, and to make payments to producers over the same period. Columbia also proposed to maintain a separate subaccount in Account No. 191 to which it would book amounts collected through the surcharge and amounts actually paid to producers. After final payment to producers, it was proposed that the subaccount balance would be transferred to Account No. 191.

Columbia also proposed to implement a special twelve-month surcharge to recover retroactive payments (including interest thereon) to be made to producers in connection with NGPA well qualification filings. Columbia proposed to make the payments and recover them from its customers through a surcharge over the twelve month period commencing September 1, 1982. Columbia further proposed to establish a separate subaccount in Account No. 191 to which it would book the amounts collected from its customers and the actual amounts paid to the producers. Upon final payment to the producers, it was proposed that Columbia would transfer any remaining subaccount balance to Account No. 191.

The instant filing contains a schedule summarizing the payments and surcharge collections in connection with Order Nos. 93 and 93-A and the NGPA well qualifications as well as amounts transferred to Account No. 191. The filing also contains a summary of the monthly activity regarding the two surcharges.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 23, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1610 Filed 1-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-137-000]

National Fuel Gas Supply Corp.; Request Under Blanket Authorization

January 16, 1984.

Take notice that on December 19, 1983, National Fuel Gas Supply Corporation (Supply), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP84-137-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Supply proposes to transport natural gas for an eligible end user under the authorization issued in Docket No. CP83-4-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Supply proposes to transport up to 2,000 Mcf of gas per day and 730,000 Mcf of gas per year, for the account of Roblin Industries, Inc. (Roblin), to National Fuel Gas Distribution Corporation (Distribution) which, in turn, would deliver the gas to Roblin at Roblin's facilities in Dunkirk and North Tonawanda, New York pursuant to the terms of the gas transportation agreement dated July 18, 1983 (transportation agreement). Supply states that the current transportation rate is 34.14 cents per Mcf, which includes an added incentive charge of 5.0 cents per Mcf, plus 2 percent retainage for shrinkage which is in accordance with its transportation Rate Schedule T-2. In addition, the current transportation rate charged by Distribution is currently 88.0 cents per Mcf plus the surcharge to reflect the tax rates applicable within the municipality where Roblin is taking service plus 2.5 percent of the gas for loss allowance in accordance with Distribution's New York Tariff (P.S.C. No. 7-Gas), it is asserted.

Roblin would use the gas transported by Supply in boilers, miscellaneous furnaces and annealing equipment, which are qualified end uses pursuant to § 157.209(e)(2) of the Regulations, it is asserted. Supply states that no new facilities are necessary to effectuate the proposed transportation. It is stated that the proposed transportation would commence on March 1, 1984, and terminate at 11:59 p.m. on June 30, 1985, or upon termination of the contract which term is for 3 months, effective July 18, 1983, and month to month thereafter, whichever occurs first.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1611 Filed 1-19-84; 8:45 am]

BILLING CODE 6717-01-M

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[1] Eighty-second Revised Sheet No. 16, Twenty-fifth Revised Sheet No. 64, Seventh Revised Sheet Nos. 64E, 64F, 64G, 64H, and 64I to FERC Gas Tariff, Original Volume No. 1.

[Docket No. CP84-138-000]

National Fuel Gas Supply Corp.; Request Under Blanket Authorization

January 16, 1984.

Take notice that on December 19, 1983, National Fuel Gas Supply Corporation (Supply), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP84-138-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Supply proposes to transport natural gas for an eligible end user under the authorization issued in Docket No. CP83-4-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Supply proposes to transport up to 1,500 Mcf of gas per day and 547,500 Mcf of gas per year, for the account of WITCO Chemical Corporation (WITCO), to National Fuel Gas Distribution Corporation (Distribution) which, in turn, would deliver the gas to WITCO at WITCO's facilities in Bradford, Pennsylvania pursuant to the terms of the gas transportation agreement dated July 21, 1983 (transportation agreement). Supply states that the current transportation rate is 34.14 cents per Mcf, which includes an added incentive charge of 5.0 cents per Mcf, plus 2 percent retainage for shrinkage which is in accordance with its transportation Rate Schedule T-2.

WITCO would use the gas transported by Supply as boiler fuel which is a qualified end use pursuant to § 157.209(e)(2) of the Regulations, it is asserted. Supply states that no new facilities are necessary to effectuate the proposed transportation. It is stated that the proposed transportation would commence on March 1, 1984, and terminate at 11:59 p.m. on June 30, 1985, or upon termination of the contract which term is for 3 months, effective July 21, 1983, and month to month thereafter, whichever occurs first.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1612 Filed 1-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-139-000]

National Fuel Gas Supply Corp.; Request Under Blanket Authorization

January 16, 1984.

Take notice that on December 19, 1983, National Fuel Gas Supply Corporation (Supply), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP84-139-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Supply proposes to transport natural gas for an eligible end user under the authorization issued in Docket No. CP83-4-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Supply proposes to transport up to 7,000 Mcf of gas per day and 2,555,000 Mcf of gas per year, for the account of PPG Industries, Inc. (PPG), to National Fuel Gas Distribution Corporation (Distribution) which, in turn, would deliver the gas to PPG at PPG's facilities in Meadville, Pennsylvania, pursuant to the terms of the gas transportation agreement dated October 28, 1983 (transportation agreement). Supply states the current transportation rate is 29.14 cents per Mcf plus 2 percent retainage for shrinkage which is in accordance with its transportation Rate Schedule T-1.

Supply states that currently the transportation agreement does not provide for an added incentive charge (AIC); however, during the term of this service an AIC of 5.0 cents per Mcf would be applicable to it. It is indicated that at such time, the transportation charge by Supply for this service would be in accordance with its T-2 transportation rate schedule. PPG would use the gas transported by Supply in boilers, for annealing, in glass and frit melting furnaces and torches which are qualified end uses pursuant to § 157.209(e)(2) of the Regulations, it is asserted. Supply states that no new facilities are necessary to effectuate the proposed transportation which would commence on February 26, 1984, and terminate at 11:59 p.m. on June 30, 1985, or upon termination of the contract which term is for 3 months, effective October 28, 1983, and month to month thereafter, whichever occurs first.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1613 Filed 1-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-140-000]

National Fuel Gas Supply Corp.; Request Under Blanket Authorization

January 16, 1984.

Take notice that on December 19, 1983, National Fuel Gas Supply Corporation (Supply), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP84-140-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Supply proposes to transport natural gas for an eligible end user under the authorization issued in Docket No. CP83-4-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Supply proposes to transport up to 280 Mcf of gas per day and 102,200 Mcf of gas per year, for the account of Kaufman's Bakery, Inc. (Kaufman's), to National Fuel Gas Distribution Corporation (Distribution) which, in turn, would deliver the gas to Kaufman's at Kaufman's facilities in Buffalo, New York pursuant to the terms of the gas transportation agreement dated August 1, 1983 (transportation agreement). Supply states that the current transportation rate is 34.14 cents per Mcf, which includes an added incentive charge of 5.0 cents per Mcf, plus 2 percent retainage for shrinkage which is in accordance with its transportation Rate Schedule T-2. In addition, the

current transportation rate charged by Distribution is currently 88.0 cents per Mcf plus the surcharge to reflect the tax rates applicable within the municipality where Kaufman's is taking service plus 2.5 percent of the gas for loss allowance in accordance with Distribution's New York Tariff (P.S.C. No. 7–Gas), it is asserted.

Kaufman's would use the gas transported by Supply as boiler fuel, which is a qualified end use pursuant to § 157.209(e)(2) of the Regulations, it is asserted. Supply states that no new facilities are necessary to effectuate the proposed transportation. It is stated that the proposed transportation would commence on March 1, 1984, and terminate at 11:59 p.m. on June 30, 1985, or upon termination of the contract which term is for 3 months, effective August 1, 1983, and month to month thereafter, whichever occurs first.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–1614 Filed 1–19–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP84–141–000]

National Fuel Gas Supply Corp.; Request Under Blanket Authorization

January 16, 1984.

Take notice that on December 19, 1983, National Fuel Gas Supply Corporation (Supply), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP84–141–000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Supply proposes to transport natural gas for an eligible end user under the authorization issued in Docket No. CP83–4–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Supply proposes to transport up to 167 Mcf of gas per day and 60,955 Mcf of gas per year, for the account of Morgan Services, Inc. (Morgan), to National Fuel Gas Distribution Corporation (Distribution) which, in turn, would deliver the gas to Morgan at Morgan's facilities in Buffalo, New York pursuant to the terms of the gas transportation agreement dated June 29, 1983 (transportation agreement). Supply states that the current transportation rate is 34.14 cents per Mcf, which includes an added incentive charge of 5.0 cents per Mcf, plus 2 percent retainage for shrinkage which is in accordance with its transportation Rate Schedule T–2. In addition, the current transportation rate charged by Distribution is currently 88.0 cents per Mcf plus the surcharge to reflect the tax rates applicable within the municipality where Morgan is taking service plus 2.5 percent of the gas for loss allowance in accordance with Distribution's New York Tariff (P.S.C. No. 7-Gas), it is asserted.

Morgan would use the gas transported by Supply in boilers and dryers, which are qualified end uses pursuant to § 157.209(e)(2) of the Regulations, it is asserted. Supply states that no new facilities are necessary to effectuate the proposed transportation. It is stated that the proposed transportation would commence on March 1, 1984, and terminate at 11:59 p.m. on June 30, 1985, or upon termination of the contract which term is for 3 months, effective June 29, 1983, and month to month thereafter, whichever occurs first.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–1615 Filed 1–19–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP84–142–000]

National Fuel Gas Supply Corp.; Request Under Blanket Authorization

January 16, 1984.

Take notice that on December 19, 1983, National Fuel Gas Supply Corporation (Supply), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP84–142–000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Supply proposes to transport natural gas for an eligible end user under the authorization issued in Docket No. CP83–4–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Supply proposes to transport up to 233 Mcf of gas per day and 85,045 Mcf of gas per year, for the account of Booth Oil Company (Booth), to National Fuel Gas Distribution Corporation (Distribution) which, in turn, would deliver the gas to Booth at Booth's facilities in Buffalo, New York, pursuant to the terms of the gas transportation agreement dated November 1, 1983 (transportation agreement). Supply states that the current transportation rate is 29.14 cents per Mcf plus 2 percent retainage for shrinkage which is in accordance with its transportation Rate Schedule T–1. In addition, the current transportation rate charged by Distribution is currently 88.0 cents per Mcf plus the surcharge to reflect the tax rates applicable within the municipality where Booth is taking service plus 2.5 percent of the gas for loss allowance in accordance with Distribution's New York Tariff (P.,S.C. No. 7-Gas), it is asserted.

Supply states that currently the transportation agreement does not provide for an added incentive charge (AIC); however, during the term of this service an AIC of 5.0 cents per Mcf would be applicable to it. It is indicated that at such time, the transportation charge by Supply for this service would be in accordance with its T–2 transportation rate schedule.

Booth would use the gas transported by Supply for boiler fuel, which is a qualified end use pursuant to § 157.209(e)(2) of the Regulations, it is asserted. Supply states that no new facilities are necessary to effectuate the proposed transportation. It is stated that the proposed transportation would commence on February 7, 1984, and terminate at 11:59 p.m. on June 30, 1985, or upon termination of the contract which term is for 3 months, effective

October 10, 1983, and month to month thereafter, whichever occurs first.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1616 Filed 1-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-143-000]

National Fuel Gas Supply Corp.; Request Under Blanket Authorization

January 16, 1984.

Take notice that on December 19, 1983, National Fuel Gas Supply Corporation (Supply), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP84-143-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Supply proposes to transport natural gas for an eligible end user under the authorization issued in Docket No. CP83-4-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Supply proposes to transport up to 400 Mcf of gas per day and 146,000 Mcf of gas per year, for the account of FERRO Corporation (FERRO), to National Fuel Gas Distribution Corporation (Distribution) which, in turn, would deliver the gas to FERRO at FERRO's facilities in Buffalo, New York pursuant to the terms of the gas transportation agreement dated April 29, 1983 (transportation agreement). Supply states that the current transportation rate is 34.14 cents per Mcf, which includes an added incentive charge of 5.0 cents per Mcf, plus 2 percent retainage for shrinkage which is in accordance with its transportation Rate Schedule T-2. In addition, the current transportation rate charged by Distribution is currently 88.0 cents per Mcf plus the surcharge to reflect the tax rates applicable within the municipality where FERRO is taking service plus 2.5 percent of the gas for loss allowance in accordance with Distribution's New York Tariff (P.S.C. No. 7-Gas), it is asserted.

FERRO would use the gas transported by Supply in boilers, kilns and space heating furnaces, which are qualified end uses pursuant to § 157.209(e)(2) of the Regulations, it is asserted. Supply states that no new facilities are necessary to effectuate the proposed transportation. It is stated that the proposed transportation would commence on March 1, 1984, and terminate at 11:59 p.m. on June 30, 1985, or upon termination of the contract which term is for 3 months, effective May 1, 1983, and month to month there after, whichever occurs first.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1617 Filed 1-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-163-000]

National Fuel Gas Supply Corp.; Request Under Blanket Authorization

January 16, 1984.

Take notice that on December 30, 1983, National Fuel Gas Supply Corporation (Supply), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP84-163-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Supply proposes to transport natural gas for an eligible end user under the authorization issued in Docket No. CP83-4-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Supply proposes to transport up to 1,833 Mcf of gas per day and 669,045 Mcf of gas per year, for the account of Union Carbide Corporation (Union Carbide), to National Fuel Gas Distribution Corporation (Distribution) which, in turn, would deliver the gas to Union Carbide at Union Carbide's facilities in Niagara Falls, New York pursuant to the terms of the gas transportation agreement dated July 18, 1983 (transportation agreement). Supply states that the current transportation rate is 34.14 cents per Mcf, which includes an added incentive charge of 5.0 cents per Mcf, plus 2 percent retainage for shrinkage which is in accordance with its transportation Rate Schedule T-2. In addition, the current transportation rate charged by Distribution is currently 88.0 cents per Mcf plus the surcharge to reflect the tax rates applicable within the municipality where Union Carbide is taking service plus 2.5 percent of the gas for loss allowance in accordance with Distribution's New York Tariff (P.S.C. No. 7-Gas), it is asserted.

Union Carbide would use the gas transported by Supply in boilers, incinerators and kilns which are qualified end uses pursuant to § 157.209(e)(2) of the Regulations, it is asserted. Supply states that no new facilities are necessary to effectuate the proposed transportation. It is stated that the proposed transportation would commence on March 1, 1984, and terminate at 11:59 p.m. on June 30, 1985, or upon termination of the contract which term is for 3 months, effective July 4, 1983, and month to month there after, whichever occurs first.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for

authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1618 Filed 1-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-164-000]

National Fuel Gas Supply Corp.; Request Under Blanket Authorization

January 16, 1984.

Take notice that on January 3, 1984, National Fuel Gas Supply Corporation (Supply), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP84-164-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Supply proposes to transport natural gas for an eligible end user under the authorization issued in Docket No. CP83-4-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Supply proposes to transport up to 593 Mcf of gas per day and 216,445 Mcf of gas per year, for the account of TAM Ceramics, Inc. (TAM), to National Fuel Gas Distribution Corporation (Distribution) which, in turn, would deliver the gas to TAM at TAM's facilities in Niagara Falls, New York pursuant to the terms of the gas transportation agreement dated June 20, 1983 (transportation agreement). Supply states that the current transportation rate is 34.14 cents per Mcf, which includes an added incentive charge of 5.0 cents per Mcf, plus 2 percent retainage for shrinkage which is in accordance with its transportation Rate Schedule T-2. In addition, the current transportation rate charged by Distribution is currently 88.0 cents per Mcf plus the surcharge to reflect the tax rates applicable within the municipality where TAM is taking service plus 2.5 percent of the gas for loss allowance in accordance with Distribution's New York Tariff (P.S.C. No. 7-Gas), it is asserted.

TAM would use the gas transported by Supply in boilers and dryers which are qualified end uses pursuant to § 157.209(e)(2) of the Regulations, it is asserted. Supply states that no new facilities are necessary to effectuate the proposed transportation. It is stated that the proposed transportation would commence on March 1, 1984, and terminate at 11:59 p.m. on June 30, 1985, or upon termination of the contract which term is for 3 months, effective June 20, 1983, and month to month there after, whichever occurs first.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1619 Filed 1-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-165-000]

National Fuel Gas Supply Corp.; Request Under Blanket Authorization

January 16, 1984.

Take notice that on January 3, 1984, National Fuel Gas Supply Corporation (Supply), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP84-165-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Supply proposes to transport natural gas for an eligible end user under the authorization issued in Docket No. CP83-4-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Supply proposes to transport up to 3,000 Mcf of gas per day and 1,095,000 Mcf of gas per year, for the account of Bethlehem Steel Corporation (Bethlehem), to National Fuel Gas Distribution Corporation (Distribution) which, in turn, would deliver the gas to Bethlehem at Bethlehem's facilities in Lackawanna, New York pursuant to the terms of the gas transportation agreement dated May 13, 1983 (transportation agreement). Supply states that the current transportation rate is 34.14 cents per Mcf, which includes an added incentive charge of 5.0 cents per Mcf, plus 2 percent retainage for shrinkage which is in accordance with its transportation Rate Schedule T-2. In addition, the current transportation rate charged by Distribution is currently 88.0 cents per Mcf plus the surcharge to reflect the tax rates applicable within the municipality where Bethlehem is taking service plus 2.5 percent of the gas for loss allowance in accordance with Distribution's New York Tariff (P.S.C. No. 7-Gas), it is asserted.

Bethlehem would use the gas transported by Supply in boilers and annealing, which are qualified end uses pursuant to § 157.209(e)(2) of the Regulations, it is asserted. Supply states that no new facilities are necessary to effectuate the proposed transportation. It is stated that the proposed transportation would commence on March 1, 1984, and terminate at 11:59 p.m. on June 30, 1985, or upon termination of the contract which term is for 3 months, effective May 13, 1983, and month to month there after, whichever occurs first.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1620 Filed 1-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-166-000]

National Fuel Gas Supply Corp.; Request Under Blanket Authorization

January 16, 1984.

Take notice that on January 3, 1984, National Fuel Gas Supply Corporation (Supply), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP84-166-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Supply proposes to transport natural gas for an eligible end user under the authorization issued in Docket No. CP83-4-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with

the Commission and open to public inspection.

Supply proposes to transport up to 1,047 Mcf of gas per day and 382,155 Mcf of gas per year, for the account of Great Lakes Carbon Corporation (Great Lakes), to National Fuel Gas Distribution Corporation (Distribution) which, in turn, would deliver the gas to Great Lakes at Great Lakes' facilities in Niagara Falls, New York, pursuant to the terms of the gas transportation agreement dated June 16, 1983 (transportation agreement). Supply states that the current transportation rate is 34.14 cents per Mcf, which includes an added incentive charge of 5.0 cents per Mcf, plus 2 percent retainage for shrinkage which is in accordance with its transportation Rate Schedule T-2. In addition, the current transportation rate charged by Distribution is currently 88.0 cents per Mcf plus the surcharge to reflect the tax rates applicable within the municipality where Great Lakes is taking service plus 2.5 percent of the gas for loss allowance in accordance with Distribution's New York Tariff (P.S.C. No. 7-Gas), it is asserted.

Great Lakes would use the gas transported by Supply in boilers, solution furnaces and space heating furnaces, which are qualified end uses pursuant to § 157.209(e)(2) of the Regulations, it is asserted. Supply states that no new facilities are necessary to effectuate the proposed transportation. It is stated that the proposed transportation would commence on March 1, 1984, and terminate at 11:59 p.m. on June 30, 1985, or upon termination of the contract which term is for 3 months, effective June 16, 1983, and month to month thereafter, whichever occurs first.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1621 Filed 1-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RM81-19-000 and CP82-433-000]

Northwest Pipeline Corp.; Filing

January 16, 1984.

Take notice that on January 9, 1984, Northwest Pipeline Corporation (Northwest) tendered for filing Substitute Original Sheet No. 81 as a part of its FERC Gas Tariff, First Revised Volume No. 1 pursuant to the Commission order dated December 22, 1983, at the above-referenced docket.

On December 2, 1983, Northwest filed at Docket Nos. RM81-19-000 and CP82-433-000 and Rate Schedule AIC-1 to establish Rate Schedule AIC-1 for transportation of natural gas for any end user of natural gas as established in § 157.209(e)(1) of the Commission's regulations (18 CFR 157.209(e)(1)). Rate Schedule AIC-1 also incorporated the added incentive charge (AIC) as authorized under § 157.209(f) of the Commission's regulations (18 CFR 157.209(f)).

By Commission order dated December 22, 1983, at the above-referenced docket, the Commission accepted and made effective January 2, 1984, all of the proposed tariff sheets included in Northwest's December 2, 1983 filing. This acceptance was conditioned upon the filing of a revised tariff sheet incorporating the currently effective Gas Research Institute (GRI) charge as a part of the rate schedule. Northwest states that Substitute Original Sheet No. 81 incorporates the addition of its GRI charge as ordered by the Commission.

On November 18, 1983, Northwest filed its annual GRI adjustment charge at Docket No. RP83-95-000 reflecting a rate of .118¢ per MMBtu. Such filing was accepted and made effective January 1, 1984, by Commission order dated December 30, 1983. This filing is incorporated by reference as support for the GRI charge of .118¢ per MMBtu reflected on Substitute Original Sheet No. 81.

Northwest requests waiver of § 154.22 of the Commission's regulations in order to permit an effective date of January 2, 1984, for tendered Substitute Original Sheet No. 81.

A copy of this filing has been served on all Northwest's jurisdictional customers and their respective state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 25, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1622 Filed 1-19-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-140-000]

Pacific Gas and Electric Co.; Filing

January 16, 1984.

The filing Company submits the following:

Take notice that on December 6, 1983, Pacific Gas and Electric Company (PG&E) tendered for filing a Notice of Cancellation of Bay Point Light and Power Company's R-2 Resale Tariff under FPC Original Tariff Volume No. 2.

PG&E states that this cancellation only affects that portion of Original Tariff Volume No. 2 pertaining to service to Bay Point Light and Power Company. No other customers receiving service under Tariff Volume No. 2 are affected by this cancellation.

PG&G requests an effective date of January 1, 1984, and therefor requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 27, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1523 Filed 1-19-84; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Case Filed; Week of December 2 through December 9, 1983

During the week of December 2 through December 9, 1983, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within 10 days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: January 6, 1984.

George B. Breznay,

Director of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Dec. 2 through Dec. 9, 1983]

Date	Name and location applicant	Case No.	Type of Submission
Oct. 11, 1983	Plateau, Inc., Washington, D.C	HED-0190, HEH-0190	Motion for Discovery and Request for Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by Plateau, Inc. in response to the Proposed Decision and Order and (Case No. HEF-0063) issued to United States Department of the Interior.
Dec. 5, 1983	Brent explorations, Inc., Enid, Oklahoma	HRD-0188, HRH-0188	Motion for Discovery and Request for Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be covened in connection with the statement of objections submitted by Brent Explorations, Inc. in response to the Proposed Remedial Order (Case No. HRO-0162) issued to the firm.
Dec. 5, 1983	Economic Regulatory Administration/T&M Petroleum Corp. et al., Washington, D.C.	HRJ-0044	Request for Protective Order. If granted: T&M Petroleum Corporation, Old Antler Corporation, and Ted R. Adkins would enter into a Protective Order with Economic Regulatory Administration regarding the release of proprietary information to T&M Petroleum Corporation, et al. with respect to documents concerning Questor Petroleum Corporation.
Dec. 5, 1983	Economic Regulatory Administration/T&M Petroleum Corp. et al. Washington, D.C.	HRJ-0045	Request for Protective Order. If granted: T&M Petroleum Corporation, Old Antler Corporation and Ted R. Adkins would enter into a Protective Order with the Economic Regulatory Administration regarding the release of proprietary information to T&M Petroleum Corporation et al. with respect to documents concerning Shell Pipeline Corporation.
Dec. 5, 1983	International Drilling & Energy Corporation, Washington, D.C.	RR27-1	Request for Modification/Rescission in the Ozona Gas Processing Plant I Refund Proceeding. If granted: The November 21, 1983 Decision and Order (Case No. RF27-2) issued to International Drilling and Energy Corporation would be modified regarding the firm's application for refund submitted in the Ozona Gas Processing Plant I refund proceeding
Dec. 6, 1983	Pinkerton's Inc., Washington, D.C	HFA-0200	Appeal of an Information Request Denial. If Granted: The November 3, 1983, Freedom of Information Request Denial issued by the Savannah River Operations Office would be rescinded, and Pinkerton's Inc. would receive access to copies of the Technical Proposal, Business Management Proposal and Cost Proposal of Wackenhut Services, Inc.
Dec. 6, 1983	State of Texas, Austin, Texas	HRD-0189	Motion for Discovery. If Granted. Discovery would be granted to State of Texas in connection with the Statement of Objections submitted in response to the Proposed Remedial Order (Case No. HRO-0199) to Texas International Company.
Dec. 7, 1983	Ozona Gas Processing Plants, Dallas, Texas	HEE-0080	Price Exception. If granted: Ozona Gas Processing Plants would be permitted to sell the crude oil produced from the well located in Crockett County, Texas at upper tier ceiling prices.
Dec. 8, 1983	Williams Chemical Corporation, Fort Smith, Arkansas	RR13-1	Request for Modification/Rescission in the OKC Corporation Refund Proceeding. If granted: The June 6, 1983 Decision and Order (Case No. RF13-15) issued to Williams Chemical corporation would be modified regarding the firm's application for refund submitted in the OKC Corporation refund proceeding.
Dec. 9, 1983	Kramer Associates, Inc., Washington, D.C	HFA-0201	Appeal of an Information Request Denial. If granted: The November 25, 1983 Freedom of Information Request Denial issued by the Office of the Inspector General would be rescinded, and Kramer Associates, Inc. would receive access to certain DOE information.

REFUND APPLICATION RECEIVED

[Week of Dec. 2 to Dec. 9, 1983]

Date	Name of refund proceeding/name of refund application	Case NO.
Dec. 7, 1983.	Amoco/Larry's Amoco	RF21-122244.
Dec. 8, 1983.	Ada Resources, Inc./Texas	RQ24-33.
Dec. 7, 1983.	Amoco/Bismarck Airport	RF21-12245
Dec. 7, 1983.	Amoco/Walsh Oil Company	RF21-12246.
Dec. 7, 1983.	Amoco/B&C Oil Company	RF21-12247.

REFUND APPLICATION RECEIVED—Continued

[Week of Dec. 2 to Dec. 9, 1983]

Date	Name of refund proceeding/name of refund application	Case NO.
Dec. 7, 1983.	Amoco/Niederauer Oil Company	RF21-12248.
Dec. 7, 1983.	Amoco/Merwin Oil Company	RF21-12249.
Dec. 7, 1983.	Amoco/Bibb Oil Company	RF21-12250.
Dec. 7, 1983.	Amoco/Monarch Air Service, Inc	RF21-12251.

REFUND APPLICATION RECEIVED—Continued

[Week of Dec. 2 to Dec. 9, 1983]

Date	Name of refund proceeding/name of refund application	Case NO
Dec. 7, 1983.	Amoco/Monarch Air Service, Inc	RF21-12252, RF21-12253

[FR Doc. 84-1548 Filed 1-19-84; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed; Week of December 9 Through December 16, 1983

During the Week of December 9 through December 16, 1983, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. A Submission inadvertently omitted from an earlier list has also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: January 6, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Dec. 9 through Dec. 16, 1983]

Date	Name and location of applicant	Case No.	Type of submission
Dec. 2, 1983	Phillip R. Kete, Washington, D.C.	HFA-0202	Appeal of an Information Request Denial If granted: The November 29, 1983 Freedom of Information Request Denial issued by the Office of Personnel would be rescinded, and Phillip R. Kete would receive access to the performance apprarsals of certain DOE employees.
Dec. 9, 1983	Illinois Service Station Operators Association, Chicago, Illinois.	RR21-1	Request for Modification/Rescission in the Amoco Refund Proceeding If granted: The August 22, 1983 Decision and Order (Case Nos. RF21-11123 et al.) issued to the Illinois Service Station Operators Association would be modified regarding applications for refund submitted in the Amoco Refund Proceeding by members of the Association
Dec. 9, 1983	William T. Hailey, Kennedy, Texas	HEE-0082	Price Exception If granted: William T. Hailey would be permitted to sell the crude oil produced from various wells at stripper well prices.
Dec. 12, 1983	Oil City Petroleum Company, Silver Spring, Maryland	HEE-0081	Exception to the Reporting Requirements If granted: Oil City Petroleum Company would not be required to file Form EIA-782B, "Monthly No. 2 Distillate Sales Report."
Dec. 13, 1983	States of Texas et al., Houston, Texas	HRZ-0185	Interlocutory Order If granted: The States of Texas, California, Arkansas, Delaware, Iowa, Kansas, Louisiana, North Dakota, Rhode Island, and West Virginia would be allowed to participate in the enforcement proceeding involving the Proposed Remedial Order issued to Southwestern Gulf Petroleum Company (Case No. HRO-0194).
Dec. 14, 1983	Economic Regulatory Administration, Washington, D.C.	HRD-0191	Motion for Discovery If granted: Discovery would be granted to the Economic Regulatory Administration in connection with the Statement of Objections submitted by Gulf Oil Corporation in response to the September 7, 1983 Proposed Remedial Order (Case No. HRO-0168) issued to the firm.
Dec. 15, 1983	Riley's Standard Service, Walled Lake, Michigan	RR21-2	Request for Modification/Rescission in the Amoco Refund Proceeding If granted: The September 22, 1983 Decision and Order (Case No. RF21-1029) issued to Riley's Standard Service would be modified regarding the firm's application for refund submitted in Amoco Refund Proceeding.

REFUND APPLICATIONS RECEIVED

[Week of Dec. 9, 1983 to Dec. 16, 1983]

Date	Name of refund proceeding/name of refund applicant	Case No. assigned
Dec. 12, 1983.	Belridge Oil Company/Nebraska	RO8-34
Dec. 14, 1983.	Amoco/Southland Corp. (Ranger Energy).	RF21-12254
Dec. 15, 1983.	Sid Richardson/Simonsen Propane, Inc.	FR26-16
Dec. 15, 1983	Standard Oil Co. (Indiana)/Turtle Mountain Band of Chippewa Indians.	RQ21-35

[FR Doc. 84-1549 Filed 1-19-84; 8:45 am]

BILLING CODE 6450-01-M

Proposed Decisions and Orders; Period of September 12 Through December 16, 1983

During the period of September 12 through December 16, 1983, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this proposed decision and order are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, 1000 Independence Avenue SW., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

Dated: January 6, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

Application for Exception

Northwest Louisiana Wholesale Oil and Gas Co., Inc., Monroe, Louisiana, HEE-0061

Northeast Louisiana Wholesale Oil and Gas Co., Inc. filed an Application for Exception from reporting requirements. The exception request, if granted, would relieve Northeast of the requirement that it complete and submit Energy Information Agency (EIA) Form 782B. On December 18, 1983, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 84-1545 Filed 1-19-84; 8:45 am]

BILLING CODE 6450-01-M

Decisions and Orders; Week of November 28 Through December 2, 1983

During the week of November 28 through December 2, 1983, the decisions and orders summarized below were

issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Vector Corporation, 12/2/83, *HFA–0189*

On November 3, 1983, Vector Corporation filed an Appeal from a partial denial by the Deputy Director for Naval Reactors of a request for information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that the Deputy Director's determination was deficient in describing the withheld documents, in providing justification for the decision to withhold documents, and in making a determination with regard to release of the withheld material in the public interest. Accordingly, the DOE remanded the matter to the Deputy Director for a new determination that would correct these deficiencies.

Requests for Modification and/or Rescission

Air Transport Association of America, State of California, State of Connecticut, State of Illinois, State of Michigan, 11/29/83 HRR–0071, HCX–0091

The Air Transport Association of America (ATA) and the States of California, Connecticut, Illinois and Michigan filed variously styled requests to participate in an enforcement proceeding remanded to the OHA by the United District Court for the District of Delaware in *Getty Oil Co. v. DOE*, No. 77–434 (D. Del. Sept 20, 1983). In considering the requests under the special procedures established in an earlier OHA Order, *Economic Regulatory Administration*, 11 DOE ¶ 82,529 (1983), the DOE determined that the ATA and the states meet the traditional standing tests applied by the courts. Their requests to participate were therefore granted.

Atlantic Richfield Company, 12/1/83, HRR–0078

Atlantic Richfield Company (Arco) filed a motion to modify a Protective Order entered into by the firm and the DOE Economic Regulatory Administration on March 28, 1983. The protective order limited Arco's use of Forms FEA–F701–M–O it had received in discovery it had been granted in an enforcement proceeding to counsel of record and independent consultants whose services the firm procured for the purposes of the litigation. In considering the Arco submission, the DOE determined that Arco had failed to satisfy its burden of demonstrating that the information contained on the forms it had received was no longer confidential. Accordingly, Arco's motion was denied.

Motions for Discovery

Halliburton Company; Vessels Gas Processing Company, Vessels Gas Processing, Ltd., 12/2/83, HRD–0163, HRD–0173

Halliburton Company (Halliburton) and Vessels Gas Processing Company/Vessels Gas Processing, Ltd. (Vessels) filed Motions for Discovery on September 12, 1983 and on October 31, 1983. The Motions for Discovery were filed in connection with the firms' Statements of Objections to a Proposed Remedial Order that was issued jointly to Halliburton and Vessels on June 24, 1983 by the Economic Regulatory Administration. In considering the Motions, the DOE concluded that the discovery requested, if approved, would not lead to the production of relevant and material evidence necessary to the firms' challenge to the Proposed Remedial Order. The Motions for Discovery were therefore denied.

Reinauer Petroleum Company, 11/29/83, HRD–0127

Reinauer Petroleum Company filed a Motion for Discovery in connection with a Statement of Objections to a Proposed Remedial Order issued to the firm by the Economic Regulatory Administration. In the PRO, the ERA alleges that Reinauer violated the DOE regulatory program by improperly calculating its maximum lawful selling price of motor gasoline. In its Motion for Discovery, Reinauer sought contemporaneous construction discovery which related to the development and implementation of rules and policies concerning (i) the calculation of the maximum lawful selling price of unleaded gasline, (ii) the equal application rule as it was applied to resellers, (iii) the banking of recouped increased product costs, (iv) the requirements that resellers recoup increased product costs ahead of increased non-product costs and (v) "netting" of overcharges and "undercharges." The firm's Motion for Discovery was denied because it had not shown that the requested discovery woul½d yield useful information.

Interlocutory Orders

Economic Regulatory Administration, 12/1/83, HRZ–1079, HRZ–0181, HRZ–0182, HRZ–0183, HRZ–0167, HRZ–0169, HRZ–0170, HRZ–0178

The Economic Regulatory Administration (ERA) filed motions to join United States Steel Corporation (USS) as a party to several enforcement proceedings involving Marathon Oil Company currently pending before the Office of Hearings and Appeals. ERA contended that Marathon's parent corporation, USS, should be joined as a party to the proceedings to ensure that in the event final Remedial Orders are issued to Marathon, the DOE would be able to recoup the amount of adjudicated overcharges. In considering the motions the OHA found that there was no basis to ERA's contention that the assets of Marathon would be insufficient to satisfy the refund requirement of any Remedial Order which may be issued to the firm, and concluded that joinder of USS as a party to the proceedings was not essential to a just resolution of the underlying controversy. Accordingly, the motions to join were denied.

Along with its motions to join, ERA filed motions for discovery in which it sought to depose certain Marathon officers regarding changes in the firm's record retention policies and financial position which may have occurred subsequent to USS's acquisition of the firm. In considering the motions, the OHA determined that the successors to Marathon Oil Company's assets and interests, Marathon Petroleum Company and a USS subsidiary renamed Marathon Oil Company, together comprised the real party in interest and therefore should be substituted as parties in place of the old Marathon Oil Company. Since all of the assets and interests of the Old Marathon Oil Company, as that firm was constituted prior to its takeover by USS, continued to subject to the OHA's jurisdiction, the OHA concluded that discovery designed to obtain information regarding the record retention policies and financial position of Marathon's successor companies was unnecessary. Accordingly, the motions for discovery were denied.

Exxon Company, U.S.A.; Economic Regulatory Administration, 12/1/83, HRZ–0156, HRZ–0178

Exxon Company, U.S.A. filed a motion to compel discovery in connection with an enforcement proceeding before the Office of Hearings and Appeals (OHA). Exxon sougth to compel the Economic Regulatory Administration (ERA) to disclose documents which it had withheld from discovery on grounds of privilege. Several of the withheld ERA documents had been released conditionally to Exxon pursuant to a Consent Order in *Mobile Oil Corp. v. DOE*, No. 79–CV–11 (N.D.N.Y. May 21, 1980). When Exxon cited the contents of these documents in a supplemental Statement of Objections, the ERA moved to strike this allegedly privileged material from the record of the proceeding.

As an initial matter, the DOE determined that the terms of the *Mobil* Consent Order permitted Exxon to discuss the contents of the *Mobil* documents for the purpose of arguing that they were not privileged, but that their use in the substantive record of the proceeding would be prohibited if the ERA privilege claims were upheld. We also determined that it was proper for the ERA to submit all of the withheld documents to the OHA for *in camera* inspection. The DOE then addressed the ERA's invocation of privilege for intra-agency communications, the attorney-client privilege, and the work product privilege. *In camera* review of the *Mobil* documents by OHA led to the conclusion that the ERA's privilege assertions should be rejected with respect to the major portions of one document and upheld with respect to the other documents. Accordingly, the EPA's motion to strike material from Exxon's supplemental Statement of Objections was granted in part.

With respect to the other documents listed in the ERA's Privilege Index, the DOE determined that it was not essential that the privilege for intra-agency communications be asserted by the Secretary of Energy. The DOE then determined that the descriptions provided by the ERA were adequate to justify its assertions of privilege. Accordingly, the Exxon motion to compel discovery was

granted with respect to portions of one *Mobil* document and denied in all other respects.

Supplemental Order

Atlantic Richfield Company, 11/28/83, *HEX-0094*

Ashland Oil, Inc. filed an Application for Exception with the Office of Hearings and Appeals (OHA) in which it contended that any entitlements purchase obligations imposed upon the firm by the January 1981 and the Clean-up Entitlements Notices would impose a gross inequity on the firm. In connection with the exception proceeding, OHA issued an order allowing Ashland to pose 21 interrogatories to six firms that participated in the Entitlements Program, including Atlantic Richfield Company (Arco). Arco refused to respond to these interrogatories. In order to facilitate consideration of Ashland's Application for Exception, OHA issued a Special Report Order which compels Arco to answer questions regarding crude oil receipt and exchange partices, possible sheltering of crude oil from the Entitlements Program, and the tertiary incentive program.

Refund Applications

Ozona II/International Drilling & Energy Corporation, 11/29/83 *RF28-3*

The International Drilling and Energy Corporation (IDEC) filed an Application for Refund pursuant to a Decision and Order issued on January 24, 1983 in *Office of Enforcement*, 10 DOE ¶ 85,056 (1983). In its Application, IDEC sough a portion of a fund obtained by the DOE through a consent order entered into by the DOE and the Ozona Gas Processing Plant located in Crockett County, Texas on November 26, 1979. In considering its request, the DOE determined that IDEC's claim based on its purchases of less than 175,000 gallons of Ozona product purchased per month during the consent order period should be granted. However, the DOE denied IDEC's request for a refund based on its claim that its supplier, Suburban Propane Gas Company, violated the obligations of its supplier/purchaser relationship with IDEC's predecessor-in-interest. The DOE found that the consent order fund was established to accomplished restitution only in those cases where parties may have been injured by Ozona's alleged violations of DOE regulations.

Standard Oil Company (Indiana)/Transit Oil Company, 11/29/83, *RF21-8111, RF21-12235*

The DOE issued a Decision and Order concerning two Applications for Refund filed by Transit Oil Company, a firm which operates as both a wholesaler and retailer of Amoco motor gasoline. Transit elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that Transit should receive a refund based upon the volume of its eligible Amoco motor gasoline purchases. The refunds granted in thus proceeding total $11,142.

Vickers Energy Corporation/Marcum Distributing Company and Marcum Oil Company, 11/30/83, RF1-364 *RF1-365*

The DOE issued a Decision and Order concerning Applications for Refund filed by Marcum Oil Company and Marcum Distributing Company, which sought a portion of the Vickers Energy Corporation consent order fund. Because the two reseller/retailers sought refunds on the basis of purchases of Vickers motor gasoline which exceeded the small claim threshold figure of 50,000 gallons per month, the firms were required to demonstrate that they had not been injured as a result of Vickers' pricing practices. Marcum Oil Company provided no information which clearly established that the firm did not pass through any alleged Vickers overcharges. The DOE therefore determined that Marcum Oil had failed to make the necessary showing of injury, and the firm's application was granted at the threshold level. Marcum Distributing submitted detailed volume and purchase price information. After analyzing this information, the DOE concluded that Marcum Distributing had been injured as a result of Vickers pricing practices. Marcum Distributing was granted a refund based on the volume of Vickers motor gasoline purchases for which it had demonstrated injury.

Protective Order

The following firm filed an Application for Protective Order. The application, if granted, would result in the issuance by the DOE of the proposed Protective Order submitted by the firm. The DOE granted the following application and issued the requested Protective Order as an Order of the Department of Energy:

Name and *Case No.*

ERA/Dane Energy Co., HRJ-0042

Dismissals

The following submissions were dismissed.

Name and Case No.

Dejarnette Oil Co., RF21-10009
General Petroleum Products, Inc., BRO-1319
Kienzle Oil Co., RF21-10016
Kotas Oil Co., RF21-10011
Lanham Oil Co., Inc., RF21-10012
L. C. Myers Oil Co., RF21-10014
Magic Valley, Inc., HEE-0079
Tuco, Inc. and Cabot Fuel Corp., HRO-0151, HRD-0151, HRH-0151, HRS-0151
United Energy Concepts, Inc., HFA-0194

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: January 10, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 84-1548 Filed 1-19-84; 8:45 am]

BILLING CODE 6450-01-M

Decisions and Orders; Week of December 5 Through December 9, 1983

During the week of December 5 through December 9, 1983, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

James E. Davies, 12/6/83, HFA-0197

James E. Davies filed an Appeal from a partial denial by the Albuquerque Operations Office of a Request for Information which he had submitted under the Privacy Act and Freedom of Information Act (the FOIA). The DOE concluded that Davies' Appeal should be considered under the provisions of both the Privacy Act and the FOIA. The DOE found that information pertaining to a reinvestigation of Davies was investigatory material compiled for law enforcement purposes and was therefore properly withheld pursuant to 5 U.S.C. 552a(K)(2) (Exemption (K)(2)) of the Privacy Act. The DOE determined, however, that the matter should be remanded for a specific determination that all of the information is exempt from disclosure pursuant to Exemption (K)(2). With respect to the FOIA, the DOE found that the initial determination failed to explain adequately the basis for withholding the information pursuant to Exemption 7, 5 U.S.C. 552(b)(7). The DOE determined that this matter should also be remanded for a new determination. Accordingly, the Appeal was granted in part.

Remedial Orders

Economic Regulatory Administration/United Petroleum Distributors, Inc., 12/8/83, HRW-0006

The Economic Regulatory Administration filed a motion to issue a Proposed Remedial Order issued to United Petroleum Distributors, Inc., as a final order of the DOE. United had filed neither a Notice of Objection nor a Statement of Objections with the Office of Hearings and Appeals. The DOE determined that the remedial provisions of the PRO should be modified to require ERA either to identify injured parties itself and issue directives awarding them refunds within 60 days of receiving overcharge monies from United, or to initiate a Subpart V special refund proceeding. The PRO as modified was issued as a final Remedial Order.

Kunz Oil Company, 12/8/83, HRO-0165, HRD-0171, HRH-0171

The Economic Regulatory Administration (ERA) filed a Motion for Leave to Withdraw the Proposed Remedial Order (PRO) which it issued to Kunz Oil Company (Kunz) on May 20, 1983. As grounds for the motion, the ERA stated that the legal theory set forth in the PRO is not supported by the facts as stated therein. Kunz did not object, and the DOE determined that good cause existed for granting the ERA's motion. Accordingly, the motion was granted and the PRO was dismissed without prejudice.

Motion for Discovery

West Coast Oil Company, Economic Regulatory Administration, 12/9/83, HRD–0090, HRZ–0160, HRZ–0161

West Coast Oil Company filed a Motion for Discovery and a Motion to Strike in connection with a Statement of Objections to a Proposed Remedial Order issued to the firm by the Economic Regulatory Administration (ERA). In the PRO, the ERA alleged that West Coast has violated the DOE regulatory program by incorrectly calculating increased product costs and thus charging prices for petroleum products which exceeded those permitted by the regulations. Much of the alleged overcharge amount was due to West Coast's treatment of the proceeds received from the sale of its fee-free import licenses. In its Motion for Discovery, West Cost sought extensive contemporaneous construction discovery related to the issue of the treatment of fee-free license proceeds. The DOE determined that the request for discovery should be denied because it would not yield information which would be useful in the context of the enforcement proceeding. The Motion to Strike sought to delete certain ERA comments from the record. The DOE denied this Motion as well because it found that the comments helped in the resolution of disputed issues and West Coast was not prejudiced by their retention. The DOE also dismissed without prejudice a Motion for Admissions filed by the ERA because the Motion served no helpful purpose at this point in the proceeding.

Refund Application

STANDARD OIL COMPANY (INDIANA)/ HOP'N SAVE FOODS, et al., 12/9/83, *RF21–12193*

On August 16, 1983, the OHA granted 18 Applications for Refund submitted by Quality Petroleum Corp. on behalf of 18 Hop'N Save Foods stores it supplied with motor gasoline. *See Standard Oil Co. (Indiana)/Alston Avenue Amoco,* 11 DOE ¶ 85,109 (1983). Quality later submitted an application requesting a supplemental refund for retail gasoline sales which it made through directly-operated retail stations. In that application, Quality listed 15 Hop'N Save Foods stores as directly-operated retail stations. The OHA, on November 14, 1983, granted these stations a refund based on the 6 percent difference between the retailer's 40 percent share and the wholesaler's 34 percent share of the volumetric refund amount. *See Standard Oil Company (Indiana)/Leonard Oil Co.,* 11 DOE ¶ 85,181 (1983). However, in a letter dated September 15, 1983, the applicant had revealed the fact that the Hop'N Save Foods stores were all retail outlets operated by Quality. The refunds granted on August 16, 1983, to the Hop'N Save Foods stores as independent retailers were therefore rescinded, and the firm was directed to return the $11,751 erroneously received to the Amoco escrow account at the Department of the Treasury.

Protective Orders

The following firms filed Applications for Protective Orders. The applications, if granted, would result in the issuance by the DOE of the proposed Protective Order submitted by the firm. The DOE granted the following applications and issued the requested Protective Order as an Order of the Department of Energy:

Name and Case No.

ERA/RFB Petroleum, Inc—HRJ–0043
ERA/T&M Petroleum, Corp. *et al.*—HRJ–0044
ERA/T&M Petroleum, Corp. *et al.*—HRJ–0045

Dismissals

Name and Case No.

Apex Oil Company—HRO–0190
C.S. Industries, Inc.—HEE–0069
Ernest E. Allerkamp—HRD–0179, HRH–0179
John Dinino—RF21–6486, RF21–6487
Landsea Holding Co.—HRO–0188

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearing and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines,* a commercially published loose leaf reporter system.

Dated: January 6, 1984.

George B. Breznay,

Director, Office of Hearing and Appeals.

[FR Doc. 84–1547 Filed 1–19–84; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–2509–8]

Availability of Environmental Impact Statements Filed January 9 Through January 13, 1984

Responsible Agency

Office of Federal Activities, General Information (202) 382–5073 or (202) 382–5075.

EIS No. 840005, Draft, FHW, OR, Corvallis-Lebanon Highway/OR–34 Improvements, Lake Creek to Pacific Highway/I–5, Linn Co., Due: Mar. 5, 1984.

EIS No. 840006, Draft, COE, CA, John F. Baldwin Ship Channel (Phase II) Central San Francisco Bay Segment Improvements, Contra Costa and San Francisco Cos., Due: Mar. 20, 1984.

EIS No. 840007, Draft, AFS, PRO, 1985–2030 Resource Planning Act Program, Amendment to the 1974 Forest and Rangeland Renewable Resource Planning Act, Due: Apr. 9, 1984.

EIS No. 840008, Final, FHW, PA, US 220/ Appalachian Thruway/LR–1061 Construction, Belford County Line to Village of East Freedom, Blair County, Due: Feb. 20, 1984.

EIS No. 840009, Draft, COE, CO, Getty and Cities Service Shale Oil Projects, Construction and Operation, Permit, Garfield Co., Due: Mar. 20, 1984.

EIS No. 840010, Draft, COE, WA, Lummi Bay Marina Channel Navigation and Breakwater Protection Improvements, Lummi Indian Reservation, Whatcom County, Due: Mar. 9, 1984.

EIS No. 840011 Draft, CGD, REG, 46 USC 3705(c) and 3706(d) Regulations Implementation, Amendment to the Port and Tanker Safety Act of 1978, Due: May 14, 1984.

Amended Notices

EIS No. 830568, Draft, OSM, WY, Red Rim Coal Development, Leasing, Fremont, Sweetwater and Carbon Cos., Due: Review opened until further notice. Published FR Oct. 28, 1983—Review extended.

EIS No. 830674, Draft, FHW, PA, PA–291/LR–542 Improvement, Fourth and Price Streets to Ridley Creek, Chester City, Delaware County, Due: Feb. 29, 1984. Published FR Dec. 30, 1984—Review extended.

EIS No. 840001, DSuppl, NRC, PA, Three Mile Island, Nuclear Station, Unit 2, Revised Estimates of Occupational Radiation Doses, Dauphin County, Due: Feb. 29, 1984. Published FR Jan. 13, 1984—Review extended.

Dated: January 17, 1984.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 84–1670 Filed 1–19–1984; 8:45 am]

BILLING CODE 6560–50–M

[OW–FRL–2509–6]

Management Advisory Group to the EPA Construction Grants Program; Open Meeting

Under Pub. L. 92–463, notice is hereby given that a two day meeting of the Management Advisory Group to the EPA Construction Grants Program

(MAG) will be held on February 6–7, 1984, at the Sheraton Inn, 6800 34th Street South, St. Petersburg, Florida. The meeting will begin at 9:00 a.m. on both days and will adjourn at 5:00 p.m. on February 6 and 3:00 p.m. on February 7.

The principal agenda item will be to discuss and prepare a report on future funding of wastewater treatment facilities in the United States. The agenda will also include briefings and discussions on other topics of current or future interest to MAG. Any member of the public wishing to make comments is invited to submit them in writing to the Executive Secretary at the meeting.

The meeting will be open to the public. Any member of the public wishing additional information should contact Ms. Georgette Brown at (202) 382–5859.

Dated: January 12, 1984.

Jack E. Ravan,

Assistant Administrator for Water.

[FR Doc. 84–1658 Filed 1–19–84; 8:45 am]

BILLING CODE 6560-50-M

[OPTS–59141; TSH–FRL 2485–5]

Certain Chemicals; Premanufacture Exemption Applications

Correction

In FR Doc. 83–32929 appearing on page 55915 in the issue of Friday, December 16, 1983, third column, under **TME 84–16**, after the seventh line, remove the following:

"Kenneth F. Plumb,

Secretary."

BILLING CODE 1505-01-M

[OPTS 42027; TSH-FRL 2443-1]

Ethylene Oxide; Response to the Interagency Testing Committee

Correction

In FR Doc. 83–34799 beginning on page 200 in the issue of Tuesday, January 3, 1984, in the heading, the Docket line should have appeared as set forth above.

BILLING CODE 1505-01-M

[OPTS–51502 TSH–FRI 2509–1]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substance Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of eleven PMNs and provides a summary of each.

DATE: Close of Review Period:

PMN 84–316—April 4, 1984.

PMN 84–317—April 7, 1984.

PMN 84–318, 83–319 and 84–320—April 8, 1984.

PMN 84–321 and 84–322—April 9, 1984.

PMN 84–323, 84–324, 84–325 and 84–326—April 10, 1984.

Written comments by:

PMN 84–316—March 5, 1984

PMN 84–317—March 8, 1984.

PMN 84–318, 84–319 and 84–320—March 9, 1984.

PMN 84–321 and 84–322—March 10, 1984.

PMN 84–323, 84–324, 84–325 and 84–326—March 11, 1984.

ADDRESS: Written comments, identified by the document control number "[OPTS–51502]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, DC 20460, (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Margaret Stasikowski, Acting Chief, Premanufacturing Notice Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M St., SW., Washington, DC 20460, (202–382–3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E–107 at the above address.

PMN 84–316

Manufacturer. Confidential.

Chemical. (G) Polyester polyol.

Use/Production. (G) Destructive use—polymer manufacture. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Release to land. Disposal by incineration and landfill.

PMN 84–317

Importer. Roure Bertrand Dupont.

Chemical. (S) 5-Oxa-2-methyl-7-phenyl-2-heptene.

Use/Import. (S) Fragrance ingredient for industrial, commercial and consumer use. Prod. range: 250–1,000 kg/yr.

Toxicity Data. Acute oral: (Mouse)—4,000–8,000 mg/kg $^{-1}$; Acute intraperitoneal: (Mouse)—1,000–2,000 mg/kg $^{-1}$; Irritation: Skin—Highest non-irritant, Eye—Short lasting conjunctival irritation; Open Epicutaneous Test—No sensitization; Intradermal test with Freund's complete adjuvant—No sensitization; Phototoxicity and photosensitization—None.

Exposure. Import and use: dermal, a total of 2 workers, up to 4 hrs/da, up to 100 da/yr.

Environmental Release/Disposal. Traces released to air and water. Disposal by publicity owned treatment works (POTW).

PMN 84–318

Importer. Aceto Chemical Company, Inc.

Chemical. (S) [4-(4-methylphenylthio)phenyl]phenylmethanol

Use/Import. (S) Industrial photoinitiator for the photocuring of U.V. curing compositions. Import range: Confidential.

Toxicity Data. Acute oral: > 1 g/kg; Acute dermal: > 500 mg/kg; Ames Test: Non-carcinogenic.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 84–319

Manufacturer. QO Chemicals Incorporated. (Subsidiary of the Quaker Oats Company).

Chemical. (S) Crude oat oil.

Use/Production. (G) Open, non-dispersive use. Prod. range: 40–200 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 8 workers, up to 2 hrs/da, up to 25 da/yr.

Environmental Release/Disposal. 0.08 kg/batch released to water. Disposal by POTW.

PMN 84–320

Manufacturer. Confidential.

Chemical. (G) Saturated polyester.

Use/Production. (S) Polymer for industrial metal coatings. Prod. range: 7,500–22,700 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 4 workers, up to 3 hrs/da, up to 4 da/yr.

Environmental Release/Disposal. 20 kg/batch released to air. Disposal by POTW, incineration and landfill.

PMN 84–321

Importer. King Industries, Inc.
Chemical. (G) Polyether ester acid, compound with amine.
Use/Import. (G) Coating additive. Import range: Confidential.
Toxicity Data. Acute oral: > 5.0 ml/kg; Acute dermal: > 2.0 ml/kg; Irritation: Skin—Severe, Eye—Severe; Inhalation: > 29.6 mg/1/hr; DOT Skin Corrosion—Corrosive.
Exposure. Import: dermal, a total of 1 worker, up to 1 hr/da, up to 30 da/yr.
Environmental Release/Disposal. No release.

PMN 84–322

Manufacturer. Confidential.
Chemical. (G) Organosiloxan copolymer.
Use/Production. (G) Elastomer additive. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture, processing and use: dermal, minimal.
Environmental Release/Disposal. No release.

PMN 84–323

Importer. Confidential.
Chemical. (G) Urea-aldehyde resin.
Use/Import. (S) Component of industrial paints. Import range: Confidential.
Toxicity Data. Acute oral: > 5,000 mg/kg; Acute dermal: > 2,000 mg/kg; Irritation: Skin—Slight, Eye—Non-irritant.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

PMN 84–324

Manufacturer. Confidential.
Chemical. (G) Isoindolyl derivative of aromatic heterocycle.
Use/Production. (G) Isoindolyl modifier. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84–325

Manufacturer. Confidential.
Chemical. (G) Vinylpolymer, aldehyde crosslinked.
Use/Production. (G) Chemical for oil field use. Prod. range: Confidential.
Toxicity Data. Acute oral: > 5.0 g/kg; Irritation: Skin—Nonirritant, Eye—Moderate.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84–326

Importer. Confidential.
Chemical. (G) Bis(polyalkylaminetriphenyl)-bis(aminoalkyl)benzene.
Use/Import. (S) Industrial colorant for paper products. Import range: Confidential.
Toxicity Data. Acute oral: > 4,000 mg/kg.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Dated: January 16, 1984.

Linda A. Travers,

Acting Director, Information Management Division.

[FR Doc. 84–1448 Filed 1–19–84; 8:45 am]
BILLING CODE 6560–50–M

FARM CREDIT ADMINISTRATION

Performance Review Board; Designation of Members

In accordance with the provisions in Title 5, U.S.C. 4314(c)(4), the Farm Credit Administration hereby publishes the names of the executives who are designated as members of the Agency's Performance Review Board. The members of the Board are as follows:

1. Carl T. Fredrickson
2. Kenneth J. Auberger
3. Frederick R. Medero
4. Larry W. Edwards
5. William J. Hoffman
6. John C. Moore, Jr.
7. Larry H. Bacon
8. George D. Irwin
9. Kim C. Bowersox
10. Paul C. Redmer
11. Eldon W. Stoehr

Donald E. Wilkinson,

Governor.

[FR Doc. 84–1624 Filed 1–19–84; 8:45 am]
BILLING CODE 6705–01–M

FEDERAL COMMUNICATIONS COMMISSION

Cellular Radio Interconnection Working Groups; Information Regarding Groups I.A. (Numbering Plan Requirements) and I.B. (Technical Access and Interface)

January 13, 1984.

Group I.A.: At the close of the meeting on November 16, 1983, the group members agreed that an industry steering committee ought to be formed to explore in further detail the dedicated NPA (service code) proposal for cellular carriers, particularly its costs, and to report to the larger group later in 1984. As requested, Telocator has suggested a proposed steering committee of 15 members. The group would consist of 4 representatives of nonwireline cellular carriers, 4 of wireline cellular carriers (2 from Regional Bell Operating Company affiliates, 1 from GTE Mobilnet, and 1 from another independent telephone company), 2 manufacturers, 3 government representatives (1 from FCC, 1 from NARUC and 1 from NTIA), and 2 representatives from the BOC's Central Service Organization. There would also be at least one Canadian observer. Members of the working group may comment on the proposal and submit nominations for membership by writing to the group chairman (William F. Adler, Deputy Chief/Policy, Common Carrier Bureau) within two weeks of the date of this Public Notice. There will be another Public Notice with further information issued after consideration of any written comments.

The minutes of the meetings of September 28 and November 16, 1983, are available in the office of the Commission's Mobile Services Division, Room 644.

Group I.B.: AT&T Communications now has available a document entitled "Cellular Mobile Carrier Interconnection Interface Specifications." Copies may be obtained by contacting Mr. Keith Lietzki, Manager-Market Development, 295 North Maple, Room 17–2350–1, Basking Ridge, N.J. 07920.

For more information, contact Claudia Borthwick, 202–632–6400.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84–1715 Filed 1–19–84; 8:45 am]
BILLING CODE 6712–01–M

[CC Docket No. 79–184]

Parties Interested in Facilities Planning in the North Atlantic Region; Public Meeting

January 13, 1984.

Members of the Common Carrier Bureau Staff will convene a public meeting of all interested persons to discuss the updated North Atlantic facilities planning information and draft United States submissions to the January 31–February 2, 1984 North Atlantic Consultative Working Group meeting submitted to date. The public meeting will be held in Room 856, 1919 M Street, NW., Washington, D.C. on Friday, January 20, 1984 at 10:00 a.m.

For additional information, contact Robert Gosse, (202) 632–4047.

William J. Tricarico,

Secretary, Federal Communication Commission.

[FR Doc. 84–1714 Filed 1–19–84; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–REP–9CA–1—4]

State of California Nuclear Power Plant Emergency Response Plan

AGENCY: Federal Emergency Management Agency.

ACTION: Notice of receipt of plan.

SUMMARY: For continued operation of nuclear power plants, the Nuclear Regulatory Commission requires approval of licensee and State and local governments' radiological emergency response plans. Since FEMA has a responsibility for reviewing State and local government plans, the State of California has submitted its radiological emergency plan to the FEMA Regional Office. These plans support nuclear power plants which impact on California and include those local governments near the Pacific Gas and Electric Company's Diablo Canyon Nuclear Power Plant located in San Luis Obispo County, California; the Sacramento Municipal Utility District's Rancho Seco Nuclear Power Plant located in Sacramento County, California; and Southern California Edison and San Diego Gas and Electric Companys' San Onofre Nuclear Power Plants located in San Diego County, California.

Date Plans Received: November 8, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Robert L. Vickers, Regional Director FEMA Region IX, Building 105, Presidio of San Francisco, California 94129, (415) 556–9881.

SUPPLEMENTARY INFORMATION: In support of the Federal requirment for emergency response plans, FEMA Rule 44 CFR 350.12 (FEMA Headquarters Review and Approval) describes its procedures for review and approval of State and local governments' radiological emergency response plans. Pursuant to this Rule, the State of California Nuclear Power Plant Emergency Response Plan was received by the Federal Emergency Management Agency Region IX.

Included are plans for local governments which are wholly or partially within the plume exposure pathway emergency planning zones of the nuclear power plants. For the Diablo Canyon Nuclear Power Plant, plans are included for San Luis Obispo and Santa Barbara Counties. For the San Onfre Nuclear Power Plant, plans are included for San Diego and Orange Counties. For the Rancho Seco Nuclear Power Plant, plans are included for Sacramento, San Joaquin and Amador Counties. Local response plans are not included for Humboldt Bay Nuclear Power Plant as it has been closed since 1976 due to seismic safety conditions.

Copies of the Plan are available for review at the FEMA Region IX Office, or it will be made available upon request in accordance with the fee schedule for FEMA Freedom of Information Act requests, as set out in subpart 44 CFR Part 5. There are 6,000 pages in the document; reproduction fees are $.10 a page payable with the request for copy.

Comments on the Plan may be submitted in writing to Mr. Robert L. Vickers, Regional Director, at the above address within thirty days of this **Federal Register** notice.

FEMA Rule 44 CFR 350.10 calls for a public meeting prior to approval of the plans. Details of each meeting were announced at least two weeks prior to the scheduled meeting and local radio and television stations were requested to announce each meeting. These required public meetings were held as follows: the Diablo Canyon Nuclear Power Plant Public Meeting was announced in the San Luis Obispo Telegram-Tribune, San Luis Obispo, California. The public meeting was held on December 17, 1981 at the Cuesta College Auditorium, San Luis Obispo, California. The San Onofre Nuclear Power Plant Public Meeting was announced in the Daily Sun Post, San Clemente, California. The public meeting was held on May 18, 1981 at the San Clemente City Hall, San Clemente, California. Notification will be made prior to the public meeting for the Rancho Seco Nuclear Power Plant which will be conducted in 1984.

Robert L. Vickers,

Regional Director.

[FR Doc. 84–1828 Filed 1–18–84; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL RESERVE SYSTEM

Barnett Banks of Florida Inc., et al.; Proposed de novo Nonbank Activities by Bank Holding Companies

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Barnett Banks of Florida, Inc.*, Jacksonville, Florida (discount securities brokerage; Florida): To engage, through its subsidiary, Barnett Brokerage Service, Inc., in securities brokerage services, related securities credit activities pursuant to the Board's Regulation T, and incidental activities such as offering custodial services, individual retirement accounts and cash management services. These activities would be conducted from offices in the State of Florida, serving the entire State of Florida. Comments on this application must be received not later than February 15, 1984.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South La Salle Street, Chicago, Illinois 60690:

1. *American Fletcher Corporation*, Indianapolis, Indiana (consumer finance and related insurance activities; Louisville, Kentucky): To engage through its subsidiary, American Fletcher

Financial Services, Inc., in making or acquiring loans or other extensions of credit for personal, family or household purposes, including loans secured by home equities, purchasing consumer installment sales finance contracts and acting as agent with respect to credit life and disability insurance on borrowing customers in connection with loans and contracts made or purchased at this proposed office of such subsidiary. The proposed insurance activities shall be restricted to such purposes and amounts as are authorized by the Garn-St Germain Depository Institutions Act of 1982 and those conditions contained in an order of the Board with respect to such subsidiary issued prior to May 1, 1982; viz. July 20, 1972. The foregoing activities will be conducted from an office in Louisville, Kentucky, serving Jefferson County, Kentucky. Comments on this application must be received not later than February 7, 1984.

C. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Norwest Corporation*, Minneapolis, Minnesota (financing, insurance and travelers checks activities; Florida): To engage through its subsidiaries, Norwest Financial Florida, Inc., Norwest Financial Credit Service, Inc. and Norwest Financial America, Inc. in the activities of consumer finance, sales finance and commercial finance, the sale of credit life, credit accident and health and property and credit-related casualty insurance related to extensions of credit by those companies (such sale of credit-related insurance being a permissible activity under Subparagraph D of Title VI of the Garn-St Germain Depository Institutions Act of 1982) and the offering for sale and selling of travelers checks. These activities will be conducted from an office in Tamarac, Florida. This notification is for the relocation of an existing office in Fort Lauderdale, Florida and to engage *de novo* in the activities of commercial finance from said office, as relocated. Upon relocation, said office will serve Tamarac, Florida, other nearby suburbs of Fort Lauderdale, Florida, and Fort Lauderdale, Florida. Comments on this application must be received not later than February 9, 1984.

Board of Governors of the Federal Reserve System, January 16, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-1646 Filed 1-19-84; 8:45 am]

BILLING CODE 6210-01-M

BOE Bancshares, Inc., et al.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *BOE Bancshares, Inc.*, Edison, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of The Bank of Edison, Edison, Georgia. Comments on this application must be received not later than February 15, 1984.

2. *Louisiana Independent Bankshares, Inc.*, Baton Rouge, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of Louisiana Independent Bank, N.A., Baton Rouge, Louisiana. Comments on this application must be received not later than February 15, 1984.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Dighton National Bancshares, Inc.*, Dighton, Kansas; to become a bank holding company by acquiring at least 80 percent of the voting shares of First National Bank of Dighton, Dighton, Kansas. Comments on this application must be received not later than February 15, 1984.

2. *Wheeler County Bancshares, Inc.*, Ericson, Nebraska; to become a bank holding company by acquiring 83 percent of the voting shares of Ericson State Bank, Ericson, Nebraska. Comments on this application must be received not later than February 15, 1984.

Board of Governors of the Federal Reserve System, January 17, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-1644 Filed 1-19-84; 8:45 am]

BILLING CODE 6210-01-M

Citizens-Texas Banc Shares, Inc.; Engaging de Novo in Permissible Nonbanking Activities

The bank holding company listed in this notice has filed a notice under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under Section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to the notice, interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding this application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 9, 1984.

A. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Citizens-Texas Banc Shares, Inc.*, Buffalo, Texas, to engage through its subsidiary, Citizens Diversified

Mortgages, Inc., Buffalo, Texas, in mortgage company activities, including the origination and acquisition of single family, multi-family, and commercial loans, the sale of loans on secondary markets and the servicing of real estate loans, pursuant to § 225.4(a) (1) and (3) of Regulation Y (12 CFR 225.4(a) (1) and (3) (1983)).

Board of Governors of the Federal Reserve System, January 17, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-1647 Filed 1-19-84; 8:45 am]

BILLING CODE 6210-01-M

CNB Financial Corporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated for that application. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to each application, interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than February 15, 1984.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *CNB Financial Corporation,* Clearfield, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of County National Bank, Clearfield, Pennsylvania.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *The Baraboo Bancorporation, Inc.,* Baraboo, Wisconsin, to acquire 80 percent of the voting shares or assets of Green Lake State Bank, Green Lake, Wisconsin.

2. *West Bancorporation,* West Des Moines, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of West Des Moines State Bank, West Des Moines, Iowa.

C. **Federal Reserve Bank of Dallas** (Anthony J. Monterlaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Haltom City Bancshares, Inc.,* Dallas, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of Haltom City State Bank, Fort Worth, Texas.

Board of Governors of the Federal Reserve System, January 7, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-1645 Filed 1-19-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on January 13.

Public Health Service

Food and Drug Administration

Subject: Notice of Claimed Investigational Exemption for a New Drug (0910-0014)—Extension/No Change
Respondents: Drug manufacturers
OMB Desk Officer: Bruce Artim

Office of the Assistant Secretary for Health

Subject: 1983/1984 Agency Reporting System (0937-0110)—Extension/No Change
Respondents: Inpatient health facilities
Subject: Emergency Preparedness Storage Location: Pre-positioned Medical Supplies and Equipment
Respondents: State and local governments and local emergency planners
OMB Desk Officer: Fay S. Iudicello

Health Resources and Services Administration

Subject: Repayment Schedule and Truth-in-Lending Disclosures for Health Education Assistance Loan Program (Variable and Fixed Rates) (0915-0043)—Extension/No Change
Respondents: Lending institutions and Health Education Assistance Loan borrowers
Subject: Project Proposal for Provision for Sanitation Facilities (P.L. 86-121) (0915-0018)—Extension/No Change
Respondents: Individuals and representatives of Indian tribes and groups
OMB Desk Officer: Fay S. Iudicello

Social Security Administration

Subject: April 1984 Current Population Survey: Child Support and Alimony Supplement (0960-0272)—New
Respondents: Individuals
Subject: Report to Social Security Administration by Person Outside the United States (0960-0076)—Revision
Respondents: Social Security beneficiaries
Subject: Corrective Action Plans and Progress Reports (0960-0279)—Extension/No Change
Respondents: State agencies administering Aid for Dependant Children program
OMB Desk Officer: Milo Sunderhauf

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202-245-6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, Attn: (name of OMB Desk Officer).

Dated: January 16, 1984.

Robert F. Sermier,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 84-1641 Filed 1-19-84; 8:45 am]

BILLING CODE 4150-04-M

Food and Drug Administration

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also

sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Ear, Nose, and Throat Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel

Date, time, and place. February 17, 9 a.m. to 4:30 p.m., Rm. 703–727A, 200 Independence Ave. SW., Washington, DC.

Type of meeting and contact person. Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 12 p.m., closed committee deliberations, 1 p.m. to 2 p.m.; open committee discussion, 2 p.m. to 4:30 p.m.; Lillian Yin, National Center for Devices and Radiological Health (HFK–470), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the executive secretary before February 10, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss a premarket approval application for a cochlear implant system.

Closed committee deliberations. The committee will discuss trade secret or confidential commercial information pertaining to the cochlear implant system. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Neurological Device Section of the Respiratory and Nervous System Devices Panel

Date, time, and place. February 24, 9 a.m., Rm. 1207, 8757 Georgia Ave., Silver Spring, MD.

Type of meeting and contact person. Closed presentation of data, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 12 p.m., open public hearing, 1 p.m. to 2 p.m.; open committee discussion, 2 p.m. to 4 p.m.; Robert F. Munzner, National Center for Devices and Radiological Health (HFK–430), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7226.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the panel section leader before February 17, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss premarket approval applications for implanted spinal cord stimulators and implanted intracranial pressure monitoring devices.

Closed presentation of data. The committee will hear presentations that require disclosure of trade secret or confidential commercial information contained in premarket approval applications for implanted spinal cord stimulators and implanted intracranial pressure monitors. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contract person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be required from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94–409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statues.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Example of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Dated: January 13, 1984.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 84-1554 Filed 1-19-84; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

Subcommittee on Primate Research Centers of the Animal Resources Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Subcommittee On Primate Research Centers, Animal Resources Review Committee, Division of Research Resources, on February 6, 1984, in Conference Room 1004, Sheraton University Center, 2800 Middleton Avenue at Morreene Road and 15-501, Durham, North Carolina 27705, from 8:00 p.m. to adjournment.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, Room 5B10, Building 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-5545, will provide summaries of the meeting and rosters of the Committee members. Dr. Carl E. Miller, Executive Secretary of the Animal Resources Review Committee, Room 5B55, Building 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-5175, will furnish substantive progam information.

(Catalog of Federal Domestic Assistance Programs No. 13.306, Primate Research, National Institutes of Health)

Dated: January 11, 1984.

Betty J. Beveridge,

National Institutes of Health Committee Management Officer.

[FR Doc. 84-1651 Filed 1-19-84; 8:45 am]

BILLING CODE 4140-01-M

Arteriosclerosis, Hypertension and Lipid Metabolism Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Arteriosclerosis, Hypertension and Lipid Metabolism Advisory Committee, National Heart, Lung, and Blood Institute, March 19-20, 1984, Conference Room 8, 6th Floor, C-Wing, Building 31, National Institutes of Health, Bethesda, Maryland 20205. The entire meeting will be open to the public from 8:30 a.m. to approximately 5:00 p.m. on Monday, March 19, and Tuesday, March 20, to evaluate program support in Arteriosclerosis, Hypertension and Lipid Metabolism. Attendance by the public will be limited on a space available basis.

Ms. Terry Bellicha, Chief, Public Inquiry and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-4236, will provide summaries of the meeting and rosters of the committee members.

Dr. G. C. McMillan, Associate Director, Arteriosclerosis, Hypertension and Lipid Metabolism Program, NHLBI, Room 4C-12, Federal Building, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-1613, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

Dated: January 9, 1984.

Betty J. Beveridge,

Naural Institutes of Health, Committee Management Officer.

[FR Doc. 84-1649 Filed 1-19-84; 8:45 am]

BILLING CODE 4140-01

Communicative Disorders Review Committee; Meeting

Pursuant the Pub. L. 92-463, notice is hereby given of the meeting of the Communicative Disorders Review Committee, National Institute of Neurological and Communicative Disorders and Stroke, March 8, 9, 1984, in Conference Room 7, Building 31, Bethesda, Maryland 20205.

This meeting will open to the public from 8:30 a.m. until 9:30 a.m. on March 8, to discuss planning and program accomplishments. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(4), and 552(c)(6), Title 5, U.S. Code and Section 10(d), of Pub. L. 92-463, the meeting will be closed to the public on March 8 from 9:30 a.m. to adjournment on March 9, for the review, discussion and evaluation of individual grant applications. The applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Marilyn Semmes, Executive Secretary, NINCDS, NIH, Federal Building, Room 9C14, Bethesda, Maryland, telephone 301-496-9223, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.953, Communicative Disorders Program, National Institutes of Health)

Dated: January 11, 1984.

Betty J. Beveridge,

Committee Management Officer, National Institute of Health.

[FR Doc. 84-1653 Filed 1-19-84; 8:45 am]

BILLING CODE 4140-01-M

Neurological Disorders Program Project Review a Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Neurological Disorders Program Project Review A Committee, National Institutes of Health, February 14, 15, and

16, 1984 at Rodeway Inn, 2520 N. Fiftieth Street, Tampa, Florida 33619.

The meeting will be open to the public from 8:00 p.m until 9:00 p.m. on February 14, 1984 to discuss program planning and program accomplishments. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(4), and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 8:00 a.m. on February 15 to adjournment on February 16, 1984, for the review, discussion and evaluation of individual grant applications. The applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Leon Jack Greenbaum, Jr., Executive Secretary, Federal Building, Room 9C14, Bethesda, MD 20205 (Tel. No. 301/496–9223) will furnish summaries of the meeting, the roster of committee members and substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.853, Clinical Basis Research; No. 13.854, Biological Basis Research)

Dated: January 11, 1984.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 84–1654 Filed 1–19–84: 8:45 am]

BILLING CODE 4140–01–M

Neurological Disorders Program—Project Review B Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Neurological Disorders Program—Project Review B Committee, National Institute of Neurological and Communicative Disorders and Stroke, February 27, 28, and 29, 1984, at the Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, Maryland 20818. The meeting will be open to the public from 8:30 p.m. until 9:00 p.m. on February 27, 1984, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(4), and 522b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on February 27th from 9:00 p.m. to adjournment on February 29th for the review, discussion and evaluation of individual grant applications. The applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Ellen G. Archer, Executive Secretary, Federal Building, Room 9C10B, Bethesda, MD 20205, telephone 301/496–9223, will furnish summaries of the meeting, the roster of committee members and substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.853, Clinical Basis Research; No. 13.854, Biological Basis Research)

Dated: January 11, 1984.

Betty J. Beveridge,

Committee Management Officer, National Institute of Health.

[FR Doc. 84–1655 Filed 1–19–84: 8:45 am]

BILLING CODE 4140–01–M

National Arthritis, Diabetes, and Digestive and Kidney Diseases Advisory Council; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the National Arthritis, Diabetes, and Digestive and Kidney Diseases Advisory Council and its subcommittees on February 8 and 9, 1984 in Conference Room 6, Building 31, National Institutes of Health, Bethesda, Maryland. The meeting will be open to the public on February 8 from 8:30 a.m. to 1:00 p.m. to discuss administration, management, and special reports. Attendance by the public will be limited to space available.

Meeting of the full Council and its subcommittees will be closed to the public as indicated below in accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The following subcommittees will be closed to the public on February 8, 1984, from 1:00 p.m. to adjournment: Arthrities, Musculoskeletal and Skin Diseases; Diabetes, Endocrine, and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney, Urology and Hematology. The full Council meeting will be closed to the public on February 9, from 8:30 a.m. to adjournment.

Further information concerning the Council meeting may be obtained from Dr. Walter Stolz, Acting Executive Secretary, National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases, Westwood Building, Room 637, Bethesda, Maryland 20205, (301) 496–7277.

A summary of the meeting and roster of the members may be obtained from the Committee Management Office, NIADDK, Building 31, Room 9A4 6, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–5765.

(Catalog of Federal Domestic Assistance Program No. 13.846–849, Arthritis, Bone and Skin Diseases; Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

Dated: January 11, 1984.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 84–1652 Filed 1–19–84: 8:45 am]

BILLING CODE 4140–01

Division of Research Grants; Safety and Occupational Health Study Section; Meeting

Pursuant to Pub. L. 92–463, a meeting of the Safety and Occupational Health Study Section, National Institute for Occupational Safety and Health, in conjunction with the Division of Research Grants, will be held on March 28–30, 1984, at the Colonial Manor Motel, 11410 Rockville Pike, Rockville, Maryland 20852.

This meeting will be open to the public on March 28 from approximately 8:30 a.m. to 10:00 a.m., to discuss program policies and issues. Attendance by the public is limited to space available.

In accordance with the provisions set forth in Section 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92–463, the meeting of the Study Section will be closed to the public from 10:00 a.m. March 28 until adjournment on March 30 for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Grants Inquiries Office, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496–7441, will furnish summaries of the meetings and rosters of committee members.

Dr. John Beisler, Executive Secretary of the Study Section, Westwood Building, Room 3A10, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496–6723, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.262, Occupational Safety and Health Research Grants, National Institutes of Health, HHS)

Dated: January 11, 1984.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 84–1656 Filed 1–19–84; 8:45 am]

BILLING CODE 4140–01

National Advisory Research Resources Council; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Research Resources Council, Division of Research Resources (DRR), February 2–3, 1984, Conference Room 10, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20205.

The meeting will be open to the public on February 2 from 9:00 a.m. to approximately 5:00 p.m. for opening remarks by the Director, DRR; comments by the Director, NIH; consideration of the minutes of the October 13–14, 1983 meeting of the Council; a discussion and update of the Report of the Director, DRR; a review of the Council operating procedures; a report on the NIH Director's Advisory Committee discussion on training and training related programs of the DRR; a discussion of the DRR special instrumentation programs; individual Council Program Work Group sessions, as follows: Animal Resources Program Work Group, Room 2A52; Biomedical Research Support Program Work Group, Room 8A28; Biotechnology Resources Program Work Group, Conference Room 10; General Clinical Research Centers Program Work Group, Room 5B03; and Minority Biomedical Research Support Program Work Group, Conference Room 3. The meeting will then reconvene in Conference Room 10 for reports from the Program Work Group sessions, and new business. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6) Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on February 3 from 8:30 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, Room 5B10, Building 31, National Institutes of Health, Bethesda, MD 20205, (301) 496–5545, will provide summaries of the meeting and rosters of the Council members. Dr. James F. O'Donnell, Deputy Director, Division of Research Resources, Room 5B03, Building 31, National Institutes of Health, Bethesda, MD 20205, (301) 496–6023, will furnish substantive program information and will receive any comments pertaining to this announcement.

(Catalog of Federal Domestic Assistance Program Nos. 13.306, Laboratory Animal Sciences and Primate Research; 13.333, Clinical Research; 13.337, Biomedical Research Support; 13.371, Biotechnology Resources; 13.375, Minority Biomedical Research Support, National Institutes of Health)

Dated January 11, 1984.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 84–1650 Filed 1–19–84; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Commission on Fair Market Value Policy for Federal Coal Leasing; Meeting

AGENCY: Commission on Fair Market Value Policy for Federal Coal Leasing.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the Commission on Fair Market Value Policy for Federal Coal Leasing will meet on January 27 and 28 to review and approve the final draft of its report to Congress.

A Business Meeting will be held in the Brick Room at 1925 K St., NW., Washington, D.C. on January 27, 1984, and a second day will be held, if necessary, on January 28, 1984. The location of the second day's meeting is the third floor hearing room at 1111 18th St., NW., Washington, D.C. Both meetings will begin at 9:00 a.m.

FOR FURTHER INFORMATION CONTACT: Wiley Horsley, Special Assistant to the Chairman, Commission on Fair Market Value Policy for Federal Coal Leasing, Suite 400, 1015 20th Street, NW., Washington, D.C. 20036. Phone: (202) 632–6501.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to the authority and requirements of Pub. L. 98–63, approved July 30, 1983, making supplemental appropriations for fiscal year 1983, and for other purposes, and in accordance with the Federal Advisory Committee Act (Pub. L. 92–463).

The Commission will meet at 9:00 a.m. on January 27, 1984, in the Brick Room at 1015 20th St., NW., Washington, D.C. to review and approve the final draft of its report to Congress. A second day will be held, also beginning at 9:00 a.m., on January 28, 1984, at the third floor hearing room at 1111 18th St., NW.

Dated: January 17, 1984.

David F. Linowes,

Chairman.

[FR Doc. 84–1789 Filed 1–19–84; 8:45 am]

BILLING CODE 4310–10–M

Bureau of Indian Affairs

Colorado River Indian Reservation, Arizona and California; Amendment to Federal Indian Liquor Laws

January 12, 1984.

This Notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. 1161. I certify that Ordinance No. 82–4 was duly adopted by the Colorado River Tribal Council on December 28, 1982, and that Ordinance No. 83–7, amending Ordinance No. 82–4, was duly adopted on September 9, 1983. The Colorado River Liquor Ordinance relates to the application of the Federal Indian Liquor Laws within the areas of Indian country under the jurisdiction of the Colorado River Indian Tribes. The Ordinance as amended repeals Colorado River Tribal Ordinances Nos. 11 and 14, which were published in the **Federal Register** on May 7, 1973, 38 FR

11357, and March 31, 1966, 31 FR 5230, respectively, and reads as follows:

Kenneth Smith,

Assistant Secretary, Indian Affairs.

Ordinance No. 82–4

Be it enacted by the Tribal Council of the Colorado River Indian Tribes that the Health and Safety Code of the Colorado River Indian Tribes is hereby amended by adding the following thereto:

Article 2

Liquor

CHAPTER 1. GENERAL PROVISIONS

Section 2–101. Definitions.

In this Article, unless the context otherwise requires:

(1) "Beer" means any beverage produced by the fermentation of barley malt, hops, or a combination of these, including beverages commonly known as porter, ale, and malt liquor, if they contain not more than twelve percent (12%) alcohol (ethanol) by volume;

(2) "Bluewater Subdivision" means that portion of the Arizona side of the Colorado River Indian Reservation which is east of the townsite of Parker, and north of the centerline of the highway right-of-way of State Highway 95, comprising partial sections 4, 5, 8, 9, and 17 of Township 8 North, partial sections 3, 6, 7, 10, 11, 14, 18, 19, 22, 23, 27, 30, 31, 32, and 34 and whole sections 4, 5, 8, 9, 15, 16, 17, 20, 21, 28, 29, and 33 of Township 9 North, partial sections 27, 28, 29, 31, 32, and 34, and whole section 33 of Township 10 North, all of Range 19 West, and partial section 36 of Township 10 North, Range 20 West, all Gila and Salt River Base and Meridian, and partial sections 17 and 18 of Township 1 North, Range 26 East, San Bernadino Base and Meridian.

(3) "Board" means the Liquor Control Board of the Tribes.

(4) "Broken package" means any container of liquor on which the United States tax seal has been broken or removed, or from which the cap, cork, seal, or tab inserted by the manufacturer has been removed;

(5) "Council" means the Colorado River Indian Tribal Council;

(6) "License" means a liquor license issued pursuant to this Article;

(7) "Licensee" means any person issued a license pursuant to this Article;

(8) "Liquor" includes alcohol (ethanol) and beverages containing more than one-half of one percent (½%) by volume, including beverages commonly known as brandy, whiskey, rum, tequila, mescal, gin, wine, beer, malt liquor, and absinthe;

(9) "Off-sale retailer" means any person selling liquor in unbroken packages, to be consumed elsewhere;

(10) "On-sale retailer" means any person selling liquor in individual portions, by the glass, or in broken packages, for consumption at the place of sale;

(11) "Person" includes a partnership, corporation, or sole proprietorship as well as a natural person;

(12) "Premises" or "licensed premises" means the specific location or address at which a licensee is authorized to manufacture or sell liquor by the terms of his license;

(13) "Reservation" means the Colorado River Indian Reservation;

(14) "Sell" means to exchange for money or for goods, either for oneself or for another, and includes offering to sell liquor by display or by advertisement, and keeping or obtaining liquor with intent to sell it;

(15) "Tribal Court" means the Tribal Court of the Colorado River Indian Tribes;

(16) "Tribes" means the Colorado River Indian Tribes:

(17) "Wholesaler" means any person who sells liquor for subsequent resale, and includes the original manufacturer, distiller, brewer, vintner or bottler; and

(18) "Wine" means any beverage produced by the fermentation of grapes or other fruits containing natural or added sugar, including those fortified with grape brandy, if they contain not more than twenty-four percent (24%) alcohol (ethanol) by volume.

Section 2–102. Referendum.

No license (other than a license for premises located within the Bluewater Subdivision, within the townsite of Parker, or within the California side of the Reservation) shall be issued unless approved by the members of the Tribes by referendum. Upon the request of a majority of the members of the Council present at a valid meeting, made within forty-five (45) days of the Board's decision to approve the application, or upon receipt of a petition signed by the eligible voters who were registered at the last regular Tribal election, submitted to the Council within ninety (90) days of the Board's decision to approve the application, a referendum shall be scheduled by the Council. The referendum shall be held within ninety (90) days of the date it is requested, or the petition is submitted. The vote of a majority of the qualified voters in such referendum shall constitute approval or rejection of the license, provided that at least thirty precent (30%) of the registered voters shall have voted in such election.

Section 2–103. Persons Eligible.

(A) No license shall be issued to any person who, within one (1) year prior to application, has violated any provision of a license or has had a license revoked. No license shall be issued or renewed to any person who, within five (5) years prior to application, has been convicted of a felony. No corporation shall have a license issued or renewed unless it has on file with the Board a list of its officers and directors and any stockholders who own ten percent (10%) or more of the corporation. No corporation shall have a license issued or revoked if any of its officers or directors or any stockholders who own ten percent (10%) or more of the corporation have within five (5) years been convicted of a felony.

(B) A corporation shall own the entire equitable interest in its license through an agent who is otherwise qualified to hold a license. The agent shall be subject to the penalties prescribed for any violation of this Article. Upon the death, resignation or discharge of any such agent of a corporation holding a license, the license shall be assigned to another qualified agent selected by the corporation and approved by the Board, but this shall not constitute a transfer in violation of Section 2–209, or constitute the issuance of a new license.

Section 2–104. Liquor Control Board.

The Liquor Control Board shall be composerd of three (3) members and one (1) alternate member who shall be appointed by the Council for staggered terms of three (3) years each. The terms of the first three members of the Board shall expire at midnight on December 31, 1983, December 31, 1984, and December 31, 1985, respectively. The term of the first alternate member of the Board shall expire at midnight on December 31, 1983. Thereafter, all terms shall expire at midnight on December 31, three (3) years after they commence. The members of the Board may be removed by Council for cause upon notice and hearing. No member of the Board may have any financial interest in any liquor establishment of liquor business located or operating on the Reservation, nor shall any member of the Board be a member of the Council.

Section 2–105. Effective Date; Repeal; Transition.

(A) Ordinances Nos. 11 and 14 of Colorado River Indian Tribes, relating to the sale of liquor on the California and Arizona sides of the Reservation, respectively, including all amendments thereto, are hereby repealed.

(B) This Article shall be effective on the thirtieth (30th) day following the date of the publication in the **Federal Register.**

(C) Persons in possession of a valid liquor license issued by the States of Arizona or California who apply for a Tribal license within thirty (30) days of the effective date of this Article, may continue to operate under their State license until their application for a Tribal license has been either approved or denied.

(D) In any hearing pursuant to Section 2–205, it will be presumed that the persons described in Subsection (C) of this Section have the capacity, qualifications, and reliability to merit approval of their applications. No other requirements of this Article will be waived or diminished.

Section 2–106. Severability.

If any provision of this Article, or its application to any person or class of persons, or to any circumstances, is held invalid for any reason whatsoever, the remainder of its provisions shall not be affected and shall remain in full force and effect.

CHAPTER 2. LICENSES; APPLICATION AND ISSUANCE; REGISTRATION

Section 2–201. License Required.

No person may sell liquor within the Reservation, or manufacture liquor within the Reservation for sale anywhere, except as specifically authorized by a license issued in accordance with this Article.

Section 2–202. Exceptions.

The provisions of this Article do not apply to the sale of liquor upon a physician's prescription, or to ethanol used or intended for use:

(1) for scientific research or manufacturing products other than liquor;

(2) by a physician, medical or dental clinic, or hospital:

(3) in preparations not fit for human consumption such as cleaning compounds and toilet products, or flavoring extracts; or

(4) by persons exempt from regulation in accordance with the laws of the United States.

Section 2–203. Registration of Salesmen.

No person may take or solicit orders for liquor within the Reservation without first registering his name, address, purpose, and the name and address of his employer or principal, on the forms prescribed by the Board. Registrations require renewal each calendar year.

Section 2–204. Application

(A) Applicants for a liquor license must file with the Board on the forms it prescribes.

(B) Upon receipt of an application, the Board shall fix a date for a public hearing to determine whether a license should be issued. The hearing shall be held within sixty (60) days of the date of filing unless delayed at the request of the applicant.

(C) The Board shall issue a license only if satisfied of the applicant's capability, qualifications, and reliability, and that the best interests of the Reservation community will be served by the issuance of the license.

(D) Applications must disclose the identity of all persons who have an economic interest in the applicant's proposed business, and the nature and extent of their interests.

Section 2–205. Hearings.

(A) The Board shall adopt published rules and procedures for the conduct of hearings, in conformity with applicable ordinances of the Tribes.

(B) The Board shall have the power to administer oaths and issue subpoenas, and to require the presence of persons and the production of papers, books and records.

(C) At a public hearing held by the Board, anyone with an interest in the application shall be allowed to present evidence and to cross-examine witnesses. This includes the applicant, any resident of the Reservation, and the owner or manager of any business located on the Reservation. The Board nevertheless may limit duplicative evidence.

Section 2–206. Public Notice.

(A) The Board shall give at least ten (10) days prior notice of any hearing on an application for a license. This shall include posting a sign at a conspicuous place on the premises for which the application has been made, and publication in a local newspaper of general circulation on the Reservation.

(B) The notice posted on the premises must be at least twenty-two (22) inches wide and twenty-six (26) inches high, with letters at least one (1) inch high, and shall be placed so as to be conspicuous ans plainly visible to the general public.

(C) All posted and published notices shall state the name and address of the applicant, the class of license applied for, the date of the hearing, and any other information the Board deems appropriate to apprise the public fully of the nature of the application. If the applicant is a partnership, notice shall include the names and addresses of all of the partners, and if the applicant is a corporation, notice shall include the names and addresses of its managing officers.

Section 2–207. Appeals.

Any decision of the Board denying a license may be appealed to the Council within twenty (20) days. The Council may uphold the decision of the Board, or may direct the Board to reconsider its decision, or to issue the license.

Section 2–208. Form of Licenses.

(A) Each license shall specify the name and address of the licensee, the particular liquors which the licensee is authorized to sell, the purpose for which the liquor may be sold, and the premises to which the license applies, and shall expire at midnight on December 31 of the calendar year in which it is issued.

(B) Each license may be issued for only one of the following classes:

(1) Class 1, on-sale retailer of liquor;

(2) Class 2, on-sale retailer of beer and wine only;

(3) Class 3, off-sale retailer of liquor;

(4) Class 4, off-sale retailer of beer and wine only; or

(5) Class 5, wholesaler.

(C) The licensee must keep the license posted at all times in a conspicuous place on the premises for which it has been issued.

(D) All application for the renewal of privilages for an additional year shall be treated as an application for a new license, except that the requirements of Section 2–102 shall be waived, and except for good cause, as determined by the Board, the requirements of Section 2–204 (B) shall also be waived.

Section 2–209. Transfer or Modification of Licenses.

Any change in the terms of a license or, if the licensee is a partnership or corporation, change in its ownership, shall require the issuance of a new license in accordance with Section 2–204 through 2–208. Any attempt to transfer or assign a license is void and of no effect.

Section 2–210. Fees.

(A) Applications for a license must be accompanied by a non-refundable application fee of Two Hundred Dollars ($200.00).

(B) A license fee shall be paid before any license will be issued. The fee for a license shall be:

(1) Class 1 and Class 5 licenses, One Thousand Dollars ($1,000.00); and

(2) Class 2, Class 3 and Class 4 licenses, Five Hundred Dollars ($500.00).

(C) The Board may, at the request of an applicant, limit a license to some number of months less than twelve (12), in which case the fee shall be one-tenth (1/10) of that provided in Subsection (B) of this Section for each month.

Section 2–211. Disposition of Fees and Fines.

All license fees and fines or other monies received by the Board pursuant to this Article shall be deposited in the general account of the Tribes.

CHAPTER 3. SPECIAL EVENT LICENSES

Section 2–301. Special Event Licenses.

(A) The Board may issue an on-sale Special Event license to qualified organizations authorizing the sale of liquor for consumption on the premises specified for up to four (4) days. The fee for this license shall be Seventy-five Dollars ($75.00) per day. Applications must be made on the forms prescribed by the Board.

(B) No organization may be issued more than four (4) Special Event licenses in any single calendar year.

Section 2–302. Qualifications of Organizations.

A Special Event license may be issued only to an organization which has been formed for purposes of a religious, philanthropic, social, fraternal, patriotic, political or athletic nature, and not for profit, or which is a charter branch, lodge or chapter of such an organization.

Section 2–303. Grounds for Denial.

(A) The Board may deny an application for a Special Event license if it believes the sale of liquor by the applicant would be injurious to the public welfare by reason of the nature of the proposed event, its location, or the applicant's failure to conduct itself in compliance with applicable laws and regulations in the past.

(B) Public notice of the application must be posted in a conspicuous place at the proposed location of the event for at least ten (10) days prior to approval of the application by the Board. The Board will receive and consider any written protests before acting.

CHAPTER 4. UNLAWFUL ACTS; VIOLATIONS; PENALTIES

Section 2–401. Management of Licensed Premises.

(A) No licensee may reseal, reuse, or refill any package that contains or contained liquor.

(B) No Class 1 or Class 2 licensee may lock, or permit the locking of the entrances to the licensed premises until all persons other than the licensee and his employees have left.

(C) No licensee may change the name of his licensed premises without first obtaining written acknowledgment from the Board.

(D) Each licensee must conduct his business in a decent, orderly and respectable manner, and not permit loitering by intoxicated persons, rowdyness, undue noise, or any other disturbuance offensive to the residents of the Reservation.

(E) Licensees must keep all books of account, invoices, bills and other records of the purchase and sale of liquor for at least two (2) years, and surrender them to the Board, or to an auditor appointed by the Board, on demand.

Section 2–402. Laws of the United States.

Licensees must comply with all applicable laws of the United States governing the manufacturer, distribution and sale of alcohol and alcoholic beverages.

Section 2–403. Punishable Acts.

It is unlawful:

(1) to sell liquor without first obtaining all necessary federal licenses, including a license to trade with the Indians in accordance with Title 25 of the United States Code;

(2) to sell liquor without first obtaining a license in accordance with the provisions of this Article;

(3) to sell liquor in violation of the terms of a license issued pursuant to this Article;

(4) to take or solicit orders for the delivery of liquor from outside the Reservation, unless registered as a salesman in accordance with Section 2–203;

(5) to knowingly sell liquor to a person under the age of nineteen (19) years on the Arizona side of the Reservation, or under the age of twenty-one (21) years on the California side of the Reservation.

(6) to knowingly employ a person under the age of nineteen (19) years on the Arizona side of the Reservation, or under the age of twenty-one (21) years on the California side of the Reservation, in the manufacture or sale of liquor, except as provided by Section 2–405.

(7) for a wholesaler, to transport liquor except in a vehicle conspicuously marked on its outside with the name and address of the licensee to which delivery is to be made, and the class and number of his license, in letters at least three (3) inches high;

(8) for a Class 1, Class 2, Class 3, and Class 4 licensee, to obtain liquor in unbroken packages except from a Class 5 licensee from a salesman registered in accordance with Section 2–203;

(9) for a Class 1, Class 2, Class 3, or Class 4 licensee to have any interest in the property or business of a Class 5 licensee or any other wholesaler of liquor;

(10) for a Class 1, Class 2, Class 3, or Class 4 licensee, or his employee, to consume liquor or be intoxicated while selling liquor on the licensed premises;

(11) for a Class 1, Class 2, Class 3, or Class 4 licensee, or employee to accept or give gifts of liquor in connection with his business, except for the sampling of wines and beers as provided by a wholesaler in the ordinary course of the trade;

(12) for a Class 1, Class 2, Class 3, or Class 4 licensee, or his employee, to sell or give any liquor to any person on the licensed premises between the hours of one o'clock a.m. and six o'clock a.m., Mondays through Saturdays, or one o'clock a.m. through twelve o'clock noon on Sundays, on the Arizona side of the Reservation, or between the hours of two o'clock a.m. and six o'clock a.m., Pacific Standard or Daylight time, whichever is then generally in effect in California, on the California side of the Reservation, or permit the consumption of liquor on the licensed premises in those places during those hours and those days;

(13) for a Class 1 or Class 2 licensee, to employ any person for the purpose of soliciting the purchase of liquor within the licensed premises, on a percentage basis or otherwise;

(14) for a Class 1 or Class 2 licensee to sell liquor without insurance coverage as required in Section 2–408(B); or

(15) for a Class 3 or Class 4 licensee, to sell liquor in broken packages, or permit the consumption of liquor on the licensed premises.

Section 2–404. Penalties.

(A) Every person violating the provisions of Section 2–403 is guilty of a misdemeanor and shall be punished by a fine of not more than Five Hundred Dollars ($500.00) or by imprisonment for not more than six (6) months, or both. Each day during which such violation shall continue, after written notice to the person in violation, shall constitute a separate offense, punishable as herein provided.

(B) Every person violating the provisions of Section 2–403 shall forfeit to the Colorado River Indian Tribes in a civil action a sum of not more than Five Hundred Dollars ($500.00) for each

violation. Each day during which such violation shall continue shall constitute a separate civil violation of such Section.

(C) Subsection (A) of this Section shall not be construed to authorize the imposition of any criminal penalty against any person who, because of his status as a non-Indian or otherwise, pursuant to Federal law is not subject to the imposition of criminal penalties by the Colorado River Indian Tribes.

Section 2–405. Construction; Exceptions.

(A) If an act is unlawful, pursuant to Section 2–403, when committed by the licensee, the licensee is also liable if the act is committed by one of his employees or agents. A licensee may not be imprisoned, however, for the act of an employee or agent in which he did not knowingly conspire or agree.

(B) Nothing in this Section or in Section 2–403 shall be construed to prevent the employment of persons under the age of twenty-one (21) years in the delivery of unbroken packages of liquor, or the serving of individual portions of liquor from broken packages on licensed premises, if the licensee is chiefly engaged in the sale of food, and the employee chiefly employed in delivering or serving food.

Section 2–406. Intoxication.

It is unlawful:

(1) to consume liquor from a broken package in a public place, other than premises specified in the Class 1 or Class 2 license, or a Special Event license; or

(2) for a Class 1 or Class 2 licensee, or his employee, to sell or give liquor to an intoxicated person within the licensed premises, or permit an intoxicated person to remain on the premises.

Section 2–407. Penalties.

(A) Every person violating the provisions of Section 2–406 is guilty of an offense and shall be punished by a fine of not more than One Hundred Dollars ($100.00), or by imprisonment for not more than one (1) month, or both.

(B) Every person violating the provisions of Section 2–406 shall forfeit to the Colorado River Indian tribes in a civil action a sum of not more than One Hundred Dollars ($100.00) for each violation.

(C) Subsection (A) of this Section shall not be construed to authorize the imposition of any criminal penalty against any person who, because of his status as a non-Indian or otherwise, pursuant to Federal law is not subject to the imposition of criminal penalties by the Colorado River Indian Tribes.

Section 2–408. Civil Responsibility; Insurance.

(A) Licensees under this Article, and their employees, are liable for injuries or damage to property resulting from their negligent or reckless conduct, whether in the management of licensed premises, or in their violation of Section 2–406(2).

(B) All Class 1 and Class 2 licensees shall maintain insurance coverage insuring against liability under Subsection (A) of this Section, in the amount of at least $100,000.00 for bodily injury to any one (1) person, $500,000.00 for any one (1) accident or personal injury, and $100,000.00 for property damage.

Section 2–409. Contraband.

(A) Any liquor found in the possession, custody or control of a person other than a licensee in accordance with this Article, which is offered or intended for sale may be seized by a law enforcement officer of the Tribes.

(B) Seized liquor no longer required for prosecution evidence may be sold for the benefit of the Tribes, or destroyed, under the supervision of the Board, after the right appeal pursuant to Subsection (C) of this Section has expired.

(C) The legality of any seizure of liquor may be appealed to the tribal Court within twenty (20) days of the seizure. The Tribal Court may order the seized liquor returned to the person from whom it was seized, if warranted, but may not access damages or costs against the Board or the Tribes.

(D) For purposes of this Section only, the Tribes waive their immunity from suit.

CHAPTER 5. REVOCATION OF LICENSES.

Section 2–501. Revocation of Licenses.

(A) The Board may summarily suspend any license for up to fifteen (15) days upon a satisfactory showing of imminent danger to the public welfare, or, after notice to the licensee and a public hearing, revoke the license. (B) The Board must hold a public hearing to determine the truth of every written compliant it receives alleging a violation of this Article by a licensee.

(C) The Board shall adopt published rules and procedures for the conduct of license revocation hearings, providing, at a minimum, for the right of the licensee to appear and be represented by legal counsel.

Section 2–502. Grounds.

Grounds for suspension or revocation of a license include the violation of any of the provisions of this Article, the misrepresentation of a material fact in the licensee's application for a license, conviction of the licensee for a crime involving a maximum penalty of six (6) months imprisonment or more, and failure of the licensee to correct unhealthy or unsafe conditions on the licensed premises within a reasonable time after notice from the Tribes.

Section 2–503. Appeals.

(A) Suspension or revocation of a license may be appealed to the Tribal Court within twenty (20) days. The Tribal Court may reinstate a suspended or revoked license, if warranted, but not assess damages or costs against the Board or the Tribes.

(B) For purposes of this Section only, the Tribes waive their immunity from suit.

The foregoing ordinance was on December 28, 1982, duly approved by a vote of 7 for and 0 against, by the Tribal Council of the Colorado River Indian tribes, pursuant to authority vested in it by Article VI of the Constitution of the Tribes, ratified by the Tribes on March 1, 1975, and approved by the Secretary of the Interior on May 29, 1975, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

Colorado River Indian Tribes
Colorado River Indian Tribal Council

Anthony Drennan, Sr.,
Chairman.
Elliot L. Booth,
Secretary.

[FR Doc. 84–1562 Filed 1–19–84; 8:45 am]
BILLING CODE 4310–02–M

Bureau of Land Management

[W–86137]

Wyoming; Realty Action

Direct Sale of Public Lands in Brown County, Nebraska

The Bureau of Land Management, based upon land use plans has determined that the following described lands are suitable for public sale and solicits and will accept bids on these lands. Section 203 of the Federal Land Policy and Management Act (FLPMA) requires the BLM to receive fair market value for the land sold and the BLM will reject any bid for less than such value. The BLM may accept or reject any and all offers, or withdraw any land or interest in the land for sale if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with FLPMA or other applicable law.

Legal description	Parcel No.	Acreage	Appraised value
T. 32 N., R. 23 W., 6th P.M.	11		
Section 23, N½S½		160	$17,600
Section 27, SE¼NE¼, NW¼SW¼		80	8,800
Total		240	26,400

The lands are being offered for sale because of their location, scattered nature, lack of access and other characteristics which make them difficult and uneconomical to manage as part of the Public Lands.

The planning document, environmental assessment/land report, and memorandum and letters of federal, state, and local contacts concerning the sale are available for review at the Newcastle Resource Area Office, Bureau of Land Management, P.O. Box 219, Highway 16 By-Pass, Newcastle, Wyoming 82701. The planning document, environmental assessment/land report will also be available at the Brown County Courthouse, Ainsworth, Nebraska 69210.

The terms and conditions applicable to the sale are:

1. A reservation that the sale of the parcel will be subject to all valid existing rights.

2. All minerals will be reserved to the United States in accordance with section 209(A) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743).

3. The patent will contain a reservation for ditches and canals by authority of the United States, Act of August 30, 1890 (26 Stat. 391; 43 USC 945).

4. Federal law requires that all bidders be U.S. citizens, 18 years of age, or in the case of corporations be authorized to own real estate in the State of Nebraska.

5. The bid, if made by check, bank draft, or money order, must be made payable to the Department of the Interior-BLM.

6. The sealed bid envelope must be marked in the front lower left-hand corner with the words "Public Land Sale, Serial Number W-86137, Parcel Number 11, Brown County, Nebraska, 1984 Land Sales."

Parcel 11 in Brown County, Nebraska is going to be offered as a direct sale to The Nature Conservancy, the adjacent landowner. The sale of the lands to The Nature Conservancy will not be held until 60 days from the date of this Notice. The Nature Conservancy's bid for the full appraised value of this parcel must be received in the Newcastle Resource Area Office, Bureau of Land Management, P.O.Box 219, Highway 16 By-Pass, Newcastle, Wyoming 82701 by 4:30 p.m., MST, March 15, 1984. The Nature Conservancy will be notified within 30 days of this date whether or not the Bureau can accept the bid. In the event that The Nature Conservancy does not exercise their option to purchase the land, the sale will be readvertised and offered for sale utilizing a competitive process at a later date.

For a period of 45 days from the date of this Notice, interested parties may submit comments to the District Manager, Casper District Office, 951 Rancho Road, Casper, Wyoming 82601. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: January 6, 1984.

James W. Monroe,

Casper District Manager.

[FR Doc. 84-1509 Filed 1-19-84; 8:45 am]

BILLING CODE 4310-22-M

[W-86135]

Wyoming; Realty Action Direct Sale of Public Lands in Brown County, Nebraska

The Bureau of Land Management, based upon land use plans has determined that the following described land is suitable for public sale and solicits and will accept bids on this land. Section 203 of the Federal Land Policy and Management Act (FLPMA) requires the BLM to receive fair market value for the land sold and the BLM will reject any bid for less than such value. The BLM may acept or reject any and all offers, or withdraw any land or interest in the land for sale if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with FLPMA or other applicable law.

Legal Description	Parcel No.	Acreage	Appraised value
T. 26 N., R. 22 W., 6th P.M.	9	40	$5,000
Section 5, NW¼SE¼			

The land is being offered for sale because of its location, scattered nature, lack of access and other characteristics which make them difficult and uneconomical to manage as part of the Public Lands.

The planning document, environmental assessment/land report, and memorandum and letters of federal, state, and local contacts concerning the sale are available for review at the Newcastle Resource Area Office, Bureau of Land Management, P.O. Box 219, Highway 16 By-Pass, Newcastle, Wyoming 82701. The planning document, environmental assessment/land report will also be available at the Brown County Courthouse, Ainsworth, Nebraska 69210.

The terms and conditions applicable to the sale are:

1. A reservation that the sale of the parcel will be subject to all valid existing rights.

2. All minerals will be reserved to the United States in accordance with section 209(A) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743).

3. The patent will contain a reservation for ditches and canals by authority of the United States, Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

4. Federal law requires that all bidders be U.S. citizens, 18 years of age, or in the case of corporations be authorized to own real estate in the State of Nebraska.

5. The bid, if made by check, bank draft, or money order, must be made payable to the Department of the Interior-BLM.

6. The bid envelope must be marked in the front lower left-hand corner with the words "Public Land Sale, Serial Number W-86135, Parcel Number 9, Brown County, Nebraska, 1984 Land Sales."

Parcel 9 in Brown County, Nebraska is going to be offered as a direct sale to Gordon Hitchcock, the adjacent landowner. The sale of the land to Gordon Hitchcock will not be held until 60 days from the date of this Notice. Gordon Hitchcock's bid for the full appraised value of this parcel must be received in the Newcastle Resource Area Office, Bureau of Land Management, P.O. Box 219, Highway 16 By-Pass, Newcastle, Wyoming 82701 by 4:30 p.m., MST, March 15, 1984. Gordon Hitchcock will be notified within 30 days of this date whether or not the Bureau can accept the bid. In the event that Gordon Hitchcock does not exercise the option to purchase the land, the sale will be readvertised and offered for sale utilizing a competitive process at a later date.

For a period of 45 days from the date of this Notice, interested parties may submit comments to the District Manager, Casper District Office, 951 Rancho Road, Casper, Wyoming 82601. Any adverse comments will be evaluated by the State Director, who

may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: January 6, 1984.

James W. Monroe,

Casper District Manager.

[FR Doc. 84-1570 Filed 1-19-84; 8:45 am]

BILLING CODE 4310-22-M

[W-86129]

Wyoming; Realty Action Direct Sale of Public Lands in Brown County, Nebraska

The Bureau of the Land Management, based upon land use plans has determined that the following described lands are suitable for public sale and solicits and will accept bids on these lands. Section 203 of the Federal Land Policy and Management Act (FLPMA) requires the BLM to receive fair market value for the land sold and the BLM will reject any bid for less than such value. The BLM may accept or reject any and all offers, or withdraw any land or interest in the land for sale if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with FLPMA or other applicable law.

Legal description	Parcel No.	Acreage	Appraised value
T. 25 N., R. 21 W., 6th P.M.	3		
Section 1, S½SE¼		80	$10,000
Section 3, S½SW¼		80	10,000
Total		160	20,000

The lands are being offered for sale because of their location, scattered nature, lack of access and other characteristics which make them difficult and uneconomical to manage as part of the Public Lands.

The planning document, environmental assessment/land report, and memorandum and letters of federal, state, and local contacts concerning the sale are available for review at the Newcastle Resource Area Office, Bureau of Land Management P.O. Box 219, Highway 16 By-Pass, Newcastle, Wyoming 82701. The planning document, environmental assesssment/land report will also be available at the Brown County Courthouse, Ainsworth, Nebraska 69210.

The terms and conditions applicable to the sale are:

1. A reservation that the sale of the parcel will be subject to all valid existing rights.

2. All minerals will be reserved to the United States in accordance with section 209(A) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743).

3. The patent will contain a reservation for ditches and canals by authority of the United States, Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

4. Federal law requires that all bidders be U.S. citizens, 18 years of age, or in the case of corporations be authorized to own real estate in the State of Nebraska.

5. The bid, if made by check, bank draft, or money order, must be made payable to the Department of the Interior-BLM.

6. If the bid is submitted by mail, the bid envelope must be marked in the front lower left-hand corner with the words "Public Land Sale, Serial Number W-86129, Parcel Number 3, Brown County, Nebraska, 1984 Land Sales."

Parcel 3 in Brown County, Nebraska is going to be offered as a direct sale to J. Hall Dillon Estates, the adjacent landowner. The sale of the lands to J. Hall Dillon Estates will not be held until 60 days from the date of this Notice. J. Hall Dillon Estates' bid for the full appraised value of this parcel must be received in the Newcastle Resource Area Office, Bureau of Land Management, P.O. Box 219, Highway 16 By-Pass, Newcastle, Wyoming 82701 by 4:30 p.m., MST, March 15, 1984. J. Hall Dillon Estates will be notified within 30 days of this date whether or not the Bureau can accept the bid. In the event that J. Hall Dillon Estates does not exercise the option to purchase the land, the sale will be readvertised and offered for sale utilizing a competitive process at a later date.

For a period of 45 days from the date of this Notice, interested parties may submit comments to the District Manager, Casper District Office, 951 Rancho Road, Casper, Wyoming 82601. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: January 6, 1984.

James W. Monroe,

Casper District Manager.

[FR Doc. 84-1571 Filed 1-19-84; 8:45 am]

BILLING CODE 4310-22-M

[W-86106]

Wyoming; Realty Action Modified Competitive Sale of Public Lands in Rock County, Nebraska

The Bureau of Land Management, based upon land use plans has determined that the following described land is suitable for public sale and solicits and will accept bids on this land. Section 203 of the Federal Land Policy and Management Act (FLPMA) requires the BLM to receive fair market value for the land sold and the BLM will reject any bid for less than such value. The BLM may accept or reject any and all offers, or withdraw any land or interest in the land for sale if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with FLPMA or other applicable law.

Legal description	Parcel No.	Acreage	Appraised value
T. 25 N., R. 20 W. 6th P.M. Section 9, W½NW¼	1	80	$10,000

The land is being offered for sale because of its location, scattered nature, lack of access and other characteristics which make it difficult and uneconomical to manage as part of the Public Lands.

The planning document, environmental assessment/land report, and memorandum and letters of federal, state, and local contacts concerning the sale are available for review at the Newcastle Resource Area Office, Bureau of Land Management, P.O. Box 219, Highway 16 By-Pass, Newcastle, Wyoming 82701. The planning document, environmental assessment/land report will also be available at the Rock County Courthouse, Bassett, Nebraska 68714.

The terms and conditions applicable to the sale are:

1. A reservation that the sale of the parcel will be subject to all valid existing rights.

2. All minerals will be reserved to the United States in accordance with section 209(A) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743).

3. The patent will contain a reservation for ditches and canals by authority of the United States, Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

4. Federal law requires that all bidders be U.S. citizens, 18 years of age, or in the case of corporations be authorized to own real estate in the State of Nebraska.

5. Upon disqualification of the apparent high bidder, the next high bid will be honored.

6. All sealed bids for an amount not less than one-fifth (⅕) of any total bid must be received in the Newcastle Resource Area Office, Bureau of Land Management, P.O. Box 219, Highway 16 By-Pass, Newcastle, Wyoming 82701 by 4:30 p.m., MST, March 14, 1984, the day before the sale.

7. All bids if made by check, bank draft, or money order, must be made payable to the Department of the Interior-BLM.

8. The sealed bid envelope must be marked in the front lower left-hand corner with the words "Public Land Sale, W–86106, Parcel No. 1, Rock County, Nebraska, 1984 Land Sales."

9. Failure to pay at least full price within 30 days of the sale shall disqualify the apparent high bidder and the deposit shall be forfeited and disposed of as other receipts of sale.

The sale will be conducted by modified competitive bidding to the adjoining landowners. The parcel will be offered only under a sealed bid process to the adjoining landowners. On the designated sale date, March 15, 1984 at 11:00 a.m., MST, sealed bid envelopes will be opened and the high valid bid announced.

If two (2) or more envelopes containing valid bid of the same amount are received, the determination of which is to be considered the highest bid shall be by drawing. The drawing shall be held by the Authorized Officer immediately following the opening of the sealed bids. At the close of the sale date, the high bidder will be notified in writing within 30 days whether or not the Bureau can accept the bid.

In the event the adjoining landowners fail to exercise their option to purchase the subject parcel, it will be offered for sale utilizing a competitive process at a later date.

For a period of 45 days from the date of this Notice, interested parties may submit comments to the District Manager, Casper District Office, 951 Rancho Road, Casper, Wyoming 82601. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: January 6, 1984.

James W. Monroe,

Casper District Manager.

[FR Doc. 84–1568 Filed 1–19–84; 8:45 am]

BILLING CODE 4310–22–M

[W–86124]

Wyoming; Realty Action Direct Sale of Public Lands in Blaine County, Nebraska

The Bureau of Land Management, based upon land use plans has determined that the following described lands are suitable for sale and solicits and will accept bids on these lands. Section 203 of the Federal Land Policy and Management Act (FLPMA) requires the BLM to receive fair market value for the land sold and the BLM will reject any bid for less than such value. The BLM may accept or reject any and all offers, or withdraw any land or interest in the land for sale if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with FLPMA or other applicable laws.

Legal description	Parcel No.	Acreage	Appraised value
T. 24 N., R. 23 W., 6th P.M., Sec. 27, SE¼NE¼	10	40.0	$4,400.00

The land is being offered for sale because of its location, scattered nature, lack of access and other characteristics which make it difficult and uneconomic to manage as part of the public lands.

The planning document, environmental assessment/land report, and memorandums and letters of federal, state, and local contacts concerning the sale available for review at the Newcastle Resource Area Office, Bureau of Land Management, P.O. Box 219, Highway 16 By-Pass, Newcastle, Wyoming 82701. The planning document, environmental assessment/land report will also be available at the Blaine County Courthouse, Brewster, Nebrasha 68821.

The terms and conditions applicable to the sale are:

1. A reservation that the sale of the parcel will be subject to all valid existing rights.

2. All minerals will be reserved to the United States in accordance with Section 209(A) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743).

3. The patent will contain a reservation for ditches and canals by authority of the United States, Act of August 30, 1890 (26 stat. 301; 43 U.S.C. 945).

4. Federal law requires that all bidders be U.S. citizens, 18 years of age, or in the case of corporations be authorized to own real estate in the State of Nebraska.

5. The bid if made by check, bank draft, or money order, must be made payable to the Department of Interior-BLM.

6. The sealed bid envelope must be marked in the front lower left-hand corner with the words "Public Land Sale, W–86124, Parcel 10, Blaine County, Nebraska, 1984 Land Sales."

Parcel 10 in Blaine County, Nebraska is going to be offered as a direct sale to Gerald DeGroff, the adjoining landowner. The sale of the land to Gerald DeGoff will not be held until 60 days from the date of the notice. Gerald DeGroff bid for the full appraised value of this parcel must be received in the Newcastle Resource Area Office, Bureau of Land Management, P.O. Box 219, Highway 16 By-Pass, Newcastle, Wyoming 82701 by 4:30 p.m., MST, March 15, 1984. Gerald DeGroff will be notified within 30 days of this date whether or not the Bureau can accept the bid. In the event that Gerald DeGroff does not exercise his option to purchase the land, the sale will be readvertised and offered for sale utilizing a competitive process at a later date.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Casper District Office, 951 Rancho Road, Casper, Wyoming 82601. Any adverse comments will be evaluated be the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: January 6, 1984.

James W. Monroe,

Casper District Manager.

[FR Doc. 84–1577 Filed 1–19–84; 8:45 am]

BILLING CODE 4310–22–M

[W–86121]

Wyoming; Realty Action Direct Sale of Public Lands in Blaine County, Nebraska

The Bureau of Land Management, based upon land use plans has determined that the following described land is suitable for sale and solicits and will accept bids on this land. Section 203 of the Federal Land Policy and Management Act (FLPMA) requires the BLM to receive fair market value for the

land sold and the BLM will reject any bid for less than such value. The BLM may accept or reject any and all offers, or withdraw any land or interest in the land for sale if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with FLPMA or other applicable laws.

Legal description	Parcel No.	Acreage	Appraised value
T. 21 N., R. 23 W., 6th P.M., Sec. 6, lot 5; SE¼NW¼	8	78.57	$8,660.00

The land is being offered for sale because of its location, scattered nature, lack of access and other characteristics which make it difficult and uneconomic to manage as part of the public lands.

The planning document, environmental assessment/land report, and memorandums and letters of federal, state, and local contacts concerning the sale are available for review at the Newcastle Resource Area Office, Bureau of Land Management, P.O. Box 219, Highway 16 By-Pass, Newcastle, Wyoming 82701. The planning document, environmental assessment/land report, will also be available at the Blaine County Courthouse, Brewster, Nebraska 68821.

The terms and conditions applicable to the sale are:

1. A reservation that the sale of the parcel will be subject to all valid existing rights.

2. All minerals will be reserved to the United States in accordance with Section 209(A) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743).

3. The patent will contain a reservation for ditches and canals by authority of the United States, Act of August 30, 1890 (26 stat. 301; 43 U.S.C. 945).

4. Federal law requires that all bidders be U.S. citizens, 18 years of age, or in the case of corporations be authorized to own real estate in the State of Nebraska.

5. The bid is made by check, bank draft, or money order, must be made payable to the Department of Interior-BLM.

6. The sealed bid envolpe must be marked in the front lower left-hand corner with the words "Public Land Sale, W–86121, Parcel 8, Blaine County, Nebraska, 1984 Land Sales."

Parcel 8 in Blaine County, Nebraska is going to be offered as a direct sale to Lowell Minert, an adjoining landowner. The sale of the land to Lowell Minert will not be held until 60 days from the date of this notice. Lowell Minert's bid for the full appraised value of this parcel must be received in the Newcastle Resource Area Office, Bureau of Land Management, P.O. Box 219, Highway 16 By-Pass, Newcastle, Wyoming 82701 by 4:30 p.m., MST, March 15, 1984. Lowell Minert will be notified within 30 days of this date whether or not the Bureau can accept the bid. In the event that Lowell Minert does not exercise his option to purchase the land, the sale will be readvertised and offered for sale utilizing a competitive process at later date.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Casper District Office, 951 Rancho Road, Casper, Wyoming 82601. Any adverse commnets will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: January 6, 1984.

James W. Monroe,

Casper District Manager.

[FR Doc. 84–1578 Filed 1–19–84; 8:45 am]

BILLING CODE 4310–22–M

[W-86115]

Wyoming; Realty Action Direct Sale of Public Lands in Blaine County, Nebraska

The Bureau of Land Management, based upon land use plans has determined that the following described land is suitable for sale and solicits and will accept will accept bids this land. Secton 203 of the Federal Land Policy and Management Act (FLPMA) requires the BLM to receive fair market value for the land sold and the BLM will reject any bid for less than such value. The BLM may accept or reject any and all offers, or withdraw any land or interest in the land for sale if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with FLPMA or other applicable laws.

Legal description	Parcel No.	Acreage	Appraised value
T. 21 N., R. 22 W., 6th P.M., Sec. 13, NE¼SE¼	2	40.0	$4,400.00

The land is being offered for sale because of its location, scattered nature, lack of access and other characteristics which make it difficult and uneconomic to manage as part of the public lands.

The planning document, environmental assessment/land report, and memorandums and letters of federal, state, and local contacts concerning the sale are available for review at the Newcastle Resource Area Office, Bureau of Land Management, P.O. Box 219, Highway 16 By-Pass, Newcastle, Wyoming 82701. The planning document, environmental assessment/land report will also be available at the Blaine County Courthouse, Brewster, Nebraska 68821.

The terms and conditions applicable to the sale are:

1. A reservation that the sale of the parcel will be subject to all valid existing rights.

2. All minerals will be reserved to the United States in accordance with Section 209(A) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743).

3. The patent will contain a reservation for ditches and canals by authority of the United States, Act of August 30, 1890 (26 Stat. 301; 43 U.S.C. 945).

4. Federal law requires that all bidders be U.S. citizens, 18 years of age, or in the case of corporations be authorized to own real estate in the State of Nebraska.

5. The bid if made by bank draft, or money order, must be made payable to the Department of Interior—BLM.

6. The sealed bid envelope must be marked in the front lower left-hand corner with the words "Public Land Sale, W–86115, Parcel 2, Blaine County, Nebraska, 1984 Land Sales."

Parcel 2 in Blaine County, Nebraska is going to be offered as a direct sale to the McMillan Ranch Company the adjoining landowner. The sale of the land to the McMillan Ranch Company will not be held until 60 days from the date of the notice. The McMillan Ranch Company's bid for the full appraised value of this parcel must be received in the Newcastle Resource Area Office, Bureau of Land Management, P.O. Box 219, Highway 16 By-Pass, Newcastle, Wyoming 82701 by 4:30 p.m., MST, March 15, 1984. The McMillan Ranch Company will be notified within 30 days of this date whether or not the Bureau can accept the bid. In the event that the McMillan Ranch Company does not exercise their option to purchase the land, the sale will be readvertised and offered for sale utilizing a competitive process at a later date.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Casper District Office, 951 Rancho Road, Casper, Wyoming 82601. Any adverse comments will be evaluated by the State Director, who

may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: January 6, 1984.

James W. Monroe,

Casper District Manager.

[FR Doc. 84-1579 Filed 1-19-84; 8:45 am]

BILLING CODE 4310-22-M

[W-86114]

Wyoming; Realty Action Direct Sale of Public Lands in Blaine County, Nebraska

The Bureau of Land Management, based upon land use plans has determined that the following described land is suitable for sale and solicits and will accept bids on this lands. Section 203 of the Federal Land Policy and Management Act (FLPMA) requires the BLM to receive fair market value for the land sold and the BLM will reject any bid for less than such value. The BLM may accept or reject any and all offers, or withdraw any land or interest in the land for sale if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with FLPMA or other applicable laws.

Legal description	Parcel No.	Acreage	Appraised value
T. 22 N., R. 21 W., 6th P.M., Sec. 2, lot 3	1	40.1	$4,400.00

The land is being offered for sale because of its location, scattered nature, lack of access and other characteristics which make it difficult and uneconomic to manage as part of the public lands.

The planning document, environmental assessment/land report, and memorandums and letters of federal, state, and local contacts concerning the sale are available for review at the Newcastle Resource Area Office, Bureau of Land Management, P.O. Box 219, Highway 16 By-Pass, Newcastle, Wyoming 82701. The planning document, environmental assessment/land report will also be available at the Blaine County Courthouse, Brewster, Nebraska 68821.

The terms and conditions applicable to the sale are:

1. A reservation that the sale of the parcel will be subject to all valid existing rights.

2. All minerals will be reserved to the United States in accordance with Section 209(A) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743).

3. The patent will contain a reservation for ditches and canals by authority of the United States, Act of August 30, 1890 (26 stat. 301; 43 U.S.C. 945).

4. Federal law requires that all bidders be U.S. citizens, 18 years of age, or in the case of corporations be authorized to own real estate in the State of Nebraska.

5. The bid if made by check, bank draft, or money order, must be made payable to the Department of Interior-BLM.

6. The sealed bid envelope must be marked in the front lower left-hand corner with the words "Public Land Sale, W-86114, Parcel 1, Blaine County, Nebraska, 1984 Land Sales."

Parcel 1 in Blaine County, Nebraska is going to be offered as a direct sale to Rex Miller, the adjoining landowner. The sale of the land to Rex Miller will not be held until 60 days from the date of the notice. Rex Miller's bid for the full appraised value of this parcel must be received in the Newcastle Resource Area Office, Bureau of Land Management, P.O. Box 219, Highway 16 By-Pass, Newcastle, Wyoming 82701 by 4:30 p.m., MST, March 15, 1984. Rex Miller will be notified within 30 days of this date whether or not the Bureau can accept the bid. In the event that Rex Miller does not exercise his option to purchase the land, the sale will be readvertised and offered for sale utilizing a competitive process at a later date.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Casper District Office, 951 Rancho Road, Casper, Wyoming 82601. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: January 6, 1984.

James W. Monroe,

Casper District Manager.

[FR Doc. 84-1580 Filed 1-19-84; 8:45 am]

BILLING CODE 4310-22-M

[W-86108; W-86109]

Wyoming; Realty Action Modified Competitive Sale of Public Lands in Holt County, Nebraska

The Bureau of Land Management, based upon land use plans has determined that the following described lands are suitable for public sale and solicits and will accept bids on these lands. Section 203 of the Federal Land Policy and Management Act (FLPMA) requires the BLM to receive fair market value for the land sold and the BLM will reject any bid for less than such value. The BLM may accept or reject any and all offers, or withdraw any land or interest in the land for sale if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with FLPMA or other applicable law.

Serial No.	Legal description	Parcel No.	Acreage	Appraised value
W-86108	T. 33 N., R. 14 W. 6th P.M., Sec. 22, NE¼NE¼.	2	40.0	$5,000.00
W-86109	T. 28 N., 16 W., 6th P.M., Sec. 19, lot 3.	3	22.5	$800.00

The lands are being offered for sale because of their location, scattered nature, lack of access and other characteristics which make them difficult and uneconomical to manage as part of the Public Lands.

The planning document, environmental assessment/land report, and memorandum and letters of federal, state, and local contacts concerning the sale are available for review at the Newcastle Resource Area Office, Bureau of Land Management, P.O. Box 219, Highway 16 By-Pass, Newcastle, Wyoming 82701. The planning document, environmental assessment/land report will also be available at the Holt County Courthouse, O'Neill, Nebraska 68763.

The terms and conditions applicable to the sale are:

1. A reservation that the sale of the parcel will be subject to all valid existing rights.

2. All minerals will be reserved to the United States in accordance with Section 209(A) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743).

3. The patent will contain a reservation for ditches and canals by authority of the United States, Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

4. Federal law requires that all bidders be U.S. citizens, 18 years of age, or in the case of corporations be authorized to own real estate in the State of Nebraska.

5. Upon disqualification of the apparent high bidder, the next high bid will be honored.

6. All sealed bids for an amount not less than one-fifth (⅕) of any total bid

must be received in the Newcastle Resource Area Office, Bureau of Land Management, P.O. Box 219, Highway 16 By-Pass, Newcastle, Wyoming 82701 by 4:30 p.m., MST, March 14, 1984, the day before the sale.

7. All bids if made by check, bank, draft, or money order, must be made payable to the Department of the Interior—BLM.

8. The sealed bid envelope must be marked in the front lower left-hand corner with the words "Public Land Sale, Serial Number W-——, Parcel No. ——, Holt County, Nebraska, 1984 Land Sales."

9. Failure to pay at least full price within 30 days of the sale shall disqualify the apparent high bidder and the deposit shall be forfeited and disposed of as other receipts of sale.

The sale will be conducted by modified competitive bidding to the adjoining landowners. The parcel will be offered only under a sealed bid process to the adjoining landowners. On the designated sale date, March 15, 1984 at 11:00 a.m., MST, sealed bid envelopes will be opened and the high valid bid announced.

If two (2) or more envelopes containing valid bid of the same amount are received, the determination of which is to be considered the highest bid shall be by drawing. The drawing shall be held by the Authorized Officer immediately following the opening of the sealed bids. At the close of the sale date, the high bidder will be notified in writing within 30 days whether or not the Bureau can accept the bid.

In the event the adjoining landowners fail to exercise their option to purchase the subject parcel, it will be offered for sale utilizing a competitive process at a later date.

For a period of 45 days from the date of this Notice, interested parties may submit comments to the District Manager, Casper District Office, 951 Rancho Road, Casper, Wyoming 82601. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: January 6, 1984.

James W. Monroe,

Casper District Manager.

[FR Doc. 84-1581 Filed 1-19-84; 8:45 am]

BILLING CODE 4310-22-M

[W-86125, W-86126]

Wyoming: Realty Action; Direct Sale of Public Lands in Blaine County, Nebraska

The Bureau of Land Management, based upon land use plans has determined that the following described lands are suitable for sale and solicits and will accept bids on these lands. Section 203 of the Federal Land Policy and Management Act (FLPMA) requires the BLM to receive fair market value for the land sold and the BLM will reject any bid for less than such value. The BLM may accept or reject any and all offers, or withdraw any land or interest in the land for sale if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with FLPMA or other applicable laws.

Serial No.	Legal description	Parcel No.	Acreage	Appraised value
W-86125	T. 23 N., R. 25 W., sec. 5, S½NW¼.	11	[illegible]	$2,500
W-86126	T. 24 N., R. 25 W., sec. 32, NW¼SW¼.	12	40	4,400

The lands are being offered for sale because of their location, scattered nature, lack of access and other characteristics which make them difficult and uneconomic to manage as part of the public lands.

The planning document, environmental assessment/land report, and memorandums and letters of federal, state, and local contracts concerning the sale are available for review at the Newcastle Resource Area Office, Bureau of Land Management, P.O. Box 219, Highway 16 By-Pass, Newcastle, Wyoming 82701. The planning document, environmental assessment/land report will also be available at the Blaine County Courthouse, Brewster, Nebraska 68821.

The terms and conditions applicable to the sale are:

1. A reservation that the sale of the parcel will be subject to all valid existing rights.

2. All minerals will be reserved to the United States in accordance with Section 209(A) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743).

3. The patent will contain a reservation for ditches and canals by authority of the United States, Act of August 30, 1890 (26 stat. 301; 43 U.S.C. 945).

4. Federal law requires that all bidders be U.S. citizens, 18 years of age, or in the case of corporations be authorized to own real estate in the State of Nebraska.

5. The bid is made by check, bank draft, or money order, must be made payable to the Department of Interior-BLM.

6. The sealed bid envelope must be marked in the front lower left-hand corner with the words "Public Land Sale, W-86125, W-86126, Parcels 11 and 12, Blaine County, Nebraska, 1984 Land Sales." If a bid is placed on only one of the parcels, then use the same format as above but only for that particular parcel.

Parcels 11 and 12 in Blaine County, Nebraska are going to be offered as a direct sale to Marion Hanna, the adjoining landowner. The sale of the lands to Marion Hanna will not be held until at least 60 days from the date of the notice. Marion Hanna's bid for the full appraised value of these parcels must be received in the Newcastle Resource Area Office, Bureau of Land Management, P.O. Box 219, Highway 16 By-Pass, Newcastle, Wyoming 82701 by 4:30 p.m., MST, March 15, 1984. Marion Hanna will be notified within 30 days of this date whether or not the Bureau can accept the bid. In the event that Marion Hanna does not exercise his option to purchase the land, the sale will be readvertised and offered for sale utilizing a competitive process at a later date.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Casper District Office, 951 Rancho Road, Casper, Wyoming 82601. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: January 6, 1984.

James W. Monroe,

Casper District Manager.

[FR Doc. 84-1576 Filed 1-19-84; 8:45 am]

BILLING CODE 4310-22-M

[W-86116 through W-86120 inclusive; W-86122]

Wyoming: Realty Action; Modified Competitive Sale of Public Lands in Blaine County, Nebr.

The Bureau of Land Management, based upon land use plans has determined that the following described lands are suitable for sale and solicits and will accept bids on these lands.

Section 203 of the Federal Land Policy and Management Act (FLPMA) requires the BLM to receive fair market value for the land sold and the BLM will reject any bid for less than such value. The BLM may accept or reject any and all offers, or withdraw any land or interest in the land for sale if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with FLPMA or other applicable laws.

Serial No	Legal description	Parcel No	Acreage	Appraised value
W-86116	T. 23 N., R. 22 W., 6th P.M., Sec. 19, S½SE¼.	3	[illegible]	[illegible]
W-86117	T. 23 N., R. 22 W., 6th P.M., Sec. 30, lot 2, SE¼NW¼.	4	76.4	8,400
W-86118	T. 23 N., R. 22 W., 6th P.M., Sec. 34, SE¼NW¼.	5	40.0	4,400
W-86119	T. 23 N., R. 22 W., 6th P.M., Sec. 26, SE¼SE¼.	[illegible]	40.0	4,400
W-86120	T. 23 N., R. 22 W., 6th P.M., Sec. 29, NW¼SW¼.	7	40.0	4,400
W-86122	T. 23 N., R. 23 W., 6th P.M., Sec. 23, S½SW¼.	[illegible]	80.0	[illegible]

The lands are being offered for sale because of their location, scattered nature, lack of access and other characteristics which make them difficult and uneconomic to manage as part of the public lands.

The planning document, environmental assessment/land report, and memorandums and letters of federal, state, and local contacts concerning the sale are available for review at the Newcastle Resource Area Office, Bureau of Land Management, P.O. Box 219, Highway 16 By-Pass, Newcastle, Wyoming 82701. The planning document, environmental assessment/land report, will also be available at the Blaine County Courthouse, Brewster, Nebraska 68821.

The terms and conditions applicable to the sale are:

1. A reservation that the sale of the parcel will be subject to all valid existing rights.

2. All minerals will be reserved to the United States in accordance with Section 209(A) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743).

3. The Patent will contain a reservation for ditches and canals by authority of the United States, act of August 30, 1890 (26 stat. 301; 43 U.S.C. 945).

4. Federal law requires that all bidders be U.S. citizens, 18 years of age, or in the case of corporations be authorized to own real estate in the State of Nebraska.

5. Upon disqualification of the apparent high bidder, the next high bid will be honored.

6. All sealed bids for an amount not less than one fifth (⅕) of any total bid must be received in the Newcastle Resource Area Office, Bureau of Land Management, P.O. 219 Highway 16 By-Pass, Newcastle, Wyoming 82701 by 4:30 P.M. MST, March 14, 1984, the day before the sale.

7. All bids if made by check, bank draft, or money order, must be made payable to the Department of the Interior—BLM.

8. The sealed bid envelope must be marked in the front lower left-hand corner with the words "Public Land Sale, Serial Number: W———, Parcel Number: ——, Blaine County, Nebraska, 1984 Land Sales."

9. Failure to pay full price within 30 days of the sale shall disqualify the apparent high bidder and the deposit shall be forfeited and disposed of as other receipts of sale.

10. If the grazing lessees do not purchase Parcels 5 or 7, the following will be a condition of sale for each parcel:

Parcel 5: Rex Sadler is the grazing lessee and owner (100 percent interest) of the following authorized range improvements: Permit No. 1830; ¼ mile of four-strand barbed wire fence on the north side, and ¼ mile of four-strand barbed wire fence on the east side of Parcel 5. If any person other than Rex Sadler is the successful bidder on the land being offered for sale, that person will be required to reimburse Rex Sadler for the value of the improvements and furnish proof thereof to the authorized officer, Bureau of Land Management, Newcastle Resource Area, before conveyance may be made. If the bidder and grazing lessee are unable to agree, the authorized officer shall determine the value.

Parcel 7: Neal Keller is the grazing lessee and owner (100 percent interest) of the following authorized range improvements: Permit No. 1346; ¼ mile of fence in Parcel 7. If any person, other than Neal Keller is the successful bidder on the land being offered for sale, that person will be required to reimburse Neal Keller for the value of the improvements and furnish proof thereof to the authorized officer, Bureau of Land Management, Newcastle Resource Area before conveyance may be made. If the bidder and grazing lessee are unable to agree, the authorized officer shall determine the value.

11. If the grazing lessee(s) does/do not purchase nor waive his/her/their grazing privileges on Parcels 3–7 inclusive, and 9, the patent shall include the following statement:

"The successful bidder agrees that he/she/they take(s) the real estate subject to the existing grazing use of (grazing lessees), holder of grazing authorization number ———. The rights of (grazing lessee(s)) to graze domestic livestock on the real estate according to the conditions and terms of grazing authorization number ——— shall cease on (month/day/year). The successful bidder is entitled to receive annual grazing fees from (purchaser) in an amount not to exceed that which would be authorized under federal grazing fee published annually in the **Federal Register.**"

The sale will be conducted by modified competitive bidding to the adjoining landowners. The parcels will be offered only under a sealed bid process to the adjoining landowners. On the designated sale date, March 15, 1984 at 11:00 a.m. MST, sealed bid envelopes will be opened and the high valid bid announced.

If two (2) or more envelopes containing valid bids of the same amount are received, the determination of which is to be considered the highest bid shall be by drawing. The drawing shall be held by the authorized officer immediately following the opening of the sealed bids. At the close of the sale date, the high bidder will be notified in writing within 30 days whether or not the Bureau can accept the bid.

In the event the adjoining landowner fails to exercise their option to purchase the subject parcel, it will be offered for sale utilizing a competitive process at a later date.

For a period of 45 days from the date of this notice, interested parties may

submit comments to the District Manager, Casper District Office, 951 Rancho Road, Casper, Wyoming 82601. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: January 6, 1984.

James W. Monroe,

Casper District Manager.

[FR Doc. 84-1575 Filed 1-19-84; 8:45 am]

BILLING CODE 4310-22-M

[W-86127, W-86128, W-86130-W-86134 inclusive, W-86136, W-86138, W-86139]

Wyoming: Realty Action Modified Competitive Sale of Public Lands in Brown County, Nebraska

The Bureau of Land Management, based upon land use plans has determined that the following described lands are suitable for public sale and solicits and will accept bids on these lands. Section 203 of the Federal Land Policy and Management Act (FLPMA) requires the BLM to receive fair market value for the land sold and the BLM will reject any bid for less than such value. The BLM may accept or reject any and all offers, or withdraw any land or interest in the land for sale if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with FLPMA or other applicable law.

Serial No.	Legal description	Parcel No.	Acreage	Appraised value
W-86127	T. 27 N., R. 20 W., 6th P.M., Section 19, E½NE¼.	1	80.0	$10,000
W-86128	T. 32 N., R. 20 W., 6th P.M., Section 30, lot 2.	2	39.49	4,935
W-86130	T. 25 N., R. 21W., 6th P.M., Section 9, W½NW¼.	4	80.0	10,000
W-86131	T. 27 N., R. 21 W., 6th P.M., Section 22, NW¼SE¼.	5	40.0	5,000
W-86132	T. 27 N., R. 21W., 6th P.M., Section 27, SE¼NW¼.	6	40.0	5,000
W-86133	T. 25 N., R. 22W., 6th P.M., Section 1, SW¼SW¼.	7	40.0	5,000
W-86134	T. 25 N., R. 22 W., 6th P.M., Section 30, NE¼SW¼.	8	40.0	4,400
W-86136	T. 25 N., R. 23 W., 6th P.M., Section 21, E½SE¼ Section 22, S½SW¼.	10	160.0	17,600
W-86138	T. 31 N., R. 24 W., 6th P.M., Section 4, SW¼SE¼	12	40.0	5,000
W-86139	T. 31 N., R. 24W., 6th P.M., Section 14, SW¼SW¼.	13	40.0	5,000

The lands are being offered for sale because of their location, scattered nature, lack of access and other characteristics which make them difficult and uneconomical to manage as part of the Public Lands.

The planning document, environmental assessment/land report, and memorandum and letters of federal, state, and local contacts concerning the sale are available for review at the Newcastle Resource Area Office, Bureau of Land Management, P.O. Box 219, Highway 16 By-Pass, Newcastle, Wyoming 82701. The planning document, environmental assessment/land report will also be available at the Brown County Courthouse, Ainsworth, Nebraska 69210.

The terms and conditions applicable to the sale are:

1. A reservation that the sale of the parcel will be subject to all valid existing rights.

2. All minerals will be reserved to the United States in accordance with Section 209(A) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743).

3. The patent will contain a reservation for ditches and canals by authority of the United States, Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

4. Federal law requires that all bidders be U.S. citizens, 18 years of age, or in the case of corporations be authorized to own real estate in the State of Nebraska.

5. Upon disqualification of the apparent high bidder, the next high bid will be honored.

6. All sealed bids for an amount not less than one-fifth (⅕) of any total bid must be received in the Newcastle Resource Area Office, Bureau of Land Management, P.O. Box 219, Highway 16 By-Pass, Newcastle, Wyoming 82701 by 4:30 p.m., MST, March 14, 1984, the day before the sale.

7. All bids if made by check, bank draft, or money order, must be made payable to the Department of the Interior-BLM.

8. The sealed bid envelope must be marked in the front lower left-hand corner with the words "Public Land Sale, Serial Number W- , Parcel Number , Brown County, Nebraska, 1984 Land Sales."

9. Failure to pay at least full price within 30 days of the sale shall disqualify the apparent high bidder and the deposit shall be forfeited and disposed of as other receipts of sale.

10. If the grazing lessees do not purchase parcels 1, 5, 6, 7, 10 or 13, the following will be a condition of sale for each parcel:

Parcel No. 1

Clifford and James Barta (Barta Brothers) are the grazing lessees and owners (100 percent interest) in the following authorized range improvements: Permit No. 5087, ½ mile of fence, and 4 rows of cedar trees, each row ½ mile on the east border of Parcel 1. If any person, other than the Barta Borthers, is the successful bidder on the land being offered for sale, that person will be required to reimburse the Barta Brothers for the value of the improvements and furnish proof thereof to the Authorized Officer, Bureau of Land Management, Newcastle Resource Area before covenance may be made. If the bidder and grazing lessees are unable to agree, the Authorized Officer shall determine the value.

Parcel No. 5

Sumner E. and Tekla Copple are the grazing lessees and owners (100 percent interest) of the following authorized range improvements: Permit No. 448, ¼ mile of 4-wire fence on the west border of Parcel 5. If any person other than Sumner E. and Tekla Copple is the successful bidder on the land being offered for sale, that person will be required to reimburse Sumner E. and Tekle Copple for the value of improvements and furnish proof thereof to the Authorized Officer, Bureau of Land Management, Newcastle Resource Area before covenance may be made. If the bidder and grazing lessees are unable to agree, the Authorized Officer shall determine the value.

Parcel No. 6

Sumner E. and Tekla Copple are the grazing lessees and owners (100 percent interest) in the following authorized range improvements: Permit No. 448, ¼ mile of 4-wire fence on the west border of Parcel 6. If any person other than Sumner E. and Tekla Copple is the successful bidder on the land being offered for sale, that person will be required to reimburse Sumner E. and Tekla Copple for the value of the improvements and furnish proof thereof to the Authorized Officer, Bureau of Land Management, Newcastle Resource Area before covenance may be made. If the bidder and grazing lessees are unable to agree, the Authorized Officer shall determine the value.

Parcel No. 7

Ralph and Joanne Gracey are the grazing lessee(s) and owners (100 percent interest) of the following authorized range improvements: Permit No. 434, ¼ mile of 3-wire fence and 1 windmill on Parcel 7. If any person other than Ralph and Joanne Gracey is the successful bidder on the land being offered for sale, that person will be required to reimburse Ralph and Joanne Gracey for the value of the improvements and furnish proof thereof to the Authorized Officer, Bureau of Land Management, Newcastle Resource Area before covenance may be made. If the bidder and grazing lessees are unable to agree, the Authorized Officer shall determine the value.

Parcel No. 10

Ronald Krutsinger is the grazing lessee and owner (100 percent interest) of the following authorized range improvements for the portion of Parcel 10 in Section 22: Permit No. 4915, ¾ mile of fence which lie on the west and a portion of the south border of Parcel 10. If any person other than Ronald Krutsinger is the successful bidder on the land being offered for sale, that person will be required to reimburse Ronald Krutsinger for the value of the improvements and furnish proof thereof to the Authorized Officer, Bureau of Land Management, Newcastle Resource Area before covenance may be made. If the bidder and grazing lessee are unable to agree, the Authorized Officer shall determine the value.

Parcel No. 13

Lois M. Randall is the grazing lessee and owner (100 percent interest) of the following authorized range improvements: Permit No. 1631, ¾ mile of fence on the north, east and west sides of Parcel 13. If any person other than Lois M. Randall is the successful bidder on the land being offered for sale, that person will be required to reimburse Lois M. Randall for the value of the improvements and furnish proof thereof to the Authorized Officer, Bureau of Land Management, Newcastle Resource Area before covenance may be made. If the bidder and grazing lesses are unable to agree, the Authorized Officer shall determine the value.

11. If the grazing lessee(s) does/do not purchase nor waive his/her grazing privileges on Parcels 1, 5–8 inclusive, 10 and 13, the patent shall include the following statement:

"The successful bidder agrees that he takes the real estate subject to the existing grazing use of (grazing lessee(s)), holder of grazing authorization number . The rights of (grazing lessee(s)) to graze domestic livestock on the real estate according to the conditions and terms of grazing authorization number shall cease on (month/day/year). The successful bidder is entitled to receive annual grazing fees from the (purchaser) in an amount not to exceed that which would be authorized under federal grazing fee published annually in the **Federal Register.**"

The sale will be conducted by modified competitive bidding to the adjoining landowners. The parcel will be offered only under a sealed bid process to the adjoining landowners. On the designated sale date, March 15, 1984 at 11:00 a.m., MST, sealed bid envelopes will be opened and the high valid bid announced.

If two (2) or more envelopes containing valid bid of the same amount are received, the determination of which is to be considered the highest bid shall be by drawing. The drawing shall be held by the Authorized Officer immediately following the opening of the sealed bids. At the close of the sale date, the high bidder will be notified in writing within 30 days whether or not the Bureau can accept the bid.

In the event the adjoining landowners fail to exercise their option to purchase the subject parcel, it will be offered for sale utilizing a competitive process at a later date.

For a period of 45 days from the date of this Notice, interested parties may submit comments to the District Manager, Casper District Office, 951 Rancho Road, Casper, Wyoming 82601. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action become the final determination of the Department of the Interior.

Dated: January 6, 1984.

James W. Monroe,

Casper District Manager.

[FR Doc. 84–1572 Filed 1–19–84; 8:45 am]

BILLING CODE 4310–22–M

[W–86107]

Wyoming: Realty Action; Direct Sale of Public Lands in Holt County, Nebraska

The Bureau of Land Management, based upon land use plans has determined that the following described land is suitable for public sale and solicits and will accept bids on this land. Section 203 of the Federal Land Policy and Management Act (FLPMA) requires the BLM to receive fair market value for the land sold and the BLM will reject any bid for less than such value. The BLM may accept or reject any and all offers, or withdraw any land or interest in the land for sale if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with FLPMA or other applicable law.

Legal description	Parcel No	Acreage	Appraised value
T. 28 N., R. 14 W., 6th P.M., Sec. 24, SE¼SE¼	1	40.0	$5,000

The land is being offered for sale because of its location, scattered nature, lack of access and other characteristics which make it difficult and uneconomical to manage as part of the Public Lands.

The planning document, envionmental assessment/land report, and memorandum and letters of federal, state, and local contacts concerning the sale are available for review at the Newcastle Resource Area Office, Bureau of Land Management, P.O. Box 219, Highway 16 By-Pass, Newcastle, Wyoming 82701. The planning document, environmental assessment/land report will also be available at the Holt County Courthouse, O'Neill, Nebraska 68763.

The terms and conditions applicable to the sale are:

1. A reservation that the sale of the parcel will be subject to all valid existing rights.

2. All minerals will be reserved to the United States in accordance with Section 209(A) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743).

3. The patent will contain a reservation for ditches and canals by authority of the United States, Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

4. Federal law requires that all bidders be U.S. citizens, 18 years of age, or in the case of corporations be authorized to own real estate in the State of Nebraska.

5. The bid, if made by check, bank draft, or money order, must be made payable to the Department of the Interior-BLM.

6. The sealed bid envelope must be marked in the front lower left-hand corner with the words "Public Land Sale, Serial Number W–86107, Parcel

No. 1, Holt County, Nebraska, 1984 Land Sales."

Parcel 1 in Holt County, Nebraska is going to be offered as a direct sale to Shirley Walker, the adjacent landowner. The role of the land to Shirley Walker will not be held until at least 60 days from the date of this Notice. Shirley Walker's bid for the full appraised value of this parcel must be received in the Newcastle Resource Area Office, Bureau of Land Management, P.O. Box 219, Highway 16 By-Pass, Newcastle, Wyoming 82701 by 4:30 p.m., MST, March 15, 1984. Shirley Walker will be notified within 30 days of this date whether or not the Bureau can accept the bid. In the event that Shirley Walker does not exercise her option to purchase the land, the sale will be readvertised and offered for sale utilizing a competitive process at a later date.

For a period of 45 days from the date of this Notice, interested parties may submit comments to the District Manager, Casper District Office, 951 Rancho Road, Casper, Wyoming 82601. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty will become final determination of the Department of the Interior.

Dated: January 6, 1984.

James W. Monroe,

Casper District Manager.

[FR Doc. 84-1567 Filed 1-19-84; 8:45 am]

BILLING CODE 4310-22-M

[W-86110]

Wyoming: Realty Action; Direct Sale of Public Lands in Holt County, Nebraska

The Bureau of Land Management, based upon land use plans has determined that the following described lands are suitable for public sale and solicits and will accept bids on these lands. Section 203 of the Federal Land Policy and Management Act (FLPMA) requires the BLM to receive fair market value for the land sold and the BLM will reject any bid for less than such value. The BLM may accept or reject any and all offers, or withdraw any land or interest in the land for sale if, in the opinion of the authorized officer, consummation of the sale would not be full consistent with FLPMA or other applicable law.

Legal description	Parcel No.	Acreage	Appraised value
T. 33 N., R. 16 W., 6th P.M., Section 15, lot 5	4	0.48	$100

The land is being offered for sale because of its location, scattered nature, lack of access and other characteristics which make it difficult and uneconomical to manage as part of the Public Lands.

The planning document, environmental assessment/land report, and memorandum and letters of federal, state, and local contacts concerning the sale are available for review at the Newcastle Resource Area Office, Bureau of Land Management, P.O. Box 219, Highway 16 By-Pass, Newcastle, Wyoming 82701. The planning document, environmental assessment/land report will also be available at the Holt County Courthouse, O'Neill, Nebraska 68763.

The terms and conditions applicable to the sale are:

1. A reservation that the sale of the parcel will be subject to all valid existing rights.

2. All minerals will be reserved to the United States in accordance with Section 209(A) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743).

3. The patent will contain a reservation for ditches and canals by authority of the United States, Act of August 30, 1890 (26 Stat. 391; 43 USC 945).

4. Federal law requires that all bidders be U.S. citizens, 18 years of age, or in the case of corporations be authorized to own real estate in the State of Nebraska.

5. The bid, if made by check, bank draft, or money order, must be made payable to the Department of the Interior-BLM.

6. The sealed bid envelope must be marked in the front lower left-hand corner with the words "Public Land Sale, Serial Number W-86110. Parcel No. 4, Holt County, Nebraska, 1984 Land Sales."

Parcel 4 in Holt County, Nebraska is going to be offered as a direct sale to Lyman White, the adjacent landowner. The sale of the land to Lyman White will not be held until at least 60 days from the date of this Notice. Lyman White's bid for the full appraised value of this parcel must be received in the Necastle Resource Area Office, Bureau of Land Management, P.O. Box 219, Highway 16 By-Pass, Newcastle, Wyoming 82701 by 4:30 p.m., MST, March 15, 1984. Lyman White will be notified within 30 days of this date whether or not the Bureau can accept the bid. In the event that Lyman White does not exercise his/her/their option, to purchase the land, the sale will be readvertised and offered for sale utilizing a competitive process at a later date.

For a period of 45 days from the date of this Notice, interested parties may submit comments to the District Manager, Casper District Office, 951 Rancho Road, Casper, Whoming 82601. Any adverse comments will be evaluated by the State Director, who may vacate or modify this reality action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: January 6, 1984.

James W. Monroe,

Casper District Manager.

[FR Doc. 84-1566 Filed 1-19-84; 8:45 am]

BILLING CODE 4310-22-M

[W-86111]

Wyoming: Realty Action; Direct Sale of Public Lands in Keya Paha County, Nebraska

The Bureau of Land Management, based upon land use plans has determined that the following described land is suitable for public sale and solicits and will accept bids on this land. Section 203 of the Federal Land Policy and Management Act (FLPMA) requires the BLM to receive fair market value for the land sold and the BLM will reject any bid for less than such value. The BLM may accept or reject any and all offers, or withdraw any land or interest in the land for sale if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with FLPMA or other applicable law.

Legal description	Parcel No.	Acreage	Appraised value
T. 32 N., R. 18 W., 6th P.M., Sec. 17, lot 5	1	6.7	$335

The land is being offered for sale because of its location, scattered nature, lack of access and other characteristics which make it difficult and uneconomical to manage as part of the Public Lands.

The planning document, environmental assessment/land report, and memorandum and letters of federal, state, and local contacts concerning the sale are available for review at the

Newcastle Resource Area Office, Bureau of Land Management, P.O. Box 219, Highway 16 By-Pass, Newcastle, Wyoming 82701. The planning document, environmental assessment/land report will also be available at the Keya Paha County Courthouse, Springview, Nebraska 68778.

The terms and conditions applicable to the sale are:

1. A reservation that the sale of the parcel will be subject to all valid existing rights.

2. All minerals will be reserved to the United States in accordance with Section 209(A) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743).

3. The patent will contain a reservation for ditches and canals by authority of the United States, Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

4. Federal law requires that all bidders be U.S. citizens, 18 years of age, or in the case of corporations be authorized to own real estate in the State of Nebraska.

5. The bid, if made by check, bank draft, or money order, must be made payable to the Department of the Interior–BLM.

6. The sealed bid envelope must be marked in the front lower left-hand corner with the words "Public Land Sale, W–86111, Parcel No. 1, Keya Paha County, Nebraska, 1984 Land Sales."

Parcel 1 in Keya Paha County, Nebraska is going to be offered as a direct sale to Edwin Hall, the adjacent landowner. The sale of the land to Edwin Hall will not be held until 60 days from the date of this Notice. Edwin Hall's bid for the full appraised value of this parcel must be received in the Newcastle Resource Area Office, Bureau of Land Management, P.O. Box 219, Highway 16 By-Pass, Newcastle, Wyoming 82701 by 4:30 p.m., MST, March 15, 1984. Edwin Hall will be notified within 30 days of this date whether or not the Bureau can accept the bid. In the event that Edwin Hall does not exercise his option to purchase the land, the sale will be readvertised and offered for sale utilizing a competitive process at a later date.

For a period of 45 days from the date of this Notice, interested parties may submit comments to the District Manager, Casper District Office, 951 Rancho Road, Casper, Wyoming 82601. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: January 6, 1984.

James W. Monroe,

Casper District Manager.

[FR Doc. 84–1574 Filed 1–19–84; 8:45 am]

BILLING CODE 4310–22–M

[W–86112, W–86113]

Wyoming: Realty Action Modified Competitive Sale of Public Lands in Keya Paha County, Nebraska

The Bureau of Land Management, based upon land use plans has determined that the following described lands are suitable for public sale and solicits and will accept bids on these lands. Section 203 of the Federal Land Policy and Management Act (FLPMA) requires the BLM to receive fair market value for the land sold and the BLM will reject any bid for less than such value. The BLM may accept or reject any and all offers, or withdraw any land or interest in the land for sale if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with FLPMA or other applicable law.

Serial No.	Legal description	Parcel No.	Acreage	Appraised value
W–86112	T. 35 N., R. 20 W., 6th P.M., Sec. 17, lots 1–4 inclusive Sec. 18, lots 1–4 inclusive.	2	21.33	[illegible]
W–86113	T. 35 N., R. 23 W., 6th P.M., Sec. 15, lots 1–4 inclusive.	[illegible]	12.38	1,240

The lands are being offered for sale because of their location, scattered nature, lack of access and other characteristics which make them difficult and uneconomical to manage as part of the public lands.

The planning document, environmental assessment/land report, and memorandum and letters of federal, state, and local contacts concerning the sale are available for review at the Newcastle Resource Area Office, Bureau of Land Management, P.O. Box 219, Highway 16 By-Pass Newcastle, Wyoming 82701. The planning document, environmental assessment/land report will also be available at the Keya Paha County Courthouse, Springview, Nebraska 68778.

The terms and conditions applicable to the sale are:

1. A reservation that the sale of the parcel will be subject to all valid existing rights.

2. All minerals will be reserved to the United States in accordance with Section 209(A) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743).

3. The patent will contain a reservation for ditches and canals by authority of the United States, Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

4. Federal law requires that all bidders be U.S. citizens, 18 years of age, or in the case of corporations be authorized to own real estate in the State of Nebraska.

5. Upon disqualification of the apparent high bidder, the next high bid will be honored.

6. All sealed bids for an amount not less than one-fifth (1/5) of any total bid must be received in the Newcastle Resource Area Office, Bureau of Land Management, P.O. Box 219, Highway 16 By-Pass, Newcastle, Wyoming 82701 by 4:30 p.m., MST, March 14, 1984, the day before the sale.

7. All bids if made by check, bank draft, or money order, must be made payable to the Department of the Interior-BLM.

8. The sealed bid envelope must be marked in the front lower left-hand corner with the words "Public Land Sale, W– ———, Parcel No. ——, Keya Paha County, Nebraska, 1984 Land Sales."

9. Failure to pay at least full price within 30 days of the sale shall disqualify the apparent high bidder and the deposit shall be forfeited and disposed of as other receipts of sale.

10. The State of South Dakota will not be considered qualified or have a valid bid in the modified competitive bidding process for Parcel 3.

The sale will be conducted by modified competitive bidding to the adjoining landowners. The parcel will be offered only under a sealed bid process to the adjoining landowners. On the designated sale date, March 15, 1984 at 11:00 a.m., MST, sealed bid envelopes will be opened and the high valid bid announced.

If two (2) or more envelopes containing valid bid of the same amount are received, the determination of which is to be considered the highest bid shall be by drawing. The drawing shall be held by the Authorized Officer immediately following the opening of the sealed bids. At the close of the sale date, the high bidder will be notified in writing within 30 days whether or not the Bureau can accept the bid.

In the event the adjoining landowners fail to exercise their option to purchase the subject parcel, it will be offered for

sale utilizing a competitive process at a later date.

For a period of 45 days from the date of this Notice, interested parties may submit comments to the District Manager, Casper District Office, 951 Rancho Road, Casper, Wyoming 82601. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: January 6, 1984.

James W. Monroe,

Casper District Manager.

[FR Doc. 84-1573 Filed 1-19-84; 8:45 am]

BILLING CODE 4310-22-M

[CA-15310]

California; Proposed Withdrawal and Opportunity for Public Hearing

January 13, 1984.

The Department of the Navy, on December 27, 1983, filed application Serial No. CA-15310, for the withdrawal of the following described public lands from appropriation under the public land laws and the mining laws (30 U.S.C., Ch. 2), subject to valid existing rights.

Mount Diablo Meridian

T. 27 S., R. 43 E.,
Secs. 31 thru 34, All.
T. 28 S., R. 43 E.,
Secs. 4 thru 9, All.
Secs. 17 thru 19, All.

The area aggregates 8,320.00 acres in San Bernardino County, California.

The Navy desires the area to provide a security and buffer zone at the Randsburg Wash Test Range.

For a period of 90 days, from the date of publication of this notice, all persons who wish to submit comments, suggestions or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. Upon determination by the State Director, Bureau of Land Management, that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting. The application will be processed in accordance with the regulations set forth in Title 43 CFR Part 2300.

For a period of two years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is rejected or the withdrawal is approved prior to that date. The two year segregative period does not alter the applicability of those public land laws governing the use of the land under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining and mineral leasing laws.

All communications in connection with this proposed withdrawal should be addressed to the undersigned officer, Bureau of Land Management, California State Office, Room E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Eleanor Wilkinson,

Chief, Lands & Locatable Minerals Section, Branch of Lands & Minerals Operations.

[FR Doc. 84-1480 Filed 1-19-84; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Alaska Offshore; Availability of Draft Environmental Impact Statement for Proposed Oil and Gas Lease Offering in the Gulf of Alaska/Cook Inlet Area

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Minerals Management Service has prepared a draft environmental impact statement (EIS) for the proposed October 1984 oil and gas lease offering in the Gulf of Alaska/Cook Inlet area.

Single copies of the draft EIS can be obtained from the Office of the Regional Manager, Minerals Management Service, Alaska Region, P.O. Box 101159, Anchorage, Alaska 99510.

Copies of the draft EIS will also be available for inspection in the following public libraries: Alaska Federation of Natives, Suite 304, 1577 O Street, Anchorage, AK 99501; Anchor Point Public Library, Anchor Point, AK 99556; Department of the Interior Resources Library, Box 36, 701 C Street, Anchorage, AK 99513; Cordova Public Library, Box 472, Cordova, AK 99574; Kenai Community Library, Box 157, Kenai, AK 99611; Elim Learning Center, Elim, AK 99739; Haines Public Library, P.O. Box 36, Haines, AK 99827; North Star Borough Library, AK 99701; University of Alaska, Institute of Social and Economic Research Library, Fairbanks, AK 99801; Homer Public Library, Box 356, Homer, AK 99603; Z. J. Loussac Public Library, 427 F Street, Anchorage, AK 99801; Juneau Memorial Library, 114 W. 4th Street, Juneau, AK 99824; Alaska State Library, Documents Librarian, Pouch G, Juneau, AK 99811; Ketchikan Public Library, 629 Dock Street, Ketchikan, AK 99901; Department of Defense, Army Corps of Engineers Library, P.O. Box 7002, Anchorage, AK 99501; Kodiak Public Library, P.O. Box 985, Kodiak, AK 99615; Metlakatla Extension Center, Metlakatla, AK 99926; Department of the Interior, Bureau of Mines Library, AF-F.O. Center, P.O. Box 550, Juneau AK, 99802; Petersburg Extension Center, Box 289, Petersburg, AK 99833; Seldovia Public Library, Drawer D, Seldovia, AK 99663; Seward Community Library, Box 537, Seward, AK 99664; University of Alaska Juneau Library, P.O. Box 1447, Juneau, AK 91447; Sitka Community Library, Box 1090, Sitka, AK 99835; Douglas Public Library, Box 469, Douglas, AK 99824; University of Alaska Anchorage Library, 3211 Providence Drive, Anchorage, AK 99504; University of Alaska Elmer E. Rasmusson Library, Fairbanks, AK 99701; Wrangell Extension Center, Box 651, Wrangell, AK 99929.

In accordance with 30 CFR 256.26 the Minerals Management Service will hold public hearings in order to receive comments and suggestions relating to the EIS. It is tentatively planned to hold hearings the week of February 13, 1983, in Anchorage, Kodiak, and Yakutat, Alaska. The exact dates and locations of the hearings will be announced at a later date. Comments concerning the draft EIS will be accepted until March 20, 1984, and should be addressed to the Regional Manager, Alaska Region, P.O. Box 101159, Anchorage, Alaska 99510.

Dated: January 17, 1984.

William D. Bettenberg,

Director, Minerals Management Service.

Approved:

Bruce Blanchard,

Director, Environmental Project Review.

[FR Doc. 84-1662 Filed 1-19-84; 8:45 am]

BILLING CODE 4310-MR-M

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Atlantic Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of availability of environmental documents prepared for

OCS mineral exploration proposals on the Atlantic OCS.

SUMMARY: The Minerals Management Service (MMS) in accordance with Federal regulations (40 CFR 1501.4 and 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related environmental assesments (EA's) and Findings of No Significant Impact (FONSI's) prepared by the MMS for the following oil and gas exploration activities proposed on the Atlantic OCS. This listing includes all proposals for lease operations for which environmental documents were prepared by the Atlantic OCS Region in the 3-month period preceding this Notice.

Operator/activity	Location	Fonsi date
Shell Offshore Incorporated/ Exploration Plan.	OCS Block 4 (NJ 18-9) (94 statute miles Southeast of Cape May, New Jersey/ Baltimore Canyon area).	12/02/83
Shell Offshore Incorporated/ Exploration Plan.	OCS Block 93 (NJ 18-9) (96 statute miles Southeast of Cape May, New Jersey/ Baltimore Canyon area).	12/02/83

Persons interested in reviewing environmental documents for the proposal listed above or obtaining information about EA's and FONSI's prepared for activities on the Atlantic OCS are encouraged to contact the appropriate offices in the Atlantic OCS Region.

FOR FURTHER INFORMATION CONTACT: Regional Supervisor, Leasing and Environment, Atlantic OCS Region, minerals Management Service, 1951 Kidwell Drive, Suite 601, Vienna, Virginia 22180, (703) 285-2165, FTS-8-285-2165.

For Copies Contact: Records Management Section, Atlantic OCS Region, Minerals Management Service, 1951 Kidwell Drive, Suite 601, Vienna, Virginia 22180, (703) 285-2267, FTS-8-285-2267.

There will be a charge for the reproduction of these documents.

SUPPLEMENTARY INFORMATION:

The MMS prepares EA's and FONSI's for proposals which relate to exploration for oil and gas resources on the Atlantic OCS. The EA's examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. EA's are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that affect the quality of the human environment in the sense of NEPA section 102(2)(C). A FONSI is prepared in those instances where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This Notice constitutes the public notice of availability of environmental documents required under the NEPA regulations.

Ralph V. Ainger,

Acting Regional Manager, Atlantic OCS Region.

[FR Doc. 84-1236 Filed 1-19-84; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

United States World Heritage Nominations 1984

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: The Department of the Interior, through the National Park Service, announces the nomination of Yosemite National Park and the Statue of Liberty to the World Heritage List. The nominations are the result of Interior's annual World Heritage nomination process, which was initiated through a February 23, 1983, **Federal Register** notice (48 FR 7640). The Department earlier announced the identification of both sites as proposed U.S. World Heritage nominations (48 FR 38100). The nominations are being submitted to the Secretariat of the World Heritage Committee for consideration through a process that could lead to their inscription on the World Heritage List in fall 1984.

FOR FURTHER INFORMATION CONTACT: Mr. David G. Wright, Associate Director, Planning and Development, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240

SUPPLEMENTARY INFORMATION: The Convention Concerning the Protection of the World Cultural and Natural Heritage, ratified by the United States and 77 other countries, has established a system of international cooperation through which cultural and natural properties of outstanding universal value to mankind may be recognized and protected. The Convention seeks to put into place an orderly approach for coordinated and consistent heritage resource protection and enhancement throughout the world. The Convention complements each participating nation's heritage conservation programs, and provides for:

(a) The establishment of a 21-member World Heritage Committee assisted by UNESCO to further the goals of the Convention and to approve properties for inclusion on the World Heritage List;

(b) The development and maintenance of a World Heritage List to be comprised of natural and cultural properties of outstanding universal value;

(c) The preparation of a List of World Heritage in Danger;

(d) The establishment of a World Heritage Fund, with a primary function to assist participating countries in preserving and protecting endangered World Heritage properties;

(e) The provision of technical assistance to participating countries, upon request; and

(f) The promotion and enhancement of public knowledge and understanding of the vital importance of heritage conservation at the international level.

Participating nations identify and nominate their sites for inclusion on the World Heritage List, which currently includes 165 cultural and natural properties. The World Heritage Committee judges all nominations against established criteria. Under the Convention, each participating nation assumes responsibility for taking appropriate legal, scientific, technical, administrative, and financial measures necessary for the identification, protection, conservation, presentation, and rehabilitation of World Heritage properties situated within its border.

The Federal Interagency Panel for World Heritage makes recommendations on proposed U.S. World Heritage nominations and related matters. The Panel includes representatives from the Office of the Assistant Secretary for Fish and Wildlife and Parks, the National Park Service, and the U.S. Fish and Wildlife Service within the Department of the Interior; the President's Council on Environmental Quality; the Smithsonian Institution; the Advisory Council on Historic Preservation; the Department of Comerce; the Department of Agriculture; and the Department of State.

In the United States, the Interior Department is responsible for directing and coordinating U.S. participation in the World Heritage Convention. The Department implements its responsibilities under the Convention in accordance with the statutory mandate contained in Title IV of the National Historic Preservation Act Amendments of 1980 (Pub. L. 96-515; 16 U.S.C. 470a-1, a-2). On May 6, 1982, the Interior Department published in the **Federal Register** in final rules which are used to carry out this legislative mandate (47 FR

23392). The rules contain further information on the Convention and its implementation in the United States.

United States World Heritage Nominations: 1984

The Interior Department, in cooperation with the Federal Interagency Panel for World Heritage, has selected the following properties as United States nominations to the World Heritage Committee for inscription on the World Heritage List.

I. Cultural Property

International Affairs

Statute of Liberty, New York. 40° 37′N; 74° 03′W) French historian Edouard Laboulaye suggested the presentation of this statue to the United States, commemorating the alliance of France and the United States during the American Revolution. The copper colossus was designed by Frederic Auguste Bartholdi and erected according to plans by Gustave Eiffel.

Criteria: (i) A unique artistic achievement; (iv) an outstanding example of a type of structure which illustrates a significant stage in history, and (vi) directly or tangibly associated with events or with ideas or beliefs of outstanding universal significance.

II. Natural Property

Sierra Nevada

Yosemite National Park, California. (37° 50′N; 119° 30′W) Granite peaks and domes rise high above broad meadows in the heart of the Sierra Nevada, along with groves of sequoias and related tree species. Mountains, lakes, and waterfalls, including five of the world's ten highest, are found here. *Criteria:* (i) An outstanding example representing the major stages of the earth's evolutionary history and (iii) contains superlative natural phenomena, formations or features, or areas of exceptional natural beauty.

Dated: January 13, 1984

J. Craigh Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84-1713 Filed 1-19-84 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-6 (Sub-177X)]

Rail Carriers; Burlington Northern Railroad Co.; Abandonment in Fulton County, IL; Exemption

Burlington Northern Railroad Company (BN) has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments.* The line to be abandoned is between milepost 48.94 near Lewistown and milepost 44.90, near Fairview a distance of 4.04 miles, in Fulton County, IL.

BN has certified (1) that no local traffic has moved over the line for at least 2 years, and that any overhead traffic on the line can be rerouted over other lines, and (2) that no formal complaint filed by a user of rail service on the line regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in Illinois has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines,* 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen,* 360 I.C.C. 91 (1979).

The exemption will be effective on February 19, 1984 (unless stayed pending reconsideration). Petition to stay the effective date must be filed by January 30, 1984, and petitions for reconsideration, including environmental, energy and public use concerns, must be filed by February 9, 1984, with: Office of Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to BN's representative: Thomas A. Ehlinger, 176 East Fifth Street, St. Paul, MN 55101.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: January 6, 1984.

By the Commission, Richard Lewis, Acting Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-1602 Filed 1-19-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-178X)]

Rail Carriers; Burlington Northern Railroad Co.; Abandonment in St. Louis County, MN; Exemption

Burlington Northern Railroad Company (BN) filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments.* The line to be abandoned is between Railroad Station 27+23.2, near Emmert Junction, and Railroad Station 73+38, near Albany Junction, a distance of 0.87 miles in St. Louis County, MN.

BN has certified (1) that no local traffic has moved over the line for at least 2 years and any overhead traffic on the line can be rerouted over other lines, and (2) that no formal complaint filed by a user of rail service on the line regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in Minnesota has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines,* 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen,* 360 I.C.C. 91 (1979).

The exemption will be effective on February 19, 1984 (unless stayed pending reconsideration). Petitions to stay must be filed by January 30, 1984, and petitions for reconsideration, including environmental, energy and public use concerns, must be filed by February 9, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to BN's representative: Thomas A. Ehlinger, 176 East Fifth Street, St. Paul, MN 55101.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: January 6, 1984.

By the Commission, Richard Lewis, Acting Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-1603 Filed 1-19-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-179X)]

Rail Carriers; Burlington Northern Railroad Co.; Abandonment in St. Louis County, MN; Exemption

Burlington Northern Railroad Company (BN) filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments.* The

line to be abandoned is between Railroad Station 0+14.5, near Kelly Lake, and Railroad Station 36+57.5, near South Agnew, a distance of 0.69 miles in St. Louis County, MN.

BN has certified (1) that no local traffic has moved over the line for at least 2 years and any overhead traffic on the line can be rerouted over other lines, and (2) that no formal complaint filed by a user of rail service on the line regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in Minnesota has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines,* 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen,* 360 I.C.C. 91 (1979).

The exemption will be effective on February 19, 1984 (unless stayed pending reconsideration). Petitions to stay must be filed by January 30, 1984, and petitions for reconsideration, including environmental, energy and public use concerns, must be filed by February 9, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to BN's representative: Thomas A. Ehlinger, 176 East Fifth Street, St. Paul, MN 55101.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: January 6, 1984.

By the Commission, Richard Lewis Acting Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-1604 Filed 1-19-84; 8:45 am]

BILLING CODE 7055-01.

[Docket No. AB-6 (Sub-180X)]

Rail Carriers; Burlington Northern Railroad Co.; Abandonment in St. Louis County, MN; Exemption

Burlington Northern Railroad Company (BN) filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments.* The line to be abandoned is between Railroad Station 10+89.5 and Railroad Station 72+57.9, known as the Mahoning Spur Line, a distance of 1.17 miles in St. Louis County, MN.

BN has certified (1) that no local traffic has moved over the line for at least 2 years and any overhead traffic on the line can be rerouted over other lines, and (2) that no formal complaint filed by a user of rail service on the line regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in Minnesota has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines,* 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

The exemption will be effective on February 19, 1984 (unless stayed pending reconsideration). Petitions to stay must be filed by January 30, 1984, and petitions for reconsideration, including environmental, energy and public use concerns, must be filed by February 9, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to BN's representative: Thomas A. Ehlinger, 176 East Fifth Street, St. Paul, MN 55101.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: January 6, 1984.

By the Commission, Richard Lewis, Acting Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-1605 Filed 1-19-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-188X)]

Rail Carriers; Burlington Northern Railroad Co.—Abandonment—in Spokane County, WA and Kootenai County, ID; Exemption

The Burlington Northern Railroad Company (applicant) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments.* The line to be abandoned is between milepost 14.40 near Greenacres, WA, and milepost 16.50 near Post Falls, ID, a distance of 8.8 miles in Spokane County, WA, and Kootenai County, ID.

Applicant has certified (1) that no local traffic has moved over the line for at least 2 years, and that any overhead traffic on the line can be rerouted over other lines, and (2) that no formal complaint filed by a user of rail service on the line regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commissions (or equivalent agencies) in Washington and Idaho have been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines,* 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen,* 360 I.C.C. 91 (1979).

The exemption will be effective on February 19, 1984, (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by January 30, 1984, and petitions for reconsideration, including environmental, energy and public use concerns, must be filed by February 9, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to BN's representative: Thomas A. Ehlinger, 176 East Fifth Street, St. Paul, MN 55101.

If the Notice of exemption contains false or misleading information, the use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: January 6, 1984.

By the Commission, Richard Lewis, Acting Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-1589 Filed 1-19-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-189X)]

Rail Carriers; Burlington Northern Railroad Co.—Abandonment—in Fillmore and Saline Counties, NE; Exemption

Burlington Northern Railroad Company (applicant) filed a notice of exemption under 49 CFR 1152 Subpart

F—*Exempt Abandonments.* The line to be abandoned is between milepost 23.00, near Milligan, and milepost 28.84 near Tobias, a distance of 5.84 miles, in Fillmore and Saline Counties, NE.

Applicant has certified (1) that no local traffic has moved over the line for at least 2 years, and that any overhead traffic on the line can be rerouted over other lines, and (2) that no formal complaint filed by a user of rail service on the line regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in Nebraska has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines,* 366 I.C.C. 855 (1983).

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen,* 360 I.C.C. 91 (1979).

The exemption will be effective on February 19, 1984 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by January 30, 1984, and petitions for reconsideration, including environmental, energy and public use concerns, must be filed by February 9, 1984 with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Thomas A. Ehlinger, 176 East Fifth Street, St. Paul, MN 55101.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: January 6, 1984.

By the Commission, Richard Lewis, Acting Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-1590 Filed 1-19-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-190X)]

Rail Carriers; Burlington Northern Railroad Co.—Abandonment—In Golden Valley County, ND; Exemption

Burlington Northern Railroad Company (BN) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments.* The line to be abandoned is between milepost 0.53 near Beach and milepost 13.4 near Golva, a distance of 12.87 miles in Golden Valley County, ND.

BN has certified (1) that no local traffic has moved over the line for at least 2 years and that any overhead traffic on the line can be rerouted, and (2) that no formal complaint filed by a user of rail service on the line regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in North Dakota has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines, 336 I.C.C. 885 (1983).*

As a condition to use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen,* 366 I.C.C. 91 (1979).

The exemption will be effective on February 19, 1984 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by January 30, 1984, and petitions for reconsideration, including environmental, energy and public use concerns, must be filed by February 9, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to BN's representative: Thomas A. Ehlinger, 176 East Fifth Street, St. Paul, MN 55101.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: January 6, 1984.

By the Commission, Richard Lewis, Acting Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-1591 Filed 1-19-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-No. 191X)]

Burlington Northern Railroad Co.—Abandonment—In Itasca County, MN; Exemption

Burlington Northern Railroad Company (BN) filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments.* The line to be abandoned is BN's Mesabi Chief Spur line between Railroad Station 0+08 and Railroad Station 69+96, in Itasca County, MN, a distance of approximately 1.32 miles.

BN has certified (1) that no local traffic has moved over the line for at least 2 years, and that any overhead traffic on the line can be rerouted over other lines, and (2) that no formal complaint filed by a user of rail service on the line regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in Minnesota has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines,* 366 I.C.C. 885 (1983).

As a condition to use this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.–Abandonment–Goshen,* 360 I.C.C. 91 (1979).

The exemption will be effective on February 19, 1984 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by January 30, 1984, and petitions for reconsideration, including environmental, energy and public use concerns, must be filed by February 9, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to BN's representative: Thomas A. Ehlinger, 176 East Fifth Street, St. Paul, MN 55101.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: January 6, 1984.

By the Commission, Richard Lewis, Acting Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-1592 Filed 1-19-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-192X)]

Rail Carriers; Burlington Northern Railroad Co.—Abandonment—In St. Louis County, MN; Exemption

Burlington Northern Railroad Company (BN) filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments.* The line to

be abandoned is between milepost 105.70, near Dormer Junction, and milepost 116.25, near Emmert Junction, a distance of 15.04 miles, in St. Louis County, MN.

BN has certified (1) that no local traffic has moved over the line for at least 2 years, and that any overhead traffic on the line can be re-routed over other lines, and (2) that no formal complaint filed by a user of rail service on the line regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complaintant within the 2-year period. The Public Service Commission (or equivalent agency) in Minnesota has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines,* 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen,* 360 I.C.C. 91 (1979).

The exemption will be effective on February 19, 1984 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by January 30, 1984, and petitions for reconsideration, including environmental, energy and public use concerns, must be filed by February 9, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petitions filed with the Commission should be sent to BN's representative: Thomas A. Ehlinger, 176 East Fifth Street, St. Paul, MN 55101.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: January 6, 1984.

By the Commission, Richard Lewis, Acting Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-1593 Filed 1-19-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-194X]

Rail Carriers; Burlington Northern Co.—Abandonment—In Pend Oreille and Spokane Counties, WA.; Exemption

Burlington Northern Railroad Company (BN), filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments.* The line to be abandoned is a portion of BN's line between milepost 1433, near Newport, and milepost 1463, near Dean, in Pend Oreille and Spokane Counties, WA, a distance of 30 miles.

BN has certified (1) that traffic has moved over the line for at least 2 years, and that any overhead traffic on the line can be re-routed over other lines, and (2) that no formal complaint filed by a user of rail service on the line regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in Washington has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines,* 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

The exemption will be effective on February 19, 1984 (unless stayed pending reconsideration). Petitions to stay the exemption must be filed by January 30, 1984 and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by February 9, 1984 with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423.

A copy of any petition filed with the Commission should be sent to BN's represenatative: Thomas A. Ehlinger, 176 East Fifth Street, St. Paul, MN 55101.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: January 6, 1984.

By the Commission, Richard Lewis, Acting Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-1594 Filed 1-19-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-181X)]

Rail Carriers; Burlington Northern Railroad Co.—Abandonment—In Itasca County, MN; Exemption

Burlington Northern Railroad Company (BN) filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments.* The line to be abandoned is between Railroad Station 0+12, near Perry, and Railroad Station 38+79, near Wyman, a distance of .73 miles in Itasca County, MN.

BN has certified (1) that no local traffic has moved over the line for at least 2 years and any overhead traffic on the line can be rerouted over other lines, and (2) that no formal complaint filed by a user of rail service on the line regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in Minnesota has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines,* 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short LIne R. Co.-Abandonment-Goshen,* 360 I.C.C. 91 (1979).

The exemption will be effective on February 19, 1984 (unless stayed pending reconsideration). Petitions to stay must be filed by January 30, 1984, and petitions for reconsideration, including environmental, energy and public use concerns, must be filed by February 9, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to BN's representative: Thomas A. Ehlinger, 176 East Fifth Street, St. Paul, MN 55101.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: January 6, 1984.

By the Commission, Richard Lewis, Acting Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-1595 Filed 1-19-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-182X)]

Rail Carriers; Burlington Northern Railroad Co.—Abandonment—In Itasca County, MN.; Exemption

Burlington Northern Railroad Company (BN) filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments.* The line to be abandoned is between Railroad

Station 0+06 and Railroad Station 26+50, known as the Mississippi Groups Spur, a distance of 0.50 miles in Itasca County, MN.

Applicant has certified (1) that no local traffic has moved over the line for at least 2 years, and that any overhead traffic on the line can be rerouted over other lines, and (2) that no formal complaint filed by a user of rail service on the line regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in Minnesota has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines*, 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective on February 19, 1984 (unless stayed pending reconsideration). Petitons to stay the effective date of the exemption must be filed by January 30, 1984, and petitions for reconsideration, including environmental, energy and public use concerns, must be filed by February 9, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Thomas A. Ehlinger, 176 East Fifth Street, St. Paul, MN 55101.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: January 6, 1984.

By the Commission, Richard Lewis, Acting Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc 84-1596 Filed 1-19-84, 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-183X)]

Rail Carriers; Burlington Northern Railroad Co.—Abandonment—in St. Louis County, MN; Exemption

Burlington Northern Railroad Company (applicant) filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments*. The line to be abandoned is between milepost 107.94, near Wacootah Siding, and milepost 110.18, near Virginia, a distance of 2.24 miles, in St. Louis County, MN.

Applicant has certified (1) that no local traffic has moved over the line for at least 2 years, and that any overhead traffic on the line can be rerouted over other lines, and (2) that no formal complaint filed by a user of rail service on the line regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in Minnesota has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines*, 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment-Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective on February 19, 1984 (unless stayed pending reconsideration). Petitions to stay must be filed by January 30, 1984, and petitions for reconsideration, including environmental, energy and public use concerns, must be filed by February 9, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to BN's representative: Thomas A. Ehlinger, 176 East Fifth Street, St. Paul. MN 55101.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: January 6, 1984.

By the Commission, Richard Lewis, Acting Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-1597 Filed 1-19-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-184X)

Rail Carriers; Burlington Northern Railroad Co.—Abandonment—in Clay, York, and Fillmore Counties, NE; Exemption

Burlington Northern Railroad Company (applicant) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments*. The line to be abandoned is between milepost 108.00, near Sutton and milepost 118.80, near Lushton, a distance of 10.80 miles in Clay, York, and Fillmore Counties, NE.

Applicant has certified (1) that no local traffic has moved over the line for at least 2 years, and that any overhead traffic on the line can be rerouted over other lines, and (2) that no formal complaint filed by a user of rail service on the line regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in Nebraska has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines*, 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective on February 19, 1984, (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by January 30, 1984 and petitions for reconsideration, including environmental, energy and public use concerns, must be filed by February 9, 1984, with Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Thomas A. Ehlinger, 176 East Fifth Street, St. Paul. MN 55101.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: January 6, 1984.

By the Commission, Richard Lewis, Acting Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-1598 Filed 1-19-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-185X)]

Rail Carriers; the Burlington Northern Railroad Co.—Abandonment—in Boulder and Weld Counties, CO; Exemption

The Burlington Northern Railroad Company (BN) filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments.* The line to be abandoned is between M.P. 26.00 near Erie, and M.P. 35.59 near Longmont, located in Boulder and Weld Counties, CO, a distance of 9.59 miles.

Applicant has certified (1) that no local or overhead traffic has moved over the line for at least 2 years, and that any overhead traffic on the line can be rerouted over other lines, and (2) that no formal complaint filed by a user of rail service on the line regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in Colorado has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines,* 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment-Goshen,* 360 I.C.C. 91 (1979).

The exemption will be effective on February 19, 1984 (unless stayed pending reconsideration). Petitions to stay must be filed by January 30, 1984, and petitions for reconsideration, including environmental, energy and public use concerns, must be filed by February 9, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to BN's representative: Thomas A. Ehlinger, 176 East Fifth Street, St. Paul, MN 55101.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: January 6, 1984.

By the Commission, Richard Lewis, Acting Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-1599 Filed 1-19-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-187X)]

Rail Carriers; Burlington Northern Railroad Co.—Abandonment—in Yakima County, WA; Exemption

Burlington Northern Railroad Company (BN) filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments.* The line to be abandoned is between mileposts 8.18 and 8.75, near Moxee City, a distance of 0.57 miles, in Yakima County, WA.

BN has certified (1) that no local traffic has moved over the line for at least 2 years and there is no overhead traffic and (2) that no formal complaint filed by a user of rail service on the line regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in Washington has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines,* 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

The exemption will be effective on February 19, 1984 (unless stayed pending reconsideration). Petitions to stay the effective date must be filed by January 30, 1984, and petitions for reconsideration, including environmental, energy and public use concerns, must be filed by February 9, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to BN's representative: Thomas A. Ehlinger, 176 East Fifth Street, St. Paul, MN 55101.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: January 9, 1984.

By the Commission, Richard Lewis, Acting Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-1600 Filed 1-19-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-No. 176X)]

Rail Carriers; Burlington Northern Railroad Co.—Abandonment—in Franklin County, IL; Exemption

Burlington Northern Railroad Company (applicant) filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments.* The line to be abandoned is between milepost 0.00 and milepost 1.00 near Cambon, in Franklin, County, IL.

Applicant has certified (1) that no local traffic has moved over the line for at least 2 years, and that any overhead traffic on the line can be rerouted over other lines, and (2) that no formal complaint filed by a user of rail service on the line regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in Illinois has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines,* 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen,* 360 I.C.C. 91 (1979).

The exemption will be effective on February 19, 1984 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by January 30, 1984, and petitions for reconsideration, including environmental, energy and public use concerns, must be filed by February 9, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Thomas A. Ehlinger, 176 East Fifth Street, St. Paul, MN 55101.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: January 6, 1984.

By the Commission, Richard Lewis, Acting Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-1601 Filed 1-19-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-39 (Sub-5)]

Rail Carriers; St. Louis Southwestern Railway Co.—Abandonment—in Mississippi and New Madrid Counties, MO; Findings

The Commission has issued a certificate authorizing the St. Louis Southwestern Railway Company to abandon its line of railroad extending from railroad milepost 16.00 near East Prairie to milepost 33.50 near Lilibourn, a total distance of 17.50 miles in Mississippi and New Madrid Counties, MO. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) a financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-1588 Filed 1-19-84; 8:45 am]
BILLING CODE 7035-01-M

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: American Hospital Supply Corporation, One American Plaza, Evanston, Illinois 60201.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(i) Abbey Medical Inc.—Delaware
(ii) Abbey Medical/Abbey Rents, Inc.—Delaware
(iii) Abbey Endicott, Inc.—Delaware
(iv) AHS/International, Inc.—Delaware
(v) Airlife, Inc.—California
(vi) American Hospital Supply Corporation de Puerto Rico, S.A.—Puerto Rico
(vii) Amo del Caribe, Inc.—Delaware
(viii) Arnar-Stone del Caribe, Inc.—Delaware
(ix) Arnar-Stone, Inc.—Delaware
(x) Bentley Puerto Rico, Inc.—Delaware
(xi) Dade Disgnostics, Inc.—Delaware
(xii) Edwards Laboratories, Inc.—California
(xiii) Heyer-Schulte del Caribe, Inc.—Delaware
(xiv) McGaw Laboratories, Inc.—Delaware
(xv) Pharmaseal Corporation—Ohio
(xvi) Pharmaseal, Inc.—Delaware
(xvii) Pharmaseal Laboratories, Inc.—Delaware
(xviii) V. Mueller del Caribe, Inc.—Illinois
(xix) American Kay, Inc.—Delaware
(xx) American Pharmaseal Laboratories—California
(xxi) American Micro-Scan, Inc.—New Jersey
(xxii) American Bentley, Inc.—Delaware
(xxiii) American Hospital Supply International Sales Corporation—California
(xxiv) American Bio-Science Laboratories—California
(xxv) CLMG, Inc.—California
(xxvi) Pathology Associates, Inc.—Delaware
(xxvii) Cirmex de Chihuahua, S.A. de C.V.—Mexico
(xxviii) Convertors de Mexico, S.A. de C.V.—Mexico
(xxix) I-M, Inc.—Kentucky
(xxx) Instranetics, Inc.—California
(xxxi) McGaw Supply Ltd.—Canada
(xxxii) Kopp Laboratories Limited—Canada
(xxxiii) Pharmaseal de Mexico, S.A. de C.V.—Mexico
(xxxiv) American Plastics Corporation—Colorado
(xxxv) Productos Urologos de Mexico, S.A.—Mexico
(xxxvi) Medi-Vac Corporation—Texas
(xxxvii) Taylor Surgical Supply, Inc.—Texas
(xxxviii) Taylor Home Health, Inc.—Texas
(xxxix) Westco Leasing, Inc.—Texas
(xxxx) Taylor Surgical Supply of Houston, Inc.—Texas
(xxxxi) Taylor Surgical Supply of Beaumont, Inc.—Texas
(xxxxii) Scientific Manufacturing Industries, Inc.—Delaware
(xxxxiii) American Contineucare Pharmacy, Inc.—Delaware
(xxxxiv) Burdick & Jackson Laboratories, Inc.—New Jersey
(xxxxv) Haemonetics Corporation—Delaware
(xxxxvi) Haemonetics Canada, Inc.—Canada

1. Parent corporation and address of principal office: Container General Corporation, 400 West 45th Street, Chattanooga, Tennessee 37410.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation: Glass Containers Corp. (Delaware).

1. Parent corporation and address of principal office: Esmark, Inc., 55 East Monroe Street, Chicago, Illinois 60603.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(1) Swift & Company (Delaware)
(2) Blue Coach Foods, Inc. (Delaware)
(3) Honey Creek Provisions Company (Ohio)
(4) Hunt-Wesson Foods, Inc. (Delaware)
(5) United Can Company (Delaware)
(6) Strongheart Products, Inc. (Delaware)
(7) Estech, Inc. (Delaware)
(8) Weskem, Inc. (Nebraska)
(9) Eschem Inc. (Delaware)
(10) National Wax Company (Illinois)
(11) International Playtex, Inc. (Delaware)
(12) Danskin Florida, Inc. (Delaware)
(13) Danskin Texas, Inc. (Delaware)
(14) Pennaco Hosiery, Inc. (Delaware)
(15) PEC, Inc. (Delaware)
(16) Milky Way Products Company (Delaware)
(17) BG Marketing Corp. (Delaware)
(18) Tailby-Nason Company, Inc. (Delaware)
(19) Playtex Texas (Delaware)
(20) Jhirmack Enterprises, Inc. (California)
(21) Halston Enterprises, Inc. (Delaware)
(22) Max Factor & Co. (Delaware)
(23) McCall Pattern Company (Delaware)
(24) STP Corporation (Delaware)
(25) Be-Kan, Inc. (Delaware)
(26) Estronics, Inc. (Delaware)
(27) International Jensen Incorporated (Delaware)
(28) Custom Technologies Corporation (Delaware)
(29) Federal Stampings, Inc. (Minnesota)
(30) Washington Manufacturing Company, Inc. (Delaware)
(31) Escast, Inc. (Illinios)
(32) Wellman Dynamics Corporation (Delaware)
(33) Somerset Importers, Ltd. (Delaware)
(34) Old Fitzgerald Distillery, Inc. (Kentucky)
(35) W. L. Weller & Sons, Inc. (Kentucky)
(36) San Martin Winery Inc. (Delaware)
(37) Avis, Inc. (Delaware)

1. Parent corporation and address of principal office: Marathon Petroleum Company, 539 South Main Street, Findlay, Ohio 45840.

2. Wholly-owned subsidiaries which will participate in the operations, and States of Incorporation:

(a) Emro Marketing Company, a Delaware corporation;

(b) Muesing, Inc., an Indiana corporation;

(c) Automotive Fuel Corporation of Delaware, Inc., a Delaware corporation.

1. Parent corporation and address of principal office: George Weston Ltd., 22 St. Clair Avenue, East, Suite 1901, Toronto, Ontario, Canada M4T 2S7.

2. Wholly-owned subsidiaries which will participate in the operations:

Stroehmann Brothers Company, 1685 Four Mile Drive, Williamsport, PA 17701, State of Incorporation—Pennsylvania

Capital Bakers Division, of Stroehmann Brothers Company, 3396 Paxton Street, Harrisburg, PA 17105, State of Incorporation—Pennsylvania

Firch Baking Company, Division of Stroehmann Brothers Company, 1220 W. 20th St., Erie, PA 16501, State of Incorporation—Pennsylvania

Keystone Banking Company Division of Stroehmann Brothers Company, 500 Market St., W. Bridgewater, Beaver, PA 15009, State of Incorporation—Pennsylvania

Interbake Foods Inc., 900 Terminal Place, P.O. Box 27487, Richmond, VA 28261, State of Incorporation—Delaware

Z & W Foods Inc. 755 Bailey Avenue, Buffalo, NY 14206, State of Incorporation—New York

Peter J. Schmitt Co., 355 Harlem Rd., P.O. Box 2, West Seneca, NY 14240, State of Incorporation—New York

DeWitt Wholesale Co., 621 E. Brighton Ave., Syracuse, NY 13210, State of Incorporation—New York

Star Markets, 109 Humboldt St., Rochester, NY 14603, State of Incorporation—New York

James H. Bayne,

Acting Secretary.

[FR Doc. 84-1588 Filed 1-19-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market with particular emphasis upon its potential impact upon competitive enterprises in the same areas.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of application involving the establishment of branch plants or facilities, the potential effect of such new facilities in other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Richard C. Gilliland, Director, U.S. Employment Service, Employment and Training Administration, 601 D Street, NW., Room 8000, Patrick Henry Building, Washington, D.C. 20213.

Signed at Washington, D.C. this 17th day of January 1984.

Joseph Seiler,

Director, Office of Program Operations.

APPLICATIONS RECEIVED DURING THE WEEK ENDING JANUARY 21, 1984

Name of applicant and location of enterprise	Principal product or activity
Tidewater Agncorp, Inc., Chesapeake, Va	Blending of mixed fertilizer and retail of raw materials, seed, crop protection chemicals and other services

[FR Doc. 84-1661 Filed 1-19-84; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-14,645]

Endicott Forging & Mfg. Co., Inc., Endicott, New York; Affirmative Determination Regarding Application for Reconsideration

By an application dated December 9, 1983, an official of Endicott Forging & Manufacturing Company, Inc., requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Workers Adjustment Assistance on behalf of workers and former workers of Endicott Forging & Manufacturing Company, Inc., Endicott, New York. The determination was published in the **Federal Register** on December 13, 1983 (48 FR 55526).

The application claims that the company was recently certified for trade adjustment assistance by the U.S. Department of Commerce. It is also claimed that certain forging sales were lost to foreign firms supplying Endicott's customers.

Conclusion

After careful review of the application, I conclude that the claims are of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is therefore, granted.

Signed at Washington, D.C., this 12th day of January 1984.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Service, UIS.

[FR Doc. 84-1666 Filed 1-19-84; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-14,577]

Knickerbocker Toy Co., Middlesex, New Jersey; Investigation Regarding Certification of Eligibility to Apply for Worker Adjustment Assistance; Correction

In FR Doc. 84-628 appearing on page 1298 in the **Federal Register** of January 10, 1984, the following TA-W- number and location under Affirmative Determinations, Knickerbocker Toy Company is corrected to read as follows: TA-W-14,577 Knickerbocker Toy Company, Middlesex and Edison, New Jersey.

Signed at Washington, D.C. this 12th day of January 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 84-1697 Filed 1-19-84; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-13,980 et al.]

Republic Steel Corporation; Revised Determination on Reconsideration

On November 29, 1983, the Department issued an Affirmative Determination Regarding Application for Reconsideration for workers and former workers of Republic Steel Corporation's General Offices, Cleveland, Ohio; Research Center, Independence, Ohio; and the District Sales Office, Pittsburgh, Pennsylvania. This determination was published in the **Federal Register** on December 6, 1983 (48 FR 54728).

The company, in its application for reconsideration, states that since the Department's denial of adjustment assistance for workers at the General Offices, Research Center and the Pittsburgh District Sales Office, the Department has issued certifications of eligibility to workers at Republic Steel plants in Cleveland, Ohio and Chicago, Illinois. The company claims that these certifications when coupled with previous certifications for workers at Youngstown, Ohio, Warren and Niles, Ohio and Massillon, Ohio indicate that workers at a significant proportion of Republic's production facilities do meet the statutory criteria for certification.

As a general rule, workers may not be certified as eligible to apply for worker adjustment assistance if the firm in which they are employed does not produce an article within the meaning of section 222 of the Trade Act of 1974. However, such workers may be certified if their separation from employment was caused importantly by a reduced demand for their services from a firm which produces an article and which substantially beneficially owns the service workers' firm. In addition, the reduction in demand for services must be determined to have originated at a production facility whose workers independently meet the statutory criteria for certification, and that reduction must directly relate to the product adversely affected by increased imports.

The Department has determined that increased imports contributed importantly to the decline in sales or production and to total or partial separations of workers at several Republic Steel Corporation plants (Youngstown, Ohio, TA-W-13,408 dated March 25, 1983; Warren and Niles, Ohio, TA-W-13,938 dated March 25, 1983; and Massillon, Ohio, TA-W-13,597 dated May 6, 1983; Chicago, Illinois, TA-W-14,000 dated October 31, 1983 and Cleveland, Ohio, TA-W-14,519 dated October 31, 1983). The Chicago and Cleveland plants are among the largest of Republic Steel's basic steelmaking plants and together produce more than 40 percent of Republic's total annual steel output of which about 90 percent was import impacted.

The reconsideration investigation was expanded to include the following facilities where layoffs have occurred: Sales Offices in Birmingham, Alabama; Chicago, Illinois; Cincinnati, Ohio; Detroit, Michigan; Los Angeles, California; Milwaukee, Wisconsin; Philadelphia, Pennsylvania; St. Louis, Missouri; Atlanta, Georgia; Accounting Offices in Massillon, Ohio and Brooklyn Heights, Ohio and the Transportation Service Office, Cleveland Hopkins Airport. These facilities perform activities which primarily support the production and sale of Republic steel which has been subject to import injury. Each of these facilities is substantially integrated into the production of import impacted Republic steel.

Conclusion

After careful review of the facts obtained on reconsideration, it is concluded that increased imports of carbon and alloy steel bars, hot and cold rolled sheet and strip, steel tubular products, stainless hot and cold rolled sheets and stainless steel plate produced at the Cleveland, Chicago, Massillon, Youngstown, Warren and Niles plants of Republic Steel contributed importantly to the decline in sales and to the total or partial separation of workers and former workers at facilities of Republic Steel listed in the Appendix. In accordance with the provisions of the Trade Act of 1974, I make the following revised determination:

"All workers of the General Office, accounting offices, sales offices, research center and transportation service office listed in the Appendix who became totally or partially separated from employment on or after the impact date listed in the Appendix are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974."

Signed at Washington, D.C. this 10th day of January 1984.

Harold A. Bratt,

Deputy Director, Office of Program Management, UIS.

APPENDIX

TA-W-	Republic Steel Corporation location	Impact date
TA-W-13,980	General Offices, Cleveland, Ohio.	Oct. 1,1981
TA-W-13,980A	Transportation Service, Cleveland Hopkins Airport.	Do
TA-W-13,980B	Sales Office, Birmingham, Alabama.	Do
TA-W-13,980C	Sales Office, Chicago, Illinois	Do
TA-W-13,980D	Sales Office, Cincinnati, Ohio	Do
TA-W-13,980E	Sales Office, Detroit, Michigan.	Do
TA-W-13,980F	Sales Office, Los Angeles, California.	Do
TA-W-13,980G	Sales Office, Milwaukee, Wisconsin.	Do
TA-W-13,980H	Sales Office, Philadelphia, Pennsylvania.	Do
TA-W-13,980I	Sales Office, St. Louis, Missouri.	Do
TA-W-13,980J	Sales Office, Atlanta, Georgia	Do
TA-W-13,980K	Accounting Office, Massillon, Ohio.	Do
TA-W-13,980L	Accounting Office, Brooklyn Heights, Ohio.	Do
TA-W-14,399	Research Center, Independence, Ohio.	Do
TA-W-14,423	District Sales Office, Pittsburgh, Pennsylvania.	Do

[FR Doc. 84-1695 Filed 1-19-84; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 84-05]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council (NAC) Informal Earth System Sciences Committee.

DATE AND TIME: February 6, 1984, 2 p.m. to 5 p.m.; February 7, 1984, 8:30 a.m. to 5

p.m.; and February 8, 1984, 8:30 a.m. to 12 noon.

ADDRESS: University Corporation for Atmospheric Research; Fleischman Building; 1850 Table Mesa Drive; Boulder, Colorado 80303.

FOR FURTHER INFORMATION CONTACT: Mr. Ray J. Arnold, Code EE, National Aeronautics and Space Administration, Washington, DC 20546 (202) 453–1707.

SUPPLEMENTARY INFORMATION: The NASA Advisory Council, Informal Earth System Sciences Committee has been formed to provide advice and counsel on the future role, responsibilities, and implementation strategies for the Earth Science and Applications program. This committee is chaired by Dr. Frances L. Bretherton and has a total of 18 members.

This will be the second of a series of meetings to address this subject.

Type of Meeting: Open.

Agenda

February 6, 1984

2 p.m.—Review of group objectives, output products, and decision criteria for prioritization.

5 p.m.—Adjourn.

February 7, 1984

8:30 a.m.—Discipline-related objectives, plans, and issues

1 p.m.—Global Inter-disciplinary objectives and research needs.

5 p.m.—Adjourn.

February 8, 1984

8:30 a.m.—Plans for summer study and anticipated process for accomplishment.

12 noon—Adjourn.

Dated: January 13, 1984.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

[FR Doc. 84–1559 Filed 1–19–84; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Ad Hoc Planning Committee; Meetings

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. Law 92–463), notice is hereby given that a meeting of the Ad Hoc Planning Committee will be held on January 24–25, 1984, from 9:00 a.m.–6:00 p.m., in room M–09 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506.

This meeting will be open to the public on a space available basis. The topic for discussion will be Draft Five Year Planning Document.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506 or call (202) 682–5433.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 84–1648 Filed 1–19–84; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Physiology, Cellular and Molecular Biology Subpanel on Cellular Physiology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting.

Name: Subpanel on Cellular Physiology of the Advisory Panel for Physiology, Cellular and Molecular Biology.

Date and Time: February 6, 7, 8, 1984, starting at 9:00 A.M. to 6:00 P.M.

Place: Room 338, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.

Type of Meeting: Closed.

Contact Person: Dr. Barbara K. Zain, Assistant Program Director, Cellular Physiology Program, Room 332, National Science Foundation, Washington, D.C. 20550, telephone (202) 357–7377.

Purpose of Subpanel: To provide advice and recommendations concerning support of research in cellular physiology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of U.S.C. 552(c), Government in the Sunshine Act.

Authority: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF July 6, 1979.

Dated: January 17, 1984.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 84–1701 Filed 1–19–84; 8:45 am]

BILLING CODE 7555–01–M

Forms Submitted for OMB Review

In accordance with the Paperwork Reduction Action Act and OMB guidelines, is posting this notice of information collection that will affect the public.

Agency Clearance Officer: Herman G. Fleming, (202) 357–9421.

OMB Officer: Carlos Tellez, (202) 395–7340.

Title: 1984 National Survey of Natural and Social Scientists and Engineers.

Affected Public: Individuals or Households.

Number of Responses: 32,500 responses; total of 6,825 hours.

Abstract: The information provided in this survey will enable the National Science Foundation to comply with the legislative requirement to collect information about scientific and technical personnel that can be used in policy and planning activities by private industry, government agencies, and academic institutions.

Dated: December 17, 1984.

Herman G. Fleming,

OMB Clearance Officer.

[FR Doc. 84–1580 Filed 1–19–84; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50–456 and STN 50–457]

Availability of Draft Environmental Statement for the Braidwood Station, Units 1 and 2

Notice is hereby given that a Draft Environmental Statement (NUREG–1026) has been prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed operation of the Braidwood Station, Units 1 and 2, by the Commonwealth Edison Company. The site for this station is located in Reed Township, Will County, Illinois. The Braidwood Station is located in northeastern Illinois, 60 miles southwest of Chicago, Illinois.

This Draft Environmental Statement (DES) addresses the aquatic, terrestrial, radiological, social and economic costs and benefits associated with normal station operation. Also considered are station accidents, their likelihood of occurrence and their consequences. Finally, the statement presents an updated discussion of a need for the facility since the construction permit application.

This DES is available for inspection by the public in the Commission's Public

Document Room at 1717 H Street, NW., Washington, D.C. 20555 and in the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481. The DES is also being made available at the State Clearinghouse, Bureau of the Budget, Lincoln Tower Plaza, 524 S. Second Street, Room 315, Springfield, Illinois 62706 and at the Metropolitan Clearinghouse in the Northeastern Illinois Planning Commission, 400 West Madison Street, Chicago, Illinois 60606. Request for copies of the DES (NUREG–1026) should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Technical Information and Document Control.

Interested persons may submit comments on this DES for the Commission's consideration. Federal, State and specified local agencies are being provided with copies of the DES (local agencies may obtain these documents upon request).

Comments by Federal, State and local officials, or other members of the public received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C. and in the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

After consideration of comments submitted with respect to the DES, the Commission's staff will prepare a Final Environmental Statement, the availability of which will be published in the **Federal Register**. Comments are due by March 5, 1984.

Comments on this report from interested members of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 84–1705 Filed 1–19–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–358]

Cincinnati Gas and Electric Co.; William H. Zimmer Nuclear Power Station

Notice is hereby given that the Director, Office of Inspection and Enforcement, has issued a decision concerning a petition dated December 14, 1983, filed by Thomas Devine of the Government Accountability Project as counsel for the Miami Valley Power Project. The petitioner had requested that the Commission defer taking action with respect to the Course of Action proposed by the Cincinnati Gas and Electric Company for the William H. Zimmer Nuclear Power Station. The Director, Office of Inspection and Enforcement, has decided to deny the petitioner's request.

The reasons for this decision are explained in a "Director's Decision under 10 CFR 2.206" (DD–84–3), which is available for public inspection in the Commission's public document room, 1717 H Street, NW., Washington, D.C., and in the local public document room for the Zimmer facility, located at the Clermont County Library, Third and Broadway Streets, Batavia, Ohio 45103.

Dated at Bethesda, Maryland, this 13th day of January 1984.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 84–1704 Filed 1–19–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–329, 50–330]

Consumers Power Co., Midland Plant, Units 1 and 2; Confirmatory Orders

I

Consumers Power Company (the licensee) is the holder of construction permits CPPR–81 and CPPR–82 issued by the Atomic Energy Commission (now the Nuclear Regulatory Commission (the Commission)), which authorize the construction of the Midland Plant, Units 1 and 2 (the facility). The facility is under construction in Midland, Michigan.

II

Since the start of construction, the facility has experienced significant quality assurance (QA) problems. Although the licensee took corrective actions in each case, problems continue to be experienced in the implementation of its QA program.

On October 6, 1983, the Director of Inspection and Enforcement issued a "Confirmatory Order for Modification of the Construction Permits" which required that the licensee adhere to the Construction Completion Program (CCP), dated August 26, 1983, for the duration of the construction of the facility. 48 FR 46873 (October 13, 1983). As more fully described in that order, the development of such a program was necessary to verify the adequacy of prior construction and to insure the adequacy of future construction in view of the identification of widespread QA problems in late 1982, the facility's history of QA problems, and the ineffectiveness of previous corrective actions to fully resolve these problems. An important aspect of the CCP is the third party overview by Stone and Webster Engineering Corporation which is required until the Regional Administrator, Region III, finds that the overview is no longer necessary to provide reasonable assurance that the facility can be constructed in accordance with Commission requirements. One element in any decision regarding the relaxation of the overview requirement will be a finding of confidence in the ability of the licensee's management to properly construct the facility in accordance with Commission requirements without a third party overview. Such a finding cannot now be made.

III

On December 6, 1979, the Director of the Office of Inspection and Enforcement and the Director of the Office of Nuclear Reactor Regulation issued jointly an Order Modifying Construction Permits for the Midland plant. The order was based in part on a breakdown in quality assurance related to soils work at the Midland plant which had led to excessive settlement of the facility's diesel generator building. The licensee demanded a hearing on the order, and the proceeding on the order was eventually consolidated with the proceeding on Consumers Power Company's application for operating licenses for the Midland plant. During the course of the proceeding, the Atomic Safety and Licensing Board issued an order that authorized the Director of the Office of Nuclear Reactor Regulation to amend the Midland construction permits to incorporate certain limitations on remedial soils work at Midland. *See Consumers Power Co.* (Midland Plant, Units 1 & 2), LBP–82–35, 15 NRC 1060, 1072–73 (April 30, 1982). In accordance with the Board's order, the construction permits were amended on May 26, 1982 to include the Board-ordered conditions.

Among the restrictions imposed by the Board's order and the permit amendment was a condition that the licensee "shall obtain explicit prior approval from the NRC staff . . . before proceeding with the following soils-related activities . . .: any placing, compacting, excavating, or drilling soil materials around safety-related structures and systems."

Construction Permit Nos. CPPR–81 & CPPR–82, ¶ 2.G.(1) & 2.G.(1)a; *compare* LBP–82–35, *supra*, 15 NRC at 1072–73. On July 28, 1982, an NRC inspector

discovered that the licensee had excavated soil from below the deep "Q" duct bank and had initiated relocation of the fireline in "Q" soils without prior NRC authorization. Excavation below the deep "Q" duct bank had begun on July 23rd and relocation of the fireline had begun on July 27th. Neither activity had received explicit prior approval from the NRC staff as required by the construction permits. In fact, excavation of soil material below the deep "Q" duct bank was contrary to prior directives of the NRC staff which instructed the licensee that such excavation was not authorized. Thus, excavation of the deep "Q" duct bank and relocation of the fireline by the licensee constituted violations of the construction permits.

IV

The history at this site demonstrates that management has not been effective in providing the attention to detail and high quality standards necessary to the proper construction of this facility. In view of this history, including the violation identified in section III of this order, I have determined that a management appraisal is required at this time. The licensee, in a meeting on October 25, 1983 with the Director of the Office of Inspection and Enforcement and the Regional Administrator, Region III, and in a subsequent meeting on January 4, 1984 with the Regional Administrator, agreed to submit a management appraisal program to the Commission. It is appropriate to confirm the licensee's commitment by order.

V

In view of the foregoing, pursuant to Sections 103, 161(i), 161(o) and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Part 2 and 10 CFR Part 50, it is hereby ordered that:

Within 30 days of the effective date of this Order, the licensee shall submit to the Region III Administrator for review and approval a plan for an independent appraisal of site and corporate management organizations and functions that would develop recommendations where necessary for improvements in management communications, controls, and oversight. Upon approval of the plan, the plan shall be implemented and the scheduled milestone completion dates shall not be extended without good cause and the concurrence of the Region III Administrator.

The plan shall include at least the elements itemized below:

(1) An appraisal conducted by an independent management consultant organization retained by the licensee to evaluate the licensee's current organizational responsibilities, management controls, communications systems and practices, both at the Midland site and between the corporate office and the site. The appraisal shall include a review of the licensee's site and corporate construction management and supervisory personnel involved in the Midland project to determine their capability and competency for managing construction activities consistent with regulatory requirements.

(2) A description of the appraisal program, the qualifications of the appraisal team, a discussion of how the appraisal is to be documented, and a schedule with appropriate milestones.

(3) The provision of recommendations for changes in the areas mentioned in Item 1 that will provide assurance that the licensee will implement NRC requirements.

The licensee shall direct the approved organization to submit to the Region III Administrator a copy of the report of the appraisal and recommendations resulting from the appraisal, and any drafts thereof, at the same time they are sent to the licensee or any of its employees or contractors. Prior notice shall be given the Administrator of any meeting between the licensee and the organization to discuss the results, recommendations, or progress made on the appraisal. In addition, the licensee shall consider the recommendations resulting from the appraisal and provide to the Region III Administrator an analysis of each such recommendation and the action to be taken in response to the recommendation. The licensee shall also provide a schedule for accomplishing these actions.

The Administrator of Region III may relax or terminate in writing any of the preceding conditions for good cause.

VI

The licensee may request a hearing on this Order. Any request for hearing shall be submitted to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 within 25 days of the date of this order. A copy of the request shall also be sent to the Executive Legal Director at the same address and to the Regional Administrator, NRC Region III, 799 Roosevelt Road, Glen Ellyn, Illinois 60137.

If a hearing is to be held concerning this Order, the Commission will issue an order designating the time and place of hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

This Order shall become effective upon the licensee's consent or upon expiration of the time within which the licensee may request a hearing or, if a hearing is requested by the licensee, on the date specified in an order issued following further proceedings on this Order.

Dated at Bethesda, Maryland this 12th day of January 1984.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 84-1706 Filed 1-19-84, 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-329, 50-330]

Consumers Power Co.; Midland Plant, Units 1 and 2

On October 6, 1983, I issued a "Director's Decision Under 10 CFR 2.206," DD-83-16, 18 NRC ———, which granted in part and denied in part a petition dated June 13, 1983, submitted by Billie Pirner Garde of the Government Accountability Project on behalf of the Lone Tree Council and others. The petitioners had requested that, among other relief, the Commission require a management audit of Consumers Power Company's performance on the Midland project. In my decision, I determined that a management audit was not necessary as a condition for going forward with the licensee's program to complete construction of the Midland project. However, I noted that the "staff [would] continue to review information concerning the licensee's performance in other areas to determine whether an audit is required." Slip op. at 12.

I have completed my review of information related to a violation of a condition of the Midland construction permits which was imposed by the Director of Licensing, Office of Nuclear Reactor Regulation in accordance with an order of the Atomic Safety and Licensing Board dated April 30, 1982. *See Consumers Power Company* (Midland Plant, Units 1 & 2), LBP-82-35, 15 NRC 1060, 1072-73 (1982). This violation is an addition to the history of quality assurance problems at the Midland site which demonstrates that the licensee's management has not been effective in providing the attention to detail and high quality standards necessary to assure the proper construction of this facility. In view of this history, and the recently identified violation of the Midland construction permits, I have now determined that an

appraisal of Consumers Power Company's management of the Midland project is required. The reasons for this action are explained more fully in the Confirmatory Order that I have issued today. The order requires Consumers Power Company, within 30 days of its effective date, to submit to the Region III Administrator for review and approval, a plan for an independent appraisal of site and corporate management organizations and functions. The management appraisal is to develop recommendations where necessary for improvements in management communications, control and oversight. Upon its approval, the plan will be implemented in accordance with a schedule of milestone completion dates.

In view of the issuance of the Confirmatory Order, the petitioners' request pertaining to a management audit is granted.

Dated at Bethesda, Maryland this 12th day of January 1984.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 84-1707 Filed 1-19-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-334]

Duquesne Light Co., et al.; Exemption

I

In the matter of Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, (Beaver Valley Power Station Unit No. 1).

The Duquesne Light Company (DLC), Ohio Edison Company, and Pennsylvania Power Company (the licensees), are the holder of Facility Operating License No. DPR-66 (the licensee) which authorizes operation of the Beaver Valley Power Station, Unit No. 1. The license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now and hereafter in effect.

The facility comprises a pressurized water reactor at the licensee's site located at Beaver County, Pennsylvania.

II

On December 2, 1981 the Commission issued the final rule (10 CFR 50.44) on combustible gas control (46 FR 58484). The rule requires licensees of each light-water reactor to provide, by the end of the first scheduled outage beginning after July 1, 1982, improved operational capability to maintain adequate core cooling following an accident. Specifically, high point vents are required for the reactor coolant system, for the reactor vessel head, and for other systems required to maintain adequate core cooling if the accumulation of noncondensible gases would cause the loss of function of these systems.

By letter dated August 25, 1983, Duquesne Light Company requested exemption to the schedular requirement of 10 CFR 50.44(c)(3)(iii) and proposed that the operability date of the reactor coolant vent system be changed from the end of the third refueling outage to the end of the fourth refueling outage. Contrary to what the rule requires, the fourth refueling outage is not the first, but the second "outage of sufficient duration after July 1, 1982." Two reasons were provided by DLC to support the request: (1) Not having NRC authorization for use of the system, and (2) the solenoid-operated vent valves already installed in the system have demonstrated an operational anomaly which requires resolution prior to declaring the system operational. The system has been fully installed by DLC. However, pre-implementation review and approval by the staff is not required by the regulation and an exemption request based on the lack of staff approval is thus invalid.

III

The second reason for the request is that the recently installed solenoid-operated valves which activate the vent system have demonstrated an operational anomaly which could lead to a common-mode failure. The licensee advises that these valves are currently unacceptable for operation, and that the RCS high point vent system will be isolated (using manually operated isolation valves) and de-energized during power operation over the present fuel cycle (Cycle 4). In addition, the licensee has initiated efforts to resolve the problem, and estimates that the problem can be resolved by the end of the next refueling outage.

The staff's review of the facility shows that Beaver Valley has three power-operated relief valves (PORVs), mounted on top of the pressurizer, which could be used to vent the pressurizer as well as the remainder of the RCS on a more extended time basis, in the event such an emergency occurs. The staff notes that the vent system requrired by the regulation have been fully installed and hydrostatically tested, and could be made operational except with the anomaly as described. Therefore, on the basis that a good-faith effort has been demonstrated by the licensee to comply with the regulation, and that a compensatory measure is available, the staff concludes that the facility can be operated with a non-operable RCS high-point vent system until start-up from the fourth refueling outage (presently scheduled for December, 1984) without a significiant impact on public health and safety.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest and hereby grants the following exemption with respect to the requirements of 10 CFR 50.44(c)(3)(iii):

The operability date of the reactor coolant high point vent system be extended to the end of the fourth refueling outage.

The NRC staff has determined that the granting of this Exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Maryland this 12th day of January 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-1708 Filed 1-19-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 40-2061-ML, ASLBP No. 84-495-01 ML]

Kerr-McGee Chemical Corp. (West Chicago Rare Earths Facility); Cancellation of Prehearing Conference

January 13, 1984.

Please take notice that the prehearing conference in this proceeding scheduled for February 7, 1984, which was noticed December 12, 1983 (48 FR 55357 (1983)), is cancelled.

Bethesda, Maryland, January 13, 1984.

For the Atomic Safety and Licensing Board.

John H. Frye III,

Chairman, Administrative Judge.

[FR Doc. 84-1711 Filed 1-19-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 30-11579 License No. 37-15445-02 EA 83-81]

U.S. Testing Co., Inc.; Order Imposing Monetary Penalties

I

United States Testing Company, Inc., 1415 Park Avenue, Hoboken, New Jersey, 07030 (the "licensee") is the

holder of License No. 37–15445–02 (the "license") issued by the Nuclear Regulatory Commission (the "NRC") which authorizes the licensee to possess and use radioactive materials in accordance with conditions specified therein.

II

An NRC special safety inspection of the licensee's activities under the license was conducted on June 22–23, 1983. As a result of the inspection, the NRC staff determined that the licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalties was served upon the licensee by letter dated October 7, 1983. The Notice states the nature of the violations, the provisions of the NRC's requirements that the licensee had violated, and the amount of cumulative civil penalties. A response dated October 27, 1983 to the Notice of Violation and Proposed Imposition of Civil Penalties was received from the licensee.

III

Upon consideration of the answers received, the statements of fact, explanations and arguments for remission or mitigation of the proposed civil penalties contained therein, and as set forth in the Appendix to this Order, the Director of the Office of Inspection and Enforcement has determined that the penalties proposed for the violations designated in the Notice of Violation and Proposed Imposition of Civil Penalties should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, Pub. L. 96–295), and 10 CFR 2.205, it is hereby ordered that:

That licensee pay civil penalties in the amount of Eight Thousand Dollars ($8,000) within thirty days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director of the Office of Inspection and Enforcement, USNRC, Washington, D.C. 20555.

V

The licensee may, within thirty days of the date of this Order, request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement. A copy of the hearing request shall also be sent to the Executive Legal Director, USNRC, Washington, D.C. 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. Upon failure of the licensee to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General of the United States for collection.

In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the licensee violated NRC requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalties; and

(b) Whether, on the basis of such violations, this Order should be sustained.

Dated at Bethesda, Maryland, this 10th day of January 1984.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

Appendix—Evaluations and Conclusions

For each violation and associated civil penalty identified in Section I of the NRC's Notice of Violation and Proposed Imposition of Civil Penalties dated Octobaer 7, 1983, the original violation and the licensee's response are stated and the NRC's evaluations and conclusions regarding the licensee's response are presented. The licensee's response was provided in two letters dated October 27, 1983 from Mr. Gene Basile, Group Vice President, U.S. Testing Company, Inc., to the Director, Office of Inspection and Enforcement. The NRC staff's evaluations and conclusions take into consideration the October 27, 1983 letters which constituted the licensee's response to the Notice of Violation and Proposed Imposition of Civil Penalties.

Item I.A

Statement of Violation

10 CFR 20.101(a) prohibits the use of licensed material in such a manner as to cause any individual in a restricted area to receive in any calendar quarter from radioactive materials or other sources of radiation a total occupational radiation dose in excess of 18.75 rem to the hands.

Contrary to the above,

During the second calendar quarter of 1983, specifically on June 10, 1983, an employee of Automation Industries, Inc., acting as a consultant for U.S. Testing Company, Inc., while attempting to retrieve a 47-curie iridium-192 source that had disconnected from a U.S. Testing Company, Inc. radiography device, received a radiation exposure to the index finger and thumb of one of his hands calculated to be between 650 and 1100 rem.

Licensee's Response

The licensee does not deny that this exposure took place but submits that the regulations are unclear with respect to the responsibility of the licensee for exposure to a "worker" performing an emergency retrieval of a disconnected source. The licensee indicates that the requirements of 10 CFR Part 20 establish limits for the exposure of "individuals" to licensed materials under the control of the licensee. The licensee further states that the exposure being cited occurred to an employee of an organization independently licensed by the NRC which has been publicly offering this emergency retrieval service for many years.

The licensee submits that the regulations as they presently exist cover the use of licensed materials under normal conditions, and do not adequately cover emergency conditions, such as a disconnected sealed source, and therefore requests remission of at least a portion of the civil penalty proposed for this violation.

NRC's Evaluation of Licensee's Response

At the time that the overexposure occurred, U.S. Testing Company (USTC) was responsible for activities involving radioactive byproduct material which it held pursuant to its NRC license. USTC did not transfer possession or ownership of the byproduct material that caused the overexposure to the Automation Industries (AI) employee, and it could not have transferred the material lawfully to AI, because AI would not have been authorized to receive the material at the site of the retrieval effort. USTC chose to contract for the services of AI to assist in the source retrieval. Under the circumstances, USTC was responsible under its license for assuring that all activities, both routine and emergency, conducted by its employees and consultants conformed to NRC regulations and applicable license conditions. USTC is responsible for the violations.

Although the USTC characterizes the source retrieval as an "emergency" operation, the circumstances did not warrant a departure from sound radiation safety practices. In addition, inadequate control of an emergency operation is not a sufficient basis for concluding that no enforcement action is appropriate for the violations associated with the source retrieval. NRC requirements in 10 CFR Part 20 require a prudent assessment of radiation hazards, in both routine or in emergency situations, and prevention of unnecessary overexposures. Under the circumstances here, a reasonable survey would have prevented the overexposure that occurred.

NRC's Conclusion

The violation did occur as originally stated. The information in the licensee's response does not provide a basis for remission of any portion of this civil penalty.

Item I.B.1

Statement of Violation

10 CFR 20.201(b) requires that each licensee make such surveys as (1) are necessary to comply with regulations in 10 CFR Part 20 and (2) are reasonable under the circumstances to evaluate the extent of radiation hazards that may be present. As defined in 10 CFR 20.201(a), "survey" means an evaluation of the radiation hazards incident to the production, use, release,

disposal, or presence of radioactive materials or other sources of radiation under a specific set of conditions.

Contrary to the above,

1. On June 10, 1983, an adequate survey was not performed prior to the attempt to recover a disconnected 47-curie iridium-192 source from its radiography device, in that the position of the source was not located prior to handling the equipment.

Licensee's Response

The licensee denies that an inadequate survey was conducted, but acknowledges that the specific location of the source within the guide tube was not determined. The licensee maintains that determination of a specific location of the disconnection within the guide tube would have required repeated approaches to the exposed source, applying the available lead shielding, and making an additional survey. The licensee contends that this prolonged activity would have resulted in a much greater whole body exposure than the 185 mrem that was recorded on the film badge worn by the consultant employee.

The licensee further indicates that the requirements of 10 CFR 20.101(a) apply a weighting factor of 15 to 1 in allowable exposure of extremities versus whole body exposure, and they contend that the joint decision of the consultant employee and the licensee personnel to proceed with the recovery of the source was the most prudent action, rather than a violation. The licensee requests remission of all of the civil penalty proposed for this violation.

NRC's Evaluation of Licensee's Response

The NRC staff maintains that an adequate survey was not performed prior to the act of disconnecting the source guide tube by turning the connector nut by hand because the location of the source had not been determined prior to turning the connector nut by hand which caused the exposure in excess of regulatory limits. Once it was decided to disconnect the connector nut by hand, a reasonable survey would include determination of the location of the source within the guide tube to assess the radiation hazards incident to turning the connector nut. Such a survey would not have required a substantial additional whole body exposure. Had the location of the source been determined by a reasonable survey, the retrieval could have been performed in a manner that would not have resulted in the overexposure.

NRC's Conclusion

The violation did occur as stated. The information provided in the licensee's response does not provide an adequate basis for mitigation of the civil penalty for this violation.

Item I.B.2

Statement of Violation

10 CFR 20.201(b) requires that each licensee make such surveys as (1) are necessary to comply with regulations in 10 CFR Part 20 and (2) are reasonable under the circumstances to evaluate the extent of radiation hazards that may be present. As defined in 10 CFR 20.201(a), "survey" means an evaluation of the radiation hazards incident to the production, use, release, disposal, or presence of radioactive materials or other sources of radiation under a specific set of conditions.

Contrary to the above,

2. Prior to June 23, 1983, an evaluation made of the radiation dose to the hands of the individual was inadequate in that it did not consider the exposure to the thumb and index finger of an individual who performed the source retrieval on June 10, 1983.

Licensee's Response

The licensee denies that a violation occurred and requests remission of all of the civil penalty for this violation. The licensee indicates that the services of the consultant were obtained for the source retrieval because the licensee does not possess the ring badges and other specialized personal dosimetry devices to monitor exposure under emergency conditions. The licensee further indicates that immediately following the exposure, the consultant specialist conducted an evaluation of his exposure, had his whole body and ring badges developed, and made prompt and timely notification to the NRC with the licensee's knowledge and concurrence, thus satisfying the requirements of 10 CFR 20.405(a)(1).

NRC's Evaluation of Licensee's Response

A violation did occur because neither the licensee nor the consultant evaluated the dose to the portion of the consultant's hand which was in direct contact with the source guide tube connector nut during the disassembly of the guide tube from the radiographic exposure device. During the inspection, the licensee's representatives admitted that they had not performed such an evaluation. Although extremity ring dosimeters were worn by the consultant, and, when processed, indicated a total exposure of 59,170 mrem to the left hand and 12,000 mrem to the right hand, the ring dosimeters did not represent the dose to the portion of the consultant's hand that was in direct contact with the source guide tube connector nut during disassembly of the guide tube from the raidiographic exposure device. As discussed in the staff's evaluation of the licensee's response to Item I.A, USTC was responsible, as the licensee of the material causing the overexposure, for ensuring that an appropriate evaluation of the exposure was made. While USTC could appropriately direct a consultant to perform the exposure evaluation, USTC cannot transfer the responsibility under its license for assuring that proper evaluations are performed.

NRC's Conclusion

The violation did occur as originally stated. The information provided in the response does not provide an adquate basis for mitigation of the civil penalty for this violation.

[FR Doc. 84-1709 Filed 1-19-84; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-508]

Washington Public Power Supply System, et. al; Availability of the Draft Environmental Statement for Washington Nuclear Project No. 3

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Enviornmental Statement (NUREG–1033) has been prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed operation of the Washington Nuclear Project No. 3 (WNP–3) located in Grays Harbor County, Washington. The owners of WNP–3 are Washington Public Power Supply System, Pacific Power and Light Company, Portland General Electric Company, Puget Sound Power and Light Company and Washington Power Company.

This Draft Environmental Statement (DES) addresses the aquatic, terrestrial, radiological, social and economic costs and benefits associated with normal station operation. Also considered are station accidents, their likelihood of occurrence and their consequences.

This DES is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C., and at the W. H. Abel Memorial Library, 125 Main Street, South, Montesano, Washington.

The DES is also being made available at the Office of the Governor, Planning and Community Affairs Agency, 400 Capitol Center Building, Olympia, Washington, 98504, the Office of Financial Management, 109 House Office Building, Olympia, Washington 98504 and at the Grays Harbor Regional Planning Commission, 2109 Simpson Avenue, Suite 202, Aberdeen, Washington 98520. Request for copies of the DES should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Technical Information and Document Control.

By letter dated November 18, 1983, Washington Public Power Supply System informed the staff that the projected fuel load date for WNP–3 ranges from June 1987 to December 1989. Because the potential fuel load date may be as late as December 1989, the issuance of this statement cold be as much as six years before the fuel load date. This is earlier than the staff normally has issued environmental statements at the operating license review stage. However, because the plant is 75% complete, the staff expects

that most of the likely environmental impact due to construction has occurred and the facility operating characteristics are sufficiently known to permit meaningful evaluation. Therefore, the staff judges that the statement presents an appropriate assessment at this time.

It is recognized that in the intervening years, design changes or some other unexpected change may occur. Therefore, the staff will continue to follow WNP–3 activities and, as necessary, will consider whether any changes may have environmental impact that require revision of this statement.

Interested persons may submit comments on this DES for the Commission's consideration. Federal, State, and specified local agencies are being provided with copies of the DES (other local agencies may obtain these documents upon request).

Comments by Federal, State and local officials, or other members of the public received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C. and the -W. H. Abel Memorial Library. Comments are due by March 5, 1984. Comments submitted on the DES will be addressed in the Final Environmental Statement, the availability of which will be published in the **Federal Register**.

Comments on the Draft Environmental Statement from interested members of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 13th day of January, 1984.

For the Nuclear Regulatory Commission.

George W. Knighton,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 84–1718 Filed 1–19–84; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Modification of Specialty Steel Import Relief

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: This notice establishes a separate quota allocation for the Republic of Korea for stainless steel bar for the quota period January 20 through April 19, 1984.

FOR FURTHER INFORMATION CONTACT:

Peter Allgeier, Office of the United States Trade Representative, Washington, D.C. 20506.

SUPPLEMENTARY INFORMATION:

Presidential Proclamation 5074 of July 19, 1983 (48 FR 33233) provided for the temporary imposition of increased tariffs and quantitative restrictions on certain stainless steel and alloy tool steel imported into the United States, pursuant to section 203 of the Trade Act of 1974. Specified steels not produced in the United States or produced in small quantities were exempted from the import relief.

Proclamation 5074 authorizes the U.S. Trade Representative to take such actions and perform such functions for the United States as may be necessary to administer and implement the relief, including negotiating orderly marketing agreements and allocating quota quantities on a country-by-country basis. The U.S. Trade Representative is also authorized to make modifications in the Tariff Schedules of the United States (TSUS) headnote or items proclaimed by the President in order to implement such actions.

The U.S. Trade Representative allocated quota quantites on a country-by-country basis (48 FR 48888). This notice modifies that action by making a separate country allocation for the Republic of Korea as follows: Item 926.10 of the Appendix to the Tariff Schedules of the United States is modified to add, to the country allocations in alphabetical order "The Republic of Korea," and also to add a corresponding quota quantity for the Republic of Korea for the period January 20 through April 19 a quota quantity of "300" short tons of bars of stainless steel. Item 926.10 is further modified by amending the quota quantity for the "Other" countries by making a corresponding reduction of 300 short tons for that same restraint period.

The new quota quantity for the "Other" category for item 926.10 will then be "1,647" for the period January 20 through April 19, 1984.

William E. Brock III,

United States Trade Representative.

[FR Doc. 84–1788 Filed 1–19–84; 8:45 am]

BILLING CODE 3190–01–M

Commodity Policy Advisory Committee; Notice of Meeting and Determination of Closing

The meeting of the Commodity Policy Advisory Committee (the Advisory Committee) to be held Tuesday, February 21, 1984, from 2:00 p.m. to 5:00 p.m. at the Office of the United States Trade Representative, will involve a review and discussion of the current issues involving the trade policy of the United States. Pursuant to Section 2155(f)(2), I have determined that this meeting will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions.

More detailed information can be obtained by contacting Phyllis O. Bonanno, Director, Office of Private Sector Liaison, Office of the United States Trade Representative, Executive Office of the President, Washington, D.C. 20506.

William E. Brock,

United States Trade Representative.

[FR Doc. 84–1782 Filed 1–19–84; 8:45 am]

BILLING CODE 3190–01–M

Advisory Committee for Trade Negotiations; Notice of Meeting and Determination of Closing

The meeting of the Advisory Committee for Trade Negotiations (the Advisory Committee) to be held Wednesday, February 1, 1984, from 1:00 p.m. to 4:00 p.m. at the Federal Home Loan Bank Board, Board Room, will involve a review and discussion of the current issues involving the trade policy of the United States. Pursuant to Section 2155(f)(2), I have determined that this meeting will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions.

More detailed information can be obtained by contacting Phyllis O. Bonanno, Director, Office of Private Sector Liaison, Office of the United States Trade Representative, Executive Office of the President, Washington, D.C. 20506.

William E. Brock,

United States Trade Representative.

[FR Doc. 84–1783 Filed 1–19–84; 8:45 am]

BILLING CODE 3190–01–M

PENSION BENEFIT GUARANTY CORPORATION

Pendency of Request For Exemption From Bond Escrow Requirement Relating to Sale of Assets by Employer That Contributes to Multiemployer Plan; Kittinger Co.

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of pendency of request.

SUMMARY: This notice advises interested persons that the Pension Benefit Guaranty Corporation has received a request from the Kittinger Company for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974. Section 4204(a)(1) provides that the sale of assets by an employer that contibutes to a multiemplopyer pension plan will not consititute a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for a five plan year period beginning after the sale. PBGC is authorized to grant individual and class exemptions from this requirement. Prior to granting an exemption, PBGC is required to give interested persons an opportunity to comment on the exemption request. The effect of this notice is to advise interested persons of this exemption request and to solicit their views on it.

DATES: Comments must be submitted on or before March 5, 1984.

ADDRESSES: All written comments (at least three copies) should be addressed to: Director, Corporate Planning and Program Development Department (611), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006. The request for exemption and the comments received will be available for public inspection at the PBGC Communications and Public Affairs Department, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: James M. Graham, Attorney, Corporate Planning and Program Development Department (611), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006; (202) 254–4862. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION:

Background

Section 4204 of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980, (ERISA), 29 U.S.C. 1384, provides that a bona fide arm's-length sale of assets of a contributing employer to an unrelated party will not be considered a withdrawal if three conditions are met. These conditions, enumerated in section 4204(a)(1)(A)–(C), are that—

(A) the purchaser has an obligation to contribute to the plan for substantially the same number of contribution base units for which the seller was obligated tc contribute;

(B) the purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, in an amount equal to the greater of the seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occrred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred (the amount of the bond or escrow is doubled if the plan is in reorganization in the year in which the sale occurred); and

(C) the contract of sale provided that if the purchaser withdraws from the plan within the first five plan years beginning after the sale and fails to pay any of its liability to the plan, the seller be secondarily liable for the liability it (the seller) would have had but for section 4204.

The bond or escrow described above would be paid to the plan if the purchaser withdraws from the plan or fails to make any required contributions to the plan within the first five plan years beginning after the sale.

Additionally, section 4204(b)(1) provides that if a sale of assets is covered by section 4204, the purchaser assumes by operation of law the contribution record of the seller for the plan year in which the sale occurred and the preceding four plan years.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant indivdual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(B) when warranted. The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions. The granting of an exemption or variance from the requirements of section 4204(a)(1)(B) does not constitute a finding by PBGC that a particular transaction satisfies the other requirements of section 4204(a)(1).

Under PBGC's regulation on procedures for variances for sales of assets (29 CFR 2643.3(a)), the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) would more effectively or equitably carry out the purpose of Title IV of the Act; and

(2) would not significantly increase the risk of financial loss to the plan.

Section 4204(c) of ERISA and § 2643.3(b) of the regulation require the PBGC to public a notice of the pendency of a request for a variance or exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

The Request

PBGCc has received a request from The Kittinger Company ("Kittinger") to waive the bond/escrow requirement of ERISA section 4204(a)(1)(B). In the request, Kittinger represents among other things, that:

1. On December 15, 1983, pursuant to an asset purchase agreement with General Mills, Inc. ("General Mills"), Kittinger purchased substantially all of the assets of the Kittinger division of General Mills.

2. In connection with this sale, Kittinger has assumed the responsibilities of General Mills under a collective bargaining agreement with the United Furniture Workers of America, AFL-CIO, Local #39, which requires contributions to the United Furniture Workers Pension Fund A ("Fund"). General Mills' potential withdrawal liability to the Fund has been estimated to be $200,000.

3. The amount of the bond/escrow that would be required under ERISA section 4204(a)(1)(B) is $81,497 (the annual contributions required to be made by General Mills for the plan year preceding the sale).

4. In the sale contract, General Mills agreed that, if the purchaser withdraws within the first five plan years after the sale and fails to pay withdrawal liability, General Mills would be secondarily liable for any withdrawal liability it would have had to the Fund but for the operation of ERISA section 4204.

5. Kittinger is a new corporation, and thus is unable to submit financial statements in compliance with PBGC regulation (29 CFR 2643.2(d)(7)). All of its common stock is held by a newly-formed holding company, The Corporate Holding Company ("Holding Company"). Kittinger did submit pro forma unaudited finanical statements for its own operations as of December 15, 1983 (net assets of about $3 million) and for the Holding Company as of March 1, 1984 (new assets of $40,000).

6. Kittinger stated that the request for an exemption should be granted on a *de minimis* basis. The average annual contributions made by all employers to the Fund for the three plan years preceding the plan year in which the sale occurred was $5,401,840. Thus, the amount of the bond/escrow is about one and one-half percent of the amount of employer contributions.

7. A copy of this request has been sent by Kittinger to the Fund and the collective bargaining representative of General Mills' former employees, by certified mail return receipt requested.

Comment

All interested persons are invited to submit written comments on the pending exemption to the above address, on or before March 5, 1984. All comments will be made a part of the record. Comments received, as well as the relevant information submitted in support of the application for exemption, will be available for public inspection at the address set forth above.

Issued at Washington, D.C. on this 16th day of January, 1984.

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 84-1882 Filed 1-19-84; 8:45 am]

BILLING CODE 7708-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 22-12901]

Exxon Corp. and Exxon Pipeline Co.; Application and Opportunity for Hearing

January 16, 1984.

Notice is hereby given that Exxon Corporation ("Exxon") and Exxon Pipeline Company ("Pipeline") have filed a joint application pursuant to Section 310(b)(1)(ii) of the Trust Indenture Act of 1939 (the "1939 Act") for a finding that the trusteeship of Citibank, N.A. under (i) and Indenture dated as of December 1, 1968 (the "Pipeline Indenture") between Pipeline and Citibank, N.A., (ii) an Indenture dated as of February 15, 1971 (the "1971 Indenture") between Reliance Electric Company ("Reliance") and Citibank, N.A., (iii) and Indenture dated as of December 15, 1974 (the "1974 Indenture") between Reliance and Citibank, N.A., and (iv) an Indenture Trust dated as of July 15, 1968 (the "1968 Indenture") between Exxon and Citibank, N.A. would not despite a guarantee by Exxon of obligations of Pipeline under the Pipeline Indenture, be so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Citibank, N.A. from acting as trustee under the Pipeline Indenture were it to continue to act as trustee under the 1971 Indenture, the 1974 Indenture and the 1968 Indenture after such guarantee.

Section 310(b) of the 1939 Act provides in part that if a trustee under an indenture qualified under the 1939 Act has or shall acquire any conflicting interest it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such Section provides, in effect, with certain exceptions, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of inventors to disqualify such trustee from acting as trustee under either of such indentures.

In support of the application Exxon and Reliance set forth the following:

(1) Pipeline had outstanding as of December 31, 1982 $36,989,000 aggregate principal amount of its 6⅝% Debentures due 1998 issued under the Pipeline Indenture. The Pipeline Indenture was filed by Pipeline as an exhibit to Registration No. 2-30684 under the Securities Act of 1933 (the "1933 Act") which was declared effective on November 26, 1968 and was contemporaneously qualified under the 1939 Act.

(2) Reliance had outstanding as of December 31, 1982 $21,000,000 aggregate principal amount of its 7¼% Debentures due 1996 issued under the 1971 Indenture. The 1971 Indenture was filed by Reliance as an exhibit to Registration No. 2-39252 under the 1933 Act which was declared effective on February 15, 1971 and was contemporaneously qualified under the 1939 Act. Pursuant to a supplemental indentured dated as of March 15, 1983, Exxon has guaranteed the due and punctual payment of the principal of and premium, if any, and interest on such debentures issued under the 1971 Indenture.

(3) Reliance had outstanding as of December 31, 1982 $32,200,000 aggregate principal amount of its 9⅝% Debentures due 1994 issued under the 1974 Indenture. The 1974 Indenture was filed by Reliance as an exhibit to Registration No. 2-52333 under the 1933 Act which was declared effective on December 10, 1974 and was contemporaneously qualified under the 1939 Act. Pursuant to a supplemental indenture dated as of March 15, 1983, Exxon has guaranteed the due and punctual payment of the principal of and premium, if any, and interest on such debentures issued under the 1974 Indenture.

(4) Exxon had outstanding as of December 31, 1982 $151,346,000 aggregate principal amount of its 6½% Debentures due 1998 issued under the 1968 Indenture. The 1968 Indenture was filed by Exxon as an exhibit to Registration No. 2-29388 under the 1933 Act which was declared effective on July 11, 1968 and was contemporaneously qualified under the 1939 Act.

(5) The Pipeline Indenture, the 1971 Indenture, the 1974 Indenture and the 1968 Indenture each contain the provisions required by Section 310(b) of the 1939 Act.

(6) By order dated May 25, 1983, the Commission, after opportunity for a hearing, granted the application of Reliance and Exxon for a finding that the trusteeship of Citibank, N.A. under the 1971 Indenture, the 1974 Indenture and the 1968 Indenture is not, despite a guarantee by Exxon of obligations of Reliance under the 1971 Indenture and the 1974 Indenture, so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Citibank, N.A. from acting as trustee under the 1971 Indenture and the 1974 Indenture were it to continue to act as trustee under the 1968 Indenture after such guarantees.

(7) Pipeline, Exxon and Citibank, N.A. intend to enter into an indenture supplemental to the Pipeline Indenture under which supplemental indenture Exxon will guarantee the due and punctual payment of the principal of and premium, if any, and interest of Pipeline's 6⅝% Debentures in accordance with the terms of the Pipeline Indenture. Citibank N.A. would not be qualified to continue to act as trustee under the Pipeline Indenture, the 1971 Indenture, the 1974 Indenture and the 1968 Indenture after such supplemental indenture is executed unless Citibank, N.A. is deemed not to have such a conflict of interest by reason of a finding by the Commission after opportunity for a hearing that acting as trustee under the Pipeline Indenture, the 1971 Indenture, the 1974 Indenture and the 1968 Indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of

investors to disqualify Citibank, N.A. from so acting.

(8) Reliance has placed a specific group of government obligations in trust under a Trust Agreement dated July 29, 1982 with Morgan Guaranty Trust Company of New York ("Morgan") to secure payment of the principal and interest on the debentures issued under the 1971 Indenture. Reliance has placed a separate group of specific government obligations in trust under a separate Trust Agreement dated July 29, 1982 with Morgan to secure payment of the principal and interest on the debentures issued under the 1974 Indenture. Exxon has placed another separate group of specific government obligations in trust under a separate Trust Agreement dated June 28, 1982 with Morgan to secure payment of the principal and interest on the debentures issued under the 1968 Indenture. Pipeline has not placed any government obligations in trust to secure payment of the principal and interest on the debentures issued under the Pipeline Indenture.

(9) Since the debentures issued under the 1971 Indenture, the 1974 Indenture and the 1968 Indenture are each secured by separate groups of specific government obligations owned by separate trusts established exclusively for the benefit of the holders of debentures issued under a specific indenture, should Citibank, N.A. have occasion to proceed against the security held in one of these trusts, such action would not affect the security, or use of any security, held in any other trust. Thus the existence of the other trusteeships should not inhibit or discourage action by Citibank, N.A. or involve it in a conflict of interest.

(10) Neither Pipeline, Reliance nor Exxon is now in default under the Pipeline Indenture, the 1971 Indenture, the 1974 Indenture or the 1968 Indenture, nor would the execution of the aforementioned supplemental indenture cause such a default.

(11) Such differences as exist among the Pipeline Indenture, the 1971 Indenture, the 1974 Indenture and the 1968 Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Citibank, N.A. from acting as trustee under each such indenture after execution of the aforementioned supplemental indenture.

(12) Exxon and Pipeline have waived notice of hearing, and any and all rights to specify procedures under the Rules of Practice of the Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, which is on file in the offices of the Commission's Public Reference Section at 450 Fifth Street N.W., Washington, D.C. 20549.

Notice is further given that any interested person, may not later than February 15, 1984 request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon.

Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-1667 Filed 1-19-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13721; 811-3156]

Offerman Money Market Fund, Inc.; Filing of Application for an Order Declaring That Applicant Has Ceased To Be an Investment Company

Notice is hereby given that Offerman Money Market Fund, Inc. ("Applicant"), 5100 Gamble Drive, Minneapolis, Minnesota, 55481, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on November 17, 1983, for an order of the Commission, pursuant to Section 8(f) of the Act, declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

According to the application, Applicant's board of directors, on June 17, 1983, approved a proposed merger of Applicant and National Cash Reserves, Inc. ("National"). The merger was approved by Applicant's shareholders at their annual meeting. The application states that Applicant transferred all of its assets, which were all cash, to National on August 26, 1983, for shares issued by National. Applicant states that as of August 24, 1983, its shares outstanding had a total net asset value of $7,143,744.37. Applicant's only other asset was $31,184.00 of unamortized organizational costs which were transferred to Applicant's advisor, Offerman Advisors, Inc., in exchange for a reduction of $31,184.00 in Offerman Advisor's account of Applicant.

The application represents that Applicant now has no shareholders and is not now engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs. Applicant further represents that is has retained no assets, no debts or other liabilities, and it is not a party to any litigation or administrative proceeding. Finally, Applicant states that is has not within the past 18 months transferred any of its assets to a separate trust.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 7, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 29549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of Service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request, after said date, an order disposing of the application will be issued unless the commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-1665 Filed 1-19-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13722; 811-3113]

Ziegler Money Market Trust; Filing of Application for an Order Declaring That Applicant Has Ceased To Be an Investment Company

Notice is hereby given that Ziegler Money Market Trust ("Applicant"), 421 Seventh Avenue, Pittsburgh, Pennsylvania, 15219, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on November 28, 1983, for

an order of the Commission pursuant to Section 8(f) of the Act, declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

According to the application, Applicant's board of trustees recommended the liquidation of Applicant to its shareholders on August 25, 1983. A unanimous consent of the shareholders approving the termination of Applicant was executed on August 4, 1983. The application states that Applicant was dissolved on September 3, 1983, and that prior to this date shares of Applicant were voluntarily redeemed by Applicant at their net asset value or were voluntarily exchanged for shares of Money Market Instruments Trust at net asset value. Applicant states that as of August 4, 1983, it had 200,432.56 shares outstanding. The shares had a net asset value per share of $.98. Applicant states that it maintained a net asset value of $1.00 per share, determined by the amortized cost method, through August 3, 1983, at which time all non-affiliated shareholders had redeemed their shares. Applicant also states that as of August 4, 1983 its total assets were $190,659.56. Finally, Applicant states that all of its portfolio securities matured on September 3, 1983, the date of liquidation.

The application represents that Applicant now has no shareholders and is not now engaged in, nor does it propose to engage in any business activities other than those necessary for the winding up of its affairs. Applicant further represents that it has retained no assets, no debts or other liabilities, and it is not a party to any litigation or administrative proceeding. Finally, Applicant states that it has not within the past 18 months transferred any of its assets to a separate trust.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 6, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of Service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request, after said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-1686 Filed 1-19-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20564; File No. SR-MCC-83-7]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Clearing Corp.; Price Revision Schedule

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 30, 1983 the Midwest Securities Trust Company filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Attached to the filing as Exhibit A is MCC's Price Revision Schedule.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed price modifications, effective with service beginning January 3, 1984, reflect cost savings realized through increased activity in 1983. This increased activity has enabled MCC to retain sufficient earnings that permit it to maintain service levels and developmental programs. Excess revenues beyond those needed to meet retained earnings objectives, based on results through December 1983, are projected to be refunded to Participants in 1984.

However, MCC, consistent with its policy that services' fees fairly cover their associated costs, has increased fees for certain services. These fee changes arise from increased costs for several labor intensive functions, and reflect more accurately the expense of providing such services. MCC's fees also cover expenses associated with new programs implemented to insure enhanced cost-effectiveness for all Participants.

The proposed fee schedule is consistent with Section 17A of the Securities Exchange Act of 1934, in that the fee schedule will help remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions. In addition, the price changes provide for the equitable allocation of reasonable dues, fees and other charges among MCC's Participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed change in fees will have an impact on competition, but such impact will not impose any burdens on competition, but rather, will relieve a burden on or otherwise promote competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments have been solicited, but none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 13, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-1606 Filed 1-19-84; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Application No. 09/09-5332]

First American Capital Funding, Inc.; Application for a License to Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1983)), for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

Applicant: First American Capital Funding, Inc.

Address: 401 Vista Roma, Newport Beach, California 92660.

The proposed officers, directors and stockholders of the Applicant are as follows:

Luu Trankiem, 401 Roma Vista, Newport Beach, Ca. 92660; President, Chief Financial Officer and Director; 13.3

Xuan Nhan Nguyen, 1332 Cerritos Drive, Laguna Beach, Ca. 92660; Director, Consultant; 13.3

Son Hung Luu, 4622 W 5th Street, Santa Ana, Ca 92703; Director, Secretary; 6.67

Triet Van Pham, MD, 14421 Coralwood Lane, Huntington Beach, Ca 92646; Director; 6.67

Minh Ngoc Dang, MD, 7100 Country Club Lane, Anaheim, Ca 92807; Director; 13.3

Kiet Van Chau, MD, 6785 Swartmore, Anaheim, Ca 92807; Director; 13.3

Ba Xuan Nyuyen, MD, 149 Valley Vista Drive, Camarillo, Ca 93010; Director; 13.3.

Thiet Tan Nguyen, MD, 8762 Sailport, Huntington, Ca 92646; Director; 6.67

Bertrand O. Tyson, MD, 2661 East Washington Blvd., Pasadena, Ca 91107; Director; 13.3

The Applicant, a California corporation, with its principal place of business at 401 Vista Roma, Newport Beach, California 92660, will begin operations with $530,000 paid-in capital and paid-in surplus.

The applicant will conduct its activities principally in the State of California.

As a small business investment company under Section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice should be published in a newspaper of general circulation in the Newport Beach, California area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 16, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-1720 Filed 1-19-84; 8:45 am]

BILLING CODE 8025-01-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 14
Friday, January 20, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CONSUMER PRODUCT SAFETY COMMISSION

Commission Meeting

TIME AND DATE: 10:00 a.m., Wednesday, January 25, 1984.

LOCATION: Third Floor Hearing Room, 1111 18th Street, NW., Washington, D.C.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. *Diphenhydramine: PPPA Final Rule.*

The staff will brief the Commission on a final rule to require child-resistant packaging for over-the-counter drugs containing diphenhydramine.

Closed to the Public.

2. *Enforcement Matter (OS #5868).*

The staff will brief the Commission on enforcement matter OS #5868.

3. *Enforcement Matter (OS #5288).*

The Commission will consider enforcement matter OS #5288.

(For a recorded message containing the latest agenda information: call 301-492-5709).

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, MD. 20207, 301-492-6800.

January 18, 1984.

Sheldon D. Butts,

Acting Secretary.

[FR Doc. 84-1820 Filed 1-18-84; 3:13 pm]

BILLING CODE 6355-01-M

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FEDERAL MARITIME COMMISSION

TIME AND DATE: 9:00 a.m.—January 25, 1984.

PLACE: Hearing Room One—1100 L Street, N.W., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Agreement No. 6200-24-A: Settlement Agreement between the U.S. Atlantic & Gulf/Australia-New Zealand Conference and Karlander Kangaroo Line, Pty., Ltd.

2. Proposed Rulemaking and Filing Requirements for Intermodal Tariffs.

3. Extension of Waiver of 30-Day Filing Requirement for New and Initial Intermodal Rates.

4. Sea-Land Services, Inc. Request for Continuing Special Permission to Postpone Tariff Matter on Short Notice.

5. Docket No. 83-37: In the Matter of Rates Applicable to Charitable Shipments by U.S. Atlantic and Gulf/Jamaica and Hispaniola Steamship Freight Conference—Further Consideration of the Record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523-5725.

Francis C. Hurney,

Secretary.

[FR Doc. 84-1790 Filed 1-18-84; 3:13 pm]

BILLING CODE 6730-01-M

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FEDERAL RESERVE SYSTEM

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10:00 a.m., Wednesday January 25, 1984.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Recommendations by the Consumer Advisory Council regarding the Federal Reserve System's implementation of the Community Reinvestment Act.

2. Review of the Board's procedures in handling protested applications, including recommendations by the Consumer Advisory Council.

3. Proposed amendment to Regulation J (Collection of Checks and Other Items and Transfer of Funds) to permit Federal Reserve Banks to charge paying institutions for cash items made available on midweek closing days and nonstandard holidays. (Proposed earlier for public comment; Docket No. R-0481)

4. Publication for comment of proposed expansion of Federal Reserve book-entry securities services.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board: (202) 452-3204.

Dated: January 17, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-1772 Filed 1-18-84; 11:45 am]

BILLING CODE 6210-01-M

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FEDERAL RESERVE SYSTEM

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: Approximately 11:30 a.m., Wednesday, January 25, 1984, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Frderal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: January 17, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-1773 Filed 1-18-84; 11:45 am]

BILLING CODE 6210-01-M

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FEDERAL RESERVE SYSTEM

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:45 a.m., Tuesday, January 17, 1984.

The business of the Board required that this meeting be held with less than one week's advance notice to the public, and no earlier announcement of the meeting was practicable.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATERS TO BE CONSIDERED: Supervisory and regulatory matter. (This matter was

previously announced for a closed meeting on January 16, 1984).

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: January 17, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–1774 Filed 1–18–84; 11:45 am]

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federal register

Friday
January 20, 1984

Part II

Nuclear Regulatory Commission

State of Utah; Staff Assessment of Proposed Agreement Between the NRC and the State of Utah; Notice

NUCLEAR REGULATORY COMMISSION

State of Utah; Staff Assessment of Proposed Agreement Between the NRC and the State of Utah

Note.—This document was originally published on Friday, December 30, 1983 at 48 FR 57674. It is reprinted at the request of the Nuclear Regulatory Commission.

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Proposed Agreement with State of Utah.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission is publishing for public comment the NRC staff assessment of a proposed agreement received from the Governor of the State of Utah for the assumption of certain of the Commission's regulatory authority pursuant to Section 274 of the Atomic Energy Act of 1954, as amended.

A staff assessment of the State's proposed program for control over sources of radiation is set forth below as supplementary information to this notice. A copy of the program narrative, including the referenced appendices, appropriate State legislation and Utah regulations, is available for public inspection in the Commission's public document room at 1717 H Street, NW., Washington, D.C. Exemptions from the Commission's regulatory authority, which would implement this proposed agreement, have been published in the **Federal Register** and codified as Part 150 of the Commission's regulations in Title 10 of the Code of Federal Regulations.

DATE: Comments must be received on or before January 30, 1984.

ADDRESSES: All interested persons desiring to submit comments and suggestions for consideration by the Commission in connection with the proposed agreement should send them to the Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

FOR FURTHER INFORMATION CONTACT: John R. McGrath, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone: 301–492–9889, or Robert J. Doda, U.S. Nuclear Regulatory Commission, Region IV, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas, 76011, telephone 817–860–8139.

SUPPLEMENTARY INFORMATION:

Assessment of Proposed Utah Program to Regulate Certain Radioactive Materials Pursuant to Section 274 of the Atomic Energy Act of 1954, as amended.

The Commission has received a proposal from the Governor of Utah for the State to enter into an agreement with the NRC whereby the NRC would relinquish and the State would assume certain regulatory authority pursuant to Section 274 of the Atomic Energy Act of 1954, as amended.

Section 274e of the Atomic Energy Act of 1954, as amended, requires that the terms of the proposed agreement be published for public comment once each week for four consecutive weeks. Accordingly, this notice will be published four times in the **Federal Register**.

I. Background

A. Section 274 of the Atomic Energy Act of 1954, as amended, provides a mechanism whereby the NRC may transfer to the States certain regulator authority over agreement materials [1] when a State desires to assume this authority and the Governor certifies that the State has an adequate regulatory program, and when the Commission finds that the State's program is compatible with that of the NRC and is adequate to protect the public health and safety. Section 274g directs the Commission to cooperate with the States in the formulation of standards for protection against radiation hazards to assure that State and Commission programs for radiation protection will be coordinated and compatible. Further, Section 274j provides that the Commission shall periodically review such agreements and actions taken by the States under the agreements to ensure compliance with the provisions of this section.

B. In a letter dated November 14, 1983, Governor Scott M. Matheson of the State of Utah requested that the Commission enter into an agreement with the State pursuant to Section 274 of the Atomic Energy Act of 1954, as amended, and proposed that the agreement become effective on April 1, 1984. The Governor certified that the State of Utah has a program for control of radiation hazards which is adequate to protect the public health and safety with respect to the materials within the State covered by the proposed agreement, and that the State of Utah desires to assume regulatory responsibility for such materials. The text of the proposed agreement is shown in Appendix A and the narrative portion of the program description is shown in Appendix B.

The specific authority requested is for (1) byproduct material as defined in Section 11e(1) of the Act, (2) source material and (3) special nuclear material in quantities not sufficient to form a critical mass. The State does not wish to assume authority over uranium milling activities nor the commercial disposal of low-level radioactive waste. The State, however, reserves the right to apply at a future date to NRC for an amended agreement to assume authority in these areas. The nine articles of the proposed agreement cover the following areas:

I. Lists the materials covered by the agreement.
II. Lists the Commission's continue authority and responsibility for certain activities.
III. Allows for future amendment of the agreement.
IV. Allows for certain regulatory changes by the Commission.
V. References the continued authority of the Commission for common defense and security for safeguards purposes.
VI. Pledges the best efforts of the Commission and the State to achieve coordinated and compatible programs.
VII. Recognizes reciprocity of licenses issued by the respective agencies.
VIII. Sets forth criteria for termination or suspension of the agreement.
IX. Specifies the effective date of the agreement.

C. Utah Code Annotated 26–1–27 through 26–1–29 authorizes the State Department of Health to issue licenses to, and perform inspections of, users of radioactive materials under the proposed agreement and otherwise carry out a total radiation control program. Utah Radiation Control Regulations URC–10 through URC–80 adopted November 8, 1982 under authority of 26–1–27 through 26–1–29 Utah Code annotated 1953, as amended, provides standards, licensing, inspection, enforcement and administrative procedures for agreement and non-agreement materials. Pursuant to URC–12–165, the regulations are not applicable to agreement materials until the effective date of the agreement. Since January 1, 1983, the State has been licensing and inspecting users of naturally occurring and accelerator produced radioactive materials.

D. The environmental radiation issues with which the Department has been involved include: monitoring assessment of the impact of radioactive fallout from nuclear weapons testing at the Nevada Test Site; monitoring uranium mill tailings, particularly at the Vitro uranium mill; and monitoring indoor radon in Salt Lake County.

[1] A. Byproduct materials as defined in 11e(1);
B. Byproduct materials as defined in 11e(2);
C. Source materials; and
D. Special nuclear materials in quantities not sufficient to form a critical mass.

The Department has also been involved in inspections of x-ray users since 1961 including involvement in the U.S. FDA studies Nationwide Evaluation of X-Ray Trends (NEXT) and Dental Exposure Normalization Technique (DENT).

II. NRC Staff Assessment of Proposed Utah Program for Control of Agreement Materials

Reference: Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement.[2]

Objectives

1. *Protection.* A State regulatory program shall be designed to protect the health and safety of the people against radiation hazards.

Based upon the analysis of the State's proposed regulatory program the staff believes the Utah proposed regulatory program for agreement materials is adequately designed to protect the health and safety of the public against radiation hazards.

Radiation Protection Standards

2. *Standards.* The State regulatory program shall adopt a set of standards for protection against radiation which shall apply to byproduct, source and special nuclear materials in quantities not sufficient to form a critical mass.

Statutory authority to formulate and promulgate rules for controlling exposure to sources of radiation is contained in Utah Code Annotated 26–1–5 and 26–1–27. In accordance with that authority, the State has adopted Radiation Control Regulations on November 8, 1982 which include radiation protection standards which would apply to by product, source and special nuclear naterials in quantities not sufficient to form a critical mass upon the effective date of an agreement between the State and the Commission pursuant to Section 274b of the Atomic Energy Act of 1954 as amended.

Reference: Utah Radiation Control Regulations URC–10 through 80.

3. *Uniformity in Radiation Standards.* It is important to strive for uniformity in technical definitions and terminology, particularly as related to such things as units of measurement and radiation dose. There shall be uniformity on maximum permissible doses and level of radiation and concentrations of radioactivity, as fixed by 10 CFR Part 20 of the NRC regulations based on officially approved radiation protection guides.

Technical definitions and terminology contained in the Utah Radiation Control Regulations including those related to units of measurement and radiation doses are uniform with those contained in 10 CFR Part 20, except that the definition of byproduct material conforms to that contained in the Atomic Energy Act prior to enactment by Congress of Pub. L. 95–604, 92 Stat. 3021 et seq., November 8, 1978, the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA). In view of the fact that the State does not wish to assume authority over uranium milling activities pursuant to UMTRCA the absence of a definition of byproduct material conforming to that contained in Section 11e(2) of the Atomic Energy Act of 1954, as amended, is not viewed as a significant departure and should not be considered an impediment towards signing of a Section 274b agreement for the materials requested.

Reference: URC–12, 24.

4. *Total Occupational Radiation Exposure.* The regulatory authority shall consider the total occupational radiation exposure of individuals, including that from sources which are not regulated by it.

The Utah regulations cover all sources of radiation within the State's jurisdiction and provide for consideration of the total radiation exposure of individuals from all sources of radiation in the possession of a licensee or registrant.

Reference: URC–24–010,020.

5. *Surveys, Monitoring.* Appropriate surveys and personnel monitoring under the close supervision of technically competent people are essential in achieving radiological protection and shall be made in determining compliance with safety regulations.

The Utah requirements for surveys to evaluate potential exposure from sources of radiation and the personnel monitoring requirements are uniform with those contained in 10 CFR Part 20.

References: URC–12–050 (36) and (62), URC–12–100, URC–24–070, and URC–24–085.

6. *Labels, Signs, Symbols.* It is desirable to achieve uniformity in labels, signs, and symbols, and the posting thereof. However, it is essential that there be uniformity in labels, signs, and symbols affixed to radioactive products which are transferred from person to person.

The prescribed radiation labels, signs, and symbols are uniform with those contained in 10 CFR Parts 20, 30 thru 32 and 34. The Utah posting requirements are also uniform with those of Part 20.

References: URC–22–110, URC–24–090, URC–24–095, and URC–48–020.

7. *Instruction.* Persons working in or frequenting restricted areas shall be instructed with respect to the health risks associated with exposure to radioactive materials and in precautions to minimize exposure. Workers shall have the right to request regulatory authority inspections as per 10 CFR 19, Section 19.18 and to be represented during inspections as specified in Section 19.14 of 10 CFR 19.

The Utah regulations contain requirements for instructions and notices to workers that are uniform with those of 10 CFR Part 19.

Reference: URC–48.

8. *Storage.* Licensed radioactive material in storage shall be secured against unauthorized removal.

The Utah regulations contain a requirement for security of stored radioactive material.

Reference: URC–24–120.

9. *Radioactive Waste Disposal.* (a) Waste disposal by material users. The standards for the disposal of radioactive material into the air, water and sewer, and burial in the soil shall be in accordance with 10 CFR Part 20. Holders of radioactive material desiring to release or dispose of quantities or concentrations of radioactive materials in excess of prescribed limits shall be required to obtain special permission from the appropriate regulatory authority.

Requirements for transfer of waste for the purpose of ultimate disposal at a land disposal facility (waste transfer and manifest system) shall be in accordance with 10 CFR 20.

The waste disposal standards shall include a waste classification scheme and provisions for waste form, applicable to waste generators, that is equivalent to that contained in 10 CFR Part 61.

(b) Land Disposal of waste received from other persons. The State shall promulgate regulations containing licensing requirements for land disposal of radioactive waste received from other persons which are compatible with the applicable technical definitions, performance objectives, technical requirements and applicable supporting sections set forth in 10 CFR Part 61. Adequate financial arrangements (under terms established by regulation) shall be required of each waste disposal site licensee to ensure sufficient funds for decontamination, closure and

[2] NRC Statement of Policy published in the **Federal Register** January 23, 1981 (46 FR 7540–7546), and revision of Criterion 9 published in the **Federal Register** July 21, 1983 (48 FR 33376).

stabilization of a disposal site. In addition, Agreement State financial arrangements for long-term monitoring and maintenance of a specific site must be reviewed and approved by the Commission prior to relieving the site operator of licensed responsibility (Section 151(a)(2), Pub. L. 97–425).

Utah Radiation Control Regulations contain provisions relating to the disposal of radioactive materials into the air, water and sewer and burial in soil which are uniform with those of 10 CFR Part 20. The current Utah regulations were adopted prior to the publication of 10 CFR Part 61 and the corresponding changes to § 20.311 of Part 20. The Utah regulations, therefore, have no equivalent to § 20.311 or the waste classification system included in Part 61. Governor Matheson's letter of November 14, 1983 indicated that the State's radiation control regulations will be revised through standard rulemaking procedures to conform to the Federal standard regarding the radioactive waste manifest system and the waste classification system.

Since the waste manifest system does not become effective until December 27, 1983 and Agreement States are normally given three years to formally adopt significant changes to NRC regulations, the absence of these provisions in Utah regulations is not viewed as a significant deficiency at this time and should not be considered an impediment to the proposed agreement. The waste manifest system will be implemented by amendments to the site operator licenses. Utah, as well as other Agreement State, licensees will be required to meet the provisions of the site operator's license if they wish to use the site after December 27, 1983.

References: URC–24–130, 135, 140, 145, 150 and 160.

10. *Regulation Governing Shipment of Radioactive Materials.* The State shall to the extent of its jurisdiction promulgate regulations applicable to the shipment of radioactive materials, such regulations to be compatible with those established by the U.S. Department of Transportation and other agencies of the United States whose jurisdiction over interstate shipment of such materials necessarily continues. State regulations regarding transportation of radioactive materials must be compatible with 10 CFR Part 71.

The Utah regulations conform to those contained in NRC regulations prior to the recent (August 5, 1983) publication of a final rule amending Part 71 to achieve compatibility with the transport regulations of the International Atomic Energy Agency (IAEA). The Agreement States have been notified that these changes are considered matters of compatibility. Utah, as well as the other Agreement States, will need to make corresponding changes to their regulations. The lack of these provisions in the current Utah regulations is not viewed as a significant departure at this time since Agreement States are normally given three years to adopt important NRC rule changes, and should not be considered an impediment to the proposed agreement.

References: URC–12-Appendix A and Appendix B; URC–19-400, 500 and 510.

11. *Records and Reports.* The State regulatory program shall require that holders and users of radioactive materials (a) maintain records covering personnel radiation exposures, radiation surveys, and disposals of materials; (b) keep records of the receipt and transfer of the materials; (c) report significant incidents involving the materials, as prescribed by the regulatory authority; (d) make available upon request of a former employee a report of the employee's exposure to radiation; (e) at request of an employee advise the employee of his or her annual radiation exposure; and (f) unform each employee in writing when the employee has received radiation exposure in excess of the prescribed limits.

The Utah regulations require the following records and reports by licensees and registrants:

(a) Records covering personnel radiation exposures, radiation surveys, and disposals of materials.

Reference: URC–24–170.

(b) Records of receipt and transfer of materials.

Reference: URC–12–080.

(c) Reports concerning incidents involving radioactive materials.

Reference: URC–24–180, 190, 200, and 205.

(d) Reports to former employees of their radiation exposure.

Reference: URC–48–040(3).

(e) Reports to employees of their annual radiation exposure.

Reference: URC–48–040(2).

(f) Reports to employees of radiation exposure in excess of prescribed limits.

Reference: URC–48–040(4).

12. *Additional Requirements and Exemptions.* Consistent with the overall criteria here enumerated and to accommodate special cases and circumstances, the State regulatory authority shall be authorized in individual cases to impose additional requirements to protect health and safety, or to grant necessary exemptions which will not jeopardize health and safety.

The Utah Bureau of Radiation Control is authorized to impose upon any licensee or registrant, by rule, regulation, or order such requirements in addition to those established in the regulations as it deems appropriate or necessary to minimize danger to public health and safety or property.

Reference: URC–12–100(2).

The Bureau may also grant such exemptions from the requirements of the regulations as it determines are authorized by law and will not result in undue hazard to public health and safety or property.

Reference: URC–12–125(1).

Prior Evaluation of Uses of Radioactive Materials

13. *Prior Evaluation of Hazards and Uses, Exceptions.* In the present state of knowledge, it is necessary in regulating the possession and use of byproduct, source and special nuclear materials that the State regulatory authority require the submission of information on, and evaluation of, the potential hazards and the capability of the user or possessor prior to his receipt of the materials. This criterion is subject to certain exceptions and to continuing reappraisal as knowledge and experience in the atomic energy field increase. Frequently there are, and increasingly in the future there may be, categories of materials and uses as to which there is sufficient knowledge to permit possession and use without prior evaluation of the hazards and the capability of possessor and user. These categories fall into two groups—those materials and uses which may be completely exempt from regulatory controls, and those materials and uses in which sanctions for misuse are maintained without pre-evaluation of the individual possession or use. In authorizing research and development or other activities involving multiple uses of radioactive materials, where an institution has people with extensive training and experience, the State regulatory authority may wish to provide a means for authorizing broad use of materials without evaluating each specific use.

Prior to the issuance of a specific license for the use of radioactive materials, the Utah Bureau of Radiation Control will require the submission of information on, and will make an evaluation of, the potential hazards of such uses, and the capability of the applicant.

References: URC–19–220 and URC–22–020. Utah Program Description Section III.F.

Provision is made for the issuance of general licenses for byproduct, source and special nuclear materials in situations where prior evaluation of the licensee's qualifications, facilities, equipment and procedures is not required. The regulations grant general licenses under the same circumstances as those under which general licenses are granted in the Commission's regulations.

References: URC–19–220 and URC–21.

14. *Evaluation Criteria.* In evaluating a proposal to use radioactive materials, the regulatory authority shall determine the adequacy of the applicant's facilities and safety equipment, his training and experience in the use of the materials for the purpose requested, and his proposed administrative controls. States should develop guidance documents for use by license applicants. This guidance should be consistent with NRC licensing and regulatory guides for various categories of licensed activities.

In evaluating a proposal to use agreement materials, the Utah Bureau of Radiation Control will determine that:

(1) The applicant is qualified by reason of training and experience to use the material in question for the purpose requested in accordance with the regulations in such a manner as to minimize danger to public health and safety or property;

(2) The applicant's proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property; and

(3) The issuance of the license will not be inimical to the health and safety of the public.

Other special requirements for the issuance of specific licenses are contained in the regulations.

References: URC–22–040, 070, 090, and 110.

15. *Human Use.* The use of radioactive materials and radiation on or in humans shall not be permitted except by properly qualified persons (normally licensed physicians) possessing prescribed minimum experience in the use of radioisotopes or radiation.

The Utah regulations require that the use of radioactive material (including sealed sources) on or in humans shall be by a physician having substantial experience in the handling and administration of radioactive material and, where applicable, the clinical management of radioactive patients.

Reference: URC–22–070

Inspection

16. *Purpose, Frequency.* The possession and use of radioactive materials shall be subject to inspection by the regulatory authority and shall be subject to the performance of tests, as required by the regulatory authority. Inspection and testing is conducted to determine and to assist in obtaining compliance with regulatory requirements. Frequency of inspection shall be related directly to the amount and kind of material and type of operation licensed, and it shall be adequate to insure compliance.

Utah materials licensees will be subject to inspection by the Bureau of Radiation Control. Upon instruction from the Bureau, licensees shall perform or permit the Bureau to perform such reasonable tests and surveys as the Bureau deems appropriate or necessary. The frequency of inspections is dependent upon the type and scope of the licensed activities and will be at least as frequent, and in most cases more frequent, as inspections of similar licenses by NRC.

References: URC–12–090 and 100; URC–48–050–060–070 and 080; Utah Program Description Section III.G

17. *Inspections Compulsory.* Licensees shall be under obligation by law to provide access to inspectors. **Folios** 807–809 %118.0

Utah regulations state that licensees shall afford the Bureau at all reasonable times opportunity to inspect sources of radiation and the premises and facilities wherein such sources of radiation are used or stored.

Reference: URC–12–090.

18. *Notification of Results of Inspection.* Licensees are entitled to be advised of the results of inspections and to notice as to whether or not they are in compliance.

Following Bureau inspections, each licensee will be notified by letter of the results of the inspection. The letters indicate if the licensee is in compliance and if not, list the areas of noncompliance.

Reference: Utah Program Description Section III.H.

Enforcement

19. *Enforcement.* Possession and use of radioactive materials should be amenable to enforcement through legal sanctions, and the regulatory authority shall be equipped or assisted by law with the necessary powers for prompt enforcement. This may include, as appropriate, administrative remedies looking toward issuance of orders requiring affirmative action or suspension or revocation of the right to possess and use materials, and the impounding of materials; the obtaining of injunctive relief; and the imposing of civil or criminal penalties.

The Bureau of Radiation Control is equipped with the necessary powers for prompt enforcement of the regulations. Where conditions exist that create a clear presence of a hazard to the public health that requires immediate action to protect human health and safety, the Bureau may issue orders to reduce, discontinue or eliminate such conditions. Such orders may be a written directive to modify, suspend or revoke a license, to cease and desist from a given practice or activity, or to take such other action as may be appropriate. License modification orders will be issued when some change in licensee equipment, procedures, or management controls is necessary. Suspension orders will be used to remove an immediate threat to the public health or when a licensee has not responded adequately to other enforcement action. Revocation orders will be used when a licensee is unable or unwilling to comply with Bureau requirements. Cease and desist orders will be used to stop an unauthorized activity that has continued despite notification by the Bureau that such activity is unauthorized. In addition, the State will request from the legislature authority to impose civil penalties for violation of the Utah Radiation Control Regulations.

References: URC–12–130 and 140, Utah Program Description Section III.H., and Governor Matheson's letter dated November 14, 1983.

Personnel

20. *Qualifications of Regulatory and Inspection Personnel.* The regulatory agency shall be staffed with sufficient trained personnel. Prior evaluation of applications for licenses or authorizations and inspection of licensees must be conducted by persons possessing the training and experience relevant to the type and level of radioactivity in the proposed use to be evaluated and inspected.

To perform the functions involved in evaluation and inspection, it is desirable that there be personnel educated and trained in the physical and/or life sciences, including biology, chemistry, physics and engineering, and that the personnel have had training and experience in radiation protection. The person who will be responsible for the actual performance of evaluation and inspection of all of the various uses of byproduct, source and special nuclear

material which might come to the regulatory body should have substantial training and extensive experience in the field of radiation protection.

It is recognized that there will also be persons in the program performing a more limited function in evaluation and inspection. These persons will perform the day-to-day work of the regulatory program and deal with both routine situations as well as some which will be out of the ordinary. These people should have a bachelor's degree or equivalent in the physical or life sciences, training in health physics, and approximately two years of actual work experience in the field of radiation protection.

The foregoing are considered desirable qualifications for the staff who will be responsible for the actual performance of evaluation and inspection. In addition, there will probably be trainees associated with the regulatory program who will have an academic background in the physical or life sciences as well as varying amounts of specific training in radiation protection but little or no actual work experience in this field. The background and specific training of these persons will indicate to some extent their potential role in the regulatory program. These trainees, of course, could be used initially to evaluate and inspect those applications of radioactive materials which are considered routine or more standardized from the radiation safety standpoint, for example, inspection of industrial gauges, small research programs, and diagnostic medical programs. As they gain experience and competence in the field, the trainees could be used progressively to deal with the more complex or difficult types of radioactive material applications. It is desirable that such trainees have a bachelor's degree or equivalent in the physical or life sciences and specific training in radiation protection. In determining the requirement for academic training of individuals in all of the foregoing categories, proper consideration should be given to equivalent competency which has been gained by appropriate technical and radiation protection experience.

It is recognized that radioactive materials and their uses are so varied that the evaluation and inspection functions will require skills and experience in the different disciplines which will not always reside in one person. The regulatory authority should have the composite of such skills either in its employ or at its command, not only for routine functions, but also for emergency cases.

a. *Number of Personnel.* There are approximately 150 NRC specific licenses in the State of Utah. Under the proposed agreement, the State would assume responsibility for about 135 of these licenses. The Bureau of Radiation Control is currently staffed with five professional persons. In addition, there is currently one vacancy in the program. Two individuals will be assigned full time to the materials program. Three others will be trained to provide backup. We estimate the State will need to apply a minimum of 1.4 to 2.0 staff-years of effort to the program. The present personnel together with their assigned responsibilities are as follows:

Larry F. Anderson: Director, Bureau of Radiation Control. Responsible for administration of Bureau programs. Estimated 0.2 staff-year in materials program.

Blaine Howard: Health Physicist. Responsible for licensing and inspection in materials program. Estimated 1.0 staff-year in materials program.

Arnold J. Peart: Radiation Specialist 23. Responsible for licensing and inspection in materials program. Estimated 1.0 staff-year in materials program.

Donald G. Mitchell: Health Physicist. Responsibilities primarily in x-ray program. Will receive training in licensing and inspection in materials program. Estimated 0.1 staff-year in materials program.

Gerald R. Ripley: Health Physicist. Responsibilities primarily in x-ray program. Will receive training in licensing and inspection in materials program. Estimated 0.1 staff-year in materials program.

b. *Training.* The academic and specialized short course training for those persons involved in the administration, licensing and inspection of radioactive materials is shown below.

Larry F. Anderson—B.S. Chemistry, MPA (Health), Brigham Young University.

NIOSH Course 549, *Recognition, Evaluation, and Control of Occupational Hazards.* October, 1972.

NIOSH Course 582, *Sampling and Evaluating Airborne Asbestos Dust.* April 10–12, 1973.

Utah State Division of Health, *Visible Emissions Evaluation Course.* June 19, 1973.

American Industrial Hygiene Association, *Industrial Toxicology Seminar.* A 24-hour course ending April 30, 1975.

OSHA, *Fundamentals of Occupational Injury Investigation.* Short course ending April 1, 1977.

United States Nuclear Regulatory Commission, *Radiological Emergency Response Operations Training Course.* A 64-hour course ending January 27, 1978.

U.S. Environmental Protection Agency, *Grants Administration Seminar.* A 16-hour course ending May 18, 1979.

Safety International Training Center, *Hydrogen Sulfide and Equipment for Instructors.* A 12-hour course ending June 19, 1979.

Rocky Mountain Center for Occupational and Environmental Health, University of Utah, *Health and Exposures in the Smelter Environment.* A 20-hour course ending March 29, 1980.

Blaine Howard—B.S. Math and Physics, Ricks College. M.S. Radiological Health, New York University. M.S. Physics and Math, Brigham Young University.

Medical X-Ray Protection—BRH Rockville, MD.—October 30–Nov. 10, 1972.

Radiological Emergency Response Operations (REPR), Las Vegas and Nevada Test Site, 1978.

"States Role in Radioactive Material Management." The National Legislative Conference, Las Vegas, Dec. 9–11, 1974.

Drinking Water Regulations and Radioanalytical workshop EPA, Denver, Jan. 10–12, 1978.

X-Ray Workshop, Richfield, Utah, Mar. 14–15, 1979.

Actinides in Man and Animals—Workshop, Snowbird, UT., Oct. 15–17, 1979.

Nuclear Medicine—NRC New York City, Sept. 8–12, 1980.

NWTS Annual Information Meeting—Columbus, Ohio, Dec. 8–10, 1980.

Waste Management 1981—American Nuclear Society, Tucson, AR, Feb. 23–27, 1981.

Orientation Course in "Licensing Practices and Procedures"—NRC, Silver Spring, MD., Sept. 14–25, 1981.

Inspection Procedures Course—NRC, Atlanta, GA, July 26–30, 1982.

Arnold J. Peart—B.S. Education, Utah State University (minor—chemistry and math).

Nuclear Regulatory Commission—Orientation Course in licensing practices and procedures, 1982.

Nuclear Regulatory Commission—Medical Use of Radionuclides, 1982.

Federal Emergency Management Agency—Radiological Emergency Response Course, 1982.

Nuclear Regulatory Commission—Radiochemistry for State Regulatory Personnel, 1983.

Dept. of Health and Human Services—Basic Course for Investigators, Diagnostic X-Ray Survey, 1983.

Nuclear Regulatory Commission—Safety Aspects of Industrial Radiography, 1983.

Donald G. Mitchell—B.A. Chemistry and Physics, Brigham Young University. M.S. Physics and Math, University of Wisconsin.

Oak Ridge Assoc. Univ.—Health Physics (10 weeks) 1976.

Reynolds Electrical and Engineering—Rad. Emergency Response, 1978.

Food and Drug Administration—Diagnostic X-Ray Survey, 1979.

U.S. Nuclear Regulatory Commission—Industrial Radiography, 1982.

Eastman Kodak Company—Radiological Imaging, 1982.

Gerald R. Ripley—B.S. Biology, University of Utah. B.S. Pharmacy, University of Utah.

c. *Experience.* Mr. Anderson has been with the Bureau since 1972 and has had supervisory and administration responsibilities since 1978. Mr. Howard has been a health physicist with the State since 1972 and has had experience in health physics since 1954. Mr. Howard was certified by the American

Board of Health Physics in 1978. Mr Peart has been employed by the State since 1975. from 1975 to 1982 as an industrial hygienist and from 1982 as a radiation specialist. Messrs. Howard and Peart have accompanied NRC inspectors on materials inspections in the State of Utah. Mr. Mitchell has been a health physicist with the State since 1975. Prior to 1975 Mr. Mitchell had experience as a radiochemist and a teacher of chemistry and physics. Mr. Ripley has been a health physicist and industrial hygienist with the State since 1979. Mr. Ripley has prior experience as a radiochemist and pharmacist.

Reference: Utah Program Description Section IV and Appendix B.

21. *Conditions Applicable to Special Nuclear Materials, Source Material and Tritium.* Nothing in the State's regulatory program shall interfere with the duties imposed on the holder of the materials by the NRC, for example, the duty to report to the NRC, on NRC prescribed forms (1) transfers of special nuclear material, source material and tritium and (2) periodic inventory data.

The State's regulations do not prohibit or interfere with the duties imposed by the NRC on holders of special nuclear material owned by the U.S. Department of Energy or licensed by NRC, such as the responsibility of licensees to supply to the NRC reports of transfer and inventory.

Reference: URC–12–040 and 125.

22. *Special Nuclear Material Defined.* The definition of special nuclear material in quantities not sufficient to form a critical mass, as contained in the Utah Radiation Control Regulations, is uniform with the definition in 10 CFR Part 150.

Reference URC–12–050, Definition (60).

Administration

23. *Fair and Impartial Administration.* The Utah Health Code provides for administrative and judicial review of actions taken by the Department of Health. Any person may, upon written request, be given an opportunity for an informal hearing before the Department. If the matter cannot be resolved at the informal hearing, the person may then request a hearing before an impartial hearing officer. The person may then file in the district court for judicial review of a final determination of the executive director of the Department.

Reference: Utah Health Code Section 26–23–2.

24. *State Agency Designation.* The Utah Department of Health has been designated as the State's radiation control agency.

References: Utah Health Code 26–1–28. Governor's Matheson's letter dated November 14, 1983.

25. *Existing NRC Licenses and Pending Applications.* The Bureau has made provision to continue NRC licenses in effect temporarily after the transfer of jurisdiction. Such licenses will expire either 90 days after receipt from the Bureau of a notice of expiration or on the date of expiration specified in the federal license, whichever is earlier.

Reference: URC–12–165.

26. *Relations With Federal Government and Other States.* There should be an interchange of Federal and State information and assistance in connection with the issuance of regulations and licenses or authorizations, inspection of licensees, reporting of incidents and violations, and training and education problems.

The proposed agreement declares that the State will use its best efforts to cooperate with the NRC and other Agreement States in the formulation of standards and regulatory programs for the protection against hazards of radiation and to assure that the State's program will continue to be compatible with the Commission's program for the regulation of like materials.

Reference: Governor Matheson's letter dated November 14, 1983, Proposed Agreement Between the State of Utah and the Nuclear Regulatory Commission, Article VI.

27. *Coverage, Amendments, Reciprocity.* The proposed Utah agreement provides for the assumption of regulatory authority under the following categories of materials within the State:

(a) Byproduct materials, as defined by Section 11e(1) of the Atomic Energy Act, as amended.

(b) Source materials.

(c) Special nuclear materials in quantities not sufficient to form a critical mass.

Reference: Proposed Agreement, Article I.

Provision has been made by Utah for the reciprocal recognition of licenses to permit activities within Utah of persons licensed by other jurisdictions. This reciprocity is like that granted under 10 CFR Part 150.

Reference: URC–19–250.

28. *NRC and Department of Energy Contractors.* The State's regulations provide that certain NRC and DOE contractors or subcontractors are exempt from the State's requirements for licensing and registration of sources of radiation which such persons receive, possess, use, transfer, or acquire.

Reference: URC–12–125(2).

III. Staff Conclusion

Section 274d of the Atomic Energy Act of 1954, as amended, states: The Commission shall enter into an agreement under subsection b of this section with any State if:

(1) The Governor of that State certifies that the State has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the materials within the State covered by the proposed agreement, and that the State desires to assume regulatory responsibility for such materials; and

(2) The Commission finds that the State program is in accordance with the requirements of subsection o. and in all other respects compatiable with the Commission's program for the regulation of such materials, and that the State program is adequate to protect the public health and safety with respect to the materials covered by the proposed amendment.

The staff has concluded that the State of Utah meets the requirements of Section 274 of the Act. The State's statutes, regulations, personnel, licensing, inspection and administrative procedures are compatible with those of the Commission and adequate to protect the public health and safety with respect to the materials covered by the proposed agreement. Since the State is not seeking authority over uranium milling activities subsection o. is not applicable to the proposed Utah agreement.

Dated at Bethesda, Maryland, this 20th day of December 1983.

For the U.S. Nuclear Regulatory Commission.

G. Wayne Kerr,

Director, Office of State Programs.

Appendix A—Proposed Agreement Between the United States Nuclear Regulatory Commission and the State of Utah for Discontinuance of Certain Commission Regulatory Authority and Responsibility Within the State Pursuant to Section 274 of the Atomic Energy Act of 1954, As Amended

Whereas, The United States Nuclear Regulatory Commission (hereinafter referred to as the Commission) is authorized under Section 274 of the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act), to enter into agreements with the Governor of any State providing for discontinuance of the regulatory authority of the Commission within the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to by-product materials as defined in sections 11e. (1) and (2) of the Act, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and

Whereas, The Governor of the State of Utah is authorized under Utah Code Annotated 26–1–29 to enter into this Agreement with the Commission; and

Whereas, The Governor of the State of Utah certified on November 14, 1983 that the State of Utah (hereinafter referred to as the State) has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the

materials within the State covered by this Agreement, and that the State desires to assume regulatory responsibility for such materials; and

Whereas, The Commission found on ———, that the program of the State for the regulation of the materials covered by this Agreement is compatible with the Commission's program for the regulation of such materials and is adequate to protect the public health and safety; and

Whereas, The State and the Commission recognize the desirability and importance of cooperation between the Commission and the State in the formulation of standards for protection against hazards of radiation and in assuring that State and Commission programs for protection against hazards of radiation will be coordinated and compatible; and

Whereas, The Commission and the State recognize the desirability of reciprocal recognition of licenses and exemptions from licensing of those materials subject to this Agreement; and

Whereas, This Agreement is entered into pursuant to the provisions of the Atomic Energy Act of 1954, as amended;

Now, therefore, It is hereby agreed between the Commission and the Governor of the State, acting in behalf of the State, as follows:

Article I

Subject to the exceptions provided in Articles II, IV, and V, the Commission shall discontinue, as of the effective date of this Agreement, the regulatory authority of the Commission in the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to the following materials:

A. Byproduct materials as defined in section 11e.(1) of the Act;

B. Source materials; and

C. Special nuclear materials in quantities not sufficient to form a critical mass.

Article II

This Agreement does not provide for discontinuance of any authority and the Commission shall retain authority and responsibility with respect to regulation of:

A. The construction and operation of any production or utilization facility;

B. The export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;

C. The disposal into the ocean or sea of byproduct, source, or special nuclear waste materials as defined in regulations or orders of the Commission;

D. The disposal of such other byproduct, source, or special nuclear material as the Commission from time to time determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed of without a license from the Commission;

E. The land disposal of source, byproduct and special nuclear material received from other persons; and

F. The extraction or concentration of source material from source material ore and the management and disposal of the resulting byproduct material.

Article III

This Agreement may be amended, upon application by the State and approval by the Commission, to include the additional area(s) specified in Article II, paragraph E or F, whereby the State can exert regulatory control over the materials stated therein.

Article IV

Notwithstanding this Agreement, the Commission may from time to time by rule, regulation, or order, require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of such product except pursuant to a license or an exemption from licensing issued by the Commission.

Article V

This Agreement shall not affect the authority of the Commission under subsection 161 b. or i. of the Act to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data or to guard against the loss or diversion of special nuclear material.

Article VI

The Commission will use its best efforts to cooperate with the State and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that State and Commission programs for protection against hazards of radiation will be coordinated and compatible. The State will use its best efforts to cooperate with the Commission and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that the State's program will continue to be compatible with the program of the Commission for the regulation of like materials. The State and the Commission will use their best efforts to keep each other informed of proposed changes in their respective rules and regulations and licensing, inspection and enforcement policies and criteria, and to obtain the comments and assistance of the other party thereon.

Article VII

The Commission and the State agree that it is desirable to provide reciprocal recognition of licenses for the materials listed in Article I licensed by the other party or by any Agreement State. Accordingly, the Commission and the State agree to use their best efforts to develop appropriate rules, regulations, and procedures by which such reciprocity will be accorded.

Article VIII

The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State, or upon request of the Governor of the State, may terminate or suspend all or part of this agreement and reassert the licensing and regulatory authority vested in it under the Act if the Commission finds that (1) such termination or suspension is required to protect the public health and safety, or (2) the State has not complied with one or more of the requirements of section 274 of the Act. The Commission may also, pursuant to section 274j. of the Act, temporarily suspend all or part of this agreement if, in the judgment of the Commission, an emergency situation exists requiring immediate action to protect public health and safety and the State has failed to take necessary steps. The Commission shall periodically review this Agreement and actions taken by the State under this Agreement to ensure compliance with section 274 of the Act.

Article IX

This Agreement shall become effective on ———, 1984, and shall remain in effect unless and until such time as it is terminated pursuant to Article VIII.

Done at Salt Lake City, Utah, in triplicate, this ——— day of ———, 1984.

For the United States Nuclear Regulatory Commission.

Nunzio J. Palladino,

Chairman.

For the State of Utah.

Scott M. Matheson,

Governor.

Appendix B—Narrative Portion of Program Description

State of Utah Bureau of Radiation Control Radiation Regulatory Program

I. Foreword

The 1967 Utah Legislature passed the "Radiation Protection Act" which authorized the State Board of Health to require the registration of ionizing radiation sources and to adopt the necessary rules and regulations for controlling exposure to harmful ionizing radiation (26–1–27). The State Department of Health was designated to establish, carry out and enforce a radiation control program. (26–1–28). The governor was authorized to enter into agreements with the federal government to assume certain responsibilities with respect to sources of ionizing radiation. (26–1–29).

Upon a decision by the Utah Attorney General's office that the 1967 legislation was not sufficient to carry out these functions, the 1981 legislature passed a revised version which overcame the deficiencies by adding authority to license.

Copies of this legislation are enclosed as Appendix A. The Bureau of Radiation Control is now aggressively pursuing Agreement status.

II. History

Previous to 1961, radiation problems received limited attention. During this time attention was called to a proposal to use radioactive tailings from the Vitro uranium mill as fill material in the construction of an interstate highway. The Department of Health maintained its position which had been established earlier in refusing permission to move any of the material for any purpose. This position has continued as Utah sought help from federal agencies to

define the problems associated with uranium mill tailings.

In 1961, a chemist was added and assigned to work ¼ time in radiation related matters. He received training in x-ray from the U.S. Public Health Service and attended a 10 week course in Health Physics at Oak Ridge, Tennessee. He accompanied AEC inspectors as they visited licensees in Utah and inspected x-ray facilities upon request. In 1962 the U.S. Public Health Service assigned one of their staff to survey the x-ray facilities in Utah. He spent just over a year and surveyed all the x-ray facilities in Utah.

In 1962 high levels of radioactive contamination from the Sedan Atomic test at the Nevada Test Site were found in Utah milk. The Health Department diverted the most highly contaminated milk from human use until the Iodine-131 could decay. This called attention to the need for a radiological laboratory in Utah. With the assistance of the U.S. Public Health Service a laboratory was established in 1964 with both wet chemistry and instrumental analysis. The laboratory has been continually upgraded. A lithium drifted germanuim detector with computer electronics was added and, at present, the laboratory has provisional interim certification for drinking water analysis for gross alpha, gross beta, radium-226, radium-228 and tritium.

As a result of the Sedan contamination problem, a milk sampling network was established and weekly samples were analyzed for contamination until well after atmospheric testing was discontinued at the Nevada Test Site. Until 1972 medical and dental x-ray facilities were surveyed upon request and some industrial x-ray facilities were looked at.

In 1972, the Radiation and Occupational Health Section of the Division of Environmental Health was expanded by addition of three more professionals, one a full-time health physicist. Efforts were made to establish radiation control regulations but opposition was encountered and these efforts were unsuccessful. Inspections of x-ray facilities were performed using NCRP Recommendations as a standard. Letters were sent to the facilities specifying items of deficiency. The majority of the installations complied voluntarily with the recommendations. Bureau staff members have accompanied AEC (NRC) inspectors on numerous inspections of Utah licensees, contributing to the inspection report by invitation.

In 1972, Bureau staff assisted the Environmental Protection Agency in sampling for radon and radon daughters on and near the Vitro uranium mill site. A network of samplers was set up and serviced by Radiation and Occupational Health personnel. In 1973, Utah cooperated with the Bureau of Radiological Health in its Nationwide Evaluations of X-ray Trends (NEXT) to gather statistical data about x-ray exposure to the public. This study (NEXT) was continued for a number of years.

In 1975, a second professional health physicist was employed full time in radiological health. With this additional help a dental x-ray program, Dental Exposure Normalization Technique (DENT) was carried out to reduce exposure to patients from dental x-rays. The new techniques which were selected by the dentists reflect a 49% reduction in dental x-ray exposure. Programs were conducted with practitioners of various disciplines to improve radiographic quality while reducing patient exposure. In 1978, radon daughter concentrations were measured in some Salt Lake County businesses which were more than 5 times the maximum continuous levels allowed in uranium mines. This gave additional impetus to bills being introduced into Congress by the Utah delegates which asked for federal assistance for the clean up of uranium mill tailings. These efforts and the efforts of other states culminated in the passage of Pub. L. 95-604 "The Uranium Mill Tailings Radiation Control Act of 1978".

In 1972, an E.P.A. study identified many locations throughout much of Utah where the use of uranium mill tailings as fill material was indicated. Beginning in 1978, indoor radon measurements were made by the Bureau of Radiation Control at those locations in Salt Lake County where uranium mill tailings were used near or under habitable buildings. Through the cooperation of the U.S. Department of Energy, aerial surveys were made to complete the identification of sites where tailings were used in a large part of Salt Lake County and other Utah communities. Some additional businesses were found with high radon concentrations.

In 1979, a third full time health physicist was added to the staff to work with uranium mill tailings remedial action and assist with a new contract with the Bureau of Radiological Health to make compliance surveys of new diagnostic x-ray machines.

In 1980, a fourth full time health physicist was added to the staff to provide technical support for the governor's "High Level Nuclear Waste Task Force". This task force was appointed on June 2, 1980 to oversee the U.S. DOE's field operations in Utah, make recommendations to the governor and communicate information to the people of Utah.

In 1981, a contract was signed with Mound Laboratory for the State to monitor properties near the Vitro Uranium mill. A health physics technician was added to the staff to fill the Mound contract requirements.

In July 1981, the occupational health functions were transferred to the Industrial Commission and the Bureau was renamed the Bureau of Radiation.

In January 1982, the Bureau of Radiation was divided to form the Bureau of Uranium Mill Tailings Management and the Bureau of Radiation Control. The Bureau of Radiation Control under a new director was given the task of preparing a complete radiation control program in preparation for entering an agreement with the U.S. Nuclear Regulatory Commission.

In December 1982, the Bureau of Uranium Mill Tailings Management was combined with the Bureau of Radiation Control with the new organization as indicated on the Function Chart in Appendix B.

The Utah Radiation Control Regulations were formally adopted and became effective on January 1, 1983. Since that date, the Bureau has been licensing and inspecting users of naturally occurring and accelerator produced radioactive materials (NARM). The regulations provide for a "Radiation Technical Advisory Committee" of eight (8) members to advise, comment and provide technical assistance to the Bureau Director.

III. Administrative Policy and Procedures

A. *Introduction and Purpose.* The following procedures are to assure uniformity, continuity and appropriate treatment in all licensing, registration and regulatory practices and to maintain radiation exposures to all persons in the State as low as is reasonably possible.

Procedures are also to assure that emergency response to radiological incidents is correlated with the appropriate government agencies and that the proper information is provided to the public.

Procedures shall also provide for feedback to the Bureau director from the staff on the status of activities in regard to regulatory actions, problem cases, inquiries and need for regulation revisions.

B. *Priority of Responsibilities.* The responsibilities for Radiation Control, after the program is established, shall be given priority in the following order:

1. Emergency response to radiological incidents.
2. Respond to request by workers for inspection.
3. Routine inspection of radiation sources.
4. Reinspection of non-compliant facility and enforcement procedures.
5. Registration or licensing of radiation sources.
6. Review plans as submitted under URC-26-037.
7. Assist licensee in developing program under URC-24-015.

C. *Emergency Response Procedures.* Emergency response to radiological incidents will take precedence over other duties and will require immediate response by one or more technical staff.

1. Names of emergency response team members will be left with the department operator during off duty hours.
2. Emergency response kits will be kept in the office ready for immediate response.
3. When an emergency situation is reported the following information will be obtained.
   a. Name and telephone number of caller.
   b. Alternate contact and telephone number.
   c. Company or agency of caller.
   d. Location of incident.
   e. Type and amount of radioactive material.
   f. Detailed account of the problem.
   g. Shipper address and telephone number.
   h. Consignee address and telephone number.
   i. Who has been called in.
4. The leader of the emergency response team will have successfully completed the NRC Radiological emergency response training course.
5. All questions by the news media will be referred to the Bureau Director.

D. *Procedure for Response to Workers Request for Inspection.* 1. The request for inspection shall be in writing and outline the alleged violations.

2. The request shall be reviewed by bureau personnel and compared to past inspection reports.

3. A copy of the alleged violations will be delivered to the licensee at the time of the inspection.

4. Response to the request by workers that an inspection be performed under URC–48–070 shall be made as soon as practicable, preferably no later than 7 working days from receipt of written request.

5. Following the inspection a written report will be furnished to the complianant of any violations of the Bureau of Radiation Control Regulations.

6. The identity of the individuals requesting the inspection shall be protected as provided for in URC–48–070.

E. *Procedure for Registration of Ionizing Radiation Machines.** The following outline describes the procedures for keeping track of the registration and survey program. In all cases, the registrant should submit a completed BRC Form 10 along with the registrant's signature. Once the secretary has received this application, a registration certificate will be typed on BRC Form 11 and issued to the applicant.

1. Registration.

a. On receipt of an application:

(1) Check to assure that applicant has not previously been registered.

(2) If not registered, obtain new registration number, county-discipline-sequential.

(3) Note if the appropriate fee is enclosed. If any discrepancies are noted, registration and fee is returned for corrective actions by registrant.

b. Initiate folder.

(1) Place application form and a copy of the registration certificate in the folder. Add any other correspondence concerning this registration.

(2) Original copy of registration certificate is sent to the registrant for his files.

c. Registrant's name, address, registration number, inspection due date, and inspection information will be entered on to the word processor.

d. Mail the original certificate to the registrant. If a new registrant, the following will be included with this certificate:

(1) Notice to Employee, BRC Form 4.

(2) Copy of those sections of the Bureau of Radiation Control Regulations that apply.

2. Change in Registration.

a. Address Change.

Change all registration sheets and update word processor and indicate date.

b. Equipment Change.

Change all registration sheets and update word processor and indicate date.

c. Deaths.

(1) Mark all registration sheets accordingly.

(2) Mark manila folder "inactive", only if (4) is completed.

(3) Do not re-issue number.

(4) Locate and maintain surveillance on equipment until it is properly disposed of.

d. Retirements.

(1) Mark all registration sheets accordingly.

(2) Mark manila folder "inactive", if (4) is completed.

(3) Do not re-issue number.

4. Make sure machine is properly disposed of.

3. Procedures for Handling Completed Survey Reports:

After an x-ray unit has been registered, staff members will perform a radiation survey to determine if the registrant meets the Bureau of Radiation Control regulations. During this survey, the staff member(s) will place data on "survey reports". All reporting documents will be held in registrant's file. A letter to the registrant will be issued from the Bureau informing him if he is in compliance or explain items of non-compliance.

a. File result sheet in manila folder. The letter indicating compliance or listing items of non-compliance will be issued within 15 days after completion of inspections. A copy of this will be filed with the survey result sheet in the manila folder.

b. Non-Compliance Survey Reports.

The non-compliance survey reports will be filed on the word processor, 30-day action is required.

4. Follow-up Procedure.

a. Pull non-compliant registrants from word processor on a monthly basis for follow-up. If installation becomes "in compliance" the data on the word processor will be corrected, if non-compliance continues further action will be taken.

b. Send follow-up letters to all appropriate registrants with non-compliances, note issuance of follow-up letter on word processor.

c. If answer is not received during second 30 day period, an additional 15-day notice will be written.

d. If answer is not received during 15-day period, file will be referred to the Attorney General's office for appropriate action.

5. Procedures When "Non-Compliance" Items are corrected.

a. We will accept a written notice with signature that items of non-compliance have been corrected.

b. Upon receiving such information the following will be done:

(1) The compliance action notice from the responsible person will be placed in the manila folder for future inspection and a corrective action letter will be issued by the Bureau.

(2) Result sheet will be marked compliance by indicating date information was received and by what route. The information will be left in the manila folder.

F. *Procedures for Licensing Radioactive Material:* The specific material to be licensed by the State will be: (a) By-product material (as defined under 11(a) of the Atomic Energy Act of 1954 as amended), (b) Source Material, (c) Special nuclear material in quantities not sufficient to form a critical mass. The United States Nuclear Regulatory Commission Guides will be used for evaluation of all radioactive material applications.

1. All applicants must submit a completed state form (e.g., BRC–01 or BRC—02) along with the application fee. Once the application is received, a file folder will be created and a sequence number given.

2. Applications will be reviewed in sequence by assigned staff. Staff reviewing license applications will have completed the NRC course on licensing practices and procedures.

3. Reviewing staff will determine if application is for a new license, renewal or an amended license. Renewal and amended license applications will be referred to the original file.

4. The reviewer shall determine if all requested material has been submitted and fees paid. If material is not complete or if fees have not been paid, the applicant will be notified that no processing of the application will take place until those items are rectified.

5. If the application is in order and fees paid, it will be reviewed using the following guide lines:

a. Does the application meet the requirements of the BRC regulations?

b. Is the applicant qualified by reasons of training and experience?

c. Are the facilites adequate to carry out the proposed activity? (This may include onsite inspections.)

6. If the application meets all the requirements a license will be issued using form BRC–03 and listing any special conditions or limitations which are applicable.

a. Included with the license mailed to the licensee will be a copy of "Notice to Employees" BRC Form–04 and a copy of Bureau of Radiation Control regulations that apply.

b. A copy of the license and the application will be placed in the applicants permanent file.

c. One file on the word processor will be completed for each license, including the name and address of applicant, the license number, the inspection due date, completed inspection date and remarks.

7. If the application does not meet the requirements, the applicant will be notified by letter of any deficiencies, or any additional information and changes which may be necessary.

G. *Inspection priority.*

Priority	Type of license or facility	Inspection frequency	
		Initial (months)	Routine (months)
I	Reserved		
II	Radiography (field), Medical-Broad, Academic Type A, Uranium-By-product.	6	10
III	Hospital x-ray, Orthopedic x-ray Clinics, Radiology x-ray Clinics, Therapeutic x-ray, Accelerators, Radiography (in-house).	6	12
IV	Waste collection, (prepackaged waste only) Industrial, Industrial type B Broad.	6	15
V	Industrial Limited, Academic, Civil Defense, Soil Moisture and Density Gauges, Chiropractic x-ray, other medical x-ray.	6	18–24
VI	Medical limited, Eye Applicator, Gauge Repair, Gauge Use, Chromatography, Light Sources, Leak Test Services, Calibration Sources, Dental X-Ray.	6	12–36
VII	Veterinary x-ray	12	36
VIII	Teletherapy	6	24
IX	Walk-In Type Irradiator	6	12

*Note.—See Definition URC–12–050(43) in Utah Radiation Control Regulations.

*Note.—Other medical x-ray includes all diagnostic x-ray except hospitals, radiology clinics, orthopedic clinics, dental and veterinary x-ray.

H. *Enforcement Procedures.* The United States Nuclear Regulatory Commission Inspection Guides will be used to establish format for inspection procedures.

1. Following an inspection, the licensee will be notified by letter of (a) compliance including the results of the inspection, or (b) the areas of non-compliance and requesting written notification within 30-days describing:

a. Corrective steps which have been taken by the licensee and the results achieved.

b. Corrective steps which will be taken to prevent recurrence; and

c. The date when full compliance will be achieved.

2. If response in not received in 30 days, a second letter will be sent requiring response within 15 days to avoid issuance of an order or other legal proceedings.

3. An order is a written directive to modify, suspend or revoke a license; to cease and desist from a given practice or activity, or to take such other action as may be appropriate.

a. License modification order will be issued when some change in licensee equipment, procedures, or management controls is necessary.

b. Suspension Orders will be used:

(1) To remove a threat to the public health.

(2) When licensee has not responded adequately to other enforcement action.

(3) When the licensee interfers with the conduct of an inspection; or

(4) For any reason not mentioned above for which license revocation is legally authorized.

c. Revocation Orders will be used:

(1) When a licensee is unable or unwilling to comply with bureau requirements;

(2) When a licensee has refused to correct a violation;

(3) When a licensee does not pay a fee required by the bureau.

d. Cease and desist orders are used to stop an unauthorized activity that has continued despite notification by the Bureau that such activity is unauthorized.

e. Orders are made effective immediately, without prior opportunity for hearing, whenever it is determined that the public health, interest or safety so requires, or when the order is responding to a violation involving willfulness. Otherwise, a prior opportunity for a hearing on the modification is afforded.

4. If repetitive serious violations occur, BRC will consider issuing orders in conjunction with other enforcement actions to achieve immediate corrective actions and to deter further recurrence of serious violations.

5. Related administrative actions.

a. In addition to the formal enforcement mechanisms of notice of violation and orders, BRC will also use conferences, bulletins, circulars, information notices, notices of deviation, confirmatory action letters, defined as follows:

(1) Enforcement conferences are meetings held with licensee management to discuss safety, health and compliance with regulatory requirements.

(2) Bulletins, circulars and information notices are written notices to groups of licensees identifying specific problems and calling for or recommending specific actions on their part.

(3) Notice of Deviation are written notices describing a licensees failure to satisfy a commitment.

(4) Confirmatory action letters are letters confirming a licensee's agreement to take certain actions.

I. *Policy For Review of Plans Submitted Under URC-28-032 (Preconstruction Review of Shielding Plans).* 1. Plans should be submitted a minimum of 30 days before anticipated construction.

2. If it appears that additional shielding would be adviseable, this recommendation would be made in writing to those submitting the plans within 30 days of receiving the plans for review.

J. *Policy for Staff Assistance in Developing ALARA Programs in Accordance with URC-24-015 (This Section Requires Implementation of ALARA Programs and Offers Assistance by the Bureau When Requested).* 1. ALARA programs submitted to the Bureau shall be reviewed by the Staff. If the program is deficient, recommendations will be made to upgrade the program.

2. During each inspection, the ALARA program will be reviewed with the registrant or licensee.

3. A list of successful methods will be made and given to those requesting assistance.

K. *Staff Training Policy.* 1. Update training will be conducted on a regular basis to enhance technical proficiency. The goal of in-house training will be to maintain a basic understanding of the following topics:

a. Atomic structure and natural radioactivity.

b. Properties of Alpha and Beta Particles, Gamma Rays, X-Ray and Neutrons.

c. Radiation units and external dose determinations.

d. Biological effects of radiation.

e. Shielding.

f. Operation and calibrations of instruments for measurements of ionizing radiation.

g. Inspection procedures.

h. Special topics as needed.

2. The staff will be sent to national courses in all aspects of Radiation Control as federal or state funds are available.

3. Each staff member will be encouraged to devote some time to personal study and be working toward certification as a health physicist.

L. *Media Relations.* Media relations and the Bureau of Radiation Control can be divided into two general categories: the regular release of information and the information release following an incident involving radioactive material.

Regular Information Release. All information released to the media is to go through the Department of Health's public information officer. The policy for the Division of Environment Health has been to have the draft press release prepared by the bureau and then approved by the divisions director. This is then sent to the public information officer for release.

Telephone press inquiries are generally handled by the bureau director who then briefs the public information officer on the interview. Requests for television interviews are relayed to the public information officer with background as to the reason for the request.

The bureau director is to keep the public information officer current on any aspects of his programs which may attract media attention. This includes briefings on *potentially significant new stories.* The bureau director will also work with the public information officer on specific issues which could or should be brought up in the press. Such briefings are important to keep the public information officer current on concerns and programs of the bureau to give him the necessary background on the bureau's activities. The public information officer will make such arrangements as feature stories, interviews, press conference or other means best suited to the material to be disseminated. The spokesman for the Bureau of Radiation Control is the bureau director or the public information officer.

It is imperative in such situations that timely, accurate and current notices to the public through the press be maintained. Special attention is to be paid to stopping rumors, correcting misinformation and presenting an accurate assessment of the situation which the public can understand. Ignorance and fear can lead to panic. The press can be of great help in preventing panic and in helping make people aware of the real dangers involved, need to evacuate, etc.

A single spokesman for the Department of Health is to be established. Unless otherwise indicated by the Executive Director, Utah Department of Health, this spokesman is the public information officer. He will work closely with the bureau director and division director in his dealings with the press. There should be no unauthorized interviews by staff or others speaking for the Department of Health. Requests for statements or interviews should be directed to the public information officer, division director or bureau director.

The Media and "Incident" Coverage. The public information officer for the Department of Health should be notified immediately of any incident related to radioactivity which is a threat to the public health. Depending on the nature and extent of the incident, his activities will be coordinated with the Division of Comprehensive Emergency Management.

It is advantageous to establish a central press room if the scene of the incident is not accessible. This will make it possible for regular and timely updates.

Statements made on the scene of the incident should be limited to the known facts and not conjecture or possibilities. The press should be referred to the public information officer or bureau director by staff when they are approached by the press for interviews or comments.

IV. Organization, Staff and Equipment

The "Utah Health Code" adopted by the 1981 Utah Legislature created a "Department of Health" from the "Division of Health" of the Department of Social Services. The code gave unto the Department of Health authority to require the registration and licensing of hazardous sources of radiation and to adopt

necessary rules for controlling radiation exposure to such sources. The code also directed the Department of Health to establish, carry out, and enforce a radiation control program pursuant to the adopted rules and any federal-state agreement (The 1981 "Utah Health Code" is contained in Appendix A with pertinent statutes).

The Department of Health is divided into four Divisions. (1) The Division of Health Planning and Facilities; (2) The Division of Environmental Health; (3) The Division of Community Health Services; and (4) The Division of Family Health Services. The Division of Environmental Health is divided into six (6) Bureaus including the Bureau of Radiation Control which includes the functions of the Bureau of Uranium Mill Tailings Management. The Bureau is only concerned with title I UMTRPA activities. A chart showing the organization of the Department of Health and a function chart of the Bureau of Radiation Control are contained in Appendix B. Since this chart was drawn, a recombination of the Bureau of Radiation Control and the Bureau of Uranium Mill Tailings Management was effected with the structure as indicated in the function chart also included in Appendix B. The current staff includes one (1) health physicist certified by the American Board of Health Physics, two (2) health physicists one with extensive experience, and one (1) other staff member undergoing in-house training and attending NRC training courses.

Personnel working in Radioactive Materials Program:

Name	Time (percent)	Responsibilities
Larry F. Anderson	20	Administrative.
Blaine Howard	100	Licensing and Inspections.
Arnold J. Peart	100	Licensing and Inspections.
Donald G. Mitchell	10	Training in Licensing and Inspection.
Gerald R. Ripley	10	Training in Licensing and Inspection.
New Hire	10	Training in Licensing and Inspection.

Resume's of the current staff are included in Appendix B. The five categories of job descriptions included in the appendix will all be necessary to allow for promotion incentives for the in-house training program. This will allow hiring of individuals with limited experience and involving them in our training program with advancement available when training and experience requirements are reached.

Standard letters, standard forms, and license conditions have been prepared. Copies of the most recent versions of these materials have been included in Appendix C.

The Bureau has on hand sufficient equipment and instrumentation for the adequate conduct of the present Radiation Control Program. An inventory of this equipment is included in Appendix D.

The Utah Legislature has authorized appropriations to carry out the regulatory functions of the Bureau.

V. Emergency Response

All of the current technical staff have attended the training course in Radiological Emergency Response Operations for Radiological Emergency Response Teams of State and local governments formally sponsored by the Office of State Programs, U.S. Nuclear Regulatory Commission. The Bureau has developed a radiological comprehensive emergency management section with the Utah Highway Patrol.

[FR Doc. 83-34511 Filed 12-29-83; 8:45 am]
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Friday
January 20, 1984

Part III

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions; Notice

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Connecticut: CT83–3021	June 3, 1983.
Iowa:	
IA83–4035	May 13, 1983.
IA83–4050	July 15, 1983.
Kansas:	
KS83–4066	Sept. 9, 1983.
KS83–4063	Sept. 2, 1983.
Maryland: MD80–3014	Mar. 28, 1980.
New York:	
NY81–3045	July 17, 1981.
NY81–3061	Sept. 11, 1981.
NY83–3044	Aug. 26, 1983.
Ohio: OH83–5127	Dec. 23, 1983.
Rhode Island: RI83–3042	Aug. 19, 1983.
Texas: TX83–4081	Oct. 21, 1983.
Utah: UT83–5120	Sept. 30, 1983.

Supersedeas Decisions to General Wage Determination Decisions

The number of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Texas: TX83–4003 (TX84–4001)	Jan. 7, 1983.

Signed at Washington, D.C. this 13th day of January, 1984.

James L. Valin,

Assistant Administrator.

[FR Doc. 84–1301 Filed 1–19–84; 8:45 am]

BILLING CODE 4510–27–M

MODIFICATIONS

DECISION NO. CT83-3021 - MOD. #10
(48 FR 25090 - June 3, 1983)
STATEWIDE

CHANGE:

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS; CEMENT MASONS; CEMENT FINISHERS; MARBLE MASONS; PLASTERERS; STONE MASONS; TERRAZZO WORKERS; TILE SETTERS:		
BUILDING CONSTRUCTION:		
Area 2	16.50	2.68
Area 3	16.38	2.55
LINE CONSTRUCTION:		
Area 2 - Traffic Control, Illumination & Maintenance		
Linemen, technimians & cable splicers	16.56	2.30+4.75%
Equipment operator	14.08	2.30+4.75%
Driver groundman	12.42	2.30+4.75%
Groundman	11.59	2.30+4.75%

DECISION #IA83-4035-MOD#4
(48 FR 21783-May 13,1983)
Pottawattomie County,Iowa

CHANGE:
Line Construction:

	Basic Hourly Rates	Fringe Benefits
Group 1	$16.09	1.00+7½%+b
Group 2	13.35	1.00+7½%+b
Group 3	12.87	1.00+7½%+b
Group 4	10.46	1.00+7½%+b
Group 5	10.62	1.00+7½%+b
Group 6	10.30	1.00+7½%+b
Group 7	12.39	1.00+7½%+b

DECISION #IA83-4050-MOD#5
(48 FR 32455-July 15,1983)
Woodbury County, Iowa

CHANGE:

	Basic Hourly Rates	Fringe Benefits
Plumber & Pipefitter	13.00	1.84

DECISION NO. NY 83-3044
MOD #3
(48 FR 38963 - August 26, 1983)
STEUBEN COUNTY, NEW YORK

CHANGE:

	Basic Hourly Rates	Fringe Benefits
LABORERS	$10.87	1.15

MODIFICATIONS

DECISION #KS83-4066-MOD#3
(48 FR 40838-September 9, 1983)
Douglas,Jefferson,Miami, Leavenworth & Shawnee Counties, Kansas

CHANGE:
Line Construction:

	Basic Hourly Rates	Fringe Benefits
ZONE 1:		
Lineman	$17.80	3½%+1.00
Lineman Operator	16.60	3½%+1.00
Groundman Powderman	12.47	3½%+1.00
Groundman	11.87	3½%+1.00
ZONE 2		
Lineman	15.97	3½%+1.00
Cable Splicer	16.77	3½%+1.00
Powderman, Line truck and Equipment Operators	13.19	3½%+1.00
Groundman	9.67	3½%+1.00

DECISION #KS83-4063-MOD#2
(48 FR 40085-September 2, 1983)
Shawnee County, Kansas

DELETE:

Elevator Constructors	12.21	a+2.33

CHANGE:

CARPENTERS:		
Piledrivermen	12.625	1.80
Line Construction:		
Lineman	15.97	3½%+1.00
Cable Splicer	16.77	3½%+1.00
Powderman, Line Truck Equipment Operator	13.19	3½%+1.00
Groundman	9.67	3½%+1.00
ROOFERS:		
Roofers	14.66	b+1.29
Pitch	15.76	b+1.29
SHEET METAL WORKERS	14.68	3%+2.93

DECISION NO. MD80-3014-MOD. #1
(45 FR 20663-March 28,1980)
Cecil County, Maryland

ADD:

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	10.155	1.82

DECISION NO. NY 81-3045
MOD #4
(46 FR 37204 - July 17, 1981)
NIAGARA COUNTY, NEW YORK

CHANGE:

LABORERS:
BUILDING, HEAVY & HIGHWAY CONSTRUCTION:
Niagara County, except the city of North Tonawanda

	Basic Hourly Rates	Fringe Benefits
GROUP I	$13.66	5.30
GROUP II	14.16	5.30
GROUP III	14.86	5.30
GROUP IV	14.92	5.30

MODIFICATIONS

DECISION #NY81-3061-MOD#5 (46 FR 45525-September 11, 1981) Clinton County, New York	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$16.60	2.36
BOILERMAKERS	18.16	3.381
BRICKLAYERS, CEMENT MASONS, MARBLE MASONS, PLASTERERS, TILE AND TERRAZZO WORKERS	13.12	1.40+a
CEMENT MASONS, Heavy & Highway	14.16	1.42+a
CARPENTERS & SOFT FLOOR LAYERS	13.70	2.105+a
PILEDRIVERMAN	12.85	2.105+a
MILLWRIGHTS	12.95	2.105+a
CARPENTERS, Heavy & Highway	13.87	2.125+a
ELECTRICIANS		
Zone I - City of Plattsburg and 5 mile Radius Electricians	13.70	2.10+4% +b
Cable Splicers	14.00	2.10+4% +b
Zone II - From Zone I to a 20 mile radius of Plattsburg Electricians	13.90	2.10+4% +b
Cable Splicers	14.20	2.10+4% +b
Zone III - Beyond Zone II Electricians	14.10	2.10+4% +b
Cable Splicers	14.40	2.10+4% +b
ELEVATOR CONSTRUCTORS	18.89	3.00+c +d
ELEVATOR CONSTRUCTORS' HELPER	10.42	3.00+c +d
ELEVATOR CONSTRUCTORS' HELPER PROBATIONARY	7.445	
GLAZIERS	11.93	.81+e
IRONWORKERS		
Structural, Ornamental, Reinforcing, Rodmen, Machinery Mover, Riggers, Fence Erectors, Stone Derrickmen	14.00	2.79
Sheeter	14.25	2.79
Sheeter, Bucker-up	14.125	2.79
LABORERS, Building		
Common Laborers and self-propelled Equipment Operators	$10.45	1.90+f
Concrete or plaster pump Operator, All men on building demolition and wrecking	10.60	1.90+f
Sandblasters and construction clean up, Driller, Wagon Jack or Wagon Drill Operator, Metal Form and Curb Setter, Asphalt Raker, Tail or Screw man on paving Machine	10.75	1.90+f
Acetylene Torch Operator on Demolition work and Cutting of pipes, Blasters	10.80	1.90+f
LABORERS:		
Heavy & Highway Construction		
CLASS A	11.74	2.00+h
CLASS B	11.94	2.00+h
CLASS C	12.14	2.00+h
CLASS D	12.30	2.00+h
PAINTERS		
Brush	11.83	.81+e
Spray Cup, Paperhanging, Taping	13.23	.81+e
Structural Steel, Swinging Scaffold, Boatswain Chair, Hanging Scaffold, Sandblasting	12.48	.81+e
PLUMBERS & STEAMFITTERS	14.30	2.85
ROOFERS		
Roofer	13.50	3.07
Pitch and Asbestos	14.00	3.07
SHEET METAL WORKERS	15.37	1.04+a
SPRINKLER FITTERS	16.92	3.23
POWER EQUIPMENT OPERATORS		
Building Construction		
CLASS I	14.66	3.20+a
CLASS II	15.55	3.20+a
CLASS III	16.06	3.20+a
CLASS IV	16.25	3.20+a

MODIFICATIONS

DECISION NO. NY81-3061 (CONT'D)	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS (Cont'd)		
Rehabilitation work on residential structures over 4 stories defined to include demolition, alteration, and repair on any existing structure which is intended for predominantly residential use		
CLASS I	$11.00	3.20+L
CLASS II	11.66	3.20+L
CLASS III	12.05	3.20+L
CLASS IV	12.19	3.20+L
Heavy Highway		
GROUP I	15.29	3.50+k
GROUP II	14.79	3.50+k
GROUP III	13.36	3.50+k
GROUP IV	12.10	3.50+k
TRUCK DRIVERS		
Heavy & Highway Construction		
CLASS I	12.39	2.40+m
CLASS II	12.44	2.40+m
CLASS III	12.49	2.40+m
CLASS IV	12.64	2.40+m
CLASS V	12.79	2.40+m

Basic Hourly Rates	Fringe Benefits

MODIFICATIONS

DECISION NO. NY81-2061 (CONT'D)

MODIFICATIONS

DECISION NO. NY81-2061 (CONT'D)

MODIFICATIONS

DECISION NO. NY81-2061 (CONT'D)

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS

BUILDING & REHABILITATION CONSTRUCTION

CLASS I - Oiler, fireman and heavy-duty greaser, boilers, and steam generators, pump, vibrator, mortar mixer, air compressor, dust collector, welding machine, well point, mechanical heater, generators, temporary light plants, concrete pumps, electric submersible pump 4" and over, murphy type diesel generator, conveyor, elevators, concrete mixer and beltcrete power pack (belcrete system)

CLASS II - Bulldozer, push cat, tractor, traxcavator scraper, LeTourneau grader, form fine grader, road roller, blacktop roller, blacktop spreader, power brooms, sweepers, trenching machine, Barbar Green loader, side booms, hydro hammer, concrete spreader, concrete finishing machine, high lift, fork lift, one drum hoist, power hoisting (single drum), hoist - two drum or more, three drum engine, power hoisting (two drum and over), two drums and swinging engine, three drum swinging engine, hod hoist, A-L frame winches, core and well drillers (one drum), post hole digger, model CHB Vibro-Tamp or similar machine, batch bin and plant operator, dinkey locomotive, seeding and mulching machines.

CLASS III - Crane, hydraulic cranes, tower crane, locomotive crane, pile-driver, cableway, derricks, whirlies, dragline, shovels, gradalls, power road grader, all CMI equipment, front-end rubber tire loader, tractor-mounted drill (quarry master), mucking machine, concrete central mix plant, concrete pump, belcrete system, automated asphalt concrete plant, and tractor road paver.

CLASS IV - Maintenance Engineer

MODIFICATIONS

DECISION NO. NY81-2061 (CONT'D)

LINE CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits
Electrical Overhead & Underground Distribution Work & Signal Work for RR and for R.E.A. where no other trade is or has been involved:		
Journeyman Lineman & Technician	14.20	3.95+ 5%+a
Cable Splicer	18.92	3.95+ 5%+a
Groundman Digging Machine Operator, Groundman Dynamite Man	12.78	3.95+ 5%+a
Groundman Mobile Equipment Operator, Mechanic First Class, Ground Truck Driver	11.36	3.95+ 5%+a
Groundman Truck Driver (Tractor Trailer)	12.07	3.95+ 5%+a
Driver Mechanic, Groundman - Experienced	10.65	3.95+ 5%+a
All Overhead Transmission Line Work and Lighting for Athletic Fields		
Journeyman Lineman & Technician	16.32	3.95+ 5%+a
Groundman Digging Machine Operator, Groundman Dynamite Man	14.688	3.95+ 5%+a
Groundman Mobile Equipment Operator, Mechanic First Class Groundman Truck Driver	13.056	3.95+ 5%+a
Groundman Truck Driver (Tractor Trailer Unit)	13.872	3.95+ 5%+a
Driver Mechanic Groundman	12.24	3.95+ 5%+a
Sub-Station Switching Substructures (when not part of the line), Electrical, Telephone or CATV Commercial Work, Street Lighting & Signal Systems where other trades are or have been involved		
Journeyman Lineman & Technician	17.20	3.95+ 5%+a
Cable Splicer	18.92	3.95+ 5%+a
Groundman Digging Machine Operator, Groundman Dynamite Man	15.48	3.95+ 5%+a
Groundman Mobile Equipment Operator, Mechanic First Class, Groundman Truck Driver	13.76	3.95+ 5%+a
Groundman Truck Driver (Tractor Trailer Unit)	14.62	3.95+ 5%+a
Driver Mechanic, Groundman	12.90	3.95+ 5%+a
All Pipe-type Cable Installations Maintenance Jobs or Projects		
Journeyman Lineman	17.20	3.95+ 5%+a
Certified Lineman Welder	18.06	3.95+ 5%+a
Cable Splicer	18.92	3.95+ 5%+a
Groundman Equipment Operator	17.28	3.95+ 5%+a
Groundman Truck Driver (Tractor Trailer Unit)	14.62	3.95+ 5%+a
Groundman Truck Drivers	13.76	3.95+ 5%+a
Groundman	12.90	3.95+ 5%+a

FOOTNOTE:

a. Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Decoration Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and Election Day for the President of the United States and Election Day for the Governor of New York State, provided the employee works the day before or the day after the holiday.

MODIFICATIONS

DECISION NO. OH83-5127 - MOD. #1
(48 FR 56903 - December 23, 1983)
Adams, Allen,...Wood, & Wyandot Counties, Ohio

	Basic Hourly Rates	Fringe Benefits
Change:		
Electricians:		
Area 10:		
Wireman & Technicians within 11 mi. radius of 3rd & Main Street, Dayton	$16.98	2.40+ 3½%
Wireman & Technicians beyond 11 mi. radius of 3rd & Main Street, Dayton	17.21	2.40+ 3½%

DECISION NO. RI83-3042 MOD. #5
(48 FR 37809 - August 19, 1983)
Statewide, Rhode Island

	Basic Hourly Rates	Fringe Benefits
Change:		
Asbestos Workers	$17.63	4.13

DECISION #TX83-4081-MOD#2
(48 FR 48912-October 21, 1983)
Travis County, Texas

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Marble, tile & terrazzo finishers:		
Marble, tile & terrazzo	$ 8.57	$1.31
Floor machine op.	8.33	1.31
Base machine op.	8.82	1.31

DECISION NO. UT83-5120 - Mod. #3
(48 FR 44492 - September 30, 1983)
Statewide, Utah

	Basic Hourly Rates	Fringe Benefits
Omit:		
ELECTRICIANS:		
Area 2		
All Zones, Wage Rates and Classifications		
Add:		
ELECTRICIANS:		
Area 2		
Electricians; Technicians	$16.25	2.50+ 3.8%
Cable Splicers	16.75	2.50+ 3.8%

SUPERSEDEAS DECISION

STATE: Texas COUNTY: Bexar
DECISION NO.: TX84-4001 DATE: Date of Publication
Supersedes Decision No. TX83-4003, dated 1/7/83, in 48 FR 935.
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories). (use current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$15.60	3.24
BOILERMAKERS	16.40	2.645
BRICKLAYERS & STONEMASONS	12.88	2.32
CARPENTERS:		
Carpenters	12.75	2.63
Millwrights	13.05	2.63
CEMENT MASONS	13.22	1.15
ELECTRICIANS:		
Electricians	15.49	.80+6%
Cable splicers	15.74	.80+6%
ELEVATOR CONSTRUCTORS:		
Mechanics	14.295	3.00+a
Helpers	70%JR	3.00+a
Helpers (Prob.)	50%JR	
IRONWORKERS	12.55	3.57
LABORERS:		
GROUP 1 - General laborer	8.24	1.50
GROUP 2 - All power tools & equipment ops.; cutting torch man; power buggy op.; wagon drill; well driller; drilling rig tender; cement finisher tender; handling creosoted materials; scale man on batch plants; asphalt raker; concrete & clay & all non-metallic pipe laying; plasterer tender; brick tender; lather tender	8.49	1.50
GROUP 3 - Mortar mixer; grout machines; pumpcrete machines; gunnite mixing machines; running sand dryer & loading; operating sandblaster; bell hole man; blaster, powderman; gunnite nozzleman	8.74	1.50
LINE CONSTRUCTION:		
Lineman	16.69	.80+ 3-1/2%
Cable splicer	16.94	"
Groundman	9.18	"
MARBLE, TILE & TERRAZZO WORKERS	$13.27	2.27
MARBLE, TILE & TERRAZZO FINISHERS:		
Marble, tile & terrazzo	8.57	1.31
Floor machine operators	8.33	1.31
Base machine operators	8.82	1.31
PAINTERS:		
Brush; paperhanger; taper & floater; roller	11.85	.65
Brush on all structural steel; spray on any other surface other than steel	12.10	.65
PLUMBERS & PIPEFITTERS	17.10	1.73
ROOFERS:		
Roofers; deckman	9.24	.50
Kettlemen	8.19	.50
Waterproofers	8.69	.50
SHEET METAL WORKERS	15.95	2.31+3%
SPRINKLER FITTERS	16.17	3.23
POWER EQUIPMENT OPERATORS		
GROUP 1	13.35	2.50
GROUP 2	11.80	2.50
GROUP 3	9.90	2.50
GROUP 4	9.50	2.50
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.		

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

FOOTNOTE FOR ELEVATOR CONSTRUCTORS
a - 1st 6 mos. - none; 6 mos. to 5 yrs - 6%; over 5 yrs. - 8% of basic hourly rate. Also 7 Paid Holidays A thru G

Unlisted classification needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

DECISION NO. TX84-4001

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

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DECISION NO. TX84-4001

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITION

GROUP 1 - All foundation drilling rigs; all rollers (5 tons or over); backfiller; backhoe; blade graders (self-propelled); bull clam; bulldozers; cableway; clamshell; crane (power operated, all types); derricks (power operated, all types); draglines; DW-10 caterpillar and similar tractors; elevating graders (self-propelled); euclid; fork lift used on construction; gasoline or diesel-driven welding machines (7 to 12); gradall; heavy duty mechanic; high lifts; hoist (two drums or more); locomotives; mixer (14 cu. ft. or over); mixmobile; paving mixers (all sizes); piledriver; pumpcrete machine; rock crusher on job; scoopmobile; scrapers; shovel, power operated; turnapulls; trenching machines (all sizes); winch truck

GROUP 2 - Air compressor (any time there are three or more attachments operating on a 125 cu. ft. air compressor or less, a light equipment operator shall be employed. Any compressor over 125 cu. ft. shall have a light equipment operator). blade graders (towed); building elevator used on construction; flex planes; form graders; hoist (single drum); mixer (less than 14 cu. ft.); pneumatic roller; pulsometers; pump (2½ or larger shall require a light equipment operator); three to six welding machines or any three pieces of equipment of equal or similar nature

GROUP 3 - Fireman

GROUP 4 - Oiler

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Part IV

Department of Housing and Urban Development

Office of the Secretary

24 CFR Part 841

Prototype Cost Determinations Issued Under the United States Housing Act of 1937; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 841

[Docket No. N-84-1331; FR-1850]

Prototype Cost Determinations Issued Under the United States Housing Act of 1937

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of Prototype Cost Determinations.

SUMMARY: This Notice establishes prototype limits for development of public housing new construction projects under the United States Housing Act of 1937. The public housing prototype cost determinations stated in this Notice supersede the prototype cost schedules published on December 7, 1982, 47 FR 55136, and all amendments and additions to such schedules published before the date of this Notice.

EFFECTIVE DATE: January 20, 1984.

FOR FURTHER INFORMATION CONTACT: Pat Hampton, Acting Director, Technical Support Division, Office of Public Housing, Room 6248, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, telephone (202) 755-4956. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Section 6(b) of the United States Housing Act of 1937 (42 U.S.C. 1437d) requires HUD to determine costs in different areas for construction and equipment (prototype costs) of new dwelling units suitable for occupancy by low-income families. This determination must be made at least once a year and published in the **Federal Register**. Under the law, the Department develops prototype costs for public and Indian housing projects and these prototype costs constitute a limit on development cost for the construction and equipment of new projects.

The schedules in this Notice represent the annual update of per unit prototype cost limits for development of public housing under 24 CFR Part 841 (see §841.204).

The prototype cost determinations for the annual update are based on actual public housing and insured multifamily project data from HUD field offices and on construction cost information published by the private sector of the housing industry.

Where prototype schedules are established for special Indian prototype cost areas under 24 CFR 805.213, the prototype cost limits apply only for development of Indian Housing (these special areas and the prototype cost limits for these areas are developed and determined by the Office of Indian Housing.) The Indian prototype schedules will be published separately in the near future. Until that publication becomes effective, Indian prototype schedules published December 7, 1982 (see 47 FR 55136) shall remain in effect.

Since Section 6(b) of the U.S. Housing Act of 1937 provides that the prototype costs shall become effective upon publication in the **Federal Register**, this Notice is effective today, the day of publication.

The following factors were considered in developing prototype costs:

1. Prototype cost comprises the cost of dwelling structures (Account No. 1460), and dwelling equipment (Account No. 1465), as described in HUD Low-Rent Housing Accounting Handbook 7510.1, Chapter 3, Section 15, and includes a pro rata share of the builders' fee and overhead, insurance, social security, sales tax, and bonds.

2. Prototype cost does not include the costs of site acquisitions, site improvement, nondwelling structures or spaces (and equipment), planning (architectural-engneering fees, permit fees, inspection, and similar costs), relocation, interest or PHA administrative costs, all of which are described in HUD Low-Rent Housing Accounting Handbook 7510.1, Chapter 3, Section 15.

3. Section 6(b) of the Act identifies factors the Secretary is to consider in determining prototype costs, including the effectiveness of existing cost limits in the area, advice of local housing producers, maximization of energy conservation for heating, lighting and other purposes, and the extra durability required for safety, security and economical maintenance of the housing. (See 42 U.S.C. 1437d.)

4. Prototype costs are ceiling amounts that may be approved for a particular project. Other considerations for a project include the following:

For public housing developed under Part 841, compliance with applicable HUD Minimum Property Standards and planning and design criteria described in HUD Public Housing Development Handbook 7417.1.Rev. Development of Indian Housing under Part 805 shall take into account compliance with applicable HUD Minimum Property Standards, but shall not be controlled by such standards (See § 805.212(a)).

Written comments will be considered, and additional amendments will be published, if the Department determines that acceptance of the comments is appropriate. Comments with respect to cost limits for a given location should be sent to the local HUD office having jurisdiction for that location. A list of these offices follow:

Region I

Connecticut: Dept. of HUD, One Hartford Square West, Hartford, CT 06106
Massachusetts: Dept. of HUD, Bulfinch Bldg., 15 New Chardon Street, Boston, MA 02114
New Hampshire: Dept. of HUD, Norris-Cotton Federal Bldg., 275 Chestnut Street, Manchester, NH 03103
Maine: As above
Vermont: As above
Rhode Island: Dept. of HUD, Room 330, John O. Pastore Federal Building and U.S. Post Office, Providence, RI 02903

Region II

New Jersey: Dept. of HUD, Gateway Bldg. No. 1, Raymond Plaza, Newark, NJ 07102
New York: Dept. of HUD, 26 Federal Plaza, New York, NY 10278
Dept. of HUD, Statler Bldg., 107 Delaware Avenue, Buffalo, NY 14202
Caribbean: Dept. of HUD, Federico Degetau Federal Bldg., U.S. Courthouse, Room 428, Carlos E. Chardon Avenue, Hato Rey, PR 00918

Region III

Delaware: Dept. of HUD, 625 Walnut Street, Philadelphia, PA 19106
District of Columbia: Dept. of HUD, Universal North Bldg., 1875 Connecticut Avenue, N.W., Washington, D.C. 20009
Maryland: Dept. of HUD, Equitable Bldg., 10 North Calvert Street, Baltimore, MD 21202
Pennsylvania: Dept. of HUD, 625 Walnut Street, Philadelphia, PA 19106
Dept. of HUD, 445 Fort Pitt Blvd., Pittsburgh, PA 15219
Virginia: Dept. of HUD, 701 East Franklin Street, Richmond, VA 23219
West Virginia: Dept. of HUD, Kanawah Valley Bldg., Capitol and Lee Streets, Charleston, WV 25301

Region IV

Alabama: Dept. of HUD, Daniel Bldg., 15 South 20th Street, Birmingham, AL 35233
Florida: Dept. of HUD, 325 West Adams Street, Jacksonsville, FL 32202
Georgia: Dept. of HUD, 75 Spring Street, S.W., Atlanta, GA 30303
Kentucky: Dept. of HUD, 539 River City Mall, P.O. Box 1044, Louisville, KY 40202
Mississippi: Dept. of HUD, 100 W. Capital Street, Jackson, MS 39201

North Carolina: Dept. of HUD, 415 North Edgeworth Street, Greensboro, NC 27401
South Carolina: Dept. of HUD, 1835–45 Assembly Street, Columbia, SC 29201
Tennessee: Dept. of HUD, 1 Commerce Place, Suite 1600, Nashville, TN 37239
Dept. of HUD, 1111 Northshore Drive, Knoxville, TN 37919

Region V

Illinois: Dept. of HUD, One North Dearborn Street, Chicago, IL 60602
Indiana: Dept. of HUD, P.O. Box 7047, 151 North Delaware Street, Indianapolis, IN 46207
Michigan: Dept. of HUD, 477 Michigan Ave., Detroit, MI 48226
Dept. of HUD, 2922 Fuller Avenue NE., Grand Rapids, MI 49505
Minnesota: Dept. of HUD, 220 South Second Street, Minneapolis, MN 55401
Ohio: Dept. of HUD, 200 North High Street, Columbus, OH 43215
Dept. of HUD, 777 Rockwell Avenue, Cleveland, OH 44114
Wisconsin: Dept. of HUD, 744 North Fourth Street, Milwaukee, WI 53203

Region VI

Arkansas: Dept. of HUD, 300 West Capitol, Suite 700, Little Rock, AR 72201
Louisiana: Dept. of HUD, 1001 Howard, New Orleans, LA 70113
New Mexico: Dept. of HUD, 1403 Slocum, P.O. Box 20050, Dallas, TX 75207
Oklahoma: Dept. of HUD, 200 N.W. 5th Street, Oklahoma City, OK 73102
Texas: Dept. of HUD, 1403 Slocum, P.O. Box 20050, Dallas, TX 75207
Dept. of HUD, 800 Dolorosa, P.O. Box 9163, San Antonio, TX 78285

Region VII

Iowa: Dept. of HUD, 210 Walnut Street, Des Moines, IA 50309
Louisiana: Dept. of HUD, 1103 Grand Ave., Kansas City, MO 64106
Kansas: As above
Missouri: As above
Dept. of HUD, 210 North Tucker Blvd., St. Louis, MO 63101
Nebraska: Dept. of HUD, 7100 West Center Road, Omaha, NE 68106

Region VIII

Colorado: Dept. of HUD, 1405 Curtis Street, Denver, CO 80202
Montana: As above
North Dakota: As above
South Dakota: As above
Utah: As above
Wyoming: As above

Region IX

Arizona: Dept. of HUD, One Embarcadero Center, Suite 1600, San Francisco, CA 94111
California: As above
Dept. of HUD, 2500 Wilshire Boulevard, Los Angeles, CA 90057
Dept. of HUD, 545 Downtown Plaza, P.O. Box 1978, Suite 250, Sacramento, CA 95809
Guam: Dept. of HUD, One Embarcadero Center, Suite 1600, San Francisco, CA 94111
Hawaii: Dept. of HUD, 300 Ala Moana Boulevard, Suite 3318, Honolulu, HI 96850
Nevada: Dept. of HUD, One Embarcadero Center, Suite 1600, San Francisco, CA 94111

Region X

Alaska: Dept. of HUD, 710 C Street, Module G, Anchorage, AK 99501
Oregon: Dept. of HUD, 520 SW Sixth Avenue, Portland, OR 97204
Washington: Dept. of HUD, 403 Arcade Plaza Building, 1321 Second Ave., Seattle, WA 98101

A Finding of No Significant Impact with respect to the environment required by the National Environmental Policy Act (42 U.S.C. 4321–4347) is unnecessary since statutorily required prototype costs are categorically excluded under 24 CFR 50.20(1).

The Catalog of Federal Domestic Assistance program numbers are: 14.146, Low Income Housing-Assistance Program (public housing), and 14.147, Low-Income Housing-Homeownership for Low-Imcome Families (Turnkey III, Mutual Help for Indians).

Accordingly, the prototype per unit cost schedules for all prototype cost areas, issued under 24 CFR Part 841, Prototype Cost Limits for Low-Income Public Housing, are hereby established as shown on the tables set forth below entitled "Prototype Per Unit Cost Schedule—Regions I through X."

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d); Sec. 6(b), U.S. Housing Act of 1937, 42 U.S.C. 1437d(b))

Dated: January 9, 1984.

Warren T. Lindquist,

Assistant Secretary for Public and Indian Housing.

BILLING CODE 4210-33-M

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION I							
CONNECTICUT							
HARTFORD :							
DETACHED AND SEMIDETACHED	28,050	33,500	36,800	44,150	53,150	59,150	61,900
ROW DWELLINGS	25,500	30,350	33,950	40,300	48,400	53,900	56,500
WALKUP	22,900	28,350	31,950	38,150	43,950	48,400	50,700
ELEVATOR-STRUCTURE	29,300	34,000	43,150	------	------	------	------
NEW MILFORD :							
DETACHED AND SEMIDETACHED	26,800	32,150	35,500	42,500	51,100	56,850	59,550
ROW DWELLINGS	24,400	29,100	32,350	38,550	46,350	51,650	53,800
WALKUP	21,900	27,050	30,650	36,400	41,750	46,400	48,500
ELEVATOR-STRUCTURE	29,050	33,600	42,700	------	------	------	------
NEW HAVEN :							
DETACHED AND SEMIDETACHED	26,950	32,250	35,550	42,650	51,450	57,200	59,800
ROW DWELLINGS	24,250	29,100	32,350	38,550	46,350	51,650	53,900
WALKUP	21,900	27,050	30,500	36,550	42,100	46,400	48,500
ELEVATOR-STRUCTURE	29,050	33,600	42,700	------	------	------	------
BRIDGEPORT :							
DETACHED AND SEMIDETACHED	27,350	32,750	36,250	43,350	52,150	57,950	60,700
ROW DWELLINGS	24,400	29,100	32,350	38,550	46,350	51,650	53,800
WALKUP	21,850	26,900	30,600	36,150	41,900	46,200	48,350
ELEVATOR-STRUCTURE	29,650	34,350	43,600	------	------	------	------
NEW LONDON :							
DETACHED AND SEMIDETACHED	27,350	32,850	36,250	43,150	52,400	58,200	60,750
ROW DWELLINGS	24,700	29,700	33,100	39,550	47,450	52,950	55,400
WALKUP	22,850	27,000	30,600	36,400	42,050	46,450	48,700
ELEVATOR-STRUCTURE	29,650	34,300	43,600	------	------	------	------
WINDHAM :							
DETACHED AND SEMIDETACHED	27,350	32,850	36,250	43,150	52,400	58,200	60,750
ROW DWELLINGS	24,700	29,700	33,100	39,550	47,450	52,950	55,400
WALKUP	23,250	27,550	31,300	37,000	42,900	47,350	49,700
ELEVATOR-STRUCTURE	29,650	34,300	43,600	------	------	------	------
RIDGEFIELD :							
DETACHED AND SEMIDETACHED	33,500	40,150	44,350	53,050	64,000	70,850	74,400
ROW DWELLINGS	30,500	36,450	40,650	48,300	58,200	64,950	67,800
WALKUP	27,400	33,900	38,350	45,500	52,750	58,050	61,050
ELEVATOR-STRUCTURE	30,500	35,400	44,850	------	------	------	------
NORWICH :							
DETACHED AND SEMIDETACHED	27,250	32,800	36,250	43,200	52,100	57,950	60,600
ROW DWELLINGS	24,450	29,250	32,650	38,700	46,500	52,000	54,050
WALKUP	22,000	27,100	30,800	36,600	42,150	46,500	48,650
ELEVATOR-STRUCTURE	29,650	34,350	43,600	------	------	------	------
MAINE							
BANGOR :							
DETACHED AND SEMIDETACHED	28,200	33,850	35,700	42,500	51,250	56,850	59,250
ROW DWELLINGS	25,400	30,350	33,600	40,150	48,300	53,650	56,150
WALKUP	22,700	28,050	31,950	37,700	43,800	[illegible]	50,650
ELEVATOR-STRUCTURE	30,650	35,700	45,100	------	------	------	------
AUGUSTA :							
DETACHED AND SEMIDETACHED	29,200	34,650	38,350	46,100	55,300	61,550	64,200
ROW DWELLINGS	26,150	31,050	34,600	41,500	49,800	55,450	57,750
WALKUP	23,450	29,000	33,150	38,900	45,300	49,800	52,350
ELEVATOR-STRUCTURE	30,900	36,000	45,600	------	------	------	------
BRUNSWICK :							
DETACHED AND SEMIDETACHED	29,000	34,500	[illegible],000	45,550	54,900	60,900	63,850
ROW DWELLINGS	25,850	30,850	34,400	41,050	49,500	54,750	57,350
WALKUP	23,100	28,500	32,750	38,650	44,850	49,050	51,800
ELEVATOR-STRUCTURE	31,250	36,450	46,000	------	------	------	------
LEWISTON :							
DETACHED AND SEMIDETACHED	29,000	34,500	38,000	45,550	54,900	60,900	63,850
ROW DWELLINGS	25,850	30,850	34,400	41,050	49,500	54,750	57,350
WALKUP	23,100	28,500	32,750	38,650	44,850	49,050	51,800
ELEVATOR-STRUCTURE	30,000	35,000	44,150	------	------	------	------
PORTLAND :							
DETACHED AND SEMIDETACHED	29,000	34,500	[illegible],000	45,550	54,900	60,900	63,850
ROW DWELLINGS	25,850	30,850	34,400	41,050	49,500	54,750	57,350
WALKUP	23,500	29,150	33,200	39,250	45,600	49,900	52,600
ELEVATOR-STRUCTURE	30,000	34,950	44,150	------	------	------	------
WATERVILLE :							
DETACHED AND SEMIDETACHED	27,950	33,350	36,850	44,150	53,200	58,900	61,600
ROW DWELLINGS	25,250	30,000	33,[illegible]00	39,700	47,950	53,200	55,600
WALKUP	22,450	27,850	31,700	37,350	43,300	47,550	50,100
ELEVATOR-STRUCTURE	30,200	35,400	44,650	------	------	------	------
MASSACHUSETTS							
BOSTON :							
DETACHED AND SEMIDETACHED	29,100	34,500	38,200	45,750	55,000	61,100	64,000
ROW DWELLINGS	27,450	32,700	36,400	43,400	52,350	58,150	60,750
WALKUP	28,300	33,800	37,400	44,650	53,850	59,700	62,650
ELEVATOR-STRUCTURE	41,350	48,100	60,900	------	------	------	------
WORCESTER :							
DETACHED AND SEMIDETACHED	27,750	33,050	36,700	43,700	52,800	58,600	61,400
ROW DWELLINGS	26,350	31,500	35,050	41,600	50,250	55,850	58,300
WALKUP	26,900	32,400	36,000	42,600	51,400	57,150	59,900
ELEVATOR-STRUCTURE	40,200	47,100	59,300	------	------	------	------
FALL RIVER :							
DETACHED AND SEMIDETACHED	28,150	33,700	37,400	44,550	53,650	59,700	62,400
ROW DWELLINGS	26,850	31,850	35,700	42,450	51,000	56,800	59,450
WALKUP	27,[illegible]00	32,550	36,600	43,550	52,650	58,600	61,300
ELEVATOR-STRUCTURE	38,[illegible]50	44,950	56,950	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION I--CONTINUED							
NEW HAMPSHIRE							
MANCHESTER							
DETACHED AND SEMIDETACHED	25,250	31,400	34,700	41,550	49,800	55,500	58,300
ROW DWELLINGS	23,[illegible]50	28,950	32,050	38,000	45,750	51,050	53,300
WALKUP	20,950	26,000	29,600	35,000	40,500	44,400	46,850
ELEVATOR-STRUCTURE	30,900	36,000	45,400	------	------	------	------
CONCORD							
DETACHED AND SEMIDETACHED	27,200	33,750	37,300	44,500	53,400	59,500	62,500
ROW DWELLINGS	25,550	30,750	34,200	40,550	49,050	54,500	56,850
WALKUP	21,900	27,150	30,750	36,450	42,250	46,350	48,850
ELEVATOR-STRUCTURE	30,[illegible]00	36,000	45,350	------	------	------	------
DOVER							
DETACHED AND SEMIDETACHED	24,750	30,500	33,850	40,400	48,450	54,050	56,750
ROW DWELLINGS	23,200	27,900	31,050	36,800	44,300	49,300	51,450
WALKUP	20,200	25,000	28,550	33,800	42,200	47,000	48,400
ELEVATOR-STRUCTURE	31,700	36,700	46,450	------	------	------	------
KEENE							
DETACHED AND SEMIDETACHED	25,950	32,250	35,500	42,550	51,000	56,750	59,650
ROW DWELLINGS	24,500	29,500	32,800	38,950	46,950	52,500	54,550
WALKUP	21,5[illegible]	26,550	30,150	35,950	41,550	45,500	47,750
ELEVATOR-STRUCTURE	28,250	34,150	43,100	------	------	------	------
NASHUA							
DETACHED AND SEMIDETACHED	25,250	31,400	34,700	41,550	49,800	55,500	58,300
ROW DWELLINGS	23,950	28,950	32,050	38,000	45,750	51,050	53,300
WALKUP	21,600	26,650	30,450	35,950	41,600	45,850	48,200
ELEVATOR-STRUCTURE	31,050	36,100	45,400	------	------	------	------
PORTSMOUTH							
DETACHED AND SEMIDETACHED	26,600	32,800	36,350	43,500	52,300	58,150	61,050
ROW DWELLINGS	25,200	30,150	33,700	39,950	47,850	53,350	55,900
WALKUP	19,700	24,450	27,900	33,000	38,050	41,800	43,900
ELEVATOR-STRUCTURE	31,[illegible]	36,650	46,400	------	------	------	------
RHODE ISLAND							
PROVIDENCE							
DETACHED AND SEMIDETACHED	31,650	37,750	41,550	49,850	60,000	66,750	69,850
ROW DWELLINGS	27,700	32,950	36,900	43,750	52,550	58,600	61,400
WALKUP	24,500	30,300	34,150	40,800	46,950	51,700	54,250
ELEVATOR-STRUCTURE	32,650	38,000	48,200	------	------	------	------
VERMONT							
BURLINGTON							
DETACHED AND SEMIDETACHED	25,900	31,050	34,250	40,950	49,300	54,750	57,350
ROW DWELLINGS	24,150	[illegible],550	31,850	37,900	45,300	50,700	53,100
WALKUP	21,150	26,000	29,800	35,200	40,700	44,900	47,250
ELEVATOR-STRUCTURE	31,000	36,100	45,800	------	------	------	------
BENNINGTON							
DETACHED AND SEMIDETACHED	25,900	31,050	34,250	40,950	49,300	54,750	57,350
ROW DWELLINGS	24,150	[illegible],550	31,850	37,900	45,300	50,700	53,100
WALKUP	21,150	26,000	29,800	35,200	40,700	44,900	47,250
ELEVATOR-STRUCTURE	31,350	36,500	46,300	------	------	------	------
BRATTLEBORO							
DETACHED AND SEMIDETACHED	25,900	31,050	34,250	40,950	49,300	54,750	57,350
ROW DWELLINGS	24,150	28,550	31,850	37,900	45,300	50,700	53,100
WALKUP	21,150	26,000	29,800	35,200	40,700	[illegible],900	47,250
ELEVATOR-STRUCTURE	31,350	36,500	46,300	------	------	------	------
MONTPELIER							
DETACHED AND SEMIDETACHED	25,450	30,300	33,650	40,050	[illegible],200	53,[illegible]	56,050
ROW DWELLINGS	23,350	27,800	30,850	36,750	[illegible],000	49,200	51,500
WALKUP	20,550	25,350	28,850	34,200	39,300	43,550	45,700
ELEVATOR-STRUCTURE	31,350	36,500	46,300	------	------	------	------
RUTLAND							
DETACHED AND SEMIDETACHED	25,600	30,450	33,750	40,500	[illegible],500	54,100	56,550
ROW DWELLINGS	23,750	28,150	31,300	37,200	44,600	49,900	52,050
WALKUP	20,850	25,450	29,100	34,650	39,900	44,100	46,450
ELEVATOR-STRUCTURE	31,550	36,700	46,350	------	------	------	------
REGION II							
NEW JERSEY							
CAMDEN							
DETACHED AND SEMIDETACHED	26,800	32,200	35,700	42,500	51,400	57,050	59,900
ROW DWELLINGS	21,150	25,250	27,950	33,400	39,900	44,600	46,650
WALKUP	23,400	28,950	33,000	39,150	45,400	49,800	52,700
ELEVATOR-STRUCTURE	33,300	38,750	49,150	------	------	------	------
ATLANTIC CITY							
DETACHED AND SEMIDETACHED	26,400	31,750	35,100	41,900	50,600	56,050	58,850
ROW DWELLINGS	20,600	24,650	27,400	32,550	39,000	43,700	45,450
WALKUP	22,900	28,450	32,450	38,250	44,500	48,950	51,600
ELEVATOR-STRUCTURE	31,800	36,950	46,800	------	------	------	------
BURLINGTON							
DETACHED AND SEMIDETACHED	26,750	32,050	35,700	42,350	51,150	56,750	59,650
ROW DWELLINGS	20,950	25,050	27,950	33,050	39,650	44,300	46,150
WALKUP	23,600	29,050	33,000	39,100	45,250	49,750	52,600
ELEVATOR-STRUCTURE	33,450	39,050	49,400	------	------	------	------
GLOUCESTER							
DETACHED AND SEMIDETACHED	26,400	31,750	35,100	41,900	50,650	56,200	59,000
ROW DWELLINGS	20,800	24,800	27,400	32,800	39,150	43,800	45,750
WALKUP	23,100	28,650	32,450	38,300	44,550	49,100	51,650
ELEVATOR-STRUCTURE	33,300	38,750	49,150	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION II--CONTINUED							
NEW JERSEY --CONTINUED							
TRENTON :							
DETACHED AND SEMIDETACHED	26,900	32,000	35,700	42,450	51,150	56,900	59,650
ROW DWELLINGS	21,050	25,000	27,950	33,150	39,800	44,350	46,500
WALKUP	23,650	29,250	33,000	39,350	45,450	50,000	52,650
ELEVATOR-STRUCTURE	36,750	42,600	54,000	------	------	------	------
VINELAND :							
DETACHED AND SEMIDETACHED	26,850	32,150	35,700	42,450	51,300	57,050	59,750
ROW DWELLINGS	20,950	25,150	27,950	33,200	39,800	44,400	46,500
WALKUP	23,400	29,000	33,000	39,050	45,000	49,700	52,450
ELEVATOR-STRUCTURE	34,400	39,950	50,700	------	------	------	------
NEWARK :							
DETACHED AND SEMIDETACHED	31,150	36,850	41,100	49,100	58,950	65,350	68,450
ROW DWELLINGS	27,450	32,650	36,250	43,050	51,900	57,900	60,550
WALKUP	26,350	32,850	37,400	44,250	51,350	56,400	59,600
ELEVATOR-STRUCTURE	34,950	40,600	51,250	------	------	------	------
ASBURY PARK :							
DETACHED AND SEMIDETACHED	31,150	36,850	41,100	49,100	58,950	65,350	68,450
ROW DWELLINGS	27,450	32,650	36,250	43,050	51,900	57,900	60,550
WALKUP	25,900	32,250	36,650	43,350	50,400	55,350	58,300
ELEVATOR-STRUCTURE	33,400	38,900	49,100	------	------	------	------
NORTH BERGEN :							
DETACHED AND SEMIDETACHED	31,150	36,850	41,100	49,100	58,950	65,350	68,450
ROW DWELLINGS	27,450	32,650	36,250	43,050	51,900	57,900	60,550
WALKUP	27,100	33,500	38,150	45,250	52,650	57,800	60,750
ELEVATOR-STRUCTURE	35,000	40,750	51,500	------	------	------	------
FREEHOLD :							
DETACHED AND SEMIDETACHED	31,150	36,850	41,100	49,100	58,950	65,350	68,450
ROW DWELLINGS	27,450	32,650	36,250	43,050	51,900	57,900	60,550
WALKUP	25,850	32,250	36,600	43,300	50,200	55,300	58,200
ELEVATOR-STRUCTURE	33,650	39,100	49,350	------	------	------	------
NEW YORK							
ALBANY :							
DETACHED AND SEMIDETACHED	25,450	30,400	33,500	39,950	48,400	53,600	56,250
ROW DWELLINGS	22,250	26,900	29,950	35,600	42,800	47,700	49,950
WALKUP	21,150	26,400	29,900	35,550	41,100	45,100	47,500
ELEVATOR-STRUCTURE	28,650	33,100	42,150	------	------	------	------
PLATTSBURGH :							
DETACHED AND SEMIDETACHED	24,100	28,850	32,000	38,150	46,050	51,050	53,600
ROW DWELLINGS	21,650	25,700	28,550	33,950	40,750	45,450	47,400
WALKUP	20,350	24,900	28,550	33,750	39,200	42,950	45,300
ELEVATOR-STRUCTURE	25,650	31,700	40,050	------	------	------	------
SYRACUSE :							
DETACHED AND SEMIDETACHED	25,550	30,600	33,700	40,350	48,750	54,100	56,650
ROW DWELLINGS	22,750	27,200	30,150	35,850	43,100	48,200	50,400
WALKUP	21,500	26,500	30,100	35,800	41,500	45,400	47,950
ELEVATOR-STRUCTURE	28,550	33,300	42,150	------	------	------	------
POUGHKEEPSIE :							
DETACHED AND SEMIDETACHED	26,750	31,950	35,450	42,300	51,050	56,600	59,300
ROW DWELLINGS	25,550	30,150	33,700	40,100	48,200	53,750	56,200
WALKUP	22,800	28,350	32,150	38,250	44,100	48,500	51,050
ELEVATOR-STRUCTURE	28,800	33,450	42,400	------	------	------	------
BINGHAMTON :							
DETACHED AND SEMIDETACHED	25,400	30,000	33,400	39,900	48,150	53,450	56,000
ROW DWELLINGS	23,000	27,550	30,500	36,350	43,650	48,800	50,900
WALKUP	21,100	26,200	29,800	35,200	40,850	44,700	47,250
ELEVATOR-STRUCTURE	28,750	33,350	42,250	------	------	------	------
BUFFALO :							
DETACHED AND SEMIDETACHED	26,200	31,300	34,750	41,450	49,950	55,600	58,200
ROW DWELLINGS	22,400	26,650	29,550	35,250	42,300	47,300	49,250
WALKUP	21,200	26,000	29,500	34,850	40,350	44,450	46,750
ELEVATOR-STRUCTURE	30,400	35,600	44,750	------	------	------	------
ROCHESTER :							
DETACHED AND SEMIDETACHED	28,650	30,600	33,800	40,450	48,850	54,050	56,700
ROW DWELLINGS	21,800	26,050	29,000	34,350	41,200	45,950	48,100
WALKUP	20,450	25,150	28,700	33,900	39,350	43,200	45,600
ELEVATOR-STRUCTURE	29,700	34,700	43,700	------	------	------	------
JAMESTOWN :							
DETACHED AND SEMIDETACHED	25,450	30,400	33,750	40,350	48,550	53,950	56,600
ROW DWELLINGS	21,650	25,950	28,650	34,050	41,050	45,900	47,750
WALKUP	20,450	25,150	28,700	33,900	39,350	43,200	45,600
ELEVATOR-STRUCTURE	29,550	34,400	43,550	------	------	------	------
ELMIRA :							
DETACHED AND SEMIDETACHED	27,200	32,450	36,200	43,200	52,050	57,700	60,600
ROW DWELLINGS	23,150	27,850	30,800	36,550	43,950	49,100	51,150
WALKUP	21,950	27,000	30,600	36,400	42,000	46,350	48,750
ELEVATOR-STRUCTURE	31,700	36,900	46,550	------	------	------	------
NEW YORK CITY (INNER) :							
DETACHED AND SEMIDETACHED	30,850	37,100	41,050	49,000	59,000	65,600	68,750
ROW DWELLINGS	29,550	35,350	39,250	46,650	55,950	62,400	65,400
WALKUP	31,950	39,750	45,000	53,300	61,800	67,850	71,550
ELEVATOR-STRUCTURE	44,450	48,000	54,550	65,450	75,850	80,750	------
NEW YORK CITY (METRO) :							
DETACHED AND SEMIDETACHED	26,300	30,150	34,150	40,500	46,850	49,200	51,650
ROW DWELLINGS	24,050	28,500	32,400	38,350	44,400	46,600	48,950
WALKUP	27,150	31,100	35,350	41,800	48,400	50,800	53,350
ELEVATOR-STRUCTURE	43,500	47,000	53,450	64,100	74,300	79,050	------
NASSAU COUNTY :							
DETACHED AND SEMIDETACHED	26,300	30,150	34,150	40,500	46,850	49,200	51,650
ROW DWELLINGS	24,950	28,500	32,400	38,350	44,400	46,600	48,950
WALKUP	27,150	31,100	35,350	41,800	48,400	50,800	53,350
ELEVATOR-STRUCTURE	37,950	43,500	49,450	59,400	68,800	73,250	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION II--CONTINUED							
NEW YORK --CONTINUED							
SUFFOLK COUNTY							
DETACHED AND SEMIDETACHED	23,600	26,100	29,000	34,550	41,600	43,750	45,900
ROW DWELLINGS	22,650	24,900	27,650	32,950	39,450	41,400	43,450
WALKUP	24,300	27,750	31,650	37,350	43,200	47,600	50,100
ELEVATOR-STRUCTURE	35,350	40,600	46,150	55,250	64,100	68,250	
WESTCHESTER COUNTY							
DETACHED AND SEMIDETACHED	24,800	27,450	30,400	36,450	43,000	45,150	47,450
ROW DWELLINGS	23,750	26,150	29,050	34,650	41,500	43,600	45,800
WALKUP	25,650	29,500	33,400	39,550	45,900	48,150	50,550
ELEVATOR-STRUCTURE	37,650	45,750	48,950	58,600	67,950		
ORANGE COUNTY							
DETACHED AND SEMIDETACHED	21,600	24,600	27,300	32,600	39,250	41,250	43,300
ROW DWELLINGS	20,750	23,450	26,100	30,800	37,250	39,050	41,050
WALKUP	23,200	27,450	31,200	36,900	42,700	47,050	49,550
ELEVATOR-STRUCTURE	34,250	39,500	44,850	53,850	62,600	66,650	
ROCKLAND COUNTY							
DETACHED AND SEMIDETACHED	23,050	25,500	28,350	33,850	40,750	42,800	44,950
ROW DWELLINGS	22,100	24,400	27,150	32,150	38,650	40,550	42,600
WALKUP	23,750	27,250	30,900	36,600	42,450	46,600	49,100
ELEVATOR-STRUCTURE	36,300	38,850	44,100	52,950	61,400	65,300	
PUERTO RICO							
SAN JUAN							
DETACHED AND SEMIDETACHED	20,150	24,050	26,700	31,850	38,400	42,550	44,750
ROW DWELLINGS	19,900	23,800	26,500	31,150	37,700	41,850	43,900
WALKUP	16,800	20,850	23,650	28,150	32,500	35,800	37,700
ELEVATOR-STRUCTURE	19,750	23,200	29,200	32,500	35,600		
OLD SAN JUAN							
DETACHED AND SEMIDETACHED	24,050	28,900	31,900	38,150	46,050	51,050	53,600
ROW DWELLINGS	23,850	28,550	31,800	37,550	45,300	50,300	52,750
WALKUP	20,250	24,950	28,350	33,750	38,950	42,950	45,300
ELEVATOR-STRUCTURE	23,650	27,700	35,050	39,050	42,800		
PONCE							
DETACHED AND SEMIDETACHED	20,200	24,200	26,750	32,000	38,450	42,650	44,800
ROW DWELLINGS	20,000	23,950	26,600	31,200	37,800	41,950	44,000
WALKUP	17,000	20,900	23,750	28,150	32,650	35,850	37,750
ELEVATOR-STRUCTURE	19,900	23,250	29,350	32,600	35,750		
MAYAGUEZ							
DETACHED AND SEMIDETACHED	20,200	24,200	26,750	32,000	38,450	42,650	44,800
ROW DWELLINGS	20,000	23,950	26,600	31,200	37,800	41,950	44,000
WALKUP	17,000	20,900	23,750	28,150	32,650	35,850	37,750
ELEVATOR-STRUCTURE	19,900	23,250	29,350	32,600	35,750		
ARECIBO							
DETACHED AND SEMIDETACHED	20,200	24,200	26,750	32,000	38,450	42,650	44,800
ROW DWELLINGS	20,000	23,950	26,600	31,200	37,800	41,950	44,000
WALKUP	17,000	20,900	23,750	28,150	32,650	35,850	37,750
ELEVATOR-STRUCTURE	19,900	23,250	29,350	32,600	35,750		
VIRGIN ISLANDS							
ST. THOMAS							
DETACHED AND SEMIDETACHED	24,600	29,500	32,650	39,050	47,000	52,200	54,750
ROW DWELLINGS	24,400	29,050	32,250	38,400	46,100	51,350	53,850
WALKUP	20,950	25,700	29,250	34,650	40,250	44,150	46,500
ELEVATOR-STRUCTURE	23,300	27,100	34,500	38,250	42,050		
ST. CROIX							
DETACHED AND SEMIDETACHED	24,000	28,650	31,850	38,150	45,750	50,900	53,250
ROW DWELLINGS	23,850	28,500	31,650	37,550	45,100	50,250	52,600
WALKUP	20,200	24,900	28,250	33,400	38,850	42,800	44,950
ELEVATOR-STRUCTURE	22,700	26,500	33,500	37,300	40,950		
REGION III							
DELAWARE							
WILMINGTON							
DETACHED AND SEMIDETACHED	27,050	32,450	35,950	42,950	51,600	57,550	60,250
ROW DWELLINGS	22,400	26,700	29,450	35,200	42,550	47,200	49,550
WALKUP	20,800	25,450	28,950	34,650	40,100	43,750	46,150
ELEVATOR-STRUCTURE	30,700	35,650	45,500				
DOVER							
DETACHED AND SEMIDETACHED	26,700	32,350	35,700	42,550	51,100	57,100	59,650
ROW DWELLINGS	22,000	26,350	29,250	34,750	42,150	46,700	48,850
WALKUP	20,450	25,200	28,700	34,050	39,500	43,300	45,550
ELEVATOR-STRUCTURE	30,600	35,550	45,200				
WASHINGTON, D.C.							
WASHINGTON, D.C.							
DETACHED AND SEMIDETACHED	26,500	31,750	35,050	41,900	50,450	56,250	58,700
ROW DWELLINGS	23,100	27,650	30,550	36,450	43,900	48,950	51,050
WALKUP	20,150	24,700	28,400	33,350	38,750	42,800	44,900
ELEVATOR-STRUCTURE	30,300	34,950	44,400				
MARYLAND							
BALTIMORE							
DETACHED AND SEMIDETACHED	23,350	28,100	31,100	37,100	44,550	49,950	52,050
ROW DWELLINGS	18,850	22,750	25,050	29,[illegible]	35,950	39,900	41,900
WALKUP	18,150	22,400	25,450	30,150	35,000	38,350	40,450
ELEVATOR-STRUCTURE	27,950	32,450	41,200				
BALTIMORE CITY							
DETACHED AND SEMIDETACHED	25,150	[illegible],250	33,500	39,900	47,850	53,650	55,950
ROW DWELLINGS	20,400	24,[illegible]00	27,050	32,350	38,850	43,100	45,200
WALKUP	19,550	24,150	27,450	32,600	37,800	41,450	43,700
ELEVATOR-STRUCTURE	30,250	35,150	44,500				
HAGERSTOWN							
DETACHED AND SEMIDETACHED	23,300	27,850	[illegible],900	36,950	44,450	49,600	51,750
ROW DWELLINGS	18,700	22,400	24,850	[illegible],700	35,550	39,550	41,450
WALKUP	18,050	[illegible],300	25,250	30,000	34,800	38,200	40,350
ELEVATOR-STRUCTURE	27,850	32,350	40,950				

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION III--CONTINUED							
MARYLAND --CONTINUED							
SALISBURY							
DETACHED AND SEMIDETACHED	23,650	28,350	31,400	37,500	45,050	50 200	52,550
ROW DWELLINGS	19,200	22,850	25,250	30,200	36,350	40,400	42,250
WALKUP	18,350	22,700	25,700	30,550	35,400	38,750	40,900
ELEVATOR-STRUCTURE	28,300	32,950	41,600	------	------	------	------
WALDORF							
DETACHED AND SEMIDETACHED	24,350	29,300	32,450	38,600	46,350	51,900	54,150
ROW DWELLINGS	19,600	23,650	26,050	31,200	37,400	41,600	43,600
WALKUP	18,900	23,400	26,500	31,450	36,500	40,100	42,200
ELEVATOR-STRUCTURE	23,550	27,450	34,800	------	------	------	------
PENNSYLVANIA							
PHILADELPHIA							
DETACHED AND SEMIDETACHED	28,150	34,100	36,850	44,900	53,800	60,100	62,600
ROW DWELLINGS	24,350	29,300	32,400	38,500	46,350	51,700	53,650
WALKUP	21,850	27,100	30,800	36,350	42,150	46,550	48,800
ELEVATOR-STRUCTURE	34,050	39,500	50,100	------	------	------	------
ALLENTOWN							
DETACHED AND SEMIDETACHED	28,750	32,050	35,350	42,350	50,850	56,700	59,300
ROW DWELLINGS	22,700	27,250	30,100	35,900	43,100	48,000	50,050
WALKUP	21,800	27,000	30,700	36,350	42,050	46,350	48,650
ELEVATOR-STRUCTURE	30,800	35,700	45,150	------	------	------	------
BELLEFONTE							
DETACHED AND SEMIDETACHED	26,550	32,050	35,550	42,350	50,850	56,750	59,300
ROW DWELLINGS	22,550	27,200	30,150	35,900	43,100	48,100	49,900
WALKUP	21,900	27,100	30,800	36,300	42,150	46,450	48,650
ELEVATOR-STRUCTURE	32,200	37,300	47,550	------	------	------	------
WELLSBORO							
DETACHED AND SEMIDETACHED	27,300	32,600	36,250	43,200	52,000	57,700	60,550
ROW DWELLINGS	22,950	27,650	30,550	36,200	43,550	48,700	50,750
WALKUP	22,400	27,600	31,200	37,100	42,900	47,300	49,700
ELEVATOR-STRUCTURE	39,500	46,100	58,050	------	------	------	------
HARRISBURG							
DETACHED AND SEMIDETACHED	26,400	31,950	35,300	42,000	50,500	56,300	58,800
ROW DWELLINGS	22,500	26,950	29,850	35,450	42,700	47,550	49,550
WALKUP	21,600	26,750	30,450	36,000	41,850	46,000	48,250
ELEVATOR-STRUCTURE	30,900	35,950	45,500	------	------	------	------
LANCASTER							
DETACHED AND SEMIDETACHED	25,850	31,350	34,450	41,100	49,550	55,300	57,700
ROW DWELLINGS	22,000	26,400	29,050	34,700	41,800	46,500	48,400
WALKUP	21,200	26,150	29,800	35,300	40,950	45,100	47,300
ELEVATOR-STRUCTURE	30,500	35,300	44,750	------	------	------	------
YORK							
DETACHED AND SEMIDETACHED	25,850	31,350	34,450	41,100	49,550	55,300	57,700
ROW DWELLINGS	22,000	26,400	29,050	34,650	41,800	46,500	48,400
WALKUP	21,200	26,150	29,800	35,300	40,950	45,100	47,300
ELEVATOR-STRUCTURE	30,500	35,300	44,750	------	------	------	------
READING							
DETACHED AND SEMIDETACHED	26,900	31,800	34,950	41,750	50,200	56,050	58,550
ROW DWELLINGS	22,350	26,850	29,600	35,300	42,450	47,250	49,150
WALKUP	21,400	26,450	30,200	35,600	41,350	45,550	47,650
ELEVATOR-STRUCTURE	30,800	35,300	44,750	------	------	------	------
SCRANTON							
DETACHED AND SEMIDETACHED	27,250	32,900	36,250	43,200	52,000	57,900	60,500
ROW DWELLINGS	22,400	26,800	29,600	35,350	42,350	47,350	49,200
WALKUP	19,300	23,750	26,950	31,900	37,050	40,750	42,700
ELEVATOR-STRUCTURE	32,500	37,700	47,950	------	------	------	------
PITTSBURGH							
DETACHED AND SEMIDETACHED	28,500	34,100	37,800	44,850	53,900	60,100	62,800
ROW DWELLINGS	25,300	30,350	33,550	39,900	48,100	53,450	55,950
WALKUP	25,700	30,750	34,050	40,550	48,800	54,200	56,750
ELEVATOR-STRUCTURE	32,700	38,150	48,300	------	------	------	------
ALTOONA							
DETACHED AND SEMIDETACHED	27,300	32,750	36,350	43,300	51,800	57,900	60,400
ROW DWELLINGS	24,450	29,500	32,400	38,750	46,500	51,850	54,200
WALKUP	23,200	28,550	32,900	38,700	44,750	49,300	51,800
ELEVATOR-STRUCTURE	31,800	36,900	46,550	------	------	------	------
ERIE							
DETACHED AND SEMIDETACHED	27,900	33,400	36,950	44,000	52,950	59,000	61,600
ROW DWELLINGS	25,250	30,350	33,300	39,500	47,800	53,400	55,600
WALKUP	23,500	29,050	33,300	39,300	45,650	50,350	52,850
ELEVATOR-STRUCTURE	32,150	37,300	47,250	------	------	------	------
JOHNSTOWN							
DETACHED AND SEMIDETACHED	27,300	32,750	36,350	43,250	51,850	57,950	60,500
ROW DWELLINGS	24,550	29,400	32,400	38,500	46,600	51,750	54,050
WALKUP	23,200	28,750	32,900	38,750	44,950	49,550	52,050
ELEVATOR-STRUCTURE	31,650	36,800	46,550	------	------	------	------
VIRGINIA							
RICHMOND							
DETACHED AND SEMIDETACHED	19,250	23,200	28,550	34,150	41,150	45,700	47,700
ROW DWELLINGS	16,650	20,150	24,800	29,600	35,700	39,600	41,300
WALKUP	15,500	19,450	24,450	28,900	33,400	36,750	38,800
ELEVATOR-STRUCTURE	31,350	36,400	46,050	------	------	------	------
NORFOLK							
DETACHED AND SEMIDETACHED	18,000	21,700	26,600	31,750	38,250	42,600	44,500
ROW DWELLINGS	15,450	18,800	23,150	27,650	33,250	36,950	38,500
WALKUP	13,800	17,100	21,750	25,600	29,550	32,700	34,200
ELEVATOR-STRUCTURE	26,500	31,000	39,100	------	------	------	------
NEWPORT NEWS							
DETACHED AND SEMIDETACHED	17,200	20,700	25,450	30,400	36,600	40,650	42,400
ROW DWELLINGS	14,750	18,000	22,050	26,350	31,750	35,350	36,850
WALKUP	14,100	17,600	22,300	26,350	30,550	33,800	35,450
ELEVATOR-STRUCTURE	26,800	31,200	39,300	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1*	2	3	4	5	6
REGION III--CONTINUED							
VIRGINIA --CONTINUED							
HARRISONBURG :							
DETACHED AND SEMIDETACHED	17,300	20,800	25,600	30,550	36,800	40,950	42,600
ROW DWELLINGS	14,800	18,050	22,100	26,500	31,850	35,550	36,950
WALKUP	13,900	17,300	22,050	25,850	30,150	33,150	34,850
ELEVATOR-STRUCTURE	24,500	28,500	36,050	------	------	------	------
NORTON :							
DETACHED AND SEMIDETACHED	19,800	23,900	29,350	35,250	42,400	47,050	49,100
ROW DWELLINGS	17,550	21,250	26,000	31,150	37,500	41,750	43,600
WALKUP	16,750	20,600	26,300	30,800	35,900	39,500	41,350
ELEVATOR-STRUCTURE	27,700	32,050	40,650	------	------	------	------
CHARLOTTESVILLE :							
DETACHED AND SEMIDETACHED	20,050	24,150	29,800	35,300	42,750	47,600	49,550
ROW DWELLINGS	17,200	20,900	25,700	30,850	37,150	41,250	42,950
WALKUP	16,150	20,100	26,650	30,150	34,950	38,550	40,600
ELEVATOR-STRUCTURE	28,450	33,050	41,950	------	------	------	------
WEST VIRGINIA							
CHARLESTON :							
DETACHED AND SEMIDETACHED	21,800	26,150	32,450	38,550	46,800	51,800	54,000
ROW DWELLINGS	19,300	23,250	28,650	34,150	41,000	45,700	47,700
WALKUP	18,600	23,150	29,500	34,800	40,750	44,500	46,700
ELEVATOR-STRUCTURE	31,950	37,000	47,050	------	------	------	------
BLUEFIELD :							
DETACHED AND SEMIDETACHED	21,150	25,600	31,450	37,600	45,200	50,500	52,450
ROW DWELLINGS	18,700	22,700	27,900	33,300	39,950	44,700	46,700
WALKUP	18,150	22,550	28,850	33,900	39,200	43,350	45,500
ELEVATOR-STRUCTURE	31,050	36,150	45,800	------	------	------	------
HUNTINGTON :							
DETACHED AND SEMIDETACHED	21,350	25,750	31,700	37,750	46,700	50,950	53,050
ROW DWELLINGS	18,750	22,800	28,300	33,600	40,250	45,050	46,950
WALKUP	18,400	22,750	28,950	34,300	39,700	43,800	45,900
ELEVATOR-STRUCTURE	31,450	36,500	46,400	------	------	------	------
PARKERSBURG :							
DETACHED AND SEMIDETACHED	21,800	26,300	32,500	38,750	46,850	52,150	54,350
ROW DWELLINGS	19,400	23,600	28,850	34,500	41,200	45,950	47,950
WALKUP	18,400	22,750	28,950	34,300	39,700	43,800	45,900
ELEVATOR-STRUCTURE	31,450	36,500	46,400	------	------	------	------
WHEELING :							
DETACHED AND SEMIDETACHED	21,150	25,600	31,450	37,600	45,200	50,500	52,450
ROW DWELLINGS	18,700	22,700	27,900	33,300	39,950	44,700	46,700
WALKUP	18,150	22,550	28,850	33,900	39,200	43,350	45,500
ELEVATOR-STRUCTURE	31,050	36,150	45,800	------	------	------	------
MARTINSBURG :							
DETACHED AND SEMIDETACHED	18,650	23,900	29,450	35,100	42,150	47,000	49,050
ROW DWELLINGS	17,600	21,150	25,950	30,800	37,350	41,450	43,450
WALKUP	18,650	20,800	26,550	31,150	36,200	40,000	42,050
ELEVATOR-STRUCTURE	31,050	36,150	45,800	------	------	------	------
FAIRMONT :							
DETACHED AND SEMIDETACHED	21,700	26,150	32,400	38,550	46,400	51,900	54,000
ROW DWELLINGS	19,300	23,250	28,650	34,250	41,000	45,700	47,850
WALKUP	18,000	22,350	28,300	33,550	38,700	42,850	45,000
ELEVATOR-STRUCTURE	31,000	36,150	45,650	------	------	------	------
POINT PLEASANT :							
DETACHED AND SEMIDETACHED	20,300	24,600	30,350	36,200	43,500	48,500	50,600
ROW DWELLINGS	17,950	21,850	26,900	32,000	38,450	42,800	44,900
WALKUP	17,550	21,850	27,800	32,600	37,850	41,800	43,800
ELEVATOR-STRUCTURE	31,400	36,350	46,150	------	------	------	------
REGION IV							
ALABAMA							
BIRMINGHAM :							
DETACHED AND SEMIDETACHED	16,600	20,250	24,850	29,850	35,950	39,850	41,700
ROW DWELLINGS	14,850	17,700	21,950	26,150	31,500	35,000	36,700
WALKUP	13,750	16,950	21,450	25,300	29,400	32,550	34,050
ELEVATOR-STRUCTURE	26,400	30,950	38,850	------	------	------	------
DOTHAN :							
DETACHED AND SEMIDETACHED	15,850	19,300	23,750	28,600	34,250	37,950	39,900
ROW DWELLINGS	14,550	17,600	21,600	25,650	31,000	34,500	36,150
WALKUP	12,950	16,250	20,550	24,350	28,200	31,000	32,700
ELEVATOR-STRUCTURE	25,650	29,950	37,750	------	------	------	------
FLORENCE :							
DETACHED AND SEMIDETACHED	16,100	19,500	23,800	28,850	34,550	38,400	40,150
ROW DWELLINGS	14,450	17,450	21,450	25,900	31,050	34,450	36,050
WALKUP	13,000	16,300	20,600	24,500	28,400	31,150	32,800
ELEVATOR-STRUCTURE	26,150	30,700	38,600	------	------	------	------
HUNTSVILLE :							
DETACHED AND SEMIDETACHED	15,700	19,050	23,550	28,000	33,800	37,600	39,350
ROW DWELLINGS	14,100	16,800	20,900	24,850	29,950	33,400	34,900
WALKUP	12,900	16,100	20,350	23,950	27,800	30,650	32,150
ELEVATOR-STRUCTURE	25,650	29,950	37,900	------	------	------	------
MOBILE :							
DETACHED AND SEMIDETACHED	17,450	21,100	26,050	31,050	37,450	41,600	43,450
ROW DWELLINGS	15,350	18,700	23,000	27,300	32,850	36,550	38,300
WALKUP	13,800	17,200	21,800	25,750	30,000	33,100	34,850
ELEVATOR-STRUCTURE	27,050	31,450	39,600	------	------	------	------
MONTGOMERY :							
DETACHED AND SEMIDETACHED	15,800	19,200	23,650	28,550	34,200	37,900	39,800
ROW DWELLINGS	14,100	17,000	20,950	24,850	30,050	33,400	35,000
WALKUP	12,950	16,200	20,500	24,250	28,150	30,800	32,550
ELEVATOR-STRUCTURE	25,950	30,400	38,100	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION IV--CONTINUED							
ALABAMA --CONTINUED							
TUSCALOOSA							
DETACHED AND SEMIDETACHED	15,700	19,050	23,550	28,000	33,800	37,600	39,350
ROW DWELLINGS	14,000	16,700	20,800	24,700	29,850	33,200	34,700
WALKUP	12,900	16,100	20,350	23,950	27,800	30,650	32,150
ELEVATOR-STRUCTURE	25,650	29,950	37,900	------	------	------	------
FLORIDA							
JACKSONVILLE							
DETACHED AND SEMIDETACHED	14,350	17,800	22,800	26,750	31,150	33,850	35,550
ROW DWELLINGS	13,750	16,950	21,700	25,500	29,600	32,400	33,950
WALKUP	14,650	18,200	23,350	27,400	31,900	35,000	36,700
ELEVATOR-STRUCTURE	23,300	27,000	34,400	------	------	------	------
PENSACOLA							
DETACHED AND SEMIDETACHED	14,350	17,700	22,550	26,350	30,850	33,700	35,350
ROW DWELLINGS	13,700	16,850	21,400	25,150	29,350	32,050	33,750
WALKUP	14,650	18,150	23,100	27,050	31,650	34,650	36,350
ELEVATOR-STRUCTURE	22,300	27,000	32,800	------	------	------	------
MIAMI							
DETACHED AND SEMIDETACHED	17,750	21,250	26,150	31,350	37,750	41,950	43,900
ROW DWELLINGS	15,600	18,850	23,350	27,800	33,300	37,000	38,950
WALKUP	15,650	19,750	25,050	29,800	34,400	37,950	39,900
ELEVATOR-STRUCTURE	26,500	30,800	39,000	------	------	------	------
KEY WEST							
DETACHED AND SEMIDETACHED	17,750	21,250	26,150	31,350	37,750	41,950	43,900
ROW DWELLINGS	15,600	18,850	23,350	27,800	33,300	37,000	38,950
WALKUP	15,650	19,750	25,050	29,800	34,400	37,950	39,900
ELEVATOR-STRUCTURE	26,500	30,800	39,000	------	------	------	------
TAMPA							
DETACHED AND SEMIDETACHED	16,550	19,850	24,750	29,550	35,350	39,450	41,250
ROW DWELLINGS	14,800	17,800	22,150	26,400	31,850	35,450	37,100
WALKUP	13,600	17,750	22,500	26,750	31,100	34,100	35,800
ELEVATOR-STRUCTURE	27,350	31,800	40,250	------	------	------	------
ORLANDO							
DETACHED AND SEMIDETACHED	16,150	19,250	23,800	28,500	34,150	38,150	39,850
ROW DWELLINGS	14,500	17,450	21,500	25,700	30,800	34,350	35,900
WALKUP	15,150	18,950	23,950	28,500	33,000	36,450	38,100
ELEVATOR-STRUCTURE	28,400	32,850	41,350	------	------	------	------
GEORGIA							
ATLANTA							
DETACHED AND SEMIDETACHED	16,000	19,400	23,750	28,400	34,100	37,850	39,600
ROW DWELLINGS	15,500	18,700	23,200	27,500	33,150	36,850	38,550
WALKUP	15,450	19,050	24,300	28,600	33,250	36,400	38,400
ELEVATOR-STRUCTURE	24,600	28,450	36,200	------	------	------	------
ALBANY							
DETACHED AND SEMIDETACHED	15,950	19,250	23,600	28,100	33,700	37,500	39,300
ROW DWELLINGS	15,450	18,650	22,950	27,300	32,800	36,650	38,300
WALKUP	15,300	18,950	24,050	28,250	33,050	36,150	38,150
ELEVATOR-STRUCTURE	24,350	28,350	35,800	------	------	------	------
AUGUSTA							
DETACHED AND SEMIDETACHED	16,400	19,650	24,400	29,100	35,000	38,750	40,600
ROW DWELLINGS	16,100	19,250	23,650	28,450	34,200	37,800	39,650
WALKUP	15,500	19,050	24,300	28,750	33,250	36,800	38,450
ELEVATOR-STRUCTURE	22,900	26,500	33,650	------	------	------	------
BRUNSWICK							
DETACHED AND SEMIDETACHED	15,000	18,050	22,200	26,550	31,900	35,500	37,000
ROW DWELLINGS	14,450	17,500	21,650	25,700	30,950	34,450	36,150
WALKUP	14,050	17,450	22,100	26,100	30,350	33,300	35,000
ELEVATOR-STRUCTURE	24,350	28,350	35,800	------	------	------	------
COLUMBUS							
DETACHED AND SEMIDETACHED	15,500	18,700	23,250	27,850	33,500	37,000	38,900
ROW DWELLINGS	15,400	18,500	22,750	27,150	32,600	36,200	37,800
WALKUP	15,200	18,650	23,850	28,000	32,550	35,950	37,550
ELEVATOR-STRUCTURE	24,250	28,150	35,650	------	------	------	------
MACON							
DETACHED AND SEMIDETACHED	15,850	18,850	23,600	28,050	33,900	37,400	39,200
ROW DWELLINGS	15,500	18,650	22,850	27,300	32,900	36,550	38,250
WALKUP	14,800	18,200	23,100	27,300	31,600	34,950	36,450
ELEVATOR-STRUCTURE	24,250	28,150	35,650	------	------	------	------
ROME							
DETACHED AND SEMIDETACHED	15,050	18,100	22,500	26,900	32,250	35,750	37,450
ROW DWELLINGS	14,750	17,750	21,900	26,150	31,250	34,800	36,400
WALKUP	14,250	17,550	22,500	26,400	30,550	33,750	35,500
ELEVATOR-STRUCTURE	23,900	27,850	35,300	------	------	------	------
SAVANNAH							
DETACHED AND SEMIDETACHED	15,000	18,050	22,200	26,550	31,900	35,500	37,000
ROW DWELLINGS	14,450	17,500	21,650	25,700	30,950	34,450	36,150
WALKUP	14,050	17,450	22,100	26,100	30,350	33,300	35,000
ELEVATOR-STRUCTURE	24,350	28,350	35,800	------	------	------	------
VALDOSTA							
DETACHED AND SEMIDETACHED	15,450	18,600	23,150	27,700	33,250	36,850	38,550
ROW DWELLINGS	15,200	18,300	22,600	26,900	32,200	35,800	37,500
WALKUP	15,050	18,450	23,600	27,800	32,150	35,500	37,100
ELEVATOR-STRUCTURE	23,900	27,850	35,300	------	------	------	------
KENTUCKY							
LOUISVILLE							
DETACHED AND SEMIDETACHED	17,500	20,900	25,800	30,950	37,250	41,250	43,300
ROW DWELLINGS	17,200	20,550	25,400	30,500	36,650	40,700	42,700
WALKUP	17,500	20,850	25,800	30,950	37,350	41,350	43,400
ELEVATOR-STRUCTURE	31,150	36,300	45,950	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION IV--CONTINUED							
KENTUCKY --CONTINUED							
ASHLAND							
DETACHED AND SEMIDETACHED	[illegible],050	21,550	26,650	31,[illegible]	38,400	42,500	44,600
ROW DWELLINGS	17,700	21,200	26,100	31,450	37,750	41,900	44,000
WALKUP	18,000	21,550	26,600	31,[illegible]	38,450	42,550	44,650
ELEVATOR-STRUCTURE	32,100	37,550	47,450	------	------	------	------
COVINGTON							
DETACHED AND SEMIDETACHED	[illegible],050	21,550	26,650	31,850	38,400	42,500	44,600
ROW DWELLINGS	17,700	21,200	26,100	31,450	37,750	41,900	44,000
WALKUP	18,000	21,550	26,[illegible]	31,900	38,450	42,550	44,650
ELEVATOR-STRUCTURE	32,900	38,450	48,300	------	------	------	------
MIDDLESBORO							
DETACHED AND SEMIDETACHED	[illegible],050	24,000	29,700	35,600	42,850	47,450	49,800
ROW DWELLINGS	19,800	23,650	[illegible],200	35,100	42,200	46,800	49,150
WALKUP	20,100	24,000	29,700	35,650	42,900	47,550	49,900
ELEVATOR-STRUCTURE	31,150	36,300	45,950	------	------	------	------
OWENSBORO							
DETACHED AND SEMIDETACHED	17,500	20,900	25,800	30,950	37,250	41,250	43,300
ROW DWELLINGS	17,200	[illegible],550	25,400	[illegible],500	36,650	40,700	42,700
WALKUP	17,500	20,850	25,[illegible]	30,950	37,350	41,350	43,400
ELEVATOR-STRUCTURE	31,500	36,650	46,350	------	------	------	------
PADUCAH							
DETACHED AND SEMIDETACHED	17,650	21,100	26,100	31,200	37,600	41,650	43,800
ROW DWELLINGS	17,350	20,800	25,600	[illegible],800	37,050	41,100	43,100
WALKUP	17,650	21,100	26,100	31,300	37,700	41,800	43,850
ELEVATOR-STRUCTURE	29,500	34,550	43,550	------	------	------	------
MISSISSIPPI							
JACKSON							
DETACHED AND SEMIDETACHED	15,800	[illegible],150	23,600	[illegible],200	34,000	37,700	39,450
ROW DWELLINGS	15,200	18,300	22,450	26,850	32,250	35,650	37,600
WALKUP	13,000	16,200	20,800	24,500	28,300	31,200	32,750
ELEVATOR-STRUCTURE	23,800	27,550	34,900	------	------	------	------
CORINTH							
DETACHED AND SEMIDETACHED	16,100	19,550	24,100	28,800	34,750	38,550	40,300
ROW DWELLINGS	14,850	[illegible],100	22,450	26,600	32,200	35,600	37,350
WALKUP	13,550	16,750	21,350	25,150	29,350	32,050	33,700
ELEVATOR-STRUCTURE	24,300	[illegible],100	35,450	------	------	------	------
GREENVILLE							
DETACHED AND SEMIDETACHED	15,800	19,150	23,600	[illegible],200	34,000	37,700	39,450
ROW DWELLINGS	15,200	18,300	22,450	26,850	32,250	35,650	37,600
WALKUP	13,000	16,200	20,800	24,500	28,300	31,200	32,750
ELEVATOR-STRUCTURE	23,550	27,450	34,800	------	------	------	------
GREENWOOD							
DETACHED AND SEMIDETACHED	15,800	19,150	23,600	[illegible],200	34,000	37,700	39,450
ROW DWELLINGS	15,200	18,300	22,450	26,850	32,250	35,650	37,600
WALKUP	13,550	16,950	21,450	[illegible],300	29,400	32,350	33,950
ELEVATOR-STRUCTURE	23,800	27,550	34,900	------	------	------	------
GULFPORT							
DETACHED AND SEMIDETACHED	15,850	19,250	23,650	[illegible],250	34,050	37,750	39,650
ROW DWELLINGS	15,250	[illegible],350	22,650	[illegible],900	32,300	35,800	37,650
WALKUP	12,[illegible]	16,100	20,350	23,850	27,750	30,500	31,850
ELEVATOR-STRUCTURE	24,000	28,000	35,350	------	------	------	------
HATTIESBURG							
DETACHED AND SEMIDETACHED	15,800	19,150	23,600	[illegible],200	34,000	37,700	39,450
ROW DWELLINGS	15,200	18,300	22,450	26,850	32,250	35,650	37,600
WALKUP	13,000	16,200	20,800	24,500	[illegible],300	31,200	32,750
ELEVATOR-STRUCTURE	23,800	27,550	34,900	------	------	------	------
SOUTHAVEN							
DETACHED AND SEMIDETACHED	15,650	18,750	23,350	27,650	33,400	37,000	38,900
ROW DWELLINGS	14,900	18,050	22,250	26,350	31,750	35,250	36,900
WALKUP	13,750	17,150	21,850	25,650	29,[illegible]	33,000	34,450
ELEVATOR-STRUCTURE	23,250	27,200	34,400	------	------	------	------
NORTH CAROLINA							
GREENSBORO							
DETACHED AND SEMIDETACHED	15,400	18,400	22,350	26,750	31,850	35,400	36,950
ROW DWELLINGS	14,900	17,500	21,700	25,550	[illegible],700	34,100	35,650
WALKUP	14,400	17,450	22,050	25,950	30,050	32,850	34,600
ELEVATOR-STRUCTURE	24,350	28,400	35,950	------	------	------	------
ASHEVILLE							
DETACHED AND SEMIDETACHED	15,800	18,[illegible]	23,100	27,600	32,900	36,500	38,200
ROW DWELLINGS	15,550	18,550	22,650	26,750	32,150	35,800	37,250
WALKUP	15,150	18,750	23,600	27,650	31,900	34,550	36,800
ELEVATOR-STRUCTURE	25,150	29,000	36,700	------	------	------	------
CHARLOTTE							
DETACHED AND SEMIDETACHED	15,600	[illegible],[illegible]	22,700	27,100	32,350	35,950	37,500
ROW DWELLINGS	15,150	18,000	22,050	26,050	31,050	34,500	36,100
WALKUP	15,150	[illegible],650	23,550	27,600	31,800	34,800	36,600
ELEVATOR-STRUCTURE	24,350	28,400	35,950	------	------	------	------
DURHAM							
DETACHED AND SEMIDETACHED	15,100	17,950	22,000	26,250	31,350	34,900	36,500
ROW DWELLINGS	14,850	17,500	21,550	25,400	30,600	33,850	35,450
WALKUP	14,250	16,700	22,050	25,900	29,850	32,550	34,400
ELEVATOR-STRUCTURE	24,200	28,350	35,800	------	------	------	------
ELIZABETH CITY							
DETACHED AND SEMIDETACHED	16,550	19,850	24,100	[illegible],750	34,350	38,250	39,800
ROW DWELLINGS	14,750	17,750	21,700	25,900	31,050	34,450	35,900
WALKUP	15,300	18,750	23,750	27,650	31,950	35,300	36,900
ELEVATOR-STRUCTURE	24,750	28,800	[illegible],400	------	------	------	------
GREENVILLE							
DETACHED AND SEMIDETACHED	15,150	[illegible],100	22,050	26,250	31,500	35,000	36,550
ROW DWELLINGS	14,850	17,550	21,650	[illegible],300	[illegible],500	33,800	35,400
WALKUP	13,850	17,100	21 700	25,300	29,150	31,900	33,650
ELEVATOR-STRUCTURE	23,950	27,200	33,800	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION IV--CONTINUED							
NORTH CAROLINA --CONTINUED							
RALEIGH							
DETACHED AND SEMIDETACHED	15,150	18,200	22,100	26,400	31,600	35,000	36,550
ROW DWELLINGS	14,850	17,700	21,550	25,400	30,600	33,850	35,450
WALKUP	14,000	17,350	21,750	25,850	29,750	32,600	34,400
ELEVATOR-STRUCTURE	24,200	28,350	35,800	------	------	------	------
WILMINGTON							
DETACHED AND SEMIDETACHED	14,750	17,750	21,800	26,250	31,600	35,050	36,600
ROW DWELLINGS	14,600	17,350	21,000	24,700	29,500	32,800	34,350
WALKUP	14,900	18,250	23,000	26,800	31,100	34,000	35,650
ELEVATOR-STRUCTURE	24,350	28,050	34,900	------	------	------	------
WINSTON-SALEM							
DETACHED AND SEMIDETACHED	15,550	18,500	22,600	27,000	32,350	35,650	37,450
ROW DWELLINGS	14,700	17,500	21,350	25,200	30,250	33,600	35,050
WALKUP	14,700	18,050	22,700	26,550	30,650	33,400	35,200
ELEVATOR-STRUCTURE	24,200	28,350	35,800	------	------	------	------
FAYETTEVILLE							
DETACHED AND SEMIDETACHED	15,150	18,200	22,100	26,400	31,600	35,000	36,550
ROW DWELLINGS	14,750	17,500	21,350	25,200	30,250	33,600	35,050
WALKUP	14,700	18,050	22,800	26,650	30,850	33,650	35,350
ELEVATOR-STRUCTURE	23,750	27,200	33,750	------	------	------	------
SOUTH CAROLINA							
COLUMBIA							
DETACHED AND SEMIDETACHED	15,450	18,700	23,000	27,500	33,100	36,700	38,500
ROW DWELLINGS	15,500	18,550	22,850	27,100	32,800	36,400	38,100
WALKUP	14,200	17,650	22,450	26,950	30,650	33,650	35,600
ELEVATOR-STRUCTURE	26,300	30,600	38,500	------	------	------	------
AIKEN							
DETACHED AND SEMIDETACHED	15,450	18,700	23,000	27,500	33,050	36,750	38,550
ROW DWELLINGS	15,450	18,550	22,850	27,100	32,800	36,300	38,100
WALKUP	14,800	18,450	23,300	27,550	31,900	35,200	37,150
ELEVATOR-STRUCTURE	26,750	31,000	39,350	------	------	------	------
ANDERSON							
DETACHED AND SEMIDETACHED	15,250	18,500	22,700	27,200	32,750	36,300	38,250
ROW DWELLINGS	15,300	18,300	22,650	26,950	32,450	36,000	37,550
WALKUP	13,750	16,950	21,700	25,750	29,600	32,750	34,500
ELEVATOR-STRUCTURE	26,600	30,850	38,650	------	------	------	------
BEAUFORT							
DETACHED AND SEMIDETACHED	15,700	19,150	23,500	28,150	33,850	37,550	39,500
ROW DWELLINGS	15,800	19,250	23,400	27,800	33,400	37,200	39,050
WALKUP	14,600	18,150	22,900	27,000	31,450	34,600	36,300
ELEVATOR-STRUCTURE	27,050	31,250	39,500	------	------	------	------
CHARLESTON							
DETACHED AND SEMIDETACHED	16,950	20,550	25,300	30,400	36,500	40,450	42,550
ROW DWELLINGS	16,950	20,450	25,400	30,200	36,250	40,250	42,100
WALKUP	15,250	19,200	24,200	28,600	33,150	36,400	38,300
ELEVATOR-STRUCTURE	27,650	32,000	40,500	------	------	------	------
FLORENCE							
DETACHED AND SEMIDETACHED	14,750	17,950	22,000	26,500	31,800	35,450	37,050
ROW DWELLINGS	14,750	17,700	21,900	26,150	31,550	34,900	36,600
WALKUP	13,600	17,050	21,600	25,400	29,450	32,500	34,400
ELEVATOR-STRUCTURE	26,750	31,000	39,350	------	------	------	------
GREENVILLE							
DETACHED AND SEMIDETACHED	15,500	18,800	23,200	27,550	33,300	37,000	38,750
ROW DWELLINGS	15,550	18,650	22,950	27,350	32,950	36,600	38,300
WALKUP	13,800	17,350	21,800	25,800	29,900	33,100	34,700
ELEVATOR-STRUCTURE	26,750	31,000	39,350	------	------	------	------
GREENWOOD							
DETACHED AND SEMIDETACHED	15,500	18,800	23,300	27,700	33,250	37,000	38,800
ROW DWELLINGS	15,550	18,650	23,050	27,350	32,950	36,750	38,300
WALKUP	14,250	17,700	22,650	26,700	30,750	34,250	36,050
ELEVATOR-STRUCTURE	26,600	30,850	38,650	------	------	------	------
MYRTLE BEACH							
DETACHED AND SEMIDETACHED	15,700	19,150	23,500	28,150	33,850	37,550	39,500
ROW DWELLINGS	15,800	19,250	23,400	27,800	33,400	37,200	39,050
WALKUP	14,600	18,150	22,900	27,000	31,450	34,600	36,300
ELEVATOR-STRUCTURE	27,050	31,250	39,500	------	------	------	------
NORTH AUGUSTA							
DETACHED AND SEMIDETACHED	16,450	19,850	24,400	29,250	35,050	38,850	40,850
ROW DWELLINGS	16,200	19,650	24,250	28,650	34,850	38,500	40,250
WALKUP	15,000	18,700	23,800	27,850	32,350	35,850	37,700
ELEVATOR-STRUCTURE	27,900	32,400	40,900	------	------	------	------
ORANGEBURG							
DETACHED AND SEMIDETACHED	15,450	18,700	23,000	27,500	33,100	36,700	38,500
ROW DWELLINGS	15,500	18,550	22,850	27,100	32,800	36,400	38,100
WALKUP	14,200	17,650	22,450	26,950	30,650	33,650	35,600
ELEVATOR-STRUCTURE	26,300	30,600	38,500	------	------	------	------
ROCKHILL							
DETACHED AND SEMIDETACHED	15,550	18,950	23,300	28,050	33,500	37,350	39,150
ROW DWELLINGS	15,700	18,900	23,150	27,500	33,200	36,950	38,600
WALKUP	14,500	18,150	22,800	26,950	31,200	34,400	36,250
ELEVATOR-STRUCTURE	26,750	31,000	39,350	------	------	------	------
SPARTANSBURG							
DETACHED AND SEMIDETACHED	15,950	19,250	23,550	28,300	34,100	37,750	39,550
ROW DWELLINGS	15,800	19,050	23,500	27,950	33,750	37,500	39,100
WALKUP	14,600	18,250	22,950	27,100	31,550	34,700	36,400
ELEVATOR-STRUCTURE	26,750	31,000	39,350	------	------	------	------
TENNESSEE							
KNOXVILLE							
DETACHED AND SEMIDETACHED	16,400	19,700	24,250	29,100	35,150	38,850	40,750
ROW DWELLINGS	15,650	18,800	23,300	27,700	33,350	36,900	38,750
WALKUP	14,900	18,600	23,600	27,950	32,450	35,750	37,550
ELEVATOR-STRUCTURE	24,400	28,350	35,750	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION IV--CONTINUED							
TENNESSEE --CONTINUED							
CHATTANOOGA :							
DETACHED AND SEMIDETACHED	15,900	19,100	23,500	28,200	34,000	37,400	39,300
ROW DWELLINGS	16,550	19,800	24,650	29,300	35,150	39,200	41,050
WALKUP	16,050	20,100	25,800	30,150	35,800	38,550	40,500
ELEVATOR-STRUCTURE	26,200	30,500	38,300	------	------	------	------
JOHNSON CITY :							
DETACHED AND SEMIDETACHED	15,550	18,750	23,050	27,450	33,250	36,850	38,550
ROW DWELLINGS	14,900	17,800	22,050	26,350	31,600	35,[illegible]00	36,800
WALKUP	14,900	18,600	23,[illegible]00	27,[illegible]50	32,350	35,650	37,[illegible]50
ELEVATOR-STRUCTURE	24,400	28,350	35,750	------	------	------	------
KINGSPORT :							
DETACHED AND SEMIDETACHED	16,100	19,500	23,[illegible]50	28,550	34,550	38,100	40,[illegible]00
ROW DWELLINGS	15,450	18,550	22,900	27,[illegible]00	32,750	36,300	38,100
WALKUP	14,150	17,550	22,100	26,300	30,450	33,600	35,150
ELEVATOR-STRUCTURE	24,400	28,350	35,750	------	------	------	------
OAK RIDGE :							
DETACHED AND SEMIDETACHED	15,900	19,100	23,550	28,200	33,950	37,750	39,450
ROW DWELLINGS	15,200	18,350	22,600	26,950	32,450	[illegible],900	37,800
WALKUP	14,850	18,600	23,550	27,900	32,400	35,650	37,400
ELEVATOR-STRUCTURE	24,400	28,350	35,750	------	------	------	------
MEMPHIS :							
DETACHED AND SEMIDETACHED	17,100	20,750	25,550	30,500	36,750	40,950	42,750
ROW DWELLINGS	16,200	19,700	24,450	29,000	34,800	[illegible],750	40,600
WALKUP	15,800	19,550	25,050	29,500	34,150	37,550	39,450
ELEVATOR-STRUCTURE	26,550	29,600	37,300	------	------	------	------
JACKSON :							
DETACHED AND SEMIDETACHED	18,500	22,350	27,550	32,900	[illegible],750	44,150	46,050
ROW DWELLINGS	17,500	21,400	26,350	31,250	37,550	41,900	44,000
WALKUP	17,600	21,650	27,900	32,850	37,900	41,750	43,950
ELEVATOR-STRUCTURE	25,550	28,600	37,300	------	------	------	------
UNION CITY :							
DETACHED AND SEMIDETACHED	18,550	22,500	27,700	[illegible],100	40,050	[illegible],400	46,500
ROW DWELLINGS	17,600	21,400	26,450	31,450	37,950	42,250	[illegible],300
WALKUP	15,500	19,100	24,500	[illegible],950	[illegible],500	[illegible],850	[illegible],750
ELEVATOR-STRUCTURE	27,900	[illegible]2,350	40,750	------	------	------	------
NASHVILLE :							
DETACHED AND SEMIDETACHED	16,450	19,750	24,350	29,100	35,050	[illegible],100	[illegible],750
ROW DWELLINGS	15,750	19,200	[illegible]3,450	[illegible],000	33,750	37,550	[illegible],400
WALKUP	15,000	18,750	23,800	28,100	32,700	35,950	37,800
ELEVATOR-STRUCTURE	23,700	27,700	35,050	------	------	------	------
CLARKSVILLE :							
DETACHED AND SEMIDETACHED	15,750	19,150	23,500	[illegible],050	33,900	37,700	[illegible],450
ROW DWELLINGS	15,350	18,400	22,650	27,100	32,500	[illegible],150	37,950
WALKUP	13,800	17,250	[illegible],050	25,850	[illegible],050	33,100	34,700
ELEVATOR-STRUCTURE	24,800	28,900	[illegible]6,650	------	------	------	------
COLUMBIA :							
DETACHED AND SEMIDETACHED	16,500	19,800	24,500	[illegible],200	35,100	39,150	40,900
ROW DWELLINGS	15,800	19,250	23,500	[illegible],100	33,800	37,600	[illegible],450
WALKUP	15,150	18,850	24,200	[illegible],200	33,000	36,250	[illegible],150
ELEVATOR-STRUCTURE	25,550	30,050	38,050	------	------	------	------
REGION V							
ILLINOIS							
CHICAGO :							
DETACHED AND SEMIDETACHED	26,900	32,[illegible]50	40,200	47,900	57,600	64,250	67,200
ROW DWELLINGS	25,500	30,950	37,900	45,300	54,550	60,600	63,550
WALKUP	24,150	29,950	37,800	44,900	[illegible]8,[illegible]00	57,200	60,100
ELEVATOR-STRUCTURE	31,200	36,400	46,000	------	------	------	------
MOLINE :							
DETACHED AND SEMIDETACHED	21,200	25,750	31,800	37,800	45,650	50,700	53,050
ROW DWELLINGS	19,550	23,650	29,150	34,700	41,850	46,450	48,750
WALKUP	19,450	24,250	30,650	[illegible],450	39,100	[illegible],250	[illegible],400
ELEVATOR-STRUCTURE	31,200	36,350	46,000	------	------	------	------
SPRINGFIELD :							
DETACHED AND SEMIDETACHED	21,750	26,400	32,450	[illegible],850	[illegible],700	51,850	[illegible],350
ROW DWELLINGS	21,000	25,500	31,300	37,550	45,100	[illegible],050	52,450
WALKUP	19,700	23,950	[illegible],350	35,100	42,200	46,850	49,150
ELEVATOR-STRUCTURE	26,400	30,600	38,650	------	------	------	------
BELLEVILLE :							
DETACHED AND SEMIDETACHED	22,100	26,600	[illegible],050	39,350	47,300	52,600	55,200
ROW DWELLINGS	20,600	24,650	30,550	36,300	43,550	[illegible],750	[illegible],850
WALKUP	19,600	24,400	31,050	36,600	42,450	46,950	49,300
ELEVATOR-STRUCTURE	27,950	32,400	40,950	------	------	------	------
EAST ST LOUIS :							
DETACHED AND SEMIDETACHED	22,000	26,550	[illegible],050	39,400	47,200	[illegible],550	55,000
ROW DWELLINGS	20,450	24,550	30,550	36,200	43,500	[illegible],700	50,800
WALKUP	19,650	24,350	31,050	36,600	42,200	46,700	[illegible],000
ELEVATOR-STRUCTURE	27,900	32,350	[illegible],950	------	------	------	------
INDIANA							
INDIANAPOLIS :							
DETACHED AND SEMIDETACHED	18,700	22,600	27,750	33,200	39,850	44,350	46,350
ROW DWELLINGS	16,250	19,600	27,000	28,950	34,650	38,700	40,350
WALKUP	17,000	21,350	26,850	31,800	36,750	40,600	42,550
ELEVATOR-STRUCTURE	28,250	32,950	41,650	------	------	------	------
BLOOMINGTON :							
DETACHED AND SEMIDETACHED	18,400	22,150	27,350	32,700	39,200	43,600	45,700
ROW DWELLINGS	16,600	20,000	24,700	29,300	35,300	39,250	41,050
WALKUP	17,550	22,000	27,700	32,800	38,100	42,050	43,950
ELEVATOR-STRUCTURE	28,850	33,350	42,450	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION V--CONTINUED							
INDIANA --CONTINUED							
EVANSVILLE :							
DETACHED AND SEMIDETACHED	17,800	21,500	26,500	31,750	38,000	40,650	44,350
ROW DWELLINGS	17,350	21,450	26,500	31,500	37,950	42,350	44,200
WALKUP	17,850	22,400	28,300	33,450	38,750	42,650	44,750
ELEVATOR-STRUCTURE	27,850	32,500	41,200	------	------	------	------
FORT WAYNE :							
DETACHED AND SEMIDETACHED	18,100	21,850	26,950	32,050	38,550	43,250	44,850
ROW DWELLINGS	15,800	19,100	23,400	27,950	33,550	37,500	39,200	
WALKUP	16,800	21,050	26,750	31,400	36,400	40,150	42,200
ELEVATOR-STRUCTURE	28,200	32,650	41,500	------	------	------	------
GARY :							
DETACHED AND SEMIDETACHED	18,800	22,900	28,250	33,650	40,400	44,800	47,000
ROW DWELLINGS	19,950	24,150	29,850	35,450	42,600	47,700	49,600
WALKUP	21,600	26,750	33,700	39,850	43,300	50,750	53,200
ELEVATOR-STRUCTURE	28,200	32,750	41,500	------	------	------	------
HAMMOND :							
DETACHED AND SEMIDETACHED	19,850	24,200	29,750	35,400	42,500	47,350	49,500
ROW DWELLINGS	23,700	28,700	35,350	41,950	50,450	56,400	58,800
WALKUP	18,500	23,250	29,200	34,550	40,000	44,000	46,300
ELEVATOR-STRUCTURE	28,800	33,350	42,250	------	------	------	------
LAFAYETTE :							
DETACHED AND SEMIDETACHED	19,150	23,200	28,500	34,000	40,650	45,450	47,600
ROW DWELLINGS	16,600	20,000	24,750	29,500	35,450	39,500	41,250
WALKUP	17,400	21,750	27,650	32,600	37,700	41,600	43,600
ELEVATOR-STRUCTURE	29,100	33,750	42,650	------	------	------	------
SOUTH BEND :							
DETACHED AND SEMIDETACHED	19,250	23,300	28,650	34,250	41,100	45,800	47,900
ROW DWELLINGS	18,250	22,100	27,150	32,250	38,750	43,350	45,250
WALKUP	17,850	22,300	28,100	33,250	38,400	42,250	44,400
ELEVATOR-STRUCTURE	29,300	34,100	43,100	------	------	------	------
TERRE HAUTE :							
DETACHED AND SEMIDETACHED	19,800	23,950	29,600	35,200	42,200	47,000	49,150
ROW DWELLINGS	20,900	25,050	31,000	36,950	44,200	49,400	51,700
WALKUP	19,200	23,700	30,100	35,750	41,300	45,400	47,750
ELEVATOR-STRUCTURE	29,700	34,500	43,850	------	------	------	------
MICHIGAN							
DETROIT :							
DETACHED AND SEMIDETACHED	24,050	25,450	31,200	37,300	44,800	50,000	52,200
ROW DWELLINGS	17,800	21,450	26,500	31,550	38,050	42,300	44,250
WALKUP	18,300	22,600	28,750	33,950	39,250	43,350	45,550
ELEVATOR-STRUCTURE	28,900	33,650	42,650	------	------	------	------
ANN ARBOR :							
DETACHED AND SEMIDETACHED	25,900	27,350	33,500	40,100	48,300	53,700	56,100
ROW DWELLINGS	19,100	23,100	28,500	33,900	40,950	45,450	47,650
WALKUP	19,050	23,500	29,800	35,300	40,700	45,100	47,200
ELEVATOR-STRUCTURE	28,900	33,650	42,650	------	------	------	------
FLINT :							
DETACHED AND SEMIDETACHED	21,850	26,400	34,950	41,750	50,150	55,850	58,750
ROW DWELLINGS	20,000	24,100	29,700	35,350	42,400	47,250	49,650
WALKUP	17,500	22,250	28,050	33,300	38,600	42,550	44,550
ELEVATOR-STRUCTURE	27,750	32,350	41,000	------	------	------	------
SAGINAW :							
DETACHED AND SEMIDETACHED	24,450	26,300	32,250	38,350	46,200	51,500	53,950
ROW DWELLINGS	18,400	22,250	27,300	32,650	39,200	43,600	45,750
WALKUP	18,350	22,550	28,450	33,850	39,250	43,100	45,250
ELEVATOR-STRUCTURE	27,750	32,350	41,000	------	------	------	------
YPSILANTI :							
DETACHED AND SEMIDETACHED	27,350	28,900	35,500	42,150	50,800	56,600	59,300
ROW DWELLINGS	20,400	24,300	30,150	35,850	43,250	47,950	50,350
WALKUP	18,300	22,700	28,600	33,950	39,250	43,350	45,600
ELEVATOR-STRUCTURE	28,550	33,400	42,200	------	------	------	------
GRAND RAPIDS :							
DETACHED AND SEMIDETACHED	22,050	26,750	32,900	39,200	47,150	52,750	55,000
ROW DWELLINGS	18,200	22,000	27,250	32,300	38,750	43,250	45,200
WALKUP	17,600	22,200	28,000	33,000	38,400	42,350	44,300
ELEVATOR-STRUCTURE	27,400	31,950	40,300	------	------	------	------
MT PLEASANT :							
DETACHED AND SEMIDETACHED	23,050	27,900	34,300	40,850	49,250	55,000	57,400
ROW DWELLINGS	19,050	22,900	28,400	33,650	40,350	45,100	47,200
WALKUP	18,350	23,100	29,250	34,450	40,000	44,150	46,200
ELEVATOR-STRUCTURE	28,600	33,350	41,950	------	------	------	------
BATTLE CREEK :							
DETACHED AND SEMIDETACHED	22,700	27,400	33,650	40,200	48,400	53,900	56,300
ROW DWELLINGS	18,650	22,450	27,750	33,100	39,850	44,400	46,400
WALKUP	17,600	21,850	27,850	32,900	38,050	42,100	44,100
ELEVATOR-STRUCTURE	28,150	32,700	41,150	------	------	------	------
BENTON HARBOR :							
DETACHED AND SEMIDETACHED	24,450	29,550	36,300	43,300	52,050	58,250	60,700
ROW DWELLINGS	20,200	24,300	30,000	35,700	42,850	45,650	49,900
WALKUP	18,800	23,400	29,600	35,150	40,450	44,800	47,050
ELEVATOR-STRUCTURE	29,450	34,350	43,300	------	------	------	------
JACKSON :							
DETACHED AND SEMIDETACHED	23,500	28,600	35,250	41,800	50,600	56,300	58,850
ROW DWELLINGS	19,550	23,350	28,950	34,500	41,550	46,250	48,400
WALKUP	18,850	23,750	29,950	35,500	40,800	45,350	47,400
ELEVATOR-STRUCTURE	29,000	34,050	43,000	------	------	------	------
LANSING :							
DETACHED AND SEMIDETACHED	26,150	31,700	39,100	46,550	55,950	62,500	65,450
ROW DWELLINGS	21,700	30,650	32,300	38,400	46,150	51,200	53,800
WALKUP	18,350	22,900	29,000	34,350	39,800	44,000	46,100
ELEVATOR-STRUCTURE	28,800	33,450	42,150	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	M
REGION V--CONTINUED							
MICHIGAN --CONTINUED							
MARQUETTE :							
DETACHED AND SEMIDETACHED	24,350	29,550	36,250	43,200	52,100	58,150	60,750
ROW DWELLINGS	20,100	24,300	29,900	35,650	42,950	47,900	50,050
WALKUP	20,400	24,600	30,250	35,950	43,450	48,450	50,650
ELEVATOR-STRUCTURE	29,650	34,700	43,600	------	------	------	------
MUSKEGON :							
DETACHED AND SEMIDETACHED	22,250	26,850	33,250	39,550	47,600	53,250	55,450
ROW DWELLINGS	18,450	22,150	27,400	32,500	38,950	43,550	45,750
WALKUP	15,650	19,550	24,700	29,300	33,750	37,300	39,100
ELEVATOR-STRUCTURE	27,400	31,950	40,300	------	------	------	------
TRAVERSE CITY :							
DETACHED AND SEMIDETACHED	24,350	29,450	36,300	43,300	51,950	58,150	60,600
ROW DWELLINGS	20,200	24,300	30,000	35,600	42,850	47,800	50,050
WALKUP	17,150	21,350	27,050	32,100	37,050	41,150	42,800
ELEVATOR-STRUCTURE	30,100	35,100	44,150	------	------	------	------
MINNESOTA							
MINNEAPOLIS :							
DETACHED AND SEMIDETACHED	24,300	29,400	36,350	43,450	52,100	58,000	60,650
ROW DWELLINGS	20,850	25,400	31,150	37,200	44,650	49,650	52,000
WALKUP	20,850	26,150	32,850	38,750	44,750	49,600	51,900
ELEVATOR-STRUCTURE	28,500	32,950	41,900	------	------	------	------
DULUTH :							
DETACHED AND SEMIDETACHED	24,700	29,900	36,700	44,000	52,850	58,950	61,600
ROW DWELLINGS	21,300	25,700	31,700	37,750	45,300	50,550	52,850
WALKUP	22,100	27,350	34,850	41,000	47,400	52,450	54,950
ELEVATOR-STRUCTURE	28,950	33,600	42,400	------	------	------	------
MANKATO :							
DETACHED AND SEMIDETACHED	23,050	28,250	34,650	41,350	49,850	55,400	58,000
ROW DWELLINGS	20,050	24,100	29,800	35,550	42,850	47,600	49,650
WALKUP	22,100	27,150	34,700	41,000	47,250	52,100	54,950
ELEVATOR-STRUCTURE	27,200	31,550	39,850	------	------	------	------
ROCHESTER :							
DETACHED AND SEMIDETACHED	23,750	28,800	35,550	42,350	51,050	56,650	59,300
ROW DWELLINGS	20,550	24,650	30,500	36,400	43,650	48,450	50,850
WALKUP	20,350	25,250	31,900	37,800	43,750	48,300	50,700
ELEVATOR-STRUCTURE	26,550	30,950	39,300	------	------	------	------
ST CLOUD :							
DETACHED AND SEMIDETACHED	23,050	27,900	34,650	41,250	49,400	55,000	57,600
ROW DWELLINGS	20,000	24,150	29,800	35,550	42,550	47,600	49,600
WALKUP	20,850	25,950	33,100	39,050	45,150	49,800	52,200
ELEVATOR-STRUCTURE	26,300	30,500	38,550	------	------	------	------
WORTHINGTON :							
DETACHED AND SEMIDETACHED	22,100	26,800	33,050	39,450	47,200	52,750	55,100
ROW DWELLINGS	19,200	22,950	28,400	33,750	40,650	45,150	47,350
WALKUP	19,100	23,800	30,200	35,600	41,100	45,300	47,700
ELEVATOR-STRUCTURE	26,050	30,350	38,450	------	------	------	------
OHIO							
CINCINNATI :							
DETACHED AND SEMIDETACHED	21,700	26,250	32,400	38,750	46,350	51,750	54,200
ROW DWELLINGS	20,700	25,100	30,900	36,650	43,900	49,000	51,500
WALKUP	21,400	26,400	33,650	39,900	46,000	50,650	53,250
ELEVATOR-STRUCTURE	32,550	37,800	47,750	------	------	------	------
DAYTON :							
DETACHED AND SEMIDETACHED	21,700	26,250	32,400	38,750	46,350	51,750	54,200
ROW DWELLINGS	21,100	25,650	31,650	37,600	45,100	50,250	52,700
WALKUP	21,400	26,400	33,650	39,900	46,000	50,650	53,250
ELEVATOR-STRUCTURE	32,550	37,800	47,750	------	------	------	------
CLEVELAND :							
DETACHED AND SEMIDETACHED	21,000	25,750	31,450	37,650	45,200	50,300	52,750
ROW DWELLINGS	20,650	24,800	30,750	36,750	44,050	49,300	51,350
WALKUP	20,050	24,750	31,350	37,250	43,050	47,550	50,000
ELEVATOR-STRUCTURE	27,050	31,600	39,950	------	------	------	------
AKRON :							
DETACHED AND SEMIDETACHED	20,800	25,250	31,000	37,100	44,550	49,550	52,000
ROW DWELLINGS	20,400	24,450	30,350	36,300	43,250	48,550	50,700
WALKUP	19,850	24,400	30,850	36,750	42,500	46,850	49,300
ELEVATOR-STRUCTURE	26,650	31,250	39,450	------	------	------	------
FINDLAY :							
DETACHED AND SEMIDETACHED	19,250	23,450	28,700	34,250	41,150	45,850	47,900
ROW DWELLINGS	18,800	22,700	28,050	33,400	40,100	44,750	46,750
WALKUP	18,250	22,500	28,500	33,950	39,200	43,250	45,450
ELEVATOR-STRUCTURE	24,700	28,750	36,350	------	------	------	------
LORAIN :							
DETACHED AND SEMIDETACHED	20,900	25,500	31,200	37,350	44,750	49,950	52,250
ROW DWELLINGS	20,550	24,500	30,450	36,400	43,500	48,750	50,950
WALKUP	19,950	24,550	31,000	36,850	42,650	47,050	49,400
ELEVATOR-STRUCTURE	26,750	31,350	39,600	------	------	------	------
MANSFIELD :							
DETACHED AND SEMIDETACHED	19,600	23,950	29,300	35,000	42,050	46,850	49,050
ROW DWELLINGS	19,200	23,100	28,550	34,150	40,950	45,800	47,700
WALKUP	18,700	23,100	29,100	34,700	40,100	44,200	46,450
ELEVATOR-STRUCTURE	25,100	29,350	37,150	------	------	------	------
TOLEDO :							
DETACHED AND SEMIDETACHED	21,000	25,750	31,450	37,650	45,200	50,300	52,750
ROW DWELLINGS	20,650	24,800	30,750	36,750	44,050	49,300	51,350
WALKUP	20,050	24,750	31,350	37,250	43,050	47,550	50,000
ELEVATOR-STRUCTURE	27,050	31,600	39,950	------	------	------	------
YOUNGSTOWN :							
DETACHED AND SEMIDETACHED	20,300	24,850	30,150	36,150	43,400	48,350	50,700
ROW DWELLINGS	19,900	23,900	29,600	35,250	42,250	47,250	49,350
WALKUP	19,200	23,800	30,050	35,850	41,400	45,700	48,000
ELEVATOR-STRUCTURE	26,000	30,400	38,300	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION V--CONTINUED							
OHIO --CONTINUED							
COLUMBUS :							
DETACHED AND SEMIDETACHED	21,050	25,350	31,400	37,450	45,000	50,150	52,500
ROW DWELLINGS	18,600	22,450	27,750	32,900	39,550	44,200	46,200
WALKUP	20,150	24,850	31,500	37,500	43,200	47,650	50,200
ELEVATOR-STRUCTURE	28,250	32,800	41,550	------	------	------	------
ATHENS :							
DETACHED AND SEMIDETACHED	21,300	25,800	31,900	37,750	45,700	51,150	53,100
ROW DWELLINGS	18,300	21,900	27,050	32,300	38,750	43,200	45,200
WALKUP	19,450	24,150	30,800	36,450	42,150	46,400	49,000
ELEVATOR-STRUCTURE	28,550	33,800	42,150	------	------	------	------
LIMA :							
DETACHED AND SEMIDETACHED	21,050	25,350	31,400	37,450	45,000	50,150	52,500
ROW DWELLINGS	18,200	21,900	27,050	32,250	38,750	43,150	45,200
WALKUP	19,500	24,300	30,800	36,500	42,200	46,450	48,900
ELEVATOR-STRUCTURE	28,250	32,800	41,550	------	------	------	------
NEWARK :							
DETACHED AND SEMIDETACHED	20,550	24,850	30,650	36,500	43,900	49,100	51,150
ROW DWELLINGS	18,200	21,900	27,000	32,150	38,650	43,050	45,100
WALKUP	19,450	24,250	30,750	36,450	42,100	46,400	48,600
ELEVATOR-STRUCTURE	27,550	32,050	40,500	------	------	------	------
SPRINGFIELD :							
DETACHED AND SEMIDETACHED	21,050	25,350	31,400	37,450	45,000	50,150	52,500
ROW DWELLINGS	18,400	22,350	27,450	32,800	39,350	43,700	45,800
WALKUP	19,950	24,700	31,200	37,150	42,650	47,200	49,600
ELEVATOR-STRUCTURE	28,250	32,800	41,550	------	------	------	------
SIDNEY :							
DETACHED AND SEMIDETACHED	21,250	26,050	32,000	38,150	45,750	51,350	53,450
ROW DWELLINGS	18,350	22,200	27,250	32,600	38,950	43,450	45,450
WALKUP	19,550	24,550	31,050	37,050	42,500	47,000	49,250
ELEVATOR-STRUCTURE	28,800	33,450	42,250	------	------	------	------
ZANESVILLE :							
DETACHED AND SEMIDETACHED	21,300	25,800	31,900	37,750	45,700	51,150	53,100
ROW DWELLINGS	18,900	22,750	28,100	33,450	40,150	44,950	47,000
WALKUP	20,100	24,900	31,400	37,450	43,200	47,550	50,150
ELEVATOR-STRUCTURE	28,550	33,300	42,150	------	------	------	------
WISCONSIN							
MILWAUKEE :							
DETACHED AND SEMIDETACHED	24,800	30,150	37,150	44,300	53,250	58,350	62,200
ROW DWELLINGS	23,350	28,050	34,350	41,050	49,400	54,850	57,550
WALKUP	19,800	24,200	30,800	36,250	42,100	46,450	48,650
ELEVATOR-STRUCTURE	26,350	30,500	38,500	------	------	------	------
EAU CLAIRE :							
DETACHED AND SEMIDETACHED	24,100	29,100	35,850	42,950	51,550	57,550	60,050
ROW DWELLINGS	22,800	26,950	33,300	39,600	47,600	52,950	55,500
WALKUP	19,700	24,450	31,050	36,600	42,500	46,600	49,000
ELEVATOR-STRUCTURE	25,600	29,750	37,550	------	------	------	------
GREEN BAY :							
DETACHED AND SEMIDETACHED	23,050	27,800	34,250	41,050	49,100	54,950	57,550
ROW DWELLINGS	20,950	25,300	30,800	36,950	44,200	49,300	51,550
WALKUP	18,250	22,700	28,550	33,800	39,200	43,300	45,250
ELEVATOR-STRUCTURE	24,400	28,400	36,000	------	------	------	------
MADISON :							
DETACHED AND SEMIDETACHED	24,400	29,700	36,500	43,550	52,500	58,450	61,100
ROW DWELLINGS	22,350	26,800	32,850	39,150	47,050	52,650	54,850
WALKUP	19,400	23,950	30,450	36,000	41,750	46,050	48,100
ELEVATOR-STRUCTURE	26,050	30,300	38,250	------	------	------	------
REEDSVILLE :							
DETACHED AND SEMIDETACHED	23,300	28,450	34,950	41,950	50,150	56,150	58,800
ROW DWELLINGS	21,300	25,850	31,500	37,800	45,350	50,450	52,950
WALKUP	18,750	23,300	28,200	34,700	40,250	44,250	46,450
ELEVATOR-STRUCTURE	25,100	29,100	36,800	------	------	------	------
SUPERIOR :							
DETACHED AND SEMIDETACHED	25,100	30,250	37,350	44,650	53,600	59,900	62,550
ROW DWELLINGS	23,100	28,050	34,550	41,300	49,800	55,150	57,900
WALKUP	20,400	25,200	31,850	37,750	43,650	48,200	50,550
ELEVATOR-STRUCTURE	28,600	33,950	39,150	------	------	------	------
WAUSAU :							
DETACHED AND SEMIDETACHED	23,300	28,450	34,950	41,950	50,150	56,150	58,800
ROW DWELLINGS	21,250	25,750	31,350	37,700	45,050	50,350	52,800
WALKUP	18,750	23,200	28,100	34,550	39,850	44,050	46,200
ELEVATOR-STRUCTURE	24,950	28,950	36,750	------	------	------	------
REGION VI							
ARKANSAS							
LITTLE ROCK :							
DETACHED AND SEMIDETACHED	17,450	21,150	26,150	31,150	37,400	41,700	43,350
ROW DWELLINGS	15,700	18,950	23,300	27,800	33,450	37,150	39,000
WALKUP	16,600	20,700	26,150	31,050	36,000	39,800	41,600
ELEVATOR-STRUCTURE	29,350	33,950	43,250	------	------	------	------
FAYETTEVILLE :							
DETACHED AND SEMIDETACHED	17,400	20,900	25,950	30,800	37,250	41,250	43,150
ROW DWELLINGS	15,550	18,900	23,200	27,650	33,300	36,900	38,600
WALKUP	14,950	18,750	23,650	27,950	32,550	35,750	37,400
ELEVATOR-STRUCTURE	29,150	33,700	42,450	------	------	------	------
FORT SMITH :							
DETACHED AND SEMIDETACHED	16,350	19,900	24,600	29,100	35,050	39,000	40,700
ROW DWELLINGS	14,900	18,050	22,350	26,550	31,900	35,500	37,150
WALKUP	15,800	18,550	24,750	29,250	33,850	37,400	39,150
ELEVATOR-STRUCTURE	29,600	34,450	43,550	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION VI--CONTINUED							
ARKANSAS --CONTINUED							
JONESBORO							
DETACHED AND SEMIDETACHED	16,250	19,550	24,350	28,800	34,700	38,600	40,100
ROW DWELLINGS	14,700	17,700	22,150	26,050	31,400	35,250	36,550
WALKUP	15,450	19,200	24,300	28,750	33,200	36,750	38,550
ELEVATOR-STRUCTURE	28,650	33,200	42,150	------	------	------	------
TEXARKANA							
DETACHED AND SEMIDETACHED	16,800	20,250	25,050	29,850	35,900	39,800	41,550
ROW DWELLINGS	14,900	18,150	22,350	26,600	32,100	35,650	37,250
WALKUP	15,850	19,800	24,950	29,600	34,300	37,750	39,600
ELEVATOR-STRUCTURE	29,150	33,700	42,450	------	------	------	------
LOUISIANA							
NEW ORLEANS							
DETACHED AND SEMIDETACHED	17,300	21,000	25,700	30,550	37,050	41,200	42,800
ROW DWELLINGS	16,300	19,800	24,700	29,300	35,150	39,050	41,100
WALKUP	15,900	19,800	24,850	29,250	33,950	37,550	39,050
ELEVATOR-STRUCTURE	29,200	33,800	43,050	------	------	------	------
BATON ROUGE							
DETACHED AND SEMIDETACHED	18,000	22,350	27,650	32,700	39,400	44,050	45,750
ROW DWELLINGS	17,550	21,200	26,450	31,350	37,500	41,600	43,750
WALKUP	15,150	18,950	23,850	28,200	32,500	36,050	37,600
ELEVATOR-STRUCTURE	28,900	33,450	42,600	------	------	------	------
HOUMA							
DETACHED AND SEMIDETACHED	17,250	20,750	25,550	30,350	36,700	40,700	42,400
ROW DWELLINGS	16,250	19,700	24,450	29,050	34,850	38,750	40,700
WALKUP	15,550	19,500	24,250	28,800	33,400	36,950	38,550
ELEVATOR-STRUCTURE	28,900	33,450	42,600	------	------	------	------
LAFAYETTE							
DETACHED AND SEMIDETACHED	17,250	20,750	25,550	30,350	36,700	40,700	42,400
ROW DWELLINGS	16,250	19,700	24,450	29,050	34,850	38,750	40,700
WALKUP	15,750	19,750	24,450	29,050	33,750	37,150	38,900
ELEVATOR-STRUCTURE	28,900	33,450	42,600	------	------	------	------
LAKE CHARLES							
DETACHED AND SEMIDETACHED	18,550	22,350	27,550	32,700	39,400	43,850	45,750
ROW DWELLINGS	17,500	21,150	26,450	31,350	37,500	41,600	43,750
WALKUP	16,000	20,050	25,200	29,800	34,500	38,250	39,900
ELEVATOR-STRUCTURE	29,200	33,800	43,050	------	------	------	------
SHREVEPORT							
DETACHED AND SEMIDETACHED	18,000	21,500	26,750	31,650	38,300	42,750	44,500
ROW DWELLINGS	16,500	20,200	24,950	29,700	35,850	39,750	41,500
WALKUP	14,500	18,050	22,950	27,150	31,350	34,750	36,450
ELEVATOR-STRUCTURE	29,250	34,000	43,050	------	------	------	------
ALEXANDRIA							
DETACHED AND SEMIDETACHED	16,350	19,500	24,250	28,900	34,600	38,700	40,450
ROW DWELLINGS	15,950	18,400	22,750	27,100	32,450	36,250	37,900
WALKUP	14,100	17,500	22,250	26,300	30,450	33,550	35,350
ELEVATOR-STRUCTURE	28,400	33,000	41,600	------	------	------	------
MARSHALL							
DETACHED AND SEMIDETACHED	16,400	19,550	24,350	29,000	34,800	38,850	40,500
ROW DWELLINGS	15,400	18,750	23,100	27,550	33,100	36,900	38,500
WALKUP	14,050	17,450	22,150	26,050	30,300	33,500	34,900
ELEVATOR-STRUCTURE	27,100	31,500	39,950	------	------	------	------
MONROE							
DETACHED AND SEMIDETACHED	16,200	19,400	23,950	28,550	34,400	38,450	39,950
ROW DWELLINGS	15,150	18,350	22,600	27,000	32,400	36,100	37,650
WALKUP	14,500	17,950	22,750	26,950	31,200	34,350	36,150
ELEVATOR-STRUCTURE	[illegible],000	33,550	42,800	------	------	------	------
NEW MEXICO							
ALBUQUERQUE							
DETACHED AND SEMIDETACHED	18,350	22,000	24,550	29,200	35,100	39,300	40,950
ROW DWELLINGS	17,000	20,300	22,600	27,050	32,300	36,000	37,850
WALKUP	14,700	18,200	20,650	24,400	28,400	31,100	32,700
ELEVATOR-STRUCTURE	25,750	30,050	38,050	------	------	------	------
ALAMOGORDO							
DETACHED AND SEMIDETACHED	19,300	22,950	25,700	30,550	36,800	41,100	42,850
ROW DWELLINGS	17,650	21,150	23,550	28,100	33,550	37,350	39,250
WALKUP	15,250	18,950	21,400	25,300	29,350	32,350	34,000
ELEVATOR-STRUCTURE	24,250	28,200	35,550	------	------	------	------
ARTESIA							
DETACHED AND SEMIDETACHED	19,300	22,950	25,600	30,500	36,800	41,050	42,500
ROW DWELLINGS	17,650	21,150	23,600	28,300	33,700	37,500	39,350
WALKUP	15,350	19,000	21,400	25,700	29,550	32,650	34,100
ELEVATOR-STRUCTURE	24,600	28,600	36,200	------	------	------	------
CARLSBAD							
DETACHED AND SEMIDETACHED	19,500	23,450	26,100	31,100	37,400	41,700	43,350
ROW DWELLINGS	17,900	21,600	24,050	28,800	34,250	38,200	40,100
WALKUP	15,200	19,000	21,400	25,300	29,350	32,400	33,950
ELEVATOR-STRUCTURE	24,600	28,600	36,200	------	------	------	------
CLOVIS							
DETACHED AND SEMIDETACHED	19,300	22,950	25,600	30,500	36,800	41,050	42,500
ROW DWELLINGS	17,650	21,150	23,600	28,300	33,700	37,500	39,350
WALKUP	15,200	18,850	21,200	25,300	29,250	32,250	33,750
ELEVATOR-STRUCTURE	24,350	28,250	35,550	------	------	------	------
FORT SUMNER							
DETACHED AND SEMIDETACHED	19,850	24,000	26,750	31,750	38,300	42,800	44,550
ROW DWELLINGS	18,450	22,150	24,600	29,300	35,150	39,050	41,050
WALKUP	16,000	19,800	22,300	26,550	30,700	33,750	35,550
ELEVATOR-STRUCTURE	25,300	29,550	37,250	------	------	------	------
GALLUP							
DETACHED AND SEMIDETACHED	21,000	25,200	28,200	33,450	40,400	45,100	46,900
ROW DWELLINGS	19,050	22,700	25,450	30,200	36,150	40,250	42,200
WALKUP	16,350	20,400	23,050	27,400	31,750	34,900	36,500
ELEVATOR-STRUCTURE	25,900	30,350	38,150	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION VI--CONTINUED							
NEW MEXICO --CONTINUED							
HOBBS							
DETACHED AND SEMIDETACHED	19,300	22,950	25,600	30,500	36,800	41,050	42,500
ROW DWELLINGS	17,650	21,150	23,600	28,300	33,700	37,500	39,350
WALKUP	15,350	19,000	21,400	25,700	29,550	32,650	34,100
ELEVATOR-STRUCTURE	24,350	28,250	35,550	------	------	------	------
LAS CRUCES							
DETACHED AND SEMIDETACHED	19,300	22,950	25,600	30,500	36,800	41,050	42,500
ROW DWELLINGS	17,650	21,150	23,600	28,300	33,700	37,500	39,350
WALKUP	15,650	19,500	21,800	26,050	30,050	33,150	34,750
ELEVATOR-STRUCTURE	24,350	28,250	35,550	------	------	------	------
LAS VEGAS							
DETACHED AND SEMIDETACHED	19,700	23,750	26,450	31,400	37,900	42,300	44,050
ROW DWELLINGS	18,600	22,200	24,650	29,550	35,250	39,300	41,100
WALKUP	16,000	19,800	22,400	26,600	30,700	33,950	35,650
ELEVATOR-STRUCTURE	25,300	29,350	37,250	------	------	------	------
LOS ALAMOS							
DETACHED AND SEMIDETACHED	20,[illegible]	24,600	27,400	32,450	39,300	43,900	45,700
ROW DWELLINGS	19,050	22,700	25,450	30,200	36,200	40,250	42,250
WALKUP	16,450	20,400	23,050	27,350	31,550	34,850	36,500
ELEVATOR-STRUCTURE	25,[illegible]	30,200	38,100	------	------	------	------
RATON							
DETACHED AND SEMIDETACHED	19,550	23,500	26,200	31,150	37,550	41,950	43,650
ROW DWELLINGS	18,600	22,200	24,650	29,550	35,250	39,300	41,100
WALKUP	16,000	19,800	22,400	26,600	30,700	33,950	35,650
ELEVATOR-STRUCTURE	25,300	29,350	37,250	------	------	------	------
SANTA FE							
DETACHED AND SEMIDETACHED	19,600	23,500	26,300	31,200	37,600	42,100	43,750
ROW DWELLINGS	18,600	22,200	24,650	29,550	35,250	39,300	41,100
WALKUP	16,000	19,800	22,400	26,600	30,700	33,950	35,650
ELEVATOR-STRUCTURE	25,300	29,350	37,250	------	------	------	------
SILVER CITY							
DETACHED AND SEMIDETACHED	20,250	24,550	27,250	32,300	39,150	43,650	45,350
ROW DWELLINGS	18,800	22,550	25,150	29,950	35,900	39,900	41,950
WALKUP	16,300	20,300	22,950	27,050	31,350	34,600	36,250
ELEVATOR-STRUCTURE	25,750	29,950	37,950	------	------	------	------
TRUTH OR CONSEQUENCES							
DETACHED AND SEMIDETACHED	19,000	22,650	25,500	30,200	36,400	40,600	42,200
ROW DWELLINGS	17,600	20,900	23,500	28,050	33,350	37,250	38,900
WALKUP	15,200	18,850	21,350	25,250	29,300	32,250	33,750
ELEVATOR-STRUCTURE	23,900	27,950	35,300	------	------	------	------
FARMINGTON							
DETACHED AND SEMIDETACHED	20,[illegible]	24,600	27,500	32,700	39,400	44,050	45,800
ROW DWELLINGS	19,050	22,700	25,450	30,200	36,150	40,250	42,200
WALKUP	16,350	20,400	23,050	27,400	31,750	34,900	36,500
ELEVATOR-STRUCTURE	25,900	30,350	38,150	------	------	------	------
TERRA AMARILLO							
DETACHED AND SEMIDETACHED	20,[illegible]	24,600	27,400	32,450	39,300	43,900	45,700
ROW DWELLINGS	19,050	22,700	25,450	30,200	36,200	40,250	42,250
WALKUP	16,450	20,400	23,050	27,350	31,550	34,850	36,500
ELEVATOR-STRUCTURE	25,850	30,200	38,100	------	------	------	------
TAOS							
DETACHED AND SEMIDETACHED	23,200	27,700	30,950	36,750	44,500	49,550	51,500
ROW DWELLINGS	21,500	25,850	28,750	34,100	41,050	45,550	47,800
WALKUP	18,300	22,550	25,700	30,250	35,100	38,600	40,600
ELEVATOR-STRUCTURE	25,700	30,050	37,900	------	------	------	------
SOCORRO							
DETACHED AND SEMIDETACHED	19,000	22,650	25,500	30,200	36,400	40,600	42,200
ROW DWELLINGS	17,600	20,900	23,500	28,050	33,350	37,250	38,900
WALKUP	15,200	18,850	21,350	25,250	29,300	32,250	33,750
ELEVATOR-STRUCTURE	23,[illegible]	27,950	35,300	------	------	------	------
RUIDOSO							
DETACHED AND SEMIDETACHED	20,[illegible]	24,600	27,400	32,450	39,300	43,900	45,700
ROW DWELLINGS	19,050	22,700	25,450	30,200	36,200	40,250	42,250
WALKUP	16,450	20,400	23,050	27,350	31,550	34,850	36,500
ELEVATOR-STRUCTURE	25,[illegible]	30,200	38,100	------	------	------	------
OKLAHOMA							
OKLAHOMA CITY							
DETACHED AND SEMIDETACHED	18,700	22,550	28,000	33,350	40,050	44,700	46,650
ROW DWELLINGS	16,050	19,350	23,750	28,400	34,050	38,050	39,650
WALKUP	15,500	18,250	24,450	28,950	33,700	37,000	38,850
ELEVATOR-STRUCTURE	26,500	30,[illegible]	39,050	------	------	------	------
ADA							
DETACHED AND SEMIDETACHED	19,050	22,700	28,300	33,650	40,500	45,250	47,050
ROW DWELLINGS	16,700	[illegible],200	24,950	29,750	35,550	39,650	41,500
WALKUP	16,150	20,350	25,600	30,350	35,350	38,750	40,700
ELEVATOR-STRUCTURE	26,850	31,050	39,250	------	------	------	------
ARDMORE							
DETACHED AND SEMIDETACHED	18,950	22,700	28,300	33,650	40,500	45,150	47,100
ROW DWELLINGS	17,250	20,700	25,500	30,400	36,500	40,700	42,450
WALKUP	17,100	21,200	26,800	31,750	36,900	40,700	42,550
ELEVATOR-STRUCTURE	27,250	31,600	39,950	------	------	------	------
ENID							
DETACHED AND SEMIDETACHED	19,500	23,[illegible]	28,950	34,650	41,650	46,400	48,300
ROW DWELLINGS	17,000	20,550	25,150	30,150	36,150	40,250	42,100
WALKUP	15,650	19,600	24,550	29,350	34,100	37,500	39,250
ELEVATOR-STRUCTURE	27,700	31,[illegible]	40,500	------	------	------	------
GUYMON							
DETACHED AND SEMIDETACHED	19,850	23,[illegible]	29,800	35,300	42,450	47,500	49,450
ROW DWELLINGS	17,400	20,800	25,600	30,550	36,750	40,950	42,700
WALKUP	16,850	[illegible],700	26,350	31,200	[illegible],200	40,050	41,950
ELEVATOR-STRUCTURE	28,100	32,700	41,250	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION VI--CONTINUED							
OKLAHOMA --CONTINUED							
LAWTON :							
DETACHED AND SEMIDETACHED	18,[illegible]	22,850	28,200	33,650	40,550	45,150	47,050
ROW DWELLINGS	16,350	19,700	24,150	28,900	34,700	38,650	40,450
WALKUP	15,650	19,750	24,900	29,400	34,200	37,600	39,600
ELEVATOR-STRUCTURE	26,[illegible]	31,100	39,350	------	------	------	------
SHAWNEE :							
DETACHED AND SEMIDETACHED	19,[illegible]	22,950	28,550	34,000	40,900	45,700	47,600
ROW DWELLINGS	16,700	20,200	24,950	29,750	35,550	39,650	41,500
WALKUP	16,150	20,350	25,600	30,350	35,350	38,750	40,700
ELEVATOR-STRUCTURE	27,100	31,400	39,600	------	------	------	------
STILLWATER :							
DETACHED AND SEMIDETACHED	19,300	22,950	28,550	34,000	40,900	45,700	47,600
ROW DWELLINGS	16,700	20,200	24,950	29,750	35,550	39,650	41,500
WALKUP	16,150	20,350	25,600	30,350	35,350	38,750	40,700
ELEVATOR-STRUCTURE	27,100	31,400	39,600	------	------	------	------
WOODWARD :							
DETACHED AND SEMIDETACHED	19,650	23,500	29,250	35,000	42,100	46,850	48,750
ROW DWELLINGS	17,000	20,550	25,150	30,150	36,150	40,250	42,100
WALKUP	16,450	20,550	25,300	30,750	35,750	39,300	41,300
ELEVATOR-STRUCTURE	27,950	32,100	40,800	------	------	------	------
TULSA :							
DETACHED AND SEMIDETACHED	18,550	22,500	27,950	33,100	39,950	44,350	46,300
ROW DWELLINGS	16,350	19,950	24,450	29,050	34,900	38,900	40,750
WALKUP	15,900	19,850	25,000	29,600	34,450	37,950	39,800
ELEVATOR-STRUCTURE	26,900	31,050	39,300	------	------	------	------
BARTLESVILLE :							
DETACHED AND SEMIDETACHED	19,350	23,350	28,900	34,450	41,300	46,050	48,100
ROW DWELLINGS	17,200	20,900	25,600	30,900	36,600	40,800	42,750
WALKUP	16,000	20,050	25,100	29,850	34,800	38,250	40,050
ELEVATOR-STRUCTURE	28,000	32,250	40,900	------	------	------	------
MCALESTER :							
DETACHED AND SEMIDETACHED	19,300	23,050	28,600	34,100	40,850	45,600	47,500
ROW DWELLINGS	17,200	20,700	25,600	30,550	36,600	40,800	42,700
WALKUP	15,550	19,500	24,500	29,000	33,650	36,900	38,800
ELEVATOR-STRUCTURE	27,600	32,150	40,700	------	------	------	------
MUSKOGEE :							
DETACHED AND SEMIDETACHED	19,250	23,150	28,800	34,100	41,050	45,750	47,750
ROW DWELLINGS	17,750	21,500	26,700	31,700	37,950	42,500	44,300
WALKUP	15,900	19,850	24,900	29,500	34,350	37,750	39,700
ELEVATOR-STRUCTURE	27,650	32,100	40,700	------	------	------	------
TEXAS							
DALLAS :							
DETACHED AND SEMIDETACHED	16,900	20,450	25,200	30,100	36,200	40,400	42,100
ROW DWELLINGS	14,900	17,750	22,150	26,400	31,[illegible]	35,450	37,000
WALKUP	14,400	18,000	22,700	26,[illegible]	31,250	34,200	35,900
ELEVATOR-STRUCTURE	25,750	29,900	37,950	------	------	------	------
SHERMAN :							
DETACHED AND SEMIDETACHED	17,200	20,750	25,600	30,550	36,750	40,750	42,750
ROW DWELLINGS	14,750	17,750	22,100	26,250	31,[illegible]	35,300	36,950
WALKUP	14,400	18,000	22,650	26,[illegible]	31,250	34,100	35,850
ELEVATOR-STRUCTURE	26,200	30,600	38,550	------	------	------	------
TYLER :							
DETACHED AND SEMIDETACHED	16,300	19,800	24,400	29,[illegible]	35,100	38,950	40,650
ROW DWELLINGS	14,600	17,500	21,750	[illegible]	31,100	34,600	36,150
WALKUP	13,600	16,900	21,450	25,250	29,250	32,100	34,000
ELEVATOR-STRUCTURE	26,700	31,150	39,450	------	------	------	------
WACO :							
DETACHED AND SEMIDETACHED	16,250	19,650	24,350	[illegible]	34,950	[illegible]	40,600
ROW DWELLINGS	14,450	17,400	21,550	25,750	[illegible]	34,400	36,000
WALKUP	13,600	17,000	21,450	25,250	[illegible]	32,100	33,[illegible]
ELEVATOR-STRUCTURE	26,750	30,350	[illegible]	------	------	------	------
FORT WORTH :							
DETACHED AND SEMIDETACHED	16,850	20,100	25,050	[illegible]	[illegible]	40,[illegible]	41,750
ROW DWELLINGS	14,750	17,650	21,950	[illegible]	31,350	35,050	36,700
WALKUP	14,300	17,750	22,[illegible]	[illegible]	[illegible]	34,[illegible]	35,500
ELEVATOR-STRUCTURE	[illegible]	32,750	41,600	------	------	------	------
ABILENE :							
DETACHED AND SEMIDETACHED	17,500	[illegible]	26,000	[illegible]	37,250	41,650	43,150
ROW DWELLINGS	15,250	18,200	22,650	27,000	32,500	36,350	37,750
WALKUP	13,450	16,850	21,300	25,[illegible]	29,[illegible]	32,100	33,550
ELEVATOR-STRUCTURE	29,300	33,900	43,000	------	------	------	------
SAN ANGELO :							
DETACHED AND SEMIDETACHED	17,200	20,750	25,[illegible]	[illegible]	[illegible]	41,[illegible]	43,150
ROW DWELLINGS	15,400	18,350	22,[illegible]	27,100	32,750	36,550	38,200
WALKUP	14,050	17,400	21,950	26,150	[illegible]	33,350	34,900
ELEVATOR-STRUCTURE	29,500	34,300	43,300	------	------	------	------
WICHITA FALLS :							
DETACHED AND SEMIDETACHED	17,500	20,850	26,100	[illegible]	37,200	41,[illegible]	43,350
ROW DWELLINGS	15,400	18,350	22,800	27,100	32,750	36,550	38,200
WALKUP	15,600	19,550	24,650	29,200	34,050	37,400	39,050
ELEVATOR-STRUCTURE	29,500	34,300	43,300	------	------	------	------
HOUSTON :							
DETACHED AND SEMIDETACHED	17,700	21,400	26,300	31,300	37,700	42,150	43,[illegible]
ROW DWELLINGS	15,450	[illegible]	23,100	27,400	32,950	36,[illegible]	[illegible]
WALKUP	14,150	17,[illegible]	22,400	[illegible]	30,700	33,950	35,[illegible]
ELEVATOR-STRUCTURE	27,950	32,700	41,150	------	------	------	------
BEAUMONT :							
DETACHED AND SEMIDETACHED	[illegible]	21,900	27,100	32,100	38,850	43,250	45,100
ROW DWELLINGS	15,750	19,100	23,550	[illegible]	33,750	37,550	[illegible]
WALKUP	14,450	18,150	22,850	27,100	31,300	34,600	36,150
ELEVATOR-STRUCTURE	28,750	33,500	42,300	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION VI--CONTINUED							
TEXAS --CONTINUED							
BRYAN							
DETACHED AND SEMIDETACHED	20,950	25,300	31,250	37,150	44,850	50,050	51,900
ROW DWELLINGS	16,600	20,150	24,900	29,550	35,450	39,450	41,250
WALKUP	13,100	16,350	20,650	24,500	28,400	31,300	32,800
ELEVATOR-STRUCTURE	27,550	32,200	40,550	------	------	------	------
EL CAMPO							
DETACHED AND SEMIDETACHED	19,450	23,300	28,700	34,100	41,250	45,900	48,000
ROW DWELLINGS	15,250	18,600	22,900	27,150	32,750	36,350	38,100
WALKUP	14,750	18,350	23,150	27,400	31,750	34,950	36,850
ELEVATOR-STRUCTURE	27,800	32,350	40,850	------	------	------	------
LUFKIN							
DETACHED AND SEMIDETACHED	19,050	23,000	28,400	33,800	40,700	45,400	47,600
ROW DWELLINGS	16,600	20,150	25,200	29,600	35,550	39,500	41,350
WALKUP	14,150	17,800	22,450	26,750	30,900	34,100	35,750
ELEVATOR-STRUCTURE	27,950	32,700	41,150	------	------	------	------
TEXAS CITY							
DETACHED AND SEMIDETACHED	17,700	21,400	26,300	31,300	37,700	42,150	43,900
ROW DWELLINGS	15,450	18,650	23,100	27,400	32,950	36,600	38,350
WALKUP	14,850	18,550	23,450	27,750	32,150	35,550	37,250
ELEVATOR-STRUCTURE	27,950	32,700	41,150	------	------	------	------
LUBBOCK							
DETACHED AND SEMIDETACHED	17,200	20,600	25,600	30,550	36,750	40,900	42,600
ROW DWELLINGS	14,850	17,800	22,300	26,400	31,650	35,350	37,000
WALKUP	14,500	18,250	22,900	27,150	31,450	34,450	36,150
ELEVATOR-STRUCTURE	24,750	28,750	36,450	------	------	------	------
AMARILLO							
DETACHED AND SEMIDETACHED	17,150	20,650	25,750	30,700	37,000	41,150	42,850
ROW DWELLINGS	15,850	19,000	23,600	28,050	33,750	37,650	39,250
WALKUP	15,300	19,100	24,150	28,500	33,200	36,500	38,250
ELEVATOR-STRUCTURE	25,300	29,400	37,200	------	------	------	------
EL PASO							
DETACHED AND SEMIDETACHED	17,200	20,500	25,500	30,300	36,550	40,750	42,550
ROW DWELLINGS	16,550	19,600	24,550	29,150	35,050	39,300	40,800
WALKUP	15,700	19,450	24,600	29,050	33,700	37,050	38,800
ELEVATOR-STRUCTURE	24,100	28,150	35,650	------	------	------	------
MIDLAND							
DETACHED AND SEMIDETACHED	16,300	19,750	24,450	29,350	35,150	39,150	40,900
ROW DWELLINGS	14,500	17,550	21,600	25,900	30,950	34,650	36,250
WALKUP	14,400	18,150	22,850	26,950	31,400	34,400	36,100
ELEVATOR-STRUCTURE	23,650	27,350	34,750	------	------	------	------
ODESSA							
DETACHED AND SEMIDETACHED	16,350	19,800	24,450	29,400	35,150	39,200	40,950
ROW DWELLINGS	14,600	17,500	21,650	25,800	30,950	34,600	36,150
WALKUP	14,500	18,000	22,850	27,100	31,350	34,400	36,150
ELEVATOR-STRUCTURE	23,650	27,350	34,750	------	------	------	------
SAN ANTONIO							
DETACHED AND SEMIDETACHED	16,100	19,300	23,950	28,650	34,450	38,300	39,950
ROW DWELLINGS	18,050	17,600	21,450	25,750	30,900	34,500	35,750
WALKUP	13,550	17,000	21,400	25,300	29,500	32,400	33,900
ELEVATOR-STRUCTURE	23,800	27,700	35,150	------	------	------	------
AUSTIN							
DETACHED AND SEMIDETACHED	16,750	20,100	24,800	29,600	35,700	39,700	41,350
ROW DWELLINGS	15,000	18,100	22,300	26,550	31,900	35,650	37,150
WALKUP	13,300	16,850	21,000	25,150	29,150	31,850	33,600
ELEVATOR-STRUCTURE	20,850	24,150	30,650	------	------	------	------
CORPUS CHRISTI							
DETACHED AND SEMIDETACHED	17,450	20,950	26,200	31,100	37,350	41,650	43,250
ROW DWELLINGS	15,750	19,150	23,750	28,150	33,850	37,750	39,250
WALKUP	14,600	18,150	23,000	27,050	31,300	34,500	36,300
ELEVATOR-STRUCTURE	19,400	22,500	28,750	------	------	------	------
DEL RIO							
DETACHED AND SEMIDETACHED	15,800	18,950	23,500	28,150	33,750	37,650	39,050
ROW DWELLINGS	14,400	17,350	21,450	25,550	30,650	34,150	35,600
WALKUP	13,550	16,950	21,400	25,300	29,500	32,400	34,000
ELEVATOR-STRUCTURE	21,850	25,350	32,300	------	------	------	------
EAGLE PASS							
DETACHED AND SEMIDETACHED	18,550	22,200	27,500	32,850	39,550	43,950	45,650
ROW DWELLINGS	14,900	18,050	22,250	26,500	31,850	35,550	36,900
WALKUP	13,900	17,650	22,100	26,350	30,550	33,600	35,200
ELEVATOR-STRUCTURE	22,300	26,050	32,950	------	------	------	------
HARLINGEN							
DETACHED AND SEMIDETACHED	17,450	20,950	25,950	31,100	37,300	41,600	43,250
ROW DWELLINGS	15,000	18,050	22,300	26,750	31,850	35,650	37,150
WALKUP	13,900	17,650	22,200	26,350	30,600	33,700	35,400
ELEVATOR-STRUCTURE	20,800	23,950	30,450	------	------	------	------
JUNCTION							
DETACHED AND SEMIDETACHED	17,350	20,900	25,850	30,700	37,000	41,200	42,800
ROW DWELLINGS	15,000	18,250	22,500	26,850	32,350	36,000	37,500
WALKUP	14,150	17,750	22,350	26,700	30,900	34,000	35,700
ELEVATOR-STRUCTURE	22,700	26,450	33,400	------	------	------	------
LAREDO							
DETACHED AND SEMIDETACHED	17,350	20,750	25,800	30,700	36,800	41,100	42,700
ROW DWELLINGS	15,350	18,700	23,050	27,550	32,950	36,800	38,250
WALKUP	13,400	16,850	21,150	25,100	29,250	32,050	33,750
ELEVATOR-STRUCTURE	21,850	25,350	32,300	------	------	------	------
VICTORIA							
DETACHED AND SEMIDETACHED	16,250	19,700	24,300	29,050	34,800	38,750	40,350
ROW DWELLINGS	15,300	18,600	22,950	27,250	32,900	36,700	38,200
WALKUP	14,400	18,100	22,750	27,050	31,450	34,500	36,300
ELEVATOR-STRUCTURE	22,550	26,300	33,300	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION VII							
IOWA							
DES MOINES :							
DETACHED AND SEMIDETACHED	19,500	23,650	29,100	34,750	41,850	46,350	48,600
ROW DWELLINGS	18,650	22,450	27,600	32,900	39,600	44,000	46,000
WALKUP	18,200	22,800	28,900	34,250	39,600	43,450	45,750
ELEVATOR-STRUCTURE	26,350	30,450	38,700	------	------	------	------
BETTENDORF :							
DETACHED AND SEMIDETACHED	20,350	24,600	30,300	36,250	43,600	48,500	50,700
ROW DWELLINGS	19,400	23,300	28,700	34,100	41,250	45,950	47,900
WALKUP	19,100	23,700	30,150	35,500	41,200	45,300	47,650
ELEVATOR-STRUCTURE	27,200	31,500	39,850	------	------	------	------
CEDAR RAPIDS :							
DETACHED AND SEMIDETACHED	20,250	24,400	30,200	35,750	43,100	48,000	50,100
ROW DWELLINGS	19,300	23,250	28,450	33,900	40,850	45,550	47,600
WALKUP	18,250	22,700	28,850	35,350	40,900	43,300	45,450
ELEVATOR-STRUCTURE	27,000	31,300	39,700	------	------	------	------
COUNCIL BLUFFS :							
DETACHED AND SEMIDETACHED	19,600	23,650	29,100	34,750	41,950	46,400	48,600
ROW DWELLINGS	18,600	22,400	27,600	33,150	39,650	44,350	46,200
WALKUP	18,150	22,700	28,900	34,150	39,500	43,500	45,650
ELEVATOR-STRUCTURE	26,400	30,700	38,700	------	------	------	------
DAVENPORT :							
DETACHED AND SEMIDETACHED	20,250	24,400	30,200	35,750	43,100	48,000	50,100
ROW DWELLINGS	19,250	23,250	28,500	33,950	40,800	45,550	47,550
WALKUP	19,000	23,600	29,950	36,750	42,600	45,100	47,350
ELEVATOR-STRUCTURE	27,200	31,500	39,850	------	------	------	------
DUBUQUE :							
DETACHED AND SEMIDETACHED	20,250	24,400	30,200	35,750	43,100	48,000	50,100
ROW DWELLINGS	19,250	23,250	28,500	33,950	40,800	45,550	47,550
WALKUP	19,000	23,600	29,950	36,750	42,600	45,100	47,350
ELEVATOR-STRUCTURE	26,650	31,100	39,350	------	------	------	------
MASON CITY :							
DETACHED AND SEMIDETACHED	20,250	24,400	30,200	35,750	43,100	48,000	50,100
ROW DWELLINGS	19,250	23,250	28,500	33,950	40,800	45,550	47,550
WALKUP	18,850	23,550	29,950	36,900	42,650	45,100	47,450
ELEVATOR-STRUCTURE	26,650	31,100	39,350	------	------	------	------
SIOUX CITY :							
DETACHED AND SEMIDETACHED	20,250	24,400	30,200	35,750	43,100	48,000	50,100
ROW DWELLINGS	19,100	22,950	28,300	33,750	40,600	45,300	47,250
WALKUP	18,850	23,350	29,700	36,650	42,350	44,850	47,100
ELEVATOR-STRUCTURE	26,650	31,100	39,350	------	------	------	------
WATERLOO :							
DETACHED AND SEMIDETACHED	20,250	24,400	30,200	35,750	43,100	48,000	50,100
ROW DWELLINGS	19,250	23,250	28,500	33,950	40,800	45,550	47,550
WALKUP	19,000	23,600	29,950	36,750	42,600	45,100	47,350
ELEVATOR-STRUCTURE	26,650	31,100	39,350	------	------	------	------
KANSAS							
KANSAS CITY :							
DETACHED AND SEMIDETACHED	20,600	25,000	30,800	36,600	44,100	49,000	51,300
ROW DWELLINGS	18,500	22,150	27,350	32,600	39,250	43,600	45,550
WALKUP	19,400	23,950	30,600	36,100	41,800	46,150	48,500
ELEVATOR-STRUCTURE	29,050	33,600	42,550	------	------	------	------
TOPEKA :							
DETACHED AND SEMIDETACHED	19,450	23,400	29,000	34,450	41,550	46,250	48,350
ROW DWELLINGS	18,750	22,350	27,750	32,950	39,700	44,350	46,350
WALKUP	18,100	22,800	29,000	34,050	39,450	43,750	45,650
ELEVATOR-STRUCTURE	26,550	30,700	38,850	------	------	------	------
GARDEN CITY :							
DETACHED AND SEMIDETACHED	18,150	21,900	27,100	32,250	38,900	43,150	45,250
ROW DWELLINGS	17,500	21,000	25,900	30,900	37,150	41,600	43,200
WALKUP	17,200	21,300	26,950	32,000	37,100	40,850	42,850
ELEVATOR-STRUCTURE	24,900	28,750	36,300	------	------	------	------
PITTSBURG :							
DETACHED AND SEMIDETACHED	17,850	21,550	26,650	31,750	38,200	42,450	44,450
ROW DWELLINGS	17,250	20,650	25,500	30,200	36,550	40,800	42,550
WALKUP	16,750	20,950	26,550	31,250	36,400	40,200	42,050
ELEVATOR-STRUCTURE	24,250	28,200	35,600	------	------	------	------
SALINA :							
DETACHED AND SEMIDETACHED	17,850	21,550	26,650	31,900	38,400	42,500	44,650
ROW DWELLINGS	17,300	20,700	25,700	30,400	36,600	40,900	42,750
WALKUP	16,850	21,000	26,800	31,400	36,550	40,200	42,100
ELEVATOR-STRUCTURE	24,500	28,300	35,700	------	------	------	------
WICHITA :							
DETACHED AND SEMIDETACHED	18,750	22,600	28,150	33,350	40,150	44,700	46,900
ROW DWELLINGS	17,950	21,600	26,850	31,750	38,450	42,800	44,650
WALKUP	17,550	22,050	27,950	32,950	38,200	42,100	44,150
ELEVATOR-STRUCTURE	24,250	28,200	35,600	------	------	------	------
MISSOURI							
KANSAS CITY :							
DETACHED AND SEMIDETACHED	20,600	25,000	30,800	36,600	44,100	49,000	51,300
ROW DWELLINGS	21,250	25,450	31,550	37,450	45,050	50,200	52,400
WALKUP	19,400	24,050	30,600	36,100	41,800	46,150	48,600
ELEVATOR-STRUCTURE	29,050	33,600	42,550	------	------	------	------
JOPLIN :							
DETACHED AND SEMIDETACHED	19,100	23,100	28,700	34,000	40,950	45,700	47,750
ROW DWELLINGS	19,850	23,650	29,350	35,050	42,100	46,850	48,850
WALKUP	18,150	22,350	28,600	33,650	39,050	42,900	45,200
ELEVATOR-STRUCTURE	27,050	31,400	39,700	------	------	------	------
ST. JOSEPH :							
DETACHED AND SEMIDETACHED	19,900	23,850	29,400	35,050	42,250	47,100	49,300
ROW DWELLINGS	20,500	24,400	30,200	35,850	43,300	48,250	50,250
WALKUP	18,650	23,250	29,450	34,750	40,450	44,450	46,750
ELEVATOR-STRUCTURE	27,800	32,250	40,850	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION VII--CONTINUED							
MISSOURI --CONTINUED							
SEDALIA							
DETACHED AND SEMIDETACHED	19,900	23,850	29,400	35,050	42,250	47,100	49,300
ROW DWELLINGS	20,500	24,400	30,200	35,850	43,300	48,250	50,250
WALKUP	18,650	23,250	29,450	34,750	40,450	44,450	46,750
ELEVATOR-STRUCTURE	27,800	32,250	40,850	------	------	------	------
SPRINGFIELD							
DETACHED AND SEMIDETACHED	20,000	23,950	29,650	35,350	42,650	47,400	49,550
ROW DWELLINGS	20,550	24,550	30,450	36,250	43,700	48,600	50,650
WALKUP	17,750	22,100	27,850	32,900	38,300	42,200	44,100
ELEVATOR-STRUCTURE	27,550	32,050	40,550	------	------	------	------
ST LOUIS							
DETACHED AND SEMIDETACHED	20,950	25,300	31,150	37,150	44,750	49,750	52,050
ROW DWELLINGS	21,400	25,450	31,700	37,750	45,450	50,800	52,850
WALKUP	20,300	25,350	31,950	37,850	44,000	48,300	50,600
ELEVATOR-STRUCTURE	28,600	33,150	41,850	------	------	------	------
CAPE GIRARDEAU							
DETACHED AND SEMIDETACHED	19,750	23,950	29,700	35,350	42,600	47,550	49,700
ROW DWELLINGS	20,550	24,450	30,200	36,050	43,100	48,100	50,300
WALKUP	19,350	24,100	30,250	36,050	41,950	45,850	48,300
ELEVATOR-STRUCTURE	27,400	31,700	40,000	------	------	------	------
COLUMBIA							
DETACHED AND SEMIDETACHED	20,600	24,800	30,700	36,700	44,150	49,000	51,350
ROW DWELLINGS	20,950	25,150	31,050	37,100	44,500	49,700	51,850
WALKUP	20,100	25,000	31,500	37,450	43,500	47,550	49,800
ELEVATOR-STRUCTURE	27,400	31,700	40,150	------	------	------	------
KIRKSVILLE							
DETACHED AND SEMIDETACHED	20,600	24,800	30,700	36,700	44,150	49,000	51,350
ROW DWELLINGS	20,950	25,150	31,050	37,100	44,500	49,700	51,850
WALKUP	20,200	25,050	31,750	37,600	43,650	48,000	50,300
ELEVATOR-STRUCTURE	27,400	31,700	40,150	------	------	------	------
ROLLA							
DETACHED AND SEMIDETACHED	18,700	22,600	28,050	33,300	40,000	44,450	46,550
ROW DWELLINGS	19,150	22,950	28,450	33,700	40,750	45,450	47,450
WALKUP	18,250	22,600	28,650	33,850	39,400	43,250	45,350
ELEVATOR-STRUCTURE	25,150	29,100	36,750	------	------	------	------
NEBRASKA							
OMAHA							
DETACHED AND SEMIDETACHED	20,600	24,800	30,550	36,550	43,950	48,800	51,050
ROW DWELLINGS	18,000	21,600	26,650	31,800	38,450	42,600	44,450
WALKUP	19,150	23,900	30,250	35,750	41,400	45,600	47,850
ELEVATOR-STRUCTURE	27,250	31,700	40,100	------	------	------	------
GRAND ISLAND							
DETACHED AND SEMIDETACHED	21,600	25,900	31,850	37,900	45,850	50,850	53,350
ROW DWELLINGS	19,000	22,900	28,350	33,750	40,750	45,150	47,200
WALKUP	19,850	24,950	31,650	37,250	43,300	47,550	49,950
ELEVATOR-STRUCTURE	28,200	32,800	41,250	------	------	------	------
LINCOLN							
DETACHED AND SEMIDETACHED	20,450	24,750	30,350	36,350	43,600	48,450	50,850
ROW DWELLINGS	18,150	21,850	26,750	32,000	38,600	42,750	44,700
WALKUP	18,250	22,650	28,650	34,050	39,350	43,500	45,550
ELEVATOR-STRUCTURE	27,000	31,250	39,250	------	------	------	------
MACY							
DETACHED AND SEMIDETACHED	24,600	29,600	36,600	43,650	52,600	58,850	61,400
ROW DWELLINGS	21,500	26,000	32,050	38,300	45,900	51,150	53,250
WALKUP	22,450	27,900	35,350	41,900	48,600	53,850	54,750
ELEVATOR-STRUCTURE	32,350	37,400	47,300	------	------	------	------
NORFOLK							
DETACHED AND SEMIDETACHED	20,850	25,150	31,100	37,050	44,650	49,850	52,050
ROW DWELLINGS	18,300	22,000	27,150	32,400	38,900	43,350	45,150
WALKUP	18,900	23,400	29,700	35,050	40,850	45,200	47,250
ELEVATOR-STRUCTURE	28,600	33,000	41,950	------	------	------	------
NORTH PLATTE							
DETACHED AND SEMIDETACHED	18,900	22,750	28,050	33,600	40,400	45,050	47,150
ROW DWELLINGS	17,050	20,500	25,300	30,250	36,200	40,400	42,200
WALKUP	18,600	23,000	29,400	34,800	40,150	44,500	46,700
ELEVATOR-STRUCTURE	27,550	31,900	40,500	------	------	------	------
SCOTTSBLUFF							
DETACHED AND SEMIDETACHED	21,300	25,700	31,450	37,550	45,200	50,300	52,500
ROW DWELLINGS	18,500	22,150	27,400	32,750	39,250	43,700	45,550
WALKUP	19,700	24,300	31,000	36,850	42,400	46,850	49,300
ELEVATOR-STRUCTURE	27,800	32,200	38,500	------	------	------	------
REGION VIII							
COLORADO							
DENVER							
DETACHED AND SEMIDETACHED	21,300	25,650	31,400	37,400	45,100	50,300	52,650
ROW DWELLINGS	19,050	22,800	28,300	33,550	40,400	44,950	47,100
WALKUP	18,350	22,900	28,950	34,250	39,450	43,600	45,700
ELEVATOR-STRUCTURE	30,400	35,450	44,700	------	------	------	------
GRAND JUNCTION							
DETACHED AND SEMIDETACHED	21,100	25,450	31,350	37,400	45,000	50,050	52,250
ROW DWELLINGS	19,350	23,100	28,450	34,100	41,150	45,500	47,800
WALKUP	18,600	23,100	29,200	34,600	40,000	44,100	46,300
ELEVATOR-STRUCTURE	30,750	35,700	45,000	------	------	------	------
ASPEN-VAIL							
DETACHED AND SEMIDETACHED	22,200	26,850	33,100	39,350	47,450	52,850	55,300
ROW DWELLINGS	20,500	24,600	30,300	36,200	43,650	48,550	50,900
WALKUP	19,750	24,650	31,200	36,750	42,700	47,000	49,400
ELEVATOR-STRUCTURE	32,550	37,850	48,050	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION VIII--CONTINUED							
MONTANA							
HELENA :							
DETACHED AND SEMIDETACHED	22,750	27,400	33,850	40,300	48,700	54,250	56,600
ROW DWELLINGS	19,600	23,300	29,200	34,650	41,750	46,350	48,650
WALKUP	18,200	22,900	29,100	34,250	39,600	43,750	45,650
ELEVATOR-STRUCTURE	28,100	32,650	41,450	------	------	------	------
BILLINGS :							
DETACHED AND SEMIDETACHED	21,550	26,050	32,050	38,250	45,950	51,050	53,500
ROW DWELLINGS	18,750	22,200	27,650	32,800	39,550	44,050	46,050
WALKUP	17,100	21,650	27,500	32,400	37,300	41,400	43,300
ELEVATOR-STRUCTURE	26,650	30,750	39,250	------	------	------	------
GREAT FALLS :							
DETACHED AND SEMIDETACHED	22,750	27,350	33,850	40,350	48,300	53,950	56,400
ROW DWELLINGS	19,900	23,600	29,200	35,100	42,200	46,800	49,400
WALKUP	18,350	23,050	29,100	34,200	39,650	43,950	45,800
ELEVATOR-STRUCTURE	28,150	32,500	41,450	------	------	------	------
MISSOULA :							
DETACHED AND SEMIDETACHED	21,100	25,500	31,300	37,400	44,950	49,900	52,300
ROW DWELLINGS	18,350	21,650	27,050	32,050	38,650	43,100	45,050
WALKUP	16,750	21,200	27,000	31,700	36,600	40,600	42,400
ELEVATOR-STRUCTURE	26,100	30,150	38,400	------	------	------	------
NORTH DAKOTA							
FARGO :							
DETACHED AND SEMIDETACHED	24,200	28,950	35,850	43,100	51,800	57,250	60,200
ROW DWELLINGS	19,650	23,850	29,350	34,850	42,150	46,650	48,850
WALKUP	18,150	22,800	28,350	33,600	39,350	43,250	45,500
ELEVATOR-STRUCTURE	28,300	33,000	41,600	------	------	------	------
BISMARCK :							
DETACHED AND SEMIDETACHED	26,050	31,350	38,400	46,150	55,600	61,550	64,550
ROW DWELLINGS	21,200	25,650	31,500	37,600	45,500	50,350	52,750
WALKUP	19,700	24,650	30,400	36,250	42,650	46,700	49,200
ELEVATOR-STRUCTURE	30,350	35,250	44,600	------	------	------	------
DICKINSON :							
DETACHED AND SEMIDETACHED	25,250	30,400	37,550	45,050	54,050	60,050	63,050
ROW DWELLINGS	20,550	25,000	30,900	36,600	44,200	48,900	51,150
WALKUP	19,100	24,000	29,750	35,150	41,500	45,650	47,800
ELEVATOR-STRUCTURE	29,750	34,650	43,700	------	------	------	------
SOUTH DAKOTA							
SIOUX FALLS :							
DETACHED AND SEMIDETACHED	24,100	28,950	35,750	42,650	51,200	57,100	59,650
ROW DWELLINGS	22,000	26,600	33,000	39,250	47,400	52,150	55,050
WALKUP	19,050	23,700	30,050	35,650	41,300	45,600	47,850
ELEVATOR-STRUCTURE	27,500	32,000	40,350	------	------	------	------
PIERRE :							
DETACHED AND SEMIDETACHED	25,400	30,850	37,800	45,000	54,500	60,550	63,050
ROW DWELLINGS	23,000	27,850	34,300	40,800	49,350	54,650	57,250
WALKUP	19,200	24,050	30,200	35,900	41,600	45,750	48,200
ELEVATOR-STRUCTURE	28,000	32,450	41,150	------	------	------	------
RAPID CITY :							
DETACHED AND SEMIDETACHED	24,300	29,500	36,350	43,050	51,750	57,850	60,350
ROW DWELLINGS	22,250	27,200	33,350	40,100	47,950	52,900	55,850
WALKUP	19,950	25,050	31,600	37,250	43,100	47,650	50,200
ELEVATOR-STRUCTURE	27,850	32,400	40,950	------	------	------	------
UTAH							
SALT LAKE CITY :							
DETACHED AND SEMIDETACHED	20,250	24,450	30,150	36,100	43,450	48,150	50,600
ROW DWELLINGS	18,200	21,850	27,050	32,450	38,700	43,000	45,050
WALKUP	16,550	20,750	26,450	31,250	36,200	39,900	41,950
ELEVATOR-STRUCTURE	24,750	28,900	36,550	------	------	------	------
CEDAR CITY :							
DETACHED AND SEMIDETACHED	22,350	26,950	33,200	39,500	47,600	53,100	55,600
ROW DWELLINGS	17,500	21,150	26,000	31,200	37,300	41,650	43,350
WALKUP	18,300	23,000	29,150	34,200	39,850	43,800	46,100
ELEVATOR-STRUCTURE	27,250	31,750	40,250	------	------	------	------
VERNAL :							
DETACHED AND SEMIDETACHED	21,450	25,900	31,900	38,100	45,900	51,000	53,500
ROW DWELLINGS	16,950	20,450	25,200	30,100	36,200	40,250	42,300
WALKUP	17,650	22,100	28,000	32,900	38,350	42,150	44,400
ELEVATOR-STRUCTURE	26,200	30,600	38,700	------	------	------	------
WYOMING							
CASPER :							
DETACHED AND SEMIDETACHED	24,850	30,050	37,050	44,100	53,050	59,100	62,000
ROW DWELLINGS	21,300	25,550	31,750	37,750	45,350	50,550	52,850
WALKUP	19,350	24,300	30,850	36,200	42,150	46,350	48,650
ELEVATOR-STRUCTURE	28,400	33,100	42,050	------	------	------	------
CHEYENNE :							
DETACHED AND SEMIDETACHED	23,800	28,900	35,500	42,350	51,000	56,800	59,600
ROW DWELLINGS	20,200	24,500	30,450	37,700	43,500	48,200	50,350
WALKUP	18,550	23,350	29,550	34,800	40,300	44,550	46,500
ELEVATOR-STRUCTURE	27,350	31,800	40,250	------	------	------	------
CODY :							
DETACHED AND SEMIDETACHED	25,400	31,000	38,100	45,750	54,950	61,050	64,000
ROW DWELLINGS	22,050	26,300	32,750	38,950	46,700	51,900	54,550
WALKUP	19,950	25,050	31,750	37,350	43,050	47,700	49,750
ELEVATOR-STRUCTURE	29,350	34,200	43,250	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION IX							
ARIZONA							
PHOENIX							
DETACHED AND SEMIDETACHED	19,250	23,150	28,550	34,000	41,000	45,600	47,800
ROW DWELLINGS	17,450	21,100	26,050	31,150	37,250	41,700	43,450
WALKUP	15,950	19,800	25,200	29,850	34,400	37,950	39,900
ELEVATOR-STRUCTURE	27,700	32,150	40,750	------	------	------	------
CASA GRANDE							
DETACHED AND SEMIDETACHED	20,100	24,250	29,800	35,550	42,850	47,550	49,950
ROW DWELLINGS	18,250	21,150	27,100	32,300	38,850	43,350	45,200
WALKUP	16,600	20,750	26,350	31,200	36,000	39,700	41,600
ELEVATOR-STRUCTURE	28,850	33,550	42,500	------	------	------	------
DOUGLAS							
DETACHED AND SEMIDETACHED	19,700	23,700	29,350	34,800	41,850	46,750	49,000
ROW DWELLINGS	18,000	21,750	26,850	31,950	38,400	42,900	44,800
WALKUP	16,450	20,450	25,950	30,650	35,200	38,900	40,900
ELEVATOR-STRUCTURE	28,550	33,050	41,900	------	------	------	------
FLAGSTAFF							
DETACHED AND SEMIDETACHED	19,550	23,600	29,350	34,700	40,800	46,600	48,900
ROW DWELLINGS	18,000	21,750	26,850	31,950	38,400	42,900	44,800
WALKUP	16,350	20,350	25,950	30,550	35,200	38,950	40,800
ELEVATOR-STRUCTURE	29,550	34,100	43,100	------	------	------	------
KINGMAN							
DETACHED AND SEMIDETACHED	19,950	24,050	29,550	35,350	42,550	47,200	49,600
ROW DWELLINGS	18,200	21,100	27,050	32,250	38,700	43,250	45,150
WALKUP	16,500	20,650	26,150	30,950	35,650	39,400	41,300
ELEVATOR-STRUCTURE	28,600	33,300	42,200	------	------	------	------
SAFFORD							
DETACHED AND SEMIDETACHED	20,250	24,200	29,950	35,650	42,800	47,800	50,150
ROW DWELLINGS	18,350	22,300	27,600	32,800	39,350	44,000	45,900
WALKUP	16,650	20,800	26,500	31,350	36,200	39,900	41,900
ELEVATOR-STRUCTURE	29,100	33,900	42,800	------	------	------	------
TUCSON							
DETACHED AND SEMIDETACHED	19,350	23,300	28,750	34,050	41,100	45,850	48,000
ROW DWELLINGS	18,050	21,800	26,950	32,100	38,550	43,150	45,100
WALKUP	16,100	20,100	25,400	30,000	34,650	38,300	40,050
ELEVATOR-STRUCTURE	32,700	37,950	47,900	------	------	------	------
YUMA							
DETACHED AND SEMIDETACHED	19,050	22,950	28,350	33,700	40,600	45,200	47,500
ROW DWELLINGS	17,200	20,800	25,750	30,550	36,850	41,050	42,700
WALKUP	15,950	19,650	25,050	29,750	34,250	37,750	39,550
ELEVATOR-STRUCTURE	27,450	32,050	40,450	------	------	------	------
NOGALES							
DETACHED AND SEMIDETACHED	24,900	29,900	36,900	43,800	52,800	58,950	61,750
ROW DWELLINGS	22,500	27,300	33,600	40,200	48,350	53,850	56,050
WALKUP	20,800	25,750	32,600	38,700	44,750	49,200	51,850
ELEVATOR-STRUCTURE	33,850	39,400	50,000	------	------	------	------
CALIFORNIA							
LOS ANGELES							
DETACHED AND SEMIDETACHED	25,750	30,600	38,100	45,500	54,650	61,150	63,850
ROW DWELLINGS	25,250	30,600	37,600	44,750	54,000	60,050	62,650
WALKUP	24,550	30,850	38,600	45,850	52,800	58,300	61,250
ELEVATOR-STRUCTURE	38,100	44,350	55,950	------	------	------	------
BAKERSFIELD							
DETACHED AND SEMIDETACHED	25,350	30,250	37,650	44,950	53,950	60,250	63,100
ROW DWELLINGS	24,850	30,150	37,100	44,100	53,200	59,250	61,850
WALKUP	24,200	30,500	38,000	45,150	52,000	57,450	60,400
ELEVATOR-STRUCTURE	37,950	44,100	55,700	------	------	------	------
INYOKERN							
DETACHED AND SEMIDETACHED	26,600	31,650	39,400	46,800	56,500	63,250	66,150
ROW DWELLINGS	26,250	31,800	38,900	46,500	55,950	62,250	65,050
WALKUP	25,300	31,800	39,900	47,250	54,500	60,000	63,050
ELEVATOR-STRUCTURE	39,300	45,900	57,850	------	------	------	------
LANCASTER							
DETACHED AND SEMIDETACHED	25,800	31,050	38,350	45,700	55,050	61,550	64,550
ROW DWELLINGS	25,300	30,700	37,850	45,150	54,200	60,100	63,000
WALKUP	24,750	31,050	38,800	45,950	53,350	58,850	61,600
ELEVATOR-STRUCTURE	38,150	44,550	56,300	------	------	------	------
MOJAVE							
DETACHED AND SEMIDETACHED	26,450	31,450	39,100	46,550	56,100	62,650	65,350
ROW DWELLINGS	26,000	31,400	38,650	46,300	55,600	61,900	64,600
WALKUP	25,200	31,550	39,600	46,750	53,850	59,600	62,500
ELEVATOR-STRUCTURE	39,000	45,500	57,450	------	------	------	------
OJAI							
DETACHED AND SEMIDETACHED	23,950	28,650	35,800	42,500	51,150	57,150	59,650
ROW DWELLINGS	23,600	28,650	35,300	42,050	50,500	56,300	58,850
WALKUP	22,900	28,800	36,200	43,050	49,750	54,500	57,500
ELEVATOR-STRUCTURE	36,150	42,100	53,000	------	------	------	------
OXNARD							
DETACHED AND SEMIDETACHED	25,300	30,250	37,650	44,750	53,850	60,100	63,150
ROW DWELLINGS	24,800	30,100	37,100	44,100	53,100	59,150	61,650
WALKUP	24,150	30,250	38,000	45,000	51,950	57,600	60,300
ELEVATOR-STRUCTURE	37,950	44,100	55,700	------	------	------	------
PASO ROBLES							
DETACHED AND SEMIDETACHED	25,200	30,150	37,350	44,450	53,350	59,750	62,700
ROW DWELLINGS	24,750	30,100	36,850	44,200	52,750	59,000	61,500
WALKUP	24,100	30,100	37,800	44,600	51,400	56,900	59,600
ELEVATOR-STRUCTURE	38,950	45,450	57,400	------	------	------	------
PIRU							
DETACHED AND SEMIDETACHED	23,950	28,650	35,800	42,500	51,150	57,150	59,650
ROW DWELLINGS	23,600	28,650	35,300	42,050	50,500	56,300	58,850
WALKUP	22,900	28,800	36,200	43,050	49,750	54,500	57,500
ELEVATOR-STRUCTURE	36,150	42,100	53,000	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION IX--CONTINUED							
CALIFORNIA --CONTINUED							
RIDGECREST :							
DETACHED AND SEMIDETACHED	24,700	29,450	36,650	43,500	52,700	58,600	61,400
ROW DWELLINGS	24,200	29,350	36,100	42,900	51,650	57,500	59,950
WALKUP	23,450	29,450	37,000	43,850	50,600	55,700	58,500
ELEVATOR-STRUCTURE	39,100	45,700	57,550	------	------	------	------
SAN BERNARDINO :							
DETACHED AND SEMIDETACHED	25,300	30,250	37,650	44,750	53,850	60,100	63,150
ROW DWELLINGS	24,800	30,100	37,100	44,100	53,100	59,150	61,650
WALKUP	24,200	30,500	38,000	45,150	52,000	57,450	60,400
ELEVATOR-STRUCTURE	37,950	44,100	55,700	------	------	------	------
VICTORVILLE :							
DETACHED AND SEMIDETACHED	25,900	30,950	38,350	45,800	55,000	61,350	64,150
ROW DWELLINGS	25,550	30,500	37,850	45,200	54,250	60,500	63,250
WALKUP	26,150	31,350	38,800	46,450	55,700	62,150	64,900
ELEVATOR-STRUCTURE	38,200	44,400	56,300	------	------	------	------
SANTA BARBARA :							
DETACHED AND SEMIDETACHED	25,750	31,000	38,350	45,550	55,000	61,350	64,250
ROW DWELLINGS	25,150	30,800	37,850	44,950	54,200	60,350	62,750
WALKUP	24,650	30,850	38,800	45,700	53,200	58,450	61,500
ELEVATOR-STRUCTURE	38,150	44,550	56,300	------	------	------	------
ARROWHEAD :							
DETACHED AND SEMIDETACHED	26,300	31,600	39,100	46,650	56,200	62,650	65,400
ROW DWELLINGS	26,000	31,200	38,650	46,000	55,500	61,750	64,600
WALKUP	26,550	31,950	39,600	47,200	56,900	63,300	66,100
ELEVATOR-STRUCTURE	38,450	45,300	57,450	------	------	------	------
SANTA MARIA :							
DETACHED AND SEMIDETACHED	25,900	31,000	38,350	45,650	54,800	61,400	64,400
ROW DWELLINGS	25,350	30,900	37,850	45,400	54,200	60,700	63,150
WALKUP	24,700	30,950	38,800	45,850	52,800	58,500	61,300
ELEVATOR-STRUCTURE	38,950	45,450	57,400	------	------	------	------
BARSTOW :							
DETACHED AND SEMIDETACHED	26,000	31,100	38,550	46,150	55,350	61,750	64,500
ROW DWELLINGS	25,650	30,650	38,150	45,500	54,600	60,850	63,650
WALKUP	26,350	31,550	39,100	46,800	56,100	62,550	65,350
ELEVATOR-STRUCTURE	38,450	44,750	56,700	------	------	------	------
TEHACHAPI :							
DETACHED AND SEMIDETACHED	25,900	31,000	38,350	45,650	54,800	61,400	64,400
ROW DWELLINGS	25,350	30,900	37,850	45,400	54,200	60,700	63,150
WALKUP	24,700	30,950	38,800	45,850	52,800	58,500	61,300
ELEVATOR-STRUCTURE	38,950	45,450	57,400	------	------	------	------
BIG BEAR :							
DETACHED AND SEMIDETACHED	26,300	31,600	39,100	46,650	56,200	62,650	65,400
ROW DWELLINGS	26,000	31,200	38,650	46,000	55,500	61,750	64,600
WALKUP	26,550	31,950	39,600	47,250	56,900	63,350	66,150
ELEVATOR-STRUCTURE	38,900	45,300	57,450	------	------	------	------
VENTURA :							
DETACHED AND SEMIDETACHED	25,300	30,250	37,650	44,750	53,850	60,100	63,150
ROW DWELLINGS	24,800	30,100	37,100	44,100	53,100	59,150	61,650
WALKUP	24,200	30,500	38,000	45,150	52,000	57,450	60,400
ELEVATOR-STRUCTURE	37,950	44,100	55,700	------	------	------	------
SANTA ANA :							
DETACHED AND SEMIDETACHED	25,800	30,800	38,100	45,450	54,800	60,850	63,950
ROW DWELLINGS	25,350	30,650	37,600	44,950	54,100	60,250	62,750
WALKUP	24,650	30,600	38,600	45,500	52,800	58,100	60,850
ELEVATOR-STRUCTURE	38,200	44,200	55,950	------	------	------	------
DESERT CENTER :							
DETACHED AND SEMIDETACHED	28,550	34,300	42,450	50,750	61,100	68,000	71,350
ROW DWELLINGS	28,200	33,750	41,950	50,050	60,150	67,100	70,350
WALKUP	28,950	34,750	42,950	51,350	61,700	68,750	72,150
ELEVATOR-STRUCTURE	42,200	49,350	62,300	------	------	------	------
NEEDLES :							
DETACHED AND SEMIDETACHED	28,950	34,700	43,100	51,050	61,500	68,500	71,750
ROW DWELLINGS	27,400	32,800	40,800	48,400	58,250	64,900	68,050
WALKUP	25,850	31,000	38,450	45,550	54,850	61,200	64,050
ELEVATOR-STRUCTURE	34,400	40,200	50,900	------	------	------	------
SACRAMENTO :							
DETACHED AND SEMIDETACHED	20,650	24,750	30,650	36,350	43,850	48,800	51,100
ROW DWELLINGS	20,100	24,250	29,900	35,650	42,850	47,800	49,800
WALKUP	17,100	21,400	27,200	31,900	37,050	40,850	42,800
ELEVATOR-STRUCTURE	35,650	41,500	52,350	------	------	------	------
PLACERVILLE :							
DETACHED AND SEMIDETACHED	20,800	24,900	31,000	36,800	44,350	49,350	51,600
ROW DWELLINGS	20,250	24,450	30,250	36,150	43,300	48,350	50,400
WALKUP	17,700	22,000	28,050	33,000	38,250	42,100	44,100
ELEVATOR-STRUCTURE	36,000	42,050	53,000	------	------	------	------
REDDING :							
DETACHED AND SEMIDETACHED	20,600	24,800	30,650	36,600	44,000	48,850	51,100
ROW DWELLINGS	20,050	24,250	29,900	35,600	42,700	47,650	49,800
WALKUP	17,450	21,700	27,700	32,550	37,700	41,500	43,450
ELEVATOR-STRUCTURE	35,500	41,500	52,350	------	------	------	------
YREKA :							
DETACHED AND SEMIDETACHED	20,750	25,000	30,900	36,700	44,200	49,250	51,400
ROW DWELLINGS	20,150	24,350	30,050	35,800	43,150	47,900	50,150
WALKUP	17,600	21,850	27,850	32,750	37,950	41,800	43,850
ELEVATOR-STRUCTURE	35,750	41,650	52,600	------	------	------	------
SOUTH LAKE TAHOE :							
DETACHED AND SEMIDETACHED	21,300	25,600	31,700	37,550	45,300	50,550	52,800
ROW DWELLINGS	20,650	24,900	30,900	36,750	44,250	49,250	51,450
WALKUP	18,000	22,550	28,600	33,550	39,000	42,900	45,000
ELEVATOR-STRUCTURE	38,000	44,100	55,550	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION IX--CONTINUED							
CALIFORNIA --CONTINUED							
SAN FRANCISCO							
DETACHED AND SEMIDETACHED	27,100	32,700	40,450	48,150	58,000	64,500	67,350
ROW DWELLINGS	26,650	32,100	39,550	47,200	56,550	63,000	65,900
WALKUP	26,900	33,650	42,450	50,200	58,200	64,100	67,100
ELEVATOR-STRUCTURE	45,650	53,050	66,950	------	------	------	------
EUREKA							
DETACHED AND SEMIDETACHED	27,250	32,700	40,400	48,150	58,050	64,650	67,600
ROW DWELLINGS	20,650	25,000	30,650	36,650	43,900	49,050	51,150
WALKUP	21,650	26,850	34,000	40,100	46,600	51,250	53,650
ELEVATOR-STRUCTURE	33,950	39,300	49,650	------	------	------	------
SANTA ROSA							
DETACHED AND SEMIDETACHED	25,200	30,200	37,350	44,450	53,600	59,750	62,450
ROW DWELLINGS	20,300	24,550	30,150	36,000	43,100	48,200	50,300
WALKUP	21,300	26,400	33,450	39,450	45,800	50,400	52,800
ELEVATOR-STRUCTURE	33,350	38,650	48,750	------	------	------	------
FRESNO							
DETACHED AND SEMIDETACHED	20,800	24,700	30,750	36,550	44,100	48,950	51,350
ROW DWELLINGS	19,350	23,450	28,900	34,450	41,350	46,100	48,200
WALKUP	20,300	25,250	32,000	37,650	43,700	48,050	50,450
ELEVATOR-STRUCTURE	35,800	41,700	52,700	------	------	------	------
MODESTO							
DETACHED AND SEMIDETACHED	21,250	25,700	31,600	37,550	45,300	50,350	52,750
ROW DWELLINGS	20,750	25,050	30,900	36,850	44,200	49,200	51,700
WALKUP	20,700	25,750	32,600	38,350	44,400	49,200	51,150
ELEVATOR-STRUCTURE	32,600	37,750	47,600	------	------	------	------
OAKLAND-MARIN							
DETACHED AND SEMIDETACHED	23,650	28,450	35,000	41,650	50,150	55,850	58,450
ROW DWELLINGS	22,350	26,750	33,050	39,450	47,400	52,800	55,250
WALKUP	23,400	28,800	36,500	43,100	50,150	54,950	57,800
ELEVATOR-STRUCTURE	37,200	43,300	54,550	------	------	------	------
SAN JOSE							
DETACHED AND SEMIDETACHED	22,900	27,500	34,050	40,600	48,850	54,500	56,900
ROW DWELLINGS	22,050	26,750	32,850	39,200	46,950	52,450	54,700
WALKUP	23,200	28,750	36,400	42,950	49,900	54,850	57,450
ELEVATOR-STRUCTURE	35,150	40,750	51,450	------	------	------	------
SANTA CRUZ							
DETACHED AND SEMIDETACHED	27,700	33,200	41,100	48,950	59,000	65,700	68,700
ROW DWELLINGS	20,900	25,400	31,150	37,250	44,650	49,900	52,000
WALKUP	22,250	27,650	34,950	41,250	47,900	52,700	55,150
ELEVATOR-STRUCTURE	34,950	40,500	51,200	------	------	------	------
SAN DIEGO							
DETACHED AND SEMIDETACHED	24,750	29,700	36,800	43,750	52,650	58,700	61,250
ROW DWELLINGS	22,500	27,100	33,500	39,700	47,750	53,350	55,850
WALKUP	20,950	26,200	33,300	39,150	45,300	49,950	52,400
ELEVATOR-STRUCTURE	37,750	43,950	55,650	------	------	------	------
EL CAJON							
DETACHED AND SEMIDETACHED	24,750	29,700	36,800	43,750	52,650	58,700	61,250
ROW DWELLINGS	22,500	27,100	33,500	39,700	47,750	53,350	55,850
WALKUP	21,400	26,900	34,150	40,300	46,700	51,300	53,850
ELEVATOR-STRUCTURE	37,750	43,950	55,650	------	------	------	------
HAWAII							
HONOLULU							
DETACHED AND SEMIDETACHED	32,050	39,000	48,150	57,250	74,300	76,800	80,350
ROW DWELLINGS	31,150	37,300	46,250	54,850	66,250	73,750	77,050
WALKUP	29,100	36,250	46,000	54,450	62,950	69,450	72,800
ELEVATOR-STRUCTURE	51,550	60,050	76,050	------	------	------	------
HILO							
DETACHED AND SEMIDETACHED	35,650	42,900	52,950	63,050	75,900	84,300	88,550
ROW DWELLINGS	33,900	41,150	50,800	60,250	72,700	81,050	84,650
WALKUP	32,150	39,900	50,650	59,950	69,450	76,300	80,150
ELEVATOR-STRUCTURE	56,850	65,200	83,500	------	------	------	------
KAUAI							
DETACHED AND SEMIDETACHED	37,100	45,350	55,400	66,150	79,900	88,600	92,800
ROW DWELLINGS	35,750	43,100	53,450	63,200	76,300	85,300	89,000
WALKUP	32,850	40,750	51,700	61,100	70,900	78,050	81,850
ELEVATOR-STRUCTURE	58,200	67,450	85,350	------	------	------	------
KONO							
DETACHED AND SEMIDETACHED	36,150	43,900	54,000	64,400	77,550	86,250	90,100
ROW DWELLINGS	34,800	41,950	51,900	61,500	74,350	82,950	86,450
WALKUP	32,850	40,750	51,700	61,100	70,900	78,050	81,850
ELEVATOR-STRUCTURE	58,200	67,450	85,350	------	------	------	------
MAUI							
DETACHED AND SEMIDETACHED	35,150	42,650	52,350	62,600	75,350	83,750	87,800
ROW DWELLINGS	33,850	40,900	50,600	59,900	72,300	80,650	84,300
WALKUP	31,950	39,700	50,450	59,300	68,850	75,900	79,550
ELEVATOR-STRUCTURE	56,500	65,650	83,050	------	------	------	------
GUAM							
DETACHED AND SEMIDETACHED	29,600	35,700	44,050	52,350	63,300	70,350	73,700
ROW DWELLINGS	28,450	34,100	42,300	50,200	60,900	67,350	70,550
WALKUP	26,750	33,100	42,000	49,650	57,650	63,200	66,500
ELEVATOR-STRUCTURE	47,150	55,050	69,700	------	------	------	------
NEVADA							
RENO							
DETACHED AND SEMIDETACHED	22,050	26,300	32,700	38,850	46,900	52,050	54,600
ROW DWELLINGS	20,400	24,800	30,600	36,300	43,800	49,050	51,000
WALKUP	19,550	24,150	30,800	36,400	42,150	46,600	48,600
ELEVATOR-STRUCTURE	39,450	46,000	58,150	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION IX--CONTINUED							
NEVADA --CONTINUED							
LAS VEGAS							
DETACHED AND SEMIDETACHED	22,800	27,250	34,050	40,450	48,450	54,150	56,750
ROW DWELLINGS	21,550	26,000	31,950	37,950	46,000	51,350	53,600
WALKUP	20,450	25,300	32,150	37,900	44,050	48,550	50,750
ELEVATOR-STRUCTURE	40,750	47,350	59,650	------	------	------	------
REGION X							
ALASKA							
ANCHORAGE							
DETACHED AND SEMIDETACHED	31,750	38,500	47,450	56,650	67,900	75,600	79,200
ROW DWELLINGS	31,300	37,900	46,600	55,450	67,050	74,500	77,800
WALKUP	28,750	35,850	45,250	53,700	62,200	68,350	72,000
ELEVATOR-STRUCTURE	50,300	58,600	74,100	------	------	------	------
FAIRBANKS							
DETACHED AND SEMIDETACHED	33,950	40,950	50,400	60,350	72,550	80,500	84,450
ROW DWELLINGS	33,400	40,400	49,700	58,950	71,450	79,350	83,000
WALKUP	30,550	38,150	48,250	57,050	66,200	72,950	76,750
ELEVATOR-STRUCTURE	53,200	61,850	78,150	------	------	------	------
JUNEAU							
DETACHED AND SEMIDETACHED	30,750	37,200	45,700	54,800	65,650	73,200	76,600
ROW DWELLINGS	30,300	36,650	45,300	53,950	65,150	72,300	75,600
WALKUP	28,750	35,850	45,550	53,700	62,200	68,550	72,000
ELEVATOR-STRUCTURE	48,550	56,600	71,350	------	------	------	------
KETCHIKAN							
DETACHED AND SEMIDETACHED	30,600	37,050	45,600	54,550	65,250	72,900	76,250
ROW DWELLINGS	30,000	36,400	44,900	53,250	64,400	71,450	74,850
WALKUP	28,800	35,900	45,600	53,900	62,300	68,750	72,300
ELEVATOR-STRUCTURE	49,150	57,150	72,250	------	------	------	------
SITKA							
DETACHED AND SEMIDETACHED	30,750	37,150	45,750	54,800	65,650	73,200	76,550
ROW DWELLINGS	30,300	36,550	45,050	53,450	64,650	71,850	75,200
WALKUP	29,200	36,450	46,100	54,700	63,200	69,500	72,950
ELEVATOR-STRUCTURE	50,700	58,900	74,550	------	------	------	------
KENAI							
DETACHED AND SEMIDETACHED	34,750	42,100	52,000	61,850	74,150	83,050	86,550
ROW DWELLINGS	------	------	------	------	------	------	------
WALKUP	------	------	------	------	------	------	------
ELEVATOR-STRUCTURE	------	------	------	------	------	------	------
IDAHO							
BOISE							
DETACHED AND SEMIDETACHED	22,200	26,750	32,800	39,350	47,250	52,500	55,100
ROW DWELLINGS	20,200	24,350	29,950	35,850	43,200	48,000	50,350
WALKUP	19,750	24,600	31,300	36,950	42,550	47,100	49,250
ELEVATOR-STRUCTURE	29,850	34,800	43,950	------	------	------	------
IDAHO FALLS							
DETACHED AND SEMIDETACHED	22,800	27,900	34,100	40,800	49,050	54,450	57,050
ROW DWELLINGS	20,850	25,400	31,150	37,200	44,850	49,900	53,250
WALKUP	20,650	25,550	32,400	38,400	44,150	49,000	51,300
ELEVATOR-STRUCTURE	31,100	35,950	45,650	------	------	------	------
MCCALL							
DETACHED AND SEMIDETACHED	23,150	28,050	34,300	41,200	49,400	54,950	57,650
ROW DWELLINGS	21,300	25,550	31,300	37,550	45,200	50,350	52,750
WALKUP	20,850	25,850	32,650	38,550	44,650	49,400	51,700
ELEVATOR-STRUCTURE	31,250	36,200	46,050	------	------	------	------
POCATELLO							
DETACHED AND SEMIDETACHED	24,250	29,600	36,300	43,400	52,250	57,950	60,800
ROW DWELLINGS	22,350	27,100	33,150	39,600	47,600	53,100	55,600
WALKUP	21,650	27,300	34,400	40,900	47,100	52,200	54,700
ELEVATOR-STRUCTURE	33,050	38,350	48,500	------	------	------	------
TWIN FALLS							
DETACHED AND SEMIDETACHED	24,150	29,200	35,950	43,050	51,900	57,650	60,450
ROW DWELLINGS	22,050	26,850	32,900	35,850	47,200	52,700	55,250
WALKUP	21,600	26,900	34,250	40,500	46,700	51,700	54,200
ELEVATOR-STRUCTURE	32,800	38,200	48,150	------	------	------	------
LEWISTON							
DETACHED AND SEMIDETACHED	23,600	28,650	35,450	41,950	50,800	56,550	59,150
ROW DWELLINGS	21,700	26,200	32,500	38,450	46,300	51,650	54,050
WALKUP	19,650	24,300	31,000	36,450	42,150	46,550	49,000
ELEVATOR-STRUCTURE	30,700	35,900	45,150	------	------	------	------
OREGON							
PORTLAND							
DETACHED AND SEMIDETACHED	24,000	28,850	35,650	42,650	51,250	56,900	59,650
ROW DWELLINGS	22,400	27,200	33,650	39,750	48,050	53,350	55,700
WALKUP	21,100	26,450	33,450	39,450	45,900	50,450	53,050
ELEVATOR-STRUCTURE	30,500	35,100	44,500	------	------	------	------
PENDLETON							
DETACHED AND SEMIDETACHED	24,500	29,450	36,350	43,650	52,350	58,00	61,000
ROW DWELLINGS	25,150	30,650	37,750	44,600	54,100	60,000	62,650
WALKUP	21,600	27,150	34,300	40,400	47,100	51,750	54,400
ELEVATOR-STRUCTURE	33,250	38,450	48,750	------	------	------	------
ONTARIO							
DETACHED AND SEMIDETACHED	25,450	30,800	37,750	45,450	54,450	60,650	63,600
ROW DWELLINGS	24,200	29,050	35,750	42,500	51,450	57,350	60,100
WALKUP	22,700	28,300	35,650	42,350	48,700	53,950	56,500
ELEVATOR-STRUCTURE	31,850	37,000	47,100	------	------	------	------
BEND							
DETACHED AND SEMIDETACHED	23,350	28,150	34,650	41,600	49,950	55,350	58,100
ROW DWELLINGS	21,700	26,450	32,750	38,650	46,700	52,000	54,200
WALKUP	20,300	25,150	31,900	37,700	43,900	48,050	50,600
ELEVATOR-STRUCTURE	30,500	35,100	44,500	------	------	------	------

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION X--CONTINUED							
OREGON --CONTINUED							
COOS BAY :							
DETACHED AND SEMIDETACHED	23,400	[illegible]	34,850	42,050	50,250	55,900	58,500
ROW DWELLINGS	22,[illegible]	27,[illegible]	34,350	40,450	49,050	54,450	56,800
WALKUP	21,750	27,100	34,300	40,600	47,350	52,000	54,600
ELEVATOR-STRUCTURE	31,[illegible]	[illegible],150	45,500	------	------	------	------
EUGENE :							
DETACHED AND SEMIDETACHED	[illegible],400	27,050	33,350	40,050	47,900	53,300	55,800
ROW DWELLINGS	20,[illegible]	25,450	31,450	37,200	44,900	49,900	52,100
WALKUP	19,450	[illegible],100	30,950	36,400	42,500	46,700	49,150
ELEVATOR-STRUCTURE	[illegible],850	34,500	43,750	------	------	------	------
MEDFORD :							
DETACHED AND SEMIDETACHED	22,[illegible]	27,[illegible]	33,650	40,450	45,900	54,000	56,400
ROW DWELLINGS	22,[illegible]	26,550	32,850	38,950	47,100	52,350	54,500
WALKUP	20,750	25,700	32,750	38,400	44,750	49,350	52,050
ELEVATOR-STRUCTURE	[illegible],[illegible]	34,750	44,150	------	------	------	------
WEST SALEM :							
DETACHED AND SEMIDETACHED	22,950	27,900	34,150	41,150	49,350	54,750	57,400
ROW DWELLINGS	21,[illegible]	[illegible],200	32,400	38,200	46,300	51,400	53,650
WALKUP	20,300	25,150	31,800	37,550	43,800	48,050	50,600
ELEVATOR-STRUCTURE	30,550	35,650	[illegible],850	------	------	------	------
WASHINGTON							
SEATTLE :							
DETACHED AND SEMIDETACHED	22,950	27,750	34,100	40,700	48,850	54,250	56,950
ROW DWELLINGS	20,[illegible]	25,[illegible]	[illegible],750	36,650	44,050	48,900	51,300
WALKUP	20,650	25,050	30,850	36,750	44,150	49,000	51,450
ELEVATOR-STRUCTURE	32,050	37,250	46,950	------	------	------	------
PORT ANGELES :							
DETACHED AND SEMIDETACHED	22,[illegible]	27,750	34,100	40,700	48,850	54,250	56,950
ROW DWELLINGS	20,[illegible]	25,050	30,750	[illegible],650	44,050	48,900	51,300
WALKUP	20,650	25,050	30,850	36,750	44,150	49,000	51,450
ELEVATOR-STRUCTURE	32,[illegible]	38,150	48,[illegible]	------	------	------	------
LONGVIEW :							
DETACHED AND SEMIDETACHED	22,700	27,550	33,850	40,450	48,550	53,900	56,600
ROW DWELLINGS	[illegible],450	24,750	30,500	36,450	43,750	48,550	50,950
WALKUP	20,550	24,350	30,600	36,450	43,900	48,650	51,100
ELEVATOR-STRUCTURE	32,950	38,550	[illegible],650	------	------	------	------
ABERDEEN :							
DETACHED AND SEMIDETACHED	22,700	27,550	33,850	40,450	48,550	53,900	56,600
ROW DWELLINGS	[illegible],450	24,750	30,500	36,450	43,750	48,550	50,950
WALKUP	[illegible],550	24,350	30,600	36,450	43,900	48,650	51,100
ELEVATOR-STRUCTURE	32,300	37,400	47,450	------	------	------	------
BELLINGHAM :							
DETACHED AND SEMIDETACHED	22,[illegible]	27,750	34,100	40,700	48,850	54,250	56,950
ROW DWELLINGS	[illegible],[illegible]	25,050	30,750	36,650	[illegible],050	48,900	51,300
WALKUP	20,650	25,050	30,850	36,750	44,150	49,000	51,450
ELEVATOR-STRUCTURE	32,300	37,400	47,450	------	------	------	------
OLYMPIA :							
DETACHED AND SEMIDETACHED	22,950	27,750	34,100	40,700	48,850	54,250	56,950
ROW DWELLINGS	20,[illegible]	25,050	30,750	36,650	44,050	48,900	51,300
WALKUP	20,[illegible]	[illegible],050	30,850	36,750	44,150	49,000	51,450
ELEVATOR-STRUCTURE	32,300	37,400	47,450	------	------	------	------
YAKIMA :							
DETACHED AND SEMIDETACHED	23,[illegible]	[illegible],[illegible]	35,400	42,300	50,850	56,500	59,350
ROW DWELLINGS	21,450	25,[illegible]	31,850	38,100	45,750	50,850	53,450
WALKUP	21,500	26,000	32,000	38,150	45,900	51,050	53,600
ELEVATOR-STRUCTURE	33,[illegible]	39,100	[illegible],550	------	------	------	------
SPOKANE :							
DETACHED AND SEMIDETACHED	21,900	[illegible],600	32,[illegible]	38,950	46,800	52,000	54,550
ROW DWELLINGS	[illegible],700	22,750	27,[illegible]	33,350	40,000	[illegible],450	46,650
WALKUP	18,700	22,700	27,[illegible]	33,350	39,950	44,350	46,600
ELEVATOR-STRUCTURE	[illegible],550	35,500	45,050	------	------	------	------
CHENEY :							
DETACHED AND SEMIDETACHED	22,300	[illegible],[illegible]	33,200	39,650	47,600	52,850	55,500
ROW DWELLINGS	19,050	22,750	[illegible],400	33,850	40,700	45,150	47,450
WALKUP	19,050	22,700	28,350	33,850	40,600	45,100	47,350
ELEVATOR-STRUCTURE	30,950	36,150	45,700	------	------	------	------
KENNEWICK :							
DETACHED AND SEMIDETACHED	24,[illegible]	27,000	[illegible],000	43,700	52,400	58,200	61,100
ROW DWELLINGS	21,000	23,100	31,350	37,350	[illegible],850	49,800	52,250
WALKUP	21,000	23,100	31,250	37,300	44,750	49,700	52,200
ELEVATOR-STRUCTURE	32,050	35,250	44,750	------	------	------	------
PULLMAN :							
DETACHED AND SEMIDETACHED	22,[illegible]	27,700	34,000	40,600	48,750	54,150	56,850
ROW DWELLINGS	19,[illegible]	23,700	29,050	34,700	41,700	46,250	48,600
WALKUP	19,500	23,[illegible]	29,000	34,750	41,650	46,300	48,600
ELEVATOR-STRUCTURE	33,650	39,250	49,650	------	------	------	------

federal register

Friday
January 20, 1984

Part V

Environmental Protection Agency

40 CFR Part 60

Standards of Performance for New Stationary Sources; Equipment Leaks of VOC and SO_2 Emissions From Onshore Natural Gas Processing Plants; Proposed Rules

VOL 49 ISS 14 JA 20 1984 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL 2307-2]

Standards of Performance for New Stationary Sources; Onshore Natural Gas Processing Plants in the Natural Gas Production Industry; Equipment Leaks of VOC

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The proposed standards would limit emissions of volatile organic compounds (VOC) from specific equipment leaking VOC containing gases or liquids in the natural gas production industry. The proposed standards would require a leak detection and repair program to reduce VOC emissions from pumps, valves, and pressure relief devices; and would specify the use of certain equipment to reduce VOC emission from compressors and open-ended valves or liner. Only equipment located at onshore natural gas processing plants would be covered by the proposed standards. Pieces of equipment that are remotely located (i.e., not located at an onshore natural gas processing plant) would not be covered by the proposed standards.

The proposed standards implement Section 111 of the Clean Air Act and are based on the Administrator's decision that the crude oil and natural gas production industry causes, or contributes significantly to air pollution that may reasonably be anticipated to endanger public health or welfare. As required by Section 111 of the Clean Air Act, the proposed standards are intended to require new, modified, and reconstructed sources in the natural gas production industry to use the best demonstrated system of continuous emission reduction, considering costs, nonair quality health and environmental impacts, and energy requirements.

A public hearing will be held, if requested, to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the proposed standards.

DATES: *Comments:* Comments must be received on or before April 6, 1984.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by Febuary 15, 1984, a public hearing will be held on March 7, 1984, beginning at 9:00 a.m. Persons interested in attending the hearing should call Mrs. Carol Eddinger at (919) 541-5578 to verify that a hearing will occur.

Request to Speak at Hearing. Persons wishing to present oral testimony should contact EPA by Febuary 15, 1984.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate, if possible) to: Central Docket Section (LE-131), Attention: Docket No. A-80-20-B, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by February 15, 1984, the public hearing will be held at EPA Auditorium, corner of Highway 544 and Alexander Drive, RTP, NC. Persons interested in attending the hearing should call Mrs. Carol Eddinger at (919) 541-5578 to verify that a hearing will occur. Persons wishing to present oral testimony should notify Mrs. Carol Eddinger, Standards Development Branch (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578.

Background Information Document. The background information document (BID) for the proposed standards is contained in the docket and may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to "Equipment Leaks of VOC in the Natural Gas Production Industry—Background Information for Proposed Standards" (EPA-450/3-82-024a).

Docket. Docket No. A-80-20-B, containing supporting information used in developing the proposed standard, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Gilbert Wood, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578.

SUPPLEMENTARY INFORMATION:

Summary of Proposed Standards

The proposed standards of performance would cover equipment leaks of VOC from certain affected facilities within onshore natural gas processing plants (gas plants) in the natural gas production industry. The affected facilities would consist of each new, modified, and reconstructed compressor and each new, modified, and reconstructed process unit. The equipment within a process unit covered by the proposed standards would include pumps, valves, pressure relief devices, open-ended valves and lines, and flanges and connectors. Only compressors and equipment containing or contacting a fluid containing more than 1.0 weight percent VOC (described as "in VOC service") would be regulated by the proposed standards.

The proposed standards would require: (1) a leak detection and repair program for pressure relief devices in gas/vapor service, for valves in gas/vapor service and in light liquid service, and for pumps in light liquid service; and (2) certain equipment for compressors and open-ended valves or lines. Flanges and other connectors, pressure relief devices in liquid service, and pumps and valves in heavy liquid service would be excluded from the routine monitoring requirements but would be subject to the same repair requirements for pressure relief devices in gas/vapor service and pumps and valves in light liquid service. The proposed standards would allow the use of alternative equipment for valves, pumps, and compressors, alternative standards for valves, and a procedure for determining the equivalency of other alternative control measures. "In gas/vapor service" means that the equipment contains organic fluids in the gaseous or vapor state. "In light liquid service" means that the equipment contains VOC liquids which would have more than 10 percent of the liquids evaporated at a boiling point of 150°C, as determined by ASTM Method D-86.

A gas plant that does not fractionate natural gas liquids and that also processes 283,000 standard cubic meters per day (scmd) [10 million standard cubic feet per day (scfd)] of less of field gas would be exempt from the routine monitoring requirements for pressure relief devices, valves, and pumps.

Reciprocating compressors in wet gas service that are located at an onshore natural gas plant that does not have a control device present at the plant site are exempt from the compressor control requirements.

Summary of Environmental, Energy, and Economic Impacts

The proposed standards of performance would reduce equipment leaks of VOC from newly constructed, modified, and reconstructed compressors and newly constructed, modified, and reconstructed process units by about 78 percent from the emission levels that would result with control means currently practiced by the

industry. In 1987, the proposed standards would reduce uncontrolled equipment leaks of VOC from newly constructed, modified, and reconstructed facilities by approximately 18,800 megagrams (Mg), a reduction of emissions from 24,200 megagrams of VOC per year (Mg/yr) to 5,400 Mg/yr.

The proposed standards of performance would not increase the energy usage within gas plants. In general, the controls required by the proposed standards do not require energy. Furthermore, the effect of the proposed standards would be to increase efficiency of raw material usage, so that a net positive energy impact would result. The proposed standards would also cause a positive impact on water quality by containment of potential liquid leaks. Implementation of the proposed standards would result in no adverse solid waste impact.

The proposed standards would require a cumulative capital investment of $7.8 million for 180 newly constructed gas plants and up to $2.3 million for 40 modified and reconstructed gas plants through 1987. The industry-wide net annual cost (after accounting for recovery credits) for newly constructed, modified, and reconstructed production facilities is estimated to be approximately $2.5 million in 1987. Average cost effectiveness would be about $130 per megagram of VOC reduction. These costs represent a small impact on the industry and are not expected to deter construction of gas processing plants. No adverse economic impacts are anticipated, and the consumer price of natural gas is not expected to increase more than 0.1 percent.

Rationale

Selection of Sources and Pollutants

The EPA Priority List (40 CFR 60.16, amended at 47 FR 951, January 8, 1982) includes, in order of priority for standards development, various major source categories that the Administrator has determined contribute significantly to air pollution that may reasonably be anticipated to endanger public health or welfare. The order of the listed categories is based on consideration of the three factors specified in Section 111(f) of the Clean Air Act: (1) the quantity of air pollutant emissions that each category will be designed to emit, (2) the extent to which each pollutant may reasonably be anticipated to endanger public health or welfare, and (3) the mobility and competitive nature of each category. The Priority List identifies the source categories for which EPA must promulgate standards of performance. The category "Crude Oil and Natural Gas Production" ranks 29th on the list of 59 source categories.

The crude oil and natural gas production industry encompasses the operations of exploring for crude oil and natural gas products, drilling for these products, removing them from beneath the earth's surface, and processing these products from oil and gas fields for distribution to petroleum refineries and gas pipelines. The crude oil and natural gas production industry is a source of volatile organic compounds (VOC), sulfur dioxide (SO_2), hydrogen sulfide (H_2S), carbon disulfide (CS_2), carbonyl sulfide (COS), and nitrogen oxides (NO_x) emissions. All of these pollutants, except VOC, are considered in standards being developed separately. Thus, the standards proposed with this preamble would apply only to VOC emitted by this industry.

There are several VOC emission points within this industry. These emission points can be divided into three main categories: process, storage, and equipment leaks. Process emission sources include well systems, field oil and gas separators, wash tanks, settling tanks, and other sources. These process sources remove the crude oil and natural gas from beneath the earth and separate gas and water from the crude oil. Best demonstrated control technology has not been identified for process emission points; therefore, these sources have not been considered in developing the proposed standards.

Storage emission sources include field storage tanks, condensate tanks, and cleaned oil tanks. These were addressed during the development of standards of performance for storage of petroleum liquids in Subpart K of 40 CFR 60.

Equipment leaks of VOC can occur from pumps, valves, compressors, open-ended lines or valves, and pressure relief devices used in onshore crude oil and natural gas production. These leaks usually occur due to design or failure of the equipment. Equipment used in crude oil and natural gas production (not to be confused with natural gas processing) are widely dispersed over large areas. The analysis presented in the BID for the principal control technique (leak detection and repair work practices) for equipment leaks of VOC is not appropriate for widely dispersed equipment. The costs and emission reduction numbers for such an analysis are unknown at this time. Thus, the proposed standards do not apply to equipment associated with crude oil and natural gas production. The proposed standards apply only to equipment located at onshore natural gas processing plants.

Based on recent growth projections for onshore natural gas processing plants, about 180 newly constructed facilities and as many as 40 modified or reconstructed facilities could become covered by the proposed standards during the period from 1983 to 1987. If the equipment covered by the proposed standards in these 220 gas processing plants are controlled only by existing maintenance procedures, an estimated 24,200 megagrams of VOC per year would result from these facilities in 1987. These emissions of VOC could be reduced substantially by readily available controls at reasonable costs.

Standards of performance have other benefits in addition to achieving emissions reductions. Standards of performance establish a degree of national uniformity to air pollution standards and, therefore, preclude situations in which some States may attract new industries as a result of having relaxed standards relative to other States. Further, standards of performance provide documentation that reduces uncertainty in case-by-case determinations of best available control technology (BACT) for facilities located in attainment areas and lowest achievable emission rates (LAER) for facilities located in nonattainment areas. This documentation includes identification and comprehensive analyses of alternative emission control technologies, development of associated costs, assessment of economic impacts on the industry and consumers, evaluation and verification of applicable emission test methods, and identification of specific emission limits achievable with alternate technologies.

The rulemaking process that establishes standards of performance assures adequate technical review and promotes participation of representatives of the industry being considered for regulation, government, and the public affected by the industry's emissions. The resultant standards represent a balance in which government resources are applied in a well-publicized national forum to reach a decision on a pollution emission level that allows for a dynamic economy and a healthful environment.

Selection of Affected Facilities

The choice of the affected facility for the proposed standards is based on EPA's interpretation of Section 111 of the Clean Air Act and on the judicial construction of its meaning [ASARCo, Inc., v. EPA, 578 F. 2d 319 (D.C. Cir. 1978)]. Under Section 111, standards of

performance for new stationary sources must apply to "new sources;" "source" is defined as "any building, structure, facility, or installation which emits or may emit any air pollutant" [Section 111(a)(3)]. Most industrial plants, however, may consist of numerous facilities—equipment or groups of equipment—that emit air pollutants and that, consequently, may be viewed as "sources." EPA uses the term "affected facility" to designate the equipment or groups of equipment, within a particular kind of plant, chosen as the "source" affected by given standards.

In choosing the affected facility, EPA must decide which equipment, or groups of equipment, is the appropriate unit for separate standards of performance in the particular industrial context involved. EPA must do this by examining the situation in light of the terms and purpose of Section 111 of the Clean Air Act. One major consideration in determining the definition of source is that the use of a narrower designation results in bringing replacement equipment under standards of performance sooner. If, for example, an entire plant is designated at the affected facility, no part of the plant would be covered by the standards unless the plant as a whole is "modified" (see 40 CFR 60.14) or "reconstructed" (see 40 CFR 60.15). The plant as a whole could be considered modified only if the replacement resulted in an increase in the aggregate emissions from the entire plant. The plant as a whole could be considered reconstructed only if the cost of the replacement exceeded 50 percent of the cost of an entire new plant. If, on the other hand, each piece of equipment is designated as an affected facility, then as each piece is replaced, the replacement piece will be a new source subject to the standards, regardless of the cost of the replacement or whether the replacement caused emissions from the plant as a whole to increase. Since the purpose of Section 111 is to minimize emissions by application of the best demonstrated system of emission reduction at all new and modified source (considering cost, nonair quality health and environmental impacts, and energy requirement), there is a presumption that a narrower designation of the affected facility is proper. This ensures that new emission sources within plants will be brought under the coverage of the standards as they are installed. This presumption can be overcome, however, if EPA concludes either that: (a) a broader designation of the affected facility would result in greater emission reduction; or (b) consideration of the other relevant statutory factors (technical feasibility, costs, nonair quality health and environmental impacts, and energy requirements) leads to the conclusion that a broader designation is appropriate.

Affected facilities for standards that would cover equipment leaks of VOC could be defined as individual pieces of equipment, as groups of equipment that are operated in conjunction with each other (process units), or as groups of process units at one location (plant sites).

The alternative of defining the affected facility as separate pieces of equipment, the most narrow designation, was reviewed first. Due to the large number of equipment in a typical process unit, if EPA selected separate pieces of equipment as the basis for defining affected facilities, situations could arise in which replaced equipment in an existing process unit would be subject to the standards, while adjacent equipment would not be subject to the standards. With such a mixture of new and existing equipment, the effort to keep track of equipment covered by the standards and equipment not covered by the standards could be too costly. In addition, implementing a leak detection and repair program, the principal control technique considered for the proposed standards, for a very small proportion of the equipment within a process unit would be costly.

Therefore, EPA considered groups of equipment (with the exception of compressors, discussed below) within each process unit for the designation as an affected facility. This alternative obviates the need for, and the costs of, distinguishing between equipment covered by the standards and equipment not covered. Furthermore, in this case the designation of the affected facility as a process unit is expected to result in emission reductions comparable to the reductions achieved if the affected facility were designated as separate pieces of equipment. Based on these considerations, EPA selected the group of equipment within a process unit as the affected facility for equipment other than compressors.

Compressors, unlike the other equipment, can be easily identified because they are located together and are physically separate from the process unit. An owner or operator, at reasonable costs, could easily keep track of compressors covered by the standards and compressors not covered by the standards, and there are no other reasons for a broader designation of the affected facility. In addition, for existing compressors covered through the reconstruction provisions of 40 CFR 60.15, the reconstruction determination includes a consideration as to whether it is technically or economically feasible for an existing compressor to meet the standards. This could be used to determine which of the few existing compressors might not be designed to allow reasonable retrofitting of the control technique described in Chapter 4 of the BID. If compressors were included among other equipment in defining affected facilities, then an existing compressor could become subject to the standards under the modification provisions, and an independent review could not be used to determine if an existing compressor was not designed to allow reasonable retrofitting of the control techniques. Based on these considerations, EPA selected the individual piece of equipment (i.e., each compressor) as the affected facility for compressors.

In summary, the proposed standards would apply to two types of affected facilities. Each gas plant compressor in VOC service is one type of affected facility. The other type of affected facility comprises all equipment in VOC service, other than compressors, within a process unit. A process unit is defined as equipment assembled for the separation of natural gas liquids from field gas, fractionation of the liquids into natural gas products, or other operation associated with the processing of natural gas products.

More specifically, a process unit has discrete boundaries that consist of the points where process fluid enters from the preceding natural gas processing activity and where the treated process fluid is discharged to storage or for further processing. For example, a separation train is a process unit because a field gas stream enters the separation train, and separate product gas and natural gas liquids are discharged from the train. If further separation of natural gas liquids is performed by fractionation, the fractionation train comprises an additional process unit. Thus, the process unit is used as the basis for defining an affected facility, but the applicability of the proposed standards is limited to specific equipment in VOC service.

The proposed standards would exempt routine changes and additions made for process improvements from the modification provisions of Section 60.14 of the General Provisions of 40 CFR Part 60 if they are made without incurring a "capital expenditure" as defined in the General Provisions. Examples of such changes include those

made for increasing the ease of maintenance, improving plant safety, and correcting minor design flaws.

These standards would apply only to equipment with process stream VOC concentrations of 1.0 weight percent or more. VOC means any organic compound that participates in atmospheric photochemical reactions. It is assumed that an organic compound participates in atmospheric photochemical reactions unless the Adminstrator determines that it does not. The Administrator has determined that the following organic compounds have neligible photochemical reactivity: methane; ethane; 1,1,1–trichloroethane; methylene chloride; trichlorofluoromethane; dichlorodifluoromethane; trifluoromethane; trichlorotrifluoroethane; dichlorotetrafluoroethane; and chloropentafluorethane. The 1.0 percent cutoff is intended to exempt equipment in product natural gas service. Product natural gas has much less than 1.0 weight percent VOC; and there is little emission reduction potential associated with controlling equipment in product natural gas service. A relatively large percentage of the emissions from natural gas plants is from equipment with process streams with relatively low percentages of VOC (but greater than 1.0 weight percent). The costs of controlling equipment with VOC concentrations greater than 1.0 weight percent are reasonable, with one exception, and, therefore, they are covered by the proposed standards. The exception is reciprocating compressors in wet gas service that are located at a natural gas plant that does not have a control device at the plant site. As discussed in the *Selection of the Basis for the Proposed Standards* section of this preamble, these compressors are not subject to the compressor control requirements.

Equipment covered by standards of performance for facilities within the synthetic organic chemical manufacturing industry and within petroleum refinery process units are excluded from these proposed standards. Equipment covered by national emission standards for benzene are also excluded.

Control Techniques and Control Costs for Equipment Leaks of VOC

There are basically two types of control techniques available for equipment leaks of VOC: (1) leak detection and repair programs; and (2) equipments, design, and operational requirements. Leak detection and repair programs reduce equipment leaks of VOC by establishing a procedure which includes monitoring to detect VOC leaks from specific equipment and steps to repair leaking equipment. Both types of control techniques apply to pressure relief devices, valves, and pumps. Equipment, design, and operational requirements were considered for compressors, open-ended valves or lines, and sampling connection systems. The control techniques considered for each type of equipment are summarized below and are described more fully in Chapter 4 of the BID. In addition, costs and VOC emission reductions associated with each control technique are presented below.

Pressure relief devices. Equipment leaks of VOC from pressure relief devices result from leakage of process materials through the pressure relief device valve seat. VOC emissions can be controlled by a leak detection and repair program or by installation of a rupture disk between the process stream and pressure relief device.

The annual costs and VOC emission reductions achieved for monthy and quarterly leak detection and repair programs and for use of control equipment (rupture disks) were determined for pressure relief devices. A quarterly leak detection and repair program results in a net annual credit of $610, reducing VOC emissions by approximately 950 kilograms per year (kg/yr). The cost of a monthly leak detection and repair program is completely offset by the recovery credits, and VOC emissions would be reduced by about 1 megagram per year (Mg/yr). Installation of rupture disks would control an additional 500 kg/yr but at the relatively high cost of $6,700/Mg. The control costs per megagram of VOC reduced and the emission reductions achieved are presented in Table 1.

TABLE 1.—CONTROL COSTS PER MEGAGRAM OF VOC'S REDUCED [a]

Fugitive emission source	Control technique [b]	Emission reduction,[c] Mg/yr	Average,[d] $/Mg	Incremental,[e] $/Mg
Pressure relief devices	*Quarterly leak detection and repair* [g]	0.95	(f)	[h]
	Monthly leak detection and repair	1.0	0	5,800
	Rupture disks	1.5	6,800	[illegible]
Compressors	*Closed vent and seal system* [g]	[i] 14	460	[illegible]
Open-ended valves and lines	*Caps on open ends* [g]	19	(f)	(f)
Sampling connection systems	Closed purge sampling	[j] 0.22	[j] 7,000	[j] 7,000
Valves	Quarterly leak detection and repair	[illegible]	(f)	(f)
	Monthly leak detection and repair [g]	43	[illegible]	[j] 11,400
Pumps	Quarterly leak detection and repair	2.0	[illegible]	[illegible]
	Monthly leak detection and repair [g]	2.3	610	[illegible]
	Dual mechanical seal systems	2.6	4,900	31,000

[a] Costs and emission reductions are based on Model Plant B as presented in the BID, Appendix H.
[b] Further discussion of control techniques used can be found in Chapters 4 and 6 of the BID.
[c] Emission reductions are for Model Plant B. Refer to BID Table 7–2.
[d] Average dollars per megagram (cost effectiveness) = net annual cost per component ÷ annual VOC emission reduction per component.
[e] Incremental dollars per megagram = (net annual cost of the control technique − net annual cost of the next less restrictive control technique) ÷ (annual emission reduction of control technique − annual emission reduction of the next less restrictive control technique).
[f] Cost savings occur.
[g] Control techniques selected as the basis for the proposed standards.
[h] Emission reduction for compressors is from BID Appendix H, Table 3.
[i] Costs and emission reduction for closed purge sampling represent both inlet gas sampling and product liquids sampling.
[j] Monthly/quarterly leak detection and repair is allowed under the proposed standards and the incremental cost effectiveness of monthly/quarterly from quarterly leak detection and repair is less than 300 $/Mg.

Compressors. Many types of seals and packings are used to limit leakage of process gases around compressor drive shafts. VOC can be emitted as a result of seal design, seal deterioration, or imperfections. VOC also can be emitted from barrier fluid degassing vents that are used on some types of mechanical seals on centrifugal compressors. Reciprocating compressors are supplied with vented seals and enclosed and vented distance pieces. Emissions from these vents can be collected and routed to either a process heater, the compressor intake, or a flare. The distance piece enclosures would be slightly pressurized with a barrier fluid (such as product gas) to prevent an explosive atmosphere in the enclosure.

The annual costs and emission reductions were estimated for the use of a closed vent system for reciprocating compressor seals and for the use of mechanical seals and barrier fluid systems for centrifugal compressor seals. The control cost per megagram of VOC reduced would be $460. These numbers are presented in Table 1.

Open-Ended Valves or Lines and Sampling Connection Systems. Equipment leaks of VOC from open-ended valves or lines result from leakage of process fluids through the valve seat. These emissions can be controlled by the installation of a cap or a second valve. A net annual credit of $1,900 would result from installation of caps on open-ended lines or valves. This

would result in an emission reduction of approximately 19 megagrams of VOC per year.

Open-ended valves or lines can be used for sampling process fluids, which may result in equipment leaks of VOC. These emissions can be reduced through the use of closed purge sampling systems. Closed purge sampling would result in an average annual cost of $7,000 per megagram of VOC and would reduce VOC emissions by 0.22 megagrams per year. The control costs per megagram of VOC reduced and the emission reductions achieved are presented in Table 1.

Valves. Equipment leaks of VOC result when valve packings or O-rings that are used to limit leakage of process fluids around valve stems deteriorate. VOC emissions from valves can be reduced through leak detection and repair programs.

The annual costs per megagram of VOC emissions reduced and emission reductions achieved were determined for leak detection and repair programs. These costs and emission reductions are presented in Table 1. Quarterly monitoring for leaks from valves results in net annual savings of about $4,000, and the cost of monthly monitoring is completely offset by the recovery credits. Quarterly monitoring would reduce VOC emissions by 40 megagrams per year, and monthly monitoring would reduce VOC emissions by 43 megagrams per year. The incremental cost per megagram of monthly monitoring compared to quarterly monitoring is $1,400 per year.

Pumps. Equipment leaks of VOC result from leakage of process fluids around pump drive shafts and through deteriorated seal packings or worn mechanical seal faces. VOC can also be emitted from the barrier fluid degassing vents used on some types of dual mechanical seal systems. VOC emissions from pump seals can be reduced through leak detection and repair programs or through the use of dual mechanical seals with controlled degassing vents.

The control costs incurred for each megagram of VOC emissions reduced and emission reductions achieved were determined for leak detection and repair programs and the use of dual mechanical seals with controlled degassing vents. These costs and emission reductions are presented in Table 1. Quarterly monitoring and monthly monitoring result in costs of $590 and $610 per megagram of VOC controlled and reduce annual VOC emissions by 2.0 and 2.3 megagrams, respectively. Dual mechanical seals would result in a cost of $4,900 per megagram of VOC and would reduce annual VOC emissions by 2.6 megagrams. The incremental cost per megagram of monthly monitoring is $800 per megagram of VOC (in comparison with quarterly monitoring), and the incremental cost per megagram of dual mechanical seals is $31,000 per megagram of VOC (in comparison with monthly monitoring).

Selection of the Basis for the Proposed Standards

Section 111 of the Clean Air Act, as amended, requires that standards of performance be based on the best system of continuous emission reduction that has been adequately demonstrated, considering costs, nonair quality health and environmental impact, and energy requirements (best demonstrated technology). As a first step toward determining which control techniques should be selected as the basis for the proposed standards, EPA analyzed the annual cost of controlling VOC emissions and the resultant VOC reduction for each alternative control technique. EPA also considered the nonair environmental, energy, and economic impacts associated with selecting alternative control techniques as the basis for the proposed standards.

The control costs per megagram of VOC reduced are presented in Table 1. These costs do not represent the actual amounts of money spent at any particular plant site. The cost of VOC emission reduction systems will vary according to the products being produced, production equipment, plant layout, geographic location, and company preferences and policies. However, these costs are considered typical of control techniques for equipment leaking VOC within natural gas plants and can be used in making decisions about the level of control to be required.

The analysis presented in Table 1 shows that the incremental control costs per megagram of VOC reduced were $31,000 for dual mechanical seals with controlled degassing vents compared to a leak detection and repair program with monthly monitoring. For pressure relief devices, the incremental costs per megagram were $22,000 for rupture disks compared to a leak detection and repair program with monthly monitoring and $5,800 for monthly monitoring compared to quarterly monitoring. The cost per megagram of VOC reduced was $7,000 for closed purge sampling systems. These costs were judged to be unreasonably high, and, therefore, these specific control options were given no further consideration.

EPA next examined the costs and emission reductions associated with a leak detection and repair program with monthly monitoring for valves and pumps, quarterly monitoring for pressure relief devices, and the use of equipment on open-ended valves or lines, and compressors. Incremental costs per megagram of VOC reduced for these control technologies range from a credit to a cost of about $1,400 for the typical size plant. As discussed later in this preamble, the monthly leak detection and repair requirement for valves has provisions that allow monthly/quarterly monitoring. Allowing monthly/quarterly monitoring reduces the incremental costs per megagram of VOC to a maximum of about $800. These costs are judged to be reasonable for a typical size plant, considering the potential emission reduction to be achieved.

EPA recognizes, however, that there are some relatively small plants that operate without technically trained personnel being present because of the type of process that is performed there. While fractionating plants require the presence of technically trained personnel, small nonfractionating plants often operate unmanned or without personnel having the technical ability necessary to carry out responsibly a leak detection and repair program. In these cases, central office personnel or an outside consultant would be required to conduct leak detection and repair. The additional costs that would be incurred in such cases were examined and considered in light of the emission reduction that would be achieved (Appendix F of the BID). The costs were judged to change from reasonable to unreasonable at plants having capacities between 142,000 and 283,000 scmd (5 and 10 million scfd). Therefore, EPA decided to exempt any nonfractionating plant whose capacity is 283,000 scmd (10 million scfd) or less of field gas from the routine monitoring requirements for valves, pumps, and pressure relief devices. However, all fractionating plants, regardless of capacity, would be required to implement the routine monitoring requirements.

The costs and the cost effectiveness numbers stated in Table 1 are based on an average size plant (2.55 million scmd, or 90 million scfd) with 50 percent reciprocating compressors and 50 percent centrifugal compressors. One industry representative stated that some small plants do not have a control device and that the additional costs associated with the installation and operation of a control device would

make the reciprocating compressor control cost effectiveness unreasonable for such small facilities. The costs, including the additional costs of installing and operating a control device (a flare), were analyzed for various compressor types (reciprocating and centrifugal) in different types of VOC service (wet gas and natural gas liquids). The costs and cost effectiveness were reasonable for all combinations of compressor type and type VOC service except the reciprocating compressor in wet gas service (less than 50 weight percent VOC). The cost effectiveness for this combination was judged to be unreasonable. Therefore, the Administrator decided to exempt from the compressor control requirements reciprocating compressors in wet gas service that are located at a gas plant that does not have a control device present at the plant site.

To ensure that the analyses leading to the small plant-size exemption and to the reciprocating wet gas compressor exemption adequately considered all relevant factors, the Agency requests comments from interested parties about the recommended exemptions.

Natural gas plants are relatively large emitters of VOC, with equipment leaks comprising a significant VOC emitting segment in natural gas plants. The control techniques, for which the incremental costs per megagram emission reduction were judged to be reasonable, would result in a nationwide reduction of at least 18,800 Mg of VOC in the fifth year after proposal. It is reasonable to believe that a reduction of this size in VOC emissions from the gas production industry would be of significant benefit to the environment. After considering the results of the analysis of the control costs per megagram reduced by these control techniques, EPA tentatively selected them as the basis for the proposed standards.

Next, economic, energy, and nonair quality environmental impacts were examined to determine if they would alter the selection of the basis for the proposed standards. The economic impact analysis shows that the control techniques, for which it was decided that the costs per megagram of VOC reduced are reasonable, would result in no adverse economic impacts on the affected industry and would result in an increase in the consumer price of natural gas of no more than 0.1 percent. EPA also examined the nonair quality environmental and energy impacts of the control techniques considered for each source. Analyses of these impacts are presented in Chapter 7 of the BID. Reduction in VOC leakage, resulting from any of the control options considered, would reduce the waste load on wastewater treatment systems, thereby having a positive impact on water quality. Solid waste impacts due to any of the control options would be minimal. Each control option would result in a net positive energy impact due to conservation of VOC which has an energy value. Since there were no adverse nonair quality environmental or energy impacts, consideration of these impacts did not affect the decision on the basis of the proposed standards.

In summary, the most effective control techniques which were considered by EPA to have reasonable incremental costs per megagram of VOC emissions reduced were selected as the basis for the proposed standards. These control techniques include a monthly leak detection and repair program for valves and pumps and a quarterly leak detection and repair program for pressure relief devices at all onshore natural gas plants except those that both do not fractionate natural gas liquids and that have a capacity of 283,000 scmd (10 million scfd) or less. Control equipment was selected as the basis for the proposed standards for open-end valves or lines and for compressors. Less restrictive control techniques were not considered further because they achieved less emission reduction; and there were no cost, economic, energy, or nonair quality environmental impacts which necessitated further examination of these control techniques.

Selection of Format for the Proposed Standards

Several formats could be used to implement the control requirements selected as the basis for the proposed standards. Section 111 of the Clean Air Act requires that a standard of performance be prescribed unless, in the judgment of the Administrator, it is not feasible to prescribe or enforce such a standard. Section 111(h) defines two conditions under which it is not feasible to prescribe or enforce a performance standard. These conditions are (1) if the application of measurement methodology to a particular class of sources is not practicable due to technological or economic limitations, or (2) if the pollutants cannot be emitted through a conveyance device. If a performance standard is not feasible to prescribe or enforce, then the Administrator may instead promulgate a design, equipment, work practice, or operational standard, or combination thereof.

A performance standard allows for some flexibility because any control technique may be used if it achieves the level of emission reduction represented by the standard. However, for most equipment leaks of VOC it is not feasible to prescribe a performance standard. Except in those cases in which standards can be set at "no detectable emissions," the only way to measure emissions from equipment leaking VOC would be to use a bagging technique for each piece of equipment. The great number of pieces of equipment and their distribution over large areas would make such a requirement economically impracticable for many plants.

Another approach for prescribing a performance standard would be to specify a number or percent of equipment that would be allowed to leak. The only equipment for which a leak frequency limit would be applicable is valves, because other pieces of equipment are too few in number to allow a meaningful percent to be determined. The variability in the percentage of leaking valves among process units precludes setting an allowable percentage of leaking valves that could necessarily be achieved by all process units within the industry. Therefore, establishing an allowable percentage of leaking valves applicable to all process units is not practicable. However, establishing an allowable percentage of leaking valves based on cost considerations associated with levels of performance is possible. If a process unit achieves the designated level of performance, then the owner or operator may elect to comply with an alternative standard for valves. This approach, which would add flexibility to the proposed standards, is discussed in more detail in the *Alternative Standards for Valves* section of this preamble.

Based on EPA's determination that it is infeasible to prescribe a performance standard for most equipment leaks of VOC at onshore natural gas plants, the alternative regulatory formats identified in Section 111(h) of the Act were considered. One possible format is an equipment standard. Equipment standards provide well-documented emission reductions. Determining compliance would require an initial check to ensure that the equipment had been installed properly and periodic checks to ensure that the equipment was continuing to operate properly. An inherent disadvantage associated with this type of format is less site-specific flexibility.

As indicated in the next section of this preamble, EPA reviewed the performance of equipment other than

the equipment selected as the basis for the proposed standards and is proposing to allow other equipment as alternatives to the equipment and work practices required by the proposed standards. These alternatives are allowed if they provide a reduction in emissions that is at least equivalent to the reductions achieved by the equipment or work practices required by the proposed standards. In addition, owners and operators of affected facilities would have additional flexibility because they could obtain EPA's approval to employ other equivalent techniques under Section 111(h)(3) and innovative techniques under the waiver provisions of Section 111(j).

Other formats include work practice, design, and operation standards. An example of the work practice format would be a program for leak detection and repair. Inspection methods, inspection time intervals, and time allowed for repair would be defined in detailing the work practices. Compliance with a work practice standard would be demonstrated by documenting that the work practices have been carried out. Rather than requiring specific control equipment or work practices, a design or operational format would require that a certain design representative of a level of control be attained or that certain conditions during operation of a process be achieved. For example, combustion devices may be required to be designed to achieve a specified level of control efficiency.

The proposed standards incorporate all of the possible formats. Different formats are required for different types of leaking equipment because characteristics of the equipment, the available emission control techniques, and the applicability of the measurement method used for equipment leaks differ. In the next section, the rationale for selecting a particular format is explained for each type of leaking equipment. For each type of leaking equipment, the feasibility of prescribing or enforcing a performance standard is discussed. If a performance standard is not feasible, the rationale for selecting another format is presented.

Selection of Emission Limit, Equipment, Work Practice, Design and Operational Standards

Compressors. The basis of the proposed standards for compressors is a closed-vent system to control leakage from the seal vent and distance piece area. Emission limits for compressors have not been proposed because the application of available measurement methods would not be practicable because of technological or economic limitations. Thus, EPA proposes that the compressor be equipped with a seal area enclosure and closed vent system to carry the VOC emissions to a control device. The enclosure would capture all the emissions from the seal area. The closed vent system and control device would be required to comply with requirements discussed in the *Closed Vent Systems and Control Devices* portion of this section of the preamble.

For centrifugal compressors, mechanical seals with a barrier fluid system would be an equivalent alternative to a vent control system because they would achieve essentially 100 percent control of VOC emissions. In these instances, requirements must also be established to ensure the proper operation and maintenance of the equipment. A pressure or level indicator on the barrier fluid system would reveal any catastrophic failure of the seal or of the barrier fluid system. This indicator could be monitored in the control room or be equipped with an alarm to signal a failure of the system. Thus, a requirement to include an indicator to detect failure of the system is proposed, pursuant to Section 111(h), to ensure the proper operation and maintenance of the alternative mechanical seal system.

As mentioned in the *Selection of Affected Facilities* section of this preamble, there may be some cases in which distance pieces cannot be enclosed or seals with barrier fluid systems cannot be utilized with a closed vent system to a control device because some existing compressors cannot technologically or economically be retrofitted. For example, enclosing the distance piece and venting to a control device could require replacement of the distance piece on a reciprocating compressor or replacement of an entire reciprocating compressor. In these situations, determination of whether installation of the enclosure and venting system or its equivalent is technologically or economically feasible can take place during the determination of whether an existing compressor will be considered reconstructed and therefore affected by the standards. If EPA determines that an existing compressor cannot be technologically or economically retrofitted, then the compressor would not be required to comply with the standards.

Open-Ended Valves or Lines. The basis of the proposed standards is equipment that would enclose the open end. Bagging of this equipment for emission measurement or other techniques for measuring leak rates would not be economically or technologically practicable. A "no detectable emissions" standard could not be selected as the format for the proposed standard because VOC could leak through the valve seat and become trapped in the line between the valve and the cap. The trapped VOC could be emitted to the atmosphere, even though the VOC emitted to the atmosphere would be much less than the VOC emitted without the enclosure. Thus, EPA selected the use of an equipment standard for control of equipment leaks of VOC from open-ended valves or lines.

Enclosure of the open end can be achieved by installing a cap, plug, or a second valve. The control efficiency associated with these techniques is approximately 100 percent, except when the line is used for draining, venting, or sampling operations. Thus, EPA is proposing standards that require open-ended valves or lines to be equipped with a cap, plug, or a second valve. If a second valve is used, the proposed standards require that the upstream valve be closed first, pursuant to Section 111(h). After the upstream valve is completely closed, the downstream valve must be closed. This operational requirement is necessary in order to prevent trapping process fluid between the two valves, which could result in a situation equivalent to the uncontrolled open-ended valve or line.

Valves. Valves could not reasonably be designed to release fugitive emissions to a conveyance, and bagging or other means of emission rate measurement is not reasonable. As discussed in the *Selection of Format for the Proposed Standards* section of this preamble, and allowable percentage of valves leaking cannot be selected as the basis for the proposed standard because of process unit variability. Similarly, a "no detectable emissions" limit cannot be prescribed, because, with the control techniques selected as the basis for the proposed standards, valves will still occasionally leak. Therefore, work practices consisting of periodic leak detection and repair programs were selected as the basis for the proposed standards for valves.

Several factors influence the level of emission reduction that can be achieved by a leak detection and repair program. The three main factors are the monitoring interval, leak definition, and repair interval. Training and diligence of personnel conducting the program, the adequacy of repair methods attempted, and other site-specific factors may also influence the level of emission reduction achievable; however, these factors are less quantifiable. The overall emission reduction of a leak detection and repair

program depends on the three main factors. Each of these three factors limits the effectiveness of the program. For example, if each of the factors selected for a leak detection and repair program represents a 90 percent effectiveness, then the overall effectiveness would be about 73 percent. Thus, the most effective definition that is reasonable for each factor should be selected.

The "monitoring interval" is the frequency at which individual equipment inspections are conducted. In selecting the basis of the proposed standards, EPA considered two regulatory alternatives for valves—monitoring at monthly intervals and monitoring at quarterly intervals. The incremental cost of monthly versus quarterly monitoring was judged to be reasonable for the additional emission reduction achieved by monthly valve monitoring. Consequently, monthly monitoring was selected as the basis of the standard. This judgment was based on emission reductions and costs calculated at the rate at which valve leaks typically occur at a gas plant.

However, EPA recognizes that some valves have lower leak occurrence rates than others. Monthly monitoring of valves that do not leak for 2 consecutive months was judged to be unreasonable when compared to the additional emission reduction achieved by monthly monitoring over quarterly monitoring. Therefore, although EPA is proposing that leak detection and repair programs include monthly monitoring for valves, the standard would allow quarterly monitoring for valves that have been found not leaking for 2 successive months.

Some valves are difficult to monitor because access to the valves is restricted. Difficult-to-monitor valves can be eliminated in new facilities but cannot be eliminated in existing facilities. Therefore, for facilities that become affected by a modification or reconstruction, EPA is proposing an annual leak detection and repair program for valves which are difficult to monitor. Valves which are difficult to monitor are defined as valves which would require elevating the monitoring personnel more than two meters above any readily available support surface. For new affected facilities, all valves would be subject to the proposed monthly leak detection and repair program.

The "leak definition" is the instrument reading observed during monitoring that would be used to determine which components have failed and need to be repaired. The best leak definition would be the one that achieved the most emission reduction at reasonable costs. The emission reduction achieved would increase at the leak definition decreased, due to the increasing number of components that would be found leaking and, therefore, repaired. At a leak definition of 10,000 ppm, approximately 90 percent of VOC leaks from valves would be detected. It is well documented that valves that have been found leaking at levels of 10,000 ppm or greater can be brought to levels below 10,000 ppm with proper maintenance. Also, as a practical matter, most commonly available hydrocarbon detectors that are considered intrinsically safe have a maximum reading of 10,000 ppm. Leak definitions higher than 10,000 ppm could, nevertheless, be selected (and dilution probes could be used with portable detectors); however, there would be less emission reduction with the 10,000 ppm definition and no substantial associated cost savings. Consequently, there is no basis for selecting a leak definition greater than 10,000 ppm. A leak definition lower than 10,000 ppm may be practicable in the sense that leaks can be repaired to levels less than 10,000 ppm. However, EPA is unable to conclude that a leak definition lower than 10,000 ppm would provide additional emission reductions and, therefore, would be reasonable. Because the 10,000 ppm leak definition would address approximately 90 percent of the VOC leaks from valves at reasonable costs and at reasonable cost effectiveness, and because safe, available hydrocarbon detectors can read 10,000 ppm, the 10,000 ppm level was selected as the leak definition for valves. This definition was also considered appropriate for pumps and pressure relief devices. The same portable monitor used for valves would be used for these types of equipment, and consideration of other relevant factors did not indicate that the 10,000 ppm definition should be different for pumps or pressure relief devices.

The "repair interval" is the length of time allowed between the detection of a leaking piece of equipment and its subsequent repair. To provide the maximum effectiveness of the leak detection and repair program, the repair interval selected should require expeditious reduction of emissions but allow the owner or operator sufficient time to maintain flexibility in the overall maintenance schedule of the gas plant.

The length of the repair interval would affect emission reductions achievable by the leak detection and repair program because leaking equipment would be allowed to continue to leak for a given length of time. Repair intervals of 5 and 15 days were evaluated. The effect on the emission reduction potential is proportional to the number of days the equipment is allowed to leak between detection and repair.

An initial attempt at repair of a leaking piece of equipment should be accomplished as soon as practicable after detection of the leak. Most repairs can be done quickly. A 5-day period provides sufficient time to schedule simple field repair. Attempting to repair the leak within 5 days will help maintenance personnel to identify the leaks that cannot be repaired with simple field repair or without shutdown of the affected facility.

Valves that are not repairable by simple field repair may require removal from the process for repair. Even repair intervals of 5 and 10 days could cause scheduling problems in repairing these valves. A 15-day interval provides time for isolating pieces of leaking equipment when equipment isolation is needed for repair beyond simple field repairs. A 15-day interval provides the owner or operator with sufficient time for determining precisely which spare parts are needed and provides sufficient time for flexibility in scheduling repair for these valves. In addition, a 15-day interval provides time for better determination of methods for isolating pieces of leaking equipment when equipment isolation is needed for repair beyond simple field repairs.

In general, a 5-day repair interval provides sufficient time to schedule simple field repair. A 15-day repair interval allows more efficient handling of more complex repair tasks while maintaining an effective reduction in equipment leaks. A repair interval of 30 or 45 days provides less effective reduction in emissions and does not substantially affect the ability to handle repair tasks. Thus, the proposed standards require an initial attempt to repair a leaking valve within 5 days and complete repair, except as discussed below, within 15 days.

Delay of repair beyond 15 days would be allowed for leaks that could not be repaired without shutting down an affected facility. In general, these leaks would have to be repaired at the next scheduled facility shutdown. Spare parts for valves can usually be stocked such that all leaks that could not be repaired without shutting down the affected facility could be repaired during the shutdown. Spare parts include packing gland bolts and valve packing material. In a few instances, replacement of the entire valve assembly would be required. EPA is proposing to allow delay of repair beyond an affected

facility shutdown for valves which require replacement of the entire valve assembly, provided the owner or operator can demonstrate that sufficient stock of spare valve assemblies had been maintained before the stock had been depleted.

Alternative Standards for Valves. The emission reduction and annual cost of the proposed leak detection and repair program depend in part on the number of leaking valves that are detected during monitoring. If very few valve leaks are detected in an affected facility, then the amount of VOC that could be reduced by the proposed program for valves is much smaller than the amount that could be reduced in a facility having more leaks. Additionally, the annual cost of the leak detection and repair program would be larger for an affected facility with fewer leaks than in an affected facility with more leaks, because the annual cost includes a recovery credit based on the amount of VOC reduced by the program. Thus, the annual cost per megagram of VOC emission reduction for the proposed leak detection and repair program varies with the number of valves which leak within an affected facility.

For example, a monthly leak detection and repair program for valves in VOC service, assuming 18 percent of valves leaking initially, results in zero net annual cost and achieves an annual VOC emission reduction of 43 Mg for a typical process unit. In contrast, for a typical process unit with 2.0 percent of the valves leaking on the average, a monthly leak detection and repair program results in an annual cost of about $7,000 and achieves an annual emission reduction of 5.2 Mg. For a typical process unit with 0.5 percent of the valves leaking on the average, a monthly leak detection and repair program results in an annual cost of $7,400 and achieves an annual emission reduction of about 1.5 Mg. As explained previously, although the standard is based on monthly monitoring, it actually allows monthly/quarterly monitoring, which reduces the costs.

There is no precise breakpoint in the annual cost and emission reduction relationship. However, EPA judges that the emission reduction and annual cost relationship is unreasonably high for process units that over an extended period have fewer than 1.0 percent of valves leaking. Based on this judgment, an allowable percent of valves leaking was determining that reflects the long-term average of 1.0 percent of valves leaking, as discussed below.

Due to the variability inherent in valve leak detection, a process unit that averages less than 1.0 percent of valves leaking will have, at times, more than 1.0 percent of valves leaking. The variability in valve leak detection can be characterized as a binomial distribution. Provision for the variability in leak detection is accomplished by straightforward statistical techniques based on the binomial distribution. An allowable percent of valves leaking of 2.0 percent, to be achieved at any point in time, would provide an owner or operator a risk of about 5 percent that greater than 2.0 percent of valves would be determined leaking when the average of 1.0 percent was actually being achieved. Based on these considerations, EPA considers an allowable percent of valves leaking of 2.0 percent to represent an average of 1.0 percent of valves leaking.

EPA is proposing two alternative standards which would exempt valves within process units from the required (monthly/quarterly monitoring) leak detection and repair program. Owners or operators of affected facilities may identify and elect to achieve either of the alternative standards. The alternative standards would allow owners or operators to tailor leak control programs to their own operations. An owner or operator would report which alternative standard he had identified and elected to achieve.

The first alternative standard would limit the maximum percent of valves leaking within an affected facility to 2.0 percent. As previously pointed out in the *Selection of Format for the Proposed Standards* section of this preamble, an industry-wide performance standard which could reasonably be achieved at all facilities was not possible for valves. This was due to the variability in valve leak frequency and variability in the ability of a leak detection and repair program to reduce these leaks among all affected facilities within the industry. However, this alternative standard would allow any affected facility the option of complying with an allowable percent of valves leaking for a particular affected facility. Choosing this alternative standard would allow for the possibility or different leak detection and repair programs and substitution of engineering controls (e.g., valves designed to leak less frequently) at the discretion of the owner or operator. This alternative standard would also eliminate a large part of the recordkeeping associated with the monthly/quarterly leak detection and repair program for valves.

Performance tests, as specified in 40 CFR 60.8(f), require three runs. However, three runs for performance tests to determine the percent of valves leaking are unnecessary and would be inconsistent with the performance standard, which is based on leak frequency at any time. Thus, performance tests for valves complying with the percent leak frequency alternative are exempt from § 60.8(f) in the proposed standards; a performance test will consist of only one run. However, this alternative standard would require a minimum of one performance test per year. Additional performance tests could be requested by EPA. If the results of a performance test showed that greater than 2.0 percent of the valves leak, the owner or operator would be in violation of the proposed standards.

In certain circumstances, an owner or operator may want to request a waiver of future tests as provided in the General Provisions of 40 CFR Part 60. This would provide flexibility for owners and operators of onshore natural gas processing plants where, for whatever reason, routine leak detection and repair is not needed to effectively control emissions. This would include gas plants that use superior equipment or that simply do not leak for unexplained reasons. Based on performance tests that demonstrate the achievability of the 2.0 percent standard and information that indicates that this standard would be achieved on a continuing basis, EPA could waiver the annual performance tests.

The second alternative standard would allow the use of skip-period leak detection for valves. Under skip-period leak detection, an owner or operator could skip from routine leak detection for valves to less frequent leak detection. This skip-period leak detection program would require that a performance level of 2.0 percent be achieved on a continuous basis with more than 90 percent certainty. An owner or operator would choose one of two skip-period leak detection programs for valves and then implement that one program. The first skip-period leak detection program could be used when fewer than 2.0 percent of the valves had been leaking for two consecutive quarterly leak detection periods. The first skip-period leak detection program would allow an owner or operator to skip every other quarterly leak detection period; that is, leak detection can be performed semi-annually. Under the second skip-period leak detection program, if fewer than 2.0 percent of the valves had been leaking for five consecutive quarterly leak detection periods, the owner or operator may skip three quarterly leak detection periods; that is, leak detection can be performed annually. When more than 2.0 percent of

valves are found to leak, monthly/quarterly leak detection would be required to be resumed.

Pumps. As with some of the previously discussed equipment, pumps are generally not designed to leak VOC emissions to a conveyance. Because of the difficulty of routinely bagging pumps, bagging of this equipment for emission measurement would not be economically or technologically practicable. Even though leaking pumps can be detected, the small number of pumps within process units does not allow the establishment of a performance standard. A "no detectable emissions" limit cannot be prescribed because, with the control technique selected as the basis for the proposed standards, pumps can still leak.

In the analysis for the basis for the proposed standards, EPA selected a work practice consisting of periodic leak detection and repair program for pumps. As with valves, the effectiveness of the leak detection and repair program for pumps is limited by the selection of the monitoring interval, leak definition, and repair interval. The same leak definition and repair interval selected for valves were selected for pumps for the reasons discussed previously. Monthly monitoring was selected as the monitoring interval for pumps based on cost considerations, as discussed in the *Selection of the Basis for the Proposed Standards* section of this preamble. One month provides the most effective leak detection and repair program for pumps without imposing difficulties or unreasonable cost in implementing the program.

Several types of pumps with ancillary equipment can achieve emission reductions of VOC at least equivalent to that achieved by the monthly leak detection and repair program for pumps. These include dual mechanical seal systems that utilize a barrier fluid between the seals, enclosure of the pump seal area, and sealless pumps. If the barrier fluid in a dual seal system is maintained at a pressure greater than the pump stuffing box pressure, any leakage between the seals would be from the barrier fluid to the process fluid, so no process fluid would be emitted to the atmosphere. If the pump stuffing box pressure is greater than the barrier fluid pressure (for example, tandem seals), the barrier fluid collects the leakage from the inner seal. The process fluid collected by the barrier fluid is controlled by either (1) connecting the barrier fluid degassing system to a control device with a closed vent systems, or (2) by returning the barrier fluid to the process stream. Because these dual mechanical seal systems are at least equivalent to a monthly leak detection and repair program for pumps, owners or operators may elect to use dual mechanical seals rather than implement the monthly monitoring program.

Section 111(h) of the Clean Air Act requires that when equipment standards, such a dual mechanical seal requirements, are established, requirements must also be established to assure the proper operation and maintenance of the equipment. As stated previously for mechanical seals in compressors, a pressure or level indicator on the barrier fluid system would reveal any catastrophic failure of the inner or outer seal, or of the barrier fluid system. This indicator could be monitored in the control room or equipped with an alarm to signal a failure of the system. Thus, EPA is proposing requirements to assure the proper operation and maintenance of the dual mechanical seal system.

Sealless pumps, such as diaphragm or canned pumps, do not have a potential leak area and, therefore, are at least equivalent to monthly leak detection and repair and dual seal systems. As with other leakless equipment, the proposed standard requires an initial performance test, using the procedures specified in Reference Method 21, to verify that the piece of leakless equipment meets the "no detectable emissions" limit and annual rechecks to ensure continued operation with "no detectable emissions." An instrument reading of less tha 500 parts per million by volume (ppm) above a background concentration based on Reference Method 21 can be used to indicate whether VOC leaks have been eliminated, that is, that the equipment has "no detectable emissions."

In many cases, the seal area of a pump could be completely enclosed, and this enclosed area could be connected with a closed vent system to a control device. The control efficiency of this arrangement is dependent on the control efficiency of the combustion or vapor recovery system. The closed vent system could require a flow-inducing device to transport emissions from the seal area to the control device. Some owners or operators may decide that this approach is preferable to leak detection and repair. Enclosing the seal area and venting the captured emissions to a control device by means of a closed vent system is a reasonable alternative because this system would be at least as effective as a monthly leak detection and repair program. Therefore, the EPA is proposing to allow pumps to be equipped with enclosed seal areas that are connected to a control device by a closed vent system in accordance with the requirements for these systems discussed below in the *Closed Vent System and Control Device* portion of this section.

Pressure relief devices. Pressure relief devices could not reasonably be designed to leak VOC emissions to a conveyance, and bagging or other means of emission rate measurement is not reasonable. A performance standard that prescribes an allowable percentage of pressure relief devices leaking is infeasible due to process unit variability. A "no detectable emissions" limit would be possible only if the standard were based on the use of rupture discs; this control technology was rejected as the basis for the standard for cost reasons.

Work practices consisting of periodic leak detection and repair programs were selected as the basis for the proposed standard for pressure relief devices. For reasons discussed previously, the leak definition selected for pressure relief devices is 10,000 ppm, and the repair interval selected is 15 days. Quarterly monitoring was selected as the monitoring interval for pressure relief devices based on incremental cost considerations, as discussed in the *Selection of the Basis for the Proposed Standards* section of this preamble. Quarterly monitoring provides the most effective leak detection and repair program for pressure relief devices without imposing unreasonable costs in implementing the program. In addition, pressure relief devices would be required to be monitored within 5 days after each overpressure to determine if a leak has occurred as a result of the overpressure.

In addition to the quarterly leak detection and repair program, EPA considered the use of rupture discs or closed vent systems with control device as equivalent alternatives. When the integrity of rupture discs is maintained, equipment leaks of VOC through the relief device are eliminated. Rupture discs maintain their integrity unless an overpressure occurs. After the occurrence of an overpressure, replacement of the rupture disc once again eliminates equipment leaks of VOC through the pressure relief device.

For control techniques that eliminate equipment leaks, such as the use of rupture discs, a "no detectable emissions" limit is feasible. An instrument reading of less than 500 parts per million by volume (ppm) above a background concentration based on Reference Method 21 can be used to

indicate whether equipment leaks have been eliminated, that is, that the equipment has "no detectable emissions."

The alternative "no detectable emission" limit would not apply to discharges through the pressure relief device during overpressure relief because the function of relief devices is to discharge process fluid, thereby reducing dangerous high pressures within the equipment. The standard would specify, however, that the relief device be returned to a state of "no detectable emissions" within 5 days after such a discharge. The standard would further require an annual test to verify the "no detectable emissions" status of the pressure relief devices.

If a closed vent system is not open to the atmosphere, and the control device complies with the requirements discussed in the *Closed Vent Systems and Control Devices* portion of this section of the preamble, then its reduction in VOC emissions would be at least equivalent to the reduction achieved with the quarterly leak detection and repair program. Based on these considerations, EPA is proposing to allow rupture discs or closed vent systems with control devices as equivalent alternatives to the quarterly leak detection and repair program for pressure relief devices.

Closed Vent Systems and Control Devices. Control devices would be used to reduce VOC captured and transported through closed vent systems. These control devices, which are present for purposes unrelated to this proposed standard, would be designed to dispose of organic vapor streams from other sources in the plant. Because the streams from the closed vent systems will usually be low-flow or intermittent in comparison to streams from other sources, emissions in closed vent streams will often contribute a very small and varying portion of the total organic vapor stream going to the control device. Measurement techniques that reflect the effectiveness of these control devices to reduce equipment leaks of VOC are limited. Because these techniques would require costly material balancing of the VOC entering the control devices, it is not economically practicable to measure the emissions from these control devices. For this reason an emission standard is not proposed for control devices used to reduce VOC that are captured and transported by closed vent systems.

Control devices were selected as part of the best technological system of emission reduction for some equipment leaks of VOC (such as compressors) and are part of alternative approaches to achieving compliance with the standards for other equipment (such as pumps). These control devices would already be in place in most existing gas plants and, therefore, would not be designed solely to reduce equipment leaks of VOC. These existing control devices provide varying degrees of emission reduction; therefore, selecting standards of performance for these devices may not reflect the emission reduction capability of the best control devices nor the capability of devices specifically designed for control of equipment leaks of VOC.

Flares are presently used in gas plants mainly as a means of handling emergency releases from various processes within the gas plant. According to the current knowledge of flare design, the best available flare design or state-of-the-art flare design is the smokeless flare. Smoking flares are environmentally less desirable because they emit particulates.

There are a number of techniques currently in use within industry which help flares achieve smokeless operation. One technique involves the use of staged elevated flare systems, where a small diameter flare is operated in tandem with a large diameter flare. The system is designed such that the small flare takes the continuous low flow releases and the larger flare accepts emergency releases. A second technique involves the use of a small, separate conveyance line to the flare tip in order to maintain a high exit velocity for the continuous low flow, low pressure gas flow. A third technique, sometimes used in conjunction with either of the above techniques, involves the use of continuous flare gas recovery. In the third technique, a compressor is used to recover the continuously generated flare gas "base load." The compressor is sized to handle the "base load," and any excess gas is flared. These techniques can be used to help provide smokeless operation of a flare which is used to reduce fugitive emissions of VOC that are captured and transported by closed vent systems.

In recent tests, smokeless steam-assisted flares, smokeless air-assisted flares, and smokeless flares with no assist were found to be as efficient as enclosed combustion devices in destroying VOC over a broad range of operating conditions if the heat content of the flared gas is maintained above a certain minimum, and the velocity of the gas at the flare tip is maintained below a certain maximum. Based on the test data and a comparison of vent stream characteristics between the test data and equipment leaking VOC, EPA believes that the destruction efficiency of smokeless flares used in natural gas processing plants would be at least 98 percent.

Enclosed combustion devices can be designed and operated to achieve VOC emission reductions of at least 98 percent. Vapor recovery systems can be readily designed and operated to achieve VOC emission reductions of at least 95 percent. Existing enclosed combustion devices and vapor recovery systems may not achieve the VOC emission reduction efficiencies that new control devices achieve. However, existing control devices achieve a VOC reduction efficiency of at least 95 percent.

EPA selected a VOC reduction efficiency of 95 percent for control devices used to reduce equipment leaks of VOC. EPA considers the use of enclosed combustion devices and flares achieving 98 percent emission reduction too costly to add to a process unit solely to control VOC leaks in light of the presence of existing control devices that can achieve 95 percent control. Thus, because EPA believes that flares with no assist, steam, or air assist in onshore natural gas plants can achieve at least 98 percent VOC reduction efficiency if designed for smokeless operation and that existing control devices, such as enclosed combustion devices and vapor recovery systems, will achieve at least 95 percent VOC reduction efficiency, EPA selected a VOC reduction efficiency of 95 percent.

EPA selected design and operational requirements for flares, enclosed combustion devices, and vapor recovery systems that reflect application of the best technological system of emission reduction for control devices used to reduce equipment leaks of VOC. The design and operation requirements for flares, discussed above, require smokeless operation and the presence of a flame. The presence of a flame can be ensured by monitoring the flare's pilot light with a thermocouple or some other heat sensor connected to an alarm. Smokeless operation of the flare is ensured through visible emission requirements. The proposed standards would limit visible emissions from a flare to less than 5 minutes in any 2-hour period. Many natural gas plants currently comply with State limits similar to this requirement. In addition, only steam-assisted flares, air-assisted flares, or flares with no assist could be used. Steam-assisted flares would have to be operated with exit velocities less than 18 m/sec (60 ft/sec), under standard conditions, combusting gases with heating values of 11.2 MJ/scm (300 Btu/scf) or greater. Air-assisted flares

would have to be operated with heating values of 11.2 MJ/scm (300 Btu/scf) or greater and with exit velocities equal to, or less than, that velocity determined by the equation specified in the regulation. The actual velocity would be calculated by dividing the gas flow (in standard units), as determined by the methods specified in the regulation, by the unobstructed (free) cross section area of the flare tip. Flares operated without assist would have to be operated with exit velocities less than 18 m/sec (60 ft/sec), under standard conditions, combusting gases with heating values of 7.4 MJ/scm (200 Btu/scf) or greater. Because enclosed combustion devices and vapor recovery systems exist that provide at least 95 percent emission reduction, a 95 percent emission reduction design requirement is proposed for these control devices. For enclosed combustion devices that do not use catalysts to aid in combustion of organic vapor streams, provisions for a minimum vapor residence time of 0.75 seconds at a minimum temperature of 816° C will be considered equivalent to at least a 95 percent emission reduction efficiency.

Miscellaneous. Pumps and valves in heavy liquid service, pressure relief devices in light liquid and heavy liquid service, and flanges and other connectors in all services would be excluded from the routine monitoring and inspection requirements on the basis of data from EPA testing. However, if leaks are detected from this equipment, the same allowable repair interval which applies to pumps, pressure relief devices, and valves would apply.

Individual flanges in process units have very low emission rates; and although they represent 76 percent of the total number of equipment leaking VOC in gas plants, their total contribution to overall emissions is about 14 percent. In EPA testing of equipment leaking VOC in refineries, pumps and valves in heavy liquid service, and pressure relief devices in light liquid and heavy liquid VOC service also exhibited very low emission rates. This equipment contributes less than 1 percent of all emissions from refineries. EPA did not test pumps and valves in heavy liquid service and pressure relief devices in light liquid and heavy liquid service at gas plants. However, it is reasonable to conclude that these sources would contribute a very low percentage of all emissions at gas plants as well as at refineries. Including pumps and valves in heavy liquid service, pressure relief devices in light liquid and heavy liquid service, and flanges and other connectors in all services in the monitoring and equipment requirements would result in an unreasonably high cost per megagram. Consequently, these equipment are excluded from those requirements.

Also excluded would be equipment operating under a vacuum because leaks to the atmosphere would not occur while the equipment is operated at subatmospheric internal pressures.

Selection of Recordkeeping and Reporting Requirements

Recordkeeping would be required by the proposed standards to provide documentation for the assessment of compliance with (1) work practice standards, (2) equipment standards, (3) design standards, (4) emission standards, and (5) operational standards. Review of records would provide information for enforcement personnel to assess implementation of the proposed standards. Compliance with the proposed standards would be determined by inspection and review of records.

Three recordkeeping alternatives were considered in evaluating the amount of recorded information needed to assess compliance with the proposed standards. The first alternative would be to require no formal recordkeeping. If recorded documentation of the proposed standards were not required, no mechanism would be provided for checking the thoroughness of efforts to reduce VOC leaks. Many owners or operators would institute recordkeeping requirements to manage the efforts of their plant personnel. However, some owners or operators might not institute such programs, and owners who would institute them might not know what information would be pertinent to enforcement of the standards.

The second alternative would require recordkeeping to document results of the leak detection and repair program and information relating to equipment specifications. Information would be recorded in sufficient detail to enable owners or operators to ensure that their emission reduction programs are being implemented effectively and to demonstrate compliance with the proposed standards. This alternative would require the maintenance of quantitative records of repaired and unrepaired leaking equipment. This alternative would require only that amount of records necessary to manage implementation of the required programs (and certain alternative valve programs, if selected) and to ensure the effective implementation of the proposed standards.

The third alternative would require recordkeeping of all the information generated by the proposed standards. This information would include, for example, the meter reading (ppm) detected for all components monitored at a given facility. Much of this information would be necessary for managing implementation of the required programs or for ensuring the effective implementation and maintenance of the proposed standards.

The second alternative was selected as the basis for the recordkeeping requirements of the proposed standards. This alternative would provide the necessary records for managing implementation of the required programs while ensuring effective implementation and maintenance of the proposed standards.

Specific information pertaining to the leak detection and repair would be recorded. Each valve found to be leaking during the first month of a quarter would be identified with a readily visible weatherproof identification. Each pump found to be leaking during a monthly monitoring would also be identified. The identifications could be a tag attached to the valve or pump or a number designation permanently marked on the valve or pump. The identification could be removed after a valve is repaired and found not to leak for the next 2 successive months. The identification also could be removed after a pump is repaired.

A log would be maintained to record the efforts by an owner or operator pertaining to the leak detection and repair program. The log would contain the instrument and operator identification numbers, the leaking equipment identification number, the date of detection of the leaking equipment, the date of the first attempt to repair the leaking equipment, repair methods applied to repair the equipment, and the date of final repair. The log would be kept for 2 years following the survey. If the leaking equipment could not be repaired within 15 days, the reasons for unsuccessful repair and the date of anticipated successful repair would be recorded on the leak report form. Once the leaking equipment was successfully repaired, the date of repair would be recorded. These records would be needed to provide the information necessary to allow the owner or operator to evaluate the effectiveness of repair efforts and to allow enforcement personnel to assess compliance with the work practice standards. If the owner or operator elects to implement the alternative standard for valves that allows skip-

period leak detection, he or she must also record the percentage of valves found leaking during each leak detection period.

For equipment specifications, records would be maintained of the dates of installation, start-up, equipment repair, and equipment modifications. The dates and descriptions of any control equipment failures would also be recorded. These records would be needed to provide information necessary to allow enforcement personnel to assess the effectiveness of implementation and maintenance of equipment standards.

For design standards, records would be maintained of the location and type of equipment to which the standards apply. As an example, if a combustion source is used as a VOC emission control device, then the design fuel and air usage rates, the firebox volume, and the average firebox temperature and other design specifications would be recorded.

Reporting requirements were also considered for the proposed standards. Three alternatives were considered in evaluating the reporting information needed to assess compliance with the proposed stands. These alternatives represent varying levels of enforcement monitoring of the proposed standards. Enforcement personnel would review the reports submitted by industry personnel on the status of implementing the proposed standards. Review of reports reduces the need for in-plant inspections.

The first alternative would require no formal reporting of compliance with the proposed standards other than notifications of construction, anticipated startup and actual startup, and an intention to comply with one of the alternative standards discussed in this preamble. This alternative would not provide a mechanism for routinely verifying industry's efforts to reduce equipment leaks of VOC. Thus, compliance with the proposed standards would be assessed through in-plant inspections.

The second reporting alternative would require the submittal of information in sufficient detail to ensure the implementation and maintenance of the proposed standards. These requirements would stipulate the submittal of semiannual reports. Included in the reports would be a summary of information on the leaking equipment that had been detected during the 6-month period. The semiannual reports would contain summary data of the number of leaks found, the number not repaired within 15 days, and the reasons for nonrepair. This requirement would provide enforcement personnel with an overview of the repair of leaking equipment.

The third reporting alternative would require the submittal of all the information obtained while conducting leak detection and repair programs. This information would include the information reported in the second alternative and, additionally, comprehensive information on all tested equipment. This reporting alternative would necessitate the reporting of all information included in the recordkeeping requirements and, therefore, would require more resources than the second alternative.

The second alternative was selected as the reporting requirement for the proposed standards. This alternative provides sufficient information to assess implementation of the work practice requirements without requiring excessive resources from industry and enforcement personnel (e.g., reduces the need for in-plant inspections). The first alternatives was not selected because implementation of work practice standards could not be assessed adequately by enforcement personnel to ensure that reductions in emissions from leaking equipment were achieved. The third reporting alternative was not selected because the additional resources expended by industry would not facilitate assessment of compliance enough to warrant the increased expense.

In addition to the requirements for semiannual reports, the reporting requirements of the General Provisions and the reporting of the intention to comply with an alternative standard for valves would apply. The requirements for semiannual reports are waived as to affected sources in States where the program has been delegated if EPA, in the course of delegation, approves reporting requirements or an alternative means of source surveillance adopted by the State. Such sources would be required to comply with the requirements adopted by the State.

The Paperwork Reduction Act of 1980 (Pub. L. 96–511) requires clearance from the Office of Management and Budget (OMB) of reporting and recordkeeping requirements that qualify as an "information collection request" (ICR). For the purposes of OMB's review, an analysis of the burden associated with the reporting and recordkeeping requirements of this regulation has been made. During the first 2 years of this regulation, the average annual burden of the reporting and recordkeeping requirements would be about 6.6 person-years, based on an average of 44 respondents per year.

Equivalent Means of Emission Limitation

Under the provisions of Section 111(h) of the Clean Air Act, if the Administrator establishes work practices, equipment, design or operational standards, then the Administrator must allow the use of equivalent means of emission limitations if they achieve a reduction in air pollutants equivalent to that achieved under requirements of a standard of performance. Sufficient data would be required to show equivalency, and opportunity for a public hearing would be required.

Individual owners or operators could request equivalent means of emission limitation for specific requirements, such as the proposed equipment requirements and the proposed leak detection and repair program. Sufficient information would have to be collected by a facility to demonstrate that the control techniques would be equivalent to the control techniques required by the proposed standards. This information would then be submitted to EPA in a request for a determination of equivalence. If the Administrator believes that an equivalency request may be approved, a notice to announce the opportunity for a public hearing would be published in the **Federal Register**. After public notice and opportunity for public hearing, the Administrator would determine equivalence and would publish that determination in the **Federal Register**.

Public Hearing

There will be an opportunity for a public hearing to discuss these proposed standards in accordance with Section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the **ADDRESSES** section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the **ADDRESSES** section of this preamble and should refer to Docket Number A–80–20–B.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section in Washington, D.C. (see **ADDRESSES** section of this preamble).

Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered by EPA in the development of this proposed rulemaking. The principal purposes of the docket are: (1) to allow members of the public and industries involved to identify and locate documents so they can effectively participate in the rulemaking process, and (2) to serve as the record in case of judicial review, except for interagency review material (section 307(d)(7)(A)).

Miscellaneous

As prescribed by Section 111 of the Clean Air Act, establishment of standards of performance for the onshore crude oil and natural gas production industry was preceded by the Administrator's determination (40 CFR 60.16, amended at 47 FR 951, dated January 8, 1982) that this industry contributes significantly to air pollution that may reasonably be anticipated to endanger public health or welfare. In accordance with Section 117 of the Act, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. EPA welcomes comments on all aspects of the proposed regulations, including economic and technological issues.

This regulation will be reviewed 4 years from the date of promulgation. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, improvements in emission control technology, and the reporting requirements.

The reporting and recordkeeping (information collection) provisions associated with the proposed standards (40 CFR 60.7, 60.8, 60.636 and 60.637) will be submitted for approval to the Office of Management and Budget (OMB) under Section 3504(h) of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The final rule will explain how the reporting and recordkeeping requirements respond to any OMB or public comments.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any new source standard of performance promulgated under Section 111(b) of the Act. An economic impact assessment was prepared for the proposed regulations and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the proposed standards to insure that the proposed standards would represent the best system of emission reduction considering costs. The economic impact assessment is included in the background information document.

"Major Rule" Determination. Under Executive Order 12291, the Administrator is required to judge whether a regulation is a "major rule" and, therefore, is subject to certain requirements of the Order. The Administrator has determined that this regulation would result in none of the adverse economic effects set forth in Section 1 of the Order as ground for finding a regulation to be "major rule." Fifth-year net annual costs (after accounting for recovery credits) of the proposed standards would be as much as $2.5 million for the 220 newly constructed, modified, and reconstructed production facilities projected that could be affected by the standards during the first 5 years. Price increases from implementation of these proposed standards would be less than 0.1 percent. This is because the annualized cost is a small fraction of the yearly revenue expected for the new, modified, and reconstructed units affected during the 5-year period. The Administrator has also concluded that this rule is not "major" under any of the criteria established in the Executive Order.

As discussed in the *Selection of the Basis of the Proposed Standards* section of this preamble, EPA considered annual costs in relation to the extent of VOC emission reduction achieved during selection of the proposed standards. The annual cost per megagram of VOC emission reduction is summarized in Table 1 for a new, intermediate-size natural gas plant that would be affected by the proposed standards. The incremental differences between the annual costs per megagram of VOC emission reductions under the proposed standards and the next less restrictive level of control are also summarized in Table 1.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA responses to those comments are available for public inspection in Docket Number A–80–20–B, Central Docket Section, at the address given in the **ADDRESSES** section of this preamble.

Regulatory Flexibility Analysis Certification. The Regulatory Flexibility Act of 1980 requires that adverse effects of all Federal regulations upon small businesses be identified. Current criteria stipulate that a regulatory flexibility analysis must be prepared if 20 percent of the small businesses would suffer "significant impacts." According to current Small Business Administration guidelines, a small business in the gas production industry is one that has 500 employees or less. It is unlikely that any onshore natural gas plant that would be subject to these proposed standards would qualify as a small business. Even if there were any plants that would qualify as small businesses, none would suffer significant impacts. This conclusion is based on the fact, in doing the economic analysis for this proposal, the price increase and profitability impacts have been estimated from the perspective of the smaller facilities in operation. Therefore, the finding that the annual cost of the proposed standards would be less than 0.1 percent of the yearly revenue expected for plants affected by the proposed standards, accurately reflects the impacts for small natural gas plants.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel Sulfuric acid plants, Waste treatment and disposal, Zinc, Tires, Incorporation by reference, Can surface coating, Sulfuric acid plants, Industrial organic chemicals, Organic solvent cleaners, Fossil fuel-fired steam generators.

Dated: January 11, 1984.

William D. Ruckelshaus,

Administrator.

PART 60—[AMENDED]

It is proposed that 40 CFR Part 60 be amended by adding a new subpart as follows:

Subpart KKK—Standards of Performance for Onshore Natural Gas Processing Plants: Equipment Leaks of VOC

Sec.

60.630 Applicability and designation of affected facility.
60.631 Definitions.
60.632–1 Standards: General.
60.632–2 Standards: Pumps in light liquid service.
60.632–3 Standards: Compressors.

Sec.
60.632–4 Standards: Pressure relief devices in gas/vapor service.
60.632–5 Standards: Open-ended valves or lines.
60.632–6 Standards: Valves in gas/vapor and light liquid service.
60.632–7 Standards: Pumps and valves in heavy liquid service, pressure relief devices in light liquid and in heavy liquid service, and flanges and other connectors.
60.632–8 Standards: Delay of repair.
60.632–9 Standards: Closed-vent systems and control devices.
60.633–1 Alternative standards for valves—allowable percentage of valves leaking.
60.633–2 Alternative standards for valves—skip period leak detection and repair.
60.634 Equivalent means of emission limitation.
60.635 Test methods and procedures.
60.636 Recordkeeping requirements.
60.637 Reporting requirements.

Authority: Sec. 111 and 301(a) of the Clean Air Act, as amended, (42 U.S.C. 7411, 7601(a)), and additional authority as noted below.

Subpart KKK—Standards of Performance for Onshore Natural Gas Processing Plants: Equipment Leaks of VOC

§ 60.630 Applicability and designation of affected facility.

(a)(1) The provisions of this subpart apply to affected facilities in onshore natural gas processing plants.

(2) A compressor in VOC service is an affected facility.

(3) The group of all equipment within a process unit is an affected facility.

(b) Any affected facility under paragraph (a) of this section that commences construction or modification after January 20, 1984 would be subject to the requirements of this subpart.

(c) Addition of replacement of equipment for the purpose of process improvement that is accomplished without a capital expenditure shall not by itself be considered a modification under this subpart.

(d)(1) Affected facilities covered by Subpart VV or Subpart GGG of 40 CFR Part 60 are excluded from this subpart.

(2) If the equipment is subject to the provisions of this subpart and 40 CFR Part 61 Subpart J, the equipment will only be required to comply with the provisions of 40 CFR Part 61 Subpart J.

(e) The provisions of this subpart do not apply to compressor stations, dehydration units, sweetening units, underground storage facilities, field gas gathering systems, and liquefied natural gas units unless the facility is located at an onshore natural gas processing plant.

§ 60.631 Definitions.

As used in this subpart, all terms not defined herein shall have the meaning given them in the Act or in Subpart A of Part 60, and the following terms shall have the specific meanings given them:

"Closed-vent system" means a system that is not open to the atmosphere and that is composed of piping, connections, and, if necessary, flow-inducing devices that transport gas or vapor from a compressor or from a piece (or pieces) of equipment to a control device.

"Connector" means flanged, screwed, welded, or other joined fittings used to connect two pipe lines or a pipe line and a piece of process equipment.

"Control device" means an enclosed combustion device, vapor recovery system; or flare.

"Distance piece" means an open or enclosed casing through which the piston rod travels, separating the compressor cylinder from the crankcase.

"Equipment" means each pump, pressure relief device, open-ended valve or line, valve, and flange or other connector that is in VOC service and any device or system required by this subpart.

"Field gas" means feedstock gas entering the natural gas plant.

"First attempt at repair" means to take rapid action for the purpose of stopping or reducing leakage of organic material to atmosphere using best practices.

"In gas/vapor service" means that the compressor or the piece of equipment contains fluid that is in the gaseous state at operating conditions.

"In heavy liquid service" means that the piece of equipment is not in gas/vapor service or in liquid service.

"In light liquid service" means that the piece of equipment contains a liquid that meets the conditions specified in § 60.635(e).

"Natural gas liquids" means the hydrocarbons, such as ethane, propane, butane, and pentane, that are extracted from field gas.

"Natural gas processing plant" (gas plant) means any processing site engaged in the separation of natural gas liquids from field gas, fractionation of mixed natural gas liquids to natural gas products, or both.

"Onshore" means situated on land as opposed to over sea water.

"Open-ended valve or line" means any valve, except pressure relief valves, having one side of the valve seat in contact with process fluid and one side that can be open to the atmosphere, either directly or through open piping.

"Pressure release" means the emission of materials from processes resulting from the system pressure being greater than the set pressure of the pressure relief device.

"Process improvement" means routine changes made for safety and occupational health requirements, for energy savings, for better utility, for ease of maintenance and operation, for correction of design deficiencies, for bottleneck removal, for changing product requirements, or for environmental control.

"Process unit" means equipment assembled for the separation of natural gas liquids from field gas, the fractionation of the liquids into natural gas products, or other operations associated with the processing of natural gas products. A process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the products.

"Process unit shutdown" means a work practice or operational procedure that stops production from a process unit or part of a process unit. The use of spare equipment and technically feasible bypassing of equipment without stopping production are not process unit shutdowns.

"Quarter" means a 3-month period; the first quarter concludes on the last day of the last full month during the 180 days following initial startup.

"Reciprocating compressor" means a piece of equipment that increases the pressure of a process gas by positive displacement, employing linear movement of the driveshaft.

"Repaired" means that equipment is adjusted, or otherwise altered, to eliminate a leak as indicated by one of the following: an instrument reading of 10,000 ppm or greater, indication of liquids dripping, or indication by a sensor that a seal or barrier fluid system has failed.

"Sensor" means a device that measures a physical quantity or the change in a physical quantity, such as temperature, pressure, flow rate, pH, or liquid level.

"In vacuum service" means that equipment is operating at an internal pressure that is at least 5 kilopascals (kPa) below ambient pressure.

"In VOC service" means that the piece of equipment or the compressor contains or contacts a process fluid that is at least 1.0 percent VOC by weight. (The provisions of § 60.635(e) specify how to determine that a piece of equipment is not in VOC service.)

"In wet gas service" means that a compressor contains or contacts a process fluid that is less than 50 percent VOC by weight.

§ 60.632–1 Standards: General.

(a) Each owner or operator subject to the provisions of this subpart shall comply with the requirements of § 60.632–1 to § 60.632–9 for affected facilities within 180 days of initial startup.

(b) Compliance with § 60.632–1 to § 60.632–9 will be determined by review of records and reports, review of performance test results, and inspection using the methods and procedures specified in § 60.635.

(c)(1) An owner or operator may request determination of equivalent means of emission limitation to the requirements of § 60.632–2, –3, –4, –5, –6, –7, and –9 as provided in §60.634.

(2) If the Administrator makes a determination that a means of emission limitation is at least equivalent to the requirements of § 60.632–2, –3, –4, –5, –6, –7, or –9, an owner or operator shall comply with the requirements of that determination.

(d) Equipment in vacuum service may be excluded from the requirements of § 60.632–2 to § 60.632–9 if they are identified as required in § 60.636(e)(3).

(e) Pumps in light of liquid service, valves in gas/vapor and light liquid service, and pressure relief devices in gas/vapor service that are located at an onshore natural gas processing plant that does not fractionate natural gas liquids and that does not have the design capacity to process 283,000 standard cubic meters per day (scmd) (10 million standard cubic feet per day (scfd)) or more of field gas are exempt from the routine monitoring requirements of § 60.632–2(a)(1), 60.632–4(a), and 60.632–6(a).

(f) Reciprocating compressors in wet gas service that are located at an onshore natural gas processing plant that does not have a control device present at the plant site are exempt from the compressor control requirements of § 60.632–3.

§ 60.632–2 Standards: Pumps in light liquid service.

(a)(1) Each pump seal in light liquid service shall be monitored monthly to detect leaks by the methods specified in § 60.635(b), except as provided in § 60.632–1(c) and paragraphs (d), (e), and (f) of this section.

(2) Each pump shall be checked by visual inspection, each calendar week, for indications of liquids dripping from the pump seal.

(b)(1) If an instrument reading of 10,000 ppm or greater is measured, a leak is detected.

(2) If there are indications of liquids dripping from the pump seal, a leak is detected.

(c)(1) When a leak is detected, it shall be repaired as soon as practicable, but not later than 15 calendar days after it is detected except as provided in § 60.632–8.

(2) A first attempt at repair shall be made no later than 5 calendar days after each leak is detected.

(d) Each pump equipped with a dual mechanical seal system that includes a barrier fluid system is exempt from the requirements of paragraph (a), provided the following requirements are met:

(1) Each dual mechanical seal system is:

(i) Operated with the barrier fluid at a pressure that is at all times greater than the pump stuffing box pressure; or

(ii) Equipped with a barrier fluid degassing reservoir that is connected by a closed-vent system to a control device that complies with the requirements of § 60.632–9; or

(iii) Equipped with a closed vent system that purges the barrier fluid into a process stream with zero VOC emissions to the atmosphere.

(2) The barrier fluid system is in heavy liquid service or is not in VOC service.

(3) Each barrier fluid system is equipped with a sensor that will detect failure of the seal system, the barrier fluid system, or both.

(4) Each pump is checked by visual inspection, each calendar week, for indications of liquids dripping from the pump seal.

(5)(i) Each sensor as described in paragraph (d)(3) is checked daily or is equipped with an audible alarm, and

(ii) The owner or operator determines, based on design considerations and operating experience, a criterion that indicates failure of the seal system, the barrier fluid system, or both.

(6)(i) If there are indications of liquid dripping from the pump seal or the sensor indicates failure of the seal system, the barrier fluid system, or both, based on the criterion determined in paragraph (d)(5)(ii), a leak is detected.

(ii) When a leak is detected, it shall be required as soon as practicable, but not later than 15 calendar days after it is detected except as provided in § 60.632–8.

(iii) A first attempt at repair shall be made no later than 5 calendar days after each leak is detected.

(e) Any pump that is designated, as described in § 60.636(e)(2), for no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, is exempt from the requirements of paragraphs (a), (c), and (d) if the pump:

(1) Has no externally actuated shaft penetrating the pump housing,

(2) Is operated with no detectable VOC emissions, as indicated by an instrument reading of less than 500 ppm above background, as measured by the method specified in § 60.635(c), and

(3) Is tested for compliance with paragraph (e)(2) initially upon designation, annually, and at other times requested by the Administrator.

(f) If any pump is equipped with a closed-vent system capable of capturing and transporting any leakage from the seal or seals to a control device that complies with the requirements of § 60.632–9, it is exempt from paragraphs(a) though (e).

§ 60.632–3 Standards: Compressors.

(a) Each compressor shall be equipped with a closed-vent system capable of capturing and transporting any leakage from the seal vent and the distance piece area to a control device as described in § 60.632–9, except as provided in § 60.632–1(c) and paragraphs (b) though (i) of this section.

(b) Any compressor that is not equipped as described in paragraph (a) shall be equipped with a seal system that includes a barrier fluid system and that prevents leakage of VOC to the atmosphere.

(c) Each compressor seal system as required in paragraph (b) shall be:

(1) Operated with the barrier fluid at a pressure that is greater than the compressor stuffing box pressure; or

(2) Equipped with a barrier fluid system that is connected by a closed-vent system to a control device that complies with the requirements of § 60.632–9; or

(3) Equipped with a system that purges the barrier fluid into a process stream with zero VOC emissions to the atmosphere.

(d) The barrier fluid system shall be in heavy liquid service or shall not be in VOC service.

(e) Each barrier fluid system as described in paragraph (b) of this section shall be equipped with a sensor that will detect failure of the seal system, barrier fluid system, or both.

(f)(1) Each sensor as required in paragraph (e) shall be checked daily or shall be equipped with an audible alarm.

(2) The owner or operator shall determine, based on design considerations and operating experience, a criterion that indicates failure of the seal system, the barrier fluid system, or both.

(g) If the sensor indicates failure of the seal system, the barrier fluid system, or both, based on the criterion determined under paragraph (f)(2) of this section a leak is detected.

(h)(1) When a leak is detected, it shall be repaired as soon as practicable but no later than 15 calendar days after it is detected except as provided in § 60.632–8.

(2) A first attempt at repair shall be made no later than 5 calendar days after each leak is detected.

(i) Any compressor that is designed, as described in § 60.632(e)(2), for no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, is exempt from the requirements of paragraph (a) through (h) of this section if the compressor:

(1) Is operated with no detectable emissions, as indicated by an instrument reading less than 500 ppm above background, as measured by the methods specified in § 60.635(c); and

(2) Is tested for compliance with paragraph (i)(1) initially upon designation, annually, and at other times requested by the Administrator.

§ 60.632–4 Standards: Pressure relief devices in gas/vapor service.

(a) Each pressure relief device shall be monitored quarterly and within 5 days after each pressure release to detect leaks by the methods specified in § 60.635–(b) except as provided in § 60.632–1(c).

(b) If an instrument reading of 10,000 ppm or greater is measured, a leak is detected.

(c)(1) When a leak is detected, it shall be repaired as soon as practicable, but no later than 15 calendar days after it is detected, except as provided in § 60.632–8.

(2) A first attempt at repair shall be made no later than 5 calendar days after each leak is detected.

(d) Any pressure relief device that is designated, as described in § 60.636–(e)(2), for no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, is exempt from the requirements of paragraphs (a), (b), and (c) of this section if the pressure relief device:

(1) Is operated with no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, except during pressure releases, as measured by the method specified in § 60.635(c);

(2) After each pressure release, the pressure relief device shall be returned to a condition of no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, as soon as practicable, but no later than 5 calendar days after the pressure release, except as provided in § 60.632–8; and

(3) Is tested for compliance initially, after each pressure release, annually, and at other times requested by the Administrator.

(e) Any pressure relief device that is equipped with a closed-vent system capable of capturing and transporting all leakge from the pressure relief device to a control device that complies with the requirements of § 60.632–9 is exempt from paragraphs (a) through (d) of this section.

§ 60.632–5 Standards: Open-ended valves or lines.

(a)(1) Each open-ended valve or line shall be equipped with a cap, blind flange, plug, or a second closed valve, except as provided in § 60.632–1(c).

(2) The cap, blind flange, plug, or second closed valve shall seal the open end at all times except during sampling and other operations requiring process fluid flow through the open-ended valve or line.

(b) Each open-ended valve or line equipped with a second valve shall be operated in a manner such that the valve on the process fluid end is closed before the second valve is closed.

§ 60.632–6 Standards: Valves in gas/vapor and light liquid service.

(a) Each valve in gas/vapor and light liquid service shall be monitored monthly to detect leaks by the methods specified in § 60.635(b) and shall comply with paragraphs (b) through (e) of this section, except as provided in paragraphs (f) and (g) of this section, § 60.633–1 and –2, and § 60.632–1(c).

(b) If an instrument reading of 10,000 ppm or greater is measured, a leak is detected.

(c)(1) Any valve for which a leak is not detected for 2 successive months may be monitored the first month of every quarter, beginning with the next quarter, until a leak is detected.

(2) If a leak is detected, the valve shall be monitored monthly until a leak is not detected for 2 successive months.

(d)(1) When a leak is detected, it shall be repaired as soon as practicable, but no later than 15 calendar days after the leak is detected, except as provided in § 60.632–8.

(2) A first attempt at repair shall be made no later than 5 calendar days after each leak is detected.

(e) First attempts at repair include, but are not limited to, the following best practices where practicable:

(1) Tightening of bonnet bolts.

(2) Replacement of bonnet bolts.

(3) Tightening of packing gland nuts.

(4) Injection of lubricant into lubricated packing.

(f) Any valve that is designated, as described in § 60.636(e)(2), for no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, is exempt from the requirements of paragraph(a) if the valve:

(1) Has no external actuating mechanism in contact with the process fluid.

(2) Is operated with emissions less than 500 ppm above background, as measured by the method specified in § 60.635(c), and

(3) Is tested for compliance initially upon designation, annually, and at other times requested by the Administrator.

(g) Any valve that is designated, as required in § 60.636(f)(2), as a difficult-to-monitor valve is exempt from the requirements of paragraph(a) if:

(1) The owner or operator of the valve demonstrates that the valve cannot be monitored without elevating the monitoring personnel more than 2 meters above a support surface.

(2) The process unit within which the valve is located becomes an affected facility through § 60.14 or § 60.15, and

(3) The owner or operator of the valve has a written plan that requires monitoring of the valve at least once per calendar year.

§ 60.632–7 Standards: Pumps and valves in heavy liquid service, pressure relief devices in light liquid and in heavy liquid service, and flanges and other connectors.

(a) Pumps and valves in heavy liquid service, pressure relief devices in light liquid and in heavy liquid service, and flanges and other connectors shall be monitored within 5 days, by the method specified in § 60.635(b), after evidence of a potential leak is found by visual, audible, olfactory, or other detection method.

(b) If an instrument reading of 10,000 ppm or greater is measured, a leak is detected.

(c)(1) When a leak is detected, it shall be repaired as soon as practicable, but no later than 15 calendar days after it is detected, except as provided in § 60.632–8.

(2) The first attempt at repair shall be made no later than 5 calendar days after each leak is detected.

(d) First attempts at repair include, but are not limited to, the best practices described under § 60.632–6(e).

§ 60.632–8 Standards: Delay of repair.

(a) Delay of repair of compressors and equipment for which leaks have been detected will be allowed if the repair is technically infeasible without a process unit shutdown. Repair of this equipment shall occur, however, at the first process unit showdown.

(b) Delay of repair beyond a process unit shutdown will be allowed for a valve if valve assembly replacement is necessary during the process unit shutdown, valve assembly supplies have been depleted, and valve assembly supplies had been sufficiently stocked before the supplies were depleted. Delay of repair beyond the next process unit shutdown will not be allowed unless the next process unit shutdown occurs sooner than 6 months after the first process unit shutdown.

§ 60.632–9 Standards: Closed-vent systems and control devices.

(a) Owners or operators of closed-vent systems and control devices used to comply with provisions of this subpart shall comply with the provisions of this section.

(b) Vapor recovery systems (for example, condensers and adsorbers) shall be designed and operated to recover the VOC emissions vented to them with an efficiency of 95 percent or greater.

(c) Enclosed combustion devices shall be designed and operated to reduce the VOC emissions vented to them with an efficiency of 95 percent or greater or to provide a minimum residence time of 0.75 seconds at a minimum temperature of 816°C.

(d)(1) Flares shall be designed for and operated with no visible emissions, as determined by the method in § 60.635(g), except for periods not to exceed a total of 5 minutes during any period of 2 consecutive hours.

(2) Flares shall be operated with a flame present at all times, as determined by the method specified in § 60.635(g).

(3) Flares shall be used only with the net heating value of the gas being combusted being 11.2 MJ/scm (300 Btu/scf) or greater if the flare is steam-assisted or air-assisted; or with the net heating value of the gas being combusted being 7.45 MJ/scm or greater if the flare is non-assisted. The net heating value of the gas being combusted shall be determined by the methods specified in § 60.635(g).

(4) Steam-assisted and non-assisted flares shall be designed for and operated with an exit velocity, as determined by the methods specified in § 60.635(g)(4), less than 18 m/sec (60 ft/sec).

(5) Air-assisted flares shall be designed and operated with an exit velocity less than the velocity, V_{max}, as determined by the methods specified in § 60.635(g)(5).

(6) Flares used to comply with this subpart shall be steam-assisted, air-assisted, or non-assisted.

(e) Owners or operators of control devices used to comply with the provisions of this subpart shall monitor these control devices to ensure that they are operated and maintained in conformance with their design.

(f)(1) Closed-vent systems shall be designed and operated with no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background and by visual inspections, as determined by the method specified in § 60.635(c).

(2) Closed-vent systems shall be monitored to determine compliance with this section initially in accordance with § 60.8, annually, and at other times requested by the Administrator.

(g) Closed-vent systems and control devices used to comply with provisions of this subpart shall be operated at all times when emissions may be vented to them.

§ 60.633–1 Alternative standards for valves—allowable percentage of valves leaking.

(a) An owner or operator may elect to comply with an allowable percentage of valves leaking, which is equal to or less than 2.0 percent.

(b) The following requirements shall be met if an owner or operator wishes to comply with an allowable percentage of valves leaking:

(1) An owner or operator must notify the Administrator that the owner or operator has elected to comply with the allowable percentage of valves leaking before implementing this alternative standard, as specified in § 60.637(a).

(2) A performance test as specified in paragraph (c) of this section shall be conducted initially upon designation, annually, and at other times requested by the Administrator.

(3) If a valve leak is detected, it shall be repaired in accordance with § 60.632–6 (d) and (e).

(c) Performance tests shall be conducted in the following manner:

(1) All valves in gas/vapor and light liquid service within the affected facility shall be monitored within a 1 week period by the methods specified in § 60.635(b).

(2) If an instrument reading of 10,000 ppm or greater is measured, a leak is detected.

(3) The leak percentage shall be determined, and recorded, by dividing the number of valves for which leaks are detected by the number of valves in gas/vapor and light liquid service within the affected facility.

(d) Owners and operators who elect to comply with this alternative standard shall not have an affected facility with a leak percentage greater than 2.0 percent.

(e) If an owner or operator no longer wishes to comply with § 60.633–1, the owner or operator must notify the Administrator in writing that the work practice standard described in § 60.632–6 (a) through (e) will be followed.

§ 60.633–2 Alternative standards for valves—skip period leak detection and repair.

(a)(1) An owner or operator may elect to comply with one of the alternative work practices specified in paragraph (b) of this section.

(2) An owner or operator must notify the Administrator before implementing one of the alternative work practices, as specified in § 60.637(a).

(b)(1)(i) An owner or operator shall comply with a reference leak detection program.

(ii) The reference leak detection program shall conform to the requirements for valves in gas/vapor service and valves in light liquid service, as described in § 60.632–6.

(2) After 2 consecutive quarterly leak detection periods with the percent valves leaking equal to or less than 2.0, an owner or operator may begin to skip 1 of the quarterly leak detection periods.

(3) After 5 consecutive quarterly leak detection periods with the percent of valves leaking equal to or less than 2.0, an owner or operator may begin to skip 3 of the quarterly leak detection periods.

(4) If the percent of valves leaking is greater than 2.0, the owner or operator shall comply with the reference leak detection program, as described in § 60.632–6, but can again elect to use paragraphs (b)(2) or (b)(3) of this section.

(5) An owner or operator must keep a record of the percent of valves found leaking during each leak detection period.

§ 60.634 Equivalent means of emission limitation.

(a) Each owner or operator subject to the provisions of this subpart may apply to the Administrator for determination of equivalence for any means of emission limitation that achieves a reduction in emissions of VOC at least equivalent to the reduction in emissions of VOC achieved by the controls required in this subpart.

(b) Determination of equivalence to the equipment, design, and operational requirements of this subpart will be evaluated by the following guidelines:

(1) Each owner or operator applying for an equivalence determination shall be responsible for collecting and verifying test data to demonstrate

equivalence of any means of emission limitation.

(2) The Administrator will compare test data for the equivalent means of emission limitation to test data for the equipment, design, and operational requirements.

(3) The Administrator may condition the approval of equivalence or requirements that may be necessary to assure operation and maintenance to achieve the same emission reduction as the equipment, design, and operational requirements.

(c) Determination of equivalence to the required work practices in this subpart will be evaluated by the following guidelines:

(1) Each owner or operator applying for a determination of equivalence shall be responsible for collecting and verifying test data to demonstrate equivalence of any means of emission limitation.

(2) For each affected facility for which a determination of equivalence is requested, the emission reduction achieved by the required work practice shall be demonstrated for a minimum period of 12 months.

(3) For each affected facility, the emission reduction achieved by the equivalent means of emission limitation shall be demonstrated.

(4) Each owner or operator applying for a determination of equivalence shall commit to compliance with a performance that provides for emission reductions equal to or greater than the emission reductions achieved by the required work practice.

(5) The Administrator will compare the demonstrated emission reduction for the equivalent means of emission limitation to the demonstrated emission reduction for the required work practice and will consider the commitment in paragraph (c)(4) of this section.

(6) The Administrator may condition the approval of equivalence on requirements that may be necessary to assure operation and maintenance to achieve the same emission reduction as the required work practice.

(d) An owner or operator may offer a unique approach to demonstrate the equivalence of any means of emission limitation.

(e)(1) After a request for determination of equivalence is received, the Administrator will publish a notice in the **Federal Register** and provide the opportunity for a public hearing if the Administrator judges that the request may be approved.

(2) After notice and opportunity for a public hearing, the Administrator will determine the equivalence of any means of emission limitation and will publish the determination in the **Federal Register**.

(3) Any equivalent means of emission limitation approved under this section shall constitute a required work practice, equipment, design, or operational standard within the meaning of Section 111(h)(1) of the Clean Air Act.

(f)(1) Manufacturers of equipment used to control equipment leaks of VOC may apply to the Administrator for determination of equivalence for any means of emission limitation that achieves a reduction in emissions of VOC achieved by the equipment, design, and operational requirements of this subpart.

(2) The Administrator will make an equivalence determination according to the provisions of paragraphs (b), (c), (d), and (e) of this seciton.

§ 60.635 Test methods and procedures.

(a) Each owner or operator subject to the provisions of this subpart shall comply with the test method and procedure requirements provided in this section.

(b) Monitoring, as required in § 60.632, § 60.633, and § 60.634, shall comply with the following requirements:

(1) Monitoring shall comply with Reference Method 21.

(2) The detection instrument shall meet the performance criteria of Reference Method 21.

(3) The instrument shall be calibrated before use on each day of its use by the methods specified in Method 21.

(4) Calibration gases shall be:

(i) Zero air (less than 3 ppm of hydrocarbon in air); and

(ii) A mixture of methane or n-hexane and air at a concentration of approximately, but less than, 10,000 ppm methane or n-hexane.

(5) The instrument probe shall be traversed around all potential leak interfaces as close to the interface as possible as described in Reference Method 21.

(c) When compressors or equipment are tested for compliance with no detectable emissions as required in § 60.632–2(e), –3(i), –4(d), –6(f), and –9(f), the test shall comply with the following requirements:

(1) The requirements of paragraphs (b)(1) through (5) of this section shall apply.

(2) The background level shall be determined, as set forth in Reference Method 21.

(3) The instrument probe shall be traversed around all potential leak interfaces as close to the interface as possible as described in Reference Method 21.

(4) The arithmetic difference between the maximum concentration indicated by the instrument and the background level is compared with 500 ppm for determining compliance.

(d)(1) Equipment is in heavy liquid service if the weight percent evaporated is 10 percent or less at 150°C as determined by ASTM Method (incorporated by reference as specified in § 60.17).

(2) Equipment is in light liquid service if the weight percent evaporated is greater than 10 percent at 150°C as determined by ASTM Method D–86 (incorporated by reference as specified in § 60.17).

(e)(1) Each piece of equipment within a process unit is presumed to be in VOC service unless an owner or operator demonstrates that the piece of equipment is not in VOC service. For a piece of equipment to be considered not in VOC service, it must be determined that the percent VOC content can be reasonably expected never to exceed 1.0 percent by weight. For a compressor to be considered in wet gas service, it must be determined that the percent VOC content is less than 50.0 percent by weight. For purposes of determining the percent VOC content of the process fluid that is contained in or contacts a compresor or equipment, procedures that conform to the methods described in ASTM Method E–260, E–168, or E–169 (incorporated by reference as specified in § 60.17) shall be used.

(2) If an owner or operator decides to exclude nonreactive organic compounds from the percent VOC content of the process fluid, the exclusion will be allowed, provided:

(i) Those substances excluded are those considered by the Administrator as having negligible photochemical reactivity; and

(ii) The owner or operator demonstrates that the percent VOC content, excluding nonreactive organic compounds, can be reasonably expected never to exceed 1.0 percent VOC by weight.

(3)(i) An owner or operator may use engineering judgment rather than the procedures in paragraphs (e) (1) and (2) of this section to demonstrate that the VOC content does not exceed 1.0 weight percent provided that the engineering judgment demonstrates that the VOC content clearly does not exceed 1.0 weight percent. When an owner or operator and the Administrator do not agree on whether a piece of equipment is not in VOC service, however, the procedures in paragraphs (e) (1) and (2) of this section shall be used to resolve the disagreement.

(ii) If an owner or operator determines that a piece of equipment is in VOC service, that determination can be revised only after following the procedures in paragraph (e) (1) and (2) of this section.

(f) Samples used in conjunction with paragraphs (d) and (e) shall be representative of the process fluid that is contained in or contacts the equipment.

(g)(1) Reference Method 22 shall be used to determine the compliance of flares with the visible emission provisions of this subpart.

(2) The presence of a flare pilot flame shall be monitored using a thermocouple or any other equivalent device to detect the presence of a flame.

(3) The net heating value of the gas being combusted in a flare shall be calculated using the following equation:

$$H_T = K\left(\sum_{i=1}^{n} C_i H_i\right)$$

where:

H_T = Net heating value of the sample, MJ/scm; where the net enthalpy per mole of offgas is based on combustion at 25°C and 760 mm Hg, but the standard temperature for determining the volume corresponding to one mole is 20°.

K = Constant,

$$1.740 \times 10^7 \left(\frac{1}{\text{ppm}}\right)\left(\frac{\text{g mole}}{\text{scm}}\right)\left(\frac{\text{MJ}}{\text{kcal}}\right),$$

where standard temperature for

$$\left(\frac{\text{g mole}}{\text{scm}}\right)$$

is 20°C.

C_i = Concentration of sample component i in ppm, as measured by Reference Method 18 and ASTM D2504–67 (reapproved 1977) (incorporated by reference as specified in § 60.17.

H_i = Net heat of combustion of sample component i, kcal/g mole. The heats of combustion may be determined using ASTM D2382–76 (incorporated by reference as specified in § 60.17) if published values are not available or cannot be calculated.

(4) The actual exit velocity of a flare shall be determined by dividing the volumetric flowrate (in units of standard temperature and pressure), as determined by Reference Method 2, 2A or 2C, as appropriate; by the unobstructed (free) cross sectional area of the flare tip.

(5) The maximum permitted velocity, V_{max}, for air-assisted flares shall be determined by the following equation:

$V_{max} = 8.706 + 0.7084\ (H_T)$

V_{max} = Maximum permtted volicity, m/sec.

8.706 = Constant.

0.7084 = Constant.

HG2T = The net heating value as determined in paragraph (g)(4).

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414))

§ 60.636 Recordkeeping requirements.

(a) Each owner or operator subject to the provisions of this subpart shall comply with the recordkeeping requirements of this

(b) When each leak is detected as specified in §§ 60.632–2, –3, –4, –6, and –7, the following requirements apply:

(1) A weatherproof and readily visible identification, marked with the equipment identification number, shall be attached to the leaking equipment.

(2) The identification on a valve may be removed after it has been monitored for 2 successive months as specified in § 60.632–6(c) and no leak has been detected during those 2 months.

(3) The identification on a compressor or equipment, except on a valve, may be removed after it has been repaired.

(c) When each leak is detected as specified in §§ 60.632–2, 60.632–3, 60.632–4, 60.632–6, and 60.632–7, the following information shall be recorded in a log and shall be kept for 2 years in a readily accessible location:

(1) The instrument and operator identification numbers and the equipment identification number.

(2) The date the leak was detected and the dates of each attempt to repair the leak.

(3) Repair methods applied in each attempt to repair the leak.

(4) "Above 10,000 ppm" if the maximum instrument reading measured by thge methods specified in § 60.635(a) after each repair attempt is 10,000 ppm or greater.

(5) "Repair delayed" and the reason for the delay if a leak is not repaired within 15 calendar days after discovery of the leak.

(6) The signature of the owner or operator (or designate) whose decision it was that repair could not be effected without a process shutdown.

(7) The expected date of successful repair of the leak if a leak is not repaired within 15 days.

(8) Dates of process unit shutdowns that occur while the equipment is unrepaired.

(9) The date of successful repair of the leak.

(d) The following information pertaining to the design requirements for closed-vent systems and control devices described in § 60.632–9 shall be recorded and kept in a readily accessible location:

(1) Detailed schematics, design specifications, and piping and instrumentation diagrams.

(2) The dates and descriptions of any change in the design specifications.

(3) A description of the parameter or parameters monitored, as required in § 60.632–9(e) to ensure that control devices are operated and maintained in conformance with their design and an explanation of why the parameter (or parameters) was selected for the monitoring.

(4) Periods when the closed-vent systems and control devices specified in §§ 60.632–2, 60.632–3, 60.632–4 are not operated as designed, including periods when a flare pilot light does not have a flame.

(5) Dates of startups and shutdowns of the closed-vent systems and control devices specified in §§ 60.632–2, 60.632–3, 60.632–4.

(e) The following information pertaining to all compressors and equipment subject to the requirements in §§ 60.632–2, 60.632–3, 60.632–4, and 60.632–6 shall be recorded in a log that is kept in a readily accessible location:

(1) A list of identification numbers for equipment subject to the requirements of this subpart.

(2)(i) A list of identification numbers for equipment that the owner or operator elects to designate for no detectable emissions under the provisions of §§ 60.632–2(e), 60.632–3(i), 60.632–4(d), and 60.632–6(f).

(ii) The designation of this equipment as subject to the requirements of §§ 60.632–2(e), 60.632–3(i), 60.632–4(d), or 60.632–6(f) shall be signed by the owner or operator.

(3)(i) The dates of each compliance test as required in §§ 60.632–2(e), 60.632–3(i), 60.632–4(d), and 60.632–6(f).

(ii) The background level measured during each compliance test.

(iii) The maximum instrument reading measured at the equipment during each compliance test.

(4) A list of identification numbers for equipment that are in vacuum service.

(f) The following information pertaining to all valves subject to the requirements of § 60.632–6(g) shall be recorded in a log that is kept in a readily accessible location:

(1) A list of identification numbers for valves that are designated as difficult to monitor,

(2) An explanation for each valve stating why the valve is difficult to monitor, and

(3) The expected date for monitoring each valve.

(g) The following information shall be recorded in a log that is kept in a readily accessible location:

(1) Design criterion require in § 60.632–2(d)(5) and 60.632–3(f)(2), and an explanation of the design criterion; and

(2) Any changes to this criterion and the reasons for this change.

(3) An analysis demonstrating the design capacity of the natural gas processing plant.

(h) Each owner or operator electing to comply with the provisions of § 60.632–6 shall maintain records of the date, duration, and purpose of each shutdown.

(i) Information and data used to demonstrate that a piece of equipment is not in VOC service shall be recorded in a log that is kept in a readily accessible location.

(j) Information and data used to demonstrate that a reciprocating compressor is in wet gas service to apply for the exemption in § 60.632–1(f) shall be recorded in a log that is kept in a readily accessible location.

(k) The provisions of § 60.7(b) and (d) do not apply to affected facilities subject to this subpart.

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414)

§ 60.637 Reporting requirements.

(a) Each owner or operator subject to the provisions of this subpart shall submit semiannual reports to the Administrator, beginning 6 months after the initial startup date.

(b) The initial semiannual report to the Administrator shall include the following information:

(1) Process unit identification.

(2) Number of valves subject to the requirements of § 60.632–6 or § 60.633, excluding those valves designated for no detectable emissions under the provisions of § 60.632–6(f).

(3) Number of pumps subject to the requirements of § 60.632–2, excluding those pumps designated for no detectable emissions under the provisions of § 60.632–2(e) and those pumps complying with § 60.632–2(f).

(4) Number of compressors subject to the requirements of § 60.632–3(b)–(h).

(5) Number of pressure relief devices subject to the requirements of § 60.632–4, except those pressure relief devices designated for no detectable emissions under the provisions of § 60.632–4(d), and those pressure relief devices complying with § 60.632–4(e).

(c) All semiannual reports to the Administrator shall include the following information, summarized from the information recorded in § 60.636:

(1) Process unit identification.

(2) For each month during the semiannual reporting period,

(i) Number of valves for which leaks were detected as described in § 60.632–6(b) or 60.633–2.

(ii) Number of valves for which leaks were not repaired as required in § 60.632–6(d).

(iii) Number of pumps for which leaks were detected as described in § 60.632–2 (b) and (d)(6).

(iv) Number of pumps for which leaks were not repaired as required in § 60.632–2 (c) and (d)(6).

(v) Number of compressors for which leaks were detected as required in § 60.632–3(g).

(vi) Number of compressors for which leaks were not repaired as required in § 60.632–3(h).

(vii) Number of pressure relief devices for which leaks were detected as required in § 60.632–4(b).

(viii) Number of pressure relief devices for which leaks were not repaired as required in § 60.632–4(c).

(ix) The facts that explain each delay of repair and, where appropriate, why a process unit shutdown was technically infeasible.

(3) Dates of process unit shutdowns which occurred within the semiannual reporting period.

(4) Revisions to items reported according to paragraph (b) of this section if changes have occurred since the initial report or subsequent revisions to the initial report.

(d) An owner or operator electing to comply with the provisions of §§ 60.633–1 and 60.633–2 shall notify the Administrator of the alternative standard selected 90 days before implementing either of the provisions.

(e) An owner or operator shall report the results of all performance tests in accordance with § 60.8 of the General Provisions. The provisions of § 60.8(d) do not apply to affected facilities subject to the provision of this subpart, except that an owner or operator shall notify the Administrator of the schedule for the initial performance tests at least 30 days before the initial performance tests.

(f) The requirements of paragraphs (a) through (c) of this section remain in force until and unless EPA, in delegating enforcement authority to a State under Section 111(c) of the Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such State. In that event, affected sources within the State will be relieved of the obligation to comply with paragraphs (a) through (c) of this section, provided that they comply with the requirements established by the State.

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414))

[FR Doc. 84–1502 Filed 1–19–84; 8:45 am]

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40 CFR Part 60

[AD–FRL 2307–3]

Standards of Performance for New Stationary Sources; Onshore Natural Gas Processing SO_2 Emissions From Onshore Natural Gas Processing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The proposed standards would limit atmospheric emissions of sulfur dioxide (SO_2) from new, modified, and reconstructed sweetening and sulfur recovery units in the natural gas production industry. The standards do not regulate sulfur content in natural gas; instead, they apply only to SO_2 emissions from gas processing (sweetening and sulfur recovery) facilities. Standards that limit volatile organic compounds (VOC) from the natural gas production industry are also being proposed in a separate **Federal Register** notice.

The standards implement Section 111 of the Clean Air Act and are based on the Administrator's determination that the crude oil and natural gas production industry contributes significantly to air pollution that may reasonably be anticipated to endanger public health or welfare. The intended effect is to require new, modified, and reconstructed affected facilities in the natural gas production industry to reduce emissions by using the best demonstrated system(s) of continuous emissions reduction, considering costs, nonair quality health, and environmental and energy impacts.

A public hearing will be held, if requested, to provide interested persons an opportunity for oral presentation of

data, views, or arguments concerning the proposed standards.

DATES: *Comments.* Comments must be received on or before April 6, 1984.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by February 15, 1984, a public hearing will be held on March 7, 1984, beginning at 9:00 a.m. Persons interested in attending the hearing should call Mrs. Pat Finch at (919) 541–5578 to verify that a hearing will occur.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate, if possible) to: Central Docket Section (LE–131), Attention: Docket No. A–80–20–A, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Public Hearing: If anyone contacts EPA requesting to speak at a public hearing by February 15, 1984, the public hearing will be held at EPA Auditorium, corner of Highway 54 and Alexander Drive. Persons interested in attending the hearing should call Mrs. Pat Finch at (919) 541–5578 to verify that a hearing will occur. Persons wishing to present oral testimony should notify Mrs. Pat Finch, Emission Standards and Engineering Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5578.

Request to Speak at Hearing: Persons wishing to present oral testimony must contact EPA by February 15, 1984.

Background Information Document. The background information document (BID) for the proposed standards may be obtained from the U.S. EPA Library (MD–35), Research Triangle Park, North Carolina 27711, telephone number (919) 541–2777. Please refer to "SO_2 Emissions in Natural Gas Production Industry—Background Information for Proposed Standards," EPA–450/3–82–023a.

Docket. Docket No. A–80–20–A, containing information used by EPA in development of the proposed standards for SO_2 emissions, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Policy issues contact: Mr. Gilbert H. Wood, Standards Development Branch, Emissions Standards and Engineering Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5578.

Technical issues contact: Mr. James F. Durham, Chemical and Petroleum Branch, Emission Standards and Engineering Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5671.

SUPPLEMENTARY INFORMATION:

Proposed Standards

The affected facilities to which the proposed standards apply include each new (i.e., a newly constructed, modified, or reconstructed) sweetening unit and each new sweetening unit followed by a sulfur recovery unit at onshore natural gas processing facilities.

Standards of performance for new sources established under Section 111 of the Clean Air Act reflect:

> * * * application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any nonair quality health, and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated (Section 111(a)(1)).

For convenience, this will be referred to as "best demonstrated technology" or BDT.

BDT for SO_2 emissions from onshore natural gas processing is based on control through sulfur recovery. Different control technologies are available which achieve varying degrees of sulfur recovery (i.e., control). These technologies include 2-state and 3-stage Recycle Selectox sulfur recovery units, 2-state and 3-stage Claus recovery units, Sulfreen tail gas units, Shell Claus off-gas treatment (SCOT) units, and Beavon sulfur removal process (BSRP) units. The performance capabilities and the cost per megagram emission reduction of these systems depend on the ratio of hydrogen sulfide (H_2S) to carbon dioxide (CO_2) and the total quantity of sulfur in the gas stream being treated. These two characteristics vary considerably from plant to plant within the industry. EPA considered the performance and cost differences of applying each of these control systems to different categories of plants within the industry. That is, for a wide range of model plant types with differing H_2S/CO_2 rates and sulfur feed rates, EPA evaluated the performance capability of each of the control technologies and the cost per megagram emission reduction of applying each technology. Because these factors vary, BDT selected for SO_2 from the natural gas production industry includes multiple emission limits. The limit which is applicable to a particular plant type is determined by the H_2S/CO_2 ratio and sulfur feed rate at that plant, and reflects technology and cost considerations for that plant type. Sweetening units producing less than 1.0 long tons per day (LT/D) of sulfur are not subject to the control requirements of the proposed standards.

The level of performance achievable by most of the control systems on which the standards are based is dependent on the age of the catalyst being used. That is, the performance of a given control system is higher when the system is initially installed and the catalyst is new than it is later after the catalyst degrades. In calculating costs for the control systems, it was assumed the catalysts would be replaced every 4 years. This is consistent with current industry practice. Because of catalyst degradation, a plant cannot be expected to achieve the same emission limit on a continuous basis that it can achieve when the control system is initially installed. For this reason, the proposed standards include two emission limits applicable to each affected facility, one which must be met during the initial performance test and a less stringent emmision limit which must be met on a continuing basis after the initial performance test. The proposed standards include equations for determining both the initial and continuous emisssion limits for a given plant. The emission limits are in terms of percent reduction of sulfur.

For facilities with sulfur feed rates of more than 5.0 LT/D, the required efficiencies to be met during the initial performance test would vary from about 92 to 99.8 percent and the required efficiencies to be met on a continuous basis would vary between about 90 and 99.8 percent. In each case the required efficiency for a particular plant would depend on the H_2S/CO_2 ratio and sulfur feed rate at that plant. Facilities with sulfur feed rates of at least 1.0 LT/D but less than or equal to 5.0 LT/D would be required to reduce SO_2 emissions by 79.0 percent initially and 74.0 percent on a continuous basis. The averaging time for all emission limits would be 12 hours.

Initial performance tests would be required within 180 days of startup. Reference Method 6 would be used to measure SO_2 emissions. Reference Method 15 or proposed Reference Method 16A (depending on the nature of the compounds or the stack gas oxygen content) would be used to measure TRS. The H_2S concentration in the acid gas would be measured by ASTM E–260 or the Tutwiler method, which is published in this **Federal Register** notice.

The standards would require continuous monitoring of SO_2 emissions or total reduced sulfur compound (TRS)

emissions, depending on whether the sulfur compounds are combusted prior to being emitted. Continuous monitoring of the sulfur production rate and the incinerator operating temperature would also be required. A temperature of at least 811° K (1,000° F) is required to convert H_2S to SO_2. Since only SO_2 will be monitored, all H_2S must be converted; otherwise, additional monitoring of H_2S would be necessary to achieve an accurate measurement of stack emissions. Monitoring results would be used to determine whether the control systems are being operated and maintained properly.

For the purpose of excess emissions reports, required by the General Provisions, excess emissions are defined as (1) any 12-hour period during which the efficiency achieved (determined by the continuous monitoring results) is less than the efficiency required to be met on a continuous basis, or (2) any 12-hour period during which the average temperature of the gas leaving the combustion zone of the incinerator is less than 811° (1,000° F). No additional periodic reports are required by the standards.

Summary of Environmental Energy, and Economic Impacts

Based on a projected growth of 44 new sweetening units with sulfur feed rates of at least 1.0 LT/D, the proposed standards would reduce SO_2 emissions from the natural gas production industry by about 86,200 megagrams per year (95,000 tons per year) in the fifth year of implementation. This represents a reduction in SO_2 emissions of 78 percent from State implementation plan (SIP) levels.

The best demonstrated technology upon which the proposed standards are based would not result in any adverse water pollution impacts. There would be no significant impact on solid waste disposal.

The proposed standards would increase total nationwide energy usage by 7.8×10^{14} Joules per year (25.9 megawatts) in the fifth year of implementation.

To comply with the SO_2 standards, the increase in fixed-capital costs to industry over the first 5 years would be $102 million. The increase in annualized costs would be about $31 million in the fifth year. This increase in annualized costs represents about 1 percent of the revenue generated by the sale of the processed sour natural gas in the fifth year. Plants affected by the SO_2 standards may also be subject to the VOC standards for the natural gas production industry that are being proposed in a separate Federal Register notice. Not all plants would be affected by both standards; only natural gas plants that separate natural gas liquids from field gas and/or fractionate natural gas liquids, in addition to sweetening sour gas, would be impacted by both the SO_2 and VOC standards. Costs to comply with the VOC standards alone and to comply with both the VOC and SO_2 standards were also analyzed. The economic impacts were evaluated and were determined to be reasonable. The proposed regulations are not expected to have an effect on incentives to develop new sour natural gas fields.

Rationale

Selection of Source for Control

The EPA priority list (40 CFR 60.16, amended at 47 FR 951, January 8, 1982) ranks, in order of priority for standards development, various source categories in terms of quantities of nationwide pollutant emissions, the mobility and competitive nature of each source category, and the extent to which each pollutant endangers health and welfare. The priority list reflects the Administrator's determination that emissions from the listed source categories contribute significantly to air pollution that may reasonably be anticipated to endanger public health or welfare, and is intended to identify major source categories for which standards of performance are to be promulgated. The crude oil and natural gas production industry is ranked 29th out of 59 source categories on the priority list. Sulfur dioxide (SO_2) and volatile organic compounds (VOC) are the primary pollutants from this industry.

The crude oil and natural gas production industry encompasses not only processing of the natural gas (associated or not associated with crude oil) but operations of exploration, drilling, and subsequent removal of the gas from porous geologic formations beneath the earth's surface. There is generally only a small amount of crude oil, if any, associated with field gas in natural gas wells. The crude oil is separated from the field gas at the well site and transported by field lines to storage tanks, before being transported to refineries. These operations are not sources of SO_2 emissions and therefore are not covered by these standards. After the field gas has been separated from the crude oil and condensates, it is further processed. If the gas is sour, hydrogen sulfide (H_2S) and carbon dioxide (CO_2) are removed. This process is called "sweetening" of natural gas; the separated gas stream of H_2S and CO_2 is called "acid gas." The acid gas is further processed for elemental sulfur recovery or incinerated. The SO_2 standards affect only the processing of sour natural gas, which is a subgroup of all natural gas. The remaining gas is referred to as sweet gas and does not contain significant quantities of sulfur.

Data from the American Gas Association (AGA) and from a gas plant survey conducted by the American Petroleum Institute (API) in 1982 were used to project growth in the industry over the 5-year period following proposed of the standards (1983–1987). In 1980, the AGA published its estimation of natural gas production for each year through the year 2000. Total new onshore production for the period 1983–1987 was projected to be about 79 billion cubic meters (2,800 billion cubic feet). Historically, natural gas produced offshore has been sweet gas. The EPA assumed offshore production during the first five years after proposal of the standards would continue to be sweet gas. Therefore, offshore production was not considered in the development of the growth projections.

The data provided by API described the H_2S composition of over 700 onshore natural gas streams processed in 1982. The data indicate that approximately 25 percent of current onshore natural gas production is sour. Assuming that this percentage will remain constant over the next 5 years, EPA projects that there will be about 20 billion cubic meters (690 billion cubic feet) of new sour gas produced between 1983 and 1987. Seventy-four percent of the new sour gas, approximately 15 billion cubic meters (510 billion cubic feet), will contain an average H_2S concentration of 5.8 mole percent, and the remaining 5.0 billion cubic meters (180 billion cubic feet) will contain an average H_2S concentration of 0.2 mole percent. This predicted H_2S composition of new gas production was then used to calculate the amount of sulfur that would be present in the new sour gas. The amount of sulfur was then distributed among various sizes of sweetening plants, ranging from less than 0.1 LT/D of sulfur feed rate to 1,000 LT/D. The distribution was based on the range of existing plant sizes and the proposition of existing plants in each size category. The resulting growth projections indicate that 67 new sweetening plants will be constructed during the next 5 years, ranging in size from less than 0.1 LT/D to 1,000 LT/D of sulfur feed rate.

A large potential for reductions in SO_2 emissions exists with the projected growth. The fifth-year (end of 1987) increase in nationwide SO_2 emissions is estimated to be 110,000 megagrams per

year (121,000 tons/yr), based on current SIP requirements.

The quantities and sources of VOC emissions from this industry are described in a separate **Federal Register** notice, in which a standard for equipment leaks of VOC is proposed. This VOC standard would cover processing of sweet, as well as sour, natural gas.

Selection of Pollutants

As stated in the previous section, onshore natural gas processing is a major source of SO_2 emissions. SO_2 emissions comprise over 97 percent of all the pollutants emitted from a typical onshore natural gas sweetening or sulfur recovery facility. Baseline emissions of SO_2 from a typical 5 LT/D facility are 3,550 megagrams per year (3,900 tons/yr) and those from a large facility with a sulfur feed rate of 1,000 LT/D are 23,900 megagrams per year (23,300 tons/yr). It is expected that over the 5-year period of 1983–1987, annual nationwide SO_2 emissions from this industry will increase by about 110,000 megagrams per year (121,000 tons/yr) if emissions are controlled to the level of existing applicable regulations (typical SIP regulations) or voluntary control levels. These incremental emissions, due to growth in the industry, can be significantly reduced by available sulfur recovery technologies that have been demonstrated.

The industry also emits VOC, nitrogen oxides (NO_x), H_2S, and very small quantities of carbonyl sulfide (COS) and carbon disulfide (CS_2). A standard for VOC is being proposed separately. Sources of NO_x are being addressed by other standards. Most of the potential H_2S, COS and CS_2 which would be emitted by plants are converted (due to their toxicity and odor) into SO_2 through incineration (Docket entry A–80–29–A, II–E–32). As such, both the technology upon which the standard is based and the standard, which is expressed in terms of total sulfur, effectively limit H_2S, CS_2, and COS emissions as well as SO_2 emissions.

For the reasons stated in the preceding paragraphs, SO_2 and VOC are the only pollutants in the natural gas production industry selected for regulation by standards of performance at this time.

Selection of Affected Facilities

As explained previously, SO_2 is emitted from onshore natural gas facilities that process sour gas. The point at which the SO_2 is emitted depends on whether the plant only sweetens the gas or sweetens the gas and recovers the sulfur. If the plant only sweetens the gas, the SO_2 is emitted from an incinerator following the sweetening operation. If the plant sweetens the gas and also recovers sulfur, the SO_2 is emitted from the sulfur recovery unit or from an incinerator following the sulfur recovery unit.

The choice of the affected facilities for these standards is based on the Agency's interpretation of Section 111 of the Clean Air Act and on the judicial construction of its meaning [ASARCo, Inc. vs EPA, 578 F. 2d 319 (D.C. Cir 1978)]. Under Section 111, the standards of performance for new stationary sources must apply to "new sources;" "source" is defined as "any building, structure, facility, or installation which emits or may emit air pollutants, and which may be viewed as sources." EPA therefore uses the term "affected facility" to designate the equipment within a particular kind of plant which is chosen as the "source" covered by a given standard.

In designating the affected facility, EPA must decide which piece or group of equipment is the appropriate unit (the source) for separate emission standards in the particular industrial context involved. The Agency must do this by examining the situation in light of the terms and purpose of Section 111. One major consideration in this examination is that the use of a narrow designation results in bringing replacement equipment under standards of performance sooner. This ensures that new emission sources within plants will be brought under the coverage of the standards as they are installed.

In the case of SO_2 emissions from onshore natural gas processing plants, the most narrow designation for the affected facility would be each sweetening unit and each sweetening unit with a sulfur recovery unit, depending upon what exists at a particular plant. Since there are no other statutory factors that lead to selection of a broader designation of affected facility, the proposed standards designate the affected facility in the most narrow way, as described above.

Selection of Control Technologies for Best Demonstrated Technology (BDT)

The technologies selected as candidates for best demonstrated technology (BDT) were: 2-stage and 3-stage Recycle Selectox sulfur recovery units, 2-stage and 3-stage Claus sulfur recovery units, Sulfreen tail gas units, Shell Claus off-gas treatment (SCOT) units, and Beavon sulfur removal process (BSRP) units. The performance capabilities of these systems vary depending on the H_2S concentration in the acid gas.

A 2-stage Claus sulfur recovery unit is capable of attaining recovery efficiencies between approximately 93.0 percent (with a 12.5 percent inlet H_2S concentration) and 96.3 percent (with an 80 percent inlet H_2S concentration). A 3-stage Claus sulfur recovery unit increases sulfur recovery to between about 94.7 percent (with a 12.5 percent H_2S inlet concentration) and 97.3 percent (with an 80 percent inlet H_2S concentration). The Claus process becomes less efficient in recovering sulfur and less cost effective as the H_2S concentration in the acid gas feed decreases. The recently developed Recycle Selectox process is more efficient and more cost effective than the Claus process on streams with low H_2S concentrations. The performance of the Recycle Selectox process, like the Claus process, varies with varying H_2S concentrations. The Selectox process can be designed as a once-through process without a recycle stream for processing acid gas streams with H_2S concentrations up to about 5 mole percent. For H_2S concentrations higher than 5 mole percent, a recycle stream is needed to maintain proper reaction conditions. A 2-stage Recycle Selectox sulfur recovery unit is designed to attain recovery efficiencies with fresh catalyst at the start of the operating run between about 80.6 percent (with a 2 percent inlet H_2S concentration) and 92.3 percent (with a 12.5 percent inlet H_2S concentration). A 3-stage Recycle Selectox sulfur recovery unit is designed to attain recovery efficiencies between about 83.6 percent (with a 2 percent H_2S concentration) and 95.1 percent (with a 12.5 percent H_2S concentration).

There are three demonstrated tail gas technologies available for use in conjunction with the Claus process to achieve a higher degree of control. The Sulfreen process is capable of increasing the Claus sulfur recovery efficiency to approximately 97.9 percent (with a 12.5 percent H_2S inlet concentration) and 98.8 percent (with an 80 percent H_2S inlet concentration). The SCOT process can increase sulfur recovery efficiency from 94.7 percent to 99.9 percent. The process is adaptable to a variety of Claus units and is flexible over a wide range of operating conditions. The BSRP can increase sulfur recovery for a 3-stage Claus unit to 99.9 percent.

In addition to these technologies there are other processes such as the Cold Bed Absorption (CBA) process that may achieve comparable emission reductions at comparable costs. These processes could be used to meet the standard, provided they achieve the required emission reduction efficiency. The

technologies selected as candidates for BDT are described in detail in Chapter 4 of the BID.

Selection of Model Plants and Regulatory Alternatives

The sulfur feed rate and the ratio of H_2S to CO_2 in the acid gas entering a sulfur recovery unit vary from plant to plant. Both the effectiveness and the costs of sulfur recovery technologies depend on these two process parameters. Therefore, model plants covering the typical range in sulfur feed rates and in H_2S/CO_2 ratios expected in the industry were developed to evaluate specific regulatory alternatives. The sulfur feed capacities of these model plants range from less than 0.1 to 1,000 LT/D; the H_2S/CO_2 ratios evaluated range from less than 5/95 to over 80/20.

Baseline control technology, that level of control expected to be used in new plants in the absence of a new source performance standard, is referred to as Regulatory Alternative I. Baseline control technologies range in sulfur reduction efficiency between 0 and 97.3 percent. At the present time sulfur control technology is being used to comply with existing State regulations and to recover marketable sulfur at some facilities.

To develop alternatives beyond the baseline, the various levels of technology presented in "Selection of Control Technologies for BDT" were applied to each of the model plants. Annualized costs and emission reductions were calculated for each model plant/control technology combination. The calculations were used to determine the additional cost per megagram of SO_2 remove (cost effectiveness) beyond baseline for each model plant/control technology combination. The incremental cost per megagram of SO_2 removed between progressively more effective control technologies was also calculated for each model plant. These costs are presented in Chapter 8 of the BID.

Consistency in the incremental cost effectiveness was used to group the model plant/control technology combinations into five progressively more stringent control levels. (See Table 1.) These control levels are referred to as Regulatory Alternatives II through VI.

TABLE 1.—MODEL PLANT/CONTROL TECHNOLOGY COMBINATIONS FOR EACH REGULATORY ALTERNATIVE

Model plants		Average incremental cost effectiveness [1] ($/Mg)	Regulatory alternative					
			I	II	III	IV	V	VI
				21	519	1,170	6,300	17,500
Sulfur feed rate LT/D	H_2S to CO_2 ratio	Maximum incremental cost effectiveness [2] ($/Mg)		[3]	1,030	1,680	23,700	44,800
<0.1	[4]		None	None	None	None	None	None.
0.2	[4]		None	None	None	None	None	Recycle Selectox 2-stage.
0.3	[4]		None	None	None	None	Recycle Selectox 2-stage.	Recycle Selectox 2-stage.
0.4	[4]		None	None	None	None	Recycle Selectox 2-stage.	Recycle Selectox 3-stage.
0.5 to 0.9	[4]		None	None	None	Recycle Selectox 2-stage.	Recycle Selectox 3-stage.	Sulfreen.
1.0 to 2.0	[4]		None	None	Recycle Selectox 2-stage.	Recycle Selectox 2-stage.	Recycle Selectox 3-stage.	Sulfreen.
3.0 to 5.0	[4]		None	None	Recycle Selectox 2-stage	Recycle Selectox 3-stage.	Sulfreen	Sulfreen.
10	[4]		Claus 2-stage	Claus 2-stage	Claus 3-stage	Claus 3-stage	Sulfreen	Sulfreen.
100	[4]		Claus 3-stage	Claus 3-stage	Sulfreen	Sulfreen	SCOT/BSRMDEA or BSRP.	SCOT/BSRMDEA or BSRP.
555	50/50		Claus 3-stage	Sulfreen	Sulfreen	SCOT/BSRMDEA or BSRP.	SCOT/BSRMDEA or BSRP.	SCOT/BSRMDEA or BSRP.
555	80/20		Claus 3-stage	Sulfreen	SCOT/BSRMDEA or BSRP.	SCOT/BSRMDEA or BSRP.	SCOT/BSRMDEA or BSRP.	SCOT/BSRMDEA or BSRP.
1,000	50/50		Claus 3-stage	Sulfreen	Sulfreen	SCOT/BSRMDEA or BSRP.	SCOT/BSRMDEA or BSRP.	SCOT/BSRMDEA or BSRP.
1,000	80/20		Claus 3-stage	Sulfreen	SCOT/BSRMDEA or BSRP.	SCOT/BSRMDEA or BSRP.	SCOT/BSRMDEA or BSRP.	SCOT/BSRMDEA or BSRP.

[1] Incremental cost effectiveness is the ratio of the additional cost and the additional emission reduction for moving from one regulatory alternative to the next more stringent alternative. The incremental cost effectiveness within a particular alternative varies among the different model plants, depending on technology cost and performance. This is the average incremental cost effectiveness for all model plants within an alternative for which additional control is required in that alternative.
[2] See footnote Number 1. This is the maximum incremental cost effectiveness for any model plant within an alternative for which additional control is required in that alternative.
[3] Covers entire range from less than 2/98 to over 80/20. Emission reductions, however, were calculated assuming 2/98 to 12.5/87.5, which tends to give higher cost effectiveness figures.
[4] Covers the entire range from 12.5/87.5 to over 80/20.

For each model plant, each regulatory alternative is based on the control technology that is the most effective within the range of incremental cost effectiveness established for that particular regulatory alternative. Model plants that did not have an available control technology with incremental cost effectiveness within the range for the next more stringent alternative continued to keep the technology option from the previous (less stringent) regulatory alternative until the cost per Mg was within the appropriate range for a more stringent alternative. For example, in developing the regulatory alternatives for the model plant with a 100 LT/D sulfur feed rate, the control technology having costs within the designated range of Regulatory Alternative III was the Sulfreen process. The SCOT and BSRP processes, which achieve greater emission reductions, were considered for Alternative IV but the costs were outside the designated range for Alternative IV. Therefore, the Sulfreen process was selected for Alternative IV. The SCOT and BSRP processes were again considered in Alternative V. Because the costs were within the designated range, the SCOT and BSRP processes were selected for Alternative V. This methodology was applied in selecting the control technologies to be used in each regulatory alternative for each model plant size.

In summary, the formulation of specific alternatives was based upon the consistency of the incremental cost per megagram SO_2 reduced beyond the previous alternative. The model plants

and regulatory alternatives are further detailed in Chapter 6 of the BID.

Environmental Impacts

In making projections about the number and size of new sweetening and sulfur recovery facilities it was assumed that new plants would reflect the 1982 average plant sizes and their distribution. The expected distribution of new facilities in terms of quantity of sulfur in the acid gas is as follows: 23 facilities with less than 1 LT/D of H_2S, 14 facilities with 1 through 5 LT/D, 18 facilities with 10 LT/D, 9 facilities with 100 LT/D, 2 facilities with 555 LT/D, and 1 facility with 1,000 LT/D. Most facilities with 5 LT/D or less were projected to have no sulfur recovery; the rest were projected to have some sulfur recovery.

Table 2 presents a summary of the projected nationwide emission reduction that would be associated with implementing Regulatory Alternatives II through VI.

TABLE 2.—NATIONWIDE IMPACTS ON NEW FACILITIES

[1987: 67 NEW FACILITIES]

Alternative	Impact					
	I (baseline)	II	III	IV	V	VI
Five year cumulative capital cost beyond the baseline, dollars million/year		4.7	[illegible]	115	[illegible]	419
Fifth-year annualized cost beyond the baseline, dollars million/year		0.58	30.7	[illegible]	118	125
Fifth-year SO_2 emission reduction beyond the baseline, 1,000 Mg/yr		[illegible]	[illegible]	[illegible]	102.6	103.0
Cost effectiveness, dollars/Mg SO_2		21	[illegible]	[illegible]	1,150	1,210
Incremental cost effectiveness, dollars/Mg SO_2		21	[illegible]	1,170	6,300	17,500

The fifth-year reduction in emissions beyond baseline is estimated to be 26 percent for Alternative II, 78 percent for Alternative III, 81 percent for Alternative IV, 93 percent for Alternative V, and 94 percent for Alternative VI.

The technologies selected as candidates for best demonstrated technologies for each regulatory alternative do not result in any adverse water impacts. Also, implementation of any of Regulatory Alternatives II through VI does not result in any adverse solid waste impact. Spillage during transport of liquid sulfur is negligible.

Cost and Economic Impacts

Operation of the baseline technology (Alternative I) is estimated to result in a net fifth-year annualized credit of $88 million due to the sale of recovered sulfur and the use of by-product steam. Sulfur production from onshore natural gas processing and refinery operations has consistently increased: from 2 percent of the total domestic sulfur supply in 1950 to over 25 percent of the total in 1975. The sulfur produced from onshore natural gas processing amounted to 12.9 percent of domestic supply in 1978. Published prices of elemental sulfur indicate that the price has increased over 198 percent, from $31.49 per megagram in December 1969 to $93.99 per megagram in November 1979. Although the sulfur price has fluctuated during this period, it has increased on a consistent basis. These data indicate continued ability to sell the sulfur produced from the gas. However, EPA recognizes that some small plants (producing less than 5 LT/D of sulfur) may not be able to market recovered sulfur as readily as larger plants. For this reason, the annualized costs calculated for plants with sulfur feed rates below 5 LT/D do not include credits for recovered sulfur. Instead, storage and disposal costs of recovered sulfur were included.

The increase in the fifth-year capital and net annualized costs associated with implementing Regulatory Alternatives II through VI beyond Alternative I are presented in Table 2.

A detailed analysis of the economic and cost impacts of the regulatory alternative is included in Chapter 9 of the BID. The analysis considered each regulatory alternative, 21 model plant sizes (ranging in sulfur feed rates from less than 0.1 to 1,000 LT/D), and the normal range of H_2S concentrations (0.5 to 20 mole percent) in the sour natural gas currently found in the industry. Incremental cost per thousand standard cubic feet of sweetened natural gas produced was determined for each combination of control technology, plant size, and sour natural gas H_2S concentration. As a result of the competitive nature of the fuel industry, individual onshore natural gas sulfur recovery plant operators are not expected to pass additional sulfur emissions control costs on to the consumers. Sour gas producers are generally expected to absorb the additional emissions control costs out of revenues generated from the sale of sweet gas and recovery sulfur.

Under all regulatory alternatives, nationwide costs of compliance are approximately 1 percent of the total projected value of all new onshore natural gas (sweet and sour) production. Thus, under Regulatory Alternatives I through VI, the impacts of SO_2 emissions control costs on expected returns from natural gas exploration and development are small; and, therefore, the effect of any of these alternatives on exploration and development would likely be negligible. Under Regulatory Alternatives I through IV, nationwide costs of compliance would be about 1 percent of the total revenue from the sale of processed sour natural gas in 1987. Under Regulatory Alternatives V and VI, nationwide costs of compliance could be approximately 4.0 and 4.2 percent, respectively, of the total revenue from the sale of processed sour natural gas in 1987. Consequently, Regulatory Alternatives I through VI would be expected to have no effect on industry incentives to develop new sour natural gas fields. Although none of the regulatory alternatives is expected to affect incentives to develop new gas fields, Alternatives IV through VI could adversely affect the economic viability (i.e., total production costs may exceed total plant revenues) of some small (less than 1 LT/D) sour gas processing facilities. Under Regulatory Alternative VI, two projected affected facilities are expected not to be economically viable; under Regulatory Alternative V, one projected affected facility is expected not to be economically viable. Regulatory Alternative IV is less likely to cause adverse economic impacts than Alternative V and VI. However, Alternative IV could affect the economic viability of some plants with sulfur production rates below 1.0 LT/D

Alternatives III and II are not expected to result in any unreasonably adverse economic impacts.

Energy Impacts

The application of baseline controls (Regulatory Alternative I) to new affected facilities in the natural gas production industry is estimated to increase energy consumption by 53.9×10^{14} Jouls per year (178 megawatts) of energy in the fifth year (1987) after proposal. Increased energy utilization is primarily to meet electric and steam energy needs for sulfur recovery plant operation and the fuel requirements for incineration of any residual H_2S prior to discharge the atmosphere. The fifth-year (end of 1987) increase in energy consumption over Regulatory Alternative I is estimated to be 0.48×10^{14} Joules per year (1.57 megawatts) for Regulatory Alternative II; 7.8×10^{14} Joules per year (25.9 megawatts) for Regulatory Alternative III, 8.6×10^{14} Joules per year (28.6 megawatts) for Regulatory Alternative IV; 19.3×10^{14} Joules per year (64.1 megawatts) for Regulatory Alternative V; and 19.4×10^{14} Joules per year (64.4 megawatts) for Regulatory Alternative VI. A detailed discussion of the energy impacts of SO_2 emission control is included in the BID, Chapter 7.

Selection of the Basis for the Proposed Standards

In selecting the basis for the proposed standards, the Administrator selected the regulatory alternative that would achieve the most emission reduction while incurring reasonable nonair quality environmental, energy, cost, and economic impacts.

A review of the nonair environmental and energy impacts indicated no significant adverse impacts for any of the regulatory alternatives. Emission reduction, cost and economic impacts were then evaluated for each alternative. Regulatory Alternative VI would achieve the most emission reduction; however, Alternative VI is expected to cause small plants with sulfur intake rates of 1 LT/D or less to be economically nonviable. In addition, the incremental cost which would be incurred to achieve the additional emission reduction of Alternative VI as compared with Alternative V (which would average $17,500 per Mg SO_2 reduced for all the affected model plants and would be a maximum of $44,800 per Mg SO_2 reduced for any affected model plant) was judged to be unreasonable. Alternative V would achieve more emission reduction than the remaining alternatives but is expected to cause small plants with sulfur intake rates of 1 LT/D and less to be economically nonviable. Further, the incremental cost per Mg SO_2 reduced for Alternative V as compared with Alternative IV (which would average $6,300 per Mg SO_2 reduced for all the affected model plants and would be a maximum of $23,700 per Mg SO_2 reduced for any affected model plant) was judged to be unreasonable.

The economic impact analysis indicated that there is some probability that plants with low sulfur feed rates (below 1 L/D) and high H_2S concentrations (4 percent or more) in the sour gas would not be economically viable under the requirements of Regulatory Alternative IV. There was sufficient probability that such plants would become nonviable to cause concern that Regulatory Alternative IV would result in unreasonable economic impacts on small plants.

The incremental cost effectiveness associated with moving from Regulatory Alternative III to Alternative IV averages $1,170 per Mg SO_2 emission reduction. The highest incremental cost effectiveness for any individual plant would be $1,680 per Mg. In assessing the reasonableness of incremental cost for a particular source category, the Agency may consider a variety of factors that may indicate that higher or lower costs per Mg would be appropriate for that source category. The incremental difference in emission reduction between Regulatory Alternative III and IV is 2,400 per Mg of SO_2 emissions per year. While this is considered to be a significant amount of emission reduction, the likelihood that most of this reduction will occur in remotely located and unpopulated areas has influenced the Administrator's judgment of what constitutes reasonable incremental costs. In addition, the location of these remote areas is limited to the western States and Texas, where acid deposition is not, at this time, known to be a problem. In light of these considerations, the Administrator decided that the incremental cost effectiveness between Regulatory Alternatives III and IV may be unreasonably high.

The potential for small plants to encounter unreasonably adverse economic impacts under Alternative IV, combined with the Administrator's judgment that the incremental cost between Alternatives III and IV may be too high for the incremental emission reduction (in view of the location of future plants), led to the decision to reject Regulatory Alternative IV as the basis for the proposed standards.

Regulatory Alternatives III, II, and I were all judged to have reasonable cost, incremental cost effectiveness, and economic impacts. Consequently, Alternative III was selected as the basis of the proposed standards rather than the less stringent alternatives because Alternative III would achieve more emission reduction than the others.

Although the economic impact analysis performed by the Agency (described in detail in Chapter 9 of the BID) indicates that there would be no unreasonable adverse economic impacts associated with the recommended standard, several industry representatives have indicated that some owners/operators of sweetening facilities producing acid gas with less than 5 LT/D of sulfur could experience unreasonable impacts. An attempt has been made to develop small plant exemption criteria (applicable to plants with sulfur intake rates between 1 and 5 LT/D) that would take plant-specific economic parameters into account in determining applicability. A summary of these materials is contained in the docket and is available for review (see Docket A–80–20–A, Entry II–B–42). However, only limited data are currently available on which to support exemption criteria based on plant-specific economic parameters. For this reason, such provisions are not incorporated in the proposed standards, but the Administrator is considering adding such provisions to the final regulation. Therefore, the Agency is soliciting comments on the exemption criteria and on the economic impact of the standard on facilities producing acid gas with less than 5 LT/D of sulfur. Any comments submitted should, where possible, include specific information and supporting calculations detailing the economic effect of controls.

The Agency also is soliciting comment on impacts that the proposed standards may have on affected facilities in the 250 to 1000 LT/D range with H_2S concentrations in the acid gas of less than 50 mole percent. Plants of this type are on the fringe of the span of model plants considered in evaluating technology costs and economic impacts of the proposed standard. Only one plant in this size and acid gas H_2S concentration range is known by the Agency to exist, and projections of affected facilities do not include additional plants of this type. The Administrator is soliciting information on whether additional large plants (greater than 250 LT/D of sulfur) with H_2S concentrations in the acid gas below 50 mole percent are expected to be construced in the United States, and whether the technology requirements of the proposed standards would have an

unreasonably adverse economic impact on facilities of this type. Where possible, comments should include control cost information, supporting calculations, and specific information detailing the economic effects of controls.

Selection of the Format of the Proposed Standards

Standards for SO_2 emissions from onshore natural gas processing could be expressed as:

(i) Concentration standards that limit emissions per unit volume of exhaust gases to the atmosphere,

(ii) Mass standards that limit the mass of pollutants emitted to the atmosphere, or

(iii) Efficiency standards (based on mass or concentration) that require emissions to be reduced by a specified percent.

The format of the proposed standard needs to reflect the fact that the technologies selected as BDT vary in terms of the achievable emission reduction, depending on the mass flow rate and the concentration of H_2S in the acid gas stream at a given plant. Mass or concentration standards can take the form of limits in pounds per hour or parts per million by volume that apply uniformly, or across the board, to all facilities within a range of sulfur feed rates (sizes) and H_2S concentrations. Either of these formats would establish required emission reduction efficiencies applicable to various plant sizes. Large plants would have to achieve high reduction efficiencies and smaller plants would have to achieve increasingly lower reduction efficiencies to meet the same limit. The effect is consistent with the performance capabilities of the technologies as BDT in that the smaller plants would be required to meet lower efficiencies. However, the efficiency requirements that result from uniform mass or concentration limits do not match the reduction efficiencies that are achievable by BDT. With uniform mass or concentration limits, the emission reduction efficiencies required for small plants are far below (i.e., less stringent than) the efficiencies achievable by BDT. Consequently, uniform mass or concentration standards are inappropriate.

In lieu of the uniform mass or concentration format, an emission reduction efficiency format was selected for the proposed standard. Because the format for the standard needs to reflect the variation in the emission reduction efficiencies achievable by the selected BDT, the proposed standard takes the form of an equation that calculates the required emission reduction efficiency (or sulfur recovery efficiency) for each specific plant type based on the two characteristics of the acid gas (i.e., the mass flow rate of acid gas and the concentration of H_2S in it). The equation calculates required emission reduction efficiencies that closely match the efficiencies achievable with BDT. The result is a standard that ensures the application and the proper operation BDT at new facilities.

The equation format appears to best reflect the efficiencies achievable with the technologies in Regulatory Alternative III. However, the Agency is continuing to evaluate other formats and invites comment on alternate formats that may be appropriate.

Selection of Emission Limitations

In order to assess the emissions reduction potential of available control technologies, two design studies performed by an engineering firm with expertise in acid gas sulfur recovery facilities were evaluated. The studies provide investment costs, direct operating cost data including utilities requirements, process descriptions, and atmospheric sulfur compound emissions for 51 sweetening plant/sulfur recovery control combinations. These facilities cover a range of sulfur feed rates from 0.5 to 1,000 LT/day, with various conbinations of sulfur recovery and tail gas processes (Appendices E and H of the BID). The selection of emission limitations was based upon (1) the control systems selected as BDT for different plant types depending on the H_2S/CO_2 ratio and the sulfur feed rate, (2) the design efficiencies of the available control technologies from the engineering studies (3) technical information/data on catalyst degradation, and (4) emission source test data from facilities with demonstrated sulfur recovery technologies.

As presented above, the engineering study indicates that the sulfur recovery efficiency for any one technology varies with the acid gas ratio (i.e., as the ratio of volume percent H_2S to CO_2 increases, the sulfur recovery efficiency increases). In addition, the data indicate the the control elfficiencies of the technologies upon which the proposed standards are based generally decline over a long period of operation. This decline in efficiency is due to the fact that, in most cases, the catalysts gradually degrade with time. Information provided by industry indicates that the useful life span of a Claus catalyst bed ranges from approximately 1 to 7 years with a 3-year to 5-year range occurring most frequently.

In order to ensure that the proposed standard would result in the installation of the best demonstrated technology at each affected facility, an emission limitation as developed based on the design efficiencies achievable with new catalyst beds. This emission reduction requirement would apply to the performace of control equipment at the time of the initial performance test and considers the effects of variations in H_2S to CO_2 concentrations in the acid gas and in sulfur intake rates.

However, EPA recognizes that, for a given feed rate, the initial control efficiency may not be maintained on a continuous basis due to catalyst degradation. Therefore, a second less stringent emission limitation was developed that takes into account catalyst degradation and that can be met on a continuous basis. This second emission limitation would apply to each affected facility after the initial performance test. In developing the costs of the technologies upon which the proposed standards are based, a 4-year catalyst life was assumed to be most representative of expected useful life. This same 4-year life was assumed in developing the second (or continuous) emission limitation. Sulfur recovery design data indicate that catalyst degradation results in approximately 0.89 percent reduction in efficiency per year for a 3-stage Claus unit; 0.29 percent per year for a 3-stage Claus unit with Sulfreen tail gas treatment; 0.013 percent per year for a 3-stage Claus unit with SCOT tail gas treatment; and 1.68 percent for a 2-stage Recycle Selectox unit (Docket A–80–20–A, entries II–B–26 and II–B–27). The continuous emission limitation for the proposed standards is based on the anticipated control efficiency after 4 years of catalyst degradation. Therefore, the required efficiencies can be achieved on a continuous basis, assuming the catalysts are replaced approximately every 4 years. The cost of replacing catalysts at the frequency are judged to be reasonable. An individual plant owner may have to replace his catalyst somewhat more or less frequently than 4 years. The cost of more frequent replacement, if necessary to achieve continued compliance, is also considered reasonable.

In support of the engineering study, emission source tests were conducted at three production facilities. Plant operating parameters and conditions were obtained along with the test data. The facilities tested represent a range of both sulfur feed rates (from 18 to 1,155 LT/D) and acid gas H_2S/CO_2 (24/76 to 84/16) ratios. Additional emission source test data were gathered from seven other sulfur recovery facilities.

Six facilities that were not tested were visited during the standards development process to obtain data on the sulfur recovery efficiency of their respective sulfur recovery units. The emission test data and supplementary information confirm the engineering study sulfur recovery efficiencies for corresponding sulfur feed rates and acid gas H_2S/CO_2 ratios. Test data support the conclusion that the design efficiencies are achievable on a continuous basis in plants operating under normal conditions. The emission source test data are presented in detail in Appendix C of the BID.

The sulfur recovery technologies in Regulatory Alternative III have been selected as the basis for the standards. Regulatory Alternative III requires no control above baseline for facilities with sulfur feed rates less than 1.0 LT/D. Facilities with sulfur feed rates of at least 1.0 but less than or equal to 5.0 LT/D are required to control emissions to the level achievable with a 2-stage Recycle Selectox process. The initial performance test requirement is a 79.0 percent reduction efficiency; thereafter the standards require that the emissions be reduced, on a continuous basis, by at least 74.0 percent.

Facilities with sulfur feed rates greater than 5 LT/D are required to control emissions to levels achievable with 2-stage Recycle Selectox units, 3-stage Claus sulfur recovery units, or 3-stage Claus units with a tail gas cleanup unit, depending on the characteristics of the facility. The design efficiencies of these technologies range as follows: for a 2-stage Recycle Selectox unit—79.0 percent (with a 2.0 percent H_2S concentration) to 90.6 percent (with a 12.5 percent H_2S) concentration; for a 3-stage Claus unit—93.8 percent (with a 12.5 percent H_2S concentration) to 96.4 percent (with an 80 percent H_2S concentration); for a 3-stage Claus with a Slufreen unit—97.6 percent (with a 12.5 percent H_2S concentration) to 98.5 percent (with an 80 percent H_2S concentration); for a 3-stage Claus with a SCOT unit—99.8 percent (with a 12.5 percent H_2S concentration) to 99.9 percent (with an 80 percent H_2S concentration).

These efficiencies were used to develop a numerical relationship between sulfur feed rate, mole percent H_2S in the acid gas, and sulfur dioxide emission reduction efficiency (Docket entry A–80–20–A, II–B–27 and II–B–43). This relationship is expressed in the form of an equation that calculates the percent reduction efficiency. Compliance with this efficiency requirement would be based on 12-hour averages of sulfur intake measurements, measurements of recovered sulfur and measurements of SO_2 emissions. The equation to be used to determine the efficiency required during the initial performance test is presented below:

$$Z = 88.51X^{0.0101}Y^{0.0125}$$

where:

Z = minimum required sulfur dioxide emissions reduction efficiency expressed as a percent and carried to one decimal place,

X = sulfur feed rate (i.e., the H_2S in the acid gas from the sweetening unit) expressed in long tons per day of sulfur, and

Y = sulfur content of the acid gas from the sweetening unit, expressed as mole percent H_2S.

This equation establishes a continuous functional relationship between efficiency level required, sulfur feed rate and mole percent H_2S. The SO_2 emission reduction efficiency calculated from the equation may, in some cases, exceed 99.8 percent. In these cases, however, the standard for that facility would be 99.8 percent efficiency.

A similar equation was developed based on the efficiencies achievable with catalyst beds that have been in operation for 4 years. The efficiency level required to be met on a continuous basis, following the initial performance test, is calculated using the following equation:

$$Z = 85.35X^{0.0114}Y^{0.0125}$$

where X, Y, and Z have the same meaning as in the initial equation.

The highest efficiency required on a continuous basis would be 99.8 percent. The adjusted efficiency numbers achievable with either fresh or degraded catalyst for selected sulfur feed rates and acid gas ratios as calculated from the above equations, but not exceeding 99.8 percent, are presented in Table 3 as examples for the reader's information.

TABLE 3.—PERCENT EFFICIENCY REQUIREMENTS

Sulfur feed rate, LT/D	Mole percent H_2S in acid gas									
	10		20		40		60		80	
	A	B	A	B	A	B	A	B	A	B
1,000									99.8	99.7
555							99.2	98.5	99.6	98.8
100			96.2	94.7	97.0	95.6	97.5	96.1	97.9	96.4
10	93.2	90.8	94.0	91.6	94.8	92.4	95.3	92.9	95.6	93.3
5	92.5	89.9	[illegible]	90.7						

A: Efficiencies with fresh catalyst (initial requirements).
B: Efficiencies with degraded catalyst (continuous requirements)

NOTE.—Efficiencies are listed only for those sulfur feed rate, mole percent H_2S in acid gas combinations that are considered to be realistic based on the types of facilities currently operating.

Modification/Reconstruction Considerations

The proposed standard would apply to sweetening units and to sweetening units followed by sulfur recovery units.

"Modification" is defined in § 60.14 of the General Provisions as any physical or operational change to an existing facility which results in an increase in the emission rate to the atmosphere of any pollutant to which a standard applies. Exemptions from the modification provision are also described in § 60.14. Changes to existing sweetening units that would qualify as modifications are rare in this industry. Sweetening capacity is increased, when necessary, by adding an entirely new sweetening unit to existing units or by replacing an existing unit with a new, larger unit. In either case, the new unit would be subject to the standards as a newly constructed facility, but the existing units would not be changed and would not be considered modified. If the affected facility had been defined as the entire sweetening operation, which could consist of one or more sweetening units, additions or replacements of individual sweetening units could mean that the entire sweetening operation would be modified, and modifications would have been projected. However, with the designation of the affected facility as each sweetening unit, no modifications are projected.

Changes to existing sulfur recovery units that would result in an increase in the emission rate to the atmosphere are not expected to occur. Consequently, no modifications to a sweetening unit followed by a sulfur recovery unit are projected.

The definition of "reconstruction" is also described in Section 60.14 of the General Provisions. No situations in the industry are anticipated where the replacement costs would exceed 50 percent of the cost of an entirely new facility and, therefore, no reconstructions are anticipated.

Performance Test Methods

The proposed standard is based on an SO_2 emission reduction efficiency requirement. The emission reduction

efficiency required (Z) for a given facility is a function of the sulfur feed rate (X) and the H_2S content (Y) of the acid gas at that facility. To determine the applicable emission reduction efficiency required, an owner or operator would use the following procedures: (1) use either the Tutwiler procedure or ASTM E–260 to determine Y, the H_2S content of the acid gas; (2) use a process flow meter to measure the average volumetric flow rate of the acid gas, and determine X, the average sulfur feed rate, using Y and the volumetric flow rate; and (3) use the values obtained for X and Y to determine Z, the required efficiency, from the equations given in Section 60.642 (a) and (b) of the proposed regulation. This procedure will be used to calculate a value for Z at least quarterly or more often if a significant change occurs in X or Y and the owner or operator elects to recalculate the required efficiency. For facilities with sulfur feed rates of 5 LT/D and less, Z is 79.0 percent during the initial performance test.

During the performance test, the emission reduction efficiency actually being achieved by the control system is compared to the required efficiency in order to determine compliance. If the achieved efficiency, R, is equal to or greater than the required efficiency (Z), the facility is in compliance. The sulfur emission reduction efficiency achieved, R, is a function of the liquid sulfur production rate (S) and the sulfur emission rate (E). R is defined as S divided by the sum of S and E, multiplied by 100.

The sulfur emission rate is obtained by measuring the concentration of sulfur compounds, i.e., sulfur dioxide (SO_2) and total reduced sulfur compounds (TRS), and calculating a total SO_2 equivalent concentration using the volumetric flow rate of the stack gas. EPA Reference Method 6 for SO_2 (40 CFR Part 60, Appendix A) and proposed Method 16A for TRS (46 FR 31904, June 18, 1981) are used without modification. The TRS measurement includes carbonyl sulfide (COS), carbon disulfide (CS_2), and H_2S.

In those facilities in which the exiting gases from the sulfur recovery units are not incinerated, the sulfur emission rate is obtained by measuring the individual reduced sulfur compounds (H_2S, COS, CS_2) using EPA Reference Method 15 rather than Method 16A. Because sufficient oxygen may not be available in the sample gases from these facilities for oxidation of the reduced compounds, Method 15, which provides for measurement of individual reduced compounds, is specified as the performance test method.

The stack gas flow rate is determined by EPA Reference Methods 1, 2, 3, and 4. Method 3 may be modified by use of thermal conductivity gas chromatography instead of the specified Orsat apparatus. The sum of the SO_2 and TRS concentrations in the stack gas, when multiplied by the stack gas flow rate and by the appropriate molecular weights of sulfur per mole for each sulfur species, yields the sulfur emission rate.

For measurement of the sulfur production rate, industry practice is to use the difference between readings of calibrated level indicators or between manual soundings of the product sulfur storage tanks. This method of sulfur production rate measurement is within acceptable accuracy of ±2% and acceptable reliability and, therefore, is considered adequate for determining compliance. The proposed standard requires measurement of the sulfur production rate over every consecutive 12-hour period.

Continuous Monitoring Requirements

Monitoring requirements can provide a convenient and necessary means for plant owners and enforcement personnel to ensure that sulfur recovery operations are properly operated and maintained. As a check against monitored data, all parameters specified under monitoring requirements would be measured and recorded during the initial performance test.

The recommended standard would require each owner or operator to measure and to record on a continuous basis and to calculate, for each 12-hour period, the SO_2 mass emission rate (E), averaged over 12 consecutive hours, through the incinerator stack to the atmosphere, or the TRS mass emission rate if a combustion device is not used.

For monitoring purposes, measurement of the liquid sulfur production rate (S) would be conducted once every 12 hours. The measurement could be performed by accepted industry practice that uses the difference of calibrated level indicator readings or of manual soundings of the product sulfur storage tanks. The liquid sulfur production rate (S) divided by the sum of the SO_2 or TRS (expressed as sulfur) emission rate (E) and the liquid sulfur production rate (S) indicates the SO_2 emission reduction (R) of the unit. The calculation of emission reduction efficiency, for continuous monitoring purposes, would yield an efficiency slightly less precise than the efficiency calculated during the performance test, because the monitoring calculation does not include emissions of TRS for recovery units with an operating incinerator. The monitoring calculation could indicate an efficiency greater than the efficiency calculated during the performance test, but the difference in calculated efficiency would be approximately 0.02 percent. This small difference is considered acceptable, as the alternative would be to require continuous monitoring of both SO_2 and TRS, and the costs of monitoring both were judged too high for the resulting slight improvement in exactness of the efficiency calculation.

The reason for selecting 12 hours as the averaging time for these calculations is to have a measurement comparable to the performance test measurement. (The performance test is the average of three test runs, each run being conducted for a period of at least 4 hours.)

Continuous monitoring of the rate of SO_2 mass emissions from the incinerator stack, when combined with the liquid sulfur production rate, gives a more precise measurement of emission reduction efficiency than use of the measured sulfur intake (LT/day) with the liquid sulfur production rate. Uncertainties in the calculated efficiency for the sulfur intake (LT/day) method could be ±7.0%, whereas for the emission method, the uncertainties could be only ±0.6%. The costs of continuous monitoring of either SO_2 or TRS for both small and large facilities are reasonable, and the emission method is the most accurate measurement of emission reduction efficiency available at reasonable costs. Therefore, the Administrator decided to require continuous monitoring of SO_2 emissions for facilities that use a sulfur recovery unit followed by an incinerator and continuous monitoring of TRS emissions for facilities that do not use an incinerator. (However, monitors for TRS are not required until specifications are promulgated.)

In addition, the proposed standard would require each sulfur recovery facility with an incinerator to measure on a continuous basis and to record, for each 12-hour period, the temperature of the gas leaving the combustion zone of the incinerator. The proposed standard requires that a temperature of 811°K (1,000°F) be maintained in order to convert the H_2S in the gas stream to SO_2. Since the required monitoring devices measure only SO_2, it is essential that all H_2S be converted to SO_2 to achieve an accurate measurement of the sulfur compounds leaving the stack. Normally, all facilities record the incinerator temperature on a periodic basis as an integral part of the operation.

Impacts of Reporting Requirements

The recommended standard would require the owners or operators of onshore natural gas processing facilities to submit four types of reports. First, there are notification reports required under the General Provisions that would enable the Agency to keep abreast of facilities subject to the standards of performance. Notification of construction, anticipated start-up, actual startup, and initial performance tests are among those activities requiring notification reports. Second, there are reports of initial performance test results. The third requirement is for quarterly reports of excess emissions as required in § 60.7(c) of the General Provisions. Fourth, reports of performance evaluations of the continuous monitoring systems are required, as described in § 60.13(c).

Section 60.7(b) requires an owner or operator of a plant to maintain records documenting the contents of the required reports and identifying whether excess emissions are due to startup, shutdown, or malfunction.

The Paperwork Reduction Act (PRA) of 1980 (Pub. L. 96–511) requires that the Office of Management and Budget (OMB) approve reporting and recordkeeping requirements that qualify as an "information collection request" (ICR). For the purposes of OMB's review, EPA's impact analysis procedures provide for estimating the labor hour burden of reporting and recordkeeping requirements on a 2-year basis. During the first 2 years of effectiveness of the proposed standard, the average annual industry-wide burden of the reporting and recordkeeping requirements associated with the proposed standard would be 8.6 person-years, based on an average of 14 respondents per year.

Public Hearing

A public hearing will be held, if requested, to discuss the proposed standards in accordance with Section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the **ADDRESSES** section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the **ADDRESSES** section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section in Washington, D.C. (see **ADDRESSES** section of this preamble).

Docket

The docket is an organized and complete file of all the information submitted for, or otherwise considered in, the development of this proposed rulemaking. The principal purposes of the docket are (1) to allow interested parties to identify and locate documents so that they can effectively participate in the rulemaking process, and (2) to serve as the record in case of judicial review (except for those portions of the docket excluded from the record under Section 307(d)(7)(A)).

Miscellaneous

As prescribed by Section 111, establishment of standards of performance of affected facilities in the natural gas production industry was preceded by the Administrator's determination (40 CFR 60.16, amended at 47 FR 951, dated January 8, 1982) that the crude oil and natural gas production industry contributes significantly to air pollution that may reasonably be anticipated to endanger public health or welfare.

In accordance with Section 117 of the Act, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. The Administrator will welcome comments on all aspects of the proposed regulation, including economic and technological issues. Any comments submitted to the Administrator on these issues should contain specific information and data pertinent to the issue or procedure and should suggest alternative courses of action.

This regulation will be reviewed 4 years from the date of promulgation as required by the Clean Air Act. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, improvements in emission control technology, and reporting requirements.

The information provisions associated with this proposed rule (40 CFR 60.7, 60.8, and 60.647) have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 U.S.C. 3501 *et seq.* Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB—marked Attention: Desk Officer for the EPA. The final rule package will respond to any OMB or public comments on the information collection provisions.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any new source standard of performance under Section 111(b) of the Act. An economic impact assessment was prepared for the proposed regulations and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the proposed standards to insure that the proposed standards would represent the best system of emission reduction considering costs. The economic impact assessment is included in the background information document.

"Major Rule" Determination. Under Executive Order 12291, EPA is required to judge whether a regulation is a "major rule" and therefore subject to certain requirements of the Order. The Agency has determined that this regulation would result in none of the adverse economic effects set forth in Section 1 of the Order as grounds for finding a regulation to be a "major rule." Fifth-year annualized costs of both the SO_2 standard discussed here and the VOC standard compared to an uncontrolled situation, would be about $31 million and $2.5 million, respectively, in the worst case. The combined impact for the worst case is not expected to result in an increase of well-head natural gas wholesale prices greater than 0.1 percent per 1,000 standard cubic feet of gas. The Agency has therefore concluded that the proposed regulation is not a major rule under Executive Order 12291. In addition to economic impacts, the Agency carefully considered the overall costs per megagram of emission reduction that would result from this standard. This analysis is described under Rationale and served as a primary basis for establishing the control levels set forth in the proposed standard.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMN and EPA and any EPA response to those comments are available for public inspection in Docket No. A–80–20–A, EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460.

Regulatory Flexibility Analysis Certification. The Regulatory Flexibility Act of 1980 requires that adverse effects of all Federal regulations upon small business be identified. According to current Small Business Administration (SBA) guidelines, a small business in the SIC category 1311, "Crude Petroleum and Natural Gas" is one that has 500

employees or less. This is the criterion to qualify for SBA loans or for the purpose of government procurement. Of the 31 onshore natural gas sulfur recovery companies, all but one of the companies have more than 500 employees. The average employment in these companies is approximately 26,000. Therefore, it is estimated that employment in a typical company owning a new facility will average well over 500. Thus, it is unlikely that any such company would be considered a small entity. Existing small entities are not expected to become subject to the recommended standards through new construction, modification, or reconstruction.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals Metallic minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel sulfuric acid plants, Waste treatment and disposal, Zinc, Tires, Incorporation by reference, Can suface coating, Sulfuric acid plants, Industrial organic chemicals, Organic solvent cleaners, Fossil fuel-fired steam generators.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

Dated: January 11, 1984.

William D. Ruckelshaus,

Administrator.

PART 60—[AMENDED]

It is proposed that 40 CFR Part 60 be amended by adding a new subpart as follows:

Subpart LLL—Standards of Performance for Onshore Natural Gas Processing; SO_2 Emissions

Sec.

60.640 Applicability and designation of affected facilities.
60.641 Definitions.
60.642 Standards for sulfur dioxide.
60.643 Compliance provisions.
60.644 Performance test procedures.
60.645 Performance test methods.
60.646 Monitoring of emissions and operations.
60.647 Recordkeeping and reporting requirements.
60.648 Optional procedure for measuring hydrogen sulfide in acid gas—Tutwiler Procedure.

Authority: Sections 111 and 301(a) of the Clean Air Act, as amended, (42 U.S.C. 7411, 7601(a)), and additional authority as noted below.

Subpart LLL—Standards of Performance for Onshore Natural Gas Production: SO_2 Emissions

§ 60.640 Applicability and designation of affected facilities.

(a) The provisions of this subpart are applicable to the following affected facilities that process natural gas: each sweetening unit, and each sweetening unit followed by a sulfur recovery unit.

(b) Facilities that have a design capacity less than 1.0 long tons per day (LT/D) of hydrogen sulfide (H_2S) in the acid gas are required to comply with § 60.647(c) but are not required to comply with § 60.642 through § 60.646.

(c) The provisions of this subpart are applicable only to facilities located on land and exclude facilities located on offshore platforms.

(d) The provisions of this subpart apply to each affected facility identified in paragraph (a) of this section which commences construction or modification after January 20, 1984.

§ 60.641 Definitions.

All terms used in this subpart not defined below are given the meaning in the Act and in Subpart A of this part.

"Acid gas" means a gas stream of hydrogen sulfide (H_2S) and carbon dioxide (CO_2) that is separated from natural gas by a sweetening unit.

"Natural gas" means a naturally occuring mixture of hydrocarbon and non-hydrocarbon gases found in geologic formations beneath the earth's surface. The principal hydrocarbon constituent is methane.

"Onshore" means situated on land as opposed to over seawater.

"Reduced sulfur compounds" means H_2S, carbonyl sulfide (COS), and carbon disulfide (CS_2).

"Sulfur production rate" means the rate of liquid sulfur accumulation from the sulfur recovery unit.

"Sulfur recovery unit" means a process device that recovers elemental sulfur from acid gas.

"Sweetening unit" means a process device that separates the H_2S and CO_2 contents from the sour natural gas stream.

"Total SO_2 equivalents" means the sum of volumetric or mass concentrations of the sulfur compounds obtained by adding the quantity existing as SO_2 to the quantity of SO_2 that would be obtained if all reduced sulfur compounds were converted to SO_2 (ppmv or kg/DSCM).

"E" = the sulfur emission rate expressed as elemental sulfur, kilograms per hour (kg/hr) rounded to one decimal place.

"R" = the sulfur emission reduction efficiency achieved in percent, carried to one decimal place.

"S" = the sulfur production rate in kilograms per hour (kg/hr) rounded to one decimal place.

"X" = the sulfur feed rate, i.e., the H_2S in the acid gas from the sweetening unit, expressed in long tons per day (LT/D) of sulfur rounded to one decimal place.

"Y" = the sulfur content of the acid gas from the sweetening unit, expressed as mole percent H_2S rounded to one decimal place.

"Z" = the minimum required sulfur dioxide (SO_2) emission reduction efficiency, expressed as a percent carried to one decimal place.

§ 60.642 Standards for sulfur dioxide.

(a) When the sulfur feed rate of an affected facility is greater than 5.0 LT/D:

(1) During the initial performance test required by § 60.8(b), each owner or operator subject to the provisions of this subpart shall achieve a minimum SO_2 emission reduction efficiency (Z) for each affected facility calculated using the following equation:

$$Z = 88.51\ X^{-0.0101}\ Y^{-0.0125} \qquad (1)$$

In no case, however, will the required efficiency exceed 99.8 percent.

(2) After the initial performance test, each owner or operator subject to the provisions of this subpart shall maintain at least a minimum SO_2 emission reduction efficiency (Z) for each affected facility calculated using the following equation:

$$Z = 85.35\ X^{-0.0144}\ Y^{-0.0125} \qquad (2)$$

In no case, however, will the required efficiency exceed 99.8 percent.

(b) When the sulfur feed rate for an affected facility is at least 1.0 LT/D but less than or equal to 5.0 LT/D: During the initial performance test required by § 60.8(b), each owner or operator subject to the provisions of this subpart shall achieve an SO_2 emission reduction efficiency (Z) for that affected facility of at least 79.0 percent; after the initial compliance test, each owner or operator subject to the provisions of this subpart shall maintain an SO_2 emissions reduction efficiency (Z) for that affected facility of at least 74.0 percent.

(c) On and after the date on which § 60.8(b) requires a performance test to be completed, each owner or operator subject to the provisions of this subpart shall continuously maintain the 12-hour average temperature of the gas leaving the combustion zone of an incinerator that follows a sweetening unit above 811°K (1,000°F).

§ 60.643 Compliance provisions.

(a) To determine compliance with the standards for sulfur dioxide specified in § 60.642, the minimum sulfur dioxide emission reduction efficiency (Z) is compared to the emission reduction efficiency (R), achieved by the sulfur recovery technology during the performance test:

(1) If $R \geqq Z$, the affected facility is in compliance.

(2) If $R < Z$, the affected facility is not in compliance.

(b) The emission reduction efficiency (R) achieved by the sulfur recovery technology is calculated by using the equation:

$$R = \frac{S}{S + E} \times 100 \qquad (3)$$

"S" and "E" are determined using the procedures and test methods specified in § 60.644 and § 60.645.

§ 60.644 Performance test procedures.

(a) For the purpose of determining (Y):

(1) Collect and analyze at least one sample per hour (equally spaced) during the performance test, using the method specified in § 60.645(a)(8).

(2) Calculate the arithmetic mean of all samples to determine the average H_2S concentration in mole percent.

(b) For the purpose of determining (X):

(1) Determine the average volumetric flow rate of the acid gas from the sweetening unit by continuous measurements made with a process flow meter during the performance test period. Express the result as standard cubic feet per day (scf/day).

(2) Calculate the average sulfur feed rate, in long tons per day, from the average volumetric flow rate, using the method specified in § 60.645(a)(1), and the average H_2S content [from § 60.644(a)] by the equation:

$$X = \frac{\text{(average volumetric acid gas flow, scf/day)(Y/100)(32 lb/lb mole)}}{\text{(385.36 standard cubic feet/lb mole)(2,240 lbs/long ton)}} \qquad (4)$$

(c) For the purpose of determining (S):

(1) Measure the sulfur accumulation rate in the product storage tanks using level indicators or manual soundings. Record the level reading at the beginning and end of each test run. Convert the level readings to mass (kilograms) of sulfur in the storage tanks, using the tank geometry and the sulfur density at the temperature of storage. Divide the change in mass by the test duration (hours and fractions of hours) to determine the sulfur production rate in kilograms per hour for each run.

(2) Calculate the arithmetic mean of the rates for each run to determine the average sulfur production rate to use in § 60.643(b).

(d) For the purpose of determining (E):

(1) Measure the concentrations of sulfur dioxide and total reduced sulfur compounds, using the methods specified in § 60.645(a) (5) through (7). The minimum sampling time for run shall be 4 hours. For each run the SO_2 and TRS concentrations shall be combined to calculate the total SO_2 equivalent concentration as follows:

Total SO_2 equivalent, (kg/dscm) = 0.001 (SO_2 concentration mg/dscm from Method 6) + 2.704×10^{-6} (SO_2 equivalents in ppmv, dry from Method 15 or from Method 16A)

(2) Measure the exhaust gas velocity, molecular weight, and moisture content using the methods specified in § 60.645(a) (2) through (4). Calculate the volumetric flow rate of the exhaust gas at dry, standard conditions using equation 2–10 in Method 2.

(3) Calculate the equivalent sulfur emission rate as elemental sulfur for each run as follows:

Sulfur emission rate = (total SO_2 equivalent, kg/dscm) (gas flow rate, dscm/hr)(0.50)

Calculate the arithmetic mean of the sulfur emission rate for each run to determine the average sulfur emission rate (E) to use in § 60.643(b).

§ 60.645 Performance test methods.

(a) For the purpose of determining compliance with § 60.642(a) or (b), the following reference methods shall be used:

(1) Method 1 for velocity traverse points selection,

(2) Method 2 for determination of stack gas velocity and calculation of the volumetric flow rate,

(3) Method 3 for determination of stack gas molecular weight,

(4) Method 4 for determination of the stack gas moisture content,

(5) Method 6 for determination of SO_2 concentration,

(6) Method 15 for determination of the TRS concentration from reduction-type devices or where the oxygen content of the stack gas is less than 1.0 percent by volume,

(7) Method 16A for determination of the TRS concentration from oxidation-type devices or where the oxygen content of the stack gas is greater than 1.0 percent by volume.

(8) The Tutwiler procedure in § 60.648 or a chromatographic procedure following ASTM E–260, which is incorporated by reference (see § 60.17), for determination of the H_2S concentration in the acid gas feed from the sweetening unit.

(b) The sampling location for Methods 3, 4, 6, 15, and 16A shall be the same as that used for velocity measurement by Method 2. The sampling point in the duct shall be at the centroid of the cross-section if the area is less than 5 m^2 (54 ft^2) or at a point no closer to the walls than 1 m (39 inches) if the cross-sectional area is 5 m^2 or more, and the centroid is more than one meter from the wall. For Methods 3, 4, 6 and 16A, the sample shall be extracted at a rate proportional to the gas velocity at the sampling point. For Method 15, the minimum sampling rate shall be 3 liters/minute (0.1 ft^3/minute) to insure minimum residence time in the sample line.

(c) For Methods 6 and 16A the minimum sampling time for each run shall be 4 hours. Either one sample or a number of separate samples may be collected for each run so long as the total sample time is 4 hours. Where more than one sample is collected per run, the average result for the run is calculated by:

$$C_s = \sum_{i=1}^{n} (C_{si}) \quad \frac{(t_{si})}{T} \qquad (5)$$

Where:

C_s = time-weighted average SO_2 or TRS concentration for the run, (mg/dscm or ppmv, dry)

N = number of samples collected during the run

C_{si} = SO_2 or TRS concentration for sample i, (mg/dscm or ppmv, dry)

t_{si} = sampling time for sample i, (minutes)

T = total sampling time for all samples in the run (minutes)

(d) For Method 15, each run shall consist of 16 samples taken over a minimum of 4 hours. The equivalent SO_2 concentration for each run shall be calculated as the arithmetic average of the SO_2 equivalent concentration for each sample.

(e) For Method 2, a velocity traverse shall be conducted at the beginning and end of each run. The arithmetic average of the two measurements shall be used to calculate the volumetric flow rate for each run.

(f) For Method 3, a single sample may be integrated over the 4-hour run interval and analysis, or grab samples at 1-hour intervals may be collected, analyzed, and averaged to determine the stack gas composition.

(g) For Method 4, each run shall consist of 2 samples; one collected at the

beginning of the 4-hour test period, and one near the end of the period. For each sample the minimum sample volume shall be 0.1 dscm (0.35 dscf) and the minimum sample time shall be 10 minutes.

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414))

§ 60.646 Monitoring of emissions and operations.

(a) At least once each calendar quarter the owner or operator of each affected facility subject to § 60.642(a) shall use the procedures specified in § 60.644 (a) and (b) to determine an average X and Y for use in equation (2) in § 60.642 to calculate an average minimum required sulfur dioxide emission reduction for that quarter. Data for the quarterly measurements for X and Y shall be collected over a test period of 12 hours made up of three 4-hour sample periods occurring within one 24-hour day. The time between the measurements of X and Y that are recorded for one calendar quarter and the measurements of X and Y recorded for the next consecutive calendar quarter is not to exceed 100 days.

(b) Continuous monitoring systems shall be installed, calibrated, maintained, and operated by the owner or operator subject to § 60.642 (a) or (b) as follows:

(1) A continuous monitoring system for the measurement of the temperature of the gas leaving the combustion zone of the incinerator. The monitoring device shall be certified by the manufacturer to be accurate to within ±1 percent of the temperature being measured.

(2) A continuous monitoring method for the measurement of the sulfur production rate (S). The monitoring method shall be certified by the manufacturer to be accurate to within ±2 percent of the rate being measured. The monitoring method may use an instrument to measure and record the sulfur production rate or it may be a method of measuring and recording the sulfur liquid levels in the storage tanks with a level indicator or by manual soundings with subsequent calculation of the sulfur production rate based on the tank geometry and stored sulfur density.

(3) A continuous monitoring system to measure the emission rate of SO_2 in the gases discharged to the atmosphere from a sulfur recovery plant if compliance with § 60.642 (a) or (b) is achieved through the use of an oxidation control system or a reduction control system followed by a continually operated incineration device. The SO_2 emission rate shall be expressed in terms of equivalent sulfur mass flow rates (kg/hr). The span of this monitoring system shall be set so that the equivalent emission limit of § 60.642 (a) or (b) will be between 30 percent and 70 percent of the measurement range of the instrument system.

(4) A continuous monitoring system to measure the emission rate of SO_2 equivalent compounds in the gases discharged to the atmosphere if compliance with § 60.642 (a) or (b) is achieved by the use of a reduction control system not followed by a continually operated incineration device. The SO_2 equivalent compound emission rate shall be expressed in terms of equivalent sulfur mass flow rates (kg/hr). The span of this monitoring system shall be set so that the equivalent emission limit of § 60.642 (a) or (b) will be between 30 percent and 70 percent of the measurement range of the system.

(5) The average sulfur emission reduction efficiency achieved (R) shall be calculated for each 12-hour clock interval, beginning at midnight and at noon. The 12-hour average R shall be computed based on the 12-hour averages for sulfur production rate (S) and sulfur emission rate (E), using equation (3) in § 60.643(b).

(i) Data obtained from the sulfur production rate monitoring system in subparagraph (2) shall be used to calculate a 12-hour average for S. Measurements are to be taken at the beginning and at the end of each 12-hour period.

(ii) Data obtained from the sulfur emission rate monitoring system in subparagraphs (3) or (4) shall be used to calculate a 12-hour average for E. The monitoring system must provide at least one data point in each successive 15-minute interval. At least two data points must be used to calculate each 1-hour average. A minimum of nine 1-hour averages must be used to compute each 12-hour average.

(c) The continuous monitoring systems required in § 60.646(b) (1) and (2) shall be calibrated at least annually according to the manufacturers' specifications.

(d) The continuous monitoring systems required in § 60.646(b) (3) and (4) shall be subject to the emission monitoring requirements of § 60.13 of the General Provisions. For conducting the monitoring system performance evaluation required by § 60.13(c), Performance Specification 2 shall apply, and Method 6 shall be used for systems required by § 60.646(a)(3). Performance Specification 5 and Method 15 shall be used for systems required by § 60.646(a)(4).

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414))

§ 60.647 Recordkeeping and reporting requirements.

(a) Records of the measurements required in § 60.642 (a), (b) and (c) and § 60.646 (a) through (d) must be retained for at least 2 years following the date of the measurements by owners and operators subject to this subpart. This requirement is included under § 60.7(d) of the General Provisions.

(b) Each owner or operator required to install a continuous monitoring system shall submit a written report of excess emissions to the Administrator for each calendar quarter. This requirement is included under § 60.7(c) of the General Provisions. For the purpose of these reports, excess emissions are defined as:

(1) Any 12-hour period (clock intervals beginning at midnight and noon) during which the average sulfur emission reduction efficiency (R) is less than the minimum required efficiency (Z).

(i) For the purpose of determining "R", "E" is to be determined using the sulfur mass flow rate obtained in § 60.646(b) (3) or (4).

(ii) Facilities subject to § 60.642(a) shall use the "Z" value calculated for the current calendar quarter according to the procedure in § 60.646(a).

(iii) Facilities subject to § 60.642(b) shall use "Z" value of 74.0 percent.

(2) Any 12-hour period during which the average temperature of the gases leaving the combustion zone of an incinerator is less than 811°K (1,000°F). Each 12-hour period must consist of at least 48 temperature measurements, equally spaced over the 12 hours.

(c) Each owner or operator of a facility with a design capacity less than 1.0 LT/D of H_2S in the acid gas shall keep for the life of the facility an analysis demonstrating that the facility's design capacity is less than 1.0 LT/D of H_2S, expressed as sulfur.

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414))

§ 60.648 Optional procedure for measuring hydrogen sulfide in acid gas—Tutwiler Procedure.[1]

When an instantaneous sample is desired and H_2S concentration is ten grains per 100 cubic foot or more, a 100 ml Tutwiler burette is used. For concentrations less than ten grains, a 500 ml Tutwiler burette and more dilute solutions are used. In principle, this method consists of titrating hydrogen

[1] Gas Engineers Handbook, Fuel Gas Engineering Practices, The Industrial Press, 93 Worth Street, New York, New York, 1966, First Edition, Second Printing, page 8/25 (Docket A-80-20-A, II-I-67)

sulfide in a gas sample directly with a standard solution of iodine.

Apparatus. (See Figure 1.) A 100 or 500 ml capacity Tutwiler burette, with two-way glass stopcock at bottom and three-way stopcock at top which connect either with inlet tubulature or glass-stoppered cylinder, 10 ml capacity, graduated in 0.1 ml subdivision; rubber tubing connecting burette with leveling bottle.

Reagents. (1) Iodine Stock Solution, O.1N. Weight 12.7 g iodine, and 20 to 25 g cp potassium iodide for each liter of solution. Dissolve KI in as little water as necessary; dissolve iodine in concentrated KI solution, make up to proper volume, and store in glass-stoppered brown glass bottle.

(2) Standard Iodine Solution, 1 ml=0.00171 g I. Transfer 33.7 ml of above 0.1N stock solution into a 250 ml volumetric flask; add water to mark and mix well. Then, for 100 ml sample of gas, 1 ml of standard iodine solution is equivalent to 100 grains H_2S per 100 cubic feet of gas.

(3) *Starch Solution.* Rub into a thin paste about one teaspoonful of wheat starch with a little water; pour into about a pint of boiling water; stir; let cool and decant off clean starch solution. Make fresh solution every few days.

Procedure. Fill leveling bulb with starch solution. Raise (L), open cook (G), open (F) to (A), and close (F) when solution starts to run out of gas inlet. Close (G). Purge gas sampling line and connect with (A). Lower (L) and open (F) and (G). When liquid level is several ml past the 100 ml mark, close (G) and (F), and disconnect sampling tube. Open (G) and bring starch solution to 100 ml mark by raising (L); then close (G). Open (F) momentarily, to bring gas in burette to atmospheric pressure, and close (F). Open (G), bring liquid level down to 10 ml mark by lowering (L). Close (G), clamp rubber tubing near (E) and disconnect it from burette. Rinse graduated cylinder with a standard iodine solution (0.00171 g I per ml); fill cylinder and record reading. Introduce successive small amounts of iodine thru (F); shake well after each addition; continue until a faint permanent blue color is obtained. Record reading; subtract from previous reading, and call difference D.

With every fresh stock of starch solution perform a blank test as follows: introduce fresh starch solution into burette up to 100 ml mark. Close (F) and (G). Lower (L) and open (G). When liquid level reaches the 10 ml mark, close (G). With air burette, titrate as during a test and up to the same end point. Call ml of iodine used C. Then,

Grains H_2S per 100 cubic feet of gas=100 (D–C)

Greater sensitivity can be attained if a 500 ml capacity Tutwiler burette is used with a more dilute (0.001N) iodine solution. Concentrations less than 1.0 grains per 100 cubic feet can be determined in this way. Usually, the starch-iodine end point is much less distinct, and a blank determination of end point, with H_2S-free gas or air, is required.

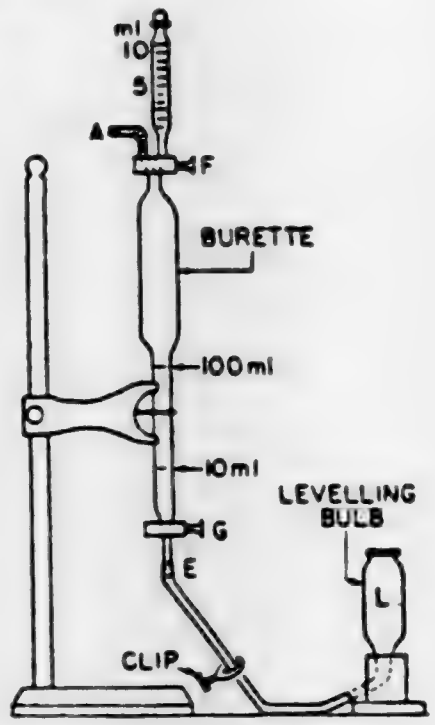

Figure 1. Tutwiler burette (lettered items mentioned in text).

[FR Doc. 84–1501 Filed 1–19–84; 8:45 am]
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federal register

Friday
January 20, 1984

Part VI

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978; Notice

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Vol. 1041]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 16, 1984.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd., Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
ISSUED JANUARY 16, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
CALIFORNIA DEPARTMENT OF CONSERVATION									
-TXO PRODUCTION CORP				RECEIVED: 12/08/83		JA: CA			
8412030	83-3-0067	0410120213		102-4		SANBORN 29-1	GRIMES GAS	100.0	PACIFIC GAS & ELE
LOUISIANA OFFICE OF CONSERVATION									
-UNION TEXAS PETROLEUM				RECEIVED: 12/12/83		JA: LA			
8411760	82-0369	1706120283		102-4		GRAY RA SUG: DOWLING 1981	TERRYVILLE SEC 19 T19	1460.0	SUGAR BOWL GAS CO
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
-BEREA OIL AND GAS CORPORATION				RECEIVED: 12/12/83		JA: NY			
8411764	5873	3101318456		107-TF		WHEELER-M Y S #1	WILDCAT	14.0	COLUMBIA GAS TRAN
-CHAUTAUQUA ENERGY INC				RECEIVED: 12/12/83		JA: NY			
8411762	5895	3101318417		103	107-TF	R NICKERSON #2	CLYMER	12.0	COLUMBIA GAS TRAN
8411761	5896	3101318416		103	107-TF	R NICKERSON #3	CLYMER	12.0	COLUMBIA GAS TRAN
-LEHAPE RESOURCES CORP				RECEIVED: 12/12/83		JA: NY			
8411771	5650	3105117305		108		A E SCOTT #1 LRC #100	WILDCAT	11.2	NEW JERSEY NATURA
8411776	5691	3112113992		108		B R MORAN #1 LRC #42	DANLEY CORNERS	1.4	NEW JERSEY NATURA
8411774	5653	3105116198		108		H M RAYMOND UNIT #1 LRC #95	WILDCAT	10.1	NEW JERSEY NATURA
8411766	5860	3105117455		103	107-TF	J HOAG UNIT #1 LRC #205	CALEDONIA	20.0	NEW JERSEY NATURA
8411772	5649	3105117309		108		K M NOBLE UNIT #1 LRC #101	WILDCAT	4.3	NEW JERSEY NATURA
8411765	5858	3105117453		103	107-TF	L WILDERBRANT UNIT #1 LRC #201	CALEDONIA	20.0	NEW JERSEY NATURA
8411770	5647	3105117310		108		L P HILL UNIT #1 LRC #104	WILDCAT	7.5	NEW JERSEY NATURA
8411775	5688	3112113998		108		P BARBERG #1 LRC #46	DANLEY CORNERS	0.7	NEW JERSEY NATURA
8411773	5652	3105116199		108		P STURM & H WILSON #1 LRC #96	WILDCAT	4.8	NEW JERSEY NATURA
-MAYNARD OIL COMPANY				RECEIVED: 12/12/83		JA: NY			
8411763	5892	3102915918		103	107-TF	JOHN DIX #1	ORCHARD PARK	70.8	NATIONAL FUEL GAS
-SHAWNEE OPERATING CO				RECEIVED: 12/12/83		JA: NY			
8411767	5862	3102918378		107-TF		DANIEL MECCA #1	EVANS	0.0	SCG GAS QUEST INC
8411769	5863	3102918492		107-TF		DANIEL MECCA #2		0.0	SCG GAS QUEST INC
8411768	5864	3102918434		107-TF		DECARLO #1	BRANT	0.0	SCG GAS QUEST INC
-TRAHAN PETROLEUM INC				RECEIVED: 12/12/83		JA: NY			
8411777	5855	3101318508		107-TF		WOYTON #2 #31-013-18508	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
OHIO DEPARTMENT OF NATURAL RESOURCES									
-A & R COMPANY				RECEIVED: 12/14/83		JA: OH			
8411900		3416724890		107-TF		MARIE HAYNES #1 OH-16-1701	NEWPORT	2.0	COLUMBIA GAS TRAN
-APPALACHIAN EXPLORATION INC				RECEIVED: 12/14/83		JA: OH			
8411903		3415321358		107-TF		HALASA #1	BATH	18.3	
8411902		3415321208		107-TF		MANGES #1	NORTON	43.8	
8411901		3415321191		107-TF		SCHRANK #1	BATH	27.4	
-BARTLO OIL AND GAS COMPANY				RECEIVED: 12/14/83		JA: OH			
8411904		3410323529		103	107-TF	BAUER UNIT #1	GRANGER	5.0	
-BELDEN & BLAKE & CO 82				RECEIVED: 12/14/83		JA: OH			
8411905		3401921601		103		M SAVAGE #5 - 341328	ROSE	36.5	

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8411906		3401921655		103	107-TF	W & W WARLOCK ET AL COMM #1-341335	BROWN	36.5	
-BERMAN J SHAFER				RECEIVED: 12/14/83 JA: OH					
8411908		3415321510		107-TF		CARTER #1	RICHFIELD	1.2	EAST OHIO GAS CO
8411907		3415321509		107-TF		CARTER #2	RICHFIELD	1.2	EAST OHIO GAS CO
-BILL BLAIR INCORPORATED				RECEIVED: 12/14/83 JA: OH					
8411909		3402920980		103	107-TF	BANDY #1	HOMEWORTH	10.0	EAST OHIO GAS CO
8411910		3402920981		103	107-TF	HENDERSHOTT #1	ALLIANCE	16.0	EAST OHIO GAS CO
-CA D' ORA INC				RECEIVED: 12/14/83 JA: OH					
8411911		3416723687		108		BARNETT #1	DUNHAM	0.1	
-CAVENDISH PETROLEUM OF OHIO INC				RECEIVED: 12/14/83 JA: OH					
8411912		3411926690		103	107-TF	OHIO POWER 31-A	MEIGS	53.4	TEXAS EASTERN TRA
-CLARENCE SHERMAN				RECEIVED: 12/14/83 JA: OH					
8411913		3407524017		103	107-TF	MILLER #30-A	CLARK	273.7	COLUMBIA GAS TRAN
-DAVID A WALDRON & ASSOC INC				RECEIVED: 12/14/83 JA: OH					
8411914		3415321519		107-TF		STEWART UNIT #1	COFLEY	18.0	
-DENNIS DUGAN				RECEIVED: 12/14/83 JA: OH					
8411915		3408323299		103		FLACK #1	BUTLER	20.0	
-DERBY OIL & GAS CORP				RECEIVED: 12/14/83 JA: OH					
8411917		3407524129		103	107-TF	ABE MILLER #1	BEPLIN	12.0	COLUMBIA GAS TRAN
8411916		3407524128		103	107-TF	ANDY Y MILLER #2	WALNUT CREEK	12.0	COLUMBIA GAS TRAN
8411919		3407524164		103	107-TF	GRABER UNIT #2	WALNUT CREEK	12.0	COLUMBIA GAS TRAN
8411918		3407524133		103	107-TF	JACOB GRABER #1	WALNUT CREEK	12.0	COLUMBIA GAS TRAN
-ENERGY DEVELOPMENT CORP				RECEIVED: 12/14/83 JA: OH					
8411920		3402920674		108		BRUTTO #1		6.0	EAST OHIO GAS CO
8411939		3415122452		108		CAMPBELL-ROOSE #1		7.0	EAST OHIO GAS CO
8411940		3415152453		108		CAMPBELL-ROOSE #2		8.0	EAST OHIO GAS CO
8411927		3413320800		108		CARLISLE #1		8.0	ANCHOR HOCKING CO
8411926		3413320799		108		CARLISLE #2		9.0	ANCHOR HOCKING CO
8411923		3413320539		108		CRAEMER #1		10.0	ANCHOR HOCKING CO
8411921		3402920691		108		FRENCH #1		9.0	EAST OHIO GAS CO
8411922		3402920694		108		GEISELMAN #1		7.0	EAST OHIO GAS CO
8411938		3415122078		108		HOMER #2		7.0	BELDEN & BLAKE &
8411941		3415122454		108		HURFORD #1		10.0	EAST OHIO GAS CO
8411932		3413321013		108		KOGLER #1		9.0	ANCHOR HOCKING CO
8411930		3413320864		108		MERWIN #1		8.0	ANCHOR HOCKING CO
8411931		3413320996		108		MINER #1		8.0	ANCHOR HOCKING CO
8411934		3413321118		108		MINER #5		9.0	ANCHOR HOCKING CO
8411928		3413320835		108		R CARLISLE #3		9.0	ANCHOR HOCKING CO
8411935		3413322156		108		R CARLISLE #4		7.0	ANCHOR HOCKING CO
8411925		3413320788		108		RYDER #1		7.0	ANCHOR HOCKING CO
8411924		3413320787		108		RYDER #2		8.0	ANCHOR HOCKING CO
8411943		3413320804		108		STAVENGER #1		10.0	ANCHOR HOCKING CO
8411942		3415122702		108		SWARTZENTRUBER #3		6.0	ANCHOR HOCKING CO
8411937		3415121951		108		SWARTZENTRUBER #4		7.0	ANCHOR HOCKING CO
8411936		3415121597		108		SWARTZENTRUBER #5		8.0	ANCHOR HOCKING CO
8411929		3413320862		108		SWEET #1		6.0	ANCHOR HOCKING CO
8411933		3413321024		108		UNITED METHODIST CHURCH #1		7.0	ANCHOR HOCKING CO
-EVERFLOW EASTERN INC				RECEIVED: 12/14/83 JA: OH					
8411945		3415723719		103	107-TF	BLOOM-CRABTREE #1	MILL	0.0	
8411947		3415723914		103	107-TF	CROSIER #1	GOSHEN	0.0	
8411946		3415723913		103	107-TF	DAY/ORCHARD #1	GOSHEN	0.0	
8411944		3409921639		103	107-TF	HARRIS #1	ELLSWORTH	0.0	
-GASEARCH INC				RECEIVED: 12/14/83 JA: OH					
8411949		3415321485		103	107-TF	GOLDEN LINKS #13	BOSTON	20.0	GAS OHIO TRANSPOR
8411950		3415321486		103	107-TF	GOLDEN LINKS #15	NORTHFIELD CENTER	20.0	GAS OHIO TRANSPOR
8411948		3415321483		103	107-TF	GOLDEN LINKS #16	NORTHFIELD CENTER	20.0	GAS OHIO TRANSPOR
-GENERAL ELECTRIC CO				RECEIVED: 12/14/83 JA: OH					
8411951		3405525270		103	107-TF	GEAUGA ROAD UNIT #2	MIDDLEFIELD	20.0	EAST OHIO GAS CO
8411952		3415522352		103	107-TF	PRESBYTERY OF CLEVELAND #1	MESOPOTAMIA	20.0	EAST OHIO GAS CO
-GEO ENERGY INC				RECEIVED: 12/14/83 JA: OH					
8411953		3410323454		107-TF		J KLOOZ #2-2-1	LIVERPOOL	15.0	GAS OHIO TRANSPOR
8411954		3410323457		107-TF		J KLOOZ #2-2-2	LIVERPOOL	15.0	GAS OHIO TRANSPOR
-GREEN ENERGY				RECEIVED: 12/14/83 JA: OH					
8411955		3407524081	D	103		MEISTER #10	KILLBUCK	3.6	COLUMBIA GAS TRAN
-GREENLAND PETROLEUM CO				RECEIVED: 12/14/83 JA: OH					
8411956		3412123052		103		SMITH #2	JACKSON	150.0	EAST OHIO GAS CO
8411957		3412123053		103		SMITH #3	JACKSON	150.0	EAST OHIO GAS CO
-J & J OPERATING INC				RECEIVED: 12/14/83 JA: OH					
8411959		3416120195		103		DONALD E WISENER #1A	WASHINGTON	4.0	WEST OHIO GAS CO
8411958		3416120194		103		PAULINE SHRIDER #1	WASHINGTON	3.0	WEST OHIO GAS CO
8411961		3416120199		103		PAULINE SHRIDER #2	WASHINGTON	16.0	WEST OHIO GAS CO
8411960		3416120197		103		PAULINE SHRIDER #4	WASHINGTON	3.0	WEST OHIO GAS CO
-J O B INC				RECEIVED: 12/14/83 JA: OH					
8411962		3416727555		107-TF		W & J BURKHART #1	DEVOLA	2.0	RIVER GAS CO
-K S T OIL & GAS CO INC				RECEIVED: 12/14/83 JA: OH					
8411963		3415321114		103	107-TF	AUSTIN #1	BATH	50.0	
8411964		3415321158		103	107-TF	BASOM & GREENE #2	TWINSBURG	45.0	
8411966		3415321383		103	107-TF	SCOLARO #1	HUDSON	45.0	
8411965		3415321214		103	107-TF	SUNRISE #5	TWINSBURG	35.0	
-KENOIL				RECEIVED: 12/14/83 JA: OH					
8411967		3416923589		103		RITTENHOUSE #1	PLAIN	1.0	COLUMBIA GAS TRAN
-KING PETROLEUM				RECEIVED: 12/14/83 JA: OH					
8411968		3411926761		103		CECIL HOFFMAN #1	LICKING	3.0	NATIONAL GAS & OI
-LAKE REGION OIL INC				RECEIVED: 12/14/83 JA: OH					
8411969		3403125179		103	107-TF	ANDREW YODER #1	CRAWFORD	10.0	YANKEE RESOURCES
8411970		3407524090		103	107-TF	JOHN & KATIE RABER #1	CLARK	10.0	YANKEE RESOURCES
8411971		3407524151		103	107-TF	MERVIN SHETLER #1	CLARK	10.0	COLUMBIA GAS TRAN
-LOMAK PETROLEUM INC				RECEIVED: 12/14/83 JA: OH					
8411972		3405520557		107-TF		D PAGE #1	CLARIDON	24.0	EAST OHIO GAS CO
8411973		3413323035		107-TF		V RHODES #1	RAVENNA	24.0	EAST OHIO GAS CO
-M B OPERATING CO INC				RECEIVED: 12/14/83 JA: OH					
8411982		3401921652		103	107-TF	BEADNELL UNIT #1	FOX	3.7	EAST OHIO GAS CO
8411980		3401921593		103	107-TF	CARLTON UNIT #1	FOX	11.0	EAST OHIO GAS CO
8411985		3415723901		103	107-TF	H WRIGHT #1	WAYNE	36.5	EAST OHIO GAS CO
8411979		3401921583		103	107-TF	NEIDER UNIT #1	WASHINGTON	18.3	EAST OHIO GAS CO
8411983		3415123871		103	107-TF	RAMSEY #4	NIMISHILLEN	[illegible]5	EAST OHIO GAS CO
8411981		3401921597		103	107-TF	RINEHART UNIT #1	WASHINGTON	14.6	EAST OHIO GAS CO
8411984		3415723788		103	107-TF	SILVIUS #1	WAYNE	54.8	EAST OHIO GAS CO
-MARK RESOURCES CORP				RECEIVED: 12/14/83 JA: OH					
8411975		3400722296		107-TF		BRUNELL UNIT #1	KINGSVILLE	[illegible].0	EAST OHIO GAS CO
8411976		3400722299		107-TF		FISCHER #1	SHEFFIELD	30.0	EAST OHIO GAS [illegible]
8411978		3400722318		107-TF		GANLEY #2	KINGSVILLE	30.0	EAST OHIO GAS CO
8411974		3400722184		107-TF		HUBBARD #2	KINGSVILLE	[illegible].0	EAST OHIO GAS CO
8411977		3400722301		107-TF		VESEY-BURNETT UNIT #1	KINGSVILLE	30.0	EAST OHIO GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-MOUNTAIN GAS VIRGINIA LTD				RECEIVED:	12/14/83	JA: OH			
8411986		3415321206		103	107-TF	MIDWEST POWER INC/STYLES UNIT #1	BOSTON	0.0	POI ENERGY INC
-NATIONAL PRODUCTION CORPORATION				RECEIVED:	12/14/83	JA: OH			
8411989		3412725961		103		KING #2	THORN	8.0	NATIONAL GAS & OI
-NOBLE OIL CORP				RECEIVED:	12/14/83	JA: OH			
8411990		3400722362		107-TF		HAMILTON #1A	LENOX	20.0	EAST OHIO GAS CO
8411991		3413322984		107-TF		HUGHES #3B	PALMYRA	20.0	GENERAL ELECTRIC
-NORTH COAST PETROLEUM INC				RECEIVED:	12/14/83	JA: OH			
8411993		3413322716		107-TF		DREGER-HAUCK #5	FREEDOM	33.9	
8411992		3413322409		107-TF		RESNICK #4	RAVENNA	19.5	
8411994		3413323083		107-TF		WINDMILL #3	RAVENNA	0.0	
-OXFORD OIL CO				RECEIVED:	12/14/83	JA: OH			
8412016		3408924723		103		HARRY BROCEUS #1	BOWLING GREEN	10.0	
8412017		3408924823		103		HERMAN BROCEUS #1	BOWLING GREEN	8.0	
8412018		3412726062		103		NEIL BEARD #1	THORN	10.0	
-PARKSIDE PETROLEUM OF OHIO INC				RECEIVED:	12/14/83	JA: OH			
8411995		3410323463		107-TF		KRATZER #1	WESTFIELD	40.0	COLUMBIA GAS TRAN
-PINETOP ESTATES				RECEIVED:	12/14/83	JA: OH			
8411996		3415321526		103	107-TF	LORD #2	NORTHAMPTON	0.0	EAST OHIO GAS CO
-POI ENERGY INC				RECEIVED:	12/14/83	JA: OH			
8411997		3405520554		103	107-TF	MITCHELL UNIT #2	BAINBRIDGE	36.0	
-RICHARD C POLING				RECEIVED:	12/14/83	JA: OH			
8411998A		3412726001		103		MADDEN-BAUGHMAN #1	MADISON	0.0	
8411998B		3412726001		107-TF		MADDEN-BAUGHMAN #1	MADISON	0.0	
-RSC ENERGY CORP				RECEIVED:	12/14/83	JA: OH			
8411999		3409921508		103	107-TF	AMERICAN FIRE CLAY - AFC #1	CANFIELD	15.0	REPUBLIC STEEL CO
8412000		3409921581		103	107-TF	AMERICAN FIRECLAY - AFC #18	CANFIELD	16.0	REPUBLIC STEEL CO
8412001		3411926648		103	107-TF	CONSOLIDATION COAL - CR #67	MADISON	9.0	REPUBLIC STEEL CO
8412002		3411926653		103	107-TF	CONSOLIDATION COAL CR #63	MADISON	8.7	REPUBLIC STEEL CO
-SECURITY GAS & OIL INC				RECEIVED:	12/14/83	JA: OH			
8412003		3416723896		108		E WILLARD WINDLAND #1	BELPRE	0.0	VIKING RESOURCES
-SHONGUM OIL & GAS INC				RECEIVED:	12/14/83	JA: OH			
8412006		3416923625	D	107-TF		FRED BUTCHER #2	DOYLESTOWNE	0.0	
8412004		3410323270		107-TF		SANDFORD #1	SHARON	0.0	
8412005		3410323329		107-TF		SERAFIN-COWLING #1	SHARON	0.0	YANKEE RESOURCES
-STOCKER & SITLER INC				RECEIVED:	12/14/83	JA: OH			
8412007		3415723866		103	107-TF	BEYERLE UNIT #4	PERRY	82.0	PANHANDLE EASTERN
8412008		3415723869		103	107-TF	DICKINSON UNIT #4	PERRY	25.0	EAST OHIO GAS CO
8412009		3415723870		103	107-TF	NALLE UNIT #3	PERRY	36.0	EAST OHIO GAS CO
8412010		3415723871		103	107-TF	NALLE UNIT #4	PERRY	29.0	EAST OHIO GAS CO
-THE BENATTY CORPORATION				RECEIVED:	12/14/83	JA: OH			
8412011		3412123008		103	107-TF	D MORRIS #1-105	JACKSON	75.0	
8412013		3412130360		103	107-TF	OHIO POWER #7-110	JACKSON	70.0	
8412012		3412123035		103	107-TF	OHIO POWER #8-109	JACKSON	40.0	
8412014		3416933860		103	107-TF	SWACK /USN AND STEEL #1	CONGRESS	0.0	COLUMBIA GAS TRAN
-THE CARTER JONES LUMBER CO				RECEIVED:	12/14/83	JA: OH			
8412015		3415321351		107-TF		CARTER - JONES #5	TALLMADGE	15.0	
-THE MUTUAL OIL & GAS COMPANY				RECEIVED:	12/14/83	JA: OH			
8411987		3415721557		103		D MONTE #2W	WARREN	7.5	EAST OHIO GAS CO
8411988		3415722475		103		D MONTE #3W	WARREN	7.5	EAST OHIO GAS CO
-UNIVERSAL EXPLORATION				RECEIVED:	12/14/83	JA: OH			
8412019		3410323474		107-TF		A&T ENTERPRISES #1	WADSWORTH	0.0	YANKEE RESOURCES
8412021		3415321535		107-TF		HANZEL #1	FRANKLIN	0.0	EAST OHIO GAS CO
8412020		3415321460		107-TF		REX LAND #1	FRANKLIN	0.0	EAST OHIO GAS CO
-VIKING RESOURCES CORP				RECEIVED:	12/14/83	JA: OH			
8412023		3408520411		103	107-TF	PLEISCHL UNIT #1	PERRY	30.0	
8412022		3408520410		103	107-TF	PLEISCHL UNIT #2	PERRY	30.0	
-WALLICK PETROLEUM CO				RECEIVED:	12/14/83	JA: OH			
8412025		3400922878		103	107-TF	DAVID CHRISTMAN #1	TRIMBLE	10.0	COLUMBIA GAS TRAN
8412024		3411523281		103	107-TF	ERIC ANGLE #1	HOMER	10.0	COLUMBIA GAS TRAN
8412026		3411523282		103		R KOLBE #1	HOMER	5.0	COLUMBIA GAS TRAN
-WAYNE HAMMOND				RECEIVED:	12/14/83	JA: OH			
8412027		3415723856		103	107-TF	RICHARDS #3	LAWRENCE	638.7	COLUMBIA GAS TRAN
-WILLIAM H TIPKA				RECEIVED:	12/14/83	JA: OH			
8412028		3406720637		107-TF		CROSSAN UNIT #1	WASHINGTON	20.0	
8412029		3410323494		107-TF		YOKUM UNIT #1	SHARON	10.0	COASTAL PETROLEUM

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** DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, ALBUQUERQUE,NM

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-AMERADA HESS CORPORATION			RECEIVED:	12/12/83	JA: NM 4				
8411844	NM-1862-82	3003922928	103			JICARILLA APACHE "F" #15	SOUTH BLANCO PICTURED	172.2	EL PASO NATURAL G
-AMERICAN PETROFINA COMPANY OF TEXAS			RECEIVED:	12/12/83	JA: NM 4				
8411899	NM-1504-83PB	3003906155	108-PB			BOLACK FEDERAL #2	BALLARD	0.0	EL PASO NATURAL G
8411898	NM-1503-83PB	3003906115	108-PB			FOSTER FEDERAL A #1	BALLARD	0.0	EL PASO NATURAL G
-AMOCO PRODUCTION CO			RECEIVED:	12/12/83	JA: NM 4				
8411858	NM-1508-83PB	3004508555	108-PB			AL ELLIOTT D #3	BLANCO	0.0	EL PASO NATURAL G
8411790	NM 0828-83	3004525643	103			BELL FEDERAL GAS COM "B"/TRUE #1E	BASIN - DAKOTA	59.0	EL PASO NATURAL G
8411839	NM 0786-83	3004525525	103			EALUM GAS COM "C" #1	UNDESIGNATED - FRUITL	70.0	
8411873	NM-0563-83	3004525541	103			FLORENCE GAS COM "B" #1E	BASIN DAKOTA	29.5	EL PASO NATURAL G
8411840	NM 0791-83	3004521575	103			GALLEGOS CANYON UNIT #176E	BASIN DAKOTA	22.0	EL PASO NATURAL G
8411793	NM 0831-83	3004525172	103			GALLEGOS CANYON UNIT #192E	BASIN - DAKOTA	26.6	EL PASO NATURAL G
8411789	NM 0827-83	3004525173	103			GALLEGOS CANYON UNIT #193E	BASIN - DAKOTA	40.6	EL PASO NATURAL G
8411891	NM-1510-83PB	3004511622	108-PB			GALLEGOS CANYON UNIT #223	BASIN	[illegible].0	EL PASO NATURAL G
8411892	NM-1511-83PB	3004511684	108-PB			GALLEGOS CANYON UNIT #226	BASIN	0.0	EL PASO NATURAL G
8411893	NM-1512-83PB	3004511678	108-PB			GALLEGOS CANYON UNIT #247	BASIN	0.[illegible]	EL PASO NATURAL G
8411792	NM 0830-83	3004525169	103			GALLEGOS CANYON UNIT #85E	BASIN - DAKOTA	50.[illegible]	EL PASO NATURAL G
8411890	NM-1509-83PB	3004506931	108-PB			GALLEGOS CANYON UNIT #90	BASIN	[illegible].0	EL PASO NATURAL G
8411889	NM-1507-83PB	3004521052	108-PB			HEATH GAS COM O #1	BLANCO	[illegible].[illegible]	EL PASO NATURAL G
8411779	NM-1530-82	3004511710	108			JACK FROST GAS COM "E" #1	BASIN DAKOTA	20.[illegible]	EL PASO NATURAL [illegible]
8411843	NM-0792-83	3003922560	103			JICARILLA CONTRACT 146 #34	GONZALES MESAVERDE	0.0	
8411803	NM-0237-83	3003922524	108			JICARILLA CONTRACT 148 #24	OTERO CHACRA	17.0	EL PASO NATURAL G
8411838	NM 0789-83	3003922560	103			JICARILLA CONTRACT 148 #34	OTERO CHACRA	23.0	
8411841	NM-0790-83	3004525602	103			L C KELLY/TRUE #3E	BASIN DAKOTA	28.5	EL PASO NATURAL G
8411791	NM 0829-83	3004525622	103			TAFT GAS COM / TRUE #1E	BASIN - DAKOTA	22.[illegible]	EL PASO NATURAL G
8411887	NM-1506-83PB	3003921488	108-PB			VALENCIA CANYON UNIT #9	CHOZA MESA	[illegible].[illegible]	EL PASO NATURAL [illegible]
8411842	NM-1740-82	3004507982	108			WHITE GAS COM #1	BASIN DAKOTA	17.0	EL PASO NATURAL [illegible]
-BOLACK MINERALS CO			RECEIVED:	12/12/83	JA: NM 4				
8411836	NM 0772-83	3003932133	103			CANYON LARGO UNIT #320 WELL	DEVIL'S FORK GALLUP P	12.0	
-CHACE OIL COMPANY INC			RECEIVED:	12/12/83	JA: NM 4				
8411822	NM 0670-83	3003923108	103			JICARILLA 71-11	SOUTH LINDRITH GALLUP	7.0	EL PASO NATURAL G
8411788	NM 0813-83	3003923204	103			JICARILLA 71-20	S LINDRITH GALLUP DAK	8.0	NORTHWEST PIPELIN
-CONSOLIDATED OIL & GAS INC			RECEIVED:	12/12/83	JA: NM 4				
8411781	NM 0352-83	3004525514	102-4			PAYNE #4	NORTHWEST BLANCO AREA	54.0	SOUTHERN UNION GA
-CURTIS J LITTLE			RECEIVED:	12/12/83	JA: NM 4				

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8411818	NM-0663-83	3003922905		108		FOSTER #2
8411815	NM-0662-83	3003922788		108		GREVEY #2
8411876	NM-0357-83	3004525424		107-TF		KELLY-FEDERAL #1
8411810	NM-0661-83	3003922789		108		SALAZAR #2
-DEPCO INC				RECEIVED:	12/12/83	JA: NM 4
8411826	NM 0723-83	3003922933		103		FEDERAL 8 #22
8411780	NM-1468-83PB	3003906688	D	108-PB		MKL #17
-DOME PETROLEUM CORP				RECEIVED:	12/12/83	JA: NM 4
8411778	NM-0503-82	3004509525	D	108		DICK HUNT #2
-DUGAN PRODUCTION CORP				RECEIVED:	12/12/83	JA: NM 4
8411809	NM 0655-83	3004320597		103		BALLYMALOE #1
8411814	NM 0658-83	3003923032		103		BUDDY #1
8411857	NM-0619-83	3004525163		103		BUMBLE #2
8411837	NM 0771-83	30039231?1		103		CELSIUS #1
8411811	NM 0657-83	3003922945		103		GALLO RED #1
8411812	NM 0656-83	3003922944		103		GALLO WHITE #1
8411810	NM 0654-83	3004320598		103		KINSALE #1
8411834	NM 0770-83	3004320674		103		KINSALE #2
8411835	NM 0769-83	3004525589		103		LA LEE ANN #2-J
8411805	NM 0642-83	3004522470		103		MOUNTAIN #5
8411808	NM 0650-83	3003923135		103		STRAWBERRY #2
-EL PASO EXPLORATION CO				RECEIVED:	12/12/83	JA: NM [illegible]
8411853	NM-0602-83	3004320208		108		CHACON JICARILLA D #3
-EL PASO NATURAL GAS COMPANY				RECEIVED:	12/12/83	JA: NM [illegible]
8411878	NM-1491-83PB	3003906046		108-PB		CANYON LARGO UNIT #35
8411875	NM-0504-83	3003920532		108		CANYON LARGO UT #169
8411886	NM-1498-83PB	3004500000		108-PB		CLEVELAND #5
8411884	NM-1497-83PB	3004506451		108-PB		FLORANCE D #5
8411885	NM-1496-83PB	3004506523		108-PB		FLORANCE D #6
8411852	NM-0605-83	3004521975		108		HOWELL G #2A
8411880	NM-1493-83PB	3004506030		108-PB		HUERFANITO UNIT #24
8411879	NM-1490-83PB	3003906282		108-PB		HUGHES #9
8411872	NM-0444-83	3004510688		108		KELLY A #1
8411850	NM-0601-83	3004505604		108		MCMANUS #9
8411882	NM-1495-83PB	3003907046		108-PB		RINCON UNIT #105
8411883	NM-1494-83PB	3003960093		108-PB		RINCON UNIT #107 PC & MV
8411847	NM-0592-83	3003906802		108		RINCON UNIT #26
8411849	NM-0595-83	3004508130		108		SAN JACINTO #6
8411864	NM-0591-83	3003900000		108		SAN JUAN 27-4 UNIT #5
8411821	NM-0671-83	3003907422		108		SAN JUAN 28-7 UNIT #22
8411865	NM-0590-83	3003921093		108		SAN JUAN 28-7 UNIT #242
8411881	NM-1492-83PB	3003907132		108-PB		SAN JUAN 28-7 UNIT #81 PC & MV
8411807	NM 0653-83	3003921453		108		SAN JUAN 29-4 UNIT #21 MV & PC
8411846	NM-0593-83	3004510958		108		SAN JUAN 32-9 UNIT #14
-ELLIOTT OIL CO				RECEIVED:	12/12/83	JA: NM 4
8411824	NM 0689-83-A	3003922902		103		ORA #2
8411825	NM 0689-83-B	3003922902		103		ORA #2
-ENERGY RESERVES GROUP INC				RECEIVED:	12/12/83	JA: NM 4
8411851	NM-0599-83	3004522235		108		GALLEGOS CANYON UNIT P C #267
8411848	NM-0598-83	3004507610		108		GALLEGOS CANYON UNIT P C #44
-GETTY OIL COMPANY				RECEIVED:	12/12/83	JA: NM 4
8411801	NM 0865-83	3003923189		103		JICARILLA "B" #26E
8411787	NM 0812-83	3003923188		103		JICARILLA "C" #33
8411786	NM 0808-83	3003922996		103		JICARILLA "D" #3
8411895	NM-1502-83PB	3003905845		108-PB		JICARILLA C #8
8411794	NM 0832-83	3004525548		103		MEXICO FED "N" #2
-GULF OIL CORPORATION				RECEIVED:	12/12/83	JA: NM 4
8411877	NM-0383-83	3004524584		108		FULLERTON FEDERAL #12
-MARATHON OIL COMPANY				RECEIVED:	12/12/83	JA: NM 4
8411823	NM 0706-83	3003922591		103		JICARILLA APACHE #14-E
-MERRION OIL & GAS CORP				RECEIVED:	12/12/83	JA: NM 4
8411827	NM 0712-83	3003923090		103		CANYON LARGO UNIT #317
8411785	NM 0806-83	3003923194		103		MARGARITA COM #1
8411845	NM-1820-82	3004521625		108		NAVAJO H 15
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	12/12/83	JA: NM 4
8411854	NM-0614-83	3003920169		108		JICARILLA G NO 9-PC
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	12/12/83	JA: NM 4
8411894	NM-1500-83PB	3004521163		108-PB		COX CANYON #11
8411866	NM-0572-83	3003907944		108		ROSA UNIT 18
8411860	NM-0577-83	3003921397		108		ROSA 62
8411867	NM-0574-83	3004511135		108		SAN JUAN 32-8 #14
8411813	NM-0659-83	3004510781		108		SAN JUAN 32-8 UNIT 21
-ROBERT L BAYLESS				RECEIVED:	12/12/83	JA: NM 4
8411855	NM-0613-83	3004525524		103		STRIBLING COM #1
-SOUTHLAND ROYALTY CO				RECEIVED:	12/12/83	JA: NM 4
8411819	NM-0669-83	3003905743		108		APIZONA JICARILLA #1
8411871	NM-0516-83	3003922019		108		ARIZONA JICARILLA "B" #9
8411797	NM 0836-83	3004525684		103		CAIN #24
8411870	NM-0522-83	3004510692		108		GRENIER #8
8411820	NM-0668-83	3004508695		108		GRENIER B #3
8411874	NM-0515-83	3004507739		108		HAGOOD #4
8411806	NM-0641-83	3004510069		108		HALE #3
8411804	NM-0640-83	3004507512		108		MCCLANAHAN #1
8411796	NM 0835-83	3004525696		103		MCCLANAHAN #22
8411795	NM 0834-83	3004525683		103		REID #26
-TENNECO OIL COMPANY				RECEIVED:	12/12/83	JA: NM 4
8411817	NM-0666-83	3004524294		108		CALLOW 9E
8411800	NM 0864-83	3004525623		103		CHILDERS 3E
8411782	NM 0793-83	3004525566		103		DRYDEN 1E
8411798	NM 0862-83	3004525313		103		PRICE COM 4E
8411896	NM-1513-83PB	3004511895		108-PB		STOREY C #1
8411897	NM-1514-83PB	3004511895		108-PB		STOREY C #1
8411799	NM 0863-83	3004525551		103		TAPP 4E
8411833	NM 0734-83	3004525458		103		WILCH 1E
-TURNER PRODUCTION CO				RECEIVED:	12/12/83	JA: NM 4
8411802	NM-0340-83	3004525139		107-TF		FEDERAL 28 #1
8411868	NM-056683103	3003923111		103		TURNER 26 #1
8411869	NM-0565-83	3003923111		103	107-TF	TURNER 26 #1
-UNICON PRODUCING CO				RECEIVED:	12/12/83	JA: NM 4
8411829	NM 0726-83	3004525530		103		ANGEL PEAK 'B' #22-E
8411830	NM 0729-83	3004525530		103		ANGEL PEAK 'B' #22-E
8411856	NM-0623-83	3004524530		108		ANGEL PEAK 'B' #30
8411861	NM-0638-83	3004507501		108		EATON FEDERAL #1
8411832	NM 0768-83	3004525201		103		F-13-24-10 #1

FIELD NAME	PROD	PURCHASER
SOUTH BLANCO PICTURED	25.0	EL PASO NATURAL G
BALLARD-PICTURED CLIF	25.0	EL PASO NATURAL G
BASIN DAKOTA	60.0	EL PASO NATURAL G
BALLARD-PICTURED CLIF	25.0	EL PASO NATURAL G
BASIN DAKOTA/BLANCO M	200.0	EL PASO NATURAL G
BLANCO - MESAVERDE	0.0	EL PASO NATURAL G
BASIN DAKOTA	17.7	NORTHWEST PIPELIN
UNDESIGNATED CHACRA	20.0	NORTHWEST PIPELIN
COUNSELORS GALLUP	8.5	NORTHWEST PIPELIN
UNDESIGNATED GALLUP	15.0	EL PASO NATURAL G
COUNSELORS GALLUP O &	15.0	NORTHWEST PIPELIN
COUNSELORS GALLUP	15.0	NORTHWEST PIPELIN
COUNSELORS GALLUP	15.0	NORTHWEST PIPELIN
UNDESIGNATED CHACRA	20.0	NORTHWEST PIPELIN
LYBROOK GALLUP EXT	11.0	NORTHWEST PIPELIN
HAW PICTURED CLIFFS	18.0	EL PASO NATURAL G
POTWIN PICTURED CLIFF	10.0	EL PASO NATURAL G
COUNSELORS GALLUP ASS	15.0	EL PASO NATURAL G
CHACON - DAKOTA ASSOC	6.0	EL PASO NATURAL G
SOUTH BLANCO	0.0	EL PASO NATURAL G
SOUTH BLANCO-PICTURED	13.0	EL PASO NATURAL G
FULCHER KUTZ	0.0	EL PASO NATURAL [illegible]
SOUTH BLANCO	[illegible].0	EL PASO NATURAL G
SOUTH BLANCO	0.0	EL PASO NATURAL G
BLANCO - MESA VERDE	10.0	EL PASO NATURAL G
BALLARD	0.0	EL PASO NATURAL G
BALLARD	0.0	EL PASO NATURAL G
BLANCO-MESA VERDE	11.0	EL PASO NATURAL G
BALLARD - PICTURED CL	16.0	EL PASO NATURAL G
BLANCO SOUTH	[illegible].0	EL PASO NATURAL G
SOUTH BLANCO-BLANCO	0.0	EL PASO NATURAL G
SOUTH BLANCO - PICTUR	12.0	EL PASO NATURAL G
BASIN - DAKOTA	13.0	EL PASO NATURAL G
BASIN-DAKOTA	12.0	EL PASO NATURAL G
BLANCO-MESA VERDE	13 0	EL PASO NATURAL G
BASIN-DAKOTA	10.3	EL PASO NATURAL G
SOUTH BLANCO & BLANCO	0 0	EL PASO NATURAL G
BLANCO - MESA VERDE &	4.0	EL PASO NATURAL G
BLANCO - MESA VERDE	11.0	EL PASO NATURAL G
OJITO GALLUP DAKOTA	100.0	EL PASO NATURAL G
BLANCO MESA VERDE	100.0	EL PASO NATURAL G
KUTZ WEST PICTURED CL	14.9	EL PASO NATURAL G
KUTZ WEST PICTURED CL	12.7	EL PASO NATURAL G
BASIN DAKOTA	90.0	EL PASO NATURAL G
OTERO CHACRA	70.0	EL PASO NATURAL G
LINDRITH GALLUP/DAKOT	10 0	NORTHWEST PIPELIN
SOUTH BLANCO-PC	0.0	EL PASO NATURAL G
OTERO CHACRA	150.0	EL PASO NATURAL G
WEST KUTZ PICTURED CL	15.0	EL PASO NATURAL G
JICARILLA APACHE (GRA	227.0	NORTHWEST PIPELIN
DEVILS FORK GALLUP	117.0	
COUNSELORS GALLUP	36.5	NORTHWEST PIPELIN
WEST KUTZ	11.0	GAS CO OF NEW MEX
GAVALIN PICTURED CLIF	16.1	NORTHWEST PIPELIN
AZTEC-PICTURED CLIFFS	0.0	EL PASO NATURAL G
BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
BASIN DAKOTA	0.0	NORTHWEST PIPELIN
BLANCO MESAVERDE	0.0	NORTH WEST PIPELI
BLANCO MESAVERDE	0.0	NORTHWEST PIPELIN
BASIN DAKOTA	112.0	EL PASO NATURAL G
SOUTH BLANCO	2.9	GAS CO OF NEW MEX
SOUTH BLANCO	19.0	GAS CO OF NEW MEX
OTERO	200.0	SOUTHERN UNION GA
AZTEC	4.5	SOUTHERN UNION GA
BASIN	16.0	SOUTHERN UNION GA
BASIN	20.0	EL PASO NATURAL G
BLANCO	15.0	EL PASO NATURAL G
AZTEC	20.0	EL PASO NATURAL G
OTERO	170.0	SOUTHERN UNION GA
OTERO	210.0	SOUTHERN UNION GA
BASIN DAKOTA	11.0	EL PASO NATURAL G
BASIN DAKOTA	51.0	EL PASO NATURAL G
BASIN DAKOTA	47.0	NORTHWEST PIPELIN
BASIN DAKOTA	71.0	EL PASO NATURAL G
BASIN-DAKOTA	0.0	NORTHWEST PIPELIN
BASIN-DAKOTA	0.0	NORTHWEST PIPELIN
BASIN DAKOTA	82.0	EL PASO NATURAL G
BASIN DAKOTA	49.0	NORTHWEST PIPELIN
BASIN-DAKOTA	48.0	EL PASO NATURAL G
SOUTH BLANCO-PICTURED	10.0	EL PASO NATURAL G
OTERO-CHACRA POOL	0.0	EL PASO NATURAL G
WILDCAT GALLUP	53.0	GAS CO OF NEW MEX
BASIN DAKOTA	134.0	GAS CO OF NEW MEX
BLOOMFIELD CHACRA EXT	58.0	SOUTHERN UNION GA
BASIN DAKOTA	43.0	SOUTHERN UNION GA
BISTI LOWER GALLUP EX	26.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8411862	NM-0582-83	3004510290		108		FEDERAL "A" #1	BASIN DAKOTA	39.0	SOUTHERN UNION GA
8411831	NM 0728-83	3003923016		103		JICARILLA "F" #7	BLANCO MESAVERDE	579.■	GAS CO OF NEW MEX
8411784	NM 0804-83	3003922886		103		JICARILLA "L" #4-E	BASIN DAKOTA	0.■	GAS CO OF NEW MEX
8411783	NM 0803-83	3004525583		103		MC CORD "B" #1E	BASIN DAKOTA	■.■	SOUTHERN UNION GA
8411859	NM-0626-83	3004508995		108		MCCORD #2	BASIN DAKOTA	53.■	SOUTHERN UNION GA
8411863	NM-0581-83	3004509146		108		MCCORD #5	BASIN DAKOTA	60.0	SOUTHERN UNION GA
8411828	NM 0727-83	3004525091		103		RICHARDSON COM 3-E	BASIN DAKOTA	1229.0	EL PASO NATURAL G
8411858	NM-0636-83	3004525111		103		TALIAFERRO #8	FLORA VISTA GALLUP	580.0	SOUTHERN UNION GA
**********									
** DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, CASPER,WY									
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-COASTAL OIL & GAS CORP				RECEIVED:	12/09/83	JA: UT 5			
8411758	045-83	4304731156		107-TF		NBU 211-20	NATURAL BUTTES UNIT	0.0	COLORADO INTERSTA
8411759	046-83	4304731267		107-TF		NBU 212-19	NATURAL BUTTES UNIT	0.0	COLORADO INTERSTA
8411757	044-83	4304731284		107-TF		NBU 216-35	NATURAL BUTTES UNIT	0.0	COLORADO INTERSTA

[FR Doc. 84-1606 Filed 1-19-84; 8:45 am]

BILLING CODE 6717-01-C

[Vol. 1042]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 16, 1984.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd., Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease

Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation

Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
ISSUED JANUARY 16, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
COLORADO OIL & GAS COMMISSION									
-ACEITE ENERGY CORP				RECEIVED:	12/14/83	JA: CO			
8412046	83-499	0512310957		103		ACEITE #2-25 L F RANCH	SAND CANYON	20.0	ASSOCIATED NATURA
-AMOCO PRODUCTION CO				RECEIVED:	12/14/83	JA: CO			
8412080	82-371	0512309752		107-TF		MILLER FEED LOTS UNIT #1	HAMBERT	73.0	PANHANDLE EASTERN
8412081	83-486	0501306146		107-TF		STATE OF COLORADO "AQ" #1	WATTENBERG	149.0	PANHANDLE EASTERN
8412047	83-566	0512310822		103		UPRR 42 PAN AMERICAN "L" #2	WATTENBERG	75.0	PANHANDLE EASTERN
-ARROWHEAD ENERGY CORP				RECEIVED:	12/14/83	JA: CO			
8412048	83-545	0512310540		103		NECKIEN #1	WATTENBERG	0.0	PANHANDLE EASTERN
8412082	83-544	0512310540		107-TF		NECKIEN #1	WATTENBERG	0.0	PANHANDLE EASTERN
8412083	83-542	0512310497		107-TF		STRAWDER #1	WATTENBERG	0.0	PANHANDLE EASTERN
-BLACK HAWK RESOURCES CORP				RECEIVED:	12/14/83	JA: CO			
8412049	83-606	0512311130		103		CARLSON #33-18	BRACEWELL	216.0	NATURAL GAS ASSOC
8412050	83-603	0512311165		103		ENGLISH 31-20	BRACEWELL	109.0	NATURAL GAS ASSOC
8412051	83-569	0512311131		103		TIGGES #31-18	ANTELOPE	75.0	NATURAL GAS ASSOC
8412052	83-604	0512311174		103		TIGGES 31-19	BRACEWELL	61.0	NATURAL GAS ASSOC
8412053	83-605	0512311115		103		WALKER 11-18	BRACEWELL	108.0	NATURAL GAS ASSOC
-BOW VALLEY PETROLEUM INC				RECEIVED:	12/14/83	JA: CO			
8412054	83-598	0507708289		103		CARLETON CURRIER 23-4	VEGA - MESA VERDE	180.0	NORTHWEST PIPELIN
8412037	83-576	0507708395		102-2		CARLTON CURRIER #2-1	VEGA	45.0	NORTHWEST PIPELIN
8412056	83-594	0507708406		103		PALLADRO #15-1	PLATEAU CREEK - COZET	91.0	ROCKY MOUNTAIN NA
8412055	83-597	0507708201		103		PALLADRO 14-2	PLATEAU CREEK	153.8	ROCKY MOUNTAIN NA
8412057	83-599	0507708202		103		WISSEL #17-1	PLATEAU CREEK	31.5	ROCKY MOUNTAIN NA
8412058	83-595	0507708193		103		WISSEL #17-2	PLATEAU CREEK	20.0	ROCKY MOUNTAIN NA
-CARL A HOUY				RECEIVED:	12/14/83	JA: CO			
8412032	83-540	0500108248		102-4		SAUTER 43-8	BASE LINE	22.0	DAMSON GAS PROCES
8412065	83-538	0512311017		103		SCHWINDT 23-26	WILDCAT	51.0	DAMSON GAS PROCES
8412033	83-539	0500108271		102-4		WARREN 11-10	KRAUTHEAD	42.0	DAMSON GAS PROCES
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	12/14/83	JA: CO			
8412038	83-571	0501706345		102-2		MCCORMICK 44-34 #2-C	SORRENTO	14.0	
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	12/14/83	JA: CO			
8412084	83-426	0512198760		107-TF		MCCREATH "C" #1	UNITE EAGLE	23.6	NATURAL GAS PIPEL
-COORS ENERGY CO				RECEIVED:	12/14/83	JA: CO			
8412059	83-610	0512311049		103		COORS FEE 3-6	WATTENBERG SECTION 6	200.0	COORS ENERGY CO
8412060	83-627	0500108259		103		FRI 2-18	WATTENBERG SECTION 18	89.0	COORS ENERGY CO
8412085	83-452	0507708514		107-TF		GIBSON 4-3	PLATEAU SEC 3 T10S-R9	62.0	NORTHERN NATURAL
8412086	83-349	0507708491		107-TF		WEBB 2-9	PLATEAU	410.0	NORTHERN NATURAL
-DAMSON OIL CORPORATION				RECEIVED:	12/14/83	JA: CO			
8412061	83-181	0508106531		103		BIG GULCH #16-2	BIG GULCH	300.0	MOUNTAIN FUEL SUP
8412062	83-180	0508106532		103		BIG GULCH #21-2	BIG GULCH	182.0	MOUNTAIN FUEL SUP
-ENERGY OIL INC				RECEIVED:	12/14/83	JA: CO			
8412087	83-521	0512310958		107-TF		AUFRECHT #2	WATTENBERG	25.0	PANHANDLE EASTERN
8412088	83-554	0512305172		107-TF		HANKINS #2	WATTENBERG	52.5	PANHANDLE EASTERN
-FUEL RESOURCES DEVELOPMENT CO				RECEIVED:	12/14/83	JA: CO			
8412089	83-572	0510309025		107-TF		C-K LEASING 27-3	CATHEDRAL	30.0	NORTHWEST PIPELIN
-GRIFFIN OIL & GAS INC				RECEIVED:	12/14/83	JA: CO			
8412039	83-529	0500108262		102-2		JOANNA #1	FENCE POST	12.8	DAMSON GAS PROCES

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8412031	83-630	0512311192		102-4		LENITA #1	BARDWIRE	73.0	KOCH HYDROCARBON
-GUSHER OIL & GAS CO INC				RECEIVED:	12/14/83	JA: CO			
8412063	83-528	0512310709		103		SHOENEMAN 3-32	WIGHAM	30.0	DAMSON GAS PROCES
-HAINES RICHARD				RECEIVED:	12/14/83	JA: CO			
8412064	83-453	0500108004		103		ANTELOPE FARMS #1-24	PORTER	24.0	PANHANDLE EASTERN
-IMPERIAL OIL COMPANY				RECEIVED:	12/14/83	JA: CO			
8412060	83-568	0508106510		102-2		STATE OF COLORADO #1-36	WILDCAT	1.0	MOUNTAIN FUEL SUP
-J-W OPERATING COMPANY				RECEIVED:	12/14/83	JA: CO			
8412094	83-397	0512506885		107-PE		C JOSH #3-34	WAGES	88.0	KN ENERGY INC
8412093	83-399	0512506878		107-PE		D CROSSLAND #3-26	WAGES	143.0	KN ENERGY INC
8412095	83-396	0512506880		107-PE		KLINZMANN #2-11	OLD BALDY	207.0	KN ENERGY INC
-JOHN P LOCKRIDGE				RECEIVED:	12/14/83	JA: CO			
8412097	83-363	0512506845		107-TF		DEVLIN 34-4	BONNY FIELD	9.0	NORTHWEST CENTRAL
8412098	83-362	0512506847		107-TF		MAYNARD 13-18	BONNY FIELD	18.0	NORTHWEST CENTRAL
-KAREN OIL CO				RECEIVED:	12/14/83	JA: CO			
8412041	83-506	0512311076		102-2		DEBRA ROBIN #1	LAKESIDE	75.0	DAMSON GAS PROCES
-LOCKRIDGE & THOMPSON				RECEIVED:	12/14/83	JA: CO			
8412096	83-406	0512109830		107-TF		ALLEN #2-15	DE NOVA	0.0	NATURAL GAS PIPEL
-MGF OIL CORP				RECEIVED:	12/14/83	JA: CO			
8412034	82-1258	0512300000		102-4		JANE STATE #33-16	JUPITER	0.0	PENDING
-MOUNTAIN PETROLEUM CORPORATION				RECEIVED:	12/14/83	JA: CO			
8412099	83-314	0512506891		107-TF		GRIGSBY 2-32	VERNON FIELD	25.[illegible]	KN ENERGY INC
-NATOMAS NORTH AMERICA INC				RECEIVED:	12/14/83	JA: CO			
8412100	83-414	0506706533		107-TF		HARPER #1-13U	IGNACIO-BLANCO	0.0	EL PASO NATURAL G
8412101	83-420	0506706532		107-TF		HARPER 1-18U	IGNACIO BLANCO	0.0	EL PASO NATURAL G
8412102	83-418	0506706547		107-TF		HAYS #1-11 U	IGNACIO-BLANCO	0.0	EL PASO NATURAL G
8412103	83-419	0506706285		107-TF		SMITH #1-20	IGNACIO-BLANCO	0.[illegible]	EL PASO NATURAL G
8412104	83-413	0506706363		107-TF		STATE #1-24	IGNACIO-BLANCO	0.[illegible]	EL PASO NATURAL G
8412105	83-416	0506706322		107-TF		UTE #1-10	IGNACIO BLANCO	0.0	EL PASO NATURAL [illegible]
8412106	83-417	0506701356		107-TF		WRIGHT 1-19	IGNACIO BLANCO	[illegible].0	EL PASO NATURAL G
-PETROQUEST INC				RECEIVED:	12/14/83	JA: CO			
8412107	83-442	0512310633		107-TF		STATE "A" 14-16X	WATTENBERG	56.0	PANHANDLE EASTERN
-PORTER ENERGY & RESOURCES INC				RECEIVED:	12/14/83	JA: CO			
8412035	83-608	0512310956		102-4		COOKSEY #1	WOODCHUCK NW/4 SW/4 S	24.0	DAMSON GAS PROCES
-ROCK OIL CORP				RECEIVED:	12/14/83	JA: CO			
8412042	83-504	0512300000		102-2		BBR #22-34	BANNER LAKES	10.0	DAMSON GAS PROCES
8412043	83-555	0512300000		102-2		CROISSANT #1	WILDCAT	180.0	
8412044	83-475	0500100000		102-2		EIFFEL #1	BASELINE	23.0	DAMSON GAS PROCES
8412066	83-476	0500182270		103		HELZER FARMS #1	BASELINE	23.0	DAMSON GAS PROCES
8412067	83-477	0500108206		103		LOCKE #1	BASELINE	13.0	DAMSON GAS PROCES
8412045	83-503	0512300000		102-2		LONE EAGLE #13-34	BANNER LAKES	22.0	DAMSON GAS PROCES
8412068	83-564	0512300000		103		STEINWALD #1	WILDCAT	100.0	PANHANDLE EASTERN
-SAMSON OIL COMPANY				RECEIVED:	12/14/83	JA: CO			
8412069	83-493	0500906235		103		SCHREPEL 2-22	WALSH	3.0	COLORADO INTERSTA
-SAMUEL GARY OIL PRODUCER				RECEIVED:	12/14/83	JA: CO			
8412090	83-632	0503906447		107-TF		AMOCO #23-14	RUNNING CREEK	8.3	BUCKEYE NATURAL G
8412091	83-633	0503906441		107-TF		COGGINS #10-14	CALEDONIA	1.0	BUCKEYE NATURAL G
8412092	83-631	0503906423		107-TF		RUNNING CREEK #15-4	CALEDONIA	4.0	BUCKEYE NATURAL G
-SOHIO PETROLEUM CO				RECEIVED:	12/14/83	JA: CO			
8412070	83-449	0500108239		103		LARSON 4-12	BEAR GULCH	109.5	
-TERMO CO OF TEXAS				RECEIVED:	12/14/83	JA: CO			
8412109	83-531	0512310348		107-TF		MCKAY LAND & CATTLE CO #1	BRACE WELL	35.0	
8412073	83-526	0507508997		103		WAGNER #3	DIPPER GAP	20.0	
-THE SAND HILLS SOCIETY				RECEIVED:	12/14/83	JA: CO			
8412108	82-1355	0512109837		107-TF		R SMALL #2-35	DAPPER	35.0	NATURAL GAS PIPEL
TIFFANY GAS CO				RECEIVED:	12/14/83	JA: CO			
8412079	83-516	0500706086		107-CS		ROSS #1	IGNACIO BLANCO	109.0	NORTHWEST PIPELIN
-TUDEX PETROLEUM INC				RECEIVED:	12/14/83	JA: CO			
8412074	83-518	0500108277		103		TUDEX BIOW #11-4	SPINDLE	25.0	VESSELS GAS PROCE
8412075	83-517	0500108282		103		TUDEX BIOW #11-5	SPINDLE	25.0	VESSELS GAS PROCE
-TXO PRODUCTION CORP				RECEIVED:	12/14/83	JA: CO			
8412071	83-565	0500108103		103		BRADBURY "C" #1	RIMROCK	584.0	KOCH HYDROCARBON
8412072	83-567	0500108211		103		BRADBURY "C" #2	RIMROCK	58.0	KOCH HYDROCARBON
-UNION OIL COMPANY OF CALIF				RECEIVED:	12/14/83	JA: CO			
8412036	81-597	0510700000		102-4		WATSON SECURITIES CO #1	INDIAN RUN	300.0	NORTHERN NATURAL
-UTE ENERGY CO				RECEIVED:	12/14/83	JA: CO			
8412111	82-1247	0500506799		107-TF		DAN KISSLER #1	CHALICE	64.1	NATURAL PIPELINE
8412110	83-485	0500506830		107-TF		PETERSON HEIRS #1	CHALICE	42.0	NATURAL GAS PIPEL
-VESSELS OIL & GAS COMPANY				RECEIVED:	12/14/83	JA: CO			
8412112	83-505	0501306133		107-TF		CANINO 'G' UNIT #1	WATTENBERG	0.0	PANHANDLE EASTERN
8412113	83-581	0501306108		107-TF		WARREN H WIGGETT #13-2	WATTENBERG FIELD	0.0	PANHANDLE EASTERN
-WILLIAM PERLMAN				RECEIVED:	12/14/83	JA: CO			
8412077	83-537	0506706556		107-TF		JAMES F MAYFIELD #1-11U	IGNACIO BLANCO	0.0	EL PASO NATURAL G
8412076	83-536	0506706559		107-TF		JAMES H MAYFIELD #1-10U	IGNACIO BLANCO	0.0	EL PASO NATURAL G
8412078	82-1376	0506706551		107-TF		MABEL C PAYNE #1-33		0.0	EL PASO NATURAL G
PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES									
-EPSILON 1980 S T JOINT VENTURE				RECEIVED:	12/15/83	JA: PA			
8412144	19099	3703321174		108		SPENCER #2		25.[illegible]	CONSOLIDATED GAS
8412143	19098	3703321026		108		V SPENCER #1	GRANT	25.0	CONSOLIDATED GAS
-FOX OIL & GAS INC				RECEIVED:	12/15/83	JA: PA			
8412150	21668	3703321462		102-3		EARL BUTERBAUGH #2 (282)	BURNSIDE	25.5	COLUMBIA GAS TRAN
-MERIDIAN EXPLORATION CORP				RECEIVED:	12/15/83	JA: PA			
8412145	21191	3703921841		102-2		REID WILLIS #647-3	ROCKDALE	0.0	COLUMBIA GAS TRAN
8412146	21192	3703921841		107-TF		REID WILLIS #647-3	ROCKDALE	0.0	COLUMBIA GAS TRAN
-MICON ENERGY GROUP LTD				RECEIVED:	12/15/83	JA: PA			
8412115	18663	3708339329		108		CROWLEY #11	DANIEL AND JUDITH CRO	7.3	NORTH PENN GAS CO
8412141	19067	3708339301		108		CROWLEY #12	PHILLIP AND MARY CAUS	7.3	NORTH PENN GAS CO
8412140	19066	3708339641		108		CROWLEY #15	CROWLEY	7.3	NORTH PENN GAS CO
8412139	19065	3708339962		108		CROWLEY #16	CROWLEY	0.0	NORTH PENN GAS CO
8412138	19064	3708339642		108		CROWLEY #19	CROWLEY	7.3	NORTH PENN GAS CO
8412124	19041	3708339324		108		CROWLEY #23	CROWLEY/CAUSER	7.3	NORTH PENN GAS CO
8412123	19040	3708339302		108		CROWLEY #26	CROWLEY/CAUSER	7.3	NORTH PENN GAS CO
8412122	19039	3708339326		108		CROWLEY #28	CROWLEY/CAUSER	7.3	NORTH PENN GAS CO
8412121	19038	3708339644		108		CROWLEY #29	CROWLEY/CAUSER	7.3	NORTH PENN GAS CO
8412120	19037	3708339303		108		CROWLEY #35	CROWLEY/CAUSER	7.3	NORTH PENN GAS CO
8412119	19036	3708339304		108		CROWLEY #36	CROWLEY/CAUSER	7.3	NORTH PENN GAS CO
8412117	19034	3708339305		108		CROWLEY #38	CROWLEY/CAUSER	7.3	NORTH PENN GAS CO
8412118	19035	3708339307		108		CROWLEY #40	CROWLEY/CAUSER	7.3	NORTH PENN GAS CO
8412137	19063	3708339309		108		CROWLEY #42	CROWLEY/CAUSER	7.3	NORTH PENN GAS CO
8412135	19061	3708339310		108		CROWLEY #43	CROWLEY/CAUSER	7.3	NORTH PENN GAS CO
8412136	19062	3708339647		108		CROWLEY #45	CROWLEY	7.3	NORTH PENN GAS CO
8412133	19059	3708339648		108		CROWLEY #46	CROWLEY	7.3	NORTH PENN GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8412134	19060	3708339311		108		CROWLEY #51	CROWLEY/CAUSER	7.3	NORTH PENN GAS CO
8412125	19042	3708339312		108		CROWLEY #53	CROWLEY/CAUSER	7.3	NORTH PENN GAS CO
8412126	19043	3708339313		108		CROWLEY #56	CROWLEY/CAUSER	7.3	NORTH PENN GAS CO
8412127	19044	3708339329		108		CROWLEY #58	CROWLEY/CAUSER	7.3	NORTH PENN GAS CO
8412142	19068	3708338873		108		CROWLEY #8	CROWLEY	7.3	NORTH PENN GAS CO
8412114	18661	3708340768		108		HUGHES #17	HUGHES	7.3	NORTH PENN GAS CO
8412132	19050	3708340769		108		HUGHES #18	HUGHES	7.3	NORTH PENN GAS CO
8412131	19049	3708340770		108		HUGHES #19	HUGHES	7.3	NORTH PENN GAS CO
8412130	19048	3708340772		108		HUGHES #21	HUGHES	7.3	NORTH PENN GAS CO
8412129	19047	3708340773		108		HUGHES #22	HUGHES	7.3	NORTH PENN GAS CO
8412128	19046	3708340774		108		HUGHES #23	HUGHES	7.3	NORTH PENN GAS CO
8412116	19033	3708339965		108		LANE #2	CLIFFORD GERARD LANE	7.3	NORTH PENN GAS CO
-NATIONAL FUEL GAS SUPPLY CORP				RECEIVED:	12/15/83	JA: PA			
8412147	21596	3704721390		103		PA STATE FOREST 6281	CLERMONT	3.0	GENERAL SYSTEM PU
-QUAKER STATE OIL REFINING CORP				RECEIVED:	12/15/83	JA: PA			
8412152	21676	3712327723		108		WENTZ #09	PLEASANT	0.5	NATIONAL FUEL GAS
8412153	21677	3712337724		108		WENTZ 010	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412154	21678	3712327725		108		WENTZ 011	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412155	21617	3712327726		108		WENTZ 012	PLEASANT	0.5	NATIONAL FUEL GAS
8412156	21680	3712327727		108		WENTZ 013	PLEASANT	0.5	NATIONAL FUEL GAS
8412157	21681	3712327728		108		WENTZ 014	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412158	21682	3712327729		108		WENTZ 015	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412171	21695	3712327730		108		WENTZ 016	GRUNGER RUN	0.5	NATIONAL FUEL GAS
8412172	21696	3712327731		108		WENTZ 017	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412173	21697	3712327732		108		WENTZ 018	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412174	21698	3712327733		108		WENTZ 019	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412161	21685	3712327716		108		WENTZ 02	PLEASANT	0.5	NATIONAL FUEL GAS
8412175	21699	3712327734		108		WENTZ 020	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412176	21700	3712327735		108		WENTZ 021	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412177	21701	3712327736		108		WENTZ 022	GRUNDER RUN	0.5	NATIONAL FUEL GAS
8412178	21702	3712327737		108		WENTZ 023	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412167	21691	3712327738		108		WENTZ 024	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412168	21692	3712327739		108		WENTZ 025	PLEASANT	0.5	NATIONAL FUEL GAS
8412170	21694	3712327741		108		WENTZ 027	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412159	21683	3712327742		108		WENTZ 028	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412160	21684	3712327743		108		WENTZ 029	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412162	21686	3712327717		108		WENTZ 03	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412187	21711	3712327744		108		WENTZ 030	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412188	21712	3712327745		108		WENTZ 031	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412189	21713	3712327746		108		WENTZ 032	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412190	21714	3712327747		108		WENTZ 033	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412191	21715	3712327748		108		WENTZ 034	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412192	21716	3712327749		108		WENTZ 035	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412179	21703	3712327750		108		WENTZ 036	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412180	21704	3712327751		108		WENTZ 037	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412181	21705	3712327752		108		WENTZ 038	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412182	21706	3712327753		108		WENTZ 039	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412163	21687	3712327718		108		WENTZ 04	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412184	21708	3712327755		108		WENTZ 041	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412185	21709	3712327756		108		WENTZ 042	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412186	21710	3712327757		108		WENTZ 043	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412202	21726	3712327758		108		WENTZ 044	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412203	21727	3712327759		108		WENTZ 045	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412204	21728	3712327760		108		WENTZ 046	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412205	21729	3712327761		108		WENTZ 047	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412206	21730	3712327762		108		WENTZ 048	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412193	21717	3712327763		108		WENTZ 049	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412164	21688	3712327719		108		WENTZ 05	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412194	21718	3712327764		108		WENTZ 050	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412195	21719	3712327765		108		WENTZ 051	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GA
8412196	21720	3712327766		108		WENTZ 052	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412197	21721	3712327767		108		WENTZ 053	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412198	21722	3712327768		108		WENTZ 054	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412199	21723	3712327769		108		WENTZ 055	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412200	21724	3712327770		108		WENTZ 056	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412201	21725	3712327771		108		WENTZ 057	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412165	21689	3712327720		108		WENTZ 06	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412166	21690	3712327721		108		WENTZ 07	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412151	21675	3712327722		108		WENTZ 08	PLEASANT	0.5	NATIONAL FUEL GAS
8412169	21693	3712327740		108		026 WENTZ	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
8412183	21707	3712327754		108		040 WENTZ	GRUNDER RUN (GLADE)	0.5	NATIONAL FUEL GAS
-ZAMA PETROLEUM INC				RECEIVED:	12/15/83	JA: PA			
8412149	21598	3705900000		107-PE		SMITH #1		4.0	PEOPLES NATURAL G
8412148	21597	3705900000		107-PE		SMITH #2		4.0	PEOPLES NATURAL G

[FR Doc. 84-1607 Filed 1-19-84; 8:45 am]

BILLING CODE 6717-01-C

[Vol. 1043]

Determinations By Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued January 16, 1984.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capital St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd., Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
- 102–2: New well (2.5 Mile rule)
- 102–3: New well (1000 Ft rule)
- 102–4: New onshore reservoir
- 102–5: New reservoir on old OCS lease

Section 107–DP: 15,000 feet or deeper
- 107–GB: Geopressured brine
- 107–CS: Coal Seams
- 107–DV: Devonian Shale
- 107–PE: Production enhancement
- 107–TF: New tight formation
- 107–RT: Recompletion tight formation

Section 108: Stripper well
- 108–SA: Seasonally affected
- 108–ER: Enhanced recovery
- 108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS
ISSUED JANUARY 16, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-SOUTHLAND ROYALTY CO				RECEIVED:	12/15/83	JA: NM			
8412353		3001522814		102-4		STATE "23A" COM #1	TURKEY TRACK	125 0	LLANO INC
8412352		3001522769		102-4		STATE "24" #1	TURKEY TRACK	180 0	LLANO INC
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
-BOUNTY OIL & GAS INC				RECEIVED	12/16/83	JA: NY			
8412374	2810	3101316547		107-TF		ALEXANDER WELL #1	WILDCAT	0 0	COLUMBIA GAS TRAN
-LENAPE RESOURCES CORP				RECEIVED:	12/16/83	JA: NY			
8412369	3825	3105117306		107-TF		A E SCOTT #2 LRC #103	WILDCAT	20 0	NEW JERSEY NATURA
8412366	3810	3105116196		107-TF		A K MCILWAINE #1 LRC #89	CALEDONIA	20 0	NEW JERSEY NATURA
8412362	3804	3105117311		107-TF		C A ANDERSON #1 LRC #105	WILDCAT	20 0	NEW JERSEY NATURA
8412356	4933	3105117369		107-TF		E C AYERS UNIT #1 LRC #155	WILDCAT	20 0	NEW JERSEY NATURA
8412363	3865	3105117312		107-TF		E DOOLITTLE #1 LRC #106	WILDCAT	20 0	NEW JERSEY NATURA
8412367	3814	3105116193		107-TF		E VOGEL UNIT #1 LRC NO 92	WILDCAT	20 0	NEW JERSEY NATURA
8412368	3828	3105117301		107-TF		H WILSON #1 LRC #98	WILDCAT	20 0	NEW JERSEY NATURA
8412373	3798	3105116192		107-TF		J P KRENZER UNIT #1 LRC #87	CALEDONIA	20 0	NEW JERSEY NATURA
8412370	3898	3105116144		107-TF		JOHN S REED UNIT #1 LRC NO 81	CALEDONIA	20 0	NEW JERSEY NATURA
8412357	4932	3105117358		107-TF		L L POWELL #1 LRC #147	WILDCAT	20 0	NEW JERSEY NATURA
8412361	3803	3105117310		107-TF		L P HILL UNIT #1 LRC #104	WILDCAT	20 0	NEW JERSEY NATURA
8412372	3797	3105116132		107-TF		LRC # 76 - GRACE MITCHELL #1	WILDCAT	20 0	NEW JERSEY NATURA
8412365	3809	3105117303		107-TF		R GRANT #1 LRC #133	CALEDONIA	20 0	NEW JERSEY NATURA
8412364	3808	3105116190		107-TF		S DEUEL #1 LRC #132	WILDCAT	20 0	NEW JERSEY NATURA
8412358	4931	3105117368		107-TF		S R POWELL #1 LRC #154	WILDCAT	20 0	NEW JERSEY NATURA
8412371	3796	3105116141		107-TF		T COONEY UNIT #1 LRC #69	CALEDONIA	20 0	NEW JERSEY NATURA
8412359	3801	3105117383		107-TF		W A DENOON #1 LRC #85	CALEDONIA	20 0	NEW JERSEY NATURA
8412360	3802	3105116186		107-TF		WEEWOOD FARM UNIT #1 LRC #86	CALEDONIA	20 0	NEW JERSEY NATURA
-SHAWNEE EXPLORATION INC				RECEIVED:	12/16/83	JA: NY			
8412375	4594	3102917856		107-TF		JOHN D RINALDO #1	BRANT	15.0	SCG GAS QUEST INC
-UNIVERSAL RESOURCES HOLDINGS INC				RECEIVED:	12/16/83	JA: NY			
8412355	4947	3101318011		107-TF		B WILLSON UNIT #3	GERRY	20.0	COLUMBIA GAS TRAN
-VILLANOVA NATURAL GAS CORP				RECEIVED:	12/16/83	JA: NY			
8412354	4528	3101317746		107-TF		HARRY STROM #1	ELLERY CENTER	0.0	COLUMBIA GAS TRAN
8412377	2356	3101316361		102-2	107-TF	JAMES BAER #1	LAKEWOOD	0.0	COLUMBIA GAS TRAN
8412376	2358	3101316362		102-2	107-TF	JOHN KOVEL #1	LAKEWOOD	0.0	COLUMBIA GAS TRAN
8412378	2354	3101316465		102-2	107-TF	WION-FIRTH UNIT #1	LAKEWOOD	0.0	COLUMBIA GAS TRAN
OKLAHOMA CORPORATION COMMISSION									
-AMBASSADOR OIL CO				RECEIVED:	12/16/83	JA: OK			
8412243	25391	3513322083		103		REED #2		36.5	WELLHEAD ENTERPRI
-AN-SON CORPORATION				RECEIVED:	12/16/83	JA: OK			
8412253	23295	3514920191		102-2		MILLIE #1-30	WILDCAT	105.9	
-ANADARKO LAND & EXPLORATION CO				RECEIVED:	12/16/83	JA: OK			
8412270	25121	3503920928		103		CONKLING #1-5	S E THOMAS	150.0	TRANSOK PIPE LINE
-ANADARKO PRODUCTION COMPANY				RECEIVED:	12/16/83	JA: OK			

BILLING CODE 8717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8412258	23226	3500722310		102-2		AMEN B #1
8412257	23225	3513921557		102-4		APSLEY "B" NO 1
8412210	23009	3504921700		102-4		BRADSHAW A 1-26
8412256	23224	3500722331		102-4		MATKIN B-1
8412259	23227	3513921634		102-4		OGLETREE "A" NO 1
8412254	23297	3500721266		102-2		SMITH "P" #1
-ARCO OIL AND GAS COMPANY				RECEIVED:		12/16/83 JA: OK
8412287	22755	3504723157		102-4		LINDA WILLIAMS #1
8412278	22959	3511922134		102-4		MINOR DEAN #2
8412304	22867	3504723135		102-2		VERA WINTER #2
-ATKINSON J V				RECEIVED:		12/16/83 JA: OK
8412290	23139	3510521423		102-4		LEROY PLACE #2
-ATLAS OIL INC				RECEIVED:		12/16/83 JA: OK
8412301	22537	3508322151		103		MITCHELL 1-35
-B J HOWELL				RECEIVED:		12/16/83 JA: OK
8412329	25120	3506321620		103		BAILEY #1
-BEARD OIL COMPANY				RECEIVED:		12/16/83 JA: OK
8412317	22889	3501121754		102-2	103	USA #27-1
-BEASLEY OIL CO				RECEIVED:		12/16/83 JA: OK
8412309	24946	3501121850		103		RON SCHWEITZER #1
-BETA OIL & GAS DEVELOPMENT				RECEIVED:		12/16/83 JA: OK
8412285	21894	3511123128		108		PINE I-1
8412284	21893	3511123129		108		PINE I-2
-BOGERT OIL CO				RECEIVED:		12/16/83 JA: OK
8412267	25131	3507323815		103		CLARA #1-21
-C W SMITH & ASSOCIATES INC				RECEIVED:		12/16/83 JA: OK
8412233	25366	3508122031		103		JAMES MURPHY #5
8412234	25367	3508122032		103		WILLIS BLANEY #2
-CHEROKEE RESOURCES INC				RECEIVED:		12/16/83 JA: OK
8412214	23096	3508322196		102-4		BOLING #1 08322196
-CONTINENTAL RESOURCES CORP				RECEIVED:		12/16/83 JA: OK
8412211	23075	3504321640		102-4		REYNOLDS #12-1
8412277	22966	3504321535		102-4	103	THOMPSON #3-1
-COTTON PETROLEUM CORPORATION				RECEIVED:		12/16/83 JA: OK
8412296	23177	3512120942		102-4		BUELA MAE #1
8412242	25390	3512920907		103		JOHNNIE #1
8412241	25389	3500722512		103		LONG "B" #1
8412297	23178	3501521374		102-4		WAYNE #1
-CROUCH PETROLEUM COMPANY				RECEIVED:		12/16/83 JA: OK
8412209	22250	3509120141		103		STORM #34-6
-DEVON ENERGY CORP				RECEIVED:		12/16/83 JA: OK
8412305	24847	3512120735		108		MITCHELL #1-8
-DLB ENERGY CORP				RECEIVED:		12/16/83 JA: OK
8412291	23137	3507323757		103		STRUCK #18-5
-DONALD C SLAWSON				RECEIVED:		12/16/83 JA: OK
8412302	22769	3505121372		102-4		HALL #1-4
-DYCO PETROLEUM CORPORATION				RECEIVED:		12/16/83 JA: OK
8412262	26430	3512920901		107-DP		PURVIS #1-2
-EARLSBORO ENERGIES CORP				RECEIVED:		12/16/83 JA: OK
8412266	21133	3509322715		103		SUTTER FARMS #1-13
-EL PASO NATURAL GAS COMPANY				RECEIVED:		12/16/83 JA: OK
8412220	24697	3500906785		108-PB		OREN B #1
8412222	23233	3500935559		108-PB		PUCKETT C #1
8412321	23233	3500935559		108-PB		PUCKETT C #1
8412320	22295	3500906805		108-PB		STATE OF OKLAHOMA A #1
8412316	21536	3500935432		108-PB		SUTTON #1
-ENERGY RESERVES GROUP INC				RECEIVED:		12/16/83 JA: OK
8412341	24609	3509300000		108		C E NELSON #1
8412342	24585	3509120134		108		NEWCOMER #1-12
-EXXON CORPORATION				RECEIVED:		12/16/83 JA: OK
8412244	21846	3500700000		108		HARVEY L MOORE #1
8412313	26282	3514920358		107-DP		IRIS E BOOKOUT UNIT #1
-FLAG-REDFERN OIL CO				RECEIVED:		12/16/83 JA: OK
8412276	25096	3515100000		108		RADER #1-A
-FLYNN ENERGY CORP				RECEIVED:		12/16/83 JA: OK
8412275	25106	3507122643		103		CARTER 35-1
-GEORGE E FEARS				RECEIVED:		12/16/83 JA: OK
8412255	24994	3508300000		108		TURNER #1
-GIANT PETROLEUM CORPORATION				RECEIVED:		12/16/83 JA: OK
8412213	23089	3500300000		102-4		CROMWELL #1-25
-GULF OIL CORPORATION				RECEIVED:		12/16/83 JA: OK
8412315	20113	3507300237		108-PB		BOECKMAN #1
-HARPER OIL COMPANY				RECEIVED:		12/16/83 JA: OK
8412271	25045	3504723301		103		MUNKRES #3
8412303	22781	3512920915		102-2		TIEN #1
-HAZLEWOOD OIL & GAS CO				RECEIVED:		12/16/83 JA: OK
8412343	24333	3500722491		103		BELL #1
8412212	2380	3508322180		102-2		KAY #30-2
-HILL TOP INVESTMENTS INC				RECEIVED:		12/16/83 JA: OK
8412349	20844	3506320749		108		REDMAN #1
-HOLDEN ENERGY CORP				RECEIVED:		12/16/83 JA: OK
8412248	23255	3506720513		102-4		KIDDE 25-1
-HOPPES WILLIAM B JR				RECEIVED:		12/16/83 JA: OK
8412232	25362	3503721732		103		H TUCKER #4-A
-INEXCO OIL COMPANY				RECEIVED:		12/16/83 JA: OK
8412346	23030	3512920896		102-2		BOWMAN #1-34
8412347	23029	3512920953		102-2		KIMZEY #1-17
8412344	23032	3512920956		102-2		MILLER #1-15
8412345	23031	3503920864		102-2		VERNARD #1-11
-K & A INC				RECEIVED:		12/16/83 JA: OK
8412289	23111	3511124011		102-4		11124011 HOPE #1
-K & P OIL CORP				RECEIVED:		12/16/83 JA: OK
8412335	24910	3501722528		103		KREMIER #13-1
-KAISER-FRANCIS OIL COMPANY				RECEIVED:		12/16/83 JA: OK
8412246	22851	3500722414		102-4	103	ELAM #1-23
8412263	25311	3505120717		108		HURST #1
8412251	23283	3501521497		102-4	103	YATES #1-31
-L & N EXPLORATION INC				RECEIVED:		12/16/83 JA: OK
8412310	24949	3508100000		103		ERIK-KYLE #1
8412219	24948	3512120785		103		JIMMY #1
-LANGFORD B J				RECEIVED:		12/16/83 JA: OK
8412286	22714	3510721464		102-4	103	VENADO PETROLEUM CORP #2 DEER
-MAJOR OIL CO				RECEIVED:		12/16/83 JA: OK
8412330	25093	3509322588		103		BURPO #3-7 LTD

FIELD NAME	PROD	PURCHASER
FLORIS	29.0	PANHANDLE EASTERN
PLEASANT VIEW	146.0	PANHANDLE EASTERN
S W ANTIOCH	68.0	WARREN PETROLEUM
EAST LORENA	18.0	PANHANDLE EASTERN
EAST LORENA	36.0	PANHANDLE EASTERN
EAST LORENA	55.0	PANHANDLE EASTERN
SOUTH DOUGLAS	14.6	ARCO OIL & GAS CO
N W STILLWATER AIRPOR	36.5	ARCO OIL & GAS CO
CARRIER	22.6	PANHANDLE EASTERN
	22.0	RH OPERATING CO
WEST GUTHRIE FIELD	36.5	EASON OIL CO
HILL TOP	15.0	HILL TOP INVESTME
S E LONGDALE	360.0	OKLAHOMA GAS PIPE
NORTHWEST OMEGA	125.0	WARREN PETROLEUM
	1.5	PHILLIPS PETROLEU
	8.0	PHILLIPS PETROLEU
SOONER TREND	58.0	
S E DAVENPORT	12.0	MERIDIAN ENERGY I
S E DAVENPORT	14.0	MERIDIAN ENERGY I
WEST GUTHRIE	0.0	BUCKEYE NATURAL G
	0.0	HYDROCARBON SERVI
	0.0	HYDROCARBON SERVI
PITTSBURG	584.0	ARKANSAS LOUISIAN
W GRAND	0.0	
BALKO SOUTH (MORROW)	0.0	
HINTON SW	263.0	TRANSOK PIPELINE
S E CHECOTAH	25.0	COLUMBIA GAS TRAN
WEST MCALESTER	15.0	DELHI GAS PIPELIN
SOONER TREND	250.0	PHILLIPS PETROLEU
MIDDLEBERG	300.0	ARKANSAS LOUISIAN
	0.0	
CHEYENNE VALLEY	0.0	
ERICK SOUTH	0.0	EL PASO NATURAL G
ERICK SOUTH	0.0	EL PASO NATURAL G
ERICK SOUTH	0.0	EL PASO NATURAL G
ERICK SOUTH	0.0	EL PASO NATURAL G
ERICK SOUTH	0.0	EL PASO NATURAL G
RINGWOOD	14.0	RINGWOOD GATHERIN
S ASHLAND	21.9	PHILLIPS PETROLEU
MOCANE-LAVERNE	19.0	COLORADO INTERSTA
WILDCAT	120.0	
OSWEGO FORMATION	11.6	PANHANDLE EASTERN
NORTHEAST BILLINGS	20.0	SUN EXPLORATION &
	0.0	EASON OIL CO
EAST MENDON	300.0	SUN EXPLORATION &
LINCOLN SE	0.0	CONOCO INC
S W LAHOMA	73.0	ARKANSAS LOUISIAN
N E STRONG CITY	146.0	NATURAL GAS PIPEL
GRAND VALLEY	2431.0	
COON CREEK	75.0	BUCKEYE NATURAL G
HILL TOP	5.2	HILL TOP INVESTME
W-AYLEE	25.0	AMINOIL USA INC
CUSHING	82.1	S & T TRANSMISSIO
STRONG CITY NORTHWEST	165.0	DELHI GAS PIPE LI
N E STRONG CITY	365.0	DELHI GAS PIPE LI
WEST HAMMON	365.0	DELHI GAS PIPE LI
N W BUTLER-CUSTER FIE	630.0	
HOOT OWL HOLLOW	1277.5	PHILLIPS PETROLEU
SOONER CITY	547.0	PHILLIPS PETROLEU
W SLAPOUT	298.0	
WATONGA - CHICKASHA T	10.6	ARKANSAS LOUISIAN
E APACHE	401.5	
STROUD	42.0	NATURAL GAS ENTER
S E BLOCKER	55.0	SOUTHEAST TRANSMI
	36.5	SWAB CORP
MENO	75.0	PIONEER GAS PRODU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME			FIELD NAME	PROD	PURCHASER
-MARCUS EXPLORATION INC				RECEIVED:	12/16/83	JA: OK					
8412265	25172	3510322013		103		CARRIER #3			GANSEL	18.0	ARCO OIL & GAS CO
-MARRIOTT OIL CORP				RECEIVED:	12/16/83	JA: OK					
8412236	25382	3508112157		103		KINDER #1				47.5	SUN EXPLORATION &
-MIDWEST ENTERPRISES INC				RECEIVED:	12/16/83	JA: OK					
8412323	24420	3508320729		103		PAUL DOAK #1				7.0	EASON OIL CO
8412324	24421	3508352042		103		TRACI #3				5.0	EASON OIL CO
8412325	24422	3508320717		103		TRACI #4				5.0	EASON OIL CO
-MOBIL OIL CORP				RECEIVED:	12/16/83	JA: OK					
8412223	6856	3503900000		108-PB		JONES HUNTON UNIT #1			NORTH CUSTER CITY	11.0	NATURAL GAS PIPE
-ONYX ENERGY CORP				RECEIVED:	12/16/83	JA: OK					
8412207	25133	3501722414		103		JAY W #1-33				0.7	PHILLIPS PETROLEU
-PENNZOIL COMPANY				RECEIVED:	12/16/83	JA: OK					
8412300	23208	3512920867		102-2		HAYDEN #1			SOUTH EAST ROLL	274.0	TRANSWESTERN PIPE
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	12/16/83	JA: OK					
8412240	25388	3500700000		108		HAM A #1			LAVERNE MORROW	0.0	TRANSWESTERN PIPE
8412283	25107	3504721622		108		WHEELER U #2			SOONER TREND	15.0	TRANSOK PIPELINE
-PLAINS RESOURCES INC				RECEIVED:	12/16/83	JA: OK					
8412261	26446	3505121390		107-DP		BALL #1-29			S ALEX	122.0	
8412260	22473	3504521120		103		BERRYMAN #14-16				0.0	PANHANDLE EASTERN
-PREMIER OPERATING CO				RECEIVED:	12/16/83	JA: OK					
8412225	25203	3507323823		103		AETNA-GORTON #1			SOONER TREND	30.0	PHILLIPS PETROLEU
8412224	25229	3500321057		103		DAGUE #1			SOONER TREND	40.0	UNION TEXAS PETRO
-R & M PETROLEUM INC				RECEIVED:	12/16/83	JA: OK					
8412227	25263	3503724488		103		MARY B #1			MANNFORD	0.0	
-R & R OIL CO				RECEIVED:	12/16/83	JA: OK					
8412319	22957	3514320836		102-2		LEFEBER #1				18.0	DIAMOND "S" GAS S
-RATLIFF EXPLORATION CO				RECEIVED:	12/16/83	JA: OK					
8412279	23203	3510920735		102-4	103	AIRPORT TRUST #28-3				0.0	CONOCO INC
8412280	23202	3510920612		102-4	103	WILKERSON #31-2				0.0	CONOCO INC
-RED ROCK EXPLORATION INC				RECEIVED:	12/16/83	JA: OK					
8412268	25129	3509300000		103		SCANNELL #1-14			N W RINGWOOD	0.0	PIONEER GAS PRODU
-ROBERT P LAMMERTS				RECEIVED:	12/16/83	JA: OK					
8412311	24986	3507305666		108		GRAFF #1			SOONER TREND	18.0	PHILLIPS PETROLEU
-RUTH THELMA				RECEIVED:	12/16/83	JA: OK					
8412350	19727	3511100000		108		CLARK #5 8032219			TIGER FLATS	4.6	PHILLIPS PETROLEU
-SANGUINE LTD				RECEIVED:	12/16/83	JA: OK					
8412312	26153	3501521538		107-DP		RUSSELL #1				1183.6	UNION OIL CO OF C
-SANTA FE-ANDOVER OIL CO				RECEIVED:	12/16/83	JA: OK					
8412326	25140	3501121875		103		KEPHART #32-2				160.0	SANTA FE - ANDOVE
8412274	22542	3505121121		102-3		TREADAWAY #34-1				50.0	TRANSOK PIPELINE
-SEIGEL PETROLEUM CO				RECEIVED:	12/16/83	JA: OK					
8412295	23171	3511721739		102-2		WINGO #1				0.0	PHILLIPS PETROLEU
8412294	23170	3511721740		102-2		WINGO #2				0.0	PHILLIPS PETROLEU
-SENECA OIL CO				RECEIVED:	12/16/83	JA: OK					
8412249	23261	3501722371		102-4		SIMPSON #6-5				11.0	PHILLIPS PETROLEU
-SIEGRIST INVESTMENT CO				RECEIVED:	12/16/83	JA: OK					
8412327	25139	3507300000		103		RHODES #9-1			SOONER TREND	36.5	PHILLIPS PETROLEU
-SOUTHLAND ROYALTY CO				RECEIVED:	12/16/83	JA: OK					
8412221	23455	3515121083		108-PB		RORING #2-29			FREEDOM 76	10.0	PANHANDLE EASTERN
-STANTON ENERGY INC				RECEIVED:	12/16/83	JA: OK					
8412235	25376	3514322674		103		LUVENA #10			KEYSTONE	85.0	COLORADO GAS COMP
8412228	25246	3510721646		103		WESLEY #1				350.0	
-STOCO PETROLEUM CORP				RECEIVED:	12/16/83	JA: OK					
8412331	25092	3514521419		103		HOBBS #1			SPENCER SW1/4NE1/4NE1	30.0	PHILLIPS PETROLEU
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	12/16/83	JA: OK					
8412298	23184	3501521276		102-2		DUANE YEARWOOD #1			EARLEY EAST	3880.0	
8412314	26308	3512920852		107-DP		L L ROARK UNIT #2			CHEYENNE WEST	868.0	DELHI GAS PIPELIN
8412269	25128	3507323732		103		PERDUE 2-17 #2			SOONER TREND	54.0	EXXON CORP
8412351	9553	3512920810		108-PB		SCRIVNER #1			REYDON	0.0	K-N ENERGY INC
-SUNDANCE ENERGY CORP				RECEIVED:	12/16/83	JA: OK					
8412226	25264	3504723180		103		FH-11 #1				14.6	FARMLAND INDUSTRI
-TARGA OIL & GAS INC				RECEIVED:	12/16/83	JA: OK					
8412208	23992	3508121914		103		CROSS #1-11			DAVENPORT FIELD	36.0	MERIDIAN ENERGY I
-TENNECO OIL COMPANY				RECEIVED:	12/16/83	JA: OK					
8412217	23189	3512920912		102-2	103	CHALFANT #1-31			WILDCAT	1.0	
8412216	23108	3512920931		102-2		CHAPMAN #2-15			S E STRONG CITY	1070.0	
8412238	25386	3501520502		108		DODSON 1X-4			WATONGA-CHICKASHA TRE	20.0	OKLAHOMA GAS & EL
8412218	23110	3512920902		102-2	103	MERRICK #1-23			WILDCAT	475.0	
8412237	25385	3500722148		108		RATZLAFF #3-8			DOMBEY	8.0	KN ENERGY INC
8412336	24799	3510321978		103		SOUTH EAST LONE ELM CLEVELAND #3-3			SOUTH LONE ELM	3.0	AMINOIL USA INC
8412339	25387	3501922786		103		SOUTH GRAHAM DEESE SAND UNIT #24-1A			SHO-VEL-TUM	14.0	MOBIL OIL CORP
8412339	24796	3510321906		103		SOUTH LONE ELM CLEVELAND SAND #101			SOUTH LONE ELM	0.5	AMINOIL USA INC
8412338	24797	3510321969		103		SOUTH LONE ELM CLEVELAND SAND #105			SOUTH LONE ELM	2.0	AMINOIL USA INC
8412337	24798	3510321981		103		SOUTH LONE ELM CLEVELAND SAND #109			SOUTH LONE ELM	0.5	AMINOIL USA INC
8412272	24604	3510321904		103		SOUTH LONE ELM CLEVELAND SAND #96			SOUTH LONE ELM	2.0	AMINOIL USA INC
-TEX-OK PETROLEUM INC				RECEIVED:	12/16/83	JA: OK					
8412388	24918	3500721964		103		PARKER #4-1			N ELMWOOD	2.0	PHILLIPS PETROLEU
-TEXACO INC				RECEIVED:	12/16/83	JA: OK					
8412247	23320	3505321018		102-2		E HENDRICKS #1			GILBERT SOUTH	0.0	SUN EXPLORATION &
8412215	23095	3505321017		102-2		W A RAYNER #1			GILBERT SOUTH	116.1	SUN EXPLORATION &
8412273	23901	3513700000		108-PB		W G BARNARD #1			WADE FORMATION	0.0	ARKANSAS-LOUISIAN
-THE GHK COMPANY				RECEIVED:	12/16/83	JA: OK					
8412252	23290	3503920721		102-2		HOWE 1-18				110.8	PANHANDLE EASTERN
8412288	22850	3500920528		103		O'HARA #1-3			SW CARPENTER	0.0	
-TODDCO PETROLEUM INC				RECEIVED:	12/16/83	JA: OK					
8412245	22369	3505520405		108		HOOD #1			S BLOOMINGTON	2.8	DAMSON OIL CO
-TOWNER PETROLEUM CO				RECEIVED:	12/16/83	JA: OK					
8412250	23271	3501521358		102-4	103	STEVENS #13-1				0.0	
-TRIGG DRILLING COMPANY INC				RECEIVED:	12/16/83	JA: OK					
8412318	22889	3515321388		102-1	103	CARPENTER HALL #1			WILDCAT	95.0	
-TXO PRODUCTION CORP				RECEIVED:	12/16/83	JA: OK					
8412328	25124	3509321442		103		OKEENE #2			NW OKEENE	0.0	UNION TEXAS PETRO
8412231	25188	3509322702		103		SMITH TT			CHEYENNE VALLEY	0.0	DELHI GAS PIPELIN
-UNION TEXAS PETROLEUM				RECEIVED:	12/16/83	JA: OK					
8412282	25117	3510300000		108		BOCOX #3			FOURDEE	18.0	ARCO OIL & GAS CO
8412307	24887	3500300000		108		FANNIE WHITWORTH #1			CARMEN	14.0	PANHANDLE EASTERN
8412281	25118	3504720980		108		GIFT #2			HODGE II	52.0	PANHANDLE EASTERN
8412340	24668	3509300000		108		HOFFMAN-UNRUH #1			HODGE I	33.0	PANHANDLE EASTERN
8412306	24885	3500300000		108		HOMER DAVIS 'A' #1			HODGE II	47.0	PANHANDLE EASTERN
-UNIT DRILLING & EXPLORATION CO				RECEIVED:	12/16/83	JA: OK					
8412230	25216	3504521140		103		BERRYMAN #1-26				30.0	
8412229	25218	3504521102		103		WIEDEN #1				29.2	
-VIERSEN & COCHRAN				RECEIVED:	12/16/83	JA: OK					

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8412264	25181	3501121848		103		HEIRS OF YELLOW WOMAN #1-31
-WARD PETROLEUM CORP				RECEIVED:	12/16/83	JA: OK
8412322	24315	3502720666		103		BANK #1
-WESSELY ENERGY CORPORATION				RECEIVED:	12/16/83	JA: OK
8412332	25044	3504921009		103		WALTERS #1 049-12384
-WHEATLAND OIL CO				RECEIVED:	12/16/83	JA: OK
8412293	23145	3505321045		102-4		KENT A-1
8412292	23144	3505321052		102-4		KENT A-2
-WOODS PETROLEUM CORPORATION				RECEIVED:	12/16/83	JA: OK
8412348	21855	3512920826		102-2		LAMB #18-1
8412299	23187	3503920852		102-2		STATE OF OKLAHOMA "A" #36-1
-ZINKE & TRUMBO LTD				RECEIVED:	12/16/83	JA: OK
8412333	24961	3500722479		103		KRAFT-STATE #1-30
8412334	24960	3500722479		103		KRAFT-STATE #1-30
** DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, CASPER,WY						
-AMBRA OIL & GAS CO				RECEIVED:	12/13/83	JA: UT 5
8412386	059-83	4301930998		103		I F 23-8
-BELCO DEVELOPMENT CORP				RECEIVED:	12/13/83	JA: UT 5
8412384	057-83	4304705207		108		CWU #7
8412382	055-83	4304700000		108		CWU-15
8412381	054-83	4304700000		108		CWU-21
8412385	058-83	4304730628		108		DUCK CREEK 8-16
8412383	056-83	4304731263		107-TF		NORTH DUCK CREEK 61-29
8412380	053-83	4304700000		108		STAGECOACH #5
-CELSIUS ENERGY CO				RECEIVED:	12/13/83	JA: UT 5
8412388	061-83	4303730874		102-2		UCOLO WELL #1
-COASTAL OIL & GAS CORP				RECEIVED:	12/13/83	JA: UT 5
8412390	063-83	4304731249		107-TF		NATURAL BUTTES UNIT #49V
8412379	052-83	4304731240		107-TF		NATURAL BUTTES UNIT #80V
8412389	062-83	4304731245		107-TF		NATURAL BUTTES UNIT #84V
-LOMAX EXPLORATION COMPANY				RECEIVED:	12/13/83	JA: UT 5
8412391	065-83	4304731278		107-TF		FEDERAL #3-15
-NATURAL GAS CORPORATION OF CALIF				RECEIVED:	12/13/83	JA: UT 5
8412393	068-83	4301330681		102-2		NGC #24-15-H
8412394	069-83	4301330682		102-2		NGC WELL #24-9-H
8412392	067-83	4301330679		102-2		NGC WELL #31-8-H
8412387	060-83	4301330678		102-2		NGC 42-8-H

FIELD NAME	PROD	PURCHASER
WATONGA TREND	88 0	PHILLIPS PETROLEU
S MOORE	465.0	SUN GAS CO
W MAYSVILLE	54.0	WARREN PETROLEUM
NORTH VICAR	166.4	UNION TEXAS PETRO
NORTH VICAR	91.3	UNION TEXAS PETRO
N REDMOON	401.0	TRANSOK PIPE LINE
SE MOOREWOOD	365.0	
IVANHOE	360.0	TRANSWESTERN PIPE
IVANHOE	360.0	TRANSWESTERN PIPE
GREATER CISCO AREA	50.0	NORTHWEST PIPELIN
CHAPITA WELLS UNIT	0.0	MOUNTAIN FUEL SUP
CHAPITA WELLS	0.0	MOUNTAIN FUEL SUP
CHAPITA WELLS	0.0	MOUNTAIN FUEL SUP
DUCK CREEK	0.0	NORTHWEST PIPELIN
NBU-WASATCH	0.0	NORTHWEST PIPELIN
STAGECOACH UNIT	0.0	MOUNTAIN FUEL SUP
WILDCAT	73.0	MOUNTAIN FUEL RES
NATURAL BUTTES	246.0	COLORADO INTERSTA
NATURAL BUTTES	511.0	COLORADO INTERSTA
NATURAL BUTTES	420.0	COLORADO INTERSTA
BONANZA	150 0	NATURAL GAS PIPEL
PLEASANT VALLEY	414.0	PG & E SUPPLY CO
PLEASANT VALLEY	234.0	PG & E SUPPLY CO
PLEASANT VALLEY	54.0	PG & E SUPPLY CO
PLEASANT VALLEY	720.0	PG & E SUPPLY CO

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Part VII

Department of Housing and Urban Development

Office of the Assistant Secretary for Community Planning and Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

Announcement of Third Round of the Rental Rehabilitation Program Demonstration; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-84-1333; FR-1861]

Announcement of Third Round of the Rental Rehabilitation Program Demonstration

AGENCY: Offices of the Assistant Secretaries for Community Planning and Development and Housing, HUD.

ACTION: Notice of solicitation of proposals from eligible applicants to participate in the third round of the Rental Rehabilitation Program Demonstration.

SUMMARY: HUD is soliciting proposals from States and units of general local government to participate in a third round of the Rental Rehabilitation Program Demonstration. The Department is interested in promoting the rehabilitation of rental properties which require moderate amounts of rehabilitation, minimum levels of public financial subsidy, and which, after rehabilitation, will be affordable to lower income tenants. The Demonstration is jointly administered by the Assistant Secretary for Housing—Federal Housing Commissioner and the Assistant Secretary for Community Planning and Development.

DATES: Applications must be received in the appropriate HUD Field Office by 5:00 p.m. local time on February 21, 1984. The original proposal and two copies are to be sent to the appropriate HUD Field Offices, Attention: CPD Division Director, and two copies to HUD Headquarters, Attention: Rental Rehabilitation Program Demonstration, Office of Urban Rehabilitation, Room 7162, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Craig Nickerson, Director, Rehabilitation Management Division, Office of Urban Rehabilitation, Room 7162, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, telephone (202) 755-5970. For information about Section 8 Existing Housing certificates or the Section 8 Program requirements contact Gerald Benoit, Director, Existing Housing Division, Office of Existing Housing and Moderate Rehabilitation at the same address, telephone (202) 755-5353. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: For the last 2 fiscal years, the Demonstration has been the forerunner for the Rental Rehabilitation Program, which was included as part of the 1983 Housing and Urban Development legislation and recently enacted as Section 301 of the Housing and Urban-Rural Recovery Act of 1983, Pub. L. 98-181, 97 Stat. 1153 (1983) (the 1983 Act). The Demonstration embodies the basic precepts of the legislation, including the separation of the subsidy to the property from the tenant rental subsidy, reliance on the private sector, local flexibility and discretion, and minimum Federal involvement.

The purpose of the Demonstration is to help States and local governments develop the capacity and experience to administer streamlined, cost-effective rental property rehabilitation programs as part of their overall community development and revitalization strategies, and to prepare eligible grantees to assume responsibility for the administration of the Rental Rehabilitation Program when the regulations for the program are issued and become effecive in FY 1984. The Second Round of the Rental Rehabilitation Demonstration showed that even though the preparation of the application was a relatively simple process, implementation of the program often required considerable effort. The selection of appropriate areas and neighborhoods, the selection of projects, and securing the cooperation and participation of property owners and lending institutions required time.

The Third Round of the Rental Rehabilitation Program Demonstration is a continuation of a Demonstration started three years ago. There are no significant or substantial differences between this round of the demonstration and previous rounds. As such, it does not involve commencement of a demonstration program which would require compliance with the provisions of Section 470 of the 1983 Act.

The Rental Rehabilitation Demonstration is not a separate program and has no funds associated with it other than what participants voluntarily use, usually CDBG funds, and Section 8 Certificates. The Demonstration is *not* a permanent program but rather a self limited one. This year it will specifically give participants a chance to design and operate rental rehabilitation programs based on the same model, if not on all of the requirements, of the new law. Participants will have the chance to develop capacity and management skills, so that once regulations for the new program are published during FY 1984, they can move quickly to implement their new programs.

Twenty-three localities were selected to participate in the first round of the Demonstration in the summer of 1981. Fourteen States and 162 localities were selected to participate in the second round of the Demonstration in the summer of 1982.

As in the first two rounds, participating local governments must provide Community Development Block Grant (CDBG) funds or other forms of public subsidy for rehabilitation under the Demonstration.

The Department will provide Public Housing Agencies (PHAs) operating in participating States and units of general local government with special allocations of Section 8 Existing Housing certificates to be used as part of the Demonstration. Section 8 certificates, to the extent available, will be provided to participants at a ratio of one certificate for each $5,000 in public subsidy funds committed to the Demonstration. HUD also will provide, to the maximum extent feasible, technical assistance by HUD staff and private consultants to assist participating State and local governments in designing effective rental rehabilitation programs.

The Department is interested in promoting the rehabilitation of rental properties which require moderate amounts of rehabilitation using minimum levels of public subsidies. In general, public subsidies to finance repairs should not exceed 50 percent of the cost of rehabilitation.

1. Background

Since the late 1970s local governments have been actively involved in property rehabilitation programs. Although an average $1.1 billion in CDBG funds has been budgeted annually for publicly financed rehabilitation programs in recent years, most of these funds have been directed to rehabilitating owner occupied properties. Small rental properties represent a significant portion of the deteriorating housing stock in many localities and comprise a major source of housing for low- and moderate-income households. This Demonstration offers States and localities the opportunity to develop efficient, locally appropriate rental rehabilitation strategies to address these properties.

There are two essential precepts of the Demonstration. First, the program separates financial subsidies for property rehabilitation from rental

subsidies to lower income tenants. Second, the program permits local rental markets to operate freely without any rent restrictions or similar controls imposed by HUD or the State or local government which differ from those applicable to structures undergoing comparable rehabilitation without assistance. Under the Demonstration, State and local governments may use CDBG or other State or local public funds within their control to provide front-end subsidies to projects so that operating costs, debt amortization and reasonable profit can be achieved at market rentals. The Assistant Secretary for Housing will waive the Section 8 Existing Housing regulations (see paragraph 3.6 below) to permit eligible lower income tenants residing in these properties to receive Section 8 Existing Housing certificates from a special allocation and thus remain in occupancy of the rehabilitated units, or find alternative housing, subject to all other Section 8 Existing Housing regulations. The special allocation of certificates may also be used initially for eligible families wishing to move into vacant units rehabilitated under the Demonstration.

The 23 localities in the first round of the Demonstration committed a total of $7.5 million of their CDBG funds to subsidize conventional rehabilitation financing of rental properties. The first round was supported by a special allocation of approximately 715 Section 8 Existing Housing certificates. The fourteen States and 162 localities in the second round of the Demonstration committed approximately $38.5 million of their CDBG funds to the Demonstration and were allocated approximately 6,000 Section 8 Existing Housing certificates. First and second round participants are well underway in implementing their programs, and invaluable experience has been gained in program design and the mechanics of operating rental rehabilitation programs. This experience will provide useful information to State and local governments selected to participate in the third round of the Demonstration.

2. Goals of the Demonstration

The overall goals of the Rental Rehabilitation Program Demonstration are to expand the number of States and local governments with the capacity to carry out effective rental rehabilitation programs, and to expand the range of cost effective programs, so as to prepare as many State and local governments as possible to assume the responsibility for operating the Rental Rehabilitation Program once regulations implementing Section 301 of the 1983 Act become effective.

Specific objectives of the Demonstration include the deveopment of:

(a) Appropriate subsidy mechanisms that make it feasible, practical and cost effective to rehabilitate investor-owned small rental properties, especially occupied and partially occupied projects, for market rate rental;

(b) Rental rehabilitation programs which will increase the availability of standard, investor-owned, rental units that are affordable to lower income tenants, including those suitable for occupancy by the handicapped;

(c) Effective strategies to leverage private monies to subsidize financing for the rehabilitation of rental properties;

(d) Incentive for property owners to provide strong management and long term maintenance of rental properties which have received rehabilitation subsidies.

(e) Strategies to minimize displacement and to provide for the housing needs of tenants, including initial targeting of a special allocation of Section 8 Existing Housing certificates to eligible lower income households residing in the properties to be rehabilitated; and

(f) State and local government capacity to administer rental rehabilitation programs.

3. Resources for the Demonstration To Be Committed by Participants and HUD

3.1 Each participating unit of government must budget State or local public funds within their control to the Demonstration to leverage private rehabilitation financing. The principal use of public rehabilitation funds will be to subsidize the cost of private rehabilitation financing to the level required to make a project feasible at market rents. The funds made available for any structure should not exceed 50 percent of the costs necessary to rehabilitate that structure. Activities eligible for assistance with CDBG funds include any form of rehabilitation financial assistance for privately-owned properties allowed under Section 105 of the Housing and Community Development Act of 1974, for the State-administered Community Development Block Grant Program, or under the CDBG program regulations (24 CFR Part 570) for localities funded by HUD. If participating governments utilize a lump sum drawdown of funds to finance activities, substantial disbursements from the funds must begin within 180 days after receipt of such payment under Section 104(f) of the 1983 Act.

3.2 Small cities participating, or expecting to participate, in State-run CDBG programs may apply for assistance to the Demonstration either directly, after consultation with the State, or through a State agency (see ¶3.3). If applying directly, the applicant must state the amount, source, and availability of funds. If funds are only available contingent upon the State's approval, the application should indicate this and give a date when approval is expected.

3.3 States applying to the Demonstration may evidence their commitment of public funds to the Demonstration in several ways, for example by:

- Committing appropriated or other available State funds to the program to subsidize private rehabilitation financing;
- Including in their final CDBG statement of objectives and method of fund distribution an amount of CDBG funds set aside for use by small cities that wish to participate, and then coordinating the Demonstration with the participating communities; or
- Obtaining statements of intent to commit CDBG monies (or other resources) from recipient small cities and coordinating the Demonstration with such recipients.

3.4 State participants are encouraged to explore techniques for improving the flow of private funds for rental rehabilitation through use of State bonding authority. Funds raised by State housing finance agencies through tax-exempt or taxable bond financing, as well as funds provided from reserves or similar resources, can be used in the Demonstration. Unless otherwise specified, these funds, for the purposes of the Demonstration, are considered a source of private financing and not a commitment of public subsidy monies. State housing finance agencies that wish to have all or part of their financial contribution considered as a "public" subsidy should explain this in their new application, describe how projects will be financed, and indicate how much of the funds should be considered public. HUD will take this into account when allocating Section 8 certificates.

3.5 HUD will provide a special allocation of Section 8 Existing Housing certificates to PHAs within States and units of general local government selected for participation. Certificates will be provided, within the limits of availability, at a ratio of one certificate for each $5,000 in public subsidy funds committed. This special allocation of Section 8 certificates is provided solely for the purpose of carrying out this

Demonstration. Consequently, the PHA will be required to amend its administrative plan to provide that the funding for these certificates may not be used initially for any purpose other than Demonstration activity without the written approval of HUD. Once a certificate has been used as part of the Demonstration, any subsequent use of the certificates is subject only to the requirements of the Section 8 Existing Housing Program.

3.6 The Assistant Secretary for Housing will issue appropriate waivers under 24 CFR Part 882 to permit participating PHAs to target the special allocation of Section 8 Existing Housing certificates initially to eligible tenants residing in the Properties undergoing rehabilitation through the Demonstration and to eligible tenants on the PHA's waiting list who wish to occupy initially any vacant unit rehabilitated as part of the Demonstration. Before the granting of waivers and the execution of the necessary Annual Contributions Contract (ACC) amendments, however, the PHA will be required to submit appropriate modifications to its Section 8 administrative plan. In planning their programs, participants should be aware that as part of its implementation of section 16(b) of the United States Housing Act of 1937, HUD is currently considering adoption of a final rule that would sharply curtail, or eliminate altogether, the availability of newly issued Section 8 Existing Housing certificates to families whose incomes are between 50 percent and 80 percent of area median income levels. While the rule may permit the granting of exceptions, participants should not plan their programs on the expectation that a categoric exception will be made for occupants of units rehabilitated as part of the Demonstration.

3.7 To the maximum extent feasible, using resources available, HUD will provide technical assistance at no cost to participating States and localities from HUD Headquarters and Field staff, from staff of localities already participating in the Demonstration, and from private technical consultants.

4. Local Rental Rehabilitation Program Design

Each participant will have the flexibility to design a Demonstration program to meet its local needs, priorities and management structures, within the basic parameters of the Demonstration. Program components which are required in all locally adopted designs are outlined in the following paragraphs.

4.1 *Area Selection.* All applicants must tentatively designate one or more areas for participation in the Demonstration. These areas may be changed, expanded, or contracted as Demonstration communities begin to operate their programs. Appropriate areas are those where there is a need for rehabilitation of rental residential properties principally occupied, or to be occupied, by lower income tenants, where the rental housing market is reasonably stable and where, after rehabilitation, "street rents," including utilities, generally will be affordable to low- and moderate-income renters, and are within Section 8 Existing Housing Fair Market Rents for the area. For the purpose of the Demonstration, the term "street rent" means the highest rent, including utilities, that the owner can reasonably expect to receive for the unit in a given location and at a particular point in time from an unassisted tenant.

4.2 *Property Selection.* Small, predominantly residential rental properties of one to thirty units per building are the focus of this Demonstration, although larger properties may be assisted where appropriate. To be eligible, a property must contain one or more rental units, whether owned by an absentee investor or an owner occupant. In addition, for properties to be considered eligible for assistance they must, before rehabilitation, be substandard (i.e., not meet the Section 8 Housing Quality Standards or a locally determined standard) and require a minimum expenditure of $1,000 per unit to correct substandard conditions.

4.3 *Eligible Property Owners.* To be eligible for rehabilitation assistance under the Demonstration, the property must be owned by private, for-profit owners. Non-profit organizations, defined as any public or private legal entities that are organized on a not-for-profit basis under applicable State law, may perform any function with regard to the Demonstration, with the exception that they may not participate as the property owner.

4.4 *Rehabilitation Standards.* After rehabilitation, all properties assisted through the Demonstration must, at a minimum, meet the performance requirements set forth in 24 CFR § 882.109 (Section 8 Existing Housing Quality Standards).

4.5 *Relocation/Tenant Assistance Policy.* Participants must develop a written relocation/tenant assistance policy that is consistent with local needs and neighborhood characteristics. Such policy must be developed after public consultation in which the grantee sets forth its plans for minimizing displacement of persons as a result of the use of CDBG funds and for assisting persons actually displaced as a result of CDBG activities (see section 104(b)(2) of the 1983 Act). When the participant is an Entitlement community planning to use CDBG funds in the Demonstration, this policy must be consistent with the public policy on displacement as required by law. Reasonable minimum levels of protection for lower income tenants shall be developed by the participating State or locality. The Department will be available for technical assistance on relocation and tenant assistance policies but will not approve such policies.

4.6 *Affirmative Fair Housing Marketing.* All States, units of general local government and individual property owners participating in the Demonstration must agree, in addition to all other requirements under applicable statutes, Executive Orders or regulations, to comply with the following Affirmative Fair Housing Marketing requirements (except for units rented to tenants already in occupancy or to families moving into a unit with a Section 8 Demonstration certificate): (a) The property owner assisted through this program must ensure that any vacant rehabilitated units will be marketed for rental in a manner affirmatively to further fair housing, as described in 24 CFR § 200.620(a)–(f); (b) If a rehabilitated unit is advertised for rental, the advertising must be accomplished in a manner calculated to inform eligible persons who would otherwise be least likely to apply for the unit; and (c) The HUD "Equal Housing Opportunity" logo and slogan shall be displayed in all advertising.

4.7 *Rehabilitation Financing.* Private financing is an essential element of the Demonstration. All projects included in this Demonstration must be structured so that operating costs, debt service and reasonable profit can be supported by the street rents. CDBG or State or local public subsidy funds are used to leverage private financing in any manner that the locality finds appropriate to achieve its purpose. Public funds should be the minimum required to make projects financially feasible. Public subsidies should not exceed 50 percent of the cost of rehabilitation for a structure. The appropriate subsidy to achieve these objectives is some form of reduction of the privately-financed cost of rehabilitating the project. The amount and type of subsidy will depend upon the specific Demonstration program

design and upon the economics of the rental rehabilitation market for the neighborhood or for specific projects. The State or locality must require that the owner have a substantial equity in the real property connected with each rehabilitation project. Examples of possible public rehabilitation financing mechanisms are:

(a) a direct front-end capital grant or a deferred payment loan in an amount sufficient to provide the subsidy necessary to make the project economically feasible at street rents; or

(b) an interest-rate buy-down of a private rehabilitation loan.

Guaranteed artifically high rental incomes to property owners, or public guarantees to protect owners and investors against market risks are *not* permitted as part of the Demonstration.

4.8 *Rental Subsidies.* In keeping with the preceding paragraph, the credit analysis and subsidy determination for all projects must separate the rental subsidy to lower income tenants administratively, financially and conceptually from the subsidy for property rehabilitation. Demonstration projects must be feasible at street rents since the rent stream is *not* guaranteed by the public sector. Tenants with Section 8 Existing Housing certificates may move out at any time, leaving the unit to be rented without any guarantee of rent subsidy. Thus, areas and properties appropriate for selection in the program are those in which, after rehabilitation, street rents, including utilities, would be affordable to lower income tenants with Section 8 Existing rental assistance (i.e., rents do not exceed Section 8 Existing Housing FMRs).

4.9 *Rent Restrictions.* No rent restrictions, rent controls, restrictions on return on investment, or other policies which prevent an owner from maximizing return, and which are different than those applicable to structures being rehabilitated without assistance may be imposed as a condition of receiving assistance through this Demonstration.

4.10 *Private Sector Participation.* In order to minimize administrative overhead costs, each Demonstration program shall encourage delegation of appropriate responsibilities to the private sector and utilize streamlined processing procedures. For example, lenders might perform loan origination, underwriting or servicing functions. Contractors might be required to prepare work write-ups, and architects to develop plans and specifications.

4.11 *Future Assistance to Projects.* It must be made clear to all participating property owners that they cannot rely upon future public assistance for projects that subsequently develop financial difficulties.

4.12 *Property Owner Certification.* Participating States and localities must secure, for all properties rehabilitated under the Demonstration, a certification signed by the property owners that they will adhere to the following conditions:

(a) Property owners, as a condition of participation in the Demonstration, and not as a Section 8 Existing Housing Program requirement, shall not discriminate against tenants on the basis of their receipt of, or eligibility for, housing assistance under any Federal, State or local housing assistance program.

(b) Property owners renting to tenants with Section 8 Existing Housing certificates shall comply with all Section 8 Existing Housing regulations.

(c) Property owners must affirmatively market units whenever units become vacant, in accordance with Paragraph 4.6, above.

4.13 *Program Requirements.* States and localities participating in this Demonstration program must comply with all applicable CDBG and Section 8 Existing Housing regulations and policies, except as provided for in waivers to be issued by the Department, when monies from these programs are used as part of the Demonstration. In addition, if funds, including rehabilitation financing, are provided through any other Federal assistance, loan, guarantee, or insurance program, the regulations and requirements applicable to such programs must be followed. Prospective participants should be aware that the 1983 Act modified the Housing and Community Development Act of 1974 to provide that not less than 51 percent of Community Development Block Grant funds be used for activities that benefit persons of low and moderate income during a period specified by the grantee of not more than three years. CDBG funds used for rehabilitation of property for housing will only be counted for low and moderate benefit to the extent that the units are occupied by low- and moderate-income persons.

5. Application Requirements: New Participants

Form 424 (sample attached) will be used for the application. The application should be brief—not more than 10 pages—and provide the following information:

5.1 A two-page narrative on why a rental rehabilitation program is needed by the State or locality, and why this Demonstration is particularly appropriate to address these needs. The narrative should also state the objectives of the applicant State or locality and expected accomplishments as a result of participation.

5.2 A preliminary selection of one or more areas for the Demonstration, with a discussion of why the area is appropriate in accordance with paragraph 4.1 of this Notice.

5.3 A brief description of the State or local organizational framework for implementing the Demonstration, including the administrative and managerial relationship between the agency administering the Demonstration program and the Public Housing Agency.

5.4 Where the applicant is a unit of general local government, a statement by the Chief Executive Officer (a) certifying the willingness of the locality to comply with the program design requirments set forth in Paragraph 4 of this Notice, and (b) indicating the proposed amount of CDBG or other public funding which the applicant intends to commit and when these funds will be available. The PHA also must certify its willingness to cooperate with the agency administering the Demonstration.

5.5 Where the applicant is a State, the Governor or authorized State agency official shall submit statements as described above. To the extent feasible, State applicants also should specify the subgrantees who will be working with them, and the amount and source of funds, if any, that each recipient intends to commit to the Demonstration. Applications from States and local governments without *firm* fund commitments will be considered. However, Section 8 certificates will not be provided to selected communities until the public funds are actually committed to the Demonstration.

5.6 The Department will attempt to achieve diversity in its selection of new participants, as to geographical distribution, population and type of applicant (State, city or urban county). Other factors to be taken into consideration (which may be addressed by applicants in the application) in assessing each application will include the following:

- Extent of commitment to the development of an investor-owned rental rehabilitation program;
- Degree of understanding and incorporation of key elements of the Demonstration;
- Quality and past performance of the applicant in connection with a State or local rehabilitation Demonstration;
- Ability to implement the program within a reasonable amount of time from date of approval.

6. Application Requirements: Existing Participants

6.1 Applications from existing first and second round participants who wish to expand their activity under the Demonstration should be in the form of a letter sent to the appropriate HUD Field Office and HUD Headquarters which states the amount of additional CDBG funds or other public funds the applicant intends to commit to the expanded program. Letters from States should indicate whether new CDBG or other public funds will be used to expand activity in the existing Demonstration communities or to bring in additional communities, and when funds are likely to be available. As with new participants, applications from State and local governments without firm fund commitments will be considered. However, Section 8 certificates will not be provided to selected communities until the public funds are actually committed to the Demonstration.

6.2 Where the participant is a unit of general local government, the letter must be signed by the Chief Executive Officer. Where the participant is a State, the Governor or authorized State agency official shall sign the letter. The PHA for the local government or State must certify its willingness to continue its participation and cooperation with the agency administering the Demonstration.

6.3 Current participants will be selected for allocation of additional Section 8 certificates based upon the level of public commitment to the Demonstration and the actual performance of a participant in implementing its existing Demonstration activity.

7. Selection and Approval Procedures

7.1 New applications will be reviewed, rated and ranked by HUD Field Offices and by a selection board of senior HUD Headquarters staff from the offices of Housing and Community Planning and Development, according to the factors set forth in Paragraph 5.6 of this Notice. Preliminary selection of applicants will be made by the Assistant Secretaries for Housing and for Community Planning and Development, in consultation with Regional Administrators, based on staff recommendations. The Secretary of HUD shall make the final selection.

7.2 Applications from current participants will be selected based upon a review and certification by the appropriate HUD Field Office of progress in their current Demonstration. Preliminary approval of such applications will be made by the Assistant Secretaries for Housing and Community Planning and Development in consultation with Regional Administrators, based on staff recommendations. The Secretary of HUD shall make the final selection. Announcement of selections of current participants may be made in advance of, and separately from, announcements concerning new participants.

7.3 Where the applicant will provide funds other than CDBG funds as its form of public subsidy, HUD will comply with the environmental requirements of the statutes and authorities cited in 24 CFR 50.4 of the HUD regulations with respect to applications proposed for approval. Moreover, notwithstanding the general categorical exclusion of the Section 8 Existing Housing Program from the environmental review requirements of 24 CFR Part 50, HUD recognizes that projects approved under this Demonstration could result in an effect on the physical environment, and therefore will conduct an environmental review of each application proposed to be approved which does not involve CDBG funds, unless the application indicates that the scope of the proposed rehabilitation activity will not exceed the thresholds for the categorical exclusion of rehabilitation found in 24 CFR 50.20(c). Where the applicant will use CDBG funds, the applicant, rather than HUD, shall be responsible for environmental requirements under the National Environmental Policy Act and other environmental laws and authorities in accordance with 24 CFR Part 58.

A Finding of No Significant Impact with respect to the environment has been made with regard to this Notice, in accordance with HUD regulations in 24 CFR Part 50, which implement Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the General Counsel, Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, D.C. 20410.

The Catalog of Federal Domestic Assistance program numbers are: 14.218, Community Development Block Grants/Entitlement Grants; 14.219, Community Development Block Grants/Small Cities Program; 14.228, Community Development Block Grants for States; and 14.156, Lower Income Housing Assistance Program.

The collection of information requirements contained in this Notice have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520) and have been assigned OMB Control No. 2506–0051.

Authority: Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301–5320); United States Housing Act of 1937 (42 U.S.C. 1437).

Dated: January 16, 1984.

Jack R. Stokvis,

General Deputy Assistant Secretary.

Maurice L. Barksdale,

Assistant Secretary for Housing/Federal Housing Commissioner.

[FR Doc. 84–1685 Filed 1–19–84; 8:45 am]

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Friday
January 20, 1984

Part VIII

Department of Energy

10 CFR Part 625

Sale of Strategic Petroleum Reserve; Standard Sales Provisions

DEPARTMENT OF ENERGY

10 CFR Part 625

Sale of Strategic Petroleum Reserve Petroleum; Standard Sales Provisions

AGENCY: Procurement and Assistance Management Directorate, Assistant Secretary for Management and Administration, Department of Energy.

ACTION: Interim appendix to final rule; request for further comment.

SUMMARY: On December 21, 1983 (48 FR 56538), the Department of Energy (DOE) published in the **Federal Register** a final rule governing price competitive sales of petroleum from the Strategic Petroleum Reserve (SPR) in the event that the SPR is drawn down to respond to a severe energy supply interruption or to meet obligations of the United States under the Agreement on an International Energy Program (IEP). This final rule provided for the publication in the **Federal Register**, as an appendix thereto, of Standard Sales Provisions (SSPs) containing or describing contract clauses, terms and conditions of sale, and performance and financial responsibility measures, which may be applicable to a particular sale of SPR petroleum. On June 15, 1983, draft SSPs were published in the **Federal Register** for public comment. After consideration of these and other comments, DOE has revised the SSPs and now adopts them on an interim final basis for use in the event that an emergency should occur. DOE also solicits further written comments with respect to these SSPs.

DATES: Comments on the SSPs are requested by March 20, 1984. The effective date of the SSPs is January 20, 1984.

ADDRESSES: Send comments to: Lynn Warner, MA–453.1, Department of Energy, Room 1J–015, 1000 Independence Avenue, SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT:

Marcia L. Morris, Procurement and Assistance Management Directorate, Department of Energy, Room 1I–018, 1000 Independence Avenue, SW., Washington, D.C. 20585; (202) 252–8871;

Fred A. Hutchinson, Strategic Petroleum Reserve, Environmental Protection, Safety, and Emergency Preparedness, Department of Energy, Room 3E–042, 1000 Independence Avenue, SW., Washington, D.C. 20585; (202) 252–4734; and

E. Grant Garrison, Office of Assistant General Counsel, International Trade and Emergency Preparedness, Department of Energy, Room 6A–141, 1000 Independence Avenue, SW., Washington, D.C. 20585; (202) 252–2900.

SUPPLEMENTARY INFORMATION:

I. Background
- A. The Strategic Petroleum Reserve Plan
- B. The Final Rule
- C. Proposed Standard Sales Provisions

II. Discussion of Major Comments
- A. General Comments on the SSPs
- B. Responses to Questions Asked in the Draft SSPs Notice
- C. Comments on SPR Plan Amendment No. 4

III. The Interim Final Standard Sales Provisions
- A. Major Revisions
- B. Revised Provisions

IV. Procedural Matters
- A. Comment Procedures
- B. Effective Date
- C. Paperwork Reduction Act

I. Background

A. The Strategic Petroleum Reserve Drawdown Plan

In the Energy Emergency Preparedness Act of 1982 (EEPA), Pub. L. 97–229, Congress required that a new "Drawdown" (Distribution) Plan, establishing procedures for the sale of oil from the SPR during a drawdown in response to a severe energy supply interruption or to meet IEP obligations, be transmitted to the Congress. The EEPA provided that this amendment to the SPR Plan would take effect on the date transmitted, without Congressional review. The new Distribution Plan, SPR Plan Amendment No. 4, was transmitted to Congress on December 1, 1982, and took effect on that date. The new Plan provided that the principal method of distributing SPR oil will be price competitive sale.

On March 16, 1983, DOE published a notice of proposed rulemaking (48 FR 11125) to establish a framework for implementing the policies and procedures set out in Amendment No. 4. For a discussion of the statutory authority for the SPR, the regulatory background of the proposed rule, and the SPR's physical facilities, *see* the preamble to the proposed rule at 48 FR 11125.

B. The Final Rule

The purpose of the rule is to facilitate the sales process during a drawdown of the SPR by providing for the establishment of Standard Sales Provisions (SSPs), containing contract terms and conditions developed in accordance with the rule which, it is expected, will be contained in contracts for the sale of SPR petroleum. The rule calls for the publication of the SSPs in the **Federal Register** and the Code of Federal Regulations as an appendix to the rule. The rule also provides for the periodic review and republication of the SSPs in the **Federal Register**, including any revisions to such Provisions.

Upon a Presidential decision to draw down the SPR, DOE would issue a Notice of Sale, announcing the amounts, types, and locations of the SPR petroleum to be sold, the delivery points and other pertinent information. The rule provides that the Secretary of Energy or his designee would specify in the Notice of Sale, by referencing the **Federal Register** and the Code of Federal Regulations in which the latest version of the SSPs was published, which of the terms and conditions in the SSPs would or would not apply to a particular sale. In the Notice of Sale, the Secretary also could revise such terms and conditions, or add new ones which would apply to that particular sale. Offerors, as part of their offers for SPR petroleum, would agree to all contractual provisions and financial and performance responsibility measures made applicable by the Notice of Sale, and comply with the responsibility measures in accordance with the Notice of Sale. The rule provides that no contract could be awarded to an offeror who had not unconditionally agreed to all contractual provisions and responsibility measures made applicable by the Notice of Sale. It is expected that the terms and conditions set out in the SSPs and made applicable by the Notice of Sale will not be part of the contract documents as such, but rather will be incorporated by reference; the rule so provides.

Time may be of the essence in a severe energy supply interruption. Failure to achieve the desired SPR drawdown rate could lessen the beneficial effect of an SPR drawdown. Buyers who default on their sales contracts could undermine achivement of the desired drawdown rate, with potentially adverse consequences for the economy or the national security. Consequently, in order to assure that the drawdown objectives of the SPR are achieved and that only responsible offerors are awarded contracts, the rule provides that the Secretary may exclude a firm from participating in any future sale of SPR petroleum when that firm had previously offered to buy SPR oil, was awarded a contract, and failed to take delivery of the petroleum in accordance with the terms of the contract. This exclusion would be in addition to any remedies for breach which may be provided for in the contract of sale. The ineligibility would not come into effect until after the firm

had been given an opportunity to submit information or argument in opposition to the ineligibility, which the Secretary must consider before making the purchaser ineligible for future award of SPR sales contracts. The ineligibility would continue for the length of time determined by the Secretary as appropriate under the circumstances. The rule provides that at his discretion the Secretary may permit any such firm that petitions for reinstatement, to participate in future SPR sales. In addition to the remedies available to the Government under the contract and under this rule, a purchaser who defaults on a contract also may be subject to debarment procedures in accordance with other applicable DOE regulations.

C. Proposed Standard Sales Provisions

1. *General Sales Objectives.* On June 15, 1983, proposed SSPs were published in the **Federal Register** (48 FR 27482) for public comment. The new SPR Distribution Plan, SPR Plan Amendment No. 4, provides that price competitive sales of SPR petroleum will be open to all interested buyers. Amendment No. 4 also provides for performance and financial responsibility measures in the SPR oil sales process, to reduce the risk that a buyer of SPR oil might fail to meet its contractual obligations to the Government. The procedures and provisions contained in the proposed SSPs were designed to balance and achieve both of these objectives.

In order to maximize competition by the widest possible universe of offerors, DOE made the draft SSPs as unrestricted and nonjudgemental as possible. As required by Amendment No. 4, price was to be the determining factor in the award of SPR petroleum sale contracts.

In order to reduce the risk of purchases by persons who lack the capability or intent to take timely delivery of SPR petroleum, or the financial wherewithal to pay for it, the proposed SSPs required that: (1) A firm transportation plan showing an ability to move the oil must be submitted by an offeror before it is awarded a contract, and (2) binding guarantees of the offeror's full payment and performance under the contract must be agreed to by each offeror as a precondition to contract award. The measures included in the draft SSPs to ensure the offeror's fulfillment of its responsibilities included:

1. Requirement for offer guarantee;
2. Requirement for letter of credit or cash deposit to guarantee payment and performance;
3. Assessment of liquidated damages for failure to lift oil in accordance with the contract; and
4. Possible termination for default.

An offer or agreement to acquire SPR oil thus would involve a substantial commitment to the implementation of SPR drawdown and distribution in a manner consistent with the purposes of the SPR.

2. *General Sales Procedures.* Under the draft SSPs published for comment on June 15, the SPR sales process started with the issuance of a Notice of Sale, followed by the submission of offers by prospective buyers. The Notice of Sale announcing the sale of SPR petroleum would indicate the amount, characteristics and location of the petroleum being sold, the delivery dates and the procedures for submitting offers, as well as providing other information pertinent to a particular sale; in addition, it would specify what contractual provisions and performance and financial responsibility measures were applicable. The Government would evaluate the offers and award SPR sales contracts to those offerors making the highest priced responsive offers, who had provided the necessary assurances of performance and financial responsibility.

Over the course of an SPR drawdown, a number of Notices of Sale may be issued, each covering a sales period of 1 to 2 months. Initially, Notices of Sale issued during SPR drawdown could allow an extremely short lead time for offers and deliveries. Under the proposed SSPs, it was contemplated that offerors might be given as little as 7 days from the issuance of the Notice of Sale until offers were due, and as little as 15 days from the time of such issuance until oil delivery started, with a less compressed schedule becoming more feasible after the initial stages of drawdown. Because of the possible short lead times, the proposed SSPs provided for the establishment of a list of prospective offerors, to whom the Government would furnish copies of all Notices of Sale.

The next step in the sales process was the preparation by prospective purchasers of their offers, which must be submitted before a time specified in the Notice of Sale. The proposed SSPs required that the offeror: unconditionally accept all terms and conditions made applicable to that sale by the Notice of Sale; include an offer guarantee; and offer at least the minimum price specified in the Notice of Sale.

Following the receipt of offers, the Government would evaluate the offers to select the "apparently successful" offerors. Offers were to be for prespecified amounts of petroleum (termed "delivery line items"), at given delivery points, on designated delivery dates, as set out in the Notice of Sale. Offerors would not have been permitted to alter a specified quantity, delivery point, or date. Offers for a particular delivery line item would have been ranked from highest to lowest, with the offeror making the highest offer, being selected as the apparently successful offeror. In the event that no offers were received for a particular item, the proposed SSPs established a procedure for selecting an apparently successful offeror for that item without soliciting further offers.

Under the proposed SSPs, all apparently successful offerors would have been required, within as little as 72 hours, to provide details of firm transportation arrangements for the crude oil, as well as either a letter of credit or a cash deposit as a guarantee of performance and of payment of amounts due under the contract. Upon timely receipt of those items, and upon a final determination by the Contracting Officer that the offer was responsive and the offeror responsible, the Government would issue the Notice of Award.

3. *Purchaser Performance and Financial Responsibility.* As mentioned above, the proposed SSPs established four major measures to assure purchaser performance and financial responsibility: (1) The offer guarantee, (2) the payment and performance guarantee, (3) liquidated damages, and (4) termination for default remedies.

a. Offer Guarantee

Under the proposed SSPs, the offeror was required to submit with its offer a guarantee that the offer would remain valid for 10 days after the date set for receipt of offers. This guarantee could take the form of an offer bond on the Government's Standard Form 24, a certified or cashier's check, or a cash deposit to a special DOE account. The maximum amount of the required guarantee was $10 million or 30 percent of the total of all of the bidder's offers for SPR petroleum line items, whichever was less. The offer guarantee was to be available for offset against any damages, including lost revenue on resale of the petroleum, incurred by the Government when an apparently successful offeror failed to provide the required payment and performance guarantee, or otherwise failed to execute the contract.

b. Payment and Performance Guarantee

In order to assure that the Government received payment for oil delivered or for other amounts due under the contract in connection with the buyer's performance, such as liquidated damages or other damages for breach of contract, apparently successful offerors were required to provide a payment and performance guarantee prior to contract award. This could be in the form of either a letter of credit or an advance cash payment.

The letter of credit was to be for 115 percent of the contract, and was to be issued by a bank that participates in the Federal Reserve Bank FEDWIRE system. It would be an irrevocable clean letter of credit, in the form specified in the proposed SSPs, with payment by draft accompanied by a statement of an authorized Government official either that payment was due for oil delivered, or that payment was due for liquidated or other damages.

After delivering the SPR petroleum to the purchaser, DOE would prepare a delivery report on a Department of Defense Standard Form DD–250, and a message containing the draft and the prescribed statement of an authorized Government official. The message containing the draft and prescribed statement could be sent by the SPR's New Orleans Project Management Office to the New Orleans Branch of the Atlanta Federal Reserve Bank for wire transmittal to the bank which issued the letter of credit. That bank must wire the funds thus drawn upon to the U.S. Department of the Treasury Account at the New York Federal Reserve Bank by the next business day after receipt of the draft. Copies of the invoice and the DD–250 would be mailed to the contractor and to the bank.

As an alternative to submitting a letter of credit, under the proposed SSPs the apparently successful offeror could submit an advance cash payment by wire transfer to a special DOE account, in an amount of 45 days' billings under the contract plus 15 percent of the total contract amount, or 115 percent of the entire contract amount, whichever is less. DOE would invoice the purchaser after each delivery, and if the amount remaining due under the contract exceeded the amount of the advance payment, the purchaser would make payment by wire transfer to the U.S. Department of the Treasury account. The cash guarantee would be applied as a credit against the final invoice.

c. Liquidated Damages

To provide compensation for the damages incurred by the Nation from a failure by purchasers to fully honor SPR petroleum sales contracts, the proposed SSPs imposed liquidated damages on buyers' unexcused failure to comply with the contractually agreed delivery schedules. These damages were to be in an amount equal to one percent of the contract price per barrel of undelivered petroleum, for each day or fraction thereof that a purchaser is late in accepting the petroleum, up to a maximum of 30 days. Liquidated damages would not be assessed unless the tardiness was due to causes for which the contractor was responsible.

In addition to being liable for liquidated damages, a purchaser who, without valid excuse, failed to take delivery of SPR petroleum in accordance with a contract to buy, also could be liable to the Government for the Government's lost receipts in the event that the purchaser's contract was terminated for default, and the petroleum was sold to another buyer at a lower price.

d. Termination for Default

The proposed SSPs provided that in the event that the purchaser failed, without valid excuse, to make payment in accordance with the SSPs, to accept delivery under the terms of the SSPs, or to comply with any other provision of the SSPs within 5 working days after written notice of such failure, the Contracting Officer could terminate the contract in whole or in part. Should the Government exercise its right of termination, it could sell any contracted-for and undelivered petroleum, holding the original purchaser liable for the difference between the contract price and any lesser price obtained for the sale of the crude, as well as for any applicable liquidated damages.

If there were insufficient time to decide whether a failure or refusal to lift SPR oil was due to a reason for which the contractor was culpable, DOE initially could elect to terminate the contract, before determining whether there was a basis to declare a default. The Contracting Officer promptly would proceed to examine the facts, and could convert the termination to one for default at any time within 10 days from the termination.

e. Other Performance and Financial Responsibility Measures

In addition to the performance and financial responsibility measures contained in the draft SSPs, the SPR sales rule on competitive SPR sales provides a mechanism for excluding purchasers from future participation in SPR sales in the event of their nonperformance. The only other bases in the proposed SSPs upon which the Contracting Officer could make a finding of nonresponsibility were a failure of an apparently successful offeror to submit a transportation plan showing its ability to take timely delivery of the SPR petroleum and move it to its destination, or evidence of an offeror's conduct or activity which: (i) Represented a violation of law or regulation, or Executive Order having the force and effect of law, or (ii) showed a lack of integrity or willingness to perform, and would substantially diminish the Contracting Officer's confidence in the offeror's performance.

II. Discussion of Major Comments

The interim final SSPs have been substantially revised as a result of the public comment process and of independent analysis and study by DOE. In August 1983 DOE conducted a test exercise of the SPR drawdown management system, called "DIREX–B," which involved a simulated use of the draft SSPs. As part of that test, an independent assessment team made up of DOE personnel and other Government personnel, supported by industry consultants, reviewed the entire exercise and recommended changes to the draft SSPs. In addition, discussions held by DOE with industry, particularly with operators and owners of the terminals and pipelines connected to SPR facilities, have contributed to an understanding of how best to achieve the SPR's drawdown objectives.

The most significant changes in the proposed SSPs published on June 15 are revision of the line item schedules and the method for evaluating offers and, related to that change, elimination of the requirement for a transportation plan. There also have been a number of changes to the purchaser payment and performance responsibility measures. However, the basic principles discussed above with respect to these responsibility measures have been retained in the revised SSPs. A provision-by-provision discussion of changes which have been made in the published draft SSPs follows this discussion of the major comments.

Comments on the proposed SSPs were requested through September 16, 1983. Written comments were received from 30 different organizations including major oil refiners, small oil refiners, oil industry trade associations, a chemical manufacturers trade association, a banking trade association, and two States. The specific comments received from these respondents, or made by the DIREX–B assessment team, are discussed below in three categories: (1)

general comments on the SSPs; (2) comments in response to the specific questions asked in the preamble to the proposed SSPs; and (3) comments on the SPR Distribution Plan, SPR Plan Amendment No. 4.

A. General Comments on the SSPs

A major finding of the DIREX–B assessment team was that while the sales procedures of the draft SSPs were likely to accomplish the sale of SPR petroleum, the rigid transportation requirements of the draft SSPs would detract from the success of any SPR drawdown and distribution. The assessment team recommended a sales process which gave industry greater flexibility in determining lot sizes, delivery dates and transportation methods, rather than having DOE dictate them. Two commenters also proposed similar changes to the sales method. Another five commenters suggested that the sales method at least be changed to permit greater flexibility as to delivery dates. As recommended, DOE has adopted a significantly different and more flexible approach to awarding SPR oil sale contracts through price competitive sale, which is further explained in the provision-by-provision discussion which follows this discussion of the major comments.

The oil sale system proposed on June 15 was a fragmented, yet rigid one, in which offerors had to offer on numerous small lots of oil, fixed by the Government, to be lifted at such times and by such methods as the Government specified. The system we propose today allows high offerors to choose the volume of their purchases, and to pick the method and timing of delivery.

Under the draft SSPs published on June 15, there were 16 master line item schedules, two for each of the eight SPR crude oil streams in storage,* consisting of one master line item covering petroleum to be delivered to each major common carrier pipeline connected to a storage site, and one master line item covering petroleum to be delivered by vessel or by private pipeline. Each master line item had up to 31 delivery line items corresponding to the days of the month. The Notice of Sale would have specified a quantity of oil to be available on a particular day for delivery via the delivery method specified by the master line item. Alternate offers would not have been permitted, nor would an offeror's changing of quantities, dates or delivery methods.

Under the revised SSPs, there will be only eight master line items, one for each of the eight crude oil streams stored in the SPR. The Notice of Sale will not specify the method by which the oil must be delivered, the delivery date, or the quantity, except to establish a minimum required purchase quantity. Instead, the offeror must indicate the proposed delivery method, and for vessel deliveries, a delivery period (although alternate offers may be made for different delivery periods and methods). Offerors may submit offers on more than one master line item, but may not make alternate offers on different master line items. Specific delivery dates are to be worked out by mutual agreement between the Government and the successful offerors, with the highest offerors being given first choice as to delivery dates. *See* SSP No. C.6. DOE will rank all offers on a master line item, and award contracts to those submitting the highest offers, regardless of delivery method. However, DOE will not award more petroleum to be transported by a particular delivery method than DOE estimates can be delivered by that method. The SPR oil sale contract will specify the delivery method, and the delivery method can be altered only by contract modification. Provision No. C.16 does provide that DOE will grant such modification whenever the modification does not interfere with the transportation plans of other purchasers. For a detailed discussion of the sales process, *see* the discussions in the following section, and SSP Nos. B.14, B.15, B.16, B.19, B.20 and the Instructions to Exhibit A of the interim final SSPs.

The DIREX–B assessment team further recommended elimination of the transportation plan, as they concluded that the performance and payment responsibility measures provide sufficient assurance that only those capable of accepting delivery of the petroleum would submit offers, and that the plan therefore was superfluous as an assurance of purchaser responsibility. The assessment team also found that it was likely that purchasers would be unable to provide firm transportation plans, including final destination, within the time required. The assessment team recommended that the scheduling of deliveries be achieved by discussions between the parties, such arrangements to be as flexible as possible. Nineteen comments from the public also were received objecting to various aspects of the draft SSPs' requirements for transportation plans.

As a result of the comments received, DOE has eliminated the transportation plan. Transportation arrangements are to be worked out by agreement between the parties in accordance with SSP No. C.6. However, while DOE no longer will require a transportation plan from every purchaser, DOE, in SSP No. B.21, has reserved the right to request information on an offeror's plans for transporting the petroleum, in order to obtain assurance that the offeror does not plan to transport the petroleum in violation of either the cabotage laws or U.S. export control laws.

Twenty comments were received recommending that the SSPs allow purchasers more time to meet SPR oil acquisition and delivery requirements. Of particular concern was the time allowed by the SSPs for the buyer's submission of a payment and performance guarantee, and for arrangement of transportation. The DIREX–B assessment team likewise recommended that additional time be allowed the buyer for making transportation arrangements. The proposed SSPs were based upon an assumed 15-day lead time from the issuance of the Notice of Sale until deliveries commenced. As revised, the SSPs which we publish today assume a 30-day lead time from the Notice of Sale until the delivery month which would allow longer for the submission of the guarantee and for the making of transportation arrangements; DOE expects to have oil deliveries start on the 1st day of a calendar month, to the maximum extent practicable, so as to coincide with normal industry practice and with pipeline requirements. Provision No. B.20 now provides at least 5 days for submission of the payment and performance guarantee, and with a 30-day lead time DOE estimates that, assuming offers are required to be submitted 7 days after the issuance of the Notice of Sale (as provided in Provision No. B.5), apparently successful offerors will have approximately 20 days to make transportation arrangements before the delivery month is to commence.

Eighteen comments were received urging, in case of an SPR drawdown, waiver of the "Jones Act," 46 U.S.C. 883, which has the effect of requiring that SPR crude delivered between ports in the U.S. be carried in U.S.-flag vessels. The comments expressed a concern that there were not sufficient tankers in the U.S.-flag fleet to meet the transportation requirements of an SPR drawdown. Five of the 18 recommended waiver of the

*The eight SPR crude oil streams, each of which is available only at a single location, are:

SPR Bryan Mound Sweet; SPR Bryan Mound Sour; SPR Bryan Mound Maya; SPR West Hackberry Sweet; SPR West Hackberry Sour (includes Sulphur Mines oil); SPR Bayou Choctaw Sweet; SPR Bayou Choctaw Sour; SPR Weeks Island Sour.

The locations of these crude streams are listed in SSP No. B. 14.

Jones Act when the Notice of Sale is issued so that firms without assured access to U.S.-flag vessels may offer. The potential seriousness of the problem is recognized. The President's Comprehensive Energy Emergency Response Procedures report to Congress on December 31, 1982, found that: "It may become necessary in case of a Presidential finding of a 'severe energy supply interruption,' to waive the U.S.-flag shipping requirement of the Jones Act (46 U.S.C. 883) so that the bidding for SPR oil which is to be moved by ocean carrier will not be limited to those bidders having advance assurance of the use of U.S.-flag ships. The Customs Service and the Maritime Administration are agreed that authority for such a blanket waiver presently exists under Pub. L. 81–891, 64 Stat. 1120." The DIREX–B assessment team also recommended advance waiver of the Jones Act. The issue will arise at the time of the solicitation of offers to buy SPR oil, because it bears upon the ability to submit such an offer (putting at risk first the offer guarantee and, subsequently the payment and performance guarantee), depending on whether the offeror has access to a U.S.-flag vessel. In the event of a blanket waiver, the appropriate provisions in the SSPs would be amended to reflect the existence of such waiver. However, as no advance waiver decision has been made, the cautions to offerors in SSPs No. B.2 and No. C.3 regarding compliance with the Jones Act have been retained.

Eighteen comments were received objecting to various aspects of the draft SSPs' payment terms. In addition, the DIREX–B assessment team also recommended amendment of the payment terms. Plan Amendment No. 4 calls for the use of payment guarantees to assure that payment is received for petroleum delivered, and DOE believes that such measures are necessary to protect the public's investment in the SPR. However, a number of provisions have been amended so as to ease the payment terms imposed by the draft SSPs. In Provision No. C.17, the letter of credit has been reduced from 115 percent of the contract amount to 100 percent of the contract amount; the advance payment by wire cash deposit has been reduced from 115 percent to 105 percent of the contract amount. Provision No. C.19 now requires that the Contracting Officer authorize the cancellation of the letter of credit within 30 days of final payment under the contract, so that letters of credit no longer need to be valid for a full year. Provision No. C.18 makes clear that the level of available funds in the payment and performance guarantee need only be maintained at a level sufficient to cover the contract amount of petroleum remaining to be delivered. There should be no need for replenishment of the guarantee unless the Government has to draw against the guarantee for amounts due under the contract for extraordinary charges, such as liquidated damages.

A number of comments reflected an understanding that payment for oil would be due immediately upon its delivery to the buyer. However, that will not be the case for SPR oil purchasers who choose to use a letter of credit as the means of payment. The only time period specified in the billing and payment procedures for purchasers using the letter of credit, SSP No. C.21, is that the purchaser's bank must transfer the funds due to the Government's account at the Federal Reserve Bank of New York, the next business day after receipt of the Government's draft. Before that draft is issued, however, a number of events must occur: the delivery documentation must be completed by the Government's Quality Assurance Representative, the documentation forwarded to the New Orleans Project Management Office, the invoice prepared and, assuming wire transmittal of the Government's draft, the draft presented to the Federal Reserve Bank for transmittal to the purchaser's bank. DOE estimates that this process may take from 5 to 7 days from the time delivery is completed until the payment is transferred to the Government's account.

Twelve comments were received objecting to the use of the offer guarantee. The draft SSPs required that each offeror submit with its offer, either a cash wire deposit, a certified check or a Government Standard Form 24 Bid Bond, in the amount of 30 percent of the offer or $10 million, whichever was less, as an offer guarantee. The Government could draw against the offer guarantee for any damages incurred by the Government arising from a winning offeror's refusal to enter into a contract in accordance with the terms of the offer. The offer guarantee is necessary to assure that offers are submitted only by persons who have the intent and capability to take delivery of SPR oil and that drawdown is not delayed by the processing of frivolous offers. However, the DIREX–B assessment team likewise recommended a lower offer guarantee, and DOE has concluded that this objective could be satisfied by a lower offer guarantee than previously proposed. Provision No. B.9 of the revised SSPs requires an offer guarantee of 5 percent of the amount of the offer or $10 million, whichever is less. The revised SSPs also added a fourth acceptable guarantee, a standby irrevocable letter of credit. These changes should substantially lower the cost of offering to buy SPR petroleum, while retaining an assurance that only offerors with a serious intent and an adequate capability submit offers on SPR petroleum. However, DOE specifically seeks comments from State governments and other commenters, as to whether there are any potential purchasers who would be unable to comply with any of the four offer guarantee mechanisms, cash wire deposit, certified check, offer bond, or letter of credit.

DOE received 11 comments that the proposed liquidated damages were too high. As explained above, a failure to honor SPR petroleum sales contracts could hinder attainment of the desired SPR drawdown rate, with possible adverse effects on the Nation. The liquidated damages are compensation for the damages incurred by the country when a buyer fails to comply with the contractually agreed schedule. Therefore, the revised SSPs continue to impose liquidated damages of one percent of the contract amount for each day of *unexcused* delay in accepting delivery of the petroleum, up to a maximum cumulative liability of 30 percent. However, one change has been made which will reduce the potential extent of liability for liquidated damages. For vessel deliveries, the originally proposed SSPs would have imposed liquidated damages for each day of delay until delivery was completed; but SSP No. C.28 of the interim final SSPs only imposes liquidated damages until the buyer's vessel presents its notice of readiness. It should be emphasized that liquidated damages would be imposed only for delays that are *not excused* by SSP No. C.26. A contractor will not be held liable if the vessel presents its notice of readiness during the delivery window or if the nonperformance is caused by events beyond the control and without the fault of the contractor or its subcontractors. For example, where one commenter argued that it would be unfair to hold a purchaser liable for the actions of a vessel's master in refusing to bring a vessel into a channel for reasons of safety, in fact a purchaser would not be liable under the SSPs, so long as the vessel's master was acting reasonably.

Another seven comments objected to the termination for convenience clause. The right of termination for convenience

of the Government is a standard Government contract provision. It also is standard Government contract procedure to compensate contractors whose contracts are terminated for the convenience of the Government for costs incurred by the contractor in performance of the contract. While the draft SSPs authorized a termination for the convenience of the Government, the draft SSPs did not provide for any payment to the terminated SPR purchaser for costs incurred by that purchaser in preparing to accept delivery of the petroleum. The DIREX–B assessment team recommended that the SSPs compensate SPR oil purchasers in the event that the Government exercises its right of termination. The revised SSPs now provide for the compensation of terminated contractors in some circumstances. If the purchaser fails to comply with the terms of the contract, SSP No. C.26(c)(1) still authorizes the termination of the contract for the convenience of the Government, without liability of the Government to the purchaser, even if such failure was beyond the control and without the fault of the purchaser. But, in any other termination for convenience, the Government will be liable to the purchaser for any reasonable cost incurred by the purchaser in preparing to accept delivery of the petroleum. Under no circumstances will the Government be liable for consequential damages or lost profits as the result of a termination for convenience of the Government.

Five comments were received recommending that the minimum vessel load rate of 20,000 barrels per hour established by the SSPs be lowered. The DIREX–B assessment team recommended permitting the use of barges where the necessary facilities were available. Due to facility constraints at the marine terminals interconnected to the SPR storage sites, achievement of desired SPR drawdown rates necessitates the use of vessels with loading rates in excess of 20,000 barrels per hour in most instances. Provision No. C.46 has been amended to permit two exceptions. The use of barges with a loading rate of 5,000 barrels per hour at the Sun Terminal barge docks is now permitted. In addition, barges may be used at the Seaway Terminal and tankers with loading rates of less than 20,000 barrels per hour may be used at all terminals, so long as the use of such barges and tankers is limited to circumstances where a smaller vessel is needed to complete loading of contract quantities and such use does not interfere with liftings by the other purchasers.

Five comments recommended that the Notice of Sale establish a maximum purchase quantity to preclude the possibility of a single purchaser, or a small number of purchasers, buying all of the SPR petroleum. The interim final SSPs will not set a maximum purchase quantity because it would be contrary to the philosophy of Plan Amendment No. 4 that price competition should be the sole determinant of how the petroleum is to be distributed.

B. Responses to Questions Asked in the Draft SSPs Notice

The preamble to the draft SSPs asked nine questions related to the SSPs. The nine questions are set forth below with a discussion of the comments received.

1. Do prospective offerors need any additional information on specifications for SPR petroleum, beyond that contained in Exhibit D of the SSPs?

Fourteen commenters requested additional information, while three commenters indicated that no further information was required. The revised Exhibit D will provide more detailed characteristics on each crude oil stream. This information is generated as part of the SPR's continuing petroleum sampling and analysis program. The actual analysis is performed by the National Institute for Petroleum and Energy Research, formerly the U.S. Department of Energy's Bartlesville Energy Technology Center. Whenever the SSPs are revised, the latest available information will be included in a revised Exhibit D to be published in the **Federal Register.** The Notice of Sale also will provide any revisions subsequent to the last publication of this information in the **Federal Register.** However, it should be noted that because of the complexity of the testing program and the length of time required to receive the results, DOE does not intend to analyze all crude oil streams just before issuance of the Notice of Sale; rather, it will provide whatever data happens to be the most recent data available.

2. Do the proposed gravity and sulfur adjustments (see Provision No. C.7) accurately reflect the possible quality differentials between SPR specifications and any nonconforming petroleum which may be delivered?

Eleven comments were received indicating disagreement with the gravity and sulfur adjustments established in the draft SSPs. The draft SSPs proposed a price adjustment of 7 cents per barrel for each degree that the API gravity of the crude oil actually delivered to the purchaser varied from the API gravity specified in the contract (increase price as API gravity increases, decrease price as API gravity decreases). The price adjustment for sulfur was 7 cents per barrel for each tenth of one percent that the total sulfur content (percent by weight) varied from the specific contract sulfur content (increase price as sulfur content decreases, decrease price as sulfur content increases). Nine of the 11 comments indicated that the sulfur and gravity adjustments should reflect the difference in the value of various crude oils as determined by the market. However, those comments recommending specific numbers were widely disparate; thus, a determination of the market value will not be easy. Five comments indicated that because, at least in theory, sulfur and gravity adjustments reflect market differentials, those adjustments ought to be determined at the time of drawdown. DOE agrees, and the provision on gravity and sulfur adjustments, SSP No. C.11 of the interim final SSPs, therefore does not have a specific figure, but rather provides that the Notice of Sale will establish the price adjustments. Before issuing the Notice of Sale, DOE will analyze the then-existing differentials between the various types of crude to arrive at the sulfur and gravity adjustments to be used for the sale of SPR petroleum.

3. Absent events outside of the tanker master's control, can purchasers provide, 5 days prior to a tanker's estimated arrival time, a 1-day window for the tanker's arrival?

In response to this question, five commenters answered that it would be possible to provide a firm delivery date 5 days in advance, while six indicated that it would not be possible. Four of the latter six said that it would be possible to provide a firm date 3 days in advance of arrival. The revised SSPs in Provision No. C.7 provide that the delivery window shall be as announced in the Notice of Sale, but shall not be less than a 3-day window. The purchaser still is required to establish a firm arrival date 3 days prior to vessel arrival.

4. What should be the smallest and largest quantity of SPR barrels sold as a single delivery line item? While administrative convenience would be served by selling large lot sizes, DOE seeks comments on the extent to which small sized lots may be needed by prospective offerors.

Fourteen comments were received in response to this question. None addressed the extent to which small sized lots should be offered by the SPR. The recommended minimum sized lots were from 10,000 to 100,000 barrels for

pipelines, 40,000 to 60,000 barrels for barges, and 200,000 barrels for tankers. Maximum recommended lot sizes were 300,000 to 500,000 barrels for tankers. However, with the revision of the sales process, DOE no longer will expect to establish lot sizes in the Notice of Sale.

Under Provision No. B.15 of the revised SSPs, the Notice of Sale will establish minimum offer quantities. Separate minimum quantities will be established for tanker deliveries, barge deliveries, and pipeline deliveries. As discussed above, facilities for loading barges are limited, and SSP No. C.7 limits their use accordingly.

5. A transportation plan (Exhibit C of the proposed SSPs) is proposed to be required prior to contract award in order to assure the timely movement of SPR petroleum. Are there likely to be any circumstances where it is unreasonable to require such a plan before award?

Nineteen comments were received raising objections to various aspects of the previously proposed requirements for transportation plans. As a result of public comments and of the recommendations of the DIREX–B assessment team, DOE has eliminated the transportation plan. Transportation arrangements are to be worked out by agreement between the parties in accordance with SSP No. C.6.

6. It is intended that the transportation plan be accepted by the Contracting Officer so long as it shows credible arrangements consistent with the terms of the Notice of Sale for timely movement of the SPR petroleum to be awarded. Are there additional specific questions which could be asked on Exhibit C to further mechanize the Contracting Officer's review of transportation plans?

As explained above, the transportation plan has been eliminated.

7. For tanker and pipeline shipments, what minimum lead time is required from the date of SPR contract award until the time of delivery to the buyer of SPR oil? Please specify what assumptions about tanker or pipeline capacity availability your answer is based on.

For U.S.-flag tankers, the comments indicated a lead time of 2 to 6 weeks. For foreign-flag tankers, the comments indicated a lead time of 1 to 4 weeks. For common carrier pipelines, the comments asserted that most pipeline tariffs required notice by no later than the 25th day of the month prior to the month of delivery, but that if the pipelines were subject to prorationing, a 30 to 60-day lead time prior to the month of delivery could be required. Based on these comments and on other discussions with industry (including operators of terminals to be used in SPR drawdown), and on DOE's analysis, DOE decided that in revising the SSPs it should assume that the Notice of Sale would be issued at least 30 days prior to the start of SPR oil deliveries, and that if practicable, deliveries should commence on the 1st day of the next calendar month. In order to avoid selling more SPR petroleum for delivery by pipeline than the particular pipeline can transport, thereby throwing the pipeline into prorationing, DOE hopes to work closely with the pipelines to determine how much SPR petroleum the pipelines can accept, and will limit SPR oil deliveries via pipeline accordingly.

8. Will Forms DD–250 and DD–250–1 at Exhibit I (of proposed SSPs) provide adequate documentation of delivery?

Of the 11 comments received on this question, eight indicated that these forms provided adequate delivery documentation. The revised SSPs rely on these forms. Provision Nos. C.12 and C.13 have been amended to make clear that the purchaser has the right to have a representative present at ocean vessel loading, to conduct independent tests of quantity and quality.

9. DOE has under consideration the question of need for additional SSPs concerning ship and dock demurrage. What other SSPs, if any, may be needed?

Eight comments were received recommending that the Government reimburse the purchaser for demurrage incurred due to the fault of the Government; two other comments were received stating that demurrage should be the responsibility of the purchaser. The revised SSPs do not contain a demurrage provision. However, DOE is continuing to study possible ways of dealing with demurrage and other issues concerning vessel arrival and loading.

The only other suggestions received in response to this question were that limits be imposed on the potential universe of buyers of SPR oil. These suggestions are discussed next.

C. Comments on SPR Plan Amendment No. 4

A number of comments suggested changes in the SSPs which, if made, would contravene SPR Plan amendment No. 4. Thirteen comments recommended that SPR oil be sold only to domestic refiners. Five comments recommended that the oil be sold by a method other than competitive bidding. Three suggested that government agencies be precluded from buying SPR oil.

Section 161(c) of the Energy Policy and Conservation Act explicitly provides that drawdown and distribution must be in accordance with the SPR Plan in effect at that time. Consequently, DOE cannot adopt any SSPs that are inconsistent with SPR Plan Amendment No. 4.

SPR Plan Amendment No. 4 provides that "all interested buyers will be eligible to bid for and purchase SPR oil, including Federal agencies." (page 13) The Plan also provides that "[e]xcept where the distribution of oil is directed by the Secretary, * * * the purchase of SPR oil will be determined solely by price competitive sale." (page 14)

III. The Interim Final Standard Sales Provisions

A. Major Revisions

After consideration of the public comments received on the draft SSPs, the recommendations of the DIREX–B drawdown exercise assessment team, and other lessons learned by DOE in the DIREX–B exercise and through consultations with industry, DOE has concluded that the draft SSPs should be substantially revised. Public comments again are sought on the revised SSPs because of these substantial revisions. However, DOE is adopting the revised SSPs, as an interim final appendix to the final sales rule (48 FR 56538). These SSPs thus will be available for use in the event that a drawdown of the SPR occurs before any subsequent revision of the SSPs is published in the **Federal Register**. If future comments indicate the need for further revision of the interim final SSPs, DOE will republish the revised SSPs in their entirety, along with DOE's responses to those comments.

The most significant revisions in the draft SSPs published on June 15 concern the change to a much more flexible approach to selling SPR petroleum and determining logistical arrangements. This change has impacted provisions of the draft SSPs concerning line item schedules, the transportation plan, the evaluation of offers, and delivery arrangements.

The draft SSPs published on June 15 involved a highly structured oil sales system which was predicated upon the view that the SPR's drawdown rate could be maximized, within the context of a price competitive contract award system, by having the Government designate when and how specified quantities of oil that were offered for sale would be shipped. Offerors would have had to submit separate offers for all of the individual, predetermined oil shipments they wished to compete for, with no flexibility as to amount, timing or transportation mode. The winning offer prices could have differed from one lot of oil to another. Under the SSPs we

adopt today on an interim final basis, high offerors for SPR oil generally would be allowed, in the order of their price offers, to decide how much of the oil listed under a master line item they wished to buy, and to choose how and when to move it. The comments received on our draft SSPs from the DIREX–B assessment team and from the public suggest that the system proposed on June 15 was too rigid and the pattern of offered shipments too fragmented. We believe that the method reflected in the interim final SSPs is a more realistic way of selling oil, with no less prospect of achieving the desired drawdown rate.

Under the scheme established by the draft SSPs , there were 16 master line item schedules. These included, for each of the eight SPR crude oil streams in storage,* one master line item covering petroleum to be delivered to a major common carrier pipeline, and one master line item covering petroleum to be delivered by vessel or by private pipeline. Each master line item had up to 31 delivery line items corresponding to the days of the month. When DOE issued a Notice of Sale, the delivery line items included therein would have specified set quantities of petroleum to be delivered on particular dates for movement by prescribed transportation modes. Offerors were prohibited from changing the quantity of crude oil under a line item or proposing alternate dates or delivery modes. Alternate offers were not permitted. A transportation plan was required from each apparently successful offeror, in order to obtain assurance that the offeror was planning to move the petroleum in accordance with terms (quantity, date and transportation method) established by the delivery line items.

Under the interim final SSPs, there now are only eight master line items, one for each of the eight SPR crude streams. Under each master line item, instead of up to 31 delivery line items, the revised SSPs have only five delivery line items, one for petroleum to be moved by major common carrier, one for other pipeline deliveries, and three for vessel deliveries. The pipeline delivery line items cover a delivery period of a month, while each vessel delivery line item covers a delivery period of a third of a month.

The Notice of Sale will specify the total amount of a particular crude stream to be sold, but will not designate the method by which the oil must be delivered, the delivery date or the amount, except to establish a minimum required purchase quantity. Instead, the offeror must indicate the desired purchase volume and the proposed delivery method, and for vessel deliveries the offeror must choose one of the three delivery periods; however, alternate offers may be made for different delivery periods and methods. A transportation plan will not be required. Specific delivery dates are to be worked out by mutual agreement between the Government and the winning offerors, with the highest offerors, in the order of their offered prices, being given preference in the selection of delivery dates.

Use of this bid structure will enable DOE to endeavor to award the SPR's oil sale contract to the highest offerors on a master line item, regardless of a bidder's preference as to delivery method or delivery period. Thus, it will be the order of price offers which determines how the SPR oil is moved, rather than a Government choice between different transportation modes.

The only limitation on this principle will be physical: there are facility constraints which may put a ceiling on the movement of SPR petroleum by an individual transportation method. Therefore, DOE will not award contracts against a delivery method in excess of DOE's estimate as to how much oil can be moved by that transportation method during the delivery period. Before drawdown, DOE will consult with the relevant pipelines and terminals to make estimates of their maximum transportation capabilities. These estimates will be indicated in the Notices of Sale. Once a delivery method appears to be fully subscribed, all other offers on that delivery method will be rejected, even if those offers contain higher offer prices than offers on other delivery methods. High offerors affected by such limits can preserve their opportunity to win SPR contracts by indicating their willingness to accept alternatives in the event a delivery method is oversubscribed; however, they must so indicate on their offers, as DOE will not contact them to solicit a change in their offers. The SPR petroleum sales contract will specify the agreed delivery method, but DOE intends to be as flexible as possible in allowing later changes in the transportation method.

There follows a provision-by-provision discussion of other noteworthy changes in the draft SSPs published on June 15.

B. Revised Provisions

SSP No. A.2 Definitions:

1. The term "work day" was changed to "business day."

2. The term "delivery period" has been defined.

3. The term "line item" has been redefined consistent with the new offer evaluation procedures.

4. The term "notification of apparently successful offeror" has been defined to highlight it as an event in the evaluation and award process.

5. The term "petroleum" has been redefined, consistent with the definition in the final sales rule.

6. The term "vessel" has been defined to be either a tanker or a barge. This term is used except where the context clearly requires use of tanker or barge.

SSP No. A.6 Offeror's list for sales of petroleum:

Reference to a telegraphic Notice of Sale has been removed; however, an option remains open to the Government to issue the Notice of Sale by telegram.

SSP No. B.2 Requirements of the Jones Act for U.S.-flag vessels—caution to offerors:

The reference to a transportation plan has been deleted. A caution regarding construction differential subsidy tankers has been added.

SSP No. B.4 Export limitations and licensing—caution to offerors:

The reference to a transportation plan has been deleted.

SSP No. B.5 Preparation of offers:

1. This provision was retitled.

2. Reference to the telegraphic Notice of Sale has been deleted.

SSP No. B.6 Submission of offers and modification of previously submitted offers:

1. Reference to telegraphic offers has been deleted.

2. Paragraph (g) has been added stating that DOE does not anticipate having a public opening of offers, but will post an abstract of offers and the winning offers in a public place within 48 hours of the time set for receipt of offers.

SSP No. B.8 Late offers, modification of offers, and withdrawal of offers:

1. This is draft SSP No. B.9, renumbered.

2. DOE now will accept an offer modification or withdrawal of offer received after the date set for receipt of offers if it was mailed by the third calendar day prior to such receipt date. However, late offers still will be considered only if mailed by the fifth day prior to the receipt date.

SSP No. B.9 Offer guarantee:

1. This is draft SSP No. B.24, renumbered.

2. The amount of the offer guarantee has been changed from "$10 million or

*The SPR's Bryan Mound Sweet, Bryan Mound Sour, Bryan Mound Maya, West Hackberry Sweet, West Hackberry Sour, Bayou Choctaw Sweet, Bayou Choctaw Sour, and Weeks Island Sour.

30 percent of the total offer, whichever is less" to "$10 million or 5 percent of the total offer, whichever is less."

3. Offerors now may submit a standby letter of credit as an offer guarantee. It must conform without exception to Exhibit H, Offer Guarantee, Letter of Credit, and be valid for 21 days past the date set for receipt of offers.

4. Cash deposit or check offer guarantees will be returned to unsuccessful offerors 5 business days after expiration of the offeror's acceptance period or 3 business days after award of contracts on delivery line items bid by the offeror, whichever is first. Bonds and letters of credit will be returned only on written request.

SSP No. B.12 Language of offers and contracts:

This new provision, recommended by the DIREX–B assessment team, requires that all contracts and contract correspondence be in English.

SSP No. B.14 SPR petroleum streams and delivery points:

1. This is draft SSP No. B.18, renumbered and retitled.

2. Information has been added on the crude oil streams available at each delivery point.

SSP No. B.15 Notice of Sale line item schedule—petroleum quantity, quality, and delivery:

1. This is draft SSP No. B.14, renumbered.

2. This provision has been rewritten to reflect the revised line item schedule and sales process discussed above.

SSP No. B.16 Line item information to be provided in the offer:

1. This is draft SSP No. B.16, retitled.

2. This provision has been revised to conform to the new sales procedures.

SSP No. B.17 Mistake in offer:

This new provision establishes a procedure for dealing with various possible errors in an offer, including obvious clerical errors, multiplication errors, and discrepancies between the quantities indicated by the offer on master line items and delivery line items.

SSP No. B.18 Proper form for offer submission:

This new clause states that the Notice of Sale may require that, for an offer to be valid, it must be submitted only on a certain form or forms. Such forms may be:

(a) The master line items schedules 001 through 008 in Exhibit A;

(b) A sheet similar to the sample Data Entry Sheet in Exhibit A;

(c) Other forms provided with the Notice of Sale; or

(d) Any combination of the above.

If the Notice of Sale requires submission of an offer on specified forms, failure to use such forms will result in the offer being rejected as nonresponsive.

SSP No. B.19 Evaluation of offers:

A definition of "minor informality or irregularity" has been added.

SSP No. B.20 Procedure for evaluation of offers:

1. As discussed above, this provision has been rewritten in accordance with the new sales procedures.

2. Draft SSP No. B.20 had a two-phase sales process. Phase II was to be used to sell delivery line items not awarded in Phase I. This now has been eliminated.

3. Under the draft provision, if tied offers occurred, a single offer was selected for award. Under the revised procedures, the petroleum will be divided among the tied offers on a pro rata basis.

4. Reference to the transportation plan has been deleted from the determination of responsibility.

SSP No. B.21 Financial statement and other information:

1. This is draft SSP No. B.12, renumbered and retitled.

2. Language was added allowing the Government to request information from the offeror regarding the offeror's plans for use of the petroleum, the status of requests for export licenses, the offeror's plans for complying with the Jones Act, etc., to assure that the offeror intends to comply with the terms of the contract.

SSP No. B.22 Resolicitation procedures on unsold petroleum:

1. This is draft SSP No. B.21, renumbered and retitled.

2. As revised to conform to the new sales process, this provision states that if petroleum already awarded becomes available and priced offers have expired, the Contracting Officer may at his option offer the petroleum to the highest offeror on that master line item which:

(a) Had not received its maximum master line item quantity,

(b) Offered to take delivery by a delivery method which has remaining capacity, and

(c) Had indicated a willingness to accept the delivery line item quantity available for award.

The pertinent offeror may, at its option, accept or reject that petroleum at the price originally offered; and if that offeror rejects the petroleum, it will be offered to the next highest offeror, etc. If not resold in this fashion, the Contracting Officer may either resolicit offers or add the petroleum to the next sales cycle.

SSP No. B.24 Line item information to be provided in the Notice of Award:

This is draft SSP No. B.17, renumbered and retitled.

SSP No. B.25 Contract documents:

This is draft SSP No. B.8, renumbered and retitled.

SSP No. B.26 Purchaser's representative:

This new provision requires that each offeror designate an agent and an alternate agent as points of contact. Each agent must have a U.S. address and telephone number, and speak English.

SSP No. B.27 Procedures for selling to other U.S. Government agencies:

This is draft SSP No. B.25, renumbered.

SSP No. B.28 Information gathered for statistical purposes:

This is draft SSP No. C.1, renumbered.

SSP No. C.1 Certification of independent price determination:

This is draft SSP No. C.2, renumbered.

SSP No. C.2 Transportation certification:

This new provision was paragraph (a) of draft SSP No. B.22.

SSP No. C.3 Certification of compliance with the Jones Act and the U.S. export control laws:

This is draft SSP No. C.4, renumbered.

SSP No. C.4 Storage of SPR petroleum:

This new provision states that continued storage of a purchaser's oil in an SPR storage facility after the end of the delivery period established by the Notice of Sale is not permitted. Such storage for purchasers would only be allowed if specifically authorized by the Secretary of Energy and provided for in the Notice of Sale or in the sales contract.

SSP No. C.5 Environmental compliance:

This is draft SSP No. C.10, renumbered and retitled.

SSP No. C.6 Delivery and transportation scheduling:

This new provision establishes procedures discussed above for making transportation arrangements. Delivery dates shall be established by mutual agreement of the parties with the highest offerors being given preference, provided that those offerors contact the SPR Project Management Office to arrange delivery dates within 7 days of notification of apparently successful offerors. After 7 days, requests will be handled on a first-come, first-served basis.

SSP No. C.7 Delivery and acceptance of crude oil:

1. This is draft SSP No. C.8, renumbered.

2. The Notice of Sale shall establish the delivery window, but such window shall be not less than 3 days.

3. The Notice of Sale also shall establish the quantity of petroleum to be

delivered in a loading window. While it is likely that DOE will establish a minimum quantity for tanker loading of 200,000 barrels, DOE is not interconnected to dock facilities with sufficient throughput capabilities to enable it to meet its maximum drawdown rate if all the oil was loaded on tankers in 200,000 barrel quantities, and each tanker was given a 3-day window. Therefore, the Notice of Sale will provide a procedure for equitably dividing the available loading windows among all purchasers, if necessary.

4. The draft SSPs required that all vessels have a minimum load rate of 20,000 barrels per hour. This provision now permits the use of barges with load rates not less than 5,000 barrels per hour at the Sun Terminal barge docks. In addition, where feasible, and with the consent of the Government, the purchasers may use barges at Seaway Terminal to complete loading of contract quantities.

5. This provision continues to require that tankers shall have a minimum average load rate of not less than 20,000 barrels per hour, except that it has been amended to provide that, where feasible and with the consent of the Government, tankers with less than 20,000 barrels per hour may be used to complete loading of contract quantities.

6. Tankers shall be allowed 36 hours of berth time. As recommended by the DIREX–B assessment team, a discussion of the commencement of berth time and allowable berth time has been added, as well as a discussion of procedures for early and late arriving vessels.

7. This provision has been revised to permit final pipeline delivery arrangements to be provided to the SPR Project Management Office on the last day of the month preceding the month of delivery. However, the purchaser also must contact the Project Management Office at least 10 days prior to the start of the delivery period to make arrangements for delivery dates in accordance with SSP No. C.16.

SSP No. C.8 Purchaser liability for excessive berth time:

This is draft SSP No. C.11, renumbered.

SSP No. C.10 Acceptance of quality:

1. This is draft SSP No. C.6, renumbered.

2. As recommended by the DIREX–B assessment team, this language has been amended to clarify the rights of the parties. While the Government will guarantee the quality of the crude, the provision requires that the purchaser accept the crude oil delivered, regardless of its characteristics. It also provides that in the event that the API gravity falls below, or the sulfur content exceeds the standards set out in Exhibit E, the purchaser has the option of accepting the differentials specified in SSP No. C.11, or renegotiating the contract price.

SSP No. C.11 Quality differential for crude oil:

1. This is draft SSP No. C.7, renumbered.

2. The fixed dollar amounts per degree API and tenth of a percent sulfur have been deleted. Differentials for sulfur and gravity will be as specified in the Notice of Sale.

SSP No. C.12 Determination of quantity of petroleum:

In response to comments received, the revised provision has corrected the citations to the API *Manual of Petroleum Measurement Standards*, which will be followed by DOE in determining the quantity of petroleum delivered.

SSP No. C.13 Determination of quality of petroleum:

1. In response to comments received, the references cited in the provision have been corrected.

2. As recommended by the DIREX–B assessment team, the language has been changed to make clear that the purchaser may have a third party witness and verify testing simultaneously with the Government Quality Assurance Representative. Such services, however, shall be for the account of the purchaser.

SSP No. C.15 Contract amount estimated for crude oil:

1. This is draft SSP No. C.18, renumbered.

2. This provision now reads that due to conditions of loading and shipping, the quantity of oil delivered may vary by +15 percent more or less than the scheduled delivery quantity. This is a change from +15 percent.

SSP No. C.16 Contract modification—alternate delivery method:

This new provision establishes the prerequisites for granting a purchaser's request for a change in delivery method. Such a change must be made by written modification to the contract.

SSP No. C.17 Payment and performance guarantee:

1. This is draft SSP No. C.15, renumbered.

2. Apparently successful offerors must furnish an acceptable payment and performance guarantee within as short a time as 5 business days after notification by the Contracting Officer. This is an increase from 3 business days established by the draft SSPs.

3. The purchaser must maintain a satisfactory payment and performance guarantee in full force and effect to the Contracting Officer's satisfaction until final payment under the contract. Failure to do so may result in termination of the purchaser's contract for default.

4. As discussed above the amount of the required payment and performance guarantee has been changed to the following:

(a) If the purchaser elects to make advance payment on a contract which is 31 days or less, the advance payment shall be 105 percent of the contract amount in advance;

(b) If the purchaser elects to make advance payment on a contract which is longer than 31 days, the advance payment shall be equal to 31 days' deliveries plus 5 percent of the entire contract amount; or

(c) If the purchaser elects to furnish a letter of credit conforming to the requirements of Provision No. 21 and Exhibit H, the letter of credit shall be in the amount of 100 percent of the contract amount, regardless of the length of the contract period.

SSP No. C.18 Replacement of funds in the performance guarantee:

1. This is draft SSP No. C.16, renumbered.

2. Payment and performance guarantees must be maintained at the following revised minimum levels:

(a) Letter of credit at 100 percent of the contract price of the petroleum remaining to be delivered;

(b) Advance payment on a contract of 31 days or less, 105 percent of the contract price of the petroleum remaining to be delivered.

(c) Advance payment on a contract for more than 31 days, at the lesser of 100 percent times 31 days' deliveries plus 5 percent of the total contract price or 105 percent of the contract price of the petroleum remaining to be delivered.

SSP No. C.19 Payment and performance letters of credit, general requirements:

1. This is draft SSP No. C.17, renumbered and retitled.

2. The provision has been amended to clarify which banks may issue a letter of credit. It has been amended to indicate that only the bank acting as agent for a syndicate issuing the letter of credit need be a participant in FEDWIRE.

3. The provision regarding the evidence required that the bank official signing the letter of credit had authority to do so has been amended. A copy of the corporate minutes authorizing the signature is acceptable evidence, but other evidence may be acceptable as well.

4. The requirement for furnishing to various entities copies of letters of credit over $100 million, has been deleted.

5. Letters of credit shall be cancelled within thirty days after final payment under the contract.

SSP No. C.22 Method of payment—general:

Payments in amounts less than $1,000 will be by check made out to "U.S. Department of Energy." This is a change from "Treasurer of the United States."

SSP No. C.26 Termination:

Provision No. C.26(c)(1) has been changed to provide that termination shall be without liability of the Government only if such termination arises out of causes specified in C.26(a)(1) or C.26(b)(1). For any other termination for convenience, the Government shall be liable for reasonable costs incurred by the purchaser in preparing to perform the contract, but under no circumstances shall the Government be liable for consequential damages or lost profits as a result of such termination. This is a change from previous language under which the Government assumed no liability for termination for convenience.

SSP No. C.28 Liquidated damages:

1. Liquidated damages for petroleum lifted by ocean vessel will be assessed if the tanker has not arrived at the roads and the vessel's master has not presented a notice of readiness by 11:59 on the last day of the delivery window established under Provision No. C.6. Liquidated damages shall continue until the vessel presents its notice of readiness.

2. For petroleum to move by pipeline, if delivery arrangements have not been made by the last day of the month prior to the delivery month, liquidated damages shall commence on the 1st day of the delivery month until such delivery arrangements are completed; if delivery arrangements have been made, then liquidated damages shall begin on the first scheduled delivery date if delivery is not commenced.

SSP No. C.30 Government options in case of impossibility of performance:

This is draft SSP No. C.32, renumbered.

SSP No. C.36 Disputes:

Both C.36(d)(2) and C.36(e)(3) now require payment of interest at rates set by the Secretary of Treasury.

Exhibit A Schedule Line Items:

The master line items in this exhibit have been revised as discussed above, and instructions for filling out the schedules have been added. This exhibit also now includes a sample of a data entry sheet. The Notice of Sale may require offerors to fill in a similar sheet as part of their offers.

Exhibit C Sample Offer:

This is draft Exhibit E, revised and retitled.

Exhibit D SPR Crude Oil Stream Characteristics:

The information contained in this exhibit has been substantially expanded from the information provided in draft Exhibit D.

Exhibit E SPR Crude Oil Stream Minimum Quality:

This exhibit sets forth the guaranteed minimum quality for each SPR crude oil stream, formerly contained in draft Exhibit D.

Exhibit F SPR Delivery Point Data:

This information was contained in draft Exhibit D.

Exhibit G Offer Bond—Standard Form 24:

A copy of the offer bond has been added to the exhibits.

Exhibit H Offer Guarantee—Letter of Credit:

As discussed above, a letter of credit offer guarantee has been added to the exhibits. All such offer guarantees must conform exactly to the wording specified in Exhibit H.

Exhibit I Payment and Performance Guarantee—Letter of Credit:

This payment and performance guarantee letter of credit has had a number of revisions. The letter of credit uses the term "about" to establish the amount of the letter of credit which, under Uniform Code Customs and Practice for Documentary Credits, indicates that the letter of credit is valid for up to the stated amount plus 10 percent. Because of the requirements of the FEDWIRE system, DOE has added two statements to the letter of credit to accompany wire drafts. The limited and rigid format of wire messages restricts the length of such statements and precludes the use of the longer statements contained in the draft SSP letter of credit. The longer statements are retained in this letter of credit for all non-wire drafts.

IV. Procedural Matters

A. Comments procedures

You are invited to participate in this proceeding by submitting information, views, or arguments with respect to the interim final Standard Sales Provisions. Comments should be submitted no later than [insert date 60 days from date of publication] to the address indicated in the "**ADDRESSES**" section of this preamble and should be identified on the outside envelope and on the document with the designation: "Sales Provisions for Strategic Petroleum Reserve Petroleum." Ten copies should be submitted. All comments received will be available for public inspection in the DOE Reading Room, Room 1E–190, James Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of such information or data and to treat it according to our determination.

DOE does not intend to hold a hearing in connection with its inquiry on these matters. DOE intends to review the SSPs annually. If the comments received indicate the need for further revision of the interim final SSPs, DOE will republish the revised SSPs in their entirety, along with DOE's responses to the comments received.

B. Effective date

As of January 20, 1984, the effective date of the SPR sales rule, 10 CFR Part 625, these SSPs are adopted, on an interim basis, for use in the price competitive sale of SPR petroleum.

C. Paperwork Reduction Act

The forms used in the sale of the SPR petroleum have been cleared by the Office of Management and Budget in accordance with the Paperwork Reduction Act, until March 31, 1984, under control number 1901–0261.

List of Subjects in 10 CFR Part 625

Administrative practice and procedure, Oil and gas reserves, Strategic and critical materials, Strategic Petroleum Reserve.

(Federal Energy Administration Act of 1974, Pub. L. 93–275 (15 U.S.C. 761); Department of Energy Organization Act, Pub. L. 95–91 (42 U.S.C. 7101); Energy Policy and Conservation Act, Pub. L. 94–163 (42 U.S.C. 6201))

Issued in Washington, D.C., January 3, 1984.

Berton J. Roth,

Director, Procurement and Assistance Management Directorate.

PART 625—[AMENDED]

10 CFR Part 625 is amended by adding the following Appendix A to read as follows:

Appendix A to Part 625—Standard Sales Provisions

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Section A—General Pre-Sale Information

A.1 List of abbreviations:

(a) *DLI*: Delivery Line Item.

(b) *DOE*: Department of Energy.

(c) *EPCA*: Energy Policy and Conservation Act, Pub. L. 94–163 (42 U.S.C. 6201 *et seq.*).

(d) *MLI*: Master Line Item.

(e) *NA*: Notice of Acceptance.

(f) *NS*: Notice of Sale.

(g) *SSPs*: Standard Sales Provisions.

(h) *SPR*: Strategic Petroleum Reserve.

(i) *SPR/PMO*: Strategic Petroleum Reserve/Project Management Office.

A.2 Definitions:

(a) *Business Day*. The term "business day" means any day except Saturday, Sunday or a U.S. Government holiday.

(b) *Contract*. The term "contract" means the sales contract under which the purchaser buys SPR petroleum from the Government. It is composed of the NS, the NA, the successful offer, and the SSPs which are incorporated by reference.

(c) *Contracting Officer*. The term "Contracting Officer" means the person executing sales contracts on behalf of the Government, and any other Government employee properly designated as Contracting Officer. The term includes the authorized representative of a Contracting Officer acting within the limits of his authority, except as may be otherwise provided in the contract.

(d) *Delivery Period*. The term "delivery period" means a given period of time during which a designated quantity of petroleum will be sold. For *pipeline delivery*, a delivery period is 1 month. For *vessel delivery* the delivery period may be one of two 10-day periods or a third period of 10 days (more or less) in the month, e.g., the 1st through the 10th, the 11th through the 20th, and the 21st to the end of the month.

(e) *Department of Energy*. The term "Department of Energy" means the agency established by Pub. L. 95–91, 42 U.S.C. Section 7101 *et seq.* and any component thereof including the SPR Office.

(f) *Government*. The term "Government," unless otherwise indicated in the text, means the United States Government.

(g) *Headquarters Senior Procurement Official*. The term "Headquarters Senior Procurement Official" means the Director, Headquarters Procurement and Assistance Management Directorate, DOE, or his duly authorized representative.

(h) *Line Item*. The term "line item" means a numbered listing of petroleum available for purchase by the offeror. Each *master line item* has a quantity estimate of a particular stream of crude oil to be sold. There are eight *master line items*, one for each of the eight crude oil streams that SPR has in storage. Each master line item contains five *delivery line items* each of which specifies the delivery method and the delivery period. (See Exhibit A, Schedule Line Item.)

(i) *Notice of Acceptance (NA)*. The term "Notice of Acceptance" means the document which is signed by the Government to accept the purchaser's offer to create a contract.

(j) *Notification of Apparently Successful Offeror*. The term "notification of apparently successful offeror" means the communication, written or oral, by the Contracting Officer to an offeror that it will be awarded a contract under a master line item if it is determined that the offer is responsive and the offeror is responsible. The Contracting Officer shall furnish a proposed contract number to be used by the offeror for identification on the offeror's payment and performance guarantee.

(k) *Notice of Sale (NS)*. The term "Notice of Sale" means the document announcing the sale of SPR petroleum, the amount, characteristics and location of the petroleum being sold, the delivery period and the procedures for submitting offers. The NS will specify what contractual provisions and financial and performance responsibility measures are applicable to that particular sale of petroleum and provide other pertinent information. (See Exhibit B, Sample Notice of Sale)

(l) *Offeror*. The term "offeror" means any person or entity (including a Government agency) which submits an offer in response to a NS.

(m) *Petroleum*. The term "petroleum" means crude oil, residual fuel oil, or any refined product (including any natural gas liquid, and any natural gas liquid product)

owned or contracted for by DOE and in storage in any permanent SPR facility, temporarily stored in other storage facilities, or in transit to such facilities (including petroleum under contract but not yet delivered to a loading terminal).

(n) *Price Competitive Sale.* The term "price competitive sale" used in connection with a sale of SPR petroleum means one in which contract awards are made to the highest responsible offerors which submit offers responsive to the SSPs and the NS.

(o) *Project Manager.* The term "Project Manager" means the chief operating officer of the SPR/PMO. He is the duly authorized representative of the Secretary of Energy for the sale of petroleum from the Reserve.

(p) *Project Management Office.* The term "Project Management Office" means the collective staff of the SPR Office in Louisiana and Texas.

(q) *Purchaser.* The term "purchaser" means any person or entity (including a Government agency) which enters into a contract with DOE to purchase SPR petroleum.

(r) *Secretary.* The term "Secretary" means the Secretary of Energy or his duly authorized representative.

(s) *Standard Sales Provisions (SSPs).* The term "Standard Sales Provisions" means a set of terms and conditions of sale, which may contain or describe financial and performance responsibility measures, for petroleum sold from the Strategic Petroleum Reserve. These SSPs constitute the "standard sales agreement" referenced in the Strategic Petroleum Reserve "Drawdown" (Distribution) Plan, Amendment No. 4 to the SPR Plan.

(t) *Strategic Petroleum Reserve.* The term "Strategic Petroleum Reserve" means that program of the Department of Energy established by Title I, Part B of EPCA.

(u) *Strategic Petroleum Reserve Office.* The term "Strategic Petroleum Reserve Office" means the Deputy Assistant Secretary for the SPR and the collective staff reporting to him.

(v) *Vessel.* The term "vessel" means either a tankship or a barge.

A.3 *Standard Sales Provisions:*

(a) These Standard Sales Provisions (SSPs) contain pre-sale information, sales solicitation provisions, and sales contract provisions setting forth terms and conditions of sale, including purchaser financial and performance responsibility measures, or descriptions thereof. The NS may specify which of such terms and conditions shall apply to a particular sale of such petroleum, and it may specify any revisions therein and any additional provisions which shall be applicable to that sale. (See Exhibit B, Sample Notice of Sale)

(b) *All offerors must,* as part of their offers for SPR petroleum in response to a NS, *agree without exception to all provisions of the SSPs which the NS makes applicable to the particular sale.* The Government will not award a contract to an offeror which has failed to so agree.

(c) The applicable provisions of the SSPs will be incorporated into the sales contracts by referring in the NS to the SSPs.

A.4 *Application of the Standard Sales Provisions:* These SSPs apply to all price competitive sales of petroleum from the SPR.

A.5 *Periodic Revisions of the Standard Sales Provisions:* DOE will review the SSPs periodically and republish them in the **Federal Register**, with any revisions. When a NS is issued, it will cite the **Federal Register** and the Code of Federal Regulations in which the latest version of the SSPs was published. Offerors are cautioned that it may take two years for a version of the SSPs published in the **Federal Register** to be published in the Code of Federal Regulations. Therefore, some applicable SSPs may be published only in the **Federal Register**. Interested persons may obtain a copy of the current SSPs by writing to the address set forth in Provision No. A.8.

A.6 *Offerors List for Sales of Petroleum:*

(a) The SPR/PMO will maintain a list of those potential offerors which wish to receive a NS whenever such a document is issued. Signatories to the Basic Sales Agreement (BSA) which was intended to be utilized in SPR sales, but which no longer applies to such sales, will automatically be included unless they ask, in writing, to be excluded. They should update the information required by (c) below. In order to assure that prospective offerors will receive the NS or offer form in timely fashion, all potential offerors are encouraged to submit the information in (c) as soon as possible. *A NS may be issued with as little as a week or less allowed for the receipt of offers.* While the Government will use its best efforts to supply copies of the NS to persons not on the list who request the NS at the time an SPR petroleum sale is announced, this may not always be feasible in light of the short amount of time available before offers must be received.

(b) Any firm or individual may send a written request to be on the list to the following address: U.S. Department of Energy, Strategic Petroleum Reserve, Project Management Office, Procurement Division, Mail Stop EP 5501, 900 Commerce Road East, New Orleans, Louisiana 70123. Telephone Number (504) 734-4341.

(c) The request should be in writing and should include the following information:

Name of firm
Mailing address
City, State, Zip Code
Name of authorized agent and alternate authorized agent
Telephone numbers for agent and alternate including area code
TWX number/code
Telecopier brand name and model number
Is telecopier automatic or operator controlled?
Telephone number for telecopier transmission including area code
Telephone number for verification of message receipt including area code
Dunn's Number

A.7 *Publicizing the Notice of Sale:*

(a) The NS will be sent to persons whose names are on the offerors list referenced in Provision No. A.6. Potential offerors may send a representative to the SPR/PMO to obtain a copy of the NS.

(b) The NS will be sent to firms requesting it when a sale is announced. Firms may request the NS by telephone or in writing to the telephone number or address in Provision No. A.6 above.

(c) A DOE press release, which will include the salient features of the NS, will be available to any news agency.

(d) At the option of the SPR Project Manager, advertisements may be placed in the *Commerce Business Daily* and commercial publications likely to reach interested parties. The advertisements will contain the salient features of the NS and a name and telephone number at the SPR/PMO to call for further information.

A.8 *Issuing office for the Standard Sales Provisions and Notice of Sale Copies of the SSPs:* After publication in **Federal Register**, and copies of the NS, when one is issued, may be obtained from the following address: U.S. Department of Energy, Strategic Petroleum Reserve, Project Management Office, Procurement Division, Mail Stop EP 5501, 900 Commerce Road East, New Orleans, Louisiana 70123.

A.9 *Penalty for false statements in offers to buy SPR petroleum:* A penalty for making false statements is imposed in the False Statements Act, 18 U.S.C. 1001, which provides:

Whoever, in any matter within the jurisdication of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, ficticious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, ficticious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than 5 years, or both.

Section B—Sales Solicitation Provisions

B.1 *Requirements for a valid offer—caution to offerors:* A valid offer to purchase SPR petroleum must meet the following conditions:

(a) The offer guarantee in an amount adequate to guarantee the offer must be received prior to the time set for the receipt of offers (See Provision No. B.9);

(b) The offer must be on the proper forms if such forms are specified under Provision No. B.18;

(c) The offer must be received prior to the time set for receipt of offers;

(d) Any amendments to the NS which explicitly require acknowledgement of receipt must be properly acknowledged; and

(e) The offeror must agree without exception to all provisions of the SSPs which the NS makes applicable to a particular sale, as well as to all provisions in the NS.

B.2 *Requirements of the "Jones Act" for U.S.-flag vessels—caution to offerors:* The "Jones Act," 46 U.S.C. 883, prohibits the transportation of any merchandise, including SPR petroleum, by water or land and water, on penalty of forfeiture thereof, between points within the United States (excluding the Virgin Islands) in vessels other than vessels built in and documented under laws of the United States, and owned by United States citizens, unless the prohibition has been waived by the Secretary of the Treasury. Further, certain U.S.-flag vessels built with construction differential subsidies are precluded by Section 506 of the Merchant

Marine Act of 1936 (46 U.S.C. 1156) from participating in U.S. coast-wise trade, unless such prohibition has been waived by the Secretary of Commerce, the waiver being limited to a maximum of 6 months in any given year.

B.3 *"Superfund" tax on SPR petroleum—caution to offerors:* The Hazardous Substance Response Revenue Act of 1980, Pub. L. 96-510, 26 U.S.C. 4611 *et seq.* imposes a tax (the "Superfund" tax) of 0.79 cent a barrel on: (1) crude oil received at a United States refinery and (2) petroleum products (including crude oil) entered into the United States for consumption, use or warehousing unless it can be established that the tax has already been paid with respect to such petroleum. The Government already has paid the tax on some of the oil imported and stored in the SPR. However, no tax has been paid on imported oil stored in the SPR prior to the effective date of this Act, or on domestic oil stored in the SPR. Because various crude oils have been commingled in the SPR, upon drawdown of the SPR it will not be possible for DOE to provide information to purchasers of SPR crude oil as to which oil already has been taxed and which oil has not. DOE has requested that the Internal Revenue Service develop a method to designate the oil on which the taxes have been paid; until such time as procedures are developed, or the tax expires, offerors are advised that all SPR oil either received at a U.S. refinery, used or exported may be subject to the Superfund tax.

B.4 *Export limitations and licensing—caution to offerors:* Offerors for SPR petroleum are put on notice that SPR crude oils subject to different export control laws have been commingled in storage. Export of SPR crude oil is subject to U.S. export control laws, the provisions of which differ depending on the source of the crude oil proposed to be exported. For example, imported crude oil stored in the SPR may be exported pursuant to applicable Department of Commerce "Short Supply Controls," 15 CFR Part 377, if: the export is part of a transaction resulting in the importation of refined products of a quantity and quality not less than would be derived from domestic refining; the products are to be sold at prices no higher than the lowest prices at which they could have been sold by the nearest capable U.S. refinery; and for compelling economic or technological reasons beyond the exporter's control, the crude oil cannot reasonably be processed in the U.S. (15 CFR 377.6(d)(1)(vii)). However, there are somewhat more stringent, independent statutory tests to be met as preconditions to the export of certain other crude oils stored in the SPR, including Alaskan North Slope (ANS) and Naval Petroleum Reserves (NPR) oil. *See* section 7(d) of the Export Administration Act of 1979, 50 U.S.C. App. 2406(d) (ANS oil) and 10 U.S.C. 7430(e) (NPR oil); *see also* 30 U.S.C. 185(u) (oil shipped across a Mineral Lands Leasing Act Section 28(u) right-of-way) and 43 U.S.C. 1354(a) (OCS oil).

B.5 *Issuance of the Notice of Sale:* In the event petroleum is sold from the SPR, the Government will issue a NS containing all of the pertinent information necessary for the offeror to prepare a priced offer. *A NS may be issued with as little as a week or less allowed for the receipt of offers.* Offerors are expected to examine the complete NS document, and to become familiar with the SSPs cited therein. Failure to do so will be at the offeror's risk.

B.6 *Submission of offers and modification of previously submitted offers:*

(a) Unless otherwise provided in the NS, offers must be submitted to the Government by mail or hand-delivery. Direct cash deposits as offer guarantees will be sent by wire.

(b) Unless otherwise provided in the NS, offers may be modified or withdrawn by mail, telegram, or mailgram, provided that the mail, telegram, or mailgram is received at the designated office prior to the hour and date specified for receipt of offers.

(c) Envelopes containing offers and any material related to offers shall be plainly marked on the outside: "RE: SALE OF PETROLEUM FROM STRATEGIC PETROLEUM RESERVE. OFFERS ARE DUE (insert time of opening), LOCAL NEW ORLEANS, LA TIME ON (insert date of opening). MAIL ROOM MUST MARK DATE AND TIME OF RECEIPT ON FACT OF THE ENVELOPE."

(d) The envelope shall be marked with the full name and return address of the offeror.

(e) Offers being sent by mail and modifications being sent by mail, telegram, or mailgram must be received at the address specified in the NS.

(f) Handcarried offers brought to the SPR/PMO in New Orleans, Louisiana on the day set for receipt of offers, or any day prior to that day, shall be taken by the offeror to the place specified in the NS. This includes mail being delivered by a delivery service. Handcarried offers shall be placed in the bid box on Saturdays, Sundays, and U.S. Government holidays or after business hours on business days.

(g) Public opening of offers is not anticipated unless otherwise indicated in the NS. An abstract of offers will be prepared and posted along with copies of the apparently successful offers in a prominent place for public viewing no later than 48 hours after the specified time and date for the receipt of offers.

B.7 *Acknowledgment of amendments to a Notice of Sale:* When an amendment to a NS requires acknowledgment of receipt, receipt by an offeror must be acknowledged: (a) By signing and returning the amendment, or (b) by letter, mailgram, or telegram in either case to be sent to the address specified in the NS. Such acknowledgment must be received prior to the hour and date specified for receipt of offers.

B.8 *Late offers, modifications of offers, and withdrawal of offers:*

(a) Any offer received at the office designated in the NS after the exact time specified for receipt will be considered only if it is received before award is made and only under the following conditions:

(1) It was sent by registered or certified mail not later than the fifth calendar day prior to the date specified for the receipt of offers (e.g., an offer submitted in response to a NS requiring receipt of offers by the 20th of the month must have been mailed by the 15th or earlier); or,

(2) It was sent by mail, telegram or mailgram if authorized, and it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation.

(b) Any modification or withdrawal of an offer is subject to the same conditions as in (a) above, except that it shall be mailed not less than the third calendar day prior to the date specified for receipt of offers. An offer may also be withdrawn in person by an offeror or its authorized representative, provided the representative's identity is made known and the representative signs a receipt for the offer, but only if the withdrawal is made prior to the exact time set for receipt of offers.

(c) The only acceptable evidence to establish:

(1) The date of mailing of a late offer, modification, or withdrawal sent either by registered or certified mail is the U.S. Postal Service postmark on either: (i) The envelope or wrapper, or (ii) the original receipt from the U.S. Postal Service. If neither postmark shows a legible date, the offer, modification or withdrawal shall be deemed to have been mailed late. (The term "postmark" means a printed, stamped, or otherwise placed impression, exclusive of a postage meter machine impression, that is readily identifiable without further action as having been supplied and affixed on the date of mailing by employees of the U.S. Postal Service. Therefore, offerors should request the postal clerk to place a hand cancellation bull's-eye "postmark" on both the receipt and the envelope or wrapper.)

(2) The time of receipt at the Government installation is the time/date stamp of such installation on the offer's wrapper or other documentary evidence of receipt maintained by the installation.

(d) Notwithstanding (a) and (b) of this provision, a late modification of an otherwise successful offer which makes its terms more favorable to the Government will be considered at any time it is received, and may be accepted.

B.9 *Offer guarantee:*

(a) Each offeror must submit an acceptable offer guarantee. The offer guarantee must be received at the place specified for receipt of offers prior to the time and date set for receipt of offers.

(b) An offeror's failure to submit a timely, acceptable guarantee will result in rejection of its offer.

(c) The amount of the offer guarantee is 10 million dollars or 5 percent of the total offer, whichever is less. The total offer is the sum of the offer's maximum potential contract amounts for all master line items.

(d) Each offeror must submit one of the following types of offer guarantees with its offer:

(1) An offer bond executed on U.S. Government Standard Form 24 (See Exhibit G);

(2) A certified or cashier's check payable to the U.S. Department of Energy, drawn on a U.S. Bank;

(3) A wire cash deposit to a special SPR/PMO account. All wire deposit costs will be borne by the offeror; or

(4) A letter of credit from a U.S. depository institution conforming without exception to the contents required by Exhibit H, Offer Guarantee—Letter of Credit. If a letter of credit is chosen, all costs will be borne by the offeror.

(e) If the offeror, a surety company or bank forwards the offer guarantee separately from the offer, the envelope shall clearly say "OFFER GUARANTEE OF (Name of Company)" and shall be clearly marked in accordance with Provision No. B.6(c).

(f) The offeror shall be liable for any amount lost by the Government due to the difference between its offer and the resale price, and for any additional resale costs incurred by the Government in the event that the offeror:

(1) Withdraws its offer within 10 days following the date set for receipt of offers;

(2) Withdraws its offer after having agreed to extend its acceptance period; or

(3) Having received a notification of apparently successful offeror, fails to furnish an acceptable payment and performance guarantee within the time limit specified by the Contracting Officer

The offer guarantee shall be used toward offsetting such difference. Use of the offer guarantee for such recovery shall not preclude recovery by the United States of damages in excess of the amount of the offer guarantee caused by such failure of the offeror.

(g) Letters of credit and bid bonds furnished as offer guarantees must be valid for at least 21 calendar days after the date set for the receipt of offers.

(h) Offer guarantees (except offer bonds and letters of credit) will be returned to an unsuccessful offeror 5 business days after expiration of the offeror's acceptance period or 3 business days after award of contracts for delivery line items on which the offeror submitted a price, whichever is first, except as provided in (i) below, and to a successful offeror upon receipt of a satisfactory performance and payment guarantee. Offer bonds (Standard Form 24) and letters of credit will be returned only upon written request. Where the offer guarantee was a wire cash deposit, a cashier's check or a certified check, it may be applied toward advance payment.

(i) If an offeror defaults on its offer, the Government will hold the offer guarantee so that damages can be assessed against it.

B.10 *Explanation requests from offerors:* Offerors may request explanations regarding meaning or interpretation of the NS from the individual and telephone number indicated in the NS. On complex and/or significant questions, the Government reserves the right to have the offeror put the question in writing by mail, telegram or mailgram. Explanation or instructions regarding complex or significant issues will be given to prospective offerors only as an amendment to the NS.

B.11 *Currency for offers:* Prices shall be stated and amount shall be paid in U.S. dollars.

B.12 *Language of offers and contracts:* All offers in response to the NS and all modifications of offers shall be in English. All contracts awarded as a result of the NS and all modifications to such contracts shall be in English. All correspondence between offerors or purchasers and the Government shall be in English.

B.13 *Proprietary data:* If any information submitted in connection with a sale is considered proprietary, that information should be so marked, and an explanation provided as to the reason such data should be considered proprietary. Any final decision as to whether the material so marked is proprietary will be made by the Government. All DOE Freedom of Information Act regulations governing the release of proprietary data shall apply.

B.14 *SPR crude oil streams and delivery points:*

(a) The geographical locations of the terminals and docks interconnected with permanent SPR storage locations, the SPR crude oil streams available at each location and the delivery points for those streams are as follows (See also Exhibit D, SPR Crude Oil Stream Characteristics, and Exhibit F, SPR Delivery Point Data):

Geographical location	Delivery points	Crude oil streams
Freeport, Texas	Jones Creek Tank Farm, or Seaway Docks	SPR Bryan Mound Sweet, SPR Bryan Mound Sour
Freeport, Texas	Seaway Docks	SPR Bryan Mound Maya.
Nederland, Texas	Sun Terminal, or Sun Docks	SPR West Hackberry Sweet, *SPR West Hackberry Sour
St. James, Louisiana	LOCAP Terminal, or DOE St. James Docks	SPR Bayou Choctaw Sweet, SPR Bayou Choctaw Sour, SPR Weeks Island Sour

*Includes petroleum stored at the SPR's Sulphur Mines site.

(b) The NS may change delivery points and it may also include additional or alternate facilities utilized in connection with Government contracts for the purchase of petroleum to fill the SPR. These facilities may include loading terminals or transshipment terminals. Alternately, the Government or its contractor may provide the transportation to the purchaser's facility, for example, when the petroleum is in transit to the SPR at time of sale.

(c) The NS may specify facility operator, contract information for scheduling delivery of cargoes purchased, and applicable port data/restrictions (see Exhibit F, SPR Delivery Point Data, for additional information).

B.15 *Notice of Sale line item schedule—petroleum quantity, quality, and delivery:*

(a) Unless the NS provides otherwise, the master line items (MLI) and delivery line items (DLI) for sales contracts are as provided in Exhibit A, Schedule Line Items, to these SSPs. Currently, there are eight master line items in Exhibit A, one for each of the eight crude oil streams that the SPR has in storage.

(b) Each master line item contains five delivery line items, each of which specifies the delivery method and the delivery period.

(1) DLI–A covers crude to be transported by the major common carrier pipeline (Seaway, Texoma or Capline) connected to the site storing the particular SPR petroleum offered on that master line item over the period of a month.

(2) DLI–B covers petroleum to be transported by other pipelines connected to the SPR site over the period of a month.

(3) The last three cover petroleum to be transported by vessels: DLI–C, covering vessels to be loaded from the first through the tenth of the month; DLI–D, vessels to be loaded from the eleventh through the twentieth; and DLI–E, vessels to be loaded from the twenty-first through the last day of the month.

(c) The NS will state the total estimated number of barrels to be sold on each master line item. An offeror may offer to buy all or part of the petroleum offered on a master line item. In making awards, the Contracting Officer shall attempt to achieve award of the exact quantities offered by the NS, but may vary the estimated master line item quantities ±10 percent in order to match the delivery line item offers received.

(d) The NS will specify a minimum quantity for each delivery line item. To be responsive, an offer on a delivery line item must be for a quantity which is at least the Government's specified minimum.

(e) The NS will specify the maximum quantity which could be sold on each of the five delivery line items. This maximum is not an indication of the amount of petroleum that, in fact, will be sold on that delivery line item. Rather, it represents DOE's best estimate of the maximum amount of the particular SPR crude oil stream that can be moved by that transportation system over the delivery period. The total DOE estimated DLI maximums may exceed the total number of barrels to be sold on that master line item, as the NS delivery line estimates represent estimated transportation capacity, not what DOE is offering to sell. Where necessitated by facility constraints, DLI–B may be combined with either DLI–A or DLI–C, D, and E for the purpose of determining estimated transportation capacity.

(f) The NS will not specify what portion of the petroleum which the Government offers on a master line item will, in fact, be sold on any given delivery line item. Rather, the highest priced offers received on the master line item will determine the delivery line items against which the offered petroleum is sold.

(g) DOE will not sell petroleum on a delivery line item in excess of the delivery line item maximum; however, DOE reserves the right to revise its estimates up to the time of award and to award contracts in accordance with its revised estimates. Offerors are cautioned that: DOE cannot guarantee that such capacity is available; offerors should undertake their own analyses

of available transportation capacity; and each apparently successful offeror is wholly responsible for arranging all transportation other than terminal arrangements at the terminals listed in Provision No. B.14. Such terminal arrangements shall be made in accordance with Provision No. C.6. A purchaser against one delivery line item cannot change transportation modes without prior written permission from the Government, although such permission will be given wherever possible, in accordance with Provision No. C.16.

(h) Exhibit D, SPR Crude Oil Stream Characteristics, contains current available characteristics for each SPR crude oil stream. This data will change as more crude oil is stored in the SPR. Prospective offerors are cautioned that the NS will provide, to the maximum extent practicable, the actual characteristics as to each stream offered.

(i) In the preparation of offers, offerors must specify at least one delivery line item (i.e., transportation mode), but may make offers on more than one delivery line item. Unless otherwise specified in the NS, offerors also may make alternate offers on different delivery line items under a single master line item; e.g., the offer may state, either DLI–A, via major common carrier, or DLI–D, via vessel loaded from the 11th through 20th, or DLI–E, via vessel loaded from the 21st through the end of the month.

(j) Offerors may submit more than one offer on a master line item.

(k) An offeror also may specify a minimum DLI quantity that the offeror would accept on a delivery line item. The Government will award less than the offer's maximum DLI quantity, only if after consideration of all higher offers, the remaining quantity available on a delivery line item is less than the offer's maximum DLI quantity. If the offeror specifies no minimum, the Government will evaluate the offer as though the offeror had specified the Government's minimum quantity.

(l) Each offeror, if determined to be an apparently successful offeror on a delivery line item, agrees to enter into a contract for the purchase of a quantity of petroleum (the quantity to be specified in the contract and to be within the minimum and maximum quantities stated in the offer) and to take delivery of that petroleum in accordance with the terms of that contract.

(m) The NS may establish a minimum acceptable price. Offers less than such price shall be rejected as nonresponsive.

B.16 *Line item information to be provided in the offer:* The following information will be provided to the Government by the offeror in its offer on each master line item, in the exact form as that set forth on the master line item schedule in Exhibit A (See also Exhibit C, Sample Offer):

(a) Master line item number

(b) Quantity offered for that master line item. The offeror shall state the maximum quantity sought for that crude type. Offerors are cautioned that alternate offers on different master line items are not permitted; e.g., the offer may not state, either 1,000,000 barrels of SPR West Hackberry sweet or 1,000,000 barrels of SPR West Hackberry sour. DOE will award the maximum MLI quantity to the offerors with the highest unit prices until award of the maximum MLI quantity to the next lowest offeror would cause the total of the awards to exceed either the quantity offered for sale on the master line item or the maximum transportation capability specified for a particular delivery line item. In that event, where practicable DOE will award a lesser amount to the apparently successful offeror sufficient to bring the total quantity awarded up to the quantity offered by the Government on that line item. However, DOE reserves the right to vary the quantity offered by ±10 percent in order to match the offers received. (See minimum acceptable quantity discussed in (e) below.)

(c) Delivery line item quantity. The offeror shall state the number of barrels which the offeror will accept on each delivery line item, i.e., by the delivery mode and during the delivery period specified. The quantity stated on a single delivery line item shall not exceed the maximum MLI quantity. The offeror shall designate a quantity on at least one delivery line item, but may designate quantities on more than one delivery line item. If the offeror is willing to accept alternate delivery methods or delivery periods, the total of its designated delivery line item quantities would exceed its maximum MLI quantity; otherwise, the total of its designated delivery line item quantities should equal its maximum MLI quantity.

(d) Delivery line item unit price and total price. The offeror shall provide the price per barrel for each delivery line item for which the offeror has designated a desired quantity, as well as the total price (quantity times price). DOE will award on the basis of highest unit price first. For offerors that will accept alternate delivery line items, if the offeror offers a higher price for one delivery line item, that item shall be awarded first. If the offeror has the same price for two or more delivery line items, it may indicate its first choice, second choice, etc., for award of those items; if the offeror does not indicate a preference, DOE may select the delivery line items to be awarded at its discretion. Prices may be stated in hundredths of a cent ($0.0001). The Government shall drop from the offer and not consider any numbers of less than one one-hundredth of a cent.

(e) Minimum quantity acceptable. The offeror may indicate the minimum quantity the offeror will accept on a delivery line item. The offeror may indicate that the minimum acceptable quantity is the maximum quantity sought by the offeror. DOE will award less than the maximum quantity proposed by the offeror only if the offer is for greater than the amount of petroleum remaining to be sold on the line item. If the offeror does not indicate a minimum quantity, the minimum quantity shall be the minimum quantity indicated in the NS.

(f) Any other data required by the NS.

B.17 *Mistake in offer:*

(a) After opening and recording the offers, the Contracting Officer shall examine all apparently successful offers for mistakes. In case of apparent mistakes and in cases where the Contracting Officer has reason to believe a mistake may have been made, he shall request from the offeror a verification of the offer, calling attention to the suspected mistake. The Contracting Officer may telephone the offeror and confirm the request by telegram. The Contracting Officer may set a limit of as little as 6 hours for telephone response, with any required written documentation to be received within as little as 2 business days.

(b) If no response is received, the Contracting Officer may determine that no error exists and proceed with offer evaluation.

(c) If the offeror alleges a mistake, the matter will be resolved as provided in (d) and (e) below.

(d) The Contracting Officer may correct any error apparent on the face of the offer prior to award in accordance with (1) through (3) below if he has first obtained from the offeror verbal verification, to be confirmed in writing, of the offer actually intended.

(1) Price discrepancy: An offer for a delivery line item must contain the unit price per barrel being offered and the quantity to which the unit price applies. The offer for a delivery line item should contain an extension price which is the total of the quantity desired multiplied by the unit price offered. If there is a discrepancy between the unit price and the extension price, the unit price will govern and be recorded as the offer, unless it is clearly apparent on the face of the offer that there has been a clerical error, in which case the Contracting Officer can correct the offer.

(2) Quantity discrepancy: In case of conflict between the master line item quantity and the delivery line item quantity, the lesser quantity will govern.

(3) Any other type of error will be resolved in accordance with (e) below.

(e) The Head of the Procuring Activity will make administrative determinations described in (1) through (3) below in connection with mistakes in offers alleged after opening and recording of offers and before award. No such determination shall be used to make a non-responsive offer responsive. The authority for such determinations is in addition to that contained in (d) above.

(1) The Head of the Procuring Activity may determine that an offeror shall be permitted to withdraw its offer without penalty under the offer guarantee, where the offeror requests permission to do so and clear and convincing evidence establishes the existence of a mistake.

(2) The Head of the Procuring Activity may determine that an offeror may correct the offer and refuse to permit the offeror to withdraw its offer if the evidence is clear and convincing both as to the existence of a mistake and as to the offer actually intended, and if the offer, both as uncorrected and corrected, is an apparently successful offer.

(3) The Head of the Procuring Activity may determine that an offeror may correct its offer where the offeror requests permission to do so and clear and convincing evidence establishes both the existence of an error and the offer actually intended. However, if such correction would result in displacing one or more higher acceptable offers, the Head of the Procuring Activity shall not so determine

unless the existence of the mistake and the offer actually intended are ascertainable substantially from the NS and offer itself. If the evidence is clear and convincing only as to the mistake, but not as to the intended offer, the Head of the Procuring Activity may determine to permit the offeror to withdraw its offer in whole or in part, if only part of the offer is affected, without penalty under the offer guarantee.

B.18 *Proper form for offer submission:* The NS may require that for an offer to be valid, it must be submitted only on a certain form or forms. Such forms may be:

(a) The master line item schedules 001 through 008 in Exhibit A;

(b) A sheet similar to the Sample Data Entry Sheet in Exhibit A;

(c) Other forms provided with the NS; or

(d) Any combination of the above. If the NS requires submission of an offer on specified forms, failure to use such forms will result in the offer being rejected as non-responsive.

B.19 *Evaluation of offers:*

(a) The Contracting Officer will be the determining official as to whether an offer conforms to the SSPs and the NS. The Contracting Officer will award to the highest responsible offeror which submits an offer responsive to the SSPs and the NS. The Government reserves the right to reject any or all offers and to waive minor informalities or irregularities in offers received.

(b) A minor informality or irregularity in an offer is an inconsequential defect the waiver or correction of which would not be prejudicial to other offerors. Such a defect or variation from the strict requirements of the NS is inconsequential when its significance as to price, quantity, quality or delivery is negligible.

B.20 *Procedures for evaluation of offers:* DOE will array all price offers on a master line item from highest to lowest for award evaluation regardless of delivery line item. However, DOE will award against the delivery line items and will not award a greater quantity on a delivery line item than the Government's estimate (which is subject to change up to the time of award) of the maximum quantity that can be moved by the delivery method. Selection of the apparently successful offer involves the following steps:

(a) Any offers below the minimum acceptable price, if any minimum price has been established for the sale, will be rejected as being nonresponsive.

(b) All other offers on each master line item will be arrayed, for award consideration, from highest delivery line item price to lowest delivery line item price.

(c) The highest offers will be reviewed for responsiveness to the terms of the NS.

(d) In the event the highest offer does not take all the crude available on the master line item, the next highest offer will be selected until all of the petroleum offered on the master line item is taken. In the event that acceptance of an offer against a delivery line item would result in the sale of more petroleum than the Government estimates can be delivered by the specified delivery method, the Government will not award the full amount of the offer, but rather that portion which the Government estimates can be delivered, provided such portion exceeds the offer's minimum DLI quantity. In the event that the quantity remaining is less than the offeror's minimum DLI quantity, the Contracting Officer shall proceed to the next highest offer.

(e) In the event of tied offers, the total of which exceed the remaining quantity offered on a line item, the remaining quantity shall be divided proportionately using the following formula:

$$\frac{\text{barrels remaining X each individual offeror's maximum quantity}}{\text{total of the tied offerors' designated maximum quantities}}$$

In the event that a single tied offeror's share falls below the offeror's minimum acceptance quantity, that quantity will be awarded to the other tied offerors. If the share of more than one of the tied offers falls below their respective minimum acceptable quantity, then those tied offers shall be arrayed by a drawing of lots, conducted by the Contracting Officer. In the order of their drawing, the Contracting Officer shall then include in his division as many of those offerors as will not cause any offeror's share to fall below its minimum acceptable quantity.

(f) Determinations of responsibility of potential purchasers before each award will be made by the Contracting Officer. Compliance with required payment and performance guarantees will effectively assure a finding of responsibility of offerors, except where: (i) The offeror is on either DOE's or the Federal Government's list of debarred, ineligible and suspended bidders; or (ii) evidence, with respect to an offeror, comes to the attention of the Contracting Officer of conduct or activity which represents a violation of law or regulation (including an Executive Order having the force and effect of law); or (iii) evidence is brought to the attention of the Contracting Officer of past activity or conduct of the offeror which shows a lack of integrity (including actions inimical to the welfare of the United States) or willingness to perform, so as to substantially diminish the Contracting Officer's confidence in the offeror's performance under the proposed contract. Apparently successful offerors will be contacted by telephone and advised to provide to the Contracting Officer, within five business days or such other longer time as the Contracting Officer shall determine, a letter of credit (See Exhibit I, Payment and Performance Guarantee—Letter of Credit) or advance payment as specified in the NS or SSPs.

(g) Award on each delivery line item will be made to the highest responsible offerors which submit offers responsive to the SSPs and the NS and which have provided the required letter of credit or advance payment.

B.21 *Financial statements and other information:* (a) After receipt of offers but prior to making award, the Government reserves the right to ask for the audited financial statements for offeror's most recent fiscal year and unaudited financial statements for the most recent quarters. This statement package must contain a balance sheet and profit and loss statement for the periods covered thereby. A certification by a principal accounting officer that there have been no material changes in financial condition since the date of the audited statements, and that these present the true financial condition as of the date of the offer, shall accompany the statements. If there has been a change, the amount and nature of the change must be specified and explained in the unaudited statements and a principal accounting officer shall certify that they are accurate. The Contracting Officer must receive the data within 2 business days of a telephone request to the offeror.

(b) The Government also reserves the right to require information from the offeror regarding its plans for use of the petroleum, the status of requests for export licenses, plans for complying with the Jones Act, etc. The information must be received within 3 business days of a telephone request.

B.22 *Resolicitation procedures on unsold petroleum:*

(a) In the event that petroleum offered on a master line item remains unsold after evaluation of all offers, the Contracting Officer may issue an amendment to the NS, resoliciting offers on these delivery line items from all interested parties. Evaluation procedures for these delivery line items shall follow the procedures set forth in Provision No. B.20. The Government reserves the right to change the master line items to offer different SPR crude oil streams for the purpose of such resolicitation.

(b) In the event that for any reason petroleum which has been awarded becomes available to the Government for resale, the Contracting Officer may use the following procedures:

(1) If priced offers remain valid in accordance with Provision No. B.23, the petroleum will go to the next highest arrayed offer.

(2) If offers have expired in accordance with Provision No. B.23, the Contracting Officer at his option may offer the petroleum to the highest offeror for that master line item which: (i) had not received its maximum MLI quantity; (ii) had offered to take delivery by a delivery method which has remaining capacity; and (iii) had stated a minimum DLI quantity that was less than the quantity available for award. The pertinent offeror may, at its option, accept or reject that petroleum at the price originally offered, and if that offeror rejects the petroleum, it will be offered to the next highest offeror, etc.

(3) If the petroleum is not then resold, the Contracting Officer may at his option proceed to amend the NS to resolicit offers for that petroleum or add the petroleum to the next sales cycle.

B.23 *Offeror's certification of acceptance period:*

(a) By submission of an offer, the offeror certifies that its priced offer will remain valid for 10 calendar days after the date set for the receipt of offers.

(b) By mutual agreement of DOE and the offeror, an individual offeror's acceptance period may be extended for a longer period.

B.24 *Line item information to be provided in the Notice of Acceptance:* The following information will be provided to the purchaser by the Government on the NA for each

master line item and/or delivery line item if the offeror is awarded a contract:

(a) Identification of SPR crude oil streams awarded;

(b) Delivery line item number;

(c) Total quantity awarded on the master line item and on each delivery line item;

(d) Price in U.S. dollars per specified unit, i.e., barrels;

(e) Extended total price offer for that line item;

(f) Delivery point;

(g) Delivery period; and

(h) Any other data necessary to the sales contract.

B.25 *Contract documents:* If an offeror is successful, the Government will make award using a NA signed by the Contracting Officer. The NA will identify the items, quantities, prices and delivery method which the Government is accepting. Attached to the NA will be the NS and the successful offer. Provisions from Section C of the SSPs will be made applicable through incorporation by reference in the NS. The Contracting Officer also shall provide the purchaser with an information copy of the then-current SSPs as published in the **Federal Register**. If time constraints require it, the Government may accept the offeror's offer by an electronic notice, such as telegram or telegraph, and the contract award shall be effective upon issuance of such notice. The electronic notice will be followed by a mailing of full documentation as described above.

B.26 *Purchaser's representative:* As part of its offer, each offeror shall designate an agent and an alternate agent as a point of contact for any telephone calls or correspondence from the Contracting Officer. Any such agent shall have a U.S. address and telephone number and shall speak English.

B.27 *Procedures for selling to other U.S. Government agencies:*

(a) If a U.S. Government agency submits an offer for petroleum in a price competitive sale, that offer will be arrayed for award consideration in accordance with Provision No. B.20, Procedures for evaluation of offers. If a U.S. Government agency is an apparently successful offeror, award and payment will be made exclusively in accordance with statutory and regulatory requirements governing transactions between agencies, and the U.S. Government agency will be responsible for complying with these requirements within the time limits set by the Contracting Officer.

(b) U.S. Government agencies are exempt from all guarantee requirements, but must complete all transportation arrangements for moving the petroleum. They must also fill out and submit any required information for statistical purposes No failure by a U.S. Government agency to comply with any of the requirements of these SSPs shall provide a basis for challenging a contract award to the U.S. Government agency.

B.28 *Information gathered for statistical purposes.* The Contracting Officer, at his discretion, may in the NS require the offeror to submit the information called for in Exhibit L, Information for Statistical Purposes. That information may be used for analytical purposes, but will have no effect on contract evaluation and award.

Section C Sales Contract Provisions

C.1 *Certification of independent price determination:*

(a) By submission of an offer, the offeror certifies that in connection with the offer:

(1) The prices in the offer have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices, with any other offeror or with any competitor;

(2) Unless otherwise required by law, the prices which have been quoted in the offer have not been knowingly disclosed by the offeror and will not knowingly be disclosed directly or indirectly by the offeror prior to award, to any other offeror or to any competitor; and

(3) No attempt has been made or will be made by the offeror to induce any other person or firm to submit or not to submit an offer for the purpose of restricting competition.

(b) Each person signing the offer certifies that:

(1) He is the person within the offeror's organization responsible for the decision as to the prices being offered, and that he has not participated, and will not participate, in any action contrary to (a)(1) through (a)(3) above; or

(2) (i) He is not the person in the offeror's organization responsible within that organization for the decision as to the prices being offered, but that he has been authorized in writing to act as agent for the persons responsible for such decision in certifying that such persons have not participated, and will not participate, in any action contrary to (a)(1) through (a)(3) above, and as their agent does hereby so certify; and (ii) he has not participated, and will not participate, in any action contrary to (a)(1) through (a)(3) above.

(c) An offer will not be considered for award where (a)(1), (a)(3), or (b) above has been deleted or modified. Where (a)(2) above has been deleted or modified, the offer will not be considered for award unless the offeror furnishes with the offer a signed statement which sets forth in detail the circumstances of the disclosure and unless it is determined that such disclosure was not made for the purpose of restricting competition.

C.2 *Transportation certification:* By submission of an offer, the offeror represents that it, or another party with which it has a resale or exchange agreement, can take timely delivery of the total maximum MLI quantities for which a priced offer has been submitted.

C.3 *Certification of compliance with the "Jones Act" and the U.S. export control laws:* By submission of this offer, the offeror certifies that it will comply with the "Jones Act," 46 U.S.C. 883, regarding use of United States-flag vessels in the transportation of oil between points within the United States, and with any applicable U.S. export control laws affecting the export of SPR petroleum. Failure to comply will be considered to be a failure to comply with the terms of any contract containing these SSPs and may result in termination for default in accordance with Provision No. C.26. Purchasers who have failed to comply with the Jones Act or the export control laws in SPR sales may be found to be non-responsible in the evaluation of offers under Provision No. B.20 of the SSPs. Those purchasers may also be subject to proceedings to make them ineligible for future awards in accordance with 10 CFR Part 625.

C.4 *Storage of SPR petroleum:* Continued storage of purchasers' oil in the SPR storage facility after the end of the delivery periods specified in the contracts is not currently permitted in these SSPs. Such storage for purchaser will only be allowed if specifically authorized by the Secretary of Energy and provided for in the NS or in the sales contract. Allowing petroleum to remain in storage as the result of failure to complete delivery arrangements may result in assessment of liquidated damages under Provision Nos. C.26 through C.28 unless such failure is excused by those provisions.

C.5 *Environmental compliance:*

(a) Vessels to be used for the transportation of petroleum purchased from the SPR will comply with all applicable rules and regulations, including The Ports and Waterways Safety Act, The Federal Water Pollution Control Act of 1972, The Oil Pollution Control Act of 1961, and other applicable statutes, rules and regulations, including the following: Parts 151, 153, 157, and 159, of Title 33 and Parts 30–30 and 542 of Title 46 of the Code of Federal Regulations.

(b) The purchaser will employ in the performance of this contract only vessels whose owners are parties to the Tanker Owners Voluntary Agreement Concerning Liability for Oil Pollution (TOVALOP) or who carry equivalent liability coverage.

(c) All crude oil transfer operations in performance of the purchase will be in accordance with the guidelines detailed in the International Oil Tanker Safety Guide, and U.S. Coast Guard Regulations, and the "Ship to Ship Transfer Guide" of the International Chamber of Shipping Oil Companies International Marine Forum.

(d) Failure to comply with all environmental requirements will be considered a failure to comply with the terms of any contract containing these SSPs, and may result in termination for default in accordance with Provision No. C.26.

C.6 *Delivery and transportation scheduling:* After notification of the apparently successful offerors, but at least 10 days prior to the start of the one-third of a month delivery period for all deliveries to be moved by vessel, or at least 10 days prior to the start of the 30-day delivery period for pipeline deliveries, each apparently successful offeror or purchaser shall contact the PMO for the purpose of determining the delivery schedule within the delivery periods during which the purchaser is to take the petroleum. Requests for firm delivery windows for vessels or delivery dates for pipelines received by the PMO within 7 business days after issuance of the notification of apparently successful offers shall be handled in descending order, highest offer first. Such requests received after that time shall be handled on a first-come, first-served basis. If successful offerors do not

make timely acceptable arrangements, delivery windows and dates will be assigned by the PMO 7 days prior to the start of the delivery period. The PMO point of contact is: Crude Oil Programming Division, Strategic Petroleum Reserve, Project Management Office, Department of Energy, 900 Commerce Road East, New Orleans, LA 70123 (504) 734-4974.

C.7 *Delivery and acceptance of petroleum:*

(a) The purchaser, at its expense, shall make all necessary arrangements to accept delivery of and transport the SPR petroleum, except for terminal arrangements which shall be coordinated with the Government. The Government will deliver and the purchaser will accept said petroleum at delivery points listed in the NS. Title and risk of loss shall pass to the purchaser at such delivery points in accordance with Provision No. C.9. The purchaser also shall be responsible for meeting any delivery requirements imposed at those points including complying with the rules, regulations, and procedures contained in applicable port/terminal manuals or other applicable documents such as pipeline tariffs on file with the Federal Energy Regulatory Commission.

(b) The following vessel loading conditions shall apply:

(1) Upon receipt of the NA, the purchaser shall furnish the SPR/PMO with an estimated schedule of planned vessel arrivals in accordance with Provision No. C.6, Delivery and transportation scheduling.

(2) The length of the loading window shall be as established in the NS, but shall not be less than a 3-day window. The minimum quantity to be lifted during a single loading window will also be established in the NS.

(3) Tankers shall have a minimum average load rate of 20,000 barrels per hour (BPH). Barges with a load rate of not less than 5,000 BPH shall be permitted at the Sun Terminal barge docks. With the consent of the Government, the purchaser may use tankers with load rates of less than 20,000 BPH, or barges at Seaway Terminal, in order to complete loading of contract quantities, if such use does not interfere with the Government's obligations to other parties.

(4) At least 10 days in advance of each scheduled arrival date, unless the NA specifies another time, the purchaser shall furnish the SPR/PMO with vessel nominations specifying: (i) name and size of vessel; (ii) estimated date of arrival, to be narrowed to a firm date not later than 3 days prior to vessel arrival; (iii) quantity to be loaded and contract number; and (iv) other relevant information requested in writing by the Contracting Officer. Once established, changes in such nomination details may be made by mutual agreement of the parties, to be confirmed by the Government in writing. The purchaser shall be entitled to substitute another vessel of similar size for any vessel so nominated, subject to the Government's approval. The Government should be given at least 4 days notice prior to the first day of the loading window of any such substitution. The Government shall make a reasonable effort to accept any nomination for which notice has not been given in strict accordance with the above provisions.

(5) The purchaser shall arrange to have its vessel notify the SPR/PMO of the expected hour of arrival 72, 48 and 24 hours in advance, and after the first notice, to advise of any variation of more than 4 hours. When the vessel is not more than 6 hours from the load port and is ready to load, a Notice of Readiness shall be tendered by the tanker's Master and promptly confirmed in writing to the SPR/PMO and the terminal responsible for coordination of crude oil loading operations. Such notice shall be effective only if given during customary terminal operating hours.

(6) The Government shall use its best efforts to berth the purchaser's vessel as soon as possible after receipt of the Notice of Readiness.

(7) Standard hose and fittings for loading shall be provided by the Government.

(8) Tankers shall be allowed berth time of 36 hours as defined below:

(i) Berth time shall commence immediately upon each vessel's arrival at berth and it shall continue until loading of the vessel is completed and the cargo hoses have been removed. In addition, allowable berth time will be increased by the amount of any delay occurring subsequent to the commencement of berth time and resulting from causes due to adverse weather conditions, strikes, labor disputes, events of force majeure and the like.

(ii) For all hours of berth time which elapse in excess of the purchaser's allowable berth time for loading provided for above, the purchaser shall be liable for dock demurrage penalties and also shall be subject to the conditions of Provision No. C.8.

(9) If the vessel is tendered for loading on a date earlier than the scheduled loading window and other vessels are loading or have already been scheduled for loading prior to the purchaser's vessel, the purchaser's vessel shall await its turn and berth time shall not commence until the vessel moors alongside. If the vessel is tendered for loading later than 2400 hours on the last day of the scheduled delivery window, the Government will use its best efforts to have the vessel loaded as soon as possible in its proper turn with other scheduled vessels, under the circumstances prevailing at the time.

(c) The following pipeline delivery conditions shall apply:

(1) Prior to the last day of the month preceding the month of delivery, the purchaser shall furnish the SPR/PMO with the following information: (i) confirmation of the pipeline's acceptance of the amount of the petroleum proposed to be delivered in the next month; (ii) an estimated schedule (consistent with the terms of the contract) for delivery of the petroleum to the pipeline; and (iii) the name and telephone number of the pipeline point of contact with whom the SPR/PMO should coordinate the petroleum delivery.

(2) Once established, the pipeline delivery schedule can only be changed with the Government's prior written consent.

C.8 *Purchaser liability for excessive berth time:* The Government reserves the right to direct a marine vessel loading SPR petroleum at a delivery point specified in the NS, to vacate its SPR berth, should such vessel, through its operational inability to receive oil at the average rates provided for in Provision No. C.7(b)(3), cause the berth to be unavailable for an already scheduled follow-on vessel. Furthermore, should a breakdown of the vessel's propulsion system prevent its getting under way on its own power, the Government may cause the vessel to be removed from the berth with all costs to the account of the purchaser.

C.9 *Title and risk of loss:* Unless otherwise provided in the NS, title to and risk of loss for petroleum purchased from the Government will pass to the purchaser at the delivery point as follows:

(a) For vessel shipment—when the petroleum passes the loading equipment connections of the dock facility to the vessel's permanent hose connection.

(b) For pipeline shipment—when the petroleum passes the permanent flange connecting the terminal to the commercially owned pipeline.

(c) For in-transit shipments—when the petroleum passes the permanent flange of the vessel manifold upon discharge into a marine terminal facility or another vessel.

(d) Terms for other SPR petroleum outside the U.S. will be given in the NS if they are applicable to the sale.

C.10 *Acceptance of crude oil:* The NS shall provide current available characteristics on each SPR crude oil stream offered for sale as shown in Exhibit D, SPR Crude Oil Stream Characteristics. Except as provided hereafter, the Government assumes no responsibility for deviations in quality and the purchaser shall accept the crude oil delivered.

(a) In the event that either the API gravity or total sulfur content (percent by weight) of the crude oil delivered does not fall within the plus or minus (±) limits specified in the NS, but is above the minimum API gravity and below the maximum sulfur level shown in Exhibit E, SPR Crude Oil Stream Minimum Quality, the price shall be adjusted in accordance with Provision No. C.11, Quality differentials for crude oil.

(b) In the event that the crude oil delivered has an API gravity below or a total sulfur content above the respective levels shown in Exhibit E, the purchaser shall accept the crude oil delivered and either pay the contract price adjusted in accordance with Provision No. C.11, or request renegotiation of the contract price. Unless the purchaser submits a written request for renegotiation of the contract price to the Contracting Officer within 10 days from the date of delivery, the purchaser shall be deemed to have accepted the adjustment of the price in accordance with Provision No. C.11. Should the purchaser request a renegotiation of the price and the parties are unable to agree as to that price, the dispute shall be settled in accordance with Provision No. C.36, Disputes.

C.11 *Quality differentials for crude oil:* The NS will specify price adjustments applicable to the crude oil streams offered for sale. The price adjustments will be made for variations in API gravity and total sulfur content (percent by weight) of the crude oil delivered from the crude oil stream characteristics as established by the NS as follows:

(a) The contract price per barrel shall be increased by the amount set forth in the NS for each whole degree API gravity that the crude oil delivered exceeds the upper limit of that crude oil stream's API gravity as established by the NS and decreased by the amount set forth in the NS for each whole degree API gravity that the crude oil delivered falls below the lower limit.

(b) The contract price per barrel shall be increased by the amount set forth in the NS for each one-tenth of 1 percent that the total sulfur content falls below the lower limit of that crude oil stream's total sulfur content as established by the NS and decreased by the amount set forth in the NS for each one-tenth of 1 percent of total sulfur content that the crude oil delivered exceeds the upper limit.

C.12 *Determination of quantity of petroleum:*

(a) Quantities will be determined from certified opening and closing Government tank gauge reports or delivery meter reports. All volumetric measurements will be converted to net dry barrels at 60°F using API *Manual of Petroleum Measurement Standards,* Chapter 11.1, *Volume Correction Factors,* (1980) (ASTM D1230) (IP 200), Table 5A—*Generalized Crude Oils, Correction of Observed API Gravity to API Gravity at 60°F,* Table 6A—*Generalized Crude Oils, Correction of Volume to 60°F Against API Gravity at 60°F,* or latest edition, and by deducting sediment and water (S&W) as determined from the composite all levels samples taken from the delivery tanks and free water.

(b) The quantity determination shall be made and certified by the Government's authorized contractor responsible for loading operations, and witnessed by the Government Quality Assurance Representative at the delivery point. The purchaser shall have the right to have representatives present at the loading and sampling. Should the purchaser arrange for additional inspection services to witness quantity determinations, such services will be for the account of the purchaser. Any disputes shall be settled in accordance with Provision No. C.36, Disputes. Should the purchaser opt not to provide such additional services, then the Government findings shall be binding on the purchaser.

C.13 *Determination of quality of petroleum:*

(a) The quality determination of the crude oil delivered to purchaser shall be made either from a composite of samples taken from all levels of the delivery tanks or from a composite of line samples. Tests to be performed by the Government or its authorized contractor are:

(1) API *Manual of Petroleum Measurement Standards,* Chapter 10.4, Pub. 2542, *Methods of Test for Water and Sediment in Crude Oils,* 1970 (ASTM D96) or latest edition; or API *Manual of Petroleum Measurement Standards,* Chapter 10.1, *Determination of Sediment in Crude Oils and Fuel Oils by the Extraction Method,* first edition, 1981 (ASTM D473) (IP53), or latest edition, and API *Manual of Petroleum Measurement Standards,* Chapter 10.2, *Determination of Water in Crude Oil by Distillation,* first edition, 1981 (ASTM D4006) (IP358), or latest edition.

(2) ASTM D1552, *Sulfur in Petroleum Products (High Temperature Method),* latest edition, ASTM D2622, *Sulfur in Petroleum Products (X-Ray Spectographic Method),* latest edition, or ASTM D129, *Sulfur in Petroleum Products (General Bomb Method),* latest edition.

(3) API *Manual of Petroleum Measurement Standards,* Chapter 9.1, *Hydrometer Test Method for Density, Relative Density, (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products,* first edition, 1981 (ASTM D1298) or latest edition.

(4) ASTM D445, *Kinematic Viscosity of Transparent and Opaque Liquids,* latest edition.

(b) The purchaser may arrange for additional services to witness and verify testing simultaneously with the Government Quality Assurance Representatives. Such services, however, will be for the account of the purchaser. Any disputes will be settled in accordance with Provision No. C.36. Should the purchaser opt not to provide such additional services, then the Government findings will be binding on the purchaser.

C.14 *Delivery documentation:* The quantity and quality determination shall be documented on the appropriate Department of Defense Petroleum Shipping and Inspection Report, DD250 (Pipeline) for delivery points identified in Provision No. B.14, or DD250–1 (Tanker/Barge) (see Exhibit K for copies of the forms). Copies of the completed DD250 or DD250–1, with applicable supporting documentation (i.e., metering tickets or tank measurements) will be furnished to the purchaser and/or the purchaser's authorized representative upon completion of delivery. They will serve as the basis for invoicing and/or reconciliation invoicing for the sale of petroleum as well as for invoicing such associated services as may be provided for in the contract.

C.15 *Contract amount estimated for crude oil:* The contract amount stated in the award documents for crude oil is an estimate. The per barrel unit price is subject to adjustments based on the sulfur content and API gravity characteristics of the crude oil actually delivered. In addition, due to conditions of loading and shipping, the quantity may vary by ± 5 percent more or less than the scheduled delivery quantity.

C.16 *Contract modification—alternate delivery methods:* A purchaser may request a change in delivery method after the issuance of the NA. Such requests may be made either orally or in writing, but will require written modification of the contract by the Contracting Officer. Such modifications will be permitted by the Government if it is determined that the change in delivery method does not interfere with the delivery plans of other purchasers, and the purchaser agrees to pay all increased terminalling costs incurred by the Government because of such modification. The NS may establish a per barrel rate for such increased costs.

C.17 *Payment and performance guarantee:*

(a) The purchaser must furnish an acceptable payment and performance guarantee before the Government will execute the NA. During the notification of apparently successful offeror, the Contracting Officer will inform the offeror by telephone that the guarantee is due within a period which may be as short as 5 business days, and give the offeror a provisional contract number to use if the guarantee is a letter of credit. The Contracting Officer may, at his discretion, send a confirming telegram of the notification, but the timeliness of receipt for the guarantee is determined by the date of the telephone call.

(b) The payment and performance guarantee must be either: (1) advance payment by a cash wire deposit or (2) a letter of credit. All wire deposit and letter of credit costs will be borne by the purchaser.

(c) A purchaser electing advance payment must so indicate in its offer. Payment must be made in accordance with Provision No. C.22 as follows:

(1) If the contract period is 31 days or less, the purchaser shall pay 105 percent of the contract amount in advance.

(2) If the contract period is longer than 31 days, the purchaser shall pay in advance an amount equal to 31 days of deliveries plus 5 percent of the entire contract amount.

(d) A purchaser not electing to provide an advance payment must provide a letter of credit, conforming to the requirements of Provision No. C.19, and Exhibit I, Payment and Performance Guarantee—Letter of Credit, equal to 100 percent of the contract amount.

(e) The purchaser shall maintain such payment and performance guarantee in full force and effect to the Contracting Officer's satisfaction until final payment under the contract. Failure to do so may result in termination of the purchaser's contract for default in accordance with Provision Nc C.26, Termination.

(f) The Contracting Officer or his designee may draw against this payment and performance guarantee at any time after the first delivery for any monies due under the contract for petroleum delivered and at any time for any other monies owing to the Government under the contract, no matter how the debt to the Government arose.

C.18 *Replacement of funds in the payment and performance guarantee:*

(a) If the SPR/PMO (which may act through its Finance Division), with the approval of the Contracting Officer draws against the letter of credit, or makes charges against the advance payment, for monies owed the Government for liquidated damages or other funds due the Government, the SPR/PMO or its Finance Division shall notify the purchaser within 24 hours of the fact of such withdrawal or charge and the amount thereof. The Government shall dispatch such notification by U.S. Express Mail, U.S. Mail or telegraphic means. Purchaser is deemed to have received a mailed notice on the second day after its dispatch and to have received telegraphic notice the day after its dispatch.

(b) Payment and performance guarantees must be maintained at the following minimum levels:

(1) Letter of credit at 100 percent of the contract price of the petroleum remaining to be delivered;

(2) Advance payment, on a contract for 31 days or less, at 105 percent of the contract price of the petroleum remaining to be delivered; and

(3) Advance payment, on a contract for more than 31 days, at the lesser of 100 percent times 31 days delivery plus 5 percent of the total contract price or 105 percent of the contract price of the petroleum remaining to be delivered.

(c) In the event that a draw against the payment and performance guarantee causes the amount to fall below the levels specified in (b), the purchaser shall, within 5 business days after it is deemed to have received notification in (a), replenish the amount necessary to increase the remaining payment and performance guarantee to the levels specified in (b). Such replenishment shall be made either by the wire transfer of funds in accordance with Provision No. C.22, or by the provision of a new letter of credit or amendment of the old letter of credit. If such replenishment is not made within 5 business days, the Contracting Officer may withhold deliveries under the contract on the 6th business day with no prior notice to the purchaser, and/or the Contracting Officer may terminate the contract in whole or in part on the 6th business day without prior notice to the purchaser. Such termination would be for default in accordance with Provision No. C.26, Termination.

C.19 *Payment and performance letters of credit—general requirements*

Letters of credit must meet the following criteria:

(a) If a letter of credit is from a single depository institution, including a branch or an agency of a foreign bank, (hereinafter referred to as "bank") that bank must maintain an account with any Federal Reserve Bank or Branch (Fed) and be a participant in the Fed's FEDWIRE funds transfer system. If the letter of credit is issued by a syndicate of banks, only the institution acting as agent for the syndicate and responsible for honoring the drafts drawn under the letter of credit must maintain a Fed account and be a participant in FEDWIRE.

(b) Each letter of credit must conform without exception to the standard letter of credit provided as Exhibit I, Payment and Performance Guarantee—Letter of Credit. The Government does not require information concerning the bank's agreement with its customer. Therefore, *any* language in the letter of credit in addition to that specified in Exhibit I shall cause the letter of credit to be unacceptable and shall be cause for rejection of the offeror's offer.

(c) In addition to the letter of credit, the purchaser or its bank shall provide to the Contracting Officer evidence that the bank official signing the letter of credit is authorized to do so, such as copies of the appropriate page of the bank's signature book, certified copies of the corporate minutes authorizing the signature or other appropriate evidence.

(d) As set forth in Exhibit I, a letter of credit must provide for the presentment of drafts against the letter of credit by wire and for payment to the Government by wire transfer of funds over FEDWIRE.

(e) Within 30 calendar days after final payment under the contract, the Contracting Officer shall authorize the cancellation of the letter of credit.

C.20 *Billing and payment—with purchaser's advance payment:*

(a) If the offeror has notified the Government in its offer that it elects to pay in advance, the following procedures will be applicable. If the contract delivery period is 31 days or less, and if the purchaser has fully paid in advance, delivery documentation will be provided to the purchaser in accordance with Provision No. C.14 after each delivery. No invoices will be issued until the last delivery under the contract, at which time a reconcilation billing will be made in accordance with paragraph (c) below.

(b) If the contract delivery period is more than 31 days, and the offeror has notified the Government in its offer that it elects to give an advance payment, delivery documentation will be provided in accordance with Provision No. C.14, and the purchaser will then be billed monthly for crude oil delivered. Payments on all but the last month will be in accordance with paragraph (e) below. The advance payment will be credited against the last month's deliveries, and a reconciliation billing will be made by the Government to the purchaser in accordance with paragraph (c) below.

(c) On every contract with an advance payment there will be a reconciliation billing by the Government after final delivery under the contract. If money is due from the purchaser to the Government, an invoice will be issued to the purchaser (see paragraph (e) below). If money is due the purchaser, a Treasury check will be issued in accordance with TFRM–Treasury Fiscal Requirements Manual.

(d) Invoices may be issued at any time to the purchaser for other monies due and payable under the contract. These would include, but are not limited to, interest due the Government, liquidated damages, amounts owing for any services provided for under the contract, and the difference between the sale price and resale price as defined in Provision No. C.26, Termination, and Provision No. C.27, Other Government remedies.

(e) In accordance with the delivery documentation and the contract, the Contracting Officer shall determine the amount of any invoice and shall provide invoices to the purchaser by U.S. Express Mail, U.S. Mail or telegraphic invoice. A purchaser is deemed to have received a mailed invoice on the second day after its dispatch. Telegraphic invoices are deemed to have been received on the day after dispatch. All invoices payable by the purchaser must be paid in accordance with Provision No. C.22 and received no later than close of business, 5 business days after the purchaser is deemed to have received them.

C.21 *Billing and payment—with purchaser's letter of credit:*

(a) All purchasers not electing advance payment shall provide a letter of credit in accordance with Provision No. C.19.

(b) All costs associated with the letter of credit will be borne by the purchaser. Payments of sight drafts drawn against that letter of credit shall be made by wire transfer of funds over FEDWIRE to the U.S. Treasury Department account at the Federal Reserve Bank in New York in accordance with the letter of credit.

(c) After delivery of the SPR petroleum and completion of the delivery documentation, the Contracting Officer shall determine the amount of the invoice in accordance with the contract and the delivery documentation.

(d) Upon completion of the invoice, the SPR/PMO Finance Division shall prepare a wire message requesting a wire transfer of funds in accordance with the letter of credit and deliver it to the New Orleans Branch of the Federal Reserve Bank in Atlanta for transmittal over the FEDWIRE system to the bank issuing the letter of credit. A request for wire transfer of funds is regarded as a draft under the letter of credit issued by the bank. The bank shall use the wire transfer procedures specified in the letter of credit to transfer the invoiced funds to the Government.

(e) The SPR/PMO Finance Division shall provide copies of the invoices and the draft to the purchaser and the bank by U.S. Express Mail or U.S. Mail.

(f) In the event that the bank refuses to honor the wire draft against the letter of credit, the purchaser shall be responsible for paying any interest due from the day the wire message requesting a transfer of funds is transmitted to the bank.

(g) Within 30 calendar days after final payment under the contract, the Contracting Officer shall authorize the cancellation of the letter of credit.

C.22 *Method of payments—general:*

(a) Notwithstanding any other clause of the contract, the Government may invoice the purchaser at any time for payment of monies due under the contract. If the invoice is for money, the payment of which is delinquent, interest on the money shall accrue from the date of the delinquency and not from the deemed date of receipt by purchaser of the invoice.

(b) All amounts payable by the purchaser in excess of $1,000.00 shall be by wire transfer as a deposit to the account of the U.S. Treasury through FEDWIRE. Certain information which must be included on each wire transfer is specified in Exhibit J, Instruction Guide for Funds Transfer.

(c) Payments in amounts less than $1,000.00 shall be by check made out to "U.S. Department of Energy." Such payments will be sent to the SPR/PMO Finance Division, with documentation to identify the payer and purpose of the payment.

(d) The Government may designate another place, different timing, or another method of payment after reasonable written notice to the purchaser.

(e) No payment due the Government hereunder shall be subject to reduction or set-off for any claim of any kind against the United States arising independently of the contract.

(f) If a purchaser disagrees with the amounts claimed by the Government to be due from the purchaser on any invoice, the purchaser shall pay immediately the amount billed in the invoice, and notify the Contracting Officer of the basis for its disagreement. Any request for adjustment

under this provision must be asserted within 10 days of the date the purchaser is deemed to have received the objectionable invoice; provided, however, that if the Contracting Officer decides that the facts justify such action, he may receive and act upon any such objection asserted at any time prior to final payment under this contract. Failure to agree to any adjustment shall be a dispute, and purchaser shall file a claim promptly in accordance with Provision No. C.36, Disputes.

C.23 *Currency for payment of contract:* Payment for all amounts due under the contract shall be made in U.S. dollars only.

C.24 *Interest:* All amounts due from and payable by the purchaser or its bank must be paid in accordance with the provisions governing such payments. Amounts not paid in accordance with such provisions shall bear interest from the date due until the date payment is received by the Government. Interest shall be computed on a daily basis. The interest rate shall be in accordance with the Current Value of Funds rate as indicated in the Treasury notice published in the **Federal Register**, Vol. 48, No. 208, on October 26, 1983, at page 49571, or as subsequently amended quarterly by the Department of The Treasury in Bulletins to the Treasury Fiscal Requirements Manual and in the **Federal Register.**

C.25 *Government options if payment is not received:*

(a) All amounts due from and payable by the purchaser or by the bank issuing the purchaser's letter of credit must be paid by the deadlines set by the provisions governing them.

(b) If any amount owed to the Government is not paid within the time deadlines specified by the applicable provisions, the Contracting Officer may, at his discretion, take any of the actions listed in (1) through (5) below. The Contracting Officer may take these steps simultaneously or in any sequence he deems appropriate. The Contracting Officer may, with or without prior notice to the purchaser:

(1) Invoice the purchaser for the amount on which payment is delinquent or provide written notice that payment is delinquent;

(2) Draw against the letter of credit for all amounts due and delinquent;

(3) Apply any advance payment received against the amount due and delinquent;

(4) Withhold all or any part of future deliveries under the contract; and/or

(5) Terminate the contract, in whole or in part, for purchaser default, in accordance with Provision No. C.26, by sending written notice of such default termination to the purchaser.

(c) Any disputes will be settled by the Contracting Officer in accordance with Provision No. C.36, Disputes.

C.26 *Termination:*

(a) *Immediate termination.* (1) The Contracting Officer may terminate this contract in whole or in part, without liability of the Government, by written notice to the purchaser effective upon its being deposited in the U.S. Postal System addressed to the purchaser as provided in Provision No. C.34, Notices, in the event that the purchaser either notifies the Contracting Officer that it will not be able to accept, or fails to accept, any delivery line item in accordance with the terms of the contract. Such notice shall invite the purchaser to submit information to the Contracting Officer as to the reasons for the failure to accept the delivery line item in accordance with the terms of the contract.

(2) Within 10 business days after the issuance of the notice of termination, the Contracting Officer may determine that such termination was a termination for default under subparagraph (b)(1)(ii). In the absence of information which persuades the Contracting Officer that the purchaser's failure to accept the delivery line item was excusable, the fact of such failure may be the basis for the Contracting Officer determining the purchaser to be in default, without first determining under subparagraphs (b)(2) and (b)(3) whether such failure was excusable under the terms of the contract. The Contracting Officer shall promptly give the purchaser written notice of such determination.

(3) Any termination other than one determined to be a termination for default in accordance with subparagraph (a)(2) and paragraph (b) shall be a termination for the convenience of the Government without liability of the Government.

(b) *Termination for Default.* (1) Subject to the provisions of subparagraphs (b)(2) and (b)(3), the Contracting Officer may terminate the contract in whole or in part for purchaser default, without liability of the Government, by written notice to the purchaser, effective upon its being deposited in the U.S. Postal System, addressed to the purchaser as provided in Provision No. C.34, Notices in the event that:

(i) The Government does not receive payment in accordance with any payment provision of the contract;

(ii) The purchaser fails to accept delivery of petroleum in accordance with the terms of the contract; or

(iii) The purchaser fails to comply with any other term or condition of the contract within 5 business days after the purchaser is deemed to have received written notice of such failure from the Contracting Officer.

(2) Except with respect to defaults of subcontractors, the purchaser shall not be determined to be in default or be charged with any liability to the Government under circumstances which prevent the purchaser's acceptance of delivery hereunder due to causes beyond the control and without the fault or negligence of the purchaser as determined by the Contracting Officer. Such causes shall include but are not limited to:

(i) Acts of God or the public enemy;

(ii) Acts of the Government of the United States, acting in its sovereign or contractual capacity;

(iii) Fires, explosions or other catastrophes; or

(iv) Strikes.

(3) If the failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of the purchaser and its subcontractor, and without the fault or negligence of either of them, the purchaser shall not be determined to be in default or to be liable for any excess costs for failure to perform, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the purchaser to meet the delivery schedule.

(4) In the event that the contract is terminated in whole or in part for default, the purchaser shall be liable to the Government for:

(i) The difference between the contract price on the contract termination date and any lesser price the Contracting Officer obtained upon sale of the petroleum; and

(ii) Liquidated damages as specified in Provision No. C.28 and paragraph (5) below.

(5) In the event that the Government exercises its right of termination for default as provided in this paragraph (b), then the purchaser shall be liable to the Government for liquidated damages in an amount as set forth in Provision No. C.28, as fixed, agreed, liquidated damages. In no event shall liquidated damages be assessed for more than 30 days.

(6) In the event that the Government exercises its right of termination for default, and it is later determined that the purchaser's failure to perform was excused in accordance with subparagraphs (2) and (3), the rights and obligations of the parties shall be the same as if such termination was a termination for convenience without liability of the Government under paragraph (c).

(c) *Termination for convenience.* (1) In addition to any other right or remedy provided for in the contract, the Government may terminate this contract at any time in whole or in part whenever the Contracting Officer shall determine that such termination is in the best interest of the Government. Such termination shall be without liability of the Government if such termination arises out of causes specified in (a)(1) or (b)(1) above, acts of the Government in its sovereign capacity, or causes beyond the control and without the fault or negligence of the Government. For any other termination for convenience, the Government shall be liable for such reasonable costs incurred by the purchaser in preparing to perform the contract, but under no circumstances shall the Government be liable for consequential damages or lost profits as the result of such termination.

(2) The purchaser will be given immediate written notice of any decrease of petroleum deliveries greater than 5 percent, or of termination, under this paragraph (c). The termination or reduction shall be effective upon its notice being deposited in the U.S. Postal System unless otherwise specified in the notice. The purchaser is deemed to have received a mailed notice on the second day after its dispatch. A telegraphic notice is deemed to be received on the day after dispatch.

(3) Termination for the convenience of the Government shall not excuse the purchaser from liquidated damages accruing prior to the effective date of the termination

(d) Nothing herein contained shall limit the Government in the enforcement of any legal or equitable remedy which it might otherwise have, and a waiver of any particular cause for termination shall not prevent termination for the same cause occurring at any other time or for any other cause.

(e) In the event that the Government exercises its right of termination, as provided in paragraphs (a), (b), or (c)(1) above, the Contracting Officer may sell, upon such terms and conditions as he deems appropriate, any undelivered petroleum.

(f) The Government's ability to deliver petroleum under another contract on the date on which the defaulted purchaser was scheduled to accept delivery, shall not excuse a purchaser that has been defaulted for failure to perform in accordance with the contract, from either liquidated damages or the difference between the contract price and any lesser price obtained on resale.

(g) Any disagreement with respect to the amount due the Government for either resale costs or liquidated damages shall be deemed to be a dispute and will be decided by the Contracting Officer pursuant to Provision No. C.36, Disputes.

(h) As used in this Provision No. C.26, the term "subcontractor" or "subcontractors" includes subcontractors at any tier.

C.27 *Other Government remedies:*

(a) The Government's rights under this provision are in addition to any other right or remedy available to it in law or by virtue of this contract.

(b) The Government may, without liability on its part, withhold deliveries hereunder if payment is not made in accordance with this contract.

(c) If the purchaser fails to take delivery of a delivery line item in accordance with the terms of the contract, but the Government does not elect to terminate that item for default under Provision No. C.26, the purchaser nonetheless shall be liable to the Government for liquidated damages in the amount set forth in Provision No. C.28 as fixed, agreed and liquidated damages for each calendar day of delay or fraction thereof until such time as it accepts delivery of the petroleum, or until the contract is terminated for the convenience of the Government, whichever occurs sooner. In no event shall such damages be assessed for longer than 30 days. No purchaser that fails to perform in accordance with the terms of the contract shall be excused from liability for liquidated damages by virtue of the fact that the Government is able to deliver petroleum under another contract on the date which the non-performing purchaser was scheduled to accept delivery.

C.28 *Liquidated damages:*

(a) In case of failure on the part of the purchaser to perform within the time fixed in the contract or any extension thereof, the purchaser shall pay to the Government liquidated damages in the amount of 1 percent of the contract price of the undelivered petroleum per calendar day of delay or fraction thereof in accordance with paragraph (b) of Provision No. C.26, Termination for purchaser default, and paragraph (c) of Provision No. C.27, Other Government remedies.

(b) As provided in (a) above, liquidated damages will be assessed for each day or fraction thereof a purchaser is late in performing in accordance with the contract with respect to the delivery of petroleum sold under this contract, unless such tardiness is excused under the term of this contract. For petroleum to be lifted by vessel, damages will be assessed in the event that the vessel has not commenced loading by 11:59 p.m. on the last day of the delivery window established under Provision No. C.6, Delivery and transportation scheduling, unless the vessel has arrived at the roads and its Master has presented a notice of readiness to the Government or its agents. Liquidated damages shall continue until the vessel presents its notice of readiness. For petroleum to be moved by pipeline, if delivery arrangements have not been made by the last day of the month prior to delivery, liquidated damages shall commence on the 1st day of the month until such delivery arrangements are completed; if delivery arrangements have been made, then liquidated damages shall begin on the first scheduled delivery date if delivery is not commenced and shall continue until delivery is commenced.

(c) Any disagreement with respects to the amount of liquidated damages due the Government will be deemed to be a dispute and will be decided by the Contracting Officer pursuant to Provision No. C.36, Disputes.

C.29 *Failure to perform SPR contracts:* In addition to the usual debarment procedures, 10 CFR § 625.3, provides that:

(a) In addition to any remedies available to the Government under the Contract of Sale, in the event that a purchaser fails to perform in accordance with applicable SPR petroleum sale contractual provisions, and such failure is not excused by those provisions, the Headquarters Senior Procurement Official or his designee, at his discretion, may make such purchaser ineligible for future awards of SPR petroleum sales contracts.

(b) No purchaser shall be made ineligible for the award of any SPR sales contract prior to notice and opportunity to respond in accordance with the requirements of this subsection:

(1) Upon the determination that a purchaser is to be considered for ineligibility, the purchaser shall be sent by certified mail return receipt requested, the following:

(i) Notification that the Headquarters Senior Procurement Official is considering making the purchaser ineligible for future awards;

(ii) Identification of the SPR sales contract which the purchaser failed to comply with, along with a brief description of the events and circumstances relating to such failure;

(iii) Advice that the purchaser may submit in writing for consideration by the Headquarters Senior Procurement Official in determining whether or not to impose ineligibility on the purchaser, any information or argument in opposition to the ineligibility; and

(iv) Advice that such information or argument in opposition to the ineligibility must be submitted within a certain time in order to be considered by the Headquarters Senior Procurement Official, such time to be not less than 21 days.

(2) After the elapse of the time period established under subsection (1) for receipts of the purchaser's response, the Headquarters Senior Procurement Official at his discretion, and after consideration of the purchaser's written response, if any, may make the purchaser ineligible for future award of SPR petroleum sales contracts. Such ineligibility shall continue for the time period determined by the Headquarters Senior Procurement Official as appropriate under the circumstances.

(3) The purchaser shall be notified of the Headquarters Senior Procurement Official's decision.

(c) Any purchaser who has been excluded from participating in any SPR sale under (a) may request that the Headquarters Senior Procurement Official reconsider the purchaser's ineligibility. The Headquarters Senior Procurement Official at his discretion may reinstate any such purchaser to eligibility for future competitive sales.

C.30 *Government options in case of impossibility of performance:*

(a) In the event that the Government is unable to deliver petroleum contracted for to the purchaser due either to events beyond the control of the Government, including actions of the purchaser, or to acts of the Government, its agents, its contractors or subcontractors at any tier, the Government at its option may do either of the following:

(1) Terminate for the convenience of the Government under Provision No. C.26; or

(2) Offer different SPR crude oil streams or delivery times to the purchaser in substitution for those specified in the contract.

(b) In the event that a different SPR crude oil stream than originally contracted for is offered to the purchaser, the contract price will be negotiated between the parties. In no event shall the negotiated price be less than the minimum acceptable price established for same or similar crude oil streams in the most recent NS.

(c) The Government's obligation in such circumstances is to use its best efforts, and the Government under no circumstances shall be liable to the purchaser for damages arising from its failure to offer alternate SPR petroleum or delivery times.

(d) If the parties are unable to reach agreement as to price, crude oil streams or delivery times, the Government may terminate the contract for the convenience of the Government under Provision No. 26(c).

C.31 *Limitation of Government liability:* The Government's obligation under these SSPs and any resultant contract is to use its best efforts to perform in accordance therewith. The Government under no circumstances shall be liable thereunder to the purchaser for the conduct of its contractors or subcontractors or for indirect, consequential, or special damages arising from its conduct; neither shall the Government be liable thereunder to the purchaser for any damages due in whole or in part to causes beyond the control and without the fault or negligence of the Government, including but not restricted to, acts of God or public enemy, acts of the Government acting in its sovereign capacity, fires, floods, earthquakes, explosions, or other catastrophes, or strikes.

C.32 [*Reserved*]

C.33 *Purchaser's responsibility:* For petroleum to be delivered from permanent

SPR storage sites, the Government shall provide, at no cost to the purchaser, transportation by pipeline from the SPR storage sites to the supporting terminal facility specified in the master line item and, for vessel loadings, a safe berth and loading facilities sufficient to deliver petroleum to the vessel's permanent hose connection. The purchaser agrees to assume responsibility for, to pay for, and to hold the Government harmless for any other costs associated with terminal, port, vessel and pipeline services necessary to receive and transport the petroleum, including but not limited to vessel or port demurrage, tank storage charges and port charges incurred in the transportation of SPR petroleum sold under a contract incorporating this provision. The purchaser also agrees to assume responsibility for, to pay for and to hold the Government harmless for any liability, including consequential or other damages, incurred or occasioned by the purchaser, its agent, subcontractor at any tier, assignee or any subsequent purchaser, in connection with movement of petroleum sold under a contract incorporating this provision.

C.34 *Notices:*

(a) Any notices required to be given by one party to the contract to the other *in writing* shall be forwarded to the addressee, prepaid, by U.S. registered, return receipt requested, mail, telegram, or TWX. Each party shall give the other written notice of any change of address.

(b) Notices to the purchaser shall be forwarded to the purchaser's address as it appears in the offer and in the contract.

(c) Notices to the Contracting Officer shall be forwarded to the following address: U.S. Department of Energy, Strategic Petroleum Reserve, Project Management Office, Procurement Division, Mail Stop EP–5501, 900 Commerce Road East, New Orleans, Louisiana 70123.

C.35 *SPR/Project Management Office representative for contract administration:* The SPR/PMO representative for each sale and the representative's telephone number will be provided in the NS. After award of a contract, the SPR/PMO representative for each contract and the representative's telephone number will be provided in the NA.

C.36 *Disputes:*

(a) This contract is subject to the Contract Disputes Act of 1978 (41 U.S.C. Section 601 *et seq.*). If a dispute arises relating to the contract, the purchaser may submit a claim to the Contracting Officer, who shall issue a written decision on the dispute in the manner specified in 41 CFR 1–1.318.

(b) "Claim" means:

(1) A written request submitted to the Contracting Officer;

(2) For payment of money, adjustment of contract terms, or other relief;

(3) Which is in dispute or remains unresolved after a reasonable time for its review and disposition by the Government; and

(4) For which a Contracting Officer's decision is demanded.

(c) In the case of dispute requests or amendments to such requests for payment exceeding $50,000, the purchaser shall certify at the time of submission as a claim, as follows:

I certify that the claim is made in good faith, that the supporting data are accurate and complete to the best of my knowledge and belief and that the amount requested accurately reflects the contract adjustment for which the purchaser believes the Government is liable.

Purchaser's Name _____

Signature _____

Title _____

(d) The Government shall pay to the purchaser, interest:

(1) On the amount found due to the purchaser on claims submitted under this clause;

(2) At the rates fixed by the Secretary of the Treasury;

(3) From the date the amount is due until the Government makes payment.

(e) The purchaser shall pay to the Government, interest:

(1) On the amount found due to the Government and unpaid on claims submitted under this clause;

(2) At the rates fixed by the Secretary of the Treasury;

(3) From the date the amount is due until the purchaser makes payment.

(f) The decision of the Contracting Officer shall be final and conclusive and shall not be subject to review by any forum, tribunal, or Government ageny unless an appeal or action is commenced within the times specified by the Contract Disputes Act of 1978.

(g) The purchaser shall comply with any decision of the Contracting Officer and at the direction of the Contracting Officer shall proceed diligently with performance of this contract pending final resolution of any request for relief, claim, appeal, or action related to this contract.

C.37 *Assignment:* The purchaser shall not make or attempt to make any assignment of a contract which incorporates these SSPs or any interest therein contrary to the provisions of Federal law, including the Anti-Assignment Act (41 U.S.C. 15), which provides:

No contract or order, or any interest therein, shall be transferred by the party to whom such contract or order is given to any other party, and any such transfer shall cause the annulment of the contract or order transferred, so far as the United States are concerned. All rights of action, however, for any breach of such contract by the contracting parties, are reserved to the United States.

C.38 *Order of precedence:* In the event of an inconsistency between the terms of the various parts of this contract, the inconsistency shall be resolved by giving precedence in the following order:

(a) The NA and written modifications thereto;

(b) The NS;

(c) Those provisions of the SSPs (as published in the **Federal Register**, made applicable to the contract by the NS;

(d) The instructions to Exhibit A, Schedule Line Items; and

(e) The successful offer.

C.39 *Gratuities:*

(a) The Government, by written notice to the purchaser, may terminate the right of the purchaser to proceed under this contract if it is found, after notice and hearing, by the Secretary or his duly authorized representative, that gratuities (in the form of entertainment, gifts, or otherwise) were offered by or given by the purchaser, or any agent or representative of the purchaser, to any officer or employee of the Government, with a view toward securing a contract or securing favorable treatment with respect to the awarding, amending, or making of any determinations with respect to the performing of such contract; *provided*, that the existence of the facts upon which the Secretary or his duly authorized representative makes such findings shall be in issue and may be reviewed in any competent court.

(b) In the event that this contract is terminated as provided in paragraph (a) hereof, the Government shall be entitled: (1) to pursue the same remedies against the purchaser as it could pursue in the event of a breach of the contract by purchaser, and (2) as a penalty in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the Secretary or his duly authorized representative) which shall not be less than three nor more than 10 times the cost incurred by the purchaser in providing any such gratuities to any such officer or employee.

(c) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

C.40 *Officials not to benefit:* No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

Exhibits

A—Schedule Line Items
B—Sample Notice of Sale
C—Sample Offer
D—SPR Crude Oil Stream Characteristics
E—SPR Crude Oil Stream Minimum Quality
F—SPR Delivery Point Data
G—Offer Bond—Standard Form 24
H—Offer Guarantee—Letter of Credit
I—Payment and Performance Guarantee—Letter of Credit
J—Instruction Guide for Funds Transfer
K—DD Form 250 and DD Form 250–1
L—Information for Statistical Purposes

Exhibit A—Schedule Line Items

Instructions for Exhibit A

(Caution to offerors: The master line items shall be completed in accordance with the SSPs. In any conflict between these instructions and the SSPs, the SSPs shall take precedence.)

1. Master Line Item: There is a separate master line item schedule for each crude oil stream offered for sale. Offerors may bid on more than one master line item, but may not make alternate bids on separate master line items (i.e., the offer may not state 1,000,000 barrels from either MLI 001, or MLI 002).

2. Maximum MLI Quantity: Offers shall state here the number of barrels which the offeror seeks to purchase on the master line item, regardless of delivery method. The maximum MLI quantity shall be not less than the Government's minimum quantity as stated in the NS.

3. Maximum DLI Quantity: Offers shall state on each delivery line item, the number of barrels which the offeror will accept by the delivery method and during the delivery period established for that delivery line item. An offer may indicate a willingness to accept alternate delivery methods or delivery periods. An offeror may fill in all, part or none of the maximum MLI quantity on any particular delivery line item. A total of all the offer's maximum DLI quantitites should total at least the maximum MLI quantity, but could exceed the maximum MLI quantity if the offeror is willing to accept alternate delivery methods or periods. For example, the offer could state:

MLI: 001
Maximum MLI Quantity: 1,000,000 barrels
Maximum DLI Quantities:
DLI 001C: 1,000,000 barrels
DLI 001D: 1,000,000 barrels
DLI 001E: 1,000,000 barrels

This would indicate that the offeror wanted one million barrels of Bryan Mound sweet to be delivered to its vessels either from the 1st through the 10th, the 11th through 20th, or 21st through the end of the month.

4. Unit Price: The offer shall state the offered price per barrel for each delivery line item for which the offer indicated a maximum DLI quantity. The offer may state different unit prices for different delivery line items. DOE will award the highest price first. Prices may be stated to one one-hundredths of a cent ($0.0001), but in no smaller fraction thereof. The offer may state the same price for one or more delivery line items.

5. Total Price: The offer shall state the total price (maximum DLI quantity times unit price) on each delivery line item for which the offer indicated a maximum DLI quantity.

6. Delivery Preference: Where the offer has the same unit price for two or more delivery line items, the offer may indicate the offeror's order of preference for delivery method and period (1st, 2nd, 3rd, etc.). If the offer does not indicate a preference, DOE will select the delivery line item to be awarded at its discretion.

7. Minimum DLI Quantity: The offer may indicate the minimum amount which the offeror is willing to accept on a delivery line item. The Government only will award less than the offer's maximum DLI quantity if an offer is otherwise successful, but the quantity which the Government has available for award is less than said maximum DLI quantity. The offer may indicate that the minimum DLI quantity is the same as the maximum DLI quantity. If the offer does not indicate a minimum DLI quantity, the offer's minimum DLI quantity shall be deemed to be the minimum offer quantity established by the NS.

Master Line Item No. 001 (Instruction 1)
Bryan Mound Sweet (See Exhibit D, SPR Crude Oil Stream Characteristics)
Delivery Points: (See Exhibit F, SPR Delivery Point Data)
(a) Pipelines—Jones Creek Tank Farm, Freeport, TX
(b) Vessel—Seaway Terminal docks, Freeport, TX
Maximum MLI Quantity ——— Barrels (Instruction 2)

Delivery line item No.	Maximum DLI quantity (Instruction 3)		Unit price (Instruction 4)	Total price (Instruction 5)	Delivery preference (Instruction 6)	Minimum DLI quantity (Instruction 7)
001A		bbls delivered to Seaway pipeline over the period of sale	@$	$		
001B		bbls delivered to other pipeline(s) over the period of sale	@$	$		
001C		bbls delivered to vessel(s) from the 1st through the 10th day of the month.	@$	$		
001D		bbls delivered to vessel(s) from the 11th through the 20th day of the month.	@$	$		
001E		bbls delivered to vessel(s) from the 21st through the last day of the month	@$	$		

Master Line Item No. 002 (Instruction 1)
Bryan Mound Sour (See Exhibit D, SPR Crude Oil Stream Characteristics)
Delivery Points: (See Exhibit F, SPR Delivery Point Data)
(a) Pipelines—Jones Creek Tank Farm, Freeport, TX
(b) Vessel—Seaway Terminal docks, Freeport, TX
Maximum MLI Quantity ——— Barrels (Instruction 2)

Delivery line item No.	Maximum DLI quantity (Instruction 3)		Unit price (Instruction 4)	Total price (Instruction 5)	Delivery preference (Instruction 6)	Minimum DLI quantity (Instruction 7)
002A		Bbls delivered to Seaway pipeline over the period of sale	@$	$		
002B		Bbls delivered to other pipeline(s) over the period of sale	@$	$		
002C		Bbls delivered to vessel(s) from the 1st through the 10th day of the month.	@$	$		
002D		Bbls delivered to vessel(s) from the 11th through the 20th day of the month.	@$	$		
002E		Bbls delivered to vessel(s) from the 21st through the last day of the month.	@$	$		

Master Line Item No. 003 (Instruction 1)
Bryan Mound Maya (See Exhibit D, SPR Crude Oil Stream Characteristics)
Delivery Points: (See Exhibit F, SPR Delivery Point Data)
(a) Pipelines—Jones Creek Tank Farm, Freeport, TX
(b) Vessel—Seaway Terminal docks, Freeport, TX
Maximum MLI Quantity———Barrels (Instruction 2)

Delivery line item No.	Maximum DLI quantity (Instruction 3)		Unit price (Instruction 4)	Total price (Instruction 5)	Delivery preference (Instruction 6)	Minimum DLI quantity (Instruction 7)
003A		Bbls delivered to Seaway pipeline over the period of sale	@$	$		
003B		Bbls delivered to other pipeline(s) over the period of sale	@$	$		
003C		Bbls delivered to vessel(s) from the 1st through the 10th day of the month.	@$	$		

Delivery line item No.	Maximum DLI quantity (Instruction 3)		Unit price (Instruction 4)	Total price (Instruction 5)	Delivery preference (Instruction 6)	Minimum DLI quantity (Instruction 7)
003D		Bbls delivered to vessel(s) from the 11th through the 20th day of the month.	@$	$		
003E		Bbls delivered to vessel(s) from the 21st through the last day of the month.	@$	$		

Master Line Item No. 004 (Instruction 1)
West Hackberry Sweet (See Exhibit D, SPR Crude Oil Stream Characteristics)
Delivery Points: (See Exhibit F, SPR Delivery Point Data)
(a) Pipelines—Sun Terminal, Nederland, TX
(b) Vessel—Sun Terminal docks, Nederland, TX
Maximum MLI Quantity —— Barrels (Instruction 2)

Delivery line item No.	Maximum DLI quantity (Instruction 3)		Unit price (Instruction 4)	Total price (Instruction 5)	Delivery preference (Instruction 6)	Minimum DLI quantity (Instruction 7)
004A		Bbls delivered to Texoma pipeline over the period of sale	@$	$		
004B		Bbls delivered to other pipeline(s) over the period of sale	@$	$		
004C		Bbls delivered to vessel(s) from the 1st through the 10th day of the month.	@$	$		
004D		Bbls delivered to vessel(s) from the 11th through the 20th day of the month.	@$	$		
004E		Bbls delivered to vessel(s) from the 21st through the last day of the month.	@$	$		

Master Line Item No. 005 (Instruction 1)
West Hackberry Sour (See Exhibit D, SPR Crude Oil Stream Characteristics) (Includes oil stored at the SPR's Sulphur Mines site)
Delivery Points: (See Exhibit F, SPR Delivery Point Data)
(a) Pipelines—Sun Terminal, Nederland, TX
(b) Vessel—Sun Terminal docks, Nederland, TX
Maximum MLI Quantity —— Barrels (Instruction 2)

Delivery line item No.	Maximum DLI quantity (Instruction 3)		Unit price (Instruction 4)	Total price (Instruction 5)	Delivery preference (Instruction 6)	Minimum DLI quantity (Instruction 7)
005A		Bbls delivered to Texoma pipeline over the period of sale	@$	$		
005B		Bbls delivered to other pipeline(s) over the period of sale	@$	$		
005C		Bbls delivered to vessel(s) from the 1st through the 10th day of the month.	@$	$		
005D		Bbls delivered to vessel(s) from the 11th through the 20th day of the month.	@$	$		
005E		Bbls delivered to vessel(s) from the 21st through the last day of the month.	@$	$		

Master Line Item No. 006 (Instruction 1)
Weeks Island Sour (See Exhibit D, SPR Crude Oil Stream Characteristics)
Delivery Points: (See Exhibit F, SPR Delivery Point Data)
(a) Pipelines—LOCAP Terminal, St. James, LA
(b) Vessel—St. James Terminal docks, St. James, LA
Maximum MLI Quantity —— Barrels (Instruction 2)

Delivery line item No.	Maximum DLI quantity (Instruction 3)		Unit price (Instruction 4)	Total price (Instruction 5)	Delivery preference (Instruction 6)	Minimum DLI quantity (Instruction 7)
006A		Bbls delivered to Capline pipeline over the period of sale	@$	$		
006B		Bbls delivered to other pipeline(s) over the period of sale	@$	$		
006C		Bbls delivered to vessel(s) from the 1st through the 10th day of the month.	@$	$		
006D		Bbls delivered to vessel(s) from the 11th through the 20th day of the month.	@$	$		
006E		Bbls delivered to vessel(s) from the 21st through the last day of the month.	@$	$		

Master Line Item No. 007 (Instruction 1)
Bayou Choctaw Sweet (See Exhibit D, SPR Crude Oil Stream Characteristics)
Delivery Points: (See Exhibit F, SPR Delivery Point Data)
(a) Pipeline—LOCAP Terminal, St. James, LA
(b) Vessel—St. James Terminal docks, St. James, LA
Maximum MLI Quantity —— Barrels (Instruction 2)

Delivery line item No.	Maximum DLI quantity (Instruction 3)		Unit price (Instruction 4)	Total price (Instruction 5)	Delivery preference (Instruction 6)	Minimum DLI quantity (Instruction 7)
007A		Bbls delivered to Capline pipeline over the period of sale	@$	$		
007B		Bbls delivered to other pipeline(s) over the period of sale	@$	$		

Delivery line item No.	Maximum DLI quantity (Instruction 3)		Unit price (Instruction 4)	Total price (Instruction 5)	Delivery preference (Instruction 6)	Minimum DLI quantity (Instruction 7)
007C		Bbls delivered to vessel(s) from the 1st through the 10th day of the month.	@$	$		
007D		Bbls delivered to vessel(s) from the 11th through the 20th day of the month.	@$	$		
007E		Bbls delivered to vessel(s) from the 21st through the last day of the month.	@$	$		

Master Line Item No. 008 (Instruction 1)
Bayou Choctaw Sour (See Exhibit D, SPR Crude Oil Stream Characteristics)
Delivery Points: (See Exhibit F, SPR Delivery Point Data)
(a) Pipelines—LOCAP Terminal, St. James, LA
(b) Vessel—St. James Terminal docks, St. James, LA
Maximum MLI Quantity —— Barrels (Instruction 2)

Delivery line item No.	Maximum DLI quantity (Instruction 3)		Unit Price (Instruction 4)	Total price (Instruction 5)	Delivery preference (Instruction 6)	Minimum DLI quantity (Instruction 7)
008A		Bbls delivered to Capline pipeline over the period of sale	@$	$		
008B		Bbls delivered to other pipeline(s) over the period of sale	@$	$		
008C		Bbls delivered to vessel(s) from the 1st through the 10th day of the month.	@$	$		
008D		Bbls delivered to vessel(s) from the 11th through the 20th day of the month.	@$	$		
008E		Bbls delivered to vessel(s) from the 21st through the last day of the month.	@$	$		

BILLING CODE 6450-01-M

Sample Data Entry Sheet (Subject to Change)

OFFER

LEGENDS: MLI = MASTER LINE ITEM NUMBER
LEGENDS: DLI/P = DELIVERY LINE ITEM/PREFERRED
LEGENDS: UP$$ = UNIT PRICE (U.S. $)/DLI
MAXQ = MAXIMUM QUANTITY BID/MLI
DESQ = DESIRED QUANTITY BID/DLI
MINQ = MINIMUM QUANTITY BID/DLI

[ ] FOR DOE USE ONLY (BBL : 1000)

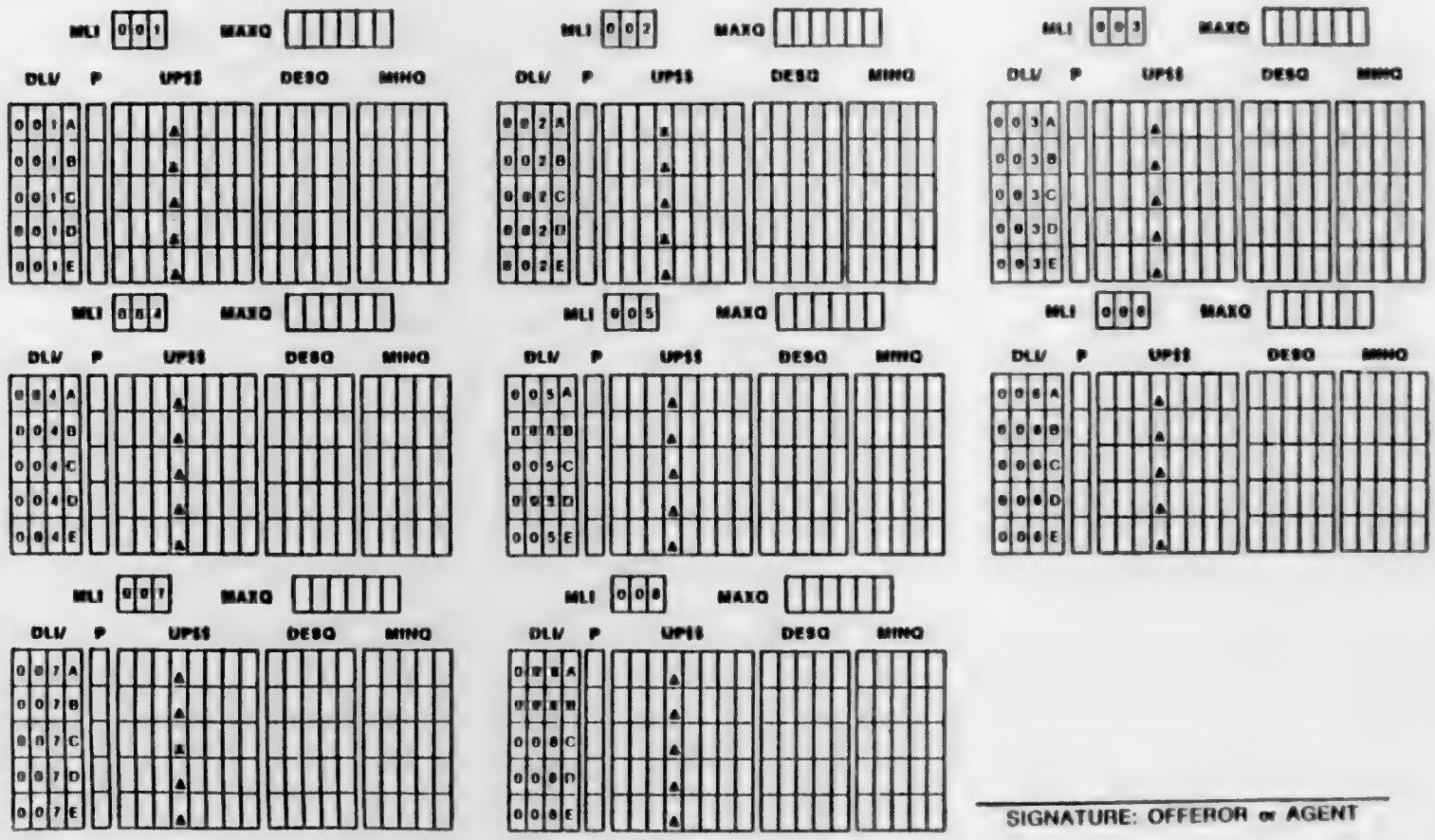

SIGNATURE: OFFEROR or AGENT

[ ] FOR DOE USE ONLY

OFFEROR NAME | OFFEROR ADDRESS | OFFEROR CITY/PROVINCE

OF ST | OFFEROR ZIP CODE | OFFEROR COUNTRY | OFFEROR PHONE NUMBER | OF SZ | OFFEROR BOND

AGENT/ALTERNATE NAME | AGENT ADDRESS | AGENT CITY/PROVINCE

AG ST | AGENT ZIP CODE | AGENT COUNTRY | AGENT PHONE NUMBER

BILLING CODE 6450-01-C

DO NOT DETACH

Exhibit B—Sample Notice of Sale (NS)

(If the NS is sent by telegram, it could look substantially as shown below. If the NS is sent by mail, a Standard Form 33 will be included as a cover sheet.)

1. NS No. DE–NS–96–84P010001 is issued (date) for sale of Strategic Petroleum Reserve (SPR) crude oil. All references to "Provision No." refer to the Standard Sales Provisions (SSPS) published in the **Federal Register** (date). All provisions are applicable to this sale except that provision No(s). (give number or numbers) are changed to read: (give changes). Additional provisions are hereby added (give new numbers which do not duplicate others in SSPs) which read: (give text).

2. Offers and offer guarantees must be received by 12 noon local time on (date) at addresses for mailed and handcarried offers given in SSPS; (or)

2. Offers and offer guarantees must be received by 12 noon local time on (date) at (address) for mailed offers and (address) for handcarried offers.

3. Information for statistical purposes of Exhibit L of SSPS (is) (is not) required; (or)

3. Only item Nos. (give numbers) of Exhibit L of SSPs are required.

4. Direct Questions regarding NS to (name of individual), telephone (504) 734–4220. Collect calls will not be accepted.

5. Applicable quality differentials are:

A. All Sweet Crude Oil
API Gravity ———
Sulfur ———
B. Bayou Choctaw Sour
API Gravity ———
Sulfur ———
C. Bryan Mound Maya
API Gravity ———
Sulfur ———

6. Minimum acceptable prices for offered crude oils are: Bayou Choctaw Sweet, West Hackberry Sweet, and Bryan Mound Sweet ——— dollars per barrel ($ ——/bbl); Bayou Choctaw Sour, ——— dollars per barrel ($——/bbl); Bryan Mound Maya ——— dollars per barrel ($——/bbl).

7. Master Line Item (MLI) numbers given herein refer to those schedules attached as Exhibit A of the SSPs. Specifics of MLIs are given in Exhibit A. The quantities for each MLI offered for sale are as follows: MLI 001———bbls; MLI 002 not offered this sale; MLI 003———bbls; MLI 004———bbls; MLI 005 not offered this sale; MLI 006 not offered this sale; MLI–007——bbls; MLI 008——— bbls.

8. Offerors must give names, addresses and telephone numbers, including area codes, for authorized representative and alternate representative of the offeror with whom the government may conduct any necessary discussions.

9. Minimum quantities which will be awarded for each delivery line item are as follows:

10. Delivery line items maximums, i.e., DOE's best estimates of the maximum amount of petroleum that can be moved by each delivery line item transportation system over the delivery period, are as follows (see provision No. B.14 of the SSPs):

11. Minimum quantities to be loaded per vessel delivery window are as follows:

12. Consideration to be paid for alteration of contract delivery modes in accordance with provision No. C.16 is as follows:

Exhibit C—Sample Offer

Name of Offeror ———

(The following provides general guidance only. The offer must include all forms required by the Notice of Sale; any additional information required by the Notice of Sale may be in any suitably arranged written document. The offeror has total responsibility for the accuracy and completeness of its offer.)

1. We acknowledge receipt of Notice of Sale (NS) No. DE–NS–84P010001 issued (date).

2. We acknowledge receipt, if applicable, of the following:

Amendment No.	*Date Issued*
nn	
002	
etc.	

3. We agree without exception to all provisions of the Standard Sales Provisions (SSPs) which the NS makes applicable to this sale as well as to all provisions in the NS and all amendments to the NS. We understand that our offer is not valid without this agreement.

4. We understand that our offer is not valid unless we submit an offer guarantee in the amount of $10 million or 5 percent of our total offer, whichever is less. The offer guarantee must reach you prior to the date and time set for receipt of offers.

a. The amount of our offer guarantee is (check one)

——$10 million
——5% of our total offer, not to exceed $———

b. The form of our offer guarantee is (check one)

——A cash deposit to the special SPR/PMO account
——A cashier's or certified check payable to the Treasurer of the United States
——A Standard Form (SF) 24, entitled "Bid Bond"
——An irrevocable standby letter of credit (Exhibit H to the SSPs)

c. Our offer guarantee was forwarded (check one)

——By wire transfer
——In this envelope with our offer
——By our bank under a separate cover
——By our surety company under a separate cover

d. If we submitted a cash deposit or cashier's or certified check, and, if we are an apparently successful offeror, (check one)

——We want the amount of the offer guarantee applied toward the advance payment or cash guarantee.
——We intend to furnish a letter of credit for a financial guarantee and want the cash returned as soon as the letter of credit is approved by DOE.
——We will furnish the entire amount of the advance payment or cash guarantee by a new cash wire deposit. We want the original cash offer guarantee returned as soon as the new cash deposit is received.

5. The NS —— did, —— did not require any information for statistical purposes from Exhibit L. It is attached if required.

6. Our offers on available crude oil for Master Line Items Nos. ——— are as attached (see Exhibit A).

(Or if authorized in NS)

Our offers on available crude oil are:
Master line item No. ——— Maximum MLI Quantity ——— bbls

Delivery line item No.	Maximum DLI quantity	Unit price	Total price	Delivery preference	Minimum DLI quantity

By signing the SF–33, I certify that:
I am
Name,———
Title ———
of
Name of company, etc. ———

I am the authorized agent of the offeror, in proof of which I submit a power of attorney or other enabling documents.

All offerors will supply the following information:

Name of firm
Mailing address
City, State, Zip Code
Name of authorized agent and alternate
Address of authorized agent and alternate
Telephone number for authorized agent and alternate, including area code
TWX number (if any)
Telecopier brand name and model number (if any)
Telephone number, including area code, for telecopier transmission
Is telecopier automatic or operator control?
Telephone number, including area code, for telecopier verification of message receipt
Dunn's number (if any)

BILLING CODE 6450-01-M

Exhibit D—SPR Crude Oil Stream Characteristics

U. S. DEPARTMENT OF ENERGY
STRATEGIC PETROLEUM RESERVE
CRUDE OIL ANALYSIS

Data current as of December 1, 1983,
but subject to change

STREAM SPR Bryan Mound Sweet

TERMINAL Seaway Terminal, Freeport, Texas

WHOLE CRUDE:

Specific Gravity	0.844			RVP, psi	7.8 max.
API Gravity	36.2 ± 1.0			Neutralization No.	<0.14
Sulfur, Wt. %	0.32 ± 0.05	UOP "K" Factor	11.65	Mercaptans, ppm	8.4
Nitrogen, Wt. %	0.099	Org. Cl, ppm	TBD*	SUS Viscosity (cSt)	
Carbon Residue, Wt. %	2.6	O.D. Color	9100	77 °F	53 (8.28)
Pour Point, °F	35	H_2S,ppm	<1.0	100 °F	42 (4.88)

DISTILLATION TO 1000°F:

Fraction	1	2	3	4	5	6	7
Cut Temperature	C5-175°F	175°-250°F	250°-375°F	375°-530°F	530°-650°F	650°-1000°F	Residuum
Vol. %	6.2	8.8	13.2*	14.8	14.0	26.2	14.3
Wt. %	4.9	7.8	12.4	14.8	14.5	28.8	16.9
Specific Gravity	0.662	0.733	0.789	0.826	0.856	0.908	0.979
API Gravity	82.4	61.5	47.9	39.3	33.8	24.3	13.1
Sulfur, Wt. %	#########	#########	#########	0.06	0.23	0.45	1.07
Mercaptans, ppm	7.4	14	26	33	#########	#########	##########
Cetane Index	#########	#########	#########	45.8	52.1	#########	##########
Aniline Point, °F	#########	#########	#########	143.0	165.8	192.6	##########
SUS Visc., °F: 77	#########	#########	#########	36	-	-	##########
100	#########	#########	#########	34	42	-	##########
130	#########	#########	#########	-	38	130	##########
180	#########	#########	#########	-	-	62	##########
Cloud Point, °F	#########	#########	#########	#########	30	100	##########
Freeze Point, °F	#########	#########	#########	-35.0	#########	#########	##########
Nitrogen, Wt. %	#########	#########	#########	#########	0.008	0.093	0.461
Carbon Residue, Wt. %	#########	#########	#########	#########	#########	-	16.56

* TO BE DETERMINED

U. S. DEPARTMENT OF ENERGY
STRATEGIC PETROLEUM RESERVE
CRUDE OIL ANALYSIS

Data current as of December 1, 1983,
but subject to change

STREAM SPR Bryan Mound Sour

TERMINAL Seaway Terminal, Freeport, Texas

WHOLE CRUDE:

Specific Gravity	0.859			RVP, psi	5.0 max.
API Gravity	33.2 ± 1.0			Neutralization No.	<0.15
Sulfur, Wt. %	1.71 ± 0.10	UOP "K" Factor	11.85	Mercaptans, ppm	43
Nitrogen, Wt. %	0.103	Org. Cl, ppm	TBD*	SUS Viscosity (cSt)	
Carbon Residue, Wt. %	4.74	O.D. Color	13,900	77 °F	51 (7.68)
Pour Point, °F	<5	H_2S, ppm	<1.0	100 °F	44 (5.51)

DISTILLATION TO 1000°F:

Fraction	1	2	3	4	5	6	7
Cut Temperature	C5-175°F	175°-250°F	250°-375°F	375°-530°F	530°-650°F	650°-1000°F	Residuum
Vol. %	5.2	8.0	15.8	13.5	13.0	26.1	18.3
Wt. %	4.0	6.7	14.1	12.8	12.9	28.0	21.4
Specific Gravity	0.656	0.718	0.771	0.818	0.855	0.920	1.003
API Gravity	84.2	65.6	52.0	41.5	34.0	22.3	9.6
Sulfur, Wt. %				0.29	1.01	2.23	3.88
Mercaptans, ppm	20	33	126	56			
Cetane Index				49.8	52.4		
Aniline Point, °F				147.0	158.0	175.5	
SUS Visc., °F: 77				34	-	-	
100				32	39	-	
130				-	35	88	
180				-	-	50	
Cloud Point, °F					18	94	
Freeze Point, °F				-31			
Nitrogen, Wt. %					0.004	0.090	0.399
Carbon Residue, Wt. %						0.52	22.20

* TO BE DETERMINED

U. S. DEPARTMENT OF ENERGY
STRATEGIC PETROLEUM RESERVE
CRUDE OIL ANALYSIS

Data current as of December 1, 1983,
but subject to change

STREAM SPR Bryan Mound Maya

TERMINAL Seaway Terminal, Freeport, Texas

WHOLE CRUDE:

Specific Gravity	0.921			RVP, psi	3.8
API Gravity	22.1 + 0.5			Neutralization No.	0.21
Sulfur, Wt. %	3.25 + 0.22	UOP "K" Factor	11.71	Mercaptans, ppm	53
Nitrogen, Wt. %	0.357	Org. Cl, ppm	3.6	SUS Viscosity (cSt)	
Carbon Residue, Wt. %	10.5	O.D. Color	51,200	100 °F	340 (73.4)
Pour Point, °F	<5	H_2S, ppm	<1.0	130 °F	171 (36.55)

DISTILLATION TO 1000°F:

Fraction	1	2	3	4	5	6	7
Cut Temperature	C5-175°F	175°-250°F	250°-375°F	375°-530°F	530°-650°F	650°-1000°F	Residuum
Vol. %	4.7	4.2	10.7	9.7	11.7	22.1	35.8
Wt. %	3.4	3.2	9.0	8.7	11.1	22.4	41.1
Specific Gravity	0.666	0.718	0.769	0.823	0.869	0.935	1.057
API Gravity	81.0	65.6	52.5	40.4	31.3	19.8	2.4
Sulfur, Wt. %	#########	#########	#########	1.11	2.26	3.01	5.12
Mercaptans, ppm	15	203	352	3	#########	#########	#########
Cetane Index	#########	#########	#########	47.8	48.1	#########	#########
Aniline Point, °F	#########	#########	#########	144.7	152.6	174.2	#########
SUS Visc., °F: 77	#########	#########	#########	34	-	-	#########
100	#########	#########	#########	32	42	-	#########
130	#########	#########	#########	-	37	126	#########
180	#########	#########	#########	-	-	60	#########
Cloud Point, °F	#########	#########	#########	#########	26	100	#########
Freeze Point, °F	#########	#########	#########	-29.2	#########	#########	#########
Nitrogen, Wt. %	#########	#########	#########	#########	0.052	0.201	0.789
Carbon Residue, Wt. %	#########	#########	#########	#########	#########	0.17	25.6

U. S. DEPARTMENT OF ENERGY
STRATEGIC PETROLEUM RESERVE
CRUDE OIL ANALYSIS

Data current as of December 1, 1983,
but subject to change

STREAM SPR West Hackberry Sweet

TERMINAL Sun Terminal, Nederland, Texas

WHOLE CRUDE:

Specific Gravity	0.840			RVP, psi	6.2
API Gravity	37.0 ± 0.5			Neutralization No.	0.14
Sulfur, Wt. %	0.34 ± 0.05	UOP "K" Factor	11.90	Mercaptans, ppm	7.4
Nitrogen, Wt. %	0.105	Org. Cl, ppm	TBD*	SUS Viscosity (cSt)	
Carbon Residue, Wt. %	2.19	O.D. Color	8100	77 °F	45 (5.82)
Pour Point, °F	25	H_2S, ppm	<1.0	100 °F	39 (3.94)

DISTILLATION TO 1000°F:

Fraction	1	2	3	4	5	6	7
Cut Temperature	C5-175°F	175°-250°F	250°-375°F	375°-530°F	530°-650°F	650°-1000°F	Residuum
Vol. %	6.9	9.2	14.6	15.2	17.0	23.5	11.5
Wt. %	5.5	8.1	13.8	15.3	17.7	25.9	13.7
Specific Gravity	0.663	0.733	0.779	0.829	0.859	0.913	0.985
API Gravity	82.1	61.5	50.2	39.1	33.3	23.5	12.2
Sulfur, Wt. %				0.09	0.26	0.46	1.13
Mercaptans, ppm	15	32	92	26			
Cetane Index				45.6	51.3		
Aniline Point, °F				146.9	167.1	192.2	
SUS Visc., °F: 77				34	-	-	
100				33	43	-	
130				-	38	117	
180				-	-	58	
Cloud Point, °F					34	115	
Freeze Point, °F				-31.3			
Nitrogen, Wt. %					0.010	0.109	0.548
Carbon Residue, Wt. %						-	16.27

* TO BE DETERMINED

U. S. DEPARTMENT OF ENERGY
STRATEGIC PETROLEUM RESERVE
CRUDE OIL ANALYSIS

Data current as of December 1, 1983,
but subject to change

STREAM SPR West Hackberry Sour

TERMINAL Sun Terminal, Nederland, Texas

WHOLE CRUDE:

Specific Gravity	0.860			RVP, psi	5.3 max.
API Gravity	33.1 ± 1.0			Neutralization No.	<0.12
Sulfur, Wt. %	1.71 ± 0.10	UOP "K" Factor	12.02	Mercaptans, ppm	19
Nitrogen, Wt. %	0.105	Org. Cl, ppm	TBD*	SUS Viscosity (cSt)	
Carbon Residue, Wt. %	4.04	O.D. Color	TBD	77 °F	59 (10.05)
Pour Point, °F	<30	H_2S, ppm	<1.0	100 °F	53 (8.28)

DISTILLATION TO 1000°F:

Fraction	1	2	3	4	5	6	7
Cut Temperature	C5-175°F	175°-250°F	250°-375°F	375°-530°F	530°-650°F	650°-1000°F	Residum
Vol. %	5.6	7.6	16.2	14.3	12.9	24.1	17.7
Wt. %	4.4	6.5	14.8	13.9	13.1	26.3	21.0
Specific Gravity	0.661	0.721	0.773	0.822	0.863	0.924	1.011
API Gravity	82.6	64.8	51.6	40.7	32.5	21.6	8.5
Sulfur, Wt. %				0.36	1.12	2.26	3.84
Mercaptans, ppm	20	45	83	65			
Cetane Index				48.3	50.0		
Aniline Point, °F				143.2	157.6	180.0	
SUS Visc., °F: 77				34	-	-	
100				33	42	-	
130				-	37	124	
180				-	-	60	
Cloud Point, °F					21	86	
Freeze Point, °F				-22.4			
Nitrogen, Wt. %					0.015	0.104	0.362
Carbon Residue, Wt. %						TBD	20.29

* TO BE DETERMINED

U. S. DEPARTMENT OF ENERGY
STRATEGIC PETROLEUM RESERVE
CRUDE OIL ANALYSIS

Data current as of December 1, 1983,
but subject to change

STREAM SPR Bayou Choctaw Sweet

TERMINAL SPR St. James Terminal, St. James, Lousiana

WHOLE CRUDE:

Specific Gravity	0.844			RVP, psi	5.6
API Gravity	36.2 ± 1.0			Neutralization No.	0.09
Sulfur, Wt. %	0.35 ± 0.05	UOP "K" Factor	12.19	Mercaptans, ppm	27
Nitrogen, Wt. %	0.098	Org. Cl, ppm	TBD*	SUS Viscosity (cSt)	
Carbon Residue, Wt. %	2.8	O.D. Color	TBD	77 °F	55 (8.91)
Pour Point, °F	35	H_2S,ppm	<1	100 °F	49 (7.06)

DISTILLATION TO 1000°F:

Fraction	1	2	3	4	5	6	7
Cut Temperature	C5-175°F	175°-250°F	250°-375°F	375°-530°F	530°-650°F	650°-1000°F	Residuum
Vol. %	5.6	9.0	13.6	13.5	14.1	24.6	16.7
Wt. %	4.8	8.0	12.8	13.5	14.5	27.0	19.6
Specific Gravity	0.661	0.734	0.781	0.825	0.851	0.903	0.976
API Gravity	82.5	61.4	49.8	40.0	34.8	25.2	13.5
Sulfur, Wt. %				0.08	0.22	0.46	1.05
Mercaptans, ppm	14.5	22	40	53			
Cetane Index				47.1	53.7		
Aniline Point, °F				146.5	167.5	190.3	
SIS Visc., °F: 77				42	-	-	
100				39	41	-	
130				-	37*	102	
180				-	-*	55	
Cloud Point, °F					26	99	
Freeze Point, °F				-35			
Nitrogen, Wt. %					0.006	0.091	0.492
Carbon Residue, Wt. %						-	15.2

* TO BE DETERMINED

U. S. DEPARTMENT OF ENERGY
STRATEGIC PETROLEUM RESERVE
CRUDE OIL ANALYSIS

Data current as of December 1, 1983,
but subject to change

STREAM SPR Bayou Choctaw Sour

TERMINAL SPR St. James Terminal, St. James, Lousiana

WHOLE CRUDE:

Specific Gravity	0.871			RVP, psi	5.30 max.
API Gravity	31.0 ± 1.0			Neutralization No.	<0.12
Sulfur, Wt. %	1.76 ± 0.10	UOP "K" Factor	11.84	Mercaptans, ppm	18
Nitrogen, Wt. %	0.138	Org. Cl, ppm	TBD*	SUS Viscosity (cSt)	
Carbon Residue, Wt. %	4.50	O.D. Color	TBD	77 °F	67 (12.28)
Pour Point, °F	5	H_2S,ppm	<1.0	100 °F	52 (8.10)

DISTILLATION TO 1000°F:

Fraction	1	2	3	4	5	6	7
Cut Temperature	C5-175°F	175°-250°F	250°-375°F	375°-530°F	530°-650°F	650°-1000°F	Residum
Vol. %	6.0	6.9	15.8	15.4	12.2	24.9	17.7
Wt. %	4.6	5.8	14.3	14.9	12.4	27.0	20.9
Specific Gravity	0.664	0.724	0.773	0.824	0.867	0.929	1.017
API Gravity	81.5	63.9	51.5	40.3	31.7	20.9	7.7
Sulfur, Wt. %	##########	##########	##########	0.44	1.26	2.19	3.85
Mercaptans, ppm	TBD	TBD	TBD	TBD	##########	##########	##########
Cetane Index	##########	##########	##########	47.6	48.8	##########	##########
Aniline Point, °F	##########	##########	##########	TBD	TBD	TBD	##########
SUS Visc., °F: 77	##########	##########	##########	34	-	-	##########
100	##########	##########	##########	32	43	-	##########
130	##########	##########	##########	-	38	137	##########
180	##########	##########	##########	-	-	63	##########
Cloud Point, °F	##########	##########	##########	##########	24	85	##########
Freeze Point, °F	##########	##########	##########	TBD	##########	##########	##########
Nitrogen, Wt. %	##########	##########	##########	##########	0.025	0.133	0.478
Carbon Residue, Wt. %	##########	##########	##########	##########	##########	0.15	21.5

* TO BE DETERMINED

U. S. DEPARTMENT OF ENERGY
STRATEGIC PETROLEUM RESERVE
CRUDE OIL ANALYSIS

Data current as of December 1, 1983,
but subject to change

STREAM SPR Weeks Island Sour

TERMINAL SPR St. James Terminal, St. James, Louisiana

WHOLE CRUDE:

Specific Gravity	0.878			RVP, psi	4.9
API Gravity	29.7° ± 0.5°			Neutralization No.	0.09
Sulfur, Wt. %	1.39 ± 0.10	UOP "K" Factor	11.78	Mercaptans, ppm	16
Nitrogen, Wt. %	0.173	Org. Cl, ppm	<1	SUS Viscosity (cSt)	
Carbon Residue, Wt. %	5.17	O.D. Color	28,840	77 °F	76 (14.65)
Pour Point, °F	<5	H_2S, ppm	<1.0	100 °F	58 (9.76)

DISTILLATION TO 1000°F:

Fraction	1	2	3	4	5	6	7
Cut Temperature	CS-175°F	175°-250°F	250°-375°F	375°-530°F	530°-650°F	650°-1000°F	Residuum
Vol. %	4.3	6.6	12.5	12.6	15.8	25.4	21.7
Wt. %	3.3	5.5	11.2	12.0	15.8	27.0	25.3
Specific Gravity	0.659	0.729	0.778	0.829	0.868	0.927	1.014
API Gravity	83.1	62.7	50.5	39.3	31.5	21.2	8.0
Sulfur, Wt. %				0.31	1.02	1.70	3.14
Mercaptans, ppm	18	23	50	8.1			
Cetane Index				45.9	48.5		
Aniline Point, °F				141.6	156.1	173.1	
SUS Visc., °F: 77				34	-	-	
100				32	44	-	
130				-	38	131	
180				-	-	61	
Cloud Point, °F					29	105	
Freeze Point, °F				-33.6			
Nitrogen, Wt. %					0.015	0.126	0.541
Carbon Residue, Wt. %						0.18	20.65

BILLING CODE 6450-01-C

Exhibit E—SPR Crude Oil Stream Minimum Quality

[Data as of Dec. 1, 1983, and subject to change]

	Minimum API gravity	Maximum total sulfur (percent by weight)
Bryan Mound Sweet	33.0	0.50
Bryan Mound Sour	30.0	2.00
Bryan Mound Maya	21.0	3.50
West Hackberry Sweet	33.0	[illegible]
West Hackberry Sour	30.0	2.00
Bayou Choctaw Sweet	33.0	0.50
Bayou Choctaw Sour	[illegible]	2.00
Weeks Island Sour	[illegible]	1.90

Crude oil delivered by the SPR to the purchaser that does not meet either the above API gravity minimum or the above total sulfur content maximum will be accepted by the purchaser with the price adjusted in accordance with Provision Nos. C.10 and C.11.

Exhibit F—SPR Delivery Point Data

Terminal:	Seaway Terminal Freeport, Texas	Sun Terminal, Inc., Nederland, Texas	DOE St. James Terminal, St. James, Louisiana
Delivery Points:	(1) Seaway Terminal Marine Dock Facility [1] (2) Jones Creek Tank Farm (Seaway or other pipeline)	(1) Sun Terminal Marine Dock Facility [8] (2) Sun Terminal (Texoma or other pipelines)	(1) St. James Terminal Marine Dock Facility [6] (2) Locap Terminal (Capline or other pipelines)
Marine Dock Facility Data (as of Oct. 12, 1983) (A)			
Number of Berths.	3	5	2
Maximum LOA.	[2] 750 foot	1,000 foot	750
Maximum Beam.	107 foot	145 foot	None
Maximum Draft (B).	37 foot	40 foot fresh water	[9] 39 foot
Maximum Air Draft.	NA	136	153 foot
Maximum Deadweight tons (C).	[3] 80,000 deadweight tons	[2] 147,000 deadweight tons	[10] 123,000 deadweight tons
Barging capability.	[4] Yes	[7] [5] Yes	No

[1] No deballasting facilities are available.
[2] Maximum LOA 615 foot during hours of darkness.
[3] Deadweight tons can be larger if draft, LOA and beam restrictions are met. Maximum at dock 1 is 50,000 deadweight tons. Terminal permission is required for less than 32,000 deadweight tons.
[4] Only dock No. 1 has barge loading capability.
[5] No deballasting facilities are available.
[6] 85,000 deadweight tons or larger are limited to daylight transit. Maximum deadweight tons may be larger if draft, LOA and beam restrictions are met and the pilots agree to bring vessel in.
[7] There are 2 crude barge docks; Docks A and B with maximum draft of 15 foot Ship dock No. 1 available if scheduling permits.
[8] No deballasting facilities are available.
[9] St. James Terminal draft is 42 foot at the dock. Draft at the bar at the mouth of the Mississippi is 39 foot for 100,000 deadweight tons or over; 40 foot for under 100,000 deadweight tons.
[10] Larger deadweight tons can be accommodated with terminal approval.

A. Contractor shall be responsible for confirming that proposed vessels can be accommodated by terminals, harbors and channels involved.
B. Maximum draft is subject to varying limitations at river and harbor entrances due to tidal variances.
C. Maximum DWT is theoretical berth handling capability; however, contractors must be aware that harbor and channel physical constraints are the controlling factor as to ship size, and are varying.

BILLING CODE 6450-01-M

EXHIBIT G - OFFER BOND

STANDARD FORM 24 JUNE 1964 EDITION GENERAL SERVICES ADMINISTRATION FED PROC REG (41 CFR) 1-16.801	**BID BOND** *(See Instructions on reverse)*	24-103	DATE BOND EXECUTED *(Must not be later than bid opening date)*
PRINCIPAL *(Legal name and business address)*			TYPE OF ORGANIZATION *("X" one)* ☐ INDIVIDUAL ☐ PARTNERSHIP ☐ JOINT VENTURE ☐ CORPORATION STATE OF INCORPORATION
SURETY(IES) *(Name and business address)*			

PENAL SUM OF BOND					BID IDENTIFICATION	
PERCENT OF BID PRICE	AMOUNT NOT TO EXCEED				BID DATE	INVITATION NO
	MILLION(S)	THOUSAND(S)	HUNDRED(S)	CENTS	FOR *(Construction, Supplies or Services)*	

KNOW ALL MEN BY THESE PRESENTS, That we, the Principal and Surety(ies) hereto, are firmly bound to the United States of America (hereinafter called the Government) in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally: *Provided*, That, where the Sureties are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal has submitted the bid identified above.

NOW, THEREFORE, if the Principal, upon acceptance by the Government of his bid identified above, within the period specified therein for acceptance (sixty (60) days if no period is specified), shall execute such further contractual documents, if any, and give such bond(s) as may be required by the terms of the bid as accepted within the time specified (ten (10) days if no period is specified) after receipt of the forms by him, or in the event of failure so to execute such further contractual documents and give such bonds, if the Principal shall pay the Government for any cost of procuring the work which exceeds the amount of his bid, then the above obligation shall be void and of no effect.

Each Surety executing this instrument hereby agrees that its obligation shall not be impaired by any extension(s) of the time for acceptance of the bid that the Principal may grant to the Government, notice of which extension(s) to the Surety(ies) being hereby waived; provided that such waiver of notice shall apply only with respect to extensions aggregating not more than sixty (60) calendar days in addition to the period originally allowed for acceptance of the bid.

IN WITNESS WHEREOF, the Principal and Surety(ies) have executed this bid bond and have affixed their seals on the date set forth above.

PRINCIPAL			
Signature(s)	1 *(Seal)*	2 *(Seal)*	*Corporate Seal*
Name(s) & Title(s) *(Typed)*	1	2	

INDIVIDUAL SURETIES		
Signature(s)	1 *(Seal)*	2 *(Seal)*
Name(s) *(Typed)*	1	2

CORPORATE SURETY(IES)				
SURETY A	Name & Address		STATE OF INC	LIABILITY LIMIT
	Signature(s)	1	2	*Corporate Seal*
	Name(s) & Title(s) *(Typed)*	1	2	

CORPORATE SURETY(IES) (Continued)					
SURETY B	Name & Address		STATE OF INC	LIABILITY LIMIT	Corporate Seal
	Signature(s)	1	2		
	Name(s) & Title(s) (Typed)	1	2		
SURETY C	Name & Address		STATE OF INC	LIABILITY LIMIT	Corporate Seal
	Signature(s)	1	2		
	Name(s) & Title(s) (Typed)	1	2		
SURETY D	Name & Address		STATE OF INC	LIABILITY LIMIT	Corporate Seal
	Signature(s)	1	2		
	Name(s) & Title(s) (Typed)	1	2		
SURETY E	Name & Address		STATE OF INC	LIABILITY LIMIT	Corporate Seal
	Signature(s)	1	2		
	Name(s) & Title(s) (Typed)	1	2		
SURETY F	Name & Address		STATE OF INC	LIABILITY LIMIT	Corporate Seal
	Signature(s)	1	2		
	Name(s) & Title(s) (Typed)	1	2		
SURETY G	Name & Address		STATE OF INC	LIABILITY LIMIT	Corporate Seal
	Signature(s)	1	2		
	Name(s) & Title(s) (Typed)	1	2		

INSTRUCTIONS

1. This form is authorized for use whenever a bid guaranty is required in connection with construction work or the furnishing of supplies or services. There shall be no deviation from this form without approval by the Administrator of General Services.

2. The full legal name and business address of the Principal shall be inserted in the space designated "Principal" on the face of this form. The bond shall be signed by an authorized person. Where such person is signing in a representative capacity (e.g., an attorney-in-fact), but is not a member of the firm, partnership, or joint venture, or an officer of the corporation involved, evidence of his authority must be furnished.

3. The penal sum of the bond may be expressed as a percentage of the bid price if desired. In such cases, a maximum dollar limitation may be stipulated (e.g., 20% of the bid price but the amount not to exceed _____ dollars).

4. (a) Corporations executing the bond as sureties must be among those appearing on the Treasury Department's list of approved sureties and must be acting within the limitations set forth therein. Where more than a single corporate surety is involved, their names and addresses (city and State) shall be inserted in the spaces (Surety A, Surety B, etc.) headed "CORPORATE SURETY(IES)", and in the space designated "SURETY(IES)" on the face of this form only the letter identification of the Sureties shall be inserted.

(b) Where individual sureties execute the bond, they shall be two or more responsible persons. A completed Affidavit of Individual Surety (Standard Form 28), for each individual surety, shall accompany the bond. Such sureties may be required to furnish additional substantiating information concerning their assets and financial capability as the Government may require.

5. Corporations executing the bond shall affix their corporate seals. Individuals shall execute the bond opposite the word "Seal"; and, if executed in Maine or New Hampshire, shall also affix an adhesive seal.

6. The name of each person signing this bid bond should be typed in the space provided.

BILLING CODE 6450-01-C

Exhibit H—Offer Guarantee—Letter of Credit

Procurement Division
Mail Stop EP–5501
Project Management Office
Strategic Petroleum Reserve
U.S. Department of Energy
900 Commerce Road East
New Orleans, Louisiana 70123

To the Strategic Petroleum Reserve Drawdown Sales Coordinator:

By order of our customer (name and address of offeror) we hereby establish in the U.S. Department of Energy's favor an irrevocable Letter of Credit, Numbered ——, for an amount not to exceed U.S. $———, effective immediately as an offer guarantee for the offer of our customer dated ——— in response to the U.S. Department of Energy's Notice of Sale dated ——— for the sale of Strategic Petroleum Reserve petroleum. Liability under this Letter of Credit shall commence upon the date set by the Notice of Sale, including any amendments thereto, for receipt of offers and expires on the twenty-first day therefter. We agree that our obligation shall not be impaired by any extensions of the date set for receipt of offers, notice of such extension being hereby waived; provided, that such waiver of notice shall not apply to extensions extending more than thirty (30) calendar days beyond the period originally established for receipt of offers.

Funds under this Letter of Credit are available to the U.S. Department of Energy by its draft or drafts drawn on ourselves and accompanied by a manually signed statement of a duly authorized official of the U.S. Department of Energy stating the following:

This drawing of U.S. $——— — (U.S. dollar amount expressed in word form) against your Letter of Credit numbered ——, dated ——— is due the U.S. Government because of the failure of (name of offeror) to honor its offer to enter into a contract for the purchase of petroleum from the Strategic Petroleum Reserve, in accordance with the U.S. Government's Notice of Sale dated ——— and the applicable Standard Sales Provisions (10 CFR Part 625, Appendix A).

Upon receipt of the U.S. Department of Energy's draft and accompanying statement, either by hand or registered mail, return receipt requested at our office located at ———, we will honor the draft and make payment by 3 p.m. Eastern Standard Time of the next business day following receipt of the draft by wire transfer to the account of the U.S. Treasury through the Federal Reserve Communications System. Each wire transfer shall be formatted in accordance with prescribed Treasury requirements as shown in Exhibit J of the Standard Sales Provisions, 10 CFR Part 626, Appendix A.

This Letter of Credit is subject to the Uniform Customs and Practice for Documentary Credits (1974 Revision, International Chamber of Commerce Publication No. 290) and except as may be inconsistent therewith, to the Uniform Commercial Code in effect on the date of issuance of this Letter of Credit in the State in which the issuer's head office within the United States is located.

Address all communications regarding this Letter of Credit to (address and any applicable reference) .

Yours Truly,

Authorized Signature ———————

Exhibit I—Payment and Performance Guarantee—Letter of Credit

Procurement Division
Mail Stop EP–5501
Project Management Office
Strategic Petroleum Reserve
U.S. Department of Energy
900 Commerce Road East
New Orleans, Louisiana 70123

To the Strategic Petroleum Reserve Drawdown Sales Coordinator:

By order of our customer (name and address) we hereby establish in the U.S. Department of Energy's favor an irrevocable Letter of Credit, Numbered ——, for about U.S. $——— — (the U.S. dollar amount expressed in word form) effective immediately and expiring at our office located at (address) three hundred and sixty-five (365) days from the date of issuance of this Letter of Credit, relative to an offer by our customer dated (date) , to purchase Strategic Petroleum Reserve petroleum. Liability under this Letter of Credit shall commence upon acceptance by the U.S. Government of our customer's offer and the award to our customer of a contract for the delivery of Strategic Petroleum Reserve petroleum.

Funds under this Letter of Credit are available to the U.S. Department of Energy by its draft or drafts drawn on ourselves. Except in the case of a draft presented by wire, such draft or drafts shall be accompanied by either a written statement of a duly authorized official of the U.S. Department of Energy stating that:

This drawing is due the U.S. Department of Energy under your Letter of Credit number ——— in payment for —— barrels of petroleum sold to (customer's name) under contract number ——— at a price of $——— per barrel (plus or minus) a sulfur differential price adjustment of —— tenths of one percent at $——— per one tenth of one percent per barrel and (plus or minus) a gravity differential of —— degrees at $——— per degree API per barrel, for a total amount due of $——— — (U.S. dollar amount expressed in word form) . The U.S. Government's invoice and supporting standard form DD250 is attached,

or a written statement of a duly authorized official of the U.S. Department of Energy that:

This drawing is due the U.S. Department of Energy under your Letter of Credit number ——— because of the failure of (customer's name) to accept delivery of petroleum under contract number ——— at the time specified in the contract, resulting in damage due under the contract of $——— — (U.S. dollar amount expressed in word form) ,

or both.

We will honor drafts presented by wire provided that each such draft contains either a statement that:

$——— is now due the U.S. DOE under your Letter of Credit ——— for (customer's name) , including $——— due for —— bls of oil sold at $——— per bl, with adjustments of *—— tenths @ $0.——— sulfur and *——— degrees @ $0.——— gravity, and $——— due for delivery damages,

or a statement that:

This drawing is now due the U.S. Department of Energy under your Letter of Credit ——— because of the failure of (customer's name) to accept delivery of petroleum at the time specified under the contract, resulting in damages due of $———,

or other wire message containing the relevant information.

The wire draft should include our FEDWIRE number and other information pertinent to a request for a wire transfer of funds over FEDWIRE, as follows: ———. The U.S. Government's invoice (including supporting documents) shall be forwarded to us by regular mail.

The U.S. Department of Energy may make multiple drawings totalling up to the amount of funds indicated in the first paragraph as available under this Letter of Credit.

Upon receipt of the U.S. Department of Energy's draft and accompanying statement, we will honor the draft and make payment by 3 p.m. Eastern Standard Time of the next business day following receipt of the draft, by wire transfer of funds over FEDWIRE to account number 021030004 of the U.S. Treasury through the Federal Reserve Communications System. Each wire transfer of funds shall be formatted in accordance with prescribed U.S. Treasury requirements as shown in Exhibit J of the Standard Sales Provisions, 10 CFR Part 626, Appendix A.

This Letter of Credit is subject to the Uniform Customs and Practice for Documentary Credits (1974 Revision, International Chamber of Commerce Publication No. 290) and except as may be inconsistent therewith, to the Uniform Commercial Code in effect on the date of issuance of this Letter of Credit in the state in which the issuer's head office within the United States is located.

Address all communications regarding this Letter of Credit to (address and any applicable reference) .

Yours Truly,

Authorized Signature ———————

Exhibit J—Instruction Guide for Funds Transfer—Messages to Treasury

The following instructions provide specific information which is required so that a funds (wire) transfer message can be transmitted to the Department of Treasury. The funds transfer message format is shown in Attachment 1. A narrative description of each item on the funds transfer message follows:

Line 1

Item 1—*Priority Code*—The priority code will be provided by the sending bank. (Note: Some Federal Reserve district banks may not require this item.)

Line 2

Item 2—*Treasury Department Code*—The 9-digit identifier "021030004" is the routing symbol of the Treasury. This item is a

constant and is required for all funds transfer messages sent to Treasury.

Item 3—*Type Code*—The type code will be provided by the sending bank (will be a 10 or 12).

Line 3

Item 4—*Sending Bank Code*—This 9-digit identifier will be provided by the sending bank.

Item 5—*Class*—The class field may be used at the option of the sending bank. (Note: Some Federal Reserve Districts prohibit use of this field.)

Item 6—*Reference Number*—The reference member will be inserted by the sending bank to identify the transaction.

Item 7—*Amount*—The amount must include the dollar sign and the appropriate punctuation including cents digits. This item will be inserted by the sending bank.

Line 4

Item 8—*Sending Bank Name*—The telegraphic abbreviation which corresponds to Item 4 will be provided by the sending bank.

Line 5

Items 9, 10, and 11—*Treasury Department Name, Agency Location Code, Agency Number*—This item is of critical importance. It must appear on the funds transfer message in the precise manner as stated to allow for the automated processing and classification of funds transfer message to Treasury for credit to the Department of Energy. This item is comprised of a rigidly formatted, left justified, nonvariable sequence of characters as follows:

Treas NYC/(89000201) DEPT. OF ENERGY (SPRO)

Item 12—*Payment Identification*—The payment identification should be furnished by the remitter in the following manner:

Lines 6 and 7

The constant "Payment for the Sale of Crude Oil Under Contract # ———. DD 250 # ——— will be inserted.

Line 8

The constant "Deposit Account 89X0233" will be inserted.

Important Note: Line Nos. 2 and 5 are edited by the Federal Reserve Bank. If the wire transfer message is not formatted as prescribed above, the message will be rejected by the FED Bank and returned to the sending bank.

Sample of Funds Transfer Message Format for SPR Oil Sales

02			
To 021030004	Type 10		
From 011000390	Class	Ref 0650	Amount $500,000.00

Ordering Bank and Related Data
FIRST BOS

TREAS NYC/(89000201) DEPT OF ENERGY (SPRO)

PAYMENT FOR THE SALE OF CRUDE OIL UNDER

CONTRACT # DD 250 #

DEPOSIT ACCOUNT 89X0233

Attachment 1 to Exhibit J

BILLING CODE 6450-01-M

MATERIAL INSPECTION AND RECEIVING REPORT	1 PROC. INSTRUMENT IDEN(CONTRACT) (ORDER) NO EXHIBIT K	6. INVOICE NO. DATE	7. PAGE OF 8. ACCEPTANCE POINT
2. SHIPMENT NO.	3. DATE SHIPPED	4. B L TCN	5. DISCOUNT TERMS
9. PRIME CONTRACTOR CODE		10. ADMINISTERED BY CODE	
11. SHIPPED FROM (If other than 9) CODE	FOB	12. PAYMENT WILL BE MADE BY CODE	
13. SHIPPED TO CODE		14. MARKED FOR CODE	

15. ITEM NO	16. STOCK PART NO. / DESCRIPTION (Indicate number of shipping containers - type of container, container number)	17. QUANTITY SHIP/REC'D *	18. UNIT	19. UNIT PRICE	20. AMOUNT

21. PROCUREMENT QUALITY ASSURANCE		22. RECEIVER'S USE
A. ORIGIN ☐ PQA ☐ ACCEPTANCE of listed items has been made by me or under my supervision and they conform to contract, except as noted herein or on supporting documents	B. DESTINATION ☐ PQA ☐ ACCEPTANCE of listed items has been made by me or under my supervision and they conform to contract, except as noted herein or on supporting documents	Quantities shown in column 17 were received in apparent good condition except as noted
DATE / SIGNATURE OF AUTH GOVT REP	DATE / SIGNATURE OF AUTH GOVT REP	DATE RECEIVED / SIGNATURE OF AUTH GOVT REP
TYPED NAME AND OFFICE	TYPED NAME AND TITLE	TYPED NAME AND OFFICE
		* If quantity received by the Government is the same as quantity shipped, indicate by (✔) mark, if different, enter actual quantity received below quantity shipped and encircle

23 CONTRACTOR USE ONLY

DD FORM 250 1 NOV 68 REPLACES EDITION OF 1 AUG 67 WHICH MAY BE USED

TANKER/BARGE MATERIAL INSPECTION AND RECEIVING REPORT

1. TANKER/BARGE ☐ LOADING REPORT ☐ DISCHARGE REPORT
2. INSPECTION OFFICE
3. REPORT NUMBER
4. AGENCY PLACING ORDER ON SHIPPER, CITY, STATE AND/OR LOCAL ADDRESS *(Loading)*
5. DEPARTMENT
6. PRIME CONTRACT OR P.O. NUMBER
7. NAME OF PRIME CONTRACTOR, CITY, STATE AND/OR LOCAL ADDRESS *(Loading)*
8. STORAGE CONTRACT
9. TERMINAL OR REFINERY SHIPPED FROM, CITY, STATE AND/OR LOCAL ADDRESS
10. ORDER NUMBER ON SUPPLIER
11. SHIPPED TO: *(Receiving Activity, City, State and/or Local Address)*
12. B/L NUMBER
13. REQN. OR REQUEST NUMBER
14. CARGO NUMBER
15. VESSEL
16. DRAFT ARRIVAL FORE AFT
17. DRAFT SAILING FORE AFT
18. PREVIOUS TWO CARGOES FIRST LAST
19. PRIOR INSPECTION
20. CONDITION OF SHORE PIPELINE
21. APPROPRIATION *(Loading)*
22. CONTRACT ITEM NUMBER
23. PRODUCT
24. SPECIFICATIONS

25. STATEMENT OF QUANTITY	LOADED	DISCHARGED	LOSS/GAIN	PER CENT
BARRELS *(42 Gals) (Net)*				
GALLONS *(Net)*				
TONS *(Long)*				

26. STATEMENT OF QUALITY

TESTS	SPECIFICATION LIMITS	TEST RESULTS

27. TIME STATEMENT	DATE	TIME
NOTICE OF READINESS TO LOAD DISCHARGE		
VESSEL ARRIVED IN ROADS		
MOORED ALONGSIDE		
STARTED BALLAST DISCHARGE		
FINISHED BALLAST DISCHARGE		
INSPECTED AND READY TO LOAD DISCHARGE		
CARGO HOSES CONNECTED		
COMMENCED LOADING DISCHARGE		
STOPPED LOADING DISCHARGING		
RESUMED LOADING DISCHARGING		
FINISHED LOADING DISCHARGING		
CARGO HOSES REMOVED		
VESSEL RELEASED BY INSPECTOR		
COMMENCED BUNKERING		
FINISHED BUNKERING		
VESSEL LEFT BERTH *(Actual/Estimated)*		

28. REMARKS *(Note in detail cause of delays such as repairs, breakdown, slow operation, stoppages, etc.)*

29. COMPANY OR RECEIVING TERMINAL

_____ *(Signature)*

30. I CERTIFY THAT THE CARGO WAS INSPECTED, ACCEPTED AND LOADED/DISCHARGED AS INDICATED HEREON.

_____ *(Date)* _____ *(Signature of Authorized Government Representative)*

31. I HEREBY CERTIFY THAT THIS TIME STATEMENT IS CORRECT.

_____ *(Master or Agent)*

DD FORM 1 MAR 84 250-1

REPLACES DD FORM 250-1, 1 JUL 69, WHICH MAY BE USED.

BILLING CODE 6450-01-C

U.S. Department of Energy

Exhibit L—Information for Statistical Purposes

[Check *one* for each statement.]

1. The offeror certifies that it is a small business concern as defined in accordance with Section 3 of the Small Business Act (15 U.S.C. 632). — 1. — Yes or — No
2. The offeror certifies that it is a small business concern (as set forth in 1. above) and is owned and controlled by socially and economically disadvantaged individuals. Such a firm is defined as one— — 2. — Yes or — No
   a. which is at least 51 percent owned by one or more such individuals or, in the case of publicly-owned business, at least 51 percent of the stock is owned by such individuals;
   b. whose management and daily business operations are controlled by one or more such individuals; and
   c. which certifies concerning ownership and control in accordance with Section 3 below.
3. The offeror certifies that he or she is a minority individual in accordance with 3a below or that he or she is socially and economically disadvantaged in accordance with Section 3b or 3c. Socially and economically disadvantaged individuals are defined as: — 3. — Yes or — No
   a. United States citizens who are Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, or other specified minorities;
   b. any other individual found to be disadvantaged pursuant to Section 8(a) of the Small Business Act (15 U.S.C. 637); or
   c. any other individual defined by the Small Business Administration as socially and economically disadvantaged for purposes relating to other sections of the Small Business Act.
4. The offeror certifies that it is a woman-owned business. A woman-owned business is a business which is at least 51 percent owned, controlled, and operated by a woman or women. "Controlled" is defined as exercising the power to make policy decisions. "Operated" is defined as actively involved in the day-to-day management. — 4. — Yes or — No
   (Businesses which are publicly-owned, joint stock associations or business trusts are exempted from answering this question. Exempted businesses may voluntarily represent whether they are, or are not, woman-owned if this information is available.)
5. The offeror certifies that it is a labor surplus area concern. (For definition of "labor surplus area concern," see 41 CFR Section 1–1.801). — 5. — Yes or — No
6. The offeror states that it operates as:
   (Check one or more as applicable)
   ——An individual
   ——A partnership
   ——A joint venture
   ——A nonprofit or not-for-profit organization
   ——Corporation
   ——An educational institution
   ——A hospital
   ——A State or local Government agency
   ——A U.S. Government agency
   ——A foreign government or foreign government agency
7. The offeror is incorporated in *(U.S. State or foreign country)* or, if not incorporated, is a resident of *(U.S. State or foreign country)*, and has its principal place of business in *(city and U.S. State or foreign country)*.
8. The offeror is owned or controlled by a parent entity. — 8. — Yes or — No

   A parent entity for the purposes of this clause is an entity which either owns the offeror or controls the activities and basic business policies of the offeror. To own another company means the parent entity must own at least a majority (more than 50 percent) of the voting rights in the company. To control another entity, such ownership is not required; if another entity is able to formulate, determine, or veto basic business policy decisions of the offeror, such other entity is considered the parent entity of the offeror. This control may be exercised through the use of dominant minority voting rights, proxy voting, contractual arrangements or otherwise.
9. If the answer to 8. above is "yes," the offeror will fill in below the name of the controlling entity, the main business address of that entity, and the telephone number thereof.

_____

_____

Failure to execute all parts of the representations/certifications given above at the time an offer is submitted shall be regarded as a minor informality and the offeror shall be permitted to satisfy the requirement prior to award.

(OMB control number 1901–0261)

[FR Doc. 84–738 Filed 1–19–84; 8:45 am]

BILLING CODE 6450–01–M

federal register

Friday
January 20, 1984

Part IX

Department of Labor

Office of the Secretary

29 CFR Part 18

Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges; Technical Amendments; Final Rule

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DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 18

Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges; Technical Amendments

AGENCY: Office of the Secretary, Labor.

ACTION: Final rule; Technical Amendments.

SUMMARY: This document makes technical amendments to the final text of Regulation 29 CFR Part 18, implementing the Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges, which was published on July 15, 1983 (48 FR 32538). This action is necessary in order to delete a sentence in § 18.22(d) and in order to correct typographical errors in § 18.28 and § 18.37. This document also revises language in § 18.34(g)(3).

FOR FURTHER INFORMATION CONTACT: E. Earl Thomas, Deputy Chief Administrative Law Judge, Office of Administrative Law Judges, 1111 20th Street, N.W., Washington, D.C. 20036, Phone 202–653–5057.

SUPPLEMENTARY INFORMATION:

PART 18—[AMENDED]

The following corrections are made in FR Doc. 83–19186 appearing on page 32538 in the issue of July 15, 1983:

§ 18.22 [Corrected]

1. On page 32544, column one, the tenth through thirteenth lines in § 18.22(d) are corrected by removing the sentence "Thereafter, such officer shall seal the deposition in an envelope and mail the same by certified mail to the administrative law judge."

§ 18.28 [Corrected]

2. On page 32545, column two, the third line in §18.28(c) is corrected by changing 3' x 3½' to read "3" x 3½"."

§ 18.34 [Revised]

3. On page 32546, column two, the first through twelfth lines in § 18.34(g)(3) are revised to read as follows:

§ 18.34 Representation.

* * * * *

(g) * * *

(3) *Denial of authority to appear.* The administrative law judge may deny the privilege of appearing to any person, within applicable statutory constraints, e.g. 5 U.S.C. 555, who he or she finds after notice of and opportunity for hearing in the matter does not possess the requisite qualifications to represent others; or is lacking in character or integrity; has engaged in unethical or improper professional conduct; or has engaged in an act involving moral turpitude. * * *

§ 18.37 [Corrected]

4. On page 32548, column three, the second line in § 18.37 is corrected by changing the spelling of "consumpton" so as to read "consumption."

Signed at Washington, D.C. this 13th day of January, 1984.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 84–1892 Filed 1–19–84; 8:45 am]

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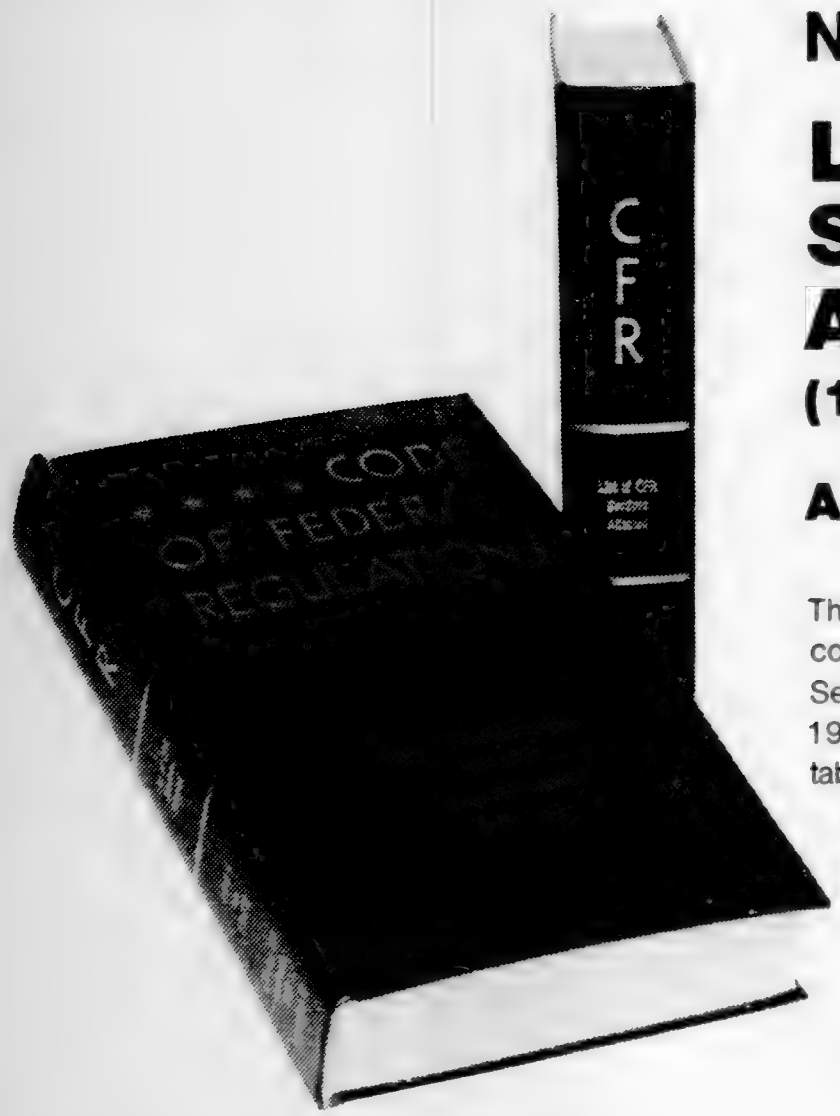

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**OFFICE
MANAGE**

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Rules and Regulations

Federal Register
Vol. 49, No. 15
Monday, January 23, 1984

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 553

Deductions From Civilian Pay for Increases in Uniformed Service Retired or Retainer Pay

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing final regulations on the deduction from civilian pay of increases in uniformed service retired or retainer pay. These regulations are necessary to implement section 301(d) of the Omnibus Budget Reconciliation Act of 1982, as amended by section 3(h) of Public Law 97–346.

EFFECTIVE DATE: February 22, 1984.

FOR FURTHER INFORMATION CONTACT: Bobby Williams, (202) 632–4634.

SUPPLEMENTARY INFORMATION: Interim regulations were published in the Federal Register on April 1, 1983 (48 FR 13952), with a 60 day comment period.

OPM received the following substantive comments on the regulations:

(1) Section 552.104(a)(2) requires that the Secretary of Commerce, the Secretary of Defense, the Secretary of Health and Human Services, or the Secretary of Transportation, as appropriate, shall furnish each agency with the amount of each increase received by each individual to whom the deduction applies in fiscal years 1983, 1984, and 1985. A Federal agency recommended in its comments that these agencies furnish cumulative COLA amounts to employing agencies, since the deductions are cumulative. We have conveyed this suggestion to the agencies which maintain the uniformed service retirement records.

(2) An employee commenter questioned how reductions in retired pay due to waiver of uniformed service retired pay to qualify for receipt of Veterans compensation affect the COLA deduction. The deduction from civilian pay required under section 301(d) of the act must still be made unless an employee waives all retired or retainer pay, or an amount which is so large that it includes some portion of the COLA. If an employee has such a waiver in effect, the agency should follow instructions in paragraph 4 of FPM Letter 553–1, dated April 7, 1983.

(3) One employee commented that rounding the hourly COLA deductions to the nearest cent will cause some employee's total deductions during a year to exceed the amount of COLA received.

We have reexamined this issue and concluded that it is more appropriate to round all hourly deductions down to the next cent so that the total deduction in a year does not exceed the total COLA increase in a year. Section 553.105(a)(2)(ii) is amended accordingly. No retroactive adjustment of amounts already withheld is necessary since the total of the amount deducted to date and that to be deducted for the remainder of the year will not exceed the amount of the COLA received.

(4) Another employee commented that the deduction required by section 301(d) should not apply to personnel who work in power production at the Tennessee Valley Authority, since T.V.A. power production is a self-sufficient, nonappropriated business. Since the employees covered by this provision are defined in statute, we cannot adopt this suggestion.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it applies only to deductions from civilian pay for increases in uniformed service retired or retainer pay of Federal employees in civilian positions.

List of Subjects in 5 CFR Part 553

Administrative practice and procedure, Government employees, Wages.

U.S. Office of Personnel Management.
Donald J. Devine.
Director.

Accordingly, OPM is amending Title 5 of the Code of Federal Regulations by revising Part 553 to read as follows:

PART 553—DEDUCTIONS FROM CIVILIAN PAY FOR INCREASES IN UNIFORMED SERVICE RETIRED OR RETAINER PAY

Sec.
553.101 Applicability.
553.102 Coverage.
553.103 Definitions.
553.104 Computation of increases in uniformed service retired or retainer pay.
553.105 Computation of deduction.
553.106 Effective date of deduction.
553.107 Entitlements and computations based on rate of basic pay.

Authority: Sec. 301(d), Pub. L. 97–253, as amended by sec. 3(h), Pub. L. 97–346.

§ 553.101 Applicability.

This part contains regulations of the Office of Personnel Management to implement section 301(d) of Pub. L. 97–253, as amended by section 3(h) of Pub. L. 97–346, which authorizes the Office to prescribe regulations concerning deductions from the civilian pay of a member or former member of a uniformed service equal to the amount of each increase in the individual's uniformed service retired or retainer pay received in fiscal years 1983, 1984, and 1985. This part should be read together with these sections of law.

§ 553.102 Coverage.

(a) Except as otherwise provided in this section, the deduction applies to any member or former member of a uniformed service who is employed in a position, as defined in section 5531(2) of title 5, United States Code, and receives an increase in uniformed service retired or retainer pay in fiscal year 1983, 1984, or 1985.

(b) The deduction does not apply to a member or former member of a uniformed service whose retired or retainer pay is computed, in whole or in part, based on disability—

(1) Resulting from injury or disease received in line of duty as a direct result of armed conflict; or

(2) Caused by an instrumentality of war and incurred in line of duty during a period of war, as defined in section 101 and 301 of title 38, United States Code.

(c) The deduction does not apply to any individual whose compensation, may not, under section 1 of article III of the Constitution of the United States, be diminished during the individual's continuance in office.

(d) With respect to any increase in uniformed service retired or retainer pay that becomes effective in fiscal year 1983, 1984, or 1985, the deduction does not apply to a member or former member of a uniformed service who was not employed in a position during the fiscal year in which the increase became effective.

§ 553.103 Definitions.

In this part:

"Agency" means an entity in the legislative, executive, or judicial branch of the Federal Government, including a Government Corporation, as defined in section 103 of title 5, United States Code, and a non-appropriate fund instrumentality under the jurisdiction of the armed forces, that employs an individual to whom the deduction applies.

"Deduction" means the deduction from civilian pay required by section 301(d) of Pub. L. 97–253, as amended by section 3(h) of Pub. L. 97–346.

"Position" has the meaning given that term in section 5531(2) of title 5, United States Code.

"Rate of basic pay" means the rate of pay fixed by law or administrative action for an individual or position in any branch of the Federal Government, including a Government corporation, as defined in section 103 of title 5, United States Code, and a non-appropriated fund instrumentality under the jurisdiction of the armed forces, before any deductions and exclusive of additional pay of any kind.

§ 553.104 Computation of increases in uniformed service retired or retainer pay.

(a) The Secretary of Commerce, the Secretary of Defense, the Secretary of Health and Human Services, or the Secretary of Transportation, as appropriate, shall—

(1) Compute the amount of each increase in uniformed service retired or retainer pay pursuant to section 140(a)(b) of title 10, United States Code, received by each individual to whom the deduction applies in fiscal years 1983, 1984, and 1985; and

(2) Furnish each agency with the amount of each increase received by each individual to whom the deduction applies in fiscal years 1983, 1984, and 1985.

(b) The amount of each increase in uniformed service retired or retainer pay received by each individual to whom the deduction applies in fiscal years 1983, 1984, and 1985 shall be determined on the basis of the additional amount the individual receives after the application of section 301(a), (b), and (c) of Pub. L. 97–253 and section 5532(b) and (c) of title 5, United States Code.

§ 553.105 Computation of deduction.

(a) Except as provided in paragraph (b) of this section, each agency shall compute the deduction as follows for each individual to whom the deduction applies:

(1)(i) For pay periods beginning in fiscal year 1983 divide the amount of any increase in uniformed service retired or retainer pay (expressed as an annual rate) received in fiscal year 1983 by 2,080 and round to the next lowest cent to determine the hourly deduction from the individual's civilian pay.

(ii) For pay periods beginning on the effective date of section 310(b)(1) of Pub. L. 97–253, divide the total amount of any increase or increases in uniformed service retired or retainer pay (expressed as an annual rate) received in fiscal years 1983, 1984, and 1985 in which the individual was employed in a position by 2,087 and round to the next lowest cent to determine the hourly deduction from the individual's civilian pay.

(2) For each pay period after March 31, 1983 (including the pay period in which April 1, 1983, falls), multiply the hourly deduction from the individual's civilian pay by the number of hours the individual was in a pay status during that pay period, up to a maximum of 40 hours per week or, for an individual under an alternative work schedule established under Part 620 of this chapter with a variable weekly tour of duty, 80 hours per pay period.

(b) For an individual with an uncommon tour of duty to whom the deduction applies, each agency shall compute the deduction as follows:

(1) Divide the total amount of any increase or increases in uniformed service retired or retainer pay (expressed as an annual rate) received in any of fiscal years 1983, 1984, and 1985 in which the individual was employed in a position by the actual number of hours in the individual's tour of duty during the applicable fiscal year and round to the nearest lower cent to determine hourly deduction from the individual's civilian pay.

(2) For each pay period after March 31, 1983 (including the pay period in which April 1, 1983 falls), multiply the hourly deduction from the individual's civilian pay by the number of hours the individual was in a pay status during that pay period, up to the actual number of hours in the individual's tour of duty per pay period.

§ 553.106 Effective date of deduction.

Each deduction and each increase in the amount of a deduction shall become effective on the first day of the calendar month in which an increase in uniformed service retired or retainer pay becomes effective in fiscal year 1983, 1984, or 1985.

§ 553.107 Entitlements and computations based on rates of basic pay.

All entitlements and computations based on the rate of basic pay for an individual or position under any law, regulation, or Executive order shall be based on the rate of basic pay before the deduction.

[FR Doc. 84-1781 Filed 1-20-84; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 81

[Docket No. 84-001]

Highly Pathogenic Avian Influenza

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the extraordinary emergency provisions of the "Highly Pathogenic Avian Influenza" interim rule to specifically provide that certain inspectors are authorized to enter any premises in New Jersey and Pennsylvania with the consent of the owner, or his agent, of the premises or with a warrant. The purpose of such entries shall be to collect blood samples and cloacal and tracheal swabs from live poultry and to collect tissue samples and cloacal and tracheal swabs from dead poultry on premises in States for which an extraordinary emergency has been declared. This is necessary to help detect the presence of highly pathogenic avian influenza on premises in these States so that action can be taken under the provisions of the interim rule to prevent the spread of this highly

contagious and pathogenic viral disease of poultry.

DATES: Effective date is January 19, 1984. Written comments must be received on or before March 23, 1984.

ADDRESS: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. William W. Buisch, Chief, National Emergency Field Operations Staff, VS, APHIS, USDA, Room 747, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8973.

SUPPLEMENTARY INFORMATION:

Background

The "Highly Pathogenic Avian Influenza" interim rule which is set forth in 9 CFR Part 81 was established to help prevent the spread of highly pathogenic avian influenza (48 FR 51422–51423, 52420–52427, 52885–52887, 53678–53679, 53679–53681, 53997, 54574–54575, 55402–55405, 55722, 57474–57475, 49 FR 368–369). The interim rule, among other things, established extraordinary emergency provisions specifically authorized under the Act of July 2, 1962 (21 U.S.C. 134–134h). These provisions are applicable to New Jersey and Pennsylvania since an extraordinary emergency has been declared for these States. This document amends these regulations.

The regulations provide for inspections and seizures upon premises; disposal of poultry and other items; cleaning of pens, coops, containers, troughs, other accessories, and means of conveyance; and appraisal and payment for destruction of poultry and other items.

Prior to the effective date of this document, § 81.11 of the regulations provided that:

> State inspectors (appointed as employees of the U.S. Department of Agriculture) and Federal inspectors, designated by the Deputy Administrator and identified by an official identification card, shall have authority to enter, with a warrant obtained under section 5 of the Act of July 2, 1962 (21 U.S.C. 134d), upon any premises in New Jersey or Pennsylvania, for the purpose of making inspections and seizures necessary under the Act of July 2, 1962, or the regulations in this Part. Such inspectors may enter upon any premises without a warrant if the person in possession of the premises voluntarily consents to their entry

This document amends these provisions to specifically provide that such inspectors are authorized to collect blood samples and cloacal and tracheal swabs from live poultry and to collect tissue samples and cloacal and tracheal swabs from dead poultry on premises in New Jersey or Pennsylvania. This is necessary in order to have an effective program for determining whether highly pathogenic avian influenza occurs in poultry on premises in New Jersey and Pennsylvania.

Poultry in some flocks may appear to be healthy and not manifest any clinical signs of highly pathogenic avian influenza when, in fact, such poultry may be carrying and shedding highly pathogenic avian influenza virus. The collection of blood samples, tissue samples, and cloacal and tracheal swabs is essential so that it can be determined by laboratory analysis whether the disease producing agent is present in the flock.

Emergency Action

Dr. John K. Atwell, Deputy Administrator of the Animal and Plant Health Inspection Service for Veterinary Services, has determined that an emergency situation exists which warrants publication of this interim rule without prior opportunity for public comment. Immediate action is necessary to help detect the presence of highly pathogenic avian influenza on premises in New Jersey and Pennsylvania so that action under the provisions of the interim rule can be taken to prevent the spread of the disease.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest; and good cause is found for making this interim rule effective upon signature. Comments are solicited for 60 days after publication of this document. A final document discussing comments received and any amendments required will be published in the **Federal Register**.

Executive Order and Regulatory Flexibility Act

The emergency nature of this action makes it impracticable for the Agency to follow the procedures of Executive Order 12291 and Secretary's Memorandum 1512–1 with respect to this interim rule. Immediate action is necessary to help detect the presence of highly pathogenic avian influenza on premises in New Jersey and Pennsylvania so that action can be taken under the provisions of the interim rule to prevent the spread of the disease.

This emergency situation also makes compliance with section 603 and timely compliance with section 604 of the Regulatory Flexibility Act impracticable. Since this action may have a significant economic impact on a substantial number of small entities, the Final Regulatory Impact Analysis, if required will address the issues required in section 604 of the Regulatory Flexibility Act.

List of Subjects in 9 CFR Part 81

Animal diseases, Poultry and poultry products, Transportation.

PART 81—HIGHLY PATHOGENIC AVIAN INFLUENZA

Under the circumstances referred to above, § 81.11 of 9 CFR Part 81 is revised to read as follows:

Section 81.11 of 9 CFR Part 81 is revised to read as follows:

§ 81.11 Inspections and seizures.

State inspectors (appointed as employees of the U.S. Department of Agriculture) and Federal inspectors, designated by the Deputy Administrator and identified by an official identification card, shall have authority to enter, with a warrant obtained under section 5 of the Act of July 2, 1962 (21 U.S.C. 134d), upon any premises in New Jersey or Pennsylvania, for the purpose of making inspections and seizures necessary under the laws and regulations administered by the Secretary for the prevention of the introduction or dissemination of highly pathogenic avian influenza. This shall include authority for such inspectors to collect blood samples and cloacal and tracheal swabs from live poultry on such premises and to collect tissue samples and cloacal and tracheal swabs from dead poultry on such premises. Such inspectors may enter upon any premises without a warrant if the owner of the premises or his agent voluntarily consents to their entry.

Authority: Sec. 2, 23 Stat. 31, as amended; secs. 4–8, 23 Stat. 31–33, as amended; secs. 1–3, 32 Stat. 791, 792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; 41 Stat. 699; sec. 2, 65 Stat. 693; secs. 2–3, 5–6, and 11, 76 Stat. 129–132; 76 Stat. 663, 7 U.S.C. 450, 21 U.S.C. 111–113, 114a–1, 115–117, 119–126, 130, 134a, 134b, 134d, 134e, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, D.C., this 19th day of January, 1984.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 84-1923 Filed 1-20-84; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Parts 205 and 213

Revocation of Petroleum Import Licensing Regulations and Related Administrative Provisions

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy is revoking, effective immediately, its petroleum import licensing regulations (10 CFR Part 213) and the related procedural regulations governing the revocation or suspension of petroleum import licenses (10 CFR Part 205, Subpart T). These regulations have been made unnecessary by Presidential Proclamation 5141, signed on December 22, 1983 (48 FR 56929, December 27, 1983), which revoked Presidential Proclamation 3279, as amended. Proclamation 3279, issued in 1959 pursuant to section 2(b) of the Trade Agreements Extension Act of 1954, as amended (succeeded by section 232 of the Trade Expansion Act of 1962), was the basis until 1973 for quotas on imports of petroleum and petroleum products into the United States. From 1973 until 1979, the Proclamation imposed fees on petroleum imports. Although import license fees were suspended temporarily in 1979, and suspended indefinitely in 1980, the licensing requirement for petroleum imports was continued. Proclamation 3279, as amended by President Reagan in 1982, also prohibited imports of Libyan crude oil into the United States, its territories and possessions. The President's December 22, 1983, Proclamation continues the ban on Libyan crude oil imports, which is enforced by the Treasury Department's Customs Service. In addition, the new Proclamation continues the Secretary of Energy's responsibility to monitor imports of petroleum and petroleum products with respect to the national security and to recommend to the President appropriate actions; authorizes the Secretary of Energy to consider requests for refunds of import fees already filed with the Department of Energy; and preserves the Federal Government's authority to institute and conduct appropriate proceedings based on any violation of Proclamation 3279 or its implementing regulations. Finally, Proclamation 5141 makes it clear that the revocation of Proclamation 3279, as amended, does not affect the presently applicable tariff rates for imports of petroleum and petroleum products, as reflected in the Tariff Schedules of the United States, Schedule 4, part 10, 19 U.S.C. 1202.

The revocation of Proclamation 3279, as amended, in no way affects the ability of the Government promptly to adopt any measures which may be needed in an emergency, including appropriate action under the Trade Expansion Act.

DATE: Effective January 23, 1984.

FOR FURTHER INFORMATION CONTACT:

David Welsh, Economic Regulatory Administration, Department of Energy, Room 2E-034, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-9271

Samuel M. Bradley, Deputy Assistant General Counsel, International Trade and Emergency Preparedness, Department of Energy, Room 6A-141, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252-2900

SUPPLEMENTARY INFORMATION: .

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II. Proclamation No. 5141
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B. Section 7 of the FEA Act
C. NEPA Review
D. Section 501 of the DOE Act
E. The Administrative Procedure Act
F. Executive Order 12291
G. Regulatory Flexibility Act

I. Background

Presidential Proclamation 3279 was issued in 1959, pursuant to section 2(b) of the Trade Agreements Extension Act of 1954, as amended (succeeded by section 232 of the Trade Expansion Act of 1962, 19 U.S.C. 1862), after a finding by the Secretary of Treasury pursuant to that statute that imports of petroleum and petroleum products threatened the national security. Until 1973, Proclamation 3279 controlled petroleum imports by means of import quotas. From 1973 until 1979, imports were controlled by a system of licenses which were subject to the payment of fees. In 1979, Proclamation 3279 was further amended to suspend temporarily the imposition of license fees, in light of the uncertainty in the international petroleum market and the substantial increase in the world petroleum prices following the Iranian revolution. In 1980, Proclamation 3279 was amended again to suspend indefinitely the imposition of license fees because of the continuing instability in the world petroleum market and continuing increases in world petroleum prices. Although the imposition of license fees was suspended indefinitely, the requirement to obtain a license for petroleum imports was continued. The regulations implementing the licensing requirement are set forth at 10 CFR Part 213. Regulations governing the revocation and suspension of licenses issued pursuant to Part 213 are set forth at 10 CFR Part 205, Subpart T.

On March 10, 1982, President Reagan issued Proclamation 4907 (47 FR 10507, March 11, 1982), which further amended Proclamation 3279, to prohibit imports of Libyan crude oil into the United States, its territories and possessions. The Customs Service of the Department of Treasury is responsible for enforcing the ban on Libyan imports.

The Secretary of Energy was responsible, under Proclamation 3279, as amended, for maintaining a surveillance of petroleum imports with respect to the national security. Based on his review of those imports, the Secretary recently advised the President that no purpose was served by the continued licensing of petroleum imports and recommended that Proclamation 3279, as amended, be revoked. The Secretary also recommended that the President retain the prohibition on imports of Libyan crude oil through a new Presidential Proclamation. The Secretary noted that the President's January 1981 action decontrolling crude oil and petroleum products within the United States had contributed to a reduced threat to the national security, as the United States' dependence on petroleum imports has substantially diminished and the domestic energy industry has become more efficient.

II. Proclamation 5141

On December 22, 1983, the President, by Proclamation 5141, revoked Proclamation 3279, as amended. In addition, the new Proclamation continues the prohibition on imports of Libyan crude oil and authorizes the Secretary of the Treasury to issue necessary implementing regulations; continues the Secretary of Energy's responsibility to monitor imports of petroleum and petroleum products with respect to the national security and to recommend to the President appropriate actions; authorizes the Secretary of Energy to consider requests for refund of import fees already filed with the Department of Energy; and preserves the authority of the Federal Government to

institute and conduct appropriate proceedings based on any violation of Proclamation 3279, as amended. Finally, Proclamation 5141 makes it clear that the revocation of Proclamation 3279, as amended, does not affect the presently applicable tariff rates for imports of petroleum and petroleum products, as reflected in the Tariff Schedules of the United States, Schedule 4, part 10, 19 U.S.C. 1202.

To implement Proclamation 5141 we are revoking, effective immediately, the Oil Import Regulations (10 CFR Part 213) and the related regulations for Revocation and Suspension of Allocations and Licenses Issued Pursuant to Part 213 (10 CFR Part 205, Subpart T).

The revocation of Proclamation 3279, as amended, in no way affects the ability of the Government to promptly adopt measures which may be needed during an interruption of petroleum imports, including appropriate action under the Trade Expansion Act of 1962. The Department of Energy will continue its petroleum import information and monitoring system using data collected by the Department and the Customs Service.

III. Procedural Requirements

A. Section 404(a) of the DOE Act

Pursuant to the requirements of Section 404(a) of the Department of Energy Organization Act (DOE Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95–91, as amended), we have referred this rule to the Federal Energy Regulatory Commission for a determination as to whether the proposed rule would significantly affect any matter within the Commission's jurisidiction. We were notified by the Commission that it has declined to exercise its jurisdiction in this matter.

B. Section 7 of the FEA Act

Under section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. 787 *et seq.*, Pub. L. 93–275, as amended), a copy of this rule was submitted to the Administrator of the Environmental Protection Agency for comment concerning the impact of this rule on the quality of the environment. The Administrator made no comments.

C. NEPA Review

We have determined that this rule, which removes regulations made inoperative by Proclamation 5141, is not a major federal action significantly affecting the quality of the human environment. Consequently, the proposed amendment does not require preparation of an Environmental Assessment or Environmental Impact Statement under the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 *et seq.*

D. Section 501 of the DOE Act

Under section 501(c) of the DOE Act, we are not bound by the prior notice and hearing requirements of subsections (b), (c) and (d) with respect to a rule upon our determination that no substantial issue of fact or law exists and that the rule is unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses. Where it is determined that no substantial issue or impact exists, the rule may be promulgated in accordance with section 553 of Title 5, United States Code.

The revocation of the petroleum import licensing regulations and related procedural regulations pursuant to Proclamation 5141 raises no substantial issues of fact or law. This rule is not likely to have a substantial impact on the Nation's economy or on large numbers of individuals or businesses because it will merely remove from the Code of Federal Regulations those provisions which have been made unnecessary by Proclamation 5141. Therefore, the amendment shall be promulgated in accordance with section 553 of Title 5, United States Code.

E. The Administrative Procedure Act

Paragraph (b) of 5 U.S.C. section 553 requires that general notice of a proposed rulemaking be published in the **Federal Register**, except when the agency for good cause finds that notice and public procedure thereon is impracticable, unnecessary, or contrary to the public interest. We find that the notice and public procedures of section 553(b) are unnecessary, since the purpose and effect of this rule is to implement Proclamation 5141 by revoking regulations that no longer have any effect.

Paragraph (d) of section 553 provides that the required publication of a rule be made at least 30 days before the effective date of the rule. One of the exceptions to this requirement is for substantive rules that grant or recognize an exception or relieve a restriction. The revocation of the oil import licensing regulations and related procedural regulations fits within this exception and may be made effective less than 30 days following its publication.

F. Executive Order 12291

Section 3 of Executive Order (E.O.) 12291 (46 FR 13193, February 19, 1981) requires that the Department determine whether a rule is a "major rule", as defined by section 1(b) of E.O. 12291, and prepare a regulatory impact analysis for each major rule. Since the purpose and effect of this rule is to revoke regulations that no longer have any effect, we have determined that the rule does not meet the E.O. 12291 definition of a major rule as one likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, a regulatory flexibility impact analysis is not required.

Pursuant to Section 3(c)(3) of E.O. 12291, this rule was submitted to the Director of the Office of Management and Budget for a 10-day review. The Director has concluded his review under E.O. 12291.

G. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601(a) *et seq.*, Pub. L. 96–354) requires, in part, that an Agency prepare an initial regulatory flexibility analysis for any rule, unless it is determined that the rule will not have a "significant economic impact" on a substantial number of small entities. The rule adopted today revokes regulations that no longer have any effect and thus will not impose any additional burdens or impact on small entities. Therefore, as required by Section 603(b), the Department of Energy certifies that the amendment will not have a significant economic impact on a substantial number of small entities.

(Federal Energy Administration Act of 1974, Pub. L. 93–275; E.O. 11790, 39 FR 23185; Department of Energy Organization Act, Pub. L. 95–91; E.O. 12009, 42 FR 46267; Trade Expansion Act of 1962, as amended, Pub. L. 87–794; Proclamation 5141)

In consideration of the foregoing, Part 205, Subpart T, and Part 213 of Chapter II, Title 10 of the Code of Federal Regulations are revoked, effective January 23, 1984.

Issued in Washington, D.C., January 13, 1984.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

List of Subjects

10 CFR Part 205

Administrative practice and procedure, Electric power, Electric utilities, Environmental protection, Exports, Filing fees, Foreign relations, Imports, Investigations, Natural gas, Oil imports, Penalties, Petroleum allocation, Petroleum price regulations, Reporting and recordkeeping requirements.

10 CFR Part 213

American Samoa, Canada, Exports, Foreign trade zones, Guam, Mexico, Oil imports, Petroleum allocation, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

PART 205—ADMINISTRATIVE PROCEDURES AND SANCTIONS

1. 10 CFR Part 205 is amended by removing Subpart T (§§ 205.250 through 205.255).

PART 213—OIL IMPORT REGULATIONS [REMOVED]

2. 10 CFR is amended by removing Part 213.

[FR Doc. 84-1782 Filed 1-20-84; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 212

[Docket No. R-0431]

Regulation L, Management Official Interlocks; Correction

Correction

In FR Doc. 84-676, appearing on page 1334 in the issue of Wednesday, January 11, 1984, in the second column, in the "Authority", "5 U.S.C." should read "15 U.S.C".

BILLING CODE 1505-01-M

FARM CREDIT ADMINISTRATION

12 CFR Part 614

Loan Policies and Operations: Correction

AGENCY: Farm Credit Administration.

ACTION: Final rule; correction.

SUMMARY: On November 30, 1983, the Farm Credit Administration published a final rule, 12 CFR 614.4321, which amended existing rules in order to expand the types of differential interest rate programs that may be offered by Farm Credit System ("System") banks or associations with FCA approval. Upon effectiveness, differential interest rate programs may be based on operating and funding costs reasonably associated with different portions of the banks' or associations' loan portfolios or on such other facts as approved by FCA. System banks and associations will be able to associate the cost of funds and operating expenses more equitably to existing lending programs. This document corrects two technical errors contained in the final regulation (48 FR 53998).

FOR FURTHER INFORMATION CONTACT: Gary G. Griffith, Operations Management Section, Farm Credit Administration, 490 L'Enfant Plaza, SW., Washington, DC 20578, (202-755-5943).

PART 614—[AMENDED]

Accordingly, the Farm Credit Administration is correcting the introductory text and paragraph (b) of § 614.4321 to read as follows:

§ 614.4321 Interest rate programs.

The following types of interest rate programs may be employed by banks and production credit associations. Bank interest rate programs and bank guidelines for association interest rate programs are subject to Farm Credit Administration approval.

* * * * *

(b) Variable rates. The interest rate(s) on outstanding loan balances may be changed from time to time during the period of the loan, if appropriate provisions are made in the note or loan document.

* * * * *

Donald E. Wilkinson,

Governor.

[FR Doc. 84-1825 Filed 1-20-84; 8:45 am]

BILLING CODE 6705-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-NM-73-AD; Amdt. 39-4795]

Airworthiness Directives; Airbus Industrie Model A300 B2 and B4 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to certain Airbus Industrie Model A300 Series B2 and B4 airplanes which requires inspection of main landing gear hinge arms for corrosion and cracks, and repair or modifications if needed. It also requires replacement of the main landing gear shock absorber sliding rod attachment fitting. Corrosion and cracks have been found in these components. If left uncorrected, these conditions could lead to landing gear failure.

DATES: Effective February 27, 1984.

ADDRESSES: The service bulletins specified in this AD may be obtained upon request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 431-2979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The Direction Generale de l'Aviation Civile (DGAC), which is the French Civil Aviation Authority, has issued three AD's mandating compliance with four Airbus Industrie and four Messier-Hispano Bugatti service bulletins. These service bulletins specify actions necessary to solve the following service difficulties on the main landing gear:

A. Cracks were detected during the cyclic testing of the attachment fittings of the main landing gear shock absorber sliding rod. These cracks occurred after 15,000 simulated landings.

B. Corrosion has been found on the outer surface of the actuating cylinder side trunnion in the radius which transitions the trunnion with the hinge arm.

C. When rework was being done on certain hinge arms which requires the stripping of a chrome plated surface, it was found that the base metal showed some burning on the lateral inboard trunnion. This condition can lead to the formation of cracks.

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring inspections of certain main landing gear components for cracks and corrosion, and repair or part replacement, as needed, was published in the **Federal Register** on September 30, 1983 (48 FR 44842). The comment period closed on

November 15, 1983, and interested persons have been afforded an opportunity to participate in the making of this amendment. Only one comment was received. The commenter stated that he has accomplished a large part of the proposed AD requirements but would like an extension of the compliance time to complete the work. The FAA realizes that it would be advantageous to the U.S. operator of these airplanes to perform the work during their major maintenance. The FAA has determined that the compliance time can be increased from 120 days to 180 days without compromising safety.

It is estimated that 8 U.S. registered airplanes will be affected by this AD, that it will take approximately 284 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Repair part are estimated at $4,700 per airplane. Based on these figures, the total cost impact of this AD to the sole U.S. operator is estimated to be $128,480. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. No small entities within the meaning of the Regulatory Flexibility Act will be affected. Therefore, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously noted.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Airbus Industrie: Applies to the Model A300 B2–1A, B2–1C, B4–2C, B2K–3C, B4–103, B2–203, and B4–203 series airplanes, certificated in all categories. To prevent failure of certain main landing gear components, within 180 days after the effective date of this AD or prior to the accumulation of the number of landings specified in each paragraph below, whichever occurs later, accomplish the following, unless previously accomplished:

A. Prior to the accumulation of 13,000 landings, replace the shock absorber sliding rod attachment fittings, part numbers C61643–4 and C61643–5, with reinforced components in accordance with the instructions of Messier-Hispano-Bugatti (MHB) Service Bulletin 470–32–172, Revision 1, dated June 10, 1981, for aircraft having the serial numbers specified in Airbus Industrie (AI) Service Bulletin A300–32–148, Revision 1, dated December 29, 1978.

B. Prior to the accumulation of 5,000 landings, inspect the trunnion on the actuating cylinder side of the hinge arm, part number C65381–2, in accordance with the instructions of MHB Service Bulletin 470–32–386, Revision 1, dated September 30, 1981, on airplanes having serial numbers specified in AI Service Bulletin A300–32–328, dated August 31, 1981.

1. If no corrosion is found, install a seal to improve the lubrication of the hinge arm trunnion in accordance with the instructions of MHB Service Bulletin 470–32–385, dated August 14, 1981 (related to AI Service Bulletin A300–32–328, dated August 31, 1981), and repeat the above inspections at intervals not to exceed 2,000 landings.

2. If corrosion or cracks are found, remove the corrosion and cracks in accordance with the instructions of MHB Service Bulletin 470–32–386, Revision 1, dated September 30, 1981 and install the seal in accordance with paragraph B.1, above. Repeat the above inspections at intervals not to exceed 250 landings.

3. If the depth of material removed when performing the rework of subparagraph B.2 is greater than one millimeter from the original profile, replace the hinge arm prior to further flight.

C. Prior to the accumulation of 6,500 landings and thereafter at intervals not to exceed 400 landings, inspect the lateral inboard trunnion of the hinge arm, part numbers C65381–2 and C65381–4, for cracks in accordance with the instructions of MHB Service Bulletin 470–32–442, dated March 31, 1983, for aircraft having serial numbers specified in AI Service Bulletin A300–32–365, dated June 27, 1983.

1. For hinge arms that have incorporated modification MHB 595 in the trunnion located in the inboard position on the actuating cylinder side, the time limit is to be counted from the date of reconditioning. For all other cases, the time limit is to be counted from the day the arm was put into service.

2. The repetitive inspections required in paragraph C, above, may be terminated when the actions described in paragraph 2.C of MHB Service Bulletin 470–32–442, on the inboard, outboard, and forward trunnions are accomplished.

D. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

This amendment becomes effective February 27, 1984.

(Sec. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89)

Note. For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities, since no small entities operate A–300 airplanes. A final evaluation has been prepared for this regulations and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Seattle, Washington on January 11, 1984.

F. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 84–1754 Filed 1–20–84; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 83–NM–69–AD; Amdt. 39–4794]

Airworthiness Directives: Airbus Industrie Model A300 B2 and B4 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to certain Airbus Industrie model A300 B2 and B4 series airplanes which requires a one-time inspection of the brake system hydraulic hose end fitting collars for cracks, and replacement if necessary. Cracks have been found in these components which, if left uncorrected, could lead to loss of braking.

EFFECTIVE DATE: February 27, 1984.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM–150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 431–2979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington, 98168.

SUPPLEMENTARY INFORMATION: The Direction Generale de l'Aviation Civile (DGAC), which is the French Civil Aviation Authority, issued an AD mandating compliance with Airbus Industrie Service Bulletin A300–32–310. Cracks have been found in the end fitting collars of the 3/8-inch diameter

brake system hydraulic hoses manufactured by Titeflex. Since these hoses are subject to severe environmental conditions and their failure could result in loss of braking, the service bulletin prescribes a one time inspection and replacement of defective hoses.

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring the inspection of hydraulic hoses in the braking system for cracks and replacement of the defective hoses was published in the **Federal Register** on September 14, 1983 (48 FR 41166). The comment period closed on October 15, 1983, and interested persons have been afforded an opportunity to participate in the making of this amendment. Two comments were received. One commenter indicated that the proposed AD will not have any effect on their fleet because the AD requirements have been completed. The other commenter stated that the world fleet of A300 airplanes has accomplished the proposed AD; therefore, there is no need to issue the AD. The FAA disagrees; there is still an outstanding French AD on the subject and no validation that the world fleet of A300 airplanes has accomplished the AD requirements. The AD is issued to cover the import of A300 airplanes that may not have completed the required inspection and replacement of defective brake hoses. Some minor editorial changes have been incorporated in the final document.

There is no burden to the sole U.S. operator of these airplanes because this operator has completed the AD requirements. For any future import that has not fulfilled these requirements the cost will be $340. For these reasons, this rule is not considered to be a major rule under the criteria of Executive Order 12291. No small entities within the meaning of the Regulatory Flexibility Act will be affected.

Therefore, the FAA has determined that air safety and the public interest require the adoption of the rule with minor editorial changes.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Airbus Industrie: Applies to model A300 B2–1A, B2–1C, B4–2C, B2K–3C, B4–103, B2–203, and B4–203 series airplanes, certificated in all categories with serial numbers specified in paragraph 1, Planning Information of Airbus Industrie Service Bulletin A300–32–310, dated February 12, 1981. To prevent potential loss of braking, accomplish the following, unless previously accomplished:

A. Within the next 500 flight hours after the effective date of this AD, inspect the hydraulic hose end fitting collars on Titeflex Type 3/8-inch diameter hoses SC841080286 of the brake hydraulic system in accordance with paragraph 2, Accomplishment Instructions, of the service bulletin.

1. End fittings with batch reference number 06K672C, 06L039C, or 06M330C on the sleeve or other fittings which are cracked must be replaced with end fittings manufactured after January 1976 and having identification mark "U", within 50 flight hours from the date of inspection.

2. Uncracked end fittings with date of manufacture later than January 1976 and no identification mark or identification mark "X" must be replaced with the end fittings types specified in subparagraph A.1, above, within 250 flight hours from the date of inspection.

B. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

This amendment becomes effective February 27, 1984.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities, since no small entities operate A–300 airplanes. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Seattle, Wash., on January 11, 1984.

F. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 84–1756 Filed 1–20–84; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 83–NM–116–AD; Amdt. 39–4796]

Airworthiness Directives: Avions Marcel Dassault-Brequet Aviation Falcon 10 Series Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to Avions Marcel Dassault-Brequet Aviation Falcon 10 series airplanes which supersedes an existing AD that requires inspection, modification/replacement, as necessary, of wing anti-ice hose clamps. Subsequent to the issuance of AD 82–16–01, there have been reports of hose separations and hose deformations caused by overtorqued hose clamps. This could cause degradation in the wing anti-icing system or damage to electrical wire bundles.

EFFECTIVE DATE: January 31, 1984.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to AMD-BA Representative, c/o F. J. C., Teterboro Airport, New Jersey 07608 or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. James Leeder, Foreign Aircraft Certification Branch, ANM–150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 431–2826. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: AD 82–16–01 (47 FR 32699, July 29, 1982) requires inspection and modification/replacement of wing anti-ice hose clamps in accordance with AMD-BA Service Bulletins F10–0132 dated April 5, 1977, and F10–0231 dated April 7, 1982. However, even after compliance with these service bulletins, hose disconnections and hot air leaks continued to occur. It has been determined that overtorquing the hose screw clamps caused distortions which permitted the hose to separate. AMD-BA issued Service Bulletin F10–0239 dated September 14, 1983, which provides additional modifications to prevent hose disconnection.

This airplane model is manufactured in France and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation

Regulations and the applicable airworthiness bilateral agreement. The French Director General of Civil Aviation (DGAC), French Civil Aviation Authority, has classified Service Bulletin F10-0239 as mandatory.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, the FAA has determined that AD 82-16-01 should be superseded by a new AD which requires compliance with the latest service bulletin.

Further, since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Avions Marcel Dassault-Brequet Aviation: Applies to all Falcon 10 series airplanes certificated in all categories. To prevent failure of the wing leading edge slat anti-icing system, accomplish the following within the next 50 hours time in service or 30 days after the effective date of this AD, whichever occurs later, unless already accomplished.

A. Inspect, repair, and modify the wing leading edge slat anti-icing system in accordance with Avions Marcel Dassault-Brequet Aviation Service Bulletin F10/0239, dated September 14, 1983.

B. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

This supersedes Amendment 39-4423 (47 FR 32699, July 29, 1982), AD 82-16-01.

This amendment becomes effective January 31, 1984.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89)

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and if this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Seattle, Wash., on January 11, 1984.

F. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 84-1753 Filed 1-20-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-NM-119-AD; Amdt. 39-4797]

Airworthiness Directives; CASA Models C-212CB and C-212CC Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to CASA Models C-212CB and C-212CC series airplanes which requires replacement and/or modification of certain components to correct unsafe conditions relating to door opening modes. These actions are necessary to prevent possible injuries to passengers during emergency evacuation and to ensure the door locking mechanism functions properly.

EFFECTIVE DATE: February 27, 1984.

ADDRESSES: The applicable service information and copies may be obtained from Construcciones Aeronauticas, S.A., Getafe-Madrid, Spain or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Roger D. Anderson, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 431-2978. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: FAA discovered several unsafe items on certain CASA C-212CB and CC airplanes relating to door opening modes. A proposal to amend Part 39 of the Federal Aviation regulations to include an AD requiring corrective modifications was published in the **Federal Register** on June 13, 1983 (48 FR 27086). The comment period closed on August 1, 1983.

After the Notice of Proposed Rule Making was published, the manufacturer completed an acceptable design for an outward opening rear door. This design is identified in CASA Service Bulletin 212-53-29, dated July 14, 1983, and is now included this amendment.

Interested parties have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to all comments received. One commenter stated the CASA 212 airplane he operates is used in smokejumping operations. Replacing the inward opening door with one which opens outward would be an inconvenience as it would force him to operate without a door. The FAA recognizes that there may be unique circumstances in which an inward opening door is preferred. Exemptions may be granted when justified.

It is estimated that 31 U.S. registered airplanes will be affected by this AD, that it will take approximately 320 manhours per airplane to accomplish the required actions, and that the average labor cost will be $35 per manhour. Repair parts are estimated at $30,000 per airplane. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $1,300,000. For these reasons, this rule is not considered to be a major rule under the criteria of Executive Order 12291. Few small entities within the meaning of the Regulatory Flexibility Act will be affected.

Therefore, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

CASA: Applies to all model C-212CB and model C-212CC airplanes certificated in all categories. Compliance required as indicated.

A. To reduce the potential for passenger injury during egress from the forward door, within 600 hours time in service or 4 months

after the effective date of this AD, whichever comes first, unless already accomplished, modify the forward exit door on the CB model and doors on the CC model to automatically lock full open in accordance with CASA Service Bulletin 212–52–13 dated September 17, 1982.

B. To prevent inability to open the aft left door during an emergency for evacuation, accomplish one of the following no later than March 31, 1984: (1) install an outward opening rear passenger door in accordance with CASA Service Bulletin 212–53–29 dated July 14, 1983; or (2) rearrange the cabin interior in accordance with CASA Service Bulletin 212–25–30 dated September 14, 1982, and Aircraft Furnishings International Limited Service Bulletin 25–89 dated September 1982.

C. To preclude improper passenger door locking, within the next 600 hours time in service or four months, whichever occurs first, after the effective date of this AD, install an individual switch door warning light system for cockpit warning of an unlocked passenger door in accordance with CASA Service Bulletin 212–52–14 R2 dated February 14, 1983.

D. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

This amendment becomes effective February 27, 1984.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89)

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Seattle, Wash., on January 12, 1984.

F. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 84–1756 Filed 1–20–84; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 83–ANE–26]

Amendment of the Description of the Willimantic, Connecticut 700 Foot Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the description of the 700-foot transition area at Willimantic, Connecticut. The Very High Frequency Omnidirectional Range–A (VOR–A) instrument approach procedure to the Windham Airport, Willimantic, Connecticut is being changed and, as a result, this alteration of the 700-foot transition area is required to contain Instrument Flight Rules (IFR) arrival procedures.

EFFECTIVE DATE: March 15, 1984.

FOR FURTHER INFORMATION CONTACT: David Hurley, Operations, Procedures and Airspace Branch, ANE–530, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273–7385.

SUPPLEMENTARY INFORMATION:

History

On Friday, October 21, 1983, a notice of proposed rulemaking was published in the **Federal Register** [48 FR 48831] stating that the FAA proposed to change the description of the 700-foot transition area at Willimantic, Connecticut. Interested persons were invited to participate in the rulemaking process by submitting written comments on the proposal to the FAA. No objections were received.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Willimantic, Connecticut

Insert after the line that reads, "That airspace * * * the end of the runway" the following:

"within 4.5 miles each side of the Norwich VOR 324° radial extended from the 8-mile radius area to one mile northwest of the VOR and within two miles each side of the centerline of Runway 27 extended from the 8-mile radius area to 9 miles W of the end of the runway."

(Secs. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983)), and 14 CFR 11.69)

Note.—The FAA has determined that this regulation involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, it is certified that this (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) the rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Burlington, Massachusetts, on January 9, 1984.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 84–1752 Filed 1–20–84; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 23887; Amdt. No. 1260]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFO-230), Air Transportation Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. § 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument.

Adoption of the Amendment

PART 97—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending Part 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN SIAPs identified as follows:

* * * *Effective March 15, 1984*

Carlsbad, CA—McClellan-Palomar, VOR-A, Amdt. 6
Fort Worth, TX—Luck Field, VOR/DME-A, Orig.

* * * *Effective March 1, 1984*

San Diego, CA—Montgomery Field, VOR/DME-C Amdt. 3, Cancelled
Greeley, CO—Weld County Muni, VOR-A, Amdt. 6
Cornelia, GA—Habersham County, VOR/DME RWY 6, Amdt. 3
Washington, GA—Washington-Wilkes County, VOR/DME RWY 13, Amdt. 2
Indianapolis, IN—Eagle Creek, VOR-A, Amdt. 4
LaPorte, IN—LaPorte Muni, VOR-A, Amdt. 3
Presque Isle, ME—Northern Maine Regional Arpt at Presque Isle, VOR RWY 19, Amdt. 8
Detroit, MI—Detroit City, VOR RWY 33, Amdt. 25
Fremont, MI—Fremont Muni, VOR-A, Amdt. 8
Fremont, MI—Fremont Muni, VOR RWY 36, Amdt. 3
Manistique, MI—Schoolcraft County, VOR RWY 28, Amdt. 6
Cross Keys, NJ—Cross Keys, VOR RWY 9, Amdt. 2
Batavia, NY—Genesee County, VOR RWY 28, Amdt. 4
Hamilton, NY—AMA Executive Airstrip, VOR-A, Amdt. 2
Raeford, NC—Raeford Muni, VOR/DME-A, Amdt. 2
Hebron, OH—Buckeye Executive, VOR-A, Amdt. 2
Toughkenamon, PA—New Garden, VOR RWY 24, Amdt. 5
North Kingstown, RI—Quonset State, VOR-A, Amdt. 1
North Kingstown, RI—Quonset State, VOR RWY 34, Amdt. 3
Providence, RI—Theodore Francis Green State, VOR/DME RWY 16, Amdt. 2

* * * *Effective February 16, 1984*

Norfolk, NE—Karl Stefan Memorial, VOR RWY 1, Amdt. 3
Norfolk, NE—Karl Stefan Memorial, VOR RWY 13, Amdt. 3
Norfolk, NE—Karl Stefan Memorial, VOR RWY 19, Amdt. 3
Norfolk, NE—Karl Stefan Memorial, VOR RWY 31, Amdt. 3

* * * *Effective January 10, 1984*

Long Beach, CA—Long Beach/Daugherty Field, VOR or TACAN RWY 30, Amdt. 6

* * * *Effective December 28, 1983*

Bessemer, AL—Bessemer, VOR RWY 5, Amdt. 2

2. By amending Part 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, and SDF/DME SIAPs identified as follows:

* * * *Effective March 1, 1984*

Anderson, IN—Anderson Muni, LOC (BC) RWY 12, Admt. 4, Cancelled
Latrobe, PA—Westmoreland County, LOC BC RWY 5, Amdt. 6
Marshfield, WI—Marshfield Muni, SDF RWY 34, Amdt. 2

* * * *Effective February 16, 1984*

Norfolk, NE—Karl Stefan Memorial, LOC RWY 1, Amdt. 5, Cancelled

3. By amending Part 97.27 NDB and NDB/DME SIAPs identified as follows:

* * * *Effective March 15, 1984*

Carlsbad, CA—McClellan-Palomar, NDB RWY 24, Amdt. 3
Clovis, NM—Clovis Muni, NDB RWY 4, Amdt. 2

* * * *Effective March 1, 1984*

Vidalia, GA—Vidalia Muni, NDB RWY 24, Admt. 4
Beverly, MA—Beverly Muni, NDB–A, Amdt. 8
Charlevoix, MI—Charlevoix Muni, NDB RWY 8, Amdt. 6
Charlevoix, MI—Charlevoix Muni, NDB RWY 26, Amdt. 7
Benson, MN—Benson Muni, NDB RWY 14, Amdt. 3
Hudson, NY—Columbia County, NDB–A, Amdt. 2

* * * *Effective January 12, 1984*

Orange City, IA—Orange City Muni, NDB RWY 34, Amdt. 2

* * * *Effective January 10, 1984*

Long Beach, CA—Long Beach/Daugherty Field, NDB RWY 30, Amdt. 8

4. By amending § 97.29 ILS ILS/DME, ISMLS, MLS, MLS/DME and MLS/RNAV SIAPs identified as follows:

* * * *Effective March 15, 1984*

Carlsbad, CA—McClellan-Palomar, ILS RWY 24, Amdt. 5

* * * *Effective March 1, 1984*

Boston, MA—General Edward Lawrence Logan Intl, ILS/DME RWY 15R, Amdt. 8
Boston, MA—General Edward Lawrence Logan Intl, ILS/RWY 33L, Amdt. 19
Detroit, MI—Detroit City, ILS RWY 15, Amdt. 7
Detroit, MI—Detroit City, ILS RWY 33, Amdt. 10
Batavia, NY—Genesee County, ILS RWY 28, Amdt. 1
Pittsburgh, PA—Allegheny County, ILS RWY 10, Amdt. 3

* * * *Effective February 16, 1984*

Norfolk, NE—Karl Stefan Memorial, ILS RWY 1, Orig.

* * * *Effective January 10, 1984*

Long Beach, CA—Long Beach/Daugherty Field, ILS RWY 30, Amdt. 31

5. By amending Part 97.31 RADAR SIAPs identified as follows:

* * * *Effective March 1, 1984*

North Kingstown, RI—Quonset State, RADAR–1, Amdt. 3

6. By amending § 97.33 RNAV SIAPs identified as follows:

* * * *Effective March 1, 1984*

Gainesville, FL—Gainesville Regional, RNAV RWY 28, Amdt. 5
LaPorte, IN—LaPorte Muni, RNAV RWY 20, Amdt. 1
Pittsburgh, PA—Allegheny County, RNAV RWY 10, Amdt. 5
Charleston, SC—Charleston Executive, RNAV RWY 9, Amdt. 3

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348, 1354(a), 1421, and 1510); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on January 20, 1984.

Kenneth S. Hunt,

Director of Flight Operations.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

[FR Doc. 84–1758 Filed 1–20–84; 8:45 am]

BILLING CODE 4910–13–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 33

Domestic Exchange-Traded Commodity Options; Expansion of Pilot Program To Include Options on Domestic Agricultural Commodities

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is adopting amendments to its previously approved regulations governing a three-year pilot program to permit the trading of commodity options on domestic boards of trade. The amendments being adopted herein provide for the trading of options on futures contracts in domestic agricultural commodities. These rules will permit the trading of such options under the same conditions which apply to the Commission's ongoing options pilot program.

EFFECTIVE DATE: These rules will become effective upon the expiration of thirty calendar days of continuous session of Congress after their transmittal with related materials, to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry pursuant to Section 4c(c) of the Commodity Exchange Act, but not before further notice of the effective date is published in the **Federal Register.**

ADDRESS: Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

FOR FURTHER INFORMATION CONTACT: Paul M. Architzel, Chief Counsel, Division of Economics and Education at the above address. Telephone: (202) 254–6900.

SUPPLEMENTARY INFORMATION:

I. Introduction

On October 14, 1983, the Commission published for public comment proposed amendments to Commission Rule § 33.4 (48 FR 46797). These proposed amendments would have permitted the trading of options of futures contracts in domestic agricultural commodities under essentially the same regulatory scheme as the Commission's ongoing pilot options program.

The Commission's previously adopted regulations establishing a three-year pilot program to permit the trading of commodity options on domestic boards of trade initially permitted trading only in options on commodity futures contracts. 46 FR 54500 (November 3, 1981). The pilot program was subsequently expanded to permit the trading of options on physical commodities as well. 47 FR 56996 (December 22, 1982). At that time a statutory bar to such trading found in Section 4c of the Commodity Exchange Act, 7 U.S.C. 6c (1976), prevented the consideration of the trading of options on domestic agricultural commodities.

The statutory bar to trading options on domestic agricultural commodities was repealed by Section 206 of the Futures Trading Act of 1982, Pub. L. 97–444, 96 Stat. 2294, 2301 (1983).[1] That amendment to the Commodity Exchange Act permitted the Commission to establish a pilot program for a period not to exceed three years for the trading of options on domestic agricultural commodities.[2]

[1] Section 206 of the Futures Trading Act of 1982 provides in part that:

With respect to any commodity regulated under this Act and specifically set forth in section (2)(a) of this Act prior to the date of enactment of the Commodity Futures Trading Commission Act of 1974, the Commission may, pursuant to the procedures set forth in this subsection, establish a pilot program for a period not to exceed three years to permit such commodity option transactions. The Commission may authorize commodity option transactions during the pilot program in as many commodities as will provide an adequate test * * *

[2] These commodities are enumerated in Section 2(a) of the Act and include: Wheat, cotton, rice, corn, oats, bareley, rye, flaxseed, grain sorghums, mill feeds, butter, eggs, Irish potatoes, wool, wool tops, fats and oils (including lard, other fats and oils), cottonseed meal, cottonseed, peanuts, soybeans, soybean meal, livestock, livestock products, and frozen concentrated orange juice.

In permitting a pilot program for the trading of options on domestic agricultural commodities, Congress believed that such options might benefit producers by offering protection from adverse price movements without requiring the sacrifice of potential profits from favorable price movements. Congress also believed that the abuses which characterized the trading of options in the the 1930s were unlikely to recur. S. Rep. No. 384, 97th Cong., 2nd Sess. 49–50 (1982). Accordingly, the Conference Committee reported that Congress;

> * * * [has] permit[ted] the Commission to authorize commodity option transactions during a pilot program in as many agricultural commodities as will provide an adequate test for these options.* * *.
>
> The conferees intend that the pilot program should, wherever possible, be "folded into" existing option pilot programs, using the same kind of regulatory scheme already in place for these other options pilot programs.
>
> H.R. Rep. No. 964, 97th Cong., 2nd Sess. 40 (1982).

II. Public Participation in Consideration of Domestic Agricultural Options

The following removal of the statutory bar, the Commission began an inquiry into the feasibility and desirability of trading in options on domestic agricultural commodities. As part of this inquiry, the Commission published an advance notice of proposed rulemaking raising eight specific issues regarding the potential use of such options and the appropriate regulatory structure. 48 FR 6128 (February 10, 1983). Those issues included the potential uses for agricultural options, the form and structure of the pilot program, the extent and breadth of the program, and whether existing regulatory protections were adequate. Thirty-five comments, a majority from agricultural producers, were received by the Commission in response to that advance notice.

In addition, the Commission convened an Agricultural Options Advisory Committee ("Advisory Committee") which was formed under the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I, Section 1, *et seq.*, as amended, to provide additional input and advice with respect to the pilot program. The Advisory Committee met in Washington, D.C., on June 23, July 28, and October 5, 1983 to explore various policy alternatives for the trading of options on domestic agricultural commodities.

Also, the Commission conducted a series of public meetings in nine cities across the nation, including Atlanta, Georgia; Cedar Rapids, Iowa; Indianapolis, Indiana; Kansas City, Missouri; Lubbock, Texas; Memphis, Tennessee; Minneapolis, Minnesota; St. Louis, Missouri; and Reno, Nevada. These public meetings provided an additional opportunity for interested members of the public to express their views concerning the development of a pilot program for options on domestic agricultural commodities.

Finally, the Commission provided for a sixty-day comment period in its notice of proposed rulemaking. Thirty-two commentators responded. These included comments from three commodity exchanges, two industry associations, three associations representing producers, and twenty-three individuals or commercial firms. The comments received from the producer-representative organizations were generally favorable. However, certain individuals expressed concern over the option program specifically and over futures trading in general. After carefully considering the views of the members of the Commission's Advisory Committee, comments received from the public in response to the advance notice of proposed rulemaking, views of the public elicited during the nationwide public meetings, and comments received by the Commission in response to the proposed rules, the Commission is adopting final regulations to permit the trading of options on futures contracts in domestic agricultural commodities.

III. Comments on Issues Raised by the Proposed Rules

1. Potential Utility of Options on Domestic Agricultural Commodities

Many of the commentators, as requested, addressed the potential utility of options on futures contracts in domestic agricultural commodities. Generally, those commenting on both the advance notice of proposed rulemaking and the proposed rulemaking, those participating at the Commission's plubic meetings, and the members of the Advisory Committee supported the concept of options on futures contracts in domestic agricultural commodities. They believed that such options would offer producers an additional and perhaps superior method of hedging their risks.

Nevertheless, the Commission received eighteen similar comments from individuals questioning the utility of options on futures contracts for agricultural commodities. The concerns expressed by these commentators over the utility of options on domestic agricultural futures contracts reflected a basic mistrust of a producer's ability to use futures trading or its derivative markets profitably. Indeed, many of these comments questioned the general utility of futures trading. These individual commentators expressed concern with futures trading because of the ability of nonproducers to speculate and to sell short in the futures markets. Others questioned the utility of the pilot option program based upon a fear that options would be used to replace existing governmental programs for the support and maintenance of agricultural production.

The organizations representing producers which commented on the proposal, however, were highly supportive of the concept of the pilot program for options on futures contracts in domestic agricultural commodities. They asserted that options would provide producers with an additional, beneficial tool. The United States Department of Justice concurred in this view and particularly supported the pilot program because it permitted a market test of the efficacy of various instruments in transferring market risks.

In adopting this pilot program for agricultural options, the Commission believes that producers will thereby have made available to them an additional tool to help manage price risks. As discussed in the notice of proposed rulemaking, options will permit producers to hedge their downside price risks without forgoing potential gains from price rises. This protection can be obtained at a premium established at the outset. After carefully considering the views of both the individual producers who questioned the potential utility of options on futures contracts in domestic agricultural commodities and the views of those supporting the proposal, the Commission has concluded that options on domestic agricultural futures, when correctly used, are a potentially beneficial tool to producers. However, the Commission does not view domestic agricultural futures or options on such futures as the only appropriate tool to aid producers in the management of risk, or more generally in the support and maintenance of agricultural production.

2. Determination To Permit Options on Only Futures Contracts

The rules, as proposed, provided that options on domestic agricultural commodities be traded on futures contracts but not on the physical commodity. Those commentators discussing this issue generally were in agreement that the Commission's determination to proceed at this time with options on futures but not on physicals was correct. For example, an association representing producers

believed that in light of the checkered history of agricultural options and the lack of recent experience with them, it was most appropriate to proceed only with options on futures contracts. In this connection the commentator particularly supported the restriction of trading options on futures contracts to the exchange trading the underlying futures contract. In the commentator's view such a restriction increases the accountability of the self-regulatory organizations for surveillance.

A second commentator representing an industry source was firmly opposed to exchange-traded options on physical commodities. Other commentators, such as the United States Department of Justice, agreed that it was reasonable to limit the pilot program to trading on futures contracts initially, but suggested that as experience with options increases the Commission may wish to consider whether to expand the program to include exchange-traded options on physical commodities. However, one association representing producers favored options on physical commodities and advocated their inclusion in the pilot program as a means of testing their efficacy.

As noted in the notice of proposed rulemaking, the Commission believes that a cautious approach, initially limiting the program to options on futures, is warranted. As the Commission previously stated:

> In light of the views of the majority of commentators and members of the Advisory Committee that the agricultural option program should initially include only options on futures, the trading experience in the existing pilot program with options on futures, the apparent preference of potential users for options on futures rather than physicals, and the lack of experience with any actively-traded contracts for options on physicals, the Commission has determined initially to restrict the pilot program in domestic agricultural options to options on futures. In so doing, the Commission has chosen to exercise at this time only a portion of its jurisdiction with respect to options on agricultural commodities. As experience is gained in the trading of options on agricultural futures, the Commission will consider whether, and under what circumstances, trading in options on agricultural physicals should be permitted.

48 FR 46799.

3. Limitation on Number of Option Contracts

As proposed, the pilot program in options on domestic agricultural commodities permits two additional options to be traded on those exchanges trading the underlying futures contracts in domestic agricultural commodities. Three exchanges objected to this provision. Two of the exchanges currently do not trade futures contracts in agricultural commodities. They reasoned that limiting the additional options permitted under the agricultural pilot program to agricultural futures contracts was anticompetitive and thereby violated Section 15 of the Commodity Exchange Act, 7 U.S.C. 19.[3] They argued that:

> * * * the nature of the proposal is unfairly beneficial to the nation's largest futures exchanges which offer so many contracts that they will qualify to trade four options. The fact that an exchange offers a large number of futures contracts should not afford them the advantage to trade more options contracts than a smaller exchange not diversified in the same way.

The two exchanges objecting to this provision of the proposed pilot program advocated that the Commission establish a uniform number of options which may be traded by each exchange and permit the exchanges to determine which particular options on futures are offered. The other commentators who addressed this issue, including the Department of Justice, found the limitation of the pilot program to options on domestic agricultural futures contracts, in light of its interim nature, to be reasonable and not anti-competitive.

The Commission believes that the suggestion of the two exchange commentators to provide for all exchanges to trade more options than now permitted, in any combination, would not achieve the statutorily-established objectives of the proposed pilot program to make a limited test of the efficacy of options on domestic agricultural commodities. The exchange commentators' suggestion would not meet that objective because it would not ensure that options on domestic agricultural commodities were offered. Secondly, were the Commission to follow this suggestion and include options on futures contracts in domestic agricultural commodities as an undifferentiated part of the existing pilot option program, there is no reason to assume that the Commission would increase the overall number of option contracts permitted to be traded on a particular exchange. In this regard, it should be noted that many exchanges, including the two commentators, have yet to reach the maximum number of options currently permitted by the existing pilot program.

Moreover, under the initial pilot program an exchange which trades only domestic agricultural commodities was not permitted to trade any options. Accordingly, because of the limited number of options permitted and because of the phased nature of the program, not all contract markets have been able to participate in all phases of the pilot program. In addition, the rules of the pilot program do not bar exchanges which do not currently trade such futures contracts but which would like to trade these options from seeking designation in futures contracts on domestic agricultural commodities. Accordingly, the Commission believes that its provision for a pilot program for options in domestic agricultural commodities does not unfairly disadvantage any exchange and is consistent with the requirements of Section 15 of the Act.

The third exchange commentator, which trades more than two futures contracts on domestic agricultural commodities, objected that the limitation of the pilot program to two options on such futures contracts was anti-competitive. This exchange advocated a pilot program limited to options on domestic agricultural futures contracts, but which did not provide for a maximum number of options permitted for each eligible exchange. However, consistent with the approach adopted in the initial pilot program, the Commission believes that in light of the past abuses associated with options trading, caution is warranted. Accordingly, the Commission believes that initially the total number of options which may be traded should be limited to two per exchange.

In this regard, several commentators noted that although they occurred in and supported the Commission's initial limitation of the program to options on two futures contracts, they hoped that after sufficient experience had been gained the program would be expanded. One commentator representing an association of producers based its support of an expanded pilot program on its desire to have options offered for each sector of the agricultural community. The Commission does not disagree that producers in every sector of the domestic agricultural economy should have access to the benefits of option trading, after those benefits have been demonstrated. However, in light of the past history of agricultural options trading and the general lack of

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[3] Section 15 of the Act provides that:

> The Commission shall take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives of this Act, as well as the policies and purposes of this Act, in issuing any order or adopting any Commission rule or regulation, or in requiring or approving any bylaw, rule, or regulation of a contract market or registered futures association established pursuant to section 17 of this Act.

experience with them, caution is warranted in order to assure the success of the program and to minimize possible adverse occurrences. Thus, although cognizant of the desire of some people to see the program expanded, the Commission believes that the more prudent approach is to hold any determination on further expansion of the program in abeyance until experience has been gained with the trading of options on domestic agricultural commodities.

4. Option Expiration Dates

As noted above, the proposed rules folded the pilot program for domestic agricultural options into the existing pilot program wherever possible. Accordingly, in the proposed rules, the Commission treated agricultural options no differently from other options with respect to the relative expiration dates of the option and future contracts. The current rule provides that a contract market must justify an expiration date which is later than ten business days before the earlier of the first notice date or last trading day of the underlying futures contract. Several commentators reiterated their support for the application of the current rule on option expirations to domestic agricultural options. The Commission believes that Rule 33.4(d)(1) should be retained for options on domestic agricultural commodities since it enables the Commission to balance, on a case-by-case basis, the commercial utility of an option's expiration date against any attendant risks of disruption to a particular futures contract. The Commission has found that this case-by-case approach has worked well with respect to those options already trading.

5. Customer Protections

The Commission also requested the views of commentators concerning whether any additional or different customer protections should be required for the trading of options on domestic agricultural commodities. 48 FR 46799. Clearly, the consensus was that the current regulations provide sufficient customer protections. One commentator noted, however, that although the regulations provide sufficient customer protections, there is a serious need to educate the public with respect to these options. That commentator noted that in light of the lack of trading experience in domestic agricultural options, and in light of the current mistrust of many producers toward options and futures, better education would be the main bulwark against customer abuses. A second commentator further noted that in order for these markets to be able to provide farmers with the services intended, trust must be established between the producers and the markets. Educational efforts by both the Commission and the industry will play an important part in establishing this trust.

Although most commentators believed that the customer protections currently provided in the options rules are sufficient, one commentator, a commodity exchange, believed that the disclosure requirements for customers under existing Commission Rules §§ 33.4(b)(9) and 33.7(d), 17 CFR 33.4(b)(9) and 33.7(d), are unnecessarily strict. Commission Rule § 33.4(b)(9) requires that exchanges designated to trade options adopt rules requiring member futures commission merchants, when engaging in the offer or sale of option contracts for a customer account for which discretion is vested in a third party, to disclose to the customer "the nature and risks of the strategy or strategies to be used in connection with the option customer's account." The commentator also objected to Rule § 33.7(d) which requires that customers be informed of various costs and fees of their option transactions before entering into the transaction.[4]

The commentator objected to these requirements on the grounds that disclosing these fees for each transaction is too burdensome for futures commission merchants. However, no futures commission merchant advanced this view. A second exchange commentator objected to Commission Rules §§ 33.3(b)(1)(i) (A) and (B), 33.4b (4), (5), (8), and (10); 33.4 (c) and (g), 33.5(d), 33.6(d) and 33.7. These rules provide, *inter alia*, for oversight of futures commission merchants who accept option orders and for their marketing techniques, the handling of customer complaints, and the disclosure to customers of the risks of options trading. The Commission believes that all of the customer protections provided for in the pilot program are essential to protect the public from the past abuses associated with the trading of options and finds no reason at this time to amend these rules.

[4] Commission Rule § 33.7(d) provides that:

Prior to the entry into a commodity option transaction on or subject to the rules of a contract market, each option customer or prospective option customer shall, to the extent the following amounts are known or can reasonably be approximated, be informed by the person soliciting or accepting the order therefor of the amount of the premium and any mark-ups thereon, if applicable, commissions, costs, fees and other charges to be incurred in connection with the commodity option transaction, as well as the strike price and all costs to be incurred by the option customer if the commodity option is exercised.

One commentator suggested that revisions to current speculative limits combining options and futures contracts in one overall limit were necessary. The Commission would note that it has not required exchanges to provide for unified speculative limits on both futures and options contracts. In this regard, futures contracts in most domestic agricultural commodities have federally-set speculative limits under Part 150 of the Commission's Rules, 17 CFR Part 150. Speculative limits will be required for options on those futures contracts as well, but pursuant to Commission Rule § 1.61, speculative limits on the options contracts will be set by the exchanges in the first instance. In reviewing and approving the option limits proposed by the exchanges under Commission Rule § 1.61, the Commission will take into account several factors, including the relationship of the futures and options markets. The Commission has noted that:

> * * *In reviewing such limits, Commission will consider the options and futures market as a whole in determining whether exchange limits, either specified jointly for futures and options or separately, are set at appropriate levels. More specifically, the Commission wishes to ensure that option limits are set at levels which will not undermine the primary purposes for establishing limits on the underlying future.
>
> 46 FR 50938, 50944 (October 16, 1981).

Finally, one producer organization, while believing current customer protections are adequate, expressed the view that a futures-type margining system would be preferable. This commentator noted that options will be useful for farmers only if the premiums are available at an attractive price. To increase their availability, this commentator and an exchange commentator recommended a margining system for the option premium which is similar to that which exists for futures contracts. However, another commentator, also representing an agricultural producer's association, fully supported the concept of full premium payment as a means of customer protection and differentiation of options from futures. The Commission is aware of both views with respect to the advisability of various margining alternatives for option premiums and will be studying this issue further. The Commission believes that the public margining systems for all option contracts should be similar, regardless of the commodity on which the option is offered. Accordingly, issues relating to the margining systems for options will

be considered apart from these proposed rules.

6. Trade Options

The final issue raised in the notice of proposed rulemaking related to options in actual cash commodities which are traded off of exchanges between producers, processors, commercial users, or merchants. In the notice of proposed rulemaking, the Commission stated that it

> * * *[r]ecognizes that there may be possible benefits to commercials and to producers from the trading of these "trade" options in domestic agricultural commodities. On the other hand, in light of the lack of recent experience with agricultural options and because the trading of exchange-traded options is subject to more comprehensive oversight, caution would suggest proceeding in a gradual fashion by initially permitting only exchange-traded agricultural options.

48 FR 46800.

With the exception of one commentator, an agricultural insurance company that wished to offer these trade options, other commentators commenting on this issue generally agreed that the Commission's approach of initially proceeding with exchange-traded options and considering off-exchange instruments at a later time was appropriate. Indeed, many of these commentators believed that the lack of recent experience with options clearly favored the conservative approach of limiting the trading of options to exchanges. Moreover, with two exceptions, no commentators even addressed the issue of the present need for such off-exchange instruments. Accordingly, the Commission has determined to proceed only with exchange-traded options on domestic agricultural futures contracts at this time. The Commission notes that does not imply that it has reached a final determination as to the future feasibility or desirability of permitting the trading of off-exchange trade options in these commodities. Rather, that determination will be made after further experience has been gained in connection with the trading of options on exchanges as part of this pilot program.[5]

7. Applications for Designation

The Commission also notes that commentators, in connection with the Commission's consideration of the existing pilot program, previously expressed concern over the timing of Commission approvals of applications for designation as option contract markets. 46 FR 54501. They expressed the concern that particular exchanges may obtain a competitive advantage by being among the first contract markets designated for options trading. Although commentators did not specifically raise this concern in connection with the proposed rules for options on futures in domestic agricultural commodities, the Commission appreciates its responsibility to treat all contract markets equally.

Accordingly, the Commission has determined to review applications for designation as option contract markets in domestic agricultural futures on a unified schedule. Applications for designation will not be accepted officially by the Commission until the expiration of the statutorily-mandated period for Congressional review of these rules.[6] Because of the relatively great demands on Commission resources such unified timetables impose, the Commission will include in the initial grouping only one application per exchange for designation as an option contract market in domestic agricultural futures. Accordingly, boards of trade simultaneously applying for more than one option should specify which application has higher priority. Those applications received later than thirty days after applications are first accepted, applications for second options, and those applications within the initial group which are seriously deficient or otherwise require stricter scrutiny, will be scheduled for review under the Commission's routine procedures.

IV. The Final Regulations

The regulations herein adopted incorporate the pilot program in options on domestic agricultural commodities into the existing options pilot program wherever possible. The Commission, as proposed, is hereby amending Commission Rule 33.4 to provide that options on agricultural commodities be on a futures contract and not directly on the physical commodity.

Moreover, for the reasons identified above, the Commission in Rule § 33.4(a)(6), is permitting designation for each board of trade in no more than two options on futures contracts in domestic agricultural commodities. As previously stated, the Commission believes that by permitting each board of trade to be designated in two options on domestic agricultural commodities, a sufficient number of option contracts will be traded to permit an adequate test for the pilot program. As more experience is gained with these contracts, the Commission will re-evaluate the limitation on the number of option contracts permitted.

V. Related Matters

A. The Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA") (5 U.S.C. 601 *et seq.*) requires that agencies in proposing rules consider the impact of those rules on small businesses. As stated in the notice of proposed rulemaking, 48 FR 46801, the Commission previously determined that contract markets are not small entities for purposes of the RFA. In certifying pursuant to Section 3(a) of the RFA, 5 U.S.C. 605(b) that these regulations will not have a significant economic impact on a substantial number of small entities, the Commission invited comments from any firms or other persons who believe that the promulgation of these rule amendments might have an impact upon their activities. No such comments were received.

List of Subjects in 17 CFR Part 33

Commodity exchange, Commodity exchange designation procedures, Commodity exchange rules, Commodity futures, Consumer protection.

In consideration of the foregoing and pursuant to the authority contained in the Commodity Exchange Act and in particular Sections 2(a)(1)(A), 4c(b), 4c(c), and 8a thereof, 7 U.S.C. 2, 6c(b), 6c(c), and 12a, the Commission hereby amends Chapter 1 of Title 17 of the Code of Federal Regulations as follows:

PART 33—REGULATION OF DOMESTIC EXCHANGE-TRADED COMMODITY OPTION TRANSACTIONS

1. Section 33.4 is amended by revising the introductory paragraph and paragraph (a)(6) to read as follows:

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[5] Nor is the Commission, by proceeding only with exchange-traded commodity options, making a determination with respect to the status of certain practices which may exist currently as part of cash market contracting. The Commission's policy to date has been to examine various instruments on a case-by-case basis and to determine their status by a functional analysis of the instrument. The Commission will continue to follow this approach in determining whether various instruments fall within the Commission's jurisdiction or are contracts of a cash commodity for deferred shipment or delivery.

[6] Section 4c(c) of the Act, 7 U.S.C. 6c(c) provides in part that the pilot program may be established when:

(1) The Commission transmits to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry documentation of its ability to regulate successfully such transactions, including a copy of the Commission's proposed rules and regulations, and (2) the expiration of thirty calendar days of continuous session of Congress after the date of such transmittal.

§ 33.4 Designation as a contract market for the trading of commodity options.

The Commission may designate any board of trade located in the United States as a contract market for the trading of options on contracts of sale for future delivery on any commodity regulated under the Act, or for options on physicals in any commodity regulated under the Act other than those commodities which are specifically enumerated in Section 2(a)(1)(A) of the Act, when the applicant complies with and carries out the requirements of the Act (as provided in § 33.2), these regulations, and the following conditions and requirements with respect to the commodity option for which the designation is sought:

(a) Such board of trade * * *

(6) For commodities not specifically enumerated in Section 2(a)(1)(A) of the Act, is not designated as a contract market for more than one other commodity option on a commodity not enumerated in Section 2(a)(1)(A) of the Act; and for those commodities which are specifically enumerated in Section 2(a)(1)(A) of the Act, is not designated for more than one other commodity option in a commodity which is specifically enumerated in Section 2(a)(1)(A) of the Act.

* * * * *

Issued in Washington, D.C., by the Commission on January 17, 1984.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 84-1776 Filed 1-20-84; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF-164; Ref: Notice No. 399 and No. 434]

Monticello Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: This final rule establishes a viticultural area in central Virginia to be known as "Monticello." The Bureau of Alcohol, Tobacco and Firearms (ATF) believes the establishment of "Monticello" as a viticultural area and subsequent use as an appellation of origin on wine labels and in wine advertisements will allow wineries to better designate the specific grape-growing area where their wines come from and will enable consumers to better identify the wines they may purchase.

EFFECTIVE DATE: February 22, 1984.

FOR FURTHER INFORMATION CONTACT: James A. Hunt, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4 allowing the establishment of definite viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin in wine labeling and advertising.

Section 9.11, Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical characteristics. Section 4.25a(e)(2) outlines the procedures for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area.

Six wine grape growers in the Charlottesville area of Virginia petitioned ATF to establish a viticultural area to be known as "Monticello." In response to the petition ATF published a notice of proposed rulemaking, Notice No. 399 (46 FR 59274), on December 4, 1981, to establish a viticultural area in the Charlottesville, Virginia, area to be known as "Monticello."

The Jefferson Wine Grape Growers Society petitioned for an enlargement of the Monticello viticultural area boundary. ATF published an amended notice of proposed rulemaking, Notice No. 434 (47 FR 52200), on November 19, 1982. Seven comments were received which all strongly favored the enlarged boundary for the Monticello viticultural area.

Historical and Current Evidence of the Name

The petitioner stated that the name "Monticello" is known nationally and locally as the home of Thomas Jefferson. Located on a high mountain outside the city of Charlottesville, Virginia, Monticello is easily seen for several miles in all directions. Today, Monticello is a major tourist attraction in the central Virginia area and signs on all major roads direct visitors to this historical landmark.

The petitioner submitted evidence to show that the name "Monticello" has also been historically linked to wine production in the area. There are numerous references of Thomas Jefferson planting wine grapes at Monticello. There are also historical references of a Monticello Wine Company in Charlottesville winning medals in Europe between the years 1873 and 1920.

A survey of rainfall data was taken from owners of 15 vineyards throughout the Monticello area. The average annual rainfall reported was 42.4 inches with a range of 39.5 to 44.0 inches. The Shenandoah Valley viticultural area to the north has a broader range of 38.6 to 48.6 inches of rainfall and the North Fork of Roanoke viticultural area to the west annually averages 3 inches of rainfall less than the Monticello viticultural area.

Boundaries

In the amended notice of proposed rulemaking extending the boundaries of the Monticello viticultural area from approximately 475 square miles to 1,250 square miles, ATF asked for further evidence to support the larger viticultural area. The evidence submitted by commenters showed that there are approximately 300 acres of grapes on 26 vineyards scattered throughout the Monticello viticultural area with another 150 acres planned in the near future. Reducing the size would leave out vineyards which are within the historical and geographical confines of the Monticello viticultural area.

After carefully considering the evidence submitted ATF is adopting the Monticello viticultural area boundaries stated in the amended notice of proposed rulemaking and found at 27 CFR 9.48 in this final rule.

Miscellaneous

ATF does not wish to give the impression by approving Monticello as a viticultural area that it is approving or endorsing the quality of the wine from this area. ATF is approving this area as being distinct and not better than other areas. By approving the area, wine producers are allowed to claim a distinction on labels and advertisements as to the origin of the grapes. Any commercial advantage gained can only come from consumer acceptance of Monticello wines.

Executive Order 12291

In compliance with Executive Order 12291 (46 FR 13193 (1981)), ATF has determined that this final rule is not a "major rule" since it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries,

Federal, State or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of Section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The Provisions of the Paperwork Reduction Act of 1980, Pub. L. 96–511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

Disclosure

A copy of the petition and the comments received are available for inspection during normal business hours at the following location: ATF Reading Room, Rm. 4407, Office of Public Affairs and Disclosure, 12th and Pennsylvania Ave., NW., Washington, DC.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, and Wine.

Drafting Information

The principal author of this document is James A. Hunt, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority and Amendment

PART 9—AMERICAN VITICULTURAL AREAS

Accordingly, under the authority contained in Section 5 of the Federal Alcohol Administration Act (49 Stat. 981, as amended; 27 U.S.C. 205), 27 CFR Part 9 is amended as follows:

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended by revising the heading of § 9.48 as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.48 Monticello.

Para. 2. Subpart C is amended by adding § 9.48 to read as follows:

Subpart C—Approved American Viticultural Areas

§ 9.48 Monticello.

(a) *Name.* The name of the viticultural area described in this section is "Monticello."

(b) *Approved Maps.* Approved maps for the Monticello viticultural area are two 1971 U.S.G.S. maps titled: Charlottesville Quadrangle Virginia; 1:250,000 minute series; and Roanoke Quadrangle Virginia; 1:250,000 minute series.

(c) *Boundaries.* From Norwood, Virginia, following the Tye River west and northwest until it intersects with the eastern boundary of the George Washington National Forest; following this boundary northeast to Virginia Rt. 664, then west following Rt. 664 to its intersection with the Nelson County line; then northeast along the Nelson County line to its intersection with the Albemarle County line at Jarman Gap; from this point continuing northeast along the eastern boundary of the Shenandoah National Park to its intersection with the northern Albemarle County line; following the county line southeast to its intersection with the Orange County line; continuing north on the county line to its intersection with the Rapidan River, which continues as the Orange County line; following the river east and northeast to its confluence with the Mountain Run River; then following the Mountain Run River southwest to its intersection with Virginia Rt. 20; continuing southwest along Rt. 20 to the corporate limits of the town of Orange; following southwest the corporate limit line to its intersection with U.S. Rt. 15; continuing southwest on Rt. 15 to its intersection with Virginia Rt. 231 in the town of Gordonsville; then southwest along Rt. 231 to its intersection with the Albemarle County line; continuing southwest along the county line to its intersection with the James River; then following the James River to its confluence with the Tye River at Norwood, Virginia, the beginning point.

Signed: December 16, 1983.

Stephen E. Higgins,

Director.

Approved: January 12, 1984.

John M. Walker Jr.,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 84–1770 Filed 1–20–84; 8:45 am]

BILLING CODE 4810–31–M

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27 CFR Part 9

[T.D. ATF–166; Ref: Notice No. 485]

Clarksburg Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area in north central California, to be known as "Clarksburg." The establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising will help consumers better identify wines they purchase. The use of this viticultural area as an appellation of origin will also help winemakers distinguish their products from wines made in other areas.

EFFECTIVE DATE: February 22, 1984.

FOR FURTHER INFORMATION CONTACT: James P. Ficaretta, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226 (202–566–7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations allow for the establishment of definite viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692) which added a new Part 9 to 27 CFR, providing for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person

may petition ATF to establish a grape-growing region as a viticultural area.

The Clarksburg Vintners and Growers Association petitioned ATF for the establishment of a viticultural area in north central California, to be known as "Clarksburg." In response to this petition, ATF published a notice of proposed rulemaking (Notice No. 485) in the **Federal Register** on September 16, 1983 (48 FR 41602), proposing the establishment of the Clarksburg viticultural area.

General Description

The Clarksburg viticultural area, located just southwest of Sacramento, is approximately sixteen miles long and eight miles wide, encompassing 101 square miles (64,640 acres). It includes two bonded wineries and 25 vineyards, with approximately 2,300 acres of Vitis Vinifera grapes. In addition, the Merritt Island viticultural area is located within the Clarksburg viticultural area.

Historical and current evidence regarding the name as well as the boundaries of the proposed area include:

(a) Excerpts from articles that appeared in *Vintage Magazine*, Robert Finigan's *Private Guide to Wines*, and *Bon Appetit* magazine, indicate that the viticultural area is locally and nationally known.

(b) A Clarksburg Chenin Blanc won a medal in four major competitions in 1981, including the Orange and Los Angeles County Fairs.

(c) The large number of settlers arriving after the discovery of gold in 1849 led to the founding of Clarksburg and many other towns in the Sacramento River Delta Region.

(d) The town of Clarksburg was named after Judge Robert C. Clark, who is credited with having the first peach orchard in Yolo County.

Geographical features of the Clarksburg viticultural area include the following:

(a) Average yearly precipitation within the viticultural area is 16 inches, unlike the surrounding areas which average more to the north and east, and less to the west and south.

(b) The viticultural area is dominated by poorly drained clay and clay loam soils. West of the viticultural area the soil classification and the annual flooding of the Yolo Bypass make grape-growing impossible. The lower terraces east of the viticultural area are subject to the 100 year flood and are considered a flood prone area. Land south of the viticultural area is dominated by poorly drained organic and mineral soils.

(c) The northern boundary separates the northern area where the natural cooling fades out. Normally on a hot summer day Sacramento will be eight to ten degrees warmer than the Clarksburg area.

The boundaries of the Clarksburg viticultural area may be found on eight California U.S.G.S. maps (Sacramento West, Saxon, Clarksburg, Florin, Liberty Island, Courtland, Bruceville, and Isleton).

The boundaries, as proposed by the petitioner, are described in § 9.95.

Public Comment

In response to Notice No. 485, nine comments were received, all in support of the proposed viticultural area.

Miscellaneous

ATF does not wish to give the impression by approving Clarksburg as a viticultural area that it is approving or endorsing the quality of the wine from the area. ATF is approving this area as being distinct and not better than other areas. By approving the area, wine producers are allowed to claim a distinction on labels and advertisements as to origin of the grapes. Any commercial advantage gained can only come from consumer acceptance of Clarksburg wines.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of Section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

In compliance with Executive Order 12291, the Bureau has determined that this regulation is not a major rule since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Disclosure

A copy of the petition and the comments received are available for inspection during normal business hours at the following location: ATF Reading Room, Room 4407, Office of Public Affairs and Disclosure, 12th and Pennsylvania Avenue, NW., Washington, D.C.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, Wine.

Drafting Information

The principal author of this document is James P. Ficaretta, Specialist, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority and Amendment

PART 9—AMERICAN VITICULTURAL AREAS

This regulation is issued under the authority in 27 U.S.C. 205. Accordingly, 27 CFR Part 9 is amended as follows:

Par. 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the heading of § 9.95 to read as follows:

Subpart C—Approved American Viticultural Areas

Sec

* * * * *

9.95 Clarksburg.

Par. 2. Subpart C is amended by adding § 9.95 to read as follows:

Subpart C—Approved American Viticultural Areas

§ 9.95 Clarksburg.

(a) *Name.* The name of the viticultural area described in this section is "Clarksburg."

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Clarksburg viticultural area are eight U.S.G.S. topographic maps in the 7.5 minute series, as follows:

(1) Sacramento West, Calif., 1967 (photorevised 1980).

(2) Saxon, Calif., 1952 (photorevised 1968).
(3) Clarksburg, Calif., 1967 (photorevised 1980).
(4) Florin, Calif., 1968 (photorevised 1980).
(5) Liberty Island, Calif., 1978.
(6) Courtland, Calif., 1978.
(7) Bruceville, Calif., 1978 (photorevised 1980).
(8) Isleton, Calif., 1978.

(c) *Boundaries.* Beginning at a point (on the Sacramento West topographic map) in Yolo County in T8N/R4E, at the intersection of Jefferson Blvd. and Burrows Ave.,

(1) Then southwest in a straight line 1.2 miles along Jefferson Blvd. to the eastern bank of the Sacramento River Deep Water Ship Channel.

(2) Then southwest along the Sacramento River Deep Water Ship Channel, approximately 17 miles to T5N/R3E, to the Class 5 trail on the levee connecting the Sacramento River Deep Water Ship Channel and the dredger cut Miner Slough, approximately 2 miles from the Solano/Yolo County line.

(3) Then east along the trail to the Miner Slough.

(4) Then east along Miner Slough to the point where it joins Sutter Slough, then south along Sutter Slough around the tip of Sutter Island to the junction of Sutter Slough and Steamboat Slough; then north around Sutter Island along Steamboat Slough to Section 8 in T5N/R4E where Steamboat Slough joins the Sacramento River.

(5) The southeast following the Sacramento River to the point where the Sacramento River meets the Delta Cross Channel at the Southern Pacific Railroad in Section 35, T5N/R4E.

(6) Then northeast along the Southern Pacific Railroad for 2 miles, to a point ⅓ mile past the intersection of the Southern Pacific Railroad and the eastern branch of Snodgrass Slough.

(7) Then east approximately 2½ miles along the levee to Interstate 5 (under construction).

(8) Then north approximately 8½ miles along Interstate 5 (under construction, proposed, and completed) to Section 18 in T6N/R5E, at the intersection of Interstate 5 and Hood Franklin Road.

(9) Then southwest along Hood Franklin Road to the Southern Pacific Railroad Levee, .1 mile northeast of Hood Junction.

(10) Then north approximately 18 miles along the Southern Pacific Railroad Levee to Section 11 in T7N/R4E, at Freeport Blvd., and then across the Sacramento River at the line between Sections 11 and 14.

(11) Then northwest along the west bank of the Sacramento River to Burrows Ave.

(12) Then northwest along Burrows Ave. to the starting point at the intersection of Jefferson Blvd. and Burrows Ave.

Signed December 7, 1983.

Stephen E. Higgins,

Director.

Approved: January 12, 1984.

John M. Walker, Jr.,

Assistant Secretary (Enforcement and Operations)

[FR Doc. 84-1771 Filed 1-20-84; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 17

Notice of Exclusion of Labor Force Statistics Program From Coverage Under E.O. 12372—"Intergovernmental Review of Federal Programs"

AGENCY: Office of the Secretary, Department of Labor.

ACTION: Notice of exclusion.

SUMMARY: The Labor Force Statistics Program is excluded from coverage under E.O. 12372 on the basis that intergovernmental review under the Executive Order would substantially impede the achievement of Presidentially or Congressionally established goals as specified in 29 U.S.C. 491–1. This program was previously excluded for reasons specified in the final rule found at 48 FR 29250, June 24, 1983.

FOR FURTHER INFORMATION CONTACT: Annabelle Lockhart, (202) 523–8176.

Issued at Washington, D.C., this 13th day of January 1984.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 84-1698 Filed 1-20-84; 8:45 am]

BILLING CODE 4510-23-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR 223

Sale and Disposal of National Forest System Timber

AGENCY: Forest Service, USDA.

ACTION: Final rule; redesignation.

SUMMARY: The Department of Agriculture hereby retitles and redesignates its regulations at 36 CFR 223 governing Sale and Disposal of National Forest System Timber. This redesignation will make it easier for users to make reference to and locate pertinent rules in this Part and will facilitate any future amendments that may be necessary. This action is limited to redesignation of the regulations and makes neither technical nor substantive changes to the rules.

EFFECTIVE DATE: Feburary 22, 1984.

FOR FURTHER INFORMATION CONTACT: Marian Connolly, Federal Register Liaison Officer, Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013, (202) 235–1488.

SUPPLEMENTARY INFORMATION: The Forest Service has concluded that the present organization and coding of its rules governing sale and disposal of timber make it difficult to readily locate relevant provisions. This difficulty can be remedied by assigning section numbers and headings to those paragraphs presently coded by alphabetic enumeration and by establishing subparts which more readily identify major subject areas treated within Part 223.

The redesignation will have no effect on timber sale contract forms or other Forest Service forms and reports.

List of Subjects in 36 CFR Part 223

Exports, Government contracts, National forests, Reporting and recordkeeping requirements, Timber.

PART 223—SALE AND DISPOSAL OF NATIONAL FOREST SYSTEM TIMBER

For the reasons set forth above, Part 223 of Title 36 of the Code of Federal Regulations is amended as follows:

1. Title 36 of the Code of Federal Regulations is amended by revising the part heading for Part 223 as set out above and by redesignating the sections in the part as shown below. The left-hand column contains the former section designations. The right-hand column contains the new section designations.

Former part 223 section designation	New part 223 section designation
223.1(a)	223.1.
223.1(b)	223.2.
223.1(c)	223.3.
223.1(d)	223.4.
223.1(e)(1)(2)	223.5(a)(b).
223.1(e)(3), first 3 sentences	223.6.
223.1(e)(3), rest of paragraph	223.7.
223.1(e)(4)(5)	223.8(a)(b).
223.1(e)(6)	223.9.
223.1(f)	223.10.
223.1(g)(1)(2)	223.11(a)(b).
223.1(h)(1)–(3)	223.12(a)–(c).
223.1(i)	223.13.
223.2(a)–(f)	223.14(a)–(f).
223.3(a)(1)–(6)	223.30(a)–(h).
223.3(b)	223.31.

Former part 223 section designation	New part 223 section designation
223.3(c)	223.32.
223.3(d)	223.33.
223.3(e)	223.34.
223.3(f)	223.35.
223.3(g)(1)(2)	223.36(a)(b)
223.3(h)	223.37.
223.3(i)	223.38.
223.3(j)	223.39.
223.3(k)	223.40.
223.3(l)	223.41.
223.3(m)(1), 1st three sentences.	223.42.
223.3(m)(1), 4th sentence	223.43(a)(1)–(3).
223.3(m)(1), remainder	223.43(b).
223.3(m)(2)	223.44.
223.3(m)(3)	223.45.
223.3(n)	223.46.
223.3(o), first sentence	223.47(a).
223.3(o), second sentence	223.47(b).
223.3(o), third sentence	223.47(c).
223.3(o), fourth sentence	223.47(d).
223.3(o), fifth and sixth sentences.	223.47(e).
223.3(o), seventh sentence	223.47(f).
223.3(p)(1)–(3)	223.48(a)–(c).
223.4(a)	223.60.
223.4(b)	223.61.
223.4(c)	223.62.
223.4(d)	223.63.
223.4(e)(1)–(4)	223.64(a)–(d).
223.4(f)	223.65.
223.4(g)	223.66.
223.5(a)	223.80.
223.5(b)	223.81.
223.5(c)	223.82.
223.5(d)(1)–(8)	223.83(a)–(h).
223.5(e)(1)–(7)	223.84(a)–(g).
223.5(f)(1)–(3)	223.85(a)–(c).
223.5(g)	223.86.
223.5(h)(1)(i)–(iii)	223.87(a)(1)(2).
223.5(h)(2)(i)–(iii)	223.87(b)(1)–(3).
223.5(h)(3)	223.87(c).
223.5(h)(4)(i)(ii)	223.87(d)(1)(2).
223.5(i)(1)–(4)	223.88(a)–(d).
223.6(a)–(f)	223.89(a)–(f).
223.7(b)	223.90.
223.7(a)(1)–(5)	223.100(a)–(e).
223.7(c)	223.101.
223.7(d)	223.102.
223.7(e)	223.103.
223.8(a)	223.110.
223.8(b)(1)–(4)	223.111(a)–(d).
223.8(c)	223.112.
223.8(d)	223.113.
223.8(e)	223.114.
223.8(f)(1)(2)	223.115(a)(b).
223.9(a)–(c)	223.116(a)–(c).
223.10(a)(1)–(10)	223.160(a)–(j).
223.10(b)	223.162.
223.10(c)	223.161.
223.10(d)(1)–(3)	223.163(a)–(c).
223.10(e)	223.164.
223.11(a)–(e)	223.117(a)–(e).
223.12(a)	223.130.
223.12(b)	223.131.
223.12(c)	223.132.
223.12(d)	223.133.
223.12(e)	223.134.
223.12(f)	223.135.
223.12(g)	223.136.
223.12(h)	223.137.
223.12(i)	223.138.
223.12(j)	223.139.
223.12(k)	223.140.
223.12(l)	223.141.
223.12(m)	223.142.
223.12(n)	223.143.
223.12(o)	223.144.
223.12(p)	223.145.

2. The Table of Contents for the newly redesignated Part 223 reads as follows:

Subpart A—General Provisions

Sec.
223.1 Authority to sell timber.
223.2 Disposal of timber for administrative use.
223.3 Sale of seized material.
223.4 Exchange of trees or portions of trees.
223.5 Scope of free use granted to individuals.
223.6 Cutting and removal of timber in free-use areas.
223.7 Permission for free use of timber outside free-use areas.
223.8 Delegations of authority to approve free use by individuals.
223.9 Free use to owners of certain mining claims.
223.10 Free use to Alaskan settlers, miners, residents, and prospectors.
223.11 Free use to other Federal agencies.
223.12 Permission to cut, damage, or destroy trees without advertisement.
223.13 Compliance.
223.14 Where timber may be cut.

Subpart B—Timber sale contracts.

Contract conditions and provisions

223.30 Consistency with plans, environmental standards, and other management requirements.
223.31 Duration of contracts.
223.32 Timber sale operating plan.
223.33 Redetermination of stumpage rates and deposits.
223.34 Advance payment.
223.35 Performance bond.
223.36 Volume determination.
223.37 Revegetation of temporary roads.
223.38 Standards for road design and construction.
223.39 Revision of contract conditions.
223.40 Cancellation for environmental protection or inconsistency with plans.
223.41 Payment when purchaser elects government road construction.
223.42 Transfer of effective purchaser credits.
223.43 Limitation on amounts of transferred purchaser credit.
223.44 Collection rights on contracts involved in transfer of purchaser credit.
223.45 Definitions applicable to transfer of purchaser credit.
223.46 Adjustment of contract termination date.
223.47 Date of completion of permanent road construction.
223.48 Reports on export or substitution of unprocessed timber.

Appraisal and Pricing

223.60 Determining fair market value.
223.61 Establishing minimum stumpage rates.
223.62 Timber purchaser road construction credit.
223.63 Advertised rates.
223.64 Appraisal on a lump-sum value or rate per unit of measure basis.
223.65 Appraising value of exchange timber.
223.66 Appraising value of timber for right-of-way or other authorized use.

Advertisement and Bids

223.80 When advertisement is required.
223.81 Shorter advertising periods in emergencies.
223.82 Advertising small business set-aside sales.
223.83 Contents of advertisement.
223.84 Contents of advertisement of sales with purchaser road construction credit provision.
223.85 Small business bid form provisions on sales with purchaser road construction credits.
223.86 Noncompetitive sale of timber.
223.87 Bid restriction on resale of uncompleted contract.
223.88 Requirements of bidders concerning exports.
223.89 Bidding methods.
223.90 Relation to other bidders.

Award of Contracts

223.100 Award to highest bidder.
223.101 Procedures when sale is not awarded to highest bidder.
223.102 Award of small business set-aside sales.
223.103 Proof of bidder's financial ability.

Contract Administration

223.110 Delegation to regional forester.
223.111 Administration of contracts in designated disaster areas.
223.112 Modification of contracts.
223.113 Modification to prevent environmental damage or to conform to forest plans.
223.114 Acquisition by third party.
223.115 Contract extensions.
223.116 Cancellation.
223.117 Administration of cooperative or Federal sustained yield units.

Subpart C—Suspension and Debarment of Timber Purchasers

223.130 Scope.
223.131 Policy.
223.132 Definitions.
223.133 List of debarred and suspended purchasers.
223.134 Treatment to be accorded listed purchasers.
223.135 Restrictions on subcontracting.
223.136 Debarment.
223.137 Causes for debarment.
223.138 Procedures for debarment.
223.139 Period of debarment.
223.140 Inputed conduct for debarment.
223.141 Suspension.
223.142 Causes for suspension.
223.143 Procedures for suspension.
223.144 Period of suspension.
223.145 Scope of suspension.

Subpart D—Timber Export and Substitution Restrictions

223.160 Definitions.
223.161 Limitations on timber harvested in Alaska.
223.162 Limitations on timber harvested from all other states.
223.163 Determination that unprocessed timber is surplus to domestic needs.
223.164 Penalty for falsification

Authority: Sec. 14, Pub. L. 94–588, 90 Stat. 2958, 16 U.S.C. 472a, unless otherwise noted.

Dated: January 13, 1984.

Douglas W. MacCleery,

Deputy Assistant Secretary for Natural Resources and Environment.

[FR Doc. 84–1779. Filed 1–20–84; 8:45 am]

BILLING CODE 3410–11–M

36 CFR Part 254

Conveyance of Small Tracts

Correction

In FR Doc. 84–535 beginning on page 1184 in the issue of Tuesday, January 10, 1984, make the following correction:

§ 254.35 [Corrected]

On page 1186, column two, § 254.35 (d), line one, "loans" should read "lands".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[A–9–FRL 2506–3]

Delegation of New Source Performance Standards (NSPS); State of Arizona

AGENCY: Environmental Protection Agency (EPA).

ACTION: Delegation of authority.

SUMMARY: The EPA hereby places the public on notice of its delegation of NSPS authority to the Arizona Department of Health Services (ADHS). This action is necessary to bring the NSPS program delegations up to date with recent EPA promulgations and amendments of these categories. This action does not create any new regulatory requirements affecting the public. The effect of the delegation is to shift the primary program responsibility for the affected NSPS categories from EPA to State and local governments.

EFFECTIVE DATE: September 22, 1983.

FOR FURTHER INFORMATION CONTACT: Julie A. Rose, New Source Section (A–3–1), Air Operations Branch, Air Management Division, EPA, Region 9, 215 Fremont Street, San Francisco, CA 94105, Tel: (415) 974–8236, FTS 454–8236.

SUPPLEMENTARY INFORMATION: The ADHS has requested authority for delegation of certain NSPS categories. Delegation of authority was granted by a letter dated September 9, 1983 and is reproduced in its entirety as follows:

Mr. Arthur A. Aymar, P.E.,
Chief, Bureau of Air Quality Control, Arizona Department of Health Services, State Health Building, 1740 West Adams Street, Phoenix, AZ

Dear Mr. Aymar: EPA is delegating to your agency authority to implement and enforce certain categories of New Source Performance Standards (NSPS). We understand that you have a lengthy adoption process, and that you intend to request delegation as soon as the regulations are certified by the Secretary of State. To speed up the process, this delegation will be effective on the date the Secretary of State certifies the regulations. However, if for some reason, the regulations are not certified, this delegation will be void. The delegation includes authority for the following sources categories:

NSPS	40 CFR part 60
Lead-Acid Battery Manufacturing Plants	KK
Phosphate Rock Plants	NN
Asphalt Processing & Asphalt Roofing Manufacture	UU

Acceptance of this delegation constitutes your agreement to follow all applicable provisions of 40 CFR Part 60, including use of EPA's test methods and procedures. The delegation is effective upon the date the regulations are certified by the Secretary of State. Please let us know as soon as possible what date the certification takes place. A notice of this delegated authority will be published in the **Federal Register** after we receive notification that the regulations have been certified.

If you have any questions, please call Julie A. Rose of my staff.

Sincerely,

Judith E. Ayres,
Regional Administrator.

The Secretary of State for Arizona certified the regulations on September 22, 1983, therefore, the delegation was effective as of that date.

With respect to the areas under the jurisdiction of the ADHS, all reports, applications, submittals, and other communications pertaining to the above listed NSPS source categories should be directed to the ADHS at the address shown in the letter of delegation in this notice.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

This Notice is issued under the authority of Section 111 of the Clean Air Act, as amended (42 U.S.C. 1857, *et seq.*).

I certify that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act.

Dated: December 22, 1983.

John Wise,

Acting Regional Administrator.

[FR Doc. 84–1447 Filed 1–20–84; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 747

[OPTS–61008; TSH FRL 2501–6]

Prohibition of Nitrites in Metalworking Fluids

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediately Effective Proposed Rule.

SUMMARY: EPA is proposing a rule under section 6(a) of the Toxic Substances Control Act (TSCA), which is effective immediately under section 5(f)(2) of TSCA. The proposed rule will remain in effect until EPA promulgates a final rule. The rule applies to two new chemical substances which were the subject of premanufacture notices (PMN's) submitted under section 5(a) of TSCA. The rule prohibits the addition of nitrosating agents such as nitrites, to the chemical substance known generically as the triethanolamine salt of tricarboxylic acid (subject of PMN P–83–1005) when it is or could be used as or in metalworking fluids. The rule also requires distributors of the substance to notify customers of the restrictions of the rule through letters sent prior to shipment of the substance and to notify machine shop workers of the health hazard through labels on metalworking fluids containing the substance. In addition, the rule requires distributors of tricarboxylic acid (subject of PMN P–83–1062), which, when combined with water and triethanolamine, produces the triethanolamine salt of tricarboxylic acid, to notify customers of the restrictions of the rule through letters sent prior to shipment of the substance. EPA believes that the unrestricted distribution in commerce of both substances and the unrestricted processing and use of the triethanolamine salt of tricarboxylic acid in combination with nitrosating agents, such as nitrites, will present an unreasonable risk of injury to human health before a final rule can be promulgated under section 6 of TSCA to protect against this risk.

The Agency is also initiating a regulatory investigation into the potential human health risk posed by exposure to nitrosamines in metalworking fluids generally. EPA is soliciting data and information through this notice on several matters pertinent to this regulatory investigation.

DATES: This rule is effective January 23, 1984. Written comments and requests for a public hearing must be submitted by March 23, 1984. A public hearing will be held, only if requested, beginning on April 6, 1984.

ADDRESS: Since some comments are expected to contain confidential business information, all comments should be sent in triplicate to: Document Control Officer (TS–793), Office of Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St. SW., Washington, D.C. 20460.

Comments must include the docket control number OPTS–61008. Non-confidential versions of comments received on this proposal will be available for reviewing and copying from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays, in Rm. E–107 at the address given above.

Requests for a public hearing must be submitted to the above address and must reference the docket control number OPTS–61008. The time and location of the public hearing will be announced in the future. Any person wishing information on the time and location of the hearing should contact the TSCA Assistance Office at the address and telephone number under "FOR FURTHER INFORMATION CONTACT" below.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS–798), Office of Toxic Substances, Environmental Protection Agency, Rm. E–543, 401 M St. SW., Washington, D.C. 20460, (Toll Free: 800–424–9065), (In Washington, D.C.: 554–1404), (Outside the USA: Operator—202–554–1404).

SUPPLEMENTARY INFORMATION:

I. Authority

Section 5(f)(2) of TSCA authorizes the Administrator to issue a proposed rule under section 6(a) of TSCA to apply to a chemical substance which is the subject of a premanufacture notice. Such a rule may be issued if the Administrator finds that there is a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of the substance presents or will present an unreasonable risk of injury to health or the environment before a final rule promulgated under section 6 can protect against such risk. The section 6(a) rule may, among other things, require that a chemical substance be marked with or accompanied by clear and adequate warnings and instructions with respect to its use, distribution in commerce, or disposal as prescribed by the Agency; the Agency may also restrict the processing and use of the chemical substance. Pursuant to section 5(f)(2), a rule thus proposed under section 6(a) is immediately effective upon its publication in the **Federal Register**.

Substances covered by a proposed section 6(a) rule immediately effective upon publication pursuant to section 5(f)(2) are subject to the export reporting requirements of TSCA section 12(b). EPA regulations interpreting section 12(b) requirements appear at 40 CFR Part 707. Substances covered by such a proposed rule are also subject to TSCA section 13 import certification requirements at 19 CFR 12.118 through 12.127, and 127.8 [amended] (48 FR 84734, August 1, 1983). EPA regulations discussing TSCA's import requirements appear at 40 CFR Part 707 (48 FR 55462 December 13, 1983).

II. PMN Background

On July 29, 1983, a PMN was received by the Agency and subsequently designated as P–83–1005. The specific identity of the substance, generically identified as the triethanolamine salt of tricarboxylic acid, was claimed confidential. EPA announced receipt of this PMN in the **Federal Register** of August 12, 1983 (48 FR 36647). The original 90-day review period expired on October 26, 1983. EPA extended the review for an additional 90 days under the authority of section 5(c) of TSCA. The extended review period expires on January 24, 1984.

On August 22, 1983, EPA received a PMN from the same company which it designated P–83–1062. The specific identity of the substance, generically identified as tricarboxylic acid, was claimed confidential. EPA announced receipt of the PMN in the **Federal Register** of September 1, 1983 (48 FR 39689). The original 90-day review period was scheduled to expire on November 19, 1983. However, the submitter voluntarily suspended the review period. This review period will now expire on January 23, 1984.

Because the specific chemical identities of both these substances are confidential, each will be referred to by its generic name or PMN number in this preamble and the proposed rule.

In the PMN for P–83–1005, the notice submitter included test data on the substance which is summarized below.

Test	Result
Acute oral—rat	LD_{50} > 5,000 mg/kg.
Eye irritation—rabbit	Minimal irritant (Draize score of 6.7; possible score of 110).
Skin irritation—rabbit	Slight irritant (Draize score of 1.4; possible score of 8).
Skin sensitization—guinea pig	Not a sensitizer.

In the PMN for P–83–1062, the following data were submitted on the substance:

Test	Result
Acute oral—rat	LD_{50} > 5,000 mg/kg.
Eye irritation—rabbit	Minimal irritant (Draize score of 21; possible score of 110).
Skin irritation—rabbit	Minimal irritant (Draize score 0.04; possible score of 8).

For both PMN's, the company name and proposed production volume were also claimed as confidential business information. The notice submitter specified that P–83–1005 will be imported for use as a ferrous metal corrosion inhibitor in metalworking fluid concentrates or in hydraulic fluids. An estimated 50 percent of P–83–1005 will be used as a ferrous metal corrosion inhibitor in metalworking concentrates, with the remaining 50 percent to be used in hydraulic fluids. P–83–1062 will be imported for sale to processors for use as an intermediate in preparation of P–83–1005, which is made by reacting P–83–1062, water, and triethanolamine. The Agency believes that if P–83–1062 were commercially available as an intermediate, as intended by the PMN submitter, purchasing customers would likely add triethanolamine and water to yield the corrosion inhibitor, P–83–1005. Thus, the following reasons for proposing this section 6(a) rule apply to P–83–1062 as well as P–83–1005. P–83–1062 will be specifically referenced only when concerns which apply solely to tricarboxylic acid are under consideration.

III. Reasons for Proposing the Rule

A. Introduction—Summary of Reasons for Proposing the Rule

Metalworking fluids containing P–83–1005 generally would not require addition of nitrosating agents, such as nitrites, to perform effectively. Based on the use patterns of similar substances, however, EPA believes that such addition will occur in practice. The Agency has determined that nitrosating agents combined with P–83–1005 will nitrosate the triethanolamine to form N-nitrosodiethanolamine (NDELA), which has been shown to be carcinogenic in animals.

The Agency believes that occupational exposures to NDELA due to the use of metalworking fluids containing P–83–1005 together with nitrosating agents will subject workers to carcinogenic risks. NDELA is expected to be absorbed via all routes (lungs, gastrointestinal tract, and skin). The Agency has therefore concluded that the unrestricted processing, distribution in commerce, and use of P–83–1005 and P–83–1062 will present an unreasonable risk of injury to health

before a final rule could be promulgated under section 6 of TSCA to protect against the risk.

EPA also believes that processing and use restrictions, and appropriate warnings and instructions to notify processors and users of the risks of combining P–83–1005 with nitrosating agents will protect persons from any unreasonable risk resulting from exposure to NDELA. In the absence of nitrosating agents, NDELA is not expected to occur in metalworking fluids containing P–83–1005. Detailed technical information supporting the discussion which follows is contained in the Technical Support Document available in the record of this rulemaking.

B. Formation of NDELA

Like P–83–1005, nitrites, are corrosion inhibitors; they are frequently added to water-based metalworking fluids to extend the useful lifetimes of the fluids (Ref. 1) and to impart some specific corrosion inhibiting properties. The Agency has information that the addition of nitrites to metalworking fluids routinely occurs, both by formulators (processors) and users.

The formation of N-nitrosamines in commercial metalworking fluids is well established (Ref. 2). The addition of nitrite to an aqueous metalworking fluid generates direct nitrosating agents, such as nitrous acid (HONO) or dinitrogentrioxide (N_2O_3), which may directly transform (nitrosate) secondary, tertiary, and certain primary amines to N-nitrosamines (Ref. 3; Ref. 4). The Agency has concluded that under conditions of use in metalworking fluids, the triethanolamine (a tertiary amine) contained in P–83–1005 will be nitrosated by the nitrosating agents derived from nitrites to form NDELA. This conclusion is supported by the work of Linjinsky et al. (Ref. 5) demonstrating that triethanolamine, a tertiary amine, can be readily dealkylated and nitrosated to form NDELA.

If P–83–1005 is used without nitrites, as intended by the PMN submitter, there will be no risk of nitrosamine formation. However, EPA believes that some processors and users could economically use P–83–1005 as a co-corrosion inhibitor in metalworking fluids which contain nitrites. Likewise, EPA believes that metalworking fluid formulations containing P–83–1005 may subsequently have nitrites added to them because it is a common industry practice to add nitrites to existing metalworking fluids. EPA is not aware of any reason that these practices could not occur. EPA has been unable to determine the exact amounts of NDELA which will form. However, it is clear that, over time and during use, significant quantities of NDELA could be formed, limited only by the amounts of P–83–1005 and nitrites available. A substantial number of people involved in metalworking practices may be exposed to varying levels of NDELA for significant periods of time, thereby experiencing potentially increasing risks.

C. Absorption of NDELA

Edwards et al. (Ref. 6) demonstrated the absorption of NDELA through the skin of humans wearing an NDELA-contaminated facial cosmetic, by measuring NDELA in the urine of exposed humans. In addition, Bronaugh et al. (1979) showed that NDELA can penetrate isolated human epidermis *in vitro*. In a more recent quantitative study, Linjinsky et al. (Ref. 7) showed that at least 16 percent of the NDELA applied as a solution in metalworking fluid to rat skin was absorbed, since 16 percent of the applied dose was recovered in the urine of the treated animals after 24 hours. These authors also demonstrated that the absorption of undiluted or aqueous solutions of NDELA via the dermal and oral routes was approximately the same. There are no data regarding the absorption of NDELA following inhalation exposure. However, EPA believes it is reasonable to conclude that the absorption of NDELA by this route will be at least equivalent to that observed following the dermal administration of NDELA as a solution in metalworking fluids.

Based on these data, the Agency has also concluded that the NDELA formed in metalworking fluids containing P–83–1005 will be dermally absorbed through exposed human skin at a rate of at least 16 percent within 24 hours. The Agency has concluded that the NDELA to which workers may be exposed via the inhalation route (due to the volatilization, especially from steam distillation, of the substance from metalworking fluids or to the formation of mists of NDELA-containing fluids generated during metalworking operations) will also be absorbed via the lung and the gut to an extent of at least 16 percent over a 24-hour period.

D. Adverse Health Effects of NDELA—Laboratory Data

Laboratory data indicate that among the nitrosamines, NDELA is one of the most potent animal carcinogens. NDELA has been shown to elicit nasal carcinomas and tracheal papillary tumors when administered to hamsters by subcutaneous injection (Ref. 8). In addition, hepatocellular carcinomas appeared in rats following oral administration of NDELA (Ref. 9). A more recent and comprehensive study by Preussman et al. (Ref. 10) has confirmed the positive findings of Druckery et al. (Ref. 9). EPA has concluded that NDELA is an animal carcinogen and for regulatory purposes under TSCA should be presumed to be a human carcinogen.

E. Use Practices

Because of general concerns about the formation of N-nitrosamines during use of metalworking fluids, EPA has been studying metalworking industry practices for some time. EPA has concluded that processors of metalworking fluid concentrates (i.e., persons who formulate the concentrates) routinely add corrosion inhibitors, for example nitrites, to such concentrates to impart corrosion inhibiting properties to the fluid. Typically these corrosion inhibitors are added to concentrates in ranges of 1 to 10 percent. Such use of nitrites has a long history in metalworking and in the formulation of metalworking fluid concentrates.

In machine shops and other metalworking operations, nitrosating agents, including nitrites, are routinely available and used by the workers to impart corrosion inhibiting properties. EPA's analysis has shown that workers commonly add corrosion inhibitors, such as nitrites, to metalworking fluids during metalworking operations, particularly to restore the corrosion inhibiting properties of a fluid that has been used for some time. Historical use of nitrites in metalworking fluids has made the addition of nitrites during metalworking operations a common practice.

P–83–1005 is a corrosion inhibitor which offers advantages such as the following: good performance at very low concentrations, low foaming tendency, extremely low hard water sensitivity, high concentration of the active functional group per unit weight, neglible adverse effects on wear performance, and the apparent absence of any tendency towards film formation on metal surfaces. The PMN submitter states that the substance is intended to be used without nitrites and the lack of nitrites will not have any adverse effects on performance. However, P–83–1005 is chemically compatible with up to 10 percent nitrites. Metalworking fluid concentrates typically contain 1 to 10 percent corrosion inhibitors although at higher concentrations nitrites or other salts could impede some of the other positive properties of P–83–1005.

EPA believes that there are two possible scenarios where PMN P–83–

1005 could be used in the presence of nitrites.

First, the good performance provided by P–83–1005 could lead a formulator to replace an existing specialty corrosion inhibitor with P–83–1005 to improve performance. Thus P–83–1005 could be used in combination with a nitrite triethanolamine blend. The PMN submitter believes P–83–1005 does not require use of nitrites to provide the necessary corrosion inhibiting properties. However, the submitter has not tested such a formulation.

Secondly, P–83–1005 could come into contact with nitrites at the user sites. It is a common industry practice to add corrosion inhibitors to metalworking fluids to improve or maintain corrosion inhibition properties during use (Master 1983, Springborn 1983). Potassium or sodium nitrites may be among the corrosion inhibitors added in such a manner. EPA believes that this is an additional way that formulations containing P–83–1005 could come in contact with nitrosating agents.

Accordingly, processors and users could add nitrite to metalworking fluids containing P–83–1005 during formulation or during use in accordance with normal industry practices.

F. Potential Worker Exposures

EPA examined the possible exposures of workers to P–83–1005 contained in metalworking fluids and to NDELA in fluids containing P–83–1005 and nitrites. The Agency determined that potential dermal and respiratory exposure of machine shop workers to NDELA is significant.

1. *Exposure During Processing.* The PMN submitter has indicated that when P–83–1005 is used as an additive in the preparation of metalworking fluid concentrates, the concentration of P–83–1005 in the metalworking fluid concentrate will range from 0.5 percent to 0.75 percent. P–83–1005 will be processed into metalworking fluid concentrates at 30 industrial sites, with a maximum of 200 workers exposed for 1 or 2 hours per day for 20 to 200 days per year, as estimated by the PMN submitter. The manufactured or imported P–83–1005 will contain no nitrites and no NDELA and, thus, exposures to P–83–1005 alone are not of concern.

Typical metalworking fluid concentrates to which P–83–1005 might be added usually contain 1 to 10 percent of corrosion inhibitor. Since nitrites are commonly used for this purpose, it is probable that some metalworking fluid concentrates to which P–83–1005 would be added will also contain nitrites. In time, NDELA would be formed in these concentrates. However, processing workers who formulate and package metalworking fluid concentrates containing both nitrites and P–83–1005 are not expected to be exposed to NDELA because the concentrates are likely to be packaged immediately, before NDELA could form to any significant extent.

2. *Exposure during use.* Metalworking fluid concentrates containing P–83–1005 would primarily be used in machine shops. The major exposure to NDELA would occur during metalworking operations. Addition of nitrites to water-based metalworking fluids is a common practice in machine shops. Neither the Agency nor the PMN submitter knows of any inherent reason why nitrites could not be added to a fluid containing P–83–1005. The Agency has concluded that 25,000 workers could be exposed to metalworking fluids containing P–83–1005 and nitrosating agents, such as nitrites.

Workers' hands and arms are routinely exposed to metalworking fluids in machine shops. This exposure results from handling machine parts coated with the fluids during metalworking operations, contact with contaminated equipment, and maintenance and clean-up operations. Workers are not expected to avoid contact with the metalworking fluids because the fluids are non-irritating to the skin (aside from allergic dermatitis which may develop over prolonged periods of exposure), and the workers are generally not aware of the hazards associated with the fluids. In addition, gloves decrease the dexterity needed when handling machine parts and are, therefore, not worn. Thus the Agency believes that workers could be dermally exposed each workday to potentially significant levels of the carcinogenic NDELA formed in metalworking fluids containing P–83–1005 together with nitrosating agents.

Workers could also be exposed to NDELA generated in metalworking fluids via inhalation of mists generated during machining operations (Kipling 1977). Workers using metalworking fluids containing P–83–1005 and nitrosating agents could also be exposed to smaller amounts of NDELA from inhalation of NDELA vapors. The workers in machine shops do not routinely wear respirators that would protect against such exposure to NDELA.

G. Human Carcinogenic Risk

Because NDELA, a known carcinogen, will form if nitrosating agents are added to metalworking fluids containing P–83–1005, because workers in machine shops will be exposed to and absorb potentially significant amounts of NDELA in such metalworking fluids through dermal contact with the fluids and inhalation of fluid mists and NDELA vapors, and because NDELA is absorbed in significant amounts through the skin, lungs, and gastrointestinal tract, EPA has concluded that machine shop workers will experience a significant risk of cancer from using such metalworking fluids.

Similarly, if P–83–1062 is used to manufacture P–83–1005 by adding triethanolamine and water, the same risks result.

H. Economic and Health Benefit Considerations

1. *Substitutes for Nitrites and P–83–1005*

EPA believes that there are numerous potential substitutes for nitrites that could be used in metalworking fluids containing P–83–1005 without presenting any risk concern. These substitutes generally fall into the following groups:

a. Tall oil, fatty acids, alkanolamine reaction producers.

b. Borates and boron/nitrogen compounds.

c. Petroleum sulfonates.

d. Carboxylates.

In addition, EPA believes that substances in the groups listed above, as well as nitrites, could serve as substitutes for P–83–1005, if necessary.

Chemical substances within these groups are commercially available and in use currently in metalworking fluids. They could provide all the properties of nitrites and some, if not all, of the property advantages of P–83–1005. The prices of substitutes are generally competitive with the prices of nitrites. Since the PMN submitter considers price information about P–83–1005 confidential, EPA cannot discuss the relative pricing of P–83–1005 and its substitutes.

2. *Cost of Controls*

EPA is proposing that processors and users of metalworking fluids which contain P–83–1005 be prohibited from adding nitrosating agents, especially nitrites, to such fluids. EPA is also proposing that the manufacturer and distributors of P–83–1005, or any product containing P–83–1005, who distribute the substance in commerce in such a manner that it could be used in metalworking fluids notify customers through a letter of the requirements of the rule. EPA is also proposing that distributors of P–83–1005 label containers. In addition, EPA is proposing that any person distributing

P–83–1062, or any product containing P–83–1062, in commerce, in any manner in which it could be used to manufacture P–83–1005 for use in metalworking fluids, notify customers through a letter of the requirements of the rule.

EPA has concluded that there is little, if any, cost associated with prohibiting the addition of nitrosating agents to metalworking fluids containing P–83–1005. P–83–1005 itself is intended to be marketed as a corrosion inhibitor. If used alone in a metalworking fluid without the addition of nitrostating agents, P–83–1005 will provide the needed corrosion inhibition without any change in performance in most cases. If additional corrosion inhibitors are desired in the metalworking fluid, substitutes for nitrostating agents are readily available at a cost comparable to that for nitrites.

EPA has concluded that the present value of the cost of notifying customers through labels and/or letters in accordance with the rule will be $300 to $1,050 for distributors and between $230 and $600 per processor of the metalworking fluids over a 10-year life cycle for the two substances.

EPA does not believe that such letters and labels will make the substances or resulting products any less competitive than other corrosion inhibitors or metalworking fluids and may attract buyers interested in avoiding use of nitrites.

3. *Health Benefits*

EPA has established that, if P–83–1005 and nitrosating agents are combined in metalworking fluids, NDELA will form. EPA has also established that NDELA is a known animal carcinogen and presumed to be a human carcinogen. Both from the animal data and as a matter of Agency policy, the Agency has concluded that cancer could result from exposure to NDELA, however small.

EPA has established that, if machine shop workers use metalworking fluids containing P–83–1005 and nitrosating agents, they will be exposed to the resulting NDELA through dermal and inhalation routes. If exposed, workers will absorb NDELA into the body, where it could cause cancer.

EPA has not been able to quantify exactly the amount of NDELA that any individual worker will be exposed to, in large part because as a new chemical substance P–83–1005 has not been used in the United States for this purpose and there is no monitoring data. Consequently, EPA cannot quantify the specific risk of cancer to machine shop workers. However, it is clear that the machine shop workers will be exposed to some amount of NDELA if P–83–1005 is combined with nitrosating agents in metalworking fluids.

The controls proposed in this rule would minimize any risk to machine shop workers of cancer resulting from exposure to NDELA formed in metalworking fluids from P–83–1005. Needless to say, those benefits cannot be quantified, but they are significant.

4. *Economic Impacts*

EPA selected an approach for regulating the two substances which is the least burdensome method of providing the health benefits of minimizing, if not eliminating, the risk associated with use of P–83–1005 in combination with nitrites. Other alternatives available to EPA, such as a ban or exposure controls, may provide the same health benefits, but probably would keep the two substances from being introduced into the market. Taking no regulatory action would not provide these health benefits.

Introduction of P–83–1005 into the market as a corrosion inhibitor for metal-working fluids and P–83–1062 as an intermediate in the preparation of P–83–1005 may present benefits to the PMN submitter and society. The two substances may present property benefits over some existing products now on the market. EPA's selected approach is expected to provide almost all of the benefits of allowing the PMN substances on the market, though somewhat less than taking no regulatory action.

EPA realizes that there could be some adverse impact on the marketability of the two substances resulting from this rulemaking. EPA believes that most of this impact would result from the loss of market to those who would use P–83–1005 in combination with nitrites. EPA believes this form of loss of market would be slight and is a desirable outcome of this rulemaking. Some unintended loss in market may also result due to the existence of this regulation.

As discussed above, the cost of complying with the section 5(f)(2) rule is not expected to be significant. Most of the impact on the marketability of the two substances is not expected to result from these compliance costs.

Other methods of regulating the two substances, such as a ban or exposure controls, would impose significant costs on the PMN submitter and others. While taking no regulatory action would impose no costs, the health benefits of reduced risk would be lost.

I. The Section 5(f) Finding

Section 5(f)(1) of TSCA authorizes EPA to take action with respect to a new chemical substance which is the subject of a PMN. The Agency can take such action if it "has a reasonable basis to conclude" that the manufacture, processing, distribution in commerce, use, or disposal of the chemical substance, or any combination of such activities "presents or will present an unreasonable risk of injury to health or the environment before a rule promulgated under section 6 can protect against such risk." There are two components to this finding, as follows:

1. *Unreasonable Risk*

TSCA does not specifically define the term "unreasonable risk." However, the legislative history makes clear that a determination of whether a risk is unreasonable requires a balancing of the probability and severity of harm from the substance against the costs of the regulatory action to society. Congress recognized that the implementation of the unreasonable risk standard "will of necessity vary depending on the specific regulatory authority which the Administrator seeks to exercise." Legislative History of the Toxic Substances Control Act (1976) (Legislative History) at 422.

With respect to a new chemical substance that is the subject of a PMN, EPA will have less complete information and experience upon which to base a regulatory action than for a chemical substance which has been in commerce for some time. This is particularly true with respect to information on exposure and release which, because the substance is not yet in use, has not yet occurred. However, it is clear that Congress intended EPA to exercise authority under section 5(f) of TSCA for new substances which will pose unreasonable risks.

In this instance EPA has concluded that NDELA will form when P–83–1005 is used in the presence of nitrosating agents. Since P–83–1005 has not yet been distributed in commerce for use in metalworking fluids, EPA is unable to quantify exactly how much NDELA will form in such fluids. Different amounts of P–83–1005 may be used in different formulations of metalworking fluids, and different types of and amounts of nitrites or other nitrosating agents may be added to such fluids. Time and conditions of storage and use are also variables in determining the amount of NDELA that might be formed in a specific metalworking fluid.

EPA has a strong basis for concluding that NDELA poses a carcinogenic hazard and that if it gets on workers' skin, into their lungs, or into their gastrointestinal tracts, it will be

absorbed and, with chronic exposure, will very likely cause cancer.

The extent to which workers will be exposed to NDELA as a result of the introduction of P–83–1005 is unknown because P–83–1005 has not yet been distributed in commerce for use in metalworking fluids. However, EPA has based its exposure analysis on knowledge of the use of metalworking fluids of this type and the types and quantity of exposure which result.

In light of the potentially significant risk of cancer to workers using metalworking fluids containing P–83–1005 and nitrosating agents and the low cost of the regulatory controls chosen, EPA has concluded in accordance with section 5(f)(1) that processing, distribution in commerce, and use of P–83–1005 and P–83–1062 without the use restrictions and notification requirements will present an unreasonable risk of injury to human health.

As with any new chemical substance which has not actually been distributed and used, EPA's exposure analysis is based on general knowledge of exposure to similar substances in metalworking fluids. Thus, EPA's risk findings are, to a certain degree, speculative. However, EPA believes that even if exposure to NDELA in metalworking fluids containing P–83–1005 and nitrosating agents such as nitrites were low, such exposure would still lead to a risk to the health of machine shop workers which is unreasonable in light of the extremely low cost of eliminating that risk entirely.

2. *Need for Expedited Action*

Action under section 5(f) of TSCA also requires a finding that the unreasonable risk will occur before a rule promulgated under section 6 of TSCA can protect against the risk. Unless it is clear that, because of special circumstances, the exposures of concern will not occur for an interval during which EPA could conduct an ordinary section 6 rulemaking, EPA is authorized to determine that immediate control is necessary to protect against the risk.

In this instance, in accordance with section 5(f)(1), EPA has concluded that the risk of exposure to NDELA and the resulting risk of cancer in machine shop workers would begin as soon as these workers are exposed to metalworking fluids containing P–83–1005 and nitrosating agents such as nitrites. EPA has concluded that processors who formulate metalworking fluid concentrations are likely to add nitrites or other nitrosating agents to formulations containing P–83–1005 once distribution of P–83–1005 or P–83–1062 begins. In addition, based on routine workplace practices in metalworking operations, in particular in machine shops, EPA has concluded that, even if the formulated metalworking fluid concentrates containing P–83–1005 are not sold with nitrosating agents such as nitrites, workers are likely to add nitrosating agents to those fluids during use in the workplace. Thus, the risk of NDELA formation and exposure to workers will begin immediately.

A typical section 6 rulemaking could take at least a year, and probably more, to complete. Thus, unless section 5(f) authority is invoked, machine shop workers would be at risk from exposure for a considerable length of time.

Even though cancer results from chronic exposure, EPA believes it is appropriate to use the authority of section 5(f) to deal with such a risk. Congress intended that EPA pay special attention to risks of cancer and make every effort to insure such risks are not unreasonable.

IV. Alternatives Considered

EPA considered other possible approaches to ensuring the protection of human health. The Agency chose not to take action under section 5(e) of TSCA because sufficient information is available on the carcinogenic hazards of NDELA without further testing. Sufficient information exists also to show that workers in machine shops are exposed to metalworking fluids. Section 5(e) orders are regulatory actions taken pending development of the necessary information. In this case, the Agency believes there is sufficient information to make a section 5(f) finding.

The Agency also considered issuing an immediately effective significant new use rule (SNUR) for these substances. However, the SNUR would not reach the end users where exposure occurs. Moreover, like section 5(e) actions, SNURs are more appropriate to situations where additional information is necessary for the Agency to assess risk. The necessary information is available to the Agency now for these substances.

A third alternative would be to promulgate a section 6(a) rule without using section 5(f)(2) authority to make the section 6(a) rule effective upon proposal. EPA chose not to proceed with such a section 6(a) rule because the Agency has determined that the two substances will present an unreasonable risk of injury to human health, and that action is necessary now to protect against this risk of injury before a section 6 rule can be promulgated. Action under section 5(f) will protect against this risk.

A fourth alternative would be to regulate the two substances as part of a larger, generic effort now under development to regulate addition of nitrites and other nitrosating agents to metalworking fluids containing amines. The Agency chose not to pursue this alternative because it is the policy of EPA that each new chemical substance be evaluated independently for the risk the substance may present to human health and the environment, though relative risk is explicitly considered, and not from the perspective of the incremental risk the new substance may present. The Agency has not chosen this alternative because the Agency has determined that sufficient information currently exists to lead to a reasoned determination that these two substances combined with nitrites will present an unreasonable risk of injury to human health before such a section 6 rule could protect against the risk.

A fifth alternative would be to rely on the submitter of P–83–1005 and P–83–1062 to label voluntarily or otherwise notify customers recommending against the use of P–83–1005 with nitrosating agents. However, such a label or notification would reach processors only, and there is no reason to believe that processors would label the resulting formulations or that users would not add nitrites during end use. Such an alternative is not enforceable and, in view of the risk of cancer to machine shop workers the Agency chose to take action under section 5(f).

A sixth option would be to issue just a Chemical Advisory to warn about the risks of nitrosamine formation associated with the addition of nitrites to amine-based metalworking fluids. The Agency has decided to issue a Chemical Advisory in addition to the proposed rule and expects to issue an advisory in the near future. Because a Chemical Advisory is informative it would not substitute for the affirmative requirements which would be imposed by the section 5(f) rule given the known health risks which the two new substances present.

V. Regulatory Investigation of Metalworking Fluids

The Agency's action on these two new substances reflects its concern about the potential human health risk posed by exposure to nitrosamines in metalworking fluids in general. The Agency is conducting a regulatory investigation into any unreasonable risks to human health posed by synthetic and semi-synthetic metalworking fluids. This investigation may culminate in the promulgation of a

rule under section 6 of TSCA addressing nitrosamine-related health risks posed by existing metalworking fluids. Such a rule could render this proposed rule redundant or obsolete. If so, EPA may in the future incorporate this rule into the section 6 rule or revoke it entirely.

The primary basis for the Agency's concern arises from the formulation of many synthetic and semi-synthetic metalworking fluid concentrates. Many of these concentrates contain amines (primarily di- and triethanolamines) and nitrites, which function as corrosion inhibitors. The concentrates may contain up to 45 percent di- or triethanolamines, and up to 18 percent sodium nitrite. The potential for the formation of nitrosamines in metalworking fluids is therefore present, since triethanolamine has been shown to be readily nitrosated to form NDELA (Lijinsky 1972). Other nitrosamines may also be present in metalworking fluids. The Agency also believes that there is a practice in machine shops of intentionally adding nitrites to metalworking fluids to enhance their corrosion-inhibiting properties.

As part of its regulatory investigation, EPA is examining the extent of occupational exposure to nitrosamines from metalworking fluids from dermal contact, inhalation, and ingestion. EPA is also examining the availability and toxicity of nitrite substitutes, and economic impacts of alternative regulatory measures. Based on the evaluation of exposure levels in the workplace, and the existing animal studies, EPA expects to reach an assessment of the potential risk to humans from exposure to NDELA and other nitrosamines in metalworking fluids.

Section 6 of TSCA provides for a number of alternative controls for reducing human exposure to chemical substances which pose an unreasonable risk to health or the environment. Control alternatives under this section include totally or partially banning the manufacture, processing, or use of a substance; regulating a substance's concentration in products; imposing labeling requirements; or prohibiting or otherwise regulating any manner or method of commerical use of a substance. The regulatory options currently being considered by EPA include banning the use of nitrites in metalworking fluids. EPA is also considering requiring reformulation of metalworking fluids in order to limit the amount of NDELA and other nitrosamines which can be present. The reformulation options include: limiting the amount of nitrite which can be present in combination with alkanolamines; placing a ceiling on the permissible NDELA content of metalworking fluids; or requiring the use of non-nitrosatable amines in such fluids. In addition, EPA is examining the effectiveness of engineering controls and industrial hygiene measures in reducing exposure.

Other nations have regulated metalworking fluids. For example, the Product Safety Branch of the Consumer Standards Directorate, Canada, has limited the amount of nitrites which can be present in combination with ethanolamines in metalworking fluids. (Trade Communique, Cutting Oils and Fluids, Issue No. 2 Feb. 1979.)

The Agency solicits comments on any aspect of the regulatory investigation on metalworking fluids, including which, if any, of the above regulatory options would be most appropriate for reducing the risk posed by such fluids. EPA would also note that much of the information currently available to it pertains to machine shops and the types of metalworking fluids used there. Less is known about metalworking fluids used in other metalworking operations. EPA encourages the public, when responding to the inquiries below, to provide information pertinent to all metalworking operations which utilize metalworking fluids containing nitrite and amines.

Information is specifically solicited from the public in the following areas:

A. Exposure

EPA is interested in obtaining information on the likelihood and frequency of nitrite addition to synthetic and semi-synthetic metalworking fluids at machine shops. Information is also solicited on the identity, concentration, sources, and rate of formation of nitrosamines besides NDELA in metalworking fluids. In addition, EPA solicits information on common work practices in the metalworking industry, monitoring data, and measurements or estimates of dermal and inhalation exposure to nitrosamines and oil mist from different types of metalworking operations. EPA is also interested in the effectiveness of machine splash guards, shields, and hoods in preventing or reducing inhalation and dermal exposure. Information is also solicited on utilization and effectiveness of any controls, such as personal protective equipment, to reduce or prevent exposure, and on the effectiveness of barrier creams in preventing or reducing skin absorption of nitrosamines.

B. Substitutes

The Agency believes that substitutes for nitrites are generally available for use in metalworking fluids. EPA has identified several categories of chemicals which are used as ferrous metal corrosion inhibitors in metalworking fluids. These include:

1. Inorganic nitrite/triethanolamine blends.
2. Tall oil/alkanolamine reaction products (amine soaps and alkanolamides).
3. Borates and boron/nitrogen compounds.
4. Alkanolamines.
5. Petroleum sulfonates.
6. Carboxylates (petroleum oxidates, naphthenic acids).
7. Phosphate esters.

The Agency has been able to identify very few specific chemical substances within these categories currently used as substitutes for nitrites because of the proprietary nature of many of these products. EPA therefore solicits information on the identity, use, availability, and costs of specific chemical substances currently used as nitrite substitutes, and the toxicity of such substitutes. In addition, information is solicited comparing the effectiveness of various specific chemical substitutes as corrosion inhibitors, and comparative costs of such substitutes. The Agency also seeks information regarding any metalworking operations in which nitrite-containing fluids are essential because of the absence or ineffectiveness of substitutes.

C. Economics and Benefits

EPA is interested in cost estimates for the following regulatory options: banning the use of nitrites in metalworking fluids requiring reformulation by limiting the amount of nitrites which can be present in combination with alkanolamines in metalworking fluids, limiting the permissible NDELA content of such fluids, or requiring the use of non-nitrosatable amines. The Agency also solicits information on the benefits of nitrite-containing fluids, and of nitrite-free substitutes. Information is requested on the costs of time necessary to effect a switch in various types of metalworking facilities using nitrite-containing fluids to substitute metalworking fluids. EPA is also interested in estimates of the cost of labeling requirements, and in the effectiveness of labels in preventing cross-contamination of metalworking fluids.

VI. Exemptions to the Rule

Persons who process, distribute in commerce, or use the two substances would not be subject to the restrictions of this proposed rule if:

1. The substances are manufactured, imported, processed, distributed in commerce, or used in small quantities solely for research and development.
2. The substances are manufactured, imported, processed, distributed in commerce, or used only as impurities.
3. The substances are imported, processed, distributed in commerce, or used only as part of an article.
4. The substances are manufactured solely for export. EPA has designated these exemptions because in these four situations the two substances are unlikely to present a risk.

VII. Procedures for Informing Persons of the Existence of This Rule

The final rule will be published in the **Federal Register** and codified in the Code of Federal Regulations (CFR).

EPA intends to publish information concerning the final rule, as for this immediately effective proposed rule, in the TSCA Chemicals-in-Progress Bulletin, published by the TSCA Assistance Office of EPA's Office of Toxic Substances (OTS). EPA may also use the TSCA Chemical Substance Inventory to inform persons of the existence of the final rule through footnotes to the chemical identities of the chemical substances subject to the rule. The footnotes would refer to an Inventory Appendix which would give a **Federal Register** or CFR citation for the final rule.

Determining whether a chemical substance is subject to the rule is more difficult when the identity of the chemical substance is confidential. In this case, the chemical identities of the substances were claimed confidential in the PMNs. EPA is proposing to keep the specific identities of the substances confidential in the final rule. The substances would be referred to by generic chemical names and PMN numbers. On the printed versions of the Inventory, there would be a footnote indicating that chemical substances masked by the generic names are subject to the rule.

Any person proposing to manufacture or import a chemical substance within the generic names of P–83–1005 and P–83–1062 for the first time would ask EPA whether its chemcial substance is on the Inventory. To make such a request, the person would have to show EPA that the person has a *bona fide* intent to manufacture or import the substance in question. Under either 40 CFR 710.7(g)(2) of the Inventory Reporting Rules or 40 CFR 720.25(b)(2) of the Premanufacture Notification Rules, which were published in the **Federal Register** of May 13, 1983 (48 FR 21722), EPA would evaluate the inquiry and would answer the inquiry by either informing the requester that the substance is on the Inventory or informing the requester that sufficient information has not been furnished to show a *bona fide* intent to manufacture or import the substance in question. In the first case, EPA is proposing to tell the manufacturer or importer, as well, whether the substance is subject to this rule.

This procedure would allow manufacturers and importers to determine whether they are subject to the rule while protecting confidential business information from unnecessary disclosure.

The existing *bona fide* procedure can be used only by manufacturers and importers. EPA believes that, since manufacturers and importers who distribute the substances will be required to notify customers about the rule, processors, distributors, and users buying the substances will be aware, through the letters and labels, that the substances are subject to this rule and will not need to use a *bona fide* procedure.

Because EPA is not proposing a separate *bona fide* procedure for processors, distributors, and users to determine whether the substances they process, distribute, and use are subject to this rule, EPA is proposing to hold processors, distributors, and users liable for violations of the rule only if they are also manufacturers or importers or if they have received the letters and labels specified in the rule. Thus compliance by processors, distributors, and users will be dependent upon the notification and labeling requirements of the rule which will flow initially from manufacturers and importers.

VIII. The Rule

A. Proposed Rule Language

This proposed rule is structured as follows: The chemical substances are described in paragraph (a). Paragraph (b) contains applicable definitions. Paragraphs (c) and (d) contain processing and use prohibitions and warning and instructions requirements. Paragraph (e) sets forth the procedures for determining whether a substance is subject to the rule and discusses processor, distributor, and user liability. Paragraph (f) sets out activities that are exempt from the rule. Paragraph (g) describes enforcement provisions applicable to the rule.

EPA invites comments on all aspects of the proposed rule language.

B. Discussion of Provisions

The proposed rule applies to both P–83–1005 and P–83–1062. EPA has decided to require that letters be sent to customers receiving P–83–1005 and that labels be used on metalworking fluids containing P–83–1005 because processors, distributors, and users are unlikely to become aware of the processing and use restrictions in this rule when they buy P–83–1005, or products containing P–83–1005, unless they receive adequate notice of the rule provisions. Absent such notice, EPA believes unintentional noncompliance with the processing and use restrictions would be widespread, and the rule would be difficult to enforce. EPA's sole concern with P–83–1062 is in its use to produce P–83–1005. Accordingly, EPA is proposing letters to buyers of P–83–1062 to make the buyers aware that this regulation applies when P–83–1062 is used to produce P–83–1005. EPA has chosen to regulate P–83–1062 in this manner because it may be distributed itself and used to make P–83–1005. However, buyers are likely to buy it under a trade name or generic name that will not reveal that combination with water and triethanolamine will produce P–83–1005. Therefore, buyers might make P–83–1005 without knowing it is subject to this rule. Accordingly, a letter will make them aware of this rule and its requirements.

EPA considered requiring labeling P–83–1005 when distributed in commerce in any form in which it could be used in a metalworking fluid, and labeling of P–83–1062 when distributed in commerce in any form in which it could be combined with water and triethanolamine to produce P–83–1005. However, the PMN submitter suggested an alternative that EPA concluded is superior to labeling.

For purposes of notifying distributors and processors of P–83–1005 before it is formulated into metalworking fluids, EPA is proposing that distributors (beginning with manufacturers and importers) send to each customer, and confirm receipt prior to the first shipment of the product containing P–83–1005, a notice letter alerting the customer to the rule and explaining its provisions. EPA concluded that this approach would be much more effective in achieving compliance with the rule than requiring labels on each container of the shipment because management at a formulator (processor) or distributor

would be responsible for the decision to formulate metalworking fluids or further distribute products. Workers likely to read a label would have no control over those operations.

On the other hand, in the machine shop use situation, EPA wants to ensure that both the management and the individual workers who may add nitrites to a metalworking fluid as part of a standard operating procedure are aware of the restrictions of the rule. Accordingly, EPA is proposing that distributors (including processors) send to the users' management, and confirm receipt prior to the first shipment of the product containing P–83–1005, a notice letter. The distributors must also label individual containers of metalworking fluids containing P–83–1005 to protect and inform users.

For P–83–1062, EPA is proposing only that distributors notify customers by letter of the rule provisions. Again, EPA believes that a letter to management would be more effective in achieving compliance with the rule than labels on containers of P–83–1062. In this instance management will have control over further reaction of P–83–1062 to produce P–83–1005.

Although the proposed rule requires that one notice letter be sent prior to the first shipment of the PMN substances, the Agency is investigating whether to require more frequent use of the letters. Additional letters could be required either upon the lapse of a specified period of time after the first shipment or with each shipment. The Agency solicits comments on these alternative approaches.

The PMN submitter indicated in the PMN that P–83–1005 can also be used in hydraulic fluids. In that use, addition of nitrites is unlikely, and EPA has no concerns for such use of P–83–1005. However, it is possible that P–83–1005 will be marketed in forms in which it could be used either in metalworking fluids or in hydraulic fluids. For this reason EPA is proposing that the processing restrictions and letter notification requirements apply when P–83–1005 is processed or distributed in commerce in any form in which it could become a component of a metalworking fluid regardless of whether that use is intended by the processor or distributor.

C. Immediately Effective Provisions

All the provisions of the proposed rule, promulgated under the authority of section 6(a) of TSCA, are in effect as of this publication in the **Federal Register** and will remain in effect until EPA promulgates the final rule as provided by section 5(f) of TSCA.

IX. Enforcement

It is unlawful for any person to fail or refuse to comply with any rule promulgated under section 6 of TSCA. Distribution in commerce of the chemical substances without letter notification and labeling, as required by the rule, is a violation of section 15. Processing and use of P–83–1005 in violation of the rule is a violation of section 15.

Section 15 of TSCA also makes it unlawful for any person to:

1. Use for commercial purposes a chemical substance or mixture which such persons knew or had reason to know was processed or distributed in commerce in violation of this rule.

2. Fail or refuse to permit entry or inspection as required by section 11 of TSCA.

3. Fail or refuse to permit access to or copying of records, as required by section 11 of TSCA.

Violations may be subject to both criminal and civil liability. Under the penalty provisions of section 16 of TSCA, any person who violates section 15 could be subject to a civil penalty of up to $25,000 for each violation. Each day of operation in violation could constitute a separate violation. Knowing or willful violations of the rule could lead to the imposition of criminal penalties of up to $25,000 for each day of violation and imprisonment for up to one year. Other remedies are available to EPA under sections 7 and 17 of TSCA such as seeking an injunction to restrain violations of the rule and seizing chemical substances processed or distributed in violation of the rule.

Individuals, as well as corporations, could be subject to enforcement actions. Sections 15 and 16 of TSCA apply to "any person" who violates various provisions of TSCA. EPA may, at its descretion, proceed against individuals as well as companies.

X. Confidential Business Information

A. Public Comments

Any person who submits comments claimed as confidential business information must mark the comments as "confidential," "trade secret," or other appropriate designation. Any comments not claimed as confidential at the time of submission will be placed in the public file. Any comments marked as confidential will be treated in accordance with the procedure in 40 CFR Part 2. EPA requests that any party submitting confidential comments prepare and submit a sanitized version of the comments which EPA can place in the public file.

B. Disclosure of Specific Chemical Identities

The specific chemical identities of the two new chemical substances that are the subject of this proposed rule were claimed confidential in the PMNs. While EPA has authority under section 14(a)(4) of TSCA to disclose information relevant in a proceeding under TSCA notwithstanding its confidentiality, EPA has determined initially that disclosure of the specific identities of those two substances is not necessary to conduct this rulemaking proceeding or to comply with the rule.

The generic names which the PMN submitter has authorized EPA to use in this rulemaking reveal the relevant aspects of the molecules in question, in particular the triethanolamine component of P–83–1005. EPA believes that interested parties will thus have an adequate opportunity to comment on all aspects of the proposed rule.

XI. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPTS–61008). The record includes the basic information considered by the agency in developing this proposed rule. EPA will supplement the record with additional information as it is received. The record now includes the following:

A. Categories of Information

1. The PMNs for these substances.

2. The **Federal Register** notices of receipt of the PMNs.

3. The **Federal Register** notices of the extension of the review period.

4. The Economic Analysis of this proposed rule.

5. Technical Support Document (Risk Assessment).

6. OMB Comments on the Proposed Rule and EPA Response.

B. References Cited in Preamble

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A public version of this record from which confidential business information is deleted is available to the public from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays, in the OTS Public Information Office, Rm. E–107, 401 M St., SW., Washington, D.C.

EPA will identify the complete rulemaking record by the date of promulgation. The Agency will accept additional materials for inclusion in the record at any time between this notice and designation of the complete record. The final rule will also permit persons to point out any errors or omissions in the record.

XII. The Section 5(f) Rulemaking Process

Under section 5(f)(2) of TSCA, after making the appropriate statutory findings discussed in Unit III, I of this preamble, EPA may issue a proposed rule under section 6(a). Such a proposed rule is effective upon publication in the **Federal Register**. The rulemaking procedures that would apply to an ordinary section 6(a) rule apply to a section 6(a) rule effective upon publication under section 5(f) except that section 5(f)(2) incorporates the provisions of section 6(d)(2)(B) of TSCA. EPA will thus follow its general section 6 rulemaking procedures in 40 CFR Part 750 subject to specific section 6(d)(2)(B) requirements.

Section 6(d)(2)(B) of TSCA provides that EPA must give interested persons prompt notice of the action, provide a reasonable opportunity for a hearing in accordance with section 6(c) (2) and (3), and either promulgate the rule as proposed, or with modifications, or revoke it. However, unlike an ordinary section 6(c) rulemaking in which EPA would schedule the hearing after allowing written comment, section 6(d)(2)(B) provides that, if a person requests a hearing, EPA must begin the hearing within five days of the request, unless EPA and the person making the request agree upon a later date. Section 6(d)(2)(B) further provides that EPA promulgate a final rule, or revoke the proposed rule, within 10 days of the conclusion of the hearing.

For this rulemaking, EPA has established the following schedule: To provide a reasonable opportunity for comment by all interested persons, EPA will accept written comments for 60 days from the date of publication of this **Federal Register** notice. A legislative hearing is scheduled to begin 14 days after the end of the 60-day comment period. The hearing will be held only if EPA receives a formal request from an interested person by the end of the 60-day comment period. If a hearing is requested, interested persons will be given an opportunity to present information. Fourteen days after the conclusion of the initial hearing, EPA will hold a cross-examination hearing, but only if an opportunity for cross-examination is requested by an interested person within 7 days of the time the full transcript of the initial hearing becomes available and EPA grants the request. Within 14 days of the close of the initial hearing, or within 14 days of the close of the cross-examination hearing if such a hearing is held, reply comments may be submitted.

After that 14-day period, the hearing is officially concluded, and EPA will promulgate the final rule or revoke it within 10 days.

EPA requests that all interested persons adhere to this schedule to allow all persons an adequate opportunity to comment and participate. However, if a person comes in at any time during the 60-day period and requests an immediate hearing, EPA is required to begin the hearing within 5 days of the request. If so, EPA will be forced to cut short the written comment period and proceed with the hearing. EPA will give as much notice as possible of any such hearing request and any change in the rulemaking schedule.

XIII. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must determine whether a regulation is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this proposed rule is not a "Major Rule" because it does not have an effect on the economy of $100 million or more, and will not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the annual cost of this rule, EPA believes that the cost will be low.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

Any comments from OMB to EPA and any response to these comments are available for public inspection in the record for this immediately effective proposed rulemaking.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), EPA certifies that this proposed rule will not have a significant impact on a substantial number of small entities. Even though many machine shops may be small businesses, EPA has concluded that there is little, if any, cost associated with prohibiting the addition of nitrosating agents to metalworking fluids containing P–83–1005. EPA does not believe that the required letters and labels will make the substances or resulting products any less competitive than other corrosion inhibitors or metalworking fluids, and may attract buyers interested in avoiding nitrites. The cost of complying with the section 5(f) rule is not expected to be significant.

C. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, the information provisions of a proposed rule must be submitted to the Office of Management and Budget (OMB) for approval. The proposed section 5(f) rule requires no "collection of information" as that term is defined in the Paperwork Reduction Act. The rule requires distributors to transmit information supplied by the Agency to the recipients of the two substances via warning labels and letters. No new information need be generated by the distributors of the chemical substances, nor are reporting or recordkeeping requirements imposed under this rule. The proposed section 5(f) rule is therefore not reviewable under the Paperwork Reduction Act.

List of Subjects in 40 CFR Part 747

Chemicals, Environmental protection, Hazardous materials, Metalworking fluids.

Dated: January 19, 1984.

William D. Ruckelshaus,

Administrator.

Therefore, it is proposed that Chapter I of Title 40 is amended by adding Part 747 consisting at this time of § 747.200 to read as follows:

PART 747—METALWORKING FLUIDS

Subpart A—[Reserved]

Subpart B—Specific Use Requirements for Certain Chemical Substances

§ 747.200 Triethanolamine salt of tricarboxylic acid.

This section identifies activities with respect to two chemical substances which are prohibited and requires that warnings and instructions accompany the substances when distributed in commerce.

(a) *Chemical substances subject to this section.* The following chemical substances, referred to by their premanufacture notice numbers and generic chemical names, are subject to this section: P–83–1005, triethanolamine salt of tricarboxylic acid; and P–83–1062, tricarboxylic acid.

(b) *Definitions.* Definitions in section 3 of the Act, 15 U.S.C. 2602, apply to this section unless otherwise specified in this paragraph. In addition, the following definitions apply:

(1) The terms "Act," "article," "byproducts," "chemical substance," "commerce," "imported," "impurity," "Inventory," "manufacture or import for commercial purposes," "manufacture solely for export," "manufacturer," "new chemical substance," "person," "process," "processor," and "small quantities solely for research and development" have the same meaning as in § 720.3 of this chapter.

(2) "Metalworking fluid" means a liquid of any viscosity or color containing intentionally added water used in metal machining operations for the purpose of cooling or lubricating.

(3) "Nitrosating agent" means any substance that has the potential to transfer a nitrosyl group (—NO) to a secondary or tertiary amine to form the corresponding nitrosamine.

(c) *Use limitations.*

(1) Any person producing a metalworking fluid, or a product which could be used in or as a metalworking fluid, which includes as one of its components P–83–1005 is prohibited from adding any nitrosating agent to the metalworking fluid or product.

(2) Any person using as metalworking fluid a product containing P–83–1005 is prohibited from adding any nitrosating agent to the product.

(d) *Warnings and instructions.*

(1) Any person who distributes in commerce P–83–1005 in a metalworking fluid, or in any form in which it could be used as a component of a metalworking fluid, must sent to each recipient of P–83–1005 and confirm receipt prior to the first shipment to that person:

(i) A letter that includes the following statements:

A substance, identified generically as triethanolamine salt, of tricarboxylic acid, contained in the product (*insert distributor's trade name or other identifier for product containing P–83–1005*) has been regulated by the Environmental Protection Agency, at 40 CFR 747.200, as published in the Federal Register of January 23, 1984. A copy of the regulation is enclosed. The regulation prohibits the addition of any nitrosating agent, including nitrites, to the triethanolamine salt of tricarboxylic acid, when the substance is or could be used in metalworking fluids. The addition of nitrites or other nitrosating agents to this substance leads to formation of a substance known to cause cancer in laboratory animals. The triethanolamine salt of the tricarboxylic acid, has been specifically designed to be used without nitrites. Consult the enclosed regulation for further information.

(ii) A copy of this rule.

(2) Any person who distributes in commerce a metalworking fluid containing P–83–1005 must affix to each container containing the fluid a label that includes, in letters no smaller than ten point type, the following statement:

WARNING! Do Not Add Nitrites to This Metalworking Fluid under Penalty of Federal Law. Addition of nitrite leads to formation of a substance known to cause cancer. This product is designed to be used without nitrites.

(3) Any person who distributes in commerce P–83–1062 in any form in which it could be combined with water

and triethanolamine to produce P–83–1005 must send to each recipient of P–83–1062, and confirm receipt prior to the first shipment to that person:

(i) A letter that includes the following statements:

A substance, identified generically as tricarboxylic acid, contained in the product (*insert distributor's trade name or other identifier for product containing P–83–1062*) has been regulated by the Environmental Protection Agency (40 CFR Part 747.200 published in the **Federal Register** of January 23, 1984. A copy of the regulation is enclosed. Combining tricarboxylic acid with water and the triethanolamine produces a substance, identified generically as the triethanolamine salt of the tricarboxylic acid. The regulation prohibits the addition of nitrosating agents, including nitrites, to the triethanolamine salt of tricarboxylic acid, when that substance is or could be used in metalworking fluids. The addition of nitrites or other nitrosating agents to that substance leads to formation of a substance known to cause cancer in laboratory animals. Consult the enclosed regulation for further information.

(ii) A copy of this rule.

(e) *Liability and determining whether a chemical substance is subject to this section.*

(1) If a manufacturer or importer of a chemical substance which is described by one of the generic names in paragraph (a) of this section makes an inquiry under § 710.7(g) of this Chapter or § 720.25(b) of this Chapter as to whether the specific substance is on the Inventory and EPA informs the manufacturer or importer that the substance is on the Inventory, EPA will also inform the manufacturer or importer whether the substance is subject to this section.

(2) Except for manufacturers and importers of P–83–1005 and P–83–1062, no processor, distributor, or user of P–83–1005 or P–83–1062 will be in violation of this section unless that person has received a letter specified in paragraph (d) (1) or (3) of this section or a container with the label specified in paragraph (d)(2) of this section.

(f) *Exemptions and exclusions.* The chemical substances identified in paragraph (a) of this section are not subject to the requirements of paragraphs (c) and (d), of this section if:

(1) The substance is manufactured, imported, processed, distributed in commerce, and used only in small quantities solely for research and development, and if the substance is manufactured, imported, processed, distributed in commerce, and used in accordance with section 5(h)(3) of the Act.

(2) The substance is manufactured, imported, processed, distributed in commerce, or used only as an impurity.

(3) The substance is imported, processed, distributed in commerce, or used only as part of an article.

(4) The substance is manufactured solely for export.

(g) *Enforcement.*

(1) Failure to comply with any provision of this section is a violation of section 15 of the Act [15 U.S.C. 2614].

(2) Failure or refusal to permit access to or copying of records, as required under section 11 of the Act, is a violation of a section 15 of the Act [15 U.S.C. 2614].

(3) Failure or refusal to permit entry or inspection, as required under section 11 of the Act, is a violation of section 15 of the Act [15 U.S.C. 2614].

(4) Violators may be subject to the civil and criminal penalties in section 16 of the Act [15 U.S.C 2615] for each violation.

(5) EPA may seek to enjoin the processing, distribution in commerce, or use of a chemical substance in violation of this section, act to seize any chemical substance, processed, distributed in commerce, or used in violation of this section or take other actions under the authority of section 7 or 17 of the Act [15 U.S.C. 2605 or 2616].

(Secs. 5 and 6, Pub. L. 94–469, 90 Stat. 2112 and 2020 (15 U.S.C. 2604f and 2605))

[FR Doc. 84–1881 Filed 1–20–84; 8:45 am]
BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–29

[FPMR Amdt. E–256]

Use of Metric System of Measurement in Federal Product Descriptions

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: This final rule amends Part 101–29 to the Federal Property Management Regulations and implements Pub. L. 94–168 by requiring Federal agencies to eliminate barriers to procurement of metric goods and services and to work with state and local governments and the private sector to accomplish this objective. Thus, products produced in U.S. customary units and metric units will be placed on an equal competitive basis.

EFFECTIVE DATE: January 23, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Michael N. Zabych, GSA Metrication Coordinator, Office of Acquisition Management and Contract Clearance, Office of Acquisition Policy. (202) 566–0690.

SUPPLEMENTARY INFORMATION: The proposed rule was published in 48 FR 33024, July 20, 1983. The period of comment extended from July 20, 1983, to August 15, 1983. A total of 11 comments were received; 4 of which were from business and private trade associations, 4 from state agencies and 3 from Federal agencies. One commentor recommended that the last sentence of the first paragraph under Supplementary Information be changed to "Federal agencies will consider the acquisition and use of such products or services on an equal basis with U.S. customary units to the extent that such consideration is permitted by law and policy." Although supplementary information is not part of the proposed rule, and General Services Administration concurs in the recommended wording. Another commentor requested that paragraph (a) of the proposed rule be simplified to clearly delineate the Federal agency functions performed in accordance with U.S. metric policy. We concur in this comment and have changed the subparagraph accordingly. All other comments support issuance of the proposed rule.

On September 21, 1983, 28 Federal agencies of the Interagency Committee on Metric Policy unanimously approved the proposed rule.

A recent amendment to 41 CFR Part 101–29 was published in 48 FR 25196, June 6, 1983. The Amendment changed the title and paragraph numbers of Part 101–29; therefore, this amendment includes a change in paragraph numbering and title from the proposed rule.

Regulatory Impact

The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual affect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. Therefore, a Regulatory Impact Analysis has not been prepared. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of this rule; has determined that the potential benefits to society from this rule outweigh potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101–29

Government property management.

PART 101–29—FEDERAL PRODUCT DESCRIPTIONS

For the reasons set forth in the preamble, 41 CFR Part 101–29 is amended as follows:

(1) The authority citation for 41 CFR 101–29 reads as follows:

Authority: Sec 205(c), 63 Stat. 390; U.S.C. 486(c).

(2) The table of contents for Part 101–29 is amended by adding one entry as follows:

Sec.
101–29.102 Use of metric system of measurement in Federal product descriptions.

Subpart 101–29—General

(3) Section 101–29.102 is added as follows:

§ 101–29.102 Use of metric system of measurement in Federal product descriptions.

In accordance with Pub. L. 94–168, 15 U.S.C. 205b, the Administrator of General Services shall develop procedures and plan for the increasing use of metric products by requiring Federal agencies to:

(a) Maintain close liaison with other Federal agencies, State and local governments, and the private sector on metric matters, and

(b) Review, prepare, and revise Federal standardization documents to eliminate barriers to the procurement of metric goods and services. These actions will occur during the overage document review or when the agency is informed by the private sector that metric products can be produced in a specific Federal supply classification class.

Dated: December 30, 1983.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 84–1789 Filed 1–20–84; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6502

[A–10698]

Arizona; Designation and Withdrawal of Mineral Estate

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order designates as unsuitable for noncoal mining and withdraws the federally owned mineral estate underlying 9,183.50 acres of land in and near the Town of Wickenburg, Arizona, from location and entry under the mining laws, but not from leasing under the mineral leasing laws. This withdrawal shall remain in effect for a period of 5 years.

EFFECTIVE DATE: January 23, 1984.

FOR FURTHER INFORMATION CONTACT: Mario L. Lopez, Arizona State Office, (602) 261–4774.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 601 of the Surface Mining Control and Reclamation Act of 1977, 91 Stat. 515; 30 U.S.C. 1281, it is ordered as follows:

1. Subject to valid existing rights, the minerals reserved to the United States in the following described patented lands are hereby designated as unsuitable for noncoal mining and withdrawn from appropriation under the mining laws, 30 U.S.C. Ch. 2, but not from leasing under the mineral leasing laws, to protect residential lands in and near the Town of Wickenburg, Arizona. The area consists of federally owned mineral interests where mining operations would have an adverse impact on lands used primarily for residential or related purposes. The purpose of the withdrawal is to prevent mining claim conflicts from occurring within a 5-year period during which the land owners may seek to acquire the mineral estate under authority of Sec. 209 of the Federal Land Policy and Management Act of 1976.

Gila and Salt River Meridian

T. 7 N., R. 4 W.,
Sec. 17, NE¼, E½NW¼, E½W½NW¼, S½SW¼NW¼NW¼, W½SW¼NW¼, E½SW¼, N½SE¼, W½SW¼SE¼, NE¼SW¼SE¼, W½SE¼SW¼SE¼, SE¼SE¼, and that portion of the N½SW¼NW¼NW¼ described as follows:

Beginning at the Southeast corner of said North half of the Southwest quarter of the Northwest quarter of the Northwest quarter; thence west parallel to the North line of the North half of the Southwest quarter of the Northwest quarter of the Northwest quarter, 330 feet; thence North parallel to the West line of the North half of the Southwest quarter of the Northwest quarter of the Northwest quarter, 264 feet; thence East parallel to the North line of the North half of the Southwest quarter of the Northwest quarter of the Northwest quarter, 330 feet; thence South parallel to the West line of the North half of the Southwest quarter of the Northwest quarter of the Northwest quarter, 264 feet to the Point of Beginning;
Sec. 20, E½SE¼.
T. 7 N., R. 5 W.,
Sec. 3;
Sec. 4, E½NE¼, NE¼SE¼;
Sec. 8, N½, N½SW¼, NW¼SE¼;
Sec. 9, NE¼, E½NW¼, NW¼NW¼, NE¼SE¼;
Sec. 10;
Sec. 11, NW¼NE¼, W½;
Sec. 17.
T. 8 N., R. 5 W.,
Sec. 17, W½E½, W½
Sec. 18;
Sec. 19;
Sec. 20, W½, S½NW¼SE¼, SW¼SE¼, S½SE¼SE¼;
Sec. 21, S½S½SW¼;
Sec. 27, NW¼SW¼;
Sec. 28, SW¼NE¼NE¼, W½NE¼, SE¼NE¼, W½, SE¼;
Sec. 29;
Sec. 30, Lots 1, 2, 3, NE¼, E½NW¼, NE¼SW¼, N½SE¼, and SE¼SE¼ lying east of the Atchison, Topeka and Santa Fe Railroad right-of-way;
Secs. 33 and 34;
Sec. 35, W½SW¼, SE¼SW¼.

The areas described aggregate 9,183.50 acres in Maricopa and Yavapai Counties.

2. The withdrawal made by this order does not govern the disposal of mineral resources other than under the mining laws.

3. This withdrawal and the unsuitability designation made in paragraph 1 of this order shall remain in effect for only a 5-year period from the effective date of this order.

Inquiries concerning the public lands should be addressed to the Arizona State Director, Bureau of Land Management, U.S. Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

January 14, 1984.

[FR Doc. 84–1791 Filed 1–20–84; 8:45 am]

BILLING CODE 4310–84–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83–364; RM–4291]

TV Broadcast Station in Bloomington, Indiana; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF Channel 42 to Bloomington, Indiana, as its third commercial assignment, in response to a petition filed by William V. Johnson.

EFFECTIVE DATE: March 20, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kathy Scheuerle, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the Matter of Amendment of Section 73.606(b), Table of Assignments, TV Broadcast Stations. (Bloomington, Indiana). MM Docket No. 83–364 RM–4291.

Adopted: January 6, 1984.
Released: January 13, 1984.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 16914, published April 20, 1983, which invited comments on a proposal to assign UHF Television Channel 42 to Bloomington, Indiana, in response to a petition filed by William V. Johnson ("petitioner"). Petitioner filed comments in support of the *Notice* and reaffirmed his interest in applying for the channel, if assigned. No opposing comments were received.

2. We believe that petitioner adequately demonstrated the need for a third commercial television assignment to Bloomington, Indiana, and that the public interest would be served by assigning UHF Television Channel 42 to that community.

3. Accordingly, pursuant to the authority contained in §§ 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective March 20, 1984, the Television Table of Assignments, § 73.606(b) of the Rules, is amended, with respect to the community listed below:

City	Channel No.
Bloomington, Indiana	4, *30–, 42+ and 63+.

4. It is further ordered, That this proceeding is terminated.

5. For further information contact Kathy Scheuerle, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-1814 Filed 1-20-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83–490; RM–4395]

TV Broadcast Stations in Fort Scott, Kansas, and Poplar Bluff, Missouri; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken here assigns UHF television Channel 26 to Fort Scott, Kansas, in response to a petition filed by K of K Communications, Inc. The assignment could provide a first television service to Fort Scott.

EFFECTIVE DATE: March 20, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the Matter of Amendment of § 73.606(b), Table of assignments, TV Broadcast Stations (Fort Scott, Kansas, and Poplar Bluff, Missouri). MM Docket No. 83–490 RM–4395).

Adopted: January 6, 1984.
Released: January 13, 1984.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 27562, published June 16, 1983, in response to a petition filed by K of K Communications, Inc. ("petitioner"). The *Notice* proposed assigning UHF television Channel 26 to Fort Scott, Kansas, as its first television assignment. The petitioner filed comments reaffirming its intention to apply for the channel, if assigned.

2. In the *Notice*, we indicated that Channel 26 could be assigned to Fort Scott, if the carrier frequency offset of unused and unapplied for Channel *26 at Poplar Bluff, Missouri, is changed from negative to positive.

3. The Commission believes that the public interest would be served by assigning UHF television Channel 26 to Fort Scott, Kansas. The petitioner has adequately demonstrated the need for a first television assignment to that community. Channel 26 can be assigned to Fort Scott in compliance with the minimum distance separation requirements and other technical criteria.

4. Accordingly, pursuant to the authority contained in §§ 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective March 20, 1984, the Television Table of Assignments, § 73.606(b) is amended with respect to the following communities:

City	Channel No.
Fort Scott, Kansas	26–
Poplar Bluff, Missouri	15+, *26+

5. It is further ordered, That this proceeding is terminated.

6. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-1819 Filed 1-20-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83–362; RM–4349]

TV Broadcast Station in Paducah, Kentucky; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF television Channel 49 to Paducah, Kentucky, in response to separate requests from William T. Conner and Johnny G. Box. The assignment could provide Paducah with its third commercial television broadcast service.

EFFECTIVE DATE: March 20, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the Matter of Amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations (Paducah, Kentucky); MM Docket No. 83–362, RM–4349.

Adopted: January 6, 1984.
Released: January 13, 1984.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 16920, published April 20, 1983,

issued in response to a request filed by William T. Conner ("petitioner"), proposing the assignment of UHF television Channel 49 to Paducah, Kentucky, as that community's third commercial television broadcast service. Additionally, a separate petition was filed by Johnny G. Box ("Box"), requesting the same channel assignment to Paducah. We have treated that petition as comments in support. Both parties have indicated their intent to apply for the channel, if assigned. No oppositions to the proposal were received.

2. Paducah (population 29,315),[1] the seat of McCracken County (population 61,310), is located in western Kentucky, approximately 285 kilometers (178 miles) southwest of Louisville. Presently, Paducah is served by commercial television Stations WSPD (TV) (Channel 6) and WKPD (TV) (Channel 29).

3. In the *Notice* herein, we proposed the assignment of UHF television Channel 49 to Paducah with a "plus" offset. However, a staff engineering study since reveals that a "zero" offset would provide a more efficient means of utilizing the spectrum capabilities for future assignments. Accordingly, it will be changed herein to reflect that finding. As indicated in the *Notice*, Channel 49 can be assigned to Paducah, Kentucky, in conformity with the minimum distance separation requirements of §§ 73.610 and 73.698 of the Commission's Rules.

4. In view of the above, we believe the public interest would be served by assigning UHF television Channel 49 to Paducah, since it could provide a third commercial television broadcast service to that community.

5. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective March 20, 1984, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended as follows:

City	Channel No.
Paducah, Ky	6+, 29, and 49

6. It is further ordered, That this proceeding is terminated.

7. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

[1] Population figures were extracted from the 1980 U.S. Census.

Federal Communications Commission.

Roderick K. Porter,

Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–1812 Filed 1–20–84; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 83–241; RM–4296]

TV Broadcast Station, Tulsa, Oklahoma; Changes Made in Table of Assignment

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF TV Channel 53 to Tulsa, Oklahoma, in response to a petition filed by Harry C. Powell, Jr. The assignment could provide Tulsa with its ninth television service.

EFFECTIVE DATE: March 20, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the Matter of Amendment of Sec. 73.606(b) Table of Assignments, TV Broadcast Stations (Tulsa, Oklahoma); MM Docket No. 83–241, RM–4296.

Adopted: January 6, 1984.

Released: January 13, 1984.

By the Chief, Policy and Rules Division.

SUPPLEMENTARY INFORMATION:

1. A *Notice of Proposed Rule Making* (48 FR 14696, Published April 5, 1983), was issued in response to a petition filed by Harry C. Powell, Jr. ("petitioner"), proposing the assignment of UHF television Channel 53 to Tulsa, Oklahoma, as its ninth assignment. Petitioner submitted comments in support of the proposal and reaffirmed his interest in applying for the channel, if assigned. Tulsa Family Television ("TFT"), applicant for a low power TV station on Channel 53 in Tulsa, filed comments opposing the assignment.

2. TFT states that another full service station is unnecessary since Tulsa is currently assigned eight full service channels and that such an assignment could preclude the use of a low power TV station on Channel 53.

3. The Commission has determined that low power TV is not a substitute for a full service station and that the issue of the impact of a ninth full service station on other existing Tulsa stations is best determined at the application stage, where the specific proposal can be analyzed. In fact, we can assign a full service television channel without regard to considering the possibility of a low power operation on that channel. Section 74.702 of the Commission's Rules. See *Rancho Palos Verdes, Cal.*, 48 FR 1492 (pub. Jan. 13, 1983); *recons. den.*, Mimeo No. 5238, released July 13, 1983.

4. We believe that the petitioner has adequately demonstrated the need for a ninth television assignment in Tulsa. Accordingly, we find that the public interest would be served by assigning UHF commercial Channel 53 to that community.

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective March 20, 1984, the Television Table of Assignments, § 73.606(b) of the Rules, is amended, with respect to the following community:

City	Channel No.
Tulsa, Okla.	2+, 6+ 8–, *11–, 23, *35–, 41+, 47, and 53.

6. It is further ordered, That this proceeding is terminated.

7. For further information contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–1811 Filed 1–20–84; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 83–414; RM–4297]

TV Broadcast Station in Lebanon, Tennessee; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF television Channel 66 to Lebanon, Tennessee, in response to a petition filed by Peggy Ann Rothchild. The assignment could provide Lebanon with its first television service.

EFFECTIVE DATE: March 20, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the Matter of Amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations (Lebanon, Tennessee); MM Docket No. 83–414, RM–4297.

Adopted: January 6, 1984.
Released: January 13, 1984.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 20966, published May 10, 1983, issued in response to a petition filed by Peggy Ann Rothchild ("petitioner"), proposing the assigment of UHF television Channel 66 to Lebanon, Tennessee, as that community's first television service. Supporting comments were filed by petitioner reiterating her intention to apply for the channel, if assigned. Comments were also filed by William O. Barry ("Barry") and the Association of Maximum Service Telecasters, Inc. ("AMST").

2. Lebanon (population 11,872),[1] seat of Wilson County (population 56,064), is located approximately 42 kilometers (26 miles) east of Nashville, Tennessee.

3. In his comments, Barry proposed the additional assignment of UHF television Channel 33 to Lebanon. We have treated this request as a counterproposal to MM Docket No. 83–467, in which we have proposed the mutually-exclusive assignment of Channel 33 to McMinnville, Tennessee.

4. AMST notes that the proposed assignment of Channel 66 to Lebanon is short-spaced to the proposed assignment of Channel 59 to Bowling Green, Kentucky (MM Docket No. 83–420; RM–4340). However a site restriction of 5.4 miles south of Lebanon will correct the separation deficiency.

5. In view of the above, and having found no policy objections to the proposal, we believe the public interest would be served by assigning UHF television Channel 66 to Lebanon, Tennessee, since it could provide a first television service to the community. As noted above, the channel can be assigned with a site restriction to comply with the minimum mileage separation requirements of §§ 73.610 and 73.698 of the Commission's Rules.

[1] Population figures are extracted from the 1980 U.S. Census.

6. Accordingly, pursuant to the authority contained in §§ 4(i), 5(c)(1), 303 (g) and (r) and 307 (b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective March 20, 1984, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended with respect to the community listed below, as follows:

City	Channel No.
Lebanon, Tennessee	66—

7. It is further ordered, That this proceeding is terminated.

8. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–1818 Filed 1–20–84; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 83–382; RM–4312]

TV Broadcast Station in El Paso, Texas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF Channel 65 to El Paso, Texas, in response to a petition filed by Peggy Ann Rothchild.

EFFECTIVE DATE: March 20, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Television Broadcasting.

Report and Order (Proceeding Terminated)

In the Matter of Amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations (El Paso, Texas); MM Docket No. 83–382, RM–4312.

Adopted: January 6, 1984.
Released: January 13, 1984.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 18847, published April 26, 1983, which invited comments on a proposal to assign UHF Television Channel 65 to El Paso, Texas, in response to a petition filed by Peggy Ann Rothchild ("petitioner"). Petitioner submitted comments in support of the proposal and expressed an interest in applying for the channel, if assigned. No other comments were received.

2. We believe that the petitioner has adequately demonstrated the need for an eighth television assignment in El Paso and that the public interest would be served by assigning UHF Television Channel 65 to that community. The channel can be assigned in compliance with the minimum distance separation requirements of § 73.610 of the Commission's Rules.

3. Mexican concurrence has been received.

4. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective March 20, 1984, the Television Table of Assignments, § 73.606(b) of the Rules, is amended, with respect to the following community:

City	Channel No.
El Paso, Tex.	4, 7, 9, *13, 14, 26+, *36—, and 65

5. It is further ordered, That this proceeding is terminated.

6. For further information contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–1815 Filed 1–20–84; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 83–363; RM–4376]

TV Broadcast Station Lubbock, Texas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF television Channel 16 to Lubbock, Texas, as that community's fifth commercial television service, in response to a petition filed by Kyle R. Wesley.

EFFECTIVE DATE: March 20, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the Matter of Amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Lubbock, Texas), MM Docket No. 83–363 RM–4376.

Adopted: January 6, 1984.
Released: January 13, 1984.
By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 48 FR 16915, published April 20, 1983, which proposed the assignment of UHF television Channel 16 to Lubbock, Texas, as that community's fifth commercial television service, in response to a petition filed by Kyle R. Wesley ("petitioner"). Supporting comments were filed by petitioner reiterating his intention to apply for the channel, if assigned. No oppositions to the proposal were received.

2. Lubbock (population 173,979),[1] the seat of Lubbock County (population 211,651), is located in the northwest portion of Texas, approximately 470 kilometers (290 miles) northwest of Dallas. Presently Lubbock is served by commercial Stations KCBD–TV (Channel 11), KLBK–TV (Channel 13), KAMC (TV) (Channel 28), and KJAA(TV) (Channel 34), as well as noncommercial educational Station KTXT–TV (Channel 5).

3. The Commission believes that the public interest would be served by assigning UHF television Channel 16 to Lubbock. An apparent need for the additional television service to the community has been shown, and the assignment can be made consistent with the minimum distance separation requirements of §§ 73.610 and 73.698 of the Commission's Rules.

4. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules , It Is Ordered, That effective March 20, 1984, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended with respect to the community listed below, as follows:

[1] Population figures were extracted from the 1980 U.S. Census.

City	Channel No.
Lubbock, Texas	*5–, 11, 13–, 16+, 28, and 34–.

5. It Is Further Ordered, That this proceeding is terminated.

6. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–1613 Filed 1–20–84; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 83–404; RM–4335]

TV Broadcast Station in Roanoke, Virginia; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF TV Channel 60 to Roanoke, Virginia, as its sixth television assignment, in response to a petition filed by David Allen Crabtree.

EFFECTIVE DATE: March 20, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the Matter of Amendment of § 76.606(b), Table of Assignments, TV Broadcast Stations. (Roanoke, Virginia), MM Docket No. 83–404 RM–4335.

Adopted: January 6, 1984.
Released: January 13, 1984.
By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 20958, published May 10, 1983, which invited comments on a proposal to assign UHF Television Channel 60 to Roanoke, Virginia, as its sixth television assignment, in response to a petition filed by David Allen Crabtree ("petitioner"). Petitioner filed comments in support of the *Notice* and expressed his interest in applying for the channel, if assigned. The Association of Maximum Service Telecasters, Inc. ("AMST") filed comments disputing the site restriction specified in the *Notice*.

2. As indicated in the *Notice*, a site restriction of 8.7 miles north of Roanoke is required to avoid short-spacing to Station WJTM–TV (Channel 45), Winston-Salem, North Carolina. However, the site restriction favored by AMST is 9.1 miles north. That restriction is based on city coordinates other than those in the National Atlas Index, which forms the basis of F.C.C. calculations. See § 73.208 of the Commission's Rules. Therefore, we reaffirm our previous finding of an 8.7 mile north site restriction.

3. We believe that the petitioner has demonstrated the need for a sixth television assignment to Roanoke, Virginia. Accordingly, we find the public interest would be served by assigning UHF Television Channel 60 to that community.

4. Thus, pursuant to the authority contained in §§ 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective March 20, 1984, the TV Table of Assignments, § 73.606(b) of the Rules, is amended, with respect to the following community:

City	Channel No.
Roanoke, Virginia	7–, 10, *15+, 27+, 38–, and 60.

5. It Is Further Ordered, That this proceeding is terminated.

6. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–1616 Filed 1–20–84; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 83–409; RM–4286]

TV Broadcast Station in Seattle, Washington; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF television Channel 45 to Seattle, Washington, as its seventh television allocation, in response to a request filed by William V. Johnson.

EFFECTIVE DATE: March 20, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73 affected

Television broadcasting.

Report and Order (Proceeding Terminated)

In the matter of Amendment of Section 73.606(b), Table of Assignments, TV Broadcast Stations (Seattle, Washington). MM Docket No. 83–409, RM–4286.

Adopted: January 6, 1984.
Released: January 13, 1984.
By the Chief, Policy and Rules Division.

1. Before the Commission is the *Notice of Proposed Rule Making*, 48 FR 20959, published May 10, 1983, proposing the assignment of UHF television Channel 45 to Seattle, Washington, as that community's seventh television service, in response to a petition filed by William V. Johnson ("petitioner"). Petitioner filed supporting comments reiterating his intention to apply for the channel, if assigned. No oppositions to the proposal were received.

2. Seattle (population 493,846),[1] the seat of King County (population 1,269,749), is located on Puget Sound in northwest Washington. Currently, Seattle is served by commercial television Stations KOMO–TV (Channel 4); KING–TV (Channel 5); KIRO–TV (Channel 7); and Channel 22 (applied for), as well as by noncommercial educational Station KCTS–TV (Channel *9). Also, noncommercial educational Channel *62 is unoccupied and unapplied for at Seattle at the present time.

3. We believe that the public interest would be served by a grant of petitioner's request since it could provide a seventh television service to Seattle.

4. As indicated in the *Notice*, UHF television Channel 45 can be assigned to Seattle in conformity with the minimum distance separation requirements of Sections 73.610 and 73.698 of the Commission's Rules.

5. Canadian concurrence in the proposal was obtained.

6. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b), and 0.283 of the Commission's Rules, it is ordered, that effective March 20, 1984, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended as follows:

City	Channel No.
Seattle, Washington	4, 5+, 7, *9, 22+, 45+, and *62.

7. It is further ordered, that this proceeding is terminated.

8. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–1817 Filed 1–20–84; 8:45 am]

BILLING CODE 6712–01–M

[1] Population figures were extracted from the 1980 U.S. Census.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Final Rule to List 10 Foreign Mammals as Endangered Species, and Withdrawal of 1 Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service hereby lists 10 species of foreign mammals as endangered pursuant to the Endangered Species Act of 1973, as amended. These species are the Singapore roundleaf horseshoe bat (*Hipposideros ridleyi*), Rodrigues Island flying fox fruit bat (*Pteropus rodricensis*), Bulmer's flying fox fruit bat (*Aproteles bulmeri*), bumblebee bat (*Craseonycteris thonglongyai*), buff-headed marmoset (*Callithrix flaviceps*), Preuss's red colobus monkey (*Colobus badius preusii*), Vancouver Island marmot (*Marmota vancouverensis*), African wild dog (*Lycaon pictus*), Pakistan sand cat (*Felis margarita scheffeli*), and giant panda (*Ailuropoda melanoleuca*). Two other species, the ghost bat and the Indus River dolphin, which were originally proposed for listing along with these, are not being listed at this time; the ghost bat is being withdrawn from further listing considerations, and the Indus River dolphin is being referred to the National Marine Fisheries Service the agency having proper jurisdiction over cetaceans. The 10 species classified as endangered are entirely foreign in distribution. Because they do not occur in the United States or in territories or areas administered by the U.S., no critical habitat has been determined for any of them. Threats that are believed causing their declines include habitat destruction, exploitation as a source of human food (mainly by local people), and restricted distributions and/or very specialized habitats. This rule will provide certain benefits to these species that might assist in assuring their survival; these benefits are discussed in the main body of the rule.

DATES: The effective date of this rule is February 22, 1984.

ADDRESSES: The complete file for this rule is available for inspection during normal business hours by appointment at the Washington Office of Endangered Species, 1000 North Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: John L. Paradiso, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975).

SUPPLEMENTARY INFORMATION:

Background

On March 1, 1983, the Service published a proposed rule in the **Federal Register** (48 FR 8514) to list 12 foreign mammals as endangered species pursuant to the Endangered Species Act of 1973. The present rule classifies the following 10 of these foreign mammals as endangered.

Common name	Scientific name
Rodrigues flying fox fruit bat	*Pteropus rodricensis* (Dobson, 1878).
Bulmer's flying fox fruit bat	*Aproteles bulmerae* Menzies, 1977.
Singapore roundleaf horseshoe bat	*Hipposideros ridleyi* (Robinson and Kloss, 1911).
Bumblebee bat	*Craseonycteris thonglongyai* (Hill, 1974).
Buff-headed marmoset	*Callithrix flaviceps* (Thomas, 1903).
Preuss's red colobus monkey	*Colobus badius preusi* (Matschie, 1900).
Vancouver Island marmot	*Marmota vancouverensis* Swarth, 1911.
African wild dog	*Lycaon pictus* (Temminck, 1820).
Pakistan sand cat	*Felis margarita scheffeli* (Hemmer, 1974).
Giant panda	*Ailuropoda melanoleuca* (David, 1869).

Twelve foreign species (including the 10 listed herein) were proposed for listing as endangered in the **Federal Register** of March 1, 1983 (48 FR 8514), at which time all interested parties were requested to submit factual reports or information which might contribute to the development of a final rule. The countries in which each of these mammals are resident, and all known experts on individual species, were also contacted and invited to comment.

Summary of Comments and Recommendations

Comments received as a result of the proposal may be summarized as follows:

The Smithsonian Institution, in a letter from Secretary S. Dillon Ripley dated June 10, 1983, supported the listing of the giant panda as endangered, but expressed fears that the listing might hamper scientific research on the animals. It gave as examples the Smithsonian's recent work on artificial insemination which required the importation of giant panda semen from the London Zoo on only a few days notice; export of urine for hormonal assay in England takes place frequently and routinely. The Service will work with the Smithsonian, and with other scientific organizations, regarding the issuance of open-ended permits for this species which would allow for such imports and exports routinely and without delay so that legitimate scientific research is not curtailed or handicapped in any way.

The Director, Animal Research and Conservation Center, Bronx Zoo, Bronx, New York, supported the proposal for the giant panda, and said that it was long overdue. He also supplied some valuable biological data that have been incorporated into the giant panda section of this rule.

Two representatives of the American Society of Mammalogists, in a letter dated June 29, 1983, expressed a general concern that species are being added to the endangered species list without sufficient information available to warrant their listing. They presented no objection, however, to the specific listing of any of the 12 species proposed. In addition, they applauded the efforts of the Service in its work to preserve the flora and fauna of the world, and offered the services of the Mammal Society's Committees, and other mammalogists in the Society, in helping to formulate guidelines to aid in the listing process. The Service appreciates the offer, and welcomes the opportunity to work closely with this organization in the future.

Two commenters in a letter of May 17, 1982, and another in a letter dated June 10, 1983, offered their full support for the proposal.

Nine countries responded to the Service's request for comments and data on their resident species. These responses were as follows:

Burundi—This country reported that of the 12 proposed species, only the African wild dog is present. It stated that only small numbers of this dog are left in the country, located primarily in the north. Burundi law prohibits hunting of these animals, but they are occasionally killed when they present a threat to livestock. The Burundi Government expressed no objections to the proposed listing.

Togo—In this country also, the wild dog is the only one of the 12 proposed species that is resident. Togo reported that this animal is known to exist in the northern part of the country, but that there are no firm statistics on the numbers. Since 1968, Togo has partially protected the wild dog by requiring a special license to hunt it.

Mozambique—No data are available on status, numbers, distribution, or population trends of the wild dog, but the country prohibits hunting of the species "presumably because it is considered an endangered species."

Cameroon—This Government reported that Preuss's red colobus monkey and the African wild dog are resident. With regard to the monkey, Cameroon informed the Service that it is found in the Southwest Province, especially in the Korup Reserve, where it benefits from complete protection. Elsewhere, it is given classification "B" and may be hunted by holders of licenses. Cameroon claims that the wild dog "exists in great numbers in the North Province," where it does not benefit from any protection outside the boundaries of parks and reserves. Cameroon felt that neither species appeared to be threatened with extinction in that country, but provided no data to support its contention.

Congo—Congo informed the Service that "the African wild dog *(Lycaon pictus)* is habitually destroyed by Congolese villagers. Therefore, few, if any remain, and most of these would live in the dense forests of the northern Congo."

Uganda—Uganda reported that "* * * for a long time (we) have been very much concerned about the imminent disappearance of the African wild dog *(Lycaon pictus)*. We are also extremely worried as to whether the Preuss's red colobus *(Colobus badius preussi)* still exists * * * (we) therefore convey our complete support for the action taken by the (U.S. Government)."

Thailand—This country reported that since 1981, the bumblebee bat (*Craseonycteris thonglongyai*) has been protected from hunting and trade. This country provided valuable status data on the species that are included in the appropriate section of this rule. Thailand felt that protection of this species is of the utmost importance.

Australia—The only proposed species that occurs in Australia is the ghost bat (*Macroderma gigas*). The Australian Government reported that the ghost bat cannot be considered in danger of extinction and felt that the proposal to list it was not warranted. It provided the following information to support this position.

"Four colonies of *Macroderma gigas* are known to occur in Queensland and (only) one has part of its habitat affected by limestone mining. The species is not considered endangered in Western Australia. Secure populations exist in remote, inaccessible sandstone country in the north west Kimberley; in the ranges of east Kimberley; in the limestone ranges of south west Kimberley, and in natural caves and abandoned mine shafts in the Pilbara Region. The species is cryptic; even so, it is regularly recorded in all these areas and populations are known from nature reserves and national parks in these regions."

"In the Northern Territory, colonies of *M. gigas* occur in Cutta Cutta Reserve, Katherine Gorge National Park and Kokadu National Park. The species is considered quite common throughout tropical Australia and many sites are known where the species is present in colonies of up to 450 individuals."

Because of the new date provided by the Australian Government, the Service does not now regard the ghost bat as either endangered or threatened, and therefore withdraws it from further listing consideration.

In its proposed rule of March 1, 1983, the Service also proposed listing the Indus River dolphin (*Platanista indi*) as endangered. This species, however, is a cetacean and therefore legally comes under the jurisdiction of the National Marine Fisheries Service. The Fish and Wildlife Service regrets this error in proposing the dolphin and has turned over all data pertaining to this species to the National Marine Fisheries Service. That agency will determine what administrative action, if any, is warranted for the dolphin.

Descriptions of the Species

A brief description of each of the species involved in this final rule, their distribution and problems, are as follows:

Rodrigues flying fox fruit bat—This bat occurs only on Rodrigues Island in the Indian Ocean, where less the 2 percent of its original habitat remains. A large area of mixed natural vegetation is essential for these bats so that fruits ripening at all times are available for food; such mixed vegetation has largely been destroyed. In addition, cyclones periodically kill many of the animals, and the human population hunts them for food. In 1955, the bats were thought

to exceed 1,000 but by 1965 less than half this number remained. In 1975, it was thought that no more than 80 survived and possibly only 60, but in May 1976, there were estimated to be 120–125 by direct count. The population is continuing to decline and the species may now be close to the lowest possible viable population size (I.U.C.N. Red Data Book, 1976).

Bulmer's flying fox fruit bat—This bat was first discovered among fossil remains dating back 9,000 to 12,000 years in central Papua New Guinea (Menzies, 1977). Shortly thereafter, one living specimen was taken in 1975 in the Hindenberg Ranges of far western Papua New Guinea. It had been killed by a native hunter in a large cave at an altitude of 2,300 meters. In November 1977, an intensive effort was made to locate this species, but a local hunter had already killed or driven away nearly the entire colony from the cave in which it was originally found (Hyndman and Menzies, 1980).

Bumblebee bat—This bat has been found only at Sai Yoke, Kanchanaburi Province, Western Thailand. Roosting habitat consists of the hot upper chambers of caves in limestone hills. Foraging habitat is teak-bamboo forest where the bats feed around the tops of the dominant plants. This teak-bamboo forest has been highly affected by deforestation and teak logging above the sustainable rate. Vast areas of potential habitat have been lost, and loss of this habitat is probably a significant threat (Bain and Humphrey, 1980). The Royal Forest Department of the Thailand Government (pers. comm., June 2, 1983) reports that during extensive surveys in 1982, these bats were found in only 3 caves, which contained 160 bats.

Singapore roundleaf horseshoe bat—This Malayan species has only been taken twice, once in Singapore in 1910, and the second time near Kuala Lumpur. It inhabits lowland peat forest which occurs in Malaya only in small, isolated patches. In recent years, this habitat has been heavily logged and has thus reduced the already limited range of the bat considerably. The Kuala Lumpur specimen was taken as recently as 1975; the total population was estimated to be less than 50 animals (I.U.C.N. Red Data Book, 1978; Medway, 1969; Gould, in press).

Buff-headed marmoset—The species currently survives in reduced and fragmented populations in the Espiritu-Santo Range and possibly in northern Rio de Janeiro and Minas Gerais, Brazil; it was formerly much more widely distributed in the mountainous regions of southeastern Brazil. It is threatened by widespread habitat disruption and destruction, and has already disappeared from much of its former range. "Any commercial exploitation would be disasterous." Numbers of animals are unknown, but the distribution is "very small" (I.U.C.N. Red Data Book, 1978, 1982).

Preuss's red colobus—The species occurs only in the lowland evergreen forest of Cameroon. Its habitat of mature forest with emergent trees renders it particularly susceptible to logging activities. This species is still hunted for food. The range is very restricted and the animal only survives in the Korup Reserve and perhaps in the Ejhagam Reserve. In this area, it is confined to a strip of forest approximately 60 km wide and 120 km long, along the Cameroon side of the Cameroon-Nigerian border. In historical times, it probably ranged from the Cross to the Sanaga Rivers in Cameroon and southeast Nigeria, but it is now extinct in Nigeria and its range greatly reduced in Cameroon. It is estimated that fewer than 8,000 animals survive. The greatest threat is logging activity which results in fragmentation of the forest canopy. It also falls an easy prey to the hunter and is commonly taken for food (I.U.C.N. Red Data Book, 1978; Wolfheim, 1974; Struhsaker, 1975).

Vancouver Island marmot—This marmot occurs only on Vancouver Island, British Columbia, where active colonies are known from only four general locations. The total population is between 100 and 150 animals, an obvious decline in numbers from past populations. This species lives in alpine and subalpine areas characterized by steep slopes, talus debris and open meadow. Steep slopes are preferred because avalanches clear them of snow in the spring which provides early foraging. Avalanches also inhibit tree growth, and thus allow for preferred plants to grow. Ski developments have eliminated some suitable areas, and proposed developments will remove more. Logging may also have an adverse effect on habitat. Because of the restricted habitat for this species, any further reduction must be viewed with alarm (Dearden and Hall, 1983; Munro, 1979).

African wild dog—This species has been, and continues to be, widely persecuted as a hated predator. It formerly occurred in most of Africa south of the Sahara, but has been wiped out in South Africa (except in the vicinity of Kruger National Park), and has declined greatly in most other areas. Malcolm (1980) estimates that fewer than 7,000 individuals still survive in all of Africa.

Pakistan sand cat—This cat is confined to the Changai area of northern Pakistani Baluchistan. It apparently has always been rare, but declined drastically between 1968 and 1972 when it was relentlessly exploited for the live animal trade and for its pelt. Since that time, it has been extremely difficult to find in the wild. Although it is now protected from export in Pakistan, and is on Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, any sort of trade in the species could prove fatal. Even given strict trade control, the small range of the animal and its rarity within that range make it highly vulnerable, particularly since there are no reserves or known breeding groups in captivity (I.U.C.N. Red Data Book, 1978).

Giant panda—The giant panda now occurs in only 6 small mountain ranges totalling 29,500 km² (Schaller, pers. comm., July 22, 1983). Within this range it is limited to narrow bamboo belts and fragmented into small isolated populations. Formerly it was widely distributed over southern and eastern China, but massive habitat disruption eliminated the species from all but the most remote areas at a very early date in Chinese history. According to the New China News Agency (1980), recent threats to the continued survival of the species include the sudden dying out of arrow bamboo (the panda's main food) in recent years, and vulnerability of the pandas to earthquakes (138 died in earthquakes in 1975 and 1976). Arrow bamboo flowers but once in every 60 to 100 years after which it dies. Some years are required after the die-off for the seeds to take root and to produce plants which are sufficient to support the panda populations. Records indicate that a similar dying of the arrow bamboo occurred in the 1870's and 1880's but that pandas then could range more widely to find food than they can today, and hence were able to survive. The current concern is that the populations of pandas may have fallen to such a low numerical level, and be so fragmented in distribution, that the natural die-off of the bamboo may prove fatal to the survival of the panda. It is estimated today that, in all of China, about 1,000 pandas survive. There are 12 reserves containing pandas. About 600 of the 1,000 or so pandas are on reserves. Since pandas reproduce slowly and their habitat continues to shrink, there is little chance that their populations will increase in the near future (Schaller, pers. comm., July 22, 1983).

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the above 10 foreign mammals should be classified as endangered species. Procedures found at Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; under revision to accommodate the 1982 amendments) were followed. A species may be determined to be an endangered or a threatened species due to one or more of the five factors described in Section 4(a)(1). These factors are as follows:

(a) the present or threatened destruction, modification, or curtailment of its habitat or range;

(b) overutilization for commercial, recreational, scientific, or educational purposes;

(c) disease or predation;

(d) the inadequacy of existing regulatory mechanisms; or

(e) other natural or manmade factors affecting its continued existence.

The relationship of the 10 species herein classified as endangered to the specific factors above are as follows:

Rodrigues flying fox fruit bat—(A) The habitat is restricted to the tiny island of Rodrigues in the Indian Ocean, and less than 2 percent of the original habitat of the bat remains on this island; (B), (C) not applicable; (D) there are no regulatory mechanisms known to the Service which operate to the benefit of this species; (E) the bat is widely hunted by the native islanders for food purposes; only 400 animals are known to survive.

Bulmer's flying fox fruit bat;—(A), (B), (C), (D) not applicable; (E) fruit bats are esteemed as food in the area of Papua New Guinea where this bat occurs, and it is probable that hunting it for food has wiped out this species except in the remotest and most sparcely inhabited areas in the western part of the island.

Bumblebee bat—(A) The teak-bamboo forests inhabited by this bat have been heavily logged, and vast areas of potential habitat have been destroyed; less than 160 bats are known to survive; (B), (C), (D), (E) not applicable.

Singapore roundleaf horseshoe bat—(A) The very limited, patchy habitat has been heavily timbered in recent years to the extreme detriment of the bat; (B), (C), (D), (E) not applicable.

Buff-headed marmoset—(A) Habitat destruction has been very widespread over the restricted range of this animal; (B), (C) not applicable; (D) before the enactment of protective laws, this marmoset, along with numerous other primate species, was exploited for the bio-medical and pet trade which resulted in reduced biological potential for the species' survival; (E) not applicable.

Preuss's red colobus—(A) Logging activities within its very restricted range have reduced available habitat drastically; (B), (C), (D) not applicable; (E) the species is widely hunted for food by native peoples.

Vancouver island marmot—(A) Ski and other recreational developments have destroyed, and will continue to destroy, essential habitat; logging is also destroying habitat; (B), (C), (D) and (E) not applicable.

African wild dog—(A), (B), (C) not applicable; (D) there are no existing regulatory mechanisms to protect it, except in the wildlife parks and reserves; (E) this species is widely regarded as an unwanted predator and is trapped, poisoned, or otherwise killed throughout its range.

Pakistan sand cat—(A) not applicable; (B) this cat was heavily exploited by commercial animal dealers from 1967 to 1972 for the pet trade (although this trade has now been controlled, the cat has apparently not been able to recover from the overexploitation); (C), (D), (E) not applicable.

Giant panda—(A) Habitat disruption over the centuries has reduced this species' range to only 29,500 sq. Km^2 in 6 small mountain ranges; (B), (C), (D) not applicable; (E) the species is, because of its now restricted range, highly vulnerable to such natural calamities as die-off of its preferred food (arrow bamboo), and earthquakes.

Critical Habitat

The Endangered Species Act, as amended, requires that to the maximum extent prudent and determinable the Secretary should designate critical habitat at the time a species is determined to be endangered or threatened. This requirement of the Act is not applicable to foreign species, however, and no critical habitat is being determined for the 10 mammals under consideration.

Available Conservation Measures

Conservation measures available to foreign species listed as endangered or threatened include the following:

(1) worldwide attention is called to their problems which may result in international efforts to prevent their further decline.

(2) U.S. expertise could be made available (if requested by resident country) to assist in development of management or conservation programs.

(3) limited U.S. funds could be made available (if requested by resident country) for development of management or conservation programs.

(4) the U.S. would strictly regulate import and export, and commercial U.S. trade in these species, thus assuring that any of these activities by persons subject to the jurisdiction of the U.S. do not jeopardize these mammals.

The Act and its implementing regulations found at 50 CFR 17.21 set forth a series of general trade prohibitions and exceptions which apply to all endangered wildlife. With respect to the mammal species listed herein, all trade prohibitions of Section 9(a)(2) of the Act would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale these species in interstate or foreign commerce. It would also be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that was illegally taken. Certain exceptions can apply to agents of the Service.

The Act and 50 CFR Parts 17.22 and 17.23 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. Such permits are available for scientific purposes or to enhance the propagation or survival of the species. Some of the species herein listed as endangered, such as the giant panda, are being intensively investigated by the scientific community for conservation purposes. The Service does not anticipate that this final rule will hinder or interfere with such legitimate conservation activities.

The buff-headed marmoset is on Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Species listed on Appendix I require an export permit from the country of origin as well as an import permit from the Management Authority of CITES in the United States. Preuss's red colobus and the Pakistan sand cat are on Appendix II of CITES, which requires a permit from the country of origin for export. With the possible exception of the giant panda, international trade in any of these 10 mammals, or their parts and products, is expected to be minimal. The Service will review these species to determine whether any of them should be placed on the Annex of the Convention on Nature Protection and Wildlife

Preservation in the Western Hemisphere, which is implemented through Section 8(A)(e) of the Act, and whether they should be considered as candidates for other appropriate agreements.

Requests for copies of the regulations on wildlife, and inquiries regarding them, may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1903).

National Environmental Policy Act

The Fish and Wildlife Service has determined that Environmental Assessments, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to Section 4(a) of the Endangered Species Act of 1973, as amended. The reasons for this determination were published in a **Federal Register** notice (48 FR 49244) of October 25, 1983.

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Author

The primary author of this final rule is John L. Paradiso, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture)

Regulations promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

§ 17.11 [Amended]

2. Amend 17.11(h) by adding the following in alphabetical order to the List of Endangered and Threatened Wildlife, under mammals:

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Mammals							
Bat, Bulmer's flying fox fruit.	*Aproteles bulmerae.*	Papua New Guinea	Entire	E		NA	NA
Bat, bumblebee	*Craseonycteris thonglongyai.*	Thailand	do	E		NA	NA
Bat, Rodrigues flying fox fruit.	*Pteropus rodricensis.*	Rodrigues Island, Indian Ocean.	do	E		NA	NA
Bat, Singapore roundleaf horseshoe.	*Hipposideros ridleyi*	Malaysia	do	E		NA	NA
Cat, Pakistan sand.	*Felis margarita scheffeli*	Pakistan	do	E		NA	NA
Colobus, Preuss's red.	*Colobus badius preussi*	Cameroon	do	E		NA	NA
Dog, African wild	*Lycaon pictus*	Sub-Saharan Africa	do	E		NA	NA
Marmoset, buff-headed.	*Callithrix flaviceps*	Brazil	do	E		NA	NA
Marmot, Vancouver Island.	*Marmota Vancouverensis.*	Canada (Vancouver Island).	do	E		NA	NA
Panda, giant	*Ailuropoda melanoleuca.*	People's Republic of China.	do	E		NA	NA

Dated: January 15, 1983.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR. Doc. 84–1721 Filed 1–20–84; 8:45 am]

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50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Final Rule to Determine Torreya taxifolia (Florida torreya) to be an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines *Torreya taxifolia* (Florida torreya) to be an endangered species pursuant to the Endangered Species Act. This plant is endemic to the Apalachicola River area in Florida and Georgia. It is endangered by a fungal disease, which kills trees before they reach seed-bearing size. This rule provides *Torreya taxifolia* with the protection of the Endangered Species Act of 1973, as amended. The Service will initiate efforts for this species.

DATES: The effective date of this rule is February 22, 1984.

ADDRESSES: The complete file for this rule is available for inspection, by

appointment, during business hours (7:45 a.m.–4:30 p.m.) at the Service's Endangered Species Field Office, 2747 Art Museum Drive, Jacksonville, Florida 32207.

FOR FURTHER INFORMATION CONTACT: Mr. David Wesley, Field Supervisor (904/791–2580) at the above address.

SUPPLEMENTARY INFORMATION:

Background

An evergreen tree reaching 18 meters tall, *Torreya taxifolia* (Florida torreya) was first discovered in 1835 and formally described in 1838 (Arnott, 1838). The Florida torreya and other endemics of the Apalachicola River system have received much attention from scientists and local residents. The relictual nature of this area accounts for the presence of many unique species (James, 1967). During recent glaciations, species migrated southward by way of the Apalachicola River system, which served as a refugium during cooling periods. The Apalachicola River is the only Deep River system that has its head waters in the southern Appalachian Mountains. With the receding of the glaciers, cool moist conditions persisted on the bluffs and ravines of the Apalachicola River after climatic change rendered the surrounding area much drier and warmer. The entire Apalachicola River bluff system today is an extremely diverse and unique ecosystem, of which *Torreya taxifolia* is a part.

Torreya taxifolia is a conifer, with whorled branches and stiff sharp-pointed, needle-like leaves. The trees are conical in overall shape. Dark green, fleshy seeds mature in the midsummer to fall. The leaves of the tree have a strongly pungent or resinous odor when crushed, thus one common name, "stinking cedar."

Section 12 of the Endangered Species Act of 1973 directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. On July 1, 1975, the Director published a notice in the **Federal Register** (40 FR 27823) of his acceptance of the report of the Smithsonian Institution as a petition within the context of Section 4(c)(2) of the Act, and of his intention thereby to review the status of the plant taxa named within. On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to Section 4 of the Act. This list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication. *Torreya taxifolia* was included in the July 1, 1975, notice of review and the June 16, 1976, proposal.

The Endangered Species Act Amendments of 1978 (Pub. L. 95–632, November 10, 1978) required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to proposals already over 2 years old. On December 10, 1979, the Service published a notice withdrawing the portion of the June 16, 1976, proposal, that had not been subject to final action, along with 4 other proposals that had expired. A 1981 report submitted by the Georgia Plant Program, investigations carried out by Service botanists (Washington Office and Jacksonville Field Office) during the winter of 1981, and a contract completed during 1982 on *Torreya taxifolia* and *Taxus floridana* provided additional biological information. The Service reproposed this species as endangered on April 7, 1983 (48 FR 15168).

Summary of Comments and Recommendations

During the public comment period for the proposal to list *Torreya taxifolia*, eight public comments were received. The proposal was supported by Florida's Department of Natural Resources, Game and Fresh Water Fish Commission, and Department of Agriculture and Consumer Services. Georgia's Department of Natural Resources also supported the proposal. The Georgia Department of Agriculture stated that the listing of this species should create no problems in the State. The Jackson County, Florida, Board of County Commissioners supported the proposal. The resource manager for U.S. Army Corps of Engineers lands on which *Torreya taxifolia* occurs commented on the status of this species and made propagation recommendations. The Florida Natural Areas Inventory supported the proposal and provided information on threats to the species from habitat alteration. A plant ecologist made recovery recommendations for *Torreya taxifolia*, and a private individual commented on the historical decline of the species.

All eight comments concurred with the Service's proposed action. No public hearing was requested or held.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) states that the Secretary of the Interior shall determine whether any species is an endangered or a threatened species due to one or more of the five factors described in Section 4(a)(1) of the Act. These factors and their application to *Torreya taxifolia (Florida torreya)* are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range. Torreya taxifolia* occurs in the ravines along the eastern side of the Apalachicola River from Lake Seminole in Georgia to Bristol, Florida (Southeastern Wildlife Services, 1982). One population also occurs on the margin of Dog Pond (Florida) which lies to the west of the Apalachicola River.

The Georgia population contained 27 trees in 1981 and occurs entirely on public land administered by the U.S. Army Corps of Engineers (COE) on the margins of Lake Seminole (Butler, 1981). The construction of Lake Seminole has been reported to have resulted in the loss of habitat and possibly individuals of *Torreya taxifolia* (Milstead, 1978). The resource manager at Lake Seminole, however, feels that the impoundment level was below the elevation on the ravines where *Torreya taxifolia* occurs (Butler, 1981). The resource manager is sensitive to the need for proper management and protection of the species. Proper management and protection will need to continue and should not conflict with the present recreational use of the area.

The Florida populations occur on a State park, a city park, and privately-owned lands. Torreya State Park was established for the protection of *Torreya taxifolia* and the unique bluff habitats and other species associated with the area. A city park in Chattahoochee also provides some protected habitat for this species. The majority of the area occupied by *Torreya taxifolia* is in private ownership, however, where no protective status exists. Past habitat destruction has occurred due to housing developments (Baker and Smith, 1981). Another COE impoundment planned near Blountstown, Florida, is not expected to affect this species because the proposed high water mark is below the elevations at which *Torreya taxifolia* occurs. The steepness of the bluffs and ravines render them somewhat inappropriate for many types of agriculture, forestry, and housing. Damming the ravines for recreational impoundments, however, is a potential

threat to this species. Proper planning for the protection of this species will be necessary in relation to all COE projects and any other future Federal activities.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Not applicable to this species.

C. *Disease or predation.* The major threat facing *Torreya taxifolia* is disease. Since 1962, natural populations have been drastically reduced or eliminated due to a fungal disease (Godfrey, 1962). The fungal disease causes necrosis of the needles and stems and severe defoliation; however, treatment through the application of fungicides seems possible (Alfieri *et al.*, 1967).

All that remains of the species in nature are root sprouts, reaching less than 3 meters in height (Baker and Smith, 1981). Trees formerly reached heights of 18 meters. Cultivated, uninfected, specimens exist in various botanical gardens and can provide seeds and material for future recovery efforts. Through treatment of diseased individuals or breeding resistant strains, *Torreya taxifolia* can possibly be recovered. However, extensive research is needed to determine appropriate disease treatments and investigate the possibilities of breeding trees resistant to the disease.

D. *The inadequacy of existing regulatory mechanisms. Torreya taxifolia* is offered protection under Florida law, Chapter 65–426, Section 855.06, which includes prohibitions concerning taking, transport, and the selling of plants listed under that law. *Torreya taxifolia* is also included under Georgia's Wild Flower Preservation Act of 1973, which prohibits taking from public lands and intrastate transport and sale of certain rare plant species. The Endangered Species Act would offer additional protection for the species through the recovery plan process, the consultation process, and interstate/international trade prohibitions.

E. *Other natural or manmade factors affecting its continued existence.* The very limited range and small size of the populations of this species increase the possibility of loss of all or a significant portion of the species as a result of any accidental or natural catastrophe.

Critical Habitat

The Act requires that critical habitat be designated at the time of listing, to the maximum extent prudent and determinable. The Service has determined that it would not be prudent to determine critical habitat for *Torreya taxifolia* at this time. Increased publicity of localities would increase the extreme vulnerability of this species illegal takings under Federal or State law. The Federal Act does not prohibit the taking of plants, except on areas like Lake Seminole which are under Federal jurisdiction.

In addition, critical habitat is not identifiable at this time. All mature viable trees are located in botanical gardens and arboreta. The wild trees do not now have good long-term survival prospects. The initial focus of recovery will be to address controlling the disease. After the disease has been overcome, recovery efforts would address reintroduction of the species into the wild, and critical habitat could be designated at that time, if it is found prudent to do so. Taking would be reevaluated as a threat at that time and benefits of critical habitat weighed against possible increased threats. Sites on which the species could receive protection and proper management, such as the Army Corps of Engineers land, the State and city park, and other areas will be considered. It is not curently possible to identify which areas would be selected and, therefore, critical habitat designations would be imprudent at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal and State agencies and private groups and individuals. The Endangered Species Act requires that recovery actions be carried out for all listed species and these are initiated by the Service following listing. The protection required by Federal agencies and taking prohibitions are discussed below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species. If a "may affect" determination is made, the Federal agency must enter into consultation with the Service.

The Act and implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions which apply to all endangered plant species. With respect to *Torreya taxifolia*, all trade prohibitions of Section 9(a)(2) of the Act, implemented by 50 CFR 17.61, will apply. These prohibitions, in part, will make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce.

Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. It is anticipated that few permits will ever be sought or issued since the species is not common commercially, in cultivation, or in the wild.

Section 9(a)(2)(B) of the Act, as amended in 1982, states that it is unlawful to remove and reduce to possession endangered plant species from areas under Federal jurisdiction. The new prohibition now applies to *Torreya taxifolia*, which occurs on land under Federal jurisdiction (U.S. Army Corps of Engineers) in Decatur County, Georgia. Permits for exceptions to this prohibition are available through Sections 10(a) and 4(d) of the Act, following the general approach of 50 CFR 17.62, until revised regulations are promulgated to incorporate the 1982 amendments to the Act. Proposed regulations implementing this new prohibition were published on July 8, 1983 (48 FR 31417), and will be finalized following the public comment period.

Requests for copies of the regulations on plants, and inquiries regarding them, may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1903).

References

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Butler, Will. 1981. Status of the Florida torreya in Georgia. Unpublished report prepared by the Georgia Protected Plants/Natural Areas program.

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James, C.W. 1961. Endemism in Florida. Brittonia 13(3):225–244.

Milstead, Wayne. 1978. Status Report. Prepared for U.S. Fish and Wildlife Service, Atlanta, Georgia.

Southern Wildlife Services. 1982. A Distribution Survey of the Populations of *Taxus floridana* and *Torreya taxifolia* in Florida. Report to U.S. Fish and Wildlife Service, Atlanta, Georgia. 39 p.

Authors

The primary authors of this final rule are Ms. E. LaVerne Smith, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 and Dr. Michael M. Bentzien, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L 94–359, 90 Stat. 911; Pub. L. 95–632, 92–Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

§ 17.12 [Amended]

2. Amend § 17.12(h) by adding the following, in alphabetical order, to the list of Endangered and Threatened Plants:

Species		Historic range	Status	When listed	Critical habitat	Special rule
Scientific name	Common name					
Taxaceae—Yew family:						
Torreya taxifolia	Florida torreya	U.S.A. (FL, GA)	E	na	na	

Dated: December 2, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84–1722 Filed 1–20–84; 8:45 am]

BILLING CODE 4310–55–M

Proposed Rules

Federal Register
Vol. 49, No. 15
Monday, January 23, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL DEPOSIT INSURANCE CORPORATION

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 330, 561 and 564

[Resolution No. 84-15]

Brokered Deposits, Limitations on Deposit Insurance

AGENCY: Federal Deposit Insurance Corporation and Federal Home Loan Bank Board.

ACTION: Proposed rulemaking.

SUMMARY: On November 1, 1983, the Federal Deposit Insurance Corporation ("FDIC") and the Federal Home Loan Bank Board ("Board") (as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC") solicited public comments in the **Federal Register** on the issue of deposit brokerage relative to FDIC- and FSLIC-insured institutions. 48 FR 50339. That Advance Notice of Proposed Rulemaking ("Advance Notice") expressed the agencies' concern that the brokering of insured deposits is counterproductive to marketplace discipline in the depository institutions industry and requested comments on the overall practice of deposit brokerage as well as responses to nineteen specific questions on the topic. As the result of an analysis of the information received by the FDIC and the Board on the Advance Notice and other data on brokered deposits assimilated over the past several months, the agencies are proposing amendments to their respective regulations. If adopted, these amendments would limit the insurance coverage afforded to deposits placed by or through a broker with an insured bank or savings associations. The proposed regulations would define deposit brokerage to encompass current business arrangements that the agencies believe facilitate misuses of federal deposit insurance. If the proposed amendments are ultimately adopted as final regulations, the new insurance regulations would apply to deposits placed or renewed on or after October 1, 1984. The FDIC and the Board are interested in receiving comments on these proposed amendments.

DATE: Comments must be received by March 8, 1984.

ADDRESSES: Please direct comments to:

Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th street, NW., Washington, D.C. 20429. Comments may be delivered to Room 6108 on weekdays between 8:30 a.m. and 5:00 p.m. where they will be available for public inspection.

Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Comments will be publicly available at this address.

FOR FURTHER INFORMATION CONTACT: Joseph A. DiNuzzo, Senior Attorney, Federal Deposit Insurance Corporation, Legal Division, (202) 389-4171, Room 4126B, 550 17th Street, NW. Washington, D.C. 20429 or Robert H. Ledig, Attorney, (202) 377-7057; or Chistopher P. Bolle, Law Clerk, (202) 377-6472, Federal Home Loan Bank Board, Office of General Counsel, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: On November 1, 1983, the FDIC and the Board issued an Advance Notice of Proposed Rulemaking soliciting comments on the brokering of deposits of FDIC- and FSLIC-insured institutions. (48 FR 50339, November 1, 1983). The Advance Notice outlined the major types of deposit brokerage, discussed the concerns shared by the FDIC and the Board about deposit brokerage and posed a multitude of questions encompassing the nature of those concerns and the possible means of dealing with them. In summary, the Advance Notice stated that: the most troubling aspect of deposit brokering is that of enabling virtually all institutions to attract large volumes of funds from outside their national market area irrespective of the institutions' managerial and financial characteristics; the ability to obtain *de facto* one-hundred percent insurance through the parcelling of funds eliminates the need for the depositor to analyze an institution's likelihood of continued financial viability; the availability of brokered funds to all institutions, irrespective of financial and managerial soundness, reduces market discipline; although deposit brokering can provide a helpful source of liquidity to institutions, ongoing brokering practices make it possible for poorly managed institutions to continue operating beyond the time at which natural market forces would otherwise have precipitated their failure; and this impediment to natural market forces results in increased costs to the FDIC and the FSLIC in the form of either greater insurance payments or higher assistance expenditures if the institutions are subsequently closed because of insolvency. The nineteen questions posed in the Advance Notice focused on whether the public and industry members perceived any significant problems with deposit brokerage and, if so, what steps the agencies should take to remedy those problems.

Comments Received by the FDIC

The FDIC received 168 comments on the Advance Notice. Eighty-two comments were from banks, thirty-one from savings and loan associations, twenty from brokers and other members of the financial services industry, sixteen from financial industry trade groups, five from state or municipal governmental entities, four from credit unions, eight from other individuals or entities and two from federal government agencies.

Forty-six (or fifty-six percent) of the comments from banks stated that deposit brokerage presents substantial enough problems to warrant additional regulatory or legislative initiatives by the FDIC and the Board. Three of these comments were from money-center banks and forty-three were from smaller institutions. The comments noted that deposit brokerage harms the depository institutions industry by providing funds to weak or mismanaged institutions. Many stated that deposit brokering presents a potential threat to the soundness of participating institutions. The majority of comments suggesting additional action by the agencies favored increased monitoring of the deposit brokerage activities of all federally insured institutions with special attention paid to troubled banks, particularly banks rated composite 4

and 5 under the Uniform Financial Institutions Rating System. 1 FED. DEPOSIT INS. CORP. LAW, REG., RELATED ACTS (FDIC) 5079. Some recommended that a limit be placed on the percentage of brokered deposits comprising an institution's assets, deposit base or net worth. Others suggested that the agencies eliminate the insurance coverage of all brokered deposits.

Thirty-six (or forty-four percent) of the bankers' comments recommended that no additional action be taken by the agencies to limit the borkering of deposits. Six of these comments were from money-center banks and thirty from smaller entities. They commented that deposit brokerage provides a source of liquidity and investment for depository institutions and enables smaller institutions to compete with bigger banks. Many of the comments stated that greater monitoring efforts should be directed at problem institutions, but that no overall action on deposit brokerage should be taken by the agencies.

Eighteen (or fifty-eight percent) of the thirty-one savings and loan associations who commented on the Advanced Notice favored a maintenance of the status quo. They stated that no additional action by the agencies is required because an adequate monitoring mechanism is already in place. The thirteen other associations (forty-two percent) recommended regulatory or legislative actions similar to those recommended by the majority of bankers who commented.

The American Bankers Association stated that money brokers provide a beneficial service to the industry, but acknowledged that deposit brokerage has caused abuses in that some troubled banks have been sought after and exploited. It voiced strong objection, however, to substantial changes to the regulation of money brokers until the agencies have acquired sufficient information to assess the nature and magnitude of the attendant problems. The Independent Bankers Association criticized deposit brokerage as seriously adverse to the industry and recommended that the agencies either prohibit such deposits or render them ineligible for insurance coverage. The National Council of Savings Institutions commented that additional action by the agencies on brokered deposits should be deferred until a more comprehensive study of the issues by the agencies has been accomplished.

The Office of the Comptroller of the Currency stated that no additional regulatory or legislative action is necessary to deal with deposit brokerage. It commented that the risks caused by this activity can be minimized through existing supervisory remedies. The Securities and Exchange Commission said it had continuing concerns about the consumer-protection issues relative to deposit brokering and that it would be pleased to consult with the FDIC and the Board on a regulatory scheme in this regard.

The deposit brokers who commented on the Advance Notice stated that deposit-placement activities are beneficial to the depository institutions industry because they reverse disintermediation, improve competitive positions of regional banks and thrifts, provide access to long-term deposits, foster secondary-market activity, lessen deposit concentration in money-center banks and provide higher interest rates on deposits for individuals. Some brokers conceded that deposit brokerage could have disadvantageous effects upon institutions, but noted that such situations could be handled by increased regulatory monitoring of weaker banks and savings and loan associations.

Of the five state and local governments who commented on the Advance Notice, one emphasized that any limitation on the insurance coverage of brokered deposits would jeopardize the safety of public deposits. The others expressed strong objection to limiting the insurance coverage of pension fund deposits, but did not comment on deposit brokerage. Two credit unions commented that deposit brokerage is undersirable and should be acted against by the FDIC and the Board. Two others noted that a better monitoring mechanism by the agencies would be sufficient to deal with deposit brokerage problems. The Credit Union National Association stated that the agencies should gather more information on brokered deposits before proposing extensive regulatory and legislative changes.

Comments Received by the Board

The Board received seventy-three comments on the Advance Notice. Thirty-five were from savings and loan associations, three from banks, twelve from brokers and other members of the financial services industry, twelve from financial industry trade groups, five from state or municipal governmental entities, three from credit unions, two from federal government entities and one from an individual.

Eight of the comments from savings and loan associations supported the prohibition of, or restriction on, the acceptance of brokered funds by insured institutions. One commenter expressed concern that nationwide money brokers could come to dominate the market for insured accounts, thereby causing many institutions to become dependent on them for funds and also permitting market dynamics to bid up the cost of funds to the detriment of insured institutions. Commenters also suggested that brokers were using FSLIC insurance for a purpose for which it was not intended.

Twenty-seven of the comments from savings and loans opposed actions which would limit the ability of financially and managerially sound institutions to accept brokered funds. Commenters suggested that the agencies focus on the use of funds and the overall funds acquisition policies of institutions rather than on brokered funds alone. Many commenters discussed the benefits of brokered funds such as the opportunity for institutions in capital-deficient areas to obtain funds, and the cost-effective means such deposits provide for an institution to acquire funds of a desired rate and maturity without altering its retail offerings. The three banks which commented expressed similar views.

The United States League of Savings Institutions expressed serious concerns over the current unregulated practices of deposit brokers and concluded that the potential problems outweigh the benefits that might result from permitting the continuation of the current practices. It recommended specific restrictions on the ability of institutions to obtain brokered deposits designed to address the particular problems raised by excessive use of deposit brokerage while preserving the usefulness of brokered deposits in restructuring efforts. The six state and regional savings and loan trade associations which commented expressed the view that financially and managerially should institutions should not be limited in their access to brokered funds.

The deposit brokers and other members of the financial services industry which commented generally opposed any restriction on the acceptance of brokered deposits by sound institutions, while one commenter supported percentage limitations applied to all institutions. The commenters emphasized that it is in a broker's interest to avoid directing customers' funds to institutions which may default. Commenters discussed the economic efficiency of the brokerage function and referred to the extent to which brokerage permits non-money-center institutions to gain access to the national funds market.

Four of the state and local entities which commented stated their opposition to potential changes in the level of insurance coverage available to pension funds and public units. The fifth expressed concern about the use of brokered deposits and stated that if the federal agencies did not take action it would propose legislation to limit the issuance of out-of-state jumbo certificates by banks and savings and loan associations.

A corporate central credit union and a committee of corporate credit union representatives stated their concern about the current lack of risk sensitivity in the placement of deposits, and suggested that either a cost-sharing formula be developed or that brokers be treated as principals for insurance proposes. Two credit unions opposed limitations on the placement of brokered funds with sould institutions. One individual supported a prohibition on the use of brokered funds and stated that institutions should be required to rely on their local markets for deposits.

Proposals

Over the past several months the FDIC and the Board have collected data on banks and savings and loan associations which are involved with deposit brokerage. The data assimilated thus far indicate that, although brokered deposits comprise a modest percentage of total domestic deposits, a significantly greater proportion of poorly rated institutions use brokered deposits than highly rated institutions. Moreover, the seventy-two commercial banks that failed between February 1982 and mid-October 1983 had substantial brokered deposits. These deposits constituted sixteen percent of the total deposits held by the seventy-two banks. Some of the failed banks relied more heavily on brokered funds. In three instances brokered deposits equalled more than sixty percent of the failed bank's total deposits. In nineteen other cases these deposits equalled between twenty and fifty percent of the failed bank's deposits. The FDIC and the Board are continuing to collect information on deposit brokerage. Based on the data assembled to date and an analysis of the comments received on the Advance Notice, however, the agencies have preliminarily determined that deposit brokerage has a sufficiently adverse effect upon the depository institutions industry to warrant remedial regulatory action. At present the approach deemed most desirable by the FDIC and the Board in addressing the problems inherent in deposit brokerage is that of limiting deposit insurance for such deposits.

In addition to their concern about the effects of deposit brokerage on troubled institutions, the FDIC and the Board are also concerned about the potential which exists for the abuse of brokered funds by insured institutions generally. The use of these deposits has grown dramatically over the past several years and, if not limited in some way, will likely continue to grow at a rapid pace. Furthermore, the FDIC and the Board believe that deposit brokerage represents an outright misuse of the federal deposit insurance system. Deposit insurance was originally intended to establish stability and to promote confidence in the monetary and banking systems by protecting primarily small, relatively unsophisticated depositors in their relationships with banks and savings associations. It was never intended to protect investors seeking the highest yields available in money markets. The FDIC and the Board believe it is essential that the situation be promptly addressed in view of the recent decontrol of interest rates paid by banks and thrifts. Consideration of soundness should enter into the selection of a bank or thrift, not simply the rate paid on deposits.

The agencies believe the deposit insurance alternative would avoid the constant monitoring of all deposit brokerage activity which would only serve to increase the regulatory burden on depository institutions and the supervisory role of the agencies. Alternatively, a blanket prohibition on the use of brokered deposits would be unduly restrictive and would totally eliminate the benefits to insured institutions of brokered deposits. Limiting the insurance coverage of brokered deposits would not defeat the liquidity benefits of brokered deposits for well-run institutions. Such deposits would still be obtainable, but without a "federal guaranty." Investment decisions would be made on the strength or weakness of the involved depository institution, and not on the federal insurance-feature of the deposit.

A result of these proposed amendments would be to instill market discipline by preventing the marketing of federal deposit insurance by non-depository entities in a way that the FDIC and the Board believe is outside the scope of the legislative intent underlying the federal deposit insurance scheme.

Despite the insurance limitations which would result from the proposed amendments, brokered deposits would continue to be afforded insurance coverage up to $100,000 for each broker per insured institution. Any deposits in excess of $100,000, however, would not be insured. An analysis of the depository institution's financial and managerial soundness, therefore, would be the prudent course when depositing funds over $100,000. The proposed amendments would apply to basic brokering programs, certificate-of-deposit participation programs, deposit listing services and financing arrangments where an agent or trustee establishes a deposit or member account for the purpose of enabling the institution to finance a prearranged loan with the proceeds in the account.

If adopted, the proposed rules would afford a maximum of $100,000 insurance coverage per insured bank or savings association for the total deposits placed by or through a single deposit broker. The term "deposit broker" would be defined as any person or entity who is engaged in the business of placing deposits for others and an agent or trustee who establishes a deposit or member account in connection with an agreement with the institution to use the proceeds in the account to fund a prearranged loan. The agencies request comment on whether subsidiaries or networks of depository institutions should be included within the definition of "deposit broker" for purposes of the proposed amendments. They also request comments on what treatment should be accorded to institutions owned either directly or indirectly by business entities which would be within the proposed definition of "deposit broker." Also, as proposed, the term "deposit broker" would not include employees of depository institutions. The agencies are concerned, however, that too broad a definition of "employee" would lead to circumvention of the intent behind the proposed amendments. Therefore, the FDIC and the Board are defining an "employee" of an institution as a person who is employed exclusively by that institution, is paid primarily on a salaried basis, does not share his or her compensation with someone who is engaged in the business of brokering deposits, and uses an office facility which exists exclusively for his or her institution/employer. As proposed, the definition of "deposit broker" would not include the normal activities of trust departments of insured institutions. Activities and arrangements with the purpose and effect of circumventing the intent of the proposed amendments, however, could cause such trust departments to be deemed "deposit brokers."

For purposes or calculating the amount of insurance, the broker would

be deemed the "depositor" or "member" in a deposit brokerage situation. This differs from the current FDIC and Board regulations which, if certain requirements are met, deem the customer of the deposit broker to be the "depositor" or "member." The proposed definition includes not only deposit brokerage arrangements where the broker is the holder of an account for a number of principals, but also where the broker directs or otherwise facilitates the transfer of funds of depositors to an institution without itself becoming a holder of an account; thus, the definition would also apply to deposit listing services and similar arrangments.

The FDIC and the Board do not intend to disturb traditional deposit relationships. Accounts held by agents would remain insured up to $100,000 per principal, provided that the agent is not engaged in the business of placing deposits. Thus, arrangements such as a real estate agent's and attorney's escrow accounts would not be affected by the proposed amendments. Comments are welcomed on the question of what types of activities of agents should or should not be deemed to constitute the business of deposit brokerage if the agencies adopt the proposal. Furthermore, the insurance coverage currently available to pension funds, other employee benefit plans and irrevocable trusts (other than the prearranged loan transaction noted above) would not be affected, where the deposits are not placed by or through a deposit broker. Likewise, the insurance coverage of accounts of public units would not be affected, provided that a deposit broker is not employed to place the funds.

Comments are also requested on whether any amendments should be made to the current rules on the insurance of negotiable or bearer-form certificates of deposit. At present, for insurance purposes, the "depositor" of a negotiable or bearer-form deposit is the person holding the deposit on the date the institution is closed because of insolvency, 12 CFR 330.11 and 570.11. The agencies are concerned that such deposits may be used to impede the intent of the proposed amendments. Thus, they are requesting comments on what regulatory steps, if any, should be taken to prevent possible misuses of negotiable or bearer-form certificates of deposit to circumvent the proposed amendments. One option is to require that institutions maintain records on the original purchaser of the deposit. This would permit a determination that the certificate was not purchased by or through a deposit broker.

If the proposed amendments are ultimately adopted as final regulations, the effective date would be October 1, 1984. Thus, any deposits either placed or renewed on or after October 1, 1984, would be subject to the new regulations on insurance coverage. Deposits either placed or renewed prior to October 1, 1984, however, would be subject to the current insurance rules until the scheduled maturities of those deposits. The FDIC and the Board welcome comments on this proposed effective date. Additionally, the agencies are concerned that a few insured institutions may have portfolio structures requiring additional time in which to adjust in order to avoid severe disruption. The agencies also request comments on methods by which such disruptive effects may best be alleviated.

Finally, the FDIC and the Board request comments on any other methods by which the objectives of the two agencies might be otherwise achieved.

Paperwork Reduction Act

As proposed, the amendments would not entail any reporting or recordkeeping requirement; therefore, the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520 (1980)) would be inapplicable.

Initial Regulatory Flexibility Analysis

Pursuant to Section 3 of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164 (Sept. 19, 1980), the FDIC and the Board are providing the following regulatory flexibility analysis:

1. *Reasons, objectives, and legal bases underlying the proposed rules.* These elements have been incorporated elsewhere in the supplementary information regarding the proposal.

2. *Small entities to which the proposed rules would apply.* The rules would apply to insured institutions.

3. *Impact of the proposed rules on small institutions.* As brokered deposits do not yet constitute a significant portion of total deposits of most insured institutions, the proposed rules would not have a significant impact on a substantial number of small entities.

4. *Overlapping or conflicting Federal rules.* There are no federal rules that duplicate, overlap, or conflict with this proposal.

5. *Alternatives to the proposed rules.* The proposal would limit federal deposit insurance on brokered deposits. Other alternatives considered, such as increased monitoring and approval mechanisms and blanket prohibitions on brokered deposits, would be more burdensome to the agencies' regulatees or would eliminate the benefits of a regulated activity, including availability of liquidity.

List of Subjects

13 CFR Part 330

Banks, Bank deposit insurance, Banking.

12 CFR Parts 561 and 564

Banks, Bank deposit insurance, Banking, Savings and loan associations.

In consideration of the foregoing, the FDIC hereby proposes to amend Part 330 of Title 12 of the CFR and the Board hereby proposes to amend Parts 561 and 564 of Title 12 of the CFR as follows:

PART 330—CLARIFICATION AND DEFINITION OF DEPOSIT INSURANCE COVERAGE

1. The authority citation for Part 330 is as follows:

Authority: 12 U.S.C. 1813, 1817, 1821, 1822.

2. It is proposed that § 330.0 be amended by revising its heading, redesignating its first paragraph as paragraph (a) and adding paragraphs (b) and (c) as follows:

§ 330.0 Definitions.

(a) For the purpose of this Part 330, the term "insured bank" includes in insured branch of a foreign bank.

(b) For purposes of this Part 330, the term "deposit broker" includes: (1) Any person or entity, other than an insured bank or employee thereof, engaged in the business of either placing or listing for placement deposits of insured banks; and (2) an agent or trustee who establishes a deposit account to facilitate a business arrangement with an insured bank to use the proceeds of the account to fund a prearranged loan.

(c) The term "employee," for purposes of this section only, includes only an employee: (1) Who is employed exclusively by the insured bank for which he or she is soliciting deposits; (2) whose primary compensation is in the form of a salary; (3) who does not share his or her compensation with a deposit borker; and (4) whose office space or place of business is used exclusively for the benefit of his or her insured bank/employer.

3. It is proposed that § 330.2 be amended by revising its heading, removing its introductory text, removing the heading of paragraph (a), and removing paragraphs (b) and (c) as follows:

§ 330.2 Individual accounts.

Funds owned by an individual (or by the community between husband and wife of which the individual is a member) and deposited into one or more

deposit accounts in his or her own name shall be insured up to $100,000 in the aggregate.

4. It is proposed that § 330.10 be amended by revising its text as follows:

§ 330.10 Trust accounts.

All trust interests for the same beneficiary deposited in deposit accounts established pursuant to valid trust agreements created by the same settlor (gantor) shall be added together and insured up to $100,000 in the aggregate, except time and savings deposits of the same beneficiary which qualify as pension or profit-sharing plans under section 401(d) or 408(a) of the Internal Revenue Code of 1954, as amended. The vested and ascertainable interest (excluding any remainder interest) of each beneficial owner in a time or savings deposit established under either of the above sections, shall be added together and insured to an additional $100,000 maximum for each beneficial owner, notwithstanding the insurance provided in this section to other types of deposit accounts. Except where the trustee is a "deposit broker," as defined in § 330.0(b), the insurance of such trust interests shall be separate from that afforded deposit accounts of the trustee of such trust funds or the settlor or beneficiary of such trust arrangement.

5. It is proposed that § 330.13 be added as follows:

§ 330.13 Accounts held by or established through intermediaries.

(a) Except as provided in paragraph (b) of this section, funds owned by a principal and deposited into one or more deposit accounts in the name or names of agents or nominees shall be added to any individual accounts of the principal and insured up to $100,000 in the aggregate.

(b) Nothwithstanding any other provision of this Part, funds deposited into one or more deposit accounts by or through a "deposit broker," as defined in § 330.0(b), shall be added to any other deposits placed by or through that deposit broker and insured up to $100,000 in the aggregate.

(c) Funds held by a guardian, custodian or conservator for the benefit of a ward or for the benefit of a minor under a Uniform Gifts to Minors Act and deposited into one or more accounts in the name of the guardian, custodian or conservator shall be added to any individual accounts of the ward or minor and insured up to $100,000 in the aggregate.

PART 561—DEFINITIONS

1. The authority citation for Part 561 is as follows:

Authority: 12 U.S.C. 1724, 1725, 1726, 1728.

2. It is proposed that § 561.2a be added as follows:

§ 561.2a Definition of "deposit broker."

(a) The term "deposit broker" includes: (1) Any person or entity, other than an insured institution or employee thereof, engaged in the business of placing or listing for placement deposits of an insured institution; and (2) an agent or trustee who establishes a member account to facilitate a business arrangement with the institution to use the proceeds of the account to fund a prearranged loan.

(b) The term "employee," for purposes of this section only, includes only an employee: (1) Who is employed exclusively by the institution for which he or she is soliciting deposits; (2) whose primary compensation is in the form of a salary; (3) who does not share his or her compensation with a deposit broker; and (4) whose office space or place of business is used exclusively for the benefit of his or her institution/employer.

PART 564—SETTLEMENT OF INSURANCE

3. The authority citation for Part 564 is as follows:

Authority: 12 U.S.C. 1724, 1725, 1726, 1728.

4. It is proposed that § 564.3 be revised as follows:

§ 564.3 Individual accounts.

Funds owned by an individual (or by the husband-wife community of which the individual is a member) and invested in one or more accounts in his or her own name shall be insured up to $100,000 in the aggregate.

§ 564.10 [Amended]

5. It is proposed that § 564.10 be amended by adding at the end thereof a sentence as follows:

"* * * Except where the trustee is a "deposit broker," as defined in section 561.2a, the insurance of such trust interests shall be separate from that afforded deposit accounts of the trustee of such trust funds or the settlor or beneficiary of such trust arrangement."

6. It is proposed that § 564.12 be added as follows:

§ 564.12 Accounts held by or established through intermediaries.

(a) Except as provided in paragraph (b) of this section, funds owned by a principal and invested in one or more accounts in the name of agents or nominees shall be added to any individual accounts of the principal and insured up to $100,000 in the aggregate.

(b) Notwithstanding any other provision of this Part, funds invested in one or more accounts by or through a "deposit broker," as defined in § 561.2a, shall be added to any other deposit placed by or through that deposit broker and insured up to $100,000 in the aggregate.

(c) A loan servicer who receives loan payments and places or maintains such payments in an insured institution prior to remittance to the lender or other parties entitled to the funds shall, for insurance-of-accounts purposes, be considered an agent of each borrower.

(d) Funds held by a guardian, custodian or conservator for the benefit of a ward or a minor under a Uniform Gifts to Minors Act, and invested in one or more accounts in the name of the guardian, custodian or conservator, shall be added to any individual accounts of the ward or minor and insured up to $100,000 in the aggregate.

By Order of the Board of Directors, January 16, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

By Order of the Board, January 16, 1984.

Federal Home Loan Bank Board.

J. J. Finn,

Secretary to the Board.

[FR Doc. 84-1703 Filed 1-20-84; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-CE-35-AD]

Airworthiness Directives; Pilatus Aircraft, Ltd., and Fairchild-Hiller PC-6 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This action withdraws the Notice of Proposed Rulemaking (NPRM applicable to Docket No. 83-CE-35-AD. This NPRM proposed to adopt an Airworthiness Directive (AD) that would require the replacement of the aileron/flap mount attachment fittings. Subsequent to the issuance of this Notice, additional evaluation indicates that the proposed action is not warranted at this time. Accordingly, the NPRM is hereby withdrawn.

DATES: Not applicable.

FOR FURTHER INFORMATION CONTACT: Mr. A. Astorga, Aircraft Certification Staff, AEU–100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium, Telephone 513.38.30; or H. C. Belderok, Foreign FAR 23 Section, Federal Aviation Administration, ACE–109, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–6932.

SUPPLEMENTARY INFORMATION: An NPRM applicable to the Pilatus Aircraft Ltd., PC–6 Series airplanes was published in the **Federal Register** on April 11, 1983 (48 FR 15480, 15481), and republished as a Supplemental NPRM to include the Fairchild-Hiller PC–6 Series airplanes on November 1, 1983 (48 FR 50341, 50342).

The Notice was published because the Swiss manufacturer, Pilatus Aircraft, Ltd., issued Service Bulletin (SB) 138, which required the mandatory replacement of the aileron/flap mount attachment fittings, and because the Swiss Federal Office of Civil Aviation (FOA), who has the responsibility and authority to maintain the continued airworthiness of these airplanes in Switzerland, had classified the SB as mandatory. The Service Bulletin was based upon two reports of airplanes with cracked fittings.

The NPRM, therefore, proposed to adopt an AD requiring the mandatory replacement of all the aileron/flap mount attachment fittings on all PC–6 Series airplanes built by Fairchild-Hiller and on all airplanes up to Serial No. 815 on the Pilatus-built airplanes.

Interested parties were afforded an opportunity to comment on the proposed AD. Only one comment was received which agreed that the applicability extends to the Fairchild-Hiller airplanes since it and the Pilatus-built units are structurally identical in this area.

Further evaluation has revealed that Pilatus Aircraft, Ltd., is of the opinion that the cracking of the aileron/flap attachment fittings was probably attributable to fatigue caused by the airplane being subjected to overspeeding, especially those airplanes used intensively in the para/dropping role. Thus, these two reported defects do not meet the Part 39 criteria for the issuance of an AD in that this condition is not likely to exist or develop in the other airplanes, except when operated outside their design limits. This position is supported by the reported fact that Pilatus has inspected the subject attachment fittings on several high-time airplanes and has found them to be completely serviceable.

In view of the factors cited above, the FAA has determined that the proposed action is unwarranted, and the NPRM is being withdrawn. The withdrawal of this Notice does not preclude the FAA from issuing similar notices in the future, nor does it commit the FAA to any course of action.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Withdrawal

For the reasons stated above, Notice of Proposed Rulemaking, Docket No. 83–CE–35–AD, published in the **Federal Register** on April 11, 1983 (48 FR 15480, 15481), and the Supplemental Notice of Proposed Rulemaking published on November 1, 1983 (48 FR 50341, 50342), are hereby withdrawn.

(Secs. 313(a), 601 and 603 Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and Section 11.85 of the Federal Aviation Regulations (14 CFR 11.85))

Note.—This withdrawal cancels a proposed rule which is no longer considered necessary in the interest of air safety. For this reason, and as discussed in the preamble, the FAA has determined that it (1) involves withdrawal of a proposed regulation which is not a major rule under Executive Order 12291 and (2) is not significant pursuant to Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this withdrawal will not have a significant economic impact on a substantial number of small entities. A draft regulatory evaluation has been prepared and has been placed in the public docket covering the proposed rule.

Issued in Kansas City, Missouri, on January 12, 1984.

Murray E. Smith,

Director, Central Region.

[FR Doc. 84–1757 Filed 1–20–84; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 83–ASW–57]

Proposed Alteration of Transition Area and Control Zone: Carlsbad, NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes to alter the transition area and control zone at Carlsbad, NM. The intended effect of the proposed action is to provide adequate controlled airspace for aircraft executing standard instrument approach procedures (SIAPs) to the Cavern City Air Terminal. This action is necessary since the FAA proposes to establish an instrument landing system (ILS) to Runway 03 at the airport which will change the designated airspace requirements.

DATE: Comments must be received on February 22, 1984.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW–535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 877–2630.

SUPPLEMENTARY INFORMATION: .

History

Federal Aviation Regulation Part 71, Subparts G 71.181 and F 71.171, as republished in Advisory Circular AC 70–3A dated January 3, 1983, contains the description of transition areas and control zones designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Alteration of the transition area and control zone at Carlsbad, NM, will necessitate an amendment to these subparts. This amendment will be required at Carlsbad, NM, since there is a proposed change in IFR procedures to the Cavern City Air Terminal. The proposed installation of an ILS to serve Runway 03 will necessitate an amendment to the designated airspace.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in

triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83–ASW–57." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of Nprm

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 877–2630. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

List of Subjects in 14 CFR Part 71

Control zones and/or transition areas, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

§ 71.171 [Amended]

Carlsbad, NM [Revised]

Within a 5.5-mile radius of the Cavern City Air Terminal (latitude 32°20'15" N., longitude 104°15'46" W.) and within 1.5 miles each side of the southwest localizer course extending from the 5.5-mile radius area to 6.5 miles southwest of the airport; and within 2.5 miles each side of the Carlsbad VORTAC 335-degree radial extending from the 5.5-mile radius area to 13 miles northwest of the VORTAC. This control zone should be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

§ 71.181 [Amended]

Carlsbad, NM [Revised]

That airspace extending upwards form 700 feet above the surface within a 9.5-mile radius of the Cavern City Air Terminal (latitude 32°20'15" N., longitude 104°15'46" W.) and within 2.5 miles each side of the southwest localizer course extending from the 9.5-mile radius area to 12.5 miles southwest of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.61(c))

Note.— The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on January 11, 1984.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 84–1751 Filed 1–20–84; 8:45 am]

BILLING CODE 4910–13–M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1632

Public Hearing To Provide Opportunity for Oral Presentations Concerning Proposed Amendment of Mattress Flammability Standard

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of public hearing.

SUMMARY: The Consumer Product Safety Commission will conduct a public hearing to provide opportunity for oral presentations of data, views, and arguments concerning proposed amendments of the Standard for the Flammability of Mattresses (and Mattress Pads).

DATES: The hearing will begin at 10:00 a.m. on February 14, 1984. Requests for interested parties who desire to make presentations should be received by the Office of the Secretary not later than February 7, 1984.

ADDRESS: The hearing will be in the third floor conference room, 1111 18th Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: For further information about the hearing or to request opportunity to make a presentation at the hearing, contact Sheldon Butts, Deputy Secretary, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492–6800.

SUPPLEMENTARY INFORMATION: In the Federal Register of December 30, 1983 (48 FR 47502), the Consumer Product Safety Commission published a proposal to amend the Standard for the Flammability of Mattresses (and Mattress Pads) (16 CFR Part 1632). The proposed amendments included provisions to eliminate requirements for production testing of mattresses and mattress pads; to allow substitution of ticking materials without the necessity for additional prototype testing under specified conditions; and to make other changes to improve the clarity and precision of the standard. The proposed amendments are described in detail in the notice of December 30, 1983.

The Commission is conducting this proceeding for amendment of the mattress flammability standard under provisions of section 4 of the Flammable Fabrics Act (FFA, 15 U.S.C. 1193). Section 4(d) of the FFA states that a proceeding for amendment of a flammability standard shall be conducted in accordance with the rulemaking provisions of the Administrative Procedure Act (5 U.S.C. 553), except that interested persons shall also be given opportunity for oral presentations of data, views, and arguments concerning the proposed amendment.

Interested parties who desire to make presentations at this hearing shall call or write Sheldon Butts, Deputy Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, telephone (301) 492–6800, not later than February 7, 1984. Parties desiring to make presentations must submit either the written text or a summary of their presentations to the Office of the Secretary not later than February 7, 1984.

Presentations should be limited to approximately 15 minutes. The Commission reserves the right to impose further time limitations and further restrictions to avoid duplication of presentations.

(15 U.S.C. 1193, 5 U.S.C. 553)

Dated: January 18, 1984.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 84-1783 Filed 1-20-84; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 20, 25, and 301

[EE-148-81]

Individual Retirement Plans, Simplified Employee Pensions, and Qualified Voluntary Employee Contributions

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to individual retirement plans, simplified employee pensions, and qualified voluntary employee contributions. Changes to the applicable law were made by the Economic Recovery Tax Act of 1981. The regulations would provide the public with the guidance needed to comply with the Act. The regulations would affect: institutions which sponsor individual retirement plans and simplified employee pensions, employers and individuals who use individual retirement plans and simplified employee pensions for retirement income, employers who maintain plans which accept qualified voluntary employee contributions and employees who make qualified voluntary employee contributions

DATES: Written comments and requests for a public hearing must be delivered or mailed by March 23, 1984. The regulations would be generally effective for taxable years beginning after December 31, 1981.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (EE-148-81), Washington, D. C. 20224.

FOR FURTHER INFORMATION CONTACT: William D. Gibbs of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224. (Attention: CC:LR:T) (202-566-3430)(not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1), the Estate Tax Regulations (26 CFR Part 20), the Gift Tax Regulations (26 CFR Part 25), and the Procedure and Adminstration Regulations (26 CFR Part 301) under sections 219, 408, 409, 415, 2039, 2517, and 6652 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to sections 311 (except subsection (b)) and 314(b) of the Economic Recovery Tax Act of 1981 (95 Stat. 274, 286). These regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Individual Retirement Plans

Section 219, as amended by the Economic Recovery Tax Act of 1981, allows an individual a deduction of up to the lessser of $2,000 or compensation includible in gross income for contributions to an individual retirement plan. Unlike old section 219, an individual is allowed this deduction whether or not he is an "active participant" in an employer's plan. The deduction for individual retirement plan contributions is reduced, however, by amounts which the employee contributes to an employer's plan and treats as qualified voluntary employee contributions. The remainder of the individual retirement plan rules are similar to those under prior law.

Spousal Individual Retirement Accounts

Code section 220 was deleted by the Economic Recovery Tax Act of 1981. In its place is new section 219 (c), which allows an individual and his nonworking spouse to contribute up to the lesser of compensation includible in the working spouse's gross income or $2,250 to individual retirement accounts. The spouses must file a joint return to obtain this additional $250 deduction. No deduction is allowed if the spouse for whose benefit the individual retirement plan is maintained has attained age 70½ before the close of the taxable year.

There is no requirement, as under old law, that equal amounts be contributed to the individual retirement accounts of both spouses. However, no more than $2,000 may be contributed to the individual retirement account of either spouse.

Simplified Employee Pensions

The Economic Recovery Tax Act of 1981 increased the maximum deduction for contributions to simplified employee pensions to the lesser of 15% of compensation from the employer maintaining the simplified employee pension arrangement or the amount contributed by the employer to the simplified employee pension and included in gross income (but not in excess of $15,000). An employee may also contribute and deduct the lesser of $2,000 or compensation includible in gross income regardless of the employer's contribution to the simplified employee pension.

Qualified Voluntary Employee Contributions

Section 219, as amended by the Economic Recovery Tax Act of 1981, allows an individual a deduction for qualified voluntary employee contributions (QVEC's). QVEC's are voluntary contributions made by an individual as an employee under an employer's plan. The employer's plan must allow employees to make contributions which may be treated as QVEC's.

The maximum amount which can be deducted as a QVEC is the lesser of $2,000 or the compensation includible in gross income from the employer which maintains the plan which accepts the QVEC's.

Proposed § 1.219(a)-5(a) sets forth the type of plans which can accept qualified voluntary employee contributions.

Proposed § 1.219(a)-5(c) sets forth the rules a plan must follow to receive qualified voluntary employee contributions.

Additional rules for QVEC's are set forth in proposed § 1.219(a)-5 (d), (e), and (f).

The reporting rules for qualified voluntary employee contributions are in proposed § 1.219(a)-5(g). This provision gives the Commissioner discretionary authority to modify the reporting requirements for these contributions. Any such modification of the reporting requirements would be subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1980.

Other Amendments

Conforming and technical amendments made by the Economic Recovery Tax Act of 1981 have been made to the regulations under Code sections 408, 409, 415, 2039, 2517, and 6652.

Although the Treasury Department stopped selling retirement bonds in early 1982, the regulations contain references to Code sections 405 and 409. These references apply to retirement bonds sold through early 1982 and to retirement bonds that may be sold subsequently.

These proposed regulations do not reflect amendments made to the Code by the Tax Equity and Fiscal

Responsibility Act of 1982. These proposed regulations reflect changes in the applicable statutory provisions made by the Technical Corrections Act of 1982.

Executive Order 12291 and Regulatory Flexibility Act

The Commissioner has determined that this proposed regulation is not a major regulation for purposes of Executive Order 12291. Accordingly, a regulatory impact analysis is not required.

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act of 1980. Comments on these requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Office for Internal Revenue Service, New Executive Office Building, Washington, D.C. 20503. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB also send copies of those comments to the Service.

Drafting Information

The principal author of these proposed regulations is William D. Gibbs of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects

26 CFR 1.61–1—1.281–4

Income taxes, Taxable income, Deductions, Exemptions.

26 CFR 1.401–0—1.425–1

Income taxes, Employee benefit plan, Pensions, Stock options, Individual retirement accounts, Employee stock ownership plans.

26 CFR Part 20

Estate taxes.

26 CFR Part 25

Gift taxes.

26 CFR Part 301

Administrative practice and procedure, Bankruptcy, Courts, Crime, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Investigations, Law enforcement, Penalties, Pensions, Statistics, Taxes, Disclosure of information, Filing requirements.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Parts 1, 20, 25, and 301 are as follows:

Income Tax Regulations

PART 1—[AMENDED]

Paragraph 1. There are added after proposed § 1.219–3, 46 FR 36202 (1981), the following new sections 1.219(a)–1 through 1.219(a)–6:

§ 1.219(a)–1 Deduction for contributions to individual retirement plans and employer plans under the Economic Recovery Tax Act of 1981.

(a) *In general.* Under section 219, as amended by the Economic Recovery Tax Act of 1981, an individual is allowed a deduction from gross income for amounts paid on his behalf to an individual retirement plan or to certain employer retirement plans. The following table indicates the location of the rules for deductions on behalf of individuals to individual retirement plans or employer plans.

§ 1.219(a)–2. Individual retirement plans.
§ 1.219(a)–3. Spousal individual retirement accounts.
§ 1.219(a)–4. Simplified employee pensions.
§ 1.219(a)–5. Employer plans.
§ 1.219(a)–6. Divorced individuals.

(b) *Definitions.* The following is a list of terms and their definitions to be used for purposes of this section and §§ 1.219(a)–2 through 1.219(a)–6:

(1) *Individual retirement plan.* The term "individual retirement plan" means an individual retirement account described in section 408(a), an individual retirement annuity described in section 408(b), and a retirement bond described in section 409.

(2) *Simplified employee pension.* The term "simplified employee pension" has the meaning set forth in § 1.408–7(a).

(3) *Compensation.* The term "compensation" means wages, salaries, professional fees, or other amounts derived from or received for personal service actually rendered (including, but not limited to, commissions paid salemen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, and bonuses), but does not include amounts derived from or received as earnings or profits from property (including, but not limited to, interest and dividends) or amounts not includible in gross income such as amounts excluded under section 911. Compensation includes earned income, as defined in section 401(c)(2), reduced by amounts deductible under sections 405. Compensation does not include amounts received as deferred compensation, including any pension or annuity payment. Compensation does not include unemployment compensation within the meaning of section 85(c).

(4) *Qualified voluntary employee contribution.* The term "qualified voluntary employee contribution" means any employee contribution which is not a mandatory contribution within the meaning of section 411(c)(2)(C) made by an individual as an employee under a qualified employer plan or government plan, which plan allows an employee to make such contributions, and which the individual has not designated as a contribution other than a qualified voluntary employee contribution. Thus, if employee contributions are required as a condition of plan participation, they are mandatory contributions within the meaning of section 411(c)(2)(C) and cannot be treated as qualified voluntary employee contributions.

(5) *Qualified retirement contribution.* The term "qualified retirement contribution" means any amount paid in cash for the taxable year by or on behalf of an individual for his benefit to an individual retirement plan and any qualified voluntary employee contribution paid in cash by the individual for the taxable year.

(6) *Deductible employee contribution.* The term "deductible employee contribution" means any qualified

voluntary employee contribution made after December 31, 1981, in a taxable year beginning after such date and allowable as a deduction under section 219(a) for such taxable year.

(7) *Qualified employer plan.* The term "qualified employer plan" means—

(i) A plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

(ii) An annuity plan described in section 403(a),

(iii) A qualified bond purchase plan described in section 405(a), and

(iv) A plan under which amounts are contributed by an individual's employer for an annuity contract described in section 403(b).

(8) *Government plan.* The term "government plan" means any retirement plan, whether or not qualified, established and maintained for its employees by the United States, by a State or political subdivision thereof, or by an agency or instrumentality of any of the foregoing.

(c) *Effective date.* This section and §§ 1.219(a)–2 through 1.219(a)–6 are effective for taxable years of individuals beginning after December 31, 1981.

§ 1.219(a)–2 Deduction for contributions to individuals retirement plans under the Economic Recovery Tax Act of 1981.

(a) *In general.* Subject to the limitations and restrictions of paragraph (b) and the special rules of paragraph (c)(3) of this section, there shall be allowed a deduction under section 62 from gross income of amounts paid for the taxable year of an individual by or on behalf of such individual to an individual retirement plan. The deduction described in the preceding sentence shall be allowed only to the individual on whose behalf such individual retirement plan is maintained and only in the case of a contribution of cash. No deduction is allowable under this section for a contribution of property other than cash. In the case of a retirement bond, no deduction is allowed if the bond is redeemed within 12 months of its issue date.

(b) *Limitations and restrictions*—(1) *Maximum deduction.* The amount allowable as a deduction for contributions to an individual retirement plan to an individual for any taxable year cannot exceed the lesser of—

(i) $2,000, or

(ii) An amount equal to the compensation includible in the individual's gross income for the taxable year,

reduced by the amount of the individual's qualified voluntary employee contributions for the taxable year.

(2) *Contributions after age 70½.* No deduction is allowable for contributions to an individual retirement plan to an individual for the taxable year of the individual if he has attained the age of 70½ before the close of such taxable year.

(3) *Rollover contributions.* No deduction is allowable under § 1.219(a)–2(a) for any taxable year of an individual with respect to a rollover contribution described in section 402(a)(5), 402(a)(7), 403(a)(4), 403(b)(8), 405(d)(3), 408(d)(3), or 409(b)(3)(C).

(4) *Amounts contributed under endowment contracts.* (i) For any taxable year, no deduction is allowable under § 1.219(a)–2(a) for amounts paid under an endowment contract described in § 1.408–3(e) which is allocable under subdivision (ii) of this subparagraph to the cost of life insurance.

(ii) For any taxable year, the cost of current life insurance protection under an endowment contract described in paragraph (b)(4)(i) of this section is the product of the net premium cost, as determined by the Commissioner, and the excess, if any, of the death benefit payable under the contract during the policy year beginning in the taxable year over the cash value of the contract at the end of such policy year.

(c) *Special rules*—(1) *Separate deduction for each individual.* The maximum deduction allowable for contributions to an individual retirement plan is computed separately for each individual. Thus, if a husband and wife each has compensation of $15,000 for the taxable year, the maximum amount allowable as a deduction on their joint return is $4,000. See § 1.219(a)–3 for the maximum deduction for a spousal individual retirement plan when one spouse has no compensation.

(2) *Community property.* Section 219 is to be applied without regard to any community property laws. Thus, if, for example, a husband and wife, live in a community property jurisdiction, the husband has compensation of $30,000 for the taxable year, and the wife has no compensation for the taxable year, then the maximum amount allowable as a deduction for contributions to an individual retirement plan, other than a spousal individual retirement plan, is $2,000.

(3) *Employer contributions.* For purposes of this chapter, any amount paid by an employer to an individual retirement plan of an employee (other than a self-employed individual who is an employee within the meaning of section 401(c)(1)) constitutes the payment of compensation to the employee. The payment is includible in the employee's gross income, whether or not a deduction for such payment is allowable under section 219 to this employee. An employer will be entitled to a deduction for compensation paid to an employee for amounts the employer contributes on the employee's behalf to an individual retirement plan if such deduction is otherwise allowable under section 162. See § 1.404(h)–1 for certain limitations on this deduction in the case of employer contributions to a simplified employee pension.

(4) *Year of inclusion in income.* Any amount paid by an employer to an individual retirement plan (including an individual retirement account or individual retirement annuity maintained as part of a simplified employee pension arrangement) shall be included in the gross income of the employee for the taxable year for which the contribution was made.

(5) *Time when contributions deemed made.* A taxpayer shall be deemed to have made a contribution on the last day of the preceding taxable year if the contribution is made on account of the taxable year which includes such last day and is made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof). A contribution made not later than the time prescribed by law for filing the return for a taxable year (including extensions thereof) shall be treated as made on account of such taxable year if it is irrevocably specified in writing to the trustee, insurance company, or custodian that the amounts contributed are for such taxable year.

(d) *Excess contributions treated as contribution made during subsequent year for which there is an unused limitation*—(1) *In general.* This paragraph sets forth rules for the possible deduction of excess contributions made to an individual retirement plan for the taxable years following the taxable year of the excess contributions. If for a taxable year subsequent to the taxable year for which the excess contribution was made, the maximum amount allowable as a deduction for contributions to an individual retirement plan exceeds the amount contributed, then the taxpayer, whether or not a deduction is actually claimed, shall be treated as having made an additional contribution for the taxable year in an amount equal to the lesser of—

(i) The amount of such excess, or

(ii) The amount of the excess contributions for such taxable year (determined under section 4973(b)(2) without regard to subparagraph (C) thereof).

(2) *Amount contributed.* For purposes of this paragraph, the amount contributed—

(i) Shall be determined without regard to this paragraph, and

(ii) Shall not include any rollover contribution.

(3) *Special rule where excess deduction was allowed for closed year.* Proper reduction shall be made in the amount allowable as a deduction by reason of this paragraph for any amount allowed as a deduction for contributions to an individual retirement plan for a prior taxable year for which the period for assessing a deficiency has expired if the amount so allowed exceeds the amount which should have been allowed for such prior taxable year.

(4) *Excise tax consequences.* See section 4973 and the regulations thereunder for the excise tax applicable to excess contributions made to individual retirement plans.

(5) *Examples.* The provisions of this paragraph may be illustrated by the following examples. (Assume in each example, unless otherwise stated, that T is less than age 70½ and is not married.)

Example (1). (i) T, a calendar-year taxpayer, earns $1,500 in compensation includible in gross income for 1982. On December 1, 1982, T establishes an individual retirement account (IRA) and contributes $2,000 to the account T does not withdraw any money from the IRA after the initial contribution. Under section 219(b)(1), the maximum amount that T can deduct for 1982 is $1,500. T has an excess contribution for 1982 of $500.

(ii) For 1983, T has compensation includible in gross income of $12,000. T makes a $1,000 contribution to his IRA for 1983.

(iii) Although T made only a $1,000 contribution to his IRA for 1983, under the rules contained in this paragraph, T is treated as having made an additional contribution of $500 for 1983 and will be allowed to deduct $1,500 as his 1983 IRA contribution.

Example (2). (i) For 1982, the facts are the same as in *Example (1).*

(ii) For 1983, T has compensation includible in gross income of $12,000. T makes a $2,000 contribution to his IRA for 1983.

(iii) T will be allowed a $2,000 deduction for 1983 (the amount of his contribution). T will not be allowed a deduction for the $500 excess contribution made in 1982 because the maximum amount allowable for 1983 does not exceed the amount contributed.

Example (3). (i) For 1982, the facts are the same as in *Example (1).*

(ii) For 1983, T has compensation includible in gross income of $12,000. T makes a $1,800 contribution to his IRA for 1983.

(iii) For 1983, T will be allowed to deduct his contribution of $1,800 and $200 of the excess contribution made for 1982. He will not be allowed to deduct the remaining $300 of the excess contribution made for 1982 because his deduction for 1983 would then exceed $2,000, his allowable deduction for 1983.

(iv) For 1984, T has compensation includible in gross income of $15,000. T makes a $1,300 contribution to his IRA for 1984.

(v) T will be allowed to deduct both his $1,300 contribution for 1984 and the remaining $300 contribution made for 1982.

Example (4). (i) For 1982, the facts are the same as in *Example (1).*

(ii) For 1983, T has compensation includible in gross income of $12,000. T makes a $1,000 contribution to his IRA for 1983. T is allowed to deduct the $500 excess contribution for 1983 but fails to do so on his return. Consequently, T deducts only $1,000 for 1983.

(iii) Under no circumstances will T be allowed to deduct the $500 excess contribution made for 1982 for any taxable year after 1983 because T is treated as having made the contribution for 1983.

Example (5). (i) For 1982, the facts are the same as in *Example (1).*

(ii) For 1983, T has no compensation includible in gross income.

(iii) T will not be allowed to deduct for 1983 the $500 excess contribution for 1982 because the maximum amount allowable as a deduction under section 219(b)(1) is $0.

§ 1.219(a)–3 Deduction for retirement savings for certain married individuals.

(a) *In general.* Subject to the limitations and restrictions of paragraphs (c) and (d) and the special rules of paragraph (e) of this section, there shall be allowed a deduction under section 62 from gross income of amounts paid for the taxable year of an individual by or on behalf of such individual for the benefit of his spouse of an individual retirement plan. The amounts contributed to an individual retirement plan by or on behalf of an individual for the benefit of his spouse shall be deductible only by such individual and only in the case of a contribution of cash. No deduction is allowable under this section for a contribution of property other than cash. In the case of an individual retirement bond, no deduction is allowed if the bond is redeemed within 12 months of its issue date.

(b) *Definition of compensation.* For purposes of this section, the term "compensation" has the meaning set forth in § 1.219(a)–1(b)(3).

(c) *Maximum deduction.* The amount allowable as a deduction under this section to an individual for any taxable year may not exceed the smallest of—

(1) $2,000,

(2) An amount equal to the compensation includible in the individual's gross income for the taxable year less the amount allowed as a deduction under section 219(a) (determined without regard to contributions to a simplified employee pension allowed under section 219(b)(2)), § 1.219(a)–2 and § 1.219(a)–5 for the taxable year, or

(3) $2,250 less the amount allowed as a deduction under section 219(a) (determined without regard to contributions to a simplified employee pension allowed under section 219(b)(2)), § 1.219(a)–2 and § 1.219(a)–5 for the taxable year.

(d) *Limitations and restrictions*—(1) *Requirement to file joint return.* No deduction is allowable under this section for a taxable year unless the individual and his spouse file a joint return under section 6013 for the taxable year.

(2) *Employed spouses.* No deduction is allowable under this section if the spouse of the individual has any compensation for the taxable year of such spouse ending with or within the taxable year of the individual. For purposes of this subparagraph, compensation has the meaning set forth in § 1.219(a)–1(b)(3), except that compensation shall include amounts excluded under section 911.

(3) *Contributions after age 70½.* No deduction is allowable under this section with respect to any payment which is made for a taxable year of an individual if the individual for whose benefit the individual retirement plan is maintained has attained age 70½ before the close of such taxable year.

(4) *Recontributed amounts.* No deduction is allowable under this section for any taxable year of an individual with respect to a rollover contribution described in section 402(a)(5), 402(a)(7), 403(a)(4), 403(b)(8), 405(d)(3), 408(d)(3), or 409(b)(3)(C).

(5) *Amounts contributed under endowment contracts.* The rules for endowment contracts under this section are the same as the provisions for such contracts under § 1.219(a)–2(b)(4).

(e) *Special rules*—(1) *Community property.* This section is to be applied without regard to any community property laws.

(2) *Time when contributions deemed made.* The time when contributions are deemed made is determined under section 219(f)(3). See § 1.219(a)–2 (c)(5).

§ 1.219(a)–4 Deduction for contributions to simplified employee pensions.

(a) *General rule*—(1) *In general.* Under section 219(b)(2), if an employer contribution is made on behalf of an employee to a simplified employee pension described in section 408(k), the limitations of this section, and not section 219(b)(1) and § 1.219(a)–2, shall apply for purposes of computing the maximum allowable deduction with respect to that contribution for that individual employee.

(2) *Employer limitation.* The maximum deduction under section 219(b)(2) for an employee with respect to an employer contribution to the employee's simplified employee pension under that employer's arrangement cannot exceed an amount equal to the lesser of—

(i) 15 percent of the employee's compensation from that employer (determined without regard to the employer contribution to the simplified employee pension) includible in the employee's gross income for the taxable year, or

(ii) The amount contributed by that employer to the employee's simplified employee pension and included in gross income (but not in excess of $15,000).

(3) *Special rules*—(i) *Compensation.* Compensation referred to in paragraph (a)(2)(i) has the same meaning as under § 1.219(a)–1(b)(3) except that it includes only the compensation from the employer making the contribution to the simplified employee pension. Thus, if an individual earns $50,000 from employer A and $20,000 from employer B and employer B contributes $4,000 to a simplified employee pension on behalf of the individual, the maximum amount the individual will be able to deduct under section 219(b)(2) is 15 percent of $20,000, or $3,000.

(ii) *Special rule for officers, shareholders, and owner-employees.* In the case of an employee who is an officer, shareholder, or owner-employee described in section 408(k)(3) with respect to a particular employer, the $15,000 amount referred to in paragraph (a)(2)(ii) shall be reduced by the amount of tax taken into account with respect to such individual under section 408(k)(3)(D).

(iii) *More than one employer arrangement.* Except as provided in paragraph (c), below, the maximum deduction under paragraph (a)(2) for an individual who receives simplified employee pension contributions under two or more employers' simplified employee pension arrangements cannot exceed the sum of the maximum deduction limitations computed separately for that individual under each such employer's arrangement.

(iv) *Section 408 rules.* Under section 408(j), the limitations under section 408 (a)(1) and (b)(2)(B) (§ 1.408–2(b)(1) and § 1.408–3(b)(2)), shall be applied separately with respect to each employer's contributions to an individual's simplified employee pension.

(4) *Additional deduction for individual retirement plan and qualified voluntary employee contribution.* The deduction under this paragraph is in addition to any deduction allowed under section 219(a) to the individual for qualified retirement contributions.

(b) *Contributions to simplified employee pensions after age 70½.* The denial of deductions for contributions after age 70½ contained in section 219(d)(1) and § 1.219(a)–2(b)(2) shall not apply with respect to employer contributions to a simplified employee pension.

(c) *Multiple employer, etc. limitations*—(1) *Section 414 (b), (c) and (m) employers.* In the case of a controlled group of employers within the meaning of section 414 (b) or (c) or employers aggregated under section 414(m), the maximum deduction limitation for an employee under paragraph (a)(2) shall be computed by treating such employers as one employer maintaining a single simplified employee pension arrangement and by treating the compensation of that employee from such employers as if from one employer. Thus, for example, for a particular employee the 15 percent limitation on compensation would be determined with regard to the compensation from all employers within such group. Further, the maximum deduction with respect to contributions made by employers included within such group could not exceed $15,000.

(2) *Self-employed individuals.* In the case of an employee who is a self-employed individual within the meaning of section 401(c)(1) with respect to more than one trade or business, the maximum deduction limitation for such an employee under paragraph (a)(2) shall not exceed the lesser of the sum of such limitation applied separately with respect to the simplified employee pension arrangement of each trade or business or such limitation determined by treating such trades or businesses as if they constituted a single employer.

(d) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). Corporation X is a calendar-year, cash basis taxpayer. It adopts a simplified employee pension agreement in 1982 and wishes to contribute the maximum amount on behalf of each employee for 1982. Individual E is a calendar-year taxpayer who is employed solely by Corporation X in 1982. Beginning in June, 1982, Corporation X pays $100 each month into a simplified employee pension maintained on behalf of E. X makes a total payment to E's simplified employee pension during the year of $700. E's other compensation from X for the year totals $15,000. The maximum amount which E will be allowed to deduct as a simplified employee pension contribution is 15% of $15,000, or $2,250. Therefore, X may make an additional contribution for 1982 to E's simplified employee pension of $1,550. X makes this additional contribution to E's simplified employee pension in February of 1983. E's total compensation includible in gross income for 1982 is $15,000+$2,250 or $17,250.

Example (2). (i) Corporation G is a calendar-year taxpayer which adopts a simplified employee pension agreement for 1982. It does not maintain an integrated plan as defined in section 408(k)(3)(E). It wishes to contribute 15% of compensation on behalf of each employee reduced by its tax under section 3111(a). The corporation has 4 employees, A, B, C, and D. D is a shareholder. The compensation for these employees for 1982 is as follows:

A=$10,000
B=$20,000
C=$30,000
D=$120,000

(ii) The amount of money which the corporation will be allowed to contribute on behalf of each employee under this allocation formula and the amount of the employer contribution each employee will be allowed to deduct is set forth in the following table:

Employee	Compensation	Lesser of $15,000 or 15 pct of compensation	3111(a) [1] tax	SEP [2] Contribution	Sec. 219(b)(2) deduction
A	$10,000	$1,500	$540.00	$960.00	$960.00
B	20,000	3,000	1,080.00	1,920.00	1,920.00
C	30,000	4,500	1,620.00	2,880.00	2,880.00
D	120,000	15,000	1,749.60	13,250.40	13,250.40

[1] The section 3111(a) tax is computed by multiplying compensation up to the taxable wage base (32,400 for 1982) by the tax rate (5.40 pct for 1982).
[2] Simplified Employee Pension.

Example (3). Corporations A and B are calender year taxpayers. Corporations A and B are not aggregated employers under section 414 (b), (c) or (m). Individual M is employed full-time by Corporation A and part-time by Corporation B. Corporation A adopts a simplified employee pension agreement for calendar year 1982 and agrees to contribute 15% of compensation for each participant. M is a participant under Corporation A's simplified employee pension agreement and earns $15,000 for 1982 from Corporation A before A's contribution to his simplified employee pension. M also earns $5,000 as a part-time employee of Corporation B for 1982 Corporation A contributes $2,500 to M's simplified employee pension. The maximum amount that M will be allowed to deduct under section 219(b)(2) for 1982 is 15% of $15,000 or $2,250. In addition, M would be allowed to deduct the remaining $250 under section 219(a) for qualified retirement contributions.

Example (4). Individual P is employed by Corporation H and Corporation O. Corporations H and O are not aggregated employers under section 414 (b), (c) or (m). Both Corporation H and Corporation O maintain a simplified employee pension arrangement and contribute 15 percent of compensation on behalf of each employee, up to a maximum of $15,000. P earns $100,000 from Corporation H and $120,000 from Corporation O. Corporation H and O each

contribute $15,000 under its simplified employee pension arrangement to an individual retirement account maintained on behalf of P. P will be allowed to deduct $30,000 for employer contributions to simplified employee pensions because each employer has a simplified employee pension arrangement and the SEP contributions by Corporation H and O do not exceed the applicable $15,000—15 percent limitation with respect to compensation received from each employer. In addition, P would be allowed to deduct $2,000 under section 219(a) for qualified retirement contributions.

§ 1.219(a)–5 Deduction for employee contributions to employer plans.

(a) *Deduction allowed.* In the case of an individual, there is allowed as a deduction amounts contributed in cash to a qualified employer plan or government plan (as defined, respectively, in paragraphs (b)(7) and (b)(8) of § 1.219(a)—1) and designated as qualified voluntary employee contributions. If an employee transfers an amount of cash from one account in a plan to the qualified voluntary employee contribution account, such transfer is a distribution for purposes of sections 72, 402 and 403, and the amounts are considered recontributed as qualified voluntary employee contributions. No deduction will be allowed for a contribution of property other than cash.

(b) *Limitations*—(1) *Maximum amount of deduction.* The amount allowable as a deduction under paragraph (a) to any individual for any taxable year shall not exceed the lesser of $2,000 or an amount equal to the compensation (from the employer who maintains the plan) includible in the individual's gross income for such taxable year.

(2) *Contributions after age 70½.* No deduction is allowable for contributions under paragraph (a) to an individual for the taxable year of the individual if he has attained the age of 70½ before the close of such taxable year.

(3) *Rollover contributions.* No deduction is allowable under paragraph (a) for any taxable year of an individual with respect to a rollover contribution described in section 402(a)(5), 402(a)(7), 403(a)(4), 403(b)(8), 405(d)(3), 408(d)(3), or 409(b)(3)(C).

(c) *Rules for plans accepting qualified voluntary employee contributions*—(1) *Plan provision, etc.* (i) No plan may receive qualified voluntary employee contributions unless the plan document provides for acceptance of voluntary contributions. No plan may receive qualified voluntary employee contributions unless either the plan document provides for acceptance of qualified voluntary employee contributions or the employer or the plan administrator manifests an intent to accept such contributions. Such intention must be communicated to the employees. Any manner of communication that satisfies § 1.7476–2(c)(1) shall satisfy the requirements of this subparagraph.

(ii) If the plan document provides for the acceptance of voluntary contributions, but does not specifically provide for acceptance of qualified voluntary employee contributions, the plan qualification limitation on voluntary contributions (the limit of 10 percent of the employee's cumulative compensation less prior voluntary contributions) would apply to both qualified voluntary employee contributions and other voluntary contributions. On the other hand, if the plan document provides for acceptance of both qualified voluntary employee contributions and other voluntary contributions, the plan qualification limitation on voluntary contributions would apply only to the contributions other than the qualified voluntary employee contributions.

(2) *Plans accepting only qualified voluntary employee contributions.* A qualified pension plan or stock bonus plan may be established that provides only for qualifed voluntary employee contributions. Similarly, a government plan may be established that provides only for qualified voluntary employee contributions. A plan that provides only for qualified voluntary employee contributions would not satisfy the qualification requirements for a profit-sharing plan.

(3) *Recordkeeping provisions.* Separate accounting for qualified voluntary employee contributions that are deductible under this section is not required as a condition for receiving qualified voluntary employee contributions. However, failure to properly account for such contributions may result in adverse tax consequences to employees upon subsequent plan distributions and reporting and recordkeeping penalties for employers. See section 72(o) for rules for accounting for such contributions.

(4) *Status as employee.* An amount will not be considered as a qualified voluntary employee contribution on behalf of an individual unless the individual is an employee of the employer at some time during the calendar year for which the voluntary contribution is made. See section 415(c) concerning the effect of a nondeductible voluntary employee contribution on plan qualification.

(5) *Contribution before receipt of compensation.* A plan may allow an individual to make a qualified voluntary employee contribution greater than the amount he has received in compensation from the employer at the time the contribution is made. However, see paragraph (f) of this section.

(d) *Designations, procedures, etc.*—(1) *Plan procedures.* (i) A plan which accepts qualified voluntary employee contributions may adopt procedures by which an employee can designate the character of the employee's voluntary contributions as either qualified voluntary employee contributions or other employee contributions. Such procedures may, but need not, be in the plan document.

(ii) In the absence of such plan procedures, all voluntary employee contributions shall be deemed to be qualified voluntary employee contributions unless the employee notifies the employer that the contributions are not qualified voluntary employee contributions. Such notification must be received by April 15 following the calendar year for which such contributions were made. If such notification is not received, contributions are deemed to be qualified voluntary employee contributions for the prior year.

(2) *Characterization procedures, etc.* (i) The plan procedures may allow an employee to elect whether or not an employee contribution is to be treated as a qualified voluntary employee contribution or as other voluntary contributions. This election can be required either prior to or after the contribution is made. If a contribution may be treated under such procedures as a qualified voluntary employee contribution or other voluntary contribution for a calendar year and the employee has not by April 15 of the subsequent calendar year designated the character of the contribution, the contribution must be treated as a qualified voluntary employee contribution for the calendar year. An employer may allow the election to be irrevocable or revocable. A procedure allowing revocable elections may limit the time within which an election may be revoked. The revocation of an election after April 15 following the calendar year for which the contribution was made is deemed to be ineffective in changing the character of employee contributions.

(ii) For purposes of this section, if the plan procedures allow employees to make contributions on account of the immediately preceding calendar year, a taxpayer shall be deemed to have made a qualified voluntary employee contribution to such plan on the last day of the preceding calendar year if the contribution is on account of such year

and is made by April 15 of the calendar year of such earlier time as provided by the plan procedure.

(e) *Nondiscrimination requirements*—(1) *General rule.* Plans subject to the nondiscrimination requirements of section 401(a)(4) which accept qualified voluntary employee contributions must permit such contributions in a nondiscriminatory manner in order to satisfy section 401(a)(4). If a plan permits participants to make qualified voluntary employee contributions, the opportunity to make such contributions must be reasonably available to a nondiscriminatory group of employees. The availability standard will be satisfied if a nondiscriminatory group of employees is eligible to make qualified voluntary employee contributions under the terms of the plan and if a nondiscriminatory group of employees actually has the opportunity to make qualified voluntary employee contributions when plan restrictions are taken into account.

(2) *Eligible employees.* A nondiscriminatory group of employees is eligible to make qualified voluntary employee contribution under the terms of the plan if the group either meets the percentage requirements of section 410(b)(1)(A) or comprises a classification of employees that does not discriminate in favor of employees who are officers, shareholders, or highly compensated, as provided in section 410(b)(1)(B).

(3) *Plan restrictions.* In some cases, an employee may not be permitted to make qualified voluntary employee contributions until a plan restriction (such as making a certain level of mandatory employee contributions) is satisfied. In this case, it is necessary to determine whether a nondiscriminatory group of employees actually has the opportunity to make qualified voluntary employee contributions. For this purpose, only employees who have satisfied the plan restriction will be considered to have the opportunity to make deductible contributions. Thus, for example, if a plan requires an employee to make mandatory contributions of 6 percent of compensation in order to make qualified voluntary employee contributions and if only a small percentage of employees make the 6 percent mandatory contributions, then the group of employees who have the opportunity to make qualified voluntary employee contributions may not satisfy either test under section 410(b). A similar rule is applicable to integrated plans: Employees who are not permitted to make qualified voluntary employee contributions to such a plan because they earn less than the integration level amount will be considered as employees who do not have the opportunity to make qualified voluntary employee contributions.

(4) *Permissible contributions.* If the availability standards are met, and if the qualified voluntary employee contributions permitted are not higher, as a percentage of compensation, for officers, shareholders or highly compensated employees than for other participants, the qualified voluntary employee contribution feature will meet the requirement that contributions or benefits not discriminate in favor of employees who are officers, shareholders, or highly compensated. This is so because the contributions are made by the employee, not the employer.

(5) *Acceptable contributions.* A plan may accept qualified voluntary employee contributions in an amount less than the maximum deduction allowable to an individual.

(f) *Excess qualified voluntary employee contributions.* Voluntary employee contributions which exceed the amount allowable as a deduction under paragraph (b) of this section will be treated as nondeductible voluntary employee contributions to the plan. See § 1.415–6(b)(8).

(g) *Reports*—(1) *Requirements.* Each employer who maintains a plan which accepts qualified voluntary employee contributions must furnish to each employee—

(i) A report showing the amount of qualified voluntary employee contributions the employee made for the calendar year, and

(ii) A report showing the amount of withdrawals made by the employee of qualified voluntary employee contributions during the calendar year.

(2) *Times.* (i) The report required by paragraph (g)(1)(i) of this section must be furnished by the later of January 31 following the year for which the contributions was made or the time the contribution is made.

(ii) The report required by paragraph (g)(1)(ii) of this section must be furnished by January 31 following the year of withdrawal.

(3) *Authority for additional reports.* The Commissioner may require additional reports to be given to individuals or to be filed with the Service. Such reports shall be furnished at the time and in the manner that the Commissioner specifies.

(4) *Authority to modify reporting requirements.* The Commissioner may, in his discretion, modify the reporting requirements of this paragraph. Such modification may include: the matters to be reported, the forms to be used for the reports, the time when the reports must be filed or furnished, who must receive the reports, the substitution of the plan administrator for the employer as the person required to file or furnish the reports, and the deletion of some or all of the reporting requirements. The Commissioner may, in his discretion, relieve employers from making the reports required by section 219(f)(4) and this paragraph (g). This discretion includes the ability to relieve categories of employers (but not individual employers) from furnishing or filing any report required by section 219(f)(4) and this paragraph (g).

(5) *Effective date.* This paragraph shall apply to reports for calendar years after 1982.

§ 1.219(a)–6 Alternative deduction for divorced individuals.

(a) *In general.* A divorced individual may use the provisions of this section rather than § 1.219(a)–2 in computing the maximum amount he may deduct as a contribution to an individual retirement plan. A divorced individual is not required to use the provisions of this section; he may use the provisions of § 1.219(a)–2 in computing the maximum amount he may deduct as a contribution to an individual retirement plan.

(b) *Individuals who may use this section.* An individual may compute the deduction for a contribution to an individual retirement plan under this section if—

(1) An individual retirement plan was established for the benefit of the individual at least five years before the beginning of the calendar year in which the decree of divorce or separate maintenance was issued, and

(2) For at least three of the former spouse's most recent five taxable years ending before the taxable year in which the decree was issued, such former spouse was allowed a deduction under section 219(c) (or the corresponding provisons of prior law) for contributions to such individual retirement plan.

(c) *Limitations*—(1) *Amount of deduction.* An individual who computes his deduction for contributions to an individual retirement plan under this section may deduct the smallest of—

(i) The amount contributed to the individual retirement plan for the taxable year,

(ii) $1,125, or

(iii) The sum of the amount of compensation includible in the individual's gross income for the taxable year and any qualifying alimony

received by the individual during the taxable year.

(2) *Contributions after age 70½.* No deduction is allowable for contributions to an individual retirement plan to an individual for the taxable year of the individual if he has attained the age of 70½ before the close of such taxable year.

(3) *Rollover contributions.* No deduction is allowable under this section for any taxable year of an individual with respect to a rollover contribution described in section 402(a)(5), 402(a)(7), 403(a)(4), 403(b)(8), 405(d)(3), 408(d)(3), or 409(b)(3)(C).

(d) *Qualifying alimony.* For purposes of this section, the term "qualifying alimony" means amounts includible in the individual's gross income under section 71(a)(1) (relating to a decree of divorce or separate maintenance).

Par. 2. Section 1.408–2 is amended by revising paragraph (b)(1) to read as follows:

§ 1.408–2 Individual retirement accounts.

* * * * *

(b) * * *

(1) *Amount of acceptable contributions.* Except in the case of a contribution to a simplified employee pension described in section 408(k) and a rollover contribution described in section 408(d)(3), 402(a)(5), 402(a)(7), 403(a)(4), 403(b)(8), 405(d)(3), or 409(b)(3)(C), the trust instrument must provide that contributions may not be accepted by the trustee for the taxable year in excess of $2,000 on behalf of any individual for whom the trust is maintained. An individual retirement account maintained as a simplified employee pension may provide for the receipt of up to the limits specified in section 408(j) for a calendar year.

* * * * *

Par. 3. Section 1.408–3 is amended by revising paragraph (b)(2) to read as follows:

§ 1.408–3 Individual retirement annuities.

* * * * *

(b) * * *

(2) *Annual premium.* Except in the case of a contribution to a simplified employee pension described in section 408(k), the annual premium on behalf of any individual for the annuity cannot exceed $2,000. Any refund of premiums must be applied before the close of the calendar year following the year of the refund toward the payment of future premiums or the purchase of additional benefits. An individual retirement annuity maintained as a simplified employee pension may provide for an annual premium of up to the limits specified in section 408(j).

* * * * *

Par. 4. There is added after proposed § 1.408–9, 46 FR 36209 (1981), the following new section 1.408–10:

§ 1.408–10 Investment in collectibles.

(a) *In general.* The acquisition by an individual retirement account or by an individually-directed account under a plan described in section 401(a) of any collectible shall be treated (for purposes of section 402 and 408) as a distribution from such account in an amount equal to the cost to such account of such collectible.

(b) *Collectible defined.* For purposes of this section, the term "collectible" means—

(1) And work or art,
(2) Any rug or antique,
(3) Any metal or gem,
(4) Any stamp or coin,
(5) Any alcoholic beverage,
(6) Any musical instrument,
(7) Any historical objects (documents, clothes, etc.), or
(8) Any other tangible personal property which the Commissioner determines is a "collectible" for purposes of this section.

(c) *Individually-directed account.* For purposes of this section, the term "individually-directed account" means an account under a plan that provides for individual accounts and that has the effect of permitting a plan participant to invest or control the manner in which the account will be invested.

(d) *Acquisition.* For purposes of this section, the term acquisition includes purchase, exchange, contribution, or any method by which an individual retirement account or individually-directed account may directly or indirectly acquire a collectible.

(e) *Cost.* For purposes of this section, cost means fair market value.

(f) *Premature withdrawal penalty.* The ten percent penalty described in sections 72(m)(5) and 408(f)(1) shall apply in the case of a deemed distribution from an individual retirement account described in paragraph (a) of this section.

(g) *Amounts subsequently distributed.* When a collectible is actually distributed from an individual retirement account or an individually-directed account, any amounts included in gross income because of this section shall not be included in gross income at the time when the collectible is actually distributed.

(h) *Effective date.* This section applies to property acquired after December 31, 1981, in taxable years ending after such date.

Par 5. Section 1.409–1 is amended by revising paragraph (b)(2)(i) to read as follows:

§ 1.409–1 Retirement bonds.

* * * * *

(b) * * *

(2) *Exceptions.* (i) If a retirement bond is redeemed within 12 months after the issue date, the proceeds are excluded from gross income if no deduction is allowed under section 219 on account of the purchase of such bond. For definition of issue date, see 31 CFR 346.1(c). The rule in this subdivision (i) shall not apply to the extent that the bond was purchased with a rollover contribution described in section 402)a)(5), 402(a)(7), 403(a)(4), 403(b)(8), 405(d)(3), 408(d)(3) or 409(b)(3)(C).

* * * * *

§ 1.415–1 [Amended]

Par. 6. Section 1.415–1 is amended by removing paragraph (c) and paragraph (f)(3).

§ 1.415–2 [Amended]

Par. 7. Section 1.415–2 is amended by removing paragraph (b)(8).

Par. 8. Section 1.415–6 is amended by:

(1) Revising paragraph (b)(3) to read as set forth below, (2) removing paragraph (b)(7)(iv), and (3) adding a new paragraph (b)(8) to read as set forth below.

§ 1.415–6 Limitation for defined contribution plans.

* * * * *

(b) *Annual additions.* * * *

(3) *Employee contributions.* For purposes of subparagraph (1)(ii) of this paragraph, the term "annual additions" includes, to the extent employee contributions would otherwise be taken into account under this section as an annual addition, mandatory employee contributions (as defined in section 411(c)(2)(C) and the regulations thereunder) as well as voluntary employee contributions. The term "annual additions" does not include—

(i) Rollover contributions (as defined in section 402(a)(5), 403(a)(4), 403(b)(8), 405(d)(3), 408(d)(3) and 409(b)(3)(C)),

(ii) Repayments of loans made to a participant from the plan,

(iii) Repayments of amounts described in section 411(a)(7)(B) (in accordance with section 411(a)(7)(C)) and section 411(a)(3)(D) (see § 1.411(a)(7)(d)(6)(iii)(B)),

(iv) The direct transfer of employee contributions from one qualified plan to another,

(v) Employee contributions to a simplified employee pension allowable as a deduction under section 219(a), or

(vi) Deductible employee contributions within the meaning of section 72(o)(5).

However, the Commissioner may in an appropriate case, considering all of the facts and circumstances, treat transactions between the plan and the employee or certain allocations to participants' accounts as giving rise to annual additions.

* * * * *

(8) *Qualified voluntary employee contributions.* This subparagraph provides rules for qualified voluntary employee contributions that are eligible for the deduction under section 219(a). This subparagraph is applicable only if the total of such contributions for the year is not in excess of $2,000. If such contributions are not deductible under section 219, and result in an annual addition that causes the section 415 limits to be exceeded, they will not be treated as annual additions to the extent that the portion of the contribution exceeding the limitation (and earnings thereon) is returned to the employee as soon as administratively feasible after the employer knows or has reason to know that such contributions are not deductible employee contributions within the meaning of section 72(o)(5).

* * * * *

§ 1.415-7 [Amended]

Par. 9. Section 1.415-7 is amended by:

(1) Removing paragraph (c)(2)(iii), (2) redesignating paragraph (c)(2)(iv) as paragraph (c)(2)(iii), and (3) removing paragraph (i).

Estate Tax Regulations

PART 20—[AMENDED]

Par. 10. Section 20.2039-2 is amended by adding a new subdivision (ix) to paragraph (c)(1) to read as follows:

§ 20.2039-2 Annuities under "qualified plans" and section 403(b) annuity contracts.

* * * * *

(c) *Amounts excludable from the gross estate.*

(1) * * *

(ix) Any deductible employee contributions (within the meaning of section 72(o)(5)) are considered amounts contributed by the employer.

* * * * *

Par. 11. Section 20.2039-4 is amended by adding a new paragraph (h) to read as follows:

§ 20.2039-4 Lump sum distributions from "qualified plans;" decedents dying after December 31, 1978.

* * * * *

(h) *Accumulated deductible employee contributions.* For purposes of this section, a lump sum distribution includes an amount attributable to accumulated deductible employee contributions (as defined in section 72(o)(5)(B)) in any qualified plan taken into account for purposes of determining whether any distribution from that qualified plan is a lump sum distribution as determined under paragraph (b) of this section. Thus, amounts attributable to accumulated deductible employee contributions in a qualified plan under which amounts are payable in a lump sum distribution are not excludible from the decedent's gross estate under § 20.2039-2, unless the recipient makes the section 402(a)/403(c) taxation election with respect to a lump sum distribution payable from that qualified plan.

Gift Tax Regulations

PART 25—[AMENDED]

Par. 12. Section 25.2517-1 is amended by adding a new subdivision (viii) to paragraph (c)(1) to read as follows:

§ 25.2517-1 Employees' annuities.

* * * * *

(c) *Limitation on amount excludable from gift.*

(1) * * *

(viii) Any deductible employee contributions (within the meaning of section 72(o)(5)) are considered amounts contributed by the employer.

* * * * *

Procedure and Administration Regulations

PART 301—[AMENDED]

Par. 13. There is added after § 301.6652-3 the following new section:

§ 301.6652-4 Failure to file information with respect to qualified voluntary employee contributions.

(a) *Failure to make annual reports to employees.* In the case of a failure to make an annual report required by § 1.219(a)-5(g) which contains the information required by such section on the date prescribed therefor, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing to make such annual report an amount equal to $25 for each participant with respect to when there was a failure to make such report, multiplied by the number of years during which such failure continues.

(b) *Limitation.* The total amount imposed under this section on any person shall not exceed $10,000 with respect to any calendar year.

(Sec. 7805 of the Internal Revenue Code of 1954, 68A Stat. 917) (26 U.S.C. 7805))

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 84-1786 Filed 1-18-84; 1:28 pm]

BILLING CODE 4830-01-M

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26 CFR Part 1

Information Returns of Brokers

Correction

In FR Doc. 83-34850 beginning on page 646 in the issue of Thursday, January 5, 1984, make the following corrections.

1. On page 646, second column, under **DATES**, last line, "February 4," should read "February 6,"; third column, last line from the bottom, "that" should read "the".

2. On page 648, second column, § 1.6045-1, paragraph (b), *Example 12*, fifth line, "old" should read "gold".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 3E2913/P315; OPP-FRL 2494-2]

Ethyl 3-Methyl-4-(Methylthio) Phenyl (1-Methylethyl) Phosphoramidate; Proposed Tolerance

Correction

In FR Doc. 83-33769 beginning on page 56416 in the issue of Wednesday, December 21, 1983, make the following correction:

On page 56417, third column, in § 180.349(a), in the table, "0.002" should read "0.02".

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[Gen. Docket No. 83-889]

Enforcement of Prohibitions Against the Use of Common Carriers for the Transmission of Obscene Materials; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment period.

SUMMARY: This action by the General Counsel on delegated authority grants an extension of time for filing comments in response to the Commission's *Further Notice of Inquiry and Notice of Proposed Rule Making in Gen. Docket No. 83–989, Enforcement of Prohibitions Against the Use of Common Carriers for the Transmission of Obscene Materials,* in order to afford the public reasonable notice and opportunity to file comments.

DATES: Comments must be filed on or before February 13, 1984; reply comments must be filed on or before March 1, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Sharon B. Kelley or Holly Berland, Office of General Counsel, (202) 632–6990.

Order Extending Time For Filing Comments

In the matter of enforcement of prohibitions against the use of Common Carriers for the transmission of obscene materials (Gen. Docket No. 83–989).

Adopted: January 18, 1984.
Released: January 19, 1984.

1. On December 14, 1983, the Commission adopted a *Further Notice of Inquiry and Notice of Proposed Rule Making* in the above-captioned proceeding, 49 Fed. Reg. 2124, published January 18, 1984. The dates initially established for filing comments and reply comments were January 23, 1984 and March 1, 1984, respectively. Due to delay in publication in the **Federal Register**, we are hereby extending the time for the filing of comments. This action will afford the public reasonable notice and opportunity to comment. The March 1, 1984 deadline for filing reply comments remains in effect.

2. Accordingly, pursuant to authority delegated in 47 CFR § 0.251(b), it is hereby ordered that comments in the above-captioned proceeding are due on or before February 8, 1984.

3. This action is taken pursuant to Sections 4(i), and 5(c)(1) and 403 of the Communications Act of 1934, as amended, and § 0.251 of the Commission's rules.

Federal Communications Commission.

Richard J. Shiben,

Associate General Counsel.

[FR Doc. 84–1610 Filed 1–20–84; 8:45 am]
BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 49, No. 15
Monday, January 23, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Availability of Surplus Commodities

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces that the Department of Agriculture will make available additional quantities of surplus cheese, butter, nonfat dry milk, honey and corn meal to requesting State agencies for distribution to eligible recipients. The foods being made available by this announcement are in addition to those already made available by the Department under other authorities including the special surplus distribution program which was first authorized in December 1981 under section 1114 of the Agriculture and Food Act of 1981, and those made available since April 1983 under section 202 of the Temporary Emergency Food Assistance Act of 1983 (Title II of Pub. L. 98–8).

FOR FURTHER INFORMATION CONTACT: Gwena Kay Tibbits, Chief, Program Administration Branch, Food Distribution Division, Food and Nutrition Service, Park Office Center, Alexandria, Virginia 22302, Telephone (703) 756–3660.

EFFECTIVE DATE: October 1, 1983.

SUPPLEMENTARY INFORMATION: This action, which implements mandatory provisions of Pub. L. 98–92, which amended the Temporary Emergency Food Assistance Act of 1983, has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512. It has been classified as "nonmajor," because it meets none of the three criteria in the Executive Order; the action will not have an annual effect on the economy of $100 million or more, will not cause a major increase in costs, and will not have a significant impact on competition, employment, productivity, innovation, or the ability of U.S. enterprises to compete.

The action has also been reviewed with regard to the requirements of Pub. L. 96–354, the Regulatory Flexibility Act of 1980. Robert E. Leard, Administrator, Food and Nutrition Service, has determined that it will not have a significant economic impact on a substantial number of small entities. The purpose of the action is to notify States of the types and quantities of foods to be made available through Title II of Public L. 98–8, as amended by Pub. L. 98–92, during Fiscal Year 1984.

This notice imposes no new reporting or recordkeeping provisions that are subject to Office of Management and Budget review.

The Department anticipates that the following commodities and amounts will be made available during Fiscal Year 1984 to agencies of State governments which request them for distribution to eligible recipients:

Cheese—420 million pounds
Butter—144 million pounds GAB
Nonfat Dry Milk—78 million pounds
Honey—60 million pounds
Corn Meal—36 million pounds
Flour—40 million pounds

These foods are being offered under the provisions of Pub. L. 98–8, as amended by Pub. L. 98–92, which requires that the Department publish in the **Federal Register** no later than October 1, 1983, an estimate of the types and quantities of foods that the Secretary of Agriculture anticipates are likely to be made available during Fiscal Year 1984, and prior to Fiscal Year 1985, an estimate of the types and quantities of foods that he estimates are likely to be made available during that fiscal year. The legislation expires September 30, 1985. The actual types and quantities of commodities made available by the Department may differ from these estimates. The foods made available under this notice will be targeted to needy persons, including low-income and unemployed persons.

State agencies participating in the distribution of surplus foods under Title II of Pub. L. 98–8, as amended by Pub. L. 98–92, will be required to enter into an agreement with the Department embodying the terms and conditions under which the foods are being provided, in accordance with interim rules which were published December 16, 1983 (48 FR 55988–55993). A copy of the agreement may be obtained from the appropriate Regional Administrator, Food and Nutrition Service.

(Catalog of Federal Domestic Assistance No. 10.550)

Authority: Sec. 210(c), Pub. L. 98–8, as amended.

Dated: January 12, 1984.

Robert E. Leard,

Administrator,

[FR Doc. 84–1784 Filed 1–20–84; 8:45 am]

BILLING CODE 3410–30–M

Packers and Stockyards Administration

Posted Stockyards

Pursuant to the authority delegated under the Packers and Stockyards Act, 1981, as amended (7 U.S.C. 181 *et seq.*), it was ascertained that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the Act, as amended (7 U.S.C. 202), and notice was given to the owners and to the public by posting notices at the stockyards as required by said section 302, on respective dates specified below.

Facility No., name and location of stockyard	Date of posting
NY–163 Jack Wood's Livestock and Auction Service Cincinnatus, New York.	Dec. 6, 1982
UT–116 Basin Livestock Market, Inc., Roosevelt, Utah.	Jan. 3, 1984

Done at Washington, D.C., this 19th day of January 1984.

Jack W. Brinckmeyer,

Chief, Financial Protection Branch, Livestock Marketing Division.

[FR Doc. 84–1777 Filed 1–20–84; 8:45 am]

BILLING CODE 3410–02–M

Proposed Posting of Stockyard

The Packers and Stockyards Administration, United States Department of Agriculture, has information that the livestock market named below is a stockyard as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

MO–259 Sarcoxie Community Sales, Inc., Sarcoxie, Missouri

Notice is hereby given that pursuant to authority under the Packers and Stockyards Act, as amended (7 U.S.C. 181 *et seq.*), it is proposed to designate the stockyard named above as a posted stockyard subject to the provisions of the Act as provided in section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed designation, may do so by filing them with the Chief, Financial Protection Branch, Packers and Stockyards Administration, United States Department of Agriculture, Washington, D.C. 20250, by February 7, 1984.

All written submissions made pursuant to this notice shall be made available for public inspection in the office of the Chief of the Financial Protection Branch during normal business hours.

Done at Washington, D.C., this 19th day of January 1984.

Jack W. Brinckmeyer,

Chief, Financial Protection Branch, Livestock Marketing Division.

[FR Doc. 84-1778 Filed 01-20-84; 8:45 am]

BILLING CODE 3410-02-M

Soil Conservation Service

Haines Point and Messick Roads, Critical Area Treatment RC&D Measure, Maryland; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Haines Point and Messick Roads Critical Area Treatment RC&D Measure, Somerset County, Maryland.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald R. Calhoun, State Conservationist, Soil Conservation Service, 4321 Hartwick Road, College Park, Maryland 20740, telephone 301-344-4180.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Gerald R. Calhoun, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan to contol erosion along 550 feet of shoreline on Deal Island. The planned works of improvement include installation of 550 feet of bulkhead on the shoreline, placement of fill behind the structure, and grading and seeding of the disturbed area.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and various Federal, State, and local agencies and interested parties. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Gerald R. Calhoun. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A-95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Gerald R. Calhoun,

State Conservationist.

January 13, 1984.

[FR Doc. 84-1794 Filed 1-20-84; 8:45 am]

BILLING CODE 3410-16-M

Van Ettan Creek Water Quality Management RC&D Measure, Michigan; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no siginficant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Evironmental Quality Guidelines, (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Van Ettan Creek RC&D Measure, Alcona County, Michigan.

FOR FURTHER INFORMATION CONTACT: Mr. Homer R. Hilner, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, telephone 517-337-6702.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. A contact has been made with the State Historical Preservation Officer and concludes that it will have no effect on any cultural resources either eligible for or listed on the National Register of Historic Places. The State Archaeologist will be contacted if any land disturbance associated with this project and archaeological sites, features, or materials are encountered during actual construction. As a result of these findings, Mr. Homer R. Hilner, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

This mean concerns a plan for the installation of water quality management measures. The planned works of improvement include the following items: livestock fencing, cattle, and equipment crossings, rock rip-rap, waterways, diversions, liverstock watering facilities, animal waste system, erosion control structure, shaping, seeding, and shrub planting. Total construction cost is estimated to be $129,000; of which RC&D funds will pay 100%.

Sixteen local residents of the village of Mikado are treating their septic waste problems on an individual basis. Cost will be an estimated $3,000 each, or a total of $48,000. This will be accomplish with local funds.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Homer R. Hilner. The FONSI has been sent to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.901, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding state and local clearinghouse review of federal and federally assisted programs and projects is applicable)

Dated: January 13, 1984.

Homer R. Hilner,

State Conservationist.

[FR Doc. 84-1793 Filed 1-20-84; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

International Trade Administration

Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee; Open Meeting

A meeting of the Computer Peripherals, Components, and Related Test Equipment Technical Advisory Committee will be held February 7, 1984, at 9:30 a.m., Herbert C. Hoover Building, Room B841, 14th Street and Constitution Avenue, NW., Washington, D.C. The Committee advises the Office of Export Administration with respect to technical questions which affect the level of export controls applicable to computer peripherals, components and related test equipment or technology.

General Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. A review of the TAC Chairmen's meeting.
4. Discussion and action on TAC membership and technical skills.
5. Discussion of the Committee's role in responding to Part 379 of the Export Administration Regulations.
6. Review and discussion of the critical technology data list.
7. Review and adoption of the Committee's annual plan.
8. Action items underway.
9. Action items due at next meeting.

The meeting will be open to the public with a limited number of seats available. For further information or copies of the minutes contact Margaret Cornejo, (202) 377-2583.

Dated: January 17, 1984.

Milton M. Baltas,

Director of Technical Programs, Office of Export Administration.

[FR Doc. 84-1788 Filed 1-20-84; 8:45 am]

BILLING CODE 3510-07-M

Patent and Trademark Office

Notice of Public Briefing on Patent Maintenance Fee Payment Procedure

The Patent and Trademark Office is in the process of designing and implementing a system for receiving and recording maintenance fees which are required for patents based on applications filed on and after December 12, 1980. Provisions relating to maintenance fees are found in both Public Laws 96-517 and 97-247. A proposed rule change notice is also being prepared.

It is considered to be extremely desirable to have a close coordination between the procedures and records maintained in the Patent and Trademark Office and those maintained by organizations and individuals responsible for paying maintenance fees including service organizations.

Accordingly, the Patent and Trademark Office is presenting a public briefing of its maintenance fee payment plans on February 22, 1984 at 1:00 pm at the Crystal City Marriott Hotel, 1999 Jefferson Davis Highway (U.S. Rt. 1), Arlington, Virginia 22202.

Any questions concerning the briefing should be addressed to R. Franklin Burnett at (703) 557-3054.

Dated: January 17, 1984.

Gerald J. Mossinghoff,

Commissioner of Patents and Trademarks.

[FR Doc. 84-1780 Filed 1-20-84; 8:45 am]

BILLING CODE 3510-16-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comment on Bilateral Textile Consultations With the Government of Japan to Review Trade in Categories 314, 604, and 644

January 18, 1984.

ACTION: On January 13, 1984 the Government of the United States requested consultations with the Government of Japan with respect to Categories 314 (poplin and broadcloth), 604 (yarn wholly of non-continuous filament), and 644 (women's, girls' and infants' suits). This request was made on the basis of the Agreement of August 17, 1979, as amended and extended, between the Governments of the United States and Japan relating to trade in cotton, wool, and man-made fiber textiles and textile products.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations beween the two governments, the Committee for the Implementation of Textile Agreements may request the Government of Japan to limit exports in Categories 314, 604 and 644, produced or manufactured in Japan and exported to the United States during the twelve-month period which began on January 1, 1984 and extends through December 31, 1984 to the following levels:

Category	Twelve-mo. level
314	12,600,047 square yards.
604	6,637,241 pounds.
644	15,835 dozen.

Summary market disruption statements concerning each of these categories follow this notice.

Anyone wishing to comment or provide data or information regarding the treatment of these categories under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement with the Government of Japan, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in these categories, is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain comments should be submitted promptly. Comments of information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel., Room 3100, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Category 314—Cotton Poplin and Broadcloth

U.S. imports of Category 314 from Japan amounted to 10.5 million square yards during the year ending October 1983. This represents an increase of 43.9 percent over the imports a year earlier. Japan is the second largest supplier of Category 314, accounting for 21.2 percent of the total category imports during the January–October 1983 period. Imports from other major suppliers are subject to restraints under their bilateral

textile agreements with the United States.

Domestic production of Category 314 trended downward from 1978 through 1981 from 100.1 million square yards to 64.3 million. Some recovery occurred in 1982; however, production remained at a depressed level, below that of any other year of the decade except 1980 and 1981.

Imports of Category 314 were 36.4 million square yards in 1982, up 18 percent from 1981. Imports continued to expand in 1983, increasing 43 percent during the first ten months compared with a year earlier.

The ratio of imports to domestic production was 48.1 percent in 1981; 49.6 percent in 1982; and 54.7 percent during the first half of 1983. It is anticipated that the ratio will be between 55.0 and 60.0 percent in 1983 due to the substantial increase in imports.

Category 604—Other MMF Yarn Wholly of Non-Continuous Filament

U.S. imports of Category 604 from Japan, during the first ten months of 1983, were 4.7 million pounds, up 32.1 percent from the same period in 1982. Japan was the largest supplier of Category 604, accounting for 19 percent of the imports. These imports from Japan were entered at duty-paid values below the U.S. producer prices for comparable yarns. Imports from Japan of Category 604 were concentrated in two types, plied acrylic yarns and fine count polyester yarns.

U.S. production of plied acrylic yarn declined from 44.8 million pounds in 1981 to 38.7 million in 1982. Production of fine count polyester yarns declined from 6.4 million pounds in 1981 to 4.6 million in 1982. Imports of plied acrylic yarn from all sources increased from 13.8 million pounds in 1981 to 15.4 million in 1982. Imports for the first ten months of 1983 were 18.2 million pounds. Imports of fine count polyester yarn increased from 1.7 million pounds in 1981 to 2.0 million in 1982. Imports for the first ten months of 1983 were 2.1 million pounds. The import to production ratio for plied acrylic yarns was 51.9 percent during the January–September 1983 period and that for fine count polyester yarn was 35.9 percent for the January–August 1983 period.

Category 644—Women's, Girls' and Infants' MMF Suits

U.S. imports from Japan of Category 644 amounted to 13,071 dozen during the year ending October 1983, up 502.9 percent from a year earlier. These imports entered at duty-paid landed values below the U.S. producer prices for comparable garments.

Domestic production of Category 644 was 878,000 dozen in 1982, down 22 percent from 1981. U.S. imports from all sources were 178,000 dozen in 1981, 241,000 dozen in 1982, and 334,000 dozen during the first ten months of 1983. The ratio of imports to domestic production increased from 15.8 percent in 1981 to 27.4 percent in 1982 and is likely to exceed 40 percent in 1983.

[FR Doc. 84-1759 Filed 1-20-84; 8:45 am]

BILLING CODE 3510-DR-M

Announcing Import Restraint Levels for Certain Cotton, Wool and Man-Made Fiber Textile Products from Macau Under a New Bilateral Agreement

January 18, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below the the Commissioner of Customs to be effective on January 24, 1984. For further information contact Gordana Slijepcevic, International Trade Specialist (202/377–4212).

Background

The new Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 29, 1983 and January 9, 1984 between the Governments of the United States and Macau provides import limits for, among other categories, Categories 333/334/335, 338, 339, 340, 341, 347/348, 445/446, 633/634/635, 638/639, 640, 641, 645/646 and 647/648 during the agreement year which began on January 1, 1984 and extends through December 31, 1984. The agreement also contains a consultation mechanism for categories not subject to specific limits and for which levels may be established during the agreement year.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), and December 30, 1983 (48 FR 57584).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 29, 1983 and January 9, 1984, between the Governments of the United States and Macau, and in accordance with the provisions in Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 24, 1984, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textiles and textile products in the following categories, produced or manufactured in Macau and exported during 1984, in excess of the indicated levels of restraint:

Category	Twelve-month level of restraint
333/334/335	111,470 dozen of which not more than 57,348 dozen shall be in Category 333/335.
338	146,247 dozen.
339	522,246 dozen.
340	140,187 dozen.
341	80,418 dozen.
347/348	388,900 dozen.
445/446	70,672 dozen.
633/634/635	233,804 dozen.
638/639	12,014,535 square yards equivalent.
640	50,778 dozen.
641	84,045 dozen.
645/646	125,445 dozen.
647/648	255,080 dozen.

In carrying out this directive, entries of cotton, wool and man-made fiber textile and textiles products in the foregoing categories, except Categories 638/639, 640, and 645/646, produced or manufactured in Macau, which have been exported to the United States on and after January 1, 1983 and extending through December 31, 1983, shall, to the extend of any unfilled balances, be charged against the levels of restraint established for such goods during that twelve-month period. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of December 29, 1983 and January 9, 1984, which provide, in part, that: (1) within the aggregate and applicable group limits, specific limits may be exceeded by designated percentages; (2) these same levels may be increased for

carryforward and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement, referred to above, will be made to you by letter.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55807), and December 30, 1983, (48 FR 57584).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for comsumption to include entry for comsumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of Macau and with respect to imports of cotton, wool and man-made fiber textile products from Macau have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreing affairs exception to the rule-making provisions of 5 U.S.C. 533. This letter will be published in the **Federal Register**.

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-1790 Filed 1-20-84; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Army

Finding of No Significant Impact; Proposed BZ Demilitarization Facility; Pine Bluff Arsenal

Finding of No Significant Impact on the Construction and Operation of a Proposed BZ Demilitarization Facility at Pine Bluff Arsenal, Pine Bluff, Arkansas. An environmental assessment (EA) has been prepared for the planned construction and operation of a demilitarization facility to be built on the Pine Bluff Arsenal (PBA), Pine Bluff, Arkansas. The proposed facility is to be used for the destruction of the Army's existing stockpile of chemical warfare agent BZ (3-quinuclidinyl benizlate, an incapacitating agent), BZ-filled munitions and BZ-contaminated residues.

The inventory consists of approximately 2280 drums of BZ and BZ-contaminated solid and liquid residues and approximately 1500 BZ-filled munitions. The munitions consist of M43 bomb clusters and M44 generator clusters containing BZ combined with pyrotechnic mixturer. The BZ and BZ-filled munitions inventory has become obsolete; the munitions are a potential safety hazard and are expensive to maintain in their present condition. The Government has mandated the destruction of the entire inventory in a safe and environmentally acceptable manner. The proposed disposal process would be by incineration and would require approximately 18 months.

The proposed action was selected after extensive study of several demilitarization concepts involving various degrees of munitions disassembly and destruction processes. Two location alternatives involving long distance transport of the inventory were examined: the Rocky Mountain Arsenal outside of Denver, Colorado, and the Chemical Agent Munitions Disposal System at Tooele Army Depot, Utah. Modification of an existing facility at PBA was also assessed. The proposed alternative appeared to be optimum based on comparisons of personnel safety, environmental consequences, process reliability, state-of-the-art technology, process simplicity, clean-up requirements, and cost.

The EA discusses the construction and operation of the proposed facility and the associated environmental impacts. This evaluation indicates that the proposed action is not expected to significantly affect the quality of the human environment, does not set a precedent for other U.S Army actions, and, therefore, does not necessitate the preparation of an Environmental Impact Statement.

The Finding of No Significant Impact was based on several considerations, all of which are discussed in the EA. Under projected normal and upset operating conditions for the proposed BZ demilitarization facility, no exceedances of Federal or State air quality standards are predicted to occur. Under conservative, worst-case stack releases of BZ (alarm level 0.2. mg/m^3), no exceedances of the general population exposure limits established by the U.S. Army Surgeon General (0.1 ug/m^3) would be expected. An analysis of the maximum credible event, the functioning of one M43 during movement of munitions within the Arsenal, showed no potentially significant off-post exposure to human populations. There would be no process wastewater discharge from the proposed facility. Solid waste materials would be disposed of in landfills located on the arsenal. In the event that some of the wastes are classified as hazardous, disposal of those wastes would be in the PBA hazardous waste landfill. Little or no impact on local transportation, socioeconomic parameters or infrastructures, ambient noise levels, or historical/cultural resources would be likely since the proposed facility construction and operation would occur on a Government owned installation currently dedicated to military activities.

Copies of the Environmental Assessment may be obtained from the Commander, Pine Bluff Arsenal, ATTN: SMCPB-IN, Pine Bluff, AR 71611, or the Commander, U.S. Army Toxic and Hazardous Materials Agency, ATTN: DRXTH-ES, Aberdeen Proving Ground, MD 21010.

Dated: January 18, 1984.

Lewis D. Walker,

Deputy for Environment, Safety and Occupational Health OASA (IL&FM).

[FR Doc. 84-1739 Filed 1-19-84; 8:45 am]

BILLING CODE 3710-92-M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Dates of meeting: Tuesday and Wednesday, 7 and 8 February 1984.

Times: 0830-1700 hours (Closed).

Place: Fort Bragg, North Carolina.

Agenda

The Army Science Board Ad Hoc Subgroup on Light Equipment will meet for classified briefings and discussions. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally A. Warner, may be contacted for further information at (202) 695-3039 or 697-9703.

Maria P. Winters,

Acting Administrative Officer.

[FR Doc. 84-1827 Filed 1-20-84; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Date of meeting: Thursday, February 9, 1984.

Times: 0930-1700 hours (Closed).

Place: U.S. Army Research Institute of Environmental Medicine, Natick, Massachusetts.

Agenda

The Army Science Board Ad Hoc Subgroup on Combat Medical Support will meet for classified briefings and discussions on physiological responses to climate stress, clothing design to protect in extreme climates, and physical fitness assessment investigations. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally A. Warner, may be contacted for further information at (202) 695–3039 or 697–9703.

Maria P. Winters,

Acting Administrative Officer.

[FR Doc. 84–1828 Filed 1–20–84: 8:45 am]

BILLING CODE 3710–08–M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Proposed Lock and Dam 11 Hydropower Project, Mississippi River at Dubuque, Iowa

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. *Description of Proposed Action.* The development of hydropower on the Mississippi River has been initiated as a response to the changing energy situation and would utilize a renewable energy source, a more economic energy source, and environmentally cleaner energy source. A reconnaissance study. Completed in February 1982, indicated the hydropower at Lock and Dam 11 would be economically feasible. Therefore, further investigation and planning at the Final Feasibility Report level have started.

The proposed project consists of the installation of a low-head run-of-the-river hydropower facility utilizing standard adjustable blade turbines. Up to about 15–20 MW of power may be feasible at the proposed facility.

2. *Alternatives for the Proposed Action.* Two locational alternatives, in addition to the No Federal Action alternative, will be discussed in detail in the DEIS. The first alternative consists of installing a raisable powerhouse containing three 3.0 meter tubular turbines per bay in the taintor gate bays closest to the lock. The second alternative consists of locating a powerhouse in the non-overflow section of the dam near the area of O'Leary's Lake on the Wisconsin side of the river.

3. *Public Involvement.* Numerous meetings have been held during 1983 for the purpose of identifying and discussing areas of concern for either Federal or non-Federal development of hydropower at Lock and Dam 11. Federal and State agencies, organizations and individuals have attended these meetings.

The EIS, in both draft and final format, will be sent to Federal, State, and local government agencies, as well as private groups and individuals, for their comments and views.

Coordination is being maintained between the Rock Island District, Corps of Engineers, and interested agencies and parties during preparation of the DEIS. All interested parties may become involved by writing to the District address below.

4. *Particular Elements to be Included in the Draft EIS.* Issues to be analyzed in detail in the DEIS include:

a. Changes to the fishery and recreational area located at O'Leary's Lake with addition of a hydropower facility in the non-overflow section.

b. Changes in the flow patterns, velocities and deposition of sediment with addition of a hydropower facility at either location.

c. Impacts on aquatic resources, especially those concerning fish movement, mortality and spawning habitat with the addition of a hydropower facility at either location.

d. Impacts to endangered species and cultural resources for either alternative.

e. Effects of dredging and material disposal with the addition of a hydropower facility in the non-overflow section.

The DEIS will also address the following policies: National Historic Preservation Act, 16 U.S.C. 470a, et seq.; Endangered Species Act, 16 U.S.C. 1531, et seq.; Fish and Wildlife Coordination Act, 16 U.S.C. 661 et seq.; National Environmental Policy Act, 42 U.S.C. 4321, et seq.; Rivers and Harbors Act, 33 U.S.C. 403, et seq.; Clean Water Act (Federal Water Pollution Control Act), 33 U.S.C. 1251, et seq.; along with Executive Order 11988, Flood Plain Management, 24 May 1977, Executive Order 11990, Protection of Wetlands, 24 May 1977, and CEQ Memorandum of 1 August 1980: Analysis of Impacts on Prime or Unique Agricultural Lands in Implementing the National Environmental Policy Act. In compliance with the Clean Water Act, a Section 404(b)(1) Evaluation Report will be prepared.

5. *Estimated Release Date.* The Draft EIS is scheduled to be released in June 1984.

ADDRESS: Questions about the proposed action and the DEIS should be directed to: Bernard P. Slofer, Colonel, Corps of Engineers, District Engineer, U.S. Army Engineer District, Rock Island, Clock Tower Building, Rock Island, Illinois 61201.

Dated: January 12, 1984.

Arthur E. Miller.

Deputy District Engineer, Corps of Engineers.

[FR Doc. 84–1869 Filed 1–20–84: 8:45 am]

BILLING CODE 3710–HV–M

Department of the Navy

Performance of Commercial Activities: Announcement of Program Cost Studies

Department of the Navy intends to conduct OMB Circular A–76 (48 FR 37110, August 16, 1983) cost studies of various functions at listed activities commencing 27 February 1984. Cost study process is rigorous, time-consuming procedure and, depending upon size of functions involved, can take several months to several years to complete. Since studies not yet begun, specifications not yet prepared. When bids/proposals desired, appropriate advertisements will be placed. No consolidated bidders' list being maintained since solicitations will be processed by various contracting offices throughout U.S.

Naval Air Reserve, Alameda, CA
- Motor Vehicle Operation

Naval Amphibious Base, Coronado, CA
- Recreational Library Services
- Storage and Warehousing
- Data Processing Services

Long Beach Naval Shipyard, Long Beach, CA
- Central Plan Files
- Repair and Calibration of Test, Measurement and Diagnostic Equipment (TMDE), Mechanical, Electrical and Electronic
- CESE/RR/Other Vehicle Maintenance
- Motor Vehicle Operations
- Material Control Center—Public Works
- Public Works Shop Stores
- Supply Material Identification
- Supply Material List Screening
- Supply Receiving
- Timekeeping

Naval Ship Weapon Systems Engineering Station, Port Hueneme, CA

Storage and Warehousing
Word Processing
Reference Library
Operation of ADP Equipment
Pacific Missile Test Center, Point Mugu, CA
Other Maintenance and Repair, Buildings and Structures, and Administrative Telephone
Naval Station, San Diego, CA
Recreational Library Services
Motor Vehicle Operation
Punch Card Processing Services
Training—Police Academy
Word Processing Center
Audiovisual Library
Storage and Warehousing
Fleet Combat Training Center, Pacific, San Diego, CA
Software Services for Tactical Computers and Automated Test Equipment
Navy Manpower & Material Analysis Center, San Diego, CA
Administrative Support Services
Data Processing Services
System Design, Development and Programming Services
Naval Education & Training Support Center, Pacific, San Diego, CA
Development and Maintenance of Applications Software
Naval Station, Treasure Island, San Francisco, CA
Recreational Library Services
Storage and Warehousing—Receipts
Storage and Warehousing—Shipping
Storage and Warehousing—Care, Rewarehousing and Support of Material
Supply Operations
Operation of Bulk Liquid Storage
Audiovisual Services—Still Photography
Mare Island Naval Shipyard, Vallejo, CA
Supply Receiving, Motor Vehicle Operations, Public Works Shop Stores, Supply Material Identification, and Supply Material List Screening
CESE/RR/Other Vehicle Maintenance and Motor Pool Operations
Mechanical/Electrical/Electronic Repair and Calibration
Timekeeping
Central Plan Files
Naval Submarine Base, New London, CT
Administrative Mail Service
Library
Naval Air Station, Jacksonville, FL
Recreational Library Services
Naval Air Station, Whiting Field, Milton, FL
Recreational Library
Shore Intermediate Maintenance Activity, Pearl Harbor, HI
Word Processing Centers
Naval Submarine Training Center, Pacific, Pearl Harbor, HI
ADP Systems Design
Administrative Support
Buildings and Structures
Pearl Harbor Naval Shipyard, Pearl Harbor, HI
Other ADP Support
Timekeeping
Naval Weapons Support Center, Crane, IN
Architect and Engineering Services
Naval Ordnance Station, Louisville, KY
Technical Documents Repository
Communications Center
Naval Security Group Activity, Winter Harbor, ME
Recreational Library Services
Naval Ordnance Station, Indian Head, MD
Electrical Plant and Systems
Heating Plants and Systems
Water Plants and Systems
Sewage and Waste Plant Systems
Buildings and Structures
Grounds and Surfaced Areas
Communications Centers
Other Communications and Electronics
Preparation and Disposal of Excess and Surplus Property
Word Processing Centers
Reference Libraries
Other Administrative Support
Naval Air Station, Meridian, MS
Recreational Library
Naval Home, Gulfport, MS
Other Health Services
Portsmouth Naval Shipyard, Portsmouth, NH
Motor Vehicle Operations
Timekeeping
Naval Weapons Station, Earle, NJ
Calibration Laboratory Department
Naval Station, New York, Brooklyn, NY
Punch Card Processing Services
Communications Center
Storage and Warehousing
Navy Publications and Forms Center, Philadelphia, PA
System Design, Development and Programming Services
Naval Station, Philadelphia, PA
Library Services
Storage and Warehousing (Receipt)
Communications Center
Buildings and Structures
Naval Air Station, Willow Grove, PA
Training Devices and Audiovisual Equipment
Philadelphia Naval Shipyard, Philadelphia, PA
Central Plan Files
Mechanical Test, Measuring and Diagnostic Equipment Repair
Electrical/Electronic Test Equipment Repair and Calibration Service
Propeller Center
Public Works Material Control Centers
Public Works Shop Stores
Supply Material Identification and Screening
Receiving
Naval Education and Training Center, Newport, RI
Library
Naval Weapons Station, Charleston, SC
Recreational Library Services
Charleston Naval Shipyard, Charleston, SC
Central Plan Files
Electronic, Electrical, Mechanical Calibration and Repair Facility
Motor Vehicle Operations
CESE/RR/MHE/WHE/Other Vehicle Maintenance
Supply Receiving
Public Works—Shop Stores, MCC
Supply Material List Screening and Supply Material Identification
Timekeeping
Naval Air Station, Chase Field, Beeville, TX
Recreational library
Naval Air Station, Dallas, TX
Other Maintenance and/or Repair of Equipment
Naval Air Station, Kingsville, TX
Recreational Library Services
Naval Space Surveillance System, Dahlgren, VA
Administrative Support Services
Norfolk Naval Shipyard, Norfolk, VA
Central Plan Files
Mechanical TMDE Repair/Calibration
Electronic Test Equipment Repair/Calibration
CESE/RR/Other Motor Vehicle Maintenance
Construction Equipment Operations
Timekeeping
Naval Air Station, Norfolk, VA
COMNAVAIRLANT Ground Support Pool
Collateral Equipment
Naval Station, Norfolk, VA
Library
Navy Motion Picture Exchange
Collateral Equipment
Word Processing
Naval Air Station, Oceana, VA
Printing and Reproduction
Air Transportation Services (Transient Line/Air Cargo)
Fleet Combat Training Center, Atlantic, VA Beach, VA
Recreational Library
Naval Weapons Station, Yorktown, VA
Recreational Library Services
Naval Security Group Detachment, Sugar Grove, WV
Custodial Services
Puget Sound Naval Shipyard, Bremerton, WA
Central Plan (Drawings) Files
Mechanical TMDE/Electrical/

Electronic Repair/Calibration Service
CESE/RR/WHE/MHE/Other Vehicle Maintenance
Motor Pool Operations
Material Control Center/Shop Stores for Public Works
Supply Material Identification
Supply Material List Screening
Timekeeping

B. W. Cook,

Captain, Navy Head, Commercial Retail/ Activities Branch.

December 21, 1983.

[FR Doc. 84-1292 Filed 1-19-84; 8:45 am]

BILLING CODE 3810-AE-M

Naval Research Advisory Committee; Closed Meeting

Correction

In FR Doc. 84-824 appearing on page 1548 in the issue of Thursday, January 12, 1984, in the second column, second line from the top insert "closed to" after "be".

BILLING CODE 1505-01-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Proposed Legal Interpretation of Section 7(b)(2) of the Pacific Northwest Electric Power Planning and Conservation Act; Request for Comments

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice; Request for Comments. *BPA File No:* 7(b)(2)-84.

SUMMARY: Bonneville Power Administration (BPA) proposes to interpret section 7(b)(2) of the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act), 16 U.S.C. 839e(b)(2). When establishing rates to be effective after July 1, 1985, projected amounts charged by BPA for firm power for the general requirements of public body, cooperative, and Federal agency customers may not exceed in total an amount, as determined by the Administrator, based on certain specific assumptions set forth in section 7(b)(2). The proposed statutory interpretation resolves only the basic legal questions necessary to implement section 7(b)(2). This interpretation is the first of three tasks to be undertaken by BPA in developing section 7(b)(2) ratemaking methodologies. In the second task, BPA is continuing in the development of necessary computer models in consultation with customer groups and other interested parties. This work will culminate in the presentation of a documented computer model in March of 1984. As the third task, BPA will incorporate the statutory interpretation and the computer models in a discussion of actual methodologies required for implementing section 7(b)(2). BPA intends that these methodologies will serve as a draft of relevant portions of the 1985 initial rate proposal. However, inplementation of section 7(b)(2) will not occur intil BPA's 1985 wholesale power rate proceeding, conducted pursuant to section 7(i) of the Northwest Power Act, 16 U.S.C. 839e(i).

Responsible Officials: John A. Cameron, Jr., Assistant General Counsel, is the official responsible for this statutory interpretation. Ms. Shirley R. Melton, Director, Division of Rates, is the official responsible for implementing section 7(b)(2) in the 1985 BPA rate adjustment proceeding.

DATES: Written comments on resolution of all legal issues necessary to implement section 7(b)(2) will be accepted until February 15, 1984. Written replies to the first round of comments will be accepted thereafter until February 29, 1984.

ADDRESSES: Written comments should be submitted to the Public Involvement Manager, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT: Ms. Kathleen S. Johnson, Public Involvement Office, at the above address, 503-230-3478: Oregon callers outside Portland may use the toll-free number 800-452-8429; callers in California, Idaho, Montana, Nevada, Utah, Wyoming, and Washington may use 800-547-6048. Information may also be obtained from:

Mr. George E. Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 N.E. Irving Street, Portland, Oregon 97208, 503-230-4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Street, Eugene, Oregon 97401, 503-687-6952.

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509-456-2518.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509-662-4377, extension 379.

Mr. George E. Eskridge, Montana Dsitrict Manager, 800 Kensington, Missoula, Montana 59801, 406-329-3860.

Mr. Richard D. Casad, Puget Sound Area Manager, Room 250, 415 First Avenue North, Seattle, Washington, 98109, 206-442-4130.

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509-525-5500, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208-523-2706.

Mr. Frederic D. Rettenmund, Boise District Manager, Owyhee Plaza, Suite 245, 1109 Main St., Boise, Idaho 83707, 208-334-9138.

SUPPLEMENTARY INFORMATION:

I. Background

A. Relevant Statutory Provisions

Section 7 of the Northwest Power Act, 16 U.S.C. 839e, contains a number of directives that the BPA Administrator must consider in establishing rates for the sale of electric energy and capacity and for the transmission of non-Federal power. It is BPA's intention to interpret the Northwest Power Act so that all provisions work in harmony, not to interpret the statute piecemeal. In particular, all statutory interpretations must be consistent with the criteria of section 7(a)(2), which govern approval of BPA rates by the Federal Energy Regulatory Commission.

In addition to the Northwest Power Act, BPA is also governed by the Bonneville Project Act, 16 U.S.C. 832, et seq., the Federal Columbia River Transmission System Act, 16 U.S.C. 838, et seq. and the Flood Control Act of 1944, 16 U.S.C. 825, et seq. These statutes require BPA to set rates, in accordance with sound business principles, at levels sufficient to recover BPA's total system costs, including repayment of the Federal treasury investment in the Federal Columbia River Power and Transmission System. All statutory provisions concerning the timely recovery of BPA's revenue requirement are relevant to the interpretation of any provision of the Northwest Power Act.

Under section 7(b)(2) of the Northwest Power Act, 16 U.S.C. 839e(b)(2), after July 1, 1985, rates charged for firm power sold to public body, cooperative, and Federal agency customers (exclusive of amounts charged those customers for costs specified in section 7(g) of the Northwest Power Act) may not exceed in total, as determined by the Administrator, such customers' power costs for general requirements, if specified assumptions are made. Section 7(b)(2) specifies that in determining public body and cooperative customers' power costs during any year after July 1,

1985, and the ensuing four years, the Administrator should assume:

"(A) the public body and cooperative customers' general requirements had included during such five-year-period the direct service industrial customer loads which are—

(i) served by the Administrator, and

(ii) located within or adjacent to the geographic service boundaries of such public bodies and cooperatives;

(B) public body, cooperative, and Federal agency customers were served, during five-year period, with Federal base system resources not obligated to other entities under contracts existing as of the effective date of this Act (during the remaining term of such contracts) excluding obligations to direct service industrial customer loads included in subparagraph (A) of this paragraph;

(C) no purchase or sales by the Administrator as provided in section 5(c) were made during such five-year period;

(D) all resources that would have been required, during such five-year period, to meet remaining general requirements of the public body, cooperative and Federal agency customers (other than requirements met by the available Federal base system resources determined under paragraph (B) of this paragraph) were—

(i) purchased from such customers by the Administrator pursuant to section 8, or

(ii) not committed to load pursuant to section 5(b), and were the least expensive resources owned or purchased by public bodies or cooperatives; and any additional needed resources were obtained at the average cost of all other new resources acquired by the Administrator; and

(E) the quantifiable monetary savings, during such five-year period, to public body, cooperative and Federal agency customers resulting from—

(i) reduced public body and cooperative financing costs as applied to the total amount of resources, other than Federal base system resources, identified under subparagraph (D) of this paragraph, and

(ii) reserve benefits as a result of the Administrator's actions under this Act,

were not achieved." 16 U.S.C. 839e(b)(2).

B. Scope of Interpretation

This interpretation resolves only the basic issues necessary to implement section 7(b)(2), utilizing principles of statutory construction. Implementation of section 7(b)(2), and any resultant cost reallocation under section 7(b)(3), will be resolved informally through meetings with customers and other interested parties or during BPA wholesale rate proceedings for periods beginning on July 1, 1985.

C. Public Comment Procedures

PBA seeks comments from the public on the legal issues and definitions contained in this notice, or other legal issues which the public believes are relevant to this statutory interpretation. All comments and reply comments should be directed to the Public Involvement Manager at the address listed in the addresses section of this section. Written comments received by the Public Involvement Manager by February 15, 1984, will be reproduced and mailed to those who request copies. Requests for copies of comments may be made by telephone or in writing. Toll-free telephone numbers are listed in the addresses section of this notice. Mailings will take place subsequent to February 15, although requests may be made prior to that date. Written replies to this first round of comments will be accepted until February 29, 1984. BPA will develop its final interpretation based in part on original comments and reply comments. The final interpretation should be published in the Federal Register in March of 1984.

II. Proposed Interpretation

A. Definitions

This section contains definitions applicable to section 7(b)(2). Terms identified in the Northwest Power Act have the same meaning in this interpretation, unless further defined.

1. *7(b)(2) customers:* those firm power customers of BPA that are listed in section 7(b)(2) of the Northwest Power Act as subject to the rate test, viz, public bodies, cooperatives, and Federal agencies.

2. *Within or adjacent1:* relating to direct service industrial (DSI) customer loads determined in accordance with section 7(b)(2)(A) to be geographically within or adjacent to the service territories of 7(b)(2) customers.

3. *Forecast DSI loads:* those loads of direct service industries that are forecast to be served by BPA, during any future period, pursuant to section 5(d)(1) of the Northwest Power Act.

4. *Relevant rate case:* the wholesale power rate adjustment proceeding being conducted at the time the projections for section 7(b)(2) are made, and in which any adjustment to rates in accordance with section 7(b)(2) may be reflected.

5. *7(b)(2) case:* the entire process of projection rates for the relevant five-year period under the provisions of section 7(b)(2) of the Northwest Power Act, including specific data, assumptions, and results.

6. *Program case:* the entire process of projecting rates to be charged in the future under the provisions of the Northwest Power Act other than section 7(b)(2), including specific data, assumptions, and results.

7. *Relevant five-year period:* the test year of the relevant rate case, plus the ensuing four years.

8. *7(b)(2) general requirements:* for the purpose of this methodology, the public body, cooperative and Federal agency customers' electric power assumed to be purchased from BPA in the 7(b)(2) case. General requirements only include power purchased from BPA under section 5(b) of the Northwest Power Act; section 5(c) purchases from BPA are not included.

9. *Applicable 7(g) costs:* the costs identified in section 7(g) of the Northwest Power Act that are also listed in section 7(b)(2), viz, conservation, resource and conservation credits, experimental resources and uncontrollable events.

B. General Approach to Interpreting Section 7(b)(2)

Section 7(b)(2), read in isolation from the rest of the Northwest Power Act, assures that 7(b)(2) customers are charged no more for their general requirements after July 1, 1985, than they would have been charged if five assumptions were to be realized. These assumptions direct BPA to hypothesize power supply arrangements between itself and its customers that are quite different from reality. Implementation of section 7(b)(2) is by nature an exercise in speculation. However, the reasonableness of methodologies used to implement section 7(b)(2) will be tested in the relevant rate case.

The statute states that after July 1, 1985, the 7(b)(2) customers' power costs "may not exceed * * * as determined by the Administrator" the power costs for general requirements based on the enumerated assumptions. 16 U.S.C. 839e(b)(2). This language is a clear grant of discretion to the Administrator to determine the manner in which the statute is implemented.

The Administrator proposes to exercise his discretionary authority in the following manner. Assumptions specified in section 7(b)(2) and any unavoidable consequences, or secondary effects, of those assumptions will be considered to determine 7(b)(2) customers' power costs in the 7(b)(2) case. Assumptions not specified by the statute will not be considered. This general approach will avoid the modeling of a hypothetical world that attempts to reflect what would have occurred if the Northwest Power Act had not been enacted. Yet, it will give appropriate weight to potential significant secondary effects on power costs in the 7(b)(2) case. To accurately determine power costs in the 7(b)(2) case, it is necessary to incorporate secondary impacts of the rate test assumptions.

The legislative history of the Northwest Power Act supports limiting the assumptions of the 7(b)(2) case to those specified in the statute. The House Committee on Interstate and Foreign Commerce Report accompanying S. 885 (the bill that became the Northwest Power Act) states that, "[t]he assumptions to be made by the Administrator in establishing this ceiling are specifically set forth." H. Rep. No. 976–I, 96th Cong., 2d Sess., at 68 (1980). Similarly, the Report of the House Committee on Interior and Insular Affairs states, "[s]ubsection 7(b)(2) establishes a 'rate ceiling' for BPA's preference customers, and specifies the method of calculating this ceiling * * *." H. Rep. No. 976–II, 96th Cong., 2d Sess., at 52 (1980).

Legislative history also supports including the unavoidable secondary effects of the assumptions specifically set forth in the Northwest Power Act. Appendix B to the Report of the Senate Committee on Energy and Natural Resources states, in addition to costs specifically described in sections 7(b)(2)(B) and (D), the Administrator is to consider "[a]ny other general system operating costs, including reserves * * *." Appendix B at 58.

Thus, secondary effects, such as the elasticity effects of different electricity prices in the program case and the 7(b)(2) case, should be included in section 7(b)(2) methodologies. Implicit in the reason for section 7(b)(2) is that electricity prices may be different under the assumptions contained in section 7(b)(2). Therefore, it is appropriate to reflect the effects of these different price projections in load forecasts used for the two cases. Ignoring these price effects would require adopting a new assumption, not specified in the statute, that the price elasticity of electricity demand for the 7(b)(2) customers is zero. Such an assumption is theoretically and empirically unjustified and would be inconsistent with the structure of the models used to develop load forecasts for the relevant rate case. This notice should not be taken as an exhaustive discussion of secondary effects. Elasticity is simply an example.

BPA will conscientiously follow the requirements of section 7(b)(2) to perform the "rate test" for its public body, cooperative and Federal agency customers. If the results of the rate test indicate that BPA must recover costs in excess of those allowed under section 7(b)(2), BPA will implement the section 7(b)(3) supplemental rate charge provision for that purpose. BPA's concern is that it might not be feasible to recover all, or some, of the reallocated costs "through supplemental rate charges for all other power sold by the Administrator to all customers." Should this occur, BPA would be forced to resolve a possible conflict among sections 7(b)(2), 7(b)(3), and 7(a).

Section 7(a) of the Northwest Power Act requires that BPA rates recover the costs of the electric power and transmission systems, including the repayment of Federal Treasury investments in those systems. Section 7(a) reaffirms a long-standing obligation, previously articulated in the Bonneville Project Act and the Federal Columbia River Transmission System Act. Section 7(b) must be applied in a manner which enables BPA to set rates at levels sufficient to recover costs, otherwise the rates will not receive confirmation and approval. See, section 7(a)(2) of the Northwest Power Act, 16 U.S.C. 839e(a)(2).

The legislative history of the Northwest Power Act also supports application of section 7(b) in a manner consistent with BPA's primary statutory obligation that its rates recover costs. The House Interior Committee report states:

> Section 7 of the legislation sets out the requirements BPA must follow when fixing rates for the power sold its customers under this legislation. Subject to the general requirement (contained in section 7(a)) that BPA must continue to set its rates so that its total revenues continue to recover its total costs, BPA is required by the legislation to establish the following rates: [report continues by setting out rate structure of the Act]. H. Rep. No. 976–II, 96th Cong., 2d Sess., at 36.

C. Specific Statutory Interpretations

1. *Applicable 7(g) costs should be excluded from the program case, but not from the 7(b)(2) case.* The projected amounts to be charged 7(b)(2) customers for their firm power general requirements will include the costs of conservation, resource and conservation credits, experimental resources and uncontrollable events, regardless of the implementation of section 7(b)(2). The statute states that "* * * the projected amounts to be charged for firm power for the combined general requirements of public body, cooperative and Federal agency customers, exclusive of amounts charged such customers under subsection (g) for the costs of conservation, resource and conservation credits, experimental resources and uncontrollable events, may not exceed in total, * * * an amount equal to the power costs for general requirements of such customers if the Administrator assumes * * *." Section 7(b)(2) is explicit in excluding the applicable 7(g) costs from the program case before comparison is made with the 7(b)(2) case.

Since Section 7(g) costs are specifically excluded from the program case, but not excluded from the 7(b)(2) case, it would be inappropriate to subtract section 7(g) costs from the 7(b)(2) case for purpose of comparison with the program case. If Congress intended the power costs in the 7(b)(2) case to be exclusive of conservation costs and other section 7(g) costs, language to that effect would have been included in the provisions.

In order to ensure that the proper price elasticity effects are reflected in the load forecasts for the program case, the projection of loads for the program case should be based on power costs that include the applicable 7(g) costs. The final program case power costs should then be reduced by the applicable 7(g) costs for comparison with the 7(b)(2) case power costs.

2. *Pertinent DSI loads are to be included in 7(b)(2) customer loads for the entire five-year test period.* Section 7(b)(2)(A) states that BPA is to assume that "the public body and cooperative customers' general requirements had included during such five-year period the direct service industrial customer loads are (i) served by the Administrator, and (ii) are located within or adjacent to the geographic service boundaries of such public bodies and cooperatives * * *." The plain meaning of this language indicates that the 7(b)(2) customers' loads are assumed to include the DSI loads within or adjacent to the 7(b)(2) customers' service territories for the entire five-year test period.

An alternative interpretation would require the assumption that relevant DSI loads were transferred to 7(b)(2) customers at the expiration dates of DSI power sales contracts in effect on December 5, 1980. However, there is nothing in this statutory assumption that requires, or even permits, BPA to "phase" DSI loads into 7(b)(2) customers' general requirements over time. BPA does not propose to introduce speculation into this assumption where none is required by the statute.

Legislative history supports this interpretation of the statute. In the analysis of the section 7(b)(2) directives contained in Appendix B to the Senate Report, S. Rep. No. 272, 96th Cong. 1st Sess., at 65–79 (1979), forecasted DSI loads were transferred from BPA to 7(b)(2) customers for the entire test period, regardless of contracts in effect as of the effective date of the Northwest Power Act. In the projections contained

in Appendix B, calculations of public agency loads for the 7(b)(2) case included a full 85 percent of projected DSI loads beginning in 1980. Although Appendix B is not conclusive evidence of legislative intent, S. Rep. 272, supra, at 58, it was "an important part of the common understanding about how the costs of resources would be distributed as a result of [the Northwest Power Act]." S. Rep. 272, at 31. Appendix B is a useful tool for statutory construction where it does not conflict with the language of the statute.

3. *All DSI loads assumed to be placed on 7(b)(2) customers will be treated as firm.* Section 7(b)(2)(A) states that BPA is to assume "that the public body and cooperative customers' general requirements had included during such five-year period the direct service industrial customers loads * * *." BPA must determine the nature of service assumed to be provided by the public bodies and cooperatives to the relevant DSI loads.

The DSI loads served by BPA include three quartiles that are firm loads and one quartile (the first quartile) that BPA does not plan or acquire resources to serve. The language of the statute makes no direct reference to the quality of service the Administrator is to assume the 7(b)(2) customers provide. However, the language does lead to a strong inference that Congress intended all DSI loads to be tested as firm.

Section 7(b)(2)(A) requires BPA to assume that the loads of relevant DSIs are included in the 7(b)(2) customers' "general requirements," a term defined by section 7(b)(4) of the Northwest Power Act as limited to electric power purchased from the Administrator under section 5(b) of the Act. Section 5(b) deals exclusively with firm power.

The legislative history of the Northwest Power Act supports interpreting the statute to require 7(b)(2) customers' firm power general requirements in the 7(b)(2) case to include all DSI loads served by the Administrator, including DSI loads that under the program case BPA does not plan or acquire resources to serve. In Appendix B to the Senate Report, all four quartiles of DSI loads were treated as firm when assigned to public agency customers in the 7(b)(2) case. Once again, Appendix B resolves a statutory ambiguity.

4. *BPA will use Appendix B to determine DSI loads within or adjacent to the geographic service boundaries of public bodies and cooperatives.* Section 7(b)(2)(A) states that the Administrator is to assume that during the relevant five-year period, "the public body and cooperative customers' general requirements had included * * * the direct service industrial customer loads which are * * * located within or adjacent to the geographic service boundaries of such public bodies and cooperatives * * *." 16 U.S.C. 839e(b)(2)(A). It is not apparent from the statute how BPA is to resolve the question of which DSIs are "within or adjacent to" public body and cooperative customers' boundaries. Therefore, BPA must look to legislative history to resolve the ambiguity.

The legislative history of the Northwest Power Act indicates that the determination of which DSIs are "within or adjacent" to public body and cooperative customers' boundaries was made in Appendix B. S. Rep. No. 272, 96th Cong., 1st Sess., Appendix B, at 66. Appendix B includes a table listing the DSIs "within BPA preference customers' service areas," DSIs "adjacent to BPA preference customers' service areas" and those DSIs that "could not readily be served by BPA preference customers." Id.

The "within or adjacent" table in the numerical analysis in Appendix B, is accompanied by a narrative explanation which states that the loads for establishing resource requirements under section 7(b)(2) will include "DSI total loads within or adjacent to the service territory of the public bodies and cooperatives. (85 percent of existing DSI's as shown in the attached table)." Appendix B at 58. The detailed nature of the "within or adjacent" table and, the narrative explanation in Appendix B convinces BPA that Congress intended the Appendix B table to be used in resolving which DSIs are "within or adjacent" to the service territory of public body and cooperative customers. This legislative history resolves the ambiguity, in section 7(b)(2)(A). The Appendix B table will only be changed if service to those DSI customers changes, such as the termination of BPA service to a DSI industrial plant.

There is nothing in the statute that would require BPA to undertake a new determination of which DSI loads were within or adjacent to 7(b)(2) customer service territories. A determination of DSI's "within" relevant service territories poses little problem; however, adjacency may not be capable of resolution without protracted, argumentative hearings. Should "adjacent" be defined as within one mile of a relevant service territory, two miles, or fifteen miles? Are "air miles" determinative, or should terrain be considered? What effect should size of the DSI load have on the question? It may be economic to extend service to a large DSI load, but not to a small one. BPA rate cases should not become forums for competing testimony by construction engineers, surveyors, and architects. Congress could not have intended such a result, and wisely provided the BPA Administrator discretionary authority to implement section 7(b)(2) in a reasonable manner.

Making a new determination of "within or adjacent" DSI loads would also force BPA to decide matters of state utility law in which the agency has no expertise. Since the DSIs are already interconnected with the Pacific Northwest transmission grid, determination of the public or private utility to provide new service to a given DSI would likely be a matter of resolving questions of state law and regulations. Where two or more utilities are in a position to serve a customer, most states have utility laws to govern the outcome. BPA does not propose to interpret the state laws of Oregon, Washington, Idaho, and Montana as part of section 7(b)(2) implementation.

5. *Determination of "Federal base system resources not obligated to other entities" necessitates reference to the contracts of pertinent DSIs.* Section 7(b)(2)(B) states that the Administrator is to assume that 7(b)(2) customers were served by FBS resources "not obligated to other entities under contracts existing as of the effective date of this Act (during the remaining term of such contracts) excluding obligations to direct service industrial customer loads included in [Section 7(b)(2)(A)]." Unlike the assumption relating to DSI loads served by public body and cooperative customers, section 7(b)(2)(B) requires BPA to make two factual determinations; (1) What is the level of FBS resources, and (2) what level of FBS resources is obligated for service to other entities over all, or a portion, of the relevant five-year period.

The first determination is necessary because the FBS included resources purchased by BPA under long-term contracts. Expiration of these contracts will likely cause a change in the size of the FBS during the relevent five-year period.

The second determination concerns BPA power sale contracts existing as of the effective date of the Northwest Power Act. When these contractual obligations on FBS resources are removed through expiration of the relevant contracts, the size of FBS resources available to 7(b)(2) customers would increase. In the 7(b)(2) case, particular attention must be given to DSI loads not "within or adjacent to the geographic service boundaries" of 7(b)(2) customers, which will be

assumed to transfer to private utilities as of the expiration dates of the DSI contracts in effect on December 5, 1980.

Legislative history supports the interpretation that DSI loads should shift to 7(b)(2) customers without regard to existing DSI contracts, while the size of FBS resources should depend on DSI contract expiration dates. Section 7(b)(2)(B) initially stated that the Administrator was to assume that 7(b)(2) customers were served by FBS resources, "less firm power contractual commitments as of the date of this Act," to DSIs, "not located within or adjacent * * *." S. 885, Amendment No. 134, 96th Cong., 1st Sess. (April 15, 1979); H.R. 4150. 96th Cong., 1st Sess. (May 21, 1979). The Senate Committee on Energy and Natural Resources amended S. 885 to incorporate language substantively, identical to section 7(b)(2)(B) as enacted. Thus, a directed legislative effort was put forth to incorporate language shifting DSI loads to the IOUs only after expiration of the DSI contracts. This same effort is absent from the development of section 7(b)(2)(A).

6. *Section 7(b)(2)(D) is clear in identifying assumptions regarding additional resources to be acquired by BPA.* Section 7(b)(2)(D) describes the manner in which additional resources are assumed to be acquired to meet the 7(b)(2) customers' loads when FBS resources are exhausted. Three types of additional resources are available in the 7(b)(2) case. The first type of resource is described in section 7(b)(2)(D)(i) as being those that were "purchased from such customers by the Administrator pursuant to section 6." These are the resources actually acquired by BPA from the 7(b)(2) customers in the program case. Section 7(b)(2)(D)(ii) describes the second type of resource as those "not committed to load pursuant to section 5(b)." These are resources owned or purchased by the 7(b)(2) customers that are not dedicated to their own loads. Together, these two provisions result in a list of resources which were developed by 7(b)(2) customers and which are assumed to be available to meet regional 7(b)(2) customer needs.

The remainder of secton 7(b)(2)(D) outlines how this list of resources is to be used to serve the 7(b)(2) customers' loads and describes the third type of resources available to meet these loads. BPA is first to assume for the 7(b)(2) case that any required additional resources "were the least expensive resources owned or purchased by public bodies or cooperatives." This implies that 7(b)(2)(D) (i) and (ii) resources would be stacked in order of cost and pulled from that stack to meet 7(b)(2) customers' loads in order of least to greatest cost. Should these resources be insufficient to satisfy the general requirements of 7(b)(2) customers, section 7(b)(2)(D) provides the assumption that "* * * any additional needed resources were obtained at the average cost of all other new resources acquired by the Administrator." This third resource type would consist of generic resources of whatever size is required to serve the 7(b)(2) customers' remaining loads, the costs of which would be determined by the average cost of all new resources acquired by BPA from non 7(b)(2) customers during the relevant five-year period.

Issued in Portland, Oreg., on January 17, 1984.

Robert E. Ratcliffe,

Acting Administrator.

[FR Doc. 84-1884 Filed 1-20-84; 8:45 am]

BILLING CODE 6450-01-M

Proposed Sale of Nonfirm Energy to Utilities for Irrigation Loads and Request for Comments

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice and Request for Comments. *BPA File No.:* IRR-2.

SUMMARY: The Bonneville Power Administration has determined that it may have large amounts of nonfirm energy available through April 1984, in addition to firm power for all its existing obligations. BPA has authority to dispose of this excess energy.

Northwest irrigated agriculture is suffering from depressed markets and increased costs of operation, including increased electricity costs. Electricity sales in the spring for irrigation have declined in recent years.

BPA proposes a pilot project in which it would offer nonfirm energy on an experimental basis to non-generating Northwest publicly and cooperatively owned utilities for their irrigation loads in March and April 1984. BPA would consider extending the offer to other Northwest agriculture and help reverse the downward slide in spring energy sales to irrigators.

BPA requests comments on this proposal.

DATES: Comments on this proposal will be accepted by mail or telephone. Comments must be received by the BPA Public Involvement office no later than February 3, 1984.

ADDRESSES: Submit comments to Ms. Donna L. Geiger, Public Involvement Manager, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT: Ms. Donna L. Geiger, Bureau of Land Management, at the above address, 503-230-3478. Oregon callers outside of Portland may use 800-452-8429. Callers in California, Idaho, Montana, Nevada, Utah, Washington, and Wyoming may use 800-547-6048. Information may also be obtained from:

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 N.E. Irving Street, Portland, Oregon 97232, 503-230-4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 E. 7th Avenue, Eugene, Oregon, 97401, 503-687-6952.

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, W. 920 Riverside Avenue, Spokane, Washington 99201, 509-456-2518.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406-329-3860.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509-662-4377, extension 379.

Mr. Richard D. Casad, Puget Sound Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, 206-442-4130.

Mr. Thomas V. Wagenhoffer, Snake River Area Manager, 101 W. Poplar, Walla Walla, Washington 99362, 509-525-5500, extenson 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Fall, Idaho 83401, 208-523-2706.

Mr. Frederic D. Rettenmund, Boise District Manager, 1109 Main Street, Owyhee Plaza, Suite 245, Boise, Idaho 83707, 208-334-9137.

SUPPLEMENTARY INFORMATION:

Background

In the spring of 1982 and 1983, BPA had substantial amounts of nonfirm energy available for sale. Simultaneously, Northwest energy sales for irrigation loads in the spring declined due to increase production costs and depressed agricultural markets.

Recognizing these problems, and desiring to increase energy sales while assisting the Northwest farming economy, on April 20, 1983, BPA offered utilities a contract for nonfirm energy to serve incremental irrigation loads. This contract was offered following public comment on a BPA proposal published in the **Federal Register** on April 7, 1983 (48 FR 15178).

Twenty-seven utilities signed that contract. BPA published a notice of the results of the offer on August 24, 1983

(48 FR 38533). Copies of these notices and related public comments are available from the BPA Public Involvement office.

Under the 1983 program, nonfirm energy was made available to utilities on a point-of-delivery basis for all irrigation sales over and above the utilities' estimated firm irrigation loans. Estimated firm irrigation loads were deemed to be 80 percent of the previous year's actual usage unless a utility could demonstrate it should be otherwise.

As may be expected with a new program, problems were experienced. These included administrative difficulties in establishing estimated firm sales and inadequate mechanisms to insure that irrigators using incremental energy would actually receive the financial benefits. Further, precipitation during the spring irrigation season was above normal.

II. Current PBA Proposal

Recognizing the need to further refine the program, BPA, irrigators, and utility representatives have explored alternative nonfirm irrigation sales mechanisms. BPA now proposes a pilot project to test the use of nonfirm energy to increase sales of Federal energy for irrigation loads. Under this pilot project, nonfirm energy would be available for all irrigation loads of non-generating publicly and cooperatively owned Northwest utilities during BPA's March and April 1984 billing periods. This effort will afford BPA an opportunity to learn much about Northwest irrigation loads in terms of price elasticity, load shifting, impact of nonfirm energy availability on crop selection, and consumer acceptance. This information will help BPA design any future programs to assist irrigated agriculture and increase BPA energy sales. The pilot is also expected to provide low-cost energy to regional irrigators to enable them to increase yield. Irrigators would share in the benefits of a good water year by realizing a lower cost of production per unit of energy consumed.

To help avoid revenue loss to BPA, retail utilities participating in the pilot project would be required to structure their markup to encourage sales higher than would be expected absent the program. BPA believes this program will generate sufficient additional revenues to offset revenues normally received from energy sales for irrigation loads at firm rates in the March and April billing periods.

BPA will conduct extensive data gathering and analysis of the results of the pilot project. Participating utilities will be required to submit monthly irrigation-load and other data. If this short-term pilot program proves successful, it may serve as the basis for further nonfirm energy sales contracts for irrigation loads.

III. Power Situation

BPA's proposed short-term offer of nonfirm energy for irrigation loads is contingent on nonfirm energy being available through March and April 1984. Based on January 1984 snow surveys, it appears significant amounts of nonfirm energy will be available. But the final determination whether to sell nonfirm irrigation energy will ultimately be based on analysis of February 1, 1984, snow pack measurements. If nonfirm energy is determined to be unavailable, the offer of nonfirm sale for irrigation will not be made.

IV. Irrigation Load

Spring retail Northwest irrigation sales have declined in recent years. BPA has estimated that spring 1984 irrigation sales level may follow this pattern absent this proposal.

BPA does not expect this program to cause any appreciable increase in the amount of acreage brought under irrigation. Some switching to more water-intensive crops may occur. However, the proposal should bring about increased water usage to boost crop yield, resulting in greater irrigation energy sales than would otherwise occur.

V. Proposed Terms of Sale

Under the pilot project, if nonfirm energy is available, PBA's Northwest publicly and cooperatively owned utility customers would be offered energy at nonfirm prices to serve irrigation load for their March and April 1984 billing periods. The offer would be made to utilities without substantial generating resources. PBA would consider allowing participation by other customer utilities on request.

Utility markup will be limited to assure significant price reduction to irrigators while providing utilities an incentive to encourage irrigators to take advantage of the nonfirm offer. Limited markup will allow at least partial recovery of utility distribution and administrative costs. Limiting markup on a utility-by-utility basis rather than by using a regional average is intended to permit equitable treatment of local factors influencing retail rates including variations in average wholesale electricity prices, consumer density, and plant investment.

Each irrigator who receives nonfirm energy under the pilot project would receive benefits directly in the form of lower retail prices. Benefits to individual irrigators would not be contingent upon the level of participation by other irrigators.

VI. Rate

BPA proposes to sell energy for irrigation loads under its existing NF–83 rate schedule for nonfirm energy, at the Contract Rate of 13.9 mills per kilowatthour.

VII. National Environmental Policy Act Compliance

BPA will complete procedures to comply with the National Environmental Policy Act before deciding to proceed with the proposal.

VIII. Comments Requested

BPA wishes to make this offer for irrigation loads as soon as possible, so that irrigators can adjust their operating schedules in response to the offer. BPA therefore requests that those who wish to comment on this proposal do so immediately. Comments must be received by February 3, 1984. BPA intends to offer the contract for the pilot project to utilities with irrigation loads on February 7, 1984.

BPA will decide whether or not to go forward with the pilot project this year following February 10, 1984, when February snowpack reports have been analyzed to determine whether nonfirm energy will be available. If BPA determines that nonfirm energy will not be available, any contracts already executed will be null and void. BPA would then consider running the pilot project in 1985.

If February snowpack reports indicate nonfirm energy will be available for the pilot project, any signed pilot project contracts will be effective on the beginning of the March billing period for each participating utility. The March billing period begins on different dates ranging from February 15 to March 1 at different utilities. BPA's offer will remain open through February 28, 1984.

Copies of the proposed contract for the pilot project are available from the BPA Public Involvement office at the address and telephone number listed in the addresses section of this notice.

Issued in Portland, Oreg., on January 16, 1984.

Robert E. Ratcliffe,

Acting Administrator.

[FR Doc. 84–1665 Filed 1–20–84; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

Publication of Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas

The Natural Gas Policy Act of 1978 (NGPA) (Pub. L. 95–621) signed into law on November 9, 1978, mandated a new framework for the regulation of most facets of the natural gas industry. In general, under Title II of the NGPA, interstate natural gas pipeline companies are required to pass through certain portions of their acquisition costs for natural gas to industrial users in the form of a surcharge. The statute requires that the ultimate cost of gas to the industrial facility should not exceed the cost of the fuel oil which the facility could use as an alternative.

Pursuant to Title II of the NGPA, Section 204(e), the Energy Information Administration (EIA) herewith publishes for the Federal Energy Regulatory Commission (FERC) computed natural gas ceiling prices and the high cost gas incremental pricing threshold which are to be effective February 1, 1984. These prices are based on the prices of alternative fuels.

FOR FURTHER INFORMATION CONTACT: Leroy Brown, Jr., Energy Information Administration, 1000 Independence Avenue, S.W., Room BE–034, Washington, D.C. 20585, Telephone: (202) 252–6077.

Section I

As required by FERC Order No. 50, computed prices are shown for the 48 contiguous States. The District of Columbia's ceiling is included with the ceiling for the State of Maryland. FERC, by an Interim Rule issued on March 2, 1981, in Docket No. RM79–21, revised the methodology for calculating the monthly alternative fuel price ceilings for State regions. Under the revised methodology, the applicable alternative fuel price ceiling published for each of the contiguous States shall be the lower of the alternative fuel price ceiling for the State or the alternative fuel price ceiling for the multistate region in which the State is located.

The price ceiling is expressed in dollars per million British Thermal Units (BTU's). The method used to determine the price ceilings is described in Section III.

State	Dollars per million Btu's
Alabama	3.95
Arizona[1]	4.09
Arkansas[1]	3.85
California	4.07
Colorado[2]	4.02
Connecticut	4.39
Delaware[1]	4.27
Florida	4.05
Georgia[1]	4.23
Idaho[2]	4.02
Illinois[1]	4.21
Indiana	3.94
Iowa[1]	4.20
Kansas	4.11
Kentucky[1]	4.21
Louisiana[1]	3.85
Maine	4.40
Maryland[1]	4.27
Massachusetts	4.40
Michigan[1]	4.21
Minnesota	4.20
Mississippi[1]	4.23
Missouri[1]	4.20
Montana[2]	4.02
Nebraska[1]	4.20
Nevada[1]	4.09
New Hampshire[1]	4.41
New Jersey[1]	4.27
New Mexico	3.57
New York	4.25
North Carolina[1]	4.23
North Dakota[1]	4.20
Ohio	4.16
Oklahoma[1]	3.85
Oregon	4.07
Pennsylvania[1]	4.27
Rhode Island[1]	4.41
South Carolina[1]	4.23
South Dakota[1]	4.20
Tennessee	4.20
Texas[1]	3.85
Utah[2]	4.02
Vermont[1]	4.41
Virginia[1]	4.23
Washington[1]	4.09
West Virginia[1]	4.21
Wisconsin[1]	4.21
Wyoming[2]	4.02

[1] Region based price as required by FERC Interim Rule, issued on March 2, 1981, in Docket No. RM–79–21.
[2] Region based price computed as the weighted average price of Regions E, F, G, and H.

Section II. Incremental Pricing Threshold for High Cost Natural Gas

The EIA has determined that the volume-weighted average price for No. 2 distillate fuel oil landed in the greater New York City Metropolitan area during November 1983 was $33.77 per barrel. In order to establish the incremental pricing threshold for high cost natural gas, as identified in the NGPA, Title II, Section 203(a)(7), this price was multiplied by 1.3 and converted to its equivalent in millions of BTU's by dividing by 5.8. Therefore, the incremental pricing threshold for high cost natural gas, effective February 1, 1984, is $7.57 per million BTU's.

Section III. Method Used To Compute Price Ceilings

The FERC, by Order No. 50, issued on September 29, 1979, in Docket No. RM79–21, established the basis for determining the price ceilings required by the NGPA. FERC also, by Order No. 167, issued in Docket No. RM81–27 on July 24, 1981, made permanent the rule that established that only the price paid for No. 6 high sulfur content residual fuel oil would be used to determine the price ceilings. In addition, the FERC, by Order No. 181, issued on October 6, 1981, in Docket No. RM81–28, established that price ceilings should be published for only the 48 contiguous States on a permanent basis.

A. Data Collected

The following data were required from all companies identified by the EIA as sellers of No. 6 high sulfur content (greater than 1 percent sulfur content by weight) residual fuel oil: For each selling price, the number of gallons sold to large industrial users in the months of September 1983, October 1983, and November 1983.[1] All reports of volume sold and price were identified by the State into which the oil was sold.

B. Method Used to Determine Alternative Price Ceilings

(1) *Calculation of Volume-Weighted Average Price.* The prices which will become effective February 1, 1984 (shown in Section I), are based on the reported price of No. 6 high sulfur content residual fuel oil, for each of the 48 contiguous States, for each of the 3 months, September 1983, October 1983, and November 1983. Reported prices for sales in September 1983 were adjusted by the percent change in the nationwide volume-weighted average price from September 1983 to November 1983. Prices for October 1983 were similarly adjusted by the percent change in the nationwide volume-weighted average price from October 1983 to November 1983. The volume-weighted 3-month average of the adjusted September 1983 and October 1983, and the reported November 1983 prices were then computed for each State.

(2) *Adjustment for Price Variation.* States were grouped into the regions identified by the FERC (see Section III.C.). Using the adjusted prices and associated volumes reported in a region during the 3-month period, the volume-weighted standard deviation of prices was calculated for each region. The volume-weighted 3-month average price (as calculated in Section III.B.(1) above) for each State was adjusted downward by two times this standard deviation for the region to form the adjusted weighted average price for the State.

(3) *Calculation of Ceiling Price.* The lowest selling price within the State was determined for each month of the 3-month period (after adjusting up or down by the percent change in oil prices

[1] Large Industrial User—A person/firm which purchases No. 6 fuel oil in quantities of 4,000 gallons or greater for consumption in a business, including the space heating of the business premises. Electric utilities, governmental bodies (Federal, State, or Local), and the military are excluded.

at the national level as discussed in Section III.B(1) above). The products of the adjusted low price for each month times the State's total reported sales volume for each month were summed over the 3-month period for each State and divided by the State's total sales volume during the 3 months to determine the State's average low price. The adjusted weighted average price (as calculated in Section III.B.(2)) was compared to this average low price, and the higher of the values was selected as the base for determining the alternative fuel price ceiling for each State. For those States which had no reported sales during one or more months of the 3-month period, the appropriate regional volume-weighted alternative fuel price was computed and used in combination with the available State data to calculate the State alternative fuel price ceiling base. The State's alternative fuel price ceiling base was compared to the alternative fuel price ceiling base for the multistate region in which the State is located and the lower of these two prices was selected as the final alternative fuel price ceiling base for the State. The appropriate lag adjustment factor (as discussed in Section III.B.4) was then applied to the alternative fuel price ceiling base. The alternative fuel price (expressed in dollars per gallon) was multiplied by 42 and divided by 6.3 to estimate the alternative fuel price ceiling for the State (expressed in dollars per million BTU's).

There were insufficient sales reported in Region G for the months of September, October, and November 1983. The alternative fuel price ceilings for the States in Region G were determined by calculating the volume-weighted average price ceilings for Region E, Region F, Region G, and Region H.

(4) *Lag Adjustment.* The EIA has implemented a procedure to partially compensate for the two-month lag between the end of the month for which data are collected and the beginning of the month for which ceiling prices become effective. It was determined that *Platt's Oilgram Price Report* publication provides timely information relative to the subject. The prices found in *Platt's Oilgram Price Report* publication are given for each trading day in the form of high and low prices for No. 6 residual oil in 20 cities throughout the United States. The low posted prices for No. 6 residual oil in these cities were used to calculate a national and a regional lag adjustment factor. The national lag adjustment factor was obtained by calculating a weighted average price for No. 6 high sulfur residual fuel oil for the ten trading days ending January 16, 1984, and dividing that price by the corresponding weighted average price computed from prices published by Platt's for the month of November 1983. A regional lag adjustment factor was similarly calculated for four regions. These are: one for FERC Regions A and B combined; one for FERC Region C; one for FERC Regions D, E, and G combined; and one for FERC Regions F and H combined. The lower of the national or regional lag factor was then applied to the alternative fuel price ceiling for each State in a given region as calculated in Section III.B.(3).

Listing of States by Region

States were grouped by the FERC to form eight distinct regions as follows:

Region A

Connecticut	New Hampshire
Maine	Rhode Island
Massachusetts	Vermont

Region B

Delaware	New York
Maryland	Pennsylvania
New Jersey	

Region C

Alabama	North Carolina
Florida	South Carolina
Georiga	Tennessee
Mississippi	Virginia

Region D

Illinois	Ohio
Indiana	West Virginia
Kentucky	Wisconsin
Michigan	

Region E

Iowa	Nebraska
Kansas	North Dakota
Missouri	South Dakota
Minnesota	

Region F

Arkansas	Oklahoma
Louisiana	Texas
New Mexico	

Region G

Colorado	Utah
Idaho	Wyoming
Montana	

Region H

Arizona	Oregon
California	Washington
Nevada	

Issued in Washington, D.C., January 19, 1984.

Albert H. Linden, Jr.,

Deputy Administrator, Energy Information Administration.

[FR Doc. 84-1863 Filed 1-20-84; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP4-128-000]

Equitable Gas Company; Application

January 17, 1984.

Take notice that on December 12, 1983, Equitable Gas Company (Equitable), 420 Boulevard of the Allies, Pittsburgh, Pennsylvania 15219, filed in Docket No. CP84-128-000 an application pursuant to Section 7(c) of the Natural Gas Act for certificate of public convenience and necessity authorizing the sale for resale in interstate commerce to Beckwith Machinery Company (Beckwith) of up to 1,300 Mcf of natural gas per month for a period of two years, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Equitable states that the gas to be sold to Beckwith would be compressed by Beckwith and resold as compressed natural gas for use as motor fuel. Equitable proposes to sell the gas at its Pennsylvania Public Utility Commission approved commercial tariff rate. Equitable therefore seeks waiver of the requirement that a separate tariff for this sale be filed with the Federal Energy Regulatory Commission.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 7, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing threrein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this

application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission omits own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Equitable to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-1725 Filed 1-20-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP84-120-000]

Florida Gas Transmission Application

January 17, 1984.

Take notice that on December 9, 1983, Florida Gas Transmission Company (FGT), P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. CP84-120-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition and operation of Amoco Production Company's (Amoco) Foley Pipeline and the transportation of gas sold by Amoco to Florida Power and Light Company (FP&L) through the Foley Pipeline, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

FGT proposes to acquire Amoco's Foley Pipeline, consisting of 32 miles of 6-inch pipeline dehydration facilities, extending from Foley Field, Baldwin County, Alabama, and terminating at a point of interconnection with the facilities of United Gas Pipe Line Company (United) also in Baldwin County, Alabama. FGT would purchase Amoco's Foley Pipeline and appurtenant facilities for $500,000, it is asserted.

FGT also proposes to transport up to but not in excess of 15 billion Btu of gas per day for the account of Amoco. It is stated that FGT would charge Amoco 11.8 cents per million Btu through December 31, 1983 and 17.5 cents per million Btu thereafter, for the transportation service. FGT would transport the gas through the acquired Foley Pipeline and redeliver equivalent volumes of natural gas to Amoco at an existing point of interconnection with United's facilities in Baldwin County, Alabama, it is explained.

FGT states that by order issued August 19, 1983, in Docket No. CP82-87-002, United was authorized to establish an additional delivery point in order to enable Amoco to make emergency deliveries of natural gas to the Utilities Board of the City of Foley, Alabama, for United's account. FGT asserts that it would honor the United-Amoco agreement and requests authorization to deliver gas to the City of Foley for United's account under the terms of the August 19, 1983, certificate.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 7, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for FGT to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-1726 Filed 1-20-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER84-199-000]

Lockhart Power Company; Tariff Change

January 17, 1984.

The filing Company submits the following:

Take notice that Lockhart Power (Lockhart) on January 10, 1984, tendered for filing a proposed two step increase in its FERC Electric Service Tariff Rate Schedule Resale. The first, or "Interim", change would increase revenues from jurisdictional sales and service by $633,815 based on the 12-month period ending November 30, 1983. The second or "Proposed" change would increase revenues from jurisdictional sales and service by $724,349, included the "Interim" increase, based on the 12-month period ending November 30, 1983.

The reason for the proposed increase is primarily to reflect the Company's increased cost of purchased power which will occur if Duke Power Company is permitted to increase its wholesale rates as filed on December 28, 1983. With this increased cost of purchased power and certain other cost increases, the Company would not be able to earn a reasonable return on its investment without adjusting its own resale rates to reflect these increased costs.

Lockhart requests an effective date of March 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served upon the City of Union, South Carolina, Lockhart's sole jurisdictional customer. A copy of the filing has also been mailed to the South Carolina Public Service Commission.

Any person desiring to be heard or to protest said application should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 1, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-1727 Filed 1-20-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP84-147-000]

Natural Gas Pipeline Company of America; Request Under Blanket Authorization

January 17, 1984.

Take notice that on December 23, 1983, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP84-147-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205), that Natural proposes to transport natural gas for United States Steel Corporation (US Steel) under the authorization issued in Docket No. CP82-402-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Natural states that it proposes to transport up to a maximum of 50,000 Mcf of natural gas per day for US Steel from White County, Arkansas, to Cameron Parish, Louisiana, for which it would charge a transportation fee of 19.4 cents per million Btu of gas received for transportation, based upon Natural's cost of onshore transmission in docket No. RP 83-68, plus an added incentive charge (AIC) of 2.5 cents per million Btu of gas received for transportation through January 31, 1985. Natural would also retain eight-tenths of one percent of volumes received in White County for unaccounted for gas and fuel and other uses of gas during daily pipeline operations, it is explained. Natural states that it commenced this service on November 14, 1983, pursuant to § 157.209(e)(1) of the Regulations, for a 120-day period that terminates on March 2, 1984. Natural proposes to continue the transportation service from March 3, 1984, through June 30, 1985, under the proposal in the subject docket.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1728 Filed 1-20-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-803-000]

New York State Electric & Gas Corporation; Refund Report

January 17, 1984.

Take notice that on December 21, 1983, New York State Electic & Gas Corporation (NYSEG) submitted for filing its Refund Report pursuant to a November 25, 1983 Commission Letter Order.

Any person desiring to be heard or to portest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 27, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1729 Filed 1-20-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-198-000]

Puget Sound Power & Light Company; Filing

January 17, 1984.

The filing Company submits the following:

Take notice that on January 6, 1984, Puget Sound Power & Light Company (Puget) tendered for filing the following documents relating to Puget's Residential Purchase and Sale Agreement with the Bonneville Power Administration (BPA):

1. Puget's Motion for Consolidation of all of Puget's ASC Proceedings and for Expedited Review Including Independent Audit, Settlement Conference, and Setting for Hearing.

2. Memorandum in support of Puget's Average System Cost Determination for the Exchange period beginning August 2, 1983 and in support of Motion for Consolidation.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 1, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1730 Filed 1-20-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER80-607-001, ER80-608, ER80-609, ER80-610, ER80-611 and ER80-660-001]

Southwestern Electric Power Company; Refund Report

January 17, 1984.

Take notice that on December 19, 1983, Southwestern Electric Power Company (SWEPCO) submitted for filing its Refund Report pursuant to a November 16, 1983 Commission Letter Order.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before January 27, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1731 Filed 1-20-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-131-000]

Tennessee Gas Pipeline Company, a Division of Tenneco Inc.; Request Under Blanket Authorization

January 17, 1984.

Take notice that on December 14, 1983, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), Tenneco Building, Houston, Texas 77002, filed in Docket No. CP84-131-000 a request, pursuant to Section 157.205 of the Regulations under the Natural Gas Act, that Tennessee proposes to reassign natural gas volumes between two delivery points of its customer, Nashville Gas Company (Nashville), under the authorization issued in Docket No. CP82-413-000 pursuant to Section 7 of the Natural Gas Act, all as more fully

set forth in the request on file with the Commission and open to public inspection.

It is stated that the reassignment of gas volumes, as shown below, will not increase or decrease the sum total of the daily and/or annual volumes Nashville is entitled to purchase from Tennessee and, consequently, no impact on peak day and/or annual deliveries to Nashville.

Delivery point	Maximum daily quantity (Mcf)	
	Present [1]	Proposed [2]
Nashville No. 1 (Emergency sale)	0	0
Nashville No. 2	151,689	150,775
Ashland City	2,886	3,800
Total	154,575	154,575

[1] Pursuant to separate gas sales agreements dated March 30, 1981, under Rate Schedule G-1 superseded to reflect Tennessee Natural Gas Lines, Inc.'s (Tennessee Natural) name change to Nashville Gas Company and the reassignment of gas volumes between delivery points.

[2] Pursuant to a combined gas sales agreement dated November 1, 1983, under Rate Schedule G-1

Tennessee states that the reassignment is not prohibited by its currently effective G-1 rate schedule and that it has sufficient capacity to accomplish the deliveries, as proposed, without detriment or disadvantage to any of Tennessee's other customers. It is further stated that no change is contemplated for the use of such gas, as it would continue to be delivered for Nashville's system supply for resale.

Tennessee submits that, pursuant to Nashville's request, Tennessee agreed to the reassignment of gas volumes between delivery points in order to avoid gas sale contract overrun in the Ashland City service area.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 39 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1732, Filed 1-20-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-132-000]

Tennessee Gas Pipeline Company, a Division of Tenneco Inc. et al.; Application

January 17, 1984.

Take notice that on December 18, 1983, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001 and Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP84-132-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state they have contracted to transport for Natural on a firm basis up to 65,000 Mcf of natural gas per day[1] (32,500 Mcf by Tennessee and 32,500 Mcf by Columbia Gulf) from receipt points at the interconnection of Applicants' jointly-owned South Pass Project 77 facilities and pipelines extending from South Pass Block 78 and West Delta Block 109, offshore Louisiana, to the terminus of the Project 77 facilities in Plaquemines Parish, Louisiana.

Applicants state that Natural would pay Tennessee and Columbia Gulf a monthly demand charge of $88,156 and $89,775, respectively, as well as 8.92 cents and 9.99 cents per Mcf for gas volumes transported in excess of the contract demand quantity. In addition, it is stated that Natural would provide to Tennessee 1.20 percent of their respective volumes received for transportation for lost or unaccounted-for volumes. It is further explained that Natural would also provide Applicants a *pro rata* share of volumes of gas used as fuel in the Project 77 facilities.

It is asserted that the proposed service would be beneficial to Natural since it would provide transportation of Natural's gas without Natural's having to construct and operate duplicative facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 7, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed or if the Commission of its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1733 Filed 1-20-84; 8:45 am]

BILLING CODE 6717-01-M

[1] Quantities of gas in excess of 65,000 Mcf per day would be transported on a best-efforts basis.

[Docket No. CP84-133-000]

Tennessee Gas Pipeline Company, a Division of Tenneco Inc. et al.; Application

January 17, 1984.

Take notice that on December 15, 1983, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston Texas 77001, and Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP84-133-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Southern Natural Gas Company (Southern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state they have contracted to transport for Southern on a firm basis up to 24,000 Mcf of natural gas per day [1] (12,000 Mcf by Tennessee and 12,000 Mcf by Columbia Gulf) from receipt points at the interconnection of receipt points at the interconnection of Applicants' jointly owned South Pass Project 77 facilities and pipelines extending from South Pass Blocks 78 and 57, offshore Louisiana, to the terminus of the Project 77 facilities in Plaquemines Parish, Louisiana.

Applicants state that Southern would pay Tennessee and Columbia Gulf a monthly demand charge of $32,538 and $36,464, respectively, as well as 8.92 cents and 9.99 cents per Mcf, respectively, for gas volumes transported in excess of the contract demand quantity. In addition, Southern would provide to Tennessee 1.2 percent and Columbia Gulf 1.05 percent of their respective volumes received for transportation for lost or unaccounted-for volumes, it is explained. Southern would also provide Applicants a *pro rata* share of volumes of gas used as fuel in the Project 77 facilities, it is submitted.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 7, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protest filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1734 Filed 1-20-84; 8:45 am]

BILLING CODE 6717-01-M

[1] Quantities of gas in excess of 24,000 Mcf per day would be transported on a best efforts basis.

[Docket No. CP84-134-000]

Tennessee Gas Pipeline Company, a Division of Tenneco Inc. et al.; Application

January 17, 1984.

Take notice that on December 15, 1983, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, and Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP84-134-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Transcontinental Gas Pipe Line Corporation (Transco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that they have contracted to transport for Transco on a firm basis up to 18,000 Mcf of natural gas per day [1] (9,400 Mcf by Tennessee and 9,400 Mcf by Columbia Gulf) from receipt points at the interconnection of Applicants' jointly-owned South Pass Project 77 facilities and a pipeline extending from West Delta Block 109, offshore Louisiana, to the terminus of the Project 77 facilities in Plaquemines Parish, Louisiana.

Applicants state that Transco would pay Tennessee and Columbia Gulf a monthly demand charge of $25,501 and $28,563, respectively, as well as 8.92 cents and 9.99 cents per Mcf, respectively, for gas volumes transported in excess of the contract demand quantity. In addition, Transco would provide to Tennessee 1.2 percent and Columbia Gulf 1.05 percent of their respective volumes received for lost or unaccounted-for volumes, it is explained. Transco would also provide Applicants a *pro rata* share of volumes of gas used as fuel in the Project 77 facilities, it is submitted.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 7, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1735 Filed 1-20-84; 8:45 am]

BILLING CODE 6717-01-M

[1] Quantities in excess of 18,800 Mcf per day would be transported on a best-efforts basis.

[Docket No. CP84-148-000]

Valero Interstate Transmission Company; Application

January 17, 1984.

Take notice that on December 23, 1983, Valero Interstate Transmission Company (Applicant), Post Office Box 1569, San Antonio, Texas 78296, filed in Docket No. CP84-148-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon approximately 145 miles of

transmission pipeline and related gathering facilities in Hidalgo, Starr, Zapata, Jim Hogg, Webb and La Salle Counties, Texas, and a 1,000 horsepower compressor in Jim Hogg County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes the abandonment by sale to Valero Transmission Company (VTC) of 62.9 miles of 16–inch pipline, 81.1 miles of 20–inch pipeline, 1.7 miles of 18–inch pipeline, related gathering facilities and a 1,000 horsepower compressor at Thompsonville in Jim Hogg County, Texas. Applicant states that it is more economical to abandon these facilities and transport the amount of gas currently flowing through them pursuant to a transportation agreement with VTC than it is to maintain them as jurisdictional facilities.

Applicant states that there would be no diminution of service because service to Vitco's customers before and after abandonment will be equivalent.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 7, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–1738 Filed 1–20–84; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Cases Filed; Week of December 30, 1983, Through January 6, 1984

During the Week of December 30, 1983 through January 6, 1984, the appeal and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 C.F.R. Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: January 13, 1984

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Dec. 30, 1983 through Jan. 6, 1984]

Date	Name and location of applicant	Case No.	Type of Submission
Jan. 3, 1984	State of Texas, Austin, Tex	HRD–0197	Motion for Discovery. If granted: Discovery would be granted to the State of Texas in connection with the Statement of Objections submitted in response to the Proposed Remedial Order (Case No. HRO–0200) issued to Mobil Oil Corporation.
Jan. 3, 1984	Union of Concerned Scientists, Washington, D.C	HFA–0204	Appeal of an Information Request Denial. If granted: The November 30, 1983, Freedom of Information Request Denial issued by the Department of Energy would be rescinded, and the Union of Concerned Scientists would receive access to the document entitled "Preliminary Safeguards for Typical Light Reactors".
Jan. 5, 1984	U.S. Department of Interior, Washington, D.C	HEE–0083	Exception from the Certification Rules. If granted: The Department of Interior would receive an exception from certain certification requirements applicable to first sellers of crude oil as set forth in 10 C.F.R. Part 212, with respect to its sales of onshore and offshore crude oil to Navajo Refining Company.
Jan. 5, 1984	Vickers Energy Corporation, Wichita, Kans	HOF–0487	Second Stage Refund Proceeding. If granted: The Office of Hearings and Appeals would implement second stage special refund procedures pursuant to 10 C.F.R. Part 205, Subpart V in connection with the May 11, 1979 Consent Order with Vickers Energy Corporation (Case No. DFF–0006).
Jan. 6, 1984	Lucky Stores, Inc., Washington, D.C	HEG–0031	Petition for Special Redress. If granted: The Office of Hearings and Appeals would review the regulatory issues involved in the allocation agreement between Lucky Stores, Inc. and Oasis Petroleum, Inc. Pursuant to the December 6, 1983 decision in *Lucky Stores, Inc.* v. *Oasis Petroleum Corp.*, No. 81–383 Civ-T-H (M.D. Fla., December 6, 1983).

REFUND APPLICATIONS RECEIVED

[Week of Dec. 30 through Jan. 6, 1984]

Date	Name of refund proceeding/name of refund applicant	Case No.
Jan. 3, 1984	Palo Pinto/Missouri	RO5–42.
Jan. 4, 1984	Amoco/Lawrence W. Buckman	RF21–12262.

[FR Doc. 84–1781 Filed 1–20–84; 8:45 am]

BILLING CODE 6450–01–M

Cases Filed; Week of December 16, Through December 23, 1983

During the week of December 16, through December 23, 1983, the appeals and applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: January 16, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Dec. 16 through Dec. 23, 1983]

Date	Name and location of applicant	Case No.	Type of submission
Dec. 19, 1983		HED-0192, HEH-0192	Motions for Discovery and Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by Plateau, Inc. in response to the September 8, 1983 Proposed Decision and Order (HEE-0063) issued to the Department of the Interior.
Do	do	HED-0195, HEH-0195	Motions for Discovery and Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by Silver Eagle Oil, Inc. in response to the September 8, 1983 Proposed Decision and Order (Case No. HEE-0070) issued to the Department of the Interior.
Dec. 22, 1983	Subia Corporation of New Mexico, Phoenix, Arizona	HFA-0203	Appeal of an Information Request Denial. If granted: The November 23, 1983 Freedom of Information Request Denial issued by the DOE Albuquerque Operations Office would be rescinded and Subia Corporation of New Mexico would receive access to information concerning the award of bids by Sandia National Laboratories.

REFUND APPLICATIONS RECEIVED

[Week of December 16, 1983 through December 23, 1983]

Date	Name of refund proceeding/name of refund applicant	Case No.
Dec. 20, 1983	Amoco/West Virginia	RQ21-36.
Do	Belridge/Tennessee	RQ8-37.
Do	Palo Pinto/Tennessee	RQ5-38.
Do	Amoco/Tennessee	RQ21-39.
Dec. 22, 1983	Amoco/Red Cliff Band of Lake Superior Chippewas	RQ21-40.
Do	Amoco/Sweda's Amoco	RF21-12255.
Do	Amoco/Russell A. Rosenberg	RF21-12256.

[FR Doc 84-1824 Filed 1-20-84; 8:45 am]

BILLING CODE 6450-01-M

Objection to Proposed Remedial Order; Period of December 12 Through December 23, 1983

During the period of December 12 through December 23, 1983, the notice of objection to proposed remedial order listed in the Appendix to this Notice was filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial order described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in this proceeding should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: January 16, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

Doma Corporation, Abilene, Texas, HRO-0204

On December 20, 1983, Doma Corporation, 3102 So. Clark, Abilene, Texas 70606, filed a Notice of Objection to a Proposed Remedial Order which the DOE Dallas, Texas Office of the Economic Regulatory Administration issued to the firm on November 3, 1983. In the PRO the Dallas ERA Office found that during the period November 1973 to June 1977, Doma violated pricing and certification regulations connected with the resale of crude oil. 10 CFR 212.10, 212.93, 205.202, 210.62(c) and 212.131.

According to the PRO the Doma Corporation violations resulted in $3,466,675.67 of overcharges.

[FR Doc. 84-1823 Filed 1-20-84; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[AMS-FRL 2509-4]

Motor Vehicle Emission Factors; Public Workshop

AGENCY: Environmental Protection Agency.

ACTION: Notice of public workshop.

SUMMARY: This notice announces a public workshop which the Environmental Protection Agency will hold regarding possible revisions to the

Agency's motor vehicle emission factors and the computer program MOBILE2 used to calculate composite emission factors for vehicle fleets. These emission factors are used by States in preparing State Implementation Plan revisions and by others engaged in determining the air quality impact of motor vehicles. The Agency's purpose in holding this workshop is to meet with those parties potentially possessing information which would be of use in revising the emission factors and to allow all interested parties to participate informally in the revision process.

DATES: The workshop is being held on Tuesday, February 14, 1984 at 8:30 a.m..

ADDRESS: The workshop will be held at EPA's Motor Vehicle Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan 48105.

FOR FURTHER INFORMATION CONTACT: Tom Darlington, (313) 668–4473, or Lois Platte, (313) 668–4306, Emission Control Technology Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105.

SUPPLEMENTARY INFORMATION: EPA's current estimates of emission factors for motor vehicles are contained in the report "Compliation of Air Pollutant Emission Factors: Highway Mobile Sources," March 1981 (EPA–460/3–81–005). The emission factors and the arthmetical procedures for combining them into an estimate of the composite emission factors for a motor vehicle fleet have been automated in the computer program MOBILE2. The report and computer program were developed in 1980, and EPA perceives that in the intervening period enough additional information has become available to warrant consideration of revisions to both.

Although EPA is not required to invite public participation during the revision of the emission factors, EPA believes a series of public workshops will facilitate EPA's revosopm process by enabling EPA to receive valuable technical information in a timely fashion and to receive suggestions from those parties who may otherwise be interested in the revision process and its outcome.

The workshop announced here is the fifth of a series. At this fifth workshop, EPA plans to present an overview of the differences between MOBILE2 and MOBILE3. EPA will also discuss 1981 and later light-duty vehicle emission factors, evaporative emissions based on commercial fuel, tampering, conversion factor for heavy-duty vehicles, new speed and temperature correctio factors, and updated vehicle registration and mileage accoumulatio distributons. A copy of the draft MOBILE3 computer program will be made available following the workshop to those interested in testing the program and acquiring a better understanding of the mechanics of its operation.

Suggestions for additional topics should be made in advance of the workshop. Because of the technical nature of the agenda, participants should be familiar with the existing emission factors and MOBILE2 to most fully contribute to the discussions.

This workshop will not discuss the prgramming aspects of the MOBILE2 or MOBILE3 computer programs, such as the interface with other programs used in preparing emission inventories and air quality plans, and the language and equipment requirements of the programs. A workshop may be scheduled at a later date to meet with parties interested in these areas in particular.

No rulemaking action is anticipated in connectio with the revisions that will be subject of this workshop. Consequentlly, the workshop will be very informal. there will be not opportunity for prepared statementsin generl, although perpared remarks will be welcome on specific issues as those are brough up for discussion. Although no public docket will be kept, written submissions are welcome at any time and may be brought to the workshop or mailed to Tom Darlington or Lois Platte, at the address set out above.

The Agency in addition requests that all persons planning to attend the workshop contact Tom Darlington or Louis Platte.

Dated: January 13, 1984.

Sheldon Meyers,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 84–1659 Filed 1–20–84; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL HOME LOAN BANK BOARD

[No. AC–332]

Collective Federal Savings & Loan Association, Egg Harbor City, N.J.; Approval of Conversion Application

January 16, 1984.

Notice is hereby given that on December 22, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Collective Federal Savings and Loan Association, Egg Harbor City, New Jersey, for permission to convert to the stock form or organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street NW., Washingon, D.C. 20552, and at the Office of the Supervisory Agent of said Corporation at the Federal Home loan Bank of New York, One World Trade Center, Floor 103, New York, New York 10048.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Acting Secretary.

[FR Doc. 84–1609 Filed 1–20–84; 8:45 am]

BILLING CODE 6720–01–M

[No. AC–331]

Home Federal Saving & Loan Association of Hagerstown, Hagerstown, Md.; Approval of Conversion Application

January 16, 1984.

Notice is hereby given that on December 23, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Home Federal Savings and Loan Association of Hagerstown, Hagerstown, Maryland, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. Box 56527 Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Acting Secretary.

[FR Doc. 84–1608 Filed 1–20–84; 8:45 am]

BILLING CODE 6720–01–M

[No. AC–328]

Atlantic Federal Savings and Loan Association of Fort Lauderdale, Fort Lauderdale, Florida; Final Action; Approval of Conversion Application

Dated: January 16, 1984.

Notice is hereby given that on September 14, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Atlantic Federal Savings and Loan Association of Fort Lauderdale, Fort Lauderdale, Florida, for permission to convert to the stock form of organization. Copies of the

application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.
John M. Buckley, Jr.
Acting Secretary.
[FR Doc. 84-1805 Filed 1-20-84; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-322]

Columbia First Federal Savings and Loan Association; Washington, D.C., Final Action; Approval of Conversion Application

Dated: January 16, 1984.

Notice is hereby given that on December 13, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Columbia First Federal Savings and Loan Associations of Washington, D.C., for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.
John M. Buckley, Jr.,
Acting Secretary.
[FR Doc. 84-1799 Filed 1-20-84; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-330]

Community Savings and Loan Association, Fond du Lac, Wisconsin; Final Action; Approval of Conversion Application

Dated: January 16, 1984.

Notice is hereby given that on December 19, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Community Savings and Loan Association, Fond du Lac, Wisconsin, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Chicago, 111 East Wacker Drive, Suite 800, Chicago, Illinois 60601.

By the Federal Home Loan Bank Board.
John M. Buckley, Jr.
Acting Secretary.
[FR Doc. 84-1807 Filed 1-20-84; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-320]

Crusader Savings and Loan Association, Rosemont, Pennsylvania; Final Action; Approval of Conversion Applications

Dated: January 16, 1984.

Notice is hereby given that on December 9, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Crusader Savings and Loan Association, Rosemont, Pennsylvania, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Pittsburgh, 11 Stanwix Street, Fourth Floor, Gateway Center, Pittsburgh, Pennsylvania, 15222-1395.

By the Federal Home Loan Bank Board.
John M. Buckley, Jr.,
Acting Secretary.
[FR Doc. 84-1797 Filed 1-20-84; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-327]

Fidelity Federal Savings and Loan Association, Dalton, Georgia; Final Action; Approval of Conversion Application

Dated: January 16, 1984.

Notice is hereby given that on September 15, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Fidelity Federal Savings and Loan Association, Dalton, Georgia, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.
John M. Buckley, Jr.,
Acting Secretary.
[FR Doc. 84-1804 Filed 1-20-84; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-329]

Fidelity Federal Savings and Loan Association, Philadelphia, Pennsylvania; Final Action; Approval of Conversion Application

Dated: January 16, 1984.

Notice is hereby given that on December 14, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Fidelity Federal Savings and Loan Association, Philadelphia, Pennsylvania, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Pittsburgh, Eleven Stanwix Street, Fourth Floor, Gateway Center, Pittsburgh, Pennsylvania 155222-1395.

By the Federal Home Loan Bank Board.
John M. Buckley, Jr.,
Acting Secretary.
[FR Doc. 84-1806 Filed 1-20-84; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-325]

First Savings Bank of Florida, F.S.B., Tarpon Springs, Florida; Final Action; Approval of Conversion Application

Dated: January 16, 1984.

Notice is hereby given that on October 21, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of First Savings Bank of Florida, F.S.B., Tarpon Springs, Florida, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.
John M. Buckley, Jr.,
Acting Secretary.
[FR Doc. 84-1802 Filed 1-20-84; 8:45 am]
BILLING CODE 6720-01-M

[NO. AC-323]

Georgia Federal Bank, FSB, Atlanta, Georgia; Final Action; Approval of Conversion Application

Dated: January 16, 1984.

Notice is hereby given that on October 21, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Georgia Federal Bank, FSB, Atlanta, Georgia, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Board, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Board at the Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.
John M. Buckley, Jr.,
Acting Secretary.
[FR Doc. 84-1800 Filed 1-20-84; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-326]

Home Federal Savings Bank; Worcester, Massachusetts; Final Action; Approval of Conversion Application

Dated: January 16, 1984.

Notice is hereby given that on October 26, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Home Federal Savings Bank, Worcester, Massachusetts, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Boston, P.O. Box 2196, Boston, Massachusetts 02106.

By the Federal Home Loan Bank Board.
John M. Buckley, Jr.,
Acting Secretary.
[FR Doc. 84-1803 Filed 1-20-84; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-324]

Western Federal Savings and Loan Association; Marina Del Rey, California; Final Action; Approval of Conversion Application

Dated: January 16, 1984.

Notice is hereby given that on October 21, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Fidelity Federal Savings and Loan Association, Marina Del Rey, California, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of San Francisco, P.O. Box 7948, San Francisco, California, 94120.

By the Federal Home Loan Bank Board.
John M. Buckley, Jr.,
Acting Secretary.
[FR Doc. 84-1801 Filed 1-20-84; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-321]

Ponce Federal Savings and Loan Association of Puerto Rico, Ponce, Puerto Rico; Final Action; Approval of Conversion Applications

Dated: January 16, 1984.

Notice is hereby given that on December 12, 1983, the Office of General Counsel of the Federal Home Loan Bank, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Ponce Federal Savings and Loan Association of Puerto Rico, Ponce, Puerto Rico, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory gent of said Corporation at the Federal Home Loan Bank of New York, One World Trade Center, Floor 103, New York, New York 10048.

By the Federal Home Loan Bank Board.
John M. Buckley, Jr.,
Acting Secretary.
[FR. Doc. 84-1798 Filed 1-20-84; 8:45 am]
BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

[Docket No. R-0504]

Fee Schedules for Federal Reserve Bank Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Fee Schedules for Wire Transfer of Funds and Net Settlement Services.

SUMMARY: The Monetary Control Act of 1980 (Title I of Public Law 96-221) requires that schedules of fees be established for Federal Reserve Bank services. Revised fee schedules for the wire transfer of funds and net settlement services were implemented effective April 29, 1982, and continued through 1983. The Board has approved an increase in the off-line surcharges for the wire transfer of funds and net settlement services.

EFFECTIVE DATE: March 1, 1984.

FOR FURTHER INFORMATION CONTACT: Elliot C. McEntee, Associate Director (202/452-2231) or Florence M. Young, Program Manager (202/452-3955) Division of Federal Reserve Bank Operations; Gilbert T. Schwartz, Associate General Counsel (202/452-3625) or Elaine M. Boutilier, Attorney (202/452-2418), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The Monetary Control Act of 1980 ("Act") requires that fee schedules be developed for Federal Reserve Bank services based on pricing principles established by the Board (12 U.S.C. 248a). The current fee schedule for the Federal Reserve's wire transfer of funds and net settlement services was implemented on April 29, 1982, and was reviewed by the Board on March 17, 1983. As indicated in the notice continuing the existing fee schedule (48 FR 12135, March 23, 1983), a comprehensive review was conducted during 1983 of the fee structure for the wire transfer of funds and net settlement services. These services include both on-line services—i.e., transfers made through electronic connections—and off-line services—i.e., transfers made upon the receipt of a telephone request.

This review concluded that the off-line services provided to depository institutions are labor intensive and that the current off-line surcharges are not fully recovering the costs incurred in providing the services. To enable the Reserve Banks to recover the costs of off-line services, the Board has determined that the following

surcharges will apply for off-line services beginning March 1, 1984:

Wire Transfer of Funds

Off-line Origination: $5.50
Telephone Advice: $3.00

Net Settlement

Off-line Settlement: $8.00
Telephone Advice: $3.00

The current fees are $3.50 for an off-line origination of a funds transfer, $5.00 for an off-line origination of a net settlement, and $2.25 for a telephone advice of a funds transfer or net settlement entry. As a result of the changes, it is anticipated that annual off-line revenue will be approximately $8 million. The current basic fee for transfers originated and received ($0.65 per transfer) and net settlement entries ($1.30 per entry) will remain in effect until a new fee schedule is approved by the Board later this year. It is proposed that the basic transaction fee for transfers originated and received be reduced to $0.60 and a new fixed monthly fee be assessed to on-line institutions based upon the type of electronic connection that is installed between the institution and the Federal Reserve Bank. (*See* Proposed Fee Schedules for Wire Transfer of Funds and Net Settlement Services, published simultaneously with this notice.)

By order of the Board of Governors of the Federal Reserve System, January 17, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-1745 Filed 1-20-84; 8:45 am]

BILLING CODE 6210-01-M

[Docket No. R-0505]

Fee Schedules for Federal Reserve Bank Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed 1984 Fee Schedules for Wire Transfer and Net Settlement Services.

SUMMARY: The Monetary Control Act of 1980 (Title I of Pub. L. 96-221) requires that schedules of fees be established for Federal Reserve Bank services. Revised fee schedules for the wire transfer of funds and net settlement services were implemented effective April 29, 1982, and continued through 1983. The Board now seeks comment on the following new fee structure and new prices for these services to be implemented in 1984:

Type of connection	Monthly fees	
	All priced services, except dedicated ACH and securities transfer connections [1]	Dedicated ACH connections [2]
Computer interface	$1,400	$245
Leased line	350	210
Dial up	75	45

[1] A number of on-line connections are used by depository institutions solely for securities transfers. No fixed monthly fees will be assessed at this time for these dedicated connections, pending a review of the fee structure for the securities transfer service later this year.
[2] The ACH service is priced under an incentive pricing policy. The fees proposed for dedicated ACH connections reflect a 60-percent recovery rate for the service.

In conjunction with implementing fixed monthly fees for electronic connections with the Federal Reserve, it is also proposed that:

—the fee for originating or receiving a wire transfer of funds be reduced from $0.65 to $0.60 per transfer; and
—the fee for originating a securities transfer be maintained at $3.00 per transfer.

DATE: Comments, must be received by March 17, 1984.

ADDRESS: Comments, which should refer to Docket No. R-0505, may be mailed to: William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, D.C. 20551, or delivered to room B-2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected in room B-1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 216.6(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.6(a)).

FOR FURTHER INFORMATION CONTACT: Elliott C. McEntee, Associate Director (202/452-2231), or Florence M. Young, Program Manager (202/452-3955), Division of Federal Reserve Bank Operations; Gilbert T. Schwartz, Associate General Counsel (202/452-3625), or Elaine M. Boutilier, Attorney (202/452-2418), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The Monetary Control Act of 1980 requires that fee schedules be developed for Federal Reserve Bank services based on pricing principles established by the Board (12 U.S.C. 248a). The Board, in accordance with the requirements of the Act, has established fee schedules, for the wire transfer of funds and net settlement services. The current fee schedule, implemented on April 29, 1982, was retained because estimates of the volume of funds transfers and the total costs, including the PSAF, indicated that revenues would cover the 1983 costs of providing the service. The Board noted, at that time, that a comprehensive review of the fee structure for these services had been undertaken and that if significant changes were determined to be necessary, public comment would be solicited (48 F.R. 12135, March 23, 1983). The results of that review indicate that it is appropriate to revise the existing fee structure for the wire transfer of funds service in order to recover anticipated costs for 1984. Accordingly, the Board is requesting public comment on a revised fee structure.

For the period January through November, 1983, total costs, including the PDAF, amounted to $52.0 million and total revenues amounted to $52.4 million, resulting in a modest net revenue surplus of approximately $400 thousand. The volume of funds transfers originated amounted to 34.7 million during the eleven month period, an increase of 8 percent over the same period in 1982. Cost, volume and revenue data for December, 1983, are not yet available. However, it is expected that a modest net revenue surplus will be realized for the year 1983.

The total costs, including a 16 percent PSAF, of providing the wire transfer of funds and net settlement service are projected to be $62.4 million in 1984. If the current fee schedule for these services were retained, projected annual revenues would amount to $58.9 million, resulting in an estimated net revenue shortfall of $3.5 million. Therefore, in order to match costs and revenues, the Board proposes to implement fixed monthly fees and lower basic transaction fees on June 28, 1984.[1] As a result of these changes, 1984 revenues of about $62.9 million are anticipated for the wire transfer of funds and net settlement service, resulting in a net revenue surplus of $500,000.

Cost Structure

The Reserve Banks provide electronic services to four classes of users: (1) Institutions with computers linked directly to Federal Reserve computers, (2) institutions using terminals or micro-computers that are linked to the Federal Reserve via dedicated, leased lines, (3) institutions using terminals or micro-computers that are linked to the Federal Reserve via public telephone lines or dial-up facilities, and (4) institutions without electronic connections that

[1] In this connection, the Board has approved, effective March 1, 1984, an increase in the off-line surcharges for the wire transfer of funds and net settlement services. (See **Federal Register** notice published simultaneously with this notice.)

initiate and receive transfers of funds and securities over the telephone or, in the case of the automated clearing house ("ACH"), physically deliver and receive transactions. The following table indicates the approximate number of electronic links to the Federal Reserve as of December 31, 1983:

NUMBER OF ELECTRONIC CONNECTIONS

Type	Number
Computer interface	100
Leased line	1,300
Dial-up	2,700
ACH data link	[1] 200

[1] Unlike other electronic connections, ACH data links are frequently shared. Approximately 2,000 depository institutions are currently served by the 200 data links that are installed.

During 1983, on-line users of the Federal Reserve's electronic services originated about 98 percent of all funds transfers and about 99 percent of all securities transfers. In the case of the ACH service, on-line institutions originated less than 25 percent and received only 10 percent of commercial ACH transactions.[2]

The on-line electronic payments services offered to depository institutions by the Reserve Banks are capital intensive services and fixed costs are high relative to total costs. The Federal Reserve has developed sophisticated intradistrict and interdistrict data communications networks, invested in state-of-the-art data communications and data processing equipment, and is developing enhanced automated systems for each of its electronic payments services.

Certain elements of the Federal Reserve's data communications and data processing costs would be incurred in order to offer electronic payments services even if no on-line connections with the Federal Reserve were offered. However, other costs, in particular the costs associated with intradistrict communications networks, would not be incurred if on-line connections were not offered. Intradistrict communications networks consist primarily of the lines, circuits, and modems used to link depository institutions to the Federal Reserve. During 1983, it is estimated that the costs of the local networks that were allocated to priced services amounted to $6 to $7 million.

Depository institutions that have computer-interface connections with the Federal Reserve originated and received more than 60 percent of the total number of funds and securities transfers during 1983. These institutions expend considerable resources to purchase and install computer-to-computer interfaces, and Federal Reserve staff devotes considerable time to testing the equipment. To ensure that the high transaction volumes are processed efficiently, high speed, dedicated lines link these institutions to the Federal Reserve. In addition, the capacity of the Federal Reserve's data processing and data communications equipment is largely dictated by the volume of transactions originated and received by these high volume users.

Institutions using terminals or micro-computers that are linked via leased lines accounted for nearly 30 percent of all funds and securities transfers during 1983. Compute software necessary to interface with the Federal Reserve's applications software is provided by the Federal Reserve. However, Federal Reserve development and support costs are spread over a relatively broad base because the majority of institutions within a Federal Reserve District use the same equipment. In many cases, the lines leased from common carriers serving individual institutions feed into one circuit linked with the Federal Reserve and, generally, have less capacity than the lines used by institutions with computer interfaces.

During 1983, institutions using terminals or micro-computers linked via public telephone lines, that is, dial-up connections, accounted for about 8 percent of total transaction volume. The Federal Reserve provides the necessary software to support their use of electronic services. However, the lines connecting these institutions to the Federal Reserve are typically public telephone lines that require institutions to dial the Federal Reserve to originate or receive transactions.

In summary, the costs to the Federal Reserve of serving individual institutions with computer interfaces tend to be higher than for those with leased-line connections, which are higher than for those with dial-up connections. However, the three classes of on-line institutions use the Federal Reserve's electronic services with different intensities. When fixed costs, such as data communications costs, are spread over the high transaction volumes processed by computer-interface institutions, the per transaction impact of fixed costs tends to be lower. Conversely, for lower volume, leased-line or dial-up institutions, the per transaction impact of fixed costs tends to be higher.

Alternatives

At present, the fees assessed for the wire transfer of funds, securities transfer, and the ACH services are generally based on the average cost of processing a transaction.[3] Basing fees on average processing costs is an appropriate pricing methodolgy when a high proportion of total production costs are variable. In the case of the Federal Reserve's electronic services, a high proportion of costs are fixed relative to total costs. Thus, some modification to the current fee structures for electronic services could result in fee structures that more closely resembled the cost structure of the services.

To achieve this objective, the following alternatives were received:

—assessing variable transaction fees for wire transfers of funds and securities services based on the type of on-line connection used by a depository institution;

—assessing on-line institutions the actual costs of the lines and modems that are installed to provide electronic payments services; and

—assessing fixed monthly fees that would vary by type of on-line connection and would, on average, recover the cost of intradistrict communications networks.

Based on the staff study, the first alternative, the use of variable transaction fees, would result in a range of transaction fees, with the highest being assessed to institutions using dial-up connections and the lowest fees being assessed to institutions with computer-interface connections, due to differences in transaction volumes among the three classes of on-line institutions. While the use of variable transaction fees would reflect the costs of providing electronic payments services more accurately than the current fee structures, it still would not fully reflect the fixed cost structure of the Federal Reserve's electronic payments services. Moreover, variable transaction fees would also provide depository institutions an incentive to upgrade the type of connection linking them with the Federal Reserve in order to reduce the variable costs they incur in using Federal Reserve services. Since dedicated leased-line connections are more costly to the Federal Reserve than

[2] On September 23, 1983, a revised fee schedule for the ACH service was published for public comment. (48 FR 44650) The proposal to implement fixed monthly fees for electronic services will have a minor impact on the proposed ACH fee schedule since a relatively small percentage of ACH transactions are originated and received via on-line connections.

[3] On September 23, 1983, a revised ACH fee structure was published for public comment that proposed instituting fixed deposit and receiver handling fees reflecting fixed costs associated with these activities. (48 FR 44650)

shared dial-up facilities and computer-interface connections are more costly than leased-line connections, moves to upgrade connections on the part of depository institutions would increase rather than reduce the overall costs of the Federal Reserve's electronic payments services.

The alternative of passing through actual line and modem costs to individual depository institutions would provide an objective means of assessing fees. It would also provide institutions with an incentive to select the most cost-effective, on-line connection based on the volume of transactions handled. However, telephone rates are frequently based on distance and may vary from region to region, resulting in disparate charges to institutions within the same class. Furthermore, the AT&T divestiture creates a great deal of uncertainty regarding the fees that would be assessed. Finally, determining the costs that would be assessed to institutions sharing leased lines or using dial-up networks would be complex. Therefore, this approach was regarded as unacceptable due to its complexity and the unpredictability of telephone rates.

The third alternative, assessing fixed monthly fees to on-line institutions that vary by type of connection, like passing through actual line and modem costs, would be based on clearly identifiable fixed costs and would result in a fee structure that reflects the fact that high fixed costs are incurred in providing electronic services. Setting fees that, on average, would recover the costs of intradistrict communications networks would generate revenues comparable to those generated under the second alternative. Although the effect of fixed monthly fees on institutions with on-line connections would vary within each connection category depending upon an institution's volume of transactions, variability in fees charged due to differences on telephone rates would not occur. Therefore, the use of fixed fees would remove the uncertainty regarding charges that would exist under the pass-through proposal. This alternative also should provide incentives for depository institutions to select cost-effective, on-line connections and, thereby, contribute to reductions in the overall costs of the Federal Reserve's electronic services. Accordingly, the Board believes that this alternative is the most reasonable basis for recovering fixed costs, and the following proposed fee structure incorporates this approach.

Type of connection	Monthly fees	
	All priced services, except dedicated ACH and securities transfer connections	Dedicated ACH connections
Computer interface	$1,400	[illegible]
Leased line	350	210
Dial up	75	45

Under the Board's proposal, a fixed monthly fee would be assessed for each separately addressed connection that is installed between a depository institution and the Federal Reserve. When an institution uses on connection to access the Federal Reserve for all types of electronic services, one fee would be assessed based on the type of connection. However, if a depository institution uses a computer-interface connection for funds transfer services and a dial-up conection for ACH services, and each connection is separately addresable, the institution would be assessed the monthly fee for each connection. It should be noted that fixed monthly fees would be assessed to all on-line institutions—those that use their own equipment to interface with the Federal Reserve and those that lease equipment from the Federal Reserve.

Because the ACH service is priced under an incentive pricing policy, it is proposed that the fixed monthly fees for communications links used solely for ACH transactions should be included under that policy. Specifically, the ACH fees recently published for public comment were set to recover 60 percent of the costs of providing commercial ACH services. That proposal also included fixed receiver handling fees for both ground and electronic delivery. If fixed monthly fees for on-line connections with the Federal Reserve are implemented, it is proposed that the receiver handling fee for electronic delivery, if one is adopted, be eliminated in order to avoid double charging users of ACH services.

There are a number of on-line connections used by depository institutions solely for securities transfers. At this time, no fixed monthly fees are proposed for these dedicated connections, pending a review of the fee structure for the securities transfer service later this year.

Currently, some Federal Reserve Banks' terminal lease fees include a component that is intended to recover a portion of intradistrict communications and other costs. Some Reserve Banks also assess fixed monthly fees to on-line institutions that own their own terminals or micro-computers rather than leasing them from the Federal Reserve. If the proposed fixed monthly fees for on-line institutions are implemented, it is proposed that these Reserve Banks would discontinue assessing the fixed monthly fees that they now charge to on-line institutions.[4]

At this time, the Reserve Banks Project that intradistrict communications costs will amount to approximately $8.3 million during 1984, an increase of 20 to 40 percent over 1983 costs. The relatively substantial increase in costs is based on estimates of the effects of the AT&T divestiture, which are highly tentative at this time, as well as growth in the number of on-line connections with the Federal Reserve. Based on the projected number of each type of on-line connection with the Federal Reserve during 1984, it is estimated that the proposed fixed fees would generate annual revenues of approximately $8.0 million.[5]

As a result of these changes, it is also proposed that the following transaction fees be implemented:

Basic Transfer Originated—$0.60
Basic Transfer Received—$0.60
Net Settlement Entries—$1.30

This proposal would result in a $0.05 reduction in the basic fee for originating or receiving a funds transfer. No change is proposed for the fee for net settlement entries. This new transaction fee would be implemented at the same time fixed monthly fees are implemented, which is proposed to be June 28, 1984.

By order of the Board of Governors of the Federal Reserve System, January 17, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-1746 Filed 1-20-84; 8:45 am]

BILLING CODE 6210-01-M

American National Agency, Inc., et al.; Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

[4] Existing fees assessed for terminals used exclusively for securities transfers will continue in effect pending a review of the fee structure for securities transfers later this year.

[5] Approximately 70 percent of the revenue generated through fixed monthly fees would be allocated to the wire transfer of funds and net settlement service.

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *American National Agency, Inc.*, Nashwauk, Minnesota; to acquire an additional 35 percent of the voting shares or assets of American National Bank, Nashwauk, Minnesota. Comments on this application must be received not later than February 15, 1984.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First Huntsville Corporation*, Huntsville, Texas; to acquire 100 percent of the voting shares of First National Bank-South, Huntsville, Texas. Comments on this application must be received not later than February 16, 1984.

Board of Governors of the Federal Reserve System, January 17, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-1740 Filed 1-20-84; 8:45 am]

BILLING CODE 6210-01-M

Equitable Bancorporation, et al.; Proposed De Novo Nonbank Activities by Bank Holding Companies

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage to *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governers to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Equitable Bancorporation*, Baltimore, Maryland (mortgage banking activities; eastern United States): To engage, through its subsidiary, E. B. Mortgage Corporation, in the business of originating, purchasing, selling and servicing loans to third parties secured by real estate and, in connection therewith, to acquire, hold and dispose of real property and to enter into any and all agreements necessary, desirable or appropriate to the aforementioned, business. These activities would be conducted from new offices in Towson, Maryland and Bala-Cynwyd, Pennsylvania, serving Pennsylvania, New Jersey, Delaware, Maryland, Washington, D.C., Florida, Texas and Virginia. Comments on this application must be received not later than February 7, 1984.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *California Commercial Bankshares*, Santa Ana, California (mortgage and trust activities; the entire United States): To engage in mortgage lending activities including origination and sale of real estate secured loans; and in trust department activities. These activities would be carried on from an office located in Santa Ana, California serving the entire United States. Comments on this application must be received not later than February 17, 1984.

Board of Governors of the Federal Reserve System, January 17, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-1744 Filed 1-20-84; 8:45 am]

BILLING CODE 6210-01-M

Hawkeye Bancorporation; Proposed Expansion of Activities of Hawkeye Bancorporation Mortgage Company

Hawkeye Bancorporation, Des Moines, Iowa, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to expand the activities of Hawkeye Bancorporation Mortgage Company, Des Moines, Iowa.

Applicant states that the proposed subsidiary would engage in the activities of arranging equity financing. These activities would be performed from offices of Applicant's subsidiary in Des Moines, Iowa and the geographic areas to be served are the states of Iowa, Missouri, Illinois, Wisconsin, Minnesota, South Dakota, Nebraska, Kansas, Indiana, North Dakota, Michigan, Tennessee, Oklahoma, and Ohio. Although such activities have not been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, the Board has approved by order individual proposals to engage in these activities.

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be acompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, indentifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., not later than February 16, 1984.

Board of Governors of the Federal Reserve System, January 17, 1984.

James McAfee

Associate Secretary of the Board.

[FR Doc. 84-1741 Filed 1-20-84; 8:45 am]

BILLING CODE 6210-01-M

River Oaks Bancshares, Inc.; Formation of a Bank Holding Company

River Oaks Bancshares, Inc., Houston, Texas, has applied for the Board's approval under 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842 (a)(1)) to become a bank holding company by acquiring 80 percent of the voting shares of River Oaks Bank & Trust Company, Houston, Texas. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

River Oaks Bancshares, Inc., Houston, Texas, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843 (c)(8)) and § 225.4(b)(2) of the Board's Regulation Y 12 CFR 225.4(b)(2)), for permission to acquire voting shares of River Oaks Trust Company and River Oaks Trust Corporation, both of Houston, Texas.

Applicant states that the proposed subsidiaries would perform the activities that maybe performed by a trust company and will act as an investment or financial advisor. These activities would be performed from offices of Applicant's subsidiaries in Houston, Dallas-Fort Worth, Austin, San Antonio and other cities located within a 150-mile radius of Houston, Texas and the geographic area to be served is the State of Texas. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of §225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than February 9, 1984.

Board of Governors of the Federal Reserve System, January 17, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-1742 Filed 1-20-84; 8:45 am]

BILLING CODE 6210-01-M

Southern National Bankshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated for that application. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to each application, interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than February 15, 1984.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Southern National Bankshares, Inc.*, Atlanta, Georgia; to become a bank holding company by acquiring 80.45 percent of the voting shares of The First National Bank of Dekalb County, Decatur, Georgia.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *The Baraboo Bancorporation, Inc.*, Baraboo, Wisconsin; to acquire 80 percent of the voting shares or assets of Viroqua Bancshares, Inc., Viroqua, Wisconsin and thereby indirectly acquire The State Bank of Viroqua.

2. *First Chicago Corporation*, Chicago, Illinois; to acquire 100 percent of the voting shares or assets of American National Corporation, Chicago, Illinois, and thereby indirectly acquire American National Bank and Trust Company, Chicago, Illinois, First American Bank of Bensenville, Bensenville, Illinois, and First National Bank of Libertyville, Libertyville, Illinois.

3. *First Michigan Bank Corporation*, Zeeland, Michigan; to acquire 100 percent of the voting shares or assets of The Oceana County Savings Bank, Hart, Michigan.

4. *Lincoln Bancorp*, Reinbeck, Iowa; to become a bank holding company by acquiring 95.89 percent of the voting shares of Lincoln Savings Bank, Reinbeck, Iowa.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Kirbyville Bancshares, Inc.*, Beaumont, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of Allied Kirbyville Bank, Kirbyville, Texas.

2. *Newton Bancshares, Inc.*, Beaumont, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of Allied First National Bank, Newton, Texas.

Board of Governors of the Federal Reserve System, January 17, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-1743 Filed 1-20-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Presidential Commission on Indian Reservation Economies: Public Hearings and Site Visits

AGENCY: Presidential Commission on Indian Reservation Economies.

ACTION: Notice of meetings.

SUMMARY: This notice sets forth the dates, time and location of forthcoming hearings and site visits of the Presidential Commission on Indian Reservation Economies for February, 1984:

1. February 6, 1984 (Monday)—Hearing

Ramada Inn, Escondido, 2500 S., Escondido Blvd., Escondido, California 92025
Time: 9:00 a.m.—4:30 p.m.

2. February 7, 1984 (Tuesday)—Site Visits

San Pasqual General Council, Valley Center, California 92082
La Jolla General Council, Valley Center, California 92082
Pala General Council, Pala, California 92059

3. February 16, 1984 (Monday)—Hearing

Albuquerque Convention Center, 401 Second Northwest, Albuquerque, New Mexico 87103
Time: 9:00 a.m.—4:30 p.m.

4. February 17 1984 (Tuesday)—Site Visits

Laguna Pueblo—Reservation, Laguna, New Mexico 87026
Acoma Pueblo—Reservation, Acomoita, New Mexico 87034

5. February 23, 1984 (Thursday)—Hearing

Radisson St. Paul, 11 E. Kellogg Blvd., St. Paul, Minneapolis 55101
Time: 9:00 a.m.—4:30 p.m.

6. February 23, 1984 (Thursday)—Site Visit

Prior Lake—Shakople—Reservation, Shakopee Business Council, Prior Lake, Minnesota 55372

7. February 24, 1984 (Friday)—Site Visit

Leech Lake—Chippewa, Leech Lake Reservation Business Committee, Cass Lake, Minnesota 56633

The purpose of the hearings will be to receive both oral and written testimony from Indian leaders, Indian businessmen and other representatives from the tribal, public and private sectors concerning the development and sustainment of viable economic enterprises within Indian reservation environments. The site visits will enable the Commission to witness first hand both problems and successes associated with economic and business development on Indian reservations.

Parties interested in testifying at a hearing should present their testimony in writing either in advance of the hearing or at the onsite registration for the hearing. An oral summary of the testimony may be given at the hearing. Those desiring to submit written testimony and make an oral presentation should submit in writing a brief statement of the general nature of the testimony to be presented, the names and addresses of proposed participants and an indication of the approximate time required to make their presentation. This information should be sent to Tanna Chattin, Director, Office of Public, Tribal and Governmental Affairs, Presidential Commission on Indian Reservation Economies Suite 765, 1717 H Street, Northwest, Washington, D.C. 20006. Questions regarding testimony or registration procedures may also be directed to Ms. Chattin at (202) 653–2436. The agenda for oral testomony will be completed five days in advance of each hearing.

Any person attending a hearing who has not requested an opportunity to speak five days in advance of the meeting, will be allowed to make an oral presentation at the conclusion of the hearing, if time permits and at the discretion of the Co-Chairman.

FOR FURTHER INFORMATION CONTACT: Eric Rudert, Deputy Director, Presidential Commission on Indian Reservation Economies, 1717 H Street, Northwest, Suite 765, Washington, D.C. 20006. Telephone (202) 653–2436.

Eric Rudert,

Deputy Director, Presidential Commission on Indian Reservation Economies.

[FR Doc. 84–1425 Filed 1–20–84; 8:45 am]

BILLING CODE 4310–02–M

Change in Discount Rate for Water Resources Planning

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of change in discount rate.

SUMMARY: This notice sets forth the discount rate to be used in Federal water resources planning for fiscal year 1984.

DATE: This discount rate is to be used for the period October 1, 1983, through and including September 30, 1984.

FOR FURTHER INFORMATION CONTACT: Richard Greenfield, Office of Policy Analysis, Department of the Interior, Washington, D.C. 20240.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the interest rate to be used by Federal agencies in the formulation and evaluation of plans for water and related land resources is 8⅛ percent for fiscal year 1984.

This rate has been computed in accordance with Sec. 80(a), Pub. L. 93–251 (88 Stat. 34) and 18 CFR 704.39, which (1) specify that the rate shall be based upon the average yield during the preceding fiscal year on interest-bearing marketable securities of the United States which, at the time the computation is made, have terms of 15 years or more remaining to maturity; and (2) provide that the rate shall not be raised or lowered more than one-quarter of one percent for any year. The Tresaury Department calculated the specified average yield to be 10.71 percent. Since the rate in FY 1983 was 7⅞ percent, the rate for FY 1984 is 8⅛ percent.

The rate of 8⅛ percent shall be used by all Federal agencies in the formulation and evaluation of water and related land resources plans for the purpose of discounting future benefits and computing costs, or otherwise converting benefits and costs to a common time basis.

Dated: January 12, 1984.

Robert N. Broadbent,

Acting Assistant Secretary, Water and Science.

[FR Doc. 84–1724 Filed 1–19–84; 8:45 am]

BILLING CODE 4310–10–M

Bureau of Land Management

Intent To Prepare an Environmental Impact Statement and Conduct Mail-Out Scoping; Shute Creek Natural Gas Treatment Plant

Correction

In FR Doc. 84–357 beginning on page 941 in the issue of Friday, January 6, 1984, third column, after the fourth line of the paragraph numbered 1, the **DATES** and **ADDRESSES** paragraphs, down to the line above the paragraph numbered 2, should be placed on page 942, first column, directly after "VanWyhe, Project Leader." (the last line of the second undesignated paragraph).

BILLING CODE 1505–01–M

California Desert District, California; Revision of Campground Use Fees Established

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice. Establishment of revised campground use fees.

SUMMARY: Thisnotice establishes the fee schedule at $2 for daily use at all developed campgrounds located on public lands managed by the California Desert District, Bureau of Land Management.

EFFECTIVE DATE: February 1, 1984.

FOR FURTHER INFORMATION CONTACT: David Mensing, Outdoor Recreation Planner, California Desert District, Bureau of Land Management (714) 351.6369.

SUPPLEMENTARY INFORMATION: Administrative costs associated with recreation site management have risen dramatically over the past several years as have costs associated with providing and maintaining the services, facilities,

and the natural resources associated with these sites. In order to continue with a viable recreation site management program and ensure the public a fair return for the use of these sites, a greater portion of the costs must be borne by those groups and/or individuals who derive the greatest direct benefits from that use.

Therefore, beginning February 1, 1984, campground use fees will be $2 per camping unit, per user day where the authorized officer determines that fees are required.

For the purpose of this fee schedule, a "user day" is defined as any part of a calendar day.

Authority for this fee increase is contained in CFR Title 36, Chapter 1, Part 66.9.

Dated: January 9, 1984.

Gerald E. Hillier,

District Manager.

[FR Doc. 84-1796 Filed 1-20-84; 8:45 am]

BILLING CODE 4310-40-M

Lakeview Grazing District Advisory Board; Meeting

Notice is hereby given, in accordance with Pub. L. 94-579 and 43 CFR 4120.6-1(e) that a meeting of the Lakeview Grazing District Advisory Board will be held February 28, 1984, at 10:00 a.m. in the BLM's Conference Room at 1000 S. 9th Street, Lakeview, Oregon 97630.

The agenda will include the following topics:

1. Introductory Remarks by New District Manager
2. Election of Officers
3. Assignment of Project Maintenance
4. Cooperative Management Areas
5. RPS Update
6. Fire Rehabilitation Update
7. Cultural Resource Presentation
8. Allocation of Additional Forage
9. Water Development in Rehabilitation Areas

The meeting will be open to all interested parties who desire to attend. Interested persons may make oral statements to the Board or file a written statement for the Board's consideration.

Summary minutes of the Board meeting will be maintained in the District Office and available for public inspection (during regular business hours) within 30 days following the meeting.

January 11, 1984.

Richard L. Harlow,

Associate District Manager.

[FR Doc. 84-1795 Filed 1-20-84; 8:45 am]

BILLING CODE 4310-06-M

Bureau of Reclamation

Texas Big Sandy Project, Texas; Intent To Prepare an Environmental Statement and To Hold an Environmental Scoping Meeting

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior proposes to prepare an environmental statement (ES) and hold a public environmental scoping meeting for the Texas Big Sandy Project, Texas. A draft environmental statement is scheduled to be filed with the Environmental Protection Agency and be available for review and comment by October 1986.

The project purpose is to provide a dependable municipal and industrial water supply for projected needs in the Upper Sabine River Basin. Other project purposes may include flood control, fish and wildlife, recreation, and environmental enhancement. A promising alternative identified in previous studies is a dam and reservoir on Big Sandy Creek between Big Sandy and Hawkins, Texas. A reservoir on Big Sandy Creek could supply a large portion of the projected needs of the local area. However, all alternatives will be considered during the planning process.

The purpose of this public environmental scoping meeting is to determine the scope of issues to be addressed in the ES and to identify the significant environmental issues related to the proposed action.

The Bureau of Reclamation plans to hold this meeting in Longview, Texas, on February 9, 1984, at the Holiday Inn, 3119 Estes Parkway, at 7 p.m.

Interested public entities and individuals may obtain information on the proposed project and provide information for preparation of the ES by contacting Dan Rubenthaler, Study Manager, Bureau of Reclamation, 714 South Tyler, Suite 201, Amarillo, Texas 79101, telephone (806) 378-5473.

Dated: January 16, 1984.

Robert A. Olson,

Acting Commissioner.

[FR Doc. 84-1700 Filed 1-20-84; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

[AB 36 SDM]

Oregon Short Line Railroad Co.; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1152.13, that the Oregon Short Line Railroad Co. has filed with the Commission its amended color-coded system diagram map in docket No. AB 36 SDM. The Commission on January 11, 1984, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 36 SDM

James H. Bayne,

Acting Secretary.

[FR Doc. 84-1765 Filed 1-20-84; 8:45 am]

BILLING CODE 7035-01-M

[AB 55 SDM]

Seaboard System Railroad; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1152.13, that the Seaboard System Railroad has filed with the Commission its amended color-coded system diagram map in docket No. AB 55 SDM. The Commission on December 22, 1983, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 55 SDM.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-1766 Filed 1-20-84; 8:45 am]

BILLING CODE 7035-01-M

[AB 12 SDM]

Southern Pacific Transportation Co.; Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part

1152.13, that the Southern Pacific Transportation Co. has filed with the Commission its amended color-coded system diagram map in docket No. AB 12 SDM. The Commission on January 5, 1984, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 12 SDM.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-1787 Filed 1-20-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Information Collections Under Review

January 19, 1984.

OMB has been sent for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. The list has all the entries grouped into new forms, revisions, or extensions. Each entry contains the following information:

(1) The name and telephone number of the Agency Clearance Officer (from whom a copy of the form and supporting documents is available); (2) The office of the agency issuing this form; (3) The title of the form; (4) The agency form number, if applicable; (5) How often the form must be filled out; (6) Who will be required or asked to report; (7) An estimate of the number of responses; (8) An estimate of the total number of hours needed to fill out the form; (9) An indication of whether Section 3504(H) of Pub. L. 96-511 applies; (10) The name and telephone number of the person or office responsible for OMB review. Copies of the proposed forms and supporting documents may be obtained from the Agency Clearance Officer whose name and telephone number appear under the agency name. Comments and question about the items on this list should be directed to the reviewer listed at the end of each entry and to the Agency Clearance Officer. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer and the Agency Clearance Officer of your intent as early as possible.

Department of Justice

Agency Clearance Officer Larry E. Miesse—202-633-4312

Extension of the Expiration Date of a Currently Approved Collection Without any Change in the Substance or in the Method of Collection

- Immigration and Naturalization Service, Department of Justice
- Application for Advance Permission to Enter as Nonimmigrant (I-192)
- On occasion
- Individuals or households
- Form is used by non-immigrant alien seeking waiver of inadmissibility for entry into the United States as nonimmigrant under Section 212(d)(3) of the I&N Act: 28,000 respondents; 7,000 hours; not applicable under 3504(h).
- Robert Veeder—395-4814
- Federal Bureau of Investigation, Department of Justice
- Number of Full-Time Law Enforcement Employees as of October 31 (DO-52)
- Annually
- State or local governments
- Used to collect information regarding number of state and local law enforcement personnel in the United States. Data are published in the comprehensive annual "Crime in the United States.": 11,702 respondents; 2,340 hours; not applicable under 3504(h).
- Robert Veeder—395-4814
- Federal Bureau of Investigation, Department of Justice Monthly Return of Arson Offenses Known to Law Enforcement (DO-73)
- Monthly
- State or local governments
- Used to collect information regarding arsons in the United States. Summary statistics published in comprehensive annual publication "Crime in the United States" and in the semiannual "Uniform Crime Reports.": 20,592 responses; 10,296 hours; not applicable under 3504(h).
- Robert Veeder—395-4814
- Federal Bureau of Investigation, Department of Justice
- Law Enforcement Officers Killed (DO-76)
- On occasion
- State or local governments
- Used to collect information regarding law enforcement officers killed in the United States. Data are published annually in "Law Enforcement Officers Killed or Assaulted.": 180 responses; 83 hours; not applicable under 3504(h).
- Robert Veeder—395-4814.

Larry E. Miesse,

Agency Clearance Officer, Systems Policy Staff, Office of Information Technology, Justice Management Division.

[FR Doc. 84-1785 Filed 1-20-84; 8:45 am]

BILLING CODE 4410-01-M

Bureau of Justice Statistics

Bureau of Justice Statistics Advisory Board; Meeting

The Bureau of Justice Statistics Advisory Board will meet on February 3-4, 1984, at the Key Bridge Marriott Hotel, Arlington, Virignia. The session on February 3rd is scheduled to begin at 9:00 a.m. and end at 4:30 p.m. The session on February 4th will begin at 9:00 a.m and end at 12 noon.

Topics to be covered will include a status report on BJS programs, reauthorization legislation, and the Study of the National Uniform Crime Reporting Program.

The meeting will be open to the public. The meeting room will be accessible to the handicapped. Approximately ten seats will be available to the public on a first-come first-served basis.

Minutes of the meeting will be available upon request 60 days after the meeting.

Inquiries may be addressed to Paul D. White, Bureau of Justice Statistics, 633 Indiana Avenue, NW., Washington, D.C. 20531. Telephone (202) 724-7770.

Dated: January 10, 1984.

Steven R. Schlesinger,

Director, Bureau of Justice Statistics.

[FR Doc. 84-1792 Filed 1-20-84; 8:45 am]

BILLING CODE 4410-18-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 84-07]

NASA Advisory Council (NAC), Life Sciences Advisory Committee Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Life Sciences Advisory Committee (LSAC).

DATE AND TIME: February 13, 1984, 8:30 a.m. to 5 p.m.; and February 14, 1984, 8:30 a.m. to 12 noon.

ADDRESS: National Aeronautics and Space Administration, FB 10–B, February 13, Room 625–T, and February 14, Room 226–A, 600 Independence Ave. SW, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Henry V. Bielstein, M.D., Code EB, National Aeronautics and Space Administration, Washington, DC 20546 (202/453–1546).

SUPPLEMENTARY INFORMATION: The Life Sciences Advisory Committee consults with and advises the Council and NASA on the accomplishments and plans of NASA's Life Sciences Programs.

This meeting will be closed to the public from 4 p.m. to 5 p.m. on February 13 for a discussion of candidates being considered for Committee membership. During this session, the qualifications of proposed new members will be candidly discussed and appraised. Since this session will be concerned throughout with matters listed in 5 U.S.C. 552(c)(6), it has been determined that this session should be closed to the public. The remainder of the meeting will be open to the public up to the seating capacity of the room (approximately 35 persons including committee members and other participants).

Type of Meeting

Open—except for a closed session as noted in the agenda below.

February 13, 1984

8:30 a.m.—Committee Functions (Open session).

9 a.m.—SL–1 Preliminary Results (Open session).

10:30 a.m.—Review Life Sciences' Program Plan (Open session).

1 p.m.—Review of Space Station Plan (Open session).

4:00 p.m.—LSAC Membership (Closed session).

February 14, 1984

8:30 a.m.—Status of space Biomedical Institute (Open session).

9:30 a.m.—Advocacy Paper (Open session).

12 noon—Adjourn.

Dated: January 17, 1984.

Richard L. Daniels,

Director, Management Support Office, Office of Management.

[FR Doc. 84–1748 Filed 1–20–84; 8:45 am]

BILLING CODE 7510–01–M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Hydropower Options Task Force; Regular Meeting Notice

AGENCY: Hydropower Options Task Force of the Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting.

Notice of meeting to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1–4. Activities will include:

- Review of Hydropower Options Task Force Charter
- Discussion of Bonneville proposal
- Discussion of Work Schedule
- Business
- Public Comment.

STATUS: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its Hydropower Options Task Force.

DATE: Tuesday, January 31, 1984, 9 a.m.

ADDRESS: The meeting will be held at the Council Hearing Room at 700 SW. Taylor; Suite 200, in Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Tom Foley, (503) 222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 84–1787 Filed 1–20–84; 8:45 am]

BILLING CODE 0000–00–M

DEPARTMENT OF STATE

Office of the Secretary

[Secretarial Determination 84–3]

Determination Pursuant to Section 6(i) of the Export Administration Act of 1979—Iran

In accordance with Section 6(i) of the Export Administration Act of 1979, 50 U.S.C. App. 2405(i), I hereby determine that Iran is a country which has repeatedly provided support for acts of international terrorism.

George P. Shultz,

Secretary of State.

[FR Doc. 84–1825 Filed 1–20–84; 8:45 am]

BILLING CODE 4710–06–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

National Airspace Review; Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: National Airspace Review Plan Revision.

SUMMARY: On April 22, 1982, the National Airspace Review plan was published in the **Federal Register.** The plan encompassed a review of airspace use and the procedural aspects of the air traffic control system. Subsequent revisions to the schedule of various task groups have been made. This notice advises that Task Group 2–4.4, Helicopter Operations, Approach Procedures, which was scheduled to begin February 20, 1984, has been postponed until after April 30, 1984, in order to ensure availability of pertinent flight test data results to the task group. A specific date for this task group session will be provided in a subsequent notice in conjunction with other plan revisions.

FOR FURTHER INFORMATION CONTACT: National Airspace Review Program Management Staff, room 1005, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, 202–426–3560.

Issued in Washington, D.C., on January 11, 1984.

Karl D. Trautmann,

Manager, Special Projects Staff Air Traffic Service.

[FR Doc. 84–1750 Filed 1–20–84; 8:45 am]

BILLING CODE 4910–13–M

Radio Technical Commission For Aeronautics (RTCA), Special Committee 151—Airborne Microwave Landing System Area Navigation Equipment; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 151 on Airborne Microwave Landing System (MLS) Area Navigation Equipment to be held on February 8–10, 1984, in the RTCA Conference Room, One McPherson Square, 1425 K Street NW., Suite 500, Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the

Third Meeting Held on October 20–21, 1984; (3) Briefing on MLS Program Status; (4) Review and Discussion of Special Committee 137 (Airborne Area Navigation Systems) and Special Committee 149 (Airborne Distance Measuring Equipment) Activities; (5) Review Reports of Operational and Accuracy Groups; (6) Working Groups Meet in Separate Sessions; (7) Committee Plenary Session; and (8) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. 20005; (202) 682–0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on January 9, 1984

Karl F. Bierach,

Designated Officer.

[FR Doc. 84–1749 Filed 1–20–84; 8:45 am]

BILLING CODE 4910–13–M

Maritime Administration

Request of Removal, Without Disapproval, From Roster or Approved Trustees

Notice is hereby given, pursuant to 46 CFR 221.28, that The First National Bank of Maryland, with offices at 25 South Charles Street, Baltimore, Maryland, has requested removal, without disapproval, from the Roster of Approved Trustees. In its request for removal, The First National Bank of Maryland stated that as of December 21, 1983, it ceased to be a citizen of the United States pursuant to Pub. L. 89–346 and 46 CFR 221.21–221.30.

Dated: January 16, 1984.

By Order of the Maritime Administrator.

Georgia P. Stamas,

Secretary.

[FR Doc. 84–1747 Filed 1–20–84; 8:45 am]

BILLING CODE 4910–81–M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 15
Monday, January 23, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD

Notice of Change of Status of Item 17, From Open to Closed, at the January 10, 1984, Meeting.

TIME AND DATE: 10:00 a.m., January 10, 1984.

PLACE: Room 1027 (Open), Room 1012 (Closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

17. Dockets 41190, Application of Trans Carib Air, Inc. for amendment of its certificate to engage in foreign air transportation. (Memo 2058–A, BIA, OGC, BALJ).

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary. (202) 673–5068.

[FR Doc. 84–1905 Filed 1–19–84; 3:42 p.m.]

BILLING CODE 6320–01–M

2

FEDERAL RESERVE SYSTEM

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 49 FR 1826, January 13, 1984.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Wednesday, January 18, 1984.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item(s) was added: Supervisory and regulatory matter. (This matter was previously announced for a closed Board meeting on January 17, 1984.)

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: January 18, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–1829 Filed 1–19–84; 10:14 am]

BILLING CODE 6210–01–M

3

FEDERAL RESERVE SYSTEM

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Notice forwarded to Federal Register on January 17, 1984.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Wednesday, January 25, 1984.

CHANGES IN THE MEETING: Deletion of the following open item(s) from the agenda: Publication for comment of proposed expansion of Federal Reserve book-entry securities services.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: January 19, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–1879 Filed 1–19–84; 1:43 pm]

BILLING CODE 6210–01–M

4

SECURITIES AND EXCHANGE COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENTS: (To be published)

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Friday, January 13, 1984.

CHANGE IN THE MEETING: Rescheduling.

A closed meeting scheduled for Tuesday, January 24, 1984, at 9:30 a.m., has been changed to Monday, January 23, 1984, at 4:00 p.m.

Chairman Shad and Commissioners Treadway and Cox determined that Commission business required the above change and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Bruce Kohn at (202) 272–3105.

George A. Fitzsimmons,

Secretary.

January 18, 1984.

[FR Doc. 84–1852 Filed 1–10–84; 12:18 pm]

BILLING CODE 8010–01–M

federal register

Monday
January 23, 1984

Part II

Department of Energy

Federal Energy Regulatory Commission

Determination by Jurisdictional Agencies Under the Natural Gas Policy Act; Notices

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Vol. 1044]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 17, 1984.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd., Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
ISSUED JANUARY 17, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION									
-LEBEN OIL CORP				RECEIVED:	12/14/83	JA: KS			
8412398	K-80-0572	1514520222		108-PB		ROW #1		0.0	KN ENERGY INC
LOUISIANA OFFICE OF CONSERVATION									
-DALLAS DRILLING & DEVELOPMENT CO				RECEIVED:	12/19/83	JA: LA			
8412483	82-3193	1703100000		103		SARA C SAMUELS #1	CHEMARD LAKE	75.0	TENNESSEE GAS TRA
-GREAT SOUTHERN OIL & GAS CO INC				RECEIVED:	12/19/83	JA: LA			
8412485	82-2147	1705320735		103		W E WALKER #1	SOUTH JENNINGS	350.0	LOUISIANA GAS SYS
-MCILHENNY-POWELL OPERATING CO				RECEIVED:	12/19/83	JA: LA			
8412487	83-1558	1703120675		108		FRANK MATTHEWS #1 & 1-D	RED RIVER-BULL BAYOU	22.0	LOUISIANA INTRAST
-PIONEER PRODUCTION CORPORATION				RECEIVED:	12/19/83	JA: LA			
8412486	82-1497	1700100000		102-4		HORECKY #2 MT-1 RB SUA	CHURCH POINT	0.0	TEXAS GAS TRANSMI
-WESSELY ENERGY CORPORATION				RECEIVED:	12/19/83	JA: LA			
8412484	83-1179	1704920214		102-4		HARRIS #1 #185407 HOSS RA SUN	VERNON 9203	375.0	UNITED GAS PIPE L
MICHIGAN DEPARTMENT OF NATURAL RESOURCES									
-SHELL OIL CO				RECEIVED:	12/19/83	JA: MI			
8412515		2107934887		102-4		BLUE LAKE 1-9A	BLUE LAKE 16	55.5	MICHIGAN CONSOLID
8412517		2116500000		102-4		GRAFF 1-5A	HANOVER 5	839.5	MICHIGAN CONSOLID
8412516		2107900000		102-4		STATE BLUE LAKE 2-8A	BLUE LAKE 8	7.2	MICHIGAN CONSOLID
8412518		2113700000		102-4		STATE CHARLTON 1-10	CHARLTON 10	76.7	MICHIGAN CONSOLID
8412519		2105500000		102-4		WISTRAND 3-8A	PARADISE 8	719.0	MICHIGAN CONSOLID
MONTANA BOARD OF OIL & GAS CONSERVATION									
-CROFT PETROLEUM CO				RECEIVED:	12/19/83	JA: MT			
8412481	6-83-87	2510122353		108		STATE 16,639 #2	WILLOW RIDGE	5.1	MONTANA POWER CO
8412482	6-83-88	2510122332		108		SUN AG #2	WILLOW RIDGE	7.2	MONTANA POWER CO
NORTH DAKOTA INDUSTRIAL COMMISSION									
-AMERADA HESS CORPORATION				RECEIVED:	12/19/83	JA: ND			
8412472	876	3310500260		108		BLMU I-13	BEAVER LODGE	8.4	MONTANA DAKOTA UT
8412473	877	3305301676		102-3		F W JONES 9-43	BLUE BUTTES	165.0	MONTANA DAKOTA UT
8412475	879	3305301711		102-3		L WHEELER 10-23	BLUE BUTTES	128.0	MONTANA DAKOTA UT
-APACHE CORPORATION				RECEIVED:	12/19/83	JA: ND			
8412478	882	3302500368		102-2		LOH A #1	E LITTLE KNIFE	214.0	WILLISTON GAS CO
8412479	883	3302500350		102-2		SKACHENKO 29-15	E LITTLE KNIFE	70.0	WILLISTON GAS CO
-BASIC EARTH SCIENCE SYSTEMS INC				RECEIVED:	12/19/83	JA: ND			
8412480	884	3300700753		102-2		WHISKEY JOE-FEDERAL 843-33	WHISKEY JOE	35.8	WESTERN GAS PROCE
-COLUMBIA GAS DEVELOPMENT CORP				RECEIVED:	12/19/83	JA: ND			
8412474	878	3305301712		102-2		NOR-CORP #29-2	INDIAN HILLS	0.0	PHILLIPS PETROLEU
-MILESTONE PETROLEUM INC				RECEIVED:	12/19/83	JA: ND			
8412477	881	3305301625		102-2		BN 21-7	BOWLINE	0.0	KOCH HYDROCARBON

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-SUPERIOR OIL CO				RECEIVED:	12/19/83	JA: ND			
8412476	880	3305300898		102-2		FOSSUM WELL #34-1	INDIAN HILL	163	0
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-C & E OPERATORS INC				RECEIVED:	12/16/83	JA: NM			
8412424		3004523355		108-PB		MARY SHEPHERD #1	AZTEC-PC	0	0 EL PASO NATURAL G
-EL RAN INC				RECEIVED:	12/16/83	JA: NM			
8412403		3000520899		103		GRIFFIN #1	SAN ANDRES	14	6 TRANSWESTERN PIPE
8412402		3000520907		103		GRIFFIN #2	SAN ANDRES	11	0 TRANSWESTERN PIPE
-GULF OIL CORPORATION				RECEIVED:	12/16/83	JA: NM			
8412405		3002528299		103		W D GRIMES (MCT-B) #9	HOBBS DRINKARD	0	0 PHILLIPS PETROLEU
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	12/16/83	JA: NM			
8412425		3002500000		108-PB		S E LONG #6	DRINKARD	0	0 NORTHERN NATURAL
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	12/16/83	JA: NM			
8412422		3002527275		108		EAST VACUUM GB/SA UN TR 2980 #004	VACUUM GB/SA	12	0 EL PASO NATURAL G
-SOUTHLAND ROYALTY CO				RECEIVED:	12/16/83	JA: NM			
8412408		3003922779		108		CHICOSA CANYON #1	WILDCAT	3	5 NORTHWEST PIPELIN
8412423		3001522924		102-4		STATE "16-A" COM #1	TURKEY TRACK	53	0 EL PASO NATURAL G
8412406		3001522692		102-4		STATE "16" COM #1	TURKEY TRACK	140	0 EL PASO NATURAL G
8412407		3001522948		102-4		STATE "2" COM #1	ANGELL RANCH	100	0 EL PASO NATURAL G
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	12/16/83	JA: NM			
8412411		3002500000		108		STATE "A" A/C-2 #13	PEARSONHEAD GRAYBURG	3	9 GETTY OIL CO
8412412		3002500000		108		STATE "A" AC/2 #48	EUNICE SOUTH	7	0 PHILLIPS PETROLEU
-TENNECO OIL COMPANY				RECEIVED:	12/19/83	JA: NM			
8412589		3004524444		103		PAYNE "A" #1-E	UND MESAVERDE	500	0 EL PASO NATURAL G
-TEXACO INC				RECEIVED:	12/16/83	JA: NM			
8412409		3004508938		108		NEW MEXICO COM "O" #1	BASIN DAKOTA	3	0 NORTHWEST PIPELIN
-UNICON PRODUCING CO				RECEIVED:	12/16/83	JA: NM			
8412410		3004525639		103		STATE 16 #1	GALLUP	72	0 EL PASO NATURAL G
-UNION TEXAS PETROLEUM				RECEIVED:	12/16/83	JA: NM			
8412404		3000510537		108		CROSBY "3" - #1	CATO (SAN ANDRES)	7	0 CITIES SERVICES O
-YATES PETROLEUM CORPORATION				RECEIVED:	12/16/83	JA: NM			
8412417		3001524396		103		ACHEN FREY "DM" ST #10	EAGLE CREEK SAN ANDRE	0	0 TRANSWESTERN PIPE
8412418		3001523169		103		ACHEN FREY "DM" ST #7	EAGLE CREEK SAN ANDRE	0	0 TRANSWESTERN PIPE
8412415		3001524321		103		ACHEN FREY "DM" ST #8	EAGLE CREEK SAN ANDRE	0	0 TRANSWESTERN PIPE
8412428		3001524422		103		AMIGO "WI" ST #1	UND ATOKA-MORROW	[illegible]	0 TRANSWESTERN PIPE
8412416		3001524423		103		JACKSON "AT" #17	EAGLE CREEK SAN ANDRE	0	0 TRANSWESTERN PIPE
8412414		3001524213		103		MCCAW "BT" #6	EAGLE CREEK SAN ANDRE	0	0 TRANSWESTERN PIPE
8412419		3001524435		103		MORRIS ESTATE "CC" #7	EAGLE CREEK SAN ANDRE	0.0	TRANSWESTERN PIPE
8412421		3001524487		103		STONEWALL "WI" ST #3	AVALON DELAWARE	0	0 TRANSWESTERN PIPE
8412413		3001524574		103		STONEWALL "WI" ST #5		0.0	PHILLIPS PETROLEU
OKLAHOMA CORPORATION COMMISSION									
-ADOBE OIL & GAS CORPORATION				RECEIVED:	12/16/83	JA: OK			
8412456	22976	3508520679		102-3		OAKMAN #3-1	SANDERS	146.0	AMINOIL USA INC
-ANADARKO PRODUCTION COMPANY				RECEIVED:	12/16/83	JA: OK			
8412470	23498	3500721945		108		BARNES D #1	E LOPENA	2.4	PANHANDLE EASTERN
8412464	23057	3500721954		102-4		STICKLER "A" #1	TURPIN EAST	11.0	PHILLIPS PETROLEU
-ARKOMA PRODUCTION CO				RECEIVED:	12/16/83	JA: OK			
8412458	25685	3507720281		103		WHITNEY #2 - C	WILBURTON	2000.0	ARKANSAS LOUISIAN
-BARBOUR ENERGY CORP				RECEIVED:	12/16/83	JA: OK			
8412453	22809	3508322234		102-4		LATIMER #1-25		0.0	BUCKEYE NATURAL G
-BOGERT OIL CO				RECEIVED:	12/16/83	JA: OK			
8412461	25190	3509322719		103		FLAMING UNIT #1-26	SOONER TREND	36.0	PHILLIPS PETROLEU
-EL PASO NATURAL GAS COMPANY				RECEIVED:	12/16/83	JA: OK			
8412457	23053	3514920264		102-3		DINTLEMAN #1	UNDESIGNATED WASHITA	436.0	EL PASO NATURAL G
8412463	23054	3503920791		102-2		POWERS #1	UNDESIGNATED CUSTER R	56.6	EL PASO NATURAL G
-GRACE PETROLEUM CORPORATION				RECEIVED:	12/16/83	JA: OK			
8412460	25189	3507323686		103		HESSLER #1-12	SOONER TREND	0.0	SHAB CORP
-JACK BOWLES				RECEIVED:	12/16/83	JA: OK			
8412454	22968	3505320903		102-4		ANGELINE PORTER #1		0.0	FARMLAND INDUSTRI
8412455	22969	3505320967		102-4		ANGELINE PORTER #2		0.0	FARMLAND INDUSTRI
-JIM L HANNA DBA HANNA OIL AND GAS C				RECEIVED:	12/16/83	JA: OK			
8412466	23074	3506120278		102-4		WAGNON WHEEL #1		0.0	ARKANSAS LOUISIAN
-JONES & PELLOW OIL CO				RECEIVED:	12/16/83	JA: OK			
8412459	25167	3508520703		103		RAINS #28-1		0.0	UNION TEXAS PETRO
-JORDAN OIL & GAS COMPANY				RECEIVED:	12/16/83	JA: OK			
8412462	25195	3510721555		103		PRICE #1-33		73.0	TRANSOK PIPE LINE
-RED EAGLE OIL CO				RECEIVED:	12/16/83	JA: OK			
8412452	22706	3509322633		103		SANDRA #1	WEST FAIRVIEW	0.0	PHILLIPS PETROLEU
-SPAW INC				RECEIVED:	12/16/83	JA: OK			
8412465	23071	3511922164		102-2		NELLIE CULP #1		54.8	PEPPS ENERGY INVE
-TXO PRODUCTION CORP				RECEIVED:	12/16/83	JA: OK			
8412471	23508	3504300000		108		REIN #1	PUTNAM	10.0	DELHI GAS PIPELIN
-UNIVERSAL RESOURCES CORPORATION				RECEIVED:	12/16/83	JA: OK			
8412467	23086	3507323020		108		FLEETA 1-10	SOONER TREND	8.0	CITIES SERVICES C
8412468	23087	3507323067		108		K G 1-15	SOONER TREND	1.8	NORTHWEST CENTRAL
8412469	23088	3507322031		108		KRITTENBRINK 1-26	W OKARCHE	10.3	PHILLIPS PETROLEU
TENNESSEE OIL & GAS BOARD									
-AMTEX RESOURCES INC				RECEIVED:	12/19/83	JA: TN			
8412497	A 2592	4104921152		102-2		BRUNO GERNT ESTATE #2-A		3.0	FENTRESS GAS TRAN
8412498	A 2593	4104921157		102-2		CHARLES GERNT ET AL #1-C		20.0	FENTRESS GAS TRAN
-APPALACHIAN OIL & GAS CO INC				RECEIVED:	12/19/83	JA: TN			
8412496	A 2583	4112921355		102-4		T YOUNG - L YOUNG #2	INDIAN CREEK	70.0	INTRASTATE ENERGY
-B & W OIL CO				RECEIVED:	12/19/83	JA: TN			
8412492	A 2602	4112921322		102-2		BERNARD WOJTASIAK #1	DOUGLAS BRANCH	12	0 EAST TENNESSEE NA
8412495	A 2603	4112921321		102-2		CHARLES REYNOLDS ET AL #1	GLADES EAST	10	0 EAST TENNESSEE NA
8412494	A-2601	4112921323		102-2		HIWASSEE LAND CO #2	GLADES EAST	12	0 EAST TENNESSEE NA
8412491	A 2597	4112921089		102-2		OLMSTEAD-OVERTON #3	GLADES EAST	10	[illegible] EAST TENNESSEE NA
8412493	A 2604	4112921348		102-2		PETER PELTZ HEIRS ET AL #2	GLADES EAST	15.0	EAST TENNESSEE NA
-CATOOSA EXPLORATION CORP				RECEIVED:	12/19/83	JA: TN			
8412488	A 2335	4104920266		108		ELBERT WILSON #1	BIG BRANCH DEV	1	0 FENTRESS GAS TRAN
8412514	A 2336	4104920267		108		ELBERT WILSON #2	BIG BRANCH DEV	1	0 FENTRESS GAS TRAN
8412489	A 2337	4104920280		108		ELBERT WILSON #3	BIG BRANCH DEV	1.[illegible]	FENTRESS GAS TRAN
8412490	A 2338	4104920307		108		ELBERT WILSON #4	BIG BRANCH DEV	1.0	FENTRESS GAS TRAN
8412500	A 2334	4104920265		108		TROY CONATSER #8	BIG BRANCH DEV	1.0	FENTRESS GAS TRAN
-COMMERCE OIL CO				RECEIVED:	12/19/83	JA: TN			
8412513	A 2591	4112921188		102-2		B & L LAND CO #7	STOCKERS NW	39.4	GAS LINES OF TENN
-DIXIE SHAMROCK OIL & GAS INC				RECEIVED:	12/19/83	JA: TN			
8412512	A 2599	4112921357		102-4		GUNTER ET AL #1	WILDCAT	13.0	TENNESSEE GAS PIP

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8412511	A 2598	4112921299		102-4		JESSE GUNTER #1	WILDCAT	35.0	TENNESSEE GAS PIP
-FRANCIS PETROLEUM CORP				RECEIVED:	12/19/83	JA: TN			
8412509	A 2594	4115121095		103		COMMODORE TODD UNIT #3		9.0	
8412508	A 2595	4104921091		102-2		TROY MILLS ET AL #1		7.5	NOT CONTRACTED
-GLEN A WRIGHT				RECEIVED:	12/19/83	JA: TN			
8412501	A 2585	4112921273		102-2		GREGORY BAILEY ET AL #1		7.0	INTRASTATE ENERGY
8412499	A 2587	4112921290		102-2		LINDSAY ETAL #1		8.0	INTRASTATE ENERGY
-NATIONS RESOURCE OF EMERGY INC				RECEIVED:	12/19/83	JA: TN			
8412502	A 2568	4112920435		102-2		JAMES M ROBINSON #1		2.0	
8412510	A 2573	4112920572		102-2		JAMES M ROBINSON #2		2.1	
-ROGERS RICHARD R				RECEIVED:	12/19/83	JA: TN			
8412506	A 2608	4112921265		103		BILLY G GARRETT #4	UNKNOWN	20.5	INTRASTATE ENERGY
8412507	A 2607	4112921257		103		KURT SCHAAR UNIT #1	UNKNOWN	7.5	INTRASTATE ENERGY
-SONIC PETROLEUM INC				RECEIVED:	12/19/83	JA: TN			
8412505	A 2605	4115121058		102-2		JAMES R SNEED #2-4		5.0	INTRASTATE ENERGY
-T & V DRILLING CO				RECEIVED:	12/19/83	JA: TN			
8412504	A 2600	4104921161		102-2		DALBERT ATKINSON #1		18.2	FENTRESS GAS TRAN
-TAYLOR PETE				RECEIVED:	12/19/83	JA: TN			
8412503	A 2596	4104920114		102-4		ELBERT REED #1		10.0	FENTRESS GAS TRAN
********** VIRGINIA DEPARTMENT OF LABOR & INDUSTRY **********									
-JAMES F SCOTT				RECEIVED:	12/15/83	JA: VA			
8412401		4518520627		103		S-451 ULYSSES ALTIZER	MAIDEN SPRINGS	0.4	COLUMBIA GAS TRAN
-PANTHER CREEK LTD PARTNERSHIP #3				RECEIVED:	12/15/83	JA: VA			
8412400		4502720456		108		A B JEWELL #2	GRUNDY DISTRICT	16.0	CONSOLIDATED GAS
-PHILADELPHIA OIL COMPANY				RECEIVED:	12/15/83	JA: VA			
8412399		4505120488		103		JESSE WAMPLER - #P-151	NORA	160.6	KENTUCKY WEST VIR
********** WEST VIRGINIA DEPARTMENT OF MINES **********									
-AMCRO OIL & GAS INC				RECEIVED:	12/16/83	JA: WV			
8412449		4708703695		108		W W SHORT #3	CLOVER	2.0	PENNZOIL CO
-BOWSER GAS & OIL CO				RECEIVED:	12/16/83	JA: WV			
8412448		4701303487		102-3		MARION RADABAUGH #3	CENTER	0.0	CONSOLIDATED GAS
-BRAXTON OIL AND GAS CORP				RECEIVED:	12/16/83	JA: WV			
8412450		4700701427		108		MORGAN #1	BURNSVILLE 7 1/2 15	40.0	CONSOLIDATED GAS
-BURDETTE OIL & GAS CO INC				RECEIVED:	12/16/83	JA: WV			
8412428		4703903903		103		MARY SAYRE AULTZ #1 A	POCATALICO	0.0	
-CABOT OIL & GAS CORP				RECEIVED:	12/16/83	JA: WV			
8412446		4709901757		108		HOARD BALDWIN A-1	STONEWALL	14.0	TENNESSEE GAS PIP
8412445		4703902335		108		MARY MASON #1	POCA	3.6	COLUMBIA GAS TRAN
8412447		4710900851		108		POCAHONTAS I-27	BARKERS RIDGE	17.7	CONSOLIDATED GAS
-CHASE PETROLEUM				RECEIVED:	12/16/83	JA: WV			
8412442		4704102686		108		BRUFFEY #2	SKIN CREEK DISTRICT	30.0	CONSOLIDATED GAS
8412439		4708504801		103		WEEKLEY #1	CLAY DISTRICT	39.0	CONSOLIDATED GAS
-CHESTERFIELD CORP				RECEIVED:	12/16/83	JA: WV			
8412426		4709702132		107-DV		FISHER WELL #3 - 47-097-2132	UNION	0.0	COLUMBIA GAS TRAN
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	12/16/83	JA: WV			
8412451		4703302752		108		MARY M SAYLER 12742	UNION	7.0	GENERAL SYSTEM PU
-GILCO GAS INC				RECEIVED:	12/16/83	JA: WV			
8412429		4702103572		103		FRAME #2	GLENVILLE SOUTH	30.0	CONSOLIDATED GAS
-HARRY C BOGGS				RECEIVED:	12/16/83	JA: WV			
8412431		4701302860		108		R F STALNAKER #10	NICUT	0.0	COLUMBIA GAS TRAN
-HAUGHT INC				RECEIVED:	12/16/83	JA: WV			
8412430		4708500000		103		C & C SWADLEY H-989	MURPHY DISTRICT	14.0	ROARING FORK GAS
-J & J ENTERPRISES INC				RECEIVED:	12/16/83	JA: WV			
8412427		4701702920		103		J-426	WEST UNION	0.0	COLUMBIA GAS TRAN
-OHIO-WEST VIRGINIA HYDRO CARBON CO				RECEIVED:	12/16/83	JA: WV			
8412440		4708505961		103		MOORE #1	DEVIL HOLE CREEK WATE	20.0	CONSOLIDATED GAS
-PETROLEUM DEVELOPMENT CORP				RECEIVED:	12/16/83	JA: WV			
8412444		4709100141		108		H GOODWIN #1	MEADLAND	40.5	EQUITABLE GAS CO
8412441		4703300528		108		J M LANG #1001		273.0	CONSOLIDATED GAS
8412443		4707301474		108		SIMONTON A #1		90.0	COLUMBIA GAS TRAN
-R & B PETROLEUM INC				RECEIVED:	12/16/83	JA: WV			
8412432		4708300369		108		WARD #1	ROARING CREEK	18.0	PARTNERSHIP PROPE
-ROY G HILDRETH ET AL				RECEIVED:	12/16/83	JA: WV			
8412435		4708701034		108		JARVIS HEIRS #1	GEARY DISTRICT	0.0	COLUMBIA GAS TRAN
8412436		4708703454		108		JARVIS HEIRS #5	GEARY DISTRICT	0.0	COLUMBIA GAS TRAN
8412437		4708703667		108		KIRKHART #1	GEARY DISTRICT	0.0	COLUMBIA GAS TRAN
8412438		4708703668		108		KIRKHART #2	GEARY DISTRICT	0.0	COLUMBIA GAS TRAN
8412433		4701301120		108		VERA BAILEY #1	LEE DISTRICT	11.5	COLUMBIA GAS TRAN
8412434		4701302251		108		VERA BAILEY #2	LEE DISTRICT	11.5	COLUMBIA GAS TRAN
********** ** DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, DENVER,CO **********									
-MURCHISON BROTHERS				RECEIVED:	12/15/83	JA: CO 1			
8412397	CD 0188-83	0506706676		103		14-20-151-10	IGNACIO-BLANCO	6.9	WESTERN SLOPE GAS
-TENNECO OIL COMPANY				RECEIVED:	12/15/83	JA: CO 1			
8412395	CD 0180-83	0504506101		108		FEDERAL 2-23	SOUTH CANYON	5.0	NORTHWEST PIPELIN
-WILLIAM PERLMAN				RECEIVED:	12/15/83	JA: CO 1			
8412396	CD 0185-83	0506706527		107-TF		SOUTHERN UTE #1-32 M00-C-1420-1530	IGNACIO BLANCO	0.0	EL PASO NATURAL G
********** ** DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, CASPER,WY **********									
-DIAMOND CHEMICALS CO				RECEIVED:	12/19/83	JA: MT 5			
8412567	M266-3	2507321593		102-2		DIAMOND SHAMROCK FEDERAL 21-13	MARIAS RIVER	0.0	
-FALCON-COLORADO EXPLORATION INC				RECEIVED:	12/19/83	JA: MT 5			
8412521	M738-2	2507121751		108		FEDERAL 2-21	SWANSON CREEK	10.0	MONTANA-DAKOTA UT
-FARMERS UNION CENTRAL EXCHANGE INC				RECEIVED:	12/19/83	JA: MT 5			
8412539	M236-3	2509121492		102-2		15-14 USA	SUNNYHILL WEST	30.0	PHILLIPS PETROLEU
-FUEL RESOURCES DEVELOPMENT CO				RECEIVED:	12/19/83	JA: MT 5			
8412578	M 279-3	2502721197		102-2		N-27-23-19-N	LEROY	65.0	MONTANA POWER CO
-LUFF EXPLORATION CO				RECEIVED:	12/19/83	JA: MT 5			
8412522	M758-2	2508321600		103		P-7 USA MARTIN	NORTH SIOUX PASS	60.0	TRUE OIL CO
-MIDLANDS GAS CORP				RECEIVED:	12/19/83	JA: MT 5			
8412561	M258-3	2507121495		108		0121 FEDERAL 2	BOWDOIN	20.0	K N ENERGY INC
-MIDLANDS GAS CORPORATION				RECEIVED:	12/19/83	JA: MT 5			
8412530	M140-3	2507121661		108		0170 FEDERAL #1	UNNAMED	11.0	K N ENERGY INC
8412533	M152-3	2507121198		108		0202-2 (FORMERLY 1102)	WILDCAT	12.0	K-N ENERGY INC
8412566	M265-3	2507121879		102-2		0241-2	BOWDOIN	50.0	K N ENERGY INC
8412551	M195-3	2507121487		108-ER		0260 FEDERAL #1	WILDCAT	22.0	K-N ENERGY INC
8412544	M227-3	2507121645		108		0460 FEDERAL 1	UNNAMED	28.0	K-N ENERGY INC
8412583	M288-3	2507121873		102-2		0470-2 FEDERAL	LORING	24.0	KN ENERGY INC

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8412576	M 277-3	2507121886		102-2		0561-2
8412529	M135-3	2507121834		108		0732 FEDERAL 2
8412574	M275-3	2507121882		102-2		0861-2
8412543	M230-3	2507121646		108		0960 FEDERAL #1
8412579	M 280-3	2507121883		102-2		0960-2
8412524	M12-3	2507121780		108		1021 FEDERAL 1
8412569	M268-3	2507121881		102-2		1060-2
8412531	M146-3	2507121550		108-ER		1061 1-10 USA WOLF AND MIAMI
8412565	M264-3	2507121875		103		1121-2
8412563	M262-3	2507121878		103		1321-2
8412556	M249-3	2507121462		108		1351 FEDERAL 133531
8412545	M224-3	2507121440		108		1460 FEDERAL 1
8412577	M 278-3	2507121885		102-2		1461 FEDERAL 2
8412568	M267-3	2507121884		102-2		1560-2
8412557	M250-3	2507121436		108		1861-1
8412526	M121-3	2507121624		108		2213 FEDERAL 2
8412549	M216-3	2507121607		108		2233-1 223333
8412532	M147-3	2507121262		108		2251 FEDERAL 1
8412585	M 291-3	2507121876		102-2		2251-2
8412523	M11-7	2507121807		108		2321 FEDERAL 2
8412528	M134-3	2507121851		108		3152 FEDERAL 2
8412580	M 283-3	2507121891		102-2		3171 FEDERAL 2
8412546	M221-3	2510521044		108		3315-1 (ANSCHUTZ FEDERAL 402)
8412575	M-276-3	2507121874		102-2		3370-2
8412547	M220-3	2510521141		108		3415 FEDERAL 1
8412558	M253-3	2507121416		108		3461-1 343631
8412570	M269-3	2507121880		102-2		3551-2
-PATRICK PETROLEUM CORP (MI)				RECEIVED:	12/19/83	JA: MT 5
8412560	M256-3	2508521356		102-2		PETERSON FEDERAL 1-12
-PETROLEUM CORP OF AMERICA				RECEIVED:	12/19/83	JA: MT 5
8412586	M 292-3	2507121889		102-2		FEDERAL #2-2971
8412587	M 293-3	2507121890		102-2		FEDERAL #2-3071
8412588	M 294-3	2507121892		102-2		FEDERAL #2-3271
-S & J OPERATING CO				RECEIVED:	12/19/83	JA: MT 5
8412542	M230-3-B	2507121117		108		2034 MIAMI-FEDERAL 890-20 #1
-SOUTHLAND ROYALTY CO				RECEIVED:	12/19/83	JA: MT 5
8412573	M274-3	2507121895		102-2		FEDERAL 0852 #2
8412564	M263-3	2507121698		102-2		FEDERAL 1-8-52NE
8412572	M273-3	2507121894		102-2		FEDERAL 1961 #2
8412571	M272-3	2507121893		102-2		FEDERAL 2761 #2
-TRICENTROL UNITED STATES INC				RECEIVED:	12/19/83	JA: MT 5
8412520	M714-2	2500522177		102-4		US 15-1-26-18
-WESTERN RESERVES INC				RECEIVED:	12/19/83	JA: MT 5
8412534	M180-3	2510122383		102-4		FEDERAL 1-1 - T 37N - R 2E
-APACHE CORPORATION				RECEIVED:	12/19/83	JA: ND 5
8412548	ND218-3	3300700899		102-2		FEDERAL #3-4
-CANTERRA PETROLEUM INC				RECEIVED:	12/19/83	JA: ND 5
8412553	ND182-3	3300700804		102-2		U S 2-12
8412552	ND183-3	3300700826		102-2		U S 2-34
-FARMERS UNION CENTRAL EXCHANGE INC				RECEIVED:	12/19/83	JA: ND 5
8412559	ND254-3	3300700146		102-2		FEDERAL 16-32
-FLORIDA GAS EXPLORATION COMPANY				RECEIVED:	12/19/83	JA: ND 5
8412540	ND232-3	3300700900		102-2		FEDERAL 19-144-101 #2
-KOCH INDUSTRIES INC				RECEIVED:	12/19/83	JA: ND 5
8412582	ND 287-3	3300700929		102-2		FEDERAL #5-27
8412550	ND202-3	3300700334		102-2		FEDERAL NO 9-24 "A" MISSION CANYON
-MILESTONE PETROLEUM INC				RECEIVED:	12/19/83	JA: ND
8412584	ND 290-3	3305301696		102-2		FEDERAL #14-6
-PETRO-LEWIS CORPORATION				RECEIVED:	12/19/83	JA: ND 5
8412527	ND122-3	3300700776		103		FEDERAL 32-3
8412541	ND231-3	3300700776		102-2		FEDERAL 32-3
8412525	ND55-3	3301100081		108		FEDERAL 4-15
-SHELL OIL CO				RECEIVED:	12/19/83	JA: ND 5
8412537	ND238-3	3305301412		102-2		USA 11-4-76
-SKYLINE OIL COMPANY				RECEIVED:	12/19/83	JA: ND 5
8412535	ND245-3	3305301519		102-2		FEDERAL RIVET 6-1X
8412536	ND244-3	3305301519		103		FEDERAL RIVET 6-1X
8412554	ND246-3	3305301604		103		FEDERAL RIVET 6-2
8412555	ND247-3	3305301604		102-2		FEDERAL RIVET 6-2
-TENNECO OIL COMPANY				RECEIVED:	12/19/83	JA: ND 5
8412562	ND261-3	3300700862		102-2		HAMILTON USA 2-33
-TEXACO INC				RECEIVED:	12/19/83	JA: ND
8412538	ND235-3	3305301632		103		BLUE BUTTES MADISON UNIT F208X
8412581	ND 285-3	3305301683		103		BLUE BUTTES MADISON UNIT 8G-208

FIELD NAME	PROD	PURCHASER
BOWDOIN	82.0	K N ENERGY INC
BOWDOIN (WHITEWATER U	19.0	K N ENERGY INC
BOWDOIN	133.0	K N ENERGY INC
UNNAMED	20.0	K-N ENERGY INC
BOWDOIN	53.0	K N ENERGY INC
BOWDOIN	13.0	K N ENERGY INC
BOWDOIN	50.0	K N ENERGY INC
WILDCAT	32.0	K-N ENERGY INC
BOWDOIN (ASHFIELD)	94.0	K N ENERGY INC
BOWDOIN	13.3	K N ENERGY INC
BOWDOIN	16.0	K N ENERGY INC
BOWDOIN	18.0	K-N ENERGY INC
BOWDOIN	24.0	K N ENERGY INC
BOWDOIN	35.0	K N ENERGY INC
WILDCAT	13.0	K N ENERGY INC
BOWDOIN	1.0	K N ENERGY INC
BOWDOIN	11.0	K-N ENERGY INC
WILDCAT	14.0	K-N ENERGY INC
BOWDOIN	25.0	K N ENERGY INC
BOWDOIN	8.0	K N ENERGY INC
BOWDOIN	16.0	K N ENERGY INC
EAST LORING	88.0	K N ENERGY INC
WILDCAT	11.0	K-N ENERGY INC
BOWDOIN	44.0	K N ENERGY INC
BOWDOIN	16.0	K-N ENERGY INC
BOWDOIN	17.0	K N ENERGY INC
BOWDOIN	50.0	K N ENERGY INC
ANVIL	9.6	PHILLIPS PETROLEU
EAST LORING	0.0	KN ENERGY INC
EAST LORING	0.0	KN ENERGY INC
EAST LORING	0.0	KN ENERGY INC
BOWDOIN	8.9	KN ENERGY INC
BOWDOIN (EAST LORING)	58.0	K N ENERGY INC
BOWDOIN-LORING	53.0	K N ENERGY INC
BOWDOIN DOME	24.0	K N ENERGY INC
BOWDOIN DOME	16.0	K N ENERGY INC
SHEPARD UNIT	11.0	NORTHERN NATURAL
WEST PHANTOM SUNBURST	500.0	MONTANA POWER CO
BUCKHORN	35.0	KOCH HYDROCARBON
TR	0.0	
WHISKEY JOE	0.0	
ELKHORN RANCH	75.0	KOCH HYDROCARBON
DEVILS PASS	0 0	KOCH HYDROCARBON
TREE TOP	8.0	MONTANA DAKOTA UT
BIG STICK	19.0	MONTANA-DAKOTA UT
BOWLINE	150.0	KOCH HYDROCARBON
MADISON	56.0	KOCH HYDROCARBON
MADISON	56.0	KOCH HYDROCARBON
LITTLE MISSOURI	7.9	MONTANA-DAKOTA UT
ESTES	17.0	MONTANA DAKOTA UT
PIERRE CREEK	21.0	KOCH HYDROCARBON
PIERRE CREEK	21.0	KOCH HYDROCARBON
PIERRE CREEK - RED RI	1.6	KOCH HYDROCARBON
PIERRE CREEK	16.0	KOCH HYDROCARBON
ELKHORN RANCH	0.4	MONTANA DAKOTA UT
BLUE BUTTES	6.6	AMERADA HESS CORP
BLUE BUTTES MADISON	22 0	AMERADA HESS CORP

[FR Doc. 84-1737 Filed 1-20-84; 8:45 am]

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January 23, 1984

Part III

Department of Energy

Office of Conservation and Renewable Energy

10 CFR Part 455

Grant Programs for Schools and Hospitals and for Buildings Owned by Units of Local Government and Public Care Institutions; Proposed Rule

VOL 49 ISS 15 JA 23 1984 UMI

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 455

[Docket No. CAS-RM-78-503]

Grant Programs for Schools and Hospitals and for Buildings Owned by Units of Local Government and Public Care Institutions

AGENCY: Office of Conservation and Renewable Energy, DOE.

ACTION: Notice of inquiry.

SUMMARY: The Department of Energy is considering proposing to modify the regulations for the operation of its Grant Programs for Schools and Hospitals and for Buildings Owned by Units of Local Government and Public Care Institutions in order to make the program operate more efficiently. This notice of inquiry is intended to solicit public comment as to aspects of the program which the public feels need to be addressed, and which could be changed through regulatory (rather than legislative) means. The object of this notice of inquiry is to receive ideas and suggestions as to the direction the program should be taking in the future and possible improvements which could be implemented to make the program more efficient and productive. The Department is particularly interested in comments relating to the following areas:

- Modifying the regulations as they apply to an institution's using financing based on the energy saved by the installation of an energy conservation measure to satisfy the institution's matching portion of the cost of installing the energy conservation measure;
- Changing the payback limit(s) for energy conservation measures;
- Clarifying the definitions of "energy conservation measure," "maintenance," and "operating";
- Modifying the treatment of leased equipment;
- Establishing requirements for updating Energy Audits and Technical Assistance Reports.

DATE: Written comments must be received by February 22, 1984.

ADDRESS: Send comments to Department of Energy, Office of Conservation and Renewable Energy, Hearings and Dockets Unit, Room 6B-025, Docket Number CAS-RM-78-503, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-9319. (Five Copies)

FOR FURTHER INFORMATION CONTACT:
Frank M. Steward, Director, Institutional Conservation Programs Division, Conservation and Renewable Energy, Department of Energy, Mail Stop 5G-070, Forrestal Buiding, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-2198.

Edward H. Pulliam, Office of General Counsel, Department of Energy, Mail Stop 6B-144, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252-9507.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Grant Program for Schools and Hospitals and for Buildings Owned by Units of Local Government and Public Care Institutions, also known as the Institutional Conservation Program (ICP), was established in the Department of Energy by Title III of the National Energy Conservation Policy Act, Pub. L. 95-619, 92 Stat. 3238, (42 U.S.C. 6371 *et seq.*). Regulations for the program appear in 10 CFR Part 455.

In general, the program makes grants to schools and hospitals to help finance technical assistance analyses and energy conservation improvements. In addition, public care institutions and buildings owned by units of local government are eligible for grants for technical assistance energy analyses only.

II. Issues and Questions for Public Comments

DOE is particularly interested in obtaining views on the issues and questions set forth below.

The program regulations require, in hardship cases, that a school or hospital match the Federal funds provided for an energy conservation measure (ECM) on a fifty-fifty basis. The regulations also allow ECM's completed by an institution using non-federal funds to be used as credit toward the institution's matching portion of ECM's funded under the program. An innovative type of financing based on the savings produced by the ECM has been suggested as a possible method of financing either the matching portion of the cost of ECM's funded under the program or the ECM's funded by the institution, which the institution uses as credit towards the matching requirement of ECM's funded under the program. This savings-based financing is accomplished through agreements under which the institutions contract with another party to install the ECM's in return for paying that party a share of the resultant savings over a period of years, or otherwise agree to pay for the ECM's based on savings achieved through improved energy efficiency. Under some of these types of agreements the other party or parties may be a contractor or third party investor, or both (depending on the type of financing arrangment), and may, or may not, retain ownership of the ECM's. Consequently, that party may receive a variety of tax benefits, such as depreciation, investment tax credits, and interest deductions, in addition to the party's share of the savings. These types of agreements raise questions under the current regulation, and DOE is considering modifying the regulation.

Among the questions such agreements raise in regard to the program and about which DOE would particularly like comments are the following:

1. Should institutions be allowed to use these savings-based agreements to finance the matching portion of the cost of ECM's funded under this program or should they be allowed to use ECM's financed by savings-based agreements as credit towards the matching requirement of ECM's funded under this program? Traditionally, matching contributions for ICP grants have been in the form of cash, or goods and services (such as labor) provided directly by the institution. At the completion of the project, the institution is the sole owner of, and receives all of the savings resulting from, the improvements. It would change the nature of the matching contribution in a fundamental way to permit third party investors, or others, to retain ownership of part of the project and share in the savings.

2. Should institutions be allowd to finance the matching requirement by, or receive credit against the matching requirement for, savings-based agreements under which the institutions do not own the ECM's installed under the agreement? As mentioned in question 1, this would represent a major change in the orientation of the program, from one in which institutions acquire energy conservation improvements to one in which institutions combine improvements financed with DOE grants with energy service contracts financed with future savings.

3. How should the cost of the ECM installed under a savings-based agreement be determined so that its value as a credit or its federally funded and matching portions can be established? Since DOE is providing a set percentage of the cost of installation before the project is begun, DOE is concerned that the cost is a fair estimate. Most such agreements involve commitments to turn over a percentage of future savings over a period of years, but do not require a capital outlay at the

beginning. What is the fair value of such an agreement when the ultimate cost will not be determined for five to seven years, or more?

4. How should actual costs of the ECM be determined so that the progress of the grant may be accurately monitored, considering that a savings-based agreement may run five years or more but a grant may be closed out after one or two years? Since DOE is providing fifty percent of the cost of the installation, in most cases, DOE is concerned that a fair value be placed on the other fifty percent of the installation.

5. Should DOE limit the percentage of the savings an institution may share under a savings-based agreement which affects an ECM funded by DOE? When an institution finances its match by itself, the institution retains all the savings achieved by the entire project. If an institution were to use a savings-based agreement as its match, then it would, in effect, have to pay for that agreement out of future savings generated by the installation. However, since one of the purposes of the program is to ease the financial burden on an institution due to increased fuel costs, it may not appear to further this purpose if the institution shares the savings generated by DOE's contribution to the project. In addition, it is often very difficult to identify exactly how much savings are generated by any particular part of an energy conservation project—unless only a single measure is involved. DOE is concerned that institutions not sign away savings which the institutions should be entitled to keep for themselves.

DOE also welcomes comments on any other aspects of savings-based agreements and their relation to the program which DOE might address in the regulations.

As a separate issue, DOE is considering changing the permissible payback limits for measures funded by ICP grants from the present limits of 1 to 15 years. For example, short payback periods might be eliminated to encourage institutions to fund more of the shorter payback items from other sources and to concentrate ICP funds on the longer payback items which may presently tend to be neglected but may be of significant long-term benefit. The questions DOE would like comments to address are:

1. Should DOE change the payback limits for eligible energy conservation measures from the current 1 to 15 years?

2. If so, should the change be at the low or high end of the limits, or at both ends, and how much should the change be?

Also, some clarification of the present definitions may be needed so that program applicants can properly distinguish between operating and maintenance activities, which are not eligible for funding, and installation of energy conservation measures, which are eligible for funding. In particular, there appears to be a need to consider whether massive replacement projects caused by deferred maintenance should be funded as ECM's. DOE is also considering allowing previously funded ECM's which have worn out to be replaced by new ECM's funded by new grants. Among the questions to be considered are:

1. Should the definition of "energy conservation measure" be clarified?

2. Should ECM's be required to increase the energy efficiency of the building beyond its condition when new?

3. Should the regulation be modified to permit DOE grant funds to be used to pay for the replacement of worn out conservation measures, and/or should there be limits to the types of replacement measures which can be funded?

In the area of leasing, the situation has changed considerably since the program's regulations were written. Then, computers were the major items being leased, with relatively minor costs for installation. Recently quite different items, including boilers, have been leased, with sizeable installation charges. Currently the program's regulations permit DOE assistance to be provided for installation charges of leased equipment. This provision may need to be reconsidered in light of the expansion in the universe of leased equipment. The question is: Should the treatment of leased equipment be changed to restrict or to broaden the allowability of installation and connection charges for DOE assistance?

Institutions applying for technical assistance or ECM grants are currently required by §§ 455.41(c) of 455.51(a)(3) of the regulations to have conducted an energy audit (EA) ot technical assistance program (TA), as appropriate, "subsequent to the most recent construction, reconfiguration or utilization change to the building which significantly modified energy use within the building." DOE is considering changing the regulations to require new EA's and TA's after a certain number of years even if the building has not undergone major modifications. The questions which need to be considered are:

1. Should DOE require updated EA's and TA's after a certain number of years, regardless of the degree to which a building's use and/or condition may have changed, in order for the building to be eligible for a grant?

2. Are there limits to the situations where such new EA's and TA's are needed, and if so, what are they?

3. Should the regulations be amended to permit DOE to provide grant funds for the updated TA's (presently grants can be given for only one TA for a particular building)?

In addition to these specific areas of concern, DOE also invites comments or suggestions about other aspects of the program which the public feel need to be addressed, and which could be changed through regulatory (rather than legislative) means.

All interested persons are invited to submit written comments to DOE. Such correspondence should be mailed to: Department of Energy, Office of Conservation and Renewable Energy, Hearings and Dockets Unit, Room 6B–025, Docket Number CAS–RM–78–503, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585. Five copies should be submitted.

All comments received will be available for public inspection in the DOE Reading Room 1E–090, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays. Any information or data considered by the person furnishing it to be confidential and which may be exempt by law from public disclosure must be so identified and submitted in writing, one copy only. DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination, pursuant to DOE's regulations on confidentiality (10 CFR Part 1004).

List of Subjects in 10 CFR Part 455

Buildings, Community facilities, Energy audits, Energy conservation, Grant programs—energy, Health facilities, Hospitals, Reporting requirements, Schools, Solar energy, Technical assistance.

Issued in Washington, D.C. January 16, 1984.

Pat Collins,

Acting Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 84–1822 Filed 1–20–84; 8:45 am]

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Part IV

Department of Education

34 CFR Parts 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, and 262
Indian Education Programs; Proposed Rule

Indian Education Act Grant Programs; Notice Establishing Closing Dates for Transmittal of Certain Fiscal Year 1984 Applications; Notice

VOL 49 ISS 15 JA 23 1984 UMI

DEPARTMENT OF EDUCATION

34 CFR Parts 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, and 262

Indian Education Programs

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend regulations governing awards authorized by the Indian Education Act of 1972, as amended. The proposed changes are based on a review of current regulations for purposes of deregulation under Executive Order 12291. The Secretary takes this action to reduce costs and other regulatory burdens and to clarify application and compliance requirements.

DATE: Comments must be received on or before March 23, 1984.

ADDRESSES: Comments should be addressed to Hakim Khan, Deputy Director, Indian Education Programs, U.S. Department of Education, 400 Maryland Avenue, S.W., (FOB–6, Room 2177), Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Hakim Khan. Telephone: (202) 245–8020.

SUPPLEMENTARY INFORMATION: These proposed regulations would implement the Indian Education Act of 1972 (Title IV of Pub L. 92–318, the Education Amendments of 1972), as amended.

Under the regulations the Secretary of Education provides Federal financial assistance to public school systems, as well as to Indian community schools on or near reservations, for the purpose of planning, developing, and carrying out elementary and secondary school projects designed to meet the special educational needs of Indian children.

Under the regulations the Secretary also provides Federal financial assistance to Indian tribes, Indian institutions, and Indian organizations, as well as to State and local educational agencies and elementary and secondary schools for Indian children operated by the Department of the Interior, for special planning, pilot, and demonstation projects and other projects designed to improve educational services and opportunities for Indian children and adults.

In addition, for educational personnel development projects, the Secretary provides Federal financial assistance to institutions of higher education, State and local educational agencies, Indian tribes, and Indian organizations.

These proposed regulations govern eight programs: (1) Formula Grants—Local Educational Agencies and Tribal Schools (formerly known as Entitlement Grants); (2) Indian-Controlled Schools—Establishment; (3) Indian-Controlled Schools—Enrichment Projects; (4) Educational Services for Indian Children; (5) Planning, Pilot, and Demonstration Projects for Indian Children; (6) Educational Personnel Development; (7) Educational Services for Indian Adults; and (8) Planning, Pilot, and Demonstration Projects for Indian Adults.

Not included in these proposed rules are regulations governing the Indian Fellowship Programs, which were previously published.

The Secretary is also proposing that regulations for four programs that have not been funded be removed from the Code of Federal Regulations. These four programs are: (1) Demonstration Projects-Local Educational Agencies; (2) Adult Education Reserach and Development Projects; (3) Adult Education Surveys; and (4) Adult Education Dissemination and Evaluation projects.

As a result of these proposed removals, many of the remaining programs have been redesignated and given new part numbers in Title 34 of the Code of Federal Regulations. Each of the programs affected by these proposed regulations and the part number assigned is listed in 34 CFR 250.1, the first section of the proposed general provisions regulations governing all of the affected programs.

Major Issues

1. What Changes Does the Secretary Propose in Regulations Governing Grants for Planning, Pilot, and Demonstration Projects?

Applicants are often confused as to what should be included in an application for a grant under a planning, pilot, and demonstation program. Attempts to combine the differing objectives of these types of activities into one multi-year project have resulted in inadequate project designs and vague components and products. To overcome these problems the Secretary proposes to include in these regulations specific criteria that distinguish planning, pilot, and demonstration projects as three separate grant competitions. An applicant would be permitted to apply for a grant under one or more of these competitions, but would be required to submit a separate application for each project.

2. What Does the Secretary Propose Regarding Requirements Not Specified in the Statute?

Some provisions of the proposed regulations, although not specified in the authorizing statute, are included—under the Secretary's legal authority to regulate—because the Secretary considers these requirements to be necessary for the efficient and effective administration of the particular affected program. However, the Secretary believes that non-statutory requirements should be kept to a minimum and, thus, has deleted from these proposed regulations a number of provisions found in the current regulations. This action is intended (1) to reduce paperwork and other administrative burdens of applicants and grantees and (2) to enable LEAs, Indian tribes, Indian organizations, and other applicants and grantees to exercise local options.

In a few provisions, the Secretary has added material to the proposed regulations to clarify application and compliance requirements.

3. How Does the Secretary Propose To Provide Regulatory Relief for Applicants?

To make it easier for applicants to apply for Federal financial assistance under the formula grants program of Part A of the Indian Education Act, the Secretary may recommend, through a notice in the **Federal Register**, a minimum number of pages with which applicants could satisfy certain of the application requirements.

This approach could reduce the paperwork burden of applicants by as much as two thirds. In addition, the use of abbreviated applications could result in savings at the Federal level by substantially reducing the time needed to process applications.

The Secretary intends to provide additional relief from paperwork for each applicant for a continuation award under the formula grants program. In applying for assistance during the second and third years of a formula grant, the applicant will be eligible to use for the first time an abbreviated application form if there is no change in the purposes and objectives stated in the original application.

The use of this abbreviated form for continuation grants will significantly reduce the amount of time needed to prepare an application, and is thus likely to reduce costs of preparation.

5. What Other Changes Does the Secretary Propose?

In addition to the changes already described in this preamble, the

Secretary proposes the following other actions to reduce regulatory burdens, increase understanding of regulatory requirements, and otherwise assist applicants and grantees:

• The Secretary proposes to revise the Title of 34 CFR Part 251 to read "Formula Grants—LEAs and Tribal Schools." The term "entitlement grants" is more appropriately reserved for programs of Federal financial assistance under which grants of specific amounts of money are guaranteed. The change in title will have no effect on program operations.

This new title more accurately reflects the manner in which the Secretary currently awards funds under this program; that is, entities that meet the eligibility requirements are entitled to receive assistance, but the amount of that assistance is determined by available appropriations and the formula in the Indian Education Act.

• The Secretary proposes to consolidate and make editorial changes in the criteria that applicants must address and that the Secretary uses as a basis for selecting grantees under the various programs. These changes are designed to clarify requirements, reduce the time required to prepare an application, and ensure consistent requirements wherever possible among the various programs affected by these proposed regulations.

• The Secretary proposes numerous other editorial changes throughout the proposed regulations to improve clarity, ensure consistency, and eliminate redundancy.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are classified as non-major because they do not meet the criteria for major regulations established in the Order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations will not have significant economic impact on a substantial number of small entities. The regulations are designed to relieve regulatory and paperwork burdens on small entities participating in the program. However, the regulations will not have a significant economic impact on individual small entities.

Intergovernmental Review

The Indian Education Act Programs in 34 CFR Parts 252, 253, and 256 are subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79 (48 FR 29158; June 24, 1983). The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provided early notification of the Department's specific plans and actions for these programs.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments received on or before the 60th day after publication of this document will be considered before the Secretary issues the final regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Federal Office Building 6, Room 2177, 400 Maryland Avenue, SW., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Paperwork Reduction Act

The information collection requirements in these proposed regulations will be submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1980.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act, and their overall requirements of reducing regulatory burden, public comment is especially invited on further opportunities to reduce regulatory burden in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects

34 CFR Part 250

Adult education, Education, Elementary and secondary education, Grant programs—Indians, Indians—education, Teachers.

34 CFR Parts 251, 252, 253, 254, and 255

Education, Elementary and secondary education, Grant programs—education, Grant programs—Indians, Indians—education.

34 CFR Part 256

Education, Grant programs—education, Grant programs—Indians, Indians—education, Teachers.

34 CFR Parts 257 and 258

Adult education, Education, Grant programs—education, Grant programs—Indians, Indians—education.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these proposed regulations.

(Catalog of Federal Domestic Assistance Numbers 84.060 Development Awards Program—Indian Education—Local Educational Agencies and Tribal Schools; 84.061 Indian Education—Special Programs and Projects; 84.062 Indian Education—Adult Indian Education; and 84.072 Indian Education—Grants to Indian-Controlled Schools)

Dated: January 13, 1984.

T. H. Bell,

Secretary of Education.

The Secretary proposes to amend Title 34 of the Code of Federal Regulations as follows:

1. Part 250 is revised to read as follows:

PART 250—INDIAN EDUCATION ACT—GENERAL PROVISIONS

Subpart A—General

Sec.

250.1 What programs are governed by these regulations?
250.2 [Reserved]
250.3 What regulations apply to these programs?
250.4 What definitions apply to these programs?
250.5 What provisions of the Indian Self-Determination and Assistance Act apply to these programs?

Subpart B—[Reserved]

Subpart C—How Does One Apply for a Grant?

250.20 How does an applicant apply under a particular program?

Authority: Title IV, Pub. L. 92–318 (the Indian Education Act), 86 Stat. 334, as amended (20 U.S.C. 241aa–241ff, 1211a, 1221h, 3385, 3385a), unless otherwise noted.

Subpart A—General

§ 250.1 What programs are governed by these regulations?

The regulations in this part apply to all programs conducted under the Indian Education Act except the Indian Fellowship Program (34 CFR Part 263).

Programs governed by these regulations and their applicable program regulations are as follows:

(a) Formula Grants—Local Educational Agencies and Tribal Schools (34 CFR Part 251).

(20 U.S.C. 241aa.241ff)

(b) Indian-Controlled Schools—Establishment (34 CFR Part 252).

(20 U.S.C. 241bb(b))

(c) Indian-Controlled Schools—Enrichment Projects (34 CFR Part 253).

(20 U.S.C. 241bb(b))

(d) Educational Services for Indian Children (34 CFR Part 254).

(20 U.S.C. 3385 (a), (c))

(e) Planning, Pilot, and Demonstration Projects for Indian Children (34 CFR Part 255).

(20 U.S.C. 3385 (a), (b))

(f) Educational Personnel Development (34 CFR Part 256).

(20 U.S.C. 3385(d), 3385a)

(g) Educational Services for Indian Adults (34 CFR Part 257).

(20 U.S.C. 1211a)

(h) Planning, Pilot, and Demonstration Projects for Indian Adults (34 CFR Part 258).

(20 U.S.C. 1211a)

§ 250.2 [Reserved]

§ 250.3 What regulations apply to these programs?

In addition to the regulations contained in this part and the applicable program regulations, the programs under 34 CFR Parts 251 through 258 are subject to the Education. Department General Administrative Regulations (EDGAR) in—

(a) 34 CFR Part 74 (Administration of Grants);

(b) 34 CFR Part 75 (Direct Grant Programs), except for § 75.590(c) relating to a grantee's project evaluation;

(c) 34 CFR Part 77 (Definitions);

(d) 34 CFR Part 78 (Education Appeal Board); and

(e) 34 CFR Part 79 (Intergovernmental Review of Department of Education Programs and Activities), except that Part 79 does not apply to 34 CFR Parts 252, 253, and 256.

(20 U.S.C. 241aa–241ff, 1211a, 3385, 3385a)

§ 250.4 What definitions apply to these programs?

(a) *Definitions in EDGAR.* Except as otherwise provided, the following terms used in this part and in 34 CFR Parts 251 through 258 are defined in 34 CFR Part 77:

Applicant
Application
Award
Budget
Budget period
EDGAR
Elementary school
Facilities
Fiscal year
Grant
Grantee
Grant period
Local educational agency (LEA) (except as used in 34 CFR Parts 257 and 258)
Local government
Minor remodeling
Nonprofit
Private
Project
Project period
Public
Secondary school (except as used in 34 CFR Parts 254, 255, and 256)
Secretary
State (except as used in 34 CFR Parts 251, 252, and 253)
State educational agency (SEA)
Supplies

(b) *Definitions that apply to the programs governed by this part.* Unless otherwise provided, the following definitions apply to this part and to 34 CFR Parts 251 through 258:

"Adult" means an individual who has attained the age of sixteen.

"Adult education" means services or instruction below the college level for adults who—

(1)(i) Lack sufficient mastery of basic educational skills to enable them to function effectively in society; or

(ii) Do not have a certificate of graduation from a school providing secondary education and have not achieved an equivalent level of education; and

(2) Are not currently required to be enrolled in school.

"Ancillary educational personnel"

(1) This term means guidance counselors, librarians, and others who assist in meeting the educational needs of Indian students.

(2) The term does not include persons in positions not directly involved in the educational process, such as clerks or cafeteria personnel.

"Child" means an individual within the age limits for which the applicable State provides a free public education.

"Demonstration project" means a project that affords opportunities to examine in practice, and to assess the qualities of, an educational method, approach, or technique for the purpose of adaptation of that method, approach, or technique by other institutions with similar needs.

"Equipment" means—

(1) Machinery, utilities, and built-in apparatus;

(2) Any enclosure of structure necessary to house the items listed in paragraph (1) of this definition; and

(3) Any other item necessary for the functioning of a facility for the provision of educational services, including items such as—

(i) Instructional apparatus and necessary furniture;

(ii) Printed, published, and audiovisual instructional materials; and

(iii) Books, periodicals, documents, and related materials.

"Free public education" means education that is—

(1) Provided at public expense, under public supervision and direction, without tuition charge; and

(2) Provided as elementary or secondary school education in the applicable State.

"Full-time student" means an individual pursuing studies that constitute a full-time workload in accordance with an institution's established policy.

"Handicapped person" means an individual requiring special educational and related services because he or she—

(1) Is mentally retarded, hard-of-hearing, deaf, speech-impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health-impaired; or

(2) Has a specific learning disability.

"Indian", except as noted in § 250.5(b), means an individual who is—

(1) A member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized by the State in which they reside;

(2) A descendant, in the first or second degree, or an individual described in paragraph (1) of this definition;

(3) Considered by the Secretary of the Interior to be an Indian for any purpose; or

(4) An Eskimo or Aleut or other Alaska Native. "Indian institution" means a preschool, elementary, secondary, or postsecondary school that—

(1) Is established for the education of Indians;

(2) Is controlled by a governing board, the majority of which is Indian; and

(3) If located on an Indian reservation, operates with the sanction or by charter of the governing body of that reservation.

"Indian organization" means an organization that—

(1) Is legally established—

(i) By tribal or inter-tribal charter or in accordance with State or tribal law; and

(ii) With appropriate constitution, by-laws, or articles of incorporation;

(2) Has as its primary purpose the promotion of the education, economic, or social self-sufficiency of Indians;

(3) Is controlled by a governing board, the majority of which is Indian;

(4) If located on an Indian reservation, operated with the sanction or by charter of the governing body of that reservation;

(5) Is neither an organization or subdivision of, nor under the direct control of, and institution of higher education; and

(6) Is not an agency of State or local government. "Indian tribe" means any federally or State-recognized Indian tribe, band, nation, rancheria, pueblo, Alaska Native village, or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act (85 Stat. 688), that exercises the power of self-government.

"Institution of higher education" means, in any State, an educational institution that—

(1) Admits as a regular student only an individual having a high school graduation certificate or the recognized equivalent of a high school graduation certificate;

(2) Is legally authorized within that State to provide a program of education beyond high school;

(3) Provides—

(i) An educational program for which it awards a bachelor's degree;

(ii) An educational program of not less than two years that is acceptable for full credit toward a bachelor's degree; or

(iii) A two-year program in engineering, mathematics, or the physical or biological sciences that is designed to prepare a student to work as a technician and at a semi-professional level in engineering, scientific, or other technological fields that require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

(4) Is a public or other nonprofit institution; and

(5) (i) (A) Is accredited by a nationally recognized accrediting agency or association listed by the Secretary; or

(B) If not accredited, is an institution whose credits are accepted, on transfer, by not fewer than three institutions that are accredited, on the same basis as if transferred from an institution that is accredited.

(ii) However, in the case of an institution described in paragraph (3) (iii) of this definition, if the Secretary determines that there is no nationally recognized accrediting agency or association qualified to accredit that type of institution—

(A) The Secretary appoints an advisory committee composed of persons specially qualified to evaluate training provided by that type of institution; and

(B) The advisory committee prescribes the standards of content, scope, and quality that must be met in order to qualify that type of institution to participate under the appropriate program and determines whether particular institutions meet those standards.

(iii) For the purpose of paragraph (5) of this definition, the Secretary publishes a list of nationally recognized accrediting agencies or associations that the Secretary determines to be reliable authority as to the quality of education or training offered.

"Local educational agency" (LEA), as used in 34 CFR Parts 257 and 258, means—

(1) A public board of education or other public authority legally constituted within a State for either administrative control or direction of public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or combination of school districts or counties recognized in a State as an administrative agency for its public elementary or secondary schools; or

(2) If there is a separate board or other legally constituted local authority having administrative control and direction of adult education in public schools in the area referred to in paragraph (1) of this definition, that other board or authority.

"Parent"

(1) This term includes a legal guardian or other individual standing *in loco parentis* (in the place of the parent). Examples of individuals who may stand *in loco parentis* with respect to a child are—

(i) A foster parent of the child; and

(ii) A grandparent with whom the child resides.

(2) In determining whether an individual stands *in loco parentis* with respect to a child, an LEA may consider such factors as—

(i) The current relationship of the child and the natural parent(s);;

(ii) The length and stability of the relationship between the individual and the child;

(iii) Tribal custom and tribal law;

(iv) Applicable State law, whether legislative or judicial; and

(v) Dependency for purposes of State or Federal income taxes.

"Pilot project" means a project that tests an educational method, approach, or technique in a limited and controlled setting to determine—

(1) Whether the educational method, approach, or technique meets an established need; and

(2) Whether the educational objectives of the educational method, approach, or technique are appropriate for Indian children or adults.

"Planning projects" means a project that—

(1) Establishes educational objectives; and

(2) Proposes activities and resources that would be needed to meet these objectives for the education of Indian children or adults.

"Secondary school," as used in 34 CFR Parts 254, 255, and 256, means a day or residential school that provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

"State," as used in 34 CFR Part 251, 252, and 253, means any of the 50 States, Puerto Rico, Wake Island, Guam, the District of Columbia, American Samoa, or the Virgin Islands.

"Stipend" means an allowance for personal living expenses paid to a participant in a personnel development project.

"Teacher aide"

(1) This term means a person who assists a teacher in the performance of the teacher's teaching or administrative duties.

(2) The term does not include persons in positions not directly involved in the educational process, such as clerks or cafeteria personnel.

(20 U.S.C. 241aa–241ff, 244, 881, 1202, 1211a, 1221h(a), 3381, 3385, 3385a)

§ 250.5 What provisions of the Indian Self-Determination and Education Assistance Act apply to these programs?

(a) Awards under programs covered by this part that are primarily for the benefit of Indians are subject to the provisions of section 7(b) of the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638). That section requires that, to the greatest extent feasible, a grantee—

(1) Give to Indians preferences and opportunities for training and employment in connection with the administration of the grant; and

(2) Give to Indian organizations and to Indian-owned economic enterprises—as defined in section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452(e))—preference in the award of contracts in connection with the administration of the grant.

(Pub. L. 93-638, Section 7(b); 25 U.S.C. 450e(b))

(b) For purposes of this section, an "Indian" is a member of any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act (85 Stat. 688), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(Pub. L. 93-638, Section 4 (a), (b); 25 U.S.C. 450b ((a), (b))

Subpart B—[Reserved]

Subpart C—How Does One Apply for a Grant?

§ 250.20 How does an applicant apply under a particular program?

(a) An applicant shall specify in its application the particular program under 34 CFR Parts 251 through 258 under which it is applying.

(b) If the applicant submits an application under a program covered by this part and the project proposed by the applicant is not authorized under that program, the Secretary may, with the consent of the applicant, review and consider the application under an appropriate program, if any, covered by this part.

(20 U.S.C. 241aa–241ff, 1211a, 3385, 3385a)

2. Part 251 is revised to read as follows:

PART 251—FORMULA GRANTS—LOCAL EDUCATIONAL AGENCIES AND TRIBAL SCHOOLS

Subpart A—General

251.1 Formula Grants—Local Educational Agencies and Tribal Schools.
251.2 Who is eligible for assistance under this program?
251.3 What regulations apply to this program?
251.4 What definitions apply to this program?

Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?

251.10 What types of projects may be funded?

Subpart C—How Does One Apply for a Grant?

251.20 How is a parent committee selected?
251.21 Must an applicant hold a public hearing?
251.22 What must an application include?

Subpart D—How Does the Secretary Make a Grant?

251.30 How does the Secretary determine the amount of a grant?

Subpart E—What Conditions Must Be Met by a Grantee?

251.40 What is the maintenance of effort required for LEAs?

Subpart F—What Are the Administrative Responsibilities of a Grantee?

251.50 What are the responsibilities of a grantee regarding student certification?

Authority: Title IV, Part A, Pub. L. 92-318 (the Indian Education Act), 86 Stat. 334, as amended (20 U.S.C. 241aa–241ff), unless otherwise noted.

Subpart A—General

§ 251.1 Formula Grants—Local Educational Agencies and Tribal Schools.

This program, Formula Grants—Local Educational Agencies (LEAs) and Tribal Schools, provides financial assistance to develop and carry out elementary and secondary school projects that meet the special educational and culturally related academic needs of Indian children.

(20 U.S.C. 241aa(a), 241bb–1)

§ 251.2 Who is eligible for assistance under this program?

The following are eligible for assistance under this program:

(a) *LEAs.* (1) An LEA is entitled to receive a grant if the number of Indian children enrolled in the LEA's schools is either—

(i) At least 10; or

(ii) At least half the total enrollment for that agency.

(2) However, an LEA may apply without regard to the enrollment requirements of paragraph (a)(1) of this section if it is located—

(1) In Alaska, California, or Oklahoma; or

(2) On, or in proximity to, an Indian reservation.

(20 U.S.C. 241bb(a))

(b) *Tribal schools.* An Indian tribe—or an organization that is controlled or sanctioned by an Indian tribal government—that operates a school for the children of that tribe is eligible to receive a grant on behalf of that school if the school either—

(1) Provides its students an educational program that meets the standards established by the Bureau of Indian Affairs under section 1121 of the Education Amendments of 1978; or

(2) Is operated by that tribe or organization under a contract with the Bureau of Indian Affairs in accordance with the Indian Self-Determination and Education Assistance Act.

(20 U.S.C. 241bb–1)

§ 251.3 What regulations apply to this program?

The following regulations apply to this program:

(a)(1) The regulations in 34 CFR Part 250.

(2) However, 34 CFR 75.111(d) and (e) of the Education Department General Administrative Regulations, relating to the contents of an application, do not apply to this program.

(b)(1) The regulations in this Part 251.

(2) However, the following provisions of this part do not apply to tribal schools:

(i) Section 251.20, relating to the selection of the parent committee.

(ii) Any other provisions of this part relating to the parent committee.

(iii) Section 251.40, relating to the maintenance of effort required for LEAs.

(20 U.S.C. 241aa–241ff)

§ 251.4 What definitions apply to this program?

The definitions in 34 CFR 250.4 apply to this program.

(20 U.S.C. 241aa–241ff)

Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?

§ 251.10 What types of projects may be funded?

(a) The Secretary may fund applications proposing the establishment, maintenance, or operation of projects specifically designed to meet the special educational or culturally related academic needs, or both, of Indian children.

(b) An applicant may also apply for assistance to—

(1) Plan for and take other steps leading to the developments of projects; and

(2) Carry out pilot projects designed to test the effectiveness of those plans.

(20 U.S.C. 241cc)

Subpart C—How Does One Apply for a Grant?

§ 251.20 How is a parent committee selected?

(a) Before developing an application, an LEA shall establish and publicize procedures for the selection of a parent committee.

(b) The following are eligible to select and serve on a parent committee:

(1) Parents of Indian children who will participate in the proposed project.

(2) Teachers, except members of the project staff.

(3) Indian secondary school students, if any, enrolled in the LEA's schools.

(c) At least half the members of the committee shall be parents of the Indian children to be served by the proposed project.

(d) The persons listed in paragraph (b) of this section shall select the members of the committee.

(e) An individual may continue to be a member of the committee only so long as he or she is eligible under paragraph (b) of this section.

(20 U.S.C. 241dd(b)(2)(B))

§ 251.21 Must an applicant hold a public hearing?

(a) Before preparing an application for a new or continuation award, an applicant shall hold one or more hearings open to the general public.

(b) At the public hearing or hearings, the applicant, shall provide to the parents of Indian children—including persons acting *in loco parentis* other than school administrators or officials—teachers, and, where applicable, secondary school students, a full opportunity to understand the project for which the applicant is seeking assistance and to offer recommendations on the project.

(c) In the case of an application for a continuation award, the grantee shall provide at the public hearing or hearings an opportunity for full public discussion of all aspects of the project of date and for the remainder of the project period.

(20 U.S.C 241dd(b) (2) (B) (i))

§ 251.22 What must an application include?

(a) After holding the public hearing described in § 251.21, each applicant shall prepare its application in accordance with this section.

(b) *Local educational agencies.* An application from an LEA must—

(1) Describe the project for which the applicant seeks assistance;

(2) State the number of Indian children enrolled in the LEA and the number to be served by the project;

(3) Provide assurances that—

(i) The applicant will administer, or supervise the administration of, the activities and services for which it seeks assistance;

(ii) The applicant will make an annual report and any other reports, in the form and containing the information that the Secretary may require to—

(A) Carry out the functions of the Secretary under this program; and

(B) Determine the extent to which funds provided under this program have been effective in improving the educational opportunities of Indian Students in the area served;

(iii) The applicant will keep records and will afford the Secretary access to these records as the Secretary may find necessary to assure the correctness and verification of reports made by the applicant;

(iv) The applicant will use the best available talents and resources, including persons from the Indian community, and will substantially increase the educational opportunities of Indian children in the area to be served by the proposed project;

(v) The applicant has developed the project for which application is made—

(A) In open consultation with parents of Indian children—including persons acting *in loco parentis* other than school administrators or officials—teachers, and, where applicable, secondary school students, including one or more public hearings that meet the requirements of § 215.21; and

(B) With the participation and approval of a parent committee selected in accordance with § 215.20;

(vi) The parent committee selected in accordance with § 251.20 will adopt and abide by reasonable by-laws for the conduct of the project for which assistance is sought;

(vii) The applicant will privide for methods of administration as are necessary for the proper and efficient operation of the project;

(viii) The applicant has fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, funds the applicant receives under this program;

(ix) The applicant will adopt effective procedures, including provisions for appropriate objective measurement of educational achievement, to evaluate at least annually the efectiveness of the proposed project in meeting the special educational needs of Indian students; and

(x) In the case of an application for funds for planning—

(A) The planning was or will be directly related to projects to be carried out under 34 CFR Parts 251, 252, or 253 and has resulted, or is reasonably likely to result in a project that will be carried out under 34 CFR Parts 251, 252, or 253; and

(B) The planning funds are needed because of the innovative nature of the project or because the LEA lacks the resources necessary to plan adequately for projects to be carried out under 34 CFR Parts 251, 252, or 253;

(4) Include a copy of or describe the policies and procedures that assure that funds made available under this program for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of funds under this program, be made available by the applicant for the education of Indian children, and in no case to supplant those funds of the applicant; and

(5) Include a copy of or describe the policies and procedures, including those relating to the hiring of personnel, as will insure that the project for which the applicant seeks assistance will be operated and evaluated in consultation with, and with the involvement of, parents of the children and representatives of the area to be served, including the parent commmittee established under § 251.20

(c) *Special application provisions.* With regard to the requirements in paragraph (b) of this section, in order to reduce the burden on applicants, the Secretary may recommend each year in the application notice the minimum number of pages with which an applicant may satisfy the requirements in paragraphs(b)(1), (4), and (5) of this section.

(d) *Tribal schools.* An applicant for assistance to support a tribal school shall comply with paragraphs(a), (b), and (c) of this section with the exception of those provisions that refer to a parent committee.

(20 U.S.C. 241dd)

Subpart D—How Does the Secretary Make a Grant?

§ 251.30 How does the Secretary determine the amount of a grant?

(a) The Secretary determines the amount an applicant receives any fiscal year on the basis of the formula in section 303(a), Part A, of the Indian Education Act.

(b) Under the statutory formula, the Secretary computes the amount of the grant to which an applicant is entitled by multiplying—

(1) The number of Indian children enrolled in the schools of the applicant and to whom the applicant provides free public education; by

(2) The average per pupil expenditure for the LEA as determined under section 303(a)(2)(c), Part A, of the Indian Education Act.

(c) In setting the actual amount of a grant, the Secretary, if necessary on the basis of available appropriations, reduces an applicant's entitlement amount proportionately with that of all other applicants.

(20 U.S.C. 241bb(a), 241ff(a))

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Subpart E—What Conditions Must Be Met by a Grantee?

§ 251.40 What is the maintenance of effort required for LEAs?

(a) The Secretary does not make payments to an LEA for any fiscal year unless the appropriate SEA finds that the combined fiscal effort of that LEA and the State with respect to the provision of free public education by that LEA for the preceding fiscal year was not less than the combined fiscal effort for that purpose for the second preceding fiscal year.

(b)(1) For the purpose of making the finding described in paragraph (a) of this section, a SEA may compute combined fiscal effort on the basis of either aggregate expenditures or per pupil expenditure.

(2)(i) "Aggregate expenditures" means expenditures by the LEA and the State for free public education provided by that LEA.

(ii) The term includes expenditures for administration, instruction, attendance, health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student activities.

(iii) The term does not include expenditures for community services, capital outlay and debt service, or any expenditures from funds granted under any Federal program of assistance.

(3) "Per pupil expenditure" means aggregate expenditures divided by the number of pupils in average daily attendance at the LEA's schools—as determined in accordance with State law—during the fiscal year for which the computation is made.

(20 U.S.C. 241ee(b)(2) 90)

Subpart F—What Are the Administrative Responsibilities of a Grantee?

§ 251.50 What are the responsibilities of a grantee regarding student certification?

For each student included in the count of Indian students on which the amount of a grant is based, a grantee shall keep on file the student certification form prescribed by the Secretary.

(20 U.S.C. 241bb–241dd)

3. Part 252 is revised to read as follows:

PART 252—INDIAN-CONTROLLED SCHOOLS—ESTABLISHMENT

Subpart A—General

Sec.
252.1 Indian-Controlled Schools—Establishment.
252.2 Who is eligible for assistance under this program?
252.3 What regulations apply to this program?
252.4 What definitions apply to this program?

Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?

252.10 What types of projects may be funded?

Subpart C—How Does One Apply for a Grant?

252.20 What must an application include?

Subpart D—How Does the Secretary Make a Grant?

252.30 How does the Secretary evaluate an application?
252.31 What selection criteria does the Secretary use?

Authority: Title IV, Part A, Pub. L. 92–318 (the Indian Education Act), 86 Stat. 334, as amended (20 U.S.C. 241bb(b)), unless otherwise noted.

Subpart A—General

§ 252.1 Indian Controlled Schools—Establishment.

This program, Indian Controlled Schools—Establishment, provides financial assistance to establish and operate Indian-controlled schools or LEAs on or near reservations.

(20 U.S.C. 241bb(b))

§ 252.2 Who is eligible for assistance under this program?

Under this program any applicant among the following is eligible for assistance if it operates or plans to establish and operate a school for Indian children that is located on or geographically near one or more reservations:

(a) Indian tribes.

(b) Indian organizations.

(c) Local educational agencies (LEAs) that have been in existence not more than three years.

(20 U.S.C. 241bb(b))

§ 252.3 What regulation apply to this program?

The following regulations apply to this program:

(a) The regulations in 34 CFR Part 250.

(b) The following provisions in 34 CFR Part 251:

(1) (i) Section 251.20, relating to the selection of the parent committee.

(ii) However, this requirement does not apply to an Indian tribe or Indian organization.

(iii) If an applicant LEA has formed or is forming a parent committee under 34 CFR 251.20 for the purpose of applying for a grant under 34 CFR Part 251 (Formula Grants-Local Educational Agencies and Tribal Schools), the LEA may have that committee serve as the parent committee for the purpose of this program.

(2) Section 251.21, relating to the holding of one or more public hearings.

(3) Section 251.22(a), (b), and (d), relating to the contents of an application.

(4) (i) Section 251.40, relating to the maintenance of effort required for LEAs.

(ii) However, this requirement does not apply to an Indian tribe or Indian organization.

(c) (1) The regulations in this Part 252.

(2) However, an Indian tribe or Indian organization is not subject to any provisions of this part relating to the parent committee.

(20 U.S.C. 241bb (b), dd)

§ 252.4 What definitions apply to this program?

The definitions in 34 CFR 250.4 apply to this program.

(20 U.S.C. 241aa–241ff)

Subpart B—What kinds of Activities Does the Secretary Assist Under This Program?

§ 252.10 What types of projects may be funded?

(a) In the case of an application from an Indian tribe or Indian organization, the Secretary may fund a project designed to—

(1) Assume control over and operate a school previously operated by the Federal Government, the State, an LEA, or a private organization;

(2) Establish and operate a school for Indian children; or

(3) Establish and operate an LEA.

(b) In the case of an application from an LEA, the Secretary may fund a project listed in paragraphs (a)(1) and (2) of this section.

(20 U.S.C. 241bb(b))

Subpart C—How Does One Apply for a Grant?

§ 252.20 What must an application include?

In addition to addressing the criteria in § 252.31, an applicant shall comply with the application requirements in 34 CFR 251.22 (a), (b), and (d). The provisions of 34 CFR 251.22(c), regarding special application provisions, do not apply to this part.

(20 U.S.C. 241dd(a) (1), (2), (5), (7); 241bb(b))

Subpart D—How Does the Secretary Make a Grant?

§ 252.30 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application on the basis of the criteria in § 252.31.

(b) The Secretary awards up to 100 possible total points for these criteria.

(c) The maximum possible score for each complete criterion is indicated in parentheses.

(U.S.C. 241bb(b))

§ 252.31 What selection criteria does the Secretary use?

The Secretary uses the following selection criteria in evaluating each application:

(a) *Need.* (20 points)

(1) The Secretary reviews each application to determine the need for the school or LEA that the applicant proposes to operate.

(2) In making this determination, the Secretary considers—

(i) The educational needs of the Indian children to be served by the school or LEA—as indicated by academic achievement levels, dropout rates, standardized test scores, or other appropriate measures—and the extent to which the schools these children currently attend are inadequate to meet these needs;

(ii) The extent to which the school or LEA for which assistance is sought will help meet these needs and substantially increase educational opportunities for Indian children;

(iii) Cultural factors or other reasons that justify the need for an Indian-controlled school or LEA; and

(iv) An explanation of why the applicant lacks the financial resources to conduct the project.

(b) *Plan of operation.* (20 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that ensures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program and the way the applicant plans to use its resources and personnel to achieve each objective;

(iv) An activity plan, including procedures to increase interaction between teachers and children—and their parents—served by these teachers.

(c) *Parental and community involvement.* (10 points)

(1) The Secretary reviews each application to determine the extent to which parents of the children to be served and other members of the Indian community are involved in the project.

(2) The Secretary looks for information that shows that parents and other members of the Indian community—

(i) Were involved in planning and developing the project; and

(ii) Will be involved in operating and evaluating the project.

(d) *Quality of key personnel.* (10 points)

(1) The Secretary reviews each application for information that shows the qualifications of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director:

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (d)(2) (i) and (ii) of this section will commit to the project; and

(iv) The extent to which the applicant will give preference to Indians in the hiring of project staff.

(3) To determine personnel qualifications, the Secretary considers experience and training in fields related to the objectives of the project, as well as other information that the applicant provides.

(e) *Budget and cost effectiveness.* (10 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(f) *Evaluation plan.* (20 points)

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project.

(2) In making this determination, the Secretary considers—

(i) How well the evaluation will measure—

(A) The project's effectiveness in meeting each objective; and

(B) The impact of the project on the children involved;

(ii) The applicant's plan for collecting and analyzing data including—

(A) The appropriateness of the instruments to collect the data;

(B) The appropriateness of the method for analyzing the data; and

(C) The timetable for collecting and analyzing the data; and

(iii) Procedures for—

(A) Periodic assessment of the progress of the project; and

(B) If necessary, modification of the project as a result of that assement.

(g) *Adequacy of resources.* (10 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(20 U.S.C. 241bb(b))

4. Part 253 is revised to read as follows:

PART 253—INDIAN-CONTROLLED SCHOOLS—ENRICHMENT PROJECTS

Subpart A—General

Sec.

253.1 Indian-Controlled Schools—Enrichment Projects.
253.2 Who is eligible for assistance under this program?
253.3 What regulations apply to this program?
253.4 What definitions apply to this program?

Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?

253.10 What types of projects may be funded?

Subpart C—How Does One Apply for a Grant?

253.20 What must an application include?

Subpart D—How Does the Secretary Make a Grant?

253.30 How does the Secretary evaluate an application?
253.31 What selection criteria does the Secretary use?

Authority: Title IV, Part A, Pub. L. 92-318 (the Indian Education Act), 86 Stat. 334, as amended (20 U.S.C. 241bb(b)), unless otherwise noted.

Subpart A—General

§ 253.1 Indian-Controlled Schools—Enrichment Projects.

This program, Indian Controlled Schools—Enrichment Projects, provides financial assistance for educational enrichment projects designed to meet the special educational and culturally related academic needs of Indian children in Indian-controlled elementary and secondary schools.

(20 U.S.C. 241bb(b))

§ 253.2 Who is eligible for assistance under this program?

Under this program any applicant among the following is eligible for assistance if it operates or plans to establish and operate a school for Indian children that is located on or geographically near one or more reservations:

(a) Indian tribes.

(b) Indian organizations.

(c) Local educational agencies (LEAs) that have been in existence not more than three years.

(20 U.S.C. 241bb(b))

§ 253.3 What regulations apply to this program?

The following regulations apply to this program:

(a) The regulations in 34 CFR Part 250.

(b) The following provisions in 34 CFR Part 251:

(1)(i) Section 251.20, relating to the selection of the parent committee.

(ii) However, this requirement does not apply to an Indian tribe or Indian organization.

(iii) If an applicant LEA has formed or is forming a parent committee under 34 CFR 251.20 for the purpose of applying for a grant under 34 CFR Part 251 (Formula Grants—Local Educational Agencies and Tribal Schools) or a grant under 34 CFR Part 252 (Indian-Controlled Schools—Establishment), the LEA may have that committee serve as the parent committee for the purposes of this program.

(2) Section 251.21, relating to the holding of one or more public hearings.

(3) Section 251.22 (a), (b), and (d), relating to the contents of an application.

(4)(i) Section 251.40, relating to the maintenance of effort required for LEAs.

(ii) However, this requirement does not apply to an Indian tribe or Indian organization.

(c)(1) The regulations in this Part 253.

(2) However, an Indian tribe or Indian organization is not subject to any provisions of this part relating to the parent committee.

(20 U.S.C. 241bb(b), dd)

§ 253.4 What definitions apply to this program?

The definitions in 34 CFR 250.4 apply to this program.

(20 U.S. 241aa–241ff)

Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?

§ 253.10 What types of projects may be funded?

(a) The Secretary may fund applications proposing projects that include, but are not limited to, those designed to—

(1) Improve acquisition of basic academic skills;

(2) Stimulate interest in careers;

(3) Stiumulate interest in tribal culture and organization;

(4) Prevent school dropouts and reduce absenteeism;

(5) Establish or improve preschool education programs, including kindergarten; or

(6) Develop or improve instructional materials.

(b) The activities listed in paragraph (a) of this section are examples of projects the Secretary may fund under this program. An applicant may propose to carry out one or more of these activities or any other activity that meets the purpose of this program.

(20 U.S.C. 241bb(b))

Subpart C—How Does One Apply for a Grant?

§ 253.20 What must an application include?

In addition to addressing the criteria in § 253.31, an applicant shall comply with the application requirements in 34 CFR 251.22(a), (b), and (d). The provisions of 34 CFR 251.22(c), regarding special application provisions, do not apply to this part.

(20 U.S.C. 241dd(a) (1), (2), (5), (7); 241bb(b))

Subpart D—How Does the Secretary Make a Grant?

§ 253.30 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application on the basis of the criteria in § 253.31.

(b) The Secretary awards up to 100 possible total points for these criteria.

(c) The maximum possible score for each complete criterion is indicated in parentheses.

(20 U.S.C. 241bb(b))

§ 253.31 What selection criteria does the Secretary use?

The Secretary uses the following selection criteria in evaluating each application:

(a) *Need.* (20 points)

(1) The Secretary reviews each application to determine the need for the proposed project.

(2) In making this determination, the Secretary considers—

(i) The educational needs to be addressed by the project, including the extent and severity of these needs as indicated by the number and percentage of Indian children with the needs in the area to be served by the project and by such factors as droput rates, academic achievement levels, standardized test scores, or other appropriate measures;

(ii) A description of the efforts being made to meet these needs and an explanation of why these efforts are insufficient;

(iii) A clear description of the educational approach to be used and why the applicant has chosen this approach;

(iv) Evidence that the approach is likely to be successful with the children who will participate in the project; and

(v) An explanation of why the applicant lacks the financial resources to conduct the project.

(b) *Plan of operation.* (20 points)

(1) The secretary reviews each application to determine the quality of the plan of operation for the project.

(2) In making this determination, the Secretary looks for—

(i) A clear statement of the purpose of the project;

(ii) Objectives that are—

(A) Related to the purpose of the project;

(B) Sharply defined;

(C) Stated in measurable terms; and

(D) Capable of being achieved within the project period;

(iii) An activity plan, including a timeline, that clearly and realistically outlines the activities related to each objective; and

(iv) A plan for effective administration of the project.

(c) *Parental and community involvement.* (10 points)

(1) The Secretary reviews each application to determine the extent to which parents of the children to be served and other members of the Indian community are involved in the project.

(2) The Secretary looks for information that shows that parents and other members of the Indian community—

(i) Were involved in planning and developing the project; and

(ii) Will be involved in operating and evaluating the project.

(d) *Quality of key personnel.* (10 points)

(1) The Secretary reviews each application for information that shows the qualifications of the key personnel the applicant plans to use for the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (d)(2)(i) and (ii) of this section will commit to the project; and

(iv) The extent to which the applicant will give preference to Indians in the hiring of project staff.

(3) To determine personnel qualifications, the Secretary considers experience and training in fields related to the objectives of the project, as well as other information that the applicant provides.

(e) *Budget and cost effectiveness.* (10 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(f) *Evaluation plan.* (20 points)

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project.

(2) In making this determination, the Secretary considers—

(i) How well the evaluation will measure—

(A) The project's effectiveness in meeting each objective; and

(B) The impact of the project on the children involved;

(ii) The applicant's plan for collecting and analyzing data, including—

(A) The appropriateness of the instruments to collect the data;

(B) The appropriateness of the method for analyzing the data; and

(C) The timetable for collecting and analyzing the data; and

(iii) Procedures for—

(A) Periodic assessment of the progress of the project; and

(B) If necessary, modification of the project as a result of that assessment.

(g) *Adequacy of resources.* (10 points)

(1) The Secretary reviews each application to determine the extent to which the resources to be devoted to the project are adequate.

(2) In making this determination, the Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(20 U.S.C. 241bb(b))

PART 254—DEMONSTRATION PROJETS—LOCAL EDUCATIONAL AGENCIES [REMOVED]

5. Part 254 is removed.

6. Part 255 is redesignated as Part 254 and is revised to read as follows:

PART 254—EDUCATIONAL SERVICES FOR INDIAN CHILDREN

Subpart A—General

Sec.

254.1 Educational Services for Indian Children.
254.2 Who is eligible for assistance under this program?
254.3 What regulations apply to this program?
254.4 What definitions apply to this program?

Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?

254.10 What types of projects may be funded?

Subpart C—How Does One Apply for a Grant?

254.20 What must an application include?

Subpart D—How Does the Secretary Make a Grant?

254.30 How does the Secretary evaluate an application?
254.31 To what applicants does the Secretary give priority?
254.32 What selection criteria does the Secretary use?

Authority: Title IV, Part B, Pub. L. 92-318 (the Indian Education Act), 86 Stat. 339, as amended (20 U.S.C. 3385(a), (c)), unless otherwise noted.

Subpart A—General

§ 254.1 Educational Services for Indian Children.

This program, Educational Services for Indian Children, provides financial assistance for—

(a) Projects designed to improve educational opportunities for Indian children by providing educational services that are not available in sufficient quantity or quality to those children; and

(b) Enrichment projects that introduce innovative and exemplary approaches, methods, and techniques into the education of Indian children in elementary and secondary schools.

(20 U.S.C. 3385(a), (c))

§ 254.2 Who is eligible for assistance under this program?

The following are eligible for assistance under this program:

(a) State educational agencies (SEAs).

(b) Local educational agencies (LEAs).

(c) Indian tribes.

(d) Indian organizations.

(e) Indian institutions.

(20 U.S.C. 3385(c))

§ 254.3 What regulations apply to this program?

The following regulations apply to this program:

(a) The regulations in 34 CFR Part 250.

(b) The regulations in this Part 254.

(20 U.S.C. 3385 (a), (c))

§ 254.4 What definitions apply to this program?

The definitions in 34 CFR 250.4 apply to this program.

(20 U.S.C. 3385 (a), (c))

Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?

§ 254.10 What types of projects may be funded?

(a) The Secretary may fund applications proposing projects that include, but are not limited to, those designed to—

(1) Improve acquisition of basic academic skills;

(2) Provide special educational services for handicapped and for gifted and talented Indian children;

(3) Stimulate interest in careers;

(4) Establish after-school educational centers;

(5) Stimulate interest in tribal culture and organization;

(6) Prevent school dropouts and reduce absenteeism;

(7) Establish or improve preschool education, including kindergarten;

(8) Provide guidance, counseling, and testing services; or

(9) Develop or improve instructional materials.

(b) The types of projects listed in paragraph (a) of this section are examples of projects the Secretary may fund under this program. An applicant may propose to carry out one or more of these activities or any other activity that meets the purposes of this program.

(20 U.S.C. 3385 (a)(2), (c))

Subpart C—How Does One Apply for a Grant?

§ 254.20 What must an application include?

(a) An application must contain the following:

(1) A description of the activities for which the applicant seeks assistance, including a statement of the number of

children who will be served in the proposed project.

(2) An assurance that the applicant will provide for an evaluation of the effectiveness of the project in achieving its purposes and the purposes of this program.

(3) A description of a plan that would make adequate provision for the training of the personnel participating in the project.

(4) Information showing that the applicant will provide for the use of funds available under this program, and for other resources available to the applicant, in order to insure that, within the scope of the purpose of the project, there will be a comprehensive program to improve the educational opportunities of Indian children.

(b) The Secretary does not approve an application for a grant under this part unless—

(1) The Secretary is satisfied that the application, and any documents submitted with the application, show that there has been adequate participation by the parents of the children to be served and tribal communities in the planning and development of the project, and that they will participate in the operation and evaluation of the project; and

(2) The Secretary is satisfied that the application—to the extent consistent with the number of eligible children in the area to be served who are enrolled in private nonprofit elementary and secondary schools whose needs are of the type that the program is intended to meet—makes provision for the particpation of these children on an equitable basis.

(20 U.S.C. 3385(f)(1))

Subpart D—How Does the Secretary Make a Grant?

§ 254.30 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application on the basis of the criteria in § 254.32.

(b) The Secretary awards up to 100 possible total points for these criteria.

(c) The maximum possible score for each complete criterion is indicated in parentheses.

(20 U.S.C. 3385 (c), (f)(1))

§ 254.31 To what applicants does the Secretary give priority?

In addition to the points awarded under § 254.32, the Secretary awards 25 points to each application from an Indian tribe, Indian organization, or Indian institution.

(20 U.S.C. 3385(f)(1))

§ 254.32 What selection criteria does the Secretary use?

The Secretary uses the following selection criteria in evaluating each application:

(a) *Need.* (20 points)

(1) The Secretary reviews each application to determine the need for the proposed services.

(2) In making this determination, the Secretary considers—

(i) The needs to be addressed by the project, including the extent and severity of these needs as indicated by the number and percentage of Indian children in the area to be served by the project who require the proposed services and by such factors as dropout rates, academic achievement levels, standardized test scores, or other appropriate measures;

(ii) A description of other services in the area—including those offered by the applicant—that are designed to meet the same needs as those to be addressed by the project and the number of Indian children who receive these other services;

(iii) Evidence that these other services are insufficient in either quantity or quality or both, or an explanation of why they are not used by children who require the proposed services; and

(iv) An explanation of why the applicant lacks the financial resources to conduct the project.

(b) *Plan of operation.* (20 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) In making this determination, the Secretary looks for—

(i) A clear statement of the purpose of the project;

(ii) Objectives that are—

(A) Related to the purpose of the project;

(B) Sharply defined;

(C) Stated in measurable terms; and

(D) Capable of being achieved within the project period;

(iii) An activity plan, including a timeline, that clearly and realistically outlines the activities related to each objective; and

(iv) A plan for effective administration of the project.

(c) *Parental and community involvement.* (10 points)

(1) The Secretary reviews each application to determine the extent to which parents and other members of the Indian community are involved in the project.

(2) The Secretary looks for information that shows that parents and other members of the Indian community—

(i) Were involved in planning and developing the project; and

(ii) Will be involved in operating and evaluating the project.

(d) *Quality of key personnel.* (10 points)

(1) The Secretary reviews each application to determine the quality of the staff that the applcant plans to use for the project.

(2) In making this determination, the Secretary considers—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

iii) The time that each person referred to in paragraphs (d)(2) (i) and (ii) of this section will commit to the project; and

(iv) The extent to which the applicant will give preference to Indians in the hiring of project staff.

(3) To determine personnel qualifications, the Secretary considers experience and training in fields related to the objectives of the project, as well as other information that the applicant provides.

(e) *Budget and cost effectiveness. (10 points)*

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(f) *Evaluation plan.* (20 points)

(1) The Secretary reviews each application to determine the quality of the plan for evaluating the project.

(2) In making this determination, the Secretary considers—

(i) How well the evaluation will measure—

(A) The project's effectiveness in meeting each objective; and

(B) The impact of the project on the children involved;

(ii) The applicant's plan for collecting and analyzing data, including—

(A) The appropriateness of the instruments to collect the data;

(B) The appropriateness of the method for analyzing the data; and

(C) The timetable for collecting and analyzing the data; and

(iii) Procedures for—

(A) Periodic assessment of the progress of the project; and

(B) If necessary, modification of the project as a result of that assessment.

(g) *Adequacy of resources.* (10 points)

(1) The Secretary reviews each application to determine the extent to which the resources to be devoted to the project are adequate.

(2) In making this determination the Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(20 U.S.C. 3385(c), (f) (1))

7. Part 256 is redesignated as Part 255 and is revised to read as follows:

PART 255—PLANNING, PILOT, AND DEMONSTRATION PROJECTS FOR INDIAN CHILDREN

Subpart A—General

Sec.

255.1 Planning, Pilot, and Demonstration Projects for Indian Children.
255.2 Who is eligible for assistance under this program?
255.3 What regulations apply to this program?
255.4 What definitions apply to this program?

Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?

255.10 What types of projects may be funded?

Subpart C—How Does One Apply for a Grant?

255.20 What must an application include?

Subpart D—How Does the Secretary Make a Grant?

255.30 How does the Secretary evaluate an application?
255.31 To what applicants does the Secretary give priority?
255.32 What selection criteria does the Secretary use for a planning grant?
255.33 What selection criteria does the Secretary use for a pilot grant?
255.34 What selection criteria does the Secretary use for a demonstration grant?

Authority: Title IV, Part B, Pub. L. 92–318 (the Indian Education Act), 86 Stat. 339, as amended (20 U.S.C. 3385(a), (b)), unless otherwise noted.

Subpart A—General

§ 255.1 Planning, Pilot, and Demonstration Projects for Indian Children.

This program, Planning, Pilot, and Demonstration Projects for Indian Children, provides financial assistance for planning, pilot, and demonstration projects designed to create, test, and demonstrate the effectiveness of programs for improving educational opportunities for Indian children.

(20 U.S.C. 3385 (a)(1), (b))

§ 255.2 Who is eligible for assistance under this program?

The following are eligible for assistance under this program:

(a) State educational agencies (SEAs).

(b) Local educational agencies (LEAs).

(c) Indian tribes.

(d) Indian organizations.

(e) Indian institutions.

(f) Federally supported elementary and secondary schools for Indian children.

(20 U.S.C. 3385(b))

§ 255.3 What regulations apply to this program?

The following regulations apply to this program:

(a) The regulations in 34 CFR Part 250.

(b) The regulations in this Part 255.

(20 U.S.C. 3385 (a), (b))

§ 255.4 What definitions apply to this program?

The definitions in 34 CFR 250.4 apply to this program.

(20 U.S.C. 3385 (a), (b))

Subpart B—What Kind of Activities Does the Secretary Assist Under This Program?

§ 255.10 What types of projects may be funded?

(a)(1) The Secretary may fund applictions proposing projects designed to plan, test or demonstrate the effectiveness of programs for improving educational opportunities for Indian children.

(2) An applicant may apply for one or more of the types of grants listed in § 255.20(a)(2).

(3) An applicant may not apply for more than one type of grant for each proposed project.

(b) Proposed planning, pilot, or demonstration projects may include, but are not limited to—

(1) Activities designed to develop, test, replicate, or adapt—

(i) Curricular materials to improve the academic achievement of Indian children;

(ii) Successful educational practices to improve the academic achievement of Indian children;

(iii) Programs related to the educational needs of educationally deprived Indian children; or

(iv) Techniques to lower the school dropout rate or reduce absenteeism among Indian children;

(2) Development, testing and validation, or demonstration of materials appropriate for measuring the academic achievement of Indian children; or

(3) Coordination of the operation of other federally assisted programs that may be used to assist in meeting the educational needs of Indian children.

(c) The types of projects listed in paragraph (b) of this section are examples of projects the Secretary may fund under this program. An applicant may propose to carry out one or more of these activities or any other activity that meets the purposes of this program.

(d) *Priorities.* (1) Each year the Secretary may select for priority for planning, pilot, or demonstration grants one or more of the types of projects listed in paragrph (b) of this section.

(2) The Secretary publishes the selected priorities, if any, in a notice in the **Federal Register**.

(20 U.S.C. 3385 (a)(1), (b))

Subpart C—How Does One Apply for a Grant?

§ 255.20 What must an application include?

(a)(1) An applicant shall submit a separate application for each proposed project.

(2) The applicant shall specify whether its application is for—

(i) A planning grant;

(ii) A pilot grant; or

(iii) A demonstration grant.

(b) An application must contain the following:

(1) A description of the activities for which the applicant seeks assistance, including a statement of the number of children who will participate in the proposed project.

(2) An assurance that the applicant will provide for an evaluation of the effectiveness of the project in achieving its purposes and the purposes of this program.

(c) The Secretary does not approve an application for a grant under this program unless—

(1) The Secretary is satisfied that the application, and any documents submitted with the application, show that there has been adequate participation by the parents of the children to be served and tribal communities in the planning and development of the project, and that they will participate in the operation and evaluation of the project; and

(2) The Secretary is satisfied that the application—to the extent consistent with the number of eligible children in the area to be served who are enrolled in private nonprofit elementary and secondary schools whose needs are of the type which the program is intended to meet— makes provision for the

participation of these children on an equitable basis.

(20 U.S.C. 3385(b), (f)(1))

Subpart D—How Does the Secretary Make a Grant?

§ 255.30 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application on the basis of the applicable criteria in §§ 255.32, 255.33, or 255.34, depending on the type of grant for which the applicant has applied.

(b) The Secretary awards up to 100 possible total points for the criteria established for each type of grant.

(c) The maximum possible score for each complete criterion is indicated in parentheses.

(20 U.S.C. 3385(b))

§ 255.31 To what applicants does the Secretary give priority?

In addition to the points awarded under §§ 255.32, 255.33, or 255.34, the Secretary—

(a) Awards 25 points to each application from an Indian tribe, Indian organization, or Indian institution; and

(b)(1) May award up to 10 points to an application for the extent to which the applicant addresses the priorities, if any, selected by the Secretary under § 255.10(d); or

(2) May give absolute preference to each application that addresses these priorities.

(20 U.S.C. 3385(f)(1))

§ 255.32 What selection criteria does the Secretary use for a planning grant?

The Secretary uses the following selection criteria in evaluating each application for a planning grant:

(a) *Need.* (20 points)

(1) The Secretary reviews each application to determine the need for and soundness of the rationale for the planning project.

(2) In making this determination, the Secretary looks for—

(i) An identification and description of the specific problem to be addressed and evidence that the problem is of significant magnitude among Indian children:

(ii) A clear statement of the educational approach to be developed;

(iii) A description of the literature review, site visits, or other appropriate activity that shows that the applicant has made a serious attempt to learn from other projects that address similar needs or have tried similar approaches; and

(iv) Evidence that the project is likely to serve as a model for communities with similar educational needs.

(b) *Plan of operation.* (20 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the planning project.

(2) In making this determination, the Secretary looks for information that shows—

(i) A clear statement of the purpose of the project;

(ii) Objectives that are—

(A) Related to the purpose of the project;

(B) Sharply defined;

(C) Stated in measurable terms; and

(D) Capable of being achieved within the project period.

(iii) An activity plan, including a timeline, that clearly and realistically outlines the activities related to each objective; and

(iv) A plan for effective administration of the project.

(c) *Parental and community involvement.* (10 points)

(1) The Secretary reviews each application to determine the extent to which parents of the children to be served and other members of the Indian community are involved in the planning project.

(2) The Secretary looks for information that shows that parents and other members of the Indian community—

(i) Were involved in planning and developing the project; and

(ii) Will be involved in operating and evaluating the project.

(d) *Quality of key personnel.* (10 points)

(1) The Secretary reviews each application for information that shows the qualifications of the key personnel the applicant plans to use for the planning project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (d)(2) (i) and (ii) of this section will commit to the project; and

(iv) The extent to which the applicant will give preference to Indians in the hiring of project staff.

(3) To determine personnel qualifications, the Secretary considers experience and training in fields related to the objectives of the project, as well as other information that the applicant provides.

(e) *Budget and cost effectiveness.* (10 points)

(1) The Secretary reviews each application for information that shows that the planning project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(f) *Evaluation plan.* (20 points)

(1) The Secretary reviews each application to determine the quality of the plan for evaluating the planning project.

(2) In making this determination, the Secretary considers—

(i) How well the evaluation will measure the project's effectiveness in meeting each objective;

(ii) The applicant's plan for collecting and analyzing data, including—

(A) The appropriateness of the instruments to collect the data;

(B) The appropriateness for the method of analyzing the data; and

(C) The timetable for collecting and analyzing the data; and

(iii) Procedures for—

(A) Periodic assessment of the progress of the project; and

(B) If necessary, modification of the project as a result of that assessment.

(g) *Adequacy of resources.* (10 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the planning project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(20 U.S.C. 3385(b), (f) (1))

§ 255.33 What selection criteria does the Secretary use for a pilot grant?

The Secretary uses the following selection criteria in evaluating each application for a pilot grant:

(a) *Need.* (20 points)

(1) The Secretary reviews each application to determine the need for and the soundness of the rationale for the pilot project;

(2) In making this determination, the Secretary looks for—

(i) An identification and description of the specific problem to be addressed and evidence that the problem is of significant magnitude among Indian children;

(ii) A clear statement of the educational approach to be tested in the project;

(iii) Evidence that—

(A) The plan on which the pilot project is based included an adequate literature review, site visits, or other appropriate activity; and

(B) The applicant has made a serious attempt to learn from research and from other projects that address similar needs or that have tried similar approaches; and

(iv) Evidence that the project is likely to serve as a model for communities with similar educational needs.

(b) *Plan of operation.* (20 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the pilot project.

(2) The Secretary looks for information that shows—

(i) A clear statement of the purpose of the project;

(ii) Objectives that are—

(A) Related to the purpose of the project;

(B) Sharply defined;

(C) Stated in measurable terms; and

(D) Capable of being achieved within the project period.

(iii) An activity plan, including a timeline, that clearly and realistically outlines the activities related to each objective; and

(iv) A plan for effective administration of the project.

(c) *Parental and community involvement.* (10 points)

(1) The Secretary reviews each application to determine the extent to which the parents of the children to be served and other members of the Indian community are involved in the pilot project.

(2) The Secretary looks for information that shows that parents and other members of the Indian community—

(i) Were involved in planning and developing the project; and

(ii) Will be involved in operating and evaluating the project.

(d) *Quality of key personnel.* (10 points)

(1) The Secretary reviews each application for information that shows the qualifications of the key personnel the applicant plans to use for the pilot project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (d)(2) (i) and (ii) of this section will commit to the project;

(iv) The extent to which the applicant will give preference to Indians in the hiring of project staff; and

(v) The procedures the applicant intends to use to train staff for implementing the project.

(3) To determine personnel qualifications, the Secretary considers experience and training in fields related to the objectives of the project, as well as other information that the applicant provides.

(e) *Budget and cost effectiveness.* (10 points)

(1) The Secretary reviews each application for information that shows that the pilot project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(f) *Evaluation plan.* (20 points)

(1) The Secretary reviews each application to determine the quality of the plan for evaluating the pilot project.

(2) In making this determination the Secretary considers—

(i) How well the evaluation will measure—

(A) The project's effectiveness in meeting each objective; and

(B) The impact of the project on the children involved;

(ii) The applicant's plan for collecting and analyzing data, including—

(A) The appropriateness of the instruments to collect the data;

(B) The appropriateness of the method for analyzing the data; and

(C) The timetable for collecting and analyzing the data; and

(iii) Procedures for—

(A) Periodic assessment of the progress of the project; and

(B) If necessary, modification of the project as a result of that assessment.

(g) *Adequacy of resources.* (10 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the pilot project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(20 U.S.C. 3385 (b), (f)(1))

§ 255.34 What selection criteria does the Secretary use for a demonstration grant?

The Secretary uses the following selection criteria in evaluating each application for a demonstration grant:

(a) *Need.* (15 points)

(1) The Secretary reviews each application to determine the need for and the soundness of the rationale for the demonstration project.

(2) In making this determination, the Secretary looks for—

(i) An identification and description of the specific problem to be addressed and evidence that the problem is of sufficient magnitude among Indian children;

(ii) A clear statement of the educational approach to be demonstrated and evidence that the project is likely to serve as a model for communities with similar educational needs; and

(iii) Evidence that—

(A) The plan and pilot project on which the demonstration project is based included an adequate literature review, site visits, or other appropriate activity; and

(B) The applicant has made a serious attempt to learn from research and from other projects that address similar needs or have tried similar approaches.

(b) *Plan of operation.* (15 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the demonstration project.

(2) In making this determination, the Secretary looks for information that shows—

(i) A clear statement of the purpose of the project;

(ii) Objectives that are—

(A) Related to the purpose of the project;

(B) Sharply defined;

(C) Stated in measurable terms; and

(D) Capable of being achieved within the project period;

(iii) An activity plan, including a timeline, that clearly and realistically outlines the activities related to each objective; and

(iv) A plan for effective administration of the project.

(c) *Parental and community involvement.* (10 points)

(1) The Secretary reviews each application to determine the extent to which the parents of the Indian children to be served and other members of the Indian community are involved in the demonstration project.

(2) The Secretary looks for information that shows that parents and other members of the Indian community—

(i) Were involved in planning and developing the project; and

(ii) Will be involved in operating and evaluating the project.

(d) *Quality of key personnel.* (10 points)

(1) The Secretary reviews each application for information that shows the qualifications of the key personnel to be used in the demonstration project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) the time that each person referred to in paragraphs (d)(2) (i) and (ii) of this section will commit to the development of the project;

(iv) The extent to which the applicant will give preference to Indians in the hiring of project staff; and

(v) The procedures the applicant intends to use to train staff, if necessary, for implementing the project.

(3) To determine personnel qualifications, the Secretary considers experience and training in fields related to the objectives of the project, as well as other information that the applicant provides.

(e) *Budget and cost effectiveness.* (10 points)

(1) The Secretary reviews each application for information that shows that the demonstration project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(f) *Evaluation plan.* (15 points)

(1) The Secretary reviews each application to determine the quality of the plan for evaluating the demonstration project.

(2) In making this determination, the Secretary considers—

(i) How well the evaluation will measure—

(A) The project's effectiveness in meeting each objective; and

(B) The impact of the project on the children involved;

(ii) The applicant's plan for collecting and analyzing data, including—

(A) The appropriateness of the instruments to collect the data;

(B) The appropriateness of the method for analyzing the data; and

(C) The timetable for collecting and analyzing the data; and

(iii) Procedures for—

(A) Periodic assessment of the progress of the project; and

(B) If necessary, modification of the project as a result of that assessment.

(g) *Dissemination.* (15 points)

(1) The Secretary reviews each application for evidence that the applicant has an effective and efficient plan for disseminating information about the demonstration project, including the results of the project and any specialized materials developed by the project.

(2) In making this determination, the Secretary looks for—

(i) Information that shows high quality in the design of the dissemination plan and procedures for evaluating the effectiveness of the dissemination plan;

(ii) A description of the types of materials the applicant plans to make available and the methods for making the materials available;

(iii) Provisions for demonstrating the methods and techniques used by the project;

(iv) Provisions for assisting interested schools in adapting or adopting and successfully implementing the project; and

(v) Provisions for publicizing the findings of the project at the local, State, or national level.

(h) *Adequacy of resources.* (10 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the demonstration project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(20 U.S.C. 3385(b), (f)(1))

8. Part 257 is redesignated as Part 256 and is revised to read as follows:

PART 256—EDUCATIONAL PERSONNEL DEVELOPMENT

Subpart A—General

Sec.

256.1 Educational Personnel Developmnet.
256.2 Who is eligible for assistance under these programs?
256.3 What regulations apply to these programs?
256.4 What definitions apply to these programs?

Subpart B—What Kinds of Activities Does the Secretary Assist Under These Programs?

256.10 What types of projects may be funded?

Subpart C—How Does One Apply for a Grant?

256.20 What must an application include?

Subpart D—How Does the Secretary Make a Grant?

256.30 How does the Secretary evaluate an application?
256.31 To what applicants does the Secretary give priority?
256.32 What selection criteria does the Secretary use?

Subpart E—What Conditions Must Be Met by a Grantee?

256.40 What costs are allowable for stipends and dependency allowances?

Subpart F—What Are the Administrative Responsibilities of a Grantee?

256.50 What preference must a grantee give in selecting participants?

Authority: Title IV, Part B, Pub. L. 92–318, 86 Stat. 339, as amended (20 U.S.C. 3385); and the Indian Education Act, Section 422, as amended (20 U.S.C. 3385a) unless otherwise noted.

Subpart A—General

§ 256.1 Educational Personnel Development.

(a) Educational Personnel Development includes two programs supporting projects designed to—

(1) Prepare persons to serve Indian students as teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and

(2) Impove the qualifications of persons serving Indian students in thes : capacities.

(b) The two programs included in Educational Personnel Development are—

(1) The program authorized by section 1005(d) of the Indian Education Act and referred to in this part as the Section 1005(d) Program; and

(2) The program authorized by section 422 of the Indian Education Act and referred to in this part as the Section 422 Program.

(20 U.S.C. 3385(d), 3385a)

§ 256.2 Who is eligible for assistance under these programs?

(a) The following are eligible for assistance under the Section 1005(d) Program:

(1) Institutions of higher education.

(2) Local educational agencies (LEAs) in combination with institutions of higher education.

(3) State educational agencies (SEAs) in combination with institutions of higher education.

(b) The following are eligible for assistance under the Section 422 Program:

(1) Institutions of higher education.

(2) Indian tribes.

(3) Indian organizations.

(20 U.S.C. 3385(d), 3385a)

§ 256.3 What regulations apply to these programs?

The following regulations apply to these programs:

(a) The regulations in 34 CFR Part 250.

(b) The regulations in this Part 256.

(20 U.S.C. 3385, 3385a)

§ 256.4 What definitions apply to these programs?

The definitions in 34 CFR 250.4 apply to these programs.

Subpart B—What Kinds of Activities Does the Secretary Assist Under These Programs?

§ 256.10 What types of projects may be funded?

(a) The Secretary may fund applications proposing projects designed to—

(1) Prepare persons to serve Indian students as educational personnel or ancillary educational personnel, as described in paragraph (b) of this section;

(2) Improve the qualifications of persons serving Indian students in these types of positions; or

(3) Provide in-service training to persons serving Indian students in these types of positions.

(b) Projects assisted under these programs may prepare participants for position as such as teachers, special educators for handicapped or gifted and talented students, bilingual-bicultural specialists, guidance counselors, school psychologists, school administrators, teacher aides, social workers, adult education specialists or instructors, or college administrators.

(U.S.C. 3385(d), 3385a)

Subpart C—How Does One Apply for a Grant?

§ 252.20 What must an application include?

(a) An application must contain the following:

(1) A description of the activities for which the applicant seeks assistance, including the total number of participants in the proposed project and the number and percentage of participants who will be Indian.

(2) A description of the plan for giving preference to Indians in the selection of participants in accordance with § 256.50

(3) Assurances that the applicant will—

(i) Provide for an evaluation of the effectiveness of the project in achieving its purposes and those of this program;

(ii) Provide in its final performance report information on the selection, academic performance, and job placement participants; and

(iii) Cooperate with follow-up studies of project participants conducted or authorized by the Secretary.

(b) The Secretary does not approve an application for a grant under the Section 1005(d) Program unless the Secretary is satisfied that the application—to the extent consistent with the number of eligible children in the area to be served who are enrolled in private nonprofit elementary and secondary schools whose needs are of the type which the program is intended to meet—makes provisions for the participation on an equitable basis of persons serving or preparing to serve these children as educational personnel or ancillary educational personnel.

(U.S.C. 3385(d), (f)(1))

Subpart D—How Does the Secretary Make a Grant?

§ 252.30 How does the Secretary evaluate an application?

(a) The Secretary reviews and approves applications under the Section 1005(d) Program separately from applications under the Section 422 Program.

(b) The Secretary evaluates each application under either program on the basis of the criteria in § 256.32.

(c) The Secretary awards up to 100 possible total points for these criteria.

(d) The maximum possible score for each complete criterion is indicated in parentheses.

(U.S.C. 3385(d), 3385a)

§ 256.31 To what applicants does the Secretary give priority?

In addition to the points awarded under § 256.32, the Secretary awards—

(a) Ten points to each application proposing a project in which all participants will be enrolled in—

(1) A course of study resulting in a degree at the bachelor's level or higher; or

(2) Courses beyond the bachelor's degree.

(b) Ten points to each application under the Section 1005(b) Program from an Indian institution of higher education;

(c) Ten points to each application under the Section 1005(d) Program proposing a project in which 100 percent of the participants will be Indian.

(d) Fifteen points to each application under the Section 422 Program from an Indian institution of higher education, Indian tribe, or Indian organization.

(20 U.S.C. 3385(d), (f)(1), (335a)

§ 256.32 What selection criteria does the Secretary use?

The Secretary uses the following selection criteria in evaluating each application:

(a) *Need.* (20 points)

(1) The Secretary reviews each application to determine the need for the type of personnel to be trained.

(2) In making this determination the Secretary considers—

(i) The conclusions of and supporting evidence from a current needs assessment or other appropriate documentation; and

(ii) The recency of the assessment or other documentation.

(b) *Plan of operation.* (25 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) In making this determination, the Secretary looks for—

(i) A clear statement of the purpose of the project;

(ii) Objectives that are—

(A) Related to the purpose of the project;

(B) Sharply defined;

(C) Stated in measurable terms; and

(D) Capable of being achieved within the project period.

(iii) An activity plan, including a timeline, that clearly and realistically outlines the activities related to each objective;

(iv) Techniques designed specifically to enable project participants to meet the needs of Indian students; and

(v) A plan for effective administration of the project.

(c) *Benefit to Indian students.* (10 points)

(1) The Secretary reviews each application to determine the likelihood that, after receiving training under the project, the participants will serve Indian students as educational personnel or ancillary educational personnel, as described in § 256.10(b).

(2) In making this determination, the Secretary considers—

(i) Policies or practices of the applicant, such as those governing selection of participants, that increase the likelihood that participants will serve Indian students on completion of the training; and

(ii) Evidence that, on completion of the training, participants will be able to obtain positions that involve the education of Indian students.

(d) *Quality of key personnel.* (15 points)

(l) The Secretary reviews each application to determine the quality of the staff that the applicant plans to use for the project.

(2) In making this determination, the Secretary considers—

(i) The qualifications of the project director;

(ii) The Qualifications of each of the other key personel to be used in the project;

(iii) The time that each person referred to in paragraphs (d) (2) (i) and (ii) of this section will commit to the project; and

(iv) The extent to which the applicant will give preference to Indians in the hiring of project staff.

(3) To determine personnel qualifications, the Secretary considers experience and training in fields related to the objectives of the project, as well as other information that the applicant provides.

(e) *Budget and cost effectiveness.* (10 points)

(1) The Secretary reviews each application to determine the extent to which the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(f) *Evaluation plan.* (10 points)

(1) The Secretary reviews each application to determine the quality of the plan for evaluating the project.

(2) In making this determination, the Secretary considers—

(i) How well the evaluation will measure—

(A) The project's effectiveness in meeting each objective; and

(B) The impact of the project on the participants; and

(ii) Procedures for—

(A) Periodic assessment of the progress of the project; and

(B) If necessary, modification of the project as a result of that assessment.

(g) *Adequacy of resources.* (10 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) In making this determination, the Secretary looks for information that shows—

(i) The facilities the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(20 U.S.C. 3385(d), (f) (l), 3385a)

Subpart E—What Conditions Must Be Met by a Grantee?

§ 256.40 What costs are allowable for stipends and dependency allowances?

(a) A grantee may, from project funds, pay to participants stipends and allowances for dependents.

(b) Each year, the Secretary announces in a notice in the **Federal Register** the estimated maximum amount of a stipend and the estimated maximum amount of an allowance for dependents.

(c)(1) In determining a participant's need for assistance and the amount of the assistance, the grantee shall deduct financial assistance—other than loans—received or expected to be received by the participant for his or her living expenses and for the support of his or her dependents.

(2) The total financial assistance provided to a participant from all sources other than loans may not exceed the participant's need for that assistance.

(d)(1) Unless approved by the Secretary, the grantee may not pay a stipend or dependency alloawance to a participant who is not a full-time student.

(2) The Secretary may approve payment of a partial stipend to a teacher aide who must take leave without pay in order to be a part-time student.

(20 U.S.C. 3385(d), 3385a)

Subpart F—What Are the Administrative Responsibilities of a Grantee?

§ 256.50 What perference must a grantee give in selecting participants?

In selecting project participants, a grantee shall give preference to Indians.

(20 U.S.C. 3385(d), 3385a)

9. Part 258 is redesignated as Part 257 and is revised to read as follows:

PART 257—EDUCATIONAL SERVICES FOR INDIAN ADULTS

Subpart A—General

Sec.

257.1 Educational Services for Indian Adults.
257.2 Who is eligible for assistance under this program?
257.3 What regulations apply to this program?
257.4 What definitions apply to this program?

Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?

257.10 What types of projects may be funded?

Subpart C—How Does One Apply for a Grant?

257.20 What must an application include?

Subpart D—How Does the Secretary Make a Grant?

257.30 How does the Secretary evaluate an application?
257.31 What selection criteria does the Secretary use?

Authority: Title IV, Part C, Pub. L. 92-318 (the Indian Education Act), 86 Stat. 342, as amended (20 U.S.C. 1211a), unless otherwise noted.

Subpart A—General

§ 257.1 Educational Services for Indian Adults.

This program, Educational Services for Indian Adults, provides financial assistance for educational service projects designed to improve educational opportunities for Indian adults.

(20 U.S.C. 1211a(b))

§ 257.2 Who is eligible for assistance under this program?

The following are eligible for assistance under this program:

(a) Indian tribes.

(b) Indian organizations.

(c) Indian institutions.

(20 U.S.C. 1211a(b))

§ 257.3 What regulations apply to this program?

The following regulations apply to this program:

(a) The regulations in 34 CFR Part 250.

(b) The regulations in this Part 257.

(20 U.S.C. 1211a)

§ 257.4 What definitions apply to this program?

The definitions in 34 CFR 250.4 apply to this program.

(20 U.S.C. 1211a)

Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?

§ 257.10 What types of projects may be funded?

(a) The Secretary makes grants under this program for services and instruction below the college level.

(b) The Secretary may fund applications proposing projects designed to—

(1) Enable Indian adults to acquire basic educational skills, including literacy;

(2) Enable Indian adults to continue their education through the secondary school level;

(3) Establish career education projects intended to improve employment opportunities; and

(4) Provide educational services or instruction for—

(i) Handicapped or elderly Indian adults; or

(ii) Incarcerated Indian adults.

(c) The types of projects listed in paragraphs (b) of this section are examples of projects the Secretary may fund under this program. An applicant may propose to carry out one or more of these activities or any other activities that meets the purpose of this program.

(d)(1) The Secretary does not fund under this program activities designed solely to prepare individuals to enter a specific occupation or cluster of closely related occupations in an occupational field after participating in the project.

(2) However, if the following types of activities are otherwise authorized under this part, the Secretary may fund—

(i) Activities that are designed to prepare individuals to benefit from occupational training; and

(ii) Activities that incidentally involve the teaching of employment-related skills.

(20 U.S.C. 1202(b), 1211a(b))

Subpart C—How Does One Apply for a Grant?

§ 257.20 What must an application include?

An application must contain the following:

(a) A description of the activities for which the applicant seeks assistance, including the total number of participants in the proposed project.

(b) An assurance that the applicant will provide for an evaluation of the effectiveness of the project in achieving its purposes and the purposes of this program.

(20 U.S.C. 1211a(b), (d))

Subpart D—How Does the Secretary Make a Grant?

§ 257.30 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application on the basis of the criteria in § 257.31.

(b) The Secretary awards up to 100 possible total points for these criteria.

(c) The maximum possible score for each criterion is indicated in parentheses.

(20 U.S.C. 1211a(b))

§ 257.31 What selection criteria does the Secretary use?

The Secretary uses the following selection criteria in evaluating each application:

(a) *Need.* (20 points)

(1) The Secretary reviews each application to determine the need for the proposed services.

(2) In making this determination, the Secretary considers—

(i) The needs to be addressed by the project, including the extent and severity of these needs as indicated by the number and percentage of Indian adults in the area to be served by the project who need the proposed services and by such factors as elementary and secondary school dropout or absenteeism rates, average grade level completed, unemployment rates, or other appropriate measures;

(ii) A description of other services in the area—including those offered by the applicant—that are designed to meet the same needs as those to be addressed by the project, and the number of Indian adults who receive these other services;

(iii) Evidence that these other services are insufficient in quantity or quality or both, or an explanation of why these other services are not used by adults who require the proposed services; and

(iv) An explanation of why the applicant lacks the financial resources to conduct the project.

(b) *Plan of operation.* (20 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) A clear statement of the purpose of the project;

(ii) Objectives that are—

(A) Related to the purpose of the project;

(B) Sharply defined;

(C) Stated in measurable terms; and

(D) Capable of being achieved within the project period.

(iii) An activity plan, including a timeline, that clearly and realistically outlines the activities related to each objective; and

(iv) A plan for effective administration of the project.

(c) *Community involvement.* (10 points)

(1) The Secretary reviews each application to determine the extent to which the individuals to be served and other members of the Indian community are involved in the project.

(2) The Secretary looks for information that shows that individuals to be served and other members of the Indian community—

(i) Were involved in planning and developing the project; and

(ii) Will be involved in operating and evaluating the project.

(d) *Quality of key personnel.* (10 points)

(1) The Secretary reviews each application to determine the quality of the staff that the applicant plans to use for the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (d)(2) (i) and (ii) of this section will commit to the project; and

(iv) The extent to which the applicant will give preference to Indians in the hiring of project staff.

(3) To determine personnel qualifications, the Secretary considers experience and training in fields related to the objectives of the project, as well as other information that the applicant provides.

(e) *Budget and cost effectiveness.* (10 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(f) *Evaluation plan.* (20 points)

(1) The Secretary reviews each application for information to determine the quality of the plan for evaluating the project.

(2) In making this determination, the Secretary considers—

(i) How well the evaluation will measure—

(A) The project's effectiveness in meeting each objective; and

(B) The impact of the project on the adults involved;

(ii) The applicant's plan for collecting and analyzing data including—

(A) The appropriateness of the instruments to collect the data;

(B) The appropriateness of the method for analyzing the data; and

(C) The timetable for collecting and analyzing the data; and

(iii) Procedures for—

(A) Periodic assessment of the progress of the project; and

(B) If necessary, modification of the project as a result of that assessment.

(g) *Adequacy of resources.* (10 points)

(1) The Secretary reviews each application to determine the extent to which the resources to be devoted to the project are adequate.

(2) In making this determination, the Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(20 U.S.C. 1211a(b), (d)(2))

10. Part 259 is redesignated as Part 258 and is revised to read as follows:

PART 258—PLANNING, PILOT, AND DEMONSTRATION PROJECTS FOR INDIAN ADULTS

Subpart A—General

Sec.

258.1 Planning, Pilot, and Demonstration Projects for Indian Adults.
258.2 Who is eligible for assistance under this program?
258.3 What regulations apply to this program?
258.4 What definitions apply to this program?

Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?

258.10 What types of projects may be funded?

Subpart C—How Does One Apply for a Grant?

258.20 What must an application include?

Subpart D—How Does the Secretary Make a Grant?

258.30 How does the Secretary evaluate an application?
258.31 To what applicant does the Secretary give priority?
258.32 What selection criteria does the Secretary use for a planning grant?
258.33 What selection criteria does the Secretary use for a pilot grant?
258.34 What selection criteria does the Secretary use for a demonstration grant?

Authority: Title IV, Part C, Pub. L. 92-318 (the Indian Education Act), 88 Stat. 342, as amended (20 U.S.C. 1211a), unless otherwise noted.

Subpart A—General

§ 258.1 Planning, Pilot, and Demonstration Projects for Indian Adults.

This program, Planning, Pilot, and Demonstration Projects for Indian Adults, provides financial assistance for planning, pilot, and demonstration projects designed to create, test, and demonstrate the effectiveness of programs for improving employment and educational opportunities for Indian adults.

(20 U.S.C. 1211a(a))

§ 258.2 Who is eligible for assistance under this program?

The following are eligible for assistance under this program:

(a) State educational agencies (SEAs).
(b) Local educational agencies (LEAs).
(c) Indian tribes.
(d) Indian organizations.
(e) Indian institutions.

(20 U.S.C. 1211a)

§ 258.3 What regulations apply to this program?

The following regulations apply to this program:

(a) The regulations in 34 CFR Part 250.
(b) The regulations in this Part 258.

(20 U.S.C. 1211a)

§ 258.4 What definitions apply to this program?

The definitions in 34 CFR 250.4 apply to this program.

(20 U.S.C. 1211a)

Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?

§ 258.10 What types of projects may be funded?

(a)(1) The Secretary may fund applications proposing projects designed to plan, test, or demonstrate the effectiveness of programs for improving employment and educational opportunities for Indian adults.

(2) An applicant may apply for one or more of the types of grants listed in § 258.20(a)(2).

(3) An applicant may not apply for more than one type of grant for each proposed project.

(b) Proposed planning, pilot, or demonstration projects may include, but are not limited to, activities, designed to develop, test, replicate, or adapt—

(1) Educational approaches to assist Indian adults in achieving basic literacy;

(2) Methods for improving the basic skills of Indian adults so that they may benefit from occupational training; or

(3) Educational approaches to assist Indian adults in qualifying for high school equivalency certificates in the shortest time feasible.

(c) The types of projects listed in paragraph (b) of this section are examples of projects the Secretary may fund under this program. An applicant may propose to carry out one or more of these activities or any other activity that meets the purpose of this program.

(d) If a proposed project includes services and instruction, those services and instruction must be below the college level.

(e)(1) The Secretary does not fund under this program activities designed solely to prepare individuals to enter a specific occupation or cluster of closely related occupations in an occupational field after participating in the project.

(2) However, if the following types of activities are otherwise authorized under this part, the Secretary may fund—

(i) Activities that are designed to prepare individuals to benefit from occupational training; and

(ii) Activities that incidentally involve the teaching of employment-related skills.

(f) *Priorities.* (1) Each year the Secretary may select for priority for planning, pilot, or demonstration grants one or more of the types of projects listed in paragraph (b) of this section.

(2) The Secretary publishes the selected priorities, if any, in a notice in the **Federal Register.**

(Adult Education Act, Section 303(b), 316(b); 20 U.S.C. 1211(a)(1), (2))

Subpart C—How Does One Apply for a Grant?

§ 258.20 What must an application include?

(a)(1) An applicant shall specify whether its application is for—

(i) A planning grant;

(ii) A pilot grant; or

(iii) A demonstration grant.

(2) The Secretary does not consider an application that addresses more than one of these three categories.

(b) An application must contain the following:

(1) A description of the activities for which the applicant seeks assistance, including the total number of participants in the proposed project.

(2) An assurance that the applicant will provide for an evaluation of the effectiveness of the project in achieving its purposes and the purposes of this program.

(c) The Secretary does not approve an application for a grant under this part unless the Secretary is satisfied that the application, and any documents submitted with the application, indicate that there has been adequate participation by the individuals to be served and tribal communities in the planning and development of the project, and that they will participate in the operation and evaluation of the project.

(20 U.S.C. 1211a(a) (1), (2), (d))

Subpart D—How Does the Secretary Make a Grant?

§ 258.30 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application on the basis of the applicable criteria in § 258.32, 258.33, or 258.34, depending on the type of grant for which the applicant has applied.

(b) The Secretary awards up to 100 possible total points for the criteria established for each type of grant.

(c) The maximum possible score for each complete criterion is indicated in parentheses.

(20 U.S.C 1211a(a)(1), (2))

§ 258.31 To what applicants does the Secretary give priority?

In addition to the points awarded under §§ 258.32, 258.33, or 258.34, the Secretary—

(a) Awards 25 points to each application from an Indian tribe, Indian organization, or Indian institution; and

(b)(1) May award up to 10 points to an application for the extent to which the applicant addresses the priorities, if any, selected by the Secretary under § 258.10(f); or

(2) May give absolute preference to applications that address these priorities.

(20 U.S.C. 1211a(a)(1), (2))

§ 258.32 What selection criteria does the Secretary use for a planning grant?

The Secretary uses the following selection criteria in evaluating each application for a planning grant:

(a) *Need.* (20 points)

(1) The Secretary reviews each application to determine the need for and the soundness of the rationale for the planning project.

(2) In making this determination, the Secretary looks for—

(i) An identification and description of the specific problem to be addressed and evidence that the problem is of sufficient magnitude among Indian adults;

(ii) A clear statement of the educational approach to be developed;

(iii) A description of the literature review, site visits, or other appropriate activity that shows that the applicant has made a serious attempt to learn from other projects that address similar needs or have tried similar approaches; and

(iv) Evidence that the project is likely to serve as a model for communities with similar educational needs.

(b) *Plan of operation.* (20 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the planning project.

(2) In making this determination, the Secretary looks for information that shows—

(i) A clear statement of the purpose of the project;

(ii) Objectives that are—

(A) Related to the purpose of the project;

(B) Sharply defined;

(C) Stated in measurable terms; and

(D) Capable of being achieved within the project period.

(iii) An activity plan, including a timeline, that clearly and realistically outlines the activities related to each objective; and

(iv) A plan for effective administration of the project.

(c) *Community involvement.* (10 points)

(1) The Secretary reviews each application to determine the extent to which individuals to be served and other members of the Indian community are involved in the planning project.

(2) The Secretary looks for information that shows that individuals to be served and other members of the Indian community—

(i) Were involved in planning and developing the project; and

(ii) Will be involved in operating and evaluating the planning project.

(d) *Quality of key personnel.* (10 points)

(1) The Secretary reviews each application for information that shows the qualifications of the key personnel the applicant plans to use for the planning project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (d)(2)(i) and (ii) of this section will commit to the project; and

(iv) The extent to which the applicant will give preference to Indians in the hiring of project staff.

(3) To determine personnel qualifications, the Secretary considers experience and training in fields related to the objectives of the project, as well as other information that the applicant provides.

(e) *Budget and cost effectiveness.* (10 points)

(1) The Secretary reviews each application for information that shows that the planning project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(f) *Evaluation plan.* (20 points)

(1) The Secretary reviews each application to determine the quality of the plan for evaluating the project.

(2) In making this determination, the Secretary considers—

(i) How well the evaluation will measure the project's effectiveness in meeting each objective;

(ii) The applicant's plan for collecting and analyzing data, including—

(A) The appropriateness of the instruments to collect the data;

(B) the appropriateness of the method for analyzing the data; and

(C) The timetable for collecting and analyzing the data; and

(iii) Procedures for—

(A) Periodic assessment of the progress of the project; and

(B) If necessary, modification of the project as a result of that assessment.

(g) *Adequacy of resources.* (10 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the planning project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(20 U.S.C. 1211a(a)(1), (2), (d))

§ 258.33 What selection criteria does the Secretary use for a pilot grant?

The Secretary uses the following selection criteria in evaluating each application for a pilot grant:

(a) *Need.* (20 points)

(1) The Secretary reviews each application to determine the need for and the soundness of the rationale for the pilot project.

(2) In making this determination, the Secretary looks for—

(i) An identification and description of the specific problem to be addressed and evidence that the problem is of significant magnitude among Indian adults;

(ii) A clear statement of the educational approach to be tested in the project;

(iii) Evidence that—

(A) The plan upon which the pilot project is based included an adequate literature review, site visits, or other appropriate activity; and

(B) The applicant has made a serious attempt to learn from research and from other projects that address similar needs or that have tried similar approaches; and

(iv) Evidence that the project is likely to serve as a model for communities with similar educational needs.

(b) *Plan of operation. (20 points)*

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the pilot project.

(2) The Secretary looks for information that shows—

(i) A clear statement of the purpose of the project;

(ii) Objectives that are—

(A) Related to the purpose of the project;
(B) Sharply defined;
(C) Stated in measurable terms; and
(D) Capable of being achieved within the project period.
(iii) An activity plan, including a timeline, that clearly and realistically outlines the activities related to each objective; and
(iv) A plan for effective administration of the project.
(c) *Community involvement.* (10 points)
(1) The Secretary reviews each application to determine the extent to which individuals to be served and other members of the Indian community are involved in the pilot project.
(2) The Secretary looks for information that shows that individuals to be served and other members of the Indian community—
(i) Were involved in planning and developing the project; and
(ii) Will be involved in operating and evaluating the project.
(d) *Quality of key personnel.* (10 points)
(1) The Secretary reviews each application for information that shows the qualifications of the key personnel the applicant plans to use for the pilot project.
(2) The Secretary looks for information that shows—
(i) The qualifications of the project director;
(ii) The qualifications of each of the other key personnel to be used in the project;
(iii) The time that each person referred to in paragraphs (d)(2) (i) and (ii) of this section will commit to the project;
(iv) The extent to which the applicant will give preference to Indians in the hiring of project staff; and
(v) The procedures the applicant intends to use to train staff for implementing the project.
(3) To determine personnel qualifications, the Secretary considers experience and training in fields related to the objectives of the project, as well as other information that the applicant provides.
(e) *Budget and cost effectiveness.* (10 points)
(1) The Secretary reviews each application for information that shows that the pilot project has an adequate budget and is cost effective.
(2) The Secretary looks for information that shows—
(i) The budget for the project is adequate to support the project activities; and
(ii) Costs are reasonable in relation to the objectives of the project.
(f) *Evaluation plan.* (20 points)
(1) The Secretary reviews each application to determine the quality of the plan for evaluating the pilot project.
(2) In making this determination, the Secretary considers—
(i) How well the evaluation will measure—
(A) The project's effectiveness in meeting each objective; and
(B) The impact of the project on the adults involved;
(ii) The applicant's plan for collecting and analyzing data, including—
(A) The appropriateness of the instruments to collect the data;
(B) The appropriateness of the method for analyzing the data; and
(C) The timetable for collecting and analyzing the data; and
(iii) Procedures for—
(A) Periodic assessment of the progress of the project; and
(B) If necessary, modification of the project as a result of that assessment.
(g) *Adequacy of resources.* (10 points)
(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the pilot project.
(2) The Secretary looks for information that shows—
(i) The facilities that the applicant plans to use are adequate; and
(ii) The equipment and supplies that the applicant plans to use are adequate.

(20 U.S.C. 1211a (a)(1), (2), (d))

§ 258.34 What selection criteria does the Secretary use for a demonstration grant?

The Secretary uses the following selection criteria in evaluating each application for a demonstration grant:
(a) *Need.* (15 points)
(1) The Secretary reviews each application to determine the need for and the soundness of the rationale for the demonstration project.
(2) In making this determination, the Secretary looks for—
(i) An identification and description of the specific problem to be addressed and evidence that the problem is of significant magnitude among Indian adults;
(ii) A clear statement of the educational approach to be demonstrated and evidence that the project is likely to serve as a model for communities with similar educational needs; and
(iii) Evidence that—
(A) The plan and pilot project on which the proposed demonstration project is based included an adequate literature review, site visits, or other appropriate activity; and
(B) The applicant has made a serious attempt to learn from research and from other projects that address similar needs or have tried similar approaches.
(b) *Plan of operation.* (15 points)
(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the demonstration project.
(2) In making this determination, the Secretary looks for information that shows—
(i) A clear statement of the purpose of the project;
(ii) Objectives that are—
(A) Related to the purpose of the project;
(B) Sharply defined;
(C) Stated in measurable terms; and
(D) Capable of being achieved within the project period.
(iii) An activity plan, including a timeline, that clearly and realistically outlines the activities related to each objective; and
(iv) A plan for effective administration of the project.
(c) *Community involvement.* (10 points)
(1) The Secretary reviews each application to determine the extent to which the individuals to be served and other members of the Indian community are involved in the demonstration project.
(2) The Secretary looks for information that shows that individuals to be served and other members of the Indian community—
(i) Were involved in planning and developing the demonstration project; and
(ii) Will be involved in operating and evaluating the project.
(d) *Quality of key personnel.* (10 points)
(1) The Secretary reviews each application for information that shows the qualification of the key personnel the applicant plans to use for the demonstration project.
(2) The Secretary looks for information that shows—
(i) The qualifications of the project director;
(ii) The qualifications of each of the other key personnel to be used in the project;
(iii) The time that each person referred to in paragraph (d)(2)(i) and (ii) of this section will commit to the development of the project;
(iv) The extent to which the applicant will give preference to Indians in the hiring of project staff; and
(v) The procedures the applicant intends to use to train staff, if necessary, for implementing the projects.

(3) To determine personnel qualifications, the Secretary considers experience and training in fields related to the objectives of the project, as well as other information that the applicant provides.

(e) *Budget and cost effectiveness.* (10 points)

(1) The Secretary reviews each application for information that shows that the demonstration project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(f) *Evaluation plan.* (15 points)

(1) The Secretary reviews each application to determine the quality of the plan for evaluating the project.

(2) In making this determination, the Secretary considers—

(i) How well the evaluation will measure—

(A) The project's effectiveness in meeting each objective; and

(B) The impact of the project on the adults involved;

(ii) The applicant's plan for collecting and analyzing data, including—

(A) The appropriateness of the instruments to collect the data;

(B) The appropriateness of the method for analyzing the data; and

(C) The timetable for collecting and analyzing the data; and—

(iii) Procedures for—

(A) Periodic assessment of the progress of the project; and

(B) If necessary, modification of the project as a result of that assessment.

(g) *Dissemination.* (15 points)

(1) The Secretary reviews each application for evidence that the applicant has an effective and efficient plan for disseminating information about the demonstration project, including the results of the project and any specialized materials developed by the project.

(2) In making this determination, the Secretary looks for—

(i) Information that shows high quality in the design of the dissemination plan and procedures for evaluating the effectiveness of the dissemination plan;

(ii) A description of the types of materials the applicant plans to make available and the methods for making the materials available;

(iii) Provisions for demonstrating the methods and techniques used by the project;

(iv) Provisions for assisting interested Indian communities in adapting or adopting and successfully implementing the project; and

(v) Provisions for publicizing the findings of the project at the local, State, or national level.

(h) *Adequacy of resources.* (10 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the demonstration project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(20 U.S.C. 1211a (a) (1), (2), (d))

PART 260—ADULT EDUCATION RESEARCH AND DEVELOPMENT PROJECTS—[REMOVED]

11. Part 260 is removed.

PART 261—ADULT EDUCATION SURVEYS—[REMOVED]

12. Part 261 is removed.

PART 262—ADULT EDUCATION DISSEMINATION AND EVALUATION PROJECTS—[REMOVED]

13. Part 262 is removed.

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DEPARTMENT OF EDUCATION

Indian Education Act Grant Programs; Application Notice Establishing Closing Dates for Transmittal of Certain Fiscal Year 1984 Applications

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Application notice establishing closing dates for transmittal of certain Fiscal Year 1984 applications for new awards.

SUMMARY: The purpose of these application notices is to inform potential applicants of fiscal and programmatic information and closing dates for transmittal of applications for new awards under certain programs administered by the Department of Education.

Organization of Notice

This notice contains two parts. Part I includes the list of all application closing dates covered by this notice. Part II consists of individual application announcements for each program.

Instructions for Transmittal of Applications

Applicants should note specifically the intructions for the transmittal of applications included below:

Transmittal of Applications: Applications must be mailed or hand delivered on or before the closing date given in the individual program announcements included in this document. Each late applicant for a new award will be notified that its application will not be considered.

Applications Delivered by Mail: Applications must be addressed to the Department of Education, Application Control Center, *Attention:* (insert appropriate CFDA Number), Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered by Hand: Hand delivered applications must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand delivered applications between 8:30 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted by the Application Control Center after 4:30 p.m. on the closing date. (OMB approval number 1810–0021, expiration date, February 1986)

Part I—Programs

CFDA	Program	Closing date
84.060A	Formula Grants—Local Educational Agencies and certain Tribal Schools.	Mar. 16, 1984.
84.072A	Indian-Controlled Schools—Enrichment.	Do.
84.061A	Educational Services for Indian Children.	Do.
84.061A	Planning, Pilot, and Demonstration Projects for Indian Children.	Do.
84.061A	Educational Personnel Development.	Do.
84.062A	Educational Services for Indian Adults	Do.
84.062A	Planning, Pilot, and Demonstration Projects for Indian Adults.	Do

Intergovernmental Review: The Education Department General Administrative Regulations (EDGAR) 34 CFR Part 79, pertaining to intergovernmental review of Federal programs, apply to all programs listed above *except:* 84.072A Indian-Controlled Schools—Enrichment and 84.061A Educational Personnel Development.

Applications for grants under the other programs are subject to intergovernmental review, *except* for applications submitted by Federally recognized tribal governments and non-governmental entities. Applicants for grants under the programs covered should give special attention to instructions dealing with intergovernmental review which are provided in the individual program announcements.

Part II—Individual Announcements for Programs Listed in Part I

84.060A—Indian Education Act: Formula grants to Local Educational Agencies (LEAs) and certain Tribal Schools

Closing Date: March 16, 1984.

Applications are invited for new grants under the Indian Education Act Formula grant program.

Authority for this program is contained in Section 303 of Part A of the Indian Education Act, as amended (20 U.S.C. 241bb).

This program authorizes grants to LEAs, and to certain Indian Tribes and Indian organizations described in Section 1146 of Pub. L. 95–561.

The program provides financial assistance to develop and carry out elementary and secondary school projects that meet the special educational and culturally related academic needs of Indian children.

Program Information: In fiscal year 1983, $44,031,321 supported 1,083 projects in schools with a total eligible Indian student enrollment of 304,790. The average grant amount was $40,657.

The amount of each grant is based on a formula that takes into account the Indian student enrollment in the applicant's school and the average per pupil expenditure for public elementary and secondary education in the applicant's state.

Available Funds: The appropriation for this program for fiscal year 1984 is $46,400,000. It is estimated that 1,200 projects will be supported and that the average grant will be $38,667.

These estimates, however, do not bind the U.S. Department of Education to a specific number of grants nor to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Projects supported under this program will be for a period of one year.

An application under this program must be marked ATTENTION: 84.060A.

Intergovernmental Review: On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.)* implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for

State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

• Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;

• Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and

• Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State post-secondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique gegraphic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review:

State

Arizona	New Mexico
California	New York
Connecticut	Northern Marianas Island
Delaware	Ohio
District of Columbia	Oklahoma
Florida	South Carolina
Hawaii	South Dakota
Indiana	Utah
Louisiana	Vermont
Michigan	Virginia
Missouri	Washington
Montana	Wisconsin
Nebraska	Wyoming
Nevada	Trust Terrritory
New Jersey	

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State process recommendation and other comments submitted by a State point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by May 15, 1984 to the following address:

The Secretary, U.S. Department of Education, Room 4181 (84.060A), 400 Maryland Avenue, SW., Washington, D.C. 20202, Telephone (202) 245–7913. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Applicable Regulations: The regulations that apply to this program include the following:

(a) Regulations governing Indian Education Programs as proposed for codification in 34 CFR Parts 250 and 251. (Applications are being accepted based on the notice of proposed rulemaking for Indian Education Programs which is published in this issue of the **Federal Register**. Applicants should note that the notice of proposed rulemaking proposes to redesignate the CFR Part of a number of the regulations. If any substantive changes are made in the final regulations for this program, applicants will be given an opportunity to revise their applicants.)

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, 78, and 79).

Applications Forms: Application packages are expected to be ready for mailing on February 1, 1984. A copy of the application package may be obtained by writing to Indian Education Programs, U.S. Department of Education (Room 2177, FOB 6), 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 3 pages in length. The Secretary further urges that applicants not submit information that is not requested.

Further information. For further information, contact Director, Indian Education Programs, U.S. Department of Education, Room 2177, 400 Maryland Avenue, SW., Washington, D.C., Telephone Number (202) 245–8020.

(20 U.S.C. 241aa–241ff)

84.072A, 84.061A, 84.062A—Indian Education Act Discretionary Grants

Closing Date: March 16, 1984.

Applications are invited for new grants under the following Indian Education Act programs:

(1) Part A—Indian-Controlled Schools—Enrichment

Authority for this program is contained in Section 303(b) of Part A of the Act, as amended.

(20 U.S.C. 241bb(b))

The purpose of the enrichment grants is to provide financial assistance for educational enrichment projects designed to meet the special educational and culturally-related academic needs of Indian children in elementary and secondary schools for Indian children that are located on or geographically near one or more reservations.

Grants for enrichment projects may be to Indian tribes, Indian organizations and LEAs that have been in existence not more than three years.

Program Information: In fiscal year 1983, 31 enrichment projects were awarded grants totalling $3,874,196. The average grant amount was $124,974. In formulating grant applications for this program applicants should give special attention to Section 253.31 of the notice of proposed as rulemaking for Indian Education Programs which is published in this issue of the **Federal Register**. This section contains the criteria used in evaluating applications.

The Education Department General Administrative Regulations (EDGAR) 34 CFR, Part 79, pertaining to intergovernmental review, do not apply to this program.

Available Funds: The appropriation for fiscal year 1984 is $4,500,000 of which the Secretary estimates that approximately $2,800,000 will be available to support new projects. It is estimated that these funds will support 20 projects with awards ranging from $30,000 to $310,000. These estimates, however, do not bind the U.S. Department of Education to a specific number of grants nor to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Projects supported under this program will be for a period of one year.

An application under this program must be marked ATTENTION: 84.072A.

(2) Part B—Educational Services for Indian Children

Authority for this program is contained in Section 1005 (a) and (c) of Part B of the Act, as amended.

(20 U.S.C. 3385 (a), (c))

This program provides financial assistance for—

(1) Projects designed to improve educational opportunities for Indian children by providing educational services that are not sufficiently otherwise available to those children; and

(2) Enrichment projects that introduce innovative and exemplary approaches, methods, and techniques into the education of Indian children in elementary and secondary schools.

Grants may be made to State educational agencies (SEAs), LEAs, Indian tribes, Indian organizations, and Indian institutions.

Program Information: In fiscal year 1983, 28 projects were awarded service grants totalling approximately $3,600,000. The average grant amount was $128,6000. In formulating applications for service grants, applicants should give special attention to § 254.32 of the notice of proposed rulemaking for Indian Education Programs which is published in this issue of the **Federal Register**. This section contains the criteria used in evaluating applications.

Available Funds: The appropriation for this program for fiscal year 1984 is $3,500,000 of which the Secretary estimates $2,925,000 will be available to support new projects. It is estimated that these funds will support 31 projects with awards between $75,000 and $125,000. These estimates, however, do not bind the U.S. Department of Education to a specific number of grants nor to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Projects supported under this program will be for a period of one year.

An application under this program must be marked ATTENTION: 84.061A.

Intergovernmental Review: On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to estalish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State post-secondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevent to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review:

State	
Arizona	New York
Arkansas	Northern Marianas Islands
California	Ohio
Connecticut	Oklahoma
Delaware	Oregon
District of Columbia	South Carolina
Florida	South Dakota
Hawaii	Texas
Louisiana	Utah
Michigan	Vermont
Missouri	Virginia
Montana	Washington
Nebraska	Wisconsin
Nevada	Wyoming
New Jersey	Trust Territory
New Mexico	

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by May 15, 1984 to the following address:

The Secretary, U.S. Department of Education, Room 4181, (84.061A), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone Number (202) 245–7913. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

(3) Part B—Planning, Pilot, and Demonstration Projects for Indian Children

Authority for this program is contained in Section 1005(a)(1) and (b) of the Act, as amended.

(20 U.S.C. 3385 (a)(1), (b))

This program provides financial assistance for projects designed to create, test, and demonstrate the effectiveness of programs for improving educational opportunities for Indian children.

Grants may be made to SEAs, LEAs, Indian tribes, Indian organizations, Indian institutions, and elementary and secondary schools for Indian children which are Federally supported.

Program Information: In fiscal year 1983, 22 projects were awarded planning, pilot, and demonstration grants totalling approximately $3,338,900. The average grant amount was $151,800.

Under the notice of proposed rulemaking for Indian Education Programs, which is published in this issue of the **Federal Register**, an application for a grant under this program must address only one of the three types of projects authorized by the Act, i.e., the proposed project must be a planning, pilot or demonstration project. An application that addresses more than one of these types of projects will not be considered.

In formulating applications for grants for planning projects, applicants should give special attention to § 255.32 of the notice of proposed rulemaking for Indian Education Programs which is published in this issue of the **Federal Register**. This section contains the criteria used in evaluatiog applications. Applicants for grants for pilot projects should give special attention to § 255.33; applicants

for grants for demonstration projects should give special attention to § 255.34.

Available Funds: The appropriation for this progarm for fiscal year 1984 is $2,500,000 of which the Secretary estimates $2,150,000 will be available to support new projects. It is estimated that $1,075,000 will support 3 to 4 demonstration projects with awards from $200,000 to $300,000; that $645,000 will support 4 pilot projects with awards from $100,000 to $175,000 and that $430,000 will support 5 planning projects with awards from $75,000 to $100,000. These estimates, however, do not bind the U.S. Departmeant of Education to a specific number or type of grants nor to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Projects supported under this program will be for a period of one year.

An application under this progam must be marked ATTENTION: 84.061A.

Intergovernmental Review: On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review or proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increased Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State post-secondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, and demonstration projects that do not have a unique geographic focus and are not directly relevant to the government responsibilities of a State or local government within that geographic area.

The following is thecurrent list of States that have established a process, designated a single point of contact, and have selected this program for review:

State

Arizona	New York
Arkansas	Northern Marianas Islands
California	Ohio
Connecticut	Oklahoma
Delaware	Oregon
District of Columbia	South Carolina
Florida	South Dakota
Hawaii	Texas
Louisiana	Utah
Michigan	Vermont
Missouri	Virginia
Montana	Washington
Nebraska	Wisconsin
Nevada	Wyoming
New Jersey	Trust Territory
New Mexico	

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional,and local entities must be mailed or hand delivered by May 15, 1984 to the following address:

The Secretary, U.S. Department of Education, Room 4181, (84.061A), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone Number (202) 245–7913. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

(4) Part B—Educational Personnel Development

Authority for the Educational Personnel Development program under which new applications are being invited is contained in Section 1005(d) of Part B of the Act, as amended. (As sufficient funds are not available to fund new applications under that portion of the Educational Personnel Development program authority contained in Section 422 of Part B of the Act, the Secretary does not invite applications for new awards under the Section 422 authority.)

(20 U.S.C. 3385(d), 3385 a)

This program provides financial assistance to projects designed to—

(1) Prepare persons to serve Indian students as teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and

(2) Improve the qualifications of persons serving Indian students in these capacities.

Under the section 1005(d) program, grants may be made to institutions of higher education, and to SEAs and LEAs in combination with those institutions.

Program Information: In fiscal year 1983, 8 grants were awarded under this program totalling approximately $1,053,000. The average grant amount was $121,690. In formulating applications for Educational Personnel Development grants, applicants should give special attention to § 256.32 of the notice of proposed rulemaking for Indian Education Programs which is published in this issue of the **Federal Register**. This section regulations which contain the criteria used in evaluating applications.

The estimated maximum stipends for participants in projects in fiscal year 1984 will be $600 per month at the graduate level and $375 per month at the undergraduate level. An estimated maximum allowance of $90 per month will be allowed for each dependent.

The Education Department General Administrative Regulations (EDGAR) 34 CFR, Par 79, pertaining to intergovernment review do not apply to this program.

Available Funds: The appropriation for the Section 1005(d) program for fiscal year 1984 is $1,200,000. The Secretary estimates that $570,000 will be available to support new projects.

It is estimated that these funds will support 5 projects with most awards ranging from $90,000 to $150,000. These estimates, however, do not bind the U.S. Department of Education to a specific number of grants nor to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Projects supported under this progra m will be for a period of one year.

An application under this program must be marked ATTENTION: 84.061A.

(5) Part C—Educational Services for Indian Adults

Authority for this program is contained in Section 316(b) of Part C of the Act, as amended.

(20 U.S.C. 1211a(b))

This program provides financial assistance for educational services projects designed to improve educational opportunities for Indian adults.

Grants may be made to Indian tribes, Indian organizations, and Indian institutions.

Program Information: In fiscal year 1983, 12 projects were awarded grants totalling approximatley $1,627,000. The average grant amount was $135,590. In formulating applications for grants under this program, applicants should give special attention to § 257.31 of the notice of proposed rulemaking for Indian Education Programs which is published in this issue of the **Federal Register**. This section contains the criteria used in evaluating applications.

Available Funds: The appropriation for this program for fiscal year 1984 is $1,200,000 of which the Secretary estimates $905,000 will be available to support new projects. It is estimated that these funds will support 7 projects with most awards between $95,000 and $150,000. These estimates, however, do not bind the U.S. Department of Education to a specific number of grants nor to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Projects supported under this program will be for a period of one year.

An application under this program must be marked ATTENTION: 84.062A.

Intergovernmental Review: On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR, Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State local government coordination and review of proposed Federal financial assistance.

The Executive Order—

•Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;

•Increase Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and

•Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State post-secondary educational institutions and Federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, and demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of State and local government within the geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review:

State

Arizona	New York
Arkansas	Northern Marianas Islands
California	Ohio
Connecticut	Oklahoma
Delaware	Oregon
District of Columbia	South Carolina
Florida	South Dakota
Hawaii	Texas
Louisiana	Utah
Michigan	Vermont
Missouri	Virginia
Montana	Washington
Nebraska	Wisconsin
Nevada	Wyoming
New Jersey	Trust Territory
New Mexico	

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, each immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, areawide, regional, and local entities may submit comments directly to the Department.

Any State process recommendation and other comments submitted by a State point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by May 15, 1984 to the following address:

The Secretary, U.S. Department of Education, Room 4181, (84.062A), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone Number (202) 245–7913. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

(6) Part C—Planning, Pilot, and Demonstration Projects for Indian Adults

Authority for this program is contained in Section 316(a)(1), (2) of Part C of the Act, as amended.

(20 U.S.C. 1211a(a) (1), (2))

This program provides financial assistance for projects designed to create, test, and demonstrate the effectiveness of programs for improving employment and educational opportunities for Indian adults.

Grants may be made to SEAs, LEAs, Indian tribes, Indian organizations, and Indian institutions.

Program Information: In fiscal year 1983, 21 projects received grants totalling $1,965,900. The average grant amount was $93,616.

Under the notice of proposed rulemaking for Indian Education Programs, which is published in this issue of the **Federal Register**, an application for a grant under this program must address only one of the three types of projects authorized by the Act, i.e., the proposed project must be a planning, pilot or demonstration project. An application that addresses more than one of these types of projects will not be considered.

In formulating applications for grants for planning projects, applicants should give special attention to § 258.32 of the notice of proposed rulemaking which is published in this issue of the **Federal Register**. This section contains the criteria used in evaluating applications. Applicants for grants for pilot projects should give special attention to § 258.33; applicants for grants for demonstration projects should give special attention to § 258.34.

Available Funds: The appropriation for this program for fiscal year 1984 is $1,800,000 of which the Secretary estimates $1,675,000 will be available to support new projects. It is estimated that $850,000 will support 4 demonstration projects at an average of $212,500; $500,000 will support 5 pilot projects at an average of $100,000; and $325,000 will support 4 planning projects at an average of $81,250. These estimates, however, do not bind the U.S. Department of Education to a specific

number of grants nor to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Projects supported under this program will be for a period of one year.

An application under this program must be marked ATTENTION: 84.062A.

Intergovernmental Review: On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State post-secondary educational institutions and Federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, and demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State of local government within the geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review:

State

Arizona	Delaware
Arkansas	District of Columbia
California	Florida
Connecticut	Hawaii
Louisiana	Oklahoma
Michigan	Oregon
Missouri	South Carolina
Montana	South Dakota
Nebraska	Texas
Nevada	Utah
New Jersey	Vermont
New Mexico	Virginia
New York	Washington
Northern Marianas Islands	Wisconsin
Ohio	Wyoming
	Trust Territory

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, areawide, regional, and local entities may submit comments directly to the Department.

Any State process recommendation and other comments submitted by a State point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by May 15, 1984, to the following address:

The Secretary, U.S. Department of Education, Room 4181 (84.062A), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone Number (202) 245–7913. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Applicable Regulations. Regulations applicable to these programs include the following:

(1) Regulations governing Indian Education Programs as proposed to be codified in 34 CFR Parts 250, 252, 253, 254, 255, 256, 257, and 258. (Applications are being accepted based on the notice of proposed rulemaking for Indian Education Programs which is published in this issue of the **Federal Register**. Applicants should note that the notice of proposed rulemaking proposes to redesignate the CFR Part of a number of the regulations. If any substantive changes are made in the final regulations for this program, applicants will be given an opportunity to revise their applications.)

(2) The Education Department General Administrative Regulations (EDGAR) 34 Parts 74, 75, 77, 78, and 79, except where indicated otherwise in this announcement.

Application Forms: Application packages are expected to be ready for mailing on February 1, 1984. A copy of the application package may be obtained by writing to Indian Education Programs, U.S. Department of Education (Room 2177, FOB–6), 400 Maryland Avenue, SW., Washington, D.C. 20202. Applicants should note the specific program for which the application package is requested.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 25 pages in length. The Secretary further urges that applicants not submit information that is not requested.

Further Information: For further information, contact Director, Indian Education Programs, U.S. Department of Education, Room 2177, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone Number (202) 245–8020.

(20 U.S.C. 241aa–241ff, 1211a, 1211h, 3385, 3385a)

Dated: January 17, 1984.

Lawrence F. Davenport,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 84–1782 Filed 1–20–84; 8:45 am]

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An asterisk (*) precedes each entry that has been changed since last week.

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**OFFICE
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5 CFR

**Pay Un
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Rules and Regulations

Federal Register
Vol. 49, No. 16
Tuesday, January 24, 1984

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 534

Pay Under the Senior Executive Service

AGENCY: Office of Personnel Management.

ACTION: Interim rule and request for comments.

SUMMARY: The Office of Personnel Management is adding regulations to establish the procedures used in determining the hourly, daily, weekly or biweekly rates of pay for members of the Senior Executive Service. These regulations adopt the 2087 divisor for computing the annual pay for members of the SES to ensure they continue to be paid in the same manner as all other salaried employees on a biweekly basis.

DATES: 1. This rule is effective on January 1, 1984.

2. Comments must be received on or before February 23, 1984.

ADDRESS: Send or deliver written comments to Mr. Jerome D. Julius, Assistant Director, Office of Pay and Benefits Policy, Room 4351, Compensation Group, Office of Personnel Management, P.O. Box 57, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: Mr. Jan B. Karicher, 202–632–9677.

SUPPLEMENTARY INFORMATION: Under 5 U.S.C. 5504(a), members of the Senior Executive Service (SES) are paid at biweekly intervals. They are not, however, included under the provisions of section 5504(b) that establish procedures for determining the hourly, daily, weekly, or biweekly rates of pay for all other employees paid on a biweekly basis. Nor does any other statute establish a method to compute their pay. In accordance with its regulatory authority over SES pay matters, OPM has determined that members of the SES should have their pay computed in the same manner as other employees paid on a biweekly basis.

Section 310(b)(1) of the Omnibus Budget Reconciliation Act of 1982 (Pub. L. 97–253) as amended, provided that effective January 1984, employees whose hourly rates of pay were derived under section 5504(b)(1) would, during fiscal years 1984 and 1985, have their hourly rates of pay derived by dividing the annual rate of pay by 2087 hours rather than 2080 hours. This regulation adopts the 2087 divisor for computing the pay for members of the SES to ensure they continue to be paid in the same manner as all other salaried employees paid on a biweekly basis.

Pursuant to section 553(d)(3) of title 5 of the United States Code, the Director finds that good cause exists to make this amendment effective in less than 30 days. The regulation is being made effective on the first day of the first pay period beginning on or after January 1, 1984, to assure that members of the SES continue to be paid under the same procedures applicable to other salaried employees paid on a biweekly basis.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities, since it applies only to Federal employees.

List of Subjects in 5 CFR Part 534

Government employees, wages, Civil defense, Administrative practice and procedure.

U.S. Office of Personnel Management.

Donald J. Devine,

Director.

Accordingly, the Office of Personnel Management is adding § 534.404 to Subpart D of Title 5, Code of Federal Regulations, to read as follows:

PART 534—PAY UNDER OTHER SYSTEMS

Subpart D—Pay Under the Senior Executive Service

* * * * *

§ 534.404 Pay computation for members of the Senior Executive Service.

(a) Except as provided in paragraph (b) of this section, pay for members of the senior executive service shall be computed in accordance with 5 U.S.C. 5504(b).

(b) From the first day of the first pay period beginning on or after January 1, 1984, to derive an hourly rate divided the annual rate by 2,087.

(5 U.S.C. 5385.)

[FR Doc. 84–1940 Filed 1–23–84; 8:45 am]
BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 55

Office of Management and Budget Information Collection Control Numbers Assigned to Voluntary Inspection of Egg Products Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule adds a new § 55.25 to Part 55. This section identifies the information collection requirements contained in this part and the respective control numbers assigned by the Office of Management and Budget (OMB). In accordance with 5 CFR Part 1320, this change is made in order to make the information more convenient to locate.

EFFECTIVE DATE: January 24, 1984.

FOR FURTHER INFORMATION CONTACT: D. M. Holbrook, Chief, Standardization Branch, Poultry Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 3944, South Building, Washington, D.C. 20250 (202–447–3506).

SUPPLEMENTAL INFORMATION:

Executive Order 12291

The Agency has determined that this amendment is merely administrative, involving only the identification of information collection requirements and display of OMB control numbers

pursuant to 5 CFR Part 1320 and is not subject to the requirements of Executive Order 12291.

Administrative Procedure Act

Pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest because this amendment is nonsubstantive, imposes no new requirements, and merely provides a convenient listing of information collection requirements and OMB control numbers. Thus, good cause also is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register**.

Regulatory Flexibility Act

Since this rulemaking is exempt from the notice and comment provisions of the Administrative Procedure Act, a regulatory flexibility analysis under the Regulatory Flexibility Act is not required.

Paperwork Reduction Act

This rulemaking does not require an additional collection of information from the public under the Paperwork Reduction Act of 1980.

Background

The Paperwork Reduction Act of 1980 was designed both "to minimize the Federal paperwork burden for individuals, small businesses, State and local governments, and other persons" and "to maximize the usefulness of information collected by the Federal government." On March 31, 1983, OMB issued a final rule implementing the provisions of the Paperwork Reduction Act of 1980. Among other provisions, the rule requires the display of OMB control numbers on collection of information requirements contained in agency rules adopted after public notice and comment. The control numbers provide a simple and effective way for the public to tell whether a paperwork burden an agency seeks to impose has been cleared as the Act requires. The Director of OMB, as the accountable individual in the Government, has assured that the information is needed, is not duplicative of information already collected, and is collected efficiently.

Therefore, a new § 55.25 is added to Part 55. This section identifies the information collection requirements contained in Part 55 and the respective control numbers assigned by OMB. The Agency has determined that this amendment is not substantive. It merely provides a convenient listing of the current information collection requirements and OMB control numbers in accordance with 5 CFR Part 1320.

List of Subjects in 7 CFR Part 55

Egg products, Voluntary inspection service.

Accordingly, under authority contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627), the U.S. Department of Agriculture hereby amends the Regulations Governing the Voluntary Inspection of Egg Products and Grading (7 CFR Part 55) as set forth below:

PART 55—VOLUNTARY INSPECTION OF EGG PRODUCTS AND GRADING

1. In Part 55, a new § 55.25 is added to read as follows:

§ 55.25 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose.* This section collects and displays the control numbers assigned to information collection requirements by the Office of Management and Budget contained in 7 CFR Part 55 pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96–511.

(b) *Display.*

7 CFR section where identified and described	Current OMB control number
Sec:	
55.10	0581–0146
55.24(a)	0581–0146
55.30(a)	0581–0146
55.40	0581–0146
55.50	0581–0146
55.60	0581–0146
55.90(b)	0581–0146
56.95(b)	0581–0146
55.96	0581–0146
55.120	0581–0146
55.130(a)	0581–0146
55.130(b)	0581–0146
55.130(c)	0581–0146
55.140	0581–0146
55.150	0581–0146
55.160	0581–0146
55.200(a)	0581–0146
55.240	0581–0146
55.300	0581–0146
55.340(c)	0581–0146
55.350	0581–0146
55.370(a)	0581–0146
55.380	0581–0146
55.390	0581–0146
55.400	0581–0146
55.420	0581–0146
55.560(a)(1)	0581–0146
55.560(b)(1)	0581–0146
55.560(b)(3)(ii)	0581–0146
55.600	0581–0146

(Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627))

Done at Washington, D.C., on: January 18, 1984.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 84–1647 Filed 1–23–84; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 907

[Navel Orange Regs. 590, 589 (Amdt. 1), 588 (Amdt. 2)]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 590 establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period January 27–February 2, 1984. Regulation 589, Amendment 1, increases the quantity of such oranges that may be shipped during the period January 20–26, 1984, and Regulation 588, Amendment 2, increases the quantity of such oranges that may be shipped during the period January 13–19, 1984. Such action is needed to provide for the orderly marketing of fresh navel oranges for the period specified due to the marketing situation confronting the orange industry.

DATES: This regulation 590 becomes effective January 27, 1984, and the amendments are effective for the periods January 20–26, 1984, and January 13–19, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION: Findings.

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This regulation and amendments are issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that these actions will tend to effectuate the declared policy of the Act.

These actions are consistent with the marketing policy for 1983–84. The marketing policy was recommended by the committee following discussion at a

public meeting on September 27, 1983. The committee met again publicly on January 17, 1984 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportuntiy to submit information on views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of navel oranges. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (Navel).

PART 907—[AMENDED]

1. § 907.890 is added as follows:

§ 907.890 Navel Orange Regulation 590.

The quantities of navel oranges grown in California and Arizona which may be handled during the period January 27, 1984, through February 2, 1984, are established as follows:

(a) *District 1:* 1,500,000 cartons;
(b) *District 2:* Unlimited cartons;
(c) *District 3:* Unlimited cartons;
(d) *District 4:* Unlimited cartons.

2. § 907.889 Navel Orange Regulation 589 paragraphs (a) through (d) are hereby revised to read:

§ 907.889 Navel Orange Regulation 589.

(a) *District 1:* 1,650,000 cartons;
(b) *District 2:* Unlimited cartons;
(c) *District 3:* Unlimited cartons;
(d) *District 4:* Unlimited cartons.

3. § 907.888 Navel Orange Regulation 588, as amended (49 FR 1468), paragraphs (a) through (d) are hereby revised to read:

§ 907.888 Navel Orange Regulation 588.

(a) *District 1:* 1,700,000 cartons;
(b) *District 2:* Unlimited cartons;
(c) *District 3:* Unlimited cartons;
(d) *District 4:* Unlimited cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 18, 1984.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84–1848 Filed 1–23–84; 8:45 am]
BILLING CODE 3410–02–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 110

NRC Export Licensing Authority; Interpretation

AGENCY: Nuclear Regulatory Commission.

ACTION: Interpretative rule.

SUMMARY: The Nuclear Regulatory Commission is issuing an interpretative rule that further specifies those components especially designed or prepared for use in a gas centrifuge uranium enrichment plant which are subject to the Commission's export licensing authority. This action will carry out the IAEA Zangger Committee's recommendation that these components be subject to export licensing control by supplier nations.

EFFECTIVE DATE: January 24, 1984.

FOR FURTHER INFORMATION CONTACT: Joanna M. Becker, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Phone: 301–492–7630 or Marvin R. Peterson, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Phone: 301–492–4599.

SUPPLEMENTARY INFORMATION: For the past two years the U.S and other nuclear supplier governments have engaged in discussions within the framework of the International Atomic Energy Agency's (IAEA) Zangger Committee to clarify the international nuclear export control "Trigger List" by specifying certain additional components especially designed or prepared for use in the gas centrifuge uranium enrichment process. Agreement has not been reached on the specific centrifuge components to be added and their detailed definitions. Currently, all especially designed and prepared enrichment plant components are subject to NRC's export licensing control under a general heading in Appendix A of NRC's export licensing regulations (10 CFR Part 110). However, in order to improve the administration of export controls over these components, the U.S. and the other supplier governments, working in the context of IAEA's Zangger Committee, have agreed that a more detailed listing of the components covered should be prepared and included in each government's export control regulations. As a result of this agreement, the Department of State, as the responsible U.S. Government agency for undertaking the Zangger Committee negotiations, has recommended that the Commission publish an appropriate interpretative notice in the **Federal Register** which lists the new specified components.

Appendix A to 10 CFR Part 110 lists all of the nuclear equipment and material subject to NRC's export/import licensing authority. Paragraph (b) of Appendix A covers isotope separation equipment as follows:

(b) Plants for the separation of the isotopes of source material, special nuclear material or lithium, and specifically designed or prepared equipment and components therefor as follows:

(1) Uranium hexafluoride (UF6) corrosion resistant valves.

(2) Units capable of separating isotopes of source material, special nuclear material or lithium, such as (i) gas centrifuges, (ii) jet nozzle separation units, (iii) vortex separation units, and (iv) laser isotope separation units.

(3) Uranium hexafluoride (UF6) corrosion resistant axial or centrifugal compressors, and specially designed or prepared seals for such compressors.

(4) Gaseous diffusion barriers specially designed or prepared for use in separating isotopes of source material, special nuclear material or lithium.

(5) Gaseous diffuser housings specially designed or prepared for use in plants for separating isotopes of source material, special nuclear material or lithium.

(6) Heat exchangers specially designed or prepared for use in gaseous diffusion plants

(7) Any other equipment or component specially designed or prepared for use in an isotope separation plant.

(8) Specially designed or prepared parts and components for any of the above.

The components specified by the Zangger Committee are covered by paragraphs (b)(2)(i), (b)(7) and (b)(8) of Appendix A. Accordingly, the effect of this interpretative rule is to clarify that the specific components identified are especially designed or prepared for use in gas centrifuges and are subject to the statutory export licensing criteria of section 109 of the Atomic Energy Act of 1954, as amended. Assistance to foreign uranium enrichment programs is subject to very stringent requirements. Therefore, any proposed export of enrichment plant components would be subject not only to criteria (1), (2) and (3) of section 109b, but more stringent

requirements to meet the non-inimicality criterion and other provisions of the Act as now apply.

Until the clarification recently agreed upon, many of the components specified by the Zangger Committee have been under the export control authority of the Commerce Department as "dual-use" commodities pending the determination of their "especially designed or prepared" status. As a result, this interpretative rule has been coordinated with the Commerce Department, which will also be publishing in the near future an appropriate notice clarifying that it no longer will exercise export licensing authority over gas centrifuge enrichment components now specified as especially designed or prepared. Commerce will continue to exercise export licensing controls over a wide-range of other dual-use nuclear-related commodities, including several with potential gas centrigue related end-uses.

List of Subjects in 10 CFR Part 110

Administrative practice and procedures, Classified information, Export, Import, Incorporation by reference, Intergovernmental relations, Nuclear material, Nuclear power plants and reactors, Penalty, Reporting and recordkeeping requirements, Scientific equipment.

Interpretation

The NRC considers the components listed below to be in the materials and equipment generally specified in 10 CFR 110, Appendix A, paragraphs (b)(2)(i), (b)(7) and (b)(8):

1. *Assemblies and components especially designed or prepared for use in gas centrifuges.*

Note.—The gas centrifuge normally consists of a thin-walled cylinder(s) of between 75mm (3 ins.) and 400mm (16 ins.) diameter contained in a vacuum environment and spun at high peripheral speed (of the order of 300m/per second and more) with its central axis vertical. In order to achieve high speed, the materials of construction for the rotating rotor assembly, and hence its individual components, have to be manufactured to very close tolerances in order to minimize the unbalance. In contrast to other centrifuges, the gas centrifuge for uranium enrichment is characterized by having within the rotor chamber a rotating disc-shaped baffle(s) and a stationary tube arrangement for feeding and extracting UF_6 gas and featuring at least 3 separate channels of which 2 are connected to scoops extending from the rotor axis towards the periphery of the rotor chamber. Also contained within the vacuum environment are a number of critical items which do not rotate and which, although they are especially designed, are not difficult to fabricate nor are they fabricated out of unique materials. A centrifuge facility, however, requires a large number of these components, so that quantities can provide an important indication of end use.

1.1 *Rotating Components.*

(a) Complete Rotor Assemblies: Thin-walled cylinders, or a number of interconnected thin-walled cylinders, manufactured from one of the high strength-to-density ratio materials described in the Footnote to this Section.

If interconnected, the cylinders are joined together by flexible bellows or rings as described in § 1.1(c). The rotor is fitted with an internal baffle(s) and end caps, as described in § 1.1 (d) and (e), if in final form. However, the complete assembly may be delivered only partly assembled.

(b) Rotor Tubes: Especially designed or prepared thin-walled cylinders with thickness of 12mm (.50 in) or less, a diameter of between 75mm (3 ins.) and 400mm (16 ins.), and manufactured from one of the high strength-to-density ratio materials described in the Footnote to this Section.

(c) Rings or Bellows: Components especially designed or prepared to give localized support to the rotor tube or to join together a number of rotor tubes. The bellows in a short cylinder of wall thickness 3mm (.125 in.) or less, a diameter of between 75mm (3 ins.) and 400mm (16 ins.), having a convolute, and manufactured from one of the high strength-to-density ratio materials described in the Footnote to this Section.

(d) Baffles: Disc shaped components of between 75mm (3 ins.) and 400mm (16 ins.) diameter especially designed or prepared to be mounted inside the centrifuge rotor tube, in order to isolate the take-off chamber from the main separation chamber and, in some cases, to assist the UF_6 gas circulation within the main separation chamber of the rotor tube, and manufactured from one of the high strength-to-density ratio materials described in the Footnote to this Section.

(e) Top Caps/Bottom Caps: Disc shaped components of between 75mm (3 ins.) and 400mm (16 ins.) diameter especially designed or prepared to fit to the ends of the rotor tube, and so contain the UF_6 within the rotor tube, and in some cases to support, retain or contain as an integrated part an element of the upper bearing (top cap) or to carry the rotating elements of the motor and lower bearing (bottom cap), and manufactured from one of the high strength-to-density ratio materials described in the Footnote to this Section.

Footnote.

The materials used for centrifuge rotating components are:

(a) Maraging steel capable of an ultimate tensile strength of 2.050×10^9 N/m^2 (300,000 lb/in.^{2}) or more.

(b) Aluminium alloys capable of an ultimate tensile strength of 0.460×10^9 N/m^2 (67,000 lb/in.^{2}) or more.

(c) Filamentary Materials suitable for use in composite structures and having a specific modulus of 12.3×10^6 or greater and a specific ultimate tensile strength of 0.3×10^6 or greater ("Specific Modulus" is the Young's Modulus in N/m^2 divided by the density in Kg/m^3; "Specific Ultimate Tensile Strength" is the ultimate tensile strength in N/m^2 divided by the density in Kg/m^3).

1.2 *Static Components.*

(a) Magnetic Suspension Bearings: Especially designed or prepared bearing assemblies consisting of an annular magnet suspended within a housing containing a damping medium. The housing will be manufactured from a UF_6 resistant material (see footnote to section 2). The magnet couples with a pole piece or a second magnet fitted to the top cap described in Section 1.1(e). The magnet may be ring-shaped with a relation between outer and inner diameter smaller or equal to 1.6:1. The magnet may be in a form having an initial permeability of 0.15 Henry/meter (120,000 in CGS units) or more, or a remanence of 98.5% or more, or an energy product of greater than 80,000 joules/m^3 (10×10^6 gauss-oersteds.) In addition to the usual material properties, it is a prerequisite that the deviation of the magnetic axes from the geometrical axes is limited to very small tolerances (lower than 0.1mm) or that homogeneity of the material of the magnet is specially called for.

(b) Bearings/Dampers: Especially designed or prepared bearings comprising a pivot/cup assembly mounted on a damper. The pivot is normally a hardened steel shaft polished into a hemisphere at one end with a means of attachment to the bottom cap described in section 1.1(e) at the other. The shaft may, however, have a hydrodynamic bearing attached. The cup is pellet-shaped with hemispherical indentation in one surface. These components are often supplied separately to the damper.

(c) Molecular Pumps: Especially designed or prepared cylinders having internatlly machined or extruded helical grooves and internally machined bores.

Typical dimensions are as follows: 7mm (3 ins.) to 400mm (16 ins.) internal diameter, 10mm (0.4 ins.) or more wall thickness, 1 to 1 length to diameter ratio. The grooves are typically rectangular in cross-section and 2mm (0.08 ins.) or more in depth.

(d) Motor Stators: Especially designed or prepared ring shaped stators for high speed multi-phase AC hysteresis (or reluctance) motors for synchronous operation within a vacuum in the frequency range of 600–2000 Hz and a power range of 50–1000 volts amps. The stators consist of multi-phase windings on a laminated low loss iron core comprised of thin layers typically 2.0mm (0.080 in.) thick or less.

2. *Especially designed or prepared auxiliary systems, equipment and components for gas centrifuge enrichment plants.*

Note.—The auxiliary systems, equipment and components for a gas centrifuge enrichment plant are the systems of plant needed to feed UF_6 to the centrifuges to link the individual centrifuges to each other to form cascades (or stages) to allow for progressively higher enrichments and to extract the product and tails of UF_6 from the centrifuges, together with the equipment required to drive the centrifuges or to control the plant.

Normally UF_6 is evaporated from the solid using heated autoclaves and is distributed in gaseous form to the centrifuges by way of cascade header pipework. The "product" and "tails" of UF_6 gaseous streams flowing from the centrifuges are also passed by way of cascade header pipework to cold traps (operating at about − 70°C) where they are condensed prior to onward transfer into suitable containers for transportation or storage. Because an enrichment plant consists of many thousands of centrifuges arranged in cascades, there are many kilometers of cascade header pipework, incorporating thousands of welds with a substantial amount of repetition of layout. The equipment, component and piping systems are fabricated to very high vacuum and cleanliness standards.

The following items either come into direct contact with the UF_6 process gas or directly control the centrifuge and the passage of the gas from centrifuge to centrifuge and cascade to cascade.

(a) Feed Systems/Product and Tails Withdrawal Systems:

Especially designed ro prepared process systems including:

1. Feed autoclaves (or stations), used for passing UF_6 to the centrifuge cascades at up to 100 Kg/m^2 (15 $lb/in.^2$)

2. Desublimers (or cold traps) used to remove UF_6 from the cascades at up to 3 Kg/m^2 (0.5 lb/in^2 pressure. The desublimers are capable of being chilled to −70°C and heated to 70°C.

3. Product and tails stations used for trapping UF_6 into containers.

This plant, equipment and pipework are wholly made of or lined with UF_6 resistant materials (see Footnote to this Section) and are fabricated to very high vacuum and cleanliness standards.

(b) Machine Header Piping Systems: Especially designed or prepared piping systems and header systems for handling UF_6 within the centrifuge cascades.

This piping network is normally of the "triple" header system with each centrifuge connected to each of the headers. There is thus a substantial amount of repetition in its form. It is wholly made of UF_6 resistant materials (see Note to this Section) and is fabricated to very high vacuum and cleanliness standards.

(c) UF_6 Mass Spectrometers/Ion Sources: Especially designed or prepared magnetic or quadrapole mass spectrometers capable of taking 'on-line' sample of feed, product or tails from UF_6 gas streams and having all of the following characteristics:

1. Unit resolution for mass greater than 320.

2. Ion sources constructed of or lined with nichrome, monel or nickel-plate.

3. Electron bombardment ionization sources.

4. Having a collector system suitable for isotope analysis.

(d) Frequency Changers: Frequency changers (also known as converters or invertors) especially designed or prepared to supply motor stators as defined under Section 1.2(d), or parts, components and subassemblies of such frequency changers having all of the following characteristics:

1. A multiphase output of 600 Hz to 2000Hz,

2. High stability (with frequency control better than 0.1%),

3. Low harmonic distortion (less than 2%), and

4. An efficiency of greater than 80%.

Footnote: Materials resistant to corrosion by UF_6 include stainless steel, aluminum, aluminum alloys, nickel or alloys containing 60% or more nickel.

(Sec. 109, 92 Stat. 141 (42 U.S.C. 2139, as amended); secs. 201 as amended, 206, 88 Stat. 1242 as amended, 1246 (42 U.S.C. 5841, 5846); 5 U.S.C. 552, 553)

Dated at Washington, D.C., this 19th day of January 1984.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 84–1925 Filed 1–23–84; 8:45 am]

BILLING CODE 7590–01–M

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Docket No. R–0506]

Interest on Deposits; Temporary Suspension of Early Withdrawal Penalty; Regulation Q

AGENCY: Federal Reserve System.

ACTION: Temporary suspension of the Regulation Q early withdrawal penalty.

SUMMARY: The Board of Governors, acting through its Secretary, pursuant to delegated authority, has suspended temporarily the Regulation Q penalty for the withdrawal of time deposits prior to maturity from member banks for depositors affected by severe freezing temperatures in the Texas counties of Cameron, Hidalgo, Starr and Willacy.

EFFECTIVE DATE: January 7, 1984.

FOR FURTHER INFORMATION CONTACT: Daniel L. Rhoads, Attorney (202/452–3711), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: On January 7, 1984, pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. 5141) and Executive Order 12148 of July 15, 1979, the President, acting through the Director of the Federal Emergency Management Agency, designated the Texas counties of Cameron, Hidalgo, Starr and Willacy major disaster areas. The Board regards the President's action as recognition by the Federal government that a disaster of major proportions had occurred. The President's designation enables victims of the disaster to qualify for special emergency financial assistance. The Board believes it appropriate to provide an additional measure of assistance to victims by temporarily suspending the Regulation Q early withdrawal penalty (12 CFR 217.4(d)). The Board's action permits a member bank, wherever located, to pay a time deposit before maturity without imposing this penalty upon a showing that the depositor has suffered property or other financial loss in the disaster areas as a result of the severe freezing temperatures beginning on or about December 22, 1983. A member bank should obtain from a depositor seeking to withdraw a time deposit pursuant to this action a signed

statement describing fully the disaster-related loss. This statement should be approved and certified by an officer of the bank. This action will be retroactive to January 7, 1984, and will remain in effect until 12 midnight, July 7, 1984.

List of Subjects in 12 CFR Part 217

Advertising, Banks, banking, Federal Reserve System, Foreign Banking.

In view of the urgent need to provide immediate assistance to relieve the financial hardship being suffered by persons in the designated Texas counties directly affected by the severe freezing temperatures, good cause exists for dispensing with the notice and public participation provisions in section 553(b) of Title 5 of the United States Code with respect to this action. Because of the need to provide assistance as soon as possible and because the Board's action relieves a restriction, there is good cause to make this action effective immediately.

By order of the Board of Governors, acting through its Secretary, pursuant to delegated authority, January 18, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84-1877 Filed 1-23-84; 8:45 am]

BILLING CODE 6210-01-M

COMMODITY FUTURES TRADING COMMISSION

SECURITIES AND EXCHANGE COMMISSION

17 CFR Ch. I and Ch. II

[Release No. 20578]

Designation Criteria for Futures Contracts and Options on Futures Contracts Involving Non-Diversified Stock Indexes of Domestic Issuers

January 18, 1984.

AGENCY: Commodity Futures Trading Commission and Securities and Exchange Commission.

ACTION: Interpretation and Statement of General Policy.

SUMMARY: The Commodity Futures Trading Commission and the Securities and Exchange Commission are jointly publishing an interpretation and statement of general policy with respect to the minimum criteria for applications by boards of trade for designation as a contract market for futures contracts on a non-diversified stock index composed of securities of domestic issuers (or options on such futures contracts) under the standards of Section 2(a)(1)(B) of the Commodity Exchange Act (7 U.S.C. 2a(ii)(1982)). The agencies intend to review these criteria by January, 1985 or three months following these criteria by January, 1985 or three months following the completion of the Special Study of the Futures and Related Markets, whichever is later.

ADDRESS: Any comments on this interpretation and statement of general policy should be sent to: Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C 20581, Attention: Jane K. Stuckey, Secretary; or Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549, Attention: George A. Fitzsimmons, Secretary, File No. S7-5-84.

FOR FURTHER INFORMATION CONTACT: Paula Tosini, Acting Director, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, (202) 254-6990 or Richard G. Ketchum, Associate Director or Richard T. Chase, Assistant Director, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549, (202) 272-2866.

SUPPLEMENTARY INFORMATION: On December 7, 1981, the Commodity Futures Trading Commission (CFTC) and the Securities and Exchange Commission (SEC) reached an agreement on certain jurisdictional issues that has arisen between the agencies. One purpose of this agreement (hereinafter referred to as the Accord) was to remove existing regulatory obstacles that had prevented the exchanges regulated by the agencies to offer new and innovative risk-management instruments to the public. The Accord was embodied in legislative proposals which the agencies promptly submitted to the Congress. Congress enacted these legislative proposals in substantially the form submitted by the agencies through amendments to the Commodity Exchange Act administered by the CFTC and to several of the securities laws administered by the SEC.Those aspects of the Accord which amended the Commodity Exchange Act were included in Title I of the Futures Trading Act of 1982, Public Law No. 97-444, 96 Stat. 2294-97.

Under the amendments effected by the Futures Trading Act of 1982, Section 2(a)(1)(B) of the Commodity Exchange Act, 7 U.S.C. 2a(ii), empowers the CFTC to designate a contract market for futures trading on an index or a group of securities (or an option on such futures contract) if certain minimum statutory requirements are met. Specifically, the CFTC must find that: (i) settlement or delivery on the contract or option is effected by cash or by exempted securities under the Securities Act of 1933 or the Securities Exchange Act of 1934 (other than municipal securities); (ii) trading in the contract or option is not readily susceptible to manipulation in the price of the contract or option, nor to causing or being used in the manipulation of the price of any underlying security, an option on such security, or an option on a group or index including such securities; and (iii) the index or group of securities is a widely published measure of, and shall reflect, the market for all publicly traded equity or debt securities or a substantial segment thereof, or is comparable to such measure.

In addition, for applications submitted prior to December 9, 1982, the CFTC is required to consult with the SEC regarding each such application concerning a stock index and the SEC may request an oral hearing before the CFTC if the SEC objects to designation on the ground that any of the statutory criteria have not been met. For applications submitted on or after December 9, 1982, Section 2(a)(1)(B) of the Commodity Exchange Act provides that the CFTC shall not approve an application if the SEC determines that the futures contract fails to meet these statutory criteria.

Since the consummation of the Accord, the CFTC and SEC have worked closely in reviewing applications by boards of trade for contract market designation of stock index futures contracts and in monitoring the trading of those contracts that have been designated to date. During this time, the agencies have endeavored to administer the provisions of the Accord in a manner which implements their agreement of December 1981 and the intent of Congress in establishing the statutory standards for designation set forth above. The agencies have identified certain guidelines concerning whether an application comports with these statutory criteria. The agencies believe that proposed contracts involving an index composed only of securities of issuers in the same or a similar industry, that do not meet the following guidelines would not meet certain of the requirements of Section 2(a)(1)(B) of the Commodity Exchange Act.

The agencies have determined to publish these guidelines for the benefit of interested members of the public, potential applicants for designation and for other interested persons. Although the nature of the SEC's participation in the designation process depends upon whether an application was submitted prior to or after December 9, 1982, the

same statutory criteria govern all applications. Accordingly, the guidelines in this policy statement apply to all applications for designation, regardless of the date of submission to the CFTC. The CFTC and SEC have agreed to issue the following guidelines to facilitate their review of contract market applications and to enable potential applicants to structure their submissions in a manner consistent with how the agencies intend to administer the statutory criteria set forth in the Commodity Exchange Act.

Scope of the Policy Statement

The guidelines agreed to by the agencies will apply only to applications for designation as a contract market for futures contracts (or options on such contracts) involving a non-diversified group or index of domestic equity securities, i.e., a group or index that reflects equity securities of United States issuers in the same or a similar industry. In contrast, a diversified stock index, which is not covered by the guidelines, would include stocks of issuers in various industries. The agencies also wish to emphasize that compliance with the guidelines will not secure designation under the Accord if an application does not assure that delivery under the contract will be effected by cash or by permissible exempted securities and that the index will be a widely published measure of the market for securities in that industry. In addition, the CFTC wishes to emphasize that designation will also depend on satisfaction of all other relevant provisions of the Commodity Exchange Act, as well as of CFTC Guidelines No. 1 and No. 2, relating to designation conditions under the Act.

The guidelines represent the agencies' efforts to interpret the statutory standards imposed by Congress as a condition of a designation under the terms of the Accord. Since the agencies believe that the concerns raised by the Accord remain applicable not only to the designation of the contract but also to subsequent trading in those contracts, the agencies have agreed that an applicant board of trade must include in its proposal rules providing that the index will be brought back into compliance with the terms of the guidelines, if at any time, whether prior to or after trading commences, the index fails to meet any of the guidelines with the exception of the capitalization standard. In addition, and as explained in more detail below, if, after trading commences, the index capitalization falls below $50 billion, no new trading months may be listed under the index until the $50 billion level is restored.

Under the guidelines adopted by the agencies, an application for designation involving a non-diversified stock index must meet four minimum criteria. The criteria will apply both to capitalization-weighted indices and to non-capitalization weighted indices, such as price-weighted indices. In a capitalization-weighted index, the value of the index is derived with reference to the aggregate capitalization of all securities comprising the index, with each security's capitalization computed by multiplying the number of securities publicly outstanding times the current market price for a single share of that security. In non-capitalization weighted indices the value of the index is normally related only to the aggregate weighted price of each component security within the index. As noted below, a fifth provision of the guidelines applies to applications involving a non-capitalization weighted index for stocks within the index which represent ten percent or more of the weight of all securities comprising the index.

Set forth below are the guidelines which the agencies will apply to the applications.

1. Number of Securities

An index must be composed of the domestic equity securities of at least twenty-five issuers.

2. Index Capitalization

The aggregate capitalization of the securities comprising the index must be at least $75 billion. As stated above, if at any time after trading commences the aggregate capitalization of the index falls below $50 billion (⅔ of $75 billion) no new months may be listed under the contract until the $50 billion level is restored.

3. Percent of Index Weighting of Largest Stock

In a capitalization-weighted index, no single security within the index may have a capitalization exceeding twenty-five percent of the aggregate capitalization of all securities within the index. Similarly, in a non-capitalization weighted index, no single security may have a weight in excess of twenty-five percent of the weight of all securities within the index.

4. Percent of Index Weighting of Smaller Stocks in a Non-Capitalization Weighted Index

If any single security in a non-capitalization weighted index has a weight of ten percent or more of the aggregate weight of all securities within the index, that security may not be part of the index if its weighted percentage in the index exceeds three times its percentage weight of total index capitalization. For example, if an application is submitted for a price-weighted index and the index is comprised of stocks with a total capitalization of $100 billion, a security whose weighted price represents 21% of the weighted price of all securities in the index would have to have a capitalization of at least $7 billion, i.e., 7% of the aggregate capitalization of all securities in the index.

5. Percent of Index Weighting of Group of Largest Securities

In a capitalization-weighted index, the aggregate capitalization of the three securities having the highest capitalization within the index may not exceed more than 45% of the capitalization of all securities within the index. Similarly, in a non-capitalization weighted index, the aggregate weight of the three securities having the highest percentage weight of all securities within the index may not exceed 45% of the aggregate weight of all securities within the index.

The CFTC and the SEC intend to monitor closely trading of contracts which may be approved pursuant to the terms of these guidelines and to share regularly their surveillance data as well as those collected by the relevant exchanges on the futures and related securities markets. In this connection, the agencies also will take into account the findings contained in the Special Study of the Futures and Related Markets called for by Section 236 of the Futures Trading Act of 1982, 96 Stat. 2324–25, which is being conducted by the Board of Governors of the Federal Reserve System, the CFTC and the SEC, with the assistance of the Secretary of the Treasury. That study is to be submitted to the Congress not later than September 30, 1984 and may prove useful in evaluating these guidelines and in determining whether any modifications of the guidelines are warranted. In any event, the CFTC and SEC will review these guidelines by January 31, 1985 or ninety days after submission of the Special Study, whichever occurs later.

The Commissions have determined that the foregoing guidelines represent an interpretation and statement of general policy and that therefore the provisions of the Administrative Procedure Act, as codified, 5 U.S.C. 553, generally requiring notice of proposed rulemaking and other opportunity for public participation are not applicable. Similarly, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601

et seq.) do not apply. Nevertheless, the Commissions are interested in receiving comments from any interested person concerning these guidelines, and will consider those comments in the course of its review of its experience under these guidelines.

Issued in Washington, D.C. on January 18, 1984, by the Commissions

Jane K. Stuckey,

Security, Commodity Futures Trading Commission.

George A. Fitzsimmons,

Secretary, Securities and Exchange Commission.

[FR Doc. 84-1957 Filed 1-23-84; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 154

[Docket Nos. RM83-73-001, et al.; Order No. 349-A]

Standard Form for Purchased Gas Adjustment Filings Submitted by Natural Gas Pipeline Companies; FERC Form No. 542-PGA

Issued: January 16, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order Extending the Effective Date of the Final Rule and Granting Applications for Rehearing for Purposes of Further Consideration.

SUMMARY: On November 21, 1983, the Federal Energy Regulatory Commission (Commission) issued Order No. 349 (48 FR 53091, issued November 25, 1983) to require natural gas pipelines that file purchased gas adjustment filings to use a standard format prescribed in FERC Form No. 542-PGA, Purchased Gas Adjustment (PGA) Filings. Since issuing Order No. 349, the Commission has received eight requests for clarification, reconsideration and rehearing of the rule. The Commission is extending the effective date of the final rule from February 1, 1984, until June 1, 1984 for PGA filings that are to be *effective* on or after July 1, 1984. With regard to the substantive issues raised by the petitioners, the Commission is granting hearing solely for the purposes of further consideration of these issues.

EFFECTIVE DATE: June 1, 1984 for PGA filings that are to be effective on or after July 1, 1984.

FOR FURTHER INFORMATION CONTACT: Joseph H. Long, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8033.

SUPPLEMENTARY INFORMATION:

In the matter of Standard Form for Purchased Gas Adjustment Filings Submitted by Natural Gas Pipeline Companies: FERC Form No. 542-PGA, Docket Nos. RM83-73-001, RM83-73-002, RM83-73-003, RM83-73-004, RM83-73-005, RM83-73-006, RM83-73-007, RM83-73-008; Order Extending Effective Date and Granting Rehearing for Purposes of Further Consideration.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is extending from February 1, 1984 until June 1, 1984 the effective date of Order No. 349 (RM83-73-000), issued on November 21, 1983. This action is taken in response to applications for rehearing and petitions for reconsideration of the final rule. The Commission also is granting rehearing for purposes of further consideration of all other issues raised in the petitions.[1]

Order No. 349 requires natural gas pipeline companies that file purchased gas adjustment filings with the Commission to use a standard format prescribed in FERC Form No. 542-PGA, Purchased Gas Adjustment (PGA) Filing. The Commission issued this rule to reduce the processing costs incurred by the Commission and the Department of Energy, and to allow users of this information to use it more easily, effectively and accurately. The rule was scheduled to be effective on February 1, 1984.[2]

II. Effective Date

Several natural gas pipeline companies have petitioned the Commission for waiver from the requirements of the rule, and reconsideration, clarification or rehearing of the final rule. For the most part, the companies express their concurrence with the Commission regarding the need for a standard form for PGA filings. However, almost all the companies inform the Commission that they will require additional time in which to reprogram their computers and change their recordkeeping procedures to comply with the new filing requirements. Most of the companies request an additional six months beyond the February 1, 1984 deadline by which to comply with the new requirements. Some of the companies and the Interstate Natural Gas Association of America, speaking for its members, also request additional extensions for companies that can satisfactorily support claims of hardship.

As stated in the final rule, the Commission believes that the new reporting requirements should be effective as soon as practicable. At the same time, the Commission acknowledges that the companies are experiencing difficulties complying with the new requirements by February 1, 1984. Therefore, the Commission is hereby delaying the effective date of the final rule until June 1, 1984 for all rates effective on or after July 1, 1984. All PGA filings that are to be *effective* on or after July 1, 1984 will be required to be submitted in compliance with the reporting requirements set forth in the final rule. The July 1 date allows all the pipeline companies to file the first of their two 1984 semi-annual PGA filings under the current less stringent filing requirements. The Commission believes that all the companies should be able to comply with the new requirements after that date.[3]

Accordingly, the Commission hereby extends the effective date of Order No. 349 until June 1, 1984, for rates effective on or after July 1, 1984.

III. Substantive Issues

A few of the petitioners also raise certain specific technical issues about

[1] The Commission received applications for clarification, reconsideration or rehearing of the final rule from the following pipeline companies: Michigan Wisconsin Pipe Line Company; Algonquin Gas Transmission Company; Transcontinental Gas Pipe Line Corporation; Northern Natural Gas Company, Division of InterNorth, Inc.; Consolidated Gas Supply Corporation; Interstate Natural Gas Association of America; Tennessee Gas Pipeline Company and Southern Natural Gas Company. Some of these petitioners requested waivers of application of the rule to the petitioner, or, in the alternative, rehearing of the final rule. The Commission received requests for extension of time for complying with the final rule from the following pipeline companies: Texas Eastern Transmission Corporation; Texas Gas Transmission Corporation; El Paso Natural Gas Company; Columbia Gas Transmission Corporation; and Natural Gas Pipeline Company of America. All the above petitioners are referred to herein as the "petitioners".

[2] The effective date of the final rule was tentative, pending approval by the Office of Management and Budget (OMB). On January 11, 1984, OMB approved the filing requirements of the rule and assigned them No. 1902-0070.

[3] To the extent that individual pipeline companies have already requested, or in the future request, waiver from compliance with the new filing requirements, the Commission will respond individually to their petitions. The Commission believes that the June 1, 1984 filing date for rates effective on or after July 1, 1984 is ample time to comply with the new requirements and that few pipeline companies will need additional time by which to comply.

FERC Form 542–PGA. In another order, the Commission will consider and respond to these comments on substantive issues, whether presented for rehearing, reconsideration, or clarification. Accordingly, with regard to all other issues raised by the applications for rehearing, the Commission grants rehearing solely for purposes of consideration. This action does not constitute a grant or a denial of the applications on the merits in whole or in part. As provided in § 385.713(d) of the Commission's regulations, no answers to the applications will be entertained by the Commission because this order does not grant rehearing on any substantive issues.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–1928 Filed 1–23–84; 8:45 am]

BILLING CODE 6717–01–M

POSTAL SERVICE

39 CFR Part 9

Policy on Communications With Governors of the Postal Service During Pendency of Rate and Classification Proceedings

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Postal Service adopt guidelines limiting ex parte contacts with the Governors and requiring that certain communications to the Governors be placed on the public record. These guidelines are needed in connection with the Governors' role in postal rate and mail classification matters.

EFFECTIVE DATE: January 24, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. David F. Harris, Secretary, Board of Governors, U.S. Postal Service, Washington, D.C. 20260–1000, (202) 245–3734.

SUPPLEMENTARY INFORMATION: On July 18, 1983, the United States Postal Service published in the **Federal Register** a notice of intent to adopt a statement of policy concerning ex parte contacts with the Governors. (48 FR 32713.) The policy guidelines would require that certain communications to the Governors be placed on the public record. Interested persons were invited to submit written comments to Mr. David F. Harris, Secretary, Board of Governors.

Comments on the proposed guidelines were received from the Honorable Glenn English, Chairman, Subcommittee on Government Information, Justice and Agriculture of the House Committee on Government Operations; the Postal Rate Commission; the American Bankers Association; Dow Jones & Company, Inc.; the Magazine Publishers Association; the Third Class Mail Association; and Time, Inc.

After carefully reviewing the comments received and discussing them at a public meeting on November 1, 1983, the Board concluded that they did not warrant any change in the proposed guidelines. At that same meeting the Board considered an amendment to the guidelines proposed by one of its members. The motion to amend the guidelines was rejected, and the Board adopted the guidelines as previously published without any change in substance. The comments received and the amendment proposed by a Board member are described below. One nonsubstantive change made in the proposed guidelines is the addition of a new § 9.3 specifying the time and place for inspection of comments placed on the public record pursuant to the guidelines.

Discussion of Comments and Proposed Amendment

Several commenters urged changes in the scope of the guidelines. As previously published, the guidelines would not apply to communications between Governors and Postal Service officers and staff during the pendency of a rate or classification proceeding. Some commenters objected to the absence of restrictions on such communications on the grounds that certain Postal Service personnel might exercise improper influence over the Governors' decision or act as a conduit for off-the-record communications from outside parties. In practice, when considering a recommended decision of the Commission, the Governors ordinarily have little if any direct contact with witnesses or attorneys who participated directly in that proceeding on behalf of the Postal Service. The question raised by these comments is whether the Board should adopt a formal separation-of-functions rule to restrict communications within the Postal Service. Under such a rule, the Governors could be insulated from contact with some or all Postal Service personnel who designed the rate proposal or participated in the Postal Rate Commission proceeding.

After considering the arguments offered in support of a separation-of-functions rule, the Board determined that such a rule should not be adopted. The Postal Reorganization Act does not by its terms require a separation of functions. Indeed, no commenter suggested that the Postal Service is required by law to insulate the Governors from contact with other Postal Service personnel. The Board concluded that such a rule was not justified as a matter of policy.

The United States Postal Service is a business enterprise as well as an agency of the Federal Government, and analogies between the Postal Service and Federal regulatory agencies are often misleading. The Postal Service is charged by law with the responsibility to provide a basic and fundamental service to the people of the United States. Pursuant to that charge, it delivered nearly 120 billion pieces of mail last year. The Board of Governors directs "[t]he exercise of the power of the Postal Service," 39 U.S.C. 202(a), and works closely with postal management to help ensure that patrons in all areas receive prompt, reliable and efficient service. To discharge their supervisory responsibility and to inform their decisions, the members of the Board must be able to communicate informally and confidentially with postal officers and employees about all subjects that bear on the Service's performance, including the impact of a change in rates or classifications on postal operations and on the financial condition of the Postal Service.

Neither the basic scheme of the Postal Reorganization Act nor its legislative history gives any indication that Congress expected the Governors, who are part-time officials, to cut themselves off from the officers and staff of their own agency. On the contrary, because of the close relationship between the issues presented in a rate or classification case and those that arise in connection with general oversight of postal operations, such insulation could jeopardize one of the key objectives identified by the President's Commission on Postal Reorganization (the Kappel Commission): namely, establishing "a Board of Directors with full authority for postal management." *Towards Postal Excellence* 55 (1968). A further indication that Congress did not intend the Governors to disassociate themselves from the rest of the Postal Service when considering rate and classification issues is the assignment to the full Board, and not just the Governors, of the responsibility to determine when a change in postal rates or classifications shall become effective 39 U.S.C. 3625(f). Resolution of the timing issue—in which senior postal officials participate—is likely to turn on many of the same considerations as are taken into account by the Governors in

deciding whether to accept a Commission recommendation.

Moreover, a separation-of-functions rule would entail significant costs and difficulties in practice. Constructing a major rate proposal requires the efforts of hundreds of Postal Service officers and staff, including a large part of senior management. If the Governors were cut off from all personnel who had worked on the case, they would have to assemble a very large staff of their own to consult with them on the issues and guide them through a large and extremely complex record. To obtain information or advice from officials who had participated in the preparation of the rate case, the Governors would presumably have to hold public hearings at which such officials could make formal presentations. The result would be considerable cost, duplication of effort, delay and the creation of a new and unnecessary level of administrative complexity.

Governor Voss, although concurring with the adoption of the ex parte guidelines, disagrees with the conclusion that communications with management should not be limited. While he would not totally prohibit communications with management during the restricted period, he believes that such communications should be subject to certain controls.

Several commenters suggested enlarging the time period during which communications are restricted. As previously published, the restrictions would go into effect when the Commission issued a recommended decision and would last until the Governors acted on that recommendation. Several commenters would have the restrictions go into effect when the Postal Service submits a request for a recommended decision. After consideration of the reasons presented for this suggestion, the Board concluded that the time period should not be changed. Prior to the issuance of a recommended decision, the issues that will eventually come before the Governors are still uncertain. Moreover, because of the length of rate and classification proceedings and the number of issues involved, an extension of the restrictions to this entire time period would significantly interfere with the Governors' ability to communicate with the customers of the Postal Service. Under these circumstances, the Board found that the risk of an interested party's trying to influence the views of a Governor before the issuance of a recommended decision is outweighed by the need to preserve the Governors' ability to communicate with the Postal Service's customers.

One commenter suggested that oral communications should be freely permitted, but with summaries to be submitted for the record by the person making the communication rather than by the Governor to whom it is made. Another commenter suggested that interested parties should be permitted to reply to written or oral communications received by the Governors. The Board found that these procedures were unlikely to enhance the decisionmaking process and would create significant administrative difficulties.

The Board also rejected a suggestion that every person communicating to the Governors under the guidelines should have to provide copies of the communication to all parties of record in the Commission proceeding. As previously published, that obligation is imposed only on parties of record in the Commission proceeding who seek to communicate with the Governors during the restricted period. The Board found that the suggestion to require persons who are not parties to distribute copies of their communications to all parties would impose an inappropriate burden on them. Their communications would, of course, be in the public record and available for inspection.

At the public meeting in which the proposed guidelines and comments were considered, Governor Ryan offered an amendment to prohibit written communications even when submitted for the record. Governor Ryan suggested that such communications would be redundant to the extent they addressed matters already in the record, and improper to the extent they did not. Other Governors suggested that written communications submitted for the record could sharpen issues and provide them with independent assistance in sifting through and evaluating the evidence in the record. Governor Ryan's proposed amendment was not adopted.

The Board has, accordingly, adopted the ex parte guidelines as previously published in the **Federal Register** on July 18, 1983, 48 FR 32713, with the addition of new § 9.3.

For the reasons set out above, the Board amends title 39, Code of Federal Regulations, as follows:

List of Subjects in 39 CFR Part 9

Administrative practice and procedure.

Add a new Part 9 to read as follows:

PART 9—POLICY ON COMMUNICATIONS WITH GOVERNORS OF THE POSTAL SERVICE DURING PENDENCY OF RATE AND CLASSIFICATION PROCEEDINGS [APPENDIX]

Sec.

9.1 General policy.
9.2 Comminications with Governors during the restricted period.
9.3 Public availability of communications.

Authority: 39 U.S.C. 202, 203, 205, 401 (2), (10), 3621, 3625.

§ 9.1 General Policy.

(a) To represent the public interest generally and to insure that the Postal Service meets the needs of the mailing public, the Governors must be free to hold uninhibited discussions on broad postal issues with mailers and the general public. Nevertheless, the Governors believe that certain restrictions on communications with the public are appropriate when the Governors act in their capacity as final administrative decisionmakers on recommended decisions of the Postal Rate Commission concerning postal rates and classifications. These restrictions should reflect a balance between, on the one hand, the need to safeguard the integrity of the administrative process for setting rates and classifications and insure meaningful judicial review of decisions of the Governors on these subjects, and on the other hand, the need for open access to the Board to permit the members to meet their statutory responsibilities. To strike an appropriate balance, the Board has adopted the following general guidelines: From the time the Postal Rate Commission issues a recommended decision until the Governors have acted on the recommended decision, any communication from an interested person to the Governors that is relevant to the merits of the proceeding should be on the public record and available for public inspection.

(b) In reviewing recommended decisions of the Commission, the Governors act on the record before them. They are under no obligation to take communications from the public into account in reaching their decision.

§ 9.2 Communications with the Governors During the Restricted Period.

Once the Commission issues a recommended decision, and until the Governors have acted on that recommended decision by approving, rejecting, allowing under protest or modifying it, the following guidelines apply to communications with the

Governors that are relevant to the merits of the proceeding.

(a) *Oral Communications.* During the restricted period, it is the policy of the Governors not to receive oral communications relevant to the merits of the proceeding from any interested person. In the event such a conversation does inadvertently take place, the Governor involved shall prepare a memorandum of the conversation and submit it to the Secretary of the Board for inclusion in the public record, where it shall be available for public inspection.

(b) *Written Communications.* (1) During the restricted period any communication relevant to the merits of the proceeding that an interested person may wish to submit to the Governors must be in writing and should not exceed fifteen pages in length. Such comments should be based on the record and addressed to the Governors through the Secretary of the Board. If the commenter has been a party to the Commission proceeding, copies should be sent to all other parties to that proceeding. The Secretary shall make all such communications available for public inspection.

(2) Because the Governors are often required to act promptly on a recommended decision from the Commission, interested persons seeking to communicate with the Governors should submit their comments no later than ten (10) days after the Commission has issued its recommended decision. This period may be extended at the discretion of the Governors.

(c) *Scope of the Guidelines.* These guidelines apply to communications from interested persons to the Governors, their staff, personal assistants (if any), the Secretary of the Board and any official of the Office of the Board. Since the Act assigns final decisionmaking authority on Commission recommended decisions to the Governors and not the Board, these guidelines do not apply to the Postmaster General or the Deputy Postmaster General, nor do they apply to other officers or officials of the Postal Service. Moreover, in order to carry out their statutory responsibility to direct "the exercise of the power of the Postal Service," 39 U.S.C. 202(a), the Governors must be free to discuss all matters of postal policy with officers and employees of the Postal Service. Accordingly, no restrictions apply to communications between the Governors and Postal Service employees.

§ 9.3 Public Availability of Communications.

All communications placed on the public record pursuant to these guidelines shall be available for public inspection at the Office of the Board of Governors, United States Postal Service, Room 10–300, 475 L'Enfant Plaza West, SW., Washington, D.C. 20260–1000, between 8:30 a.m. and 4:30 p.m., Monday through Friday except Federal holidays.

David F. Harris,

Secretary.

[FR Doc. 84–1694 Filed 1–23–84; 8:45 am]

BILLING CODE 7710–12–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[AMS–FRL–2465–7, Docket No. A–83–36]

Control of Pollution From New Motor Vehicles and New Motor Vehicle Engines; Smoke Emissions From 1984 and Later Model Year Diesel Heavy-Duty Engines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: This rule will allow the manufacturers of diesel heavy-duty engines to determine exhaust opacity by a measuring procedure other than the one described in Subpart I of Part 86 as long as the results are correlatable. The Administrator will, however, conduct all confirmatory tests according to the procedures described in Subpart I.

DATE: These regulations are effective as of February 23, 1984. EPA will, however, consider comments on this rule received within 30 days after publication of this notice. (See section VI of this preamble-Public Participation.)

ADDRESS: Material relevant to this interim final rule is contained in Public Docket No. A–83–36. The docket is located at the U.S. Environmental Protection Agency, Central Docket Section, West Tower Lobby, Gallery I, 401 M Street, SW., Washington, D.C. 20460. The docket may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays and a reasonable fee may be charged for copying. Please submit written comments to: U.S. Environmental Protection Agency, Central Docket Section (A–130), Attn: Docket No. A–83–36, Waterside Mall, West Tower Lobby, Gallery I, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Clifford D. Tyree, Certification Policy and Support Branch, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105, (313) 668–4310.

SUPPLEMENTARY INFORMATION:

I. Applicability

The provisions of these regulations apply to 1984 and later model year diesel heavy-duty engines.

II. Background

The diesel heavy-duty engine exhaust opacity measurement procedure specified in Subpart I was originally adopted in 1968. The term "end-of-line" has been used to describe the actual test procedure. This end-of-line procedure attempts to measure the visible plume of exhaust as it leaves the exhaust stack, thus providing a direct measurement of the smoke that would be visible in use. To maximize the correlation between measured values and the appearance of the exhaust, the procedure specifies the use of a smokemeter which incorporates specific structural and operational characteristics, and the positioning of the meter at the end of the exhaust stack. However, this end-of-line measurement procedure tends to be cumbersome to use within a test cell.

In recent years EPA has received numerous requests for approval of opacity measurement procedures which are more suitable for use within test cells. One such alternative is the "in-line" procedure. This procedure does not require the use of an evacuation system for the exhaust gases, nor custom-fabricated stack systems for bypassing the exhaust gases when engine operation without the opacity measurement device is desired. However, the in-line technique does not directly measure the opacity of the exit exhaust plume. In addition, there are a number of manufacturers of in-line smokemeters, each of which may use a slightly different technique for determining the opacity measurement. Since the basis of the existing standards is the end-of-line procedure, and the in-line technique does not necessarily produce results identical to the end-of-line technique, the in-line measurement technique cannot be used as the sole basis for determining compliance with the smoke standards. However, manufacturers have submitted data which show that the measurements from in-line meters can be correlated with measurements which are obtained by means of the Subpart I procedure.

III. Discussion

In response to requests from manufacturers to allow other means to make opacity determinations, EPA will

permit a new, optional certification protocol. This protocol would depart from past practice in that acceptability would be based on data which "correlates" with results obtained following the provisions of Subpart I, and one-to-one instrument response equivalence would not be required. Under the optional protocol, the manufacturer is responsible for determining whether the results obtained by the alternative measuring procedure correlate with the results which would be obtained from the procedure in Subpart I.

Data exist which indicate that correlation coefficients as high as 0.997 have been established between the results obtained from different measurement procedures and the measurement procedure described in Subpart I.[1] When correlation exists at the 0.997 level it would be appropriate to adjust the measured results with the applicable offset. However, if correlation coefficients are significantly lower, it is important that the manufacturer take into account such factors as the confidence interval around the point of interest before a simple offset is applied to the data.

When a manufacturer chooses to use an alternative measurement procedure it will: (1) Determine the correlation between the alternative measuring procedure and the Subpart I procedure, (2) maintain a record of the testing that is performed to establish this correlation and make these data available to the Administrator upon request, (3) provide a statement that on the basis of good engineering practices the results obtained on the alternative measuring procedure do correlate with the results which would be obtained from Subpart I, and (4) use the appropriate correlation offset to adjust the measured values before the data are submitted to EPA for comparison to the applicable standards in § 86.084–11.

The Administrator will not routinely approve or disapprove the use of any measuring procedure different than that specified in Subpart I. Rather, EPA will choose to accept the "adjusted" data for comparison with the standard or specify that a confirmatory test be conducted (Ref: § 86.084–29(b)) in accordance with Subpart I test procedures.

IV. Stringency

The use of an alternative opacity measurement procedure by a manufacturer would not have any effect on the stringency of the present Federal exhaust opacity standards for heavy-duty diesel engines. First of all, neither the smoke standards in 40 CFR 86.084–11(b) nor the test cycle is being changed. Secondly, data determined under an alternative measuring procedure would have to be adjusted to account appropriately for the procedural differences in results prior to comparing them to the standard. EPA would continue to review the data in the same manner as data obtained in accordance with Subpart I and would only issue a certificate of compliance upon satisfactory completion of that review. Thirdly, should EPA question the results in any specific case, it can conduct or require the manufacturer to conduct confirmatory testing. Such confirmatory testing would use the Subpart I procedures. Fourthly, if based upon confirmatory testing EPA were to have reason to believe that there was a systematic problem in that the data generated under an alternative measurement procedure did not adequately correlate with Subpart I data, EPA could, until the lack of correlation was resolved, require that all certificates not already issued be based on data from Subpart I procedures. Finally, manufacturers typically complete their development process and attempt certification just prior to starting production of the new model engines. Any delays due to questionable data could result in delays in production and lost sales. Thus, the last-minute jeopardy of unsuccessful certification is sufficiently high that a manufacturer would only choose optional alternative measurement procedures which it is convinced would readily be accepted by EPA. Because of the above safeguards, manufacturers will have sufficient incentive to submit data which adequately correlates with results that would have been obtained by the opacity measurement procedure of Subpart I. Thus, the stringency of the regulations will be retained.

V. Economic Impact

These amendments will not increase the cost of compliance to the regulated industry. Further, because these amendments are optional, the manufacturer has the flexibility of complying with the exhaust opacity standards with the procedure that is best suited for its need, thus minimizing the overall certification cost.

VI. Public Participation

The Agency finds that good cause exists for omitting as unnecessary and contrary to the public interest a notice of proposed rulemaking. This finding is based on the following facts: (1) The action is optional on the part of the regulated industry; (2) the changes are minor and technical in nature and do not affect the stringency of the applicable exhaust opacity standards or the manufacturers' obligation to comply with these standards; and (3) immediate implementation of the amendments will allow the manufacturers additional flexibility in complying with certification requirements for diesel heavy-duty engines, potentially resulting in an immediate reduction in the cost of demonstrating compliance.

VII. Environmental Impact

There are no significant environmental impacts associated with these amendments (Ref: Section IV).

VIII. Regulatory Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Analysis. This regulation is not major because it will result in an annual effect on the economy of less than $100 million and it involves no significant adverse effects on competition, employment, investment, or productivity.

This action was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection in the docket for this rulemaking; Docket No. A–83–36.

IX. Reporting and Recordkeeping Requirements

If a manufacturer chooses to use the optional exhaust opacity certification protocol allowed by this action, additional records will have to be kept of the correlation data between the alternative procedure the manufacturer chooses to use and the procedure in Subpart I. The information collection requirements contained in Subpart I have been reviewed by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and have been assigned OMB control number 2000–0390.

X. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA is required to determine whether a regulation will have a significant economic impact on a substantial number of small entities so as to require a regulatory analysis. The optional measurement procedure for determining compliance with the exhaust opacity standards will only

[1] Green, G. L., Wallace, D., "Correlation Studies of an In-Line, Full-Flow Opacimeter", SAE 801373, Oct. 20–23, 1980.

increase the manufacturer's flexibility and potentially reduce its costs. Therefore, pursuant to 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 86

Administrative practice and procedure, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

Authority: Statutory authority for this action is provided by Sections 202, 206, 208, and 301(a) of the Clean Air Act (42 U.S.C. 7521, 7525, 7542, and 7601(a)).

Dated: January 13, 1984.

William D. Ruckelshaus,

Administrator.

PART 86—[AMENDED]

For the reasons set forth in the preamble, 40 CFR Part 86 is amended as follows:

1. Section 86.082–1 is amended by adding paragraph (f) as follows:

§ 86.082–1 General applicability.

* * * * *

(f) Optional Procedures for Determining Exhaust Opacity.

(1) The provisions of Subpart I apply to tests which are performed by the Administrator, and optionally, by the manufacturer.

(2) Measurement procedures, other than that described in Subpart I, may be used by the manufacturer provided the manufacturer satisfies the requirements of § 86.084–23(f).

(3) When a manufacturer chooses to use an alternative measurement procedure it has the responsibility to determine whether the results obtained by the procedure will correlate with the results which would be obtained from the measurement procedure in Subpart I. Consequently, the Administrator will not routinely approve or disapprove any alternative opacity measurement procedure or any associated correlation data which the manufacturer elects to use to satisfy the data requirements of Subpart I.

(4) If a confirmatory test(s) is performed and the results indicate there is a systematic problem suggesting that the data generated under an optional alternative measurement procedure do not adequately correlate with Subpart I data, EPA may require that all certificates of conformity not already issued be based on data from Subpart I procedures.

2. Section 86.084–23 is amended by adding paragraph (f) as follows:

§ 86.084–23 Required data.

* * * * *

(f) If the manufacturer elects to use a measurement procedure other than that specified in Subpart I to determine compliance with the standards of § 86.084–11(b), the manufacturer will:

(1) Determine the correlation between the alternative measurement procedure chosen and the procedure set forth in Subpart I for each of the opacity measurements required in § 86.084–11(b),

(2) Maintain a description of the procedure and test(s) used to determine the correlation and the data derived from such tests,

(3) Make available to the administrator, upon request, any of the information or data required in paragraphs (f)(1) and (2), and

(4) For each engine family for which a certificate is requested:

(i) Provide a statement that the results obtained by the alternative measurement procedure correlate with the results which would be expected when determined by the procedure in Subpart I, and

(ii) Provide these results, adjusted if necessary with the applicable correlation offset, to be compared with the opacity standards of § 86.084–11(b).

[FR Doc. 84–1904 Filed 1–23–84; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 271

[SW–6–FRL–2511–4]

Hazardous Waste Management Program, Arkansas; Interim Authorization Phase II, Component C

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Hazardous Waste Management Program; termination of permit processing by EPA.

SUMMARY: The State of Arkansas has applied for Interim Authorization, Phase II, Component C (permitting of hazardous waste land disposal facilities). EPA has reviewed Arkansas' application and has determined that Arkansas' hazardous waste program is substantially equivalent to the Federal program covered in Phase II, Component C. The State of Arkansas is hereby granted Interim Authorization for Phase II, Component C, to operate the state's hazardous waste program covered by Phase II, Component C, in lieu of the Federal program in the State of Arkansas.

EPA and the State of Arkansas have been jointly processing a permit application. With today's announcement, EPA is terminating its processing in favor of the State's authorized procedures.

EFFECTIVE DATE: Interim Authorization for Phase II, Component C, for Arkansas shall become effective January 24, 1984.

FOR FURTHER INFORMATION CONTACT: H. J. Parr, Hazardous Materials Branch, Air and Waste Management Division, Environmental Protection Agency, Region VI, 1201 Elm Street, Dallas, Texas 75270, Telephone (214) 767–2645.

SUPPLEMENTARY INFORMATION:

Background

In the May 19, 1980, **Federal Register** (45 FR 33063) the Environmental Protection Agency (EPA) promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act, as amended (RCRA), to protect human health and the environment from the improper management of hazardous wastes. RCRA includes provisions whereby a state agency may be authorized by EPA to administer the hazardous waste program. For a state program to receive Final Authorization, its hazardous waste program must be fully equivalent to the Federal program under RCRA and consistent with programs in other other authorized states and the Federal program in non-authorized states. In order to expedite the authorization of state programs, RCRA allows EPA to grant a state Interim Authorization if its program is substantially equivalent to the Federal program. During Interim Authorization, a state can make whatever legislative or regulatory changes that may be needed for the state's hazardous waste program to become fully equivalent to the Federal program.

The Interim Authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program takes effect. Phase I regulations were published on May 19, 1980, and became effective on November 19, 1980. Phase I of the program contains standards for persons that generate or transport hazardous wastes and interim status standards that persons treating, storing or disposing of hazardous wastes must comply with pending the receipt of a permit under Phase II of the program.

The State of Arkansas was authorized for Phase I of the program on November 19, 1980.

In the January 26, 1981, **Federal Register** (46 FR 7965), the Environmental Protection Agency announced the availability of portions or components of Phase II of Interim Authorization. Component A, published in the **Federal Register** January 12, 1981 (46 FR 2802.

contains standards for permitting containers, tanks, surface impoundments and waste piles. Component A was subsequently modified on July 26, 1982 (47 FR 14146), to contain standards for permitting the storage of hazardous waste only in tanks and containers. Component B, published in the **Federal Register** January 23, 1981 (46 FR 7666), contains standards for permitting hazardous waste incinerators.

Arkansas received Interim Authorization for Phase II, Components A and B on April 19, 1982.

In the July 26, 1982, **Federal Register** (47 FR 32378), the Environmental Protection Agency announced that States with qualified programs can be authorized for Phase II Interim Authorization, Component C. Component C contains permitting standards for land disposal facilities including landfills, land farms, surface impoundments and waste piles.

Draft Application

The State of Arkansas submitted a draft application for Phase II, Component C on October 14, 1982. After detailed review, EPA transmitted comments to the State on November 12, 1982. Although no major issues were identified, there were some areas which needed to be clarified or included before the State could be authorized for Component C. These areas were the permitting and compliance monitoring procedures and descriptions of resource commitments.

Complete Application

Each of these areas was addressed when the State submitted an official application for Component C on October 4, 1983. An EPA review team consisting of both Headquarters and Regional personnel made a detailed analysis of Arkansas' hazardous waste management program.

EPA comments were forwarded to the state on November 23, 1983. No major questions were raised in the comments; however, some minor clarifications were requested. By letter dated November 30, 1983, the State responded to all the issues raised by EPA.

Public Hearing and Comment Period

As noticed in the **Federal Register** on October 26, 1983, EPA gave the public the opportunity to comment on the State's application. EPA also issued a public notice for a hearing to be held in Little Rock, Arkansas, on December 1, 1983, although EPA reserved the right to cancel the hearing if significant interest in holding the hearing wasn't communicated to EPA by November 18, 1983.

Responsiveness Summary

By November 23, 1983, EPA had received no expressions of interest in holding the hearing and the hearing was cancelled. EPA did receive four (4) comments on the Arkansas application. Each of the commenters supported the authorization of the Arkansas program as the most effective means of implementing the hazardous waste program, and had praise for the ability of the Arkansas agency to carry out the program. EPA appreciates these comments and took them into consideration in reaching a decision on whether to grant authorization to Arkansas. However, the criteria EPA must, by statute, use in assessing the program is whether the state program as described in the application, is substantially equivalent to the Federal program. EPA has found the program to be substantially equivalent to the Federal program.

Joint Permit Processing

Prior to being authorized for a component of Phase II, Interim Authorization, a state may require facilities that treat, store or dispose of hazardous waste to obtain a state permit. There are not provisions in RCRA or the federal hazardous waste regulations for designating these preauthorization state permits as RCRA permits. RCRA permits can be issued only by EPA or an authorized state. Authorization requirements ensure that an authorized state will be using procedures substantially equivalent to the Federal permitting procedures (including the requirements of section 7004(b) of RCRA) and will be requiring facilities to comply with standards providing substantially the same degree of protection as the Federal technical standards.

The State of Arkansas and EPA have been jointly processing a permit for the Pine Bluff Arsenal, Pine Bluff, Arkansas. EPA will cease processing the permit application upon publication of this notice. EPA has determined through the review of the Interim Authorization application that the State permitting procedures and technical standards which have been and will be used in processing this permit application are substantially equivalent to the Federal procedures and standards. Accordingly, if Arkansas issues a permit to Pine Bluff Arsenal it will be considered a RCRA permit.

Decision

EPA has reviewed Arkansas' complete application for Interim Authorization, for Phase II, Component C, and has determined that the State program is substantially equivalent to Phase II, Component C, of the Federal program as defined in 40 CFR Part 271, Subpart B, as amended at 47 FR 32373 (July 26, 1982). In accordance with Section 3006(c) of RCRA and implementing regulations, Arkansas is hereby granted Interim Authorization for Phase II, Component C, to operate the State's hazardous waste program in lieu of the Federal program in Arkansas.

With today's action, I have determined that Arkansas' permitting and technical standards are substantially equivalent to EPA's and thus EPA is terminating the processing of the permit for the Pine Bluff Arsenal, Pine Bluff, Arkansas, in favor of the authorized State processing procedures.

Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. The authorization suspends the applicability of certain Federal regulations in favor of the State program, thereby eliminating duplicative requirements for handlers of hazardous wastes in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Executive Order 12291

The Office of Management and Budget (OMB) has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 271

Hazardous materials, Indians land, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business information.

Authority

This notice is issued under the authority of Sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: December 29, 1983.

Dick Whittington, P.E.,

Regional Administrator.

[FR Doc. 84-1866 Filed 1-23-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 271

[SW-6-FRL 2511-5]

Hazardous Waste Management Program, Louisiana: Interim Authorization, Phase II, Components A, B and C

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Hazardous Waste Management Program.

SUMMARY: The State of Louisiana has applied for Interim Authorization, Phase II, Components A, B and C. EPA has reviewed Louisiana's application and has determined that Louisiana's hazardous waste program is substantially equivalent to the Federal program covered in Phase II, Components A, B and C. The State of Louisiana is hereby granted Interim Authorization for Phase II, Components A, B and C, to operate the State's hazardous waste program in lieu of the Federal program in the State of Louisiana.

EFFECTIVE DATE: Interim Authorization for Phase II, Components A, B and C, for Louisiana shall become effective January 24, 1984.

FOR FURTHER INFORMATION CONTACT: H. J. Parr, Hazardous Materials Branch, Air and Waste Management Division, Environmental Protection Agency, 1201 Elm St., Dallas, Texas 75270, Telephone (214) 767-2645.

SUPPLEMENTARY INFORMATION:

Background

In the May 19, 1980, **Federal Register** (45 FR 33063) the Environmental Protection Agency (EPA) promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended (RCRA), to protect human health and the environment from the improper management of hazardous waste. RCRA includes provisions whereby a State agency may be authorized by EPA to administer the hazardous waste program in that State in lieu of a Federally administered program. For a State program to receive Final Authorization, its hazardous waste program must be fully equivalent to and consistent with the Federal program under RCRA. In order to expedite the authorization of State programs, RCRA allows EPA to grant a State Interim Authorization if its program is substantially equivalent to the Federal program. During Interim Authorization, a State can make whatever legislative or regulatory changes that may be needed for the State's hazardous waste program to become fully equivalent to the Federal program. The Interim Authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program takes effect.

Phase I regulations were published on May 19, 1980, and became effective on November 19, 1980. Phase I of the program contains standards for persons that generate or transport hazardous waste and Interim Status Standards that persons treating, storing or disposing of hazardous waste must comply with pending the receipt of a permit under Phase II of the program.

The State of Louisiana received Interim Authorization for Phase I on December 19, 1980.

In the January 26, 1981 **Federal Register** (46 FR 7965), the Environmental Protection Agency announced the availability of portions or components of Phase II of Interim Authorization. Component A, published in the **Federal Register** January 12, 1981 (46 FR 2802), contains standards for permitting containers, tanks, surface impoundments and waste piles. Component A was subsequently modified on July 26, 1982 (47 FR 14146) to contain standards for permitting the storage of hazardous waste only in tanks and containers. Component B, published in the **Federal Register** January 23, 1981 (46 FR 7666), contains standards for permitting hazardous waste incinerators.

In the July 26, 1982 **Federal Register** (47 FR 32378), the Environmental Protection Agency announced that states with qualified programs can be authorized for Phase II Interim Authorization, Component C. Component C published in the **Federal Register** includes standards for permitting land disposal facilities (including surface impoundments and waste piles).

Draft Application

The State of Louisiana submitted its draft application for Phase II, Components A, B and C, on May 27, 1983. After detailed review, EPA transmitted comments to the State on June 30, 1983, for consideration. Major issues were identified for resolution before the State could be authorized. These issues involved the substantial equivalence of the State's regulations.

Complete Application

These issues were basically resolved at the time of submittal of the complete application. The Environmental Control Commission adopted emergency rules on August 29, 1983, which resolved these issues.

On October 24, 1983, Louisiana submitted to EPA an official application for Phase II, Components A, B and C. An EPA review team consisting of both Headquarters and Regional personnel made a detailed analysis of Louisiana's hazardous waste management program.

EPA comments were forwarded to the State on November 30, 1983. No major questions were raised in the comments; however, some minor clarifications were requested. By letter dated December 5, 1983, the State responded to all the issues raised by EPA.

Public Hearing and Comment Period

As noticed in the **Federal Register** on November 3, 1983, EPA gave the public the opportunity to comment on the State's application. EPA also issued a public notice for a hearing to be held in Baton Rouge, Louisiana, on December 6 and 7, 1983.

At the hearing, held in two sessions, one in the evening and one in the morning of the next day, no comments were presented. Region VI received four (4) written comments on the Louisiana application.

All comments were considered before reaching a decision on the Louisiana application for Phase II, Components A, B and C, Interim Authorization.

Responsiveness Summary

In response to the notice published announcing the availability of the Louisiana application for Phase II for review, EPA received four (4) comments. All four commenters objected to the disposal of hazardous waste in Louisiana or in the Gulf of Mexico.

Response: The specific issues on siting disposal facilities or the disposal of hazardous waste is not a consideration under this authorization. Rather, the issue is whether the State's hazardous waste program is substantially equivalent to the Federal RCRA program.

While EPA recognizes the concern citizens have regarding the siting of facilities or the disposal of hazardous wastes in their communities, concerned individuals are assured that they will have the opportunity to comment on any facilities proposed in their area. The State of Louisiana has demonstrated equivalence with Section 7004(b)(2) of RCRA which requires that an opportunity for comments be afforded to

everyone and that, on request, a public hearing will be held in the area of such a proposed facility.

Disposal of hazardous waste in the Gulf of Mexico is primarily governed by the Marine Protection Research and Sanctuaries Act, 33 U.S.C. 1401 *et seq.* [Ocean Dumping Act]. Public notice and hearings are also provided under this Act before issuance of a permit.

Decision

EPA has reviewed Louisiana's complete application for Interim Authorization, Phase II, Components A, B and C, and has determined that the State program is substantially equivalent to Phase II, Components A, B and C, of the Federal program as defined in 40 CFR Part 271, Subpart B, as amended at 47 FR 32373 (July 26, 1982). In accordance with Section 3006(c) of RCRA and implementing regulations, Louisiana is hereby granted Interim Authorization for Phase II, Components A, B and C, to operate the State's hazardous waste program in lieu of the Federal program in Louisiana.

Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. The authorization suspends the applicability of certain Federal regulations in favor of the State program, thereby eliminating duplicative requirements for handlers of hazardous wastes in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Executive Order 12291

The Office of Management and Budget (OMB) has exempted this rule from the requirements of Section 3 of the Executive Order 12291.

List of Subjects in 40 CFR Part 271

Hazardous materials, Indians land, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business information.

Authority

This notice is issued under the authority of Secs. 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: December 29, 1983.

Frances E. Phillips,

Deputy Regional Administrator.

[FR Doc. 84-1885 Filed 1-23-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 271

[SW-1-FRL 2511-7]

Vermont; Phase II, Components A, B, and C, Interim Authorization State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Final approval.

SUMMARY: The State of Vermont has applied for Interim Authorization for Phase II Components A, B, and C. EPA has reviewed Vermont's application for Phase II Interim Authorization, Components A, B, and C, and has determined that Vermont's hazardous waste program is substantially equivalent to the Federal program covered by Components A, B, and C. The State of Vermont is hereby granted Interim Authorization for Phase II, Components A, B, and C, to operate the State's hazardous waste program.

EFFECTIVE DATE: January 24, 1984.

FOR FURTHER INFORMATION CONTACT: Mary Jane O'Donnell, State Waste Programs Branch, U.S. E.P.A., Region I, J.F.K. Federal Building, Boston, Massachusetts 02203, (617) 223-4448.

SUPPLEMENTARY INFORMATION: In the May 19, 1980 **Federal Register** (45 FR 33063), the Environmental Protection Agency promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (as amended), to protect human health and the environment from the improper management of hazardous waste. Included in these regulations, which became effective November 19, 1980, were provisions for a transitional stage in which states would be granted interim program authorization. The interim authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program has taken effect.

The State of Vermont received Interim Authorization for Phase I on January 8, 1981.

In the January 26, 1981 **Federal Register** (46 FR 7965), the Environmental Protection Agency announced the availability of portions of the second phase of Interim Authorization. In order to proceed with authorizing State programs as expeditiously as possible and because some of the standards for hazardous waste treatment, storage and disposal facilities (40 CFR Part 264) have been promulgated at different times, EPA made the second phase of Interim Authorization available in components. On October 1, 1982, EPA published a notice in the **Federal Register** (47 FR 43405) inviting the public to comment on the Vermont application for Interim Authorization Phase II, Components A, B, and C, at a public hearing on November 9, 1982. This notice also invited the public to submit written comments on the Vermont application to Region I by November 12, 1982. Notice was also given in three major newspapers in Vermont.

On May 5, 1983, EPA determined that the absence of state regulations corresponding to the federal permitting requirements contained in 40 CFR Part 270 (formerly 40 CFR Part 122) precluded EPA from granting Interim Authorization to Vermont. In addition, uncertainty about the legal status of the State's regulations made it impossible to determine whether the Vermont program was substantially equivalent to Part 264.

On September 17, 1983, Vermont adopted regulations that were intended to clarify the legal status of the portion of the Vermont program that corresponded to the federal Part 270 and Part 264 regulations. On September 27, 1983, Vermont submitted a revised application reflecting the newly adopted regulations and the other associated changes to the Vermont program.

On October 20, 1983 EPA published a notice in the **Federal Register** (48 FR 48690) inviting the public to comment on the revised Vermont application at a public hearing on November 22, 1983. This notice also invited the public to submit written comments on the Vermont application to Region I by November 22, 1983. Notice was also given in three major newspapers in Vermont.

Discussion

The State submitted its application for Phase II, Components A, B, and C, on September 7, 1982. Several issues were raised concerning the substantial equivalence of the State's program. The issues were: whether or not Vermont's facility exemption provision for generators who store hazardous waste on-site for less than 90 days was substantially equivalent to the federal provisions of 40 CFR 262.34; the extent to which Vermont intended to use compliance schedules in permit and the reporting requirements associated with the use of compliance schedules;

whether or not Vermont's incinerator facility certification (permit) application information requirements were substantially equivalent to the federal requirements of 40 CFR 270.19. In addition, two significant legal issues were raised regarding Vermont's application. The first legal issue concerned the relationship of Vermont's Best Control Technology (BCT) facility standards to the federal facility standards contained in 40 CFR Part 264 In particular, EPA questioned whether Vermont's BCT facility standards required the imposition of standards that are substantially equivalent to the federal standards of Part 264. The second problem area was Vermont's reliance on assurances in the Memorandum of Agreement, rather than on duly promulgated regulations, as its means of demonstrating that the State's permitting requirements would be substantially equivalent to the federal provisions of 40 CFR 271.14 requirements for permitting.

The State submitted its first addendum to its application on December 20, 1982. The addendum contained clarification on some of the issues EPA raised. The following discussion indicates specifically how Vermont addressed each issue.

1. *Short-term Storage Exemption:* Vermont's facility exemption provision for generators storing waste on-site for less than 90 days differ from the federal requirements of 40 CFR 262.34 on two points. Vermont's provisions require that inspection of tank storage areas occur each day the facility or attached generating plant is in operation as opposed to requiring inspections daily In addition to this difference, 40 CFR 262.34(a)(3) requires that containers be marked with the date upon which accumulation first begins while Vermont's provisions require that containers be labelled with the date the container was first put in storage. Vermont has made a demonstration that their program is substantially equivalent even with these differences.

In the December 1982 addendum, Vermont has agreed to amend its regulations prior to final authorization to be equivalent to the federal requirements with respect to inspection of tanks and date of accumulation. In addition, on January 3, 1983, EPA proposed an amendment to the 40 CFR 262.34 requirements to allow for "satellite accumulation" whereby generators could accumulate up to 55 gallons of hazardous waste in satellite areas *prior* to being put into storage. This proposed amendment would only require that containers be labelled *after* 55 gallons had been accumulated and the container put into storage. Since Vermont's provisions are basically consistent with EPA's proposed amendment and since the State further agrees to adopt provisions equivalent to the federal ones for final authorization, EPA believes Vermont's short-term storage exemption provisions to be substantially equivalent to the federal requirements.

2. *Compliance Schedules:* The State has indicated that compliance schedules will not be used in permits under any condition but will rely on the Assurance of Discontinuance mechanism which specifies corrective actions to be taken. The State's use of the Assurances of Discontinuance meets the reporting requirements of 40 CFR 271.14.

3. *Incinerator Application Requirements:* The State has clarified their certification application requirements relative to the requirements of 40 CFR 270.19. The State's requirements are more stringent than the corresponding federal ones and are thus substantially equivalent.

4. *Best Control Technology Facility Standards:* Prior to submission of its September 27, 1983 revised application, Vermont enacted regulations which explicitly incorporate by reference the federal 40 CFR Part 264 facility standards into the Vermont Best Control Technology facility standards, thereby eliminating any doubts about the substantial equivalence of the Vermont facility standards to the federal standards.

5. *Vermont Permitting Requirements.* Vermont's permitting requirements previously had been specified in the form of assurances in the state's Memorandum of Agreement. In order to make certain the legally binding nature of these permitting requirements, the state has incorporated them by reference into regulations thereby bringing its permitting requirements into substantial equivalence with the federal permitting requirements of 40 CFR 271.14.

Responsiveness Summary

In the **Federal Register** notice of October 1, 1982 (47 FR 43405) EPA gave the public opportunity to review and comment on the State of Vermont's application for Phase II Components A, B, and C Interim Authorization Hazardous Waste Management Program under the Resource Conservation and Recovery Act (RCRA). The comment period extended to November 12, 1982. EPA also conducted a public hearing on the application on November 9, 1982 at the Pavilion Auditorium in Montpelier, Vermont. Four members of the public attended as well as several employees of the Vermont Agency of Environmental Conservation (AEC) and the U.S. Environmental Protection Agency (EPA). EPA received two oral comments at the hearing from members of the public. In addition, during the comment period (October 1–November 12, 1982) EPA received two written comments on the Vermont application. All timely comments, whether presented at the hearing or in writing, were reviewed and considered in reaching a decision on the Vermont Application for Phase II Interim Authorization. The comments received and EPA's response to those comments are summarized as follows:

Comment—The two oral comments received at the hearing were directed at questioning the level of publicity for the hearing and questions over what the hearing was about.

EPA Response—EPA's regulations governing approval of State's application for Interim Authorization require that a notice of receipt of the complete application and public hearing be published in the **Federal Register** and be circulated in a manner calculated to attract the attention of interested persons by publication of a legal notice in major newspapers and direct mailing to persons on the State/EPA mailing lists. [See 40 CFR 271.135]. In addition to the **Federal Register** notice, notices of the hearing, comment period and availability of the State's application for public inspection were sent to three major newspapers in Vermont for publication for thirty consecutive days, and were mailed to citizens and organizations on the State/EPA mailing list. As required under 40 CFR 271.135, all notices indicated the location where copies of the application were available for public inspection and copying. EPA believes that adequate notice of the availability of the Vermont Phase II application for review and public comment was provided. In an attempt to attract the attention of as many interested persons as possible, two additional newspapers in the State of Vermont received legal notices to ensure greater geographic coverage.

Comment—One commenter wrote in favor of EPA approving the State of Vermont's application and granting Vermont Phase II Interim Authorization based on the stricter standards that the State's program would impose and based on the Vermont Agency of Environmental Conservation's ability to work effectively with both industry and the public.

EPA Response—No response needed.

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Comment—One commenter wrote to question whether Vermont had an existing program substantially equivalent to the federal program based on the commenter's observation that many of the "key portions" of the federal permitting requirements and procedures, the requirements of 40 CFR 271.14 (formerly 40 CFR 123.7), were imposed through assurances in the Memorandum of Agreement rather than through Vermont state laws and regulations. The commenter asserted that, in the absence of properly promulgated binding regulations, the Vermont Phase II RCRA program cannot be said to be in existence, and therefore EPA could not legally approve the program. The commenter also questioned whether permit conditions imposed pursuant to the Memorandum of Agreement assurances could be legally enforced, either by the State against permittees or by the public against permittees or against the State, unless those permit conditions are instead imposed pursuant to state regulations.

EPA Response—Vermont has adopted the federal permitting requirements into regulations by incorporating by reference the assurances that the state had previously sought to impose through the Memorandum of Agreement. As such, the Vermont regulations now contain permitting requirements and procedures that are substantially equivalent to the federal requirements of 40 CFR 271.14.

In the **Federal Register** notice of October 20, 1983 (48 FR 48690) EPA gave the public the additional opportunity to comment and review Vermont's revised Phase II application. If significant public interest was expressed EPA was to have held a public hearing on November 22, 1983. However, EPA did not receive any oral or written comments on Vermont's revised application during the comment period (October 20, 1983–November 22, 1983). Therefore a public hearing was not held.

Decision

I have determined that Vermont's program is substantially equivalent to the Federal program for permitting hazardous waste treatment, storage and disposal facilities as defined in 40 CFR Part 271, Subpart B. In accordance with Section 3006(c) of RCRA, the State of Vermont is hereby granted Interim Authorization to operate its hazardous waste program in lieu of Phase II, Component A, B, and C, of the Federal hazardous waste program for the permitting of storage, treatment and disposal facilities.

Authority

This notice is issued under the authority of Section 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify this authorization will not have a significant economic impact upon a substantial number of small entities. The authorization effectively suspends the applicability of certain federal regulations in favor of the State program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, and Confidential business information.

Dated: December 22, 1983

Michael R. Deland,

Regional Administrator.

[FR Doc. 84–1882 Filed 1–23–84; 8:45 am]

BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–42

[FPMR Amdt. H–147]

Recovery of Precious Metals

Correction

In FR Doc. 84–1309, beginning on page 2246, in the issue of Thursday, January 19, 1984, on page 2247, in the first column, the table of contents for Subpart 101–42.3 should read as follows:

Subpart 101–42.3—Recovery of Precious Metals

Sec.
101–42.300 Scope of subpart.
101–42.301 General.
101–42.302 Agency responsibilities.
101–42.302–1 Precious metals recovery surveys.
101–42.302–2 Agency reporting requirements.
101–42.302–3 Precious metals recovery program monitor.
101–42.302–4 Internal audits.
101–42.303 Recovery of silver from precious metals bearing materials.
101–42.303–1 Guidelines for the recovery of silver from used hypo solution and scrap film.
101–42.303–2 Recovery of silver from used hypo solution.
101–42.303–3 Recovery of silver from scrap film.
101–42.304 Recovery and use of precious metals through the DOD Precious Metals Recovery Program.
101–42.304–1 Civil agency participation in the DOD Precious Metals Recovery Program.
101–42.304–2 Use of DOD-recovered fine precious metals.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

BILLING CODE 1505–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3106

Oil and Gas Leasing; Interpretive Rule Relating To Approval of Assignments on Producing Leases

AGENCY: Bureau of Land Management, Interior.

ACTION: Interpretive rule.

SUMMARY: This notification announces an interpretive rule designed to clarify for the public the Bureau of Land Management's (BLM) regulations at 43 CFR 3106.7–3, requiring that no assignment shall be approved unless the lease account is in good standing. Certain lease obligations that must be agreed to by the assignee and its surety prior to approval of the assignment of a producing lease may be necessary to ensure that the interests of the United States Government are protected in accordance with the above-cited regulation.

EFFECTIVE DATE: January 24, 1984.

FOR FURTHER INFORMATION CONTACT:

Proper BLM State Office Oil and Gas Leasing Section; or
Lois Mason, (202) 653–2190

SUPPLEMENTARY INFORMATION: The BLM has established as a priority the elimination of oil and gas lease assignment backlogs. Recently, the Minerals Management Service (MMS) indicated to the BLM that they will no longer provide reviews of lease accounts to determine the financial liability of the assignor prior to approval of lease assignments for producing leases. To provide the public with an expedited assignment approval procedure the BLM will allow the continued approval of

producing lease assignments without reliance on an MMS review of lease accounts. In order to assure that a lease account is in good standing, the BLM will approve assignments of producing leases only when one of the four following situations exists, all else being regular:

1. Assignment of an undivided interest where the assignor retains some portion of the record title.

2. Assignments where there is: (a) Merger between the assignor and assignee and corporate transfer continues the required bond coverage, and/or (b) a transfer of lease record title within a single corporate entity.

3. Assignments where divided or total lease interests are conveyed and the assignee and its surety *both* accept liability in writing for past as well as future obligations. The following steps will be taken:

a. The BLM will notify the assignee(s) that a pending assignment will be approved only if the assignee(s) and its surety accept liability for *all* debts owed the government under the lease (both past and future). It is the assignee's responsibility to obtain its surety's consent to the liability.

b. The BLM will allow 90 days for the assignee(s) to obtain a bond or a bond rider accepting this condition of liability. If the assignee requires more than 90 days, it is to notify the proper BLM office that additional time is necessary to provide BLM with approval of the condition of liability. If there is more than one assignee, *all* assignees and surety(s) must respond accepting the condition of liability before the BLM proceeds. Proof of bonding in the form of an original bond or rider to an existing lease or statewide bond noting the assignee's and surety's acceptance of liability, must be provided to the proper BLM office. If the assignee has a nationwide bond filed in another State office the assignee will file the rider in that State office and provide a copy of the rider to the State office where the assignment has been submitted for approval.

c. When these conditions have been met, the assignment will be noted to show the assignee's acceptance of liability and approved by the BLM.

4. Assignments of operating rights where the record title holder remains bonded or the operator has furnished a bond in lieu of a general lease and drilling bond furnished by the record title holder, and the assignee operator and its surety have accepted liability for all past and future obligations. Where two or more operators have interests in different formations or portions of the lease, each operator that files an operating bond in lieu of the lessee's bond and their surety must accept the condition of liability before the assignment of operating rights can be approved. The procedures outlined in number 3 above will be followed.

It is important to note that assignees can protect themselves by private arrangements with assignors, such as contract(s) which shift the assignee's risk back to assignors.

Dated: January 17, 1984.

Robert F. Burford,

Director.

[FR Doc. 84-1880 Filed 1-23-84; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 381

Cargo Preference—U.S.-Flag Vessels

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Interim Final Rule and Request for Comments.

SUMMARY: The Maritime Administration (MARAD) is issuing this interim final rule setting forth procedures governing the evaluation by U.S. departments or agencies ("the agencies") of bids from subsidized U.S.-flag bulk vessel operators for the carriage of dry bulk preference cargoes. The procedures require that operating-differential subsidies (ODS) received by operators of vessels carrying dry bulk preference cargoes be considered a cost to the government for the carriage of such cargoes and be considered in the calculation of fair and reasonable rates for such carriage. MARAD's intent in establishing these regulations is to ensure equitable competition between subsidized and unsubsidized operators of dry bulk preference cargoes and to enable operators to carry these cargoes at the lowest cost per ton to the government. This rulemaking is effective upon issuance.

However, MARAD specifically invites comments on the issue of whether it should require an agency to consider the total cost to the government when bids are evaluated for the carriage of dry bulk preference cargoes by subsidized and unsubsidized bulk vessel operators. In addition, MARAD invites comments on any other issues raised by this rulemaking. MARAD will review all comments received and modify the rule, if necessary.

DATES: This rule is effective January 19, 1984. Comments must be received on or before February 23, 1984.

ADDRESS: Send the original and two (2) copies of the comments to: Secretary, Maritime Administration, Nassif Building, Room 7300, 400 Seventh Street SW., Department of Transportation, Washington, D.C. 20590. To expedite the review of the comments, the agency requests, but does not require, that an additional eight (8) copies of the comments be submitted.

Any commentor who desires acknowledgement of MARAD's receipt of comments should include a self-addressed and stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Arthur B. Sforza, Acting Director, Office of Ship Operating Costs, Maritime Administration, Washington, D.C. 20590, Telephone (202) 382-6036..

SUPPLEMENTARY INFORMATION:

a. Authority

Section 901(b)(1) of the Merchant Marine Act, 1936, as amended, 46 U.S.C. 1241(b)(1), (the Act), requires that at least 50 percent of any equipment, materials, or commodities purchased by the United States or for the account of any foreign nation without provision for reimbursement, or acquired as the result of funds or credits from the United States, should be transported on privately owned U.S.-flag commercial vessels if such vessels are available at a fair and reasonable rate. The equipment, materials, or commodities purchased and so transported are called "preference cargoes." Section 901(b)(2) and Section 204(b) of the Act, 46 U.S.C. 1241(b)(2) and 46 U.S.C. 1114(b), provides the authority for MARAD (by delegation from the Secretary of Transportation) to issue regulations governing the administration of section 901(b)(1) of the Act.

Present regulations implementing section 901(b)(2) of the Act, 46 CFR Part 381, require government agencies to comply with section 901(b)(1) of the Act, and to submit data to MARAD on U.S. and foreign flag carriage of preference cargoes under their control.

b. Legal Background

In 1978, Aeron Marine Shipping Company and its affiliated companies (collectively, the Berger Group)[1]

[1] The Berger Group companies involved are: Aeron Marine Shipping Company, American Shipping, Inc., Aquarius Marine Company, Altas Marine Company, Pacific Shipping Inc., and Worth Oil Transport Company.

petitioned MARAD[2] for permission to carry dry bulk preference cargoes on seven of its subsidized bulk cargo vessels. These cargoes had previously been carried exclusively on unsubsidized vessels. In Docket No. A–132, MARAD, through the Maritime Subsidy Board (Board), granted permission for two Berger Group vessels to carry preference cargoes. They were also allowed to receive ODS, while carrying preference cargo, subject to the condition that the vessels carry these cargoes at world rates (the equivalent of freight rates that would be charged by foreign-flag vessels). In addition, MARAD agreed to pay a fuel allowance on the outbound leg of each voyage performed by the two vessels, with provision for ending the allowance if world rates exceeded the break-even rate for the vessels.

The Berger Group sought review of MARAD's action in the U.S. District Court for the District of Columbia, arguing that (1) all seven vessels should be admitted to the dry bulk preference trades with ODS; (2) MARAD did not have the authority to set rates; and (3) even if MARAD could set rates, the rate scheme chosen by MARAD was unreasonable. On October 21, 1981, the District Court ordered MARAD to admit all seven ships, ruled that MARAD had ratemaking authority, and found that the rate scheme chosen by MARAD was reasonable. The Court held that MARAD had broad authority to establish a rate formula and to provide guidance on fair and reasonable rates to other agencies and remanded to MARAD the issue of whether a priority system was necessary to protect unsubsidized carriers in the preference trade. The Court doubted that a priority system could be justified *Aeron Marine Shipping Co.* v. *United States*, 525 F. Supp. 527 (D.D.C. 1981).

On August 4, 1982, MARAD admitted the remaining five Berger vessels under the same terms and conditions applied to the first two vessels and also decided that a priority system was not justified. The Berger Group appealed the District Court's decision on the rate issues to the U.S. Court of Appeals for the District of Columbia. The American Maritime Association also filed motions in that Court to rescind the order admitting all seven vessels. On November 23, 1982 the Court of Appeals affirmed the District Court's order for admission of all seven vessels and MARAD's authority to set rates. However, it reversed the District Court on the issue of the reasonableness of the rate system adopted by MARAD and instructed the District Court to remand the matter to MARAD for reconsideration of a proper rate for subsidized vessels. *Aeron Marine Shipping Co.* v. *United States*, 695 F. 2d 567 (D.C. Cir. 1982).

In response to the remand, MARAD published a Tentative Order *Aeron Marine Shipping Co., et al.*, Docket No. A–132, 22 SRR 319 (MSB, August 31, 1983), seeking public comment on a proposal to permit subsidized bulk cargo vessels to participate in the dry bulk preference trades, using a fair and reasonable rate. Normally, for the unsubsidized vessel, the rates are based on an operator's total costs for preforming a voyage in the preference trade, with an allowance for profit. Under the Tentative Order, however, the fair and reasonable guideline rates for a subsidized vessel would be reduced by the amount of ODS received by the vessel for the voyage. In these circumstances, bids for perference cargoes submitted by the subsidized operators would be evaluated by the agency in the same manner as bids by unsubsidized operators.[3]

On September 16, 1983, the U.S. District Court approved a stipulation that gave immediate effect to MARAD's action in the Tentative Order, by allowing the Berger Group vessels to carry dry bulk preference cargoes at a fair and reasonable rate while still receiving ODS. *Aeron Marine Shipping Company* v. *United States*, Civil Action No. 79–2048 (D.D.C., September 16, 1983).

On December 22, 1983, MARAD issued its Final Order in Docket No. A–132, which adopted many of the provisions of the Tentative Order. In that order, MARAD also directed the immediate preparation of an appropriate rule to accommodate objections raised during the administrative proceeding. That order is now administratively final, since the Secretary of Transportation did not exercise her right of review.

On January 10, 1984, the U.S. Court of Appeals for the District of Columbia stayed the U.S. District Court's September 16, 1983 order, approving a stipulation that gave immediate effect to MARAD's action in the Tentative Order. The stay is effective pending disposition on the merits of the appeals of Aeron Marine Shipping Company and Phoenix Bulkship I. The Court of Appeals ordered that, when MARAD's December 22 order becomes final pursuant to 46 CFR 202, the parties were to show cause why the appeals should not be dismissed as moot.

c. Present Procedures

Under present procedures, when considering bids received for a preference cargo by an unsubsidized operator, the agency requests that MARAD provides a guideline rate (a rate determined by MARAD as fair and reasonable) for the vessel with the lowest responsive bid. When the lowest bid for a U.S.-flag vessel is determined, the cost actually paid by the agency is either: (1) The difference between existing foreign-flag rates and the lowest responsive bid offered for a U.S.-flag vessel; or (2) the cost of the lowest bid offered for a U.S.-flag vessel transporting the cargo. For example, the U.S. Department of Agriculture (USDA) pays the difference between the existing foreign-flag rate and the lowest responsible bid offered for a U.S.-flag vessel, while the Department of State's Agency for International Development pays or finances the cost of the lowest bid offered for U.S.-flag vessel. A bid that exceeds MARAD's guideline rate would not be accepted. The rate paid by the agency is the lowest acceptable bid equal to or less than the guideline. Under the terms of the Tentative Order, the guideline rate that MARAD provided to the agency for a subsidized vessel was reduced by the amount of ODS payable for that voyage. The agency was not required to consider ODS as part of the total cost of the bid to the government.

d. Comments on the Tentative Order

In its Tentative order, MARAD, through the Board, invited comments from parties to the proceeding. A major point raised in the comments was the inequity caused when an operator receiving ODS bids for cargo against an operator not receiving ODS. Commentors also argued that payment of ODS will result in additional costs to the government for the carriage of

[2] The Maritime Subsidy Board (Board) is an operating part of MARAD and the Department of Transportation. For convenience, references to MARAD include the Board, unless otherwise specified.

[3] 46 CFR 381.2(c) lists the departments or agencies having responsibility under the cargo preference program. These department or agencies include but are not limited to the following, or, as appropriate, their successor departments or agencies: (1) Department of State, (2) Department of Agriculture, (3) Department of Defense, (4) Post Office Department, (5) General Services Administration, (6) Export-Import Bank of the United States, (7) National Aeronautics and Space Administration, (8) Inter-American Development Bank, (9) U.S. Information Agency, (10) Department of Interior, (11) Department of Commerce, (12) Department of Treasury, (13) Department of Education, (14) Department of Health and Human Services, (15) Department of Housing and Urban Development, (16) Department of Transportation, (17) Atomic Energy Commission, (18) Tennessee Valley Authority, (19) Veterans Administration, (20) Smithsonian Institution, and (21) Library of Congress.

preference cargoes, since, they argue, less efficient subsidized vessels take business in the preference trade from more efficient unsubsidized vessels, because the ODS paid to the subsidized operators offsets these operators' expenses. These commentors contended, therefore, that subsidized vessels would not be subject to the same market forces as unsubsidized vessels.

The following example compares the costs of using subsidized and unsubsidized vessels in the carriage of dry bulk preference cargoes and confirms the points raised in the comments received on MARAD's Tentative Order. In the example, the agency evaluating the bids is assumed to be the USDA, which pays an operator the difference between the U.S. and the foreign rates.

Cost per ton of cargo	Subsidized vessel	Unsubsidized vessel
U.S.-flag guideline rate	[1] $60	$65
Foreign flag rate	−25	−25
Cost to USDA	35	40
ODS	+20	.....
Cost to government of cargo carried	55	40

[1] The amount for the subsidized vessel does not include ODS.

This example shows that if unsubsidized and subsidized vessel bids were evaluated by USDA on the same basis and the estimated subsidy of $20 per ton is not taken into account, the subsidized vessel would be approved by USDA as the lowest bidder even though the actual total cost to the government is $55 per ton ($20 subsidy plus $35 U.S./foreign rate difference). On the other hand, the unsubsidized operator, whose cost to the government would have been $40 per ton ($65 per ton minus the $25 per ton foreign flag rate), would not be approved for carriage of the cargo even though the overall cost to the government of the cargo carried would be lower than that of the subsidized operator.

MARAD agrees with those commentors who argue that, unless the amount of ODS is taken into consideration by the agencies, subsidized vessels could have an unfair advantage. MARAD is, therefore, adopting this interim final rule setting forth procedures in which the amount of ODS paid to operators of subsidized vessels will be considered as an added cost per ton in the bidding process and will be considered in the process of calculating the fair and reasonable guideline rates. The rule will eliminate the potential inequities to unsubsidized vessels and assure that dry bulk preference cargoes are carried at the lowest cost to the government.

e. The Procedures in This Interim Final Rule

Where subsidized bulk cargo vessel operators bid for the carriage of dry bulk preference cargoes, the procedures set forth in this interim final rule require that the agency request, and MARAD provide, the ODS cost per ton of cargo carried for the voyage, as well as the guideline rates that MARAD is obligated to provide under 46 U.S.C. 1241(b)(1).

Under this interim final rule, the agency must add the cost of ODS to the subsidized vessel operator's bid (the "augmented bid") and compare that cost to bids of any unsubsidized vessel. The agency shall then request from MARAD a fair and reasonable guideline rate for the apparent low bidder. MARAD will provide the agency with such a guideline rate, based on a calculation of the vessel operator's anticipated costs plus a reasonable amount for profit. The agency will compare this guideline rate against the subsidized operator's augmented bid (or the unsubsidized operator's bid, if it is the apparent low bidder) and approve the bid if it does not exceed the guideline rate.

If the subsidized vessel operator is the low bidder, the agency only pays it on the basis of its bid, regardless of the amount of ODS that is added into its bid for purposes of the evaluation required by the interim final rule.

MARAD believes that this rule will produce a fair rate for subsidized operators, eliminate the potential economic advantage that subsidized vessels might have over unsubsidized carriers, and ensure use of the vessel with the lowest cost to the government. MARAD believes that the rule will promote competition by rewarding vessel operators who cut operating costs and reduce profits, instead of incidentally rewarding an operator because of its receipt of subsidy. This should mean somewhat lower costs to the agencies over the long-run.

This interim final rule shall apply only to those agencies that directly pay or finance all or part of U.S.-flag ocean freight transportation costs for the carriage of dry bulk preference cargoes, in accordance with the requirement in 46 CFR Part 381.

It shall not apply to agencies that provide foreign aid by direct cash transfer payments unless specific agreements between the agency and the recipient country concerning the expenditure of such funds provide for coverage of U.S.-flag vessels.

f. EO 12291 and DOT Requirements

These amendments to 46 CFR Part 381 are considered to be non-major under Executive Order 12291 and significant under the Department of Transportation (DOT) regulatory policies and procedures (44 FR 11034; February 26, 1979).

This interim final rule is significant because it is expected to be of substantial interest to the various agencies and to the maritime industry, since the shipment of preference cargoes represents a major source of business for that industry.

It was not possible to prepare a regulatory evaluation for this interim final rule because MARAD did not have accurate information relating to essential variables needed to determine its economic impact or conduct a cost-benefit analysis. These variables would include the number of subsidized and unsubsidized vessels that would actually compete, the particular preference trade involved, the number of voyages made, the efficiencies of the vessels, and the amount of cargo. In addition, since the rule is dependent on competition through the bidding process, it is not possible to predict which operators and which agencies would benefit. In any event, MARAD will evaluate its experience under the interim final rule and is requesting comments from the public on the likely economic impact of the interim final rule. At this time, however, MARAD believes that a full regulatory evaluation is unnecessary.

g. Applicability of the Administrative Procedure Act

This rule is being made effective upon issuance for several reasons. First, MARAD's final order in Docket No. A–132, directing the preparation of this rule, does not, in itself, constitute a complete administrative action because it lacks a procedure for equitably evaluating the bids of subsidized and unsubsidized operators and determining whether bids by subsidized operators are fair and reasonable. Accordingly, unless this rule is issued with immediate effect, subsidized carriage of dry bulk preference cargo will be precluded during the immediate future. This result would be unfair, since MARAD was ordered more than a year ago to establish a fair and reasonable rate for certain subsidized operators.

Second, agencies have been shipping cargoes and will be shipping increasing quantities of such cargoes as the peak shipping period approaches. It is especially important to permit subsidized carriage to reduce competitive inequities in the bidding process and to enable carriage of the

cargoes at the lowest cost to the government during this period.

In addition, the Tentative Order, served on all parties in Docket No. A–132, invited comments on matters considered therein, which included the rate issue and questions concerning a priority system. Thus, the parties were put on notice that MARAD would issue a final decision on these matters. Finally, interested parties did submit comments in response to the Tentative Order. Those comments were considered and form, in part, the basis for this interim final rule. Moreover, MARAD is soliciting comments on these rules and will amend them should the comments warrant.

In light of these prior opportunities to comment and because the purpose of the rule is to reduce the present competitive inequities, MARAD concludes that the failure to issue this regulation with immediate effectiveness would prejudice subsidized and unsubsidized carriers alike.

Notice and comment are not required under the Administrative Procedure Act because this is a matter relating to grants and contracts. 5 U.S.C. 553(a)(2). However, even assuming the applicability of section 553 of the Administrative Procedure Act, MARAD has found for good cause, pursuant to section 553(b), for the reasons stated above, that notice and public procedure for this interim final rule is impracticable and unnecessary. For the same reasons establishing good cause, MARAD has made a determination, under section 553(d), that this rulemaking is effective upon issuance.

Notwithstanding that the lack of notice and public procedure negates the need for certification under the Regulatory Flexibility Act, the Administrator does not believe that the rule will have a significant economic impact on a substantial number of small entities. This rulemaking does not include any new or amended information collection requirement within the scope of the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

List of Subjects in 46 CFR Part 381

Freight, Maritime carriers, Reporting requirements.

PART 381—[AMENDED]

Accordingly, 46 CFR Part 381 is amended by adding a new section 381.8 to read as follows:

§ 381.8 Subsidized bulk cargo vessel participation.

(a) For the purpose of approving subsidized U.S.-flag bulk cargo vessels competing for the carriage of dry bulk preference cargoes, each department or agency having responsibility under the Cargo Preference Act of 1954 (46 U.S.C. 1241(b)), shall evaluate bids received from such vessels in the manner described in paragraph (b) of this section.

(b) When a subsidized bulk cargo vessel operator is the apparent low U.S.-flag bidder for a dry bulk preference cargo, the responsible department or agency shall evaluate the subsidized operator's bid by (1) requesting from MARAD an amount for the operating differential subsidy (ODS) applicable to the carriage of cargo as a cost per ton for performing the voyage by the apparent low bidder and any other bidders that are subsidized; (2) deriving "augmented bids" for the subsidized operators by adding the ODS amount to each subsidized operator's bid; (3) comparing the augmented bids of the subsidized operators and the bids of unsubsidized operators to determine the apparent low bidder; (4) requesting from MARAD a fair and reasonable guideline rate (which shall be based on the operator's anticipated costs for the voyage plus a reasonable amount for profit) for the apparent low bidder; and (5) comparing the guideline rate to the subsidized operator's augmented bid or the unsubsidized operator's bid.

(c) The requirements of this section shall apply only to those departments or agencies that directly pay or finance all or part of U.S.-flag ocean freight transportation costs for the carriage of dry bulk preference cargoes, in accordance with this part. The requirements of this section shall not apply to departments or agencies that provide foreign aid by direct cash transfer payments unless specific agreements between the departments or agencies and the recipient country concerning the expenditure of such funds provide for U.S.-flag vessels.

Authority: Sec. 204(b), 901(b)(2), Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b), 1241(b)(2)); Pub. L. 97–31. (August 6, 1981)

By order of the Maritime Administrator.

Dated: January 19, 1984.

Georgia P. Stamas,

Secretary.

[FR Doc. 84–1834 Filed 1–23–84, 8:45 am]

BILLING CODE 4910–81–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1155

[Ex Parte No. 293 (Sub-2)]

Standards for Determining Rail Service Continuation Subsidies in the Northeast-Midwest Region of the United States

AGENCY: Rail Services Planning Office, Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: As a result of Consolidated Rail Corporation's (Conrail) petition, the Rail Services Planning Office (RSPO) has decided to amend 49 CFR Part 1155. The amendment will eliminate the "Employment Level Adjustment Ratio" (ELAR) from the inflation adjustment procedure used to update off branch unit costs. The amendments will eliminate a procedure that could result in inaccurate adjustments to the updated unit cost. These amendments are to be made retroactive to all subsidy years beginning on or after January 1, 1981.

EFFECTIVE DATE: Retroactive to January 1, 1981.

FOR FURTHER INFORMATION CONTACT: James Wells, (202) 275–0840.

SUPPLEMENTARY INFORMATION: Consolidated Rail Corporation (Conrail) petitioned the Rail Services Planning Office (RSPO) to amend the Regional Subsidy Standards (49 CFR 1155). The petition requested that the "Employee Level Adjustment Ratio" (ELAR) be eliminated from the procedure used in determining the inflation adjustment.

In response to Conrail's petition RSPO published a Notice of Proposed Rulemaking (NPR) on October 5, 1983 (48 FR 45440). Responses to the NPR were received from Conrail and the State of New Jersey Department of Transportation (NJDOT).

Section 1155.7(n)(5) of the Subsidy Standards contains a procedure that allows the off branch costs developed through Rail Form A, from the latest Annual Report Form R–1, to be updated to the present period. This procedure is to account for the impact of inflation on the operating expenses of the railroad until a more current Rail Form A can be completed. Contained within this procedure is a sub process that computes the adjustment for wages and salaries. This process contains two steps. The first step applies the ratio of the average wage per hour for the current period versus the base period to the base period wages and salaries. This determines the salary and wage

expenses of the base year at the current period's level. The "Employment Level Adjustment Ratio" or ELAR is determined by dividing the average number of employees for the current period into the average number of employees for the base period. In the second step the updated base period salaries and wages are multiplied by the ELAR to reflect changes in the number of employees. The amount for salary and wages, adjusted by the ELAR, is then used in determining the overall composite index for the railroad. The composite index is applied to the various unit costs used to determine the off branch cost.

The basis of the petition was that if there was a significant drop in the number of employees it could also be accompanied by a lower number of service units on the system. If the reduction in the number of employees is significant, the updated wages and salaries for the base period could decrease. This would lower the composite index and in turn reduce the amount by which the base year unit costs are increased. The problem with this process is that the unit costs are developed with the traffic activity or service units at a specific level. Since unit costs are determined by dividing expenses by service units, a distortion could result if only one side of the equation is adjusted. If the service units were also adjusted to the level of the updated period some parity would then exist. However, the basis of the updating process is measuring changes in expenses and not railroad activity. The purpose of the indexing process is to superimpose today's costs on the base period level of activity.

As the NPR noted, the Commission in Ex Parte 411, decided February 5, 1982, eliminated the ELAR from the calculation of the Rail Cost Update Ratio procedure.

Conrail's reply on this matter contained 3 comments. First, they agreed with the NPR that the ELAR embodies inappropriate logic as an integral part of the inflation adjustment process. Secondly, they point out that in periods of increased employment the use of the ELAR could result in fictitiously lower unit costs. Their final point is because this proposed change is to correct an inconsistency in the regulations it should be made retroactive to all subsidy years beginning in calendar year 1981.

NJDOT's response centered on the issue that the inflation procedure contained in regulations should reflect efficiencies achieved by Conrail as well as increases in costs.

Conrail's first comment was not unexpected since their petition was the basis for the NPR.

The second point they raise merely points out that an erroneous result could occur no matter which direction the employment level moved. When a reduction in the employment level occurs it has the effect of lowering the inflation ratio and if the employee count increased it would raise the inflation ratio and overstate the adjusted unit costs. In other words, regardless of the direction taken by the employee level it would be an inappropriate adjustment.

The final comment, relating to the retroactivity, is the most difficult to resolve. In the past, when the Standards have been amended the changes have been effective when published in the **Federal Register** or the first day of the calendar year during which the final rule is published. These amendments were in most instances improved methods of assigning categories of on-branch costs. As such, they represented refinements to the costing methodology and not the correction of errors in the procedure.

Because RSPO believes that the proposed amendment eliminates an erroneous facet of the inflation adjustment procedure and; as such, should have never been included, the final rule will be retroactive to all subsidy years beginning on or after January 1, 1981. However, the subsidy amount, including the ELAR elimination, is still subject to the 15 percent overrun provisions included in the Standards.

NJDOT's concern that efficiencies achieved by Conrail are not reflected goes back to the purpose of the indexing procedure. As was previously mentioned in this section the purpose of the updating process is to measure the change in expenses, that relates to inflation, and not railroad activity.

The indexing procedure is only to be used until more current data is available upon which the unit costs can be recalculated for a more current period. This is necessary because the data upon which a Rail Cost Form A can be completed is only available after the conclusion of each calendar year. Therefore, § 1155.7(n)(5) will be amended by eliminating § 1155.7(n)(5)(ii)(D) completely, and also amending § 1155.7(n)(5)(iii)(D) by eliminating the use of the ELAR in the calculations. In addition, these amendments are retroactive to all subsidy years that commenced on or after January 1, 1981.

This action will not significantly affect the quality of the human environment or the conservation of energy resources. Comments, however, are invited.

This action will not have a significant economic impact on a substantial number of small entities since the entities that are directly affected by this action are larger than the definitions established for small entities in the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601, et seq.). Therefore, we certify that a regulatory flexibility analysis is not required.

These final rules are published under authority of 49 U.S.C. 10362(b)(5).

List of Subjects in 49 CFR Part 1155

Railroads, Uniform System of Accounts.

Issued: January 18, 1984, by William R. Southard, Director, Rail Services Planning Office.

By the Commission.

James H. Bayne,

Acting Secretary.

Part 1155 of Title 49 of the CFR is amended as follows:

PART 1155—STANDARDS FOR DETERMINING RAIL SERVICE CONTINUATION SUBSIDIES IN THE NORTHEAST-MIDWEST REGION OF THE UNITED STATES.

§ 1155.7 [Amended]

1. In § 1155.7, paragraph (n)(5)(ii)(D) is removed and reserved for future use.

2. In § 1155.7, paragraph (n)(5)(iii)(D) is revised to read as follows:

§ 1155.7 Calculation of avoidable costs and management fees.

* * * * *

(n) * * *

(5) * * *

(iii) * * *

(D) Total employee compensation would be the sum of: the subsidy year total railroad's salaries and wages, paragraph (n)(5)(iii)A) of this section; plus U.S. Government old age retirement and unemployment insurance (including medicare and supplemental annuities), paragraph (n)(5)(iii)(B) of this section; plus Employee Health and Welfare Expenses, paragraph (n)(5)(iii)(C) of this section.

* * * * *

[FR Doc. 84-1949 Filed 1-23-84; 8:45 am]
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FEDERAL RESERVE SYSTEM

12 CFR Part 215

[Docket No. R-0436]

Loans to Executive Officers, Directors, and Principal Shareholders of Member Banks; Regulation O; Technical Amendment

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Technical amendment.

SUMMARY: The Board is making a technical amendment to 12 CFR Part 215, Regulation O, published at 48 FR 56934 (December 27, 1983).

FOR FURTHER INFORMATION CONTACT: Jennifer Johnson, Senior Counsel, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, (202) 452-3584.

SUPPLEMENTARY INFORMATION: At page 56956, footnotes 7 and 8 are renumbered footnotes 8 and 9.

Board of Governors of the Federal Reserve System, January 23, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2114 Filed 1-23-84; 11:00 am]

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Proposed Rules

Federal Register
Vol. 49, No. 16
Tuesday, January 24, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83-AGL-27]

Proposed Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Columbus, Ohio, transition area. A recent review of the currently published description revealed discrepancies in the areas involved. The correct description is presented in the test of this notice.

The intended effect of this action is to insure segregation of the aircraft using approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions in controlled airspace.

DATES: Comments must be received on or before March 2, 1984.

ADDRESS: Send comments on the proposal in triplicate to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 83-AGL-27, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

An informal docket will also be available for examination during normal business hours in the Airspace, Procedures, and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: This notice replaces Airspace Docket No. 83-AGL-9. The new Columbus, Ohio, transition area description accurately references the areas involved. The airspace associated with the Washington Court House, Ohio; Newark, Ohio; Mt. Vernon, Ohio; Delaware, Ohio; and Marysville, Ohio, transition areas, will be redescribed separately in later airspace dockets. The airspace associated with the Circleville, Ohio, transition area, was redescribed in Airspace Docket No. 82-ALG-28 and is, therefore, excluded from this description.

Minimum descent altitudes may be established below the floor of the 700 foot controlled airspace.

Aeronautical maps and charts will reflect the defined areas which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83-AGL-27." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability Of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2, which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulation (14 CFR Part 71) to alter the transition area airspace near Columbus, Ohio.

Section 71.181 of Part 71 of the Federal Aviation Regulations was published in Advisory Circular AC 70-3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

PART 71—[AMENDED]

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Columbus, OH

That airspace extending upward from 700 feet above the surface within an 8.5 mile radius of Port Columbus International Airport, Columbus, Ohio, (latitude 39°59'42" N., longitude 82°52'11" W.); within a 14-mile radius of Rickenbacker ANGB, Columbus, Ohio, (latitude 39°49'00" N., longitude 82°56'00" W.); excluding that portion overlying the Circleville, Ohio, transition area; within an 8.5 mile radius of Ohio State University Airport, Columbus, Ohio, (latitude 40°04'08" N., longitude 83°04'24" W.); and within 3.5 miles either side of the 096° bearing from the Don Scott RBN (latitude 40°04'49" N., longitude 83°04'43" W.), extending from the RBN to 11.5 miles east of the RBN; within an 8.5 mile radius of Bolton Field Airport,

Columbus, Ohio, (latitude 39°54'07" N., longitude 83°08'12" W.); and within an 8.5 mile radius of Fairfield County Airport, Lancaster, Ohio, (latitude 39°45'21" N., longitude 82°39'27" W.).

(Sections 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendment are necessary to keep them operationally current. Therefore, it is certified that this—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Des Plaines, Illinois, on January 9, 1984.

Paul K. Bohr,

Director, Great Lakes Region.

[FR Doc. 84-1783 Filed 1-23-84; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 270

[Release No. IC-13724; File No. S7-3-84]

Exemption for Custody of Investment Company Assets Outside the United States

AGENCY: Securities and Exchange Commission.

ACTION: Revised proposed rule.

SUMMARY: The Commission is publishing for public comment a revised rule proposal which would provide an exemption from the custody requirements of the Investment Company Act of 1940 to permit U.S. registered management investment companies to maintain their foreign securities, cash and cash equivalents with eligible foreign custodians under certain conditions. The rule would also permit Canadian management investment companies that are registered under the Act pursuant to the conditions of rule 7d-1 (17 CFR 270.7d-1) to maintain their foreign securities, cash and cash equivalents with overseas branches of qualified U.S. banks under certain conditions. The Commission has decided to resolicit public comment in view of changes in the revised rule proposal with respect to the definition of eligible foreign custodians.

DATE: Comments must be received by March 1, 1984.

ADDRESSES: Send comments in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, D.C. 20549 (Reference to File No. S7-3-84). All comments received will be available for public inspection and copying in the Commission's Public Reference Room.

FOR FURTHER INFORMATION CONTACT: Elizabeth K. Norsworthy, Chief, or Brion R. Thompson, Esq., Office of Regulatory Policy, (202) 272-2048, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commissionis asking for public comment on a revision of proposed rule 17f-5 under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*) ("Act") which would permit a U.S. registered management investment company to maintain the company's foreign securities, cash and cash equivalents with eligible foreign custodians under certain conditions. A Canadian management investment company that is registered under the Act pursuant to the conditions of Rule 7d-1 would also be permitted to maintain its foreign securities, cash and cash equivalents with overseas branches of qualified U.S. banks under certain conditions. This revised proposal is based upon comments received on rule 17f-5 as initially proposed in Investment Company Act Release No. 12354 (April 5, 1982) (47 FR 16341, April 16, 1982) as well as the Commission's rethinking of certain issues raised by the original proposal.

I. Background

Section 17(f) of the Act (15 U.S.C. 80a-17(f)) provides that a registered management investment company may place and maintain its securities and similar assets in the custody of (1) a bank or banks[1] having the qualifications set forth in section 26(a)(1) of the Act (15 U.S.C. 80a-26(a)(1));[2] (2) a member firm of a national securities exchange ("member firm"), subject to such rules and regulations as the Commission may prescribe; (3) the investment company itself, but only in accordance with such rules, regulations and orders as the Commission may prescribe; or (4) a system for the central handling of securities established by a national securities exchange or national securities association registered with the Commission or such other person as may be permitted by the Commission.

As originally enacted by Congress in 1940, section 17(f) contemplated that investment company securities would be kept only in the custody of banks, member firms or the company itself. In 1970, section 17(f) was amended to permit investment company securities to be kept in a system for the central handling of securities established by a national securities exchange or a national securities association or such other person as may be permitted by the Commission. In addition, the amendments required investment companies which keep securities in a qualified bank also to keep cash assets in the custody of that bank or in accordance with such rules and regulations or orders as the Commission might prescribe.[3]

Pursuant to its rule-making authority under the section and the Act, the Commission adopted rule 17f-1 (17 CFR 270.17f-1) governing custodial arrangements with member firms,[4] rule 17f-2 (17 CFR 270.17f-2) governing self-custody,[5] rule 17f-3 (17 CFR 270.17f-3) authorizing certain petty cash accounts,[6] and rule 17f-4 (17 CFR 270.17f-4) designating clearing agencies registered with the Commission under section 17A of the Securities Exchange Act of 1934 (15 U.S.C. 78q-1(a)) ("Exchange Act") and the Treasury/Federal Reserve book-entry system as qualified custodians.[7] In

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[1] Section 2(a)(5) of the Act (15 U.S.C. 80a-2(a)(5)) defines "bank" to include "(A) a banking institution organized under the laws of the United States, (B) a member bank of the Federal Reserve System, (C) any other banking institution or trust company, whether incorporated or not, doing business under the laws of any State or of the United States, a substantial portion of the business of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to national banks under the authority of the Comptroller of the Currency, and which is supervised and examined by State or Federal authority having superision over banks, and which is not operated for the purpose of evading the provisions of the Act, and (D) a receiver, conservator, or other liquidating agent of any institution or firm included in clauses (A), (B), or (C) of this paragraph."

[2] Section 26(a)(1) provides that, in order to qualify as a trustee or custodian for the purposes therein, a bank generally "shall have at all times an aggregate capital, surplus, and undivided profits of a specified minimum amount, which shall not be less than $500,000."

[3] Pub. L. 91-547, section 9(a), 84 Stat. 1420, effective Dec. 14, 1971.

[4] *See* Investment Company Act Release No. 5 (October 30, 1940) (5 FR 4317), amended by Investment Company Act Release No. 1112 (October 3, 1947) (13 FR 6717).

[5] *See* Investment Company Act Release No. 172 (July 31, 1941) (6 FR 3827).

[6] *See* Investment Company Act Release No. 7164 (May 10, 1972) (37 FR 9989).

[7] *See* Investment Company Act Release No. 10453 (October 26, 1978) (43 FR 50889).

addition, the Commission published as appendices to the guidelines for the preparation of an investment company registration statement a model custody agreement for those situations where a qualified bank acts as custodian and a model safekeeping agreement for those instances where an investment company acts as its own custodian.[8]

Registered management investment companies which invest in securities of foreign issuers have securities of foreign issuers have encountered difficulties in locating entities in foreign countries which are qualified under section 17(f) to act as custodians. Foreign banking institutions, securities depositories and broker-dealers generally do not fall within the definition of "bank" as that term is defined in the Act;[9] foreign securities depositories are not registered with the Commission under section 17A of the Exchange Act as required by rule 17f–4;[10] and assets maintained with foreign broker-dealers would not be available for inspection as required by rule 17f–1.[11]

At present, the only facility located outside the United States which qualifies as a custodian is the overseas branch of a domestic bank.[12] According to applicants for exemptive relief under section 17(f), there are countries where there are no overseas branches of U.S. banks or where there is a branch, it does not offer suitable custodial services.[13] On several occasions when a registered management investment company has been unable to locate an overseas branch of a domestic bank to act as custodian for its securities, the Commission has granted exemptions from section 17(f): (i) to enable the company to authorize its qualified bank custodian or subcustodian to deposit certain of its securities acquired abroad in a specific foreign bank or foreign securities depository;[14] and (ii) to enable the company to deposit directly certain of its securities acquired abroad in a specific foreign securities depository.[15]

In recent years, three U.S. banks that have developed systems for establishing and maintaining custody accounts abroad have filed applications for exemptive relief with the Commission.[16] Each application filed on behalf of itself, its sub-custodians, any custodian for which it acts as sub-custodian [17] and any domestic investment company registered under the Act.[18] The relief requested was from the provisions of section 17(f) and rule 17f–4 thereunder to permit the deposit of securities of foreign issues in foreign banks and foreign securities depositories under certain circumstances. The Commission granted exemptions for such arrangements under conditions generally similar to those granted to individual investment companies.[19]

In applying for exemptive relief from section 17(f), applicants have contended that, without such relief, a registered management investment company intending to acquire foreign securities and unable to locate a qualified custodian in the country or region where the securities are to be acquired, must either move the securities away from the primary market or forego effecting transactions in that particular securities market.[20] Applicants have pointed out that any movement of securities away from the primary market has several disadvantages for the investment company. The best price for the securities is ordinarily obtained in the primary market.[21] Additional costs are incurred in hiring a servicing agent in the primary market locality to collect and disseminate information concerning the securities,[22] in transferring the

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[8] *See* Investment Company Act Release No. 7221 (June 9, 1972) (37 FR 12790).

[9] *See supra* note 1. After adoption of the International Banking Act of 1978 (12 U.S.C. 3101 *et seq.*) ("Banking Act"), a foreign banking institution with a branch of branches located in the United States might fall within the definition of "bank" contained in clause (C) of section 2(a)(5) since section 3105(c)(1) of the Banking Act (12 U.S.C. 3105(c)(1)) assigns primary responsibility for supervising and examining the U.S. branches of foreign banking institutions to the Comptroller of the Currency, state banking authorities and the Federal Deposit Insurance Corporation.

[10] It should be noted, however, that where an investment company has proposed to authorize its qualified bank custodian to use a foreign securities depository as a clearing agency, not as a custodian, the Division of Investment Management has taken a no-action position based on the facts presented. *See* response to request to Lehman Multi-Currency Assets Fund, Inc. (Pub. avail. April 5, 1979).

[11] Paragraph (b)(4) of rule 17f–1 requires verification of a company's assets at the end of each annual and semi-annual fiscal period by the company's independent public accountant, as well as at least one unannounced examination at some other time during the year. Paragraph (b)(5) of that rule states that the company's assets shall, at all times, be subject to inspection by the Commission.

[12] *See* Investment Company Act Release No. 2874 (May 4, 1959), permitting International Resources Fund, Inc. to move its African securities from the custody of the London branch of Chase Manhattan Bank, N.A. ("Chase") to a wholly-owned subsidiary of Chase in Johannesburg. The Fund's application for exemptive relief was filed after the Commission determined that a foreign incorporated subsidiary (as opposed to a branch) of a domestic bank does not meet the definition of "bank" set forth in section 2(a)(5) of the Act.

It should be noted that, like an overseas branch of a U.S. bank, an overseas branch of a member firm would not be considered a foreign entity. However, as a practical matter, investment companies do not maintain their assets with overseas member firm branches (in contrast to overseas bank branches) because the assets would not be available for inspection by the companies' independent public accountants and the Commission as required by rule 17f–1. (*See supra* note 11)

[13] *See, e.g.*, applications of International Resources Fund, Inc. (File No. 812–1218) and T. Rowe Price New Era Fund, Inc. (File No. 812–4152), representing that, at the times of the filing of the respective applications, there were no branch offices of a domestic bank in the Union of South Africa and Australia; Eurofund, Inc. (File No. 812–1242), representing that, at the time of the filing of the application, Eurofund's custodian had no branch offices in the six member nations of the European Common Market; and The Chase Manhattan Bank (File No. 812–4475), representing that, at the time of the filing of the application, certain of its overseas branches did not offer custodial services.

[14] *See* International Resources Fund, Inc., Investment Company Act Release Nos. 2866 (April 17, 1959) (24 FR 3170) and 2874 (May 4, 1959); Eurofund, Inc., Investment Company Act Release Nos. 2913 (Sept. 28, 1959) (24 FR 8013) and 2989 (March 1, 1960) (39 SEC 717 (1960)); Transatlantic Fund, Inc., Investment Company Act Release Nos. 3740 (July 15, 1963) (28 FR 7408) and 3801 (October 23, 1963); American and Israel Growth Fund, Inc., Investment Company Act Release Nos. 4011 (July 15, 1964) (29 FR 9851) and 4025 (July 31, 1964); Israel American Diversified Fund, Inc., Investment Company Act Release Nos. 4174 (March 3, 1965) (30 FR 3250) and 4208 (March 31, 1965); T. Rowe Price New Era Fund, Inc., Investment Company Act Release Nos. 10051 (December 8, 1977) (42 FR 63505) and 10086 (January 6, 1978); Merrill Lynch Pacific Fund, Inc., Investment Company Act Release Nos. 12667 (September 16, 1982) (47 FR 42224) and 12744 (October 15, 1982).

[15] *See* The Mexico Fund, Inc., Investment Company Act Release Nos. 13379 (July 8, 1983) (48 FR 32420) and 13422 (August 2, 1983).

[16] File Nos. 812–4475 (application of Chase Manhattan Bank, N.A. ("Chase")), 812–5109 (application of The Bank of New York) and 812–5651 (application of the First National Bank of Boston). *See also* Investment Company Act Release No. 12002 (October 23, 1981) (46 FR 53587), the notice of the Chase application as amended and Investment Company Act Release No. 12590 (August 10, 1982) (47 FR 36318), the notice of The Bank of New York application.

[17] Although these U.S. bank applicants requested relief under section 17(f) for themselves and for their foreign sub-custodians, it is only registered management investment companies which are directly subject to the proscriptions of section 17(f)

[18] The requested relief did not encompass any foreign investment company authorized to register under the Act pursuant to section 7(d) (15 U.S.C. 80a–7(d)). Section 7(d) authorizes the Commission upon application by an investment company, organized or otherwise created under the laws of a foreign country, to issue a conditional or unconditional order permitting such company to register under the Act and to make a public offering of its securities in the United States.

[19] *See* Investment Company Act Release No 12053 (November 20, 1981), granting the Chase application as amended and Investment Company Act Release No. 12858 (September 14, 1982), granting The Bank of New York application.

[20] *See, e.g.*, Case application as amended, at p. 10

[21] For example, International Resources Fund, Inc., represented in an application filed with the Commission (File No. 812–1218) that the best market for South African securities was in Johannesburg The Fund further stated that, while such securities could be purchased on the London market, such purchases were subject to a 2% *ad valorem* tax. *See* Investment Company Act Release No. 2874 (May 4, 1959).

[22] Since foreign securities are often bearer instruments whose beneficial owners are not identifiable to the foreign issuer, notices with

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securities to an eligible custodian, in exchanging coupons for interest or dividends or for new shares in connection with a rights offering,[23] and in insuring the securities and coupons for loss in transit. The company may be prevented from, or delayed in, selling securities which have been moved away from the primary market because the company is unable to make timely delivery of the securities to a prospective purchaser.[24]

The Commission believes that it is now appropriate to dispense with the requirement of individual applications and to delegate to investment company directors the responsibility for approving foreign custody arrangements. The present requirements concerning foreign custodianship, unlike the requirements concerning domestic custodianship, may make it difficult or even impossible for funds to make certain investments which they find desirable. Further, the directors should be in a position to evaluate objectively whether foreign custodial arrangements are in the best interests of the company and its shareholders and are adequate to prevent the potential problem addressed by section 17(f), the loss of the highly liquid assets of investment companies. The Commission believes that it is particularly important to allow investment companies this flexibility in view of the extent to which companies are now investing in foreign securities and, as described above, may be finding their investment opportunities curtailed.

II. Discussion

A. Rule 17f–5 as Initially Proposed

Rule 17f–5 as initially proposed would have permitted any management investment company registered under the Act, other than a foreign investment company permitted to register pursuant to section 7(d) of the Act, to place and maintain any foreign securities of the company in foreign banks and foreign securities depositories so long as the following conditions were met: (1) Prior to placing any such securities in any foreign bank or foreign securities depository, a majority of the board of directors: (a) Determined that maintaining the securities in a particular country or countries is consistent with the best interests of the company; (b) determined that maintaining the securities in a particular foreign bank or foreign securities depository is consistent with the best interests of the company; and (c) approved, as consistent with the best interests of the company, a custody agreement which would govern the manner in which the securities would be maintained; and (2) a majority of the board of directors, as soon as practicable after any material change of circumstances, and in any event at least annually, reviewed and approved the continuance of the custody agreement and custody arrangements made pursuant thereto as consistent with the best interests of the company.

The rule as initially proposed would have defined "foreign securities" to include securities issued and sold outside the United States by a foreign government, a national of any foreign country or a corporation or other organization incorporated or organized under the laws of any foreign country and certificates of deposit, evidences of indebtednes and other similar securities issued or guaranteed by the Government of the United States or by any state or any political subdivision thereof or by any agency thereof or any securities issued by any entity organized under the laws of the United States or of any state thereof which have been issued and sold outside the United States. "Foreign Bank" would have been defined to mean a banking institution organized in and regulated by the banking authorities of a country other than the United States. "Foreign Securities Depository" would have been defined to mean an entity incorporated or organized under the laws of a foreign country which operates a system outside the United States for the central handling of securities and which is regulated by a foreign government or agency thereof. The rule as initially proposed would also have contained an instruction summarizing the factors dicussed in the proposing release which the directors should consider in making their determinations.

The Commission received fifteen comment letters on the proposal, suggesting several technical and substantive changes. Substantive criticism focused primarily on the scope of the rule and on the level of responsibility for foreign custodial arrangements which should be assumed by the directors, officers, adviser and U.S. intermediary, if any.

B. Modification of the Scope of the Rule

In response to comments received and in view of the Commission's rethinking of certain issues raised in the original release, the rule has been modified with respect to the type of investment companies which may rely on the rule, the type of assets which such companies may maintain with foreign custodians, and the type of entities which are eligible to act as foreign custodians.

1. *Eligible investment companies.* The revised proposed rule has been drafted to provide a limited exemption for Canadian management investment companies that are registered under the Act pursuant to the conditions of rule 7d–1 in view of the Commission's extensive experience with such companies. As observed by one commentator, to make a limited exemption available to Canadian companies would be consistent with the position taken by the Commission in adopting rule 7d–1, which provides definitive standards upon which Canadian investment companies may rely in preparing applications to register under the Act. At the time rule 7d–1 was proposed, the Commission stated that the conditions and arrangements set forth in the proposed rule were established "in light of the high degree of comity that has prevailed between this country and Canada, the existing treaties, the proximity of the two countries, their joint heritage of the common law, and the essential similarity of statutes and law relating generally to corporations and the rights of the stockholders."[25]

Although rule 7d–1 presently requires that all of an applicant's securities and cash, other than cash necessary to meet administrative expenses, be maintained in the custody of a qualified U.S. bank in the United States, the Commission believes that rule 7d–1 contains a sufficient number of other provisions addressed to jurisdictional concerns[26] to permit Canadian investment companies to maintain their assets in overseas branches of qualified U.S. banks. Prior individual exemptive orders have permitted Canadian companies to maintain their assests in the care of overseas branches so long as a minimum percentage of the assets remain in the custody of a qualified U.S.

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respect to such securities (e.g., tender or redemption offers) are published in the locality of the primary market instead of being mailed to the beneficial owners. Unless the investment company has an agent in the primary market area which will convey such information, the company is deprived of adequate notice with respect to a portion or all of its portfolio. *See* Chase application as amended, at pp. 10–11.

[23] Since foreign securities are often bearer instruments, the beneficial owner must present coupons to the issuer in order to exercise rights appurtenant to those instruments. *See, e.g.*, notice of application of America and Israel Growth Fund, Inc., Investment Company Act Release No. 4011 (July 13, 1964) (29 FR 19851).

[24] *See* Chase application as amended, at p. 10

[25] Investment Company Act Release No. 1945 (January 28, 1954) (19 FR 2585).

[26] *See, e.g.*, paragraph (d)(6) which requires the applicant to agree that any shareholder shall have the right to bring suit at law or in equity in any court of competent jurisdiction in the United States and Canada.

bank in the United States.[27] A new paragraph (c) has been added to the proposed rule, permitting Canadian companies to maintain any percentage of their assets in overseas U.S. bank branches, provided that the directors: (i) Have determined that maintaining the company's assets in a particular country or countries is in the best interests of the company; (ii) establish a system to monitor such arrangements; and (iii) at least annually, review and approve the continuance of such arrangements as consistent with the best interests of the company and its shareholders. Paragraph (b)(8)(v) of rule 7d–1 would be amended accordingly. A new paragraph has also been added to the revised proposed rule to define "qualified U.S. bank." This definition generally tracks the definition of "bank" contained in section 2(a)(5) and the qualifications prescribed in paragraph (1) of section 26(a) for the trustees of unit investment trusts.[28]

Certain of the commentators suggested making rule 17f–5 available to all foreign investment companies, arguing that the omission of foreign funds would place such funds at a significant and unfair competitive disadvantage. One of these commentators argued that, once a foreign fund has been permitted to register pursuant to section 7(d) of the Act, the Commission's jurisdictional concerns should be resolved, because a statutory condition to registration under that section is a Commission finding that "it is both legally and practically feasible effectively to enforce the provisions of (the Act) against such company." Other commentators believed that the custody of foreign investment company assets should be considered separately from the instant rule-making proceeding. The Commission believes that, with the exception of Canadian companies using foreign branches of U.S. banks, foreign custodial arrangements of foreign investment companies should be evaluated in the context of individual applications in order to address adequately the potential difficulties which a U.S. shareholder or the Commission may encounter in obtaining jurisdiction over, or enforcing a judgment against, such foreign companies and their officers and directors.

Although one commentator observed that unit investment trusts ("UITs") should also be permitted to rely on the rule, the proposal has not been amended to include such trusts because rule 17f–5 assigns a critical role to the directors in assessing foreign custody arrangements and UITs have no directors.[29] Comment is requested, however, as to whether a companion rule to rule 17f–5 should be adopted under section 26 (15 U.S.C. 80a–26), the section of the Act that addresses custody arrangements of UITs, that would assign to the directors of a UIT sponsor the same responsibilities assigned to management investment company directors under rule 17f–5.

2. *Type of assets which may be maintained abroad.* The revised proposal would permit investment companies to maintain cash and cash equivalents, as well as foreign securities, in the care of a foreign custodian. A majority of the commentators observed that investment companies would need to keep cash and cash equivalents abroad, mainly in order to pay for securities. According to these commentators, to wire cash or cash equivalents from the United States for purchases abroad would be impractical. The investment company's directors, in approving foreign custody arrangements for cash or cash equivalents, should, however, ensure that the amount of cash or cash equivalents maintained in the care of eligible foreign custodians is limited to an amount reasonably necessary to effect the company's foreign securities transactions.

The definition of "foreign securities" is expanded in the revised proposal to allow companies to keep outside the United States those securities which are primarily traded abroad but which may also be sold in the United States. This change is made in response to commentator observations that securities of U.S. issuers may have a significant trading market outside the United States, just as securities of foreign issuers may also be sold in the United States. Investment companies acquiring foreign securities would be permitted to keep them abroad so long as the companies met the conditions of foreign custody in the rule. The Commission does not agree, however, with commentators who believed that the rule should be expanded to allow investment companies to maintain any assets with foreign custodians, for there should be a nexus between the scope of the rule and its purpose, *e.g.*, to give investment companies the flexibility to keep abroad assets purchased or intended to be sold abroad.

3. *Eligible foreign custodians.* The proposal has been revised to refer to "eligible foreign custodians" and to define that term to include certain foreign banking institutions and trust companies and securities depositories and clearing agencies. Since, as commentators pointed out, non-bank trust companies may also be acceptable foreign custodians, the revised proposal refers to trust companies as well as banking institutions. Similarly, since the concept of "bank" may change from country to country, instead of specifying that foreign banking institutions and trust companies must be regulated by the "banking" authorities of the country where they are located, the revised proposal states that such entities must be regulated as such by the applicable foreign government or agency thereof.

In view of the wide disparity in regulatory systems outside the United States, the Commission believes that foreign banking institutions and trust companies should also meet a minimum size standard. To be considered eligible foreign custodians, such entities with the exception of majority-owned foreign direct or indirect subsidiaries of U.S. banks and bank-holding companies, must have a minimum stockholders' equity of $400 million (U.S.$ or the equivalent of U.S.$). Majority-owned foreign direct or indirect subsidiaries of U.S. banks and bank-holding companies must have parent banks or bank-holding companies with a minimum stockholders' equity of $200 million.[30]

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[27] *See, e.g.*, Templeton Growth Fund, Ltd., Investment Company Act Releases Nos. 12613 (August 24, 1982) (47 FR 38667) and 12682 (September 22, 1982) requiring that fund to maintain no more than 30 percent of its assets in the custody of overseas branches of qualified U.S. banks

[28] Since a foreign banking institution with a U.S. branch could technically fall within the definition of "bank" contained in section 2(a)(5)(C) (see *supra* note 9), the rule definition inserts the phrase "organized under the laws of any state or of the United States" in the portion of the definition tracking section 2(a)(C).

[29] See section 5 (15 U.S.C. 80a–4).

[30] The definitional section of the rule has been drafted to cover the different types of foreign subsidiaries that may be owned by U.S. banking organizations. In particular, a subsidiary may be a direct subsidiary of a U.S. bank or bank-holding company or an indirect subsidiary of a U.S. bank or bank-holding company through an Edge or Agreement corporation. Edge and Agreement corporations are located in the United States and are authorized by section 25A of the Federal Reserve Act to carry on international banking activities. 12 U.S.C. 601–604(a), 611–631. Edge corporations are federally chartered and regulated under regulation K, 12 CFR 211.4, by the Federal Reserve Board. Agreement corporations are state chartered and subject to state banking laws. *See* Note, "Impact and Implications of International Banking Facilities," 22.3 VIRGINIA JOURNAL OF INTERNATIONAL LAW 521, 532 n. 58 (1982).

Applying the revised standard, approximately 126 foreign banks and more than 700 majority-owned foreign subsidiaries of U.S. banks and bank-holding companies would qualify as eligible foreign custodians. *See* "The Top 500 By Country," THE BANKER, June 1983, at 93 and MOODY'S INTERNATIONAL MANUAL 1982. *See also* Houpt and Martinson, "Foreign Subsidiaries of U.S.

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In response to a number of commentators who pointed out that several principal securities depositories are not regulated by any foreign government or agency thereof, the definition of "eligible foreign custodian" in the revised proposal omits that requirement. Instead, the rule would state that, in order to be an eligible foreign custodian, a foreign securities depository or clearing agency [31] must either operate the central system for handling of securities or equivalent book-entries in a particular country or operate a transnational system for the central handling of securities or equivalent book-entries.

One commentator suggested that, in lieu of requiring that foreign securities depositories be regulated by a foreign government or agency thereof, the rule could provide that such entities have a minimum number of participants and a significant operating history. Although these are aspects of a foreign securities depository or clearing agency operation which should be considered by the directors (or an intermediary custodian) in determining where the company's assets should be maintained, if the rule were to attempt to draw a base-line, such as a minimum number of participants, it might exclude certain depositories or clearing agencies which could be acceptable foreign custodians. Similarly, although another commentator suggested that the Commission identify all eligible foreign securities depositories and clearing agencies in the rule, an attempt to list all eligible entities could inadvertently omit an acceptable custodian and would probably become quickly outdated.

In the release initially proposing rule 17f–5, specific comment was requested as to whether the rule should permit registered management investment companies to keep their foreign securities in the custody of foreign entities other than foreign banks or foreign securities depositories. Although one commentator suggested that foreign borker-dealers could be used, the Commission has decided not to designate foreign broker-dealer as a separate category of eligible foreign custodians in the revised proposal primarily because investment companies have never expressed any interest in using foreign broker-dealers as custodians outside the United States.

Although one of the commentators suggested that the rule should be expanded to give investment companies the freedom to enter into self-custody arrangements with foreign banks, the Commission believes that it would be inappropriate to do so. In view of the risk involved in permitting directors, officers, employees or agents of the company to have direct access to the company's assets, rule 17f–2 (17 CFR 270.17f–2) permits self-custody arrangements only if, among other things, the assets are: (i) Maintained with a bank or other company whose functions and physical facilities are supervised by federal or state authority; (ii) Subject at all times to inspection by the Commission through its authorized employees or agents; and (iii) Verified by complete examination by an independent public accountant retained by the investment company at least three times during each fiscal year, at least two of which are to be chosen by the accountant without prior notice. Outside the United States, the banking operations of foreign banking institutions are not subject to the supervision of U.S. banking authorities, and assets maintained in those foreign banking institutions would probably not be made available for inspection by the Commission or the independent public accountants under applicable foreign law. Thus a self-custody arrangement with a foreign bank would not have the safeguards that are present when a U.S. bank is used for self custody. Moreover, it would be unduly expensive and impractical for the Commission and in many cases for the company's accountants to physically inspect assets in foreign banks.

C. Responsibility for Foreign Custodial Arrangements

1. *Involvement of directors.* As in the rule as originally proposed, the revised proposal delegates responsibility for authorizing foreign custody arrangements to the board of directors of an investment company and the instructions to the rule summarize the factors which the directors should consider in carrying out their fiduciary duty to authorize only those arrangements which are consistent with the best interests of the company and its shareholders.

Although a number of commentators objected to the inclusion of instructions, the Commissions believes that, in view of the rule's scope, the extent of departure from past practices which it authorizes, and the critical importance of the safekeeping of fund assests, it is imperative that the rule not convey an impression that foreign custody is a routine matter. By calling attention to the directors' fiduciary duty, the Commission hopes that directors are put on notice that determinations concerning foreign custody of fund assests, because of the increased risks involved, mandate a high degree of scrutiny.

The board should request assistance from experts such as the company's U.S. custodian, attorneys and accountants whenever necessary. In addition to obtaining assistance from such non-management sources, the board should also request whatever information and advice is necessary from the company's officers and investment adviser.

Selection of Country Where Securities Will Be Maintained

Pursuant to paragraph (a)(1)(i) of the rule, both as originally proposed and revised, before placing a U.S. investment company's assets in the care of an eligible foreign custodian, a majority of the board of directors would be required to determine that maintaining the securities in a particularly country or countries is consistent with the best interests of the company and its shareholders. Pursuant to paragraph (b)(1), a majority of the board of directors of a Canadian company would be required to make the same determination. In making that determination, the directors should weigh the risks involved in maintaining the securities in or near the country where the primary market for those securities is located, balanced against the benefits which the company may gain from that arrangement.

As pointed out in the notice to the Chase application, the Commission believes that, in evaluating the risks involved, the directors have a responsibility to consider whether applicable foreign law would restrict the access afforded the company's independent public accountants to books and records of an eligible foreign custodian located in that country; the company's ability to recover its assets in the event of the bankruptcy of an

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Banking Organizations," FEDERAL RESERVE STAFF STUDY NO. 120 (October 1982), at 6. An investment company could continue to rely on an exemptive order that permits the company to maintain its assets with a foreign banking institution having less than $400 million (U.S.$ or the equivalent of U.S.$) stockholders' equity or with a majority-owned foreign direct or indirect subsidiary of a U.S. bank or banking-holding company having less than $200 million stockholders' equity. Any new foreign custodial arrangement, however, would have to meet the conditions set forth in rule 17f–5.

[31] It should be noted that the revised proposal refers to foreign clearing agencies as well as foreign securities depositories since a foreign securities depository may be denominated a clearing agency in certain countries. Paragraph (b) of rule 17f–4 which governs deposits of securities in securities depositories would be amended accordingly. *See Depositories and Clearing Systems—Status as per December 31, 1981.* 2nd International Symposium of Securities Administrators (ISSA 2) (May 24–27, 1982)

eligible foreign custodian located in that country; and the company's ability to recover assets that are lost while under the control of an eligible foreign custodian located in that country.[32]

Although the independent public accountants have the option under section 30(e) of the Act (15 U.S.C. 80a–29(e)) of verifying assets owned by the company by receiving confirmation from the company's custodian, the accountants may require physical examination of the company's assets.[33] If applicable foreign law would bar U.S. accountants from conducting whatever physical examination they consider necessary to meet generally accepted auditing standards, the directors should consider the risk to which the company would be exposed by maintaining assets in that location and the extent to which use of a qualified U.S. intermediary might mitigate that risk.

If applicable foreign law would bar the company from asserting jurisdiction over, or enforcing a judgment against, a bankrupt foreign custodian or a foreign custodian responsible for loss of the company's assets, then again the directors should consider the risk to which the company would be exposed by maintaining assets in that location.

In addition, the board should consider whether difficulties in converting the company's cash and cash equivalents to U.S. dollars are reasonably foreseeable and whether the government of the country in question would be likely to expropriate, nationalize, confiscate or freeze the assets of an American company which are in the custody of a foreign custodian located there.[34]

The directors should consider whether the risks associated with the contemplated foreign custody arrangement may be mitigated by obtaining insurance or assurances of indemnification as well as whether the cost of such protection would exceed its benefits. If the directors decide that it is in the best interests of the company and its shareholders to maintain its assets in a particular country, the extent of the company's exposure to loss and the potential effect thereof upon shareholders should be disclosed, if material, in the company's prospectus.

Selection of Foreign Custodian

Under paragraph (a)(1)(ii) of the rule, both as originally proposed and revised, before placing a U.S. investment company's assets in the custody of an eligible foreign custodian, a majority of the board of directors must determine that maintaining the securities in that foreign entity is consistent with the best interests of the company and its shareholders. The Commission anticipates that, in considering the company's and its shareholders' best interests, the directors would choose a foreign custodian which provides a level of safeguards for the company's assets not materially different from that provided by the company's U.S. custodian for the company's assets in the United States.

In view of the potential difficulties in asserting jurisdiction or enforcing judgments against a foreign entity, the directors should also consider whether the foreign entity has branch offices in the United States, since the existence of a United States branch could facilitate the assertion of jurisdiction over the foreign entity by a U.S. court and the satisfaction of a judgment against the foreign entity obtained in a U.S. court.[35]

Approval of the Custody Agreement

Paragraph (a)(1)(iii) of the rule, both as originally proposed and revised, would require that, before placing a U.S. investment company's assets in the custody of an eligible foreign custodian, a majority of the board of directors approve, as consistent with the best interests of the company and its shareholders, a custody agreement which will govern the manner in which the company's assets will be maintained by that custodian.[36] In negotiating the custody agreement, the board should consider the extent to which the specific safekeeping provisions contained in prior orders and rules 17f–1 and 17f–4 should be incorporated in the agreement. Such specific provisions, as well as factors which the Commission believes might be appropriate for the board to consider in evaluating such provisions, are discussed below.

Specifically, the Commission believes that the custody agreement should provide, among other things, that: (a) the company's assets will not be subject to any right, charge, security interest, lien or claim of any kind in favor of the foreign entity or its creditors except a claim of payment for their safe custody or administration; and (b) beneficial ownership of the assets will be freely transferable without the payment of money or value other than for safe custody or administration.[37]

In addition, the directors, in considering the best interests of the company and its shareholders, should provide for the adequate segregation of the company's assets. Adequate segregation has been most recently interpreted to mean that the custodian with which the company is dealing directly should maintain the assets in an account which contains only the company's assets.[38]

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[32] It should be noted that, although the Commission has treated the overseas branch of a domestic bank as an eligible custodian (*se supra* note 12), the investment company's directors should consider whether it is in the best interests of the company and its shareholders to utilize an overseas branch in a custodial capacity without modification of the custody agreement. For example, unless there is a special provision in the agreement, foreign law may apply to the standard of care required of an overseas branch and recovery of the company's assets from the overseas branch may present considerably more difficulties than recovery of those assets from the branch's home office. *See* P. Heiniger, "Liability of U.S. Banks for Deposits Placed in their Foreign Branches", 11 LAW & POLICY IN INT. BUSINESS 903, 944–50 (1979).

[33] T. Rowe Price New Era Fund, Inc., for example, represented in an application filed with the Commission (File No. 812–4152) that the Fund had arranged with its domestic auditors to have their Australian affiliate verify by direct physical examination the accuracy of the books and records of the foreign bank, including at least one scheduled and two unscheduled audits each fiscal year. *See* Investment Company Act Release No. 10051 (December 8, 1977) (42 FR 63505).

[34] *See* note 4 to Investment Company Act Release No. 12002 (October 23, 1981) (46 FR 53567) (notice of Chase application as amended).

[35] *See* application of America and Israel Growth Fund, Inc. (811–1259) wherein counsel for the Fund represented that because Israel Discount Bank maintained a branch office in New York, service of process could be made upon the Bank at the New York branch, jurisdiction over the Bank would be acquired with respect to a cause of action arising out of an act or breach committed in Israel or New York, and any judgment obtained in New York could satisfied from the assets of the Bank's New York branch or from the assets of the Bank located in Israel. *See also* Banking Act, *supra* note 9, 12 U.S.C. 3105(a), subjecting U.S. branches of foreign banks to reserve requirements.

[36] The custody agreement or amendments thereto should be filed as an exhibit to the company's registration statement on Form N–1A (17 CFR 239.15A, 17 CFR 274.11A) or Form N–2 (17 CFR 239.14, 17 CFR 275.11a–1).

The provisions of the model custody agreements with qualified U.S. custodians which are appended to the staff's guidelines for the preparation of the registration statement for an investment company should be incorporated to the extent practicable in custody agreements governing foreign custodial arrangements (*See* Appendices A and B to Investment Company Act Release No. 7221 (June 29, 1972) (37 FR 12790).

[37] *See* Chase application as amended, at p. 6; *see also* rule 17f–1(b)(2) with respect to custody of securities by member firms; *see also* Exchange Act Release No. 10429 (October 12, 1973) (38 FR 29217) publishing the Commission's guidelines for placement by brokers or dealers of customer securities in foreign depositories, clearing agencies or banks for purposes of rule 15c3–3 under the Exchange Act (17 CFR 240.15c3–3); *see also* rule 404b–1 (29 CFR § 2550.404b–1) adopted by the Department of Labor under section 404(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104(b)) permitting a fiduciary to entrust care over a plan's assets to a U.S. broker or dealer which in turn maintains the custody of such assets in a foreign depository, clearing agency or bank.

[38] It should be noted, however, that, with the advent of dematerialization abroad, e.g., the French SICOVAM system in which ownership of securities

Continued

The directors should consider a requirement in the custody agreement that the custodian maintain adequate records with respect to the company's assets. Where the company deposits its assets directly with a foreign entity, the books of that entity should identify the assets as belonging to the company. The directors should also consider, subject to the constraints of foreign law, incorporating provisions in the custody agreement which would afford the company's independent public accountants access to the records kept by the custodian with respect to the company's assets.[39]

The custody agreement should also provide that the foreign custodian would furnish periodic reports to the company with respect to its assets, including but not necessarily limited to auditors' reports on internal accounting controls (as they relate to custody of the company's assets) and notification of any transfer to or from the company's account.[40]

Re-evaluation of Custody Agreement

Since the conditions pursuant to which investment company assets are held abroad, and the risks associated therewith, may be subject to change, paragraph (a)(2) of the revised proposed rule provides that the directors of a U.S. investment company must establish a system to monitor foreign custody arrangements made under the rule and that at least annually a majority of the directors must review and approve the continuance of such arrangements as consistent with the best interests of the company and its shareholders.[41] Paragraph (b) contains the same stipulation for the directors of Canadian companies. This clause has been reworded to make clear that, after instituting a foreign custody arrangement, the directors have an obligation not only to review that arrangement periodically but also to establish a reporting system that will alert them to a material change in circumstances.

2. *Involvement of U.S. intermediary.* The Commission has not revised the original proposal to allow investment company directors to delegate to a qualified U.S. intermediary responsibility for the selection of foreign custodians and for the contracts negotiated with those custodians. The Commission agrees with general commentator reaction that a qualified U.S. bank or member firm may have more expertise in this area and may have established relationships and operating procedures with foreign custodians which can be used in servicing its investment company clients. The revised proposed rule would of course permit the directors to consult any expert with respect to their company's foreign custodial arrangements. However, the Commission believes that the directors should retain the ultimate responsibility for approving each of those arrangements.

The Commission considered the alternative of allowing investment company directors to delegate selection and negotiation to a qualified U.S. intermediary. Under this alternative, delegation of responsibility would be permitted so long as that intermediary was a qualified U.S. bank with at least $200 million stockholders' equity or a member of a national securities exchange ("member firm") with at least $50 million net capital.[42] The directors would be required to determine generally that maintaining the company's assets in the care of eligible foreign custodians is consistent with the best interests of the company and its shareholders. The directors would also be required to approve, as consistent with the company's and its shareholders' best interests, a written contract between the company and the intermediary which provides that the intermediary will exercise reasonable care in the selection of any foreign custodian, oversee the maintenance of the company's assets by the foreign custodian, and indemnify the company in the event of any loss.[43] Specific comment is requierd on this alternative.

III. Conclusion

In summary, the revisions that have been made in proposed rule 17f–5 modify its scope to: (i) Allow a U.S. company to keep cash and cash equivalents as well as foreign securities with an eligible foreign custodian; (ii) define foreign securities to include securities which may be sold in the United States if the primary trading market is abroad; (iii) make foreign trust companies as well as foreign banks and foreign securities depositories "eligible foreign custodians"; (iv) require that, to be an "eligible foreign custodian", a foreign banking institution or trust company must have minimum stockholders' equity of $400 million (US$ or the equivalent of US$). (This requirement replaces the earlier proposal that such institutions be regulated by foreign banking authorities); (v) exempt a majority-owned foreign direct or indirect subsidiary of a U.S. bank or bank-holding company from the $400 million stockholder' equity requirement and instead require that the U.S. parent bank or bank-holding company have minimum stockholders' equity of $200 million; and (vi) substitute a requirement that a foreign securities depository or clearing agency operate a national or transnational system for handling securities or equivalent book-entries for a requirement that such entities be regulated by a foreign government or agency thereof. Canadian management investment companies registered under the Act pursuant to the conditions of rule 7d–1 would be permitted to keep foreign securities, cash and cash equivalent in the custody of overseas branches of qualified U.S. banks. Conforming amendments to rules 7d–1 and 17f–4 under the Investment Company Act are proposed to reflect these changes.

In addition, specific comment is requested on whether to allow investment company directors to delegate to a qualified U.S. intermediary the responsibility of selecting foreign custodians and negotiating the contracts with those custodians. In such cases, the intermediary would have to be a qualified U.S. bank with minimum stockholders' equity of $200 million or a member firm with minimum net capital of $50 million. The directors would also have to determine generally that the maintenance of the company's assets with eligible foreign custodians would be consistent with the best interests of the company and its shareholders and approve a written agreement which requires the intermediary to exercise

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is evidenced by book entries rather than share certificates, physical segregation of securities may no longer be feasible.

[39] *See* Chase application as amended, at p. 7

[40] The Commission understands that it is common practice for investment companies to request standard asset holding reports on either a weekly or monthly basis.

[41] *See* Chase application as amended, at p. 5; *see also* rule 17f–1(d) with respect to custody of securities by member firms and rule 17f–4 (c)(3) and (d)(5) with respect to custody of securities by registered clearing agencies and by the Federal Reserve/Treasury book-entry system.

[42] Approximately 67 U.S. banks presently have at least $200 million stockholders' equity (*see supra* note 30). According to FOCUS reports on form X–17A–5 filed with the Commission pursuant to rule 17a–5 under the Exchange Act, 23 member firms had at least $50 million net capital as of June 30, 1983.

[43] Until 1981, this indemnification requirement was a standard condition of exemptive orders granting U.S. investment companies permission to establish foreign custody arrangements. *See* notices of applications and orders cited *supra* in note 14. The 1981 order granting exemptive relief to Chase to establish foreign custodial arrangements for its investment company clients required indemnification only in the event of the fraud, willful misconduct or negligence of Chase or foreign custodians selected by Chase. Subsequent applicants have made similar representations. *See supra* note 16.

reasonable care in the selection of each foreign custodian, oversee the maintenance of the company's assets by that custodian, and indemnify the company in the event of any loss.

List of Subjects in 17 CFR Part 270

Accountants, Accounting, Fraud, Investment companies: Investment, Securities, Variable annuities, Variable life insurance; Securities: Business development companies, Investment, Surety bonds: Bonding.

Test of Reproposed Rule

PART 270—[AMENDED]

It is proposed to amend Part 270 of Chapter II of Title 17 of the Code of Federal Regulations as follows:

Note.—Arrows indicate proposed additions; brackets indicate proposed deletions).

1. By reviewing paragraph (b)(8)(v) of § 270.7d–1 to read as follows:

§ 270.7d–1 Specification of conditions and arrangements for Canadian management investment companies requesting order permitting registration.

* * * * *

(b) * * *

(8) * * * *

(v) ►Except as provided in rule 17f–5 (17 CFR 270.17f–5)◄ applicant will appoint, by contract, a bank, as defined in section 2(a)(5) and having the qualification described in section 26(a)(1), to act as trustee of, and maintain in its sole custody in the United States, all of applicant's securities and cash, other than cash necessary to meet applicant's current administrative expenses. Said contract will provide, *inter alia,* that said custodian will

(A) Consummate all purchases and sales of securities by applicant, other than purchases and sales on an established securities exchange, through the delivery of securities and receipt of cash, or *vice versa* as the case may be, within the United States, and (B) redeem in the United States such of applicant's shares as shall be surrendered therefor, and (C) distribute applicant's assets, or the proceeds thereof, to applicant's assets, or the proceeds thereof, to applicant's creditors and shareholders, upon service upon the custodian of an order of the Commission or court directing such distribution as provided in paragraphs (b) (3) and (5) of this section.

* * * * *

2. By revising paragraph (b) of § 270.17f–4 to read as follows:

§ 270.17f–4 Deposits of securities in securities depositories.

* * * * *

(b) A registered management investment company (investment company) or any qualified custodian may deposit all or any part of the securities owned by the investment company ►in a foreign securities depository or clearing agency in accordance with rule 17f–5 (17 CFR 270.17f–5) or◄ in a (1) clearing agency registered with the Commission under section 17A of the Securities Exchange Act of 1934 (clearing agency), which acts as a securities depository, or (2) the book-entry system as provided in Subpart O of Treasury Circular No. 300, 31 CFR 306, Subpart B of 31 CFR Part 350, and the book-entry regulations of federal agencies substantially in the form of Subpart O, in accordance with the following paragraph of this rule.

* * * * *

3. By adding § 270.17f–5 to read as follows:

§ 270.17f–5 Custody of investment company assets outside the United States.

(a) Any management investment company registered under the Act, and incorporated or organized under the laws of the United States, may place and maintain the company's foreign securities, cash and cash equivalents in the care of an eligible foreign custodian, *Provided That:*

(1) Prior to the placing of any such assets with such foreign custodian, a majority of the board of directors of the company shall have:

(i) Determined that maintaining such assets in a particular country or countries is consistent with the best interests of the company and its shareholders;

(ii) Determined that maintaining such assets with a particular foreign custodian is consistent with the best interests of the company and its shareholders; and

(iii) Approved, as consistent with the best interests of the company and its shareholders, a written contract between the company and such foreign custodian which will govern the manner in which such custodian will maintain the company's assets; and

(2) The board of directors establishes a system to monitor such foreign custody arrangements and a majority of the board of directors, at least annually, reviews and approves the continuance of such arrangements as consistent with the best interests of the company and its shareholders.

(b) Any mangement investment company, incorporated or organized under the laws of Canada and registered under the Act pursuant to the conditions to rule 7d–1, may place and maintain the company's foreign securities, cash and cash equivalents in the care of an overseas branch of a qualified U.S. bank, *Provided That:*

(1) Prior to the placing of any such assets with such overseas branch, a majority of the board of directors of the company shall have determined that maintaining such assets in a particular country or countries is consistent with the best interests of the company and its shareholders;

(2) The board of directors establishes a system to monitor such foreign custody arrangements; and

(3) A majority of the board of directors, at least annually, reviews and approves the continuation of such arrangements as consistent with the best interests of the company and its shareholders;

(c) As used herein, (1) "Foreign Securities" include: securities issued and sold primarily outside the United States by a foreign government, a national of any foreign country or a corporation or other organization incorporated or organized under the laws of any foreign country and certificates of deposit, evidences of indebtedness and other similar securities issued or guaranteed by the Government of the United States or by any state or any political subdivision thereof or by any agency thereof or any securities issued by any entity organized under the laws of the United States or of any state thereof which have been issued and sold primarily outside the United States.

(2) "Eligible Foreign Custodian" means:

(i) A banking institution or trust company, incorporated or organized under the laws of a country other than the United States, that is regulated as such by that country's government or an agency thereof and that has shareholders' equity in excess of $400,000,000 (U.S.$ or the equivalent of U.S.$); or

(ii) A majority-owned direct or indirect subsidiary, incorporated or organized under the laws of a country other than the United States, of a qualified U.S. bank or bank-holding company organized under the laws of the United States that has shareholders' equity in excess of $200,000,000; or

(iii) A securities depository or clearing agency, incorporated or organized under the laws of a country other than the United States, which operates the central system for handling of securities or equivalent book-entries in that country; or

(iv) A securities depository or clearing agency, incorporated or organized under the laws of a country other than the United States which operates a transnational system for the central handling of securities or equivalent book-entries.

(3) "Qualified U.S. Bank" means (A) a banking institution organized under the laws of the United States, (B) a member bank of the Federal Reserve System, (C) any other banking institution or trust company organized under the laws of any state or of the United States, whether incorporated or not, doing business under the laws of any state or of the United States, a substantial portion of the business of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to national banks under the authority of the Comptroller of the Currency and which is supervised and examined by State or Federal authority having supervision over banks, and which is not operated for the prupose of evading the provisions of this rule, or (D) a receiver, conservator, or other liquidating agent of any institution or firm included in clauses (A), (B), or (C) of this paragraph. The entities described in clauses (A), (B), (C) and (D) must have an aggregate capital, surplus, and undivided profits of a specified minimum amount, which shall not be less than $500,000.

Instructions: The provisions of rule 17f–5 set forth determinations which the directors of the registered investment management company must make in connection with approving foreign custody arrangements. Those determinations should be made only after consideration of any matters which the directors, in carrying out their fiduciary duties, would find relevant. For a discussion of factors which the directors should consider in making their determinations, see Investment Company Act Release No. —, ——. In complying with rule 17f–5, in addition to any other relevant factors, consideration should be given to the following:

1. With respect to the selection of the country where the company's assets will be maintained, the directors of U.S. and Canadian investment companies should consider:

a. Whether applicable foreign law would restrict the access afforded the company's independent public accountants to books and records kept by an eligible foreign custodian located in that country;

b. Whether applicable foreign law would restrict the company's ability to recover its assets in the event of the bankruptcy of an eligible foreign custodian located in that country;

c. Whether applicable foreign law would restrict the company's ability to recover assets that are lost while under the control of an eligible foreign custodian located in that country;

d. The likelihood of expropriation, nationalization, freezes, or confiscation of the company's assets;

e. Whether difficulties in converting the company's cash and cash equivalents to U.S. dollars are reasonably foreseeable; and

f. Whether any such risks may be mitigated by obtaining insurance or by obtaining assurances of indemnification; and

2. With respect to the selection of a foreign custodian, the directors of a U.S. investment company should consider:

a. Whether the foreign custodian would provide a level of safeguards for maintaining the company's assets not materially different from that provided by the company's U.S. custodian in maintaining the company's securities in the United States;

b. Whether the foreign custodian has branch offices in the United States in order to facilitate the assertion of jurisdiction over and enforcement of judgement against such custodian; and

c. In the case of a foreign securities depository, the number of participants in, and operating history of, the depository.

3. With respect to approval of the custody agreement, the directors of a U.S. investment company should consider whether the custody agreement provides that:

a. The company's assets would not be subject to any right, charge, security interest, lien or claim of any kind in favor of the foreign custodian or its creditors except a claim of payment for their safe custody or administration;

b. Beneficial ownership for the company's assests would be freely transferable without the payment of money or value other than for safe custody or administration;

c. The company's certificated assets would be maintained in an account which contains only the assets of the company;

d. Adequate records would be maintained by the foreign custodian identifying the assets as belonging to the company;

e. The company's independent public accountants would be afforded access to the records maintained by the foreign custodian with respect to the company's assets or, if access is not practicable pursuant to applicable foreign law, the accountants would be provided with confirmations of the contents of such records;

f. The foreign custodian would furnish periodic reports to the company with respect to the safekeeping of the company's assets, including, but not necessarily limited to, notification of any transfer to or from the company's account; and

g. To the extent practicable under applicable foreign law, the foreign custodian would indemnify the company in the event of the custodian's bankruptcy or other financial failure.

4. The directors of U.S. investment companies should ensure that the amount of cash and cash equivalents maintained in the care of eligible foreign custodians is limited to an amount reasonably necessary to effect the company's foreign securities transactions. The directors of Candian investment companies should make a similar finding with respect to the amount of cash and cash equivalents which the company maintains in oversees branches of qualified U.S. banks.

5. The extent of a U.S. or Canadian company's exposure to loss and the potential effect thereof upon shareholders should be disclosed, if material, in the company's prospectus.

Statutory Basis

Proposed rule 17f–5 is revised pursuant to sections 6(c) (15 U.S.C. 80a–6(c)) and 38(a) (15 U.S.C. 80a–37(a)) of the Act.

Dated: January 17, 1984.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–1927 Filed 1–23–84; 8:45 am]

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17 CFR Parts 270 and 274

[Release Nos. 33–6505, 34–20570, IC–13725; File No. S7–4–84]

Exemption for Acquisition by Registered Investment Companies of Securities Issued by Persons Engaged Directly or Indirectly in Securities Related Businesses

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule amendments and proposed form amendments.

SUMMARY: The Commission is publishing for public comment rule amendments that would permit registered investment companies, or companies controlled by registered investment companies, to acquire securities issued by persons engaged directly or indirectly in certain securities related businesses, under certain conditions. The Commission is also proposing related disclosure requirements and the rescission of a rule that would be superseded by the proposed amendments. The proposed action is intended to give investment companies greater flexibility with regard to investments that, in the absence of exemptive relief, are prohibited under the Investment Company Act of 1940.

DATE: Comments must be received on or before March 19, 1984.

ADDRESSES: Send comments in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. (Reference to File No. S7–4–84). All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Jeffrey S. Puretz (202–272–2048), or

Elizabeth K. Norsworthy, Chief (202–272–2048), Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission is publishing for public comment proposed amendments to rule 12d–1 (17 CFR 270.12d–1) under section 12(d)(3) (15 U.S.C. 80a–12(d)(3)) of the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*) ("Act"), which would permit registered investment companies, or companies controlled by registered investment companies, to acquire securities issued by persons that, directly or indirectly, are brokers, dealers, engaged in the business of underwriting, or either investment advisers of investment companies or investment advisers registered under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 *et seq.*) ("Advisers Act") (hereinafter such person are referred to as "securities related businesses" and the activities associated with such businesses are referred to as "securities related activities"). Existing rule 12d–1 permits investment companies to purchase securities of issuers that engage only partially in securities related activities. The proposed rule would permit investment companies also to purchase securities of issuers substantially or primarily engaged in such activities under certain conditions.

The Commission is concurrently proposing the rescission of rule 2a–3, which presently excludes a bank from the term "investment adviser" of an investment company as used in section 12(d)(3) so long as the bank is not the investment adviser of the investment company acquiring its securities. Amendments to form N–1A, the registration statement for open-end investment companies, and form N–1R, the annual report for management investment companies, are also being proposed. The proposed amendments to form N–1A would require disclosure of any investment policy that would permit a company to acquire securities of: (i) Broker-dealers or underwriters that sell or distribute its shares; or (ii) broker-dealers that execute its portfolio transactions. The proposed amendments to form N–1R would require a company to identify any broker-dealer or underwriter whose securities the company has acquired that also regularly sells or distributes its shares or executes its portfolio transactions. Technical amendments to the registration statement forms and annual report forms for other types of investment companies would require the same disclosure.

Background

Section 12(d)(3) of the Act prohibits any registered investment company and any company or companies controlled by such registered investment company from purchasing or otherwise acquiring any security issued by or any other interest in the business of any person who is a broker, a dealer, either an investment adviser to an investment company or an investment adviser registered under the Investment Advisers Act of 1940 (the "Advisers Act"), or engaged in the business of underwriting.[1] The Commission has construed section 12(d)(3) to appy to the purchase or acquisition of any security issued by or any interest in the business of any person engaged directly or indirectly in a securities related business. Prohibited purchases or acquisitions can occur not only when a security or interest is originally purchased or acquired, but also when an investment company holds securities of an issuer that later acquires an interest in a securities related business by merger, consolidation, reorganization, or otherwise.[2] Because of the breadth of the prohibition, the Commission adopted rule 12d–1 in 1964 to permit investment companies to purchase securities of issuers that are engaged only partially in securities activities.[3] The rule permits the purchase of securities of issuers that derive no more than 15 percent of their gross revenues from securities related businesses, subject to certain conditions. The Commission in 1944 also adopted a narrow exemption from section 12(d)(3) in the form of rule 2a–3. That rule excludes banks from the term "investment adviser" of an investment company as used in section 12(d)(3), unless the bank acts as the company's own investment adviser.[4]

The legislative history of section 12(d)(3) states the section's prohibitions in unambiguous terms, but describes the reasons for such prohibitions less clearly. At the Senate hearings prior to adoption of the Act, David Schenker, the Commission's Chief Counsel for the Investment Trust Study, stated:

> Section 12(c)(2) [which became section 12(d)(3)] merely states that an investment company cannot buy an interest in a brokerage firm, a distributing company, or an investment banking house. It goes further and says that if it is engaged in the underwriting business itself—if engaged in that business through a wholly owned subsidiary—it is permissible to do so.
>
> You can see the reason for that. They may not want to subject all the assets of the investment trust to the risks of the underwriting business. So we see no difficulty if they avail themselves of the corporate fiction and limit their liabilities to the amount of money they want to invest. So we say, if you want to go into the underwriting business and want to do it through the wholly-owned subsidiary, there is no difficulty with that situation.[5]

Mr. Schenker's testimony suggests, and the Commission's staff has stated, that the purpose of section 12(d)(3) was principally to prevent investment companies from exposing their assets to the entrepreneurial risks of securities related businesses.[6] In 1940, securities related businesses, for the most part, were organized as private partnerships. By investing in such businesses, investment companies would expose their shareholders to potential losses which were not present in other types of investments: if the business failed, the investment company as a general partner would be held accountable for the partnership's liabilities; if the business floundered, the investment company would be locked into its investment.[7]

However, if risk prevention was the only purpose for section 12(d)(3), the section could have permitted investment companies to limit their liability by purchasing common stock in corporations engaged in securities related businesses. Restricting investment company purchases to the acquisition of interests in an

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[1] These prohibitions do not apply to the purchase or acqisition of securities issued by or interests in a corporation that is wholly owned by one or more registered investment companies, where such corporation is primarily engaged in the business of underwriting and distributing securities issued by other persons, selling securities to customers, or related activities, and the corporation's gross income is principally derived from such activities. Section 12(d)(3) (A) and (B).

[2] Investment Company Act Release No. 3542 (September 21, 1962) (release stating views of the Commission on purchases of securities in contravention of section 12(d)(3)).

[3] Investment Company Act Release No. 4044 (September 4, 1964) [29 FR 12915] (rule adoption).

[4] Investment Company Act Release No. 606 (January 5, 1944) [9 FR 337] (rule adoption).

[5] Hearings on S. 3580 Before a Subcommittee of the Senate Committee on Banking and Currency ["1940 Senate Hearings"], at 243 (1940). *See also* S. Rep. No. 1775, 76th Cong., 3d Sess. at 15–16 (1940) ["Senate Committee Report"]; H.R. Rep. No. 2639, 76th Cong., 3d Sess., at 16 (1940).

[6] *See* Investment Company Act Release No. 10666 (April 16, 1979) [44 FR 25128] (Division of Investment Management position permitting repurchase agreements with broker-dealers under section 12(d)(3) under certain conditions).

[7] *See, e.g.*, Securities and Exchange Commission, *Study of Unsafe and Unsound Practices of Brokers and Dealers—Report and Recommendations* (December 1971), at 28, 42, finding that during the 1967–1970 period under review, many broker-dealers had "inadequate and impermanent capital in relation to the needs of their businesses".

incorporated underwriting subsidiary wholly owned by the company and other investment companies makes sense only if another purpose of the section was to prevent potential conflicts of interest. In fact, section 12(d)(3) has been interpreted broadly as one of several provisions, which, taken together, were designed to prevent investment companies from being organized, operated, managed, or their portfolio securities selected in the interests of brokers, dealers, underwriters, and investment advisers, whether or not those entities are affiliated persons of the companies.[8] Viewing the section as one of several designed to curtail interrelationships between investment companies and brokers, dealers, underwriters, and investment advisers, the Commission staff has stated that its practical effect is to eliminate the possibility of certain reciprocal practices between investment companies and securities related businesses.[9]

Whatever view is taken of the original purpose of section 12(d)(3), the Commission believes that dramatic changes in the securities industry since 1940 warrant a re-examination of the section's prohibitions. While the section may have been designed to protect investment companies from entrepreneurial risks, and from being managed in the interests of affiliated persons or more generally in the interests of brokers, dealers, underwriters and investment advisers, evidence indicates that today the section often prevents investment companies from making investments that may be in the best interests of their shareholders.

Over the past decade, an increasing number of securities related businesses have incorporated, enabling investors in those businesses to limit their liability to the amount of their original investment. While some of these corporations continue to be closely held, a number have chosen to raise capital through offerings of their securities to the public.[10]

Commission records indicate that there are at least 40 publicly-held broker-dealers, investment advisers, or parent corporations whose primary source of revenue is from securities related business. Staff research reveals that from January through September 1983, at least fourteen companies that are engaged in securities related activities made or registered initial public offerings, the value of which is expected to exceed $300 million.[11]

Over the past decade, an increasing number of businesses have become involved in securities related activities through mergers with or acquisitions of securities related businesses. In attempts to offer customers and clients a full range of products and services, several publicly held companies that have not traditionally engaged in securities related activities have now entered the financial services industry.[12] Some financial services industry participants—banks, thrift institutions, and their holding companies—have branched out to offer discount brokerage services by acquiring existing broker-dealers or establishing new broker-dealers.[13] This has brought investment company investments in these diversified issuers within the prohibitions of section 12(d)(3). The conditions of rule 12d–1 may significantly limit the ability of investment companies to invest in such issuers absent further exemptive relief.[14] For example, two issuers recently applied for exemptive relief from section 12(d)(3) and rule 12d–1 to permit investment companies to purchase or retain their securities, so long as the gross revenues they derived from securities related businesses did not exceed 25 percent of their total gross revenues.[15]

In view of these developments, the Commission believes that investment companies should have broader exemptive relief from the prohibitions of section 12(d)(3) as soon as possible. The proposed amendments would broaden the exemptive relief presently available under rule 12d–1 for investment company investments in issuers engaged only partially in securities related activities and would permit investment companies, for the first time, to acquire securities of issuers that are primarily engaged in such activities. The rescission of rule 2a–3 is proposed because the exemptive relief proposed

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[8] Prevention of such abuses is a purpose of the Act as stated in section 1(b)(2) [15 U.S.C. 80a–1(b)(2)]. *See Pacific Coast Mortgage Company*, 22SEC 829, 832 (1946), in which the Commission stated, "[T]he rationale of Section 12(d)(3) * * * is obviously intended to prevent operating investment companies from engaging in diverse financial activities in conjunction with persons other than investment company * * *."

[9] Such reciprocal practices include the possibility that an investment company might purchase securities or other interests in a broker-dealer to reward that broker-dealer for selling fund shares, rather than solely on investment merit. Similarly, the staff has expressed concern that an investment company might direct brokerage to a broker-dealer in which the company has invested to enhance the broker-dealer's profitability or to assist it during financial difficulty, even though that broker-dealer may not offer the best price and execution. *Report of the Division of Investment Management Re: Letters from Certain Securities Industry Firms Requesting Modification of, or Exemption from, Section 12(d)(3) of the Investment Company Act of 1940*, attached to letter to Harry A. Jacobs, Jr., Chairman of the Board of the Bache Group, Inc., (pub. avail. November 30, 1979).

[10] Until 1970, when it amended its constitution, the New York Stock Exchange did not permit its members to be publicly owned. Similarly, until 1972, the National Association of Securities Dealers ("NASD") took the position that a member could not underwrite its own securities. The NASD changed its position in 1972 when the Board of Governors adopted Schedule E, which specifies standards for distributions of their own securities by members and affiliates. NASD, Notice to Members (March 30, 1972) (formal notice of effectiveness of Schedule E) After the removal of these restrictions, several broker-dealers started making public offerings of their securities, initiating a trend that has recently gained momentum.

[11] The Commission staff reported total industry capital of $15.6 billion in 1982. Staff Report Executive Summary: The Securities Industry in 1982 (October, 1983). A survey by Institutional Investor ranking top broker-dealers disclosed that the top ten firms had a total capital base of approximately $6.4 billion in 1982, with equity capital of approximately $5.1 billion. Institutional Investor, "Ranking America's Biggest Brokers," at 273–86 (April, 1983).

[12] *See* American Express Co., Investment Company Act Release No. 12987 (Jan. 21 1983) [48 FR 4081] (application for relief from section 12(d)(3) and rule 12d–1, which reflects American Express's merger with Sherson Loeb Rhodes, Inc., and Shearson's acquisition of Foster & Marshall, Inc., and The Robinson-Humphrey Co., Inc.); Kemper Corp., Investment Company Act Release No. 13249 (May 17, 1983) [48 FR 23339] (application for relief from section 12d(3) and rule 12d-1, which reflects Kemper Corporation's acquisition or proposed acquisition of Blunt, Ellis & Loewi, Inc., Prescott, Ball & Turben, Inc., and Bateman Eichler, Hill Richards, Inc.). *See also Regional Brokers: Endangered Species*, New York Times, May 24, 1983, at D–5; Heinemann, *American Express: Symbol of Change*, New York Times, July 13, 1983, at D–21.

[13] Securities Exchange Act Release No. 20357 (November 14, 1983) [48 FR 51930] proposing rule 3b–9 under the Securities Exchange Act of 1934 (the "Exchange Act"). *See also Securities Industry Association v. Board of Governors of the Federal Reserve System*, No. 83–4019, slip op. (2d Cir., July 15, 1983) (affirming a Federal Reserve Board order authorizing a bank holding company to acquire a retail discount brokerage firm); Comptroller of the Currency, *Decision on the Application by Security Pacific National Bank to Establish an Operating Subsidiary to Be Known as Security Pacific Discount Brokerage Services, Inc.*, Fed. Banking L. Rep. (CCH), ¶99,284 (August 26, 1982) Comptroller's approval of application by a national bank to establish an operating subsidiary to engage in discount brokerage); Federal Home Loan Bank Board, Resolution No 82–327 (May 6, 1982) (resolution approving application by three savings and loan associations to establish a service corporation that would conduct discount brokerage activities). *See also Bankers as Brokers*, Business Week, April 11, 1983, at 70; Gruber, *More Bankers Double as Discount Brokers*, Chicago Tribune, section 23 at 6, September 7, 1983.

[14] *See* Rule 12d–1(b) [17 CFR 270.12d–(b)], requiring disposal or reduction of interest over the limits of the rule for the continued ownership of subject securities. *See also* Investment Company Act Release No. 3542 (September 21, 1962), requiring divestiture of prohibited interests.

[15] American Express Co., and Kemper Corp., *supra* note 12. In their applications, American Express and Kemper stated that, as of March 31, 1982, investment companies held approximately 3 percent and 9.4 percent, respectively, of their outstanding common stock.

under section 12d(3) would, in effect, supersede the exemptive relief presently provided by rule 2a–3. Proposed amendments to form N–1A would require an open-end investment company in its registration statement to disclose any investment policy permitting acquisition of securities of: (i) Broker-dealers or underwriters whose securities it has acquired that sell or distribute the company's shares; or (ii) broker-dealers that execute the company's portfolio transactions. Proposed amendments to form N–1R would require a management investment company in its annual report to identify any broker-dealer or underwriter whose securities it has acquired that also regularly sells or distributes the company's shares or executes the company's portfolio transactions.

Discussion

1. Amendments to rule 12d–1

a. *Blanket exemption.* Where the portion of an issuer's gross revenues attributable to securities related activities is below a certain level, the Commission believes that the acquisition of securities of that issuer should not be deemed to be an acquistion within the scope of section 12(d)(3)'s prohibitions. Under the proposed amendments, if 15% or less of an issuer's gross revenues are attributable to securities related activities, the prohibitions of section 12(d)(3) would not apply unless, after the acquisition, the investment company would control the issuer.[16] Specific comment is requested, however, on whether this gross revenues test should be replaced by a test based on the definition of "significant subsidiary" contained in section 1.02(v) of regulation S–X [17 CFR 310.1–02(v)]. This formulation would state that the blanket exemption would apply when investment companies acquire the securities of issuers that do not commit a significant amount (10%) of assets to conducting securities related activities or receive a significant amount (10%) of income from such activities.

Existing rule 12d–1 also uses a gross revenues test to identify issuers whose securities are eligible for purchase under the rule. The proposed amendments would change the manner in which that test is applied in several significant respects. The existing rule states that, for securities to be eligible for purchase, the issuer must have derived 15% or less of its gross revenues from securities related businesses for each of its three most recent fiscal years or, if lesser, since its organization. The proposed amendments eliminate the three-year requirement and simply state that, for its securities to be eligible for purchase without conditions, the issuer must have derived 15% or less of its total gross revenues from securities related businesses during its most recent fiscal year.

To simplify compliance, the proposed amendments would also change the definition of gross revenues. The existing rule defines gross revenues to include consolidated gross revenues, plus the issuer's ratable share of revenues from any unconsolidated investee companies that engage in securities related activities. In view of the difficulty that investment companies presently encounter in attempting to ascertain the extent to which an issuer's unconsolidated revenues come from investing in companies engaged in securities related activities, the proposed amendments would require investment companies to look only to the issuer's gross revenues from its own securities related activities and from the securities related activities of enterprises of which it owns 20% or more of the voting or equity interest. An investment company would no longer have to ascertain the amount of investment income that an issuer derives from investee companies while taking into account the issuer's revenues from significant unconsolidated subsidiaries that are accounted for by the equity method.[17]

The phrase "securities related activities" is used in the revision instead of the phrase "securities related businesses" used in the existing rule. Under the existing rule, if an issuer's subsidiary derives some, but not all, of its revenues from securities related activities, it is unclear whether all of the subsidiary's revenues must be deemed to be derived from securities related activities. The use of the phrase "securities related activities" should make clear that, in such cases, a subsidiary's revenues need not be counted in the aggregate, but may be segregated to identify that portion directly attributable to its role as a broker, dealer, underwriter, or investment adviser.[18]

The proposed rule states that in determining the extent to which an issuer's gross revenues are derived from securities related activities, an investment company may rely on the issuer's annual report to shareholders,[19] the issuer's periodic reports[20] and registration statements filed with the Commission, or may obtain equivalent information from the issuer's chief financial officer. In contrast to this proposed provision, existing rule 12d–1 requires an acquiring company to rely on "published financial information" without specifying the nature of that information and allows an acquiring company to obtain equivalent information from a "responsible financial officer" of the issuer only in the absence of published financial information.

Most significantly, the proposed amendments would not longer require an investment company to monitor or to

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[16] Under section 2(a)(9) of the Act,

"[a]ny person who owns beneficially, either directly or through one or more controlled companies, more than 25 percent * * * of the voting securities of a company shall be presumed to control such company. Any person who does not so own more than 25 percent * * * of the voting securities of any company shall be presumed not to control such company * * *. Any such presumption may be rebutted by evidence, but * * * shall continue with a determination to the contrary made by the Commission by order either on its own motion or on application by an interested person."

[17] In contrast to investee companies in which an issuer holds less than a 20% interest, investee companies in which an issuer holds a 20–49% interest are accounted for by the equity method and are identified in the issuer's financial statements. Financial Accounting Standards Board, *Accounting Standards*, Volume II, Section 182 (June 10, 1982).

[18] Where an issuer is a subsidiary of a corporation engaged direct or indirectly in securities related activities, and an investment company knows or has reason to know that the proceeds of securities issued by the subsidiary are to be used to finance the business operations of the parent or its other subsidiaries, then the subsidiary's securities would be deemed to be issued by the parent. The acquisition of such securities would be prohibited under section 12(d)(3), and would be exempted under proposed rule 12d–1 only to the extent that securities issued directly by the parent corporation would be eligible for purchase under the rule.

[19] Pursuant to rules 14a–3 [17 CFR 240.14a–3] and 14c–3 [17 CFR 240.14c–3] under the Exchange Act, an issuer with securities registered under section 12 of that Act must furnish shareholders and mail to the Commission an annual report to shareholders before or at the time of trasmitting proxy material or an information statement with respect to the annual election of directors. The annual report must contain specified financial statements and supplementary financial data with respect to the issuer.

[20] These periodic reports include an issuer's annual report on form 10–K [17 CFR 249.310] and, in some instances, an investment adviser's registration statement on form ADV. Pursuant to sections 13(a) [15 U.S.C. 78m(a)] and 15(d) [15 U.S.C. 78o(d)] of the Exchange Act, an issuer with securities registered under section 12 of the Act or under the Securities Act of 1933 must file an annual report with the Commission. The form prescribed for that report—form 10K—requires the submission of certain financial information and supplementary financial data with respect to the issuer. Pursuant to instruction G of form 10–K, such information may be incorporated by reference to the issuer's annual report to shareholders.

A registered investment adviser must provide its balance sheet on schedule G of form ADV at the end of each fiscal year if the adviser has custody or possession of clients' funds or securities, or requires prepayment of advisory fees six months or more in advance and in excess of $500 per client. Form ADV, part II, item 13.

divest securities acquired in reliance on the rule. Rather, the proposed amendments would require compliance with the rule's conditions only at the time of acquisition. Accordingly, if a company were to rely on the blanket exemption in acquiring securities from an issuer that derived 15% or less of its gross revenues from securities related activities, and a year later that issuer's revenues from such activities exceeded 15%, the company could continue to hold those securities in reliance on the blanket exemption.

b. *Conditions.* Where an investment company intends to acquire securities of issuers that derive more than 15% of their gross revenues from securities related activities, the proposed amendments would permit the company to acquire up to 5 percent of any class of outstanding equity securities and up to 10 percent of the total principal amount of outstanding debt securities of an issuer.[21] By confining this limitation to the adquiring company and by permitting the acquisition of securities of issuers primarily or significantly engaged in securities related activities, the proposed amendments would notably expand the limitation presently in effect with respect to acquisitions of securities of issuers engaged in securities related businesses. Existing rule 12d–1 limits not only the amount of securities that may be held by the acquiring investment company, but also the amount that may be held by all other investment companies having the same investment adviser or principal underwriter and similar related companies. The existing rule also limits aggregate holdings of such affiliated investment companies to 10% of the outstanding voting stock of or "other proprietary interest"[22] in issuers that derive 15% or less of their gross revenues from securities related activities. In contrast, while the proposed amendments would limit an investment company's acquisitions to no more than 5% of any class of outstanding equity securities and no more than 10% of the principal amount of outstanding debt securities, these limitations are addressed to the equity and debt securities of issuers that derive more than 15%, rather than 15% or less, or their gross revenues from securities related activities.

The proposed amendments would permit an investment company to invest up to 5% of the value of its total assets or, if lower, the maximum percentage permitted by its investment policies or restrictions, in the outstanding debt or equity securities of any one issuer. This condition is modeled after a condition contained in recent exemptive orders from section 12(d)(3) and rule 12d–1.[23]

In view of Congress' apparent liquidity concerns, the proposed amendments would also impose qualitative conditions upon an investment company's acquisition of securities of issuers engaged in securities related businesses. An equity security could be purchased if it is a "margin security" as defined in Regulation T issued by the Board of Governors of the Federal Reserve System (12 CFR 220.2(f)). Margin securities include securities registered on a national securities exchange and securities that appear on the Federal Reserve's periodically published "OTC margin stock" list.[24] A debt security could be purchased if it is an "investment grade security" as determined by at least one nationally recognized statistical rating organization, or in the case of any debt security that is not rated, of comparable quality as determined by the investment company's board of directors.[25] "Investment grade" typically includes the four highest rating categories for debt securities, within which there may be sub-categories or gradations.[26]

Comment is requested on whether these proposed standards serve a useful purpose or whether they could be eliminated. Comment is also requested on an alternative formulation of a standard for equity securities. Instead of stating that such securities should be marginable, the rule could state that such securities should either be listed on a national securities exchange or designated as national market system securities under rule 11Aa2–1 of the Exchange Act (17 CFR 240.11Aa2–1).

Under the proposed amendments, these quantitative and qualitative tests would be applied only at the time of acquisition. Unlike the present rule, the proposed amendments would not require the company to monitor its continued compliance with the relevant precentages or to sell all or a portion of the securities it has acquired due to changes in an issuer's business. Any new acquisition would, of course, be subject to the limitations described above.

To prevent potential conflicts of interest, the proposed rule would not permit an investment company to purchase securities issued by its own investment adviser, promoter, principal underwriter, or their affiliated persons that are also securities related businesses, unless otherwise permitted under section 12(d)(3) (A) and (B).[27] The rule would also not permit an investment company to purchase a general partnership interest in a securities related business.

To clarify the way in which the revised rule should be applied to options, warrants, rights or convertible securities, the proposed amendments state that, although the exercise of such instruments would not be considered a purchase or acquisition, the conditions of the rule are to be applied as though such options, warrants, or rights had been exercised.

To avoid any confusion as to the conditions pursuant to which an investment company may enter into a repurchase agreement with a broker or dealer, a note to the rule states that investment companies will still be expected to comply with the Division of Investment Management's amended no-action position set forth in Investment

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[21] In the revision, the definition of "equity security" is based on the definition contained in rule 3a11–1 under the Securities Exchange Act [17 CFR 240.3a11–1]. The revised rule defines "debt security" to include all securities of an issuer other than equity securities.

[22] Rule 12d–1 does not define the phrase "proprietary interest." *See* letter from Fried, Frank, Harris, Shriver & Jacobson re SMC Investment Corporation (pub. avail. April 30, 1972), questioning the meaning of that phrase.

[23] *See* American Express Co. and Kemper Co., *supra* note 12.

[24] The Federal Reserve Board determines whether securities traded over-the-counter will be included on its OTC margin stock list on the basis of whether such securities have the degree of national investor interest, the depth and breadth of market, the availability of information respecting the security and its issuer, and the character and permanence of the issuer to warrant being treated like an equity security traded on a national securities exchange. Specific criteria for eligibility are set forth at 12 CFR 220.17, and a precise definition of "margin security" is set forth at 12 CFR 220.2(f).

[25] Rule 2a–7 [17 CFR 270.2a–7] places similar responsibility on an investment company's board of directors to determine whether unrated money market instruments meet the high quality standard set forth in that rule for funds using the amortized cost valuation method or the penny-rounding method of pricing. For a discussion of the procedures to be followed by the board in making such determinations, see Investment Company Release No. 13380 (July 11, 1983) [48 FR 32555] (adoption of rule 2a–7).

[26] Similarly, an investment grade criterion is used to determine the eligibility of non-convertible debt or preferred securities for registration on form S–3 under the Securities Act. *See also* rule 10f–3(c) [17 CFR 270.10f–3(c)] (investment grade criterion for an exemption from section 10(f) [15 U.S.C. 80a–10(f)] to purchase municipal securities during an underwriting syndicate).

[27] Under sections 12(d)(3) (A) and (B), an investment company is permitted to own, along with other investment companies, an underwriting subsidiary. *See* discussion *supra* at pp. 5–6 and note 1. Of course, an investment company would be required to apply for exemptive relief from section 17, as well as section 12(d)(3) of the Act, when contemplating the purchase of such securities directly from, or as a joint participant with, the company's investment adviser, promoter, principal underwriter or their affiliated persons.

Company Act Release No. 13005 (February 2, 1983) (48 FR 5894). In that release, the Division stated that it would not recommend to the Commission that any enforcement action be taken under section 12(d)(3) against an investment company with respect to repurchase agreements entered into with brokers or dealers, provider each agreement is fully collateralized during the entire term of the agreement [28] and that investment company boards of directors evaluate the creditworthiness of the brokers or dealers with which they propose to enter into repurchase agreements.

2. Rescission of Rule 2a–3

Rule 2a–3 presently excludes a bank as defined in section 2(a)(5) of the Act [29] from the term "investment adviser" of an investment company as used in section 12(d)(3) except in cases where an investment company is acquiring the securities of a bank that is its own investment adviser. In view of the broad exemption that would be afforded by the proposed amendments for the acquisition of securities of any issuer engaged in any securities related activity, rule 2a–3 would in effect be superseded by the adoption of those amendments. Comment is requested, however, as to whether there is any reason to continue to distinguish banks that act as investment advisers to investment companies from other issuers engaged in securities related activities.

3. Amendments to Form N–1A and N–1R

In the belief that investment company shareholders should be aware of any investment policy that would permit the company to acquire securities of broker-dealers or underwriters that sell or distribute the investment company's shares or that execute its portfolio transactions, the Commission is proposing to amend form N–1A, the registration statement form for open-end investment companies, to require that disclosure.

In addition, the Commission is proposing to amend form N–1R, the annual report for management investment companies, to require a company to identify any broker-dealers or underwriters whose securities it has acquired which also regularly sell or distribute the company's shares or execute its portfolio transactions.[30]

While an investment company need not forego acquiring securities of a broker-dealer or underwriter that happens to sell or distribute the company's shares or execute its portfolio transactions, the company's investments should be determined by its investments objectives. Similarly, although an investment company should be able to allocate brokerage to a broker-dealer whose securities it has acquired, the company's allocation of brokerage should be based on best price and execution.

4. Request for comments

The Commission requests public comment on whether the proposed revision to rule 12d–1 should be adopted as proposed. Specific comment is requested on whether the "15% or less of gross revenues" test should be replaced by a "significant subsidiary" test modeled on the definition of significant subsidiary contained in regulation S–X. Specific comment is also invited on whether the conditions in the proposed revision, particularly the quality conditions, are appropriate, whether more restrictive conditions are needed, or whether less restrictive conditions would be adequate. In addition to those issues discussed above, specific comment is invited on whether the revised rule should restrict the extent to which an investment company may concentrate its investments in issuers engaged in securities related activities.[31]

List of Subjects in 17 CFR Parts 270 and 274

Investment companies, Reporting and recordkeeping requirements, Securities.

Test of Proposed Rule and Form

It is proposed to amend Parts 270 and 274 of Chapter II, Title 17 of the Code of Federal Regulations as set forth below:

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

§270.2a–3 [Amended]

1. By proposing to remove § 270.2a–3.

2. By proposing to revise § 270.12d–1 to read as follows:

§ 270.12d–1 Exemption of acquisitions of securities issued by persons engaged in securities related businesses.

(a) For purposes of section 12(d)(3) of the Act, the acquisition by a registered investment company, or any company or companies controlled by such registered investment company (hereinafter, such company or companies are referred to as the "acquiring company"), of any security issued by any person that, in its most recent fiscal year, derived 15% or less of its total gross revenues from securities related activities shall not be deemed an acquisition of securities issued by a securities related business unless the acquiring company would control such person after the acquisition.

(b) The acquisition by an acquiring company of any security issued by a securities related business (also referred to as "issuer") shall be exempt from the provisions of section 12(d)(3) of the Act.

Provided That:

(1) Immediately after the acquisition of any equity security of the issuer, the acquiring company owns not more than 5 percent of the outstanding securities of that class of the issuer's equity securities,

(2) Immediately after the acquisition of any debt security, the acquiring company owns not more than 10 percent of the outstanding principal amount of the issuer's debt securities,

(3) Immediately after any such acquisition, the acquiring company has invested not more than 5 percent of the value of its total assets or, if lower, the maximum percentage permitted by its investment policies and restrictions, in securities of the issuer,

(4) Any equity security of the issuer acquired by the acquiring company is a "margin security" as defined in Regulation T issued by the Board of Governors of the Federal Reserve System (12 CFR 220.2(f)), and

(5) Any debt security of the issuer acquired by the acquiring company is an "investment grade security" as determined by at least one nationally recognized statistical rating organization (typically the four highest rating

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[28] This was the initial no-action position taken by the Division in Investment Company Act Release No. 10666. *See supra* note 6.

[29] Section 2(a)(5) of the Act [15 U.S.C. 80a–2(a)(5)] defines "bank" to include "(A) a banking institution organized under the laws of the United States, (B) a member bank of the Federal Reserve System, (C) any other banking institution or trust company, whether incorporated or not, doing business under the laws of any State or of the United States, a substantial portion of the business of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to national banks under the authority of the Comptroller of the Currency, and which is supervised and examined by State or Federal authority having supervision over banks, and which is not operated for the purpose of evading the provisions of the Act . . . ."

[30] This amendment to form N–1R is one of several amendments to that form which the Commission expects to propose in the near future. At the present time, under rule 45a–1 [17 CFR 270.45a–1], exhibits in registration statements or periodic reports that call for the names and addresses of dealers to or through whom principal underwriters of registered investment companies are currently offering securities are accorded confidential treatment, provided the registrant follows the filing procedures set forth in paragraph (b) of that rule.

[31] A registrant is required to disclose a policy of concentrating in a given industry if the registrant has invested more than 25% of its assets in issuers in that industry. See from N–1A, Part A, Item 4(a)(ii)(B)(2).

categories, within which there may be sub-categories or gradations), or in the case of any debt security that is not rated, of comparable quality as determined by the acquiring company's board of directors.

(c) Notwithstanding the provisions of paragraphs (a) and (b), no registered investment company shall acquire (1) a general partnership interest in a securities related business, or (2) any security issued by its investment adviser, promoter, or principal underwriter or any affiliated person of such investment adviser, promoter, or principal underwriter that is a securities related business, unless otherwise permitted under section 12(d)(3) (A) and (B).

(d) For purposes of this rule,

(1) "Securities related activities" are a person's activities as a broker, a dealer, from the business of underwriting, or as a registered investment adviser.

(2) An issuer's gross revenues from its own securities related activities and from the securities related activities of enterprises of which it owns 20% or more of the voting or equity interest should be considered in determining the degree to which an issuer is engaged in securities related activities. Such information may be obtained from the issuer's annual report to shareholders, the issuer's periodic reports or registration statement filed with the Commission, or the issuer's chief financial officer.

(3) A "securities related business" is a person who directly or indirectly is a broker, a dealer, engaged in the business of underwriting, or an investment adviser registered under the Investment Advisers Act of 1940, as amended.

(4) "Equity security" shall be as defined in Securities Exchange Act Rule 3a11–1 [17 CFR 240.3a11–1].

(5) "Debt securities" shall include all securities of an issuer other than equity securities.

(6) Determination of the percentage of a purchasing company's ownership of any class of outstanding equity securities of an issuer shall be made in accordance with the procedures described in rule 16a–2 under the Securities Exchange Act [17 CFR 240.16a–2].

(7) Where an acquiring company is considering acquiring or has acquired options, warrants, rights or convertible securities of a securities related business, the determinations required by paragraph (b) shall be made as though such options, warrants, rights or conversion privileges had been exercised.

(8) The following transactions will not be deemed to be an acquisition of securities of a securities related business:

(i) Receipt of stock dividends on securities acquired in compliance with this rule;

(ii) Receipt of securities arising from a stock-for-stock split on securities acquired in compliance with this rule;

(iii) Exercise of options, warrants, or rights acquired in compliance with this rule; and

(iv) Conversion of convertible securities acquired in compliance with this rule.

Note.—It is not intended that this rule should supersede the requirements prescribed in Investment Company Act Release No. 13005, dated February 2, 1983, with respect to repurchase agreements with brokers or dealers.

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

3. By proposing to add paragraph (a)(ii)(E) to item 4 of Form N–1A described in § 274.11A to read as follows:

§ 274.11A Form N–1A, registration statement of open-end management investment companies.

* * * * *

(a) * * *

(ii) * * *

(E) Whether the registrant has a policy of permitting investment in securities issued by any broker-dealer or underwriter that sells or distributes the registrant's shares or a policy permitting investment in securities issued by any broker-dealer that executes the registrant's portfolio brokerage transactions.

* * * * *

4. By proposing to add this paragraph to Item 41 of Form N–1R described in § 274.101 to read as follows:

§ 274.101 Form N–1R, annual report of registered management investment company under the Investment Company Act of 1940 and the Securities Exchange Act of 1934.

* * * * *

Item 41 * * *

Identify any broker-dealer or any underwriter whose securities the registrant has acquired which also regularly sold or distributed the registrant's shares or executed its portfolio transactions.

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Statutory Basis

Revised rule 12d–1 would be adopted and rule 2a–3 would be rescinded by the Commission pursuant to the authority granted the Commission in sections 6(c) (15 U.S.C. 80a–6(c)) and 38(a) (15 U.S.C. 80a–37(a)) of the Act. The proposed amendments to forms N–1A and N–1R would be adopted pursuant to the authority granted the Commission in sections 7, 10, and 19 of the Securities Act of 1933 (15 U.S.C. 77g, 77j, and 77s), sections 13, 15(d), and 23(a) of the Securities Exchange Act of 1934 [15 U.S.C. 78m, 78o(d), and 78w(a)] and sections 8, 30 and 38 of the Investment Company Act of 1940 (15 U.S.C. 80a–8, 80a–29, 80a–37).

Summary of Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis in accordance with 5 U.S.C. 603 regarding the proposed amendments to rule 12d–1. The analysis states that the proposed amendments may have a significant beneficial economic impact on small investment companies and small issuers engaged directly or indirectly in the business of a broker-dealer, an underwriter, or a registered investment adviser. Such entities would no longer need to file applications for exemptive relief to permit investment company acquisitions of securities of issuers that derive more than 15% of their total gross revenues from securities related businesses. A copy of the Analysis may be obtained by contacting Jeffrey S. Puretz, Office of Regulatory Policy, Securities and Exchange Commission, Room 5103, 450 Fifth Street, NW., Washington, D.C. 20549.

Dated: January 17, 1984.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–1882 Filed 1–23–84; 8:45 am]

BILLING CODE 8010–01–M

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

21 CFR Part 1020

[Docket No. 82N–0274]

Overview of the Costs and Benefits of the Diagnostic X-ray Equipment Performance Standard; Availability

AGENCY: Food and Drug Administration.

ACTION: Notice of availability and invitation to submit comments.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft document

prepared by FDA's National Center for Devices and Radiological Health (NCDRH) entitled "An Overview of the Costs and Benefits of the Diagnostic X-ray Equipment Performance Standard (21 CFR 1020.30–32)." In addition, FDA invites interested persons to review the document and to submit written comments and suggestions for use in preparation of a final version of the document.

DATE: Comments, data, and information by April 23, 1984.

ADDRESSES: The draft document is available for examination in, and comments, data, and information are to be submitted to, the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. Single copies of the draft may be obtained by submitting a written request to the contact person listed below.

FOR FURTHER INFORMATION CONTACT: Harvey Rudolph, National Center for Devices and Radiological Health (HFZ–83), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3426.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 16, 1982 (47 FR 51710), FDA announced that it had selected the performance standard for diagnostic X-ray systems and their major components (21 CFR 1020.30–1020.32) as a high priority rule for review under the agency's program to identify regulations that impose significant cost burdens and, for such rules, to explore alternative measures for protecting the public health. This retrospective review is required by the Regulatory Flexibility Act (Pub. L. 96–354) and Executive Order 12291. FDA invited all interested persons (e.g., the public, X-ray equipment manufacturers or dealers, health care practitioners, and State program personnel) to submit comments, quantitative data, and qualitative information concerning the economic cost or other impacts that may be attributed to the standard and to suggest alternative approaches that would ensure the radiation safety of diagnostic X-ray systems. The announcement also encouraged interested persons to provide comments on significant public health benefits and to identify any other benefits directly attributable to the standard.

NCDRH has prepared an outline of the current costs and benefits of the standard. From this outline it developed a draft document entitled "An Overview of the Costs and Benefits of the Diagnostic X-ray Equipment Performance Standard (21 CFR 1020.30–32)," which presents and analzes data, information, and views from interested persons, data from FDA's compliance test program, and Nationwide Evaluation of X-ray Trends surveys. Also, the results of a committee assessment of the public health values of the requirements currently included in the standard are included. The specially created committee used the "delphi method" of surveying 17 scientific experts familiar with X-ray standards to rank and assess the public health values of the regulatory requirements in the standard. NCDRH expects that, with the information provided by a final version of the document, it can make informed decisions regarding alternative radiation protection programs and changes to specific regulatory requirements in the standard.

The draft document is on file in the Dockets Management Branch (address above) and is available for public review between 9 a.m. and 4 p.m., Monday through Friday. Single copies of the draft document may be obtained by submitting a written request to the contact person listed above in this notice. Interested persons are invited to review the draft document and to submit written comments on it. Suggestions for changes should be supported by rationale and background data. Any person responding to this notice, as well as any person responding to the notice of November 16, 1982, will receive a copy of the final version of the cost/benefit document when it has been prepared.

Interested persons may, on or before April 23, 1984, submit to the Dockets Management Branch written comments, data, or information regarding this draft document. Two copies of any comments should be submitted, except that individuals may submit one copy. Comments should be identified with the docket number found in brackets in the heading of this notice. All comments received will be considered in developing a final document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 13, 1984.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 84–1882 Filed 1–23–84; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 904

Public Comment and Opportunity for Public Hearing on the Modification to the Arkansas Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of certain program amendments submitted by the State of Arkansas as a modification to the Arkansas Permanent Regulatory program (hereinafter referred to as the Arkansas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments pertain to changes in Arkansas' Surface Coal Mining and Reclamation Code for (1) permit fees and bonding requirements for coal exploration operations and (2) inspections.

This notice sets forth the times and locations that the Arkansas program and the proposed amendments are available for public inspection, the comment period during which interested persons may submit written comments on the proposed program elements, and the procedures that will be followed regarding the public hearing.

DATES: Written comments must be received on or before 4:00 p.m., February 23, 1984.

If requested, a public hearing on the proposed modifications will be held on February 15, 1984, beginning at 10:00 a.m. at the location shown below under "**ADDRESSES.**"

ADDRESSES: Written comments should be mailed or hand delivered to: Robert L. Markey, Tulsa Field Office, Office of Surface Mining, 333 West 4th Street, Room 3432, Tulsa, Oklahoma 74103.

If a public hearing is held its location will be at: The Trade Winds Inn, U.S. Highway 71, North, at 11th Street, Fort Smith, Arkansas 66701.

FOR FURTHER INFORMATION CONTACT: Robert L. Markey, Tulsa Field Office, Office of Surface Mining, 333 West 4th Street, Room 3432, Tulsa, Oklahoma 74103, Telephone: (918) 581–7927.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Availability of Copies

Copies of the Arkansas program, the proposed modifications to the program, a listing of any scheduled public meeting and all written comments received in response to this notice will be available for review at the OSM Offices and the Office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Tulsa Field Office, Office of Surface Mining, 333 West 4th Street, Room 3432, Tulsa, Oklahoma 74103
Office of Surface Mining, Reclamation and Enforcement, Room 5315, 1100 "L" Street, NW., Washington, D.C. 20240
Department of Pollution Control and Ecology, 8001 National Drive, Little Rock, Arkansas 72209

Written Comments

Written comments should be specific, pertain only to the issue proposed in this rulemaking, and include explanations in the support of the commenter's recommendations. Comments received after the time indicated under **"DATES"** or at locations other than Tulsa, Oklahoma, will not necessarily be considered and included in the Administrative Record for this final rulemaking.

Public Hearing

Persons wishing to comment at a public hearing should contact the person listed under **"FOR FURTHER INFORMATION CONTACT"** by the close of business February 8, 1984. If no one requests to comment at a public hearing, the hearing will not be held.

If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare appropriate questions.

The public hearing will continue on the specified date until all persons schedule to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those schedule. This hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment, have been heard.

Public Meeting

Persons wishing to meet with OSM representatives to discuss the proposed amendments may request a meeting at the OSM office listed in **"ADDRESSES"** by constacting the person listed under **"FOR FURTHER INFORMATION CONTACT."**

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record. A written summary of each public meeting will be made a part of the Administative Record.

II. Background on the Arkansas State Program

On February 19, 1980, Arkansas submitted its proposed regulatory program to OSM. On November 21, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved the program subject to the correction of 4 minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the November 21, 1980, **Federal Register** (45 FR 77003–77017).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Arkansas program can be found in the November 21, 1980 **Federal Register** notice.

III. Submission of Program Amendment

By a letter dated December 7, 1983, Arkansas submitted to OSM pursuant to 30 CFR 732.17, certain revisions to its regulations for permit fees, coal exploration operations and inspections.

In the amendment, Arkansas proposes to amend Part 771 of its regulations pertaining to permit fees. The State proposes to require that a request for a coal exploration approval for the removal of more than 250 tons of coal be accompanied by a $250 review fee and a $250 administration and enforcement fee.

Additionally, Arkansas proposes to add new language to Part 776 to its bond requirements for exploration operations extracting more than 250 tons of coal. A performance bond in the amount of not less than $5,000 will be paid to the Department after the request for approval to conduct such an operation but before the Department approves the request.

Arkansas also modified Part 842 of its regulations pertaining to inspections. The State proposes to establish an inspection frequency for *inactive* surface coal mining and reclamation operations of one complete inspection per calendar quarter. Additionally, the State is proposing to conduct aerial inspections. The proposed regulation provides that any potential violation observed during an aerial inspection shall be investigated on site within three calendar days. The regulation further provides that if the observed potential violation presents any indication of a condition requiring a cessation order that the site shall be investigated immediately.

The Secretary seeks public comment on these proposed modifications to the Arkansas program. If these amendments are approved, they will become part of the Arkansas program.

Procedural Matters

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 904

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: January 17, 1984.

James R. Harris,

Director, Office of Surface Mining.

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

[FR Doc. 84–1876 Filed 1–23–84; 8:45 am]
BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 754

[OPTS–62030; TSH–FRL 2476–6]

2-Methoxyethanol and 2-Ethoxyethanol and Their Acetates; Initiation of Regulatory Investigation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advance Notice of Proposed Rulemaking (ANPR).

SUMMARY: This notice announces EPA's intent to start developing regulations under the authority of the Toxic Substances Control Act (TSCA) to reduce exposure to two glycol ethers and their acetates: 2-methoxyethanol (2-ME); 2-ethoxyethanol (2-EE); 2-methoxyethanol acetate (2-MEA); and, 2-ethoxyethanol acetate (2-EEA). Their respective CAS Registry numbers are 109–86–4, 101–80–5, 110–49–6, and 111–15–9. Because of their toxicity, evidence of human exposure to concentrations above levels currently recommended by the American Conference of Governmental Industrial Hygienists, and the potential for significant numbers of individuals to become exposed due to their high production volume and multiple uses, EPA is exploring regulatory options to reduce or eliminate the risks of exposure to these four chemical substances. The Agency invites interested parties to submit data and comments relevant to the control of exposure to 2-ME, 2-EE, 2-MEA, and 2-EEA.

DATE: All comments must be received by March 26, 1984.

ADDRESS: Since some comments may contain Confidential Business Information (CBI), all comments should be sent in triplicate to: Document Control Office (TS–793), Office of Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M St., SW., Washington, D.C. 20460.

Comments should include the docket control number OPTS–62030. Comments received on this ANPR, except those containing CBI, will be available for review and copying from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays, in Rm. E–107 at the address given above.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–543, 401 M St., SW., Washington, D.C. 20460, Toll-Free: (800–424–9065), In Washington, D.C.: (554–1404), Outside the USA: (Operator 202–554–1404).

SUPPLEMENTARY INFORMATION: EPA intends to start developing regulations under TSCA for four chemical substances: 2-methoxyethanol (2-ME); 2-ethoxyethanol (2-EE); 2-methoxyethanol acetate (2-MEA); and, 2-ethoxyethanol acetate (2-EEA). These are known by a number of common names which can be found in the Registry of Toxic Effects of Chemical Substances (Ref. 1) and by the following trade names: Cellosolve®, Dowanol®, Ektasolve®, Glycol ester®, Poly-Solv®, Prist®, Oxitol®, and Jeffersol® (Ref. 2).

A number of animal studies indicate that adverse reproductive and fetotoxic effects are associated with these chemical substances at concentrations to which humans may be exposed. EPA is concerned about both short-term and chronic exposure of pregnant women, either as workers or as household consumers, to these chemical substances. EPA is also concerned about the exposure of males to these substances, both from short-term and chronic exposure. EPA has also made a preliminary review of the toxicity of some potential substitutes for these four ethers, and while some exhibit toxic effects, they appear to be of less concern than the effects of the glycol ethers that are the subject of this ANPR.

I. Production and Uses

Over 400 million pounds of the four substances were produced in the U.S. in 1981, with domestic consumption accounting for approximately 85 percent of the use and the remaining 15 percent being exported. Eight major firms produce one or more of the four substances. Approximate 1981 consumption in the United States for each substance was: 90 million pounds of 2-ME, 170 million pounds of 2-EE, 3 million pounds of 2-MEA, and 100 million pounds of 2-EEA (Ref. 2).

One major use of 2-ME is as a deicing additive for military jet fuels. A second use, of almost equal volume, is as a general solvent for applications in industrial and commercial products that require quick drying properties. 2-MEA is used as a solvent with oils and natural resins. It is also used as a solvent for nitrocellulose in preparation of plastics and fast drying lacquers. Some 2-EE is used as a solvent for coatings and inks. However, most 2-EE is used to make 2-EEA, which is employed in the production of surface coatings (Ref. 2).

II. Health Concerns

It has been known for some time that all four substances have toxic effects on the blood, kidneys, liver, central nervous system, and on reproductive systems. However, these effects had been demonstrated only in animals and only at exposure levels of 300 parts per million (ppm) and above (Ref. 3). However, recent animal studies have raised, and then confirmed, an Agency concern that inhalation and dermal exposure to lower levels of these chemicals may pose a serious risk of fetotoxic effects and a risk of adverse reproductive effects on males.

All four of these chemcial substances have caused fetotoxic effects (both fetal malformations and fetal deaths) after exposure of pregnant test animals, and testicular damage and decreased fertility in exposed male test animals. This information was provided to EPA by private firms under section 8(e) of TSCA and by the National Institute for Occupational Safety and Health (NIOSH). NIOSH provided EPA with new toxicology data in 1981 (Ref. 4) and the Chemical Manufacturer's Association (CMA) provided EPA with further data in 1982 and 1983 (Refs. 5, 6, 7, 8, 9).

In recent animal studies of inhalation exposures (Refs. 5, 6, 7, 8, 9, 10, 11), 2-ME caused fetotoxic effects after exposures to a concentration of only 10 ppm in rabbits and 50 ppm in rats and mice under standard developmental test protocols. Testicular damage was observed in rabbits after 12 weeks of exposures to 100 ppm for 6 hours a day. Partially reversible sterility was demonstrated in rats after exposure to 300 ppm. 2–EE clearly showed fetotoxic effects after exposure to 175 ppm in rabbits and 250 ppm in rats under standard developmental test protocols.

These cited data are consistent with other data presented in a report published by the European Chemical Industry Ecology and Technology Center (ECETOC) on these substances—both recent inhalation and dermal exposure studies, and earlier studies of oral exposure. The ECETOC report provides evidence that all four substances have reproductive effects at higher doses. Further, they show that acetates are as toxic as ethers when compared on a molecular basis (Ref. 3).

Given the limited number of test animals exposed to a given dose and the relatively high background levels for the effects, the tests could be expected only to demonstrate a statistically significant effect for exposure levels at which a large proportion of the exposed animals were affected. Because the tests have not established the minimum dose at which toxic effects exist, the Agency is concerned that there may be a risk of

toxic effects in humans at exposure levels below those reported in the studies cited above. The Agency will examine a number of approaches that may be used to evaluate the likely risk at low levels of exposure.

Based on the information presented above, the Agency is concerned about potential reproductive toxicity from short-term as well as chronic exposure to both sexes. The very nature of fetal development and teratogenesis leads the Agency to be concerned about exposures of short duration.

Developmental toxicants act on fetal cells at very specific points in development—specific developmental stages that may last for only a few hours. It may be that exposure of only a few hours to these substances could produce a teratogenic effect if it occurred at the critical time.

III. Exposure

EPA is concerned that numerous exposure situations pose the potential for exposure to levels that present a significant risk of reproductive toxicity. Such exposure may occur from product formulation and from occupational and consumer use of products.

There are existing occupational exposure standards for each of the four chemical substances. The Occupational Safety and Health Administration (OSHA) 8-hour permissible exposure limits (PELs) for these substances are: 25 ppm for 2–ME and for 2–MEA; 200 ppm for 2–EE; and 100 ppm for 2–EEA. The American Conference of Governmental Industrial Hygienists (ACGIH) intends to recommend threshold limit values (TLVs) of 5 ppm for each of the four substances. The current ACGIG TLVs are: 25 ppm for 2–ME and for 2–MEA; and 50 ppm for 2–EE and for 2–EEA (Ref. 10).

Both the OSHA standards and the ACGIH TLVs currently in effect were based on blood, kidney, liver, and central nervous system toxicity; current studies of reproductive effects were not available for consideration at the time these standards were set.

At the present time, EPA does not have comprehensive data on exposure or the extent of the current use of 2–EE, 2–EEA, 2–ME or 2–MEA. The Agency's preliminary modeling results suggest, however, that use of products containing two percent glycol ethers to coat a flat surface may produce a one-hour average exposure level of serious concern. Historical data indicate that various products have contained significantly more than two percent concentrations of glycol ethers and their acetates. Examples of such products include inks, paints, lacquers, and use directly as a solvent. Current concentrations and uses are not known.

There are uncertainties associated with the modeling of these uses. EPA will therefore seek to validate the exposure model by measuring experimental exposures, and will obtain more information on the current uses of glycol ethers. EPA is interested in public comments on this issue.

OSHA monitoring data suggest that occupational exposure may be at significant levels. Between 1979 and 1982, OSHA collected monitoring data from over 51 different plants at which these solvents were being used. The average 8-hour time-weighted averages (TWAs) for worker exposure to 2–ME, 2–MEA, 2–EE, and 2–EEA were 9.3, 0.9, 4.3, and 2.7 ppm, respectively. Although these TWAs are below current OSHA standards, they are at levels near or above future recommended ACGIH values. In addition, there was significant variation in the data; 8-hour TWAs were observed for these chemical substances of as much as 60.6, 8.4, 85.3, and 50.4 ppm, respectively (Ref. 2). Peak exposure levels for periods of less than eight hours could have been even greater.

EPA's primary concern, on the basis of available information, is with occupational and product user exposures. The Agency does not believe there is significant exposure from use as a deicing agent in some jet fuels or as a chemical intermediate. Nor is the Agency aware of significant releases to the general environment. Our current intent is to concentrate on occupational and user exposure; however, we will reconsider this position if we receive information suggesting that other sources of exposure are significant.

The three potentially exposed populations that the Agency has identified are:

1. *Consumers.* Numerous products containing these substances have been available for consumer use (Ref. 2). Among these products were automobile touch-up paints, epoxy paints, and cleaning solutions. We also assume that many trade products were and are used by consumers. There is no survey of the current use of 2–ME, 2–EE and their acetates in specific consumer products. It is unlikely that a survey could be definitive, because of the continually changing composition of these products. While it is important to learn which products contain these chemicals, it appears that at least for some uses it will not be crucial to know the concentrations used because even low concentrations appear to produce exposure levels of concern.

2. *Trade users.* There are many products used in a very wide variety of trades that may contain these substances. These are inks used in printing and finishing; and paints, varnishes, stains, lacquers, paint removers, and cleaning solvents used by woodworkers, painters, furniture finishers, metal workers and auto body shops. There is not systematic survey of the number of workers actually exposed or their exposure levels. Therefore, the Agency is particularly concerned about trade users engaged in painting, staining, etc.

3. *Industrial workers.* There are two classes of industrial workers who may be exposed to 2–ME, 2– EE, and their acetates. These are workers in an industrial setting using products and workers manufacturing the substances and formulating the products. It should be noted that workplace surveys show the highest exposures to industrial painters and stainers using products rather than to workers formulating products. Both classes of workers will frequently, but not always, have access to engineering control equipment, such as spray booths, hoods, and other forced ventilation, as well as to personal protective equipment to control exposure. In some industrial uses there may be sufficient exposure control so that the health risk is not sufficient to warrant regulatory action.

The exact number of exposed individuals in each category is unknown but potentially large (greater than one million). The exact duration of exposures is also unknown, but it is probably sizable (greater than 10 hours per week) among trade and industrial workers. Many of these users are not likely to know the potential hazards associated with these chemicals. It is estimated that 100,000 industrial workers are exposed to 2–ME in occupational settings and that 400,000 are exposed to 2–EE (Ref. 11). We do not have estimates of the number of consumer or trade users exposed to these chemicals. But, as noted above, consumer and trade workers are potentially exposed to these chemicals through a variety of products. The Agency is concerned about the possible risk to anyone that uses products, other than jet fuel or chemical intermediates, containing 2–ME, 2–EE, and their acetates. To the extent that these chemicals are currently used in products, our information leads to the conclusion that almost all consumer and trade users will face a significant risk of adverse health effects from using these products.

IV. Regulatory Investigation

EPA is considering regulation under section 6 of TSCA to control any unreasonable risks from the manufacture, processing, distribution in commerce, and use of 2–ME, 2–EE, 2–MEA, and 2–EEA. EPA has also consulted with OSHA and the Consumer Product Safety Commission on possible actions under their legal authorities.

Section 6 of TSCA provides for a number of alternative controls for reducing human exposure to chemical substances which pose an unreasonable risk to health or the environment. Control alternatives under this section include a total or partial ban on the manufacture, processing, or use of a substance; regulating a substance's concentration in products; labeling requirements; requirements for engineering controls for handling a substance; or requirements for quality controls on the manufacture or processing of a substance. EPA solicits comments on which if any of the above alternatives would be most appropriate for these chemicals. However, the Agency is especially interested in comments on whether it is appropriate to impose a partial or total ban on the manufacture of 2–ME, 2–EE, 2–MEA, or 2–EEA.

To determine whether an unreasonable risk exists and what types of controls might be needed, the Agency will consider the risks and benefits of known uses of these four chemicals, and, for those uses, the economic impact of regulations which might be developed. The suitability of substitutes will also be considered.

To this end, the Agency is seeking comments and available data in five major areas: extent and nature of exposure; substitutes for these chemical substances; the economic impact of alternative means of regulating the four chemical substances; sources of, and ways to control exposure; and, the toxicity of these chemical substances.

1. *Substitutes.* The Agency has identified a number of substances that, based on their chemical properties (e.g., solvency, evaporation rates, etc.), may be potential substitutes for these four substances (Ref. 2). EPA believes that substitution is feasible, but it recognizes that mixtures of substitute chemicals may be required and that firms may need to conduct testing and research in order to reformulate products or test alternative products.

EPA seeks further, more detailed, information on the identity, use, availability, and suitability of substitute solvents, mixtures of solvents, and products. The Agency is particularly interested in learning about specific uses for which there are not suitable substitutes.

2. *Economics and benefits.* In determining whether an unreasonable risk exists, the Agency must consider the costs and benefits of continued use of these four substances. EPA must consider the costs of substitution and the potential risks of the substitutes themselves. For that reason, the Agency seeks information on the costs and toxicity of various substitute solvents and products. We seek information on the process and equipment changes (and the associated costs) that would be required for substitution, other costs of changing over to substitutes, the time required to switch to substitutes, and the expected impact on the regulated industry of the possible control actions indicated above. In addition, the Agency needs to identify and better characterize both the uses and users of these four substances.

3. *Exposure.* Exposure is an important component of determining whether the manufacture, processing, distribution, or use of these substances poses an unreasonable risk. There are a number of steps during manufacture, use, and disposal when exposure can occur with either manual or automated handling. We believe available monitoring data, although limited, are sufficient to establish that significant human exposure to these substances can and does occur. We solicit additional monitoring data for the industrial, consumer, and trade uses of 2–ME, 2–EE, 2–MEA, and 2–EEA. Levels of exposure associated with each type of use being investigated are sought to determine the risks of each type of use and the regulatory options that will be appropriate for each type of use. We also solicit monitoring data for the disposal of wastes containing the four glycol ethers.

We will also examine ways to reduce or control exposure by applying engineering controls and altering handling practices. To facilitate this examination, EPA seeks information on current and alternative work practices, engineering controls, and waste disposal practices, including the use of enclosed systems. Information is also sought on whether and what types of personal protective equipment is used, whether adequate equipment is available and effective, and whether such equipment is reasonable to purchase and place in each work setting. Information is also sought on the benefits or utility of labeling requirement.

4. *Toxicity.* The Agency welcomes information on three issues relating to toxicity. First, we seek comment on how to estimate the likely reproductive effects on humans of exposures to concentrations at or below the levels tested in the animal studies. Second, the Agency seeks data on any non-reproductive toxic effects likely to be significant at exposure levels of 5 ppm and lower. Third, we seek comment on the relationship of the frequency and duration of exposure to the toxicity of these substances.

The Agency solicits information in each of these areas and any other relevant issues. EPA will consider all information supplied in response to this notice in determining the best course of action regarding 2–EE, 2–ME, 2–EEA, and 2–MEA.

V. Confidential Business Information

Information submitted as comments to this notice may be claimed confidential by marking any part or all of that information as "CBI." However, health and safety studies cannot be held confidential except as allowed under section 14(b) of TSCA. Information submitted as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A sanitized copy of any comments containing CBI should be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VI. Public Record

EPA has established a record for this proceeding (docket number OPTS 62030). Nonconfidential information, along with a complete index, is available for inspection in the Office of Toxic Substances Reading Room from 8:00 a.m. to 4:00 p.m. on working days in Room E–107, 401 M St., SW., Washington, D.C. 20460. This record includes basic information considered by the Agency in developing this ANPR. The Agency will supplement the record with additional information as it is received. The public record will include:

1. This notice.
2. All comments on this ANPR.
3. All relevant supporting documents and studies.
4. Records of all communications between EPA personnel and persons outside the Agency pertaining to the development of this rule. (This does not include any inter- or intra-agency memoranda unless specifically noted in the index of this record.)

VII. References

(1) NIOSH. Registry of Toxic Effects of Chemical Substances. 1980 Edition.

(2) USEPA. Glycol Ethers and Their Acetates: Uses and Substitutes. July 1983.

(3) European Chemical Industry, Ecology and Technology Centre (ECETOC). Technical Report. 1982.

(4) USDHHS, PHS, CDC, NIOSH, Letter from B.D. Hardin to David Williams, EPA. Washington, DC. February 25, 1981.

(5) The Dow Chemical Company, Midland, MI. Letter from E.H. Blair to Document Control Officer, EPA, Washington, DC. 8EHQ–0982–0384/0386 Supplement) September 30, 1982.

(6) Miller RR, Calhoun, LL, Yano BL. TSCA sec. 8(e) Submission 8EHQ–0281–0384, submitted by Dow Chemical Company. Ethylene Glycol Monomethyl Ether: 13-Week Vapor Inhalation Study in Male Rabbits. Washington, DC: Office of Toxic Substances, U.S. Environmental Protection Agency. 1981.

(7) Miller RR, Ayres JA, Young JT. TSCA sec. 8(e) Submission 8EHQ–0182–384 follow-up, submitted by Dow Chemical Company. Ethylene Glycol Monomethyl Ether: 13–Week Vapor Inhalation Study with Rats and Rabbits. Washington, DC: Office of Toxic Substances, U.S. Environmental Protection Agency. 1982.

(8) CMA. Ethylene Glycol Monoethyl Ether (EE): Teratogenicity Study in Rats. Chemical Manufacturers Assn., Washington, DC. Report No. CTL/P/761. April 14, 1983.

(9) CMA. Ethylene Glycol Monoethyl Ether (EE): Inhalation Teratogenicity Study in Rabbits. Chemical Manufacturers Assn., Washington, DC. Report No. CTL/P/776. April 21, 1983.

(10) ACGIH. American Conference of Governmental Industrial Hygienists—Threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment with Intended Changes for 1982.

(11) USDHHS, PHS, CDC, NIOSH. Telecon with Dave Sundin by C. Matthiesen, about data from NOHS 1980. Projected Workers Exposed to Chemicals. April 1983.

(Sec. 6, Pub. L. 94–469, 90 Stat. 2020 (15 U.S.C. 2605)

List of Subjects in 40 CFR Part 754

Environmental protection, Chemicals, Hazardous materials, Reporting and recordkeeping requirements, Solvents.

Dated: January 13, 1984.

Alvin L. Alm,

Acting Administrator.

[FR Doc. 84–1903 Filed 1–23–84; 8:45 am]

BILLING CODE 6560–50–M

LEGAL SERVICES CORPORATION

45 CFR Part 1625

Procedures Governing Denial of Refunding

AGENCY: Legal Services Corporation.

ACTION: Proposed rule.

SUMMARY: This proposed rule revises the Corporation's regulations governing denial of refunding. This revision is required to comply with provisions of the Corporation's 1984 appropriation, Pub. L. 98–166. This proposed rule changes the time limits in the current rule to conform with those mandated by the appropriations bill, and places the burden of proof in denial of refunding proceedings on the recipient as required by Congress.

DATES: Comments must be received on or before February 23, 1984.

ADDRESS: Comments may be submitted to Office of General Counsel, Legal Services Corporation, 733 Fifteenth Street, NW., Room 620, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Alan R. Swendiman, General Counsel. (202) 272–4010.

SUPPLEMENTARY INFORMATION: Pub. L. 98–166, which appropriates the Corporation's funding for 1984, sets new requirements for all denial of refunding proceedings involving 1984 funds. To a considerable extent, these requirements are compatible with the final rule 45 CFR Part 1625 published November 30, 1983 (48 FR 54196ff), but two provisions of Pub. L. 98–166 require further changes in the Corporation's denial of refunding procedures.

First, Pub. L. 98–166 requires that all denial of refunding proceedings be completed within 90 days of which 30 days are allowed for the recipient to appeal, 30 days for the hearing, and 30 days for the Corporation's final decision. Accordingly, the overall 90 day deadline is inserted into § 1625.1 and he recipient is given 30 days rather than 10 days to request review of a proposed denial of refunding.

A number of deadlines have been shortened to ensure that the Corporation can complete the proceedings within the new statutory limits. In § 1625.5, the Corporation has 5 rather than 7 days to notify the recipient of the name of the presiding officer and in § 1625.6, the President has 5 rather than 10 days to rule on any objection to the presiding officer. In § 1625.8, the hearing is required to begin at the earliest practical date, rather than no less than 20 days after the date of the notice to the recipient, and the presiding officer is given a maximum of 10 days after the hearing to make a recommended decision. In § 1625.11, the President is required to make a final decision within 10 days of receipt of a request for review of the recommended decision.

The second significiant change mandated by Pub. L. 98–166 is that the burden of proof is transferred wholly to the recipient. Accordingly, § 1625.9 is amended to incorporate the actual statutory language.

Finally, several changes in terminology, such as the use of "proposed denial" rather than "preliminary determination" in §1625.4, are adopted to conform more closely to the terminology of Pub. L. 98–166.

List of Subjects in 45 CFR Part 1625

Administrative practice and procedure, Legal services.

For the reasons set forth in the preamble, 45 CFR Part 1625 is proposed to be amended as follows:

PART 1625—[AMENDED]

1. The authority citation for Part 1625 is revised as follows:

Authority: Sec. 1006(b) (1) and (3), 1007(a) (1), (3) and (9), 1007(d), 1008(e), 10011, Legal Services Corporation Act of 1974, as amended (42 U.S.C. 2996e(b) (1) and (3), 2996(f)(a) (1), (3), and (9), 2996f(d), 2996f(d), 2996g(e), 2996(j); Pub. L. 98–166, 97 Stat. 1071.

2. Section 1625.1 is revised to read as follows:

§ 1625.1 Purpose.

This part is intended to provide a full, fair, impartial, and flexible process for reaching a final determination within 90 days when there is reason to believe that refunding of a grant or contract should be denied. At the same time, this part seeks to avoid unnecessary and precipitous disruption in the delivery of legal assistance to eligible clients.

3. Section 1625.4 is revised to read as follows:

§ 1625.4 Proposed denial.

(a) When there is reason to believe that refunding should be denied, the Corporation shall serve a written notice of denial upon the recipient, which shall state the grounds for the proposed action, and shall identify, with reasonable specificity, any facts or documents relied upon as justification for that action.

(b) The written notice shall advise the recipient that it may, within 30 days of receipt thereof make written request for a review of the proposed denial in accordance with the procedures under this part.

(c) The written notice shall also advise the recipient of its right to receive interim funding, and to request termination funding under §§ 1625.14 and 16.

(d) If the recipient advises the Corporation it will not seek review, or if it fails to request review within the time prescribed in paragraph (b) of this section, the proposed denial shall become final.

§ 1625.5 [Amended]

4. In § 1625.5 the first line is amended by substituting "5 days" for "7 days" in line 1.

§ 1625.6 [Amended]

5. In § 1625.6 the first line of paragraph (c) is amended by substituting "5 days" for "10 days".

§ 1625.8 [Amended]

6. In § 1625.8 paragraph (a) is revised as follows:

(a) The hearing shall commence at the earliest practical date and shall be completed within 30 days of receipt of the recipient's request for review under § 1625.4(b).

* * * * *

7. Section 1625.9 is revised as follows:

§ 1625.9 Burden of Proof.

The recient shall have the burden of showing cause why the Corporation's proposed action to deny refunding should not be taken.

§ 1625.10 [Amended]

8. In § 1625.10 paragraph (a) is revised as follows:

(a) Within 10 days after conclusion of the hearing or after final submissions, if any, the presiding officer shall issue a written recommended decision:

(1) Granting refunding; or

(2) Granting refunding subject to any modification or condition that may appear necessary and appropriate on the basis of information disclosed at the hearing or adduced from the record; or

(3) Denying refunding.

* * * * *

§ 1625.11 [Amended]

9. In § 1625.11 paragraph (c) is revised as follows:

* * * * *

(c) Within 10 days of receipt of such request, the President shall adopt, modify, or reverse the recommended decision, or direct further consideration of the matter. In the event of modification or reversal, the President's decision shall conform to the requirements of § 1625.10(b).

* * * * *

§ 1625.12 [Amended]

10. In § 1625.12 paragraph (b) is revised as follows:

* * * * *

(b) Request in extension of time shall be considered in light of the overall objective that the procedures prescribed by this part shall be concluded within 90 days of the notice of denial.

* * * * *

Dated: January 19, 1984.

Alan R. Swendiman,

General Counsel.

[FR Doc. 84-1878 Filed 1-23-84; 8:45 am]

BILLING CODE 6820-35-M

Notices

Federal Register
Vol. 49, No. 16
Tuesday, January 24, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Sterile Fly Rearing Facility, Oahu, Hawaii; Finding of No Significant Impact

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: The Animal and Plant Health Inspection Service (APHIS) has prepared an environmental assessment for construction and operation of a sterile fruit fly rearing facility on Oahu, Hawaii. This 35,000 square foot building will be constructed on a 5 acre portion of the University of Hawaii Waimanalo Agricultural Research Station. This facility will be used as a standby rearing laboratory to provide sterile flies to the U.S. mainland in the event of a medfly outbreak. It also will be one component of a comprehensive program to eradicate fruit flies from the State of Hawaii, if such a program is undertaken.

On the basis of the assessment APHIS has determined that the proposed project will not cause any significant local, regional, or national impacts on the environment. Based upon this Finding of No Significant Impact (FONSI), it has been determined that the preparation and review of an Environmental Impact Statement (EIS) is not needed for this project.

Copies of this environmental assessment have been sent to the Environmental Protection Agency, appropriate State and local agencies, and other interested parties.

FOR FURTHER INFORMATION CONTACT: Copies of the environmental assessment are available upon request from Mr. Dennis Wilmeth, Environmental Protection Specialist, APHIS, ASD, Room 260, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, Area Code (301) 436–8775.

SUPPLEMENTARY INFORMATION: The environmental assessment indicates that no endangered or threatened species will be affected by the proposed project. The historic "Tai-Lee" irrigation ditch that bounds the site also will not be affected. Because the site is not located on a public road and dense vegetation surrounds it, the project will not be a visual intrusion into the rural character of the area.

The proposed project is consistent with State and county planning policies for the Waimanalo area. Operation of the facility will not create any significant noise levels, odors, or air pollution. Solid waste from the media used to feed and grow the flies will be used as animal and/or fish food. Utility and public services are adequate to support the facility. Traffic will increase when the facility is operational, but local roads have adequate capacity. The site is not located in a 100-year flood plain.

One and possibly two Cesium-137 irradiators will be used to sterilize fruit flies at the facility. These irradiators will be operated in strict compliance with Nuclear Regulatory Commission rules.

Implementation of the proposed project will not be initiated until 30 days after publication of this notice in the **Federal Register**.

Done at Washington, DC, this 13 day of January, 1984.

Bert W. Hawkins,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 84–1953 Filed 1–23–84; 8:45 am]
BILLING CODE 3410–34–M

Soil Conservation Service

Clay County Schools Land Critical and Drainage Area Treatment RC&D Measure Plan, West Virginia

AGENCY: Soil Concervation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines, (40 CFR Part 1500); and the Soil Conservation Service Guidelines. (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Clay County Schools Critical Area Treatment and Land Drainage RC&D Measure, Clay County, West Virginia.

FOR FURTHER INFORMATION CONTACT: Rollin N. Swank, State Conservationist. Soil Conservation Service, 75 High Street, Morgantown, West Virginia 26505 telephone 304–291–4151.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Rollin N. Swank, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns land critical and drainage area treatment. The planned works of improvement will be installed on three school sites scattered areound Clay County. Conservation practices include diversions, vegetative and lined waterways, subsurface drains, drop structures, rock riprap, fencing and seeding.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Rollin N. Swank, State Conservationist.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Rollin N. Swank,

State Conservationist.

January 16, 1984.

[FR Doc. 84-1893 Filed 1-23-84; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

Announcement of Proposed Collection of Information Under the Provisions of the Paperwork Reduction Act (44 U.S.C. 35)

Agency Clearance Officer From Whom a Copy of the Collection of Information and Supporting Documents Is Available: Robin A. Caldwell (202) 673-5922.

New

Title of the Collection of Information: War Air Service Program Questionnaire.

Agency Form Number: None.

How Often the Collection of Information Must Be Filed: One time basis. Who is Asked or Required to Report: Certificated and essential air service carriers.

Estimate of Number of Annual Responses: 220.

Estimate of Number of Annual Hours Needed to Complete the Collection of Information: 1,760.

Robin A. Caldwell,

Chief, Information Management Division, Office of Comptroller.

January 11, 1984.

[FR Doc. 84-1906 Filed 1-23-84; 8:45 am]

BILLING CODE 6320-01-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits; Week Ended January 13, 1984

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Jan 9, 1984	41928	Eastern Air Lines, Inc., Miami International Airport, Miami, Florida 33148 Application of Eastern Air Lines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations applies for amendment of its certificate of public convenience and necessity for Route 165 so as to authorize service between the terminal point Miami, Florida and the terminal point London, England. Conforming Applications, Motions to Modify Scope and Answers may be filed by February 6, 1984
Jan 10, 1984	41932	Transportes Aereos Bolivianos, c/o Michael Goldman, Verner, Liipfert, Gernhard and McPherson, Suite 1000, 1660 L Street, NW., Washington, D.C 20036 Application of Transportes Aereos Bolivianos pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations requests renewal of its foreign air carrier permit, issued pursuant to Order 79-1-127, authorizing non-scheduled cargo service as follows: Between a point or points in Bolivia, the intermediate points Lima, Peru; Caracas, Venezuela; Panama City, Panama; and the co-terminal points Miami, Florida, and Houston, Texas. Additionally, T.A.B. seeks renewal of its authority, contained in its permit, to provide cargo charter trips in foreign air transportation. T.A.B. asks that its permit be renewed for a period of unlimited duration Answers may be filed by February 7, 1984.
Jan 11, 1984	41935	British Airways Board and British Airways PLC, c/o William C. Clarke, Barrett Smith Schapiro Simon & Armstrong, 26 Broadway, New York, New York 10004 Application of British Airways Board and British Airways PLC requests the Board to issue an order transferring the foreign air carrier permit of British Airways Board to British Airways Plc, effective April 1, 1984, and authorizing British Airways Plc to use the trade name "British Airways," together or in conjunction with the initials "BOAC" Answers may be filed by February 8, 1984
Do	41937	Seagreen Air Transport, Limited, c/o David B. Ortman, 304 Capital Gallery East, 600 Maryland Avenue, SW Washington, D.C. 20024. Application of Seagreen Air Transport, Limited pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations requests renewal and amendment of its foreign air carrier permit, issued by Order 79-1-125 in Docket 25608. Seagreen also applies for renewal of its foreign air carrier permit, issued by Order 79-1-125 in Docket 31006. Answers may be filed by February 8, 1984.
Jan. 12, 1984	41425	Alaska Juneau Aeronautics, Inc. d.b.a. Wings of Alaska, c/o Robert N. Jacobsen, 1873 Shell Simmons Drive, Suite 119, Juneau, Alaska 99801 Application of Alaska Juneau Aeronautics, Inc. d.b.a. Wings of Alaska pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations applies for a certificate of public convenience and necessity for an indefinite term to perform scheduled interstate air transportation of persons, property and mail within the State of Alaska between Juneau and Hoonah, Excursion Inlet, Gustavus, Haines and Skagway Answers may be filed by February 9, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-1909 Filed 1-23-84; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41478]

Michigan Peninsula Airways; Fitness Investigation; Reconvened Hearing

The hearing in this case commenced on January 10, 1984. At the request of the applicant the hearing was adjourned after the first day.

The hearing will reconvene at the Civil Aeronautics Board on January 30, 1984, at 10:00 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned.

Dated at Washington, D.C., January 13, 1984.

William A. Kane, Jr.,

Administrative Law Judge.

[FR Doc. 84-1910 Filed 1-23-84; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41035]

Dominion Intercontinental Airlines, Inc. Fitness Investigation; Hearing

Notice is hereby given that the hearing in the above-entitled proceeding will be resumed on February 2, 1984, at 9:30 a.m. (local time), Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C. January 17, 1984.

Ronnie A. Yoder,

Administrative Law Judge.

[FR Doc. 84-1907 Filed 1-23-84; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Lawler, Matusky & Skelly Engineers; Modification No. 1 to Permit No. 377

Notice is hereby given that pursuant to the provisions of §§ 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), and § 222.25 of the Regulations Governing Endangered Species Permits (50 CFR Part 222), Scientific Research Permit No. 377 issued to Lawler, Matusky & Skelly Engineers, Pearl River, New York, on May 3, 1982 (47 FR 19730), is modified to extend the period of authorized taking for two years.

Accordingly, Section B-8 is deleted and replaced by: "8. This permit is valid with respect to the taking authorized herein until December 31, 1985."

This modification is effective on January 1, 1984.

The Permit as modified and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: January 17, 1984.

Roland Finch,

Director, Office of Fisheries Management, F/M1 National Marine Fisheries Service.

[FR Doc. 84-1909 Filed 1-23-84; 8:45 am]

BILLING CODE 3510-22-M

J. M. Terhune; Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Dr. J. M. Terhune (P333).

b. Address: Department of Biology, University of New Brunswick, Saint John, New Brunswick, Canada E2L-4L5.

2. Type of Permit: Scientific Research.

3. Name and Number of Animals: Harbor seals (*Phoca vitulina); unspecified.*

4. Type of Take: Passive marking for long term population studies.

5. Location of Activity: St. Croix Islands and adjacent reefs Gulf of Maine.

6. Period of Activity: One year.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: January 17, 1984.

Roland Finch,

Director, Office of Fisheries Management, F/MI National Marine Fisheries Service.

[FR Doc. 84-1870 Filed 1-23-83; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of Subsection (d) of section 10 of Pub. L. 92-463, as amended by section 5 of Pub. L. 94-409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee has been scheduled as follows: Wednesday and Thursday, 14-15 March 1984, Rosslyn, VA.

The entire meeting, commencing at 0900 hours each day is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on SIGINT Support to Naval Operations.

Dated: January 19, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-1954 Filed 1-23-84; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army, Corps of Engineers

Intent to Prepare a Draft Site-Specific Environmental Impact Statement (EIS) for a Proposed Flood Control Project, Lake Darling, Souris River, North Dakota

AGENCY: U.S. Army Corps of Engineers, St. Paul District, DOD.

ACTION: Notice of Intent ot Prepare a Draft Environmental Impact Statement (EIS).

SUMMARY: The 1982 Energy and Water Development Act authorized the Corps of Engineers to raise Lake Darling by approximately 4 feet and to implement work on upstream and downstream flood control measures. Congress also directed the Corps to take no further action to construct the Burlington Dam until it expressly directs the Corps to do so. When Congress directs the Corps to take this action, the EIS and supplement for the Burlington Dam project will be completed and coordinated. Congress also directed the Corps of Engineers to expeditiously prepare and submit a

report on the mitigation needs related to Lake Darling.

Features considered to be part of the authorized project are a 4-foot raise of Lake Darling; levee improvements at Velva, Sawyer, and six subdivision areas between Burlington and Minot; flood protection measures at Renville County Park and McKinney Cemetery; relocation of roads and railroads affected by the lake raise; flood proofing, relocation, or acquisition of rural residences downstream of the dam; modification of U.S. Fish and Wildlife Service structures in the Upper Souris and J. Clark Salyer National Wildlife Refuges; mitigation measures; compensation to Canada for altered return flows; and a flood warning system for the Gassman Coulee near Minot.

The draft EIS on the proposed project will address the site-specific impacts of the Lake Darling Dam raise and the upstream and downstream flood control features other than the Velva levee feature. It will discuss impacts in more detail than the earlier Lake Darling programmatic EIS, and it will supplement data gaps identified in the programmatic EIS. The programmatic EIS, prepared under the "tiering" process discussed in 40 CFR 1502.20 and 1508.28, was the first protection of the environmental documentation for the Lake Darling project. It presented sufficient information regarding the general impacts of the Lake Darling-Souris River project as a whole so that a reasoned judgment could be made on the merits of the action at that stage of planning. A second EIS, a site-specific EIS for the flood control features at Velva, North Dakota, accompanied the programmatic EIS when it was distributed to the public. The Velva EIS discussed the site-specific impacts of the Velva levee feature. The site-specific Lake Darling EIS is the third EIS for the Lake Darling project.

Significant issues identified to date include carp control; effects on wildlife, vegetation, water quality, erosion, agricultural lands, recreational resources, and cultural resources; mitigation; land acquisition; transportation interruptions; and population displacements. The programmatic EIS discussed these issues generally while the Lake Darling site-specific EIS will examine them in depth. The mitigation report directed by Congress will also be part of the site-specific EIS.

The scoping process for the draft site-specific EIS will be initiated by letter to all concerned Federal, State, and local agencies; affected Indian tribes; and other interested private organizations an individuals. Anyone who has and interest in participating in the scoping process and the development of the EIS is invited to contact the St. Paul District, Corps of Engineers, as soon as possible. We hope to accomplish the scoping task by letter. Because of the geographical distances between interested parties, we believe that this is the most practical and efficient method. However, if interest is sufficient at the end of the scoping process, we will hold a meeting, after contacting all parties who have expressed an interest in the project.

Our review of the project will comply with the requirements of the National Environmental Policy Act of 1969, Council on Environmental Quality Regulations (40 CFR 1500–1508), and applicable Corps of Engineers and other regulations and guidance.

The estimated date for public availability of the Lake Darling site-specific EIS is July 1984.

Questions concerning the proposed action and draft EIS can be directed to: Robbin Blackman, Chief, Environmental Analysis Section, Environmental Resources Branch, Planning Division, 1135 U.S. Post Office and Custom House, St. Paul, Minnesota 55101.

Dated: January 10, 1984.

Edward G. Rapp,

Colonel, Corps of Engineers. District Engineer.

[FR Doc. 84–1892 Filed 1–23–84; 8:45 am]

BILLING CODE 3710–CY–M

Department of the Navy

Chief of Naval Operations Executive Panel Advisory Committee, Pacific Basin Task Force; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Pacific Basin Task Force will meet on February 14–16, 1984, at the following places: February 14 at Rand Corporation, 1700 Main Street, Santa Monica, California; February 15 at CINCPAC, Camp H.M. Smith, Hawaii; and February 16 at CINCPACFLT, Pearl Harbor, Hawaii. The meetings will be from 9 a.m. to 5 p.m. each day. All sessions will be closed to the public.

The entire agenda for the meeting will consist of discussions of key issues related to United States national security interests and naval strategies in the Pacific and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Thomas E. Arnold, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Room 392, Alexandria, Virginia 22311. Telephone number (703) 756–1205.

Dated: January 18, 1984.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Alternate Federal Register Liaison Officer.

[FR Doc. 84–1830 Filed 1–23–84; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF EDUCATION

National Diffusion Network Program; Application Notice Establishing Closing Dates for Fiscal Year 1984

AGENCY: Office of Educational Research and Improvement, Department of Education.

ACTION: Application notice establishing closing dates for transmittal of certain fiscal year 1984 applications for the National Diffusion Network program.

SUMMARY: The purpose of this application notice is to inform potential applicants of fiscal and programmatic information and closing dates for transmittal of applications for new State Facilitator grants and non-competing continuing Developer Demonstrator grants under the National Diffusion Network program.

Organization of Notice

This notice contains two parts. Part I includes the list of application announcements and closing dates covered by this notice. Part II consists of the individual application announcements for each program.

The Secretary has published a Notice of Proposed Rulemaking (NPRM) for the National Diffusion Network program in the **Federal Register** at 48 FR 57090 on December 27, 1983. Applicants are to prepare their applications in accordance with the NPRM. Following the expiration of a forty-five (45) day comment period on the proposed regulations, the Secretary will publish final regulations to govern awards for fiscal year 1984. If there are any substantive changes made when the

final regulations are published, applicants will be given the opportunity to amend or resubmit their applications.

Intergovernmental Review

On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why not; and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review:

Arizona	New Jersey
Arkansas	New Mexico
California	New York
Colorado	North Carolina
Connecticut	Ohio
Delaware	Oklahoma
Florida	Oregon
Georgia	Pennsylvania
Hawaii	Rhode Island
Illinois	South Carolina
Indiana	South Dakota
Iowa	Tennessee
Kansas	Texas
Kentucky	Utah
Louisiana	Vermont
Maryland	Virginia
Massachusetts	Washington
Michigan	West Virginia
Minnesota	Wisconsin
Mississippi	Wyoming
Missouri	Virgin Islands
Montana	District of Columbia
Nebraska	Puerto Rico
Nevada	Northern Mariana Islands
New Hampshire	

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. However, for this program, if the specific States in which developer Demonstrator applicants may work have not been determined, this requirement need not be accomplished now. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State process recommendation and other comments submitted by a State single point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by April 1, 1984 for Developer Demonstrator Projects—Continuing (84.073B); and May 8, 1984 for State Facilitator Projects—New (84.073C) to the following address:

The Secretary, U.S. Department of Education, Room 4181, (84.073B or 84.073C) 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone Number (202) 245–7913. (Proof of mailing will be determined on the same basis as applications.)

Please note that the above address is not the same address as the one to which the applicant submits its completed application. Do not send applications to the above address.

Instructions for Transmittal of Applications

Applicants should note specifically the instructions for the transmittal of applications included below:

Transmittal of applications: Applications for new State Facilitator projects must be mailed or hand delivered on or before March 9, 1984. Each late applicant for a new State Facilitator grant will be notified that its application will not be considered.

Applications for noncompeting continuing Developer Demonstrator projects should be mailed or hand delivered by March 1, 1984. If a noncompeting continuing Developer Demonstrator application is late, the Department of Education may lack sufficient time to review it with other noncompeting continuing applications. If this is the case, the Secretary may decline to accept it.

Applications delivered by mail: Applications must be addressed to the Department of Education, Application Control Center, Attention: (insert appropriate CFDA Number), Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications delivered by hand: Hand-delivered applications must be taken to the Department of Education, Application Control Center (Room 5673, Regional Office Building 3), 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between the hours of 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application for a new State Facilitator grant that is hand delivered will not be accepted by the Application Control Center after 4:30 p.m. on the closing date.

Part I—Programs and Closing Date

CFDA No.	Program	Closing date
84.073B	Developer demonstrator projects—continuing.	Dec. 1, 1984.
84.073C	State facilitator projects—new.	Dec. 9, 1984.

Part II—Application Notices

National Diffusion Network Program

Applications are invited for new State Facilitator and noncompeting continuing Developer Demonstrator projects under the National Diffusion Network program.

Authority for this program is contained in Section 583 of the Education Consolidation and Improvement Act of 1981 (Pub. L. 97–35), (20 U.S.C. 3851).

The purpose of the program is to promote the widespread installation across the nation of rigorously evaluated, exemplary educational programs.

The program issues awards to State educational agencies, local educational agencies, institutions of higher education, and other nonprofit institutions or agencies.

Available Funds: The estimated amount available for new and continuation awards included in this announcement will be $7,665,000. This estimate does not bind the Department of Education to a specific number of grants or to the amount of any grant, unless that amount is otherwise specified by statute or regulations.

84.073B—Continuing Developer Demonstrator Projects

Closing Date: March 1, 1984.

Program Information: Developer Demonstrator projects disseminate a specific exemplary educational program nationwide. Only Developer Demonstrator projects funded in FY 1982 and 1983 are eligible for funding. No funds are available for program development.

Available Funds: The average grant is expected to be about $57,000.

Application forms: Application forms will be sent to eligible applicants by the Department of Education.

84.,073C—New State Facilitator Projects

Closing Date: March 9, 1984.

Program Information: State Facilitator projects disseminate a wide variety of exemplary educational programs within the State served. Only one award will be made in each State, the District of Columbia, Puerto Rico and the Virgin Islands. Projects should be designed for four year periods.

Available Funds: Awards will be based primarily on student population in each State. The average award is expected to be about $85,000.

Application Forms: Application forms will be available on January 30, 1984 and may be obtained by writing to the National Diffusion Network, U.S. Department of Education, 400 Maryland Avenue, SW., Room 613 Brown Building, Washington, D.C. 20202. Applications must be prepared and submitted in accordance with the regulations, instructions and forms included in the application package. The Secretary urges applicants not to submit information that is not requested.

(Approved OMB #1850–0086, Expiration Date October, 1986.

Applicable Regulations: Regulations applicable to these programs include the following:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 78 and 79.

(b) Regulations governing the National Diffusion Network Program, as proposed for codification in 34 CFR Part 796, published in the **Federal Register** at 48 FR 57090 on December 27, 1983, when published as final regulations, will govern awards for fiscal year 1984.

Applicants should prepare their applications based on the proposed rules. If there are any substantive changes when the final regulations are published, applicants will be given the opportunity to amend or resubmit their applications.

Further Information: Ms. Lois N. Weinberg, Education Program Specialist, National Diffusion Network, U.S. Department of Education, 400 Maryland Avenue, SW., Room 613 Brown Building, Washington, D.C. 20202. Telephone: (202) 653–7006.

(Catalog of Federal Domestic Assistance Number 84.073, National Diffusion Network Program)

Dated: January 20, 1984.

T. H. Bell,

Secretary of Education.

[FR Doc. 84–2022 Filed 1–23–84; 8:45 am]

BILLING CODE 4000–01

DEPARTMENT OF ENERGY

Contract Award; Authur Anderson and Co.

AGENCY: Department of Energy.

ACTION: Notice of contract award.

SUMMARY: In accordance with Department of Energy (DOE) Procurement Regulations relating to organizational conflicts of interest, 41 CFR 9–1.5409, published in the **Federal Register** on January 11, 1979 (44 FR 2556), DOE gives public notice that a contract had been awarded and subsequent information by the contractor to DOE has revealed the existence of a potential organizational conflict of interest. Upon careful analysis of the subsequent information, DOE will continue to retain the contractor for performance of the full statement of work because this is determined to be in the best interest of the United States.

FOR FURTHER INFORMATION CONTACT: Mr. Charles L. Croxton, Office of Inspector General, Room 5A–179, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–1945.

Findings, Mitigation and Determination

Under section 19 of the Federal Nonnuclear Energy Research and Development Act, Pub. L. 93–577, and section 33 of the Federal Energy Act of 1974, Pub. L. 93–275, the Department of Energy is subject to strict requirements intended to avoid organizational conflicts of interest in the award and performance of contracts for technical and management support services. An organizational conflict of interest (OCI) is considered to exist when a contractor "has past, present, or currently planned interests, that, either directly or indirectly, through a client relationship, relate to the work to be performed under a Department contract and which (1) may diminish its capacity to give impartial, technically sound, objective assistance and advice, or (2) may result in it being given an unfair competitive advantage." DOE Procurement Regulations, 41 CFR 9–1.5403. Pursuant to these statutory provisions, a contract may not be awarded unless the Secretary or his designee has made a determination that it is unlikely that an OCI would exist, or that a conflict has been avoided after inclusion of appropriate conditions in the contract. If an OCI is determined to exist and cannot be avoided, the contract may be awarded only if the Secretary or his designee determines that award would be in the best interest of the United States and includes appropriate provisions in the contract to mitigate the OCI. If, after award, a possible OCI is subsequently identified, the Secretary or his designee must determine whether or not it would be in the best interests of the Government to terminate the contract.

Based on the following findings and determination, the existing contract described below will continue to remain in full force, after taking into account the existence of an Organizational Conflict of Interest, because the procurement is determined to be in the best interests of the United States, pursuant to the authority of Department of Energy Procurement Regulation 41 CFR 9–1.5410. Any comments should be provided within 5 days after publication of this notice.

Findings

1. The Department of Energy (DOE) accomplishes a major part of its mission through contractors that operate Government-owned facilities under long term cost-type contracts. These

contractors, usually referred to as integrated contractors, account for and report on DOE funds, property, and cost of operations in accordance with DOE accounting and reporting systems and procedures. For Fiscal Year 1982, the combined obligations of the 45 integrated contractors was $7.9 billion.

The DOE Office of Inspector General is responsible for performing financial and compliance audits of these integrated contractors. Staffing limitations prevent the Office of Inspector General staff from performing financial statement examinations at many of the integrated contractors. To fulfill its audit oversight responsibility, the Inspector General sought to supplement audit coverage by engaging independent public accountants (IPA's) to perform financial and compliance audits of several integrated contractors.

2. Therefore, a competitive procurement (DE–RP01–831G00031, Financial and Compliance Audit Coverage on Selected Contractors) was initiated in June 1983 to solicit IPA assistance. Offerors were requested to propose on ten groupings (designated A through J) of integrated contractors. Each group contained two integrated contractors, for a total of 20 of the Department's 45 integrated contractors. A separate contract would be awarded in September 1983 for each of the ten groupings.

Under the DOE contracts, IPA's shall perform a financial and compliance audit (subject to scope limitations established by the IG) of the financial statements (balance sheet, related statement of operations, and Voucher Accounting for Net Expenditures Accrued) for fiscal years ending September 30, 1983 and/or 1982 in accordance with applicable standards prescribed in the General Accounting Office *Standards for Audit of Governmental Organizations, Program, Activities and Functions—1981 Revision* (GAO Standards). The compliance examination is directed toward determining whether the integrated contractor has complied with the terms of the contract between DOE and the integrated contractor.

3. Based on a comprehensive evaluation of its technical proposal, Arthur Andersen & Co. (AA) had been recognized as possessing the required auditing, staffing and background experience for performing financial and compliance audits of integrated contractors. In addition, AA proposed the lowest overall cost for the two integrated contractors contained in Group G:

Stone & Webster Engineering Co.
The Rust Engineering Co.

4. AA submitted the necessary Organizational Conflict of Interest statement as part of the required proposal package. The AA statement certified that neither integrated contractor was a client and that no organizational conflict of interest existed regarding the proposed work.

5. To aid in the information gathering process, oral discussions were held with all proposers who had submitted technically acceptable proposals. Questions were posed concerning the nature of their business and how various aspects (e.g., organizational, financial, past or current contracts) would contribute to a possible organizational conflict of interest.

Responses in the orals were followed by best and final offer submissions from the contractors. Analyses of this information and comparisons with the work to be performed under the contract were made.

6. Based on the technical and cost evaluations, the disclosure statement and subsequent information obtained in the orals, the Department of Energy awarded a fixed-price contract, DE–AC01–831G00031, dated September 27, 1983 to AA for audits of the two integrated contractors contained in Group G.

7. By letter of October 3, 1983, AA notified DOE that while performing normal internal processing procedures for new clients they discovered that they had made an error in their initial conflict of interest disclosure statement. That is, the AA personnel who had performed the initial review for potential conflicts failed to discover that the Rust Engineering Company (Rust) was a subsidiary of Wheelabrator-Frye, Inc. (Wheelabrator). In accordance with 41 CFR 9.1.5405, AA now states that they are currently engaged and have been engaged in the past, as the independent external auditor of the financial statements of Rust. The latter statements are consolidated with the financial statements of its parent, Wheelabrator, which is also a client of AA. AA represents to DOE that their relationship with Rust and Wheelabrator will not impact their performance of the Rust audit.

8. Based on an evaluation of the facts contained in AA's second disclosure statement and subsequent written and verbal information obtained from AA, the Department of Energy believes that there is a minor conflict of interest under 41 CFR 9–1.5410 although AA meets the independence standards set by the GAO and AICPA as described below. In performing an audit under the broad requirements contemplated by this procurement, particularly the heavy emphasis on contractual compliance, AA may find, and be expected to pursue and report to the IG, items of noncompliance with the terms of the DOE contract. Any questioned items (such as questioned costs) would be of potential detriment to the parent organization (Wheelabrator) if subsequently sustained by the DOE contracting officer.

9. As noted above, however, AA meets the high standards of independence that are set by the American Institute of CPA's (AICPA). The AICPA Code of Professional Ethics requires IPA's to be independent when expressing an opinion of financial statements, notwithstanding the fact that the IPA is remunerated by the auditee. In fact, independence in such audits is the very cornerstone of the profession.

GAO Standards state that "public accountants will be considered independent if they are independent under the AICPA Code of Professional Ethics." Additionally, GAO Standards consider three general classes of impairments to independence: personal, external and organizational. None of these conditions was considered to exist so as to affect AA's ability to do their work and report their findings impartially.

In view of the above, the Department of Energy believes that the national interest would not be served by termination of the Arthur Andersen & Co. contract award in accordance with 41 CFR 9–1.5410 and subsequent award to another IPA at a potentially higher price.

Mitigation

While the Department believes that the degree of actual conflict of interest is minor, the contract had nevertheless, been drafted in such a way that anomalies in performance may be detected. The contract calls for:

(a) An advance review of AA's compliance audit plan by the Office of Inspector General;

(b) Submission of monthly progress reports by AA to the Office of Inspector General;

(c) Attendance by representatives of the Office of Inspector General at formal conferences between AA and the auditee;

(d) Delivery of audit workpapers by AA. These workpapers will be reviewed by the Office of Inspector General;

(e) Inclusion in the contract of the organizational conflict of interest

special clause entitled "Organizational Conflicts of Interest."

Determination

In the light of the above Findings and Mitigations and in accordance with 41 CFR 9-1.5410, continuation of the existing contract award is considered to be in the best interest of the United States.

Dated: January 17, 1984.

James R. Richards,

Inspector General.

[FR Doc. 84-1875 Filed 1-23-84; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Magnetic Fusion Advisory Committee; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Magnetic Fusion Advisory Committee.

Date and Time: 9:00 a.m.—5:00 a.m., February 9-10, 1984.

Location: GA Technologies, Inc., Building 15, Conference Room 206 E, San Diego, California.

Contact: Rosalie Weller, U.S. Department of Energy, Office of Fusion Energy, Mail Stop G-226, ER-50, Washington, D.C. 20545, Telephone Number: (301)-353-3347.

Purpose of the Committee: To provide advice to the Secretary of Energy on the Department's Magnetic Fusion Energy Program, including periodic reviews of elements of the program and recommendations of changes based on scientific and technological advances or other factors; advice on long-range plans, priorities, and strategies to demonstrate the scientific and engineering feasibility of fusion; advice on recommended appropriate levels of funding to develop those strategies and to help maintain appropriate balance between competing elements of the program.

Agenda Outline

1. DOE Response to MFAC Findings and Recommendations in the First Six Charge Areas—Trivelpiece, Clarke.
2. Summary of ERAB Fusion Panel Recommendations—Roddis.
3. Fusion Program Strategy and Budgets—Trivelpiece, Clarke.
4. TFTR and JET Status and Plans—Furth, Wuster.
5. MFTF-B Status and Plans—Fowler.
6. TFCX Conceptual Design Status and Plans—Furth, Schmidt.
7. Role of Industry in Fusion: Review of Charge to Panel—Davidson.

Interim Report on Panel #7 Activities—Forsen.

8. Equity in International Cooperation Programs—Clarke.
9. New Charge Areas to MFAC—Clarke, Davidson.
10. MFAC Discussion.
11. Other Business.
12. Public Comment (10 minute rule).

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Rosalie Weller at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: Available approximately 30 days following the meeting.

Issued at Washington, D.C., on January 18, 1984.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 84-1874 Filed 1-23-84; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. RP84-1-001]

ANR Pipeline Company; Tariff Filing

January 19, 1984.

Take notice that on January 12, 1984, ANR Pipeline Company ("ANR"), formerly Michigan Wisconsin Pipe Line Company, tendered for filing with the Federal Energy Regulatory Commission ("Commission") First Revised Sheet Nos. 19g, 19h and 19i, which comprise Rate Schedule EUT-1, to Original Volume No. 1 ot its F.E.R.C. Gas Tariff.

Rate Schedule EUT-1 sets forth the terms pursuant to which ANR will perform transportation pursuant to § 157.209 of the Commission's Regulations, under transportation agreements with end users which provide for rates which do not include an "Added Incentive Charge" as authorized by § 175.209(f) of the Commission's Regulations.

ANR has requested that Rate Schedule EUT-1 be accepted for filing and become effective on August 5, 1983, pursuant to Commission Order Nos. 234-B and 319, pertaining to Docket Nos. RM81-19 and RM81-29, respectively, which became effective on August 5, 1983.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 or Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 26, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Any part wishing to become a party to the proceeding must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1911 Filed 1-23-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-102-000]

Bethlehem Steel Corp.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

January 20, 1984.

On December 13, 1983, Bethlehem Steel Corporation of 8th and Eaton Avenues, Bethlehem, Pennsylvania 18016, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations.

The topping-cycle cogeneration facility consists of two topping-cycle generators: An extraction turbine generator rated 25,000 kW and a topping turbine generator rated 9,275 kW. Both generators are driven by 850 psig, 850°F steam which results from the burning of coke oven gas, a by-product of production of coke in the coke oven batteries, supplemented by approximately 11% natural gas. The steam output is used for process requirements at the Lackawanna Plant. The facility is located at Bethlehem's Lackawanna Plant in Erie County, New York.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such

petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1912 Filed 1-23-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-201-000]

Cleveland Electric Illuminating Co.; Filing

January 19, 1984.

The filing Company submits the following:

Take notice that on January 10, 1984, Cleveland Electric Illuminating Company (CEI) tendered for filing an executed Service Agreement and Exhibits A and B thereto, provided for transmission by CEI of approximately 40 MW of power from the 345 kv interconnection point on CEI's Juniper-Canton Line with the Ohio Power Company to the City of Cleveland, Ohio (City) in accordance with the terms and conditions of CEI's FERC Transmission Service Tariff.

CEI requests an effective date of December 14, 1984, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 3, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1914 Filed 1-23-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-203-000]

Cleveland Electric Illuminating Co.; Filing

January 20, 1984.

The filing Company submits the following:

Take notice that on January 10, 1984, Cleveland Electric Illuminating Company (CEI) tendered for filing an executed Service Agreement and Exhibits A and B thereto, providing for transmission by CEI of approximately 45 MW of power from the 345 kv interconnection point on CEI's Juniper-Canton Line with the Ohio Power Company to the City of Cleveland, Ohio (City) in accordance with the terms and conditions of CEI's FERC Transmission Service Tariff.

CEI requests an effective date of December 7, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 6, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1916 Filed 1-23-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-202-000]

Cleveland Electric Illuminating Co.; Filing

January 20, 1984.

The filing Company submits the following:

Take notice that on January 10, 1984, Cleveland Electric Illuminating Company (CEI) tendered for filing an executed Service Agreement and Exhibits A and B thereto, providing for transmission by CEI of approximately 50 MW of power from the 345 kv interconnection point on CEI's Juniper-Canton Line with the Ohio Power Company to the City of Cleveland, Ohio (City) in accordance with the terms and conditions of CEI's FERC Transmission Service Tariff.

CEI requests an effective date of December 21, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 6, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1915 Filed 1-23-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7406-000]

Cook Industries, Inc.; Notice Suspending 120-Day Period for Action on Small Hydro Exemption

January 17, 1984.

Cook Industries, Inc. has filed an application for exemption for the proposed Coltrane Mill Hydroelectric Project No. 7406, to be located on Deep River in Randolph County, North Carolina. The application was filed pursuant to section 408 of the Energy Security Act of 1980 and § 4.101 *et seq.* of the Commission's regulations.

Additional time is required in order to ensure that all issues in this proceeding have been considered. Accordingly, the 120-day period for Commission action is suspended pursuant to § 4.105(b)(5)(iv).

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1917 Filed 1-23-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. FA84-1-000]

Public Service Company of New Mexico; Proceeding Under Part 41 of the Commission's Regulations

January 19, 1984.

Take notice that on November 17, 1983, Public Service Company of New Mexico (PNM) filed a letter in response

to a letter order of the Commission issued on October 4, 1983. In the October 4 letter order, the Commission noted PMN's disagreement with respect to Correcting Entry No. 7 and part of Compliance Exception No. 4 of the Commission staff's audit of the company's books and records. The disputes involve (1) PNM's accounting for amounts received from Tucson Electric Power Company related to the San Juan Electric Generating Unit No. 2, and (2) classification of social and service club dues. In the November 17 letter, PNM stated that it consents to the disposition of the above issues in accordance with the shortened procedures provided for under Part 41 of the Commission's regulations.

Therefore, any interested party, including the Commission staff, may file a brief as prescribed in sections 41.3 through 41.5 of the Commission's regulations. A brief may be accompanied by a notice of intervention in accordance with Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214).

The following procedural schedule is established:

(1) Initial briefs and notices of intervention shall be due no later than 30 days after the date of publication of this notice in the **Federal Register**; and

(2) Reply briefs shall be due no later than 20 days thereafter.

All briefs and notices of intervention must be filed with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1918 Filed 1-23-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP80-217-004]

Transcontinental Gas Pipe Line Corporation; Proposed Change in FERC Gas Tariff

January 19, 1984.

Take notice that on January 13, 1984, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing the following sheets to its FERC Gas Tariff, Original Volume No. 2: First Revised Sheet Nos. 2219 and 2231.

Transco states that subject filing reflects a partial revision of its Rate Schedule X-226, which is a transportation agreement with United Gas Pipe Line Company (United), dated December 28, 1979, as amended July 15, 1982, and initially authorized by the Commission in a certificate issued in Transco, Docket No. CP80-217 on July 24, 1980. In the amendatory agreement dated July 15, 1982, Transco and United agreed to revise their transportation arrangement to reduce the minimum allowable heating value of gas delivered to Transco at High Island Block 154 from 1,000 to 950 Btu's. Transco redelivers equivalent quantities to United at Starks, Calcasieu Parish, Louisiana or Inez, Victoria County, Texas. A copy of the instant filing has been served upon United.

The tariff sheets are proposed to become effective July 15, 1982.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 27, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1919 Filed 1-23-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7622-000]

WP, Inc.; Notice Granting Late Intervention

January 20, 1984.

An untimely motion to intervene has been filed by the following petitioner: Point No Point Treaty Council.

This motion has been filed with respect to the application set forth below:

Snow Creek
Project No. 7622-000

The petitioner has legitimate interests under the law which are not adequately represented by other parties. It appears to be in the public interest to allow the petitioner to appear in this proceeding.

Pursuant to § 375.302 of the Commission's regulations, 18 CFR 375/302 (1983), the movant is permitted to intervene in this proceeding subject to the Commission's rules and regulations under the Federal Power Act, 16 U.S.C. 791a-825r. Participation of the intervenor shall be limited to matters set forth in its motion to intervene. The admission of the intervenor shall not be construed as recognition by the Commission that it might be aggrieved by any order entered in this proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1922 Filed 1-23-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7640-000]

WP, Inc.; Notice Granting Late Intervention

January 20, 1984.

An untimely motion to intervene has been filed by the following petitioner: National Marine Fisheries Service.

This motion has been filed with respect to the application set forth below:

French Cabin Creek
Project No. 7640-000

The petitioner has legitimate interests under the law which are not adequately represented by other parties. It appears to be in the public interest to allow the petitioner to appear in this proceeding.

Pursuant to §375.302 of the Commission's regulations, 18 CFR 375.302 (1983), the movant is permitted to intervene in this proceeding subject to the Commission's rules and regulations under the Federal Power Act, 16 U.S.C. 791a-825r. Participation of the intervenor shall be limited to matter set forth in its motion to intervene. The admission of the intervenor shall not be construed as recognition by the Commission that it might be aggrieved by any order entered in this proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1921 Filed 1-23-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-82-000]

Capco Financial Services Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 20, 1984.

On December 8, 1983, Capco Financial Services Inc. of 880 Johnson Ferry Road N.E., Suite 330, Atlanta, Georgia, 30342, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations.

The wind facility is located at Edom Hills, San Gorgonio Pass, Riverside County, California. The facility will have 11 wind turbine generators each

rated 185 kilowatts resulting in a power production capacity of 2 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-1913 Filed 1-23-84; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Implementation of Special Refund Procedures and Solicitation of Comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding $348,614.19 in consent order funds to members of the public. This money is being held in escrow following the settlement of enforcement proceedings involving C. K. Smith & Company, Inc. brought by the DOE's Office of Special Counsel.

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the **Federal Register** and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585. All comments should conspicuously display a reference to case number HEF-0172.

FOR FURTHER INFORMATION CONTACT: Thomas L. Wieker, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-2390.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision and Order relates to a consent order entered into by C. K. Smith & Company, Inc. 44 FR 39241 (July 5, 1979).

The Proposed Decision and Order sets forth the procedures and standards that the DOE has tentatively formulated to distribute the contents of an escrow account funded by Smith pursuant to the consent order. The DOE has tentatively decided that Applications for Refund should be accepted from firms and individuals that purchased No. 2 heating oil from Smith during the period November 2, 1973 through February 28, 1975. The Proposed Decision and Order provides that in order to recieve a portion of the settlement funds, a purchaser must furnish the DOE with evidence that it was injured by the allegedly unlawful prices for No. 2 heating oil charged by Smith. This evidence should include specific documentation concerning the date, place, price, and volume of product purchased, indicate whether the increased costs were absorbed by the claimant or passed through to other purchasers, and state the extent of any injury alleged to have been suffered. According to the Proposed Decision and Order, the amount of the refund will generally be a pro rata share of the $348,614.19 fund made available by Smith.

The Proposed Decision points out that the Smith consent order provided that the firm was to make direct refunds or provide credit memoranda to eleven named customers. The Proposed Order further states that the Smith audit file does not indicate whether Smith effected these refunds. Consequently, these named customers may apply for refunds in this proceeding if they did not receive the appropriate refund from Smith as provided for in the Smith consent order. These customers are set forth in Appendix I of the Proposed Decision and Order.

The Proposed Decision also indicates that exhibits to a Proposed Remedial Order issued to Smith identified several other customers who were allegedly overcharged by the firm, but who were not specifically granted refunds pursuant to the consent order. Consequently, the Proposed Decision provides that these customers may also apply for refunds. These customers are identified in Appendix II to the Proposed Decision and Order.

To receive refunds, the Smith customers identified in the Appendices to the Proposed Order will be required to state that they purchased No. 2 heating oil from Smith during the audit period, to indicate the volumes of product purchased from Smith and to state that they are entitled to receive refunds in the amount indicated. Until a final Decision and Order is issued, no claims for refund can be accepted. Applications for Refund therefore should not be filed at this time. Appropriate public notice, including notice published in the **Federal Register**, will be given when the submission of claims is authorized. No less than 90 days from publication of such notice in the **Federal Register** will be provided for the filing of claims.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to sumbit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the **Federal Register**, and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1:00 to 5:00 p.m., Monday through Friday, except federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Dated: January 17, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

November 4, 1983.

Special Refund Procedures

Name of Petitioner: C. K. Smith & Company, Inc.
Date of Filing: October 13, 1983
Case Number: HEF-0172

Under the procedural regulations of the Department of Energy, the Office of Special Counsel (OSC) of the Economic Regulatory Administration may request the Office of Hearings and Appeals to formulate and implement special procedures to make refunds in order to remedy the effects of alleged violations of the DOE regulations. See 10 CFR, Part 205, Subpart V.

In accordance with these regulatory provisions, the OSC filed a Petition for the Implementation of Special Refund Proceedings in connection with a consent order entered into with C. K. Smith & Company, Inc. (Smith). Smith is a "reseller-retailer" of No. 2 heating oil as that term was defined in 10 CFR 212.31 and 6 CFR 150.352. An audit of Smith's records revealed possible pricing violations with respect to the

firm's sales of that product during the period November 2, 1973 through February 28, 1975. On May 25, 1978 a Proposed Remedial Order (PRO) was issued to Smith in connection with these alleged violations. In order to settle all claims and disputes between Smith and the DOE regarding Smith's sales of No. 2 heating oil the audit during period, Smith and the DOE entered into a consent order on May 30, 1979, in which Smith agreed to pay $348,614.19 to the DOE. Notice of the consent order was published in the **Federal Register**. 44 FR 39241 (July 5, 1979).

Jurisdiction and Authority To Fashion Refund Procedures

The procedural regulations of the DOE set forth general guidelines by which the Office of Hearings and Appeals may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR, Part 205, Subpart V. The Subpart V process is intended to be used in situations where the DOE is unable to readily identify persons who are entitled to refunds or unable to readily ascertain the amounts that such persons are entitled to receive as a result of enforcement proceedings. For a more detailed discussion of Subpart V and the authority of the Office of Hearings and Appeals to fashion procedures to distribute refunds obtained as part of settlement agreements, see *Office of Enforcement*, 9 DOE ¶82,553 (1983); *Office of Enforcement*, 9 DOE ¶82,508 (1981); *Office of Enforcement*, 8 DOE ¶82,597 (1981).

After reviewing the record developed in the Smith case, we have concluded that the implementation of a Subpart V proceeding is appropriate in this instance because there is a significant degree of difficulty in identifying and locating most of the persons who were injured by the alleged Smith overcharges. Further, as a result of decontrol of petroleum products, price rollbacks are no longer an effective means of refunding money to purchasers who were overcharged in the past. See Exec. Order No. 12287, 46 FR 9909 (1981).

Proposed Refund Procedures

In so far as possible the $348,000 consent order fund should be distributed to Smith customers who satisfactorily demonstrate that they have been adversely affected by the alleged Smith overcharges during the relevant period. To the extent that resellers of Smith product can establish that they absorbed the alleged overcharges rather than pass them on to their customers, they will be entitled to receive a portion of the consent order funds. In order to qualify for a refund, these resellers will be required to demonstrate that during the period covered by the consent order they would have kept their prices for petroleum products or goods and services at the same level had the alleged overcharges not occurred. While there are a variety of means by which a claimant could make this showing, a reseller should generally demonstrate that at the time it purchased the No. 2 heating oil from Smith, market conditions would not permit it to increase its prices to pass through the additional costs associated with the alleged overcharges. In addition, the reseller must show that it maintained a "bank" of unrecovered costs in order to demonstrate that it did not subsequently recover these costs by increasing its prices.

With respect to purchasers who are ultimate consumers of Smith product, we believe that the above showing should not be necessary in order for a customer to qualify for a refund. Customers in this group might include government entities, businesses and individuals that purchased Smith product to heat their residences. In order to establish a claim, this type of purchaser need only demonstrate that it purchased a specific quantity of No. 2 heating oil which was sold by Smith during the relevant time period.

Furthermore, the type of showing referred to above may also be too complicated and burdensome for resellers which purchased relatively small amounts of No. 2 heating oil from Smith. For example, such firms may lack the records necessary to prove that they did not pass on the alleged Smith overcharges to their own customers. Therefore, any firm claiming a refund based on average purchases of less than 50,000 gallons of No. 2 heating oil per month or less than 600,000 gallons per year from Smith need not make a detailed showing of injury. Such applicants will only be required to submit proof of the amount of No. 2 heating oil purchased from Smith during the consent order period. See *Office of Enforcement*, 8 DOE ¶82,597 (1981).

Calculation of Refund Amounts

We must further determine the proper method for dividing the Smith funds among successful refund applicants. The size of the available fund is likely to be less than the amount needed to make full restitution to successful claimants in this proceeding. We have therefore decided to generally follow the volumetric approach adopted in *Office of Special Counsel*, 9 DOE ¶82,545 (1982). Such an approach will permit each successful claimant to receive a pro rata share of the total available fund. The Smith refund pool will therefore be divided as follows. We will multiply the number of gallons of Smith product purchased by a qualified applicant by a factor using the total amount of the consent order fund ($348,614.19) as the numerator and using Smith's total sales in gallons of No. 2 heating oil during the consent order period (15,876,925.3) as the denominator. Thus, the successful applicant's refund share will generally be equal to the number of gallons of No. 2 heating oil it purchased from Smith, multiplied by $.02196/gallon ($348,614.19 ÷ 15,876,925.3).

In the May 30, 1979 consent order accompanying the instant Application, the OSC identified 11 customers who were allegedly overcharged by Smith during the consent order period. The consent order stated that Smith was to provide refunds to those customers by cash or credit memorandum. These customers, and the refund amounts as indicated in the Smith consent order, are set forth in Appendix I to this Decision. The refund to be returned to each of these customers is approximately 55 percent of the total violation alleged in a Proposed Remedial Order (PRO) issued to Smith on May 25, 1978. That 55 percent share is approximately equal to the amount of the Smith refund ($348,614.19) divided by the total violation alleged in the Smith PRO ($661,697.59).

However, the Smith audit file does not indicate whether the firm actually effected any of the refunds to these customers. Consequently, any of these customers which has not received a refund as set forth in the consent order may apply for a refund in this Subpart V proceeding. These customers will be required to confirm that they purchased No. 2 heating oil from Smith during the consent order period, that they did not receive a refund from Smith as set forth in the consent order, and that they are otherwise entitled to receive a refund in the amount set forth in the consent order. This confirmation should be submitted after the issuance of a final Decision and Order in this proceeding.

Furthermore, Exhibit A attached to the Smith PRO specifically identifies several additional Smith customers that were allegedly overcharged during the audit period and the dollar amounts of the alleged overcharges. Since these customers were not granted refunds in the Smith consent order, we will also consider granting these specifically-named customers a refund equal to 55 percent of the total amount of the alleged overcharges set forth in Exhibit

A to the PRO. The names of all Smith customers identified in that Exhibit are set forth in Appendix II to this Proposed Decision and Order. That Appendix also indicates the amounts of the overcharges alleged in the PRO. In order to receive a refund, customers named in Appendix II, who were not granted a refund pursuant to the Smith consent order, will be required to confirm that they purchased No. 2 heating oil from Smith during the relevant period and indicate the volumes purchased from Smith. This information should be submitted after issuance of a final Decision and Order in this proceeding. These customers may then be entitled to receive a refund equal to 55 percent of the amount listed in Appendix II. Finally, the refund of any other Smith customer that is able to establish an injury in a specific dollar amount will not necessarily be limited to the volumetric refund method described above. We will consider granting such a customer a refund equal to 55 percent of the amount of the overcharge alleged in the PRO.

We note, however, that Smith employees, officers and stockholders are listed among the allegedly overcharged customers in Appendix II. In view of the fact that the Smith settlement amount ($348,614.19) is approximately 55 percent of the total violation alleged in the Proposed Remedial Order issued to Smith ($661,697.59), it is likely that those individuals retained some of the benefits of the alleged Smith overcharges. We therefore see no basis for granting these individuals any refunds in this proceeding. Consequently, any refund applicant in this proceeding will further be required to state that it was not a Smith employee, officer, stockholder, affiliate or subsidiary during the November 2, 1973 through February 28, 1975 audit period.

Refund applications in this proceeding should not be filed until issuance of a final Decision and Order in this proceeding. Applicants not specifically named in Appendix I or II to this Decision and Order will be requested to provide all relevant information necessary to establish a claim, including specific documentation concerning the date, place, price, and volume of product purchased, the retention of increased costs, and the extent of any injury alleged. Detailed procedures for filing applications will be provided in the final Decision and Order. Before disposing of any of the funds received as a result of the Smith consent order, we intend to widely publicize the distribution process and to provide an opportunity for any affected party to file a claim. In addition to publishing notice in the **Federal Register**, notice may be provided in publications in the area in which Smith marketed No. 2 heating oil during the period covered by the consent order. An effort may also be made to obtain a list of the names and addresses of affected customers from Smith. We will consider at a future date the appropriate disposition of any funds remaining after all successful claimants have been paid.

It is therefore ordered that: The $348,614.19 refund amount supplied by C. K. Smith & Company, Inc. will be distributed in accordance with the foregoing determination.

Appendix I

CUSTOMERS NAMED IN C. K. SMITH CONSENT ORDER

Customers	Refund amount
Nellie Bernstein, 28 William Street, Worcester, Massachusetts 01609	$1,543.60
Worcester City Institution, Worcester City Hall, 459 Main Street, Worcester, Massachusetts 01608	4,198.56
Worcester Country Club, 2 Rice Street, Worcester, Massachusetts 01604	67.82
Paul Caine, 1194 Main Street, Worcester, Massachusetts 01603	108.30
Boylston School District, Main Street, Boylston, Massachusetts 01505	36.91
John Barone, Executive Director, Worcester Housing Authority, 40 Belmont Street, Worcester, Massachusetts 01605	5,822.95
John Linde, 150 B Worcester Street, North Grafton, Massachusetts 01526	5.27
Mr. & Mrs. Gross (no address available)	116.40
Paul S. Agerholm, 36 Dean Street, Worcester, Massachusetts 01609	56.96
Town of Westboro, Town Hall, Westborough, Massachusetts 01581	42.17
Superintendent of Schools (no address available)	86.87
Total	12,085.81

Appendix II

ALLEGED OVERCHARGES NOV. 2, 1973 THROUGH FEB. 28, 1975 AS SET FORTH IN C. K. SMITH PROPOSED REMEDIAL ORDER

Customer	Alleged overcharge
Regular Retail	$208,630.12
Smith employees	1,445.20
Smith officers and stockholders	444.31
Bernstein	2,806.55
Worcester City Inst.	7,633.75
Small comm. accts.	1,262.73
Worcester Country Club	123.30
Paul Caine	196.91
Boylston School Dept.	67.10
Worcester Housing Auth.	10,587.19
John Linde	9.58
Other comm. accts.	1,323.21
Westborough State Hosp.	0
Mr. and Mrs. Gross	211.64
Paul S. Agerholm	103.56
Town of Westboro	76.68
Supt. of Schools	157.94
Schussler Rest Home	[illegible]
Buckley & Scott #1	2,602.32
Buckley & Scott #2	290.01
Buckley & Scott #3	387.34
Buckley & Scott #4	953.20
Buckley & Scott #5	0
Code 12 (wholesale) consumers	237,906.57
Code 12 other dealers	184,396.25
Total violation alleged	661,697.59

[FR Doc. 84-1873 Filed 1-23-84; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals solicits applications concerning refunds of $4,600,000 in consent order monies. This money is presently being held in escrow following the settlement of enforcement proceedings involving Mustang Fuel Corporation brought by the DOE's Office of Special Counsel.

DATE AND ADDRESS: Applications must be filed within 90 days of publication of this notice in the **Federal Register** and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585. All applications should conspicuously display a reference to case number HEF-0011.

FOR FURTHER INFORMATION CONTACT: Thomas L. Wieker, Deputy Director, Office of Hearings and Appeals, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-2390.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Final Decision and Order set out below. The Final Decision relates to a consent order entered into by Mustang Fuel Corporation, 47 FR 57026 (December 26, 1982).

The Final Decision and Order sets forth the procedures and standards that the DOE has formulated to distribute the consent order funds provided by Mustang. The DOE has decided that the refund process will take place in two stages. In the first stage, the DOE will consider claims for refunds made by firms and individuals that demonstrate that they actually purchased Mustang product during the consent order period. Furthermore, a Mustang customer that

purchased large volumes of natural gas liquids (NGLs) from Mustang's Calument gas plant during the consent order period must provide evidence that it was injured by the alleged Mustang overcharges. However, small purchasers applying for refunds need submit only proof of the amount purchased from Mustang during the consent order period.

The second stage of the refund process will take place only in the event that the meritorious first stage applicants do not deplete the consent order funds. The Final Decision and Order holds that the governments of states and territories in which Mustang marketed NGLs would be the most appropriate recipients of the consent order monies. Comments addressing apportionment plans for consent order monies during the second stage of the refund process will be received concurrently with first stage applications.

All first stage applications and comments should be submitted within 90 days of publication of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1:00 and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room 1E–234, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Dated: January 17, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

November 3, 1983.

Special Refund Proceedings

Name of Petitioner: Office of Enforcement, Economic Regulatory Administration: In the Matter of Mustang Fuel Corporation
Date of Filing: January 7, 1983
Case Number: HEF–0011

Under the regulations of the Department of Energy, the Office of Special Counsel (formerly the Economic Regulatory Administration's Office of Enforcement and hereinafter referred to as OSC) may request the Office of Hearings and Appeals (OHA) to formulate and implement procedures for distributing funds received as a result of an enforcement proceeding in order to remedy the effects of alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. In accordance with these regulatory provisions, the OSC filed a Petition for the Implementation Special Refund Procedures in connection with a Consent Order entered into with Mustang Fuel Corporation and its subsidiary Mustang Gas Products Company (hereinafter referred to as Mustang). Pursuant to the Consent Order Mustang agreed to make refunds for alleged violations of the DOE price regulations in the amount of $4,600,000. The funds have been paid to the Department of Energy and are now being held in an escrow account under the jurisdiction of the DOE pending receipt of instructions from the OHA regarding their distribution.

I. Background

Mustang is a "gas plant operator" as that term is defined in 10 CFR § 212.162, and a "refiner" within the meaning of 10 CFR § 212.31. During the relevant time period, Mustang was therefore subject to the Mandatory Petroleum Price Regulations set forth in 6 CFR Part 150, Subpart L and 10 CFR Part 212, Subparts E and K. Those regulations governed the maximum prices that could lawfully be charged in the first sales of natural gas liquids and products (NGLs). The regulations also governed the purchase and resale of NGLs by gas plant operators and refiners.

The funds involved in this proceeding were obtained as a result of a consent order that Mustang entered into with the DOE in settlement of alleged violations of the DOE regulations identified above. In an audit of Mustang's Calumet gas processing plant, the OSC found possible overcharges with respect to sales of NGLs during the period from September 1973 through June 1976. Mustang Gas Product Company operates and owns 50 percent of the plant. The remaining 50 percent of the plant is owned by Amoco Production Company (Amoco). According to the record in this proceeding, Amoco marketed all of the products produced at the Calumet plant and paid Mustang its share of the revenues.

In order to settle all claims and disputes between the parties, Mustang agreed to pay $4,600,000 to the DOE. The parties further agreed that this amount would be distributed by the agency pursuant to 10 CFR Part 205, Subpart V. Notice of the Proposed Consent Order was published in the **Federal Register.** *See* 47 FR 51182 (November 12, 1982). The Proposed Consent Order was finalized without modification. *See* 47 FR 57326 (December 23, 1982).

II. Jurisdiction

The procedural regulations of the Department of Energy set forth guidelines by which the Office of Hearings and Appeals may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process is most appropriately used in situations where the Department of Energy is unable to readily identify persons who are entitled to refunds or to readily ascertain the amounts that such persons are entitled to receive as a result of enforcement proceedings. 10 CFR § 205.280. For a more detailed discussion of Subpart V, *See Office of Special Counsel for Compliance,* No. DFF–0003 (March 13, 1981) (proposed decision), 46 FR 17643 (1981); *Office of Enforcement,* No. BEF–0021 (March 13, 1981) (proposed decision), 46 FR 17639 (1981) (hereinafter referred to as *Alcoa*).

After reviewing the record developed in this case, we have concluded that the implementation of Subpart V proceedings is appropriate. There is a significant degree of difficulty in ascertaining the persons who were injured by the alleged overcharges in the present case, and the level of refunds that such persons should receive. During the period covered by the consent order, NGLs were subject to a comprehensive price regulation scheme which could be utilized to facilitate the channeling of refunds to persons who were injured. However, on January 28, 1981, the President exempted crude oil and all refined petroleum products from the DOE regulatory program. Exec. Order No. 12287, 46 FR 9909 (1981). To direct refund monies to the parties actually affected by the alleged overcharges in the absence of a comprehensive price regulations system, a determination must be made regarding the extent to which the higher costs were passed through to downstream customers. In short, the persons eligible to share in the consent order funds are not readily identifiable, and the amounts of the refunds that persons should receive are not readily ascertainable. Under these circumstances, we believe that Subpart V provides the most useful mechanism for devising a procedure to compensate persons who were actually injure by alleged pricing violations. The Office of Hearings and Appeals will therefore exercise jurisdiction over the funds received from Mustang in settlement of the proceeding underlying the Petition for Implementation of Special Refund Proceedings filed by the OSC in this matter.

III. Authority to fashion refund procedures

In several prior decisions involving Petitions for the Implementation of Special Refund Procedures we have

discussed the OHA's authority to establish procedures to distribute funds obtained as a result of settlement agreements. *See, e.g., Office of Enforcement*, 9 DOE ¶ 82,508 at 85,046–49 (1981) (hereinafter cited as *Coine*); *Office of Enforcement*, No. DFF–0006 (March 5, 1981) (proposed decision), 46 FR 15320, 15322–23 (1981) (hereinafter cited as *Vickers*). Subpart V of the DOE procedural regulations, 10 CFR Part 205, authorizes the Office of Hearings and Appeals, upon request by the appropriate enforcement official, to fashion special procedures to distribute refunds obtained as part of settlement agreements. 10 CFR 205.281, 205.282. The special refunds procedures are part of an overall regulatory program and are intended to implement several different statutes. Congress provides for mandatory price controls on crude oil, residual fuel oil, and refined petroleum products in the Emergency Petroleum Allocation Act of 1973 (EPAA), 15 U.S.C. 751 (1976). NGLs are included within the definition of petroleum products and were therefore subject to the provisions of the DOE price regulations during the periods covered by the consent orders. *See Mobil Oil Corp. v. FEA*, 566 F.2d 87 (Temp. Emer. Ct. App. 1977).

The authority to enforce the regulations governing the pricing of petroleum products such as NGLs was first exercised by the Cost of Living Council under the Economic Stabilization Act (ESA), 12 U.S.C. 1904 note (1970), then delegated in turn to the Federal Energy Office, the Administrator of the Federal Energy Administration, and finally, in 1977, to the Secretary of Energy. Federal Energy Administration Act (FEAA) section 5, 15 U.S.C. section 765 (1974); Department of Energy Organization Act (DOE Act), section 301(a), 42 U.S.C. 7151(a) (1979). To carry out these statutory mandates, the regulations of the Cost of Living Council, the Federal Energy Office, the Federal Energy Adminsitration, and the Department of Energy have provided throughout the existence of the price control program for the issuance of remedial orders "requiring a person to cease a violation or to eliminate or compensate for the effects of a violation, or both." 6 CFR 155.81(b) (1973); 10 CFR 205.1 (1974) (defining "remedial order").

As we have noted in previous Subpart V decisions, the DOE's equitable power to order restitution is designed to accomplish two independent purposes: disgorgement of the fruits of a regulatory violation from the wrongdoers, and providing refunds to persons injured by the regulatory violation. *Vickers; see also Sauder v. DOE*, 648 F. 2d 1341 at 1348 (Temp. Emer. Ct. App. 1981).

IV. Proposed Decision and Order

On June 20, 1983, this Office issued a Proposed Decision and Order in this matter in which we tentatively formulated a procedure for distributing the Mustang refund monies. *In the Matter of Mustang Fuel Corporation*, Case No. HEF–0011 (Proposed Decision and Order, June 20, 1983) (Proposed Order). In the Proposed Order, we explained that based upon our prior experience with Subpart V cases, the distribution of funds should generally take place in two stages. *See, e.g., Alcoa, supra; Vickers, supra.*

In the first stage, those claimants who satisfactorily demonstrate that they had been injured as a result of the alleged overcharges in sales of NGL's by Mustang would receive refunds. We determined that in addition to showing that they maintained a bank of unrecovered costs during the overcharge period, such applicants would be required to demonstrate actual injury. We noted, however, that this stringent requirement might discourage smaller downstream purchasers who found the expense involved in preparing a refund application prohibitive. Consequently, the proposed order set a threshold level, based on our decision in *Vickers, Office of Enforcement* 8 DOE 82,597 (1981), of 50,000 gallons per month, or 600,000 gallons per year. Applicants whose purchases were under this threshold level are not required to prove actual injury. Rather, only proof of the amount of product they purchased from Mustang during the consent order period is necessary.

Next, the Proposed Order recommended and OHA has decided to adopt a requirement requested by the OSC that all applicants provide an election of remedies statement, to the effect that any purchaser accepting a refund from the Mustang consent order funds thereby agrees to waive its right to bring a private lawsuit under section 210 of the Economic Stabilization Act, 12 U.S.C. 1904 note.

We further recognized in the Proposed Order that to the extent that the first stage recipients did not deplete the consent order funds, a second stage proceeding would be necessary to complete the disbursement of the funds. As of the date of issuance of the Proposed Order, four states (Vermont, Maine, Indiana, and California) and the National Consumer Law Center, Inc. had submitted comments on the method of disbursement during the second stage refund proceedings. The comments uniformly advocate that the state governments, as opposed to the federal treasury, are the most appropriate recipients of second stage refund monies, and could best direct those funds to benefit the allegedly overcharged end-users in the particular state. *See Palo Pinto Oil and Gas*, 10 DOE ¶ 85,049 (1983).

Finally, we determined in the Proposed Order that we should accept and consider comments regarding the first and second stage refund plans prior to issuing a final decision in this matter. We specified that such comments must be submitted within 30 days after publication of the Proposed Order in the **Federal Register**. The record indicates that the Proposed Order and comments solicitation were published in the **Federal Register** on June 27, 1893. 48 FR 29597 (1983).

V. Application for Refund Procedure

We adhere to our determination that the two-step process described in the Proposed Order is the most efficacious means for distributing the Mustang consent order funds. Therefore, in keeping with the first stage of the refund process, we will accept applications from firms and individuals which either purchased product directly from Mustang, or purchased product that was originally produced by Mustang during the consent order period, within 90 days from the date of publication of this Decision and Order in the **Federal Register**. See 10 CFR 205.283. We will consider all applications, although we may later impose a lower dollar limit on claims. See 10 CFR 205.286(b). Applications made on behalf of a class of claimants will be considered on a case-by-case basis. Our evaluation of class applications will be generally guided by Federal Rule of Civil Procedure 23, which governs class actions in Federal courts. An application must be in writing, signed by the applicant, and specify which case it pertains to, by firm name and case number. If the applicant is not a first purchaser from the firm, it should indicate from whom the NGLs were purchased and indicate what basis the applicant has for its belief that the NGLs which it purchased originated from the natural gas processing plants named in the consent order.

Any application for a refund in excess of $100 must be filed in duplicate, and a copy of the application will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals, Room 1E–234, 1000 Independence Avenue, SW., Washington, D.C. Any applicant who believes that his application contains

confidential information must so indicate on the first page of his application and submit two additional copies of his application from which the information that the applicant claims is confidential has been deleted, together with a statement specifying why any such information is privileged or confidential. Each application shall indicate whether the applicant or any person acting on these instructions has filed or intends to file any other application or claim of whatever nature regarding the matters at issue in the underlying enforcement proceeding. Each application shall also include the following statement: I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief. See 10 CFR 105.283(c); 18 U.S.C. 1001. In addition, the applicant should furnish us with the name, position title, and telephone number of a person who may be contacted by the OHA for additional information concerning the Application. All applications should be sent to Consent Order Refund Proceeding, Office of Hearing and Appeals, Department of Energy, Washington, D.C. 20585. All Applications for Refund received within the time limit specified will be processed pursuant to 10 CFR 205.284.

In order to assist applicants in establishing eligibility for a portion of the consent order funds, the following section discusses the showing that should be made by refiners, resellers, retailers and end-users of the NGLs covered by the consent order:

A. Each applicant should report its volume of purchasers of NGLs by calendar quarter for the period of time for which it is claiming it was injured by the alleged overcharges.

B. If the applicant is a large reseller, it must submit evidence that it did not pass on the overcharges to its customers.

C. Applicants who were small purchasers under the threshold level of 50,000 gallons per month or 600,000 gallons per year need submit only proof of the amount of product purchased from Mustang's Calumet gas plant during the consent order period.

D. Each applicant should specify how it used the NGLs as a petrochemical producer, refiner, reseller or ultimate user.

E. If the applicant is a refiner or reseller, it should state whether it maintained banks or unrecouped product cost increases from the date of the violation through January 27, 1981. It should furnish the OHA with quarterly bank calculations for the entire period.

F. The applicant must state whether it or any of its affiliates have any other Applications for refunds which might affect its level of banks.

G. The applicant should report whether it is or has been involved as a party in DOE or private, 210 (of the Economic Stabilization Act) actions. If these actions have terminated, the applicant should furnish a copy of any final order issued in the matter. If the action is ongoing, the applicant should briefly describe the action and its current status. Of course, the applicant is under a continuing obligation to keep the OHA informed of any change in status during the pendency of its Application for Refund. See 10 CFR 205.9(d).

VI. Distribution of the Remainder of the Consent Order Fund

Regarding the second stage of the refund process, all the comments received to date support the finding set forth in *Palo Pinto* that state governments are the most appropriate conduits for second stage refund monies. In this Decision, we are not implementing the second-state refund procedure. Such a step would be difficult to take before the analysis and processing of Applications for Refund filed in the first stage of the distribution of the Consent Order funds to claimants, since the amount remaining after all meritorious claims have been paid directly affects the appropriateness of the second-stage distribution scheme. However, we will accept comments specifically addressing apportionment plans to divide the residual consent order monies, in the event that the meritorious claims in the first stage do not deplete the funds.

It is therefore ordered that: (1) The refund amount provided by Mustang Fuel Corporation will be distributed in the manner set forth in the foregoing decision.

(2) This is a final Order of the Department of Energy.

Dated: November 3, 1983.

George B. Breznay,

Director, Office of Hearings and Appeals

[FR Doc. 84-1871 Filed 1-23-84; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed Week of December 23 through December 30, 1983

During the Week of December 23 through December 30, 1983, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: January 13, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Dec. 23 through Dec. 30, 1983]

Date	Name and location of applicant	Case No.	Type of submisson
July 6, 1983	Gulf Oil Corporation, Houston, Texas	HRZ-0186	Interlocutory Order. If granted: The Office of Hearings and Appeals would recuse itself from further consideration of a Proposed Remedial Order issued to Gulf Oil Corporation (Case No. HRO-0159) and an independent administrative law judge would be appointed in its place.
Dec. 19, 1983	Cotton Petroleum, Washington, D.C	HEF-0486	Implementation of Special Refund Procedures. If Granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR, Part 205, Subpart V, in connection with the September 7, 1983, order of the U.S. District Court of Oklahoma issued to Cotton Petroleum Corporation.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of Dec. 23 through Dec. 30, 1983]

Date	Name and location of applicant	Case No.	Type of submission
Dec. 29, 1983	Crown Central Petroleum Corporation, Washington, D.C.	HRD-0196, HRH-0196	Motion for Discovery and Request for Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by Crown Central Petroleum Corporation in response to a Proposed Remedial Order (Case No. HRO-0198) issued to the firm.

REFUND APPLICATIONS RECEIVED

[Week of Dec. 23 through Dec. 30, 1983]

Date	Name of refund proceeding/name of refund applicant	Case No.
Dec. 28, 1983	Amoco/Brown's Standard.	RF21-12260
Do	Amoco/Julius' Standard.	RF21-12261
Do	Amoco/Jack L. Frakes.	RF21-12259
Dec. 27, 1983	Amoco-William H. Matschke.	RF21-12257
Dec. 28, 1983	Amoco/Bank's American Service.	RF21-12258
Dec 29, 1983	Belridge West Virginia	RG8-41

[FR Doc. 84-1872 Filed 1-23-84; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-41013 TSH-FRL 2484-7]

Thirteenth Report of the Interagency Testing Committee to the Administrator, Receipt of Report and Request for Comments Regarding Priority List of Chemicals

Correction

In FR Doc. 83-32686 beginning on page 55674 in the issue of Wednesday, December 14, 1983, make the following corrections:

1. On page 55683, third column, under "**Physical and Chemical Information**" the entry for "Melting Point" should read "r 20°C".

2. Insert a degree mark "°" instead of a minute symbol "'" in the lines for "Boiling Point", "Vapor Pressure" and "Specific Gravity".

BILLING CODE 1505-01-M

[Docket No. AD-FRL 2509-3]

Confidentiality Agreements; Policy Memorandum

AGENCY: Environmental Protection Agency.

ACTION: Notice of Policy Memorandum Regarding Confidentiality Agreements Under Section 114 of the Clean Air Act.

SUMMARY: Reproduced below is a copy of a memorandum, with attachments, in which the EPA Assistant Administrator for Air and Radiation summarizes EPA policy regarding execution of confidentiality agreements under Section 114 of the Clean Air Act.

EFFECTIVE DATE: December 16, 1983.

FOR FURTHER INFORMATION CONTACT: Donald F. Walters, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards (MD-11), Research Triangle Park, North Carolina 27711, 919-541-5641.

SUPPLEMENTARY INFORMATION: The memorandum reproduced below, which was issued to Office Directors and the 10 EPA Regional Administrators on December 16, 1983 (date of policy memorandum), reviews aspects of existing EPA regulations and procedures with respect to confidential treatment of information claimed to be trade secret. EPA considers this memorandum to state "nationally applicable" Agency policy. It does not, however, constitute "regulations promulgated, or final action taken, by the Administrator" under Section 307(b)(1) of the Act (42 U.S.C. 7607(b)(1)).

Dated: December 14, 1983.

Sheldon Meyers,

Acting Assistant Administrator for Air and Radiation.

On December 16, 1983 (date of policy memorandum), the Assistant Administrator for Air and Radiation issued the following memorandum:

Memorandum on Confidential Treatment of Certain Information for Use With Section 114 Information Requests

1. Pursuant to the provisions of Section 114 of the Clean Air Act as amended, (*source*) (hereinafter "the source") will provide information requested by the Environmental Protection Agency (EPA) in the course of carrying out its responsibilities. Such information may be forwarded either to EPA or to an authorized representative (contractor) (hereinafter the "contractor") designated by EPA to assist EPA in carrying out such responsibilities pursuant to Contract No. ——— with EPA. The information requested may be either documentary (e.g., written responses to questions, photographs, records or charts) or non-documentary (e.g., oral communications, taking of photographs, or visual observations). EPA and the contractor recognize that the source may consider the information so provided, or some part of it, to be confidential within the meaning of Section 114 and 18 U.S.C. 1905. The source may assert a claim of confidentially under the procedures established in Part 2 of Title 40 of the Code of Federal Regulations (40 CFR Part 2) by noting such claim on documentary material provided to EPA or to the contractor. The EPA will note such claim when submitting such information to the contractor. The contractor will note such claim when submitting the information to EPA. Moreover, the source may notify the EPA or the contractor that it considers all or part of non-documentary information provided to EPA or to the contractor to be confidential. The EPA will note said claim of confidentiality in any reports or documents submitted to the contractor which utilize such non-documentary information. The contractor will note said claim of confidentiality in any reports or documents submitted to EPA which utilize such non-documentary information. Any material or information claimed as confidential will be treated by the contractor as confidential in accordance with its contract and will be treated by EPA in accordance with the provisions of 40 CFR Part 2. Any material or information for which a claim of confidentiality is not made may be made available to the public by EPA without notice to the source.

2. The provisions in the contractor's contract with EPA concerning the use and disclosure of confidential information are included therein for the benefit of, and shall be enforceable by, both EPA and the source.

The provisions of Contract No. ——— between EPA and the contractor provide:

a. The contractor and its employees will: (i) use the information claimed to be confidential only for purposes of carrying out the work required by the contract: (ii) not disclose the information to anyone other than EPA employees without the prior written approval of the Assistant General Counsel for Contracts and General Administration; and (iii) return to the EPA Contracting Officer all copies of the information, and any abstracts or excerpts therefrom, upon request by the Contracting Office, whenever the information is no longer required by the contractor for the performance of the work or upon completion of the contract.

b. The contractor will obtain a written agreement to honor the provisions of paragraph 2(a) from each of its employees who will have access to the information before the employee is allowed access.

c. The contractor will not use any information claimed to be confidential to compete with the source.

d. Before entering into any subcontract that will involve either the disclosure to a subcontractor by the contractor of information claimed to be confidential, or the

collection of information by a subcontractor, the contractor will obtain the written consent of the EPA Contracting Officer, after a written determination by the appropriate EPA program office.

3. Any contract between the contractor and a subcontractor for work involving access to information described herein will include the requirements contained in Paragraph 2 (a), (b) and (c) above; and, the subcontractor will be subject to the terms set forth in Paragraphs 1 and 4 in the same manner as if it were the contractor.

4. It is intended that this memorandum be consistent with and not exceed the provisions of 40 CFR Part 2 and the provisions of Contract No. ———. This memorandum does not address information not obtained from the source. Nothing in this memorandum relieves the contractor of any liability it may independently have to the source as a manner of statutory or common law from injury to the source arising from the contractor's release of information in a manner which exceeds its authority under 40 CFR Part 2 and its contract with EPA.

U.S. Environmental Protection Agency
By: ———
Date: ———
Company
By: ———
Date: ———
Contractor
By: ———
Date: ———

Memorandum on Confidential Treatment of Certain Information for Use With Site Visits by EPA Authorized Contractor Representatives Under Authority of Section 114 of the Clean Air Act

1. Pursuant to the provisions of Section 114 of the Clean Air Act, as amended, (*source*) (hereinafter "the source") will provide, or give access to, information requested by the Environmental Protection Agency (EPA) in the course of carrying out its responsibilities. Such information and such access will be provided to EPA and to its duly authorized representative (contractor) (hereinafter "the contractor") designated by EPA to assist EPA in carrying out such responsibilities pursuant to Contract No. ——— with EPA. The information requested may be either documentary (e.g., records, photographs or charts) or non-documentary (e.g., oral communications, taking of photographs, or visual observations): EPA and the contractor recognize that the source may consider the information so provided, or some part of it, to be confidential within the meaning of Section 114 and 18 U.S.C. 1905. The source may assert a claim of confidentiality under the procedures established in Part 2 of Title 40 of the Code of Federal Regulations (40 CFR Part 2) by noting such claim on documentary material provided to the contractor or to EPA. The contractor will note such claim when submitting the information to EPA. The EPA will note such claim when submitting such information to the contractor. Moreover, the source may notify the contractor or EPA that it considers the nondocumentary information provided to EPA or to the contractor to be confidential. The contractor will note said claim of confidentiality in any reports or documents submitted to EPA which utilize such non-documentary information. The EPA will note said claim of confidentiality in any reports or documents submitted to the contractor which utilize such non-documentary information. Any material or information claimed as confidential will be treated by the contractor as confidential in accordance with its contract and will be treated by EPA in accordance with the provisions of 40 CFR Part 2. Any material or information for which a claim of confidentiality is not made may be made available to the public by EPA without notice to the source.

2. The provisions in the contractor's contract with EPA concerning the use and disclosure of confidential information are included therein for the benefit of, and shall be enforceable by, both EPA and the source.

The provisions of Contract No. ——— between EPA and the contractor provide:

a. The contractor and its employees will: (i) Use the information claimed to be confidential only for purposes of carrying out the work required by the contract; (ii) not disclose the information to anyone other than EPA employees without the prior written approval of the Assistant General Counsel for Contracts and General Administration; and (iii) return to the EPA Contracting officer all copies of the information, and any abstracts or excerpts therefrom, upon request by the Contracting Officer, whenever the information is no longer required by the contractor for the performance of the work or upon completion of the contract.

b. The contractor will obtain a written agreement to honor the provisions of paragraph 2(a) from each of its employees who will have access to the information, before the employee is allowed access.

c. The contractor will not use any information claimed to be confidential to compete with the source.

d. Before entering into any subcontract that will involve either the disclosure to a subcontractor by the contractor of information claimed to be confidential, or the collection of information by a subcontractor, the contractor will obtain the written consent of the EPA Contracting Officer, after a written determination by the appropriate EPA program office.

3. Any contract between the contractor and a subcontractor for work involving access to information described herein will include the requirements contained in Paragraph 2(a), (b) and (c) above; and, the subcontractor will be subject to the terms set forth in Paragraph 1 and 4 in the same manner as if it were the contractor.

4. It is intended that this memorandum be consistent with and not exceed the provisions of 40 CFR Part 2 and the provisions of Contract No. ———. This memorandum does not address information not obtained from the source. Nothing in this memorandum relieves the contractor of any liability it may independently have to the source as a matter of statutory or common law from injury to the source arising from the contractor's release of information in a manner which exceeds its authority under 40 CFR Part 2 and its contract with EPA.

U.S. Environmental Protection Agency
By: ———
Date: ———
Company
By: ———
Date: ———
Contractor
By: ———
Date: ———

[FR Doc. 84-1452 Filed 1-23-84; 8:45 am]
BILLING CODE 6560-50-M

[OW-FRL-2460-3]

Brunswick Shale and Sandstone Aquifer of the Ridgewood Area, New Jersey; Final Determination

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Pursuant to Section 1424(e) of the Safe Drinking Water Act, the Administrator of the U.S. Environmental Protection Agency (EPA), has determined that the Brunswick Shale and Sandstone Aquifer, underlying the Ridgewood Area, is the sole or principal source of drinking water for Ridgewood, Midland Park, Glen Rock, and Wyckoff, New Jersey, and that the aquifer, it contaminated, would create a significant hazard to public health. As a result of this action, Federal financially assisted projects constructed in the Ridgewood Area and its streamflow source zone (upstream portions of Ho Ho Kus Brook and Saddle River Run drainage basins) will be subject to EPA review to ensure that these projects are designed and constructed so that they do not create a significant hazard to public health.

ADDRESSES: The data on which these findings are based are available to the public and may be inspected during normal business hours at the U.S. Environmental Protection Agency, Water Supply Branch, 26 Federal Plaza, New York, New York 10278.

FOR FURTHER INFORMATION CONTACT: Damina J. Duda, Water Supply Branch, 26 Federal Plaza, New York, New York 10278 (212) 264-1800.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to Section 1424(e) of the Safe Drinking Water Act (42 U.S.C., 300f, 300h-3(e), Pub. L. 93-523), the Administrator of the U.S. Environmental Protection Agency (EPA) has determined that the Brunswick Shale and Sandstone aquifer of the Ridgewood Area is the sole or principal source of drinking water for Ridgewood, Midland Park, Glen Rock, and Wyckoff, New Jersey. Pursuant to Section 1424(e), Federal financially assisted projects constructed in the Ridgewood Area and its streamflow source zone (upstream portions of Ho Ho Kus Brook, and

Saddle River Run drainage basins) will be subject to EPA review.

I. Background

Section 1424(e) of the Safe Drinking Water Act state:

(e) If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the **Federal Register**. After the publication of any such notice, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for Federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer.

On July 4, 1979, the Committee to keep Our Water Pure petitioned EPA to designate the Brunswick Shale and Sandstone Aquifer of the Ridgewood Area as sole source aquifer. On January 15, 1980, EPA published a notice in the **Federal Register** announcing a public comment period and setting a public hearing date. A public hearing was conducted on February 28, 1980, and the public was allowed to submit comments on the petition until March 28, 1980.

11. Basis for Determination

Among the factors to be considered by the Administrator in connection with the designation of an under Section 1424(e) are: (1) Whether the aquifer is the area's sole or principal source of drinking water, and (2) whether contamination of the aquifer would create a significant hazard to public health.

On the basis of information available to this Agency, the Administrator has made the following findings, which are the basis for the determination noted above:

1. The Brunswick Shale and Sandstone Aquifer of the Ridgewood Area is the "sole source" of drinking water for the approximately 68,820 residents of Ridgewood, Midland Park, Glen Rock, and Wyckoff, New Jersey.

2. There is no existing alternative drinking water source or combination of sources which provides fifty percent or more of the drinking water to the designated area.

3. The Brunswick formation is a soft red shale interbedded with coarse grained sandstone. The aquifer is overlain by permeable unconsolidated glacial and recent deposits. As a result of permeable soil characteristics, the Brunswick Shale and Sandstone Aquifer of the Ridgewood Area is highly susceptible to contamination through its recharge zone from a number of sources, including but not limited to, chemical spills, leachate from landfills, stormwater runoff, highway deicers, faulty septic systems, wastewater treatment systems, and waste disposal lagoons. The aquifer is also susceptible to contamination to a lesser degree from the same sources, through its streamflow source zone. Since ground water contamination can be difficult or impossible to reverse and since the aquifer in this area is solely relied upon for drinking water purposes by the population of the Ridgewood Area, contamination of the aquifer could pose a significant hazard to public health.

III. Description of the Brunswick Shale and Sandstone Aquifer of the Ridgewood Area, Its Recharge Zone and Its Streamflow Source Zone

The Brunswick Shale and Sandstone Aquifer is a soft red shale interbedded with coarse grained sandstone. The formation, located in northern New Jersey, is fairly large, extending south into Pennsylvania and north into New York. Igneous intrusions which form the Watchung Mountains and the Palisades, also form the western and eastern boundaries of the Burnswick formation, respectively. The area in which Federal financially assisted projects will be subject to review is the portion of the Brunswick Shale and Sandstone Aquifer in the Ridgewood Area, its streamflow source zone, and its recharge zone.

For the purposes of this designation, the Brunswick Shale and Sandstone Aquifer of the Ridgewood Area is considered to include the entire municipalities of Ridgewood, Midland Park, Glen Rock, and Wyckoff, New Jersey. It's recharge zone is considered to be one and the same with this area. The streamflow source zone is that portion of the drainage basins of Ho Ho Kus Brook and Saddle River Run located upstream of the Ridgewood area. This includes all or a portion of the following New Jersey municipalities: Waldwick, Allendale, Ramsey, Mahwah, Franklin Lakes, Ho Ho Kus, Saddle River, Upper Saddle River, Woodcliff Lake, Hillside, Washington, Montvale, as well as Ramapo Township, New York.

IV. Information Utilized in Determination

The information utilize in this determination includes the petition, written and verbal comments submitted by the public, and various technical publications. The above data is available to the public and may be inspected during normal business hours at the U.S. Environmental Protection Agency, Region II, Water Supply Branch, 26 Federal Plaza, New York, New York 10278.

V. Project Review

EPA Region II is working with the Federal agencies that may in the future provide financial assistance to projects in the area of concern. Interagency procedures have been developed through which EPA will be notified of proposed commitments by Federal agencies for projects which could contaminate the Brunswick Shale and Sandstone Aquifer, upon which the Ridgewood Area is dependent for its sole source water supply. EPA will evaluate such projects and, where necessary, conduct an in-depth review, including soliciting public comments where appropriate. Should the Administrator determine that a project may contaminate the aquifer through its recharge zone so as to create a significant hazard to public health, no commitment for Federal financial assistance may be entered into. However, a commitment for Federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer.

Although the project review process cannot be delegated, the U.S. Environmental Protection Agency will rely to the maximum extent possible on any existing or future State and local control mechanisms in protecting the ground water quality of the Brunswick Shale and Sandstone Aquifer on which the Ridgewood Area is dependent for its sole source water supply. Included in the review of any Federal financially assisted project will be coordination with the State and local agencies. Their comments will be given full consideration and the Federal review process will attempt to complement and support State and local ground water protection mechanisms.

VI. Summary and Discussion of Public Comments

Most comments were generally in favor of designation. Two local governments submitted resolutions in support of designation. Only two commenters expressed any reservations regarding the designation.

One commenter expressed concern that the proposed designation would provide protection which is duplicative of State and local controls and may lead to unnecessary bureaucratic delays of

projects. Although a number of ground water protection measures are available at the Federal, State and local level, none of these, either, individually or collectively, permit EPA to act as directly as would a sole source designation in the review and approval of Federal financially assisted projects. In addition, EPA feels that the sole source project review process will foster integration rather than duplication of environmental review efforts. Memoranda of Understanding have been negotiated with various Federal agencies, with the purpose of streamlining the review process and mimimizing project delays.

One commenter expressed concern that the area proposed for sole source designation could be an arbitrary political subdivision of the larger Brunswick aquifer system. The commenter questioned whether sufficient consideration had been given to the physical limits of the hydrologic system. The EPA recognizes that the aquifer does indeed cover a large area. However, a significant portion of the population in these other areas utilize other sources of water supply or have alternative sources available.

Concern was also raised that the Ridgewood Area may have alternative water supply available through adjacent water purveyors; specifically, the Passaic Valley Water Commission or the Hackensack Water Company. EPA has reviewed this matter and determined that either insufficient supply is currently available (in one case) or interconnections between the Ridgewood Area and the purveyor are currently not adequate to handle the Area's demand. Furthermore, the Brunswick Shale and Sandstone Aquifer in the Ridgewood Area is a source of water for export to adjacent purveyors during drought conditions.

The area considered for designation was determined to meet the criteria of an area which depends upon an aquifer for its sole or principal drinking water source and which, if contaminated, would pose a serious threat to the health of the Ridgewood Area residents.

VII. Economic and Regulatory Impact

Pursuant to the provisions of the Regulatory Flexibility Act (RFA), 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant impact on a substantial number of small entities. For purposes of this Certification the "small entity" shall have the same meaning as given in Section 601 of the RFA. This action is only applicable to the Ridgewood Area.

The only affected entities will be those Area-based businesses, organizations or governmental jurisdictions that request Federal financial assistance for projects which have the potential for contaminating the aquifer so as to create a significant hazard to public health. EPA does not expect to be reviewing small isolated commitments of financial assistance on an individual basis, unless a cumulative impact on the aquifer is anticipated; accordingly, the number of affected small entities will be minimal.

For those small entities which are subject to review, the impact to today's action will not be significant. Most projects subject to this review will be proceded by a ground water impact assessment required pursuant to other Federal laws, such as the National Environmantal Policy Act, as amended (NEPA), 42 U.S.C. 4321, et seq. Integration of those related review procedures with sole source aquifer review will allow EPA and other Federal agencies to avoid delay or duplication of effort in approving financial assistance, this minimizing any adverse effect on those small entities which are affected. Finally, today's action does not prevent grants of Federal financial assistance which may be available to any affected small entity in order to pay for the redesign of the project to assure protection of the aquifer.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it will not have an annual effect of $100 million or more on the economy, will not cause any major increase in costs or prices, and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States enterprises to compete in domestic or export markets. Today's action only affects the Brunswick Shale and Sandstone Aquifer of the Ridgewood Area. It provides an additional review of ground-water protection measures, incorporating State and local measures whenever possible, for only those projects which request Federal financial assistance.

Dated: January 12,1983.

William D. Ruckelshaus,

Administrator.

[FR Doc. 84-1887 Filed 1-23-84; 8:45 am]

BILLING CODE 6560-50-M

[OW-FRL-2459-7]

Denial of Petition To Designate the Niagara/Glacial Aquifer in Southeastern Wisconsin as a Sole or Principal Source of Drinking Water

AGENCY: Environmental Protection Agency.

ACTION: Determination notice.

SUMMARY: Notice is hereby given that pursuant to Section 1424(e) of the Safe Drinking Water Act (Pub. L. 93-523, as amended) the Administrator of the Environmental Protection Agency (EPA) has determined that the area of the Niagara-glacial aquifer system in southeastern Wisconsin petitioned for designation is not a sole or principal source of drinking water and the petition is denied.

EFFECTIVE DATE: Immediately.

ADDRESSES: The data on which this finding is based are available to the public and may be reviewed during normal business hours at the U.S. Environmental Protection Agency, Region V, Drinking Water Branch, Room 2674, 230 South Dearborn Street, Chicago, IL 60604.

FOR FURTHER INFORMATION CONTACT: Valdas V. Adamkus, Regional Administrator, U.S., Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, IL 60604.

SUPPLEMENTARY INFORMATION: The Safe Drinking Water Act was enacted on December 16, 1974. Section 1424(e) of the Act states:

> If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to the public health, he shall publish notice of that determination in the Federal Register. After the publication of any such notice, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for Federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer.

Background Information

On March 25, 1980, EPA received a petition from Dr. James R. Tanker, Jr., at the University of Wisconsin Center-Fond du Lac, requesting EPA to designate the Niagara and the overlying glacial aquifers as a sole source aquifer. On January 9, 1981, Dr. Tinker

resubmitted his petition which included the necessary data to consider the package up-to-date and complete. EPA published a notice in the **Federal Register**. On November 13, 1981, which served to publish the highlights of the petition, to announce a public comment period, and to determine if there was sufficient public interest to hold a public hearing. Based on comments from concerned parties, the public comment period was extended to January 15, 1982. A total of 14 written comments were received. It was determined, that a public hearing was not necessary because public interest was not sufficient. No commenters requested a public hearing. Seven of the written responses were against designation. Most of the commenters were of the opinion that Federal projects were already subject to sufficient environmental impact studies which delineated appropriate actions to protect ground water. It was generally concluded that designation would only result in duplicate project review resulting in additional delays to Federal projects. Other comments addressed opposition to the arbitarary exclusion of the cities of Milwaukee, Racine, and Kenosha, since their absence from the calculations could be misleading by implying a higher percentge of total ground water usage versus the total water usage for the petitioned area.

Six responses indicated support for the designation of the described area. This group of responders consisted of local environmental organizations and State representatives. These commenters were concerned about the aquifers' susceptibility to contamination as well as the great cost that would be incurred to replace the water supplies. In addition to the comments, a local planning commission submitted technical data without making any recommendations about designation of the aquifer.

Analysis of Action

The original area proposed by the petitioner included "east of the western most boundary of the Niagara aquifer; west and south of the Wisconsin shoreline of Lake Michigan but excluding the cities of Milwaukee, Racine, and Kenosha; north of the Wisconsin-Illinois border."

In a similar case, Maryland Piedmont at 45 FR 57165 August 27, 1980, EPA enlarged the area designated by the petitioner because the area was not hydrologically defined. This determination to use hydrologic boundaries was uphelp by the United States Court of Appeals for the Fourth Circuit. (Montgomery County, Maryland *vs* US Environmental Protection Agency 662 F.2d 1040 (1981)).

The EPA has concluded that the reasons for excluding the cities of Milwaukee, Racine, and Kenosha as well as the use of the Wisconsin-Illinois State line as the southern boundary were arbitrary. Based on an extensive literature search and technical consultation with State agencies, the modified petition boundaries include the cities of Milwaukee and Racine since they are not hydrogeologically isolated from the rest of the Niagara aquifer system. The southern boundary is a ground water divide interpreted to be located north of the city of Kenosha.

Basis for Denial

EPA published proposed procedural regulations to implement Section 1424(e) September 29, 1977 at 42 FR 51620. Although the proposed regulations have not been promulgated in final form, the Agency uses the proposed regulations as guiidance in processing petitions and making sole or principal source aquifer determinations. A sole or principal source acquifer is defined therein as an acquifer which supplies 50 percent or more of the drinking water for an area. The proposed regulations also require the Administrator to consider the availability of alternative sources of drinking water in making the determination .

The U.S. Geological Survey published a report on the *Water Use in Wisconsin*, 1979 (Open-File Report 82–444). Analysis of report data shows only 17 percent of the residential water usage within the proposed area is supplied by ground water. If the total water usage (residential, industrial, commerical, irrigation, livestock watering, ect) is considered for the proposed area, the total ground-water usage would be 26 percent. Finally, all of the above ratios for ground-water usage in the proposed area includes usage from the deeper Cambrian-Ordocvician acquifer which is geologically separated from the petitioned shallower acquifers by the confining Maquoketa shale. Therefore, the percentage of ground-water usage for the petitioned acquifer fails to meet the 50 percent water usage criteria required for an acquifer to be designated as a sole source.

Dated: January 12, 1983.

William D. Ruckelshaus,

Administrator.

[FR Doc. 84–1689 Filed 1–23–; 8:45 am]

BILLING CODE 6560–50–M

[OW-FRL-2460-4]

Unconsolidated Quaternary Aquifer, In the Rockaway River Area, New Jersey; Final Determination

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given that, pursuant to Section 1424(e) of the Safe Drinking Water Act, the Administrator of the U.S. Environmental Protection Agency (EPA) has determined that the Unconsolidated Quaternary Aquifer in the Rockaway River Basin is the sole or principal source of drinking water for the Rockaway River Basin Area, and that the Unconsolidated Quaternary Aquifer, if contaminated, would create a significant hazard to public health. As a result of this action, all Federal financially assisted projects constructed in the Rockaway River Basin Area will be subject to EPA review to insure that these projects are designed and constructed without a significant hazard to public health.

ADDRESSES: The data on which these findings are based is available to the public and may be inspected during normal business hours at the U.S. Environmental Protection Agency, Region II, Water Supply Branch, Room 824, 26 Federal Plaza, New York, New York 10278.

FOR FURTHER INFORMATION CONTACT: Damian J. Duda, Water Supply Branch, Environmental Protection Agency, Region II at 212–264–1800.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to Section 1424(e) of the Safe Drinking Water Act (42 U.S.C. 300f, 300h–3(e), Pub. L. 93–523), the Administrator of the U.S. Environmental Protection Agency (EPA) has determined that the Unconsolidated Quaternary Aquifer of the Rockaway River Basin Area is the sole or principal source of drinking water for the Town of Boonton, Boonton Township, Denville, Dover, Jefferson Township, Mine Hill, Mountin Lakes, Randolph Township, Rockaway Borough, Rockaway Township, Roxbury, Victory Gardens and Wharton. Pursuant to Section 1424(e), Federal financially assisted projects constructed in the Rockaway River Basin Area, which is delineated by the watershed boundaries of the Rockaway River, the Black (Upper Lamington) River Basin in Roxbury Township and Lake Arrowhead in Denville and Mountain Lakes, will be subject to review.

I. Background

Section 1424(e) of the Safe Drinking Water Act states:

> If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the **Federal Register**. After the publication of any such notice, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for Federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer.

On November 30, 1979, EPA received a petition from the Upper Rockaway River Watershed Association requesting that EPA designate the Quaternary Wisconsin stratified drift deposits as a sole source aquifer. In response to this petition, EPA published a notice in the **Federal Register** on September 11, 1980 (45 FR 60010) announcing a public comment period and setting a public hearing date. A public hearing was conducted on October 15, 1980, and the public was requested to submit comments on the petition until November 14, 1980.

II. Basis for Determination

Among the factors to be considered by the Administrator in connection with the designation of an area under Section 1424(e) are: (1) whether the Unconsolidated Quaternary Aquifer is the Area's sole or principal source of drinking water, and (2) whether contamination of the aquifer would create a significant hazard to public health.

On the basis of information available to this Agency, the Administrator has made the following findings, which are the basis for the determination noted above:

1. The Quaternary deposits represent an aquifer which currently serves as the "sole source" of drinking water for approximately 90,000 residents.
2. There are no existing alternative drinking water sources or combination of sources, which would provide fifty percent or more of the drinking water to the designated area, nor is there any reasonably available alternative future source capable of supplying the drinking water demands of the Rockaway River Basin Area.
3. The Unconsolidated Quaternary Aquifer is glacial in origin and is composed of unconsolidated sand and gravel deposits.

As a result of its highly permeable soil characteristics, the Unconsolidated Quaternary Aquifer is susceptible to contamination through its recharge zone from a number of sources, including, but not limited to, chemical spills, highway runoff, septic tanks, leaking storage tanks, and leaching from open dumps. There is current evidence of localized contamination of the aquifer from gasoline spills, individual disposal systems, leaking fuel tanks, and wastewater treatment systems. Since ground water contamination can be difficult or impossible to reverse, and since this aquifer is relied on for drinking water purposes by the general population, contamination of the aquifer would pose a significant hazard to public health.

III. Description of the Unconsolidated Quaternary Aquifer and its Recharge Zone

The Unconsolidated Quaternary Aquifer underlies thirteen municipalities in Morris County, in the Rockaway River Basin Area. The municipalities are the Town of Boonton, Boonton Township, Denville, Dover, Jefferson Township, Mine Hill, Mountain Lakes, Randolph Township, Rockaway Borough, Rockaway Township, Roxbury, Victory Gardens and Wharton. The area in which Federal financially assisted projects will be subject to review is the area which includes the unconsolidated Quaternary Aquifer's (1) recharge zone—delineated by the floodplain areas of the Rockaway River Basin and a portion of the Black (Upper Lamington) River Basin and (2) streamflow source zone—the watershed boundaries of the Rockaway River Basin, a portion of the Black (Upper Lamington) River Basin and Lake Arrowhead.

IV. Information Utilized in Determination

The information utilized in this determination includes the petition, written and verbal comments submitted by the public and the New Jersey Department of Environmental Protection and a study on the available water supply in the Rockaway Area (Tetra-Tech, 1979).

The above data is available to the public and may be inspected during normal business hours at the Environmental Protection Agency Region II, Water Supply Branch, Room 824, 26 Federal Plaza, New York, New York.

V. Project Review

EPA Region II is working with the Federal agencies that may in the future provide financial assistance to projects in the area of concern. Interagency procedures have been developed in which EPA will be notified of proposed commitments by Federal agencies for projects which could contaminate the Unconsolidated Quaternary Aquifer. EPA will evaluate such projects and, where necessary, conduct an in-depth review, including soliciting public comment where appropriate. Should the Administrator determine that a project may contaminate the aquifer through its recharge zone so as to create a significant hazard to public health, no commitment for Federal financial assistance may be entered into. However, a commitment for Federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer.

Although the project review process cannot be delegated, the U.S. Environmental Protection Agency will rely to the maximum extent possible on any existing or future State and local control mechanisms in protecting the ground water quality of the Unconsolidated Quaternary Aquifer.

Included in the review of any Federal financially assisted project will be coordination with the State and local agencies. Their comments will be given full consideration and the Federal review process will attempt to complement and support State and local ground water protection mechanisms.

VI. Summary and Discussion of Public Comments

Most of the comments received from Federal, State and local government agencies and from the public were strongly in favor of designation. Only two commenters expressed any reservations regarding the designation.

Two commenters felt that EPA currently has sufficient ground water protection mechanisms, which, together with State and local mechanisms, render a sole source designation unnecessary. Each felt that a municipality should have the responsibility of protecting its own water resource. Although a number of ground water protection measures are available at the Federal, State and local level, none of these , either individually or collectively, permit EPA to act as directly and comprehensively as would a sole source designation in the review and approval of Federal financially assisted projects. In addition, EPA feels

that the sole source project review process will foster integration rather than duplication of environmental review efforts.

One other commenter, although generally in favor of the designation had some recommendations to the existing petition. Specifically the two recommendations are (1) to extend the recharge area and (2) to expand any project review to include both federally assisted and non-federally assisted projects mainly public and semi-public. EPA has evaluated the recharge suggestion and determined the extent of the recharge area for project review. At present, only Federal financially assisted projects can come under sole source review. EPA does not have the legal means to review any non-federally funded project without amendment to the Safe Drinking Water Act. Federal financial assistance will only be withheld in those instances where it is determined that a proposed project may contaminate the aquifer so as to create a significant hazard to public health and no acceptable remedial measures are available to prevent the potential hazard.

VII. Economic and Regulatory Impact

Pursuant to the provisions of the Regulatory Flexibility Act (RFA), 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant impact on a substantial number of small entities. For purposes of this Certification the "small entity" shall have the same meaning as given in Section 601 of the RFA. This action is only applicable to the Rockaway Rover Basin Area. The only affected entities will be those Area-based businesses, organizations or governmental jurisdictions that request Federal financial assistance for projects which have the potential for contaminating the aquifer so as to create a significant hazard to public health. EPA does not expect to be reviewing small isolated commitments of financial assistance on an individual basis, unless a cumulative impact on the aquifer is anticipated; accordingly, the number of affected small entities will be minimal.

For those small entities which are subject to review, the impact of today's action will not be significant. Most projects subject to this review will be preceded by a ground water impact assessment required pursuant to other Federal laws, such as the National Environmental Policy Act, as amended (NEPA), 42 U.S.C. 4321, et seq. Integration of those related review procedures with sole source aquifer review will allow EPA and other Federal agencies to avoid delay or duplication of effort in approving financial assistance, this minimizing any adverse effect on those small entities which are affected. Finally today's action does not prevent grants of Federal financial assistance which may be available to any affected small entity in order to pay for the redesign of the project to assure protection of the aquifer.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it will not have an annual effect of $100 million or more on the economy, will not cause any major increase in costs or prices, and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States enterprises to compete in domestic or export markets. Today's action only affects the Rockaway River Basin Area. It provides an additional review of ground water protection measures, incorporating State and local measures wherever possible, for only those projects which request Federal financial assistance. This regulation was submitted to office of Management and Budget for review under EP 12291.

Dated: January 12, 1983.

William D. Ruckelshaus,

Administrator.

[FR Doc. 84-1888 Filed 1-23-84; 8:45 am]

BILLING CODE 6560-50-M

[SA-FRC 2511-6]

Science Advisory Board; Environmental Engineering Committee; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a two-day meeting of the Environmental Engineering Committee (EEC) of the Science Advisory Board will be held in Conference Room 3906-3908M, U.S. Environmental Protection Agency, 401 "M" Street, SW., Washington, D.C., on February 8-9, 1984. The meeting will begin at 9:00 a.m., and last until approximately 5:00 p.m. each day.

The agenda for the meeting will include a continuation of the Committee's review of data supporting proposed effluent guidelines for the organic chemical and plastics/synthetic fibers industry. Other agenda items are not yet firm, but will probably include discussions on RCRA-related issues, control technology research, and sludge management.

The meetings is open to the public. Any member of the public wishing to participate or obtain further information about the meeting should contact Harry C. Torno, Executive Secretary, at (202) 382-2552, or Terry F. Yosie, Staff Director, Science Advisory Board, at (202) 382-4126. Public comment will be accepted at the meeting. Written comment will be accepted in any form, and there will be opportunity for brief oral statements. Anyone wishing to make such comment must contact Mr. Torno prior to February 3, 1984, in order to be placed on the agenda.

EPA has recently instituted new visitor control procedures. In order to minimize any inconvenience, persons wishing to attend are requested to call Ms. Cheryl Fauntleroy at (202) 382-2552, so that they may be included on a roster that will be prepared for the building security guards. Attendees are also requested to enter the building at the West Tower entrance.

Dated: January 16, 1984.

Terry F. Yosie,

Staff Director, Science Advisory Board.

[FR Doc. 84-1884 Filed 1-23-84; 8:45 am]

BILLING CODE 6560-50-M

[OW-FRL-2511-3]

Final Determination; Groundwater System of the Upper Santa Cruz Basin and the Avra-Altar Basin of Pima, Pinal, and Santa Cruz Counties, Arizona: Aquifer Determination

AGENCY: Environmental Protection Agency.

ACTION: Final Determination.

SUMMARY: Pursuant to Section 1424(e) of the Safe Drinking Water Act, the Administrator of the U.S. Environmental Protection Agency (EPA) has determined that the Upper Santa Cruz and Avra-Altar Aquifers are the sole or principal source of drinking water for the Tucson Active Management Area, as established by the 1980 Arizona Groundwater Management Act, and that these aquifers, if contaminated, would create a significant hazard to public health. As a result of this action, Federal financially assisted projects constructed anywhere in the Tucson Active Management Area will be subject to EPA review to ensure that these projects are designed and constructed so that they do not create a significant hazard to public health.

ADDRESSES: The data on which these findings are based are available to the public and may be inspected during normal business hours at the U.S. Environmental Protection Agency, Region 9, Water Management Division,

Fifth Floor, 215 Fremont Street, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: George Wilson, Arizona, Hawaii, Nevada Branch (W–4), Water Management Division, Environmental Protection Agency, Region 9, at (415) 974–8345.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to Section 1424(e) of the Safe Drinking Water Act (42 U.S.C. 300h–3(e), Pub. L. 93–523) the Administrator of the U.S. Environmental Protection Agency (EPA) has determined that the Upper Santa Cruz and Avra-Altar Aquifers are the sole or principal source of drinking water for the Tucson Active Management Area, Arizona. Pursuant to Section 1424(e), Federal financially assisted projects constructed anywhere in the Tucson Active Management Area will be subject to EPA review.

I. Background

Section 1424(e) of the Safe Drinking Water Act states:

> If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a signficant hazard to public health, he shall publish notice of that determination in the **Federal Register**. After the publication of any such notice, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determined may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for Federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer.

On June 29, 1981, EPA received a petition from Southwest Environmental Service of Tucson, AZ, to designate the Upper Santa Cruz and Avra-Altar Aquifers as sole source aquifers. In response to this petition, EPA published a notice in the **Federal Register** on November 18, 1981, announcing receipt of the petition and requesting public comment. EPA prepared a support document summarizing available information regarding the aquifers. On September 24, 1982, EPA published a notice in the **Federal Register** announcing availability of the Support Document, requesting public comment, and setting a public hearing date. A public hearing was conducted on December 9, 1982, and the public was allowed to submit comments until December 18, 1982.

II. Basis for Determination

Among the factors to be considered by the Administrator in connection with the designation of an area under Section 1424(e) are: (1) whether the aquifer is the area's sole or principal source of drinking water, and (2) whether contamination of the aquifer would create significant hazard to public health.

On the basis of information available to this Agency, the Administrator has made the following findings, which are the bases for the determination noted above:

1. The Upper Santa Cruz and Avra-Altar Aquifers currently serve as the "sole source" of drinking water for the approximately 518,000 permanent residents within the Tucson Active Management Area.

2. There is no existing alternative drinking water source, or combination of sources, which provides fifty percent or more of the drinking water to the designated area, nor is there any reasonably available alternative future source capable of supplying the area's drinking water needs.

3. The aquifers are composed of loosely consolidated to moderately cemented silty sand to silty gravel and interfingering lenses of silt, sand, and gravel which are coarse, and highly permeable. As a result of their highly permeable characteristics, the aquifers are susceptible to contamination through their recharge zones from a number of sources including, but not limited to, chemical spills, waste disposal ponds, leaking storage tanks, leachate from landfills, agricultural chemicals, and wastewater treatment facilities. There is an existing trichlorethylene and chromium contamination problem from leaking waste disposal ponds. Since groundwater contamination can be difficult or impossible to reverse, and since these aquifers constitute the sole water supply for the general population, contamination would pose a significant hazard to public health.

III. Description of the Upper Santa Cruz and Avra-Altar Aquifers and Recharge Zones

The Upper Santa Cruz and Avra-Altar Aquifers are located within Pima, Pinal and Santa Cruz Counties in southern Arizona. The Avra-Altar groundwater basins are hydrologically connected, and consequently no clear-cut dividing line exists between them. The Avra-Altar Basin and Upper Santa Cruz Basin, while hydrologically separated in the greater Tucson area, join and become a single aquifer north of Tucson.

For the purposes of this designation, the Upper Santa Cruz and Avra-Altar basins are considered a single continuous aquifer. The aquifer and its recharge zones will be regarded as coterminous with the boundaries of the Tucson Active management Area as established by the 1980 Arizona Groundwater Management Act.

IV. Information Utilized in Determination

The information utilized in this determination includes the petition from Southwest Environmental Service, research of available literature on the groundwater basins, and written and verbal comments submitted by the public. This data is available to the public, and may be inspected during normal business hours at the Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105.

V. Project Review

EPA Region 9 will work with the Federal agencies that may in the future provide financial assistance to projects in the area of concern. Interagency procedures will be developed in which EPA will be notified of proposed commitments by Federal agencies for projects which could contaminate the aquifers. EPA will evaluate such projects and, where necessary, conduct an in-depth review, including soliciting public comments where appropriate. Should the Administrator determine that a project may contaminate the aquifer through its recharge zone so as to create a significant hazard to public health, no commitment for federal financial assistance may be entered into. However, a commitment for Federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer.

Although the project review process cannot be delegated, the U.S. Environmental Protection Agency will rely to the maximum extent possible on any existing or future State and local control mechanisms in protecting the groundwater quality of the aquifers. Included in the review of any Federal financially assisted project will be coordination with the State and local agencies. Their comments will be given full consideration and the Federal review process will attempt to complement and support State and local groundwater protection mechanisms.

VI. Summary and Discussion of Public Comments

Most of the comments received from the public were in favor of the designation. However, four commenters expressed some opposition.

One commenter fielt that EPA should delay designation until the Safe Drinking Water Act is amended to include specific provisions related to sole source designation. In response to this comment the Agency believes that the existing statutes and regulations provide sufficient basis from which a sole source designation can be made. In fact, ten such designations already have been successfully concluded. Furthermore, it is believed that to delay the designation process would not be prudent since there is no indication that the law will be amended as suggested by the commenter.

Another commenter felt that not enough information is known about the complexities of the aquifer system to call it a "sole source aquifer". The Agency's response to this comment is that the term "sole source aquifer" refers to the fact that fifty percent or more of the area's drinking water comes from the aquifer. While the aquifer is not composed of a single homogeneous material, the available information indicates that the basin is basically one single interconnected aquifer which provides over 50 percent of the area's drinking water.

Another comment was that the boundaries used for the designated area include areas that are not aquifers and areas that are regulated by other agencies. The Agency's response to this comment is that the mountain ranges were included to ensure that the recharge areas to the aquifer system were incorporated as required by Section 1424(e) of the Safe Drinking Water Act, and to match the boundaries of the Tucson Active Management Areas for future regulatory expendiency. The fact that an area is managed by another agency is not relevant to the designation process.

Another commenter stated that because the suface area of the Tucson Active Management Area is so large, any potential contaminants could not reach significant levels. The Agency cannot agree with this comment since it is a matter of public record that point sources within the area have reached levels considered by State and Federal health agencies to be a significant health hazard. Five Tucson municipal water supply wells have been closed due to trichloroethylene contamination.

Onc commenter, although generally in favor of the designation, expressed concern that the sole source designation might preclude the use of land application as a wastewater treatment technique. The Agency shares this concern. However, the Agency also believes that if properly sited, designed, operated, and maintained, land application treatment can be an environmentally sound and cost-effective waste management alternative. Sole source designation will not interfere with the development of any such environmentally sound waste management solution in the area. Federal financial assistance will be withheld only in those instances where it is determined that a proposed project may contaminate the aquifer so as to create a significant hazard to public health and no acceptable remedial measures are available to prevent the potential hazard.

VII. Economic and Regulatory Impact

Pursuant to provisions of the Regulatory Flexibility Act (RFA), 5 U.S.C. 605(b). I hereby certify that the attached rule will not have a significant impact on a substantial number of small entities. For purposes of this Certification, the term "small entity" shall have the same meaning as given in Section 601 of the RFA. This action is only applicable to the Tucson Active Management Area. The only affected entities will be those businesses, organizations, or governmental jurisdictions that request Federal financial assistance for projects which have the potential for contaminating the aquifer so as to create a significnat hazard to public health. EPA does not expect to be reviewing small isolated commitments of financial assistance on an individual basis, unless a cumulative impact on the aquifer is anticipated; accordingly, the number of affected small entities will be minimal.

For those small entities which are subject to review, the impact of today's action will not be significant. Most projects subject to this review will be preceded by a groundwater impact assessment required pursuant to other Federal laws, such as the National Environmental Policy Act, as amended (NEPA), 42 U.S.C. 4321, et seq. Integration of those related review procedures with sole source aquifer review will allow EPA and other Federl agencies to avoid delay or dupliction of effort in approving financial assistance, thus minimizing any adverse effect on those small entities which are affected. Finally, today's action does not prevent grants of Federal financial assistance which may be available to any affected small entity in order to pay for the redesign of the project to assure protection of the aquifer.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it will not have an annual effect of $100 million or more on the economy, will not cause any major increase in costs or prices, and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States enterprises to compete in domestic or export markets. Today's action only affects the Tucson Active Management Area. It provides an additional reviews of groundwater protection measures, whenever possible, for only those projects which request Federal financial assistance. This regulation was submitted to OMB for review under EEO 12291.

Dated, January 12, 1983.

William D. Ruckelshaus,

Administrator.

[FR Doc. 84-1897 Filed 1-23-84; 8:45 am]

BILLING CODE 6560-50-M

[WH FRL 2511-2]

Aquifers Underlying Kings and Queens Counties, New York Determination

AGENCY: Environmental Protection Agency, Region II.

ACTION: Notice of determination; aquifers underlying Kings and Queens Counties, New York.

SUMMARY: Notice is hereby given that pursuant to section 1424(e) of the Safe Drinking Water Act (Pub. L. 93-523) the Administrator of the Environmental Protection Agency has determined that the aquifer underlying Kings and Queens Counties, New York, is the sole or principal source of drinking water for the southeastern portion of Queens County, New York, and which, if contaminated, would create a significant hazard to public health.

ADDRESS: The data on which these findings are based are available to the public and may be inspected during normal business hours at the U.S. Environmental Protection Agency, Water Supply Branch, 26 Federal Plaza, New York, New York 10278.

FOR FURTHER INFORMATION CONTACT: Damian J. Duda, U.S. Environmental Protection Agency, Water Supply Branch, 26 Federal Plaza, New York, New York 10278—Tel. (212) 264-1800.

SUPPLEMENTARY INFORMATION: The Safe Drinking Water Act was enacted on

December 16, 1974. Section 1424(e) of the Act states:

If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of the determination in the **Federal Register**. After the publication of any notice, no commitment for Federal financial assistance (through a grant, contract, loan guarantee or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health but a commitment for Federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer.

Background

On June 18, 1979, the Jamaica Water Supply Company, Lake Success, New York, petitioned the Administrator to amend the Long Island (Nassua/Suffolk) designation of June 21, 1978, 43 FR 26611 to include the aquifers underlying Kings and Queens Counties, New York, as a sole source aquifer under the provisions of section 1424(e) of the Safe Drinking Water Act.

Public Participation

A notice of receipt of this petition, together with a request for comments was published in the **Federal Register** August 29, 1979, 44 FR 50649. In response to the Notice and request for comments, written comments were received from a State, and a local governmental agency. Both commenters claimed that the designation would be premature since there is an absence of final rules and regulations on the sole or principle source aquifer program under Section 1424(e). The letters further stated that New York State will be developing a ground-water management program and that the EPA should await the outcome of these studies before considering designation of the aquifer. The agency does not agree with the letters requesting further delay since the ground water management studies referred to are not directly related to the sole source designation request. In addition, EPA had sufficient information to write a background document which serves as the basis for designation.

On October 4, 1979, the Environmental Protection Agency (EPA) held a public hearing in Queens County, New York City, New York to hear the views of persons interested in the Kings and Queens Aquifer issue. Two groups presented testimony at the public hearing. The first group represented the petitioner, Jamaica Water Supply Company and the second represented the New York State Department of Health, Bureau of Public Water Supply. There were no representatives of the public present at the public hearing.

Basis for the determination

On the basis of the information which is available to this Agency the Administrator has made the following findings, which are the basis for the determination noted above:

(1) The Kings and Queens aquifers which underly the southeastern portion of Queens County are the sole or principal source of drinking water for approximately 650,000 people in such area, which is the service area of the Jamaica Water Supply Company. In 1979, the aquifers supplied approximately 60 million gallons per day (mgd) of water from 65 wells located in or near the water supply franchise area of the Jamaica Water Supply Company. Current water supply treatment practice for public supplies is generally limited to disinfection for drinking purposes. There is no alternative source of drinking water supply which could replace these aquifers if they were contaminated.

While the Kings and Queens aquifers are not utilized as the sole or principal source of drinking water for the Borough of Kings or for any other portion of Queens County, the geographic boundaries of Kings and Queens Counties are the recharge zone for the aquifers underlying the southeastern portion of Queens County. The recharge zone also encompasses parts of Nassau County, New York. Aquifers underlying Nassau and Suffolk Counties, New York have already been designated as a sole or principal source aquifer under Section 1424(e) of the Safe Drinking Water Act.

(2) The aquifers underlying Kings and Queens Counties are vulnerable to contamination through their recharge zone, particularly from leaking sewer pipes. Other sources such as past farming practices and present fertilization of lawns and gardens may also be significant. The area contains leaking fuel tanks and leachate from open dumps and improperly operated landfill sites all of which add to the contamination of the ground water. In addition, EPA analysis shows that further and continued withdrawal of water over and above the aquifers sustained yield would cause the salt-fresh water interface to move into the aquifers recharge zone thereby threatening the ground water quality by increasing the chloride content in the water. Since ground water contamination can be difficult or impossible to reverse, and because this aquifer is relied upon for drinking purposes by many people, contamination of the aquifer would pose a significant hazard to public health.

(3) When an aquifer has been designated as the sole or principal source of drinking water, the area in which projects may be reviewed is the area encompassed by: (1) the boundary of the designated aquifer's recharge zone, and (2) its stream-flow source zone.

The Administrator has determined that the recharge zone and stream-flow source zone for the aquifers underlying southeastern Queens County are defined by the outside boundary of Kings County (Borough of Brooklyn) and Queens County (Borough of Queens) in the city of New York and parts of Nassau County. Since the parts of Nassau County within the recharge and streamflow source zones of the aquifers underlying southeastern Queens County are already under sole or principal source protection as the result of the Agency's prior designation of the aquifers underlying Nassau/Suffolk Counties, today's designation will extend the area for project review to encompass projects undertaken in the Boroughs of Brooklyn and Queens in the city of New York.

Information Utilized in This Determination

The petition, written and verbal comments submitted by the public, a detailed map of the area and independent analysis by EPA are available to the public and may be inspected during normal business hours at the office of the Environmental Protection Agency, Region II, Water Supply Branch, 26 Federal Plaza, Room 24–130, New York, New York 10278.

A copy of the above documentation is also available at the U.S. Environmental Protection Agency, Waterside Mall, Public Information and Reference Unit, Room 2922, 401 M. Street SW., Washington, DC 20460.

Project Review

EPA proposed national regulations for implementing Section 1424(e) of the Safe Drinking Water Act on September 29, 1977, at 42 FR 51620. The proposed regulations contain procedures for review of Federal financially assisted projects which could contaminate "sole or principal source" aquifers through the recharge zone so as to create a significant hazard to public health. They are being used as interim guidance until promulgation of final regulations. Questions and comments concerning the possible effect of the regulations on

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Federally assisted projects in the designated Kings/Queens Aquifer should be directed to the Water Supply Branch, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10278.

EPA Region II is working with the Federal agencies, which may sponsor projects in the area of concern, to develop interagency procedures whereby EPA will be notified of proposed commitments for projects which could contaminate the designated aquifer. EPA will evaluate such projects and, where necessary, conduct an in-depth review, includng soliciting public comments where appropriate.

Although the project review process cannot be delegated, the Regional Administrator in Region II will rely, to the maximum extent possible, upon close coordination with State and local agencies to ensure consistency with their program objectives. Their in-put will be given full consideration and the Federal review process will function so as to complement and support State and local protection programs.

Federal funding may be withheld from any project which, upon review, may contaminate the aquifer through a recharge zone so as to create a significant hazard to public health.

Economic and Regulatory Impact

Pursuant to the provisions of the Regulatory Flexibility Act (RFA), 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant impact on a substantial number of small entities. For purposes of this Certification the "small entity" shall have the same meaning as given in Section 601 of the RFA. This action is only applicable to the Kings-Queens Area.

The only affected entitites will be those area-based business, organizations or governmental jurisdictions that request Federal financial assistance for projects which have the potential for contaminating the aquifer so as to create a significant hazard to public health. EPA does not expect to be reviewing small isolated commitments of financial assistance on an individual basis, unless a cumulative impact on the aquifer is anticipated; accordingly, the number of affected small entities will be minimal.

For those small entities which are subject to review, the impact of today's action will not be significant. Most projects subject to this review will be preceded by a ground water impact assessment required pursuant to other Federal laws, such as the National Environmental Policy Act, as amended (NEPA), 42 U.S.C. 4321, et seq. Integration of those related review procedures with sole source aquifer review will allow EPA and other Federal agencies to avoid delay or duplication of effort in approving financial assistance, thus minimizing any adverse effect on those small entities which are affected. Finally, today's action does not prevent grants of Federal financial assistance which may be available to any affected small entity in order to pay for the redesign of the project to assure protection of the aquifer.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not "major" because it will not have an annual effect of $100 million or more on the economy, will not cause any major increase in costs or prices, and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States enterprises to compete in domestic or export markets. Today's action only affects the designated area. It provides an additional review of ground water protection measures, incorporating State and local measures whenever possible, for only those projects which request Federal financial assistance. Accordingly, a Regulatory Impact Analysis will not be required.

Dated: January 12, 1983

William D. Ruckelshaus,

Administrator.

[FR Doc. 84-1695 Filed 1-23-83; 8:45 am]

BILLING CODE 6560-50-M

[OW-FRL-2506-6]

Final Determination; Sole Source Aquifer Determinations: Nantucket Island Aquifer, Block Island Aquifer

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Pursuant to Section 1424(e) of the Safe Drinking Water Act, the Administrator of the U.S. Environmental Protection Agency (EPA) has determined that the Nantucket Island aquifer and the Block Island aquifer, respectively, are the sole or principal sources of drinking water for Nantucket, Massachusetts, and New Shoreham, Rhode Island, and that the aquifers, if contaminated, would create a significant hazard to public health. As a result of this action, Federal financially assisted projects proposed to be constructed on Nantucket Island or Block Island will be subject to EPA review to ensure that these projects are designed and constructed so that they do not create a significant hazard to public health.

EFFECTIVE DATE: February 23, 1984.

ADDRESSES: The data on which these findings are based is available to the public and may be inspected during normal business hours at the U.S. Environmental Protection Agency, Region 1, Water Supply Branch, J. F. Kennedy Federal Building, Boston, Massachusetts 02203.

FOR FURTHER INFORMATION CONTACT: Steven J. Koorse, Water Supply Branch, U.S. Environmental Protection Agency, Region 1, at (617) 223-6688.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to Section 1424(e) of the Safe Drinking Water Act (42 U.S.C. 300f, 300h-3(e), Pub. L. 93-523) the Administrator of the U.S. Environmental Protection Agency (EPA) has determined that the Nantucket Island aquifer and the Block Island aquifer, respectively, are the sole or principal sources of drinking water for Nantucket, Massachusetts, and New Shoreham, Rhode Island. Pursuant to Section 1424(e), Federal financially assisted projects proposed to be constructed anywhere on Nantucket or Block Island will be subject to EPA review.

Section 1424(e) of the Safe Drinking Water Act states:

> (e) If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the Federal Register. After the publication of any such notice, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for Federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer.

On December 2, 1982, EPA received a petition submitted jointly by the Nantucket Planning and Economic Development Commission and the Wannacomet Water Company requesting EPA to designate the Nantucket Island aquifer as a sole source aquifer.

On February 18, 1983, EPA received a petition from the New Shoreham, Rhode Island, Town Clerk requesting EPA to designate the Block Island aquifer as a sole source aquifer.

In response to these two petitions, EPA published a combined notice in the **Federal Register** on June 13, 1983 (48 FR 27146). The notice served to publish the petitions and to request public comments on each petition.

Basis for Determination

Among the factors to be considered by the Administrator in connection with the designation of an area under Section 1424(e) are: (1) whether the aquifer is the area's sole or principal source of drinking water and (2) whether contamination of the aquifer would create a significant hazard to public health.

On the basis of information available to EPA, the Administrator has made the following findings, which are the bases for the determinations noted above.

1. The Nantucket Island aquifer is a single continuous aquifer which currently serves as a source of drinking water for approximately 7,000 permanent residents and 27,000 peak seasonal residents of Nantucket.

2. The Block Island aquifer is a single continuous aquifer which currently serves as a source of drinking water for approximately 550 permanent residents and 12,000 peak seasonal residents of New Shoreham.

3. There is no existing alternative drinking water source or combination of sources which provide fifty percent or more of the drinking water to either of the designated areas, nor are there any reasonably available alternative future sources capable of meeting the drinking water demands of the two areas.

4. The Nantucket and Block Island aquifers are glacial in origin and are composed of unconsolidated sand, gravel, silt and clay deposits. As a result of their highly permeable soil characteristics, the aquifers are susceptible to contamination from a number of sources, including but not limited to, chemical spills, highway runoff, septic tanks, leaking storage tanks and leachate from open dumps. Since ground-water contamination can be difficult or impossible to reverse and since the Nantucket Island aquifer and the Block Island aquifer are relied on for drinking water purposes by the general population, contamination of either aquifer could pose a significant hazard to public health.

Description of the Aquifers and Their Recharge Zones

Nantucket Island: The Island of Nantucket is the largest of the group of islands that form the Town of Nantucket, Massachusetts. Nantucket is located about 25 miles south of Cap Cod and 15 miles east of Martha's Vineyard. The area in which Federal financially assisted projects will be subject to review is the area that includes the Nantucket Island aquifer, its stream flow source zone and its recharge area, which are one and the same.

Block Island: Block Island is the popular name for the Town of New Shoreham, Rhode Island. The Island is located about 10 miles south of Rhode Island and 14 miles east of Long Island, New York. The area in which Federal financially assisted projects will be subject to review includes the Block Island aquifer, its stream flow source zone and its recharge area, which are one and the same.

For purposes of these designations the Nantucket Island aquifer and the Block Island aquifer are considered single continuous aquifers, with the Atlantic Ocean forming the lateral boundaries of each aquifer. Similarly, the recharge zone boundaries of each aquifer will be regarded as coextensive with the lateral boundaries of the aquifers.

Information Utilized in the Determinations

The information utilized in this determination includes the petitions, a ground-water resources study conducted by the U.S. Geological Survey (Water Resources of Nantucket Island, Massachusetts, Atlas HA–615), a ground-water resources study conducted by the U.S. Geological Survey in cooperation with the Rhode Island Water Resources Coordinating Board (Ground-Water Resources of Block Island, Rhode Island, Rhode Island Geological Bulletin No. 14) and U.S. Environmental Protection Agency technical publications. The above data are available to the public and may be inspected during normal business hours at the U.S. Environmental Protection Agency, Region 1, Water Supply Branch, J. F. Kennedy Federal Building, Boston, Massachusetts 02203.

Project Review

EPA Region I is working with the Federal agencies that may in the future provide financial assistance to projects in the area of concern. Interagency procedures are being developed in which EPA will be notified of proposed commitments by Federal agencies for projects which could contaminate the Nantucket or Block Island aquifiers. EPA will evaluate such projects and, where necessary, conduct an in-depth review, including soliciting public comments where appropriate. Should the Administrator determine that a project may contaminate either aquifer through its recharge zone so as to create a significant hazard to public health, no commitment for Federal financial assistance may be entered into. However, a commitment for Federal financial may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer.

Although the project review process cannot be delegated, the EPA will rely to the maximum extent possible on any existing or future State and local control mechanisms in protecting the ground-water quality of the designated aquifers. EPA Region I will coordinate the review of any Federal financially assisted project with State and local agencies. Their comments will be given full consideration and the Federal review process will attempt to complement and support State and local groundwater protection mechanisms.

Summary of Public Comments

No written comments, pro or con, were received during the public comment period. In view of the apparent lack of controversy over the proposed designations, EPA did not schedule public hearings.

Regulatory Flexibility Act and Executive Order 12291 Requirements

Pursuant to the provisions of the Regulatory Flexibility Act (RFA), 5 U.S.C. Section 605(b), I hereby certify that the attached rule will not have a significant impact on a substantial number of small entities. For purposes of this Certification, the term "small entity" shall have the same meaning as given in Section 601 of the RFA. This action is only applicable to Nantucket Island and Block Island, as formerly delineated in this notice. The only affected entities will be those Nantucket or Block Island businesses, organizations or governmental jurisdictions that request Federal financial assistance for projects which have the potential for contaminating the aquifer so as to create a significant hazard to public health.

For those small entities which are subject to review, the impact of today's action will not be significant. Most projects subject to this review will be preceded by a ground-water impact assessment required pursuant to other Federal laws, such as the National Environmental Policy Act, as amended (NEPA), 42 U.S.C. 4321 *et seq.* Integration of those related review procedures with sole source aquifer review will allow EPA and other Federal agencies to avoid delay or duplication of effort in approving financial assistance, thus minimizing any adverse effect on those small entities which are affected.

Finally, today's action does not prevent grants of Federal financial assistance which may be available to any affected small entity in order to pay for the redesign of the project to assure protection of the aquifer.

Under Executive order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it will not have an annual effect of $100 million or more on the economy, will not cause any major increase in costs or prices, and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States enterprises to compete in domestic or export markets. Today's action only affects Nantucket Island and Block Island. It provides an additional review of ground-water protection measures, incorporating State and local measures whenever possible, for only those projects which request Federal financial assistance.

Dated: January 12, 1983.

William D. Ruckelshaus,

Administrator.

[FR Doc. 84-1866 Filed 1-23-84; 8:45 am]

BILLING CODE 6560-50-M

[(OPTS-00048) BH-FRL 2510-5]

Interagency Toxic Substances Data Committee, Special Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Special Meeting Open to the Public.

SUMMARY: This notice announces a special meeting of the Interagency Toxic Substances Data Committee for the purpose of a briefing on activities of the International Register of Potentially Toxic Chemicals (IRPTC) of the United Nations Environment Program and the International Program on Chemical Safety (IPCS) of the World Health Organization. Speakers will include Dr. Jan Huisman of IRPTC and Dr. Michel Mercier of IPCS. The meeting is open to the public.

DATE: The meeting will take place from 9:30 a.m. to 12:00 noon on Friday, February 3, 1984.

ADDRESS: The meeting will be held in: Rms. 6332, 6334, and 6336, Department of Transportation, 400 Seventh St., SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Sandra Lee, Executive Secretary, Interagency Toxic Substances Data Committee, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-611G, 401 M St., SW., Washington, D.C. 20460 (202-382-2249).

SUPPLEMENTARY INFORMATION: The regular meetings of the Interagency Toxic Substances Data Committee usually are held on the first Tuesday of alternate months. The next meeting has been scheduled for March 6, 1984.

Dated: January 13, 1984.

Sandra Lee,

Executive Secretary, Interagency Toxic Substances Data Committee.

[FR Doc. 84-1900 Filed 1-23-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

I.T.O. Corporation of Ameriport, Inc./ Sea-Land Service, Inc.; Termination

Agreement No.: T-1887-A.

Title: I.T.O. Corporation of Ameriport, Inc. and Sea-Land Service, Inc.

Parties:

I.T.O. Corporation of Ameriport
Sea-Land Service, Inc.

Synopsis: The parties to the above referenced agreement have advised that the agreement has been terminated by the parties effective October 31, 1983.

Filing Party: J. L. Sutherland, Vice President, Sea-Land Service, Inc., 10 Parsonage Road, P.O. Box 800, Iselin, New Jersey 08830.

Dated: January 18, 1984.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 84-1840 Filed 1-23-84; 8:45 am]

BILLING CODE 6730-01-M

New York Freight Conference; Termination of Contract Rate System

Filing Party: David N. Dunn, Esquire, Warren & Associates, P.C., 1100 Connecticut Avenue, NW., Washington, D.C. 20036.

Agreement No.: 5700.

Sumary: By tariff supplement dated November 21, 1983, the Commission received notice that the above-captioned conference is terminating its Contract Rate System effective February 18, 1984.

Dated: January 18, 1984.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 84-1843 Filed 1-23-84; 8:45 am]

BILLING CODE 6730-01-M

Pacific/Indonesian Conference; Termination of Contract Rate System

Filing Party: Scott L. Smith, Chairman, P.O. Box 7411, San Francisco, California 94120.

Agreement No.: 6060.

Summary: By letter dated October 31, 1983, the Commission received notice that the above-captioned conference is terminating its Contract Rate System effective January 1, 1984.

Dated: January 18, 1984.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 84-1842 Filed 1-23-84; 8:45 am]

BILLING CODE 6730-01-M

Pacific/Australia-New Zealand Conference; Termination of Contract Rate System

Filing Party: F. H. Foster, Secretary, P.O. Box 7411, San Francisco, California 94120.

Agreement No.: 50.

Summary: By letter dated October 31, 1983, the Commission received notice that the above-captioned conference is terminating its Contract Rate System effective February 1, 1984.

Dated: January 18, 1984.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 84-1844 Filed 1-23-84; 8:45 am]

BILLING CODE 6730-01-M

Pacific/Straits Conference; Termination of Contract Rate System

Filing Party: Scott L. Smith, Chairman, P.O. Box 7411, San Francisco, California 94120.

Agreement No.: 5680.

Summary: By letter dated October 31, 1983, the Commission received notice that the above-captioned conference is terminating its Contract Rate System effective February 1, 1984.

Dated: January 18, 1984.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 84-1845 Filed 1-23-84; 8:45 am]

BILLING CODE 6730-01-M

Philadelphia Port Corporation/Sea-Land Service, Inc.; Termination

Agreement No.: T-1887.

Title: Philadelphia Port Corporation and Sea-Land Service, Inc.

Parties:

Philadelphia Port Corporation
Sea-Land Service, Inc.

Synopsis: The parties to the above referenced agreement have advised that the agreement has been terminated by the parties effective October 31, 1983.

Filing Party: John J. Malone, President, Philadelphia Port Corporation, 1020 Public Ledger Building, Philadelphia, Pa 19106.

Dated: January 18, 1984.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 84-1841 Filed 1-23-84; 8:45 am]

BILLING CODE 6730-01-M

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 52.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: T-3071-3.

Title: City of Los Angeles and Japan Line, Ltd., Mitsui OSK, Ltd., and Yamashita Shinnihon Steamship Company, Ltd., Terminal Lease Agreement.

Parties: The City of Los Angeles (City) and Japan Line, Ltd., Mitsui OSK, Ltd., and Yamashita Shinnihon Steamship Company, Ltd. (The Lines).

Synopsis: Agreement No. T-3071-3, between the City and The Lines modifies the parties' basic agreement which provides for the non-exclusive preferential use by The Line: of certain premises in the Port of Los Angeles. The modification provides (1) that the premises be extended to include Berth No. 131; (2) that the berth shall be used for the docking and mooring of vessels during that time required for cargo handling and for no other purpose; (3) The Lines must receive permission from the Port to work vessels, and they must cooperate with other users of the berth; (4) The Lines may not solicit customers which are tenants of the Port; (5) The Lines will remit 25% of wharfage and dockage collected; (6) The Lines will not receive any credit toward annual compensation; and (7) all other rexisting terms of the basic agreement and previous amendments thereto will remain in effect.

Filing Party: Frank Wagner, Deputy City Attorney, Office of the City Attorney, Harbor Division, P.O. Box 151, San Pedro, California 90733.

Agreement No.: T-3450-2.

Title: The City of Los Angeles and Overseas Terminal., Co., Inc., Amended Assignment Agreement.

Parties: The City of Los Angeles (City) and Overseas Terminal Co., Inc. (Overseas).

Synopsis: Agreement No. T-3450-2 modifies the basic agreement between the parties which provides for the non-exclusive preferential assignment to Overseas of Berths 228-230 at Los Angeles Harbor. The modification provides for the purchase by the City from Overseas of certain equipment installed by Overseas at Berths 228-230, and it sets forth the terms and conditions of the purchase.

Filing Party: Raymond P. Bender, Assistant City Attorney, City of Los Angeles, Harbor Division, P.O. Box 151, San Pedro, California 90731-0151.

Agreement No.: T-4157.

Title: Jacksonville Port Authority and Eller & Company, Inc. Terminal Lease Agreement.

Parties: Jacksonville Port Authority (Port) and Eller & Company, Inc., (Eller).

Synopsis: Agreement No. T-4157 provides that the Port will lease 11,000 sq. ft. at Talleyrand Dock, Jacksonville, Fla., to Eller for use in the receiving and delivery of cargo in the foreign commerce of the United States. The lease will run from the first day of the month following approval by the Commission, to September 30, 1984.

Filing Party: C. Prosuch, Director of Finance, Jacksonville Port Authority, P.O. Box 3005, 2831 Talleyrand Avenue, Jacksonville, Florida 32206.

By Order of the Federal Maritime Commission.

Dated: January 18, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84-1837 Filed 1-23-84; 8:45 am]

BILLING CODE 6730-01-M

Agreements Filed

Erratum

Agreement No.: T-4151.

Filing Party: William C. Smith, Ballard, Sphar, Andrews & Ingersoll, Suite 1100, 1850 K Street, NW., Washington, D.C. 20006.

Synopsis: Agreement No. T-4151 appeared in the **Federal Register** on December 20, 1983, page 56273, indicating incorrectly the leased premises covered by the agreement. It should have been shown as Tioga Marine Terminal No. 2, Berth No. 1, instead of Piers 96-98-100.

By Order of the Federal Maritime Commission.

Dated: January 18, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84-1838 Filed 1-23-84; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2477]

MDR Enterprises, Inc.; Reissuance of License

By Notice served and published in the **Federal Register**, Independent Ocean Freight Forwarder License No. 2477 was revoked, effective November 19, 1983 for failure to maintain a valid surety bond on file with the Commission. The Notice of Revocation was served on November 29, 1983.

An appropriate surety bond has been received in favor of MDR Enterprises, Inc. and compliance pursuant to section 44, Shipping Act, 1916, and § 510.15 of the Commission's General Order 4 has been achieved.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in § 9.09(a) of Commission Order No. 1 (Revised), dated September 27, 1983, Independent Ocean Freight Forwarder License No. 2477 shall be reissued to MDR Enterprises, Inc. effective January 11, 1984. A copy of this notice shall be published in the **Federal Register** and served upon MDR Enterprises, Inc.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 84-1836 Filed 1-23-84; 8:45 am]

BILLING CODE 6730-01-M

Section 15 Agreement; Cancellation

Agreement No.: 10219.

Title: Lykes Bros. Steamship Co., Inc./ Compagnie Malagache de Navigation.

Parties: Lykes Bros. Steamship Co., Inc., Compagnie Malagache de Navigation.

Synopsis: By letter dated January 6, 1984, the Commission received notice to cancel the above agreement as it no longer reflects their current understanding.

Filing Party: R. J. Finnan, Pricing Analyst, Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, Louisiana 70130.

By Order of the Federal Maritime Commission.

Dated: Janyary 18, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84-1839 Filed 1-23-84; 8:45 am]

BILLING CODE 6730-01-M

GENERAL SERVICES ADMINISTRATION

Record of Decision; Union Station, Nashville, TN

AGENCY: Public Buildings Service, General Services Administration, Region 4.

ACTION: Notice.

SUMMARY: This notice announces the Record of Decision for the proposed Reporting of Union Station, Nashville, Tennessee, as excess to the needs of GSA.

ADDRESS: General Services Administration; Region 4; 75 Spring Street; Atlanta, Georgia 30303.

The United States General Services Administration (GSA) has made the decision below according to the regulations of the Council on Environmental Quality (40 CFR 1505.2) and the GSA Handbook, *Preparation of Environmental Assessments and Environmental Impact Statements* (PBS P 1095.4A).

Decision

GSA declares Union Station, Nashville, Davidson County, Tennessee, a National Register Landmark structure, excess to its needs. GSA will transfer the property to the GSA Disposal Division, Region IV, Office of Public Buildings and Real Property, for disposition in accordance with Executive Order 12348.

Project Description

The original project provided for the renovation and adaptive reuse of Union Station to house eight Federal agencies and to provide commercial, cultural, recreational, or educational outlease activities in approximately 72,700 occupiable square feet of space.

Under a prospectus approved by the Public Works Committees of Congress on May 15 and June 22, 1978, the estimated cost to renovate the facility was $7,152,000. The renovation cost figure was determined assuming a construction start in 1979.

Several unforeseen events have adversely affected the project, resulting in delays. One major reason for the project delay was the presence of the pathogenic fungus *Cryptococcus Neoformans.* Another hazard was the fungus *Histoplasma Capsulatum.*

The United States Centers for Disease Control (CDC) has warned GSA of the health hazards incident to the presence of these fungi. *Cryptococcus Heoformans* causes the disease in humans called meningitis, and the CDC has advised that this desease is fatal in 50 percent of those who contract the disease. The railroad station, when donated to the Government by the L&N Railroad, was heavily coated with the waste of thousands of pigeons that had accumulated over a period of years. The pigeons waste served as a ready environment for the life cycle and propagation of the hazard fungi. At substantial expense the GSA has applied decontamination procedures on three occasions in an effort to eliminate the hazard. Decontamination could be undertaken effectively only when daily temperatures were between a high of 90 degress and low of 60 degrees. These temperature requirements caused significant delays. On August 5, 1983, Vanderbilt University indicated that samples taken from Union Station on June 27, 1983, were free of pathogenic fungi.

Another factor which adversely affected the project is inflation. Inflation has increased the cost of renovation. Remaining funds once available for the project would allow the renovation of only about 32,000 occupiable square feet of space as opposed to the original plan to renovate 72,700 occupiable square feet. The 25,000 square feet of space proposed for non-federal activities of commercial, cultural, educational, or recreational nature would be reduced to only 5,000 square feet of unfinished space. The cost to renovate the 32,000 square feet of space would exceed $150 per square foot.

Planned renovation which could not be accomplished includes work on the ground floor, mezzanine, and attic. These areas would have to be sealed off and could not be renovated within the funds previously available. Most of the lobby ceiling, walls, and woodwork could not be restored.

Alternatives Considered

GSA considered the following alternatives in reaching its decision:

1. No Action

For an extended period of time this alternative would permit Union Station to deteriorate beyond a point of reasonable restoration for all practicable purposes.

2. Continued Federal Renovation of Union Station

Several unforseen events will not permit the continued renovation of Union Station. Available funds will not permit the renovation of 72,700 occupiable square feet.

3. Declaration of Union Station as Excess to the Needs of GSA

This alternative will make Union available for renovation by other Federal, state, local or private entities for adaptive reuse.

Basis for Decision

GSA based its decision to declare Union Station excess to its needs on a combination of environmental, economic, efficiency, fiscal responsibility, and national policy factors. Declaring Union Station excess to GSA's needs will make the building available to other interested Federal, state, or local governmental agencies and private groups or individuals for acquisition and adaptive use.

After extensive consideration and study, it appears that removal of Union Station from GSA's building inventory and its subsequent disposal as surplus to GSA's needs would be in the best interest of the Government, as well as the general public. There has been considerable media publicity over the problems that have arisen since GSA's ownership including health hazards and weatherization. There has also been substantial correspondence with local interest groups and litigation against GSA's deferment of action on Union Station; however, despite past controversy, the present expressed sentiment of local officials and interest groups is favorable and is in support of the proposed excessing and disposition—especially if conveyance is made to the Metropolitan Government of Nashville and Davidson County.

Indications are that there would be substantial public interest in renovating Union Station if the building were made available to the commercial sector. GSA

has been contacted by at least six (6) private firms or individuals who are interested in commercially developing Union Station. The Metropolitan Government of Nashville and Davidson County has selected a potential private developer of the property contingent upon GSA's decision to declare the property surplus and to donate it to the Metropolitan Government of Nashville and Davidson County for lease to a private developer. The uses proposed by potential developers are compatible with local land use and development plans. Commercial development of Union Station would have a positive environmental impact on the community as GSA would ensure that proposed users are compatible with local plans.

This alternative is expected to have no adverse affect on the architectural qualities of this National Register Landmark depending on the proposed preservation covenants or conditions on the transfer of ownership. Transfer would be accomplished in accordance with the National Historic Preservation Act of 1966, 36 CFR Part 800, and Executive Order 11593, "Protection and Enhancement of the Cultural Environment".

The alternative of reporting Union Station as excess property to the needs of GSA is the environmentally preferred alternative. In arriving at this decision, GSA fully utilized National Environmental Policy Act procedures to involve the interested public. GSA has prepared and circulated a draft Environmental Impact Statement (EIS), circulated a final EIS, and, more recently, circulated a supplement to the final EIS.

Mitigation and Monitoring

Since Union Station is a National Register Landmark property, every effort will be made to preserve the historical, architectural, and cultural features of this property.

Adverse impacts on the architectural, cultural, or historical qualities of Union Station are possible depending on the ultimate development plans for Union Station; however, GSA will require that any purchaser or grantee of Union Station shall comply with the National Historic Preservation Act of 1966, Executive Order 11593, and with covenants and conditions designed to protect the building set forth at the time of transfer of ownership.

Conclusion

GSA has explored alternatives that would have both negative and positive affects on Union Station. Preservation and adaptive reuse of Union Station will result in positive impacts that far outweigh the negative aspects. Reuse of the building will revitalize the area surrounding the station and will serve as a catalyst for further development. Reuse of Union Station will be compatible with local land-use plans to provide a link between "music row" and a proposed convention center.

Declaring Union Station as excess to the needs of GSA and conveying the property to the Metropolitan Government of Nashville and Davidson County will provide the most assurance possible that this National Register Landmark structure will not further deteriorate and will permit its continued use for many years to come.

Dated: January 13, 1984.

Donald F. Layfield,

Regional Administrator of General Services.

[FR Doc. 84-1694 Filed 1-23-84; 8:45 am]

BILLING CODE 6820-23-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committees; Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following national advisory bodies scheduled to assemble during the month of February 1984.

National Advisory Council on Alcohol Abuse and Alcoholism

February 2–3; 9:00 a.m.
Wilson Hall, Building 1
National Institutes of Health
9000 Rockville Pike, Bethesda, Maryland 20205

Open—February 2; 9:00 a.m.–4:00 p.m.
Closed—Otherwise
Contact: Mr. James Vaughan, Room 16C–20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4375

Purpose: The Council advises the Secretary, Department of Health and Human Services, regarding policy direction and program issues of national significance in the area of alcohol abuse and alcoholism. Reviews all grant applications submitted, evaluates these applications in terms of scientific merit and adherence to Department policies, and makes recommendations to the Secretary with respect to approval and amount of award.

Agenda: From 9:00 a.m.–4:00 p.m., February 2, the meeting will be open to the public. This session will be devoted to general business of the Council and a discussion of current budget, legislative and program activities. Otherwise, the Council will conduct a final review of grant applications for Federal Assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552(b)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Psychopathology and Clinical Biology Research Review Committee

February 13–15; 3:00 a.m.
Holiday Inn Hotel
5520 Wisconsin Avenue, Bethesda, Maryland 20814

Open—February 13; 9:00–10:00 a.m.
Closed—Otherwise
Contact: Irma Fisher, Room 9C–24, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1340

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of activities in the fields of research and research training activities in the areas of clinical psychopathology and clinical biology as they relate to mental health, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., February 13, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Alcohol Biomedical Research Review Committee

February 15–17; 9:00 a.m.
Quality Inn/Embassy Suites
2000 N street, NW.
Washington, D.C. 20036

Open—February 15; 9:00–11:00 a.m.
Closed—Otherwise
Contact: Harvey P. Stein, Ph.D., Executive Secretary, Alcohol Biomedical Research Review Committee, Room 16C–28, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6106

Purpose: The Committee is charged with the initial review of applications for assistance from the National

Institute on Alcohol Abuse and Alcoholism for support of research and training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda: From 9:00–11:00 a.m., February 15, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552 (c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Basic Psychopharmacology Research Review Subcommittee of the Basic Psychopharmacology and Neuropsychology Research Review Committee

February 16–17; 9:00 a.m.
Holiday Inn, 8777 Georgia Avenue
Silver Spring, Maryland 20910

Open—February 16; 9:00–10:00 a.m.
Closed—Otherwise
Contact: Mrs. Shirley Maltz, Room 9C–26,
Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3944

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to basic psychopharmacology and neuropsychology, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., February 16, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C., 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Biochemistry Research Subcommittee of the Drug Abuse Biomedical Research Review Committee

February 21–23; 9:00 a.m.
Parklawn Conference Room
Holiday Inn—Crowne Plaza
1750 Rockville Pike
Rockville, Maryland 20852

Open—February 21: 9:00–9:30 a.m.
Closed—Otherwise
Contact: Alan Schreier, Ph.D., Extramural Policy and Project Review Branch, NIDA, Parklawn Building, Room 10–42, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–2620

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 9:00–9:30 a.m., February 21, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Drug Abuse Clinical and Behavioral Research Review Committee

February 21–23; 9:00 a.m.
Holiday Inn–Crowne Plaza
1750 Rockville Pike
Rockville, Maryland 20852

Open—February 21; 9:00–9:30 a.m.
Closed—Otherwise
Contact: Mr. Daniel L. Mintz, Executive Secretary, DACB, Room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–2620

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 9:00–9:30 a.m., February 21, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Epidemiology and Prevention Subcommittee of the Drug Abuse Epidemiology, Prevention, and Services Research Review Committee

February 21–23; 8:30 a.m.
State Room, Ramada Inn
8400 Wisconsin Avenue
Bethesda, Maryland 20814

Open—February 21; 8:30–9:30 a.m.
Closed—Otherwise
Contact: Mr. Ron Gold, Executive Secretary, DAPA, Room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–2620

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 8:30–9:30 a.m., February 21, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Pharmacology Research Subcommittee of the Drug Abuse Biomedical Research Review Committee

February 21–13; 9:00 a.m.
Twinbrook Conference Room
Holiday Inn–Crowne Plaza
1750 Rockville Pike
Rockville, Maryland 20852

Open—February 21; 9:00–9:30 a.m.
Closed–Otherwise
Contact: Khursheed Asghar, Ph.D., Extramural Policy and Project Review Branch, NIDA, Parklawn Building, Room 10–42, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–2620

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 9:00–9:30 a.m., February 21, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the

Committee will be performing initial review of applications for assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Services Research Subcommittee of the Drug Abuse Epidemiology, Prevention, and Services Research Review Committee

February 21–23; 8:30 a.m.
Caucus Room, Ramada Inn
8400 Wisconsin Avenue, Rockville, Maryland 20814

Open—February 21; 8:30–9:30 a.m.
Closed–Otherwise
Contact: Mr. H. Noble Jones, Executive Secretary, DAPB, Room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–2620

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 8:30–9:30 a.m., February 21, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Alcohol Psychosocial Research Review Committee

February 22–24; 9:00 a.m.
Quality Inn/Embassy Suites, Room 106, 2000 N Street NW., Washington, D.C. 20036

Open—February 22; 9:00–9:30 a.m.
Closed–Otherwise
Contact: Laura Weinstein, Ph.D., Executive Secretary, Alcohol Psychosocial Research Review Committee, Room 16C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857 (301) 443–6160

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 9:00–9:30 a.m., February 22, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Criminal and Violent Behavior Research Review Committee

February 22–24; 9:00 a.m.
Gramercy Inn
1616 Rhode Island Avenue NW.
Washington, D.C. 20036

Open—February 22; 9:00–10:30 a.m.
Closed—Otherwise
Contact: Jean Byrne, Room 9C–14, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4868

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities as they relate to the mental health aspects of criminal and antisocial behavior, individual violent behavior, sexual assault, and law and mental health interactions, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:30 a.m., February 22, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Aging Subcommittee of the Life Course and Prevention Research Review Committee

February 23–24; 9:00 a.m.
Lanai 144, Sheraton Washington Hotel
2660 Woodley Road at Connecticut Avenue NW.
Washington, D.C. 20008

Open—February 23; 9:00–10:00 a.m.
Closed—Otherwise
Contact: Mrs. Victoria Souder, Room 9C–02, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1220

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities in the fields of child, family, and aging, and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., February 23, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Psychopharmacological, Biological, and Physical Treatments Subcommittee of the Treatment Development and Assessment Research Review Committee

February 23–24; 9:00 a.m.
Sheraton Washington Hotel
2660 Woodley Road NW.
Washington, D.C. 20008

Open—February 23; 9:00–10:00 a.m.
Closed—Otherwise
Contact: Pamela J. Mitchell, Room 9C–18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1367

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities in the fields of treatment development and assessment with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., February 23, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health

Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Psychosocial and Biobehavioral Treatments Subcommittee of the Treatment Development and Assessment Research Review Committee

February 23–24; 9:00 a.m.
The Capitol Hill Hotel
200 C Street SE.
Washington, D.C. 20003

Open—February 23; 9:00–10:00 a.m.
Closed—Otherwise
Contact: Maureen Eister, Room 9C–14, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4858

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities in the fields of treatment development and assessment and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., February 23, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Child and Family and Prevention Subcommittee of the Life Course and Prevention Research Review Committee

February 23–25; 9:00 a.m.
The River Inn
924–25th Street NW.
Washington, D.C. 20037

Open—February 23; 9:00–10:00 a.m.
Closed—Otherwise
Contact: Mrs. Christine Peers, Room 9C–08, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1177

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities as they relate to the mental health of the child and family and prevention, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., February 23, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applicants for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Mental Health Behavioral Sciences Research Review Committee

February 23–25; 9:00 a.m.
The Capitol Hill Hotel
200 C Street, S.E.
Washington, D.C. 20003

Open—February 23; 9:00–10:00 a.m.
Closed—Otherwise
Contact: Naomi Lichtenberg, Room 9C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3936

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to behavioral science areas relevant to mental health and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., February 23, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applicants for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

National Advisory Mental Health Council

February 27–28; 9:00 a.m.
National Institutes of Health
Building 31C, Conference Room 6
9000 Rockville Pike
Bethesda, Maryland 20205

Open—February 27; 9:00 a.m.–5:00 p.m.
Closed—Otherwise
Contact: Ms. Helen W. Garrett, Committee Management Officer, Room 17C26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4333

Purpose: The National Advisory Mental Health Council advises the Secretary of Health and Human Services, and the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health, regarding policies and programs of the Department in the field of mental health. The Council reviews applications for grants-in-aid relating to research and training in the field of mental health and makes recommendations to the Secretary with respect to approval of applications for, and amount of, these grants.

Agenda: On February 27, the meeting will be open for discussion of NIMH policy issues and will include current administrative, legislative, and program developments. Attendance by the public for the open session will be limited to space available. Otherwise, the Council will conduct a final review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Basic Behavioral Processes Research Review Committee

February 29–March 2; 9:00 a.m.
The Lombardy Hotel
2019 Eye Street N.W.
Washington, D.C. 20006

Open—February 29; 9:00–10:00 a.m.
Closed—Otherwise
Contact: Doris East, Room 9C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3936

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to experimental and physiological psychology and comparative behavior, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., February 23, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applicants for Federal assistance and will not be open to the public in accordance with the

determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Substantive information may be obtained from the contact persons listed above. Summaries of the meetings and rosters of Committee members may be obtained as follows: NIAAA: Mrs. Diana Widner, Committee Management Officer, Room 16C20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4375. NIDA: Ms. Claudette Wright, Committee Management Officer, Room 10–22, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1644. NIMH: Ms. Helen W. Garrett, Committee Management Officer, Room 17C26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4333.

Dated: January 16, 1984.

Sue Simons,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 84–1833 Filed 1–23–84; 8:45 am]

BILLING CODE 4160–20–M

Food and Drug Administration

Vaccines and Related Biological Products Advisory Committee; Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Vaccines and Related Biological Products Advisory Committee by the Secretary, Department of Health and Human Services.

DATE: Authority for this committee will expire on December 31, 1985, unless the Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA–306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2765.

Dated: January 17, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–1831 Filed 1–23–84; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 81N–0396; DESI 6514]

Drugs for Human Use; Drug Efficacy Study Implementation; Prescription Drugs Offered for Relief of Symptoms of Cough, Cold, or Allergy; Amendment

Correction

In FR Doc. 83–34781 beginning on page 153 in the issue of Tuesday, January 3, 1984, make the following corrections:

1. On page 154, first column under **ADDRESSES,** third paragraph, fourth line, "(HFN–520)" should have read "(HFN–530)".

2. Same paragraph, last line, the zip code should have read "20857."

3. Same page, second column, first complete paragraph, last line, "destromethorphan" should have read "dextromethorphan."

4. Same column, third complete paragraph, third line, "triprolodine" should have read "triprolidine."

BILLING CODE1505–01–M

Health Care Financing Administration

Privacy Act of 1974; Report of New System

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of New System of Records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974 we are proposing to establish a new system of records, National Long-term Care Survey Follow-up, HHS/HCFA/ORD, No. 09–70–0030. This system will provide a nationally valid data base on dependency among elderly persons, the services they use, and their resources for providing for their long-term care in their communities and in institutions. The data will be used for developing long-term care policies for those who will require such care.

We have provided background information about the proposed system in the "**SUPPLEMENTARY INFORMATION**" section below. HCFA invites public comments by February 23, 1984, with respect to routine uses of the system.

DATES: HCFA filed a new system report with the Speaker of the House, the President of the Senate, and the Director, Office of Management and Budget (OMB) on January 16, 1984. The new system of records, including routine uses, will be effective March 16, 1984, unless HCFA receives comments which would convince us to make a contrary determination.

ADDRESS: Address comments to Shirley Mulhall, HCFA Privacy Officer, Office of Management and Budget, Health Care Financing Administration, Room G–C–3, East Low Rise, 6325 Security Boulevard, Baltimore, Maryland 21207. Comments received will be available for public inspection at this location.

FOR FURTHER INFORMATION CONTACT: Jack Scharff, Project Officer, Division of Program Studies, Office of Research and Demonstration, Room 2–C–15, Oak Meadows Building, 6325 Security Boulevard, Baltimore, Maryland 21207, telephone number (301) 597–2412.

SUPPLEMENTARY INFORMATION: The Long-Term Care Survey was first conducted in 1982 to establish a national data base on the prevalence of dependency among elderly persons, the kinds and intensity of formal and informal services used by such persons, and the resources available to the elderly with which to pay for their long-term care. The purpose of the survey was to establish a data base with which to estimate the potential demand for cost of alternative types of long-term care services for elderly dependent persons in the community (i.e., those not in nursing homes or other institutions) and to estimate the target populations of a program modeled on the National Channeling Demonstration (an experiment designed to ensure that services are targeted effectively and delivered efficiently through case management and cost sharing).

This previous survey provided a wealth of data that are now being analyzed. However, the data are limited in that there is only a cross-section or "snapshot" of the noninstitutionalized elderly population at one point-in-time. In estimating the potential demand for services, the cost of services, and the ability of elderly persons to finance long-term care services, it is important to have a longer view—to know how long their dependencies last, to determine the total amount of services that will be used, the ability of the informal system to provide services over an extended period of time, and how long personal income and assets can pay for services. We propose to reinterview the persons in the previous survey to determine changes in their health conditions, income, services, utilization patterns, and informal supports. All persons who were dependent in the previous survey (i.e., they needed help in personal care or in instrumental activities such as shopping and cooking) will be interviewed as well as a subsample of those persons who were not dependent. Persons who enter

institutions will be interviewed (or, where that is not possible, an interview will be obtained with a knowledgeable proxy) and information will be obtained about deceased sample members through a brief interview with their next-of-kin or another knowledgeable person. The resulting data base will permit us to estimate probability of institutionalization or death within a two-year period for persons with a variety of health conditions and functional limitation. Equally important, it will permit estimates of the service requirements over an extended period of the home-based, dependent elderly population.

In addition to these longitudinal interviews, the initial Long-Term Care Survey Follow-up will have two other components which will provide a complete cross-section of the elderly population: (1) Persons who have become 65 years old between April 1, 1982, (the date of the original sample selection) and March 31 of the survey year (the terminal date of the follow-up survey); and (2) persons who are in institutions. By adding these interviews we will obtain a data base of the total long-term care population, regardless of its place of residence—nursing homes or the community—permitting rigorous comparisons between various subgroups of the institutionalized and noninstitutionalized.

The Privacy Act of 1974 allows us to disclose information without the consent of the individual for "routine uses", that is, disclosure for purposes which are compatible with the purpose for which we collected the data. Accordingly, we are proposing a routine use which provides for disclosure of an individual's record in response to Congressional inquiries made at the request of that individual. Other routine uses provide for disclosure to (1) a contractor involved in the Long-Term Care Initiative (this includes the Channeling Demonstration and the analyses of existing data sets) and to (2) the Department of Justice in the event of litigation.

Individually identifiable data will be maintained only at the Bureau of the Census. The system of records will contain manual and automated records. The manual records will be kept in locked file cabinets or areas of restricted access. All individuals having access to the system of records will sign a pledge of confidentiality or will be sworn Census employees.

Automated records will be maintained in accordance with the National Bureau of Standards Federal Information Processing Standards, the DHHS ADP Systems Security Manual (Part 6, ADP Systems Security), and the Census Administrative Manual, Chapter C–2, "Confidential Data, Sensitive Information, and Requests under the Freedom of Information and Privacy Acts."

Since we propose to establish this system in accordance with the requirements of the Privacy Act, we anticipate no untoward effect on the privacy or personal rights of individuals.

Dated: January 16, 1984.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

09–70–0030

SYSTEM NAME:

National Long-Term Care Survey Follow-up, DHHS/HCFA/ORD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Department of Commerce, Bureau of the Census, Washington, D.C. 20233.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system will include records of elderly Medicare beneficiaries who have been identified in the National Long-Term Care Survey as having a functional limitation. This information pertains to Medicare beneficiaries living in institutions, in their communities, and deceased beneficiaries.

CATEGORIES OF RECORDS IN THE SYSTEM:

The data records will include information on personal care; mobility; physical, mental, and social functioning; formal and informal services and supports; income and assets; and instrumental activities such as managing money and taking medicine plus basic information on nursing home stays, living arrangements, and demographics from persons who have no limitations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 1875(a) of the Social Security Act (42 U.S.C. 139511).

PURPOSE OF THE SYSTEM OF RECORDS:

To provide a national data base on the incidence and prevalance of dependency among the functionally limited elderly person; the services they use, and their resources for providing long-term care in their communities and in institutions. The data will be used for developing long-term care policies for those who will require such care.

ROUTINE USES OF RECORDS IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSE OF SUCH USES:

Disclosure may be made:

1. To a congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

2. To contractors under contract with the Health Care Financing Administration (HCFA) or the National Center for Health Services Research (NCHSR) of the Department of Health and Human Services (DHSS) for projects involved in the Long Term Care Initiative. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

3. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape and disc, paper and card records.

RETRIEVABILITY:

Records are retrieved by a unique identifying number which is linked to names, addresses, and Medicare numbers at the Census Bureau.

SAFEGUARDS:

All individuals having access to the system of records will sign a pledge of confidentiality or will be sworn Census employees. Automated records will be maintained in accordance with the National Bureau of Standards Federal Information Processing Standards, the DHHS ADP System Manual, Part 6, ADP System Security, and the Census Administrative Manual, Chapter C–2 "Confidential Data, Sensitive Information and Requests Under the Freedom of Information and Privacy Act."

RETENTION AND DISPOSAL:

On the possibility that a further follow-up may be undertaken, tape and hard copy of all interviews will be retained for a period not to exceed five years, after which they will be destroyed. Data disposal will consist of burning or shredding the hard copy (and so certifying) and degaussing computer records. There are no plans to dispose of non-identifiable individual data.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Research and Demonstrations, Health Care Financing Administration, 6325 Security Boulevard, Room 2230, Oak Meadows Building, Baltimore, Maryland 21207.

NOTIFICATION PROCEDURES:

An individual requesting notice as to whether the system of records contains information pertaining to him/her, should write to the Systems Manager, at the above address, indicating his/her full name, current address, including ZIP Code at the time she/he was first interviewed for the survey, and the date of birth. The individual may simultaneously request records access as described below.

RECORD ACCESS PROCEDURE:

Same as notification procedure. Requestors should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Contact the System Manager at the address given above, reasonably identify the record as described above, specify the information being contested. State the reason for contesting it (e.g., why it is inaccurate, irrelevant, incomplete or not current).

RECORD SOURCE CATEGORIES:

Individual-specific information will be gathered through interviews with beneficiaries, their proxies, or their survivors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 84-1851 Filed 1-23-84; 8:45 am]
BILLING CODE 4120-03-M

Public Health Service

Advisory Committee on Special Studies Relating to the Possible Long-Term Health Effects on Phenoxy Herbicides and Contaminants; Meeting

Pursuant to Pub. L. 92-463 of the Federal Advisory Committee Act, notice is hereby given of the meeting of the Advisory Committee on Special Studies Relating to the Possible Long-Term Health Effects on Phenoxy Herbicides and Contaminants to be held at the National Instituties of Health, February 6, 1984, Building 31, Conference Room 3, Bethesda, Maryland 20205.

In accordance with provisions set forth in Section 552b(c)(9)(B), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on February 6, from approximately 9:30 a.m. to adjournment, to review a draft report concerning the morbidity among Ranch Hand pilots heavily exposed to Agent Orange in Vietnam, as compared with unexposed men with similar service records, for clarity and scientific accuracy before it is released by the Air Force within a week or two. The Secretary has determined that the meeting will not be open to public observation because the proposed agency actions of the scheduled public release of the comprehensive study being reviewed by the committee will be frustrated by the premature disclosure of portions or fragmented elements of the study.

The Acting Executive Secretary, Patricia Madigan, National Cancer Institute, Landow Building, Room 5A-18, National Institutes of Health, Bethesda, Maryland 20205 (301/496-4947) may be contacted for general information.

Dated: January 16, 1984.

Robert W. Miller,

Acting Chairman.

[FR Doc. 84-1835 Filed 1-20-84; 9:02 am]
BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Intent To Hold Public Scoping Meetings and To Prepare an Environmental Impact Statement (EIS) for Coal Preference Right Lease Applications (PRLAs), Located in Kane and Garfield Counties, Utah

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Intent to Prepare an EIS and Conduct Scoping.

SUMMARY: Notice is hereby given that in accordance with the National Environmental Policy Act of 1969, the BLM will prepare an EIS covering the proposed conversion of twelve (12) PRLAs to coal leases in Kane and Garfield counties, Utah.

Public comments concerning issues and alternatives that should be addressed in the EIS are invited. Comments should be received no later than March 30, 1984 at the address listed below. As part of the scoping process, public open houses are scheduled for February 28 and 29, and a public meeting is scheduled for March 1, 1984. The scoping open houses will be February 28, in Kanab, Utah, in the BLM Kanab Resource Area Office, and February 29, in Escalante, Utah, in the Escalante Resource Area Office, from 4 to 7 p.m. each evening. On March 1, the public scoping meeting will be held in Salt Lake City, Utah beginning at 7 p.m. in the BLM Utah Office, University Club Building, 13th Floor Conference Room. The University Club Building is located at 136 East South Temple, Salt Lake City, Utah. The public is encouraged to attend any of these meetings.

SUPPLEMENTARY INFORMATION: The PRLAs to be addressed in the EIS cover approximately 40,000 acres. They are located on BLM administered public lands in Kane County east of Alton, Utah, on the Kaiparowits Plateau in Kane and Garfield counties, and on the Dixie National Forest in Garfield County west of Escalante, Utah. Five separate companies or individuals are involved in the applications. They are Hiko Bell Mining and Oil Company, Utah International, Inc., Sun Oil Company, Woods Petroleum Corporation, and Jesse H. Knight.

Preliminary concerns identified to date include: mineral development within Wilderness Study Areas, mineral development within an area determined by the Secretary of the Interior to be unsuitable for surface mining, establishment of a coal transportation system through Glen Canyon National Recreation Area, and the U.S. Forest Service's determination that the majority of their PRLA acreage is unsuitable for further consideration for coal leasing.

FOR FURTHER INFORMATION AND SUBMISSION OF COMMENTS: To receive further information contact Mr. Dave Everett, phone (801) 586-2401, address—Cedar City District BLM, P.O. Box 724, Cedar City, Utah 84720. Comments should be addressed to the District Manager, at the same address.

Dated: January 18, 1984.

Roland G. Robinson,

State Director.

[FR Doc. 84-1886 Filed 1-23-84; 8:45 am]
BILLING CODE 4310-DQ-M

South Dakota; Issuance of Disclaimers

[M 45059-C, M 45059-D, M 45059-E]

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice; correction.

SUMMARY: This document corrects the legal description and the effective date for the notice that appeared at page 51711 in the **Federal Register** of Thursday, November 10, 1983, as FR Doc. 83–30430.

FOR FURTHER INFORMATION CONTACT: James Binando (406) 657–6090.

DETAILS: The land is located in R. 49 W., rather than R. 45 W., and the disclaimers will not be issued before April 24, 1984, instead of before February 8, 1984.

Edward H. Croteau,

Chief, Branch of Land Resources.

January 16, 1984.

[FR Doc. 84–1891 Filed 1–23–84; 8:45 am]

BILLING CODE 4310–84–M

Bureau of Reclamation

Emigrant Lake, Rogue River Basin Project, Oregon; Public Notice of Partial Closure of Off Road Vehicle Use Area

Part 420 of Title 43, Code of Federal Regulations, developed in compliance with Executive Orders 11644 and 11989, provides for reviews of areas open to off road vehicle use to assure that such use remains compatible with environmental concerns, as well as the Bureau of Reclamation's needs for the land. When the use of off road vehicles conflicts with environmental management or Reclamation's use of the land, the vehicle use is to be terminated.

A recent review of the permitted off road vehicle use at Emigrant Lake has uncovered such a conflict on the East Bank of the Hill Creek Arm. This area is hereby closed to further use by off road vehicles. Off road vehicle use will continue to be permitted on the West Bank of the Hill Creek Arm and the North Bank of the Upper Emigrant Creek Arm.

Copies of the evaluation leading to the original opening of the Emigrant Lake off road vehicle areas and the review report leading to the closure of the East Bank of the Hill Creek Arm may be examined at the following addresses:

Bureau of Reclamation, Pacific Northwest Regional Office, Federal Building and U.S. Courthouse, 550 West Fort Street, Boise, Idaho 83724

Jackson County, Parks and Recreation Department, County Courthouse, Medford, Oregon 97501

Effective Date: February 23, 1984.

For further information contact: Mr. Mike Misner, Chief, Recreation Branch, Division of Water, Power and Lands, Pacific Northwest Region, Boise, Idaho 83724; telephone 208–334–1177.

Dated: January 19, 1984.

B. H. Spillers,

Acting Commissioner.

[FR Doc. 84–1828 Filed 1–23–84; 8:45 am]

BILLING CODE 4310–09–M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before January 13, 1984. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the interior, Washington, DC 20243. Written comments should be submitted by February 8, 1984.

Carol D. Shull,

Chief of Registration, National Register.

ALASKA

Anchorage Division

Anchorage, *Lathrop Building,* 801 W. 4th Ave.

ARIZONA

Pinal County

Oracle, *Acadia Ranch,* AZ 77

CALIFORNIA

Los Angeles County

Lloyd, Harold, Estate (Greenacres),

CONNECTICUT

Hartford County

Hartford, *Clay Hill Historic District (Boundary Increase),* 8 Florence St.

Litchfield County

Milton, *Welch, David, House,* Potash and Milton Rds.

GEORGIA

Camden County

St. Marys vicinity, *Duck House (Cumberland Island National Seashore MRA),* Cumberland Island

St. Marys vicinity, *Dungeness Historic District (Cumberland Island National Seashore MRA),* Cumberland Island

St. Marys vicinity, *Main Road (Cumberland Island National Seashore MRA),* Cumberland Island

St. Marys vicinity, *Plum Orchard Historic District (Cumberland Island National Seashore MRA),* Cumberland Island

St. Marys vicinity, *Rayfield Archeological District (Cumberland Island National Seashore MRA),* Cumberland Island

St. Marys vicinity, *Stafford Plantation Historic District (Cumberland Island National Seashore MRA),* Cumberland Island

St. Marys vicinity, *Table Point Archeological District (Cumberland Island National Seashore MRA),* Cumberland Island

ILLINOIS

Adams County

Quincy, *One Thirty North Eighth Building,* 130 N. 8th St.

Cook County

Chicago, *Belmont-Sheffield Trust and Savings Bank Building,* 1001 W. Belmont Ave.; 3146 N. Sheffield Ave.

Chicago, *Conway Building,* 111 W. Washington St.

Chicago, *Loucks, Charles N., House,* 3926 N. Keeler Ave.

Chicago, *Midwest Athletic Club,* 6 N. Hamlin Ave.

Kane County

Geneva, *Fabyan Villa,* 1511 S. Batavia Ave.

Sangamon County

Springfield, *Yates, Gov. Richard, House,* 1190 Williams Blvd.

Stephenson County

Dakota, *Leek, Clyde, Round Barn (Round Barns in Illinois TR),* Off N. Dakota Rd.

Eleroy vicinity, *Harbach, Gerald, Round Barn (Round Barns in Illinois TR),* US 20

Eleroy Vicinity, *Otte, Dennis, Round Barn (Round Barns in Illinois TR), E of Eleroy*

Freeport vicinity, *Bruce, James, Round Barn (Round Barns in Illinois TR),* S of Freeport

Lena vicinity, *Jensen, Chris, Round barn (Round Barns in Illinois TR), 11723 W. Galena Rd.*

Orangeville vicinity, *Fehr, Charles, Round Barn (Round Barns in Illinois TR),* NE of Orangeville

Will County

Lockport vicinity, *Fitzpatrick House,* IL 53

Winnebago County

Durand Vicinity, *Weber, Robert, Round Barn (Round Barns in Illinois TR), E of Durand*

INDIANA

Hendricks County

Danville, *Wilson-Courtney House,* 10 Cartersburg Rd.

Huntington County

Huntington, *Hotel LaFontaine,* 200 W. State St.

Noble County

Rome City, *Sylvan Lake Hotel,* 101 Front St.

Teppecanoe County

Lafayette, *Purdue, John, Block,* 6—12 N. 2nd St.

Lafayette, *Waldron-Beck House and Carriage House,* 829 N. 21st St.

MINNESOTA

Hennepin County

Minneapolis, *Chadwick, L.L., Cottages,* 2817 W. 40th St.

Minneapolis, *Wesley United Methodist Church,* 101 E. Grant St.

St. Louis County

Duluth, *Fitger Brewing Company*, 600 E. Superior St.

MISSOURI

Adair County

Kirksville vicinity, *Bear Creek Baptist Church*, N of Kirksville off US 63

MONTANA

Lake County

Linderman, Frank Bird, House

NEW JERSEY

Atlantic County

Atlantic City, *Segal Building*, 1200 Atlantic Ave.

Mercer County

Ewing, *Trenton Jewish Community Center Bath House and Day Camp*, 999 Lower Ferry Rd.

Middlesex County

Raritan Landing Archeological District (Boundary Increase)

NEW MEXICO

Bernalillo County

Albuquerque, *Nob Hill Business Center*, 3500 Central Ave. SE

San Miguel County

Pecos, *Valencia Ranch Historic Archaeological District*, Off NM 63

Taos County

Red River vicinity, *Mallette, Orin, Cabin (Red River MRA*, W of Red River
Red River vicinity, *Mallette, Sylvester M., Cabin (Red River MRA)*, River St. and Copper King
Red River vicinity, *Melson-Oldham Cabin (Red River MRA)*, SE of Red River
Red River vicinity, *Pierce-Fuller House (Red River MRA)*, High St.
Red River vicinity, *Red River Miners' Hospital-Westoby House (Red River MRA)*, Ray Hawk Trail and High St.
Red River vicinity, *Red River Schoolhouse (Red River MRA), High St.*
Red River vicinity, *Westoby, Edward P., Cabin (Red River MRA)*, Jay Hawk and High St.
Red River vicinity, *Young, Brigham J., House (Red River MRA)*, Main St.

NEW YORK

Ulster County

Napanoch, *Hoornbeek Store Complex*, Main St. between Clinton & Church Sts.

OHIO

Butler County

Trenton vicinity, Deuscher, Henry P., House, 2385 Woodsdale Rd.

Champaign County

Urbana, *Scioto Street Historic District*, scioto St. from Locust to E. Lawn Ave.

Greene County

Cedarville, *Cedarville Opera House*, 78 N. Main St.

Hamilton County

Cincinnati, *Goodall Building*, 324 W. 9th St.

Huron County

New London, *Gregory House*, 1 E. Main St.

Lucas County

Toledo, *Old West End Historic District (Boundary Increase)*, Roughly bounded by Glenwood, Glover, Ashland, Collingwood, and Central Sts.

Mahoning County

Struthers vicinity, *Lake Hamilton Dam*, Off OH 616
Youngstown, *Liberty Theatre*, 142 Federal Plaza W.
Youngstown, *Stambaugh, Henry H., Memorial Auditorium*, 1000 5th Ave.

Pickaway County

Circleville vicinity, *Peters, Stevenson, House*, OH 188

Trumbell County

Niles, *Ward-Thomas House*, 503 Brown St.

Tuscarawas County

Johnson Site II

WISCONSIN

Waupaca County

Fremont vicinity, *Sanders Site (47–Wp–26 and 47–Wp–70)*, Off WI 110

WYOMING

Carbon County

Baggs vicinity, *Divide Sheep Camp*, NE of Baggs

[FR Doc. 84–1908 Filed 1–23–84; 8:45 am]
BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–6; Sub–193X]

Burlington Northern Railroad Co.; Abandonment; in Mercer County, ND; Exemption

Burlington Northern Railroad Company (BN) has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments*. The line to be abandoned is between M.P. 0.00 near Truax and M.P. 6.37 near Truax Jct., a distance of 6.66 miles, in Mercer County, ND.

BN has certified (1) that no local or overhead traffic has moved over the line for at least 2 years and (2) that no formal complaint filed by a user of rail service (or a state or local governmental entity acting on behalf of such user) on the line regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complianant within the 2-year period. The Public Service Commission (or equivalent agency) in North Dakota has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines*, 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective on February 23, 1984 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by February 3, 1984, and petitions for reconsideration, including environmental, energy and public use concerns, must be filed by February 13, 1984 with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to BN's representative: Thomas A. Ehlinger, 176 East Fifth Street, St. Paul, MN 55101.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: Janaury 16, 1984.

By the Commission, Richard Lewis, Acting Director, Office of Proceedings.

James H. Bayne,

Acting Secretary.

[FR Doc. 84–1942 Filed 1–23–84; 8:45 am]
BILLING CODE 7035–01–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise

members of the the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The OMB and Agency form numbers, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small businesses or organizations are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202-523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S-5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202-395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Extension

Employment Standards Administration
Accident Data on Public School Bus Drivers Annual Report
1215-0045, WH-374
Annually
State or Local Governments
12 responses; 24 hours

Upon petition of several states an exemption was provided from Title 29 CFR 570.52, occupation of Motor Vehicle driver, for 16 and 17 year old school-bus drivers. School bus accident data are needed and used to evaluate whether an exemption is warranted.

Reinstatement

Employment and Training Administration
Benefits Appeals
1205-0172; MA 5-130
Monthly
State or local governments
636 responses; 2,544 hours; 1 form

This report is used to monitor the benefit appeals process to evaluate compliance with appeals promptness standards and to develop plans for remedial action. The report is also needed for budgeting and for workload figures.

Signed at Washington, D.C. this 19th day of January, 1984.

Richard Glesener,

Acting Departmental Clearance Officer.

[FR Doc. 84-1948 Filed 1-23-84; 8:45 am]

BILLING CODE 4510-27-M; 4510-30-M

Employment and Training Administration

Job Training Partnership Act (Pub. L. 97-300) and Wagner-Peyser Act, as Amended by Pub. L. 97-300; 1984 Allotments for Title II, Part B; Summer Youth Employment and Training Programs; and Program Year (PY) 1984 Allotments for Programs Under Title II, Part A; Training Services for the Disadvantaged; Adult and Youth Programs; Title III; Dislocated Worker Program; and Interim Allotments for the State Employment Services Under the Wagner-Peyser Act, as Amended

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice announces the final allotments for the 1984 Summer Program under Title II-B of the Job Training Partnership Act (JTPA) and Final allotments for PY 1984 (July 1, 1984 through June 30, 1985) for programs under Titles II-A and III of the JTPA and iterim allotments for the State Employment Service under the Wagner-Peyser Act, as amended.

FOR FURTHER INFORMATION CONTACT: For JTPA inquires, contact Robert N. Colombo, Acting Director, Office of Employment and Training Programs, 601 D Street, NW., Washington, D.C. 20213, telephone number (202) 376-6093.

For State Employment Service inquiries, contract Robert J. Litman, Acting Director, Office of Planning and Review, 601 D Street, NW., Washington, D.C. 20213, telephone number (202) 376-6660.

SUPPLEMENTARY INFORMATION: Attached are the final allotments for the 1984 Summer Program under Title II-B of the JTPA, final allotments for PY 1984 (July 1, 1984 through June 30, 1985) for programs under Titles II-A and III of the JTPA and interim allotments for the State Employment Services under the Wagner-Peyser Act, as amended by JTPA. The allotments are based on the funds appropriated by Pub. L. 98-139, the statutory formulas contained in the Acts and the latest data available to the Secretary. These allotments, except for the State Employment Services, will not be updated for subsequent unemployment data.

1984 JTPA Title II-B

Final allotments for the 1984 JTPA Title II-B Summer Program total $724,549,000 as shown on Attachment I. This amount is composed entirely of fiscal year 1984 formula new obligational authority (NOA) funds. No matching is required for these funds. These funds support summer youth activities. Except for Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands the Commonwealth of the Northern Marianas, and Native Americans, the data used in developing these allotments were as follows. Data for both areas of substantial unemployment and the number of excess unemployed individuals are averages for the 12-month period, May 1982 through April 1983. The economically disadvantaged data are from the 1980 Census.

The allotments for the specifically listed areas above are based on the relative share of funds those areas received for the 1983 Summer Program excluding discretionary funds.

The 1985 Title II-B allotments will be announced by December 31, 1984, using the latest unemployment data available at the time of allotment.

PY 1984 JTPA Title II-A

Attachment II shows the PY 1984 JTPA Title II-A final allotments by State based on a total figure of $1,886,151,000. This amount is composed entirely of PY 1984 formula NOA funds. These funds support the basic job training program. Except for Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Marianas, the following data were used in developing these allotments.

Data for both areas of substantial unemployment and the number of excess unemployed individuals are averages for the 12-month period May 1982 through April 1983. The economically disadvantaged data are from the 1980 Census.

The allotments for the specifically listed areas above are based on estimated 1982 unemployment, using a 90 percent relative share hold-harmless of the Title II-A transition period

allotments for these areas (published in the **Federal Register** November 25, 1983) and a minimum allotment amount of $125,000.

PY 1984 JTPA Title III

The PY 1984 JTPA Title III Dislocated Worker Program final allotments are reflected in Columns 3–5 of Attachment III. Column 2 shows the total appropriation of $223,000,000, which includes the base allotment of Federal funds totaling $167,250,000 and discretionary funds of $55,750,000 to be distributed at a later date. The base funds are subject to the matching requirements contained in Section 304 of JTPA.

Allotments for Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands and the Commonwealth of the Northern Marianas are based on the proportion these jurisdictions received of the Title II–A funds.

Except for the areas specifically listed above, the data used for determining these allotments, relative numbers of unemployed and relative numbers of excess unemployed, are annual averages for the period October 1982 through September 1983. The long-term unemployed data are averages for calendar year 1982.

Column 4 shows a total amount of $111,164,598. This represents the total amount States must provide in matching in accordance with section 304 of the Act to be eligible for the Federal allotment listed in Column 3.

Column 5 shows a total amount of $334,164,598, the sum of Columns 3 and 4. This represents the total resources available for the Title III Dislocated Worker Program.

PY 1984 Wagner-Peyser Allotments to States

The PY 1984 State public employment system appropriation totals $740,398,000. In accordance with the formula criteria in Section 6 of the Wagner-Peyser Act, as amended, interim allotments of $727,698,000 are being allotted to the States as displayed in Attachment IV, Column 5. FY 1983 unemployment and civilian labor force data were used to determine the interim allotments. Final allotments using calendar year unemployment and civilian labor force data will be announced at a later date. Nationally, $12,700,000 is being held back to finance the postage costs associated with conducting public employment service business.

The interim allotments to the States are based on a 12-month average civilian labor force and unemployment data for the period of October 1982—September 1983. The relative share hold-harmless as provided for under section 6(b)(2) of the Act was from the transition period allotments published in the **Federal Register** on November 25, 1983. The Secretary is authorized under section 6(b)(4) of the Act to reserve 3 percent of the total availability. The 3 percent set-aside is distributed using the same methodology that was used for the transition period allotments. Ten percent of each State's total allotment (Column 5, Attachment IV) is to be reserved for use according to the activities described under Section 7(b) of the Act.

Signed this 11th day of January 1984.

Roberts T. Jones,

Administrator, Office of Comprehensive Employment and Training.

ATTACHMENT I.—U.S. DEPARTMENT OF LABOR—EMPLOYMENT AND TRAINING ADMINISTRATION, OFFICE OF FINANCIAL CONTROL AND MANAGEMENT SYSTEMS, FY 1984, JTPA TITLE II–B ALLOTMENTS TO STATES

Alabama	16,599,358
Alaska	1,775,415
Arizona	8,776,397
Arkansas	7,189,673
California	75,371,390
Colorado	7,285,204
Connecticut	8,311,427
Delaware	1,775,415
District of Columbia	6,746,288
Florida	24,927,300
Georgia	13,843,092
Hawaii	2,279,027
Idaho	2,885,806
Illinois	37,980,866
Indiana	17,450,907
Iowa	6,893,857
Kansas	4,465,938
Kentucky	11,933,738
Louisiana	13,877,463
Maine	3,282,930
Maryland	10,515,210
Massachusetts	16,839,184
Michigan	37,478,242
Minnesota	9,913,311
Mississippi	8,916,856
Missouri	13,959,367
Montana	2,207,122
Nebraska	3,147,874
Nevada	2,703,689
New Hampshire	1,898,617
New Jersey	21,762,233
New Mexico	4,193,889
New York	50,848,855
North Carolina	16,366,076
North Dakota	1,775,415
Ohio	37,111,204
Oklahoma	6,268,877
Oregon	8,713,064
Pennsylvania	37,306,913
Puerto Rico	22,269,883
Rhode Island	3,140,596
South Carolina	10,222,019
South Dakota	1,775,415
Tennessee	15,992,744
Texas	34,374,879
Utah	3,389,474
Vermont	1,775,415
Virginia	12,625,007
Washington	13,883,123
West Virginia	7,765,585
Wisconsin	15,599,138

ATTACHMENT I.—U.S. DEPARTMENT OF LABOR—EMPLOYMENT AND TRAINING ADMINISTRATION, OFFICE OF FINANCIAL CONTROL AND MANAGEMENT SYSTEMS, FY 1984, JTPA TITLE II–B ALLOTMENTS TO STATES—Continued

	Allotment
Wyoming	1,775,415
American Samoa	55,003
Guam	[illegible]
Northern Marianas	[illegible]
Trust Territories	74,374
Virgin Islands	[illegible]
Native Americans	13,176,511
National total	724,549,000

ATTACHMENT II.—U.S. DEPARTMENT OF LABOR—EMPLOYMENT AND TRAINING ADMINISTRATION, OFFICE OF FINANCIAL CONTROL AND MANAGEMENT SYSTEMS, PY 1984, JTPA TITLE II–A ALLOTMENTS TO STATES

	Allotment
Alabama	45,718,867
Alaska	4,702,878
Arizona	24,071,745
Arkansas	18,543,748
California	206,967,067
Colorado	19,964,704
Connecticut	[illegible]
Delaware	4,702,878
District of Columbia	6,164,813
Florida	68,059,421
Georgia	36,891,694
Hawaii	5,475,161
Idaho	7,899,117
Illinois	[illegible]
Indiana	[illegible]
Iowa	18,910,217
Kansas	11,914,382
Kentucky	[illegible]
Louisiana	37,972,870
Maine	8,039,947
Maryland	27,289,918
Massachusetts	36,182,469
Michigan	103,925,839
Minnesota	27,178,542
Mississippi	24,295,227
Missouri	36,006,001
Montana	6,016,550
Nebraska	7,707,682
Nevada	7,475,521
New Hampshire	5,194,295
New Jersey	49,504,570
New Mexico	11,406,864
New York	123,452,151
North Carolina	44,786,303
North Dakota	4,702,878
Ohio	102,687,464
Oklahoma	16,879,881
Oregon	24,002,603
Pennsylvania	102,848,422
Puerto Rico	[illegible]
Rhode Island	7,804,484
South Carolina	28,042,343
South Dakota	4,702,878
Tennessee	43,949,827
Texas	93,620,142
Utah	9,249,966
Vermont	4,702,878
Virginia	32,317,888
Washington	36,329,076
West Virginia	21,433,057
Wisconsin	43,147,634
Wyoming	4,702,878
American Samoa	[illegible]
Guam	1,457,236
Northern Marianas	125,000
Trust Territories	1,265,906
Virgin Islands	1,781,826
National total	1,886,151,000

ATTACHMENT III.—U.S. DEPARTMENT OF LABOR—EMPLOYMENT AND TRAINING ADMINISTRATION, OFFICE OF FINANCIAL CONTROL AND MANAGEMENT SYSTEMS, PY 1984 JTPA TITLE III DISLOCATED WORKERS PROGRAM ALLOTMENTS AND MATCHING REQUIREMENTS

	Unemployment rate	Reduction units	Allotment	Required match	Total program
Alabama	14.3	5	4,079,060	0	4,079,060
Alaska	10.2	1	296,493	237,194	533,687
Arizona	10.3	1	1,900800	1,520,640	3,421,440
Arkansas	9.7	0	1,340,825	1,340,825	2,681,650
California	10.3	1	18,211,123	14,568,898	32,780,021
Colorado	8.0	0	1,603,294	1,603,294	3,206,588
Connecticut	6.8	0	1,383,095	1,383,095	2,766,190
Delaware	7.6	0	303,277	303,277	606,554
District of Columbia	10.9	1	541,283	433,026	974,309
Florida	8.9	0	5,521,134	5,521,134	11,042,268
Georgia	7.6	0	2,601,742	2,601,742	5,203,484
Hawaii	6.4	0	342,631	342,631	685,262
Idaho	10.3	1	635,620	508,496	1,144,116
Illinois	12.2	3	10,866,051	4,346,420	15,212,471
Indiana	11.3	2	4,810,706	2,886,424	7,697,130
Iowa	8.6	0	1,853,741	1,853,741	3,707,482
Kansas	6.4	0	924,805	924,805	1,849,610
Kentucky	11.2	2	2,680,337	1,608,202	4,288,539
Louisiana	12.1	2	3,088,379	1,853,027	4,941,406
Maine	8.9	0	637,866	637,866	1,275,732
Maryland	7.5	1	2,310,360	2,310,360	4,620,720
Massachusetts	7.1	0	2,902,123	2,902,123	5,804,246
Michigan	15.2	4	11,578,385	0	11,578,385
Minnesota	8.4	0	2,465,109	2,465,109	4,930,218
Mississippi	12.1	2	1,932,727	1,159,636	3,092,363
Missouri	9.7	4	3,242,489	3,242,489	6,484,978
Montana	8.7	0	457,198	457,198	914,396
Nebraska	6.2	1	574,908	574,908	1,149,816
Nevada	10.2	1	753,523	602,818	1,356,341
New Hampshire	6.4	0	374,280	374,280	748,560
New Jersey	8.5	0	4,503,918	4,503,918	9,007,836
New Mexico	10.2	1	818,114	654,491	1,472,605
New York	9.0	0	10,422,943	10,422,943	20,845,886
North Carolina	8.9	0	3,650,676	3,650,676	7,301,352
North Dakota	6.6	0	185,629	185,629	371,258
Ohio	12.9	3	11,438,077	4,575,231	16,013,308
Oklahoma	8.1	0	1,317,932	1,317,932	2,635,864
Oregon	10.8	1	2,350,768	1,880,614	4,231,382
Pennsylvania	12.3	3	10,823,137	4,329,255	15,152,392
Puerto Rico	23.6	14	3,391,510	0	3,391,510
Rhode Island	9.5	0	669,235	669,235	1,338,470
South Carolina	10.4	1	2,315,906	1,852,725	4,168,631
South Dakota	5.7	0	206,188	206,188	412,376
Tennessee	11.7	2	3,805,859	2,283,515	6,089,374
Texas	8.1	0	6,719,377	6,719,377	,13,438,754
Utah	8.9	0	758,998	758,998	1,517,996
Vermont	7.0	0	225,398	225,398	450,796
Virginia	6.9	0	2,395,540	2,395,540	4,791,080
Washington	11.5	2	3,828,532	2,297,119	6,125,651
West Virginia	17.8	8	2,241,181	0	2,241,181
Wisconsin	10.9	1	4,260,996	3,408,797	7,669,793
Wyoming	8.9	0	263,359	263,359	526,718
American Samoa	0.0	0	31,038	0	31,038
Guam	0.0	0	129,217	0	129,217
Northern Marianas	0.0	0	11,084	0	11,084
Trust Territories	0.0	0	114,025	0	114,025
Virgin Islands	0.0	0	157,999	0	157,999
Undistributed	0.0	0	55,750,000	0	55,750,000
National total	10.1	0	223,000,000	111,164,598	334,164,598

ATTACHMENT IV.—U.S. DEPARTMENT OF LABOR—EMPLOYMENT AND TRAINING ADMINISTRATION, OFFICE OF FINANCIAL CONTROL AND MANAGEMENT SYSTEMS, INTERIM PY 1984 WAGNER-PEYSER ALLOTMENTS TO STATES

	Basic formula	3 percent distribution			Total allotment [3]
		Step 1 [1]	Step 2 [2]	Total	
Alabama	11,251,027	0	0	0	11,251,027
Alaska	6,905,280	1,005,146	0	1,005,146	7,910,426
Arizona	7,696,534	0	265,408	265,408	7,961,942
Arkansas	7,618,520	0	512,498	512,498	8,131,018
California	70,808,286	0	0	0	70,808,286
Colorado	8,664,364	0	339,763	339,763	9,004,127
Connecticut	8,431,957	0	567,218	567,218	8,999,175
Delaware	1,971,461	0	61,127	61,127	2,032,588
District of Columbia	5,668,429	0	381,315	381,315	6,049,744
Florida	26,760,862	0	0	0	26,760,862
Georgia	14,121,156	0	0	0	14,121,156
Hawaii	3,033,043	0	204,033	204,033	3,237,076
Idaho	5,753,326	837,465	0	837,465	6,590,791
Illinois	34,013,481	0	0	0	34,013,481
Indiana	15,189,858	0	0	0	15,189,858
Iowa	9,679,392	0	651,133	651,133	10,330,525
Kansas	6,014,700	0	404,609	404,609	6,419,309
Kentucky	9,849,971	0	0	0	9,849,971
Louisiana	11,369,239	0	0	0	11,369,239

ATTACHMENT IV.—U.S. DEPARTMENT OF LABOR—EMPLOYMENT AND TRAINING ADMINISTRATION, OFFICE OF FINANCIAL CONTROL AND MANAGEMENT SYSTEMS, INTERIM PY 1984 WAGNER-PEYSER ALLOTMENTS TO STATES—Continued

	Basic formula	3 percent distribution			Total [illegible][3]
		Step 1[1]	Step 2[2]	Total	
Maine	3,421,449	498,032	0	[illegible]	3,919,481
Maryland	11,311,419	[illegible]	0	0	11,311,419
Massachusetts	15,503,392	[illegible]	0	0	15,503,392
Michigan	28,576,548	[illegible]	0	0	28,576,548
Minnesota	11,637,672	0	[illegible]	[illegible]	11,933,374
Mississippi	8,402,611	[illegible]	565,244	565,244	8,967,855
Missouri	13,052,184	[illegible]	[illegible]	[illegible]	13,052,184
Montana	4,701,648	684,381	[illegible]	684,381	5,386,029
Nebraska	5,650,456	822,491	[illegible]	[illegible]	6,472,947
Nevada	4,570,497	[illegible]	0	[illegible]	5,235,787
New Hampshire	2,503,098	0	[illegible]	0	2,503,098
New Jersey	19,719,947	0	[illegible]	0	19,719,947
New Mexico	5,276,074	767,996	[illegible]	[illegible]	6,044,070
New York	58,407,107	[illegible]	[illegible]	[illegible]	62,336,155
North Carolina	16,088,998	0	0	0	[illegible]
North Dakota	4,787,684	[illegible]	[illegible]	[illegible]	5,484,588
Ohio	31,870,658	[illegible]	[illegible]	0	31,870,658
Oklahoma	13,354,343	[illegible]	[illegible]	[illegible]	14,252,690
Oregon	9,347,483	[illegible]	628,605	[illegible]	9,976,266
Pennsylvania	33,550,031	0	0	0	33,550,031
Puerto Rico	7,591,818	[illegible]	0	[illegible]	7,591,818
Rhode Island	2,811,632	0	188,138	188,138	3,000,770
South Carolina	8,476,180	0	0	0	8,476,180
South Dakota	4,424,921	644,100	0	644,100	5,069,021
Tennessee	12,842,003	0	0	[illegible]	12,842,003
Texas	40,531,702	0	2,726,569	2,726,569	43,258,271
Utah	9,677,839	1,408,725	0	1,408,725	11,086,564
Vermont	2,072,887	301,733	[illegible]	301,733	2,374,620
Virginia	13,888,387	0	0	[illegible]	13,888,387
Washington	12,149,033	0	[illegible]	[illegible]	12,528,029
West Virginia	5,405,895	0	[illegible]	[illegible]	5,405,895
Wisconsin	14,253,635	[illegible]	[illegible]	[illegible]	14,253,635
Wyoming	3,433,068	[illegible]	0	490,724	3,932,792
Formula total	704,093,185	8,831,967	12,998,953	21,830,940	725,924,125
Guam	340,506	0	0	0	340,506
Virgin Islands	1,433,369	0	0	0	1,433,369
National total	705,867,060	8,831,967	12,998,953	21,830,940	727,698,000

[1] Funds are allocated to the 12 States whose relative share decreased from TP 1984 to the PY 1984 basic formula amount and which have a civilian labor force (CLF) below one million and are below the median CLF density. These States are held harmless at 100 percent of their TP 1984 relative share.
[2] The balance of the 3 percent funds are distributed to the remaining 17 States losing in relative share from TP 1984 to the PY 1984 basic formula amount.
[3] Hold-Harmless provisions required under section 6(b) of the Wagner-Peyser Act, as amended, are maintained at the final allotment level.

[FR Doc. 84-1683 Filed 1-23-84; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Airco Welding Products, Inc., et al.

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are indentified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 3, 1984.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 3, 1984.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW, Washington, D.C. 20213.

Signed at Washington, D.C. this 16th day of January 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers or former workers of:)	Location	Date received	Date of petition	Petition	Articles produced
Airco Welding Products, Inc. (USWA)	Chester, WV	12/27/83	12/20/83	TA-W-15, 166	Welding wire.
Inland Shoe Manufacturing Co., Inc. (ACTWU)	Advance, MO	12/13/83	12/07/83	TA-W-15, 167	Men's, women's and children's casual shoes.
Kaiser Steel Corp., Fabricated Products Group, Plate Operation (Boilermakers).	Fontana, CA	1/11/84	1/06/84	TA-W-15, 168	Pressure vessels and off-shore drilling platforms, large diameter pipe.
Lindberg Heat Treating Co. (workers)	Oakland, CA	1/03/84	12/30/83	TA-W-15, 169	Hardening and tempering steel and valves.

APPENDIX—Continued

Petitioner (union/workers or former workers of:)	Location	Date received	Date of petition	Petition	Articles produced
N.J. Ladies' Coats Co., Inc. (ILGWU)	Newark NJ	1/12/84	1/04/84	TA-W-15, 170	Ladies' suits, coats.
Sewpco Tube Corp. (Electrical, radio and Machine Workers Union).	Clifton, NJ	1/09/84	12/22/84	TA-W-15, 171	Welded and large diameter stainless steel pipe, tubing and fittings.
Tiffin Crystal By Towle (workers)	Tiffin, Ohio	1/11/84	1/09/84	TA-W-15, 172	Crystal, casual, stemware.
U.S. Steel Corp., Sales Office (wkrs)	Atlanta, GA	1/11/84	1/03/84	TA-W-15, 173	Sales office.
Union Carbide Corp. (workers)	Dove Creek, Colorado	1/04/84	12/28/83	TA-W-15, 175	Uranium—underground mine.
Vincent (workers)	St. James, MO	1/09/84	12/29/83	TA-W-15, 175	Ladies' sportswear, jackets, pants, blouse and Skirts and dresses.

[FR Doc. 84-1945 Filed 1-23-84; 8:45 am]
BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Kane Industries et al.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period January 9, 1984—January 13, 1984.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-14,791; Kane Industries, Div. of Chromalloy America Corp., Leitchfield, KY

TA-W-14,384; Kerr Glass Co., Millville, NJ

TA-W-14,548; Kerr Glass Manufacturing Corp., Keyport, NJ

TA-W-14,508; Westinghouse Electric Corp., Power Circuit Breaker Div., Trafford, PA

TA-W-14,509; Westinghouse Electric Corp., Large Rotating Apparatus, Switchgear Div., E. Pittsburgh, PA

TA-W-14,646; Donn Products, Inc., Lackawanna, NY

TA-W-14,788; Houdaille Industries, Strippit Div., Akron, NY

TA-W-14,731; U.S. Steel Corp., Supply Div., Steel Service Centers, Brighton, MA

TA-W-14,732; U.S. Steel Corp., Supply Div., Steel Service Centers, Baltimore, MD

TA-W-14,734; U.S. Steel Corp., Supply Div., Steel Service Centers, Pittsburgh, PA

TA-W-14,735; U.S. Steel Corp., Supply Div., Steel Service Centers, Cleveland, OH

TA-W-14,737; U.S. Steel Corp., Supply Div., Steel Service Centers, Cincinnati, OH

TA-W-14,738; U.S. Steel Corp., Supply Div., Steel Service Centers, Chicago, IL

TA-W-14,739; U.S. Steel Corp., Supply Div., Steel Service Centers, St. Paul, MN

TA-W-14,740; U.S. Steel Corp., Supply Div., Steel Service Centers, Kansas City, MO

TA-W-14,741; U.S. Steel Corp., Supply Div., Steel Service Centers, St. Louis, MO

TA-W-14,743; U.S. Steel Corp., Supply Div., Steel Service Centers, Memphis, TN

TA-W-14,744; U.S. Steel Corp., Supply Div., Steel Service Centers, Birmingham, AL

TA-W-14,745; U.S. Steel Corp., Supply Div., Steel Service Centers, Dallas, TX

TA-W-14,746; U.S. Steel Corp., Supply Div., Steel Service Centers, Houston, TX

TA-W-14,747; U.S. Steel Corp., Supply Div., Steel Service Centers, Los Angeles, CA

Affirmative Determinations

TA-W-14,728; Eagle of Alabama, Thomasville, AL

A certification was issued covering all workers separated on or after May 24, 1982 and before August 1, 1982.

TA-W-14,785; CF Industries, Inc., Nitrogen Complex, Olean, NY

A certification was issued covering all workers separated on or after March 27, 1983.

TA-W-14,552; Atlas Copco Holyoke, Inc., Holyoke, MA

A certification was issued covering all workers engaged in employment related to the production of stationary air compressors separated on or after March 28, 1982.

TA-W-14,930; Oak Communication System, Carlsbad, CA

A certification was issued covering all workers separated on or after July 27, 1982 and before January 31, 1983.

TA-W-14,450; Phil-Maid Manufacturing Corp./Marianna Div., Marianna, AR

A certification was issued covering all workers separated on or after February 10, 1982 and before March 10, 1983.

I hereby certify that the aforementioned determinations were issued during the period January 9, 1984—January 13, 1984. Copies of these determinations are available for inspection in Room 9120, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: January 17, 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 84-1946 Filed 1-23-84; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-14,823]

Wheeling-Pittsburgh Steel Corporation, St. Louis District Sales Office, St. Louis, Missouri; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 11, 1983 in response to a worker petition received on June 29, 1983 which was filed on behalf of workers at the St. Louis District Sales Office, St. Louis, Missouri, of Wheeling-Pittsburgh Steel Corporation.

All workers were separated from the subject firm more than one year prior to the date of the petition. Section 223 of the Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed At Washington, D.C., this 17th day of January 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance..

[FR Doc. 84-1947 Filed 1-23-84; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Meeting Addendum

January 18, 1984.

Changes have been made to the agenda for January 30, 31 and February 1, 1984 that was published January 17, 1984 (49 FR 2033). The changes include: time changes, title changes, change of speakers, and changes in meeting schedules. The revised agenda is as follows:

Monday, January 30, 1984

9:00 a.m.–12:00 noon—Plenary (Room 416)
9:00 a.m.–9:30 a.m.—Announcements
9:30 a.m.–12:00 noon—Topic: Research on Climate and the Effects of "Nuclear Winter"
Speakers:
Alan D. Hetch, Director, National Climate Program Office
Peter Lunn, Program Manager, Defense Nuclear Agency
Cecil E. Leith, Physicist, Lawrence Livermore National Laboratory
12:00 noon–1:00 p.m.—Lunch
1:00 p.m.–5:00 p.m.—Panel Meetings
1:00 p.m.–3:00 p.m.—Weather Services Panel, Chairman: Warren Washington, (Room B–100)
Topic: Panel Work Session
Speakers: None
1:00 p.m.–5:00 p.m.—Shipbuilding Panel, Chairman: Don Walsh (Room 416)
Topic: Panel Work Session
Speakers: None
5:00 p.m.—Recess

Tuesday, January 31, 1984

8:30 a.m.–12:00 noon—Panel Meetings
8:30–12:00 noon—Radioactive Waste Disposal Panel, Chairman: John Knauss (Room 416)
Topic: Panel Work Session
Speakers: None
10:00 a.m.–12:00 noon—Underwater Technology Panel, Chairman: Sylvia Earle (Room B–100)
Topic: Panel Work Session
Speakers: None
12:00 noon–1:00 p.m.—Lunch
1:00 p.m.–3:00 p.m.—Plenary
Panel Reports
Other Business
3:00 p.m.—Adjourn
3:15 p.m.–6:00 p.m.—Panel Meeting
3:15 p.m–6:00 p.m.—Exclusive Economic Zone Panel, Chairman: Don Walsh (Room 416)
Topics:
- Definition of Outer Continental Shelf
- Maritime Scientific Research: Problems and Opportunities

Speaker: David A. Ross, Director, Marine Policy and Ocean Management Center; Woods Hole Oceanographic Institution
Topic: Fisheries
Speakers: Richard Gutting, National Fisheries Institute
James "Bud" Walsh, Counsel for American Tunaboat Association
(TBA) Representative of the Department of State
6:00 p.m.—Recess

Wednesday, February 1, 1984

9:00 a.m.–11:30 a.m.—Panel Meeting
- Exclusive Economic Zone Panel Chairman: Don Walsh (Room 416)

Topic: Environmental Issues
Speakers: (TBA)
Representative of public environmental group
Michael Danaher, Office of Legal Advisor Oceans, International Environmental and Scientific Affairs, Department of State
Topic: International Dispute Settlement
Speaker: Bernard Oxman, University of Miami School of Law.
11:30 a.m.–12:30 p.m.—Lunch
12:30 p.m.–3:00 p.m.—Panel Meeting
- Exclusive Economic Zone Panel, Chairman: Don Walsh (Room 416)

Topic: Panel Work Session
3:00 p.m.—Adjourn.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Steven N. Anastasion, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street, NW., Washington, DC 20235.

Dated: January 18, 1984.

Steven N. Anastasion,

Executive Director.

Dated: January 18, 1984.

James A. Almazan,

Physical Scientist.

[FR Doc. 84-1866 Filed 1-23-84; 8:45 am]

BILLING CODE 3510-42-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Human Factors; Meeting

The ACRS Subcommittee on Human Factors will hold a meeting on February 7, 1984, Room 1046, 1717 H Street, NW, Washington, DC.

In accordance with the procedures outlined in the **Federal Register** on September 28, 1983 (48 FR 44291), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows: Tuesday, February 7, 1984—8:30 a.m. until the conclusion of business.

The Subcommittee will discuss with the NRC Staff the status of implementing requirements for emergency response capability (NUREG-0737 supplement 1 issues). As part of this discussion the Staff will discuss: plant specific schedules for complying with these requirements, how the staff has conducted its related safety analysis report reviews, and exemptions that have been requested by utilities.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information about topics to be discussed, whether the meeting has

been cancelled or rescheduled, the chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, David Fisher (telephone 202/634–1413) between 8:15 a.m. and 5:00 p.m. est.

Dated: January 17, 1984.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 84–1839 Filed 1–23–84; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and of the full Committee, the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published December 27, 1983 (48 FR 57037). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. Those Subcommittee meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the February 1984 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634–3267, ATTN: Barbara Jo White) between 8:15 a.m. and 5:00 p.m., Eastern Time.

ACRS Subcommittee Meetings

**Advanced Reactors*, January 25 and 26, 1984, Argonne, IL. The Subcommittee will continue the development of the report, "LMFBR Safety Philosophy and Issues."

**Class 9 Accidents*, January 27, 1984, Washington, DC. The Subcommittee will discuss the draft final Severe Accident Policy Statement.

**Human Factors*, February 7, 1984, Washington, DC. The Subcommittee will discuss with the NRC Staff the status of implementing requirements for emergency response capability (NUREG–0737 Supplement 1 requirements). As part of this discussion, the Staff will discuss: plant specific schedules for complying with these requirements, how the Staff has conducted its related safety analysis report reviews, and exemptions that have been requested by utilities.

**Regulatory Policies and Practices*, February 8, 1984, Washington, DC. The Subcommittee will discuss the Proposed General Statement of Policy and Procedures for Enforcement Actions (SECY–83–487) and other matters related to enforcement activities.

**Qualification Program for Safety-Related Equipment*, February 22, 1984, Washington, DC. The Subcommittee will review the status of Generic Issue A–46, "Seismic Qualification of Equipment for Operating Reactors" and proposed revisions to the NRC Equipment Qualification Research Plan.

**Class 9 Accidents*, February 23, 1984, Washington, DC. The Subcommittee will discuss the final Severe Accident Policy Statement.

**Emergency Core Cooling Systems (ECCS)*, February 29, 1984, Washington, DC. The Subcommittee will continue the review of the General Electric SAFER Emergency Core Cooling Systems Evaluation Model Code.

**Braidwood Nuclear Power Plant*, March 8 and 9, 1984, Joliet, IL (tentative). The Subcommittee will review the application of the Commonwealth Edison Company for an operating license.

**Maintenance Practices and Procedures*, March 14, 1984, Washington, DC. The Subcommittee will review the current status of maintenance practices and procedures for nuclear power reactors.

**Safety Philosophy, Technology, and Criteria*, March 14, 1984, Washington, DC. The Subcommittee will meet with NRC Management and discuss with them their perception of the risk which they associate with a selected collection of recent NRC decisions and the basis on which this level of risk is considered to be acceptable.

**Extreme External Phenomena*, March 14, 1984, Washington, DC. The Subcommittee will review the generic methodology for developing design basis severe winds for SEP plants and to review the specific application to Ginna.

**Combined Emergency Core Cooling Systems (ECCS) and Decay Heat Removal*, March 20 and 21, 1984, Washington, DC. The Subcommittee will discuss the status of feed-and-bleed capability in PWRs.

**ACRS Seminar on Probabilistic Risk Assessment*, March 22 and 23, 1984, Washington, DC. A seminar will be held on the state-of-the-art of probabilistic risk assessment.

**AC/DC Power Systems Reliability*, Date to be determined, Washington, DC. The Subcommittee will discuss the status of the NRC Staff actions on Generic Issue B–56, "Diesel Reliability," and Generic Issue A–30, "Adequacy of Safety-Related DC Power Supplies" and Task Action A–44, "Station Blackout."

**Emergency Core Cooling Systems (ECCS)*, Date to be determined, Washington, DC. The Subcommittee will continue the review of the joint NRC/B&W/EPRI integral test program.

**Reactor Operations*, Date to be determined, Washington, DC. The Subcommittee will review a differing professional opinion (DPO) related to the Westinghouse Safety Parameter Display Systems (SPDS).

Westinghouse Water Reactors, Date to be determined, Washington, DC. The Subcommittee will continue pre-Preliminary Design Approval review of Westinghouse Advanced Pressurized Water Reactor. This meeting will be closed.

**Regulatory Activities*, Date to be determined, Washington, DC. The Subcommittee will review Regulatory Guide 1.35, Rev. 3, "Inservice Inspection of Ungrouted Tendons in Prestressed Concrete Containment Structures;" Regulatory Guide 1.35.1, "Determining Prestressing Forces for Inspection of Prestressed Concrete Containments;" Regulatory Guide 1.12, Rev. 2, "Seismic Instrumentation;" and proposed general revisions to Appendix J to 10 CFR 50, "Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors."

**River Bend Nuclear Power Plant*, Date to be determined, Washington, DC. The Subcommittee will review the application of the Gulf States Utilities for an operating license for the River Bend Nuclear Power Plant.

**Combined Structural Engineering and Combination of Dynamic Loads*, Date to be determined, Sandia and Livermore Labs. The Subcommittee will visit and review containment integrity and other matters.

ACRS Full Committee Meeting

February 9–11, 1984: Items are *tentatively* scheduled.

*A. *NRC Safety Research Program*—ACRS report to the U.S. Congress.

*B. *Diablo Canyon Nuclear Power Station*—Discuss plant changes resulting from quality assurance deficiences in the design/construction of this station.

*C. *Backfitting of Nuclear Plants*—Briefing regarding proposed changes in NARC backfitting policy.

*D. *Passive Containment System*—ARCS comments regarding preapplication review of the Passive Containment System.

*E. *Boiling Water Reactor Primary System Integrity*—Briefing regarding status of action to correct primary pipe cracking in boiling water reactors.

*F. *Consideration of Severe Accidents*—Discussion of proposed decisionmaking process and policy statement regarding consideration of severe accidents in the regulation of nuclear power plants.

*G. *Future ACRS Activities*—Discuss proposed subcommittee and full committee activities.

*H. *ACRS Subcommittee Activity*—Hear and discuss designated subcommittee activity in safety-related areas.

*I. *Meeting with NRC Commissioners (tentative)*—Discuss items related to safety/regulation of nuclear facilities.

*J. *Probabilistic Risk Assessment*—Discuss application of PRA methodology to nuclear power plants.

March 15–17, 1984—Agenda to be announced.

April 5–7, 1984—Agenda to be announced.

Dated: January 19, 1984.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 84–1938 Filed 1–23–84; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Combined Subcommittee on Emergency Core Cooling Systems (ECCS) and Decay Heat Removal; Meeting Postponed

The Combined ACRS Subcommittee on Emergency Core Cooling Systems and Decay Heat Removal scheduled for February 1 and 2, 1984 has been *postponed to March 20 and 21, 1984,* Room 1046, 1717 H Street, NW, Washington, DC.

All other items regarding this meeting remain the same as announced in the **Federal Register** published Monday, January 16, 1984 (49 FR 1950).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employees, Mr. Paul Boehnert or Mr. Anthony Cappucci (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., est.

Dated: January 19, 1984.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 84–1940 Filed 1–23–84; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Regulatory Policies and Practices; Meeting

The ACRS Subcommittee on Regulatory Policies and Practices will hold a meeting on February 8, 1984, Room 1046, 1717 H Street, NW, Washington, DC. The Subcommittee will discuss the Proposed General Statement of Policy and Procedures for Enforcement Actions (SECY–83–487) and other matters related to enforcement activities.

In accordance with the procedures outlined in the **Federal Register** on September 28, 1983 (48 FR 44291), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee and its Staff. Persons desiring to make oral statements should notify the cognizant Designated Federal Employee as far in advance as practicable so that appropriate arrangments can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting will be as follows: Wednesday, February 8, 1984—9:00 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee members may exhange preliminary views regarding matters to be considered during the balance of the meeting. The Subcommittee will then hear a presentation by and hold discussions with representatives of the NRC Staff.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. M. C. Gaske (telephone 202/634–3265) between 8:15 a.m. and 5:00 p.m., est.

Dated: January 19, 1984.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 84–1941 Filed 1–23–84; 8:45 am]

BILLING CODE 7590–01–M

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: Extension
2. The title of the information collection: NRC Form 483 Registration Certificate—In Vitro Testing With Byproduct Material Under General License
3. The form number if applicable: NRC Form 483
4. How often the collection is required: Once, when registering as a general licensee pursuant to 10 CFR 31.11.
5. Who will be required or asked to report: Physicians, clinical laboratories, hospitals, and veterinarians in the practice of veterinary medicine wishing to use byproduct material for *in vitro* clinical or laboratory testing under the general license in 10 CFR 31.11.
6. An estimate of the number of responses: 250
7. An estimate of the total number of hours needed to complete the requirement or request: 30
8. An indication of whether Section 3504(h), Pub. L. 96–511 applies: Not Applicable
9. Abstract: Persons wishing to use byproduct material for *in vitro* clinical or laboratory testing under general license must register with NRC by submitting NRC Form 483. The certificate, when validated and returned by NRC, serves as evidence to suppliers of byproduct material that the registrant is entitled to receive the material.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street, N.W., Washington, DC 20555.

Comments and questions should be directed to the OMB reviewer, Jefferson B. Hill, (202) 395–7340.

The NRC Clearance Officer is R. Stephen Scott, (301) 492–8585.

Dated at Bethesda, Maryland, this 16th day of January 1984.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 84–1952 Filed 1–23–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. STN 50–522 and STN 50–523]

Puget Sound Power and Light Co., et al;. Withdrawal of Application for Construction Permits

The Puget Sound Power and Light Company, Puget Power Building, Bellevue, Washington 98009, acting for itself and Pacific Power and Light Company, Portland General Electric Company, and Washington Water Power Company, by Motion for Order Approving Withdrawal of Application and Terminating Proceeding dated November 23, 1983, has requested withdrawal of their application for licenses to construct and operate the Skagit/Hanford Nuclear Project, Units 1 and 2, boiling water reactors at their site located in Benton County, Washington, on the U.S. Department of Energy's Hanford reservation. A copy of the Motion is available for inspection in the NRC's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555. By Memorandum and Order dated December 13, 1983, the Atomic Safety and Licensing Board granted the applicants' request to withdraw their application and terminate the proceedings before it. Accordingly, the Nuclear Regulatory Commission grants the applicants' request for withdrawal of their application to construct and operate the Skagit/Hanford Nuclear Project, Units 1 and 2.

Notice of receipt of the application was published in the **Federal Register** on December 20, 1974 (39 FR 44065). Amended notices were published on March 1, 1977 (41 FR 8835) and February 5, 1982 (47 FR 5554).

Dated at Bethesda, Maryland, this 18th day of January 1984.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4 Division of Licensing.

[FR Doc. 84–1949 Filed 1–23–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–259, 50–260, 50–296]

Tennessee Valley Authority; Consideration of Issuance of Amendments to Facility Operating License and Opportunity for Prior Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses No. DPR–33, DPR–52 and DPR–68, issued to Tennessee Valley Authority (the licensee), for operation of the Browns Ferry Nuclear Power Plant, Units 1, 2 and 3 located in Limestone County, Alabama.

The amendments would revise the Technical Specifications of the operating licenses to permit reactor operation at power levels of 50% of rated power with one recirculation loop out of service. Presently, the Browns Ferry Nuclear Power Plant, Units 1, 2 and 3 Technical Specifications (TSs) require plant shutdown if an idle recirculation loop cannot be returned to service within 24 hours. The change proposed by the licensee would delete this TS requirement and modify the TSs to provide for: appropriate Average Power Range Monitor (APRM) flux scram trip and rod block settings; an increase in the safety limit Minimum Critical Power Ratio (MCPR) value; revisions to the allowable Average Planar Linear Heat Generation Rate (APLHGR) values suitable for use with an idle recirculation loop; and the inclusion of APRM flux and core plate pressure drop limits during single loop operation; in accordance with the licensee's application for amendments dated March 4, 1982 as modified by September 3, 1983 and January 6, 1983 submittals.

Prior to issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By February 23, 1984, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the preceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fail to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those petitioned to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportuntiy to participate fully in the conduct of the hearing, including the opportunity to

present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W. Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Domenic B. Vassallo: (petitioner's name and telephone number); (date petition was mailed); (plant name); and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. H. S. Sanger, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E 11B 33C, Knoxville, Tennessee 37902.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer of the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendments dated March 4, 1982 as modified by September 3, 1982 and January 6, 1983 submittals, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Athens Public Library, South and Forrest, Athens, Alabama 35611.

Dated at Bethesda, Maryland, this 16th day of January, 1984.

FOR THE NUCLEAR REGULATORY COMMISSION.

Domenic B. Vassallo,

Chief, Operating Reactors Branch #2 Division of Licensing.

[FR Doc. 84–1950 Filed 1–23–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–445, 50–446]

Texas Utilities Generating Co., et al. (Comanche Peak Steam Electric Station, Units 1 and 2); Application for Operating License; Evidentiary Hearing

January 18, 1984.

On February 20–24, March 12–16, April 23–27, May 1–3, and at later dates to be announced the Atomic Safety and Licensing Board (Board) will hold public evidentiary hearings concerning unresolved quality assurance issues, including questions about welding techniques and protective coatings and about the significance of the Cygna Energy Services' review of design quality. The first two sessions will be held at the Metro Center Hotel, Fort Worth, Texas and the last two sessions at the Fritz Lantham Building, Room 5B14, 819 Taylor Street, Fort Worth, Texas.

Hearing hours are from 8:30 am to 6 pm, Monday to Thursday and 8:30 am to 3 pm Friday, subject to recesses and to extensions permitting the completion of scheduled matters. Because of the heavy hearing schedule, oral limited appearance statements are not scheduled; however, people may submit statements to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention, Chief, Docketing and Service Section if they have specific knowledge of quality assurance conditions at Comanche Peak and may include an address or telephone number that we may use to arrange an oral presentation.

For the Atomic Safety and Licensing Board.

Peter B. Bloch,

Chairman, Administrative Judge.

Bethesda, Maryland

[FR Doc. 84–1951 Filed 1–23–84; 8:45 am]

BILLING CODE 7590–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s):

(1) Collection title: Protected Employee Election
(2) Form(s) submitted: UI–130
(3) Type of request: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection
(4) Frequency of use: On occasion
(5) Respondents: Individuals or households
(6) Annual responses: 3,000
(7) Annual reporting hours: 750

(8) Collection description: Title VII of the Regional Rail Reorganization Act provides protection for ConRail employees deprived of employment. The application obtains information needed to determine if the applicant qualifies for Title VII benefits and which benefits the applicant elects to receive.

(1) Collection title: Protected Employee Benefits
(2) Form(s) submitted: UI–131, UI–132, UI–133
(3) Type of request: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection
(4) Frequency of use: On occasion
(5) Respondents: Individuals or households
(6) Annual responses: 30,800
(7) Annual reporting hours: 7,800

(8) Collection description: Title VII, Article 4 of the Regional Rail Reorganization Act provides subsistence allowance, new career training assistance and reimbursement for moving expenses for ConRail employees deprived of employment. The applications obtain the information needed to pay these benefits.

(1) Collection title: Application/Claim for /Supplementary Unemployment Insurance
(2) Form(s) submitted: UI–110, UI–111
(3) Type of request: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection
(4) Frequency of use: On occasion, monthly
(5) Respondents: Individuals or households
(6) Annual responses: 2,000
(7) Annual reporting hours: 300

(8) Collection description: Section 10 of the Milwaukee Railroad Restructuring Act provides supplementary unemployment benefits for separated and furloughed Milwaukee Road employees. The application and claim obtain the information needed to determine whether the benefits are payable and, if so, the amount of benefits.

(1) Collection title: Application for Reimbursement/Verification of Enrollment and Notice of Change in Educational Program for New Career Training Assistance
(2) Form(s) submitted: UI–112, UI–113, UI–114
(3) Type of request: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection
(4) Frequency of use: On occasion
(5) Respondents: Individuals or households, non-profit institutions, small business or organizations
(6) Annual responses: 1,025
(7) Annual reporting hours: 405

(8) Collection description: Section 12 of the Milwaukee Railroad Restructuring Act provides new career training assistance for separated Milwaukee Road employees. The collection obtains the information needed to determine whether the applicant qualifies for career training assistance and, if so, the amount of reimbursement.

(1) Collection title: Railroad Job Vacancies
(2) Form(s) submitted: N.A.
(3) Type of request: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection
(4) Frequency of use: On occasion
(5) Respondents: Businesses or other for profit, small business or organizations
(6) Annual responses: 750
(7) Annual reporting hours: 125

(8) Collection description: Section 704(d) of the Regional Rail Reorganization Act of 1973 requires that the Board maintain a list of employment available with rail carriers. The collection obtains notice of the job vacancies. The information is used to find jobs for individuals separated from railroad employment.

Additional Information or Comments

Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312–751–4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Milo Sunderhauf (202–395–6880), Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

William A. Oczkowski,
Director of Planning and Information Management.

[FR Doc. 84–1890 Filed 1–23–84; 8:45 am]
BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Information Collection Activities Under OMB Review

Agency Clearance officer—Kenneth Fogash (202) 272–2142.

Upon written request, copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, D.C. 20549.

Extension

Rule 7d–1(b)(8)(i), (iii) and (viii) [17 CFR 270.7d–1(b)(8)(i), (iii) and (viii)].

SEC File No. 270–176.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of approval rule 7d–1(b)(8)(i), (iii) and (viii) under the Investment Company Act of 1940 which concerns the condition and arrangements pursuant to which Canadian management investment companies may register under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*).

The potential respondents are all investment companies registered under the Investment Company Act of 1940 and investment advisers of such companies.

Submit comments to OMB Desk Officer: Katie Lewin 202–395–7231.

George A. Fitzsimmons,
Secretary.

[FR Doc. 84–1861 Filed 1–23–84; 8:45 am]
BILLING CODE 8010–01–M

[Release No. 23202; 70–6940]

Arkansas Power & Light Company and System Fuels Inc.; Proposed Intrasystem Agreements Relating to Coal Supply Arrangements

In the Matter of Arkansas Power & Light Company and First National Building, Little Rock, Arkansas, 72203; System Fuels, Inc., Noro Plaza, 666 Poydras, New Orleans, Louisiana, 70130.

January 18, 1984.

Arkansas Power & Light Company ("AP&L"), an electric utility subsidiary of Middle South Utilities, a registered holding company, and System Fuels, Inc. ("SFI"), a fuel supply subsidiary of AP&L and its affiliate operating companies, have filed a declaration with this Commission pursuant to sections 12 and 13(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 45 and 90 thereunder.

SFI, pursuant to its repsonsibilities as the fuel supply subsidiary for the Middle South Utilities System, and Arkansas Electric Cooperative Corporation ("AECC") have entered into an Amended Contract for Sale and Purchase of Lignite ("Lignite Contract") with The G–S Lignite Partnerhsip, a partnerhsip composed of Shell Oil Company and GCO Minerals Company. The lignite to be supplied under the Lignite Contract is intended for use in a lignite-fired electric generating plant ("Plant") to be constructed in Arkansas and owned by AP&L and AECC. The obligaitons of SFI and AECC under the Lignite Contract are several, and, subject to adjustment for successors in interest, the liability of each is limited to one-half of claims arising under the Lignite Contract. AP&L proposes to guarantee SFI's obligations under the Lignite Contract. The Lignite Contract will be in effect through the period ending thirty years from the first to occur of (a) the scheduled commercial operation date for the Plant (or the last unit of the Plant if the Plant shall have more than one unit) or (b) the time when 66.33 million tons of lignite to be purchased pursuant to the Lignite Contract have been delivered. The amount of lignite to be delivered is 2.2 million tons per year with certain possible variations.

SFI and AP&L have also entered into a Lignite Sale Purchase Contract to be effective for the duration of the Lignite Contract, under which SFI has agreed to sell to AP&L, and AP&L has agreed to buy from SFI, the lignite acquired by SFI under the Lignite Contract. The lignite to be acquired by SFI under the Lignite Contract will equal AP&L's requirements and will be sold to AP&L at SFI's cost.

The declaration and any amendments thereto are available for public inspection through the Commmission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by February 15, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A

person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegate authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-1857 Filed 1-23-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13731; 812-5707]

Capital T Money Fund, The Travelers Indemnity Company; Application

January 18, 1984.

Notice is hereby given that Capital T Money Fund (the "Fund"), 99 High Street, Boston, Massachusetts, 02110, an open-end, diversified management investment company registered under the Investment Company Act of 1940 (the "Act"), and The Travelers Indemnity Company ("Travelers") (together, "Applicants") filed an application on November 23, 1983, and an amendemnts thereto on January 6, 1984, for an order of the Commission (1) pursuant to section 17(d) of the Act and Rule 17d-1 thereunder permitting the Fund's Insured Money Market Portfolio (the "Insured Portfolio") to enter into an insurance contract (the "Insurance Contract") with Travelers under which Travelers will guarantee the price at which shares of the Insured Portfolio will be redeemed by the Fund, and (2) pursuant to section 17(b) of the Act permitting the Fund to purchase such insurance coverage from Travelers and to accept any settlement which might arise from a claim made under the Insurance Contract. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the provisions cited in the application.

Applicants state that the Fund is a "stock series investment company" authorized to issue multiple series of shares of beneficial interest. The Fund intends to issue shares representing beneficial interests of the Insured Portfolio if it receives the requested order. It is stated that the Insured Portfolio will be run as a so-called "money market fund" whose investment objective is to obtain the maximum current income from short-term securities consistent with preservation of capital and liquidity. Applicants state that the investment adviser for each portfolio of the Fund will be Keystone Custodian Funds, Inc. (the "Adviser"), a wholly-owned subsidiary of the Travelers Corporation (the "Parent"). The shares of the Insured Portfolio will be sold through the Fund's principal underwriter, Securities Settlement Corporation, a wholly-owned subsidiary of the Parent.

Applicants represent that the Fund will use its best efforts to maintain at $1.00 the net asset value per share of the shares of the Insured Portfolio.

Applicants represent that so long as the Insurance Contract remains in force, all securities held by the Insured Portfolio with remaining maturities in excess of 60 days will be valued at current market value. In addition, the Fund, on behalf of the Insured Portfolio, proposes to enter into the Insurance Contract as a means of guaranteeing, to the extent provided therein, the price at which shareholders of the Insured Portfolio will be able to redeem their shares. Applicants state that the Insurance Contract will insure the Fund against certain decreases in the net asset value of shares of the Insured Portfolio when such shares are redeemed by shareholders to the extent that such decreases result from market or credit losses; it does not insure against any such decreases which might result from embezzlement, improper presentment or other non-market or non-credit factors.

Applicants state that, under the terms of the Insurance Contract, Travelers, a wholly-owned subsidiary of the Parent, would provide coverage to the Fund for the Insured Portfolio in order to permit the Fund through its Insured Portfolio to pay at redemption $1.00 or the shareholder's original purchase price for the shares, whichever is less, for each share of the Insured Portfolio redeemed, provided that the decrease in net asset value is caused by a credit loss or a market loss of securities in the Insured Portfolio.

Applicants state further that, under the Insurance Contract, a credit loss is a failure or inability of an issuer of any security in the Insured Portfolio for lack of credit or funds to honor the security in accordance with its terms on proper presentment and which results in a reduction of the Insured Portfolio's net asset value per share. Under the Insurance Contract, a market loss is a decrease in the value of a security in the Insured Portfolio in response to short-term rate fluctuations due to economic factors, or in response to unfavorable changes in the credit of the issuer resulting in a reduction of the Insured Portfolio's net asset value per share or a reduction of such net asset value caused by the sale of the Insured Portfolio's securities prior to maturity in order to meet redemptions. If such credit or market losses occur, subject to the limits discussed below and in the Insurance Contract, the Insurer will pay to the Fund amounts to enable the Fund to pay redeeming shareholders $1.00 or the purchase price for such shares, whichever is less, within forty-eight hours of Travelers' receipt of notice of any covered loss and proof of loss.

Applicants state that the Insurance Contract presently provides total maximum aggregate liability of Travelers for losses to the Insured Portfolio of up to $300,000,000 over the life of the Insurance Contract. The Insurance Contract has no stated term although it may be cancelled under certain circumstances described below. In addition, unless the coverage provided is increased, the total covered losses payable on account of credit or market losses on securities of a single issuer, other than an issuer of U.S. Government Securities (defined below), may not exceed $15,000,000. Also, unless the coverage provided is increased, the total covered losses payable on account of credit or market losses of a single issuer of U.S. Government Securities may not exceed $125,000,000. Applicants state that it is expected that, if appropriate reinsurance can be obtained by Travelers and if the net assets of the Insured Portfolio increase, the amount of the insurance will also be increased so that Traveler's total maximum aggregate liability equals or exceeds, at all times, the aggregate net asset value of the Insured Portfolio. At present, the Insurance Contract requires that the net assets of the Insured Portfolio not exceed $300,000,000.

Applicants represent that the premium for the Insurance Contract will be based upon the types and amounts of money market instruments held by the Insured Portfolio; premiums will be greater for instruments which are subject to greater credit risks and/or greater market volatility and will be less for instruments subject to lesser credit risks and/or lesser market volatility. It is stated that the premium allocated to obligations issued or guaranteed by the United States or by any agency or instrumentality of the United States Government or by any agency or instrumentality of the United States Government and repurchase agreements relating thereto ("U.S. Government Securities") will be 0.17% per annum of the face value of such assets held by the Insured Portfolio. The premium

allocated to obligations of banks will be 0.375% per annum of the face value of such assets. The premium allocated to commercial paper and corporate obligations will be 0.425% per annum of the face value of such assets. Applicants state that the premium for the Insurance Contract will be calculated weekly and will be payable monthly in arrears and that the premium will be paid solely from the assets of the Insured Portfolio. Applicants represent that no other portfolio of the Fund will be obligated to pay the premium.

Applicants state that the Insurance Contract is conditioned upon compliance by the Insured Portfolio with certain additional conditions including the following:

1. The dollar-weighted average maturity of the securities held by the Insured Portfolio will not be greater than 35 days.

2. At least 5% of the current value of the assets of the Insured Portfolio will be invested daily in securities with remaining maturities of one day.

3. No more than 10% of the current value of the assets of the Insured Portfolio will be invested in securities with remaining maturities in excess of 60 days.

4. No assets of the Insured Portfolio will be invested in securities with remaining maturities greater than 180 days.

5. The Fund will provide Travelers every two weeks with a list of dealers with whom the Fund on behalf of the Insured Portfolio has entered into repurchase agreements showing limits established and amounts outstanding for each such dealer.

6. The Fund will provide the Insurer every two weeks with a list of the Insured Portfolio's securities and the purchase price and maturity of each such security.

Applicants state that to avoid a loss to the Insured Portfolio from the sale of its securities where the loss would result in a reduction in the net asset value per share of the Insured Portfolio below its then current net asset value the Fund will attempt not to sell and will attempt to borrow as permitted by its investment restrictions to pay for shares redeemed and to maintain the net asset value of each share at its then current net asset value, unless in the opinion of the Fund's investment adviser, the sale of such securities is required because of credit concerns. Applicants represent that, in the event of a violation by the Fund of the conditions for coverage of the Insured Portfolio, the Insurance Contract gives the fund five business days to collect such violation. Applicants represent that the Fund's prospectus will adequately disclose the nature and extent of the guaranteed net asset value per share of the Insured Portfolio and the next post-effective amendment to such prospectus will describe such guarantee as a separate security.

Applicants state that Travelers and its subsidiaries had 1982 revenues of approximately $3.8 billion and are one of the largest stock casualty and property insurance groups in the United States. Applicants state further that Travelers writes most types of casualty and property insurance including accident and health insurance.

Applicants state that Best's Insurance Reports (Property-Casualty) 1982 has assigned to Travelers Best's Policyholder's Rating of "A" (excellent) and a Financial Size Category of Class XV (largest). Applicants state further that the rating classification reflects Best's consideration that Travelers is outstanding on a comparative basis with other insurers in the property-casualty industry. Best's Financial Size Category is determined by Traveler's surplus to policyholders plus conditional reserves, equity in unearned premiums and an audit premium equal to one month's workers' compensation writings.

Travelers is an affiliated person of the Adviser by virtue of section 2(a)(3)(C) of the Act and the Adviser is an affiliated person of the Fund by virtue of section 2(a)(3)(E) of the Act. Therefore, the Insurer is an affiliated person of an affiliated person of the Fund within the meaning of sections 17(a), 17(b) and 17(d) of the Act and Rule 17d-1 thereunder. Applicants state that the insurance coverage offered by Travelers to the Insured Portfolio under the Insurance Contract could be deemed "property" within the meaning of section 17(a)(1) of the Act. Also, the possible purchase of securities of the Insured Portfolio by Travelers under the Insurance Contract could be deemed a purchase of securities from a registered investment company by an affiliated person of an affiliated person of such company within the meaning of section 17(a)(2) of the Act. In addition, it is possible that the payment by the Fund of the premium for the insurance coverage for the Insured Portfolio and the rights of the Insured Portfolio to certain payments in the event of a credit or market loss to the Insured Portfolio could constitute participation in a joint enterprise or other joint arrangement within the meaning of section 17(d) of the Act. Accordingly, Applicants request exemptions from the provisions of section 17(a)(1), 17(a)(2) and 17(d) of the Act, pursuant to section 17(b) of the Act and Rule 17d-1 thereunder, to the extent necessary to permit the Fund, on behalf of the Insured Portfolio, to enter into the Insurance Contract with Travelers.

Applicants state that, in general, money market funds are attractive investments for a wide range of investors because these funds offer relative stability of principal. The Fund believes that the Insurance Contract is in the best interests of potential investors and the shareholders of the Insured Portfolio since it offers them an additional assurance that the principal of their investment may not fall below the purchase price per share of $1.00 per share, whichever is less.

The Fund submits that the terms of the Insurance Contract, including the premiums to be paid thereunder, are reasonable and fair, do not involve any overreaching and that it is necessary for the Fund to enter into the Insurance Contract with Travelers to obtain the desired insurance coverage for the Insured Portfolio. Applicants represent that it is necessary for the Fund to obtain insurance for the Insured Portfolio under the Insurance Contract because no other direct source for such insurance is available. Applicants state that discussions with other insurers of substantially similar financial stability and quality were not fruitful. Applicants state further that such other insurers indicated no willingness to provide similar insurance coverage to the Fund in the future. Applicants state that, if the Commission does not permit the Insured Portfolio to acquire the insurance offered by Travelers, because of its affiliated status, the Fund will not be able to offer to the public a type of investment which is suitable for a wide range of individuals and which is believed by the Fund to be much in demand by investors.

Applicants state that the absence of overreaching in Travelers' provision of insurance to the Insured Portfolio is evidenced by the approval of the Insurance Contract by the disinterested Trustees of the Fund, all of whom (together with the Board of Trustees as a whole) have made the determination that the proposed Insurance Contract is appropriate, and in the best interest of the Fund and its shareholders. Applicants represent that the premium rates are comparable to those charged the one other money market fund currently offering similar insurance coverage.

Applicants state that the Insurance Contract is consistent with the policy of the Insured Portfolio, whose investment objective is to obtain the maximum current income considered consistent with preservation of capital and

liquidity. The Insurance Contract offers the Insured Portfolio's shareholders the assurance that their principal investment will be preserved in the event of a credit or market loss to the Insured Portfolio since in such cases, under the terms of the Insurance Contract, they may always redeem their shares at $1.00 or the purchase price of such shares, whichever is less. Furthemore, Applicants represent that this enhanced safety of principal has been achieved in a manner consistent with maximum current income for the Insurance Portfolio since the Insurance Contract premium, while calculated on a different basis than the premium charged the other fund currently offering similar insurance coverage, will be comparable to that charged for similar insurance coverage and is less than the reduction in yield which would generally occur under normal market conditions if the Insured Portfolio were to seek additional safety by investing solely U.S. Government Securities. The Fund consents to the following conditions to the order granting the exempting from sections 17(a)(1), 17(a)(2) and 17(d):

1. The Insurance Contract will be reviewed and approved on an annual basis by a majority of the Fund's Board of Trustees ("Trustees"), including a majority of the Trustees who are not interested persons of the Fund as defined in section 2(a)(19) of the Act.

2. In the course of the annual review and approval referred to in paragraph 1, the Trustees shall determine that: (a) The Insurance Contract is in the best interests of the shareholders of the Insured Portfolio; and (b) the premiums payable to Travelers under the Insurance Contract are not greater than the premiums that would be charged by another insurer of substantially similar financial stability and quality for similar insurance coverage for the Fund.

3. The Fund will maintain and preserve for a period of not less than six years from the end of the fiscal year in which such review and approval occurs, the first 2 years in an easily accessible place, a written record of the deliberations and actions of the Trustees in connection with the annual review and approval referred to in paragraph 1.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 13, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commissin, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-1858 Filed 1-23-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13730; 812-5701]

CoreStates Capital Corp; Application

January 18, 1984.

Notice is hereby given that CoreStates Capital Corp ("Applicant"), Broad and Chestnut Streets, Philadelphia, PA 19101, a Pennsylvania corporation, filed an application on November 18, 1983, for an order of the Commission, pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the applicable provisions.

Applicant represents that it is a wholly-owned subsidiary of CoreStates Financial Corp. ("CFC"), a bank holding company incorporated under the laws of Pennsylvania. As of September 30, 1983, CFC had total consolidated assets of approximately $9 billion and shareholders' equity of approximately $567 million and, based on December 31, 1982, rankings of bank holding companies, was believed to be the 30th largest bank holding company in the United States. According to the application, prior to May 2, 1983, CFC's sole banking subsidiary was Hamilton Bank ("Hamilton"), a bank chartered under the laws of Pennsylvania, but, on that date, CFC effected a business combination with Philadelphia National Corporation ("Philadelphia National"), the parent bank holding company of the Philadelphia National Bank ("PNB"), a national banking association. As a result, CFC became the sole shareholder of Philadelphia National and the indirect parent of PNB. The application states that through Hamilton and PNB, CFC and its subsidiary Philadelphia National principally engage in commercial, international and consumer banking and trust services. Through other subsidiaries, CFC is engaged in mortgage banking, consumer financing, factoring and commercial financing and financial advisory services.

The application indicates that CFC has determined to consolidate its short term commercial paper and long term debt financing activities on behalf of CFC under Applicant for ease of administration, accounting, recordkeeping and tax considerations. According to the application, Applicant intends to offer its debt securities (including instruments other than short term paper) for sale to the public from time to time. The offer and sale of debt securities which are not short term and the investment of the proceeds in the obligations of CFC and its subsidiaries may cause Applicant to fall within the definition of investment company under the Act since (1) it would be making a public offering of these securities resulting in beneficial ownership by more than 100 persons and (2) more than 40% of its assets would consist of investment securities. Applicant represents that in the event that its proposed registration statement becomes effective and a public offering of debt securities is made thereunder prior to the grant of its requested section 6(c) exemption, Applicant and CFC would cause the proceeds of the offering to be held in bank deposit accounts or invested in government securities and would, if necessary, take further action to assure that less than 40% of the assets of Applicant were invested in investment securities as defined in the Act.

The application indicates that in addition to the proposed public offering of debt securities, it is anticipated that Applicant will make other public offerings and private placements of long term and short term debt instruments (including commercial paper) from time to time and may assume certain outstanding debt instruments heretofore issued by CFC or its subsidiaries. Applicant states that all the debt securities will be unconditionally guaranteed by CFC as to principal, interest and premium, if any. The application further states that CFC's guarantee will provide that in the event of a default with respect to a security issued by Applicant, legal proceedings may be instituted directly against CFC to enforce the guarantee of that security without first proceeding against Applicant. Applicant will not issue equity securities, except to CFC, and no entity other than CFC will hold any capital stock or other equity securities of

Applicant. Applicant represents that the proceeds of all debt offerings will be lent to CFC and its subsidiaries to finance the business operations of CFC and its subsidiaries to finance the business operations of CFC and its subsidiaries and that, other than holding securities resulting from its primary purpose, Applicant will not hold securities or deal or trade in securities nor will Applicant engage in any other business.

Applicant states that CFC and Philadelphia National are primarily engaged through Hamilton and PNB in the business of banking and therefore are expressly excluded from investment company status, pursuant to section 3(c)(6) of the Act. PNB and Hamilton are banking institutions excluded from investment company status pursuant to section 3(c)(3) of the Act, and, apart from Applicant, the other subsidiaries of CFC are primarily engaged in businesses other than that of investing, reinvesting, owning, holding or trading in securities. The application further states that, since Applicant's incorporation in 1974, it has served as a financing subsidiary for CFC in providing funds for CFC and CFC's subsidiaries through the issuance of commercial paper. Applicant avers that purchasing Applicant's debt securities will be the practical equivalent of purchasing debt obligations of CFC, which could issue debt securities directly without raising questions under the Act.

Applicant also represents that no investor will invest in applicant in the expectation that Applicant's activity will produce a profit on income; no person will be relying on the investment skills of Applicant's employees; and Applicant's investments and objectives are totally different from those of investment companies for which the Act was intended. The application states that Applicant and its related companies are, and will be, strictly supervised by various banking authorities, as well as by the Commission. All equity securities of Applicant will be held by CFC, a bank holding company, registered under the Bank Holding Company Act of 1956. CFC and its subsidiaries are subject to regulation by the Board of Governors of the Federal Reserve System, and CFC is required to file with the Federal Reserve Board an annual report and additional information which the Federal Reserve Board may require. Applicant states that CFC is also registered under the Securities Exchange Act of 1934 and is subject to the reporting requirements and other provisions of that Act. PNB is a member of the Federal Reserve System and the Federal Deposit Insurance Corporation ("FDIC"), and its business and that of its affiliates is subject to regulation by various Federal and State banking authorities and examination by the Comptroller of the Currency. Hamilton is subject to examination by the FDIC and the Pennsylvania banking authorities. Applicant further states that the debt securities to be issued by Applicant will be registered under the provisions of the 1933 Act unless thay are issued in a private offering or are otherwise exempt from registration under that Act. Any debt securities to be registered under the provisions of the 1933 Act will be issued pursuant to a trust indenture subject to, and qualified under, the Trust Indenture Act of 1939.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 13, 1984, at 5:30 p.m., do so by submitting a written request setting forth in nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, and order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-1856 filed 1-23-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13729; 812-5669]

Dean Witter/Sears Liquid Asset Fund Inc., et al.; Application

January 18, 1984.

Notice is hereby given that the Dean Witter/Sears Tax-Free Daily Income Fund Inc. ("Daily Income"), Dean Witter/Sears Liquid Asset Fund Inc. ("Liquid Asset"), Dean Witter/Sears U.S. Government Money Market Trust ("Sears Trust"), (collectively referred to as the "money market funds"), Dean Witter Developing Growth Securities Trust ("Developing Growth"), and Dean Witter World Wide Investment Trust ("World Wide") One World Trade Center, New York, NY 10048, (collectively with the Money Market Funds, "Fund Applicants"), and Dean Witter Reynolds Inc. ("DWR") 130 Liberty Street, New York, NY 10048, (collectively with the Fund Applicants, "Applicants") filed an application on October 6, 1983, for an order of the Commission: (1) Pursuant to section 11(a) of the Investment Company Act of 1940 ("Act") to allow Developing Growth, World Wide, and any other fund assessing a contingent deferred sales charge for which DWR may in the future serve as investment adviser or principal underwriter (collectively with Developing Growth and World Wide, the "deferred sales charge funds") and the other Applicants (i) to offer shares of the money market funds in exchange for shares of the deferred sales charge funds, and (ii) to offer shares of the deferred sales charge funds in exchange for shares of the money market funds that were acquired through one or more exchanges of shares of contingent deferred sales charge funds and (2) pursuant to section 6(c) of the Act exempting DWR and the deferred sales charge funds from the provisions of section 22(d) of the Act to the extent necessary (i) to permit the exchanges described above, and (ii) to permit DWR and the deferred sales charge funds to defer the imposition of the contingent deferred sales charge when the shares of a deferred sales charge fund are exchanged for shares of a money market fund. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of its relevant provisions.

Applicants state that DWR if the principal underwriter for shares of Developing Growth and together with Daiwa Securities America Inc. is the principal underwriter for shares of World Wide. Shares of Developing Growth and World Wide redeemed within six years of purchase are subject to a contingent deferred sales charge under most circumstances. Sears Trust, Liquid Asset and Daily Income continuously offer their shares directly to the public at net asset value. Each Fund permits reinvestment of dividends and distributions without a sales load. DWR and Daiwa Securities America Inc. serve as underwriters and distributors of World Wide, and receive the proceeds of the contingent deferred sales charges. Where a contingent deferred sales charge is imposed, the amount of the charge will depend on the number of years since the investor made the purchase payment from which an amount is being redeemed.

On March 30, 1983, the Commission issued an order (Investment Company Act Release No. 13126, the "Previous Order") pursuant to section 6(c) of the Act granting Developing Growth an exemption from the provisions of sections 2(a)(32), 2(a)(35), 22(c) and 22(d) of the Act and Rule 22c–1 thereunder, to the extent necessary to permit it to assess a contingent deferred sales charge on redemption of its initial and any future series of shares and to permit it to waive the contingent deferred sales charge under certain circumstances. On August 8, 1983, World Wide filed an application, which was still pending at the time the present application was filed, requesting a similar order which would grant an exemption identical to that granted to Developing Growth. In addition, that application seeks an order to permit exchanges of shares between Developing Growth and World Wide and any other management investment companies for which DWR may now or in the future serve as investment adviser or principal underwriter and which companies would propose to assess a contingent deferred sales charge, under the circumstances described therein, to be made without imposition of a contingent deferred sales charge. Applicants request an amendment to the Previous Order and the order that is anticipated to be issued under the Pending Application which would allow the deferred sales charge funds to defer the imposition of the contingent deferred sales charge when shares of a deferred sales charge fund are exchanged into a money market fund.

Applicants' proposal would allow a shareholder of a deferred sales charge fund to exchange into a money market fund, at no charge, without the imposition of the contingent deferred sales charge at the time of the exchange. During the period of time the shareholder remains in the money market fund, the investment period or "year since purchase payment made" is frozen. When the shareholder redeems out of the money market fund he would then be subject to a contingent deferred sales charge which would be computed based upon the period of time the shareholder actually held shares in a deferred sales charge fund. Applicants also propose that shareholders acquiring shares of a money market fund pursuant to the above-described exchange privilege be able to exchange those shares back into a deferred sales charge fund from the money market fund, with no charge being imposed on such exchange, and the investment period previously frozen when shares were first exchanged for shares of a money market fund resuming on the date shares of a contingent deferred sales load fund were reacquired. Thus, the contingent deferred sales charge would be imposed only upon an ultimate redemption based upon the time the shareholder was invested in a deferred sales charge fund. There would be no limit as to the number of exchanges that would be permitted or the money market funds or deferred continent sales charge funds into which exchanges could be made.

Applicants represent that, for purposes of calculating the contingent deferred sales charge, the date of purchase will be assumed to be the last day of the month in which the shares being exchanged were purchased (or deemed to have been purchased as a result of prior exchanges). In allocating the investor's purchase payments between funds for purposes of the contingent deferred sales charge, the amount which represents the current net asset value of the investor's shares which were (i) purchased (or deemed to have been purchased) more than six years prior to the exchange and (ii) originally acquired, despite intervening exchanges, through reinvestment of dividends or distributions (all such shares being hereinafter referred to as "Free Shares"), will be exchanged first. After an exchange all dividends earned on shares in the money market funds will be treated as Free Shares. If the exchanged amount exceeds the value of the investor's Free Shares, it will be assumed that an exchange is made of shares held (or deemed to be held as a result of prior exchanges) by the investor for the longest period of time within the applicable six-year period. Utilizing this assumption, any appreciation in the value of these non-Free Shares will thereafter be treated as Free Shares, and the amount of the investor's purchase payments for the non-Free Shares of the fund exchanged into will thereafter be deemed to be equal to the lesser of (a) the actual or, if there have been prior exchanges, the deemed purchase payments for, or (b) the current net asset value of, the exchanged non-Free Shares. If the exchange between Funds would result in the exchange of only part of a particular block of shares, then the purchase payment (actual or deemed, as above) for that block of shares will first be allocated on a pro-rata basis between the shares of that block to be retained and those to be exchanged. The pro-rated amount of such purchase payment attributable to the retained shares of that block will remain as the purchase payment for the retained shares, and the amount of the investor's purchase payment for the exchanged shares of that block will thereafter be deemed to be equal to the lesser of (a) the pro-rated amount of the purchase payment for, or (b) the current net asset value of, the exchanged shares.

Applicants state that Developing Growth and World Wide finance their own distribution expenses pursuant to plans adopted under Rule 12b–1 under the Act (the "Plans"). Under the Plans, the funds pay an annual fee to the Distributor, as reimbursement for expenses incurred by the Distributors in connection with the offering of the respective fund shares. Applicants state that upon any exchange, any necessary reduction of the base of aggregate purchase payments to the Fund exchanged from (for purposes of calculating the annual distribution fee under its Plan) will similarly be made on the basis that the investor's Free Shares are exchanged first and, if the exchanged amount exceeds their value, with the assumption, that an exchange is made of shares held (or deemed to be held, as a result of prior exchanges) by the investor for the longest period of time within the applicable six-year period. Utilizing this assumption, the base of aggregate purchase payments of the fund exchanged from will be reduced by the lesser of (a) the actual or, if there have been prior exchanges, the deemed purchase payments for, or (b) the current net asset value of, the exchanged non-Free Shares. However, if an exchange would result in the exchange of only part of a particular block of shares, the base of aggregate purchase payments will be reduced only by a pro-rated amount of the lesser of (a) the actual or, if there have been prior exchanges, the deemed purchase payment for, or (b) the current net asset value of, the entire particular block of shares. The amount of the reduction will then be added to the base of aggregate purchase payments of the fund exchanged into.

Applicants seek an order pursuant to section 11(a) of the Act approving the terms of the proposed offers of exchange and exempting such exchange transactions from the provisions of section 22(d) of the Act. Applicants submit that it is consistent with the purposes of Developing Growth and World Wide, and with the purposes of funds to be offered in the future with a contingent deferred sales charge, to defer imposition of the contingent deferred sales charges in the case of exchanges as described herein. As stated in their prospectuses, Developing Growth and World Wide are not designed for investors who intend to

liquidate their investments after a short period. It is expected that the funds to be offered in the future with a contingent deferred sales charge would be similarly designed. In situations in which the contingent deferred sales charge will not be imposed until final redemption, the exchange into a money market fund usually is made due to a temporary change in the investor's investment strategy and would not be inconsistent with the purposes of the funds or the investor's initial intention of making a long-term investment in a fund.

Applicants submit that the requested relief is fair to shareholders of Developing Growth, World Wide and other contingent deferred sales charge funds because DWR and not those funds will bear the cost (in the form of revenue lost) as a result of the delays in imposition of the contingent deferred sales charge resulting from exchanges. Applicants state that since their proposal would allow shares of the deferred sales charge funds to be exchanged for shares of the money market funds without immediate imposition of the contingent deferred sales charge, it could be argued that an exemption from the provisions of section 22(d) is required to the extent that the contingent deferred sales charge is not applied in the same manner to shareholders who exchange their shares of the deferred sales charge funds as to shareholders who simply redeem their shares. Accordingly, Applicants request an order of the Commission exempting them from the provision of section 22(d) of the Act to the extent necessary to permit the deferred sales charge funds to defer the imposition of the sales charge upon exchanges into the money market funds in the manner described in the application.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 13, 1984, a 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-1856 Filed 1-23-84; 8:45 am]

BILLING CODE 8010-01

[Release No. 13732; 811-2984]

Fort Holdings, Inc.; Application

January 18, 1984.

Notice is hereby given that Fort Holdings, Inc. ("Applicant"), c/o Chicago Title and Trust Company, 111 West Washington Street, Mail Location 0624, Chicago, Illinois 60602, registered under the Investment Company Act of 1940 ("Act") as a closed-end, diversified management investment company, filed an application on October 19, 1983, for an order of the Commission pursuant to section 8(f) of the Act, and Rule 8f-1 thereunder, declaring that Applicant has ceased to be an investment company as defined by the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for a statement of the relevant statutory provisions.

Applicant, an Indiana corporation, states that it has not registered any of its shares under the Securities Act of 1933. At the time of the filing of the application, it is stated, Applicant had 63 shareholders. As of September 30, 1983, there were 184,768 shares of Applicant's common stock outstanding, having an aggregate net asset value of $5,139,190 (approximately $27.81 per share), it is stated, and Applicant's assets included portfolio securities maturing on October 1, 1983, or October 4, 1983, of an aggregate value of $5,050,000, cash of $26,211 and accrued interest of $107,802. It is further stated that pursuant to a plan approved in accordance with the Indiana General Corporation Act by its shareholders at a special meeting on August 25, 1983, all of Applicant's assets (other than $158,817 being on behalf of shareholders whose whereabouts are unknown, or who had not yet properly tendered certificates for their shares, and $20,000 being held to meet expenses of Applicant's deregistration, liquidation and dissolution) were distributed pro rata to its shareholders in cash. The total amount of such distributions—effectuated between October 6, 1983 and October 13, 1983—was $4,982,088, or approximately $27.82 per share, it is stated. Applicant also states that none of the funds being held for it are or will be invested in any securities, that all of the expenses incurred or to be incurred in connection with its liquidation have been or will be paid by it, and that any portion of the $20,000 reserved for liquidation expenses will ultimately be distributed pro rata to Applicant's shareholders in a final liquidating distribution.

It is further stated that the distributive shares of those of its shareholders who cannot be located in the course of Applicant's dissolution will be deposited with the Clerk of the Circuit Court of Allen County, Indiana, as prescribed by the Indiana General Corporation Act, and, if still unclaimed after two years following the date for the final distribution by Applicant, are required by statute to be paid by the holder thereof to the Attorney General of the State of Indiana in accordance with the Indiana Disposition of Unclaimed Property Act.

Applicant further states that as of October 13, 1983, it had no outstanding debts or liabilities, other than $265,025 in principal amount of 9¼% installment debentures due 1987 issued by applicant during 1972 under an indenture dated as of December 29, 1972 between Applicant and Indiana Bank and Trust Company of Fort Wayne, as trustee. Applicant further states that on January 3, 1980, all of its obligations under such debentures and indenture were assumed by OFI, Inc. (a company which subsequently changed its name to "Hyponex Corporation") in the purchase by OFI, Inc. of substantially all of Applicant's assets, but that Applicant continues to be liable to the debentureholders for the payment of principal of (and premium, if any) and interest on the debentures in the event of a default in such payment by Hyponex Corporation. To the best of Applicant's knowledge, it is stated, there has been no such default. It is represented, in addition, that the Estate of F. E. Schouweiler, which owned approximately 78.7% of Applicant's outstanding shares prior to the liquidating distributions described herein, has agreed to indemnify Applicant's directors, and its shareholders who are not beneficiaries of such Estate, against any and all claims, debts, liabilities, judgments, costs and expenses arising out of the assertion against them of any claim based upon any debt of Applicant (which includes the debentures).

On the basis of the foregoing, Applicant submits that it has ceased to be an investment company as defined in the Act, since it has distributed substantially all of its assets and is

engaged solely in the process of winding-up of its affairs. Accordingly, Applicant requests that the Commission issue an order pursuant to Section 8(f) of the Act declaring that it has ceased to be an investment company.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 13, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-1859 Filed 1-23-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13726; 811-1011]

Transwestern Mutual Fund; Application

Notice is hereby given that Transwestern Mutual Fund ("Applicant") 10201 Parish Place, Cupertino, California, 95014, registered under the Investment Company Act of 1940 ("Act"), as an open-end, diversified management investment company, filed an application on November 3, 1983, for an order of the Commission pursuant to section 8(f) of the Act, and Rule 8f-1 thereunder, declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the relevant provisions thereof.

Applicant states that it registered under the Act on December 22, 1960, and on that same date filed a registration statement under the Securities Act of 1933, with respect to 200,000 shares of common stock. According to the application, on August 31, 1983, Applicant had issued and outstanding 6,700,703 shares of common stock. The net asset value as of August 31, 1983 was $1.75 per share or $11,728.33 in the aggregate.

Applicant represents that on June 22, 1978, Applicant's Board of Directors approved of the entry into an agreement with Industry Fund of America, Inc. ("IFA") whereby Applicant transferred its assets, subject to its liabilities to IFA in exchange for shares of IFA at equivalent net asset values. On June 20, 1983 Applicant's shareholders unanimously approved entry into the above agreement.

Applicant states that in connection with the reorganization, in those states where securities of IFA are permitted to be distributed, securityholders of Applicant received shares of IFA based upon the relative net asset values of the shares of such companies as determined on August 31, 1983; those shareholders of Applicant residing in states where IFA shares cannot be distributed received cash equivalent to the net asset value of Applicant's shares as of the above date. Applicant states that the reorganization was effectuated on August 31, 1983, when all of Applicant's net assets were sold subject to liabilities, to IFA in exchange for shares of IFA.

Applicant represents that it had no securityholders at the time of the filing of the application. Applicant further states that it is not a party to any litigation or administrative proceeding and does not intend to engage in business activities other than those necessary for the winding up of its affairs. Applicant states that it remains in existence as a corporation in the State of California, but intends to file a Certificate of Dissolution with said state.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 13, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon it own motion.

For the commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-1864 Filed 1-23-84; 8:46 am]

BILLING CODE 8010-01-M

[Release No. 13728; 812-5656]

Boettcher Venture Capital Partners, L.P., Boettcher & Co.; Application for Order Pursuant to Section 6(c) of the Act Exempting Applicants From the Provisions of Sections 2(a)(3) and 2(a)(19) of the Act

January 17, 1984.

Notice Is Hereby Given that Boettcher Venture Capital Partners, L.P. (the "Partnership") and Boettcher & Company (the "Managing General Partner") ("Applicants") 828 Seventeenth Street, Denver, Colorado, 80201, filed an application on September 26, 1983, for an order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940 (the "Act"), declaring (1) that the independent general partners of the Partnership are not "interested persons" of the Partnership or its other partners as defined in Section 2(a)(19) of the Act solely by reason of their status as general partners of the Partnership ("General Partners"), and (2) that the persons who become limited partners of the Partnership (the "Limited Partners") will not be deemed "affiliated persons" of the Partnership or its other partners solely by virtue of their status as Limited Partners. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the relevant provisions thereof.

Applicants state that the Partnership is a newly formed business development company organized as a Delaware limited partnership on September 22, 1983, pursuant to a Certificate and Agreement of Limited Partnership (the "Partnership Agreement"). Applicants state further that the Partnership is subject to Sections 55 through 65 of the Act and to those sections of the Act made applicable to business development companies by Section 59 thereof. Applicants state that the investment objective of the Partnership is to seek capital appreciation by making venture capital investments. The Partnership proposes to make a public offering of up to 20,000 units of limited partnership interests ("Units") at a price of $1,000 per Unit. Applicants state that

the proceeds will be invested in numerous venture capital investments ("Portfolio Securities") over a period of several years. Applicants represent that each of these investments will be liquidated once it reaches a state of maturity when disposition can be considered, which typically will be four to eight years from the date of investment. Applicants state that proceeds from the sale of Portfolio Securities will not generally be reinvested except in limited circumstances but will be distributed to the General and Limited Partners. The Partnership is to terminate in ten years (unless extended for up to four additional one-year terms in order to permit an orderly liquidation) and thus will be an investment vehicle of limited duration.

Applicants state that the Managing General Partner will be responsible for the venture capital investments which are made by the Partnership but its actions will be subject to the supervision of the individual general partners. In addition, the Managing General Partner will perform the management and administrative services necessary for the operation of the Partnership pursuant to the terms of the Partnership Agreement and will be responsible for the admission of additional or substitute Limited Partners. Under the Partnership Agreement, the Managing General Partner may not voluntarily resign or withdraw from the Partnership except upon 60 days notice to all Partners and the substitution of a replacement. The Managing General Partner is registered as an investment adviser under the Advisers Act and is also a registered broker-dealer and will serve as the dealer-manager under a "best efforts" selling agreement.

Applicants represent that the General Partners will consist of individual general partners ("Individual General Partners") all of whom save one will be independent general partners ("Individual General Partners") defined as individuals who are not "interested persons" of the Partnership within the meaning of the Act and one of whom will be an individual who is affiliated with the Managing General Partner, which will also be a General Partner. Applicants state that, prior to the public offering of the Units, four persons will become individual general partners, three of whom will also qualify as Independent General Partners. The Partnership will be managed solely by the Individual General Partners, except that the Managing General Partner, subject to the guidance and supervision of the Individual General Partners, is responsible for the management of the Partnership's venture capital investments, the admission of additional, assignee or substitute Limited Partners to the Partnership, and the management and administrative services necessary for the operation of the Partnership. The General Partners will otherwise act by majority vote of the Individual General Partners. Applicants state that the Individual General Partners will perform the same functions as directors of a corporation and the Independent General Partners will assume the responsibilities and obligations imposed by the Act on the non-interested directors of a business development company.

Applicants state that the Partnership Agreement provides that the Individual General Partners may be removed either (1) for cause by the action of two-thirds of the remaining Individual General Partners or (2) by failure to be re-elected by the Limited Partners. The Managing General Partner may be removed either (1) for cause by a majority of the Independent General Partners or (2) by failure to be re-elected by the Limited Partners. The Limited Partners have no right to control the Partnership's business, but may exercise certain rights and powers of a Limited Partner under the Partnership Agreement, including voting rights, and the giving of consents and approvals provided for in the Partnership Agreement. Applicants state that, if at any time the number of Independent General Partners is reduced to less than three, the remaining General Partners shall, within 60 days, designate one or more successor Independent General Partners so as to restore the number of Independent General Partners to at least three.

Although the Partnership is not obligated to obtain an errors and omissions insurance policy, the Individual General Partners periodically will review the question of the appropriateness of obtaining such insurance coverage for the Partnership.

Applicants state that the Independent General Partners are "interested persons" of the Partnership within the meaning of Section 2(a)(19) of the Act by virture of being partners of the Partnership, which makes them "affiliated persons" of the Partnership within the meaning of Section 2(a)(3) of the Act. Applicants state further that the Independent General Partners could be construed to be "interested persons" of an investment adviser and principal underwriter to the Partnership because the Independent General Partners are "affiliated persons" of the Managing General Partner by virtue of being "co-partners" in the Partnership with the Managing General Partner. The Managing General Partner could be construed to be an investment adviser of the Partnership and is the principal underwriter with respect to the sale of the Units. Applicants represent further that each person who becomes a Limited Partner will be a partner of the Partnership and a co-partner thereof with each other Limited Partner and with each Individual General Partner as well as the Managing General Partner. Therefore, each Limited Partner could be deemed to be an "affiliated person" of the Partnership as well as of each other Limited and General Partner merely by virtue of having purchased a Unit and becoming a Limited Partner.

Applicants request that the Partnership and its Independent General Partners be exempted from the provisions of Section 2(a)(19) of the Act to the extent the Independent General Partners would otherwise be deemed to be interested persons of the Partnership or the Managing General Partner solely because such Independent General Partners are general partners of the Partnership and co-partners thereof with the Managing General Partner. Applicants further request that any Limited Partner not be deemed an "affiliated person" of the Partnership, any other Limited Partner, any of the Individual General Partners or the Managing General Partner solely because such Limited Partner is a partner of the Partnership or that Limited Partner and any of such other persons are co-partners of the Partnership.

Applicants assert that the Partnership has been structured so that the Independent General Partners are the functional equivalents of the noninterested directors of an incorporated investment company. Applicants state that Section 2(a)(19) of the Act excludes from the definition of interested persons of an investment company those individuals who would be interested persons solely because they are directors of an investment company. Applicants state that there is no equivalent exception for partners or co-partners of an investment company. It is submitted that it is consistent with the purposes fairly intended by the policy and provisions of the Act to grant the requested exemption from the provisions of Section 2(a)(19) of the Act.

Applicants state that persons investing in a corporate entity as mere shareholders would have substantially the same rights which are accorded to Limited Partners, but would not be

"affiliated persons" unless they held five percent or more of the corporation's outstanding voting securities. Applicants assert that the question of affiliation and the accompanying prohibitions should not turn on the mere form of organization of the investment vehicle. It is stated that the requested exemption from the provisions of Section 2(a)(3) of the Act will place investments in the Partnership on a footing more equal with investments in companies organized as corporations and that the requested exemption is consistent with the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person wishing to request a hearing on the applications may, not later than February 13, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the applications will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-1853 Filed 1-23-84; 8:45 am]

BILLING CODE 8010-01-M

Forms Under Review by Office of Management and Budget

Agency Clearance Officer—Kenneth A. Fogash—(202) 272-2142.

Upon written request, copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, D.C. 20549.

Revised

Form N-1R
No. 270-283

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission has submitted for clearance a proposed amendment to form N-1R, the annual report for management investment companies. This action is being taken in connection with proposed amendments to rule 12d-1 under the Investment Company Act of 1940, which would permit registered investment companies to acquire securities of issuers that derive 15% or less of their gross revenues from securities related activities (that is, the business of a broker, dealer, investment adviser or underwriter) without restrictions. The proposed amendments to rule 12d-1 would also permit investment companies, for the first time, to acquire securities of issuers that derive more than 15% of their gross revenues from securities related activities, provided certain conditions are met. The proposed amendment to form N-1R would require identification of any broker, dealer or underwriter whose securities the company has acquired that regularly sells or distributes the company's shares or executes its portfolio transactions.

Submit comments to OMB Desk Officer: Katie Lewin (202) 395-7231, Office of Information and Regulatory Affairs, New Executive Office Building, Room 3235, Washington, D.C. 20503.

Dated: January 17, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-1937 Filed 1-23-84; 8:45 am]

BILLING CODE 8010-01-M

Agency Forms Under Review by Office of Management and Budget

Agency Clearance Officer—Kenneth Fogash (202) 272-2142.

Upon written request, copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, D.C. 20549.

Extension

Rule 31a-1 [17 CFR 270.31a-1]
SEC File No. 270-173

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of approval rule 31a-1 under the Investment Company Act of 1940 which concerns the records required to be maintained and preserved by registered investment companies.

The potential respondents are all investment companies registered under the Investment Company Act of 1940, certain majority-owned subsidiaries thereof, and banks and transfer agents that maintain and preserve records on behalf of registered investment companies.

Submit comments to OMB Desk Officer: Katie Lewin 202-395-7231.

Dated: January 17, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-1928 Filed 1-23-84; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-12903]

American Southwest Financial Corp.; Application and Opportunity for Hearing

January 18, 1984.

Notice is hereby given that American Southwest Financial Corporation (the "Applicant") has filed an application pursuant to clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939, as amended, (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that trusteeship of The Valley National Bank of Arizona ("Valley") under indentures dated as of December 1, 1982, April 1, 1983, July 1, 1983 and October 27, 1983 (the "Qualified Indentures"), between the Applicant and Valley which were heretofore qualified under the Act, and trusteeship by Valley under an indenture tentatively to be dated as of January 1, 1984, and which will be qualified under the Act (the "New Indenture"), is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Valley from acting as trustee under any of these indentures and the New Indenture.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of this section provides, with certain exceptions stated therein, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture of the same obligor.

However, pursuant to clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture or indentures under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving on application to the Commission, and after opportunity for hearing thereon, that the trusteeships under the qualified indentures and such other indentures are not so likely to involve a material conflict of interest to make it necessary

in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under any such indentures.

The Applicant alleges that:

(1) Pursuant to the Qualified Indentures, the Applicant has issued $50,475,000 aggregate principal amount of its 12–7/8% GNMA-Collateralized Bonds, Series A (the "Series A Bonds"), $35,280,000 aggregate principal amount of its 12–1/4% GNMA-Collateralized Bonds, Series B (the "Series B bonds"), $35,598,000 aggregate principal amount of its GNMA-Collateralized Bonds, Series 1–10 inclusive (the "Series 1–10 Bonds"), and $143,863,000 in aggregate principal amount of its GNMA-Collateralized Bonds, Series C (the "Series C Bonds"), for which Valley serves as trustee. The Series A Bonds, Series B Bonds, Series 1–10 Bonds and the Series C Bonds were issued pursuant to separate indentures or indenture supplements, were registered under the Securities Act of 1933, and the Qualified Indentures were qualified under the Act.

(2) Pursuant to the New Indenture, the Applicant proposes to issue and sell an as yet undetermined aggregate principal amount of its GNMA-Collateralized Bonds (the "New Bonds") for which it contemplates Valley will serve as trustee. The Applicant contemplates that the New Bonds will be registered under the Securities Act of 1933 and that the New Indenture will be qualified under the Act.

(3) Each series of Bonds is secured by the pledge by the Applicant to Valley of collateral which serves as security only for that series. Each series is payable solely from the collateral pledged to secure the bonds of that series, and the holders of any Bonds issued by the Applicant will not have recourse to the collateral granted to Valley as trustee for any other series of bonds. Any default under an indenture for any series of Bonds will not cause a default under an indenture for any other series of bonds.

(4) The Applicant is not in default under any of the Qualified Indentures.

(5) Such differences as exist between the Qualified Indentures and the New Indenture are not likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Valley from acting as trustee under any of the Indentures.

The Applicant has waived notice of hearing, hearing and any and all rights to specify procedures under the Rules of Practice of the Securities and Exchange Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the offices of the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested persons may, not later than February 13, 1984 request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–1935 Filed 1–23–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 20572; SR–Amex–83–31]

American Stock Exchange, Inc.; Order Approving Proposed Rule Change

January 17, 1984.

The American Stock Exchange, Inc. ("Amex"), 86 Trinity Place, New York, NY 10006, submitted on November 21, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder concerning its Post Execution Reporting ("PER") system and AUTOPER. In May 1983, The Exchange began the AUTOPER pilot program which enables participating specialists in selected issues to enter execution data into the PER system by using touch-screen terminals. The pilot program, having a total of 12 screens, has to date been limited to 300 share market orders.

Under AUTOPER, eligible orders are automatically routed to the specialist for display on the touch-screen. The specialist has the option of executing the trade as principal or agent using the touch-screen, or removing the order from the terminal and executing via standard card imput. The specialist may also "stop" the order using the touch-screen. When a "stopped" order is executed the report is entered by card. The purpose of the system is to enable equity specialists to execute and report small routine orders by using touch-screen terminals.

The AMEX states that it now proposes to establish the AUTOPER pilot as a permanent floor-wide enhancement of the PER system. Thus AUTOPER would be expanded from its current 12 screens up to approximately 100 screens (one for each equity specialist). The current limitation to 300 share market orders would remain unchanged, but the system would be expanded to include marketable limit orders up to 500 shares (the present PER parameters). A marketable limit order would initially be considered to be one for which the limit price is equal or better than the last sale price.

The Amex states that the use of AUTOPER on a floor-wide basis will provide more efficient and accurate execution and reporting of small routine orders, thereby addressing the need to improve PER processing and turnaround time. According to the Amex, its experience during the pilot program has indicated that AUTOPER has the potential to eliminate nearly all price errors and significantly reduce other errors in the relevant transactions and reports.

Notice of the proposed rule change, together with the terms of substance of the proposed rule change, was given by the issuance of a Commission Release (Securities Exchange Act Release No. 20426, November 30, 1983) and by publication in the **Federal Register** (48 FR 55061, December 8, 1983). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–1934 Filed 1–23–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 20573; SR-BSE-83-12]

Boston Stock Exchange, Inc., Order Approving Proposed Rule Change

January 17, 1984.

The Boston Stock Exchange, Inc. ("BSE") One Boston Place, Boston, Massachusetts 02108, submitted on October 6, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder, to amend Chapter II, subsection 15 of its rules relating to the confirmation of good-'til-cancelled ("G.T.C.") orders. The amendment provides that confirmation periods will be determined by the Exchange, in lieu of the current requirement of semi-annual confirmation periods in April and October. Under the rule the specialist has the responsibility of notifying the broker, in writing, of all G.T.C. orders held by him prior to the expiration of the confirmation period. Formerly, the rule stated that G.T.C. orders automatically are cancelled if unconfirmed. The proposed rule will provide that G.T.C. orders which are not confirmed or renewed are retained on the specialist's book, and, if executed according to their terms by the specialist, must be accepted by the entering firm. In addition, the proposed rule will allow any firm, at its discretion, to request and receive confirmation once a month, notwithstanding the confirmation periods prescribed by the Exchange.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 20435, December 2, 1983) and by publication in the **Federal Register** (48 FR 55364, December 12, 1983). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–1929 Filed 1–23–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 20571; SR-BSE-83-11]

Boston Stock Exchange, Inc.; Order Approving Proposed Rule Change

January 17, 1984.

The Boston Stock Exchange, Inc. ("BSE") One Boston Place, Boston, MA 02108, submitted on September 1, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder. The proposed rule change would amend Chapter XXII, Sections 2(b) and 2(c) of the BSE rules to do the following: (i) amend minimum net capital requirements for BSE dealer-specialists and provide that, if the dealer-specialist does not meet such requirements for five consecutive business days, such member or member organization shall be restricted from expanding his or its business and shall take such other measures as the Exchange deems necessary; (ii) increase the minimum liquidating equity required by each BSE dealer-specialist from $50,000 to $80,000 effective January 1, 1984; (iii) establish an "Early Warning Alert" notice by the BSE to alert a specialist if its equity drops below $80,000; (iv) require that if a dealer-specialist's equity drops below $70,000, such dealer-specialist must notify the Exchange of steps being taken to supply itself with additional capital, such specialist to be given five business days to increase its equity to the minimum level of $80,000; (v) require that if a dealer-specialist cannot increase its equity to the $80,000 minimum within the five business days allotted or if a specialist's equity drops below $65,000, such specialist's securities shall be assigned to another specialist for not more than 20 days, after which time they will be subject to reallocation to another dealer-specialist; (vi) provide that each "Alternate A specialist" must maintain at all times a liquidating equity of not less than $25,000 in cash or securities, and each "Alternate B specialist" must maintain a liquidating equity of not less than $15,000; and (vii) provide that a dealer-specialist may register as both an Alternate A or Alternate B specialist, in which case the minimum equity requirement shall be $25,000 more than the minimum equity required for its primary account.

Notice of the proposed rule change, together with the terms of substance of the proposed rule change, was given by the issuance of a Commission Release (Securities Exchange Act Release No. 20412, November 23, 1983) and by publication in the **Federal Register** (48 FR 55363, December 12, 1983). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–1930 Filed 1–23–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 20546A; SR-CBOE-83-37]

Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change

January 17, 1984.

The Chicago Board Options Exchange, Incorporated ("CBOE") LaSalle at Jackson, Chicago, IL 60604, submitted on November 7, 1983, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to permit CBOE to delist particular options series having no open interest while continuing to list other series of the same class that do have open interest.

Notice of the proposed rule change, together with the terms of substance of the proposed rule change, was given by the issuance of a Commission Release (Securities Exchange Act Release No. 20436, December 2, 1983) and by publication in the **Federal Register** (48 FR 55366, December 12, 1983). No comment letters were received with respect to the proposed rule filing.

The Commission found in Securities Exchange Act Release No. 20546 (January 10, 1984) that the proposed rule change was consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6, and the rules and regulations thereunder. Due to an administrative error, however, that release was approved one day prior to the elapse of the 30 day period provided by Section 19(b)(2) of the Act for consideration of rule change proposals such as the present proposal. The Commission is

therefore re-approving CBOE's proposal today, for the same reasons as appeared in Release No. 20546.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-1933 Filed 1-23-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-20574; File No. SR-MSTC-83-20]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Securities Trust Co.; Relating to MSTC's Price Revision Schedule

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 30, 1983 the Midwest securities Trust Company filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Attached to the filing as Exhibit A is MSTC's Price Revision Schedule.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed price modifications, effective with service beginning January 3, 1984, reflect cost savings realized through increased activity in 1983. This increased activity has enabled MSTC to retain sufficient earnings that permit it to maintain service levels and developmental programs. Excess revenues beyond those needed to meet retained earnings objectives, based on results through December 1983, are projected to be refunded to Participants in 1984.

However, MSTC, consistent with its policy that services' fees fairly cover their associated costs, has increased fees for certain services. These fee changes arise from increased costs for certain monthly fixed services and for several labor intensive functions, and reflect more accurately the expense of providing such services. MSTC's fees also cover expenses associated with new programs implemented to insure enhanced cost-effectiveness for all Participants.

The proposed fee schedule is consistent with Section 17A of the Securities Exchange Act of 1934 in that the fee schedule will help remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions. In addition, the price changes provide for the equitable allocation of reasonable dues, fees and other charges among MSTC's Participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The proposed change in fees will have an impact on competition, but such impact will not impose any burdens on competition, but rather, will relieve a burden on or otherwise promote competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments have been solicited, but none were received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 17, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-1936 Filed 1-23-84; 8:45 am]

BILLING CODE 8010-01-M

Philadelphia Stock Exchange, Inc.; Applications for Unlisting Trading Privileges and of Opportunity for Hearing

January 17, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Murphy Oil Corporation (Holding Co.)
Common Stock, $1 Par Value (File No. 7-7327)
Diamond Shamrock Corporation (Holding Co.)
Common Stock, $1 Par Value (File No. 7-7328)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 7, 1984 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-1931 Filed 1-23-84; 8:45 am]

BILLING CODE 8010-01-M

Cincinnati Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

January 17, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Aegis Corp.
Common Stock, $.01 Par Value (File No. 7-7308)
Amfac, Inc.
Common Stock, No Par Value (File No. 7-7309)
Beefsteak Charlies Inc.
Common Stock, $.10 Par Value (File No. 7-7310)
Big V Supermarkets, Inc.
Common Stock, $.10 Par Value (File No 7-7311)
Core Laboratories, Inc.
Common Stock, $1 Par Value (File No. 7-7312)
Dale Electronics, Inc.
Common Stock, $.10 Par Value (File No. 7-7313)
Gates Learjet Corporation
Common Stock, $1 Par Value (File No. 7-7315)
Knoll International, Inc.
Class A Common Stock, $.10 Par Value (File No. 7-7316)
Petro-Lewis Corporation
Warrants (File No. 7-7317)
Resorts International, Inc.
Warrants (File No. 7-7318)
Rykoff & Co. (S.E.)
Common Stock, $.10 Par Value (File No. 7-7319)
Seiscom Delta Inc.
Common Stock, $.10 Par Value (File No. 7-7320)
Topps Chewing Gum, Incorporated
Common Stock, $.10 Par Value (File No. 7-7321)
AM International, Inc.
Common Stock, $2.50 Par Value (File No. 7-7322)
Canada Southern Petroleum
Capital Stock, $1 Par Value (File No. 7-7323)
Lionel Corp.
Common Stock, $.10 Par Value (File No. 7-7325)
Wickes Companies
Common Stock, $2.50 Par Value (File No. 7-7326)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 7, 1984 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmoms.

Secretary.

[FR Doc. 84-1932 Filed 1-23-84; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Greater Pittsburgh International Airport—FAA Acceptance of Noise Exposure Map; Receipt of Noise Compatibility Program and Request for Review Under 14 CFR Part 150

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its acceptance of noise exposure maps submitted by Greater Pittsburgh International Airport (PIT) under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR Part 150. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for PIT under Part 150 in conjunction with the noise exposure map, and that this program will be approved or disapproved on or before February 26, 1984.

EFFECTIVE DATE: The effective date of the FAA's acceptance of the PIT noise exposure maps and of the start of its review of the associated noise compatibility program is August 30, 1983.

Comments close: Thirty days from the date of this notice.

FOR FURTHER INFORMATION CONTACT: Louis P. DeRose, Airport Planning Officer, AEA-610, Federal Aviation Administration, Eastern Region, Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430, (212) 917-1245. Comments on the proposed noise compatibility program should also be submitted to that office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has accepted the noise exposure maps for Greater Pittsburgh International Airport, effective August 30, 1983, and is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before February 26, 1984. This notice also announces the availability of this program for public review and comment.

Under Section 103 of Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA a noise exposure map which meets applicable regulations and which depicts noncompatible land uses as of the date of submission of such map, a description of projected aircraft operations, and the ways in which such operations will affect such map. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies and persons using the airport.

An airport operator who has submitted a noise exposure map that is accepted by FAA as meeting Federal Aviation Regulation Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken to proposes for the reduction of

existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

Greater Pittsburgh International Airport submitted to the FAA on April 22, 1983, noise exposure maps, descriptions and other documentation which were produced during an airport noise control and land use compatibility (ANCLUC) study conducted at PIT from April 1979, to September 1981. It was requested that the FAA accept this material as a noise exposure map as described in Section 103(a) (1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport surrounding communities, be approved as a noise compatibility program under Section 104(b) of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by Greater Pittsburgh International Airport. The specific maps under consideration are depicted in Exhibits III–7 and III–8 in the Final Technical Report, the final report of the ANCLUC study. The FAA has accepted these materials as the noise exposure maps for Greater Pittsburgh International Airport, effective on August 30, 1983.

FAA's acceptance of an airport operator's noise exposure map is limited to the determination that the map was develped in accordance with the procedures contained in Appendix A of FAR Part 150. Such acceptance does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

Questions may arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under Section 103 of the Act. It should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure map to resolve questions concerning, for example, which properties should be covered by the provisions of Section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's acceptance of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under Section 103 of the Act. The FAA has relied on the certification by the airport operator, under Section 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

Upon acceptance of the noise exposure maps, the FAA has formally received the noise compatibility program for PIT, also effective on August 30, 1983. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before February 26, 1984.

The proposed program, however, includes recommended measures relating to flight procedures for noise control purposes, the review of which is not subject to the 180-day review procedures. The FAA's detailed evaluation will be conducted under the provisions of 14 CFR Part 150, Section 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the accepted noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, National Headquarters, 800 Independence Avenue, SW., Rm. 615, Washington, D.C.

Federal Aviation Administration, Eastern Regional Office, Fitzgerald Federal Building, J. F. Kennedy International Airport, Jamaica, NY 11430

Federal Aviation Administration, Airports District Office, Terminal Building, Capital City Airport, New Cumberland, PA 17070

Greater Pittsburgh International Airport, Allegheny County Department of Aviation, Rm. 134M, Terminal Building, Pittsburgh, PA 15231

Questions may be directed to the individual named above under the heading, "For Further Information Contact."

Issued in Jamaica, New York on November 15, 1983.

Brian J. Vincent,

Manager, Airport Division, Eastern Region.

[FR Doc. 84–1964 Filed 1–23–84; 8:45 am]

BILLING CODE 4910–13–M

National Highway Traffic Safety Administration

Rulemaking, Research and Enforcement Programs; Public Meetings

The National Highway Traffic Safety Administration (NHTSA) will hold a meeting on April 4, 1984, to answer questions from the public and industry regarding the Agency's rulemaking, research and enforcement programs. The meeting will begin at 10:30 a.m., run until 1:00 p.m., and reconvene at 2:00 p.m. if necessary. It will be held in the Conference Room of the Environmental Protection Agency's Laboratory Facility, 2565 Plymouth Road, Ann Arbor, Michigan.

At the April meeting, representatives of DOT will answer questions received from the industry and the public relating to NHTSA's rulemaking, research and enforcement programs (including defects). The purpose of this is to focus on those phases of these NHTSA activities which are technical, interpretative or procedural in nature. (Questions regarding the Agency's fuel economy program will continue to be addressed at the EPA's meetings on vehicle emissions).

Questions for the April meeting should be submitted in writing by March 9 to Barry Felrice, Acting Associate Administrator for Rulemaking, Room 5401, 400 Seventh Street, S.W., Washington, D.C. 20590. If sufficient time is available, questions received after the March 9 date may be answered at the meeting. The individual, group, or company submitting a question does not have to be present for the question to be answered. A consolidated list of the questions submitted by March 9 and the issues to be discussed will be mailed to interested persons on or before March 30, 1984, and will be available at the meeting. This list will serve as the agenda.

A transcript of the meeting will be available for public inspection in the NHTSA Technical Reference Section in Washington, D.C., within four weeks after the meeting. Copies of the

transcript will then be available at twenty-five cents for the first page and five cents for each additional page (length has varied from 100 to 150 pages) upon request to NHTSA, Technical Reference Section, Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590.

Issued in Washington, D.C. on January 19, 1984.

Barry Felrice,

Acting Associate Administrator for Rulemaking.

[FR Doc. 84-1956 Filed 1-23-84; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Public Information Collection Requirements Submitted to OM for Review

Dated: January 17, 1984.

On January 17, 1984, the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 535-6020. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7227, 1201 Constitution Avenue, N.W., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545-0043.
Form Number: 972.
Type of Review: Revision.
Title: Consent of Shareholder to Include Specific Amount in Gross Income.

Alcohol, Tobacco and Firearms

OMB Number: 1512-0253.
Form Number: ATF Rec 5110/16.
Type of Review: Reinstatement.
Title: DSP Storage Record—Additions of Oak Chips and Caramel.
OMB Reviewer: Norman Frumkin (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Office of the Secretary

OMB Number: 1505-.
Form Number: TFR 619.
Type of Review: Existing.
Title: Census of Properties of Persons Served as Defendants in Litigation Brough by Iran Seeking Return of Property Alleged to Belong to Iran.

US Customs Service

OMB Number: 1515-0062.
Form Number: CF 1301.
Type of Review: Extension.
Title: General Declaration

OMB Number: 1515-0020.
Form Number: CF 7539.
Type of Review: Revision.
Title: Drawback Entry Covering Rejected Merchandise and Same Condition Merchandise.

OMB Number: 1515-0001.
Form Number: CF 4609.
Type of Review: Extension.
Title: Air Cargo Manifest.

OMB Number: 1515-0002.
Form Number: CF 7507.
Type of Review: Extension.
Title: General Declaration (Outword/Inward).

OMB Reviewer: Judy McIntosh (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Cathy Thomas,

Departmental Reports Management Office.

[FR Doc. 84-1867 Filed 1-23-84; 8:45 am]

BILLING CODE 4810-25-M

[Dept. Circular, Public Debt Series—No. 1-84]

Treasury Notes of January 31, 1986; Series Q-1986

January 19, 1984.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $8,250,000,000 of United States securities, designated Treasury Notes of January 31, 1986, Series Q-1986 (CUSIP No. 912827 QK 1). The securities will be sold at auction, with bidding on the basis of yield. Payments will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1 The securities will be dated January 31, 1984, and will bear interest from that date, payable on a semiannual basis on July 31, 1984, and each subsequent 6 months on January 31 and July 31 until the principal becomes payable. They will mature January 31, 1986, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2 The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in demoninations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not be permitted.

2.5 The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:30 p.m., Eastern Standard time, Wednesday, January 25, 1984. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, January 24, 1984, and received no later than Tuesday, January 31, 1984.

3.2. The face amount of securities bid for must be stated on each tender. The minimum bid is $5,000, and larger bids

must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "competitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. A noncompetitive bidder may not have entered into an agreement, or make an agreement with respect to the purchase or sale or other disposition of any noncompetitive awards of this issue in this auction prior to the designated closing time for receipt of tenders.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4, must be made or competed on or before Tuesday, January 31, 1984. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Friday, January 27, 1984. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the fact amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20239. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Carole Jones Dineen,

Fiscal Assistant Secretary.

[FR Doc. 84-1906 Filed 1-20-84; 2:19 pm]

BILLING CODE 4810-40-M

Comptroller of the Currency

[Docket No. 84-2]

Performance Review Board

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Notice of Change in Membership of a Senior Executive Service Performance Review Board.

SUMMARY: This notice announces the new membership of the OCC Performance Review Board (PRB), pursuant to 5 U.S.C. 4314(c)(4).

DATE: January 24, 1984.

FOR FURTHER INFORMATION CONTACT: Gary W. Norton, Director for Human Resources, Office of the Comptroller of the Currency, 490 L'Enfant Plaza, SW, Washington, D.C. 20219.

SUPPLEMENTARY INFORMATION: The membership of the OCC PRB which appeared in the **Federal Register**, Volume 46, No. 249, page 62994, Tuesday, December 29, 1981, has been changed. The current membership is as follows:

Michael A. Mancusi, Chairperson, Senior Deputy Comptroller for National Operations
H. Joe Selby, Senior Deputy Comptroller for Bank Supervision
Doyle L. Arnold, Senior Deputy Comptroller for Policy and Planning
Brian W. Smith, Chief Counsel
Martha B. Stephens, Executive Secretary, Deputy Comptroller for Management Resources.

C. T. Conover,

Comptroller of the Currency.

[FR Doc. 84-1955 Filed 1-23-84; 8:45 am]

BILLING CODE 4810-33-M

Fiscal Service

[Dept. Circ. 570, 1983 Rev., Supp. No. 13]

Surety Companies Application and Renewal Fees; Change in Fees Imposed

The Department of the Treasury will be decreasing the fees imposed and collected as referred to in 31 CFR 223.22, relating to services performed for and special benefits conferred upon surety companies. The new fees are effective December 31, 1983 and are determined in accordance with the Office of Management and Budget Circular A-25, as amended. The new fees are as follows:

(1) Examination of a company's application for a certificate of authority as an acceptable surety on Federal bonds or for a certification of authority as an acceptable reinsuring company on such bonds—$1,000.

(2) Determination of a company's continuing qualifications for annual renewal of its certificate of authority—$650.

The fees relating to recognition as and renewal for admitted reinsurer status will remain unchanged at this time.

Questions concerning this notice should be directed to the Operations Staff, Banking and Cash Management, Department of the Treasury, Washington, D.C. 20226 or by phoning (202) 634-5745.

Dated: January 17, 1984.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 84-1850 Filed 1-23-84; 8:45 am]

BILLING CODE 4810-35-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and the Delegation of Authority from the Director, USIA (47 FR 57600, December 27, 1982), I hereby determine that the objects in the exhibit, "Silk Roads: Chian Ships", (included in the list [1] filed as a part of this determination) imported from abroad for the termporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to a loan agreement between the American Museum of Natural History and foreign lenders. I also determine that the termporary exhibition or display of the listed exhibits objects at the American Museum of Natural Hisory, beginning on or about January 25, 1984, to on or about May 30 1984, is in the national interest. Public notice of this determination is ordered to be published in the **Federal Register**.

Dated: January 20, 1984.

Thomas E. Harvey,

General Counsel and Congressional Liaison.

[FR Doc. 84-2063 Filed 1-23-84; 8:45 am]

BILLING CODE 8230-01-M

[1] An itemized list of objects included in the exhibit is filed as part of the original document.

Sunshine Act Meetings

Federal Register
Vol. 49, No. 16
Tuesday, January 24, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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	Items
Federal Election Commission	1
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1

FEDERAL ELECTION COMMISSION

FEDERAL REGISTER NO. 84-1674

PREVIOUSLY ANNOUNCED DATE & TIME: Thursday, January 26, 1984, 10:00 A.M.

The following items have been carried over from the meeting of January 19: Application of Lyndon H. Larouche, Jr. for commission determination of eligibility to receive Presidential primary matching funds. Draft Advisory Opinion #1983-43, Frank M. Northam on behalf of U.S. Defense Committee & Patrick Reilly.

Request for Reagan for President Committee for stay of Commission's Final Repayment Determination Pending Appeal.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone 202-523-4065

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 84-1981 Filed 1-20-84; 12:38 pm]

BILLING CODE 6715-01-M

2

FEDERAL ENERGY REGULATORY COMMISSION

January 13, 1984.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. 94-409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

TIMES AND DATES: January 25, 1984, 10 a.m.

PLACE: 825 North Capitol Street NE., Room 9306, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357-8400.

This is a list of matters to be considered by the Commission, it does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the division of public information.

Consent Power Agenda 784th Meeting—January 25, 1984, Regular Meeting (10 a.m.)

CAP-1. Project No. 7684-000, James and Irene Leishman
CAP-2. Project Nos. 7038-001, 6216-999, et al., Great Northern Hydro Company
CAP-3. Project No. 6650-001, Pioneer Hydropower, Inc.
CAP-4. Omitted
CAP-5. Project No. 6954-001, Hydro Power Development, Inc.
CAP-6. Project No. 4839-001, City of Rohnert Park, California
CAP-7. Project No. 7030-001, Dryden Hydro Associates
CAP-8. Project Nos. 6827-003 and 004, Jackson Falls Hydroelectric Power Company
CAP-9. Project Nos. 3417-002 and 004, Southeastern Renewable Resources, Inc. and the Town of Grafton, West Virginia, Project No. 3476-001, Noah Corporation, Project No. 4067-001, City of Bedford, et al., Project No. 4239-001, City of Philippi, West Virginia, Project No. 4255-001, Taylor County Commission and The Town of Flemington, West Virginia
CAP-10. Project No. 7570-003, Calaveras Public Utility District
CAP-11. Project No. 3428-000, Worumbo Hydro Incorporated, Project No. 4784-000, Androscoggin Water Power Company
CAP-12. Project No. 5227-001, Robert Raymond Tift
CAP-13. Project No. P-2750-000, Town of Springfield, Vermont and Vermont Public Power Supply Authority
CAP-14. Project No. 82-002, Alabama Power Company
CAP-15. Docket No. QF83-440-000, Abbott Energy, Inc.
CAP-16. Docket No. ER83-765-001, Carolina Power & Light Company
CAP-17. Docket No. ER79-150-010, Southern California Edison Company
CAP-18. Docket Nos. ER79-182-007 and ER80-108-004, Commonwealth Edison Company
CAP-19. Docket No. ER82-318-003, Philadelphia Electric Power Company, the Susquehanna Electric Company and the Susquehanna Power Company
CAP-20. Docket No. ER79-126-007, Arizona Public Service Company
CAP-21. Docket No. ER83-433-000, Rochester Gas and Electric Corporation
CAP-22. Docket Nos. ER83-622-000, ER83-622-001 and ER83-622-002, Western Massachusetts Electric Company
CAP-23. Docket No. ER83-194-000, Mississippi Power Company
CAP-24. Docket No. EL83-14-000, Northeast Utilities Service Company
CAP-25. Docket No. EL84-4-000, Westchester Resco Company

Consent Miscellaneous Agenda

CAM-1. Docket Nos. RM83-62-001 and 002, Treatment of purchased power in the fuel cost adjustment clause for electric utilities
CAM-2. Docket Nos. RM83-9-000 and 001, Exemption from, and revisions to, procedures governing collection and reporting of information concerning cost of providing retail electric service
CAM-3. Docket No. RM79-76-219, (Colorado—1 Amendment II), High-cost gas produced from tight formations
CAM-4. Docket No. RM79-76-202, (Texas—37), High-cost gas produced from tight formations
CAM-5. Docket No. RM79-76-162, (Texas—31), High-cost gas produced from tight formations
CAM-6. Docket No. GP80-15-002, Michigan Wisconsin Pipe Line Company
CAM-7. Docket No. GP84-3-000, Bureau of Land Management, Section 102 determination, Nortex Gas and Oil Company, Nortex-Hart Federal No. 1-25X well, FERC No. JD83-55445

Consent Gas Agenda

CAG-1. Docket No. TA84-1-14-000 (PGA84-1), Lawrenceburg Gas Transmission Corporation
CAG-2. Docket No. TA84-1-15-000 (PGA84-1), Mid Louisiana Gas Company
CAG-3. Docket No. TA84-1-16-000 (PGA84-1), National Fuel Gas Supply Corporation
CAG-4. Docket No. TA84-1-17-001 (PGA84-1), Texas Eastern Transmission Corporation
CAG-5. Docket No. TA84-1-18-003 (PGA84-1), Texas Gas Transmission Corporation
CAG-6. Docket No. TA84-1-31-003 (PGA84-2), Arkansas Louisiana Gas Company
CAG-7. Docket No. TA84-1-61-001 (PGA84-1), West Lake Arthur Corporation
CAG-8. Docket Nos. RP83-6-000 and RP82-33-000, El Paso Natural Gas Company
CAG-9. Docket Nos. RP83-35-011, (RP81-109, RP82-37, RP78-87 and RP74-41-016), Texas Eastern Transmission Corporation
CAG-10. Docket Nos. TA84-1-37-000 and TA84-1-37-002 (PGA84-1) (IPR4-1), Northwest Pipeline Corporation
CAG-11. Docket No. RP84-39-000, Pacific Gas Transmission Company
CAG-12. Docket No. CP83-416-000, Montana-Dakota Utilities Company

CAG–13. Docket Nos. RP82–57–012 and RP83–52–006, United Gas Pipe Line Company
CAG–14. Docket Nos. RP77–62, RP80–97, RP81–54, RP81–56, RP82–10, RP82–12, RP82–121, RP82–125, RP83–47, RP84–3, TA82–1–9, TA82–2–9, TA83–1–9 and TA83–2–9, Tennessee Gas Pipeline Company, a Division of Tenneco, Inc.
CAG–15. Docket No. ST83–659–000, Harry C. Boggs Natural Gas Company
CAG–16. Docket Nos. ST81–289–001, ST81–464–001, ST81–466–001, ST81–290–001, CP83–295–000, ST82–443–000 and ST82–445–000, Seagull Energy Corporation
CAG–17. Docket Nos. RI74–188–020 and RI75–21–015, Independent Oil & Gas Association of West Virginia
CAG–18. Docket No. RI83–8–009, Mobil Oil Corporation and Northern Natural Gas Producing Company
CAG–19. Docket No. G–7004–023, Pennzoil Company
CAG–20. Docket Nos. CI81–178–007 and CI83–350–002, Exxon Corporation
CAG–21. Docket No. CI84–31–001, Samedan Oil Corporation
CAG–22. Docket Nos. CP83–438–001 and CP83–438–002, East Tennessee Natural Gas Company
CAG–23. Docket No. CP66–269–001, et al., Tennessee Gas Pipeline Company, a Division of Tenneco Inc. Docket Nos. CI67–1810–001 and CI77–347–001, the Louisiana Land and Exploration Company
CAG–24. Docket No. CP80–541–001, Texas Gas Transmission Corporation. Docket No. CP81–6–001, Texas Gas Transmission Corporation
CAG–25. Docket Nos. CP84–35–000, CP84–43–000 and CP84–48–000, National Fuel Gas Supply Corporation
CAG–26. Docket No. CP81–107–000, et al., Boundary Gas, Inc. Docket No. CP84–14–000, Couch Gas Storage Company
CAG–27. Docket No. CP83–411–000, Equitable Gas Company
CAG–28. Docket No. CP83–394–000, Montana-Dakota Utilities Company

Power Agenda

I. Licensed Project Matters
P–1. Project Nos. 4024–001, 002, 6439–001 and 002, Gregory Wilcox Project Nos. 6423–001, 002, 6424–001, 002, 6425–001, 002, 6426–001, 002, 6427–001, 002, 6428–001 and 002, Uncompahgre Valley Water Users Association and Montrose Partners
P–2. Project No. 2971–000, Allegheny Electric Cooperative, Inc. Project No. 2988–000, Ohio Edison Company, Project No. 3219–000, Duquesne Light Company, Project No. 3490–002, Potter Township, Pennsylvania
P–3. Project No. 4114–001, Long Lake Energy Corporation, Project No. 5614–000, New York State Electric and Gas Corporation and Georgia-Pacific Corporation
II. Electric Rate Matters
ER–1. Docket No. ER83–736–000, Pennsylvania-New Jersey-Maryland Interconnection and Philadelphia Electric Company
ER–2. Docket Nos. ER84–131–000 and ER83–628–000, Kansas Gas and Electric Company
ER–3. Docket No. ER84–146–000, Union Electric Company
ER–4. Docket No. ER84–117–000, Philadelphia Electric Company
ER–5. Docket No. ER84–74–000, Canal Electric Company
ER–6. Docket No. ER83–726–002, Boston Edison Company
ER–7. Docket Nos. ER81–450–000 and ER81–461–000 (Consolidated), Union Electric Company and Missouri Edison Company
ER–8. Docket No. E–9592–000, Roscoe E. Dean and William D. Lovin V. Georgia Power Company
ER–9. Docket Nos. EF–84–2011–002, EF–2011–003, EF84–2011–004, EF–84–2011–005, EF84–2021–002, EF84–2021–003, EF84–2021–004 and EF84–2021–005, U.S. Department of Energy—Bonneville Power Administration
ER–10. Docket Nos. EL80–7–003 and EL80–7–004, Southeastern Power Administration V. Kentucky Utilities Company
ER–11. Omitted

Miscellaneous Agenda

M–1. Docket No. 83–56–000, application for license, permit and exemption from licensinig for water power projects
M–2. Reserved
M–3. Reserved
M–4. Docket No. RM83–2–000, fees applicable to natural gas pipeline rate matters
M–5. Docket No. RM82–25–000, fees applicable to producer matters under the Natural Gas Act

Gas Agenda

I. Pipeline Rate Matters
RP–1. Docket No. TA84–1–53–003, 004 and 008, K N Energy, Inc.
RP–2. Docket No. RP84–17–001, Tennessee Gas Pipeline Company
RP–3. Docket Nos. RP84–15–003 and 003, MIGC, Inc., Docket Nos. RP84–7–001 and 002, Colorado Interstate Gas Company
RP–4. Docket Nos. RP84–11–001 and 003, Columbia Gas Transmission Corporation
RP–5. Docket Nos. RP83–139–001 and 002, El Paso Natural Gas Company
RP–6. Docket No. RP83–106–001, Transwestern Pipeline Company, Docket No. RP81–130–007, et al., Transwestern Pipeline Company, Docket No. RP83–113–001, Pacific Gas Transmission Company, Docket No. RP83–135–001, Pacific Interstate Transmission Company, Docket No. RP83–136–001, Pacific Offshore Production Company, Docket No. RP84–28–000, Pacific Interstate Offshore Company
RP–7. Docket Nos. RP77–62–023, RP80–97–031, 032, RP81–54–015, 016, 017, RP82–10–003 and RP82–12–004, Tennessee Gas Pipeline Corporation, A Division of Tenneco, Inc.
RP–8. Omitted
RP–9. Docket No. RP80–136–000, Southern Natural Gas Company
RP–10. Docket Nos. RP81–130–004, RP83–25–006, TA82–2–42–010 and TA83–1–42–002, Transwestern Pipeline Company
RP–11. Docket No. OR78–1–013 (Quality Bank), Trans Alaska Pipeline System
II. Producers Matters
CI–1. Docket No. G–3653–005, et al., Sun Exploration and Production Company, et al., Docket No. G–3711–002, et al., Breton Resources Company, et al., Docket Nos. CI83–337–000 and CI83–350–000, Exxon Corporation
III. Pipeline Certificate Matters
CP–1. Docket No. CP80–17–000, 001 and 002 (Phase I), Trans-Anadarko Pipeline System
CP–2. Docket Nos. CP81–107–006, 007, CP81–108–003, 004, CP81–296–004, 005, 006, 007, CP81–298–002, 003, CP82–470–002 and 003 (Phase I), Tennessee Gas Pipeline Company a Division of Tenneco, Inc., Docket No. CP83–403–000, Consolidated Gas Supply Corporation, Docket Nos. CP82–119–004, 005 and 006, Algonquin Gas Transmission Company, Docket Nos. CP82–446–002, 004 and 005, Texas Eastern Transmission Company
CP–3. Docket No. CP83–283–000, Northwest Pipeline Corporation
CP–4. Omitted

Kenneth F. Plumb,
Secretary.

[FR Doc. 84–1924 Filed 1–19–84; 4:16 pm]
BILLING CODE 6717–01–M

3

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Friday, January 27, 1984
PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551
STATUS: Closed
MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: January 20, 1984.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 84–1982 Filed 1–20–84; 12:40 pm]
BILLING CODE 6210–01–M

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federal register

Tuesday
January 24, 1984

Part II

Department of Transportation

Coast Guard

33 CFR Part 157

Segregated Ballast, Dedicated Clean Ballast and Crude Oil Washing on Tank Vessels of 20,000 DWT or More But Less Than 40,000 DWT Carrying Oil in Bulk; Proposed Rule

VOL 49 ISS 16 JA 24 1984 UMI

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 157

[CGD 82-28]

Segregated Ballast, Dedicated Clean Ballast and Crude Oil Washing on Tank Vessels of 20,000 DWT or More but Less Than 40,000 DWT Carrying Oil in Bulk

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to amend its Rules for the Protection of the Marine Environment Relating to Tank Vessels Carrying Oil in Bulk. This amendment is necessary to implement 46 U.S.C. 3705(c) and 3706(d), formerly Subsections (7) (E), and (H) of Section 5 of the Port and Tanker Safety Act of 1978 (the Act). The proposed rules are applicable to U.S. tankships, and to foreign tankships (other than those on innocent passage) entering the navigable waters of the United States or which call at a port or place subject to the jurisdiction of the United States. The rules are intended to reduce discharges of oil from existing tankships of 20,000 to 40,000 deadweight tons (DWT) by implementing the Act, which requires the installation of segregated ballast tanks, dedicated clean ballast tanks, or crude oil washing systems.

DATE: Comments must be received on or before May 14, 1984.

ADDRESSES: (1) Comments on this proposal or the combined preliminary regulatory evaluation and draft environmental assessment should be mailed to Commandant (G–CMC/44) (CGD 82–28), U.S. Coast Guard, Washington, DC 20593. The comments may be delivered to and will be available for inspection or copying at the Marine Safety Council (G–CMC/44), Room 4402, Coast Guard Headquarters Building, 2100 2nd Street, SW., Washington, DC, 20593. Normal office hours are between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday, except holidays. Copies of the combined draft environmental impact statement and preliminary regulatory evaluation may also be obtained by a written request to the preceding address. To speed processing, the Coast Guard asks that these requests not be included in the comments submitted regarding the proposed rulemaking.

(2) Comments on the information collection requirements contained in this proposal should be submitted to: Office of Regulatory Policy, Office of Management and Budget, 726 Jackson Place, NW, Washington, DC, 20503, ATTN: Desk Officer, U.S. Coast Guard.

FOR FURTHER INFORMATION CONTACT: LCDR Alan E. Spackman, Project Officer, at (202) 426–4431.

SUPPLEMENTARY INFORMATION: On March 18, 1982, the Coast Guard published notice in the **Federal Register** (47 FR 11724) of its intent to develop regulations to implement Subsections (7) (E) and (H) of Section 5 of the Port and Tanker Safety Act of 1978 (PTSA) (Pub. L. 95–474, as amended; 46 U.S.C. 391a) and of its intent to develop a draft environment impact statement (EIS) to support the issuance of a notice of proposed rulemaking for those regulations. On August 26, 1983, Pub. L. 98–89 was passed; this statute substantially recodified Title 46b of the U.S. Code, including 46 U.S.C. 391a. The referenced Subsections (7) (E) and (H) now appear at 46 U.S.C. 3705(c) and 3706(d).

To ensure that the full range of issues related to the EIS were addressed, the Coast Guard solicited comments relating to the notice and preparation for the draft EIS. Copies of the notice were mailed to the operators of those vessels which would be affected by the proposed action, to other Federal Agencies, coastal states, environmental groups, and to persons who had previously expressed interest in similar proposals. A total of 30 responses were received. A discussion of the comments received is presented in the following paragraphs.

Interested persons are invited to participate in this proposed rulemaking or in the preparation of the regulatory evaluation and environmental impact statement by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD 82–28), the specific section of the proposed regulations or supporting documents to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed envelope or postal card is enclosed. To the extent permitted by law, the proposal may be changed in light of the comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held at a time and place to be set in a later notice in the **Federal Register** if requested in writing by an interested person who can demonstrate that the opportunity to make an oral presentation will aid this rulemaking.

Drafting Information

The principal persons involved in the drafting of this rule are LCDR Alan E. Spackman, Project Manager, Office of Merchant Marine Safety and Mr. Stanley M. Colby, Project Attorney, Office of Chief Counsel.

Discussion of Comments

Because they are germane to the proposal, five documents that were received by the Coast Guard prior to the publication of the notice have been placed in the public comment file. Two of these documents, a statement from the Portuguese Government and a letter from the Embassy of India express concern over the unilateral nature of the requirements of subsections (7) (E) and (H) of Section 5 of the PTSA. Third document is comprised of a series of letters submitted by the Union of Greek Shipowners. This document protests the implementation of unilateral standards in excess of those agreed to by the International Maritime Organization (IMO, formerly IMCO). Further, the submittal by the Union of Greek Shipowners discusses the probable impact of the standards, technical feasibility and costs; the technical information persented does not differ substantially from that already available to the Coast Guard and presented in the preliminary regulatory evaluation and draft environmental impact statement (DEIS/RE). The fourth document presents the joint view of two major U. S. shipbuilding companies and three companies which own or operate U.S. flag tank vessels. The comments presented in this document fully support the legislated standards and urge rapid regulatory implementation. This document notes that the standards are but a part of a larger, more comprehensive action aimed at reducing oil pollution resulting from the marine transportation of oil. It further notes that the industry has had since 1978 to prepare for the implementation of the standards in 1986; a failure to implement the standards would adversely affect those companies that had acted in good faith in planning, contracting, and building new tank vessels in anticipation of the standards. The fifth document, a letter from a U.S. Senator, also urges rapid regulatory implementation.

Two letters, from companies or organizations associated with the towing industry, requested clarification of the proposal with respect to tank barges. The Coast Guard is proposing that the standards only be applicable to self-propelled vessels.

Comments submitted by the Oil Companies International Marine Forum, the International Chamber of Shipping, the Union of Greek Shipowners, the International Association of Independent Tanker Owners and an *Aide Memoire* submitted jointly by the Governments of Belgium, Denmark, Finland, France, the Federal Republic of Germany, Greece, Japan, the Netherlands, Norway, Sweden, and the United Kingdom express strong reservations about the unilateral nature of the standards, citing the considerable actions already undertaken by IMO to control oil pollution. The industry commenters further contend that the environmental impact of the standards would be minimal, the proposed action would not be cost effective, and (by limiting trading flexibility) the standards would impose additional operating and capital costs on tankships trading to U.S. ports.

Adverse comments were received from four (of the approximately thirty) companies which own or operate U.S. flag vessels which would be affected by the proposed rules. These commenters also expressed concern over the unilateral nature of the standards. Further, to support their opposition to the proposal they cite (in general terms) such factors as lost carrying capacity, high capital costs, reduction in serviceable life of existing tankships, expected small environmental benefit and adverse impacts on military transport capacity. One of these commenters, an operator of thirteen vessels, indicated a high probability that implementation of the standards would cause the company to quit the oil transport business. One commenter asked that particular attention be paid to the impact of the standards on U.S. vessels in foreign trade and on the U.S. refining industry. This commenter believes that the increased domestic transportation costs that will result from these standards will cause oil companies to import refined products rather than crude oil. While all of these are valid concerns, and most are addressed in the DEIS/RE, the only means of eliminating these areas of concern would be for the Congress to amend or revoke 46 U.S.C. 3705(c) and 3705(d). Without legislative relief, the Coast Guard must issue regulations implementing the mandated standards.

The Chemical Carriers Association (CCA) requested that special consideration be given to tankships carrying chemicals which would be affected by the proposed rules and referenced technical documents that they had previously submitted to both the Coast Guard and IMO. (Copies of these documents have been placed in the public comment file for inspection.) Essentially, the CCA contends that these vessels rarely operate without sufficient cargo to meet the draft and trim standards for segregated ballast tanks (SBT) and dedicated clean ballast tanks (CBT) and normally carry only incidental cargoes of "product oil". However true this may be, the statute does not provide the Coast Guard with the flexibility to accept the design and operational alternatives they propose. 46 U.S.C. 3706 mandates coverage for any self-propelled vessel which is constructed or adapted to carry, or which carries, oil or any hazardous materials in bulk as cargo or in residue. The Act's standards for SBT or CBT, that this proposal would implement, are applicable to any of these existing vessels of 20,000 to 40,000 DWT that are 15 years old or older that carry products, as mandated by 46 U.S.C. 3706(d). No exception is provided in the statute of a vessel designed to carry hazardous materials which carries only small quantities of products in bulk.

Discussion of the Proposed Regulations

46 U.S.C. 3705(c) and 3706(d) require any self-propelled vessel that is:

(a) An existing crude oil tanker of at least 20,000 DWT but less than 40,000 DWT, and at least 15 years of age, to be equipped with SBT or a crude oil washing system (COW) before January 2, 1986, or the date on which it reaches 15 years of age, whichever is later.

(b) An existing product carrier of at least 20,000 DWT but less than 40,000 DWT, and at least 15 years of age, to be equipped with SBT or may operate with CBT before January 2, 1986, or the date on which it reaches 15 years of age, whichever is later.

46 U.S.C. 3701 (1) and (3), when read together, define "existing vessel" as a vessel other than one—

(a) For which the building contract is placed after June 1, 1979; or

(b) In the absence of a building contract, the keel of which is laid, or which is at a similar stage of construction after January 1, 1980; or

(c) The delivery of which is after June 1, 1982; or

(d) That has undergone a major conversion, under a contract made after June 1, 1979, or construction work that began after January 1, 1980, or was completed after June 1, 1982.

46 U.S.C. 3705(c) and 3706(d) are applicable to all U.S. tankers and to foreign tankers which operate on or enter the navigable waters of the United States (except those in innocent passage) or which transfer oil or hazardous materials in any port or place subject to the jurisdiction of the United States.

In the June 30, 1980 **Federal Register** (45 FR 43705), the Coast Guard issued regulations to implement portions of the PTSA requiring SBT, CBT, and COW on new tank vessels of 20,000 DWT or more and existing tank vessels of 40,000 DWT or more. Vessels subject to these regulations had to comply by June 1, 1981. Procedures for obtaining exemptions from the SBT, CBT, or COW requirements on certain existing vessels were published in the January 15, 1981 **Federal Register** (46 CFR 3510). This proposed rulemaking is composed of a series of amendments to existing regulations that implement the appropriate SBT, CBT, and COW standards, as well as the exemption procedures, applicable to existing tankships of 20,000 to 40,000 DWT on the appropriate compliance date.

The following paragraphs provide a brief discussion of the Coast Guard's intent in this rulemaking proposal:

1. The Coast Guard is proposing to revise the authority citation for all of 33 CFR Part 157 to reflect the recodification of Title 46 of the U.S. Code.

2. Proposed § 157.04 provides for the Coast Guard to authorize classification societies (CS) to conduct certain of the plan reviews, certifications, and inspections required by this proposal. For U.S. vessels, the proposal limits this authorization to plan review, certification, and inspection of COW systems, reflecting the current understanding between the Coast Guard and the American Bureau of Shipping (ABS) for conducting these functions under an agreement signed April 27, 1982 and published by the Coast Guard in Navigation and Vessel Inspection Circular No. 10–82 titled "Acceptance of Plan Review and Inspection Performed by the American Bureau of Shipping for New Construction or Major Modifications to U.S. Flag Vessels." The development of cooperative agreements between the Coast Guard and the ABS is a continuing process. The proposed rule is not intended to foreclose the future expansion of the use of third-party certifications. For foreign vessels, the Coast Guard is proposing to authorize a CS to perform the plan review, inspections, and certifications for SBT, CBT, and COW systems on existing vessels of 20,000 to 40,000 DWT. The Coast Guard's concerns, as reflected in the proposed rules, are that such CS which performs these functions:

(a) Is familiar with the vessel; therefore, the Coast Guard proposes that

the authorization is limited to vessels classed by that CS.

(b) Has available the applicable Coast Guard regulations.

(c) Is knowledgeable of the applicable international standards under the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL Protocol) as they apply to the vessels they will be certifying, as evidenced by the authorization of the vessel's flag 9state allowing the CS to perform inspections and certifications on that vessel under the MARPOL Protocol.

(d) Will ensure that the results of any vessel inspections and certifications under these regulations will be made available to the Coast Guard if the need arises.

(e) Will inform the Coast Guard of its inspection and certification of each vessel; this is intended to preclude any undue delay of the vessel on its first entry to a U.S. port.

To conform to the provisions of 46 U.S.C. 3316, the American Bureau of Shipping or other U.S. classification society may perform these functions for U.S. vessels.

3. It is proposed to revise § 157.07 to allow the Coast Guard to accept equivalents in lieu of design and equipment requirements in Part 157 that do not stem from the MARPOL Protocol. The original purpose of § 157.07 was to implement to standards governing the consideration of equivalents in Regulation 3 of the MARPOL Protocol. However, in this and other rulemakings, the Coast Guard has proposed or enacted a limited number of standards which exceed those of the MARPOL Protocol. The purpose of this proposed amendment is to provide vessel owners and operators with the additional flexibility provided by the ability to propose equivalents when complying with those standards.

4. It is proposed to change the heading of § 157.10a for clarity by indicating the coverage of the existing regulation is limited to vessels of 40,000 DWT or more.

5. Proposed § 157.10c provides the substance of the mandated requirements of 46 U.S.C. 3705(c) and 3706(d). The major provisions are:

a. The same contract and delivery dates are used to determine the applicability of the CBT, SBT, and COW standards as are contained in the statute.

b. The statute specifies applicability to vessels of 15 years of age or older, but is silent on how the age of a vessel is to be determined. For simplicity the Coast Guard proposes to base the age of a vessel on the date on which the vessel was delivered to its original owner. Earlier dates, based on the contracting or keel laying of the vessel were rejected; they would have required compliance before the vessels had seen 15 years service and the resulting regulation would have been unduly complicated.

c. The existing standards in 33 CFR Part 157 for SBT, CBT, and COW would be made applicable to these vessels with provision for exceptions in certain cases. The basis of the existing SBT and CBT standards are the draft and trim criteria of the MARPOL Protocol which are contained in both § 157.09(b) and § 157.10a(d). These criteria were developed by the IMO to provide sufficient segregated ballast capacity that a vessel of 150 meters (492 feet) or more in length could be reasonably expected to operate in all but unusually heavy weather conditions without recourse to ballasting its cargo tanks. These criteria, under the MARPOL Protocol and present Coast Guard regulations, are currently applied to new vessels of 20,000 DWT or more. The Coast Guard believes they constitute an appropriate basis for an SBT or CBT standard to apply to existing vessels of 20,000 to 40,000 DWT since these vessels exceed 150 meters in length. However, the Coast Guard realizes that, in retrofitting these older vessels, it may not be practicable to provide ballast tanks to closely meet this standard, and, in some instances, the use of existing tanks will result in appreciably more ballast capacity being provided than is necessary to meet the draft and trim standards. To reduce the loss of capacity in these cases, and to provide some additional flexibility in complying with the standards, the Coast Guard is proposing, in paragraph (d), to accept alternative arrangements.

6. The Coast Guard proposes to add a new § 157.24a governing the submission of calculations, plans and specifications for existing vessels installing segregated ballast tanks. This section creates a plan submittal requirement for vessels that install SBT as a means of complying with § 157.10c and for other vessels which may retrofit SBT to comply with 33 CFR Part 157. The Coast Guard believes that the data specified in the proposed rule should be submitted to ensure that each SBT system meets the applicable requirements and, perhaps more importantly, that the safety of the vessel will not be adversely compromised through the fitting of the SBT system. Of particular concern are longitudinal strength (resistance to buckling or breaking), stability and buoyancy (particularly the capability to remain afloat after damage). Many vessels of 20,000 to 40,000 DWT were designed to operate in either a full load condition or a ballast condition. It is probable that neither the longitudinal strength nor stability was examined by the designers of these vessels for operation in a near full load condition, such as the vessel will be operating after the fitting of SBT. To be assured that compliance with these proposed standards for SBT does not, inadvertently, increase the risk of catastrophic loss of vessels, the Coast Guard is asking for documentation, calculations, or revised stability and loading information which demonstrate that these conditions are acceptable. On foreign flag vessels the Coast Guard proposes in § 157.24a (b)(1) and (c)(1) that the information regarding the acceptability of the vessel loading and stability characteristics take the form of a single document from the authority assigning the vessel's load line which finds the SBT location acceptable.

In § 157.24a(a) (3) and (4), the Coast Guard proposes to include a requirement that, for U.S. vessels, consideration be given to the vessels' stability and longitudinal strength by including applicable standards from Parts 32 and 42 of Title 46, Code of Federal Regulations. The regulations in the rules for tank vessels and the load line regulations, 46 CFR Subchapters D and E, already require that consideration be given to the effect on vessel stability and longitudinal strength of a modification to that vessel. In monitoring the installation of SBT and CBT on existing vessels of over 40,000 DWT to comply with other provisions of the PTSA, the Coast Guard has found that some vessel owners gave consideration to these areas only after having been alerted to possible problems by the Coast Guard. Resolution of those problems resulted in unnecessary contention between the vessel owner and the Coast Guard, potentially costly modification to shipyard plans, and delay of the vessels involved. The Coast Guard is proposing these requirements in 33 CFR Part 157 in the hope that shipyards and vessel owners will give early consideration to the potential impact of the installation of SBT on both the longitudinal strength and stability of a vessel so that unnecessary delays and conflicts can be avoided.

The Coast Guard and ABS have traditionally worked together in assessing the adequacy of stability and longitudinal strength of U.S. tank vessels. On those vessels where near full-load conditions were considered in

the vessel design, further engineering work may not be necessary since acceptable documentation may already be available. This takes the form of a Coast Guard approved trim and stability booklet showing those conditions and an ABS approved loading manual showing acceptable hull stresses in those conditions. On vessels where these conditions were not considered in the original design, the development of engineering calculations to demonstrate acceptability of these conditions would be necessary. The owners of these latter vessels should be aware that the selection of the SBT tanks in these vessels may be critical—selection of tankage without due consideration of its effects on vessel damaged stability may result in rigid restrictions being placed in the loading manual or trim and stability booklet to ensure that the vessel would operate in compliance with the standards.

There is a potential offsetting factor. Since the installation of SBT will result in a capacity loss, most of the modified vessels will not be capable of loading enough cargo to submerge to their maximum permitted load line drafts. Reducing the deadweight of the vessel by reducing the load line draft to correspond to the actual full load condition may, in some cases, ease compliance with the stability requirements.

7. It is proposed to revise § 157.35, which deals with the ballasting of cargo tanks, to clarify its applicability and to include reference to the new § 157.10c.

8. Sections 157.100, 157.102, 157.108, and 157.110, which pertain to the submission of plans for COW systems, would be revised to include reference to § 157.10c. In addition, the recent address changes for the Coast Guard field technical offices, shown in the proposed text, would be rectified in § 157.100(b).

9. Section 157.116, now requiring certain documents for U.S. tank vessels, would be revised to incorporate reference to § 157.10c and to allow a CS to issue the required documents and certifications as well as the Coast Guard. The effective dates by which these documents are required would be removed because the Coast Guard has determined that inclusion of these dates for U.S. vessels is not necessary and is unnecessarily cumbersome since the dates are included in the equipment requirements in §§ 157.10, 157.10a(a)(2), and 157.10c(B)(2), which are referenced.

10. Section 157.118, now requiring documents for foreign tank vessels, would be revised by deleting the effective compliance dates since those dates have already passed, renumbering, and adding a new paragraph to the regulation concerning vessels under § 157.10c(b)(2). This new paragraph would allow documents to be issued by any one of three sources; the Coast Guard, an authorized CS, or the government of the vessel's flag state. The existing regulation for larger vessels and new vessels has not been resided to include acceptance of documents from an authorized CS. These requirements originate from the MARPOL Protocol, and under the MARPOL Protocol, an International Oil Pollution Prevention (IOPP) Certificate will eventually be issued to these vessels by their flag state; however some flag state governments may authorize a CS to issue this document on their behalf. Since the new standards in § 157.10c are based on a unilateral action by the U.S., they are not governed by the MARPOL Protocol; hence; there would be no flag state documentation of compliance with an international standard paralleling the U.S. standard under the PTSA. Therefore, the Coast Guard is proposing to accept documents issued by an authorized CS for the existing foreign vessels of 20,000 to 40,000 DWT.

11. It is proposed to amend §§ 157.124, 157.128, 157.130, 157.132, 157.136, 157.140, 157.152, 157.154, 157.156, 157.160, 157.162, 157.164, 157.166 and 157.172 which contain the design, equipment, installation, inspection, personnel and operating requirements for COW systems to include references to § 157.10c. These amendments would extend these standards to existing vessels of 20,000 to 40,000 DWT which install COW to comply with § 157.10c. In addition, the phone number for contactinig the Environmental Protection Agency in the Note following § 157.166 would be updated.

12. For the same reasons as discussed in paragraph 6, the Coast Guard proposes to amend § 157.200 by adding the requirement for submission of documents showing compliance with stability and loading standards for U.S. tank vessels installing CBT. The Coast Guard also proposes to remove the effective compliance dates from this section and revise the mailing addresses for field technical offices.

13. Sections 157.202, 157.206, and 157.208, which contain procedures for submission of plans and documents relating to CBT installations, would be revised to incorporate references to § 157.10c.

14. The Coast Guard proposes to amend 157.214 by inserting reference to § 157.10c.

15. Section 157.216, specifying certain documents for foreign vessels with CBT, would be amended in a manner parallel to the changes to § 157.118 discussed in paragraph 10.

16. Sections 157.225, 157.228 and 157.228, concerning operation of tank vessels with CBT, would be revised to incorporate references to § 157.10c.

17. The Coast Guard proposes to extend to the vessels under § 157.10c the "specific trade" exemptions presently provided in Subpart F by amending §§ 157.300 and 157.310. Under the provisions of this revised regulation most U.S. vessels currently in the domestic trade could be exempted from the requirement to provide SBT, CBT, or COW. The Coast Guard proposes to exempt these vessels if they (1) load cargo oil only in those ports where there are adequate reception facilities for the processing of all oily ballast discharges from these vessels; and (2) the vessels discharge oily water only to those reception facilities.

18. Sections 157.144, 157.147 and 157.302(a) would be revised to reflect an organizational change within the Coast Guard's Office of Merchant Marine Safety, in which the responsibility for the administration of 33 CFR Part 157 was transferred by the Commandant from the Merchant Marine Technical Division (G–MMT) to the Merchant Vessel Inspection Division (G–MVI).

19. Sections 157.03, 157.04, 157.07, 157.24, 157.118 and 157.216 of the existing and proposed regulations contain references to the MARPOL Protocol or specific regulations contained therein. These references are not directly related to the implementation of 46 U.S.C. 3705(c) and 3706(d), nor do they expand the scope of the present rules. They have been included in this rulemaking to facilitate administration of the Coast Guard's pollution prevention program. Section 157.03 includes a definition of the MARPOL Protocol. As explained above, the reference to the MARPOL Protocol in § 157.07 is proposed as a means to free the Coast Guard to consider equivalents in other areas. The remaining references to the MARPOL Protocol are intended to reduce duplication, permit greater flexibility and reduce the burden on vessel owners by permitting foreign governments to certify compliance with the accepted international standards where they parallel the Coast Guard regulations. This reduces duplication of effort since most of these governments will be certifying their vessels under the MARPOL Protocol. It reduces the burden on foreign vessel owners and shipyards since they are more familiar with, and have more ready access to,

the IMO standards than the U.S. regulations.

The Act to Prevent Pollution from Ships provides implementing legislation for the MARPOL Protocol. The Act became effective when the MARPOL Protocol entered into force on October 2, 1983. As of that date, the MARPOL Protocol became a U.S. treaty in force; as such, reference in the CFR to the MARPOL Protocol does not consitute an incorporation by reference.

Regulatory Evaluation and Environmental Impact Statement

These proposed regulations are being evaluated under Executive Order 12291, "Federal Regulation," dated February 17, 1981, and Department of Transportation Order 2100.5, "Policies and Procedures for Simplification, Analysis and Review of Regulations," dated May 22, 1980. The initial estimated cost of the standards was in excess of $100 million annually. Subsequent examination of these costs suggests that the costs may be substantially lower. The proposal is still considered to be a "major rule" under E.O. 12291 because of the economic impact the statutory standards imposed upon the tanker industry. In addition, the proposal is considered a "significant" rule under DOT Order 2100.5 and, pursuant to that order a regulatory evaluation has been prepared. The Office of Management and Budget has cleared this NPRM for publication without a Regulatory Impact Analysis (RIA) in the light of the mandated compliance date of January 2, 1986. The Coast Guard will issue the RIA with the final rule. Respondents should provide comments on the anticipated costs and benefits based on the regulatory evaluation. Additionally, since implementation of the mandated standards will have an effect on the environment, the Coast Guard has decided to prepare an environmental impact statement. To reduce duplication and paperwork these documents, as well as the required initial Regulatory Flexibility Analysis (discussed below), have been combined into a single document.

Copies of the combined preliminary regulatory evaluation and draft environmental impact statement (DEIS/RE) are being sent to individuals, companies, and environmental groups that have commented on previous similar regulatory proposals, to state clearinghouses and to other federal agencies having jurisdiction or special expertise in related areas. A copy will also be sent, on request, to anyone who desires to review or comment on the DEIS/RE. The procedure to obtain a copy of the DEIS/RE is given in "**ADDRESSES**" above. Comments on the content and accuracy of the DEIS/RE, particularly on the key assumptions used in projecting the costs of implementing the rule, are desired by the Coast Guard and may be submitted to the address given above for the submission of comments.

The bulk of the DEIS/RE was prepared in 1981, and includes an estimate of the cost of the mandated standards based on market conditions that existed during the period from 1978 to 1980.

In the fall of 1983, a supplement analysis was prepared to take into consideration more current tanker market conditions. This analysis used a methodology consistent with the earlier cost estimate, but revised the total tanker capacity requirements to reflect the fact that the number of U.S. tankers in active service in the fall of 1983 of 20,000 to 40,000 DWT was about half the number on which the original earlier estimates were based, and that the probable fate of a number of currently idle tankers would be to provide the additional capacity necessitated by the fitting of SBT or CBT. The supplemental analysis concludes that it is possible that no additional tanker construction will be necessitated by implementation of the mandated standards.

On the basis of the above, it is estimated that the total cost of the statutory standards is about 525 million dollars. However, if capacity requirements were to increase, or if a substantial proportion of the idle tankers proved unsuitable for service, some additional new tanker construction might be required and the total cost of the standards would rise accordingly.

The direct benefits, as derived in the DEIS/RE, are presented in terms of reduced operation oil pollution from tank vessels of 20,00 to 40,000 DWT. The total reductions are estimated at about 38,000 metric tons from foreign vessels and 69,000 metric tons from U.S. vessels. These reductions stem primarily from reducing oil discharges during deballasting of cargo thanks and tank cleaning. The areas where the discharges occur are generally areas of open ocean, although some areas of coastal ocean may be affected. The Coast Guard believes that the effect of these standards on reducing oil pollution will be greatest during the decade from 1990 to 2000 and will gradually be reduced thereafter as the existing vessels affected by these regulations are retired from service.

In the analysis we have not placed dollar values on the benefits because of the complexity and subjective nature of such an assessment. As a result, no "net" cost/benefit figure is available. Moreover, and most importantly, we wish to stress that, regardless of what assumptions are used, regardless what our cost estimates are, and regardless of any value assigned to benefits, the requirements we are analyzing are specifically mandated by 46 U.S.C. 3705(c) and 3706(d). In addition, we believe a significant portion of the estimated cost may already have been committed by industry in direct response to the PTSA.

Regulatory Flexibility Act

The proposed rules are being evaluated under Pub. L. 96–354 (94 Stat. 1165, 5 U.S.C. 601) to determine if they will have a significant impact on a substantial number of small entities. An initial regulatory flexibility analysis has been incorporated into the DEIS/RE. The Coast Guard believes that implementing the standards may cause those businesses with substantial portions of their operating equipment in older vessels of 20,000 to 40,000 DWT to go out of business if they are unable to finance required vessel modifications or are unwilling to assume the financial risks of such modifications. However, implementing the standards could stimulate competition by creating market conditions which would permit new companies with new vessels, which can be operated more efficiently but are burdened with high capital costs, to compete effectively with those established companies that have low capital costs but operate older, less efficient, existing vessels.

Sections 3705(c) and 3706(d) of the U.S.Code do not grant to the Coast Guard the discretionary authority to alter these impacts through the establishment of differing compliance requirements or time tables for small entities or the exemption of small entities by this rule. The proposed rules do not prescribe rigid design features, but permit vessel owners flexibility in retrofitting to comply with the SBT, CBT and COW standards. Based on safety condiderations, the Coast Guard does not believe that the establishment of alternative reporting or recordkeeping requirements is justified, nor would such action substantially alter the burden placed on the affected businesses. There are approximately 25 U.S. companies that operate U.S. flag tankships of 20,000 to 40,000 DWT. The Coast Guard has determined that 20 of these companies, operating the vast majority of the U.S.

vessels that would be directly affected by the implementation of the standards, are not small businesses since they are subsidiaries of major oil companies or diversified corporations. The Coast Guard has insufficient data to determine whether any of the remaining companies which operate between 4 and 23 vessels (both tank vessels and cargo vessels), should be considered small entities; however, the Coast Guard does not believe that these rules will have a significant effect on a substantial number of small entities since they only implement statutory standards. Comments from these entities, especially those providing quantifying data, on whether they should be considered a small entity and on the impact of the rules on their business are specifically requested.

Paperwork Reduction Act

The proposed rulemaking contains information collection requirements in the following sections: §§ 157.04, 157.24a, 157.102 and 157.202. These sections require the submission of applications, plans for modifications to vessels, documentation of compliance, and retention of various operating manuals on board vessels. These new reporting and recordkeeping requirements have been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). In an effort to reduce the burden of compliance with the standards, the Coast Guard has proposed the alternative of allowing vessel owner to obtain certain third-party certifications. The Coast Guard is interested in receiving any additioal comments which would serve to quantify the burdens which are imposed or which would further decrease the burdens of compliance. Specifically, knowledgeable persons are asked to provide recommendations for alternatives to the reporting or recordkeeping requirements or provide estimates of the burden, both in terms of cost and time, which they believe will be imposed by the reporting and recordkeeping requirements of the rules. The Coast Guard has estimated that the proposed rules would impose a total recordkeeping and reporting burden on the public of approximately 48,000 hours with an estimated cost of approximately $1.15 million (1982 dollars), approximately seventy-five percent of both the hourly burden and cost will be incurred prior to 1987. Persons desiring to comment on these information collection requirements should submit their comments to the Office of Regulatory Policy of OMB, with a copy to the Coast Guard, at the address listed above under **"ADDRESSES"**.

List of Subjects in 33 CFR Part 157

Cargo vessels, Oil pollution.

PART 157—RULES FOR THE PROTECTION OF THE MARINE ENVIRONMENT RELATING TO TANK VESSELS CARRYING OIL IN BULK

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 157 of Title 33, Code of Federal Regulations as follows:

1. The authority citation for Part 157 would be revised to read as follows:

Authority: Sec. 4, Pub. L. 96–478, 94 Stat. 2298 (33 U.S.C. 1903); 46 U.S.C. 3703; 49 CFR 1.46 (n) and (hh).

2. By adding a new § 157.04 to read as follows:

§ 157.04 Authorization of classification societies.

(a) The Coast Guard may authorize any classification society (CS) to perform certain plan reviews, certifications, and inspections required by this Part on vessels classed by that CS, except that only U.S. classification societies may be authorized to perform those plan reviews, inspections, and certifications for U.S. vessels.

(b) If a CS desires authorization to perform the plan reviews, certifications, and inspections required under this Part, it must submit to the Commandant (G–MVI), U.S. Coast Guard, Washington, DC 20593, evidence from the governments concerned showing that they have authorized the CS to inspect and certify vessels on their behalf under the MARPOL Protocol.

(c) The Coast Guard notifies the CS in writing whether or not it is accepted as an authorized CS. If authorization is refused, reasons for the refusal are included.

(d) Acceptance as an authorized CS terminates unless the following are met:

(1) The authorized CS must have each Coast Guard regulation that is applicable to foreign vessels on the navigable waters of the United States.

(2) Each issue concerning equivalents to the regulations in this Part must be referred to the Coast Guard for its determination.

(3) Copies of any plans, calculations, records of inspections, or other documents relating to any plan review, inspection, or certification performed to meet this Part must be made available to the Coast Guard.

(4) Each document certified under §§ 157.116(a)(2), 157.118(b)(1)(ii), and 157.216(b)(1)(ii) must be marked with the name or seal of the authorized CS.

(5) A copy of the final documentation that is issued to each vessel that is certified under this Part must be referred to the Commandant (G–MVI), U.S. Coast Guard, Washington, D.C. 20593.

3. By revising § 157.07 to read as follows:

§ 157.07 Equivalents.

The Coast Guard may accept an equivalent, in aocordance with the procedure in 46 CFR 30.15–1, of a design or an equipment to fulfill a requirement in this Part except an operational method may not be substituted for a design or equipment requirement that is also required under the MARPOL Protocol.

4. By revising § 157.10a by changing the heading to read as follows:

§ 157.10a Segregated ballast tanks, crude oil washing systems, and dedicated clean ballast tanks for certain new and existing vessels of 40,000 DWT or more.

* * * * *

5. By adding a new § 157.10c to read as follows:

§ 157.10c Segregated ballast tanks, crude oil washing systems and dedicated clean ballast tanks for certain new and existing tankships of 20,000 to 40,000 DWT.

(a) This section applies to each tankship of 20,000 DWT or more, but less than 40,000 DWT, except each one that—

(1) Is constructed under a building contract awarded after June 1, 1979;

(2) In the absence of a building contract, has the keel laid or is at a similar stage of construction after January 1, 1980;

(3) Is delivered after June 1, 1982; or

(4) Has undergone a major conversion, for which—

(i) The contract is awarded after June 1, 1982; or

(ii) Conversion is completed after June 1, 1982.

(b) Not later than January 1, 1988, or 15 years after the date it was delivered to the original owner, whichever is later, a vessel under this section that carries crude oil must have—

(1) Segregated ballast tanks that have a total capacity to allow the vessel to meet the draft and trim requirements in § 157.09(b); or

(2) A crude oil washing system that meets the design, equipment, and installation requirements of §§ 157.122 through 157.138.

(c) Not later than January 1, 1988, or 15 years after the date it was delivered to the original owner, whichever is later,

a vessel under this section that carries product must have—

(1) Segregated ballast tanks that have a total capacity to allow the vessel to meet the draft and trim requirements in § 157.09(b); or

(2) Dedicated clean ballast tanks that meet the design and equipment requirements under §§ 157.220, 157.222, and 157.224 and have total capacity to allow the vessel to meet the draft and trim requirements in § 157.09(b).

(d) If the arrangement of tanks on a vessel under this section is such that, when using the tankage necessary to comply with the draft and trim requirements in § 157.09(b), the draft amidships exceeds the minimum required draft by more than 10 percent, or the arrangement results in the propeller being fully immersed by more than 10 percent of its diameter, alternative arrangements may be accepted provided—

(1) At least 80 percent of the propeller diameter is immersed, and

(2) The moulded draft amidships is at least 80 percent of that specified in § 157.09(b)(1).

6. By adding a new § 157.24a to read as follows:

§ 157.24a Submission of calculations, plans and specifications for existing vessels installing segregated ballast tanks.

(a) Before modifications are made to a U.S. tank vessel to meet § 157.10a(a)(1), § 157.10a(c)(1), § 157.10c(b)(1), or § 157.10c(c)(1), the vessel's owner or operator must submit the following to the Officer in Charge, Marine Inspection of the zone where the modification will be made or to the appropriate Coast Guard technical office listed in § 157.100(b):

(1) A drawing or diagram of the pumping and piping system for the segregated ballast tanks.

(2) A drawing of the segregated ballast tank arrangement.

(3) Documentation, calculations, or revised stability information to show that the vessel, with the addition of the segregated ballast tanks, meets the stability standards for load line assignment in 46 CFR Part 42.

(4) Documentation, calculations, or a revised loading manual to show that the vessel, with the addition of the segregated ballast tanks, meets the structural standards in 46 CFR Part 32.

(5) Plans and calculations to show that the vessel, as modified, complies with the segregated ballast capacity and distribution requirements in § 157.10a.

(b) Before each foreign vessel under § 157.10a(a)(1) or § 157.10a(c)(1) enters the navigable waters of the United States the owner or operator of that vessel, except those under subparagraph (3) of this paragraph, must submit to the Commandant (G–MVI), U.S. Coast Guard, Washington, D.C. 20593—

(1) A letter from the authority that assigns the load line to the vessel finding that the location of the segregated ballast tanks is acceptable; and

(2) Plans and calculations to substantiate compliance with the segregated ballast capacity requirements in § 157.09(b); or

(3) Submit to the Officer in Charge, Marine Inspection of the zone in which the first U.S. port call is made a letter or document from the government of the vessel's flag state certifying that the vessel complies with the segregated ballast capacity requirements in § 157.09(b) or Regulation 13 of the MARPOL Protocol.

(c) On and after January 1, 1986, or 15 years after the date it was delivered to the original owner, whichever is later, the owner or operator of an existing foreign vessel under § 157.10c(b)(1) or § 157.10c(c)(1), except those under subparagraph (3) of this paragraph, must submit to the Commandant (G–MVI), U.S. Coast Guard, Washington, D.C. 20593, before that vessel enters the navigable waters of the United States—

(1) A letter from the authority that assigns the load line to the vessel finding that the location of the segregeted ballast tanks is acceptable; and

(2) Plans and calculations to substantiate compliance with the applicable segregated ballast capacity requirements in § 157.09(b) or § 157.10c(d); or

(3) Submit to the Officer in Charge, Marine Inspection of the zone in which the first U.S port call is made a letter from an authorized CS or the government of the vessel's flag state certifying that the vessel complies with the segregated ballast capacity requirements in § 157.09(b) or § 157.10c(d).

7. By revising the introductory text in § 157.35 to read as follows:

§ 157.35 Ballast added to cargo tanks.

The master of a tank vessel with segregated ballast tanks or dedicated clean ballast tanks under § 157.09, § 157.10, § 157.10a(a)(1), § 157.10a(b), § 157.10a(c), § 157.10b(a), § 157.10c(b)(1), or § 157.10c(c) shall ensure that ballast water is carried in a cargo tank only if—

* * * * *

8. By revising §§ 157.100 (a) introductory text, (b)(3), and (b)(5) to read as follows:

§ 157.100 Plans for U.S. tank vessels: Submission.

(a) Before each U.S. tank vessel having a COW system under § 157.10(e), § 157.10a(a)(2), or § 157.10c(b)(2) is inspected under § 157.140, the owner or operator of that vessel must submit to the Coast Guard plans that include—

* * * * *

(b) * * *

(3) Commander, 8th Coast Guard District (mmt), Room 845, F. Edward Hebert Federal Building, 600 South Street, New Orleans, LA 70130, for the 2nd, 7th and 8th Coast Guard Districts.

* * * * *

(5) Commander, 12th Coast Guard District (mmt), Government Island, Alameda, CA 94501, for the 11th, 12th, 13th, 14th, and 17th Coast Guard Districts.

9. By revising the introductory text in § 157.102 to read as follows:

§ 157.102 Plans for foreign tank vessels: Submission.

If the owner or operator of a foreign tank vessel having a COW system under § 157.10(e), § 157.10a(a)(2), or § 157.10c(b)(2) desires the letter from the Coast Guard under § 157.106 accepting the plans submitted under this paragraph, the owner or operator must submit to the Commandant (G–MVI), U.S. Coast Guard, Washington, DC 20593, plans that include—

* * * * *

10. By revising § 157.108 to read as follows:

§ 157.108 Crude Oil Washing Operations and Equipment Manual for U.S. tank vessels: Submission.

Before each U.S. tank vessel having a COW system under § 157.10(e), § 157.10a(a)(2), or § 157.10c(b)(2) is inspected under § 157.140, the owner or operator of that vessel must submit two copies of a *Crude Oil Washing Operations and Equipment Manual* that meets § 157.138 to the Officer in Charge, Marine Inspection, of the zone in which the COW system is installed or to the appropriate Coast Guard field technical office listed in § 157.100(b).

11. By revising § 157.110 to read as follows:

§ 157.110 Crude Oil Washing Operations and Equipment Manual for foreign tank vessels: Submission.

If the owner or operator of a foreign tank vessel having a COW system under § 157.10(e), § 157.10a(a)(2), or § 157.10c(b)(2) desires a Coast Guard approved *Crude Oil Washing Operations and Equipment Manual* under § 157.112, the owner or operator

must submit two copies of a manual that meets § 157.138 to the Commandant (G-MVI), U.S. Coast Guard, Washington, DC 20593.

12. By revising § 157.116 to read as follows:

§ 157.116 Required documents: U.S. tank vessels.

The owner, operator, and master of a U.S. tank vessel having a COW system under § 157.10(e), § 157.10a(a)(2), or § 157.10c(b)(2) shall ensure that the vessel does not engage in a voyage unless the vessel has on board the following:

(a) A *Crude Oil Washing Operations and Equipment Manual* that—

(1) Is approved under § 157.121; or

(2) Bears a certification by an authorized CS that the manual contains the information required under § 157.138.

(b) Evidence of acceptance of the tank vessel's COW system consisting of—

(1) A document from an authorized CS that certifies the vessel meets § 157.10c(b)(2) and each amending letter by the authorized CS approving changes in the design, equipment, or installation; or

(2) The letter of acceptance under § 157.106 and each amending letter issued under § 157.158(c).

(c) Evidence that the COW system passed the required inspections by—

(1) A document from an authorized CS that the vessel has passed the inspections under § 157.140; or

(2) The letter of acceptance under § 157.142 after passing the inspection under § 157.140.

13. By revising § 157.118 to read as follows:

§ 157.118 Required documents: Foreign tank vessels.

(a) The owner, operator, and master of a foreign tank vessel under § 157.10(e) or § 157.10a(a)(2) shall ensure that the vessel does not enter the navigable waters of the United States or transfer cargo at a port or place subject to the jurisdiction of the United States unless the vessel has on board—

(1) A *Crude Oil Washing Operations and Equipment Manual* that—

(i) Is approved under § 157.112; or

(ii) Meets the manual standards in Resolution 15 of the MARPOL Protocol and bears the approval of the government of the vessel's flag state; and

(2) Either—

(i) A document from the government of the vessel's flag state that certifies that the vessel complies with Resolution 15 of the MARPOL Protocol; or

(ii) The following letters issued by the Coast Guard:

(A) The letter of acceptance under § 157.106.

(B) The letter of acceptance under § 157.142 after passing the inspection under § 157.140.

(C) Each amending letter issued under § 157.158(c).

(b) On and after January 1, 1986, or 15 years after the date it was delivered to the original owner, whichever is later, the owner, operator, and master of a foreign vessel having a COW system under § 157.10c(b)(2) shall ensure that the vessel does not enter the navigable waters of the United States or transfer cargo at a port or place subject to the jurisdiction of the United States unless the vessel has on board—

(1) A *Crude Oil Washing Operations and Equipment Manual* that—

(i) Is approved under § 157.112; or

(ii) Bears a certification by an authorized CS or the government of the vessel's flag state that the manual contains the information required under § 157.138;

(2) Evidence that the COW system passed the required inspections by—

(i) A document from an authorized CS or the government of the vessel's flag state certifying that the vessel passed the inspections under § 157.140; or

(ii) The letter of acceptance under § 157.142 after passing the inspection under § 157.140; and

(3) Either—

(i) A document from an authorized CS or the government of the vessel's flag state certifying that the vessel complies with the design, equipment and installation standards in §§ 157.122 through 157.136 and any amending letters approving changed COW system characteristics; or

(ii) The letter of acceptance under § 157.106 and any amending letters issued under § 157.158(c).

14. In § 157.124 by revising paragraph (f) introductory text to read as follows:

§ 157.124 COW tank washing; machines.

* * * * *

(f) Each cargo tank on a vessel having a COW system under § 157.10a(a)(2) or § 157.10c(b)(2) with complicated internal structural members does not have to meet paragraph (e) of this section if the following areas of each cargo tank are washed by direct impingement and the tank vessel can pass the inspections under § 157.140:

* * * * *

15. By revising paragraph (a) introductory text of § 157.128 to read as follows:

§ 157.128 Stripping system.

Each tank vessel having a COW system under § 157.10(e), § 157.10a(a)(2), or § 157.10c(b)(2) must have a stripping system that is designed to remove crude oil from—

* * * * *

16. By revising § 157.130 to read as follows:

§ 157.130 Crude oil washing with more than one grade of crude oil.

If a tank vessel having a COW system under §§ 157.10(e), 157.10a(a)(2), or 157.10c(b)(2) carries more than one grade of crude oil, the COW system must be capable of washing the cargo tanks with the grades of crude oil that the vessel carries.

17. By revising the introductory text of § 157.132 to read as follows:

§ 157.132 Cargo tanks: Hydrocarbon vapor emissions.

Each tank vessel having a COW system under § 157.10a(a)(2) or § 157.10c(b)(2) without sufficient segregated ballast tanks or dedicated clean ballast tanks to allow the vessel to depart from any port in the United States without ballasting cargo tanks must have—

* * * * *

18. By revising § 157.136 to read as follows:

§ 157.136 Two-way voice communications.

Each tank vessel having a COW system under § 157.10(e), § 157.10a(a)(2), or § 157.10c(b)(2) must have a means that enables two-way voice communications between the main deck watch required under § 157.168 and each cargo discharge control station.

19. By revising paragraph (b) introductory text of § 157.138 to read as follows:

§ 157.138 Crude Oil Washing Operations and Equipment Manual.

* * * * *

(b) In addition to meeting paragraph (a) of this section, each *Crude Oil Washing Operations and Equipment Manual* on a tank vessel having a COW system under § 157.10a(a)(2) or § 157.10c(b)(2) must include the following:

* * * * *

20. By revising the introductory text of paragraph (a) of § 157.140 to read as follows:

§ 157.140 Tank vessel inspections.

(a) Before issuing a letter under § 157.142, the Coast Guard makes an initial inspection of each U.S. tank vessel having a COW system under § 157.10e, § 157.10a(a)(2), or § 157.10c(b)(2) and each foreign tank vessel whose owner or operator submitted the plans under § 157.102 to

determine whether or not, when entering a port, the cargo tanks that carry crude oil meet the following:

* * * * *

21. By revising the introductory text of § 157.152 to read as follows:

§ 157.152 Person in charge of COW operations.

The owner, operator, and master of a tank vessel having a COW system under § 157.10(e), § 157.10a(a)(2), or § 157.10c(b)(2) shall ensure that the person designated as the person in charge of COW operations—

* * * * *

22. By revising the introductory text of § 157.154 to read as follows:

§ 157.154 Assistant personnel.

The owner, operator, and master of a tank vessel having a COW system under § 157.10(e), § 157.10a(a)(2), or § 157.10c(b)(2) shall ensure that each member of the crew that has a designated responsibility during COW operations—

* * * * *

23. By revising the introductory text of both paragraphs (a) and (b) of § 157.155 as follows:

§ 157.155 COW operations: General.

(a) The master of a tank vessel having a COW system under § 157.10(e), § 157.10a(a)(2), or 157.10c(b)(2) shall ensure that—

* * * * *

(b) In addition to meeting paragraph (a) of this section, the master of a tank vessel having a COW system under § 157.10a(a)(2) or § 157.10c(b)(2) shall ensure that—

* * * * *

24. By revising the introductory text of § 157.156 to read as follows:

§ 157.156 COW operations: Meeting manual requirements.

Except as allowed in § 157.158, the master of a foreign tank vessel having a COW system under § 157.10(e), § 157.10a(a)(2), or § 157.10c(b)(2) that has a *Crude Oil Washing Operations and Equipment Manual* approved under § 157.112 and is operating in the navigable waters of the United States or transferring cargo at a port or place subject to the jurisdiction of the United States and the master of a U.S. tank vessel having a COW system under § 157.10(e), § 157.10a(a)(2), or § 157.10c(b)(2) shall ensure that during each COW operation—

* * * * *

25. By revising paragraph (b) introductory text of § 157.160 to read as follows:

§ 157.160 Tanks: Ballasting and crude oil washing.

* * * * *

(b) The owner, operator, and master of a tank vessel having a COW system under § 157.10a(a)(2) or § 157.10c(b)(2) shall ensure that—

* * * * *

26. By revising the introductory text of § 157.162 to read as follows:

§ 157.162 Crude oil washing during a voyage.

The master of a tank vessel having a COW system under § 157.10(e), § 157.10a(a)(2), or § 157.10c(b)(2) shall ensure that each cargo tank that is crude oil washed during a voyage other than a ballast voyage—

* * * * *

27. By revising paragraph (a) introductory text of § 157.164 to read as follows:

§ 157.164 Use of inert gas system.

(a) The master of a tank vessel having a COW system under § 157.10(e), § 157.10a(a)(2), or § 157.10c(b)(2) shall ensure the following:

* * * * *

28. By revising § 157.166 to read as follows:

§ 157.166 Hydrocarbon vapor emissions.

If the tank vessel having a COW system under § 157.10a(a)(2) or § 157.10c(b)(2) transfers cargo at a port in the United States that is in an area designated in 40 CFR Part 81 as an area that does not meet the national primary ambient air quality ozone standard under 40 CFR Part 50, issued under the Clean Air Act, as amended (42 U.S.C. 1857), the master of the vessel shall ensure that when cargo tanks are ballasted in that port the hydrocarbon vapors in each tank are contained by a means under § 157.132.

Note.—Question relating to whether or not a particular port is located in an area designated in 40 CFR Part 81 as an area that does not meet the national primary ambient air quality standard under 40 CFR Part 50 should be directed to the Plans Analysis Section of the Environmental Protection Agency at (919) 541–5665.

29. By revising § 157.172 to read as follows:

§ 157.172 Limitations on grades of crude oil carried.

If a tank vessel having a COW system meeting § 157.10a(a)(2) or § 157.10c(b)(2) does not have segregated ballast tanks or dedicated clean ballast tanks that meet § 157.10c(c)(2), the owner, operator, and master shall ensure that the vessel carries only the grades of crude oil that can be used for crude oil washing.

30. By revising paragraph (a), (b)(3), and (b)(5) of § 157.200 to read as follows:

§ 157.200 Plans for U.S. tank vessels: Submission.

(a) Before modifications are made to a U.S. vessel to meet § 157.10a(b), § 157.10b(a)(2), § 157.10a(c)(2), or § 157.10c(c)(2) the owner or operator must submit to the Coast Guard plans or documents that include the following:

(1) The dedicated clean ballast tank arrangement.

(2) Documentation, calculations, or revised stability information to show that the vessel, with the addition of the dedicated clean ballast tanks, meets the stability standards for load line assignment in 46 CFR Part 42.

(3) Documentation, calculations, or a loading manual to show that the vessel, with the addition of the dedicated clean ballast tanks, meets the structural standards in 46 CFR Part 32.

(4) A drawing or diagram of the pumping and piping system for the dedicated clean ballast tanks.

(b) * * *

(3) Commander, 8th Coast Guard District (mmt), Room 845, F. Edward Hebert Federal Building, 600 South Street, New Orleans, LA 70130, for the 2nd, 7th and 8th Coast Guard Districts.

* * * * *

(5) Commander, 12th Coast Guard District (mmt), Government Island, Alameda, CA 94501, for the 11th, 12th, 13th, 14th and 17th Coast Guard Districts.

31. By revising the introductory text of § 157.202 to read as follows:

§ 157.202 Plans and documents for foreign tank vessels: Submission.

The owner or operator of a foreign tank vessel under § 150.10a(b), § 157.10a(c)(2), or § 157.10b(a)(2) who desires the letter from the Coast Guard under § 157.204 accepting the plans submitted under this paragraph, and the owner or operator of a foreign tank vessel under § 150.10c(c)(2) must submit to the Commandant (G–MVI), U.S. Coast Guard, Washington, D.C. 20593—

* * * * *

32. By revising § 157.206 to read as follows:

§ 157.206 Dedicated Clean Ballast Tanks Operations Manual for U.S. tank vessels: Submission.

The owner or operator of a U.S. tank vessel meeting § 157.10a(b), § 157.10a(c)(2), § 157.10b(a)(2), or § 157.10c(c)(2) must submit two copies

of a *Dedicated Clean Ballast Tanks Operations Manual* that meets § 157.224 to the Officer in Charge, Marine Inspection, of the zone in which the dedicated clean ballast tank system is installed or to the appropriate Coast Guard field technical office listed in § 157.200(b).

33. By revising § 157.208 to read as follows:

§ 157.208 Dedicated Clean Ballast Tanks Operations Manual for foreign tank vessels: Submission.

If the owner or operator of a foreign tank vessel meeting § 157.10a(b), § 157.10a(c)(2), § 157.10b(a)(2), or § 157.10c(c)(2) desires a Coast Guard approved *Dedicated Clean Ballast Tanks Operations Manual* under § 157.210, the owner or operator must submit two copies of a manual that meets § 157.224 to the Commandant (G–MVI), U.S. Coast Guard, Washington, D.C. 20593.

34. By revising the introductory text of § 157.214 to read as follows:

§ 157.214 Required documents: U.S. tank vessels.

The owner, operator, and master of a U.S. tank vessel meeting § 157.10a(b), § 157.10a(c)(2), § 157.10b(a)(2), or § 157.10c(c)(2) shall ensure that the vessel does not engage in a voyage unless the vessel has on board—

* * * * *

35. By revising § 157.216 to read as follows:

§ 157.216 Required documents: Foreign tank vessels.

(a) The owner, operator, and master of a foreign tank vessel meeting § 157.10a(b), § 157.10a(c)(2), § 157.10b(a)(2), or § 157.10c(c)(2) shall ensure that the vessel does not enter the navigable waters of the United States or transfer cargo at a port or place subject to the jurisdiction of the United States unless the vessel has on board—

(1) A *Dedicated Clean Ballast Tank Operations Manual* that—

(i) Is approved under § 157.210; or

(ii) Is certified by the government of the vessel's flag state because it meets the manual standards in Resolution 14 of the MARPOL Protocol; and

(2) Either—

(i) A letter from the government of the vessel's flag state that certifies that the vessel with Resolution 14 of the MARPOL Protocol; or

(ii) The letter of acceptance under § 157.204 and each amending letter issued under § 157.218(c).

(b) On and after January 1, 1986, or 15 years after the date it was delivered to the original owner, the owner, operator, and master of a foreign tank vessel under § 157.10c(b)(2) shall ensure that the vessel does not enter the naviagable waters of the United States or transfer cargo at a port or place subject to the jurisdiction of the United States unless the vessel has on board—

(1) A *Dedicated Clean Ballast Tank Operations Manual* that—

(i) Is approved under § 157.210; or

(ii) Bears a certification by an authorized CS or the government of the vessel's flag state that the manual meets § 157.224; and

(2) either—

(i) A letter from an authorized CS or the government of the vessel's flag state certifying the vessels complies with §§ 157.220 and 157.222, and any amending letters issued approving alterations; or

(ii) the letter of acceptance under § 157.204 and each amending letter issued under § 157.218.

36. By revising the introductory text of § 157.225 to read as follows:

§ 157.225 Dedicated clean ballast tanks operations: General.

The master of a tank vessel meeting § 157.10a(b), § 157.10a(c)(2), § 157.10b(a)(2), or § 157.10c(c)(2) shall ensure that—

* * * * *

37. By revising § 157.226 to read as follows:

§ 157.226 Dedicated Clean Ballast Tanks Operations Manual: Procedures to be followed.

The master of a foreign rank vessel meet § 157.10a(b), § 157.10a(c)(2), § 157.10b(a)(2), or § 157.10c(c)(2) that has a *Dedicated Clean Ballast Tanks Operations Manual* approved under § 157.210 and is operating in the navigable waters of the United States or transferring cargo at a port or place subject to the jurisdication of the United States and the master of a U.S. tank vessel meeting § 157.10a(b), § 157.10a(c)(2), § 157.10b(a), or § 157.10c(c)(1) shall ensure that the procedures listed in the *Dedicated Clean Ballast Tanks Operations Manual* are followed.

38. By revising § 157.228 to read as follows:

§ 157.228 Isolating valves: Closed during a voyage.

(a) The master of each U.S. tank vessel under § 157.10a(b), § 157.10a(c)(2), § 157.10b(a)(2) or § 157.10c(c)(2) shall ensure that the valves under § 157.222 remain closed during each voyage.

(b) The master of each foreign tank vessel meeting § 157.10a(b), § 157.10a(c)(2), § 157.10b(a)(2), or § 157.10c(c)2) shall ensure that the valves under § 157.222(d) remain closed when the vessel is on a voyage in the navigable waters of the United States.

39. By revising the heading of Supart F to read as follows:

Subpart F—Exemption From § 157.10a or § 157.10c

* * * * *

40. By revising paragraph (a) introductory text of § 157.300 to read as follows:

§ 157.300 Qualifications for exemptions under this part.

(a) Each vessel under § 157.10a or § 157.10c of this part may qualify for an exemption from the requirements of § 157.10a or § 157.10c of this part if—

* * * * *

41. By revising paragraph (f) of § 157.310 to read as follows:

§ 157.310 Exempted vessels: operations.

* * * * *

(f) The certificate of inspection bearing the following endorsement is on board the vessel.

Exempted under 33 CFR 157.306 from the requirements of (*33 CFR 157.10a or 157.10c, whichever is appropriate, will be inserted*). This vessel may not discharge cargo in any foreign port, nor may it load cargo in a port other than the following: (a list of ports contained in the application that is accepted by the Coast Guard for the exempted vessel will be inserted here).

§§ 157.144, 157.147 and 157.302 [Amended]

42. By striking the words "Commandant (G–MMT)" or "Commandant (G–MMT/13)" wherever they apppear in §§ 157.144, 157.147, and 157.302(a) and inserting the words "Commandant (G–MVI)" in their place.

Dated: January 18, 1984.

J. S. Gracey,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 84–1680 Filed 1–23–84; 8:45 am]

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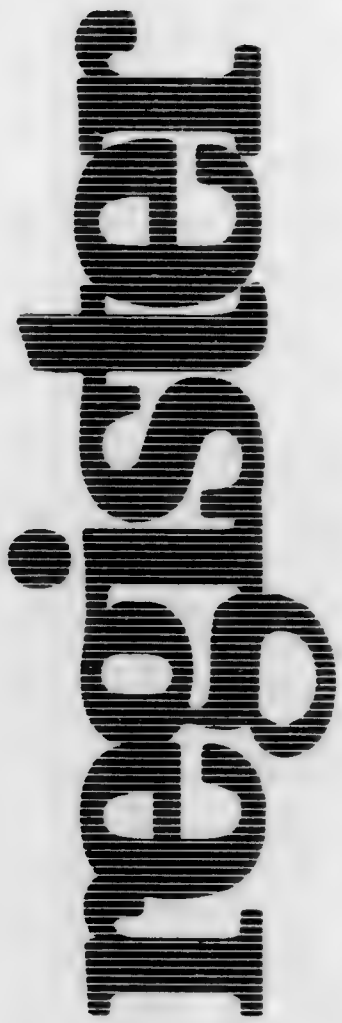

Tuesday
January 24, 1984

Part III

Environmental Protection Agency

40 CFR Part 86

Standards for Emission of Particulate Matter From Diesel-Powered Light-Duty Vehicles and Light-Duty Trucks and Technical Amendment to Emission Regulations for Light-Duty Vehicles, Light-Duty Trucks, and Heavy-Duty Engines; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[AMS-FRL 2473-1]

Standards for Emission of Particulate Matter From Diesel-Powered Light-Duty Vehicles and Light-Duty Trucks and Technical Amendment to Emission Regulations for Light-Duty Vehicles, Light-Duty Trucks, and Heavy-Duty Engines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action delays for two years the effective date of the particulate emission standards for diesel-powered light-duty vehicles and light-duty trucks (light-duty diesels) that were scheduled for the 1985 model year. The less stringent diesel particulate standards which became effective with the 1982 model year will continue in effect through the 1986 model year for these light-duty diesels. The delay is necessary to provide adequate leadtime for manufactures to complete development and testing of trap-oxidizer systems which will be required by a portion of the light-duty diesel fleet in order to meet the more stringent standards.

This action also delays until the 1987 model year the diesel particulate emissions averaging program which was designed to coincide with the more stringent particulate standards.

Finally, the Agency is taking this opportunity to make four technical amendments to other unrelated motor vehicle regulations. Three of these amendments consist of minor corrections to the high-altitude emission control requirements for light-duty motor vehicles beginning in the 1984 model year. The last amendment eliminates a duplicative provision from the regulations affecting 1984 and later model year heavy-duty engines.

DATES: This Final Rule is effective January 24, 1984.

ADDRESSES: Copies of material relevant to this rulemaking are contained in Public Docket No. A-82-32 at the U.S. Environmental Protection Agency, West Tower Lobby, Gallery I, 401 M Street, SW., Washington, D.C. 20460. The docket may be inspected between 8 a.m. and 4 p.m. on weekdays. As provided in 40 CFR Part 2, a reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Mr. Richard S. Wilcox, Emission Control Technology Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105, (313) 668-4390.

SUPPLEMENTARY INFORMATION:

I. Background

A. Promulgation of the Original Light-Duty Diesel Particulate Program

On March 5, 1980, EPA published a final rule which promulgated a diesel particulate standard of 0.60 gram per mile (g/mi) beginning in the 1982 model year for both light-duty vehicles (LDVs) and light-duty trucks (LDTs) (45 FR 14496). The final rule also established more stringent standards for 1985 and later model year LDVs and LDTs of 0.20 g/mi and 0.26 g/mi, respectively.

The more stringent particulate standards which were to become effective in the 1985 model year were based on EPA's projections that a new device called a trap-oxidizer would be available for use by the 1985 model year, and that its use would allow even the highest emitting light-duty diesels (LDDs) to meet the more stringent standards. This device is similar in construction to exhaust emission catalysts currently found on nearly all new light-duty gasoline-fueled vehicles, and filters (traps) particulate matter from the diesel exhaust. The trapped particulate material is periodically burned (i.e., the trap is regenerated) since a trap which would be large enough to store all of the particulate matter emitted by diesel engine over its lifetime cannot be practically installed on a vehicle.

B. Proposal to Delay the 1985 Particulate Standards

On April 6, 1981, Vice President Bush announced that, as part of President Reagan's program for the U.S. automobile industry ("Actions to Help the U.S. Auto Industry"), EPA would conduct a study of the technological feasibility of the 1985 particulate standards. Such a study is consistent with Section 202(a)(2) of the Clean Air Act which requires that standards are to "take effect after such period as the Administrator finds necessary to permit the development and application of the requisite technology * * *"

Shortly after Vice President Bush's announcement, EPA invited all interested parties to submit new data or information (i.e., information which was not considered in the original rulemaking) for the study. The Agency's analysis of these comments is entitled, "Trap-Oxidizer Feasibility Study," and was completed in March 1982.[1] This analysis, which is discussed more fully later in this Preamble, formed the basis of EPA's December 1, 1982 proposal to delay the effective date of the 1985 particulate standards until the 1987 model year (47 FR 54250).

Also pertinent to the proposal was the fact that on September 30, 1981, General Motors (GM) petitioned the Administrator, in part, to suspend the 1985 particulate standards, alleging that the standards continued to be technologically infeasible in the leadtime remaining and would effectively preclude production of LDDs in the 1985 model year.[2] General Motors also raised other issues relating to the allegation that the levels of the 1985 LDD particulate standards were unnecessarily stringent. The proposal to delay the 1985 particulate standards represented a partial grant of GM's petition regarding the technical feasibility of the standards and allowed additional time to consider other issues raised by GM. EPA is continuing to examine other issues such as health needs and relative costs of control as pertinent data are generated.

II. Basis and Contents of the Final Rule

A. Highlights of the Feasibility Study

The "Trap-Oxidizer Feasibility Study" (hereafter the Feasibility Study) formed the technical basis for the proposed 2-year delay. The analysis in the Feasibility Study continues to be central to this rulemaking, particularly since many of the comments on the proposal were directed specifically to its contents. A detailed summary of the Feasibility Study was included in the proposal (47 FR 54250); only the conclusions which are particularly germane to this final rulemaking will be repeated here.

1. *Status of Development.* The Feasibility Study found that trap-oxidizer development had advanced significantly since the 1985 particulate standards were promulgated. Manufacturers had identified two basic trap designs and were concentrating their research efforts on perfecting these designs. One trap utilized a porous, ceramic honeycomb monolith substrate (hereafter the ceramic monolith trap) similar to the ceramic substrates commonly used in catalytic converters. The second design utilized an alumina-coated wire mesh (hereafter the wire

[1] Available for inspection in EPA Docket No. A-82-32.

[2] Available for inspection in EPA Docket No. A-82-32.

mesh trap) which was often coated with catalytic material.

Initial results with these traps were very promising. Trapping efficiency and backpressure were judged to be acceptable for both new traps and traps with up to 50,000 miles of use which had been regenerated 50 to 100 times. Although many cases of trap failure had been reported, durability problems were almost always due to excessively high temperatures in the trap during regeneration. Traps had survived up to 50,000 miles when regeneration was properly controlled.

The Feasibility Study identified the principal remaining developmental task to be the integration of a trap design and a workable regeneration mechanism into an automated on-board system. It projected that most future trap-oxidizer research would concentrate on regeneration control systems.

2. *Leadtime.* In analyzing the issue of how much leadtime the industry needed to introduce workable trap-oxidizers, the Feasibility Study found that the overall leadtime required could be divided into two components: Prototype development leadtime and production leadtime. Prototype development culminates in a working model of an entire trap-oxidizer system (with regeneration controls) that is ready for assurance testing. Based on the information available at the time, the Feasibility Study concluded that prototype development would be completed by about January 1983. Production leadtime includes assurance testing to identify possible problems and refine final design, modifications to the vehicle or engine to accept the trap-oxidizer, acquiring production facilities and tooling, and completing emission certification testing. EPA concluded that production leadtime should require between 25 and 33 months. Adding this requirement to the January 1983 date resulted in production-ready traps sometime between February 1985 and October 1985. This led to two important conclusions. One, a delay of the particulate standards beyond 1985 was necessary if diesel production was not to be restricted. Second, it was possible that traps would be feasible for the 1986 model year (if traps were available by August 1985), however the Agency could not be sure that they would be feasible until the 1987 model year (if trap development and production were not completed until after August 1985).

B. Reconsideration of the Feasibility Study's Conclusions

Many comments on the current status of trap-oxidizer development were received in response to the NPRM. These comments generally included information on manufacturers' progress through the end of 1982. In June 1983, the Agency completed a study based on these comments entitled "An Updated Assessment of the Feasibility of Trap-Oxidizers." [3] A second study, "Trap-Oxidizer Technology for Light-Duty Diesel Vehicles: Feasibility, Costs, and Present Status," which was completed on March 20, 1983 under contract to EPA, involves a recent independent analysis of trap development.[4] These studies have enabled EPA to assess the status of trap-oxidizers as of the end of 1982, a full year later than that possible in the Feasibility Study. The results from these recent studies are summarized in the following discussion. (A more detailed presentation of this analysis can be found in "An Updated Assessment of the Feasibility of Trap-Oxidizers.") [5]

1. *Status of Development.* The information gathered by the Agency as part of this rulemaking continues to show good trap-oxidizer efficiency, backpressure, and durability performance when proper regeneration conditions are maintained. The results of two durability programs have also demonstrated the basic intergrity of the ceramic monolith trap design. Daimler-Benz (producer of Mercedes-Benz vehicles) reported that it successfully completed 50,000-mile durability tests on six naturally aspirated vehicles in 1981 with very little control over the regeneration process. Particulate collection efficiencies were on the order of 80 percent. The testing of three turbocharged vehicles was halted at between 35,000 and 40,000 miles because of driveability problems, while the traps on the three remaining turbocharged vehicles failed, probably due to lack of control over the regeneration process. The Agency completed a 50,000-mile durability program in early 1982 with a ceramic monolith trap installed on a Mercedes turbocharged vehicle. The trap exhibited high efficiency (90 percent), low backpressure, and impressive stability over the entire 50,000 miles.

Johnson Matthey, Inc. proved the basic durability of the catalyzed wire mesh trap with a successful 50,000-mile demonstration which was also completed in early 1982. Particulate reductions varied between 40 and 60 percent, as the trap was only designed to be 50 percent efficient due to the low engine-out emissions of the test vehicle. The trap produced moderate backpressure increases, and also reduced hydrocarbon (HC) and carbon monoxide (CO) emissions as would be expected with a catalyzed trap. Clearly both ceramic monolith and wire mesh traps are capable of maintaining particulate collection efficiencies of 50 to 90 percent with moderate overall increases in backpressure for up to 50,000 miles (and likely more) when regeneration conditions are properly controlled.

Much of the industry's recent trap-oxidizer research has concentrated on the design and development of regeneration mechanisms and control systems. There are two general approaches to regeneration—positive and self-regeneration. Positive regeneration systems regenerate the trap at a specific point in time by activating a mechanism to ensure that regeneration occurs. Self-regeneration systems utilize no periodic mechanisms, but instead rely on attaining regeneration conditions during normal vehicle operation.

Positive regeneration systems for non-catalyzed traps typically involve the addition of an external heat source or the modification of engine parameters in order to raise the exhaust gas temperature. Systems which have been tested on non-catalyzed traps include fuel burners, electrical heaters, and intake air throttling. Catalyzed traps can also utilize mechanisms which raise the concentrations of HC and CO in the exhaust. The HC and CO are oxidized by the catalyst, with the additional heat then igniting the particulate in the trap. Proposed systems for raising HC and CO levels include exhaust stroke fuel injection, adjustment of engine parameters (such as exhaust gas recirculation rates and/or timing), and individual cylinder throttling. At this time, it appears that the most promising positive regeneration systems are the fuel burner for non-catalyzed traps and exhaust stroke fuel injection for catalyzed traps. These mechanisms are explained in greater detail in the Agency reports cited above

Positive regeneration systems require on-board systems to initiate and control the regeneration process. Manufacturers have accumulated considerable data on the minimum levels of trapped particulate, exhaust oxygen, and exhaust temperature necessary to initiate successful regeneration, as well as the time necessary to complete regeneration. Manufacturers have also characterized the maximum particulate

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[3] Available for inspection in EPA Docket No. A-82-32.

[4] This study was prepared under EPA Contract No. 68-01-6543 by Energy and Resource Consultants, Inc., and is available for inspection in EPA Docket No. A-82-32.

[5] Available for inspection in EPA Docket No. A-82-32.

loadings and inlet temperatures which can be permitted without risk of overheating the trap. Several sophisticated control systems have been designed, fabricated, and installed on experimental vehicles. To date, regeneration systems have not been completely automated but that is not expected to be a major barrier.

The components of a regeneration control system will likely involve sensors, actuators, and a central processing unit. Sensors may be required for some or all of the following parameters: Exhaust and trap termperature, engine revolutions and load, burner ignition detection, accelerator pedal position, backpressure, etc. Actuators which would be required include valves, solenoids, relays, and possibly remotely operated accessory clutches for air pumps. Most of these sensors and actuators are either used already in automotive applications or are similar to items which are available. Development of a durable and accurate backpressure sensor, thought to be difficult at the time of the Feasibility Study, now appears to be imminent.

The addition of a microprocessor to control and monitor regeneration should also be fairly straightforward. It is expected that by the late 1980's many diesel manufacturers will utilize microprocessors to determine fuel injection rate and timing based on information provided by a variety of sensors. Control logic for trap-oxidizer regeneration would simply be one additional function for vehicles equipped with electronic controls. Those vehicles without microprocessors would require a separate logic system, but adding such a system would be fairly straightforward compared to the sophisticated electronics used on today's gasoline-fueled vehicles.

While the successful development of positive regeneration systems is expected, the design and application of such systems have proved to be somewhat more complex and time consuming than projected at the time of the Feasibility Study. This is the primary reason for the delay in implementation of the more stringent particulate standards. This fact has also renewed interest in the concept of self-regeneration. Recent work in this area has centered on the use of diesel fuel additives.

It has been found that organometallic compounds added to diesel fuel can effectively lower the ignition temperature of trapped particulate. Several fuel additives have been evaluated, including copper, lead, manganese, calcium, and their various combinations. The results have been very promising and fuel additives are now the leading area of regeneration research for many manufacturers.

There are still several unresolved issues with respect to the applicability of fuel additives to induce self-regeneration. Should the additive be premixed into diesel fuel at the refinery or added on-board the vehicle? Will the additive and any combustion by-products be compatible with fuel injection and engine hardware? The two most serious, and somewhat interrelated, concerns of fuel additives are the environmental consequences of their usage and the possibility of trap plugging with metal deposits. Preliminary testing indicates that nearly 100 percent of the additive is collected in the trap, with only negligible amounts emitted into the atmosphere. This is very beneficial from an environmental standpoint, since many of the metals are toxic. However, the trapping of the additive raises concerns about trap plugging and excessive backpressure. In addition, if the additive were stored on-board the vehicle, this would raise concerns over occupant safety, since some of the additives are toxic in concentrated form.

If the above concerns can be satisfactorily resolved, self-regeneration would pose a simpler and cheaper alternative to positive regeneration systems, since the need for an elaborate control system could be eliminated. Possibly the only control requirement would be a fail-safe system to prevent excessive particulate loading and resultant trap overheating. Such a self-regeneration system would require little engine/vehicle modification as well.

2. *Leadtime.* The technical information available as of February 1983 (i.e., the close of the public comment period for this action) indicated that diesel manufacturers did not meet the projected January 1983 date for successful prototype development. However, that same information showed that much progress had occurred with positive regeneration design and development, and that the final remaining task was to integrate specific regeneration mechanisms into an overall control system. In this regard, most, if not all, of the necessary components for completing this task are available or easily adapted from existing sources.

Somewhat greater uncertainties exist with respect to self-regeneration systems based on fuel additives. Given the high rate of progress in the last year, however, and the fact that self-regeneration systems involve less complexity and fewer design modifications, the Agency considers fuel additives to have the potential of being developed on a similar schedule as positive regeneration systems. Of course, both positive and self-regeneration systems need not be developed; only one is necessary.

Although the inherent uncertainties involved in prototype development work make it difficult to specifically project the completion of this task, such a projection is a necessary part of any leadtime analysis. Based on the technical information mentioned above, the straightforward nature of the remaining engineering tasks, and the progress that had been achieved as of February 1983, the Agency projects that an additional six to nine months of optimization would permit manufacturers to develop workable prototype trap-oxidizer systems. This means that industry-wide assurance testing could begin as early as the fall of 1983.

Information that has recently become available supports the Agency's projection for the completion of prototype development. Daimler-Benz and GM have publicly announced they are currently testing trap-oxidizer systems.[6] Daimler-Benz stated in August 1983, and reiterated in November 1983, that if its current test program is successful, a trap-equipped vehicle will be introduced in California for the 1985 model year. General Motors stated in November 1983 that equipping its diesel LDT for the California market was infeasible by the 1985 model year, and was "borderline" for the 1986 model year.

These comments by Daimler-Benz and GM suggest that the automotive industry has met EPA's projected date for completing prototype development, i,e., about the fall of 1983. This is based on the fact that the programs described by these manufacturers must involve assurance testing if there is to be any hope of achieving the referenced model year dates. Otherwise, the leadtimes associated with manufacturing production hardware would make these dates unattainable. Therefore, manufacturers appear to be basically on schedule for complying with the more stringent particulate standards on a nationwide basis for the 1987 model year.

The Agency has reviewed its analysis of production leadtime and reaffirmed the Feasibility Study's conclusion that 25 to 33 months would likely be necessary to produce trap-oxidizers for

[6] Available for inspection in EPA Docket No. A-82-32.

the national fleet.[7] Adding this time to the above projection that successful prototypes could be developed around the fall of 1983, EPA projects that trap-oxidizers should be available for production vehicles sometime between the fall of 1985 and the summer of 1986. Under this entire range, trap-oxidizers will be available in time for the 1987 model year. Therefore, EPA concludes that delaying the 1985 particulate standards for two years is sufficient to allow for the complete development of trap-oxidizer technology.

C. Technical Amendments for Light-Duty Vehicles and Light-Duty Trucks

Three technical amendments are being made to the high-altitude emission control regulations for 1984 and later light-duty motor vehicles. The first amendment involves the designation of high-altitude locations where only vehicles certified to emission standards at high altitude may be sold.

On October 19, 1983, a high-altitude rulemaking adopted the revised list of "designated high-altitude locations" for 1984 and later LDVs, that was previously applicable only to LDTs (48 FR 48598). Although the text of the regulations correctly stated that the associated list of high-altitude locations applied to both LDVs and LDTs, the actual title of the list continued to refer only to LDTs. This oversight in 40 CFR Part 86 (§ 86.084–30 and § 86.085–30) is being corrected by simply deleting the title. This revision along with the existing text makes it clear that the list of "designated high-altitude locations" applies to both vehicle classes.

The second amendment revises a typographical error that occurred in the above-referenced rulemaking when the high-altitude standards for 1985 and later LDTs were reinstated after being inadvertently deleted by the diesel particulate emissions averaging program (48 FR 33456). The carbon monoxide standard in 40 CFR Part 86 (§ 86.085–9) for high-altitude LDTs was incorrectly published as 14.0 g/mi. The corrected value is 14 g/mi.

The third amendment affects the control of crankcase emissions from high-altitude LDTs beginning in the 1984 model year. Currently, crankcase emissions from both gasoline-fueled and diesel-powered LDTs are prohibited at low altitude. However, the January 13, 1983 high-altitude LDT rulemaking specifically restricted crankcase emissions from gasoline-fueled LDTs only (45 FR 5988). The intent of the high-altitude regulations was to restrict these emissions from both types of LDTs because: (1) Crankcase controls at high altitude have historically mirrored those at low altitude, and (2) there is no technical need for diesel-powered vehicles to have open crankcases at high altitude when they are already sealed at low altitude. Therefore, 40 CFR Part 86 (§ 86.084–9 and § 86.085–9) is being revised to prohibit crankcase emissions from all LDTs, regardless of elevation.

This amendment will have no adverse effect on the automotive industry since light-duty diesel truck manufacturers are already complying with the requirement.

D. Technical Amendment for Heavy-Duty Engines

The rulemakings of January 21, 1980, governing 1984 and later model year heavy-duty engines (45 FR 4136), and September 25, 1980, governing 1984 and later model year light-duty trucks (45 FR 63734) each created a new section in 40 CFR Part 86 dealing with the automatic expiration of reporting requirements. In addition to being duplicative, one of these sections, 86.084–39, was incorrectly numbered. This had the unintended effect of overriding the provisions of § 86.079–39, which deals with the submission of maintenance instructions to the Administrator.

Today's action deletes one of these duplicative sections, 86.084–39, in favor of retaining the correctly numbered § 86.084–40. This deletion effectively restores the provisions of § 86.079–39, which were never intended to be overridden.

III. Public Participation

This section summarizes and analyzes comments to the proposed rule which were received during the public comment period, including those presented at the public hearing held in Ann Arbor, MI on January 18, 1983. The comments covered several topics, including the need, cost, and technical feasibility of the LDD particulate standards. As clearly stated in the proposal, however, only the technical feasibility of the standards was being considered as the basis for the 2-year delay. Therefore, only comments relevant to that issue are considered in this Final Rule. EPA is continuing to examine other issues such as health needs and relative costs of control as pertinent data are generated, and the comments received on these issues will be considered in that examination. The comments pertinent here have been organized into three areas by subject matter: (1) The status of trap-oxidizer development, (2) leadtime, and (3) alternative control strategies.

A. Status of Trap-Oxidizer Development

The only commenter to challenge the Feasibility Study's conclusions directly regarding efficiency, backpressure, and durability was Ford. First, Ford claimed that the collection efficiencies of nominally identical trap-oxidizers can vary by up to 20 percent, but supplied no evidence to support this statement. While the Agency agrees that general types of trap-oxidizers can show various efficiencies—the Feasibility Study expresses typical efficiencies in ranges—EPA is not aware of data which would quantify the amount of variability which would occur between properly functioning, identical traps. However, even if the claim by Ford was correct, current engine-out particulate levels are low enough that such variability would not affect a manufacturer's ability to comply with the standards.

Ford stated that EPA ignored the fuel economy and performance impacts of loaded-trap backpressure. The Agency did not ignore these impacts, but focused in the Feasibility Study on a trap's ability to return to zero-mile backpressure after regeneration. This being the case, the regeneration system can be designed to regenerate before backpressure reaches a level where significant impacts would be observed. This has been demonstrated in vehicle testing by both Daimler-Benz and the Southwest Research Institute (the latter under contract to EPA).

Ford objected that EPA's conclusions regarding durability, based on test data with manually initiated regeneration under steady-state conditions, were premature since regeneration will have to be automated and achievable under transient conditions. The Agency did not in the Feasibility Study, and cannot now, argue that trap durability has been proved under all possible regeneration conditions. Rather, EPA believes that several successful 50,000-mile tests show that trap durability is satisfactory when regeneration conditions are properly controlled. However, it should be noted that Ford has investigated routing the exhaust around the trap during regeneration to isolate the trap from transient conditions. Such a bypass

[7] It should be noted that these conservative leadtime projections consider only the time necessary to enable manufacturers to introduce trap-oxidizers on most or all models requiring them in order to meet the 0.2 g/mi particulate standard on a nationwide basis. The Agency's decision to grant a delay until the 1987 model year to provide adequate leadtime on a Federal basis does not consider whether trap-oxidizer technology may be available at an earlier date in the California market if needed to meet that State's planned 1986 model year implementation of the 0.2 g/mi standard for light-duty motor vehicles. For more information on California's waiver request, see 48 FR 22625, May 19, 1983.

system may avoid any problems associated with transient operations.

Several vehicle manufacturers reported examples of traps physically failing (i.e., cracking, melting, plugging). Some observers have commented that such failures indicate that trap-oxidizers are infeasible. The Agency disputes this analysis. In the development of any new technology there will be many failures before success is achieved. When traps have failed, it is almost invariably due to excessive particulate loading in the trap prior to regeneration, leading to destructive temperatures during regeneration. The frequency of trap failure has receded in the recent past as researchers have expanded their knowledge of the limitations of various trap designs. The Agency expects trap failure to become infrequent as regeneration systems are refined.

The only other significant comment on non-regeneration trap performance came from the Manufacturers of Emission Control Association (MECA). MECA stated that "several of our members will be able to make available that portion of the control system which they plan to produce," (i.e., a satisfactory trap). This position, by the companies which would manufacture traps, is consistent with the Agency's position that trap efficiency, backpressure, and durability are acceptable given workable regeneration control systems.

Ford also commented on EPA's analysis of regeneration in the Feasibility Study. First, Ford questioned EPA's conclusion in the Feasibility Study regarding the types of sensors which would be required for a successful regeneration control system. Ford argued that mileage and engine revolution counters would not be acceptable, but at the same time implicitly supported the Feasibility Study's statement that preferable backpressure sensors of sufficient reliability and durability should be available very soon. At the public hearing, Ford stated that it was already testing backpressure sensors on an experimental basis. Volkswagen also stated at the hearing that such sensors should not present a problem.

Ford also claimed that EPA ignored the issue of regeneration under transient operating conditions. The Agency agrees with Ford that regeneration must be achievable under transient engine operating conditions. However, many manufacturers, including Ford, have investigated positive regeneration systems using an exhaust bypass to route the exhaust away from the trap during regeneration. As already mentioned, this would isolate the trap from engine operation and remove any problems associated with transient exhaust flow conditions. Emission levels during trap-bypass would be significantly higher than during trapping and would have to be accounted for during determinations of compliance with the standards. The Agency will be considering alternative methods for doing this as more exact features of trap-bypass systems become available.

The most significant development in trap-oxidizer regeneration is the recognition of the potential of fuel additives to induce self-regeneration. General Motors' comment was indicative of the trend towards fuel additives—

> [M]ost of the systems currently under development are much different than any described in our October 1981 response. Our emphasis on fuel additives began after that submission. The use of additives arose out of necessity. Burner systems were proving to be too costly, and the high temperatures and temperature gradients experienced with these systems were causing trap failures during regeneration. Systems employing additives appeared to be less costly, and they offered several other potential advantages. . . . [T]he main motivation for using additives is that they allow regeneration at lower temperatures, resulting in fewer trap failures as a result of overheating and thermal shock. However, we also pointed out at the hearing that there are still major concerns with additives.

Volkswagen also stated that additives were its preferred regeneration mechanism at the time of its comment. Other major commenters, such as Ford and Daimler-Benz, did not rank their various systems. Daimler-Benz, in fact, argued against the use of organometallic fuel additives on the basis of unregulated emissions, trap plugging, and engine wear.

As discussed above, EPA considers the possibility of self-regeneration with the use of fuel additives to be a potential alternative to positive regeneration systems, and the Agency agrees with GM that the use of additives may be simpler and less expensive. EPA also agrees with GM and other commenters that there are several unresolved issues with respect to additive usage. These were discussed in a previous section. Accordingly, at this time the Agency only considers positive regeneration systems, such as the fuel burner and exhaust stroke fuel injection, as being definitely available for 1987 production. Successful application of additives is considered an alternative which will require additional investigation.

With respect to overall evaluations of the status of trap-oxidizer development, the vehicle manufacturers were unanimous in saying that they had not yet identified a trap/regeneration control system as of February 1983 (i.e., the close of the comment period) which could be committed to production. The Agency has evaluated the progress made by the manufacturers and agrees that workable trap/regeneration control systems were not available as of that date. Nevertheless, the Agency found the manufacturers to be in the final stage of trap-oxidizer development and no manufacturer offered evidence to the contrary.

B. Leadtime

Many commenters discussed the issue of leadtime. Some of the comments specifically dealt with the primary leadtime components as identified in the Feasibility Study (i.e., prototype and production development). Others, however, provided more general remarks about the implementation date of the particulate standards. The specific comments will be discussed in the first two sections followed by a discussion of the general comments in the final section.

1. *Prototype Development Leadtime.* Chrysler, Ford, Nissan, and the National Automobile Dealers Association (NADA) suggested that because the January 1983 milestone for the completion of prototype development had not been attained, EPA's subsequent conclusion that trap-oxidizers would be available for the 1987 model year was invalidated. At the public hearing, GM stated that its September 1983 estimate for the completion of prototype development, which was submitted for the Feasibility Study, could not be revised because of the uncertainties involved. Nonetheless, GM found EPA's projection to be unrealistic. In its subsequent written comments, GM expressed a concern that prototype development may not even be completed by June 1984, which it regarded as necessary for a 1987 model year introduction.

The relative significance of the January 1983 date, with regard to the technical feasibility of trap-oxidizers for the 1987 model year, can only be explained in the context of the entire leadtime schedule that was presented in the Feasibility Study. The analysis in that document showed that even under "worst case" production leadtime assumption (33 months), trap-oxidizers should be ready for mass production by about October 1985 if this first milestone were reached. While this is 2–3 months after the 1986 model year begins, it is also 9–10 months before the beginning of the 1987 model year. Therefore, even under these worst case conditions, it

would be possible for manufacturers to "miss" the January 1983 prototype development milestone by up to 10 months and still have traps ready for the 1987 model year. This clearly provided manufacturers a significant amount of additional leadtime and diminishes the importance of achieving the January 1983 milestone.

Regarding GM's prototype leadtime projections, EPA reassessed the status of trap-oxidizer development within the automotive industry in the previous section. That analysis shows it is reasonable to expect prototype development could be completed around the fall of 1983, well ahead of the June 1984 deadline mentioned in GM's last submittal. Subsequent statements by GM suggest this is indeed the case.

2. *Production Development Leadtime.* Ford stated that the most significant difference between its production development schedule and EPA's was for assurance testing. Ford estimated 31 months and EPA estimated 7–9 months. (The Agency's projection includes 3.5–5 months for a 50,000-mile test and 3–4 months for data analysis.) Daimler-Benz commented that EPA's 5-month allowance for a 50,000-mile test is overly optimistic because the projection is based primarily on high-load driving with only a small fraction of part-load and idle operation and with few cold starts. It stated that guaranteeing and controlling regeneration during these latter phases of the operating regime is a special concern with current regeneration systems. Thus, Daimler-Benz claimed that including more part-load and idle operation in the 50,000-mile test could easily double the time required.

General Motors commented at the public hearing that its earlier estimate of production leadtime, submitted for the Feasibility Study, remained unchanged. That submittal included a projection of 24 months to complete production development, but also contained a statement that a limited production-built fleet would be necessary to evaluate trap-oxidizers before mass production of the systems could begin. The period of time required for such a test program was unspecified, however. General Motors also commented on production development leadtime in its subsequent written comments. That submission included an estimate of about 26 months for post-prototype, production-related facilities without specific mention of the need for a limited production-built test fleet.

The Natural Resources Defense Council (NRDC) requested that EPA reevaluate its leadtime projections "with a cautious eye to the Agency's legal obligation to force the rapid introduction of these controls." NRDC suggested allowing only one round of assurance testing (a total of 6 months) and 12–18 months for tooling.

Ford's production leadtime comments were taken from its "Corporate Timing Standard" for normal product development. However, no justification was given for why this standard included 31 months of assurance testing nor why this standard should apply to trap-oxidizer development. Even accepting the fact that 31 months of assurance testing is a necessary part of this standard, the Agency believes that Ford's preferred internal timing standard should not be used as the basis in developing emission control technology. Rather, emission controls which are necessary to protect public health should be developed along a more aggressive schedule. Therefore, EPA rejects Ford's position that 7–9 months for assurance testing is inadequate. EPA believes that the 7–9 month estimate was developed using reasonable times for the component efforts as discussed earlier.

The Agency is in basic agreement with Daimler-Benz's comment concerning the need for more part-load and idle operation during the 50,000-mile assurance test than was assumed in the Feasibility Study. However, it does not necessarily follow that this test must take longer than the 3.5–5 months allotted by EPA. The Agency's estimate is based on data used in past rulemaking actions. It is conservative in that the test vehicles are assumed to accumulate mileage 8 hours per day. If adding more part-load and idle operation to the test sequence requires more time, it could be accommodated by running the vehicles for more than 8 hours each day. While this would increase the cost of the test, it would not add to the number of months which are necessary to conduct the program. Therefore, EPA does not agree with Daimler-Benz's comment that conducting a 50,000-mile assurance test will take longer than the 3.5–5 months projected by the Agency.

The two comments from GM on production leadtime appear to be somewhat inconsistent in that the need for a production-built test fleet after tooling and production facilities are operational was specifically mentioned only once. The lack of any reference to such a test program in GM's most recent submittal may mean that it is no longer regarded as necessary. (No other manufacturer mentioned the need for a similar program.) In this case, GM's estimates of 24–26 months for total production development are in general agreement with the lower bound of EPA's 25–33 month estimate. On the other hand, not specifically mentioning the production-built test program in its latest submittal may have been a simple oversight. If GM continues to believe it is necessary, up to 9 months could be allotted for the test program and still be within EPA's projected range of 25–33 months (9+24=33). Nine months of critical path should be more than adequate for such a program. Therefore, in either case, GM's production leadtime estimates are consistent with EPA's estimate.

Based on the leadtime analysis presented in section II.B above, EPA cannot agree with NRDC's recommendation to shorten the production leadtime schedule. Adequate leadtime must be provided to ensure that trap-oxidizers will function properly in-use, and the lower limits of the estimated leadtime range cannot be arbitrarily applied to the entire industry. EPA has adequate discretion under Sections 202(a) (1) and (2) of the Act to select the appropriate model year for trap introduction based in part on leadtime estimates.

3. *Applicable Model Year.* Most of the general leadtime comments from manufacturers regarding their assessment of the model year in which trap-oxidizers would be available were unsupported. American Motors stated the 2-year delay appeared to be inadequate. Peugeot stated that trap-oxidizers definitely would be unavailable for the 1986 model year and that it was unsure whether they would be available in time for the 1987 model year. Volkswagen commented that there was no possibility of introducing traps by the 1986 model year and that it was "cautiously optimistic" about meeting the 1987 model year. Daimler-Benz commented that EPA's leadtime projections were overly optimistic, but did not state that more than a 2-year delay was necessary to perfect trap-oxidizers.

General Motors and Ford provided more specific leadtime information. However, as their overall leadtime projections depend on their specific comments which have already been addressed, their general comments will only be briefly mentioned here.

The Natural Resources Defense Council commented that Daimler-Benz' testimony to the California Air Resources Board (CARB) concerning the availability of trap-oxidizer control technology by the 1985 model year was evidence that the 1985 model year deadline could be met, or 1986 at the latest.

The unsubstantiated model year assessments of some manufacturers make it impossble for EPA to review such comments critically. It can only be noted that no manufacturer, except Ford, went so far as to say that trap-oxidizers were definitely infeasible for the 1987 model year. For example, VW stated that it is "cautiously optimistic," while GM stated that the 2-year delay "will probably not be enough." Although such unsubstantiated statements do not directly support the feasibility of trap-oxidizers for the 1987 model year, they also do nothing to counter EPA s conclusion that this expectation is reasonable.

Concerning NRDC's comment, the Daimler-Benz testimony to CARB would appear to be much more complex than a simple statement that trap-oxidizers would be feasible for the 1985 model year In its testimony, Daimler-Benz was actually requesting relief from CARB's stringent 1984 NOx standard, which it stated would otherwise preclude its marketing of any diesel vehicles in California. In return, Daimler-Benz committed to meeting a particulate standard more stringent than 0.40 g/mi in 1985 (approximately 0.32 g/mi) if averaging were allowed. Also, in its written comments to EPA, Daimler-Benz refuted NRDC's interpretation of its testimony to CARB. Daimler-Benz clarified that its statement to CARB was that *if* trap-oxidizers were available by the 1985 model year, they could only be applied to part of its fleet. Finally, even if Daimler-Benz is able to equip some of its vehicles with trap-oxidizers by 1985, this does not necessarily demonstrate that these devices are technically feasible for other manufacturers in that timeframe, especially on a nationwide basis.

Based on the status of trap-oxidizer development throughout the industry, as well as at Daimler-Benz, the Agency disagrees with NRDC's assessment of the feasibilty of trap-oxidizers prior to the 1987 model year. While it may appear that Daimler-Benz's trap-development program is proceeding ahead of many others, this does not automatically demonstrate nationwide feasibility in 1985 or 1986 for a sufficient portion of the overall fleet.

C. Alternative Control Strategies

An alternative control strategy was suggested by NRDC in which no delay would be granted for those diesel models which do not need trap-oxidizers to meet the 1985 standards. If there is a delay, however, then NRDC felt that interim standards at or below 0.40 g/mi should be established to prevent air quality deterioration.

The Agency expects there would be no real nationwide evironmental benefit either by implementing the 0.20 g/mi standard for only a portion of the fleet or by establishing an interim standard at or below 0.40 g/mi. Under the existing 0.6 g/mi particulate standard, manufacturers are generally using the best available non-trap control technology and as a result particulate emissions from current light-duty diesel vehicles are generally significantly below the standard. Moreover, manufacturers have fairly strong incentives (relative to the low cost of these non-trap technologies) to keep particulate emissions low because of the deleterious effects of high particulate levels on oil change intervals, durability of the exhaust gas recirculation system, cylinder durability, and smoke levels. Therefore, the Agency finds that on a nationwide basis NRDC's alternative strategy would result in little, if any environmental gain.

D. EPA's Responsibility Under the Clean Air Act

Natural Resources Defense Council commented that EPA's approach to the proposed delay does not fulfill its obligation to establish technology-forcing standards. Instead, it argued, EPA is taking a very conservative approach, evidenced by the lack of a thorough technology-forcing inquiry, which is inconsistent with the Agency's mandate to protect health and welfare.

In responding to this comment, four points need to be discussed. First, the 0.20 g/mi LDV and 0.26 g/mi LDT particulate standards are certainly technology-forcing in that at the time they were promulgated, the requisite control technology did not exist. Even now a significant amount of development remains to be accomplished before trap-oxidizers are ready for commercial introduction. The 2-year delay does nothing to reduce this aspect of the particulate standards.

Second, while EPA agrees that its mission is to protect the public health and welfare, Congress has provided the Agency with guidelines for discharging this responsibility. Section 202(a)(2) of the Act clearly states that standards are to take effect after allowing adequate leadtime for development. As discussed in the preceding section of this preamble, the Agency has determined that it is reasonable to expect that trap-oxidizer systems will not be generally available on a national basis until the 1987 model year. Therefore, the Agency's action in this matter is wholly consistent with its duties under the Act.

Third, EPA's analysis of the status and leadtime requirements of trap-oxidizer technology was both detailed and thorough. The Agency's effort to secure all the facts relating to trap-oxidizer technology included: (1) Publishing a request for information in the **Federal Register** (46 FR 31677), (2) conducting a number of meetings with the automotive industry, the emission-control manufacturing industry, and NRDC, (3) publishing EPA's comprehensive analysis of trap-oxidizer development (i.e., the Feasibility Study), and (4) conducting a subsequent and completely independent analysis under contract (i.e., the Technology Study). Also, the notice and comment period associated with this rulemaking action provided an opportunity to receive and review additional information. Therefore, the record clearly demonstrates the Agency's effort to conduct a thorough technological investigation.

Fourth, even with a 2-year delay to 1987, EPA has shown a commitment to the concept of technology forcing. A more conservative 1988 effective date for particulate standards was recommended by the National Academy of Science (NAS). Also, some manufacturers that commented on the proposal either explicitly recommended or suggested this same date. This supports the Agency's position that the adoption of the 1987 model year in this Final Rule is not overly conservative. Rather, it is the earliest model year for which trap-oxidizers can be projected to be commercially available throughout the industry on a nationwide basis. In reaching this conclusion, EPA has balanced the risks of an overly optimistic prediction against the environmental consequences of implementing these standards in 1987, rather than 1986. The Agency has concluded that the consequences of a wrong decision (i.e., if 1986 proved infeasible on a nationwide basis) would be severe, and that these potential consequences are not overcome by the deferral of the benefits of more stringent standards until 1987.

IV. Authority

Statutory authority for this final rule is provided by Sections 202(a) and 301(a) of the Clean Air Act (42 U.S.C. 7521(a) and 7601(a)). Section 202(a)(1) of the Act provides, in part, that "[t]he Administrator shall by regulation prescribe * * * standards applicable to the emission of any pollutant from any class or classes of new motor vehicles . . . which may reasonably be anticipated to endanger public health or welfare." Section 202(a)(2) of the Act provides, in part, that "[a]ny regulation

prescribed under paragraph (1) * * * shall take effect after such period as the Administrator finds necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period." Section 301(a) provides, in part, that "[t]he Administrator is authorized to prescribe such regulations as are necessary to carry out his functions under this Act."

I find that good cause exists to make this rule effective immediately since some manufacturers will soon be producing 1985 model year vehicles that would be required to meet this standard or be prohibited from sale. Moreover, because this rule simply delays the effective date of the standard, it relieves a restriction.

Judicial Review: Under Section 307(b)(1) of the Act, EPA hereby finds that these regulations are of national applicability. Accordingly, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the District of Columbia Circuit within 60 days of publication. Under Section 307(b)(2) of the Act, the requirements which are the subject of today's notice may not be challenged later in judicial proceedings brought by EPA to enforce these requirements.

Administrative Designation: Under Executive Order 12291 EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This final rule delays the implementation date of an existing regulation and as a result does not impose either new costs or significant adverse effects on competition, productivity, investment, employment, or innovation. This final rule is, therefore, not major and is not subject to the requirements of a Regulatory Impact Analysis.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA or EPA's response to these comments are available for public inspection in the docket cited at the beginning of this preamble.

Effect on Small Entities: Section 605 of the Regulatory Flexibility Act requires that the Administrator determine whether regulations will have a significant impact on a substantial number of small entities. I certify that this regulation indeed does not have any significant impact on small entities. Few, if any, small entities market diesel engines or are involved in trap-oxidizer development, which is the subject of these regulations. Therefore, no small entities should see any significant impact.

Impacts of Reporting Requirements: There are no information collection requirements in this final rule, as it merely delays for two years the implementation date of a standard already promulgated in a separate rulemaking.

List of Subjects in 40 CFR Part 86

Administrative practice and procedure, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: January 16, 1984.

William D. Ruckelshaus,

Administrator.

For the reasons discussed in the Preamble, Subpart A of 40 CFR Part 86 is amended as follows:

1. The Authority citation for Part 86 reads as follows:

Authority: 42 U.S.C. 7521(a) and 7601(a).

§ 86.084-39 [Removed]

2. Section 86.084-39 is removed.

3. Section 86.084-9 is amended by revising paragraph (f) to read as follows:

§ 86.084-9 Emission standards for 1984 and later model year light-duty trucks.

* * * * *

(f) No crankcase emissions shall be discharged into the ambient atmosphere from any 1984 and later model year light-duty trucks sold for principal use at a designated high-altitude location.

* * * * *

4. Section 86.084-30 is amended by revising paragraph (a)(5)(ii) to read as follows:

§ 86.084-30 Certification

(a) * * *

(5)(i) * * *

(ii) The designated high-altitude locations defined in paragraph (a)(5)(i) of this section are listed below:

State of Colorado

Adams	Garfield
Alamosa	Gilpin
Arapahoe	Grand
Archuleta	Gunnison
Boulder	Hinsdale
Chaffee	Huerfano
Cheyenne	Jackson
Clear Creek	Jefferson
Conejos	Kit Carson
Costilla	Lake
Crowley	La Plata
Custer	Larimer
Delta	Las Animas
Denver	Lincoln
Dolores	Mesa
Douglas	Mineral
Eagle	Moffat
Elbert	Montezuma
El Paso	Montrose
Fremont	Morgan
Otero	Saguache
Ouray	San Juan
Park	San Miguel
Pitkin	Summit
Pueblo	Teller
Rio Blanco	Washington
Rio Grande	Weld
Routt	

State of Nevada

Carson City	Lyon
Douglas	Mineral
Elko	Nye
Esmeralda	Pershing
Eureka	Storey
Humboldt	Washoe
Lander	White Pine
Lincoln	

State of New Mexico

Bernalillo	Otero
Catron	Rio Arriba
Colfax	Roosevelt
Curry	Sandoval
De Baca	San Juan
Grant	San Miguel
Guadalupe	Santa Fe
Harding	Sierra
Hidalgo	Socorro
Lincoln	Taos
Los Alamos	Torrance
Luna	Union
McKinley	Valencia
Mora	

State of Utah

Beaver	Morgan
Box Elder	Piute
Cache	Rich
Carbon	Salt Lake
Daggett	San Juan
Davis	Sanpete
Duchesne	Sevier
Emery	Simmit
Garfield	Tooele
Grand	Uintah
Iron	Utah
Juab	Wasatch
Kane	Wayne
Millard	Weber

* * * * *

5. Section 86.085-8 is amended by revising paragraph (a)(1)(iv) to read as follows:

§ 86.085-8 Emission standards for 1985 light-duty vehicles.

(a)(1) * * *

(iv) *Particulate emissions* (diesels only). 0.60 gram per vehicle mile (0.373 gram per vehicle kilometer).

* * * * *

6. Section 86.085-9 is amended by revising paragraphs (a)(1)(iv), (d)(1)(ii) and (f) to read as follows:

§ 86.085-9 Emission standards for 1985 and later model year light-duty trucks.

(a)(1) * * *

(iv) *Particulate emissions* (diesels only). 0.60 gram per vehicle mile (0.373 gram per vehicle kilometer);

* * * * *

(d) * * *

(1) * * *

(ii) *Carbon Monoxide.* 14 grams per vehicle mile (8.7 grams per vehicle kilometer);

* * * * *

(f) No crankcase emissions shall be discharged into the ambient atmosphere from any 1984 and later model year light-duty trucks sold for principal use at a designated high-altitude location.

* * * * *

7. Section 86.085–21 is amended by revising paragraph (a), and by removing and reserving paragraph (b)(5) as follows:

§ 86.085–21 Application for certification.

(a) A separate application for a certificate of conformity shall be made for each set of standards and each class of new motor vehicles or new motor vehicle engines. Such application shall be made to the Administrator by the manufacturer and shall be updated and corrected by amendment.

(b) * * *

(5) [Reserved]

* * * * *

8. Section 86.085–23 is amended by revising paragraphs (b)(1)(ii) and (e)(1), and by removing and reserving paragraph (f) as follows:

§ 86.085–23 Required data.

* * * * *

(b)(1) * * *

(ii) Exhaust emission deterioration factors for light-duty trucks and heavy-duty engines and all test data that are derived from the testing described under § 86.085–21(b)(4)(iii)(A) as well as a record of all pertinent maintenance. Such testing shall be designed and conducted in accordance with good engineering practice to assure that the engines covered by a certificate issued under § 86.085–30 will meet the emission standards in § 86.085–09, § 86.085–10, or § 86.085–11, as appropriate, in actual use for the useful life of the engine.

* * * * *

(e)(1) A statement that the test vehicles (or test engines) with respect to which data are submitted to demonstrate compliance with the applicable standards of this subpart are in all material respects as described in the manufacturer's application for certification, have been tested in accordance with the applicable test procedures utilizing the fuels and equipment described in the application for certification and that on the basis of such tests the vehicles (or engines) conform to the requirements of this part. If such statements cannot be made with respect to any vehicle (or engine) tested, the vehicle (or engine) shall be identified, and all pertinent data relating thereto shall be supplied to the Administrator. If, on the basis of the data supplied and any additional data as required by the Administrator, the Administrator determines that the test vehicle (or test engine) was not as described in the application for certification or was not tested in accordance with the applicable test procedures utilizing the fuels and equipment as described in the application for certification, the Administrator may make the determination that the vehicle (or engine) does not meet the applicable standards. The provisions of § 86.085–30(b) shall then be followed.

* * * * *

(f) [Reserved]

* * * * *

9. Section 86.085–28 is amended by revising paragraphs (a)(2), (a)(3), (a)(4) introductory text, (a)(4) (iii) and (iv), (a)(5), (b)(2), (b)(3), (b)(4) (i) and (iv), (b)(5), and (b)(7), and by removing (a)(6) to read as follows:

§ 86.085–28 Compliance with emission standards.

(a) * * *

(2) The applicable exhaust and fuel evaporative emission standards of this subpart apply to the emissions of vehicles for their useful life.

(3) Since it is expected that emission control efficiency will change with mileage accumulation on the vehicle, the emission level of a vehicle which has accumulated 50,000 miles will be used as the basis for determining compliance with the standards.

(4) The procedure for determining compliance of a new motor vehicle with exhaust emission standards is as follows, except where specified by paragraph (a)(5) of this section for the Alternative Durability Program:

* * * * *

(iii) The emissions to compare with the standard shall be the adjusted emissions of paragraphs (a)(4)(ii) (A) and (B) of this section for each emission-data vehicle. Before any emission value is compared with the standard, it shall be rounded, in accordance with ASTME 29–67, to two significant figures. The rounded emission values may not exceed the standard.

(iv) Every test vehicle of an engine family must comply with the exhaust emission standards, as determined in paragraph (a)(4)(iii) of this section, before any vehicle in that family may be certified.

* * * * *

(5) The procedure to determine the compliance of new motor vehicles in the Alternative Durability Program (described in § 86.085–13) is the same as described in paragraphs (a)(4)(iii) through (a)(4)(v) of this section. For the engine families that are included in the Alternative Durability Program, the exhaust emission deterioration factors used to determine compliance shall be those that the Administrator has approved under § 86.085–13(c). The evaporative emission deterioration factor for each evaporative emission family shall be determined and applied according to paragraph (a)(4) of this section. The procedures to determine the minimum exhaust emissions deterioration factors required under § 86.085–13(d) are as follows:

(i) Separate deterioration factors shall be determined from the exhaust emission results of the durability-data vehicles for each engine family group. A separate factor shall be established for exhaust HC, exhaust CO, and exhaust NO_x for each engine family group. The evaporative emission deterioration factor for each evaporative family will be determined and applied in accordance with paragraph (a)(4) of this section.

(ii) The deterioration factors for each engine family group shall be determined by the Administrator using historical durability data from as many as three previous model years. These data will consist of deterioration factors generated by durability-data vehicles representing certified engine families and of deterioration factors from vehicles selected under § 86.085–24(h). The Administrator shall determine how these data will be combined for each engine family group.

(A) The test results to be used in the calculation of each deterioration factor to be combined for each engine family group shall be those test results specified in paragraph (a)(4)(i)(A) of this section.

(B) For each durability-data vehicles selected under § 86.085–24(h), all applicable exhaust emissions results shall be plotted as a function of the mileage on the system rounded to the nearest mile, and the best fit straight lines, fitted by method of least squares, shall be drawn through all these data points. The exhaust deterioration factor for each durability-data vehicles shall be calculated as specified in paragraph (a)(4)(i)(B) of this section.

(C) Line-crossing. For the purposes of paragraph (a)(5) of this section, line crossing occurs when either of the interpolated 4,000- and 50,000-mile points of the best fit straight line exceeds the applicable emission standard and at least one applicable data point exceeds the standard.

(1) The Administrator will not accept for certification line-crossing data from preproduction durability-data vehicles selected under § 86.085–24(c)(1), § 86.085–24 (h)(2), or (h)(3).

(2) The Administrator will not accept for certification line-crossing data from production durability-data vehicles selected under § 86.085–24(h)(1) unless the 4,000-mile test result multiplied by the engine family group deterioration factor does not exceed the applicable emission standards. The deterioration factors used for this purpose shall be those that were used in the certification of the production vehicle. Manufacturers may calculate this product immediately after the 4,000-mile test of the vehicle. If the product exceeds the applicable standards, the manufacturer may, with the approval of the Administrator, discontinue the vehicle and substitute a new vehicle. The manufacturer may continue the original vehicle, but the data will not be acceptable if line crossing occurs.

(b)(1) * * *

(2) The exhaust and fuel evaporative emission standards of § 86.085–9 apply to the emissions of vehicles for their useful life.

(3) Since emission control efficiency generally decreases with the accumulation of mileage on the vehicle, deterioration factors will be used in combination with emission-data vehicle test results as the basis for determining compliance with the standards.

(4)(i) Paragraph (b)(4) of this section describes the procedure for determining compliance of a new vehicle with exhaust emission standards, based on deterioration factors supplied by the manufacturers, except where specified by paragraph (b)(5) of this section for the Alternative Durability Program.

* * * * *

(iv) The emission values to compare with the standards shall be the adjusted emission values of paragraph (b)(4)(iii) of this section rounded to two significant figures in accordance with ASTME 29–67 for each emission data engine.

(5) The procedure to determine the compliance of new motor vehicles in the Alternative Durability Program (described in § 86.085–13) is the same as described in paragraphs (b)(4)(iv), (b)(6)(iv) and (b)(7) of this section. For the engine families that are included in the Alternative Durability Program, the exhaust emission deterioration factors used to determine compliance shall be those that the Administrator has approved under § 86.085–13(c). The evaporative emission deterioration factor for each evaporative emission family shall be determined and applied according to paragraph (b)(6) of this section. The procedures to determine the minimum exhaust emissions deterioration factors required under § 86.085–13(d) are as follows:

(i) Separate deterioration factors shall be determined from the exhaust emission results of the durability-data vehicles for each engine family group. A separate factor shall be established for exhaust HC, exhaust CO, and exhaust NO_x for each engine family group. The evaporative emission deterioration factor for each evaporative family will be determined and applied in accordance with paragraph (b)(6) of this section.

(ii) The deterioration factors for each engine family group shall be determined by the Administrator using historical durability data from as many as three previous model years. These data will consist of deterioration factors generated by durability data vehicles representing certified engine families and of deterioration factors from vehicles selected under § 86.085–24(h). The Administrator shall determine how these data will be combined for each engine family group.

(A) The test results to be used in the calculations of each deterioration factor to be combined for each engine family group shall be those test results specified in paragraph (a)(4)(i)(A) of this section.

(B) For each durability data vehicle selected under § 86.085–24(h), all applicable exhaust emission results shall be plotted as a function of the mileage on the system rounded to the nearest mile, and the best fit straight lines, fitted by the method of least squares, shall be drawn through all these data points. The exhaust deterioration factor for each durability data vehicle shall be calculated as specified in paragraph (a)(4)(i)(B) of this section.

(C) Line crossing. For the purposes of paragraph (b)(5) of this section, line crossing occurs when either of the interpolated, 4,000- and 50,000-mile points of the best fit straight line exceeds the applicable emission standard and at least one applicable data point exceeds the standard.

(1) The Administrator will not accept for certification line-crossing data from preproduction durability data vehicles selected under § 86.085–24(c)(1), § 86.085–24 (h)(2), or (h)(3).

(2) The Administrator will not accept for certification line-crossing data from production durability data vehicles selected under § 86.085–24(h)(1) unless the 4,000-mile test result multiplied by the engine family group deterioration factor does not exceed the applicable emission standard. The deterioration factors used for this purpose shall be those that were used in the certification of the production vehicle. Manufacturers may calculate this product immediately after the 4,000-mile test of the vehicle. If the product exceeds the applicable standard, the manufacturer may, with the approval of the Administrator, discontinue the vehicle and substitute a new vehicle, but the data will not be acceptable if line crossing occurs.

* * * * *

(7) Every test vehicle of an engine family must comply with all applicable standards, as determined in paragraph (b)(4)(iv) or (b)(5)(iv) and paragraph (b)(6) of this section, before any vehicle in that family will be certified.

* * * * *

10. Section 86.085–29 is amended by revising paragraph (a)(3)(i) to read as follows:

§ 86.085–29 Testing by the Administrator.

(a) * * *

(3)(i) Whenever the Administrator conducts a test on a test vehicle, the results of that test shall, unless subsequently invalidated by the Administrator, comprise the official data for the vehicle at the prescribed test point and the manufacturer's data for that prescribed test point shall not be used in determining compliance with emission standards.

* * * * *

11. Section 86.085–30 is amended by revising paragraphs (a)(3)(i) (A) and (B), (a)(5)(ii), (b)(1), (b)(2), (b)(3), (b)(4) introductory text, (b)(4)(ii)(A), and (b)(4)(iii) and (iv), and by removing and reserving paragraphs (a)(3)(iii) and (a)(11) to read as follows:

§ 86.085–30 Certification.

(a) * * *

(3) * * *

(i) * * *

(A) *Light-Duty Vehicles.* Each certificate will certify compliance with no more than one set of standards.

(B) *Light-Duty Trucks.* Each certificate will certify compliance with no more than one set of standards except for low-altitude standards and high-altitude standards. The certificate shall state that it covers vehicles sold or delivered to an ultimate purchaser for principal use at a designated high-altitude location only if the vehicle conforms in all material respects to the design specifications that apply to those vehicles described in the application for certification at high altitude.

* * * * *

(iii) [Reserved]

* * * * *

(5)(i) * * *

(ii) The designated high-altitude locations defined in paragraph (a)(5)(i) of this section are listed below:

State of Colorado

Adams	Kit Carson
Alamosa	Lake
Arapahoe	La Plata
Archuleta	Larimer
Boulder	Las Animas
Chaffee	Lincoln
Cheyenne	Mesa
Clear Creek	Mineral
Conejos	Moffat
Costilla	Montezuma
Crowley	Montrose
Custer	Morgan
Delta	Otero
Denver	Ouray
Dolores	Park
Douglas	Pitkin
Eagle	Pueblo
Elbert	Rio Blanco
El Paso	Rio Grande
Fremont	Routt
Garfield	Saguache
Gilpin	San Juan
Grand	San Miguel
Gunnison	Summit
Hinsdale	Teller
Huerfano	Washington
Jackson	Weld
Jefferson	

State of Nevada

Carson City	Lyon
Douglas	Mineral
Elko	Nye
Esmeralda	Pershing
Eureka	Storey
Humboldt	Washoe
Lander	White Pine
Lincoln	

State of New Mexico

Bernalillo	Mora
Catron	Rio Arriba
Colfax	Roosevelt
Curry	Sandoval
De Baca	San Juan
Grant	San Miguel
Guadalupe	Santa Fe
Harding	Sierra
Hidalgo	Socorro
Lincoln	Taos
Los Alamos	Torrance
Luna	Union
McKinley	Valencia
Otero	

State of Utah

Beaver	Morgan
Box Elder	Piute
Cache	Rich
Carbon	Salt Lake
Daggett	San Juan
Davis	Sanpete
Duchesne	Sevier
Emery	Summit
Garfield	Tooele
Grand	Uintah
Iron	Utah
Juab	Wasatch
Kane	Wayne
Millard	Weber

* * * * *

(11) [Reserved].

(b)(1) The Administrator will determine whether a vehicle (or engine) covered by the application complies with applicable standards by observing the following relationships:

(i) *Light-duty vehicles.* (A) The durability-data vehicle(s) selected under § 86.085–24(c)(1)(i) shall represent all vehicles of the same engine-system combination.

(B) The emission-data vehicle(s) selected under § 86.085–24 (b)(1)(ii) through (b)(1)(iv) shall represent all vehicles of the same engine-system combination, as applicable.

(C) The emission-data vehicle(s) selected under § 86.085–24 (b)(1)(vii)(A) and (b)(1)(vii)(B) shall represent all vehicles of the same evaporative control system within the evaporative family.

(ii) *Light-duty trucks.*

(A) [Reserved].

(B) The emission-data vehicle(s) selected under § 86.085–24(b)(1)(ii) shall represent all vehicles of the same engine-system combination, as applicable.

(C) The emission-data vehicle(s) selected under § 86.085–24 (b)(1)(vii)(A) and (b)(1)(vii)(B) shall represent all vehicles of the same evaporative control system within the evaporative family.

(D) The emission-data vehicle(s) selected under § 86.085-24(b)(1)(v) shall represent all vehicles of the same engine-system conbination, as applicable.

(E) The emission-data vehicle(s) selected under § 86.085–24(b)(1)(viii) shall represent all vehicles of the same evaporative control system within the evaporative emission family, as applicable.

(iii) *Heavy-duty engines.* (A) A gasoline-fueled emission test engine selected under § 86.085–24(b)(2)(iv) shall represent all engines in the same family of the same engine displacement-exhaust emission control system combination.

(B) A gasoline-fueled emission test engine selected under § 86.085–24(b)(2)(iii) shall represent all engines in the same family of the same engine displacement-exhaust emission control system combination.

(C) A diesel emission-data test engine selected under § 86.085–24(b)(3)(ii) shall represent all engines in the same engine-system combination.

(D) A diesel emission-data test engine selected under § 86.085–24(b)(3)(iii) shall represent all engines of that emission control system at the rated fuel delivery of the test engine.

(E) [Reserved].

(iv) *Gasoline-fueled heavy-duty vehicles.* A statement of compliance submitted under § 86.085–23(b)(4)(i) or § 86.085–23(b)(4)(ii) shall represent all vehicles in the same evaporative emission family-evaporative emission control system combination.

(2) The administrator will proceed as in paragraph (a) of this section with respect to the vehicles (or engines) belonging to an engine family or engine family-evaporative emission family combination (as applicable), all of which comply with all applicable standards.

(3) If, after a review of the test reports and data submitted by the manufacturer, data derived from any additional testing conducted pursuant to § 86.085–29, data or information derived from any inspection carried out under § 86.078–7(c) or any other pertinent data or information, the Administrator determines that one or more test vehicles (or test engines) of the certification test fleet do not meet applicable standards, he will notify the manufacturer in writing, setting forth the basis for his determination. Within 30 days following receipt of the notification, the manufacturer may request a hearing on the Administrator's determination. The request shall be in writing, signed by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections to the Administrator's determination and data in support of such objections. If, after a review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 86.078–6 with respect to such issue.

(4) For light-duty vehicles and light-duty trucks the manufacturer may, at its option, proceed with any of the following alternatives with respect to an emission-data vehicle determined not in compliance with all applicable standards for which it was tested:

* * * * *

(ii) * * *

(A) If the failed vehicle was tested for compliance with exhaust emission standards only: The Administrator may select, in place of the failed vehicle, in accordance with the selection criteria employed in selecting the failed vehicle, a new emission data vehicle to be tested for exhaust emission compliance only.

* * * * *

(iii) Remove the vehicle configuration (or evaporative vehicle configuration, as applicable) which failed from the application and add a vehicle configuration(s) (or evaporative vehicle configuration(s), as applicable) not previously listed. The Administrator

may require, if applicable, that the failed vehicle be modified to the new engine code (or evaporative emission code, as applicable) and demonstrate by testing that it meets applicable standards for which it was originally tested. In addition, the Administrator may select, in accordance with the vehicle selection criteria given in § 86.085–24(b), a new emission-data vehicle or vehicles. The vehicles selected to satisfy the exhaust emission vehicle selection criteria will be tested for compliance with exhaust emission standards only. The vehicles selected to satisfy the evaporative emission vehicle selection criteria will be tested for compliance with both exhaust and evaporative emission standards; or

(iv) Correct a component or system malfunction and show that with a correctly functioning system or component the failed vehicle meets applicable standards for which it was originally tested. The Administrator may require a new emission-data vehicle, of identical vehicle configuration (or evaporative vehicle configuration, as applicable) to the failed vehicle, to be operated and tested for compliance with the applicable standards for which the failed vehicle was originally tested.

* * * * *

12. Section 86.085–35 is amended by revising the introductory text of paragraphs (a), (a)(1)(iii)(D), (a)(2)(iii)(D), and the introductory text of (c)(1), and by removing and reserving paragraphs (a)(1)(iii)(F) and (a)(2)(iii)(K) as follows:

§ 86.085–35 Labeling.

(a) The manufacturer of any motor vehicle (or motor vehicle engine) subject to the applicable emission standards of this subpart, shall, at the time of manufacture, affix a permanent legible label, of the type and in the manner described below, containing the information hereinafter provided, to all production models of such vehicles (or engines) available for sale to the pubic and covered by a certificate of conformity under § 86.085–30(a).

(1) * * *

(iii) * * *

(D) Engine tuneup specifications and adjustments, as recommended by the manufacturer in accordance with the applicable emission standards, including but not limited to idle speed(s), ignition timing, the idle air-fuel mixture setting procedure and value (e.g., idle CO, idle air-fuel ratio, idle speed drop), high idle speed, initial injection timing, and valve lash (as applicable), as well as other parameters deemed necessary by the manufacturer. These specifications should indicate the proper transmission position during tune-up and what accessories (e.g., air conditioner), if any, should be in operation;

* * * * *

(F) [Reserved]

(2) * * *

(iii) * * *

(D) Engine tune-up specifications and adjustments, as recommended by the manufacturer in accordance with the applicable emission standards, including but not limited to idle speed(s), ignition timing, the idle air-fuel mixture setting procedure and value (e.g., idle CO, idle air-fuel ratio, idle speed drop), high idle speed, initial injection timing, and valve lash (as applicable), as well as other parameters deemed necessary by the manufacturer. These specifications should indicate the proper transmission position during tune-up and what accessories (e.g., air conditioner), if any, should be in operation. If adjustments or modifications to the vehicle are necessary to insure compliance with emission standards at either high or low altitude, the manufacturer shall either include the instructions for such adjustments on the label, or indicate on the label where instructions for such adjustments may be found. The label shall indicate whether the engine tune-up or adjustment specifications are applicable to high altitude, low altitude, or both;

* * * * *

(K) [Reserved]

* * * * *

(c)(1) The manufacturer of any light-duty vehicle or light-duty truck subject to the emission standards of this subpart shall, in addition and subsequent to setting forth those statements on the label required by the Department of Transportation (DOT) pursuant to 49 CFR 567.4, set forth on the DOT label or on an additional label located in proximity to the DOT label and affixed as described in 40 CFR 567.4(b), the following information in the English language, lettered in block letters and numerals not less than three thirty-seconds of an inch high, of a color that contrast with the background of the label:

* * * * *

13. A new § 86.087–8 is added to read as follows:

§ 86.087–8 Emission standards for 1987 light-duty vehicles.

(a) (1) Exhaust emissions from 1987 and later model year light-duty vehicles shall not exceed:

(i) *Hydrocarbons.* 0.41 gram per vehicle mile (0.255 gram per vehicle kilometer).

(ii) *Carbon monoxide.* 3.4 grams per vehicle mile (2.11 grams per vehicle kilometer).

(iii) *Oxides of nitrogen.* 1.0 gram per vehicle mile (0.629 gram per vehicle kilometer).

(iv) *Particulate emissions* (diesels only). 0.20 gram per vehicle mile (0.124 gram per vehicle kilometer). A manufacturer may elect to include all or some of its diesel light-duty vehicle engine families in the particulate averaging program, provided that vehicles produced for sale in California or in designated high-altitude areas may be averaged only within each of these areas. If the manufacturer elects to average diesel light-duty vehicles and diesel light-duty trucks together in the particulate averaging program, its composite particulate standard applies to the combined set of diesel light-duty vehicles and diesel light-duty trucks included in the average and is calculated as defined in § 86.087–2.

(2) The standards set forth in paragraph (a)(1) of this section refer to the exhaust emitted over a driving schedule as set forth in Subpart B of this part and measured and calculated in accordance with those procedures.

(b)(1) Fuel evaporative emissions from 1987 and later model year gasoline-fueled light-duty vehicles shall not exceed: *Hydrocarbons.* 2.0 grams per test.

(2) The standard set forth in paragraph (b)(1) of this section refers to a composite sample of the fuel evaporative emissions collected under the conditions set forth in Subpart B of this part and measured in accordance with those procedures.

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any 1987 and later model year gasoline-fueled light-duty vehicle.

(d) [Reserved]

(e) [Reserved]

(f) [Reserved]

(g) Any 1985 and later model year light-duty vehicle that a manufacturer wishes to certify for sale shall meet the emission standards under both low- and high-altitude conditions as specified in section 86.082–2, except as provided in paragraphs (h) and (i) of this section. Vehicles shall meet emission standards under both low- and high-altitude conditions without manual adjustments or modifications. Any emission control device used to meet emission standards under high-altitude conditions shall initially actuate (automatically) no higher than 4,000 feet above sea level.

(h) The manufacturer may exempt 1985 model year vehicles from compliance at high altitude with the

emission standards set forth in paragraphs (a) and (b) of this section if the vehicles are not intended for sale at high altitude and if the requirements of paragraphs (h) (1) and (2) of this section are met.

(1) A vehicle configuration shall only be considered eligible for exemption under paragraph (h) of this section if the requirements of either paragraph (h)(1)(i), (ii), (iii), or (iv) of this section are met.

(i) Its design parameters (displacement-to-weight ratio (D/W) and engine speed-to-vehicle-speed ratio (N/V)) fall within the exempted range for that manufacturer for that year. The exempted range is determined according to the following procedure:

(A) The manufacturer shall graphically display the D/W and N/V data of all vehicle configurations it will offer for the model year in question. The axis of the abscissa shall be D/W (where (D) is the engine displacement expressed in cubic centimeters and (W) is the equivalent vehicle test weight expressed in pounds), and the axis of the ordinate shall be N/V (where (N) is the crankshaft speed expressed in revolutions per minute and (V) is the vehicle speed expressed in miles per hour). At the manufacturer's option, either the 1:1 transmission gear ratio or the lowest numerical gear ratio available in the transmission will be used to determine N/V. The gear selection must be the same for all N/V data points on the manufacturer's graph. For each transmission/axle ratio combination, only the lowest N/V value shall be used in the graphical display.

(B) The product line is then defined by the equation, $N/V = C(D/W)^{-0.9}$, where the constant, C, is determined by the requirement that all the vehicle data points either fall on the line or lie to the upper right of the line as displayed on the graphs.

(C) The exemption line is then defined by the equation, $N/V = C(0.84\ D/W)^{-0.9}$, where the constant, C is the same as that found in paragraph (h)(1)(i)(B) of this section.

(D) The exempted range includes all values of N/V and D/W which simultaneously fall to the lower left of the exemption line as drawn on the graph.

(ii) Its design parameters fall within the alternate exempted range for that manufacturer that year. The alternate exempted range is determined by substituting rated horsepower (hp) for displacement (D) in the exemption procedure described in paragraph (h)(1)(i) of this section and by using the product line $N/V = C(hp/W)^{-0.9}$.

(A) Rated horsepower shall be determined by using the Society of Automotive Engineers Test Procedure J 1349, or any subsequent version of that test procedure. Any of the horsepower determinants within that test procedure may be used, as long as it is used consistently throughout the manufacturer's product line in any model year.

(B) No exemptions will be allowed under paragraph (1)(ii) of this subsection to any manufacturer that has exempted vehicle configurations as set forth in paragraph (1)(i) of this subsection.

(iii) Its acceleration time (the time it takes a vehicle to accelerate from 0 miles per hour to a speed not less than 40 miles per hour and not greater than 50 miles per hour) under high-altitude conditions is greater than the largest acceleration time under low-altitude conditions for that manufacturer for that year. The procedure to be followed in making this determination is:

(A) The manufacturer shall list the vehicle configuration and acceleration time under low-altitude conditions of that vehicle configuration which has the highest acceleration time under low-altitude conditions of all the vehicle configurations it will offer for the model year in question. The manufacturer shall also submit a description of the methodology used to make this determination.

(B) The manufacturer shall then list the vehicle configurations and acceleration times under high-altitude conditions of all those vehicle configurations which have higher acceleration times under high-altitude conditions than the highest acceleration time at low altitude identified in paragraph (h)(1)(iii)(A) of this section above.

(iv) In lieu of performing the test procedure of paragraphs (h)(1)(iii) (A) and (B) of this section, its acceleration time can be estimated based on the manufacturer's engineering evaluation, in accordance with good engineering practice, to meet the exemption criteria of paragraph (h)(1)(iii) of this section.

(2) A vehicle shall only be considered eligible for exemption under this paragraph if at least one configuration of its model type (and transmission configuration in the case of vehicles equipped with manual transmissions, excluding differences due to the presence of overdrive) is certified to meet emission standards under high-altitude conditions as specified in paragraphs (a) through (g) of this section. The Certificate of Conformity (the Certificate) covering any exempted configuration(s) will also apply to the corresponding non-exempt configuration(s) required under this subparagraph. As a condition to the exemption, any suspension, revocation, voiding, or withdrawal of the Certificate as it applies to a non-exempt configuration for any reason will result in a suspension of the Certificate as it applies to the corresponding exempted configuration(s) of that model type, unless there is at least one other corresponding non-exempt configuration of the same model type still covered by the Certificate. The suspension of the Certificate as it applies to the exempted configuration(s) will be terminated when any one of the following occurs:

(i) Another corresponding non-exempt configuration(s) receive(s) coverage under the Certificate; or

(ii) Suspension of the Certificate as it applies to the corresponding non-exempt configuration(s) is terminated; or

(iii) The Agency's action(s), with respect to suspension, revocation, voiding or withdrawal of the Certificate as it applies to the corresponding non-exempt configuration(s), is reversed.

(3) The sale of a vehicle for principal use at a designated high-altitude location that has been exempted as set forth in paragraph (h) of this section will be considered a violation of Section 203(a)(1) of the Clean Air Act.

(i)(1) The manufacturers may exempt 1985 and later model year vehicles from compliance at low altitude with the emission standards set forth in paragraphs (a) and (b) of this section if the vehicles:

(A) Are not intended for sale at low altitude; and

(B) Are equippped with a unique, high-altitude axle ratio (rear-wheel drive vehicles) or a unique, high-altitude drivetrain (front-wheel drive vehicles) with a higher N/V ratio than other configurations of that model type which are certified in compliance with the emission standards of paragraphs (a) and (b) of this section under low-altitude conditions.

(2) The sale of a vehicle for principal use at low altitude that has been exempted as set forth in paragraph (h)(1) of this section will be considered a violation of Section 203(a)(1) of the Clean Air Act.

14. A new § 86.087–9 is added to read as follows:

§ 86.087–9 Emission standards for 1987 light-duty trucks.

(a)(1) The standards set forth in paragraphs (a) through (c) of this section shall apply to light-duty trucks sold for principal use at other than a designated high-altitude location. Exhaust

emissions from 1984 and later model year light-duty trucks shall not exceed:

(i) *Hydrocarbons.* 0.8 gram per vehicle mile (0.5 gram per vehicle kilometer).

(ii)(A) *Carbon monoxide.* 10 grams per vehicle mile (6.2 grams per vehicle kilometer).

(B) *Gasoline-fueled vehicles.* 0.50 percent of exhaust gas flow at curb idle.

(iii) *Oxides of nitrogen.* 2.3 grams per vehicle mile (1.4 grams per vehicle kilometer).

(iv) *Particulate emissions* (diesels only). 0.26 gram per vehicle mile (0.162 gram per vehicle kilometer). A manufacturer may elect to include all or some of its diesel light-duty truck engine families in the particulate averaging program, provided that trucks produced for sale in California or in designated high-altitude areas may be averaged only within each of those areas. If the manufacturer elects to average both diesel light-duty vehicles and diesel light-duty trucks together in the particulate averaging program, its composite particulate standard applies to the combined set of diesel light-duty vehicles and diesel light-duty trucks included in the average and is calculated as defined in § 86.087–2.

(2) The standards set forth in paragraph (a)(1)(i), (a)(1)(ii)(A), (a)(1)(iii), and (a)(1)(iv) of this section refer to the exhaust emitted over a driving schedule as set forth in Subpart B of this part and measured and calculated in accordance with those procedures. The standard set forth in paragraph (a)(1)(ii)(B) of this section refers to the exhaust emitted at curb idle and measured and calculated in accordance with the procedures set forth in Subpart P of this part.

(b)(1) Fuel evaporative emissions from 1987 and later model year gasoline-fueled light-duty trucks shall not exceed:

(i) *Hydrocarbons.* 2.0 grams per test.

(2) The standard set forth in paragraph (b)(1) of this section refers to a composite sample of the fuel evaporative emissions collected under the conditions set forth in Subpart B of this part and measured in accordance with those procedures.

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any 1987 and later model year light-duty truck.

(d)(1) Model year 1987 and later light-duty trucks sold for principal use at a designated high-altitude location shall be capable of meeting the following exhaust emission standards when tested under high-altitude conditions:

(i) *Hydrocarbons.* 1.0 grams per vehicle mile (0.62 grams per vehicle kilometer);

(ii) *Carbon Monoxide.* 14 grams per vehicle mile (8.7 grams per vehicle kilometer);

(iii) *Oxides of Nitrogen.* 2.3 grams per vehicle mile (1.43 grams per vehicle kilometer).

(2) The standards set forth in paragraph (d)(1) of this section refer to the exhaust emitted over a driving schedule as set forth in Subpart B of this part and measured and calculated in accordance with those procedures.

(e)(1) Fuel evaporative emissions from 1987 and later model year gasoline-fueled light-duty trucks sold for principal use at a designated high-altitude location shall not exceed 2.6 grams per test when tested under high-altitude conditions.

(2) The standard set forth in paragraph (e)(1) of this section refers to a composite sample of the fuel evaporative emissions collected under the conditions set forth in Subpart B of this part and measured in accordance with those procedures.

(f) No crankcase emissions shall be discharged into the ambient atmosphere from any 1987 and later model year light-duty trucks sold for principal use at a designated high-altitude location.

(g)(1) Any light-duty truck that a manufacturer wishes to certify for sale at low altitude must be capable of meeting high-altitude emission standards (specified in paragraphs (d) through (f) of this section). The manufacturer may specify vehicle adjustments or modifications to allow the vehicle to meet high-altitude standards but these adjustments or modifications may not alter the vehicle's basic engine, inertia weight class, transmission configuration, and axle ratio.

(i) A manufacturer may certify unique configurations to meet the high-altitude standards but is not required to certify these vehicle configurations to meet the low-altitude standards.

(ii) Any adjustments or modifications that are recommended to be performed on vehicles to satisfy the requirements of paragraph (g)(1) of this section:

(A) Shall be capable of being effectively performed by commercial repair facilities.

(B) Must be included in the manufacturer's application for certification.

(2) The manufacturer may exempt 1985 and later model year vehicles from compliance with the high-altitude emission standards set forth in paragraphs (d) and (e) of this section if the vehicles are not intended for sale at high altitude and if the following requirements are met. A vehicle configuration shall only be considered eligible for exemption if the requirements of either paragraph (g)(2)(i), (ii), (iii), or (iv) of this section are met.

(i) Its design parameters (displacement-to-weight ratio (D/W) and engine speed-to-vehicle-speed ratio (N/V)) fall within the exempted range for that manufacturer for that year. The exempted range is determined according to the following procedure:

(A) The manufacturer shall graphically display the D/W and N/V data of all vehicle configurations it will offer for the model year in question. The axis of the abscissa shall be D/W (where (D) is the engine displacement expressed in cubic centimeters and (W) is the gross vehicle weight (GVW) expressed in pounds), and the axis of the ordinate shall be N/V (where (N) is the crankshaft speed expressed in revolutions per minute and (V) is the vehicle speed expressed in miles per hour). At the manufacturer's option, either the 1:1 transmission gear ratio or the lowest numerical gear ratio available in the transmission will be used to determine N/V. The gear selection must be the same for all N/V data points on the manufacturer's graph. For each transmission/axle ratio combination, only the lowest N/V value shall be used in the graphical display.

(B) The product line is then defined by the equation, $N/V = C(D/W)^{-0.9}$, where the constant, C, is determined by the requirement that all the vehicle data points either fall on the line or lie to the upper right of the line as displayed on the graphs.

(C) The exemption line is then defined by the equation, $N/V = C(0.84\ D/W)^{-0.9}$, where the constant, C is the same as that found in paragraph (g)(2)(i)(B) of this section.

(D) The exempted range includes all values of N/V and D/W which simultaneously fall to the lower left of the exemption line as drawn on the graph.

(ii) Its design parameters fall within the alternate exempted range for that manufacturer that year. The alternate exempted range is determined by substituting rated horsepower (hp) for displacement (D) in the exemption procedure described in paragraph (g)(2)(i) of this section and by using the product line $N/V = C(hp/W)^{-0.9}$.

(A) Rated horsepower shall be determined by using the Society of Automotive Engineers Test Procedure J 1349, or any subsequent version of that test procedure. Any of the horsepower determinants within that test procedure may be used, as long as it is used consistently throughout the

manufacturer's product line in any model year.

(B) No exemptions will be allowed under paragraph (g)(2)(ii) of this section to any manufacturer that has exempted vehicle configurations as set forth in paragraph (g)(2)(i) of this section.

(iii) Its acceleration time (the time it takes a vehicle to accelerate from 0 to a speed not less than 40 miles per hour and not greater than 50 miles per hour) under high-altitude conditions is greater than the largest acceleration time under low-altitude conditions for that manufacturer for that year. The procedure to be followed in making this determination is:

(A) The manufacturer shall list the vehicle configuration and acceleration time under low-altitude conditions of that vehicle configuration which has the highest acceleration time under low-altitude conditions of all the vehicle configurations it will offer for the model year in question. The manufacturer shall also submit a description of the methodology used to make this determination.

(B) The manufacturer shall then list the vehicle configurations and acceleration times under high-altitude conditions of all those vehicle configurations which have higher acceleration times under high-altitude conditions than the highest acceleration time at low altitude identified in paragraph (g)(2)(iii)(A) of this section.

(iv) In lieu of performing the test procedure of paragraph (g)(2)(iii) of this section, its acceleration time can be estimated based on the manufacturer's engineering evaluation, in accordance with good engineering practice, to meet the exemption criteria of paragraph (g)(2)(iii) of this section.

(3) The sale of a vehicle for principal use at a designated high-altitude location that has been exempted as set forth in paragraph (g)(2) of this section will be considered a violation of Section 203(a)(1) of the Clean Air Act.

15. A new § 86.087–29 is added to read as follows:

§ 86.087–29 Testing by the Administrator.

(a)(1) Paragraph (a) of this section applies to light-duty vehicles and light-duty trucks.

(2) The Administrator may require that any one or more of the test vehicles be submitted to him, at such place or places as he may designate, for the purposes of conducting emissions tests. The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(3)(i) Whenever the Administrator conducts a test on a test vehicle, the results of that test shall, unless subsequently invalidated by the Administrator, comprise the official data for the vehicle at the prescribed test point and the manufacturer's data for that prescribed test point shall not be used in determining compliance with emission standards (or the family particulate emission limit, as appropriate).

(ii) Whenever the Administrator does not conduct a test on a test vehicle at a test point, the manufacturer's test data will be accepted as the offical data for that point: *Provided,* That if the Administrator makes a determination based on testing under paragraph (a)(2) of this section, that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer, *and further provided,* That if the Administrator has reasonable basis to believe that any test data submitted by the manufacturer is not accurate or has been obtained in violation of any provisions of this part, the Administrator may refuse to accept that data as the official data pending retesting or submission or further information. If the manufacturer conducts more than one test on a vehicle, as authorized under § 86.084–26 (a)(3)(i)(A) or (b)(4)(i)(A), the data from the last test in that series of tests on that vehicle, will constitute the official data.

(iii)(A)(*1*) The Administrator may adjust or cause to be adjusted any adjustable parameter of an emission data vehicle or engine which the Administrator has determined to be subject to adjustment for certification and Selective Enforcement Audit testing in accordance with § 86.085–22(e)(1), to any setting within the physically adjustable range of that parameter, as determined by the Administrator in accordance with § 86.086–22(e)(3)(i), prior to the performance of any tests to determine whether such vehicle or engine conforms to applicable emission standards, including tests performed by the manufacturer under § 86.087–23(c)(1). However, if the idle speed parameter is one which the Administrator has determined to be subject to adjustment, the Administrator shall not adjust it to a setting which causes a higher engine idle speed than would have been possible within the physically adjustable range of the idle speed parameter on the engine before it accumulated any dynamometer service, all other parameters being identically adjusted for the purpose of the comparison. The Administrator, in making or specifying such adjustments, will consider the effect of the deviation from the manufacturer's recommended setting on emissions performance characteristics as well as the likelihood that similar settings will occur on in-use light-duty vehicles or light-duty trucks. In determining likelihood, the Administrator will consider factors such as, but not limited to, the effect of the adjustment on vehicle performance characteristics and surveillance information from similar in-use vehicles.

(*2*) For those vehicles or engine parameters which the Administrator has not determined to be subject to adjustment during certification and Selective Enforcement Audit testing in accordance with § 86.087–22(3)(1), the emission-data vehicle presented to the Administrator for testing shall be calibrated within the production tolerances applicable to the manufacturer's specifications to be shown on the vehicle label (see § 86.087–35(a)(1)(iii)(D) or (a)(2)(iii)(D)) as specified in the application for certification. If the Administrator determines that a vehicle is not within such tolerances, the vehicle will be adjusted, at the facility designated by the Administrator, prior to the test and an engineering report shall be submitted to the Administrator describing the corrective action taken. Based on the engineering report, the Administrator will determine if the vehicle will be used as an emission-data vehicle.

(B) If the Administrator determines that the test data developed on an emission-data vehicle under paragraph (a)(3)(i) of this section would cause that vehicle to fail due to excessive 4,000-mile emissions or by application of the appropriate deterioration factor, then the following procedure shall be observed:

(*1*) The manufacturer may request a retest. Before the retest, those vehicle or engine parameters which the Administrator has not determined to be subject to adjustment for certification and Selective Enforcement Audit testing in accordance with § 86.085–22(e)(1) may be readjusted to manufacturer's specification, if these adjustments were made incorrectly prior to the first test. The Administrator may adjust or cause to be adjusted any parameter which the Administrator has determined to be

subject to adjustment to any setting within the physically adjustable range of that parameter, as determined by the Administrator in accordance with § 86.085–22(e)(3)(i). Other maintenance or repairs may be performed in accordance with § 86.084–25. All work on the vehicle shall be done at such location and under such conditions as the Administrator may prescribe.

(*2*) The vehicle will be retested by the Administrator and the results of this test shall comprise the official data for the emission-data vehicle.

(iv) If sufficient durability data are not available at the time of any emission test conducted under paragraph (a)(2) of this section to enable the Administrator to determine whether an emission-data vehicle would fail, the manufacturer may request a retest in accordance with the provisions of paragraphs (a)(3)(iii) (A) and (B) of this section. If the manufacturer does not promptly make such request, he shall be deemed to have waived the right to a retest. A request for retest must be made before the manufacturer removes the vehicle from the test premises.

(b)(1) Paragraph (b) of this section applies to heavy-duty engines.

(2) The Administrator may require that any one or more of the test engines be submitted to him, at such place or places as he may designate, for the purpose of conducting emissions tests. The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(3)(i) Whenever the Administrator conducts a test on a test engine the results of that test, unless subsequently invalidated by the Administrator, shall comprise the official data for the engine at that prescribed test point and the manufacturer's data for that prescribed test point shall not be used in determining compliance with emission standards.

(ii) Whenever the Administrator does not conduct a test on a test engine at a test point, the manufacturer's test data will be accepted as the official data for that test point: *Provided,* That if the Administrator makes a determination based on testing under paragraph (b)(2) of this section, that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer: *And further provided,* That if the Administrator has reasonable basis to believe that any test data submitted by the manufacturer is not accurate or has been obtained in violation of any provision of this part, the Administrator may refuse to accept that data as the official data pending retesting or submission of further information.

(iii)(A)(*1*) The Administratior may adjust or cause to be adjusted any adjustable parameter of an emission-data engine which the Administrator has determined to be subject to adjustment for certification testing in accordance with § 86.085–22(e)(1), to any setting within the physically adjustable range of that parameter, as determined by the Administrator in accordance with § 86.085–22(e)(3)(i), prior to the performance of any tests to determine whether such engine conforms to applicable emmission standards, including tests performed by the manufacturer under § 86.087–23(c)(2). The Administrator, in making or specifying such adjustments, may consider the effect of the deviation from the manufacturer's recommended setting on emissions performance characteristics as well as the likelihood that similar settings will occur on in-use heavy-duty engines. In determining likelihood, the Administrator may consider factors such as, but not limited to, the effect of the adjustment on engine performance characteristics and surveillance information from similar in-use engines.

(*2*) For those engine parameters which the Administrator has not determined to be subject to adjustment for certification testing in accordance with § 86.085–22(e)(1), the emission-data engine presented to the Administrator for testing shall be calibrated within the production tolerances applicable to the manufacturer's specifications to be shown on the engine label (see § 86.087–35(a)(3)(iii)) as specified in the application for certification. If the Administrator determines that an engine is not within such tolerances, the engine shall be adjusted at the facility designated by the Administrator prior to the test and an engineering report shall be submitted to the Administrator describing the corrective action taken. Based on the engineering report, the Administrator will determine if the engine shall be used as an emission-data engine.

(B) If the Administrator determines that the test data developed under paragraph (b)(3)(iii)(A) of this section would cause the emission-data engine to fail due to excessive 125-hour emission values or by the application of the appropriate deterioration factor, then the following procedure shall be observed:

(*1*) The manufacturer may request a retest. Before the retest, those engine parameters which the Administrator has not determined to be subject to adjustment for certification testing in accordance with § 86.085–22(e)(1) may be readjusted to the manufacturer's specifications, if these adjustments were made incorrectly prior to the first test. The Administrator may adjust or cause to be adjusted any parameter which the Administrator has determined to be subject to adjustment in accordance with § 86.085–22(e)(3)(i). However, if the idle speed parameter is one which the Administrator has determined to be subject to adjustment, the Administrator shall not adjust it to a setting which causes a higher engine idle speed than would have been possible within the physically adjustable range of the idle speed parameter on the engine before it accumulated any dynamometer service, all other parameters being identically adjusted for the purpose of the comparison. Other maintenance or repairs may be performed in accordance with § 86.084–25. All work on the vehicle shall be done at such location and under such conditions as the Administrator may prescribe.

(*2*) The engine will be retested by the Administrator and the results of this test shall comprise the official data for the emission-data engine.

(iv) If sufficient durability data are not available at the time of any emission test conducted under paragraph (b)(2) of this section to enable the Administrator to determine whether an emission-data engine would fail, the manufacturer may request a retest in accordance with the provisions of paragraph (b)(3)(iii)(B) (1) and (2) of this section. If the manufacturer does not promptly make such request, he shall be deemed to have waived the right to a retest. A request for retest must be made before the manufacturer removes the engine from the test premises.

(c)(1) Paragraph (c) of this section applies to gasoline-fueled heavy-duty vehicles.

(2) The Administrator may require that any one or more of the evaporative emission family-system combinations included in the manufacturer's statement(s) of compliance be installed on an appropriate vehicle and such vehicle be submitted to him, at such place or places as he may designate, for the purpose of conducting emissions

tests. The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(3)(i) Whenever the Administrator conducts a test on an evaporative emission family-system combination the results of that test, unless subsequently invalidated by the Administrator, shall comprise the official data for the evaporative emission family-system combination and the manufacturer's data, analyses, etc., shall not be used in determining compliance with emission standards.

(ii) Whenever the Administrator does not conduct a test on an evaporative emission family-system combination, the manufacturer's test data will be accepted as the offical data: *Provided,* That if the Administrator makes a determination based on testing under paragraph (c)(2) of this section, that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer: *And further provided,* That if the Administrator has reasonable basis to believe that any test data, analyses, or other information submitted by the manufacturer is not accurate or has been obtained in violation of any provision of this part, the administrator may refuse to accept those data, analyses, etc., as the official data pending retesting or submission of further information.

16. A new § 86.087–30 is added to read as follows:

§ 86.087–30 Certification.

(a)(1)(i) If, after a review of the test reports and data submitted by the manufacturer, data derived from any inspection carried out under § 86.078–7(c), and any other pertinent data or information, the administrator determines that a test vehicle(s) (or test engine(s)) meet(s) the requirements of the Act and of this subpart, he will issue a certificate of conformity with respect to such vehicles(s) (or engine(s)) except in cases covered by paragraphs (a)(1)(ii) and (c) of this section.

(ii) *Gasoline-fueled heavy-duty vehicles.* If, after a review of the statement(s) of compliance submitted by the manufacturer under § 86.087–23(b)(4) and any other pertinent data or information, the Administrator determines that the requirements of the Act and this subpart have been met, he will issue one certificate of conformity per manufacturer with respect to the evaporative emission family(s) covered by such statement(s) except in cases covered by paragraph (c) of this section.

(2) Such certificate will be issued for such period not to exceed one model year as the Administrator may determine and upon such terms as he may deem necessary or appropriate to assure that any new motor vehicle (or new motor vehicle engine) covered by the certificate will meet the requirements of the Act and of this part.

(3)(i) One such certificate will be issued for each engine family. For gasoline-fueled light-duty vehicles and light-duty trucks, one such certificate will be issued for each engine family-evaporative emission family combination.

(A) *Light-Duty Vehicles.* Each certificate will certify compliance with no more than one set of standards (or one family particulate emission limit, as appropriate).

(B) *Light-Duty Trucks.* Each certificate will certify compliance with no more than one set of standards (or one family particulate emission limit, as appropriate) except for low-altitude standards and high-altitude standards. The certificate shall state that it covers vehicles sold or delivered to an utlimate purchaser for principal use at a designated high-altitude location only if the vehicle conforms in all material respects to the design specifications that apply to those vehicles described in the application for certification at high altitude.

(ii) For gasoline-fueled heavy-duty vehicles, one such certificate will be issued for each manufacturer and will certify compliance for those vehicles previously identified in that manufacturer's statement(s) of compliance as required in § 86.087–23(b)(4) (i) and (ii).

(iii) For diesel light-duty vehicles and light-duty trucks included in the particulate averaging program, the manufacturer may at any time during production elect to change the level of any family particulate emission limit by demonstrating compliance with the new limit as described in §§ 86.087–28(a)(6) and 86.087–28(b)(7). New certificates issued under this paragraph will be applicable only for vehicles produced subsequent to the date of issuance.

(4)(i) The adjustment or modification or any light-duty truck in accordance with instructions provided by the manufacturer for the altitude where the vehicle is principally used will not be considered a violation of Section 203(a)(3) of the Clean Air Act.

(ii) A violation of Section 203(a)(1) of the Clean Air Act occurs when a manufacturer sells or delivers to an ultimate purchaser any light-duty vehicle or light-duty truck, subject to the regulations under the Act, under any of the conditions specified in the remainder of this paragraph.

(A) When a light-duty vehicle or light-duty truck is not configured to meet high-altitude requirements;

(*1*) At a designated high-altitude location, unless such manufacturer has reason to believe that such vehicle will not be sold to an ultimate purchaser for principal use at a designated high-altitude location; or

(*2*) At a location other than a designated high-altitude location, when such manufacturer has reason to believe that such motor vehicle will be sold to an ultimate purchaser for principal use at a designated high-altitude location.

(B) When a light-duty vehicle is not configured to meet low-altitude requirements, as provided in § 86.085–8(i):

(*1*) At a designated high-altitude location, unless such manufacturer has reason to believe that such vehicle will not be sold to an ultimate purchaser for principal use at a designated low-altitude location; or

(*2*) At a location other than a designated low-altitude location, when such manufacturer has reason to believe that such motor vehicle will be sold to an ultimate purchaser for principal use at a designated low-altitude location.

(iii) A manufacturer shall be deemed to have reason to believe that a light-duty vehicle that has been exempted from compliance with emission standards at high-altitude, or a light-duty truck which is not configured to meet high-altitude requirements, will not be sold to an ultimate purchaser for principal use at a designated high-altitude location if the manufacturer has informed its dealers and field representatives about the terms of these high-altitude regulations, has not caused the improper sale itself, and has taken reasonable action which shall include, but not be limited to, either paragraph (a)(4)(iii) (A) or (B), and (C) of this section:

(A) Requiring dealers in designated high-altitude locations to submit written statements to the manufacturer signed by the ultimate purchaser that a vehicle which is not configured to meet high-altitude requirements will not be used principally at a designated high-altitude location; requiring dealers in counties

contiguous to designated high-altitude locations to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated high-altitude location, that a vehicle which is not configured to meet high-altitude requirements will not be used principally at a designated high-altitude location; and for each sale or delivery of fleets of ten or more such vehicles in a high-altitude location or in counties contiguous to high-altitude locations, requiring either the selling dealer or the delivering dealer to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated high-altitude location, that a vehicle which is not configured to meet high-altitude requirements will not be used principally at a designated high-altitude location. In addition, the manufacturer will make available to EPA, upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured vehicle has been sold) sales, warranty, or other information pertaining to sales of vehicles by the dealers described above maintained by the manufacturer in the normal course of business relating to the altitude configurartion of vehicles and the locations of ultimate purchasers; or

(B) Implementing a system which monitors factory orders of low-altitude vehicles by high-altitude dealers, or through other means, identifies dealers that may have sold or delivered a vehicle not configured to meet the high-altitude requirements to an ultimate purchaser for principal use at a designated high-altitude location; and making such information available to EPA upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured vehicle has been sold); and

(C) Within a reasonable time after receiving written notice from EPA or a State or local government agency that a dealer may have improperly sold or delivered a vehicle not configured to meet the high-altitude requirements to an ultimate purchaser residing in a designated high-altitude location, or based on information obtained pursuant to paragraph (a)(4)(iii) of this section that a dealer may have improperly sold or delivered a significant number of such vehicles to ultimate purchasers so residing, reminding the dealer in writing of the requirements of these regulations, and, where appropriate, warning the dealer that sale by the dealer of vehicles not configured to meet high-altitude requirements may be contrary to the terms of its franchise agreement with the manufacturer and the dealer certification requirements of § 85.2108 of this chapter.

(iv) A manufacturer shall be deemed to have reason to believe that a light-duty vehicle which has been exempted from compliance with emission standards at low-altitude, as provided in Section 86.084–8(i), will not be sold to an ultimate purchaser for principal use at a designated low-altitude location if the manufacturer has informed its dealers and field representatives about the terms of these high-altitude regulations, has not caused the improper sale itself, and has taken reasonable action which shall include, but not be limited to, either paragraph (a)(4)(iv) (A) or (B), and (C) of this section:

(A) Requiring dealers in designated low-altitude locations to summit written statements to the manufacturer signed by the ultimate purchaser that a vehicle which is not configured to meet low-altitude requirements will not be used principally at a designated low-altitude location; requiring dealers in counties contiguous to designated low-altitude locations to submit written statements to the manfacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated low-altitude location, that a vehicle which is not configured to meet low-altitude requirements will not be used principally at a designated low-altitude location; and for each sale or delivery of fleets of ten or more such vehicles in a low-altitude location or in counties contiguous to low-altitude locations, requiring either the selling dealer or the delivering dealer to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated low-altitude location, that a vehicle which is not configured to meet low-altitude requirements will not be used principally at a designated high-altitude location. In addition, the manufacturer will make available to EPA, upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured vehicle has been sold), sales, warranty, or other information pertaining to sales of vehicles by the dealers described above maintained by the manufacturer in the normal course of business relating to the altitude configuration of vehicles and the locations of ultimate purchasers; or

(B) Implementing a system which monitors factory orders of high-altitude vehicles by low-altitude dealers or through other means, identifies dealers that may have sold or delivered a vehicle not configured to meet the low-altitude requirements to an ultimate purchaser for principal use at a designated low-altitude location; and making such information available to EPA upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured vehicle has been sold); and

(C) Within a reasonable time after receiving written notice from EPA or a state or local government agency that a dealer may have improperly sold or delivered a vehicle not configured to meet the low-altitude requirements to an ultimate purchaser residing in a designated low-altitude location, or based on information obtained pursuant to paragraph (a)(4)(iv) of this section that a dealer may have improperly sold or delivered a significant number of such vehicles to ultimate purchasers so residing, reminding the dealer in writing of the requirements of these regulations, and, where appropriate, warning the dealer that sale by the dealer of vehicles not configured to meet low-altitude requirements may be contrary to the terms of its franchise agreement with the manufacturer and the dealer certification requirements of § 85.2108 of this chaper.

(5)(i) For the purpose of paragraph (a) of this section, a "designated high-altitude location" is any county which has substantially all of its area located above 1,219 meters (4,000 feet) and:

(A) Requested an extension past the attainment date of December 31, 1982, for compliance with either the National Ambient Air Quality Standards for carbon monoxide or ozone, as indicated in Part 52 (Approval and Promulgation of Implementation Plans) of this title; or

(B) Is in the same state as a county designated as a high-altitude location according to paragraph (a)(5)(i)(A) of this section.

(ii) The designated high-altitude locations defined in paragraph (a)(5)(i) of this section are listed below:

State of Colorado

Adams	Chaffee
Alamosa	Cheyenne
Arapahoe	Clear Creek
Archuleta	Connejos
Boulder	Costilla

Crowley	Lincoln
Custer	Mesa
Delta	Mineral
Denver	Moffat
Dolores	Montezuma
Douglas	Montrose
Eagle	Morgan
Elbert	Otero
El Paso	Ouray
Fremont	Park
Garfield	Pitkin
Gilpin	Pueblo
Grand	Rio Blanco
Gunnison	Rio Grande
Hinsdale	Routt
Huerfano	Saguache
Jackson	San Juan
Jefferson	San Miguel
Kit Carson	Summit
Lake	Teller
La Plata	Washington
Larimer	Weld
Las Animas	

State of Nevada

Carson City	Lyon
Douglas	Mineral
Elko	Nye
Esmeralda	Pershing
Eureka	Storey
Humboldt	Washoe
Lander	White Pine
Lincoln	

State of New Mexico

Bernalillo	Otero
Catron	Rio Arriba
Colfax	Roosevelt
Curry	Sandoval
De Baca	San Juan
Grant	San Miguel
Guadalupe	Santa Fe
Harding	Sierra
Hidalgo	Socorro
Lincoln	Taos
Los Alamos	Torrance
Luna	Union
McKinley	Valencia
Mora	

State of Utah

Beaver	Morgan
Box Elder	Piute
Cache	Rich
Carbon	Salt Lake
Daggett	San Juan
Davis	Sanpete
Duchesne	Sevier
Emery	Summit
Garfield	Tooele
Grand	Uintah
Iron	Utah
Juab	Wasatch
Kane	Wayne
Millard	Weber

(iii) For the purpose of paragraph (a) of this section, a "designated low-altitude location" is any county which has substantially all of its area located below 1,219 meters (4,000 feet).

(iv) The designated low-altitude locations so defined include all counties in the United States which are not listed in either paragraph (a)(5)(ii) of this section or in the list below:

State of Arizona

Apache	Navajo
Cochise	Yavapai
Coconino	

State of Idaho

Bannock	Franklin
Bear Lake	Fremont
Bingham	Jefferson
Blaine	Lemhi
Bonneville	Madison
Butte	Minidoka
Camas	Oneida
Caribou	Power
Cassia	Tenton
Clark	Valley
Custer	

State of Montana

Beaverhead	Meagher
Deer Lodge	Park
Gallatin	Powell
Jefferson	Silver Bow
Judith Basin	Wheatland
Madison	

State of Nebraska

Banner	Kimball
Cheyenne	Sioux

State of Oregon

Harney	Lake
Klamath	

State of Texas

Jeff Davis	Parmer
Hudspeth	

State of Wyoming

Albany	Natrona
Campbell	Niobrara
Carbon	Park
Converse	Platte
Fremont	Sublette
Goshen	Sweetwater
Hot Springs	Teton
Johnson	Uinta
Laramie	Washakie
Lincoln	Weston

(6) Catalyst-equipped vehicles, otherwise covered by a certificate, which are driven outside the United States, Canada, and Mexico will be presumed to have been operated on leaded gasoline resulting in deactivation of the catalysts. If these vehicles are imported or offered for importation without retrofit of the catalyst, they will be considered not to be within the coverage of the certificate unless included in a catalyst control program operated by a manufacturer or a United States Government agency and approved by the Administrator.

(7) For incomplete light-duty trucks, a certificate covers only those new motor vehicle which, when completed by having a primary load-carrying device or container attached, conform to the maximum curb weight and frontal area limitations described in the application for certification as required in §86.087–21(d).

(8) For heavy-duty engines, a certificate covers only those new motor vehicle engines installed in heavy-duty vehicles which conform to the minimum gross vehicle weight rating, curb weight, or frontal area limitations for heavy-duty vehicles described in § 86.082–2.

(9) For incomplete gasoline-fueled heavy-duty vehicles a certificate covers only those new motor vehicles which, when completed, conform to the nominal maximum fuel tank capacity limitations as described in the application for certification as required in § 86.087–21(e).

(10) For diesel light-duty vehicles and diesel light-duty truck families which participate in a particulate averaging program, the manufacturer's production weighted average of the particulate emission limits of all engine families in a participating class or classes shall not exceed the applicable diesel particulate standard, or composite standard, as appropriate, at the end of the model year, as determined in accordance with 40 CFR Part 86. The certificate shall be void *ab initio* for those vehicles causing any exceedance of the particulate standard.

(b)(1) The Administrator will determine whether a vehicle (or engine) covered by the application complies with applicable standards (or family particulate emission limit, as appropriate) by observing the following relationships:

(i) *Light-duty vehicles.* (A) The durability-data vehicle(s) selected under § 86.085–24(c)(1)(i) shall represent all vehicles of the same engine-system combination.

(B) The emission-data vehicle(s) selected under § 86.085–24(b)(1) (ii) through (iv) shall represent all vehicles of the same engine-system combination as applicable.

(C) The emission-data vehicle(s) selected under § 86.085–24(b)(1)(vii) (A) and (B) shall represent all vehicles of the same evaporative control system within the evaporative family.

(ii) *Light-duty trucks.*

(A) The emission-data vehicle(s) selected under § 86.085–24(b)(1)(ii), shall represent all vehicles of the same engine-system combination as applicable.

(B) The emission-data vehicle(s) selected under § 86.085–24(b)(1)(vii) (A) and (B) shall represent all vehicles of the same evaporative control system within the evaporative family.

(C) The emission-data vehicle(s) selected under § 86.085–24(b)(1)(v) shall represent all vehicles of the same engine-system combination as applicable.

(D) The emission-data vehicle(s) selected under § 86.085–24(b)(1)(viii) shall represent all vehicles of the same evaporative control system within the

evaporative emission family, as applicable.

(iii) *Heavy-duty engines.* (A) A gasoline-fueled emission-data test engine selected under § 86.085–24(b)(2)(iv) shall represent all engines in the same family of the same engine displacement-exhaust emission control system combination.

(B) A gasoline-fueled emission-data test engine selected under § 86.085–24(b)(2)(iii) shall represent all engines in the same engine family of the same engine displacement-exhaust emission control system combination.

(C) A diesel emission-data test engine selected under § 86.085–24(b)(3)(ii) shall represent all engines in the same engine-system combination.

(D) A diesel emission-data test engine selected under § 86.085–24(b)(3)(iii) shall represent all engines of that emission control system at the rated fuel delivery of the test engine.

(iv) *Gasoline-fueled heavy-duty vehicles.* A statement of compliance submitted under § 86.087–23(b)(4)(i) or (ii) shall represent all vehicles in the same evaporative emission family-evaporative emission control system combination.

(2) The Administrator will proceed as in paragraph (a) of this section with respect to the vehicles (or engines) belonging to an engine family or engine family-evaporative emission family combination (as applicable), all of which comply with al applicable standards (or the family emission limit, as appropriate).

(3) If, after a review of the test reports and data submitted by the manufacturer, data derived from any additional testing conducted pursuant to §86.087–29, data or information derived from any inspection carried out under § 86.078–7(c) or any other pertinent data or information, the Administrator determines that one or more test vehicles (or test engines) of the certification test fleet do not meet applicable standards (or family particulate emission limits, as appropriate), he will notify the manufacturer in writing, setting forth the basis for his determination. Within 30 days following receipt of the notification, the manufacturer may request a hearing on the Administrator's determination. The request shall be in writing, signed by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections to the Administrator's determination and data in support of such objections. If, after a review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 86.078–6 with respect to such issue.

(4) For light-duty vehicles and light-duty trucks the manufacturer may, at its option, proceed with any of the following alternatives with respect to an emission-data vehicle determined not in compliance with all applicable standards (or the family particulate emission limit, as appropriate) for which it was tested:

(i) Request a hearing under § 86.078–6; or

(ii) Remove the vehicle configuration (or evaporative vehicle configuration, as applicable) which failed, from his application;

(A) If the failed vehicle was tested for compliance with exhaust emission standards (or the family particulate emission limit, as appropriate) only: The Administrator may select, in place of the failed vehicle, in accordance with the selection criteria employed in selecting the failed vehicle, a new emission-data vehicle to be tested for exhaust emission compliance only.

(B) If the failed vehicle was tested for compliance with both exhaust and evaporative emission standards: The Administrator may select, in place of the failed vehicle, in accordance with the selection criteria employed in selecting the failed vehicle, a new emission-data vehicle which will be tested for compliance with both exhaust and evaporative emission standards. If one vehicle cannot be selected in accordance with the selection criteria employed in selecting the failed vehicle, then two vehicles may be selected (i.e., one vehicle to satisfy the exhaust emission vehicle selection criteria and one vehicle to satisfy the evaporative emission vehicle selection criteria). The vehicle selected to satisfy the exhaust emission vehicle selection criteria will be tested for compliance with exhaust emission standards only. The vehicle selected to satisfy the evaporative emission vehicle selection criteria will be tested for compliance with both exhaust and evaporative emission standards; or

(iii) Remove the vehicle configuration (or evaporative vehicle configuration, as applicable) which failed from the application and add a vehicle configuration(s) (or evaporative vehicle configuration(s), as applicable) not previously listed. The Administrator may require, if applicable, that the failed vehicle be modified to the new engine code (or evaporative emission code, as applicable) and demonstrate by testing that it meets applicable standards (or the family particulate emission limit, as appropriate) for which it was originally tested. In addition, the Administrator may select, in accordance with the vehicle selection criteria given in § 86.084–24(b), a new emission-data vehicle or vehicles. The vehicles selected to satisfy the exhaust emission vehicle selection criteria will be tested for compliance with exhaust emission standards (or the family particulate emission limit, as appropriate) only. The vehicles selected to satisfy the evaporative emission vehicle selection criteria will be tested for compliance with both exhaust and evaporative emission standards (or the family particulate emission limit, as appropriate); or

(iv) Correct a component or system malfunction and show that with a correctly functioning system or component the failed vehicle meets applicable standards (or the family particulate emission limit, as appropriate) for which it was originally tested. The Administrator may require a new emission-data vehicle, of identical vehicle configuration (or evaporative vehicle configuration, as applicable) to the failed vehicle, to be operated and tested for compliance with the applicable standards (or the family particulate emission limit, as appropriate) for which the failed vehicle was originally tested.

(5) For heavy-duty engines the manufacturer may, at his option, proceed with any of the following alternatives with respect to any engine family represented by a test engine(s) determined not in compliance with applicable standards:

(i) Request a hearing under § 86.078–6; or

(ii) Delete from the application for certification the engines represented by the failing test engine. (Engines so deleted may be included in a later request for certification under 86.079–32.) The Administrator may then select in place of each failing engine an alternate engine chosen in accordance with selection criteria employed in selecting the engine that failed; or

(iii) Modify the test engine and demonstrate by testing that it meets applicable standards. Another engine which is in all material respects the same as the first engine, as modified, may then be operated and tested in accordance with applicable test procedures.

(6) If the manufacturer does not request a hearing or present the required data under paragraphs (b) (4) or (5) of this section (as applicable), the Administrator will deny certification.

(c)(1) Notwithstanding the fact that any certification vehicle(s) (or

certification engine(s)) may comply with other provisions of this subpart, the Administrator may withhold or deny the issuance of a certificate of conformity (or suspend or revoke any such certificate which has been issued) with respect to any such vehicle(s) (or engine(s)) if:

(i) The manufacturer submits false or incomplete information in his application for certification thereof;

(ii) The manufacturer renders inaccurate any test data which he submits pertaining thereto or otherwise circumvents the intent of the Act, or of this part with respect to such vehicle (or engine);

(iii) Any EPA Enforcement Officer is denied access on the terms specified in § 86.078–7(c) to any facility or portion thereof which contains any of the following:

(A) The vehicle (or engine);

(B) Any components used or considered for use in its modification or buildup into a certification vehicle (or certification engine);

(C) Any production vehicle (or production engine) which is or will be claimed by the manufacturer to be covered by the certificate;

(D) Any step in the construction of a vehicle (or engine) described in paragraph (c)(iii)(C) of this section;

(E) Any records, documents, reports, or histories required by this part to be kept concerning any of the above;

(iv) Any EPA Enforcement Officer is denied "reasonable assistance" (as defined in § 86.078–7(c)) in examining any of the items listed in paragraph (c)(1)(iii) of this section.

(2) The sanctions of withholding, denying, revoking, or suspending of a certificate may be imposed for the reasons in paragraphs (c)(1)(i), (ii), (iii), or (iv) of this section only when the infraction is substantial.

(3) In any case in which a manufacturer knowingly submits false or inaccurate information or knowingly renders inaccurate or invalid any test data or commits any other fraudulent acts and such acts contribute substantially to the Administrator's decision to issue a certificate of conformity, the Administrator may deem such certificate void ab initio.

(4) In any case in which certification of a vehicle (or engine) is proposed to be withheld, denied, revoked, or suspended under pargraph (c)(1) (iii) or (iv) of this section, and in which the Administrator has presented to the manufacturer involved reasonable evidence that a violation of § 86.078–7(c) in fact occurred, the manufacturer, if he wishes to contend that, even though the violation occurred, the vehicle (or engine) in question was not involved in the violation to a degree that would warrant withholding denial, revocation, or suspension of certification under either paragraph (c)(1)(iii) or (iv) of this section, shall have the burden of establishing that contention to the satisfaction of the Administrator.

(5) Any revocation or suspension of certification under paragraph (c)(1) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.078–6 hereof.

(ii) Extend no further than to forbid the introduction into commerce of vehicles (or engines) previously covered by the certification which are still in the hands of the manufacturer, except in cases of such fraud or other misconduct as makes the certification invalid ab initio.

(6) The manufacturer may request in the form and manner specified in paragraph (b)(3) of this section that any determination made by the Administrator under paragraph (c)(1) of this section to withhold or deny certification be reviewed in a hearing conducted in accordance with § 86.078–6. If the Administrator finds, after a review of the request and supporting data, that the request raises a substantial factual issue, he will grant the request with respect to such issue.

(d)(1) *For light-duty vehicles.* Notwithstanding the fact that any vehicle configuration or engine family may be covered by a valid outstanding certificate of conformity, the Administrator may suspend such outstanding certificate of conformity in whole or in part with respect to such vehicle configuration or engine family if:

(i) The manufacturer refuses to comply with the provisions of a test order issued by the Administrator pursuant to § 86.603; or

(ii) The manufacturer refuses to comply with any of the requirements of § 86.603; or

(iii) The manufacturer submits false or incomplete information in any report or information provided pursuant to the requirements of § 86.609; or

(iv) The manufacturer renders inaccurate any test data which he submits pursuant to § 86.609; or

(v) Any EPA Enforcement Officer is denied access to a facility on the terms specified in § 86.606; or

(vi) Any EPA Enforcement Officer is denied the opportunity on the terms specified in § 86.606, to:

(A) Monitor vehicle selection pursuant to § 86.607, or

(B) Select vehicles for testing pursuant to § 86.607, or

(C) Monitor vehicle testing performed to satisfy any of the requirements of this part; or

(vii) Any EPA Enforcement Officer is denied "reasonable assistance" as defined in § 86.606 in examining any of the items listed in that section; or

(viii) The manufacturer refuses to comply with the requirements of §§ 86.604(a), 86.605, and 86.607, 86.608, 86.610, or 86.611.

(2) The sanction of suspending a certificate may not be imposed for the reasons in paragraphs (d)(1)(i), (ii), or (viii) of this section where such refusal is caused by conditions and circumstances outside the control of the manufacturer which renders it impossible to comply with those requirements. Such conditions and circumstances shall include, but not be limited to, any uncontrollable factors which results in the temporary unavailability of equipment and personnel needed to conduct the required tests, such as equipment breakdown or failure or illness of personnel, but shall not include failure of the manufacturer to adequately plan for and provide the equipment and personnel needed to conduct the tests. The manufacturer will bear the burden of establishing the presence of the conditions and circumstances required by this paragraph.

(3) The sanctions of suspending a certificate may be imposed for the reasons in paragraphs (d)(1)(iii), (iv), (v), (vi), or (vii) of this section only when the infraction is substantial.

(4) In any case in which a manufacturer knowingly submitted false or inaccurate information or knowingly rendered inaccurate any test data or committed any other fraudulent acts, and such acts contributed substantially to the Administrator's original decision not to suspend or revoke a certificate or conformity in whole or in part, the Administrator may deem such certificate void from the date of such fraudulent act.

(5) In any case in which certification of a vehicle is proposed to be suspended under paragraph (d)(1)(v), (vi), or (vii) of this section, and in which the Administrator has presented to the manufacturer involved reasonable evidence that a violation of § 86.606 in fact occurred, the manufacturer, if he wishes to contend that even though the violation occurred, the vehicle configuration or engine family in question was not involved in the violation to the degree that would warrant suspension of certification

under either paragraph (d)(1)(v), (vi), or (vii) of this section, shall have the burden of establishing that contention to the satisfaction of the Administrator.

(6) Any suspension of certification under paragraph (d)(1) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.613 hereof, and

(ii) Not apply to vehicles no longer in the hands of the manufacurer.

(e) *For light-duty trucks and heavy-duty engines.* (1) Notwithstanding the fact that any vehicle configuration or engine family may be covered by a valid outstanding certificate of conformity, the Administrator may suspend such outstanding certificate of conformity in whole or in part with respect to such vehicle or engine configuration or engine family if:

(i) The manufacturer refuses to comply with the provisions of a test order issued by the Administrator pursuant to § 86.1003; or

(ii) The manufacturer refuses to comply with any of the requirements of § 86.1003; or

(iii) The manufacturer submits false or incomplete information in any report or information provided pursuant to the requirements of § 86.1009; or

(iv) The manufacturer renders inaccurate any test data submitted pursuant to § 86.1009; or

(v) Any EPA Enforcement Officer is denied the opportunity to conduct activities related to entry and access as authorized in § 86.1006 of this part and in a warrant or court order presented to the manufacturer or the party in charge of a facility in question; or

(vi) EPA Enforcement Officers are unable to conduct activities related to entry and access as authorized in § 86.1006 of this part because a manufacturer has located a facility in a foreign jurisdiction where local law prohibits those activities; or

(vii) The manufacturer refuses to or in fact does not comply with the requirements of §§ 86.1004(a), 86.1005, 86.1007, 86.1008, 86.1010, 86.1011, or 86.1013.

(2) The sanction of suspending a certificate may not be imposed for the reasons in paragraphs (e)(1) (i), (ii), or (vii) of this section where such refusal or denial is caused by conditions and circumstances outside the control of the manufacturer which renders it impossible to comply with those requirements. Such conditions and circumstances shall include, but are not limited to, any uncontrollable factors which result in the temporary unavailability of equipment and personnel needed to conduct the required tests, such as equipment breakdown or failure or illness of personnel, but shall not include failure of the manufacturers to adequately plan for and provide the equipment and personnel needed to conduct the tests. The manufacturer will bear the burden of establishing the presence of the conditions and circumstances required by this paragraph.

(3) The sanction of suspending a certificate may be imposed for the reasons outlined in paragraph (e)(1) (iii), (iv), or (v) of this section only when the infraction is substantial.

(4) In any case in which a manufacturer knowingly submitted false or inaccurate information or knowingly rendered inaccurate any test data or committed any other fraudulent acts, and such acts contributed substantially to the Administrator's original decision not to suspend or revoke a certificate of conformity in whole or in part, the Administrator may deem such certificate void from the date of such fraudulent act.

(5) In any case in which certification of a light-duty truck or heavy-duty engine is proposed to be suspended under paragraph (e)(1)(v) of this section and in which the Administrator has presented to the manufacturer involved reasonable evidence that a violation of § 86.1006 in fact occurred, if the manufacturer wishes to contend that, although the violation occurred, the vehicle or engine configuration or engine family in question was not involved in the violation to a degree that would warrant suspension of certification under paragraph (e)(1)(v) of this section, he shall have the burden of establishing that contention to the satisfaction of the Administrator.

(6) Any suspension of certification under paragraph (e)(1) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.1014, and

(ii) Not apply to vehicles or engines no longer in the hands of the manufacturer.

(7) Any voiding of a certificate of conformity under paragraph (e)(4) of this section shall be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.1014.

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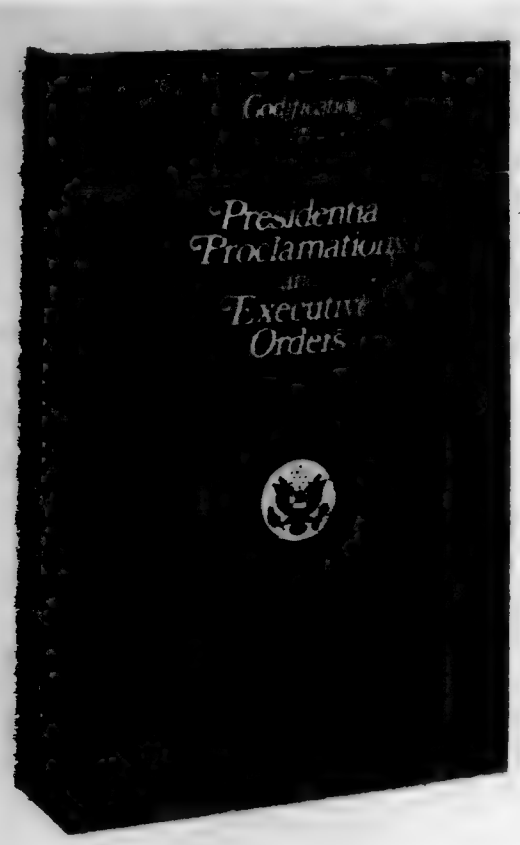

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Rules and Regulations

Federal Register
Vol. 49, No. 17
Wednesday, January 25, 1984

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 870, 871, 872 and 873

Basic Life Insurance, Standard Optional Life Insurance, Additional Optional Life Insurance, Family Optional Life Insurance

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing final regulations governing the Federal Employees' Group Life Insurance (FEGLI) program. These regulations finalize the interim regulations issued by OPM pursuant to the FEGLI Act of 1980 in December 1980, and include a number of nonsubstantive clarifying and editorial changes in the previous regulations, as well as a provision permitting employees to include common disaster clauses in designations of beneficiary. In addition, because the complete FEGLI regulations are now being published, the final regulations that were recently published to allow cancellation of a FEGLI waiver for certain returning Federal employees are also included.

EFFECTIVE DATE: February 24, 1984.

FOR FURTHER INFORMATION CONTACT: John Landers (202) 254–9574.

SUPPLEMENTARY INFORMATION: The FEGLI program was amended by Pub. L. 96–427, the Federal Employee's Group Life Insurance Act of 1980, approved October 10, 1980. OPM published interim regulations to govern the restructured program on December 5, 1980 (45 FR 80472), December 24, 1980 (45 FR 84955, republished on December 30, 1980 at 45 FR 85692) and April 10, 1981 (46 FR 21355). When the interim regulations were published, OPM requested comments to be considered in the development of final regulations. The few comments received at OPM mainly concerned the procedures used to implement the new program during the open enrollment period in March 1981, which was announced in the interim regulations. Those concerns were addressed at the time of the open enrollment period and are not pertinent now, but will be considered in planning any future open enrollment period.

The following final regulations cover Parts 870, 871, 872 and 873 in their entirety. This publication incorporates editorial and nomenclature changes needed in the portions of Parts 870 and 871, that were not amended by the interim regulations.

Changes to the Interim Regulations

Pub. L. 96–427 includes a provision for waiver of collection of an overpayment of pay occurring when an agency erroneously fails to withhold full FEGLI deductions from an individual's pay, annuity or compensation. (See 5 U.S.C. 8707(d), 8714a(d)(2), 8714b(d)(2), and 8714c(d)(2).) If collection is waived, the amount of any uncollected FEGLI withholdings and agency contributions must be submitted to OPM by the employing agency for deposit to the Employees' Life Insurance Fund.

The interim regulations provided that employing agencies should use the standards and procedures for waiver of overpayments of salary as stated under 4 CFR Chapter I, Subchapter G, which implements the provisions of 5 U.S.C. 5584, the statutory authority for waiver of an overpayment of pay. However, some agencies are not covered under the provisions of 5 U.S.C. 5584. The final regulations state that 5 U.S.C. 5584 and the implementing regulations are to be used by agencies unless the agency is excluded from their application. For excluded agencies, any other applicable method of waiving the collection is permitted. The discussion of the standards and procedures to be used by OPM when waiving or compromising collection of an overpayment of annuity due to non-withholding of appropriate FEGLI deductions has been deleted from the regulations as unnecessary since OPM must, when collecting overpayments created due to non-withholding of FEGLI deductions, use the same standards and procedures used in collections of any other overpayment of annuity. The amended portions of the regulations are found at §§ 870.401(h), 871.401(g), 872.401(g), and 873.401(e). The requirement that the employing agency submit the full amount due, even in cases where the collection of an overpayment is waived, is unchanged.

Another clarifying amendment in the final regulations concerns an election to continue more than 25 percent of a retiree's or compensationer's basic life insurance past age 65. The interim regulations did not specify that the individual's annuity or compensation payments must be sufficient to cover the withholdings necessary under such an election. The final regulations are amended to clarify that the amount of annuity or compensation regularly received must cover the required withholdings. If payments are insufficient, the election must either be amended or canceled. This provision parallels the provision in effect for the optional insurance withholdings for retirees and compensationers, and will be applicable only in the uncommon event that an individual's annuity or compensation payments are insufficient to cover the benefit deductions.

In the past, a common disaster clause in a designation of beneficiary has not been permitted under the FEGLI program. However, in view of the greatly enhanced value of the FEGLI program under Pub. L. 96–427, OPM has determined that a common disaster clause should be allowed. A provision allowing such a clause on a FEGLI designation of beneficiary is added to the final regulations at § 870.901(g). It provides that a person may stipulate in his/her designation that the designated beneficiary shall be entitled to the insurance proceeds only if he/she survives the designator for a period of time not exceeding 30 days. This type of provision allows a designator to prevent entry of insurance proceeds into the estate of a beneficiary who survives the insured by only a short time, and to name the alternative recipient of the proceeds in such circumstances.

Another clarifying change involves the temporary extension of coverage available under the FEGLI law upon involuntary termination of an individual's group enrollment, which usually occurs when an employee separates from service or completes 12 months of continuous nonpay status.

The employee under these circumstances has 31 days of additional free coverage under the group policy, beginning from the date the group enrollment terminated due to his or her separation or for any other reason except voluntary cancellation. The FEGLI law also provides such an individual with the right to convert the group coverage to an individual policy without a medical examination. The individual may exercise the conversion privilege at any time during the 31-day extension of coverage or, under a provision of the contract between the insurance carrier and OPM, beyond the 31-day extension of coverage as circumstances warrant, such as in the case of a tardy conversion right notice to a separated employee, provided that the individual acts promptly. A late conversion right notice, however, does not operate to lengthen the 31 days of free coverage following the event terminating the group enrollment. To clarify this, the final FEGLI regulations have been amended at §§ 870.501(f) 871.501(f), 872.501(f), and 873.501(g) to state that the 31-day extension of coverage cannot be lengthened by an untimely conversion right notice.

The amount of standard optional life insurance which an employee may elect is $10,000, except in a few instances where the employee's pay is greater than the combination of the basic insurance amount plus $10,000. This occurs in the Government where the basic insurance amount is $72,000 [the current limit under 5 U.S.C. 8701(c)] but the basic salary is in excess of $82,000, such as in the case of the President, the Vice President, certain high-ranking officials, judges and a small number of other employees.

This limitation is stated in section 8714a(b) of title 5, United States Code, which provides that the sum of basic and standard optional life insurance may be "equal to" annual pay. However, under OPM's current regulations and our contract with the Metropolitan Life Insurance Company, annual pay, if not an even $1,000, is rounded down to the next even $1,000. The final regulations amend our regulations to require that the annual pay be rounded up to the next even $1,000. This change makes this rounding process uniform with other rounding in the determination of amounts of insurance under the FEGLI program, and more accurately effects the intention of the law.

An employee may continue family optional life insurance following retirement or during receipt of workers' compensation only if enrolled for the five years before retirement or entitlement to compensation, or during all periods in which the coverage is available to the employee, if less than five. However, while an employee may be eligible for family optional insurance, being enrolled for basic insurance and not having declined the family coverage, he/she may have no need for this coverage since there may be no eligible family members. A problem concerning the five-year participation requirement for continuation of coverage occurs, for example, in the case of an employee who acquired the family coverage in April 1981 when it was first offered and who is then widowed and has no eligible children. If the employee then declines the family coverage, is later remarried, acquires the coverage, and then retires, he/she may not have been enrolled continuously for the five years before retirement when the coverage was "available." Under current regulations the employee would not be eligible to continue the family coverage into retirement because of the break in coverage during the five years before retirement, even though the employee had no need of the insurance, having no covered family members. To remedy this situation, the final regulations state at § 873.501(b) that, for the purposes of continuation of coverage upon retirement or entitlement to workers' compensation, family optional insurance is deemed not to have been available to an employee during periods when the employee had no eligible family members.

In Part 873, a new provision is added to Subpart G, § 873.702(b), to clarify that a child must have met the definition of a family member at the time of his/her death in order for a claim for insurance proceeds to become payable under the family optional insurance. This provision is consistent with the clarification in 5 CFR Part 831, Retirement, to avoid confusion in the case of an otherwise eligible child who may have been dependent (dependency is a basic qualification requirement for survivor benefits in the case of a child) at some time during the life of the employee, but was not dependent upon the employee at the time of the employee's death, and therefore was not eligible for a survivor benefit arising upon such death. (See 46 FR 35081, July 7, 1981.)

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

I certify that, within the scope of the Regulatory Flexibility Act, this regulation will not have significant economic impact on a substantial number of small entities. This final rule incorporates no substantial change from current regulations under the FEGLI program.

List of Subjects in 5 CFR Parts 870, 871, 872, and 873

Administrative practice and procedure, Government employees, Life insurance, Personnel Management Office, Retirement, Workers' compensation.

Office of Personnel Management.

Donald J. Devine,

Director.

Accordingly, the Office of Personnel Management is amending Title 5, Code of Federal Regulations, as follows:

1. Part 870 is revised to read as follows:

PART 870—BASIC LIFE INSURANCE

Subpart A—Administration and General Provisions

Sec.

870.101 Actions on the policy.
870.102 Correction of an error, mistake, or omission.
870.103 Definitions.

Subpart B—Coverage

870.201 Coverage.
870.202 Exclusions.
870.203 Effective dates of insurance coverage.
870.204 Waiver and cancellation of waiver of insurance coverage.
870.205 Reconsideration.

Subpart C—Amount of Insurance

870.301 Basic insurance amount (BIA).
870.302 Annual rates of pay.

Subpart D—Withholdings and Contributions

870.401 Withholdings and contributions.

Subpart E—Termination and Conversion

870.501 Termination and conversion of insurance coverage.

Subpart F—Annuitants

870.601 Eligibility for life insurance.
870.602 Amount of life insurance.

Subpart G—Employees' Compensation

870.701 Eligibility for life insurance.
870.702 Amount of life insurance.

Subpart H—[Reserved]

Subpart I—Order of Precedence and Designation of Beneficiary

870.901 Designation of beneficiary.

Authority: 5 U.S.C. 8716, unless otherwise noted.

Subpart A—Administration and General Provisions

§ 870.101 Actions on the policy.

Life and accidental death and dismemberment benefits ("basic insurance") shall be payable in

accordance with a policy or policies purchased by OPM from the Metropolitan Life Insurance Co., 1 Madison Avenue, New York, N.Y. 10010, under section 8709 of title 5, United States Code. Actions at law or in equity to recover on an insurance policy, in which there is not alleged any breach of any obligation undertaken by the United States, shall be brought against the insurance company.

§ 870.102 Correction of an error, mistake, or omission.

OPM's Associate Director for Compensation or his/her designee may order correction of an error, mistake, or omission upon a showing satisfactory to the Associate Director or his/her designee that it would be against equity and good conscience not to do so.

§ 870.103 Definitions.

"Annuitant" means a former employee entitled to an annuity under a retirement system established for employees.

"Compensation" means compensation under subchapter I of chapter 81 of title 5, United States Code, which is payable because of an on-the-job injury or disease.

"Compensationer" means an employee or former employee who is entitled to compensation and whom the Department of Labor determines is unable to return to duty.

"Employee" means an individual who is an "employee" as defined by section 8701 of title 5, United States Code.

"OPM" means the Office of Personnel Management.

"OWCP" means the Office of Workers' Compensation Programs, U.S. Department of Labor, which administers subchapter I of chapter 81 of title 5, United States Code.

"Service" means civilian service which is creditable under subchapter III of chapter 83 of title 5, United States Code.

Subpart B—Coverage

§ 870.201 Coverage.

Except as provided in § 870.202, each employee shall, at the time and subject to the conditions prescribed in this part, be insured for an amount of basic insurance as specified in §§ 870.301, 870.602, and 870.702.

§ 870.202 Exclusions.

(a) Employees in the following groups are excluded from the application of this part:

(1) An employee serving under an appointment limited to one year or less, except: (i) An employee so appointed for full-time employment or part-time employment with a regular tour of duty without break in service or after a separation of three days or less, following service in which he/she was insured, (ii) an acting postmaster, and (iii) a Presidential appointee appointed to fill an unexpired term.

(2) An employee whose employment is of uncertain or purely temporary duration, or who is employed for brief periods at intervals, and an employee who is expected to work less than six months in each year, except for an employee who is employed under an OPM-approved career-related work-study program under Schedule B of at least one year's duration and who is expected to be in a pay status for at least one-third of the total period of time from the date of the first appointment to the completion of the work-study program.

(3) An intermittent employee—a non-full-time employee without a regularly scheduled tour of duty, except when the employee enters into such a status without break in service or after a separation of three days or less, following service in a position in which he/she was insured and to which he/she is expected to return.

(4) An employee whose pay on an annual basis is $12 a year or less.

(5) A beneficiary or patient employee in a government hospital or home.

(6) An employee paid on a contract or fee basis, except an employee who is a citizen of the United States who is appointed by a contract between the employee and the Federal employing authority which requires his/her personal service and is paid on the basis of units of time.

(7) An employee paid on a piecework basis, except one whose work schedule provides for full-time service or part-time service with a regularly scheduled tour of duty.

(b) OPM shall make the final determination regarding applicability of the above classifications to a specific employee or group of employees.

§ 870.203 Effective dates of insurance coverage.

(a)(1) Following an appointment or transfer to a position in which an employee is not excluded from coverage, the employee is insured on the day he/she actually enters on duty in pay status, unless he/she files a waiver of basic insurance coverage before the end of his/her first pay period with the employing office, or a previously filed waiver remains uncanceled.

(2) An employee who moves from a position in which he/she is insured to another position in which he/she is not excluded from coverage is insured on the effective date of the change, unless the employee files a waiver of basic insurance coverage with the new employing office before the end of his/her first pay period in the new position.

(b) An employee who returns to pay and duty status after a period of more than 12 months of nonpay status is insured at the time he/she actually enters on duty in pay status, unless the employee files a waiver of basic coverage before the end of the first pay period with the employing office, or had previously filed such a waiver which remains uncanceled.

(c) In the case of an employee serving in cooperation with a non-Federal agency and who is paid in whole or in part from non-Federal funds, insurance may not take effect until the date set by OPM for coverage to begin. This date is to be part of an agreement between OPM and the non-Federal agency providing (1) that the required withholdings and contributions will be made from federally controlled funds and timely deposited into the Employees' Life Insurance Fund, or (2) that the cooperating non-Federal agency will, by written agreement with the Federal agency, make the required withholdings and contributions from non-Federal funds and will transmit the total of these amounts to the Federal agency for timely deposit into the Employees' Life Insurance Fund.

§ 870.204 Waiver and cancellation of waiver of insurance coverage.

(a) An insured person may cancel his/her basic insurance at any time by filing a waiver of basic insurance coverage. An employee files with the employing office. An annuitant files with OPM or other office that administers his/her retirement system. If still employed, a compensationer files with the employing office, and, if not still employed, with OWCP. The waiver shall be effective and the insurance shall cease at the end of the pay period in which the waiver is properly filed.

(b) An employee who has filed a waiver of basic insurance coverage may cancel the waiver and become insured if:

(1) He/she is under age 50;

(2) At least one year has elapsed since the effective date of the waiver; and

(3) He/she furnishes satisfactory evidence of insurability.

(c) An employee who has complied with paragraph (b) of this section is insured when he/she actually enters on duty in pay status in a position in which he/she is not excluded from insurance by law or regulation, following the approval of his/her Request for

Insurance by the Office of Federal Employees' Group Life Insurance established by the insurance company. The approval is revoked automatically and the employee is not insured unless he/she enters on duty in pay status within 31 days following the date of the approval.

(d) Waivers of basic insurance coverage filed on or before February 28, 1981, are automatically canceled effective on the first day an employee whose waiver is so canceled actually enters on duty in a pay status on or after April 1, 1981. Basic insurance coverage automatically attaches on the date of the cancellation unless the employee files a waiver of basic insurance with the employing office before the end of the pay period during which the cancellation became effective.

(e) Notwithstanding paragraphs (b), (c), and (d) of this section, the waiver of basic insurance coverage of an employee who is or becomes an employee of the United States Postal Service on or after July 20, 1974, in a position in which he/she is not excluded from insurance coverage is automatically canceled and he/she is insured for basic insurance on the first day he/she actually enters on duty in a pay status on or after July 24, 1974.

(f) (1) A previous waiver is automatically canceled at time of reinstatement on or after April 1, 1981, if an employee has been separated from service for at least 180 days. If no new waiver is filed, basic insurance coverage automatically attaches on the date the employee actually enters on duty in a pay status in a position wherein he/she is not excluded from insurance by law or regulations.

(2) An employee who returned to Federal service between April 1, 1981, and December 8, 1983, after a 180-day break in service may elect basic insurance coverage upon application to his or her employing office before March 7, 1984.

§ 870.205 Reconsideration.

(a) *Who may file.* An individual may request OPM to reconsider an agency decision or an inital decision of OPM denying basic insurance coverage.

(b) *Agency decision.* A request for reconsideration of an agency decision must be filed within 30 calendar days from the date of the written decision stating the right to reconsideration by OPM. OPM may extend the time limit as provided in paragraph (e) of this section.

(c) *Initial OPM decision.* A written OPM decision which states the right to request reconsideration shall be considered an initial decision as used in paragraph (a of this section when rendered by OPM in writing and stating the right to reconsideration. However, a decision initially rendered at the highest level of review available within OPM will not be subject to reconsideration.

(d) *Reconsideration.* A request for reconsideration of an initial OPM decision must be made in writing, must include the claimant's name, address, date of birth, claim number, if applicable, and reasons for the request.

(e) *Time limit.* A request for reconsideration of an initial OPM decision must be filed within 30 calendar days from the date of the initial decision. OPM may extend the time limit for filing when the individual shows that he/she was not notified of the time limit or that he/she was prevented by circumstances beyond his/her control from making the request within the time limit.

(f) *Final decision.* After reconsideration, OPM shall issue a final decision which shall be in writing, and shall fully set forth the findings and conclusions of OPM.

Subpart C—Amount of Insurance

§ 870.301 Basic insurance amount (BIA).

(a) An employee's basic insurance amount (BIA) is the greater of (1) his/her annual rate of basic pay, rounded to the next higher multiple of $1,000, plus $2,000, or (2) $10,000. However, in no event may the BIA be more than the annual rate of pay for positions at Level II of the Executive Schedule under section 5313 of title 5, U.S.C., rounded to the next higher thousand, plus $2,000. The BIA of an individual who is entitled to continue basic life insurance coverage as an annuitant or compensationer is the BIA in effect at the time the insurance to which he/she is entitled as an employee would stop under § 870.501.

(b) Effective on the first day of the first pay period beginning on or after October 1, 1981, the amount of an employee's basic life insurance coverage is equal to his/her BIA multiplied by the appropriate factor determined on the basis of the age of the insured individual, as follows:

Age	Factor
35 or under	2.0
36	1.9
37	1.8
38	1.7
39	1.6
40	1.5
41	1.4
42	1.3
43	1.2
44	1.1
45 or over	1.0

§ 870.302 Annual rates of pay.

(a) An insured employee's annual pay is his/her annual rate of basic pay as fixed by law or regulation, except that annual pay for this purpose shall include premium pay under section 5545(c)(1) of title 5, United States Code, and, for a law enforcement officer as defined under 5 U.S.C. 8331(20) and § 831.903 of this chapter, premium pay under 5 U.S.C. 5545(c)(2).

(b) A pay rate of other than annual salary is converted to an annual rate by multiplying the prescribed rate by the number of pay units in a 52-week work year.

(c) The annual pay for a part-time employee is his/her basic pay applicable to his/her tour of duty in a 52-week work year.

(d) The annual pay for an employee who legally and concurrently serves in more than one position, other than as a part-time flexible schedule employee in the Postal Service, is the sum of the annual basic pay fixed by law or regulation for each position.

Subpart D—Withholdings and Contributions

§ 870.401 Withholdings and contributions.

(a) During each pay period in which an insured employee is in pay status for any part of the period, $0.24 for each $1,000 of the employee's BIA shall be withheld from the biweekly pay of the employee. The amount withheld from the pay of an employee who is paid on other than a biweekly basis is determined at a proportionate rate, adjusted to the nearest cent.

(b) The amount withheld from the pay of an insured employee whose annual pay is paid during a period shorter than 52 workweeks is the sum obtained by converting the biweekly rate of $0.24 for each $1,000 of the employee's BIA to an annual rate and prorating the annual rate over the number of installments of pay regularly paid during the year.

(c) The amount withheld from the pay of an insured employee whose BIA changes during a pay period is based on the last BIA in force during the pay period.

(d) For each period in which an employee is insured there shall be contributed from the respective appropriation or fund which is used for the payment of his/her pay (or, in the case of an elected official, from such appropriation or fund as may be available for payment of other pay of the same office or establishment) an amount equal to one-half the amount withheld from the employee's pay.

(e) Notwithstanding the preceding paragraphs of this section, the United States Postal Service contributes the full cost of basic insurance, that is, the sum of the amounts otherwise to be withheld and contributed under paragraphs (a), (b), (c), and (d) of this section, for each period in which an employee of the United States Postal Service is insured.

(f)(1) Except as provided under paragraph (g) of this section, an insured person who elects continued basic life insurance coverage during receipt of annuity or compensation payments as provided under §§ 870.601(c)(2) or 870.701(c)(2) (maximum reduction of 75 percent after age 65) shall have withheld from his/her payments basic life insurance withholdings at the monthly rate (for annuitants) of $0.52 for each $1,000 of the BIA or at the weekly rate (for compensationers) of $0.12 for each $1,000 of the BIA.

(2) An insured person who elects continued basic life insurance coverage during receipt of annuity or compensation payments as provided under §§ 870.601(c)(3) or 870.701(c)(3) (maximum reduction of 50 percent after age 65) shall have withheld from his/her payments basic life insurance withholdings at the monthly rate (for annuitants) of $0.65 for each $1,000 of the BIA or at the weekly rate (for compensationers) of $0.15 for each $1,000 of the BIA.

(3) An insured person who elects continued basic life insurance coverage during receipt of annuity or compensation payments as provided under §§ 870.601(c)(4) or 870.701(c)(4) (no reductions) shall have withheld from his/her payments basic life insurance withholdings at the monthly rate (for annuitants) of $1.75 for each $1,000 of the BIA or at the weekly rate (for compensationers) of $0.404 for each $1,000 of the BIA.

(g)(1) Basic life insurance withholdings required under paragraph (f)(1) of this section shall not be made for any month after the calendar month in which the individual becomes 65 years of age and shall not apply for an individual who retires or commences compensation payments before January 1, 1990.

(2) Withholdings are not required for the period between the end of the pay period in which an individual separates from service and the beginning of the annuity or compensation payments, if later.

(h) If an agency waives the collection of unpaid insurance deductions from an individual's pay, annuity or compensation, the agency shall submit an amount equal to the sum of the uncollected deductions and any applicable agency contributions required under section 8708 of title 5, United States Code, to OPM for deposit to the Employees' Life Insurance Fund. A determination whether to waive collection of the overpayment of pay shall be made in accordance with 5 U.S.C. 5584 as emplemented by 4 CFR, Chapter I, Subchapter G, unless the agency involved is excluded from application of 5 U.S.C. 5584, in which case any applicable authority to waive the collection may be used.

Subpart E—Termination and Conversion

§ 870.501 Termination and conversion of insurance coverage.

(a) Except as provided in §§ 870.601 and 870.701, the basic insurance of an insured employee stops on the date of his/her separation from the service, subject to a 31-day extension of basic life insurance coverage.

(b) The basic insurance of an insured employee who moves without a break in service to a position in which he/she is excluded from basic insurance stops on his/her last day on the roll in the former position, subject to a 31-day extension of basic life insurance coverage.

(c) Except as provided in paragraph (e) of this section and in §§ 870.601 and 870.701, the basic insurance of an insured employee continues without cost to the employee while he/she is in nonpay status for up to 12 months, at which time it stops, subject to a 31-day extension of basic life insurance coverage. The 12 months' nonpay status may be continuous or broken by periods of less than 4 consecutive months in pay status. If an employee has at least 4 consecutive months in pay status after a period of nonpay status, he/she is entitled to begin the 12 months' continuation of basic insurance anew. If after a return to duty he/she is not entitled to any further continuation of basic insurance in nonpay status because he/she has not had 4 consecutive months of pay status since exhausting his/her 12 months' continuation in nonpay status, his/her basic insurance stops the last day of his/her last pay period in pay status. For the purposes of this paragraph, 4 consecutive months in pay status means any 4-month period during which the employee is in pay status for at least part of each pay period.

(d) The basic insurance of an insured employee who enters on active duty or active duty for training as a member of a uniformed service stops, subject to a 31-day extension of basic life insurance coverage, on the day preceding his/her entrance on such duty, unless the period of such duty is covered by military leave with pay from his/her civilian position. This stopping of basic insurance coverage does not operate with respect to basic insurance granted before January 1, 1957, to commissioned officers of the Coast and Geodetic Survey or of the Regular Corps of the Public Health Service.

(e) During the 31-day extension of basic life insurance coverage under this section a person may, upon application and without medical examination, convert all or any part of his/her basic life insurance to an individual policy of life insurance at rates applicable to his/her attained age and class of risk unless, within three calendar days after the date his/her basic insurance stopped, he/she returns to a position in which he/she is not excluded from coverage.

(f) The 31-day extension coverage provided under this subpart cannot be extended beyond 31 days, nor is it contingent upon timely issuance of notice of the right of conversion to an individual policy.

Subpart F—Annuitants

§ 870.601 Eligibility for life insurance.

(a) The basic life insurance of an insured individual who is separated from service is continued or reinstated if he/she:

(1) Is entitled to retirement on immediate annuity under a retirement system for civilian employees of the Federal or District of Columbia Governments;

(2) Has been enrolled for basic insurance for the five years of service immediately preceding the date of retirement or the full period(s) of service during which he/she was entitled to be insured;

(3) Has met all requirements for an immediate annuity (including filing of application where necessary), whether or not final administrative action has been taken; and

(4) Has not exercised his/her right to convert to an individual life insurance policy under § 870.501(e). If, after an individual has exercised the conversion right, it is determined that he/she is eligible to continue the group coverage as an annuitant and the group enrollment is reinstated in accordance with this subpart, the conversion policy shall be voided and the premiums already paid on such policy shall be refunded to the insured.

(b) An individual who meets the requirements under paragraphs (a) or (g) of this section for continuation or reinstatement of life insurance shall execute a written election on a form

furnished by OPM at the time entitlement to continuation or reinstatement of the insured arises. To be considered valid, the election form must be received in OPM before final adjudication of the individual's application for annuity or supplemental annuity. In the absence of a valid election, OPM shall deem the insured to have filed a valid election under paragraph (c)(2) of this section.

(c) An individual who makes an election under paragraph (b) of this section shall select one of the following options:

(1) Termination of the insurance, in which case the individual's insurance shall stop upon conversion to an individual policy as provided under § 870.501, or, if the individual does not convert to an individual policy, at the end of the month in which OPM receives the election;

(2) Continuation or reinstatement of life insurance coverage with a maximum reduction of 75 percent during retirement, and with premiums withheld from annuity, except as provided under § 870.401(g)(1) of this chapter. The amount of basic life insurance in force shall reduce by two percent a month effective at the beginning of the second month after the date the insurance would otherwise have stopped or the date of the insured's 65th birthday, whichever is later, until the maximum is reached;

(3) Continuation or reinstatement of life insurance coverage with a maximum reduction of 50 percent during retirement, and with continuous premiums withheld from annuity. The amount of basic life insurance in force shall reduce by one percent a month effective at the beginning of the second month after the date of insurance would otherwise have stopped or the date of the insured's 65th birthday, whichever is later, until the maximum is reached;

(4) Continuation or reinstatement of basic life insurance coverage with no reduction after age 65, and with continuous premiums withheld from annuity.

An insured individual may cancel an election under paragraphs (c)(3) or (c)(4) of this section at any time. Upon cancellation the amount of basic life insurance will automatically revert, effective at the end of the month in which the request to cancel is received in OPM, to the amount that would have been in force had the individual originally elected coverage under paragraph (c)(2) of this section, unless a waiver of insurance coverage is filed by the insured, in which case the coverage stops without a 31-day extension of coverage or right of conversion, effective at the end of the month in which the waiver is received in OPM. An election under paragraph (c)(3) or (c)(4) of this section is automatically canceled effective at the end of the month in which it is determined that annuity payments are insufficient to cover the deductions required by the election.

(d) An immediate annuity is one which begins to accrue no later than one month after the date the insurance would otherwise stop.

(e) If the insured's annuity is terminated under any applicable law or regulation, his/her basic life insurance as an annuitant stops on the date of termination of annuity.

(f)(1) If an insured annuitant is appointed to a position in which he/she is not excluded from insurance by law or regulation, the amount of his/her basic life insurance as an annuitant, and any annuity withholdings applicable thereto, are suspended on the day preceding the first day in a pay status under the appointment unless he/she waives all insurance coverage. The benefit payable upon the death of a reemployed annuitant who has basic insurance in force as an employee shall not be less than the benefit which would have been payable had the person not been reemployed.

(2) Except as provided in paragraph (g) of this section, the basic insurance acquired as an employee stops, with no 31-day extension of coverage or right of conversion, on the date reemployment terminates and any suspended basic life insurance, and any annuity withholdings applicable thereto, are reinstated on the day following termination of the reemployment.

(g) Basic life insurance acquired during reemployment may be continued after termination of the reemployment if:

(1) The annuitant qualifies for a supplemental annuity or acquires a new retirement right,

(2) He/she has had basic insurance as an employee for at least five years of service immediately preceding separation from reemployment or for the full period(s) during which such coverage was available to him/her, whichever is less, and

(3) He/she does not convert to nongroup insurance when his/her basic insurance as an employee would otherwise terminate.

If the basic life insurance acquired during reemployment is so continued, any suspended basic life insurance stops with no 31-day extension of coverage or right to convert.

§ 870.602 Amount of life insurance.

The amount of an annuitant's basic life insurance is his/her BIA at the date insurance would otherwise have stopped because of his/her separation from service or completion of 12 months of nonpay status, less the reductions, if any, applicable under § 870.601(c). For the purpose of the payment of benefits upon the death of an insured annuitant under age 45, effective October 1, 1981, the BIA shall be multiplied by the age factor under § 870.301(b) corresponding to the insured's age on the date of death, provided that his/her basic insurance as an employee terminated on or after October 10, 1980.

Subpart G—Employees' Compensation

§ 870.701 Eligibility for life insurance.

(a) A compensationer's basic life insurance shall be continued or reinstated if he/she:

(1) Has been insured for the five years of service immediately preceding the date of entitlement to compensation, or for the full period(s) of service during which he/she was entitled to be insured, and

(2) Has not exercised the right to convert as described in § 870.501(e). If, after an individual has exercised the conversion right, it is determined that he/she is eligible to continue the group coverage as a compensationer and the group enrollment is reinstated in accordance with this subpart, the conversion policy shall be voided and the premiums already paid on such policy shall be refunded to the insured.

(b) A compensationer who meets the requirements under paragraph (a) of this section for continuation or reinstatement of life insurance shall execute a written election on a form furnished by OPM at the time entitlement to continuation or reinstatement of the insurance arises. To be considered valid, the election form must be received in OPM before OPM has finally approved an individual's request to continue life insurance as a compensationer. In the absence of a valid election, OPM shall deem the insured to have filed a valid election under paragraph (c)(2) of this section.

(c) An individual who makes an election under paragraph (b) of this section shall select one of the following options:

(1) Termination of the insurance, in which case the individual's insurance shall stop upon conversion to an individual policy as provided under § 870.501, or, if the individual does not convert to an individual policy, at the end of the month in which OPM or the employing office receives the election;

(2) Continuation or reinstatement of life insurance coverage with a maximum reduction of 75 percent after age 65 and with premiums withheld from compensation, except as provided under § 870.401(g)(1) of this chapter. The amount of basic life insurance in force shall reduce by two percent a month effective at the beginning of the second calendar month after the date the insurance would otherwise have stopped or the date of the insured's 65th birthday, whichever is later, until the maximum is reached;

(3) Continuation or reinstatement of basic life insurance coverage with a maximum reduction of 50 percent after age 65, and with continuous premiums withheld from compensation. The amount of basic life insurance in force shall reduce by one percent a month, effective at the beginning of the second calendar month after the date the insurance would otherwise have stopped or the date of the insured's 65th birthday, whichever is later, until the maximum is reached;

(4) Continuation or reinstatement of basic life insurance coverage with no reduction after age 65, and with continuous premiums withheld from compensation.

An insured individual may cancel an election under paragraphs (c)(3) or (c)(4) of this section at any time. Upon cancellation, the amount of basic life insurance will automatically revert, effective at the end of the month in which the request to cancel is received in OPM, to the amount that would have been in force had the individual originally elected continued coverage under paragraph (c)(2) of this section, unless a waiver of insurance coverage is filed by the insured, in which case the insurance stops without a 31-day extension of coverage or right of conversion, effective at the end of the month in which the waiver is received in OPM. An election under paragraph (c)(3) or (c)(4) of this section is automatically canceled effective at the end of the pay period in which it is determined that periodic compensation payments are insufficient to cover the deductions required by the election.

(d) Basic life insurance which is continued as provided under this section during receipt of compensation shall stop with no 31-day extension of coverage and no right of conversion, upon termination of compensation under subchapter I of chapter 81 of title 5, United States Code, or upon a finding by the Department of Labor that the insured is able to return to duty.

§ 870.702 Amount of life insurance.

The amount of basic life insurance of a compensationer whose insurance is continued while he/she is receiving compensation is his/her BIA at the date insurance would otherwise have stopped because of his/her separation from service or completion of 12 months of nonpay status, less the reductions, if any, applicable under § 870.701(c). For the purpose of the payment of benefits upon the death of an insured individual under age 45, effective October 1, 1981, the BIA shall be mulitplied by the age factor under § 870.301(b) corresponding to the insured's age on the date of death, provided that his/her basic insurance as an employee terminated on or after October 10, 1980.

Subpart H—[Reserved]

Subpart I—Order of Precedence and Designation of Beneficiary

§ 870.901 Designation of beneficiary.

(a) A designation of beneficiary shall be in writing, signed, and witnessed, and received in the employing office (or in OPM, in the case of (1) an annuitant or (2) a compensationer whose basic life insurance is continued) before the death of the insured.

(b) A change or cancellation of beneficiary in a last will or testament, or in any other document not witnessed and filed as required by this part, shall not have any force or effect.

(c) A witness to a designation of beneficiary is ineligible to receive payment as a beneficiary.

(d) Any person, firm, corporation, or legal entity (except an agency of the Federal or District of Columbia governments) may be named as beneficiary.

(e) A change of beneficiary may be made at any time and without the knowledge or consent of the previous beneficiary. This right cannot be waived or restricted.

(f) A designation of beneficiary is automatically canceled (1) on the day the employee transfers (except by mass transfer) to another agency, or (2) 31 days after the employee stops being insured.

(g) If an insured person provides in a valid designation of beneficiary that a designated beneficiary shall be entitled to the proceeds of the insurance only if the beneficiary survives him/her for a period of time (not more than 30 days) as specified by the designator, no right to the insurance shall vest as to such beneficiary during that period. In the event such beneficiary does not survive the specified period, payment of the proceeds of the insurance will be made as if the beneficiary had predeceased the insured.

2. Part 871 is revised to read as follows:

PART 871—STANDARD OPTIONAL LIFE INSURANCE

Subpart A—Administration and General Provisions

Sec.
871.101 Actions on the policy.
871.102 Payment of benefits; designations of beneficiary.
871.103 Correction of an error, mistake, or omission.
871.104 Definitions.

Subpart B—Coverage

871.201 Eligibility.
871.202 Election or declination.
871.203 Effective date of insurance.
871.204 Declination.
871.205 Cancellation of declination.
871.206 Reconsideration.

Subpart C—Amount of Insurance

871.301 Amount of employee's insurance.

Subpart D—Withholdings

871.401 Withholdings.

Subpart E—Termination and Conversion

871.501 Termination and conversion of insurance.

Subpart F—Annuitants and Compensationers

871.601 Amount of insurance.
871.602 Termination of annuity or compensation.
871.603 Waiver or suspension of annuity or compensations.
871.604 Reemployed annuitant.

Authority: 5 U.S.C. 8716, unless otherwise noted.

Subpart A—Administration and General Provisions

§ 871.101 Actions on the policy.

Optional life and accidental death and dismemberment benefits (referred to in this part as "standard optional insurance") shall be payable in accordance with an amendment to the policy purchased by OPM from the Metropolitan Life Insurance Co., 1 Madison Avenue, New York, N.Y. 10010, pursuant to section 8709 of title 5, United States Code, to provide group insurance coverage (referred to in this part as "basic insurance"). Actions at law or in equity to recover on the policy, in which there is not alleged any breach of any obligations undertaken by the United States, shall be brought against the insurance company.

§ 871.102 Payment of benefits; designations of beneficiary.

Standard optional insurance in force on a person at the date of his/her death shall be paid, on receipt of a valid claim, in the same order of precedence and under the same conditions as are applicable to basic insurance. A designation of beneficiary for basic insurance is also a designation of beneficiary for standard optional insurance unless the insured person specifies otherwise in his/her designation.

§ 871.103 Correction of an error, mistake, or omission.

OPM's Associate Director for Compensation or his/her designee may order correction of an error, mistake, or omission upon a showing satisfactory to the Associate Director or his/her designee that it would be against equity and good conscience not to do so.

§ 871.104 Definitions.

The terms defined under § 871.103 of this chapter have the same meanings in this part.

Subpart B—Coverage

§ 871.201 Eligibility.

Each employee who is insured for basic insurance and for whom an uncanceled declination of standard optional insurance is not in effect is eligible to elect the standard optional insurance, if his/her periodic pay, after all other deductions, is sufficient to cover its full cost.

§ 871.202 Election or declination.

(a) Except as otherwise provided in paragraph (b) this section, each employee shall, on the form entitled Life Insurance Election, elect or decline the standard optional insurance within 31 days after becoming eligible, unless during earlier employment he/she filed an election or declination which remains in effect.

(b) On a determination by an employing office, within six months after an employee becomes eligible, that he/she was unable, for cause beyond his/her control, to elect the standard optional insurance within the prescribed time limit, the employee shall elect or decline the standard optional insurance within 31 days after he/she is advised of that determination. Standard optional insurance in that case is retroactive to the first day of the first pay period beginning after the date the person became eligible, or after April 1, 1981, whichever is later, and the person shall pay the full cost of the insurance from that date for the time that he/she is in pay status or retired or in receipt of compensation and under age 65.

(c) A person who does not file with his/her employing office an election of standard optional insurance on the Life Insurance Election form does not have the standard optional insurance.

§ 871.203 Effective date of insurance.

(a) The effective date of an election of standard optional insurance is the first day an employee actually enters on duty in a pay status on or after the day the election is received in his/her employing office.

(b) An election of standard optional insurance remains in effect until canceled as provided in § 871.204. For an employee whose standard optional insurance has stopped for a reason other than a declination or waiver, standard optional insurance is reinstated on the first day he/she actually enters on duty in a pay status in a position in which he/she again becomes eligible.

§ 871.204 Declination.

(a) An insured person may cancel his/her standard optional insurance at any time by filing a declination of standard optional insurance or a waiver of basic insurance coverage. An employee files with the employing office. An annuitant files with OPM or other office that administers his/her retirement system. If still employed, a compensationer files with the employing office, and, if not still employed, with OWCP.

(b) A cancellation of standard optional insurance becomes effective and standard optional insurance stops at the end of the pay period in which the declination or waiver is properly filed.

(c) A declination of standard optional insurance remains in effect until is canceled as provided in § 871.205.

(d) For the purpose of having standard optional insurance as an employee, an election of insurance under this part filed on or before February 28, 1981, is deemed to have been canceled effective at the end of the pay period which includes March 31, 1981, unless the employee does not actually enter on duty in pay status during the first pay period which begins on or after April 1, 1981, in which case the election is deemed to have been canceled on the first day after the end of the pay period that the employee actually enters on duty in pay status. In order to retain or obtain standard optional insurance as an employee after the date of such declination an employee must affirmatively elect the coverage by filing the Life Insurance Election form with his/her employing office, subject to the provisions of § 871.205.

§ 871.205 Cancellation of declination.

(a) An employee who has declined the standard optional insurance may elect it if:

(1) He/she is under age 50;

(2) At least one year has elapsed since the effective date of his/her last declination or waiver; and

(3) He/she furnishes satisfactory evidence of insurability.

(b) The effective date of an election under paragraph (a) of this section is the first day the employee actually enters on duty in pay status, on or after the day his/her employing office receives the election following approval of his/her Request for Insurance by the Office of Federal Employees' Group Life Insurance established by the insurance company. The approval is revoked automatically and the standard optional insurance does not become effective if the employee fails to submit his/her election or meet the pay and duty status requirement within 31 days following the date of the approval.

(c) Notwithstanding paragraphs (a) and (b) of this section, the declination of standard optional insurance coverage by an employee who is or becomes a member of the Postal Career Executive Service on or after June 2, 1979, is automatically and permanently canceled. He/she is insured for standard optional insurance on the first day he/she enters on duty in a pay status on or after June 2, 1979.

(d) Declinations of standard optional insurance filed on or before February 28, 1981, are automatically canceled effective on the first day an employee whose declination is so canceled actually enters on duty in pay status on or after April 1, 1981. The standard optional insurance is effective on the date of cancellation of the declination, provided that the employee has filed an affirmative election of standard optional insurance on the form entitled Life Insurance Election during the open enrollment period from March 1, 1981 through March 31, 1981. An employee whose pre-March 1981 declination is so canceled and who does not file the form with his/her employing office during the period from March 1, 1981 through March 31, 1981, shall be deemed to have declined standard optional insurance on March 31, 1981. However, an employee who fails to file the form during that period due to cause beyond his/her control shall be allowed to enroll belatedly under the conditions prescribed under § 871.202(b).

(e) An annuitant or compensationer is not eligible to cancel a declination under this section.

(f)(1) A previous declination is automatically canceled at time of reinstatement on or after April 1, 1981, if an employee has been separated from service for at least 180 days. If no new declination is filed, standard optional insurance coverage is effective on the date the employee actually enters on duty in a pay status in a position wherein he/she is not excluded from insurance by law or regulation, provided that the employee has filed an affirmative election of standard optional insurance on the form entitled Life Insurance Election. An employee whose declination is so canceled and who does not file the form with his/her employing office within 31 days after reinstatement shall be deemed to have declined standard optional insurance, except that an employee who fails to file the form during that period due to cause beyond his/her control shall be allowed to enroll belatedly under the conditions prescribed under § 871.202(b).

(2) An employee who returned to Federal service between April 1, 1981, and December 8, 1983, after a 180-day break in service may elect standard optional insurance upon application to his or her employing office before March 7, 1984.

§ 871.206 Reconsideration.

An individual may request OPM to reconsider an agency decision or an initial decision of OPM denying standard optional insurance coverage under the procedure established in § 870.205 of this chapter.

Subpart C—Amount of Insurance

§ 871.301 Amount of employee's insurance.

The amount of an employee's standard optional insurance is $10,000, except that an employee whose annual rate of pay (as defined in § 870.302 of this chapter) exceeds the sum of (a) the annual rate of basic pay payable for positions at level II of the Executive Schedule under section 5313 of title 5, United States Code, plus (b) $10,000, may elect standard optional insurance in an amount which, when added to his/her basic insurance amount, does not exceed his/her annual rate of pay, rounded, if not an even thousand, to the next higher $1,000.

Subpart D—Withholdings

§ 871.401 Withholdings.

(a) During any period in any part of which an insured employee is in a pay status the employing agency shall withhold the full cost of his/her standard optional insurance from his/her pay.

(b)(1) Subject to the provisions of § 871.604, the full cost of standard optional insurance shall be withheld from the annuity of an annuitant or from the compensation of a compensationer, except that there is no withholding for an annuitant or compensationer for coverage after the end of the calendar month in which he/she becomes 65 years of age.

(2) Withholdings are not required for the period between the end of the pay period in which an individual separates from service and the beginning of the annuity or compensation payments, if later.

(c) The biweekly full cost per $10,000 of standard optional insurance (and for an annuitant or compensationer, of standard optional life insurance), until determined by OPM on the basis of experience to be otherwise, is:

For persons under age 35	$0.60
For persons ages 35 through 39	0.80
For persons ages 40 through 44	1.40
For persons ages 45 through 49	2.20
For persons ages 50 through 54	3.20
For persons ages 55 through 59	7.50
For persons age 60 or over	9.00

The amount withheld from pay, annuity or compensation paid on other than a biweekly period shall be determined at a proportionate rate, adjusted to the nearest cent.

(d) For the purposes of this section, a person is deemed to attain 35, 40, 45, 50, 55, or 60 years of age on the first day of his/her pay period beginning on or after January 1 of the year following the one in which his/her corresponding birthday occurs.

(e) The amount withheld from the pay of an insured person whose annual pay is paid during a period shorter than 52 workweeks is the sum obtained by converting the biweekly rate for his/her age group to an annual rate and prorating the annual rate over the number of installments of pay regularly paid during the year.

(f) Notwithstanding the preceding paragraphs of this section, the United States Postal Service contributes the full cost of standard optional insurance, that is, the amount otherwise to be withheld under the preceding paragraphs of this section, for each period in which a member of the Postal Career Executive Service is insured.

(g) If an agency waives the collection of unpaid insurance deductions from an individual's pay, annuity or compensation, the agency shall submit an amount equal to the sum of the uncollected deductions and any applicable agency contributions required under section 8714a of title 5, United States Code, to OPM for deposit to the Employees' Life Insurance Fund. A determination whether to waive collection of the overpayment of pay shall be made in accordance with 5 U.S.C. 5584 as implemented by 4 CFR Chapter I, Subchapter G, unless the agency involved is excluded from application of 5 U.S.C. 5584, in which case any applicable authority to waive the collection may be used.

Subpart E—Termination and Conversion

§ 871.501 Termination and conversion of insurance.

(a) The standard optional insurance of an insured person stops when his/her basic insurance stops as provided in § 870.501 of this chapter, subject to a 31-day extension of standard optional life insurance coverage.

(b) If, because of a declination or waiver, an insured person has not had the standard optional insurance during either:

(1) The full period(s) of service during which it was available to him/her; or

(2) The five years of service immediately preceding the date on which that coverage stops (for annuitants) or the date of entitlement to compensation (for compensationers), the standard optional insurance stops, subject to a 31-day extension of standard optional life insurance coverage, on the date that his/her basic life insurance is continued or reinstated under the provisions of § 870.601 (during retirement) or § 870.701 (during receipt of compensation) of this chapter.

(c) If, at the time of an individual's election under § 870.601(b) or §870.701(b) of this chapter (for basic life insurance during receipt of annuity or compensation), he/she elects no basic life insurance (as provided under §§ 870.601(c)(1) or 870.701(c)(1) of this chapter), the standard optional insurance stops at the end of the month in which the election is received in OPM, subject to a 31-day extension of coverage.

(d) The standard optional insurance of an insured person who remains in a pay status stops, subject to a 31-day extension of coverage, at the end of the pay period in which it is determined that his/her periodic pay, compensation, or annuity, after all other deductions, is insufficient to cover the full cost of the standard optional insurance.

(e) During the 31-day extension of standard optional life insurance coverage under this section, a person may, upon application and without medical examination, convert all or any part of his/her standard optional life

insurance to an individual policy of life insurance at rates applicable to his/her attained age and class of risk unless, within 3 calendar days after the date his/her standard optional insurance stops, he/she returns to a position in which he/she is not excluded from coverage.

(f) The 31-day extension of coverage provided under this subpart cannot be extended beyond 31 days, nor is it contingent upon timely issuance of notice of the right of conversion to an individual policy.

Subpart F—Annuitants and Compensationers

§ 871.601 Amount of insurance.

(a) The amount of standard optional life insurance continued during receipt of annuity or compensation reduces by two percent a month effective at the beginning of the second calendar month after (1) the date the insurance would otherwise have stopped, or (2) the insured's 65th birthday, whichever is later.

§ 871.602 Termination of annuity or compensation.

If the annuity or compensation paid to an insured person is terminated or if the Department of Labor finds that an insured person receiving compensation is able to return to duty, standard optional life insurance held as an annuitant or compensationer stops, with no 31-day extension of coverage or right of conversion, on the date of that termination or finding.

§ 871.603 Waiver or suspension of annuity or compensation.

(a) Except as provided in paragraph (b) of this section, when annuity or compensation is waived or suspended, standard optional life insurance continues. When payment of the annuity or compensation is resumed, the paying official shall withhold the full cost of the insurance for the period of waiver or suspension during which the person is under age 65.

(b) If suspension of annuity or compensation is because of reemployment, the reemploying office shall withhold the full cost of the insurance during each pay period of reemployment.

§ 871.604 Reemployed annuitants.

(a)(1) An annuitant appointed to a position in which he/she is not excluded from basic insurance by law or regulation is eligible for standard optional insurance as an employee, unless he/she has on file an uncanceled waiver of basic insurance or declination of standard optional insurance. If he/she has standard optional life insurance as an annuitant, that insurance (and any applicable annuity withholdings) is suspended on the day preceding his/her first day in a pay status under the appointment and, unless he/she files a declination of standard optional insurance (or waiver of basic insurance), he/she acquires standard optional insurance as an employee.

(2) Except as provided in paragraph (b) of this section, the standard optional insurance acquired as an employee stops, with no 31-day extension or right of conversion, on the date reemployment terminates and the amount of suspended standard optional life insurance which remains in force after applicable monthly reductions after age 65 (and corresponding annuity withholdings, if any) is reinstated on the day following termination of the reemployment.

(b) Standard optional life insurance acquired during reemployment may be continued after termination of the reemployment if the annuitant:

(1) Qualifies for a supplemental annuity or acquires a new retirement right,

(2) Continues his/her basic life insurance under paragraphs (c)(2), (c)(3), or (c)(4) of § 870.601 of this chapter, and

(3) Has had standard optional insurance in force for the five years of service immediately preceding separation from reemployment or for the full period(s) of service during which it was available to him/her, whichever is less.

If the standard optional life insurance acquired during reemployment is so continued, any suspended standard optional life insurance stops with no 31-day extension of coverage or right of conversion.

3. Part 872 is revised to read as follows:

PART 872—ADDITIONAL OPTIONAL LIFE INSURANCE

Subpart A—Administration and General Provisions

Sec.
872.101 Actions on the policy.
872.102 Payment of benefits; designations of beneficiary.
872.103 Correction of an error, mistake, or omission.
872.104 Definitions.

Subpart B—Coverage

872.201 Eligibility.
872.202 Election or declination.
872.203 Effective date of insurance.
872.204 Declination.
872.205 Cancellation of declination.
872.206 Reconsideration.

Subpart C—Amount of Insurance

872.301 Amount of employee's insurance.

Subpart D—Withholdings

872.401 Withholdings.

Subpart E—Termination and Conversion

872.501 Termination and conversion of insurance.

Subpart F—Annuitants and Compensationers

872.601 Amount of insurance.
872.602 Termination of annuity or compensation.
872.603 Waiver or suspension of annuity or compensation.
872.604 Reemployed annuitants.

Authority: 5 U.S.C. 8716, unless otherwise noted.

Subpart A—Administration and General Provisions

§ 872.101 Actions on the policy.

Optional life insurance (referred to in this part as "additional optional insurance") shall be payable in accordance with an amendment to the policy purchased by OPM from the Metropolitan Life Insurance Co., 1 Madison Avenue, New York, N.Y. 10010, pursuant to section 8709 of title 5, U.S.C., to provide group insurance coverage (referred to in this part as "basic insurance"). Actions at law or in equity to recover on the policy, in which there is not alleged any breach of any obligations undertaken by the United States, shall be brought against the insurance company.

§ 872.102 Payment of benefits; designations of beneficiary.

Additional optional insurance in force on a person at the date of his/her death shall be paid, on receipt of a valid claim, in the same order of precedence and under the same conditions as are applicable to basic insurance. A designation of beneficiary for basic insurance is also a designation of beneficiary for additional optional insurance unless the insured person specifes otherwise in his/her designation.

§ 872.103 Correction of an error, mistake, or omission.

OPM's Associate Director for Compensation or his/her designee may order correction of an error, mistake, or omission upon a showing satisfactory to the Associate Director or his/her designee that it would be against equity and good conscience not to do so.

§ 872.104 Definitions.

The terms defined under § 870.103 of this chapter have the same meanings in this part.

Subpart B—Coverage

§ 872.201 Eligibility.

Each employee who is insured for basic insurance and for whom an uncanceled declination of additional optional insurance is not in effect is eligible to elect the additional optional insurance, if his/her periodic pay, after all other deductions, is sufficient to cover its full cost.

§ 872.202 Election or declination.

(a) Except as otherwise provided in paragraph (b) of this section, each employee shall, on the form entitled Life Insurance Election, elect or decline the additional optional insurance within 31 days after becoming eligible, unless during earlier employment he/she filed an election or declination which remains in effect. The 31-day time limit begins to run on the first day after February 28, 1981, on which an individual meets the definition of an employee.

(b) On a determination by an employing office, within six months after an employee becomes eligible, that he/she was unable, for cause beyond his/her control to elect the additional optional insurance within the prescribed time limit, the employee shall elect or decline the additional optional insurance within 31 days after he/she is advised of the determination. Additional optional insurance in that case is retroactive to the first day of the first pay period beginning after the date the person became eligible, or after April 1, 1981, whichever is later, and the person shall pay the full cost of the insurance from that date for the time that he/she is in a pay status or retired or in receipt of compensation and under age 65.

(c) A person who does not file with his/her employing office an election of additional optional insurance on the Life Insurance Election form does not have the additional optional insurance.

§ 872.203 Effective date of insurance.

(a) The effective date of an election of additional optional insurance is the first day on or after April 1, 1981, that an employee actually enters on duty in a pay status on or after the day the election is received in his/her employing office.

(b) An election of additional optional insurance remains in effect until canceled as provided in § 872.204. For an employee whose additional optional insurance has stopped for a reason other than a declination or waiver, additional optional insurance is reinstated on the first day he/she actually enters on duty in a pay status in a position in which he/she again becomes eligible.

§ 872.204 Declination.

(a) An insured person may cancel entirely or reduce the number of multiples of his/her additional optional insurance at any time by filing a declination or request to reduce the number of multiples of additional optional insurance or a waiver of basic insurance coverage. An employee files with the employing office. An annuitant files with OPM or other office that administers his/her retirement system. If still employed, a compensationer files with the employing office, and, if not still employed, with OWCP.

(b) A cancellation of additional optional insurance becomes effective and additional optional insurance stops at the end of the pay period in which the declination or waiver is properly filed. A reduction in the number of an employee's additional optional insurance multiples is effective at the end of the pay period in which the Life Insurance Election form is received in his/her employing office. A reduction in the number of a retired employee's or compensationer's additional optional insurance multiples is effective at the end of the pay period in which the request to reduce coverage is properly filed.

(c) A declination or reduction in multiples of additional optional insurance remains in effect until it is canceled as provided in § 872.205.

§ 872.205 Cancellation of declination.

(a)(1) An employee who has declined the additional optional insurance may elect it if:

(i) He/she is under age 50;

(ii) At least one year has elapsed since the effective date of his/her last declination or waiver; and

(iii) He/she furnishes satisfactory evidence of insurability.

(2) An employee who has declined additional optional insurance may elect it upon his/her marriage or the acquisition of an unmarried dependent child within the meaning of section 8701(d) of title 5, United States Code, and Subpart G of Part 873 of this chapter. In order to be valid, the election must be filed with the employing office on the Life Insurance Election form before the employee's 36th birthday and no more than 60 days following the date of the event which permits the election. This 60-day time limit may be extended if the individual is not serving in a covered position on the date of the event, or if the individual separates from covered service prior to completion of the 60-day time limit. This extension of the time limit may not exceed the 31-day time limit for electing insurance following employment in a covered position. The number of multiples which an employee may obtain upon acquisition of a spouse or child is limited to the number of family members (spouse and/or children) acquired with the event which permits the employee to elect additional optional insurance under this paragraph.

(3) An employee who has in force additional optional insurance of at least one multiple of annual pay but less than five multiples of annual pay may increase the number of multiples if:

(i) He/she is under age 50;

(ii) At least 1 year has elapsed since the effective date of his/her last election of less than 5 multiples (including a reduction in the number of multiples); and

(iii) He/she furnishes satisfactory evidence of insurability. The requirement that at least one year elapse since the effective date of the last election does not apply when an employee elected less than five multiples because of the limitation on the number of multiples which may be elected under paragraphs (a)(2) or (a)(4) of this section.

(4) An employee who has in force additional optional insurance of at least one multiple of annual pay but less than five multiples of annual pay may elect to increase the number of multiples upon his/her marriage or the acquisition of an unmarried dependent child within the meaning of section 8701(d) of title 5, United States Code, and Subpart G of Part 873 of this chapter. In order to be valid, the election to increase the number of multiples must be filed with the employing office on the Life Insurance Election form before the employee's 50th birthday and no more than 60 days following the date of the event which permits the increase. This 60-day time limit may be extended if the individual is not serving in a covered position on the date of the event, or if the individual separates from covered service prior to completion of the 60-day time limit. This extension of the time limit may not exceed the 31-day time limit for electing insurance following employment in a covered position. The number of multiples which an employee may add upon acquisition of a spouse or child is limited to the number of family members (spouse and/or children) acquired with the event which permits the employee to increase multiples.

(5)(i) A previous declination is automatically canceled at time of reinstatement on or after April 1, 1981, if an employee has been separated from service for at least 180 days. If no new declination is filed, additional optional insurance coverage is effective on the

date the employee actually enters on duty in a pay status in a position wherein he/she is not excluded from insurance by law or regulation, provided that the employee has filed an affirmative election of additional optional insurance on the Life Insurance Election form. An employee whose declination is so canceled and who does not file the form with his/her employing office within 31 days after reinstatement shall be deemed to have declined additional optional insurance, except that an employee who fails to file the form during that period due to cause beyond his/her control shall be allowed to enroll belatedly under the conditions prescribed under § 872.202(b).

(ii) An employee who returned to Federal service between April 1, 1981, and December 8, 1983, after a 180-day break in service may elect additional optional insurance upon application to his or her employing office before March 7, 1984.

(b)(1) The effective date of the additional optional insurance or of an increased number of multiples of additional optional insurance elected under paragraphs (a)(1) or (a)(3) of this section is the first day the employee actually enters on duty in a pay status, on or after the day his/her election is received in his/her employing office following the approval of his/her Request for Insurance by the Office of Federal Employees' Group Life Insurance established by the insurance company. This approval is revoked automatically and the additional optional insurance does not become effective if the employee fails to submit his/her election or meet the pay and duty status requirement within 31 days following the date of the approval.

(2) The effective date of an election under paragraphs (a)(2) or (a)(4) of this section is the first day the employee actually enters on duty in pay status, on or after the day his/her election is received in the employing office and the basic insurance is in force.

(c) An annuitant or compensationer is not eligible to cancel a declination under this section, nor to increase multiples of additional optional insurance.

§ 872.206 Reconsideration.

An individual may request OPM to reconsider an agency decision or an initial decision of OPM denying additional optional insurance coverage under the procedure established in § 870.205 of this chapter.

Subpart C—Amount of Insurance

§ 872.301 Amount of employee's insurance.

An eligible employee may elect additional optional insurance of 1, 2, 3, 4, or 5 multiples of his/her annual pay. For this purpose, each multiple is equal to the lowest multiple of $1,000 which is not less than the current rate of the employee's annual pay as determined under § 870.302 of this chapter. A multiple shall not exceed the annual rate of basic pay payable for positions at level II of the Executive Schedule under section 5313 of title 5, United States Code, rounded to the next higher multiple of $1,000.

Subpart D—Withholdings

§ 872.401 Withholdings.

(a) During any period in any part of which an insured employee is in a pay status, the employing agency shall withhold the full cost of additional optional insurance from his/her pay.

(b)(1) Subject to the provisions of § 872.604, the full cost of additional optional insurance shall be withheld from the annuity of an annuitant or from the compensation of a compensationer, except that there is no withholding for an annuitant or compensationer for coverage after the end of the calendar month in which he/she becomes 65 years of age.

(2) Withholdings are not required for the period between the end of the pay period in which an individual separates from service and the beginning of the annuity or compensation payments, if later.

(c) The biweekly full cost per $1,000 of additional optional insurance in force, until determined by OPM on the basis of experience to be otherwise, is:

For persons under age 35	$0.05
For persons ages 35 through 39	0.07
For persons ages 40 through 44	0.12
For persons ages 45 through 49	0.20
For persons ages 50 through 54	0.30
For persons ages 55 through 59	0.60
For persons age 60 or over	0.95

The amount withheld from pay, annuity or compensation paid on other than a biweekly period shall be determined at a proportionate rate, adjusted to the nearest one-tenth of one cent.

(d) For the purposes of this section, a person is deemed to attain 35, 40, 45, 50, 55, or 60 years of age on the first day of his/her pay period beginning on or after January 1 of the year following the one in which his/her corresponding birthday occurs.

(e) The amount withheld from the pay of an insured person whose annual pay is paid during a period shorter than 52 workweeks is the sum obtained by converting the biweekly rate for his/her age group to an annual rate and prorating the annual rate over the number of installments of pay regularly paid during the year.

(f) The amount withheld from the pay of an insured employee whose amount of insurance changes during a pay period is based on the last amount of insurance in force during the pay period.

(g) If an agency waives the collection of unpaid insurance deductions from an individual's pay, annuity or compensation, the agency shall submit an amount equal to the sum of the uncollected deductions and any applicable agency contributions required under section 8714b of title 5, United States Code, to OPM for deposit to the Employees' Life Insurance Fund. A determination whether to waive collection of the overpayment of pay shall be made in accordance with 5 U.S.C. 5584 as implemented by 4 CFR Chapter I, Subchapter G, unless the agency involved is excluded from application of 5 U.S.C. 5584, in which case any applicable authority to waive the collection may be used.

Subpart E—Termination and Conversion

§ 872.501 Termination and conversion of insurance.

(a) The additional optional insurance of an insured person stops when his/her basic insurance stops as provided in § 870.501 of this chapter, subject to a 31-day extension of additional optional insurance coverage.

(b) If, because of a declination or waiver, an insured employee has not had additional optional insurance during either:

(1) The full period(s) of service during which it was available to him/her; or

(2) The five years of service immediately preceding the date on which that coverage stops (for annuitants) or the date of entitlement to compensation (for compensationers), the additional optional insurance stops, subject to a 31-day extension of additional optional insurance coverage, on the date that his/her basic life insurance is continued or reinstated under the provisions of § 870.601 (during retirement) or § 870.701 (during receipt of compensation) of this chapter.

(c) If, at the time of an individual's election under §§ 870.601(b) or 870.701(b) of this chapter (for basic life insurance during receipt of annuity or compensation), he/she elects no basic life insurance (as provided under §§ 870.601(c)(1) or 870.701(c)(1) of this

chapter), the additional optional insurance stops at the end of the month in which the election is received in OPM, subject to a 31-day extension of coverage.

(d) The additional optional insurance of an insured person who remains in a pay status stops, subject to a 31-day extension of coverage, at the end of the pay period in which it is determined that his/her periodic pay, compensation or annuity, after all other deductions, is insufficient to cover the full cost of the additional optional insurance.

(e) During the 31-day extension of additional optional insurance coverage under this section, a person may, upon application and without medical examination, convert all or any part of his/her additional optional insurance to an individual policy of life insurance at rates applicable to his/her attained age and class of risk unless, within three calendar days after the date his/her additional optional insurance stops, he/she returns to a position in which he/she is not excluded from coverage.

(f) The 31-day extension of coverage provided under this subpart cannot be extended beyond 31 days, nor is it contingent upon timely issuance of notice of the right of conversion to an individual policy.

Subpart F—Annuitants and Compensationers

§ 872.601 Amount of insurance.

(a) Each multiple of additional optional insurance continued during receipt of annuity or compensation reduces by two percent a month effective at the beginning of the second calendar month after (1) the date the insurance would otherwise have stopped, or (2) the insured's 65th birthday, whichever is later. At 12:00 PM on the day preceding the 50th reduction the insurance stops, with no extension of coverage or right of conversion.

(b) The number of multiples of additional optional insurance which may be continued during receipt of annuity or compensation is the smallest number of multiples in force during the applicable period of service required for continuation of the additional optional insurance during receipt of annuity or compensation payments.

§ 872.602 Termination of annuity or compensation.

If the annuity or compensation paid to an insured person is terminated or if the Department of Labor finds that an insured person receiving compensation is able to return to duty, additional optional insurance held as an annuitant or compensationer stops, with no 31-day extension of coverage or right of conversion, on the date of that termination or finding.

§ 872.603 Waiver or suspension of annuity or compensation.

(a) Except as provided in paragraph (b) of this section, when annuity or compensation is waived or suspended, additional optional insurance continues. When payment of the annuity or compensation is resumed, the paying office shall withhold the full cost of the insurance for the period of waiver or suspension during which the person is under age 65.

(b) If suspension of annuity or compensation is because of reemployment, the reemploying office shall withhold the full cost of the insurance during each pay period of reemployment.

§ 872.604 Reemployed annuitants.

(a)(1) An annuitant appointed to a position in which he/she is not excluded from basic insurance by law or regulation is eligible for additional optional insurance as an employee, unless he/she has on file an uncanceled waiver of basic insurance or declination of additional optional insurance. If he/she has additional optional insurance as an annuitant, that insurance (and any applicable annuity withholdings) continues as if the individual were not reemployed, unless (i) the person files with his/her employing office within 31 days following the date of reemployment an election of additional optional insurance on the Life Insurance Election form, in which case the additional optional insurance (and corresponding annuity withholdings) as an annuitant is suspended effective on the date that the additional optional insurance as an employee becomes effective, or (ii) the person files a waiver of basic insurance.

(2) Except as provided in paragraph (b) of this section, the additional optional insurance acquired as an employee stops, with no 31-day extension or right of conversion, on the date reemployment terminates and any suspended additional optional insurance which remains in force after applicable monthly reductions after age 65 (and corresponding annuity withholdings, if any) is reinstated on the day following termination of the reemployment.

(b) Additional optional insurance acquired during reemployment may be continued after termination of the reemployment if the annuitant:

(1) Qualifies for a supplemental annuity or acquires a new retirement right,

(2) Continues his/her basic insurance under paragraphs (c)(2), (c)(3), or (c)(4) of § 870.601 of this chapter, and

(3) Has had additional optional insurance in force for the 5 years of service immediately preceding separation from reemployment or for the full period(s) of service during which it was available to him/her, whichever is less.

If the additional optional insurance acquired during reemployment is so continued, any suspended additional optional insurance stops with no 31-day extension of coverage or right of conversion.

4. Part 873 is revised to read as follows:

PART 873—FAMILY OPTIONAL LIFE INSURANCE

Subpart A—Administration and General Provisions

Sec.
873.101 Actions on the policy.
873.102 Payment of benefits.
873.103 Correction of an error, mistake, or omission.
873.104 Definitions.

Subpart B—Coverage

873.201 Eligibility.
873.202 Election or declination.
873.203 Effective date of insurance.
873.204 Declination.
873.205 Cancellation of declination
873.206 Reconsideration.

Subpart C—Amount of Insurance

873.301 Amount of employee's insurance

Subpart D—Withholdings

873.401 Withholdings.

Subpart E—Termination and Conversion

873.501 Termination and conversion of insurance.

Subpart F—Annuitants and Compensationers

873.601 Amount of insurance.
873.602 Termination of annuity or compensation.
873.603 Waiver or suspension of annuity or compensation.
873.604 Reemployed annuitants.

Subpart G—Definition of Family Member

873.701 Definition of family member.
873.702 Proof of dependency.
873.703 Child incapable of self-support.

Authority: 5 U.S.C. 8716, unless otherwise noted.

Subpart A—Administration and General Provisions

§ 873.101 Actions on the policy.

Optional life insurance on family members (referred to in this part as "family optional insurance") shall be payable in accordance with an amendment to the policy purchased by OPM from the Metropolitan Life Insurance Co., 1 Madison Avenue, New York, N.Y. 10010, pursuant to section

8709 of title 5, United States Code, to provide group insurance coverage (referred to in this part as "basic insurance"). Actions at law or in equity to recover on the policy, in which there is not alleged any breach of any obligations undertaken by the United States, shall be brought against the insurance company.

§ 873.102 Payment of benefits.

Family optional insurance in force on a spouse or child at the date of his/her death shall be paid to the employee, annuitant or compensationer whose pay, annuity or compensation is subject to withholding under § 873.401, except that in the event that payment is not made prior to the death of the employee, the insurance shall be paid to the person(s) eligible for the basic insurance on the employee, annuitant or compensationer.

§ 873.103 Correction of an error, mistake, or omission.

OPM's Associate Director for Compensation or his/her designee may order correction of an error, mistake, or omission upon a showing satisfactory to the Associate Director or his/her designee that it would be against equity and good conscience not to do so.

§ 873.104 Definitions.

The terms defined under § 870.103 of this chapter have the same meanings in this part.

Subpart B—Coverage

§ 873.201 Eligibility

Each employee who is insured for basic insurance and for whom uncanceled declination of family optional insurance is not in effect is eligible to elect the family optional insurance, if his/her periodic pay, after all other deductions, is sufficient to cover its full cost.

§ 873.202 Election or declination.

(a) Except as otherwise provided in paragraph (b) of this section, each employee shall, on the form entitled Life Insurance Election, elect or decline the family optional insurance within 31 days after becoming eligible, unless during earlier employment he/she filed an election or declination which remains in effect. The 31-day time limit begins to run on the first day after February 28, 1981, on which an individual meets the definition of an employee.

(b) On a determination by an employing office, within six months after an employee becomes eligible, that he/she was unable, for cause beyond his/her control to elect or decline the family optional insurance within the prescribed time limit, the employee shall elect or decline the family optional insurance within 31 days after he/she is advised of that determination. Family optional insurance in that case is retroactive to the first day of the first pay period beginning after the date the person became eligible, or after April 1, 1981, whichever is later, and the person shall pay the full cost of the insurance from that date for the time that he/she is in a pay status or retired or in receipt of compensation and under age 65.

(c) A person who does not file with his/her employing office an election of family optional insurance on the Life Insurance Election form does not have the family optional insurance.

§ 873.203 Effective date of insurance.

(a) The effective date of an election of family optional insurance is the first day on or after April 1, 1981, that an employee actually enters on duty in a pay status on or after the day the election is received in his/her employing office.

(b) An election of family optional insurance remains in effect until canceled as provided in § 873.204. For an employee whose family optional insurance has stopped for a reason other than a declination or waiver, family optional insurance is reinstated on the first day he/she actually enters on duty in a pay status in a position in which he/she again becomes eligible.

§ 873.204 Declination.

(a) An insured person may cancel his/her family optional insurance at any time by filing a declination of family optional insurance or a waiver of basic insurance coverage. An employee files with the employing office. An annuitant files with OPM or other office which administers his/her retirement system. If still employed, a compensationer files with the employing office, and, if not still employed, with OWCP.

(b) A cancellation of family optional insurance becomes effective and family optional insurance stops at the end of the pay period in which the declination or waiver is properly filed.

(c) A declination of family optional insurance remains in effect until it is canceled as provided in § 873.205.

§ 873.205 Cancellation of declination.

(a) An employee who has declined the family optional insurance may elect it upon his/her marriage or the acquisition of a child. In order to be valid, the election must be filed with the employing office on the Life Insurance Election form no later than 60 days following the date of the event which permits the election. This 60-day time limit may be extended if the individual is not serving in a covered position on the date of the event, if the invididual separates from covered service prior to completion of the 60-day time limit, or if the event occurs during the period following a waiver of basic insurance when he/she is not eligible to cancel the waiver. This extension of the time may not exceed the 31-day time limit for electing insurance following employment in a covered position, or the 31-day period following the first day on which the individual becomes eligible to cancel a waiver of basic insurance.

(b) The effective date of an election under paragraph (a) of this section is the first day the employee actually enters on duty in pay status, on or after the day the employing office receives the election and basic insurance is in force.

(c) An annuitant or compensationer is not eligible to make the election provided in paragraph (a) of this section.

(d)(1) A previous declination or waiver is automatically canceled at time or reinstatement on or after April 1, 1981, if an employee has been separated from service for at least 180 days. If no new declination is filed, family optional insurance coverage is effective on the date the employee actually enters on duty in a pay status in a position wherein he/she is not excluded from insurance by law or regulation, provided that the employee has filed an affirmative election of family optional insurance on the Life Insurance Election form. An employee whose declination is so canceled and who does not file the form with his/her employing office within 31 days after reinstatement shall be deemed to have declined family optional insurance, except that an employee who fails to file the form during that period due to cause beyond his/her control shall be allowed to enroll belatedly under the conditions prescribed under § 873.202(b).

(2) An employee who returned to Federal service between April 1, 1981, and December 8, 1983, after a 180-day break in service may elect family optional insurance upon application to his or her employing office before March 7, 1984.

§ 873.206 Reconsideration.

An individual may request OPM to reconsider an agency decision or an initial decision of OPM denying family optional insurance coverage under the procedure established in § 870.205 of this chapter.

Subpart C—Amount of Insurance

§ 873.301 Amount of employee's insurance.

The amount of family optional insurance is $5,000 payable upon the death of a spouse and $2,500 payable upon the death of a child.

Subpart D—Withholdings

§ 873.401 Withholdings.

(a) During any period in any part of which an insured employee is in a pay status, the employing agency shall withhold the full cost of family optional insurance from his/her pay.

(b)(1) Subject to the provisions of § 873.604, the full cost of family optional insurance shall be withheld from the annuity of an annuitant or from the compensation of a compensationer, except that there is no withholding for an annuitant or compensationer for coverage after the end of the calendar month in which he/she becomes 65 years of age.

(2) Withholdings are not required for the period between the end of the pay period in which an individual separates from service and the beginning of the annuity or compensation payments, if later.

(c) The biweekly cost of family optional insurance applicable to employees, annuitants and compensationers (not family members), until determined by OPM on the basis of experience to be otherwise, is:

For persons under age 35	$0.50
For persons ages 35 through 39	0.60
For persons ages 40 through 44	0.70
For persons ages 45 through 49	0.90
For persons ages 50 through 54	1.30
For persons ages 55 through 59	2.00
For persons ages 60 and over	3.00

The amount withheld from pay, annuity or compensation paid on other than a biweekly period shall be determined at a proportionate rate adjusted to the nearest cent.

(d) For the purposes of this section, a person is deemed to attain 35, 40, 45, 50, 55, or 60 years on the first day of his/her pay period beginning on or after January 1 of the year following the one in which his/her corresponding birthday occurs.

(e) If an agency waives the collection of unpaid insurance deductions from an individual's pay, annuity or compensation, the agency shall submit an amount equal to the sum of the uncollected deductions and any applicable agency contributions required under section 8714c of title 5, United States Code, to OPM for deposit to the Employees' Life Insurance Fund. A determination whether to waive collection of the overpayment of pay shall be made in accordance with 5 U.S.C. 5584 as implemented by 4 CFR Chapter I, Subchapter G, unless the agency involved is excluded from application of 5 U.S.C 5584, in which case any applicable authority to waive the collection may be used.

Subpart E—Termination and Conversion

§ 873.501 Termination and conversion of insurance.

(a) The family optional insurance of an insured person stops when his/her basic insurance stops as provided in §870.501 of this chapter, subject to a 31-day extension of family optional insurance coverage.

(b) If, because of a declination or waiver, an insured employee has not had the family optional insurance during either:

(1) The full period(s) of service during which it was available to him/her; or

(2) For the five years of service immediately preceding the date on which that coverage stops (for annuitants) or the date of entitlement to compensation (for compensationers), the family optional insurance stops, subject to a 31-day extension of family optional insurance coverage, on the date that his/her basic life insurance is continued or reinstated under the provisions of §870.601 (during retirement) or §870.701 (during receipt of compensation) of this chapter. For this purpose, family optional insurance will not be deemed available to an employee during periods when the employee had no family members.

(c) If, at the time of an individual's election under §§ 870.601(b) or 870.701(b) of this chapter (for basic life insurance during receipt of annuity or compensation), he/she elects no basic life insurance (as provided under §§ 870.601(c)(1) or 870.701(c)(1) of this chapter), the family optional insurance stops at the end of the month in which the election is received in OPM, subject to a 31-day extension of coverage.

(d) The family optional insurance of an insured person who remains in a pay status stops, subject to a 31-day extension of coverage, at the end of the pay period in which it is determined that his/her periodic pay, compensation or annuity, after all other deductions, is insufficient to cover the full cost of the family optional insurance.

(e) During the 31-day extension of family optional insurance coverage under this section, a person may, upon application and without medical examination, convert his/her family optional insurance to an individual policy of life insurance at rates applicable to the attained age and class of risk of the family member or members unless, within three calendar days after the date his/her family optional insurance stopped, he/she returns to a position in which he/she is not excluded from coverage.

(f) During the 31-day period following the death of an insured employee or during the 31-day extension of family optional insurance under this section, each one of the employee's or former employee's family members as defined by 5 U.S.C. 8701(d) may, upon application and without medical examination, convert the amount of family optional insurance coverage in force (maximums of $5,000 for a spouse and $2,500 for a child) to an individual policy of life insurance at rates applicable to his/her attained age and class of risk unless, within three days after the date the employee's or former employee's family optional insurance stops, he/she returns to a position in which he/she is not excluded from coverage. The family member's right of conversion does not attach if the employee or former employee exercises his/her right of conversion under paragraph (e) of this section.

(g) The 31-day extension of coverage provided under this subpart cannot be extended beyond 31 days, nor is it contingent upon timely issuance of notice of the right of conversion to an individual policy.

(h) The amount of an individual policy as provided under paragraphs (e) or (f) of this section shall not be less than $1,000.

Subpart F—Annuitants and Compensationers

§ 873.601 Amount of insurance.

The amount of family optional insurance (on each family member) continued during receipt of annuity or compensation reduces by two percent a month effective at the beginning of the second calendar month after (1) the date the insurance would otherwise have stopped, or (2) the annuitant's or compensationer's 65th birthday, whichever is later. At 12:00 PM on the day preceding the 50th reduction the insurance stops, with no extension of coverage or right of conversion.

§ 873.602 Termination of annuity or compensation.

If the annuity or compensation paid to an insured person is terminated, or if the Department of Labor finds that an insured person receiving compensation is able to return to duty, family optional insurance held as an annuitant or

compensationer stops, with no 31-dey extension of coverage or right of conversion, on the date of that termination or finding.

§ 873.603 Waiver or suspension of annuity or compensation.

(a) Except as provided in paragraph (b) of this section, when annuity or compensation is waived or suspended, family optional insurance continues. When payment of either annuity or compensation is resumed, the paying office shall withhold the full cost of the insurance for the period of waiver or suspension during which the person is under age 65.

(b) If suspension of annuity or compensation is because of reemployment, the reemploying office shall withhold the full cost of the insurance during each pay period of reemployment.

§ 873.604 Reemployed annuitants.

(a)(1) An annuitant appointed to a position in which he/she is not excluded from basic insurance coverage by law or regulation is eligible for family optional insurance as an employee. If he/she has family optional insurance as a retired employee, that insurance (and any corresponding withholdings) is suspended on the day preceding his/her first day in a pay status under the appointment and, unless he/she files with his/her employing office a declination of family optional insurance (or a waiver of basic insurance), he/she acquires family optional insurance as an employee.

(2) Except as provided in paragraph (b) of this section, the family optional insurance acquired as an employee stops, with no 31-day extension or right of conversion, on the date reemployment terminates and any suspended family optional insurance which may remain in force following reductions after age 65 (and corresponding annuity withholdings, if any) is reinstated on the day following termination of the reemployment.

(b) Family optional insurance acquired during reemployment may be continued after termination of the reemployment if the retired employee:

(1) Qualifies for a supplemental annuity or acquires a new retirement right,

(2) Continues his/her basic insurance under paragraphs (c)(2), (c)(3) or (c)(4) of § 870.601 of this chapter, and

(3) Has had family optional insurance in force for the 5 years of service immediately preceding separation from reemployment or for the full period(s) of service during which it was available to him/her, whichever is less.

If the family optional insurance acquired during reemployment is so continued, any suspended family optional insurance stops with no 31-day extension of coverage or right of conversion.

Subpart G—Definition of Family Member

§ 873.701 Definition of family member.

For the purposes of this part, the terms "spouse" and "child" shall mean a spouse and unmarried dependent child within the meaning of these terms under the definition of "family member" under 5 U.S.C. 8701(d).

§ 873.702 Proof of dependency.

(a) A child is considered to be dependent on a employee or former employee if he/she is:

(1) A legitimate child,

(2) An adopted child,

(3) A stepchild or recognized natural child who lived with the employee or former employee in a regular parent-child relationship,

(4) A recognized natural child for whom a judicial determination of support has been obtained, or

(5) A recognized natural child to whose support the employee or former employee makes regular and substantial contribution.

(b) For the purposes of a claim under this part, an otherwise eligible child must have been dependent on the employee or former employee at the time of the child's death in order to qualify as a family member.

(c) The following are examples of proof of regular and substantial support. More than one of the following proofs may be required to show support.

(1) Evidence of eligibility as a dependent child for benefits under State or Federal programs,

(2) Proof of inclusion of the child as a dependent on the employee's or former employee's income tax returns,

(3) Canceled checks, money orders, or receipts for periodic payments from the employee or former employee for or on behalf of the child.

(4) Evidence of goods or services which show regular and substantial contributions,

(5) Any other evidence which the Office of Federal Employees' Group Life Insurance shall find to be sufficient proof of support or of paternity or maternity.

(d) The Office of Federal Employees' Group Life Insurance may deny an individual coverage as a dependent child, if:

(1) Evidence shows that the employee or former employee did not recognize the child as his/her own despite a willingness to support the child, or

(2) Evidence calls the child's paternity or maternity into doubt, despite the employee's or former employee's recognition and support of the child.

(e) For the purposes of an employee's election of family optional insurance upon the acquisition of a child, as provided in § 873.205, the employing agency shall base any requisite determination of dependency on the criteria expressed in paragraphs (a), (c), and (d) of this section.

§ 873.703 Child incapable of self-support.

(a) Upon receipt of a claim for family optional insurance in the event of death of a child over the age of 21 years, the Office of Federal Employees' Group Life Insurance shall determine, on the basis of such evidence as it deems necessary, whether the deceased child was incapable of self-support because of a mental or physical disability which existed before the child became 22 years of age.

(b) In the event of an employee's election of family optional insurance under § 873.205, where the opportunity to elect is based solely on the acquisition of a child over age 21, the employee shall submit to the employing office at the time of filing the election, a certificate of the physician that the child is incapable of self-support because of a physical or mental disability which existed before the child became 22 years of age, and which can be expected to continue for more than one year. The certificate shall include a statement of the name of the child, the nature of his/her disability, the period of time it has existed, and its probable future course and duration. The certificate shall be signed by the physician and show his/her office address.

Authority: 5 U.S.C. 8716.

[FR Doc. 84-2020 Filed 1-24-84; 8:45 am]
BILLING CODE 8325-01-M

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

7 CFR Part 6

Licensing of Sugar Exempt From Quotas for Purpose of Production of Polyhydric Alcohol

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes procedures and conditions for the issuance of licenses which permit the

importation of sugar exempt from the quotas on sugars, sirups and molasses as modified by Presidential Proclamation 4941 of May 5, 1982, as amended. Sugar imported under such a license must be used solely for the production (other than by distillation) of polyhydric alcohol, except that it may not be used for the production of polyhydric alcohol for use as a substitute for sugar in human food consumption.

DATE: Effective on January 25, 1984.

FOR FURTHER INFORMATION CONTACT: John Nuttall, Chief, Sugar Group, Foreign Agricultural Service, U.S. Department of Agriculture, 12th and Independence Avenue, SW., Washington, D.C. 20250; Tel: (202) 447–2916.

SUPPLEMENTARY INFORMATION: Presidential Proclamation 4941 of May 5, 1982 modified the import quota for sugars, sirups and molasses as provided for in items 155.20 and 155.30 of the Tariff Schedules of the United States (TSUS) in order to carry out a provision in the Geneva (1967) Protocol of the General Agreement on Tariffs and Trade (Note 1 of Unit A, Chapter 10, Part 1 of Schedule XX; 19 U.S.T., Part II, 1282) and the International Sugar Agreement, 1977 (T.I.A.S. 9664, 31 U.S.T. 5135). Presidential Proclamation 5002 of November 30, 1982, amended Proclamation 4941 in part to read as follows:

> The Secretary may exempt the entry of articles described in items 155.20 and 155.30 from the requirements or limitations established pursuant to this headnote on the condition that such articles: (1) Be used only for the production (other than by distillation) of polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption; or (2) be re-exported in refined form or in sugar containing products. Such articles shall be entered under licenses issued pursuant to regulations promulgated by the Secretary. .

Under this rule, licenses will be issued for the entry, exempt from quota, of sugar to be used in the production (other than by distillation) of polyhydric alcohol, except sugar to be used in the production of polyhydric alcohols for use as a substitute for sugar in human food consumption. The certificate of eligibility requirements contained in 15 CFR Part 2011 would not apply to this sugar. Separate rules will provide for the entry, exempt from quota, of sugar to be re-exported in refined form and for sugar exported in sugar containing products.

Polyhydric alcohols are organic solvents containing two or more hydroxyl groups. Polyhydric alcohols are used in the production of other chemicals.

Under this rule, an import license may be issued only to a manufacturer of polyhydric alcohols. The license shall be effective for no more than one year and is not assignable or transferable. However, the manufacturer may employ an agent to import sugar under the license on behalf of the manufacturer.

In order to guarantee that sugar imported under the license is used for the production (other than by distillation) of polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption, it is required that a bond be posted for each license that is issued. Sugar imported under a license must be used for the production (other than by distillation) of polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption, within 180 days after the entry of the sugar. Certificates of use are to be filed within one month of use, but in no case later than 180 days after the expiration of the import license. These time limitations may be extended at the discretion of the Licensing Authority.

It is anticipated that licenses will ordinarily be issued on a yearly basis and that succeeding licenses shall be issued effective the day following the expiration of the previous license. A manufacturer may apply for a license prior to the expiration of a previously issued license; however, the prior license shall be deemed to have expired upon the effective date of the succeeding license. Thus, no more than one effective license may be issued and outstanding to any one manufacturer at any one time.

The proposed rule regarding licensing of sugar exempt from quotas for purpose of production of polyhydric alcohol was published on November 25, 1983 (48 FR 53121). The public was invited to submit written comments, suggestions, or objections on or before December 9, 1983. No comments, suggestions, or objections were received.

This rule has been reviewed under USDA procedures required by Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified as "not major" since the rule would not have any of the effects specified in those documents.

The Administrator, Foreign Agricultural Service (FAS), certifies that this rule will not have a significant economic impact on a substantial number of small entities. Consequently, no regulatory flexibility analysis is required under the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This rule should yield benefits to the public by increasing employment in the field of manufacturing and related industries. Costs should be minimal since the licensing system has been designed to conform as closely as possible to current commercial practices.

An assessment of the impact of this rule on the environment was made and, based on this evaluation, this action is not a major federal action and will have no foreseeable significant effects on the quality of the human environment. Consequently, no environmental impact statement is necessary for this rule. The environmental assessment is available for review in room 6091, South Building, USDA during normal business hours.

The effective date of this rule is less than 30 days after the date of publication pursuant to 5 U.S.C. 553(d)(1) since this rule recognizes an exemption to the import quota on sugar.

List of Subjects in 7 CFR Part 6

Alcohol, Foreign trade, Imports, Licenses, Polyhydric alcohol, Quotas, Sugar.

PART 6—[AMENDED]

In accordance with the above, 7 CFR Part 6 is amended by adding to the subpart entitled "Subpart-Importation of Sugar Free From Quota" the following center heading and 6.120–6.130:

Subpart—Sugar for Production of Polyhydric Alcohol

Sec.

6.120 Definitions.
6.121 Issuance of an import license.
6.122 Transferability of an import license
6.123 Entry of sugar.
6.124 Entry of sugar by an agent.
6.125 Application for an import license.
6.126 Bond requirements.
6.127 Default.
6.128 Certificate of Use.
6.129 Enforcement.
6.130 Paperwork Reduction Act Assigned Number.

Authority: Presidential Proclamation No. 5002, 47 FR 54269.

Subpart—Sugar for Production of Polyhyric Alcohol

§ 6.120 Definitions.

As used in this program:

(a) "Agent" means a licensed customhouse broker or other person designated by the license holder.

(b) "Appropriate customs official" means the district or area Director of Customs, his designee, or any other customs officer of similar authority and responsibility, for the customs district in which the port of entry is located.

(c) "Department" means the U.S. Department of Agriculture.

(d) "Import license" means a license issued by the Secretary permitting the entry of sugar exempt from the quota on the importation of sugar, on condition that such sugar will be used within 180 days of entry solely for the production (other than by distillation) of polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption.

(e) "Licensing Authority" means the Chief, Sugar Group, Foreign Agricultural Service, U.S. Department of Agriculture.

(f) "Manufacturer" means a person that is engaged in the production (other than by distillation) of polyhydric alcohols from sugar.

(g) "Person" means an individual, partnership, corporation, association, estate, trust, or other business enterprise or legal entity, and, wherever applicable, any unit, instrumentality, or agency of a government, domestic or foreign.

(h) "Program" means the licensing program provided for in these regulations (7 CFR 6.120–6.130).

(i) "Quota" means any quota on imports of sugar, sirups or molasses as covered by items 155.20 or 155.30 of the Tariff Schedules of the United States under Presidential Proclamation 4941 of May 5, 1982, 47 FR 19661, and any modifications thereto.

(j) "Secretary" means the Secretary of Agriculture or any officer or employee of the Department to whom the Secretary has delegated the authority or to whom authority may hereafter be delegated to act in the Secretary's place.

(k) "Sugar" means sugars, sirups, and molasses as defined in items 155.20 and 155.30 of the Tariff Schedules of the United States.

§ 6.121 Issuance of an import license.

(a) An import license may be issued to a manufacturer that complies with the provisions of this program. The license shall state the time period during which the license shall be effective and the maximum amount of sugar which may be imported under the license. In no case shall the effective period of a license exceed 1 year, nor shall the maximum amount of sugar which may be imported under the license exceed the anticipated requirements of the manufacturer for the 12-month period following the effective date of the license. The license may contain such other conditions as the Licensing Authority, in his/her discretion, deems necessary.

(b) No more than one effective license may be issued and outstanding at any one time to any one manufacturer. In order to insure a dependable and orderly supply of sugar, a manufacturer may apply for a license prior to the expiration of a previously issued license. The previously issued license shall be deemed to have expired on its stated expiration date, or on the effective date of the succeeding license, whichever is earlier. A succeeding license may not be issued until the previously issued license has been returned to the Licensing Authority.

§ 6.122 Transferability of an import license.

An import license may not be transferred or assigned by the manufacturer to any other person. Any attempt to transfer or assign an import license shall be null and void and shall constitute grounds for the revocation of the license by the Licening Authority.

§ 6.123 Entry of sugar.

(a) A manufacturer or its agent may enter sugar into the United States exempt from the quota on the importation of sugar under an import license issued pursuant to this program. The import license must be presented to the appropriate customs official at the time of entry. Entry of the sugar exempt from quota shall be allowed only in conformity with the conditions of the import license, if any.

(b) The appropriate customs official shall enter on the license: (1) The amount of sugar entered; (2) the date of entry; and (3) the customs entry number.

(c) A copy of the license, as marked by the appropriate customs official, shall be transmitted to the Licening Authority by the license holder within 10 business days after each entry of sugar. The Licensing Authority may extend the 10-day period upon request of the license holder for good cause.

§ 6.124 Entry of sugar by an agent.

(a) In those cases where sugar is to be entered by an agent of the manufacturer, the agent shall produce for inspection by the appropriate customs official a written authorization by the manufacturer designating such person to act as the agent of the manufacturer for the purpose of entering sugar.

(b) A copy of such authorization shall be attached to the copy of the import license that is transmitted to the Licensing Authority pursuant to § 6.123(c) of this program.

§ 6.125 Application for an import license.

(a) Only manufacturers are eligible to receive an import license.

(b) Each application for an import license shall contain the following information:

(1) Name and address of the manufacturer.

(2) A statement of the anticipated requirements of the manufacturer for sugar to be used in the production (other than by distillation) of polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption, during the effective period of the license.

(3) The anticipated amount of sugar to be imported during the specified effective period.

(4) The effective period of the import license (not to exceed one year).

(c) Each application for an import license shall contain a certification that the manufacturer shall use the quantity of sugar entered under an import license solely for the production (other than by distillation) of polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption.

§ 6.126 Bond requirements.

(a) Sugar entered under an import license shall be subject to all customs bond requirements (see 19 CFR Parts 113, 141, 143 and 144). The appropriate customs official may assess liquidated damages under the customs entry bond for violation of any provision of the import license or this program.

(b) The amount of the bond shall be equal to 1.5 times the difference between the daily "spot" price per pound of raw sugar as reported in the Number 12 contract of the New York Coffee, Sugar and Cocoa Exchange and the daily "spot" price of the Number 11 contract of the New York Coffee, Sugar and Cocoa Exchange, multiplied by the weight of the sugar entered under the license. The Number 12 and Number 11 contract prices shall be computed as of the last market day before the entry of the sugar. If the New York Coffee, Sugar and Cocoa Exchange does not report a Number 11 or Number 12 contract price for the last market day before the entry of the sugar, then the Licensing Authority may use such price as he or she deems appropriate.

(c) The appropriate customs official will release all or part of the obligation under the bond for sugar for which a certificate of use has been properly and timely filed under § 6.128.

(d) The appropriate customs official may release all or part of the obligation under a bond if the Licensing Authority determines that the destruction or other disposition of a quantity of sugar entered under an import license renders performance under the bond impossible or inequitable. In such case the Licensing Authority shall notify the

appropriate customs official of his/her determination. The determination shall be treated as a certificate of use which has been properly and timely filed and shall be considered as use of the sugar in production (other than by distillation) of polyhydric alcohol, except polyhydric alcohols for use as a substitute in human food consumption for purposes of § 6.127.

§ 6.127 Default

For each entry of sugar under a license, upon failure to use the total amount of such sugar in the production (other than by distillation) of polyhydric alcohol, except polyhydric alcohols for use as a substitute for sugar in human consumption, within 180 days of the date of entry, payment of the obligation under the bond covering that part of sugar not used for that purpose shall be made to the appropriate customs official.

§ 6.128 Certificate of use.

(a) The certificate of use shall be a certification by the manufacturer that a quantity of sugar entered under an import license has been used for the purpose stated in § 6.120(d). Certificates of use shall be transmitted to the appropriate customs official and the Licensing Authority within one month after use of the sugar. In no case shall a certificate of use be accepted more than 180 days after the expiration of the import license under which the sugar was imported, unless the Licensing Authority, in his/her discretion, extends the time period in which a certificate may be filed.

(b) The certificate of use shall be signed by the manufacturer and shall contain the following certification:

The undersigned hereby certifies that between ——, 19—, and ——, 19—, the undersigned has used ——— pounds of sugar for the sole purpose of producing (other than by distillation) polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption. The undersigned further certifies that the quantity of sugar shown on this certificate of use does not include any sugar previously covered by another certificate of use.

§ 6.129 Enforcement.

(a) If at any time after receiving the certificate of use described in § 6.128 of this subpart and release of the bond under 6.126 of this subpart the Licensing Authority determines that a quantity of sugar corresponding to the amount of sugar entered under the license was not used for the production (other than by distillation) of polyhydric alcohol, except polyhydric alcohols used for human food consumption, the Licensing Authority may hold the license holder liable for up to 1.5 times the difference between the Number 11 and Number 12 daily "spot" price per pound of raw sugar described in § 6.126 (b) of this program (or such other price determined appropriate by the Licensing Authority in the event no Number 11 or Number 12 price is reported) in effect on the last market day before entry of the sugar or the last market day prior to the expiration of the 180-day period during which the sugar was to be but was not used in the production of polyhydric alcohols, whichever is greater, times the amount of sugar, raw value, that should have been, but was not, used for the production (other than by distillation) of polyhydric alcohol, except polyhydric alcohols used for human consumption.

(b) If at any time the Licensing Authority determines that a license holder has failed to comply with the requirements of this program, the Licensing Authority may, after notice to the license holder, suspend or revoke the license issued to the license holder pursuant to this program and/or refuse to issue future licenses to that manufacturer.

(c) The determination of the Licensing Authority under subsections (a) and (b) may be appealed to the Director, Horticultural and Tropical Products Division, Foreign Agricultural Service (FAS), within 30 days from the date of notification. The request for reconsideration shall be presented in writing specifically stating any reason as to why such determination should not stand. The director, Horticultural and Tropical Products Division, FAS, will provide such person with an opportunity for an informal hearing on such matter. A further appeal may be made to the Administrator, FAS, within five working days of the notification of the decision of the Director, Horticultural and Tropical Products, FAS.

(d) Notice of failure to comply with the requirements of this program shall be given to the manufacturer and to the Customs Service.

§ 6.130 Paperwork Reduction Act Assigned Number.

The Office of Management and Budget has approved the information collection requirements contained in these regulations in accordance with 44 U.S.C. Chapter 25 and OMB Number 0551–0019 has been assigned.

Signed at Washington, D.C. on January 18, 1984.

Richard J. Cannon,

Acting Administrator, Foreign Agricultural Service.

[FR Doc. 84–2001 Filed 1–20–84; 2:48 pm]

BILLING CODE 3410–10–M

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7 CFR Part 6

Licenses for Importation/Transfer of Sugar To Be Re-Exported In Sugar Containing Products

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes procedures and conditions for the issuance of licenses which will permit the importation/transfer of sugar exempt from quotas on sugars, sirups and molasses, as modified by Presidential Proclamation 4941 of May 5, 1982, as amended. A quantity of sugar equal to the sugar imported/transferred under such a license must be exported in a sugar containing product.

DATES: Effective on January 25, 1984.

FOR FURTHER INFORMATION CONTACT: John L. Nuttall, Chief, Sugar Group, Foreign Agricultural Service, U.S. Department of Agriculture, 12th and Independence Avenue, SW., Washington, D.C. 20250. Tel: (202) 447–2916.

SUPPLEMENTARY INFORMATION:

Background

Presidential Proclamation 4941 of May 5, 1982, modified the import quota for sugar, sirups and molasses described in items 155.20 and 155.30 of the Tariff Schedules of the United States (TSUS) in order to carry out a provision in the Geneva (1967) Protocol of the General Agreement on Tariffs and Trade (Note 1 of Unit A, Chapter 10, Part I of Schedule XX; 19 U.S.T., Part II, 1282) and the International Sugar Agreement, 1977 (T.I.A.S. 9664, 31 U.S.T. 5135). Presidential Proclamation 5002 of November 30, 1982, amended Proclamation 4941 to read, in part, as follows:

> The Secretary may exempt the entry of articles described in items 155.20 and 155.30 from the requirements or limitations established pursuant to this headnote on the condition that such articles . . . be re-exported . . . in sugar containing products. Such articles shall be entered under licenses issued pursuant to regulations promulgated by the Secretary . . ."

Under the rule licenses will be issued for importation/transfer of sugar exempt

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from quota to be exported in sugar containing products. The certificate of eligibility requirements contained in 15 CFR Part 2011 would not apply to this sugar.

License System for Importation/ Transfer of Sugar To Be Re-Exported in Sugar Containing Products

Under this rule, two types of licenses will be issued to manufacturers of sugar containing products: (1) Import licenses for the importation of quota-exempt raw sugar (for refining by one or more U.S. refiners) and/or (2) user licenses for the transfer of refined sugar to a manufacturer from one or more refiners in the United States. The amount of sugar transferred from a refiner to a licensed manufacturer under this program may be credited to the refiner's license under the "Sugar to be Re-exported in Refined Form" program pursuant to 7 CFR 6.108(b)(2). Manufacturers will be required to export the imported/transferred sugar in a sugar containing product and must post a bond to ensure such export. However, if it can be proven that the manufacturer, after obtaining a license, exported sugar in sugar containing products before the importation/transfer of the corresponding sugar, no bond will be required.

The applicant for a license will be asked to provide certain information to the Licensing Authority. Upon receipt of the required information, a license to import raw sugar, exempt from quota, and/or to transfer imported quota-exempt sugar already refined will be issued to the applicant in the amount requested, not to exceed 10,000 short tons, refined weight basis for a user license or 10,700 short tons, raw value for an import license. All such imports/ transfers of sugar will be charged to the import/user license amount. Licenses will not be assignable unless specifically authorized; however, a licensee may employ an agent to import or transfer sugar on his/her behalf.

A quantity of sugar in a sugar containing product, equivalent to the quantity of sugar imported/transferred under license (after allowance for refining and manufacturing losses), must be exported within 21 months of the date of entry or within 18 months of the date of transfer. License holders must present to the Licensing Authority an exporter's statement certifying that export has occurred, along with proof of export, within six months of export.

As proof of export of sugar is received the Licensing Authority will, if requested, credit the quantity exported to the license, adjusted on the basis of sugar content, and the license holder's bond obligations will be reduced accordingly. At no time may charges or credits exceed the license amount.

Rulemaking Matters

This rule has been reviewed under USDA procedures required by Executive Order 12291 and Secretary's Memorandum 1512-1 and has been classified as "not major" since the rule will not have any of the effects specified in those documents.

The Administrator, Foreign Agricultural Service (FAS), certifies that this rule will not have a significant economic impact on a substantial number of small entities. Consequently, no regulatory flexibility analysis is required under the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This rule will yield benefits to the public by increasing employment in the field of manufacturing of sugar containing products and related industries and by improving the balance of trade. Currently, because of the import quotas on sugars, sirups and molasses, U.S. manufacturers must pay a significantly higher price for sugar than the world price available to manufacturers overseas. This rule will permit an equalization of the raw material cost and will make U.S. sugar containing products more competitive in the world market. Costs should be minimal since the licensing system has been designed to conform as closely as possible to current commercial practices.

As assessment of the impact on the environment of this rule has been completed. It has been determined that this action will have no foreseeable significant effects on the quality of the human environment. Consequently, this rule does not require an environmental impact statement. An environmental assessment is available for review in room 6091, South Building, USDA, during normal business hours.

The effective date of this rule is less than 30 days after the date of publication pursuant to 5 U.S.C. 553 (d)(1) since this rule recognizes an exemption to the import quota on sugar.

Discussion of Comments and Proposed Revisions

A proposed rule entitled "Licenses for Importation/Transfer of Sugar to be Re-Exported in Sugar Containing Products" was published in the **Federal Register** on November 23, 1983 (48 FR 52926). Thirty written comments, mostly from manufacturers of sugar containing products, were submitted in response to that proposed rule, and are available for inspection. All of the comments were considered in preparing the proposed rule. The comments unanimously supported the promulgation of a regulation to establish a re-export licensing program. Comments focused on several provisions of the proposed rule, including the limitation of imports under the program to raw sugar, the time requirement within which sugar must be exported in a sugar containing product, the number of licenses which may be issued per manufacturer, the basis upon which licenses are issued/charged/ credited and Notices of Transfer are presented, the requirement to submit a copy of a valid tolling contract, the time requirement within which proof of export documentation must be submitted, bond requirements and the effective date of the program (retroactivity). In addition, two comments addressed issues related to benefits of drawback pursuant to 19 CFR 191 and one comment addressed issues related to the "Sugar to be Re-exported in Refined Form" program, 7 CFR 6.100-6.112. The Licensing Authority did not address these issues in this rulemaking because 19 CFR Part 191 contains rules administered by the U.S. Customs Service, which has the necessary statutory authority, and because 7 CFR 6.100.112 is a separate rule, it is believed to be inappropriate in this rulemaking.

Changes to the proposed rule based on comments received include: clarification of certain definitions (§ 6.200); an extension of the time limit within which sugar must be exported in a sugar containing product to 21 months from the date of entry or 18 months from the date of transfer (§ 6.201(b)); allowance for the issuance of both an import and a user license to a single manufacturer, not to exceed the maximum license amount (§ 6.201(d)); issuance of user licenses on a refined weight basis (§ 6.201(c)); allowance for submission of certification of the existence of a valid tolling contract (§ 6.202(f)); allowance for the presentation of Notices of Transfer on a refined weight basis (§ 6.204(b)); an extension of the time limit within which proof of export must be submitted to six months (§ 6.206(b)); and allowance for charging/crediting user licenses on a refined weight basis (§ 6.208).

Other changes include those of a stylistic nature, additions to definitions (§ 6.200), modification to recordkeeping requirements (§ 6.210), and modifications to bond requirements (§ 6.207).

Specific Comments Are Discussed Below by Section

Section 6.200 Definitions

One comment suggested that the definition for "License" under § 6.200(h)(1) be amended by inserting "to be refined pursuant to a tolling contract" after ". . . permitting the importation of sugar. . . ," and that the definition for "Tolling contract" under § 6.200(u) be amended by inserting "for use in sugar containing products to be exported, " after ". . . an agreement between a licensed manufacturer and a U.S. refiner for processing. . . ." This language adds clarity to the definitions and has therefore been adopted in the regulation.

Section 6.201 Issuance of a license

Nine comments suggested that the time limit within which sugar must be exported in a sugar containing product from the time of receipt should be extended to 18 months, due to seasonal production considerations in certain industries.

Adoption of this proposal seems reasonable as the extension of this time limit would allow manufacturers with seasonal usage considerations an adequate period within which normal commercial practices could be conducted, while allowing for sufficient administrative control over the program. Therefore, provisions for extension of the time requirement within which sugar must be exported in sugar containing products to 18 months from the date of transfer or 21 from the date of entry are provided for in § 6.201(b).

Eight comments suggested that in order to ease paperwork under the program, the licenses should be issued on a refined weight rather than on a raw value basis. This would facilitate the ease with which license holders could comply with the requirements of this program, while having no adverse impact on the program's implementation. Provisions for issuance of user licenses on a refined weight basis are provided for in § 6.201(c). However, to maintain conformity with current commercial practice import licenses will be issued on a raw value basis.

Four comments suggested that toll contract manufacturers should be issued a combination import/user license, or be allowed to hold both an import and a user license with the combined total quantity not to exceed 10,000 tons, in order to accommodate current commercial practice.

This proposal, if incorporated into the regulation, would allow manufacturers which currently import sugar on their own account, but also, under certain circumstances, purchase sugar from refiners, to continue with current practices. As the total license size would remain unchanged, the adoption of this suggestion would comply with the intent of the program. Therefore, provisions for issuing both an import and a user license to a single manufacturer, the total quantity of which may not exceed 10,000 short tons, refined weight basis, are provided for in §§ 6.201(d) and 6.202(c).

One comment suggested that a quantitative limit of 50,000 short tons should be placed on the total volume of quota exempt sugar which may enter the U.S. under this program, and that total yearly imports permitted under an individual license should be limited to 10,000 short tons. After careful consideration of this comment, the Licensing Authority finds that it would be impracticable for a quantitative limit to be placed on either the total amount of imports permitted under this program, or the total amount permitted under an individual license. This type of limitation would require the Licensing Authority to make individual allocations to manufacturers, or to issue licenses on a first-come-first-served basis. This would not be practicable to administer, could preclude participants which might apply for licenses some time after the program is in effect, and would derogate from the ability of the program to restore the competitive position of exporters of sugar containing products. Therefore, this suggestion was not incorporated into the regulation.

Section 6.202 Application for a license

Eight comments suggested that due to the highly confidential nature of tolling contracts, submission of a certification, statement or letter confirming the existence of a valid tolling contract should be allowed instead of submission of a copy of the actual tolling contract itself.

The adoption of these suggestions seems valid, given the confidential nature of a tolling contract, and the procedures in place to ensure against non-compliance with program requirements. Therefore, the requirement for submission of a copy of a valid tolling contract has been eliminated, and provision is made in § 6.202(f) for license holders to instead certify as to the existence of a valid tolling contract. The Licensing Authority has, however, reserved the right to inspect a copy of such a tolling contract upon request.

Section 6.203 Import of sugar

One comment suggested that in order to clarify that imports under the program are limited to raw sugar, the language in § 6.203(a) should be amended by inserting "for refining, pursuant to a tolling contract," after "Import of sugar." This language helps clarify the intent of § 6.203(a) and has therefore been adopted.

Four comments suggested that it should be clarified in the rule that holders of import licenses may deliver raw sugar to more than one refiner for refining under valid tolling contracts, as long as the total amount of the license is not exceeded. Clarification on this point is given in § 6.203(c).

Section 6.204 Transfer of sugar

Eight comments suggested that Notices of Transfer be presented on a refined weight basis, so as to conform as closely as possible to current commercial practice. Adoption of this suggestion seems reasonable in that refiners are already working on a refined weight basis, and the requirement for additional calculations into raw value would be an unnecessary burden. Therefore, provision to present Notices of Transfer on a refined weight basis is provided for in § 6.204(b).

Five comments suggested that clarification should be given that a licensed manufacturer may receive transferred sugar from more than one refiner. Clarification on this point has been given in § 6.204(c).

Section 6.206 Proof of export

Five comments suggested that the requirement for submission of a drawback claim number with proof of export should be eliminated.

It is not the intention of § 6.206(a)(2) to require submission of a drawback claim number with all proof of export submissions, but rather only with a bill of lading which is not the original, or with a Chronological Summary of Exports. However, because several comments reflected a misunderstanding on this point, § 6.206(a)(2) has been clarified.

Eleven comments suggested that the 90 day time limitation within which proof of export must be submitted should be extended. Two comments suggested an extension to 180 days, and nine suggested an extension to one year. Four suggested that the time limit should be extended to one year, but that certification of re-export should be filed within 90 days of the date of export.

Extending the time for submission of proof of export seems reasonable in that under current commercial practice a 90

day time requirement is impracticable. However, due to the necessity of maintaining adequate administrative control over the program, the Licensing Authority believes that a one year time limit would be excessive. Therefore, provision to extend the time limitation within which proof of export must be submitted to six months is provided for in § 6.206(b).

Section 6.207 Bond requirements

Three comments suggested that the bond obligation be reduced and that the penalty for non-perfomance should be prohibition from future participation in the program.

After careful review, it has been determined that the current bond obligation should remain. Failure to export sugar within the given time requirements may be grounds for suspension or revocation of a license § 6.211(b). However, it is felt that despite this provision, there is a chance of sugar being diverted to the domestic market, thus necessitating the established bond obligation. In addition, § 6.207(a) provides that no bond will be required under this program for the quantity of sugar imported or transferred under license that corresponds to a quantity of sugar that has been exported prior to the import or transfer of such sugar and credited to the license.

One comment suggested that the time requirements stated in § 6.207(g) be clarified so as to reflect the time allowance for export of sugar in sugar containing products as well as the time allowance for submission of export documentation. Such clarification is given in § 6.207(g).

Section 6.208 Charges and credits to licenses

Eight comments suggested that charges and credits to licenses should be made on a refined weight rather than on a raw value basis, so as to ease the paperwork burden on license holders.

Adoption of this suggestion for user licenses would facilitate the ease with which current production records could be used to comply with the requirements of this program, while having no adverse effect on the program's implementation. Therefore, provisions for basing credits and charges to user licenses on refined weight are provided for in § 6.208. However, due to program administration considerations, import licenses will be charged/credited on a raw value basis.

Section 6.209 Replacement of sugars: Substitution of sugars

Four comments suggested that clarification should be given that substitutability extends to all plants of a licensed manufacturer. It is felt, however, that the language in the regulation is broad enough to allow for this possibility. Therefore, no additional language is being adopted.

Twenty-three comments suggested that the effective date for crediting exports of sugar in sugar containing products should be made retroactive. Five comments proposed that exports be credited if made on or after June 28, 1983, the effective date of "Regulations Governing Licenses for Importation of Sugar to be Re-exported in Refined Form," twelve comments proposed that exports be credited if made on or after November 30, 1982, the date of Presidential Proclamation 5002 which authorized the issuance of regulations to permit the re-export program, and five comments proposed that exports be credited if made on or after December 1, 1982. This issue was discussed in the preamble to the proposed rule, and for the reasons stated there, it has been decided not to permit retroactivity. Only sugar exported in sugar containing products after receipt of a license will be credited to a license.

Section 6.212 Waiver

Four comments suggested that the Licensing Authority should have discretionary authority to provide for an extension of the effective period of a license under unusual or extenuating circumstances.

Provision for extending the period for the export of sugar in sugar containing products under unusual, unforeseen or extraordinary circumstances was provided for in § 6.212 of the proposed rule, and therefore no change in language has been made.

List of Subjects in 7 CFR Part 6

Foreign trade, Imports, Licenses, Quotas, Sugar.

PART 6—[AMENDED]

In accordance with the above, 7 CFR Part 6 is amended by adding to the subpart titled "Subpart-Importation of Sugar Free From Quota" the following:

Subpart—Sugar To Be Re-Exported in Sugar Containing Products

Sec.
6.200 Definitions.
6.201 Issuance of a license.
6.202 Application for a license.
6.203 Import of sugar.
6.204 Transfer of sugar.
6.205 Import/Transfer of sugar by an agent.
6.206 Proof of export.
6.207 Bond requirements.
6.208 Charges and credits to licenses.
6.209 Replacement of sugars; substitution of sugars.
6.210 Records.
6.211 Enforcement.
6.212 Waiver.
6.213 Expiration.
6.214 Paperwork Reduction Act Assigned Number.

Authority: Presidential Proclamation No. 5002, 47 FR 54289.

Subpart—Sugar To Be Re-Exported in Sugar Containing Products

§ 6.200 Definitions.

(a) "Agent" means customs house broker, freight forwarder, sugar refiner or other designee of the licensee.

(b) "Appropriate customs official" means the district or area Director of the U.S. Customs Service, his/her designee, or any other customs officer of similar authority and responsibility for the customs district in which the port of entry is located.

(c) "Date of entry" is the date when the specified U.S. Customs Service entry form is properly executed and deposited, together with any estimated duties and special import fees and any related documents required by law or regulation to be filed with such form at the time of entry with the appropriate customs official.

(d) "Date of export" means the date of exportation as shown on an export bill of lading, Customs Form 7511 (Notice of Exportation), or such other proof of export as is accepted by the Licensing Authority for the particular shipment.

(e) "Date of license" means the day when the license is issued by the Licensing Authority.

(f) "Date of Transfer" means the date of transfer of refined sugar from a refiner to a manufacturer as indicated on a Notice of Transfer.

(g) "Department" means the U.S. Department of Agriculture.

(h) "License" means either: (1) An import license issued by the Secretary through the Licensing Authority permitting the importation of sugar, to be refined pursuant to a tolling contract, not chargeable to the import quota for sugar as modified by Presidential Proclamation 4941, as amended, for articles covered by item numbers 155.20 or 155.30 of the Tariff Schedules of the United States; or (2) a user license issued by the Secretary through the Licensing Authority permitting the transfer, in accordance with the provisions of this program, of refined sugar corresponding to sugar imported under 7 CFR 6.100–6.112 from a refiner to a manufacturer.

(i) "Licensing Authority" means the Chief, Sugar Group, Foreign Agricultural Service, U.S. Department of Agriculture, or his/her designee.

(j) "Manufacturer" means a person that produces a sugar containing

product in the United States and exports some or all of that product.

(k) "Notice of Transfer" means a document, in form and substance satisfactory to the Licensing Authority, that is signed by both a refiner and licensed manufacturer certifying delivery of a specified amount of refined sugar corresponding to sugar imported under 7 CFR 6.100–6.112 from the refiner to the manufacturer.

(l) "Person" means any individual, partnership, corporation, association, estate, trust or any other business entity, and, whenever applicable, any unit, instrumentality or agency of a government, domestic or foreign.

(m) "Program" means the licensing program provided in these regulations (7 CFR 6.200–6.213).

(n) "Quota" means any quota on imports of sugar, sirups or molasses as covered by items 155.20 or 155.30 of the Tariff Schedules of the United States under Presidential Proclamation 4941 of May 5, 1982, 47 FR 19661, and any modifications thereto.

(o) "Raw value" means, for a given quantity of sugar, the equivalent of that quantity of sugar in terms of ordinary commercial raw sugar testing 96 degrees by the polariscope as determined in accordance with regulations issued by the Secretary of the Treasury.

(p) "Refined weight basis" means, for a given quantity of white crystalline sugar, the equivalent of that quantity of sugar in terms of ordinary commercial refined sugar testing 99.7 degrees or above by the polariscope as determined in accordance with regulations issued by the Secretary of the Treasury.

(q) "Refiner" means any person in the United States who engages in the processing (refining) of sugar to further improve the quality of such sugar.

(r) "Secretary" means the Secretary of Agriculture or any officer or employee of the Department to whom the Secretary has delegated the authority or to whom the authority hereafter may be delegated to act in the Secretary's place.

(s) "Sugar" means sugars, sirups and molasses derived from sugarcane or sugar beets as defined in items 155.20 and 155.30 of the Tariff Schedules of the United States.

(t) "Sugar containing product" means any product to which sugar has been added that does not fall under items 155.20 or 155.30 of the Tariff Schedules of the United States.

(u) "Tolling contract" means an agreement between a licensed manufacturer and a U.S. refiner for the processing (for use in sugar containing products to be exported) of a specific amount of sugar owned throughout the processing operation by the manufacturer.

(v) "Valueless sugar" means sugar which has no commercial recovery value.

§ 6.201 Issuance of a license.

(a) The Secretary, through the Licensing Authority, may issue a license to a manufacturer in accordance with the provisions of this program. The license may contain such conditions, limitations or restrictions as the Licensing Authority determines to be appropriate for the purposes of this program. The Licensing Authority may add or modify such conditions, limitations or restrictions at such time and in such manner as the Licensing Authority, in his/her discretion, determines to be necessary or appropriate for the purposes of this program.

(b) A quantity of sugar equivalent to the quantity of sugar, raw value imported under an import license, adjusted in accordance with § 6.208(c), must be exported in a sugar containing product within 21 months of the date of entry. A quantity of sugar equivalent to the quantity of sugar, refined weight basis, transferred under a user license must be exported in a sugar containing product within 18 months of the date of transfer. However, the Licensing Authority may credit a license for valueless sugar lost in normal product manufacture.

(c) The maximum license amount is (1) 10,000 short tons of sugar, refined weight basis, for user licenses and (2) 10,700 short tons of sugar, raw value basis, for import licenses, unless otherwise determined and published by the Secretary under paragraph (e) of this section. Quantities of sugar imported/transferred under the license will be charged to the license and quantities of sugar contained in sugar containing products exported will be credited to the license as provided in § 6.208. At no time may the outstanding balance of charges or credits exceed the maximum license amount except as a result of adjustments for polarization made pursuant to section § 6.208(c).

(d) No more than one of each type of license may be issued and outstanding at any one time to any licensee, the combined quantity of which may not exceed the quantitative limit in paragraph (c) of this section. A license may be surrendered in whole or in part to the Licensing Authority.

(e) The Secretary may change the maximum license amount through the publication of a notice in the **Federal Register** if he/she determines that such a change is appropriate within the purposes of this program.

§ 6.202 Application for a license.

An applicant for a license must apply in writing to the Licensing Authority. The letter of application shall contain as a minimum the following information:

(a) Name and address of the applicant;

(b) License amount requested, not to exceed the maximum license amount;

(c) Type of license(s) requested (import and/or user license);

(d) The TSUS item number and description of the sugar to be imported or transferred, if known;

(e) Name of the firm that will establish a performance bond in favor of the United States Government on behalf of the applicant, if known;

(f) If the application is for a user license, the name(s) of anticipated refiner(s) from which processed non-quota sugar will be received, if known at time of application. If the application is for an import license, a certification of the existence of the valid tolling contract(s), including name(s) of refiner(s) by which non-quota sugar will be processed. However, the Licensing Authority reserves the right to inspect a copy of such a tolling contract upon request;

(g) Description of sugar containing products to be exported, if known, and estimated sugar content of such products.

The Licensing Authority may waive any provisions of this section for good cause if it is determined that such a waiver will not adversely affect the implementation of this program.

§ 6.203 Import of sugar.

(a) Import of sugar exempt from the quotas on items 155.20 and 155.30 of the Tariff Schedules of the United States will be allowed only for refining pursuant to a tolling contract, in conformity with the conditions of the license, the provisions of this program, and any other procedures specified by the Licensing Authority.

(b) The import license holder shall submit to the Licensing Authority a statement, certified as true and accurate, of the polarization and weight of the imported sugar to be charged to the license. This statement must adequately identify the imported sugar and state the basis for the determination of the polarization of the sugar. The basis must be either the settlement polarization or some other means approved by the Licensing Authority.

(c) The holder of an import license may deliver non-quota sugar to an

unlimited number of refiners for refining under valid tolling contracts, the combined total of which may not exceed the maximum license amount.

§ 6.204 Transfer of sugar.

(a) Transfer of refined sugar imported under 7 CFR 6.100–6.112 will be allowed only in conformity with the conditions of the license, the provisions of this program, and any other procedures specified by the Licensing Authority.

(b) The holder of a user license shall submit to the Licensing Authority, within 10 working days of the transfer of sugar, a Notice of Transfer which must adequately identify the non-quota sugar received from a U.S. refiner, including polarization and weight of the transferred sugar to be charged to the license, refined weight basis.

(c) The holder of a user license may receive non-quota sugar from an unlimited number of refiners, the combined total of which may not exceed the maximum license amount.

§ 6.205 Import/transfer of sugar by an agent.

The licensee may utilize an agent to import or receive non-quota sugar. The agent must, upon request, produce for inspection by the appropriate U.S. Customs official a written authorization designating such person to act as an agent for the purpose of entering sugar or must, upon request, produce for inspection by the Licensing Authority written authorization designating such person to act as an agent for the purpose of receiving transferred sugar.

§ 6.206 Proof of export.

(a) The proof of export will consist of:

(1) *Certification.* A written certification by the license holder that he/she has exported a specified quantity of sugar in sugar containing products. The certification shall include:

(i) The license holder's name and address;

(ii) An identification of the license to which the quantity of sugar in the sugar containing product that is exported is to be credited;

(iii) The weight of sugar, refined weight basis, contained in the sugar containing product exported, and the amount of valueless sugar, refined weight basis, actually lost in the manufacture of that product;

(iv) The percentage of valueless sugar lost in normal product manufacture;

(v) The date of export, point of export, and an identification of the export carrier;

(vi) The intended destination; and

(vii) For sugar imported or transferred before the export of the corresponding sugar containing product, an identification of the imported or transferred sugar to which the sugar in the exported sugar containing product corresponds, including the quantity and polarization of the imported/transferred sugar.

(2) *Documentation.* A copy of a certified Customs Form 7511 (Notice of Exportation) or an original bill of lading. A copy of an original bill of lading, with indication of the U.S. Customs Office at which the original is filed, with drawback claim number, or a copy of a Chronological Summary of Exports pursuant to 19 CFR 191.53 with indication of the U.S. Customs office at which the original is filed, with drawback claim number, will also serve as acceptable documentation.

(b) The certification must accompany the documentation submitted to the Licensing authority. The certification and documentation must be submitted to the Licensing Authority within 6 months from the date of export. The Licensing Authority will not credit the license for sugar exported in sugar containing products until satisfactory proof of export is received.

(c) The Licensing Authority may waive the provisions of this section if exportation is otherwise established to the Licensing Authority's satisfaction.

§ 6.207 Bond requirements.

(a) Sugar imported under an import license must meet all applicable Customs bond requirements (see 19 CFR Parts 113, 141–144) and be subject to a U.S. Customs performance bond ("bond") posted with the appropriate Customs official meeting the requirements of this section. Sugar transferred under license shall be subject to a bond posted with the Licensing Authority, meeting the requirements of this section. However, no bond will be required for the quantity of any sugar imported or transferred under license that corresponds to a quantity of sugar that has been exported prior to the import or transfer of such sugar and credited to the license in accordance with § 6.208.

(b) A bond may cover imports or transfers made either during the period of time specified in the bond (term bond) or for a specified import or transfer (single entry bond).

(c) Only the manufacturer who imports the sugar may be the principal on a bond to cover such sugar to be imported. Only the manufacturer who will use the sugar may be the principal on a bond to cover such sugar to be transferred. The surety or sureties shall be among those listed by the Secretary of the Treasury as acceptable on Federal bonds.

(d) The obligation under the bond shall be made effective as of the date of entry/transfer of the corresponding sugar.

(e) The amount of the bond for the import or transfer of sugar under a license will be equal to one and one half times the difference between the daily "spot" price per pound of raw sugar as reported in the Number 12 contract of the New York Coffee, Sugar and Cocoa Exchange or the Market Stabilization Price (MSP) established pursuant to Presidential Proclamation 4940 of May 5, 1982, as amended (or any successor proclamation), whichever is greater, and the daily "spot" price of the Number 11 contract of the New York Coffee, Sugar and Cocoa Exchange, multiplied by the weight of the sugar imported or transferred, raw value, under the license. In the case of a single entry bond, the Number 12 and Number 11 contract prices and the MSP shall be computed as of the last market day before the execution of the bond. However, the Licensing Authority may adjust the amount on a single entry bond on a semi-annual basis, using the Number 12 and Number 11 contract prices and the MSP as of the last market day before the end of the six month period, if, in his/her discretion, he/she determines it necessary or appropriate for the purposes of this program. In the case of a term bond, the Number 12 and Number 11 contract prices and the MSP shall be computed quarterly based on the average price difference during the 20 consecutive market days preceding the 20th day of the month preceding the calendar quarter for which the bond is to be effective. If the New York Coffee, Sugar and Cocoa Exchange does not report a Number 11 or 12 contract price for one or more of these market days, then the Licensing Authority may use such price as he/she deems appropriate

(f) The appropriate Customs official will release the obligation under the U.S. Customs bond for imported sugar by an amount computed in accordance with § 6.207(e) for a corresponding quantity of sugar credited to the license in accordance with § 6.208(b), as determined by the Licensing Authority. The Licensing Authority will release the obligation under the bond for transferred sugar by an amount computed in accordance with § 6.207(e) for a corresponding quantity of sugar credited to the license in accordance with § 6.208(b), as determined by the Licensing Authority.

(g) If the license holder fails to qualify for a credit to the license within 27

months of the date of entry or within 24 months of the date of transfer of corresponding sugar in an amount sufficient to offset the charge to the license for that corresponding sugar, payment will be made to the United States of America under the bond of the monetary amount corresponding to the amount of the charge to the license for the corresponding sugar not offset by timely exportation. Payment for non-performance under U.S. Customs bonds will be handled pursuant to 19 CFR Part 172. Payment for non-performance under bonds will be handled pursuant to provisions established by the Licensing Authority.

§ 6.208 Charges and credits to licenses.

(a) Charges will be made to an import license for quantities of sugar, raw value, imported under the license effective as of the date of entry. This charge will be adjusted on the basis set forth in paragraph (c) of this section when the license holder submits the information required by § 6.203. Charges will be made to a user license for quantities of sugar, refined weight basis, transferred under the license when the license holder submits the information required by § 6.204 effective as of the date of transfer.

(b) At the request of the license holder, the Licensing Authority will credit a license for:

(1) Quantities of sugar in the sugar containing products for which proof of export has been submitted in accordance with the provisions of this program;

(2) Quantities of sugar charged to license which the Licensing Authority determines have been destroyed, lost in the production process, or otherwise disposed of so as to render the use or exportation of a corresponding quantity of sugar in sugar containing products impossible or unnecessary; and

(3) For sugar charged to an import license, the quantity of sugar lost in the refining process. This shall be computed by dividing the quantity of sugar imported, expressed on a raw value basis, by 1.07.

Amounts credited under paragraphs (b)(2) or (3) of this section shall be considered to have been exported in sugar containing products for purposes of § 6.201(b).

(c) To obtain the raw value for sugar with a polarization of 92 degrees or above, the formula to be used is [(Polarization × .0175) − 0.68] × weight. For sugar of less than 92 degrees polarization the total sugar content shall be divided by 0.972.

§ 6.209 Replacement of sugars; substitution of sugars.

(a) The sugar exported in sugar containing products does not have to be identical to the sugar imported or transferred.

(b) Exportation of sugar in sugar containing products for credit to the license may occur any time after the date of the license. Any quantity of sugar exported in sugar containing products after the date of the license but prior to the entry or transfer of the corresponding sugar will be treated as having been exported within 21 months of entry, or within 18 months of transfer, of the corresponding sugar for purposes of § 6.201(b).

§ 6.210 Records.

(a) Each manufacturer requesting credit in accordance with § 6.208(b) shall keep records to establish for all sugar containing products exported under the provisions of this program:

(1) The date or inclusive dates of manufacture;

(2) The quantity and identity of the sugar, refined basis, imported or transferred under the provisions of this program;

(3) The quantity and description of the articles manufactured;

(4) The amount of sugar, refined basis, contained in the sugar containing products.

(b) Each manufacturer requesting credit for valueless sugar lost in normal product manufacture shall also keep records to establish for all sugar containing products exported under the provisions of this program the quantity of loss incurred.

(c) All records required to be kept by a manufacturer under this program concerning particular sugar shall be retained for at least three years after a license is credited for that sugar in accordance with § 6.208 (b).

(d) The manufacturer must, upon request, make the records covered by this section available to the Licensing Authority for inspection.

(e) If, after inspection of the records, the Licensing Authority determines that records are inadequate to establish valueless loss, the Licensing Authority may revoke credit granted for such sugar.

§ 6.211 Enforcement.

(a) If at any time after receiving the proof of export described in § 6.206 and release of the bond under § 6.207 the Licensing Authority determines that the export of sugar in the form of sugar containing products corresponding to the amount of sugar imported/transferred under the license did not occur, and has not been otherwise disposed of or lost in the manufacturing process as valueless sugar, the Licensing Authority may hold the license holder liable for up to one and one half times the difference between the daily "spot" price per pound as reported in the Number 12 contract of the New York Coffee, Sugar and Cocoa Exchange or the Market Stabilization Price, whichever is greater, and the daily "spot" price of the Number 11 contract of the New York Coffee, Sugar and Cocoa Exchange in effect on the last market day before the date of entry/transfer of the corresponding sugar or the last market day before the end of the period during which export was required, whichever is greater, times the amount of sugar, raw value, that should have been, but was not, exported in sugar containing products. In the event no Number 11 or Number 12 price is reported by the New York Coffee, Sugar and Cocoa Exchange for the relevant market day, then the Licensing Authority may use such price as he/she deems appropriate.

(b) If at any time the Licensing Authority determines that a license holder has failed to comply with the requirements of this program, the Licensing Authority may, after notice to the license holder, suspend or revoke the license issued to the license holder under this program and/or refuse to issue future licenses to that manufacturer. The Licensing Authority reserves the right to suspend or revoke a license if claims filed under 19 CFR Part 191 are denied.

(c) The determination of the Licensing Authority under paragraphs (a) and (b) of this section may be appealed to the Director, Horticultural and Tropical Products Division, Foreign Agricultural Service (FAS), within 30 days from the date of notification. The request for reconsideration shall be presented in writing specifically stating any reason as to why such determination should not stand. The Director, Horticultural and Tropical Products Division, FAS, will provide such person with an opportunity for an informal hearing on such matter. A further appeal may be made to the Administrator, FAS, within five working days of the notification of the decision of the Director, Horticultural and Tropical Products Division, FAS.

§ 6.212 Waiver.

(a) Under unusual, unforeseen or extraordinary circumstances, the Licensing Authority may extend the period for the export of sugar in sugar containing products or may temporarily increase the maximum amount of the

license upon written application of the license holder.

(b) The Licensing Authority may, for good cause, extend the period for submitting proof of export upon written application of the license holder.

§ 6.213 Expiration.

The licenses issued under this program shall expire upon written notice to the license holders by the Licensing Authority. The notice will state the expiration date of the licenses and any other details applicable to the expiration of the licenses.

§ 6.214 Paperwork Reduction Act Assigned Number.

The Office of Management and Budget has approved the information collection requirements contained in these regulations in accordance with 44 U.S.C. Chapter 25 and OMB Number 0551–0016 has been assigned.

Signed at Washington, D.C., on January 16, 1984.

Richard J. Cannon,

Acting Administrator, Foreign Agricultural Service.

[FR Doc. 84–2002 Filed 1–20–84; 2:48 pm]

BILLING CODE 3410–10–M

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 84–302]

Citrus Canker; Mexico

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the "Citrus Canker—Mexico" regulations by adding the entire State of Guerrero and a portion of the State of Michoacan in Mexico to the list of areas designated as infested areas because of citrus canker disease (with this change the entire State of Michoacan is designated as an infested area). The effect of this action is to provide that any fruit or peel of citrus or citrus relatives from these areas in Mexico is prohibited from being imported into the United States unless imported by the U.S. Department of Agriculture for experimental or scientific purposes under certain conditions. This action is necessary to prevent the introduction of citrus canker into the United States.

DATES: Effective date of the interim rule is January 25, 1984. Written comments must be received on or before March 26, 1984.

ADDRESSES: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728 Federal Building, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Frank Cooper, Staff Officer, Regulatory Services Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 637 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8248.

Stephen Poe, Plant Pathologist, Emergency Programs, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 609 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–6365.

SUPPLEMENTARY INFORMATION:

Background

The "Citrus Canker—Mexico" regulations (contained in 7 CFR 319.27 *et seq.* and referred to below as the regulations) were initially established on November 17, 1982, because of the finding of citrus canker disease in certain areas in Mexico (47 FR 51723–51729). The regulations have been changed and corrected on several occasions (47 FR 54273–54275, 55199; 48 FR 387–393, 10286–10289, 13987, 17322–17327, 24311, 34239–34240, 53672–53676).

The regulations were established to protect against the introduction of citrus canker disease into the United States. Prior to the effective date of this document, the entire State of Colima, the entire municipio of Coahuayana in the State of Michoacan, and the entire municipios of Cihautlan and Tomatlan in the State of Jalisco in Mexico were the only areas listed as infested areas. However, because of the occurrence of citrus canker disease in the State of Guerrero and in areas in Michoacan not previously designated as infested areas, it is necessary to add to the list of areas specified in the regulations as infested areas the entire State of Guerrero and that portion of Michoacan not previously designated as an infested area.

Based on information obtained from surveys conducted cooperatively by Mexico and the United States, it has been determined that a citrus canker infestation exists in citrus growing areas in the State of Guerrero and that portion of the State of Michoacan not previously designated as a regulated area.

Designating these areas as infested areas under the regulations changes the status of certain articles from these newly designated areas. In this connection, the regulations provide that any fruit or peel of Mexican lime *(Citrus aurantifolia)* from any area of Mexico, and any other fruit or peel of citrus or citrus relatives (fruit or peel of any genera, species, or varieties of the subfamilies Aurantioideae, Rutoideae, and Toddalioideae of the botanical family Rutaceae) from infested areas in Mexico are designated as prohibited articles and are prohibited from being imported into the United States unless imported by the U.S. Department of Agriculture for experimental or scientific purposes under certain conditions.

It should also be noted that the regulations contain provisions concerning the importation of certain articles from uninfested areas in Mexico. In this connection, the regulations designate as restricted articles fruit or peel of ethrog *(Citrus medica)*, grapefruit *(Citrus paradisi)*, lemon *(Citrus limon)*, orange *(Citrus sinesis)*, Persian lime *(Citrus latifolia)*, and tangerine *(Citrus reticulata)* from uninfested areas in Mexico. Under the regulations any restricted article is allowed to be imported into the United States by the U.S. Department of Agriculture for experimental or scientific purposes under certain conditions and is allowed to be imported by any importer if imported in accordance with certain conditions. A restricted article is allowed to be imported by any importer only if imported in accordance with provisions concerning permits, inspection and phytosanitary certificates of inspection, treatment and other requirements, marking and identity, arrival notification, costs and charges, and ports of entry.

Emergency Action

Harvey L. Ford, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists which warrants publication of this interim rule without prior opportunity for public comment. Immediate action is necessary to prevent the introduction into the United States of citrus canker disease.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest and good cause is found for making this interim rule effective less than 30 days after publication of this

document in the **Federal Register**. Comments have been solicited for 60 days after publication of this document. A document discussing comments received and any amendments required will be published in the **Federal Register** as soon as possible.

Executive Order 12291 and Regulatory Flexibility Act

This interim rule is issued in conformance with Executive Order 12291 and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this rule will not have a significant effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived its review process required by Executive Order 12291 and the Department of Agriculture has waived the requirements of Secretary's Memorandum 1512–1.

This action should not have any significant effect since previously, little, if any, fruit or peel of citrus or citrus relatives was being offered for importation into the United States from the State of Guerrero or the State of Michoacan.

Under these circumstances, Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 7 CFR Part 319

Agricultural commodities, Imports, Plant diseases and pests, Plants (agriculture), Transportation, Citrus canker, Fruit.

PART 319—FOREIGN QUARANTINE NOTICES

Accordingly, the "Citrus Canker—Mexico" regulations in 7 CFR 319.27 *et seq.* are amended by revising § 319.27–2 to read as follows:

§ 319.27–2 Infested areas.

The following areas in Mexico are designated as infested areas:

(a) The entire State of Colima.

(b) The entire State of Guerrero.

(c) The entire State of Michoacan.

(d) The entire municipios of Cihuatlan and Tomatlan in the State of Jalisco.

Authority: (Sections 105, 106, 107; 71 Stat. 32–34; 7 U.S.C. 150dd, 150ee, 150ff; Sections 5, 7, and 9; 37 Stat. 316–18; 7 U.S.C. 159, 160, 162; 7 CFR 2.17, 2.51, and 371.2(c)).

Done at Washington, D.C., this 23rd day of January, 1984.

Harvey L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 84–2212 Filed 1–24–84; 8:45 am]

BILLING CODE 3410–34–M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 446, Amdt. 2]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This action increases the quantity of California-Arizona lemons that may be shipped to the fresh market to 245,000 cartons during the period January 15–21, 1984. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

DATES: Effective for the period January 15–21, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy currently in effect. The committee met by telephone on January 18, 1984, to consider the current and prospective conditions of supply and demand and recommended an increase in the quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is steady.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared policy of the Act, and it relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

1. Section 910.746 Lemon Regulations 446 (49 FR 1667) is revised to read as follows:

§ 910.746 Lemon Regulation 446.

The quantity of lemons grown in California and Arizona which may be handled during the period January 15, 1984, through January 21, 1984, is established at 245,000 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 20, 1984.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84–1971 Filed 1–24–84; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 982

Filberts/Hazelnuts Grown in Oregon and Washington; Establishment of Inshell Trade Demand and Final Free and Restricted Percentages for the 1983–84 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action finalizes the establishment of a trade demand and marketing percentages for inshell filberts for the marketing year which began July 1, 1983. The action is taken to promote orderly marketing conditions for the 1983 crop. This action is based on recommendations of the Filbert/Hazelnut Marketing Board which works with the USDA in administering the program. The Department issued the trade demand and percentages on an interim basis on December 22, 1983.

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447-5053.

DATES: Effective for the 1983-84 marketing year which began July 1, 1983.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been classified a "non-major" rule.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

It is found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because: (1) This action finalizes the establishment of an inshell trade demand and free and reserve percentages issued on an interim basis by the Department on December 22, 1983; (2) final approval of the trade demand and percentages is needed promptly to dispel any uncertainties about the volume regulation for the 1983-84 marketing year and to maintain orderly marketing conditions for the 1983 crop; and (3) the 1983-84 marketing year began July 1, 1983, and the percentages contained in this document apply to all merchantable filberts handled beginning with that date.

An emergency interim final rule was published in the December 28, 1983, issue of the **Federal Register** (48 FR 57103), establishing on an interim basis an inshell filbert trade demand of 5,500 tons and final free and restricted percentages of 67 percent and 33 percent, respectively, for the 1983-84 marketing year. The establishment of the trade demand and percentages was pursuant to § 982.40 of the marketing agreement and Order No. 982, both as amended (7 CFR Part 982), regulating the handling of filberts/hazelnuts grown in Oregon and Washington. The marketing agreement and order are collectively referred to as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The emergency rule solicited written comments until January 12, 1984, and none was received.

The inshell trade demand and volume regulation percentages were based on recommendations of the Filbert/Hazelnut Marketing Board. § 982.40(b) of the order provides that the Board shall recommend establishment of an inshell trade demand for a marketing year to the Secretary. If the Secretary finds on the basis of the Board's recommendation or other information that volume regulation for merchantable filberts for that marketing year would tend to effectuate the declared policy of the act, the Secretary shall establish that inshell trade demand. For the 1983-84 marketing year, the Board recommended a trade demand of 5,500 tons in accordance with paragraph (b) of § 982.40.

Sales of domestic inshell filberts average about 5,000 tons per year, and historically the filbert industry needs about 500 tons of inshell filberts as a desirable carryout for sales until the new crop is harvested and available for marketing. Consequently, the Board recommended a trade demand of 5,500 tons. It was the Board's view that a 5,500 ton inshell trade demand would promote orderly marketing conditions during the 1983-84 season by providing enough merchantable filberts to meet 1983-84 demand and a carryover for early 1984-85 market needs.

On or before November 15 (after the November crop estimate is available) the Board is required to meet and recommend to the Secretary final free and restricted percentages to release 100 percent or up to 110 percent, if market conditions justify, of the trade demand. Accordingly, the Board adopted the November USDA crop estimate of 6,500 tons, and recommended free and restricted percentages of 67 percent and 33 percent.

In calculating the percentages, the Board considered the following supply and demand information for the 1983-84 marketing year:

	Tons
Inshell supply:	
(1) Total production	6,500
(2) Less substandard, farm use, etc.	581
(3) Merchantable production	5,919
(4) Plus carryover July 1, 1983, subject to regulation	858
(5) Supply subject to regulation (item 3 plus item 4)	6,777
Inshell requirements:	
(6) Trade demand	5,500
(7) Less carryover July 1, 1983, not subject to regulation	957
(8) Adjusted trade demand	4,543
	Percent
(9) Free percentage (item 8 divided by item 5)	67
(10) Restricted percentage (100 percent minus 67 percent)	33

The free percentage prescribes that portion of the total merchantable supply subject to regulation which may be handled as inshell filberts. The restricted percentage prescribes that portion which must be withheld from such handling. Restricted filberts may be shelled (for domestic or foreign consumption), exported, or disposed of in outlets determined by the Board to be noncompetitive with normal market outlets for inshell filberts.

The final free percentage of 67 percent would release 100 percent of the trade demand. This is about 125 percent of the average shipments for the last 3 years, and about 120 percent of the highest yearly trade acquisitions (domestic and imported filberts combined) during the last 4 years.

After consideration of all relevant matter and information presented, including that in the Emergency Interim Final Rule, the recommendations of the Board, and other information, it is found that the establishment, under § 982.40, of the inshell trade demand and final free and restricted percentages, as hereinafter set forth, for the 1983-84 marketing year will tend to effectuate the declared policy of the act.

List of Subjects in 7 CFR Part 982

Marketing agreement and order; Filberts, Hazelnuts, Oregon, Washington.

PART 982—[AMENDED]

Therefore, 982.232 is removed and a new § 982.233 is added to read as follows: (The following section will not be published in the Code of Federal Regulations).

§ 982.233 Trade demand and free and restricted percentages—1983-84 marketing year.

(a) The trade demand for merchantable inshell filberts/hazelnuts for the 1983-84 marketing year shall be 5,500 tons.

(b) The final free and restricted percentages for merchantable filberts/hazelnuts for the 1983-84 marketing year shall be 67 percent and 33 percent, respectively.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 19, 1984.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 84–1972 Filed 1–24–84; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83–AWA–34]

Alteration of VOR Federal Airway V–450; Muskegon, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This action removes the 10,000 to 18,000 feet mean sea level (MSL) airspace exclusion on VOR Federal Airway V–450 that exists when the Minnow Military Operations Area (MOA), WI, is activated. This action is taken to preclude the potential for misapplication of Part 91 flight rules on Federal Airways.

DATES: Effective date—March 15, 1984.

Comments must be received on or before March 12, 1984.

ADDRESSES: Send comments on the rule in triplicate to: Director, FAA, Great Lakes Region, Attention: Manager, Air Traffic Division, Docket No. 83–AWA–34, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Boyd V. Archer, Airspace and Air Traffic Rules Branch (AAT–230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8626.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves removing the restriction on VOR Federal Airway V–450 when the Minnow MOA, WI, is activated and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to remove the 10,000 to 18,000 feet MSL airspace exclusion on VOR Federal Airway V–450 that exists when the Minnow MOA, WI, is activated. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3A dated January 3, 1983.

The FAA has determined that there is an immediate need to remove the unnecessary airspace exclusion from VOR Federal Airway V–450 that exists when the Minnow MOA, WI, is activated. This action is taken to preclude the potential for misapplication of Part 91 flight rules on Federal Airways. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is unnecessary and that good cause exists for making this amendment effective on the next charting date.

List of Subjects in 14 CFR Part 71

VOR Federal Airways, Aviation safety.

Adoption of the Amendment

§ 71.123 [Amended]

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., March 15, 1984, as follows:

V–450—[Amended]

By deleting the words "The airspace at and above 10,000 feet MSL from 35 NM southeast of Green Bay to 33 NM northwest of Muskegon is excluded during the time that the Minnow MOA is activated by NOTAM."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on January 18, 1984.

B. Keith Potts,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 84–1950 Filed 1–24–84; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 371, 373, 376, 378, 379, 385, and 399

Extension of Foreign Policy Export Controls

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of continuation of foreign policy controls without change.

SUMMARY: As required by section 6 of the Export Administration Act of 1979, as amended, the Secretaries of Commerce and State have reviewed foreign policy export controls and have determined that they should be continued without change at this time.

DATE: This rule is effective January 21, 1984.

FOR FURTHER INFORMATION CONTACT: James Noble, Policy Planning Division, Office of Export Administration, Department of Commerce, Washington, D.C. 20230 (telephone (202) 377–5622).

SUPPLEMENTARY INFORMATION:

Regulatory Changes

Under the authority granted by section 6 of the Export Administration Act of 1979, the Secretary of Commerce, in consultation with the Secretary of State, has determined that the foreign policy controls that have been in effect will be extended through January 20, 1985.

Regulations concerning foreign policy export controls remain unchanged. These regulations relate to human rights; South Africa and Namidia; anti-terrorism; Libya; regional stability; North Korea, Vietnam, Kampuchea and Cuba; and the U.S.S.R. and Afghanistan. Nuclear non-proliferation controls are maintained primarily pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978, and do not require annual extension.

Under section 6 of the Export Administration Act of 1979 as amended, the following consultation with the Department of State, it has been determined that this rule is necessary to further significantly the foreign policy of the United States or to fulfill its international obligations. The criteria set forth in section 6(b) of the Act have been considered.

Under section 4(c), it has been determined that, notwithstanding foreign availability, failure to take this action would be detrimental to the foreign policy of the United States.

Under section 6(d), it has been determined that there are no feasible alternative means of achieving the purpose of this action. As provided in section 6(g), efforts are being made to obtain cooperation of countries that produce comparable items.

In the **Federal Register** of October 27, 1983 (48 FR 49659), the Department invited public comments on how foreign policy controls imposed or extended effective January 20, 1983, had affected exporters and the general public. Eight responses were received, all from companies and other private sector organizations. Each commenter was critical of some aspects of the controls. These comments were considered in the course of the review.

The public record concerning these controls will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 4001–B, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, N.W., Washington, D.C., 20230. Records in this facility including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377–3031.

Accordingly, the foreign policy controls are extended as indicated above.

Authority: Secs. 6, 13 and 15, Pub. L. 96–72, 93 Stat. 503, as amended (50 U.S.C. app 2401 *et seq.*), E.O. 12214 (45 FR 29783, May 6, 1980); E.O. 12451 of December 20, 1983 (48 FR 56563, December 22, 1983).

Dated: January 20, 1984.

John K. Boidock,

Director, Office of Export Administration, International Trade Administration.

[FR Doc. 84-2067 Filed 1-23-84; 9:43 am]

BILLING CODE 3510-DT-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1615 and 1616

Standards for the Flammability of Children's Sleepwear; Sizes 0 Through 6X (FF 3–71) and Sizes 7 Through 14 (FF 5–74); Requirements for Labeling of Children's Sleepwear

AGENCY: Consumer Product Safety Commission.

ACTION: Final rules.

SUMMARY: The Commission issues final rules to amend labeling requirements for instructions about care of children's sleepwear in sizes that are subject to the Standards for the Flammability of Children's Sleepwear. These amendments prescribe the circumstances in which those instructions may appear on the reverse side of a label. They also make the labeling requirements of both Standards similar for sleepwear that is offered for sale at retail in packages. The Commission concludes that the amended labeling requirements are adequate to ensure that consumers will be able to determine the measures necessary to preserve the flame-resistant characteristics of children's sleepwear before purchasing such sleepwear and, at the same time, will permit manufacturers to have the economic benefit of placing precautionary care instructions on the reverse side of a label under prescribed conditions.

EFFECTIVE DATE: The amendments will become effective on February 24, 1984.

FOR FURTHER INFORMATION CONTACT: Elizabeth Gomilla, Division of Regulatory Management, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492–6400.

SUPPLEMENTARY INFORMATION: The Standards for the Flammability of Children's Sleepwear: Sizes 0 Through 6X (16 CFR Part 1615) and Sizes 7 Through 14 (16 CFR Part 1616) prescribe sampling and testing requirements for children's sleepwear items in sizes 0 throught 14 to assure that those items have the flame resistant characteristics required by those Standards. Sections 1615.5(a) and 1616.6(a) provide that all items of children's sleepwear that are subject to the Standards must be permanently labeled with precautionary instructions to advise consumers of any agents or treatments that are known to cause deterioration of the flame resistance of those items.

Regulations applicable to labeling of children's sleepwear at §§ 1615.31(b)(1) and 1616.31(b)(1) specify that items of sleepwear must be prominently, permanently, conspicuously, and legibly labeled with precautionary care instructions.

The Commission began this proceeding when it became aware that some manufacturers of children's sleepwear in sizes 0 through 14 were placing precautionary care instructions on the reverse side of a label (that is, on the side of the label that faces the fabric to which the label is sewn) in such a manner that the label must be lifted before those instructions can be seen and read. Some of these manufacturers asserted that placement of precautionary care instructions on the reverse side of labels should not, by itself, result in a violation of the standards and the regulations at §§ 1615.31(b)(1), 1616.31(b)(1), and 1616.31(b)(4)(i). They stated that placing care instructions on the reverse side of labels was less costly than having them on the front side and that consumers would not be harmed by such placements on the reverse side.

Proposed Amendments

In the **Federal Register** of October 5, 1976 (41 FR 43917 and 43919), the Commission expressed the position that existing labeling requirements for children's sleepwear in sizes 0 though 14 prohibit the placement of precautionary care instructions on the reverse side of a label which must be lifted before the instructions can be seen and read. At the same time, the Commission concluded that consumers could continue to have the benefit of care instructions and that manufacturers could have the economic benefit of placing such instructions on the reverse side of labels under conditions prescribed if amendments were proposed to the labeling rules to allow care instructions to be printed on the reverse side of a label under certain conditions.

The proposed amendments set forth the following conditions that must be met in order to place precautionary care instructions on the reverse side of labels for children's sleepwear:

A. The label bearing the precautionary care instructions is permanent, readily visible and accessible to the prospective retail purchaser, and

B. That portion of the label which faces the prospective retail purchaser bears the signal words "CARE INSTRUCTIONS ON REVERSE" or the equivalent in lettering which is permanent, prominent, conspicuous, and legible, and

C. The item is displayed for sale to the prospective retail purchaser in such a manner that the prospective retail purchaser can manipulate the label so that the entire text of the precautionary care instructions can be seen and read.

The proposed amendment provided further that if the label bearing the precautionary care instructions cannot be manipulated at the point of sale by the prospective retail purchaser so that the precautionary care instructions can be seen and read, the care instructions must also appear on the package, or on a hang tag attached to the item, in a manner such that the instructions can be seen and read by the prospective retail purchaser.

Additionally, in the proposal, the Commission observed that the labeling regulations for sizes 7 through 14 specify at § 1616.31(b)(1) that the precautionary care instructions must be readily visible to prospective purchasers when items of children's sleepwear in those sizes are offered for sale at retail in packages. The care labeling regulations for sizes 0 through 6X at § 1615.31(b)(1) have no similar requirement. Therefore, to afford prospective purchasers of children's sleepwear in sizes 0 through 6X an opportunity to consider precautionary care instructions when deciding to purchase items sold in packages, and to make the labeling provisions of both Standards similar for sleepwear sold in packages, the Commission also proposed to amend the provisions of § 1615.31(b)(1) to require that when items of children's sleepwear in sizes 0 through 6X are sold in packages at retail, any precautionary instructions necessary to prevent deterioration of the flame resistance must be readily visible to prospective purchasers, or the packages must be prominently, conspicuously, and legibly labeled with the required information.

Comments

In response to the proposal of October 5, 1976, the Commission received written comments from two trade associations, on manufacturer, and eighteen members of the general public. Comments from two trade associations, one manufacturer, and thirteen members of the general public favored issuance of final amendments based on the proposal. The manufacturer also suggested clarification of terminology used in the preamble of the proposal. Comments from five members of the general public opposed issuance of final amendments.

One trade association requests that the amendments be promulgated in the same form in which they were proposed. Comment from the second association supports the amendments because they are a practical and economical means of making precautionary care instructions available to consumers both before sale and during use of the product.

In addition to supporting the amendments, comment from one manufacturer proposed that the term "loop label," used in the preamble of the proposal, should be clarified. The comment observes that the term "loop label" usually means a label printed on one side, folded in half, and sewn into a garment across the top so that the printing appears on two sides. The manufacturer added that it usually uses a nonfolded label that is printed on both sides and sewn across the top only—a two-sided flat label. In response, the Commission observes that the term "loop label" does not appear in the text of the proposed amendments. For this reason, the amended requirements will permit the use of labels—flat or loop—with printing on both sides so long as the prescribed conditions are met.

Comment from one member of the general public, who formerly sold children's sleepwear in a retail store, urges adoption of the amendments as beneficial to consumers generally and particularly to shopping consumers because of time that will be saved in searching for and examining care instructions. Another comment from the general public noted two-sided labeling will save time and money for both the manufacturer and the consumer. A third comment urges that long labels be prohibited because they are a nuisance and have to be cut out and, further, that plastic labels be banned because they are uncomfortable and must also be cut out. Several comments in favor of the proposal hope that any reduction in expense, time, or labor will be passed on to consumers. All comments for and against the amendments stress that care instructions must be visible and accessible.

Two comments opposed to the amendments advocate separate labels for care instructions even if children's sleepwear becomes more expensive because there are some people who will not take time to flip a label and read its reverse side. While the Commission acknowledges the possibility that some persons may react in the manner suggested by these comments, the Commission concludes that withdrawal of the proposed amendments is not warranted in view of the support for the proposal in comments from both consumers and industry representatives.

Three comments opposed to the proposal appear to be based on the misapprehension that the required care instructions could be printed on the top of a label in a space no larger than that required for the signal words "CARE INSTRUCTIONS ON REVERSE". Lastly, some of the comments for and against the amendments apparently make the incorrect assumptions that no labeling requirements for children's sleepwear are currently in effect, or that Commission regulations do not now permit care instruction labels.

Environmental Considerations

The Commission's procedures for environmental review provide at 16 CFR 1021.5(c)(2) that issuance, amendment, revision, or revocation of rules relating to product labeling normally has little or no potential for affecting the human environment.

The Commission does not foresee any special or unusual circumstances surrounding the rules issued below. For this reason, neither an environmental assessment or an environmental impact statement is required.

List of Subjects in 16 CFR Parts 1615 and 1616

Clothing, Consumer protection, Flammable materials, Infants and children, Labeling, Textiles.

Conclusion and Promulgation

After consideration of written comments on the proposed amendments to labeling requirements for items subject to Children's Sleepwear Standards, analysis of those comments by the Commission staff, and other relevant information, the Commission concludes that the proposed amendments to 16 CFR 1615.31(b)(1) and 1616.31(b)(1) and (4)(i) should be issued on a final basis to become effective February 24, 1984.

Therefore, in accordance with the provisions of the Flammable Fabrics Act (sec. 5, Pub. L. 90–139, 81 Stat. 569 (15 U.S.C. 1194)) and the Consumer Product Safety Act (sec. 30, Pub. L. 92–573, 86 Stat. 1231 (15 U.S.C. 2079)), the

Commission hereby amends the Code of Federal Regulations, Title 16, Chapter II, Subchapter D, as follows:

PART 1615—STANDARD FOR THE FLAMMABILITY OF CHILDREN'S SLEEPWEAR: SIZES 0 THROUGH 6X (FF 3–71)

Part 1615, Subpart B is amended by revising § 1615.31(b)(1) to read as follows:

§ 1615.31 Labeling, recordkeeping, advertising, retail display, and guaranties.

* * * * *

(b) *Labeling.* (1) Where any agent or treatment is known to cause deterioration of flame resistance or otherwise enhances the flammability characteristics of an item, such item shall be prominently, permanently, conspicuously, and legibly labeled with precautionary care and treatment instructions to protect the item from such agent or treatment: Provided:

(i) Where items required to be labeled in accordance with this paragraph are marketed at retail in packages, and the required label is not readily visible to the prospective purchaser, the packages must also be prominently, conspicuously, and legibly labeled with the required information, and

(ii) Where items are required to be labeled in accordance with this paragraph, the precautionary care and treatment instructions may appear on the reverse side of the permanent label if

(A) The precautionary care and treatment instructions are legible, prominent and conspicuous, and

(B) The phrase "CARE INSTRUCTIONS ON REVERSE" or the equivalent appears permanently, prominently, conspicuously, and legibly on the side of the permanent label that is visible to the prospective purchaser when the item is marketed at retail, and

(C) The item which is so labeled is marketed at retail in such a manner that the prospective purchaser is able to manipulate the label so the entire text of the precautionary care and treatment instructions is visible and legible; however, where the label cannot be manipulated so the instructions are visible to the prospective purchaser and legible, the packages must also be prominently, conspicuously and legibly labeled with the required precautionary care and treatment information or such information must appear prominently, conspicuously and legibly on a hang tag attached to the item.

PART 1616—STANDARD FOR THE FLAMMABILITY OF CHILDREN'S SLEEPWEAR: SIZES 7 THROUGH 14 (FF 5–74)

Part 1616, Subpart B is amended by revising § 1616.31(b) (1) and (4) to read as follows:

§ 1616.31 Labeling, recordkeeping, retail display, and guaranties.

* * * * *

(b) *Labeling.* (1) Where any agent or treatment is known to cause deterioration of flame resistance or otherwise causes an item to be less flame resistant, such item shall be prominently, permanently, conspicuously, and legibly labeled with precautionary care and treatment instructions to protect the item from such agent or treatment; Provided:

(i) Where items required to be labeled in accordance with this paragraph are marketed at retail in packages, and the required label is not readily visible to the prospective purchaser, the packages must also be prominently, conspicuously, and legibly labeled with the required information, and

(ii) Where items are required to be labeled in accordance with this paragraph, the precautionary care and treatment instructions may appear on the reverse side of the permanent label if

(A) The precautionary care and treatment instructions are legible, prominent and conspicuous, and

(B) The phrase "Care Instructions On Reverse" or the equivalent appears permanently, prominently, conspicuously, and legibly on the side of the permanent label that is visible to the prospective purchaser when the item is marketed at retail, and

(C) The item which is so labeled is marketed at retail in such a manner that the prospective purchaser is able to manipulate the label so the entire text of the precautionary care and treatment instructions is visible and legible; however, where the label cannot be manipulated so the instructions are visible to the prospective purchaser and legible, the package must also be prominently, conspicuously and legibly labeled with the required precautionary care and treatment information or such information must appear prominently, conspicuously and legibly on a hang tag attached to the item.

* * * * *

(4)(i) Where items required to be labeled in accordance with paragraphs (b)(2), and/or, (b)(3) of this section and fabrics required to be labeled or stamped in accordance with paragraph (b)(7) of this section are marketed at retail in packages, and the required label or stamp is not readily visible to the prospective purchaser, the packages must also be prominently, conspicuously, and legibly labeled with the required information.

* * * * *

(Sec. 5, Pub. L. 90–189, 81 Stat. 569, 15 U.S.C. 1194; sec. 30, Pub. L. 92–573, 86 Stat. 1231, 15 U.S.C. 2079)

Dated: January 19, 1984.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 84–2064 Filed 1–24–84; 8:45 am]

BILLING CODE 6355–01–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 200 and 240

[Release No. 34–20581, File No. S7–969]

Processing of Tender Offers Within the National Clearance and Settlement System

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting Rule 17Ad–14 under the Securities Exchange Act of 1934 (the "Act"). The rule requires transfer agents acting on behalf of bidders as tender agents to establish and maintain special accounts with all qualified registered securities depositories holding the subject company's securities. These accounts will permit depository participants to move securities to and from the tender agent by book-entry. The rule is intended to reduce substantially processing costs and trading market inefficiencies that have occurred when tender and exchange offers have been processed in a physical-certificate environment.

EFFECTIVE DATE: March 1, 1984.

FOR FURTHER INFORMATION CONTACT: Thomas V. Sjoblom, Esq., at (202) 272–7379, or Stuart J. Kaswell, Esq., at (202) 272–2378, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: On April 15, 1983, the Commission issued Securities Exchange Act Release No. 19678 (the "Proposing Release"),[1] in

[1] 27 SEC Docket 1158 (May 3, 1983), 48 FR 17603 (April 25, 1983).

which the Commission solicited comments on: (i) The causes and effects of clearance and settlement and secondary trading market inefficiencies that occur when tender offers are not processed by book-entry; and (ii) proposed Rule 17Ad–14. The Commission received 36 comment letters from banks, broker-dealers, industry associations, clearing agencies (including securities depositories), corporations that have participated in tender offers, transfer agents, and individuals.[2] Virtually all commentators favored prompt adoption of the proposed rule. As discussed in more detail below, many of these letters included thoughtful suggestions about technical aspects of the rule as well as discussions of the securities processing problems generally associated with tender offers and related issues. The Commission has addressed all of the commenters' principal concerns in this release.

I. Background

As discussed in detail in the Proposing Release,[3] when a bidder's depository [4] fails to establish an account with a securities depository, all of the subject company's securities must be tendered in physical certificate form, rather than by book-entry, causing a number of problems for securityholders, broker-dealers, bidders, tender agents, and others. For example, securityholders often have great difficulty obtaining properly denominated physical certificates for tender to the bidder's depository prior to the offer's expiration date.[5] In addition, inventory management problems at securities depositories can compel those depositories to declare the subject company's securities ineligible for deposit. That declaration forces buyers and sellers of securities in the secondary market to settle individual trades by delivering physical certificates and deprives broker-dealers of the tremendous cost savings and enhanced efficiencies available through settling net obligations by book-entry.[6] Further, the unavailability of book-entry settlement processing results in a substantially higher number of fails to deliver between broker-dealers. Consequently, broker-dealers that are unable to obtain certificates to satisfy tender or other obligations must buy securities in the cash market (for same day delivery),[7] often creating significant disparities between the cash-market price and the regular-way market price of the target company's securities.

Many of these securities processing problems and market distortions can be avoided when the subject company's securities remain eligible for automated clearing agency processing during the tender offer. The Depository Trust Company ("DTC"), a securities depository registered with the Commission as a clearing agency, operates a system—called the Voluntary Offering Program ("VOP")—that allows tender offers to be handled by centralized book-entry, rather than by universal delivery of physical certificates.[8] In general, each bidder, its depositary (or exchange agent), and DTC agree on the procedures to be followed in processing each tender offer. By permitting participants to tender securities to the bidder's agent through DTC by book-entry, the VOP mitigates many of the problems discussed above.[9]

In the Proposing Release, the Commission expressed its view that bidders and their agents should be encouraged voluntarily to use depository tender offer programs, such as the VOP, so that bidders, depositaries, registered transfer agents, and the investing public could enjoy the benefits of such programs.[10] The Commission recognized, however, that because of the one-time transactional nature of tender offers, bidders may decide not to have their agents use automated book-entry processing for those offers. Accordingly, for this and other reasons,[11] the Commission proposed Rule 17Ad–14.

Rule 17Ad–14 would require a registered transfer agent,[12] acting as a tender agent for a bidder (*i.e.*, as a depositary, in connection with a cash tender offer, or as an exchange agent, in connection with a registered exchange offer), to establish with all qualified registered securities depositories [13] special accounts for the book-entry movement of tendered securities between that agent and depository participants.[14] The tender agent would have to establish the account within two business days after the offer is commenced.[15]

As indicated above, virtually all of the commenters supported adoption of Rule 17Ad–14 at this time.[16] In addition, the Commission's Advisory Committee on Tender Offers reviewed Proposed Rule 17Ad–14 and stated that it:

> supports the use of book-entry delivery of tendered securities to the extent practicable and in concept favors (without commenting on the technical aspects of the proposal) proposed Rule 17Ad–14 that would require bidders' tender agents to establish during tender offers an account with qualified registered securities depositories to permit financial institutions participating in such depository systems to use the services of the depository to tender shares, if desired.[17]

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[2] *See* File No. S7–909.

[3] For a thorough discussion of tender offer and trade processing problems that arise when depository book-entry services are not used during tender offers, *see* Proposing Release, *supra* note 1, at 17605–09.

[4] For a description of services performed by the bidder's depository, *see* Proposing Release, *supra* note 1, at n. 13.

[5] *See* 48 FR at 17605–17609. For example, securities depositories hold large denomination certificates ("jumbo certificates") in their vaults representing aggregated participants' positions. The securities depository may not be able to accommodate a participant's withdrawal request for a certificate of a specified denomination until a jumbo certificate has been presented to the transfer agent for breakdown and reissued in smaller denominations. These processing delays may impair a participant's ability to tender securities before the offer expires. *Id.* at n. 16.

[6] Additional problems result from the inability of institutions to settle transactions with their brokers at the securities depository. *See* Proposing Release, *supra* note 1, at 17607.

[7] For a description of the cash market, *see* Proposing Release, *supra* note 1, at n. 43.

[8] *See* Proposing Release, *supra* note 1, at 17609–11 for a detailed description of the VOP.

[9] The VOP also accommodates special needs of the parties involved in the tender offer, such as preventing the bidder's depositary from withdrawing physical certificates representing tendered stock until participants' withdrawal rights have expired. *Id.* at 17609.

[10] 48 FR at 17611.

[11] *Id.*

[12] *See* Sections 3(a)(25) and 17A(c) of the Act.

[13] A "qualified" registered securities depository under proposed Rule 17Ad–14 is a registered clearing agency that, at the time a tender offer is commenced under Rule 14d–2 of the Act [17 CFR 240.14d–2], has an automated tender offer processing program approved by the Commission pursuant to Section 19(b) of the Act. The program must provide for book-entry delivery and any needed return of the subject company's securities. Currently, only one securities depository, DTC, would be deemed a qualified registered securities depository under Rule 17Ad–14. *See* Proposing Release, *supra* note 1, at n. 44. Ultimately, the Commission hopes that all registered securities depositories will provide book-entry tender and delivery services during tender offers.

[14] Despite the rule, depository participants will choose in some circumstances to tender physical certificates directly to the tender agent. Moreover, persons who are not participants in securities depositories may continue to tender their securities directly to the bidder's tender agent. The rule would permit these direct tenders.

[15] Unless the context otherwise requires, "commencement" of an offer will be determined under Rule 14d–2 [17 CFR 240.14d–2].

[16] Notably, the Stock Transfer Association, Inc. ("STA"), the major industry association for transfer agents, strongly endorsed adoption and implementation of proposed Rule 17Ad–14. *See* letter to Dan W. Schneider, Division of Market Regulation, SEC, from Nicholas G. Baldino, President, STA, December 8, 1983.

[17] *Securities and Exchange Commission Advisory Committee on Tender Offers, Report of Recommendations*, at 50–51 (July 8, 1983) (hereinafter cited as "Advisory Committee").

II. The Need for Rule 17Ad–14

A. Problems Resulting From Use of Physical Certificates

As discussed more fully in the Proposing Release, when a bidder's agent does not establish an account with a securities depository for the book-entry delivery of securities and the depository thereafter declares the securities ineligible, tender offer and trade processing problems often result.[18] Many commenters indicated that processing physical certificates outside the book-entry environment is risky and inefficient. They noted their loss experience in offers in which they could not obtain properly denominated certificates in time to deliver them to the tender agent before the end of the "protect period".[19] They emphasized that such problems are exacerbated in competing offers, when tenderors attempt to withdraw securities from the agent for one bidder and submit them to the agent for the other bidder.[20]

In addition, commenters stated that when a bidder or its agent fails to establish an account with a securities depository and the depository thereafter declares the securities ineligible, trade processing problems occur that make it more difficult to settle secondary market transactions on time. In particular, the unavailability of modern automated clearance and settlement systems results in a substantial increase in the number of fails to deliver between broker-dealers. This, in turn, forces firms to incur substantial financing costs. In addition, because of the absence of an adequate supply of physical certificates during competing offers, it becomes increasingly difficult to settle secondary market transactions and options exercises in a timely manner. Commenters explained that fewer physical certificates generally are available because, among other reasons, many have been tendered by securityholders to the tender agent. At the same time, the demand for certificates multiplies as certificates are needed to settle the increased number of trades, including options exercises, and to cover buy-ins. Under these circumstances, the number of persons who cannot obtain certificates to satisfy their settlement obligations may rise dramatically.[21] The inability to obtain certificates during competing tender offers became so severe in one instance, that OCC resorted to its extraordinary cash settlement procedures to eliminate participants' obligations to obtain certificates.[22]

B. Benefits of Rule 17Ad–14

Every commenter stated that the processing of tender offers by book-entry would afford significant benefits to the securities industry and to the investing public. For example, the Securities Industry Association ("SIA") Operations Committee stated that "it has always been a strong advocate of the expansion of book-entry systems * * *. Requiring [tender] agents to accept [securities by] book-entry, would in our opinion, be a major step in eliminating many of the operational problems associated with tendering securities."[23]

Commenters generally noted that DTC's existing VOP greatly simplifies tender offer and trade processing. Some commenters also discussed specific significant or additional benefits afforded to the financial community by using the VOP. For example, several commenters indicated that, during competing bids, depository processing of tendered securities by book-entry permitted return and re-tender of withdrawn securities almost simultaneously and without the inefficiencies and delays associated with receiving physical certificates from the tender agent and redelivering them to another bidder.[24] Another commenter indicated that the VOP permits bidders to pay tendering depository participants more quickly [25] which, in turn, enables participants to pay their customers faster.[26] These comments support the views stated in the Proposing Release regarding the cost savings, enhanced safety, and tender offer and trade processing efficiencies afforded by the VOP.[27] Accordingly, the Commission

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[18] For a detailed discussion of these problems, *see* Proposing Release, *supra* note 1, at 17605–09.

[19] A "protect period" or "Protection period" refers to that period of time after expiration of an offer during which securities of the subject company may be delivered to the bidder's depositary in accordance with letters of transmittal, guarantees of delivery or other documentation (*e.g.*, telegrams, facsimile transmissions, or letters from eligible institutions) submitted prior to expiration. During large tender offers, bidders commonly provide for a protection period of eight days.

[20] *See, e.g.*, letter from W. Gresham O'Malley, III, Sr. Vice President & Secretary, Janney Montgomery Scott, Inc., to George A. Fitzsimmons, Secretary, SEC, May 10, 1983, at 1. *See generally*, letter from Marc L. Berman, Executive Vice President and General Counsel, The Options Clearing Corporation ("OCC"), to George A. Fitzsimmons, Secretary, SEC, May 26, 1983, at 2 (hereinafter cited as "OCC Lett r").

[21] When certificates are not available for settlement, tendering securityholders also may have difficulty meeting timely tender offer deposit requirements. As OCC stated, failures to deliver or failures to receive securities "anywhere in the settlement process can trigger a chain reaction that ultimately prevents purchasers who lawfully tendered from promptly depositing certificates." OCC Letter, at 2.

[22] *Id. See generally* Proposing Release, *supra* note 1, at n. 41.

[23] Letter from Gerard P. Lynch, Chairman, SIA Operations Committee, to George A. Fitzsimmons, Secretary, SEC, dated May 10, 1983.

[24] One commenter suggested, however, that book-entry withdrawal of securities could be simplified further. This commenter believed that tenderors should be able to submit withdrawal instructions directly to the securities depository, rather than to the tender agent which, in turn, must forward them to the depository. *See* letter from William C. Ries, Vice President, Mellon Bank, N.A., to George A. Fitzsimmons, Secretary, SEC, May 26, 1983. Under DTC's procedures, a participant withdrawing tendered securities submits withdrawal instructions directly to the tender agent, which then determines whether the instructions have been timely submitted and are in proper form. If the tender agent accepts the withdrawal instructions, it submits appropriate instructions to DTC, which returns the securities to the tendering participant by book-entry movement. DTC has no obligation under its procedures to examine the withdrawal instructions. *See* DTC, Participant Operating Procedures, Voluntary Offering, (Dec. 1977), at 8–8 (hereinafter cited as "VOP Procedures"). While the tender agent is required to respect tenderers' withdrawal rights, *see* note 57 *infra*, the Commission believes that the tender agent should remain the person responsible for overseeing the withdrawal of securities. The Commission also believes that, as in the case of the letters of transmittal (*see* Proposing Release, *supra* note 1, at n. 13), examination of the withdrawal instructions should be the tender agent's responsibility. Further, consistent with Rule 14d–7(d) [17 CFR 240. 14d–7(d)], the Commission believes that the timeliness of the withdrawal instructions should be determined by reference to the tender agent's receipt. Accordingly, the Commission believes that withdrawal instructions should continue to be directed to the tender agent.

[25] Proposing Release, *supra* note 1, at 17610–11.

[26] Two commenters indicated, however, that under some circumstances, payment may be one day slower when tenders are made by book-entry than by physical certificate delivery to the tender agent. These commenters suggested that when a bidder pays for tendered securities after the end of the withdrawal period, a tenderor who delivered physical certificates will receive payment on that day, whereas tenderors who delivered securities by book-entry would not be credited with funds until the following day. The Commission notes that a securityholder tendering certificates would be paid more quickly only if the tender agent pays in immediately available funds (*e.g.*, through the Federal Reserve wire system ("Fed Funds")). The Commission believes, however, that payment to tenderors outside of the book-entry environment in Fed Funds is relatively rare. Conversely, DTC customarily receives payment from the tender agent in Fed Funds and credits those funds to tendering participants in DTC's clearinghouse (next day) funds settlement system. DTC invests those funds overnight and allocates the income among the tendering participants' accounts. Accordingly, the Commission believes that it would be unlikely for a tendering securityholder to obtain usable funds more quickly by tendering certificates directly to the agent. *See generally* Proposing Release, *supra* note 1, at 17610, and nn. 55 & 64.

[27] *See* Proposing Release, *supra* note 1, at 17609–11. As noted in the Proposing Release, the VOP allows securities to be tendered in a safe, central, and immobilized system that simplifies processing for both the tendering participant and the tender agent. In addition, if the subject company's securities are part of an automatic transfer program, such as the Fast Automated Securities Transfer program, the registration and reissuance of tendered certificates in the bidder's name is greatly simplified. *See* discussion *id.* at 17610 and n. 58.

believes that the VOP offers important benefits to the financial community and to the investing public and that widespread use of those programs must become routine.

C. Non-Use of Existing VOPs and Mandatory Use of Securities Depositories

Because the VOP provides a solution to the problems discussed in the Proposing Release, and because the VOP offers such substantial benefits to the financial community, the Commission's Proposing Release requested comment on why DTC's existing VOP had not been used in some tender offers. Commenters provided several explanations—some of an economic nature and some of a procedural nature. They included the following: (i) Since payment for tendered securities would be made by the bidder to the securities depository, tender agents would not be able to earn interest overnight on funds paid for those securities prior to distribution; (ii) tender agents earned less revenue by using DTC's VOP, since their fees commonly were based on the number of letters of transmittal submitted to them; (iii) some transfer agents and bidders were unfamiliar with, or did not understand the mechanics or advantages of, book-entry processing;[28] (iv) tender agents located outside of New York City may experience some delays in reconciling their books with DTC;[29] (v) bidders have been concerned that book-entry transfer at DTC would be subject to New York State's stock transfer tax;[30] and (vi) bidders and their agents had no incentive to standardize their operating procedures to be compatible with book-entry processing.

The Commission believes that the reasons offered for the failure to use the VOP suggest a degree of unfamiliarity with the VOP and its benefits and do not suggest any inherent weakness in, or substantive objection to, that program. Indeed, increased use of the VOP in recent years has demonstrated the advantages of the VOP. In addition, many responses to the Proposing Release concerned the operational details of processing particular tender offers. However, for the time being at least, the Commission believes that such particular refinements should be resolved through conversations between bidders' agents and the securities depository and not through Rule 17Ad–14. In addition, the Commission recognizes that processing tender offers outside of a depository environment creates special revenues for tender agents that may be reduced by the rule.[31] The Commission understands, however, that the principal loss of revenue will result from transferring the float from bidders' agents to tenderors through timely payment mechanisms. We further believe such prompt payment constitutes an important and appropriate public benefit associated with the use of the VOP.

The Commission acknowledges that DTC's VOP may occasionally produce minor operating problems or temporary record discrepancies for tender agents. For example, one commenter noted that tender agents located outside of New York City may be disadvantaged when examining letters of transmittal submitted by tendering participants. Since DTC does not examine letters of transmittal for accuracy and sends them to the tender agent for its examination,[32] a tender agent located outside of New York faces a brief delay in determining whether the letters are in proper form and whether the corresponding securities will be delivered by book-entry or directly.[33] Another commenter[34] suggested that similar delays and balancing problems may occur when a tender agent, located outside of New York, attempts to reconcile tendering participant's letters of transmittal and delivery instructions with the number of shares DTC reports as delivered by book-entry.[35]

The Commission believes that DTC has developed responsible procedures to minimize these problems. As noted in the Proposing Release,[36] on the day DTC receives letters of transmittal, it sends copies or originals of those letters to the tender agent for next day delivery. DTC also maintains daily and cumulative records of the number of shares successfully tendered and assists the tender agent in balancing mutual records each day. Moreover, in practice, the Commission believes that difficulties experienced using the VOP have been *de minimis*, while the benefits to tenderors and tender agents have been substantial.

In the Proposing Release, the Commission expressed its hope that if the advantages of DTC's VOP became better known and voluntary usage increased, a mandatory rule might be unnecessary. Although the Commission notes that voluntary use of DTC's VOP has increased significantly during the past several years,[37] commenters generally concurred that universal voluntary participation, while likely, would take much too long.[38] In addition, as outlined in the Proposing Release,[39] and as confirmed by the commenters,[40] processing tender offers outside of a book-entry environment has significant adverse effects on the nation's securities markets, the national clearance and settlement system,[41] and the public. Accordingly, although the commenters were able to identify several reasons why DTC's VOP has not been used in the past, the majority of commenters, including the Stock Transfer Association, urged that the Commission adopt Rule 17Ad–14 promptly because of the significant benefits it would provide.

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[28] Additional reasons of a procedural nature suggested by the commenters for the failure to use the VOP included: (i) the securities that were the subject of the tender offer were not eligible for deposit in DTC; (ii) tender agents lacked the capability to accept securities by book-entry; (iii) tender agents lacked confidence in depositories' ability properly to process tender offers; (iv) DTC allegedly is not sufficiently flexible in negotiating special arrangements with tender agents to accommodate unusual operational requirements; and (v) there could be disparities among the depositories' procedures and requirements.

[29] *See* discussion accompanying notes 33–36 *infra*.

[30] New York State imposes a tax on certain transfers of securities. *See* N.Y. Tax Law section 270 *et seq.* (McKinney 1966). This tax has been suspended, in effect, by a one hundred percent rebate of taxes paid. *Id.* at section 280–a.

[31] For example, as noted in the Proposing Release, *supra* note 1, at nn. 55 & 88, DTC's money settlement system permits a tender agent to pay tendering participants quickly for their stock. As a result, a bidder may not earn as much income on the "float" from funds paid to tendering security-holders as it would if slower conventional methods were used.

[32] *See* VOP Procedures at 5.

[33] *See* Letter from Robert E. L. Walker, Vice President and Associate General Counsel, Continental Illinois National Bank, to George A. Fitzsimmons, Secretary, SEC, May 31, 1983, at 2–3.

[34] *See* Letter from Robert J. Vondrasek, President, Midwest Stock Transfer Association, to George A. Fitzsimmons, Secretary, SEC, May 16, 1983, at 1 (hereafter cited as "MSTA Letter").

[35] For example, a tendering participant may submit a letter of transmittal for 100 shares of stock to the tender agent through DTC and may instruct DTC to deliver 100 shares by book-entry to the tender agent. If that participant's free account contains only 90 shares, DTC will not deliver the 90 shares by book-entry, but, instead, will return the instruction to the participant for modification.

[36] *See* Proposing Release, *supra* note 1, at n. 49.

[37] In 1982, DTC processed only 53% of all eligible offers. Letter from William T. Dentzer, Chairman and Chief Executive Officer, DTC, to George A. Fitzsimmons, Secretary, SEC, June 1, 1983, at 2 (hereinafter "DTC Letter"). During the first quarter of 1983, bidders or their agents used DTC to process only 57% of the offers that could have been handled at DTC. Statement of Kenneth M. Scholl, Vice President, DTC, in *DTC Newsletter*, at 8, (June 1983). In contrast, DTC has estimated that approximately 70% of all tender offers were processed through DTC's VOP for the first three financial quarters of 1983.

[38] *See, e.g.*, letter from Gerard P. Lynch, Managing Director, Morgan Stanley & Co., Inc., to George A. Fitzsimmons, Secretary, SEC, May 10, 1983.

[39] 48 FR at 17805–06.

[40] *See* discussion accompanying notes 19–22 *supra*.

[41] *See* Section 17A of the Act and Proposing Release, *supra* note 1, at 17804–05.

The Commission, therefore, believes it is appropriate to adopt Rule 17Ad–14. We believe that the benefits of book-entry processing of tender offers should be uniformly available as soon as possible to the financial industry and the public. We hope that adoption of the rule will encourage other registered depositories to develop and file programs similar to DTC's VOP,[42] which will further reduce the need for multiple physical deliveries. Accordingly, in light of the favorable comments received, the benefits that can be achieved nationwide, and the desire of depository participants and securityholders to use VOP-type programs, the Commission believes that efficient processing can best occur during tender offers when the availability of securities depositories is ensured.[43]

III. Discussion of Rule 17Ad–14

A. Tender Offers to Which Rule 17Ad–14 Should Apply

The Proposing Release asked for comment on whether depository availability should be mandatory for only certain tender offers.[44] While some commenters, including representatives of the transfer agent community, believed that the proposed limitations in paragraph (b) on the scope of Rule 17Ad–14 were appropriate, other commenters favored processing as many tender offers as possible by book-entry and recommended that the scope of the proposed rule be broadened. Only a few commenters recommended expanding the exclusions to reduce the number of tender offers for which tender agents would have to establish depository accounts.

1. Number of Securityholders and Shares Outstanding of Subject Company

As proposed, Rule 17Ad–14 would not apply to a subject company having fewer than 500 securityholders of record of the class of securities sought by the bidder and fewer than 500,000 shares of that class outstanding. Section 14(d) of the Act, one of the central provisions of the Act governing tender offers, is most commonly triggered when a tender offer is made for a class of securities registered under Section 12 of the Act. Registration is required under Section 12(g)(1)(B) of the Act when, among other things, the issuer has a class of equity securities (other than exempt securities) held of record by 500 or more persons. Thus, like Section 14(d)(1) of the Act, paragraph (b)(1) of Rule 17AD–14 uses the securityholder count contained in Section 12(g)(1)(B) as the threshold for determining when book-entry facilities must be available.

The requirement that the subject company have 500,000 shares of the target class outstanding was based on several considerations. First, the benefits of book-entry processing are needed most in tender offers for large companies that have substantial shareholder bases and actively traded issues. Second, nearly all issuers whose securities attract appreciable trading activity warrant depository services, even though some of those issuers are relatively small.[45] Moreover, most commenters favored including under Rule 17Ad–14 as many tender offers as possible, so that book-entry efficiencies in depository-eligible securities would be available on a routine basis. Accordingly, the Commission believes that the size criteria contained in Rule 17Ad–14(b)(1), which will reach tender offers for nearly all depository-eligible securities, are appropriate.

2. Odd Lot Tender Offers

Several commenters discussed the proposed exclusion in paragraph (b)(2) for odd-lot tender offers (*i.e.*, tender offers to persons holding fewer than 100 shares). Some commenters, believing that Rule 17Ad–14 should apply to tender offers for odd-lots of the subject company's securities, stated that securityholders whose odd-lots are held by banks, brokers, or other intermediaries should be able to take advantage of book-entry delivery and should not have to endure the delays and risks of missing an offer while waiting for their securities to be reissued in their names.[46] Other commenters, however, including representatives of the transfer agent community, noted the limited secondary trading market effects during odd-lot offers and argued that those limited effects justified the exclusion of odd-lot offers. Specifically, when an odd-lot tender offer occurs, there usually is very little, if any, impact on the market price of securities trading in round-lots. Indeed, the price of securities trading in odd-lots is derivatively priced from the round-lots. For those reasons, in part, DTC indicated that it generally will not make a security ineligible for depository services simply because it is subject to an odd-lot tender offer. Thus, to the extent that one of the underlying objectives of Rule 17Ad–14 is to reduce adverse effects on the secondary trading markets and on the processing of secondary market transactions during tender offers, those concerns normally are not present in odd-lot tender offers.[47] Accordingly, while the Commission encourages bidders and their agents to use VOP-type programs for odd-lot tender offers when cost effective and efficient to do so, the Commission has determined not to include odd-lot tender offers within the scope of Rule 17Ad–14 at this time.

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[42] As noted in the Proposing Release, *id.*, at n. 71, a registered securities depository must submit to the Commission for approval under Section 19(b) of the Act and Rule 19b–4 [17 CFR 240.19b–4] thereunder, any plan for the book-entry processing of tender or exchange offers. The Commission intends to review each plan carefully and to encourage appropriate uniformity among VOPs.

[43] In the Proposing Release, the Commission also asked whether depository processing of tender offers had any effect on the timing of critical events—such as accrual of voting rights by the bidder for tendered securities. *See* Proposing Release, *supra* note 1, at 17610–11. Letters of transmittal commonly provide that the purchaser controls the securities' voting rights after the purchaser pays for the securities. Under DTC's VOP procedures, agents agree to make payment to DTC at the same time similar payments are made to persons who tender their securities directly to the bidder's agent. Thus, the availability of depository processing does not alter the time when voting rights accrue under state law or when purchase payments are made under the terms of the offer, since these matters are determined largely by contract (*e.g.*, letter of transmittal) among the parties. See *generally*, Fletcher, *Cyclopedia of Corporations* section 2029.

[44] 48 FR at 17613. The Proposing Release also asked for comment on whether Rule 17Ad–14 should require the *bidder* (rather than the bidder's agent) to establish an account with a securities depository. *See id.* at 17613. This question drew comments both legal and practical in nature. While some commenters suggested that bidders should be directly responsible for establishing depository accounts so that all tender offers would be processed by book-entry, most commenters believed that imposing this obligation on the tender agent would achieve essentially the same results as imposing it on the bidder. These commenters stated that most transfer agents are likely to be more familiar than most bidders with the existence of depositories and with the mechanics of VOPs and tender offer processing. In addition, although some of these commenters correctly noted that Rule 17Ad–14, as currently drafted, would not apply to tender agents that are not registered transfer agents, nearly all tender offers are handled by tender agents that would be subject to the rule. Accordingly, the Commission believes that Rule 17Ad–14 will apply to nearly all tender offers and certainly to those tender offers that will benefit most from depository processing.

[45] *See e.g.*, DTC Rule 5; Midwest Securities Trust Co., Rule 2, Section 2; and Philadelphia Depository Trust Co., Rule 5. Only a few publicly traded companies with fewer than 500,000 shares of common stock outstanding have those shares on deposit at securities depositories.

[46] Many retail customers owning odd-lots leave those securities with their broker-dealer or bank. Many other odd-lot positions, however, are held outside securities depositories. *See generally* Proposing Release, *supra* note 1, at nn. 16 & 23.

[47] The Commission recently amended Rules 13e–3 and 13e–4 to exclude odd-lot tender offers [17 CFR 240.13e–3 and 13e–4]. Exclusion of odd-lot tender offers from Rule 17Ad–14, therefore, is consistent with the Commission's treatment of odd-lot tender offers under other rules.

B. Number of Depository Accounts

Another question posed in the Proposing Release was whether Rule 17AD–14 should require the bidder's agent to establish and maintain an account with one or more, rather than all, qualified securities depositories.[48] Many commenters who addressed this issue suggested that the rule would best promote safety and efficiency if accounts were required at all depositories, including regional depositories.[49]

Certain commenters, however, including some transfer agents, recommended that a tender agent be required to establish an account with only one securities depository. These commenters noted that establishing an account at only one securities depository could simplify several of the tender agent's tasks, such as balancing depository accounts, since it would not have to deal with several depositories.[50] Many of these commenters also suggested, however, that all depositories should be required to keep the subject company's securities eligible for depository services and that those depositories not under contract with the tender agent should be required to operate interfaces or links with the primary depository ("interfaced system").

The Commission has monitored the operation of depository and clearing corporation interfaces for several years [51] and believes that, under most circumstances, interfaces effectively link components of the national clearance and settlement system. Nonetheless, the Commission believes that depository interfaces may not be particularly well-suited to the demands of tender agents and depository participants during a tender offer. During a tender offer, a depository needs to control its participants' securities positions and certificates closely to assure that it can satisfy its participants' instructions efficiently and fairly. Requiring depositories to use interfaces to tender securities imposes an intermediary step in the process, which can create substantial liabilities for the participants, tender agents and all linked depositories. At the same time, universal dependence on interfaces could increase the risk to tenderors and bidders that securities committed by letters of transmittal will not be physically delivered on a timely basis due to fails at an interfacing depository. At the very least, in any instance in which a tender agent depends on depository interfaces, the agent will experience reduced control over interfaced depositories, and remote participants may face early cut-off times. While we recognize the difficulties associated with establishing accounts with each of the four qualified securities depositories, the Commission believes that these difficulties for tender agents are substantially outweighed by the potential for reduced control and financial exposure that could result from universal dependence on an interfaced system. Accordingly, the Commission believes that Rule 17Ad-14 should require tender agents to establish accounts at all qualified securities depositories.[52]

In addition, one commenter noted that Rule 17Ad-14 may require several registered transfer agents, each acting on behalf of a single bidder, to establish redundant accounts with qualified securities depositories. For example, if a bidder appointed one registered transfer agent as the depositary and another registered transfer agent in a different city as a forwarding agent, both would be required under paragraph (a) of Proposed Rule 17Ad-14 to establish depository accounts. Since the securities depository could then make book-entry deliveries of securities to either transfer agent, the commenter suggested that establishing two separate accounts is unnecessary and potentially confusing.[53]

The Commission agrees with this suggestion. The Commission believes that only one registered transfer agent, acting on behalf of the bidder, need establish an account with a qualified securities depository to permit book-entry tender and withdrawal of securities. That agent should be the one receiving tendered securities and making payments therefor. Those responsibilities will usually be borne by the depositary, in the case of a tender offer, and the exchange agent, in the case of an exchange offer. The Commission does not believe that duplicative accounts will afford any additional benefits to the financial community or the public. Accordingly, paragraph (a) of Rule 17Ad-14 has been modified to address this concern.[54]

C. Continued Eligibility of the Subject Company's Securities

The Proposing Release asked for comments on whether a qualified securities depository should be permitted, under any circumstances, to declare the subject company's securities ineligible for depository services after the bidder (or its agent) has established a depository account for receiving tendered securities.[55] Many commenters, including DTC, stated that once the depository and the tender agent reach agreement to establish an account, a securities depository should not be able to make the subject company's securities ineligible for depository services.

Securities depositories filing proposals for qualified programs, pursuant to Section 19 of the Act, should specify the times and circumstances under which the depository would declare as subject company's securities ineligible for depository services. In that regard, the Commission expects that securities depositories will not exit securities from their systems absent very compelling reasons.[56]

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[48] 48 FR at 17613. Currently, only DTC is a qualified securities depository. *See* notes 13 and 42 *supra*. One commenter recommended that Rule 17Ad–14 not be adopted until all depositories have approved systems in place. MSTA Letter at 1.

[49] *See, e.g.*, letter from Charles M. Viviano, First Vice President and Executive Cashier, Prudential-Bache Securities, to George A. Fitzsimmons, Secretary, SEC, May 26, 1983, at 1–2. Some of these commenters stated, however, that a linked system, described *infra*, could be an acceptable alternative under certain circumstances. *See, e.g.*, letter from Herbert I. Levitt, General Partner, Spear, Leeds & Kellogg, to George A. Fitzsimmons, Secretary, SEC, May 24, 1983, at 1.

[50] In this connection, a number of commenters noted that it can be more difficult for a tender agent located outside of New York City to balance accounts with DTC on a remote basis than with a local depository.

[51] *See* the discussion in Securities Exchange Act Release No. 20481 (December 7, 1983), 48 FR 55654 (December 14, 1983).

[52] As discussed *infra*, the Commission intends to monitor the effect of Rule 17Ad-14 on the financial community, including the requirement of establishing accounts at all qualified depositories. The Commission will consider amending paragraph (a) of Rule 17Ad-14 in the future if necessary or appropriate.

[53] *See* letter from Nicola L. Caporale, Vice President, Goldman, Sachs & Co., to George A. Fitzsimmons, Secretary, SEC, June 2, 1983, at 2.

[54] Rule 17Ad-14, as adopted, would define "depositary" as an agent of the bidder receiving securities from tendering depository participants and paying those participants for shares tendered and defines the term "exchange agent" as the agent performing like functions in connection with an exchange offer.

[55] 48 FR at 17613.

[56] *See* Section 17A(b)(3) of the Act. DTC indicated that there are two types of offers that it could not agree to process. First, DTC said it would not process offers that can be terminated at any time during a processing day on the occurrence of some event (*e.g.*, the tender of a specified percentage of shares outstanding). DTC explained that, while instructions from a participant to tender shares might be received by DTC before the offer ended, book-entry movement would not occur until after the offers expired. DTC suggested that it could accommodate even such offers if the bidder agreed to purchase all shares tendered on the last day or purchase them *pro rata*. Second, DTC said it would not process offers without any protect period (*see* note 19, *supra*). DTC explained, for example, that a participant could purchase securities on trade date ("T") three days before an offer expires, send a

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D. Withdrawal by Book-Entry

Rule 17Ad–14, as proposed, addressed only book-entry delivery and receipt of securities. In the interest of providing a complete tender offer service, however, DTC's VOP permits tender agents to return previously tendered securities, provided an appropriate withdrawal request is submitted to the tender agent within the permitted time period.[57] In addition, several commenters indicated that return of securities by book-entry in response to a demand for withdrawal during competing bids is substantially easier and more efficient than physical certificate processing ex-depository. Since commenters and the Commission believe that the benefits or book-entry processing should be available in connection with tender offers to the greatest extent possible, Rule 17Ad–14 has been changed to include the process of returning previously tendered securities that have been withdrawn.

E. Tendering Physical Certificates Directly to the Bidder's Agent

Some commenters pointed out that there may be situations in which it is necessary to deliver physical certificates directly to the bidder's agent outside of the securities depository. For example, it may be quicker to deliver directly pursuant to a guarantee as the end of the protection period approaches.[58] As a result, the Commission emphasizes that the rule does not prevent a participant from tendering physical certificates to the tender agent outside of the book-entry environment, and a tender agent is not prohibited from accepting securities so tendered.[59] Indeed, under Rule 17Ad–14, a depository participant may choose the method of tendering most appropriate to its needs.

IV. Related Matters Raised by Comments

The Proposing Release and the commenters' responses raised a variety of other issues related to tender offer processing and the national clearance and settlement system. Some of these concerns, to the extent they bear significantly on tender offer processing, are discussed below.[60] For example, some commenters believe that the Commission could foster greater use of automated clearance and settlement systems by requiring greater uniformity of procedures among all clearing agencies. Specific suggestions included: (i) Requiring clearing corporations to establish uniform buy-in and liability notice rules; [61] and (ii) requiring all securities depositories to have the same eligibility criteria for securities. Under current practice, the Commission understands that securities depositories customarily grant eligibility to a security upon a participant's request even if that security is traded infrequently. Therefore, the Commission believes that differences in depository-eligibility lists for equity securities do not raise a serious concern at this time.[62] The Commission agrees that the present differences in buy-in and letter of liability procedures substantially impair the efficiency of, and increase the risks for, the safe clearance and settlement of securities transactions during tender offers. The Commission understands, however, that the clearing agencies are actively resolving these disparities in cooperation with Commission staff members.[63]

Several commenters believed that all tender offers should require a "protection period"[64] and suggested that the Commission adopt a rule—for example, under Section 14(e) of the Act—establishing a minimum protect period.[65] While the Commission appreciates that a protection period reduces processing difficulties,[66] the Commission does not believe that at this time it should establish by rule a standard protection period. Industry custom provides an eight day protection period for almost all offers. While a rule requiring a minimum protect period may be necessary at some point if custom changes, we are not persuaded that a regulatory requirement is needed now.[67]

The Commission similarly believes that other matters raised by commenters involve business considerations to be resolved among the bidder, its agent, and the securities depository prior to processing the tender offer.[68] Accordingly, while the Commission will monitor the use of VOP programs during tender offers to determine whether these concerns warrant further attention or amendments to rules and procedures of the securities depositories, the Commission does not believe it is appropriate at this time to address these concerns in Rule 17Ad–14.[69]

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letter of guarantee directly to the tender agent on T+1, receive delivery of the securities from the seller on T+5, but be unable to have DTC deliver the shares before the end of T+3. DTC suggested that this problem can be avoided only in offers in which there is a minimum protect period sufficient to enable normal depository processing. *See* DTC Letter, *supra* note 37, at 2–3.

The Commission recognizes that there may be offers made under circumstances like those described above, in which book-entry processing may be counter-productive and inconsistent with the needs of the financial community and the public. The Commission urges bidders' agents and the depositories to work out potential difficulties before an account is required to be established.

[57] *See* Section 14(d)(5) of the Act (withdrawal permitted until expiration of seven days after giving notice of definitive offer to securityholders and at any time after sixty days of original offer) and Rule 14d–7 (withdrawal permitted until expiration of fifteen business days from the date of offer's commencement and also permitted under certain conditions until expiration of ten days following commencement of a competing offer) (17 CFR 240.14d–7).

[58] *See, e.g.*, letter from William A. Schreyer, President, Merrill Lynch & Co., Inc., to George A. Fitzsimmons, Secretary, SEC, May 27, 1983, at 2–4 (hereinafter cited as "Merrill Lynch letter").

[59] The Commission notes this result comports with the recommendation of the Advisory Committee. *See* note 17 *supra* and accompanying text.

[60] Several other comments would appear to fall outside this rulemaking proceeding. For example, one commenter suggested that the bidder's depositary should receive from the transfer agent both a list of the shareholders of record and a stop list. The Commission believes that some of these concerns may have been addressed in Rule 14d–5(c)[17 CFR 240.14d–5(c)].

[61] *See* Proposing Release, *supra* note 1, at 17807–08.

[62] For a discussion of the clearing agency eligibility problems respecting municipal securities *see* Securities Exchange Act Release No. 20365 (November 14, 1983), 48 FR 52531 (November 18, 1983).

[63] If the clearing agencies cannot reach a consensus within a reasonable time, the Commission will consider taking further regulatory action, such as adopting a uniform rule.

[64] *See* note 19 *supra*.

[65] *See* Merrill Lynch letter, *supra* note 58, at 4–5 and letter from A. M. Ricci, Drexel Burnham Lambert, Inc., to George A. Fitzsimmons, Secretary, SEC, May 27, 1983.

[66] *See* note 56 *supra*.

[67] If it appears that the absence of uniform protect periods adversely affect secondary market trading or clearance and settlement of securities subject to a tender offer, the Commission will consider whether further regulatory action is necessary.

[68] For example, commenters suggested certain tender offer securities processing enhancements, including: (i) Synchronizing the VOP "cut-off time" (*i.e.*, the time by which depository participants must instruct, for example, DTC to deliver securities to the tender agent by book-entry) with the expiration dates in each tender offer; (ii) requiring DTC to adjust its VOP system in each offer to each tender agent's procedures; (iii) expanding the Fast Automated Securities Transfer program (*see* Proposing Release, *supra* note 1, at 17810 and n. 58) to simplify delivery of odd-lot certificates to customers; and (iv) providing that book-entry tenders be accepted even if those tenders are submitted after the offer expires. *See* Proposing Release, *supra* note 1, at n. 47. In addition, although one commenter suggested that Rule 17Ad–14 should provide that book-entry delivery of tendered securities is legally equivalent to delivery of physical certificates, we note that state law already provides that securities may be effectively transferred by book-entry delivery at a registered securities depository. *See e.g.*, N.Y. U.C.C. section 8–320 (McKinney, Supp., July 1983); Cal Com. Code §8320 (West Supp. 1983); Ill. Ann. Stat. ch. 26 section 8–320 (Smith-Hurd 1974); 13 Pa. Cons. Stat. Ann. section 8–320 (Purdon Supp. 1983).

[69] *See also* note 52, *supra*.

Furthermore, as indicated above, the Commission intends to monitor the effects of Rule 17Ad–14 generally and to modify the rule, as appropriate, to foster or accommodate further developments in tender offer processing and in the national clearance and settlement system.

V. Statutory Authority

Rule 17Ad–14 is being adopted pursuant to Section 2, 11A(a)(1)(B), 14(d)(4), 15(c)(3), 15(c)(6), 17A(a), 17A(d)(1), and 23(a) of the Securities Exchange Act of 1934 [15 U.S.C. 78b, 78k–1(a)(1)(B), 78n(d)(4), 78o(c)(3), 78o(c)(6), 78q–1(a), 78q–1(d)(1) and 78w(a)]. The Commission believes that Rule 17Ad–14 is necessary for the protection of investors and is consistent with the public interest.

Congress, in the Securities Acts Amendments of 1975, found, among other things, that the prompt and accurate clearance and settlement of securities transactions, including the transfer of record ownership, was necessary for the protection of investors and that inefficient clearance and settlement procedures imposed unnecessary costs on investors and persons facilitating transactions on behalf of investors. Congress also found that uniform standards and procedures for clearance and settlement would reduce those costs and increase protection for investors and persons facilitating transactions on behalf of investors.[70]

As part of the Securities Acts Amendments of 1975, Congress also enacted Section 17A(d)(1) of the Act, which prohibits registered transfer agents and registered clearing agencies from engaging in any activity in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. In light of the need to further the purposes of Section 17A(a)(1) of the Act in the context of tender offers and the need for increased investor protection when processing transactions in securities of the subject company during tender offers,[71] the Commission believes that it is appropriate to adopt Rule 17Ad–14.

In addition, the Commission believes that Rule 17Ad–14 will help maintain fair and orderly markets in the trading of the subject company's securities during a tender offer.[72] Because clearance and settlement mechanisms will be less strained during a tender offer, market liquidity for those securities should be enhanced.

Finally, Section 14(d)(4) authorizes the Commission to prescribe rules regarding solicitations or recommendations to accept or a reject a tender offer or requests or invitations for tenders. In soliciting tenders and acceptances of an offer, the bidder through its tender agent will need to provide for deposit and delivery of the subject company's securities at qualified registered securities depositories by establishing accounts with those depositories.

The Commission believes that the costs, if any, to bidders of complying with Rule 17Ad–14 will be minimal. Currently, bidders do not incur any DTC charges when using the voluntary offering program. Instead, costs for operating that program are allocated among DTC participants using these services. The Commission anticipates that depositories offering these programs will continue to assess tender offer service charges on participants on the basis of participant usage.[73] Moreover, the Commission believes that elimination of a substantial percentage of physical certificate tenders should actually reduce tender agent costs.

In addition, to simplify and expedite the granting of exemptions under paragraph (d) of Rule 17Ad–14, the Commission is amending its Rules Delegating Functions to Division Directors, Regional Administrators, and the Secretary of the Commission (17 CFR 200.30–1 *et seq.*) to delegate that function to the Director of the Division of Market Regulation, as provided below. The Commission is adopting this amendment pursuant to Pub. L. 87–592, 17 stat. 394, 15 U.S.C. 78d–1, d–2.

List of Subjects

17 CFR Part 200

Administrative practice and procedure, Freedom of Information, Privacy, Securities.

17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

[70] *See* Section 17A(a)(1) of the Act.

[71] *See* also Section 17A(b)(3)(A) (safeguarding funds and securities), 17A(b)(3)(F) (safeguarding funds and securities and removing impediments to a national clearance and settlement system) and 17A(e) of the Act (immobilization of certificates for settlement purposes).

[72] *See* Section 2 of the Act.

[73] In order to obtain Commission approval as a qualified registered securities depository under Rule 17Ad–14, each securities depository will be required to submit to the Commission as part of its tender offer processing plan filed under Section 19 of the Act a schedule of fees to be charged participants. Any changes to those fees will have to be refiled pursuant to Section 19(b) of the Act and Rule 19b–4 thereunder [17 CFR 240.19b–4].

VI. Text of Rule

In accordance with the foregoing, the Commission hereby amends Chapter II of Title 17 of the Code of Federal Regulations as follows:

PART 200—[AMENDED]

1. By adding paragraph (a)(43) to § 200.30–3 as follows:

§ 200.30–3 Delegation of Authority to Director of Division of Market Regulation.

* * * * *

(a) * * *

(43) To grant or deny exemptions from Rule 17Ad–14 (§ 240.17Ad–14 of this chapter), pursuant to Rule 17Ad–14(d) (§ 240.17Ad–14(d) of this chapter). (Pub. L. 87–592, 76 Stat. 394, 15 U.S.C 78d–1, 78d–2).

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PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

2. By adding § 240.17Ad–14 to read as follows:

§ 240.17Ad–14 Tender agents.

(a) *Establishing book-entry depository accounts.* When securities of a subject company have been declared eligible by one or more qualified registered securities depositories for the services of those depositories at the time a tender or exchange offer is commenced, no registered transfer agent shall act on behalf of the bidder as a depositary, in the case of a tender offer, or an exchange agent, in the case of an exchange offer, in connection with a tender or exchange offer, unless that transfer agent has established, within two business days after commencement of the offer, specially designated accounts. These accounts shall be maintained throughout the duration of the offer, including protection periods, with all qualified registered securities depositories holding the subject company's securities, for purposes of receiving from depository participants securities being tendered to the bidder by book-entry delivery pursuant to transmittal letters and other documentation and for purposes of allowing tender agents to return to depository participants by book-entry movement securities withdrawn from the offer.

(b) *Exclusions.* The rule shall not apply to tender or exchange offers (1) that are made for a class of securities of a subject company that has fewer than (i) 500 security holders of record for that class, or (ii) 500,000 shares of that class outstanding; or (2) that are made

exclusively to security holders of fewer than 100 shares of a class of securities.

(c) *Definitions.* For purposes of this rule, (1) the terms "subject company," "business day," "security holders," and "transmittal letter" shall be given the meanings provided in § 240.14d–1(b); (2) unless the context otherwise requires, a tender or exchange offer shall be deemed to have commenced as specified in § 240.14d–2; (3) the term "bidder" shall mean any person who makes a tender or exchange offer or on whose behalf a tender or exchange offer is made; (4) a "qualified registered securities depository" shall mean a registered clearing agency having rules and procedures approved by the Commission pursuant to Section 19 of the Securities Exchange Act of 1934 to enable book-entry delivery of the securities of the subject company to, and return of those securities from, the transfer agent through the facilities of that securities depository; and (5) the term "depositary" refers to that agent of the bidder receiving securities from tendering depository participants and paying those participants for shares tendered. The term "exchange agent" refers to the agent performing like functions in connection with an exchange offer.

(d) *Exemptions.* The Commission may exempt from the provisions of this rule, either unconditionally or on specified terms and conditions, any registered transfer agent, tender or exchange offer, or class of tender or exchange offers, if the Commission determines that an exemption is consistent with the public interest, the protection of investors, the prompt and accurate clearance and settlement of securities transactions, the maintenance of fair and orderly markets, or the removal of impediments to a national clearance and settlement system.

VII. Regulatory Flexibility Act

Pursuant to 15 U.S.C. 605(b), the Chairman of the Commission, in the Proposing Release, certified that Rule 17Ad–14, if adopted, would not have a significant economic impact on a substantial number of small entities. The Commission received no comments on that certification. Accordingly, the Commission believes that the rule, as adopted, will not have a significant impact on a substantial number of small entities.

VIII. Burden on Competition

In accordance with Section 23(a)(2) of the Act, the Commission has considered whether Rule 17Ad–14 will impose a burden on competition not necessary or appropriate in furtherance of the Act. As discussed in detail in this release, the Commission believes that Rule 17Ad–14: (i) Will reduce processing costs for the financial community and for the public; (ii) will tend to eliminate secondary market inefficiencies; and (iii) will apply equally to all registered securities depositories and registered transfer agents. Accordingly, the Commission believes that Rule 17Ad–14 will facilitate the establishment of a national system for the prompt and accurate clearance and settlement of securities transactions, pursuant to Section 17A(a)(1)(2) of the Act, and will not impose a burden on competition that is not necessary or appropriate to further the Act.

By the Commission.

Dated: January 19, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–2040 Filed 1–24–84; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 270

[Docket No. RM80–33–001; Order No. 356]

Interpretive Rule for Btu Measurement Standard Under the Natural Gas Policy Act of 1978

Issued: January 19, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Interpretive rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending its Btu measurement regulations for gas sold under the Natural Gas Policy Act of 1978 (NGPA). These regulations are intended to implement the District of Columbia Circuit Court of Appeals decision in *Interstate Natural Gas Association of America v. Federal Energy Regulatory Commission.* The Commission is amending its regulations in § 270.204 to require that the maximum lawful price for gas sold under the NGPA must be calculated based on the Btu content of gas measured under the standard test conditions defined by the Commission.

EFFECTIVE DATE: January 19, 1984.

FOR FURTHER INFORMATION CONTACT: Nancy M. Rizzo, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–8033.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Federal Energy Regulatory Commission (Commission) is amending its regulations for determining, for pricing purposes, the quantity of heat energy involved in a first sale of natural gas pursuant to the Natural Gas Policy Act of 1978 (NGPA). In so doing, the Commission is implementing the decision in *Interstate Natural Gas Association of America V. Federal Energy Regulatory Commission (INGAA)* [1] in which the court vacated § 270.204 of the Commission's regulations.

The Commission is amending § 270.204(c) of its regulations to specify that the number of Btu's determined under the "standard test conditions" set forth in § 270.204 (a) and (b) must be used for establishing the maximum lawful payment for gas sold in a first sale. Briefly stated, this amendment establishes that the Btu content of gas sold in a first sale under the NGPA must be determined on the basis of the natural gas being saturated with water vapor at 60 degrees Fahrenheit at a pressure of 14.73 psia, regardless of the actual delivery conditions.

II. Background

The energy value of natural gas is expressed in terms of British thermal units (Btu's), each Btu representing the amount of heat energy needed to raise the temperature of one pound of water one degree Fahrenheit.

Under the Natural Gas Act (NGA), the Commission established prices per thousand cubic feet (Mcf) for natural gas sold in the interstate market. The Commission permitted upward and downward adjustments to these rates to reflect the Btu content of the gas determined under certain "standard test conditions." [2] These adjustments were

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[1] 716 F. 2d 1 (D.C. Cir. 1983). The United States Court of Appeals for the District of Columbia Circuit issued its mandate in *INGAA* on December 8, 1983. On December 30, 1983, Chief Justice Burger denied, without prejudice, requests for stay of the mandate filed by the Commission and other parties. On January 17, 1984, the Commission filed a petition for writ of certiorari and a motion to stay the mandate with the United States Supreme Court.

[2] More specifically, the "standard test conditions" determines or inputes the number of Btu's produced by the combustion, at constant pressure, of the amount of gas which would occupy a volume of 1.0 cubic foot at a temperature of 60° Fahrenheit saturated with water vapor and under a pressure equivalent to that of 30.00 inches of mercury at 32° Fahrenheit and under standard gravitational force (980.665 centimeters per second squared) with air of the same temperature and pressure as the gas when the products of combustion are cooled to the initial temperature of the gas and air, and when the water formed by combustion is condensed to the liquid state. 18 CFR 2.56a(c)(1) and 2.56b(d)(1)(1983).

adopted by the Commission to create an incentive to increase the overall Btu content of gas in the pipeline systems and were not intended to precisely correlate the price paid to the actual heating content of the gas. As a result, the Commission's regulations under the NGA did not permit an adjustment to the price to reflect the actual Btu content of the gas delivered to the pipeline system.[3]

Under the NGPA, Congress established ceiling prices for first sales of various categories of natural gas sold in the interstate and intrastate markets. These prices were prescribed on a per million Btu (MMBtu) basis.

When the Commission promulgated its regulations implementing the NGPA, it established regulations in § 270.204 to measure the Btu content of the gas.[4] The Commission determined that the industry should continue to measure the Btu content of the gas at the same standard conditions used under the NGA, and adjust this measurement upward or downward for the Btu's actually delivered to the pipeline system. The Commission adopted this approach because it believed that under the NGPA Congress intended to establish prices based on the actual energy content of the gas sold in a first sale (*i.e.*, $/MMBtu).

On review, the United States Circuit Court of Appeals for the District of Columbia vacated the Commission's rules in § 270.204. The court held that when Congress adopted the NGPA, it did not intend to change the Btu adjustment policy adopted by the Commission under the NGA.

As a result, the D.C. Circuit held that the NGPA requires that the Commission adopt the same rules promulgated under the NGA for pricing gas sold pursuant to the NGPA pricing scheme. Even though the court's mandate has issued, the court's ruling is subject to possible review and modification by the U.S. Supreme Court. Thus, the Commission's action here is subject to any further orders or opinions that might be issued by the U.S. Supreme Court in this matter.

[3] Natural gas is usually delivered to and transported in a pipeline system, essentially, in a "dry" state. That is, it contains only minimal amounts of water vapor. In fact, many pipeline-producer gas purchase contracts prohibit the delivery to the pipeline of gas containing more than 7 pounds of water per million cubic feet of total gas. However, at the "standard test conditions" (see n.2 above), the gas would contain 820 pounds of water vapor per million cubic feet of total gas. Water vapor, of course, has no energy value but displaces energy-producing hydrocarbon molecules. Therefore, since the gas actually delivered contains less water vapor than the gas measured under the test conditions, a given volume of gas actually delivered has a higher Btu content than under the test conditions. Thus, under the NGA, the producer received a price for its gas that did not reflect the full energy content of the gas.

[4] Rules Generally Applicable To Regulated Sales of Natural Gas, 45 FR 49,077 (July 23, 1980) (Order No. 93); Order Denying Rehearing and Clarifying Order No. 93, 46 FR 24,537 (May 1, 1981) (Order No 93–A).

III. Discussion

The Commission is amending § 270.204 to establish that the maximum lawful prices prescribed by the NGPA for any first sale of natural gas are to apply to the Btu's that would be determined on the basis of the standard conditions prescribed in § 270.204(b). The Commission is clarifying that it will allow contractually authorized price adjustments for the heat content of gas delivered in a first sale, provided that the price adjustments do not, in effect, raise the price of the gas above the maximum lawful price. The Commission believes these amendments are necessary to clarify any uncertainty resulting from the D.C. Circuit Court's decision in *INGAA*.[5]

IV. Effective Date

Since the court determined that the Commission did not properly interpret the NGPA which became effective on December 1, 1978, these amendments are effective as of December 1, 1978 and should be complied with in all future transactions. For those first sales occurring prior to the issuance date of this order, the Commission is requesting comments in a companion Notice of Inquiry (Docket No. RM84–6–000) on the issue of refunds to the purchasers.

V. Administrative Procedure Act (APA)

Under the Administrative Procedure Act (APA), the Commission is permitted to issue an interpretive rule without providing an opportunity for comment.[6] As discussed earlier, the D.C. Circuit Court determined that the NGPA requires the Commission to adopt the rules described in this docket. This rule, therefore, conforms the Commission's regulations to the court's interpretation of the NGPA. Accordingly, the Commission believes that this rule is an interpretive rule within the meaning of the APA and that it is not necessary to provide an opportunity for comment.

List of Subjects in 18 CFR Part 270

Natural gas, Wage and price controls.

[5] See also the companion Notice of Inquiry, Docket No. RM84–6–000 issued with this interpretive rule.

[6] 5 U.S.C. 553(b) (1982).

In consideration of the foregoing, the Commission amends Chapter I, Title 18, Code of Federal Regulations, as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 270—[AMENDED]

1. The authority citation for Part 270 is revised to read as follows:

Authority: Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (Supp. V 1981), unless otherwise noted.

2. Section 270.204 is revised to read as follows:

§ 270.204 Btu content per cubic foot of natural gas.

(a) *Measurement.* The Btu content of one cubic foot of natural gas under the standard conditions specified in paragraph (b) of this section is the number of Btu's produced by the complete combustion of such cubic foot of gas, at constant pressure with air of the same temperature and pressure as the gas, when the products of combustion are cooled to the initial temperature of the gas and air and when the water formed by such combustion is condensed to a liquid state.

(b) *Standard conditions.* The standard conditions for purposes of paragraph (a) of this section are as follows: The gas is saturated with water vapor at 60 degrees Fahrenheit under a pressure equivalent to that of 30.00 inches of mercury at 32 degrees Fahrenheit, under standard gravitational force (980.665 centimeters per second squared).

(c) *Application of the maximum lawful price.* The maximum lawful price prescribed by the NGPA for any first sale of natural gas applies to the quantity of Btu's determined on the basis of the standard conditions described in § 270.204(b). The standard conditions apply, regardless of the actual delivery pressure and temperature conditions and the actual water vapor content of gas delivered by a first seller.

3. The authority citation for § 270.204 is revised to read as follows:

Authority: Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (Supp. V 1981); Natural Gas Act, 15 U.S.C. 717–717w (1976 and Supp. V 1981).

[FR Doc. 84–2006 Filed 1–24–84; 8:45 am]

BILLING CODE 6717–01–M

18 CFR Part 271

[Docket No. RM79-76-212 (Texas-38); Order No. 355]

High-Cost Gas Produced From Tight Formations; Final Rule

Issued: January 20, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determined that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Railroad Commission of Texas that a portion of the Austin Chalk Formation located in Railroad Commission District 3, Grimes County, Texas be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective February 21, 1984.

FOR FURTHER INFORMATION CONTACT:
Walter Lawson (202) 357-8556.
or
Robert Ellis (202) 357-8511.

SUPPLEMENTARY INFORMATION: The Commission hereby amends § 271.703(d) of its regulations to include the following portion of the Austin Chalk Formation, located in Railroad Commission District 3, Grimes County, Texas: (i) The area comprising the 2.5 mile radius around the Tenneco Oil Company's L. R. Fuqua No. 1 Well, located 5,200 feet from the North Line of John Bowman Survey and 1,500 feet from the East Line of John Bowman Survey; and (ii) the area comprising the stratigraphic interval above the Eagleford Formation and below the Pecan Gap Formation with the base at 12,484 feet subsea and the top at 12,210 feet subsea in the L. R. Fuqua No. 1 Well, as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued September 6, 1983 (48 FR 40736, September 9, Docket No. RM79-76-212 1983)[1] based on a recommendation by the Railroad Commission of Texas (Texas) in accordance with § 271.703, that the above described portion of the Austin Chalk Formation be designated as a tight formation.

Evidence submitted by Texas supports the assertion that the recommended area of Austin Chalk Formation meets the guidelines contained in § 271.703(c)(2). The Commission adopts the Texas recommendation. This amendment shall become effective February 21, 1984.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, *Code of Federal Regulations*, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

Section § 271.703 is amended as follows:

1. The authority citation for Part 271 reads as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section § 271.703 is amended by adding paragraph (d)(157) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formation.* * * *

(157) *Austin Chalk Formation in Texas.* RM79-76-212 (Texas—38).

(i) *Delineation of formation.* The Austin Chalk Formation is found in Grimes County, Texas, Railroad Commission District 3. The area lies within a 2.5 mile radius around the Tenneco Oil Company L. R. Fuqua No. 1 well, located 5,200 feet from the north line and 1,500 feet from the east line of the John Bowman Survey, A-7.

(ii) *Depth.* The Austin Chalk Formation in the designated area is defined as the stratigraphic interval above the Eagleford Formation and below the Pecan Gap Formation. The top of the Austin Chalk Formation is found at 12,210 feet subsea, with the base at 12,484 feet subsea, in the L. R. Fuqua No. 1 Well.

[FR Doc. 84-2025 Filed 1-24-84; 8:45 am]

BILLING CODE 6717-01-M

[1] Comments on the proposed rule were invited and none were received. No party requested a public hearing and none was held.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 610 and 660

[Docket No. 82N-0358]

General Biological Products Standards—Sterility; Additional Standards for Diagnostic Substances for Laboratory Tests—Amendment of Final Container Requirements for Certain In Vitro Diagnostic Products

Correction

In FR Doc. 84-910, beginning on page 1683 in the issue of Friday, January 13, 1984, the effective date appearing in column three of page 1683 should have read, "February 13, 1984."

BILLING CODE 1505-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R-84-1115; FR-1823]

Urban Development Action Grants Distress Criteria

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Final rule.

SUMMARY: This rule adds the Labor Surplus Area (LSA) designation of the Department of Labor as an additional minimum standard of economic distress which may be met by large cities, urban counties, and small cities in the application for UDAG funds. LSAs are high unemployment cities, counties and county balances designated by the Department of Labor for the purpose of targeting Federal procurements. This change implements Section 121(b) of the Housing and Urban-Rural Recovery Act of 1983, Pub. L. No. 98-181, 97 Stat. 1153 (1983).

EFFECTIVE DATE: March 7, 1984.

FOR FURTHER INFORMATION CONTACT:
Frank H. Ridenour, Program Officer,

Office of Urban Development Action Grants, Room 7258, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–6784. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: HUD currently determines UDAG distress eligibility by ascertaining whether a city or urban county meets or exceeds minimum standards of distress on a certain number of criteria (depending on the size of the city or urban county) which are set out at 24 CFR 570.452(b). The minimum standard has conventionally been set as the median value for metropolitan cities. The standards are: percentage of housing constructed before 1940, amount of change in per capita income, percentage of poverty, percent of change in population (population lag), percent of change in jobs (job lag); and unemployment. Because of lack of availability, job lag data have not been used in the past for determining eligibility for small cities of less than 25,000 population and unemployment data have not been used for determining eligibility for any small cities in the past.

The change made by this rule implements Section 121(b) of the Housing and Urban-Rural Recovery Act of 1983 (the 1983 Act) by expanding the minimum standards of economic distress by one in order to increase the emphasis given to communities with high unemployment. For large cities and urban counties, as well as small cities, an additional eligibility point would be given to cities and urban counties which are in (or partially in) areas which meet the unemployment criteria used to designate the Labor Surplus Areas (LSAs). This change should have the effect of making approximately 14 more large cities and urban counties eligible than would otherwise be the case. Currently, about 366 large cities or urban counties are eligible in a universe of 732. The change will have the effect of making approximately 1,800 more small cities UDAG eligible. At present, about 8,000 small cities are eligible in a universe of 18,000.

In general, LSAs are high unemployment cities with a population greater than 50,000, counties and county balances which are designated by the Department of Labor for the purpose of targeting Federal procurements. An area receives the LSA designation if it surpasses a threshold. This threshold is calculated by utilizing the national average unemployment rate. An area receives the LSA designation if it exceeds 120 percent of the national average unemployment rate over the last two years. The range of the threshold cannot exceed 10 percent or go below 6 percent. While the Labor Department makes LSA designations annually in October based on the previous 2 calendar years and adds areas to those designations monthly based on changing unemployment conditions, HUD will base the standard on the most recently available unemployment data and monthly additions which are used by the Department of Labor to designate LSAs as of the time that HUD is revising eligibility determinations. HUD will not revise the UDAG eligibility monthly with the monthly LSA additions.

The change is intended to ensure that the UDAG eligibility system adequately measures the economic distress that results from higher than average unemployment rates, and is, therefore, oriented as effectively as possible to the Administration's emphasis on jobs and economic recovery.

With respect to small cities, unemployment data are not of high quality and the LSA calculations are not generally available for individual cities below a population of 50,000. Consequently, in implementing this factor for small cities, the unemployment rate used will be the rate for the county in which the city is located (if there are no places of greater than 50,000 population contained within the county) or the county balance after excluding data for places of greater than 50,000 population contained therein. The use of current data contemplated by the rule responds to past objections from many small city officials and their representatives that UDAG eligibility determinations are not responsive to their changing needs. While it may produce some inaccuracy for small cities with unemployment rates which differ from the surrounding county, HUD believes that opening up the program to include small cities within counties which have a severe unemployment problem will be beneficial to the economic recovery and should be undertaken.

We are also altering the language currently contained in § 570.452 (d)(1)(iii) and (d)(2)(iv). As now written, these provisions state that where the age of housing data is twice the HUD-established standard, the city *must* meet *only* the poverty standard. A literal reading of this language would mean that where the age of housing standard is twice the established standard and the small city fails to meet the poverty standard, it could not meet, as appropriate, two other standards because the city "must" meet "only" the poverty standard. This is an unintended result. We are changing the word "must" in these 2 subparagraphs to "need" in order to make clear that small cities may qualify if the housing standard is twice the HUD-established standard and they do not meet the poverty standard as long as they meet the required number of additional distress criteria.

Since we are implementing the legislation by adding an additional criterion, we are specifying a "poverty penalty," similar to that which applies to large cities and urban counties and to cities of between 25,000 and 50,000 population, for those small cities of less than 25,000 population whose percentage of poverty is less than one-half of the HUD-established standard. Thus, small cities of less than 25,000 population whose percentage of poverty is less than one-half of the HUD-established standard will have to meet one additional distress criterion. This will help to insure that UDAG funds are targeted to very small cities whose poverty levels are elevated relative to others and will uniformly implement a poverty standard for all possible UDAG grantees.

This rule is being published as a final rule because of the continuing nationwide concern about high levels of unemployment. Congressional concern about national unemployment was continuous during the recent recession, culminating in enactment of the provision that this final rule implements. High levels of unemployment, especially at the local level, remain a matter for emergency attention to date. This concern has included numerous expressions by Members of Congress on the severe unemployment rates being experienced in particular areas.

During House floor discussion of H.R. 1, the Housing and Urban-Rural Recovery Act of 1983, H.R. 1, 98th Cong., 1st Sess. (1983)—a precursor of the 1983 Act—Congressman James L. Oberstar of Minnesota raised the issue of small cities throughout the country which, under current distress criteria, would lose eligibility for UDAG grants in the coming year, despite very high local unemployment rates.

> Now, it would seem to me that it would be a measure of fairness to small cities to allow them to use the unemployment data as a measure of distress. The Labor Department does make those certifications, does declare certain areas to be labor-surplus regions. And there is a specific formula written in the law; standards already exist; you would not be creating anything new. 129 Cong. Rec. (Daily Ed.) H 4932, July 11, 1983.

Mr. Oberstar noted that he was considering offering an amendment to H.R. 1 to require inclusion of unemployment as a measure of distress in the UDAG Small Cities Program.

Rep. Henry B. Gonzalez, the Chairman of the Housing Subcommittee of the Committee on Banking, Finance and Urban Affairs, then described provisions already included in H.R. 1 that would respond in part to Mr. Oberstar's concerns, and added that—

> HUD has notified us that they are proposing issuing regulations that will provide these standards of consideration of unemployment rates and the like for UDAG purposes.
>
> We are monitoring this very much to see that they implement them as quickly as possible.
>
> But there is a cognizance of this need. Both in our bill as well as in the administration's proposed regulations it is being taken cognizance of.

Mr. Gonzalez later added, "The fact we have incorporated language in the bill itself and taken cognizance of this great need should be a clear message as to the congressional intent." 129 Cong. Rec. (Daily Ed.) H 4932–33, July 11, 1983.

Further indication of explicit congressional interest in linking the UDAG program more directly to problems of unemployment came on the following day in the House, when an amendment was added to H.R. 1 which would hold harmless small cities losing UDAG eligibility on the basis of distress "until the Secretary of Housing and Urban Development revises the standards for eligibility for such cities under [section 119(b)(1) of the Housing and Community Development Act of 1974] and includes the extent of unemployment as a standard of distress for such cities." 123 Cong. Rec. (Daily Ed.) H 5012, July 12, 1983.

The amendment, introduced by Rep. Richard Durbin, was later praised by Mr. Oberstar, both as an appropriate response to his own earlier-expressed concern and a clear demonstration to the Department of the urgent need for rule making:

> In adopting this amendment, Congress will be recognizing the harsh impact of unemployment on a declining economic base and we will signal the Department of Housing and Urban Development that Congress is committed to maintaining a UDAG program that will meet the real and urgent development needs of small cities in Minnesota and elsewhere across the country. 123 Cong. Rec. (Daily Ed.) H 5023, July 12, 1983.

These concerns culminated in inclusion of section 121(b) in the 1983 Act. As Senator Heinz commented during floor consideration of the Act:

> The prospective improvements in the small cities portion of urban development action grant program are especially welcome. It is about time that we made the small cities UDAG program more workable, particularly for those jurisdictions suffering the severest long-term economic hardship. By adding the best available measure of unemployment in small communities, the labor surplus area designation, to the eligibility criteria for the small cities UDAG program, Congress will give nearly 2,000 of the most distressed small jurisdictions, including 200 in Pennsylvania, the opportunity to use this vital economic development tool. 129 Cong. Rec. (Daily Ed.) S 16504, November 7, 1983.

The subject matter of this rulemaking action relates to grants and is therefore exempt from the notice and public comment requirements of Section 553 of the Administrative Procedure Act. As a matter of policy, the Department submits many rulemaking actions with such subject matter to public comment, either before or after effectiveness of the action, notwithstanding the statutory exemption.

However, in this instance, we find that good cause exists to show that notice and comment, in the form of a full informal rulemaking procedure, would be impracticable and contrary to the public interest. The delay incident to proceeding with a full notice and comment procedure would negate the strong Congressional concern over the unemployment picture of the nation. To proceed with a proposed rule would involve a minimum delay of 6 months in funding eligible UDAG grantees (this takes account of a variety of requirements for Congressional review, internal HUD processing, elgibility listing, the application process, a period for public comments, and Congressional recesses.)

Such delay is clearly contrary to the public interest, which is focused on the generation of worthwhile and necessary projects which will result in productive jobs in communities throughout the nation. The UDAG program is one which directly furthers this goal. Currently, it identifies a certain number of minimum standards of economic distress. This final rule shifts the emphasis in those standards in the direction of a fuller consideration of the unemployment situation facing potentially eligible large and small grantees and will comport with the need to focus directly on the unemployment problem in distributing available UDAG funding.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulations. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities because the change only provides potential eligibility to compete in a national competition for limited funds and does not guarantee any funding support.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50 which implement Section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the above address.

This final rule was listed as item CPD–10–83 in the Department's most recent Semiannual Agenda on Regulations published on October 17, 1983 (48 FR 47461) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance Program numbers are: 14.221, Urban Development Action Grants

List of Subjects in 24 CFR 570

Community development block grants, Grant programs: housing and community development, Loan programs: housing and community development, Low and moderate income housing, New communities, Pockets of poverty, Small cities.

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

Accordingly, the Department amends 24 CFR Part 570 by revising paragraphs (b)–(d) of § 570.452 as follows:

§ 570.452 Distressed communities.

* * * * *

(b) *Minimum standards of economic distress.* (1) From time to time, HUD will publish in Notice form the specific minimum standards of economic distress used in determining which cities and urban counties are potentially eligible applicants for action grant funds. These standards will be derived

by using the best and most recently available data for the community as of the time that the Notice is published. With the exception or category (v) below, the data describe the community as a whole, allowing for comparisons between cities and urban counties of the same size class. The following categories are used: (i) Percentage of housing constructed before 1940, (ii) per capita income change, (iii) percentage of poverty, (iv) population growth lag/decline, (v) the unemployment criteria used to establish the Labor Surplus Area designation, (vi) job lag/decline, and (vii) unemployment.

(2) Any city or urban county which no longer qualifies on the basis of distress because of a change in applicable data will have up to two calendar quarters to submit full applications following the announcement of that change. HUD will establish a date by which such applications will no longer be accepted and will publish the date in the Notice.

(c) *Large cities and urban counties.* (1) In order to qualify as distressed communities, large cities and urban counties must meet three of the seven currently applicable minimum standards of distress specified in paragraph (b)(1) of this section.

(2) If the city or urban county's percentage of poverty is less than one-half of the HUD-established standard, then it must meet four of the following six minimum standards: percentage of housing constructed before 1940; per capita income change; population growth lag/decline; job lag/decline; unemployment; unemployment criteria used to establish the Labor Surplus Area designation.

(d) *Small Cities.* In order to qualify as distressed communities, small cities must meet the minimum standards of economic distress for the categories appropriate to their size class as outlined below.

(1) Cities of less than 25,000 population.

(i) The city must meet standards in three of the following five areas:

(A) Percentage of housing constructed before 1940.

(B) Per capita income change.

(C) Percentage of poverty.

(D) Population growth lag/decline.

(E) Unemployment criteria used to establish the Labor Surplus Area designation.

(ii) If the percentage of poverty is less than one-half of the HUD-established standard, the city must meet all four of the following standards:

(A) Percentage of housing constructed before 1940.

(B) Per capita income change.

(C) Population growth lag/decline.

(D) Unemployment criteria used to establish the Labor Surplus Area designation.

(iii) If the percentage of poverty is twice the HUD-established standard, the city must meet only one other minimum standard.

(iv) If the percentage of year-round housing units constructed before 1940 is twice the HUD-established standard, the city need meet only the poverty standard.

(2) Cities of 25,000 population, but not greater than 50,000 population.

(i) The city must meet the minimum standards in three of the following six areas:

(A) Percentage of housing constructed before 1940.

(B) Per capita income change.

(C) Percentage of poverty.

(D) Population growth lag/decline.

(E) Job lag/decline.

(F) Unemployment criteria used to establish the Labor Surplus Area designation.

(ii) If the percentage of poverty is less than one-half of the HUD-established standard, the city must meet four of the following five minimum standards: percentage of housing constructed before 1940; per capita income change; population growth lag/decline; job lag/decline; unemployment criteria used to establish the Labor Surplus Area designation.

(iii) If the percentage of poverty is twice the HUD-established standard, the city must meet only one other minimum standard.

(iv) If the percentage of year-round housing units constructed before 1940 is twice the HUD-established standard, the city need meet only the poverty standard.

* * * * *

Authority: Sec. 119 of the Housing and Community Development Act of 1974 (42 U.S.C. 5318); sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

Dated: January 16, 1984.

Stephen J. Bollinger,

Assistant Secretary for Community Planning and Development.

[FR Doc. 84-1958 Filed 1-24-84; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7935]

Common Trust Funds

Correction

In FR Doc. 84-889, beginning on page 1692 in the issue of Friday, January 13, 1984, make the following correction on that page: In the middle column, under **SUPPLEMENTARY INFORMATION,** the fourth paragraph, the first line, the citation "2131(b)" should read "2131(d)".

BILLING CODE 1505-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1960

Basic Program Elements for Federal Employee Occupational Safety and Health Programs

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: This document amends 29 CFR Part 1960 to eliminate the present method of recording injuries and illnesses occurring to Federal employees while they are on official time. It also revises several definitions at 29 CFR 1960.2. These revisions are necessary to provide for OSHA's use of Office of Workers' Compensation Programs data in compiling occupational injury and illness rates in the Federal sector. The effect of these revisions will be to provide more accurate data and to eliminate duplicative recordkeeping and reporting requirements.

EFFECTIVE DATE: This final rule is effective on January 25, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. John E. Plummer, Director, Office of Federal Agency Programs, Room N3613, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, (202-523-9329).

SUPPLEMENTARY INFORMATION: The Subcommittee on Federal Accident Reporting System of the Federal Advisory Council on Occupational Safety and Health approved these changes to Subpart I, 29 CFR Part 1960, on September 29, 1982. The Federal Advisory Council on Occupational Safety and Health approved the changes on January 12, 1983.

The following definitions are revised: "incidence rates" in § 1960.2(j); "lost

workday cases" in § 1960.2(l); "medical treatment" in § 1960.2(n), and "recordable occupational injuries or illnesses" in § 1960.2(o). The term "reporting unit" in § 1960.2(p) is no longer applicable, and this paragraph has been deleted. These revisions reflect the changes from calendar to fiscal year recordkeeping requirements and make definitions compatible with the Office of Workers' Compensation Programs (OWCP). All other definitions in § 1960.2(a) through (i); (k); (m); and (q) through (x) are unchanged.

Further revisions are being made to Subpart I in order to provide for the use of OWCP claims data in place of the data previously derived by the Federal Accident Reporting System (FARS). The new system will utilize existing occupational injury and illness information reported to OWCP on Forms CA–1 and CA–2. The agency head, however, has a responsibility to "keep adequate records of all occupational accidents and illnesses for proper evaluation and necessary corrective action" as required by Section 19(a)(3) of the Occupational Safety and Health Act of 1970.

Subpart I, Recordkeeping and Reporting Requirements, 29 CFR 1960.66 through 1960.74 is reprinted in its entirety so this document may replace Subpart I in the "Basic Program Elements for Federal Employee Occupational Safety and Health Programs; Final Rule" published in the **Federal Register** on October 21, 1980 as 29 CFR Part 1960.

Following is an explanation of the changes in Subpart I:

§ 1960.67. "OSHA Form No. 100F" reference in paragraph (b) is changd to "OSHA Form 200."

§ 1960.68. "OSHA Form No. 101F" in the last sentence is changed to "OSHA Form No. 101, or OWCP Forms CA–1 and CA–2."

§ 1960.69. This section was extensively revised to provide agencies an option to use the last page of the record or log of occupational injuries and illnesses, prepared pursuant to Section 1960.67, as the summary for posting and/or submittal to the Secretary, if requested.

§ 1960.71. Change "calendar year" to "fiscal year" in paragraph (d).

§ 1960.73. Change "calendar year" to "fiscal year."

§ 1960.74. Identification of Reporting Units. Deleted in its entirety.

§ 1960.75. Agency Annual Reports, renumbered as 1960.74. Change paragraph (a)(1) to provide that the agency's report to the Secretary each year will be made by January 1 following the end of the fiscal year. Paragraph (a)(2) is changed to provide that the Secretary will supply annual report guidelines concerning the preparation of the report for the following fiscal year by January 1 of each year.

§§ 1960.75–1960.77 [Reserved]

The revision is procedural in character. Therefore, this rule is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets. Accordingly, no regulatory impact analysis is required.

List of Subjects in 29 CFR Part 1960

Government employees, Law enforcement, Occupational safety and health, and Reporting and recordkeeping requirements.

Authority

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Third and Constitution Avenue, NW., Washington, D.C. 20210.

Accordingly, pursuant to Sections 19 and 24 of the Occupational Safety and Health Act of 1970 (84 Stat. 1609, 1614; 29 U.S.C. 668, 673), Secretary of Labor's Order No. 9–83 (48 FR 35736), and Executive Order 12196, Part 1960 of Title 29 of the Code of Federal Regulations, is hereby amended as set forth below.

These amendments affect only recordkeeping and reporting requirements of Federal agencies with respect to occupational injuries and illnesses and were developed through consultation with representatives of Federal agencies and of Federal employees. Therefore, it is not necessary to publish them for notice and comment pursuant to 5 U.S.C. 553(b). Further, these amendments eliminate duplicative recordkeeping and reporting requirements and create no new responsibilities. Therefore, they are effective immediately.

Signed at Washington, D.C., this 19th day of December, 1983.

Thorne G. Auchter,

Assistant Secretary of Labor.

PART 1960—[AMENDED]

Part 1960 of 29 CFR is amended as follows:

1. By revising paragraphs (j), (l), (n), and (o) and by removing and reserving paragraph (p), of § 1960.2, as follows:

Subpart A—General

§ 1960.2 Definitions.

* * * * *

(j) The term "incidence rates" means the number of injuries and illnesses, or lost workdays, per 100 full-time workers. Rates are calculated as

$$\frac{N \times 200{,}000}{EH}$$

N = number of injuries and illnesses, or number of lost workdays.
EH = total hours worked by all employees during a month, a quarter, or fiscal year
200,000 = base for 100 full-time equivalent workers (working 40 hours per week, 50 weeks per year).

* * * * *

(l) The term "Lost Workday Cases" means injuries and illnesses which involve days, or parts of days, away from work beyond the date of injury. "Lost Workdays—Away from Work" means the number of workdays (consecutive or not) during which the employee would have worked but could not because of an occupational injury or illness.

* * * * *

(n) The term "medical treatment" includes treatment administered by a physician, or by licensed or registered professional personnel under standing orders of a physician, for an occupational injury or illness which does not result in days away from work. "Medical treatment" does not include first aid treatment, even though provided by a physician or licensed or registered professional personnel. For further details and specific example of what is considered first aid treatment versus medical treatment, see OSHA 2014, Recordkeeping and Reporting Guidelines for Federal Agencies.

(o) The term "recordable occupational injuries or illnesses" means any occupational injuries or illnesses which result in:

(1) Occupational-related deaths regardless of the time between injury and death, or the length of illness;

(2) Nonfatal occupational illnesses; or

(3) Nonfatal occupational injuries which involve days away from work or medical treatment.

(p) [Reserved]

* * * * *

2. By revising Subpart I of Part 1960 to read as follows:

Subpart I—Recordkeeping and Reporting Requirements

Sec.

1960.66 Purpose, scope and general provisions.
1960.67 Record or log of occupational injuries and illnesses.
1960.68 Supplementary record of occupational injuries and illnesses.
1960.69 Annual Summaries of Federal Occupational Injuries and Illnesses.
1960.70 Reporting of serious accidents.
1960.71 Location and utilization of records and reports.
1960.72 Access to records by Secretary.
1960.73 Retention of records.
1960.74 Agency annual reports.
1960.75—1960.77 [Reserved]

Authority: Sec. 19 and 24 of the Occupational Safety and Health Act of 1970 (84 Stat. 1609, 1614; 29 U.S.C. 668, 673); Secretary of Labor's Order No. 9–83 (48 FR 35736); Executive Order 12196.

Subpart I—Recordkeeping and Reporting Requirements

§ 1960.66 Purpose, scope and general provisions.

(a) The purpose of this subpart is to establish uniform requirements for the collection and compilation by agencies of occupational safety and health data, for proper evaluation and necessary corrective action and to assist the Secretary in meeting the requirement to develop and maintain an effective program of collection, compilation, and analysis of occupational safety and health statistics. The term "incident" as hereinafter used in this subpart shall include all occupational injuries and illnesses.

(b) In order to perform his duties under section 19 of the Act and Executive Order 12196, particularly with respect to providing the President with current information about the Federal agency safety and health program, it is necessary that the Secretary be promptly informed of serious incidents involving agency employees as provided in § 1060.70. Assistance to agencies in the investigation of such incidents is available pursuant to the provisions of Executive Order 12196 and this subpart.

(c) Each agency shall utilize the information collected through its management information system to identify unsafe and unhealthful working conditions, and to establish program priorities.

(d) The Department of Labor shall provide Federal agencies with the forms and instructions for meeting the recordkeeping specified in §§ 1960.67, 1960.68, and 1960.69.

(e) The provisions of this subpart are not intended to discourage agencies from utilizing recordkeeping and reporting forms which contain a more detailed breakdown of information than the forms provided by the Department of Labor.

(f) Information required to be submitted to the Department of Labor by this subpart may be submitted on media processable by electronic data processing equipment provided that such data media comply with the requirements of the Office of Federal Agency Programs, U.S. Department of Labor.

(g) Information concerning occupational injuries and illnesses or, accidents which, pursuant to statute or Executive Order, must be kept secret in the interest of national defense or foreign policy, shall be recorded on separate forms. Such records shall not be submitted to the Department of Labor, but may be used by the appropriate Federal agency in evaluating the agency's program to reduce occupational injuries, illnesses and accidents.

§ 1960.67 Record or log of occupational injuries and illnesses.

(a) Each Federal agency shall maintain a record or log of all recordable occupational injuries and illnesses for each establishment. Except as provided in § 1960.71 (b) and (c), the log is to be maintained at the establishment.

(b) Within six working days after receiving information on a recordable occupational injury or illness, appropriate information concerning such injury or illness shall be entered on the record or log. For this purpose, OSHA Form No. 200 or its equivalent, shall be used and shall be completed in the detail required by that form and the instructions contained therein.

(c) As a minimum, any occupational injury or illness reported by an employee on a Form CA–1 or CA–2 (except first aid cases) to the Office of Workers' Compensation Programs (OWCP), Department of Labor, shall be considered recordable on the log.

§ 1960.68 Supplementary record of occupational injuries and illnesses.

In addition to the record or log of occupational injuries and illnesses provided for under § 1960.67, each Federal agency shall maintain a supplementary record for each occupational injury and illness. The record shall be completed within six working days after the receipt of information that a recordable occupational injury or illness has occurred. For this purpose, OSHA Form No 101, or OWCP Forms CA–1 and CA–2, or the equivalent, shall be completed in the detail required by the forms and the instructions therein.

§ 1960.69 Annual summaries of Federal occupational injuries and illnesses.

(a) Each Federal agency, on a fiscal year basis; shall compile an annual summary of occupational injuries and illnesses as prescribed in OSHA publication 2014. The summaries shall be based on the record or log of occupational injuries and illnesses maintained pursuant to § 1960.67.

(b) At the agency's option, and consistent with the Privacy Act considerations and applicable bargaining agreements, the last page of the record or log of occupational injuries and illnesses may be posted as the Annual Summary of Federal Occupational Injuries and Illnesses.

(c) Each agency shall furnish the Department of Labor with a copy of its summary upon request of the Secretary.

§ 1960.70 Reporting of serious accidents.

(a) Within 48 hours after the occurrence of an employment accident, the head of the Federal agency shall report by telephone or telegraph to the Office of Federal Agency Programs:

(1) Any occupational accident which is fatal to one or more employees;

(2) Any occupational accident which results in the hospitalization of five or more employees;

(3) Any occupational illness which results in death;

(4) Any occupational accident involving both Federal and non-Federal employees which results in a fatality or the hospitalization of five or more such employees.

Accidents not immediately reportable, but which result in death within six months of the date of the accident, shall be reported within 48 hours of the time the employer becomes aware of the death.

(b) The report shall relate the circumstances of the accident, names of individuals involved, any actions taken by the agency, the number of fatalities, and/or injuries and illnesses and the extent of any injuries. The Secretary may require such additional information in writing or otherwise, as he deems necessary.

§ 1960.71 Location and utilization of records and reports.

(a) The provisions of this section, dealing with the availability of information compiled pursuant to this subpart, are designed to guide agencies in providing agency employees and their representatives with the basic information necessary to assure that they can actively participate in an agency safety and health program. The provisions of this section are also designed to encourage agencies to allow agency safety and health inspectors to have direct access to the accident, injury and illness records of the establishments they are inspecting in order that they may better carry out their duties pursuant to subpart D of this part.

(b) The log and supplementary records required by §§ 1960.67 and 1960.68 shall be maintained at each establishment. Where, for reasons of efficient administration or practicality, an agency must maintain these records at a place other than at each establishment, such agency shall ensure that there is available at each establishment a copy of these records. These records shall be complete and as current as possible; in no case shall more than 45 days elapse after the recording of an illness or injury occurring in an establishment and the availability of records reflecting that injury or illness at that establishment.

(c)(1) For agencies engaged in activities such as agriculture, construction, transportation, communication, and electric, gas and sanitary services, which may be physically dispersed, the log and supplementary records, or copies thereof, may be maintained at a place to which employees report each day.

(2) For personnel who do not primarily report or work at a single establishment, and who are generally not supervised in their daily work, such as traveling employees, technicians, engineers, etc., the log and supplementary records, or copies thereof, may be maintained at the base from which personnel operate to carry out their activities.

(d) Each Federal agency shall post a copy of its agency annual summary of Federal occupational injuries and illnesses for an establishment, as compiled pursuant to §§ 1960.67 or 1960.69, at such establishment, not later than 45 calendar days after the close of the fiscal year or otherwise disseminate a copy of the annual summary for an establishment in written form to all employees of the establishment. Copies of the annual summary shall be posted for a minimum of 30 consecutive days in a conspicuous place or places in the establishment where notices to employees are customarily posted. Where establishment activities are physically dispersed, the notice may be posted at the location to which employees report each day. Where employees do not primarily work at or report to a single location, the notice may be posted at the location from which the employees operate to carry out their activities. Each Federal agency shall take necessary steps to ensure that such summary is not altered, defaced, or covered by other material.

(e) The head of each agency shall ensure access to establishment logs and annual summaries by the establishment's Occupational Safety and Health Committees, employees, former employees and employee representatives.

(f) Agency safety and health inspectors shall also have access to accident, injury and health records maintained under this subpart and in accordance with the provisions of § 1960.26(a)(1).

§ 1960.72 Access to records by Secretary.

The records required to be maintained under the provisions of this subpart shall also be available and made accessible to the Secretary or his authorized representative (including personnel of the National Institute for Occupational Safety and Health).

§ 1960.73 Retention of records.

The records and reports required to be maintained under the provisions of this subpart shall be retained by each agency for five years following the end of the fiscal year to which they relate, at any location including a Federal record retention center, to which the Secretary or his authorized representative would have reasonable access. In addition, records required by OSHA standards shall be retained in accordance with those standards.

§ 1960.74 Agency annual reports.

(a) The Act and E.O. 12196 require all Federal agency heads to submit to the Secretary an annual report on their agency's occupational safety and health program, containing such information as the Secretary prescribes.

(1) Each agency shall submit to the Secretary by January 1 of each year a report describing the agency occupational safety and health program of the previous fiscal year, and objectives for the current year. The report shall include a summary of the agency's self-evaluation findings as required by § 1960.78(b).

(2) The Secretary shall furnish guidelines to agency heads by January 1 each year concerning the preparation of this report for the coming fiscal year.

(3) The agency reports shall be used in the preparation of the Secretary's report to the President.

(b) The Secretary shall submit to the President by October 1 of each year a summary report of the status of the occupational safety and health of Federal employees, based on agency reports, evaluations of individual agency progress and problems in correcting unsafe and unhealthful working conditions, and recommendations for improving their performance.

§§ 1960.75—1960.77 [Reserved]

§ 1960.38 [Amended]

3. Section 1960.38 in Subpart F is amended by changing the reference in paragraph (a) from § 1960.75 to § 1960.74.

[FR Doc. 84-1702 Filed 1-24-84; 8:45 am]
BILLING CODE 4510-26-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 2512-4]

Approval and Promulgation of Implementation Plans; Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final rulemaking.

SUMMARY: As requested by the State, EPA is revising the Wisconsin State Implementation Plan (SIP) for Volatile Organic Compounds (VOC). The revision pertains to partial exemptions of methylene chloride (dichloromethane) and methyl chloroform (1,1,1-trichloroethane) from the volatile organic compound (VOC) control requirements contained in the current Wisconsin SIP. EPA is approving this exemption because it is consistent with EPA's policy on negligibly photochemically reactive organic compounds.

DATE: This action is effective February 24, 1984.

ADDRESSES: Copies of this revision to the Wisconsin SIP are available for inspection at: The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408.

Copies of the SIP revision, and other materials relating to this rulemaking are available for inspection at the following addresses:

U.S. Environmental Protection Agency, Air and Radiation Branch, Region V,

230 South Dearborn Street, Chicago, Illinois 60604

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460

Wisconsin Department of Natural Resources, Bureau of Air Management, 101 South Webster, Madison, Wisconsin 53707

Written comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch (5AP–26), Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Uylaine E. McMahan, (312) 353–0396.

SUPPLEMENTARY INFORMATION: In the August 17, 1983 (48 FR 37232) **Federal Register**, EPA proposed to approve two revisions to the Wisconsin SIP. These were: (1) A partial exemption from the VOC control requirements contained in the Wisconsin SIP for the use of the negligibly photochemically reactive organic compounds methylene chloride and methyl chloroform and (2) the sulfur dioxide (SO_2) control requirements for the City of Brokaw in Marathon County. EPA will take final action on the SO_2 portion of this proposal at a later date.

Newly created section NR 154.13(13)(e) of the Wisconsin Administrative Code exempts the use of methylene chloride and methyl chloroform from the requirements of section NR 154.13, except for subsections NR 154.13(1) (a) and (b), general air pollution provisions. A detailed discussion of this exemption and EPA's reasons for approval can be found in the Notice of Proposed Rulemaking.

During the public comment period, no comments were submitted. Therefore, as proposed, EPA takes final action to approve Wisconsin's partial exemption of methylene chloride and methyl chloroform from the control requirements of the Wisconsin SIP. EPA is taking this action because deletion of these two compounds from the control strategy is consistent with EPA's policy on exempting negligibly photochemically reactive organic compounds from control (July 22, 1980, 45 FR 48941; May 16, 1980, 45 FR 32424; June 4, 1979, 44 FR 32042; and July 8, 1977, 42 FR 35314).

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Incorporation by reference.

Note.—Incorporation by reference of the State Implementation Plan for the State of Wisconsin was approved by the Director of the Federal Register on July 1, 1982.

This notice is issued under authority of Sections 110 and 172 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7502).

Dated: January 19, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40 of the Code of Federal Regulations, Chapter I, Part 52 is amended as follows:

Subpart YY—Wisconsin

1. Section 52.2570 is amended by adding paragraph (c)(32) as follows:

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

(32) On February 17, 1983, the Wisconsin Department of Natural Resources submitted the newly created section NR 154.13(13)(e) of Wisconsin's Administrative Code which partially exempts methylene chloride (dichloromethane) and methyl chloroform (1,1,1-trichloroethane) from the VOC control requirements contained in the Wisconsin SIP. The U.S. Environmental Protection Agency is not rulemaking at this time on the sulfur dioxide control requirements for the City of Brokaw in Marathon County which were also contained in the February 17, 1983, submittal.

* * * * *

[FR Doc. 84–1991 Filed 1–24–84; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 52

[Docket No. 1374; A–2–FRL 2512–5]

Approval and Promulgation of Implementation Plans; Connecticut; Lead Attainment and Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving State Implementation Plan revisions submitted by the State of Connecticut. The intended effect of this action is to approve the demonstration of attainment and maintenance of the Lead National Ambient Air Quality Standard (NAAQS) as required under Section 110 of the Clean Air Act.

EFFECTIVE DATE: February 24, 1984.

ADDRESSES: Copies of the submittal are available for public inspection at Room 2111, JFK Federal Building, Boston, MA 02203; Public Information Reference Unit, EPA Library, 401 M Street, SW, Washington, DC 20460; Office of the Federal Register, 1100 L Street, NW, Room 8401, Washington, DC 20408 and the Air Compliance Unit, Department of Environmental Protection, State Office Building, Hartford, CT 06106.

FOR FURTHER INFORMATION CONTACT: Betsy Horne, (617) 223–5130.

SUPPLEMENTARY INFORMATION: On October 26, 1983 (48 FR 49521), EPA published a Notice of Proposed Rulemaking (NPR) for the Connecticut lead attainment and maintenance plan. After due notice and public hearing, the adopted Connecticut plan was submitted on October 18, 1983. It includes air quality data, a mobile source emissions inventory (there are no major stationary sources of lead), an attainment demonstration and new source review procedures.

A detailed discussion of the revisions and the rationale for EPA's proposed parallel approval are explained in the NPR and will not be restated here. The final Connecticut submittal was identical to the draft plan on which EPA published proposed approval. No public comments were received on the NPR so EPA is affirming the approval proposed in the October 26, 1983 Notice.

Final Action

EPA is approving Connecticut's Lead Attainment and Maintenance Plan.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements (see 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, and Intergovernmental relations, Incorporation by Reference.

Authority: Sections 110(a) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)).

Note.—Incorporation by Reference of the State Implementation Plan for the State of Connecticut was approved by the Director of the Federal Register on July 1, 1982.

Dated: January 19, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart H—Connecticut

1. Section 52.370, paragraph (c) is amended by adding paragraph (31) as follows:

§ 52.370 Identification of plan.

* * * * *

(c) * * *

(31) Revisions demonstrating the attainment and maintenance of the lead standard were submitted on October 18, 1983.

[FR Doc. 84-1982 Filed 1-24-84; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[EPA Docket No. AW600-604VA; A-3-FRL 2512-3]

1982 Ozone and Carbon Monoxide State Implementation Plan for the Commonwealth of Virginia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today approves the 1982 State Implementation Plan (SIP) revision for the Commonwealth of Virginia, except for the Inspection and maintenance (I/M) portion. This SIP revision provides for attainment of the primary National Ambient Air Quality Standard (NAAQS) for Ozone (O_3) and Carbon Monoxide (CO) as required under Part D of the Clean Air Act Amendments of 1977. Except for the I/M, the SIP revision meets all requirements of the Clean Air Act and EPA policy. EPA will complete final action on Virginia's I/M program in the near future.

EFFECTIVE DATE: February 24, 1984.

ADDRESSES: Copies of the revision and accompanying documents are available during normal business hours at the following offices:

U.S. Environmental Protection Agency, Region III, Air Management Branch, Curtis Building, Second Floor, Sixth & Walnut Streets, Philadelphia, PA 19106, ATTN: Harold A. Frankford

Virginia State Air Pollution Control Board, Room 801, Ninth Street Office Building, Richmond, VA 23219, ATTN: John M. Daniel, Jr.

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460

The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford (3AW13) at the EPA, Region III address above or telephone 215/597-8392.

SUPPLEMENTARY INFORMATION:

I. Requirements for States to Submit SIPs

The Clean Air Act Amendments of 1977 added a new Part D to Title I of the Act. Under this Part, the States had to revise their SIPs for all nonattainment areas and submit the revision to EPA by January 1, 1979 (Sections 171-178 of the Clean Air Act; Section 129(c) (uncodified) of Pub. L. 95-95. The revised plan had to provide for attainment by December 31, 1982, except in the case of O_3 or Carbon Monoxide, where an extension of the deadline up to December 31, 1987 was possible if States could demonstrate they could not meet the December 31, 1982 deadline. States which requested and were granted deadline extensions were required to submit a second SIP revision providing for attainment by the new deadline.

II. Virginia Submittals

The Commonwealth of Virginia had submitted a number of draft submittals between October 19, 1982 and November 3, 1982 which constituted its 1982 Ozone/CO SIP. All of these draft submittals, except the October 21, 1982 submittal of administrative procedures which did not need to undergo a public hearing and review prior to adoption, were subject to Statewide Public Hearings on December 16, 1981 and April 19, 1982. An additional public hearing was held on September 10, 1982 in Fairfax.

EPA reviewed these submittals concurrently under the "parallel processing" procedures. On February 3, 1983, 48 FR 5124, EPA proposed approval of the draft Virginia SIP revisions. Virginia has since formally submitted all of the required elements of the 1982 Part D plan. The formal submittal did not substantively change from the draft versions.

The following chart summarizes the formal submission dates for the various portions of the Virginia SIP:

Material submitted	Draft submittal	Formal submittal
Final Washington Metropolitan Air Quality Plan for the Northern Virginia Nonattainment Area	Nov. 3, 1982	Jan. 12, 1983.
Amendments to State Volatile Organic Compounds (VOC) Regulations	Oct. 22, 1982	Jan. 5, 1983.
Amendments to Virginia's Inspection and Maintenance (I/M) Program	Oct. 21, 1982	Dec. 29, 1982.
Amendments to State VOC Regulations	Oct. 19, 1982	Dec. 27, 1982.
Commitments from Certain Local Agencies (Fairfax and Loudoun Counties)	None submitted	Dec. 3, 1982.

III. Description of Virginia Ozone SIP

Ozone is formed from various precursors, primarily oxides of nitrogen, and a class of hydrocarbons called "reactive volatile organic compounds" (VOCs). VOC emissions are controlled to reduce ozone concentrations.

The Commonwealth has only one nonattainment area, Northern Virginia, which cannot demonstrate attainment by December 31, 1982. The ozone modeling analysis indicates that a 46 percent emission reduction will be needed to eliminate violations of the Ozone Standard in this area.

The 1982 Virginia SIP for O_3 combines a mix of stationary and mobile source strategies to achieve these necessary reductions. It is divided into six sections:

—Emissions Inventory,
—Demonstration of Attainment/ Modeling,
—Reasonable Further Progress (RFP),
—Stationary Source Controls,
—Transportation Control Measures, and
—Inspection and Maintenance.

The current plan demonstrates a VOC emission reduction of 118 tons per day by 1987, leaving an additional reduction of 40 tons per day needed to attain the standard. Emission reduction targets were agreed upon by the three jurisdictions to achieve the needed 40 tons. Virginia's target is 16 tons per day. The control measures in Virginia's 1982 ozone SIP will reduce VOC emissions by 8.9 tons per day.

This leaves a shortfall in 1987 of 7.1 tons per day. Virginia has committed to evaluate a mix of additional control measures, including Stage II Vapor Recovery, and to implement regulations in order to achieve the additional 7.1 tons per day reduction. The schedule for and commitment to develop additional regulations to ensure attainment in 1987 is discussed in the February 3, 1983 proposed rulemaking notice. The current schedule submitted by Virginia requires that final selection of stationary source control measures be completed by July 1, 1985. However, due to the tight schedule between selection of measures and implementation of these measures to ensure attainment by December 31, 1987, EPA may be required to impose immediate funding and growth restrictions if the Commonwealth does not complete its selection of measures by July 1, 1985.

IV. Description of the Inspection and Maintenance (I/M) Program

On February 3, 1983, 48 FR 5124, EPA stated that Virginia must submit a complete analysis of its I/M program in order for the Agency to finalize its determination of the overall effectiveness of Virginia's I/M program. On September 1, 1983, Virginia informed EPA by letter that it will complete the required analysis by December 31, 1983, and will implement any necessary adjustments by April 1, 1984 to ensure the required emissions reductions in 1987. Therefore, EPA will complete final action on Virginia's total I/M program in the near future.

V. Description of the Carbon Monoxide (CO) SIP

Transportation sources, particularly the automobile, are responsible for most regional CO emissions. CO is monitored at 10 sites throughout the region. However, no monitors measuring congested intersections are located in the Virginia or Maryland portions of the Washington, D.C. metropolitan area. Violations of the 8 hour CO standard have been recorded and areas of high traffic density are designated nonattainment for CO. The attainment date for the Northern Virginia area is December 31, 1987.

Carbon Monoxide concentrations are expected to decrease significantly by 1987 due to a continuation of the Federal Motor Vehicle Control Program and implementation of the vehicle Inspection and Maintenance (I/M) program. A "hot spot" analysis was performed by the Metropolitan Washington Council of Governments that modeled selected intersections using the Intersection Midblock Model (IMM). This detailed modeling analysis, which demonstrates attainment at local "hot spot" intersections, is a part of the State plan. The plan also contains an adequate demonstration of Reasonable Further Progress (RFP). This material satisfies the EPA criteria. The formal State submittal addresses all items necessary for an approvable CO plan.

VI. Response to Comments

New York State submitted comments regarding EPA's proposed actions on the 1982 O_3 SIPs of Ky., Ind., Ill., Del., Md., Mi., Mo., N.J., N.Y., Ohio, Pa., D.C., Tex., Va., and Wis. New York State's comments have been considered by EPA when determining what final action to take on Virginia's submittal. New York's comments were the only comments received regarding that submittal. Because of the large geographic area addressed by these comments, EPA has responded to the points raised by New York in a separate technical support document located in the Region's rulemaking docket.

NRDC also commented on the use of schedules in 1982 SIPs. A response to this comment is also available at the Regional Office.

VII. Plan Review

EPA has determined that all portions of Virginia's 1983 Part D SIP submittal except the I/M program meet the requirements of Section 110 and Part D of the Clean Air Act and 40 CFR Part 51. EPA has made this determination using the criteria published in the **Federal Register** on January 22, 1981, 46 FR 7182.* EPA's review is documented in a technical support document which is available at the offices listed under "**ADDRESSES**" above. EPA has not yet made a final determination on the I/M program.

VIII. Rulemaking Action

EPA approves all portions of Virginia's 1982 SIP revision for attainment of the O_3 and CO standards except the I/M program. EPA is amending 40 CFR Part 52.2420 (Identification of Plan) of Subpart VV (Virginia) to incorporate the approved portions of this SIP revision into the Virginia SIP.

IX. General

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 24, 1984. This action may not be challenged later in proceedings to enforce its requirements (See 307(b)(2)).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Incorporation by reference.

Authority: 42 U.S.C. 7401–7626.

Dated: January 19, 1984.

William D. Ruckelshaus,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the Commonwealth of Virginia was approved by the Director of the Federal Register on July 1, 1982.

PART 52—[AMENDED]

Part 52 of Title 40, of the Code of Federal Regulations is amended as follows:

Subpart VV—Virginia

1. Section 52.2420 is amended by adding paragraphs (c)(74), (c)(75), (c)(78), and (c)(79) to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

(74) Amendments to Sections 1.02; 2.04(a); 2.14; 2.32(c); 2.33(j); 2.34(g); 4.02 (f) and (g); 4.54; 4.55; 4.56; 4.57; 4.94; 5.02(f); 8.02(o); and Appendix J, Part II, Sections a.2. and d.2; submitted on December 27, 1982 by the Commonwealth of Virginia.

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* These criteria supplement the "General Preamble" for SIP revisions for nonattainment areas. The "General Preamble" appeared in the **Federal Register** on April 4, 1979 (44 FR 20372).

(75) Amendments to Sections 4.56, 5.02(a), and 5.15; submitted on January 5, 1983 by the Commonwealth of Virginia.

* * * * *

(78) The Washington Metropolitan Air Quality Plan for the Northern Virginia Nonattainment Area for Ozone and Carbon Monoxide Air Quality Standards submitted by the Virginia State Air Pollution Control Board on January 12, 1983.

(79) Amendments to Appendix I of the Virginia Regulations for the Control and Abatement of Air Pollution consisting of confirmation of local government commitments by Fairfax County and Loudoun County to implement the Northern Virginia Nonattainment plan; submitted on December 3, 1982 by the Virginia State Air Pollution Control Board.

[FR Doc. 84-1980 Filed 1-24-84; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 52

[A-6-FRL 2512-8]

Revision to Oklahoma Regulation 1.5—Reports Required; Excess Emissions During Startup, Shutdown and Malfunction of Equipment

AGENCY: Enviromental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: This action approves a revision to the State of Oklahoma Air Quality Control Implementation Plan which was submitted by the Governor on February 8, 1983. Specifically, the State revised Regulation 1.5—Reports Required: Excess Emissions During Startup, Shutdown and Malfunction of Equipment to ensure the use of the enforcement discretion approach by the State and to meet EPA's criteria for a malfunction regulation. Prior to this submittal, the State submitted a letter of clarification to Regulation 1.5 on October 18, 1982, in response to a preliminary review by EPA. The State submitted another letter of clarification on May 24, 1983. The proposed approval was published on October 12, 1983, at 48 FR 46392. One comment was received which supports EPA's action.

EFFECTIVE DATE: Effective on February 24, 1984.

ADDRESSES: Incorporation by reference material is available for inspection during normal business hours at the following locations:

Environmental Protection Agency, Air and Waste Management Division, Air Branch, State Implementation Plan Section, 1201 Elm Street, Dallas, Texas 75270

Environmental Protection Agency, Public Information Reference Unit, EPA Library, 401 M Street, SW., Washington, D.C. 20460

The Office of the Federal Register, Rm. 8401, 1100 L Street, NW., Washington, D.C. 20460

Oklahoma State Department of Health, Air Quality Service, 1000 Northeast 10th Street, Oklahoma City, Oklahoma 73152

FOR FURTHER INFORMATION CONTACT: Kathryn M. Griffith, Air and Waste Management Division, Air Branch, State Implementation Plan Section, 1201 Elm Street, Dallas, Texas 75270, (214) 767-9853.

SUPPLEMENTARY INFORMATION: On February 8, 1983, the Governor of Oklahoma submitted a SIP revision to Regulation 1.5 (Reports Required: Excess Emissions During Startup, Shutdown and Malfunction of Equipment), as revised on June 1, 1981. EPA reviewed the State's submittal and developed an evaluation report [1] in accordance with the minimum criteria established by the EPA policy memorandum dated, September 28, 1982 (Policy on Excess Emissions During Startup, Shutdown, Maintenance and Malfunctions) and the clarification memorandum dated February 15, 1983. This evaluation report is available for inspection by interested parties during normal business hours at the EPA Region 6 office and the other address listed above.

EPA believes that Oklahoma's Regulation 1.5 is consistent with EPA's malfunction policy. EPA's basic criterion in reviewing malfunction regulations is that the regulations must not provide for an automatic exemption during a maintenance/malfunction episode. The State's response to automatic exemptions as stated in their letter of clarification dated, May 24, 1983, is "the mere providing of the information mandated in Sections 1.5(c)(2) (A), (B), and (C) does not exempt the facility from enforcement of the violation. The violation can be pursued if the Chief (i.e., The Department) is not satisfied that excess emissions were not unavoidable." This is interpreted as the Chief exercising his enforcement discretion depending on the circumstances surrounding the excess emissions rather than an automatic exemption. The State will use the information submitted in response to the requirements of Regulation 1.5 to determine whether enforcement action is appropriate.

The policy memoranda list 5 other criteria which a State's malfunction regulation must meet and they are:

(1) To the maximum extent practicable, the air pollution control equipment, process equipment, or processes were at all times maintained and operated, in a manner consistent with good practice for minimizing emissions;

Regulation 1.5—This criterion is met under Section 1.5(e)(2)(H), along with the October 18, 1982, clarification letter. The State stated that "it is the intent that Section 1.5(e)(2)(H) allows the Chief of the Air Quality Service to require the submission of preventive maintenance plans necessary to prevent, detect and correct malfunctions of equipment." EPA interprets this to include documentation on process equipment or processes.

(2) Repairs were made in an expeditious fashion when the operator knew or should have known that applicable emission limitations were being exceeded. Off shift and overtime labor must have been utilized to insure that such repairs were made as expeditiously as possible;

Regulation 1.5—This criterion is met under Section 1.5(c)(2)(B), along with the October 18, 1982, clarification letter. The State indicated that "sources are also required to demonstrate to the satisfaction of the Chief of the Air Quality Service in a timely manner that measures such as off-shift and overtime labor have been used to effect repairs and minimize emissions."

(3) The amount and duration of the excess emissions (including any bypass) were minimized to the maximum extent practicable during periods of such emissions;

Regulation 1.5—This criterion is met under Sections 1.5(e)(2) (B), (C), and (G).

(4) All possible steps were taken to minimize the impact of the excess emissions on ambient air quality; and

Regulation 1.5—This criterion is met under Sections 1.5(c)(2)(B) and 1.5(e)(2) (F) and (G).

(5) The excess emissions are not part of a recurring pattern indicative of inadequate design, operation or maintenance.

Regulation 1.5—This criterion is met under Sections 1.5(c)(2)(C) and 1.5(f)(2)(C).

The State was asked to clarify excess emissions during scheduled maintenance under Section 1.5(c) Notification Requirements. Their May 24, 1983, clarification letter states that "It is the intent of this regulation to allow the Chief not to pursue enforcement of violations due to removing control equipment from operation to perform maintenance * * * The regulation requires that pollution control equipment maintenance be accomplished to the extent possible when the process is shut down." As the regulation is written and interpreted by the State, excess emissions during scheduled maintenance are not excused. However, in using the enforcement

[1] EPA Evaluation Report for Oklahoma Regulation 1.5—Reports Required: Excess Emissions During Startup, Shutdown and Malfunction of Equipment.

discretion approach, the State may conclude from an examination of the facts surrounding the event that no enforcement action is appropriate. If EPA takes a different view of the facts and believes that enforcement action is necessary because of the excess emissions, EPA still has the legal authority to take that action.

The State was also asked to clarify Section 1.5(f) Excesses Resulting From Engineering Limitations. Their May 24, 1983, clarification letter states "This section does not grant automatic exemptions. This section is designed to reduce the administrative burden on process startup/shutdowns. There are some processes that invariably will emit excess emissions during this phase of their operation . . . The approach requires prior approval, but upon approval allows the source to report these occasions on a quarterly basis. Thus, the State can review quarterly the occurrences to assure that excessive startup/shutdowns are not occurring. If excessive startup/shutdowns are occurring, the State will take appropriate action." EPA accepts this interpretation.

In the October 12, 1983, **Federal Register** Notice, EPA solicited public comment. Only one comment was received and it was in support of the proposed approval.

Regulation 1.5 along with the clarification letter dated, October 18, 1982, and May 24, 1983, meets all of EPA's minimum criteria for an approvable malfunction regulation. Based on this, EPA is hereby approving Regulation 1.5.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

Incorporation by reference of the State Implementation Plan for the State of Oklahoma was approved by the Director of the Federal Register on July 1, 1982.

This notice of final rulemaking is issued under the authority of Section 110 of the Clean Air Act, as amended, 42 U.S.C. 7410.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations. Incorporation by Reference.

Dated: January 19, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart LL—Oklahoma

1. In § 52.1920, (c) is amended by adding paragraph (30) as follows:

§ 52.1920 Identification of action.

* * * * *

(c) * * *

(30) Revision to Oklahoma Regulation No. 1.5—Reports Required: Excess Emissions During Startup, Shutdown and Malfunction of Equipment was submitted by the Governor on February 8, 1983. Letters of clarification were submitted by the State on October 18, 1982 and May 24, 1983.

[FR Doc. 84-1994 Filed 1-24-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 162

[OPP-250049; PH-FRL 2509-2]

Pesticide Products; Effective Date for Conditional Registration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule; Confirmation of Effective Date.

SUMMARY: As required by section 25(a)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA submitted a final regulation establishing procedures for the conditional registration of pesticide products which are identical or substantially similar to those currently registered, and the conditional registration of new uses of existing pesticides by EPA to both Houses of Congress for review prior to the regulation taking effect. The regulation was published in the **Federal Register** of July 26, 1983 (48 FR 34000). The minimum 60-day period for Congressional review ended on November 10, 1983.

DATE: The regulation became effective on November 10, 1983.

FOR FURTHER INFORMATION CONTACT: By mail: Jean Frane, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 1114C, CM#2, 1921 Jefferson Davis Highway, Arlington, VA. (703-557-0592).

SUPPLEMENTARY INFORMATION: EPA issued a final regulation, which was published in the **Federal Register** of July 26, 1983 (48 FR 34000), under section 3 of FIFRA. The regulation established procedures for the conditional registration of pesticide products which are identical or substantially similar to those currently registered, and the conditional registration of new uses of existing pesticides, by the Agency. The rule also replaced current regulations on conditional registration that the Third Circuit Court of Appeals found had been issued without adequate notice and comment. However, as required by section 25(a)(4) of FIFRA, the regulation could not take effect until it had been submitted to both Houses of Congress for a period of 60 days of continuous Congressional session, as defined by section 25(a)(4). Since it was not possible to predict an exact date on which the Congressional review period would end, the preamble to the final regulation stated that EPA would issue a separate **Federal Register** notice after the review period was over announcing the effective date of the regulation. On November 10, 1983, 60 days of continuous Congressional session elapsed.

Accordingly, the final regulation promulgated on July 26, 1983 (48 FR 34000), became effective on November 10, 1983.

(Sec. 25, as amended, Pub. L. 96-539, 94 Stat. 3195 (7 U.S.C. 136))

List of Subjects in 40 CFR Part 162

Administrative practice and procedure, Intergovernmental relations, Labeling, Packaging and containers, Pesticides and pests.

Dated: January 12, 1984.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 84-1449 Filed 1-24-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[PP 3E2690/R636 PH-FRL 2510-8]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Dimethoate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for combined residues of the insecticide dimethoate and its oxygen analog in or on the raw agricultural commodity lentiles. This regulation was requested in a petition submitted by the Interregional Research Project No. 4 (IR–4).

EFFECTIVE DATE: Effective on January 25, 1984.

ADDRESS: Written objections may be submitted to the : Hearing Clerk (A–110), Rm. 3708, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Emergency Response and Minor Use Section (TS–767C), Registration Division, Environmental Protection Agency, Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–1192).

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule published in the **Federal Register** of November 23, 1983 (48 FR 52951), announcing that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition 3E2890 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Station of Idaho.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the combined residues of the insecticide dimethoate (*O,O*-dimethyl *S*-(*N*-methylcarbamoylmethyl) phosphorodithioate) including its oxygen analog (*O,O*-dimethyl *S*-(*N*-methylcarbamoylmethyl) phosphorothioate) in or on the raw agricultural commodity lentils at 2.0 parts per million (ppm).

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The scientific data submitted in the petition and other relevant material have been evaluated and discussed in the notice of proposed rulemaking.

The pesticide is considered useful for the purpose for which the tolerance is sought. It is concluded that the tolerance would protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: January 11, 1984.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.204 is amended by adding and alphabetically inserting the raw agricultural commodity lentils, to read as follows:

§ 180.204 Dimethoate including its oxygen analog; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Lentils	2.0
* * * * *	

[FR Doc. 84–1899 Filed 1–24–84; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 351

[Docket No. 31129–227]

Whaling; International Whaling Commission

Correction

In FR Doc. 84–625 beginning on page 1522 in the issue of Thursday, January 12, 1984, make the following corrections to Tables 1 through 3 of Subpart C:

1. On page 1523, Table 1, make the following changes:

a. Under Minke, Catch limit, the entry for Newfoundland-Labrador Stock should have been a dot instead of "0", and the entry for Canadian East Coast Stock should have been "0", instead of a dot.

b. Under Fin, Catch limit, the entry for North Atlantic: Whole region should have been dot instead of "PS", and the entry for Newfoundland-Labrador Stock should have read "0" instead of a dot.

c. Under Humpback classification, the entry for Arctic should have been a dot instead of a line of leaders.

d. Under Right bowhead, pigmy right classification, the entries for Areas I through VI should have each read "PS", and the entry for North Atlantic: Whole region, should have read "PS" instead of a dot.

e. Under Gray, Classification, the entries for Areas IV through VI should have each been dots instead of "PS".

f. In footnote 7 at the bottom of the page, "taken aborigines" should have read "taken by aborigines".

2. On page 1523, Table 2, insert dashes in the column for Classification for the following entries: South Atlantic Stock, South African Inshore Stock, Peruvian Stock, East China Sea Stock, and Northern Indian Ocean—1984 season.

3. Also on page 1523, Table 3, Under Sperm, Catch limit, the entry for North Pacific: Western Division, now reading "12" should have read "—[1,2]".

BILLING CODE 1505–01–M

Proposed Rules

Federal Register
Vol. 49, No. 17
Wednesday, January 25, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Organization and Operations of Federal Credit Unions; Request for Comments on Rules Governing a Federal Credit Union's Ownership of Fixed Assets

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comments on § 701.36 of NCUA Rules and Regulations.

SUMMARY: The National Credit Union Administration is soliciting comments on whether, and to what extent, it should modify its requirements governing a Federal Credit Union's Ownership of Fixed Assets. Section 107(4) of the Federal Credit Union Act states that a Federal credit union has the power to purchase, hold, and dispose of property necessary or incidental to its operations. Section 701.36 of the National Credit Union Administration Rules and Regulations requires Federal credit unions having aggregate assets of $2 million or more to obtain the written approval of the Administration when aggregate investments in fixed assets will exceed 5 percent of the credit union's total assets, or when it exceeds a preapproved investment limit that has been authorized by the National Credit Union Administration. The request for authorization for such an investment must be supported by certain statements and reports. The rule has other provisions which impose limitations on all Federal credit unions as to the accounting for the purchase, holding, and disposal of fixed assets, the obtaining of property for future expansion, and the disposal of "abandoned premises". The existing rule also prohibits all Federal credit unions from acquiring real property for use as premises from directors, members of the supervisory and credit committees, officials and employees, their spouses or members of their immediate families without the prior written approval of NCUA.

DATES: Comments must be received on or before May 21, 1984.

ADDRESS: Send comments to Rosemary Brady, Secretary, National Credit Union Administration Board, 1776 G Street, NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Layne L. Bumgardner, Director, Department of Supervision and Examination or Mike Fischer, Director, Division of Supervision, at the above address. Telephone numbers: (202) 357-1065 (Mr. Bumgardner and Mr. Fischer).

SUPPLEMENTARY INFORMATION:

Background

Section 701.36 of the NCUA Rules and Regulations currently requires all Federal credit unions, having aggregate assets of $2 million or more to seek written approval of the NCUA when its total investments in fixed assets will exceed 5 percent of total assets or its previously NCUA approved fixed assets investment limit. The rule requires those Federal credit unions to submit specific reports and statements in support of their request. The following is a summary of the requests received, approved and disapproved during the period of time the rule has been in effect:

Year	Total acted upon	Proposals	
		Approved	Disapproved
1979	125	79	46
1980	90	67	23
1981	138	76	62
1982	77	58	19
1983	77	73	4
Total	516	353	163

Portions of the current rule have applicability to all Federal credit unions, regardless of asset size. Currently, all Federal credit unions, having fixed assets, are subject to specific fixed asset accounting requirements such as amortization periods, depreciation methods, estimated useful lives, and maximum salvage values. They are also subject to requirements relating to the disposal of "abandoned premises" and property acquired for future expansion. The existing rule prohibits all Federal credit unions from acquiring real property for use as premises from directors, members of the supervisory and credit committees, officials and employees, their spouses or members of their immediate families without prior written approval of NCUA.

As part of the NCUA Board's on-going review of the National Credit Union Administration Rules and Regulations, § 701.36 of those regulations is being reviewed. A preliminary review has been made of those Federal credit unions that have fixed assets as opposed to those that do not. The study consisted primarily of a review of the financial performance of those Federal credit unions that have $250,000 in total assets or more. It included a review of various fixed asset acquisitions and disposals which are known to have threatened the future of the credit unions involved in the transactions. The review brought forth supportive evidence, over the time during which the rule has been in effect, that indicates that perhaps Federal credit unions with assets of $1,000,000 or more should also be covered by the rule.

Federal credit unions with assets of $1,000,000 or more and a ratio of fixed assets to total assets of more than 5 percent tend to represent a greater risk of loss to the National Credit Union Administration Share Insurance Fund (NCUSIF) than do other Federal credit unions. These Federal credit unions have a history of lower average net earnings after dividends and statutory reserve transfers. They also experience adverse financial performance trends such as historically lower capital to asset ratios, higher operating expense to assets ratios, and lower average net income to average asset ratios than those Federal credit unions that either have no fixed assets or aggregate fixed assets equal to 5 percent or less of total assets.

Tables No. 1, 2, and 3 provide data that reveal these adverse historical trends. The tables are divided into three asset categories; FCU's with total assets of: (1) $2 million or more; (2) $1,000,000 to $1,999,999; and (3) $250,000 to $999,999. Each table covers the Call Reporting periods during which Section 701.36 of the NCUA Rules and Regulations has been in effect from yearend 1979 through midyear June 1983. Each year's data is subdivided into fixed assets ratios of: (1) Greater than 5 percent; (2) 0.10 percent to 5 percent; (3) less than 0.10 percent.

As credit unions contine to grow, more and more boards of directors of credit unions are being confronted with decisions to buy, rent, or lease assets for their credit union's operations. In some instances, because of economic pressures, they are also being confronted with decisions to sell non-income producing assets to remain competitive with other financial institutions. Such decisions sometimes involve sale-and-leaseback arrangements in which the credit union sells its fixed assets (building, computer hardware, and etc.), leasing back a portion, or all of those assets, for the purpose of acquiring additional operating capital and profits from their sale.

The purchase of a credit union building or other substantive fixed asset is usually the result of achieving some milestone in the credit union's history. It often symbolizes for the officials and the members the soundness and stature of the credit union. A purchase such as a new credit union building also represents a substantial commitment of members' shareholdings (funds) to a non-earning asset. If the commitment is not properly planned for, it can substantially affect the financial soundness of the credit union and the future quality and range of members' services. If the credit union has to liquidate or merge, the NCUSIF may become the keeper of the credit unions' building, incurring the holding costs until it is sold. Currently, the NCUSIF holds title to five credit union buildings, three of which are "big ticket" properties. These properties are hard to sell, partly because of the recent recession, but also because they are special purpose buildings that are located in less marketable locations. Their future use is limited. For three of the five properties currently held (one is for a FISCU), the NCUSIF stands to lose an estimated one half million dollars. As for the NCUSIF's largest building acquisition, it resulted in an estimated loss to the NCUSIF of $1.4 million. Additional information on the NCUSIF's current building acquisitions can be found in the Fiscal Year 1983 Annual Financial Report of the NCUSIF.

Another example of a troubled investment in fixed assets by a federally insured state-chartered credit union (FISCU), consists of the credit union's participation in a building project via a credit union service organization (CUSO). The CUSO encouraged the FISCU to invest funds more than 10 percent of its assets with the CUSO so that it could build a speculative office building in partnership with several other individuals (firms). The new building was built during the recent recessionary period and was constructed beside two other new office buildings that were not fully leased out. The CUSO's building cost $12,000,000, in which the FISCU invested $3,000,000. The CUSO was unable to lease sufficient office space to generate the funds needed to make the required mortgage payments on the building. The building was financed by 1st, 2nd, and 3rd mortgages. One of the mortgagors was an insurance company that wanted to foreclose. It had provided the balance of the funds that were needed to initiate the building project.

In most instances, decisions to buy, or sell, fixed assets are made only after careful and deliberate study. When § 701.36 of the NCUA Rules and Regulations was implemented, however, there were increasing incidences where the acquisitions of fixed assets were causing severe financial problems for Federal credit unions. During the period in which the rule has been operative, the boards of directors of Federal credit unions, to which the rule applies, have been required to document their deliberations and decisions as to whether to purchase fixed assets. It is believed that this requirement has caused credit union boards to more carefully plan and assess the impact of fixed asset acquisitions. As a result of the rule, and because of economic trends during the past few years there have been fewer instances when a Federal credit union's future has been placed into financial jeopardy because of its investment in such assets.

The current rule does not apply to those situations where a Federal credit union's board of directors has entered into a sale-and-leaseback of its fixed assets for the purpose of obtaining quick cash and/or "windfall profits" so that it can continue to declare high dividends on its members' share accounts. Such arrangements generally have a leaseback period of an extremely short duration which is used to justify the absorbing of the sale's profits over the shorter leaseback period, even though the sale may be financed by the selling credit union over a long term such as 35 years. Because these extremely risky practices were increasing in number, the NCUA Board implemented an Interpretive Ruling and Policy Statement (IRPS 81–7) that was applicable to all federally insured credit unions in September 1981. It required all gains on such sale-and-leaseback transactions to be deferred over the period of the financing or the leaseback, whichever was longer. Even though IRPS 81–7 requires otherwise, some Federal credit unions have been incorrectly trying to defer the gain on the sale of their fixed assets over the shorter leaseback period. Currently, FASB Statement No. 66, "Accounting For Sales of Real Estate" requires that minimum down payment requirements be satisfied before any profits may be recognized on real estate sales. If certain requirements for a lesser down payment cannot be satisfied, a 20% down payment is required before profits can be recognized immediately. Otherwise the sale is an installment sale with any gain to be deferred over the period of the financing arrangement. As for real estate sales that are accompanied by a sale-and-leaseback arrangement, FASB Statement No. 28, "Accounting For Sales With Leasebacks" and more importantly FASB Statement No. 31, "Accounting For Leases" require that any profit that is generated from a sale, under a substantive sale-and-leaseback arrangement, must be deferred over the life of the leaseback period." Currently, no NCUA regulations, except for IRPS 81–7, are in existence that govern the accounting for and conducting of such transactions. Such transactions, when improperly structured, pose a significant threat to the future operations of the selling credit union. These transactions also create situations whereby the risk of loss to the NCUSIF is great.

Request for Comments

In conjunction with the NCUA Board's review of § 701.36 of the NCUA Rules and Regulations, and in the spirit of deregulation, the NCUA Board is seeking public comment on the current regulations, and possibly additional regulations governing a Federally Insured Credit Union's Ownership of Fixed Assets. Specifically, the NCUA Board is interested in comments on the following questions:

1. Should the NCUA Board continue to regulate a Federal credit union's ownership of fixed assets? If so, to what asset size group(s) and ratios of fixed assets to total assets should the regulation apply?

2. Should the regulations apply to federally insured state-chartered credit unions (FISCUS) as well?

3. Should the agency set different requirements for different asset sizes of credit unions? If so, what should those requirements be and to what asset sizes should they apply?

4. Should the form of Statements and Reports submitted to NCUA in support of a request for an approval of an investment in fixed assets be left to the

discretion of an NCUA Regional Director?

5. Should the NCUA Board establish specific regulations governing the *accounting* for the purchase, sale, and disposal of fixed assets, including any gains resulting from such sales?

6. Should the NCUA Board establish specific regulations governing sale-and-leaseback transactions including the recognition of gains from such transactions in addition to or in lieu of IRPS 81-7?

List of Subjects in 12 CFR Part 701

Credit unions.

By the National Credit Union Administration Board on the 18th day of January 1984.

Rosemary Brady,

Secretary of the NCUA Board.

TABLE 1.—FCU'S HAVING $2 MILLION OR MORE IN ASSETS

Fixed asset ratio	Data as	Number of FCU's	Average assets	Average net income	Average fixed assets	Capital to asset	Operating expenses/ assets	Fixed assets to total assets
Greater than 5 percent	6/1983	[illegible]	14,264,395	4,350	1,007,899	5.5	4.9	6.7
0.10 percent to and including 5 percent	6/1983	2,497	14,397,964	37,972	270,073	[illegible]	4.1	1.5
Less than 0.10 percent	6/1983	743	9,678,982	26,784	2,163	8.1	3.3	[illegible]
Total		3,428	13,367,826	33,703	252,470			
Greater than 5 percent	12/1982	[illegible]	13,500,123	41,745	[illegible]	5.9	5.0	6.9
0.10 percent to and including 5 percent	12/1982	2,259	15,471,993	75,610	269,632	7.2	4.2	1.5
Less than 0.10 percent	12/1982	717	10,672,260	54,525	2,128	8.5	3.4	[illegible]
Total		3,184	12,055,044	[illegible]	249,916			
Greater than 5 percent	12/1981	[illegible]	12,299,834	18,762	848,700	5.9	4.7	7.1
0.10 percent to and including 5 percent	12/1981	2,002	13,949,224	70,000	249,037	7.3	3.9	1.6
Less than 0.10 percent	12/1981	[illegible]	8,768,297	72,696	1,742	8.6	3.1	0.02
Total		2,878	12,645,904	[illegible]	239,392			
Greater than 5 percent	12/1980	247	11,292,155	(65,089)	787,642	5.2	4.4	7.4
0.10 percent to and including 5 percent	12/1980	1,910	13,189,739	10,607	230,687	6.5	3.6	1.5
Less than 0.10 percent	12/1980	750	9,440,698	33,720	1,840	7.3	2.8	0.0
Total		2,907	12,061,262	10,139	218,982			
Greater than 5 percent	12/1979	222	10,691,018	(8,191)	776,355	5.9	4.2	7.5
0.10 percent to and including 5 percent	12/1979	1,814	12,545,672	51,524	216,432	6.4	3.5	1.5
Less than 0.10 percent	12/1979	781	7,950,023	52,415	2,026	[illegible]	2.7	0.02
Total		2,817	11,125,390	47,065	201,115			

TABLE 2.—FCU'S WITH $1,000,000 TO $1,999,999 IN ASSETS

Fixed asset ratio	Data as	Number of FCU's	Average assets	Average net income	Average fixed assets	Capital to assets	Operating expenses assets	Fixed assets to total assets
Greater than 5 percent	6/1983	51	1,344,814	201	105,511	6.6	[illegible]	7.1
0.10 percent to and including 5 percent	6/1983	[illegible]	1,303,678	2,913	14,067	7.3	5.0	1.0
Less than 0.10 percent	6/1983	617	1,274,853	5,672	296	8.5	4.1	.02
Total		1,600	1,532,909	4,954	30,268			
Greater than 5 percent	1982	[illegible]	1,432,001	[illegible]	107,163	6.4	6.2	7.5
0.10 percent to and including 5 percent	1982	[illegible]	1,380,570	8,244	14,122	7.8	5.0	1.0
Less than 0.10 percent	1982	677	1,421,733	11,953	308	8.7	4.2	[illegible]
Total		1,624	1,399,567	[illegible]	11,687			
Greater than 5 percent	1981	52	1,503,001	135	109,434	6.4	5.7	7.3
0.10 percent to and including 5 percent	1981	876	1,428,087	11,205	14,066	7.9	4.6	1.0
Less than 0.10 percent	1981	677	1,410,803	15,720	[illegible]	8.7	4.0	.02
Total		1,605	1,423,224	12,751	11,347			
Greater than 5 percent	1980	48	1,461,460	(7,287)	110,582	5.7	5.7	7.6
0.10 percent to and including 5 percent	1980	875	1,435,615	2,939	13,822	7.0	4.3	1.0
Less than 0.10 percent	1980	716	1,396,332	7,077	[illegible]	7.5	3.6	[illegible]
Total		1,639	1,419,211	4,861	10,744			
Greater than 5 percent	1979	42	1,456,937	(2,507)	117,596	5.4	5.4	8.1
0.10 percent to and including 5 percent	1979	872	1,445,577	7,231	12,902	[illegible]	4.1	0.9
Less than 0.10 percent	1979	729	1,402,787	10,715	314	7.3	3.4	.02
Total		1,643	1,426,882	8,656	[illegible]			

TABLE 3.—FCU'S HAVING $250,000 TO $999,000 IN ASSETS

Fixed asset ratio	Date	Number of FCU's	Average [illegible]	Average net [illegible]	Average fixed assets	Capital to assets	Operating expenses/ assets	[illegible] assets to total assets
Greater than 5 percent	6/1983	54	582,455	2,266	49,670	7.1	6.4	8.7
0.10 percent to and including 5 percent	6/1983	1,440	522,021	2,118	4,006	8.2	5.6	0.8

TABLE 3.—FCU'S HAVING $250,000 TO $999,000 IN ASSETS—Continued

Fixed asset ratio	Date	Number of FCU's	Average	Average net income	Average fixed assets	Capital to assets	Operating expenses/ assets	Fixed assets to total assets
Less than 0.10 percent	6/1983	1,932	481,745	2,936	88	9.6	4.8	0.02
Total		3,426	500,419	2,582	2,517			
Greater than 5 percent	1982	59	615,359	2,585	52,117	6.8	6.5	8.9
0.10 percent to and including 5 percent	1982	1,479	561,281	3,338	4,203	8.1	5.5	0.8
Less than 0.10 percent	1982	1,957	518,662	3,941	85	9.6	4.5	.01
Total		3,495	538,330	3,663	2,706			
Greater than 5 percent	1981	[illegible]	581,479	(7)	47,090	6.3	5.6	8.3
0.10 percent to and including 5 percent	1981	1,501	562,680	4,252	4,128	8.0	5.0	0.7
Less than 0.10 percent	1981	1,991	516,576	5,659	84	9.3	4.3	0.02
Total		3,558	537,230	4,961	2,662			
Greater than 5 percent	1980	[illegible]	589,482	(6,045)	54,718	5.0	6.2	9.0
0.10 percent to and including 5 percent	1980	1,662	549,627	773	3,962	6.8	4.8	0.7
Less than 0.10 percent	1980	2,252	519,390	2,429	90	8.0	4.0	0.02
Total		3,980	533,179	1,597	2,613			
Greater than 5 percent	1979	59	573,378	(175)	45,637	7.2	5.9	8.3
0.10 percent to and including 5 percent	1979	1,718	545,367	1,761	3,684	6.3	4.5	0.7
Less than 0.10 percent	1979	2,315	527,544	3,080	92	7.4	3.7	(0.2)
Total		4,092	535,688	2,485	2,257			

Explanations of Ratios

Capital Asset Ratio=All Reserves and Undivided Earnings (excluding the Allowance for Loan Losses) divided by Total Assets.

Operating Expenses to Assets Ratio=Total Expenses less Interest on Borrowed Money and the Provision for Loan Losses divided by Total Assets.

Fixed Assets to Total Assets Ratio=Total of the Land and Building Account and the Other Fixed Asset Accounts divided by Total Assets.

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SMALL BUSINESS ADMINISTRATION

13 CFR Part 140

Debt Collection

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The Small Business Administration today proposes rules governing the collection of debts owed to SBA and to the United States. These rules indicate new procedures which may be utilized in the SBA debt collection process. The three additional procedures are: (1) Information disclosure to consumer reporting agencies; (2) salary offset; and (3) administrative offset. These procedures are separate and distinct from each other. Any one procedure may be used by itself or in conjunction with one (or both) of the other two procedures. However, these procedures may only be utilized after the normal SBA collection procedures are tried and found to be unproductive. In addition, all three procedures allow for review of the claim prior to initiating the particular procedure. Review of the information disclosure process will be conducted by the SBA field office in which the claim is lodged; review of salary offset and administrative offset will be conducted by SBA's Chief Administrative Law Judge, or another administrative law judge. These rules would reflect the changes to Federal claims collection made by the Debt Collection Act of 1982 (Pub. L. 97-365), which was enacted on October 25, 1982. Chapter I of title 13 of the Code of Federal Regulations (CFR) will be amended, by adding a new Part 140, to take into account these rules.

DATES: Comments must be received by February 24, 1984.

ADDRESS: Written comments should be addressed to Martin Teckler, Associate General Counsel for Legislation, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Martin Teckler (202) 653-6797.

SUPPLEMENTARY INFORMATION: The Debt Collection Act of 1982 was designed to increase the efficiency of government-wide efforts to collect debts owed the United States and to provide additional procedures for the collection of such debts. These proposed rules would implement those purposes. Proposed § 140.1 states that the scope of these regulations is to prescribe procedures which may be used by SBA to collect debts owed to SBA and to the United States.

Proposed § 140.2 contains definitions of various terms used in these regulations. The definitions of "administrative offset," "consumer reporting agency," "disposable pay," "person," and "system of records," are essentially derived from Pub. L. 97-365.

Proposed § 140.3 describes the information disclosure procedure, derived from section 3 of Pub. L. 97-365, which would be available for use in the collection of overdue debts. Proposed § 140.3(a) would allow SBA to disclose to consumer reporting agencies information from a system of records that an individual is responsible for a claim if four specified requirements are met. These are essentially the same requirements as those indicated in Pub. L. 97-365.

First, the notice for the system of records required by section 552a(e)(4) of title 5, United States Code, would have to indicate that information in the system might be disclosed to a consumer reporting agency. Second, SBA would be required to review the claim and determine that it is valid and overdue. Third, SBA would have to send

the individual written notice informing him of four things: (1) That the payment of the debt is overdue; (2) that SBA intends to disclose to a consumer reporting agency that the individual is responsible for such debt; (3) of the specific information intended to be disclosed; and (4) of the individual's rights to an explanation of the claim, to dispute any records concerning the claim, and to an appeal or review of the claim. In addition, this notice must include a statement that SBA may disclose such information to consumer reporting agencies 60 days after sending this notice. Fourth, the individual has not repaid or agreed to repay the claim under a repayment plan suitable to SBA, and has not filed for review of the claim under § 140.3(d).

Proposed § 140.3(b) would, where SBA discovers that it is unable to contact the individual, prohibit SBA from disclosing information to consumer reporting agencies unless SBA makes reasonable efforts to locate the individual. Section 140.3(b)(1) gives two examples of what would constitute "reasonable efforts," but in no way limits the definition of such term to those two instances. A good faith mailing of the required notice to the debtor's last known address will constitute "reasonable efforts."

Proposed § 140.3(c) describes what would be permitted to be disclosed to consumer reporting agencies. The content of the disclosure would be limited in the same way as it is in Pub. L. 97–365. Essentially, the disclosure would be limited to information regarding the identity of the individual and the nature of the claim.

Proposed § 140.3(d) would require SBA, prior to disclosure to consumer reporting agencies, to provide for the opportunity for review of the claim by the SBA field office in which the claim is lodged upon the request of the individual. SBA would be required to issue a final decision concerning the claim within 60 days of the lawful request for review by the individual.

Proposed § 140.3(e) would require SBA to automatically disclose any substantial change in the claim, and to verify or correct information concerning the claim upon the request of any consumer reporting agency. It would also require SBA to obtain adequate assurances from each consumer reporting agency concerning compliance by such agency with any Federal law governing the provision of consumer credit information.

Proposed § 140.4 deals with the salary offset procedure for collecting debts owed to the United States. Proposed § 140.4 is incorporated from section 5 of Pub. L. 97–365. It would permit SBA to make deductions from the authorized pay of an SBA employee who is indebted to the United States. These deductions would be limited to 15 percent of disposable pay, unless the individual consents to a higher percentage in a signed writing.

Proposed subsection 140.4(b) would require SBA to give its employee a minimum of 30 days written notice that it intended to collect the debt owed to the United States through deductions from pay, and to afford the employee an opportunity for a hearing if he petitioned for a hearing within 15 days of receiving SBA's notice. This notice would be required to provide the employee with the same four requisites as Pub. L. 97–365. A hearing would be conducted by the Agency's Chief Administrative Law Judge, or another administrative law judge upon the timely request for a hearing by an individual against whom salary offset is asserted; a final decision would have to be issued within 60 days after the filing of the petition.

Proposed § 140.5 would authorize SBA, after attempting to collect a claim from a person under normal SBA collection procedures, to collect the claim by means of administrative offset. Proposed § 140.5 essentially contains the same requirements of section 10 of Pub. L. 97–365. Prior to the use of administrative offset as a collection device, SBA would be required to notify the debtor of SBA's intention to utilize administrative offset. SBA would also be required to afford the debtor an opportunity for a review of the claim by an administrative law judge of SBA, upon the timely written request of the debtor for such review. SBA intends that the same review procedures and requirements of proposed § 140.4(b)(2) be used for both salary offsets and administrative offsets. The mandatory SBA notice would provide the debtor with the same four requirements as Pub. L. 97–365.

SBA has determined that these rules do not constitute major rules for the purpose of Executive Order 12291. They are procedural in nature and in and of themselves do not impose costs upon the businesses which might be affected by them. In addition, since these rules are procedural in nature, they do not constitute rules which are covered by the Regulatory Flexibility Act, 5 U.S.C. 501, *et seq.*, since they do not have a significant economic impact on a substantial number of small entities.

List of Subjects in 13 CFR Part 140

Administrative practice and procedure, claims, government employees, wages.

Therefore, pursuant to the authority contained in section 5(b)(6) of the Small Business Act, 15 U.S.C. 634(b)(6), 13 CFR is amended to add the following new Part 140.

PART 140—DEBT COLLECTION

Sec.
140.1 Scope.
140.2 Definitions.
140.3 Information disclosure.
140.4 Salary offset.
140.5 Administrative offset.

Authority: Sec. 5(b)(6) of the Small Business Act, 15 U.S.C. 634(b)(6).

§ 140.1. Scope.

These regulations prescribe procedures which may be utilized by SBA in the collection of debts owed to SBA and to the United States.

§ 140.2. Definitions.

(a) "Administrative offset" means the withholding of money payable by United States to or held by the United States on behalf of a person to satisfy a debt owed to SBA by the person.

(b) "Consumer reporting agency means—

(1) a consumer reporting agency within the meaning of section 603 (f) of the Fair Credit Reporting Act (15 U.S.C. 1681(f)); or

(2) any person who, for monetary fees, dues, or on a cooperative basis, regularly engages in whole or in part in the practice of (i) obtaining credit or other information on consumers for the purpose of furnishing such information to consumer reporting agencies (as defined in pargraph (b)(1) of this section), or (ii) serving as a marketing agent under arrangements enabling third parties to obtain such information from such reporting agencies.

(c) "Disposable pay" means that part of pay of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld.

(d) For purposes of § 140.5 of these regulations, "person" does not include any agency of the United States, or of any State or local government. The term does include individuals and any form of business entity.

(e) "System of records" means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

§ 140.3. Information disclosure.

(a) In attempting to collect a claim of SBA, the Administrator of SBA, or his

designee, may disclose to a consumer reporting agency information from a system of records that an individual is responsible for a claim if the following requirements are met:

(1) The notice for the system of records required by section 552a(e)(4) of title 5, United States Code, indicates that information in the system may be disclosed to a consumer reporting agency;

(2) SBA has reviewed the claim and determined that it is valid and overdue;

(3) SBA has sent a written notice to the individual informing him—

(i) That the payment of the claim is overdue;

(ii) That SBA intends to disclose to a consumer reporting agency, within not less than 60 days after sending such notice, that the individual is responsible for such claim;

(iii) of the specific information intended to be disclosed to the consumer reporting agency; and

(iv) of the rights of such individual to a full explanation of the claim, to dispute any information in SBA's records concerning the claim, and to administrative appeal or review with respect to the claim;

(4) Such individual has not

(i) repaid or agreed to repay such claim under a repayment plan which is agreeable to SBA and is in a written form signed by such individual; or

(ii) Filed for review of such claim under paragraph (d) of this section.

(b) If SBA knows or discovers that it is unable to contact the individual, SBA make reasonable efforts to locate the individual prior to disclosure to a consumer reporting agency.

(1) Reasonable efforts include, but are not limited to, obtaining an address from the Internal Revenue Service or seeking an address from a consumer reporting agency.

(c) *Content of Disclosed Information.* The information disclosed by SBA to the consumer reporting agency is limited to (1) the name, address, taxpayer identification number, and other information necessary to establish the identity of the individual, (2) the amount, status, and history of the claim, and (3) the program under which the claim arose.

(d) *Review of the claim.* (1) Prior to a disclosure to any consumer reporting agency under paragraph (a) of this section and at other times as may be permitted by law, SBA shall, upon the request of any individual alleged by SBA to be responsible for the claim, provide for the review of the obligation of such individual by the SBA field office in which the claim is lodged.

(i) An individual shall have 60 days from the date of SBA's mailing of the notice required under § 140.3(a)(3) to request a review of his claim before SBA may disclose any information to consumer reporting agencies.

(ii) This review shall include an opportunity for reconsideration of the initial decision concerning the claim.

(2) SBA will issue a final decision at the earliest practicable date, but not later than 60 days after the lawful request for review by the debtor.

(e) *Subsequent Disclosure and Verification.* (1) SBA will promptly disclose any substantial change in the status or amount of the claim to each consumer reporting agency to which the original disclosure was made.

(2) SBA will promptly verify or correct information concerning the claim upon the request of any such consumer reporting agency for verification of any or all information so disclosed.

(3) SBA will obtain adequate assurances from each such consumer reporting agency concerning compliance by such consumer reporting agency with the Fair Credit Reporting Act (15 U.S.C. § 1681, *et seq.*), and any other Federal law governing the provision of consumer credit information.

§ 140.4. Salary offset.

(a) When SBA determines that an SBA employee is indebted to the United States for debts to which the United States is entitled to be repaid at the time of the determination, or is notified of such a debt by the head of another agency or his designee, the amount of indebtedness may be collected in monthly installments, or at officially established pay intervals, by deduction from the current pay account of the individual.

(1) These salary deductions may only be made after the usual SBA collection procedures are tried and found to be unproductive.

(2) The deductions may be made from basic pay, special pay, incentive pay, retired pay, retainer pay, or, in the case of an individual not entitled to basic pay, other authorized pay.

(3) The amount deducted for any period may not exceed 15 percent of disposable pay, except that a greater percentage may be deducted upon the signed written consent of the individual involved.

(4) If an employee terminates employment, a deduction may be made from final salary payments, from payment for accrued annual leave, against annuity payments, or from subsequent payments of any nature due the individual from SBA.

(b) *Notice and Opportunity to be Heard.* (1) Prior to initiating any proceedings under paragraph (a) of this section to collect any indebtedness of an SBA employee, the head of the agency to which the debt is owed shall provide the SBA employee with—

(i) A minimum of 30 days written notice, informing such individual of the nature and amount of the indebtedness determined to be due, the intention of the agency to initiate proceedings with SBA to collect the debt through deductions from pay, and an explanation of the rights of the individual under this subsection;

(ii) An opportunity to inspect and copy Government records relating to the debt;

(iii) An opportunity to enter into a written agreement with the agency, under terms agreeable to the head of the agency or his designee, to establish a schedule for the repayment of the debt; and

(iv) An opportunity for a hearing concerning the determination of the existence or the amount of the debt, and in the case of an individual whose repayment schedule is established by a written agreement pursuant to (b)(1)(ii), concerning the terms of the repayment schedule.

(2) A hearing, described in (b)(1)(iv) of this section, shall be provided if the individual, on or before the 15th day following reciept of the notice described in (b)(1)(i) of this section, and in accordance with the procedures of SBA's Office of Hearings and Appeals, files a petition requesting such a hearing.

(i) The timely filing of a petition for a hearing will stay the commencement of collection proceedings.

(ii) The hearing will be conducted by SBA's office of Hearings and Appeals.

(iii) SBA's Chief Administrative Law Judge, or another administrative law judge, will issue a final decision at the earliest practicable date, but not later than 60 days after the filing of the petition requesting the hearing.

§ 140.5 Administrative offset.

(a) SBA may, after attempting to collect a claim from a person under normal SBA collection procedures, collect the claim by means of administrative offset. However, no claim that has been outstanding for more than ten years may be collected by means of administrative offset.

(b) Prior to collecting any claim through administrative offset, SBA shall provide the debtor with—

(1) Written notification, of at least 30 days, concerning the nature and amount of the claim, the intention of SBA to

collect the claim through administrative offset, and an explanation of the rights of the debtor under this section;

(2) An opportunity to inspect and copy SBA's records with respect to the claim;

(3) An opportunity to enter into a written agreement with SBA to establish a schedule for the repayment of the debt; and

(4) An opportunity for the review, by SBA's Chief Administrative Law Judge or another administrative law judge, of SBA's determination of the existence of the claim.

(c) The provisions of this section do not apply in any case in which a statute either explicitly provides for or prohibits the collection through administrative offset of the claim or type of claim involved.

Dated: January 13, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84-1973 Filed 1-24-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 154

[Docket No. RM83-71-000]

Elimination of Variable Costs From Certain Natural Gas Pipeline Minimum Commodity Bill Provisions; Opportunity To File Reply Comments

January 19, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of opportunity to file reply comments.

SUMMARY: On August 25, 1983, the Federal Energy Regulatory Commission (Commission) issued a Notice of Proposed Rulemaking (48 FR 39238, August 30, 1983) pursuant to sections 4, 5 and 16 of the Natural Gas Act. The Notice proposed to eliminate from natural gas pipeline sales tariffs any minimum commodity bill that would operate to recover purchased gas costs, fuel costs, or other variable costs not incurred, and requested comments on this proposal. The Commission is now providing an opportunity for the filing of Reply Comments.

DATE: Reply Comments are due on February 13, 1984.

ADDRESS: Comments must be filed with the Office of the Secretary, Room 3110, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Carol M. Lane, Office of Commissioner Richard, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8383

or

Wayne Guest, Allocation and Rate Design Branch, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 357-9398

SUPPLEMENTARY INFORMATION: The Commission received some 95 comments in response to the August 25th Notice. After reviewing these comments, the Commission seeks to supplement the record in this docket by providing for Reply Comments. Commenters are requested in particular to respond to any arguments by other commenters that may not have been addressed at the time initial comments were filed.

The initial comments filed in this docket are available for public inspection through the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. during regular business hours.

Reply Comments should be limited to the following extent. Such comments (1) should respond only to legal, policy or factual matters raised in the original comments; (2) should identify the specific comment or comments to which they are responding; and (3) should be kept as brief as possible.

An original and 14 copies of such comments should be filed with the Commission on or before February 13, 1984. Comments are to be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 and must reference Docket No. RM83-71-000.

All written submissions will be placed in the Commission's public files and will be available for public inspection through the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C., during regular business hours.

By Direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2024 Filed 1-24-84; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

Public Comment Period on Modification of the Illinois Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for a public comment period on the substantive adequacy of a proposed program amendment submitted by the State of Illinois as a modification to the Illinois permanent regulatory program (hereinafter referred to as the Illinois program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment to the State's regulations pertains to blaster training and certification.

This notice sets forth the times and locations that the Illinois program an and the proposed amendment are available for public inspection and the comment period during which interested persons may submit written comments on the proposed amendment.

DATES: Written comments, data or other relevant information relating to the proposed amendment to the Illinois program not received on or before 4:00 p.m. on February 24, 1984, will not necessarily be considered.

ADDRESSES: Written comments should be mailed or hand delivered to James Fulton, Director, Springfield Field Office, Office of Surface Mining, 600 E. Monroe Street, Room 20, Springfield, Illinois 62701.

Copies of the Illinois program, a listing of any scheduled public meetings and all written comments received in response to this notice will be available for review at the OSM and State regulatory authority offices listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays:

Office of Surface Mining Reclamation and Enforcement, Room 5315, 1100 "L" Street, NW., Washington, D.C. 20240

Illinois Department of Mines and Minerals, Land Reclamation Division, 227 South 7th Street, Springfield, Illinois 62706

FOR FURTHER INFORMATION CONTACT:

James Fulton, Director, Springfield Field Office, Office of Surface Mining, 600 E. Monroe Street, Room 20, Springfield, Illinois 62701; Telephone: (217) 492-4495.

SUPPLEMENTARY INFORMATION:

Background

The Illinois program was conditionally approved by the Secretary of the Interior on June 1, 1982 (47 FR 23858). Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Illinois program, can be found in the June 1, 1982 Federal Register.

Proposed Amendment

By letter dated December 23, 1983, Illinois submitted proposed regulations which would establish requirements for the training and certification of blasters working in surface coal mining operations. The new requirements are set forth under Part 1850—Training, Examination and Certification of Blasters.

At the time of the Secretary's approval of the Illinois program, OSM had not yet promulgated Federal rules governing the training and certification of blasters. Therefore, the State was not required to include such requirements in its program. However, in the notice announcing conditional approval of the Illinois program, the Secretary specified that Illinois would be required to adopt such provisions following promulgation of the Federal standards (47 FR 23858, June 1, 1982).

On March 4, 1983, OSM issued final rules effective April 14, 1983, establishing the Federal standards for the training and certification of blasters at 30 CFR Chapter M (48 FR 9486). OSM is seeking comment on whether the Illinois proposed rules under Part 1850 are consistent with and meet the requirements of the revised Federal standards and satisfy the criteria for approval of State program amendments at 30 CFR 732.15 and 732.17.

The full text of the program modification submitted by Illinois for OSM's consideration is available for public review at the addresses listed under "ADDRESSES."

Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 913.

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

(Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*)

Dated: January 19, 1984.

James R. Harris,

Director, Office of Surface Mining.

[FR Doc. 84–1980 Filed 1–24–84; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 931

Public Comment on Request for Extension of Deadline for Satisfaction of Condition of Approval of the New Mexico Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for a public comment period on New Mexico's request for an extension of the deadline for the State to satisfy condition (j) of the Secretary of the Interior's approval of the New Mexico program. The condition pertains to the State's bonding regulations.

DATES: Written comments not received on or before 4:00 p.m. on February 24, 1984 will not necessarily be considered in the Secretary's decision on whether or not to grant the extension.

ADDRESS: Written comments should be mailed or hand-delivered to Mr. Robert Hagen, Field Office Director, Office of Surface Mining Reclamation and Enforcement, 219 Central Avenue, NW., Albuquerque, New Mexico 87102.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Hagen, Field Office Director, Office of Surface Mining Reclamation and Enforcement, 219 Central Avenue, NW., Albuquerque, New Mexico 87102; Telephone: (505) 766–1486.

SUPPLEMENTARY INFORMATION: On February 28, 1980, OSM received a proposed regulatory program from the State of New Mexico. On December 31, 1980, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved the proposed program conditioned on the correction of 12 minor deficiencies (45 FR 86459–86490).

The State has satisfied all of the conditions placed on the New Mexico program by the Secretary with the exception of condition (j). On October 30, 1981 (46 FR 54070), OSM announced its decision to grant New Mexico until February 28, 1982, to satisfy condition (j) pertaining to bonding. In response to a further request by the State in December 1981, the Secretary re-examined several conditions, including condition (j), in light of proposed and final changes to the Federal permanent program rules. As a result of that re-examination, the Secretary decided to extend the deadline for the State to meet condition (j) until March 15, 1983 (47 23150–23153, May 27, 1982).

By letter dated March 25, 1983, New Mexico requested an extension of the deadline to satisfy condition (j) pertaining to the State's bonding regulations. The State requested an extension until four months following promulgation of revisions to the Federal bonding rules in order to allow the State time to draft modifications to its own rules. It was anticipated that revisions to the Federal rules would have a bearing on the changes New Mexico would have to make to satisfy condition (j). As a result of the State's request, the Secretary extended the deadline for the State to meet condition (j) until four months after publication of the revised Federal bonding regulations (48 FR 28087, June 20, 1983). The revised Federal bonding regulations were published in the July 19, 1983 Federal Register with an effective date of August 18, 1983 (48 FR 32932–32964).

By letter dated December 12, 1983, New Mexico requested an additional extension of the deadline to satisfy condition (j). The State requested until March 15, 1984, in order to comply with all of the public notice and hearing requirements of the approved permanent program.

Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 931

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

Dated: January 17, 1984.

J. R. Harris,

Director, Office of Surface Mining.

[FR Doc. 84–1984 Filed 1–24–84; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 946

Public Comment Period and Opportunity for Public Hearing on Proposed Amendment to the Virginia Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing a public comment period and opportunity for public hearing on a proposed amendment to the Virginia Permanent Regulatory Program (hereinafter referred to as the Virginia program) received by OSM pursuant to the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment relates to the State's revised coal haulroad policy.

This notice sets forth the times and locations that the Virginia program and the proposed amendment are available for public inspection, and the comment period during which interested persons may submit written comments on the proposed amendment, and information pertinent to the public hearing.

DATES: Written comments, data or other relevant information relating to the proposed amendment to the Virginia program not received on or before 4:00 p.m. on February 24, 1984 will not necessarily be considered.

A public hearing on the proposed modifications has been scheduled for February 20, 1984 from 7:00 p.m. to 9:00 p.m. at the address listed under "ADDRESSES."

Any person interested in making an oral or written presentation at the hearing should contact Mr. Ralph Cox at the address or phone number listed below by February 15, 1984. If no one has contacted Mr. Cox to express an interest in participating in the hearing by the above date, the hearing will not be held. If only one person has so contacted Mr. Cox by the above date, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: Written comments should be mailed or hand delivered to: Ralph Cox, Director, Big Stone Gap Field Office, Office of Surface Mining Reclamation and Enforcement, Highway 23, South, P.O. Box 626, Big Stone Gap, Virginia 24219.

The public hearing will be held in the Conference Room of the Lebanon Area Office, Office of Surface Mining Reclamation and Enforcement, Flannagan and Carroll Streets, Lebanon, Virginia 24266.

Copies of the Virginia program, the proposed amendment, a listing of any scheduled public meetings and all written comments received in response to this notice will be available for review at the OSM and State regulatory authority offices listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays:

Office of Surface Mining Reclamation and Enforcement, Room 5315, 1100 "L" Street, NW., Washington, D.C. 20240

Office of Surface Mining Reclamation and Enforcement, Highway 23, South, Big Stone Gap, Virginia 24219

Office of Surface Mining Reclamation and Enforcement, Flannagan and Carroll Streets, Lebanon, Virginia 24266

Virginia Division of Mined Land Reclamation, 622 Powell Avenue, Drawer U, Big Stone Gap, Virginia 24219

FOR FURTHER INFORMATION CONTACT: Ralph Cox, Director, Big Stone Gap Field Office, Office of Surface Mining, P.O. Box 626, Big Stone Gap, Virginia 24219, Telephone: (703) 523–4303.

SUPPLEMENTARY INFORMATION: The Virginia program was conditionally approved by the Secretary of the Interior on December 15, 1981 (46 FR 61088–61115). Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Virginia program can be found in the December 15, 1981 **Federal Register**.

On July 27, 1983, Virginia notified OSM of a policy revision to its coal haulroad policy which the State indicated was being made to conform to changes effected by OSM to the Federal rules (Administrative Record No. VA 504). In a letter of August 4, 1983, OSM clarified that the revised policy appeared to adopt some of the provisions of the recently revised Federal definition of "affected area" (48 FR 14821–22, April 5, 1983) and advised the State that such a policy change may necessitate a State program amendment pursuant to 30 CFR 732.17 (Administrative Record No. VA 514).

Following further discussions on the matter, the Director, OSM, has determined that the State's coal haulroad policy is a change in the provision, scope and objectives of the State program which warrant treatment as a State program amendment pursuant to the procedures of 30 CFR 732.17. Therefore, the proposed change by Virginia is subject to the State program amendment process and open for public comment before it can be formally adopted as part of the Virginia program.

The issue of Virginia's coal haulroad policy has a long, complex history, including condition "r" of the Secretary of the Interior's approval of December 15, 1981 (46 FR 61099–61100). In that **Federal Register** notice the Secretary discussed Virginia's coal haulroad policy as submitted on August 13, 1981, and amended on October 15, 1981 by the State. The Secretary found the policy ambiguous as it related to public use and to maintenance of the road with public funds. As a condition of approval,

the Secretary required the State to revise the policy as specified in his December 15, 1981 decision (46 FR 61100). The State, at its option, elected to satisfy the condition through State program statutory and regulatory amendments. *See* 47 FR 36127, August 19, 1982, and 48 FR 46028, October 11, 1983.

The State's proposed policy is similar to that specified in the Secretary's decision except the State is deleting the criterion pertaining to the county within which the road is located having performance standards at least as stringent as the applicable minimum standards as the State regulatory authority for surface coal mining and reclamation operations. Pursuant to the State's letter of July 27, 1983, Virginia indicated that the criterion was being deleted to conform with revisions to the Federal regulations. As discussed above, the change would appear to adopt the three criteria for roads which are contained in the Federal definition of "affected area" at 30 CFR 701.5.

The exact text of the State's proposed coal haulroad policy is as follows:

All roads must be included in the permit area which are used, constructed or significantly imporved for coal haulage or minesite access, except those for which there is substantial (more than incidental) public use and which are actually maintained with public funds in a manner similar to other public roads in the vicinity.

Coal haul and access roads as defined in permanent program regulations Section V701.5 will be considered part of the affected area of an operation and included in acreage calculations thereof unless all of the following conditions are met:

a. The road has been designated as a public road pursuant to the laws of the jurisdiction in which it is located;

b. The road is maintained with the public funds, and constructed, in a manner similar to other public roads of the same classification within the jurisdiction in which it is located; and

c. There is substantial (more than incidential) public use of the road.

The foregoing criteria will apply in repermitting of operations previously permitted under the interim program regardless of whether or not a particular road was previously permitted.

If the Director determines that the proposed policy change is consistent with SMCRA and no less effective than the Federal regulations, the policy will be incorporated as part of the approved Virginia program.

Therefore, pursuant to 30 CFR 732.17 and 732.15, the Director requests public comment on the adequacy of the above modification.

Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Exective Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 946

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*)

Dated: January 19, 1984.

James R. Harris,

Director, Office of Surface Mining.

[FR Doc. 84–1983 Filed 1–24–84; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AL–008; A–4–FRL 2513–3]

Approval and Promulgation of Implementation Plans; Alabama; Bubble for Union Camp's Prattville Mill

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA today proposes to approve a revision to the Alabama State Implementation Plan (SIP) under parallel processing procedures. Alabama has requested that EPA approve an emissions trading action (bubble) involving particulate emissions from Union Camp's Prattville, Alabama kraft pulp mill. Approval of the bubble will allow Union Camp to burn more wood waste in its #1 power boiler.

DATES: To be considered, comments must be submitted on or before February 24, 1984.

ADDRESSES: Written comments should be addressed to Melvin Russell of EPA Region IV's Air Management Branch (see EPA Region IV address below). Copies of the materials submitted by Alabama may be examined during normal business hours at the following locations:

Environmental Protection Agency, Region IV, Air Management Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365

Alabama Department of Environmental Management, Air Division, State Capitol, Montgomery, Alabama 36130

FOR FURTHER INFORMATION CONTACT: Melvin Russell of the EPA Region IV Air Management Branch at the above address, telephone 404/881-3286 (FTS 257–3286).

SUPPLEMENTARY INFORMATION:

Background

On December 16, 1982, the Union Camp Corporation's Montgomery office asked the Alabama Department of Environmental Management (ADEM) to consider their proposal for an emissions trading action (bubble). The bubble involves particulate emissions from the #1 power boiler and the #1 recovery boiler at the company's Prattville, Alabama kraft pulp mill. This area (Autauga County) is attainment for the pollutant in question (TSP). The ADEM submitted the proposal to EPA on January 21, 1983, requesting parallel processing. EPA and the State resolved the problem areas in the proposal, and the State submitted approvable revisions on June 22, 1983.

Discussion

The emissions trade (ET) at Union Camp's Prattville plant will not cause a change in total allowable emissions. The following table indicates the allowable emission limits before and after ET:

Source	Before ET (lbs./hr.)	After ET (lbs./hr.)
#1 power boiler	433	589
#1 recovery boiler	216	60
Total allowable emissions	649	649

Although total allowable emissions will not change, the increase in emissions from the wood waste/fossil fuel power boiler will cause the opacity of its emissions to increase. Therefore, ADEM is proposing to revise its Air Pollution Control Commission Regulations, Chapter 4—Control of Particulate Emissions, Section 8—Wood Waste Boilers, to include special conditions for pulp mills in Autauga County. Subsection 4.8.4 would indicate that (1) allowable particulate emissions there shall be 2.43 pounds per million BTU (lb/MBTU) heat input from bark and particulate emissions from such units shall not exceed 589 lbs/hr, and (2) equivalent opacity shall not be greater than forty percent (40%) as determined by moving one-hour averages of transmissometer data. If the transmissometer is not working properly, EPA Reference Method 9 (40 CFR Part 60, Appendix A) shall serve as the compliance technique.

ADEM is also proposing to revise Chapter 4, Section 7—Kraft Pulp Mills, Subsection 5. That proposed revision applies to chemical recovery boilers constructed before 1972 at kraft pulp mills in Autauga County, and would indicate that allowable particulate emissions shall be 1.11 pounds per ton of air-dried pulp.

The decrease in emissions at the recovery boiler, as indicated in the preceding table, resulted from the start-up of an electrostatic precipitator (ESP) in May 1982. Emissions at the recovery boiler are below the allowable SIP limit and the trade credit is based on only those emission reductions below the SIP limit. Those emission reductions will become enforceable by the State and EPA when today's action is finalized.

Autauga County is a TSP attainment area where the air quality baseline emissions are based on allowable emissions. The bubble meets the Level I criteria, as spelled out in EPA's April 7, 1982 proposed Emissions Trading Policy Statement (47 FR 15076), and the clarification memorandum of February 17, 1983 from Sheldon Meyers.

The prevention of significant deterioration (PSD) baseline was triggered on November 20, 1977. The sum of allowable emissions from the two units under this emissions trade will equal the sum of the actual emissions from the units just prior to the May 1982 ESP intallation at the recovery boiler. Therefore, the trade will consume no additional PSD increment in the area.

EPA finds that the State's proposed revisions are approvable since actual TSP emissions will remain the same as before the ET action and the ambient impact of TSP emissions from this facility will decrease.

Action

EPA today proposes to approve the Alabama SIP revisions just described, including the use of an ET action at Union Camps's Prattville, Alabama kraft pulp mill. The public is invited to participate in this rulemaking by submitting written comments on the proposal, made under parallel processing procedures. EPA will take final approval action only after the public comment period has expired, and the State has adopted the revisions, making any changes necessitated by public comment.

Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon Monoxide, Hydrocarbons.

(Sec. 110 of the Clean Air Act (42 U.S.C. 7410))

Dated: December 9, 1983.

John A. Little,

Acting Regional Administrator.

[FR Doc. 84-2090 Filed 1-24-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[PP 3E2804/P321; PH-FRL 2511-1]

Bromoxynil; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for residues of the herbicide bromoxynil in or on the raw agricultural commodity mint hay. The proposed regulation to establish a maximum permissible level for residues of the herbicide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments must be received on or before February 9, 1984.

ADDRESS: Written comments by mail to: Program Management and Support Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703-557-1192).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 3E2804 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Oregon, Wisconsin, and the United States Department of Agriculture.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)), proposes the establishment of a tolerance for residues of the herbicide bromoxynil (3,5-dibromo-4-hydroxybenzonitrile) from application of its octanoic acid ester and/or its butyric acid ester in or on the raw agricultural commodity mint hay at 0.1 part per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data evaluated for bromoxynil octanoate (technical) include a 13-week feeding study (dog) with a NOEL of 5 milligrams per kilograms per day (mg/kg/day) (200 parts per million (ppm)); and a 13-week feeding study (rat) with a no-observed-effect level (NOEL) of 15.6 mg/kg/day (312 ppm). The studies evaluated for technical bromoxynil include a teratology study (rats) with a teratogenicity NOEL of greater than 15 mg/kg and fetal toxicity NOEL equal to 5 mg/kg; a microbial mutagenicity assay, nonmutagenic to *S. Typhimurium* tester strains; and a 3-generation reproduction study (rat) with a NOEL of 15 mg/kg/day (300 ppm). Data currently lacking include oncogenicity studies in two mammalian species and a chronic toxicity study. The company has agreed to conduct the required studies; a mouse oncogenicity study has been submitted and is currently under review.

The current provisional acceptable daily intake (PADI), based on the 13-week dog-feeding study (NOEL of 5.0

mg/kg/day) and using a 2,000-fold safety factor, is calculated to be 0.0025 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 0.15 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is calculated to be 0.0352 mg/day; the current action will increase the TMRC by 0.00005 mg/day (0.14 percent). Published tolerances utilize 23.46 percent of the ADI; the current action will utilize an additional 0.03 percent. Although there are significant data gaps for the chemical, the available toxicity data are adequate to support the proposed tolerance since the proposed use will result in an insignificant increase in the TMRC to the human diet.

The nature of the residues is adequately understood, and an adequate analytical method, gas chromatography with 63 Ni electron capture detector, is available for enforcement purposes. Since no detectable residues are expected in spent mint hay, there is no reasonable expectation of finite residues in meat, fat, meat byproducts, and milk. There is also no expectation of residues in poultry or eggs since spent mint hay is not considered a poultry feed item. There are currently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR 180.324 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 15 days after publication of this notice in the Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. As provided for in the Administrative Procedure Act (5 U.S.C. 553(d)(3)), the comment period time is shortened to less than 30 days because of the necessity to provide expeditiously a means for control of broadleaf weeds infesting mint hay fields. Comments must bear a notation indicating the document control number [PP 3E2804/P321]. All written comments filed in response to this petition will be available in the Program Management and Support Division, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: January 10, 1984.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.324 be amended by adding and alphabetically inserting the raw agricultural commodity mint hay, to read as follows:

§ 180.324 Bromoxynil; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Mint hay	0.1
* * * * *	

[FR Doc. 84-1898 Filed 1-24-84; 8:45 am]

BILLING CODE 8560-50-M

40 CFR Part 180

[PP 2E27 10/P311; PH-FRL 2490-6]

S-[2-(Ethylsulfinyl)Ethyl] O,O-Dimethyl Phosphorothioate; Proposed Tolerance

Correction

In FR Doc. 83-33477 beginning on page 56415 in the issue of Wednesday, December 21, 1983 make the following correction:

On page 56416, first column, line four, "30" should read "35".

BILLING CODE 1505-01-M

Notices

Federal Register
Vol. 49, No. 17
Wednesday, January 25, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Select Committee on Uniform Federal Agency Rules of Procedure; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Select Committee on Uniform Rules of Procedure of the Administrative Conference of the United States, will meet on Wednesday, February 1, 1984, at 10:00 a.m., in the library of the Administrative Conference, Suite 550, 2120 L Street, NW., Washington, D.C. 20037. This will be the second meeting of the Select Committee and it will be for the purpose of discussing agency comments on sample uniform rules.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should, if possible, notify the Office of the Chairman of the Administrative Conference prior to the meeting. The committee chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting.

For further information concerning this meeting contact Jeffrey S. Lubbers, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, D.C. 20037. (Telephone: 202–254–7065.) Minutes of the meeting will be available on request.

Dated: January 18, 1984.

Richard K. Berg,

General Counsel.

[FR Doc. 84–2048 Filed 1–24–84; 8:45 am]
BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Forms Under Review by Office of Management and Budget

January 20, 1984.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) an estimate of the total number of hours needed to provide the information; (8) an indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 108–W Admin. Bldg., Washington, D.C. 20250, (202) 447–4414.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, ATTN: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

New

- Agricultural Marketing Service
Dairy Promotion Program
DA 26
One Time
Businesses and Non-Profit Institutions:
500 responses; 1,000 hours; not applicable under 3504(h)

Benjamin C. Weaver, (202) 447–7101

Larry K. Roberson,

Acting Department Clearance Officer.

[FR Doc. 84–2060 Filed 1–24–84; 8:45 am]
BILLING CODE 3410–01–M

Human Nutrition Information Service

Joint Nutrition Monitoring Evaluation Committee Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) announcement is made of the following committee meeting:

Name: Joint Nutrition Monitoring Evaluation Committee.

Date: February 16 and 17, 1984.

Place: Conference Room 643A, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

Time: February 16, 1 p.m. to 5 p.m.; and February 17, 9 a.m. to 4 p.m.

Purpose: To evaluate the findings of the Nationwide Food Consumption Survey (NFCS), the National Health and Nutrition Examination Survey (NHANES), and other Federal nutrition monitoring efforts and develop a report cn the nutritional status of the U.S. population.

Agenda: The agenda for the second meeting will include the following items: brief review of the first meeting; discussion of the definition of nutritional status; presentation and discussion of samples of data that might be included in the report; division of duties; setting of time table; and plans for future meetings.

The meeting is open to the public. There is a limited amount of space available for public attendance. Written statements or comments of concern to the committee may be submitted to Isabel D. Wolf, Administrator, Human Nutrition Information Service, 6505 Belcrest Road, Room 360, Hyattsville, MD 20782.

Done at Washington, DC this 19th day of January 1984.

Isabel D. Wolf,

Administrator.

[FR Doc. 84–1970 Filed 1–24–84; 8:45 am]
BILLING CODE 3410–XE–M

Soil Conservation Service

Upper Rocky Fork Flood Prevention RC&D Measure, West Virginia; Finding of No Siginficant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Upper Rocky Fork Flood Prevention RC&D Measure, Kanawha County, West Virginia.

FOR FURTHER INFORMATION CONTACT: Rollin N. Swank, State Conservationist, Soil Conservation Service, 75 High Street, Room 301, Morgantown, West Virginia 26505, telephone: 304–291–4151.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Rollin N. Swank, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for reducing flood damages to residential property. The planned works of improvement include clearing and snagging along 2,590 feet of stream. Mitigation measures include construction of fish pools, re-establishment of shrubs attractive to wildlife on channel banks and spoil disposal area, and seeding of disturbed areas.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Rollin N. Swank.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. The State of West Virginia's process regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Rollin N. Swank,

State Conservationist.

January 17, 1984.

[FR Doc. 84–2004 Filed 1–24–84; 8:45 am]

BILLING CODE 3410–16–M

Cooks Hill Road RC&D Measure, Ohio; Environmental Impact

AGENCY: Soil Conservation Service, Agriculture.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Cooks Hill Road RC&D Measure, Ross County, Ohio.

FOR FURTHER INFORMATION CONTACT: Robert R. Shaw, State Conservationist, Soil Conservation Service, Federal Building, 200 North High Street, Room 522, Columbus, Ohio 43215, telephone: (614)–469–6962.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Robert R. Shaw, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

This measure concerns a plan for critical area treatment along 700 feet of county road. Planned works of improvement include installation of surface and subsurface water management practices along with regarding of a slip and seeding of the disturbed areas.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Robert R. Shaw.

No administrative action on implemenation of the proposal will be taken until 30 days after the date of this publication.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: January 16, 1984.

Robert R. Shaw,

State Conservationist.

[FR Doc. 84–2047 Filed 1–24–84; 8:45 am]

BILLING CODE 3401–16–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–021]

Cell Site Transceivers and Related Subassemblies From Japan; Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether cell site transceivers and related subassemblies from Japan are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether an industry in the United States is materially injured or threatened with material injury, or whether the establishment of an industry in the United States is materially retarded, by reason of imports of that merchandise. If the investigation proceeds normally, the ITC will make its preliminary determination on or before February 13, 1984, and we will make ours on or before June 5, 1984.

EFFECTIVE DATE: January 25, 1984..

FOR FURTHER INFORMATION CONTACT: Roland MacDonald or Jack Davies, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230 telephone (202) 377–5496 and 377–1784.

SUPPLEMENTARY INFORMATION:

The Petition

On December 28, 1983, we received a petition from E. F. Johnson Company, Waseca, Minnesota, filed on behalf of the domestic cell site transceivers industry. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act), and that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, be reason of imports of that merchandise. The allegation of sales at less than fair value is supported by a comparison of the foreign market value of the subject merchandise, based on the U.S. domestic producer's costs adjusted, where appropriate, for cost differences in Japan, with the United States bid price less appropriate adjustments.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on cell site transceivers and related subassemblies and have found that the petition meets the requirements of section 732(b) of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether cell site transceivers and related subassemblies from Japan are being, or are likely to be, sold at less than fair value in the United States. If our investigation proceeds normally, we will make our preliminary determination by June 5, 1984.

Scope of Investigation

The merchandise covered by this investigation are cell site transceivers and related subassemblies as provided for in item 685.2976 of the Tariff Schedules of the United States Annotated. Cell site transceivers and related subassemblies are part of the radio frequency equipment (RF) in the base station (cell site) of a cellular radio communications system. This single package RF equipment functions as a locating receiver and provides simultaneous two-way voice and data communications between the base station and the subscriber's mobile telephone by using different frequencies to transmit and receive. Subassemblies are an assemblage of component parts dedicated for use in cell site transceivers as defined above.

Notification to ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by February 13, 1984, whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports of that merchandise.

If its determination is negative, the investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

January 17, 1984.

[FR Doc. 84-1999 Filed 1-24-84; 8:45 am]

BILLING CODE 3510-DS-M

Computer Systems Technical Advisory Committee; Open Meeting

A meeting of the Computer Systems Technical Advisory Committee will be held February 9, 1984 at 1:00 p.m., Herbert C. Hoover Building, Room 3407, 14th Street and Constitution Avenue, NW., Washington, D.C. The Committee advises the Office of Export Administration with respect to technical question which affect the level of export controls applicable to computer systems or technology.

General Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Review of Committee's 1984 annual plan.
4. Report on current work program of the subcommittees:
   a. Foreign Availability,
   b. Hardware, and
   c. Licensing Procedures.
5. New Business
6. Action items underway.
7. Action items due at next meeting

The meeting will be open to the public with a limited number of seats available. For further information or copies of the minutes contact Margaret A. Cornejo (202) 377-2583.

Dated: January 20, 1984.

Milton M. Baltas,

Director of Technical Programs Office of Export Administration.

[FR Doc. 84-1998 Filed 1-24-84; 8:45 am]

BILLING CODE 3510-DT-M

Hardware Subcommittee of the Computer Systems Technical Advisory Committee; Open Meeting

A meeting of the Hardware Subcommittee of the Computer Systems Technical Advisory Committee will be held February 8, 1984, 9:30 a.m., Herbert C. Hoove Building, Room 3708, 14th Street and Constitution Avenue, NW., Washington, D.C. The Hardware Subcommittee was formed to continue the work of the performance Characteristics and Performance Measurements Subcommittee, pertaining to (1) maintenance of the processor performance tables and further investigation of total systems performance; and (2) investigation of array processors in terms of establishing the significance of these devices and determining the differences in characteristics of various types of these devices.

Agenda

1. Opening remarks by the Chairman.
2. Presentation of papers of comments by the public.
3. Discussion of the proposed changes to the export technical data control (EAR 379).
4. Discussion for removal of bus rate measurement for export of computer systems to the free world.
5. Revision of PDR levels for export of computer systems to free world countries eligible under the distribution license.
6. Discussion of membership for the Committee.
7. Action items underway.
8. Action items due at next meeting.

The meeting will be open to the public with a limited number of seats available. For further information or copies of the minutes contact Margaret A. Cornejo (202) 377-2583.

Dated: January 19, 1984.

Milton M. Baltas,

Director of Technical Programs, Office of Export Administration.

[FR Doc. 84-2018 Filed 1-24-84; 8:45 am]

BILLING CODE 3510-DT-M

Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee; Open Meeting

A meeting of the Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee will be held February 8, 1984, 1:30 p.m., Herbert C. Hoover Building, Room 3708, 14th Street and Constitution Avenue, NW., Washington, D.C. The Licensing Procedures Subcommittee was formed to review the procedural aspects of export licensing and recommend areas where improvements can be made.

Agenda

1. Opening remarks by the Subcommittee Chairman.
   a. Status of the Subcommittee.
   b. Report on the meeting of the TAC chairmen.
2. Presentation of papers or comments by the public.
3. Review of 1983 summary and 1984 plan.
4. Cost benefit study of alternate strategies.
5. OEA report on the distribution licensing change.
6. Action items underway.
7. Action items due at next meeting.

The meeting will be open to the public with a limited number of seats available. For further information or copies of the minutes contact Margaret A. Cornejo (202) 377-2583.

Dated: January 20, 1984.

Milton M. Baltas,

Director of Technical Programs, Office of Export Administration.

[FR Doc. 84-1957 Filed 1-24-84; 8:45 am]

BILLING CODE 3510-DT-M

[A-351-012, A-351-014]

Final Determinations of Sales at Less Than Fair Value: Hot-rolled Carbon Steel Plate and Hot-Rolled Carbon Steel Sheet From Brazil

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that hot-rolled carbon steel plate and hot-rolled carbon steel sheet from Brazil are being sold in the United States at less than fair value. The United States International Trade Commission (ITC) will determine within 45 days of the publication of this notice whether these imports are materially injuring, or are threatening to materially injure, a United States industry.

EFFECTIVE DATE: February 23, 1984.

FOR FURTHER INFORMATION CONTACT: Kenneth K. Haldenstein, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202 377-4136.

SUPPLEMENTARY INFORMATION:

Final Determinations

We have determined that hot-rolled carbon steel plate and hot-rolled carbon steel sheet from Brazil are being sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (19 U.S.C. 1673d) (the Act).

We found that the foreign market value of hot-rolled carbon steel plate and hot-rolled carbon steel sheet from Brazil exceeded the United States price on approximately 95% of all sales of these products. The margins ranged from 30.95 percent to 225.53 percent for hot-rolled carbon steel plate and 33.47 percent to 178.73 percent for hot-rolled carbon steel sheet. The overall weighted-average margin on all sales compared is 86.81 percent for hot-rolled carbon steel plate and 57.42 percent for hot-rolled carbon steel sheet.

Case History

On January 31, 1983, we received a petition from counsel for Bethlehem Steel Corporation on behalf of the domestic hot-rolled carbon steel plate and hot-rolled carbon steel sheet industry. In accordance with the filing requirements of section 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of hot-rolled carbon steel plate and hot-rolled carbon steel sheet from Brazil are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act and that these imports are materially injuring, or threatening to materially injure, a United States industry.

After reviewing the petition, we determined that it contained sufficient grounds to initiate antidumping duty investigations. We notified the ITC of our action and initiated the investigations on February 28, 1983 (48 FR 8320-21). On March 17, 1983, we were informed by the ITC that there is a reasonable indication that imports of hot-rolled carbon steel plate and hot-rolled carbon steel sheet are materially injuring a United States industry.

Questionnaires were presented to Companhia Siderurgica Paulista (COSIPA), Companhia Siderurgica Nacional (CSN), and Usinas Siderurgicas de Minas Gerais S/A. (USIMINAS) on March 21, 1983. The responses were received on May 24, 1983. On July 5, 1983, we received an allegation that sales of these products in Brazil were at prices which were below the cost of production and requested responses to cost questionnaires. The cost responses were received on August 8, 1983. Supplemental responses were received on October 25, 1983.

The preliminary determinations in these investigations were originally due by July 11, 1983. We subsequently determined that these investigations were "extraordinarily complicated" as defined in section 733(c)(1)(B) of the Act, and we extended the deadline for making our preliminary determinations to August 29, 1983 (48 FR 28680).

On August 29, 1983, we made preliminary determinations that hot-rolled carbon steel plate and hot-rolled carbon steel sheet from Brazil were being sold, or were likely to be sold, in the United States at less than fair value (48 FR 40419).

On September 6, 1983, the petition was amended to include an allegation that "critical circumstances" exist with respect to imports of hot-rolled carbon steel plate and hot-rolled carbon steel sheet from Brazil. We preliminarily determined that critical circumstances exist within the meaning of section 703(e) of the Act (19 U.S.C. 1671(b)) (48 FR 46829).

From September 12 through 29, 1983, we verified the responses of COSIPA, USIMINAS and CSN. On September 13, 1983, we received a letter from counsel for the Brazilian exporters of carbon steel plate and sheet requesting that the final determinations be extended until January 20, 1984. We extended our final determinations until this date (48 FR 43365). We held a hearing on December 8, 1983, to allow the parties an opportunity to address the issues. We also provided for the submission of written views.

Scope of Investigations

The products covered by these investigations are hot-rolled carbon steel plate and hot-rolled carbon steel sheet.

The term "hot-rolled carbon steel plate" covers hot-rolled carbon steel products, whether or not corrugated or crimped; not pickled; not cold-rolled; not in coils; not cut, not pressed, and not stamped to non-rectangular shape; 0.1875 inch or more in thickness and

over 8 inches in width; as currently provided for in items 607.6615 and 607.9400 of the *Tariff Schedules of the United States Annotated* (TSUSA); and hot-rolled carbon steel plate which has been coated or plated with metal including any material which has been painted or otherwise covered after having been coated or plated with metal, as currently provided for in items 608.0710 and 608.1100 of the TSUSA. Semifinished products of solid rectangular cross section with width at least four times the thickness in cast condition or processed only through primary mill hot rolling are not included.

Hot-rolled carbon steel plate is used in the construction of bridges, mining equipment, pressure vessels, railroad freight and passenger cars, ships, line pipe, industrial machinery, machine parts, and a large variety of other products.

The term "hot-rolled carbon steel sheet" covers hot-rolled carbon steel products, whether or not corrugated or crimped and not pickled; not cold-rolled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal and not clad; over 8 inches in width and over 0.1875 inch in thickness and in coils, as currently provided for in item 607.6610 of the TSUSA.

Hot-rolled carbon steel sheet is used in the construction of automobiles, industrial machinery and products, pipe, and a large variety of other products.

The hot-rolled carbon steel sheet covered by these investigations is a different product from that covered by the recently initiated investigations on "Certain Steel Products from Brazil." The sheet in these investigation is the product described as "plate in coil" in Appendix A to the notice of "Certain Steel Products from Mexico; initiation of Countervailing Duty Investigations" (48 FR 55013).

These investigations cover the period from August 1, 1982 to January 31, 1983. COSIPA, CSN, and USIMINAS are the only known Brazilian producers who export the subject merchandise to the United States. COSIPA and USIMINAS export hot-rolled carbon steel plate and COSIPA, CSN and USIMINAS export hot-rolled carbon steel sheet to the United States. We examined virtually all United States sales made during the period of investigation.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price because the merchandise was sold to unrelated purchasers prior to its importation into the United States. We calculated the purchase price based on the F.O.B. price to United States purchasers. We deducted brokerage charges, inland freight, handling charges, inland insurance and other expenses incurred in delivering the products to the port of exportation, where appropriate. When comparing to home market prices, we accounted for taxes imposed in Brazil but rebated or not collected by reason of the exportation of the merchandise to the United States.

Foreign Market Value

In accordance with section 773(a)(1) of the Act, we used home market prices where there were sufficient home market sales at or above cost of production to determine foreign market value. Where there were no or insufficient sales in the home market at prices at or above cost, we used constructed value. The petitioner alleged that sales in the home market were at prices below the cost of producing hot-rolled carbon steel plate and hot-rolled carbon steel sheet. We examined production costs, including materials, labor and general expenses. In calculating foreign market value, we made currency conversions from Brazilian cruzeiros to United States dollars in accordance with § 353.56(a)(1) of the Commerce Regulations using the certified daily exchange rates.

We found sales of certain subgroups of hot-rolled carbon steel plate and hot-rolled carbon steel sheet were made at less than cost over an extended period of time in substantial quantities and at prices not permitting the recovery of all costs within a reasonable period of time in the normal course of trade. Consequently, we could not use sales in the home market to determine the foreign market value of the products under investigation in these subgroups. Therefore, we used constructed value. Sufficient sales of other subgroups of the products under investigation were made in the home market at or above cost. Therefore, we used home market prices to determine the foreign market value for these subgroups.

The home market prices were based on ex-factory or delivered prices to unrelated home market purchasers. From these prices, we deducted, where appropriate, regional discounts. We made an adjustment for differences in circumstances of sale for post-shipment credit in accordance with 19 CFR 353.15. An adjustment was also made, where appropriate, for the differences between commissions on sales to the United States and indirect selling expenses in the home market used as an offset to U.S. commissions in accordance with 19 CFR 353.15(c). We made adjustments for differences in physical characteristics, where appropriate, in accordance with 19 CFR 353.16. Packing was not included in the price to either market.

The respondents claimed an additional adjustment for differences in pre-shipment credit costs. We determined that these costs were not directly related to the sales under consideration for reasons discussed in the "Respondents' Comments" section of this notice.

In accordance with section 773 of the Act, we calculated constructed value, where appropriate, by adding the cost of materials and of fabrication, general expenses, and profit. For materials and fabrication, we used the appropriate producers' actual cost figures.

We used the actual general expenses incurred on sales since they exceeded the statutory minimum of 10 percent of the sum of material and fabrication costs. Profit was calculated using the statutory minimum of 8 percent of the sum of the general expenses and cost since the actual profit was less than the statutory minimum. We did not add packing costs since the merchandise sold to the United States was unpacked.

Petitioner's and Other U.S. Industry Representative's Comments

Comment 1. Petitioner argues that since CSN and USIMINAS can produce slabs either by continuous casting or ingot casting, the ITA should calculate slab cost on the basis of USIMINAS' actual casting mix for all rolled products.

DOC Response: We verified actual production costs by product for both products under investigation. Because these figures more accurately reflect CSN's and USIMINAS' costs for producing the subject merchandise, we have used them in our calculations. Any changes in costs resulting from variations in the continuous/ingot casting ratios will be taken into account in subsequent annual reviews.

Comment 2. Petitioner argues that SIDERBRAS or the government has assumed some of the respondents' cost of transporting raw materials which should be included in their costs of production.

DOC Response: Petitioner did not provide credible evidence that the

government has assumed respondents' transportation costs. Therefore, we did not pursue petitioner's allegation.

Comment 3. Petitioner argues that the labor costs reported by the respondents are suspiciously low in comparison to its own experience and should be increased to reflect a commercially realistic ratio of man-hours per ton of steel produced.

DOC Response: All of the labor costs, including fringe benefits, were reconciled with company "cost by cost-center" records and with the cost of goods sold figures in the applicable audited financial statements in the course of the verification. Therefore, we consider them to be the correct costs for purposes of our calculations.

Comment 4. Petitioner argues that the financial expenses reported by the respondents unlawfully excluded the costs of inflation.

DOC Response: Since the audited financial statements of the respondents are indexed to inflation and the financial expenses reported were reconciled with these statements at verification the reported expenses properly account for the costs of inflation.

Comment 5. Petitioner argues that the respondents have understated their actual financial expenses to the extent interest expenses and costs of equity financing were incurred on their behalf by SIDERBRAS in 1982.

DOC Response: We reconciled all the financial expenses attributable to the respondent companies with the audited financial statements of each company. Based upon the verification of deferred interests costs allocable to expansion projects, it appears that the equity and debt financing provided by SIDERBRAS was used for expansion and does not affect current production costs.

Comment 6. Another U.S. industry representative argues that no deferral of pre-operating interest expense should be permitted unless and until the ITA investigates and verifies that pre-operating expenses associated with facilities placed in service during the last 15 years were similarly deferred and are included in the cost of producing the products covered in this proceeding.

DOC Response: We relied on the respondents' audited financial statements, which indicate that amortization of costs, including interest expenses, begins when assets become operational.

Comment 7. Another U.S. industry representative argues that if the ITA decides to consider cost data other than that based upon respondents' audited financial records, it should require submission of the cost and loss information filed by the Brazilian companies with the *Interministerial Council of Prices.*

DOC Response: This issue is rendered moot by our decision to use the interest expense allocation of the firm's audited financial statements.

Comment 8. Petitioner and another U.S. industry representative argue that the circumstances of sale adjustments claimed by differences in credit costs is impermissible as a matter of law because the differences in cost have no effect on the value of the shipments. They further argue that on USIMINAS' export sales to the U.S., the periods for payments are well in excess of the about 60-day terms allegedly provided on home market sales, and the Department should adjust the foreign market value upward (or United States price downward) to account for the difference between home market and U.S. credit costs.

DOC Response: We accepted respondents' claim concerning post-shipment credit because the credit terms for the companies differ between the U.S. and home market both in duration of financing and in the applicable interest rates. We verified that credit terms on both sides were generally longer than 60 days and were varied in duration. The home market terms were generally at much higher rates of interest than for U.S. sales. This adjustment was based on the cost to the seller in accordance with CFR 353.15(d). The fact that terms of sale in the price list include a discount for payment within 10 days demonstrates the effect of credit terms on prices. For a discussion of the treatment of pre-shipment credit claims, see the response to respondents' Comment 7.

Comment 9. Petitioner argues that credit costs on respondents' U.S. sales are greater than on home market sales due to exchange losses incurred with respect to financing extended through ACC loans, and that this actual loss must be included as a cost of extending credit to purchases for export to the United States.

DOC Response: The claim for adjustment for preshipment financing based on ACC loans was disallowed as not being directly related to the sales in question, as explained in our response to respondents' Comment 7.

Comment 10. Petitioner argues that export taxes are directly related to particular sales for export to the United States, and therefore should not be included in the home market indirect selling expenses used to calculate the offset for commissions in the U.S. market.

DOC Response: We agree. These export taxes were specifically excluded from the reported indirect selling expenses in the home market.

Comment 11. Petitioner argues that the Department should disregard the U.S. transaction data submitted by the COSIPA and USIMINAS because of errors in the questionnaire response and instead should rely upon the best information otherwise available in reaching a final determination.

DOC Response: We rejected this argument because there were no significant errors in the U.S. sales data submitted by these companies. The errors found at verification were of a very small magnitude and have been corrected. We have conducted additional verification of these and other sales and found no other errors.

Comment 12. Petitioner argues that SIDERBRAS should be treated as a single commercial entity of purposes of these investigations because it sets prices, coordinates marketing, obtains financing on behalf of, and is the principal shareholder of CSN, COSIPA, and USIMINAS.

DOC Response: We disagree. The home market prices of these companies were not set by SIDERBRAS, but rather by the *Interministerial Council on Prices.* Each company maintains separate manufacturing facilities and sales operations. United States sales prices are negotiated by each company with its individual customers. For these reasons, we consider it appropriate to treat these companies as separate commercial entities.

Comment 13. Petitioner argues that the ITA should increase the constructed value of carbon steel plate to the extent of the 12.16 percent export tax impose to offset subsidies after October 1981.

DOC Response: Section 772(d)(2)(B) requires the deduction of export taxes from the United States price except in instances where the export tax was imposed to offset subsidies. The Act neutralizes the effect of all export taxes except those which offset subsidies. The addition of the export taxes to the constructed value would have the effect of neutralizing the export taxes. Since the intent of Congress as reflected in section 772(d)(2)(B) of the Act is not to neutralize the effect of this tax, we did not add the tax to the constructed value.

Comment 14. Petitioner and another U.S. industry representative argue that the ITA should calculate production costs and constructed value on the basis of the best information available, such as the "top-down" approach outlined by United States Steel Corporation.

DOC Response: We verified the costs provided in the responses for these investigations. Since we found no major cost discrepancies at verification, we used the information in the responses, adjusted for our methodology, in the final determinations.

Respondents' Issues

Comment 1. A respondent, COSIPA, argues that the Department should allocate its monthly fixed costs over the monthly average production figures based on a three-year business cycle.

DOC Response: In determining cost of production, the ITA requires that calculations of costs be in accordance with the home country's generally accepted accounting principles, and that they do not significantly distort the firm's financial position or actual costs. The respondent did not demonstate that its proposal to allocate its fixed costs over a three year business cycle is in accordance with Brazilian generally accepted accounting principles. The other two companies under investigation allocated their fixed costs over one year.

We have therefore allocated COSIPA's fixed costs incurred during the review period over the production for the review period.

Comment 2. Respondents argue that the financial expenses reported in the cost of production responses submitted by COSIPA, USIMINAS and CSN should be used by the Department of Commerce to calculate cost of production. They state that the capitalization and deferral of interest costs on assets under construction is consistent with U.S. and Brazilian generally accepted accounting principles and is permissible under the antidumping law, and that the method used by the companies to quantify the deferred interest charges on expansion assets was reasonable.

DOC Response: We disagree. In calculating cost of production, our policy is to use a firm's expenses as recorded in its financial statements as long as those statements are prepared in accordance with the home country's generally accepted accounting principles and do not significantly distort the firm's financial position or actual costs. Respondents' financial statements have been certified by independent auditors and their opinion indicates that such statements are in accordance with the generally accepted accounting practices of Brazil. In addition, respondents have not shown that the method used in the financial statements to calculate interest expenses significantly distorted their financial positions or actual costs.

Comment 3. Respondents argue that the costs of ingot casting and continuous casting of slabs should be allocated according to the proportionate tonnage of specific grades of the products under investigation which were produced during the applicable period.

DOC Response: This comment is discussed in our response to petitioner's Comment 1.

Comment 4. Respondents argue that the companies' cost of production should be reduced by the amount of the capital grants determined by the Department to exist on the subject merchandise.

DOC Response: The grants received by the respondents were IPI rebates which were used for capital investment in expansion projects, and thus do not benefit current production and do not affect current costs. Therefore, we did not deduct amounts equal to these grants in our calculations.

Comment 5. Respondents argue that where there were no sales of a particular grade or dimension of the subject merchandise in the home market, or the only sales were made below cost because of regional discounts, the Department should use offers for sale or sales of "similar" merchandise, rather than constructed value, as the basis for foreign market value.

DOC Response: Where there were no sales of a particular grade or dimension, we compared the U.S. item to the most similar home market item. We did not use offers based on price lists because they do not allow us to determine regional variations in price due to regional discounts, and thus are not precise enough to be considered firm offers by the Department.

Comment 6. Respondents argue that the Department should compare sales prices on identical merchandise, rather than using the subgroups used for the cost comparison, in making its price comparisons.

DOC Response: Merchandise sold in the U.S. and merchandise sold in the home market were not identical due to measurement differences. The cost subgroups were considered representative of similar merchandise.

Comment 7. Counsel for the respondents claims that an adjustment should be made for differences in circumstances of sale with respect to pre-shipment credit. The claim is based on the fact that financing is available for anticipated export sales denominated in U.S. dollars and that pre-shipment financing of home market sales would be at substantially higher interest rates.

DOC Response: We disallowed this claim because we do not consider the pre-shipment credit to be directly related to the sales under consideration, or to affect the prices set by the respondents. In making these decisions, we considered evidence relating to pre-shipment financing in both the export and domestic markets.

The pre-shipment financing on export sales is available under exchange contracts. These contracts enable the seller to borrow funds in cruzeiros up to the amount of anticipated export sales payable in U.S. dollars. The exchange contracts are for extended periods of time, often 180 days, and specify the applicable interest rate. Either the lending bank receives the payment from the foreign purchaser in U.S. dollars at the time of shipment or the exchange contract provides for postshipment credit (usually 60 to 90 days) and the bank receives the U.S. dollar payment at the end of the period. If the level of anticipated sales is not met, the exchange contract period can be extended in some instances.

Specific export sales are not tied to specific exchange contracts until the issuance of the export license at the time of exportation. In most instances checked at verification, the export sale was made several months after the exchange contract was issued. Until that time, the exporter has the choice of assigning payment for the export sale to a specific exchange contract or receiving the U.S. dollar payment directly.

Exporting companies often have several outstanding exchange contracts at any given time. Based on the fact that the exporter can choose which contract, if any, is to be assigned the U.S. dollar payment at the time of exportation, we do not consider the pre-shipment credit to be directly related to the sale under consideration. Further, we have no evidence that the pre-shipment credit affects the prices negotiated for export sales, and conclude that it does not since the prices are determined prior to the assignment of the dollar payment.

Pre-shipment financing is not available for anticipated home market sales. Therefore, the claimed costs for pre-shipment credit in the home market are hypothetical and cannot be considered directly related to the sales under consideration. The claimed costs also could not affect the home market prices set by the companies.

Comment 8. Respondents argue that critical circumstances do not exist in these investigations because there has not been a massive surge in imports during the period between the filing of the petition and the preliminary determinations.

DOC Response: The level of imports of hot-rolled carbon steel plate from Brazil during each of the two months immediately preceding our preliminary determinations was higher than during

any previous month since October, 1981. The average level for the 2 months was much higher than for any two-month or longer period since at least 1977. Further, the average level of import penetration of hot-rolled carbon steel plate from Brazil in the U.S. market for the period between the initiation of these cases and the preliminary determinations was much higher than for any other period since at least 1977.

The level of imports of hot-rolled carbon steel sheet from Brazil between the initiation and the preliminary determinations was higher then during the previous seven months and all previous years since at least 1979. Further, the level of imports during each of the two months immediately preceding our preliminary determinations was higher than any prior month except one since at least 1979.

Based upon these facts, we found there to be a massive surge in imports of the subject merchandise over a relatively short period of time.

Verification

In accordance with section 776(a) of the Act, we verified data used in making these determinations by using verification procedures which included on-site inspection of manufacturers's facilities and examination of company records and selected original source documentation containing relevant information.

Final Affirmative Determinations of Critical Circumstances

Counsel for petitioner alleged that imports of hot-rolled carbon steel sheet and hot-rolled carbon steel plate from Brazil present "critical circumstances." Under section 735(a)(3) of the Act, critical circumstances exist when the Department finds that: (1) There have been massive imports of the merchandise under investigation over a relatively short period; and (2)(a) there is a history of dumping in the United States or elsewhere of the merchandise under investigation, or (b) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise under investigation at less than its fair value.

In determining whether there have been massive imports over a relatively short periodd, we considered the following factors: Recent import penetration levels; changes in import penetration since the date of the ITC's preliminary affirmative determination of injury; whether imports have surged recently; whether recent imports are significantly above the average calculated over several years (1980–1982); and whether the patterns of imports over that three-year period may be explained by seasonal swings. Based upon our analysis of the information, we determine that imports of the products covered by these investigations do appear massive over a relatively short period.

We therefore proceeded to consider whether there is a history of dumping of hot-rolled carbon steel sheet and hot-rolled carbon steel plate from Brazil in the United States or elsewhere. We reviewed past antidumping findings of the Department of the Treasury as well as past Department of Commerce antidumping orders, and found no past U.S. antidumping determinations on hot-rolled carbon steel sheet or hot-rolled carbon steel plate from Brazil. We also reviewed the antidumping actions of other countries made available to us through the Antidumping Code Committee established by the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade. On May 18, 1983, in Commission Recommendation No. 1230/83 ECSC, the Commission of the European Communities imposed antidumping duties on imports of sheets and plates, of iron and steel, not further worked than hot-rolled of a thickness of 3 mm or more, originating in Brazil. This recommendation included merchandise both within and outside the scope of our investigations.

We also considered whether the person by whom, or for whose account, these products were imported knew or should have known that the exporters were selling these products at less than fair value. We believe that the importer knew or should have known that a product was being sold at less than its fair value where margins calculated on the basis of responses to the Department's questionnaire are sufficiently large that the importer knew or should have known that prices for sales to the United States (as adjusted according to the antidumping law) were sufficiently below home market sales prices. In these cases, the margins calculated in these final determinations on the basis of responses to the Department's questionnaire are sufficiently large, even though there is no corporate relationship between the exporters and importers, that the importers knew or should have known that the merchandies was being sold in the United States at less than fair value.

For the reasons described above, we determine that "critical circumstances" do exist with respect to hot-rolled carbon steel plate and hot-rolled carbon steel sheet from Brazil.

Suspension of Liquidation

In accordance with section 733(d) of the Act, on September 8, 1983, we instructed the U.S. Customs Service to suspend liquidation of all entries of hot-rolled carbon steel plate and hot-rolled carbon steel sheet from Brazil. As of the date of publication of this notice in the **Federal Register**, the liquidation for consumption of all entries or withdrawals from warehouse for consumption of this merchandise will continue to be suspended. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average margin amount by which the foreign market value of the merchandise subject to these investigations exceeds the United States price. The suspension of liquidation will remain in effect until further notice. The weighted-average margins are as follows:

Manufacturers/producers/exporters	Weighted-average margin (percent)
Hot-rolled carbon steel plate:	
COSIPA	100.04
USIMINAS	[illegible]
All other manufacturers/producers/exporters	86.81
Hot-rolled carbon steel sheet:	
COSIPA	[illegible]
CSN	52.57
USIMINAS	50.56
All other manufacturers/producers/exporters	57.42

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our determinations. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to these investigations. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will make its determinations of whether these imports are materially injuring, or threatening to materially injure, a U.S. industry within 45 days of the publication of this notice.

If the ITC determines that material injury or the threat of material injury does not exist, these proceedings will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue antidumping orders, directing Customs

officers to assess antidumping duties on hot-rolled carbon steel plate and hot-rolled carbon steel sheet from Brazil, as appropriate, entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value of the merchandise exceeds the U.S. prices.

William T. Archey,

Acting Assistant Secretary for Trade Administration.

[FR Doc. 84-2012 Filed 1-24-84; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review; Application

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and invites interested parties to submit information relevant to the determination of whether a certificate should be issued.

DATES: Comments on this application must be submitted on or before February 14, 1984.

ADDRESS: Interested parties should submit their written comments, original and five (5) copies, to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 6711, Washington, D.C. 20230.

Comments should refer to this application as "Export Trade Certificate of Review, application number 84-00002."

FOR FURTHER INFORMATION CONTACT: Charles S. Warner, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-5131, or Eleanor Roberts Lewis, Assistant General Counsel for Export Trading Companies, Office of General Counsel, 202/377-0937. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (Pub L. 97-290) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III can be found at 48 FR 10596-10604 (Mar. 11, 1983) (to be codified at 15 CFR Part 325). A certificate of review protects its holder and the members identified in it from private treble damage actions and from civil and criminal liability under Federal and state antitrust laws for the export trade, export trade activities and methods of operation specified in the certificate and carried out during its effective period in compliance with its terms and conditions.

Standards for Certification

Proposed export trade, export trade activities, and methods of operation may be certified if the applicant establishes that such conduct will:

1. Result in neither a substantial lessening of competition or restraint of trade within the United States nor a substantial restaint of the export trade of any competitor of the applicant,
2. Not unreasonably enhance, stabilize, or depress prices within the United States of the goods, wares, merchandise, or services of the class exported by the applicant,
3. Not constitute unfair methods of competition against competitors engaged in the export of goods, wares, merchandise, or services of the class exported by the applicant, and
4. Not include any act that may reasonably be expected to result in the sale for consumption or resale within the United States of the goods, wares, merchandise, or services exported by the applicant.

The Secretary will issue a certificate if he determines, and the Attorney General concurs, that the proposed conduct meets these four standards. For a further discussion and analysis of the conduct eligible for certification and of the four certification standards, see "Guidelines for the issuance of Export Trade Certificates of Review," 48 FR 15937-10 (April 13, 1983).

Request for Public Comments

The Office of Export Trading Company Affairs (OETCA) and the applicant have agreed that this notice fairly represents the conduct proposed for certification. Through this notice, OETCA seeks written comments from interested persons who have information relevant to the Secretary's determination to grant or deny the application summarized below. Information submitted by any person in connection with the application(s) is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552).

The OETCA will considered the information received in determining whether the proposed conduct is "export trade," an "export trade activity" or a "method of operation" as defined in the Act, regulations and guidelines and whether it meets the four certification standards. Based upon the public comments and other information gathered during the analysis period, the Secretary may deny the application or issue the certificate with any terms or conditions necessary to assure compliance with the four standards.

The OETCA has received the following application for an Export Trade Certificate of Review:

Applicant: Crosby Trading Company, 600 Whitney Building, New Orleans, LA 70130.
Telephone No.: (504) 581-7047.
Application No.: 84-00002.
Date Received: January 6, 1984.
Date Deemed Submitted: January 10, 1984.
Members in Addition to Applicant: None.
Controlling Entity: Crosby Chemical Company, New Orleans, LA.
Summary of Application: Crosby Trading Company is a newly-formed Mississippi corporation which intends to purchase or broker for export worldwide, products such as rosin, tall oil fatty acids, pine oil, alpha pinene, beta pinene, turpin resins, synthetic resins, and related chemical raw materials.

At the present Crosby Trading Company is applying only for certification of a procedure for soliciting information from prospective suppliers so that Crosby can formulate an export business plan that may involve some or all of the suppliers in an export trade arrangement with Crosby. In formulating a plan that both satisfies the participants and uses their particular resources and expertise to maximum advantage, Crosby foresees the need to obtain business information that participants may be reluctant to disclose for competitive or legal reasons. The procedure for exchanging business information at the planning stage is intended to ensure that the information submitted to Crosby by each prospective participant remains confidential.

The details of the procedure are as follows: Crosby Trading Company intends to contact prospective suppliers regarding a proposed plan to sell products overseas. Interested suppliers will be instructed to furnish information pertaining to their products, sensitive or otherwise, to an attorney who will relay necessary information to Crosby Trading Company. Neither the attorney nor Crosby Trading Company will share any information pertaining to any supplier with any other supplier. Crosby Trading Company will then prepare a proposed business plan which may include (a) exclusive rights for Crosby to

sell or broker products in foreign markets, (b) methods of proration among individual companies or manner of rotation of orders, (c) territorial allocations, (d) method of fixing export prices, (e) profit sharing incentives, if any, and (f) all other details of the plan. Crosby Trading Company will then negotiate any alterations in the initial plan with individual suppliers.

Once the details of an export business plan have been worked out, Crosby Trading Company intends to seek an amendment to its initial Certificate of Review for approval of the plan including a list of specific participants.

The OETCA is issuing this notice in compliance with section 302(b)(1) of the Act which requires the Secretary to publish a notice of the application in the **Federal Register** identifying the persons submitting the application and summarizing the conduct proposed for certification. Interested parties have twenty (20) days from the publication of this notice in which to submit written information relevant to the determination of whether a certificate should be issued.

Dated: January 20, 1984.

Irving P. Margulies,

Acting General Counsel.

[FR Doc. 84-2061 Filed 1-24-84; 8:45 am]

BILLING CODE 3510-DR-M

National Oceanic and Atmospheric Administration

Deep Seabed Mining; Receipt of Amendments to Applications for Exploration Licenses

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of receipt of amendments to applications for Deep Seabed Mining Exploration Licenses and of intention to prepare an Environmental Impact Statement.

SUMMARY: On June 25, 1982, the National Oceanic and Atmospheric Administration (NOAA) published a notice, at 47 FR 27583, that it had received four applications from Ocean Management, Inc. (OMI), One New York Plaza, New York, N.Y. 10004 for licenses to conduct deep seabed mining exploration activities in the Northeastern Equatorial Pacific Ocean within the seabed area generally known as the Clarion-Clipperton Fracture Zone. On September 19, 1983, OMI filed amendments to its applications withdrawing certain areas of the deep seabed previously included in the application areas and adding new areas not previously included in the application (see notice at 48 FR 50387). On December 22, 1983, OMI further amended its application, further withdrawing areas previously applied for and consolidating the remainder in one application area of about 135,000 km^2.

NOAA announces its intention to prepare an environmental impact statement (EIS), as required by Section 109(d) of the Deep Seabed Hard Mineral Resources Act, upon certification of OMI's application for an exploration license, and invites participation of interested agencies and persons. NOAA will use information in its programmatic environmental impact statement on first generation seabed mining, which was filed with the Environmental Protection Agency (EPA) in September, 1981, in preparing the EIS on the license application. NOAA will further make use of public discussion on the general National Pollutant Discharge Elimination System Permit on exploration activities being developed by EPA, as well as any public comments in response to this notice in determining the scope of the EIS. Alternatives to be considered by NOAA are to issue or not issue the license. NOAA expects to act on the EIS and license during 1984.

Subject to 15 CFR 970.902, which excludes confidential information from public disclosure, interested persons will be permitted to examine the materials relevant to the amended application and to provide comments on the contents of the license or on the content or scope of the EIS to NOAA by March 26, 1984. Information concerning the date of certification of this application may be obtained from the officials listed below.

FOR FURTHER INFORMATION CONTACT: John W. Padan or Laurence J. Aurbach, Division of Ocean Minerals and Energy, Office of Ocean and Coastal Resource Management, NOAA, Suite 105, Page 1 Building, 2001 Wisconsin Avenue, NW., Washington, D.C. 20235 (202) 653-8257.

Dated: January 18, 1984.

Paul M. Wolff,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 84-1978 Filed 1-24-84; 8:45 am]

BILLING CODE 3510-12-M

Marine Mammal Permits; Gulf World Inc.

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Gulf World, Inc. (P160A).

b. Address: 15412 West Alt. Highway 98, Panama City Beach, Florida 32407.

2. Type of Permit: Public Display.

3. Name and Number of Animals: Atlantic bottlenose dolphin (Tursiops truncatus) 1.

4. Type of Take: Public Display.

5. Location of Activity: Chocktawhatchee Bay, Fort Walton Beach, Florida.

6. Period of Activity: 2 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: January 19, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-2062 Filed 1-24-84; 8:45 am]

BILLING CODE 3510-22-M

Patent and Trademark Office

Current Membership of Performance Review Board

This notice announces the appointment of the following permanent member of the Performance Review Board for the Patent and Trademark Office: Theresa A. Brelsford, Assistant, Commissioner for Administration, U.S. Patent and Trademark Office, Washington, D.C. 20231.

The current membership of the Board is as follows:

Donald J. Quigg, Chairman, Deputy Commissioner of Patents and Trademarks, U.S. Patent and Trademark Office, Washington, D.C. 20231. Term—permanent.

Rene D. Tegtmeyer, Member, Assistant Commissioner for Patents, U.S. Patent and Trademark Office, Washington, D.C. 20231. Term—permanent.

Margaret M. Laurence, Member, Assistant Commissioner for Trademarks, U.S. Patent and Trademark Office, Washington, D.C. 20231. Term—permanent.

Bradford R. Huther, Member, Assistant Commissioner for Finance and Planning, U.S. Patent and Trademark Office, Washington, D.C. 20231. Term—permanent.

Theresa A. Brelsford, Member, Assistant U.S. Patent and Trademark Office, Washington, D.C. 20231. Term—permanent.

Samuel S. Matthews, Member, Director, Examining Group 250, U.S. Patent and Trademark Office, Washington, D.C. 20231. Term—expires January 31, 1986.

Richard J. Wieland (Outside), Member, Assistant General Counsel for Litigation, HQ National Aeronautics and Space Administration, Washington, D.C. 20646. Term—expires July 12, 1984.

Samih N. Zaharna, Member, Director, Patent Examining Group 160, U.S. Patent and Trademark Office, Washington, D.C. 20231. Term—expires January 31, 1986.

Persons desiring any further information about the membership of the PRB may contact Mr. Aaron W. Deitch, Personnel Officer, U.S. Patent and Trademark Office, Washington, D.C. 20231. Telephone (703) 557-2662.

Dated: January 18, 1984.

Gerald J. Mossinghoff,

Commissioner of Patents and Trademarks.

[FR Doc. 84-1978 Filed 1-24-84; 8:45 am]

BILLING CODE 3510-16-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Chemical Warfare and Biological Defense; Meeting

The Defense Science Board Task Force on Chemical Warfare and Biological Defense will meet in closed session on 7–9 March 1984 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meeting on 7–9 March 1984 the Task Force will review progress in chemical warfare and biological defense since the 1980 Defense Summer Study on Chemical Warfare and changes in the chemical/biological threat environment.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. 92-463, as amended (5 U.S.C. App. I (1976)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly these meetings will be closed to the public.

Dated: January 20, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-2065 Filed 1-24-84; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Defense Data Network (Defensive Systems Subgroup); Date Change for Advisory Committee Meeting

The meeting of the Defense Science Board Task Force on Defense Data Network (Defensive Systems Subgroup) scheduled for 1–2 February 1984 in Washington, D.C. as published in the **Federal Register** (Vol. 49, No. 8, Thursday, January 12, 1984, FR Doc. 84-882) has been postponed until 21–23 March 1984. In all other respects the original notice is the same.

Dated: January 20, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 84-2066 Filed 1-24-84; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

January 16, 1984.

The USAF Scientific Advisory Board Ad Hoc Committee on the Effects of High Altitude Electromagnetic Pulse on Military Command, Control, and Communications will meet at the AF Weapons Laboratory, Kirtland AFB, NM on February 13–14, 1984.

The purpose of the meeting will be to gather information on the effects of High Altitude Electromagnetic Pulse on Military C^3. The meeting will convene at 8:00 a.m. to 5:00 p.m.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-8845.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 84-2005 Filed 1-24-84; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Army Science Board Ad Hoc Subgroup on Army Leadership; Meeting Change

The following change has occurred for the meeting of the Army Science Board Ad Hoc Subgroup on Army Leadership which was originally announced in the **Federal Register** issue of Tuesday, December 20, 1983 (48FR56254), FR Doc #83-33662, and had a change of location published in the **Federal Register** issue of Wednesday, 11 January 1984 (49FR1414), FR Doc #84-733:

Date and Place of Meeting: Thursday, January 26, 1984, one day only (instead of Wednesday, Thursday and Friday, 25,

26, & 27 January 1984) at U.S. Army Training and Doctrine Command, Fort Monroe, Virginia.

Sally A. Warner,

Administrative Officer.

[FR Doc. 84-2194 Filed 1-23-84; 2:45 pm]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

Cancellation of Competition for the Program of Research Grants on Law and Government Studies in Education in Fiscal Year 1984

AGENCY: Department of Education.

ACTION: Notice.

SUMMARY: The Secretary cancels the closing dates and the competition for the program of Research Grants on Law and Government Studies in Education in Fiscal Year 1984. The Application Notice for this program was published in the **Federal Register** on December 30, 1982 (47 FR 58343). That notice invited the submission of grant applications under the National Institute of Educations' Program for Research Grants on Law and Government Studies in Education for both Fiscal Years 1983 and 1984. Closing dates for the transmittal of applications were established for Fiscal Year 1984 as January 4, 1984 (Major grant pre-applications and small grant applications) and April 19, 1984 (major grant full applications).

SUPPLEMENTARY INFORMATION: The cancellation of the closing dates and the competition is a consequence of a smaller Fiscal Year 1984 appropriation for the National Institute of Education than requested. Because of the reduction, the Secretary has determined that there are insufficient funds to support a new grant competition for this program. Consequently, the Secretary will use the limited funds available to fund continuation awards under this program.

FOR FURTHER INFORMATION CONTACT: Dr. Jo Ann McGeorge, Acting Assistant Director, Law and Public Management Program, National Institute of Education, 1200 19th Street, NW., Washington, D.C. 20208, Telephone (202) 254-8897.

(Catalog of Federal Domestic Assistance Number 13.950, Educational Research and Development)

Dated: January 20, 1984.

Donald J. Senese,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 84-2019 Filed 1-24-84; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 7824-000, et al.]

Hydroelectric Applications (Gentry Resources Corp., et al.); Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1a. Type of application: Preliminary Permit.

b. Project No.: 7824-000.

c. Dated Filed: November 10, 1983.

d. Applicant: Gentry Resources Corporation.

e. Name of Project: Willow Spring Pumped Storage Hydro Project.

f. Location: On the Verde River in Maricopa and Yavapai Counties, Arizona.

g. Filed pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Darold Proctor, President, Gentry Resources Corporation, 11920 E. Maple, Aurora, Colorado 80012.

i. Comment Date: March 5, 1984.

j. Description of Project: The proposed Willow Spring Pumped Storage Project would be located on Bureau of Reclamation and U.S. Forest Service lands, and would consist of: (1) A proposed earth-fill or masonry upper storage dam; (2) a newly constructed powerhouse with a total installed capacity of 250 MW; (3) a switchyard adjacent to the powerhouse; (4) a proposed pressure conduit or shaft to deliver water providing a head of 500 to 2500 feet; (5) proposed intake and discharge pipes connecting the turbines to the main water body; (6) new surge tanks; (7) a proposed 230-kV transmission line; (8) new roads; and (9) appurtenant facilities. Applicant estimates the average annual generation to be a minimum of 600 GWh. The energy would be marketed in not more than 2 contiguous counties in Arizona depending on marketing arrangements.

k. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

l. Proposed Scope of Studies under Permit—Applicant has requested a 36-month permit to prepare a definitive project report, including preliminary designs, results of geological, environmental, and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with the Corps and other Federal, State, and local agencies, preparing a license application, conducting final field surveys, and preparing designs is estimated by the Applicant to be $950,000.

m. Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

2a. Type of Application: Preliminary Permit.

b. Project No.: 7825-000.

c. Date Filed: November 10, 1983.

d. Applicant: Gentry Resources Corporation.

e. Name of Project: Indian Spring Pumped Storage Hydro Project.

f. Location: On the Verde River in Maricopa County, Arizona.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Darold Proctor, President, Gentry Resources Corporation, 11920 E. Maple, Aurora, Colorado 80012.

i. Comment Date: March 5, 1984.

j. Description of Project: The proposed Indian Spring Pumped Storage Project would be located on Bureau of Reclamation and U.S. Forest Service lands, and would consist of: (1) A proposed earth-fill or masonry upper storage dam; (2) a newly constructed powerhouse with a total installed capacity of 250 MW; (3) a switchyard adjacent to the powerhouse; (4) a pressure conduit or shaft to deliver water providing a head of 500 to 2,500 feet; (5) intake and discharge pipes connecting the turbines to the main water body; (6) new surge tanks; (7) a proposed 230-kV transmission line; (8) new roads; and (9) appurtenant facilities. Applicant estimates the average annual generation to be a minimum of 600 GWh. The energy would be marketed in not more than 2 contiguous counties in Arizona depending on marketing arrangements.

k. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

l. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design

alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $950,000.

3a. Type of Application: Preliminary Permit.

b. Project No.: 7826–000.

c. Date Filed: November 10, 1983.

d. Applicant: Gentry Resources Corporation.

e. Name of Project: Saguaro Pumped Storage Hydro Project.

f. Location: On the Salt Lake in Maricopa County, Arizona.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Darold Proctor, President, Gentry Resources Corporation, 11920 E. Maple, Aurora, Colorado 80012.

i. Comment Date: March 5, 1984.

j. Description of Project: The proposed Saguaro Pumped Storage Project would be located on Bureau of Reclamation and U.S. Forest Service lands, and would consist of: (1) A proposed earth-fill or masonry upper storage dam; (2) a newly constructed powerhouse with a total installed capacity of 250 MW; (3) a switchyard adjacent to the powerhouse; (4) a pressure conduit or shaft to deliver water providing a head of 500 to 1,300 feet; (5) intake and discharge pipes connecting the turbines to the main water body; (6) new surge tanks; (7) a proposed 230-kV transmission line; (8) new roads; and (9) appurtenant facilities. Applicant estimates the average annual generation to be a minimum of 600 GWh. The energy would be marketed in not more than 2 contiguous counties in Arizona depending on marketing arrangements.

k. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

l. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $950,000.

4a. Type of Application: Preliminary Permit.

b. Project No.: 7827–000.

c. Date Filed: November 10, 1983.

d. Applicant: Gentry Resources Corporation.

e. Name of Project: Apache Pumped Storage Hydro Project.

f. Location: On the Salt Lake in Maricopa County, Arizona.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Darold Proctor, President, Gentry Resources Corporation, 11920 E. Maple, Aurora, Colorado 80012.

i. Comment Date: March 5, 1984.

j. Description of Project: The proposed Apache Pumped Storage Project would be located on Bureau of Reclamation and U.S. Forest Service lands, and would consist of: (1) A proposed earth-fill or masonry upper storage dam; (2) a newly constructed powerhouse with a total installed capacity of 250 MW; (3) a switchyard adjacent to the powerhouse; (4) a pressure conduit or shaft to deliver water providing a head of 500 to 3,000 feet; (5) intake and discharge pipes connecting the turbines to the main water body; (6) new surge tanks; (7) a proposed 230–kV transmission line; (8) new roads; and (9) appurtenant facilities. Applicant estimates the average annual generation to be a minimum of 600 GWh. The energy would be marketed in not more than 2 contiguous counties in Arizona depending on marketing arrangements.

k. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

l. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $950,000.

5a. Type of Application: License (Over 5 MW).

b. Project No.: 3862–001.

c. Date Filed: July 25, 1983.

d. Applicant: The city of LeClaire, Iowa.

e. Name of Project: LeClaire Hydropower Project.

f. Location: On the Mississippi River, in Scott County, Iowa and Rock Island County, Illinois.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. James E. Hawks, Shive-Hattery and Associates, 6236 North Brady Street, P.O. Box 4438, Davenport, Iowa 52808.

i. Comment Date: March 5, 1984.

j. Description of Project: The proposed project includes the use of Locks and Dam No. 14 administered by the U.S. Army Corps of engineers, and would consist of: (1) A proposed 45-foot wide intake channel; (2) a proposed powerhouse containing 6 generating units rated at 3,680 kW each for a total installed capacity of 22,080 kW; (3) a proposed tailrace; (4) a proposed 9 mile, 161 kV transmission line; and (5) appurtenant facilities. The estimated average annual energy output for the project would be 159,100,000 kWh.

k. Purpose of Project: The power generated at the project would be utilized by the Applicant with any excess sold to several potential power purchasers.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

6a. Type of Application: Preliminary Permit.

b. Project No. 7823–000.

c. Date Filed: November 10, 1983.

d. Applicant: Gentry Resources Corporation.

e. Name of Project: Canyon Lake Pumped Storage Hydro Project.

f. Location: On the Salt Lake in Maricopa County, Arizona.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Darold Proctor, President, Gentry Resources Corporation, 11920 E. Maple, Aurora, Colorado 80012.

i. Comment Date: March 5, 1984.

j. Description of Project: The proposed Canyon Lake Pumped Storage Project would be located on Bureau of Reclamation and U.S. Forest Service lands, and would consist of: (1) A proposed earth-fill or masonry upper storage dam; (2) a newly constructed powerhouse with a total installed capacity of 250 MW; (3) a switchyard adjacent to the powerhouse; (4) a pressure conduit or shaft to deliver water providing a head of 500 to 1,500 feet; (5) intake and discharge pipes connecting the turbines to the main water body; (6) new surge tanks; (7) a proposed 230–kV transmission line; (8) new roads; and (9) appurtenant facilities. Applicant estimates the average annual generation to be a minimum of 600 GWh. The energy would be marketed in not more than 2 contiguous counties in Arizona depending on marketing arrangements.

k. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

l. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $950,000.

7a. Type of Application: Preliminary Permit.

b. Project No. 7833–000.

c. Date Filed: November 14, 1983.

d. Applicant: WP, Incorporated.

e. Name of Project: Gill Creek.

f. Location: On Gill Creek, near Leavenworth, in Chelan County, Washington, and affecting U.S. lands within Mt. Baker-Snoqualmie National Forest.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Gary W. Tripp, 821 East Thomas St., Seattle, Washington 98102.

i. Comment Date: March 2, 1984.

j. Description of Project: The proposed project would consist of: (1) A 10-foot-high concrete diversion structure at elevation 4,410 feet; (2) a 9,400-foot-long, 18-inch-diameter pipeline; (3) a powerhouse containing one generating unit rated at 993 kW; and (4) a 0.2-mile-long transmission line. The average annual energy generation is estimated to be 3.5 million kWh.

A preliminary permit, if issued, does not authorize any construction. Applicant seeks issuance of a preliminary permit for a term of 36 months, during which it would conduct engineering, economic, environmental, and feasibility studies, and prepare an FERC license application. No new roads would be required to conduct the studies. The cost of the work is estimated to be $100,000.

k. Purpose of Project: Power would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, D2.

8a. Type of Application: Preliminary Permit.

b. Project No.: 7835–000.

c. Date Filed: November 14, 1983.

d. Applicant: WP, Incorporated.

e. Name of Project: Merrill lake.

f. Location: On Merrill Lake, near Cougar, in Cowlitz County, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Gary W. Tripp, 821 East Thomas St., Seattle, Washington 98102.

i. Comment Date: March 2, 1984.

j. Description of Project: The proposed project would consist of: (1) A 10-foot-high concrete diversion structure at elevation 1,551 feet; (2) a 5,280-foot-long diversion pipeline; (3) a 10-foot-high concrete saddle dam; (4) the 440-acre Merrill Lake; (5) a 2,000-foot-long, 8-foot-diameter tunnel; (6) a 4,200-foot-long, 48-inch-diameter pipeline; (7) a surge tank; (8) a 4,200-foot-long, 5-foot-diameter penstock; (9) a powerhouse containing one generating unit rated at 21,490 kW; and (10) a 0.1-mile-long transmission line. The average annual energy generation is estimated to be 13.6 million kWh.

A preliminary permit, if issued, does not authorize any construction. Applicant seeks issuance of a preliminary permit for a term of 36 months, during which it would conduct engineering, economic, environmental, and feasibility studies, and prepare an FERC license application. No new roads would be required to conduct the studies. The cost of the work is estimated to be $100,000.

k. Purpose of Project: Power would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, D2.

9a. Type of Application: License (Over 5 MW).

b. Project No.: 4720–001.

c. Date Filed: August 26, 1983.

d. Applicant: The City of Farmington, New Mexico.

e. Name of Project: Navajo Dam.

f. Location: On the San Juan River, in San Juan and Rio Arriba Counties, New Mexico.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. W. C. Lewis, Director, Electric Utilities System, City of Farmington, P.O. Box 900, Farmington, New Mexico 87499 & Mr. James V. Williamson, R. W. Beck & Associates, Tower Building, 7th Avenue at Olive Way, Seattle, Washington 98101.

i. Comment Date: March 5, 1984.

j. The proposed project would utilize the existing Bureau of Reclamation's Navajo Dam and would occupy lands administered by the Bureau of Land Management. The proposed project would consist of: (1) An existing intake structure; (2) an existing 110-inch diameter penstock; (3) a proposed 110-inch diameter penstock approximately 150-feet long; (4) a proposed powerhouse which will contain 2 generating units rated at 15 MW each; (5) a proposed tailrace approximately 45-feet wide; (6) a proposed 10.4 mile long, 115-kV transmission line; and (7) appurtenant facilities. The estimated average annual energy output for the project would be 115 GWh.

k. Purpose of Project: The Applicant proposes to produce based load power to displace more expensive gas and coal-fired power produced by the Applicant's existing generating facilities.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

10a. Type of Application: Preliminary Permit.

b. Project No.: 7834–000.

c. Date Filed: November 14, 1983.

d. Applicant: WP, Incorporated.

e. Name of Project: Evans Lake.

f. Location: on Evans Lake, near Skykomish, in King County, Washington and affeacting U.S. lands within Mt. Baker—Snoqualmie National Forest.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Gary W. Tripp, 821 East Thomas St., Seattle, Washington 98102.

i. Comment Date: March 2, 1984.

j. Description of Project: The proposed project would consist of: (1) A 10-foot-high concrete diversion structure at elevation 3,610 feet; (2) a 7,300-foot-long, 14-inch-diameter pipeline; (3) a powerhouse containing one generating unit rated at 1,005 kw; and (4) a 4.4-mile-long transmission line. The average annual energy generation is estimated to be 3.52 million kWh.

A preliminary permit, if issued, does not authorize any construction. Applicant seeks issuance of a preliminary permit for a term of 36 months, during which it would conduct engineering, economic, environmental, and feasibility studies, and prepare an FERC license application. No new roads would be required to conduct the studies. The cost of the work is estimated to be $100,000.

k. Purpose of Project: Power would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

11a. Type of Application: Minor License.

b. Project No.: 6398–001.

c. Date Filed: November 17, 1983.

d. Applicant: Hackett Mills Hydro Associates.

e. Name of Project: Hackett Mills.

f. Location: Little Androscoggin River, near the towns of Minot and Poland, Androscoggin County, Maine.

g. Filed Pursuant to: 16 U.S.C. 791(a)–825(r).

h. Contact Person: Philip M. Hoover, Suite 409, Annapolis City Marina, 410 Severn Avenue, Annapolis, Maryland 21403.

i. Comment Date: March 2, 1984.

k. Description of Project: The proposed project would consist of: (1) An existing 101-foot-long, 8-foot-high, rock filled timber crib dam; (2) an existing 22-foot-long sluice gate section containing a single sluice gate; (3) an 8-foot-high, 85-foot-long concrete spillway with three uncontrolled bays at the north dam abutment; (4) a 60-acre reservior with no usable storage capacity at elevation 235-feet M.S.L.; (5) a canal intake gate structure containing 5 gates; (6) an existing 100-foot-long, 25-foot wide, 7-foot-deep power canal at the south dam abutment; (7) a new powerhouse located at the end of the canal containing two turbine-generators with a total rated capacity of 470 kW; (8) an existing 280-foot-long, 12.5 kV transmission line; (10) a downstream fish passage facility and; (11) appurtenant facilities. The project would generate up to 2,150,000 KWh annually.The project is owned by Mr. Normand LaPage and Ms. Mabel M. Boucher.

l. Purpose of Project: Energy produced at the project would be sold to Central Maine Power Company.

m. This notice also consist of the following standard paragraphs: A3, A9, B, C, and D1.

12a. Type of Application: License (Major).

b. Project No.: 7417–000.

c. Date Filed: July 1, 1983.

d. Applicant: Palo Verde Irrigation District (District).

e. Name of Project: Palo Verde.

f. Location: On the Colorado River in Riverside County, California, and Yuma County, Arizona.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Gary A. Bryce, President, Palo Verde Irrigation District, P.O. Box 1199, Blythe, California 92226.

i. Comment Date: March 2, 1984.

j. Description of Project: The proposed project would consist of: (1) The applicant's existing 50-foot-high earth and rockfill Palo Verde Diversion Dam, with a crest length of 296 feet; (2) an existing spillway at the west end of the dam; (3) an existing 70-foot-wide irrigation diversion canal with intake upstream of the spillway, within the west bank of the river; (4) a powerhouse within the canal, adjacent to the existing spillway, containing two generating units with combined rated capacity of 6,000 kW, operating under a head of 9.5 feet; (5) a 1,700-foot-long, 34.5–kV transmission line connecting the powerhouse with an existing Southern California Edison Company's (SCE) North Intake Substation, west of the project; and (6) appurtenant facilities. Applicant estimates the total cost of the project at $34.6 million. No recreational facilities are proposed as part of this project. The proposed construction would occur entirely within the State of California.

k. Purpose of Project: The estimated 40.8 million kWh of project energy would be sold to SCE.

l. This notice also consists of the following standard paragraphs: A3, A9, B & C.

13a. Type of Application: Amendment of License.

b. Project No.: 2100–025.

c. Date Filed: November 14, 1983.

d. Applicant: California Department of Water Resources (DWR).

e. Name of Project: Feather River Project.

f. Location: On Feather River in Butte County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Arnold W. Johnson, California Department of Water Resources, P.O. Box 388, Sacramento, California 95802.

i. Comment Date: February 24, 1984.

j. Description of Proposed Action: The license for Project No. 2100 was amended on January 26, 1982, authorizing the Licensee (DWR) to construct and operate the Palermo Power Plant with a rated capacity of 500 kW. DWR, in its filing of November 14, 1983, states that construction and operation of the Palermo Plant is not economically feasible at this time. DWR requests that the Palermo Power Plant be eliminated from the license for Project No. 2100.

k. This notice also consists of the following standard paragraphs: B & D2.

14a. Type of Application: Minor License.

b. Project No.: 3583–001.

c. Date Filed: January 28, 1983.

d. Applicant: Joseph Martin Keating.

e. Name of Project: Horton Creek Water Power Project.

f. Location: On Horton Creek, near Bishop, Inyo County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Joseph Martin Keating, 847 Pacific Street, Placerville, California 95667.

i. Comment Date: March 5, 1984.

j. Description of Project: The proposed project would consist of: (1) A 4-foot-high, 40-foot-long diversion structure on Horton Creek at elevation 8400.00 feet; (2) a 24-inch-diameter, 8,500-foot-long steel penstock; (3) a powerhouse at elevation 6650.00 feet to contain a generator with a rated capacity of 1500 kW; and (4) a transmission line to connect to an existing 66–kV Southern California Edison Company (SCE) transmission line. The Applicant estimates the average annual energy generation at 4.00 million kWh which would be sold to SCE. The project will cost approximately $1.50 million. The project will provide recreational opportunities by building a trailhead at the powerhouse and following the penstock route leading to the John Muir Wilderness area. Applicant proposes to construct a foot bridge over the ravine on the northern side to provide access to the wilderness area for purposes of hiking, camping, fishing and encourage use of the Horton Creek campground.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C & D1.

15a. Type of Application: Preliminary Permit.

b. Project No.: 7841–000.

c. Dated Filed: November 14, 1983.

d. Applicant: WP, Incorporated.

e. Name of Project: Maloney Creek.

f. Location: On Maloney Creek, near Skykomish, in King County, Washington and affecting U.S. lands within Mt. Baker-Snoqualmie National Forest.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Gary W. Tripp, 821 East Thomas St., Seattle, Washington 98102.

i. Comment Date: March 2, 1984.

j. Description of Project: The proposed project would cosnist of: (1) A 10-foot-high concrete diversion structure at elevation 1,970 feet; (2) a 6,000-foot-long, 20-inch-diameter pipeline; (3) a powerhouse containing one generating unit rated at 1,000 kW; and (4) a 0.2-mile-long transmission line. The average annual energy generation is estimated to be 3.5 million kWh.

A preliminary permit, if issued, does not authorize any construction. Applicant seeks issuance of a preliminary permit for a term of 36 months, during which it would conduct engineering, economic, environmental, and feasibility studies, and prepare an FERC license application. No new roads would be required to conduct the studies. The cost of the work is estimated to be $90,000.

k. Purpose of Project: Power would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

16a. Type of Application: Preliminary Permit.

b. Project No: 7838–000.

c. Date Filed: November 14, 1983.

d. Applicant: WP, Incorporated.

e. Name of Project: Rachor Creek.

f. Location: On Rachor Creek, near Ernie's Grove, in King County, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Gary W. Tripp, 821 East Thomas St., Seattle, Washington 98102.

i. Comment Date: March 2, 1984.

j. Description of Project: The proposed project would consist of: (1) A 10-foot-high concrete diversion structure at elevation 2,300 feet; (2) a 2,600-foot-long, 30-inch-diameter pipeline; (3) a surge tank; (4) a 2,400-foot-long, 24-inch-diameter steel penstock; (5) a powerhouse containing one generating unit rated at 4, 500 kW; and (6) a 1.2-mile-long transmission line. The average annual energy generation is estimated to be 15.8 million kWh.

A preliminary permit, if issued, does not authorize any construction. Applicant seeks issuance of a preliminary permit for a term of 36 months, during which it would conduct engineering, economic, environmental, and feasibility studies, and prepare an FERC license application. No new roads would be required to conduct the studies. The cost of the work is estimated to be $80,000.

k. Purpose of Project: Power would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C & D2.

17a.Type of Application: Preliminary Permit.

b. Project No: 7836–000.

c. Date Filed: November 14, 1983.

d. Applicant: WP, Incorporated.

e. Name of Project: Deep Creek.

f. Location: On Deep Creek, near Greenwater, in Pierce County, Washington and affecting U.S. lands withing Mt. Baker—Snoqualmie National Forest.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Gary W. Tripp, 821 East Thomas St., Seattle, Washington 98102.

i. Comment Date: March 2, 1984.

j. Description of Project: The proposed project would consist of: (1) A 10-foot-high concrete diversion structure at elevation 4,010 feet; (2) an 8,000-foot-long, 24-inch-diameter pipeline; (3) a powerhouse containing one generating unit rated at 1,250 kW; and (4) a 0.6-mile-long transmission line. The average annual energy generation is estimated to be 4.4 million kWh.

A preliminary permit, if issued, does not authorize any construction. Applicant seeks issuance of a preliminary permit for a term of 36 months, during which it would conduct engineering, economic, environmental, and feasibility studies, and prepare an FERC license application. No new roads would be required to conduct the studies. The cost of the work is estimated to be $40,000.

k. Purpose of Project: Power would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C & D2.

18a. Type of Application: Preliminary Permit.

b. Project No.: 7839–000.

c. Date Filed: November 14, 1983.

d. Applicant: WP, Incorporated.

e. Name of Project: Cougar Creek.

f. Location: On Cougar Creek, near Darrington, in Snohomish County, Washington and affecting U.S. lands within Mt. Baker—Snoqualmie National Forest.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Gary W. Tripp, 821 East Thomas St., Seattle, Washington 98102.

i. Comment Date: March 5, 1984.

j. Description of Project: The proposed project would consist of: (1) A 10-foot-long concrete diversion structure at elevation 3,010 feet; (2) a 2,650-feet-long, 18-inch-diameter pipeline: (3) a powerhouse containing one generating unit rated at 1,344 kw; and (4) a 9.0-mile-long transmission line. The average annual energy generation is estimated to be 4.7 million kWh. The proposed project may affect a potential wilderness area and a wild and scenic river.

A preliminary permit, if issued, does not authorize any construction. Applicant seeks issuance of a preliminary permit for a term of 36 months, during which it would conduct engineering, economic, environmental, and feasibility studies, and prepare an FERC license application. No new roads would be required to conduct the studies. The cost of the work is estimated to be $100,000.

k. Purpose of Project: Power would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

19a. Type of Application: License (under 5 MW).

b. Project No.: 7828–000.

c. Date Filed: October 28, 1983.

d. Applicant: Truckee-Carson Irrigation District.

e. Name of Project: New Lahontan Power Plant.

f. Location: At the existing outlet of the United States Bureau of Reclamation's Lahontan Dam on Carson River in Churchill County, Nevada.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Dennis Heaps, Project Manager, Truckee—Carson Irrigation District, P.O. Box 1356, Fallon, Nevada 89406.

i. Comment Date: March 1, 1984.

j. Description of Project: The proposed project would consist of a powerhouse containing a single generating unit with a rated capacity of 3,000 kW, operating under a head of 100 feet, and approximately 700-feet-long, 12-kV transmission line connecting the powerhouse with an existing Sierra—Pacific Power Company's 12-kV transmission line northeast of the project. The Applicant estimates the total cost of the project at $4.72 million. No recreational facilities are proposed as part of the project.

k. Purpose of Project: The proposed project's estimated annual output of 12.54 million kWh would be sold to either the Sierra Pacific Power Company or the City of Fallon, Nevada.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

20a. Type of Application: Preliminary Permit.

b. Project No.: 7843–000.

c. Date Filed: November 14, 1983.

d. Applicant: Power Development Systems, Inc.

e. Name of Project: Doe Run Hydropower Project.

f. Location: On the Doe Run Creek, in Meade County, Kentucky.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. M. E. Marrs, Jr., President, Power Development Systems, Inc., 140 Outerloop, Louisville, Kentucky 40214.

i. Comment Date: March 5, 1984.

j. Description of Project: The proposed project would consist of: (1) An existing reservoir at approximate elevation of 460 feet m.s.l.; (2) an existing 24-inch-diameter steel pipe that is proposed to be used as a penstock; (3) an existing 89-foot-high, earth-fill dam; (4) a proposed powerhouse that would contain 1 generating unit rated at 150 kW; (5) a proposed transmission line; and (6) appurtenant facilities. The Applicant estimates the average annual energy

output for the project would be 1,300 kWh.

k. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $3,000.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

21a. Type of Application: Preliminary Permit.

b. Project No.: 7440–000.

c. Date Filed: July 11, 1983.

d. Applicant: Mr. Michael Arkoosh.

e. Name of Project: George #2.

f. Location: On Henry's Fork of the Snake River, near the Town of Ashton, in Fremont County, Idaho.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Vernon Ravenscroft, P.O. Box 893, Boise, Idaho 84701.

i. Comment Date: March 5, 1984.

j. Description of Project: The proposed run-of-river project would affect lands of the United States within the Targhee National Forest and would consist of: (1) A new diversion structure; (2) a gated, screened concrete intake structure located at the right (west) bank; (3) a 1.25-mile-long canal; (4) a 300-foot-long, 96-inch-diameter steel penstock; (5) a powerhouse containing a generating unit having a rated capacity of 3,098-kW operated under a 70-foot head and at a flow of 680 cfs; (6) electrical transformer and switching devices; (7) a 0.5-mile-long 34.5-kV transmission line; and (8) appurtenant facilities.

k. Purpose of Project: Project energy would be sold to Utah Power & Light Company. Applicant estimates that the average annual energy output would be 18,484,000 kWh.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it would perform studies and would prepare an application for an FERC license. Applicant estimates the cost of the work under the permit would be $96,500.

22a. Type of Application: Preliminary Permit.

b. Project No.: 7868–000.

c. Date Filed: November 25, 1983.

d. Applicant: Clinton Associates.

e. Name of Project: Hildebrand Project.

f. Location: On the Monongahela River in Monongalia County, West Virginia.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Joel Kirk Rector, Clinton Accociates, 4832 Colony Circle, Salt Lake City, Utah 84117.

i. Comment Date: March 1, 1984.

j. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers' Hildebrand Lock and Dam and would consist of: (1) A new powerhouse containing an installed generating capacity of approximately 5.3 MW; (2) a proposed 500-foot-long, 12-kV transmission line; and (3) appurtenant facilities. The Applicant estimates that the average annual energy generation will be 29,714 MWh.

k. Purpose of Project: The Applicant intends to sell the power produced at the site to local municipalities.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $125,000.

23a. Type of Application: Exemption.

b. Project No.: 3128–03.

c. Date Filed: December 19, 1983.

d. Applicant: The New Hampshire Water Resources Board.

e. Name of Project: Lochmere Dam Project.

f. Location: On the Winnipesaukee River in Belknap County, New Hampshire.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Delbert F. Downing, Chairman, New Hampshire Water Resources Board, 37 Pleasant Street, Concord, New Hampshire 03301.

i. Comment Date: February 27, 1984.

j. Description of the Project: The project would consist of: (1) The existing Lockmere Dam about 160-feet-long and 11-feet-high; (2) a reservoir with negligible storage capacity; (3) and existing gate structure at the western side of the dam; (4) a new 366-foot-long canal; (5) an existing powerhouse with 4 new turbine-generator units with a total installed capacaity of 1,000 kW; (6) an existing tailrace; (7) a short power line to connect the project with the existing 34.5–kV substation adjacent to the project; and (8) other appurtenances. Applicant owns all existing facilities. It estimates an average annual generation of 4,900,000 kWh.

k. Purpose of Project: Project energy would be sold to the Public Service Company of New Hampshire.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C, and D3a.

m. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

24a. Type of Application: 5 MW Exemption.

b. Project No.: 5367–001.

c. Date Filed: October 31, 1983.

d. Applicant: Platte River Power Authority.

e. Name of Project: Button Rock Hydro Project.

f. Location: North St. Vrain Creek in Boulder County, Colorado.

g. Filed Pursuant to: Section 408 of the Energy Security Act (Act) (16 U.S.C. 2705 and 2708 *as amemded).*

h. Contact Person: Albert J. Hamilton, General Manager, Timberline and Horsetooth Roads, Fort Collins, Colorado 80525.

i. Comment Date: Feburary 27, 1984.

j. Description of Project: The proposed run-of-river project would consist of: (1) The existing Button Rock Dam, 210 feet high and 925 feet long, constructed of zoned earth and rockfill embankment with a crest elevation at 6,420 feet m.s.l.; (2) a reservoir having 220 acres of surface area and 16,085 acre-feet gross storage capacity; (3) a new steel penstock, 45 inches in diameter and approximately 285 feet long, connecting to the existing outlet works at the left river bank; (4) a new powerhouse containing two turbine-generator units rated at 2,950 kW and 180 kW for a total rated capacity of 3,130 kW; (5) a tailrace returning flow to the creek just downstream of the existing outlet works

stilling basin; (6) a new 12.47–kV transmission line, approximately 5.3 miles long; and (7) appurtenant facilites. The Applicant estimates that the average annual energy output would be 6,765,000 kWh. Project energy would be utilized by the Applicant. Applicant has the real property interests required for the project. Applicant is permittee for Project No. 5367.

k. This notice also consists of the following standard paragraphs: A1, A9, B, C, and D3a.

l. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

25a. Type of Application: Preliminary Permit.

b. Project No.: 7837–000.

c. Date Filed: November 14, 1983.

d. Applicant: WP, Incorporated.

e. Name of Project: Deer Creek.

f. Location: On Deer Creek, near Index, in Snohomish County, Washington.

g. Filed Pursaunt to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Gary W. Tripp, 821 East Thomas St., Seattle, Washington 98102.

i. Comment Date: March 19, 1984.

j. Description of Project: The proposed project would consist of: (1) A 10-foot-high concrete diversion structure at elevation 1,690 feet; (2) a 3,200-foot-long, 18-inch-diameter pipeline; and (3) a powerhouse containing one generation unit rated at 1,570 kW. The average annual energy generation is estimated to be 5.5 million kWh.

A preliminary permit, if issued, does not authorize any construction. Applicant seeks issuance of a preliminary permit for a term of 36 months, during which it would conduct engineering, economic, environmental, and feasibility studies, and prepare an FERC license application. No new roads would be required to conduct the studies. The cost of the work is estimated to be $70,000.

k. Purpose of Project: Power would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

26a. Type of Application: Preliminary Permit.

b. Project No: 7880–000.

c. Date Filed: November 28, 1983.

d. Applicant: NorthHydro, Inc.

e. Name of Project: Upper Smith Creek.

f. Location: In the Panhandle National Forest, on Smith Creek, near Bonners Ferry, in Boundary County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Richard W. Kochansky, 2005 Ironwood Parkway #141, Coeur d'Alene, Idaho 83814.

i. Comment Date: March 19, 1984.

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high concret diversion structure at elevation 3,200 feet; (2) a 19,000-foot-long, 60-inch-diameter steel penstock; (3) a powerhouse at elevation 2,000 feet containing generating equipment having a rated capacity of 7,550 kw and an annual energy production of 32.7 GWh; and (4) a 2-mile-long, 7.6-kV transmission line to a Northern Lights, Inc. transmission line.

k. Purpose of Project: Power may be marketed to Northern Lights, Inc., or Pacific Power and Light Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

A preliminary permit, if issued, does not authorize any construction. Applicant seeks a 30-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. Applicant has stated that no new roads are necessary as part of the studies. The estimated cost of permit activities is $90,000–$130,000.

27a. Type of Application: Preliminary Permit.

b. Project No: 7821–000.

c. Date Filed: November 10, 1983.

d. Applicant: Hydroelectric Development Inc.

e. Name of Project: Collbran II.

f. Location: On Plateau Creek in Mesa County, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: CH2M Hill, P.O. Box 22508, Denver, Colorado 80222.

i. Comment Date: March 19, 1984.

j. Description of project: The proposed project would utilize the existing Bureau of Reclamation's Southside Canal which extends from Vega Reservoir to Mesa Creek and would consist of: (1) A new 48-inch-diameter, 1,000-foot-long surface penstock; (2) A new powerhouse containing one or more generating units having a total rated capacity of 2,420 kW; (3) a new 2-mile-long, 34.5-kV transmission line to interconnect with an existing 115-kV line owned by Colorado-Ute REA; and (4) appurtenant facilities. The Applicant estimates that the average annual energy output would be 6,790,000 kWh.

k. Purpose of Project: The most likely market for the energy derived at the proposed project would be a local power supplier (i.e., REA, Public Service).

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C & D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 24 months. The work proposed under the preliminary permit would include economic analysis preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to consturct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $40,000.

28a. Type of Application: Preliminary Permit.

b. Project No.: 7879–000.

c. Date Filed: November 28, 1983.

d. Applicant: City of Des Moines, Iowa.

e. Name of Project: Center Street.

f. Location: On the Des Moines River, in the City of Des Moines, in Polk County, Iowa.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Richard Wilkey, City Manager, City Hall, East First & Locust Streets, Des Moines, Iowa 50307.

i. Comment Date: March 19, 1984.

j. Description of Project: The proposed run-of-river project would consist of: (1) The City-owned Center Street Dam, a multiple arch and buttress structure, 400 feet long and providing a normal operating head of 13 feet; (2) new inlet works; (3) an existing gate structure; (4) a new powerhouse located at the west abutment containing two new turbine/generator units rated at 900 kW each; (5) new outlet works; (6) a short, low voltage transmission line; and (7) appurtenant mechanical and electrical facilities.

The estimated average annual generation of 8.2 million kWh would offset the City's purchases of power from the Iowa Power and Light System.

k. This notice also consist of the following standard paragraphs: A5, A7, A9, B, C and D2.

l. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 24

months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $12,000.

29a. Type of Application: Exemption (Conduit).

b. Project No.: 7426–000.

c. Date Filed: July 5, 1983.

d. Applicant: Lake Hemet Municipal Water District.

e. Name of Project: North Fork Power Station.

f. Location: Lake Hemet Municipal Water District's distribution line in Riverside County, California.

g. Filed Pursuant to: Section 30 of the Federal Power Act, 16 U.S.C. 823(a).

h. Contact Person: Mr. Leonard Hale, General Manager, Lake Hemet Minicipal Water District, 40988 Florida Avenue, Hemet, California 92343.

i. Comment Date: February 27, 1984.

j. Description of Project: The proposed project would consist of: (1) An existing 28-inch-diameter, 9,000-foot-long concrete pipeline from the confluence of Strawberry Creek and the South Fork of the San Jacinto River; (2) a 24-inch-diameter, 7,000-foot-long penstock; (3) a powerhouse at elevation 2,190 feet containing a generating unit with a rated capacity of 255 kW; and (4) a 1,200-foot-long transmission line tying into an existing southern California Edison Company line. The average annual energy generation is estimated to be 1,148,000 kWh.

k. Purpose of Project: Power would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, D3b.

30a. Type of Application: Preliminary Permit.

b. Project No.: 7889–000.

c. Date Filed: December 1, 1983.

d. Applicant: WP, Incorporated.

e. Name of Project: Granite Creek Water Power.

f. Loction: On Granite Creek in King County, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Gary W. Tripp, 821 East Thomas Street., Seattle, Washington 98102.

i. Comment Date: March 2, 1984.

j. Competing Application: Project No. 7512. Date Filed: August 8, 1983. Notice issued: September 22, 1983.

k. Description of Project: The proposed project would consist of: (1) A 10-foot-high diversion structure at elevation 2,410 feet; (2) a 22-inch-diameter, 9,500-foot-long penstock; (3) a powerhouse at elevation 880 feet containing a generator rated at 1,895 kW with an average annual output of 6.6 GWh; and (4) a 4-mile-long transmission line connecting to an existing line near Tanner, Washington.

A preliminary permit, if issued, does not authorize construction. Applicant seeks a 36-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. Applicant has stated that no new roads are necessary and that drilling is not anticipated as part of the studies. The estimated cost of permit activities $70,000 to $90,000.

l. Purpose of Project: Project output would be sold to utilities such as Puget Sound Power & Light or Seattle City Light.

m. This notice also consists of the following standard paragraphs: A8, A9, B, C, and D2.

31a. Type of Application: Conduit Exemption.

b. Project No.: 7745–000.

c. Date Filed: October 24, 1983.

d. Applicant: Garden Bar Farm's Inc.

e. Name of Project: Garden Bar.

f. Location: Camp Far West Ditch, near Lincoln, in Placer County, California.

g. Filed Pursuant to: Section 30 of the Federal Power Act, 16 U.S.C. 823(a).

h. Contact Person: Mr. Ron Murray, 6540 Garden Bar Road, Lincoln, California 95648.

i. Comment Date: February 29, 1984.

j. Description of Project: The proposed project would consist of: (1) A 3-foot-high, 10-foot-long, intake structure diverting water from Nevada Irrigation District's Camp Far West Ditch into a 36-inch-diameter, 400-foot-long, steel penstock; and (2) two turbine-generator units with a total installed capacity of 80-kW and an estimated average annual generation of 426,500 kWh situated on lands of the Garden Bar Farm. Project power would be sold to Pacific Gas and Electric Company.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, D3b.

32a. Type of Application: Conduit Exemption.

b. Project No.: 7753–000.

c. Date Filed: October 25, 1983.

d. Applicant: Glen-Colusa Irrigation District (GCID).

e. Name of Project: Williams Crosstie.

f. Location: Tehama-Colusa Canal, near Williams, in Colusa County, California.

g. Filed Pursuant to: Section 30 of the Federal Power Act, 16 U.S.C. 823(a).

h. Contact Person: Mr. Robert D. Clark, Manager, Glen-Colusa Irrigation District, 344 East Laurel Street, Willows, California 95988.

i. Comment Date: Feburary 27, 1984.

j. Description of Project: The proposed project would utilize GCID's Stovall Lateral, which receives flow from the U.S. Bureau of Reclamation's Tehama-Colusa Canal. The proposed project would consist of a powerhouse containing a single turbine-generating unit with an installed capacity of 210-kW and an estimated average annual generation of 0.75 GWh. Project power would be sold to Pacific Gas and Electric Company. Applicant estimates construction cost at $200,000.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, D3b.

33a. Type of Application: 5 MW Exemption.

b. Project No.: 2947–001.

c. Date Filed: March 21, 1983.

d. Applicant: Central Vermont Public Service Corporation.

e. Name of Project: Frog Hollow.

f. Location: In the town of Middlebury, on Otter Creek in Addison County, Vermont.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708, as amended).

h. Contact Person: Mr. Darrow R. McLeod, Central Vermont Public Service Corporation, 77 Grove Street, Rutland, Vermont 05701.

i. Comment Date: March 2, 1984.

j. Description of Project: The proposed project would consist of: (1) A new 3-foot cap across the ledge of Middlebury Falls; (2) a new intake structure; (3) two new 20-foot-long concrete penstocks, one six and one eight feet in diameter; (4) a new powerhouse, approximately 50 feet square, containing one 500-kW and one 1,250-kW turbine/generator unit operating under a head of 23 feet; (5) a new tailrace; (6) a short, low voltage transmission line; and (7) appurtenant electrical and mechanical facilities.

k. Purpose of Project: The estimated average annual generation of 7.8 million kWh would be used by the Applicant in its distribution system.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C, D3A.

34a. Type of Application: Conduit Exemption.

b. Project No.: 4734–002.

c. Date Filed: August 17, 1983.

d. Applicant: Marin Municipal Water District.

e. Name of Project: Alpine Lake.

f. Location: Lagunitas Creek, near Fairfax, in Marin County, California.

g. Filed Pursuant to: Section 30 of the Federal Power Act.

h. Contact Person: Mr. Richard W. Rogers, Marin Municipal Water District, 220 Nellen Avenue, Corte Madera, California 94925.

i. Comment Date: February 29, 1984.

j. Description of Project: The proposed project would utilize the existing 30-inch-diameter water supply conduit at MMWD's Alpine Lake and would consist of a powerhouse containing a single turbine-generator unit with a rated capacity of 150 kW and an average annual generation of 204,000 kWh. 50 feet of 12.0-kV transmission line would connect the project to an existing Pacific Gas and Electric Company (PG&E) line. Project power would be sold to PG&E.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C and D3b.

l. The proposed project would discharge to Lagunitas Creek, a natural water body, thence to MMWD's Kent Lake. MMWD filed a petition for waiver of the water discharge requirement of Section 4.91(f)(5) pursuant to § 385.207 of the Commission's regulations.

35a. Type of Application: License (5MW or Less).

b. Project No.: 6727–001.

c. Date Filed: June 16, 1983.

d. Applicant: Northwest Power Company, Inc.

e. Name of Project: Miner's Tunnel Hydroelectric Project.

f. Location: On South Fork Yuba River, near Nevada City, in Nevada County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. J. Ward MacDonald, President, Northwest Power Company, Inc. Four Embarcadero Center, Suite 1980, San Francisco, California 94111.

i. Comment Date: March 26, 1984.

j. Description of Project: The proposed project would consist of: (1) A 12-foot-high by 70-foot-long concrete diversion structure on South Fork Yuba River at elevation 1315.00 feet; (2) a 400-foot-long concrete forebay wall; (3) a tunnel intake structure; (4) and existing 12-foot-diameter, 880-foot-long tunnel; (5) and 8-foot-diameter, 60-foot-long steel penstock; (6) a powerhouse containing one generating unit rated at 2.5 MW; and (7) a 1.5-mile-long, 60-kV transmission line. The Applicant estimates the average annual energy generation at 9.0 million kWh which would be sold to Pacific Gas and Electric Company. The project cost has been estimated to be about $3.6 million. The project will provide recreational facilities by the development of the Excelsior Ditch campground and the Miner's Tunnel swimming facility with full accessibiltiy for disabled users. The area will be suitable for swimming, sunbathing and picnicking.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

36a. Type of Application: Preliminary Permit.

b. Project No.: 7840–000.

c. Date Filed: November 14, 1983.

d. Applicant: WP, Incorporated.

e. Name of Project: Hansen Creek.

f. Location: On Hansen Creek, near North Bend, in King County, Washington and affecting U.S. lands within Mt. Baker-Snoqualmie National Forest.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Gary W. Tripp, 821 East Thomas St., Seattle, Washington 98102.

i. Comment Date: March 23, 1984.

j. Description of Project: The proposed project would consist of: (1) A 10-foot-high concrete diversion structure at elevation 2,250 feet; (2) a 4,800-foot-long, 26-inch-diameter pipeline; (3) a powerhouse containing one generating unit rated at 1,350 kW; and (4) a 0.05-mile-long transmission line. The average annual energy generation is estimated to be 4.7 million kWh.

A preliminary permit, if issued, does not authorize any construction. Applicant seeks issuance of a preliminary permit for a term of 36 months, during which it would conduct engineering, economic, environmental, and feasibility studies, and prepare an FERC license application. No new roads would be required to conduct the studies. The cost of the work is estimated to be $80,000.

k. Purpose of Project: Power would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C & D2.

37a. Type of Application: Preliminary Permit.

b. Project No.: 7727–000.

c. Date Filed: October 17, 1983.

d. Applicant: Kimshew Hydro Partners.

e. Name of Project: Kimshew.

f. Location: On Big Kimshew Creek, a tributary of the West Branch North Fork Feather River, near Stirling City, in Butte County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. David C. Auslam, Jr., 3327 Longview Drive, Suite 250, North Highlands, California 95660.

i. Comment Date: March 22, 1984.

j. Description of Project: The proposed run-of-river project would consist of: (1) A 15-foot-high, 80-foot-long, concrete diversion structure at elevation 4,000 feet msl (2) a 27,000-foot-long, 60-inch-diameter pipeline; (3) a surge tank; (4) a 3,000-foot-long, 60-inch diameter penstock; (5) a powerhouse at elevation 2,460 feet msl with an installed capacity of 8.8 MW and an average annual generation of 33.3 GWh; and (6) 15,000 feet of 60-kV transmission line to connect to an existing Pacific Gas and Electric Company (PG&E) line. The project would affect Plumas National Forest lands. Project power would be sold to PG&E.

A preliminary permit, if issued, does not authorize any construction. The applicant seeks a 24-month permit to study the feasibility of constructing and operating the project and estimates the cost of the studies at $175,000.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C and D2.

38a. Type of Application: Exemption-Small Conduit Facility.

b. Project No.: 7747–000.

c. Date Filed: October 24, 1983.

d. Applicant: Robert B. Shipp and Rosalind C. Shipp.

e. Name of Project: Mirror lake.

f. Loction: Middle Fork of the Nooksack River on an existing municipal water supply system owned by the City of Bellingham, in Whatcom County, Washington near the town of Wickersham.

g. Filed Pursuant to: Energy Security Act, 1980 (16 U.S.C. 2705 and 2708 as amended).

h. Contact Person: Mr. Robert B. Shipp and Mrs. Rosalind C. Shipp 1807 Lakeway Drive, Bellingham, Washington 98226.

i. Comment Date: February 29, 1984.

j. Description of Project: The proposed project would consist of a powerhouse containing six generating units with a combined rated capacity of 1,500 kW operating under a head of 180 feet. The powerhouse would discharge into an existing channel flowing into Mirror Lakes, part of the water supply system. The average annual energy output would be 6,256 million kWh.

Purpose of Exemption—An exemption, if issued, gives an Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

k. Purpose of Project: Project power would be used by the City of Bellingham.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3b.

39a. Type of Application: Preliminary Permit.

b. Project No.: 7737–000.

c. Date Filed: October 20, 1983.

d. Applicant: WP, Incorporated.

e. Name of Project: Coal Creek.

f. Location: In Mt. Baker-Snoqualmie National Forest, on Coal Creek, near Granite Falls, in Snohomish County, Washington.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Gary W. Tripp, 821 East Thomas Street, Seattle, Washington 98102.

i. Comment Date: March 22, 1984.

j. Description of Project: The proposed project would consist of: (1) A 10-foot-high concrete diversion dam at elevation 2,250 feet; (2) an 8,000-foot-long, 32-inch-diameter penstock; (3) a powerhouse containing a single generator with a rated capacity of 1,522 kW and an annual energy production of 5.3 GWh; (4) a switchyard; and (5) a 15.1-mile-long, 69-kV transmission line to an existing line.

A preliminary permit, if issued, does not authorize construction. Applicant seeks a 36-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. Applicant has stated that no new roads are necessary and that drilling is not anticipated as part of the studies. The estimated cost of permit activities is $60,000 to $80,000.

k. Purpose of Project: Power may be marketed to Puget Sound Power and Light, Seattle City Light, or Snohomish County PUD No. 1.

l. This notice also consists of the following standard paragraphs: A6, A7, A9, B, C, and D2.

40a. Type of Application: Major License.

b. Project No.: 3924–002.

c. Date Filed: June 28, 1983.

d. Applicant: Consulting Associates, Inc.

e. Name of Project: Malad High Drop Power.

f. Location: On the big Wood River in Gooding County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16, U.S.C. 791(a)–625(r).

h. Contact Person: Vernon F. Ravenscroff, P.O. Box 893, Boise, Idaho 83701.

i. Comment Date: March 26, 1984.

j. Description of Project: The proposed project would consist of: (1) Modification of an existing inlet structure at elevation 3,276 feet; (2) a 700-foot-long, 72-inch-diameter pipeline; (3) a 2.7-mile-long, 7-foot-deep trapezoidal canal; (4) a 0.79-mile-long, 66-inch-diameter penstock; (5) a powerhouse containing a generator with a rated capacity of 5 MW and an average annual output of 38.61 GWH; (6) a tailrace discharging into the Snake River at elevation 2,735 feet; (7) a 0.25-mile-long transmission line; and (8) a total of one mile of new road. The estimated cost of the project is $9,424,166 in 1984 dollars. The Applicant proposes to restore a historic wagon bridge and the Kelton Trading Post to enhance recreational use of the project area.

k. Purpose of Project: Project power would be sold to the Idaho Power Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

Competing Applications

A1. Exemptions for Small Hydroelectric Power Project under 5 MW Capacity—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1982). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d).

A2. Applications for License—Anyone desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either the competing application itself (see 18 CFR 4.33 (a) and (d), and Part 16, where applicable) or a notice of intent (see 18 CFR 4.33 (b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an aceptable competing application no later than the time specified in § 4.33(c) or §§ 4.101 to 4.104 (1982).

A3. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for license, exemption or preliminary permit, or notices of intent to file competing applications, will be accepted for filing in response to this notice (see 18 CFR 4.30 to 4.33 or 4.101 to 4.104 (1982), as appropriate). Any application for license or exemption from licensing, or notice of intent to file a license or an exemption application. must be filed in accordance with the Commission's regulations (see 18 CFR 4.30 to 4.33 or 4.101 to 4.104 (1982), as appropriate).

Preliminary Permits

A4a. Existing Dam or Natural Water Feature Project—Anyone desiring to file a competing application for preliminary permit for a proposed project at an existing dam or natural water feature project, must submit the competing application to the Commission on or before 30 days after the specified comment date for the particular application (see 18 CFR 4.30 to 4.33 (1982)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

A4b. No Existing Dam—Anyone desiring to file a competing application for preliminary permit for a proposed project where no dam exists or there are proposed to be major modifications, must submit to the Commission on or before the specified comment date for the particular application, the competing application itself, or a notice of intent to file such an application (see 18 CFR 4.30 to 4.33 (1982)).

A4c.The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before the specified comment date for the particular application. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see 18 CFR 4.30 to 4.33 or 4.101 to 4.104 (1982), as appropriate).

A4d. Submission of a timely notice of intent to file an application for preliminary permit allows an interested person to file an acceptable competing application for preliminary permit no later than 60 days after the specified comment date for the particular application.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385 .210, .211, .214 (1982). In determining the

appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments

D1. License applications (5 MW or less capacity)—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D2. Preliminary permit applications—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. Exemption applications (5 MW or less capacity)—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in section 408 of the Act, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. Exemption applications (Conduit)—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 30 of the Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: January 20, 1984.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–2023 Filed 1–24–84; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Issuance of Decisions and Order; Week of November 14 Through November 18, 1983

During the week of November 14 through November 18, 1983, the decisions and orders summarized below were issued with respect to appeals and applications for relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

The Bakersfield Cdlifornian, 11/16/83, HFA–0190

The Bakersfield Californian, a newspaper, filed an Appeal from a determination issued to it by the Department of Energy's Office of the Director, Naval Petroleum Reserves, in California (Director). In the determination, the Director partly denied a request for information which the Appellant had submitted under the Freedom of Information Act. During the pendency of the appeal, the Director released the information which the Appellant sought. Accordingly, the Appeal was dismissed as moot.

Roger W. Brownlow, 11/15/83, HFA–0185

Roger W. Brownlow filed an Appeal from a partial denial by the Chicago Operations Office of a Request for Information which he had submitted under the Freedom of Information Act (the FOIA). The Appeallant sought release of a recommendation written about him and submitted to the Argonne National Laboratory. In considering the Appeal, the DOE found that the recommendation was properly considered an intra-agency memorandum even though the author was not a DOE employee since it was solicited by the agency and used in the agency's deliberative process. The DOE further found that since the document was a pre-decisional intra-agency memorandum, it was properly withheld under Exemption 5. However, the DOE also found that there was no express promise made to the author that his identity would be kept confidential and that therefore the document could not be withheld under the Privacy Act. Accordingly, the Appeal was granted.

Chuck Hansen, 11/15/83, HFA–0161

Chuck Hansen (Hansen) filed an Appeal from a determination issued to him by the Department of the Air Force of a Request for Information filed under the Freedom of Information Act (the FOIA). Hansen had requested that the Air Force release a document entitled "History of TAC, Vol. VII, Special Weapons Activities, 1 July–31 Dec. 1951." The Air Force withheld portions of the document on the basis of certain instructions from the DOE which had concluded that certain material in the document was characterized as Unclassified Controlled Nuclear Information (UCNI), falling within the scope of Section 148 of the Atomic Energy Act. That material was withheld by the Air Force pursuant to Exemption 3.

In considering the Appeal, the DOE found that the document does not contain any UCNI information and, consequently, there was no basis to withhold any portions of the document pursuant to Section 148 of the Atomic Energy Act and Exemption 3. Since the Air Force had not reviewed the portions of the document previously identified as containing UCNI information, the matter was referred to the Air Force to determine if Air Force National Security Information is contained therein.

Motions for Discovery

Economic Regulatory Administration, 11/18/83, *HRD–0027*

The Economic Regulatory Administration (ERA) filed a Motion to Compel Discovery in which it challenged the adequacy of Mobil Oil Corporation's responses to certain interrogatories and the validity of several of Mobil's privilege assertions. In considering the motion, the OHA determined that one of Mobil's interrogatory responses was inadequate and that Mobil's description of one of the documents withheld by the firm was insufficient to enable the OHA to conclude that it was protected from disclosure by the attorney-client privilege. Accordingly, the OHA directed Mobil to supplement its response to the subject interrogatory and to provide additional information explaining why the attorney-client privilege was applicable to the withheld document. In all other respects, the Motion to Compel was denied.

Economic Regulatory Administration, 11/18/83, *HRD–0031*

The Economic Regulatory Administration (ERA) filed a Motion to Compel Discovery in which it challenged (i) the adequacy of Marathon Oil Company's responses to certain interrogatories, (ii) the validity of several of Marathon's privilege assertions, and (iii) the adequacy of Marathon's search for responsive documents. In considering the motion, the OHA determined that several of Marathon's interrogatory responses were inadequate. Marathon's descriptions for several of the documents withheld by the firm were insufficient to enable the OHA to conclude that they were protected from disclosure by the attorney-client privilege or the work-product doctrine, and that Marathon may have failed to search adequately certain files and offices. Accordingly, the OHA directed Marathon to supplement its responses to the subject interrogatories, to provide additional information explaining why the attorney-client privilege or work-product doctrine was applicable to the withheld documents, and to conduct limited additional search for responsive documents. In all other respects, the Motion to Compel was denied.

Interlocutory Order

Office of Special Counsel, 11/17/83, *HRZ–0169*

The Office of Special Counsel sought an order striking or according no probative weight to an affidavit of a former DOE official which purported to set forth regulatory interpretations and summarize internal agency consultations. The OHA held that the affidavit was entitled to no probative weight and entered an appropriate order.

Implementation of Special Refund Procedures

Anderson Butane Service, Inc., 11/16/83, *HQF–0482*

The Office of Hearings and Appeals issued a Decision and Order establishing special refund procedures for distributing $160,000 obtained by DOE through a consent order with Anderson Butane Service, Inc. *Office of Enforcement,* 9 DOE ¶ 82,542 (1982). That decision established a two-stage distribution process. In the first stage, applications for refund were accepted from claimants who purchased propane or butane from Anderson during the period covered by the consent order. Although notice of the refund proceeding was provided to Anderson's customers through publication in the **Federal Register** and by direct mail service, no eligible purchaser filed a claim and received a refund during the first stage. Consequently, the entire $160,000 plus accrued interest remained available for distribution through second-stage refund procedures. DOE determined that the settlement funds should be distributed to the State of Louisiana, since Anderson marketed the propane and butane covered by the consent order in Louisiana. However, disbursement of the funds to the State of Louisiana will be upon approval by the Office of Hearings and Appeals of plans submitted by the state for use of the funds in a manner that would benefit injured parties.

Northeast Petroleum Industries, 11/15/83 HQF–0483

The Office of Hearings and Appeals issued a Decision and Order establishing special refund procedures for distributing $459,635 obtained by DOE through a consent order with Northeast Petroleum Industries. *Office of Enforcement,* 10 DOE ¶ 85,021 (1982). That decision established a two-stage distribution process. In the first stage, applications for refund were accepted from claimants who purchased motor gasoline from Northeast during the period covered by the consent order. Although notice of the proceeding was published in the **Federal Register** and trade publications, only one purchaser filed a claim and received a refund of $2,140.92 plus interest in the first stage. *Northeast Petroleum Industries/DeBlois Oil Co.,* 11 DOE ¶ 85,060 (1983). Thus, $457,504.08 plus interest remained available for distribution through second-stage refund procedures. DOE determined that the remaining settlement funds should be distributed to the State of Massachusetts, Rhode Island, New Hampshire, and Maine, since Northeast marketed its motor gasoline in those areas. However, disbursement of the funds to those states will be upon approval by the Office of Hearings and Appeals of plans submitted by those states for use of the funds in a manner that would benefits injured parties within their jurisdictions.

Refund applications

OKC Corp./Delta Air Lines Inc., et al., 11/18/83, RF13–10, RF13–34 RF13–35

The DOE issued a Decision and Order concerning an Application for Refund filed by the Air Transport Association of America on behalf of Delta Air Lines, Inc., Eastern Air Lines, Inc., and Continental Airlines, Inc. Each airline claimed a portion of the OKC Corporation consent order fund. The DOE found that each claimant should receive a refund based upon its total purchase volume of OKC kerosene-type aviation jet fuel during the conent order period. After evaluating their refund claims, the DOE determined that the airlines need not demonstrate that they were injured by OKC's alleged overcharges in order to receive a refund. The DOE noted that claimants which were end users of OKC petroleum products generally are unable to satisfy the demonstration of injury standard because they were not required to maintain detailed financial and operating records from which a determination could be made of the extent to which they absorbed OKC price increase. The DOE also noted that substantial evidence exists which indicates that the airline industry as a whole was forced to absorb a substantial portion of its fuel cost increases during the OKC consent order period, a factor weighing in favor of granting the airlines' refund claims. Each refund granted in this proceeding was calculated by the use of a volumetric formula. The refunds granted in this Decision total $46,680, plus accrued interest of approximately $23,231.

Standard Oil Company (Indiana)/A&M Petroleum Inc., et al. 11/15/83, RF21–12228

On October 20, 1983, the Office of Hearing and Appeals of the Department of Energy issued a Decision and Order to A&M Petroleum, Inc., and 116 other firms listed in the Appendix to that Decision. That Decision contained clerical errors in the ordering paragraphs which required correction. The present Decision rescinded the incorrect paragraphs and replaced them with the appropriate paragraphs.

Standard Oil Company (Indiana)/Bunch's Market, et al., 11/14/83, RE21–2730, et al.

The DOE issued a Decision and Order concerning 28 Applications for Refund filed by retailers of Amoco motor gasoline. All of these firms elected apply for a refund based upon the presumption of injury and the the formulae outlined in *Office of Special Counsel,* 10 DOE ¶ 85,048 (1982). In considering applications, the DOE concluded that each of the 28 applicants should receive a refund based upon the total volume of their Amoco motor gasoline purchases. The refunds granted in this proceeding total $26,537.

Standard Oil Company (Indiana)/Glo Auto Wash, Inc., 11/14/83, RF21–0026

The DOE issued a Decision and Order concerning 112 Applications for Refund filed by retailers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel,* 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the 112 applicants should receive a refund based upon the total volume of their Amoco motor gasoline purchases. The refunds granted in this proceeding total $116,790.

Standard Oil Company (Indiana)/Interstate Standard, 11/16/83, RF21–3836

The DOE issued a Decision and Order concerning an Application for Refund from Interstate Standard (Interstate), a branded retailer of Amoco motor gasoline. Interstate elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel,* 10 DOE ¶ 85,048 (1982). Interstate therefore submitted detailed information concerning its Amoco purchase volumes. After analyzing the information submitted by the applicant, the DOE found that Interstate should receive a refund based upon the total volume of its Amoco motor gasoline purchases during the consent order period. Accordingly, Interstate's application was granted in full.

Standard Oil Company (Indiana)/Leonard Oil Company, et al., 11/14/83, RF21–11192, et al.

The DOE issued a Decision and Order granting supplemental refunds to 100 applicants in the *Amoco* proceeding. Each of the 100 applicants is either a wholesaler of motor gasoline which operated retails stations or an individual retail station owned or operated by a wholesaler. Each of the applicants requested a supplementary refund, in addition to the refund it received for purchases made at the wholesale level, for sales made to consumers through retail outlets. Each has elected to apply for a refund based upon the presumption of injury and the formulae set forth in *Office of Special Counsel,* 10 DOE ¶ 85,048 (1982). Since each of the applicants in this proceeding has already received a refund based on the wholesaler's 34 percent portion of the volumetric refund amount (including accrued interest), the refunds granted in this Decision will be based on the 6 percent difference between the retailer's 40 percent share and the wholesaler's 34 percent share of the volumetric refund amount. We determined that each of the applicants should receive a refund based on the total number of gallons purchased. The refunds approved in this Decision and Order total $16,152.

Standard Oil Company (Indiana)/Track World Fuel & Permit, et al., , 11/14/83, RF21–9729, et al.

The DOE issued a Decision and Order concerning 18 Applications for Refund filed by retailers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel,* 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the 18 applicants should receive a refund based upon the total volume of their Amoco motor gasoline purshcases. The refunds granted in this proceeding total $32,757.

Protective Orders

The following petitioners filed Applications for Protective Orders. The applications, if granted, would result in the issuance by the DOE of the proposed Protective Order submitted by the firm. The DOE granted the following applications and issued the requested Protective Order as an Order of the Department of Energy.

Company Name and Case No.

Economic Regulatory Administration/Hideca Petroleum Corporation—HRJ–0041

Dismissals

The following submissions were dismissed.

Company Name and Case No.

Ernest E. Allerkamp—BRO–0020
International Petroleum Refining and Supply SDAD. LTDA.—HRO–0184

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines,* a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

January 10, 1984.

[FR Doc. 84–2055 Filed 1–24–84; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Decisions and Orders; Week of November 21 Through November 25, 1983

During the week of November 21 through November 25, 1983, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy.

Appeal

Jeffery L. Turek, 11/25/83, HFA–0191, HFA–0192

Jeffery L. Turek filed separate Appeals under the Privacy Act, 5 U.S.C. 552a, and the Freedom of Information Act, 5 U.S.C. 552, from denials by the Savannah River Operations Office of requests for information. In considering the Privacy Act Appeal, the OHA found that the Acting Manager was correct in withholding certain documents pursuant to Exemption (k)(5) because release of the documents would reveal the identity of a source to whom an express promise of confidentiality had been given. In considering the FOIA Appeal, the OHA found that the Authorizing Official also was correct in withholding the same documents. OHA determined, however, that the Authorizing Official had incorrectly claimed Exemption 7(D) of the FOIA as grounds for withholding the requested documents. Instead, the DOE found that Exemption 6, which protects against invasion of an individual's personal privacy, was the appropriate basis for withholding the material.

Remedial Order

Ayers Oil Company, 11/21/83, BRO–1176

Ayers Oil Company (Ayers) objected to a Proposed Remedial Order which the Central Enforcement District of the Economic Regulatory Administration issued to the firm on April 8, 1980. In the PRO, the ERA found that during the period of November 1, 1973 through April 30, 1974, Ayers overcharged its purchasers in sales of motor gasoline, No. 1 fuel oil, No. 2 fuel oil and premium diesel by a total of $243,856.55. Accordingly, the PRO directed that Ayers refund this amount, plus interest. The OHA concluded that the PRO should be issued as a final Order.

Interlocutory Order

Crown Central Petroleum Corporation, 11/23/83, HRZ–0175

Crown Central Petroleum Corporation (Crown) filed a Motion to Dismiss a Proposed Remedial Order that the Office of Special Counsel (OSC) had issued to the firm on September 23, 1983. In the Motion to Dismiss, Crown argued that the Proposed Remedial Order should be dismissed because Crown had requested, but did not receive, an informal conference on a Notice of Probable Violation (NOPV) issued by OSC on April 2, 1981. The Office of Hearings and Appeals (OHA) rejected Crown's argument and held that the PRO was not defective because the decision of whether to hold an informal NOPV conference is within the discretion of the OSC. The OHA further held that issuance of an NOPV is discretionary and the OSC could have begun the enforcement proceedings by only issuing a PRO. Accordingly, the OHA denied the Motion to Dismiss. The issues discussed in the Decision and Order include: (i) the grounds for a Motion to Dismiss, and (ii) the necessity of holding a conference on an NOPV.

Supplemental Order

O. B. Mobley, Jr., 11/23/83, HEX–0097

The OHA ordered the Bank of Commerce, Shreveport, Louisiana to transfer to an escrow account in the U.S. Treasury the funds in a special escrow account which O. B. Mobley, Jr. had established with the Bank of Commerce pursuant to a May 15, 1978 DOE order. *O. B. Mobley, Jr.*, 1 DOE ¶ 82,050 (1978). The OHA determined that this action would allow the escrowed money, totaling $595,622.15, to earn interest pending a determination in a separate proceeding to identify the appropriate recipient of these funds (O. B. Mobley, Jr., Case No. HEX–0070).

Refund Applications

Palo Pinto Oil & Gas/State of California, 11/25/83, RQ5–28

The DOE dismissed a second stage Application for Refund from the State of California, in connection with a consent order entered into with Palo Pinto Oil & Gas. California had proposed to put the money in a special overcharge account with additional refunds that the state receive in connection with pricing violations, waiting to decide on a specific usage for the money at a latter date. California's application was dismissed on the grounds that it did not propose a specific plan for the money.

Ozona Gas Processing Plant I/International Drilling and Energy Corporation, 11/21/83, RF27–2

International Drilling and Energy Corporation (IDEC) filed an application for refund for a portion of the fund provided by a consent order entered into between DOE and the Ozona Gas Processing Plant (Ozona). In its refund application, IDEC alleged that it was injured by unlawful prices charged by Ozona in sales of natural gas liquids (NGLs) and that Suburban Propane Gas Company failed to supply NGLs, which were processed by Ozona, to the firm.

After examining IDEC's claim for a refund based on Ozona's alleged price violations, the DOE found that IDEC qualifies for a refund under the procedures set forth in *Office of Enforcement*, 10 DOE ¶ 85,056 (1983). However, DOE also found that IDEC's allocation claim was spurious and did not form a proper basis for a refund because Suburban and Ozona are separate and distinct entities. Accordingly, IDEC's application was partially granted.

Standard Oil Company (Indiana)/Cicero-Peterson Service, Inc., 11/23/83, RF21–11136

Cicero-Peterson Oil Company filed an application for refund as a retailer of motor gasoline in which it sought to recover an amount of refund greater than that allotted to it under the presumption of injury set forth in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). Under that presumption, a retailer is entitled to receive a refund equal to 40 percent of the volumetric refund amount (including accrued interest) for each gallon of Amoco motor gasoline purchased during the consent order period. In its submission, Cicero-Peterson joined 24 other members of the Illinois Service Station Operators Association (ISSOA) in filing a non-presumption application for a refund of 3.3 cents per gallon of Amoco motor gasoline purchased.

The DOE had previously issued a determination on the ISSOA claims which rejected ISSOA's theory of injury and provided for payment of refunds to each member at the presumption rate. *Standard Oil Co. (Indiana)/John Coconato*, 11 DOE ¶ 85,121 (1983). Since Cicero-Peterson did not add anything to the refund application which it filed through the ISSOA, the analysis employed in the identical ISSOA, refund applications in *Coconato* was applied to Cicero-Peterson's refund claim. Accordingly, the firm was granted a refund at the presumption rate only. The refund granted in this proceeding totals $3,215.

Standard Oil Company (Indiana) /Crosby's Standard, et al. 11/22/83, RF21–11796 et al.

The DOE issued a Decision and Order concerning 46 Applications for Refund from branded retailers of Amoco motor gasoline. All of these firms contended that they were injured by more than the presumptive levels adopted in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). The DOE rejected the Applicants' argument that their inability to sell gasoline at the maximum lawful selling price established that they incurred injury greater than the presumptive levels. The DOE also rejected the Applicants' request to modify the presumptions established in *Office of Special Counsel* in order to grant them a greater presumptive level of injury. Therefore, each applicant was granted a refund based upon the presumptive levels. The refunds granted in this proceeding total $48,145.

Standard Oil Company (Indiana) /Koon & Bowman Standard Service, 11/23/83, RF21–6786, RF21–7164

The DOE issued a Decision and Order concerning two Applications for Refund filed by Koon & Bowman, a firm which operates as a wholesaler of both Amoco motor gasoline and middle distillates. The firm elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these two applications, the DOE concluded that Koon & Bowman should receive a refund based upon the volume of its eligible Amoco motor gasoline and middle distillate purchases. The refunds granted in this proceeding total $662.

Standard Oil Company (Indiana) /Thrifty Oil Company, 11/21/83, RF21–6870, RF21–6871

The DOE issued a Decision and Order concerning two Applications for Refund filed by Thrifty Oil Company (Thrifty). In its applications, the firm elected not to use the presumption methodology set forth in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). Instead, the firm made a non-presumption claim in which it requestd a refund equal to the combined wholesaler and retailer percentage levels set forth in the presumption methodology. In support of its claim, Thrifty stated that it operated as a wholesaler as well as a retailer, and therefore was entitled to the combined refund levels. In considering the applications, the DOE concluded that Thrifty did not act as a wholesaler and was thus not entitled to any wholesaler refund. In addition, the DOE found that the firm had not demonstrated any injury as a retailer. However, the DOE concluded that the firm was not precluded from applying for a retailer refund under the presumption method of determining injury, and accordingly granted a refund on the retailer portion to Thrifty's claim. The refund granted in this proceeding totals $101,274.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

January 11, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 84–2056 Filed 1–24–84; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Decisions and Orders; Week of December 12 Through December 16, 1983

During the week of December 12 through December 16, 1983, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Decision Planning Corporation, 12/15/83, HFA–0147

Decision Planning Corporation (DPC) filed a motion requesting the rescission of a portion of a decision issued to Systematic Management Services, Inc. (SMS) by the Office of Hearings and Appeals (OHA). *Systematic Management Services, Inc.* 10 DOE ¶ 80,144 (1983). In that portion of the *Systematic* decision, OHA ordered the DOE Chicago Operations Office (CHO) to release to SMS certain cumulative or total contract cost figures contained in Cost Management Reports (DOE Form 533M) that had been submitted to CHO by DPC. The figures reveal DPC's total costs for providing support services to CHO during 1982. In considering DPC's motion for rescission, OHA found that review of the *Systematic* decision was warranted and that, because CHO had previously released certain DPC man hour information to SMS, release of the total contract cost figures would competitively harm DPC. Consequently, OHA granted DPC's motion and rescinded that portion of

the *Systematic* decision which ordered the release of the contract cost figures.

Refund Applications

Standard Oil Company (Indiana)/Bismarck Airport et al., 12/15/83, RF21–5585 et al.

The DOE issued a Decision and Order concerning ten applications for Refund from the Amoco consent order fund filed by seven resellers of aviation fuels (aviation gasoline or kerosene-type jet fuel). Since the DOE did not establish in the Amoco proceeding any presumptions which pertained to resellers of aviation fuels, the applicants were required to file non-presumption claims. Upon consideration of the applications, the DOE found that each applicant had not made the required demonstration of injury resulting from Amoco's alleged overcharges. However, the DOE concluded that the applicants' inability to demonstrate injury did not necessarily signify that they did not absorb the overcharges, but that the filing requirements were too onerous for these small resellers to fulfill. The DOE therefore determined that it was appropriate to establish special standards for small aviation fuel resellers. After considering national price data for aviation fuels, the DOE established the presumptions that aviation gasoline resellers absorbed Amoco's alleged overcharges during 73 percent of the consent order period, the kerosene-type jet fuel resellers absorbed them 75 percent of the time. Based on these presumptions, the DOE calculated refunds by multiplying each applicant's total eligible purchase volume by the Amoco volumetric amount and then by the appropriate percentage level representing the presumed degree of injury. The DOE also decided to adopt a threshold standard of 50,000 gallons per month, below which aviation fuel resellers need not demonstrate injury in order to qualify for a refund. Since two of the applicants in this proceeding purchased more than 50,000 gallons of kerosene-type jet fuel per month, they were limited to the 50,000 gallon threshold. The total of the refunds approved in this Decision and Order total $7,810.

Standard Oil Company (Indiana)/Hertz Corporation; Avis, Inc., 12/16/83, RF21–8197, RF21–8198, RF21–11843, FR21–11844

Two vehicle rental companies, Hertz Corp. and Avis, Inc., filed Applications for Refund in the Amoco special refund proceeding. *See Office of Special Counsel,* 10 DOE ¶ 85,048 *(Amoco).* In their applications, the firms claimed that they were end-users who purchased motor gasoline and middle distillates directly from Amoco, and therefore should receive 100 percent of the per gallon volumetric refund amount in accordance with the presumptions of injury established in the *Amoco* Decision. In considering the applications, the DOE found that the per gallon "refueling service charge" imposed by Hertz and Avis served the same function as the selling price charged by petroleum product retailers. The DOE therefore concluded that in view of the restitutionary purposes of Subpart V proceedings, the applicants should receive refunds based upon the presumption levels established for motor gasoline retailers and middle distillate resellers. The refunds granted in this Decision and Order total $29,705.

Standard Oil Company (Indiana)/Sandy Registers Amoco, 12/15/83, RF21–12223

The DOE issued a Decision and Order concerning an Application for Refund filed by a reseller of Amoco middle distillates. In the application, the firm elected not to use the presumption methodology set forth in *Office of Special Counsel,* 10 DOE ¶ 85,048 (1982). In considering this application, the DOE found that the firm failed to present any evidence that would warrant a refund above the presumption level. The DOE found, however, that had the applicant applied for a refund based upon the presumption methodology, it would have been entitled to receive a refund. The DOE therefore determined that the firm should be granted a refund under the presumption methodology based upon the firm's total eligible Amoco middle distillate purchases. The refund totals $16.00.

Dismissals

The following submissions were dismissed:

Name and Case No.

Meyer Oil Company—RF21–10013
State of Texas—HRD–0189

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines,* a commercially published loose leaf reporter system.

Dated: January 6, 1984.

George B. Breznay,

Director,

Office of Hearings and Appeals.

[FR Doc. 84–2057 Filed 1–24–84; 8:45 am]

BILLING CODE 6450–01–M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals Department of Energy, Department of Energy.

ACTION: Notice of Implementation of Special Refund Procedures and Solicitation of Comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding $3,573.71 in consent order funds to members of the public. This money is being held in escrow following the settlement of enforcement proceedings involving Brown Oil Company, a reseller-retailer of motor gasoline located in Dillon, Montana.

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the **Federal Register** and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585. All comments should conspicuously display a reference to case number HEF–0042.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–2860.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision relates to a consent order entered into by Brown Oil Company, which settled possible pricing violations in the firm's sales of motor gasoline to customers during the July 1, 1979 through September 30, 1979 audit period.

The Proposed Decision sets forth the procedures and standards that the DOE has tentatively formulated to distribute the contents of an escrow account funded by Brown pursuant to the consent order. The DOE has tentatively decided that the consent order funds should be distributed to the three retail outlets which the DOE's audit indicated may have been overcharged, in the amounts of the alleged overcharges. However, Applications for Refund filed by other wholesale purchasers of gasoline from Brown during the audit period will be considered. Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the **Federal Register,** and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1:00 to 5:00 p.m., Monday through Friday, except federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room 1E–234, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Dated: January 10, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

January 10, 1984.

Proposed Decision and Order of the Department of Energy

Special Refund Procedures

Name of Firm: Brown Oil Company.
Date of Filing: October 13, 1983.
Case Number: HEF–0042.

Under the procedural regulations of the Department of Energy, the Economic Regulatory Administration (ERA) may request the Office of Hearings and Appeals to formulate and implement special procedures to make refunds in order to remedy the effects of violations of DOE regulations. *See* 10 CFR Part 205, Subpart V. The Subpart V regulations set forth general guidelines by which the Office of Hearings and Appeals may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. The Subpart V process is intended to be used in situations where DOE is unable readily to ascertain the persons who may be eligible to receive refunds as a result of enforcement proceedings or the amounts that such persons should receive. *See Office of Enforcement,* 9 DOE ¶ 82,553 (1982).

Pursuant to the provisions of Subpart V, on October 13, 1983, the ERA filed a Petition for the Implementation of Special Refund Proceedings in connection with a consent order entered into with Brown Oil Company (Brown). Brown is a "reseller-retailer" of motor gasoline as that term was defined in 10 CFR 212.31, and is located in Dillon, Montana. A DOE audit of Brown's records revealed possible pricing violations in the amount of $9,625.85 in the firm's sales of motor gasoline to its wholesale and retail customers during the period from July 1, 1979 through September 30, 1979 (the audit period). In order to settle all claims and disputes between Brown and DOE regarding the firm's sales of gasoline during the audit period, Brown and DOE entered into a consent order on July 22, 1980 in which Brown agreed to make direct refunds to its retail customers of $7,171.69 (including accrued interest). In addition, Brown agreed to pay $3,573.71 (including interest) to DOE in settlement of the firm's potential liability with respect to its sales to its wholesale customers during the audit period. This payment was deposited into an interest bearing escrow account for ultimate distribution to the parties bearing the burden of the alleged overcharges. The settlement represented 100 percent of the alleged overcharge amount found in the audit, plus interest accrued as of the date of the consent order. This Decision concerns the distribution of the $3,573.71 that was deposited into the escrow account, plus accrued interest to date.

Three wholesale customers were identified by ERA as having been overcharged. These customers, together with the amount of Brown's settlement payment (including interest paid by Brown) attributable to each, are set forth in the table below.

Customer	Portion of settlement amount
Chris Standard Service, Dillon, Montana	$1,373.66
Robo Car Wash, Dillon, Montana	1,264.06
Clara Lively, Melrose, Montana	935.97

On the basis of the information in the record at this time, we are inclined to distribute the money in the Brown refund pool to the three customers indicated above in the amounts specified. In view of the small amount of money involved in this proceeding and since the record indicates that these firms are the parties most likely to have been injured by Brown's pricing practices, we have tentatively decided that this would be the most equitable and efficient method of accomplishing restitution.[1] We recognize, however, that other wholesale customers not identified by the ERA audit may have been overcharged by Brown during the audit period and may be entitled to a portion of the consent order fund. If additional meritorious claims are filed, the appropriate amount of refund to each firm will be determined after analyzing those claims.

In order to obtain a refund, each of the three firms will be required to file a refund application in which it certifies to the Office of Hearings and Appeals the amount of its gasoline purchases during the audit period and that there has been no change in ownership of the firm since that time. If there has been a change in ownership, we will determine which owner is entitled to the refund. In the event that money remains after all claims are disposed of, undistributed funds could be distributed in various ways. For example, they could be distributed to the State of Montana or the county where Brown's sales were apparently made, provided the state or county files a plan with this Office to use these funds for an energy related project which meets with our approval. *See Worldwide Energy Corp.,* 11 DOE ¶ 85,023 (1983).

It is Therefore Ordered That:

The $3,573.71 refund remitted to the Department of Energy by Brown Oil Company, will be distributed in accordance with the foregoing determination.

[FR Doc. 84–2054 Filed 1–24–84; 8:45 am]

BILLING CODE 6450–01–M

[1] In previous decisions concerning special refund proceedings, we have generally required those parties claiming a portion of a consent order fund who are not consumers to demonstrate that they did not pass through the effects of the overcharges to their customers. We have also stated in our prior decisions, however, that parties that purchased relatively small amounts of product need not make such a showing. *See Office of Special Counsel (Tenneco),* 9 DOE ¶ 82,538 at 85,202–05 (1982); *Office of Enforcement (Lyon County Cooperative),* 10 DOE ¶ 85,016 (1982). In the present case, although data pertaining to the purchase volumes of the three wholesale customers is not in the record, it appears that the purchase volumes and refunds will be relatively small. We therefore propose that these three firms not be required to demonstrate that they absorbed the alleged overcharges.

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Implementation of Special Refund Procedures and Solicitation of Comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding a total of $3,225,000 (plus accrued interest) in consent order funds to members of the public. The funds are being held in escrow pursuant to two separate consent orders involving Union Texas Petroleum Corporation, a subsidiary of Allied Corporation.

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the **Federal Register** and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585. All comments should conspicuously display a reference to Case Number HEF–0009 or HEF–0224, or both.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–2860.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision relates to two separate consent orders entered into by Union Texas Petroleum Corporation (UTP), a subsidiary of Allied Corporation, which settled possible pricing and allocation

violations in the firm's sales of crude oil and refined petroleum products during the period January 1, 1973 through January 28, 1981.

The Proposed Decision sets forth the procedures and standards that the DOE has tentatively formulated to distribute funds remitted by UTP and being held in escrow pursuant to the two settlements. The DOE has tentatively decided that the funds should be distributed in two separate refund proceedings, each of which would be carried out in two stages in the manner utilized with respect to other consent order funds.

Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the **Federal Register**, and should be sent to the address set forth at the beginning of this notice. All comments received in these proceedings will be available for public inspection between the hours of 1:00 to 5:00 p.m., Monday through Friday, except Federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room 1E–234, 1000 Independence Avenue SW., Washington, D.C. 20585.

Dated: January 11, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

January 11, 1984.

Proposed Decision and Order of the Department of Energy

Special Refund Procedures

Name of Case: Union Texas Petroleum Corp.

Dates of Filing: December 22, 1982, October 13, 1983.

Case Numbers: HEF–0009, HEF–0224.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request the Office of Hearings and Appeals to formulate and implement special procedures to make refunds in order to remedy the effects of alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V.

In accordance with these regulatory provisions, ERA has filed two Petitions for the Implementation of Special Refund Procedures in connection with consent orders which DOE entered into with Union Texas Petroleum Corporation (UTP), a subsidiary of Allied Corporation.

Under the terms of the earlier of the two consent orders, which as adopted as a final order of the DOE in January 1981, the firm agreed to remit to the DOE the sum of $1,325,000 to be held in escrow pending a determination by the DOE as to its ultimate disposition. This 1981 consent order was specifically limited to the settlement of alleged overcharges attributable to certain sales by UTP of propane, motor gasoline, and diesel fuel during the period Augsut 19, 1973 through June 1, 1976.

The second consent order, adopted as a final order of the DOE in September 1982, was not limited to any specific alleged violations but, instead, was "global" in scope. Under the terms of this "global" consent order, the firm agreed to remit $1.9 million to the DOE for ultimate disposition in accordance with 10 CFR Part 205, Subpart V or other applicable statutes and regulations. For its part, the DOE agreed to accept such payment in settlement of all civil and administrative disputes, claims and causes of action by the DOE against UTP relating to UTP's compliance with federal petroleum price and allocation regulations during the period January 1, 1973 through January 28, 1981 (the global consent order period), except for UTP's entitlements obligations for the month of January 1981 for pursuant to the entitlements "clean-up" rule at 10 CFR 211.69. *See* Consent Order § 501.

ERA's Subpart V petition with respect to the global consent order was filed with the Office of Hearings and Appeals on December 22, 1982 (Case No. HEF–0009). The 1981 consent order is one of a group of consent orders which were the subject of a consolidated Subpart V petition filed with this Office by ERA on October 13, 1983. The special refund proceeding for the UTP consent order including in the October 13 petition has been assigned Case No. HEF–0224.

For the reasons set forth below, we propose to establish separate refund proceedings in connection with the two ERA petitions and underlying consent orders. Because the same firm is involved in both, we have consolidated both Subpart V petitions for consideration in this Proposed Decision and Order.

I. Background

UTP is a "producer" of crude oil and a "refiner" as those terms were defined in 10 CFR 212.31. During the period of petroleum price and allocation controls, UTP was engaged in the production, importation, refining, and sale of crude oil and covered petroleum products as well as other petroleum-related activities. Its marketing operations were concentrated in the eastern half of the United States but extended to other areas as well. Commencing in 1973, the Cost of Living Council and later the Federal Energy Administration, predecessors of the DOE, conducted an audit to determine UTP's compliance with the federal price and allocation regulations pertaining to the production, importation, refining, and sale of crude oil and covered products. 10 CFR Parts 211 and 212. The audit encompassed a review of UTP'S pricing and allocation practices and the manner in which UTP applied the relevant regulations with respect to its activities. In the course of this audit, the DOE and UTP executed a limited consent order in November 1980. Notice of the proposed order was published for public comment at 45 FR 80581 (December 5, 1980). Comments or notification of claims were received from three parties.(*1*) The consent order was adopted without modification as a final order of the DOE on January 19, 1981 (46 FR 5049).

At the conclusion of its audit, the DOE raised further issues concerning UTP's application of the regulations. UTP contended, however, that it had correctly construed and applied the regulations. In July 1982, the DOE and UTP entered into the global consent order to resolve all pending and potential disputes between the two parties regarding UTP's compliance with the petroleum regulations during the period January 1, 1973 through January 28, 1981. As noted above, only UTP's entitlements obligations for Janaury 1981 and those pursuant to 10 CFR 211.69 (the entitlements clean-up rule) were specifically excluded from the ambit of the global consent order.

In accordance with 10 CFR 205.199J(c), notice of the proposed global consent order was published for public comment on July 28, 1982 (47 FR 32561). The ERA received comments from nine parties. (*2*) The consent order was adopted without modification as a final order of the DOE on September 14, 1982 (47 FR 40465).

II. Jurisdiction

Subpart V authorizes the Office of Hearings and Appeals, upon request by the appropriate enforcement official, to fashion special procedures to distribute moneys obtained as part of settlement agreements. 10 CFR 205.281, 205.282. This special refund process was established as part of an overall regulatory program intended to implement several different statutes. Congress provided for mandatory allocation and price regulations for crude oil, residual fuel oil, and refined

petroleum products in the Emergency Petroleum Allocation Act of 1973 (EPAA), 15 U.S.C. 751 *et seq.* (1976). The authority to enforce regulations issued under the EPAA was granted by Section 5 of the EPAA, which incorporated enforcement authorities established in the Economic Stabilization Act (ESA), 12 U.S.C. 1904 note (1970); EPAA § 5(a), 15 U.S.C. 754(a). The statutory authority to enforce the regulations governing the allocation and pricing of petroleum products was delegated to the Administrator of the Federal Energy Administration, and subsequently to the Secretary of Energy. Federal Energy Administration Act (FEAA) 5, 15 U.S.C. 765 (1974); Department of Energy Organization Act (DOE Act) § 301(a), 42 U.S.C. 7151(a) (1979). To carry out these statutory mandates, the regulations of the Cost of Living Council, the Federal Energy Office, the Federal Energy Administration, and the DOE provided throughout the existence of the price control program for the issuance of remedial orders "requiring a person to cease a violation or to eliminate or compensate for the effects of a violation, or both." 6 CFR 155.81(b) (1973); 10 CFR 205.2 (1974) (defining "remedial order"). While a consent order does not involve a finding of a regulatory violation, it has the same force and effect as a remedial order. 10 CFR 205.199J.

As we have noted in previous Subpart V decisions, restitution is designed to accomplish two purposes: disgorgement of the fruits of a regulatory violation from the wrongdoer, and payment of refunds to persons injured by the regulatory violation. *See generally Office of Enforcement,* 8 DOE ¶ 82,597 (1981) (hereinafter cited as *Vickers*); *see also Sauder v. DOE,* 648 F.2d 1341 (Temp. Emer. Ct. App. 1981). The latter objective—the distribution of refunds to injured parties—furthers the specific EPAA goal of providing for the "equitable distribution of * * * refined petroleum products at equitable prices * * * among all users." 15 U.S.C. 753(b)(1)(F).

We have previously discussed the jurisdictional prerequisites for petitions filed pursuant to Subpart V. *See, e.g., Office of Enforcement,* 8 DOE ¶ 82,515 (1981); *Vickers; Office of Special Counsel,* 9 DOE ¶ 82,538 (1982) (hereinafter cited as *Tenneco*). The Subpart V process is to be used in situations where the Department of Energy is unable readily to identify persons who are entitled to refunds or readily to ascertain the amounts that such persons are entitled to receive as a result of enforcement proceedings. 10 CFR 205.280. Subpart V offers a means of compensating parties who, because they either lack the resources or do not have a sufficient financial stake in the outcome to institute private lawsuits under Section 210 of the ESA, have suffered injuries which would otherwise go unredressed. The Subpart V process can also be an efficient administrative mechanism for returning alleged overcharges to injured parties because it can eliminate the need for long and costly court actions.

After reviewing the record developed in the UTP cases under consideration here, we have concluded that the implementation of Subpart V procedures is appropriate. In each case there is a significant degree of difficulty in identifying persons who may have been injured by any violations of the petroleum regulations and in ascertaining the level of refunds that such persons should receive. Until January 28, 1981, crude oil and refined petroleum products were subject to a comprehensive price regulation scheme which could be utilized to facilitate the channeling of refunds to adversely affected purchasers through price rollbacks. However, on that date the President exempted crude oil and all refined petroleum products from the DOE regulatory program. Exec. Order No. 12287, 46 FR 9909 (January 30, 1981). As a results of decontrol, price rollbacks can no longer be used to refund monies to purchasers who were overcharged in the past. Therefore, to refund money to those parties who may have been affected adversely by violations of the regulations, a determination must generally be made regarding the extent to which a consent order firm's customers absorbed any overcharges or passed these costs through to their customers by raising their own sales prices. Under these circumstances, we believe that Subpart V provides the most useful mechanism to refund money to persons who were likely to have been injured by alleged pricing or allocation violations. The Office of Hearings and Appeals therefore has decided to exercise jurisdiction over the funds received by the DOE pursuant to these two consent orders.

III. Procedural Overview

Based upon our experience with Subpart V cases, we believe that, in each of the two UTP special refund proceedings, the distribution of funds should take place in two stages. In the first stage of the process, payment should be made to persons and firms who file applications for refund and demonstrate that they are entitled to a portion of the funds received by the DOE. After meritorious claims are paid in the first stage, a second stage may be necessary. In the second stage, there are a number of alternative procedures which could be adopted. Under one alternative, payments for the benefit of injured persons could be made to entities that are in a position to effectuate the restitutionary purposes discussed above. As a second alternative, or in the event that implementation of the methods discussed above would not accomplish the intended objectives or fails to exhaust all of the settlement fund, § 205.287(c) provides that "any remaining funds * * * shall be deposited in the United States Treasury or distributed in any manner specified in the Decision and Order referred to in § 205.282(c)." 10 CFR 205.287(c). In this Proposed Decision, we shall propose first-stage procedures and suggest possible second-stage procedures for the distribution of monies from both of the UTP consent order funds. This Proposed Decision and Order shall be served upon all parties on the service lists for both cases[3] and shall be published in the Federal Register. In this Proposed Decision, we are soliciting comments concerning the proposed disposition of the funds remitted by UTP pursuant to the two consent orders at issue. Comments should be submitted within 30 days after publication of this Proposed Decision in the **Federal Register**. All comments will be made available for public inspection in the Public Docket Room of the Office of Hearings and Appeals, Room 1E–234, 1000 Independence Avenue, SW., Washington, D.C. 20585, between the hours of 1:00 and 5:00 p.m., Monday through Friday, except federal holidays. After the 30-day period, we may hold a public hearing concerning this matter, notice of which will be provided to all parties and published in the **Federal Register**.

IV. Proposed Refund Procedures

In view of the objectives expressed in the statutes and regulations discussed above, the procedures to be implemented in this case should, to the maximum extent practicable, provide for the distribution of the consent order funds to parties who were adversely affected by any regulatory violations that may have been committed by UTP. We will first describe the procedures which we propose to follow with respect to the distribution of the global consent order fund of $1.9 million. We will then address the procedures we propose to use in distributing the $1,325,000 in the January 1981 consent order fund.

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A. Subpart V Proceeding Involving the Global Consent Order

Although the 1982 consent order is global in its coverage (except for UTP's entitlements obligations, as noted above), there are aspects of UTP's regulated petroleum activities which we consider to be outside the ambit of the special refund proceeding we propose to establish in connection with that consent order. As an initial matter, we propose to exclude any claims attributable solely to those transactions covered by the earlier (January 1981) consent order, which settled allegations concerning narrowly defined products, classes of purchaser, periods of time, and types of violations. Because a smaller volume and range of products were addressed by the 1981 consent order, the amount of settlement monies available per gallon of relevant products sold by UTP, as explained below, will be significantly larger per gallon than in the case of the global consent order. Furthermore, the 1981 consent order addressed specific regulatory violations, as distinct from an entire range of all possible violations embraced by the later global consent order. Presumably, therefore, any overcharges involved in the transactions covered by the 1981 settlement affected a narrower segment of UTP's customers, with a correspondingly greater degree of harm. We therefore believe that the two refund pools should remain separate. This will permit applicants who can trace their injury to the specific allegations addressed in the 1981 consent order to demonstrate a greater injury than that experienced generally by purchasers of UTP products.

Secondly, we propose to exclude all claims attributable to certain of UTP's crude oil transactions which were covered by a third consent order executed by UTP and DOE in March 1980. The 1980 consent order settled all claims and disputes between ERA and UTP with regard to the prices charged during the period September 1, 1973 through December 31, 1979, in sales of domestic crude oil from specific properties operated by UTP. (Those properties are listed in the Appendix to this Decision.) Notice of the proposed order was published in the Federal Register on April 1, 1980 (45 FR 21340). It was adopted as a final order of the DOE on May 29, 1980 (45 FR 36119). Under the terms of this crude oil consent order, UTP remitted $2.1 million to the DOE to be refunded in accordance with Subpart V. A Petition for Implementation of Special Refund Procedures with respect to this amount was filed with this Office by ERA on December 23, 1980 (Case No. BEF-0025). This Subpart V petition was subsequently consolidated with others in a special refund proceeding involving consent order funds concerning alleged crude oil violations. *See Office of Enforcement*, 9 DOE ¶ 82,520 (1982) (hereinafter cited as *Alkek*. The procedures established in this Proposed Decision and Order will therefore not involve the $2.1 million fund received by DOE pursuant to the 1980 consent order or the purchases of persons arguably affected by the underlying transactions.

We have obtained information from UTP and the ERA regarding the volumes of crude oil and covered products which were sold by UTP during the global consent order period, exclusive of those sales covered by the two earlier consent orders discussed above. The consent order period for crude oil constitutes that portion of the global consent order period during which crude oil was subject to federal price and allocation controls, September 1, 1973 through January 27, 1981. UTP's sales of crude oil during that period, excluding those sales from the specified properties during the period of time covered by the 1980 crude oil consent order, totalled 21,137,160 barrels, or 887,760,720 gallons. Similarly, from information provided by UTP and the ERA, we have calculated the volumes of refined petroleum products covered by federal price controls and the global consent order. The total volume of such products sold by UTP during the relevant periods of time, excluding those volumes covered by the 1981 consent order, was 4,252,067,146 gallons.

1. *Crude Oil Transactions.* The effect on UTP's customers of any regulatory violations by UTP would have differed, depending on whether the transactions involved crude oil or refined products. As we observed in the *Alkek* Decision, the effects of regulatory violations involving the miscertification of crude oil were spread equally among all domestic refiners and arguably to consumers nationwide due to the operation of the DOE's Crude Oil Entitlements Program 10 CFR 211.67.(*4*) *See Alkek*, 9 DOE at 85,133. In the present case this would be true whether UTP refined the allegedly miscertified crude oil itself or sold it to another refiner, because in either event the refiner of the crude oil would report in its monthly reports to the DOE the improperly certified crude oil and that incorrect figure would then have been used to calculate the domestic old oil supply ratio ("DOSR") and the reporting refiner's entitlements position. *See generally* 10 CFR 211.67. For a discussion of these effects, see *Alkek*, 9 DOE at 85,133.

In view of these considerations, we have concluded that in evaluating claims for refunds that are based upon purchases or rights to purchase crude oil from UTP, we should use standards which are different from the standards applied to claims based on purchases or rights to purchase refined petroleum products. We therefore propose to set aside an appropriate portion of the UTP global consent order fund to be distributed in a two-stage special refund procedure of the type implemented with respect to the 24 crude oil settlement funds in the *Alkek* proceeding and the 33 crdue oil settlement funds in a related proceeding. *Office of Enforcement*, 9 DOE ¶ 82,553 (1982) (hereinafter cited as *Adams*). In determining the appropriate portion of the global consent order fund to be allocated to crude oil claims, we have calculated the volume of UTP's crude oil sales (exclusive of those subsumed by the 1980 UTP crude oil consent order) as a percentage of its total volume of crude oil and refined products sold during the global consent order period (exclusive of volumes subsumed by the 1980 and 1981 consent orders). This figure, 20.88 percent, when applied to the total global consent order fund of $1.9 million, yields a refund pool of $396,700 (to which appropriate interest will be added at the time of distribution) to be set aside for payment of refund claims involving sales of crude oil.(*5*) We propose to make available the remaining $1,503,300, which is not attributable to crude oil transactions, for distribution to purchasers to UTP's refined petroleum products (exclusive of transactions covered by the 1981 refined products consent order) during the global consent order period.

As in *Alkek*, we propose that the crude oil pool first be distributed among applicants who successfully establish in their applications for refund that they suffered a particularized injury that was not redressed by the regulatory system. For example, a firm that purchased and refined UTP crude oil prior to November 1, 1974, the first month of the Entitlements Program, could be a claimant, *see Alkek*, 9 DOE at 85,137, as could a firm claiming a "posted price" violation. In addition, a successful applicant must demonstrate actual injury—i.e., that the effects of the alleged regulatory infraction were not simply passed through to its customers in the form of higher prices for its refined products. *See Tenneco Oil Co./ Plateau, Inc.*, 10 DOE ¶ 85,015 (1982) (refund granted at threshold level since injury not demonstrated). In this regard,

we propose to establish a rebuttable presumption that spot purchasers were not injured by UTP's crude oil pricing practices. *See Office of Special Counsel*, 10 DOE ¶ 85,048 at 88,200 (1982) (*Amoco*). In the *Amoco* Decision, we observed that spot purchasers tend to have considerable discretion in making purchases and were therefore not likely to have made spot market purchases at higher prices were they not able to pass through those higher prices to their own customers. We believe that the same rationale is applicable to this proceeding, and we therefore propose to require spot purchaser claimants to submit additional evidence sufficient to establish that they were unable to recover the prices they paid to UTP.

To the extent that funds remain in the UTP crude oil pool after all successful applicants are paid in the first stage, we request comments on various alternatives available including: (1) Direct payment to the U.S. Treasury; (2) distribution to the affected states; and (3) retention of the funds in escrow pending legislative or other action. If the second alternative is adopted, all states, not only those in which UTP sold crude oil or refined products, would share in this distribution because, as noted above, the DOE Entitlements Program spread the effects of crude oil violations to all consumers of refined products nationwide. Commenters in other special refund proceedings also have suggested that an energy trust fund be established which would approve grants from the income and corpus of the fund to encourage alternative energy research or to assist low-income individuals with energy-related costs. We invite commenters in this proceeding to address all of these methods of distribution as well to suggest additional methods for indirect restitution. Commenters should bear in mind, however, that there must be a sufficient nexus between the proposed beneficiaries of the funds and the persons who would have borne the impact of any regulatory violations.

As in the cases involved in the *Alkek* proceeding, we are unable to determine conclusively at this time what should be done with the residual funds apportioned to UTP's crude oil sales because of various factors, including uncertainty as to the amount remaining after the first stage. *See Alkek*, 9 DOE at 85,138. It should be noted that even if the amounts remaining in this proceeding are too small to justify a separate second-stage proceeding, they may be pooled with the residual funds from other crude oil consent orders such as those involved in the *Alkek* and *Adams* consolidated proceedings.

2. *Refined Products Transactions.* We also propose to implement a two-stage refund procedure with respect to that portion of the refund pool allocated to sales of refined petroleum products pursuant to the global consent order (exclusive of those volumes covered by the 1981 consent order). As indicated above, the total amount of products to which this refund pool is attributed is 4,252,067,146 gallons.

a. *First Stage.* During the first stage in the refund process, the global consent orders funds should be distributed to claimants who satisfactorily demonstrate that they have been adversely affected by alleged violations of the DOE regulations. Purchasers of UTP products who are likely to be claimants in this proceeding can be categorized either as resellers or end-users. In the first category are wholesalers and retailers of UTP refined petroleum products. In the second category are entities who used UTP refined petroleum products in the production or distribution of goods and services and those who were ultimate consumers of the products.

To the extent that purchasers who are resellers can establish that they absorbed the alleged overcharges rather than passed them on to their customers, we propose that they receive a pro rata share of the refund pool based upon the volume of their purchases of UTP products. Refunds to applicants who establish an entitlement to a refund will be made on a volumetric basis—i.e., based on the number of gallons of UTP product purchased multiplied by the appropriate volumetric refund amount. This method, which attributes injury on a uniform basis to each gallon of refined products sold by UTP, recognizes that the computation of specific overcharges in individual transactions would be impossible to establish and contrary to the purpose of the consent order to resolve any and all DOE enforcement proceedings against UTP by means of a negotiated settlement. Since the volumetric method places all refund applicants on an equal footing and is relatively easy to administer, in prior special refund proceedings we have concluded that it is equitable, efficient, and the best general method of distributing refund monies. *See, e.g., Amoco*, 10 DOE at 88,198–99.

In order to qualify for a refund, purchasers who are resellers will be required to demonstrate that during the period covered by the consent order they were not able to pass through UTP's alleged overcharges to their customers. While there are a variety of means by which a claimant could make this showing, a reseller generally should demonstrate that at the time it purchased covered products from UTP, market conditions would not permit it to increase its prices to pass through the additional costs associated with the alleged overcharges. In addition, a reseller of petroleum products must have maintained a "bank" of unrecovered costs in order to demonstrate that it did not subsequently recover these costs by increasing its prices.(6) As in the case of claimants for refunds from the UTP crude oil refund pool, we propose to establish a rebuttable presumption that spot purchasers of UTP refined products were not injured by UTP's pricing practices. *See Amoco*, 10 DOE at 88,200.

In prior Subpart V proceedings, we have noted that the showing of injury required of resellers could be too complicated for those firms who might be entitled to apply for refunds but who purchased relatively small amounts of product. *See Vickers; Tenneco.* We also have observed that many of those purchasers might lack the type of records required to support such a showing. We have therefore established in most prior Subpart V proceedings a threshold level of purchases at or below which resellers, primarily smaller firms, were not required to make a detailed showing of actual injury. *Id.* For those applicants who were claiming a refund based on volumes at or below the threshold level of purchases, we have required only proof of the amount of product purchased by the applicant during the consent order period. Moreover, in refund application proceedings in which applicants claiming refunds based on a greater level of purchases were not able to establish injury, we have approved refunds based on the threshold level of purchases. *See, e.g., Vickers Energy Corp./Kos-Les Gas, Inc.*, 11 DOE ¶ 85,071 (1983); *OKC Corp./Williams Chemical Co.*, 11 DOE ¶ 85,079 (1983). We are proposing a similar treatment for resellers in this proceeding, and we specifically request comments from the public on this issue. The specific threshold we are proposing, consistent with most prior Subpart V proceedings, is an average purchase volume of 50,000 gallons or less per month or 600,000 gallons or less per year. *See, e.g., Tenneco.*

We also have consistently excused cooperatives that operated as petroleum products marketers from the requirement imposed on other resellers that they demonstrate that any

overcharges were absorbed and not passed on to their customers. *See Tenneco; Office of Special Counsel,* 9 DOE ¶ 82,545 (1982); *Office of Enforcement,* 9 DOE ¶ 82,551 (1982). As we observed recently:

> In those cases we included coops with the class of ultimate consumers in determining their level of relief, and thereby excused them from demonstrating that they had suffered injury from the alleged overcharges. These determinations were based on our finding that because the coops are owned by their customers and because of contractual agreements that control the prices coops charge, any overcharges would have been channeled to their customers; likewise any refund would be passed on to their customers, in the form of either a price reduction or a distribution at the end of the coops' fiscal year. *Tenneco* at 85,203. In effect we treated refund applications by coops as applications made on behalf of their customers. In the present proceeding we will treat the coops' refund applications similarly, placing them in the same refund category as ultimate consumers.

Standard Oil Company (Indiana/ Agway, Inc., 11 DOE ¶ 85,166 at 88,268 (1983).

For the reasons stated above, we propose in this proceeding to excuse cooperatives from the requirement imposed upon other resellers that they show specific injury. However, as in other refund proceedings, we will require cooperatives to provide a full explanation of the manner in which refunds will be passed through to their customers.(7)

With respect to customers who are end-users who did not resell UTP petroleum products, our experience in prior refund proceedings has led us to believe that a showing of injury should not be necessary in order to qualify for a refund. Unlike resellers of petroleum products, this category of customers can be presumed to have absorbed the full impact of any overcharges. In order to establish a claim, this type of purchaser need demonstrate only that it purchased a specific quantity of product which was sold by UTP during the relevant time period. *See Standard Oil Co. (Indiana)/ Union Camp Corp.,* 11 DOE ¶ 85,007 (1983), and *Standard Oil Co. (Indiana)/ Elgin, Joliet, and Eastern Railway,* 11 DOE ¶ 85,105 (1983) (end-users of various refined petroleum products granted refunds solely on the basis of documented purchase volumes). For the reasons stated above with respect to resellers, we propose to make refunds to end-users on a volumetric basis.

We have calculated the volumetric refund factor by dividing the $1,503,000 comprising the refined products pool by the volume of refined products sold by UTP during the relevant periods of time (4,252,067,146 gallons). The volumetric refund amount computed in this manner and applicable to UTP refined products (exclusive of those covered by the 1981 consent order) is $0.000353 per gallon.

Any purchaser claiming a refund will be required to file an Application for Refund pursuant to 10 CFR 205.283. Applicants will have to provide all relevant information necessary to establish a claim, including specific documentation concerning the dates and volumes of product purchased, and, with respect to resellers whose claims are based on purchases in excess of the threshold, the absorption of increased costs and the extent of any injury alleged. Detailed procedures for filing applications will be provided in a final Decision and Order, and no application should be filed prior to the issuance of that Decision.(8)

b. *Second Stage.* After all meritorious claimants have received shares of the refined products pool of the UTP global consent order fund to which they are entitled, that pool may not be exhausted. The remainder of the funds should be distributed during the second stage of the refund process in a manner which furthers the goals set forth in the DOE's enabling legislation and implementing regulations or other statutory requirements. Since the primary purpose of Subpart V special refund procedures is to provide restitution to persons injured by alleged regulatory violations, second-stage procedures should be fashioned to compensate injured persons who, for one reason or another, are unable to submit valid claims during the first stage of the refund process.

In this Decision, we are proposing several alternatives for second-stage refund procedures and inviting suggestions for additional procedures. However, we wish to emphasize that any consideration of second-stage procedures at this point in time involves a number of uncertainties. As we noted in *Vickers:*

> [S]uch a step would be difficult to justify before the analysis and processing of Applications for Refund filed in the first stage of the distribution of the Consent Order funds to claimants, since the amount remaining after all meritorious claims have been paid directly affects the appropriateness of the second-stage distribution scheme.

8 DOE at 85,397. As in that case, we intend to set forth a number of second-stage alternatives in this Proposed Decision, consider the comments received after publication in the **Federal Register**, and then issue a final Decision and Order establishing procedures for the first stage. In that final Decision, we will summarize and address briefly the comments received concerning the proposed second-stage procedures, and will solicit another round of comments on the distribution of the funds remaining after payment of claims in the first stage. In this way, we will have several opportunities to consider the outstanding issues before reaching a final decision on the second stage.

Since refunding money to adversely affected parties is the primary concern of Subpart V proceedings, any remaining funds should, if administratively and economically feasible, be distributed to groups of ultimate consumers who were likely to have suffered from any regulatory violations on the part of UTP. In view of the relatively small sums of money likely to be involved in claims by many ultimate consumers, and the improbability that members of this class will possess records sufficient to establish their claims, we anticipate that only a limited number of ultimate consumers who may have been injured by the alleged overcharges will be able to prove during the first stage of the refund process that they are entitled to refunds. *See Tenneco.* Although claims to specific refunds may not in some cases be able to be proved, this does not mean that injuries to ultimate consumers have not occurred. Rather, the absence of successful claims for the full amount of the settlement would tend to reflect the difficulty such parties encounter in establishing a valid claim for a portion of the consent order funds.

In addition, our experience in prior cases indicates that there may be a number of first-stage claims from individuals and firms who are entitled to refunds of very small amounts. The cost of issuing refund checks precludes the granting of any claim that would result in a refund of less than $15.00. *See Amoco.* In view of these considerations, we believe that the portion of the refined products refund pool that remains after the first-stage claim proceeding should be distributed in a manner which benefits as closely as possible the ultimate consumers who were injured by the UTP alleged violations.

One alternative is to deposit any residual funds directly into the U.S. Treasury. This mechanism is particularly appropriate in those cases where, after all meritorious claims have been paid in the first stage, the remaining refund amount is very small. *See, e.g., Office of Enforcement,* 10 DOE ¶ 82,544, (1983) (direct payment to the Treasury of small unclaimed refund amounts found to be more efficient and cost-effective than distribution to states

or accumulation for distribution at a later date).

Another alternative is to designate state governments in the areas in which the sales of refined products by UTP occurred as second-stage refund recipients. *See, e.g., Standard Oil Co. (Indiana),* 11 DOE ¶ 85,185 (1983). Escrow funds would be distributed to the states upon our approval of state-formulated energy-related plans for spending the money in a manner that would provide restitutionary benefits to the consumers of the products covered by the consent order involved in that proceeding. *See Worldwide Energy Corp.,* 11 DOE ¶ 85,023 (1983). In this regard, we note that UTP's marketing operations, particularly with respect to sales of natural gas liquids, appear to have been concentrated in states east of the Mississippi River.

Another possible method of providing restitution to ultimate consumers might be in the form of lowered energy or energy-related costs effected through distribution of second-stage refunds to rate-regulated public utilities in areas where the products associated with the alleged overcharges by UTP were marketed. *See, for example, Office of Special Counsel for Compliance,* No. DFF-0003 (March 13, 1981) (proposed decision). We observed in that decision that it is likely that the persons who purchased motor gasoline or heating oil in a particular area would reside there as well and would be ultimate consumers of electricity. They would therefore benefit from the proposed rate reduction. Although we cannot yet determine what actions we will take in the UTP second stage, we will consider this type of restitutionary scheme as one possible alternative.

However, as noted above, we will not be in a position to decide what should be done with any remaining funds until after the first-stage refund procedure is completed. The amount of money available for the second stage of the refund process will be a factor that will influence the ultimate disposition of those funds.

B. Subpart V Proceeding Involving the 1981 Consent Order

The 1981 consent order settled certain claims and disputes between the DOE and UTP with respect to the prices charged in certain specified sales of propane, motor gasoline, and diesel fuel during the period August 19, 1973 through June 1, 1976 (the audit period). The consent order was specifically limited to the settlement of the alleged overcharges attributable to UTP's use of incorrect May 15, 1973 selling prices with respect to the following classes of purchaser:

Product	Class description	Consent order period
Propane	"Petrochemical-Geismar Plant Joint Interest Owners"	Aug. 19, 1973 to May 1, 1976.
Do	"Wholesale-Williams Brothers"	Do.
Motor Gasoline	"Jobber-San Antonio"	Aug. 19, 1973 to June 1, 1976.
Diesel Fuel	"Wholesale-Miller Oil Co. and Raymond Lee"	Do.

Consent Order, Exhibit 1.

To the extent that purchases of UTP products fall within the above categories and periods of time, we propose to consider claims attributable to such transactions in a refund proceeding separate and distinct from that established in connection with the global consent order.

We have determined from ERA files that the volume of the designated products which was sold by UTP during the periods of time specified above to the listed classes of purchaser was 205,015,854 gallons. Based on the above information, we have taken as the numerator the $1,325,000 refund pool attributable to the 1981 consent order (to which accrued interest will be added at the time of distribution of any refunds), and the total of 205,015,854 gallons as the denominator, to arrive at a per gallon volumetric refund amount of $0.006463.

The two-stage procedures discussed above in connection with the refined products portion of the global consent order funds also will be applied in distributing the refund pool established pursuant to the 1981 consent order. Those procedures established with respect to the showing of injury required by resellers and the 50,000 gallon per month threshold will be the same. We will also treat applications from cooperatives in the same manner and will require end-users of UTP products to submit only information demonstrating that they purchased a specific quantity of UTP products. We also propose the same alternatives for second-stage disposition of the funds remaining after all first-stage claims have been processed.

Those claimants who are eligible for refunds in both the global consent order refund proceeding and the 1981 consent order refund proceeding will be required to file separate applications for each proceeding. While we recognize that this may involve some inconvenience for a small number of customers, we believe it is necessary in order to ensure that refunds are made from the appropriate refund pool. As noted above, our primary reason for establishing a separate refund pool with respect to the 1981 consent order is that combining the two refund pools would greatly reduce the per-gallon refund amount available to those parties who can demonstrate the requisite nexus to those matters covered only by the 1981 order. In order to avoid any possibility of unfairness to those claimants, we will require that separate applications be filed with respect to the two proceedings.

It Is Therefore Ordered That:

The Petitions for Implementation of Special Refund Procedures filed by the Economic Regulatory Administration on December 22, 1982 and October 13, 1983 in the Matter of Union Texas Petroleum Corporation (UTP) are hereby granted. The refund amounts supplied by UTP, plus accrued interest, will be distributed in accordance with the foregoing Decision.

Footnotes

(1) The Defense Logistics Agency expressed an interest in examining the November 1980 consent order to determine whether its purchases of petroleum products for the Department of Defense were covered by the terms of the consent order. Arrow Enterprises, Inc. and Hillman Oil Company, both of San Antonio, Texas, each submitted a formal notification of claim as parties directly injured by the motor gasoline overcharges alleged in the consent order.

(2) The nine parties who submitted comments were the States of California, Connecticut, Indiana, Maine, Oregon, and Vermont (the states); the Association of American Railroads (AAR); the National Consumer Law Center, Inc. (NCLC); and Reed Distributing Co., Inc. (Reed).

All the comments on the proposed global consent order addressed the issue of the appropriate disposition of the $1.9 million consent order fund. Seven commenters (the states and NCLC) asserted that the most appropriate distribution of refunds would be through individual state governments for

energy-conservation and other energy-related programs directly benefiting consumers. One of those commenters also maintained that each state retains preeminent rights to succeed to and obtain funds held by the federal government, which might otherwise go unclaimed, for the benefit of persons in the state. Two commenters (NCLC and AAR) suggested that the consent order be modified to require that funds be remitted to the DOE for distribution by the Office of Hearings and Appeals pursuant to 10 CFR Part 205, Subpart V. Two commenters (NCLC and Maine) suggested that further attempts to identify and compensate injured purchasers are required under 10 CFR 205.199(a), provided that such first purchasers can prove that they did not pass on any overcharges to their own customers. One commenter (Reed) advocated direct refunds of overcharges to injured wholesalers and commercial customers of UTP.

(3) The service list in the refund proceeding which we are establishing pursuant to ERA's December 1982 Subpart V petition (Case No. HEF-0009) consist of: the nine parties who submitted comments on the proposed global consent order; Standard Oil company (Indiana), which submitted an Application for Refund with this Office on December 20, 1982; Gwynne E. Old, Esq., an attorney who represents a UTP customer; and Fuller Oil Company and Campbell Oil Company, each of which filed a notification of claim with the ERA after global consent order and been adopted as a final order of the DOE. The service list in the refund proceeding being established with respect to ERA's more recent Subpart V petition (Case No HEF-0224) consists of the three parties who submitted comments or notification of claims in response to the proposed consent order.

(4) The Entitlements Program was part of the comprehensive mandatory pricing and allocation program administered by the DOE. Subsequent to the imposition of petroleum price controls, there developed a price disparity between foreign and uncontrolled (new and stripper) domestic crude oil, and price-controlled (old) domestic crude oil, which had an unequal effect on refiners because some refiners had greater access to the inexpensive old oil than others. Firms which had little or no access to price-controlled old oil were forced to purchase uncontrolled domestic or similarly expensive foreign crude oil. As a result, many small, independent refiners, with little or no access to price-controlled domestic reserves, suffered crude oil acquisition costs so high relative to the industry as a whole that those costs threatened to put them out of business. To remedy these imbalances, the DOE established the Entitlements Program. 39 Fed. Reg. 31650 (1974); 39 FR 39740 (1974). The Entitlements Program required refiners with proportionately greater access to old oil to make cash payments, in the form of the purchase of entitlements, to refiners with less access to price-controlled oil. The program was designed to restore the competitive viability of the refining industry by generally equalizing among all domestic refiners the benefit associated with access to the lower-priced domestic crude oil.

(5) An alternative method of determining the size of the crude oil refund pool would be to compute the percentage of UTP's sales attributable to crude oil on the basis of revenues rather than volumes. Based on our experience in other Subpart V refund proceedings, we estimate that a division by revenues would result in a reduction of the crude oil pool to about 14 percent of the total. This is due in part to the fact that the price per gallon of crude oil was less, during the years in question, than the price per gallon of refined products.

(6) With respect to each product for which a refund is claimed, the reseller must have had a bank equal to or greater than the amount of refund requested on the date the product was decontrolled or, in the case of motor gasoline, the date that the banking regulations were terminated (July 15, 1979 for retailers, May 1, 1980 for resellers and reseller-retailers, except for 52 firms which opted to continue computing their maximum lawful selling prices under the price rules in effect on April 30, 1980). *See* 10 CFR 212.93 and 45 FR 81255 (December 10, 1980).

(7) Since some refund applicants may be regional cooperatives which sell petroleum products to local co-ops which in turn sell these products to their own individual customers, we shall require regional co-ops who receive refunds in this proceeding to notify their customers that the distribution of any refund is expressly conditioned upon the redistribution of the refund by the local co-ops to their own customers. *See Tenneco Oil Co./Farmland Industries*, 9 DOE ¶ 82,597 (1982).

(8) Before disposing of any of the funds received as a result of the consent orders involved in these refund proceedings, we intend to publicize the distribution process as widely as possible and to provide an opportunity for any affected party to file a claim.

Appendix

Union Texas Petroleum Corp., Listing of Audited Properties

Property		
Rice	Johnston Federal	Hunt-Cope No. 2
Wright	Crawford State	Humble-Norman
MacNeill	Christianson	Windham A.
J.W. Jones	Hartman "A"	Ellenburge
Jones	Beulah Davis	Owens Ranch No. 4
Mellard	Edyth Foster	Owens Ranch 3 No. 2
Fee (Sulphur)	Frank R. Hall	Gregg B
O.H. Wylie Heirs Nos. 1 & 4	Inez Mandy	Frost E
1st Hollywood; Wylie H. No. 1	A.J. Unruh	Flasken F-4
Maple Hughes	E.E. Walker	University G
	H.A. Logan	Veal
	E.A. Maly	
	J.F. Sims	

A–5
Hughes B–1
L. Broussard
Adam Bergeron No. 1
Marg. Vag. Res A Sand Unit
3rd CIB Hazz Sand
Bowie Lumber Co. No. 1
USA No. 1
Waitman
Crosby Deep Unit No. 1
Langlie-Jal Unit
Langlie-Jal Unit
Langlie-Jal Unit
Langlie-Jal Unit
Langlie-Jal Unit 8
Langlie-Jal Unit 8–A
Langlie-Jal Unit 10
Langlie-Jal Unit 10–A
State 32–A (Langlie-Jal) 13
Olsen Phillips
J.E. Crosby
Gregory Federal
Western Federal A&B
Carlson "A"
Stuart 6,7,8
Haley 1,2,3,5&7
Hefflefinger
Milnesand Unit
Britt "A"
Isaac Koehn
E.E. Robertson
Russell Oakley
P.H. Hertzler
Luther Ford
Nakrinda Davis
A.L. Dodd
Alice Anderson
Lena Gift
Alfred C. Milack
Clyde M. Irwin "A"
Elmer C. Baker
Tillie DeClereck
Foy Davis
Delbert Winchester
Gift A. Lena
Curtis Marley
Hubert Elliott
Ford "A"
Atherton
Walter Eifert
Mitchell No. 1
Bocox
Wattles Estate
Fourdee Miss Limes
Allison Unit
Leon
Weaver Unit No. 1
John Ellis
George Moore
Nakrinda
G.A. Dowers No. 2
Elmer C. Baker No. 2
Wyatt Estate
N.W. Slaughter S.W.
Nelson 3
S.W. Westbrook Unit
Scales
Harmon Scales
Moss B
Shenck "B" No. 1&2
Shenck "B" No. II
Shenck "B" No. 4
Daniel No. 2
Opal Page
Norman No. 11
Doss Estate
Fasken No. 1
Hondo Government
Scheel No. 1
F.E. Cook
Meyer
L.K. Arthur Tank Farm
E.L.K. Sand-St. Mary T.B.
Pierre Pass Assump. C.F.
Manchac-W. Baton Rouge
Justice-Lea Co. Carlson "B"
Carlson "A"
Carlson
Ford LACT Unit
Norman Gains Co. Norman
Norman

[FR Doc. 84–2052 Filed 1–21–84; 8:45 am]
BILLING CODE 6450–01–M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of implementation of special refund procedures and solicitation of comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding a total of $115,000 (plus accrued interest) in consent order funds to members of the public. The funds are being held in escrow pursuant to a Consent Order involving Marion Corporation.

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the **Federal Register** and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585. All comments should conspicuously display a reference to Case Number HEF–0216.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–2860.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision relates to a Consent Order entered into by Marion Corporation which settled possible pricing violations with respect to the firm's sales of No. 2 diesel fuel, liquified petroleum gases, light straight run gasoline, JP–4 jet fuel and residual fuel oil during the period December 1, 1973, through April 30, 1974.

The Proposed Decision sets forth the procedures and standards that the DOE has tentatively formulated to distribute funds remitted by Marion Corporation and being held in escrow pursuant to the settlement. The DOE has tentatively decided that the funds should be distributed in a refund proceeding which would be carried out in two stages in the manner utilized with respect to other consent order funds.

All identified Marion customers whose addresses are known will be served with copies of this proposed decision. Addresses for the following customers have not been obtained: Calloway Seafoods, Falcon Tankers, Fisherman Marine, Fred H. Cannon, Lee Roy Jordan Equip., Marine Environmental Science Consortium, Pride Terminals, Seaman Fisheries, Theodore Indus. Shipyard.

Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the **Federal Register**, and should be sent to the address set forth at the beginning of this notice. All comments received in these proceedings will be available for public inspection between the hours of 1:00 to 5:00 p.m., Monday through Friday, except federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room

1E–234, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Dated: January 9, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

January 9, 1984.

Proposed Decision and Order of the Department of Energy

Special Refund Procedures

Name of Case: Marion Corporation.
Date of Filing: October 13, 1983.
Case Number: HEF–0216.

In accordance with the Department of Energy (DOE) procedural regulations, 10 CFR Part 205, Subpart V, on October 13, 1983, the Economic Regulatory Administration (ERA) of the DOE filed a Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA) in connection with a Consent Order entered into with Marion Corporation (Marion). The petition requests that the OHA formulate and implement procedures to make refunds in order to remedy the effects of alleged violations of the DOE regulations.

Marion is a "refiner" as that term was defined in 6 CFR 150.352 and 10 CFR 212.31. An ERA audit of Marion's records revealed possible pricing violations with respect to the firm's sales of No. 2 diesel fuel, liquefied petroleum gases, light straight run gasoline, JP–4 jet fuel and residual fuel oil during the period December 1, 1973 through April 30, 1974 (the audit period). On November 2, 1979, a Notice of Probable Violation (NOPV) was issued to Marion in connection with these alleged violations. In order to settle all claims and disputes between Marion and the DOE regarding prices charged by Marion in sales of the refined petroleum products listed above during the audit period, Marion and the DOE entered into a Consent Order on November 5, 1980, in which Marion agreed to pay $115,000 to the DOE. Notice of the Consent Order was published in the **Federal Register**, 45 FR 78202 (November 25, 1980).

Jurisdiction and Authority to Fashion Refund Procedures

The procedural regulations of the DOE set forth general guidelines to be used by the OHA in formulating and implementing a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process is intended to be used in situations where the DOE is unable to identify readily either the persons or firms who are entitled to refunds or the amounts of such refunds. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds obtained as part of settlement agreements, see *Office of Enforcement*, 9 DOE ¶ 82,508 (1981) and *Office of Enforcement*, 8 DOE ¶ 82–597 (1981).

Proposed Refund Procedures

We have considered the ERA petition to implement a Subpart V proceeding with respect to the Marion consent order fund and have determined that it is appropriate to establish such a proceeding. Insofar as possible the $115,000 consent order fund should be distributed to Marion customers who were adversely affected by the alleged Marion overcharges. The audit file which provided the basis for the NOPV that was issued to Marion identifies a number of customers which purchased products directly from Marion. The names and addresses of these customers and the products and volumes purchased are set forth in the Appendix to this Proposed Decision and Order. We believe that these identified customers, many of which appear to be end-users of the products, are most likely the parties who were directly affected in an adverse manner by any overcharges by Marion. We recognize, however, that there may be other direct customers of Marion who believe they were injured by Marion's actions during the consent order period.(*1*) We will therefore establish a claims procedure in which we will accept applications from the customers identified in the Appendix and any other parties who can demonstrate that they were injured as a result of Marion's alleged overcharges.

All claimants will have to file an application in order to receive a refund. Each customer listed in the Appendix will be required to certify the correct volume of its purchases from Marion. Applicants not specifically named in the Appendix will be required to provide all relevant information necessary to establish a claim, including specific documentation concerning the date, place, price and volume of product purchased and the extent of any injury alleged.

As indicated above, many of the identified customers appear to be ultimate consumers of the petroleum products they purchased from Marion. We propose that these customers and any other claimants who are ultimate consumers of Marion products should not be required to demonstrate injury in order to receive a refund. *See Standard Oil Co. (Indiana)/Union Camp Corp.*, 11 DOE ¶ 85,007 (1983). They will, however, be required to submit the information indicated above to establish their eligibility for a refund.

Some of the identified customers are petroleum product refiners and resellers (i.e., retailers and wholesalers). A different standard will be applied in analyzing applications from these firms and other claimants who resold Marion products. We will require each claimant which is not an ultimate consumer to demonstrate that it did not pass on cost increases implemented by Marion to its own customers. *See, e.g., Office of Enforcement*, 8 DOE ¶ 82,597 (1981). Therefore, resellers (and refiners acting in the capacity of resellers) of Marion products will be required to demonstrate that during the period covered by the Consent Order they would have kept their prices for petroleum products at the same level had the alleged overcharges not occurred. While there are a variety of means by which a claimant could make this showing, a reseller or refiner should generally demonstrate that at the time it purchased Marion products market conditions would not permit it to increase its prices to pass through the additional costs associated with the alleged overcharges. In addition, the reseller or refiner must show that it maintained a "bank" of unrecovered costs in order to demonstrate that it did not subsequently recover these costs by increasing its prices. The maintenance of a bank will not, however, automatically establish injury. *See Tenneco Oil Co.*, 10 DOE ¶ 85,014 (1982); *Vickers Energy Corp./Standard Oil Co.*, 10 DOE ¶ 85,036 (1982); *Vickers Energy Corp./Koch Industries, Inc.*, 10 DOE ¶ 85,038 (1982).

We recognize that the above showing may be too burdensome and complicated for resellers which purchased very small amounts of Marion products. For example, such firms may lack the records necessary to prove that they did not pass on the alleged Marion overcharges to their own customers. In a number of prior Decisions, we have established a threshold purchase level of 50,000 gallons per month for small firms as well as larger firms that wanted to limit their claims to that level or were unable to establish injury. *See, e.g., Office of Special Counsel*, 9 DOE ¶ 82,538 (1982); *Office of Enforcement*, 8 DOE ¶ 82,597 (1981). We propose to do the same in the present proceeding. Therefore, any reseller claiming a refund based on average purchases of 50,000 gallons or less of product per month from Marion need not make a showing of injury.

We also propose that firms which made only spot purchases from Marion

should be presumed to have suffered no injury. As we have previously stated with respect to spot purchasers:

> Those customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of [the firm's product] at increased prices unless they were able to pass through the full amount of [the firm's] quoted selling price at the time of purchase to their own customers.

Office of Enforcement, 8 DOE ¶ 82,597 at 85,396–7 (1981). We believe the same rationale holds true in the present case. Accordingly, in order to overcome the rebuttable presumption that they were not injured, spot purchasers should submit additional evidence to establish that they were unable to recover the product prices they paid to Marion. *See Office of Special Counsel*, 10 DOE ¶ 85,048 at 88,200 (1982).

We propose to establish a minimum amount of $15 for refund claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15 outweighs the modest benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,225 (1982). *See also* 10 CFR 205.286(b).

In determining the manner in which refunds are calculated in this proceeding, we propose to base the refund amount on the volume of petroleum products which an applicant purchased from Marion. *See Office of Special Counsel*, 10 DOE ¶ 85,048 (1982); *Office of Enforcement*, 8 DOE ¶ 82,597 (1981). We have chosen to use a volumetric approach because this method implicitly recognizes that the computation of individual, particularized overcharges in individual transactions is impossible in a situation where the DOE has not determined as a matter of law that any overcharges occurred. *See Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). The volumetric method has the advantage that it treats all applicants similarly and is easy to administer. In addition, applicants can readily compute the size of their potential refunds and thereby make an informed choice on whether to file an application.

The $115,000 in the Marion consent order fund will be divided by the estimated total volume of all products covered by the Consent Order sold by Marion during the consent order period. This will give a refund amount for each gallon of product which an applicant purchased from Marion. Our preliminary information indicates that this figure is $0.001404 per gallon. This volumetric factor may be adjusted if we receive additional information and claims from direct purchasers of the Marion products covered by the Consent Order. The interest which has accrued on the money in the consent order fund will be distributed to each successful claimant in proportion to its refund amount.

Refund applications should not be filed until issuance of a final Decision and Order in this proceeding. Detailed procedures for filing applications will be provided in the final Decision and Order. Before disposing of any of the funds received as a result of the Marion Consent Order, we will attempt to notify all known customers who would be entitled to a refund as well as firms which have previously filed claims with the DOE. In addition, notice of the refund procedures will be published in the **Federal Register**.

We will consider at a future date the appropriate disposition of any fund remaining after all successful claimants have been paid. Our determination concerning the final disposition of any residual funds will depend on the size of the fund. *Office of Enforcement*, 9 DOE ¶ 82,508 (1981). In the event that money remains after all claims are filed, undistributed funds could be distributed in various ways. For example, they could be distributed to states where Marion sold its products, provided these states file plans with this Office to use these funds for an energy related project which meets with our approval. *See Worldwide Energy Corp.*, 11 DOE ¶ 85,023 (1983).

It Is Therefore Ordered That:

The $115,000 refund amount supplied by Marion Corporation will be distributed in accordance with the foregoing determination.

Footnotes

(1) In fact, two claimants who were not listed in the NOPV, Conoco and Chevron, have already submitted letters claiming eligibility for refunds in response to the publication of the Marion Consent Order in the **Federal Register**.

Appendix

Product/Customer and Volume Purchased During Consent Order Period (Gallons)

Diesel Fuel

Alabama State Docks Department, P.O. Box 1588, Mobile, AL 36601—33,801
Alabama Wood Treating Corp., P.O. Box 310, Mobile, AL 36601—30,483
Bon Secour Fisheries, Inc., End Hwy. 49S, Bon Secour, AL 36511—34,781
Callaway Seafoods—16,799
Campbell Piping Contractors, 1521 Azalea Rd., Mobile, AL 36609—29,303
Ciba Geigy Corp., 444 Saw Mill River Rd., Ardsley, NY 10502—1,200,835
Courtaulds North America, Inc., P.O. Box 2648, Mobile, AL 36601—310,886
Ergon, Inc., P.O. Box 1308, Jackson, MS 39201—7,732
Falcon Tankers—82,401
Fisherman Marine—58,837
Fred H. Cannon—583
GAF Corp., 140 W. 51st St., New York, NY 10020—62,897
International Paper Co., 77 W. 45th St., New York, NY 10036—49,555
Joe's Seafood, Shell Belt Rd., Bayou LaBatre, AL 36509—76,922
Lee Roy Jordan Equip.—977
Louisville & Nashville Railroad, 500 Water Street, Jacksonville, FL 32202—831,815
Marine Environmental Science Consortium—1,493
Pride Terminals—1,170,440
Redwing Carriers, P.O. Box 428, Tampa, FL 33601—24,464
Seaman Fisheries—162,407
Southern Terminal & Transport, 122 Appleyard Drive, Tallahassee, FL 32302—13,559
Standard Oil Company, P.O. Box 1446, Louisville, KY 40201—8,191,214
Stauffer Chemical Co., P.O. Box 32, Bucks, AL 36512—704,389
Steiner Ice, Diesel & Marine Supply, Inc., P.O. Box 105, Bayou LaBatre, AL 36509—290,654
Theodore Indus. Shipyard—731
Triangle Refineries, 2800 Nottingham, Houston, TX 77001—391,152
U.S. Coast Guard, P.O. Box 1788, Mobile, AL 36608—89,437

Liquified Petroleum Gases

Warren Petroleum Company, 1350 S. Boulder Ave., Tulsa, OK 74102—3,702,441

Light Straight Run Gasoline

Standard Oil—1,916,781
Exxon Corporation, 1251 Avenue of the Americas, New York, NY 10020—7,012,249

JP–4 Jet Fuel

Defense Fuel Supply Center, U.S. Air Force, Cameron Station, Alexandria, VA 22314—31,657,368
DFSC—U.S. Navy—4,531,114
DFSC—Ms Air Nat'l Guard—335,797
DFSC—USCG—34,343
Standard Oil—3,419,962

Residual Fuel Oil

Courtaulds—2,737,577
Exxon—12,292,554
Ciba Geigy—6,193

[FR Doc. 84–2053 Filed 1–24–84; 8:45 am]
BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–50611; PH–FRL 2510–4]

Pesticides; Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicant. These permits are in accordance with, and subject to, the

provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: By mail: Jay Ellenberger, Product Manager (12), Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 202, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–2386).

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

400–EUP–62. Issuance. Uniroyal Chemical, 74 Amity Rd., Bethany, CT 06525. This experimental use permit allows the use of 337.5 pounds of the insecticide 5-(4-chlorophenyl)-2,3-diphenylthiophene on oranges and grapefruits to evaluate the control of the citrus rust mite. A total of 225 acres are involved.

400–EUP–63. Issuance. Uniroyal Chemical, 74 Amity Rd., Bethany, CT 06525. This experimental use permit allows the use of 700 pounds of the insecticide 5-(4-chlorophenyl)-2,3-diphenylthiophene on oranges and grapefruits to evaluate the control of the citrus rust mite. A total of 466.6 acres are involved. This permit and the one above are authorized only in the State of Florida. Both permits are effective from December 9, 1983 to December 9, 1984. Temporary tolerances for residues of the active ingredient in or on oranges and grapefruits have been established. Temporary food and feed additive regulations for residues of the active ingredient in or on citrus oil and citrus pulp have been established.

Persons wishing to review these experimental use permits are referred to the designated product manager. Inquiries concerning these permits should be directed to the person cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, Pub. L. 95–396; 92 Stat. 828 (7 U.S.C. 136c))

Dated: January 9, 1984.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84–1901 Filed 1–24–84; 8:45 am]
BILLING CODE 6560–50–M

[OPP–30236; PH–FRL 2510–3]

Applications To Register Pesticide Products Containing New Active Ingredients

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing active ingredients not included in any previously registered pesticide products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comment by February 24, 1984.

ADDRESS: Written comments, identified by the document control number [OPP–30236] and the file symbol, should be submitted by mail, attention of the Product Manager named in each application at the following address: Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM#2, Registration Division (TS–767C), Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: The product manager at the telephone and room number cited.

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered pesticide products pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Applications Received

1. File Symbol: 45167–R. Applicant: Vikwood Ltd., P.O. Box 554, Sheboygan, WI 53081. Product name: Margosine-O. Insecticide. Active ingredient: Azadirachtin .003%. Proposed classification/Use: General. For outdoor use. Type registration: Conditional. (Product Manager PM–17, Timothy Gardner, 703–557–2690)).

2. File Symbol: 2724–GRE. Applicant: Zoecon Industries, 12200 Denton Drive, Dallas, TX 75234. Product name: Zoecon RF–208 Fogger with Gencor. Insect Growth Regulator. Active ingredient: Hydroprene [ethyl (2*E*,4*E*)-3,7,11-trimethyl-2,4 dodecadienoate] 1.20%. Proposed classification/Use: General. For control of the roach population by preventing reproduction. Type registration: Conditional. (PM–17, Timothy Gardner, 703–557–2690)).

3. File Symbol: 8730–GA. Applicant: Hercon Div., Health Chem Corp., 1107 Broadway, New York, NY 10010. Product name: Hercon Top Bait™. Insecticide. Active ingredient: [1R-(1R*,2R*,5S*,6E,10*)]-(+/−)-8-methylene-5-(1-methylethyl)-spiro[11-oxabicyclo[8.1.0]undec-6-ene-2,2'-oxiran]-3-one 0.00004%. Proposed classification/Use: General. For control of American cockroaches (Palmetto bugs" or waterbugs") and other periplaneta species. Type registration: Conditional. (PM–17. Timothy Gardner. 703–557–2690)).

4. File Symbol: 10182–IE. ICI Americas Inc., Wilmington, DE 19897. Product name: Bonzi™. Herbicide. Active ingredient: (2RS,3RS)-1-(4-chlorophenyl)-4,4-dimethyl-2(1*H*1,2,4-triazol-l-yl) pentan-3-ol (paclobyutrazol) 50%. Proposed classification/Use: General. For greenhouse use on container-grown greenhouse ornamentals. Type registration: Conditional. (PM–25, Robert Taylor, 557–1800)).

5. File Symbol: 241–ETG. Applicant: American Cyanamid Co., PO Box 400, Princeton, NJ 08540. Product name: Arsenal™. Herbicide. Active ingredient: 2-4,5-Dihydro-4-methyl-4-(1-methylethyl)-oxo-1*H*-imidazol-2-yl]-3-pyridinecarboxylic acid with 2-propanamine (1:1) 27.6%. Proposed classification/Use: General. For control of most annual and perennial grasses and broadleaf weeds on noncropland areas. Type registration: Conditional. (PM–25, Robert Taylor, 703–557–1800)).

6. File Symbol: 45987–1. Applicant: Monogram Industries, Inc., 1299 Ocean Ave., Santa Monica, CA 90401. Product name: Doo-Not. Dog Repellent. Active ingredients: Dihydro-5-pentyl-2(3*H*)-furanone 0.024% and dihydro-5-heptyl-2(3*H*)-furanone 0.049%. Proposed classification/Use: General. Inhibits stray dogs from defecating on treated areas. Type registration: Conditional. (PM–16, William Miller, 703–557–2600)).

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the product manager's office to ensure that the file is available on the date of intended visit.

(Sec. 3(c)(4) of FIFRA, as amended)

Dated: January 10, 1984.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84-1902 Filed 1-24-84; 8:45 am]

BILLING CODE 6560-50-M

[TSH-FRL 2512-6]

Administrator's Toxic Substances Advisory Committee; Renewal

The U.S. Environmental Protection Agency announces the renewal of the Administrator's Toxic Substances Advisory Committee for a three-month period. It has been determined that this renewal is in the public interest in connection with the performance of duties imposed on the Agency by law. The charter which continues the Administrator's Toxic Substances Advisory Committee through March 31, 1984 will be filed with the appropriate Congressional Committees and the Library of Congress.

FOR FURTHER INFORMATION CONTACT: Mary Anne Beatty, EPA Committee Management Officer (PM-213), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, 202-382-5036.

Dated: January 3, 1984.

Alvin L. Alm,

Acting Administrator.

[FR Doc. 84-1993 Filed 1-24-84; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51491A; TSH-FRL 2512-7]

Trisubstituted Heterocyclic Disubstituted Monocycle; Premanufacture Notice Extension of Review Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is extending the review period for an additional 90 days for premanufacture notices (PMN) 84-108, under the authority of section 5(c) of the Toxic Substances Control Act (TSCA). The review period will now expire on April 17, 1984.

FOR FURTHER INFORMATION CONTACT: Paul Matthai, Chemical Control Division (TS-794), Environmental Protection Agency, Rm. E-201, 401 M St., SW., Wahington, D.C. 20460, (202-382-3746).

SUPPLEMENTARY INFORMATION: On October 21, 1983, EPA received PMN 84-108 for a new chemical substance, trisubstituted heteromonocyclic disubstituted monocycle. The submitter claimed its identity, the specific chemical identity, specific use, production and process information to be confidential business information. Notice of receipt was published in the Federal Register of November 4, 1983 (48 FR 50944). The original 90-day review period was scheduled to expire on January 18, 1984.

Based on its analysis, EPA finds that there is a possibility that the substance submitted for review in this PMN may be regulated under TSCA. The Agency requires an extension of the review preiod, as authorized by section 5(c) of TSCA, to investigate further potential risk, to examine its regulatory options, and to prepare the necessary documents, should regulatory action be required. Therefore, EPA has determined that good cause exists to extend the review period for an additional 90 days, to April 17, 1984.

PMN's are available for public inspection in Rm. E-107, at the EPA headquarter, address given above, from 8:00 a.m to 4:00 p.m., Monday through Friday, except legal holidays.

Dated: January 17, 1984.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 84-1995 Filed 1-24-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation No. P-11 and Certificate of Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages No. C-1,006; Order of Revocation

Jugolinija (Yugoslav Line) c/o Crossocean Shipping Company, Inc., Suite 2045, One World Trade Center, New York, N.Y. 10048, has ceased to operate the passenger vessels, KLEK, TUHOBIC, VISEVICA and ZVIR.

By virtue of the authority vested in me by the Federal Maritime Commission as set forth in the Manual of Orders, Commission Order No. 1 (Revised), Amendment No. 4, section 9.11;

It is ordered, that Certificate (Performance) No. P-11 and Certificate (casualty) No. C-1,006 issued to Jugolinija (Yugoslav Line) and its predecessor company, Jugoslavenska Linijska Plovidba-Rijeka (Yugoslav Lines) (Jugolinija) (Yugoline) covering the KLEK, TUHOBIC, VISEVICA and ZVIR be and are hereby revoked effective January 19, 1984.

It is further ordered, that a copy of this Order be published in the Federal Register and served on the certificant.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 84-2017 Filed 1-24-84; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL MEDIATION AND CONCILIATION SERVICE

Performance Review Board; Membership

Notice is hereby given in accordance with 5 U.S.C. 4314 of the membership of the Performance Review Board for the Deputy Director and Executive Director, of the Federal Mediation and Conciliation Service. The members are:

Ms. Catherine Sands, Executive Director, Federal Mine, Safety, and Health Review Commission, Washington, D.C.

Mr. Rowland K. Quinn, Jr., Executive Secretary, National Mediation Board, Washington, D.C.

Mr. John E. Higgins, Jr., Deputy General Counsel, National Labor Relations Board, Washington, D.C.

Dated: January 17, 1984.

Kay McMurray,

Director.

[FR Doc. 84-2045 Filed 1-24-84; 8:45 am]

BILLING CODE 6732-01-M

FEDERAL RESERVE SYSTEM

Arrow Bank Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated for that

application. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to each application, interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than February 16, 1984.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Arrow Bank Corp.*, Glens Falls, New York to acquire 10.46 percent of the voting shares or assets of The Essex County—Champlain National Bank, Willsboro, New York.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Hanover Financial Corporation*, Plantation, Florida, to become a bank holding company by acquiring 100 percent of the voting shares of Hanover Bank of Florida, Plantation, Florida.

c. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Banks of Iowa, Inc.*, Des Moines, Iowa, to acquire 90 percent or more of the voting shares or assets of Commercial Trust and Savings Bank Charles City, Iowa.

2. *Midwest Financial Group, Inc.*, Peoria, Illinois, to acquire 100 percent of the voting shares or assets of Pioneer Bank of Peoria, Peoria, Illinois.

D. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Brownsville Bancshares Corporation*, Brownsville, Tennessee: to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to Brownsville Bank, Brownsville, Tennessee.

E. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolish, Minnesota 55480:

1. *Elkton Bancshares, Inc.*, Elkton, Minnesota, to become a bank holding company by acquiring 100 percent of the voting shares of Farmers State Bank of Elkton, Elkton, Minnesota.

F. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Del Rio Bancshares, Inc.*, Del Rio, Texas, to become a bank holding company by acquiring 80 percent of the voting shares of Plaza National Bank, Del Rio, Texas.

2. *First Burkburnett Bancshares, Inc.*, Burkburnett, Texas, to become a bank holding company by acquiring 80 percent of the voting shares of First National Bank in Burkburnett, Burkburnett, Texas.

3. *Franklin National Bankshares, Inc.*, Mount Vernon, Texas to become a bank holding company by acquiring 100 percent of the voting shares of Franklin National Bank, Mount Vernon, Texas.

Board of Governors of the Federal Reserve System, January 19, 1984.

James McAfee,

Associate Sectetary of the Board.

[FR Doc. 84-1988 Filed 1-24-84; 8:45 am]

BILLING CODE 6210-01-M

Bank of Delaware Corp., et al.; Engaging de Novo in Permissible Nonbanking Activities

The bank holding companies listed in this notice have filed a notice under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated for that application. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to each notice, interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing or this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than February 15, 1984.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Bank of Delaware Corporation*, Wilmington, Delaware to engage through its subsidiary R&R Acceptance, Inc., Wilmington, Delaware in consumer and commercial finance activities, including the purchase of retail installment contracts and second mortgages, the extension of direct loans to dealers for the financing of inventory (floor planning) and working capital purposes and acting as agent for placement of life, accident and health insurance related to its extensions of credit.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Chicago Corporation*, Chicago, Illinois to engage *de novo* through its subsidiary, First Chicago Credit Corporation, Chicago, Illinois in the making and acquiring of loans and other extensions of credit such as would be made by a finance company, including asset based lending and lendor financing; servicing such loans and extensions of credit; and making full payout leases of personal property in accordance with the Board's Regulation Y.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Union Bancorp*, Los Angeles, California to engage through StanChart Consumer Credit (a *de novo* subsidiary), Los Angeles, California in acquiring for its own account or for the account of others; loans, leases and other extensions of credit such as would be made by a consumer finance company, including, but not limited to, the extension of direct loans to dealers for the financing of inventory and working capital purposes, and servicing such loans and leases for others.

Board of Governors of the Federal Reserve System, January 19, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-1985 Filed 1-24-84; 8:45 am]

BILLING CODE 6210-01-M

Decatur Financial, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated for that application. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to each application, interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than February 17, 1984.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Decatur Financial, Inc.*, Decatur, Indiana, to become a bank holding company by acquiring 100 percent of the voting shares of Decatur Bank and Trust Company, Decatur, Indiana.

2. *Norris Bancorp, Inc.*, St. Charles, Illinois, to acquire 80 percent or more the voting shares or assets of The First National Bank of Batavia, Batavia, Illinois.

3. *SBA Bancorp, Inc.*, Ashland, Illinois, to become a bank holding company by acquiring 100 percent of the voting shares of State Bank of Ashland, Ashland, Illinois.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Metropolitan Bancorporation, Inc.*, Minneapolis, Minnesota, to acquire 71 percent of the voting shares or assets of Metropolitan State Bank of Plymouth, Plymouth, Minnesota.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Ark-Valley Bancorp, Inc.*, Hutchinson, Kansas, to become a bank holding company by acquiring 100 percent of the voting shares of Northgate National Bank, Hutchinson, Kansas.

2. *Ark-Valley Bancorp, Inc.*, Hutchinson, Kansas, to acquire 19.94 percent of the voting shares or assets of Valley Bancorp, Inc., Hutchinson, Kansas, and thereby indirectly acquire Valley State Bank, Syracuse, Kansas.

3. *Ark-Valley Bancorp, Inc.*, Hutchinson, Kansas, to acquire 16.67 percent of the voting shares or assets of Garden Banc Shares, Inc., Hutchinson, Kansas, and thereby indirectly acquire The Fourth Bank of Garden City, N.A., Garden City, Kansas.

4. *Bonner Springs Bancshares, Inc.*, Bonner Springs, Kansas, to become a bank holding company by acquiring at least 80 percent of the voting shares of Commercial State Bank of Bonner Springs, Bonner Springs, Kansas.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Rusk County Bancshares, Inc.*, Henderson, Texas, to become a bank holding company by acquiring 100 percent of the voting shares of Peoples State Bank of Henderson, Henderson, Texas.

Board of Governors of the Federal Reserve System, January 19, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-1987 Filed 1-24-84; 8:45 am]

BILLING CODE 6210-01-M

First Metropolitan Financial Corp., et al.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President), 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *First Metropolitan Financial Corporation*, Baton Rouge, Louisiana; to become a bank holding company by acquiring at least 66 percent of the voting shares of Metropolitan Bank & Trust Company, Baton Rouge, Louisiana. Comments on this application must be received not later than February 17, 1984.

2. *United Security Bancshares, Inc.*, Thomasville, Alabama; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Thomasville, Thomasville, Alabama. Comments on this application must be received not later than February 23, 1984.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *SB Corporation*, Wisconsin Rapids, Wisconsin, has applied to become a bank holding company by retaining its control of voting shares of The Wood County National Bank of Wisconsin Rapids, Wisconsin Rapids, Wisconsin; and by acquiring 31 percent of the voting shares of WCN Bancorp, Inc., Wisconsin Rapids, Wisconsin, which controls the Bank of Fort Atkinson, Fort Atkinson, Wisconsin. In a separate application WCN Bancorporation has applied to acquire 80 percent of the voting shares of The Wood County National Bank. Comments on this application must be received not later than February 8, 1984.

C. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President), 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *St. Anthony Bancorporation, Inc.*, Omaha, Nebraska; to become a bank holding company by acquiring 95 percent of the voting shares of St. Anthony National Bank, St. Anthony, Minnesota. Comments on this application must be received not later than February 17, 1984.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *Rio Grande Bancshares, Inc.*, Edinburg, Texas; to become a bank holding company by acquiring at least 80 percent of the voting shares of First State Bank & Trust Company, Edinburg, Texas. Comments on this application must be received not later than February 15, 1984.

Board of Governors of the Federal Reserve System, January 19, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-1988 Filed 1-24-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 83D-0416]

Defect Action Levels for Adulteration of Sauerkraut by Thrips; Availability of Guide

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is confirming the defect action level for thrips in sauerkraut, announced in the **Federal Register** of September 21, 1982.

ADDRESS: A copy of Compliance Policy Guide 7114.23 is available for review at, and individual copies may be obtained from, the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Raymond W. Gill, Bureau of Foods (HFF-312), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0178.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 21, 1982 (47 FR 41637), FDA announced the availability of FDA Compliance Policy Guide 7114.23 that established a defect action level for thrips in sauerkraut of 50 thrips per 100 grams of sauerkraut. Also in that **Federal Register** notice, the agency announced its revised procedure for establishing and evaluating all new defect action levels. In accordance with this procedure, the agency invited interested persons to submit, within a year, and relevant data and information showing why the action level should be changed.

No comments, data, or information were submitted to FDA in response to the **Federal Register** notice announcing the revision of Compliance Policy Guide 7114.23. Therefore, FDA concludes that the defect action levels for thrips in sauerkraut announced in Compliance Policy Guide 7114.23 will remain in effect without change.

Dated: January 18, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-1990 Filed 1-24-84; 8:45 am]

BILLING CODE 4160-01-M

Medical Radiation Advisory Committee; Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Medical Radiation Advisory Committee by the Secretary, Department of Health and Human Services.

DATE: Authority for this committee will expire on January 5, 1986, unless the Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA-306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2765.

Dated: January 18, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-1991 Filed 1-24-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 84M-0007]

BSD Medical Corp.; Premarket Approval of BSD-1000 Hyperthermia System

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the BSD-1000 Hyperthermia System sponsored by BSD Medical Corp., Salt Lake City, UT. After reviewing the recommendation of the Radiologic Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by February 24, 1984.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles H. Kyper, National Center for Devices and Radiological Health (HFZ-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

SUPPLEMENTARY INFORMATION: On July 26, 1982, BSD Medical Corp., Salt Lake City, UT 84104, submitted to FDA an application for premarket approval of the BSD-1000 Hyperthermia System as indicated for use in the palliative management of certain solid surface and subsurface malignant tumors (i.e., melanoma, squamous- or basal-cell carcinoma, adenocarcinoma, or sarcoma) that are progressive or recurrent, despite conventional therapy. Other uses of the BSD-1000 Hyperthermia System, including use as an adjunct to radiation therapy, remain investigational. The application was reviewed by the Radiologic Devices Panel, an FDA advisory committee, which recommended approval of the application. On November 28, 1983, FDA approved the application by a letter to the sponsor from the Associate Director for Device Evaluation, National Center for Devices and Radiological Health.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the National Center for Devices and Radiological Health—contact Charles H. Kyper (HFZ-402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA's action under

§ 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issue ot be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before February 24, 1984, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 17, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-1963 Filed 1-24-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 84M-0010]

Medtronic, Inc.; Premarket Approval of the Medtronic ® ISOMOD* Electro-Spinal Orthosis (FSO) Model 3100 Single Channel System

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Medtronic® ISOMOD® Electro-Spinal Orthosis (ESO) Model 3100 Single Channel System sponsored by Medtronic, Inc., Minneapolis, MN. After reviewing the recommendation of the Orthopedic Device Section of the Surgical and Rehabilitation Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by Feburary 24, 1984.

ADDRESS: Requests for copies for the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles H. Kyper, National Center for Devices and Radiological Health (HFZ-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

SUPPLEMENTARY INFORMATION: On October 14, 1982, Medtronic, Inc., Minneapolis, MN 55440, submitted to FDA an application for premarket approval of the Medtronic® ISOMOD® Electro-Spinal Orthosis (ESO) Model 3100 Single Channel System for use in arresting or retarding progression of juvenile or adolescent single major, idiopathic scoliotic curves of 40 degrees or less (as determined by the Cobb method). The application was reviewed by the Orthopedic Device Section of the Surgical and Rehabilitation Devices Panel, and FDA advisory committee, which recommended approval of the application. On December 23, 1983, FDA approved the application for the labeled indications by a letter to the sponsor from the Associate Director for Device Evaluation of the National Center for Devices and Radiological Health. This device remains investigational for the treatment of double major, adult, infantile, and greater than 40-degree scoliotic curves.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the National Center for Devices and Radiological Health—contact Charles H. Kyper (HFZ-402), (address above). Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA's action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before February 24, 1984, file with the Dockets Management Branch (address above), two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Recieved petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 17, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-1962 Filed 1-24-84; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Geographic Composition of the Contract Health Service Delivery Areas (CHSDA's) Established by Regulations of the Indian Health Service

Correction

In FR Doc. 84-610 beginning on page 1291 of the issue of Tuesday, January 10, 1984, make the following correction on page 1292. In the third column the following entry should be added before the last entry on the page beginning "Seneca":

Reservation	CHSDA (County/State)
Sault Ste. Marie Tribe of Chippewa.	Alger, MI,[1] Chippewa, MI,[1] Delta, MI,[1] Luce, MI,[1] Mackinac, MI,[1] Marquette, MI,[1] Schoolcraft, MI.[1]

BILLING CODE 1505-01-M

Health Systems Agency Application Information

AGENCY: Health Resources and Services Administration, Public Health Service, HHS.

ACTION: Notice regarding health systems agency application information.

SUMMARY: This notice is issued to inform all potential applicants about the procedures of applying to become the health systems agency for Tennessee Health Service Area 6.

DATE: Entities interested in applying for designation must file a letter of intent to apply for such designation with HHS Regional Office IV by February 24, 1984, and an application by April 24, 1984.

ADDRESS: Application materials and further information may be obtained from the Regional Health Administrator, HHS Regional Office IV, 101 Marietta Tower, Atlanta, Georgia 30323, 404 221-2293.

FOR FURTHER INFORMATION CONTACT: Z. Erik Farag, Ph.D., Director, Division of Planning Assistance and Assessment, Bureau of Health Maintenance Organizations and Resources Development, 5600 Fishers Lane, Room 9A-19, Rockville, Maryland 20857, 301 443-6680.

SUPPLEMENTARY INFORMATION: Pursuant to Section 1515 of the Public Health Service Act, as amended, notice is hereby given that application materials are now available in HHS Regional Office IV for entities interested in applying for designation as the health systems agency (HSA) for Tennessee Health Service Area 6. This HSA will be responsible for health planning for the health service area and for the promotion of the development of health services, manpower, and facilities which meet identified needs, reduce documented inefficiencies, and implement the health plans of the agency.

The designated HSA which previously served the health service area decided to terminate its designation agreement with HHS. We recently received a formal request that we advertise for a new agency to serve this area. Therefore, we are proceeding to initiate the agency designation process.

Once the health systems agency is designated, it will be entitled to receive a planning grant under Section 1516 of the Act. The amount of the planning grant will be determined in accordance with a formula set forth in the regulations governing this program (42 CFR Part 122, Subpart C), and will be based, in part, upon the population of the health service area, as determined by the Secretary. See 47 FR 29005 (July 2, 1982).

Dated: January 19, 1984.

Robert Graham,

Administrator, Assistant Surgeon General.

[FR Doc. 84-2009 Filed 1-24-84; 8:45 am]

BILLING CODE 4160-17-M

Office of Human Development Services

President's Committee on Mental Retardation; Meeting

Agency Holding the Meeting: President's Committee on Mental Retardation.

Time and Date: February 13, 1984 from 9:00 a.m. to 5:00 p.m., February 14, 9:00 a.m. to 6:00 p.m., February 15, 9:00 a.m. to 3:30 p.m.

Place: Shoreham Hotel, 2500 Calvert Street NW., Washington, D.C. 20036.

Status: The meetings are open to the public. An interpreter for the deaf will be available upon advance request. All locations are barrier free.

Matters To Be Considered: Reports by the Steering Committee of the President's Committee on Mental Retardation (PCMR) will be given. The PCMR plans to discuss critical issues concerning deinstitutionalization, prevention, family and community services, full citizenship, public awareness, simplification of service delivery and other issues relevant to the PCMR's goals.

The PCMR: (1) Acts in a advisory capacity to the President and the Secretary of the Department of Health and Human Services on matters relating to programs and services for persons who are mentally retarded; and (2) is responsible for evaluating the adequacy of current practices in programs for the retarded, and reviewing legislative proposals that affect the mentally retarded.

Contact Person for More Information: Dominic J. Mastrapasqua, 300 Independence Avenue SW., Room 4061-North Building, Washington, D.C. 20201; (202) 245-7634.

Dated: January 17, 1984.

Dominic J. Mastrapasqua,

Acting Executive Director.

[FR Doc. 84-2068 Filed 1-24-84; 8:45 am]

BILLING CODE 4130-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Cheyenne and Custer Counties, Colorado; Conveyance

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of conveyance of public lands in Cheyenne and Custer Counties, Colorado.

SUMMARY: Notice is hereby given that, pursuant to Section 203 of the Act of October 21, 1976 (43 U.S.C. 1701, 1713), the following-described lands have been conveyed to the patentees as shown:

BLM serial No.	Legal description	Pantentee(s)
C-35055-PS, Pat. No. 05-84-0010	T. 16 S., R. 45 W., 6th P.M., sec. 22, lots 5 and 6, containing 79.13 acres in Cheyenne County, Colorado.	August S. Kern, Jr.
C-35056-PS, Pat. No. 05-84-0011	T.16 S., R. 45 W., 6th P.M., sec. 28, lots 5 and 6, containing 78.50 acres in Cheyenne County, Colorado.	August S. Kern, Jr.
C-35462-PS, Pat. No. 05-84-0012	T. 22 S., R. 73 W., 6th P.M., sec. 17, SW¼ SW¼, containing 40.00 acres in Custer County, Colorado.	Wayne L. Moye, Shirley Moye, Randall J. Moye, Susan S. Moye, Peter J. Leto, and John A. Leto

The purpose of this notice is to inform the public and interested state and local government officials of the issuance of these conveyance documents. All minerals in the above-described lands have been retained by the United States.

Dated: January 10, 1984.

Robert D. Dinsmore,

Chief, Branch of Lands & Minerals Operations, Colorado State Office.

[FR Doc. 84-2006 Filed 1-24-84; 8:45 am]

BILLING CODE 4310-JB-M

[N-38782; N-38783]

Nevada; Conveyance

January 16, 1984

Notice is hereby given that, pursuant to the Act of December 23, 1980 (94 Stat. 3381; 43 U.S.C. 1701), Thomas T. Beam of Las Vagas, Nevada has purchased, by competitive sale, public lands in Clark County described as:

Mount Diablo Meridian, Nevada

T. 20 S., R. 60 E.,
Sec. 27, SE¼SE¼SW¼SW¼, NE¼NW¼ SE¼SW¼.

Containing 5 acres.

The purpose of this notice is to inform the public and interested State and local governmental officials of the issuance of a conveyance document to Thomas T. Beam.

Wm. J. Malencik,

Deputy State Director, Operations.

[FR Doc. 84-2007 Filed 1-24-84; 8:45 am]

BILLING CODE 4310-HC-M

California; Realty Action; Noncompetitive Leasing of Public Land in Tuolumne County

AGENCY: Bureau of Land Management, Interior.

ACTION: Realty Action, Noncompetitive Leasing of Public Land.

SUMMARY: The Bureau of Land Management proposes to issue a life lease to Ben Fullingim authorizing his residential use of public land that he currently occupies:

Mount Diablo Meridian, California

T. 1 N., R. 16 E.,
Sec. 17, portion of E½SE¼.
Containing 1.5 acres, more or less.

The terms and conditions applicable to the proposed lease are:

1. The Lessee agrees:

A. To observe all Federal, State, County, and other laws, regulations and ordinances which are applicable to the premises.

B. To keep the premises in a neat and orderly condition; no new construction is permitted without authorization.

C. To secure approval from the Folsom Resource Area Office in writing before construction of additional facilities.

D. To pay in advance to the Bureau of Land Management, Department of the Interior, all rentals.

Advance rentals shall be due 30 days prior to the anniversary date of this lease. The lessee shall pay an annual rental during the first five years of this lease. A new appraisal will be conducted every five years for the purpose of establishing future rental charges for each five-year period.

2. Nothing contained in this lease shall restrict the acquisition, granting, or use of leases, permits or rights-of-way by the United States, its lessees, licensees, or permittees under existing laws.

3. Authorized representatives of the Department of the Interior at any time shall have the right to enter the leased premises for the purpose of inspection, and Federal agents at all times have the right to enter the leased area on official business.

4. The lessee, if not in default under the lease, may terminate it subject to the consent of the lessor, upon the filing by the lessee of a notice of relinquishment, at least 30 days prior to date on which advance rental is due.

5. This lease is subject to cancellation by the lessor for failure of the lessee to perform or observe any of the terms and conditions hereof.

6. The lessee shall pay the United States the full value of all injury or damages to the public lands or other property of the United States caused by the lessee or by his employees, contractors, or employees of the contractors, and shall save harmless and indemnify the United States against any liability for damages or claims to life or property arising from their occupancy or use of the lands under the lease.

7. Unless otherwise provided, upon cessation of use of the lands as a principal place of residence, all rights under the lease shall terminate.

8. The United States reserves all of the coal, oil, gas, and other mineral deposits in the lease land, together with the right to enter upon the land to prospect or mine and remove such minerals.

9. The lessee will not assign any rights or privileges granted by the lease without the prior approval of the lessor and will not speculate in the privileges herein granted. Subleasing of this property or any portion thereof is not permitted.

10. The lease is issued subject to any existing valid rights including valid mining claims.

11. The lease shall not inure to the benefit of the heirs, executors, administrators, successors, and assigns of the lessee hereto. Upon the death of the lessee, the heirs, assigns, executors, administrators and successors of the improvements shall have 90 days following the death of lessee to remove or make disposition of said improvements. Any remaining improvements will become the property of the United States. No liability shall attach to the lessor for the removal or disposition of any improvements or personal property after such disposition period expires.

12. This lease and the rights that are conveyed with it are confined solely to the public lands listed herein; it shall not convey to the lessee any other rights, including the right of access, on lands falling outside the jurisdiction of the Bureau of Land Management.

Date and Address

For a period of 45 days from the date of publication of this notice, all comments may be submitted to: State Director, California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Sacramento, CA 95825.

Any adverse comments will be evaluated by the State Director who may vacate or modify this proposed realty action and issue a final determination.

Dated: January 18, 1984.

Robert D. Rheiner, Jr.,

District Manager.

[FR Doc. 84-2043 Filed 1-24-84; 8:45 am]

BILLING CODE 4310-40-M

[M-56554]

Montana; Conveyance and Order Providing for Opening of Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Conveyance and Order Providing for Opening of Public Lands in Silverbow and Beaverhead Counties, Montana.

SUMMARY: Notice is hereby given that pursuant to Section 206 of the Act of October 21, 1976 (43 U.S.C. 1716 (1976)), the following described land was conveyed to Stauffer Chemical Company:

Principal Meridian, Montana

T. 2 S., R. 9 W.,
Sec. 4, lots 8 and 9, N½N½SW¼NW¼, N½NW¼SE¼NW¼; and
Sec. 5, lots 11 and 12, N½NE¼SW¼NE¼ and N½N½SE¼NE¼.
Containing 89.67 acres.

In exchange for the above land, the United States acquired the following described land in Beaverhead and Silverbow Counties, Montana:

Principal Meridian, Montana

T. 2 S., R. 9 W.,
Sec. 5, lots 6 and 7; and
Daisy Bell Placer, M.S. 5671, Patent No. 34456, lying in Sec. 32, T. 1 S., R. 9 W., and sec. 5, T. 2 S., R. 9 W.
Containing 89.53 acres.

This order restores the lands acquired by the United States to the operation of the public land laws generally.

DATES: At 9 a.m. on March 5, 1984, the lands shall be open to the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All applications received at or prior to 9 a.m. on March 5, 1984, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Dated: January 16, 1984.

John A. Kwiatkowski,

Deputy State Director, Division of Lands and Renewable Resources.

[FR Doc. 84-2046 Filed 1-24-84; 8:45 am]

BILLING CODE 4310-DN-M

[N-38461]

Nevada; Realty Action—Noncompetitive Sale of Public Land in Lyon County, Nevada

January 16, 1984.

The following described land, comprising 4.7 acres, has been examined and identified as suitable for sale under Section 203 of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2750), 43 U.S.C. 1713:

Mount Diablo Meridian, Nevada

T. 16 N., R. 21 E.,
Sec. 24: SW¼SW¼NE¼SW¼SW¼NE¼, S½N½S½NW¼SW¼SW¼NW¼, S½S½NW¼SW¼SW¼NW¼, SW¼SW¼SW¼NW¼, NW¼NW¼SE¼SW¼SW¼NW¼, S½NW¼SE¼SW¼SW¼NW¼, SW¼SE¼SW¼SW¼NE¼.

The land will be offered at the appraised fair market value under noncompetitive sale procedures to Hughes Rock and Sand, Incorporated, the adjacent landowner. The property has been utilized in the past for the extraction of sand and gravel. The land has also been used and still is being used as part of a settling pond for the adjacent sand and gravel operation. The subject land is a portion of 10 acres presently leased to the Board of Lyon County Commissioners under Recreation and Public Purposes lease, N-9495. Since the lease was issued, it has been determined the subject land has been altered to a point which would be very costly to develop. Therefore, Lyon County has requested patent to 5.3 acres of developed leased land and is willing to relinquish the subject 4.7 acres. Prior to any sale under this notice, such relinquishment will be executed. The land is not needed in suppport of any federal program. The Bureau's planning system identifies the land for disposal. Sale of the land is consistent with local planning and zoning.

Patent, if and when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States; Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All mineral deposits in land so patented, and to it, or persons authorized by it, the right to prospect, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

The reservation will be modified if the patentee elects to purchase the saleable and locatable mineral interests of the United States.

Since there is no known value of locatable qnd saleable minerals in the land, such interests can be conveyed simultaneously with the surface estate in accordance with Section 209(b)(1)(1) of Pub. L. 94-579, upon the completion of an application to purchase the mineral interests and a $50 processing fee. The leasable minerals will be reserved to the United States.

The patent will also be subject to:

1. Those rights for gas pipeline purposes which have been granted to Southwest Gas Corporation, its successors or assigns, by right-of-way grant, N-33008, under the Act of February 25, 1920 (41 Stat. 449), as amended.

2. Those rights for road and water pipeline purposes which have been granted to Lyon County Board of Commissioners, its successors or assigns, by right-of-way grant, N-25983, under the Act of October 21, 1976, 90 Stat. 2743.

3. Those rights for road purposes which have been granted to Lyon County, Public Works Department, its successors or assigns, by right-of-way grant, N-38822, under the Act of October 21, 1976, 90 Stat. 2743.

Detailed information concerning the sale is available for review at the Carson City District Office, 1050 E. Williams Street, Suite 335, Carson City, Nevada.

Upon publication of this notice in the **Federal Register**, the land described above will be segregated from all forms of nondiscretionary appropriation under the public land laws, including the mining laws, except the mineral leasing laws, for a period of two years or until the lands are sold. The segregative effect may otherwise be determined by the authorized officer by publication of a termination notice in the **Federal Register** prior to the expiration of the two-year period.

The land will not be offered for sale sooner than 60 days after the date of this notice. For a period of 45 days from the first publication of this notice, interested parties may submit comments to the District Manager, Carson City District Office of the Bureau of Land Management, 1050 E. Williams Street, Suite 335, Carson City, Nevada 89701. Any adverse comments will be evaluated by the District Manager and forwarded to the Nevada State Director, Bureau of Land Management, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Thomas J. Owen,

District Manager, Carson City District.

[FR Doc. 84-2044 Filed 1-24-84; 8:45 am]

BILLING CODE 4310-HC-M

National Park Service

Intention to Negotiate Concession Contract; Hatteras Island

Pursuant to the provisions of Section 5 of the Act of October 9, 1965, (79 Stat. 969; 16b U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Regional Director, Southeast Region, National Park Service, proposes to negotiate a concession contract with Robert F. Dickson, Jr., and George D. Hepner, Partners, authorizing them to continue the operation of a fishing pier and seafood restaurant on Hatteras Island within the Cape Hatteras National Seashore for a period of ten years from January 1, 1984, through December 31, 1993.

This contract renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioners have performed their obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1983, and therefore, pursuant to the Act of October 9, 1965, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision, in effect, grants Robert F. Dickson, Jr., and George D. Hepner, Partners, the opportunity to meet the terms and conditions of any other proposal submitted in response to this Notice which the Secretary may consider better than the proposal submitted by Robert F. Dickson, Jr., and George D. Hepner, Partners. If Robert F. Dickson, Jr., and George D. Hepner, Partners, amend their proposal and the amended proposal is substantially equal to the better offer, then the proposed new contract will be negotiated with Robert F. Dickson, Jr., and George D. Hepner, Partners.

The Secretary will consider and evaluate all proposals received as a

result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Regional Director, Southeast Region, National Park Service, 75 Spring Street, SW., Atlanta, Georgia 30303, for information as to the requirements of the proposed contract.

Dated: January 5, 1982.

Robert M. Baker,

Regional Director, Southeast Region.

[FR Doc. 84-2021 Filed 1-24-84; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[332-175]

Rum; Annual Report on Selected Economic Indicators

AGENCY: United States International Trade Commission.

ACTION: Institution of an investigation under the authority of section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to establish a permanent docket for the annual reports concerning rum requested by the Senate Committee on Finance.

EFFECTIVE DATE: January 13, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Lipovsky or Mr. Bob Roeder, Agriculture, Fisheries, and Forest Products Division, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436 (telephone: 202-724-0097, 202-724-1170, respectively).

SUPPLEMENTARY INFORMATION: In a letter dated December 21, 1983, the Senate Committee on Finance requested that the Commission, pursuant to section 332 of the Tariff Act of 1930, prepare and publish an annual report containing the following statistical information on rum: (1) U.S. production; (2) U.S. exports; (3) U.S. imports for consumption (total and by countries designated as eligible for the Caribbean Basin Initiative); and (4) apparent U.S. consumption.

Further, the Commission was requested, if possible, to differentiate rum produced in Puerto Rico and the Virgin Islands in the reports and take steps to ensure that additional statistical categories are provided for in the Tariff Schedules of the United States under item 169.14 (i.e., new categories for rum valued at not more than $2.00 per proof gallon; at between $2.00 and $3.50 per proof gallon; and above $3.50 per proof gallon).

Pursuant to the Senate request, an initial report regarding rum entered and withdrawn for consumption in the six months after January 1, 1984, will be submitted to the Committee on Finance as soon as data are available. Subsequent reports will be provided annually thereafter as long as duty-free treatment of rum is accorded pursuant to the Caribbean Basin Economic Recovery Act.

By the order of the Commission.

Issued: January 16, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-2030 Filed 1-24-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 104-TAA-21]

Cotton Yarn From Brazil

AGENCY: United States International Trade Commission.

ACTION: Institution of a countervailing duty investigation and scheduling of a hearing to be held in connection with the investigation.

EFFECTIVE DATE: January 18, 1984.

SUMMARY: Pursuant to section 104(b)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 1671 note), the U.S. International Trade Commission is instituting this countervailing duty investigation to determine whether an industry in the United States would be materially injured, or would be threatened with material injury, or the establishment of an industry in the United States would be materially retarded, by reason of imports of cotton yarn from Brazil which are covered by an outstanding countervailing duty order if that order were to be revoked. The investigation covers imports of yarns of cotton provided for in items 300.60 through 302.98, inclusive, of the Tariffs Schedules of the United States.

FOR FURTHER INFORMATION CONTACT: Mary Elizabeth Sweet, Commodity Analyst, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436; telephone 202-523-0394.

SUPPLEMENTARY INFORMATION:

Background

On March 15, 1977, the Department of the Treasury issued a countervailing duty order under section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) on cotton yarn imported from Brazil (T.D. 77-87, 42 FR 14089). On January 1, 1980, the Trade Agreements Act of 1979 (Pub. L. 96-39) became effective. That act provided, in section 104(b), that "In the case of a countervailing duty order issued under section 303 of the Tariff Act of 1930 * * * which applies to merchandise which is the product of a country under the Agreement, and which is in effect on January 1, 1980 * * *, the Commission, upon the request of the government of such a country * * *, submitted within 3 years after the effective date of title VII of the Tariff Act of 1930 (January 1, 1980) shall * * * commence an investigatioin to determine whether an industry in the United States would be materially injured, or would be threatened with material injury, or the establishment of an industry in the United States would be materially retarded, by reason of imports of the merchandise covered by the countervailing duty order if the order were to be revoked." On July 17, 1981, the Commission received such a request from the Government of Brazil.

Participation in the Investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than 21 days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c), as amended by 47 FR 33682, Aug. 4, 1982).

Staff Report

A public version of the staff report containing preliminary findings of fact in this investigation will be placed in the public record on March 20, 1984, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 11:00 a.m., on April 6, 1984, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on March 23, 1984. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m. on March 28, 1984, in room 117 of the U.S. International Trade Commission Building.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23, as amended by 47 FR 33682, Aug. 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22, as amended by 47 FR 33682, Aug. 4, 1982), and must be submitted not later than the close of business on March 30, 1984. Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on April 13, 1984.

Written Submissions

As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before April 13, 1984. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A, C, and D (19 CFR Part 207, as amended by 47 FR 33682, Aug. 4, 1982) and part 201, subparts A through E (19 CFR Part 201, as amended by 47 FR 33682, Aug. 4, 1982).

This notice is published pursuant to § 207.30 of the Commission's rules (19 CFR 207.30).

Issued: January 20, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-2034 Filed 1-24-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-160]

Certain Composite Diamond Coated Textile Machinery Components; Notice to All Parties

Notice is hereby given that the prehearing conference will commence at 9:00 a.m. on March 12, 1984, at the Waterfront Center, Room 201, 1010 Wisconsin Avenue, NW., Washington, D.C. 20007, and the hearing will commence immediately thereafter.

The Secretary shall publish this notice in the **Federal Register.**

Issued: January 13, 1984.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 84-2031 Filed 1-24-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-136 (Final)]

Cyanuric Acid and Its Chlorinated Derivatives From Japan

AGENCY: United States International Trade Commission.

ACTION: Dates for certain actions in connection with the subject investigation are changed as follows: a nonconfidential version of the Commission's staff report containing preliminary findings of fact will be releasd on February 28, 1984, instead of March 2, 1984; prehearing briefs from parties to the investigation will be due on March 9, 1984, instead of March 12, 1984; and the hearing will be held on March 14, 1984, instead of March 15, 1984. Information concerning participation in the hearing and the filing of prehearing briefs is contained in the Commission's notice of investigation (48 FR 57386, December 29, 1983).

EFFECTIVE DATE: January 19, 1984.

FOR FURTHER INFORMATION CONTACT: Stephen Vastagh (202-523-0283), Office of Investigations, U.S. International Trade Commission, Washington, D.C. 20436.

Issued: January 20, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-2035 Filed 1-24-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-156]

Certain Minutiae-Based Automated Fingerprint Identification Systems; Commission Decision Not To Review Initial Determination Granting Motion To Terminate Investigation; Vacation of Initial Determination on Issues Relating to Temporary Relief

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined not to review the presiding officer's initial determination (ID) granting the motion to terminate the above-captioned investigation. As a result, that ID has become the determination of the Commission, and the investigation is terminated with prejudice.

In light of the Commission's decision regarding termination of the investigation, the Commission has vacated an earlier ID on issues relating to temporary relief.

Authority: The authority for the Commission's action is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in § 210.53(h) of the Commission's Rules of Practice and Procedure (47 FR 25134 (June 10, 1982), as amended by 48 FR 20225 (May 5, 1983) and 48 FR 21115 (May 11, 1983)); to be codified at 19 CFR 210.53(h).

SUPPLEMENTARY INFORMATION: Investigation No. 337-TA-156 was conducted to determine whether there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation or sale of certain automated fingerprint identification systems which allegedly infringe claims of U.S. Letters Patent Nos. 4,074,154 and 4,135,147. The investigation was instituted on the basis of a complaint filed by De La Rue Printrak, Inc. *See* 48 FR 35184 (Aug. 3, 1983).

In response to complainant's motion for temporary relief, the presiding officer on December 5, 1983, issued an ID that there is no reason to believe that there is

a violation of section 337 in the importation or sale of the accused automated fingerprint identification systems.

On December 12, 1983, complainant filed a notice withdrawing the complaint with prejudice and, on December 13, 1983, filed a motion to terminate the investigation. Under § 210.53(h) of the Commission's rules, the presiding officer's temporary relief ID would have become the determination of the Commission at close of business on January 4, 1984, unless the Commission ordered review of the temporary relief ID or the deadline for deciding whether to review the ID was changed by Commission order. On the basis of complainant's actions, the Commission delayed its decision on whether to review the temporary relief ID, pending a ruling on the termination of the investigation. *See* 48 FR 57383 (Dec. 29, 1983).

The motion to terminate the investigation was not opposed by the respondents or the Commission investigative attorney. On December 16, 1983, the presiding officer issued an ID granting the motion. The Commission determined not to review that ID, and it has become the determination of the Commission.

In light of the complainant's withdrawal of its complaint and the decision to terminate the investigation, the Commission decided to vacate the temporary relief ID for mootness.

Copies of the public version of the termination ID, the Commission Action and Order vacating the temporary relief ID and all other documents on the public record of this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, Docket Section, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202–523–0471.

FOR FURTHER INFORMATION CONTACT: P. N. Smithey, Esq., Office of the General Counsel, United States International Trade Commission, telephone 202–523–0350.

Issued: January 16, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–2029 Filed 1–24–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 104–TAA–22]

Bottled Green Olives From Spain

AGENCY: United States International Trade Commission.

ACTION: Institution of a countervailing duty investigation and scheduling of a hearing to be held in connection with the investigation.

EFFECTIVE DATE: January 19, 1984.

SUMMARY: Pursuant to section 104(b)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 1671 note), the U.S. International Trade Commission is instituting this countervailing duty investigation to determine whether an industry in the United States would be materially injured, or would be threatened with material injury, or the establishment of an industry in the United States would be materially retarded, by reason of imports of bottled green olives from Spain which are covered by an outstanding countervailing duty order if that order were to be revoked. The investigation covers imports of bottled green olives as provided for in items 148.44, 148.48, and 148.50 of the Tariff Schedules of the United States.

FOR FURTHER INFORMATION CONTACT: David Coombs, Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436; telephone 202–523–1376.

SUPPLEMENTARY INFORMATION:

Background

On September 12, 1974, the Department of the Treasury issued a countervailing duty order under section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) on the subject bottled green olives imported from Spain (T.D. 74–234, 39 FR 32904). On January 1, 1980, the Trade Agreements Act of 1979 (Pub. L. 96–39) became effective. That act provided in section 104(b), that "In the case of a countervailing duty order issued under section 303 of the Tariff Act of 1930 * * * which applies to merchandise which is the product of a country under the Agreement, and which is in effect on January 1, 1980 * * *, the Commission, upon the request of the government of such a country * * *, submitted within 3 years after the effective date of title VII of the Tariff Act of 1930 (January 1, 1980) shall * * * commence an investigation to determine whether an industry in the United States would be materially injured, or would be threatened with material injury, or the establishment of an industry in the United States would be materially retarded, by reason of imports of the merchandise covered by the countervailing duty order if the order were to be revoked." On April 23, 1982, the Commission received such a request from the Government of Spain.

Participation in the Investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than 21 days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)). Each document filed by a party to this investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service (19 CFR 201.16(c), as amended by 47 FR 33682, Aug. 4, 1982).

Staff Report

A public version of the staff report containing preliminary findings of fact in this investigation will be placed in the public record on March 23, 1984, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m., on April 9, 1984, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later the close of business (5:15 p.m.) on March 23, 1984. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m. on March 30, 1984, in room 117 of the U.S. International Trade Commission Building.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23, as amended by 47 FR 33682, Aug. 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal

arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22, as amended by 47 FR 33682, Aug. 4, 1982), and must be submitted not later than the close of business on April 4, 1984. Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on April 17, 1984.

Written Submissions

As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before April 17, 1984. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A, C, and D (19 CFR Part 207, as amended by 47 FR 33682, Aug. 4, 1982) and Part 201, Subparts A through E (19 CFR Part 201, as amended by 47 FR 33682, Aug. 4, 1982).

This notice is published pursuant to § 207.30 of the Commission's rules (19 CFR 207.30).

Issued: January 20, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-2036 Filed 1-24-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-125 (Final)]

Potassium Permanganate From the People's Republic of China; Determination

On the basis of the record [1] developed in the subject investigation, the Commission unanimously determines, pursuant to section 735(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1673(b)(1)), that an industry in the United States is materially injured [2] by reason of imports from the People's Republic of China of potassium permanganate, provided for in item 420.28 of the Tariff Schedules of the United States, which have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

The Commission also unanimously determines, pursuant to section 735(b)(4)(A) of the act (19 U.S.C. 1673(b)(4)(A)), that the material injury is by reason of massive imports of potassium permanganate from China over a relatively short period to an extent that it is necessary that the duty provided for in section 731 of the act be imposed retroactively on those imports in order to prevent such injury from recurring.

Background

The Commission instituted this investigation effective August 9, 1983, following a preliminary determination by the Department of Commerce that imports of potassium permangante from China are being sold in the United States at LTFV.

Notice of the institution of the Commission's investigation and of a public hearings to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** of August 31, 1983 (43 FR 39519). The hearing was held in Washington, D.C., on December 2, 1983, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its report on this investigation to the Secretary of Commerce on January 20, 1984. A public version of the Commission's report, *Potassium Permangante from the People's Republic of China* (investigation No. 731-TA-125 (Final), USITC Publication 1480, 1984), contains the views of the Commission and information developed during the investigation.

Issued: January 20, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-2037 Filed 1-24-84; 8:45 am]

BILLING CODE 7020-02-M

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Commissioner Sterm determines that an industry in the United States is materially injured, or threatened with material injury, by reason of the subject imports.

[Investigation No. 337-TA-168]

Certain Combination Punch Press and Laser Assemblies and Components Thereof; Commission Decision Not To Review Initial Determination Amending Complaint

AGENCY: U.S. International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (I.D.) to amend the complaint and notice of investigation to add contributory patent infringement to the allegations of the complaint and to the scope of the investigation.

Authority: 19 U.S.C. 1337, 47 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1983 (to be codified at 19 CFR 210.53 (c) and (h)).

SUPPLEMENTARY INFORMATION: The Commission has received neither a petition for review of the I.D. nor comments from the public or other Government agencies.

FOR FURTHER INFORMATION CONTACT: Jane Albrecht, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-1627.

Issued: January 19, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-2032 Filed 1-24-84; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-145]

Certain Rotary Wheel Printers; Commission Decision Not To Review Initial Determination Terminating Respondent

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined not to review an initial determination (I.D.) to terminate this investigation as to respondent Silver Seiko Ltd. on the basis of a settlement agreement.

Authority: 19 U.S.C. 1337, 47 FR 25134 (June 10, 1982), and 48 FR 20225 (May 5, 1983) (to be codified at 19 CFR 210.53 (c) and (h)).

SUPPLEMENTARY INFORMATION: Notice of the I.D. was published in the **Federal Register** of December 29, 1983, 48 FR 57384. No petitions for review or agency or public comments were received.

FOR FURTHER INFORMATION CONTACT: Jane Albrecht, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–1693.

Issued: January 20, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–2038 Filed 1–24–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–164 (Preliminary)]

Stainless Steel Sheet and Strip From Spain

AGENCY: United States International Trade Commission.

ACTION: Institution of a preliminary antidumping investigation and scheduling of a conference to be held in connection with the investigation.

EFFECTIVE DATE: January 13, 1984.

SUMMARY: The United States International Trade Commission hereby gives notice of the institution of a preliminary antidumping investigation under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Spain of stainless steel sheet and strip, provided for in items 607.76, 607.90, 608.43, and 608.57 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value.

FOR FURTHER INFORMATION CONTACT: Mr. Lawrence Rausch, Office of Investigations, U.S. International Trade Commission, 701 E St. NW., Washington, D.C. 20436, telephone 202–523–0286.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed on January 13, 1984, by counsel on behalf of members of the Specialty Steel Industry of the United States, and the United Steelworkers of America. The Commission must make its determination in this investigation within 45 days after the date of the filing of the petition, or by February 27, 1984 (19 CFR 207.17).

Participation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided for in section 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than seven (7) days after the publication of this notice in the **Federal Register.** Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the notice.

Service of Documents

The Secretary will compile a service list from the entries of appearance filed in this investigation. Any party submitting a document in connection with the investigations shall, in addition to complying with § 201.8 of the Commission's rules (19 CFR 201.8), serve a copy of each such document on all other parties to the investigation. Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 CFR 201.16(b), as amended by 47 FR 33682, Aug. 4, 1982).

In addition to the foregoing, each document filed with the Commission in the course of this investigation must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certificate of service will not be accepted by the Secretary.

Written Submissions

Any person may submit to the Commission on or before February 8, 1984, a written statement of information pertinent to the subject matter of this investigation (19 CFR 207.15). A signed original and fourteen (14) copies of such statements must be submitted (19 CFR 201.8).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference

The Director of Operations of the Commission has scheduled a conference in connection with these investigations for 9:30 a.m. on February 6, 1984, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Parties wishing to participate in the conference should contact the staff investigator, Mr. Lawrence Rausch (202–523–0286), not later than the close of business (5:15 p.m.) on February 3, 1984, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Public Inspection

A copy of the petition and all written submissions, except for confidential business data, will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, Subparts A and B (19 CFR Part 207, as amended by 47 FR 33682, Aug. 4, 1982), and Part 201, Subparts A through E (19 CFR Part 201, as amended by 47 FR 33682, Aug. 4, 1982). Further information concerning the conduct of the conference will be provided by Mr. Rausch.

This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: January 20, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–2033 Filed 1–24–84; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30368]

Delaware Otsego Corp.; Exemption; Issuance of Note

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 11301 the issuance of a note by Delaware Otsego Corporation (DO), in the principal amount of $700,000 to the New Jersey Economic Development

Authority, or the guaranty by DO of the payment on that note if issued by a subsidiary of DO.

DATES: This exemption will be effective on January 19, 1984. Petitions to reopen must be filed by February 14, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 30368 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) Petitioner's representative: Lawrence C. Malski, One Railroad Avenue, Cooperstown, NY 13326

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: January 19, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison.

James H. Bayne,

Acting Secretary.

[FR Doc. 84–1977 Filed 1–24–84; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket Nos. 30389, 30390 and 30391]

Seaboard System Railroad, Inc., et al., Trackage Rights; Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notice of temporary exemptions.

SUMMARY: The Interstate Commerce Commission temporarily exempts, pursuant to 49 U.S.C. 10505, Interstate Railroad Company (Interstate), Norfolk and Western Railway Company (N&W), Seaboard System Railroad, Inc. (SSR) and Southern Railway Company (Southern) from the requirement of prior approval under 49 U.S.C. 11343–45 in connection with proposals for (1) overhead trackage rights operations by N&W, Southern, and Interstate, over SSR's line between St. Paul, VA and Frisco, TN, (2) overhead trackage rights operations by SSR over Southern's line between Appalacia, VA, and Frisco; and (3) trackage rights operations by (a) Southern and Interstate over N&W's line between Norton and Carbo, VA; (b) N&W over Interstate or Southern between Norton and Appalacia, VA; (c) Southern and N&W over Interstate between Miller Yard, VA and Norton; and (d) Interstate and N&W over Southern between Appalacia, Big Stone Gap, VA, Frisco and Bulls Gap, TN, subject to conditions for the protection of employees described in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified by *Mendocino Coast Ry., Inc–Lease and Operate*, 360 I.C.C. 653 (1980).

DATES: This exemption is effective on January 20, 1984, and remains effective until revoked or until the Commission rules on permanent applications or petitions for exemption under 49 U.S.C. 11343–45 or 49 U.S.C. 10505, respectively. Petitions to reopen shall be filed by February 9, 1984.

ADDRESSES: Send pleadings referring to Finance Docket Nos. 30389, 30390 and 30391 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.
(2) Petitioners' representatives:
(a) Wandaleen Poynter, Seaboard System Railroad, Inc., 500 Water Street, Jacksonville, FL 32202.
(b) Nancy S. Fleischman, Norfolk Southern Corporation, P.O. Box 1808, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to: T.S. InfoSystems, Inc., Interstate Commerce Commission, Room 2227, Washington, DC 20423, or call toll free (800) 424–5403, or 289–4357 (DC Metropolitan area).

Decided: January 20, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison.

James H. Bayne,

Acting Secretary.

[FR Doc. 84–2193 Filed 1–24–84; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Bureau of Prisons

Advisory Corrections Council; Meeting

Notice is hereby given that the Advisory Corrections Council in accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 86 Stat. 770) will meet on February 17, 1984, at the Metropolitan Correctional Center, San Diego, California.

The purpose of the meeting is to discuss a number of major correctional issues including implementation of Pretrial Services Act and the Youth Corrections Act, and a White Paper on Corrections.

Signed at Washington, D.C., this 13th day of January 1984.

Norman A. Carlson,

Director, Bureau of Prisons.

[FR Doc. 84–2059 Filed 1–24–84; 8:45 am]

BILLING CODE 4410–05–M

NATIONAL SCIENCE FOUNDATION

Subcommittee for Electrical, Computer, and Systems Engineering; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee for Electrical, Computer, and Systems Engineering of the Advisory Committee for Engineering.

Date: February 8–9, 1984.

Time: 8:45 to 5:00 on February 8; 8:30 to 3:00 on February 9, 1984.

Place: Room 540, National Science Foundation, 1800 G St. NW., Washington, D.C.

Type of Meeting—Part Open—Open—8:45—2, 2/8, & 8:30 to 3 on 2/9. Closed—2–5, 2/8.

Contact person: Dr. Thelma Estrin, Division Director, Division of Electrical, Computer, and Systems Engineering, Rm. 1151, National Science Foundation, Washington, D.C. 20550, telephone: 202–357–9618.

Purpose of subcommittee: To provide oversight of program; to discuss research trends and opportunities; and to advise on priorities in resource management.

Agenda: February 8 (8:45–2:00); February 9 (8:30–3:00)—Open.

—Presentations by the individual ECSE Program Directors.
Management of Resources; Issues and Priorities; Trends and Opportunities in Electrical Engineering Research; and the NSF Mission Statement and ECSE.

February 8 (2:00–5:00)—Closed.

Subcommittee review of the Electrical, Computer, and Systems Engineering Program, including examination of proposal jackets, reviewer comments, and other privileged material.

Reason for closing: The session will deal with a review of grants and declinations in which the Subcommittee will review materials containing the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This meeting will also include a review of peer review documentation pertaining to applicants. Any non-exempt materials that may be discussed during this meeting (proposals that have been awarded) will be inextricably interwined with the discussion of exempt material and no further separation in practical. These matters are within exemptions 4 and 6 of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Reason for late notice: Difficulty in getting committee members scheduled to meet.

Dated: January 20, 1984.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc 84–2003 Filed 1–24–84; 8:45 am]

BILLING CODE 7555–01–M

Subpanel on Developmental Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subpanel on Developmental Biology of the Advisory Committee for Physiology, Cellular and Molecular Biology.

Date and time: February 9, 10, 11, 1983, starting at 9:00 A.M., to 5:00 P.M.

Place: Room 338, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Clifton A. Poodry, Program Director, Developmental Biology Program, Room 332–H, National Science Foundation, Washington, D.C., 20550, telephone 202/357–7989.

Purpose of subpanel: To provide advice and recommendations concerning support of research in developmental biology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals individuals associated with the proposals. These matters are within exemptions (4) and (6) of U.S.C. 552(c), Government in the Sunshine Act.

Authority: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

January 20, 1984.

[FR Doc. 84–2000 Filed 1–24–84; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued a revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by staff in its review of applications for permits and licenses.

Regulatory Guide 5.21, Revision 1, "Nondestructive Uranium-235 Enrichment Assay by Gamma Ray Spectrometry," describes conditions and procedures that are acceptable to the NRC staff for using gamma ray spectrometry to measure uranium-235 enrichment for material accountability.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides ar encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office price. A subscription service for future guides in specific division is available through the Government Printing Office. Information on the subscription service and current prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

(5 U.S.C. 552(a))

Dated at Silver Spring, Maryland this 18th day of January 1984.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 84–2049 Filed 1–24–84; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service; Positions Placed or Revoked Under Schedules A, B, and C

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A, B, and C in the excepted service, as required by Civil Service Rule VI. Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: William Bohling, 202–632–6000.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR Part 213 on December 27, 1983 (48 FR 57040). Individual authorities established or revoked under Schedules A, B, or C between December 1, 1983 and December 31, 1983 appear in a listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities will be published as of June 30 of each year.

Schedules A and B

No Schedule A or B exceptions were established or revoked during the month of December.

Schedule C

The following exceptions are established:

Department of Agriculture

One Staff Assistant to the Assistant Secretary for Administration. Effective December 1, 1983.

One Confidential Assistant to the Assistant Secretary for Food and Consumer Services. Effective December 9, 1983.

One Confidential Assistant to the Chief, Soil Conservation Service. Effective December 12, 1983.

One Confidential Assistant to the Secretary of Agriculture. Effective December 23, 1983.

One Secretary (Typing) to the Secretary of Agriculture. Effective December 23, 1983.

One Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs. Effective December 30, 1983.

One Confidential Assistant to the Administrator, Farmers Home

Administration. Effective December 30, 1983.

One Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs. Effective December 30, 1983.

Department of the Army

One Secretary (Stenography) to the Assistant Secretary of the Army (Manpower and Reserve Affairs). Effective December 15, 1983.

Department of Commerce

One Confidential Assistant to the Special Assistant to the Secretary, Office of the Secretary. Effective December 7, 1983.

One Confidential Assistant to the Assistant Secretary for Trade Development, International Trade Administration. Effective December 15, 1983.

One Private Secretary and Confidential Assistant to the Administrator, National Oceanic and Atmospheric Administration. Effective December 19, 1983.

One Confidential Assistant to the Deputy Under Secretary for International Trade, International Trade Administration. Effective December 19, 1983.

One Deputy Director, Office of Business Liaison. Effective December 19, 1983.

One Confidential Assistant to the Deputy Assistant Secretary for Trade Development, International Trade Administration. Effective December 19, 1983.

One Deputy Director, Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration. Effective December 23, 1983.

One Confidential Assistant to the Deputy Assistant Secretary for International Economic Policy. Effective December 30, 1983.

One Private Secretary to the Under Secretary of Commerce for Travel. Effective December 30, 1983.

Department of Defense

One Special Assistant to the Deputy Under Secretary of Defense for Research and Engineering (Tactical Warfare Programs). Effective December 9, 1983.

One Private Secretary to the Principal Deputy Assistant Secretary (Manpower, Reserve Affairs and Logistics). Effective December 21, 1983.

Department of Education

One Executive Assistant to the Assistant Secretary for Educational Research and Improvement. Effective December 2, 1983.

One Confidential Assistant to the Assistant Secretary for Legislation and Public Affairs. Effective December 2, 1983.

One Confidential Assistant to the Assistant Secretary for Legislation and Public Affairs. Effective December 6, 1983.

One Special Assistant to the Deputy Under Secretary for Intergovernmental and Interagency Affairs. Effective December 6, 1983.

Department of Energy

One Staff Assistant to the Assistant Secretary for Congressional, Intergovernmental and Public Affairs. Effective December 5, 1983.

One Deputy Director, Office of Policy and Management. Effective December 6, 1983.

One Staff Assistant to the Special Assistant to the Secretary for Outreach Programs, Office of the Secretary. Effective December 6, 1983.

One Director, Office of Consumer Affairs. Effective December 7, 1983.

One Special Assistant to the Chairman-Senior Legal, Federal Energy Regulatory Commission. Effective December 12, 1983.

One Staff Assistant to the Assistant Secretary, Environmental Protection, Safety and Emergency Preparedness. Effective December 12, 1983.

One Staff Assistant to the Special Assistant to the Secretary for Outreach Programs. Effective December 12, 1983.

Department of Health and Human Services

One Special Assistant to the Assistant Secretary for Public Affairs, Office of the Secretary. Effective December 19, 1983.

Department of Housing and Urban Development

One Staff Assistant to the Regional Administrator-Regional Housing Commissioner in Chicago, Illinois, Office of the Regional Administrator. Effective December 1, 1983.

One Special Assistant to the General Deputy Assistant Secretary, Office of Public Affairs. Effective December 6, 1983.

One Special Assistant to the Under Secretary, Office of the Under Secretary. Effective December 6, 1983.

One Special Assistant to the Regional Administrator-Regional Housing Commissioner in Atlanta, Georgia, Office of the Regional Commissioner. Effective December 9, 1983.

One Confidential Assistant to the President, Solar Energy and Energy Conservation Bank. Effective December 9, 1983.

One Special Assistant for Intergovernmental Relations to the Regional Administrator-Regional Housing Commissioner in Denver, Colorado, Office of the Regional Administrator. Effective December 9, 1983.

One Special Assistant to the Deputy Assistant Secretary for Public and Indian Housing. Effective December 12, 1983.

One Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations. Effective December 12, 1983.

One Special Assistant to the Assistant Secretary for Public and Indian Housing, Office of Public and Indian Housing. Effective December 15, 1983.

One Special Assistant to the Regional Administrator-Regional Housing Commissioner in Denver, Colorado, Office of the Regional Administrator. Effective December 29, 1983.

Department of the Interior

One Special Assistant to the Assistant to the Secretary, Territorial and International Affairs. Effective December 1, 1983.

One Special Assistant to the Assistant Secretary, Territorial and International Affairs. Effective December 1, 1983.

One Special Assistant to the Assistant Secretary, Energy and Minerals. Effective December 29, 1983.

Department of Justice

One Special Assistant to the Attorney General, Offices, Boards and Divisions. Effective December 19, 1983.

One Secretary (Stenography) to the Deputy Assistant Attorney General, Office of Justice Assistance, Research and Statistics. Effective December 21, 1983.

Department of Labor

One Secretary (Typing) to the Regional Representative in Dallas, Texas. Effective December 21, 1983.

Department of State

One Deputy Assistant Secretary for Private Sector Initiatives, Bureau of International Organization Affairs. Effective December 15, 1983.

One Secretary (Stenography) to the Ambassador-at-Large, Office of the Ambassador-at-Large/Special Envoy for Central America. Effective December 15, 1983.

Department of Transportation

One Staff Assistant to the Assistant Secretary for Public Affairs, Office of

the Secretary. Effective December 7, 1983.

One Deputy Director, Office of Intergovernmental Affairs. Effective December 12, 1983.

One Special Assistant to the Director, Executive Staff to the President's Commission of Drunk Driving. Effective December 15, 1983.

One Special Assistant to the Administrator, Urban Mass Transportation Administration. Effective December 16, 1983.

One Staff Assistant to the Assistant Secretary for Public Affairs, Office of the Secretary. Effective December 23, 1983.

One Staff Assistant to the Deputy Secretary, Office of the Secretary. Effective December 23, 1983.

One Secretary (Typing) to the Deputy Secretary, Office of the Secretary. Effective December 23, 1983.

One Secretary (Typing) to the Federal Railroad Administrator, Federal Railroad Administration. Effective December 23, 1983.

One Intergovernmental Liaison Specialist to the Director, Office of Intergovernmental Affairs. Effective December 23, 1983.

One Special Assistant to the Administrator, Saint Lawrence Seaway Development Corporation. Effective December 23, 1983.

One Confidential Assistant to the Administrator, Saint Lawrence Seaway Development Corporation. Effective December 23, 1983.

One Supervisory Public Affairs Specialist to the Administrator, Federal Railroad Administration. Effective December 23, 1983.

One Staff Assistant to the Assistant Secretary for Governmental Affairs, Office of the Secretary. Effective December 23, 1983.

One Special Assistant to the Assistant Secretary for Governmental Affairs, Office of the Secretary. Effective December 23, 1983.

One Staff Assistant to the Deputy Administrator, Federal Railroad Administration. Effective December 29, 1983.

One Confidential Assistant to the Director, Executive Secretariat, Office of the Secretary. Effective December 29, 1983.

Department of the Treasury

One Special Assistant to the Assistant Secretary (Public Affairs), Office of the Secretary. Effective December 12, 1983.

One Staff Assistant to the Executive Secretary, Office of the Secretary. Effective December 12, 1983.

One Special Assistant to the Assistant Secretary (Public Affairs), Office of the Secretary. Effective December 12, 1983.

ACTION

One Deputy Assistant Director for Policy and Planning. Effective December 7, 1983.

One Special Assistant to the Assistant Director, Office of Legislative and Governmental Affairs. Effective December 22, 1983.

Arms Control and Disarmament Agency

One Special Assistant to the Deputy Director, Office of the Deputy Director. Effective December 7, 1983.

One Special Assistant to the Deputy Director, Office of the Deputy Director. Effective December 13, 1983.

Commodity Futures Trading Commission

One Administrative Assistant to a Commissioner, Office of Commissioner Seale. Effective December 23, 1983.

Consumer Product Safety Commission

One Special Assistant (Legal) to a Commissioner. Effective December 1, 1983.

One Secretary (Steno) to a Commissioner. Effective December 1, 1983.

One Special Assistant to the Chairman. Effective December 2, 1983.

Environmental Protection Agency

One Special Assistant to the Assistant Administrator for Solid Waste and Emergency Response. Effective December 13, 1983.

Equal Employment Opportunity Commission

One Confidential Assistant to the Chairman. Effective December 9, 1983.

Federal Maritime Commission

One Secretary (Stenography) to the Commissioner, Office of the Commissioner. Effective December 12, 1983.

Federal Mediation and Conciliation Service

One Public Affairs Director, Office of the Director. Effective December 1, 1983.

Federal Mine Safety and Health Review Commission

One Attorney-Adviser (General) to the Chairman. Effective December 15, 1983.

One Attorney-Adviser to a Commissioner. Effective December 29, 1983.

Federal Trade Commission

One Staff Assistant to a Commissioner, Office of Commissioner Calvani. Effective December 29, 1983.

General Services Administration

One Special Assistant to the Deputy Associate Administrator for Administration, Office of the Associate Administrator for Administration. Effective December 6, 1983.

Office of Personnel Management

One Regional Representative of the Director in Denver, Colorado, Office of the Director. Effective December 8, 1983.

One Special Assistant to the Executive Assistant Director for Policy and Communications. Effective December 19, 1983.

Small Business Administration

One Special Assistant to the Associate Administrator for Minority Small Business and Capital Ownership Development. Effective December 2, 1983.

One Special Assistant to the Assistant Administrator for Public Communications. Effective December 7, 1983.

One Special Assistant to the Regional Administrator in Altanta, Georgia, Office of the Regional Administrator. Effective December 7, 1983.

One Staff Assistant to the Director of Women's Business Ownership. Effective December 12, 1983.

One Director, Office of Congressional and Legislative Affairs. Effective December 12, 1983.

One Special Assistant to the Administrator, Office of the Administrator. Effective December 16, 1983.

One Confidential Assistant to the Chief of Staff, Office of the Administrator. Effective December 19, 1983.

United States Information Agency

One Special Assistant to the Deputy Director, Office of the Director. Effective December 5, 1983.

One Public Affairs Specialist to the Associate Director for Broadcasting, Bureau of Broadcasting. Effective December 12, 1983.

One Special Assistant (Cultural Property) to the Associate Director, Bureau of Educational and Cultural Affairs. Effective December 29, 1983.

Veterans Administration

One Confidential Assistant to the Associate Deputy Administrator for Congressional and Public Affairs, Office of the Administrator. Effective December 6, 1983.

Office of Personnel Management.

Donald J. Devine,

Director.

[FR Doc. 84-2013 Filed 1-24-84; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Agency Clearance Officer—Kenneth Fogash (202) 272-2142.

Upon written request copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, D.C. 20549.

Extension. Rule 236. No. 270-118.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for an extension of clearance Rule 236 under the Securities Act of 1933 (17 CFR 230.236) which provides an exemption from registration for securities offered to provide funds to be distributed to shareholders in lieu of issuing fractional shares, script certificates or order forms, in connection with a stock dividend, stock split, conversion, merger or similar transaction.

Submit Comments to OMB Desk Officer: Ms. Katie Lewin, (202) 395-7231, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 2050.

George A. Fitzsimmons,

Secretary.

January 20, 1984.

[FR Doc. 84-2041 Filed 1-24-84; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Application No. 05/05-0191]

Application for License to Operate as a Small Business Investment Company (SBIC); Alpha Capital Corp.

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (48 FR 45014 (September 30, 1983)), under the name of Alpha Capital Corporation, Three First National Plaza, Chicago., Illinois 60602 for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. *et seq.*) and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and stockholders are:

Name and address	Title and relationship	Percentage of ownership
Andrew H. Kalnow, 507 W. Barry Street, Chicago, Illinois 60657	General manager, president, treasurer and director.	3.077
Carter Bledsoe, 1201 Pennsylvania Avenue, NW., Washington, D.C. 20005.	Secretary and director	
James P. Cozzens, 7061 E. Pleasant Valley Drive, Independence, Ohio 44131.	Director	
Carl F. Kalnow, 1251 Michigan Avenue, Cincinnati, Ohio	Vice president and director	
Jane F. Kalnow, 170 Sycamore Street, Tiffin, Ohio	Director	
Gordon Wagner, 79 S. Washington Street, Tiffin, Ohio 44883	Assistant treasurer and director	
Karen Schwaller, 1201 Pennsylvania Avenue NW., Washington, D.C. 20005.	Assistant secretary	
Caig Corporation, c/o 170 Sycamore Street, Tiffin, Ohio 44883	Shareholder	36.923
Citizens Financial Corp., 7061 E. Pleasant Valley Rd., Independence, Ohio 44131.	Shareholder	23.077
Commercial National Bank, 79 S. Washington Street, Tiffin, Ohio 44883.	Shareholder	16.923

The Applicant proposes to begin operations with a capitalization, after organization expenses, of $500,000. The applicant will be a source of equity capital and long term loan funds for qualified small business concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Deputy Associate administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of the Notice will be published in a newspaper of general circulation in Chicago, Illinois.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 16, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-1974 Filed 1-24-84; 8:45 am]

BILLING CODE 8025-01-M

Action Subject to Intergovernmental Review; Northwest Louisiana University

AGENCY: Small Business Administration.

ACTION: Notice of Action Subject to Intergovernmental Review Under Executive Order 12372.

SUMMARY: This notice provides for public awareness of SBA's intention to refund one of our 27 Small Business Development Centers (SBDC's) for fiscal year 1985. It also provides a description of the SBDC program by setting forth a condensed version of the program announcement which has been furnished to the SBDC to be refunded. This publication is being made to provide the State single point of contact, designated pursuant to Executive Order 12372, and other interested State and local entities, the opportunity to comment on the proposed refunding in accord with the Executive Order and SBA's regulations found at 13 CFR Part 135.

DATE: Comments will be received on or before March 26, 1984.

ADDRESS: Comments should be addressed to Mrs. Johnnie L. Albertson, Deputy Associate Administrator for SBDC Programs, U.S. Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Same as above.

Notice of Action Subject to Intergovernmental Review

SBA is bound by the provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs." SBA has promulgated regulations spelling out its obligations under that Executive Order. See 13 CFR Part 135, effective September 30, 1983.

In accord with these regulations, specifically § 135.4, SBA is publishing this notice to provide public awareness of the pending application of presently existent Small Business Development Centers (SBDC's) for refunding. Also, published herewith is an annotated

program announcement describing the SBDC program in detail.

This notice is being published seven months in advance of the date of refunding of this existent SBDC. Relevant information identifying this SBDC and providing its mailing address is provided below. In addition to this publication, a copy of this notice is being simultaneously furnished to the affected State single point of contact which has been established under the Executive Order.

The State single point of contact and other interested State and local entities are expected to advise the relevant SBDC of their comments regarding the proposed refunding in writing as soon as possible. Copies of such written comments should also be furnished to Mrs. Johnnie L. Albertson, Deputy Associate Administrator for SBDC Programs, U.S. Small Business Administration, 1441 L Street NW., Washington, D.C. 20416. Comments will be accepted by the relevant SBDC and SBA for a period of two months (60 days) from the date of publication of this notice. The relevant SBDC will make every effort to accommodate these comments during the 60 day period. If the comments cannot be accommodated by the relevant SBDC, SBA will, prior to refunding the SBDC, either attain accommodation of any comments or furnish an explanation of why accommodation cannot be attained to the commentor prior to refunding the SBDC.

Description of the SBDC Program

The Small Business Development Center Program is a major management assistance delivery program of the U.S. Small Business Administration. SBDC's are authorized under section 21 of the Small Business Act (15 U.S.C. 648). SBDC's operate pursuant to the provisions of section 21, a Notice of Award (Cooperative Agreement) issued by SBA, and a Program Announcement. The Program represents a partnership between SBA and the State-endorsed organization receiving Federal assistance for its operation. SBDC's operate on the basis of a State plan which provides small business assistance throughout the State. As a condition to any financial award made to an applicant, an additional amount equal to the amount of assistance provided by SBA must be provided to the SBDC from sources other than the Federal Government.

Purpose and Scope

the SBDC Program has been designed to meet the specialized and complex management and technical assistance needs of the small business community. SBDC's focus on providing in-depth quality assistance to small businesses in all areas which promote growth, expansion, innovation, increased productivity and management improvement. SBDC's act in an advocacy role to promote local small business interests. SBDC's concentrate on developing the unique resources of the university system, the private sector, and State and local governments to provide services to the small business community which are not available elsewhere. SBDC's coordinate with other SBA programs of management assistance and utilize the expertise of these affiliated resources to expand services and avoid duplication of effort.

Program Objectives

The overall objective of the SBDC Program is to leverage Federal dollars and resources with those of the State academic community and private sector to:

(a) Strengthen the small business community;

(b) Contribute to the economic growth of the communities served;

(c) Make assistance available to more small businesses than is now possible with present Federal resources; and

(d) Create a broader based delivery system to the small business community.

SBDC Program Organization

SBDC's are organized to provide maximum services to the local small business community. The lead SBDC receives financial assistance from the SBA to operate a statewide SBDC Program. In states where more than one organization receives SBA financial assistance to operate an SBDC, each lead SBDC is responsible for Program operations throughout a specific regional area to be served by the SBDC. The lead SBDC is responsible for establishing a network of SBDC subcenters to offer service coverage to the small business community. The SBDC network is managed and directed by a single full-time Director. SBDC's must ensure that at least 80 percent of Federal funds provided are used to provide services to small businesses. To the extent possible, SBDC's provide services by enlisting volunteer and other low cost resources on a statewide basis.

SBDC Services

The specific types of services to be offered are developed in coordination with the SBA district office which has jurisdiction over a given SBDC. SBDC's emphasize the provision of in-depth, high-quality assistance to small business owners or prospective small business owners in complex areas that require specialized expertise. These areas may include, but are not limited to: Management, marketing, financing, accounting, strategic planning, regulation and taxation, capital formation, procurement assistance, human resource management, production, operations, economic and business data analysis, engineering, technology transfer, innovation and research, new product development, product analysis, plant layout and design, agribusiness, computer application, business law information, and referral (any legal services beyond basic legal information and referral require the endorsement of the State Bar Association), exporting, office automation, site selection, or any other areas of assistance required to promote small business growth, expansion, and productivity within the State.

The degree to which SBDC resources are directed towards specific areas of assistance is determined by local community needs, SBA priorities and SBDC Program objectives and agreed upon by the SBA district office and the SBDC.

The SBDC must offer quality training to improve the skills and knowledge of existing and prospective small business owners. As a general guideline, SBDC's should emphasize the provision of training in specialized areas other than basic small business management subjects. SBDC's should also emphasize training designed to reach particular audiences such as members of SBA priority and special emphasis groups.

SBDC Program Requirements

The SBDC is responsible to the SBA for ensuring that all programmatic and financial requirements imposed upon them by statute or agreement are met. The SBDC must assure that quality assistance and training in management and technical areas is provided to the State small business community through the State SBDC network. As a condition of this agreement, the SBDC must perform but not be limited to the following activities.

(a) The SBDC ensures that services are provided as close as possible to small business population centers. This is accomplished through the establishment of SBDC subcenters.

(b) The SBDC ensures that lists of local and regional private consultants are maintained at the lead SBDC and each SBDC subcenter. The SBDC utilizes and provides compensation to qualified small business vendors such as private management consultants, private

consulting engineers, and private testing laboratories.

(c) The SBDC is responsible for the development and expansion of resources within the State, particularly the development of new resources to assist small businesses that are not presently associated with the SBA district office.

(d) The SBDC ensures that working relationships and open communications exist within the financial and investment communities, and with legal associations, private consultants, as well as small business groups and associations to help address the needs of the small business community.

(e) The SBDC ensures that assistance is provided to SBA special emphasis groups throughout the SBDC network. This assistance shall be provided to veterans, women, exporters, the handicapped, and minorities as well as any other groups designated a priority by SBA. Services provided to special emphasis groups shall be performed as part of the Cooperative Agreement.

Advance Understandings

(a) Lead SBDC's shall operate on a 40-hour week basis, or during normal State business hours, with National holidays or State holidays as applicable excluded.

(b) SBDC subcenters shall be operated on a full-time basis. The lead SBDC shall ensure that staffing is adequate to meet the needs of the small business community.

(c) All counseling assistance offered through the Small Business Development Center network shall be provided at no cost to the client.

Dated: January 13, 1984.

James C. Sanders,

Administrator.

Address of SBDC Subject to this Notice

Mr. John Baker, (318) 342–2129, Acting SBDC Director, Northeast Louisiana University, College of Business Administration, Monroe, LA 71209.

[FR Doc. 84–1906 Filed 1–24–84; 8:45 am]
BILLING CODE 8025–01–M

Action Subject to Intergovernmental Review; University of Alabama, et al.

AGENCY: Small Business Administration.

ACTION: Notice of Action Subject to Intergovernmental Review Under Executive Order 12372.

SUMMARY: This notice provides for public awareness of SBA's intention to refund 8 of our 27 Small Business Development Centers (SBDC's) for fiscal year 1985. It also provides a description of the SBDC program by setting forth a condensed version of the program announcement which has been furnished to each of the SBDC's to be refunded. This publication is being made to provide State single points of contact, designated pursuant to Executive Order 12372, and other interested State and local entities, the opportunity to comment on the proposed refunding in accord with the Executive Order and SBA's regulations found at 13 CFR Part 135.

DATE: Comments will be received until May 24, 1984.

ADDRESS: Comments should be addressed to Mrs. Johnnie L. Albertson, Deputy Associate Administrator for SBDC Programs, U.S. Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Same as above.

Notice of Action Subject to Intergovernmental Review

SBA is bound by the provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs." SBA has promulgated regulations spelling out its obligations under that Executive Order. See 13 CFR Part 135, effective September 30, 1983.

In accord with these regulations, specifically § 135.4, SBA is publishing this notice to provide public awareness of the pending application of presently existent Small Business Development Centers (SBDC's) for refunding. Also, published herewith is an annotated program announcement describing the SBDC program in detail.

This notice is being published nine months in advance of the date of refunding of these existent SBDC's. Relevant information identifying these SBDC's and providing their mailing address is provided below. In addition to this publication, a copy of this notice is being simultaneously furnished to each affected State single point of contact which has been established under the Executive Order.

State single points of contact and other interested State and local entities are expected to advise the relevant SBDC of their comments regarding the proposed refunding in writing as soon as possible. Copies of such written comments should also be furnished to Mrs. Johnnie L. Albertson, Deputy Associate Administrator for SBDC Programs, U.S. Small Business Administration, 1441 L. Street NW., Washington, D.C. 20416. Comments will be accepted by the relevant SBDC's and SBA for a period of four months (120 days) from the date of publication of this notice. The relevant SBDC's will make every effort to accommodate these comments during the 120-day period. If the comments cannot be accommodated by the relevant SBDC, SBA will, prior to refunding the SBDC, either attain accommodation of any comments or furnish an explanation of why accommodation cannot be attained to the commentor prior to refunding the SBDC.

Description of the SBDC Program

The Small Business Development Center Program is a major management assistance delivery program of the U.S. Small Business Administration. SBDC's are authorized under section 21 of the Small Business Act (15 U.S.C. 648). SBDC's operate pursuant to the provisions of section 21, a Notice of Award (Cooperative Agreement) issued by SBA, and a Program Announcement. The Program represents a partnership between SBA and the State-endorsed organization receiving Federal assistance for its operation. SBDC's operate on the basis of a State plan which provides small business assistance throughout the State. As a condition to any financial award made to an applicant, an additional amount equal to the amount of assistance provided by SBA must be provided to the SBDC from sources other than the Federal Government.

Purpose and Scope

The SBDC Program has been designed to meet the specialized and complex management and technical assistance needs of the small business community. SBDC's focus on providing indepth quality assistance to small businesses in all areas which promote growth, expansion, innovation, increased productivity and management improvement. SBDC's act in an advocacy role to promote local small business interests. SBDC's concentrate on developing the unique resources of the university system, the private sector, and State and local governments to provide services to the small business community which are not available elsewhere. SBDC's coordinate with other SBA programs of management assistance and utilize the expertise of these affiliated resources to expand services and avoid duplication of effort.

Program Objectives

The overall objective of the SBDC Program is to leverage Federal dollars and resources with those of the State academic community and private sector to:

(a) Strengthen the small business community;

(b) Contribute to the economic growth of the communities served;

(c) Make assistance available to more small businesses than is now possible with present Federal resources; and

(d) Create a broader based delivery system to the small business community.

SBDC Program Organization

SBDC's are organized to provide maximum services to the local small business community. The lead SBDC receives financial assistance from the SBA to operate a statewide SBDC program. In states where more than one organization receives SBA financial assistance to operate an SBDC, each lead SBDC is responsible for Program operations throughout a specific regional area to be served by the SBDC. The lead SBDC is responsible for establishing a network of SBDC subcenters to offer service coverage to the small business community. The SBDC network is managed and directed by a single full-time Director. SBDC's must ensure that at least 80 percent of Federal funds provided are used to provide services to small businesses. To the extent possible, SBDC's provide services by enlisting volunteer and other low cost resources on a statewide basis.

SBDC Services

The specific types of services to be offered are developed in coordination with the SBA district office which has jurisdiction over a given SBDC. SBDC's emphasize the provision of indepth, high-quality assistance to small business owners or prospective small business owners in complex areas that require specialized expertise. These areas may include, but are not limited to: Management, marketing, financing, accounting, strategic planning, regulation and taxation, capital formation, procurement assistance, human resource management, production, operations, economic and business data analysis, engineering, technology transfer, innovation and research, new product development, product analysis, plant layout and design, agribusiness, computer application, business law information, and referral (any legal services beyond basic legal information and referral require the endorsement of the State Bar Association), exporting, office automation, site selection, or any other areas of assistance required to promote small business growth, expansion, and productivity within the State.

The degree to which SBDC resources are directed towards specific areas of assistance is determined by local community needs, SBA priorities and SBDC Program objectives and agreed upon by the SBA district office and the SBDC.

The SBDC must offer quality training to improve the skills and knowledge of existing and prospective small business owners. As a general guideline, SBDC's should emphasize the provision of training in specialized areas other than basic small business management subjects. SBDC's should also emphasize training designed to reach particular audiences such as members of SBA priority and special emphasis groups.

SBDC Program Requirements

The SBDC is responsible to the SBA for ensuring that all programmatic and financial requirements imposed upon them by statute or agreement are met. The SBDC must assure that quality assistance and training in management and technical areas is provided to the State small business community through the State SBDC network. As a condition of this agreement, the SBDC must perform but not be limited to the following activities.

(a) The SBDC ensures that services are provided as close as possible to small business population centers. This is accomplished through the establishment of SBDC subcenters.

(b) The SBDC ensures that lists of local and regional private consultants are maintained at the lead SBDC and each SBDC subcenter. The SBDC utilizes and provides compensation to qualified small business vendors such as private management consultants, private consulting engineers, and private testing laboratories.

(c) The SBDC is responsible for the development and expansion of resources within the State, particularly the development of new resources to assist small business that are not presently associated with the SBA district office.

(d) The SBDC ensures that working relationships and open communications exist within the financial and investment communities, and with legal associations, private consultants, as well as small business groups and associations to help address the needs of the small business community.

(e) The SBDC ensures that assistance is provided to SBA special emphasis groups throughout the SBDC network. This assistance shall be provided to veterans, women, exporters, the handicapped, and minorities as well as any other groups designated a priority by SBA. Services provided to special emphasis groups shall be performed as part of the Cooperative Agreement.

Advance Understandings

(a) Lead SBDC's shall operate on a 40-hour week basis, or during normal State business hours, with National holidays or State holidays as applicable excluded.

(b) SBDC subcenters shall be operated on a full-time basis. The lead SBDC shall ensure that staffing is adequate to meet the

Addresses of SBDC's Subject to This Notice

Dr. Fred Myrick, (205) 934–7260, SBDC Director, University of Alabama in Birmingham, School of Business, 1000 South Twelfth Street, Suite F, Birmingham, AL 35294

Mr. Everett R. Shaw, (203) 486–4135, SBDC Director, University of Connecticut, School of Business Administration, Box U–41D, Storrs, CT 06268

Mr. Charles G. Maass, (302) 738–2747, SBDC Director, University of Delaware, Suite 005, Purnell Hall, Newark, DE 19711

Mr. Lloyd E. Anderson, (515) 294–3420, SBDC Director, Iowa State University, Center for Industrial Research and Service (CIRAS), Room 205, Engineering Annex, Ames, IA 50011

Mr. Jerry Owen, (606) 257–1751, SBDC Director, University of Kentucky, College of Business & Economics, Commerce Building, Room 415, Lexington, KY 40506

Mr. John Ciccarelli, (413) 549–4930 Ext. 303, SBDC Director, University of Massachusetts, School of Business Administration, Amherst, MA 01003

Dr. Robert D. Smith, (601) 982–3825, SBDC Director, University of Mississippi, School of Business Administration, 660 Lakeland East Drive, Suite 300, Jackson, MS 39208

Mr. Fred O. Hale, (314) 534–7232, SBDC Director, St. Louis University, 3642 Lindell Boulevard, St. Louis, MO 63108.

[FR Doc. 84–1987 Filed 1–24–84; 8:45 am]

BILLING CODE 8025–01–M

Action Subject to Intergovernmental Review; University of Charleston

AGENCY: Small Business Administration.

ACTION: Notice of Action Subject to Intergovernmental Review Under Executive Order 12372.

SUMMARY: This notice provides for public awareness of SBA's intention to refund one of our 27 Small Business Development Centers (SBDC's) for fiscal year 1985. It also provides a description of the SBDC program by setting forth a

condensed version of the program announcement which has been furnished to the SBDC to be refunded. This publication is being made to provide the State single point of contact, designated pursuant to Executive Order 12372, and other interested State and local entities, the opportunity to comment on the proposed refunding in accord with the Executive Order and SBA's regulations found at 13 CFR Part 135.

DATE: Comments will be received on or before March 26, 1984.

ADDRESS: Comments should be addressed to Mrs. Johnnie L. Albertson, Deputy Associate Administrator for SBDC Programs, U.S. Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Same as above.

Notice of Action Subject to Intergovernmental Review

SBA is bound by the provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs." SBA has promulgated regulations spelling out its obligations under that Executive Order. See 13 CFR Part 135, effective September 30, 1983.

In accord with these regulations, specifically § 135.4, SBA is publishing this notice to provide public awareness of the pending application of presently existent Small Business Development Centers (SBDC's) for refunding. Also, published herewith is an annotated program announcement describing the SBDC program in detail.

This notice is being published six months in advance of the date of refunding of this existent SBDC. Relevant information identifying this SBDC and providing its mailing address is provided below. In addition to this publication, a copy of this notice is being simultaneously furnished to the affected State single point of contact which has been established under the Executive Order.

The State single point of contact and other interested State and local entities are expected to advise the relevant SBDC of their comments regarding the proposed refunding in writing as soon as possible. Copies of such written comments should also be furnished to Mrs. Johnnie L. Albertson, Deputy Associate Administrator for SBDC Programs, U.S. Small Business Administration, 1441 L Street NW., Washington, D.C. 20416. Comments will be accepted by the relevant SBDC and SBA for a period of two months (60 days) from the date of publication of this notice. The relevant SBDC will make every effort to accommodate these comments during the 60-day period. If the comments cannot be accommodated by the relevant SBDC, SBA will, prior to refunding the SBDC, either attain accommodation of any comments or furnish an explanation of why accommodation cannot be attained to the commentor prior to refunding the SBDC.

Description of the SBDC Program

The Small Business Development Center Program is a major management assistance delivery program of the U.S. Small Business Administration. SBDC's are authorized under section 21 of the Small Business Act (15 U.S.C. 648). SBDC's operate pursuant to the provisions of section 21, a Notice of Award (Cooperative Agreement) issued by SBA, and a Program Announcement. The Program represents a partnership between SBA and the State-endorsed organization receiving Federal assistance for its operation. SBDC's operate on the basis of a State plan which provides small business assistance throughout the State. As a condition to any financial award made to an applicant, an additional amount equal to the amount of assistance provided by SBA must be provided to the SBDC from sources other than the Federal Government.

Purpose and Scope

The SBDC Program has been designed to meet the specialized and complex management and technical assistance needs of the small business community. SBDC's focus on providing indepth quality assistance to small businesses in all areas which promote growth, expansion, innovation, increased productivity and management improvement. SBDC's act in an advocacy role to promote local small business interests. SBDC's concentrate on developing the unique resources of the university system, the private sector, and State and local governments to provide services to the small business community which are not available elsewhere. SBDC's coordinate with other SBA programs of management assistance and utilize the expertise of these affiliated resources to expand services and avoid duplication of effort.

Program Objectives

The overall objective of the SBDC Program is to leverage Federal dollars and resources with those of the State academic community and private sector to:

(a) Strengthen the small business community;

(b) Contribute to the economic growth of the communities served;

(c) Make assistance available to more small businesses than is now possible with present Federal resources; and

(d) Create a broader based delivery system to the small business community.

SBDC Program Organization

SBDC's are organized to provide maximum services to the local small business community. The lead SBDC receives financial assistance from the SBA to operate a statewide SBDC Program. In states where more than one organization receives SBA financial assistance to operate an SBDC, each lead SBDC is responsible for Program operations throughout a specific regional area to be served by the SBDC. The lead SBDC is responsible for establishing a network of SBDC subcenters to offer service coverage to the small business community. The SBDC network is managed and directed by a single full-time Director. SBDC's must ensure that at least 80 percent of Federal funds provided are used to provide services to small businesses. To the extent possible, SBDC's provide services by enlisting volunteer and other low cost resources on a statewide basis.

SBDC Services

The specific types of services to be offered are developed in coordination with the SBA district office which has jurisdiction over a given SBDC. SBDC's emphasize the provision of indepth, high-quality assistance to small business owners or prospective small business owners in complex areas that require specialized expertise. These areas may include, but are not limited to: management, marketing, financing, accounting, strategic planning, regulation and taxation, capital formation, procurement assistance, human resource management, production, operations, economic and business data analysis, engineering, technology transfer, innovation and research, new product development, product analysis, plant layout and design, agribusiness, computer application, business law information, and referral (any legal services beyond basic legal information and referral require the endorsement of the State Bar Association,) exporting, office automation, site selection, or any other areas of assistance required to promote small business growth, expansion, and productivity within the State.

The degree to which SBDC resources ae directed towards specific areas of assistance is determined by local community needs, SBA priorities and

SBDC Program objectives and agreed upon by SBA district office and the SBDC.

The SBDC must offer quality training to improve the skills and knowledge of existing and prospective small business owners. As a general guideline, SBDC's should emphasize the provision of training in specialized areas other than basic small business management subjects. SBDC's should also emphasize training designed to reach particular audiences such as menbers of SBA priority and special emphasis groups.

SBDC Program Requirements

The SBDC is responsible to the SBA for ensuring that all programmatic and financial requirements imposed upon them by statute or agreement are met. The SBDC must assure that quality assistance and training in management and technical areas is provided to the State small business community through the State SBDC network. As a condition of this agreement, the SBDC must perform but not be limited to the following activities.

(a) The SBDC that services are provided as close as possible to small business population centers. This is accomplished through the establishment of SBDC subcenters.

(b) The SBDC ensures that lists of local and regional private consultants are maintained at the lead SBDC and each SBDC subcenter. The SBDC utilizes and provides compensation to qualified small business vendors such as private management consultants, private consulting engineers, and private testing laboratories.

(c) The SBDC is responsible for the development and expansion of resources within the State, particularly the development of new resources to assist small business that are not presently associated with the SBA district office.

(d) The SBDC ensures that working relationships and open communications exist within the financial and investment communities, and with legal associations, private consultants, as well as small business groups and associations to help address the needs of the small business community.

(e) The SBDC ensures that assistance is provided to SBA special emphasis groups throughout the SBDC network. This assistance shall be provided to veterans, women, exporters, the handicapped, and minorities as well as any other groups designated a priority by SBA. Services provided to special emphasis groups shall be performed as part of the Cooperative Agreement.

Advance Understandings

(a) Lead SBDC's shall operate on a 40-hour week basis, or during normal State business hours, with National holidays or State holidays as applicable excluded.

(b) SBDC subcenters shall be operated on a full-time basis. The lead SBDC shall ensure that staffing is adequate to meet the needs of the small business community.

(c) All counseling assistance offered through the Small Business Development Center network shall be provided at no cost to the client.

Address of SBDC Subject to this Notice

Dr. Thomas G. Voss, (304) 346–9471, Acting SBDC Director, University of Charleston, 2300 MacCorkle Avenue SE., Charleston, WVA 25304.

Dated: January 13, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84–1908 Filed 1–24–84; 8:45 am]

BILLING CODE 8025–01–M

Action Subject to Intergovernmental Review; Wayne State University

AGENCY: Small Business Administration.

ACTION: Notice of Action Subject to Intergovernmental Review Under Executive Order 12372.

SUMMARY: This notice provides for public awareness of SBA's intention to refund 2 of our 27 Small Business Development Centers (SBDC's) for fiscal year 1985. It also provides a description of the SBDC program by setting forth a condensed version of the program announcement which has been furnished to each of the SBDC's to be refunded. This publication is being made to provide State single points of contact, designated pursuant to Executive Order 12372, and other interested State and local entities, the opportunity to comment on the proposed refunding in accord with the Executive order and SBA's regulations found at 13 CFR Part 135.

DATE: Comments will be received on or before March 26, 1984.

ADDRESS: Comments should be addressed to Mrs. Johnnie L. Albertson, Deputy Associate Administrator for SBDC Programs, U.S. Small Business Administration, 1441 L. Street, NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Same as above.

Notice of Action Subject to Intergovernmental Review

SBA is bound by the provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs." SBA has promulgated regulations spelling out its obligations under that Executive Order. See 13 CFR Part 135, effective September 30, 1983.

In accord with these regulations, specifically § 135.4, SBA is publishing this notice to provide public awareness of the pending application of presently existent Small Business Development Centers (SBDC's) for refunding. Also published herewith is an annotated program announcement describing the SBDC program in detail.

This notice is being published eight months in advance of the date of refunding of these existent SBD's. Relevant information identifying these SBDC's and providing their mailing address is provided below. In addition to this publication, a copy of this notice is being simultaneously furnished to each affected State single point of contact which has been established under the Executive Order.

State single points of contact and other interested State and local entities are expected to advise the relevant SBDC of their comments regarding the proposed refunding in writing as soon possible. Copies of such written comments should also be furnished to Mrs. Johnnie L. Albertson, Deputy Associate Administrator for SBDC Programs, U.S. Small Business Administration, 1441 L Street NW., Washington, D.C. 20416. Comments will be accepted by the relevant SBDC's and SBA for a period of two months (60 days) from the date of publication of this notice. The relevant SBDC's will make every effort to accommodate these comments during the 60 day period. If the comments cannot be accommodated by the relevant SBDC, SBA will, prior to refunding the SBDC, either attain accommodation of any comments or furnish an explanation of why accommodation cannot be attained to the commentor prior to refunding the SBDC.

Description of the SBDC Program

The Small Business Development Center Program is a major management assistance delivery program of the U.S. Small Business administration. SBDC's are authorized under § 21 of the Small Business Act (15 U.S.C. 648). SBDC's operate pursuant to the provisions of § 21, a Notice of Award (Cooperative Agreement) issued by SBA, and a Program Announcement. The Program

represents a partnership between SBA and the State-endorsed organization receiving Federal assistance for its operation. SBDC's operate on the basis of a State plan which provides small business assistance throughout the State. As a condition to any financial award made to an applicant, an additional amount equal to the amount of assistance provided by SBA must be provided to the SBDC from sources other than the Federal Government.

Purpose and Scope

The SBDC Program has been designed to meet the specialized and complex management and technical assistance needs of the small business community. SBDC's focus on providing indepth quality assistance to small businesses in all areas which promote growth, expansion, innovation, increased productivity and management improvement. SBDC's act in an advocacy role to promote local small business interests. SBDC's concentrate on developing the unique resources of the university system, the private sector, and State and local governments to provide services to the small business community which are not available elsewhere. SBDC's coordinate with other SBA programs of management assistance and utilize the expertise of these affiliated resources to expand services and avoid duplication of effort.

Program Objectives

The overall objective of the SBDC Program is to leverage Federal dollars and resources with those of the State academic community and private sector to:-

(a) Strengthen the small business community;

(b) Contribute to the economic growth of the communities served;

(c) Make assistance available to more small businesses than is now possible with present Federal resources; and

(d) Create a broader based delivery system to the small business community.

SBDC Program Organization

SBDC's are organized to provide maximum services to the local small business community. The lead SBDC receives financial assistance from the SBA to operate a statewide SBDC Program. In states where more than one organization receives SBA financial assistance to operate an SBDC, each lead SBDC is responsible for Program operations throughout a specific regional area to be served by the SBDC. The lead SBDC is responsible for establishing a network of SBDC subcenters to offer service coverage to small business community. The SBDC network is managed and directed by a single full-time Director. SBDC's must ensure that at least 80 percent of Federal funds provided are used to provide services to small businesses. To the extent possible, SBDC's provide services by enlisting volunteer and other low cost resources on a statewide basis.

SBDC Services

The specific types of services to be offered are developed in coordination with the SBA district office which has jurisdiction over a given SBDC. SBDC's emphasize the provision of indepth, high-quality assistance to small business owners or prospective small business owners in complex areas that require specialized expertise. These areas may include, but are not limited to: management, marketing, financing, accounting, strategic planning, regulation and taxation, capital formation, procurement assistance, human resource management, production, operations, economic and business data analysis, engineering, technology transfer, innovation and research, new product development, product analysis, plant layout and design, agribusiness, computer application, business law information, and referral (any legal services beyond basic legal information and referral require the endorsement of the State Bar Association,) exporting, office automation, site selection, or any other areas of assistance required to promote small business growth, expansion, and productivity within the State.

The degree to which SBDC resources are directed towards specific areas of assistance is determined by local community needs, SBA priorities and SBDC Program objectives and agreed upon by the SBA district office and the SBDC.

The SBDC must offer quality training to improve the skills and knowledge of existing and prospective small business owners. As a general guideline, SBDC's should emphasize the provision of training in specialized areas other than basic small business management subjects. SBDC's should also emphasize training designed to reach particular audiences such as members of SBA priority and special emphasis groups.

SBDC Program Requirements

The SBDC is responsible to the SBA for ensuring that all programmatic and financial requirements imposed upon them by statute or agreement are met. The SBDC must assure that quality assistance and training in management and technical areas is provided to the State small business community through the State SBDC network. As a condition of this agreement, the SBDC must perform but not be limited to the following activities.

(a) The SBDC ensures that services are provided as close as possible to small business population centers. This is accomplished through the establishment of SBDC subcenters.

(b) The SBDC ensures that lists of local and regional private consultants are maintained at the lead SBDC and each SBDC subcenter. The SBDC utilizes and provides compensation to qualified small business vendors such as private management consultants, private consulting engineers, and private testing laboratories.

(c) The SBDC is responsible for the development and expansion of resources within the State, particularly the development of new resources to assist small business that are not presently associated with the SBA district office.

(d) The SBDC ensures that working relationships and open communications exist within the financial and investment communities, and with legal associations, private consultants, as well as small business groups and associations to help address the needs of the small business community.

(e) The SBDC ensures that assistance is provided to SBA special emphasis groups throughout the SBDC network. This assistance shall be provided to veterans, women, exporters, the handicapped, and minorities as well as any other groups designated a priority by SBA. Services provided to special emphasis groups shall be performed as part of the Cooperative Agreement.

Advance Understandings

(a) Lead SBDC's shall operate on a 40-hour week basis, or during normal State business hours, with National holidays or State holidays as applicable excluded.

(b) SBDC subcenters shall be operated on a full-time basis. The lead SBDC shall ensure that staffing is adequate to meet the needs of the small business community.

(c) All counseling assistance offered through the Small Business Development Center network shall be provided at no cost to the client.

Addresses of SBDC's Subject to This Notice

Mr. Allen Hyman, (313) 577–4431, Acting SBDC Director, Wayne State University, School of Business Administration, Detroit, MI 48202

Mr. Robert E. Honnold, (802) 656–2990, Acting SBDC Director, Extension

Service, Morrill Hall, Burlington, VT 05405.

Dated: January 13, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84-1989 Filed 1-24-84; 8:45 am]

BILLING CODE 8025-01-M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

SUMMARY: The Veterans administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains a proposed new collection and lists the following information: (1) The department or staff office issuing the form; (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(h) of Public Law 96-511 applies.

ADDRESSES: Copies of the proposed form and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (004A2), Veterans Administration, 810 Vermont Avenue, NW, Washington, D.C. 20420, (202) 389-2146. Comments and questins about the items on this list should be directed to the VA's OMB Desk Officer, Dick Eisinger, Office of Management and Budget, 726 Jackson Place, NW, Washington, DC 20503, (202) 395-6880.

DATES: Comments on the form should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: January 19, 1984.

By direction of the Administrator.

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management.

New Collection

1. Department of Medicine and Surgery.
2. VA Cooperative study No. 256, "Vietnam Experience Twin Study".
3. VA Form 10-0069.
4. Reporting requirement.
5. Individuals or households.
6. 10,000 responses.
7. 5,000 hours.
8. Not applicable.

[FR Doc. 84-2010 Filed 1-24-84; 8:45 am]

BILLING CODE 8320-01-M

Advisory Committee on Former Prisoners of War; Meeting

The Veterans Administration gives notice under 38 U.S.C. 211 that a meeting of the Advisory Committee on Former Prisoners of War will be held at the Veterans Administration Central Office, 810 Vermont Avenue, NW, Washington, DC 20420, March 7, 1984. The purpose of the Committee is to consult with and advise the Administrator of Veterans' Affairs on the administration of benefits under title 38, United States Code, for veterans who are former prisoners of war and on the needs of such veterans with respect to compensation, health care, and rehabilitation.

The meeting will convene at 9 a.m. in Room 817. This meeting will be open to the public up to the seating capacity of the room. Because this capacity is limited, it will be necessary for those wishing to attend to contact Miss Linda Gardner, Administrative Assistant to the Chief Benefits Director, Veterans Administration Central Office (phone 202/389-2455) prior to February 27, 1984.

Members of the public may direct questions or submit prepared statements for review by the Committee in advance of the meeting, in writing only, to Mr. H. B. Mars, Deputy Director, Compensation and Pension Service, Department of Veterans Benefits, Room 400, Veterans Administration Central Office. Submitted material must be received at least five days prior to the meeting. Such members of the public may be asked to clarify submitted material prior to consideration by the Committee.

Summary minutes of the meeting and rosters of the Committe members may be obtained from Miss Linda Gardner at the aforementioned address.

Dated: January 13, 1984.

By direction of the Administrator.

Rosa Maria Fontanez.

Committee Management Officer.

[FR Doc. 84-2011 Filed 1-24-84; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 17
Wednesday, January 25, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL COMMUNICATIONS COMMISSION

Special Open Commission Meeting, Wednesday, January 25, 1984

January 19, 1984.

The Federal Communications Commission will hold a Special Open Meeting on the subject listed below on Wednesday, January 25, 1984, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, D.C.

Agenda, Item No., and Subject

Common Carrier—1—Subject: In the Matter of MTS and WATS Market Structure, CC Docket No. 78–72, Phase I. Summary: The Commission will make its final decision on petitions for further reconsiderations of access charges.

The prompt and orderly conduct of Commission business requires that less than 7-days notice be given consideration of this item.

Action by the Commission January 19, 1984. Commissioners Fowler, Chairman; Quello, Dawson, Rivera and Patrick voting to consider this item.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: January 19, 1984.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84–2156 Filed 1–23–84; 1:33 pm]

BILLING CODE 6712–01–M

2

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item From January 19th Open Meeting

January 19, 1984.

The following item has been deleted at the request of the Office of General Counsel from the list of agenda items scheduled for consideration at the January 19, 1984 Open Meeting and previously listed in the Commission's Notice of January 12, 1984.

Agenda, Item No., and Subject

General—2—*Title:* Requirements for Licensed Operators in Various Radio Services; Docket 83–322; RM–3292, RM–2643. *Summary:* The Commission will consider comments filed in Docket 83–322 and adoption of a Report and Order concerning the requirements for licensed operators in the Experimental Broadcast, International Broadcast, and Auxiliary Broadcast Service; the Private Land Mobile, Fixed, and Personal Radio Services; and the Domestic Public Fixed and Cable Television Relay Services; as well as certain changes in commercial radio operator licensing procedures and policies.

Issued: January 19, 1984.

January 19, 1984.

The following item has been deleted at the request of the Office of Commissioner Rivera from the list of agenda items scheduled for consideration at the January 19, 1984 Open Meeting and previously listed in the Commission's Notice of January 12, 1984.

Agenda, Item No., and Subject

Policy—1—*Title:* Deregulation of Radio. *Summary:* The Commission will consider what information regarding nonentertainment programming we should require radio broadcasters to keep and to make available to the public and the Commission in view of the new regulatory scheme for commercial radio.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84–2157 Filed 1–23–84; 1:30 pm]

BILLING CODE 6712–01–M

3

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, February 1, 1984.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints:
   a. Certain meat deboning machines (Docket No. 1012).
   b. Fluidized supporting apparatus for human patients (Docket No. 1013).
5. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[FR Doc. 84–2042 Filed 1–20–84; 4:19 am]

BILLING CODE 7020–02–M

4

NATIONAL MEDIATION BOARD

TIME AND DATE: 2 p.m., Wednesday, February 8, 1984.

PLACE: Board Hearing Room, eighth floor, 1425 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of the Board actions taken by notation voting during the month of January, 1984.
2. Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Secretary's office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rowland K. Quinn, Jr., Executive Secretary. Tel: (202) 523–5920.

Date of notice: January 19, 1984.

Rowland K. Quinn, Jr.,

Executive Secretary, National Mediation Board.

[FR Doc. 84–2198 Filed 1–23–84; 3:16 pm]

BILLING CODE 7550–01–M

5

NUCLEAR REGULATORY COMMISSION

DATE: Week of January 23, 1984 (revised).

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED: *Monday, January 23:*

1:30 p.m.:
Affirmation/Discussion and Vote (Public Meeting) (As Announced):

a. Modification of Commission Memorandum and Order Regarding Operation of Diablo Canyon Nuclear Power Plant

1:40 p.m.:
Discussion of Pending Investigations on Diablo Canyon (Open/Closed—Exemptions 5 and 7) (As Announced)

Tuesday, January 24:

2:00 p.m.:
Continuation of Discussion of Future Steps in TMI–1 Restart (Closed—Exemptions 5 and 10) (New Item)

Thursday, January 26:

10:00 a.m.:
Discussion of Management-Organization and Internal Personnel Matters (Closed—Exemptions 2 and 6) (New Item)

2:00 p.m.:
Status of Certain Enforcement Actions (Closed—Exemptions 5 and 7) (As Announced)

3:30 p.m.:
Affirmation/Discussion and Vote (Public Meeting) (Items Revised):

a. Modification of Commission Memorandum and Order Regarding Operation of Diablo Canyon Nuclear Power Plant (if necessary)

b. NRC Response to Court Decision Vacating Interim Rule on Environmental Qualification Deadline (Tentative) (*Postponed* from January 19)

c. Implementing CEQ NEPA Regulations (Part 51) (Tentative)

d. Review of ALABs 729 and 744 (Tentative)

Friday, January 27:

9:30 a.m.:
Briefing on Possible Uses of Special Nuclear Material Available in the Non-Power Reactor Community (Closed—Exemption 1) (As Announced)
11:15 a.m.:
Comments on Implications of a Proposed Rule Regarding Use of HEU in Domestic Research Reactors (Public Meeting) (As Announced)
2:00 p.m.:
Discussion of International Implications of Conversion of Domestic Research Reactors to LEU Use (Open/Closed—Exemption 1) (As Announced)
3:30 p.m.:
Discussion of Physical Security at Domestic Research Reactors (Closed—Exemption 1) (As Announced)

To verify the Status of Meetings Call (Recording)—(202) 634–1498.)

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Walter Magee,
Office of the Secretary.

[FR Doc. 84–2050 Filed 1–20–84, 4:34 pm]
BILLING CODE 7590–01–M

6

POSTAL RATE COMMISSION

Meeting

TIME AND DATE: 10:30 a.m., Wednesday, January 25, 1984.

PLACE: Conference Room, Room 500, 2000 L Street, NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Personnel Matters. [Closed pursuant to 5 U.S.C. 552b(c)(2)(6).]

CONTACT PERSON FOR MORE INFORMATION: Postal Rate Commission, Room 500, 2000 L Street, NW., Washington, D.C. 20268; Telephone (202) 254–3880.

Charles L. Clapp,
Secretary.

[FR Doc. 84–2039 Filed 1–20–84; 4:21 pm]
BILLING CODE 7715–01–M

VOL
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federal register

Wednesday
January 25, 1984

Part II

Department of Transportation

Research and Special Programs Administration

Commonwealth of Massachusetts, Executive Office of Transportation and Construction; Application for Non-Preemption Determination; Notice

VOL 49 ISS 17 JA 25 1984 UMI

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. IRA-31]

Commonwealth of Massachusetts, Executive Office of Transportation and Construction; Application for Non-Preemption Determination

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration (RSPA), Transportation (DOT).

ACTION: Public notice and invitation to comment.

SUMMARY: The Commonwealth of Massachusetts through the Executive Office of Transportation and Construction (EOTC) has applied for an administrative ruling as to whether certain provisions of the Town of Framingham by-law dated January 27, 1982, governing the transportation and storage of vinyl cholride in the town are preempted by the Hazardous Materials Transportation Act (HMTA) and the Hazardous Materials Regulations (HMR) issued thereunder based on an alleged inconsistency between the by-law and the HMTA and the its regulations. However, for the reasons discussed below, MTB is treating the request at this time as one for a determination of inconsistency rather than of nonpreemption.

DATES: Comments received on or before March 5, 1984 will be considered before an administrative ruling is issued by the Associate Director for Hazardous Materials Regulation.

ADDRESSES: The application and any comments received may be reviewed in the Dockets Branch; Office of Information Services (DMT-11); Room 8426; Nassif Building; 400 Seventh Street, SW.; Washington, D.C. 20590. Comments on the application may be submitted to the Dockets Branch at the above address. Indicate Docket No. IRA-31 on your submission. Three copies are requested. In addition, a copy of each comment must be sent to: Aaron K. Bikofsky, Esq., Town Counsel, Town of Framingham, Memorial Building, Framingham, MA 01701; Rita J. DiGiovanni, Esq; Legal Counsel, Executive Office of Transportation and Construction, One Ashburton Place, Boston, MA 02108; and W. Arthur Garrity III, Esq., Mintz, Levin, Cohn, Ferris, Glovsky, and Popeo, P.C., One Center Plaza, Boston, MA 02108, and that fact certified to at the time the comment is submitted to the Dockets Branch. (The following is suggested: "I hereby certify that copies of this comment have been sent to Mr. Aaron K. Bikofsky, Ms. Rita J. DiGiovanni, and Mr. W. Arthur Garrity, III at the addresses noted in the Federal Register.")

FOR FURTHER INFORMATION CONTACT:

Vita A. Simon, Office of the Chief Counsel, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, D.C. 20590, 202-755-4972.

SUPPLEMENTARY INFORMATION:

1. Statutory and Procedural Background

The HMTA (49 U.S.C. 1801 *et seq.*) at section 112(a) (49 U.S.C. 1811(a)) expressly preempts "any requirement of a State or political subdivision thereof, which is inconsistent with any requirement," of the HMTA or the HMR. Section 112(b) [49 U.S.C. 1811(b)] provides that an inconsistent State or political subvision requirement ceases to be preempted, however, if upon application the Secretary of DOT determines that the requirement (1) provides an equal or greater level of protection to the public than the HMTA or regulations issued under the HMTA, and (2) does not unreasonably burden commerce.

Procedural regulations implementing section 112 of the HMTA are codified at 49 CFR 107.201-107.225. These regulations provide for the issuance of inconsistency rulings and nonpreemption determinations. Briefly, an inconsistency ruling is an administrative opinion as to the relationship between a State or political subdivision requirement and a requirement of the HMTA or the HMR. 49 CFR 107.2.9(c) sets forth the following factors which are considered in determining if a State or political subdivision requirement is inconsistent:

(1) Whether compliance with both the state or political subdivision requirement and the Act or the regulations issued under the Act is possible; and

(2) The extent to which the State or political subdivision requirement is an obstacle to the accomplishment and execution of the Act and the regulations issued under the Act.

If the State or local requirement is found to be inconsistent with a Federal requirement, then the State or locality may seek a nonpreemption determiniation, i.e., a waiver of preemption, issued under section 112(b) of the HMTA (49 U.S.C. 1811(b)).

2. Background of the EOTC Request

On May 17, 1979, Consolidated Railway Corporation (Conrail) filed suit to enjoin the Town of Framingham (Town) from enforcing a Town by-law that would have required Conrail to remove railcars containing vinyl chloride, a flammable gas, from temporary storage on tracks within the Town. The Court in granting the injunction concluded that Congress had legislatively preempted the field of hazardous materials regulation. As determined by the Court, the Framingham by-law was inconsistent with the HMTA and was therefore preempted (49 U.S.C. 11811(a) and (b)). Two options became available to the Town—either petition for rulemaking under 49 CFR 106.301 to amend or repeal the specific provisions of the Federal Hazardous Materials Regulations at issue, or apply to the Secretary of Transportation for a determination of non-preemption of the local regulation. (49 CFR 107.215).

On June 30, 1980, the EOTC requested that preemption of the Town by-law be waived. EOTC admitted the inconsistency of the Town by-law but stated that the by-law should not be preempted by federal regulation as it afforded greater protection to the public than the HMR and did not burden commerce.

MTB issued a notice of a public hearing in November, 1981 (46 FR 56297) to obtain public comment on the non-preemption application. In December, 1981, EOTC amended its petition by requesting that preemption be waived regarding the State licensing provision for explosives and inflammable materials under Massachusetts General Laws, chapter 148, section 13, rather than the Town by-law. The hearing was held in Framingham on December 15, 1981. Approximately twenty-four persons spoke on various aspects of the application, the statute, and its effects.

On January 3, 1983, the EOTC submitted a second amended application for a non-preemption determination. The basis for this amended application was adoption of new by-laws by the Town. This later application failed to refer to the State licensing requirement included in either the first amended application or the original Town by-laws. Therefore, the non-Federal requirements which are the subject of the current petition for non-preemption and this public notice are contained in the new Town by-laws. The new application concedes inconsistency in regard to portions of

section 2 of the by-law, but fails to concede as regards sections 1 and 3.

Despite several requests from appropriate representatives of RSPA, EOTC will neither concede the inconsistency of the by-law in full, nor request an inconsistency determination, requesting instead a waiver of preemption. However, before a waiver of preemption can be issued there must be a finding or an admission of inconsistency. 49 CFR 107.219(c) expressly provides that: " . . . the Associate Director for Hazardous Materials Regulation will only consider an application for a non-preemption determination if—

(1) The applicant State or political subdivision expressly acknowledges in its application that the State or political subdivision requirement for which the determination is sought is inconsistent with the requirements of the Act or the regulations issued under the Act; or

(2) The State or political subdivision requirement has been determined by a court of competent jurisdiction or in a ruling under § 107.209 to be inconsistent with the requirements of the Act or the regulations issued under the Act."

3. The Framingham By-Law

The Town by-law, which is included in its entirety as Appendix A to this notice, is in four parts. Article 1 contains a licensing requirement for anyone who temporarily stores liquefied vinyl chloride for a period in excess of 24 hours within the Town of Framingham in railcars not delivered to their place of unloading. The license can be granted by the Town Board of Selectmen upon fulfillment of various conditions set forth in the by-law

Article 2 lists the circumstances which would lead to suspension or revocation of the license should the licensee fail to satisfy conditions enumerated in the by-law. These conditions range from proper maintenance of the designated storage area and the railcars containing vinyl chloride to the employment of emergency signals established by the Town Fire Chief.

Article 3 prescribes penalties for violations under Article 2. In addition to revocation or suspension of the license, a $200 fine for each violation may be assessed. The fine may be assessed even if the Board of Selectmen decides not to revoke or suspend the user's license.

Article 4 sets the effectied date of the by-law as 120 days after approval by the Attorney General of Massachusetts (August 26, 1982).

EOTC concedes the inconsistency of only three aspects of Article 2. These are that: (1) No more than ten railcars may be kept in the area designated for storage; (2) the licensee must furnish certain information to the fire department; and (3) Framingham retains the power to suspend or revoke a license in the event the licensee fails to comply with the enumerated operating requirements.

EOTC's application for a non-preemption determination is limited to the sections listed above to which EOTC concedes inconsistency. EOTC maintains that these requirements do not impose an undue burden on commerce. Moreover, the requirements provide a level of safety equal to or greater than that of the HMTA or the HMR. EOTC neither concedes the inconsistency of, nor requests a ruling with respect to, the remaining portions of the by-law.

EOTC contends that a State or political subdivision is not required to address, in a single application, the inconsistency or non-preemption of all of its requirements having to do with the transportation of hazardous materials. Specifically, EOTC asserts that an applicant may identify the requirements for which a ruling is requested and, in the case of a petition for non-preemption, expressly acknowledge the inconsistency of the particular requirement, satisfying the procedural requirements of 49 CFR 107.219(c). EOTC further contends that 49 CFR 107.219(a) is meant to apply to each individual requirement contained in the by-law as opposed to the by-law taken as a whole.

EOTC is mistaken in its understanding of 49 CFR 107.219(a). The language contained in 49 CFR 107.219(c), requiring an applicant to acknowledge inconsistency prior to obtaining a non-preemption determination, is not meant to apply selectively to portions of a regulatory scheme where the entire scheme may be the subject of an inconsistency determination. In the present instance, MTB may not waive preemption of specific portions of a licensing scheme unless the entire licensing requirement is first examined to determine whether or not it is inconsistent with the HMTA or the HMR.

Consequently, this proceeding is being initiated in accordance with 49 CFR 107.209(b) to determine whether any or all provisions of the Framingham by-law are inconsistent with the HMTA or the HMR. No action will be taken on the application for a non-preemption determination under this proceeding.

This notice is being issued in conformity with 49 CFR 107.209, and the criteria to be considered in determining whether any inconsistency exists are those set forth therein. As noted previously, these criteria are: whether compliance with both the State or political subdivision requirement and the HMTA or the HMR is possible (§ 107.209(c)(1)), and the extent to which the by-law is an obstacle to the accomplishment and execution of the HMTA and the HMR (§ 107.209(c)(2)).

4. Public Comments

Comments should be restricted to the following issue: whether the Town of Framingham by-law is inconsistent with the HMTA or the HMR.

Since this proceeding is considered by MTB to be one for an inconsistency ruling and not for a preemption determination, comments regarding the effect of the by-law on interstate commerce as the effect relates to a waiver of preemption under 49 U.S.C. 1811(b) are inappropriate at this time and will not be considered.

Persons intending to comment on the application should examine the HMTA (49 U.S.C. 1801–1812); the HMR (49 CFR Parts 171–179); the inconsistency rulings at 44 FR 75566, (on appeal, 45 FR 71881) and 46 FR 18918, (on appeal, 47 FR 18457), the procedures governing the Department's consideration of applications for inconsistency rulings (49 CFR 107.201–107.211); and the Town of Framingham by-law which is provided as Appendix A to this notice.

Issued in Washington, D.C. on January 17, 1984.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation.

Appendix A

At a legal meeting of the qualified voters of the Town of Framingham, held January 27, 1982 the following business was transacted under Article 1.

Article 1. To see if the Town will vote to amend the By-Laws of the Town, Miscellaneous Provisions, by adding thereto the following By-Law:

1. No person shall temporarily store rail cars containing liquified vinyl chloride within the Town of Framingham without first obtaining a license for said purpose from the Board of Selectmen. For purposes of this by-law, (i) a rail car will be deemed stored or in storage if it remains within the Town for more than 24 hours prior to being shipped or sent to its next destination, (ii) temporary storage will be deemed to be any storage of a rail car containing liquified vinyl chloride which has not been delivered to its place of unloading, and (iii) "person" shall include any individual, corporation, partnership, association or other entity. Such a license shall be granted by the Board of Selectmen upon the applicant's fulfillment of the following conditions:

A. The applicant sets aside an area for the storage of such rail cars containing liquified vinyl chloride;

B. The area set aside is bounded by an eight-foot high, chain link fence topped by a least 3 strands of barbed wire, and having a gate with a heavy-duty chain lock;

C. Lights are installed which are capable of illuminating at night the entire area set aside for storage;

D. The designated area contains a paved access lane to an around the storage locations(s) therein sufficient to permit unimpeded access to all parts of the stored rail cars by fire trucks and related emergency apparatus;

E. The applicant provides water service to a point neither less than 100 feet nor more than 150 feet from the designated area sufficient to furnish a flow of 1,000 gallons of water per minute;

F. The applicant provides an additional water supply connected to and servicing two elevated stationary water nozzles capable of delivering water to any point within the area set aside at a minimum flow of 500 gallons of water per minute; and

G. The applicant installs an emergency signaling system at the area set aside for storage capable of sounding an audible alarm to members of the general public at least 2,500 feet from any point in the storage area.

2. The license described in paragraph 1 of this by-law may be suspended or revoked by the Board of Selectmen upon the licensee's failure to:

A. Keep all temporarily stored rail cars containing liquified vinyl chloride under its custody or control inside the area set aside for storage;

B. Keep fewer than 11 of such rail cars in the storage area;

C. Keep the fence surrounding the storage area locked at all times, except to permit the movement of such rail cars and the inspection or testing of rail cars and equipment therein;

D. Keep stored in the area set aside (i) no rail cars other than rail cars containing liquified vinyl chloride, or (ii) no other materials or equipment;

E. Maintain the reasonable security of the storage area, the entrance and lock thereto, the lighting and water supplied thereto, the emergency signal system, and the paved access lane, including keeping this lane free of obstructions and snow and ice;

F. Obtain the consent of the Board of Selectmen prior to making any change to or in the storage area (including the tracks, fence, switches, lighting, water supply and emergency signal system);

G. Cause the storage area to be under on-site observation 24 hours a day;

H. Cause all such rail cars and the storage area to be inspected at least twice daily (for this purpose, two or more inspections with any ten-hour period shall be counted as one inspection) by an individual familiar with the type of rail cars used to store vinyl chloride, and trained in the manner of detecting leaks, spills and excessive or unusual venting therefrom, and cause a log to be kept which shall state therein the date of inspection, the name of the individual making the inspection, the identity by number of each car inspected, and the time of the inspection;

I. Cause a copy of the foregoing log (kept since the previous submission as provided for herein) to be submitted to the Fire Department at least weekly;

J. Notify the Fire Department in writing by noon of each day of any arrivals to or departures from the storage area which occurred on the previous day;

K. Notify the Fire Department immediately of any leak, spill, excessive or unusual venting, explosion or fire involving vinyl chloride; any dents in or other damage to the rail cars; and malfunctioning, defect or need for adjustment or repair in the tracks or within the storage area and any switches thereon, fence, lock, lighting, water supplies, nozzles or emergency signal system; or any derailment or collision involving any such rail car;

L. Keep the storage area illuminated at night;

M. Notify the next intended delivery or storage point of the time of arrival within Framingham of any such rail car under the licensee's custody or control within 24 hours after such arrival;

N. Keep combustible and explosive materials out of the storage area;

O. Test the emergency signal system, the water systems and the lighting system at least once every 60 days, and report to the Fire Chief any failure to pass any of such tests; and

P. Permit the Fire Chief or his designee to inspect at any time the storage area and the protective systems and any such rail cars therein.

Q. Cause the emergency signal to be employed in accordance with procedures established by the Fire Chief.

3. In lieu of or in addition to supending or revoking a license, the Town may assess a fine of $200 for each violation of paragraph 2 hereof.

4. The by-law shall become effective 120 days after it is approved by the Attorney General of the Commonwealth.

Pass any vote or take any action relative thereto.

Sponsor: Board of Selectmen

1/27/82 Voted: that the Town amend the By-Laws of the Town, Miscellaneous Provisions, by adding thereto the by-law which appears in Article 1 of the Special Town Meeting of January 27, 1982.

90 voting in favor. 7 opposed.

A true copy, ATTEST:

Michael J. Ward,

Town Clerk.

[FR Doc. 84-1975 Filed 1-24-84; 8:45 am]

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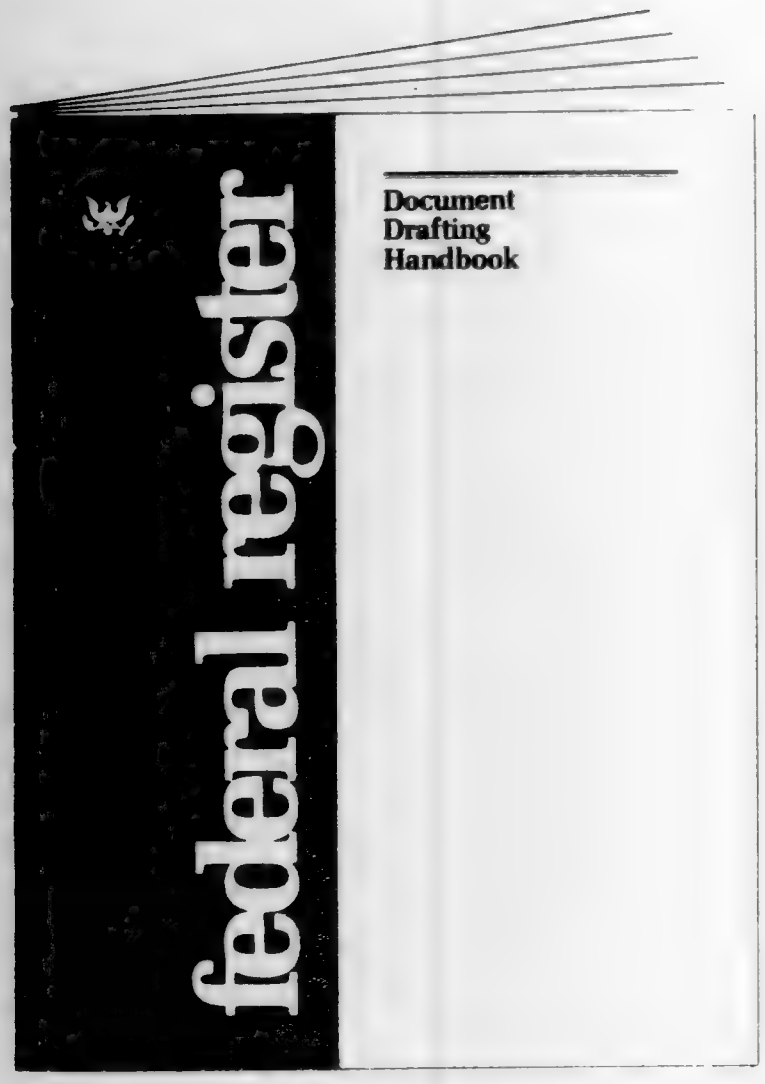

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Presidential Documents

Title 3—

The President

Executive Order 12460 of January 24, 1984

Amendments to the Manual for Courts-Martial, United States, 1969 (Revised Edition)

By the authority vested in me as President by the Constitution of the United States and by Chapter 47 of Title 10 of the United States Code (the Uniform Code of Military Justice), in order to prescribe amendments to the Manual for Courts-Martial, United States, 1969 (Revised edition), prescribed by Executive Order No. 11476, as amended by Executive Order No. 11835, Executive Order No. 12018, Executive Order No. 12198, Executive Order No. 12233, Executive Order No. 12306, Executive Order No. 12315, Executive Order No. 12340, and Executive Order No. 12383, it is hereby ordered as follows:

Section 1. Paragraph 75 of the said Manual for Courts-Martial is amended by adding, after paragraph 75*f*, the following:

"*g. Capital cases.*

"(1) *In general.* Death may be adjudged only when:

"(*a*) Death is expressly authorized under the code and this Manual for an offense of which the accused has been found guilty or is authorized under the law of war for an offense of which the accused has been found guilty under the law of war; and

"(*b*) The requirements of 75*g* (2) and (3) have been met.

"(2) *Procedure.* In addition to the other provisions in 75, the following procedures shall apply in capital cases—

"(*a*) *Notice.* Before arraignment, trial counsel shall give the defense written notice of which aggravating circumstances under 75*g*(3) the prosecution intends to prove. Failure to provide timely notice under this subsection of any aggravating circumstances under 75*g*(3) shall not bar later notice and proof of such additional aggravating circumstances unless the accused demonstrates specific prejudice from such failure and that a continuance or a recess is not an adequate remedy.

"(*b*) *Evidence of aggravating circumstances.* Trial counsel may present evidence in accordance with 75*b*(4) tending to establish one or more of the aggravating circumstances in 75*g*(3).

"(*c*) *Evidence in extenuation and mitigation.* The accused shall be given broad latitude to present evidence in extenuation and mitigation.

"(*d*) *Necessary findings.* Death may not be adjudged unless the members find:

"(i) Beyond a reasonable doubt that one or more of the aggravating circumstances under 75*g*(3) existed; and

"(ii) That any extenuating or mitigating circumstances are substantially outweighed by any aggravating circumstances including such circumstances under 75*g*(3) as the members have found existed.

"(*e*) *Basis for findings.* The findings in 75*g*(2)(*d*) may be based on evidence introduced before the findings on the issue of guilt, during the sentencing proceeding, or both.

"(*f*) *Instructions.* In addition to the instructions required under 76*b*(1), the military judge shall instruct the members on such aggravating circumstances under 75*g*(3) as may be in issue in the case and on the requirements and

procedures under 75*g*(2) (*d*), (*e*), (*g*), and (*h*). The military judge shall instruct the members that they must consider all evidence in extenuation and mitigation before they may adjudge death.

"(*g*) *Voting.* In closed session, before voting on a sentence, the members shall vote by secret written ballot separately on each aggravating circumstance under 75*g*(3) on which they have been instructed. Death may not be adjudged unless all members concur in a finding of the existence of at least one such aggravating circumstance. After voting on all the circumstances on which they have been instructed, the members shall vote on a sentence in accordance with 76*b* (2) and (3).

"(*h*) *Announcement.* If death is adjudged, the president shall, in addition to complying with 76*c*, announce which aggravating circumstances under 75*g*(3) were found by the members.

"(*3*) *Aggravating circumstances.* Death may be adjudged only if the members find, beyond a reasonable doubt, one or more of the following aggravating circumstances:

"(*a*) That the offense was committed before or in the presence of the enemy, except that this circumstances shall not apply in the case of a violation of Article 118 or 120;

"(*b*) That in committing the offense the accused intended to:

"(i) cause substantial damage to the national security of the United States; or

"(ii) cause substantial damage to a mission, system, or function of the United States, provided that this subparagraph shall apply only if substantial damage to the national security of the United States would have resulted had the intended damage been effected;

"(*c*) That the offense caused substantial damage to the national security of the United States, whether or not the accused intended such damage, except that this circumstance shall not apply in the case of a violation of Article 118 or 120;

"(*d*) That the offense was committed in such a way or under circumstances that the lives of persons other than the victim, if any, were unlawfully and substantially endangered, except that this circumstance shall not apply to a violation of Article 120;

"(*e*) That the accused committed the offense with the intent to avoid hazardous duty;

"(*f*) That, only in the case of a violation of Article 118 or 120, the offense was committed in time of war and in territory in which the United States or an ally of the United States was then an occupying power or in which the armed forces of the United States were then engaged in active hostilities;

"(*g*) That, only in the case of a violation of Article 118(1):

"(i) The accused was serving a sentence of confinement for 30 years or more or for life at the time of the murder;

"(ii) The murder was committed while the accused was engaged in the commission or attempted commission of any robbery, rape, aggravated arson, sodomy, burglary, kidnapping, mutiny, sedition, or piracy of an aircraft or vessel, or was engaged in flight or attempted flight after the commission or attempted commission of any such offense;

"(iii) The murder was committed for the purpose of receiving money or a thing of value;

"(iv) The accused procured another by means of compulsion, coercion, or a promise of an advantage, a service, or a thing of value to commit the murder;

"(v) The murder was committed with the intent to avoid or to prevent lawful apprehension or effect an escape from custody or confinement;

"(vi) The victim was the President of the United States, the President-elect, the Vice President, or, if there was no Vice President, the officer next in the order of succession to the office of President of the United States, the Vice-President-elect, or any individual who is acting as President under the Constitution and laws of the United States, any Member of Congress or Member-of-Congress elect, or any judge of the United States;

"(vii) The accused then knew that the victim was any of the following persons in the execution of office: a commissioned, warrant, noncommissioned, or petty officer of the armed services of the United States; a member of any law enforcement or security activity or agency, military or civilian, including correctional custody personnel; or any firefighter;

"(viii) The murder was committed with intent to obstruct justice;

"(ix) The murder was preceded by the intentional infliction of substantial physical harm or prolonged, substantial mental or physical pain and suffering to the victim; or

"(x) The accused has been found guilty in the same case of another violation of Article 118;

"For purposes of this paragraph, 'national security' means the national defense and foreign relations of the United States and specifically includes: (*a*) a military or defense advantage over any foreign nation or group of nations, (*b*) a favorable foreign relations position, or (*c*) a defense posture capable of successfully resisting hostile or destructive action from within or without, overt or covert. Examples of substantial damage to the national security of the United States may include: impeding the performance of a combat mission or operation; impeding the performance of an important mission in a place subject to hostile fire or imminent danger pay (*see* 37 U.S.C. section 310(a)) and disclosing military plans, capabilities, or intelligence such as to jeopardize any combat mission or operation of the armed services of the United States or its allies or to materially aid an enemy of the United States.

"(*h*) That only in the case of a violation of Article 118(4), the accused was the actual perpetrator of the killing;

"(*i*) That, only in the case of a violation of Article 120:

"(i) The victim was under the age of 12; or

"(ii) The accused maimed or attempted to kill the victim; or

"(*j*) That, only in the case of a violation of the law of war, death is authorized under the law of war for the offense.

"(4) *Spying.* If the accused has been found guilty of spying under Article 106, 75*g*(1)(*b*), (2), and (3), and 76 shall not apply. Sentencing proceedings in accordance with 75 *a* through *f* shall be conducted, but the military judge shall announce that by operation of law a sentence of death has been adjudged."

Sec. 2. Paragraph 76*b*(1) is amended by adding in the first sentence after the language "in 76*b*(2) and 76*b*(3)," the following language:

"and, in capital cases, 75*g*(2)(*g*),"

Sec. 3. Paragraph 76*b*(3) is amended by adding after the first sentence the following language:

"*See* 75*g*(2)(*g*)."

Sec. 4. Paragraph 126*a* is amended by adding after the third sentence in the second paragraph the following language:

"*See* 75*g*."

Sec. 5. Paragraph 126*b* is amended by adding after the language "by the code" the second time it appears, the following language:

"and this Manual"

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Sec. 6. These amendments shall be effective immediately. These amendments shall apply in trials of capital offenses committed on or after this date.

Sec. 7. The Secretary of Defense, on behalf of the President, shall transmit a copy of this Order to the Congress of the United States in accord with Section 836 of Title 10 of the United States Code.

Ronald Reagan

THE WHITE HOUSE,
January 24, 1984.

[FR Doc. 84-2422
Filed 1-25-84; 11:52 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 49, No. 18
Thursday, January 26, 1984

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 83-329]

Khapra Beetle; Interim Rule

Correction

In FR Doc. 84-994 begining on page 1872 in the issue of Monday, January 16, 1984, make the following corrections:

1. On page 1876, first column, six lines from the bottom, "Section 319.75-22 is revised" should have read "Section 319.75-2 is revised".

2. In the same column, four lines from the bottom, the section now designated as § 319.75.2 should have been designated § 319.75-2.

BILLING CODE 1505-01-M

Agricultural Marketing Service

7 CFR Part 906

Oranges and Grapefruit Grown in Texas; Special Purpose Exemption

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Finalization of interim rule.

SUMMARY: The Department of Agriculture issued an interim rule (48 FR 50501, November 2, 1983) on October 28, 1983 amending § 906.120 to permit shipment of Texas oranges and grapefruit mixed with other kinds of fruit, such as apples and avocados, exempt from certain container and pack requirements under certain conditions. This interim rule became effective November 2, 1983, and provided for public comment through December 2, 1983. No comments were received during the 30 days provided, and the Department has decided to leave the rule in effect as previously issued.

EFFECTIVE DATE: February 27, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975.

SUPPLEMENTARY INFORMATION: This action has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: January 20, 1984.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84-2154 Filed 1-25-84; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 806

[Docket No. 40104-02]

Surveys of Foreign Direct Investment in the United States

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Final rule.

SUMMARY: These amendments to the rules put into effect the following changes:

(1) Raise the exemption level for Forms BE-605 and BE-606B from $5,000,000 to $10,000,000.

(2) Raise the exemption level for Form BE-15 from $5,000,000 to $10,000,000 and eliminate the 1,000 acre exemption level from the criteria.

The purpose of these changes is to effect a reduction in the number of reports filed by U.S. affiliates of foreign persons and thereby reduce the reporting burden.

EFFECTIVE DATE: The changes relating to Forms BE-605 and BE-606B will be effective commencing on January 1, 1984 for reports covering reporting periods occurring in 1984. The changes relating to the BE-15 report will be effective with the reports due to be filed in 1984 covering U.S. affiliates' 1983 fiscal year.

FOR FURTHER INFORMATION CONTACT: George R. Kruer, Chief, International Investment Division, Bureau of Economic Analysis, U.S. Department of Commerce, Washington, D.C. 20230, (202) 523-0657.

SUPPLEMENTARY INFORMATION: In the November 21, 1983 **Federal Register**, Volume 48, No. 225 (48 FR 52591), BEA published a notice of its intent to change the rules and soliciting comments on the proposed rule changes. No comments were received and these final rule changes are the same as the proposed rule changes.

No other changes are being made to any of the three report forms. However, a printed exemption claim (form BE-15, Supplement C) for use with the BE-15 annual survey has been prepared. It is BEA's intention to send BE-15 forms each year to those U.S. affiliates that are just below the exemption level, on the assumption that some of them may have gone above the exemption during the year and thus would be required to report. Those business enterprises that are still exempt or not covered may simply check the appropriate box (no longer foreign owned, still below exemption level, etc.), give the information requested, as appropriate, and return the exemption claim. (Those that are still U.S. affiliates but that fall below the exemption level will be required to enter the value of the three items on which the exemption criteria are based—assets, sales and net income—and the number of acres of land owned.)

The requirement that a U.S. affiliate that owns 1,000 acres or more of U.S. land must report regardless of the value of its assets, sales, or net income, is being dropped, as noted above. A number of these affiliates will nevertheless be mailed BE-15 forms each year in case they have gone above the new dollar exemption level and thus would be required to report. If they do not have to report, they must file the BE-15 exemption claim form, as described in the preceding paragraph. By requesting the amount of land owned along with assets, sales, and net income on the exemption claim form, BEA will be able to monitor the effect on the data series of the removal of the special acreage reporting criterion.

It is not incumbent on U.S. affiliates that are exempt, but that are not contacted by BEA, to secure and file a BE–15 exemption claim form each year. Only those U.S. business enterprises contacted by BEA and that are not required to file a BE–15 report must file the exemption claim.

As to the BE–605 and BE–606B, there is no printed exemption claim form and U.S. affiliates that are exempt, but not contacted by BEA, do not have to file an exemption claim. Those contacted by BEA must respond, either by filing the appropriate form or by certifying that they are exempt—see § 806.15(g).

The Bureau of Economic Analysis has determined that these final rule changes are not "major" under Executive Order 12291. The public use burden will be undertaken within the Department of Commerce allocated FY 1984 Information Collection Budget ceiling.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to the preparation of a regulatory flexibility analysis are not applicable to these final rule changes because the exemption level is being increased, thereby eliminating the reporting requirement for a number of small entities.

Accordingly, the General Counsel, Department of Commerce, has certified under provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that these final rule changes will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 15 CFR Part 806

Economic statistics, Foreign investment in the United States, Penalties, Reporting and recordkeeping requirements.

Authority: 5 U.S.C. 301, 22 U.S.C. 3101–3108, and Executive Order 11961.

Part 806 is therefore amended as set forth below.

George Jaszi,

Director, BEA.

PART 806—[AMENDED]

15 CFR Part 806 is amended as follows:

1. In § 806.15, present paragraphs (h) and (i) are revised to read as follows:

§ 806.15 Foreign direct investment in the United States.

* * * * *

(h) *Quarterly report forms.* (1) BE–605—Transactions of U.S. Affiliate, Except an Unincorporated Bank, with Foreign Parent: One report is required for each U.S. affiliate exceeding an exemption level of $10,000,000.

(2) BE–606B—Transactions of U.S. Banking Branch or Agency with Foreign Parent: One report is required for each U.S. banking affiliate exceeding an exemption level of $10,000,000.

(i) Annual report form. BE–15—Annual Survey of Foreign Direct Investment in the United States: One report is required for each consolidated U.S. affiliate, except a bank, exceeding an exemption level of $10,000,000. U.S. affiliates that are banks are exempt from the reporting requirements of this survey.

* * * * *

[FR Doc. 84–2014 Filed 1–25–84; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 800

[Docket No. 77N–0218]

Administrative Detention Procedures; Conforming Amendments

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations for administrative detention procedures for medical devices to conform them to the agency's administrative practices and procedures regulations.

EFFECTIVE DATE: January 26, 1984.

FOR FURTHER INFORMATION CONTACT: Tenny P. Neprud, Regulations Policy Staff (HFC–10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3480.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 9, 1979 (44 FR 13234), FDA issued final regulations establishing administrative detention procedures for medical devices. Section 800.55 (21 CFR 800.55) of those regulations contained several cross-references to certain sections of the administrative practices and procedures regulations in 21 CFR Part 16. In the **Federal Register** of April 13, 1979 (44 FR 22318), FDA revised its administrative practices and procedures regulations. The April 13, 1979 final rule, however, did not update the cross-references in § 800.55. This document corrects that oversight.

Because these are merely conforming amendments that update several cross-references, notice and public procedure are unnecessary in accordance with 5 U.S.C. 553(b)(B).

List of Subjects in 21 CFR Part 800

Administrative detention, Administrative practices and procedures, Medical devices.

PART 800—GENERAL

§ 800.55 [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 800 is amended in § 800.55 *Administrative detention* in paragraph (g)(3)(i) by revising "§ 16.24(a)" to read "§ 16.22(a)"; in paragraph (g)(3)(ii) by removing ", not to the presiding officer as provided in the second sentence of § 16.24(b) of this chapter"; in paragraph (g)(3)(iii) by revising "§ 16.24(c)" to read "§ 16.24(e)"; in paragraph (g)(3)(iv) by revising "§ 16.40(a)" to read "§ 16.42(a)"; and in paragraph (g)(4) by revising "§ 16.40(b)" to read "§ 16.42(a)".

Effective date. January 26, 1984.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: January 20, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–2110 Filed 1–25–84; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 890

[Docket No. R–84 1012; FR–1658]

Lower Income Housing; Annual Contributions for Operating Subsidy: Performance Funding System

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Final rule.

SUMMARY: On August 26, 1982 (47 FR 37378), HUD published an interim rule amending regulations governing the Performance Funding System (24 CFR Part 890), which is used by HUD to determine the amount of the Annual Contributions for Operating Subsidy made to each public housing agency (PHA). The interim rule modified the method for developing the inflation factor used each fiscal year to update the Allowable Expense Level for each PHA, and provided for a one-time retrospective adjustment permitting PHAs to calculate their 1982 operating subsidy based on an Allowable Expense

Level that compensated for inadequacies in the inflation factors in previous years.

This rule adopts the interim rule as final, with minor technical changes in § 890.105 removing language made obsolete by the interim rule and making a few other technical changes.

EFFECTIVE DATE: March 8, 1984.

FOR FURTHER INFORMATION CONTACT: John Comerford, Fiscal Management Division, Room 4218, Office of Public Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, telephone (202) 426–1872. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Section 9(a) of the United States Housing Act of 1937 (42 U.S.C. 1437g) authorizes the Secretary of HUD to make annual contributions to public housing agencies for the operation of PHA-owned rental housing (Annual Contributions for Operating Subsidy). Section 9(a) also authorizes the Secretary to "* * * establish standards for costs of operation and reasonable projections of income * * *" for recipient PHAs.

24 CFR Part 890, Subpart A, establishes the Performance Funding System (PFS) under which HUD determines the amount of operating subsidy disbursed to a PHA, based upon the amount of subsidy which would be needed for well-managed projects. To make this determination, HUD calculates the difference between the projected expenses and the projected operating income of the PHA. Projected expenses (other than utilities and the expenses allowed under § 890.108) are determined in accordance with § 890.105, which provides for computation of a PHA's "Allowable Expense Level (AEL)." To compute its AEL for a requested fiscal year, a PHA adjusts the preceding year's AEL for inflation, based upon an inflation factor determined and supplied by HUD, as well as for changes in its housing stock.

On August 26, 1982 (47 FR 37378), HUD published in the **Federal Register** an interim rule amending § 890.102 and § 890.105 to modify various aspects of the inflation factor adjustment. The interim rule made two significant changes: It expanded the inflation factor to include non-wage expenses based on an implicit price deflator for State and local government purchases of goods and services, and it provided for a one-time retrospective adjustment that permitted PHAs to calculate their 1982 operating subsidy eligibility on the basis of an AEL that compensated for the inadequacies of inflation factors from earlier years.

This rule adopts the interim rule as final, with only technical changes. Each of these technical changes is designed to remove language made obsolete by the publication of the interim rule or to clarify ambiguous material.

The first of these technical amendments replaces the obsolete term "Local Government Wages Inflation Factor" with the currently used term "Local Inflation Factor" wherever applicable. In the interim rule, the latter was inserted into several paragraphs of § 890.105; however, because of a drafting oversight, this change was not effected throughout § 890.105. The final rule corrects that error by inserting the corrrect term throughout the section.

The interim rule also amended §890.105(e) to remove the provisions regarding reapplication of the range test. Removal of those provisions should have been accompanied by the removal of the two examples following § 890.105(e) (numbers 2 and 3), which were meant to illustrate various aspects of the reapplication of the range test. However, this was not done, and the obsolete provisions were included in the revised section. This final rule corrects that mistake by deleting Example 2 and Example 3 from § 890.105.

This final rule also contains amendments to § 890.105(c) to clarify the use of the Formula Expense Level. It also clarifies an ambiguity contained in paragraph (c)(3) about whether or not the Local Inflation Factor is applied twice in the calculation of the Allowable Expense Level after the difference between the Formula Expense Levels for the current and requested years is derived. It is applied only once, since the difference between the Formula Expense Levels for the two years (the "delta") already reflects the application of the inflation factor to each year's data.

The Department usually takes this opportunity to respond to public comments received in response to publication of an interim rule. However, no public comments were submitted during the 60-day comment period.

Other Matters

On September 7, 1983, the Secretary signed a delegation of authority published in the **Federal Register** on September 13, 1983 (48 FR 41097) transferring responsibility for all public and Indian Housing programs to a new office, the Assistant Secretary for Public and Indian Housing. Accordingly, the public is advised to direct inquiries to that office, through the contact person identified in this rule.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implements Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the General Counsel, Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, D.C. 20410.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned certifies that this rule does not have a significant economic impact on a substantial number of small entities because, if anything, it will result in a slight increase in the funding available to PHAs.

This rule was not listed in the Department's Semiannual Agenda of Regulations published on October 17, 1983 (48 FR 47417) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program number is 14.146, Low Income Housing Assistance Program (Public Housing).

List of Subjects in 24 CFR Part 890

Grant programs: Housing and community development, Low and moderate income housing, Public housing.

Accordingly, 24 CFR Part 890 is amended as follows:

PART 890—ANNUAL CONTRIBUTIONS FOR OPERATING SUBSIDY

Subpart A—Performance Funding System

1. The amendment to § 890.102 published as an interim rule on August 26, 1982 (47 FR 37378) is adopted as final with the following additional change: in § 890.102(f), change "§ 890.105(b)." to "§ 890.105(c)."

2. Section 890.105 is revised to read as follows:

§ 890.105 Computation of allowable expense level.

The PHA shall compute its Allowable Expense Level using forms prescribed by HUD, as follows:

(a) *Computation of Base Year Expense Level.* The Base Year Expense Level includes Payments in Lieu of Taxes (PILOT) required by a Cooperation Agreement even if PILOT is not included in the approved Operating Budget for the Base Year because of a waiver of the requirements by the local taxing jurisdiction(s). The Base Year Expense Level includes all other operating expenditures as reflected in the PHA's Operating Budget for the Base Year approved by HUD except the following: (1) Utilities expense; (2) cost of biennial IPA audits; (3) adjustments applicable to budget years before the Base Year; (4) expenditures supported by supplemental subsidy payments applicable to budget years before the Base Year; (5) all other expenditures which are not normal fiscal year expenditures as to amount or as to the purpose for which expended; and (6) expenditures which were funded from a nonrecurring source of income.

(b) *Adjustment.* In compliance with the above six exclusions, the PHA shall adjust the Allowable Expense Level by excluding any of these items from the Base Year Expense Level if this has not already been accomplished. If such adjustment is made in the second or some subsequent fiscal year of the PFS, the Allowable Expense Level shall be adjusted in the year in which the adjustment is made, but the adjustment shall not be applied retroactively. If the PHA does not make these adjustments, the HUD Field Office shall compute the adjustments.

(c) *Computation of Formula Expense Level.* The PHA shall compute its Formula Expense Level in accordance with a HUD prescribed formula that estimates the cost of operating an average unit in a particular PHA's inventory. The Formula takes into account such data as the average number of bedrooms per unit, the average age of buildings, the average height of buildings, and the relative regional operating cost. It uses weights and a Local Inflation Factor assigned each year to derive a Formula Expense Level for the current year and the requested budget year. The weights of the Formula and the Formula published in the Interim Rule on April 16, 1975, at FR 17008 apply to PHA fiscal years beginning April 1, 1975 and July 1, 1975. The weights of the Formula published in the Final Rule on January 15, 1976, at 41 FR 2344 superseded the weights published in the Interim Rule and were applicable to PHA fiscal years beginning October 1, 1975, January 1, 1976, April 1, 1976 and July 1, 1976. PHAs were notified directly of the updating of the weights of the Formula for subsequent fiscal years. The weights of the Formula and the Formula itself are subject to updating by HUD annually or at any other time. This updating will be accomplished by publication in the **Federal Register**, or by notification given directly to PHAs, whichever is considered appropriate.

(d) *Range.* The PHA's Range is the spread from $10.31 below to $10.31 above its Formula Expense Level for its Base Year. The figure $10.31 applies to PHAs until revised by HUD.

(e) *Computation of Allowable Expense Level.* The PHA shall compute its Allowable Expense Level as follows:

(1) *Allowable Expense Level for first budget year under PFS where Base Year Expense Level does not exceed top limit of Range.* Every PHA whose Base Year Expense Level is below the top limit of the Range shall compute its Allowable Expense Level for the first budget year under PFS by adding the following to its Base Year Expense Level (before adjustment under § 890.110 (a) or (b)):

(i) Any increase approved by HUD in accordance with § 890.110 (a) or (b);

(ii) The increase (decrease) between the Formula Expense Level for the Base Year and the Formula Expense Level for the first budget year under PFS; and

(iii) The sum of the Base Year Expense Level, and any amounts described in paragraphs (e)(1) (i) and (ii) of this section multiplied by the Local Inflation Factor.

(2) *Allowable Expense Level for first budget year under PFS where Base Year Expense Level is above the top of the Range.* Every PHA whose Base Year Expense Level is above the top of the Range shall compute its Allowable Expense Level for the first budget year under PFS by adding the following to its top limit of the Range (not to its Base Year Expense Level, as in paragraph (e)(1) of the section):

(i) The increase (decrease) between the Formual Expense Level for the Base Year and the Formula Expense Level or the first budget year under PFS;

(ii) The sum of the figure equal to the top limit of its Range and the increase (decrease) described in paragraph (e)(2)(i) of this section, multiplied by the Local Inflation Factor. (If the Base Year Expense Level is above the Allowable Expense Level, computed as provided above, the PHA may be eligible for Transition Funding under § 890.106.)

(3) *Allowable Expense Level for budget years after first budget year under PFS.* For each budget year after the first budget year under PFS, the Allowable Expense Level will be equal to the Allowable Expense Level for the previous budget year, which includes the amount of the HUD-approved Increase of Base Year Expense Level (reference: § 890.110), increased (or decreased) by the following:

(i) The increase (decrease) between the Formula Expense Level for the previous budget year and the Formula Expense Level for the Requested Budget Year; and

(ii) The sum of the Allowable Expense Level for the previous budget year and the increase (decrease) in paragraph (e)(3)(l) of this section multiplied by the Local Inflation Factor.

Example: Assume that the Allowable Expense Level for the first budget year under PFS (year 1) is $43.20.

Year 2. Assume that the Formula Expense Level of the PHA for the second budget year under PFS (Year 2) is $1.50 higher than the Formula Expense Level for Year 1. (Note that the weights or other aspects of the Formula may have been revised, in which case the revised Formula would be applied to both the Year 1 data and the Year 2 data to obtain difference; the $1.50 assumed difference would be due to changes in PHA data as to the Formula variables between Year 1 and Year 2.) Assume that the applicable Local Inflation Factor is 9 percent. The Allowable Expense Level for Year 2 is $48.72, computed as follows: $43.20 (Allowable Expense Level for Year 1, which is not changed regardless of any changes by HUD to the Formula used for the Year 2 computation) plus $1.50 (increase in Formula Expense Level between Year 1 and Year 2) plus $4.02 (9% Local Inflation Factor times $44.70).

Year 3. Assume that the Formula Expense Level for Year 3 decreases $1.00 from that for Year 2 (due to changes in the PHA's data as to the Formula variables) and the applicable Local Inflation Factor is 8%. The Allowable Expense Level for Year 3 is $51.54, computed as follows: $48.72 (Allowable Expense Level for Year 2) minus $1.00 (decrease in Formula Expense Level) plus $3.82 (8% x $47.72).

Year 4. Assume that the Formula Expense Level for Year 4 is $.50 above the Formula Expense Level for Year 3. Assume the applicable Local Inflation Factor is 7%. The Allowable Expense Level for Year 4 is $55.68. computed as follows: $51.54 (Allowable Expense Level for Year 3) plus $.50 (increase in Formula Expense Level) plus $3.64 (7% x $52.04).

PHA Fiscal Year Beginning October 1, 1977

(Calculation of allowable expense level for PHA fiscal year beginning Oct. 1, 1977)

1. Allowable Expense Level for PHA fiscal year beginning Oct. 1, 1976	$43.20
2. Delta: Increase (Decrease) in Formula Expense Levels as have been calculated for PHA fiscal years beginning Oct. 1, 1976 and Oct. 1, 1977	1.50
3. Sum (Line 1 plus Line 2)	44.70

PHA Fiscal Year Beginning October 1, 1977— Continued

[Calculation of allowable expense level for PHA fiscal year beginning Oct. 1, 1977]

4. Local Inflation Factor	.09
5. Product (Line 3 times Line 4)	4.02
6. Allowable Expense Level for PHA fiscal year beginning Oct. 1, 1977 (Line 3 plus Line 5)	48.72

It should be noted that the increases in population and updated PHA characteristics have been reflected in the respective Formula Expense Levels involving Line 2, above. The same Formula, weights, constant, and Local Inflation Factor which were applied to determine operating subsidy eligibility for the PHA's fiscal year beginning October 1, 1976, are applied to determine operating subsidy eligibility for its fiscal year beginning October 1, 1977. It is stressed that such elements are now applied to the characteristics of the PHA in its fiscal years beginning October 1, 1976, and October 1, 1977. Also, the same inflation factor applied to calculate the Formula Expense Levels is applied to the sum of the difference between the Formula Expense Levels (delta) and the Allowable Expense Level for the current year, reflected in Line 5 of the example.

(4) *Adjustment of Allowable Expense Level for budget years after the first budget year under PFS.* HUD may adjust the Allowable Expense Level of budget years after the first year under PFS under the provisions of § 890.105(b) or § 890.108(c).

(f) *Retrospective adjustment.* A PHA may apply a one-time retrospective adjustment to its Allowable Expense Level to compensate for the inadequacy of the inflation factors used in the PFS in the Federal fiscal years 1977 through 1981. This adjustment has the effect of increasing the non-utility portion of the Allowable Expense Level to a level that would have resulted if the proper percentages derived from the combined inflation factor had been used in those years. This adjustment is to be applied to the HUD approved Allowable Expense Level Per Unit Month (PUM) amount for PHA fiscal years beginning January 1, 1981, April 1, 1981, July 1, 1981, or October 1, 1981. Even though the adjustment is termed retrospective, it does not provide additional operating subsidy eligibility for PHA fiscal years before those beginning January 1, 1982. This adjustment shall be applied as follows:

(1) A PHA: (i) In operation during the PHA fiscal year beginning January 1, 1977, April 1, 1977, July 1, 1977, or October 1, 1977; or (ii) that started operation after these fiscal years but before the PHA fiscal year of January 1, 1982, April 1, 1982, July 1, 1982, or October 1, 1982; and (iii) that used a comparable PHA's Allowable Expense Level, shall apply the retrospective adjustment percentage provided by HUD.

(2) A PHA that entered operation during the PHA fiscal year beginning January 1, 1978, April 1, 1978, July 1, 1978, or October 1, 1978 but before the PHA fiscal year beginning January 1, 1982, April 1, 1982, July 1, 1982, or October 1, 1982, and that computed its own Allowable Expense Level for purposes of the PFS calculation, shall request the appropriate adjustment percentage from HUD, which will reflect the number of years the PHA has been in operation. This adjustment percentage shall be applied in accordance with this regulation.

(3) A PHA that starts operation during the PHA fiscal year beginning January 1, 1982, April 1, 1982, July 1, 1982, or October 1, 1982, or thereafter, shall not apply an adjustment since its beginning Allowable Expense Level will properly reflect the Local Inflation Factor.

Authority: Section 9, United States Housing Act of 1937 (42 U.S.C. 1437g); Sec. 201(b), Housing and Community Development Act of 1974 (42 U.S.C. 1437 note); Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

Dated: January 18, 1984.

Samuel R. Pierce, Jr.,

Secretary for Housing and Urban Development.

[FR Doc. 84-2149 Filed 1-25-84; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 55

[T.D. 7936]

Real Estate Investment Trusts and Regulated Investment Companies

Correction

In FR Doc. 84-1375 beginning on page 2104 in the issue of Wednesday, January 18, 1984, make the following corrections:

1. On the same page, column two, SUPPLEMENTARY INFORMATION, paragraph three, line two, "92 Stat. 2448" should read "92 Stat. 2848".

§ 1.860-2 [Corrected]

2. On page 2107, column three, § 1.860-2(a)(5), line eight, "857(b)(3)(c)" should read "852(b)(3)(C)" and in line nine, "857(b)(3)(c)" should read "857(b)(3)(C)".

BILLING CODE 1505-01-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 0

[Civil Division Directive No. 158-83]

Further Revision of Civil Division Directive No. 145-81

Correction

In FR Doc. 83-30995 appearing on page 52449 in the issue of Friday, November 18, 1983, the **EFFECTIVE DATE** which read "February 23, 1984" should have read "February 23, 1983".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 80

[CG-81-087]

Navigation Rules for Puget Sound and Adjacent Waters of Northwest Washington

AGENCY: Coast Guard, DOT.

ACTION: Affirmation of interim rule.

SUMMARY: On December 17, 1981, the Coast Guard published an interim final rule in the **Federal Register** (46 FR 61456) making the International Regulations for Preventing Collisions at Sea, 1972, (72 COLREGS) applicable to the waters in Northwest Washington. A subsequent correction was published on January 25, 1982 at 47 FR 3351. The interim final rule, contained in Part 80 of Title 33 Code of Federal Regulations, was effective on December 24, 1981, and since that date the 72 COLREGS have been in force on all waters in Northwest Washington. This document makes that change permanent.

EFFECTIVE DATE: December 24, 1981.

FOR FURTHER INFORMATION CONTACT: CDR Roger Pike, Port Safety Branch, Thirteenth Coast Guard District, 912 2nd Ave., Seattle, Washington 98174 (206) 442-5537.

SUPPLEMENTARY INFORMATION: The Interim Final Rule, published as §§ 80.1385, 80.1390 and 80.1395, of Title 33, Code of Federal Regulations provides for the applicability of the 72 COLREGS, to Puget Sound and adjacent waters of Northwest Washington. The interim rule became effective on December 24, 1981, and has resulted in the application of identical or very similar navigation rules in both Canadian and United States waters of Northwest Washington. The 72

COLREGS are now applied to the Strait of Juan de Fuca, Haro Strait, the Strait of Georgia, Lake Union, Lake Washington, Hood Canal, and all adjacent waters.

The uniformity of navigational rules throughout this area effectively enhances the safety of all vessels operating in these waters. No comments have been received and no objections have been raised to the interim rule. Therefore, the Interim Final Rule published in Part 80 of Title 33, Code of Federal Regulations is hereby affirmed and shall remain in effect.

DRAFTING INFORMATION

The drafters of this regulation are CDR Roger Pike, USCGR, Project Officer, LT James R. Woeppel, Project Attorney, Thirteenth Coast Guard District Legal Office and LT David Shippert, Office of Chief Counsel.

ECONOMIC ASSESSMENT AND CERTIFICATION

This Affirmation of Interim Final Rule is considered to be non-major under Executive Order 12291 and nonsignificant under the DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this Affirmation of Interim Final Rule has been found to be so minimal that further evaluation is unnecessary since only a change in navigational rules of the road is involved and any costs associated with changing navigational lights, as discussed in the Interim Final Rule, have already been incurred. Since the impact of this Affirmation of Interim Final Rule is expected to be minimal, the Coast Guard certifies that it will not have a signficant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 80

Navigation (water), COLREGS Demarcation Lines.

Final Regulation

In consideration of the foregoing Part 80 of Title 33, Code of Federal Regulations §§ 80.1385, 80.1390 and 80.1395 published as interim rules (46 FR 61456, 47 FR 3351) are adopted as final.

Dated: December 27, 1983.

T. J. Wojnar,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation.

[FR Doc. 84-2203 Filed 1-25-84; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD5-83-05]

Drawbridge Operation Regulations; Eastern Branch, Elizabeth River, Norfolk, Virginia

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Norfolk and Western Railway Company, the Coast Guard is changing the regulations governing the operation of the railroad drawbridge across the Eastern Branch of the Elizabeth River, Mile 2.7, at Norfolk, Virginia, by requiring that advance notice of opening be given between 10 p.m. and 6 a.m. The change is being made because of the small number of requests for opening the draw during those hours. This action should relieve the bridge owner of the burden of having a person constantly available to open the draw, while still providing for the reasonable needs of navigation.

EFFECTIVE DATE: This amendment becomes effective on February 27, 1984.

FOR FURTHER INFORMATION CONTACT: W. A. Pratt, Bridge Specialist, Aids to Navigation Division, Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Virginia 23705, (804) 398-6227.

SUPPLEMENTARY INFORMATION: On August 25, 1983, the Coast Guard published a proposed rule (48 FR 38655) concerning the amendment. The Commander, Fifth Coast Guard District, also published this proposal in Public Notice (5-549) dated August 11, 1983, which was included in Local Notice to Mariners No. 33 dated August 16, 1983. In each notice, interested persons were given until October 11, 1983 to submit comments.

Drafting Information

The principal persons involved in drafting this rule are William A. Pratt, Project Officer, and Lt. Walter J. Brundzinski, Project Attorney.

Discussion of Comments

The regulations will require advance notice from 10:00 PM to 6:00 AM. Advance notice of at least three hours is required for an opening during this period. At all other times, the bridge will open on signal for the passage of vessels. The Public Notice produced two responses from persons interested in the operation of the drawbridge. They recommended that the bridge be maintained in the open position except for the passage of trains. This suggestion is impracticable, as records show as many as twenty trains using this bridge in a single day.

The decision to establish this regulation is based on the fact that records indicate the effect on marine traffic would be minimal.

Economic Assessment and Certification

This final regulation has been reviewed under the provisions of Executive Order 12291 and has been determined not to be a major rule. In addition, this regulation is considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5-22-80). An economic evaluation has not been conducted since, for the reasons discussed above, its impact is expected to be minimal. In accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is certified that this rule will not have a significant economic impact on a substantial number of small entities for the reasons discussed above.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—[AMENDED]

Final Regulation

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by adding a new paragraph (f) (24-a) to § 117.245 to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of drawtenders is not required.

* * * * *

(f) *Waterways discharging into Chesapeake Bay.*

* * * * *

(24-a) Elizabeth River, Eastern Branch, Va.; the draw of Norfolk and Western Railroad Bridge, Mile 2.7, at Norfolk, shall open on signal except that from 10:00 p.m. to 6:00 a.m. the draw shall open on signal if at least three hours advance notice is given.

* * * * *

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46 (c)(5); 33 CFR 1.05-1(g)(3))

Dated: January 12, 1984.

John D. Costello,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 84-2233 Filed 1-25-84; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD3 83-066]

Drawbridge Operation Regulations: Brandywine River (Creek), Delaware

AGENCY: Coast Guard, DOT.

ACTION: Final rule; revocation.

SUMMARY: This amendment revokes the regulations for the Seventh Street drawbridge, mile 0.1, over the Brandywine River at Wilmington, Delaware, because the bridge has been removed. Notice and public procedure have been omitted from this action due to the removal of the bridge concerned.

EFFECTIVE DATE: January 26, 1984.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, Third Coast Guard District (212) 668-7994.

SUPPLEMENTARY INFORMATION: This action has no economic consequences. It merely revokes regulations that are now meaningless because they pertain to a drawbridge that no longer exists. Consequently, this action cannot be considered to be a major rule under Executive Order 12291. Furthermore, it has been found to be nonsignificant under the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5-2-80), and does not warrant preparation of an economic evaluation. Because no notice of proposed rulemaking is required under 5 U.S.C. 553, this action is exempt from the Regulatory Flexibility Act (5 U.S.C. 605(b)). However, this action will not have a significant effect on a substantial number of small entities.

Drafting Information

The drafters of this document are Ernest J. Feemster, project manager, and Mary Ann Arisman, project attroney.

List of Subjects in 33 CFR Part 117

Bridges.

§ 117.230 [Amended]

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended by removing § 117.230(a) inclusive.

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05-1(g)(3))

Dated: January 3, 1984.

W. E. Caldwell,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 84-2236 Filed 1-25-84; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA Docket No. 107MD-5; A-3-PRL 25B-2]

Air Programs; Designation of Areas for Air Quality Planning Purposes; Approval of Redesignation of Attainment Status for the State of Maryland

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is approving a change that the State of Maryland has requested in the Total Suspended Particulate (TSP) air quality designation of Election District Number Eight, Luke, Maryland. The redesignation would classify the area as "better than national standards" for TSP. This designation is used for the purpose of planning to attain and maintain TSP standards, and is required by Section 107 of the Clean Air Act (CAA). EPA is approving Maryland's requested change because the agency has found it to be justified by recent air quality data.

EFFECTIVE DATE: This action will be effective on March 26, 1984 unless notification is received by February 27, 1984 that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of Maryland's request for the redesignation, along with associated support materials, are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air Management Branch (3AW10), Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106.

Maryland Air Management Administration, Maryland Department of Health and Mental Hygiene, 201 West Preston Street, Baltimore, MD 21201.

All comments submitted on or before February 27, 1984 will be considered and should be submitted to Mr. James E. Sydnor at the EPA Region III address stated above. Please reference the EPA docket number found in the heading of this notice in any correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. James B. Topsale, P.E. or Mr. Paul Racette at the address for EPA Region III, or telephone (215) 597-8377.

SUPPLEMENTARY INFORMATION: On September 7, 1983 the State of Maryland submitted a request to redesignate Election District Number Eight, Luke, Maryland for TSP in accordance with the requirements of section 107(d) of the Clean Air Act. The Election District Number Eight area, a part of the Cumberland-Keyser Air Quality Control Region, is currently designated as "cannot be classified" for TSP as cited in 40 CFR 81.321. The redesignation changes the classification to "better than national standards" for TSP.

EPA has reviewed the air quality data submitted by Maryland as part of this redesignation request, and has determined that the data is valid. Data for TSP indicates that during the eight quarter period of 1981 and 1982, there were no violations of either the 24-hour secondary TSP standard (150 $\mu g/m^3$) or the annual primary TSP standard (75 $\mu g/m^3$). Therefore, based on this air quality data, EPA approves the redesignation request for TSP.

EPA's approval modifies the list of attainment status designations in 40 CFR 81.321. Changing from "cannot be classified" to "better than national standards" the TSP designation of Election District Number Eight, Luke, Maryland. The public is advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days from today that someone wishes to submit adverse or critical comments, this action will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will withdraw the direct final action and begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), the Administrator has certified that the redesignations do not have a significant economic impact on a substantial number of small entities (see 46 FR 8709).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Authority: Sec. 107, Clean Air Act (42 U.S.C. 7404).

Dated: January 19, 1984.

Alvin L. Alm,

Acting Administrator.

PART 81—[AMENDED]

Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Section 81.321 is amended by revising section (a) under the Cumberland-Keyser Interstate AQCR for TSP.

Subpart C—Section 107 Attainment Status Designations

* * * * *

§ 81.321 Maryland.

MARYLAND-TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
*	*	*	*	*
Cumberland-Keyser Interstate AQCR				
(a) Election District No. 8, Luke, MD.				x
*	*	*	*	*

[FR Doc. 84-2091 Filed 1-25-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6584]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the flood plain management requirements of the program. If FEMA receives documentation that the community has adopted the required flood plain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register.**

EFFECTIVE DATES: The third date ("Susp.") listed in the fifth column.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 287-0222, 500 C Street, Southwest, FEMA—Room 509, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an apropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date flood insurance is no longer available in the community. However, those communities which, prior to the suspension date, adopt and submit documentation of legally enforceable flood plain management measures required by the program, will continue their eligibility for the sale of insurance. Where adequate documentation is received by FEMA, a notice withdrawing the suspension will be published in the **Federal Register.**

In addition, the Director of Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special floor hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended.) This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that notice and public procedure under 5 U.S.C. 533(b) are impracticable and unnecessary because communties listed in this final rule have been adequately notified. Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required flood plain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in Section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic inpact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain

management, thus placing itself in noncompliance of the Federal standards required for community participation. In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

PART 64—[AMENDED]

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date[1]
Region II					
New Jersey: Bergen	River Edge, borough of	340068A	Feb. 9, 1973, emergency; Feb. 1, 1984, regular; Feb. 1, 1984, suspended.	June 18, 1976	Feb. 1, 1984.
New York:					
Herkimer	Ilion, village of	[illegible]	May 24, 1974, emergency; Feb. 1, 1984, regular; Feb. 1, 1984, suspended.	Feb. 8, 1974 and June 11, 1976	Do.
Oneida	Utica, city of	360558A	Oct. 2, 1974, emergency; Feb. 1, 1984, regular; Feb. 1, 1984, suspended.	Apr. 24, 1975	Do.
Region III					
Pennsylvania:					
Chester	East Brandywine, township of	421476B	Nov. 21, 1975, emergency; Feb. 1, 1984, regular; Feb 1, 1984, suspended.	Oct. 18, 1974 and Apr. 30, 1976	Do.
Do.	East Nantmeal, township of	421481B	Apr. 14, 1976, emergency; Feb. 1, 1984 regular; Feb. 1, 1984, suspended.	Dec. 20, 1974 and May 7, 1976.	Do.
West Virginia: Mercer	Princeton, city of	540128C	Mar. 6, 1975, emergency; Feb. 1, 1984, regular; Feb 1, 1984, suspended.	July 19, 1974 and June 11, 1976 and July 28, 1978.	Do.
Region IV					
Georgia: Catoosa and Walker.	Fort Oglethorpe, city of	130248B	Oct. 18, 1974, emergency; Feb. 1, 1984, regular; Feb. 1, 1984, suspended.	Mar. 8, 1974 and Oct. 22, 1976.	Do.
South Carolina: Charleston.	Meggett, town of	450040B	July 2, 1975, emergency; May 11, 1979, regular; Feb. 1, 1984, suspended.	Oct. 25, 1974 and May 11, 1978.	Do.
Region V					
Illinois:					
Calhoun	Unincorporated areas	170018B	Nov. 2, 1978, emergency; Feb. 1, 1984, regular; Feb. 1, 1984, suspended.	Jan. 10, 1975 and Jan. 20, 1978.	Do.
Gallatin	do	170900B	July 29, 1975, emergency; Feb. 1, 1984, regular; Feb. 1, 1984, suspended.	Nov. 15, 1978	Do.
Jersey	do	170312B	Apr. 12, 1974, emergency; Feb. 1, 1984, regular; Feb. 1, 1984, suspended.	Dec. 27, 1974 and Jan. 27, 1978	Do.
Mason	do	170463B	Jan. 19, 1977, emergency; Feb. 1, 1984, regular; Feb. 1, 1984, suspended.	Jan. 31, 1975 and Nov. 17, 1978.	Do.
Woodford	do	170730B	Sept. 7, 1973, emergency; Feb. 1, 1984, regular; Feb. 1, 1984, suspended.	Jan. 20, 1978	Do.
Ohio:					
Hamilton	Cleves, village of	390211B	Aug. 19, 1975, emergency; Feb. 1, 1984, regular; Feb. 1, 1984 suspended.	July 23, 1976 and Sept. 2, 1977.	Do.
Ottawa	Marblehead, village of	390748A	May 29, 1979, emergency; Feb. 1, 1984, regular; Feb. 1, 1984 suspended.	Apr. 18, 1975	Do.
Region VIII					
Colorado: El Paso	Manitou Springs, city of	[illegible]	May 29 1975, emergency; Feb. 1, 1984, regular; Feb. 1, 1984, suspended.	Mar. 29, 1974 and Feb. 21, 1975.	Do.
Region IX					
Nevada:					
Elko	Carlin, city of	320009B	Feb. 11, 1975, emergency; Feb. 1, 1984, regular; Feb. 1, 1984, suspended.	May 3, 1974	Do.
do	Elko, city of	320010B	Aug. 2, 1974, emergency; Feb. 1, 1984, regular; Feb. 1, 1984, suspended.	Feb. 1, 1974 and Aug. 20, 1976	Do.
do	Unincorporated areas	320027B	June 23, 1978, emergency; Feb. 1, 1984, regular; Feb. 1, 1984, suspended.	July 11, 1978	Do.
Region X					
Oregon: Lane	Veneta, city of	410128B	Mar. 20, 1975, emergency; Feb. 1, 1984, regular; Feb. 1, 1984, suspended.	Mar. 22, 1974 and Jan. 16, 1976	Do.

[1] Date certain Federal assistance no longer available in special flood hazard areas.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Administrator, Federal Insurance Administration)

Issued: January 19, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84–2128 Filed 1–25–84; 8:45 am]

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NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

45 CFR Part 1180

Institute of Museum Services; Grants to Museums; Meetings of National Museum Services Board

AGENCY: Institute of Museum Services, National Foundation on the Arts and the Humanities.

ACTION: Final regulations.

SUMMARY: The Institute of Museum Services issues final regulations governing a program of Federal financial assistance for museum assessment. The regulations implement the Museum Services Act. They state eligibility conditions and other rules for the administration of the museum assessment program. The Institute of Museum Services also issues final regulations governing meetings of the National Museum Services Board pursuant to the Government in the Sunshine Act. These regulations make technical changes in the final regulations previously issued regarding these subjects.

EFFECTIVE DATE: These regulations are effective January 26, 1984.

FOR FURTHER INFORMATION CONTACT: Sara E. Traut, Special Assistant to the Director, Institute of Museum Services, Room 510, 1100 Pennsylvania Ave., NW. Washington, D.C. 20506. (786–0536).

SUPPLEMENTARY INFORMATION:

1. General Background

The Museum Services Act ("the Act"), which is Title II of the Arts, Humanities and Cultural Affairs Act of 1976, was enacted on October 8, 1976 and amended on December 4, 1980.

The purpose of the Act is stated in Section 202 as follows:

> It is the purpose of [the Museum Services Act] to encourage and assist museums in their educational role, in conjunction with formal systems of elementary, secondary, and post-secondary education and with programs of nonformal education for all age groups; to assist museums in modernizing their methods and facilities so that they may be better able to conserve our cultural, historic, and scientific heritage, and to ease the financial burden borne by museums as a result of their increasing use by the public.

The Act establishes an Institute of Museum Services (IMS) consisting of a National Museum Services Board and a Director.

The Act provides that the National Museum Services Board shall consist of fifteen members appointed for fixed terms by the President with the advice and consent of the Senate. The Chairman of the Board is designated by the President from the appointed members. Members are broadly representative of various museums, including museums relating to science, history, technology, art zoos, and botanical gardens, of the curatorial, educational and cultural resources of the United States, and of the general public. In addition to the members appointed by the President, the following serve as members of the Board: The Chairman of the National Endowment for the Arts, the Chairman of the National Endowment for the Humanities, the Secretary of the Smithsonian Institution, the Director of the National Science Foundation, and the Secretary of Education. The Board has the responsibility for establishing the general policies of the Institute. The Director is authorized, subject to the policy direction of the Board, to make grants under the Act to museums.

IMS is an independent agency placed in the National Foundation on the Arts and the Humanities (National Foundation). Pub. L. 97–100, December 23, 1981, Pub. L. 97–394, December 30, 1982).

The Act lists a number of illustrative activities for which grants may be made, including assisting museums to meet their administrative costs for preserving and maintaining their collections, exhibiting them to the public, and providing educational programs to the public. Other activities are designed to aid museums in developing and maintaining professionally trained staff, carrying out certain conservation activities, developing and carrying out specialized museum programs for specific segments of the public, and cooperating with other museums in developing traveling exhibitions, meeting transportation costs for these exhibitions, and identifying and locating collections available for loan.

2. Need for These Regulations

Regulations for museum assessment program. Regulations governing the award of grants under the IMS general operating support (GOS) and special project programs were published in the **Federal Register** on June 17, 1983. 48 FR 27727. In addition to its GOS and special project programs, IMS administered a museum assessment program (MAP) during fiscal year 1981 and fiscal 1983. Under this program, grants are made to museums to assist them in carrying out institutional assessments and to enable them to obtain technical assistance in order to evaluate their programs and operations by generally accepted professional standards.

Final regulations governing the museum assessment program were published on June 29, 1981. 46 FR 33247. The program was administered pursuant to these regulations during fiscal years 1981 and 1983. Subsequent to the adoption of these regulations, the Institute of Museum Services was transferred from the Department of Education to the National Foundation on the Arts and the Humanities. Pub. L. 97–100; 97–394. This transfer has necessitated the revision of IMS regulations to reflect the new placement.

In particular regulations for MAP, contained in Title 34 CFR (relating to the Education Department), must be published in Part 1180 of Title 45 CFR which now contains other regulations of the Institute in its new organizational setting as part of the National Foundation. For the convenience of readers, IMS wishes all of its regulations to appear in the same portion of the Code of Federal Regulations. In addition, current MAP regulations make applicable to the MAP program certain provisions of the Education Department General Administrative Regulations (34 CFR Part 75). Because these regulations no longer apply to IMS, conforming changes must be made to the MAP regulations.

This document publishes the revised MAP regulations as a new Subpart D of Title 45 CFR Part 1180 and makes appropriate conforming changes. The changes are essentially technical and nonsubstantive. Thus, references to administrative functions are to the Director of IMS rather than the Secretary of Education.

In new § 1180.75(e) the following provisions of IMS grant regulations are made applicable to the MAP program: § 1180.5(a) (museums which may apply must be located in the fifty States of the Union, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, Guam or the District of Columbia); § 1180.5(c) (public or private nonprofit agency responsible for operating museum may apply on its behalf); § 1180.5(d) (Federally operated museums are ineligible); § 1180.15 (extension of grant period); § 1180.44 (applicability of civil rights laws); § 1180.47 (cooperation with evaluation by the Director); § 1180.51–.56 (compliance; grantee administration; accountability, maintenance or records; prohibition of subgrants).

The effect of these changes is to maintain the simplified procedures for

the program and to reduce the volume of applicable regulations, because provisions of the Education Department general regulations are made inapplicable.

Regulations governing meetings of the National Services Board

As previously indicated, meetings of the National Museum Services Board are conducted pursuant to the Government in the Sunshine Act. 5 U.S.C. 552b. Regulations governing these meetings were previously issued in 1980 and appear at 34 CFR Part 64, subpart G. As a result of the transfer of IMS to the National Foundation, these regulations are being reissued as subpart G of Part 1180 of Title 45 CFR with technical amendments reflecting the transfer. This reissuance will enable readers to find regulations pertaining to IMS in one place in the CFR. Section 1180.88 of the revised regulations provides that the General Counsel certification required by the Act will be issued by the attorney responsible for providing advice with regard to matters under the Government in the Sunshine Act rather than by the General Counsel of the Department of Education because IMS is no longer part of the Department.

3. Public Participation and Consideration by NMSB

At its meeting held on October 14, 1983, the National Museum Services Board considered a draft of the regulations set forth below and approved their publication in the **Federal Register**.

IMS has followed the practice of obtaining public participation in the development of its regulations and normally first publishes regulations in the form of a notice of proposed rulemaking inviting public comment. In the case of the instant regulations this practice is not being followed because the regulations in question have already been the subject of public participation and no substantive change is being made as a result of this reissuance. The amendments to the regulations are made to conform to an organizational change made by the Congress. The cross-references in the MAP regulations are basically to provisions or policies which previously applied to the MAP program. Moreover, in the case of the MAP program, it is necessary that final regulations be in place promptly to support the conduct of the program which is scheduled to commence early in the current fiscal year. Under these circumstances, it has been determined that resort to public participation procedures is not necessary and would be impracticable. See 5 U.S.C. 553(b).

4. Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are classified as non-major because they do not meet the criteria for major regulations established in the order.

5. Regulatory Flexibility Act Certification

The Director certifies that these regulations will not have a significant economic impact on a substantial number of small entities.

To the extent that the regulations affect States and State agencies they will not have an impact on small entities because States and State agencies are not considered to be small entities under the Regulatory Flexibility Act.

These regulations will affect certain museums receiving Federal financial assistance under the Museum Services Act. However, the regulations will not have a significant economic impact on the small entities affected because they do not impose excessive regulatory burdens or require unnecessary Federal supervision. The regulations impose minimal requirements to ensure the proper expenditure of grant funds.

List of Subjects in 45 CFR Part 1180

Museums, National boards.

(Catalog of Federal Domestic Assistance No. 43.301, Museum Services Program)

Dated: January 18, 1984.

Susan Phillips,

Director, Institute of Museum Services.

Dated: January 18, 1984.

C. Douglas Dillon,

Chairman, National Museum Services Board.

The Institute of Museum Services amends Part 1180 of Subchapter E in Chapter XI of Title 45 of the Code of Federal Regulations by adding new Subparts D and G to read as follows:

PART 1180—GENERAL REGULATIONS, STANDARDS AND GUIDELINES

* * * * *

Subpart D—Museum Assessment

Sec.

1180.70 Purpose of program.
1180.71 Eligibility.
1180.72 Allowable costs.
1180.73 Form of assistance; limitation of amount.
1180.74 Conditions of participation.
1180.75 Funding and award procedures.
1180.76 Responsibility.

Subpart E-F—[Reserved]

Subpart G—Meetings of the National Museum Services Board

General

1180.80 Scope.
1180.81 General rule.
1180.82 Application to NMSB committees.
1180.83 Record vote.

Announcement of Meetings

1180.84 Public announcement of meetings.
1180.85 Changes in time or place of meeting.
1180.86 Changes in subject matter of meeting.
1180.87 Publication of announcements.

Closed Meetings

1180.88 Reasons and procedures for closing meetings.
1180.89 Requests to close meetings.
1180.90 Materials related to closed portions of meetings.
1180.91 Opening of transcript or recording of closed meeting.

Appendix A

Authority: Museum Services Act (20 U.S.C. 961–68), as amended, and Pub. L. 97–100, 95 Stat. 1414; Pub. L. 97–394, 96 Stat. 1994; 5 U.S.C. 552b.

Subpart D—Museum Assessment

§ 1180.70 Purpose of program.

The Director of the Institute of Museum Services makes grants under this subpart to assist museums in carrying out institutional assessments. The grants enable museums to obtain technical assistance in order to evaluate their programs and operations by generally accepted professional standards.

§ 1180.71 Eligibility.

(a) A museum as defined in § 1180.3 may apply for assessment assistance under this subpart.

(b) A museum which receives a grant for assessment assistance under this subpart for a fiscal year may not receive another grant for assessment assistance in the same or a subsequent fiscal year.

§ 1180.72 Allowable costs.

A museum may use a grant under this subpart for expenses of institutional assessment, such as registration fees; surveyor honorariums; travel and other expense of a surveyor; and technical assistance materials.

§ 1180.73 Form of assistance; limitation on amount.

(a) The Director makes payments to a museum under this subpart in advance.

(b) The amount of a grant to a museum under this subpart may not exceed $600.00.

(c) The aggregate amount of the grants under this subpart may not exceed $240,000 for a fiscal year.

§ 1180.74 Conditions of participation.

The Director considers an application (on a form supplied by IMS) by a museum for a grant under this subpart for assessment assistance only if:

(a) The museum applies for assessment to an appropriate professional organization as defined in this section, and

(b) That organization notifies IMS that the application for the assessment assistance is complete and that the museum applying is eligible to participate.

An appropriate professional organization for purposes of this subpart means (1) the American Association of Museums or (2) other professional organizations that are determined to be capable of arranging for a program of assessment services for a category of museums are so designated by notice published in the **Federal Register.**

§ 1180.75 Funding and award procedures.

(a) The Director approves applications meeting the requirements of this subpart on a first-come, first-served basis, in the order in which it is determined by IMS that such requirements (including all application requirements) have been met, until a date in the fiscal year to be established by publication in the **Federal Register.**

(b) There are no selection criteria.

(c) Section 1180.16 (IMS share of the cost of a proposal) does not apply to grants under this subpart.

(d) A museum receiving assistance under this subpart need not submit a financial report or a performance report.

(e)(1) Except as provided in § 1180.71 and paragraph (b) of this section, Subparts A, B, and C of Part 1180 of Title 45 CFR do not apply to the Museum Assesssment Program.

(2) The following sections do apply to the Museum Assessment program:

Sections 1180.5(a); 1180.5(c); 1180.5(d); 1180.15; 1180.44; 1180.47; and 1180.51–1180.56.

§ 1180.76 Responsibility of a museum.

Except in unusual circumstances, a museum which receives a grant under this subpart must take the steps normally expected of it to complete the assessment process for which it has received assistance. Section 1180.13(i) (a criterion for evaluation of general operating support applications) applies to the use of funds under this subpart.

Subpart E–F [Reserved]

Subpart G—Meetings of the National Museum Services Board

General

§ 1180.80 Scope.

5 U.S.C. 552b, added to the United States Code by the Government in the Sunshine Act, Pub. L. 94–409 (1976), provides that collegial bodies which head Federal agencies must, with certain exceptions, hold their meetings in public. Section 552b applies to meetings of the National Museum Services Board ("NMSB"). The regulations in this document (Subpart G of Part 1180, Title 45 CFR) set forth procedures for the conduct of meetings of the NMSB in accordance with Section 552b.

§ 1180.81 General rule.

Unless properly closed under § 1180.88, every portion of every meeting of the NMSB is open to public observation. For the purposes of this document a "meeting" means the deliberations of at least the number of members of the NMSB required to take action on behalf of the NMSB, where these deliberations determine, or result in the joint conduct or disposition of official IMS business. (A "meeting" does not include deliberations required or permitted by subsections (d) or (e) of Section 552b.)

§ 1180.82 Application to NMSB committees.

This document applies to committees of the NMSB when they are authorized to make final policy decisions on the NMSB's behalf. This document does not apply to committees or informal working groups of the NMSB which are authorized to make recommendations or reports to the NMSB or to perform technical or ministerial functions on its behalf.

§ 1180.83 Record vote.

(a) Certain action of the NMSB with regard to meetings under these regulations may be taken only by "record vote." For purposes of this document, a vote of the NMSB is a "record vote" if—

(1) It carries by a majority of all those holding offices as NMSB members at the time of the vote;

(2) No proxies are counted toward the necessary majority; and

(3) The individual vote of each member voting is recorded.

(b) Within one day of a record vote to close, or withhold information about a meeting, or any record vote for this purpose that does not achieve the necessary majority, the NMSB makes available to the public a written record showing the vote of each member.

(c) The NMSB may take a vote with respect to matters governed by this part (without convening) by means of circulation of a written ballot, tally sheet, or other notation procedures.

Announcement of Meetings

§ 1180.84 Public announcement of meetings.

(a) Except as stated in paragraphs (b) and (c) this section, the NMSB makes a public announcement of each meeting at least one week before the meeting. The announcement covers:

(1) The time, place, and subject matter of the meeting;

(2) What portions of the meeting, if any, are to be closed to the public; and

(3) The name and phone number of the official designated to respond to requests for information on the meeting.

(b) The announcement may be made less than a week before the meeting it announces or after the meeting only if—

(1) The NMSB by record vote determines that agency business requires the meeting to be called on such short or after-the-fact notice and (2) a public announcement is made at the earliest practicable time.

(c) All or any portion of the announcement of any meeting may be omitted if the NMSB by record vote determines that the announcement would disclose information which should be withheld under the same standards as apply for closing meetings under § 1180.88.

§ 1180.85 Changes in time or place of meeting.

The time or place of a meeting of the NMSB that has been publicly announced as provided in § 1180.84 may subsequently be changed. However, the change must be publicly announced at the earliest practicable time.

§ 1180.86 Changes in subject matter of meeting.

The subject matter of any portion of any meeting of the NMSB that has been publicly announced as provided in § 1180.84 (or the determination whether any portion of any meeting so publicly announced will be open or closed) may subsequently be changed if—

(a) The NMSB determines by record vote that agency business so requires and that no earlier announcement of change was possible; and

(b) The NMSB publicly announces the change and the vote of each member on the change at the earliest practicable time. (Deletion or postponement of

agenda items are not subject to the requirements of this subsection.)

§ 1180.87 Publication of announcements.

Promptly following a public announcement required by these regulations, the NMSB submits, for publication in the **Federal Register**, a notice containing information regarding the announcement as required by Section 552b.

Closed Meetings

§ 1180.88 Reasons and procedures for closing meetings.

(a) The NMSB may, by record vote in accordance with Section 552b, close any portion of a meeting if it determines that the portion falls within one of the exceptions stated in 5 U.S.C. Section 552(c). (These exceptions are listed in Appendix A.)

(b) In making a determination under paragraph (a) of this section, the NMSB considers whether the public interest merits keeping the meeting open although an exception applies.

(c) The Board addresses requests for the certification required by Section 552b to the individual responsible for providing legal services to the Institute with respect to Section 552b.

(d) Within one day of a record vote closing a portion of a NMSB meeting, the NMSB makes available a full written explanation of the NMSB's action and a list of all persons it expects to attend the meeting and their affiliations.

§ 1180.89 Requests to close meetings.

A person who believes his or her interests may be directly affected by a meeting or a portion of a meeting may request the NMSB to close it to the public for a reason cited in paragraphs (5), (6), or (7) of Appendix A. Such requests are handled under procedures established by the NMSB in accordance with Section 552b. This information collection has been assigned OMB No. 3137–0005.

§ 1180.90 Materials related to closed portions of meetings.

If a portion or portions of any meeting of the NMSB are closed to the public—

(a) The presiding officer of the meeting (usually the Chairman of the NMSB) furnishes a statement setting forth the time and place of the meeting and the persons present (including staff).

(b) Except where the Act authorizes minutes to be kept, the NMSB makes a complete transcript or electronic recording adequate to record fully the proceedings of each portion of the meeting that is closed to the public.

(c) The NMSB maintains the presiding officer's statement, the certificate described in § 1180.88(c) as required by Section 552b, and the transcript, recording, or minutes of the meeting for at least two years after the meeting and at least one year after the NMSB completes consideration of any proposal, report, resolution, or similar matter discussed in any closed portion of the meeting.

§ 1180.91 Opening of transcript or recording of closed meeting.

(a) Except as stated in paragraph (b) of this section, the NMSB makes available for inspection the transcript, electronic recording or minutes of every portion of a very closed meeting on request to any member of the public. The transcript or recording is made available in an easily accessible place. The NMSB furnishes to any member of the public on request copies of the transcript (or of a transcription of the recording) disclosing the identity of each speaker. The NMSB charges for the copies or transcriptions no more than the actual cost of duplication or transcription.

(b) The NMSB withholds the transcripts or recording of the discussion of any agenda item if the Chairman of the NMSB (or a NMSB member designated by the Chairman) determines that the discussion contains information which should be withheld under the same standards which apply for closing meetings under § 1180.88. The NMSB releases the transcript or recording so withheld when the Chairman (or the Chairman's designee) determines that the grounds for withholding no longer apply.

Appendix A

A meeting may be closed if:

(1) It is likely to disclose matters that (1) are specifically authorized under criteria established by Executive Order to be kept secret in the interest of national defense or foreign policy and (ii) are in fact properly classified pursuant to the Executive Order;

(2) It is likely to relate solely to the internal personnel rules and practices of the IMS or another Federal agency;

(3) It is likely to disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552): Provided, That the statute (i) requires that the matter be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) It is likely to disclose trade secrets and commercial or financial information obtained from the person and privileged or confidential;

(5) It is likely to involve accusing any person of a crime, or formally censuring any person;

(6) It is likely to disclose personal information where the disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) It is likely to disclose investigatory law-enforcement records, or information which, if written, would be contained in such records, but only to the extent provided in 5 U.S.C. 552b(7);

(8) It is likely to disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) It is likely to disclose information, the premature disclosure of which (i) in the case of information received from an agency which regulates currencies, securities, commodities, or financial institutions, be likely to (A) lead to significant financial speculation in currencies, securities, or commodities, or (B) significantly endanger the stability of any financial institution; or (ii) be likely to significantly frustrate implementation of a proposed IMS action unless the IMS has already disclosed to the public the content or nature of its proposed action or is required by law to make such disclosure on its own initiative before taking final action; or

(10) Is likely to specifically concern the IMS participation in a civil action or proceeding, or action in a foreign court or international tribunal, or an arbitration.

[FR Doc. 84–2230 Filed 1–25–84; 8:45 am]

BILLING CODE 7020–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[FCC 82–520]

Computation of Time; Clarification of the Term Holiday

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends the Commission's rules to clarify the term "holiday" for the purpose of computing time.

This action is taken to eliminate any confusion which may arise when a holiday is declared by the District of Columbia but not by the federal government.

DATES: Effective November 26, 1982.

FOR FURTHER INFORMATION CONTACT: Sue Preskill, Office of General Counsel, (202) 632–6444.

SUPPLEMENTARY INFORMATION: Through inadvertence, this document was not previously published in the **Federal Register**.

Order

In the matter of amendment of Rule 1.4 of the Commission's Rules.

Adopted: November 22, 1982.
Released: November 26, 1982.
By the Commission.

1. Commission Rule 1.4(d), 47 CFR 1.4(d), currently defines "holiday" for the purpose of computing time as including "Saturdays, Sundays, legal holidays or half holidays in the District of Columbia, and any other day on which the Commission's offices are closed prior to 5:30 p.m. The term 'business day' shall include all other days." In order to eliminate any confusion which may arise when a holiday is declared by the District of Columbia government but not by the federal government, we are hereby amending the rule to specify federal holidays, rather than District of Columbia holidays.

2. In addition, on occasion the Commission's offices open late, such as during inclement weather or during a lapse in funding. Ordinarily, persons computing deadlines are not able to anticipate late openings before they occur, and would not expect additional time for preparing filings. Therefore, unless otherwise specified by the Commission, such days will not be treated as holidays, as long as the offices officially open prior to 5:30 p.m. See 47 CFR 0.403.

3. Authority for this amendment is contained in sections 4 (i) and (j) and 303(r) of the Communications Act of 1934, 47 U.S.C. 154 (i), (j) 303(r). Because this amendment is procedural in nature, the prior notice and effective date provisions of 5 U.S.C. 553 do not apply.

List of Subjects in 47 CFR Part 1

Administrative practice and procedure.

PART 1—[AMENDED]

Accordingly it is ordered that, effective November 26, 1982, § 1.4(d) of the Commission's Rules, 47 CFR § 1.4(d) is revised to read as follows:

§ 1.4 Computation of time.

* * * * *

(d) For purposes of this section, the term "holiday" shall include Saturdays, Sundays, federal holidays, and any other day on which the Commission's offices close prior to 5:30 p.m. The term "business day" shall refer to all other days, including days when the Commission opens later than the time specified in Rule 0.403.

* * * * *

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 84-2122 Filed 1-25-84; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 31

[CC Docket No. 82-679; RM-4084]

Uniform System of Accounts for Class A and Class B Telephone Companies; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document is being issued to correct an error in the Report and Order in Docket 82-679, concerning the Uniform System of Accounts for Class A and Class B Telephone Companies, published on October 28, 1983 (48 FR 49843).

FOR FURTHER INFORMATION CONTACT: Gerald P. Vaughn, Chief, Accounting and Audits Division, Common Carrier Bureau, (202) 634-1861.

Erratum

Released: January 12, 1984.

In the matter of Amendment of Part 31, Uniform System of Accounts For Class A and Class B Telephone Companies, of the Commission's Rules and Regulations to change the basis of depreciation and retirement procedures for the "Station connections—other" subclass of account 232, and to reclassify network channel terminating equipment, including subscriber pair gain equipment, located on customer premises, to account 221, "Central office equipment"; CC Docket No. 82-679 (RM 4084).

On October 26, 1983, the Commission released a Report and Order in the above captioned proceeding (See FCC 83-456) (48 FR 49843; October 28, 1983). An error contained in the Appendix is corrected below:

The word "not" was inadvertently omitted from the first sentence in Note C to Appendix item 5. The sentence should read as follows: "Provisional denials of service to stations for non-payment shall not be treated as stations disconnected unless the denials become final."

Federal Communications Commission.
Jack D. Smith,
Chief, Common Carrier Bureau.

[FR Doc. 84-2121 Filed 1-25-84; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 64

[CC Docket No. 83-427; FCC 83-565]

Access to Telecommunications Equipment by the Hearing Impaired and Other Disabled Persons

Correction

In FR Doc. 84-399 beginning on page 1352 in the issue of Wednesday, January 11, 1984, make the following correction on page 1368: In the first column, in the Table of Contents for Subpart F to Part 64, the section numbers listed as "68.601, 68.602, 68.603 and 68.604" should read "64.601, 64.602, 64.603 and 64.604" respectively.

BILLING CODE 1505-01-M

47 CFR Part 97

[PR Docket No. 83-524; FCC 84-16]

Making Additional Frequencies Available to the Radio Amateur Civil Emergency Service During Declared National Emergencies

AGENCY: Federal Communications Commission.

ACTION: Final rules.

SUMMARY: This document amends the Amateur Radio Service Rules to make additional frequencies available to the Radio Amateur Civil Emergency Service (RACES) during declared national emergencies. Additional RACES frequencies are needed since, even in peacetime, the number of RACES frequencies are inadequate. The effect of this action is to assure that sufficient RACES frequencies would be available if the President invokes the war emergency powers.

EFFECTIVE DATE: March 26, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Private Radio Bureau, Washington, D.C. 20554.

List of Subjects in 47 CFR Part 97

Civil defense, Defense communications, Radio.

Report and Order

In the matter of amendment of the Amateur Radio Service Rules, Part 97, to make additional frequencies available to the Radio Amateur Civil Emergency Service during declared national emergencies (PR Docket No. 83-524).

Adopted: January 16, 1984.
Released: January 19, 1984.
By the Commission.

1. On May 26, 1983, the Commission adopted a Notice of Proposed Rule Making (48 FR 26647; June 9, 1983) proposing to make additional frequencies available to the Radio Amateur Civil Emergency Service (RACES) in the event of an emergency which causes the President to invoke certain war emergency powers, pursuant to Section 606 of the Communications Act of 1934, as amended. Also proposed were operational limitations on the additional frequencies so as to provide protection to the Government Radiolocation Service, to the Aeronautical Radionavigation Service and to Canadian radio stations. The restrictions that limited RACES operations to thirty days and to specific geographical areas were also proposed to be deleted. Nineteen comments were filed in this proceeding.

2. This proceeding originated in response to a request from the Department of Defense (DOD), through the National Telecommunications and Information Administration (NTIA) and the Interdepartmental Radio Advisory Committee (IRAC), for additional frequencies for RACES stations during a declared national emergency. DOD had reviewed the role of RACES in support of civil defense activities during a national emergency declared by the President and had concluded that additional RACES frequencies are needed under war emergency conditions. DOD said that since the presently available RACES frequencies have proven inadequate in peacetime, they would be completely unsatisfactory in wartime. In addition, DOD noted that although the number of amateur radio repeater stations have increased, they operate on frequencies which are not now available to RACES. Hence, DOD wanted the frequencies that repeaters operate on made available to RACES stations. For the same reason, DOD asked that frequencies used by high frequency (HF) nets also be made available to RACES stations. The deletion of the restriction on the use of certain RACES frequencies to the initial 30 days of the emergency and the areas where they could be used was proposed since those restrictions are no longer needed.

3. The comments generally supported the proposal to make additional frequencies available to RACES stations.[1] Robert N. Dyruff wanted all of the Amateur Radio Service frequencies made available to RACES. He also suggested that the RACES rules should be deleted in their entirety and replaced by a joint working arrangement between the Federal Emergency Management Agency, State Offices of Emergency Services and local organizations of amateur radio operators. The suggestions of Mr. Dyruff are so broad as to exceed the scope of this proceeding. In our Notice of Proposed Rule Making, we proposed to make the frequencies 146–148 MHz available for RACES operations. Several of the commenters, however, suggested that the repeater subband 144.50–145.50 MHz be included for RACES operation. In this connection, the American Radio Relay League, Inc. (ARRL) stated that this would make it unnecessary for anyone to alter existing equipment, especially repeaters, to operate on RACES frequencies during a declared emergency, since Amateur Radio Emergency Service (ARES) members could switch from ARES to RACES immediately without a shift in equipment.

4. We referred the matter of inclusing the subband 144.50–145.50 MHz to DOD (through IRAC). It interposed no objection. Therefore, since inclusion of these frequencies will bring more repeaters into RACES operation and will expand the potential for use of RACES stations in the future, we will include the 144.50–145.50 MHz subband in these final rules. Some commenters suggested that additional frequencies in the 6, 10, 40, and 75-meter bands be added for RACES operations. Those frequencies were not included in DOD's original request. Therefore, we have not included them in these final rules.

5. In our proposal, we stated that additonal amateur radio frequencies in the 10 MHz and 18 MHz frequency bands might also be considered if the United States ratified the final acts of the World Administrative Radio Conference (WARC), 1979. Although such ratification took place on September 6, 1983, it would not be appropriate to include those frequencies in this Report and Order since the Amateur Rules have not yet been amended to make those bands available for use in the Amateur Radio Service on a regular basis.

6. We will adopt the rules as proposed, with the inclusion of the additional 2-meter band frequencies. The thirty day limitation on the use of the frequencies is deleted since the use of amateur frequencies for RACES would undoubtedly be authorized beyond the thirty day period if an emergency continued beyond that time. Also, we have deleted the geographic limitations since to retain them could hinder emergency communications between the continental United States and the States of Hawaii or Alaska, or between the continental United States and U.S. possessions. These latter amendments are in keeping with our continuing efforts to eliminate unnecessary rules and restrictions. Finally, necessary corrections have been made to the table in § 97.185(b).

7. It is ordered, that Part 97 is amended as set forth in the Appendix hereto. This action is taken pursuant to the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended. It is further ordered, that these rule amendments shall become effective March 26, 1984.

8. It is further ordered, that the Secretary shall cause a copy of this Report and Order to be published in the **Federal Register**.

9. It is further ordered, that this proceeding is terminated.

10. Information in this matter may be obtained by contacting Maurice J. Depont, (202) 632–4964, Private Radio Bureau, Federal Communications Commission, Washington, D.C. 20554.

Federal Communications Commission.
William J. Tricarico,
Secretary.

Appendix

PART 97—[AMENDED]

Part 97 of Chapter I of Title 47 of the Code of Federal Regulations is amended, as follows:

1. Section 97.185 is revised to read as follows:

§ 97.185 Frequencies available.

(a) All of the authorized frequencies and emissions allocated to the Amateur Radio Service are also available to the Radio Amateur Civil Emergency Service on a shared basis.

(b) In the event of an emergency which necessitates the invoking of the President's War Emergency Powers under the provisions of § 606 of the Communications Act of 1934, as amended, unless otherwise modified or directed, RACES stations and amateur radio stations participating in RACES will be limited in operation to the following:

[1] The late-filed comments of John A. Carroll are accepted and have been considered insofar as they relate to this proceeding.

Appendix

PART 97—[AMENDED]

Part 97 of Chapter I of Title 47 of the Code of Federal Regulations is amended, as follows:

1. Section 97.185 is revised to read as follows:

§ 97.185 Frequencies available.

(a) All of the authorized frequencies and emissions allocated to the Amateur Radio Service are also available to the Radio Amateur Civil Emergency Service on a shared basis.

(b) In the event of an emergency which necessitates the invoking of the President's War Emergency Powers under the provisions of § 606 of the Communications Act of 1934, as amended, unless otherwise modified or directed, RACES stations and amateur radio stations participating in RACES will be limited in operation to the following:

FREQUENCY OR FREQUENCY BANDS—Continued

	Limitations
kHz:	
1800–1825	
1975–2000	1
3500–3550	
3930–3960	
3984–4000	
3997	2
7079–7125	
7245–7255	
14047–14053	
14220–14230	
14331–14350	
21047–21053	
21228–21267	
MHz:	
28.55–28.75	
29.237–29.273	
29.45–29.65	
50.35–50.75	
53.30	2
53.35–53.75	
144.50–145.71	
146–148	
220–225	4
420–450	3, 5, 6
1240–1300	3
2390–2450	3

(c) *Limitations.* (1) Use of frequencies in the band 1975–2000 kHz is subject to the priority of the LORAN system of radionavigation in this band and to the geographical, frequency, emission, and power limitations contained in § 97.61 (Subpart C of this part pertaining to Technical Standards).

(2) For use in emergency areas when required to make initial contact with a military unit; also, for communications with military stations on matters requiring coordination.

(3) Those stations operating in the bands 420–450, 1240–1300 and 2390–2450 MHz shall not cause harmful interference to, and must tolerate any interference from, the Government Radiolocation Service; and also the Aeronautical Radionavigation Service in the case of the 1240–1300 MHz band.

(4) Those stations operating in the band 220–225 MHz shall not cause harmful interference to, and must tolerate any interference from, the Government Radiolocation Service until January 1, 1990. Additionally, the Fixed and Mobile Services shall have equal right of operation.

(5) In the band 420–430-MHz, no station shall operate North of Line A. Line A begins at Aberdeen, Washington, running by great circle arc to the intersection of 48° N., 120° W., thence along parallel 48° N., to the intersection of 95° W., thence by great circle arc through the southernmost point of Duluth, Minn., thence by great circle arc to 45° N., 85° W., thence southward along meridian 85° W., to its intersection with parallel 41°N., thence along parallel 41° N., to its intersection with meridian 82° W., thence by great circle arc through the southernmost point of Bangor, Maine, thence by great circle arc through the southernmost point of Searsport, Maine, at which point it terminates.

(6) In the band 420–450 MHz and within the following areas, the peak envelope power output of a transmitter used in the Amateur Radio Service shall not exceed 50 watts, unless expressly authorized by the Commission after mutual agreement, on a case-by-case basis, between the Federal Communications Commission Engineer-in-Charge at the applicable District Office and the Military Area Frequency Coordinator at the applicable military base:

(i) Those portions of Texas and New Mexico bounded on the south by latitude 31° 45′ North, on the east by longitude 104° 00′ West, on the north by latitude 34° 30′ North, and on the west by longitude 107° 30′ West;

(ii) The entire State of Florida including the Key West area and the areas enclosed within a 200-mile radius of Patrick Air Force Base, Florida (latitude 28° 21′ North, longitude 80° 43′ West), and within a 200-mile radius of Eglin Air Force Base, Florida (latitude 30° 30′ North, longitude 86° 30′ West);

(iii) The entire State of Arizona;

(iv) Those portions of California and Nevada south of latitude 37° 10′ North, and the areas enclosed within a 200-mile radius of the Pacific Missile Test Center, Point Mugu, California (latitude 34° 09′ North, longitude 119° 11′ West).

(v) In the State of Massachusetts within a 160-kilometer (100 mile) radius around locations at Otis Air Force Base, Massachusetts (latitude 41° 45′ North, longitude 70° 32′ West).

(vi) In the State of California within a 240-kilometer (150 mile) radius around locations at Beale Air Force Base, California (latitude 39° 08′ North, longitude 121° 26′ West).

(vii) In the State of Alaska within a 160-kilometer (100 mile) radius of Clear, Alaska (latitude 64° 17′ North, longitude 149° 10′ West). (The Military Area Frequency Coordinator for this area is located at Elmendorf Air Force Base, Alaska.)

(viii) In the State of North Dakota within a 160-kilometer (100 mile) radius of Concrete, North Dakota (latitude 48° 43′ North, longitude 97° 54′ West). (The Military Area Frequency Coordinator for this area can be contacted at: HQ SAC/SXOE, Offutt Air Force Base, Nebraska 68113.)

[FR Doc. 84-2126 Filed 1-25-84; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 173

[Docket HM-139F; Amdt. Nos. 172-88, 173-171, 179-33]

Conversion of Individual Exemptions Into Regulations of General Applicability

Correction

In FR Doc. 84-1303 beginning on page 2250, in the issue of Thursday, January 19, 1984, make the following corrections:

On page 2251, third column, § 173.245(a)(29), fourth line, change the semicolon to a period and remove the remainder of the paragraph; and in § 173.245(a)(31), fourth line, change the period to a semicolon and insert the following: "MC 306 constructed aluminum is authorized only for monoethanolamine *primary amyl alcohol.*"

* * * * *

On page 2252, second column, § 173.346(a)(10), third line "105A1100W" should read "105A100W".

BILLING CODE 1505-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 31230-255]

Foreign Fishing; Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues a final rule prescribing 1984 and 1985 prohibited species catch limits for salmon in the Bering Sea and Aleutian Islands area foreign trawl fishery. These limits are prescribed under provisions of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) and are intended to reduce the incidental catch and unnecessary mortality of salmon while still allowing the foreign fisheries an opportunity to harvest their groundfish allocations.

EFFECTIVE DATE: February 24, 1984.

ADDRESS: Copies of the environmental impact statement and the regulatory impact review/final regulatory flexibility analysis (RIR/FRFA) prepared for Amendment 3 to the FMP, which addresses this regulatory change, may be obtained from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, Alaska 99510, 907-274-4563.

FOR FURTHER INFORMATION CONTACT: Susan J. Salveson (Regional Plan Coordinator, Alaska Region, National Marine Fisheries Service) 907-586-7230.

SUPPLEMENTARY INFORMATION:

Background

The FMP was developed by the North Pacific Fishery Management Council (Council) and is implemented by rules appearing at 50 CFR 611.93. Amendment 3 to the FMP was implemented July 4, 1983 (48 FR 24719, June 2, 1982), and established a five-year (1982-1986) schedule for reduction of prohibited species catch (PSC) limits for salmon, Pacific halibut, king crab, and Tanner crab in the foreign trawl fishery. The preamble to the proposed rule for Amendment 3 (48 FR 10383, March 11, 1983) discussed the need and justification for the amendment; it also discussed the procedure for apportionment of PSCs to foreign nations, considerations for adjustments of PSCs, exemptions to PSC regulations, and additional incentives to reduce the catch of prohibited species in foreign groundfish fisheries.

The rule implementing Amendment 3 indicated salmon PSC figures only for 1981,[1] 1982, and 1983, with the objective of achieving a 75 percent reduction from the 1981 salmon PSC level by 1986. A complete review of the salmon PSC program was to be conducted by the Council in 1983 to determine further reductions in salmon PSC levels for 1984 and 1985 for purposes of achieving the 1986 PSC limit. The Council conducted such a review at its May 1983 meeting and adopted a salmon PSC limit of 38,441 fish for 1984 and a limit of 27,957 fish for 1985. The 1986 PSC limit was unchanged and remains at 17,473 fish. When conducting its review, the Council considered the status of the salmon resource, the evidence to date that a 75 percent reduction of the salmon PSC limits is attainable and should not impede foreign groundfish operations, and the economic and technological reasonableness of the goal of 75 percent reduction by 1986.

The salmon PSC figures adopted for 1984 and 1985 reflect salmon PSC levels that were negotiated between representatives for those western Alaska residents who depend on the salmon resource and the Japanese trawl industry, the principle harvester of Bering Sea groundfish.

The proposed salmon PSC limits for 1984 and 1985 were published October 7, 1983 (48 FR 45804), and public comments on the proposed limits were invited until November 4, 1983. No comments were received. NOAA now approves and implements the 1984 and 1985 salmon PSC limits by inserting them into the implements the 1984 and 1985 salmon PSC limits by inserting them into the reserved portions of Table 2 in 50 CFR 611.93.

Classification

The NOAA Assistant Administrator for Fisheries (Assistant Administrator) has determined that this rule is necessary and appropriate for conservation and management of fishery resources and that it is consistent with the Magnuson Act and other applicable law. He has also determined that this rule will not have a significant impact on the quality of the human environment. The environmental impact statement (EIS) prepared for the original FMP also addressed Amendment 3 and consequently covered this action. The EIS was filed with the Environmental Protection Agency on November 20, 1981. Accordingly, neither a supplement to the EIS nor an environmental assessment is required. A copy of the EIS is available from the Council at the address listed above.

The Assistant Administrator has further determined that implementation of this rule will be carried out in a manner that is consistent to the maximum extent practicable with the approved coastal zone management program of Alaska. The Alaska Office of Management and Budget has concurred in this determination.

The NOAA Administrator has determined that this rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. This determination was based on the information presented in the preamble to the proposed rule at 48 FR 45805 and on the regulatory impact review/final regulatory flexibility analysis (RIR/FRFA) prepared by the Council for the regulatory flexibility analysis (RIR/FRFA) prepared by the Council for the rule implementing Amendment 3 to the FMP. You may obtain a copy of the RIR/FRFA from the Council at the address listed above.

The General Counsel of the Department of Commerce has certified to the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities, therefore, no regulatory flexibility analysis is required under provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This rule does not contain a collection of information requirement for purposes of the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting requirements.

(16 U.S.C. 1801 *et seq.*)

Dated: January 23, 1984.

Carmen J. Blondin,

Deputy Assistant Administator for Fisheries Resource Management, National Marine Fisheries Service.

For reasons set out in the preamble, 50 CFR Part 611 is amended as follows:

PART 611—FOREIGN FISHING

1. The authority citation for Part 611 reads as follows:

Authority: 16 U.S.C. 1801 *et. seq.*, unless otherwise noted.

2. In § 611.93(c)(2)(ii)(E), Table 2 is revised to read as follows:

§ 611.93 Bering Sea and Aleutian Islands groundfish fishery.

* * * * *

[1] An amendment to the preliminary fishery management plan for the Trawl Fisheries and Herring Gillnet Fishery of the Eastern Bering Sea and Northeast Pacific (46 FR 60002, December 8, 1981) established a chinook salmon PSC of 65,000 fish.

TABLE 2.—TARGET REDUCTION SCHEDULE OF SALMON PROHIBITED SPECIES CATCHES BASED ON THE AVERAGE 1977–80 FOREIGN TRAWL SALMON INCIDENTAL CATCH

Year	Total salmon [1]
Base No. 1977–80	80,000
Reduced catch levels:	
(1981)	69,693
(1982)	59,409
(1983)	48,925
(1984)	38,441
(1985)	27,957
(1986)	17,473

[1] Total salmon numbers are calculated on the assumption that 93 percent of the incidentally-caught salmon are chinook.

* * * * *

[FR Doc. 84-2208 Filed 1-25-84; 8:45 am]

BILLING CODE 3510-22

50 CFR Part 651

[Docket No. 31230-252]

Atlantic Groundfish (Cod, Haddock, and Yellowtail Flounder)

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues this final rule to amend the final regulations implementing the Interim Fishery Management Plan for Atlantic Groundfish (Interim Plan). This rulemaking clarifies the definition of the cod end, and describes the method an authorized officer may follow when inspecting cod ends for compliance with regulated mesh size. This rule will eliminate differences or interpretation of the cod end definition contained in the regulations with regard to compliance and enforcement.

EFFECTIVE DATE: February 27, 1984.

FOR FURTHER INFORMATION CONTACT: Peter Colosi, 617–281–3600 ext. 272.

SUPPLEMENTARY INFORMATION: NOAA issued final rules to implement the Interim Plan on October 4, 1982 (47 FR 43705). Since then, varying interpretations have occurred within the fishing community of the definition of "cod end" contained in the regulations. These varying interpretations could hinder NMFS' enforcement of the minimum mesh size requirement for cod ends. Therefore, NMFS has decided to clarify the cod end definition and the procedure an authorized officer will follow to measure cod ends and thereby eliminate confusion about the minimum cod end standards with which a fishing master and fishing vessel must comply. NOAA invited public comments on the proposed rulemaking for this action (48 FR 41797) from September 19, 1983, through October 19, 1983. No comments, either verbal or written, were received during this period. However, informal comments received after the comment period closed indicated that the procedure for measuring a cod end may still be unclear to those affected by it.

Therefore, the wording is further revised to express more clearly NMFS' intent in this procedure.

Classification

The Secretary of Commerce issues this final rule to clarify the meaning of §§ 651.2 and 651.20(d)(1) of the Interim plan regulations (47 FR 43705, October 4, 1982) for Atlantic Groundfish. Documents already submitted for the final Interim Plan regulations (see 47 FR 43709 at *Classification*) included an Environmental Impact Statement (EIS) and Regulatory Impact Review/Regulatory Flexibility Analysis (RIR/RFA). The RIR/RFA concluded that the regulations were non-major under Executive Order 12291 and assessed the economic impacts on small entities as significant under the Regulatory Flexibility Act. A final environmental impact statement (FEIS) was filed with EPA on June 11, 1982, concerning the final Interim Plan regulations which this final rule amends. This amendment does not alter the context of intensity of the impacts described in the original EIS and RIR/RFA, and therefore no additional analyses are necessary. This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 651

Fish, Fisheries, Reporting requirements.

Dated: January 23, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

PART 651—[AMENDED]

For the reasons set out in the preamble, 50 CFR Part 651 is amended as follows:

1. The authority citation for Part 651 is as follows:

Authority: 16 U.S.C. 1801 *et seq.*

§ 651.2 [Amended]

2. In § 651.2 *Definitions*, remove the word "normally" from the definition of cod end.

3. In § 651.20 paragraph (d)(1) is revised to read as follows:

§ 651.20 Large-mesh area and gear limitations.

* * * * *

(d) * * *

(1) Cod end mesh sizes are measured when wet after use by a wedge shaped gauge having a taper of two centimeters in eight centimeters and a thickness of 2.3 millimeters, inserted into the meshes under pressure or pull of five kilograms. The mesh size will be the average of the measurements of any series of 20 consecutive meshes. The mesh in the cod end will be measured at least 10 meshes from the lacings, beginning at the after-end and running parallel to the long axis, except that if the fish in the cod end extend into any other portion of the net, measurement will start at the uppermost portion of the net containing fish.

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[FR Doc. 84-2206 Filed 1-25-84; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 663

[Docket No. 40103-01]

Pacific Coast Groundfish Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Rule-related notice; fishery specifications for 1984; correction.

SUMMARY: This document corrects a footnote in Table 1, which lists 1984 specifications of ABC, and corrects a specification in Table 2, which lists 1984 specifications of OY and its components. These tables were included in the "Rule-related notice; fishery specifications for 1984" for the Pacific Coast Fishery that was published on January 9, 1984 (49 FR 1060). The erroneous specification in Table 2 was also incorrectly printed in the "Notice of preliminary fishery specifications and request for comment" that was published December 6, 1983 (48 FR 54671).

FOR FURTHER INFORMATION CONTACT: T. E. (Gene) Kruse, 213–548–2575.

The following corrections are made in FR Doc. 84–453 appearing on page 1061 in the issue of January 9, 1984:

1. Footnote 6 of "Table 1—1984 Specifications of ABC" should read "'Other fish' includes sharks, skates, ratfish, morids, grenadiers, jack mackerel, arrowtooth flounder, and, in the Eureka, Monterey, and Conception areas, Pacific cod. 'Other fish' is part of the 'other species' category listed in § 663.2."

2. In Table 2 under the species name "Shortbelly rockfish," the "DAH" specification "10.0" is corrected to read "3.4."

Dated: January 20, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84–2210 Filed 1–25–84; 8:45 am]

BILLING CODE 3510–22–M

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50 CFR Part 672

[Docket No. 31230–251]

Groundfish of the Gulf of Alaska; Correction

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Rule-related notice; 1984 initial specifications; correction.

SUMMARY: This document corrects a specification in Table 1 which lists 1984 initial apportionments of optimum yield (OY) for each species of groundfish in the Gulf of Alaska fishery among the domestic annual processing (DAP), joint venture processing (JVP), reserves, and total allowable level of foreign fishing (TALFF). This table was included in the Groundfish of the Gulf of Alaska rule-related notice; 1984 initial specifications that was published on January 9, 1984, at 49 FR 1061.

FOR FURTHER INFORMATION CONTACT: Janet Smoker, 907–586–7230.

The following correction is made in FR Doc. 84–241 appearing on page 1063 in the issue of January 9, 1984: In Table 1 under the species name "Pollock," in the Central area, the JVP specification "132,630" is corrected to read "132,620."

Dated: January 20, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84–2209 Filed 1–25–84; 8:45 am]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 49, No. 18
Thursday, January 26, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 806

Annual Survey of U.S. Direct Investment Abroad

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of consideration.

SUMMARY: This notice advises that a new survey, the BE–11 Annual Survey of U.S. Direct Investment Abroad, is now under consideration by this Bureau. The survey will be mandatory and will be conducted under authority of the International Investment Survey Act of 1976 (Pub. L. 94–472, Stat. 2059, 22 U.S.C. 3101–3108). It will further implement the President's responsibilities for collecting data on U.S. direct investment abroad under the Act; these responsibilities were delegated to the Secretary of Commerce, who redelegated them to the Bureau of Economic Analysis.

DATE: Any suggestions or recommendations concerning the proposed survey will received consideration if submitted in writing on or before March 15, 1984.

ADDRESS: Send suggestions or recommendations to: Office of the Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, D.C. 20230. All responses to this notice will be available for public inspection from 8:00 a.m. to 4:00 p.m. in room 608, 1401 K Street NW., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: George R. Kruer, Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, D.C. 20230, phone (202) 523–0657.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Bureau of Economic Analysis (BEA) plans to conduct a BE–11 Annual Survey of U.S. Direct Investment Abroad. As proposed, the survey would be mandatory and would be conducted under the authority of the International Investment Survey Act of 1976. The first year of coverage would be 1983. The survey will provide annual time series on important aspects of the operations of U.S. multinational companies and their foreign affiliates, including their services activities and international services transactions. A parallel BE–15 Annual Survey of Foreign Direct Investment in the United States has been conducted by BEA since 1977.

The U.S. Government needs current information on U.S. companies and their investment abroad in order to assess their economic significance and make informed policy decisions relating to them. The BE–11 survey should, to a significant degree, satisfy this need. Most U.S. companies with direct investment abroad are large, and their foreign activities are often a sizable share of their total activities. Thus, both domestically and internationally, these companies have an important and far reaching economic impact. The data also will be used by the Government in representing U.S. interests, including those of private companies, in international negotiations, both on a bilateral basis and before international groups such as the GATT and OECD. For example, the data to be obtained on the services activities of reporting companies can be used to assess the need for, and to conduct, negotiations to reduce international barriers to trade and investment in services. At present, the United States is actively supporting a move, under the General Agreement on Tariffs and Trade, to study the issue, with a view toward possible future negotiations.

The survey will collect data on selected items from BEA's periodic BE–10 benchmark surveys (or censuses) of U.S. direct investment abroad. The most recent benchmark survey, which covered 1982, is now being processed; the next benchmark survey will cover 1989. Between benchmark years, the annual survey will update and maintain the continuity of major items from the benchmark survey. However, the volume of data to be reported in the annual survey will be substantially reduced from that required in the benchmark survey. Because the proposed BE–11 survey would be largely an abbreviated version of the benchmark survey, the BE–11 survey would not be conducted in a year in which that survey is conducted.

Representatives from user agencies interested in international investment and services data have held several meetings to discuss the need for, and content of, the BE–11 survey. The meetings were chaired by the Office of Management and Budget (OMB). the agencies represented were the Departments of Commerce, State, Treasury, Labor, and Agriculture, the Federal Reserve Board, and the Office of the U.S. Trade Representative. As a result of the meetings, suggested reporting criteria and a preliminary list of data questions have been prepared and are summarized here.

As envisioned by the user agencies, a BE–11 report, consisting of a Form BE–11A, Form(s) BE–11B, and a Form BE–11C, as approprite, would be required each year of all nonbank U.S. Reporters who, at the end of their fiscal year covered by the report, had one or more nonbank foreign affiliates whose assets, sales, or net income (positive or negative) exceeded $3 million. A U.S. Reporter is a U.S. person that has U.S. direct investment abroad, i.e., that owns or controls, directly or indirectly, 10 percent or more of the voting securities of an incorporated foreign business enterprise or an equivalent interest in an unincorporated foreign business enterprise.

Proposed Form BE–11A would be rquired of each U.S. Reporter subject to the reporting requirement. This form would collect summary information on the U.S. Reporter itself. Items suggested for inclusion by the user agencies were a distribution of sales by 3-digit industry code; total assets, total liabilities, and total owner's equity; the portion of sales that are goods, the portion that are services, and, of total sales of services, the amount sold to U.S. persons, to foreign affiliates, and to other foreign persons; net income; property, plant, and equipment expenditures; total merchandise trade (exports and imports) with foreign affiliates and with other foreigners; and total employment and employee compensation.

Proposed Form BE–11B would be required for each of the U.S. Reporter's majority-owned nonbank foreign affiliates for which any *one* of the following—assets, sales, or net income (positive or negative)—exceeded $10

million. The most detailed information would be obtained only for these larger majority-owned affiliates. In addition to the necessary identification information, the data to be collected would include the affiliate's distribution of sales by 3-digit industry code; a summary balance sheet and income statement containing most major items; a composition of external financial, by transactor; a distribution of sales according to whether the sales were to affiliated or unaffiliated customers, whether they were of goods or of services, and, for sales of both goods and services, whether they were to persons in the affiliate's own country of location, to U.S. persons, or to other foreign persons; total U.S. merchandise trade (exports and imports) of the affiliate with the U.S. Reporter and with other U.S. persons; property, plant, and equipment expenditures; and total employment and employee compensation.

On proposed Form BE–11C, the U.S. Reporter would be required to list, and, in addition to identification information, provide a few data items for, each of its (a) minority-owned nonbank foreign affiliates for which any *one* of the following—assets, sales or net income (positive or negative)—exceeded $3 million and (b) each majority-owned nonbank foreign affiliate for which any *one* of the following—assets, sales or net income (positive or negative)—was more than $3 million but for which *all three* were less than $10 million. As proposed, the data items to be reported for these affiliates would consist of the affiliate's total assets; total owner's equity; sales; net income; property, plant and equipment expenditures; total U.S. merchandise exports and imports; and total employment and employee compensation. Thus, for minority-owned affiliates and the smaller majority-owned affiliates, considerably less detail would be obtained than for the larger majority-owned affiliates.

The very smallest foreign affiliates—those that had asssets, sales, and net income (positive or negative) of $3 million or less—would be completely exempt from being reported in the BE–11 survey, as proposed. Also, U.S. Reporters and foreign affiliates that are banks would be exempt because extensive data on bank activities are already collected by other Government agencies.

The reporting requirements and exemption criteria proposed for Forms BE–11B and BE–11C are as recommended by the user agencies after extensive discussions. The agencies felt that, by limiting reporting on Form BE–11B to majority-owned foreign affiliates that exceeded the relatively high exemption level of $10 million, the reporting burden would be significantly reduced from that in the benchmark survey. Reports would be required for only about 8,000 of the 23,782 U.S.-owned nonbank foreign affiliates that were reported in the 1977 benchmark survey. The agencies noted, however, that, while overall coverage in value terms would be fairly high, the $10 million exemption level, together with the elimination of reporting by minority-owned affiliates, would entail a loss of valuable country detail, and some industries, notably the service industries, would be disproportionately affected. To allay these concerns, they proposed that the much more abbreviated, schedule-type form BE–11C be used to obtain at least a few items for the smaller majority-owned affiliates and for minority-owned affiliates. The agencies concluded that an exemption level above $10 million for the BE–11B would significantly reduce the usefulness of the reports for policy purposes. They also felt that the relatively few questions asked on the BE–11C were of a type that were easily answerable by respondents and of great use to policymakers.

Copies of the preliminary list of questions to be included in the survey, compiled by the user agencies and summarized above, are available upon request from the Office of the Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, D.C. 20230.

For those companies who may benefit from automated submission of data, BEA plans to design the report forms to facilitate submission of the data on magnetic tape or disc rather than hard copy, in accordance with recent recommendations of the General Accounting Office.

To institute the mandatory reporting requirements for the BE–11 survey, the Commerce Department's rules and regulations, as contained in 15 CFR Part 806, must be amended. In the near future, a notice of proposed rulemaking regarding the BE–11 survey will be inserted in the **Federal Register** for public comment.

In response to the suggestions, recommendations, and comments received as a result of this notice of consideration and the forthcoming notice of proposed rules, BEA will prepare a draft of the forms and final rules for OMB approval. At that time, the general public will be given another opportunity to comment. However, BEA would appreciate receiving any major substantive comments on the survey during the current comment period so that such comments can be given the fullest consideration.

George Jaszi,

Director, Bureau of Economic Analysis.

[FR Doc. 84–2015 Filed 1–25–84; 8:45 am]

BILLING CODE 3510–06–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Ch. I

[Docket No. RM84–7–000]

Inquiry on Impact of Special Marketing Programs on Natural Gas Companies and Consumers

Issued: January 16, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Inquiry.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is issuing this notice of inquiry regarding the various innovative natural gas marketing plans, commonly referred to as special marketing programs. These plans are intended to relieve the pressures of oversupply being exerted on the applicants. The proposed plans previously approved by the Commission were limited to new loads or loads that would otherwise be serviced by alternative fuels, producer direct sale arrangements, off-system sales or other special gas marketing programs. However, the Commission is issuing in conjunction with this notice orders that modify three programs on rehearing to include as eligible purchasers other markets served by pipelines and local distribution companies under overrun, excess and other interruptible rate schedules. This notice of inquiry is being issued for the purpose of obtaining information and views to aid the Commission in determining what further action might be appropriate to increase the opportunity for gas-against-gas competition.

DATES: Requests to speak at the public hearing are due by 5:00 p.m., February 15, 1984; written comments by 5:00 p.m., February 22, 1984. The hearing will begin at 10:00 a.m., March 1, 1984.

ADDRESSES: Written comments and requests to speak should be submitted to the office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The hearing will be held at

Commission headquarters, 825 North Capitol Street, N.E., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Jack O. Kendall, Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–8033.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Federal Energy Regulatory Commission (Commission) is issuing this notice of inquiry in conjunction with three orders on rehearing modifying prior orders authorizing undertaking of innovative natural gas maketing plans by Tenneco Oil Company, Houston Oil & Minerals Corporation, Tenneco Exploration, Ltd., Tenneco Exploration II, Ltd., and TINCO, Ltd. (collectively referred to herein as Tenneco); Columbia Gas Transmission Corporation and Columbia Gulf Transmission Company (collectively referred to herein as Columbia); and Transcontinental Gas Pipe Line Corporation (Transco).[1] These approved plans, as well as others still under review by the Commission, are referred to as special marketing programs and are intended to relieve the pressures of oversupply being exerted on the applicants. Originally, these programs were limited to new loads or loads that would otherwise be serviced by alternative fuels, producer direct sale arrangements, off-system sales or other special gas marketing programs. As modified on rehearing, the Commission is allowing these three programs to include as eligible purchasers other markets served by pipelines and local distribution companies (LDCs) under overrun, excess and other interruptible rate schedules. However, as the Commission believes that a healthy competitive environment is necessary if the public interest is to be best served, this notice of inquiry is being issued for the purpose of obtaining information and views that will be helpful to the Commission in determining to what extent, if any, it would be appropriate for the Commission to take action to increase the opportunity for gas-against-gas competition beyond that permitted in the rehearing orders on the Tenneco, Columbia, and Transco special marketing programs.

[1] *See* Tenneco Oil Company, Docket No. CI83–288–000 (November 10, 1983), 25 FERC ¶ 61,234; Transcontinental Gas Pipeline Corp., Docket Nos. RP83–11–000 and RP83–30–000 (November 10, 1983), 25 FERC ¶ 64,219; and Columbia Gas Transmission Corporation and Columbia Gulf Transmission Company, Docket No. CP83–452–000 (November 10, 1983), 25 FERC ¶ 61,220.

II. Background

The enactment of the NGPA has had very profound effects on the price, production, and distribution of gas. The NGPA scheduled a series of phased wellhead price increases and the ultimate wellhead price deregulation of a large portion of domestically produced natural gas. Some categories of natural gas have already been freed from wellhead price regulation. This deregulation of some gas, combined with the relatively recent experience of shortages in the seventies, contributed to pushing up gas prices and spurring increased drilling activity, particularly developmental drilling, to increase production of gas. The NGPA also increased the availability of gas supplies to the interstate market by enhancing the movement into that market of already existing supplies in the intrastate markets. Another factor exerting significant upward pressure on gas prices and creating an additional incentive for increased gas production was the dramatic escalation of petroleum prices, which have more than doubled since the Iranian disruption of 1979.

The rapidly increasing cost and supply of gas was fueled because the deliverability-life of reserves attached to most pipelines is relatively short; therefore, some pipelines adopted aggressive gas acquisition programs in order to serve their future markets.[2] At the same time, the companies negotiated contracts based upon the maximum delivery capability of the wells and committed to high take-or-pay obligations.

While the intensified efforts on the part of pipelines to secure supplies began under the NGA in response to previous supply shortages, for more than two years after the NGPA's enactment interstate pipelines continued to compete vigorously for new gas. There was a general belief that oil prices would continue to rise and that there would be continued demand for natural gas since it was still on average underpriced. Producers, therefore, could obtain generous concessions on take-or-pay and other terms. Consequently, the pipelines' efforts in the late seventies and early eighties to insure themselves adequate supplies in the event of a supply shortfall have led to greater proportional takes by pipelines of higher-priced supplies, with an attendant increase in the cost of overall supplies.

The oil pricing assumption has now been proven false with the decline in oil product prices from the high level reached after the Iranian crisis. At the same time, the continued increase in gas prices has seriously undermined the competitive stance of natural gas with respect to alternate fuels in the industrial markets. In addition, further softening of demand for natural gas has occurred coincidentally with the rise in gas prices and supplies. As a result of heightened consumer conservation-awareness, residential gas consumption is substantially less than it was preceding the 1973 Arab oil embargo.[3] Industrial consumption also declined due to conservation and the installation of more fuel-efficient equipment, but the major factor was the slow down in the economy.

As a result of the anomaly of higher prices in conjunction with greater additions of new gas supply, a phenomenon began to develop in 1981 in which some interstate gas pipelines have had excess or surplus supplies of gas, particularly on an annual basis. In attempting to find ways to cope with increased prices and decreased demand by end-users and with producer pressure to continue to take gas supplies, pipelines have developed various innovative gas marketing programs which have been or are before the Commission for authorization. While sympathetic to the pipelines' efforts, the Commission believes it has the responsibility to consider the impact of these programs on the pipelines' existing customers and others. In some cases, the pipelines' attempts to alleviate problems for some customers have conflicted with the interests of others, thereby requiring the Commission to put restraints on the proposals. In particular, the Commission has been concerned with the inherent economic discrimination generally of these special marketing programs

[2] For some pipelines, a possible additional factor influencing them to seek new supplies may have been requirements in their outstanding debt instruments that they maintain certain reserves-to-production ratios. Historically, such clauses have generally been included in pipeline bond issuances and typically provide that, in the event the exhaustion of available gas supply occurs earlier than bond maturity, sinking fund payments will be proportionately increased so that all bonds will be retired by sinking fund date next preceding date of exhaustion. Therefore, if a pipeline's reserves decline, the company may risk accelerated repayment of debt instruments or may be unable to arrange financing necessary to attach new supplies or assure system reliability. Some pipelines actually experienced such difficulties during the gas shortages of the mid-seventies. Consequently, it is reasonable to assume that such concerns were at least partly responsible for some pipelines' efforts to acquire additional reserves in the years following the gas shortages.

[3] Between 1972 and 1982, residential use per customer declined by 17.9%. *Gas Facts*, American Gas Association, 1982.

against those system-supply customers of the applicant pipelines to whom the discounted gas would not be made available under the programs. Also, the Commission recognizes that many of the programs, if not restrained by the Commission, could result in lost load to competing pipelines with the result that the remaining customers of those other suppliers might face increased costs. These increased costs could be due to either their supplier's take-or-pay liability increasing or their assuming the burden of the fixed pipeline costs previously paid by those customers that left the system to take advantage of lower gas costs under a special marketing program.

For example, one way in which pipelines have attempted to relieve pressures of oversupply is to make off-system sales to non-traditional pipeline and distributor customers. After considering many applications, the Commission on April 25, 1983, issued a policy statement respecting off-system sales.[4] The Commission's policy is designed to insure that an interstate pipeline's on-system customers would not be harmed if sales were made by the pipelines to non-traditional customers. In order to achieve that goal, the policy statement requires an interstate pipeline to sell gas off-system at a rate which is the higher of the seller's system average load factor rate or its average section 102 (NGPA) acquisition cost based on the pipeline's most recent purchased gas adjustment filing. This rate is designed to provide adequate protection of existing customers by assuring that their costs will not rise as the result of off-system sales.[5]

Another way in which several pipelines have sought to relieve the pressures of oversupply is to establish special discount rate schedules (SDRs) which permit sales to industrial consumers who would otherwise use cheaper alternative fuels. The special rates are intended to help pipelines preserve their industrial markets and, consequently, avoid incurring prepayments under their take-or-pay clauses with producers. The pipelines argue that these sales would have the effect of lowering gas prices for all customers. However, in reviewing these applications, the Commission has given particular consideration as to whether such rate schedules, if implemented over a long-term basis, might result in subsidization by the pipelines' other customers, particularly residential and commercial customers.[6] Of course, the Commission recognizes that the ultimate authority to determine how much of the costs will be borne directly by the residential and commercial customers resides with the State regulatory commissions.

Several pipelines have requested authorization for other innovative marketing plans which raise some of the same issues as SDRs. These essentially place the pipeline in the position of a broker between the distributor and the producer. While these proposals vary in their procedures, they have certain similarities.[7] Generally, the pipeline identifies volumes of sales to particular distribution customers that the pipeline anticipates will be lost due to competition from less expensive fuel, but for the proposed marketing program. The pipeline then contacts the producers from which it purchases and declines to take the volumes which in its judgment it will not be able to sell. In return for a release from take-or-pay obligations for those volumes, the pipeline offers to arrange for the volumes to be purchased directly from the producer by the pipeline's customers that are designated in the plan as "eligible" purchasers. Under these various special marketing plans, the price of gas delivered under the program to eligible purchasers is generally lower than the delivered price of gas from system supply and, as well, only certain customers, who are generally price-sensitive, are allowed to purchase the discounted gas.

Reduction in gas costs to price-sensitive customers cannot alone provide sufficient justification for the approval of a special marketing program, since permitting only those purchasers that have alternate fuel use capability or which constitute new load to purchase the discounted gas, of course, constitutes economic discrimination. As indicated by the Transco and Columbia special marketing programs, the Commission will approve only those marketing proposals where there is a sound basis for concluding that, while some degree of economic discrimination among customers may be present, the program nevertheless would result in a net benefit to those direct and indirect customers of the pipeline that do not have access to the lower-cost gas marketing under the program.[8]

Of course, an important reason for approving any proposed special marketing program is the hope that it will lead ultimately, as the result of price competition at the wellhead, to non-discriminatory reduction in all users' gas costs. However, special marketing programs have not been operative long enough to determine whether they will exert downward pressure on gas prices generally. In the meantime, these programs must be viewed as short-term, experimental measures to be used only when the gas cost reduction for the eligible customers cannot be achieved without the economic discrimination against non-eligible customers—and then only when it can also be demonstrated that the marketing program will provide some meaningful net benefit to the non-eligible customers.

Besides insuring that the economic discrimination among customers generally inherent in special marketing programs is counter-balanced by some benefit of the programs to non-eligible customers, the other major concern of the Commission in reviewing any such proposal is to insure that, if approved, it will not present the potential for

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[4] Statement of Policy on Off-System Sales, Docket No. PL83-2, issued April 25, 1983, 48 FR 20,124 (May 4, 1983).

[5] Where appropriate, the Commission has approved off-system sales, even though a pipeline's prices were not high enough to qualify at the time of its application, if its prices did qualify by the time the Commission determined that no other reasons for disapproving the off-system sales existed. In no case since issuance of the policy statement, however, has the Commission approved an off-system sale at a price below the selling pipeline's 100 percent load factor rate. *See, e.g.*, the Commission's action in Carnegie Natural Gas Co., Docket No. CP83-151-000, issued June 21, 1983 (23 FERC ¶61,394) and National Fuel Gas Supply, Docket No. CP83-217-001, issued Sept. 16, 1983)

[6] Special discount rate schedules have been filed by Consolidated Gas Supply Corporation (Docket No. CP83-410-000); Michigan-Wisconsin Pipe Line Company (Docket Nos. CP82-542 and RP82-80); Northern Natural Gas Company (Docket No. CP83-14); Columbia Gas (Docket No. CP82-245); and Northwest Gas (Docket No. CP83-136). Temporary certificates have been issued subject to refund by the Commission to Michigan-Wisconsin Pipe Line Company on October 29, 1982 (*see* 21 FERC ¶61,054) and Northern Natural Gas Company on May 27, 1983 (*see* 23 FERC ¶61,295). Columbia Gas and Northwest have both withdrawn their SDR filings.

[7] As discussed above, the Commission is issuing orders today in conjunction with this notice of inquiry which modify on rehearing special marketing programs for two interstate pipelines, Transco and Columbia, and a producer, Tenneco, that were approved by orders issued November 10, 1983. *See supra* note 1.

[8] Many producers currently are generally unable to sell new supplies to pipelines, and pipelines' purchases even under existing contracts have been reduced, often to below take-or-pay levels. Consequently, many producers presently are willing to sell gas to end users at prices below the prices of the pipeline system supplies available to those purchasers. This willingness is the basis for pipeline special sales programs, but it also is manifested in direct sales arranged by the producers themselves. One new form of direct producer sale is embodied in Tenneco Oil Company's special marketing program, Tenneflex, which was approved by the Commission on November 10, 1983. *See* 25 FERC ¶ 61,234. Tenneflex involves the sale of gas which has been contractually committed to and then released by a pipeline or local distribution company. Special issues raised by producer-sponsored special marketing programs are discussed below.

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unacceptable adverse impacts on the applicant's competing suppliers. Therefore, the Commission must assure itself that the proposed program will not be inimical to the public interest by causing damage to the infrastructure of the natural gas distribution system and thereby impede the delivery of adequate supplies of natural gas to all consumers at the lowest reasonable cost in either the near or long term.

The orders issued to date by the Commission to approve, extend, or modify special marketing programs have included numerous conditions designed to insure the Commission's goal that any special program that it approves will not result in detriment to the applicant's non-eligible customers or the customers of gas suppliers that are in competition with the special marketing program applicant. Furthermore, in view of the importance of these objectives, the restrictions placed by the Commission on the operation of the special marketing programs already approved have been devised to err on the side of providing greater than necessary safeguards, as opposed to too little protection. However, the Commission at the same time firmly believes, as do many of those interested parties that have expressed their views on special marketing programs to the Commission, that it would be in the public interest to engender greater competition in the natural gas market in general but especially now when high gas prices for some time have remained essentially unresponsive to decreased demand.

In view of the above considerations, the Commission is issuing this notice of inquiry to solicit comments and information to aid in its further consideration as to what actions relating to special marketing programs may be appropriate in the future as a means of promoting price competition at both the natural gas wellhead and among pipelines and distributors. In this regard, the Commission requests that all interested parties express their views and any available documentary support for their positions regarding the special marketing programs that have been put before the Commission, both generally and with respect to those that already have been implemented or currently are under review by the Commission.

III. Request for Comments

The first orders issued by the Commission approving special marketing programs were designed to enable the pipeline applicants to retain or regain their marginal markets by allowing the pipelines to charge lower rates to their on-system customers that otherwise might not use natural gas and switch to other fuels or would use natural gas only in those instances where there were special price considerations. These initial programs permitted only very limited gas-against-gas competition. The Tenneco, Columbia, and Transco rehearing orders being issued with this notice, however, have modified those programs to permit competition for service provided under pipelines' and LDC's excess or overrun and other interruptible rate schedules.

The views expressed by interested parties, as well as the Commission's experience with operation of the special marketing programs to date, enabled the Commission to determine that the opportunity for competition among gas companies to at least this limited degree is desirable. While the Commission believes that additional competition should be encouraged, the information currently available to the Commission is not sufficient to provide a basis for evaluating with reasonble precision the potential impacts on gas suppliers and consumers that might arise from greater opportunity for gas-for-gas competition.

In view of the above consideration, the Commission is seeking comments in several respects with regard to the conditions and restrictions heretofore imposed on the operation of special marketing programs that require Commission approval. First, the Commission solicits comments as to whether in view of these currently utilized conditions it would be appropriate to permit companies with special marketing programs to compete for other pipelines' and LDCs' core market customers or, if not, whether the current conditions can be modified or new restrictions added so that such an expansion of opportunity for competition would be desirable. Second, the Commission requests comments as to whether any of the conditions applicable to the Transco, Columbia, and Tenneco marketing programs pursuant to the orders issued on rehearing of and modifying the November 10, 1983 orders approving those programs burden competition with greater restrictions than are necessary to adequately protect the interests that the conditions were designed to safeguard. A more specific discussion of the issues on which we request comments follows. Third, in addition the Commission requests comments as to whether there are other market-ordering measures that it should be considering as means of exerting downward pressure on gas prices generally.

Commenters should note that the Commission will also consider their views in determining whether the marketing conditions can, as presently formulated or with modification, embody the basic outline of a statement of general policy regarding the conditions under which a natural gas producer or pipeline could anticipate that a proposed special marketing program would find Commission approval. Even further, the comments and information received in this proceeding may enable the Commission to so refine the conditions applicable to these programs that they would provide the basis for proposing a generic rulemaking to either expand the blanket certificate program set forth in Subpart F of Part 157 of the Commission's regulations or adopt new regulatory provisions authorizing sefl-implementing programs under enumerated conditions.

A. Eligible Purchasers

As explained above, the there rehearing orders on the Tenneco, Transco, and Columbia marketing programs have modified these programs to the extent that not only user who otherwise would use alternate fuels or non-traditional gas supplies, but also users served by pipelines and LDCs under overrun, excess and other interruptible rate schedules are eligible to purchase gas under these programs. To what extent, if any, should the Commission expand its authorizations to include residential, commercial, process and feedstock uses and other users served under firm rate schedules? In particular, what would be the impact of such expanded competition on the following:

1. Those markets able and to take advantage of the competition;
2. Those markets unable to take advantage of the competition due to such reasons as unwillingness on the part of the sole supplier to provide transportation service, inability to align available supplies with particualr operations or requirements, or inadequate financial resources;
3. Those pipelines that are able and willing to transport the gas;
4. Those pipelines that are either unable or unwilling to transport the gas;
5. Those natural gas producers able and willing to price their supplies in order to successfully compete in the marketplace; and
6. Those natural gas producers either unable or unwilling to competitively price their supplies in either sales to pipelines or direct sales to end-users?

In addition, are there different competitive, operational or contractual circumstances in the intrastate *vis-a-vis* interstate markets that would warrant special consideration?

With regard to producers, is it possible that pipelines could discriminate between producers and thereby make it difficult for them to market their gas? If so, how? Would unlimited competition in the marketplace discriminate against certain classes of producers?

The Commission also requests comments on the general types of uses in a pipeline's or local distributor's core market which would be subject to any Commission expansion of the category of purchasers eligible to take advantage of the special marketing programs. For example, is a pipeline or local distribution company's core market the same as those users for which the pipeline or distributor has a service obligation? Are a pipeline's or distributor's service obligations likely to change in the future in response to the deregulation scheme under the NGPA and to supply and demand changes?

Further, the Commission requests comments regarding the extent to which filed rate schedules should be dispositive as to whether a particular market should be deemed to be served on an interruptible basis for purposes of determining whether that market is open to competition. This issue is relevant to both whether purchasers are currently eligible under the companion rehearing orders and, in the event the special marketing programs are expanded in the future, whether core markets are distinguished from other customers in terms of potential conditions imposed. In this regard, should the Commission consider potential factors that might result in markets currently served on an interruptible basis assuming firm service status in the future?

Another issue on which the Commission requests comments concerns the impact of special marketing programs on a pipeline's service obligations. When the Commission grants a certificate to a pipeline to serve particular customers, it requires the applicant pipeline to demonstrate that it is able and willing to serve the market. The pipeline must be able to demonstrate that it will maintain sufficient supplies under contract and that it has the facilities available to provide the certificate service. The service obligation of a pipeline at a minimum reflects the maximum service the firm customers can demand. When a new competitor enters a market previously served by only one supplier, the historical supplier continues to be subject to its outstanding obligation and must be prepared to serve a diverted customer's demands, when and if the customer returns to the historical supplier. As it now stands, a pipeline cannot be released from its obligations under an outstanding certificate absent a section 7(b) (NGA) abandonment authorization. What would be the impact of allowing competition for core markets on a pipeline's ability to meet its service obligations to the other core customers that remain on the pipeline's system? In addition, what impact, if any, would expanding the scope of gas-for-gas competition have on pipelines' gas acquisition programs and the maintenance and expansion of facilities? In this regard, the Commission observes that during the severe gas shortages of the seventies, the scope of a pipeline's service obligation became a major issue in many instances. Experience under the gas curtailment program demonstrated, that for purposes of allocation during a supply shortfall, the determinative factor was the nature of a consumer's end-use of gas, not whether it technically fell within a market reflected as interruptible in its supplier's rate schedule. The Commission would welcome any views as to how the service obligations of pipelines that existed prior to and during curtailment have been affected now and will be affected in the future by the current surplus environment.

Finally, comments are requested on whether pipelines or producers authorized to undertake special marketing programs may not pursue the full extent of the opportunities afforded them. What would be the impact of such reluctance on those eligible purchasers who are unable to take advantage of gas supplies authorized to be available under the programs?

B. Pricing Conditions

Under presently effective special marketing programs, NGPA categories or prices of gas released from a pipeline's system supply are restricted so that remaining customers are no worse off. As a general rule, the Commission has found that this objective requires that the weighted average cost of the total pool of gas released for special sales must equal or exceed the weighted average cost of the pipelines' system supply. This condition ensures that a pipeline's higher cost supplies will be included in the program and that its remaining customers will not be disadvantaged by the sale of lower cost supplies.

While this condition would appear to serve the Commission's purpose of limiting the amount and categories of natural gas that can be released for purposes of participating in the competitive market, other standards may more appropriately further those objectives. The Commission requests comments and suggestions on standards other than the WACOG standard to protect pipelines' core customers.

The Commission also requests comments regarding the varying abilities of pipelines to reduce their WACOGs for system supply by securing pricing concessions by their producer-suppliers and the manner in which such considerations should influence the Commission's evaluation of whether further opportunity for competition among gas suppliers would be desirable. In this regard, the Commission also specifically requests comments as to whether the WACOG test might create special difficulties for pipelines heavily reliant on Canadian imports or on imported LNG that would make pricing adjustments for those pipelines appropriate.

C. Kinds of Gas Qualifying

Currently, the Tenneco, Transco and Columbia special marketing programs are restricted to gas contractually committed to jurisdictional pipeline purchasers on or before November 10, 1983, the issue date of the orders authorizing the current programs. The Commission is interested in determining whether relieving this restriction would enhance gas-to-gas competition in the natural gas markets. For example, special marketing programs could be allowed to also include off-system, non-released gas; or expanded to include OCS gas regardless of where the markets are located. However, because some gas (primarily sections 104 and 106 gas) will not be deregulated in 1985 and 1987, it may be appropriate to exclude such gas from any expanded special marketing programs, thereby preserving its pricing advantages to a pipeline's core customers. Similarly, expansion of the special marketing programs to additional gas supplies could increase the potential for drainage, depending upon which producers are successful in marketing their gas supplies. The Commission requests comments and suggestions on all aspects of these observations.

D. Take-or-Pay and Minimum Bill Provisions

In the November 10 orders, the Commission required that producers offering gas into any special sales program must release the pipeline to which the gas was contractually obligated from take-or-pay liabilities, if any, for such volumes. This determination is based on the Commission's conclusion that the release from take-or-pay liability is a

principal benefit to on-system customers and should be a non-negotiable item in any formulation of a Commission-approved marketing plan. However, the Commission requests comments as to the impacts of take-or-pay requirements and under what circumstances, if any, it would be appropriate in approving any marketing program to omit entirely or at least relax the condition that a producer must credit all gas moved under the program against the releasing pipeline's take-or-pay liability to that producer.

The Commission also seeks comments on the crediting of volumes transported under a marketing program against purchasing customers' minimum commodity bill requirements. The question of commodity minimum bills imposed upon distributor customers by interstate pipeline tariffs is the subject of a pending notice of proposed rulemaking.[9] However, until such time as a final rule may be adopted in that proceeding, it is possible that the take-or-pay relief obtained from producers would not be flowed through to release distributors from minimum bill or minimum take requirements. Hence, the November 10 orders require that gas delivered by a pipeline to a distributor or a distributor's customers be credited against minimum bill tariff requirements, in order to protect remaining system supply customers of a distributor from bearing charges that do not reflect the cost relief accorded to a pipeline by a special marketing program approved by the Commission. However, the Commission invites comments as to any anticompetitive impacts of minimum bill requirements and whether this objective can be achieved in the absence of a requirement that a pipeline that transports direct sale gas must credit that gas against its customers' minimum bill liabilities.

E. Other Criteria

1. *Order of Sales.* The November 10 orders state that if more gas than can be sold is tendered for inclusion in a special marketing program, the gas representing the greatest cost relief to on-system customers should be sold first. This criterion, which applies to the Tenneco program as well as the Transco and Columbia marketing programs, is intended to maximize the benefits to on-system customers. This restriction is easiest to apply in cases, such as Transco's program, where all the gas is sold by the producers at a single price. However, when the price to special marketing customers is to be negotiated on a transaction-by-transaction basis, it is more difficult to assure that the cost relief, including both price concessions and take-or-pay relief, is the determining factor in deciding which transactions go forward. As a result, this criterion might be applied more broadly, under such circumstances, to require that NGPA section 107 gas be sold before section 102 or 103 gas. Comments are requested with respect to situations where the price of specially marketed gas is set on a transaction-by-transaction basis, as well as with respect to any other circumstances under which the sale of less expensive gas first might be justified.

2. *Equal Access for Producers.* It is also the Commission's position that a pipeline generally must offer equal access to all producers, consistent with the other special marketing program criteria, *viz,* the pipeline may first transport the gas for which it receives take-or-pay relief. The Commission recognizes, however, that inherent tension between direct sales arrangements and special marketing programs are inevitable. Therefore, the November 10 orders require the pipeline to transport gas sold by similarly situated producers on equal terms. The Commission is particularly concerned that a pipeline not grant a preference to its own production affiliate. However, comments are requested generally as to under what circumstances varying degrees of access to a special marketing program among producers would be appropriate.

IV. Request for Public Comment

The Commission invites interested persons to submit comments, data, views and other information concerning the matters set out in this notice. An original and 14 copies of such comments must be received by the Commission before 5:00 p.m., Wednesday, February 22, 1984. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, and should reference Docket No. RM84–7–000.

All written submissions will be placed in the Commission's public files and will be available for public inspection in the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426, during regular business hours.

V. Public Conference

The Commission has determined to also provide an opportunity for the oral presentation of data, views and arguments on the matters discussed in this notice. A public hearing will be held in Washington, D.C., on Thursday, March 1, 1984. The hearing will be held at the Offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., and will begin at 10:00 a.m., local time.

Requests to participate in the hearing must be received by February 15, 1984, and should be directed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. Requests should reference Docket No. RM84–7 and should indicate the name of the person who will be making the presentation, a phone number at which that person may be contacted, and the amount of time requested for the presentation.

The number of the room in which the hearing will be held will be available in the Commission's Office of Public Information prior to the hearing on the morning of the hearing.

The hearing will not be a judicial or evidentiary-type hearing, and there will be no cross examination of persons presenting statements. The presentation will be made before a panel whose members will be designated by the Chairman of the Commission. Members participating on the panel before whom the presentations are made may ask questions. If time permits, they may also ask such relevant questions as are submitted to them by the participants. Other procedural rules relating to the hearing will be announced at the beginning of the proceeding. A transcript of the hearing will be made, and a copy of that transcript will be placed in the public file for Docket No. RM84–7–000 and made available for inspection at the Commission's Office of Public Information in Room 1000, 825 North Capitol Street, NE., Washington, D.C.

(Natural Gas Policy Act of 1978; 15 U.S.C. 3301–3432 (Supp. V 1981); Natural Gas Act, 15 U.S.C. 717–717w (1976 and Supp V 1981))

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–2028 Filed 1–25–84; 8:45 am]

BILLING CODE 6717–01–M

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[9] Elimination of Variable Costs from Certain Natural Gas Pipeline Minimum Commodity Provisions, 48 FR 39,238 (August 30, 1983).

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18 CFR Part 270

[Docket No. RM84–6–000]

Refunds Resulting From Btu Measurement Adjustments

Issued: January 19, 1984.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of inquiry.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is issuing a notice of inquiry to obtain public comment on refund procedures for refunds resulting from Btu measurement adjustments. The Commission requests comments on a number of procedures it could adopt to monitor refund payments and to insure these refund payments are passed through to customers served by interstate gas pipelines.

DATE: Written comments must be received on or before February 27, 1984.

ADDRESS: Comments must be sent to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. All comments must reference Docket No. RM84–6–000.

FOR FURTHER INFORMATION CONTACT: Nancy M. Rizzo, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–8033.

SUPPLEMENTARY INFORMATION:

I. Introduction

On August 9, 1983, the United States Court of Appeals for the District of Columbia Circuit vacated the Commission's regulations in 18 CFR 270.204.[1] Those regulations described the method used to calculate the energy content of natural gas (measured in term of British thermal units (Btu's)) sold pursuant to the Natural Gas Policy Act of 1978 (NGPA).[2]

Sections 270.204 (a) and (b) required that the Btu content of the natural gas be determined on the basis of the quantity of Btu's that would result if the gas were at certain "standard test conditions." [3] Once the Btu content of the natural gas was determined on the basis of the test conditions prescribed by § 270.204 (a) and (b), § 270.204(c) permitted an adjustment to that determination to reflect the Btu's actually delivered to the pipeline system. The gas delivered to a pipeline almost never contains the amount of water vapor that would result at the "standard test conditions." [4] Thus, a given volume of gas contains a greater quantity of Btu's than the standard test conditions would indicate. As a result, the Commission's regulations permitted an adjustment to reflect the actual energy content of the gas delivered.

The D.C. Circuit Court of Appeals determined that this pricing methodology is inconsistent with the price adjustment methodology used under the Natural Gas Act (NGA). Under the NGA, the Commission required that Btu content be determined on the basis of the standard test conditions and it allowed adjustments to the price (expressed in $/Mcf) that incorporated this Btu content. Since the ceiling prices in the NGPA are expressed in $/MMBtu, the Commission believed that an adjustment for actual energy content of delivered gas was warranted. However, the court held that, by enacting the NGPA, Congress did not intend to alter the Btu pricing methodology used under the NGA and that the Commission had no authority to change this methodology.

As a result of the court's opinion lower payments should have been made for gas sold under the NGPA since December 1, 1978. Thus, any seller that priced its gas on the basis of the actual Btu content of the gas delivered to the pipeline was overpaid and must refund the overpayments.[5] Although the D.C. Circuit's decision may be appealed to the Supreme Court, at this time the D.C. Circuit's decision is effective because its mandate was issued on December 8, 1983. Accordingly, the Commission is required to adhere to that mandate and develop procedures to implement the court's decision.

III. Discussion

The Commission is issuing this Notice of Inquiry to obtain public comment on a number of procedures it could adopt to monitor the refund payments and insure these refunds are passed through on an equitable basis to customers served by interstate gas pipelines.[6] The Commission invites comments on these procedures and suggestions for alternative procedures. Based on the record developed, the Commission will initiate a Notice of Proposed Rulemaking.

Because the refunds may involve large dollar amounts, the Commission believes that these refund payments must be monitored. Interstate pipeline companies have the requisite information and records to determine which producers have been overpaid. The Commission is considering requiring the interstate pipelines to actively monitor these refunds and to file with the Commission refund reports for the refunds recovered. In addition, the Commission is considering permitting the pipelines to recover these refunds through billing adjustments to the producers' accounts, provided that interest is calculated pursuant to § 154.67(c) of its regulations.

The Commission notes that these procedures would not relieve the first sellers of their obligations under the NGPA and the Commission's regulations to make refunds. Rather, the Commission recognizes that the interstate pipelines have a responsibility to participate in recovering the large amount of refunds owed in this situation.

The Commission is also concerned with how the interstate pipelines should pass through these refunds to their respective customers.[7] The Commission could require each interstate pipeline to submit a refund plan. This refund plan could be reviewed and implemented on a pipeline-by-pipeline basis. While the refunds could be made on a "lump-sum" basis, in accordance with the refund provisions in the pipelines' respective tariffs, the Commission recognizes that because of the large sums involved, it

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[1] Interstate Natural Gas Association of America v. Federal Energy Regulatory Commission (INGAA), 716 F.2d 1 (D.C. Cir. 1983). The court issued its mandate on December 8, 1983. On December 30, 1983, Chief Justice Burger denied, without prejudice, requests for stay of the mandate filed by the Commission and other parties. On January 17, 1984, the Commission filed a petition for writ of certiorari and a motion to stay the mandate with the United States Supreme Court.

[2] Rules Generally Applicable to Regulated Sales of Natual Gas, 45 FR 49,077 (July 23, 1980) (Order No. 93); Order Denying Reheairng and Clarifying Order No. 93, 46 FR 24537 (May 1, 1981) (Order No. 93–A).

[3] More specifically, § 270.204 of the regulations established the procedure and standard conditions for determining the Btu content of natural gas. The Btu content of a cubic foot of natural gas is the number of Btu's produced by the combustion, at constant pressure, of the amount of gas saturated with water vapor which would occupy a volume of 1.0 cubic feet at a temperature of 60° Fahrenheit and under a pressure equivalent to that of 30.00 inches of mercury at 32° Fahrenheit and under standard gravitational force (980.665 centimeters per second squared) with air of the same temperature and pressure as the gas when the products of combustion are cooled to the initial temperature of the gas and air, and when the water formed by combustion is condensed to the liquid state. 18 CFR § 270.204 (1983).

[4] At the prescribed standard test conditions, the gas would contain about 820 pounds of water vapor per million cubic feet (MMcf) of total gas. Under most actual pressure and temperature delivery conditions, it is physically impossible for the gas to contain 820 pounds of water vapor per MMcf of total gas. In fact, a large number of pipeline-producer gas purchase contracts specify that the producer shall not deliver gas to the pipeline containing more than 7 pounds of water vapor per MMcf of total gas.

[5] Section 270.101(e) imposes a general refund obligation on any person that receives a price in excess of the maximum lawful price under the NGPA. 18 CFR 270.101(e) (1983).

[6] These refund procedures will only be applicable to overpayments resulting from the Btu calculations that should have been made from December 1, 1978 to the effective date of the Commission's Interpretive Rule in Docket No. RM80–33–001, issued in conjunction with this Notice of Inquiry.

[7] The Commission recognizes that it does not have jurisdiction over the intrastate pipelines in this matter and requests comments on how to insure that intrastate pipelines will pass through these refunds to its customers.

may be more appropriate to amortize these amounts over some specific time period. The most appropriate method could depend, for example, on the amount of the refund, the number of jurisdictional customers affected by the refund, and the pattern in which the overpayments were assessed on the customers.

Also, the Commission has the option of using the general refund provisions applicable to the purchased gas adjustment (PGA) proceedings in § 154.38(d) to require the pass-through of refund amounts to the pipelines' jurisdictional customers. This procedure would require most pipelines to pass through the entire refund over a six month period. The Commission recognizes that this procedure may not be appropriate for two reasons. First, the pipelines will receive a substantial amount of money from these refunds accumulated over a period longer than six months. Second, a refund passed through over a six month period may not appropriately benefit all of a pipeline's customers due to the seasonal demand for natural gas.[8]

The Commission requests comments and suggestions on these and other aspects of implementing these refund procedures.

IV. Request for Public Comment

The Commission invites interested persons to submit comments, data, views and other information concerning the matters set out in this notice. An original and 14 copies of such comments must be received by the Commission on or before February 27, 1984. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, and should reference Docket No. RM84–6–000.

All written submissions will be placed in the Commission's public files and will be available for public inspection in the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., 20426, during regular business hours.

List of Subjects in 18 CFR Part 270

Natural gas, Wage and price controls.

(Natural Gas Policy Act of 1978; 15 U.S.C. 3301–3432 (Supp. V 1981); Natural Gas Act, 15 U.S.C. 717–717w (1976 and Supp V 1981))

[8] Because a pipeline's summer customers are primarily industrial users and its winter customers are primarily residential users, a six month refund period could unfairly exclude one group

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–2027 Filed 1–25–84; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

Withdrawal of Proposed Customs Regulations Amendment Relating To Filing of Coastwise Cargo Declaration

AGENCY: Customs Service, Treasury.

ACTION: Withdrawal of proposed rule.

SUMMARY: This document withdraws a proposed amendment to the Customs Regulations relating to vessels in the coastwise trade which touch at an intermediate forign port or ports. The proposal would have amended the Customs Regulations by providing an alternative procedure so that a vessel operator may file the required coastwise cargo declaration for certification after the vessel's departure from the United States port of lading. Upon further review of the proposal in light of Customs law enforcement responsibilities, it has been determined not to proceed with the proposal.

DATE: Withdrawal effective January 26, 1984.

FOR FURTHER INFORMATION CONTACT: Donald H. Reusch, Carriers, Drawback and Bonds Division (202–566–5708); U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

Generally, the coastwise trade involves the transportation by vessel of merchandise or passengers between points in the United States embraced within the coastwise laws. These points include ports and places in the United States, its territorial waters, and nearly all of the territories and possessions of the United States.

The Customs Regulations provide that a certified coastwise Cargo Declaration must be used to identify the merchandise to be transported from the port of lading in the United States via the foreign port or ports to the subsequent ports in the United States. Under current procedures, this cargo declaration must be presented to Customs for certification and returned to the master of the vessel before the vessel can depart from the United States port of lading. Because this has on occasion prevented a vessel from departing timely, on April 18, 1983, Customs published a notice in the **Federal Register** (48 FR 16503) proposing to amend § 4.82(b) to provide alternative procedure which would permit a vessel to depart the port of lading in the United States before presentation of the coastwise Cargo Declaration to Customs for certification.

While the comments received in response to the notice were in support of the change, upon further review of the matter in light of Customs law enforcement responsibilities, it has been determined to withdraw the proposal.

Drafting Information

The principal author of this document was Charles D. Ressin, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

William von Raab,

Commissioner of Customs.

Approved: January 12, 1984.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 84–2196 Filed 1–25–84; 8:45 am]

BILLING CODE 4820–02–M

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19 CFR Part 146

Withdrawal of Proposed Customs Regulations Amendment Relating To Admission Into Foreign-Trade Zone of Merchandise From Customs Bonded Warehouse

AGENCY: Customs Service, Treasury.

ACTION: Withdrawal of proposed rule.

SUMMARY: This document withdraws the proposed amendment to the Customs Regulations to allow imported merchandise withdrawn from a Customs bonded warehouse to be admitted into a foreign-trade zone without restriction for use in manufacturing operations. That merchandise will continue to be restricted and must be exported from the United States, destroyed, or merely stored in a foreign-trade zone. It cannot be used to manufacture a product in a zone.

DATE: Withdrawal effective on January 26, 1984.

FOR FURTHER INFORMATION CONTACT: Russell A. Berger, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, NW. Washington, D.C. 20229 (202–566–5856).

SUPPLEMENTARY INFORMATION:

Background

Foreign-trade zones ("zone") are established under the Foreign Trade

Zones Act of 1934, as amended (FTZA) (19 U.S.C. 81a–81u) and the general regulations and rules of procedure of the Foreign-Trade Zones Board contained in 15 CFR Part 400. Part 146, Customs Regulations (19 CFR Part 146), governs the admission of merchandise into a zone; manipulation, manufacture, or exhibition of merchandise in a zone; exportation of merchandise from a zone; and transfer of merchandise from a zone into the customs territory of the United States ("customs territory").

Foreign or domestic merchandise may be admitted into a zone for, among other things, manipulation, manufacture, assembly, or other processing, or for storage or exhibition, provided these operations are not otherwise prohibited by law. Normal customs entry procedures and payment of duty are not required for merchandise located in a zone unless and until the merchandise is removed from a zone and entered into the customs territory.

In response to a petition from a member of the public challenging the restrictive nature of § 146.25(d), Customs Regulations (19 CFR 146.25(d)), relating to the treatment of certain zone merchandise, Customs published a notice in the **Federal Register** on May 13, 1982 (47 FR 20627), proposing to amend that section of the regulations. As proposed, § 146.25(d) would have been amended to allow imported merchandise withdrawn from a Customs bonded warehouse to be admitted into a zone without restriction for use in manufacturing operations.

As presently written, § 146.25(d) specifies that merchandise entered for warehousing under section 557(a), Tariff Act of 1930, as amended (19 U.S.C. 1557(a)), and thereafter transferred to a zone shall have the status of "zone-restricted merchandise". This means that the merchandise may be taken into the zone only for the purpose of exportation, storage, or destruction. Consequently, such merchandise may not be used in the zone in manufacturing operations.

Discussion of Comments

A total of 24 comments were received in response to the notice, 20 of which favored the proposal. Those commenting favorably stated that adoption of the proposal will allow greater flexibility in distributing merchandise to a zone depending upon existing commercial needs and will generally enable more efficient and economical utilization of zones, which accords with Congressional intent to stimulate American business and labor by facilitating the conduct of any lawful activity in a zone.

Four commenters were opposed to the proposal. One commenter was opposed to the possibility of heretofore zone-restricted merchandise being used in a particular manufacturing operation in a zone. Another commenter objected to the proposal because it is contended that to increase manufacturing in zones only dislocates established small businesses and does not create jobs, but only transfers existing jobs into zones. Finally, two other commenters were opposed to the proposal on legal grounds, *i.e.*, construction of the statutory language of 19 U.S.C. 1557(a) in light of the Congressional intent (and the plain meaning of the language itself), the restriction pertaining to this type of zone merchandise which is contained in the fourth proviso to 19 U.S.C. 81c, and the rational correlation between 19 U.S.C. 1557(a) and 19 U.S.C. 1562 that would be destroyed if the proposal were adopted. Parenthetically, an internal Customs comment noted that adoption of the proposal could effectively defeat the 5-year maximum warehousing period prescribed by law.

Customs has carefully reviewed and considered each of the comments. Although the negative comments do constitute a minority of those received, Customs believes they have significant merit and point out persuasive legal impediments to adoption of the proposal. In addition, it is clear that administrative precedent, *e.g.*, Customs Service Decisions 79–204 and 81–88, has consistently held that merchandise transferred from a bonded warehouse to a zone may be admitted only in zone-restricted status.

Withdrawal of Proposal

In view of the foregoing, and after consideration of the comments received and further review of the matter, Customs has determined to withdraw the notice of proposed rulemaking published in the **Federal Register** on May 13, 1982 (47 FR 20627).

Drafting Information

The principal author of this document was Todd J. Schneider, Regulations Control Branch, Office of Regulations and Rulings, U.S. Cusoms Service. However, personnel from other Customs offices participated in its development.

William von Raab,

Commissioner of Customs.

Approved: January 12, 1984.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 84–2197 Filed 1–25–84; 8:45 am]

BILLING CODE 4820–02–M

19 CFR Part 175

Receipt of Domestic Interested Parties Petition Concerning Tariff Classification of Assemblies of Color Television Receivers Which Include a Color Television Picture Tube

AGENCY: Customs Service, Treasury.

ACTION: Notice of receipt of domestic interested parties petition.

SUMMARY: Customs has received a petition from domestic interested parties requesting the reclassification of imported assemblies of color television receivers which include a color television picture tube. An imported color television picture tube included in each assembly of color television receivers is currently classifiable for duty purposes under the provision for television receivers and parts thereof, having a picture tube, color, in item 685.14, Tariff Schedules of the United States (TSUS, 19 U.S.C. 1202). The petitioners contend that the color television picture tube should be classified under the provision for television picture tubes, color, in item 687.35, TSUS, and thus, subject to a higher rate of duty. This document invites comments with regard to the correctness of the current classification.

DATE: Comments must be received on or before March 26, 1984.

ADDRESS: Comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, Room 2426, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Simon Cain, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–2938).

SUPPLEMENTARY INFORMATION:

Background

A petition dated September 19, 1983, was filed with the Customs Service under section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), by 4 labor organizations representing American workers engaged in the manufacture and production of color television picture tubes directly comparable to the imported color television picture tubes which are the subject of the petition. The petitioners contend that an imported color television picture tube, included in each assembly of color television receivers, which is currently classified by Customs as an unfinished article under the provision for television receivers and parts therefore, having a picture tube, assemblies (including kits

containing all parts necessary for assembly into complete receivers), color, in item 685.14, Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202), is more appropriately classified under the provision for television picture tubes, color, in item 687.35, TSUS. The current rate of duty for merchandise classified under item 685.14, TSUS, is 5 percent ad valorem and the current rate of duty for merchandise classified under item 687.35, TSUS, is 15 percent ad valorem.

The petitioners' claim for reclassification states that there is no legal basis for the existing tariff classification of items 685.11–685.14, TSUS, that such classification should be disregarded in duty classification determinations, and that the original tariff classifications enacted by Congress in 1962 are presently the only lawful classifications for television apparatus and parts thereof.

Alternatively, petitioners contend that the U.S. Customs Service improperly classified the color television picture tubes as part of a single article: "assemblies" (including kits) having a picture tube, from Mexico under item 685.14, TSUS. Petitioners contend that these color television picture tubes should be classified separately as products from Japan under item 687.35, TSUS.

Comments

Pursuant to § 175.21(a), Customs Regulations (19 CFR 175.21(a)), before making a determination on this matter, Customs invites written comments from interested parties on the petition and the correctness of Customs classification of these articles.

The domestic interested parties petition and all comments received in response to this notice will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), between the hours of 9:00 a.m. to 4:30 p.m. on normal business days, at the Regulations Control Branch, Headquarters, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

Authority

This notice is published in accordance with § 175.21(a), Customs Regulations (19 CFR 175.21(a)).

Drafting Information

The principal author of this document was James S. Demb, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

George C. Corcoran, Jr.,
Acting Commissioner of Customs.

Approved: January 12, 1984.

John M. Walker, Jr.,
Assistant Secretary of the Treasury.

[FR Doc. 84-2195 Filed 1-25-84; 8:45 am]
BILLING CODE 4820-02-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 14

[Docket No. R-84-1039; FR-1547]

Implementation of the Equal Access to Justice Act in Administrative Proceedings

AGENCY: Office of General Counsel, Department of Housing and Urban Development (HUD).

ACTION: Proposed rule.

SUMMARY: HUD proposes a regulation implementing 5 U.S.C. 504, as added by section 203(a) of the Equal Access to Justice Act, as it pertains to HUD. The Act requires Federal agencies that conduct certain adversary adjudications between October 1, 1981 and September 30, 1984 to award fees and other expenses incurred in connection with the proceeding to qualified parties which prevail against the agency, unless (1) the position of the agency as a party to the proceeding was substantially justified, (2) special circumstances make an award unjust, or (3) the prevailing party engaged in conduct which unduly and unreasonably protracted the final resolution of the matter in controversy. This proposed rule will establish procedures for the submission and consideration of applications for awards of fees and expenses in connection with adversary adjudications conducted by HUD.

DATE: Comment due Date: March 26, 1984.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Office of General Counsel, Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Harold Levy, Office of General Counsel, Department of Housing and Urban Development, Room 9234, Washington, D.C. 20410, telephone 202/755–7260. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Section 203(a) of the Equal Access to Justice Act, Pub. L. 96–481, 94 Stat. 2325 (the "Act"), amended title 5 of the United States Code by adding a new section 504, which provides for the award of fees and other expenses to parties which prevail over the Federal government in certain administrative adjudications under 5 U.S.C. 554. The act requires agencies to establish uniform procedures for the submission and consideration of applications for these awards. This proposed rule primarily follows the model rules issued on June 25, 1981 (46 FR 32900) by the Administrative Conference of the United States pursuant to its consultative role under section 504. Certain modifications have been made to adapt the model rules to the responsibilities and organization of the Department and to reflect consideration of the Department of Justice's final rule (28 CFR Part 24) issued on April 13, 1982 (47 FR 15774), implementing the Act for its proceedings.

The proposed rule is divided into three subparts. Subpart A contains general provisions setting forth the purpose of the rule, the terms used, proceedings covered, applicability to HUD proceedings, eligibility of applicants, standards for awards, and allowable fees and other expenses.

Subpart B specifies the information required as part of the application for award. Subpart C sets out the procedures for consideration of applications, review of decisions on fee applications, and payment of awards.

The Act applies only to adjudications under 5 U.S.C. 554, and thus does not apply to those Departmental proceedings not required by statute. Section 14.115(a) identifies the adversary adjudications which the Department is required by statute to conduct under 5 U.S.C. 554; all adjudications under the Interstate Land Sales Full Disclosure Act, Pub. L. 90–448, 15 U.S.C. 1701; and adjudications of alleged discrimination under Title VI of the Civil Rights Act of 1964, Pub. L. 88–352, 42 U.S.C. 2000d–2000d–5, the Rehabilitation Act of 1973, Pub. L. 93–112. 29 U.S.C. 701 and the Age Discrimination Act of 1975, Pub. L. 94–135, 42 U.S.C. 6101. Adjudications conducted before termination, reduction or limitation of assistance under section 111 of title I of the Housing and Community Development Act of 1974 are also required by statute to be

conducted under 5 U.S.C. 554. However, since the respondent in these proceedings would be a governmental entity and thus ineligible to receive an award under the Act (see § 14.120(b)(5)), these proceedings have been excluded from coverage under this rule.

Below is a discussion of the principal differences between the Department's proposed rule and the model rules issued by the Administrative Conference of the United States. References to regulation sections with the prefix § 14.- are to the HUD proposed rule; with the prefix § 0.- are to the Administrative Conference of the United States model rules; and with the prefix § 24.- are to the Department of Justice final rule.

Section 14.110 of the Department's proposed rule makes clear that, with respect to proceedings pending but not completed on September 30, 1984, eligible fees and expenses include those incurred both before and after that date. This provision is supported by the legislative history of the Act and is consistent with the Department of Justice's final rule and the model rules. (See § 24.104 of the Department of Justice's final rule and § 0.102 of the model rules.)

Section 14.115(a) simplifies the comparable language in § 0.103 of the model rules, which describes proceedings covered by the Act. This is a technical change to reflect the fact that the provision's substance is contained in a new § 14.50 and the Department is not engaged in either ratemaking or licensing pursuant to adjudicatory proceedings. Paragraph (b) of § 0.103 of the model rules states that an agency may designate a proceeding not listed in the rule as an adversary adjudication for purposes of the Act, and also states that the agency's failure to so designate a proceeding as an adversary adjudciation shall not preclude the filing of an application by a party who believes the proceeding is covered by the Act. This paragraph of the model rules has been deleted from § 14.103 of the Department's rule, because the Department is not involved in a substantial number of adversary adjudications and members of the public have an opportunity both to comment on the proposed rule (including the Department's determination of the proceedings covered by the Act in this rulemaking) and to raise in any Departmental adversary proceeding not identified in the rule the issue of whether the rule should apply to that proceeding.

Section 14.120(b)(5) clarifies that governmental entities are not eligible to receive awards of attorney fees and other expenses under this rule. In testimony before the House Judiciary Subcommittee on Courts, Civil Liberties and the Administration of Justice, Senator deConcini, a principal sponsor of the legislation, stated that governmental bodies were not intended to be covered by the Act. *House hearings before the Subcommittee on Courts, Civil Liberties and the Administration of Justice,* May 20 and June 24, 1980, 96th Cong., 2d Sess. at 31–32. Based on this testimony and the general Congressional intent reflected in the legislative history for the Act to benefit small businesses, the rule makes clear that governmental bodies are not eligible for awards under the Act.

Section 14.125(a) includes a sentence added by the Department of Justice in its final rule under the Act at 28 CFR 24.106(a), to the effect that no presumption arises that the agency's position was not substantially justified simply because the agency did not prevail. This is a clarifying change, and its addition comports with the legislative history of the Act. (*See,* e.g., H.R. Rep. No. 96–1418, 96th Cong., 2d Sess. at 14 (1980)).

The Department's proposed rule does not contain § 0.107(a) of the model rules, which states that the agency may adopt regulations providing that attorneys fees may be awarded at a rate higher than $75 per hour. The Department prefers instead to use the approach contained in § 0.107(b) of the model rules, under which any person may file with the Department a petition for rulemaking to increase the maximum rate for attorney fees. This provision (in §14.135) makes clear that in its rulemaking the Department will act on the basis of the statutory standard set forth at 5 U.S.C. 504(b)(1)(A). Section 14.135 of the Department's rule also simplifies paragraph (b) of § 0.107 of the model rules by cross-referencing the Department's general rulemaking procedures.

Section 0.109 of the model rules, delegating authority within an agency to take final action on matters pertaining to the Act, has been stricken from the Department's rule because it is the Department's policy to publish delegations of authority in the **Federal Register** as public notices rather than as provisions of rules which will become codified. This policy avoids the need for amendments to rules whenever a Departmental reorganization or change in delegation of authority occurs.

Section 14.200(b) modifies the comparable subsection of § 0.201 of the model rules by defining more precisely the Act's requirements for determining an applicant's net worth. It also includes a paragraph (c) not found in the model rules, requiring certain applicants, consistent with the Act, to provide information on the number of their employees and nature of their business. Both of these are technical, clarifying changes, and conform with similar changes found at 28 CFR 24.201 of the Department of Justice's final rule. Section 14.200(f) of the Department's rule modifies the language of § 0.201(e) of the model rules to conform the language of the Department's rule with that of § 24.201(f) of the Department of Justice's final rule. The change requires that the applicant or an authorized officer sign the application with respect to the eligibility of the applicant, and that the attorney of the applicant sign the application with respect to fees and expenses sought. In addition, the change requires an affirmation that the information provided (including all accompanying material) is not only true but also complete to the best of the signer's information and belief. The change helps assure care and accuracy by the applicant in its preparation of an application for an award.

Section 14.205 of the Department's proposed rule includes a paragraph (b) not found in § 0.202 of the model rules. The new paragraph conforms with 28 CFR 24.202(b) of the Department of Justice's final rule. The addition requires the submission of data which will enable the adjudicative officer to determine whether an applicant for an award has manipulated its net worth in order to establish eligibility for an award under the Act and the proposed rule. Section 14.205(c) includes a sentence indicating that disclosure of information in the net worth exhibit shall be subject to the provisions of the Privacy Act of 1974 and the Department's regulations thereunder.

Section 14.210 elaborates upon § 0.203 of the model rules in a manner consistent with 28 CFR 24.203 of the Department of Justice's final rule. The added provisions require that the attorney, agent, or expert witness submit an affidavit setting forth detailed information on the services performed, rates charged, and expenses incurred, and that information on comparable rates be included in the affidavit in order to justify the rates claimed. The change will help assure responsible and accurate reporting in the application and the submission of information useful in determining an appropriate award under the Act and the proposed rule.

Section 14.215(a) states that an application may be filed whenever the applciant has prevailed in the proceeding or in a significant and

discrete substantive portion of the proceeding, but in no case later than 30 days after the Department's final disposition of the proceeding or 30 days after the effective date of this Part, whichever is later. The latter exception has been added so that parties to proceedings which have reached final disposition before the effective date of this Part will not be precluded from filing an application under this Part.

Section 14.215(c) of the Department's rule simplifies the comparable provision of § 0.204 of the model rules. The model rules define "final dispositio" in terms of the latest of the date on which a decision on the merits by an adjudicative officer or intermediate review board becomes final, the issuance of an order disposing of any petitions for reconsideration, the last date upon which such a petition for reconsideration could have been filed, or the issuance of a final order or other resolution (such as settlement or voluntary dismissal) which is not subject to a petition for reconsideration. Section 14.215(c) conforms more closely with 28 CFR 24.204(b) of the Department of Justice's final rule. However, § 14.215(c) omits reference to "the date on which a petition for rehearing or reconsideration is disposed of" to reflect the absence of procedures for reconsideration of final agency decisions in the Department's review of appeals procedures applicable to the underlying adversary adjudications referred to in § 14.115(a) of the Department's rule.

A new § 14.300 has been added which does not appear in the model rules. The new section states that any provision of the Department's rules and regulations limiting or terminating the jurisdiction of an adjudicative officer upon the effective date of his or her decision in the underlying proceeding shall not affect his or her jurisdiction to render a decision under the Act. The addition is needed to preserve the jurisdiction of the adjudicative officer to render a decision under this Part after the decision in an adjudication under the Interstate Land Sales Full Disclosure Act. (See 24 CFR 1720.535(b).)

Section 14.310(a) of the Department's proposed rule modifies the same provision of § 0.302 of the model rules to conform the last sentence with the language of 28 CFR 24.302(a) of the Department of Justice's final rule. The model rules state that failure of agency counsel to file an answer or otherwise respond to the application within 30 days may be treated as a consent to the award requested. The Department's rule permits the adjudicative officer to make an award under the Act where agency counsel has failed to respond within the 30-day period only upon a satisfactory showing of entitlement by the applicant. The change is deemed necessary in order to avoid any implication that a failure by agency counsel to answer or contest the application for an award precludes a determination by the adjudicative officer of the eligibility of the applicant for an award under the Act.

The Department's rule deletes § 0.303 of the model rules. That section of the model rules allows the applicant to file a reply to the agency answer within 15 days, and states that if the reply is based on any alleged facts not already in the record of the proceeding, the applicant must include either supporting affidavits or a request for further proceedings. The deletion makes the rule consistent with the Department's applicable procedures in the underlying adversary adjudications.

Section 0.305 of the model rules provides that the applicant and the agency's counsel may agree on a proposed settlement of the award in accordance with the agency's standard settlement procedure. Section 14.320 of the Department's rule modifies this section to reflect that the Department has no single standard settlement procedure. Instead, the rule provides that any settlement would be arrived at in accordance with the settlement procedures applicable to the underlying proceeding.

Section 14.325 of the Department's rule adds a new paragraph (a). This paragraph provides that the adjudicative officer may on motion and for good cause shown grant extensions of time other than for filing an application for fees and expenses after final disposition in the adversary adjudication. This change conforms with 28 CFR 24.305(a) in the Department of Justice's final rule, and is consistent with § 14.310 of the Department's rule and § 0.302 of the model rules which contemplate the possibility of requests to the adjudicative officer for extensions of time to file responsive pleadings.

Section 14.330 of the Department's rule provides that the adjudicative officer shall issue an initial decision on the application within 30 days after completion of the proceedings on the application, and states that the decision must contain written findings and conclusions on the matters specified. The rule modifies § 0.307 of the model rules to substitute language from 28 CFR 24.306 of the Department of Justice's final rule to state more clearly the various issues on which the adjudicative officer is likely to be called upon to rule.

Section 14.335 of the Department's rule modifies § 0.308 of the model rules so that the procedures applicable to review of decisions of adjudicative officers under the Act parallel the Department's review or appeals procedures applicable to the underlying adversary adjudications. For example, the model rules state that if neither the applicant nor the agency counsel seeks review and the agency does not take review on its own initiative, then the initial decision on the application shall become a final decision of the agency within 30 days after it is issued; the Department's rule states that the initial decision will become a final decision of the Department in the same manner as a decision in the underlying proceeding becomes final.

Section 14.345 of the Department's rule modifies § 0.310 of the model rules to conform the section more closely with 28 CFR 24.309 of the Department of Justice's final rule. The model rules require the agency to pay the amount awarded to the applicant within 60 days unless judicial review of the award or of the underlying decision of the adversary adjudication has been sought by the applicant or other party to the proceeding. The Department's rule does not contain this 60-day requirement. The change avoids the creation of any duty not found in the Act regarding payment of an award. Also, in identifying the submissions which must accompany a request for payment the section tracks more closely the language of the Act. If a court reviews a Departmental decision on a fee application pursuant to 5 U.S.C. 504(c)(2), then the applicant must submit a copy of the court's decision under § 14.345. Otherwise the applicant submits a copy of the final decision of the Department.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule is listed at 48 FR 18056 as item S–3–82 in the Department's Semiannual Agenda of Regulations published on April 25, 1983, pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

A Finding of No Significant Impact with respect to the environment has been made in accordance with 24 CFR Part 50, which implements Section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91–190). The Finding of No Significant Impact is available for public inspection during regular business hours at the Office of the Rules Docket Clerk, Office of the General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Pursuant to 5 U.S.C. 605(b) (the Regulatory Flexibility Act, Pub. L. 96–354), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities, since the number of proceedings covered by the rule is extremely small.

The Catalog of Federal Domestic Assistance program numbers are 14.218, 14.219, 14.223, 14.225, 14.227, 14.228, 14.400, and 14.801.

List of Subjects in 24 CFR Part 14

Equal access to justice lawyers.

Accordingly, Title 24 of the Code of Federal Regulations is proposed to be amended by adding a new Part 14 to read as follows.

PART 14—IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN ADMINISTRATIVE PROCEEDINGS

Subpart A—General Provisions

Sec.

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14.345 Payment of award.

Authority: Section 504(c)(1), The Equal Access to Justice Act, 5 U.S.C. 504(c)(1); Section 7(d), the Department of HUD Act, 42 U.S.C. 3535(d).

Subpart A—General Provisions

§ 14.50 Definitions.

As used in this Part:

(a) "Act" means section 504 of title 5, United States Code, as added by section 203(a) of the Equal Access to Justice Act, Title II of Pub. L. 96–481.

(b) "Adjudicative officer" means the hearing examiner, administrative law judge or other officer designated by the Secretary or other responsible Department official to preside over the underlying proceeding.

(c) "Adversary adjudication" means an adjudication under 5 U.S.C. 554 in which the position of the United States is represented by counsel or otherwise, but excludes an adjudication for the purpose of establishing or fixing a rate or for the purpose of granting or renewing a license.

(d) "Agency counsel" means:

(1) When the position of the Department is being represented, the one or more attorneys designated by the Department's General Counsel to represent the Department in a proceeding covered by this Part, and

(2) When the position of another agency of the United States is being represented, the representative as designated by that agency.

(e) "Department" means the Department of Housing and Urban Development, or (as the context requires) the organizational unit within the Department responsible for conducting an adversary adjudication subject to this Part.

(f) "Secretary" means the Secretary of Housing and Urban Development.

§ 14.100 Time Computation.

Time periods stated in this Part shall be computed in accordance with the Department's rules with respect to computation of time which apply to the underlying proceeding.

§ 14.105 Purpose of these rules.

The Act provides for the award of attorney fees and other expenses to eligible individuals and entities who are parties to certain administrative proceedings before the Department (defined in the Act and this Part as "adversary adjudications"). An eligible party may receive an award when it prevails over an agency, unless the agency's position as a party in the proceeding was substantially justified or special circumstances make an award unjust. The rules in this Part describe the parties eligible for awards and the proceedings that are covered. They also explain how to apply for awards and the procedures and standards that the Department will use to make them.

§ 14.110 When the Act applies.

The Act and this Part apply to any adversary adjudication pending before the Department at any time between October 1, 1981 and September 30, 1984. With respect to proceedings pending but not completed on September 30, 1984, eligible fees and expenses include those incurred both before and after that date.

§ 14.115 Proceedings covered.

(a) The proceedings to which this Part applies are adversary adjudications conducted by the Department under:

(1) The Interstate Land Sales Full Disclosure Act, as amended, 15 U.S.C. 1701 et seq., pursuant to 15 U.S.C. 1715 and 24 CFR Part 1720;

(2) Section 602 of the Civil Rights Act of 1964, 42 U.S.C. 2000d–1, and 24 CFR Parts 1 and 2;

(3) Section 505(a) of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794a, 28 CFR Part 41, and any applicable HUD regulations; and

(4) Section 305(a) of the Age Discrimination Act of 1975, 42 U.S.C. 6104(a), 45 CFR Part 90 and any applicable HUD regulations.

(b) If a proceeding includes both matters covered by the Act and matters specifically excluded from coverage, any award made will include only fees and expenses related to covered issues.

§ 14.120 Eligibility of applicants.

(a) To be eligible for an award of attorney fees and other expenses under the Act, the applicant must be a prevailing party in the adversary adjudication for which it seeks an award. The term "party" is defined in 5 U.S.C. 551(3). The applicant must show that it meets all conditions of eligibility set out in this Subpart and in Subpart B.

(b) The types of eligible applicants are as follows:

(1) An individual with a net worth of not more than $1 million;

(2) The sole owner of an unincorporated business who has a net worth of not more than $5 million, including both personal and business interests, and not more than 500 employees;

(3) A charitable or other tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3), with not more than 500 employees;

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(4) A cooperative association as defined in section 15(a) of the Agricultural Marketing Act, 12 U.S.C. 1141j(a), with not more than 500 employees; or

(5) Any other partnership, corporation, association, or public or private organization, other than a governmental entity, with a net worth of not more than $5 million and not more than 500 employees.

(c) For the purpose of eligibility, the net worth and number of employees of an applicant shall be determined as of the date the proceeding was initiated.

(d) An applicant who owns an unincorporated business will be considered as an "individual" rather than a "sole owner of an unincorporated business" if the issues on which the applicant prevails are related primarily to personal interests rather than to business interests.

(e) The employees of an applicant include all persons who regularly perform services for remuneration for the applicant, under the applicant's direction and control. Part-time employees shall be included on a proportional basis.

(f) The net worth and number of employees of the applicant and all of its affiliates shall be aggregated to determine eligibility. The net worth shall include the value of any assets which the applicant transfers at less than fair market value for the purpose of qualifying for eligibility under the Act. The applicant shall have the burden of proving that any assets which were transferred for less than fair market value immediately before the initiation of proceedings were not so transferred in order to qualify for eligibility under the Act. Any individual, corporation or other entity that directly or indirectly controls or owns a majority of the voting shares or other interest of the applicant, or any corporation or other entity of which the applicant directly or indirectly owns or controls a majority of the voting shares or other interest, will be considered an affiliate for purposes of this Part, unless the adjudicative officer determines that such treatment would be unjust and contrary to the purposes of the Act in light of the actual relationship between the affiliated entities. In addition, the adjudicative officer may determine that financial relationships of the applicant other than those described in this paragraph constitute special circumstances that would make an award unjust.

(g) An applicant who participates in a proceeding primarily on behalf of one or more other persons or entities that would be ineligible is not itself eligible for an award.

§ 14.125 Standards for awards.

(a) As determined under to Subpart C, a prevailing party may receive an award for fees and expenses incurred in connection with a proceeding, or in a significant and discrete substantive portion of the proceeding, unless the position of the agency as a party over which the applicant has prevailed was substantially justified or special circumstances make the award sought unjust. The burden of proof that an award should not be made to an eligible prevailing applicant is on the agency counsel, who may avoid an award by showing that its position was reasonable in law and fact. No presumption arises that the agency's position was not substantially justified simply because the agency did not prevail.

(b) An award will be reduced or denied if the applicant has unduly or unreasonably protracted the proceeding.

§ 14.130 Allowance fees and expenses.

(a) No award for the fee of an attorney or agent under these rules may exceed $75.00 per hour. No award to compensate an expert witness may exceed the highest rate at which the Department pays expert witnesses. However, an award may also include the reasonable expenses of the attorney, agent, or witness as a separate item, if the attorney, agent or witness ordinarily charges clients separately for such expenses.

(b) In determining the reasonableness of the fee sought for an attorney, agent or expert witness, the adjudicative officer shall consider the following:

(1) If the attorney, agent or witness is in private practice, his or her customary fee for similar services, or, if an employee of the applicant, the fully allocated cost of the services;

(2) The prevailing rate for the kind and quality of services furnished in the community in which the attorney, agent or witness ordinarily performs services;

(3) The time actually spent in the representation of the applicant;

(4) The time reasonably spent in light of the difficulty or complexity of the issues in the proceeding; and

(5) Such other factors as may bear on the value of the services provided.

(c) The reasonable cost of any study, analysis, engineering report, test, project or similar matter prepared on behalf of a party may be awarded, to the extent that the charge for the service does not exceed the prevailing rate for similar services, and the study or other matter was necessary for preparation of the applicant's case.

§ 14.135 Rulemaking on maximum rates for attorney fees.

Any person may file with the Department a petition for rulemaking to increase the maximum rate for attorney fees as provided in 5 U.S.C. 504(b)(1)(A)(ii), in accordance with 24 CFR Part 10. The Department will respond to the petition in accordance with 24 CFR 10.20(b).

§ 14.140 Awards against other agencies.

If an applicant is entitled to an award because it prevails over another agency of the United States that participates in a proceeding before the Department and takes a position that is not substantially justified, the award or an appropriate portion of the award shall be made against that agency.

Subpart B—Information Required From Applicants

§ 14.200 Contents of application.

(a) An application for an award of fees and expenses under the Act shall identify the applicant and the proceeding for which an award is sought. The application shall show that the applicant has prevailed and identify the position of the Department or other agencies in the proceeding that the applicant alleges was not substantially justified.

(b) The application shall also include a statement that the applicant's net worth as of the time the proceeding was initiated did not exceed $1 million if the applicant is an individual (other than a sole owner of an unincorporated business seeking an award in that capacity) or $5 million in the case of all other applicants, including their affiliates. This requirement and the submission requirement of § 14.205 apply to any applicant which is a public organization and which believes it qualifies for award under the Act and this Part. However, an applicant may omit this statement if:

(1) It attaches a copy of a ruling by the Internal Revenue Service that it qualifies as an organization described in section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3), or, in the case of a tax-exempt organization not required to obtain a ruling from the Internal Revenue Service on its exempt status, a statement that describes the basis for the applicant's belief that it qualifies under such section; or

(2) It states that it is a cooperative association as defined in section 15(a) of the Agricultural Marketing Act, 12 U.S.C. 1141j(a).

(c) If the applicant is a partnership, corporation, association, or public or

private organization, or a sole owner of an unincorporated business, the application shall state that it did not have more than 500 employees at the time the proceeding was initiated, giving the number of its employees and describing briefly the type and purpose of its organization or business.

(d) The application shall itemize the amount of fees and expenses for which an award is sought.

(e) The application may also include any other matters that the applicant wishes the Department to consider in determining whether and in what amount an award should be made.

(f) The application shall be signed by the applicant or an authorized officer with respect to the eligibility of the applicant and by the attorney of the applicant with respect to fees and expenses sought. The application shall contain or be accompanied by a written verification under oath or affirmation under penalty of perjury that the information provided in the application and all accompanying material is true and complete to the best of the applicant's or authorized officer's information and belief.

§ 14.205 Net worth exhibit.

(a) Each applicant except a qualified tax-exempt organization or cooperative association must provide with its application a detailed exhibit showing the net worth of the applicant and any affiliates (as defined in § 14.120(f) of this Part) when the proceeding was initiated. The exhibit may be in any form convenient to the applicant that provides full disclosure of the assets and liabilities of the applicant and its affiliates (if any), and is sufficient to determine whether the applicant qualifies under the standards of the Act and this Part. The adjudicative officer may require an applicant to file additional information to determine its eligibility for an award.

(b) The net worth exhibit shall describe any transfers of assets from, or obligations incurred by, the applicant or any affiliate, occurring in the one-year period before the date on which the proceeding was initiated, that reduced the net worth of the applicant and its affiliates below the applicable net worth ceiling. If there were no such transactions, the applicant shall so state.

(c) Ordinarily, the net worth exhibit will be included in the public record of the proceeding. However, an applicant which objects to public disclosure of information in any portion of the exhibit and believes there are legal grounds for withholding it from disclosure may submit that portion of the exhibit directly to the adjudicative officer in a sealed envelope labeled "Confidential Financial Information," accompanied by a motion to withhold the information from public disclosure. The motion shall describe the information sought to be withheld and explain, in detail, why it falls within one or more of the specific exemptions from mandatory disclosure under the Freedom of Information Act (5 U.S.C. 552(b)(1)-(9)), why public disclosure of the information would adversely affect the applicant, and why disclosure is not required in the public interest. The material in question shall be served on counsel representing the agency against which the applicant seeks an award, but need not be served on any other party to the proceeding. If the adjudicative officer finds that the information should not be withheld from disclosure, it shall be placed in the public record of the proceeding. Otherwise, any request to inspect or copy the exhibit shall be disposed of in accordance with the Department's established procedures under the Freedom of Information Act, 24 CFR Part 15. In either case, disclosure shall be subject to the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, and the Department's procedures implementing the Privacy Act of 1974 at 24 CFR Part 16.

§ 14.210 Documentation of fees and expenses.

(a) The application shall be accompanied by full and itemized documentation of the fees and expenses, including the cost of any study, analysis, engineering report, test, project or similar matter, for which an award is sought.

(b)(1) The documentation shall include an affidavit from any attorney, agent, or expert witness representing or appearing on behalf of the party, stating the actual time expended and the rate at which fees and other expenses were computed and describing the specific services performed.

(2) The affidavit shall itemize in detail the services performed. In order to establish the hourly rate, the affidavit shall state the hourly rate at which the attorney, agent or expert witness bills and is paid by the majority of clients during the relevant time periods. If no hourly rate is paid by the majority of clients because, for instance, the attorney or agent represents most clients on a contingency basis, the attorney or agent shall provide information about two attorneys or agents with similar experience, who perform similar work, stating their hourly rate.

(c) The documentation shall also include a description of any expenses for which reimbursement is sought and a statement of the amounts paid and payable by the applicant or by any other person or entity for the services provided. Vouchers, receipts, and other substantiation for any expenses paid or payable shall be provided.

(d) The adjudicative officer may require the applicant to provide additional substantiation for any expenses claimed.

§ 14.215 When an application may be filed.

(a) An application may be filed whenever the applicant has prevailed in the proceeding or in a significant and discrete substantive portion of the proceeding, but in no case later than 30 days after the Department's final disposition of the proceeding or 30 days after the effective date of this Part, whichever is later.

(b) If review is sought or taken of a decision as to which an applicant believes it has prevailed, proceedings for the award of fees shall be stayed pending final disposition by the Department of the underlying controversy.

(c) For purposes of this rule, final disposition by the Department means the later of (1) the date on which the final agency decision is issued, or (2) the date of final resolution of the proceeding without a final agency decision, such as settlement or voluntary dismissal, which is not subject to further agency review.

Subpart C—Procedures for Considering Applications

§ 14.300 Jurisdiction of adjudicative officer.

Any provision in the Department's rules and regulations other than this Part which limits or terminates the jurisdiction of an adjudicative officer upon the effective date of his or her decision in the underlying proceeding shall not in any way affect his or her jurisdiction to render a decision under this Part.

§ 14.305 Filing and service of documents.

Any application for an award or other pleading or document related to an application shall be filed and served on all parties to the proceeding in the same manner as other pleadings in the proceeding, except as provided in § 14.205(c) for confidential financial information.

§ 14.310 Answer to application.

(a) Within 30 days after service of an application, counsel representing the agency against which an award is sought may file an answer to the application. Agency counsel may

request an extension of time for filing. If agency counsel fails to answer or otherwise fails to contest or settle the application, the adjudicative officer upon a satisfactory showing of entitlement by the applicant may make an award for the applicant's fees and other expenses under the Act.

(b) If agency counsel and the applicant believe that the issues in the fee application can be settled, they may jointly file a statement of their intent to negotiate a settlement. The filing of this statement shall extend the time for filing an answer for an additional 30 days, and further extensions may be granted by the adjudicative officer upon request by agency counsel and the applicant.

(c) The answer shall explain in detail any objections to the award requested and identify the facts relied on in support of agency counsel's position. If the answer is based on any alleged facts not already in the record of the proceeding, agency counsel shall include with the answer either supporting affidavits or a request for further proceedings under § 14.325.

§ 14.315 Comments by other parties.

Any party to a proceeding other than the applicant and agency counsel may file comments on an application within 30 days after it is served or on an answer within 15 days after it is served. A commenting party may not participate further in proceedings on the application unless the adjudicative officer determines that the public interest requires such participation in order to permit full exploration of matters raised in the comments.

§ 14.320 Settlement.

The applicant and agency counsel may agree on a proposed settlement of the award before final action on the application, either in connection with a settlement of the underlying proceeding, or after the underlying proceeding has been concluded, in accordance with the settlement procedure applicable to the underlying proceeding. If a prevailing party and agency counsel agree on a proposed settlement of an award before an application has been filed, the application shall be filed with the proposed settlement.

§ 14.325 Extensions of time and further proceedings.

(a) The adjudicative officer on motion and for good cause shown may grant extensions of time other than for filing an application for fees and expenses after final disposition in the adversary adjudication.

(b) Ordinarily, the determination of an award will be made on the basis of the written record of the underlying proceeding and the filings required or permitted by the foregoing sections of this Part. However, on request of either the applicant or agency counsel, or on his or her own initiative, the adjudicative officer may order further proceedings, such as an informal conference, oral argument, additional written submissions or an evidentiary hearing. Such further proceedings shall be held only when necessary for full and fair resolution of the issues arising from the application, and shall be conducted as promptly as possible.

(c) A request that the adjudicative officer order further proceedings under this section shall specifically identify the information sought or the disputed issues and shall explain why the additional proceedings are necessary to resolve the issues.

§ 14.330 Decision.

The adjudicative officer shall issue an initial decision on the application within 30 days after completion of proceedings on the application. The decision shall include written findings and conclusions on such of the following as are relevant to the decision: (a) The applicant's status as a prevailing party; (b) the applicant's qualification as a "party" under 5 U.S.C. 504(b)(1)(B); (c) whether the agency's position as a party to the proceeding was substantially justified; (d) whether special circumstances make an award unjust; (e) whether the applicant during the course of the proceedings engaged in conduct that unduly and unreasonably protracted the final resolution of the matter in controversy; and (f) the amounts, if any, awarded for fees and other expenses, with reasons for any difference between the amount requested and the amount awarded. If the applicant has sought an award against more than one agency, the decision shall allocate responsibility for payment of any award made among the agencies, and shall explain the reasons for the allocation made.

§ 14.335 Departmental review.

Either the applicant or agency counsel may seek review of the initial decision on the fee application, or the Secretary (or his or her delegate, if any) may decide to review the decision on his or her own initiative, in accordance with the Department's review or appeals procedures applicable to the underlying proceeding. If neither the applicant nor agency counsel seeks review and the Secretary (or his or her delegate, if any) does not take review on his or her own initiative, the initial decision on the application shall become a final decision of the Department in the same manner as a decision in the underlying proceeding becomes final. Whether to review a decision is a matter within the discretion of the Secretary (or his or her delegate, if any).

§ 14.340 Judicial review.

Judicial review of final agency decisions on awards may be sought as provided in 5 U.S.C. 504(c)(2).

§ 14.345 Payment of award.

An applicant seeking payment of an award shall submit a copy of the final decision granting the award to: Director, Office of Finance and Accounting, Room 2202, Department of Housing and Urban Development, Washington, D.C. 20410, with a copy to: Associate General Counsel for Equal Opportunity and Administrative Law, Room 10244, Department of Housing and Urban Development, Washington, D.C. 20410 A statement that review of the underlying decision is not being sought in the United States courts, or that the process for seeking review of the award, if initiated, has been completed, must also be included.

Dated: January 18, 1984.

Samuel R. Pierce, Jr.,

Secretary of Housing and Urban Development.

[FR Doc. 84-2152 Filed 1-25-84; 8:45 am]

BILLING CODE 4210-32-M

DEPARTMENT OF JUSTICE

28 CFR Part 16

[AAG/A Order No. 5-84]

Exemption of Records Systems Under the Privacy Act

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: In the Notice section of today's **Federal Register**, the Department of Justice proposes to exempt four new records systems from certain provisions of the Privacy Act, 5 U.S.C. 552a: The Office of Intelligence Policy and Review, Policy and Operational Records System (JUSTICE/OIPR-001); the Office of Intelligence Policy and Review, Foreign Intelligence Surveillance Act Records System (JUSTICE/OIPR-002); the Office of Intelligence Policy and Review, Litigation Records System (JUSTICE/OIPR-003); and the Office of Intelligence Policy and Review, Domestic Security/Terrorism Records System (JUSTICE/OIPR-004). These records systems must be exempted from sections of the Privacy Act since, in most cases,

disclosure of the existence of records pertaining to an individual could compromise ongoing investigations by revealing the fact of an investigation, as well as jeopardizing sources and methods of investigation. In addition, access to individual records could result in the disclosure of sensitive criminal investigative, foreign intelligence or classified information. Further, it is necessary to exempt these systems to ensure unhampered and effective collection and analysis of foreign intelligence and counterintelligence information and to protect the identities of confidential sources.

DATE: Comments must be submitted on or before March 26, 1984.

ADDRESS: All comments should be addressed to Vincent A. Lobisco, Assistant Director, Administrative Services Staff, Justice Management Division, Department of Justice, 10th and Constitution Avenue, NW., Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT: Vincent A. Lobisco, 202–633–4414.

List of Subjects in 28 CFR Part 16

Administrative practice and procedure, Courts, Freedom of Information, Privacy, Sunshine Act.

PART 16—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

It is proposed to amend 28 CFR Part 16 by adding § 16.73 to read as follows:

§ 16.73 Exemption of Office of Intelligence Policy and Review Systems—Limited access.

(a) The following systems of records are exempt from 5 U.S.C. 552a (c)(3), (c)(4), (d), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(8), (f) and (g):

(1) Policy and Operational Records System (JUSTICE/OIPR–001);

(2) Foreign Intelligence Surveillance Act Records System (JUSTICE/OIPR–002);

(3) Litigation Records System (JUSTICE/OIPR–003); and

(4) Domestic Security/Terrorism Investigations Records System (JUSTICE/OIPR–004).

These exemptions apply only to the extent that information in those systems is subject to exemption pursuant to 5 U.S.C. 552a (j)(2), (k)(l) and (k)(2).

(b) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because release of the disclosure accounting would put the target of a surveillance or investigation on notice of the investigation or surveillance and would thereby seriously hinder authorized United States intelligence activities.

(2) From subsections (c)(4), (d), (e)(4)(G), (e)(4)(H), (f) and (g) because these provisions contemplate individual access to records and such access would compromise ongoing surveillances or investigations and reveal the sources and methods of an investigation.

(3) From subsection (e)(2) because, although this office does not conduct investigations, the collection efforts of agencies that supply information to this office would be thwarted if the agency were required to collect information with the subject's knowledge.

(4) From subsections (e)(3) and (e)(8) because disclosure and notice would provide the subject with substantial information which could impede or compromise an investigation. For example, an investigatory subject could, once made aware that an investigation was ongoing, alter his manner of engaging in intelligence or terrorist activities in order to avoid detection.

Dated: December 20, 1983.

Kevin D. Rooney,

Assistant Attorney General for Administration.

[FR Doc. 84–2148 Filed 1–25–84; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Public Comment Procedures and Opportunity for Public Hearing on Proposed Modifications to the Ohio Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for a public comment period and for requesting a public hearing on the substantive adequacy of program amendments submitted by Ohio as amendments to the State's permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The amendments submitted are proposed changes to the Ohio regulations concerning inspection frequency for inactive operations and compliance reviews. This notice sets forth the times and locations that the Ohio program and proposed amendments will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments, and the procedures that will be followed for the public hearing.

DATES: Written comments from the public must be received by 4:30 p.m., February 27, 1984 to be considered in the decision on whether the proposed amendments should be approved and incorporated into the Ohio regulatory program. A public hearing on the proposed amendments will be held only if requested. If no one requests a public hearing, none will be held. If only one person requests a public hearing, a public meeting, rather than a hearing, may be held and the results of the meeting included in the Administrative Record. If a hearing is requested and scheduled, a notice announcing the time and location of the hearing will be announced in the **Federal Register**. Requests for a public hearing should be directed to Ms. Nina Rose Hatfield at the address or telephone number listed below by 4:00 p.m., February 10, 1984.

ADDRESSES: Written comments and requests for a hearing should be directed to Ms. Nina Rose Hatfield, Field Office Director, Columbus Field Office, Office of Surface Mining, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227; Telephone: (614) 866–0578.

Copies of the Ohio program, the proposed modifications to the program, a listing of any scheduled public meetings, and all written comments received in response to this notice will be available for public review at the OSM Field Office listed above and at the OSM Headquarters Office and the Office of the State regulatory authority listed below, during normal business hours Monday through Friday, excluding holidays.

Office of Surface Mining, Room 5315, 1100 "L" Street, N.W., Washington, D.C. 20240.

Ohio Division of Reclamation, Building B, Fountain Square, Columbus, Ohio 43224.

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Field Office Director, Columbus Field Office, Office of Surface Mining, Room 202, 2242 South Hamilton Road, Columbus, Ohio 43227; Telephone: (614) 866–0578.

SUPPLEMENTARY INFORMATION:

I. Background

The Ohio program was approved effective August 16, 1982, by notice published in the August 10, 1982 **Federal Register** (47 FR 34688). The approval was conditioned on the correction of 28

minor deficiencies contained in 11 conditions. Information pertinent to the general background, revisions, modifications, and amendments to the Ohio program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explantation of the conditions of approval of the Ohio program can be found in the August 10, 1982 **Federal Register.**

II. Submission of Revisions

By letter dated December 28, 1983, Ohio submitted regulatory amendments to revise the inspection frequency requirements for inactive operations and to revise the provision concerning compliance reviews.

Specifically, the proposed amendments include the following revisions to Ohio rule 1501:13–14–01 *Inspections:*

(1) Paragraph (A) is revised to include definitions for "inactive coal mining and reclamation operation," "active coal mining and reclamation operation," and "compliance review technician";

(2) Paragraph (C) is revised to require such partial inspections of inactive operations as are necessary to ensure effective enforcement;

(3) Paragraph (D) is revised to require an average of at least one complete inspection per calendar quarter of each active and inactive operation;

(4) Paragraph (J) which provided that the operator may accompany the chief during any inspection is proposed to be deleted; and

(5) Paragraph (K) concerning compliance reviews would be designated as paragraph (J) and revised to conform to the Federal rule at 30 CFR 840.16.

In addition, Ohio has made several non-substantive editorial changes to rule 1501:13–14–01.

The full text of the proposed program amendments submitted by Ohio is available for public inspection at the addresses listed above. The Director now seeks public comment on whether the proposed amendments are consistent with the Federal Regulations. If approved, the amendments will become part of the Ohio program.

III. Procedural Requirements

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant econimic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would insure that existing requirements established by SMCRA and the Federal rules would be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 935

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, 30 CFR Part 935 is proposed to be amended as set forth herein.

Authority: Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*

Dated: January 19, 1984.

J. R. Harris,

Director, Office of Surface Mining.

[FR Doc. 84–2231 Filed 1–25–84; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD3–83–72]

Anchorage Ground; Delaware River

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rule making.

SUMMARY: At the request of the U.S. Army Corps of Engineers, Philadelphia District, the U.S. Coast Guard is proposing a change to a portion of the eastern boundary of Anchorage 12 on the Delaware River at Gloucester, NJ. A marginal wharf being constructed in the Delaware River by Holt Hauling and Warehousing Systems, Inc., under U.S. Army Corps of Engineers permit NAPOP–R–83–0047, encroaches slightly upon a portion of the eastern boundary of Anchorage 12. The purpose of this proposed rule making is to bring the regulatory description of Anchorage 12 in line with actual usable anchorage ground.

DATES: Comments must be received on or before March 12, 1984.

ADDRESSES: Comments should be mailed to Commander (mpv-p), Third Coast Guard District, Governors Island, New York, NY, 10004. The comments will be available for inspection and copying at the Port Safety Section office, Building 301, Governors Island, New York, NY. Normal office hours are between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Lieutenant (junior grade) K. L. King, Commander (mpv-p), Third Coast Guard District, at (212) 668–7179.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rule making by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD3–83–72) and the specific section of the proposal to which their comments apply, and give the reasons for each comment. Receipt of comments will be acknowledged if a stamped, self-addressed postcard or envelope is enclosed.

The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rule making process.

Drafting Information

The drafters of this notice are Lieutenant (junior grade) K. L. King, project officer for Commander (mpv-p), Third Coast Guard District, and Mrs. M. A. Arisman, project attorney, Third Coast Guard District Legal Office.

Discussion of Proposed Regulation

The southern portion of the existing Anchorage 12 on the Delaware River at Gloucester City, NJ, has been narrowed by approximately one hundred feet due to the construction of a marginal docking wharf at the Holt Hauling and Warehousing Systems, Inc. facility in Glocester, NJ. This construction was permitted by U.S. Army Corps of Engineer's permit NAPOP–R–83–0047. In order to accurately depict existing conditions in the anchorage and provide a two hundred and fifty foot safety buffer between ships in the anchorage

and ships moored alongside the Holt wharf, the Coast Guard proposes to change a portion of the eastern boundary of Anchorage 12 as currently described in 33 CFR 110.157(a)(13). This proposed rule will move the eastern boundary of Anchorage 12 in the viciinity of the new wharf westward up to a maximum of three hundred and fifty feet.

Economic Assessment and Certification

This proposed regulation is considered to be nonsignificant in accordance with DOT Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5). Its economic impact is expected to be minimal since this minor change to a portion of the boundary of Anchorage 12 will not impact upon business competition, the operation of State or local governments, or the regulations of other programs or agencies. Based upon this assessment, it is certified in accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, the regulation has been reviewed in accordance with Executive Order 12291 of February 17, 1981, on Federal Regulations, and has been determined not to be a major rule under the terms of that order.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Proposed Regulation

PART 110—[AMENDED]

In consideration of the foregoing, the Coast Guard proposes to amend Part 110 of Title 33, Code of Federal Regulations, by revising § 110.157(a)(13) to read as follows:

§ 110.157 Delaware Bay and River.

(a) * * *

(13) Anchorage 12 between Gloucester and Camden. On the east side of the channel adjoining and on the upstream side of Anchorage 11, from Gloucester to Camden, bounded as follows: Beginning at a point on the east edge of the channel at latitude 39°54′16″; thence northerly along the edge of the channel to latitude 39°56′32.5″; thence 133°, 283 yards to a point on a line 100 feet west of the established pierhead line; thence southerly along this line to latitude 39°54′34″; thence 196°16″, 882 yards to latitude 39°54′08.5″; thence 354°36′, 267 yards to the point of beginning. The area between New York Shipbuilding Corporation Pier No. 2 and the MacAndrews and Forbes Company pier, Camden, shall be restricted to facilitate the movement of carfloats to and from Bulson Street, Camden. The area in front of the Public Service Electric and Gas Company pier shall be restricted to facilitate the movement of vessels to and from the pier. Should the anchorage become so congested that vessels are compelled to anchor in these retricted areas, they must move immediately when another berth is available.

* * * * *

(33 U.S.C. 471; 49 U.S.C. 1655(g)(1); 49 CFR 1.46; and 33 CFR 1.05–1(g))

Dated: January 10, 1984.

W. E. Caldwell,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 84–2232 Filed 1–25–84; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD3 83–041]

Drawbridge Operation Regulations; Barnegat Bay, New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of Ocean County New Jersey, the Coast Guard is considering a change to the regulations governing the Mantoloking (County Route 528) highway drawbridge at Mantoloking, NJ to prmit the number of openings to be limited on all weekends and holidays occurring from Memorial Day to Labor Day. This proposal is being made because periods of peak vehicular traffic frequently coincide with peak vessel openings. This action should accommodate the needs of vehicular traffic and should still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before March 12, 1984.

ADDRESS: Comments should be submitted to and are available for examination from 9 a.m. to 3 p.m., Monday through Friday, except holidays, at the office of the Commander (oan-br), Third Coast Guard District, Bldg. 135A, Governors Island, NY 10004. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, Third Coast Guard District (212) 668–7994.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or for any recommended change in the proposal. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Third Coast Guard District, will evaluate all communications received and will determine a final course of action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Ernest J. Feemster, project manager, and Mary Ann Arisman, project attorney.

Discussion of Proposed Regulations

Vehicular traffic across the Route 528 bridge at Mantoloking generally peaks during the spring and summer recreational season on weekends and holidays due mainly to motorists travelling along the barrier beach of New Jersey. Generally, a traffic "back-up" occurs in the vicinity of the bridge because vehicles reaching the eastern terminus of Route 528 must turn onto Route 35, a two-lane, heavily congested roadway along the barrier beach. Motorists also turn from Route 35 onto Route 528. Since the Matoloking bridge is less than ¼ mile from Route 35, frequent bridge openings only compound traffic congestion. As a possible means of remedying traffic congestion over and in the vicinity of the bridge, the Coast Guard (at the request of Ocean County) is proposing that the bridge only be required to open on the hour and half-hour between 9 a.m. and 6 p.m. on weekends and holidays from Memorial Day to Labor Day.

Bridge openings logs from 1979 through June 1982 show that from Memorial Day to Labor Day, 72 percent of openings for vessels (on weekends and holidays) occurred between 9 a.m. and 6 p.m. The overwhelming majority of these openings amounted to over two openings per hour and on one occasion numbered 14 openings in a one hour period.

On July 2, 1982, the Commander Third Coast Guard District (by Public Notice 3–470) issued temporary regulations to evaluate potential scheduled openings. This notice implemented 20-minute, spaced openings on weekends and holidays from July 1, 1982 through August 31, 1982 between 10 a.m. and 2 p.m. Though the results of this action were not conclusive, the Coast Guard believes that proposal of these

regulations is warranted. The bridge spans Barnegat Bay, a heavily travelled waterway which provides access in either direction to the Atlantic Ocean. The waterway under the bridge is also part of the New Jersey Intracoastal Waterway.

The scheduled openings are being proposed from 9 a.m. to 6 p.m. since vehicular traffic counts (from 1 July to 31 August 1982) show that traffic peaks within this period, and because 72 percent of openings for vessels occur between these hours. The proposed regulations provide for openings on the hour and half-hour because the 20-minute openings (during the evaluation period) did not appear to allow sufficient time for vehicular traffic to clear before another bridge opening was necessary. Additionally, responses to the temporary regulations favored half-hourly openings. No draft economic evaluation has been done because no known marine-related entities are expected to be adversely affected by these regulations.

Economic Assessment and Certification

These proposed regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these proposed regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). As explained above, an economic evaluation has not been conducted since its impact is expected to be minimal. In accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is certified that these rules, if promulgated, would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, by relettering the existing § 117.220 (n), (o), (p), (q) and (r) as (o), (p), (q), (r) and (s), respectively and adding a new § 117.220 (n) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.220 New Jersey Intracoastal Waterway and tributaries; bridges.

* * * * *

(n) The draw of the County Route 528 bridge across Barnegat Bay, mile 6.3 at Mantoloking shall open on signal at all times except from Memorial Day through Labor Day from 9 a.m. to 6 p.m. on Saturday, Sunday, and Federal holidays, the draw need only open on the hour and half-hour. The draw shall open at all times as soon as possible for a public vessel of the United States, a vessel in distress, or for a vessel with tow.

* * * * *

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: January 4, 1984.

W. E. Caldwell,

Vice Admiral, U.S. Coast Guard Commander, Third Coast Guard District.

[FR Doc. 84–2239 Filed 1–25–84; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD 13–84–01]

Drawbridge Operation Regulations; Lake Washington Ship Canal, Washington

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the City of Seattle, the Coast Guard is considering a change to the regulations governing all of the highway drawbridges across the Lake Washington Ship Canal, in Seattle, Washington, by requiring that the draws of the Ballard, Fremont Avenue, University, and Montlake Boulevard bridges shall open on signal from 11:00 p.m. to 7:00 a.m. if at least one-hour notice is given by telephone, radiotelephone, or otherwise to the drawtender at the Fremont Avenue drawbridge. This proposal is being made to allow more efficient use of drawtenders during nighttime hours. This action should accommodate the needs of vehicular traffic and should still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before March 12, 1984.

ADDRESS: Comments should be submitted to and are available for examination from 8:00 a.m. to 4:30 p.m., Monday through Friday, except holidays, at the office of the Commander (oan), Thirteenth Coast Guard District, Room 3564, 915 Second Avenue, Seattle, Washington 98174. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: John E. Mikesell, Chief, Bridge Section, Aids to Navigation Branch (Telephone: (206) 442–5864).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Thirteenth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are: John E. Mikesell, project officer, and Lieutenant Aubrey W. Bogle, project attorney.

Discussion of the Proposed Regulations

Existing operating regulations for the City of Seattle's highway drawbridges across the Lake Washington Ship Canal provide, in part, that the bridges shall open on signal from 12 midnight to 8:00 a.m., if at least one-hour notice is given by telephone, radiotelephone, or otherwise to the drawtender at the Fremont Avenue Drawbridge. The proposed change would advance by one hour the time period during which one-hour notice for openings is required. The proposed change would provide that the bridges shall open on signal from 11:00 p.m. to 7:00 a.m., if one-hour notice is given by telephone, radiotelephone, or otherwise to the drawtender at the Fremont Avenue Drawbridge. The only noticeable effect of the change would be evidenced during the 11:00 p.m. to 12:00 midnight time period. Presently, the bridges open on call during this period. Under the change, one-hour notice would be required for openings.

A review of drawtenders logs for the four bridges, for the six-month period from April through October 1982, indicated that the bridges averaged twenty-one openings per month during the 11:00 p.m. to 12:00 midnight time period.

The City of Seattle maintains that the change would allow an extra hour during the morning closed periods for maintenance purposes on each of the Lake Washington Ship Canal bridges. Also, they maintain that they do not plan to reduce the level of service provided. The proposal would result in a savings of operating costs to the City of Seattle and, in the opinion of the City, would not unreasonably affect navigation on the waterway.

Other than the City of Seattle and a limited number of navigation interests, there are no known businesses including small entities, that would be affected by the proposed change. There are only minimal impacts on navigation or other interests. Therefore, an economic evaluation has not been prepared for this action. The City of Seattle would benefit because the proposed change allows more efficient use of drawtenders, thereby effecting savings in operating costs, and still provide for the reasonable needs of navigation.

The posting of a summary of the operating regulations and information on arranging bridge openings is a standard requirement for all drawbridges which do not have a drawtender in constant attendance. A paragraph requiring this action is included in the proposed change.

Economic Assessment and Certification

These proposed regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. In addition, these proposed regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). As explained above, an economic evaluation has not been conducted since its impact is expected to be minimal. In accordance with § 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is certified that these rules, if promulgated, would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33 Code of Federal Regulations, by revising § 117.795(b)(2) and adding § 117.795(b)(3) to read as follows:

PART 117—DRAWBRIDGE OPERATING REGULATIONS

§ 117.795 Lake Washington Ship Canal; bridges.

* * * * *

(b) * * *

(2) Shall open on signal from 11:00 p.m. to 7:00 a.m., if at least one-hour notice is given by telephone, radiotelephone, or otherwise to the drawtender at the Fremont Avenue drawbridge.

(3) The owner of these bridges shall keep conspicuously posted on both upstream and downstream sides of each bridge, in a manner that it can be easily read from an approaching vessel, a summary of these regulations, together with a notice stating exactly how the drawtender or authorized representative of the bridge owner may be reached by telephone or otherwise.

* * * * *

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: January 11, 1984.

R. J. Copin,

Captain, U.S. Coast Guard, Acting Commander, 13th Coast Guard District.

[FR Doc. 84–2236 Filed 1–25–84; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR PART 63

[CC Docket No. 84–28; FCC 84–19]

Blanket Section 214 Authorization for Provision by a Telephone Common Carrier of Lines for Its Cable Television and Other Non-Common Carrier Services Outside Its Telephone Service Area

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This item proposes to grant blanket Section 214 authorization for the provision of lines by a telephone common carrier for its cable television service or other non-common carrier service outside its telephone service area. Adoption of this proposal would reduce unnecessary regulatory burdens on telephone common carriers, promote competition, and reduce costs to consumers.

DATES: Comments are due on March 1, 1984. Reply comments are due on March 30, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Warren Lavey, Common Carrier Bureau, (202) 632–6910.

List of Subjects in 47 CFR Part 63

Cable television, Communications common carriers, Extension of lines.

Notice of Proposed Rulemaking

In the matter of blanket Section 214 authorization for provision by a telephone common carrier of lines for its cable television and other non-common carrier services outside its telephone service area; CC Docket No. 84–28; FCC 84–19.

Adopted: January 16, 1984.
Released: January 19, 1984.

By the Commission.

1. Introduction

1. Broadly interpreted, Section 214 of the Communications Act of 1934, 47 U.S.C. 214, requires carriers to obtain Commission authorization prior to construction, acquisition, or operation of any line. This requirement applies when a carrier's line is used for a common carrier service, and may apply when a carrier's line is used for a non-common carrier service. This section has been used to authorize cable television channels in some cases. Applications have been filed when a telephone common carrier or its affiliate seeks to construct, acquire, or operate a cable television channel.[1] The applicant may seek to determine what programming is to be carried (i.e., provide cable television service), or to make the facility available to others under tariff for transmission of material of the customer's choice (i.e., provide common carrier channel service). Also, the applicant may seek to provide cable television channels in the telephone carrier's telephone service area or outside that area. On the other hand, authorization is not required when an entity not affiliated with a telephone common carrier constructs, acquires, or operates a cable television channel and provides cable television service via that channel. Section 214 only pertains to the activities of common carriers. The provision of cable television service is not a common carrier activity.[2]

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[1] *See* United States v. Southwestern Cable Co., 392 U.S. 157 (1968) (Commission has authority under the Communications Act to regulate cable television systems); General Telephone Co. of California, 13 FCC 2d 448 (1968), *aff'd sub nom.* General Telephone Co. of California v. Federal Communications Commission, 413 F.2d 390 (D.C. Cir.), *cert. denied*, 396 U.S. 888 (1969) (requirement of Section 214 authorization when telephone carriers construct, acquire, or operate channels for common carrier service to cable television systems); Applications of Telephone Companies for Section 214 Certificates for Channel Facilities Furnished to Affiliated Community Antenna Systems, 21 FCC 2d 307 (1970) (Final Report and Order in Docket 18509), *aff'd sub nom.* General Telephone Co. of the Southwest v. United States, 449 F.2d 846, 854 (5th Cir. 1971) (requirement of Section 214 authorization when a telephone carrier constructs, acquires, or operates channels for service to a cable television system operated by the carrier or an affiliate); Elimination of the Telephone Company—Cable Television Cross-Ownership Rules for Rural Areas, 88 FCC 2d 564 (1981), *petition for review pending sub nom.* National Cable Television Association v. Federal Communications Commission, D.C. Cir. Case No. 82–1058 (filed January 14, 1982) (requiring telephone carriers to state in their applications for authority under Section 214 to construct, acquire, or operate channels for service to a cable television system operated by the carrier or an affiliate whether it relies on the rural exemption).

[2] Southwestern Cable, *supra* note 1, 392 U.S. at 164–72; Federal Communications Commission v. Midwest Video, 440 U.S. 689, 709 (1979).

2. Section 214 applications are reviewed by the Commission to determine whether "the present or future public convenience and necessity require or will require the construction, or operation, or construction and operation, of such additional or extended line * * *." 47 U.S.C. 214(a). The Commission annually processes about twenty applications of telephone common carriers or their affiliates seeking Section 214 authority to provide channels for their own cable television services outside their telephone service area. Service does not begin until these applications are granted. We know of no such application which was denied. It seems that the filing and processing of these applications impose unnecessary costs on consumers, carriers, and the Commission. It is costly for carriers to prepare these applications (see 47 CFR 63.01), and processing them imposes costs on the Commission. The time required to approve these applications may increase carriers' costs by impairing planning of construction and service, delaying revenues, and handicapping carriers in competition with non-carriers for cable service outside the carriers' telephone service areas. Processing time imposes additional costs on consumers, by delaying the provision of cable service in an area and lessening competition between carriers and non-carriers to provide cable service in an area. In *Eagle Telecommunications,*[3] we directed the staff to prepare a Notice of Proposed Rulemaking to reassess application of Section 214 to carriers proposing to provide channels for their own cable television service outside their telephone service areas.

3. We hereby propose to grant blanket Section 214 authorization, to the extent that such authorization is necessary, for provision by a telephone common carrier or its affiliate of channels for its cable television service outside the carrier's telephone service area. The proposal also covers under blanket Section 214 authorization other lines supplied by a carrier or its affiliate outside its telephone service area and used to provide non-common carrier services. For example, such lines may form a customer's private microwave system, or may be constructed and sold to a customer to link it to a telephone switching office.

II. Costs and Benefits of Blanket Authorization

4. Requiring prior authorization of a carrier's facilities under Section 214 can serve to limit duplicative, unnecessary, or inefficient facilities that would inflate the carrier's rate base and lead to higher charges to users of common carrier services.[4] We also have used scrutiny under Section 214 to enforce the policies of Title II of the Communications Act, such as nondiscrimination in common carrier services.[5] These reasons for regulatory scrutiny of a carrier's facilities do not pertain when a carrier constructs channels for its own cable television service or lines for a non-common carrier service outside its own telephone service area.[6] The cost of the facilities will not raise rates for common carrier services.[7] There may be some extent to which lines for one carrier's cable television service or other non-common carrier service in an area duplicate the common carrier facilities of another carrier serving that area. Yet, we know of no application under Section 214 denied for this reason, and we do not scrutinize the construction by non-carrier entities of lines for cable television service or other services to prevent such duplication.

5. We have used the requirement of Section 214 authorization to implement certain competitive policies regarding channels for cable television service.[8] However, these policies do not require a showing in line-specific applications that the public interest would be served by authorizing a carrier's channels outside its telephone service area used for its own cable television service. For example, we ordered that any authority to a telephone company to provide channels for common carrier cable service should be conditioned on a showing that the customer(s) had available pole attachment rights or conduit space at reasonable charges and without undue restrictions on the uses that may be made of the channels by the customer.[9] In addition, we required a carrier seeking to provide channels for its own cable television service in its telephone service area to show that it qualifies for the rural exemption or other good cause.[10] The blanket authorization proposed in this Notice would not impair the Commission's ability to implement these policies.[11]

6. In sum, we tentatively find that Section 214 filing procedures constitute an unnecessary regulatory burden when applied to carriers' lines used for their own cable television services or other non-common carrier services outside of their telephone service areas. We tentatively conclude, to the extent that any authorization is required by Section 214, that all such facilities serve the public convenience and necessity. As noted in paragraph 2 *supra*, this regulatory filing burden imposes costs on consumers, carriers, and the Commission. The Commission has the discretion to grant blanket Section 214 authorizations.[12] We propose to grant blanket Section 214 authorization, to the extent that such authorization is necessary, for provision by a telephone common carrier or its affiliate of lines for its cable television service or other non-common carrier service outside its telephone service area. The proposed rule change is shown in the attachment.

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[3] FCC 83-459 (released November 7, 1983).

[4] *See* Long-Range Regulation of AT&T's Basic Domestic Interstate Services, 48 FR 51340, 51344 & n.45 (November 8, 1983) (Notice of Inquiry).

[5] *Id.* at 51345.

[6] "The Commission has long recognized that particular market needs for telecommunications services may be met by means other than traditional common carrier offerings." Domestic Fixed-Satellite Transponder Sales, 90 FCC 2d 1238, 1246 (1982), *citing* General Mobile Radio Service, 13 FCC 1190, 1209–11 (1949); Above 890, 27 FCC 359 (1959); Domestic Fixed Satellite Service, 22 FCC 2d 86 (1970); Land Mobile Radio Service, 51 FCC 2d 945 (1975) *Aff'd sub nom.* National Association of Regulatory Utility Commissioners v. Federal Communications Commission, 525 F.2d 630 (D.C. Cir.), *cert. denied,* 425 U.S. 999 (1976).

[7] Under our decision in Second Computer Inquiry, 77 FCC 2d 384, 476, *reconsid.*,84 FCC 2d 50 (1980), *Further reconsid.*, 88 FCC 2d 512 (1981), *aff'd sub nom.* Computer Communications Indus. Ass'n. v. Federal Communications Commission, 693 F.2d 198 (D.C. Cir. 1982), *cert. denied,* 103 S. Ct. 2109 (1983), a carrier's costs of providing lines for non-common carrier services and costs of providing such services must be entered on books of account separate from those for its common carrier services. Accordingly, such costs should not affect the revenue requirement for the carrier's common carrier services.

[8] *See* General Telephone Co. of the Southwest, *supra* note 1, 449 F.2d at 856–58.

[9] Applications of Telephone Companies for Section 214 Certificates for Channel Facilities Furnished to Affiliated Community Antenna Systems, *supra* note 1, 21 FCC 2d at 326; 47 CFR 63.57.

[10] Elimination of Telephone Company—Cable Television Cross-Ownership Rurals for Rural Access, *supra* note 3; 47 CFR 63.54–63.56.

[11] In Eagle Telecommunications, *supra* note 3, para. 15, we stated that a carrier applying to provide channels for its own cable television service in its telephone service area must "supply sufficiently detailed information as to its proposed service area to enable the Commission to know where the carrier contends there is no independent system under construction or in existence and consequently where it will be eligible for the rural exemption." We do not rely on information in other Section 214 applications to verify such claims; we do not receive Section 214 applications from non-carrier suppliers of channels. Rather, we rely on evidence brought forth by independent systems in response to such claims. *Id.*

[12] *See* Competitive Carrier Rulemaking, 77 FCC 2d 308 (1979) (Notice), 85 FCC 2d 1 (1980) (First Report), 84 FCC 2d 445 (1981), (Further Notice), 91 FCC 2d 59 (1982) (Second Report), *reconsid.*, FCC 83–69 (released March 21, 1983), 48 FR 46791 (October 14, 1983) (Third Report), 48 FR 52452 (November 18, 1983) (Fourth Report); Long-Run Regulation of AT&T's Basic Domestic Interstate Services, *supra* note 4, 48 FR at 51346.

III. Regulatory Flexibility Act Analysis—Initial Analysis

7. We conclude that the proposed change contained herein will have a positive economic impact on a substantial number of small entities, within the meaning of Section 605(b) of the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b) (1982). We are issuing this Notice of Proposed Rulemaking to receive public comment on our intention to grant telephone companies proposing to provide lines for their own cable television services or other non-common carrier services outside of their telephone service areas blanket authorization under Section 214 of the Communications Act of 1934, 47 U.S.C. 214. Our objective is to compile a sufficient record to implement this proposal. The legal basis for this proposal is contained in paragraph 9.

8. The Commission proposes to extend its deregulatory program to the situations where telephone common carriers provide cable television services and other non-common carrier services outside of their telephone service areas. The proposed rule will apply equally to all telephone common carriers and their affiliates—small business entities as well as large corporations—and should aid all such carriers by eliminating costs and delay in the certification process. No alternative that could be considered would be less burdensome.

IV. Ordering Clauses

9. This proceeding is instituted pursuant to Sections 4(i), 4(j), 214 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 214 and 403, and Section 553 of the Administrative Procedure Act, 5 U.S.C. 553.

10. Comments must be filed on or before March 1, 1984. Reply comments will be due on or before March 30, 1984.

11. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. *See generally* § 1.1231 of the Commission's Rules, 47 CFR 1.1231. All relevant and timely comments and reply comments will be considered by the Commission. In reaching its decision, the Commission may take into account information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

12. In accordance with the provisions of 47 CFR 1.419(b), an original and six copies of all comments, replies, pleadings, briefs and other documents filed in this proceeding shall be furnished to the Commission. Members of the public who wish to express their views by participating informally may do so by submitting one or more copies of their comments, without regard to form (as long as the docket number is clearly stated in the heading). Copies of all filings will be available for public inspection during regular business hours in the Commission's Docket Reference Room (Room 239) at its headquarters in Washington, D.C. 1919 M Street, N.W.

Federal Communications Commission.

William J. Tricarico,

Secretary.

PART 63—[AMENDED]

The proposed rulemaking would amend Part 63 of Chapter 1 of Title 47 of the Code of Federal Regulations by adding § 63.08 as follows:

§ 63.08 Lines outside of a carrier's telephone service area.

No telephone common carrier or its affiliate is required to file for authority pursuant to 47 U.S.C. 214 and 47 CFR 63.01 to provide lines for its own cable television service or for any other non-common carrier service outside of the carrier's telephone service area.

[FR Doc. 84-2123 Filed 1-25-84; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 84-11; RM-4555]

FM Broadcast Station in Burley, Idaho; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the substitution of FM Class C Channel 260 for Channel 252A at Burley, Idaho, and modification of the Class A license for Station KMVC(FM) in response to a petition filed by Mini-Cassia Broadcasting. The assignment could provide Burley with a first Class C assignment.

DATES: Comments must be filed on or before March 12, 1984, and reply comments must be filed on or before March 27, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kathy Scheuerle, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations (Burley, Idaho) MM Docket No. 84-11; RM-4555.

Adopted: January 6, 1984.
Released: January 18, 1984.

By the Chief, Policy and Rules Division.

1. The Commission herein considers a petition for rule making filed by Mini-Cassia Broadcasting [1] ("petitioner"), proposing the substitution of Class C Channel 260 for Channel 252A at Burley, Idaho, and modification of the license for Station KMVC(FM), Burley, to specify operation on Channel 260.

2. We believe that the petitioner's proposal warrants consideration. The channel can be assigned in compliance with the minimum distance separation requirements. In addition, we shall propose to modify the license of Station KMVC (Channel 252A) as requested by petitioner, to specify operation on Channel 260. However, in conforming

[1] Petitioner is also the licensee of Station KBAR(AM), Burley, Idaho.

with Commission precedent, should another party indicate an interest in the Class C assignment, then the modification could not be implemented. Instead, an opportunity for the filing of competing applications may be provided. See, *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976).

3. An *Order to Show Cause* to the petitioner is not required since consent to the modification of its license is indicated by its request for the Class C channel.

4. In order to provide a wide coverage area station for the Burley area, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Burley, Idaho	252A	260

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

Interested parties may file comments on or before March 12, 1984, and reply comments on or before March 27, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel, or consultant, as follows: M. Scott Johnson, Gardner, Carton & Douglas, 1875 Eye Street, N.W., Suite 1050, Washington, D.C. 20006–5472 (counsel for petitioner).

The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), and 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

For further information concerning this proceeding, contact Kathy Scheuerle, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration, or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments: Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examinaiton by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84–2222 Filed 1–25–84; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 84–13; RM–4582]

FM Broadcast Station in Tuscola, Michigan; Proposed changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 269A to Tuscola, Michigan, in response to a petition filed by Robert A. Sherman. The proposal could provide a first FM service to that community.

DATES: Comments must be filed on or before March 12, 1984, and reply comments on or before March 27, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kathy Scheuerle, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations (Tuscola, Michigan) MM Docket No. 84–13; RM–4582.

Adopted: January 6, 1984.

Released: January 18, 1984.

By the Chief, Policy and Rules Division.

1. A petition for rulemaking has been filed by Robert A. Sherman ("petitioner"), proposing the assignment of Channel 269A to Tuscola, Michigan, as its first local assignment. Petitioner expressed an interest in applying for the channel, if assigned.

2. The requested assignment can meet the mileage spacing requirements with a site restriction of 1.4 miles east to avoid short-spacings to Station WILS–FM (Channel 269A) in Lansing, Michigan, and Station WDBI–FM (Channel 269A) in Tawas City, Michigan.

3. Canadian concurrence must be obtained since the proposal is within 320 kilometers (200 miles) of the Canadian-U.S. border.

4. In view of the fact that the proposed assignment could provide a first local FM service to Tuscola, Michigan, the Commission believes it is appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with respect to the following community:

City	Channel No	
	Present	Proposed
Tuscola, Mich.		269A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. **Note:** A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before March 12, 1984, and reply comments on or before March 27, 1984, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner(s) of this proceeding: Robert A. Sherman, 1039 Divison, Port Huron, Michigan 48060.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Kathy Scheuerle, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in

the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 84-2220 Filed 1-25-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 84-9; RM-4621]

FM Broadcast Station in Bozeman, Montana; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: This action proposes to assign FM Channel 260 to Bozeman, Montana, as that community's third broadcast service, in response to a petition filed by Charles Thompson.

DATES: Comments must be filed on or before March 12, 1984, and reply comments on or before March 27, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations (Bozeman, Montana) MM Docket No. 84-9; RM-4621.

Adopted: January 6, 1984.
Released: January 18, 1984.

By the Chief, Policy and Rules Division.

1. A petition for rule making has been filed by Charles Joseph Thompson ("petitioner") proposing the assignment of Class C FM Channel 260 to Bozeman, Montana, as that community's third broadcast service. Petitioner expressed an interest in applying for the channel, if assigned. The channel can be assigned in conformity with the minimum distance separation requirements of § 73.207 of the Commission's Rules.

2. In view of the fact that the proposed assignment could provide a third FM service to Bozeman, Montana, the Commission believes it is appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Bozeman, Mont	229, and 236	229, 236, and 260.

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

4. Interested parties may file comments on or before March 12, 1984, and reply comments on or before March 27, 1984, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner, as follows: Edward M. Johnson & Associates, Inc., One Regency Square, Suite 450, Knoxville, Tennessee 37915 (consultant to the petitioner)

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an ex parte presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Noitce to this effect will be given as long as they are filed before they date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions

by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84-2225, Filed 1-25-84; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 84-12; RM-4608]

FM Broadcast Station in Hobbs, N. Mex.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: This action proposes to assign FM Channel 275 to Hobbs, New Mexico in response to a petition filed by Smith Family Radio, Inc. The proposed assignment could provide a third FM commercial service to Hobbs, New Mexico.

DATES: Comments must be filed on or before March 12, 1984, and reply comments on or before March 27, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations (Hobbs, New Mexico) MM Docket No. 84-12; RM-4608.

Adopted: January 6, 1984.
Released: January 18, 1984.
By the Chief, Policy and Rules Division.

1. A petition for rule making has been filed by Smith Family Radio, Inc. ("petitioner"), proposing the assignment of Channel 275 to Hobbs, New Mexico, as that community's third commercial FM service.[1] Petitioner expressed an interest in applying for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements. In MM Docket No. 83-754, we had proposed to assign Channel 275 to Roswell. However, to avoid a conflict we have changed that channel to Channel 293.

2. Concurrence of the Mexican government is required since Hobbs, New Mexico is located within 320 kilometers (199 miles) of the common U.S.-Mexican border.

3. In view of the fact that the proposed assignment could provide a third commercial FM service to Hobbs, New Mexico, the Commission believes it is appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's Rules with respect to the following community:

City	Present	Proposed
Hobbs, N. Mex.	231 and 239	231, 239, and 275

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before March 12, 1984, and reply comments on or before March 27, 1984, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner, as follows: Edward M. Johnson & Associates, Inc., One Regency Square, Suite 450, Knoxville, Tennessee 37915 (consultant to the petitioner).

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

[1] Station KZOR(FM) (Channel 231) has recently been authorized to move from Humble City, NM to Hobbs where the channel has been assigned. No change in the Table of Assignments is necessary to reflect that change.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84-2221 Filed 1-25-84; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 84-14; RM-4601]

FM Broadcast Station in Cookeville, Tenn.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the substitution of Class C FM Channel 234 for Channel 232A at Cookeville, Tennessee, and modification of the Class A license for Station WGSQ(FM), Cookeville, in response to a petition filed by Gallaher and Huffines. The assignment could provide Cookeville with its first Class C FM station.

DATES: Comments must be filed on or before March 12, 1984, and reply comments must be filed on or before March 27, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations (Cookeville, Tennessee) MM Docket No. 84-14; RM-4601.

Adopted: January 6, 1984.
Released: January 18, 1984.

By the Chief, Policy and Rules Division.

1. Before the Commission for consideration is a petition for rulemaking filed by Gallaher and Huffines ("petitioner"), licensee of FM Station WGSQ (Channel 232A), Cookeville, Tennessee, requesting the substitution of Class C Channel 234 for 232A and modification of its license to specify operation on the Class C channel.

2. Petitioner acknowledges that if Channel 234 is assigned to Cookeville, it would be short-spaced by 8 miles to Channel 288A licensed to Station WSMT-FM, Sparta, Tennessee, due to the IF spacing requirements. However, petitioner indicates that to overcome the mileage conflict, it has entered into an agreement with Station WSMT-FM whereby, upon proper reimbursement, WSMT will relocate its transmitter to accommodate the proposal.

3. In this regard, petitioner notes that there is a pre-existing short-spacing on the co-channel between Station WSMT-FM at its present transmitter site, and Station WOWE, Rossville, Georgia.[1] Petitioner adds that such short-spacing would increase slightly once Station WSMT-FM relocates. However, it points out that since Station WSMT-FM was initially licensed in August 1964, it qualifies as a "grandfathered" station pursuant to the provisions of § 73.213 of the Rules, and thus is permitted to operate at less than the existing minimum distance separation requirements, citing *Bristol Broadcasting Company, 38 R.R. 2d 625 (1976).*

4. In support, petitioner asserts that if its proposal is adopted, it could enable Station WGSQ to expand its coverage in the market, as well as add an alternate voice to nearby communities such as Sparta.

5. A staff engineering study reveals that although the proposed assignment of Channel 234 to Cookeville would be 8.0 miles short-spaced to Station WSMT-FM (Channel 288A), Sparta, site restrictions of 2.7 miles southeast of Cookeville and 7.0 miles southeast of Sparta, in accordance with an agreement between the parties, would eliminate the short-spacing. As petitioner correctly notes, even though the proposed relocation of Station WSMT-FM's transmitter would slightly increase a pre-existing short-spacing (*i.e.*, 9 miles) on the co-channel to Station WOWE in Rossville, such operation would be permissible pursuant to the provisions of § 73.213 of the Rules pertaining to "grandfathered" stations whose spacings are below the minimum required separations.

6. On the basis of the foregoing, we shall propose the substitution of Class C Channel 234 for Channel 232A at Cookeville, Tennessee, and modification of Station's WGSQ's license to specify operation on Channel 234. However, in conformity with Commission precedent, as established in *Cheyenne, Wyoming,* 62 F.C.C. 2d 63 (1976), should another interest in the assignment be shown, the proposed modification could not be permitted, and the channel, if assigned, would then be open to competing applications.

7. Since the management of Station WSMT-FM submitted a letter indicating its consent to relocate its transmitter facilities, upon proper reimbursement, in order to accommodate petitioner's proposal, issuance of an *Order To Show Cause* to that station is not necessary as it has thereby confirmed its willingness to relocate.

[1] Although licensed at Rossville, Georgia, Channel 288A is allocated to Chattanooga, Tennessee.

8. In view of the foregoing, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No	
	Present	Proposed
Cookeville, Tenn.	232A, 252A	234, 252A

9. The Secretary shall send a copy of this *Notice of Proposed Rule Making* by certified mail, return receipt requested, to Upper Cumberland Country Broadcasting Co., Inc., Radio Station WSMT–FM, P.O. Box 390, Sparta, TN 38583, and to WOWE, Inc., Radio Station WOWE–FM, c/o P.O. Box 1445, Haines City, FL 33844.

10. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

11. Interested parties may file comments on or before March 12, 1984, and reply comments on or before March 27, 1984, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner of this proceeding, as follows: Michael H. Bader, Esq., Haley, Bader & Potts, 2000 M St., NW., Suite 600, Washington, D.C. 20036 (counsel for the petitioner).

12. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

13. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.
(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 305)

Roderick K. Porter,
Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended,and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by referene its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before they date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84–2219, Filed 1–25–84 8:45 am]
BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 84–10; RM–4648]

TV Broadcast Station in Presque Isle, Maine; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: This action proposes the assignment of UHF Television Channel 62 to Presque Isle, Maine, as that community's third television facility, in response to a petition filed by Allen Weiner.

DATES: Comments must be filed on or before March 12, 1984, and reply comments on or before March 27, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.606(b), table of assignments, TV broadcast stations (Presque Isle, Maine) MM Docket No. 84–10; RM–4648.

Adopted: January 6, 1984
Released: January 18, 1984

By the Chief, Policy and Rules Division.

1. The Commission has before it a petition for rule making filed by Allen Weiner ("petitioner") proposing the assignment of UHF Television Channel 62 to Presque Isle, Maine, as that community's third television facility. The petitioner submitted information in support of the proposal and expressed his interest in applying for the channel, if assigned.

2. Presque Isle (population 11,172),[1] in Aroostock County (population 91,331), is located in northern Maine approximately 355 kilometers (222 miles) northeast of Portland, Maine.

3. UHF Television Channel 62 can be assigned to Presque Isle consistent with the minimum distance separation requirements of §§ 73.610 and 73.698 of the Commission Rules, provided there is a site restriction of 5.7 miles west to avoid short-spacing to unused Channel 62 in Shediac, New Brunswick, Canada.

4. Canadian concurrence is required for this proposal since Presque Isle is located within 400 kilometers (250 miles) of the common U.S.-Canadian border.

5. In view of the fact that Presque Isle could receive its third television service, the Commission finds that it would be in the public interest to seek comments on the proposal to amend the Television Table of Assignments, § 73.606(b) of the Rules, as follows:

City	Channel No.	
	Present	Proposed
Presque Isle, Maine	8, *10+	8, *10+, 62+

6. The Commission's authority to institute rule making proceedings, showings, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before March 12, 1984, and reply comments on or before March 27, 1984, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner, as follows: Edward M. Johnson & Associates, Inc., One Regency Square, Suite 450, Knoxville, Tennessee 37915 (consultant to the petitioner).

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Section 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(e)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceedings, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this procededing or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested

[1] Population figures are from the 1980 U.S. Census, Advance Report.

parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84-2224 Filed 1-25-84; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 84-7; RM4612]

FM Broadcast Station in Mexico Beach, Florida; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 257A to Mexico Beach, Florida, in response to a petition filed by Betty N. Neisler. The proposal could provide a first FM service to that community.

DATES: Comments must be filed on or before March 12, 1984, and reply comments must be filed on or before March 27, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Mexico Beach, Florida); MM Docket No. 84-7, RM-4612.

Adopted: January 6, 1984.
Released: January 18, 1984.

By the Chief, Policy and Rules Division.

1. A petition for rule making has been filed by Betty N. Neisler ("petitioner"), proposing the assignment of Channel 257A to Mexico Beach, Florida, as its first FM service. Petitioner expressed an interest in applying for the channel, if assigned. The channel can be assigned in conformity with the minimum distance separation requirements of Section 73.207 of the Commission's Rules.

2. In view of the fact that the proposed assignment could provide a first FM service to Mexico Beach, Florida, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Mexico Beach, Fla.		257A

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

4. Interested parties may file comments on or before March 12, 1984, and reply comments on or before March 27, 1984, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner in this proceeding: Betty N. Neisler, Star Route—Box 114, St. George Island, East Point, Florida 32328.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions

by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 84-2234 Filed 1-25-84; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 84-8; RM-4620]

FM Broadcast Station in Bend, Oregon; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 252A to Bend, Oregon, as that community's fifth broadcast service, in response to a petition filed by Charles Joseph Thompson.

DATES: Comments must be filed on or before March 12, 1984, and reply comments on or before March 27, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rulemaking

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations. (Bend, Oregon) (MM Docket No 84-8 RM-4620).

Adopted: January 6, 1984.
Released: January 18, 1984.

By the Chief, Policy and Rules Division.

1. A petition for rule making has been filed by Charles Joseph Thompson ("petitioner") proposing the assignment of Channel 252A to Bend, Oregon, as that community's fifth FM assignment. The petitioner expressed an interest in applying for the channel, if assigned. The channel can be assigned in conformity with the minimum distance separation requirements of § 73.207 of the Commission's Rules.

2. In view of the fact that the proposed assignment could provide a fifth FM service to Bend, Oregon, the Commission believes it is appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Rules, with respect to the following community.

City	Channel No.	
	Present	Proposed
Bend, Oregon.	231, 248, 264, and [redacted]	231, 248, 252A 264, and 289

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

4. Interested parties may file comments on or before March 12, 1984, and reply comments on or before March 27, 1984, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner, as follows: Edward M. Johnson & Associates, Inc., One Regency Square, Suite 450, Knoxville, Tennessee 37915, (Consultant to the petitioner).

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showing Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are

filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84-2207 Filed 1-25-84 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 84-6; RM-4610]

FM Broadcast Station in Klamath Falls, Oregon; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the substitution of Channel 295 for Channel 296A at Klamath Falls, Oregon, and modification of the license for Station KKRB (FM) accordingly, in response to a petition filed by the licensee, Wynne Broadcasting Company, Inc.

DATES: Comments must be filed on or before March 12, 1984, and reply comments on or before March 27, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Notice of Proposed Rulemaking

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations. (Klamath Falls, Oregon), [MM Docket No. 84-6 RM-4610].

Adopted: January 6, 1984.
Released: January 18, 1984.

By the Chief, Policy and Rules Division.

1. A petition for rule making was filed on September 21, 1983, by Wynne Broadcasting Company, Inc. ("petitioner"), which seeks to substitute Class C Channel 295 for Channel 296A at Klamath Falls, Oregon, and to modify the license of Station KKRB (FM) to specify operation on Channel 295.

2. We believe the petitioner's proposal warrants consideration. Channel 295 can be assigned to Klamath Falls in compliance with the minimum distance separation requirements.

3. In accordance with our established policy, we shall propose to modify the license of Station KKRB (FM) to specify operation on Channel 295. However, if another party should indicate an interest in the Class C assignment, the modification could not be implemented. Instead, if the Class C channel is assigned, an opportunity for the filing of a competing application must be provided. See, *Cheyenne, Wyoming,* 62 F.C.C. 2d 63 (1976).

4. Accordingly, in order to provide a wide coverage area FM station, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as it pertains to Klamath Falls, Oregon, as follows:

City	Channel No.	
	Present	Proposed
Klamath Falls, Oregon.	223, 258, and 296A.....	223, 258, and 295

5. The Commission's authority to institute rule making proceedings, showing required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before March 12, 1984, and reply comments on or before March 27, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Wynne Broadcasting Company, Inc., c/o Robert J. Wynne, Vice President, Post Office Box 1450, Klamath Falls, Oregon 97601.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that §§ 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend § 73.202(b) and 73.504 and 73.606(b) of the Commission's Rules,* 46 F.R. 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Sec. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in §§ 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, It Is Proposed To Amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule*

Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84-2235 Filed 1-25-84; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 94

[PR Docket No. 84-27; RM-4351]

Eliminate the Developmental Classification of the 13.2 to 13.25 GHz Band

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has adopted a Notice of Proposed Rule Making which proposes to amend Part 94 to eliminate the developmental classification of the 13.2 to 13.25 GHz band. The proposal would enable private licensees to use this band on an equal basis with broadcast and common carrier licensees.

DATES: Comments are due by February 27, 1984 and replies by March 13, 1984.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Joseph A. Levin, Private Radio Bureau, Land Mobile and Microwave Division, Rules Branch, (202) 634-2443.

List of Subjects in 47 CFR Part 94

Private operational-fixed microwave, Radio.

Notice of Proposed Rule Making

In the matter of amendment of Part 94 of the Commission's rules to eliminate the developmental classification of the 13.2 to 13.25 GHz band; PR Docket No. 84-27, RM-4351; FCC 84-17.

Adopted: January 16, 1984.
Released: January 19, 1984.

By the Commission:

Background

1. Hughes Aircraft Company—Microwave Communications Products (Hughes) has petitioned the Commission to amend § 94.61(b) of the rules by eliminating footnote 16 which restricts the private use of the 13.2–13.25 GHz band to developmental operations.[1] The Hughes petition was supported by the American Telephone and Telegraph Company (AT&T) and M/A-COM, Inc.

2. Hughes is a manufacturer of radio equipment which has been type accepted by the Commission for use in the 13.2–13.25 GHz band. In its petition, Hughes indicates that use of these frequencies was originally limited to developmental systems because there was very little practical operating experience in the frequencies above 13 GHz. The developmental authorizations were intended to encourage development of equipment capable of operating in the 13.2–13.25 GHz band and to increase the use of these frequencies. In fact, the Commission's objective of encouraging development of equipment to be used in these frequencies has been satisfied, as evidenced by the significant number of systems which have been authorized in the 13.2–13.25 GHz band, the 12.7–13.2 GHz band, as well as in higher frequency bands. Hughes points out, however, that the footnote, which originally was intended to encourage use of this spectrum, now acts to inhibit its use by private licensees. This is especially important because this band is shared with the Television Auxiliary Broadcast Service (Part 74), the Local Television Transmission Service (Part 21), and the Point-to-Point Microwave Service (Part 21). Licensees in these three other services are authorized to use this frequency band on a primary basis, while private licensees are restricted to one-year developmental authorizations which can be cancelled by the Commission without a hearing. Hughes contends that the restrictions associated with developmental authorizations now serve as a serious deterrent to use of these frequencies by those eligible under Part 94 of our rules. This contention is supported by the Commission's license records which indicate that fewer than 10 percent of the licenses in the 13.2–13.25 GHz band are held by Part 94 eligibles.

3. In its support of the Hughes petition, M/A-COM points out the apparent inequity of limiting Part 94 eligibles to developmental authorizations, while granting authorizations without the developmental restrictions to eligibles in Parts 21 or 74. M/A-COM suggests that since the same equipment is used, regardless of the service, there is no logical rationale for retaining the developmental status for private service licensees.

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[1] *Petition for Rule Making*, RM-4351, filed January 13, 1983.

4. AT&T also filed comments in support of the Hughes petition. AT&T agrees with Hughes that the current availability of equipment for this band, knowledge of propagation characteristics in this band, and experience with non-restricted authorizations for broadcast and common carrier licensees in this band make the developmental restriction imposed on private licensees anachronistic. AT&T also points out that elimination of the developmental restriction would make this band a more likely possibility as an alternative location for licensees being displaced from the 12.2–12.7 GHz band by the new Direct Broadcast Satellite Service (DBS).[2]

5. No comments were submitted in opposition to the Hughes petition. The only area of disagreement among Hughes, AT&T and M/A-COM was the most appropriate means to eliminate footnote 16. Hughes is of the opinion that the proposed change is procedural in nature, and therefore is not subject to the formal notice and comment procedures of the Administrative Procedure Act. Hughes requested that the change be incorporated into the reconsideration of PR Docket 19671.[3] M/A-COM proposed that Gen. Docket 82–334 be used as the vehicle to make the proposed rule change.[4] M/A-COM stated that Docket 19671 is too controversial and should not be encumbered with any additional issues. In its reply to M/A-COM's comments, Hughes reiterated its preference and stated its belief that inclusion of this issue in Gen. Docket 82–334 is the more controversial alternative.

Proposal

6. Hughes, AT&T and M/A-COM all agree that the developmental provision for use of the 13.2–13.25 GHz band by Part 94 eligibles should be eliminated. They point out that the state of microwave radio technology has advanced to the extent that the developmental provision is now obsolete. In fact, based on the relatively small number of private microwave systems authorized in this band, it would appear that restricting private use to developmental systems is impeding rather than encouraging the use of this band. The majority of the systems authorized in the band are for primary authorizations to broadcast licensees. Therefore, we agree with Hughes and propose that footnote 16 in § 94.61(b) be eliminated. We believe this is in the public interest because it would enable private eligibles to be licensed to use the 13.2–13.25 GHz band on an equal basis with broadcasters and common carriers, and thus encourage more intensive use of the band. This is consistent with the Commission's mandate to encourage more effective use of radio in the public interest.[5]

Regulatory Flexibility

7. The Commission certifies that Sections 603 and 604 of the Regulatory Flexibility Act of 1980 do not apply to the rules proposed in this *Notice of Proposed Rule Making* because they will not have a significant economic impact on a substantial number of small entities. The Secretary shall cause a copy of this *Notice of Proposed Rule Making*, including the above certification, to be published in the **Federal Register**, and to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 605(b) of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et. seq.* (1981).

Procedural Matters

8. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rule making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously filed written comments for the proceeding, must prepare a written summary of that presentation. On the day of that oral presentation, a witten summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's Rules, 47 CFR 1.1231.

9. Authority for issuance of this *Notice of Proposed Rule Making* is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r). Pursuant to the procedures set out in § 1.415 of the Commission's Rules, 47 CFR 1.415, interested persons may file comments on or before February 27, 1984, and reply comments on or before March 13, 1984. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

10. In accordance with the provisions of § 1.419 of the Commission's Rules, 47 CFR 1.419, formal participants shall file an original and five copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters at 1919 M Street, N.W., Washsington, D.C.

11. For further information concerning this rule making contact Joseph A. Levin of the Rules Branch, Land Mobile and Microwave Division, Private Radio Bureau, Federal Communications Commission, Washington, D.C. 20554, (202) 634–2443.

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[2] *Report and Order*, Gen. Docket No. 80–603, FCC 2d 676, 47 FR 31555 (July 21, 1982).

[3] *Memorandum Opinion and Order*, Docket No. 19671, 48 FR 32578 (July 18, 1983).

[4] *Notice of Proposed Rule Making*, General Docket No. 82–334, 48 FR 6730 (Feb. 15, 1983), and *First Report and Order*, General Docket No. 82–334, 48 FR 50722 (November 3, 1983).

[5] Since the 13.2 to 13.25 GHz band is shared with broadcast and common carrier licensees, we believe it is appropriate that all interested parties be given an opportunity to comment on the proposed change. Therefore, we have not adopted Hughes' suggestion that the change be incorporated into Dockets 82–334 or 19671 without the formal notice and comment procedures specified in the Administrative Procedure Act.

Federal Communications Commission.
William J. Tricarico,
Secretary.

PART 94—[AMENDED]

§ 94.61 [Amended]

Appendix

47 CFR Part 94 of the Commission's Rules and Regulations is proposed to be amended to remove and reserve footnote (16) in § 94.61(b).

[FR Doc. 84-2125 Filed 1-25-84; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

46 CFR Parts 502, 512 and 531

[General Orders 11, 16 and 38; Docket No. 84-2]

Amendment of Certain Regulations Governing Common Carriers by Water in the Domestic Offshore Commerce of the United States

AGENCY: Federal Maritime Commission.

ACTION: Proposed rule.

SUMMARY: This proposal would remove certain financial reporting requirements affecting vessel operating common carriers serving the trades between the continental United States and Puerto Rico and the U.S. Virgin Islands and make other rule changes. The proposal is made in response to a petition filed by Sea-Land Service, Inc., and is intended to alleviate the regulatory burden on carriers in the Puerto Rican trades.

DATES: Comments due on or before March 12, 1984. Replies to comments due April 25,1984.

ADDRESS: Comments (original and 15 copies) to: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT: Robert G. Drew, Director, Bureau of Tariffs, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Commission (FMC) proposes to amend Parts 512, 531 and 502 of Title 46 of the Code of Federal Regulations. Part 512 (Commission General Order 11) requires the filing of certain financial reports by common carriers by water serving the domestic offshore trades.[1] Part 531 (Commission General Order 38) governs the publication, filing and posting of tariffs in these trades. Part 502 (Commission General Order 16) contains the Commission's Rules of Practice and Procedure.

Sea-Land Service, Inc. recently petitioned the Commission to institute a rulemaking to amend certain of its regulations applicable to the trades between the continental United States and Puerto Rico and the U.S. Virgin Islands. Two reasons are advanced as the basis for these proposed amendments. First, it is argued that sufficient competition exists in these trades to ensure reasonable rate levels without public utility type rate regulation. Second, due to the bifurcation of regulatory jurisdiction between the FMC and the Interstate Commerce Commission (ICC) in these trades, more stringent FMC regulation puts those carriers subject to its jurisdiction at a competitive disadvantage.[2] Essentially, the requested amendments would reduce the notice requirements applicable to general rate changes from 60 to 30 days and eliminate the need to submit financial data on an annual basis and in connection with general rate increases.

A Notice of filing of Sea-Land's petition was published in the **Federal Register** (48 FR 44091). Of the 22 parties that responded, 17 supported the granting of Sea-Land's petition while four were opposed. The remaining respondent did not address the specifics of the petition. Although generally supportive of Sea-Land's petition, the comments thus far received have not provided the Commission with a detailed record for assessing the impact of the proposal on Commission programs. The Commission is therefore instituting this proposed rulemaking, which would effect the relief sought by Sea-Land, to provide interested parties with that opportunity. The Commission will also consider alternative proposals which may reduce unnecessary regulatory burdens.

Relatively recent amendments to the Intercoastal Shipping Act (46 U.S.C. 843, *et seq.*) are the source of many of the Commission's regulations which Sea-Land proposes to change or eliminate. The two features of the 1978 amendments most relevant to Sea-Land's request are the strict scheduling constraints of sections 2 and 3 (46 U.S.C. 844 and 845) and the requirement of section 3 that:

> * * * the Commission shall, within one year after the effective date of this sentence, by regulation prescribe guidelines for the determination of what constitutes a just and reasonable rate of return or profit for common carriers in intercoastal commerce. 46 U.S.C. 845(a).

Section 3 also states that:

> After the regulations referred to in the preceding sentence are initially prescribed, the Commission shall from time to time thereafter review such regulations and make such amendments thereto as may be appropriate. *Id.*

Many of the regulations to which Sea-Land objects were promulgated either in implementation of the above-quoted statutory requirements or as a means of enabling the Commission to meet the procedural deadlines established by sections 2 and 3. These time limits require the Commission to adjudicate rate proceedings on the following schedule:

(a) *60 days*, from the filing date of a general rate increase/decrease, to decide whether to suspend and/or investigate and issue an order stating reasons for investigation and issues to be determined (30 days in all other cases);

(b) *60 days* after such effective date to complete hearings;

(c) *120 days* after such effective date to issue an Initial Decision;

(d) *180 days* after such effective date to issue a final decision (60 additional days if ordered by the Commission).

One of the issues raised by Sea-Land's proposal is whether, if adopted, it would allow the Commission to adhere to this statutorily imposed schedule. Therefore, consideration must be given to whether section 35 of the Shipping Act, 1916 (the Act), (46 U.S.C. 833a) gives the Commission the authority to grant the relief requested by Sea-Land and whether, if in doing so, its ability to provide effective regulation will be impaired. Although the Commission possesses considerable authority to amend its regulations, it cannot take actions which effectively amend the statute or which prevent adherence to statutory requirements.

As noted earlier, proposals for alternative revisions will also be considered. The procedure to be followed in this rulemaking will also allow for replies to comments in order that the matters proposed be fully and thoroughly considered by all interested parties. To that end, the Commission's

[1] The domestic offshore trades are generally those trades between the contiguous 48 states of the United States and non-contiguous states, territories and possessions. *See* 46 CFR 512.5(f), 514.5(d) and 531.5(a).

[2] The Commission has previously advised Congress of the problems caused by this bifurcation of regulatory responsibility. *See* Letter of January 21, 1983 from Chairman Alan Green, Jr. to Senator Packwood, Chairman of the Senate Committee on Commerce, Science and Transportation and to Congressman Jones, Chairman of the House Committee on Merchant Marine and Fisheries. However, no legislative solution appears imminent.

Bureau of Hearing Counsel is directed to participate in this proceeding to ensure appropriate input on the record by the Commission's own staff.

Specifically, the Commission requests all commentators to address the following matters:

1. If no financial data are submitted by carriers in the Puerto Rico/Virgin Islands trade, how can the Commission effectively review the reasonableness of a general rate increase prior to its effective date?

a. If this proposed rule is adopted, how will interested persons effectively exercise their statutory right to protest general rate increases?

b. What standard of reasonableness should apply to rate inquiries in order to accommodate the competitive realities of the U.S./Puerto Rico, Virgin Islands trade?

2. If the proposed rule were adopted, can an adequate system of general rate increase review operate within 60 days as required by the statute?

a. Assuming authority exists to establish a thirty-day review period as Sea-Land has proposed, can the requisite rate review be accomplished within thirty days?

3. If the Commission should order an investigation of a proposed general rate increase, can such an investigation be completed within 180 days as required by the statute in the absence of pre-filed financial data and supporting evidentiary materials by the carrier?

4. To what extent is port-to-port service competitive with intermodal service by carriers in the Puerto Rico/Virgin Island trades?

a. What are the regulatory requirements imposed on carriers subject to ICC jurisdiction in these trades?

b. What specific differences between ICC and FMC regulatory requirements, impose a competitive disadvantage on FMC regulated carriers?

c. Can the needs of shippers in this trade be adequately served if carriers offer only intermodal service subject to ICC jurisdiction?

Additional questions and issues which commentators view as important considerations should also be addressed in this proceeding. However, comments which advance proposals that ignore either the statutory requirements of the Intercoastal Shipping Act or the realities of conditions in the Puerto Rico/Virgin Islands trades are not helpful to the Commission.

List of Subjects in 46 CFR Parts 502, 512, and 531

Maritime carriers, Reporting and recordkeeping requirements.

PART 512—[AMENDED]

Therefore, pursuant to 5 U.S.C. 553, §§ 35 and 43 of the Shipping Act, 1916 (46 U.S.C. 833(a) and 46 U.S.C. 841(a)), and section 3 of the Intercoastal Shipping Act (46 U.S.C. 845), it is proposed that Title 46 CFR be amended as follows:

§ 512.2 [Amended]

1. Section 512.2(a) is revised to read (new language in italices):

* * * * *

(a) All persons engaged in common carriage via cargo vessels in the domestic offshore trades (except persons engaged in intrastate operations in Alaska and Hawaii *and persons engaged in domestic offshore operations between the continental United States and Puerto Rico and the U.S. Virgin Islands)* and required by the Intercoastal Shipping Act, 1933, to file tariffs with the Commission, shall execute and file, in duplicate, Statement of Financial and Operating Data (designated as FMC Form No. 377 for tug and barge operators and FMC Form No. 378 for vessel operators) for each domestic offshore trade served with: Federal Maritime Commission, Bureau of Tariffs, 1100 L Street N.W., Washington, D.C. 20573.

* * * * *

2. Section 512.2(f) is amended by the addition of the following at the beginning of the introductory paragraph:

* * * * *

(f) * * * "Except those persons excepted from the requirement of § 512.2(a), * * *"

* * * * *

3. Section 512.2(g) is amended by the addition of the following language after the word "carrier" in the first line of the paragraph:

* * * * *

(g) * * * not otherwise excepted from the reporting requirements of § 512.2 (a) and (f).

PART 502—[AMENDED]

4. The first two sentences of § 502.67(a)(2) are amended to read (new language in italics):

§ 502.67 [Amended]

(a) * * *

(2) *Except with respect to those carriers excepted from the provisions of § 502.2(a) of Part 512,* no general rate increase or decrease shall take effect before the close of the sixtieth day after the day it is posted and filed with the Commission. A vessel operating common carrier (VOCC) *not so excepted* shall file, under oath, concurrently with any general rate increase or decrease testimony and exhibits of such composition, scope and format that they will serve as the VOCC's entire direct case in the event the matter is set for formal investigation, together with all underlying workpapers used in the preparation of the testimony and exhibits.

* * * * *

5. Section 531.10(c) is amended to read (new language in italics):

531.10 [Amended]

* * * * *

(c) *Except as otherwise provided in 46 CFR Part 512, section 512.2(a), carriers not otherwise excepted from the provisions of 46 CFR 512.2(a) and 502.67(a)(2) shall post and file* amendments changing rates, fares, charges, rules, or other tariff provisions, which constitute a general increase or decrease in rates, together with any supporting material required by 46 CFR Part 512 and 46 CFR 502.67, at least 60 days prior to their effective date. *Carriers excepted from the provisions of 46 CFR 512.2(a) and 502.67(a)(2) instituting any such amendment shall post and file such amendment at least 30 days prior to the effective date and no suppporting material otherwise required by 46 CFR Part 512 and 46 CFR 502.67 shall be required to be submitted.*

* * * * *

By the Commission.[1]

Francis C. Hurney,

Secretary.

[FR Doc. 84-2016 Filed 1-25-84; 8:45 am]

BILLING CODE 6730-01-M

[1] Commissioner Moakley would not issue this notice of Proposed Rulemking because he believes the relief sought by Sea-land is beyond the Commission's statutory authority to grant.

Notices

Federal Register
Vol. 49, No. 18
Thursday, January 26, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

Belmont Flood Prevention RC&D Measure Plan, West Virginia; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Belmont Flood Prevention RC&D Measure, Pleasants County, West Virginia.

FOR FURTHER INFORMATION CONTACT: Rollin N. Swank, State Conservationist, Soil Conservation Service, 75 High Street, Morgantown, West Virginia 26505; telephone 304–291–4151.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Rollin N. Swank, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for flood prevention. The planned works of improvement includes approximately 2,000 feet of floodwater diversion ditch. Of this 2,000 feet, about 950 feet will be vegetated and 1,050 feet will be rock lined.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Rollin N. Swank, State Conservationist.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review and Federal and federally assisted programs and projects is applicable)

Rollin N. Swank,

State Conservationist.

January 19, 1984.

[FR Doc. 84–2158 Filed 1–25–84; 8:45 am]

BILLING CODE 3410–16–M

Jackson County Fairgrounds Land Drainage RC&D Measure Plan, West Virginia; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines, (40 CFR Part 1500); and the Soil Conservation Service Guidelines. (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Jackson County Fairgrounds Land Drainage RC&D Measure Plan, Jackson County, West Virginia.

FOR FURTHER INFORMATION CONTACT: Rollin N. Swank, State Conservationist, Soil Conservation Service, 75 High Street, Morgantown, West Virginia 26505, telephone 304–291–4151.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Rollin N. Swank, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concern is land drainage. The planned works of improvement will be installed on a 10 acre site at the Jackson County Fairgrounds. Conservation practices include about 1,460 feet of subsurface drains, 476 feet of diversion ditch, 1,200 feet of vegetative waterway, and 1,326 feet of drainage ditch.

The Notice of a Finding of No Significant Impact (FONIS) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Rollin N. Swank, State Conservationist.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10,901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Rollin N. Swank,

State Conservationist.

January 16, 1984.

[FR Doc. 84–2159 Filed 1–25–84; 8:45 am]

BILLING CODE 3410–16–M

CIVIL RIGHTS COMMISSION

Florida Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Florida Advisory Committee to the Commission will convene at 1:00 p.m. and will end at 5:00 p.m., on February 24, 1984, at the Continental Building, 5th Floor Conference Room, 5915 Ponce DeLeon Blvd., Miami, Florida 33146. The purpose of this meeting is to discuss the update of the Advisory Committee report *Confronting Racial Isolation in Miami*

and the reorganization of the Commission on Civil Rights.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Chairperson, Teresa Saldise, at (305) 856–1365 or the Southern Regional Office at (404) 221–4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 20, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–2099 Filed 1–25–84; 8:45 am]

BILLING CODE 6355–01–M

Montana Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Montana Advisory Committee to the Commission will convene at 10:00 a.m. and will end at 12:00 p.m., on February 25, 1984, at the Great Falls Public Library, 301 Second Avenue North, Great Falls, Montana 59401. The purpose of this meeting is to discuss plans for a study of Montana jails, Civil Rights issues in Montana, and the reorganization of the Commission on Civil Rights.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Chairperson, Angela Russell, at (406) 638–2626 or the Rocky Mountain Regional Office at (303) 837–2211.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 20, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–2101 Filed 1–25–84; 8:45 am]

BILLING CODE 6355–01–M

Wyoming Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Wyoming Advisory Committee to the Commission will convene at 10:00 a.m. and will end at 12:00 p.m., on February 11, 1984, at the University of Wyoming, Knight Hall, Room 314, Laramie, Wyoming 82071. The purpose of this meeting is to discuss possible followup to the Advisory Committee's report *Access for Disabled to Wyoming's Higher Education,* and the reorganization of the Commission on Civil Rights.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Chairperson Fuji Adachi, at (307) 766–6182 or the Rocky Mountain Regional Office at (303) 837–2211.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. January 20, 1984.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 84–2100 Filed 1–25–84; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

[C–791–005]

Deformed Steel Bars for Concrete Reinforcement From South Africa; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on deformed steel bars for concrete reinforcement from South Africa. The review covers the period July 1, 1982 through December 31, 1982.

As a result of the review, the Department has preliminarily determined the aggregate net subsidy for the period to be zero percent *ad valorem.* Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 26, 1984.

FOR FURTHER INFORMATION CONTACT: Philip Otterness or Brian Kelly, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On October 28, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 47900) a countervailing duty order on deformed steel bars for concrete reinforcement ("rebars") from South Africa and announced its intent to conduct an administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of South African rebars. Such merchandise is currently classifiable under items 606.7900 and 606.8100 of the Tariff Schedules of the United States Annotated.

The review covers the period July 1, 1982 through December 31, 1982, and two programs: (1) Preferential railroad rates for shipments destined for export, and (2) the Export Incentive Program—Categories A, B, and D.

During the period of review, Cape Town Iron and Steel Works Limited ("CISCO") was the only know exporter of South African rebars to the United States.

Analysis of Programs

(1) Railroad Rate Differential

The South African Transport Services ("SATS") has maintained a rate schedule that povided lower rates for export shipments that met certain loading and point-to-point criteria. On April 1, 1982, SATS made the same rate available to all steel shipments, whether destined for export or not, that met these criteria. During the review period, SATS maintained this new rate structure.

Because CISCO has not been able to meet the full-trainload conditions needed for the lower rates, it has always paid the higher rates. We prelimarily determine that CISCO did not receive preferential railroad rates during the period of review.

(2) Export Incentive Program

In 1980, the South African Department of Industries, Commerce, and Tourism expanded and restructured its Export Incentive Program into four categories. Category C of this program was eliminated on April 1, 1982.

Category A is a rebate of import duties on raw materials that are re-exported after further processing. This rebate is deducted from income taxes to be paid. Category B is a credit against income taxes equal to 10 percent of the value-added component of exported merchandise if there is a South African import duty on such merchandise. Since CISCO had a tax loss for fiscal year 1982, it received no benefits under Categories A and B during the review period.

Category D is a deduction from taxable income of up to 200 percent of export market development expenses. CISCO handles all its exports through

agents and has no export market development expenses. Therefore, CISCO did not receive any benefit under Category D during the review period.

Preliminary Results of the Review

As a result of the review, we preliminarily determine the aggregate net subsidy to be zero percent *ad valorem* for the period of review. The Department intends to instruct the Customs Service to assess countervailing duties of zero percent of the f.o.b. invoice price on all shipments entered, or withdrawn from warehouse, for consumption on or after August 17, 1982, the date of suspension of liquidation, and exported on or before December 31, 1982.

As provided by section 751(a)(1) of the Tariff Act, the Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of zero percent of the entered value on all shipments of this merchandise entered, on withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: January 20, 1984.

Alan F. Holmer,

Duputy Assistant Secretary, Import Administration.

[FR Doc. 84-2182 Filed 1-25-84; 8:45 am]

BILLING CODE 3510-DS-M

[C-301-001]

Leather Wearing Apparel From Colombia; Preliminary Results of Administrative Review of Suspension Agreement

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Suspension Agreement.

SUMMARY: The Department of Commerce has conducted an administrative review of the agreement suspending the countervailing duty investigation on leather wearing apparel from Colombia. The review covers the period July 1, 1982 through June 30, 1983.

As a result of the review, we preliminarily find that Confecciones Amazonas Orinoco, a Colombian exporter of leather wearing apparel to the United States, has complied with the terms of the suspension agreement. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 26, 1984.

FOR FURTHER INFORMATION CONTACT: Susan Silver or Joseph Black, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On June 9, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 26655) the final results of its last administrative review of the agreement suspending the countervailing duty investigation on leather wearing apparel from Colombia (46 FR 19963, April 2, 1981) and announced its intent to conduct the next administrative review. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that review.

Scope of the Review

Imports covered by the review are shipments of Colombian men's, boys', women's, girls' and infants' leather coats and jackets and other leather wearing apparel (such as vests, pants and shorts), as well as parts and pieces thereof. Such merchandise is currently classifiable under items 791.7620, 791.7640 and 791.7660 of the Tariff Schedules of the United States Annotated. The review covers the one exporter of Colombian leather wearing apparel to the United States, Confecciones Amazonas Orinoco ("CAO"), the signatory to the suspension agreement.

The review covers the period July 1, 1982 through June 30, 1983 and one program: The Tax Reimbursement Certificate Program ("CAT").

Analysis of Program

Under the CAT program, exporters of leather wearing apparel received tax certificates equal to a percentage of the domestic value-added content of each shipment. Since our last review, the value-added content as a percentage of total value declined slightly. Effective January 1, 1983 the CAT rate applicable to the value-added content increased from 12 percent to 15 percent.

CAO received no benefits under the CAT program for shipments entering the United States during the review period.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that CAO has complied with the terms of the suspension agreement for the period July 1, 1982 through June 30, 1983. The agreement can remain in force only so long as shipments covered by the agreement account for at least 85 percent of exports of such merchandise to the United States. Our information indicates that CAO accounted for at least 85 percent of imports into the United States from Colombia during the review period.

Interested parties may submit written comments on these preliminary results within 30 days or the date of the publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review, includng the results of its analysis of any issues raised in such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: January 19, 1984.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 84-2184 Filed 1-25-84; 8:45 am]

BILLING CODE 3510-DS-M

[C-791-008]

Steel Wire Rope From South Africa; Preliminary Results of Administrative Review of Suspension Agreement

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Suspension Agreement.

SUMMARY: The Department of Commerce has conducted an administrative review of the agreement suspending the countervailing duty investigation on steel wire rope from South Africa. The review covers the period December 1, 1982, the date of suspension of the investigation, through June 30, 1983.

As a result of the review, we preliminarily find that Haggie Limited, the only known exporter of South African wire rope to the United States, has complied with the terms of the suspension agreement.

EFFECTIVE DATE: January 26, 1984.

FOR FURTHER INFORMATION CONTACT: Philip Otterness or Brian Kelly, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On December 1, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 54130) a notice of suspension of the countervailing duty investigation regarding steel wire rope from South Africa. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted an administrative review of the suspension agreement.

Scope of the Review

Imports covered by the review are shipments of South African steel wire rope. Such merchandise is currently classifiable under items 642.1200, 642.1610, and 642.1650 of theTariff Schedules of the United States Annotated. The review covers the only known exporter of South African wire rope to the United States, Haggie Limited, which was the signatory to the suspension agreement.

The review covers the period December 1, 1982, the effective date of the suspension agreement, through June 30, 1983, and the following programs: (1) Perferential railroad rates for shipments destined for export; (2) Export Incentive Program—Categories A, B, and D; (3) the Iron/Steel Export Promotion Scheme; (4) the General Levy and Import Subsidy Scheme; and (5) an Industrial Development Corporation loan.

Analysis of Programs

(1) Railroad Rate Differential

The South African Transport Services, a government—owned corporation, maintains a rate schedule that provides preferential rates for container shipments destined for export. Haggie ships all of its wire rope for export in containers. During the period of review, Haggie paid the higher domestic rate for all shipments of wire rope, whether for export or for domestic use. This eliminated the differential, in accordance with the terms of the suspension agreement.

(2) Export Incentive Programs

In 1980 the South African Department of Industries, Commerce, and Tourism expanded and restructured its Export Incentive Program into four categories. Category C of this program was eliminated on April 1, 1982.

Category A is a rebate of import duties on raw materials that are re-exported after further processing. Haggie used only domestically produced wire rod during the review period and did not apply for Category A benefits.

Category B consists of a credit against income taxes equal to 10 percent of the value-added component of exported merchandise if there is a South African import duty on such merchandise. There is an import duty on wire rope. Under the program the value-added component is calculated by taking the average f.o.b. sales price per ton, increasing it by the rebate received under the Iron/Steel Export Promotion Scheme (*see* below), and subtracting the average raw materials costs. This figure is then multiplied by 10 percent to obtain the amount of the credit.

Category D consists of a deduction of taxable income of up to 200 percent of export market development expenses. Haggie is eligible for the full deduction of 200 percent.

Raggie has not yet filed its tax return for the period under review but, as part of the suspension agreement, agreed not to claim Category B and D benefits for exports of wire rope to the United States. In a subsequent review, after Haggie has filed its return, we will reexamine whether or not Haggie claimed Category B or D benefits for shipments made during the review period.

(3) Iron/Steel Export Promotion Scheme ("ISEPS")

The South African Rolled Steel Producers' Co-ordinating Council, a group of nine primary steel producers, introduced ISEPS in September 1972. The scheme pays to secondary steel exporters an amount equal to 19.5 percent of the f.o.b. value on all exports of secondary steel products that contain rolled, drawn, or forged steel and that meet a 25 percent value-added criterion. The scheme is funded by a 4 rand per metric ton levy on all purchases of primary steel. The primary producers pay the levy to the fund, but the government allows an upward adjustment to the government-controlled price of primary steel to compensate for the amount of the levy, shifting the charge to the secondary producers.

Haggie did not make any claims for ISEPS benefits on shipments of wire rope that entered the United States, or were withdrawn from warehouse, for consumption on or after April 30, 1983 through June 30, 1983, in accordance with the terms of the suspension agreement.

(4) The General Levy and Import Subsidy Scheme ("GLISS")

Haggie did not receive any benefits from GLISS for shipments of wire rope that entered the United States, or were withdrawn from warehouse, for consumption on or after April 30, 1983 through June 30, 1983.

(5) Industrial Development Corporation Loan

In 1975, the Industrial Development Corporation, a corporation created by the South African government to support industrial expansion and modernization, granted Haggie a loan of 1,500,000 rand at 9% interest. This loan was for construction at a Haggie plant to increase wire rope production. Haggie made the final payment on this loan contemporaneous with the April 30 renunciation date specified in the suspension agreement for the majority of programs, and has not taken out any new loans under this program. However, any further government loans given at concessional rates may be grounds for termination of the suspension agreement.

We found no other benefits received by Haggie during the review period.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that Haggie Limited has complied with the terms of the suspension agreement for the period December 1, 1982 through June 30, 1983.

The agreement can remain in force only so long as shipments covered by the agreement account for at least 85 percent of exports of such merchandise to the United States. Our information indicates that Haggie Limited accounted for 100 percent of imports into the United States of wire rope from South Africa during the review period.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in such comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: January 19, 1984.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 84-2183 Filed 1-25-84; 8:45 am]

BILLING CODE 3510-DS-M

Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee; Open Meeting

A meeting of the Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee will be held February 9, 1984, 9:30 a.m., Herbert C. Hoover Building, Room 3407, 14th Street and Constitution Avenue, NW., Washington, D.C. The Foreign Availability Subcommittee was formed to ascertain if certain kinds of equipment are available in non-COCOM and Communist countries, and if such equipment is available, then to ascertain if it is technically the same or similar to that available elsewhere.

Agenda

1. Opening remarks by the Subcommittee Chairman.
2. Presentation of papers or comments by the public.
3. Review of the Senate's Export Administration Act legislation and the foreign availability provisions.
4. Test cases for foreign availability certification.
5. Foreign availability management issues.
6. Data base, parameters, equipment, and schedule.
7. New Business
8. Action items underway.
9. Action items due at next meeting.

The meeting will be open to the public with a limited number or seats available. For further information or copies of the minutes contact Margaret A. Cornejo (202) 377-2583.

Dated: January 20, 1984.

Milton M. Baltas,

Director of Technical Programs, Office of Export Administration.

[FR Doc. 84-2181 Filed 1-26-84; 8:45 am]

BILLING CODE 3510-DT-M

Bryn Mawr College; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No.: 83-284. Applicant: Bryn Mawr College, Bryn Mawr, PA 19010. Instrument: Pulsed Nuclear Magnetic Resonance Spectrometer, CPS-2 with Accessories. Manufacturer: Spin-Lock Ltd., Canada. Intended use: See notice at 48 FR 39973.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides a coherent pulse at a frequency of 22.5 Megahertz. The National Bureau of Standards advises in its memorandum dated November 14, 1983 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-2188 Filed 1-25-84; 8:45 am]

BILLING CODE 3510-DS-M

University of Illinois at Urbana-Champaign; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No.: 83-79. Applicant: University of Illinois at Urbana-Champaign, Urbana, IL 61801. Instrument: Analytical ZAB-HF Mass Spectrometer and Accessories. Manufacturer: VG Analytical Instruments Limited, United Kingdom. Intended use: See notice at 47 FR 57982.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, was being manufactured in the United States at the time the instrument was ordered (October 21, 1982).

Reasons: The foreign instrument provides a guaranteed resolution of 60,000 (10 percent valley) in the Fast Atom Bombardment (FABMS) mode. The National Institutes of Health advises in its memorandum dated April 29, 1983 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use being manufactured at the time the foreign instrument was ordered. We know of no other domestic instrument or apparatus of equivalent scientific value to the foreign instrument being manufactured at the time the foreign instrument was order.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-2189 Filed 1-25-84; 8:45 am]

BILLING CODE 3510-DS-M

University of Minnesota Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No.: 83-296. Applicant: University of Minnesota, Minneapolis, MN 55455. Instrument: Surface Forces Apparatus. Manufacturer: Anutech Proprietary Limited, Australia. Intended Use: See notice at 48 FR 40932.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Resaons: The foreign instrument is capable of measuring small forces (in micronewton range) with a separation resolution of ±1.0 angstrom. The National Bureau of Standards advises in its memorandum dated November 8, 1983 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use. We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-2190 Filed 1-25-84; 8:45 am]

BILLING CODE 3510-DS-M

University of Minnesota; Decision on Applicaton for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No.: 83-245. Applicant: University of Minnesota, Minneapolis, MN 55455. Instrument: MS25 Gas Chromatograph/Mass Spectrometer and Accessories. Manufacturer: Kratos Analytical Instruments, United Kingdom. Intended use: See notice at 48 FR 33508.

Comments: None.

Decision: Approved. No domestic manufacturer was both "able and willing" to manufacture an instrument or apparatus of equivalent scientific value to the foreign instrument for such purposes as the instrument was intended to be used, and have it available to the applicant without unreasonable delay in accordance with § 301.5(d)(2) of the regulations, at the time the foreign instrument was ordered (March 3, 1983).

Reasons: The foreign instrument provides a static resolution greater than 7500 (10 percent valley) and is capable of MS/MS type of analysis with collision induced metastable mapping or B1E scanning. The National Bureau of Standards advises in its memorandum dated November 3, 1983 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purposes and (2) it knows of no domestic manufacturer both willing and able to provide an instrument with the required features at the time the foreign instrument was ordered. As to the domestic availability of instruments § 301.5(d)(2) of the Regulations provides:

> * * * In determining whether a U.S. manufacturer is able and willing to produce an instrument, and have it available without unreasonable delay, the normal commercial practices applicable to the production and delivery of instruments of the same general category shall be taken into account, as well as other factors which in the Director's judgment are reasonable to take into account under the circumstances of a particular case * * *

Among other things, this subsection also provides:

> * * * If a domestic manufacturer was formally requested to bid an instrument, without reference to cost limitations and within a leadtime considered reasonable for the category of instrument involved, and the domestic manufacturer failed formally to respond to the request, for the purposes of this section the domestic manufacturer would not be considered willing to have supplied the instrument.

The regulations require that domestic manufacturers be both "able and willing" to produce an instrument for the purposes of comparison with the foreign instrument. Where an applicant, as in this case, received no response to a formal request for quotation sent to the Nuclide Corporation (the only known domestic manufacturer of comparable magnetic sector mass spectrometers) it is apparent that the domestic manufacturer was either not willing or not able to produce an instrument of equivalent scientific value to the foreign instrument. Accordingly, the Department of Commerce finds that no domestic manufacturer was both "able and willing" to manufacture a domestic instrument of equivalent scientific value to the foreign instrument for such purposes as the foreign instrument was intended to be used at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-2186 Filed 1-25-84; 8:45 am]

BILLING CODE 3510-DS-M

Applications for Duty-Free Entry of Scientific Instruments; St. Joseph's Hospital and Medical Center, et al.

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with Subsections 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No.: 83-267R. Applicant: St. Joseph's Hospital and Medical Center, 703 Main Street, Paterson, N.J. 07503. Instrument: Osseous Implant Kit. Original notice of this resubmitted application was published in the **Federal Register** of August 26, 1983.

Docket No.: 84-36. Applicant: University of California, Lawrence Livermore National Laboratory, P.O. Box 5012, Livermore, CA 94550.

Instrument: Streak Camera. Manufacturer: John Hadland, Ltd., United Kingdom. Intended use: Studies of plasmas heated to near 1 keV electron temperature. The research goal of these experiments is to compare the results of code calculations with the experimental data. The experiments will test the understanding of the physics of matter at these elevated temperatures. Application received by Commissioner of Customs: December 8, 1983.

Docket No.: 84–37. Applicant: Oklahoma State University, Geology Department, 151 Physical Sciences II, Stillwater, OK 74078. Instrument: Terrain Conductivity Meter, Model EM 34–3. Manufacturer: Geonics, Inc., Canada. Intended use: Evaluation of electrical anomalies in earth materials and identification of changes which are related to fluid type in earth materials, e.g. contaminant plumes associated with wastes contamination. Application received by Commissioner of Customs: December 8, 1983.

Docket No.: 84–38. Applicant: North Carolina State University, P.O. Box 5935, Raleigh, NC 27650. Instrument: Mass Spectrometer, Model MAT 251 and Accessories. Manufacturer: Finnigan MAT, West Germany. Intended use: Studies of marine sediments and sedimentary rocks in the following areas: (1) Paleoceanography history, (2) Diagenetic effects—inorganic and organic, (3) Bioturbation and mixing studies and (4) Stratigraphy. To accomplish these studies marine carbonates, carbonate micro-fossils, sedimentary organic carbon, sedimentary organic nitrogen, sedimentary sulfur, and sedimentary sulfides and pyrite are analyzed isotopically. Application received by Commissioner of Customs: December 12, 1983.

Docket No.: 84–39. Applicant: University of Miami, Rosenstiel School of Marine & Atmospheric Science, 4600 Rickenbacker Causeway, Miami, FL 33149. Instrument: Combined Resonant Column & Torsional Triaxial Apparatus. Manufacturer: Sieken, Inc., Japan. Intended use: Research to obtain data for use as inputs to various numerical codes used by the U.S. Navy for detective acoustics. Tests will be performed with the following objectives:

(a) To measure the dynamic shear modulus and the Coulomb-damping of sediments, rocks and ices at the frequency range of 0.1 to 1000 Hz and the shear strain range of 0.0000001 to 0.500.

(b) To measure the permeability of the sediments, rocks and ices.

(c) To simulate the acoustic waves, seismic waves and earthquake loadings in sediments, rocks and ices.

Application received by Commissioner of Customs: December 12, 1983.

Docket No.: 84–41. Applicant: Sandia National Laboratories, P.O. Box 5800, Albuquerque, NM 87185. Instrument: Electron Microscope, Model JEM–1200EX and Accessories. Manufacturer: JEOL, Japan. Intended use: Support of a large number of ongoing and anticipated materials science programs—ranging from growth and development of new semiconducting materials and devices, to the investigation of conducting and superconducting organic compounds, to investigation of new transition metal and rare earth compounds, and the development of devices (electrodes, energy conversion devices, and electronic devices) based upon them. Application received by Commissioner of Customs: December 12, 1983.

Docket No.: 84–42. Applicant: NASA Lewis Research Center, 21000 Brookpark Road, Cleveland, OH 44135. Instrument: Cathode Life Test Triode Assemblies. Manufacturer: Siemens A.G., West Germany. Intended use: Evaluation of the instrument's potential for stable operation at high emission current densities, possibly up to 4 A/cm², for 100,000 hours or more by endurance life testing. Application received by Commissioner of Customs: December 12, 1983.

Docket No.: 84–43. Applicant: The Toledo Hospital, 2142 N. Cove Blvd., Toledo, OH 43606. Instrument: Electron Microscope, Model H–600–2 with Accessories. Manufacturer: Hitachi Scientific Instruments, Japan. Intended use: Study of the ultrastructural pathology of kidneys, skeletal muscles, peripheral nerves, malignant and benign tumors, and micro-organisms. X-ray dispersive analysis for elemental content and image analysis of pathologic specimens. Education—training of residents, medical students, technicians and medical technology students.

Application received by Commissioner of Customs: December 15, 1983.

Docket No.: 84–44. Applicant: Yale University, Kline Chemistry Laboratory, P.O. Box 6666, New Haven, CT 06511. Instrument: Microcalorimeter, Model DASM–4. Manufacturer: USSR Academy of Sciences, USSR. Intended use: Research on the thermodynamics of biochemical and biological processes encompassing a wide range of systems including:

(1) Differential scanning calorimetry (DSC) study of the phase transitions occurring in model and biological membranes, and the thermal unfolding of proteins.

(2) Use of differential scanning calorimetry in the quantitative study of cellular metabolism and the process known as phagocytosis.

(3) Study of protein-ligand interactions by means of DSC. Training of postdoctoral and undergraduate students seeking to obtain experience in calorimetry applied to biochemistry.

Application received by Commissioner of Customs: December 15, 1983.

Docket No.: 84–45. Applicant: Naval Air Development Center, Street Road and Jacksonville Road, Warminster, PA 18974. Instrument: Electron Microscope, Model JEM–100CXII with Accessories. Manufacturer: JEOL, Japan. Intended use: Examination of polymers (epoxies, thermoplastics) and metals (aluminum, titanium and steel) to gain a better fundamental understanding of how microstructural features of engineering materials affect their properties.

Application received by Commissioner of Customs: December 15, 1983.

Docket No.: 84–46. Applicant: University of Southern California, University Park MC–1147, Los Angeles, CA 90089–1147. Instrument: Electron Microscope, Model JEM–1200EX with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use: Investigations of biological materials with the following objectives:

To determine the effects of extracellular matrix on epithelial determination and differentiation into secretory ameloblasts.

To determine the precise time and localization of hormonally-regulated mesenchyme-epithelial interactions in congenic murine strains of mice.

The determination of the medial edge epithelial cells of embryonic secondary palatal shelves to differentiate into a unique phenotype if instructed and maintained by signals derived from adjacent ectomesenchyme.

To investigate enamel gene expression during vertebrate tooth development in a number of selected vertebrates ranging from elasmobranchs to philosophers.

Application received by Commissioner of Customs: December 15, 1983.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84–2185 Filed 1–25–84; 8:45 am]

BILLING CODE 3510–DS–M

University of Washington; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No: 83–297. Applicant: University of Washington, Seattle, WA 98195. Instrument: Model 2103 Cs^{+} Colliding Beam Polarized Ion Source and Accessories. Manufacturer: ANAC Ltd., New Zealand. Intended use: See notice at 48 FR 40932.

Comments: None.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides a high-intensity polarized beam current (hydrogen or deuterium anions; H^{-} or D^{-}) with an output energy of 10–50 thousand electron volts. The National Bureau of Standards advises in its memorandum dated October 28, 1983 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84–2187 Filed 1–25–84; 8:45 am]

BILLING CODE 3510–DS–M

University of Washington; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No.: 83–237. Applicant: University of Washington, Seattle, WA 98195. Instrument: Titanium Product System for Osseointegration. Manufacturer: Bofors Nobelpharma, Sweden. Intended use: See notice at 48 FR 31684.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The instrument is necessary to the intended research based upon the principle of Osseointegration. The National Institutes of Health advises in its memorandum dated September 15, 1983 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Action Director, Statutory Import Programs Staff.

[FR Doc. 84–2192 Filed 1–25–84; 8:45 am]

BILLING CODE 3510–DS–M

University of Wisconsin; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No.: 83–264. Applicant: University of Wisconsin, Madison, WI 53706. Instrument: Spectropolarimeter for Circular Dichroism and Optical Rotatory Dispersion. Manufacturer: Japan Spectroscopic Co., Ltd., Japan. Intended use: See notice at 48 FR 38869.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides measurement of circular dichroism spectra and high frequency switching (50,000 times per second) between left- and right-circularly polarized light. The National Institutes of Health advises in its memorandum dated November 2, 1983 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84–2191 Filed 1–25–84; 8:45 am]

BILLING CODE 3510–DS–M

National Oceanic and Atmospheric Administration

Issuance of Letter of Authorization; Western Geophysical Co. of America

Notice is hereby given that on January 20, 1984 the National Marine Fisheries Service issued a Letter of Authorization under the authority of Section 101(a)(5) of the Marine Mammal Protection Act of 1972 and 50 CFR Part 228, Subpart B—Taking of Ringed Seals Incidental to On-Ice Seismic Activities to the following: Western Geophysical Co. of America, 351 E. International Airport Road, Anchorage, Alaska 99502–1591.

This Letter of Authorization is valid for 1984 and is subject to the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing Small Takes of Marine Mammals Incidental to Specified Activities (50 CFR Part 228, Subparts A and B).

Issuance of this letter is based on a finding that the total level of taking will have a negligible impact on the ringed seal species or stock, its habitat and its availability for subsistence use.

This Letter of Authorization is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: January 20, 1984.

R. B. Brumsted,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 84-2217 Filed 1-25-84; 8:45 am]

BILLING CODE 3510-22-M

Issuance of Permit; Acuaticland, S.A.

On October 19, 1983, Notice was published in the **Federal Register** (48 FR 48493) that an application had been filed with the National Marine Fisheries Service by Acuaticland, S.A., Zoo Delfinario Elche, Sanches-Ferrar Gestoria, Obispo-Tormo 7, Eliche (Alicante), Spain, for a permit to take four (4) Atlantic bottlenose dolphin (*Tursiops truncatus*) and four (4) California sea lions (*Zalophus californianus*) for the purpose of public display.

Notice is hereby given that on January 19, 1984, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a permit for the above taking to Acuaticland, S.A., subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 330 Whitehaven Street, NW., Washington, D.C.

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, Duval Building, St. Petersburg, Florida 33702.

Regional Director, National Marine Fisheries Service, Southwest Region, 300 S. Ferry Street, Terminal Island, California 90731.

Dated: January 20, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 84-2218 Filed 1-25-84; 8:45 am]

BILLING CODE 3510-22-M

North Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The North Pacific Fishery Management Council's Plan Maintenance Team for salmon will meet at 1 p.m., Sunday, January 29, 1984, at the Baranof Hotel in Juneau. The meeting room will be posted in the lobby of the hotel. The Team will review various salmon management proposals for 1984; review the status of chinook stocks and consider whether or not the fishery management plan for salmon will need to be amended. The meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Jim Glock, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, Alaska 99510, Telephone: (907) 274–4563.

Dated: January 23, 1984.

Roland Finch,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 84-2216 Filed 1-25-84; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Draft Guidance on Written Guarantees

Correction

In FR Doc. 84–1628 beginning on page 2502 in the issue of Friday, January 20, 1984, make the following correction:

On page 2503, column one, the **DATES** line should read "Written comments must be received by February 21, 1984."

BILLING CODE 1505-01-M

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Tuesday and Wednesday, 14 and 15 February 1984.

Times: 0830–1700 hours (Closed).

Place: The Pentagon, Washington, D.C.

Agenda: The Army Science Board Ad Hoc Subgroup on Army Initiative—Equipment Upgrade Program will meet for classified briefings and discussions and to summarize the findings to be included in the final report. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and Title 5, U.S.C. Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally A. Warner, may be contacted for further information at (202) 695–3039 or 697–9703.

Sally A. Warner,

Administrative Officer.

[FR Doc. 84-2202 Filed 1-25-84; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Wednesday, 22 February 1984.

Times: 0830–1700 hours (Closed).

Place: The BDM Corporation, McLean, Virginia.

Agenda: The Army Science Board Ad Hoc Subgroup on Intelligent Robotics will meet for proprietary and classified briefings and discussions and final report preparation. This study addresses robotics applications for the U.S. Army. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraphs (1 and 4) thereof, and Title 5, U.S.C. Appendix 1, subsection 10(d). The classified and nonclassified and proprietary and nonproprietary matters to be discussed are so inextricably intertwined so as to preclued opening any portion of the meeting. The Army Science Board Administrative Officer, Sally A. Warner, may be contacted for further information at (202) 695–3039 or 697–9703.

Sally A. Warner,

Administrative Officer.

[FR Doc. 84-2204 Filed 1-25-84; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Wednesday and Thursday, 22 and 23 February 1984.

Times: 0830–1700 hours (Closed).

Place: The Pentagon, Washington, D.C.

Agenda: The Army Science Board 1984 Summer Study Panel on Technology to Improve Logistics and Weapon Support for Army 21 will hold its kick-off meeting for classified briefings and discussions addressing this study effort. Briefings will cover logistics research and development; ammunition and Petroleum, Oil, and Lubricants (POL); and handling and distribution doctrine. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and Title 5, U.S.C. Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally A. Warner, may

be contacted for further information at (202) 695–3039 or 697–9703.

Sally A. Warner,

Administrative Officer.

[FR Doc. 84–2199 Filed 1–25–84; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Tuesday, Wednesday, and Thursday, 21–23 February 1984.

Times: 0830–1700 hours (Closed).

Place: U.S. Army Aviation Systems Command, St. Louis, Missouri.

Agenda: The Army Science Board Ad Hoc Subgroup on the Army's LHX Aircraft Program will meet for proprietary and classified briefings and discussions with contractors addressing preliminary designs for the LHX. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, United States Code, specifically subparagraphs (1 and 4) thereof, and Title 5, U.S.C. Appendix 1, subsection 10(d). The classified and nonclassified and proprietary and nonproprietary matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally A. Warner, may be contacted for further information at (202) 695–3039 or 697–9703.

Sally A. Warner,

Administrative Officer.

[FR Doc. 84–2201 Filed 1–25–84; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Tuesday and Wednesday, 28 and 29 February 1984.

Times: 0830–1700 hours (Closed).

Place: The Pentagon, Washington, D.C.

Agenda: The Army Science Board Ad Hoc Subgroup on Army Utilization of Space Assets will meet for classified briefings and discussions on the capabilities of currently available and future space assets to enhance the Army's ability to carry out its mission. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and Title 5, U.S.C. Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally A. Warner, may be contacted for further information at (202) 695–3039 or 697–9703.

Sally A. Warner,

Administrative Officer.

[FR Doc. 84–2200 Filed 1–25–84; 8:45 am]

BILLING CODE 3710–08–M

Privacy Act of 1974; Publication of a Notice for a System of Records

Correction

In FR Doc. 84–1118 appearing at page 2006 in the issue of Tuesday, January 17, 1984, insert the System identification number "AO 319.01DACA" before the System name.

BILLING CODE 1505–01–M

DEPARTMENT OF EDUCATION

Innovative Programs for Severely Handicapped Children; Grant Applications

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Application Notice Establishing the Closing Date for Transmittal of Certain Fiscal Year 1984 Noncompeting Continuation Grant Applications.

SUMMARY: The purpose of this application notice is to inform potential applicants of fiscal and programmatic information and the closing date for transmittal of noncompeting continuation grant applications for certain programs administered by the Office of Special Education and Rehabilitative Services.

Organization of Notice: This notice contains two parts. Part I includes a list of the programs covered by this notice. Part II contains the individual application announcements for each program.

Instructions for Transmittal of Applications: Applicants should note specifically the instructions for the transmittal of applications included below:

Transmittal of Applications: To be assured of consideration for funding, applicants for noncompeting continuation awards should be mailed or hand delivered on or before March 19, 1984.

If an application is late, the Department of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications Delivered by Mail: Applications must be addressed to the Department of Education, Application Control Center, Attention: (insert appropriate CFDA Number), Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark, or.

(2) A mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered by Hand: Hand-delivered applications must be taken to the Department of Education, Application Control Center, Room 5673, Regional Office Building, 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Application Forms: Application forms and program information packages will be mailed by January 27, 1984 to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 50 double-spaced or 25 single-spaced pages in length. The Secretary further urges that applicants not submit information that is not requested.

Part I.—List of Program Application Announcements Published in This Notice

CFDA No.	Program title	Closing date
84.086X	Innovative Programs for Severely Handicapped Children—Severely Handicapped Projects.	Mar. 19, 1984.
84.086Y	Innovative Programs for Severely Handicapped Children—Deaf-Blind Projects.	Mar. 19, 1984.

Part II—Application Notices

84.086X Innovative Programs for Severely Handicapped—Severely Handicapped Projects

Applications are invited for noncompeting continuation demonstration projects under the Innovative Programs for Severely Handicapped Children program—Severely Handicapped Projects.

Authorization for this program is contained in Section 624 of Part C of the Education of the Handicapped Act. (20 U.S.C. 1424)

Applications may be submitted by public or nonprofit private agencies, organizations, or institutions which operate a center or provide a service which meets one or more of the purposes of Part C of the Education of the Handicapped Act.

The purpose of the program is to support model projects which develop or demonstrate new, or improvements in existing methods, approaches, or techniques which would contribute to the adjustment and education of severely handicapped children.

Available Funds: It is estimated that approximately $1,695,000 will be available for support of noncompeting continuation grants in fiscal year 1984. This estimate does not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

84.086Y Innovative Programs for Severely Handicapped Children—Deaf-Blind Projects

Applications are invited for noncompeting continuation demonstration projects under the Innovative Programs for Severely Handicapped Children program—Deaf-Blind Projects.

Authorization for this program is contained in Section 624 of Part C of the Education of the Handicapped Act.

(20 U.S.C. 1424)

Applications may be submitted by public or nonprofit private agencies, organizations, or institutions which operate a center or provide a service which meets one or more of the purposes of Part C of the Education of the Handicapped Act.

The purpose of the program is to support model projects which develop or demonstrate new, or improvements in existing methods, approaches, or techniques which would contribute to the adjustment and education of deaf-blind children.

Available Funds: It is estimated that approximately $925,000 will be available for support of noncompeting continuation grants in fiscal year 1984. This estimate does not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Applicable Regulations: Regulations applicable to these programs include the following:

(a) Regulations governing the Auxiliary Activities Program (34 CFR Part 315); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

FOR FURTHER INFORMATION CONTACT: R. Paul Thompson, Special Needs Section, Office of Special Education Programs, Switzer Building, Room 4615, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 426–6590.

(20 U.S.C. 1424)

(Catalog of Federal Domestic Assistance, Number 84.086, Innovative Programs for Severely Handicapped Children)

Dated: January 23, 1984.

Madeleine Will,

Assistant Secretary.

[FR Doc. 84–2223 Filed 1–25–84; 8:45 am]

BILLING CODE 4000–01–M

National Advisory Council on Adult Education; Meeting

AGENCY: National Advisory Council on Adult Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Literacy Awareness Committee of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATE: February 16–17, 1984, 9:00 a.m. to 5:00 p.m.

ADDRESS: National Advisory Council on Adult Education, 425 13th St., N.W., Suite 323, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Helen Banks, Administrative Assistant, National Advisory Council on Adult Education, 425 13th St., N.W., Washington, D.C. 20004; (202/376–8892).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under section 313 of the Adult Education Act (20 U.S.C. 1201). The Council is established to:

Advise the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Committee is open to the public. The proposed agenda includes:

Preparation and development of final draft of Literacy Report.

Records are kept of all Council proceedings, and are available for public inspection at the office of the National Advisory Council on Adult Education, 425 13th St., N.W., Suite 323, Washington, D.C. 20004, from the hours of 8:00 a.m. to 4:30 p.m.

Signed at Washington, D.C. on January 18, 1984.

Rick Ventura,

Executive Director, National Advisory Council on Adult Education.

[FR Doc. 84–2205 Filed 1–25–84; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

National Petroleum Council, Thermal Task Group of the Committee on Enhanced Oil Recovery; Meeting

Correction

In FR Doc. 84–1550, beginning on page 2289 in the issue of Thursday, January 19, 1984, the date appearing in the second and third lines of the second

paragraph in the third column on page 2289 should have read, "January 27, 1984."

BILLING CODE 1505-01-M

Privacy Act of 1974; Proposed Revision to Existing Systems of Records

AGENCY: Department of Energy.

ACTION: Proposed Revisions to Two Existing Systems of Records (DOE–33 and DOE–35) subject to the Privacy Act of 1974, Pub. L. 93–579, (5 U.S.C. 552a).

SUMMARY: Federal agencies are required by the Privacy Act of 1974, Pub. L. 93–579 (5 U.S.C. 522a), to publish notice in the **Federal Register** of a revision to a system of records and of any new or intended use of information maintained in a system of records. The Department of Energy (DOE) proposes to revise DOE–33 Personnel Medical Records and DOE–35 Personnel Radiation Exposure Records. Records of exposure to chemical agents and physical stress and related data currently maintained in DOE–33 would be transferred to DOE–35, which would be redesignated as "Personnel Exposure Records."

DOE also proposes to establish a new routine use of the revised DOE–35 that would permit the disclosure of exposure records to the recognized or certified collective bargaining agent of the affected employee. Public comment is sought on the proposed revisions and new routine use of DOE–35, as required by subsection (e)(11) of the Privacy Act of 1974, Pub. L. 93–579, 5 U.S.C. 522a.

DATE: Written comments must be received on or before February 27, 1984.

ADDRESS: Comments and requests for further information should be directed to any of the following:

David E. Patterson, Director, Office of Operational Safety, U.S. Department of Energy, Mail Stop EP–32, Washington, DC 20545, (301) 353–3157

Abel Lopez, Office of General Counsel, U.S. Department of Energy, 1000 Independence Ave., SW., Mail Stop GC–41, Washington, DC 20585, (202) 252–8618

Carole J. Gorry, Acting Chief, FOI and Privacy Acts Activities Branch, U.S. Department of Energy, 1000 Independence Ave., SW., Mail Stop MA–232.1, Washington, DC 20585, (202) 252–6025

SUPPLEMENTARY INFORMATION:

DOE occupational safety and health policy, as stated in DOE 5483.1A and DOE 3790.1, requires that occupational safety and health protection for DOE and DOE contractor employees be consistent with protection afforded private industry employees by the Occupational Safety and Health Act of 1970 (OSHA), Pub. L. 91–596, and the standards promulgated pursuant to OSHA, which include 29 CFR Part 1910. Currently, 29 CFR 1910.20, "Access to employee exposure and medical records," permits routine disclosure of these records to "a recognized or certified collective bargaining agent" for the bargaining unit employees which he/she represents. The routine use provisions of the DOE systems of records DOE–33 Personnel Medical Records and DOE–35 Personnel Radiation Exposure Records do not permit such routine disclosure (47 FR 14284, 4–2–82).

To conform to Departmental policy, and to be consistent with the OSHA routine disclosure requirements of 29 CFR 1910.20, DOE proposes to revise DOE–33 and DOE–35, and to establish a new routine use of DOE–35. To accomplish this, the portion of DOE–33 entitled, "Results of monitoring individuals for exposure to chemical agents (not covered in DOE–35) and physical stress and related data," would be transferred to DOE–35, and DOE–35 would be redesignated as "Personnel Exposure Records." The new routine use would permit disclosure of exposure records in DOE–35 to "a recognized or certified collective bargaining agent" for the bargaining unit employees which he/she represents. This routine use would grant the bargaining agents of DOE and DOE contractor personnel the same access to exposure records provided to the bargaining agents of private sector employees, and would be consistent with 29 CFR 1910.20(e)(2)(i), which states:

> Employee and designated representative access (i) Employee exposure records. Each employer shall, upon request, assure the access of each employee and designated representative to employee exposure records relevant to the employee. For the purpose of this section, exposure records relevant to the employee consist of:
>
> (A) Records of the employee's past or present exposure to toxic substances or harmful physical agents;
>
> (B) Exposure records of other employees with past or present job duties or working conditions related to or similar to those of the employee;
>
> (C) Records containing exposure information concerning the employee's workplace or working conditions, and
>
> (D) Exposure records pertaining to workplaces or working conditions to which the employee is being assigned or transferred."

29 CFR 1910.20(c)(1) defines "*access*," as "the right and opportunity to examine a copy.

29 CFR 1910.20(c)(3) defines "*designated representative*," as "any individual or organization to whom an employee gives written authorization to exercise a right of access. For the purposes of access to employee exposure records and analyses using exposure or medical record, a recognized or certified collective bargaining agent shall be treated automatically as a designated representative without regard to written employee authorization."

29 CFR 1910.20(c)(5) defines "*employee exposure record*," as "a record containing any of the following kinds of information concerning employee exposure to toxic substances or harmful physical agents:

(1) Environmental (workplace) monitoring or measuring, including personal, area, grab, wipe, or other form of sampling, as well as related collection and analytical methodologies, calculations, and other background data relevant to interpretation of the results obtained;

(2) Biological monitoring results which directly assess the absorption of a substance or agent by body systems (e.g., the level of a chemical in the blood, urine, breath, hair, fingernails, etc.) but not including results which assess the biological effect of a substance or agent;

(3) Material safety data sheets, or

(4) In the absence of the above, any other record which reveals the identity (e.g., chemical, common, or trade name) of a toxic substance or harmful physical agent."

The Privacy Act requires that routine use disclosure of records be "compatible with the purpose for which the record was collected." It has been determined that the proposed routine use will be compatible, because (a) the employee exposure records are maintained for purposes of assessing and enhancing employee occupational safety and health and (b) the responsibilities of recognized or certified collective bargaining agents include assessing, monitoring, reporting on, and otherwise involving themselves in occupational safety and health matters for the bargaining unit employees which they represent.

DOE is submitting the Report required by OMB Circular A–108 concurrently with the publication of this notice. The text of the system notices is set forth below.

Issued in Washington, DC, this 20th day of January 1984.

William S. Heffelfinger,

Director of Administration.

DOE-33

SYSTEM NAME:

Personnel Medical Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

The locations listed as items 1 through 21 in Appendix A of FR Vol. 47, No. 64, dated April 2, 1982 (47 FR 14284), and the following additional locations:

U.S. Department of Energy, Bendix Corporation, P.O. Box 1159, Kansas City, MO 64141
U.S. Department of Energy, Bettis Atomic Power Laboratory, P.O. Box 79, Pittsburgh, PA 15122
U.S. Department of Energy, Carbondale Mining Research Center, P.O. Box 2587, Carbondale, IL 62901
U.S. Department of Energy, Dayton Area Office, Mound Laboratory, P.O. Box 66, Miamisburg, OH 45343
U.S. Department of Energy, Kansas City Area Office, P.O. Box 202, Kansas City, MO 64141
U.S. Department of Energy, Knolls Atomic Power Laboratory, P.O. Box 1072, Schenectady, NY 12301
U.S. Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87544
U.S. Department of Energy, Naval Petroleum Reserve, P.O. Box 11, Tupman, CA 93276
U.S. Department of Energy, Naval Reactors Facility, P.O. Box 2068, Idaho Falls, ID 63411
U.S. Department of Energy, Strategic Petroleum Reserve, 900 Commerce Road, East, New Orlean, LA 70123

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former DOE employees and DOE contractor employees. This system includes individuals admitted to or treated at Kadlec Hospital, Richland, prior to September 9, 1956.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical histories on employees resulting from medical examinations and radiation exposure. In cases of injury, description of injury occurrence and treatment. In addition, medical records of periodic physical examinations and psychological testing, blood donor program records, audiometric testing, routine first aid, and other visits. Also, hospital in-patient records and emergency room out-patient records for private patients at Kadlec Hospital.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act, 5 U.S.C. 7901; Executive Order 12009; Occupational Safety and Health Act of 1970 (OSHA), Pub. L. 91–596 (as implemented by 29 CFR 1910.20 (45 FR 35277, May 23, 1980)).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Physicians, U.S. Department of Labor, various state departments of labor and industries, and contractors use information (a) to ascertain suitability of an employee for job assignments with regard to health; (b) to provide benefits under Federal programs or contracts, and (c) to maintain a record of occupational injuries or illnesses in the performance of regular diagnostic and treatment services to patients. A record from this system of records may be disclosed to officials of the National Institute of Occupational Safety and Health for the purpose of conducting an epidemiologic study of workers at DOE's Portsmouth Gaseous Diffusion Plant at Piketon, OH. Additional routine uses listed in Appendix B of FR Vol. 47, No. 64, dated April 2, 1982 (47 FR 14284).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer printouts, magnetic tapes, paper, computer disc, and microfilm.

RETRIEVABILITY:

By name, social security number, and plant area.

SAFEGUARDS:

Active records are maintained in locked file cabinets in locked buildings. Inactive records are maintained in locked storage vaults.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in DOE 1324.2, "Records Disposition." Records within the DOE are rendered illegible and destroyed by maceration, shredding, or burning, as appropriate.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters, U.S. Department of Energy, Deputy Assistant Secretary for Environment, Safety, and Health, EP–30, Washington, DC 20585.

Field Offices: The managers and directors of field locations identified as items 2 through 21 in Appendix A of FR Vol. 47, No. 64, dated April 2, 1982 (47 FR 14284), are the system managers for their respective portions of the system.

NOTIFICATION PROCEDURES:

a. Requests by an individual to determine if a system of records contains information about him/her should be directed to the Chief, Freedom of Information and Privacy Acts Activities Branch, Department of Energy (Headquarters), or the Privacy Act Officer at the appropriate address identified as items 1 through 21 in Appendix A of FR Vol. 47, No. 64, dated April 2, 1982 (47 FR 14284), in accordance with DOE's Privacy Act regulations (10 CFR Part 1008 (45 FR 61576, September 16, 1980)).

b. Required identifying information: Applicable location or locations where individual is or was employed, full name of requester, social security number, employer(s), and time period.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The individual who is the subject of the record, physicians, medical institutions, Office of Workers Compensation Programs, military retired pay systems records, Federal civilian retirement systems, pay and leave records, Office of Personnel Management retirement life insurance and health benefits records system, and the Office of Personnel Management personnel management records system.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

DOE-35

SYSTEM NAME:

Personnel Exposure Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

The locations listed as items 1, 3, 4, 6 through 18 in Appendix A of FR 47, No. 64, dated April 2, 1982, (47 FR 14284), and the following additional locations:

U.S. Department of Energy, Amarillo Area Office, Pantex Plant, P.O. Box 1086, Amarillo, TX 79105
U.S. Department of Energy, Brookhaven Area Office, Upton, NY 11973
U.S. Department of Energy, Dayton Area Office, Mound Laboratory, P.O. Box 66, Miamisburg, OH 45342

U.S. Department of Energy, Environmental Measurements Laboratory, 376 Hudson Street, New York, NY 10014
U.S. Department of Energy, Idaho Health Services Laboratory, CF–690, INEL and Computer Science Center, Idaho Falls, ID 83401
U.S. Department of Energy, Kansas City Area Office, P.O. Box 202, Kansas City, MO 64141
U.S. Department of Energy, Knolls Atomic Power Laboratory, P.O. Box 1072, Schenectady, NY 12301
U.S. Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87544
U.S. Department of Energy, Naval Reactors Representative Office, Building 195, Charleston Naval Shipyard, Charleston, SC 29408
U.S. Department of Energy, Naval Reactors Representative Office, P.O. Box 21, Groton, CT 06340
U.S. Department of Energy, Naval Reactors Representative Office, Mare Island Naval Shipyard, P.O. Box 2053, Mare Island, CA 94592
U.S. Department of Energy, Naval Reactors Representative Office, Newport News Shipbuilding and Dry Dock Company, P.O. Box 973, Newport News, VA 23607
U.S. Department of Energy, Naval Reactors Representative Office, Norfolk Naval Shipyard, P.O. Box 848, Portsmouth, VA 23705
U.S. Department of Energy, Naval Reactors Representative Office, P.O. Box 1687, Pascagoula, MS 39567
U.S. Department of Energy, Naval Reactors Representative Office, Pearl Harbor Naval Shipyard, P.O. Box 128, FPO San Francisco, CA 96610
U.S. Department of Energy, Naval Reactors Representative Office, Portsmouth Naval Shipyard, Building 178, P.O. Box 2008, Portsmouth, NH 03801
U.S. Department of Energy, Naval Reactors Representative Office, Puget Sound Naval Shipyard, P.O. Box 1A, Bremerton, WA 98314
U.S. Department of Energy, New Brunswick Laboratory, D–350, 9800 South Cass Avenue, Argonne, IL 60439
U.S. Department of Energy, Pinellas Area Office, P.O. Box 11500, St. Petersburg, FL 33733
U.S. Department of Energy, Puerto Rico Office, P.O. Box BB, San Juan, PR 00935
U.S. Department of Energy, Rocky Flats Area Office, P.O. Box 928, Golden, CO 80401
U.S. Department of Energy, Sandia Area Office, P.O. Box 5800, Albuquerque, NM 87115
U.S. Department of Energy, Shippingport Branch Office, P.O. Box 11, Shippingport, PA 15077

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DOE personnel, contractor personnel, and any other persons having access to certain DOE facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

DOE and contractor personnel and other individuals' radiation exposure records, and other records in connection with registeries of uranium, transuranics, or other elements encountered in the nuclear industry. Results of monitoring individuals for exposure to chemical agents and physical stress and related data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; 5 U.S.C. 7901; Executive Order 12009; Occupational Safety and Health Act of 1970 (OSHA), Pub. L. 91–596 (as implemented by 29 CFR 1910.20 (45 FR 35277, May 23, 1980)).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

U.S. Navy uses these records to monitor radiation exposure of Navy and other personnel at Navy facilities.

NRC uses these records to monitor radiation exposure of contractor personnel. DOE and its contractors and consultants, other contractors, and organizations, including U.S. Department of Labor, various State departments of labor and industries use these records to monitor radiation exposure of personnel.

Department of Defense (DOE) uses these records for the limited purpose of identifying DOD and DOD-contractor personnel exposed to ionizing radiation during nuclear testing, and for conducting epidemiologic studies of radiation effects on individuals so identified.

National Academy of Sciences and Center for Disease Control (and appropriate management personnel of the Department of Health and Human Services) use these records for conducting epidemiologic studies of the effects of radiation on individuals exposed to ionizing radiation.

A record from this system of records may be disclosed to officials of the National Institute of Occupational Safety and Health for the purpose of conducting an epidemiologic study of workers at DOE's Portsmouth Gaseous Diffusion Plant at Piketon, OH.

A record from this system of records may be disclosed to a recognized or certified collective bargaining agent for the bargaining unit employees which he/she represents, for the purposes of assessing, monitoring, reporting, or otherwise becoming involved in employee safety and health matters.

Additional routine uses 1, 2, 4, 7, 8, 9, and 10 listed in Appendix B of FR 47, No. 64, dated April 2, 1982 (47 FR 14284).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer printouts, paper records, index cards, magnetic tapes, punched cards, microfilm, and disc.

RETRIEVABILITY:

By name, alphanumeric code, and social security number.

SAFEGUARDS:

Active records are maintained in locked file cabinets, locked safes, guarded areas, and secured buildings, with access on a need-to-know basis.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in DOE 1324.2, "Records Disposition." Records within the DOE are rendered illegible and destroyed by maceration, shredding, or burning, as appropriate.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters, U.S. Department of Energy, Deputy Assistant Secretary for Environment, Safety, and Health, EP–30, Washington, DC 20585.

Field Offices: The managers and directors of field locations 3, 4, and 6 through 18 in Appendix A, of FR Vol. 47, No. 64, dated April 2, 1982 (47 FR 14284), and the additional locations listed above under system location are the systems managers for their respective portions of the system.

NOTIFICATION PROCEDURES:

a. Requests by an individual to determine if a system of records contains information about him/her should be directed to the Chief, Freedom of Information and Privacy Acts Activities Branch, Department of Energy (Headquarters), or the Privacy Act Officer at the appropriate address identified as items 1, 2, 4, and 6 through 18 in Appendix A of FR 47, No. 64, dated April 2, 1982 (47 FR 14284), in accordance with DOE's Privacy Act regulations (10 CFR Part 1008 (45 FR 61576, September 16, 1980)).

b. Required identifying information: Complete name, and geographic location(s) and organization(s) where requester believes such records may be located, date of birth, and time period.

RECORD ACCESS PROCEDURES:

Same as Notification procedures above.

CONTESTING RECORD PROCEDURES:

Same as Notification procedures above.

RECORD SOURCE CATEGORIES:

The subject individual, accident-incident investigation, film badges, dosimetry records, and previous employee records.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 84-2058 Filed 1-25-84; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangements, European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangements to be carried out under the above mentioned agreement involve approval for the return of highly enriched uranium of United States origin contained in irradiated research reactor fuel for reprocessing and storage, as follows:

(1) From the RHF reactor, Grenoble, France, 150 kilograms of enriched uranium, to the DOE Savannah River facility; and

(2) From the FRM reactor, Munich, the Federal Republic of Germany, 20 kilograms of enriched uranium, to the DOE Idaho facility.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that these subsequent arrangements will not be inimical to the common defense and security. These arrangements for the return of U.S. origin highly enriched uranium (HEU) are consistent with U.S. non-proliferation policy in that they serve to reduce the amount of HEU abroad.

These subsequent arrangements will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: January 23, 1984.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 84-2240 Filed 1-25-84; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement; European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale: Contract Number S-EU-793, to the Physics Department, Etudes et Productions Schlumberger, France, 85 grams of thorium, for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: January 23, 1984.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 84-2242 Filed 1-25-84; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement; Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale: Contract Number S-JA-340, to Japan Nuclear Fuel Conversion Co., Ltd., 10 grams of uranium, enriched to an average of 2.5% in U-235, for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: January 23, 1984.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 84-2243 Filed 1-25-84; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Civil Use; Proposed Subsequent Arrangements; International Atomic Energy Agency

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Agreement for Cooperation Between the Government of the United States of America and the International Atomic Energy Agency (IAEA) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangements to be carried out under the above mentioned agreement involve approval of the following sales:

Contract Number S-IA-128, to the International Atomic Energy Agency, Vienna, Austria, 5 grams of plutonium, 0.05 grams of uranium-233, and 1.5 grams of uranium-235, for use as standard reference materials;

Contract Number S-IA-129, to the International Atomic Energy Agency, Vienna, Austria, 12.035 grams of uranium, enriched to approximately 93% in U-235, and 19.35 grams of thorium, for use as standard reference materials.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: January 23, 1984.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 84-2241 Filed 1-25-84; 8:45 am]

BILLING CODE 6450-01-M

Office of Conservation and Renewable Energy

[Docket No. CAS–RM–79–112–C]

Recommendations for Energy Conservation Standards and Guidelines for New Commercial Buildings

AGENCY: Department of Energy.

ACTION: Notice of inquiry.

SUMMARY: The Department of Energy announces the completion of a research project entitled, "Recommendations for Energy Conservation Standards and Guidelines for New Commercial Buildings." The purpose of this project has been to develop improved design standards and guidelines that emphasize energy efficiency and advance the energy conservation design process for new commercial buildings. The Department has a statutory mandate to develop such standards as "energy performance standards." As defined by statute, an energy performance standard for a new building is a design requirement which prescribes an energy consumption goal and a method for calculating whether the design meets that goal. The recommendations provide a procedure for generating an energy conservation goal. Accordingly, they will be used in developing interim commercial building energy conservation standards to be used in the design of new Federal buildings and as voluntary guidelines for use by private sector architects and engineers.

Today's Notice is to solicit, from the general public, comments on the recommendations. The Department is particularly interested in receiving comments on the set of questions contained in this Notice. Once public comments are received and incorporated into the recommendations, the Department plans to issue a Notice of Proposed Rulemaking (NOPR). The NOPR will propose interim energy performance standards. The general public will again have the opportunity to comment at that time.

The draft recommendations were developed utilizing the American Society of Heating, Refrigerating, and Air-conditioning Engineers (ASHRAE) Standard 90 as a framework. It was decided that the Department could best fulfill its obligations by improving on an existing standard, rather than creating an entirely new framework. Standard 90, entitled "Energy Conservation in New Building Design," was chosen because it is now the basis for energy codes in 40 States and numerous other jurisdictions. It is familiar to the user public, including engineers, architects, builders, and code officials. It provides the opportunity for meeting the standard from either a component performance approach or a whole buildings systems approach. It does not require the user to understand and utilize complicated main frame energy analysis codes. By definition, ASHRAE Standards are established to assist industry and the public by offering a uniform method of standards development. The creation of such standards is based on need, and conformance to them is voluntary.

The recommendations were developed under the management of Pacific Northwest Laboratory, in conjunction with an ASHRAE Special Projects Committee. Sections 4 through 9 provide a component performance standard with prescriptive levels for each of several components, such as the envelope; the lighting system; and, the heating, ventilating, and air-conditioning equipment and system. Section 10 provides an alternative to the application of the specific criteria of Sections 4 through 9. It provides a procedure which a building designer may use in determining design energy use based on an analysis of the total building rather than each of its components.

The draft recommendations and several technical support documents are available for public inspection at the DOE Headquarters in Washington, D.C. or at the nine DOE Regional Support Offices. Addresses for each are listed elsewhere in this Notice. Copies may be obtained by writing to the Hearings and Dockets Branch of the Office of Conservation and Renewable Energy.

DATES: Written comments must be received no later than April 25, 1984. A public meeting will be held on March 13, 1984 9:00 a.m., in Washington, D.C. at the Department of Energy, 1000 Independence Ave. SW., Room 1E–245. The purpose of the public meeting is to provide a briefing on the draft recommendations to interested parties and to allow the opportunity for oral comments.

ADDRESSES: Send written comments (5 copies) to: Hearings and Dockets Branch, Office of Conservation and Renewable Energy, Department of Energy, Docket Number CAS–RM–79–112–C, 1000 Independence Avenue SW., Room 6B–025, Washington, D.C. 20585, (202) 252–9319.

FOR FURTHER INFORMATION CONTACT:

Architectural & Engineering Systems Branch, CE–111, Department of Energy, Room GF–253, 1000 Independence Avenue SW., Washington, D.C. 20585 (202) 252–9837.

Richard F. Kessler, Office of General Counsel, GC–33, Department of Energy, Room 6B–158, 1000 Independence Avenue SW., Washington, D.C. 20585 (202) 252–9519.

SUPPLEMENTARY INFORMATION:

I. Background
II. Technical Approach
III. Summary of Revisions
IV. Questions for Public Comment
V. Availability of Documents
VI. Comment Procedures

I. Background

The Energy Conservation Standards for New Building Act of 1976, as amenmded (Act), 42 U.S.C. Sec. 6831 *et seq.*, requires the Department of Energy (DOE) to issue voluntary performance standards for the design of new commercial and residential buildings. Federal agencies are required to comply with the standards for the design of new Federal buildings. For non-Federal buildings, compliance is voluntary, and the standards serve only as voluntary guidelines.

As originally enacted, Title III of the Energy Conservation and Production Act, Pub. L. 94–385, 90 Stat. 1144 *et seq.*, required the Department of Housing and Urban Development (HUD) to develop, promulgate, implement and enforce compliance of the performance standards. On August 4, 1977, the Act was amended by Section 304(a), 42 U.S.C. Sec. 7154, of the Department of Energy Organization Act, Pub. L. 95–91, Stat. *et seq.*, which transferred from HUD to DOE the responsibility to develop and promulgate the standards. HUD retained its implementation responsibilities.

In November 1979, DOE published proposed energy performance standards in the **Federal Register**, 44 FR 68120 *et seq.* (November 28, 1979). The Notice was controversial and generated over 40,000 comments. The comments included technical and other substantive criticisms of the proposed standards. Many commenters expressed concern that the proposed standards were not technically practicable or economically achievable. Furthermore, many commenters stated that the proposed standards placed too great a reliance upon the use of a complex computer program which many commenters said they neither understood nor could afford to use.

Less than year after publication of the proposed standards, the Act was again amended by Section 326, 94 Stat. 1629, of the Housing and Community Development Act of 1980, Pub. L. 96–399 (October 8, 1980). This amendment

required that DOE promulgate interim standards by August 1, 1981, and extended the date for promulgation of a final rule of April 1, 1983. These interim standards were only to apply to new Federal buildings. Additionally, the statute require DOE to conduct demonstration projects in at least two geographical areas.

In August 1981, Congress again amended the Act. Subtitle D of Title 10 of the Omnibus Reconciliation Act of 1981, 97 Stat. 35 (August 13, 1981), amended the Act to create the term "voluntary performance standards"; eliminated the provision for a possible statutory sanction for noncompliance; added a provision that, except for Federal buildings, "voluntary standards will be developed solely as guidelines to provide technical assistance for the design and construction of energy efficient buildings"; and extended the time to meet the reporting requirement for the demonstration programs.

The legislative charges which have taken place since enactment of the Act in 1976 require a fundamental change in focus. DOE retains the responsibility for developing voluntary performance standards for all new buildings but these standards now serve a dual purpose. The performance standards serve one purpose for the Federal sector where the standards would set required performance levels for the design of Federal buildings only. However, the Act specifically directs that, expect for Federal buildings, voluntary performance standards" . . . shall be developed soley as guidelines for the purpose of providing technical assistance for the design and construction of energy efficient buildings", Section 304 (a)(4) of the Act. Accordingly, voluntary guidelines serve a second purpose for the private sector by providing sound technical information and examples of energy efficient design and construction practices.

The Act defines the term "voluntary performance standards" to mean:

> * * * An energy consumption goal or goals to be met without specification of the method, materials, and processes to be employed in achieving that goal or goals, but including statements of the requirements, criteria and evaluation methods to be used, and any necessary commentary." Section 303(a) of the Act.

As defied by the Act, the voluntary performance standards serve as an objective during the design stage. They do not apply to the operation, maintenance or energy consumption of a building once built. They operate by setting an energy consumption goal for a building; i.e., a quantified target of energy consumption at the design stage and a method to calculate whether a design meets the energy consumption goal.

Today's Notice provides recommendations for a new standards framework. Its intent is to solicit public comment on the recommendations so that the DOE might acquire additional background information prior to issuing a Notice of Proposed Rulemaking for interim energy performance standards. Therefore the Department is interested in any or all comments on the draft recommendations and the technical supporting documents.

II. Technical Approach

The current project began in 1980 when the Department contracted with the National Institute of Building Sciences (NIBS) to manage its standards program. The project resulted in a set of draft recommendations for improving Standard 90, but due to budget deferrals, inadequate supporting analyses were performed to serve as a basis for acceptance of the recommendations.

In 1982, with budgets restored, Pacific Northwest Laboratory (PNL), operated for DOE by Battelle Memorial Institute, as part of its DOE-Sponsored Commercial Buildings Energy Use and Design Program, assumed management of the project. The intent of this new effort was to fully evaluate the standard developed under the NIBS contract, refine those recommendations, and conduct the analysis necessary for public review of the proposed standard/guidelines.

The work was performed in conjunction and with the advice of the ASHRAE Special Project Committee #41 (SPC–41), and was supported by detailed engineering and economic analyses conducted by research and practicing architects and engineers.

The project had numerous goals, which are as follows:

1. To develop recommendations for a standard based upon ASHRAE Standard 90 that will result in energy-efficient design of commercial buildings. The sections of the resulting standard must:
   - provide component performance criteria that will result in the maximum energy savings practicable;
   - work together to ensure design of energy efficient buildings; and
   - provide the building designer with the maximum flexibility possible under a strict energy standard.
2. To develop recommendations for a standard that can serve as a basic framework for DOE's interim commercial buildings energy performance standard.
3. To develop recommendations for a standard that can be readily codified.
4. To develop a standard that encourages the use of renewable energy resources.
5. To develop recommendations for standard that is regionally equitable, i.e., that does not penalize one or more portions of the country because of climate, custom, or economic singularities.
6. To develop a standard that does not penalize any manufacturer or group of manufacturers.
7. To develop recommendations for a standard that is suited for the ASHRAE consensus review process.
8. To develop a well-documented data base that contains all the supporting analyses for development of the recommendations.
9. To provide case studies of estimated energy consumption in commercial buildings, that are designed in compliance with the recommendations.

DOE would like to receive comment from interested parties as to whether these goals were met in the proposed recommendations. If not, then an analysis of why the recommendations fail and specific recommendations for improvement are solicited and would be appreciated.

The project was managed through a series of 12 major meetings, where research was planned by the project participants, recommendations were proposed for improving the standard, and direction was provided for a series of energy and economic analyses.

The project comprised four major elements performed sequentially, but with considerable overlap. These elements were: 1) evaluation of the existing standard and identification of problem areas, 2) basic research to develop a scientific basis for developing improvements and fixes, 3) formulation of the recommendations, and 4) testing of the recommendations for energy conservation and economic effectiveness.

The proposed recommendations were evaluated through a series of analyses on 10 building types (each tested with 2–4 different HVAC systems) in 5–8 climate zones. The tests also included life-cycle cost analyses using energy consumption estimates made on the DOE–2.1B analysis tool, and cost estimates prepared by a practicing architectural/engineering firm.

III. Summary of Revisions

The current Standard 90 is composed of eleven major sections. Sections 1–3 cover purpose, scope and definitions,

Sections 4 through 9 define minimum requirements for exterior envelope (4), HVAC systems (5), HVAC equipment (6), service water heating (7), electrical distribution systems (8), and lighting power budgets (9). Section 10 is an alternative performance-based compliance procedure, and Section 11 treats requirements for buildings employing solar, wind, or other non-depletable energy sources. Section 10 is particularly important because it provides an alternative to the application of the specific criteria of Sections 4 through 9. It provides a procedure which a building designer may use in determining design energy use based on an analysis of the total building rather than each of its components.

The first three sections of the improved standard are introductory. They remain substantially unchanged except for some minor revisions to indicate the new scope, format and content.

The most significant changes to the standard occur in Sections 4 through 10 with most of the changes actually occurring in Sections 4 and 9. These revisions include major changes in format and substance adjustments.

Changes in Application and Configuration

One fundamental change from the base standard is in organization. The proposed standard would allow interaction among the requirements for different building systems, i.e. envelope compliance would now depend upon decisions made in the lighting design compliance procedure. The sections of the standard have been reordered to reflect this sequencing. The new numbering system is presented below, with the old section numbers following each section name in parentheses.

1.0 Purpose (1.0)
2.0 Scope (2.0)
3.0 Definitions (3.0)
4.0 Illumination Systems (9.0)
5.0 Exterior Envelope Requirements (4.0)
6.0 HVAC Systems (5.0)
7.0 HVAC Equipment (6.0)
8.0 Service Water Heating (7.0)
9.0 Auxiliary Systems and Equipment (8.0)
10.0 Energy Conservation in New Building Design by Systems Analysis (10.0)
11.0 Requirements for Buildings Utilizing Solar, Geothermal, Wind or other Non-Depleting Energy Sources (11.0)

Changes in Illumination System Requirements

The recommended procedure for illumination system compliance (Section 4) is based upon the Standard 90 lighting requirements, but it provides both significant energy savings and a simplified compliance verification. The major changes are listed below:

- In developing the lighting power budget for the building, the designer no longer must calculate a budget on a room-by-room basis, but rather on an activity-area-by-activity-area basis. For a large office building, only one calculation need be made for all of the office-type space, as opposed to Standard 90 in which a separate calculation must be made for each individual office. The room configuration factor is still applied, but on an average basis rather than on a room-by-room basis.
- Small rooms (90 watts or less) are exempted from the compliance requirements.
- Power densities are reduced by approximately 25% across almost all task activities.
- A 20% additional power allowance is made for all luminaires that are controlled by automatic daylighting and 10% is allowed for those controlled by occupancy sensors.
- Control requirements are more stringent to allow more economical use of illumination systems.

Changes in Exterior Envelope Requirements

The recommendations for upgrading the exterior envelope requirements are the most extensive of all the recommendations.

Standard 90's separate treatment of roof, floor, and walls is maintained. Roof and floor treatment is similar to the current standard but is tightened, with the allowable thermal transmittance decreasing as a function of increasing heating degree days. Relaxed transmittance is allowed for roofs with skylights where the energy benefits of daylighting can be assured through the use of automatic daylighting controls.

Treatment of wall design is completely different from Standard 90. It reflects the energy problems of buildings in warm climates and with significant internal heat gains, in which skin conductivity is no longer the primary issue. Walls must now meet three separate criteria: peak cooling, annual cooling, and annual heating. Compliance with each criterion is demonstrated through an equation as a function of (1) conductive load, (2) solar load through windows, and (3) internal lighting load modified for daylighting, with each of these factors summed around all building exposures. Climate, orientation, shading, building mass, and other important building-specific factors are included as coefficients in the equations. All relevant coefficients are provided in the standard as a function of building/climate-specific factors that are selected by the building designer. This approach is suited to either worksheet or microcomputer compliance procedures.

The results from the lighting compliance section are entered into the wall compliance procedure as a power density. Internal loads are considered in the envelope design, allowing the designer to integrate design of the lighting power budget under Section 4, then envelope compliance will be more difficult for the peak cooling and annual cooling criteria, but easier for the heating criterion. However, the designer may also opt for a daylighting approach to compliance (automatic controls required) and then is allowed significant credits for compliance with the peak cooling and annual cooling criteria (and penalties for the heating criterion).

Changes in HVAC and Service Hot Water Requirements

HVAC system and equipment and service hot water requirements are not radically changed, but rather reflect the continuing incremental technical improvements that have occurred over the past decade. The equipment efficiency requirements, mandated for January 1984 by Standard 90, remain unchanged. New minimum efficiency levels would be mandated for January 1988; these exhibit a 2-6% improvement over the 1984 levels. Insulation requirements for pipes and boilers are also strengthened.

The recommendations do require the designer to evaluate various system and control options (now recognized for their energy benefits) during the design process, including the use of Variable Air Volume systems (VAV), heat recovery, night setback, and reset control by exposure.

Summary

The overall effect of the recommendations shoud be to reduce energy consumption in commercial buildings, while allowing the building designer considerably more flexibility in demonstrating compliance than is possible under existing standards. This is especially true for envelope design, where the designer can optimize building configuration, orientation, glass-placement and shading factor to harmonize with the operation and

internal loads of the building. Daylighting is heavily emphasized, with energy credits given both in the lighting and envelope compliance procedures.

One of the real benefits of the standard is its instructive potential. The exterior envelope compliance procedure is very informative, specifically identifying the building's energy problems, and providing information to designers on what factors to adjust to improve envelope energy performance for cooling and heating problems.

Finally, the compliance process will be significantly altered. Lighting compliance has been greatly simplified, and much less work will be required for development of a building power budget. The exterior envelope compliance procedure is longer, reflecting the increased complexity necessitated by consideration of the real energy-related variables associated with commercial buildings. It is, however, well-suited to automation on a microcomputer or programmable calculator.

IV. Questions for Public Comment

As an effort to examine the interactions among building subsystems and determine how those interactions affect building energy use, the research project described above is one of the most comprehensive ever attempted either by the government or private sectors. The testing of the results indicates that the answers are consistent with the professional judgment and experience of the practitioners involved. DOE is interested in public comment on the recommendations in general, but is particularly interested in answers to the questions presented below. Answers to these questions and other comments, as appropriate, will be incorporated prior to the issuance of a NOPR for the interim voluntary standards.

Lighting

1. Lighting Quality: What are the major factors to be considered in the design of a good quality lighting system? How have these factors changed in the past decade and what new technologies have been developed that should be considered? Is there an accepted practical methodology that quantitatively measures both quantity and quality of lighting? How can the "mood" established by lighting be considered?

2. Future Building Lighting Needs: What information is available concerning the lighting of spaces which contain Visual Display Tubes? How should factors such as flicker convergence an glare be considered? How should an energy standard accommodate lighting design flexibility for future relocation of equipment and work areas in a building?

3. Lighting Design Issues: Should lighting design calculations be based on reflectance factors of 80/50/20, or should other factors be used, i.e., what data are available for typical reflection factors of total weighted ceiling, room, and floor cavities? Should design computations be based on point by point illuminance distributions rather than average illuminance? What procedures are available to handle such an approach? How much have new lighting technology gains (in the past ten years) affected lighting quality and quantity considerations? What new technologies are expected to be introduced in the next few years that will impact lighting energy consumption?

4. Heat Extraction Luminaires: The Illuminating Engineering Society recommends that designers consider the use of luminaires with heat removal and heat recovery capabilities. How do economic and energy conservation advantages of these luminaires change with different lamp/ballast/fixture systems?

Envelope Systems

1. The issues of energy flows in buildings with internal heat generation is far more complex than simply a matter of building skin conductivity. Have the major factors (under the building designers control) governing commercial building envelope energy flows been considered in the proposed recommendations? Recognizing that simplifications have been made in the recommendations in the interest of ease of use, has an appropriate balance between design flexibility and ease of use been achieved?

2. Whether or not skylights result in energy conservation depends upon an intricate balance between lighting, heating, and cooling load changes. Has an appropriate balance between complexity of the skylight energy balance, and ease of use of the recommendations been achieved?

3. Daylighting has been shown to substantially reduce energy consumption in buildings with significant lighting loads, and is recognized in both the Lighting and Envelope Sections of the recommendations. In the interest of reducing complexity, the form of daylighting considered is automatic switching of luminaires near windows. Are simplified calculation procedures available and tested that will handle more sophisticated daylight systems such as light shelves and roof monitors? Note that such systems may still be utilized by using the Secion 10 whole building analysis technique.

Mechanical Systems

1. Research and experience have indicated that the proper choice of mechanical system is one of the most important considerations in commercial building energy consumption. It does not appear possible, however, to recommend specific mechanical system configurations for specific uses because there are usually numerous exceptions to any rule. Are data available that would allow a classification system to help building designers choose the appropriate system type? Is a classification system available that treats the different system manufacturers in a fair and equitable manner?

Transportation Systems

1. In larger buildings, vertical transportation can account for a sizable proportion of building energy consumption. There does not appear to be a consensus standard or guideline that discusses how to design vertical transportation to be more energy efficient. Are such guidelines or standards available?

V. Availability of Documents

Copies of the draft recommendations and the technical support documents are available for inspection at the DOE Freedom of Information Office, Forrestal Building, Room 1E–090, 1000 Independence Avenue, SW., Washington, D.C., 20585, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, and at each of the DOE Regional Support Offices, which are located at the following addresses:

U.S. Department of Energy, Boston Support Office, 150 Causeway Street, Room 700, Boston, Massachusetts 02114

U.S. Department of Energy, New York Support Office, 26 Federal Plaza, Room 3200, New York, New York 10278

U.S. Department of Energy, Philadelphia Support Office, 1421 Cherry St., Philadelphia, Pennsylvania 19102

U.S. Department of Energy, Atlanta Support Office, 1655 Peachtree NE., 8th Floor, Atlanta, Georgia 30309

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, Illinois 60439

U.S. Department of Energy, Dallas Support Office, P.O. Box 35228, 2626 W. Mockingbird Lane, Dallas, Texas 75235

U.S. Department of Energy, Kansas City Support Office, 324 East Eleventh Street, Kansas City, Missouri 64106
U.S. Department of Energy, Denver Area Office, P.O. Box 26247–Belmar Branch, 1075 South Yukon Street, Lakewood, Colorado 80226
U.S. Department of Energy, San Francisco Operations Office, 1333 Broadway, Oakland, California 94612

The documents may be obtained by making a written request to: Hearings and Dockets Branch, Office of Conservation and Renewable Energy, Department of Energy, 1000 Independence Avenue, SW., Room 6B–025, Washington, D.C. 20585.

VI. Comment Procedures

All interested persons are invited to submit written comments to DOE. The correspondence should be mailed to the Hearings and Dockets Branch, Office of Conservation and Renewable Energy, Department of Energy, 1000 Independence Avenue, SW., Room 6B–025, Washington, D.C 20585. Comments should be identified on the document and envelopes submitted to DOE with the designation "Recommended Standards/Guidelines for New Commercial Buildings". Five (5) copies should be submitted. All written comments and related information should be received by DOE no later than April 25, 1984 to receive consideration.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination, pursuant to DOE's regulations on confidentiality (10 CFR Part 1004).

(Energy Conservation Standards for New Buildings Act of 1976, as amended, 42 U.S.C. Sec. 6831 *et seq.*; the Department of Energy Organization Act, 42 U.S.C. Sec. 7101 *et seq.*)

Issued in Washington, D.C., January 9, 1983.

Pat Collins,

Acting Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 84–2237 Filed 1–25–84; 8:45 am]
BILLING CODE 6450–01–M

[Project No. 2232–047]

Federal Energy Regulatory Commission

Duke Power Co.; Application for Change in Land Rights

January 20, 1984.

Take notice that Duke Power Company, Licensee for the Catawba-Wateree Project, FERC No. 2232, on March 31, 1983, filed an application for approval of an easement affecting project land and waters at the Lake Hickory development of the project. The easement would enable Lake Hickory Development Corporation to construct and operate a sewer line that would discharge approximately 30,000 gallons per day of treated effluent into the waters of Lake Hickory. The application also includes a proposal by the Licensee for the lease of approximately 0.21 acre of land to Lake Hickory Development Corporation for the construction of a boat dock at Lake Hickory. The Lake Hickory development is located in Burke County, North Carolina.

Correspondence with the Licensee should be directed to: Mr. John E. Lansche, Legal Department, P.O. Box 33189, Charlotte, North Carolina 28242.

Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant). If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Motion To Intervene—Anyone may file comments, a protest, or a motion to intervene in accordance with the requirements of Rules 211 or 214, 18 CFR 385.211 or 385.214, 47 FR 19025–26 (1983). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be filed on or before March 5, 1984.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Deputy Director, Project Management Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–2071 Filed 1–25–84; 8:45 am]
BILLING CODE 6717–01–M

[Project No. 7532–000]

Farmers Irrigation District Project #2; Notice Suspending 120-Day Period for Action on Small Hydro Exemption

January 20, 1984.

Farmers Irrigation District filed an application for exemption for the proposed Farmers Irrigation District #2 Project No. 7532, to be located on Hood River in Hood River County, Oregon. The application was filed pursuant to Section 408 of the Energy Security Act of 1980, and § 4.101 *et seq.* of the Commission's regulations.

Having determined that additional time is necessary for action on the application in order to insure full consideration of all information and comments that have been received, the 120-day period for Commission action is suspended pursuant to § 4.105(b)(5)(iv)

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–2072 Filed 1–25–84; 8:45 am]
BILLING CODE 6717–01–M

[Project No. 7548–000]

Geo-Bon #2 Hydro Project; Suspending 120-Day Period for Action on Hydro Exemption

January 20, 1984.

George Arkoosh filed an application for exemption for the proposed Project No. 7548–000, located on the Little Wood River in Lincoln County, Idaho. The application was filed pursuant to Section 408 of the Energy Security Act of 1980 and § 4.109 *et seq.* of the Commission's regulations.

Having determined that additional time is necessary for action on the application in order to ensure full consideration of all information and comments that have been received, the 120-day period for Commission action is suspended pursuant to § 4.105(b)(5)(iv).

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–2073 Filed 1–25–84; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. RP84–40–000]

Great Lakes Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

January 19, 1984.

Take notice that Great Lakes Gas Transmission Company (Great Lakes), on January 12, 1984, tendered for filing the following tariff sheets to its FERC

Gas Tariff, First Revised Volume No. 1, proposed to be effective November 1, 1983:

First Revised Sheet No. 6–B
Original Sheet No. 6–C
Original Sheet No. 6–D
Original Sheet No. 6–E
Original Sheet No. 6–F
Original Sheet No. 6–G
Original Sheet No. 6–H
Original Sheet No. 6–I
Original Sheet No. 6–J

Great Lakes states that the filed tariff sheets reflect alternate minimum bill provisions for resale customers to allow for (1) the reduction of the take or pay level from 75% to 50% for the contract year ended October 31, 1983, (2) the deferral for four years of any take or pay amounts for the contract year ended October 31, 1983 with the obligation to pay interest on such take or pay amounts, (3) a 50% take and pay obligation in lieu of the current 75% take or pay obligation for contract years ending October 31, 1985 and permitting make up of past deficiencies with any gas purchases above 50% of contract, (4) reinstatement of the 75% minimum bill level after November 1, 1985, (5) make up of all take or pay gas within the contract term, plus one year if required, and (6) clarification of the *force majeure* provisions to reflect the above minimum bill revisions.

Great Lakes also states that copies of this filing have been served upon its customers and the Public Service Commissions of Minnesota, Wisconsin, and Michigan.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 26, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–2074 Filed 1–25–84; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 7390–000]

Harder Farms, Inc. and Scott Ranch; Suspending 120-Day Period for Action on Small Hydro Exemption

January 20, 1984.

Harder Farms, Inc. and Scott Ranch have jointly filed an exemption application for the proposed Little Palouse Falls Project No. 7390, located on Palouse River in Franklin, Whitman and Adams Counties, Washington. The application was filed pursuant to Section 408 of the Energy Security Act of 1980 and § 4.101 *et seq.* of the Commission's regulations.

Having determined that additional time is necessary for action on the application in order to ensure full consideration of all information and comments that have been received, the 120-day period for Commission action is suspended pursuant to § 4.105(b)(5)(iv).

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–2075 Filed 1–25–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER84–200–000]

Idaho Power Co.; Filing

January 19, 1984.

The filing Company submits the following:

Take notice that on January 10, 1984, Idaho Power Company (Idaho) tendered for filing in compliance with the Federal Energy Regulatory Commission's Order of October 7, 1978, a summary of sales made under the company's 1st Revised FERC Electric Tariff, Volume No. 1 (supersedes Original Volume No. 1) during November, 1983, along with cost justification for the rate charged. This filing includes the following supplements:

Utah Power & Light Company—Supplement 25
Montana Power Company—Supplement 22
Sierra Pacific Power Company—Supplement 23
Portland General Electric Company—Supplement 18
Pacific Power & Light Company—Supplement 10
Southern California Edison Company—Supplement 16
San Diego Gas & Electric Company—Supplement 13
Washington Water Power Company—Supplement 14
Los Angeles Water & Power Company—Supplement 15
Los Angeles Water & Power Company—Supplement 15
City of Burbank—Supplement 15
City of Glendale—Supplement 15
City of Pasadena—Supplement 15

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on before February 3, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–2076 Filed 1–25–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP84–144–000]

K N Energy, Inc.; Request Under Blanket Authorization

January 20, 1984.

Take notice that on December 20,1983, K N Energy, Inc. (K N), P.O. Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP84–144–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that K N proposes to add a sales tap to its mainline system and to reassign currently authorized contract demand volumes of natural gas to the proposed tap at the request of Producers Gas Equities, Inc. (Producers), under the authorization issued in Docket Nos. CP83–140–000 and CP83–140–001 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

K N states that it proposes to add a sales tap in the Southeast quarter of Section 14, Township 8, Range 19, in Rooks County, Kansas, to add the proposed sales tap to the "Group A" delivery points under its present service agreement with Producers and to reassign the 12,700 Mcf per day contract demand volumes presently assigned to the "Group A" delivery points so as to allow only part, or all, of said contract demand volumes to be used at any of the "Group A" delivery points, including the point proposed herein. K N indicates that the combined total volumes at all of the "Group A" delivery points, including the proposed point, would not exceed 12,700 Mcf on any one day and that no increase in Producers' existing contract demand volumes would be required

under this proposal. It is indicated that the quantities of natural gas to be delivered at the proposed delivery point would be approximately 8,000 Mcf per year (22 Mcf per day).

K N states that its current sales to Producers were authorized in Docket No. CP73–224 and that the rate schedule applicable to all of the "Group A" delivery points is its CD–1 rate schedule. It is indicated that the subject proposal would have no impact on K N's peak day and annual deliveries and would not affect service to any other existing customer of K N Producers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commisson, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–2077 Filed 1–25–84; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 7530–000]

Little Wood Ranch Hydro Project; Suspending 120-Day Period for Action on Hydro Exemption

January 20, 1984.

William Arkoosh filed an application for exemption for the proposed Project No. 7530–000, located on the Little Wood River in Lincoln County, Idaho. The application was filed pursuant to Section 408 of the Energy Security Act of 1980 and § 4.109 *et seq.* of the Commission's regulations.

Having determined that additional time is necessary for action on the application in order to ensure full consideration of all information and comments that have been received, the 120-day period for Commission action is suspended pursuant to § 4.105(b)(5)(iv).

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–2078 Filed 1–25–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RM81–19; Docket No. ST82–157–001]

Odessa Natural Co.; Extension Reports

January 20, 1984.

The companies listed below have filed extension reports pursuant to Section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commended on a self-implementing basis without case-by-case Commission authorization. The sales may continue for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding the effective date of the requested extension.

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. A letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146. A "G" indicates a transportation by an interstate pipeline pursuant to § 284.221 which is extended under § 284.105. Three other symbols are used for transactions pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations. A "G(HS)" indicates transportation, sale or assignments by a Hinshaw pipeline; a "G(LT)" indicates transportation by a local distribution company, and a "G(LS)" indicates sales or assignments by a local distribution company.

Any person desiring to be heard or to make any protests with reference to said extension report should on or before February 14, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 3285.211 or 385.214).

All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding.

Any person wishing to become a party to a proceeding or to particpate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

Docket No	Transporter/seller	Recipient	Date filed	Part 284 subpart	Effective date
ST82–157–001 *	Odessa Natural Co., P.O. Box 3986, Odessa, TX 79760	El Paso Natural Gas Co	12–23–83	C	12–23–83
ST82–198–001 *	Dow Pipeline Co., P.O. Box 4286, Houston, TX 77210	Entex, Inc	12–19–83	C	02–04–84
ST82–214–001	Monterey Pipeline Co., 1700 Commerce Bldg., New Orleans, LA 70112	Texas Eastern Transmission Corp	12–21–83	C	03–24–84
ST82–230–001	Northern Natural Gas Co., 2223 Dodge St., Omaha, NE 68102	Peoples Natural Gas Co	12–16–83	B	03–17–84
ST82–242–001	United Texas Transmission Co., P.O. Box 1478, Houston, TX 77001	El Paso Natural Gas Co	12–21–83	C	03–29–84
ST82–247–001	Mountain Fuel Supply Co., 180 East First South St., Salt Lake City, UT 84139	Utah Gas Service Co	12–23–83	B	04–01–84
ST82–248–001	Natural Gas Pipeline Co of America, 122 S. Michigan Ave., Chicago, IL 60603	Channel Industries Gas Co	12–16–83	B	03–18–84
ST82–264–001	Texas Eastern Transmission Corp., P.O. Box 2521, Houston, TX 77252	United Gas Pipe Line Co	12–20–83	G	03–24–84
ST82–414–001	Texas Eastern Transmission Corp., P.O. Box 2521, Houston, TX 77252	United Gas Pipe Line Co	12–28–83	G	04–01–84
ST82–443–001	Seagull Energy Corp., 1100 Louisiana, 20th Floor, Houston, TX 77002	El Paso Natural Gas Co	12–16–83	C	03–29–84
ST83–257–001	Delhi Gas Pipeline Corp., Fidelity Union Tower, Dallas, TX 75201	Bridgeline Gas Distribution Co	12–05–83	D	03–14–84

* These extension reports were filed after the date specified by the Commission's Regulations, and shall be the subject of a further Commission order

Notes.—The noticing of these filings does not constitute a determination of whether the filings comply with the Commission's Regulations

[FR Doc. 84–2079 Filed 1–25–84; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 5805-001]

Pacific Power & Light Co. and City of Bandon, Oregon; Surrender of Preliminary Permit

January 20, 1984.

Take notice that Pacific Power & Light Company and the City of Bandon, Permittees for the Eden Ridge Project No. 5805, have requested that this preliminary permit be terminated. The preliminary permit was issued on May 10, 1982, and would have expired on May 30, 1985. The project would have been located on the South Fork Coquille River in Coos County, near Powers, Oregon.

Pacific Power & Light Company and the City of Bandon filed the request on December 19, 1983, and the surrender of the perliminary permit for Project No. 5805-000 is deemed accepted as of that date, and effective as of 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2080 Filed 1-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-28-002]

Panhandle Eastern Pipe Line Company; Change in Tariff

January 19, 1984.

Take notice that on January 16, 1984 Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the following revised sheets to its FERC Gas Tariff, Original Volume No. 1:

Forty-Eighth Revised Sheet No. 3-A
Twenty-Fifth Revised Sheet No. 3-B
Tenth Revised Sheet No. 3-C.1
Tenth Revised Sheet No. 3-C.2
Tenth Revised Sheet No. 3-C.3

An effective date of March 1, 1984 is proposed.

Panhandle states that on December 14, 1983 it filed with the Commission a Stipulation and Agreement in Panhandle's pending rate proceeding in Docket No. RP82-58. Panhandle anticipates that the Commission will have approved the Stipulation and Agreement by March 1, 1984. Therefore, the proposed revised tariff sheets submitted hearwith reflect rate adjustments computed in accordance with the Stripulation and Agreement dated December 14, 1983, and the General Terms and Conditions of Panhandle's FERC Gas Tariff, Original Volume No. 1.

These revised tariff sheets reflect a net increase in the commodity PGA rate adjustment of 41.01¢ per Dt. This adjustment includes: (1) 17.82¢ per Dt. increase in the projected purchased gas cost; (2) a 20.03¢ per Dt. increase in the surcharge to recover the current deferred account balance at November 30, 1983 and related carrying charges; (3) a 9.79¢ per Dt. increase in the surcharge for the current period amortization of the deferred account balance at May 31, 1983 pursuant to Docket No. TA83-2-28-000 and related carrying charges; and (4) a (6.63¢) per Dt. decrease to recognize the refunds provided for in Article V, Section 4 of the Stripulation and Agreement in Docket No. RP82-58, which relate to the settlement of the tax normalization and related issues outstanding in Docket Nos. RP78-62 (remand) and RP80-78.

Panhandle's projected cost of gas reflected herein reflects the new PGA tarriff formula provided for in the settlement of Docket No. RP82-58. This new PGA formula is based on sales and purchase volumes which are projected to occur during the six-month effective period of this PGA, beginning March 1, 1984.

Panhandle has also included in this filing a continuation of the three-year amortization of the deferred account balance at May 31, 1983 as proposed in Docket No. TA83-2-28-000, which proceeding is currently pending Commission action. The three-year amortization of these deferred purchased gas costs was approved by Commission Order dated May 31, 1983 in Docket No. TA83-2-28-000, subject to certain conditions and the outcome of that proceeding. Panhandle has calculated the associated carrying charges on the amortized deferred account in accordance with the interim methodology prescribed by the Commission's order of May 31, 1983, subject to Panhandle's right to present its claim for a different basis of computing carrying charges in Docket No. TA83-2-28-000.

Additionally, these revised tariff sheets include the following tracking adjustments, taking into consideration the pending settlement agreement in Docket No. RP82-58:

(1) A demand rate increase ($0.77 for D1 and 3.40¢ for D2) pursuant to Section 18.4 of Panhandle's PGA tariff provisions, to reflect a proposed Pipeline Supplier demand rate adjustment to be effective concurrently herewith; and

(2) An ANGTS demand rate reduction (($0.07) for D1 and (0.36¢) for D2) pursuant to Section 22 of the General Terms and Conditions; and

(3) A DCA Commodity Surcharge Adjustment pursuant to Section 16.6(e) of the General Terms and Conditions; and

(4) Projected Incremental Pricing Surcharges in accordance with Section 21 of the General Terms and Conditions.

For the past several years Panhandle has maintained a DCA Commodity Surcharge Account pursuant to § 16.6(e) of its FERC Gas Tariff, Original Volume No. 1. Panhandle lifted gas supply deficiency curtailments on its system in March 1980, and since that time this surcharge account has been utilized to properly charge or return the amount of past under or over collections to the proper rate schedule. Due to the administrative requirements and burdens associated with maintaining this account, and because the balance in the DCA Surcharge Account at November 30, 1983 is only ($34,638), Panhandle hereby requests waiver of § 16.6(e) of its tariff to permit the flow-through of this relatively small amount through the Deferred Purchased Gas Cost Account (Account 191), and to discontinue the use of this DCA Surcharge provision at this time.

Panhandle further states that in the event Commission approval of the Stipulation and Agreement dated December 14, 1983 in Docket No. RP82-58 has not occurred before March 1, 1984, submitted herewith for filing, to become effective March 1, 1984, are six (6) copies of the following Alternate Revised Sheets to its FERC Gas Tariff, Original Volume No. 1, which are based on Panhandle's currently effective tariff provisions and do not reflect the Docket No. RP82-58 settlement:

Alternate Forty-Eighth Revised Sheet No. 3-A
Alternate Twenty-Fifth Revised Sheet No. 3-B
Alternate Tenth Revised Sheet No. 3-C.1
Alternate Tenth Revised Sheet No. 3-C.2
Alternate Tenth Revised Sheet No. 3-C.3

The alternate revised tariff sheets reflect; (1) A net commodity increase in the PGA rate adjustment of 50.90¢ per Dt which includes the continuation of the previously described three-year amortization of the deferred account balance at May 31, 1983, and related carrying charges, in accordance with the

Commission's Order of May 31, 1983 in Docket No. TA83–2–28–000; (2) a demand rate increase of $1.48 pursuant to Section 18.4 of Panhandle's PGA tariff provisions, to reflect a proposed Pipeline Supplier demand rate adjustment to be effective concurrently herewith; and (3) an ANGTS demand rate reduction of ($0.12) pursuant to Section 22 of the General Terms and Conditions.

Should it become necessary to implement these Alternate Tariff sheets, Panhandle respectfully requests all waivers to its normal PGA and tariff procedures. These include:

(a) Waiver of the portion of §§ 18.2 and 18.4 of Panhandle's tariff that calls for historical gas purchase patterns and sales volumes in the computation of the PGA rate adjustment, in order to reflect the projected sales volumes and the proposed change in gas purchase patterns for the six-month period beginning March 1, 1984, upon which this rate change is based.

(b) Waiver of the provisions of the PGA tariff and regulations to continue the three-year amortization of the deferred purchased gas cost account balance at May 31, 1983, and collection of related carrying charges, which procedure because effective June 1, 1983, subject to refund, in Docket No. TA83–2–28–000.

Waivers of these tariff provisions have previously been accepted by Commission Order dated May 31, 1983 in Docket No. TA83–2–28–000 and August 31, 1983 in Docket No. TA83–2–28–005. Additionally, Panhandle requests waiver of the provisions of § 16.6(e) of the tariff to reflect the elimination of the DCA Commodity Surcharge, as previously described. To the extent required, if any, Panhandle requests that the Commission grant such other waivers as may be necessary for the acceptance of these tariff sheets to become effective March 1, 1984.

Copies of this letter and enclosures are being served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before January 30, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–2081 Filed 1–25–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. SA84–6–000]

Petrojet, Inc.; Petition for Adjustment

Issued: January 20, 1984.

On December 5, 1983, Petrojet, Inc. (Petrojet), P.O. Box 36448, Houston, Texas 77036, filed with the Federal Energy Regulatory Commission (Commission) a petition for adjustment, seeking waiver of the time-of-filing requirements of 18 CFR 271.805(d) (1983). Adjustment of regulations under the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301–3432 (Supp. V 1981) is available pursuant to section 502(c) of the NGPA and the Commission's Rules of Practice and Procedure at 18 CFR 385.1101–385.1117 (1983).

Petrojet requests the adjustment waiver with respect to the Kenneth Danklefs No. 1 Well, section 108 NGPA application; Nada Field, Colordao County, Texas; Texas Railroad Commission Docket No. F–03–071579.

Petrojet indicates that the gas purchaser, Texas Eastern Gas Pipeline Company, notified the operator by letter dated September 11, 1983, that the subject well produced natural gas at a rate exceeding 60 Mcf per production day for the 90-day production period ending July 31, 1983, and therefore the well would be disqualified from NGPA section 108 pricing eligibility unless a petition for enhanced recovery technique determination were filed pursuant to 18 CFR 271.805(b).

Petrojet indicates that it filed its petition for enhanced recovery technique determination on November 9, 1983, within 150 days following the end of the 90-day production period ending July 31, 1983, in accordance with § 271.805(d) of the regulations. However, it was subsequently determined that the actual 90-day period during which disqualification occurred was the period of March, April and May, 1983. Accordingly, the 150-day period for filing the petition actually expired on October 28, 1983.

Petrojet requests waiver of the time-of-filing requirements of § 271.805(d) on the grounds that "it acted in good faith" and with due diligence in responding to the gas purchaser's notice of disqualification and in relying upon the accuracy of the 90-day production period described therein."

The procedures applicable to the conduct of this adjustment proceeding are found in Rules 1101–1117 of the Commission's Rules of Practice and Procedure, 18 CFR 385.1101–385.1117. Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of Rule 214 (18 CFR 385.214). All petitions to intervene must be filed within 15 days after publication of this notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–2082 Filed 1–25–84; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 7140–001]

Springfield Associates No. 1; Surrender of Preliminary Permit

January 20, 1984.

Take notice that Springfield Associates No. 1, Permittee for North Fork No. 1, Project No. 7140, has requested that its Preliminary Permit be terminated. The Preliminary Permit was issued on October 19, 1983, and would have expired on September 30, 1985. The project would have been located on North Fork of Willamette River within the Willamette National Forest in Lane County, Oregon.

Springfield Associates No. 1 filed the request on November 14, 1983, and the surrender of the preliminary permit for Project No. 7140 is deemed accepted as of November 14, 1983, and effective as of 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–2084 Filed 1–25–84; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 7137–001]

Springfield Associates No. 2; Surrender of Preliminary Permit

January 20, 1984.

Take notice that Springfield Associates No. 2, Permittee for North Fork No. 2, Project No. 7137, has requested that its Preliminary Permit be terminated. The Preliminary Permit was issued on October 19, 1983, and would have expired on September 30, 1986. The project would have been located on North Fork of Willamette River within the Willamette National Forest in Lane County, Oregon.

Springfield Associates No. 2 filed the request on November 14, 1983, and the surrender of the preliminary permit for Project No. 7137 is deemed accepted as

of November 14, 1983, and effective as of 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2083 Filed 1-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4606-001]

Sunnyside Valley Irrigation District; Surrender of Preliminary Permit

January 20, 1984.

Take notice that Sunnyside Valley Irrigation District, Permittee for Little Rattler Hydroelectric, Project No. 4606, has requested that its Preliminary Permit be terminated. The Preliminary Permit was issued on March 9, 1982, and would have expired on February 28, 1985. The project would have been located on Rattlesnake Creek in Yakima County, Washington.

Sunnyside Valley Irrigation District filed the request on December 2, 1983, and the surrender of the preliminary permit for Project No. 4606 is deemed accepted as of December 2, 1983, and effective as of 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2085 Filed 1-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-122-000]

Texas Gas Transmission Corp., Request Under Blanket Authorization

January 20, 1984.

Take notice that on December 9, 1984, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP84-122-000 a request pursuant to § 157.209 of the Regulations under the Natural Gas Act (18 CFR 157.209) that Texas Gas proposes to transport natural gas for Armco Inc. (Armco) under the authorization issued in Docket No. CP82-407-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Texas Gas proposes to transport up to 42,000 Mcf per day and up to 15.33 Bcf per year on an interruptible basis on behalf of Armco for a term of one year. Texas Gas states it would receive the gas at the existing metering facilities located at the interconnection of Michigan Wisconsin Pipe Line Company's and Texas Gas' pipeline systems near Slaughters, Webster County, Kentucky. Texas Gas further states it would redeliver equivalent volumes to The Cincinnati Gas and Electric Company (Cincinnati Gas) for the account of and for further delivery to Armco at an existing point of interconnection of the Texas Gas and Cincinnati Gas facilities in Butler County, Ohio.

Texas Gas proposes to charge for its services the rate provided in its Rate Schedule T-3/T-4 on file with the Commission. In addition to that rate, Texas Gas asserts it proposes to charge Armco an additional incentive charge of five cents per Mcf as provided in its AIC Rate Schedule. Texas Gas also proposes to retain 1.28 percent of the volumes received as reimbursement for fuel gas.

Texas Gas indicates that the gas will be used at Armco's steel plant at Middletown, Ohio, in a variety of industrial applications including slab furnaces, open hearth furnaces, boilers, coating line operations and refractory furnaces. Texas Gas also indicates that Armco has purchased the gas supplies from ANR Production Company (ANR) and that no intermediary participated in the transaction between ANR and Armco.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2086 Filed 1-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-146-000]

Transcontinental Gas Pipe Line Corp.; Application

January 20, 1984.

Take notice that on December 22, 1983, Transcontinental Gas Pipe Line Corporation (Applicant), Post Office Box 1396, Houston, Texas 77251, filed in Docket No. CP84-146-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing (1) the construction and operation of certain pipeline loop facilities on its Leidy Line in Pennsylvania and two meter stations in New Jersey and (2) the transportation on a firm basis of up to 65,000 dt equivalent of gas per day for certain Shippers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the facilities proposed herein are necessary to expand the capacity of its Leidy Line and to enable Applicant to transport on a firm basis commencing November 1, 1984, the following maximum daily quantities of gas for the listed Shippers:

Shipper	Maximum daily quantity (dt)	
	Nov. 1, 1984, through Oct. 31, 1986	Nov. 1, 1986, through remaining term
Algonquin Gas Transmission Company	15,000	18,760
The Brooklyn Union Gas Company		6,750
Consolidated Edison Company of New York, Inc.	10,000	8,300
Long Island Lighting Company	2,800	2,100
Elizabethtown Gas Company	1,500	1,590
New Jersey Natural Gas Company		8,250
Public Service Electric and Gas Company	22,012	19,250
Total	51,312	65,000

In its application, Applicant states that the natural gas to be transported would be purchased by Shippers from Consolidated Gas Supply Corporation (Con Gas) and National Fuel Gas Supply Corporation (National Fuel). Applicant proposes to construct the following four facilities in order to provide additional capacity of 63,107 Mcf per day to render the proposed firm service.

(1) 15.51 miles of 30-inch diameter pipeline loop from Liedy milepost 157.63 to Leidy milepost 173.14;

(2) 4.95 miles of 30-inch diameter pipeline loop from Liedy milepost 124.56 to milepost 129.51;

(3) the Algonquin-Centerville Meter Station at Leidy milepost 0.99 near Station 505; and

(4) the New Jersey Natural-Morgan Meter Station at milepost 12 on Applicant's Long Beach lateral near Morgan, New Jersey.

Applicant states that the proposed facilities are estimated to cost $24,500,000. Such cost would be financed initially through short-term loans and funds on hand, with permanent financing to be arranged as part of Applicant's overall long-term financing program, it is explained.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 10, 1984, file with the Federal

Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulartory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2087 Filed 1-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP80-217-004]

Transcontinental Gas Pipe Line Corp.; Proposed Change in FERC Gas Tariff

January 19, 1984.

Take notice that on January 13, 1984, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing the following sheets to its FERC Gas Tariff, Original Volume No. 2:

First Revised Sheet Nos. 2219 and 2231.

Transco states that subject filing reflects a partial revision of its Rate Schedule X-226, which is a transportation agreement with United Gas Pipe Line Company (United), dated December 28, 1979, as amended July 15, 1982, and initially authorized by the Commission in a certificate issued in Transco, Docket No. CP80-217 on July 24, 1980. In the amendatory agreement dated July 15, 1982, Transco and United agreed to revise their transportation agreement to reduce the minimum allowable heating value of gas delivered to Transco at High Island Block 154 from 1,000 to 950 Btu's. Transco redelivers equivalent quantities to United at Starks, Calcasieu Parish, Louisiana or Inez, Victoria County, Texas. A copy of the instant filing has been served upon United.

The tariff sheets are proposed to become effective July 15, 1982.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 27, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2088 Filed 1-25-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL83-11-000]

Virginia Electric & Power Co.; Order Affirming Letter Order of the Chief Accountant

Issued: January 20, 1984.

By letter dated June 30, 1982, Virginia Electric & Power Company (VEPCO) submitted proposed journal entries to the Commission's Office of Chief Accountant (OCA) to reflect the sale of an undivided 20 percent interest in the Bath County Pumped Storage Project (Project) to Allegheny Generating Company (AGC).[1] By letter dated February 10, 1983, the Chief Accountant approved these entries except those related to the net gain realized by VEPCO from this sale. On March 14, 1983, VEPCO filed an appeal of the Chief Accountant's directive.

VEPCO sold the 20 percent interest in the Project to AGC for $179,529,045. The cost of construction for that portion is $162,545,865 and costs associated with the negotiation amounted to $172,520. Consequently, the sale resulted in a net gain before income taxes of $16,810,658, and a net after-tax gain of $3,937,389.

VEPCO proposes to credit this gain to Account 421.1—Gain on Disposition of Property. The Chief Accountant rejected this proposal and directed VEPCO to credit the gain to the cost of constructing the Project, as prescribed by Electric Plant Instruction (3)(18). VEPCO contends that this directive is inconsistent with both Commission precedent and the treatment that OCA has accorded other sales of VEPCO property.

On August 1, 1983, ElectriCities of North Carolina and North Carolina Eastern Municipal Power Agency (ElectriCities) filed a motion to intervene in this docket. In its pleading, ElectricCities explains that it first became aware of this appeal by virtue of the Commission's discussions at the meeting of July 13, 1983. Because the appeal was filed pursuant to Rule 1902 of the Commission's Rules of Practice and Procedure and was not noticed, ElectriCities believes that their motion is not untimely. ElectriCities opposes VEPCO's request and supports the Chief Accountant's position. VEPCO has not opposed ElectriCities' motion to intervene.

Also on August 1, 1983, ElectriCities moved to consolidate this proceeding and VEPCO's recent CWIP filing in Docket No. ER83-618-000 with VEPCO's currently pending rate proceeding, Docket No. ER83-430-000. They argue that these three proceedings involve interrelated issues. On August 12, 1983, VEPCO responded to the motion to consolidate. VEPCO supported consolidation of the CWIP and rate proceedings but gave no indication of its position with respect to consolidation of the OCA appeal.[2]

Discussion

Under Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), ElectriCities' unopposed motion to intervene serves to make it a party to this proceeding.

We find that consolidation of this docket with Docket Nos. ER83-430-000 and ER83-618-000 is unnecessary in that we have determined to act on VEPCO's appeal at this time. ElectriCities' motion for consolidation of this docket shall be denied.

The issue is whether a utility's shareholders should be permitted to

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[1] *See* Order Approving Transfer of License, Project No. 2716-003, 16 FERC ¶62,187 (1982).

[2] By order of August 30, 1983, 24 FERC ¶61,265, the Commission consolidated the CWIP filing with the rate proceeding in Docket No. ER83-430-000 but denied consolidation with this proceeding s premature.

retain the profits from a partial sale of a project which is still under construction. From an accounting standpoint, however, the issue is how to calculate VEPCO's original cost in the Project. Profits from sales of plant which have been placed in service are generally permitted to be credited to Account 421.1, as proposed by VEPCO. The VEPCO Project, however, is still under construction. To our knowledge, the question of the proper accounting for a gain on a partial sale of plant not in service has never ben specifically addressed by the Commission.[3] The Chief Accountant's directive, however, is not inconsistent with Commission precedent.

As stated above, the Chief Accountant has directed VEPCO to credit the gain to the cost of construction the Project as earnings received during construction, as prescribed by Electric Plant Instruction (3)(18). This instruction is designed to apply to all earnings associated with and arising from construction activities. Its purpose is also embodied in Electric Plant Instruction 7, Land and Land Rights, which deals with sales somewhat analogous to the VEPCO sale.

Electric Plant Instruction 7 requires that the net profits from sales of goods or services arising from the construction activities, *e.g.*, timber, gravel, rights-of-way, etc., should be credited to the cost of construction.

VEPCO's Appeal

VEPCO relies principally on *Duke Power Company*, Opinion No. 641, 48 FPC 1384, 1394 (1972), where the Commission held that ratepayers were not entitled to a share in any profits on land transactions realized by a subsidiary if Duke Power. That opinion relied largely upon *dicta* in *Board of Public Utility Commissioners* v. *New York Telephone Company*, 271 U.S. 23, 31 (1926), which made several sweeping statements denying customers all rights in property or revenues derived from property owned by a utility.[4] The *Duke Power* case, however, is inapposite.

Duke Power involved a subsidiary engaged in land transactions. The Commission's opinion noted that this subsidiary was involved in a "non-utility business." 48 FPC 1394. That is not the same situation as presented here where the Project, not owned by a subsidiary, will be directly used by VEPCO in carrying out its utility functions.

VEPCO further relies on Order No. 473, 49 FPC 390 (1973), in which the Commission, relying on *Duke Power*, rejected a proposed rulemaking which would have treated gains and losses on sales of utility *plant in service* as an "above-the-line" credit to utility operating income. The Commission rejected this proposal on the basis of *Duke Power*. That rulemeking, however, expressly concerned "gains and losses from the disposition of utility plant which has been *devoted to public service*." (emphasis supplied) Notice of Proposed Rulemaking, 36 FR 2803 (February 10, 1971). The sale of plant not yet in service does not appear to have been contemplated by the ruling in *Duke Power* or Order No. 473.

This distinction can be further gleaned from an earlier VEPCO initial decision which VEPCO argues is in accord with its position. *See Virginia Electric and Power Company*, 11 FERC ¶ 63,028 (1980), summarily affirmed in relevant part, Opinion No. 118, 15 FERC ¶ 61,052, 61,102 (1981). That proceeding involved VEPCO's leaseback arrangement in which it sold three office building to a financial institution which, in turn, leased them back to VEPCO. VEPCO realized a gain from the transaction which it proposed to credit to Account 421.1. The judge ruled that the precedent set by Order No. 473 was not "helpful" in deciding the case. *Id.* at 65,170. He stated that:

> It is true, as VEPCO says, that Order No. 473 permits (and may even require) below-the-line treatment of the gain a utility realizes when it sells an *operating asset* and there is no related coincidental transaction upon which the sale is conditional. But that is not what happened here. There was no mere sale; * * * (emphasis supplied) *Id.*

Thus, the judge also read Order No. 473 in the Limited context of *operating assets*.

VEPCO claims that the Chief Accountant's position is inconsistent with that applied in other instances in which VEPCO has sold property. Specifically, the Commission approved journal entries crediting the net gains from property sales to Account 421.1 in Docket Nos. E–9567, EL78–2, and EC81–3–000. In each of those instances, however, VEPCO had sold *plant in service* and the properties had been *devoted to public service*.[5] Again, that is not the case here and the Chief Accountant's treatment is, therefore, not inconsistent with these other dockets.

VEPCO has also claimed that the Chief Accountant's directive is contrary to the approved treatment of gains realized in similar sales by Georgia Power Company (Georgia Power).[6] Georgia Power sold undivided interest in generating facilities under construction to the Oglethorp Power Corporation and the Municipal Electric Authority of Georgia. Georgia Power realized profits from these sales which OCA allowed to be credited to Account 421.1. Upon consideration of that transaction, we conclude that the approval by OCA of Georgia Power's accounting entries was in error. As with all letter orders of office directors, the conclusions expressed therein are not binding precedent on the Commission. We would not have approved the Georgia Power journal entires. Consequently, we will not approve VEPCO's proposed entries on the basis of the Georgia Power transaction.

VEPCO contends that Electric Plant Instruction 5(F) should be applied to the facts of this case rather than Instruction 3(18). Instruction 5(F) applies to an "operating unit or system." This term has not been defined by the Commission and is essentially a term of art. In at least one case, however, the Commission has indicated that this term refers to plant in service. In *New York State Natural Gas Corp.*, 7 FPC 279 (1948), the Commission held that 10 miles of pipeline which was not in use at the time of its sale was still "an operating unit" for accounting purposes since it had been "devoted by someone to public service." *Id.* at 282–283. The Commission's emphasis in determining whether this pipeline was an operating unit was upon the fact that it had previously furnished service to the public. Consequently, we believe that although a facility need not necessarily be in operation to constitute "an operating unit," it should at least be capable of operation and previously dedicated to public service. That is not the case here and this sale, therefore, does not come under the purview of Instruction 5(F).

In sum, the arguments presented by VEPCO on appeal do not mandate the accounting treatment it proposes. We stated above that in addition to the issue of whether VEPCO's shareholders should be allowed to retain the profits

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[3] As discussed *infra*, an analogous situation was addressed in a Chief Accountant letter ordered to Georgia Power Company.

[4] *But see Democratic Central Committee of the District of Columbia* v. *Washington Metropolitan Area Transit Commission*, 485 F.2d 786 (D.C. Cir. 1973), *cert. denied*, 415 U.S. 935 (1974).

[5] In E–9567, VEPCO sold distribution properties, in service, to Northern Piedmont Electric Cooperative and realized a gain of $33,303. In EL78–2, VEPCO sold distribution facilities, in service, to Shenandoah Valley Electric Cooperative and recognized a gain of $26,590. Finally, in EC81–3, VEPCO sold substation facilities, in service, to Prince William Electric Cooperative and realized a gain of $238,785.

[6] OCA Letter orders of October 6, 1980 and April 30, 1981.

from this sale, there is the accounting issue of how to calculate VEPCO's original cost in the entire Project. We believe the Chief Accountant has taken the proper approach.

Electric Plant Instruction 7 requires that the net profits from sales of goods or services arising from the construction activities, *e.g.*, timber, gravel, rights-of-way, etc., should be credited to the cost of construction. The rationale behind this rule is simply to insure that, to the greatest extent possible, all expenses incurred in constructing a facility are offset by revenues received by the utility as a consequence of that construction. The same rationale is applicable here.

Conclusion

As noted above, although none of the Electric Plant Instructions specifically addresses the situation at hand, the general thrust of these two instructions indicates an overall mandate that the cost of plant facilities should be net of any related receipts of funds from the construction activity. We believe that the profit from a sale of an undivided interest in a plant under construction is precisely the type of receipts contemplated by Instructions 3(18) and 7.

Under the original cost concept of rate base valuation, VEPCO is entitled to earn a return only on the actual cost incurred during the construction of the property placed in rate base. We believe that the actual cost is the net cost of the project after all transactions related to the project are completed and either credited or debited to the plant in service account. Just as sales of goods and services arising from the construction are credited to the project cost, so should be revenues from sales of ownership interests. This approach is similar to the approach we took recently in *Pennsylvania Power & Electric Company*, Opinion No. 176, 23 FERC ¶61,395 (1983) where we held that revenues from sales of test power should be credited to the plant's cost of construction. Test power is energy generated prior to the commercial operation date of a facility.

Accordingly, we find that the Chief Accountant's directive is correct. The approximately $3.9 million net gain from the sale by VEPCO should be credited to the overall cost of the Project pursuant to Electric Plant Instruction 3(18) as earnings received during construction.

The Commission orders: (A) ElectriCities' motion to intervene is hereby granted.

(B) ElectriCities' motion to consolidate is hereby denied.

(C) VEPCO's appeal is hereby denied.

(D) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission. Commissioner Sousa dissented with a separate statement attached.

Kenneth F. Plumb,

Secretary.

Sousa, A. G., Commissioner, Dissenting

I respectfully disagree with my colleagues, and dissent from their decision to uphold the Chief Accountant's directive to VEPCO.

In its pleading, VEPCO has delineated the Commission precedent regarding the treatment of gains from sales of utility property. This precedent clearly provides that profits from sales of plant in service are generally permitted to be credited to Account 421.1, as proposed by VEPCO. As stated by the majority, the question of the proper accounting for a gain on a partial sale of plant *not* in service has never been specifically addressed by the Commission. Unlike the majority, I believe the precedent cited by VEPCO is equally applicable to sales of unconstructed plant. Therefore, I would grant VEPCO's appeal and reverse the Chief Accountant's directive.

The Commission's rule regarding the gains from sales of utility plant was established by Order No. 473, 49 FERC 390 (1973). That order rejected a proposed rulemaking which would have treated gains and losses on sales of plant as an "above-the-line" credit to utility operating income. In rejecting this rulemaking, the Commission relied on its decision, issued a few months prior to Order No. 473, in *Duke Power Company*, Opinion No. 641, 48 FPC 1384 (1972). In that case, the Commission held that ratepayers were not entitled to a share in any profits on land transactions realized by a subsidiary of Duke Power. Order No. 473 made the Commission's accounting treatment consistent with the rate treatment established in *Duke Power*.

The *Duke Power* decision relied principally upon an analogous argument presented in *Board of Public Utility Commissioners* v. *New York Telephone Company*, 271 U.S. 23 (1926). The Supreme Court held that the utility's customers were not entitled to earnings in the company's depreciation reserve account. In finding that amounts previously collected for depreciation could not be credited towards the company's current depreciation expenses, the Court stated:

Customers pay for service, not for the property used to render it. Their payments are not contributions to depreciation or other operating expenses, or to capital of the company. By paying bills for service they do not acquire any interest, legal or equitable, in the property used for their convenience or in the funds of the company. Property paid for out of moneys received for service belongs to the company, just as does that purchased out of proceeds of its bonds and stock. *Id.* at 32.

This decision drew no distinction between property used for utility or nonutility purposes. Nor did it draw any distinction between profits from plant in service and profits from unconstructed plant. Based on the rationale established in *Board of Public Utility Commissioners*, as adopted by this Commission in *Duke Power* and Order No. 473, I see no basis for different treatment of the gains from VEPCO's sale.

ElectricCities points out that *Duke Power* involved a subsidiary engaged in land transactions rather than gains from the sale of utility property. As I noted above, however, the language in the Supreme Court decision is broad and all encompassing. There is no indication that it was intended to apply only to nonutility property. Nor do I believe that the Commission intended the *Duke Power* decision to be so limited, as evidenced by the fact that Order No. 473 clearly applies to all utility-owned property.

ElectriCities also contends that if the Chief Accountant's directive is deemed inconsistent with the Commission precedent than those rulings should be reconsidered. ElectriCities argues argues that *Board of Public Utilities* applied "outdated regulatory notions", the precedential value of which has been questioned by the Commission in *Municipal Light Bds.* v. *Boston Edison Co.*, 54 FPC 440, 442 (1975), *aff'd sub nom. Towns of Norwood* v. *FPC*, 546 F.2d 1036 (D.C. Cir. 1976). (Motion at 4) ElectricCities' reliance upon *dicta* in that opinion, however, is misplaced. The Commission's criticism of *Board of Public Utilities* went to its outdatedness with respect to depreciation theory. The Commission did not even mention the Supreme Court's ruling with respect to ratepayers' proprietary interest in utility property. Consequently, that portion of the Supreme Court's decision remains intact as the precedent of this Commission.

ElectriCities directs us to compare *Board of Public Utilities* with *Democratic Central Committee of the District of Columbia* v. *Washington Metropolitan Area Transit Commission* 485 F.2d 786 (D.C. Cir 1973), *cert. denied*, 415 U.S. 935 (1974) as further evidence of the outdatedness of that decision. ElectriCities interprets *Democratic Central Committee* as standing for the proposition that since "ratepayers pay expenses and depreciation on utility property, they should enjoy the gain realized when the property is sold." (Motion at 4–5) Ratepayers have always paid the expenses and depreciation on utility property. That fact does not alter or negate the logic of the 1926 decision. Moreover, *Democratic Central Committee* is clearly distinguishable from this case. The property at issue there was nondepreciable real property that had been in service and then taken out of service and sold. Consequently, ElectriCities has raised no facts or principles of law to warrant a reconsideration of the *Duke Power* case and Order No. 473.[1]

Indeed, there are current facts which support the continuance of our previous regulatory practice. I believe that the sale of an interest in a plant at a profit may be the exercise of good business judgment for which the utility should reap the benefit. This regulatory treatment should serve to give the

[1] I also note that VEPCO has not been CWIP on the sold portion of the project, as this sale occurred prior to the effectiveness of the Commission's CWIP rule. *See* Order No. 298, Docket No. RM81-38, issued May 16, 1983.

utility an incentive to sell interests in projects so that ratepayers are not bearing the burden of unneeded plant. Without this incentive, ratepayers would be responsible for many of the costs of a plant, assuming the initial decision to build the plant was prudent. Consequently, the ratepayers here would receive some benefit from the sale made by VEPCO in that they would only contribute to that portion of the plant actually needed by VEPCO to serve its native load customers. Absent this sale, VEPCO's ratepayers would have to contribute to the entire plant.

Accordingly, I would find that the directive of the Chief Accountant is in error and grant VEPCO's appeal. The approximately $3.9 million net gain from the sale by VEPCO should be credited to Account 421.1 as a gain on the disposition of property.

A. G. Sousa,

Commissioner.

[FR Doc. 84-2069 Filed 1-25-84; 8:45 am]

BILLING CODE 6717-01-M

Blanket Notice of Determination Under the Natural Gas Policy Act for OCS Leases Issued on or After April 20, 1977

January 20, 1984.

On September 27, 1983, the Federal Energy Regulatory Commission (Commission) issued Order No. 336 under Docket Nos. RM83-3 and RM81-12 (48 FR 44,508 September 29, 1983). In that order, the Commission amended its regulations relating to filing requirements for well category applications under the Natural Gas Policy Act of 1978 (NGPA). The determination process for natural gas produced from a new lease, i.e., a lease entered into on or after April 20, 1977, on the Outer Continental Shelf (OCS), and qualifying as new natural gas under Section 102 of the NGPA, was amended in two respects. First, the Commission eliminated the requirement that a determination be made for each well producing gas from a new OCS lease. Second, in lieu of filing an application for each well, the Commission now permits the grant of a new OCS lease to constitute the requisite jurisdictional agency determination that the gas is produced from a new OCS lease.

Under the new procedures, the U.S. Department of Interior, Minerals Management Service (MMS), must file within 60 days of the grant of the lease a notice of determination which includes the lease number, the area and block number, and the date on which the OCS lease was issued by the Secretary of the Interior. This determination is subject to Commission review in the same manner as other jurisdictional agency determinations.

The Commission also adopted a blanket notice of determination procedure that allows new leases that have been granted by the MMS prior to the effective date of Order No. 336 to take advantage of this new rule. Pursuant to § 274.104(c) of the Commission's regulations, as revised by Order No. 336, notice is hereby given that on December 29, 1983, the Pacific OCS Region office of the MMS notified the Commission that the following leases, listed by date of sale, were granted on or after April 20, 1977:

Lease No. OCS-P	Effective date
Oil and gas sale No. 48 of June 29, 1977	
315-364	Sept. 1, 1979.
366-369	Sept. 1, 1979.
Oil and gas sale No. 53 of May 28, 1981	
393	Sept. 1, 1981
394-397	July 1, 1981.
400-416	July 1, 1981.
418-422	July 1, 1981.
424-427	July 1, 1981.
429-441	July 1, 1981.
443-453	July 1, 1981.
Oil and gas sale No. 68 of June 11, 1982	
456-457	Aug. 1, 1982.
459	July 1, 1982
460-465	Aug. 1, 1982.
467-469	Aug. 1, 1982
472	Aug. 1, 1982.
473	June 1, 1982
474	July 1, 1982
475	Aug. 1, 1982
478	June 1, 1982.
479-490	Aug. 1, 1982
491-500	Sept.1, 1982.

A complete list of the Pacific Region OCS lease numbers, with the legal description and date on which each lease was issued by the Secretary of the Interior is available for inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of this notice in the **Federal Register**.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-2070 Filed 1-25-84; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[Docket No. ECAO-HA-84-1; ORD-FRL 2513-7]

Draft Health Assessment Document for Hexachlorocyclopentadiene

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability.

SUMMARY: A number of chemical substances which are emitted to the ambient air are currently being studied by the Environmental Protection Agency to determine whether they should be regulated under Section 112 of the Clean Air Act. One of the factors in the Agency's study of this chemical is the evaluation of available information pertaining to human health effects. The evaluation of the chemical, hexachlorocyclopentadiene, is contained within a draft health assessment document prepared by the Office of Health and Environmental Assessment of the Office of Research and Development.

In order to have a thorough review of the scientific aspects of this document, external review drafts will be transmitted to the Agency's Science Advisory Board (SAB) for review, and simultaneouly will be made available for public review and comment.

DATES: The draft Health Assessment Document for Hexachlorocyclopentadiene (EPA No. 600/8-84-001A) will be available for public review on or about February 21, 1984, and the Agency will accept public comments until April 23, 1984. Comments must be received by close of business, April 23, 1984, in order to be considered.

After receipt of all public comments on the document, the SAB will hold a public meeting to review the document. An advance notice announcing the time and place for the SAB public meeting and document agenda will appear in the **Federal Register**.

ADDRESSES: Those persons interested in commenting on the scientific merit of the draft document will be able to obtain copies for review as follows:

(1) The draft document will be available in single copy quantity from EPA at the following address: ORD Publications—CERI-FR-HEX, U.S. Environmental Protection Agency, Cincinnati, Ohio 45268, Tel: 513/684-7562. Requesters should be sure to cite the EPA number assigned to the document and should send their names and addresses to CERI at this time to receive the draft document.

(2) The draft document will also be available for public inspection and copying at the EPA library at Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460.

Comments must be received by close of business, April 23, 1984, in order to be considered. Comments must be made in writing and should be sent to David J. Reisman, Environmental Criteria and Assessment Office, U.S. Environmental Protection Agency, 26 W. St. Clair

Street, Room 105, Cincinnati, Ohio 45268.

FOR FURTHER INFORMATION CONTACT: David J. Reisman, Tel: 513/684–7572.

Bernard D. Goldstein,

Assistant Administrator for Research and Development.

January 23, 1984.

[FR Doc. 84–2185 Filed 1–25–83; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Amendment To Provide High Frequency Spectrum for Use by Eligibles in the Special Industrial, Petroleum, Telephone Maintenance and Power Radio Services

AGENCY: Federal Communications Commission.

ACTION: Public notice announcing certain available frequencies.

SUMMARY: The Commission identifies frequencies available initially for long distance (HF) radiocommunication circuits for use by eligibles in the Power, Petroleum, Special Industrial and Telephone Maintenance Radio Services. This Notice is necessary to inform licensees which frequencies they may use.

FOR FURTHER INFORMATION CONTACT: Keith Plourd, Private Radio Bureau, Washington, D.C. (202) 634–2443.

William J. Tricarico,

Secretary, Federal Communications Commission.

FCC Announces Frequencies Available Initially for Long Distance Industrial Communications

January 17, 1984.

On June 29, 1983, the Commission amended its rules to establish new licensing, technical and operational requirements and procedures to provide certain Industrial Radio Service licensees with long distance (HF) capability.

Effective August 15, 1983, the Commission made available to specific classes of eligibles in the Power, Telephone Maintenance, Petroleum and Special Industrial Radio Services the following frequency bands (kHz):

2107–2170	5005–5450	14350–14990
2194–2495	5730–5950	15450–16460
2505–2850	6763–7000	17360–17700
3155–3200	7300–8195	18030–18068
3200–3230	9040–9500	18168–19990
3230–3240	9775–9995	20010–21000
3240–3400	10150–11175	21750–21850
4000–4063	11400–11700	22720–23200
4438–4650	11977–12330	23350–24890
4750–4995	13360–14000	

On frequencies above 4650 kHz, transmissions from stations in motion are strictly prohibited. Only fixed or itinerant fixed operations are permitted.

Authorizations granted pursuant to the new rules (see Public Notice #5956, August 15, 1983) do not convey authority to operate on all frequencies in the bands. Only frequencies announced by Public Notice may be used under the provisions of § 90.266 of the Commission's Rules. Authorizations will be issued for bands of frequencies and will be qualified with the following note printed on the face of the license:

Only those frequencies identified by Public Notice are available for use.

Applicants are reminded not to request specific frequencies in the frequency column of Form 574, but rather to indicate both the bands and number of frequencies in each band necessary to fulfill their communications requiremenbts. Applicants are encouraged to consult a user data base in selecting the actual frequency of operation.

The following frequencies are available initially for use in accordance with rule provisions for long distance industrial communications (see § 90.266 of the Commission's Rules) under the geographic and time-of-day limitations indicated:

Frequency carrier assigned	Time of day	Geographic restrictions	Class of station
2289.0 2290.4		United States and Insular Areas (USIA)	Fixed, base or mobile
2292.0 2293.4		do	Do
2395.0 2396.4		do	Do
2398.0 2399.4		do	Do
3170.0 3171.4		do	Do
4538.6 4540.0	Nighttime Only	do	Do
4548.6 4550.0	do	do	Do
4575.0 4576.4		do	Do
4610.5 4611.9		do	Do
4613.5 4614.9		do	Do
4634.5 4635.9		do	Do
4637.5 4638.9		do	Do
4647.0 4648.4		do	Do
5046.6 5048.0		East of 108 degrees West Longitude	Fixed, Itinerant Fixed
5052.6 5054.0		do	Do
5055.6 5057.0		do	Do
5061.6 5063.0		West of 90 degrees West Longitude	Do
5067.6 5069.0		USIA	Do
5074.6 5076.0		East of 108 degrees West Longitude	Do
5099.1 5100.5		USIA	Do
5102.1 5103.5		do	Do
5313.6 5315.0		do	Do
6800.1 6801.5	Nighttime only	do	Do
6803.1 6804.5		do	Do
6806.1 6807.5		West of 90 degrees West Longitude	Do
6855.1 6856.5	Nighttime only	West of the Mississippi River	Do
6858.1 6859.5	do	USIA	Do
6861.1 6862.5		West of 90 degrees West Longitude	Do
6885.1 6886.5	Nighttime only	USIA	Do
6888.1 6889.5	do	do	Do
7480.1 7481.5		do	Do
7483.1 7484.5		do	Do
7486.1 7487.5		East of 108 degrees West Longitude	Do
7549.1 7550.5	Daytime only	USIA	Do
7552.1 7553.5		do	Do
7555.1 7556.5		West of 90 degrees West Longitude	Do
7558.1 7559.5		do	Do
7559.1 7560.5		do	Do
7562.1 7563.5		do	Do
7697.1 7698.5		USIA	Do

[FR Doc. 84–2124 Filed 1–25–84; 8:45 am]

BILLING CODE 6712–01–M

[MM Docket Nos. 83–1388 and 83–1389; File Nos. BRCT–830531KN and BPCT–830901KJ]

Arizona Television Co., et al.; Hearing Designation Order

In the matter of Arizona Television Co., Phoenix, Arizona, MM Docket No. 83–1388, File No. BRCT–830531KN, for renewal of license of station KTVK–TV, Channel 3, Phoenix, Arizona, and Jason Communications, Inc., Phoenix, Arizona, MM Docket No. 83–1389, File No. BPCT–830901KJ, for construction permit for a new commercial television station on Channel 3, Phoenix, Arizona.

Adopted: December 23, 1983.

Released: January 9, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration the license renewal application of Arizona Television Company for commercial Station KTVK(TV), Channel 3, Phoenix, Arizona, and the mutually exclusive application of Jason Communications

Inc. (JCI) for a new commercial television station on the channel presently licensed to KTVK(TV).

2. Except as indicated by the issues specified below, the applicants are qualified. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

3. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

4. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

5. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 84-2111 Filed 1-25-84; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket Nos. 83-1386 and 83-1387; File Nos. BPCT-830120KF and File Nos. BPCT-830311KI]

Katy Communications, Inc. and Cape Video Network Inc.; Hearing Designation Order

In the matter of Katy Communications, Inc., Vineyard Haven, Massachusetts, MM Docket No. 83-1386, File No. BPCT-830120KF, and Cape Video Network, Inc., Vineyard Haven, Massachusetts, MM Docket No. 83-1387, File No. BPCT-830311KI, for construction permit.

Adopted: December 23, 1983.
Released: January 10, 1984.
By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it: (a) the above-captioned mutually exclusive applications of Katy Communications, Inc. (Katy), and Cape Video Network, Inc. (Cape Video) for authority to construct a new commercial television station on Channel 58, Vineyard Haven, Massachusetts; and (b) an informal objection filed by Walter H. Renear, Chairman of the Planning Board of the Town of Tisbury.

2. On February 17, 1983, Walter H. Renear, Chairman of the Planning Board of the Town of Tisbury, filed an informal objection, on behalf of the Board, against the Katy application. The objector alleges that: (a) The coordinates of the proposed tower site and the ground elevation level above mean sea level (AMSL) as shown in the application are incorrect; (b) the application and local public notice are in error with respect to the transmitter site because they specify the site as the Tisbury landfill, but the proposed site is actually one mile south of the landfill; (c) the applicant proposes to locate its tower near a 300-foot existing tower, but there is no tower in Tisbury higher than 220 feet; (d) the site on which the existing tower is located has been the subject of local controversy and, in fact, litigation; (e) the Town of Tisbury zoning laws prohibit towers in excess of 80 feet AGL (the existing radio tower being a pre-existing nonconforming use); and (f) while the application shows that Barry J. Carroll is the applicant's vice president, the local public notice shows him as president.

3. On May 20, 1983, in response to the town's objections, Katy amended its application. The amendment corrects the coordinates and the ground level AMSL. The applicant further states that the proposed site is not at the Tisbury landfill, but that description was given because the site is in a remote location which is difficult to describe. The area is not built up, has no street address, has no road intersections or buildings and the landfill reference was used because it is the only well-known feature which would allow the public to indentify the area. With respect to location near an existing tower, the applicant explained that the tower is that of Station WMVY(FM) and that it is 200 feet AGL, not 300 feet. The applicant further asserts that there is no local controversy over its proposal and that, in the course of conducting its community leader survey, it interviewed 21 leaders from Tisbury (including one who serves on the Town Planning Board) and none of them indicated any concern or that the proposal was, or might be controversial.[1] With respect to the zoning restrictions, the applicant states that it obtained assurance from local counsel that the required zoning variance could be obtained at the appropriate time. Finally, the misidentification of Carroll as persident in the local public notice is said to be an error by the newspaper.

4. We are satisfied with the explanations provided by the applicant, to which the Town filed no response. For the most part, the inconsistencies have been shown to be harmless errors and the remainder have been corrected by amendment. The informal objection will, therefore, be denied.

5. No determination has been made that the tower height and location proposed by Katy would not constitute a hazard to air navigation. Accordingly, an appropriate issue will be specified.

6. Section 73.636(a)(1) of the Commission's Rules states that no license for a television station shall be granted to any party if such party directly or indirectly owns, operates or controls one or more FM broadcast stations and the grant of such license will result in the Grade A contour of the proposed television station encompassing the entire community of license of the FM station. Note 8 to the rule provides, *inter alia,* that applications for UHF stations will be treated on a case-by-case basis in order to determine whether common ownership, operation or control of the station in question would be in the public interest. Cape Cod Broadcasting Company, Inc., which owns 100% of Cape Video Network Inc., is the licensee of FM broadcast station WQRC, Barnstable, Massachusetts. In the event the application is granted, Cape Video Network, Inc.'s proposed Grade A contour would envelop Barnstable. However, Cape Cod Broadcasting Company, Inc. has stated that it would divest all of its interest in WQRC(FM), Barnstable, Massachusetts, prior to the commencement of operation of the television station. Accordingly, any grant of a construction permit to Cape Video will be conditioned upon Cape

[1] The "controversy" and litigation to which the objector referred was probably that surrounding construction of the WMVY(FM) tower which required a zoning variance. Neither then objector nor the applicant has furnished any facts on this aspect.

Cod Broadcasting Company, Inc.'s divestiture of all interest in and connection with, station WQRC(FM), Barnstable, Massachusetts.

7. Cape Video proposes to operate from a site located within 250 miles of the Canadian border with maximum visual effective radiated power of more than 1000 kilowatts. The proposal poses no interference threat to United States television stations; however, it contravenes an agreement between the United States and Canada which limits the maximum visual ERP of United States television stations located within 250 miles of Canada to 1000 kilowatts. *Agreement Effectuated by Exchange of Notes,* T.I.A.S. 2594 (1952). In the event of a grant of the application, the construction permit shall contain a condition precluding station operation with maxium visual ERP in excess of 1000 kilowatts absent Canadian consent. *South Bend Tribune,* 8 R.R. 2d 416 (1966).

8. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

9. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether there is a reasonable possibility that the tower height and location proposed by Katy Communications, Inc. would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

10. It is further ordered, That the informal objection filed by Walter H. Renear, Chairman of the Planning Board of the Town of Tisbury against Katy Communications, Inc. is denied.

11. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 1.

12. It is further ordered, That, in the event of a grant of Cape Video Network, Inc.'s application, it will be conditioned as follows:

Prior to the commencement of operation of the television station authorized herein, Cape Video Network, Inc. shall certify to the Commission that Cape Cod Broadcasting Company, Inc. has servered all interested in, and connection with WORC(FM), Barnstable, Massachusetts.

13. It is further ordered, That, in the event of a grant of Cape Video's application, the construction permit shall contain the following condition:

Operation with effective radiated visual power in excess of 1000 kW after May 1, 1985 is subject to a further extension of consent by Canada.

14. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and party respondent herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specifed in this Order.

15. It is further ordered, That the applicants herein shall, pursuant to to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 84-2113 Filed 1-25-84; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket Nos. 83-1393, 83-1392 and 83-1394; File Nos. BPET-830502KH, BPCT-830519KF and BPCT-830607KF]

Public Television 19, Inc., et al.; Hearing Designation Order

In the matter of Public Television 19, Inc., St. Joseph, Missouri (MM Docket No. 83-1392 File No. BPET-830502KH), Citizens Rights Telecommunications Co., St. Joseph, Missouri (MM Docket No. 83-1393 File No. BPCT-830519KF) and Metro Program Network, Inc., St. Joseph, Missouri (MM Docket No. 83-1394 File No. BPCT-830607KF) for construction permit.

Adopted: December 23, 1983.

Released: January 10, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Public Television 19, Inc. (Public Television), Citizens Rights Telecommunications Company (Citizens), and Metro Program Network, Inc. (Metro) for authority to construct a new television station [1] on channel 22, St. Joseph, Missouri.

2. Channel 22 is one of three television channels allocated to St. Joseph, Missouri, and is the only channel not authorized to an existing station. Of the three competing applicants, only Public Television proposes noncommercial educational programming. Accordingly, for purposes of comparison, the need for noncommercial programming as proposed by Public Television or commercial programming as proposed by the other applicants will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.[2]

3. Public Television indicates that it is depending on NTIA for most of its finances. However, we have no information regarding whether Public Television has actually filed a request for funds with that agency. Accordingly, an issue will be specified to determine whether there is a reasonable assurance that the funds needed to construct and operate the proposed station would be available in the event of a grant of the construction permit.

4. Section V-C, item 10, FCC Form 301, requires that an applicant submit figures for the area and population within its predicted Grade B contour. Citizens has not submitted figures for the population. Consequently, we are unable to determine whether there would be a

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[1] Public Television proposes a noncommercial educational facility.

[2] Compare *Houma Broadcasters, Inc.,* FCC 80-534, 45 FR 66866 (1980), a mutually exclusive proceeding involving a noncommercial applicant and several commercial applicants. In designating the applicants for comparative hearing, a qualifying issue was specified with respect to the need for educational programming as opposed to commercial programming where the noncommercial applicant proposed coverage area would substantially overlap the coverage area of its existing station. The common coverage areas were so substantial that Houma, the proposed city of license, was wholly within the Grade B contour of the existing station. The facts in this case are unlike the *Houma* situation in that the overlap area is not substantial, being less than 25%. Further, the applicant would provide a first noncommercial service to more than 140,000 persons. In any case, there is ample Commission precedent for comparing commercial and noncommercial applicants in a hearing relative to an unreserved channel. *VHF Drop In Proceeding,* 90 FCC 2d 160, 180 (1980).

significant difference in the size of the area and population that each applicant proposes to serve. Citizens will be required to submit an amendment showing the required information, within 20 days after this Order is released, to the presiding Administrative Law Judge. If it is determined that there is a significant disparity between the areas and populations, the presiding Administrative Law Judge will consider it under the standard comparative issue.

5. No determination has been made that the tower height and location proposed by Citizens [3] and Metro would not constitute a hazard to air navigation. An issue regarding this matter will be specified.

6. Applicants for new broadcast stations are required to give local notice of the filing of their applications, in accordance with Section 73.3580 of the Commission's Rules. They must then file proof of publication of such notice or certify that they have or will comply with the public notice requirement. We have no evidence, however, that Public Television has done either. Accordingly, Public Television will be required to file a statement that it has or will comply with the public notice requirement with the Administrative Law Judge within 20 days of the release of this Order.

7. Citizens' proposed antenna is to be mounted on the existing tower of Station KGNM(AM), St. Joseph, Missouri. Therefore, in order to insure that the AM pattern will not be adversely affected, a grant of this application will be appropriately conditioned.

8. Section II, page 3, item 7(d), FCC Form 301, inquires whether an applicant or any party to the application had any interest in a broadcast application in any Commission proceeding which left unresolved character issues against that applicant. Metro has not answered item 7(d). Metro will be required to submit its response to item 7(d) to the presiding Administrative Law Judge within 20 days after the date of the release of this Order.

9. Metro's proposed site is 163 miles from the site of vacant Channel 22, Joplin, Missouri, whereas § 73.610(b)(1) of the Commission's Rules requires a mimimum separation of 175 miles. The applicant, therefore, would be short-spaced 12 miles to vacant Channel 22, Joplin, Missouri. An issue will be specified to determine whether circumstances exist warranting a waiver. In assessing the circumstances to determine whether a waiver is warranted, the Administrative Law Judge should consider the fact that the other two competing applicants in this proceeding have specified fully-spaced sites.

10. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

11. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications Are Designated for Hearing in a Consolidated Proceeding, before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Public Television, whether there is a reasonable assurance that the funds needed to construct and operate the proposed station would be available in the event of a grant of the construction permit.

2. To determine whether there is a reasonable possibility that the tower height and location proposed by Citizens Rights Telecommunications Company and Metro Program Network, Inc. would each constitute a hazard to air navigation.

3. To determine, with respect to Metro Program Network, Inc., whether the proposed site is consistent with the minimum mileage separation requirements of § 73.610 of the Commission's Rules, and if not, whether circumstances exist which would warrant a waiver of the rule.

4. To determine which of the proposals would, on a comparative basis, better serve the public interest.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

12. It Is Further Ordered, That Citizens Rights Telecommunications Company shall submit an amendment stating the population within its predicted Grade B contour, within 20 days after this Order is released, to the presiding Administrative Law Judge.

13. It Is Further Ordered, That Public Television 19, Inc. shall file certification with the presiding Administrative Law Judge that it has or will publish local notice of the filing of its application, within 20 days after the date of release of this Order.

14. It Is Further Ordered, That any grant of a construction permit to Citizens Rights Telecommunications Compay will be subject to the following condition:

During installation of the antenna authorized herein, AM Station KGNM shall determine operating power by the indirect method. Upon completion of the installation, antenna impedance measurements on the AM antenna shall be made and, prior to or simultaneous with the filing of the application for license to cover this permit, the results submitted to the Commission (along with a tower sketch of the installation) in an application for the AM station to return to the direct method of power determination.

15. It Is Further Ordered, That Metro Program Network, Inc. shall submit a response to Section II, page 3, item 7(d), FCC Form 301, to the presiding Administrative Law Judge within 20 days after the date of the release of this Order.

16. It Is Further Ordered, That the Federal Aviation Administration Is Made a Party Respondent to this proceeding with respect to issue 4.

17. It Is Further Ordered, That, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

18. It Is Further Ordered, That, the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Steward,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 84-2112 Filed 1-25-84; 8:45 am]

BILLING CODE 6712-01-M

[3] The Commission's Antenna Survey Branch has no record of a structure of the height proposed by the applicant at the designated site.

New FM Stations; Application for Consolidated Hearing; Humphreys County Broadcast Company

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city, and State	File No.	MM Docket No.
A. Humphreys County Broadcasting Company, Inc. WELZ; Belzoni, MS.	BPH-821117AO	83-1397
B. F. David Kaiser, Jr. & Venita Kasier; Belzoni, MS.	BPH-830318AK	83-1398

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. (See Appemdix), A and B
2. Air Hazard, A
3. Comparative, A and B
4. Ultimate, A and B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix of this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, N.W., Washington, D.C. 20554. Telephone (202) 632-6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix

Issue(s)

1. If a final environmental impact statement is issued with respect to A (Humphreys) and B (Kaiser) which concludes that the proposed facilities are likely to have an adverse effect on the quality of the environment,

(a) To determine whether the proposal is consistent with the National Environmental Policy Act, as implemented by §§ 1.1301-1319 of the Commission's Rules; and

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicants are qualified to construct and operate as proposed.

[FR Doc. 84-2115 Filed 1-25-84; 8:45 am]

BILLING CODE 6712-01-M

New FM Stations; Applications for Consolidated Hearing; Osage Radio Inc.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city, and State	File No.	MM Docket No.
A. Osage Radio, Inc., Central City, NE.	BPH-830222AB	83-1399
B. The Nebraska Rural Radio Association; Central City, NE.	BPH-830518AD	83-1400

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issues headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. (See Appendix), A, B
2. Comparative, A, B
3. Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632-6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix

Issue(s)

1. If a final environmental impact statement is issued with respect to A (Osage) or B (Rural Radio) which concludes that the proposed facilities are likely to have an adverse effect on the quality of the environment,

(a) To determine whether the proposal is consistent with the National Environmental Policy Act, as implemented by Sections 1.1301-1319 of the Commission's Rules; and

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is qualified to construct and operate as proposed.

[FR Doc. 84-2117 Filed 1-25-84; 8:45 am]

BILLING CODE 6712-01-M

New FM Station; Applications for Consolidated Hearing; Oscar Jerome Green, et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city, and State	File No.	MM Docket No.
A. Oscar Jerome Green; Pine Bluff, AR	BPH-830310AB	83-1403
B. G. E. Gunter d.b.a. Jefferson County Broadcasting; Pine Bluff, AR.	BPH-830516AJ	83-1404
C. Joseph Franklin Appling; Pine Bluff, AR.	BPH-830520AO	83-1405
D. KCLA, Inc., Pine Bluff, AR	BPH-830520AV	83-1406

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Main Studio, C
2. Air Hazard, B, D
3. Comparative, All
4. Ultimate, All

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919

M Street, NW., Washington, D.C. 20554. Telephone (202) 632-6334

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 84-2119 Filed 1-25-84; 8:45 am]

BILLING CODE 6712-01-M

New FM Stations; Applications for Consolidated Hearing; Sandia '76, Inc., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city, and State	File No	MM Docket No.
A. Sandia '76, Inc.; Hope, AR	BPH-821022AF	83-1401
B. Fem Co Media, Inc.; Hope, AR	BPH-830321AI	83-1402

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Air Hazard, B
2. Comparative, A, B
3. Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full test of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, N.W., Washington, D.C. 20554. Telephone (202) 632-6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 84-2118 Filed 1-25-84; 8:45 am]

BILLING CODE 6712-01-M

New FM Station; Application for Consolidated Hearing; Woodcom, Inc.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city, and State	File No	MM Docket No
A. Woodcom, Inc., Lewiston, ID	BPH-811215AL	83-1395
B. Reed Broadcasting of Asotin, Asotin, WA	BPH-821021AM	83-1396

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. (See Appendix), A
2. Air Hazard, B
3. 307(b), A, B
4. Contingent Comparative, A, B
5. Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632-6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix

Issue(s)

1. If a final environmental impact statement is issued with respect to A (Woodcom), which concludes that the proposed facilities are likely to have an adverse effect on the quality of the environment,

(a) To determine whether the proposal is consistent with the National Environment Policy Act, as implemented by §§ 1.1301-1.1319 of the Commission's Rules; and

(b) Whether in light of the evidence adduced pursuant to (a) above, the applicant is qualified to construct and operate as proposed.

[FR Doc. 84-2116 Filed 1-25-84; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket Nos. 83-1390 and 83-1391; File Nos. BPCT-830818KF and BPCT-831018KO]

Retherford Publication, Inc. and Woodrow D. Nelson; Hearing Designation Order

In the matter of Retherford Publications, Inc., Pontiac, Illinois (MM Docket No. 83-1390; File No. BPCT-830818KF), and Woodrow D. Nelson, Pontiac, Illinois (MM Docket No. 83-1391; File No. BPCT-831018KO) for construction permit.

Adopted: December 23, 1983.

Released: January 10, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for a new commercial television station to operate on Channel 53, Pontiac, Illinois.

2. No determination has been reached that the tower height and location proposed by Woodrow D. Nelson would not constitute a hazard to air navigation. Accordingly, an issue regarding this matter will be specified.

3. Section V-C, item 10, FCC Form 301, requires that an applicant submit figures for the area and population within its predicted Grade B contour. Retherford Publications, Inc. has not specified the population within its Grade B contour; Woodrow D. Nelson has not submitted the area or population. Consequently, we are unable to determine whether there would be a significant difference in the size of the area and population that each proposes to serve. Each applicant will be required to submit an amendment showing the required information, within 20 days after this Order is released, to the presiding Administrative Law Judge. If it is determined that there is a significant disparity between the areas and populations, the presiding Administrative Law Judge will consider it under the standard comparative issue.

4. Retherford Publications, Inc. indicates, in Section V-C, item 11, FCC Form 301, that it will provide city grade service to its entire principal community. However, the coverage map submitted by the applicant does not

show Pontiac, Illinois, as required by Section V–C, item 10(c), FCC Form 301. Retherford will be required to provide a map clearly indicating the predicted city grade, Grade A and Grade B contours, the legal boundaries of Pontiac and the transmitter location, to the presiding Administrative Law Judge, within 20 days after this Order is released.

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, it is ordered, that, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Woodrow D. Nelson whether there is a reasonable possibility that the tower height and location proposed would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, that the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 1.

8. It is further ordered, that Retherford Publications, Inc. and Woodrow D. Nelson shall each submit an amendment showing the appropriate information as required by Section V–C, Item 10, FCC Form 301, to the presiding Administrative Law Judge, within 20 days after this Order is released.

9. It is further ordered, that, Retherford Publications, Inc. shall submit a map clearly indicating its predicted service contours, the legal boundaries of its principal community and the proposed transmitter location, to the presiding Administrative Law Judge, within 20 days after this Order is released.

10. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

11. It is further ordered, that the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by §73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 84–2133 Filed 1–25–84; 8:45 am]

BILLING CODE 6712–01–M

Telecommunications Industry Advisory Group; Definitions and Rules Subcommittee Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is given of a meeting of the Telecommunications Industry Advisory Group's (TIAG) Definitions and Rules Subcommittee scheduled to meet on Tuesday, February 14, through Thursday, February 16, 1984. The meeting will begin on February 14th at 9:30 a.m. in the offices of AT&T Communications, 795 Folsom Street, Room 325, San Francisco, California, and will be open to the public. The agenda is as follows:

I. General Administrative Matters
II. Review of Minutes of Previous Meeting
III. Rewrite of USOA Other Balance Sheet Accounts
IV. Other Business
V. Presentation of Oral Statements
VI. Adjournment

With prior approval of Subcommittee Chairman John Utzinger, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Utzinger (203) 965–2830 at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84–2131 Filed 1–25–84; 8:45 am]

BILLING CODE 6712–01–M

Telecommunications Industry Advisory Group; Expense Accounts Subcommittee Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of two meetings of the Telecommunications Industry Advisory Group's (TIAG) Expense Accounts Subcommittee scheduled to meet on February 14–15 and February 21–22, 1984. The meetings will begin at 9:00 a.m. and will be open to the public. The meeting locations are:

February 14–15, 1984: Central Services Organization. 2101 L. Street, N.W. (6th Floor), Washington, D.C.

February 21–22, 1984: GTE SPRINT, 1828 L Street, NW., 5th Floor (Large Conference Room), Washington, D.C.

The agenda are as follows:

I. General Administrative Matters
II. Discussion of Assignments
III. Other Business
IV. Presentation of Oral Statements
V. Adjournment

With prior approval of Subcommittee Chairman John Howes, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of a Subcommittee and wishing to make an oral presentation should contact Mr. Howes ((212) 393–4029) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84–2130 Filed 1–25–84; 8:45 am]

BILLING CODE 6712–01–M

Telecommunications Industry Advisory Group; Plant Accounts Subcommittee Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee (Pub. L. 92–463), notice is hereby given of meetings of the Telecommunications Industry Advisory Group (TIAG) Plant Accounts Subcommittee. The meetings will begin at 10:00 a.m. and will be open to the public. The meeting dates and locations are as follows:

February 7–8, 1984: MCI, 3rd Floor Conference Room, 1133 19th Street, NW., Washington, D.C.

February 21–22, 1984: Deloitte, Haskins & Sells, Metropolitan Square, Suite 700, 655 Fifteenth Street, NW., Washington, D.C.

The agenda is as follows:

I. General Administrative Matters
II. Review of Minutes of Previous Meeting
III. Report of Subcommittee Members
IV. Discussion of Instructions for Telephone Plant Accounts
V. Further Assignments
VI. Other Business
VII. Adjournment

With prior approval of Subcommittee Chairman Gyles Norwood, oral statements, while not favored or encouraged, may be allowed at the meeting if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Norwood ((703) 486–4168) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84–2129 Filed 1–25–84; 8:45 am]

BILLING CODE 6712–01–M

Telecommunications Industry Advisory Group; Separations and Costing Subcommittee

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group (TIAG) Separations and Costing Subcommittee scheduled for Thursday-Friday, February 9–10, 1984. The meeting will begin at 10:00 a.m., and will be held at the offices of the FCC, Room 5119, 2025 M Street, N.W., Washington, D.C. The meeting will be open to the public. The agenda is as follows:

I. Review of Minutes of Previous Meeting
II. General Administrative Matters
III. Consideration of Expense Accounts for Part 67
IV. Consideration of Revenue Accounts for Part 67
V. Consideration of Expense Accounts for Part 69
VI. Other Business
VII. Presentation of Oral Statements
VIII. Adjournment

With prior approval of Subcommittee Chairman Eric Leighton, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Leighton (518/462–2030) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84–2132 Filed 1–25–84; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL RESERVE SYSTEM

Anchor Financial Corporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated for that application. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. With respect to each application, interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, indentifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than February 16, 1984.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Anchor Financial Corporation,* Myrtle Beach, South Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of The Anchor Bank of Myrtle Beach, Myrtle Beach, South Carolina.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Anderson Bancorp, Inc.,* Oneida, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Anderson State Bank, Oneida, Illinois.

2. *Eldon Bankshares,* Eldon, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Eldon, Eldon, Iowa.

3. *Gary-Wheaton Corporation,* Wheaton, Illinois; to acquire 67 percent of the voting shares or assets of First Security Bank of Fox Valley, Aurora, Illinois.

Board of Governors of the Federal Reserve System, January 20, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–2175 Filed 1–25–84; 8:45 am]

BILLING CODE 6210–01–M

Barnett Banks of Florida, Inc.; Proposed De Novo Nonbank Actvities

The organization identified in this notice has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to the application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment on the application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearings should identify clearly the specific application to which they relate, and

should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Mariett Street, N.W., Atlanta, Georgia 30303:

1. *Barnett Banks of Florida, Inc.*, Jacksonville, Florida (check verification services; Florida and Alabama): To engage through its subsidiary, Verifications, Inc., in offering from additional offices, check verification services, including authorizing subscribing merchants to accept certain personal purchase money checks and obligating Verifications, Inc. to purchase properly verified checks which are subsequently dishonored. These activities would be conducted from additional offices in Tampa, Clearwater, West Palm Beach, and Pennsacola, Florida; and Montgomery, Alabama, or their surrounding metropolitan areas, as well as from existing offices of Verifications, Inc. and would be offered throughout the States of Florida and Alabama. Comments on this application must be received not later than February 20, 1984.

Board of Governors of the Federal Reserve System, January 20, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2176 Filed 1-25-84; 8:45 am]

BILLING CODE 6210-01-M

Dunn County Bankshares, Inc., et al.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Dunn County Bankshares, Inc.*, Menomonie, Wisconsin; to become a bank holding company by acquiring 89.8 percent of the voting shares of Bank of Menomonie, Menomonie, Wisconsin. Comments on this application must be received not later than February 21, 1984.

2. *Southern Minnesota BancShares, Inc.*, Wells, Minnesota; to become a bank holding company by acquiring 86 percent of the voting shares of Security State Bank of Wells, Wells, Minnesota. Comments on this application must be received not later than February 21, 1984.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Nebraska Bancorporation, Inc.*, Alliance, Nebraska; to become a bank holding company by acquiring at least 80 percent of the voting shares of Alliance National Bank and Trust Company, Alliance, Nebraska. Comments on this application must be received not later than February 21, 1984.

Board of Governors of the Federal Reserve System, January 20, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2177 Filed 1-25-84; 8:45 am]

BILLING CODE 6210-01-M

Georgia Bankshares, Inc., et al.; Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Georgia Bancshares, Inc.*, Macon, Georgia; to acquire 100 percent of the voting shares or assets of The First State Bank of Fitzgerald, Fitzgerald, Georgia. Comments on this application must be received not later than February 21, 1984.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Brazosport Corporation*, Freeport, Texas; to acquire 100 percent of the voting shares of Mercantile National Bank of Corpus Christi, Corpus Christi, Texas. Comments on this application must be received not later than February 16, 1984.

Board of Governors of the Federal Reserve System, January 20, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2178 Filed 1-25-84; 8:45 am]

BILLING CODE 6210-01-M

Northern Trust Corporation; Proposed Acquisition of Jerome Hickey Associates, Inc.

Northern Trust Corporation, Chicago, Illinois, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Jerome Hickey Associates, Inc., Chicago, Illinois.

Applicant states that the proposed subsidiary would perform discount securities brokerage, related securities credit and incidental services such as offering custodial services. These activities would be performed from offices of Applicant's subsidiary in Chicago, Illinois and Scottsdale, Arizona and the geographic area to be served is the entire United States. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question

must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any person wishing to comment on the application should submit views in writing to be received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., not later than February 17, 1984.

Board of Governors of the Federal Reserve System, January 20, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2179 Filed 1-25-84; 8:45 am]

BILLING CODE 6210-01-M

Northern Wisconsin Bank Holding Company; Proposed Acquisition of Assets of Laona Insurance Agency

Northern Wisconsin Bank Holding Company, Laona, Wisconsin, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire the assets of Laona Insurance Agency, Laona, Wisconsin.

Applicant states that the proposed subsidiary would engage in the activities of acting as a general insurance agency in a town with a population of under 5,000. These activities would be performed from offices of Applicant's subsidiary in Laona, Wisconsin and the geographic area to be served is the town of Laona and surrounding area within 35 miles. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any person wishing to comment on the application should submit views in writing to be received by the Reserve Bank not later than February 16, 1984.

Board of Governors of the Federal Reserve System, January 20, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-2180 Filed 1-25-84; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction	Waiting period terminated effective—
(1) 83-1043—Bausch & Lomb Incorporated's proposed acquisition of voting securities of The Charles River Breeding Laboratories, Incorporated.	Jan. 6, 1984.
(2) 83-1047—Dr. Henry L. Foster's proposed acquisition of voting securities of Bausch & Lomb Incorporated.	Do.
(3) 83-1076—Cigna Corporation's proposed acquisition of voting securities of AFIA Finance Corporation.	Do.
(4) 83-1092—National Coal Board Staff Superannuation Scheme Trustees Limited's proposed acquisition of voting securities of RAMPAC.	Do.
(5) 83-1093—Committee of Management of the Mineworker's Pension Scheme's proposed acquisition of voting securities of RAMPAC.	Do.
(6) 83-1114—Health Resources Corporation of America's proposed acquisition of assets of Bristol Mercy Hospital Incorporated (Bristol General Hospital Company, UPE).	Do.
(7) 84-0003—Litton Industries, Incorporated's proposed acquisition of voting securities of Core Laboratories, Incorporated.	Jan. 9, 1984.
(8) 83-1046—The Philadelphia Saving Funds Society's proposed acquisition of voting securities of Homemakers Loan and Consumer Discount Company and Homemakers Finance Service Incorporated.	Do.
(9) 83-1125—Harsco Corporation's proposed acquisition of voting securities of Reed Minerals, Incorporated (Lone Star Industries, Inc., UPE).	Do.
(10) 83-1096—U.S. Industries, Incorporated's proposed acquisition of voting securities of Dual-Lite, Incorporated.	Jan. 10, 1984.
(11) 83-1059—Murphy Oil Corporation's proposed acquisition of assets of Sun Company, Incorporated.	Jan. 11, 1984.
(12) 83-1090—Sonat Incorporated's proposed acquisition of voting securities of Teleco Oilfield Services Incorporated.	Do.
(13) 83-1105—Holiday Inns Incorporated's proposed acquisition of assets of Granada Royale Management Company, Incorporated and Granada Royale Franchising Incorporated (Robert E. Woolley, UPE).	Do.
(14) 84-0009—CM Group's proposed acquisition of assets of CM Mechanical Corporation (Ronald E. Chamness, UPE).	Jan. 12, 1984.
(15) 83-1084—Aktiebolaget Volvo's proposed acquisition of voting securities of Hamilton Oil Corporation.	Do.
(16) 83-1121—Jenney Oil Company Incorporated's proposed acquisition of voting securities of Hamilton Oil Corporation.	Do.
(17) 83-1130—Clark Equipment Company's proposed acquisition of assets of Euclid, Incorporated (Daimler-Benz AG, UPE).	Do.
(18) 84-0001—Schottenstein Stores Corporation's proposed acquisition of voting securities of HRT Industries, Incorporated.	Do.
(19) 84-0002—Meshulam Riklis' proposed acquisition of voting securities of HRT Industries, Incorporated.	Do.
(20) 84-0005—Frederic C. Hamilton's proposed acquisition of voting securities of Hamilton Oil Corporation.	Do.
(21) 84-0006—Hamilton Brothers Petroleum Corporation's proposed acquisition of voting securities of Hamilton Oil Great Britain PLC.	Do.
(22) 83-1056—George S. Mann's proposed acquisition of voting securities of Amrep Corporation.	Jan. 13, 1984.
(23) 83-1058—Stora Kopparbergs Bergslags AB's proposed acquisition of voting securities of Newton Falls Paper Mill Incorporated, (American Broadcasting Companies, Incorporated, UPE).	Do.
(24) 83-1084—Stora Kopparbergs Bergslags AB's proposed acquisition of voting securities of Newton Falls Paper Mill Incorporated (McGraw-Hill Incorporated, UPE).	Do.
(25) 83-1098—Lumbermens Mutual Casualty Company's proposed acquisition of assets of Burton J. Vincent, Chesley and Company.	Do.

Transaction	Waiting period terminated effective—
(26) 83-1104—Medical Mutual's of Cleveland Incorporated's proposed acquisition of voting securities of Blue Cross of Northeast Ohio.	Do
(27) 83-1126—George S. Mann's proposed acquisition of voting securities of Institutional Investors Corporation.	Do
(28) 83-1120—Illinois Tool Works, Incorporated's proposed acquisition of N. A. Woodworth Company.	Jan. 16, 1984
(29) 83-1077—Durr-Fillauer Medical, Incorporated's proposed acquisition of voting securities of Nashville Surgical Supply Company, Incorporated.	Do

FOR FURTHER INFORMATION CONTACT: Patricia A. Foster, Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 84-2155 Filed 1-25-84; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 84M-0009]

Abbott Laboratories; Premarket Approval of Corzyme ™-M Diagnostic Kit

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of Corzyme ™-M Diagnostic Kit, sponsored by Abbott Laboratories, North Chicago, IL. After reviewing the recommendation of the Microbiology Device Section of the Immunology and microbiology Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by February 27, 1984.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles H. Kyper, National Center for Devices and Radiological Health (HFZ-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

SUPPLEMENTARY INFORMATION: On March 25, 1983, Abbott Laboratories, North Chicago, IL 60064, submitted to FDA an application for premarket approval of Corzyme ™-M Diagnostic Kit, an in vitro enzyme immunoassay for the qualitative determination of specific IgM antibody to hepatitis B virus core antigen (anti-HBc IgM) in human serum or plasma that also may be used as an aid in the diagnosis of accute or recent (usually 6 months or less) hepatitis B infection. The application was reviewed by the Microbiology Device Section of the immunology and Microbiology Devices Panel, an FDA advisory committee, which recommended approval of the application. on December 21, 1983, FDA approved the application by a letter to the sponsor from the Director of the Office of Device Evaluation of the National Center for Devices and Radiological Health.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the National Center for Devices and Radiological Health—contact Charles H. Kyper (HFZ-402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA's action under §10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before February 27, 1984, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 19, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-2106 Filed 1-25-84; 8:45 am]

BILLING CODE 4160-01-M

Advisory Committee; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meeting is announced:

General and Plastic Surgery Device Section of the Surgical and Rehabilitation Devices Panel

Date, time, and place. February 28, 9 a.m., Rm. 703-727A, 200 Independence Ave. SW., Washington, DC.

Type of meeting and contact person. Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 5 p.m.; Paul F. Tilton, National Center for Devices and Radiological Health (HFZ-410), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7238.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before February 23, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss a premarket approval application (PMA) for a polytetrafluoroethylene suture.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meeting announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Dated: January 19, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–2103 Filed 1–25–84; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 83F–0398]

Diamond Chemicals Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Diamond Chemicals Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of glyoxal-urea polymer (CAS Reg. No. 53037–34–6) as a starch insolubilizer in the manufacture of coatings for paper and paperboard in contact with dry food.

FOR FURTHER INFORMATION CONTACT: Julius Smith, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 4B3762) has been filed by Diamond Chemicals Co., P.O. Box 2386R, Morristown, NJ 07960, proposing that § 176.180 *Components of paper and paperboard in contact with dry food* (21 CFR 176.180) be amended to provide for the safe use of glyoxal-urea polymer (CAS Reg. No. 53037–34–6) as a starch insolubilizer in the manufacture of coatings for paper and paperboard in contact with dry food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: January 9, 1984.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 84–2104 Filed 1–25–84; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 83P–0430]

Grated Cheese Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to The Kroger Co., doing business as Pace Dairy Foods, Rochester, MN, to market test grated cheese containing powdered cellulose as an anticaking agent. The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the food.

DATES: This permit is effective for 15 months, beginning on the date the test product is introduced or caused to be introduced into interstate commerce, but no later than April 25, 1984.

FOR FURTHER INFORMATION CONTACT: Johnnie G. Nichols, Bureau of Foods (HFF–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–485–0117.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17, concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to The Kroger Co., doing business as Pace Dairy Foods, 2700 Valley High Drive NW., Rochester, MN 55901.

The permit covers limited interstate marketing tests of grated cheese that deviates from the standard of identity for grated cheeses (21 CFR 133.146). Powdered cellulose, an ingredient not currently permitted for use in grated cheese, will be used as an anticaking agent, either alone or in combination with other anticaking agents listed in § 133.146(b)(2) in an amount not to exceed 2 percent by weight of the finished food. The test product meets all requirements of § 133.146, with the exception of this deviation. The permit provides for the temporary marketing of

5 million pounds of grated cheese. The test product will be distributed throughout the United States.

The test product is to be manufactured at the Pace Dairy Foods plants located in Rochester, MN, and Crawfordsville, IN.

Each of the ingredients used in the food, including the powdered cellulose, is stated on the label as required by the applicable sections of 21 CFR Part 101. This permit is effective for 15 months beginning on the date the food is introduced or caused to be introduced into interstate commerce, but no later than April 25, 1984.

Dated: January 19, 1984.

Richard J. Ronk,

Acting Director, Bureau of Foods.

[FR Doc. 84-2105 Filed 1-25-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83P-0428]

Grated Cheese Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to California Cheese Co., San Jose, CA, to market test grated cheese containing powdered cellulose as an anticaking agent. The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the food.

DATES: This permit is effective for 15 months, beginning on the date the test product is introduced or caused to be introduced into interstate commerce, but no later than April 25, 1984.

FOR FURTHER INFORMATION CONTACT: Johnnie G. Nichols, Bureau of Foods (HFF-215), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202-485-0117.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17, concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to California Cheese Co., 1451 Sunny Court, San Jose, CA 95116.

The permit covers limited interstate marketing tests of grated cheese that deviates from the standard of identity for grated cheeses (21 CFR 133.146). Powdered cellulose, an ingredient not currently permitted for use in grated cheese, will be used as an anticaking agent, either alone or in combination with other anticaking agents listed in § 133.146(b)(2) in an amount not to exceed 2 percent by weight of the finished food. The test product meets all requirements of § 133.146, with the exception of this deviation. The permit provides for the temporary marketing of 3 million pounds of grated cheese. The test product will be distributed in the States of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, and Washington.

The test product is to be manufactured at the California Cheese Co. plant located in San Jose, CA.

Each of the ingredients used in the food, including the powdered cellulose, is stated on the label as required by the applicable sections of 21 CFR Part 101. This permit is effective for 15 months beginning on the date the food is introduced or caused to be introduced into interstate commerce, but no later than April 25, 1984.

Dated: January 19, 1984.

Richard J. Ronk,

Acting Director, Bureau of Foods.

[FR Doc. 84-2107 Filed 1-25-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83P-0429]

Grated Cheese Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Schreiber Foods, Inc., Green Bay, WI, to market test grated cheese containing powdered cellulose as an anticaking agent. The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the food.

DATES: This permit is effective for 15 months, beginning on the date the test product is introduced or caused to be introduced into interstate commerce, but no later than April 25, 1984.

FOR FURTHER INFORMATION CONTACT: Johnnie G. Nichols, Bureau of Foods (HFF-215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0117.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17, concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to Schreiber Foods, Inc., 425 Pine St., Green Bay, WI 54305.

The permit covers limited interstate marketing tests of grated cheese that deviates from the standard of identity for grated cheeses (21 CFR 133.146). Powdered cellulose, an ingredient not currently permitted for use in grated cheese, will be used as an anticaking agent, either alone or in combination with other anticaking agents listed in § 133.146(b)(2) in an amount not to exceed 2 percent by weight of the finished food. The test product meets all requirements of § 133.146, with the exception of this deviation. The permit provides for the temporary marketing of 11 million pounds of grated cheese. The test product will be distributed throughout the United States, in the Virgin Islands, and in Puerto Rico.

The test product is to be manufactured at the Schreiber Foods plants located in Carthage, MO, and Green Bay, WI.

Each of the ingredients used in the food, including the powdered cellulose, is stated on the label as required by the applicable sections of 21 CFR Part 101. This permit is effective for 15 months beginning on the date the food is introduced or caused to be introduced into interstate commerce, but no later than April 25, 1984.

Dated: January 19, 1984.

Richard J. Ronk,

Acting Director, Bureau of Foods.

[FR Doc. 84-2109 Filed 1-25-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83N-0424]

Revisions of Certain Food Chemicals Codex, 3d ed., Monographs; Opportunity for Public Comment

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on pending changes to certain Food Chemicals Codex, 3d Ed., monograph and is soliciting specification information on proposed new monographs. For certain substances used as food ingredients, revised materials, consisting of new monographs, and additions, changes, and corrections in several current monographs, are being prepared by the National Academy of Sciences/National

Research Council (NAS/NRC) Committee on Food Chemicals Codex. These revised materials will be published in the second supplement to the Food Chemicals Codex, 3d Ed.

DATE: Comments by March 26, 1984. (The NAS/NRC Committee on Food Chemicals Codex advises that comments that are not received by this date cannot be considered for the second supplement but will be considered for later supplements.)

ADDRESS: Written comments to the NAS/NRC Committee on Food Chemicals Codex, National Academy of Sciences (NAS 341), 2101 Constitution Ave. NW., Washington, DC 20418.

FOR FURTHER INFORMATION CONTACT:

Robert A. Mathews, Committee on Food Chemicals Codex, Food and Nutrition Board, 2101 Constitution Ave. NW., Washington, DC 20418, 202–334–2580;

or

John W. Gordon, Bureau of Foods (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–426–5487.

SUPPLEMENTARY INFORMATION: FDA provides research contracts to the NAS/NRC to support preparation of the Food Chemicals Codex, a compilation of specifications for substances used as food ingredients. In the **Federal Register** of February 5, 1982 (47 FR 5467), FDA announced that the NAS/NRC Committee on Food Chemicals Codex was considering monographs and revisions for the inclusion in the First Supplement to the Food Chemicals Codex, 3d Ed., which is now in press. The public was invited to comment and to make suggestions for consideration and inclusion in that publication.

The agency now gives notice that the NAS/NRC Committee on Food Chemicals Codex is soliciting comments and information on proposed new monographs and proposed changes to certain current monographs. Information received in response to this notice will be used for developing these new monographs and for determining the necessity of the contemplated changes to the current monographs. These changes and new monographs will be published in the second supplement to the Food Chemicals Codex, 3d Ed. Copies of the proposed changes to current monographs may be obtained from the National Academy of Sciences at the address listed above.

FDA emphasizes, however, that it will not consider adopting the second supplement to the Food Chemicals Codex, 3d Ed., until the public has had ample opportunity to comment on the changes. The opportunity for public comment will be announced in a notice published in the **Federal Register**.

The NAS/NRC Committee on Food Chemicals Codex invites comments and suggestions of specifications by all interested parties on the proposed monographs and proposed revisions of current monographs.

I. Proposed New Monographs

Annatto extract.
Bentonite.
Casein and caseinate salts.
Permanently listed certified food colors:
FD&C Blue No. 1,
FD&C Green No. 3,
FD&C Red No. 3,
FD&C Yellow No. 5.
Gelatin.
Hexanes.
High fructose corn syrup.
Invert sugar.
Lactose.
Polydextrose.
Refined coconut oil, corn oil, cottonseed oil, lard, palm kernel oil, safflower oil, soybean oil, sunflower oil.
Smoke flavor.

II. Current Monographs in Which NAS/NRC Is Proposing to Make Revisions

Butylated hydroxyanisole (GLC assay procedure).
Bominated vegetable oil (changes in description).
Butanol (new assay method/refractive index).
Calcium carbonate (inclusion of purified limestone).
Calcium sulfate (assay limit).
Carbon, activated (requirements/tests).
Dimethylpolysiloxane (refractive index/specific gravity/viscosity).
Hydrochloric acid (organic impurities/tests).
Isobutanol (new assay method/refractive index).
Zinc gluconate (structural forms/water content).

Two copies of written comments regarding this notice are to be submitted to the National Academy of Sciences at the address listed above. The National Academy of Sciences will forward copies of each comment to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, to be placed under Docket No. 83N–0424 for public review.

Dated: January 16, 1984.

John Taylor,
Acting Director, Bureau of Foods.

[FR Doc. 84–2102 Filed 1–25–84; 8:45 am]
BILLING CODE 4160–01–M

[Docket No. 83C–0408]

R.F.A. Corp.; Filing of Color Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a color additive petition has been filed on behalf of R.F.A. Corp. proposing that the color additive regulations be amended to provide for the safe use of hematite as a component of cosmetics.

FOR FURTHER INFORMATION CONTACT: Geraldine E. Harris, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 706(d)(1), 74 Stat. 402–403 (21 U.S.C. 376(d)(1))), notice is given that a color additive petition (CAP 2C0157) has been filed on behalf of R.F.A. Corp., c/o 1120 G St. NW., Washington, DC 20005, proposing that Part 73 of the color additive regulations (21 CFR Part 73) be amended to provide for the safe use of hematite as a component of cosmetics generally, including use in the area of the eye.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: January 9, 1984.

Sanford A. Miller,
Director, Bureau of Foods.

[FR Doc. 84–2108 Filed 1–25–84; 8:45 am]
BILLING CODE 4160–01–M

[Docket No. 84N–0014]

Phenylbutazone and Oxyphenbutazone Drugs for Human Use; Public Hearing

Correction

In FR Doc. 84–1176 beginning on page 1939 in the issue of Monday, January 16, 1984, make the following corrections:

1. On page 1940, column one,

SUPPLEMENTARY INFORMATION, line nineteen, "MY" should read "NY".

2. On the same page, column two, line six, "(21 U.S.C. 335(e))" should read "(21 U.S.C. 355(e))".

BILLING CODE 1505-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N-84-1336; FR-1856]

Community Development Block Grant Program for Indian Tribes and Alaskan Native Villages

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This notice sets the deadline for filing applications for funds from the Community Development Block Grant Program for Indian Tribes and Alaskan Native Villages for Fiscal Year 1984. Applications are required in order to provide HUD with the information necessary to rate the proposed project(s) and to assure HUD that the necessary citizen participation has taken place.

EFFECTIVE DATE: January 26, 1984.

FOR FURTHER INFORMATION CONTACT: Ms. Marcia A. B. Brown, Office of Program Policy Development, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–6092. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: This notice sets the deadline for submitting applications for the Community Development Block Grant Program for Indian Tribes and Alaskan Native Villages. These dates apply only to applications submitted by Indian Tribes and Alaskan Native Villages for Fiscal Year 1984.

The field responsibility for the administration of the program is divided among the following offices: Region V Office of Indian Programs (OIP) in Chicago responsible for all HUD Indian program activities within Regions I–V plus the State of Iowa; Oklahoma City Office, responsible for all HUD Indian program activities in the States of Arkansas, Texas, Oklahoma, Kansas, Louisiana and Missouri; Region VIII OIP in Denver responsible for all HUD Indian program activities in Region VIII, as well as the State of Nebraska; Region IX OIP in Phoenix responsible for all HUD Indian program activities in Region IX plus the State of New Mexico; Region X OIP in Seattle responsible for all HUD Indian program activities in Region X with the exception of the State of Alaska; and the Anchorage Office, responsible for all HUD Indian program activities in the State of Alaska.

As of the effective date of this notice applications will be accepted by HUD.

FINAL DATES FOR SUBMISSION

Offices	No later than—[1]
Region V, OIP	Feb. 17, 1984
Oklahoma City Office	Mar. 30, 1984
Region VIII, OIP	June 1, 1984.
Region IX, OIP	June 1, 1984
Region X, OIP	Feb. 15, 1984
Anchorage Office	Mar. 12, 1984.

[1] Applications must be received or postmarked no later than the date specified. Applications received or postmarked after the deadline will not be considered for funding.

Tribes and Villages submitting applications for this program must do so on HUD forms approved by the Office of Management and Budget under OMB Control Number 2506–0043. These forms request information which is necessary to rate the proposed project(s) and which assures HUD that the necessary citizen participation has taken place. Forms will be provided by the appropriate HUD Field Offices.

(Catalog of Federal Domestic Assistance number is 14.223.)

(Section 107, of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 et seq.); Section 7(d), of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)))

Dated: January 18, 1984.

Stephen J. Bollinger,

Assistant Secretary for Community Planning and Development.

[FR Doc. 84–2150 Filed 1–25–84; 8:45 am]

BILLING CODE 4210–29–M

[Docket No. N-84-1334]

Mortgage and Loan Insurance Programs Under the National Housing Act—Debenture Interest Rates

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner (HUD).

ACTION: Notice of change in debenture interest rates.

SUMMARY: This notice announces changes in the interest rates to be paid on debentures issued with respect to a loan or mortgage insured by the Federal Housing Commissioner under the provisions of the National Housing Act (the "Act"). The interest rate for debentures issued under Section 221(g)(4) of the Act during the six-month period beginning January 1, 1984, is 10½ percent. The interest rate for debentures issued under any other provision of the Act is the rate in effect on the date that the commitment to insure the loan or mortgage was issued, or the date that the loan or mortgage was initially endorsed for insurance, whichever rate is higher. The interest rate for debentures issued under these other provisions with respect to a loan or mortgage committed or endorsed during the six-month period beginning January 1, 1984, is 11½ percent.

EFFECTIVE DATE: January 26, 1984.

FOR FURTHER INFORMATION CONTACT: Robert H. Menke, Office of Financial Management, Room 6186, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Telephone (202) 755–1591 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Section 224 of the National Housing Act (24 U.S.C. 1715o) provides that debentures issued under the Act with respect to an insured loan or mortgage (except for debentures issued pursuant to Section 221(g)(4) of the Act) shall bear interest at the rate in effect on the date the commitment to insure the loan or mortgage was issued, or the date the loan or mortgage was initially endorsed for insurance, whichever rate is higher. This provision is implemented in HUD's regulations at 24 CFR 203.405, 203.479, 207.259(e)(6) and 220.830. Each of these regulatory provisions states that the applicable rates of interest will be published twice each year as a notice in the **Federal Register.**

Section 224 further provides that the interest rate on these debentures shall be set from time to time by the Secretary of HUD, with the approval of the Secretary of the Treasury, in an amount not in excess of the interest rate determined by the Secretary of the Treasury pursuant to a formula set out in the statute.

The Secretary of the Treasury (1) has determined, in accordance with the provisions of Section 224, that the statutory maximum interest rate for the period beginning January 1, 1984, is 11½ percent and (2) has approved the establishment of the debenture interest rate by the Secretary of HUD at 11½ percent for the six-month period beginning January 1, 1984. This interest rate will be the rate borne by debentures issued with respect to any insured loan or mortgage (except for debentures issued pursuant to section 221(g)(4)) with an insurance commitment or endorsement date (as applicable) within the first six months of 1984.

For convenience of reference, HUD is publishing the following chart of debenture interest rates applicable to mortgages committed or endorsed since July 1, 1974:

	On or after—	Prior to—
Effective rate (percent):		
6⅞	July 1, 1974	July 1, 1975.
7	July 1, 1975	Jan. 1, 1976.
7⅛	Jan. 1, 1976	July 1, 1976.
7	July 1, 1976	Jan. 1, 1977.
6⅝	Jan. 1, 1977	July 1, 1977.
7⅛	July 1, 1977	Jan. 1, 1978.
7⅛	Jan. 1, 1978	July 1, 1978.
7⅜	July 1, 1978	Jan. 1, 1979.
8	Jan. 1, 1979	July 1, 1979.
8¼	July 1, 1979	Jan. 1, 1980.
9⅛	Jan. 1, 1980	July 1, 1980.
9⅛	July 1, 1980	Jan. 1, 1981.
11¾	Jan. 1, 1981	July 1, 1981.
12⅞	July 1, 1981	Jan. 1, 1982.
12¾	Jan. 1, 1982	Jan. 1, 1983.
10¼	Jan. 1, 1983	July 1, 1983.
10⅜	July 1, 1983	Jan. 1, 1984.
11⅛	Jan. 1, 1984	

Section 221(g)(4) of the Act provides that debentures issued pursuant to that paragraph (with respect to the assignment of an insured mortgage to the Secretary) shall bear interest at the "going Federal rate" in effect at the time the debentures are issued. The term "going Federal rate", as used in that paragraph, is defined to mean the interest rate which the Secretary of the Treasury shall determine, pursuant to a formula set out in the statute, for the six-month periods of January through June and July through December of each year. Section 221(g)(4) is implemented in the HUD regulations at 24 CFR 221.790.

The Secretary of the Treasury has determined that the interest rate to be borne by debentures issued pursuant to section 221(g)(4) during the six-month period beginning January 1, 1984, is 10½ percent.

HUD expects to publish its next notice of change in debenture interest rates in July 1984.

The subject matter of this notice falls within the categorical exclusion from HUD's environmental clearance procedures set forth in 24 CFR 50.21(a)(15). For that reason, no environmental finding has been prepared for this notice.

(Secs. 211, 221, 224, National Housing Act. 12 U.S.C. 1715b, 1715l, 1715o; sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d))

Dated: January 18, 1984.

W. Calvert Brand,

General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 84-2151 Filed 1-25-84; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974; Revision of Notices of Systems of Records

Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), notice is hereby given that the Department of the Interior proposes to revise twelve notices describing systems of records which pertain to the payroll records of Department of the Interior employees. The notices are being revised to add a compatible disclosure to other Federal agencies for the purpose of conducting computer matching programs to detect fraud, abuse, and unauthorized overpayments made to individuals. Prior to making any such disclosures, Departmental system managers will assure adherence to the requirements contained in the Office of Management and Budget guidelines for conducting computer matching programs (47 FR 21656) and Chapter 12, Part 317 of the Department of the Interior Manual.

The following system notices are being revised to add the routine disclosure statement indicated below. The date and volume/page of the previous **Federal Register** publication of each system notice is also provided.

1. The system of records notice titled Aircraft Services Administrative Management and Fiscal Records—Interior, Office of the Secretary–8, published on August 17, 1983 (48 FR 37306), is amended to add the following disclosure:

* * * * *

(10) to other Federal agencies conducting computer matching programs to help eliminate fraud and abuse and to detect unauthorized overpayments made to individuals.

2. The system of records notice titled Payroll, Attendance, and Leave—Interior, Office of the Secretary–85, published on October 24, 1983 (48 FR 49103), is amended to add the following disclosure:

* * * * *

(16) to other Federal agencies conducting computer matching programs to help eliminate fraud and abuse and to detect unauthorized overpayments made to individuals.

3. The system of records notice titled Trust Territory of the Pacific Islands Employee Records—Interior, Office of the Secretary–95, published on February 12, 1981 (46 FR 12148), is amended to add the following disclosure:

* * * * *

(11) to other Federal agencies conducting computer matching programs to help eliminate fraud and abuse and to detect unauthorized overpayments made to individuals.

4. The system of records notice titled Payroll—Interior, BLM–17, published on April 11, 1977 (42 FR 19115), is amended to add the following disclosure:

* * * * *

(10) to other Federal agencies conducting computer matching programs to help eliminate fraud and abuse and to detect unauthorized overpayments made to individuals.

5. The system of records notice titled Payroll, Attendance, and Leave Records (PAY/PERS)—Interior, Reclamation–24, published on September 29, 1983 (48 FR 44663), is amended to add the following disclosure:

* * * * *

(16) to other Federal agencies conducting computer matching programs to help eliminate fraud and abuse and to detect unauthorized overpayments made to individuals.

6. The system of records notice titled Payroll—Interior, FWS–24, published on December 6, 1983 (48 FR 54720), is amended to add the following disclosure:

* * * * *

(8) to other Federal agencies conducting computer matching programs to help eliminate fraud and abuse and to detect unauthorized overpayments made to individuals.

7. The system of records notice titled Payroll—Interior, NPS–20, published on November 10, 1983 (48 FR 51704), is amended to add the following disclosure:

* * * * *

(16) to other Federal agencies conducting computer matching programs to help eliminate fraud and abuse and to detect unauthorized overpayments made to individuals.

8. The system of records notice titled Payroll, attendance and Leave Records—Interior, GS–1, published on October 12, 1983 (48 FR 46449), is amended to add to following disclosure:

* * * * *

(12) to other Federal agencies conducting computer matching programs to help eliminate fraud and abuse and to detect unauthorized overpayments made to individuals.

9. The system of records notice titled Payroll—Interior, Mines–1, published on October 4, 1983 (48 FR 45311), is amended to add the following disclosure:

* * * * *

(12) to other Federal agencies conducting computer matching programs to help eliminate fraud and abuse and to detect unauthorized overpayments made to individuals.

10. The system of records notice titled Payroll—Interior, OSM–1, published on October 31, 1983 (48 FR 50170), is amended to add the following disclosure:

* * * * *

(16) to other Federal agencies conducting computer matching programs to help eliminate fraud and abuse and to detect unauthorized overpayments made to individuals.

11. The system of records notice titled Payroll—Interior, BIA–17, published on September 13, 1983 (48 FR 41108), is amended to add the following disclosure:

* * * * *

(11) to other Federal agencies conducting matching programs to help eliminate fraud and abuse and to detect unauthorized overpayments made to individuals.

12. The system of records notice titled Payroll Personnel Data—Interior, E–7, published on December 30, 1983 (48 FR 57626), is amended to add the following disclosure:

* * * * *

(16) to other Federal agencies conducting computer matching programs to help eliminate fraud and abuse and to detect unauthorized overpayments made to individuals.

5 U.S.C. 552a(e)(11) requires that the public be provided a 30-day period in which to comment. Therefore, written comments on these proposed changes can be addressed to the Department Privacy Act Officer, Office of the Secretary (PIR), U.S. Department of the Interior, Washington, D.C. 20240. Comments received on or before February 27, 1984, will be considered. The notices shall be effective as proposed without further notice at the end of the comment period, unless comments are received which would require a contrary determination.

Dated: January 17, 1984.

Oscar W. Mueller, Jr.,

Director, Office of Information Resources Management.

[FR Doc. 84–2143 Filed 1–25–84; 8:45 am]

BILLING CODE 4310–10–M

Bureau of Land Management

Availability of the Proposed Resource Management Plan and Final Environmental Impact Statement for the Shoshone-Eureka Resource Area, Battle Mountain District, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of the Proposed Resource Management Plan and Final Environmental Impact Statement for the Shoshone-Eureka Resource Area, Battle Mountain District, Nevada.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the National Environmental Policy Act, the Battle Mountain District of the Bureau of Land Management has prepared a combined final environmental impact statement and proposed resource management plan for the Shoshone-Eureka Resource Area. Wilderness recommendations in the plan are preliminary and subject to change during administrative review.

SUPPLEMENTARY INFORMATION: The proposed resource management plan is designed to guide future management actions within the Shoshone-Eureka Resource Area. The resource area encompasses 4.3 million acres of public land within most of Lander and Eureka counties and a portion of northern Nye County. The document describes the proposed resource management plan and contains written and oral comments received during the public review period and responses to those comments, and changes which were made as a result of public comment.

A 30-day public review period will begin on the date of publication of this notice. Any portion of the plan, with the exception of the wilderness recommendations, may be protested as outlined in 43 CFR, 1610.5–2. All protests should be sent to: Director, Bureau of Land Management, 18th and C Streets, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: H. James Fox, District Manager, Attn: Neil D. Talbot, Shoshone-Eureka Resource Area Manager, P.O. Box 1420, Battle Mountain, Nevada 89820, (702) 635–5181.

Copies of the proposed resource management plan and final environmental impact statement are available for review at the following locations:

Bureau of Land Management, Nevada State Office, 300 Booth Street, Reno, Nevada 89520
Bureau of Land Management, Elko District Office, 2002 Idaho Street, Elko, Nevada 98801 (702) 738–4071
Bureau of Land Management, Winnemucca District Office, 705 E. 4th Street, Winnemucca, Nevada 89445 (702) 623–3676
Bureau of Land Management, Carson City District Office, 1050 E. Williams Street, Carson City, Nevada 89701 (702) 882–1631
Bureau of Land Management, Ely District Office, Star Route 5, Box 1, Ely, Nevada 89301 (702) 289–4865
Bureau of Land Management, Las Vegas District Office, 4765 W. Vegas Drive, Las Vegas, Nevada 89102 (702) 385–6403
Bureau of Land Management, Battle Mountain District Office, N. 2nd and Scott Streets, Battle Mountain, Nevada 89820 (720) 635–5181
Churchill Public Library, 553 S. Main Street, Fallon, Nevada 89406
Clark County Library, 1401 E. Flamingo Road, Las Vegas, Nevada 89109
Elko County Library, Elko, Nevada 89801
Esmeralda County Library, Goldfield, Nevada 89013
Eureka County Library, Eureka, Nevada 89316
Lander County Library, Battle Mountain, Nevada 89820
Mineral County Library, 1st and D Streets, Hawthorne, Nevada 89415
Nevada State Library, Library Building, Carson City, Nevada 89710
Nye County Library, Tonopah, Nevada 89049
University of Nevada, Reno, Getchell Library, Reno, Nevada 89507
University of Nevada, Las Vegas, James R. Dickensen Library, 4505 Maryland Parkway, Las Vegas, Nevada 89154
Washoe County Library, 301 S. Center Street, Reno, Nevada 89505
White Pine County Library, City Hall, Ely, Nevada 89301

Certified to be a true copy of the original.

Roger J. McCormack,

Associate State Director, Nevada.

[FR Doc. 84–2142 Filed 1–25–84; 8:45 am]

BILLING CODE 4310–HC–M

California Desert Advisory Council; Meetings

AGENCY: Bureau of Land Management, Interior.

ACTION: Meetings of two Subcommittees of the California Desert Advisory Council.

SUMMARY: Notice is hereby given in accordance with Public Laws 92–463 and 94–579 that two Ad Hoc Subcommittees of the California Desert District advisory Council will meet to review their respective issues and prepare reports for full committee consideration at the March 8, 9, 10 meeting in El Centro.

—Haiwee Land Transfer Subcommittee will meet on February 29, 1984, at the Coso Reststop located at Gills Station on Highway 395 at 10:30 a.m. The committee will inspect the Haiwee Reservoir area.

—Land Acquisition Subcommittee will meet at 9:00 a.m. on February 24, 1984 at the San Bernardino County Environmental Public Works Building located at 825 East 3rd Street in the City of San Bernardino. The committee will review land acquisition proposals for a

preserve for the Coachella Valley fringed-toed lizard and other acquisition priorities.

These meetings are open to the public.

FOR FURTHER INFORMATION CONTACT: Wes Chambers at the above address or (714) 351–6402.

Dated: January 12, 1984.

H. W. Riecken,

Acting District Manager, California Desert District.

[FR Doc. 84–2141 Filed 1–25–84; 8:45 am]

BILLING CODE 4310–40–M

[NM 57754 OK]

New Mexico; Legal Notice

January 19, 1984.

United States Department of the Interior, Bureau of Land Management, Santa Fe, New Mexico 87501. Pursuant to coal exploration license application NM 57754 OK, members of the public are hereby invited to participate with Westhoff, Inc., on a pro rata cost sharing basis, in a program for the exploration of coal deposits owned by the United States of America. The lands are located in Atoka and Coal Counties, Oklahoma, and are described as follows:

T. 1 N., R. 11 E., Ind. Mer., Coal County
Sec. 16: SW ¼NW¼;
Sec. 17: N½S½;
Sec. 18: Lots 3, 4, E½SW¼, N½SE¼.
T. 1 S., R. 9 E., Ind. Mer., Coal County
Sec. 1: SW¼NW¼, N½S½.
T. 1 S., R. 10 E., Ind. Mer., Coal County
Sec. 7: Lot 1, S½NE¼, E½NW¼, NE¼SE¼;
Sec. 8: NW¼SW¼, SE¼SW¼;
Sec. 17: W½NE¼, E½NW¼, N½SE¼, SE¼SE¼;
Sec. 20: E½NE¼.
T. 2 S., R. 10 E., Ind. Mer., Atoka County
Sec. 11: NW¼NW¼, S½NW¼, N½SW¼ SE¼SW¼ SW¼SE¼;
Sec. 13: S½NE¼, NW¼;
Sec. 14: N½NE¼, SE¼NE¼.
T. 2 S., R. 11 E., Ind. Mer., Atoka County
Sec. 5: SW¼, SW¼SE¼;
Sec. 6: Lots 3, 4, 5, SE¼NW¼ N½SE¼ SE¼SE¼;
Sec. 8: N½NE¼;
Sec. 16: NW¼;
Sec. 17: SE¼NE¼ N½S½;
Sec. 18: NE¼SW¼ N½SE¼.

Containing 3143.36 acres.

Any party electing to participate in this exploration program shall notify in writing, both the State Director, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501 and Westhoff, Inc., P.O. Box 1565, McAlester, Oklahoma 74502. Such written notice must include a justification for wanting to participate and any recommended changes in the exploration plan with specific reasons for such changes. The notice must be received no later than 30 calendar days after the publication of this notice in the **Federal Register.**

An exploration license application has been filed by Farrell-Cooper Mining Company (NM 56495 OK) for some of the same lands described in this notice. The notice appeared in the **Federal Register**, Vol. 48 No. 151, Thursday, August 4, 1983, page 35508.

Consideration is being given by the Bureau of Land Management as to whether separate licenses for the same area are warranted, or whether only one license should be issued with appropriate modifications incorporated in the exploration plan to accommodate the needs of the parties involved.

This proposed exploration program is for the purpose of determining the quality and quantity of the coal in the area and is fully described and will be conducted pursuant to an exploration plan to be approved by the Bureau of Land Management. A copy of the exploration plan as submitted by Westhoff, Inc., may be examined at the Bureau of Land Management State Office, Room 313, Joseph M. Montoya Federal Building and U.S. Post Office, South Federal Place, Santa Fe, New Mexico, and the Bureau of Land Management, 6136 East 32nd Place, Tulsa, Oklahoma.

S. Gene Day,

Acting State Director.

[FR Doc. 84–2134 Filed 1–25–84; 8:45 am]

BILLING CODE 4310–FB–M

Closure of Public Lands; Market Lake Area

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Emergency Closure of Public Lands (Market Lake).

Notice is hereby given that effective immediately all public lands located in the Market Lake Area are closed to motorized vehicles. The area is bounded generally by Highway 33 on the north, Market Lake State Wildlife Management Area on the south, the Union Pacific Railroad tracks on the east, and Interstate 15 on the west.

The legal description if this area is:

T. 5 N., R. 37 E., Boise Meridian,
Portions of sections 5 and 6;
T. 6 N., R. 37 E., Boise Meridian,
Sections 19, 20, 29, 30, 31, and 32;
T. 6 N., R. 36 E., Boise Meridian,
Sections 25 and 26.

All Federal lands administered by the Bureau of Land Management within the above described area are closed to all motorized vehicles from the date of this notice until April 15, 1984 or until animals leave the area. Signs will be posted to identify the exterior boundaries.

The purpose of this closure is to protect wintering big game from all motor vehicles.

The authority for this closure is 43 CFR 8341.2. The closure will remain in effect until April 15, 1984 or until animals leave the area.

Dated: January 17, 1984.

O'dell A. Frandsen,

District Manager.

[FR Doc. 84–2140 Filed 1–25–84; 8:45 am]

BILLING CODE 4310–GG–M

Closure of Public Lands; Stinking Spring Area

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Emergency Closure of Public Lands (Stinking Spring).

Notice is hereby given that effective immediately all public lands located in the Stinking Spring Area are closed to snowmachine use. The area is bounded generally by the Targhee National Forest on the north and east, South Fork of the Snake on the south, and on the west by the Stinking Spring Road—South Fork river Road junction.

The legal description if this area is:

T. 3 N., R. 41 E., Boise Meridian,
Portions of sections 3, 4, 8, 9, 10, 11, and 15.

All Federal lands administered by the Bureau of Land Management within the above described area are closed to snowmachine travel from the date of this notice until May 15, 1984 or until animals leave the area. Signs will be posted to identify the exterior boundaries.

The purpose of this closure is to protect wintering big game from all snowmachine.

The authority for this closure is 43 CFR 8341.2. The closure will remain in effect until May 15, 1984 or until animals leave the area.

Dated: January 17, 1984.

O'dell A. Frandsen,

District Manager.

[FP Doc. 84–2139 Filed 1–25–84; 8:45 am]

BILLING CODE 4310–66–M

Intent To Prepare a Resource Management Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Initiation of a resource management plan (RMP) and invitation to participate in the identification of issues.

SUMMARY: The Albuquerque District, will prepare a Resource Management Plan (RMP) including an Environmental Impact Statement (EIS) as an integral part of the planning process. The plan will be designed to guide and control future management actions on approximately 2.36 million acres of public land and mineral resources administered by the BLM in the Taos Resource Area. The Code of Federal Regulations, Title 43, Subpart 1600, will be followed for this planning effort. The public is invited to participate in the planning process, beginning with the identification of issues and criteria.

SUPPLEMENTARY INFORMATION: The planning area will include the public land and federal mineral ownership in Rio Arriba, Taos, Santa Fe, San Miguel, Harding, Colfax, Mora, Los Alamos and Union counties. This encompasses approximately 564,000 acres of BLM administered surface and 1.8 million acres of federal minerals under federal, state, and private surface in the nine county area.

Anticipated issues to be addressed during development of the RMP include, but are not limited to, the following:

(1) Which lands in the Taos Resource Area could be transferred to other than BLM administration or may require further study; (2) what methods of management should the Taos Resource Area apply to its fuelwood resources to balance public demand with sustained yield principles; (3) what public land if any should be designated as restricted or closed to motorized vehicle access; (4) what public land should be excluded or avoided, if possible, during future routing of major utility and transportation corridors; (5) what public land if any should receive specialized management attention or be included within a special designation and how should such areas be managed; and (6) what are the correct levels of vegetative use for livestock and wildlife and to ensure watershed protection. These preliminary issues are not final but may be further refined by direct input through active public participation.

The RMP will be developed by an interdisciplinary team, using representation from the team leader, technical coordinator, range conservationists, realty specialists, a wildlife biologist and an outdoor recreation planner, with additional technical support to be provided by other specialists as needed.

A comprehensive public participation plan has been prepared. It is intended to involve interested or affected parties early and continuously throughout the planning process. An individual may protest approval of a Proposed Plan only with respect to those items submitted in writing to the District Manager during the planning process.

The plan emphasizes localized one-to-one contacts, media coverage, direct-mailings, and continual coordination with local, state, and other federal agencies. Meetings to determine the scope of the RMP will be held in Santa Fe, Taos, Espanola, Las Vegas and Chama, New Mexico. A public notice will be given at least 15 days prior to the meetings inviting the public to attend.

Complete records of all phases of the planning process will be available for public review at the Taos Resource Area Office throughout development of the RMP. Draft and final documents will be available for review upon request.

For information about Resource Management Planning in the Taos Resource Area or to be placed on the mailing list, please contact one of the following individuals:

Richard C. Niemeyer, Area Manager or Ralph Sena, Team Leader, USDI, Bureau of Land Management, Taos Resource Area Office, P.O. Box 1045, Plaza Montevideo Building, Cruz Alta Road, Taos, New Mexico 87571, (505) 758–8851.

Bill J. Warner,

Acting State Director.

[FR Doc. 84–2138 Filed 1–25–84; 8:45 am]

BILLING CODE 4310–FB–M

Wyoming; Lander Resource Area Resource Management Plan and Call for Coal Resource Information

AGENCY: Bureau of Land Management, Rawlins District Office, Rawlins, Wyoming.

ACTION: Initiation of a Resource Management Plan (RMP) and call for coal resource information for the Lander Resource Area, Rawlins District, Wyoming.

SUMMARY: The Rawlins District is initiating an RMP to guide future management action on public lands within the Lander Resource Area, located primarily in Fremont County, Wyoming. (Small portions of the area are in Carbon, Natrona, and Sweetwater Counties.) The RMP will be a comprehensive land-use plan that will identify allowable resource uses and general management practices for the area. It encompasses 3.5 million acres, of which 2.4 million are public lands.

An interdisciplinary team has been formed to develop the RMP. Disciplines to be represented include geology, range conservation, wildlife biology, forestry, economics, recreation, lands, soils, air quality, sociology, and archeology.

Public participation will be an essential component of the RMP development. Public involvement will be solicited by: **Federal Register** announcements, discussions with interested and affected parties, press releases, individual mailings to all parties who have expressed an interest in the process, and public meetings. Anyone interested in having his or her name placed on a mailing list should contact the Lander Resource Area.

The Bureau of Land Management (BLM) invites public identification of the issues that should be addressed in the RMP process. Comments may be sent to the Lander Resource Area Office. Issues identified to date include:

—Oil and gas leasing and development
—Federal coal management
—Landownership adjustments
—Grazing management (domestic livestock, wildlife and wild horses)
—Wilderness suitability
—Intensive management areas (e.g. Green Mountain, Lander Slope, and South Pass)
—Designation of utility and transportation corridors
—Forest management.

The Lander Resource Area includes six wilderness study areas. Study on these areas will be completed within this RMP. The result will be a preliminary suitable or nonsuitable recommendation based on planning criteria established in the Bureau's Wilderness Study Policy. Further identification of issues specific to each of the six wilderness study areas will be accomplished through the public participation process.

This notice includes a call for coal resource information required in 43 CFR 3420.1–2. To assure that the RMP/EIS covers the fullest possible range of resource considerations, this call is issued to obtain any coal resource information and identify any areas of interest for possible Federal coal leasing between 1986 and 1996. Parties interested in Federal coal leasing and development in the Lander Resource Area will be expected to provide coal resource data for their areas of interest. Areas of interest and coal resource data should be submitted to the Lander Resource Area Office.

DATES: Issue identification and development of planning criteria will begin in January 1984. The public will be given an opportunity to identify issues and review the planning criteria in early 1984. The RMP will be completed by October 1985. Public meetings will be

held during the RMP process and will be announced through the **Federal Register**, local news media and public mailings.

ADDRESS: Lander Resource Area, P.O. Box 589, Lander, Wyoming 82520.

FOR FURTHER INFORMATION CONTACT: Jack Kelly, Lander Resource Area Manager, at the address listed above.

SUPPLEMENTARY INFORMATION: Copies of the preliminary statement of issues and planning criteria are available at the BLM Lander Resource Area Office, P.O. Box 589, Lander, Wyoming 82520, and the Rawlins District Office, P.O. Box 670, 1300 N. 3rd Street, Rawlins, Wyoming 82301.

David J. Walter,

District Manager.

[FR Doc. 84-2137 Filed 1-25-84; 8:45 am]

BILLING CODE 4310-22-M

Fish and Wildlife Service

Endangered Species Permit; Dallas Zoo et al.; Receipt of Applications

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: Dallas Zoo, Dallas, TX—APP #584253

The applicant requests a permit to purchase in interstate commerce three male and two female thick-billed parrots (*Rhynchopsitta p. pachyrhyncha*) from the Honolulu Zoo, for enhancement of propagation.

Applicant: International Animal Exchange, Ferndale, MI—APP #584476

The applicant requests a permit to purchase in interstate commerce one male mongoose lemur (*Lemur móngoz*) from Milwaukee County Zoo, for enhancement of propagation.

Co-Applicants: White Oak Plantation/ Gilman Paper Co., Yulee, FL and International Animal Exchange, Ferndale, MI—APP #586937

The applicants request a permit to import one female cheetah (*Acinonyx jubatus*) from Okanagan Game Farm, Penticton, B.C. Canada, for enhancement of propagation.

Applicant: International Animal Exchange, Ferndale, MI—PRT 2-10786

Notice of receipt of this application was published 8-17-83 but incorrectly stated that the import was from the Netherlands. The applicant requests a permit to import two male and two female white-naped cranes (*Grus vipio*) from Walsrode Zoo, West Germany. This is a correction to the notice. The public comment on that application expired on 9-16-83.

Applicant: Salisbury Zoological Park, Salisbury, MD—APP #584298

The applicant requests a permit to purchase in interstate commerce one pair of captive-born nene geese (*Nesochen [=Branta] sandvicensis*) from the Gladys Porter Zoo, Brownsville, TX, for enhancement of propagation.

Applicant: Alaska Area Director—USFWS, Anchorage, AK—PRT 2-4046

The applicant requests an amendment to their current permit which would allow the take of viable eggs of *Falco peregrinus anatum* and *F. p. tundrius* in Alaska for scientific research.

Applicant: Army Corps of Engineers-/St. Louis District, St. Louis, MO—APP #583601

The applicant requests a permit to take (capture & release) Indiana bat (*Myotis sodalis*), gray bat (*M. grisescens*), Curtis pearly mussel (*Epioblasima florentina*), fat pocketbook pearly mussel (*Potamilus capax*), pink mucket pearly mussel (*Lampsilis orbiculata*) and Higgin's eye pearly mussel (*L. higginsi*) for scientific research and enhancement of survival.

Applicant: Ellen T. Bauder, San Diego, CA—PRT 2-11361

The applicant requests a permit to take seeds from the San Diego mesa mint (*Pogogyne abramsii*) for scientific research purposes.

Co-Applicant: Los Angeles Zoo, Los Angeles, CA and International Animal Exchange, Ferndale, MI—APP #591794

The applicants request a permit to import one pair of babirusa (*Babyrousa babyrussa*), including blood samples prior to shipment, from the Royal Rotterdam Zoo, Netherlands, for enhancement of propagation.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 a.m. to 4:15 p.m.) in Room 601, 1000 North Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, P.O. Box 3654, Arlington, Virginia 22203.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, of data to the Director at the above address. Please refer to the appropriate PRT 2 number when submitting comments.

Dated: January 23, 1984.

R. K. Robinson,

Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 84-2214 Filed 1-25-84; 8:45 am]

BILLING CODE 4310-07-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-155]

Import Investigations; Certain Liquid Crystal Display Watches With Rocker Switches; Receipt of Initial Determination Terminating Respondent on the Basis of Consent Order Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a consent order agreement: Criterion Watch Co., Inc.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on January 23, 1984.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

WRITTEN COMMENTS: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit to document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full

statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

By order of the Commission.

Issued: January 23, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–2186 Filed 1–25–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–155]

Import Investigations; Certain Liquid Crystal Display Watches With Rocker Switches; Receipt of Initial Determination Terminating Respondent on the Basis of Consent Order Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a consent order agreement: Regency Time Ltd.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on January 23, 1984.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

Written Comments: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

By order of the Commission.

Issued: January 23, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–2187 Filed 1–25–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–155]

Import Investigations; Certain Liquid Crystal Display Watches With Rocker Switches; Receipt of Initial Determination Terminating Respondent on the Basis of Consent Order Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a consent order agreement: Far East United Electronics Ltd.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determinatioin in this matter was served upon the parties on January 23, 1984.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

Written comments: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

By order of the Commission.

Issued: January 23, 1984.

Kenneth R. Mason,

Secretary.

[FR Doc. 84–2188 Filed 1–25–84; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–140]

Import Investigations; Certain Personal Computers and Components Thereof; Commission Decision To Review Initial Determination, Commission Hearing, and Schedule for Filing Written Submissions

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined to review the presiding officer's initial determination that there is a violation of section 337 in the above-captioned investigtion.

Authority: The authority for the Commission's disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in sections 210.53–.56 of the Commission's Rules of Practice and Procedure (47 FR 25134, June 10, 1982 and 48 FR 9242, March 4, 1983; codified at 19 CFR 210.53–.56)

SUPPLEMENTARY INFORMATION: On December 9, 1983, the presiding officer issued an initial determination that there is a violation of section 337 in the importation and sale of certain personal computers and components thereof. Complainant, certain respondents, and the Commission investigative attorney petitioned for review of various parts of the initial determination pursuant to § 210.54(a) of the Commission's rules.

After examining the initial determination, the petitions for review

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and the responses thereto, the Commission determined to review all issues presented in this investigation, including, but not limited to, all issues raised in the petitions for review of the initial determination.

Commission hearing: The Commission will hold a public hearing on February 10, 1984, in the Commission's Hearing Room, 701 E Street, NW., Washington, D.C. 20436, beginning at 10:00 a.m. The hearing will be divided into two parts. First, the Commission will hear oral arguments on the presiding officer's initial determination. Second, the Commission will hear presentations concerning appropriate relief, the effect that such relief would have upon the public interest, and the proper amount of the bond in the event that the Commission determines that there is a violation of section 337 and that relief should be granted. These matters will be heard on the same day in order to facilitate the completion of this investigation within time limits established under law and to minimize the burden upon the parties.

Oral arguments: Parties to the investigation and interested Government agencies may present oral arguments concerning the presiding officer's initial determination. That portion of a party's or an agency's total time allocated to oral argument may be used in any way the party or agency making argument sees fit, i.e., a portion of the time may be reserved for rebuttal or devoted to summation. The oral arguments will be held in the following order: complainant, respondents, Government agencies, and the Commission investigative attorney. Persons making oral argument are reminded that such argument must be based upon the evidentiary record certified to the Commission by the presiding officer.

Oral presentations on relief, bonding, and the public interest: Following the oral arguments on the presiding officer's initial determination, parties to the investigation, Government agencies, public-interest groups, and interested members of the public may make oral presentations on the issues of relief, bonding, and the public interest. This portion of the hearing is quasi-legislative in nature; presentations need not be confined to the evidentiary record certified to the Commission by the presiding officer, and may include the testimony of witnesses. Oral presentations on relief, bonding, and the public interest will be heard in this order: complainant, respondents, Government agencies, the Commission investigative attorney, public interest groups, and interested members of the public.

If the Commission finds that a violation of section 337 has occurred, it may issue (1) an order which could result in the exclusion of the subject articles from entry into the United States and/or (2) cease and desist orders which could result in one or more respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in hearing presentations which address the form of relief, if any, which should be ordered.

If the Commission finds that a violation of section 337 has occurred and orders some form of relief, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in hearing presentations concerning the amount of bond, if any, which should be imposed.

Public interest consideration: If the Commission concludes that a violation of section 337 has occurred and contemplates some form of relief, it must consider the effect of that relief upon the public interest. The factors which the Commission will consider include the effect that an exclusion order and/or a cease and desist order would have upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the U.S. production of articles which are like or directly competitive with those which are the subject of the investigation, and (4) U.S. consumers.

Time limit for oral argument and oral presentation: Complainant, respondents (taken together), the Commission investigative attorney, and Government agencies will be limited to a total of 30 minutes (exclusive of time consumed by questions from the Commission or its advisory staff) for making both oral argument on violation and oral presentations on remedy, bonding, and the public interest. Persons making presentations solely on remedy, bonding, and the public interest will be limited to 10 minutes (exclusive of time consumed by questions from the Commission and its advisory staff). The Commission may in its discretion expand the aforementioned time limits upon receipt of a timely request to do so.

Written submissions: In order to give greater focus to the hearing, the parties to the investigation and interested Government agencies are encouraged to file briefs on the issue of violation of section 337 and on the issues of remedy, bonding, and the public interest. Complainant and the Commission investigative attorney are also requested to submit a proposed exclusion order and/or a proposed cease and desist order for the Commission's consideration. Persons other than the parties and Government agencies may file written submissions addressing the issues of remedy, the public interest, and bonding. Written submissions on the issue of violation must be filed not later than the close of business on February 3, 1984, and submissions on remedy, the public interest and bonding must be filed not later than the close of business on February 7, 1984. During the course of the hearing, the parties may be asked to file posthearing briefs.

Notice of appearance: Written requests to appear at the Commission hearing must be filed with the Office of the Secretary by February 3, 1984.

Additional information: Persons submitting briefs and/or written submissions must file the original document and 14 true copies thereof with the Office of the Secretary on or before the deadlines stated above. Any person desiring to submit a document (or a portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment by the presiding officer. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reason why the Commission should grant such treatment. Documents containing confidential information approved by the Commission for confidential treatment will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Secretary's Office.

Notice of this investigation was published in the **Federal Register** of March 9, 1983 (48 FR 9970).

Copies of the nonconfidential version of the presiding officer's initial determination and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Wayne W. Herrington, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0480.

By order of the Commission.
Issued: January 20, 1984.

Kenneth R. Mason,
Secretary.

[FR Doc. 84-2169 Filed 1-25-84; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-145]

Import Investigations; Certain Rotary Wheel Printers; Initial Determination Terminating Respondent on the Basis of Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a settlement agreement: Canon Inc. (Canon).

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on January 23, 1984.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

Written comments: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-523-0176.

By order of the Commission.
Issued: January 23, 1984.

Kenneth R. Mason,
Secretary.

[FR Doc. 84-2170 Filed 1-25-84; 8:45 am]
BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30330]

Rail Carriers; Norfolk and Western Railway Co.; Discontinuance Exemption; Belmont County, OH

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts the discontinuance of service by the Norfolk and Western Railway Company over a line of the Wheeling and Lake Erie Railway Company from milepost 14.75 to milepost 20.94 in Belmont County, OH, subject to conditions for protection of employees.

DATES: This exemption will be effective on February 27, 1984. Petitions to stay must be filed by February 6, 1984. Petitions for reconsideration must be filed by February 15, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 30330 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423, and

(2) Petitioner's representative: Angelica D. Lloyd, 204 South Jefferson Street, Roanoke, VA 24042.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423 or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: January 19, 1984.

By the Commission, Chairman Taylor. Vice Chairman Andre, Commissioners Sterrett and Gradison.

James H. Bayne,
Acting Secretary.

[FR Doc. 84-2174 Filed 1-25-84; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 1-84]

Privacy Act of 1974; New System of Records

Pursuant to the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Justice is publishing a notice of a system of records maintained by the Office of Intelligence Policy and Review (OIPR). Further, in the Proposed Rules Section of today's **Federal Register**, OIPR proposes to exempt the system from certain provisions of the Privacy Act. The purpose of the exemption is to maintain the security and confidentiality of information the Office receives or originates that is either classified pursuant to Executive Order or is intelligence or criminal investigative information.

The Office of Intelligency Policy and Review, Policy and Operational Records System (JUSTICE/OIPR-001) is a system of records for which no public notice consistent with the provisions of 5 U.S.C. 552a(e)(4) has been published in the **Federal Register**.

The public, OMB, and the Congress are invited to submit written comments on this system. Comments should be addressed to Vincent A. Lobisco, Assistant Director, Administrative Services Staff, Justice Management Division, Room 6314, Department of Justice, 10th and Constitution Avenue, NW., Washington, D.C. 20530. Comments must be submitted on or before March 26, 1984.

A report on this system has been provided to OMB and to the Congress.

Dated: December 20, 1983.

Kevin D. Rooney,
Assistant Attorney General for Administration.

JUSTICE/OIPR-001

System Name:

Office of Intelligence Policy and Review (OIPR) Policy and Operational Records System.

System Location:

U.S. Department of Justice, 10 Street and Constitution Avenue, NW., Washington, D.C. 20530.

Categories of Individuals Covered by the System:

Individuals whose activities are the subject of a properly authorized foreign intelligence, foreign counterintelligence or terrorism investigation, or when an individual's activities form the crux of a foreign or counterintelligence policy or operational question.

Categories of Records in the System:

The system of records contains notes, memoranda, legal opinions and reports acquired or produced by OIPR in the course of executing its assigned functions. Included in this sytem are recommendations to the Attorney General concerning Attorney General authorizations for physical searches, pursuant to Executive Order 12333, and electronic surveillances abroad of United States persons, also pursuant to E.O. 12333, that are requested by entities within the Intelligence Community. In addition, this system will contain requests, manuscripts, reports and memoranda pertaining to the prepublication review, for national security information, of Department of Justice employee materials.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101, 3103, 3105; 28 CFR 0.33a–0.33c.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record maintained in this system of records is routinely used by OIPR attorneys in responding to intelligence policy questions and in performing the duties ascribed to OIPR. A record or information from a record maintained in this system of records may also be disseminated as a routine use of such records as follows: (1) To any federal, state or local court, department, officer, agency, regulatory body or other authority, or to any party or representative of a party to a proceeding in the above forums in accordance with the Federal Rules of Civil Procedure or the Federal Rules of Criminal Procedure where appropriate; (2) to a federal agency or agencies that submit policy or operational questions to OIPR, but only to persons within those agencies who hold appropriate security clearances; (3) to the National Archives and Records Service (NARS) in records management inspections conducted under 44 U.S.C. 2904 and 2906; (4) to the news media and the public pursuant to 28 CFR 50.2, unless it is determined that release of the information in the context of a particular case would constitute an unwarranted invasion of personal privacy; and (5) for information not otherwise required to be released pursuant to 5 U.S.C. 552, to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, or at the request of, the individual who is the subject of the record.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is stored manually in file jackets.

RETRIEVABILITY:

Information is retrieved through the use of a subject matter index that includes the names of a few individuals.

SAFEGUARDS:

The information is stored in combination safes in a limited access area and is maintained according to applicable Department of Justice security regulations.

RETENTION AND DISPOSAL:

Records in this system will be retained and disposed of in accordance with a records disposition schedule currently under development, which will be submitted to NARS for approval.

SYSTEM MANAGER(S) AND ADDRESS:

Counsel for Intelligence Policy, U.S. Department of Justice, 10th Street and Constitution Avenue, NW., Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Address any inquiries to the System Manager listed above.

RECORD ACCESS PROCEDURE:

The major part of this system is exempted from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and (k)(2). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to records contained in this system shall be made in writing, with the envelope and letter clearly marked "Privacy Act Request." The request should include the full name of the individual involved, the individual's current address, date and place of birth, and his or her signature which shall be notarized or made pursuant to 28 U.S.C. 1746 as an unsworn declaration, along with any other information which may be of assistance in locating and identifying the record. The requester will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system include investigative reports of federal law enforcement and intelligence agencies that are client agencies of the Department of Justice, occasional information from state, local or foreign governments, and the work product of Department of Justice and federal agency attorneys.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has proposed exemption of this system from 5 U.S.C. 552a (c)(3), (c)(4), (d), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2), (k)(1) and (k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and are being published in the proposed rules section of today's **Federal Register**.

[FR Doc. 84–2144 Filed 1–25–84; 8:45 am]
BILLING CODE 4410–01–M

[AAG/A Order No. 2–84]

Privacy Act of 1974; New System of Records

Pursuant to the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Justice is publishing a notice of a system of records maintained by the Office of Intelligence Policy and Review (OIPR). Further, in the Proposed Rules Section of today's **Federal Register**, OIPR proposes to exempt the system from certain provisions of the Privacy Act. The purpose of the exemption is to maintain the confidentiality and security of information which the Office may receive or origninate in the course of performing its responsibilities under the Foreign Intelligence Surveillance Act of 1978 (FISA), 50 U.S.C. 1801 *et seq.*

The Office of Intelligence Policy and Review, Foreign Intelligence Surveillance Act Records System (JUSTICE/OIPR–002) is a system of records for which no public notice consistent with the provisions of 5 U.S.C. 552a(e) (4) has been published in the **Federal Register.**

The public, OMB, and the Congress are invited to submit written comments on this system. Comments should be addressed to Vincent A. Lobisco, Assistant Director, Administrative Services Staff, Justice Management Division, Room 6314, Department of Justice, 10th Street and Constitution Avenue, NW., Washington, D.C. 20530. Comments must be submitted on or before March 26, 1984.

A report on this system has been provided to OMB and the Congress.

Dated: December 20, 1983

Kevin D. Rooney,

Assistant Attorney General for Administration.

JUSTICE/OIPR–002

SYSTEM NAME:

Office of Intelligence Policy and Review (OIPR) Foreign Intelligence Surveillance Act (FISA) Records System.

SYSTEM LOCATION:

U.S. Department of Justice, 10th Street and Constitution Avenue, NW., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are the subject of applications for electronic surveillance docketed by the Foreign Intelligence Surveillance Court (FISC).

CATEGORIES OF RECORDS IN THE SYSTEM:

The system of records consists of folders containing FISA applications, supporting documentation, and FISC orders or Attorney General certifications, as appropriate.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101, 3103, 3105; 28 CFR 0.33a–0.33c.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record or information from a record maintained in this system of records may be disseminated as a routine use of such record as follows: (1) To any court, department, officer, agency, regulatory body or other authority of the United States, a state or a political subdivision thereof, or to any aggrieved person or representative of an aggrieved person, during the course of a trial, hearing or other proceeding in accordance with FISA, 50 U.S.C. 1801 *et seq.;* (2) to the Administrative Office of the United States Court and to Congress in accordance with FISA; (3) to the extent information in this system of records is not subject to FISA, to any federal, state or local court, department, officer, agency, regulatory body or other authority, or to any party or representative of a party to a proceeding in the above forums in accordance with the Federal Rules of Civil Procedure or the Federal Rules of Criminal Procedure where appropriate; (4) to the National Archives and Records Service (NARS) in records management inspections conducted under 44 U.S.C. 2904 and 2906; (5) to the news media and the public pursuant to 28 CFR 50.2, unless it is determined that release of the information in the context of a particular case would constitute an unwarranted invasion of personal privacy; and (6) for information not otherwise required to be released pursuant to 5 U.S.C. 552, to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, or at the request of, the individual who is the subject of the record.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is stored manually in file jackets.

RETRIEVABILITY:

Information is retrieved by the name of the actual or proposed target of the electronic surveillance.

SAFEGUARDS:

The information is stored in combination safes in a limited access area and is maintained according to FISC and applicable Department of Justice security regulations.

RETENTION AND DISPOSAL:

Records in this system will be retained and disposed of in accordance with a records disposition schedule currently under development, which will be submitted to NARS for approval.

SYSTEM MANAGER(S) AND ADDRESS:

Counsel for Intelligence Policy, U.S. Department of Justice, 10th Street and Constitution Avenue, NW., Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Address any inquiries to the System Manager listed above.

RECORD ACCESS PROCEDURES:

The major part of this system is exempted from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and (k)(2). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to records contained in this system shall be made in writing, with the envelope and letter clearly marked "Privacy Act Request." The request should include the full name of the individual involved, the individual's current address, date and place of birth, and his or her signature which shall be notarized or made pursuant to 28 U.S.C. 1746 as an unsworn declaration, along with any other information which may be of assistance in locating and identifying the record. The requester will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system include investigative reports of federal law enforcement and intelligence agencies, which are client agencies of the Department of Justice, information from state, local or foreign governments, and the work product of Department of Justice attorneys.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE PRIVACY ACT:

The Attorney General has proposed exemption of this system from 5 U.S.C. 552a (c)(3), (c)(4), (d), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2), (k)(1) and (k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and are being published in the proposed rules section of today's **Federal Register**.

[FR Doc. 84–2145 Filed 1–25–84; 8:45 am]

BILLING CODE 4410–01–M

[AAG/A Order No. 3–84]

Privacy Act of 1974; New System of Records

Pursuant to the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Justice is publishing notice of a system of records maintained by the Office of Intelligence Policy and Review (OIPR). Further, in the Proposed Rules Section of today's **Federal Register**, OIPR proposes to exempt the

system from certain provisions of the Privacy Act. The purpose of the exemption is to maintain the confidentiality and security of information which the Office may receive or originate in the course of performing its responsibilities under the Foreign Intelligence Surveillance Act of 1978 (FISA), 50 U.S.C. 1801 *et seq.*, 18 U.S.C. 3504 and the Federal Rules of Civil and Criminal Procedure.

The Office of Intelligence Policy and Review, Litigation Records System (JUSTICE/OIPR–003) is a system of records for which no public notice consistent with the provisions of 5 U.S.C. 552a(e)(4) has been published in the **Federal Register**.

The public, OMB, and the Congress are invited to submit written comments on this system. Comments should be addressed to Vincent A. Lobisco, Assistant Director, Administrative Services Staff, Justice Management Division, Room 6314, Department of Justice, 10th and Constitution Avenue, NW., Washington, D.C. 20530. Comments must be submitted on or before.

A report on this system has been provided to OMB and to the Congress.

Dated: December 20, 1983.

Kevin D. Rooney,

Assistant Attorney General for Administration.

JUSTICE/OIPR–003

SYSTEM NAME:

Office of Intelligence Policy and Review (OIPR) Litigation Records System.

SYSTEM LOCATION:

U.S. Department of Justice, 10th Street and Constitution Avenue, NW., Washington, D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been overheard on a foreign intelligence electronic surveillance conducted by the United States pursuant to the Foreign Intelligence Surveillance Act of 1978, 50 U.S.C. 1801 *et seq.* (FISA) and who are now involved in litigation in which an issue has been raised concerning this surveillance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101, 3103, 3105; 28 CFR 0.33a–0.33c.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record or information from a record maintained in this system of records may be disseminated as a routine use of such record as follows: (1) To any court, department, officer, agency, regulatory body or other authority of the United States, a state or a political subdivision thereof, or to any aggrieved person or representatives of an aggrieved person, during the course of a trial, hearing or other proceeding in accordance with FISA; (2) to the extent information in this system of records is not subject to FISA, to any federal, state or local court, department, officer, agency, regulatory body or other authority, or to any party or representative of a party to a proceeding in the above forums in accordance with the Federal Rules of Civil Procedure or the Federal Rules of Criminal Procedure where appropriate; (3) to the National Archives and Records Service (NARS) in records management inspections conducted under 44 U.S.C. 2904 and 2906; (4) to the news media and the public pursuant to 28 CFR 50.2, unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy; and (5) for information not otherwise required to be released pursuant to 5 U.S.C. 552, to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, or at the request of, the individual who is the subject of the record.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is stored manually in file jackets.

RETRIEVABILITY:

Information is retrieved by the caption of the litigation, which caption often includes a personal identifier listing the parties to the court action.

SAFEGUARDS:

The information is stored in combination safes in a limited access area and is maintained according to applicable Department of Justice and Foreign Intelligence Surveillance Court (FISC) security regulations.

RETENTION AND DISPOSAL:

Records in this system will be retained and disposed of in accordance with a records disposition schedule currently under development, which will be submitted to NARS for approval.

SYSTEM MANAGER(S) AND ADDRESS:

Counsel for Intelligence Policy, U.S. Department of Justice, 10th Street and Constitution Avenue, NW., Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Address any inquiries to the System Manager listed above.

RECORD ACCESS PROCEDURES:

The major part of this system is exempted from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and (k)(2). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to records contained in this system shall be made in writing, with the envelope and letter clearly marked "Privacy Act Request." The request should include the full name of the individual involved, the individual's current address, date and place of birth, and his or her signature which shall be notarized or made pursuant to 28 U.S.C. 1746 as an unsworn declaration, along with any other information which may be of assistance in locating and identifying the record. The requester will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system include applications to the FISC and supporting documents that include information from federal law enforcement agencies and, occasionally, information from state, local or foreign governments, information from courts and the work product of Department of Justice and other attorneys.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE PRIVACY ACT:

The Attorney General has proposed exemption of this system from 5 U.S.C. 552a (c)(3), (c)(4), (d), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2), (k)(1) and (k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and are being published in the proposed rules section of today's **Federal Register**.

[FR Doc. 84–2146 Filed 1–25–84; 8:45 am]

BILLING CODE 4410–01–M

[AAG/A Order No. 4-84]

Privacy Act of 1974; New System of Records

Pursuant to the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, notice is hereby given that the Department of Justice is publishing notice of a system of records maintained by the Office of Intelligence Policy and Review (OIPR). Further, in the Proposed Rules Section of today's **Federal Register**, OIPR proposes to exempt the system from certain provisions of the Privacy Act. The purpose of the exemption is to maintain the security and confidentiality of information the Office receives from the Federal Bureau of Investigation (FBI) concerning domestic security/terrorism investigations that the FBI conducts pursuant to the Attorney General's Guidelines on General Crimes, Racketeering Enterprise and Domestic Security/Terrorism Investigations. This Office is charged under the Guidelines with the responsibility to review reports on domestic security/terrorism investigations.

The Office of Intelligence Policy and Review, Domestic Security/Terrorism Investigations Records System (JUSTICE/OIPR-004) is a system of records for which no public notice consistent with the provisions of 5 U.S.C. 552a(e)(4) has been published in the **Federal Register**.

The public, OMB, and the Congress are invited to submit written comments on this system. Comments should be addressed to Vincent A. Lobisco, Assistant Director, Administrative Services Staff, Justice Management Division, Room 6314, Department of Justice, 10th and Constitution Avenue, NW., Washington, D.C. 20530. Comments must be submitted on or before March 26, 1984.

A report on this system has been provided to OMB and to the Congress.

Dated: December 20, 1983.

Kevin D. Rooney,

Assistant Attorney General for Administration.

JUSTICE/OIPR-004

SYSTEM NAME:

Office of Intelligence Policy and Review (OIPR) Domestic Security/Terrorism Investigations Records System.

SYSTEM LOCATION:

U.S. Department of Justice, 10th Street and Constitution Avenue, NW., Washington D.C. 20530.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are the subjects of domestic security/terrorism investigations conducted by the Federal Bureau of Investigation (FBI).

CATEGORIES OF RECORDS IN THE SYSTEM:

The system of records consists of notices from the FBI informing OIPR that an investigation has been opened, 180-day progress reports, annual reports and attorney evaluations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101, 3103, 3105; 28 CFR 0.33a.-0.33c.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record or information from a record maintained in this system of records may be disseminated as a routine use of such record as follows: (1) To any federal, state or local court, department, officer, agency, regulatory body or other authority, or to any party or representative of a party to a proceeding in the above forums in accordance with the Federal Rules of Civil Procedure of the Federal Rules of Criminal Procedure where appropriate; (2) the National Archives and Records Service (NARS) in records management inspections conducted under 44 U.S.C. 2904 and 2906; (3) to the news media and the public pursuant to 28 CFR 50.2, unless it is determined that release of the information in the context of a particular situation would constitute an unwarranted invasion of personal privacy; and (4) for information not otherwise required to be released pursuant to 5 U.S.C. 552, to a Member of Congress or staff acting upon the Member's behalf when the Member or staff request the information on behalf of, or at the request of, the individual who is the subject of the record.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is stored manually in file jackets.

RETRIEVABILITY:

Information is retrieved by name of the subjects of the domestic security/terrorism investigations.

SAFEGUARDS:

The information is stored in combination safes in a limited access area and is maintained according to applicable Department of Justice security regulations.

RETENTION AND DISPOSAL:

Records in this system will be retained and disposed of in accordance with a records disposition schedule currently under development, which will be submitted to NARS for approval.

SYSTEM MANAGER(S) AND ADDRESS:

Counsel for Intelligence Policy, U.S. Department of Justice, 10th Street and Constitution Avenue, N.W., Washington, D.C. 20530.

NOTIFICATION PROCEDURE:

Address any inquiries to the system Manager listed above.

RECORD ACCESS PROCEDURE:

The major part of this system is exempted from this requirement under 5 U.S.C. 552a (j)(2), (k)(1) and (k)(2). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to exemption shall be made at the time a request for access is received. A request for access to records contained in this system shall be made in writing, with the envelope and letter clearly marked "Privacy Act Request." The request should include the full name of the individual involved, the individual's current address, date and place of birth, and his or her signature which shall be notarized or made pursuant to 28 U.S.C. 1746 as an unsworn declaration, along with any other information which may be of assistance in locating and identifying the record. The requester will also provide a return address for transmitting the information. Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system include investigative reports from the FBI and the work product of Department of Justice attorneys.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has proposed exemption of this system from 5 U.S.C. 552a (c)(3), (c)(4), (d), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2), (k)(1) and (k)(2). Rules have been promulgated in accordance with

the requirements of 5 U.S.C. 553 (b), (c) and (e) and are being published in the proposed rules section of today's Federal Register.

[FR Doc. 84-2147 Filed 1-25-84; 8:45 am]
BILLING CODE 4410-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Humanities Advisory Committee; Meeting

January 20, 1984.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended) notice is hereby given that a meeting of the National Council on the Humanities will be held in Washington, D.C. on February 16-17, 1984.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out his functions, and to review applications for financial support and gifts offered to the Endowment and to make recommendations thereon to the Chairman.

The meeting will be held in the Old Post Office Building, 1100 Pennsylvania Avenue, NW., Washington, D.C. A portion of the morning and afternoon sessions on February 16, 1984 and the afternoon session on February 17, 1984 will not be open to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code because the Council will consider information that may disclose: Trade secrets and commercial or financial information obtained from a person and privileged or confidential; information of a personal nature the disclosure of which will constitute a clearly unwarranted invasion of personal privacy; and information the disclosure of which would significantly frustrate implementation of proposed agency action. I have made this determination under the authority granted me by the Chairman's Delegation of Authority dated January 15, 1978.

The agenda for the sessions on February 16, 1984 will be as follows:

(Open to the Public)

8:30-9:30 Coffee for Council Members—Room 502
9:30-10:30 Committee Meetings—Policy Discussion
Education and State Programs—Room M-07(W)
Fellowship Programs—Room 315
General Programs—Room 415
Research & Program & Policy Studies—Room M-07(E)
10:30—Adjourn (Closed to the Public for the reasons stated above)
Committee Meetings (Continued)—Consideration of specific applications.

The morning session on February 17, 1984 will convene at 8:30 a.m. in the 1st Floor Council Room M-04 and will be open to the public. The agenda for the morning session will be as follows: (Coffee for Staff and Council Attending Meeting will be served from 8:30 a.m.—9:00 a.m.)

Minutes of the Previous Meeting

Reports

A. Introductory Remarks
B. Introduction of New Staff
C. Possible Graduate Fellowships Program
D. Eligibility of State Humanities Councils
E. NEH Review Process
F. Committee Reports on Policy and General Matters
  a. Fellowship Programs
  b. Education Programs
  c. State Programs
  d. General Programs
  e. Challenge Grants
  f. Research Programs
  g. Programs and Policy Studies
G. Application Report
H. Gifts and Matching Report

The remainder of the proposed meeting will be given to the consideration of specific applications (closed to the public for the reasons stated above).

Further information about this meeting can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, Washington, D.C. 20506, or call area code 202-786-0322.

Stephen J. McCleary,
Advisory Committee Management Officer.

[FR Doc. 84-2215 Filed 1-25-84; 8:45 am]
BILLING CODE 7536-01-M

OFFICE OF MANAGEMENT AND BUDGET

Reinstatement of Agency Forms in Use by OMB and Other Federal Agencies

AGENCY: Office of Management and Budget.

ACTION: Notice.

SUMMARY: The information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for reinstatement as required by the Paperwork Reduction Act.

ADDRESS: Interested persons are invited to submit comments regarding these forms to Edward C. Springer, Office of Information and Regulatory Affairs, Room 3235, NEOB, Office of Management and Budget, Washington, D.C. 20503; (202) 395-4814.

FOR FURTHER INFORMATION CONTACT: Candice C. Bryant, Deputy Associate Director for Administration, Office of Management and Budget, Washington, D.C. 20503; (202) 395-7250.

SUPPLEMENTARY INFORMATION: Due to administrative oversight, clearance has lapsed for the forms prescribed by OMB Circulars A-102 and A-110.

Pending a possible review of the requirements in those Circulars, these previously approved forms are submitted for reinstatement.

Financial Status Report (SF 269)
Outlay Report and Request for Reimbursement for Construction Programs (SF 271)
Federal Cash Transaction Report (SF 272 and SF 272A)
Request for Advance or Reimbursement (SF 270)
Application for Federal Assistance—Construction (SF 424)
Application for Federal Assistance—Short Form (SF 424)
Application for Federal Assistance—Nonconstruction (SF 424)
Pre-Application for Federal Assistance (SF 424)

Dated: January 17, 1984.

Candice C. Bryant,
Deputy Associate Director for Administration.

[FR Doc. 84-2171 Filed 1-25-84; 8:45 am]
BILLING CODE 3110-01-M

POSTAL RATE COMMISSION

[Docket No. A84-5; Order No. 544]

Foraker, Indiana 46525, Violet A. Herr, et al., Petitioners; Notice and Order Accepting Appeal and Establishing Procedural Schedule

Issued: January 18, 1984.

Docket No. A84-5.

Name of affected post office: Foraker, Indiana 46525 (Community Post Office).

Name(s) of petitioner(s): Violet A. Herr.

Type of determination: Discontinuance of community post office.

Date of filing of appeal papers: January 5, 1984.

Categories of issues apparently raised:

Whether opportunity to be heard or other procedural steps, to which Petitioner claims entitlement under 39 U.S.C. 404(b), were improperly omitted.

Effect on adequacy of postal services of the discontinuance of the facility [39 U.S.C. 404(b)(2)(C)].

Effect on the community of the discontinuance of the facility, including specifically the effect on employees and patrons of the store in conjunction with which it is operated [39 U.S.C. 404(b)(2)(A)].

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition within the 120-day decision schedule (39 U.S.C. 404(b)(5)) the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the Petitioner(s). In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memorandum previously filed.

The Commission orders

The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register**.

By the Commission.

Charles L. Clapp,

Secretary.

APPENDIX

Jan. 5, 1984	Filing of Petition.
Jan. 18, 1984	Notice and Order of Filing of Appeal.
Jan. 30, 1984	Last day for filing of petitions to intervene [*see* 39 CFR 3001.111(b)].
Feb. 9, 1984	Petitioner's Participant Statement or Initial Brief [*see* 39 CFR 3001.115 (a) and (b)].
Feb. 29, 1984	Postal Service Answering Brief [*see* 39 CFR 3001.115(c)].
Mar. 15, 1984	(1) Petitioner's Reply Brief should Petitioner choose to file one [*see* 39 CFR 3001.115(d)].
Mar 22, 1984	(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interests of prompt and just decision may require, in scheduling or dispensing with oral argument. [*see* 39 CFR 3001.116].
May 4, 1984	Expiration of 120-day decisional schedule [*see* 39 U.S.C. 404(b)(5)].

[FR Doc. 84-2180 Filed 1-25-84; 8:45 am]

BILLING CODE 7815-01-M

SMALL BUSINESS ADMINISTRATION

[License No. (06/06-0193)]

First Bancorp Capital, Inc.; Surrender of License

Notice is hereby given that First Bancorp Capital, Inc. (First), 100 North Main Street, Corsicana, Texas 75110 incorporated under the laws of the State of Texas on August 3, 1977, has surrendered its License No. 06/06/0193, issued by the Small Business Administration on October 20, 1977.

First has complied with all the conditions set forth by SBA for surrendered of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the Regulations promulgated thereunder, the surrender of the license of First is hereby accepted and it is no longer licensed to operate as a small business investment company.

(Catalog of Federal Domestic assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 19, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-2227 Filed 1-25-84; 8:45 am]

BILLING CODE 8025-01-M

Maximum Annual Cost of Money to Small Business Concerns

13 CFR 107.301(c) sets forth the SBA Regulations governing the maximum annual cost of money to small business concerns for financing by small business investment companies.

Section 107.301(c)(2) requires that SBA publish from time to time in the **Federal Register** the current Federal Financing Bank (FFB) rate for use in computing the maximum annual cost of money pursuant to § 107.301(c)(1). It is anticipated that a rate notice will be published each month.

13 CFR 107.301(c) does not supersede or preempt any applicable law that imposes an interest ceiling lower than the ceiling imposed by that regulation. Attention is directed to new subsection 308(i) of the Small Business Investment Act, added by section 524 of Pub. L. 96-221, March 31, 1980 (94 Stat. 161), to that law's Federal override of State Usury ceilings, and to its forfeiture and penalty provisions.

Effective February 1, 1984, and until further notice, the FFB rate to be used for purposes of computing the maximum cost of money pursuant to 13 CFR 107.301(c) is *11.665 percent* per annum.

Dated: January 19, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-2228 Filed 1-25-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice CM-8/706]

National Committee of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that the National Committee of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on February 15, 1984 from 10:00 am until 1:00 pm in Room 6320, Department of State, 2201 C Street, N.W., Washington, D.C.

The National Committee assists in the resolution of administrative/procedural problems pertaining to U.S. CCITT activities; provides advice on matters of policy and positions in the preparation for CCITT Plenary Assemblies and meetings of the International Study Groups; provides advice and recommendations in regard to the work of the U.S. CCITT Study Groups; and recommends the disposition of proposed U.S. contributions to the international CCITT which are submitted to the Committee for consideration.

This is another in a series of meetings of the National Committee to consider examination of issues relating to the upcoming CCITT Plenary Assembly scheduled for October 1-12, 1984. These issues will include study questions for the next Plenary period (1985-1988); candidates for Director of the CCITT; candidates for chairmanships and vice chairmanships of the various Study Groups; etc. It is requested that all current U.S. and international CCITT Chairmen and Vice Chairmen be in attendance.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is requested that prior to the meeting, persons who plan to attend, so advise Mr. Earl Barbely, Department of State, Washington, D.C.; telephone

(202) 632-3405. All attendees must use the C Street entrance to the building.

Dated: January 9, 1984.

Earl S. Barbely,

Chairman, U.S. CCITT National Committee.

[FR Doc. 84-2136 Filed 1-25-84; 8:45 am]

BILLING CODE 4710-30-M

[Public Notice CM-8/705]

Presidential Commission on the Conduct of United States-Japan Relations; Meeting

The Presidential Commission on the Conduct of United States-Japan Relations will hold a meeting on Tuesday, February 14, 1984, in the Wadsworth Room of the International Club, 1800 K Street, N.W., Washington, D.C., from 9:30 a.m. to 12:00 noon and from 1:30 p.m. to 4:00 p.m.

The purpose of the meeting is to develop additional information on issues affecting United States-Japan relations, particularly in the trade area. The Commission will receive oral testimony on invitation from individuals and organizations knowledgeable in the field and is prepared to receive supplemental written testimony from the public on the subject. Written testimony should be addressed to United States-Japan Advisory Commission, 1800 K Street, N.W., Suite 622, Washington, D.C. 20006. A roster of speakers will be posted at the meeting. The meeting is open to the public.

Dated: January 4, 1984.

Albert L. Seligmann,

Executive Director, United States-Japan Advisory Commission.

[FR Doc. 84-2135 Filed 1-25-84; 8:45 am]

BILLING CODE 4710-30-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[OST Notice No. 84-1]

Update of 1977 Study on No-Fault Insurance; Supplemental Request for Comment

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Supplemental request for public comment.

SUMMARY: In the **Federal Register** of Wednesday, November 16, 1983 (48 FR 52147), DOT announced an update of its 1977 study of the experiences of the States with no-fault automobile insurance. Public comment was invited. DOT is now considering evaluating State automobile insurance laws according to objective criteria. Public comment on these criteria is invited.

DATE: To be considered, comments must be received by March 26, 1984.

ADDRESS: Send comments to George F. Wiggers, Office of Economics, P-38, Department of Transportation, Washington, DC 20590. Comments received will be available for public inspection and copying in Room 10309, Department of Transportation Headquarters Building, 400 Seventh Street, SW, Washington, DC, from 9:00 a.m. to 5:30 p.m. eastern time, Monday through Friday except Federal holidays.

FOR FURTHER INFORMATION CONTACT: George F. Wiggers, (202) 426-4203.

SUPPLEMENTARY INFORMATION: For the study which we are conducting, we are now considering evaluating the automobile insurance laws of the States (including the District of Columbia and Puerto Rico) according to objective criteria, as set forth below. Some of them were used in the 1977 report. We invite comment on the appropriateness, completeness, and applicability of any or all of these proposed criteria. We also invite suggestions on additional criteria that should be used and on weighting the criteria; we also invite submission of any other information that may be useful in conducting the evaluation. The seven criteria that are currently being considered are:

- The adequacy of automobile insurance payments to personal injury accident victims. This criterion will measure the percentage of personal injury automobile accident victims who receive compensation from automobile insurance and the probable amount of such compensation compared to the economic loss suffered by these victims.
- The average premium cost for automobile insurance coverages compensating for personal injuries. This criterion is designed to determine the average cost in the several States for automobile insurance coverages for personal injuries.
- The balance or lack of balance of the central elements in the automobile insurance system; that is, the extent to which the cost of the first-party benefits paid is greater than, equal to, or less than the savings made possible by the establishment of restrictions (often called thresholds) on tort recovery of third-party insurance benefits. This criterion may be measured by determining the degree by which average premiums differ from what they would probably be if the first-party (i.e., no-fault) coverage had not been purchased. Another test may be to note adequacy of return to insurance providers as measured by the combined loss/expense ratio.
- The timeliness of automobile insurance payments to personal injury accident victims. This criterion will attempt to measure the average time delay between the date of an automobile accident and the date on which a personal injury victim of that accident receives the first payment from automobile insurance.
- The administrative cost-efficiency of the automobile insurance system (dollars paid to or for victims per hundred dollars of premiums collected from motorists). This criterion compares the cost-efficiency of different personal injury automobile coverages of insurors operating under the different automobile insurance laws of the several States.
- The percentage of victims who might profit from rehabilitation treatment who in fact receive that treatment paid for by automobile insurance and the average amount of money devoted to rehabilitation. Under this criterion, DOT will attempt to measure how much rehabilitation activity is taking place under automobile insurance in the several States.
- Impact on highway safety and crash loss minimization. This criterion will attempt to measure the effect that different forms of automobile insurance have or may have on these important concerns.

Please feel free to submit information on any other aspect of no-fault automobile insurance. We are still accepting comments on the issues discussed in our November 16, 1983 notice. Since we intend to place all comments in a public file, persons who wish to submit information believed confidential should contact Mr. Wiggers before submitting the information. If we agree that the information deserves confidential treatment, we will need two copies of the information: one will be complete, including the portion believed confidential; the other will have the confidential portion removed. This second copy will be placed in the public file. In determining whether the information is to be treated as confidential, we will use the standards developed under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552(b)(4)).

Issued in Washington, DC, on January 23, 1984.

Richard F. Walsh,

Director of Economics.

[FR Doc. 84-2229 Filed 1-25-84; 8:45 am]

BILLING CODE 4910-62-M

Federal Highway Administration

Environmental Impact Statement; Polk County, Georgia Project F-017-2(21)

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

FOR FURTHER INFORMATION CONTACT: James Erickson, District Engineer, Federal Highway Administration, Suite 700, 1422 West Peachtree Street, NE., Atlanta, Georgia 30309, telephone (404) 881-4758, or Peter Malphurs, State Environmental Analysis Engineer, Georgia Department of Transportation, Office of Environmental Analysis, 65 Aviation Circle, Atlanta, Georgia 30336, telephone (404) 696-4634.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Georgia Department of Transportation (Georgia DOT) will prepare an environmental impact statement (EIS) on a proposal to construct to two-lane new location bypass of Cedartown in Polk County. Also included in the project will be a connector on the west side of Cedartown between S.R. 100 (at its existing terminus at U.S. 27) and the proposed bypass.

The proposed bypass will begin near the southern city limits of Cedartown on U.S. 27 and S.R. 1. From there it heads east on new location crossing at grade with the Central of Georgia Railroad and Cason Road. Continuing in an easterly direction the proposed project crosses the Southern Natural Pipeline and turns to the northeast and parallel to the pipeline. The proposed alignment continues in a northeastern direction intersecting Lees Chapel Road at grade just east of its intersection with East Point Road. East Point Road which generally runs parallel to Lees Chapel Road will be severed. Access to East Point Road will be provided by a short connector from East Point Road to Lees Chapel Road east of the proposed bypass. In continuing north, the proposed alignment intersects the Seaboard Coastline Railroad at grade and then intersects U.S. 278 at grade approximately one mile east of U.S. 27/S.R. 1. From there the proposed project continues north intersecting Collard Valley Road and Blanche Drive both at grade. The project than crosses the Central of Georgia Railroad at grade and then ends at U.S. 27/S.R. 1 just south of Davis Road.

The proposed S.R. 100 Connector on the west side will begin at the intersection of S.R. 100 and Ohio Drive, approximately 0.75 mile west of U.S. 287. From that point the alignment will traverse across new location in a southeastern direction to its terminus at the existing intersection of U.S. 278 and S.R. 100. This short connector will be approximately 0.6 mile in length.

The proposed S.R. 100 Connector on the east side will begin at the intersection of S.R. 100 and U.S. 27/S.R. 1. The proposed alignment will traverse generally east on new location for approximately 700 feet where it will tie into the existing location of Cedar Hill Street. The proposed alignment will follow Cedar Hill for approximately 500 feet and turn southeasterly to new location. It will continue on new location and cross East Ellawood and Lees Chapel Road then into the proposed bypass. Minor realignment of Lees Chapel Road will be required in the vicinity of the bypass to tie into the proposed connector. The connector will be approximately 0.9 mile in length.

The bypass is proposed to be constructed as a two-lane facility on a minimum of 200 feet of right of way. A reduced amount of right of way will be utilized between U.S. 278 and Collard Valley Road to minimize displacements. The connectors are proposed to be two lanes constructed on a minimum of 100 feet of right of way except for the section of Cedar Hill Street utilized for the east side connector. The bypass is proposed to be partial limited access while the connectors are proposed to be free access. The proposed work is necessary to relieve congestion resulting from through traffic and heavy truck traffic.

Alternatives under consideration include the build and no-build alternatives.

Letters describing the proposed action and soliciting comments have been sent to appropriate Federal, State and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. A formal scoping meeting has not been scheduled. A public hearing will be held. Public notice will be given of the time and place of the hearing.

To ensure that the full range of issues related to this proposed project are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

The Catalog of Federal Domestic Assistance Program Number is 20.205, *Highway Research, Planning and Construction.* The provisions of OMB Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program.

James Erickson,

District Engineer, Federal Highway Administration, Atlanta, Georgia.

[FR Doc. 84-2161 Filed 1-25-84; 8:45 am]

BILLING CODE 4910-22-M

VOL
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Sunshine Act Meetings

Federal Register
Vol. 49, No. 18
Thursday, January 26, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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CIVIL AERONAUTICS BOARD

[M-398, Amdt. 1, Jan. 26, 1984]

Addition and Closure of Item to the January 26, 1984 Meeting

TIME AND PLACE: 10 a.m., January 26, 1984.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

29. Discussion of Brazil. (BIA)

STATUS: Closed.

PERSON TO CONTACT FOR MORE INFORMATION: Phyllis T. Taylor, the Secretary (202) 673–5068.

[FR Doc. 84-2368 Filed 1-24-84; 3:50 pm]

BILLING CODE 6320-01-M

2

CIVIL AERONAUTICS BOARD

[M-398, Jan. 19, 1984]

TIME AND DATE: 10 a.m., January 26, 1984.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of Items Adopted by Notation.

2. Dockets 41897 and 41896, Notice of Intent of Republic Airlines to suspend direct service between Watertown and Rapid City, South Dakota, and Application for exemption from the essential air service and notice requirements of the Act. (Memo 2185, BDA, OCCCA)

3. Dockets 41757, EAS-472, EAS-477, Royale's 90-day notice of intent to suspend service at Greenwood and University/Oxford, Mississippi. (Memo 2188, BDA, OCCCA)

4. Docket 39162, Republic's notice to suspend service at Beloit/Janesville, Wisconsin. (Memo 326-G, BDA, OCCCA, OGC)

5. Dockets 41930 and 41931, Notice of Pioneer Airways to suspend service at North Platte, Nebraska, and request for exemption to suspend service on less than 30 days notice. (BDA, OCCCA)

6. Dockets 40808 and 41079, Notice of Republic Airlines and Horizon Airlines to suspend service at Klamath Falls, Oregon. (BDA, OCCCA, OGC)

7. Dockets 41872 and 41903, Republic Airlines' notice to suspend service at Valdosta, Georgia, and exemption request to permit it to suspend service on less than 90-days' notice. (BDA, OCCCA)

8. Docket EAS-540, Appeal of Rocky Mount Wilson Airport Authority of the essential air service determination for Rocky Mount/Wilson, North Carolina. (Memo 2059-A, OGC, OCCCA, BDA)

9. Docket 41589, Application of Cascade Airways, Inc., to bump Horizon Airlines at North Bend, Salem, and Pendleton, Oregon. (Memo 2193, BDA, OCCCA)

10. Dockets EAS-604, EAS-608 and Docket 41541, Essential air service for Ephrata/Moses Lake and Wenatchee, Washington. (Memo 063-F, BDA, OCCCA, OGC)

11. Docket 40509, Second-year subsidy rate for Puerto Rico International Airlines, Inc., to provide essential air service to Ponce, Puerto Rico. (Memo 1180-B, BDA, BCAA, OCCCA, OC)

12. Docket 41020, Pioneer Airways, Inc., Application for compensation for losses at Columbus, Nebraska. (Memo 2187, BDA, OCCCA, OC)

13. Dockets 40808 and 40809, Petition of Republic Airlines and Pacific Express seeking modification of the compensation paid for losses in serving Klamath Falls, Oregon. (Memo 2192, BDA, BCAA, OC, OCCCA)

14. Docket 40612, Objection of U.S. Aviation, Inc. d.b.a. Air U.S. to Order 83-10-61 which tentatively set Air U.S. final rate for compensation for losses at Sheridan, Wyoming at $223,233. (Memo 120-H, BDA, OCCCA, OC, BCAA)

15. Docket 40388, Agreement Among Members of the Air Traffic Conference of America Relating to a Default Protection Plan. (Memo 1152-Q, BDA, OGC, OCCCA)

16. Docket 41804, Application of Jet Fleet International Airlines, Inc., (JFIA) for a certificate to engage in interstate and overseas scheduled air transportation of persons, property and mail. (Memo 2184, BDA)

17. Dockets 36595 and 41559, Agreements among members of ATC with respect to the "exclusivity" portions of the Competitive Marketing Investigation decision. (Memo 2117-A, BDA, OGC)

18. Dockets 41560, 41372, and 41373, *South Seas Airlines Fitness Investigation, Applications of South Seas Airlines for certificates of public convenience and necessity.* (Memo 1900-A, OGC)

19. Docket 38623, Agreement CAB 29156, IATA agreement proposing a new fare structure to/from Africa. (Memo 2186, BIA)

20. Dockets 41206 and 41212, Applications of Arrow Airways, Inc. for Guam-Manila exemption and U.S.-Philippine certificate. (Memo 1727-A, BIA, OGC, BDA)

21. Docket 41171, Application of Aeronaves de Puerto Rico for certificate authority under section 401 to provide scheduled combination air service between New York; San Juan/Borinquen, Puerto Rico, and Santo Domingo/Puerto Plata, Dominican Republic. (Memo 2189, OGC, BALJ)

22. Dockets 41636, 41680, 36767, Application of Northeastern International Airways, Inc., for certificate authority to provide combination service between Miami and San Jose, Costa Rica; Application of Eastern Air Lines, Inc. for amendment of its certificate for Route 131 to authorize Miami-San Jose service; Motion of Pan American Airways to remove suspension of its authority to provide Miami/New Orleans-San Jose service. (Memo 2190, BIA, GOC, BALJ)

23. Discussion of Thailand Aviation Issues. (BIA)

24. Discussion of China Aviation Issues. (BIA)

25. Report on Consultations with United Kingdom. (BIA)

26. Report on Consultations with Jamaica. (BIA)

27. Report on Consultations with Ireland. (BIA)

28. Report on ECAC Working Group. (BIA)

STATUS: 1–22 (open), 23–28 (closed).

PERSON TO CONTACT FOR MORE INFORMATION: Phyllis T. Kaylor, the Secretary (202) 673–5068.

[FR Doc. 84-2370 Filed 1-24-84; 3:54 pm]

BILLING CODE 6320-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 7:40 p.m. on Wednesday, January 18, 1984, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider the following matters:

Application of Bank of Commerce, Morristown, Tennessee, an insured State nonmember bank, for consent to merge, under its charter and title, with Southern

Industrial Banking Corporation, Knoxville, Tennessee, and for consent to establish the nine offices of Southern Industrial Banking Corporation as branches of Bank of Commerce; and application of Southern Industrial Banking Corporation for Federal deposit insurance.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,847–L (Adt. No. 3)—United American Bank in Hamilton County, Chattanooga, Tennessee, and United American Bank in Knoxville, Knoxville, Tennessee.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9), (A)(ii), and (c)(9)(B)).

Dated: January 20, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84–2213 Filed 1–23–84; 4:13 pm]

BILLING CODE 6714–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, January 30, 1984, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Application for consent to merge:

Flagship Bank of Orlando, Orlando, Florida, an insured State nonmember bank, for consent to merge with First Fidelity Savings and Loan Association, Winter Park, Florida, a non-FDIC insured institution.

Application for consent to transfer assets in consideration of the assumption of deposit liabilities:

Flagship Bank of Seminole, Sanford, Florida, an insured State nonmember bank, and Sun Bank/Southwest, National Association, Cape Coral, Florida, for consent to transfer certain assets to First Fidelity Savings and Loan Association, Winter Park, Florida, a non-FDIC insured institution, in consideration of the assumption of the liability for deposits made in the Tuscawilla Branch, Casselberry, Florida, and the Wekiva Branch, Apopka, Florida, of Flagship Bank of Seminole and the Coralwood Mall Branch, Cape Coral, Florida, of Sun Bank/Southwest, National Association.

Application for consent to merge and establish one branch:

Union Bank and Trust, Bartlesville, Oklahoma, an insured State nonmember bank, for consent to merge, under its charter and title, with The Dewey Bank, Dewey, Oklahoma, and for consent to establish the sole office of The Dewey Bank as a branch of the resultant bank.

Application for consent to establish a branch:

Marine State Bank, Tallahassee, Florida, for consent to establish a branch at the intersection of U.S. Highway 27 North and Talpeco Road, Tallahassee, Florida.

Personal actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employes authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: January 23, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84–2312 Filed 1–24–84; 12:52 pm]

BILLING CODE 6714–01–M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2 p.m. on Monday, January 30, 1984, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for consent to acquire assets and assume deposit liabilities and establish one branch:

Marine Bank, Warren, Pennsylvania, an insured State nonmember bank, for consent to acquire certain assets of and assume certain liabilities to pay deposits made in the Eastway Plaza Branch, Erie, Pennsylvania, of The National Bank of North East, North East, Pennsylvania, and for consent to establish that office as a branch of Marine Bank.

Applications for consent to establish remote service facilities:

Barnett Bank of Volusia County, De Land, Florida, for consent to establish two remote service facilities at Volusia Mall, 1700 Volusia Avenue, Daytona Beach, Florida, and at Embry Riddle (Aeronautical College), Daytona Beach Regional Airport, Daytona Beach, Florida.

The State Exchange Bank, Lake City, Florida, for consent to establish a remote service facility at Gleason's Corner, U.S. Highway 90 West, Lake City, Florida.

Barnett Bank of Polk County, Lakeland, Florida, for consent to establish three remote service facilities at Florida

Southern College, Lake Hollingsworth Drive, Lakeland, Florida, at Polk Community College, 999 Avenue H, N.E., Winter Haven, Florida, and at Winter Haven hospital, 200 Avenue F, N.E., Winter Haven, Florida.

Barnett Bank of Tallahassee, Tallahassee, Florida, for consent to establish a remote service facility at the Student Union Building 194 on the Florida State University Campus, Tallahassee, Florida.

Barnett Bank of Indian River County (formerly Commercial Bank of Vero Beach), Vero Beach, Florida, for consent to establish a remote service facility at Vero Beach Mall, 1255 South U.S. Highway 1, Vero Beach, Florida.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,087–L (Amendment) International City Bank and Trust Company, New Orleans, Louisiana

Case No. 45,899–L Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico

Case No. 45,909–L (Amendment) Unity Bank and Trust Company, Boston, Massachusetts

Case No. 45,912–L State Bank of Clearing, Chicago, Illinois

Memorandum and resolution re: (1) Proposed amendments to Part 338 of the Corporation's rules and regulations, entitled "Fair Housing," which would eliminate the requirement that insured State nonmember banks collect and record in a log-sheet certain data concerning home loan inquiries while retaining the requirement that information on all home loan applications be recorded and retained for 25 months; and (2) a request for public comment on a possible reduction in the number of banks required to maintain log-sheets.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Director, Office of Corporate Audits and Internal Investigations:

Audit Report re: Banco Credito y Ahorro Ponceno, San Juan, Puerto Rico, AP–267 (dated December 23, 1983).

Discussion Agenda:

Memorandum and resolution re: Final amendments to the Corporation's rules and regulations which would implement section 905(a) of the International Lending Supervision Act of 1983 by requiring banking institutions to establish special reserves against the risks presented in certain international assets.

Memorandum and resolution re: Proposed amendments to the Corporation's rules and regulations which would implement section 906 of the International Lending Supervision Act of 1983 by prescribing the accounting treatment for fees charged by banking institutions in connection with international loans.

Memorandum and resolution re: Proposed amendments to the Corporation's rules and regulations which would implement section 907 of the International Lending Supervision Act of 1983, pertaining to the collection and disclosure of certain international lending data.

Memorandum re: Proposed study to identify technical and operational solutions to problems experienced by the Corporation's Division of Liquidation in automating the payment of insured deposits in closed banks.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: January 23, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84–2313 Filed 1–24–84; 12:53 pm]

BILLING CODE 6714–01–M

6

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:40 a.m. on Saturday, January 21, 1984, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in City and County Bank of Jefferson County, White Pine, Tennessee, which was closed by the Commissioner of Financial Institutions for the State of Tennessee, on Friday, January 20, 1984; (2) accept the bid for the transaction submitted by Merchants and Planters Bank, Newport, Tennessee, an insured State nonmember bank; (3) approve the application of Merchants and Planters Bank, Newport, Tennessee, for consent to purchase certain assets of and to assume the liability to pay deposits made in City and County Bank of Jefferson County, White Pine, Tennessee, and for consent to establish the two offices of City and County Bank of Jefferson County as branches of Merchants and Planters Bank; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to effect the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Mr. Michael A. Mancusi, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: January 23, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84–2314 Filed 1–24–84; 12:53 pm]

BILLING CODE 6714–01–M

7

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, January 31, 1984, 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance. Litigation. Audits. Personnel.

* * * * *

DATE AND TIME: Thursday, February 2, 1984, 10 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C. (Fifth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates of future meetings

Correction and approval of minutes

Eligibility report for candidates to receive presidential primary matching funds

Draft Advisory Opinion #1983–47—John C. Armor on behalf of Sonia Johnson, Candidate for President

Report on status of priorities in regulations

Report on national taxpayers legal fund petition for rulemaking

Report from finance committee
Routine administrative matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, information officer, telephone 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 84–2347 Filed 1–24–84; 3:20 pm]

BILLING CODE 6715–01–M

8

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 2:30 p.m., Thursday, February 2, 1984.

PLACE: Board Room, Sixth Floor, 1700 G Street, N.W., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravelee (202–377–6970).

MATTERS TO BE CONSIDERED:

Brokered Deposits
Interest-Rate Swaps

John F. Ghizzoni,

Assistant Secretary.

January 24, 1984.

[FR Doc. 84–2334 Filed 1–24–84 2:21pm]

BILLING CODE 6720–01–M

9

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., February 1, 1984.

PLACE: Hearing Room One, 1100 L Street, N.W., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Agreement No. 10045–9: Modification of the U.S. South Atlantic and Gulf-Panama and Costa Rica Rate Agreement to expand its scope to include all ports in the former Panama Canal Zone.

2. Proposed Circular Letter concerning non-vessel operating common carrier co-loading arrangements.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

Francis C. Hurney,

Secretary.

[FR Doc. 84–2369 Filed 1–26–84; 3:50 pm]

BILLING CODE 6730–01–M

10

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of January 30, 1984, at 450 Fifth Street, N.W., Washington, D.C.

An open meeting will be held on Thursday, February 2, 1984, at 2:30 p.m., in Room 1C30, followed by a closed meeting.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion [a majority of], the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10).

Chairman Shad and Commissioners Treadway and Cox voted to consider the items listed for the closed meeting in closed session.

The subject matter of the open meeting scheduled for Thursday, February 2, 1984, 2:30 p.m., will be:

1. Consideration of whether to approve a proposal by the New York Stock Exchange, Inc. to begin trading in industry index options. For further information, please contact Alden Adkins at (202) 272–2843.

2. Consideration whether to approve proposals by the American Stock Exchange, Inc., and the Chicago Board Options Exchange, Incorporated, to commence trading in options on three new industry indices each. For further information, please contact Alden Adkins at (202) 272–2843.

3. Consideration of whether to adopt a rule to designate over-the-counter options on U.S. government securities as exempted securities under the Securities Exchange Act of 1934, where the underlying securities represent principal of $250,000 or more. For further information, please contact Kevin Fogarty at (202) 272–7345.

4. Consideration of whether to adopt a revised annual report (Form U5S) for registered holding companies under the Public Utility Holding Company Act of 1935. For further information, please contact Grant G. Guthrie at (202) 272–7677.

The subject matter of the closed meeting scheduled for Thursday, February 2, 1984, following the 2:30 p.m. open meeting, will be:

Settlement of injunctive action.
Institution of injunctive actions.
Regulatory matter bearing enforcement implications.
Opinions.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Jerry Marlatt at (202) 272–2092.

January 23, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–2311 Filed 1–24–84; 12:52 pm]

BILLING CODE 8010–01–M

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Thursday
January 26, 1984

Part II

Federal Communications Commission

47 CFR Part 22

Common Carrier Services; Public Mobile Service; Final Rule

VOL 49 ISS 18 26 1984 UMI J A

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[CC Docket No. 80-57; FCC 83-476]

Common Carrier Services; Public Mobile Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Rules are being adopted for the Public Mobile Service, 47 CFR Part 22. The adopted rules revise and update the present rules for these services. The forms applicants for these services must file have been revised also. The rules and revised forms reduce burdens for applicants and expedite the administrative processes related to the Public Mobile Service.

EFFECTIVE DATE: February 27, 1984.

FOR FURTHER INFORMATION CONTACT: Carmen A. C. Borkowski; Stephen Markendorff, (202) 632-6450.

List of Subjects in 47 CFR Part 22

Mobile radio service.

Report and Order; Proceeding Terminated

In the matter of Revision and Update of Part 22 of the Public Mobile Radio Services Rules, CC Docket No. 80-57.

Adopted: October 19, 1983.
Released: December 19, 1983.

By the Commission: Commissioner Quello absent.

Background

1. On September 8, 1982 the Commission released a Notice of Proposed Rulemaking [1] (NPRM) proposing to revise Part 22 of the rules (Public Mobile Radio Services). The revisions were proposed in order to rewrite the rules in plain language, to bring the text of the rules up to date with existing technology, and to add or revise definitions to explain more fully the meaning of certain rules.[2] Also we hoped to eliminate or reduce government regulation in favor of the self regulation characteristic of a competitive marketplace. In this Report and Order we adopt new rules for the public mobile services. In keeping with our objectives we have also revised the forms applicants are required to file, eliminated unnecessary ones and simplified the ones we are retaining. After careful consideration of the pleadings and officially noticeable information, we conclude that this revision of the rules, substantially as proposed, benefits the public interest.

Discussion

2. Comments were filed by numerous parties, listed in the attached Appendix A. We have reviewed and considered all the comments submitted by the parties. The comments were generally in favor of the revision of Part 22; however, they addressed various matters in the proposed rules and suggested a number of changes, which we will discuss in the following paragraphs.[3] Our discussion will address the rule sections sequentially. We deal with the more controversial matters in some detail. Although we dispose of minor matters with only brief mention, we have carefully considered all comments and arguments.

3. *Definitions.* We proposed to update the definitions in § 22.2 of our rules, many of which are obsolete, and we proposed to correct various definitions which are ambiguous. The comments suggested changes to some of our proposed definitions. Our disposition of those suggestions appears below.

4. Peters suggested that the definition of "channel occupancy time" should include any setup or overhead time for a particular call or message, e.g., transmission of a pager or mobile unit number. Peters also suggested including paging units in the definition of public land mobile service, and commented that the term "reliable service area" did not reflect the 20 mile radius service area for 900 MHz paging. Comp. Comm also alleged that the definition of reliable service area is not technically accurate and that it should be expanded.

5. We will clarify our definition of channel occupancy time. The definition will be "the total time a channel is utilized for the transmission of communications, including necessary signaling." Our definition thus includes any setup time or transmission of a pager or unit number. We need not include "paging units" in the definition of public land mobile service because the definition is all inclusive. Moreover in General Docket No. 80-183 [4] we amended § 22.2 to include definitions for the paging services which are part of the rules. We will clarify the definition of reliable service area to include the exception in the 900 MHz paging service and to make the definition more precise by citing § 22.504, which defines actual field strength contours. The definition adopted for reliable service area is: "the area specified by the field strength contour as defined by § 22.504 of the rules and FCC Report R-6406 (Technical Factors Affecting the Assignment of Facilities in the Public Land Mobile Service), within which the reliability of communication service is 90%, i.e., the area within which nine out of every ten calls initiated by the base station can be satisfactorily received by the mobile unit." For 900 MHz paging facilities, see "protected service area." [5]

6. We proposed to add a definition for special temporary authority (STA) to read as follows: an authorization granting permission to operate a station for up to 90 days when circumstances require immediate or temporary operation of a station. We also proposed to delete the definitition of "general communication" because it could be replaced by "two-way voice communication" which is the term currently used.

7. Peters and Offshore Telephone commented that the definition of special temporary authority does not, but should, reflect the changes concerning temporary authorizations recently enacted in the Communications Amendments Act of 1982, Pub. L. 97-259. Telocator suggested we retain the definition for "general communication", since it still holds legal significance.

8. In view of the 1982 amendments to the Communications Act we will drop the reference to 90 days from the definition of special temporary authority and insert the language of that Act. Also in accordance with this new law, in CC Docket No. 83-371, *Common Carrier and Satellite Licensing Procedures*, FCC 83-276 released June 9, 1983, § 22.25 has been amended. Thus, an STA is an authorization granting permission to

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[1] 47 FR 43842 (October 4, 1982). The Commission previously requested general comments and suggestions for rule revisions. *Notice of Inquiry*, CC Docket 80-57, 45 FR 14074 (March 4, 1980).

[2] We incorporate by reference other proceedings which have revised certain sections of Part 22 but which we do not address here. For instance, CC Docket 79-378 (cellular rules), 86 FCC 2d 469 (1981) 89 FCC 2d 58 (1982), 90 FCC 2d 571 (1982); CC Docket 80-189, 49 RR 2d 1541, 46 FR 38509 (July 28, 1981), recon. granted in part, FCC 82-342, 47 FR 34561 (August 10, 1982); Docket No. 19327, Second Report and Order, FCC 82-343, 47 FR 35568 (August 10, 1982); General Docket 80-183, 89 FCC 2d 1337 (1982), recon. (Part 1), FCC 82-503, released November 10, 1982, recon. (Part 2) FCC 83-146 released May 4, 1983; CC Docket 20870, Third Report and Order, FCC 83-53, released February 16, 1983, Further Notice of Proposed Rulemaking, FCC 83-38, released February 14, 1983; CC Docket 83-371, FCC 83-276, released June 9, 1983; General Docket 81-768 (lottery proceeding), 48 FR 27182 (June 13, 1983); and others.

[3] The staff has compiled a summary of all the comments. This summary has been made a part of the record in this proceeding and is available for public inspection.

[4] 89 FCC 2d 1337 (1982).

[5] We added a definition for protected service area as follows: A fixed 20 mile radius from a 900 MHz paging transmitter which is protected from harmful interference.

operate a station when circumstances require immediate or temporary operation. We disagree with Telocator that the definition of "general communication" should be retained in the rules. As we stated in the NPRM, the term "two-way voice communication" replaces "general communication" and "two-way voice communication" is more commonly used. We see no merit to Telocator's contention that keeping the term "general communication" will clarify or help understand the 1982 amendment to Section 331(c)(1) of the Communications Act.

9. In the NPRM we proposed to rewrite the definition of offshore central station as "a fixed station in the offshore radio service for interconnecting offshore subscriber stations with each other and by means other than offshore radio with the land telephone systems." Offshore Telephone commented that this definition is ambiguous because it uses the term "subscriber stations with each other". According to Offshore, the function of the central station is not to provide interplatform communications but rather to act as the link between terminal subscriber stations and the nationwide toll network.

10. We agree with Offshore Telephone that the proposed definition of "offshore central station" was ambiguous and we have clarified it. The new definition reads as follows: "a fixed station in the offshore radio service with facilities for interconnection with the land telephone system."

11. Comp Comm also suggested adding a definition for "interference free service area." It suggested the following: "denotes that area within the field strength contour determined in accordance with § 22.504 in which the ratio of desired-to-undesired signal is equal to or greater than R in FCC Report R–6406, equation 8." We agree and are including a definition to this effect. We have also included a definition for maps required to be submitted in this Part. We deem this necessary because many of the maps submitted with applications are useless because they contain no scale or latitude or longitude.

12. We proposed to conform our terminology to that commonly used in the industry by adding a definition of the term "wireline common carrier", defining them as common carriers which are in the business of providing local exchange telephone service. Various comments addressed the proposed definition for wireline carrier. Offshore Telephone suggested changing it to: "the business of providing local telephone service directly through the ownership of the end-user telephone plant." USITA also suggested keeping "wireline" or "landline" in the definition. Peters suggested adding "wireline" to the definition. All Florida suggested that the definition refer to the use of wire or cable to connect telephones to local exchange to distinguish wireline carriers. AT&T in reply comments objected to Offshore's and All Florida's recommendations and suggested that the definition be clarified by preceding "local exchange telephone service" with "landline". MCI in reply comments also suggested clarifying the definition by adding "wireline". The comments note that with our proposed definition, radio common carriers offering cellular service could be classified as wireline carriers.

13. We have decided to include in the definition of "wireline common carrier" the term "landline." Thus, a wireline carrier is in the business of providing landline local exchange telephone service.[6] We believe this definition will eliminate ambiguity.[7]

14. *Standard application Forms, Section 22.9, two-step application process.* In the NPRM we proposed to revise our forms and also to eliminate the two-step application process (construction permit-license to cover constructed facilities) and instead require applicants to submit one Form 401 for a license under which applicants will construct and perform tests of the facilities. Upon completion of the tests, the license holder would notify the Commission that the tests are completed and that the facilities are constructed and operating in conformance with the specifications on Form 401. If the constructed facilities differ in a minor way from the specifications in the Form 401, the license holder would indicate the changes as part of the notification. We proposed a Form 408 for this notification. A copy of this Form 408, retained by the licensee along with the permit, at this point would constitute the license.[8]

15. TDS, Hill, AT&T and All Florida supported the proposal. AT&T agreed, provided that authorizations are required prior to construction and operation of proposed new facilities or major modifications to existing facilities. AT&T stated that Pub. L. 97–259, the Communications Amendments Act of 1982, permits the Commission to eliminate construction permits where common carriers are involved. USITA, in light of this new law suggested that the two-step license process could be totally eliminated, and replaced by a simple notification (Form 489).

16. We will adopt the changes proposed. Because the current requirement that applicants obtain authorization prior to construction guarantees efficient spectrum allocation and utilization, we find it is in the public interest to retain that requirement for the time being. See 47 U.S.C. § 319(d). Nevertheless, in accordance with the spirit of Pub. L. 97–259, Section 119, we also believe that elimination of our dual licensing scheme in these services is in the public interest. Therefore, we will eliminate the two step application process, the application for a construction permit and application for a license to cover or operate. Applicants will be required to file a Form 401 (Application for New or Modified Radio Station Authorization) for a license. After completing construction they may merely notify us on a Form 489. We will not issue a separate authorization to operate the constructed facilities. A copy of the filed Form 489 and the license will constitute the operating authority. Cellular radio service licensees shall file a Form 489 also to notify us that they have completed construction. However, their radio station authorizations will automatically become effective thirty days after the filing date of the Form 489, unless the Commission advises the grantee to the contrary within thirty days after receipt of the Form 489, or unless a petition to defer is filed within the thirty day

[6] This definition is consistent with the Commission's determination in Xerox Corporation, 90 FCC 2d 547 (1982), that MCI is not a wireline carrier.

[7] MCI also suggested including a definition for radio common carriers and changing the definition of Public Land Mobile Service to "a common carrier public communication service between land moblie stations." The term "radio common carrier" was defined in Docket 80–183, 89 FCC 2d 1337 (1982), *recon.* (Part 1), FCC 82–503, released November 16, 1982, *recon.* (Part 2), FCC 83–146, released May 4, 1983. We are making minor corrections to this definition. Our proposed definition for public land mobile service to replace our previous phrase Domestic Public Land Mobile Radio Service is "a public communication service for hire between land mobile stations wherever located and their associated base stations which are located within the U.S. or its possession or between land mobile stations in the U.S. and base stations in Canada." We have considered MCI's suggestion to change the definition of public land mobile service and decided to adopt our definition as proposed. We are not persuaded that our definition is not clearly distinguishable from the private services, such as Specialized Mobile Radio Services (SMRS). *See* Pub. L. 97–259, Section 120. Pursuant to Pub. L. 97–259 we have modified our definition of mobile station.

[8] We have effected a further consolidation of forms in this Report and Order. Basically, we will use only two forms in this service from now on: the Form 401 for initial authorizations and major modifications; and the Form 489 for everything else. Due to administrative requirements the number proposed for Form 408 has been changed to Form 489.

period. The cellular licensee, unlike other Part 22 licensees, may not render service to the public until its authorization becomes effective. *Advanced Mobile Phone Service, Inc.* (*Chicago Order*), 91 FCC 2d 512 (1982), at para. 16.

17. If the holder of an authorization does not complete construction within the time period provided by the applicable rules, the authorization will automatically expire, unless a timely application for an extension of the term to complete construction is filed (FCC Form 489). If the Form 489 does not comply with the rules, for instance if it proposes major modifications, the authorization will automatically expire also.

18. *Number of land mobile units served, Section 22.9(c) and (d).* We proposed to eliminate the requirement that an applicant estimate the number of land mobile units to be served during the license term when filing a Form 401. The previous rule also required that when a carrier was close to surpassing the number authorized (estimated), it had to file a Form 403 requesting authorization to serve additional mobile units. We considered this procedure unduly burdensome. We proposed that the individual land mobile units served by a carrier be considered associated with the carrier's blanket authorization.

19. Comp Comm, Telocator and USITA filed comments with regard to both subsections. USITA suggested with respect to subsection (c), reassessing the rule change because the annual report, Form L, is no longer required, and thus, the regulatory need for "a number of mobile units" showing should be examined. Telocator supported elimination of the estimate of number of mobile units to be served and the requirement to submit a Form 403 when the actual number exceeded the estimate. However, Telocator argued that, since the proposal relied on Form L and this reporting requirement has been eliminated, a simplified Form L should be retained. Comp Comm also suggested adoption of a new annual reporting procedure if there is to be a public record of number of units served by each licensed facility on an annual basis. It is Comp Comm's view that retention of the requirement of maximum number of mobiles authorized is not an acceptable substitute for reporting the actual number served.

20. We will adopt the rule as proposed. As we stated in CC Docket No. 82–85, FCC 82–451, released October 27, 1982, we determined to eliminate the annual reporting requirement (Form L) for the industry and rely on special requests as necessary. We will not revisit the reasons here except to state that the collection effort is unnecessarily burdensome. Similarly, the requirement that licensees estimate, the number of mobiles they intend to serve and continuously update that estimate is an unnecessary burden. That type of information is not frequently used by the staff. Accordingly, even though that information will no longer be available from the Form L, we do not believe it is in the public interest to continue to require licensees to submit those estimates. As we have previously stated with respect to the information previously contained in the Form L, the Commission can always obtain that data through special requests. Finally, we also reject Telocator's and Comp Comm's proposal to maintain an annual reporting procedure for the actual number of units served. Telocator's request has been previously addressed by the Commission and rejected. *Id,* and *Petition for Reconsideration of Amendment of Annual Report of Licensee in Public Mobile Radio Services (FCC Form L)*, CC Docket No. 82–85, FCC 83–142, released April 19, 1983.

21. With regard to proposed subsection (d), modification of authorization not requiring a construction permit, Comp Comm recommended eliminating (d)(5) because a change of frequency is not a minor modification. It also suggested eliminating this item from proposed Form 489. Comp Comm asserted that a frequency change requires detailed co-channel study and public notice. It also suggested clarifying subsection (d)(4) which proposed that correction of coordinates are minor modifications to reflect the fact that the engineering corrections or changes permitted should be limited to those that do not change the values and/or geographic location of the service/interference contours originally submitted. Comp Comm also suggested that Form 489 be accompanied by a detailed engineering showing demonstrating that the co-channel interference information originally submitted is not adversely affected by the corrections or changes.[9]

22. Telocator also recommended changes to this subsection. Telocator contends that modification of either the station's coordinates or authorized frequency should be accompanied by an engineering and co-channel interference study and should be subject to the same public notice requirement as the filing of a Form 401 for a radio station authorization. It also recommended deleting proposed subsection (d)(6) (addition of frequencies for mobile transmitters) in view of the proposed subsection (c)(1), discussed *supra*, which does not require additional authorization for land mobile stations.

23. We agree with Comp Comm and Telocator that a change in authorized frequency is a major modification which requires that the request be placed on public notice. Under our new procedures this will require the filing of a Form 401. Also this will require filing interference studies as required by Section 22.15. Concerning subsection (d)(4) we have found that applicants have improperly used the provision concerning corrections as a basis for circumverting the major amendment rules. We have included a proviso that if, in fact, the applicant is proposing a major station relocation, it must submit a Form 401 and interference studies. Next, we agree with Telocator that proposed paragraph (d)(6) should be deleted because separate mobile unit authorizations are no longer required by our rules. In new Form 489, we are requesting exhibits for changes to facilities; thus, the commenters concerns in this regard are satisfied. We are also adding a new subsection (5) for minor engineering changes.

24. *General Application Requirements, Section 22.13.* We proposed some changes to this rule, the major one being state certification requirements. TDS submitted comments requesting that we clarify § 22.13(a)(1)(i) concerning real party in interest, which was changed in Gen. Docket 80–183.[10] TDS requested that, for companies controlling the applicant, the rule should only require disclosure of persons holding at least 50% of the applicant's voting stock (including warrants or options) cumulated without regard to class. TDS contends that the additional disclosure regarding persons with interests in nonvoting stock or debt securities is not necessary and imposes regulatory burdens. TDS requests that § 22.13(a)(1)(iii) be revised in conformance with its suggestions. Telocator in reply comments rejected TDS' proposal, and suggested maintaining expanded disclosure as adopted in Docket 80–183. We will reject TDS' proposal since we recently amended the referenced sections and we are not persuaded that there is any benefit in revising them further here.

25. *State certification, Section 22.13(f).* We proposed to revise this rule to

[9] Comp Comm suggested also that the Commission assign file numbers to all Forms 489 and list them with brief descriptions in an Informational Public Notice. See discussion in paragraph 218. *infra.*

[10] 900 MHz paging stations 89 FCC 2d 1337 (1982).

incorporate various recent decisions interpreting our state certification requirements.[11] We also proposed to simplify the rule by adopting one uniform standard to apply to all radio services under Part 22.

26. Telocator proposed that § 22.13(f) require an applicant to file for state certification within 90 days after public notice of the filing of a construction permit application, and concurrently notify the FCC of filing for state certification. If notification is not on file after 90 days, the application would be dismissed as defective, or in the alternative extensions of time to complete construction should not be granted. Telocator contends that its proposal is geared toward providing an objective threshold to detemine "due diligence" concerning extensions of construction permits under § 22.43(b). Telocator also proposed that "date of license grant" be clarified in accordance with our proposed revisions of the two-step license process. It suggests that it be the date proposed Form 489 is postmarked.

27. TDS in its reply comments objected to Telocator's proposal that applicants be required to file for state certification within 90 days after public notice of the construction permit application's acceptance for filing. It asserts that this is an unnecessary and inequitable intrusion on licensee descretion.

28. We reject Telocator's proposal and we will adopt the rule as proposed. We believe the standards we are adopting are sufficiently clear to enable applicants to know that they must obtain state certification within the time periods provided by the rules and that they must act with due diligence in obtaining state approval. Determining due diligence as provided in § 22.43(b)(2), contrary to Telocator's contention, is not unduly burdensome for the Commission. We fail to see how the public interest will be better served by requiring applicants to commence state certification proceedings within 90 days. In the past we have applied the standards being adopted in § 22.13(f) and they have proved to be workable. Applicants uniformly have been diligent in seeking state certification. Finally, we believe that the term "date of license grant" is clear and does not require further clarification. On the other hand, we believe it is desirable for administrative reasons to create a presumption against which we can measure due diligence when we consider requests for extensions of time to complete construction predicated on delays in state certification. See our discussion of Section 22.43, *infra*.

29. *Site Availability, Section 22.15(a), 22.20(b) (5) and (7).* We proposed to eliminate the requirement that applicants demonstrate the availablity of proposed sites in the applications. We proposed instead that in specifying a proposed site location on the application, the applicant implicitly represents that he has obtained reasonable assurance that the site is available for the proposed use. We therefore proposed to revise § 22.15(a)(1), and delete §§ 22.20 (b)(5) and (b)(7).[12] Peters suggested retaining the requirement of a written site availability showing. He asserts that in light of other proposals to eliminate detailed maintenance showings, public need surveys, and so on, this is the last safeguard against filing of fictionalized applications. Kadison agrees with the proposed elimination of the site availability showing with two provisos: (1) The applicant be required to affirmatively state it has reasonable assurance of site availability, (2) and present site availability rules remain in effect for the cellular service. Kadison states that cellular system designs are based on transmitter locations; therefore, changes would affect comparative hearings. USITA, Pagenet and Telocator agreed with the elimination of site availability showings. Telocator in reply comments objected to Peter's and Kadison's proposals. Telocator states that the filing of site availability letters with the applications appears superfluous.

30. We have decided to adopt a simple certification requirement. The revised Form 401 contains an item in which the applicant certifies that it had reasonable assurance that the site proposed in its application was available at the time it prepared its application. There is a great deal of case law defining "reasonable assurance," much of it developed recently in the orders granting and designating for hearing cellular applications. Briefly, an applicant need not have a lease or an option to lease, but it must determine that there is space available on an existing building or tower, or, if a new structure is to be built, that the property is available for such use and that it is reasonable to anticipate that it may use this space. This certification will apply to all applications filed after the effective date of this order, including cellular applications. As we stated in the NPRM, if a party demonstrates, contrary to the certification made by the applicant, that a substantial question exists as to whether the specified site was available.[13] we shall carefully examine the facts before issuing a construction permit. Any false certification will be considered a misrepresentation to the Commission and will precipitate remedial action.

31. We are adopting the certification requirement because a great deal depends on the accuracy of the applicant's technical submission, which is based mainly on the accuracy of the geographical coordinates for the transmitter. Our experience processing both low band and 900 MHz paging applications and cellular applications showed that a number of applicants did not attempt conscientiously to obtain reasonable assurance. Without reasonable assurance, any measurement of reliable service areas and potential harmful interference is suspect. Furthermore, in conventional paging and two-way services, the precise transmitter locations determine whether or not applications are mutually exclusive. We believe that the more stringent requirement of certification (as opposed to the looser requirement proposed) will prompt applicants to take the site availability requirement more seriously and will, thereby, help us avoid processing delays and later interference problems. At the same time, we are not increasing the burden on applicants because we do not require the preparation or submission of any new documentation unless the certification is challenged and shown to be questionable by a petitioner. Overall, we find this approach to be the best compromise between the need for accuracy and reliability in applications and our desire to reduce burdens on applicants and our staff. We are therefore adopting § 22.15(a) as revised and eliminating § 22.20 (b)(5) and (b)(7).

32. *Interference studies, Section 22.15(b).* In the NPRM we proposed to revise this rule which requires applicants to file interference studies to demonstrate that the proposed facilities will not cause co-channel interference.

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[11] Mobilfone Service, Inc., Mimeo 07273, released Feburary 23, 1981, *modified*, Mimeo 0011344, released May 26, 1981; Hazle-Tone Communications, Inc., Mimeo 06645 (Com. Car. Bur.), released February 10, 1981; Alfred C. Cordon, Jr., 80 FCC 2d 328 (1980), *recon. denied*, FCC 82-218, released May 19, 1982. *See* also Public Notice, Mimeo 36626, September 30, 1980.

[12] Sections 22.20 (b) (5) and (b)(7) provide that lack of a site availability showing makes the applications defective.

[13] Because of the time lag between the filing and granting of an application, it is not uncommon for an applicant to lose its original site. For that reason, the certification is tied to the time of filing the application, not to the time it is reached for processing. *See also* discussion of §§ 22.9, 22.23, and 22.43, *infra*.

In addition, we added language requiring that these studies be conducted within 60 days before the application filing date, to prevent the submission of outdated information. We also proposed to relax the requirement that applicants file their supporting data and calculations as part of the interference studies. Instead we proposed that applicants not file the calculations but simply retain them and furnish them upon request. This approach reduces the size of the application and filing costs. We also proposed to add a listing stating the information to be contained in the interference studies.

33. Peters suggested that the proposed rule be clarified by making it inapplicable to the cellular service and adding a paragraph applicable to 900 MHz paging facilities, requiring applicants to identify any existing or proposed 900 MHz paging stations within 70 miles. For each nonaffiliated station, Peters wants applicants to state whether they have a time-sharing or similar agreement. Comp Comm suggested that the interference studies include a service and Carey Interference Contour Map [14] showing the proposed facility in relation to all co-channel facilities that must be protected. Comp Comm states that the showings proposed in the rule are incomplete, in that they do not provide for protection in directions other than along the interstation radial. A highly directionalized facility can show interference free operation along the interstation direction, but cause interference along another nearby azimuth.

34. Hill suggested that the section provide for a 68-mile standard for paging operations with an alternate showing based on a minimum mileage chart established specifically for paging (applicable to 150 MHz and 35–43 MHz spectrum). Hill states that establishing a minimum mileage separation table for paging would provide applicants with the same standard of proof which two-way applicants must make, whereas paging applicants currently bear a greater burden. He further states that applying § 22.505 and the § 22.503(a) table does not exempt co-channel paging stations from the Carey study, largely because minimum separations are based on protection to the 37 dBu for 150 MHz operators, whereas paging is protected only to the 43 dBu contour. He states that §§ 22.15(b) and 22.503(a) can be further refined by adding minimum distances specifically for paging and eliminating the chart for the 35–45 MHz band. He states that at 500 ft./ 500 watts (maximum facilities), the minimum separation on either the 150 or 35–43 MHz channel, to be interference free, is 68 miles. Hill also asserts that requiring a study for paging stations within 75 miles is unnecessary and increases costs, especially where there is a multisite existing facility located barely within the 75 mile proposed radius.

35. Telocator recommends that the rules require applicants to provide the underlying data describing co-channel facilities and that the data be attached to the interference study.[15] It also recommends that applicants be permitted to supply the Commission with a letter of "Consultation and Consent" executed by the co-channel licensee, in lieu of an interference study and supporting data. Telocator asserts that this encourages private solution of potential problems and provides a means for recognizing unique circumstances like a natural physical barrier which otherwise would not be factored into an interference study.

36. USITA recommends clarifying the "within 60 days language" for when interference studies must be prepared, to "within 60 days before" or "within 60 days prior". MCI in reply comments supports Hill, stating that the current paging interference studies are inappropriate for the 35–43 and 150 MHz paging operations, and that they are excessively burdensome.

37. As to Peters' comments concerning this rule, subsection (b) is clear that it does not apply to the cellular service. The mileage separation criteria for 900 MHz paging applications are established in §§ 22.525(c) and 22.503; therefore, § 22.15 does not require a specific paragraph for 900 MHz applications. We agree with Hill and MCI that the minimum mileage separation which requires an interference study for paging stations needs to be corrected; therefore, we have amended § 22.503 by adding a new subsection (b) to include a table specifically depicting minimum mileage separation for one-way stations in the 35–162 MHz band. In § 22.15(b)(1)(ii) we reference §§ 22.502 and 22.503. As we proposed we will not require that the supporting data and calculations be furnished with the application but rather upon request; we believe the rule already requires sufficient information. We will not adopt Comp Comm's suggestion that applicants file a Carey interference contour map. This would be an additional burden for applicants which would not necessarily facilitate application processing. As to Telocator's recommendation that applicants be allowed to supply a letter of "consultation and consent" executed by the co-channel licensee, in lieu of interference studies, we will not formally adopt it. Our practice in the past has been to accept these letters in addition to, but not in place of the interference studies. We will continue this practice and applicants may submit these letters but they will also have to submit interference studies. The interference studies are needed in these situations to enable us to ascertain the extent of the interference and to determine whether the proposal is in the public interest. We also will accept USITA's recommendation and correct the rule to state that the studies shall be conducted within 60 days prior to filing of the application.

38. *Antenna Structures, Section 22.15(c).* In the NPRM we proposed to combine two present paragraphs in this rule, (c) and (d), into a new (c) dealing with antenna structures. We proposed to eliminate the requirement that the sketch show all antennas in the structure. The reasons for this requirement are no longer valid and the requirement is burdensome. We also proposed to revise the paragraph dealing with FAA notification to restate it in plain language. Also, our proposal entailed conforming this rule to a proposed revised § 22.121 (Replacement of Equipment), so that the filing requirements apply only to increases in antenna height and to new antennas not already on file with the Commission.

39. Peters suggested replacing our current procedure of requiring Form 714 (FAA notification) with requesting the FAA study of the structure or the date notification was made to FAA, along with other identifying information, if the applicant has not received the FAA's study. Comp Comm disagreed with the requirement that the FAA study be submitted with the application. It proposes we retain the present Form 714 procedure, and suggests cross-referencing where a previous FAA study number has been given on structures previously approved by FAA.

40. We will adopt the rule as proposed. The new Form 401 will include the information required in Form 714; therefore, we are eliminating this Form. In addition we have always required the FAA determination if it is available. We will retain this requirement. By determination we mean

[14] A Carey Interference Contour Map is a map in accordance with FCC Report R–6406 which shows the interference relationship of the proposed station to all co-channel stations within the mileage separation specified in § 22.15(b).

[15] Telocator also suggested that a uniform exhibit designation should be specified in the application form for this purpose.

whether the structure has received FAA approval. The word "study" in the proposed rule created confusion; therefore, we are using the more precise term, "determination."

41. *Other pending applications, Section 22.15(i)(2).* We proposed to revise § 22.15(i)(2) to provide that applicants would identify any other pending or concurrently filed applications within 25 miles of the proposed station, instead of in the same general area as in the present rule. The old rule was ambiguous and gave an incomplete picture of the situation in an applicant's proposed service area. This rule makes possible for the staff in processing applications to be fully aware of other pending or licensed facilities of the applicant. On further review we are adopting a 40 mile radius standard in order to make this section consistent with our current policies. The proposed 25 miles was an imprecise standard. *See 900 MHz proceeding,* 89 FCC 2d 1337 (1982) *recon.* (Part 1), FCC 82–503, released November 16, 1982, *recon.* (Part 2), FCC 83–146, released May 4, 1983. Consistent with the 900 MHz proceeding and the 50% overlap rule for two way stations at maximum height and power a 40 mile radius standard is more accurate. If there are two stations in the same vicinity both of which have height-power waivers there will be greater than a 50% overlap between them at a separation under 40 miles. Thus, the 40 mile standard assures that all possible situations are addressed. Since the old rule only asked for "in the same general area" the rule we are adopting is a refinement. It will also create less confusion for applicants because the same standard will apply to everyone instead of diverse standards for paging and two-way. This standard will also save significant processing hours for the staff.

42. *Radiation pattern, Section 22.15(j)(4).* We did not propose to amend this section which requires a polar diagram of the radiation pattern of a transmitter. Vega suggested adding a phrase to this section "for other than omnidirectional antennas", i.e., where the power gain, expressed in dB's, is equal at all points. This, Vega asserts, would alleviate the burden of including omnidirectional patterns. There is, from a practical perspective, no need for a polar diagram when an omnidirectional antenna is mounted on the top of the supporting structure. However, omnidirectional antennas are frequently side-mounted with a resultant change in the radiation pattern. Accordingly, we will accept, but modify, Vega's proposal to exclude from § 22.15(j)(4) omni-directional antennas mounted at the top of the supporting structure. See also the discussion of § 22.108.

43. *Topographic Maps, Section 22.15(j)(8).* We proposed to eliminate the requirement that applicants submit topographic maps as part of the application.[16] Instead, applicants will prepare and retain these maps as part of their business records. We also proposed to require applicants to make these maps available to the staff upon request and make them available to members of the public at a reasonable reproduction cost. We believed this would substantially reduce the volume of paperwork currently processed and still permit the staff to examine topographic maps in those unusual situations where it is necessary. In addition, we clarified that the topographic maps should include lines of latitude and longitude as well as a scale. The topographic maps are used in computation of average terrain elevations.

44. Peters suggested that we eliminate preparation of these maps when average elevations are determined by computer. He states that the trend among engineers is to use a computerized terrain data base, and obtain and plot average terrain points. He states that this eliminates human error and is less costly.

45. Comp Comm suggested that the requirement for submitting and retaining topographic maps that show the location of radials used in determining average terrain elevation information be eliminated. Comp Comm asserts that the maps serve little purpose, submissions if in full size, are voluminous and costly to reproduce, and reduced submissions are unreadable. Modern computer digitizing techniques provide other ways of obtaining this information without drawing the actual location of each radial on topographic maps. Comp Comm also suggested that the requirement for preparing and submitting an unreduced part of a topographic Quadrangle Map showing the exact location should be retained. It states that these maps are inexpensive to prepare, are normally prepared for submission to the FAA, and aid greatly in assessing the exact location of sites. As a result, coordinate discrepancies can be resolved easily. Comp Comm recommends that these requirements be clarified to apply to all Form 401 applications, including rural radio transmitter sites, but not receiver sites.

[16] These maps are not to be confused with the U.S. Geological Survey maps on a scale of 1:250,000 that are required to be submitted with cellular and 900 MHz paging applications.

46. Hill recommended that the Commission retain the provision that the applicant provide a map showing the precise location of the site because such maps do not involve a major cost to applicants and they sometimes reveal that prior coordinates of towers are in error by ½ mile or more. These errors, it is argued, are more likely to be brought to the Commission's attention if a map is required.

47. Telocator accedes to eliminating the submission of topographic maps provided that this does not change the requirement that the maps in fact be prepared and provided promptly to interested parties on request. Should problems develop, Telocator asserts, the Commission should reinstitute filing requirements. USITA also agrees with the proposal.

48. Fletcher in reply comments suggests that we specifically allow the use of computerized terrain data and computer methodology for determining the height above average terrain as an alternative to manual methods using topographic maps. Fletcher would also eliminate the requirement for preparation of profile graphs, average terrain elevations and so on, for 900 MHz paging facilities.[17] Fletcher states that computerization is quicker and significantly less costly.

49. MCI in reply comments supports Hill's and Comp Comm's suggestions of retaining submission of maps showing the exact location of proposed station transmitter sites in order to resolve coordination discrepancies quickly. MCI concurs with the rest of the proposed rule, i.e., that the maps be maintained by applicants and be made available at the Commission's request. MCI states that the proposed rule invites disputes inasmuch as it provides that maps be promptly furnished to members of the public at reasonable reproduction costs. It suggests an alternative, that the rule direct members of the public to request the maps from the Commission, which in turn would formally request filing by an applicant within a reasonable period of time (as a minor amendment). The public then would follow normal Commission procedure for obtaining the maps. MCI suggested that this apply only to pending applications to avoid burdens on storage and retrieval of this information.

50. We have decided to allow the use of computerized terrian data for the computation of average terrain

[17] This was already done in the 900 MHz proceeding, General Docket 80–183, 89 FCC 2d 1337 (1982), Memorandum Opinion and Order on Reconsideration (Part 2), FCC 83–183, released May 4, 1983

elevations. We have been persuaded that this is in the public interest in accordance with our desire to update our rules, to keep them current with technological advances, to eliminate human error and to reduce costs for applicants. In order to provide consistency in filings we will require the use of the National Geophysical and Solar Terrestrial Data Center, 30 second point elevation file. This data must be processed for intermediate points along each radial employing linear interpolation techniques. The height above mean sea level of each antenna site must be obtained using appropriate topographic maps. In addition, we have added language to § 22.15(j)(8) providing that the topographic maps and profile graphs need not be prepared when using computerized techniques. *See* § 22.115(c)(2), which allows computation of average terrain elevation to be computer-generated. We reject Comp. Comm's, MCI's and Hill's suggestion to require site maps, as unduly burdensome on the applicants. This filing is not necessary in light of our decision not to require the filing of the topographic map unless requested by the staff. In cases of coordinate discrepancies, the staff will request the maps if necessary. We also reject MCI's suggestion that we require applicants to submit the maps to the Commission with the Commission making them available to the public. This procedure would be unduly burdensome for the Commission. We disagree with MCI that the rule invites disputes, and instead believe that the public will reasonably comply with this rule.[18] It is intended to assist those who may have standing to object to an application on the ground of potential electromagnetic interference. The applicants are under no obligation to provide the maps to any other persons.

51. *Waivers, Section 22.19.* Since in this comprehensive revision of the rules we intend to eliminate, clarify and update rule sections which have previously been the subject of waiver requests, we proposed to adopt a more restrictive approach to waivers. Specifically, we proposed to require that all waiver requests be fully supported and that applications with unsupported waiver requests be dismissed as defective unless the applicant also provided an alternative proposal complying with the rules.

52. Kadison objects to this rule as being too restrictive; it suggests that a waiver be justified where an applicant demonstrates good cause, regardless of "unique circumstances". Kadison asserts that a restrictive waiver rule will not permit systems to evolve with new technology or ideas. Further, Kadison believes that waiver requests should not be required to be accompanied by an alternative showing because it may be unfair, especially where the information requested is proprietary or its production is burdensome. According to Kadison, the Commission should allow applicants to either amend or dismiss the application if the waiver request is rejected. Vega also objected on similar grounds. Telocator supports adoption of the rule and recommended clarification of subpart (a).

53. We will adopt the rule as proposed with one modification. As we stated in the NPRM we expect that under our revised rules applicants will only request waivers in extraordinary circumstances. We believe our rule will eliminate excessive administrative burdens by limiting frivolous waiver requests, of which there are many. Requiring applicants to submit alternative proposals which comply with the rules is not unduly burdensome. We also disagree with Kadison that this is too restrictive and will not permit systems to evolve with new technology or ideas. We have a rule for developmental authorizations which provides for new system development. We agree with Telocator and have clarified subpart (a) to include language regarding the showing for waiver requests.

54. *Defective applications, Section 22.20.* Although we only proposed miscellaneous revisions to this section, e.g., to correct various errors in subpart (b) and to eliminate language with regard to site availability commenters suggested additional changes to this section.

55. FCBA suggested that we clarify § 22.20(a)(2) which provides that an application will be returned as defective if it does not substantially comply with the Commission's rules, regulations, and requirements. FCBA states that this section is ambiguous in reference to when an application is entitled to comparative consideration. FCBA asserts that the implication in § 22.20(a)(2) is that, if an application does substantially comply with the Commission's rules, it is acceptable for filing. Telocator in reply comments rebuts FCBA's concern. It states that under *Allen C. Moore*, 86 FCC 2d 787 (1981), the Commission set forth an objective test for determining whether an application is entitled to comparative hearing: whether the application was received in a form acceptable for filing prior to the cut-off date. Therefore, Telocator maintains there is no need for clarification.

56. We agree with FCBA that § 22.20(a)(2) requires clarification and we will amend it accordingly to make clear that applications that are unacceptable for filing will not be entitled to comparative consideration. In effect, we are codifying *Allen C. Moore*. This change also reflects Commission policy that "substantially complete" applications which are defective are not entitled to comparative consideration in the common carrier mobile services.[19]

57. *Amendments of Applications, Section 22.23.* We proposed to amend our rule dealing with amendments to applications in order to clarify the rule, avoid extensive litigation which our present rules have created, expedite application processing and accelerate service to the public. We now discuss each of our proposals.

58. *Amendments As of Right, Section 22.23(a).* We proposed to permit amendments only within 90 days from the application filing date. Beyond this point the applicant must withdraw the application and file the "amended" application anew. We also proposed, in order to expedite the processing of applications, that once a petition to deny has been filed against an application, no amendment to that application would be permitted unless the amendment is filed to meet all the objections of petitioners, such that any petition(s) may be dismissed.

59. This proposed rule was inadvertently adopted in the *Second Report and Order* in the Lottery Proceeding, FCC 83–114, 48 FR 27182 (June 13, 1983).[20] The effective date of this rule was stayed by Order, FCC 83–378, released August 9, 1983. We intended to examine changes to this rule in this proceeding. Extensive comments were filed offering various alternatives to our proposal.

60. Peters asserts that it is too restrictive and suggests allowing an amendment as of right provided that: (1)

[18] We clarified § 22.15(j)(8) by providing that the profile graphs prepared according to § 22.115(b) need not be filed, and we clearly indicated the scale of the topographic maps.

[19] Kadison agreed with retaining § 22.20(b)(2) which refers to an application being defective because the filing fee is insufficient. However, as we indicated in the NPRM the Commission has suspended the collection of filing fees. This does not preclude the Commission or Congress from establishing a filing fee schedule in the future. Thus, we are not deleting this section at the present time because the Commission has not announced the permanent discontinuance of filing fee schedules.

[20] A Petition for Partial Reconsideration of this rule has been filed in the Lottery Rulemaking proceeding by Kadison. We will grant the Petition to the extent indicated in paragraph 64, *infra*.

It is filed within 90 days of the latest date of public notice of the application (reflecting the necessity for issuing notice of a major amendment); (2) the amendment is required by § 1.65 of the Commission's rules; (3) the amendment responds to one or more objections raised by a petition to deny; (4) the amendment resolves frequency conflicts without creating new or increased frequency conflicts; or (5) the amendment responds to a Commission request. Peters also suggests that the Commission provide that it "may return a tendered amendment as defective if the amendment is filed in violation of this section or if acceptance of the amendment would result in the amended application being returned as defective pursuant to § 22.20(a)." Return of an amendment will not affect the status or content of the application as previously filed or amended.

61. Many of the comments objected to the proposal not to allow amendments after a petition to deny had been filed unless it responds to all the objections in the petition. Kadison argues that this will encourage petitions to deny as a means of interfering with the applicant's right to amend. TDS asserts that this proposal will encourage numerous and lengthy pleadings, and that this section will encourage carriers financially capable of litigating for long periods to force applicants with limited resources to agree to settlements on terms favorable to the protester. FCBA opposed the section on similar grounds.

62. Kadison agrees with allowing amendments within 90 days of the original filing date in compliance with § 22.29 (settlement agreements) as applicable. It also suggests that amendments be permitted after 90 days if good cause is shown, compliance with § 1.65 always being considered good cause. AT&T also agrees with the 90 day period, stating that existing policies have led to regulatory abuse and delays, and recommends that the 90 days begin at the time the application appears on public notice. FCBA in its comments also requests that the section be clarified to indicate whether § 1.65 amendments will be permitted to be filed after the 90 day period or after a petition to deny has been filed. It asked for clarification of § 22.23(a) in light of the § 22.23(c) major amendment rule, regarding whether all amendments are precluded after 90 days. Telocator in its comments assumes that the 90 day limit does not preclude the Commission from entertaining motions for leave to amend beyond the 90 days. FCBA also requested clarification of this aspect. Hill opposes the 90 days rule, stating it will create more work and will result in applications for modifications of construction permits being filed instead of amendments. Hill also criticizes the failure to provide for amendment under § 1.65 of the rules. As to amendments after petitions to deny have been filed, Hill states that this should not affect an applicant's right to amend within the same time period established for other applicants with which it is mutually exclusive. MCI in reply comments objects to the proposed rule, agreeing with Kadison's and Hill's comments.

63. Our 90-day rule was designed to expedite application processing. Likewise the other rule revisions are intended to streamline our procedures. However, after further consideration we have decided to modify subsection (a). We have been persuaded that the rule would not promote our objectives but instead would create additional burdens for applicants and the staff. Upon further analysis we believe the rule we had in the past is more efficient than the 90-day rule. Therefore, we are adopting a rule which will permit amendments as of right at any time prior to designation for hearing or before the application is placed on public notice for a random selection process.

64. We will also modify subsection (a)(2) which provides that after petitions to deny have been filed, amendments would be permitted if they responded to the objections raised in the petitions so that the petitions may be dismissed. We have been persuaded by the comments that our proposal goes too far and would probably precipitate additional pleadings and concomitant delays. We have provided that amendments which resolve interference conflicts or amendments under § 22.29 may be filed at any time.[21] We believe the rule we are adopting is more in line with our objectives without being unduly burdensome to the public.

65. We do not agree with the comments that we should include the filing requirements of § 1.65 under this subsection. Section 22.13(a)(5) already provides that applicants are required to maintain their applications substantially accurate and complete. The purpose of § 1.65 is merely to ensure that applicants inform the Commission of any information in their applications which is inaccurate. Thus, acceptance of an amendment for purposes of § 1.65 may involve no determination as to the effect to be given it for other purposes.[22]

66. *Major Amendments, Section 22.23(c).* We proposed to take a more liberal approach in classifying amendments to applications, deleting some of the categories of major amendments in the old rule. Instead we proposed that all amendments be considered minor (not subject to public notice requirement and cut-off rule) except for the categories we listed. We intended to clarify this rule and to streamline processing of applications by reducing the number of applications that unnecessarily appear on public notice.

67. Peters agreed with the proposed rule with the proviso that the requirement of submitting an exhibit showing both the original and proposed service contours apply only to situations involving § 22.23(c)(2) (amendments to base station facilities) and that (c)(1) (change in technical proposal) and (2) not apply to cellular applications. Peters also states that (c)(2) is ambiguous as to whether it refers to greater or lesser of 10% or one mile. Kadison suggested retaining current (c)(4) which governs amendments converting the proposal into a major environmental action under § 1.1305. Kadison states this type of amendment should be considered major because major environmental actions as provided in the National Environmental Policy Act of 1969 should be placed on public notice and be open to protest. Kadison also disagreed with the proposed language concerning changes in ownership or control, arguing that simplification may change the meaning of the section or make it ambiguous because "substantial" is undefined. Kadison suggests following "applicant" with "such that the change would require, in the case of an authorized station, the filing of a prior assignment or transfer of control application."

68. In its comments TDS disagrees with the proposal for subsection (c)(2) when overlapping base stations under common ownership are involved. It suggests creating an exception to read "where the enlargement is wholly encompassed by the reliable service area of base station facilities under common ownership." Vega had a similar proposal, i.e., that the rule should treat modifications as minor for wide-area systems where there is no change to the existing licensed service area or proposed service area. The contours of the wide-area system much like the

[21] However, any such amendments filed after designation for hearing must be approved by the Administrative Law Judge in accordance with § 22.23(b); any such amendments filed after the application is placed on public notice for a random selection process must be filed in accordance with that public notice's requirements for the filing of such amendments.

[22] Cellular Systems, Memorandum Opinion and Order, FCC 83-161, released April 22, 1983. In this order we recently indicated that § 1.65 is not intended for major amendments and should not be used to circumvent our rules.

cellular geographic service area, would be the composite outer service area contour. The existing licensed service area and proposed service area changes would be examined for that portion of the contour that makes up the overall area, under the one mile/10% rule. Proposed changes then, must not encompass any new territory, above and beyond the one mile/10% rule, that is not already served by at least one other site. Vega states this would allow greater system flexibility.

69. Comp Comm suggested clarifying (c)(2) by adding after 1 mile or 10%, the phrase "whichever value is greater",[23] and modifying § 22.23(c) by adding that the exhibit showing both the original service contour and the proposed service contour should be submitted on 1:250,000 USGS maps without reduction.

70. Hill recommends that proposed (c)(2) give credit to the area lost in a modification of a proposed service area complying with the 10%/1 mile rule. He states that in relocating a site, an applicant usually loses substantial service in areas to avoid the "major amendment" status. Then, when the area lost is critical, the applicant will often seek a modification to gain it back. Hill suggested that the rule have an alternative to the 10%/1 mile rule: that the modified proposal would be a minor amendment if the change in service area amounts to no more than a 10% net gain in service area (gain less loss area). He states that this would eliminate emphasis on gain area to the exclusion of the loss area. He also recommended that the rule recognize that it can be used to determine whether an application for modification of an existing facility can be processed on an expedited basis. As long as an application for modification has been filed and an appropriate showing submitted establishing that the nature of the application is "minor," the licensee should be allowed to proceed with the change. This would help eliminate the number of STA's filed and is analogous to the proposal to allow fill-in transmitters without formal filing requirements. MCI in reply comments agrees with Hill's comments concerning the credit for area lost but suggests that the standard be changed to 20% gain in any one of eight radial directions, eliminating the mileage criteria.

71. Telocator agreed with the proposed rule with one caveat. Telocator suggests that any change in station location should be classified as a major amendment for the limited purpose of affording co-channel licensees the opportunity to object to the amendment on interference grounds. It asserts that this will enable co-channel licensees independently to verify the applicant's calculations with respect to whether the amendment will enlarge the reliable service area by more than 10% or extend a radial of the reliable service area by more than one mile. Telocator argues that this will help insure the accuracy of independently maintained data bases which will be relied upon in the coordination of later frequency requests. It asserts that the application should not be considered newly filed unless the amendment expands the reliable service area by more than 10% or more than 1 mile. MCI agrees with Telocator's proposal but notes that interference standards should continue to be objective and amendments should be reviewed by the staff according to such standards.[24]

72. Telocator in reply comments agrees with Vega's and TDS's proposals for commonly controlled stations. It agrees with adding the language proposed by TDS, provided the Commission also adopts Telocator's proposal to classify amendments for change in the location of the station as major.[25]

73. TDS also suggested that the rule be clarified to state that an amendment filed by the first filed mutually exclusive applicant will not be considered a major amendment where the amendment is designed to make its reliable service area contour equivalent to that proposed by the competing applicant. Telocator objects to TDS' recommendation.

74. We are adopting the rule as proposed with minor modifications. In accordance with our decision not to require Carey interference contour maps we will not require that amendments to applications be accompanied with an exhibit showing the original service contour and the proposed service contour. This would be an additional burden for applicants. As required in the past we still require that all major amendments must make the interference free showing as specified in § 22.15(b). We also reject Kadison's proposal that we include in this rule amendments which constitute major environmental actions pursuant to § 1.1305 of the rules. Amendments which involve major environmental actions are listed on public notice under § 22.27(a)(4) of the rules merely for the purpose of filing comment based on environmental impact. See also § 1.1313 of the Rules. There is no reason to consider them major amendments for the purpose of treating the application as a newly filed application.

75. We will adopt TDS' and Vega's proposal concerning stations under common ownership and we will add a sentence at the end of subsection (c)(2) providing that it will not apply if the extension is into a service area presently authorized to the applicant and on the same frequency. We will also clarify this section to state that amendments which enlarge the reliable service area of base station facilities by more than one mile along any of the eight radials are considered major amendments. This criterion is less ambiguous than the proposed 10% or 1 mile rule and it establishes the same criteria for everyone regardless of the size of the service area. We are also rejecting Hill's and MCI recommendation that we consider the overall net gain in the service area (i.e., if an applicant decreases by one mile along the 315 radial and increases by 2 miles along the 45 radial, this should not be considered a major amendment). We will adopt the rule that any increases of more than a mile will be considered major. Hill's and MCI's suggestion has the potential for creating more interference for co-channel systems than the standard we are adopting.

76. As to Hill's recommendation that "minor" modifications to existing stations should be allowed to proceed as long as the application for modification has been filed, § 22.9 and the new Form 489 provide for this. However, a major modification requires the filing of a Formal 401 for an authorization.

77. We do not agree with Telocator that any change to a station location should be classified as a major amendment. We deem changes in the reliable service area to be the more important criteria and not changes to the station location. In addition, we disagree with TDS's proposal to consider as a minor amendment changes to the reliable service area to make it equivalent to the service area proposed by a competing applicant. We consider changes to the reliable service to be major amendments and we will not factor in whether the applicant wants to change its reliable service area to make it equivalent to that of a competing applicant. The language we are adopting

[23] MCI in reply comments suggested the same

[24] Offshore suggested that the language in § 22.23(c)(1) "change in technical proposal such as but not necessarily limited to" be changed from "such as (but not necessarily limited to)" to "defined" as. We do not find this to be an improvement on the current language.

[25] MCI in its reply comments also suggests permitting amendments to reduce the size of the Cellular Geographic Service Area. The Commission has already granted the relief sought by MCI in the Cellular Rulemaking, CC Docket No. 79-318, Memorandum Opinion and Order, FCC 83-161, released April 22, 1983

gives the staff the flexibility required to resolve issues that we may not be aware of at this time.

78. *Mutually Exclusive Application, Section 22.23(d).* The major amendment rule has two purposes: To require that amendments which are major under Section 309 of the Act and the rules be listed on public notice, and to establish the filing date for the application as the date on which the major amendment was filed. This latter proviso is crucial because of the cut-off rule, which provides that an application for the same frequency will be entitled to comparative consideration with an earlier-filed application if the later application is filed within 60 days of public notice that the first application was filed. The ambiguity of our old rule has created problems and delayed processing of applications when a mutually exclusive applicant files a second application, and the staff could not determine whether it was filed with the purpose of amending the earlier filed application. We therefore proposed to focus on two factors; (a) the cut-off rule and (b) expedited processing of mutually exclusive applications. In the NPRM we stated that we would process the mutually exclusive applicant's later file application which is not intended to amend the first, separately from the first. We also proposed that no major amendments of a mutually exclusive application would be permitted except to withdraw from the mutually exclusive situation (i.e., amendments which resolve frequency conflicts). We further stated that this policy would apply regardless of whether the 60 day period had passed. Finally, we also proposed in order to avoid delay in mutually exclusive situations, that an applicant which is mutually exclusive with an earlier applicant shall file a separate Form 401 for the frequencies which are not mutually exclusive with the first applicant. The last proposal would amend § 22.31(e).

79. Peters disagrees with this rule, stating that applicants should have a right to amend regardless of whether the application is mutually exclusive, assuming the major amendment is filed within the 60 day cut-off period for the amended application. Peters also states that the rule should specify what treatment is going to be accorded to an application in a situation where the applicant files a major amendment either without knowledge or in spite of a pending mutually exclusive application. Kadison suggested that the rule allow amendments that fall in the categories described in proposed § 22.23(h), which is now § 22.31(e), the exceptions to the major amendment classification. Kadison also suggests that all major amendments be allowed prior to the end of the cut-off period. The reasoning is that during this time period a newly filed application would not be cut-off in any event.

80. As we stated in the NPRM our purpose is to expedite resolution of mutually exclusive situations. However, after reviewing the comments we have concluded that the proposed rule would not result in expedited processing of mutually exclusive situations and would probably result in increased administrative burdens. Therefore, we will not adopt this proposal.

81. *Exceptions to major amendments classifications, Section 22.23(h).* We proposed to revise and relocate our present rule § 22.31(e). We proposed to revise subsection (2) to clarify that this exception to the major amendment classification only applies to amendments resolving frequency conflicts with other pending applications. The language in the old rule was misleading inasmuch as it referred to "authorized stations". We eliminated the exception dealing with change of equipment in accordance with our proposal to permit licensees to replace equipment without prior authorization. We also proposed to add a new exception where the applicant proposes only a change in a control or repeater frequency, since this is not such a substantial change in the original application as to require that it be considered as newly filed.

82. Telocator disagrees with the language in (h)(6) which provides an exception when the amendment does not create new or increased frequency conflicts, and is demonstrably necessitated by events which the applicant could not have reasonably foreseen at the time of filing. Telocator asserts that this provision requires subjective *ad hoc* determination of "demonstrably necessitated by events . . . foreseen at the time of filing." Telocator believes that the Commission should limit its role to determining objectively whether the amendment would create new or increased frequency conflicts.

83. We have made a minor modification to this rule adopting it as 22.23(g). We are not persuaded by Telocator's suggestion. The language in (g)(6) is the language we have in the current rules. That language has not created any problems either for the staff or for the applicants. We believe the section is in the public interest and we will therefore keep it in our rules.

84. *Public Notice, Section 22.27.* We proposed to amend subsection (a)(3) to provide that public notices released for informational purposes only do not create protest rights. Kadison and Telocator filed comments on this proposal. TDS filed reply comments. Kadison disagreed with the proposal because it may engender litigation as to which public notices create rights and which do not. It proposes that the rule be retained with its current wording. Telocator agrees with the proposal and suggests adding that the filing of proposed Form 489 (Notification of Status of Construction of Facilities) and minor amendments to applications are deemed to be of public significance. It asserts that the routine listing of such actions on public notice enables the industry to police compliance with construction requirements and maintain accurate data bases. TDS agrees that the filings of Form 489 should be listed on public notice.

85. We will adopt the rule as proposed. We see some merit to Telocator's proposal but we will not include it in the rule because of the heavy staff burden associated with it. The rule we are adopting permits our listing on public notice applications which we deem of public significance. We think it is not necessary to add Form 489 or minor amendments to the rule. We disagree with Kadison that the rule will engender litigation. As we stated in the NPRM we proposed this revision because our old rule has created confusion, and members of the public have believed that informational public notice entitled them to 30 days' notice and the right to file protests. We believe our rule will alleviate an unnecessary staff burden without compromising the rights of other applicants and licensees and without adding to public confusion. *See also* discussion in paragraphs 216 *infra, et seq.*

86. *Ownership changes and agreements to amend or dismiss applications or pleadings, Section 22.29.* We proposed to eliminate the prior approval requirement, proposing instead that applicants notify the Commission of any relevant settlement agreements at the time they make ownership changes, dismiss pleadings or amend or dismiss applications.[26] Peters, Kadison, Comp

[26] The present rule establishes standards by which the Commission reviews settlement agreements among parties to contested applications In requiring prior approval of such agreements the Commission concerns have been: (1) To discourage financial incentives to file strike applications; (2) to discourage unreasonable buy-out of competitors; and (3) to discourage attempts to delay grants or unreasonably profit from the administrative process. See Domestic Public Land Mobile Radio Service, 60 FCC 2d 549 (1979).

Comm, Telocator, and Pagenet filed comments. Telocator and AT&T filed reply comments.

87. Peters states that the proposed rule is different from the current standards being used for cellular applications and that the rule does not state whether it applies to partial or complete settlement; Peters suggests that it be applicable to both.[27] Kadison disagrees with the proposed rule, stating among other things, that not having a limit on buy-outs for cellular applications will encourage the filing of more applications because applicants will know a profit can be made. Kadison suggests that buy-outs be limited to reimbursement of costs and that itemization be required for services like cellular and network paging for which the application costs are high. Comp Comm suggested further revising the rule to include requiring the filing of full details in all settlements involving frequency and time sharing, coordinated operation, and/or acceptance of interference. These agreements would be placed on an informational public notice to permit proper design of future adjacent systems and preparation of correct interference studies. Telocator and Pagenet support the proposed rule. Pagenet states that the proposal is a reasonable means to encourage settlements and an effort to return decision making to the market place. AT&T disagrees with the elimination of the requirement of prior Commission approval. It asserts that this will have a chilling effect on settlements, contrary to the Commission's goal of decreasing the number of comparative hearings. If the Commission abandons its role, AT&T believes other federal or state agencies may undertake greater scrutiny. There would be uncertainty about the standards used by these agencies, which may be different from the public interest standard in the Commission's regulations. Ultimately, AT&T contends, this may result in longer state certification proceedings.

88. Congress recently amended Sections 311 (c) and (d) of the Communications Act of 1934, liberalizing previous standards and providing that in approving agreements removing application conflicts for broadcast applicants, the Commission will examine whether the agreement is in the public interest and will ascertain that no party to the agreement filed its application for the purpose of reaching or carrying out such agreement. Communications Amendments Act of 1982, Pub. L. 97–259, Section 116. The broadcast rules now only require that the applicants submit an affidavit stating that the agreement is in the public interest and that no party to the agreement filed its application for the purpose of reaching or carrying out such agreement. *See Amendment of Section 73.3525*, FCC 83–152, released April 14, 1983.

89. Section 311 of the Act does not explicitly apply to the Public Mobil Services. Our current rule was modeled after the more restrictive old broadcast rules. We believe that the regulatory concerns embodied in our old rule are no longer relevant in the public mobile services. The critical shortage of frequencies which underlay the prior approval policy is no longer a concern. The mobile services market is a very competitive market and thus unlikely to create incentives for the type of behavior mentioned above. We also have adequate tools to deal with abuses of the regulatory process should they occur. In light of the policy embodied in the Congressional amendments to the Communications Act, and for the reasons we have indicated, we believe it is in the public interest to eliminate the prior approval requirement and adopt the rule as proposed.

90. *Informal Objections, Section 22.30 (b) and (c).* We proposed to eliminate the sections providing for informal objections to applications. Kadison, Vega, AT&T, Telocator, and USITA filed comments with regard to this proposal. MCI and TDS also filed reply comments.

91. Kadison opposes the proposal and suggests both subsections be retained as written. Kadison states that often, even with due diligence, it may take longer than 30 days to ascertain a problem and file a formal pleading; moreover, facts and circumstances may arise after the 30 day period which a party should be allowed to raise. Vega also opposes the proposal and suggests limiting the informal objections to those concerned with possible co-channel interference, because of the large number of applications, it takes longer to determine if an application would be harmful to an existing licensee. Telocator objects also, stating that trying to reduce the number of frivolous pleadings should not be accomplished by sacrificing procedures designed to insure informed decision making. MCI also objected, agreeing with Kadison and Telocator.

92. AT&T agrees with the proposal. USITA also agrees provided the Commission makes clear that informal comments will still be entertained as § 1.41 filings. TDS also agrees and asks for clarification of whether parties could file objections under §§ 1.45, 1.46 and even 1.106(b)(2) for a late petition.

93. We will adopt our proposal. The commentors have not persuaded us otherwise. As we stated in the NPRM, under our present rule many applications which would be otherwise granted routinely and quickly are delayed by informal objections. Parties are encouraged by the rules to file informal objections because among other things it is easy and inexpensive to do so. The staff spends approximately the same amount of time resolving informal objections as they spend on formal objections. The consideration given to these objections is often not materially different from the consideration given to formal objections. Consequently, a different filing requirement is unwarranted. We believe it is not unreasonable nor unduly burdensome to require that the objection be presented with the formality required by Part I of the rules.[28] Interested persons who cannot meet the 30 day deadline may request extensions of time under § 1.46, or they may file a properly supported motion to accept late filed pleadings. Consistent with Commission policy the staff will consider all properly supported motions.

94. *Petitions to Deny Major Amendment, Section 22.30(d).* We proposed to revise this rule to provide that petitions to deny a major amendment may only raise matters directly related to the amendment and not the underlying application, which has already appeared on public notice. Our current rule allows a petition to deny a major amendment to raise any public interest considerations, even if unrelated to the nature of the amendment and even if petitioner did not raise these matters when the original application was filed.

95. USITA and AT&T support the proposal. AT&T states that it will discourage duplicative challenges and help limit the time that an amended application may be delayed by a petition. Kadison opposes the adoption of this section. Kadison states that often a party reviews an application for the purpose of filing a petition to deny only after it receives notice of a major amendment, and that it may have had no interest or standing to oppose an

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[27] The rule we are adopting will apply to partial settlement in non cellular services as well as a total settlement in the cellular radio service. As for partial settlement agreements in the cellular radio service we have indicated the procedure to be followed by applicants in *American Radio-Telephone Service Inc. and Post Cellular Telecommunications, Inc.*, FCC 83–179, released May 9, 1983, *modifying* CC Mimeo No 812, released November 16, 1982

[28] Our proposal does not affect § 1.41 of the rules (informal requests for Commission action).

application until the amendment was filed. Thus, the amendment signals the opportunity for a party's initial petition and the party should be able to raise any issue it considers legitimate.

96. We will adopt the rule as proposed, with minor modifications. We will add a provision that the rule will not apply to petitioners who gain standing because of the major amendment. We believe our rule expedites application processing and preserves due process because an interested party has an adequate opportunity to comment on the information contained in the underlying application and on the amendment.

97. *Additional frequencies, Section 22.31(e).* We proposed to add a new subsection (e) to this rule providing that, when an applicant requests a frequency which is mutually exclusive with another application, he cannot in the same application request additional frequencies which are not mutually exclusive with the first application. The additional frequencies must be applied for in a separate application. *See* discussion of § 22.23[c]. Kadison, and Telocator filed comments: MCI filed reply comments.

98. Kadison agrees with the proposal provided that the rule allows applicants to sever applications into two or more without penalty. It states that where the application creating potential conflict has not yet been placed on public notice, or if it is listed on public notice simultaneously, an applicant may inadvertently combine frequency requests.

99. Telocator states that the rule seems to imply that the second-filed mutually exclusive application that also requests non-mutually exclusive frequencies could be dismissed. It states that this result would be too harsh and that the proposed rule will invite litigation as to whether and when an applicant should be aware of the mutual exclusivity. It suggests changing the word "shall" in the first sentence to "should". Telocator recommends that the rule afford mutually exclusive applicants (including the first filer) an opportunity to amend applications, *nunc pro tunc* (as of its original filing date), for uncontested frequencies on a second Form 401. Telocator also recommends that the staff sever the applications on its own motion, granting them to the extent they are not mutually exclusive, prior to designating for comparative hearing. MCI disagreed with the proposed rule as too harsh. MCI agreed with Telocator's proposal to permit the second applicant to amend *nunc pro tunc*, bifucating into two requests, one clear of a conflict. It states that the clear application and any authorization should not be considered in a comparative hearing to avoid claims of prejudice.

100. We agree with the comments and are modifying the proposed rule. We are adding language to the effect that if an applicant requests a frequency which is mutually exclusive with another application that has previously been placed on public notice, it shall not request additional frequencies which are not mutually exclusive in the same application. Therefore, we are adding an objective test: if the first application has been placed on public notice, the second applicant is charged with actual knowledge and must request additional frequencies in separate applications. Any nonconforming application will be dismissed in its entirety. If, however, the first application has not appeared on Public Notice, we will assume that the second application violates the rule by chance, rather than by design. In such cases (expected to be few), we will allow the applicant to sever its mutually exclusive portion and to receive *nunc pro tunc* treatment for its additional frequencies or locations. Pursuant to this rule the request for additional non-mutually exclusive frequencies will be dismissed if they are filed on the same application. As we stated in the NPRM we believe our rule will expedite application processing of mutually exclusive applications and it is not burdensome on applicants.

101. *Transfer of Control or Assignment of Station Authorization, Section 22.39.* We proposed to revise this section to make it clearer, to indicate the forms to be used in these situations, and to eliminate unnecessary forms. Peters filed comments regarding proposed subsection (b)(5) (partial assignments) stating it was not clear. We proposed for partial assignments that the assignee file a Form 408 if the facilities are to be incorporated into an existing licensed station and Forms 401 and 408 if a new station is to be established. The assignor will file an FCC Form 408. Peters suggested using the proposed Form 705 (Application for Assignment or Transfer of Control), with the permits or licenses for which assignments is desired specified thereon. Due to the administrative requirements the number proposed for Form 705 has been changed to Form 490.

102. Upon further review we have decided to modify our proposal. Both the assignor and assignee when requesting a partial assignment of a license will submit a Form 401. If the partial assignment is not completed within 60 days the assignor must file a Form 489 to return the license to its original specifications and the assignee must submit his authorization for cancellation. The rule adopted promotes our objective of expediting application processing and does not create additional burdens for applicants. It is also the result of careful consideration and scrutiny as to the type of information needed in these situations.

103. *Trafficking.* We proposed to eliminate the rule dealing with "trafficking" in licenses or construction permits in § 22.40. This rule currently requires Commission review of a proposed transfer or assignment of a license to determine if the circumstances indicate "trafficking" in licenses or construction permits whenever the applications for assignment or transfer involve facilities which have been operated for less than two years by the proposed assignor or transferor. The Commission reviews whether the proposed assignor or transferor acquired the authorization or operated the station for the principal purpose of profitable sale rather than public service.

104. Peters, Kadison, TDS, Hill and Offshore filed comments; Telocator filed reply comments. Peters, Hill, Kadison and Telocator support the proposal. Kadison urged that the section continue to apply where a station has been operated for less than one year and where it was obtained by the transferor or assignor by means of a comparative hearing or a lottery. Kadison further suggests that deletion of § 22.40 in all circumstances could encourage use of straw men in lottery proceedings and would make a mockery of the comparative hearing process.

105. TDS and Offshore oppose the elimination of this section. They state that reliance on proposed § 22.309 (Representations) is inadequate, especially in view of the lottery procedures. They also contend that it is a bad time to eliminate the trafficking rule because there could be increases in speculative applications. Offshore, like Kadison, suggests maintaining the rule when the authorization was obtained through a hearing or a lottery and the station has been operated for less than one year; in such a case the sale should not be made at a profit. Telocator in its reply comments rejects Kadison's, TDS' and Offshore's arguments. Telocator states that it is not clear whether the present rule or the one proposed by the commenters will significantly ameliorate alleged abuses to the extent they do exist. Moreover, it is clear that the present rule substantially compromises a licensee's ability to respond to the marketplace.

106. As we stated in the NPRM, we believe that modification of the trafficking rule recognizes the reality of the marketplace. There are many situations when it is financially advantageous to sell a station even though it has been operated for less than two years. We proposed to recognize this and allow licensees more easily or readily to take advantage of these economic opportunities. We will modify our original proposal to conform the PMRS rule with similar rules recently adopted for the broadcast and Domestic Public Fixed Radio Services. *Amendment of Section 73.3597 of the Commission's Rules (Applications for Voluntary Assignments or Transfers of Control)*, BC Docket No. 81–887, FCC 82–519, released December 2, 1982, and *Multipoint Distribution Service*, General Docket No. 80–112 and CC Docket No. 80–116, FCC 83–243, released July 15, 1983 (*MDS Decision*). In those proceedings, the Commission relaxed the anti-trafficking rules to permit free transferability of most licenses (*i.e.*, stations constructed); however, we retained a limitation on the transferability of licenses awarded after comparative hearings and on the transferability of construction permits. The limitation is simply that the Commission will review carefully any application for transfer of a construction permit or a license for a station operated less than one year. Essentially, we reserved the right to require the transferor to demonstrate that he was not speculating in authorizations to use the spectrum. *See MDS Decision, supra*, at paras. 142–145.

107. For the reasons stated in the cited proceedings, we will adopt a rule for Public Mobile Radio Services similar to § 21.40, adopted in the *MDS Decision*, thus, we will review carefully any applications for transfer of an authorization of a facility which has not been constructed (construction permit)[29] or an authorization of a facility obtained as a result of a comparative hearing if the station has been operated for less than a year,[30] with one exception: we will not apply the rule to paging stations at 35, 43 and 900 MHz.[31] We find that the public interest does not require any restriction on the transferability of authorizations in these services. In the past two years we have made available 28 channels for paging at 35 and 43 MHz (Dockets 19327 and 80–189) and 40 channels at 900 MHz, 37 of which are available for local paging (Docket 80–183). Thus, in each community nationwide there are now a total of 73 paging channels available where there used to be only 8.[32] We have accepted more than 5,500 applications for the 65 new channels, and we have granted hundreds of those so far. Only in a handful of cities have we received more applications for 900 MHz channels than there are frequencies available. To state the situation broadly, virtually all those who want paging channels can apply for and receive them. Consequently, the value of a bare construction permit to a prospective transferee should approach the cost of the transferee of applying to the Commission for his own new construction permit. With virtually open entry in paging and a very low likelihood that there are incentives to profit from the transfer of construction permits (or licenses held less than a year, for that matter), we see no public interest reason to restrict the transfer of paging authorizations.[33] Accordingly, we will adopt a revised § 22.40 consistent with the *MDS Decision* except for lowband and 900 MHz paging.

108. *Term of Construction Permit, Section 22.43.* We proposed to revise this rule to provide that a station must commence operations within 12 months of the grant of the construction permit. We proposed to add language stating our policy not to grant extensions based on lack of financing, or lack of site availability. The proposed rule also provides for extensions necessitated by delays in obtaining state certification. Peters, Vega and FCBA filed comments.

109. Peters supports the proposal. Peters also asked for clarification on whether § 22.43(b) (extension of time to complete construction) applies to cellular construction permits, and a statement that the Commission should permit extension of cellular construction permits in appropriate circumstances. Vega suggested that in subsection (a) the date of grant of the application by the Public Notice of announcement of that action. FCBA suggested that the proposed rule be amended to provide that if the permittee shows it has been "reasonably diligent in pursuing state certification, a reasonable extension of time will be granted. Telocator supports extending the construction permit term to 12 months and codifying the policy denying extensions based on lack of financing. Telocator disagrees with denying extensions based on lack of site availability, stating that the rule should allow for the possibility that unavailability of the site may be beyond the permittee's control. The staff should have discretion to grant an extension upon an adequate showing. Telocator reiterates its proposal to create an objective basis for determining due diligence concerning state certification, discussed in § 22.13 *supra*.

110. In conformance with our new procedures we have changed the title of this section to Period of Construction. Thus, after the radio station authorization has been granted, the licensee will have 12 months to complete construction. We disagree with Vega that the date of grant of the application should be the public notice announcement of that action. Most of the time the applicant receives the authorization before the action is placed on public notice. The time lag is typically one or two weeks. Occasionally mechanical or other problems with our equipment can delay issuance of the authorization beyond the public notice date. For uniformity and consistency, we will rely on the grant date printed on the authorization. As to FCBA's and Telocator's suggestion regarding state certification, we are adopting a presumption to determine whether the applicant has acted with diligence in pursuing state certification. We are providing that if the licensee files for state certification within 90 days of the license grant, a presumption

[29] This rule applies even if the authorization is obtained through a lottery.

[30] In cases of facilities operated less than a year our review will be limited to cases when the license was obtained after a comparative hearing. The rule will not apply to licenses obtained after lotteries. *But see* Amendment of the Commission's Rules to Allow the Selection from Among Certain Competing Applications Using Random Selection or Lotteries Instead of Comparative Hearings, 48 FR 27182 at 27190 (June 13, 1983), FCC 83–114 released May 27, 1983.

[31] In reaching a determination to allow the transfer of constuction permits in some circumstances, we recognize that prior Commission rulings have stated that any sale of a bare license or permit for profit is prohibited by Sections 301 and 304 of the Act. *See, e.g., Amendment of Section 73.3597 of the Commission's Rules, supra.* While we may review that interpretion of the Act in the future, we do not believe that in circumstances where the construction permit or license has *de minimis* value as a result of market conditions, Section 301 and 304 preclude the free transferability of permits and licenses. Where, as here, no public interest considerations weigh against allowing the transfers, we believe they may, and should, be permitted. However, we wish to make clear that our decision herein is not intended to in any way affect previous Commission rulings prohibiting for-profit sales to protect the integrity of our licensing process.

[32] Four of the existing paging channels (152.24, 152.84, 158.10, 158.70 MHz) are allocated equally between wireline companies and radio common carriers, and these channels are fully utilized in most large markets. We will not include these channels in our rule until we determine whether to abolish the separate allocation in the companion NPRM.

[33] We will award mutually exclusive channels by lottery rather than comparative hearing; thus, the comparative hearing reservation does not apply here.

of due diligence is created. We have also added the same presumption for extensions of time based on failure to order equipment (see discussion of § 22.13). We are not persuaded by Telocator's comments that extensions of time should be granted for lack of site availability. As we stated in the NPRM, we believe that only in unusual cases will lack of a site be beyond the permittee's control. Licensee should be able to make arrangements for a site without prolonging the construction period. In addition, at the time of filing an application the applicant certifies that it has obtained reasonable assurance that the site is available; thus, lack of a site should be the exception and not the rule.[34]

111. *Termination of Authorization, Section 22.44.* We proposed to revise this section to clarify it and to include our policy that a construction permit will be forfeited where the permittee is denied state certification and the state appeal process has been exhausted.[35] Peters and Telocator filed comments concerning the proposal.

112. Peters states that § 22.44(a) (termination of authorization) is too narrow, and suggests that all authorizations, construction permits and special temporary authorizations shall automatically terminate upon failure to comply with the conditions in the authorization. We proposed that special temporary authorization shall automatically terminate upon failure to comply with the conditions in the authorization. All other authorizations shall terminate on the date specified on the authorization or on the date specified by the rules. Telocator agrees with the proposed rule and reiterates its proposal that a construction permit be deemed forfeited if the permittee has not applied for state certification within 90 days of acceptance of the application for filing, discussed in § 22.13, *supra.*

113. Concerning Telocator's proposal, we have included a presumption in § 22.43 for due diligence in pursuing state certification. With regard to Peters' proposal, § 22.43 already provides that an authorization will automatically expire if the licensee has failed to complete construction within the period provided in the rule and has failed to timely request an extension of time to complete construction. We see no reason to impose the additional measures advocated by Peters when there are other procedures for dealing with licensees who fail to comply with the conditions in their authorizations, e.g., forfeitures or license revocation. We will adopt the rule as proposed.

114. *License period, Section 22.45.* We proposed to clarify this section which states when licenses expire. Kadison and Telocator filed comments, and Telocator and TDS filed reply comments.

115. Kadison recommended staggering license renewals, with one fifth of the stations applying for renewal each year, to ease administrative burdens. Telocator and TDS recommended revising the license term to 10 years pursuant to the Communications Amendments Act of 1982, *supra.* In its reply comments Telocator rejects Kadison's proposal to stagger license renewals, as increasing administrative burdens.

116. In *Common Carrier and Satellite Licensing Procedures Pursuant to the Communications Amendments Act of 1982,* CC Docket 83–371, FCC 83–276, released June 9, 1983, this rule was amended to provide that licenses will be granted for 10 years in accordance with the 1982 amendments to the Communications Act. We are not persuaded that staggering the ten-year renewal cycle is more efficient and less burdensome than requiring all renewals for a particular service in the same year. Accordingly, we will adopt the rule as proposed.

117. *Frequencies, Interference, Section 22.100.* We proposed to amend this rule to state more clearly existing rules concerning interference matters and to codify several interference policies. We also proposed to codify our policy with respect to mobile-to-base and mobile-to-mobile interference, namely, to state explicitly that we do not act upon this type of interference complaint. Peters, Comp Comm and Telocator commented on the proposal.

118. Comp Comm disagreed with subsection (b)(5) (mobile-to-base, mobile-to-mobile intereference), stating that the presumption we relied upon in the NPRM, that there are technical measures to eliminate this type of interference, is not entirely correct. Comp Comm states that the rules do not consider interference when a station is proposed that accepts a large amount of interference from an existing two-way facility while still offering full protection under the Carey Formula to that existng station. It suggests revising the rule to require applicants to offer full Carey protection to existing facilities and not be permitted to accept base-to-mobile interference. It asserts that the concept of a proposed two-way facility accepting base-to-mobile interference while offering full base-to-mobile protection is equivalent to authorizing the mobiles of the proposed facility to destroy the mobile-to-base transmissions of the originally authorized facility. Comp Comm agrees that protection of a base station receiver from mobile interference is not justified solely to eliminate noise in an idle base station receiver, particularly since there are technical means available to eliminate the problem.

119. Telocator also disagreed with subsection (b)(5), stating that the proposed language is unnecessarily and unadvisably categorical. Telocator suggests that the rule be worded such that protection against mobile-to-mobile or mobile-to-base interference will be considered on a case by case basis. Telocator also suggested as a technical correction that § 22.100(g) should reflect that control and repeater stations may be authorized in the PLMS at 928–929 MHz, by adding at the end of paragraph (g) ". . . except as provided in § 22.501(g)(1)."

120. We are not persuaded by Comp Comm's and Telocator's suggestions concerning (b)(5). We will not offer protection for mobile-to-base or mobile-to-mobile interference. Our rules do not protect a licensee from the reception of a co-channel signal of a mobile unit operating in accordance with Part 22. A licensee not wishing to receive radio signals from mobiles not affiliated with its service may, for example, reduce the sensitivity of its base station receiver so that signals from mobiles beyond its reliable service area contour (RSAC) are generally beneath receiver threshold. Another technical measure is available to a licensee which does not wish to receive signals from any nonsubscribing mobile, even if it is within the licensee's RSAC. The base station receiver may be modified to accept a signal from only those mobile units which the licensee desires to serve by equipping it for tone-coded signals. If mobile units and the base station receiver are properly equipped, only those mobile units prefacing their normal signals with a unique code can have their signals detected and amplified by the base station receiver.

121. The key characteristic of the Public Land Mobile Service is the "mobility" of "mobile" units. They will frequently be moving from place to place, sometimes many miles from the RSAC of the licensee to which they subscribe. Many carriers specifically offer service to roamers as transient service. Unless its base station receiver is equipped not to detect and amplify

[34] In reply to Peters' question we note that subsection (b) (extensions of time to complete construction) is a rule of general applicability to all the radio services covered by this Part.

[35] Hazle-Tone Communications, Inc., FCC Mimeo 6645, released February 10, 1981.

the signals of mobile units subscribing to a different licensee, a licensee should anticipate receiving such signals, even if it considers them to be interfering. There is not now, nor has there ever been, any rule, policy or practice requiring mobile-to-base protection. We also believe it is excessively burdensome if not impossible to deal with this matter on a case by case basis. If we offered protection for this type of interference, it likely would prompt licensees to use this as a complaint mechanism to try to keep new carriers out or to protract the processing of their applications. Furthermore, we would not be surprised to see licensees attempt to use the complaint procedure as a competitive ploy against each other. Subsection (g) has been corrected as Telocator pointed out. In view of the above, we will adopt the rule as proposed.[36]

122. *Frequency Tolerance, Transmitter Measurements, Sections 22.101, 22.102, 22.207.* We proposed to make various changes to § 22.101 and to delete §§22.102 and 22.207. The transmitter measurement requirements in § 22.207 would be simplified and placed in § 22.101(b). We proposed to specify frequency tolerance limits, and leave it to the licensee's judgment to conform to these standards. Motorola and Telocator filed comments, pointing out errors in the rule.

123. Motorola points out that the mobile station tolerance for the 450–470 MHz band should be corrected to .0005 and that the footnote beginning "Below 512 MHz" (note 1) could be deleted as it no longer serves any useful purpose. Output, rather than input, power is now used in all bands so that this notation is no longer required. Telocator has similar comments, observing that the frequency tolerance for mobiles in the 470–512 MHz band should be .0005 and that base stations in the 821–896 MHz band may not exceed .00015 and mobiles .00025. We agree with the comments and have corrected the rule accordingly.

124. *Standards governing use of 72–76 MHz band, Section 22.103.* We proposed various revisions to this rule section, mainly to eliminate duplication. Only Peters commented on the proposal. Sections (b) and (c) establish parameters to be followed by applicants proposing stations located between 10 and 80 miles from TV channel 4 or 5 in the 72–76 MHz band. Peters suggested that there should not be an absolute prohibition as proposed in subsections (b) and (c). Peters believes that there should be some provision for operation of 72–76 MHz transmitters where an adequate showing is presented which clearly indicates no threshold interference. Peters further states that if interference does occur after installation, corrective measures are available.

125. We are not persuaded by Peters' proposals. As we stated in the NPRM, our current rule provides that applications for use of the 72–76 MHz band less than 10 miles from TV channel 4 or 5 stations will be returned without action. This policy was adopted in order to avoid harmful interference to television signals. If, however, the transmitter is co-located with the television transmitter, harmful interference is actually minimized. We have regularly granted waivers in these cases. We proposed, therefore, to update the language in this section to take into account the co-location situation. In the NPRM we also rejected a proposal from Beehive Telephone Company similar to Peters' here. We reiterate that this rule is necessary to prevent or correct this type of interference.

126. *Emission types, Section 22.104.* We proposed to clarify this section which provides for the types of emissions permitted in our services. Peters and Motorola suggested including F9Y, an emission used in digital systems, as an authorized type of emission. Motorola states that authorizing this emission will assure routine approval of systems proposing it and that the NPRM indicated support for digital techniques. We agree with the commenter and have included this type of emission in the rule being adopted. We believe this adds flexibility to our rules concerning digital transmissions. *See also* discussion of § 22.106 *infra*. In accordance with this rule we have amended § 22.507 and eliminated §§ 22.603 and 22.1003.

127. *Emission Limitations, Section 22.106.* We proposed to amend this rule to provide, *inter alia*, for systems employing digital modulation techniques. We also requested comments on whether rules should be added to specify the circumstances under which digital system may operate, and to allow flexibility regarding in-band use of assigned frequencies.

128. Comments were filed by, IMM, AT&T, and Offshore Telephone. IMM supports the proposed provisions for digital transmissions. IMM states that the Commission should recognize that digital is not synonymous with nonvoice that this confusion appears in the Commission's explanation for the proposed changes to this section. IMM also supports permitting licensees to manage their in-band transmissions with greater flexibility, in particular establishing multi-voice channels (transmission channels) within the standard 25 kHz bandwidth. This flexibility, asserts IMM, would allow licensees to operate with greater spectrum efficiency. IMM also requests that consideration be given to the possibility of allowing greater "cross-band" flexibility of multiple assigned frequencies. In other words, when one operator holds licenses for a small group of contiguous frequencies, it may be feasible and desirable to allow the operator to regard this channel group as common, or in essence, one large channel. IMM recommends that the Commission refrain from regulating the manner in which the operator divides this "meta channel" into specific individual voice channels, as long as it does not cause interference for other operators at adjoining frequencies. IMM asserts that by means of packet-switiching, TDMA (time division multiple access), and related techniques, this form of trunking would encourage greater spectrum efficiency by making it possible for operators to utilize portions of the current guardband between channels in their channel group. IMM further asserts that this may become feasible with certain digital modulation schemes in which adjacent-channel interference can be adequately controlled with a reduced guardband requirement.

129. AT&T agrees with the proposed rule assuming any emission may be used if the transmitter has been type accepted for such an emission under Part 2. Offshore opposes allowing existing licensees to freely split their authorized spectrum. It asserts that the use of interstitial frequencies should be considered by the Commission on a service by service basis (e.g., mobile, rural). Offshore states that the rules must provide for strict frequency coordination.

130. We believe the suggestion made by IMM has merit. We have given considerable thought to allowing applicants to use any emission mode; it would be advantageous to allow licensees (and new applicants) flexibility in choosing the type of emission mode they use and to the extent possible, the amount of bandwidth they occupy in all frequencies licensed under Part 22. Provided technical feasibility could be demonstrated, such flexibility would permit combinations of modulation and bandwidth that best serve the public interest. However, the only data available to us on modulation techniques which could justify

[36] We have followed Peters suggestion and added the term "repeater stations" to paragraph (b)(6).

authorizations is on amplitude compandored single sideband modulation, although that data is limited in scope. Therefore, we will authorize the use of amplitude compandored single sideband modulation pursuant to the following requirements. Applicants proposing to use amplitude compandored single sideband modulation must demonstrate that the proposed facilities will not cause harmful electrical interference to known pending and licensed amplitude compandored single sideband and FM stations in excess of the ratio of desired-to-undesired field strengths as is presently required for FM co-channel interference. The interference studies will be made in accordance with § 22.15 of the rules. Out-of-band emissions will be restricted to that required for an FM station on an assignable frequency, in accordance with §§ 22.106, 22.501, 22.600 and 22.1000, to assure that this approach will not create greater interference levels than currently allowed. This plan allows applicants to establish more than one channel within this defined authorized bandwidth. For example, it is believed possible to insert several amplitude compandored single sideband channels within the authorized bandwidth, provided that the total peak envelope power of all the channels so inserted is accounted for in supporting interference studies, and the assumption is made that the total effective radiated power is that at an assignable frequency and the antenna-center height above average terrain is the highest of the various proposed antennas. We believe this approach will encourage more efficient use of the spectrum while still protecting from harmful electrical interference.[37] We intend to treat such proposed multiple amplitude compandored single sideband channels within an authorized bandwidth as a single channel on an assignable frequency for traffic loading study purposes, so as not to penalize anyone for efficiency.[38] However, we will look at each request on its own facts. Applications proposing amplitude compandored single sideband modulation employing greater total effective radiated power or other types of emissions will be considered on a developmental basis. Regarding IMM's suggestion that adjacent channels of assignable frequencies should be able to be grouped to form one large channel, we also believe this approach may have benefits. The present record is insufficient however, to support its adoption. Within the limits of our resources, we hope to undertake further evaluation of this approach.

131. *Transmitter power, Section 22.107.* We proposed to delete portions of this rule which have become obsolete through developments in technology. We proposed to eliminate the provisions relating to maximum power output authorized for transmitters, and instead continue to request rated power output as a means of computing effective radiated power (ERP). Peters suggested that this rule be omitted as unnecessary because it does not provide regulatory standards.

132. We disagree with Peters' suggestion. The proposed rule informs applicants that they should only use the amount of power needed for their system (i.e., not exceeding the output power for which the transmitter in question has been type-accepted). However, we do not think it is necessary that the rule particularly specify the maximum rated power of a transmitter. We are more concerned with interference and coverage, which is a function of ERP. ERP is a function of power output, losses between the transmitter output terminals and antenna input terminals, and antenna gain (Sections 22.505 and 506). Therefore, in light of the above we will adopt the rule as proposed.

133. *Directional Antennas, Section 22.108.* We proposed to restate this rule in positive terms and delete various sections which do not apply to Part 22. The rule would describe when directional antennas are required and, in these situations, the required beam width. Comp Comm and IMM commented on the proposal. Comp Comm suggested that the rule specify what the applicant has to submit with the application if it proposes using an antenna radiating power in an other than an omni-directional manner. Comp Comm suggests that the following be required: if the radiation pattern is in any way being determined by the mounting structure, applicants should supply engineering drawings showing the size and shape of the structure, antenna mounting configuration with reference to the structure, orientation of antenna and mounting structure relative to true north. It asserts that this will ensure that the proper directional pattern is being used and, ultimately, that the facility can reasonably be expected to radiate as proposed. IMM suggested that the Commission eliminate the requirement that rural radio subscribers necessarily use directional antennas. It states that there are some situations where a directional antenna for local distribution makes no economic or technical sense. IMM proposes that subsection (a) be amended to allow use of omnidirectional antennas in rural radio service when communicating to only one point.

134. We agree with Comp Comm's suggestions that the rules should require an additional engineering showing for side mounted antennas and we have amended § 22.15(j)(4) accordingly. However, we are not persuaded by IMM's proposal that we should, as a general matter, allow use of other than directional antennas in the rural radio service. This provides more efficient use of the spectrum. The rule we are adopting provides that a multi- or omni-directional antenna may be authorized upon a proper showing where a station communicates with more than one point. This accommodates IMM's concerns.

135. *Antenna Polarization, Section 22.110.* We proposed to clarify this section by adding headings for the types of polarization discussed and revising the language into a more readable format. This rule specifies which stations shall employ vertically, horizontally or circularly polarized antenna signals. Only Peters and IMM commented on the proposal. Peters suggests that we retain the substance of the current rule. Peters asserts that under the proposed rule a licensee lacks discretion to utilize polarization techniques in designing radio systems. In addition, Peters states that polarization techniques can prevent or minimize harmful interference. Finally, Peters argues that polarization changes have been and should continue to be major changes. IMM disagreed with proposed subsection (c) and suggest it be amended to allow any station without excluding the stations described in paragraph (a) as we proposed, to radiate a circularly polarized signal upon a satisfactory showing. It also suggested using the strength of the vertically polarized components where necessary for allocation purposes, since this corresponds to the "normal" orientation of a mobile of portable antenna. IMM also recommended that the section be expanded to allow, upon a satisfactory showing, for elliptical polarization and feedback controlled variable polarization.

136. We disagree with Peters' comments; we believe the proposed rules does retain the substance of the

[37] We believe this approach will protect existing users employing frequency modulation. The Commission is examining certain technical regulations in A Re-Examination of Technical Regulations, Gen. Do. 83–114, FCC 83–67, released March 16, 1983.

[38] This flexibility is consistent to that which we have adopted for 900 MHz systems. See 900 MHz stations, 89 FCC 2d 1337 (1982), at para. 67

current rule. In addition, the comments have not persuaded us that we should change the rule at this time. Allowing the use of circular polarization or any other type of polarization may increase interference potentials. We do not have sufficient data in these services at this time to allow use of these types of polarization. However, if applicants can demonstrate that interference potential would not be increased we would consider a request for use of other types of polarization. Changes in polarization will be considered major changes.

137. *Topographic Data, Section 22.115.* We proposed to rewrite this section into plain English and eliminate unnecessary specificity. This rule provides the method for determining average terrain elevation. Peters, Vega, Comp Comm, Motorola and All Florida filed comments. Fletcher and Peters also filed reply comments. We have also considered informal comments from Jubon.

138. In subsection (a)(2) we proposed to keep the current language in the rule requiring that at least one radial include the principal community to be served. Peters, Vega, Comp Comm and Motorola suggested that this section be eliminated on similiar grounds. Peters, for instance, states that the reliable service area is fixed to a certain contour value and there is not other required reporting procedure or signal level over a principal community. We agree with the comments and we have therefore eliminated the "principal community" language from this section.

139. In proposed subsection (a)(3) we kept the language requiring radials to be drawn to co-channel or adjacent stations within 75 miles and added language requiring that stations in the 470–512 MHz band plot additional radials to co-channel TV stations. Peters suggested eliminating this subsection since there are thousands of stations operating in the 470–512 MHz frequencies, most of which require no terrain analysis. Peters believes this section could be deleted without affecting existing television stations. Peters goes on to state that the entire section can be deleted because interference to stations within 75 miles is already specified in Form 401 and in other places. The showings required for co-channel station interference studies could be unified in § 22.15. Vega, instead, suggests that the paragraph be rewritten as "additional radials shall be drawn to co-channel stations within the applicable interference distances."

140. We are not persuaded by the comments. We believe the rule as proposed is necessary to assure interference-free operation and to avoid problems before they occur. The burden on applicants is small.

141. In subsection (a)(4) we proposed, in response to a request by the Mobile Services Advisory Committee, to clarify what is included in average elevation when a portion of a radial extends over water or foreign territory but crosses U.S. land. We proposed that in these cases the portion of the radial shall not be included on the profile graphs or in the computation of average elevation unless the radial passes over U.S. land within 83 miles of the station. Peters suggests eliminating (a)(4) because the requirement relating to stations within 83 miles is superfluous and the calculation of average elevation over any distance of water is neither time consuming nor difficult. Peters reasons that eliminating (a)(4) would provide a more conservative estimation of the radiation center heights of all stations in these circumstances inasmuch as the present rules often result in understating the antenna height above average terrain by a considerable amount.

142. Vega suggests that this subsection be written to indicate that radials over foreign territory or water shall not include water or foreign territory as part of the average terrain calculations. Comp Comm suggests that (a)(4) be modified so that the radials over water or foreign countries be included in the profile graphs and in the computations of average elevations. It reasons that excluding them leads to a need for defining when the exclusion is appropriate and the only valid reason would be a total absence of terrain elevation informaion for paths over foreign countries.

143. We are not persuaded by Peter's or Comp Comm's comments and we will adopt the rule as proposed. When a portion of a radial extends over foreign territory or water, such portion shall not be included on the profile graphs or in the computation of average elevation unless the radial passes over U.S. land within 83 miles of the station. We believe keeping this requirement is necessary because its elimination could potentially increase the effective radiated authorized power, thus decreasing co-channel protection to neighboring co-channel licensees.[39]

144. We proposed to add language concerning assumed average elevation in certain areas, for instance 10 feet for Miami, Florida. In the NPRM we requested comments concerning other areas in which average elevation can be assumed. All Florida suggests that subsection (c) include at a minimum, the Miami Urbanized area, and preferably all of Dade and Broward Counties. It contends that the terrain is virtually flat throughout Dade and Broward also. We agree with All Florida and are including Dade and Broward Counties in the rule.

145. In this section we also proposed to keep the current language in the rule that the average elevation of the 2 to 10 mile portion of each radial shall be determined from the profile graphs. Various parties addressed the use of computerized bases to calculate average terrain.[40]

146. As stated in our discussion of § 22.15(j)(8), we agree with the comments that this is a very good idea. It will reduce the cost of applications for the public, and the computer generated information yields relatively accurate results. Consistent with § 22.15(j)(8), we will add a subsection (2) to paragraph (c) of this section to allow the use of computer generated information in the computation of average terrain elevation.

147. *Transmitters, Section 22.117.* We proposed to combine § 22.117 and 22.118 into one rule since both deal with transmitters. In subsection (a) we kept the language concerning location of transmitters and eliminated the language concerning engineering considerations to be used in selecting transmitter sites. Peters, Comp Comm and Telocator commented on the proposal. TDS also filed reply comments.

148. Peters suggested that the phrase in subsection (a), "urban population of the area to be served" should be deleted because it is ambiguous and troublesome, for instance, in contiguous urban areas like the Northeast corridor. We agree and have eliminated the proposed section (a) in its entirety because it does not provide useful information or guidance.

149. In proposed subsection (d) we provided that additional transmitters [41]

[39] Vega suggests that the section be eliminated since the profile graphs will not be filed with the application. As was the case in § 22.15(j), there is a need for applicants to prepare the profile graphs even though they will not be filed as a matter of course. The graphs are used to infrequently by the staff to require all applicants to submit them. In order to relieve burdens both for applicants and the staff, we will require them on an as needed basis. This section is necessary because it describes the methods for determining average terrain elevation.

[40] Jubon petitioned for declaratory ruling on whether the current section allows the use of the National Telecommunications and Information Administration (NTIA) Topographic Data Base in Boulder, Colorado, as the primary topographic data source and average terrain elevation determinations. We are treating it as informal comments in this proceeding.

[41] The reference to fill-in transmitters in the NPRM at p. A–104 was incorrect. In this section we

Continued

may be constructed without Commission authorization, so long as the Commission is notified (Form 408), and the authorized service area is not increased in any direction. We also added specific provisions describing when this may be done.

150. Telocator, Peters, Comp Comm agreed with the proposal. Telocator had one caveat: that co-channel licensees must be protected. Telocator suggests adding a phrase after the word "area", in (d)(1), to read "and predicted interference contour." Telocator states that the system's reliable service area or its predicted interference contour should not be expanded by fill-in transmitters. Peters, TDS and Comp Comm also suggested that construction of fill-in transmitters should be placed on Public Notice and interested parties should be allowed to review and comment on such stations, even after the fact, in view of potential interference. Comp Comm also suggested that the Commission require a complete engineering showing, with full average terrain information, to demonstrate that the fill-in is really a fill-in and does not enlarge the service area. TDS also suggested incorporating in this section its recommendation concerning § 22.23(c)(2), relocation of base stations. It suggests that subsection (d) should read: "licensees may construct and operate additional transmitters or relocate existing transmitters without obtaining prior Commission approval, provided: (1) The currently authorized service area of the transmitter or system of commonly owned transmitters is not enlarged in any direction. . . ."

151. We agree with Telocator's proposal to add language concerning "predicted interference contour" to this section. We are requiring that Form 489 be submitted with a certification that the reliable service area contour and the predicted interference contour of the proposed station are totally contained within the reliable and interference contour of the existing station. We also accept TDS' recommendation for commonly owned transmitters and will add language to this effect in Subsection (d)(1).

152. *Replacement of equipment, Section 22.121.* We proposed a less burdensome alternative to the current notification requirement when equipment is replaced. Instead of notifying the FCC each time a change is made, the licensee would include such changes as a part of the next application filed (e.g., renewal or major modification). We proposed to retain the present requirement that only type accepted equipment be used. Peters, Comp Comm and Offshore commented on the proposal.

153. We proposed in the NPRM that a licensee may replace any equipment without authorization (1) if the antenna height or antenna structure height, whichever is greater is not increased above the authorized height; and (2) if the equipment does not cause the station to increase its effective radiated power in any direction, or otherwise violate the rules in this part. Peters suggested that the phrase "antenna height" in subsection (a)(2) should be changed to "radiation center height". Peters also suggested that the section be clarified as to the effects of a licensee lowering his radiation center height or effective radiative power by a permissive change. Peters questions whether the change and subsequent notification serve to reduce the licensee's authorized height or power or whether they remain as initially authorized. Peters further questions whether the licensee would have authority to increase his height or power back to the originally-authorized limits without prior Commission approval.

154. Comp Comm suggests that the Commission require that an amended Form 489 be filed for any power reductions and equipment substitutions and that they be listed on public notice. Offshore states that the language in the rule appears to be broad and should be clarified. Offshore believes the rule should allow free interexchange of equipment as long as the characteristics of the authorization remain the same e.g., frequency, power and emission.

155. We will not adopt Peters' suggestion to include "radiation center height" in subsection (a)(2). Section (a)(2) provides for changes in antenna height or antenna structure height for air navigation purposes. Therefore, we require information as to the height to the tip of the antenna or antenna structure. Subsection (a)(3) deals with propagation information which includes antenna radiation center height and effective radiated power (ERP). As to Peters' question concerning a licensee lowering his radiation center height or ERP, this would be a minor modification requiring the filing of a Form 489. *See* § 22.9(d). To further clarify our rules concerning replacement of equipment, we provide in § 22.121(a) that equipment may be replaced without prior authorization only if the equipment is type-accepted, there is no increase in the antenna height or antenna structure height, and there is no increase or decrease in the reliable service area contour. This also responds to Comp Comm's comments.

156. *Operator and Maintenance Requirements (Licensee Responsibility). Section 22.205.* We proposed to simplify and relax our operator and maintenance requirements, and to provide that no operator's license will be required for a person to operate or perform maintenance on facilities authorized in these radio services. We also proposed to add a new subsection establishing a general standard that licensees will be responsible for the proper operation and maintenance of their facilities. Peters, Vega, Motorola, AT&T, Pagenet, and Offshore commented on the proposal.

157. Peters, AT&T and Pagenet agree with the proposal. Vega suggests that the phrase "the agreement shall be in writing" in subsection (b) should be deleted because it has no merit today. In this subsection we proposed that when maintenance of a radio station or antenna structure is provided for by agreement with an entity unrelated to the licensee, the agreement shall be in writing.

158. Motorola and Offshore disagree with the elimination of the requirement that maintenance and transmitter measurements be performed by an FCC licensed technician and the transmitter measurements be recorded when the work is done. Motorola states that it is not convinced that this area can be left to the marketplace or that the operator's status is inconsequential. Motorola believes the examinations to be an FCC licensed technician bear a relationship to a technician's competence. Motorola further asserts that the best method to ensure compliance and minimize interference is to maintain, with some modification, the rules requiring an FCC licensed technician.

159. We will adopt the rule as proposed. The rule is consistent with our policies and eliminates unnecessary regulations. We find that pursuant to Section 318 of the Communications Act, waiver of the operator licensing requirements is in the public interest. The Commission is currently studying eliminating these requirements in various other services, *Requirements for Licensed Operators in Various Radio Services, Notice of Proposed Rulemaking*, FCC 83–113, released April 20, 1983 and has already decided, in Docket 20817, 48 FR 35450, that it is no longer necessary to require that broadcast stations be operated and maintained only by persons who hold operator licenses based on

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are referring to additional transmitter locations on the same frequency, that do not require prior Commission approval, not to fill-ins which may increase the reliable service area and interference contours.

examinations. We have also abolished the Broadcast Endorsement, the Radiotelephone Third Class Operator Permit, and the Radiotelephone First Class Operator License. We continue to believe that it is necessary that the maintenance agreement be in writing. Since we are eliminating various related requirements, we believe the requirement of having the maintenance contracts in writing assures accountability for proper operation.

160. *Station Identification, Section 22.213(d).* We proposed to revise this requirement to ease the burden of station identification. We proposed that the station identification shall be made every half hour.[42] Comments were received from Flight Infolk, Motorola and Offshore.

161. Offshore and Flight Infolk both request that the rule accommodate the use of an automatic tone signal. Offshore also disagreed with the half hour requirement because it could be disruptive of data transmission. Offshore states that with automatic tone signaling, identification is required at the start and the end of transmissions, and this is sufficient. Motorola requests clarification of whether identification is only required during periods when the transmitter is in use.

162. We agree with Offshore and Flight Infolk and have included automatic tone signaling in the rule. As to Offshore's recommendation, we will not modify the rule to include an exemption from the half hour station identification requirement because we have not been persuaded that it is necessary. A data transmission less than one-half hour with identification before and after the transmission would meet the requirement in any event. As to Motorola's request for clarification, this is covered by paragraph (a) of this section which requires identification with each communication or exchange of communication; thus, if there is no communication, there is no need for station identification.

163. *Discontinuance of station operation, Section 22.303.* We proposed to revise this section to make it more concise and practical, eliminating the burdensome notification requirements associated with temporary discontinuances. In addition, we added a presumption that a station will be considered to have been permanently discontinued if operation ceases for 90 days. Peters agreed with the proposal, provided that the 90 day rule should not apply if the licensee notifies the Commission to the contrary. Peters states that there may be circumstances where operation must cease for more than 90 days.

164. We agree with Peter's comments and have included a notification requirement in the rule. Thus, the licensee will notify the Commission within the 90 day period that the discontinuance of operation will last longer than 90 days and include a date when operation will resume, which shall not be in excess of 30 additional days. If a licensee has not operated during all this time, he has not complied with his duty to provide service to the public and should, therefore, lose his license.

165. *Tariffs, other reports, Section 22.304.* We proposed that this rule explicitly state that we require radio common carriers to file Form L (Annual Report). Peters and USITA filed comments. MCI filed reply comments. Peters and USITA suggested deleting the reference to Form L. MCI in reply comments suggested that wireline carriers be required to file Form L also or that radio common carriers be relieved of this requirement.

166. We will revise the proposed rule to delete the reference to Form L. The filing of this Form was eliminated on October 27, 1982. See CC Docket No. 82-85, *Report and Order*, FCC 82-451, released October 27, 1982,[43] *recon. denied* FCC 82-142, released April 19, 1983.

167. *Incidental Communication Services, Section 22.308.* In the past, the Commission has approved licensee requests to use their frequencies and facilities to provide "incidental" communications service (e.g., weather information and stock market quotes). We proposed to add a rule stating the general conditions under which incidental communications services may be provided. We found that incidental services meet a public demand and can be fashioned so as to make more efficient use of spectrum without interfering with the growth or availability of public mobile radio service.

168. All parties addressing proposed § 22.308 support the Commission's approval of incidental services, although they differ in regard to what, if any, standards the rule should impose. MCI disagrees with the idea of formal Commission authorization or monitoring of incidental services. MCI argues that the marketplace will assure efficient, effective utilization of the spectrum, and surveillance of the kind or content of such service is inappropriate where communications will be private even though transmitted by common carriers. MCI further suggests that in the interest of competitive equity, the Commission should not restrain RCCs from offering the same services which broadcast licensees may be able to offer if the Commission adopts the Notice of Proposed Rulemaking in the FM Subsidiary Communications Authorizations (SCA) proceeding. BC Docket No. 82-536, 47 FR 46118 (1982).[44]

169. MCI supports Kadison's suggestion to delete proposed subsections (b) and (c) which provide that the costs or charges of subscribers not using the incidental services may not be increased and that the quality of service may not deteriorate. MCI and Kadison would modify subsection (a) to refer to electrical interference only, rather than interference "with the public mobile radio service." Kadison and MCI express confidence that the marketplace will fairly and efficiently regulate price, quality and availability of service, without the excessive litigation often engendered by administrative standards.

170. We also sought comments on whether prior approval should be required. Kadison considers unnecessary prior Commission approval of incidental service offerings, stating that prior notification, including a general description of service and explanation of how it will work, would fully protect all parties concerned without producing any unnecessary burden or delay in administrative processing.

171. AT&T supports the rule provided that the incidental service does not exceed 10 percent of the total airtime usage of the applicable frequency. In the same vein, until incidental services are clearly defined, AT&T would not allow applicants for additional channels to count incidental services more than 10 percent of total channel occupancy time under § 22.516 (demonstration of need for additional channel). In addition, AT&T suggests that the qualifying term "materially" precede "deteriorate", and that the phrase "beyond a minimal degree" follow the word "diminish" in subsection (c). The foregoing provisions are necessary, states AT&T, because insertion of any incidental service, will have some impact, however slight, on the authorized service and growth and availability will necessarily be reduced

[42] We note that our discussion in the NPRM was not entirely accurate in stating that 3 repetitions are required every half hour.

[43] 47 FR 50694, November 9, 1982.

[44] The Commission did authorize non-broadcast use of SCAs in its First Report and Order, Amendment of Parts 2 and 73 of the Commission's Rules Concerning Use of Subsidiary Communication Authorizations, FCC 83-154, released May 19, 1983. (53 RR 2d 1519 (1983))

by the amount of airtime used for incidental service.

172. AT&T disagrees with the proposal to treat service to vessels and rural subscriber stations as incidental communications. AT&T argues that service to these stations should not be considered incidental communications; nor should a licensee be required to notify the Commission of the provision of these services to customers. Finally, AT&T proposes that service to vessels and rural subscriber stations be included in airtime measurements used to show the need for an additional channel.

173. In their reply comments, MCI and Telocator criticize AT&T's 10 percent limitation as an arbitrary and unnecessary standard. The commenters believe any such limitation will likely inhibit subscriber choice and frustrate the inauguration of incidental services in newly implemented or as yet lightly loaded systems. Telocator foresees enforcement problems as well, noting that Section 605 of the Communications Act prevents monitoring by anyone other than the Commission. And, while channel occupancy data ostensibly would serve as a self-regulating measure, a carrier could easily subvert the data by limiting incidental services to 10 percent of airtime only during the busy hour. It is loading during the busy hour that determines need for additional channels. Telocator is not persuaded that 10 percent, let alone any percentage of airtime (as opposed to revenues or some other criteria), is an appropriate standard and suggests, along with MCI, that the balance be left to the marketplace where individual carriers generally may be relied upon to optimize their competitive posture by providing the best possible service.

174. Telocator also takes issue with AT&T's proposal to further qualify subsection (c). Telocator contends that AT&T's modifying terms are implicit in the Commission's proposal and the concept of "incidental" and that the terms proposed by AT&T could breed litigation. To the extent the proposed qualifications impose potentially overly restrictive limitations in incidental service, Telocator concurs with Kadison and MCI that subsection (c) should be deleted.

175. Peters agrees with the proposed rule provided the term "incidental service" is carefully defined so as not to limit DPLMRS development. Peters suggests that service be labelled incidental "if the licensee's subscribers who receive ε specific service each do not pay a discrete, clearly identified cost for the service. If the service serves the public interest (i.e., conforms to FCC policy and is individually subscriber-supported), it should be a regularly-authorized service" according to Peters. Noting the Commission's proposal [45] to authorize provision of common carrier-like functions on FM subcarriers, Peters would view "incidental services" as the offering of broadcast-like services on a secondary basis.

176. Telocator questions how this discrete fee test proposed by Peter's serves its purported rationale of avoiding the arbitrary limitation of DPLMRS development. The definition in Telocator's view seems to beg the question of whether classification hinges on the carrier's decision to bill. Telocator thus cautions against defining "incidental service."

177. MTC also commented on the proposed rule stating that it affords licensees a substantial competitive advantage by enabling them to offer both land and maritime radiotelephone and paging while UHF maritime carriers are precluded from entering adjacent DPLMRS markets. It suggests that a rule be adopted permitting UHF public coast carriers to provide land mobile one-way signalling and two-way radio service in adjacent on shore areas. In the alternative it requests that current § 22.509 (b) and (c) not be deleted, especially the requirement that licensees terminate service to vessels when a UHF public coast station is inaugurated in the area involved.

178. We disagree with MCI and Kadison and we will not delete or modify subsections (a), (b) and (c). We believe they impose minimum safeguards which are necessary to protect mobile radio subscribers. We agree, however, with the comments proposing to eliminate prior Commission approval. We will add the terms suggested by AT&T to proposed subsection (c); we believe the terms provide helpful guidance and will not produce uncertainty. Concerning AT&T's proposal for a 10 percent airtime limit, we will not adopt it. We believe the provision of incidental services should be a business decision of a licensee in a competitive marketplace. We will not impose artificial constraints with an arbitrary percentage. As a collorary matter, in order to protect the primary purpose of our allocated frequencies and our objective of not permitting the quality of the licensee's authorized service to be diminished, we will not consider the airtime of incidental services for calculating channel occupancy pursuant to § 22.516 and 22.16. We agree with AT&T's comments that rural subscriber service should not be referred to as incidental services; we have therefore amended § 22.509(b)(4) to delete the reference to incidental service from it. We disagree with Peters' comments concerning a definition for incidental services. We find that the proposed definition would only create controversy without actually defining the service.

179. We will not adopt MTC's proposal. We will permit incidental service to vessels and we will eliminate the prior subsections (b) and (c) of § 22.509 (limiting service to vessels if a public coast station was authorized in the area). Any amendment to the rules concerning public coast stations is beyond the scope of this proceeding.

180. *Developmental Authorizations, Additional Application Content, Section 22.405.* We proposed to clarify this section and adopt a new rule dealing with renewals for developmental authorizations. The only party filing comments was AT&T. It requests that the rule be broader to allow for experimental market trials as part of a developmental service. AT&T states that this was allowed in the development of cellular service and provided a basis for determining public acceptability.

181. We do not agree with AT&T's proposal that the rules should routinely allow experimental market trials. Developmental service is, with few exceptions, non-commercial. Market trials have potentially significant competitive implications and, therefore, should only be authorized when adequately justified and approved by the Commission.

182. *"Secondary basis" paging service, Section 22.501(c).* We proposed to revise the rules to state that the frequency pairs listed in § 22.501(c) are allocated for two-way mobile service but may also be used to provide one-way service if there is a public demand for such service, provided that two-way service is also offered. In so doing, we proposed to eliminate the "secondary basis" language in this subsection. We also proposed the same modification to § 22.501(b) which makes similar allocations and includes the "secondary basis" language. [46]

183. The commenters filing jointly with Empire, as well as Peters, Zip-Call, AT&T and Telocator, generally support deletion of the "secondary basis" language. According to Empire, *et al.*, the proposed revision reflects the fact that marketplace forces already have

[45] BC Docket 82-536, *supra*.

[46] In accordance with policies established in CC Docket 80-189, note 2, *supra*, we have amended § 22.501(a) by including procedures for grants of 43 MHz applications.

determined the proper use of the frequencies at issue and Commission resources will be conserved by reducing wasteful, costly litigation. Zip-Call asserts that the secondary basis language has outlived its usefulness.

184. IMM was the only commenter disagreeing with the proposal. IMM asserts that the economics of paging, except in unusual circumstances, mandate that one-way service drive out two-way service, stunting the latter's development. In reply Empire claims that there is an absence of any evidence on this point. It argues that, since adoption of the secondary basis language in 1970, growth of two-way has not been impeded. Empire states further that the proposal does not amount to a reallocation of spectrum and will not result in inefficient spectrum use. Zip-Call asserts that perpetuating the secondary status of paging would constitute undesirable use of the Commission's regulatory powers.

185. FCBA, which reads the rule as requiring a carrier to "offer" two-way on a "minimum" basis if the frequency is used for paging, requests clarification of the terms "minimal" and "offered". For example, if a licensee finds no demand for two-way, must it purchase the equipment anyway and include two-way rates in its tariff? Hill suggests that if the Commission does not intend to permit tacit conversion of two-way channels to paging service (which Hill counsels against), it should substitute the word "provided" for "offered". Hill believes the proposed language appears to contemplate merely that two-way service will be avaialble only to those who ask specifically for it.

186. TDS suggests that if (as the NPRM implies) a licensee need not provide two-way service unless it has obligations to existing customers, the last clause of proposed § 22.501(c), "provided that two-way service is offered", should be deleted. If such is not the Commission's intent, clarification of "offered" is needed. For example, if two-way service must be accommodated even absent current demand, how should applicants seeking additional channels provide for this fact in loading studies? If clarification is not possible, TDS believes that the one-way service should be permitted without restriction.

187. Telocator rejects any modification of the terminology. According to Telocator, while Hill appears concerned that the rule would require no minimum effort to provide two-way service, use of the word "provided" would do no more than require that two-way service be provided to a single subscriber. Empire and Telocator read the NPRM as proposing formal recognition of marketplace reality and current Commission practice; thus, the marketplace and prior Commission decisions may be expected to define the extent to which two-way must be "offered".[47]

188. AT&T supports deletion of the secondary basis language provided that the Commission assigns frequencies one at a time, rather than in pairs; requires carriers applying to use a two-way frequency for one-way signalling to make an extended co-channel interference study to two-way mobile systems; and requires carriers to show that existing one-way signalling allocations in the same frequency band are already assigned in the service area. Further, AT&T would limit the use of the frequencies for paging to those carriers or their affiliates which also offer two-way service or cellular service. Telocator attacks this proposal as an unsupported attempt by AT&T to resurrect the company's suggestion, rejected in Docket 20907, to effectively reallocate two-way frequencies to one-way service on a primary basis.

189. Peters agrees that § 22.501 should be revised but suggests that the word "wireline" be added to the definition of telephone company in § 22.501(b) and to the language of § 22.501(c) to distinguish cellular operators from carriers providing local exchange telephone service. As noted above, IMM disagrees with the proposed liberalization of restrictions on paging and argues that paging should be encouraged, but on frequencies specifically allocated for this use. IMM argues that the market's preference for paging reflects not so much demand *per se*, but rather demand for good low-cost mobile radio which current two-way systems cannot satisfy. Digital technology, however, soon will address this need and its development should not be impeded by a shortage of two-way channel capacity. Finally, IMM argues that any impetus for more efficient paging technology will be thwarted by this *de facto* allocation of additional paging frequencies.

190. Dean George Hill also expresses concern that two-way service may be denied to prospective subscribers in need of service. Furthermore, a question of efficient spectrum utilization arises if one half of the paired frequencies remain unused. Hill requests that if the Commission does not intend to permit conversion to paging exclusively, it substitute the word "provided" for "offered". In addition, Hill points to the plethora of paging frequencies currently available and urges adoption of some sort of reporting/relicensing procedure to ensure efficient spectrum utilization.

191. We agree with IMM that paging should be encouraged, but on frequencies specifically allocated for this use. We also agree with the commenters that paging on two-way channels has the potential to drive out two-way service stunting its development and thwarting the development of more efficient paging technologies. We agree with Hill that allowing one-way paging on two-way frequencies raises a question of spectrum efficiency in that one-half of a paired channel remains unused.

192. In our view, the extensive use of two-way channels for paging in urban areas has represented a marketplace response to the traditional shortage of paging channels. Until 1981, there were only eight. Currently, there are 76 frequencies allocated for paging (32 in the 35 and 43 MHz band, 4 in the 150 MHz band and 40 in the 900 MHz band) and 40 in reserve for advanced technology paging. In light of the number of paging frequencies now available, the public interest requires a more stringent approach. Use of two-way frequencies for paging constitutes inefficient use of the spectrum. While it is likely that most two-way service will be provided on cellular systems in the future, we would be remiss in permitting a *de facto* reallocation of the 44 paired VHF and UHF channels to paging. Moreover, it is quite possible that conventional two-way service will continue to meet the needs of many users who do not want to pay the anticipated higher price for cellular service, who wish to continue to use existing equipment, or who wish to take advantage of new technology, as suggested by IMM. Accordingly, we will adopt the proposed requirement that carriers providing paging on two-way channels "offer" two-way service as well. By "offer", we mean that a carrier must have the capability of serving a two-way customer upon request. If a carrier has no interest in providing two-way service, we expect it to exchange its two-way channel for a paging channel so that new entrants, or

[47] Telocator also notes that the Communications Amendment Act (1982), prohibits providing "dispatch service" except by stations licensed prior to January 1, 1982, and requests, therefore, that the rule be revised accordingly. 47 U.S.C. 331(c)(2). We agree with Telocator but we are amending Section 22.519 instead to provide that no new dispatch stations or dispatch points will be permitted. A common carrier which had authority to provide dispatch service prior to January 1, 1982, may continue to provide such service. Reference to dispatch stations and dispatch points in the rules, specifically, §§ 22.2, 22.509, 22.515 and 22.519 are applicable to grandfathered stations and the cellular radio service pursuant to § 22.911.

incumbents who do want to offer conventional two-way service, are not foreclosed from the market. At some point it may well be desirable to consider reallocating the paired 150 and 450 MHz channels. We would then examine whether some or all of the channels should be used for common carrier paging or whether the public interest requires an entirely different allocation. For now, we will maintain the *status quo.*

193. *Waiver of Frequency Allocation, Section 22.501(n).* We proposed to adopt a rule to establish standards for granting waivers of the separate allocation of frequencies to radio common carriers and wireline common carriers in present subsection (b), (c), and (h) ("the fence"). The proposed rule would establish criteria for waivers and the assignment of a wireline frequency to an RCC, or *vice versa.* We also requested comments on whether the waiver policy should apply during the 60-day cut-off period after an application is filed. We stated that the elimination of the separate allocation structure itself involves a major policy assessment which is beyond the scope of this proceeding. We also stated that we intended to undertake a review of the "fence" in a separate proceeding. The proposed waiver policy was limited to the 450 MHz band frequencies in § 22.501 (b) and (c) and the guardband frequencies listed in § 22.501(h). We stated in the NPRM that for technical reasons the waiver policy would not apply to the 150 MHz band, because the WCC frequencies allocated in this band have different base and mobile channel separations than those allocated to the RCC's.

194. Peters, Kadison, TDS, Vega, IMM, RTC, AT&T, Telocator, Big Sandy, USITA, Cactus, and Message Center filed comments on the proposal. Empire, Telocator, MCI, Cactus and TDS filed reply comments.

195. Some of the comments supported the waiver policy but differed on its application. For instance Peters, Telocator and others supported revisiting the *Bonduel* policy [48] and limit the fence to locations where the wireline companies provide local exchange telephone service. The comments also differed on the applicability of the waiver policy during the 60-day cut-off period. AT&T stated that applying the waiver during the cut-off period would be a giant step toward eliminating the fence, which is a decision the Commission stated is beyond the scope of this proceeding. TDS generally objected to the waiver policy. MCI, Peters and Kadison requested that the waiver policy include the 150 MHz frequencies; also, they suggested that the incompatibility explanation in the NPRM failed to recognize modern technologies.

196. After reviewing the comments, we have decided not to adopt the proposed rule. Instead, we will issue a Notice of Proposed Rulemaking as a companion item to this Report and Order, asking for comments on the elimination of the separate allocation or fence. *See Notice of Proposed Rulemaking,* FCC 83-477, CC Docket 83-1146, released December 12, 1983. This proposal encompasses all the frequencies in §§ 22.501 (b), (c), (h), (i) and (j). As discussed below, we will establish the policies here to govern waivers until the conclusion of this new rulemaking proceeding concerning the elimination of the fence.

197. As stated in the accompanying *Notice,* the fence was adopted to foster a competitive environment by providing separate frequencies within which companies which did not provide local exchange telephone service (RCC's) could develop. There is today strong competition between RCC's and WCC's. The Commission's purposes in fostering this competition have been met. We tentatively believe that today no useful purpose is served by keeping the fence in place. Therefore, instead of adopting the proposed limited waiver policy, we are proposing to eliminate the fence.

198. As a result of our decision here we are hereby disposing of a Petition for Interim Relief and Objection to Grant of Applications, filed on October 26, 1982 by Telocator and a Petition for Reconsideration filed by Telocator on December 17, 1982. In the Petition for Interim Relief in this proceeding Telocator requested that the proposed waiver policy be adopted pending the conclusion of this rulemaking. Telocator's request was limited to the guardband paging frequencies in § 22.501(h)(1). Telocator also requested that an additional 60 day cut-off period be established and applications be accepted for filing which would be mutually exclusive with applications filed by American Paging Inc. (API), a subsidiary of TDS. The API applications referenced by Telocator were filed between January and October 1982.[49] Telocator petitioned for reconsideration of the grant of two API applications on November 17, 1982, based on the fact that the two applications had been granted after its Petition for Interim Relief was filed. API filed an Opposition.[50]

199. As we stated before, in this proceeding we proposed a limited waiver policy of the separate frequency allocation. Our proposal did not apply to the cellular service which also has a fence. Further, our proposal had prospective effects and we did not in any way intimate that we would adopt the proposal on an interim basis pending the conclusion of the rulemaking. Since we are now proposing to eliminate the fence, we will grant in part Telocator's Petition for Interim Relief, limited to the following: (a) Wireline applications filed *before* the adoption of the NPRM in this proceeding, or July 29, 1982, will be granted under pre-existing standards, provided they otherwise comply with our rules. (b) All wireline applications filed *after* July 29, 1982, which are not mutually exclusive will be granted. (c) Wireline applications filed *after* July 29, 1982, which are, as of the date of adoption of this Report and Order, mutually exclusive with applications filed by RCC's requesting waiver of the separate allocation will be held in abeyance until the new proceeding on elimination of the fence is terminated. We are not extending the cut-off date for these applications as requested by Telocator. (d) RCC applications filed *after* July 29, 1982, requesting wireline frequencies and a waiver which are not mutually exclusive with other applications will also be held in abeyance as described in the preceding sentence. However, if during the pendency of the new rulemaking proceeding the prescribed 60 day cut-off period for any of these applications has not expired, we will allow applicants to file mutually exclusive applications. During the pendency of the new rulemaking proceeding and after its release date, we will allow RCC's to file for WCC frequencies and *vice versa.* Our normal cut-off procedures will apply. The channel loading standards will also apply. Our policy of granting one initial channel per market for paging frequencies and our policy that an application for a 900 MHz frequency amends a pending application for a

[48] Bonduel Telephone Co., 68 FCC 2d 497 (1978). Under this policy, a wireline or its affiliate or subsidiary may apply for wireline frequencies in any market regardless of where it does business as a telephone company.

[49] API filed an Opposition to this Petition. Dean George Hill also filed comments opposing the Petition for Interim Relief. Omni Communications, Inc. (Omni) filed comments in support of Telocator's proposal. Replies to the opposition were filed by Telocator and Omni.

[50] Various RCC's have filed applications requesting waivers of the separate allocation since the adoption of the NPRM in the proceeding, some of these applications have been opposed and all are pending Commission action.

paging channel on any other frequency will also apply. Likewise, an application for a paging frequency filed subsequent to a pending 900 MHz application amends the 900 MHz paging application. As a result of our decision here, Telocator's Petition for Reconsideration will be denied to the extent it referred to applications filed before July 29, 1982.

200. We believe these procedures effectively safeguard the public interest and prevent the possibility that elimination of the fence will *de facto* be irrelevant because all frequencies will have been assigned in the interim. In order that service to the public not be delayed an inordinate amount of time we will expedite our disposition of the rulemaking concerning elimination of the separate allocation. We emphasize that the interim policies we are adopting here in no way indicate that we have decided the merits of the new rulemaking. They are specifically designed to permit the return of the applications to the *status quo ante* should we decide against eliminating the fence.

201. *Classification of base stations, Sections 22.502 and 22.503.* We proposed to rewrite § 22.502, clarifying that stations using antennas higher than 500 feet will be designated Class A. We did not propose any changes to § 22.503, which provides geographical separations for co-channel stations. Peters filed comments on these two sections suggesting that both serve no purpose and should be deleted, especially in light of § 22.15(b), which prescribes the method of determining interference to co-channel stations. MCI in comments also states that the separation tables in § 22.503 should be deleted. Hill had similar comments stating that § 22.503 could be refined by adding minimum distances and eliminating the charts. Hill states that at 500 feet/500 watts, the minimum separation on either a 150 or 35–43 MHz channel to be interference fee is 68 miles.

202. We disagree with the comments. Maintaining these two sections is necessary to assure interference-free service areas, and the sections do not create unnecessary burdens for applicants. However, we have revised the sections somewhat in line with our revisions to § 22.15.

203. *Service area of base stations, Section 22.504.* The only change proposed to this rule was changing the title and the word "reliably" to reliability. The only one commenting on the rule was Comp Comm. It suggests including in the rule several standardization procedures addressed by the Mobile Services Advisory Committee. Comp Comm states that the present propagation tables of § 22.504(b) do not include distances from base stations of fewer than 5 miles and in the interest of standardization, it is essential that the FCC staff propose extended propagation curves that contain values both below 5 miles and also at greater distances than presently shown. It argues that extensions are necessary so that all engineering submissions use the same basic curves over the entire range.

204. We believe that Comp Comm's suggestion has some merit. Nevertheless, adopting the changes suggested would involve conclusory determinations on our part, because we do not have sufficient data on the record to support the adoption of the proposal.

205. *Antenna height-power limit, Section 22.505.* We clarified this section and excluded air-to-ground radio stations because this section was not applicable to them. Peters suggested that we replace the curve in subsection (a) with an equivalent tabular or mathematical form like the one for 900 MHz stations in subsection (b). Peters states that this is easier, less ambiguous and more amenable to computerization. We concur with Peters and we have added a table to subsection (a) and removed the current chart.

206. *Bandwidth and emission limitation, Section 22.507.* We did not propose any changes for this section. However, Wulfsberg suggested adding "F9" emissions for automatic signaling to the table describing types of emissions. Wulfsberg suggested adding "F9" at the bottom of the column headed "Type of Emission" and adding the figure "20" under authorized bandwidth and the figure "5" under frequency deviation at the bottom of the column headed "150–512". We agree and have amended the section accordingly. *See* paragraph 126, *supra.*[51]

207. *Permissible communications, Section 22.509.* We proposed to clarify this rule and reorganize the subsections. We also requested comments on whether the policy on taxi cab operations and dispatch service should be modified. We especially questioned whether the prohibition on taxi cab service should be eliminated and left to the business judgment of the carrier. We also questioned whether the Commission should eliminate the policy that a dispatch station operator may communicate only with its own associated mobile units.

208. Peters and Telocator suggested that we eliminate subsection (c), dispatch stations, and subsection (f), taxi dispatch. Peters states that this should be left to the licensee's discretion. Telocator again cites the Communications Amendment Act and proposes that the prohibitions of the Act be codified in § 22.501 (a)(1), (b) and (c).[52] As mentioned in our discussion of incidental services, § 22.308, AT&T suggested that service to vessels and rural subscriber stations not be treated as incidental services. MTC requested that current subsections (b) and (c) dealing with service to vessels be retained.

209. We will not adopt Peters' and Telocator's comments. We will retain proposed subsections (c) and (f). However, subsection (c) will make reference to § 22.519, which we have amended pursuant to the Communications Amendments Act of 1982. We agree with AT&T concerning rural subscriber stations. *See* discussion of § 22.308.

210. *Additional showing requirement, Section 22.516.* We proposed to conform this rule to our present requirements, replacing the term "holding time" with "channel occupancy time", and requiring traffic load studies for only the busiest one hour. Peters, Kadison, Vega, FCBA, Telocator, USITA and TDS filed comments on the proposal.

211. Peters suggests that the licensee be required to survey the entire day (8–12 hours) but only be required to report the single busiest hour for each of those days. USITA had the same comment. Peters, Kadison, FCBA, Telocator and TDS also filed other comments which we have addressed in the *Third Report and Order* in CC Docket No. 20870, FCC 83–53, where we adopted a new § 22.16, "*Objective Need Standards*"; therefore we will not address these comments. See also, *Further Notice of Proposed Rulemaking*, FCC 83–38, released

[51] We have also modified § 22.508 (d) and (e) to conform to changes we have made in other rules.

[52] We are treating as an informal comment a Petition for Rulemaking filed by Fairmount Telephone Company, Inc. on November 3, 1982, requesting uniform nationwide service rules governing roamer/transient land mobile stations. It requests a revision creating a strong presumption in favor of a roamer's right to service through "foreign" base stations and imposing a strict burden on the foreign base station operator who may not want to serve roamers. Fairmount asserts that the current rules are ambiguous and that some foreign base station operators engage in unjust, unreasonable and discriminatory practices against roamers, cutting off or impairing service to them. We received a motion to dismiss the petition filed by AT&T. Fairmount's request obviously arose from a controversy between Fairmount and AT&T involving roamers, which the Common Carrier Bureau resolved in AT&T's favor. Fairmount Telephone Co. v. Southern Bell Telephone & Telegraph Co. and American Telephone & Telegraph Co., File No. E–83–2, CC Mimeo 2678, released March 2, 1983. In any case, the question of roamer-access is beyond the scope of this proceeding.

February 14, 1983, CC Docket No. 20870. Vega also suggested there is an inconsistency in the proposed rule in subsection (c) because it states that an applicant must report separately for each hour; however, in the discussion preceding the rule, we stated that we would ask only for the single busiest hour of the day.

212. We have revised the proposed rule to clarify it further. In conformance with our decision in Docket No. 20870, the rule will state that the survey must report separately the channel occupancy for the busiest hour on each of the three days and that the study shall survey traffic on each channel assignment for three days in a seven day period having normal usage.

213. *Air-ground radiotelephone service, Section 22.521.* We proposed to combine all sections dealing with this service into this section. Flight Inc. and Wulfsberg filed comments requesting that a rulemaking petition filed on January 22, 1980 by Wulfsberg be considered in this proceeding. Wulfsberg requests that frequency 459.675 MHz be assigned as an automated signaling channel in communications by and with airborne stations. We will not adopt the commenter's proposal. The request is beyond the scope of this proceeding since it entails the reallocation of the frequency for the requested purpose. However, we expect to take action separately on the rulemaking petition in the near future.

214. *Rural radio, Eligibility and Frequencies, Sections 22.600 and 601.* We proposed to eliminate the licensing of certain subscriber stations in an effort to reduce administrative burdens, and we also proposed to clarify § 22.601. IMM commented on the proposal. IMM suggests that § 22.601(a) (Frequencies) be redrafted to eliminate the term "on a secondary basis" in reference to rural radio, thus placing rural radio on and equal footing with mobile radio. It asserts that this would not disadvantage mobile users, and would benefit rural subscribers. IMM also requests clarification of the rule in terms of whether an RCC can offer full-fledged rural radio service as opposed to acting as an agent or intermediary between the subscriber and the wireline carrier. It states the rules should permit an RCC to provide the full-fledged service. It supports the elimination of the individual licensing requirements for subscriber stations which do not exceed 60 watts ERP. Also, IMM requested that the requirement that rural radio subscribers use directionalized antennas be eliminated.

215. As to IMM's recommendation that we eliminate the term "secondary basis", we cannot agree. Rural radio is a fixed operation which does not have its own frequencies specifically allocated. If rural radio were elevated to primary status, it is likely that mobile subscribers in areas with high rural radio usage would be deprived of service. As to the request for clarification, our rules only allow an RCC to communicate with a rural subscriber station through its base station in specified cases. *See* § 22.600 *et seq.* In this service the frequencies are intended primarily for use in rendering public message service between Rural Subscriber and Central Office stations and to provide radio trunking facilities between central offices. Central office and interoffice station frequencies are allocated only to wireline carriers. RCC's are permitted to use subscriber station facilities which operate through the RCC base station, where the use of wirelines is not practicable or feasible (where the establishment of central office station facilities is shown to be impracticable) and upon a showing that it will not degrade the mobile communication service rendered by the base station. Rural subscriber stations are normally authorized to communicate with and through the central office station with which they are associated. A change from this procedue is not within the scope of this rulemaking. We will not adopt IMM's suggestion that we eliminate the requirement that rural subscribers use directionalized antennas. Our rules provide that stations which communicate with one point must use directional antennas. We believe that allowing the use of omnidirectional antennas would increase interference potential to mobile systems. We have also made minor editorial corrections to the rule concerning meteor burst communications § 22.601(b) adopted in *Meteor Burst Communications,* Docket 82–694, FCC 83–348, released July 22, 1983.

216. *Forms.* We proposed to revise Form 401, and to adopt new Forms 489 and 490. Almost all of the commenters suggested revisions to these forms.

217. Peters, among other things, suggests cross-referencing to Form 430 (Qualifications Report), items 20–30 on proposed Form 401, and deleting the requirement of an exhibit for major environmental actions. Kadison also suggested corrections or clarifications to Forms 401 and 490 and suggested adding a check-off box for an applicant to state it has received reasonable assurance of antenna site availability. Vega commented on Forms 401 and 489, suggesting that the Forms could be shortened with required items being referenced by exhibits rather than filling in blanks. Vega also suggested deleting the items dealing with control point information from Form 401 and making them part of Form 489. TDS concurred with this proposal. TDS also suggested that the Commission make available to the public the data base so applicants can periodically check to see if the information concerning Form 489 has been entered.

218. Comp Comm suggested that Form 489 should be accompanied by a detailed engineering study showing that co-channel interference information originally submitted on Form 401 is not adversely affected by corrections or changes to the facilities and that the filing of FCC Form 489 should be listed on public notice. It also suggested requiring an amended Form 489 to be filed for any power reductions and equipment substitutions. Comp Comm disagreed with the requirement that the FAA study be included with Form 401.

219. AT&T included a proposed Form 401 in its comments. Telocator concurrend with AT&T's proposed Form 401 and recommended some changes to it. Telocator also suggested some revisions and asked for clarification of certain items of the Forms. All Florida suggested that applicants for multiple sites provide site-by-site information on separate exhibits and also recommended the deletion of certain items and various corrections to Form 489. USITA suggested a shorter Form 489 could be adopted as a simple notification of readiness for service.

220. Peters and Offshore also suggested that the Commission should accept substantively-equivalent computer prepared Form 401's provided they satisfy the following: (a) Printed on 8.5 x 11 paper; (b) contain the same text as Form 401; and (c) are intended to have the same effect as the Form 401. In addition, it was suggested that the Commission revise the Form 401 to a format that could be easy to duplicate by computer. They both state that much time and expense can be saved for applicants by allowing this.

221. The comments also contained the following suggestions concerning the forms: (1) That the profile sketch be filed as a separate Exhibit and not integral to a Form item; (2) that the applicant certify that it is the real party in interest; and (3) that the applicant has made no agreement to transfer or assign the license at a later date. They also point out that the reference to satellite earth

station in Form 401 should be deleted.[33] The comments also suggested that items 6–9 dealing with whether the station has been completed should be deleted from Form 489, since they are repetitious of Form 701, and that a check-off box for major environmental actions should be included in Form 401.

222. We have reviewed the comments concerning the proposed forms. We have followed some of the recommendations. Others we have not followed for various reasons, including either increased administrative burdens or increased reporting requirements for applicants.

223. We disagree with Peters and we will not cross-reference to Form 430. We believe applicants should fill out the required information with every Form 401 they file.[34] It is not particularly burdensome, but it does help us fulfill the ownership and citizenship requirements of the Act. A principal reason we have for maintaining the legal and ownership items is that the Commission is currently studying the possibility of eliminating Form 430, *Notice of Proposed Rulemaking*, 47 FR 5732, Feb. 8, 1982. In light of this we will continue to require this information on Form 401.

224. We have added an item to the Form 401 concerning major environmental actions; applicants may check a box to indicate whether the proposal is major or not pursuant to § 1.1311 of the rules. We have also added a check off box for applicants to certify that they have received reasonable assurance of site availability. See discussion of Section 22.15.

225. We have modified proposed Form 489. It will also be used to request extensions of time to complete construction, minor modifications to existing facilities, and reinstatement of authorizations. We have changed the title of this form to Notification of Status of Facilities. Therefore, we will eliminate Form 701 (Requests for Extensions of Construction Permits). This simplifies procedures and eliminates another Form. We disagree with TDS' comments that all Forms 489 should be placed on public notice. This is an additional administrative burden, which we discussed above. The Form 489 will be used *inter alia*, for minor modifications of the authorization and we have limited and specified these changes; thus, we see no need to increase burdens by placing all the filings on public notice. Those changes that we deem of public importance in a Form 489 will go on Public Notice. Concerning TDS' related request that we make available the data base to the public, the Commission is currently examining this request in another proceeding. *Allowing the Public Direct Remote Access to Commission Computer Data Bases, Notice of Inquiry*, FCC 83–217, released May 20, 1983. We will keep the items dealing with control points on Form 401, and on Form 489 applicants will notify of any changes of the control point. We are not requiring that a copy of the FAA studies be attached to the Form 401; however, if the applicant has received the FAA determination it should include a copy of this. If the determination is not available, the applicant should indicate the date and regional office where the FAA filing was made.

226. We have adopted the suggestion that applicants for multiple sites provide site-by-site information on separate exhibits. We believe this will make the Form easier to fill out and will facilitate application processing.

227. We agree with the recommendation that we accept substantively equivalent computer generated Form 401's. We believe this reduces costs for applicants and facilitates their application preparation. In order not to increase burdens for our staff, we do request applicants to submit their proposed computer-generated forms for informal staff review before using them in formal applications.

228. We do not agree with the recommendation that we include in the applicant's certification that there has been no agreement made to transfer or assign the license at a later date. Section 22.309 provides that the filing of an application shall be a representation by the applicant that the motivation for the application is the applicant's intention to provide service to the public. We believe this is sufficient.

229. We will not adopt the recommendation that the antenna sketch be a separate exhibit and not an integral Form item. Keeping the antenna sketch an integral Form item facilitates preparation of applications by the public and processing by the staff.

Regulatory Flexibility Act—Final Analysis

230. *Need for Rules and Objective.* We have eliminated unnecessary forms, information gathering and regulatory burdens whenever possible in the public mobile radio service. We have streamlined the administrative process affecting these licensees and permitted self-regulation whenever possible. Our objective is to eliminate unnecessary regulations and policies and to provide service to the public in the most efficient, expeditious manner possible.

231. *Issues Raised by the Public In Response to the Initial Analysis.* We have taken into account the various issues raised by the public concerning the proposed rules. As a result of these comments and whenever possible, we have modified our proposals.

232. *Alternatives that would lessen impact.* We have reduced burdens whenever possible, some we had to retain in order to carry out our duties under the Communications Act. We will continue to examine alternatives in the future with the objectives of eliminating unnecessary regulations and minimizing any significant economic impact on small entities.

Ordering Clauses

233. Authority for this rulemaking is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(4), and Section 553 of the Administrative Procedure Act, 5 U.S.C. 553.

234. Accordingly, it is ordered, That Part 22 of the Commission's Rules and Regulations is amended as specified in Appendix B, effective 30 days after publication in the **Federal Register.**

235. It is further ordered, that FCC Forms 401, 403, 701, 702, 704 and 714 are superseded by new FCC Forms 401, 489 and 490, as set forth in Appendix B, subject to review by the Office of Management and Budget.[35]

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A—List of Parties Filing Comments

(1) Arthur K. Peters and Wewer & Mahn, P.C. (Peters) [1]
(2) Kadison, Pfaelzer, Woodard, Quinn & Rossi (Kadison)
(3) Telephone and Data Systems, Inc. (TDS)
(4) Flight-Infolink, Inc. (Flight)
(5) Richard L. Vega & Associates (Vega)
(6) Comp Comm Inc. (Comp Comm)
(7) International Mobile Machines Corporation (IMM)

[33] The existing Form 401 is used by applicants under Part 25, as well as Part 22, of the rules.

[34] An applicant may attach a current copy of its Form 430 to its Form 401.

[35] Tentative copies of FCC Forms 401, 489 and 490 are appended to this Report and Order. These forms are filed as a part of the original document and are therefore not published in the **Federal Register.** These forms are not to be used until they have received the approval of the Office of Management and Budget. A Public Notice will be issued when the new forms have been approved and are available for use. Until that time, the existing forms 401, 403, 701, 702, 704 and 714, should be used. Copies of these forms are available for public inspection in the Public Reference Room at the FCC, Room 230, 1919 M St., NW., Washington, D.C.

[1] By letter dated October 21, 1983, we were informed that Wewer & Mahn, P.C. has changed its name to Mahn, Franklin & Goldenberg, P.C.

(8) Federal Communications Bar Association—Mobile Services Division Committee (FCBA)
(9) Rochester Telephone Corp. (RTC)
(10) Motorola, Inc. (Motorola)
(11) Dean George Hill, P.C. (Hill)
(12) American Telephone & Telegraph Company (AT&T)
(13) Marine Telephone Co., Inc. (MTC)
(14) Telocator Network of America (Telocator)
(15) Big Sandy Telecommunications, Inc.; Kathy Paging Inc.; Southwest Telecomm. Inc. and T-Com, Inc. (Big Sandy)
(16) United States Independent Telephone Association (USITA)
(17) Paging Network Inc. (Pagenet)
(18) The Offshore Telephone Company (Offshore Telephone)
(19) Empire Paging Corporation d/b/a Radiofone (Empire), Mobile Communications Corporation of America (MCCA), Two-Way Radio of Carolina, Inc. (Carolina), and Florida Radio Phone Co. (Florida)
(20) Cactus Communications, Inc. (Cactus)
(21) Message Center, Inc. (MC)
(22) Joy A. Miller d/b/a All Florida Communications Co. (All Florida)
(23) Wulfsberg Electronics, Inc. (Wulfsberg)

Other Comments

Jubon Engineering Inc. petition for Declaratory Ruling & Expedited Determination filed January 31, 1983 (Jubon). We are treating it as informal comments in this proceeding.

Informal Comments from Michael S. Tierney, VMD (Tierney).

Petition for Rulemaking, Fairmount Telephone Company, Inc. (Fairmount) filed November 3, 1982 Re: Rule 22.509(b) treated as informal comments.

Reply Comments

(1) Fletcher, Heald & Hildreth (Fletcher)
(2) Empire Paging Corporation d/b/a Radiofone (Empire), Mobile Communications Corporation of America ("MCCA"), Two-Way Radio of Carolina, Inc. (Carolina) and Florida Radio Phone Company (Florida)
(3) Telocator Network of America (Telocator)
(4) American Telephone & Telegraph Company (AT&T)
(5) MCI, Airsignal, Inc. (MCI)
(6) Wulfsberg Electronics, Inc. (Wulfsberg)
(7) Cactus Communications, Inc. (Cactus)
(8) Arthur K. Peters & Wewer & Mahn, P.C. (Peters)
(9) Telephone & Data Systems, Inc. (TDS)
(10) Supporting Comments of Zip-Call, Inc. (Zip-Call)

1. By revising the Table of Contents and the Part heading to read as follows:

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2. By adding an Index after the listing describing the rule sections and subparts to read as follows:

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3. Part 22 is amended by removing the words "Public Mobile Radio Services" and "Domestic Public Land Mobile Radio Service"; and "construction permit" everytime they appear in this Part and inserting in their place "Public Mobile Service"; "radio station authorization".

4. Section 22.0 is revised as follows:

§ 22.0 Authority and scope.

(a) The rules in this part are issued pursuant to titles I through III of the Communications Act of 1934, as amended, which vest authority in the Federal Communications Commission to regulate common carriers of interstate and foreign communications and to regulate radio transmission and issue licenses for radio stations.

(b) The purpose of the rules in this part is to prescribe the conditions under which portions of the spectrum are made available for domestic common carrier radio communications which utilize transmitters on land or in specified offshore coastal areas within the continental shelf, and certain other situations as authorized under this part.

(c) The rules in this part apply only to stations authorized under this part. Rules in a subpart apply only to stations authorized under that subpart.

(d) Correspondence relating to this part of the rules may be sent to the Mobile Services Division, Federal Communications Commission, Washington, D.C. 20554.

(e) Unless otherwise specified, the section numbers referenced in this part are contained in Chapter I, Title 47, of the Code of Federal Regulations.

7. A new § 22.1 is added to read as follows:

§ 22.1 Other applicable rule parts.

Other Commission rule parts of importance that may be referred to with respect to licensing and operations in radio services governed under this part include the following:

(a) Part 0 of the Commission's Rules describes the Commission's organization and delegations of authority. This part also lists available Commission publications and standards and procedures for access to Commission records, and location of Commission Field Offices.

(b) Part 1 includes rules of practice and procedure for adjudicatory proceedings including hearing proceedings, rule making proceedings, procedures for reconsideration and review of the Commission's actions; provisions concerning violation notices and forfeiture proceedings; and the requirements for environmental impact statements.

(c) Part 2 contains the table of frequency allocations and special requirements in international regulations, agreements, and treaties. This part also contains standards and procedures for marketing of radio frequency devices, and for obtaining equipment type acceptance and type approval.

(d) Part 5 contains standards and procedures for obtaining experimental authorizations.

(e) Conditions under which the operations of incidental and restricted radio devices are permitted are in Part 15.

(f) Part 17 contains detailed requirements for constructions, marking, and lighting of antenna towers.

8. Section 22.2 is revised to read as follows:

§ 22.2 Definitions.

Airborne station. A mobile station licensed for use only on an aircraft.

Air-ground radiotelephone service. A public radio service between a base station and airborne mobile stations.

Antenna structure. The antenna, its supporting structure, and anything attached to it.

Antenna power input. The radio frequency peak or RMS power, as the case may be, supplied to the antenna from the antenna transmission line and its associated impedance matching network.

Assignment. The transfer, by any means, of an authorization from the present holder to another person as defined in Section 3(i) of the Communications Act.

Authorized bandwidth. The maximum width of the band of frequencies permitted to be used by a station. This is normally considered to be the necessary or occupied bandwidth, whichever is greater.

Authorized frequency. The frequency assigned to a station by the Commission and specified in the instrument of authorization.

Authorized power. The maximum power a station is permitted to use. This power is specified in the station's authorization.

Auxiliary test station. A fixed station used for test transmissions.

Base station. A land station in the public mobile service communicating with authorized mobile and fixed stations.

Carrier frequency. The output of a transmitter when the modulating wave is made zero.

Cell. The are reliably served by a transmitter location in a cellular system.

Cellular Geographic Service Area. The geographic area served by a cellular system within which the licensee is required to provide reliable service.

Cellular System. A high capacity land mobile system in which assigned spectrum is divided into discrete channels which are assigned in groups to geographic cells covering a cellular geographic service area. The discrete channels are capable of being reused in different cells within the service area.

Central Office. A landline termination center used for switching and interconnection of public message communication circuits.

Central Office Station. A fixed station used for transmitting communications to rural subscriber stations associated therewith.

Co-channel Electrical Harmful Interference. An undesired electromagnetic signal at the same frequency as a desired signal which reduces the intelligibility of the desired signal to the extent that the ratio of the desired signal to that of the undesired signal is less than R, equation 6, FCC Report R–6406.

Channel occupancy time. The total time a channel is utilized for the transmission of communications, including necessary signaling. It does not include time waiting for a channel to become available.

Communication common carrier. Any person engaged in rendering communication services for hire to the public.

Control Channel. The channel used for transmission of digital control information from the base station to the mobile station or from the mobile station to the base station.

Control point. The location at which the base station is controlled and supervised by the licensee.

Control station. A fixed point-to-point or point-to-multi-point station used to control a remote base station transmitter.

Digital modulation. The process by which some characteristic (frequency, phase, amplitude or combination thereof) of a carrier frequency is varied in accordance with a digital signal, e.g., one consisting of coded pulses or states.

Dispatch communication. Two-way voice communication, normally of not more than one minute's duration, between a common carrier base and land mobile stations, or between a common carrier land mobile station and a landline telephone station not connected to a public message telephone system.

Dispatch point. See *dispatch station.*

Dispatch station. A fixed station operating on a mobile station frequency and operated by the subscriber to communicate with the subscriber's own mobile station or stations.

Effective radiated power. The product of the antenna power input and the antenna power gain. This product should be expressed in watts. (If specified for a particular direction, effective radiated power is based on the antenna power gain in that direction only.)

Exchange. A unit of a communication company or companies for the administration of communication service in a specified area, which usually embraces a city, town, or village and its environs, and consisting of one or more central offices, together with the associated plant, used in furnishing communication service in that area.

Exchange area. The geographic area included with the boundaries of an exchange.

Fixed station. A station at a fixed location.

Frequency deviation. The maximum deviation from the center of the frequencies emitted due to modulation.

Frequency tolerance. The maximum permissible variation of the carrier frequency expressed as a percentage or in hertz.

Interference contour. The locus of all points having a field strength from the emission of one antenna at one frequency equal to the limit specified in § 22.504(a) minus the value of R, equation 8, FCC Report No. R–6406, "Technical Factors Affecting the Assignment of Facilities in the Public Mobile Services."

Interference free area. That area within the field strength contour, determined in accordance with § 22.504, in which the ratio of desired-to-undesired signal is equal to or greater than R, equation 8, in FCC Report R–6406.

Interoffice station. A fixed station in the rural radio service used for the interconnection of telephone central offices.

Land station. A station in the mobile service not intended for operation while in motion.

Landing area. A landing area means any locality, either of land or water, including airports and intermediate landing fields, which is used, or approved for use for the landing and take off of aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft, or for receiving or discharging passengers or cargo.

License. An authorization granting permission to operate a radio station according to these rules and the terms of the license.

Maps. A representation on a flat surface, of a part or the whole of the earth's surface. All maps submitted under this part shall include latitude, longitude, and scale.

Meteor burst communications. Communications by the propagation of radio signals reflected by ionized meteor trails.

Microwave frequencies. As used in this part, this term refers to frequencies of 890 MHz and above.

Miscellaneous common carriers. See *radio common carrier.*

Mobile service. See *public mobile service.*

Mobile station. A radio-communication station capable of being moved and which ordinarily does move.

Necessary bandwidth of emission. For a given class of emission, the width of the frequency band which is just sufficient to ensure the transmission of information at the rate and with the quality required under specified conditions.

Offshore central station. A fixed station in the offshore radio service with facilities for interconnection with the land telephone system.

Offshore mobile station. A radio-communication station in the offshore radio service capable of being moved and which ordinarily does move.

Offshore radio service. A public mobile radio service for communication with stations in the offshore coastal waters of the Gulf of Mexico.

Offshore subscriber station. A fixed or mobile station in the offshore radio service normally used for communication with an offshore central station.

Pager. A mobile receiver for paging communications, also known as a "beeper."

Paging service. A service provided by a communication common carrier engaged in rendering one-way communication.

Paging service, optical readout. Paging service consisting of communication of a message to a receiver which displays the message on an optical or tactile readout, whether in a permanent form (see Record communication) or a temporary form.

Paging service, tone-only. Paging service designed to activate an aural, visual, or tactile signaling device when received.

Paging service, tone/voice. Paging service in which a tone is transmitted to activate a signaling device and audio circuit in the addressed receiver, following which a voice-grade signal is transmitted, to be amplified by the audio circuitry.

Private line services. A service whereby facilities for communication between two or more designated points are set aside for the exclusive use or availability for use of particular customer and authorized users during stated periods of time.

Protected service area. A fixed 20 mile radius from a 900 MHz paging transmitter which is protected from harmful interference. For other frequency bands *see reliable service area.*

Public land mobile service. A public communication service for hire between land mobile stations wherever located and their associated base stations which are located within the United States or its possessions, or between land mobile stations in the United States and base stations in Canada.

Public Mobile Service. The radio services licensed under this part. These services include the Public Land Mobile, Rural Radio, Air-ground radio telephone, Offshore Radio, and Cellular Radio Telecommunications Services.

Radio Common Carrier (RCC). A common carrier engaged in the provision of Public Mobile Service, which is not also in the business of providing landline local exchange telephone service. These carriers were formally called "miscellaneous common carriers."

Rated power output. Normal radio frequency power output capability (Peak or Average Power) of a transmitter, under optimum adjustment and operation as specified by its manufacturer.

Reference frequency. A frequency coinciding with or having a fixed and specified relation to the assigned frequency. This frequency does not necessarily correspond to any frequency in an emission.

Relay station. A fixed station used for the reception and retransmission of the signals of another station or stations.

Reliable service area. The area specified by the field strength contour as defined by § 22.504 of the Rules and FCC Report R–6406 "Technical Factors Affecting the Assignment of Facilities in the Public Land Mobile Service," within which the reliability of communication service is 90 percent, i.e., the area within which nine out of every ten calls initiated by the base station can be satisfactorily received by the mobile unit. For 900 MHz paging facilities, see *protected service area.*

Repeater station. A fixed station which automatically retransmits the mobile communications and/or transmitter information about the base station, along a fixed point-to-point link between the base station and the control station.

Roamer. A mobile station which communicates with a land station other than one with which it is normally associated.

Rural radio service. A public radio service rendered by fixed stations on frequencies below 1000 MHz used to provide (1) public message communication service between a central office and subscribers located in rural areas to which it is impracticable to extend service via landlines, or (2) public message communication service between landline central offices and different exchange areas which it is impracticable to interconnect by any other means, or (3) private line telephone, telegraph, or facsimile service between 2 or more points to which it is impracticable to extend service via landline.

Rural subscriber station. A fixed station in the Rural Radio Service used by a subscriber for communication with a central office station

Signaling communication. One-way communications from a base station to a mobile or fixed receiver, or to multipoint mobile or fixed receivers by audible or subaudible means, for the purpose of actuating a signaling device in the receiver(s) or communicating information to the receiver(s), whether or not the information is to be retained in record form.

Special temporary authority (STA). An authorization granting permission to operate a station when circumstances require immediate or temporary operation of a station.

Standby transmitter. A transmitter installed and maintained for use in lieu of the main transmitter only during periods when the main transmitter is out of service for maintenance or repair.

State certification. Official authorization by a State or its public utilities commission for a common carrier to provide service within that State. Certification requirements vary from State to State, and some States require no certification.

Temporary fixed station. A fixed station which is to remain at a single location for less than six months.

Temporary fixed offshore subscriber station. A station in the Offshore Radio Telecommunications Service which operates from various fixed locations for periods not exceeding six months.

Transfer of control. A transfer of a controlling interest in a corporation or partnership which is not an assignment.

Wireline common carrier. Common carriers which are in the business of providing landline local exchange telephone service.

9. Section 22.3 is revised to read as follows:

§ 22.3 Authorization required.

No person shall use or operate any device for the transmission of energy or communications by radio in the services authorized by this part except as provided in this part.

10. Section 22.4 is revised to read as follows:

§ 22.4 Eligibility.

(a) *General.* Authorizations will be granted upon proper application if:

(1) The applicant is qualified under the applicable laws and the regulations, policies and decisions issued under those laws;

(2) There are frequencies available to provide satisfactory service; and

(3) The public interest, convenience or necessity would be served by a grant.

(b) *Alien ownership.* An authorization may not be granted to or held by:

(1) Any alien or the representative of any alien.

(2) Any corporation organized under the laws of any foreign government.

(3) Any corporation of which any officer or director is an alien or of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof or any corporation organized under the laws of a foreign country.

(4) Any corporation directly or indirectly controlled by any other corporation of which any officer or more than one-fourth of the directors are aliens, or of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country, if the Commission finds that the public interest will be served by the refusal or revocation of such license.

11. Section 22.5 is amended by revising paragraph (a) to read as follows:

§ 22.5 [Amended]

(a) Except for an authorization under any of the conditions stated in § 308(a) of the Communications Act of 1934 [47 U.S.C. 308(a)], the Commission may grant only upon written application

received by it, the following authorization: construction permits; station licenses; modifications of construction permits or licenses; renewals of licenses; transfers and assignments of construction permits or station licenses, or any right thereunder.

* * * * *

12. Section 22.6 is amended by revising the first sentence of paragraph (a) to read as follows:

§22.6 [Amended]

(a) As prescribed by §§ 22.9 and 22.11 of this Part, standard formal application forms applicable to the Public Mobile Service may be obtained from either:

* * *

* * * * *

13. Section 22.9 is amended by revising paragraphs (a) through (d) to read as follows:

§ 22.9 Standard application forms for Public Land Mobile, Rural Radio, Domestic Public Cellular Radio Telecommunications, and Offshore Radio Services.

(a) *Application for new or modified common carrier radio station under Part 22.* Except for facility changes for which FCC Form 489 is prescribed in paragraph (d), FCC Form 401 ("Application for New or Modified Common Carrier Radio Station Under Part 22") shall be submitted for each station in the following categories of station construction or modification:

(1) Each base station.

(2) Each auxiliary test station, unless the auxiliary test station is located at the same place as the base station, in which case only one combined application need be filed.

(3) Each fixed station.

(b) *Notification of status of Facilities (FCC Form 489).* (1) When construction has been completed, in accordance with the radio station authorization the licensee shall so notify the Commission, using Form 489. When a licensee has not completed construction in accordance with the provisions of Section 22.43 of this part, a timely application for extension (FCC Form 489) must be filed.

(2) If a Form 489 is not filed after completing construction or is filed but is not in accordance with the rules of this part the authorization will automatically expire.

(c) *License for mobile station.* (1) *Land mobile stations.* These stations are considered to be associated with and covered by the authorization issued to the carrier serving the land mobile station. No additional authorization is required.

(2) *Airborne mobile stations.* Applications for a license for airborne mobile stations submitted by persons who propose to become subscribers to a common carrier service for public correspondence shall be filed on FCC Form 409. This form will also be used for the modification and renewal of such licenses. Such applications shall also be accompanied by the supplemental showing set forth in §§ 22.15(i)(2) and 22.15(i)(3)

(d) *Minor modifications of authorization.* An FCC Form 489 may be filed to make only those categories of changes to an existing station as listed below:

(1) Change in or additional authorized emission;

(2) Request to delete or change antenna obstruction markings;

(3) Change in points of communications (Rural Radio Service); or

(4) Correction of coordinates; provided it is not a major amendment under § 22.23(c);

(5) Engineering changes which change the distance from the base station to the reliable service area contour in any direction, if the distance is decreased or the distance is not increased by more than one mile.

* * * * *

§ 22.11 [Amended]

14. Section 22.11 is amended by removing paragraphs (b), (d), (e) and (f) and redesignating paragraph (c) as (b).

15. Section 22.13 is amended by removing paragraph (g) and revising paragraphs (a)(2), (a)(6), (c)(1), and (f) to read as follows:

§ 22.13 General application requirements.

(a) * * *

(2) Demonstrate the applicant's qualifications to hold an authorization.

* * * * *

(6) Show compliance with the special requirements applicable to each radio service and make all special showings that may be applicable.

* * * * *

(c) * * *

(1) As may be required by these rules; and

* * * * *

(f) State certification. (1) *General rule.* Licensees are required to comply with all applicable state certification requirements.

Applicants may, but are not required to, include evidence of state certification when filing FCC Form 401 or 489. The licensee under this part must complete construction in accordance with section 22.43 of the rules. A licensee must have all requisite state authority and be in operation within a year of the license grant or the license will automatically expire and must be submitted for cancellation.

(2) *Denial of state certification.* A pending application will be returned as unacceptable for filing where the applicant is denied state certification necessary to construction and/or operate the proposed facilities, and the state appeal process has been exhausted. Such applications will not be retained on file while the applicant pursues subsequent state applications. Where an applicant has been denied the necessary state certification and has exhausted the state appeal process, the applicant shall not resubmit its application to the Commission until after obtaining state certification.

(3) *Applicant's duty to inform.* The applicant shall include in Form 401 information regarding any adverse action which has been taken regarding the state certification application. The applicant shall promptly and fully advise the Commission if any adverse action regarding state certification is taken while the application is pending.

16. Section 22.15 is amended by removing the introductory text, by removing and reserving paragraphs (d) through (h), by revising paragraphs (a) through (c), paragraph (i), paragraphs (j) introductory text, (j) (4), (6), (8) and (10), and by revising paragraph (k) to read as follows:

§ 22.15 Technical content of applications.

(a) All applications required by this part shall contain all technical information required by the application form and any additional information necessary to fully describe the proposed construction and to demonstrate compliance with all technical requirements of the rules governing the radio service involved (see Subparts C, F, G, H, I, J and K as appropriate). The following paragraphs describe a number of general technical requirements.

(1) Applications for fixed stations shall list the proposed antenna site. The applicant shall have obtained reasonable assurance that it can use the site.

(b) Each public land mobile service application for a radio station authorization for a new base station or a major modification to an existing base station shall make the following showings:

(1) *Co-channel facilities.* The application must explicitly state whether there are any co-channel facilities (whether existing or proposed by applications pending for more than 60 days from their public notice dates)

within the following mileage separation standards:

(i) *One-way and two-way communication facilities.* The minimum mileage separation established by §§ 22.502 and 22.503.

(ii) 125 miles along any radial direction where the combination of effective radiated power in that direction and antenna height above average terrain in that direction exceeds the limit that is computed by applying the provisions of § 22.505 to that direction.

(2) *Interference studies.* (i) The application shall contain interference studies demonstrating that the proposed facilities will not cause harmful electrical interference to those co-channel facilities (existing or proposed) identified in response to paragraph (b)(1), of this section. The interference studies must use procedures consistent with § 22.504 and FCC Report No. R–6406, "Technical Factors Affecting the Assignment of Facilities in the Domestic Public Land Mobile Radio Service," by Roger B. Carey.

(ii) For each pair of base stations studied, the following data shall be provided:

(A) The name of the applicant or licensee.

(B) The geographic name of the location of the transmitter.

(C) The geographic coordinates.

(D) The call sign (if granted previously).

(E) The file number, if pending.

(F) The distance between the proposed station and the co-channel station.

(G) The radial bearing from the proposed station to the co-channel station.

(H) The radial bearing from the co-channel station to the proposed station.

(iii) The following figures shall be given relative to the interstation radial:

(A) The distance from the proposed station to its reliable service area contour (RSAC).

(B) The distance from the co-channel station to its RSAC.

(C) The distance from the proposed station to the RSAC of the proposed station.

(D) The distance from the co-channel station to the RSAC of the proposed station.

(E) For the point of intersection of the interstation radial and each RSAC:

(*1*) "R" (equation 8, Carey Report).

(*2*) Field strength of the undesired signal, in dBu.

(*3*) Ratio of (2) and the field strength of the protected contour in Section 22.504 of the Rules.

(F) Any additional data that the applicant feels is necessary or desirable may be included.

(iv) All supporting data and calculations shall be retained by the applicant and furnished to the Commission upon request. The interference studies shall be conducted within 60 days prior to the filing of the application.

(c) *Antenna height.* (1) *Sketch.* Every application for a new antenna, an antenna increased in height, a new antenna structure, or an antenna structure increased in height shall include a vertical profile sketch.

(i) The sketch shall include the overall structure height including appurtenances, height of the tip of the proposed antenna, ground elevation and the height of any supporting building. Heights shall be elevation above mean sea level (AMSL), and above ground level (AGL).

(2) *FAA Notification.* Every application for a new antenna structure or for an increase in antenna structure height shall state whether FAA notification is required. If notification is required, a copy of the FAA determination shall be included; if it is not available, the appalicant shall state the name filed under, the date of filing and the location of the FAA office.

(d)–(h) [Reserved]

(i) In the Public Land Mobile Service each application shall contain, as appropriate, the following information:

(1) [Reserved]

(2) All applications for new or additional facilities will identify any other pending or concurrently filed applications in this service for new or additional facilities within a 40 mile radius of the proposed station that appplicant, or any principal thereof, may be a party to or have an interest in, either directly or indirectly. All applications shall also identify all existing facilities within a 40 mile radius of the proposed station licensed to the applicant or in which the applicant has an ownership interest, regardless of call sign or licensee name.

(3) An application for one or more airborne mobile units shall be accompanied by an affirmative showing that:

(i) The mobile units for which authorization is sought are for the applicant's own use;

(ii) Definite arrangements have been made for the requested number of mobile units to obtain communication service, upon the frequencies requested, through the base stations specifically identified in the application.

(j) Each application for a station authorization for a base station in the Public Land Mobile Service which proposes to establish a new communication facility or make changes in the area of coverage of a station already authorized shall be accompanied by technical engineering information with respect to:

* * * * *

(4) For directional antenna the antenna radiation pattern (on letter size polar coordinate paper) showing the antenna power gain distribution in the horizontal plane expressed in decibels. If the antenna is side mounted near a structure and the radiation pattern is in any way affected by the mounting structure, engineering drawings showing the size and shape of the structue, antenna mounting configurations with reference to the structure, orientation of antenna and mounting structure relative to true north.

* * * * *

(6) Antenna height above average terrain for each of the eight radials specified in § 22.115.

* * * * *

(8) Topographic maps showing:

(i) Exact station location; and

(ii) Location of radials used in determining elevation of average terrain, and

(iii) Lines of latitude and longitude, and a scale.

(iv) Drawn on a U.S. Geological survey to topographic map with a scale of 1:24,000 (7½ minute map).

(v) These maps as well as the profile graphs under § 22.115(b) will *not* be filed with the application but instead shall be retained as part of the applicant's records and shall be made available to the Commission's staff upon request. These maps shall also be promptly furnished to members of the public at reasonable reproduction costs. In the event there is a transfer or assignment of a license these maps as well as the profile graphs will become part of the tranferee or assignee station records. If the method of § 22.115(c)(2) (Computer generated data bases) is used this section will not apply.

(vi) *900 MHz one-way paging.* Exact station location should be plotted on a map with a scale of 1:250,000 and the protected service area should be depicted by a 20 mile radius for each base station.

* * * * *

(10) For 900 MHz one-way applications, the profile graphs referred to in § 22.115 are not required.

(k) The location of the transmitting antenna shall be considered to be the station location. Applications for stations at specified fixed locations

shall describe the transmitting antenna site by its geographical coordinates and also by conventional reference to street number, landmark, or the equivalent. All such coordinates shall be specified in terms of degrees, minutes, and seconds to the nearest second of latitude and longitude.

* * * * *

17. A new § 22.19 is added to read as follows:

§ 22.19 Waiver of rules.

(a) *Request for Waivers.* (1) Waivers of these rules may be granted upon application or by the Commission on its own motion. Requests for waivers shall contain a statement of reasons sufficient to justify a waiver. Waivers will not be granted except upon an affirmative showing.

(i) That the underlying purpose of the rule will not be served, or would be frustrated, by its application in a particular case, and that grant of the waiver is otherwise in the public interest; or

(ii) That the unique facts and circumstances of a particular case render application of the rule inequitable, unduly burdensome or otherwise contrary to the public interest. Applicants must also show the lack of a reasonable alternative.

(2) If the information necessary to support a waiver request is already on file, the applicant may cross-reference to the specific filing where it may be found.

(b) *Denial of waiver, alternate showing required.* If a waiver is not granted, the application will be dismissed as defective unless the applicant has also provided an alternative proposal which complies with the Commission's rules (including any required showings).

18. Section 22.20 is amended by removing and reserving paragraphs (b)(5), (b)(7), (b)(10) and (c), and revising paragraphs (a)(2), (b)(1), (b)(4) and (b)(8), to read as follows:

§ 22.20 Defective Applications.

(a) * * *

(2) The application does not comply with the Commission's rules, regulations, specific requirements for additional information or other requirements.

(b) * * *

(1) The application is not filled out completely and signed (responses intended to be omitted must include the notation "not applicable" or "N/A");

* * * * *

(4) The application does not demonstrate compliance with the special requirements applicable to the radio service involved;

(5) [Reserved]

* * * * *

(7) [Reserved]

(8) The application is filed after the cutoff date prescribed in § 22.31 of this part;

* * * * *

(10) [Reserved]

(c) [Reserved]

* * * * *

19. Section 22.23 is amended by revising paragraphs (a), (c) and redesignating paragraph (e)–(g) as (d)–(f) respectively and adding a new paragraph (g) to read as follows:

§ 22.23 Amendment of applications (See also Section 22.918).

(a) *Amendments as of right.* A pending application may be amended as a matter of right if the application has not been designated for hearing or placed on public notice for a random selection process.

(1) Amendments shall comply with § 22.29, as applicable; and

(2) Amendments which resolve interference conflicts or amendments under § 22.29 may be filed at any time.

* * * * *

(c) *Major amendments, minor amendments.* The Commission will classify all amendments as minor except in the cases listed below. An amendment shall be deemed to be a major amendment subject to § 22.27 and 22.31 under any of the following circumstances:

(1) *Change in technical proposal.* If the amendment results in a substantial change in the engineering proposal such as (but not necessarily limited to):

(i) A change in, or an addition of, a radio frequency; or

(ii) A change in the class of station (*e.g.*, from control to base).

(2) *Amendments to proposed base station facilities.* If the amendment enlarges the reliable service area of the proposed base station facilities by more than one (1) mile along any of eight radials spaced every forty-five (45) degrees from zero degree True North. This will not apply if the extension is into a service area presently authorized to the applicant and on the same frequency.

(3) If in the Domestic Public Cellular Radio Telecommunications Service, the amendment results in an increase in the Cellular Geographic Service Area.

(4) *Changes in ownership or control.* If the amendment specifies a substantial change in beneficial ownership or control (*de jure* or *de facto*) of an applicant. *Provided, however,* such a change would not be considered major if it is involuntary or if the amendment merely reflects a change in ownership or control that has previously been approved by the Commission.

* * * * *

(g) *Exceptions to major amendment classifications.* An application will be considered to be a newly filed application if it is amended by a major amendment (as defined in this section), except in the following circumstances:

(1) The application has been designated for hearing under the random selection process or for comparative hearing, or for comparative evaluation pursuant to § 22.35, and the Commission or the presiding officer accepts the amendment pursuant to § 22.23(b);

(2) The amendment resolves frequency conflicts with other pending applications but does not create new or increased frequency conflicts;

(3) The amendment reflects only a change in ownership or control found by the Commission to be in the public interest, and for which a requested exemption from the "cut-off" requirements of § 22.31 is granted;

(4) The amendment reflects only a change in ownership or control which results from an agreement under § 22.29 whereby two or more applicants entitled to participate in a random selection process, or comparative consideration of their applications, join in one or more of the existing applications and request dismissal of their other application(s) to avoid the random selection process or the delay and cost of comparative consideration;

(5) The amendment corrects typographical transcription, or similar clerical errors which are clearly demonstrated to be mistakes by reference to other parts of the application, and whose discovery does not create new or increased frequency conflicts;

(6) The amendment does not create new or increased frequency conflicts, and is demonstrably necessitated by events which the applicant could not have reasonably foreseen at the time of filing, such as, for example:

(i) The loss of a transmitter or receiver site by condemnation, natural causes, or loss of lease or option;

(ii) Obstruction of a proposed transmission path caused by the erection of a new building or other structure; or

(7) The amendment proposes only a change in a control or repeater frequency.

20. Section 22.27 is amended by removing and reserving paragraph (c)(5)

and revising paragraph (a)(3) to read as follows:

§ 22.27 [Amended]

(a) * * *

(3) Information which the Commission in its discretion believes of public significance. Such notices are solely for the purpose of informing the public and do not create any rights in an applicant or any other person.

* * * * *

(c) * * *

(5) [Reserved]

* * * * *

21. Section 22.29 is revised to read as follows:

§ 22.29 Ownership changes and agreements to amend or to dismiss applications or pleading.

(a) *Applicability.* This section applies to applicants and all other parties interested in pending applications who wish to resolve contested matters among themselves with a formal or an informal agreement or understanding. This section applies only when the agreement or understanding will result in (1) a major change in the ownership of an applicant to which § 22.23 and 22.23 (g) apply, or (2) the individual or mutual withdrawal, amendment or dismissal of any pending application, amendment, petitioner or other pleading.

(b) *Policy.* Parties to contested proceedings are encouraged to settle their disputes among themselves. Parties which, under a settlement agreement, apply to the Commission for ownership changes or for the amendment or dismissal of either pleadings or applications, shall at the time of filing notify the Commission that such filing is the result of an agreement or understanding.

22. Section 22.30 is amended by removing paragraph (c) and revising paragraphs (a)(3) and (b) to read as follows:

§ 22.30 Opposition to applications.

(a) * * *

(3) Contain specific allegations of fact which, except for facts of which official notice may be taken, shall be supported by affidavit of a person or persons with personal knowledge thereof, and which shall be sufficient to demonstrate that the petitioner (or respondent) is a party in interest and that a grant of, or other Commission action regarding, the application would be prima facie inconsistent with the public interest;

* * * * *

(b) A petition to deny a major amendment to a previously filed application may only raise matters directly related to the amendment which could not have been raised in connection with the underlying, previously filed application. This does not apply to petitioners who gain standing because of the major amendment.

23. Section 22.31 is amended by revising paragraph (e) in its entirety to read as follows:

§ 22.31 Mutually exclusive applications.

* * * * *

(e) *Additional frequencies.* An applicant requesting a frequency which is mutually exclusive with another application that has previously been placed on public notice shall not in the same application request additional frequencies which are not mutually exclusive with the first application. Instead, additional frequencies may be applied for in a separate application.

24. Section 22.32 is amended by revising paragraph (b)(5) to read as follows:

§ 22.32 Consideration of applications.

* * * * *

(b) * * *

(5) the applicant is qualified under current FCC regulations and policies.

* * * * *

25. Section 22.39 is revised to read as follows:

§ 22.39 Transfer of control or assignment of station authorization.

(a) *Approval required.* Authorizations shall be transferred or assigned to another party, voluntarily (for example, by contract) or involuntarily (for example, by death, bankruptcy, or legal disability), directly or indirectly or by transfer of control of any corporation holding such authorization, only upon application and approval by the Commission.

(1) A change from less than 50% ownership to 50% or more ownership shall always be considered a transfer of control.

(2) In other situations a controlling interest shall be determined on a case-by-case basis considering the distribution of ownership, and the relationships of the owners, including family relationships.

(b) *Form required.* (1) *Assignment.* (i) FCC Form 490 shall be filed to assign a license or permit.

(ii) In the case of involuntary assignment, FCC Form 490 shall be filed within 30 days of the event causing the assignment.

(2) *Transfer of Control.* (i) FCC Form 490 shall be submitted in order to transfer control of a corporation holding a license or permit.

(ii) In the case of involuntary transfer of control, FCC Form 490 shall be filed within 30 days of the event causing the transfer.

(3) *Form 430.* Whenever an application must be filed under paragraph (1) or (2) above, the assignee or transferee shall file FCC Form 430 ("Common Carrier Radio License Qualification Report") unless an accurate report is on file with the Commission.

(4) *Notification of completion.* The Commission shall be notified by letter of the date of completion of the assignment or transfer of control.

(5) *Partial assignment.* If only a portion (less than 100%) of the authorized facilities are transferred or assigned to another party, voluntarily or involuntarily, such action is considered a partial assignment. Request for authorization for partial assignment of a license shall be made—

(i) By the assignee: on FCC Form 401.

(ii) By the assignor: on FCC Form 401.

(iii) The partial assignment must be completed within 60 days of FCC authorization. If the assignment is not timely completed, FCC Form 489 must be filed to return the license to its original specifications. The assignee must submit his authorization for cancellation.

(c) In acting upon applications for transfer of control or assignment, the Commission will not consider whether the public interest, convenience, and necessity might be served by the transfer or assignment of the authorization to a person other than the proposed transferee or assignee.

26. Section 22.40 is revised to read as follows:

§ 22.40 Considerations involving transfer or assignment applications.

(a) *Applicability.* This section applies to all authorizations issued under this Part, except those for paging services at 35, 43 or 900 MHz, and to all authorizations obtained as a result of a comparative hearing if the facility has been operated for less than one year.

(b) The Commission will review a proposed transaction in authorizations whenever applications (except those involving *pro forma* assignment or transfer of control) for consent to assignment of an authorization granted under this Part, or for transfer of control of a permittee or licensee, involve facilities which have not been constructed or which have been operated for less than one year by the proposed assignor or transferor and the authorization was obtained as a result of a comparative hearing. At its

discretion, the Commission may require the submission of an affirmative, factual showing (supported by affidavits of a person or persons with personal knowledge) to demonstrate that the proposed assignor or transferor has not acquired an authorization or operated a station for the principal purpose of profitable sale rather than public service. This showing may include, for example, a demonstration that the proposed assignment or transfer is due to changed circumstances (described in detail) affecting the licensee subsequent to the acquisition of its authorization, or that the proposed transfer of radio facilities is incidental to a sale of other facilities or merger of interests.

27. Section 22.43 is revised to read as follows:

§ 22.43 Period of construction.

(a)(1) *General Rule.* A radio station authorization shall specify the date of grant as the earliest date for commencement of construction.

(2) The station must be completed and ready for operation, as shown by commencement of service tests (§ 22.212), within 12 months after the grant of the radio station authorization. In the case of offshore telephone stations, the period shall be 18 months.

(3) If construction is not completed within the time period set forth in this rule or if an extension of time to complete construction is not timely requested the license will automatically expire.

(b) *Extension of Time to Complete Construction.* (1) *General rule.* Application for extension of time to complete construction may be made on FCC Form 489. Extensions will be granted only if the applicant shows that the failure to complete is due to causes beyond his control. No extensions will be granted for delays caused by lack of financing, lack of site availability, for the transfer of an authorization, or for failure to timely order equipment. If the licensee orders equipment within 90 days of the license grant, a presumption of due diligence is created.

(2) *State certification.* No extension will be granted when state certification has been denied and all state appeals have been exhausted. If an applicant requests an extension due to lack of state certification, one 8-month extension may be granted when state law permits construction before certification is obtained. No more than two 8-month extensions may be granted when state laws prohibit construction before certification is obtained. Lack of state certification must be due to a cause beyond applicant's control, and extensions will not be granted if there is lack of diligence in pursuing state certification. If the licensee files for state certification within 90 days of the license grant, a presumption of due diligence is created.

(c) *Cellular base stations.* Cellular base stations, which will provide coverage over 75% of the cellular geographic area, as defined in § 22.905 of these rules, shall be completed and the station ready for operation within 36 months from the date the radio station authorization is granted.

28. Section 22.44 is revised to read as follows:

§ 22.44 Termination of authorization.

(a)(1) All authorizations shall terminate on the date specified on the authorization or on the date specified by these rules unless an application for renewal or reinstatement is timely filed.

(2) If no application for renewal or reinstatement has been made before the authorization's expiration date, a late application for renewal or reinstatement will be considered only if it is filed within 30 days of the expiration date and shows that the failure to file a timely application was due to causes beyond the applicant's control. A request for extension of time and reinstatement during the 30-day period shall be filed on Form 489. Service to subscribers need not be suspended while a late filed renewal application is pending, but such service shall be without prejudice to Commission action on the renewal application and any related sanctions.

(b) *Special Temporary Authority.* A special temporary authorization shall automatically terminate upon failure to comply with the conditions in the authorization.

(c) *State certification.* Where the holder of an authorization is denied state certification and the state appeal process is exhausted before the end of the one-year period, the license will be forfeited. If the licensee regains state certification before the end of the one year period, a request for reinstatement may be considered.

29. Section 22.45 is revised to read as follows:

§ 22.45 License period.

(a) Licenses will be granted for 10 years. When a date is specified in paragraph (b) below, the license will be valid until that date in the tenth year of the license. Developmental licenses shall be granted for one year. When the Commission determines the public interest, convenience or necessity would be served by a shorter license period, the license will be granted for such period.

(b) *License Termination.* Station licenses will expire on the dates listed below, on the last year of the license:

Public Land Mobile (radio common carriers), Apr. 1
Public Land Mobile (wireline common carriers), July 1
Offshore Telephone, Aug. 1
Public Land Mobile (air-ground base stations), Sept. 1
Rural Radio, Nov. 1
Cellular Radio, Oct. 1

30. Section 22.100 is amended by removing and reserving paragraph (d)(3), by revising paragraphs (a) and (b), by adding new paragraphs (c) and (e) thru (h), by adding a caption to paragraph (d) and by revising the first two sentences of paragraph (d) introductory text to read as follows:

§ 22.100 Frequencies, interference.

(a) The frequencies available for use in the services covered by this part of the rules are listed in the applicable subparts of this part. Assignment of frequencies will be made only in such a manner as to facilitate the rendition of communication service on an interference-free basis in each service area. Unless otherwise indicated, each frequency available for use by stations in these services will be assigned exclusively to a single applicant in any service area. All applicants for, and licensees of, stations in these services shall cooperate in the selection and use of the frequencies assigned in order to minimize interference and thereby obtain the most efficient use of the authorized facilities.

(b) *Interference.* (1) *General rule.*

(i) The Commission will take no action upon complaints of interference against any station which is operating within the Commission's rules and its authorization, except as provided in this section.

(ii) The Commission will only consider complaints of interference which significantly interrupt or degrade a radio service.

(iii) In cases where this section protects against interference, the Commission will take whatever action it deems necessary in response to interference complaints.

(2) *Operation in accordance with authorization or rules.* A station causing interference by failing to operate in accordance with its authorization or these rules shall discontinue radiation until it can comply with the authorization or rule regardless of the amount of interference caused, except for transmission concerning the immediate safety of life or property, in which case transmission shall be

suspended immediately after the emergency is terminated.

(3) *Secondary uses of frequencies.* All uses of frequencies specified in these rules as secondary to the primary uses shall be discontinued if harmful interference to the primary use cannot be eliminated.

(4) *Base-to-base station interference.* When an authorization has been properly granted, interference between base stations in the public mobile radio service shall be resolved by the licensees. If the licensees cannot resolve the interference, the Commission, after notice and opportunity for hearing, may order whatever changes in equipment or operation it deems necessary.

(5) *Mobile-to-base, mobile-to-mobile.* No protection will be provided against mobile-to-base or mobile-to-mobile interference.

(6) *Control and repeater stations.* Control and repeater stations shall not cause harmful interference to other stations.

(7) *Dispatch stations.* Dispatch stations shall not cause harmful interference to other stations.

(c) *35 MHz band.* No protection against tropospheric and ionospheric propagation of signals will be given except as provided in § 22.501(a).

(d) *2100 MHz bands.* All applicants for regular authorization for use of the bands 2110–2130 MHz and 2160–2180 MHz shall, before filing an application or major amendment to a pending application, coordinate proposed frequency usage with existing users in the area and other applicants with previously filed applications, in this radio service and in the point-to-point Microwave and Local Television Radio Services, whose facilities could affect or be affected by the new proposal in terms of frequency interference or restricted ultimate system capacity. Use of frequencies in these bands is subject to the interference conditions in § 22.501(e). * * *

* * * * *

(3) [Reserved]

* * * * *

(e) *72–76 MHz band.* Stations operating in the 72–76 MHz band shall comply with the interference conditions set forth in § 22.103.

(f) *Control and repeater stations (450 MHz band).* Control or repeater stations using the frequencies 454.025–454.650 MHz and 459.025–459.650 MHz shall not cause harmful interference to any other type of station authorized to use those frequencies and shall be secondary to rural radio and mobile service by other classes of stations.

(g) *890–952 MHz band.* (1) Stations in the 890–940 MHz band will not be protected against interference from industrial, scientific and medical equipment operating on 915 MHz or radiolocation stations in the 890–942 MHz band.

(2) Stations in the 890–940 MHz band shall not cause harmful interference to radiolocation stations in the 890–942 MHz band.

(3) New control and repeater stations will not be authorized in the 890–940 MHz band, except as provided in § 22.501(g)(1).

(4) Proposed stations in the 942–952 MHz band shall not cause harmful interference to existing stations. Such proposed stations must also comply with the other conditions set forth in § 22.601(f).

(h) *Quiet zones.* Stations operating in the vicinity of Green Bank, West Virginia, Sugar Grove, West Virginia, and Boulder, Colorado, shall comply with the "quiet zone" provisions of § 22.113.

31. Section 22.101 is revised to read as follows:

§ 22.101 Frequency tolerance.

(a) *Tolerance.* The carrier frequency of each transmitter shall be maintained within the following tolerances from the assigned frequencies:

Frequency range (MHz)	Frequency tolerance (percent)		
	All Fixed and base stations	Mobile stations over 3 watts	Mobile stations 3 watts or less
25 to 50	0.002	0.002	0.005
50 to 450	.0005	.0005	.005
450 to 512	.00025	.00025	.0005
821 to 896	.00015	.00025	.00025
928 to 929	.0005		
929 to 932	.00015		
959 to 960	.00015		
2010 to 2220	.001		

(b) *Transmitter measurements.* The licensee of each station shall employ a suitable method to ensure that the transmitter operates within the tolerances prescribed by these rules and on the assigned frequency.

§22.102 [Reserved]

32. Section 22.102 is removed and reserved.

33. Section 22.103 is revised to read as follows:

§ 22.103 Standards governing use of 72–76 MHz band.

(a) Applicants requesting authority to operate on frequencies in the 72–76 MHz band must agree to eliminate any harmful interference which such operations may cause to television reception on either Channel 4 or 5. If the interference cannot be eliminated within 90 days of the time the matter is first brought to a licensee's attention by the Commission, operation of the interfering fixed station shall be immediately discontinued.

(b) *Less than 10 miles.* Applications for use of 72–76 MHz band frequencies less than 10 miles from Channel 4 or 5 television stations will be returned without action, except where the proposed transmitter is co-located with the television transmitter. In the latter case, the application will be processed according to the 10–80 mile standard.

(c) *Between 10 and 80 miles.* Where an applicant proposes to locate a 72–76 MHz band fixed station between 10 and 80 miles from a Channel 4 or 5 television station, the applicant shall consult the charts included in this section and then submit a showing of the number of family dwelling units within the relevent area surrounding the proposed station. The applicant need not count family dwelling units 70 or more miles from the television station. In communities where televisions channels are assigned but not in operation, the applicant shall consider the community post office as the television station site.

(1) In cases where more than 100 family dwelling units are contained within the circle (determined according to this section), the number of dwelling units shall be stated and a factual showing made that:

(i) The proposed site is the only suitable location.

(ii) It is not feasible, technically or otherwise, to use other available frequencies.

(iii) The applicant has a definite plan, which must be disclosed, to control any interference that might develop to television reception from its operations.

(iv) The applicant is financially able and agrees to make such adjustments in the television receivers affected as may be necessary to eliminate interference caused by its operations.

(2) No station assignments shall be made in the frequency range 72.65–72.85 MHz within 80 miles from the site of a television transmitter operating on Channel 5 (or from the post office of a community to which such television channel is allocated, in cases where a television station has not been authorized).

(3) Stations authorized on December 1, 1961, in the 73.00 to 74.60 MHz band are not required to protect the radio astronomy service.

34. Section 22.104 is revised to read as follows:

§ 22.104 Emission types.

(a) *General.* (1) Emissions authorized to stations in the public land mobile, rural radio and offshore radio services include but are not limited to F1, F2, F3, F4, and F9Y.

(2) Applications for base stations employing amplitude compandored single sideband modulation (ASSB) shall be submitted on Form 401.

(i) The application shall describe fully the modulation characteristics, emission and occupied bandwidth, and specify the center frequency of the emitted bandwidth for each channel, carrier frequency (though suppressed), and pilot frequencies, if any. All center frequencies shall fall within the authorized bandwidth, as defined in section 507(b). The authorized bandwidth shall be based on an assignable frequency in §§ 22.501, 22.600 and 22.1000. The total of the out-of-band emissions shall meet the requirements of section 22.106, assuming an FM transmitter with an output power equal to the sum of all ASSB output powers in the authorized bandwidth.

(ii) The reliable service area contours of each channel shall be determined in accordance with § 22.504. Multiple channels in one authorized bandwidth are considered as a "group" if the overlap between the reliable service area contours of all channels in the group is fifty percent or greater. The sum of the peak effective radiated powers of all ASSB channels within a group shall not exceed 500 watts.

(iii) Interference studies between stations within an authorized bandwidth, whether FM-to-ASSB, ASSB-to-FM, or ASSB-to-ASSB shall be in accordance to the following. For ASSB stations, the location of the station in the group nearest to the station studied for interference shall be selected. The effective radiated power in the direction of the other station shall be the sum of the peak effective radiated powers in the group, each in the direction of the other station. The antenna-center height above average terrain shall be the maximum antenna-center height of any station in the group in the direction of the studied station. The frequency of the group shall be sssumed to be the same as that of the other station (co-channel), and studies shall be made in accordance with § 22.15(b).

(iv) A showing of need is not required in an application requesting one or more initial ASSB channels in one authorized bandwidth. Licensees authorized one or more channels in an authorized bandwidth requesting one or more additional ASSB channels in the same bandwidth and in the same market area will not be required to conduct traffic loading studies. In cases not cited above, §§ 22.16 and 22.516 of the rules apply and the ASSB channels within an authorized bandwidth will be treated as a single channel on an assignable frequency for traffic loading studies.

(3) Any other types of emissions not listed in (a) (1) and (2) above shall be submitted on Form 401 with interference showings to existing and known pending stations and shall be considered on a developmental basis.

(b) *Unmodulated emissions.* (1) Authorization to employ types of modulated emissions shall include authority to employ unmodulated emissions fortemporary or short periods for equipment testing.

(2) Continuous unmodulated emissions may be utilized at a maximum of 1 watt output power to prevent the indication of false channel occupation.

35. Section 22.106 is revised to read as follows:

§ 22.106 Emission limitations.

(a) For transmitters other than those employing digital modulation techniques, the mean power of emissions shall be attenuated below the mean output power of the transmitter in accordance with the following schedule:

(1) On any frequency removed from the assigned frequency by more than 50 percent up to and including 100 percent of the authorized bandwidth: at least 25 decibels;

(2) On any frequency removed from the assigned frequency by more than 100 percent up to and including 250 percent of the authorized bandwidth: at least 35 decibels;

(3) On any frequency removed from the assigned frequency by more than 250 percent of the authorized bandwidth: At least 43 plus 10 Log_{10} (mean output power in watts) decibels, or 80 decibels, whichever is the lesser attenuation.

(b) For transmitters not equipped with an audio low pass filter required by the provisions of paragraphs (f) and (g) of § 22.508, and for those employing digital modulation techniques, the power of any emission shall be attenuated below the unmodulated carrier power (P) in accordance with the following schedule:

(1) For those transmitters that operate in the frequency bands of 35.0 to 44.0 MHz, 72.0 to 73.0 MHz, 75.4 to 76.0 MHz or 152.0 to 159.0 MHz,

(i) On any frequency removed from the center of the authorized bandwidth by a displacement frequency (fd in kHz) of more than 5 kHz up to and including 10 kHz: at least 83 Log_{10} (fd/5) decibels;

(ii) On any frequency removed from the center of the authorized bandwidth by a displacement frequency (fd in kHz) of more than 10 kHz up to and including 250 percent of the autorized bandwidth: at least 29 Log_{10} (fd2/11) decibels or 50 decibels, whichever is the lesser attenuation;

(iii) On any frequency removed from the center of the authorized bandwidth by more than 250 percent of the authorized bandwidth: at least 43 plus 10 Log_{10} (output power in watts) decibels or 80 decibels, whichever is the lesser attenuation.

Note.—The measurements of emission power can be expressed in peak or average values provided they are expressed in the same parameters as the unmodulated transmitter carrier power.

(2) For those transmitters that operate in the frequency bands 450.0 to 512.0 MHz, or 929.0 to 932.0 MHz,

(i) On any frequency removed from the center of the authorized bandwidth by a displacement frequency (fd in kHz) of more than 5 kHz up to and including 10 kHz: at least 83 Log_{10} (fd/5) decibles:

(ii) On any frequency removed from the center of the authorized bandwidth by a displacement frequency (fd in kHz) of more than 10 kHz up to and including 250 percent of the authorized bandwidth: at least 116 Log_{10} (fd/6.1) decibels or 50 plus 10 Log_{10} (P) or 70 decibels, whichever is the lesser attenuation;

(iii) On any frequency removed from the center of the authorized bandwidth by more than 250 percent of the authorized bandwidth: at least 43 plus 10 Log_{10} (output power in watts) decibels or 80 decibels, whichever is the lesser attenuation.

Note.—The measurements of emission power can be expressed in peak or average values provided they are expressed in the same parameters as the unmodulated transmitter carrier power.

(c) When an emission outside of the authorized bandwidth causes harmful interference, the Commission may, at its discretion, require greater attenuation than specified in this section.

36. Section 22.107 is revised to read as follows:

§ 22.107 Transmitter power.

(a) The power which a station will be permitted to use in these services will be the minimum required for satisfactory technical operation commensurate with the size of the area to be served and local conditions which affect radio transmission and reception.

(b) Standby transmitters having a power in excess of the main transmitter with which it is associated will not be authorized.

37. Section 22.108 is revised to read as follows:

§ 22.108 Directional antennas.

(a) *Directional antennas required.* Rural radio stations, control stations, repeater stations, and dispatch stations shall use a directional antenna with the major lobe of radiation in the horizontal plane directed toward the receiving station or the passive reflector with which the station communicates. A multi- or omni-directional antenna may be authorized if necessary where a station communicates with more than one point.

(b) *Beam width required.* Stations required to use directional antennas shall meet the standards indicated below. Maximum beam width is for the major lobe of radiation at the half power points. Suppression is the minimum attenuation required for any secondary lobe signal and is referenced to the maximum signal in the main lobe.

Frequency range	Maximum beam width (degrees)	Suppression (dB)
Below 512 MHz	90	10
512 to 1000 MHz	90	13
1500 to 2500 MHz	12	13

(c) *Temporary fixed station requirement.* Temporary fixed stations may use antenna structures not exceeding the height criteria in Part 17 of this chapter. Greater height requires FAA or FCC approval.

(d) All applications for station authorization (Form 401) shall include the beam with of the major lobe of the antenna pattern (polar diagram). For this purpose the beam width is defined as the arc, in degrees, including all points on the polar diagram which are within 3 decibels of the point of maximum gain (half power points). For omnidirectional antennas the beam width is defined as 360 degrees.

38. Section 22.109 is revised to read as follows:

§ 22.109 Antenna structure.

(a) *General provisions.* (1) Permittees and licensees shall not allow antenna structures to become a hazard to air navigation.

(2) Antenna structures shall be marked and maintained in accordance with section 303(q) of the Communications Act of 1934, as amended (47 U.S.C. 303(q)) and Part 17 of this chapter and all applicable rules and requirements of the Federal Aviation Administration. Specific lighting and marking requirements are described in FCC Form 715 or FCC Form 715A.

(b) *Maintenance contracts.* Permittees and licensees may be contract delegate the marking and maintenance requirements specified for these radio services. All licensees or permittees who make such contractual arrangements, including situations in which a common antenna is used, shall be responsible for the contractor's performance. The general requirements of § 22.205 apply.

39. Section 22.110 is revised to read as follows:

§ 22.110 Antenna polarization.

(a) *Vertical.* The following types of stations shall employ an antenna which radiates a vertically polarized signal:

(1) Base, mobile, dispatch, and auxiliary test stations operating in the Public Land Mobile Service;

(2) Offshore Telephone stations;

(3) Stations operating in the 72–76 MHz band.

(4) Stations operating in the Cellular Radio Telecommunications Service.

(b) *Horizontal.* (1) Stations not required by section (a) above to use vertical polarization shall employ horizontal polarization.

(2) Rural subscriber stations communicating with base stations may employ vertical polarization.

(c) *Circular.* Upon satisfactory showing that transmission will be improved and harmful interference will be reduced, the Commission may authorize a station, other than those listed in paragraph (a) above, to radiate a circularly polarized signal.

(d) *Above 890 MHz.* Public Land Mobile stations operating above 890 MHz are not limited as to the type of polarization.

§§ 22.111 and 22.112 [Reserved]

40. Sections 22.111 and 22.112 are removed and reserved.

§ 22.114 [Reserved]

41. Section 22.114 is removed and reserved.

42. Section 22.115 is revised to read as follows:

§ 22.115 Topographic data.

(a) *Radials.* (1) *General case.* Average terrain elevation shall be determined from the elevation between 2 and 10 miles from the antenna site. Radials shall be drawn from the antenna site extending for 10 miles. Eight radials shall be drawn for each 45 degrees of azimuth starting from True North.

(2) *Co-Channel or adjacent stations.* (i) Additional radials shall be drawn to co-channel stations within 75 miles.

(ii) In the case of Public Land Mobile stations in the 470–512 MHz band, additional radials shall be drawn to co-channel TV stations within 162 miles and to adjacent channel TV stations within 67 miles.

(3) *Foreign territory or water.* When a portion of a radial extends over foreign territory or water, such portion shall not be included on the profile graphs or in the computation of average elevation unless the radial passes over United States land within 83 miles of the station.

(b) *Profile graphs.* The profile graph for each radial should be plotted by contour intervals of 40 to 100 feet so that, where the data permit, at least 50 points of elevation are generally evenly spaced on each radial. This information may be obtained using topographic quadrangle maps with a scale of 1:24,000. If the terrain is very rugged so that the use of 100-foot intervals would result in several points in a short distance, 200- or 400-foot contour intervals may be used. If the terrain is uniform or gently sloping, the smallest contour on the topographic map should be used, even though only relatively few points may be available.

(1) The profile graphs must:

(i) Indicate the topography accurately;

(ii) Be plotted with distance in miles on the horizontal axis and elevation in feet above mean sea level on the vertical axis;

(iii) Show the elevation of the center of the antenna's radiating system;

(iv) Be plotted on rectangular coordinate paper or curvature of earth paper (although it is not necessary to consider the curvature of the earth.); and

(v) Indicate the source of the data.

(c) *Computation of average terrain elevation.* The average elevation of the 2 to 10 mile portion of each radial shall be determined from the profile graphs. Profile graphs shall not be submitted with the application but shall be made available to the Commission upon request.

(1) In Dade and Broward Counties, Florida, average terrain elevation is assumed to be 10 feet.

(2) The average terrain elevation may be computer-generated using the National Geophysical and Solar-Terrestrial Data Center, 30 second point elevation file. This data must be processed for intermediate points along each radial employing linear interpolation techniques. The height above mean sea level of each antenna site must be obtained using appropriate topographic maps. See also § 22.15.

§ 22.116 [Reserved]

43. Section 22.116 is removed and reserved.

44. Section 22.117 is revised to read as follows:

§ 22.117 Transmitters.

(a) *Installation.* (1) The transmitter shall be installed so that unauthorized persons will not have access to the transmitter or its control point(s).

(2) Transmitters in the Public Mobile Service shall be installed so that controls which may cause the transmitter to exceed its authorized parameters are accessible only by properly licensed personnel.

(3) Transmitter control circuits shall be installed so that grounding or shorting any line in the control circuit shall not cause the transmitter to radiate.

(4) Each transmitter (other than hand carried or pack-carried) and each control point shall be equipped with some means of indicating when the transmitter's control circuits have been placed in a condition to activate the transmitter. Each transmitter shall be equipped so that the transmitter can be turned on and off independently of any remote control circuits.

(b) *Additional Transmitters.* Licensees may construct and operate additional transmitter locations on the same frequency without obtaining prior Commission approval, provided:

(1) The currently authorized reliable service area contour and predicted interference contour of the station or other commonly owned stations are not enlarged in any direction;

(2) The Commission is notified of the new transmitter(s), through the filing of a Form 489. The Form 489 shall include a certification that the reliable service area contour and predicted interference contour of the proposed station are totally encompassed within the reliable service area contour and predicted interference contour of the existing station(s);

(3) Full FAA approval has been obtained. The notification shall state that such clearance has been granted; and

(4) The application is not a "major action" as defined by rule § 1.1305. If it is a major action, then prior approval is required, and the requirements of § 1.1311 apply

§ 22.118 [Reserved]

45. Section 22.118 is removed and reserved.

46. Section 22.120 is revised to read as follows:

§ 22.120 Type-acceptance of transmitters.

(a) *Type-acceptance required.* All transmitters shall be type-accepted for use under this part of the Rules. Transmitters must be type-accepted when the station is ready for service, not necessarily at the time of filing an application. Developmental systems may use transmitters which have not been type-accepted.

(b) *Procedure for type-acceptance.* Transmitters shall be type-accepted by the Commission pursuant to Subpart J of Part 2 of this chapter (§ 2.901 et seq.).

(1) An applicant for a station authorization may apply for individual transmitter type-acceptance.

(c) *Lists of type-accepted transmitters.* Type-accepted transmitters are listed in the Commission's "Radio Equipment List," which is available for inspection at the Commission in Washington, D.C., and its field offices. Type-accepted individual transmitters normally will not be included in this list, but only specified on the station authorization.

(d) *Cellular equipment.* In addition to the normal type-acceptance procedures contained in Part 2 of this Chapter and to the technical standards contained in this Part, transmitters designed for operation under Subpart K of this Part shall comply with requirements contained in the Commission's cellular system compatibility specification (See § 22.915).

47. Section 22.121 is revised to read as follows:

§ 22.121 Replacement of equipment.

(a) A licensee may replace any equipment in its station without authorization if:

(1) The equipment is currently type-accepted for use in this Part of the rules;

(2) Antenna height or antenna structure height, whichever is greater, is not increased above the authorized height; and

(3) The distance from the base station to the reliable service area contour is not changed in any direction.

(b) Except as provided in paragraph (a) above, a licensee must obtain authorization prior to making changes to or replacements of station equipment.

(c) When equipment is replaced under paragraph (a) above, the licensee shall notify the Commission of such changes upon the next application for renewal or modification of the license.

§ 22.122 [Reserved]

48. Section 22.122 is removed and reserved.

49. Section 22.201 is revised to read as follows:

§ 22.201 Posting station licenses.

(a) The current original authorization for each station shall be retained as a permanent part of the station records but need not be posted.

(b) A clearly legible photocopy of the authorization for each base or fixed station shall be posted at every control point of the station and the local business office if the control point is not in the local area of operation

§§ 22.203 and 22.204 [Reserved]

50. Sections 22.203 and 22.204 are removed and reserved.

51. Section 22.205 is revised to read as follows:

§ 22.205 Operator and maintenance requirements (licensee's general responsibility).

(a) *General.* The station licensee shall be responsible for the proper operation and maintenance of the station. No operator's license is required for a person to operate or perform maintenance on facilities authorized in these radio services. The station licensee shall at all times comply with the Commission's rules, regulations, and policies.

(b) *Maintenance by contract.* When maintenance for a radio station or antenna structure is provided for by agreement with an entity unrelated to the licensee, the agreement shall be in writing.

(1) The licensee shall retain effective operational control over the radio facilities and their operation.

(2) The licensee shall remain fully responsible for the quality of maintenance, for compliance with all the Commission's rules, and for the general instructions given to the contractor.

52. Sections 22.206 and 22.207 are removed and reserved.

53. Section 22.208 is amended by removing paragraphs (e) through (i).

54. Section 22.209 is removed and reserved.

55. Section 22.210 is amended by removing the words "and to the Engineer in Charge of the radio district in which the station is located," in paragraph (a) in this section, and remouning the words "and the Engineer in Charge" in Paragraph(c) of this section.

§ 22.211 [Reserved]

56. Section 22.211 is removed and reserved.

57. Section 22.212 is revised to read as follows:

§ 22.212 Tests.

(a) *Equipment tests.* When construction or modification of a station

has been completed in accordance with the radio station authorization, the licensee may conduct equipment and service tests.

(b) *Maintenance tests.* Licensees are permitted to make such tests as are necessary for the proper maintenance of their stations.

(c) *Tests in general.* All tests shall be conducted so as not to cause interference to other communication systems. The Commission reserves the right to cancel or modify the licensee's testing authority when the public interest so requires.

58. Section 22.213 is amended by revising paragraph (d) to read as follows:

§ 22.213 Station identification.

* * * * *

(d) Where transmission of station identification is required, such transmission shall be capable of being received and understood at an appropriate receiver, without the use of special channeling or transmission unscrambling devices. The identification shall be made by means of Morse code, aural transmission, or tone signaling.

§ 22.214 [Reserved]

59. Section 22.214 is removed and reserved.

§§ 22.300 and 22.301 [Reserved]

60. Sections 22.300 and 22.301 are removed and reserved.

61. Section 22.302 is revised to read as follows:

§ 22.302 Duty of licensees to respond to official communications.

(a) Licensees are required to respond to official communications with reasonable dispatch and according to the tenor of the communication. Failure to do so will be considered by the Commission to (1) reflect adversely on a person's qualifications to hold licenses, or (2) create liabilities for other appropriate sanctions.

(b) Any person receiving official notice of an apparent or an actual violation of a federal statute, international agreement, Executive Order, or regulation pertaining to communications shall respond in writing within 10 days to the office of the Commission originating the notices. If an answer cannot be sent within 10 days, an acknowledgement and answer shall be sent as soon as possible with a satisfactory explanation of the delay.

(c) All answers to official communications shall be complete and self-contained without reference to other communications unless copies are attached.

62. Section 22.303 is revised to read as follows:

§ 22.303 Discontinuance of station operation.

If a station licensed under this part discontinues operation on a permanent basis, the licensee shall forward the station license to the Commission for cancellation. For the purposes of this section, any station which has not operated for 90 continuous days is considered to have been permanently discontinued, unless the applicant has notified the Commission otherwise prior to the expiration of the 90 day period and provided a date when operation will resume, which shall not be in excess of 30 additional days.

63. Section 22.304 is revised to read as follows:

§ 22.304 Tariffs, other reports.

All common carriers shall file the reports required by the rules of this chapter (See §§ 1.771–1.815).

§§ 22.305 and 22.306 [Reserved]

64. Sections 22.305 and 22.306 are removed and reserved.

65. A new § 22.308 is added to read as follows:

§ 22.308 Incidental communication services.

Licensees authorized to operate in these radio services may also use their facilities to provide other communications services incidental to those specified in the authorization, provided that:

(a) The incidental service does not interfere with the public mobile radio service specified in the authorization;

(b)The costs or charges of subscribers who do not wish to use the other communication service are not increased;

(c) The quality of service does not materially deteriorate, and neither growth nor availability of the licensee's authorized service is diminished beyond a minimal degree;

(d) The provision of the incidental services does not violate and is not otherwise inconsistent with other Commission rules, regulations, and policies; and

(e) The Commission is notified by letter prior to the provision of any incidental communication service. Such notification shall include a general description of the service and an explanation of the technical proposal.

66. A new § 22.309 is added to read as follows:

§ 22.309 Representations.

(a) *Duty of disclosure.* All parties shall make full and continuing disclosure as required by § 1.65 of this chapter. No party shall make misrepresentations of any kind.

(b) *Service to the public.* The filing of an application shall be a representation by the applicant that the motivation for the application is the applicant's intention to provide service to the public.

67. Section 22.400 is revised to read as follows:

§ 22.400 Eligibility.

Developmental authorizations may be issued to communications common carriers for experimentation leading to the development of a service regulated by this part.

§ 22.401 [Amended]

68. Section 22.401 is amended by redesignating paragraph (c) as paragraph (b).

69. Section 22.405 is revised to read as follows:

§ 22.405 Additional application content.

Authorizations for development of a proposed radio service in the Public Mobile Services will be issued only upon a showing that the applicant has a definite program of research and development, which has reasonable promise of substantial contribution to the services authorized by this Part. The applicant must make a specific showing as to the factors which the applicant believes qualify him technically to conduct the research and development program, including a description of the nature and extent of engineering facilities which applicant has available for such purpose. The Commission may, in its discretion, require a showing of financial qualification.

70. A new § 22.407 is added to read as follows:

§ 22.407 Renewal.

(a) Expiring developmental authorizations may be renewed upon (1) the applicant's compliance with the applicable requirements of § 22.406 (a) and (b) relative to the authorization sought to be renewed, and (2) a showing that further progress in the program of research and development requires further radio transmission.

(b) If instead of renewal the licensee requested permanent authorization a Form 408 shall be filed prior to the expiration of the developmental authorization.

71. Section 22.500 is revised to read as follows:

§ 22.500 Eligibility.

(a) Base stations and auxiliary test stations may be licensed to communications common carriers.

(b) Airborne mobile stations (or "air/ground stations") may be licensed to the individual user.

(c) Other mobile stations are licensed as part of base stations authorizations.

72. Section 22.501 is amended as follows:

A. By removing and reserving paragraph (j).

B. By revising paragraphs (a)(5), (b) introductory text, (c), (e), (f), footnote 1 to paragraph (f), (h) and (i).

C. By adding new footnote 2 to paragraph (f).

D. By adding a caption to paragraph (k) and revising the introductory text.

E. By revising the heading to the second column of the table in paragraph (k) to read *"Mobile Frequency (MHz)."*

F. By adding and reserving paragraphs (n) and (o).

§ 22.501 Frequencies.

The following frequencies are available to the Public Land Mobile Service for the use set forth in this section.

(a) * * *

(a)(5) 43 MHz applications (Interference study required).

(i) Applicants which request 43 MHz applications listed in (a)(4) shall explicitly state whether or not there are any existing co-channel two-way facilities within 125 miles (201 km) of the proposed paging station and shall include an engineering study of the potential interference to these two-way stations. The predicted undesired field strength at the existing base station antenna shall not exceed 14 dB above one microvolt per meter. The predicted value shall be calculated by the Bullington method (Kenneth Bullington, "Radio Propagation at frequencies above 30 Megacycles", Proceedings of the I.R.E., October, 1947). Applicants may assume that the two-way base station receiving antenna is the same as that of the base transmitting antenna as filed with the Commission.

(ii) Due to interference potential the frequencies listed in (a)(4) will only be granted on a developmental basis for one year subject to the provisions of § 22.404 (a) and (c). The provisions of § 22.404(d) are waived to permit licensees to offer service for hire. Licensee shall inform customers that service on these channels is developmental and therefore subject to cancellation at any time. When construction is completed a Form 408 shall be filed. Prior to the expiration of the developmental authorization a Form 408 shall be filed to request permanent authorization.

(iii) In accordance with § 22.406 quarterly surveys of possible interference with television reception in the geographic area within a two-mile radius of the base station(s) authorized herein shall be made during the first year of operation. Each quarter, a different sample of at least 25 television viewers distributed approximately evenly throughout the geographic area described above shall be contacted to determine whether they have experienced TV interference. If interference complaints are received either as a result of interviews or in the normal course of business, the licensee shall determine the source and extent of such interference. The licensee shall promptly report all interference complaints and act to correct any problems, or follow official instructions.

(iv) The licensee shall submit a written report soon after the completion of each quarter, fully evaluating the continued existence of interference. Quarterly reports shall include but shall not be limited to the following information:

(*1*) Survey date(s).

(*2*) Method (telephone/on-site/other).

(*3*) Names, addresses and telephone numbers of persons contacted.

(*4*) Time of day survey conducted (morning/afternoon/night).

(*5*) Technical solutions tested and results.

(*6*) Names and telephone numbers of technical representatives consulted and/or employed.

Note.—Prior to September 11, 1982, these frequencies were available for assignment for two-way services. Existing operations of this nature on these frequencies will be permitted to continue until June 30, 1988. Applications to modify existing facilities will be accepted as long as at least fifty percent (50%) of the proposed service area is already covered by the existing service area. No applications for new two-way facilities on these frequencies will be accepted. After June 30, 1988 the restrictions in § 22.501 (a)(2), (a)(3), and (a)(5) concerning two-way stations will no longer apply.

(b) For assignment to wireline common carriers. These frequencies are available for two-way public land mobile service. One-way public land mobile service may also be furnished, provided that two-way service is offered.

* * * * *

(c) For assignment to radio common carriers. These frequencies are available for two-way public land mobile service. One-way public land mobile service may also be furnished, provided that two-way service is offered.

* * * * *

(e) On a shared basis with fixed stations in the Point-to-Point Microwave Radio Service, frequencies in the bands 2110–2130 MHz and 2160–2180 MHz may be authorized for use by control and repeater stations functioning in conjunction with the Public Land Mobile Service. The emission band-width shall be limited to the minimum necessary to serve the purpose required, including the applicant's future growth plans. No new assignments will be made in the 2160–2162 MHz for stations located within 50 miles of the coordinates of the sites listed in § 22.901(c), except upon a showing that no alternative frequencies are available. Channel bandwidths in excess of 800 kHz will not be authorized. In each of these bands, the highest frequency which would not cause harmful interference to any other stations shall be assigned.

(f) *72–76 MHz band.* The following frequencies are available for assignment to public land mobile control and repeater stations on a shared basis with certain other radio services. A repeater station normally will not be authorized unless the public land mobile system with which it is associated is continuously open for public correspondence.

72–76 MHz Band [1] [2]

* * * * *

[1] Stations existing on December 1, 1961, in the 73.0–74.6 MHz band are not required to protect the radio astronomy service.

[2] Stations operating in this band shall cause no harmful interference to operational fixed stations or reception of television channels 4 or 5 (See § 22.103). Existing stations authorized in the 73 to 74.6 MHz band as of December 1, 1961, may continue to operate, are not required to afford protection to the radio astronomy service and must comply with the following technical specifications:

Frequency Tolerance: .005 percent.
Frequency Deviation: ±15 kHz.
Authorized Bandwidth: 40 kHz.
Modulation Limiter: Required.
Audio Low Pass Filter: Not required.

* * * * *

(h) *150 MHz band (Paging).* The following frequencies may be assigned for use exclusively in providing paging:

(1) Radio common carriers.
152.24 MHz, 158.70 MHz.

(2) Wireline common carriers.
152.84 MHz, 158.10 MHz.

(i) *450 MHz band (control, repeater).* The frequencies in this paragraph may be assigned for use for control stations or repeater stations. Series operation of more than one control or repeater station is not permitted.

(1) These frequencies may be assigned to radio common carriers.

454.025	459.025
454.050	459.050
454.075	459.075
454.100	459.100
454.125	459.125
454.150	459.150
454.175	459.175
454.200	459.200
454.225	459.225
454.250	459.250
454.275	459.275
454.300	459.300
454.325	459.325
454.350	459.350

(2) These frequencies may be assigned to wireline common carriers.

[MHz]

454.375	459.375
454.400	459.400
454.425	459.425
454.450	459.450
454.475	459.475
454.500	459.500
454.525	459.525
454.550	459.550
454.575	459.575
454.600	459.600
454.625	459.625
454.650	459.650

(3) *Location.* Control stations and repeater stations authorized pursuant to this section, shall be located over 50 airline miles from the nearest boundary of any urbanized area with a population of 300,000 or more, according to the most recent report of the U.S. Bureau of the Census.

(4) *Waiver of location.* (i) Paragraph (i)(3) of this section may be waived upon a showing that there are frequency pairs in the 152–164 MHz band not assigned or applied for which can provide service to the urbanized area.

(ii) If a waiver is granted, such facilities shall be secondary to the uses permitted by paragraph (c) of this section. Operation shall be terminated within 60 days after notice from the Commission is received that the frequencies are needed for such use.

(5) *Power.* Effective radiated power shall not exceed 150 watts.

(6) *Interference, secondary basis.* The use of the frequencies by a control or repeater station shall not cause harmful interference to any other station authorized to use such frequencies and shall be on a secondary basis to the provision of mobile and rural radio service by other classes of stations.

(j) [Reserved]

(k) *470–512 MHz band (Two-Way).* The following frequencies may be assigned to radio common carriers within the listed urban areas:

* * * * *

(n) [Reserved]

(o) [Reserved]

(p)(1) * * *

* * * * *

73. Section 22.502 is revised to read as follows:

§ 22.502 Classification of base stations.

(a) Base stations in the public land mobile service shall be classified according to antenna height above average terrain and effective radiated power in the relevant direction. This classification is not applicable to base stations in the frequency bands 454.6625–455.000 MHz, 459.6625–460.000 MHz, 470–512 MHz and 929–932 MHz.

Antenna height above average terrain (feet)	Class of station				
400 to 500	C	B	B	A	A
300 to 400	C	C	B	B	A
200 to 300	D	C	C	B	■
100 to 200	D	D	C	C	■
0 to 100	E	D	D	C	C
	30	60	120	250	500

Effective radiated power (watts)

(b) Any station with antenna height more than 500 feet above average terrain, shall be considered to be a Class A station.

74. Section 22.503 is revised to read as follows:

§ 22.503 Geographical separation of co-channel stations.

(a) A co-channel interference study in accordance with § 22.15(b)(2) is not required where base stations engaged in two-way communications, employing frequency modulation or phase modulation and operating co-channel in this service, are separated by not less than the distances shown below. In all other cases, a co-channel interference study is required.

Class of two-way station in the band 152–162 MHz	Minimum mileage separation between co-channel stations				
A	84				
B	■	74			
C	75	69	58		
D	70	64	54	44	
E	■	60	50	40	30
	A	B	C	D	E

Class of Station

Class of two-way station in the band 450–460 MHz	Minimum mileage separation between co-channel stations				
A	67				
B	64	58			
C	61	54	47		
D	58	51	44	37	
E	55	47	42	34	26
	A	■	C	D	E

Class of Station

(a) A co-channel interference study in accordance with § 22.15(b)(2) is not required where base stations engaged in one-way communications, employing frequency modulation or phase modulation and operating co-channel in this service, are separated by not less than the distances shown below. In all other cases, a co-channel interference study is required.

Class of one-way station in the band 35–162 MHz	Minimum mileage separation between co-channel stations				
A	67				
B	64	58			
C	■	54	45		
D	56	51	42	34	
E	53	47	38	32	30
	A	B	C	D	E

Class of Station

(c) In any particular case, where it appears that unusual radio wave propagation conditions are involved, the Commission may require greater separation than indicated in the tables in paragraph (a) and (b) of this section, or make assignments at lesser stations spacing. Reference may be made to § 73.611(d) of this chapter for methods of computing mileage separation between station locations.

(d) The mileage separation between base stations in the 929–932 MHz band operating simultaneously on a co-channel basis is at least 113 km. (70 miles.)

75. Section 22.504 is amended by revising paragraph (a) and adding a new paragraph (c) to read as follows:

§ 22.504 Reliable service area.

(a) The limits of reliable service area of a base station engaged in two-way communications service with mobile stations are considered to be described by a field strength contour of 31 decibels above 1 microvolt per meter for stations operating on frequencies in the 35 MHz band, 37 decibels above microvolt per meter for stations operating on frequencies in the 152–162 MHz band, and 39 decibels above 1 microvolt per meter for stations operating on frequencies in the 450–460 MHz and 470–512 MHz bands. The limits of reliable service area of a base station engaged in one-way signaling service is considered to be 43 decibels above 1 microvolt per meter. Service within such areas is generally expected to have an average reliability of not less than 90 percent.

Note.—For stations in the 35 MHz band, see Note in § 22.501(a).

* * * * *

(c) *All* applications for base station authorization (Form 401) shall show the maximum distance, in miles, from the base station to the reliable service area contour as determined from each of the eight radials shown in § 22.115(a)(1), and (b).

76. Section 22.505 is amended by revising paragraph (a) to read as follows:

§ 22.505 Antenna height-power limit.

(a)(1) Base stations, other than in the air-to-ground radio service the 470–512 MHz and the 929–932 MHz bands, with antennas more than 500 feet above average terrain shall reduce effective radiated power below 500 watts as provided in the table below.

(2) Optimum antenna placement and configuration is preferable to higher power.

Antenna height (AAT) (feet)	Effective radiated power (ERP) (watts)
500	[illegible]
550	397.0
600	323.0
700	223.0
800	166.0
900	126.0
1000	97.5
1250	56.8
1500	37.1
2000	19.9
2500	13.1
3000	10.2
3500	8.9
4000	8.1
4500	7.7
5000	7.2

For AAT's between the above listed values, linear interpolation should be used.

(b) * * *

77. Section 22.506 is revised to read as follows:

§ 22.506 Power.

(a) *Base stations.* Base stations shall not exceed 500 watts effective radiated power except for base stations in the 470–512 MHz and the 929–932 MHz band which shall not exceed the power limits in § 22.501(l) and 22.505(b), respectively.

(b) *Dispatch, auxiliary test stations.* Dispatch and auxiliary test stations shall not exceed 100 watts effective radiated power.

(c) *Mobile stations.* Mobile stations shall not exceed 60 watts transmitter power output.

(d) *Air-ground stations.* Base stations operating on frequencies specified in § 22.521 shall not exceed 100 watts transmitter power output. Airborne mobile stations shall have between 4 and 25 watts transmitter power output. During idle traffic periods a base station shall continuously radiate on its working channel(s) a modulated carrier reduced in power between 10 and 20 dB below normal power.

(e) *929–932 MHz band.* Base stations operating on frequencies in the band 929–932 MHz shall not exceed the values of effective radiated power listed in § 22.505(b) to a maximum of 1000 watts.

78. Section 22.507 is revised to read as follows:

§ 22.507 Bandwith and emission limitations.

The maximum authorized band-width of emission and, for the cases of frequency or phase modulated emissions, the maximum authorized frequency deviation shall be as follows:

Type of emission	25–50 MHz		50–150 MHz		150–932 MHz	
	Authorized bandwidth (kHz)	Frequency deviation (kHz)	Authorized bandwidth (kHz)	Frequency deviation (kHz)	Authorized bandwidth (kHz)	Frequency deviation (kHz)
A1	1		1		1	
A2	3		3		3	
A3	8		8		8	
F1	3		3		3	
F2	15		15		15	
F3	20	5	20	5	20	5
F9Y	20	5	20	5	20	5

79. Section 22.508 is amended by revising paragraphs (d), (e) and (g) and adding a new paragraph (i) to read as follows:

§ 22.508 Modulation requirements.

* * * * *

(d) When phase or frequency modulation is used for single channel operation on frequencies below 512 MHz, the deviation arising from modulation shall not exceed the limits specified in § 22.507.

(e) Each transmitter which has more than 2 watts output power and was initially authorized or installed at the station in this service after July 1, 1950, employing type A3 or F3 emission shall be equipped with a device which will automatically prevent greater than normal audio level from modulating in excess of the limits specified in paragraphs (c) and (d) of this section.

* * * * *

(g) Each transmitter which operates on frequencies between 450 and 512 MHz or in the band 929–932 MHz and employes type A3 or F3 emission shall be equipped with a modulation limiter in accordance with the provisions of paragraph (e) of this section and also shall be equipped with a low pass audio filter installed between the modulation limiter and the modulated stage. At audiofrequencies between 3 kHz and 20 kHz, the filter shall have an attenuation greater than the attenuation at 1 kHz by at least:

60 log (f/3) decibels

where "f" is the audiofrequency in kilohertz. At audiofrequencies above 20 kHz, the attenuation shall be at least 50 decibels greater than the attenuation at 1 kHz.

* * * * *

(i) Transmitters complying with the emission limitations of paragraph (b) of § 22.106 shall be exempt from the audio low-pass filter requirements of paragraphs (f) and (g) of this section provided that transmitters used for digital emissions must be type accepted with the specific equipment that provides the digital modulating signal. The type acceptance application shall contain such information as may be necessary to demonstrate that the transmitter complies with the emission limitations specified in paragraph (b) of § 22.106.

80. Section 22.509 is revised to read as follows:

§ 22.509 Permissible communications.

(a) *Mobile Stations.* Mobile stations shall communicate with and through base stations only. Such communication between base and mobile stations shall be upon frequencies which are paired according to this part.

(b) *Base stations.* Base stations shall communicate only with

(1) Land mobile stations;

(2) Airborne mobile stations. (If 2-way communications, then only as provided in § 22.521);

(3) Mobile stations on vessels subject to the requirements for incidental communications services in § 22.308;

(4) Rural subscriber stations subject to the requirement that it will not degrade the mobile communication service rendered by the base station.

(5) All paging receivers.

(c) *Dispatch stations.* A dispatch subscriber station may communicate only with that subscriber's mobile stations and only through the associated base station. Where subscribers jointly operate a dispatch station, each subscriber shall communicate only with his own mobile station. See § 22.519.

(d) *Auxiliary test stations.* Auxiliary test stations shall be operated on mobile station frequencies for testing fixed receivers remotely located from the control point. An Auxiliary test station may be used as a standby transmitter on the base station's assigned frequency.

(e) *International.* (1) *Canadian mobile stations.* Canadian licensed mobile stations which are in the United States may communicate with base stations in the public land mobile service after authorization has been granted by the Commission. See § 22.9(e).

(2) *United States mobile stations.* United States licensed mobile stations which are in Canada may communicate with base stations in the public land mobile service of either nation upon authorization by Canada. *See* § 22.9(f).

(3) *Other international.* Unless prohibited by a foreign country, base stations are permitted to provide trans-border communication service to mobile stations in that country which are properly licensed for public mobile service in either country.

(f) *Taxi dispatch.* Taxi dispatching is not permitted under this part.

§§ 22.510, 22.511, 22.512 and 22.513 [Reserved]

81. Sections 22.510, 22.511, 22.512 and 22.513 are removed and reserved.

82. Section 22.515 is revised to read as follows:

§ 22.515 Control points.

(a) *General rule.* (1) Every station in this service shall have at least one control point. Additional control points may be installed upon notification to the Commission.

(2) The Commission shall be notified by Form 408 whenever that control point is moved. The notification shall contain a street address or its geographic coordinates.

(3) No control point is necessary until the station starts transmitting.

(b) *Dispatch stations.* The licensee shall at all times maintain operational control over each dispatch station. See § 22.519.

83. Section 22.516 is revised to read as follows:

§ 22.516 Usage showing for additional channels.

(a) Traffic load studies shall be required in the following cases:

(1) Applications which request an additional frequency for an existing one-way signaling station;

(2) Applications which request one or more additional frequencies for an existing two-way station;

(3) Other applications as the Commission may prescribe.

(b) Traffic load study shall include a showing of the following:

(1) The study shall survey traffic on each channel assignment for three days in a seven day period having normal usage.

(2) The survey shall state (i) the channel occupancy reported separately for the busiest hour on each of three days; (ii) the number of two-way mobile stations, tone-only pagers, tone-plus-voice pagers, and tone digital readout pagers; (iii) the specific assignment of each channel to specific trunk groups, if any; (iv) the date and time of the survey.

(3) The survey shall be performed within 60 days prior to the date on which the application is filed. See Section 22.16.

84. Section 22.517 is revised to read as follows:

§ 22.517 Repeater stations.

(a) As an additional function a base station may be used as a repeater station.

(b) The licensee must be able to turn the base station on or off from the control point regardless of whether a mobile station is transmitting.

85. Section 22.519 is revised to read as follows:

§ 22.519 Dispatch stations.

(a) No new dispatch stations or dispatch points will be permitted. A common carrier which had authority to provide dispatch service prior to January 1, 1982, may continue to provide such service. References to dispatch stations and dispatch points in the rules, specifically §§ 22.2, 22.509, 22.515 and this section are applicable to grandfathered stations and stations in the cellular radio service, pursuant to § 22.911.

(b) *Dispatch stations without specific authorization.* A base station licensee may install a dispatch station for mobile station subscriber(s) without specific authorization.

(1) *Technical.* (i) The dispatch station shall use a mobile station frequency paired with the associated base station frequency.

(ii) The antenna height shall not exceed the criteria in § 17.7 of this chapter. The output power of the transmitter shall not exceed 10 watts.

(iii) No dispatch station shall be capable of overriding the functioning of a control station on the same frequency.

(iv) Every dispatch station shall be under continuous supervision of at least one base station control point.

(2) *Notification.* The Commission shall be notified whenever a dispatch station is installed pursuant to this paragraph. The notification shall include the name and address of the subscriber(s) for which the station was installed, the location of the dispatch station, height of antenna structure above ground and above mean sea level, the frequencies used, the call sign of the base station communicated with, and its location.

(3) *Limitation.* The operation of a dispatch station pursuant to notification without specific authorization shall be subject to termination by the Commission without a hearing upon notice to the licensee.

(4) *Dispatch stations requiring authorization.* A dispatch station which does not comply with paragraph (b) above shall be installed only after application (on FCC Form 401) and approval.

§ 22.520 [Reserved]

86. Section 22.520 is removed and reserved.

87. Section 22.521 is amended by revising paragraphs (a), (b) and the California portion of the Table in paragraph (b), and by adding new paragraphs (c) and (d) to read as follows:

§ 22.521 Airground radiotelephone service.

(a) *Frequencies.* (1) The following frequency pairs, or channels, are allocated for the provision of radiotelephone service between airborne stations and interconnected land mobile radio systems:

Base station frequencies (MHz)	Working channel designation	Mobile and auxiliary test station frequencies (MHz)
454.675		
454.700	6	459.700
454.725	7	459.725
454.750	5	[illegible]
454.775	8	459.775
454.800	4	[illegible]
454.825	9	[illegible]
454.850	3	[illegible]
454.875	10	459.875
454.900	2	[illegible]
454.925	11	[illegible]
454.950	1	[illegible]
454.975	12	459.975

These frequencies may be used for public land mobile service subject to the provisions of § 22.308.

(2) Frequency 454.675 MHz is to be associated with each of the base station channels listed above and is to be used exclusively as a signaling channel for calling airborne stations.

(b) *Locations.* Base stations may be assigned the following channels and shall be located within 25 miles of the coordinates specified, or if none, the main post office:

* * * * *

California:	
East of Fresno (36°44' N. lat.) (119°17' W. long).	3,11
Northwest of Los Angeles (34°20' N. lat.) (118°36' W. long).	4, 7, 10
North of Redding (40°55' N. lat.) (122°27' W. long).	6
East of San Diego (32°53' N. lat.) (116°25' W. long).	9
Northeast of San Francisco (37°51' N. lat.) (122°11' W. long).	1, 8
Northwest of Santa Barbara (34°32' lat.) (119°58' W. long).	5

* * * * *

(c) *Power.* Base stations shall not exceed 100 watts effective radiated power. Airborne mobile stations shall have between 4 and 25 watts output power. During idle traffic periods a base station shall continuously radiate on its working channel a modulated tone reduced in power between 10 and 20 dB.

(d) *Ambient noise.* Ambient noise shall be reduced to 95 dB Reference Acoustical Pressure (flat weighting) or less.

88. A new § 22.524 is added to read as follows:

§ 22.524 Auxiliary test stations.

Auxiliary test stations shall be used for testing the performance of fixed receiving equipment remotely located from the control point. The licensee or permittee of a base station may operate an auxiliary test station. The auxiliary test station must operate on the mobile station frequency associated with the base station and shall comply with the maximum power specified for mobile stations.

§ 22.526 [Reserved]

89. Section 22.526 is added and reserved.

90. Section 22.600 is revised to read as follows:

§ 22.600 Eligibility.

Rural central office and interoffice stations may be licensed to common carriers. Rural subscriber stations may be licensed to common carriers or to the individual user of the service. Subscriber stations which do not exceed sixty (60) watts effective radiated power are not required to obtain a Commission license to operate. Instead, these stations will be associated with the blanket authorization issued to the central office station or base station which serves them. All rural radio stations are required to operate in compliance with Commission regulations and may be required to cease operation for failure to so comply.

91. Section 22.601 is revised to read as follows:

§ 22.601 Frequencies.

(a) *General.* The following frequencies are available on a secondary basis in the rural radio service, provided no harmful interference is caused to stations in the Public Land Mobile Service.

(b) *150, 450 MHz bans.* (1) *Radio common carriers.* The following frequencies will be assigned to radio common carriers for rural subscribers:

Rural subscriber	
158.49	459.125
158.52	459.150
158.55	459.175
158.58	459.200
158.61	459.225
158.64	459.250
158.67	459.275
459.025	459.300
459.050	459.325
459.075	459.350
459.100	

(2) *Wireline common carriers.* The following frequencies will be assigned to wireline common carriers:

Central office and interoffice station frequencies (MHz)	
152.51	454.400
152.54	454.425
152.57	454.450
152.60	454.475
152.63	454.500
152.66	454.525
152.69	454.550
152.72	454.575
152.75	454.600
152.78	454.625
152.81	454.650
454.375	

Rural subscriber and interoffice station frequencies (MHz)	
157.77	459.400
157.80	459.425
157.83	459.450
157.86	459.475
157.89	459.500
157.92	459.525
157.95	459.550
157.98	459.575
158.01	459.600
158.04	459.625
158.07	459.650
459.375	

(3) *Relay stations.* The frequencies in paragraphs (b) (1) and (2), in this section may be assigned to relay stations upon a showing why it is impracticable to achieve the required communications without relay stations.

(c) *890–940 MHz band.* (1) New stations will not be authorized in the 890–940 MHz band. However, stations which were authorized to operate on April 16, 1958, may be granted renewed licenses subject to the following conditions:

(i) Operations shall not be protected against any interference received from the emission of industrial, scientific, and medical equipment operating on 915 MHz or from the emission of radiolocation stations in the 890–942 MHz band.

(ii) No harmful interference shall be caused to stations operating in the radiolocation service in the 890–942 MHz band.

(d) *942–952 MHz band.* Existing stations in the 890–942 MHz band may be authorized to operate in the 942—952 MHz band under the following conditions:

(1) The stations must show that harmful interference is being caused by Government radiopositioning stations in the 890–942 MHz band or by industrial, scientific or medical equipment operating on 915 MHz.

(2) The application must have an engineering study showing that the interference will be eliminated by the change in frequency.

(3) The authorized bandwidth of emission shall not exceed 1100 kHz.

(4) The proposed frequency assignment shall not cause interference to existing operations in the 942–952 MHz band.

(e) *Puerto Rico, Virgin Islands.* In Puerto Rico and the Virgin Islands the 154.04–154.46 MHz and 161.40–161.85 MHz bands may be assigned for rural telephone service on a shared basis with International Fixed Public and Aeronautical Fixed Radio services.

(f) In the State of Alaska, the frequencies 42.40, 44.10, 44.20 and 45.90 MHz are available for assignment for meteor burst communications to fixed stations in the Rural Radio Service subject to the following conditions:

(1) The frequency 42.40 MHz may be used for central office station operations and 44.10 MHz for subscriber station operations on a primary basis. The frequencies 44.20 and 45.90 MHz may be used for central office and subscriber stations, respectively, on a secondary basis to private radio stations using meteor burst communications. Users shall cooperate among themselves to the extent practicable to promote compatible operation.

(2) The maximum transmitter output power shall not exceed 2000 watts for

central office stations and 500 watts for subscriber stations.

(3) Co-channel central office stations of different licensees shall be located at least 150 miles apart. A subscriber station and a central office of station different licensees shall be located at least 150 miles apart if the subscriber units of the different licensees operate on the same frequency. Waiver of this requirement may be granted if affected users agree to a cooperative sharing arrangement.

(4) The authorized emission designator to be used is F9Y.

(5) The authorized bandwidth is 20 kHz.

(6) Station identification in accordance with § 22.213 shall only be required for the central office station.

(7) Stations may be required to comply with additional conditions of operation as necessary on a case-by-case basis as specified in the authorization.

(8) Stations employing meteor burst communications shall not cause harmful interference to stations of other radio services operating in accordance with the allocation table. Authorizations for meteor burst communications systems will be issued subject to the Commission's developmental grant procedure as outlined in Subpart F of this Part. Prior to expiration of the developmental authorization, application Form 408 should be filed for issuance of a permanent authorization.

§§ 22.602 and 22.603 [Reserved]

92. Sections 22.602 and 22.603 are removed and reserved.

93. Section 22.604 is revised to read as follows:

§ 22.604 Emission limitations.

(a) The maximum authorized bandwidth of emission and, for the cases of frequency or phase modulated emissions, the maximum authorized frequency deviation shall be as follows:

Type of emission	Authorized bandwidth (kHz)	Frequency deviation (kHz)
A1	1	
A2	II	
A3	8	
A4	12	
F1	3	
F2	3	
F3	20	5
F4	20	5
F9Y	20	5

(b) Bandwidths of emission greater than shown in paragraph (a) of this section may be authorized for multichannel operation upon an adequate showing of need therefor and provided a showing is made that the efficiency of frequency utilization per derived communication channel is equivalent to or greater than on a single channel basis. Radio facilities using frequency modulated or phase modulated emission shall not exceed a frequency deviation of 5 kHz due to modulation of the carrier frequency. An application requesting such authorization shall fully describe the modulation, emission and bandwidth desired and shall specify the bandwidth desired and shall specify the bandwidth to be occupied.

94. Section 22.605 is revised to read as follows:

§ 22.605 Modulation requirements.

(a) The use of modulating frequencies higher than 3000 hertz for single channel radiotelephony or tone signaling on frequencies below 500 MHz is not authorized.

(b) When amplitude modulation is used, the modulation percentage shall be sufficient to provide efficient communication and shall be normally maintained above 70 percent on peaks, but shall not exceed 100 percent on negative peaks.

(c) When phase or frequency modulation is used for single channel operation on frequencies below 500 MHz, the deviation arising from modulation shall not exceed the limits specified in § 21.604(a).

(d) Each transmitter, which has more than 2 watts output power and was initially authorized or installed at the station in this service after July 1, 1950, employing type A3 or F3 emission shall be equipped with a device which will automatically prevent greater than normal audio level from modulating in excess of the limits specified in paragraphs (b) and (c) of this section.

(e) Each transmitter, which operates on frequencies below 450 MHz and employs type A3 and F3 emission, shall be equipped with a modulation limiter in accordance with the provisions of paragraph (d) of this section and also shall be equipped with a low-pass audio filter installed between the modulation limiter and the modulated stage. At audio frequencies between 3 kHz and 15 kHz, the filters all have an attenuation greater than the attenuation at 1 kHz by at least:

$$40 \log_{10} (f/3) \text{ decibels}$$

where "f" is the audio frequency in kilohertz. At audio frequencies above 15 kHz, the attenuation shall be at least 28 decibels greater than the attenuation at 1 kHz.

(f) Each transmitter, which operates on frequencies between 450 MHz and 470 MHz and employs type A3 or F3 emission, shall be equipped with a modulation limiter in accordance with the provisions of paragraph (d) of this section and also shall be equipped with a low-pass audio filter installed between the modulation limiter and the modulated stage. At audio frequencies between 3 kHz and 20 kHz, the filter shall have an attenuation greater than the attenuation at 1 kHz by at least:

$$60 \log_{10} (f/3) \text{ decibels}$$

where "f" is the audio frequency in kilohertz. At audio frequencies above 40 kHz, the attentuation shall be at least 50 decibels greater than the attenuation at 1 kHz.

(g) Transmitters complying with the emission limitations of paragraph (b) of § 22.106 shall be exempt from the audio low-pass filter requirements of paragraphs (e) and (f) of this section provided that transmitters used for digital emissions must be type accepted with the specific equipment that provides the digital modulating signal. The type acceptance application shall contain such information as may be necessary to demonstrate that the transmitter complies with the emission limitations specified in paragraph (b) of § 22.106.

95. Section 22.610 is revised to read as follows:

§ 22.610 Temporary fixed stations (Rural subscriber, interoffice, and central office stations).

(a) *General.* Upon proper application (FCC Forms 401, 408) for the frequencies listed in § 22.601, an authorization may be issued to operate a temporary fixed station. The station shall be used for rural subscriber, interoffice, or central office service only when regular facilities are not available or when such service is disrupted by storms or emergencies.

(b) *Six month limitation.* When a temporary fixed station is to remain at a single location for more than six months, an application for authorization as a permanent fixed station (FCC Forms 401, 408) must be made at least 30 days before the end of the six month period.

(c) *International Communications.* Temporary fixed stations shall not transmit between the United States and Canada or Mexico without prior authorization from the Commission. Application for authorization shall be made at the earliest possible time to permit coordination with Canada or Mexico.

§ 22.611 [Reserved]

96. Section 22.611 is removed and reserved.

97. Section 22.908 is revised to read as follows:

§ 22.908 Transmitter construction and installation.

The equipment at the operating and transmitting positions shall be so installed and protected that it is not accessible to, or capable of being operated by, persons other than those duly authorized by the licensee. In general, each transmitter used in the Domestic Public Cellular Radio Telecommunications Service shall be so constructed or installed that all controls thereon which may cause off-frequency operation or result in any unauthorized emission shall be protected from access by other than a technically qualified person.

98. Section 22.1000 is revised to read as follows:

§ 22.1000 Eligibility.

Offshore central station licenses may be licensed to communications common carriers. Offshore subscriber stations may be licensed to common carriers or users of the service.

99. Section 22.1003 is revised to read as follows:

§ 22.1003 Emission limitations.

The maximum authorized bandwidth of emission and maximum authorized frequency deviation shall be as follows:

Type of emission	Authorized bandwidth (kilohertz)	Frequency deviation (kilohertz)
F3	20	5
F9Y	20	5

100. Section 22.1004 is revised to read as follows:

§ 22.1004 Modulation requirements.

(a) The use of modulating frequencies higher than 3000 hertz for single channel radiophony or tone signaling is not authorized.

(b) The frequency deviation arising from modulation shall not exceed 5 kHz.

(c) Each transmitter, which has more than 1 watt power output employing type F3 emission shall be equipped with a device which will automatically prevent greater than normal audio level from modulating in excess of the limits specified in paragraph (b) of this section.

(d) Each transmitter, which employes type F3 emission, shall be equipped with a modulation limiter in accordance with the provisions of paragraph (c) of this section and also shall be equipped with a low pass audio filter installed between the modulation limiter and the modulated stage. At audio frequencies between 3 kHz and 20 kHz the filter shall have an attenuation greater than the attenuation at 1 kHz by at least:

$$60 \log_{10} (f/3) \text{ decibels}$$

where "f" is the audio frequency in kilohertz. At audio frequencies above 20 kHz, the attenuation shall be at least 50 decibels greater than the attenuation at 1 kHz.

(e) Transmitters complying with the emission limitations of paragraph (b) of § 22.106 shall be exempt from the audio low-pass filter requirements of paragraph (d) of this section provided that transmitters used for digital emissions must be type accepted with the specific equipment that provides the digital modulating signal. The type acceptance application shall contain such information as may be necessary to demonstrate that the transmitter complies with the emission limitations specified in paragraph (b) of § 22.106.

101. Section 22.1006 is revised to read as follows:

§ 22.1006 Temporary fixed stations (Offshore Radio).

(a) *General.* Upon proper application (FCC Forms 401, 408) for the frequencies listed in 22.1001(a), an authorization may be issued to operate a temporary fixed station. The station shall be used for Offshore Radio service only when regular facilities are not available or when such service is disrupted by storms or emergencies.

(b) *Six-month limitation.* When a temporary fixed station is to remain at a single location for more than six months, an application for authorization as a permanent fixed station (FCC Forms 401, 408) must be made at least 30 days before the end of the six month period.

(c) *International Communications.* Temporary fixed stations shall not transmit between the United States and Canada or Mexico without prior authorization from the Commission. Application for authorization shall be made at the earliest possible time to permit coordination with Canada or Mexico.

§ 22.1007 [Reserved]

102. Section 22.1007 is removed and reserved.

103. A new § 22.1008 is added to read as follows:

§ 22.1008 Priority of service.

Within the Offshore Radio Service, the frequencies set forth in this part are intended primarily for use in rendition of public message service between Offshore subscriber and central office stations. However, the frequencies may also be used for the rendition of private leased line communication service provided that such usage will not reduce or impair the extent or quality of communication service which would be available, in the absence of private leased line service, to the general public receiving or subsequently requesting public message service from a central office.

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Part III

Nuclear Regulatory Commission

Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations; Monthly Notice

NUCLEAR REGULATORY COMMISSION

Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations; Monthly Notice

I. Background

Pursuant to Public Law (Pub. L.) 97–415, the Nuclear Regulatory Commission (the Commission) is publishing its regular monthly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of the section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This monthly notice includes all amendments issued, or proposed to be issued, since the date of publication of the last monthly notice which was published on December 21, 1983 (48 FR 56498) through January 16, 1984.

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regualtory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

By February 27, 1984, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contention which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least on contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so

inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to *(Branch Chief):* petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the local public document room for the particular facility involved.

Alabama Power Company, Docket No. 50–348, Joseph M. Farley Nuclear Plant, Unit No. 1, Houston County, Alabama

Date of amendment request: May 27, 1983.

Description of amendment request: The amendment would modify the Technical Specifications to correct the listing of safety related hydraulic and mechanical snubbers in Table 3.7–4a and Table 3.7–4b. The change was proposed as an administrative change by the licensee's application dated May 27, 1983.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for making a no significant hazards consideration determination by providing certain examples (48 FR 14870). The example which the proposed amendment fits is:

(i) A purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature.

The licensee has stated that the proposed changes to the listing of safety related hydraulic and mechanical snubbers in Tables 3.7–4a and 3.7–4b are administrative in nature since the changes are to correct errors relating to: (1) Previously omitted safety related snubbers not listed in the Technical Specification Tables but that have been previously tested in accordance with surveillance requirements for safety related snubbers; (2) typographical errors involving snubber numbers; location descriptions; and snubber designations regarding accessibility, radiation zone, and removal difficulty; and (3) plant design changes that added and/or deleted safety related snubbers. We agree that the proposed changes are administrative in nature and fit Commission example (i). The Tables 3.7–4a and 3.7–4b to be changed are a 55-page listing of all safety related hydraulic and mechanical snubbers identified by the licensee when the Technical Specifications were developed for issuance of the operating license in 1977. Since the proposed changes are based on existing plant design, the Technical Specification Tables now need to be corrected. Otherwise, the Technical Specification Tables would not represent an accurate listing of safety related snubbers installed at the Farley Nuclear Plant, Unit 1. Therefore, The Commission proposes to determine that the amendment would not involve a significant hazards consideration since it is a purely administrative change to the Technical Specifications (Tables 3.7–4a and 3.7–4b).

Local Public Room Location: George S. Houstion Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303.

Attorney for licensee: George F. Trowbridge, Esquire, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: Steven A. Varga.

Boston Edison Company, Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth, Massachusetts

Date of amendment request: September 12, 1983.

Description of amendment request: The proposed amendment revises the Technical Specifications to permit the insertion of control rods less than one notch to demonstrate their operability. Part of the discussions providing the bases for these Technical Specifications would also be replaced by a more precise statement of the requirements which are met in exercising the control rods each week.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards for determining whether license amendments involve significant hazards considerations by providing certain examples (48 FR 14870). One example of an amendment that is considered not likely to involve a significant hazards consideration is "* * * (iv) A relief granted upon demonstration of acceptable operation from an operating restriction that was imposed because acceptable operation was not demonstrated." The present full notch insert surveillance test can create operating restrictions in the form of power reductions to restore the control rod to its original position. Such restrictions have occurred when degradation of stop piston and collect piston seals have affected the ability to withdraw certain control rods. Degradation of the seals has not affected the control rods scram (insertion) capability; thus, it is not a safety concern. Under the proposed change in specifications, the licensee anticipates that the number of power reductions needed to return control rods to their original positions will be reduced by inserting (raising) the control rods partially and allowing them to settle back into position. The licensee, with concurrence by the vendor of the control rod mechanisms, has also determined that the partial insertion surveillance test will meet the requirements of the present weekly test.

Therefore, since the application for amendment involves a change similar to an example for which no significant hazards consideration exists, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Plymouth Public Library, North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W. S. Stowe, Esq., Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199.

NRC Branch Chief: Domenic B. Vassallo.

Boston Edison Company, Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth, Massachusetts

Date of amendment request: October 12, 1983.

Description of amendment request: The proposed amendment would revise the Technical Specifications to reflect recent changes in the licensee's organization which establish a Nuclear Operations Support Department (NOSD) on the Pilgrim Station site and a Nuclear Management Services Department

(NMSD) offsite. The functional areas of NOSD encompass Modifications Management, Station Services (which formerly reported to the Station Manager), and two newly-titled areas—Compliance Management and Loss Control. NMSD is a new department with overall responsibility for Regulatory Affairs and Programs, Environmental and Radiological Health and Safety, Records Management, and Emergency Preparedness. The Emergency Preparedness functional reponsibility was transferred to NMSD from the Nuclear Engineering organization. All functional areas previously existing are accounted for in this reorganization. Establishing NOSD onsite will provide the necessary support services to the Station Manager and the Nuclear Training Manager efficiently without the related burdens of administration and management of these activities. The reason for establishing NMSD is to ensure that management support, licensing and related programs, and records management activities are conducted in accordance with the requirements set forth in the Boston Edison Company Quality Assurance Manual and with pertinent BECo policies and procedures.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards for determining whether license amendments involve significant hazards consideration by providing certain examples (48 FR 14870). None of the examples given is comparable to the proposed amendment. Nevertheless, the staff proposes to determine that the amendment request does not involve significant hazards considerations since the operation of Pilgrim Nuclear Power Station in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. This determination is based upon our preliminary finding that the qualifications for individuals serving in positions of responsibility for safety have not changed and the reorganization does not decrease their authority or responsibilities for safe operation of the plant.

Local Public Document Room location: Plymouth Public Library, North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W. S. Stowe, Esquire, Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199.

NRC Branch Chief: Domenic B. Vassallo.

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth, Massachusetts

Date of amendment request: October 31, 1983.

Description of amendment request: Revisions to Technical Specification 6.8.B, relative to approval of procedures, to clarify its intent. A "NOTE" would be added to the effect that review and approval of procedures for vendors/contractors, who have a quality assurance program approved by the Boston Edison Company's (BECo) Operations Review Committee (ORC) is not required for work performed at the vendor/contractor facilities. The licensee's position is that further approval by the ORC is unnecessary once a contractor/vendor has been approved as a supplier by BECo's Quality Assurance Department in accordance with ANSI and NRC guidelines. Such approval denotes that the supplier has an approved QA program in place and is capable of performing safety-related or "Q" activities.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards for determining whether license amendments involve significant hazards considerations by providing certain examples (48 FR 14870). One example of an amendment that is considered not likely to involve a significant hazards consideration is "* * * (i) A purely administrative change to technical specifications * * *." This proposed change is administrative in that it defines more clearly the intent and improves the efficacy of Specification 6.8.B as well as amending the wording to that provided in the Standard Specifications for Boiling Water Reactors. Addition of the clarifying "NOTE" does not decrease any margin of safety as defined in the Technical Specifications. Therefore, since the application for amendment is similar to an example for which no significant hazards consideration exists, the staff has made a proposed determination that this application involves no significant hazards consideration.

Local Public Document Room location: Plymouth Public Library, North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W. S. Stowe, Esq., Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199.

NRC Branch Chief: Domenic B. Vassallo.

Carolina Power & Light Company, Docket No. 50-261, H. B. Robinson Steam Electric Plant, Unit #2

Date of amendment request: June 20, 1980.

Description of amendment request: This amendment would change the Technical Specification requirements to restrict the containment purge valves (42-inch butterfly valves) to a maximum opening of 70 degrees and to add surveillance tests of the valves.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14871). One of the examples of actions involving no significant hazards considerations relates to additional limitations, restrictions, or control not presently included in the Technical Specifications; example (ii) of 48 FR 14871. This change specifically adds additional licensing limitations and restrictions not currently included in the Technical Specifications. The staff, therefore, proposes to determine that this amendment does not involve a significant hazards consideration.

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

Attorney for licensee: Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: Steven A. Varga.

Carolina Power & Light Company, Docket No. 50-261, H. B. Robinson Steam Electric Plant, Unit No. 2

Date of amendment request: October 14, 1983.

Description of amendment request: This amendment would change the Technical Specifications requirement to revise the heatup and cooldown restrictions as a result of surveillance tests. Regulatory Guide 1.99, and procedures required by 10 CFR Part 50 Appendices G and H, May 27, 1983 revision.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14871). One of the examples of actions involving no significant hazards considerations relates to additional limitations, restrictions, or control not presently included in the Technical Specifications;

example (ii) or 48 FR 14871. This change specifically adds additional licensing limitations and restrictions not currently included in the Technical Specifications. The staff, therefore, proposes to determine that this amendment does not involve a significant hazards consideration.

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

Attorney for licensee: Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: Steven A. Varga.

Carolina Power & Light Company, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2

Date of amendment request: October 31, 1983.

Description of amendment request: This amendment would change the Technical Specifications requirements to incorporate reorganization changes to add the existing security group, and to meet the requirements of 10 CFR 50.54(m)(2).

Basis for proposed no significant hazards consideration determination: The proposed organization changes are administrative in nature, i.e., changes to achieve consistency throughout the Technical Specifications, and title changes and reference corrections. The amendment request is similar to example (i) of the examples of amendments that are considered not likely to involve a significant hazards consideration (see example (i) in 48 FR 14870, April 6, 1983).

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

Attorney for licensee: Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Steven A. Varga.

Duke Power Company, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: November 18, 1983.

Description of amendment request: The amendments would replace diesel fuel oil tests currently required by the McGuire technical specifications with a series of different tests ensuring quality fuel oil for use in the McGuire Station emergency diesel generators with one exception. The proposed changes involve either adding surveillance tests or replacing present tests with others. The exception involves deleting tests for parameters which do not change during storage.

Basis for proposed no significant hazards consideration determination: Operation under the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated or (2) create the possibility of a new and different kind of accident or (3) involve a significant reduction in a margin of safety because the net effect of the proposed changes would be to increase safety by establishing surveillance requirements which would be more effective for ensuring quality fuel oil. Therefore, the Commission proposes to determine that these changes do not involve a significant hazards consideration.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28242.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, P.O. Box 33189, 422 South Church Street, Charlotte, North Carolina 28242.

NRC Branch Chief: Elinor G. Adensam.

Florida Power and Light Company, Docket No. 50–335, St. Lucie Plant, Unit No. 1, St. Lucie County, Florida

Date of amendment request: September 16, 1983.

Description of amendment request: This proposed amendment would delete the requirement to perform a containment leakage path test for Tap 2 of penetration 25 (Fuel Tranfer Tube) and make the St. Lucie 1 Technical Specifications more consistent with those of St. Lucie 2.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples of actions involving no significant hazards considerations. One of the examples of actions involving no significant hazards considerations (i) relates to amendments of a purely administrative change to technical specifications, correction of an error, or a change in nomenclature. The fuel transfer tube penetration (penetration 25) for St. Lucie 1 is essentially identical to that found in St. Lucie 2. Tap 2 is a bellows located between the metal containment vessel and the reactor building wall and is not a containment boundary. Containment leakage path testing for postulated accident pressure is required only for bellows expansion joints that form a part of the containment boundary. Since Tap 2 does not meet this criterion, it should not be included in Table 3.6–1 of the St. Lucie 1 Technical Specifications. By its deletion, the actual containment boundary will be described. This will then make the Technical Specifications for containment leakage path testing for the fuel transfer tube penetration consistent for both St. Lucie 1 and St. Lucie 2. Therefore, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 33450.

Attorney for licensee: Harold F. Reis, Esq., Lowenstein, Newman, Reis and Axelrad, 1025 Connecticut Avenue N.W., Washington, D.C. 20036.

NRC Branch Chief: James R. Miller.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Dockets Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Units Nos. 1 and 2, Appling County, Georgia

Date of amendment requests: July 9, 1982, and October 24, 1983, as supplemented December 20, 1983.

Description of amendment requests: The amendments would modify the Technical Specifications for Hatch Units 1 and 2 to reflect changes that Georgia Power Company has made to its organization. These include both changes in the organizational structure and changes in position titles. The position of Plant Manager has been changed to General Manager, Plant Hatch. A single Deputy General Manager has replaced the position of Assistant Plant Manager, which was previously filled by two individuals. An additional level of management has been created, consisting of six manager positions which report to the General Manager and the Deputy General Manager.

A new position, General Manager QA (Quality Assurance) and Radiological Health and Safety, has replaced the previous Manager of QA. A new position, Hatch QA Manager, has been added and reports to this General Manager. The Hatch QA Site Manager reports to the hatch QA Manager instead of to the higher level General Manager.

These amendments would also delete the current requirement that individuals in the Plant Manager, Assistant Plant Manager (changed to General Manager and Deputy General Manager) and Superintendent of Plant Engineering Services positions hold Senior Reactor Operator (SRO) licenses It would

require only that either the General Manager or the Deputy General Manager possess the necessary training to sit for an SRO license.

The amendments would also add two additional members to the Plant Review Board (PRB), delete the position of PRB Vice Chairman and allow the General Manager to designate a Chairman from the voting PRB membership, as necessary.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870).

An example of actions involving no significant hazards considerations is an amendment involving a purely administrative change to the Technical Specification (Example (i)). The change of position titles is such a change. Another example of actions involving no significant hazards considerations is an amendment which may reduce in some way a margin of safety, but where the results of the change are clearly within acceptable criteria with respect to the system or component specified in the Standard Review Plan (Example (vi)). The changes in the organization structure, the deletion of the requirements for SRO licenses and the changes to the PRB fit this example.

On these bases, the Commission proposes to determine that these actions involve no significant hazards considerations.

Local Public Document Room Location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Attorney for licensee: G. F. Trowbridge, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: John F. Stolz.

Indiana and Michigan Electric Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendment request: August 2, 1982.

Description of amendment request: These amendments for the Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, would revise the Technical Specifications for fire protection systems to incorporate the updated and revised wording of the standardized Technical Specifications for westinghouse plants and would substitute the use of the closed circuit television in the lower containment in place of a continuous fire watch whenever the reactor coolant pump sprinklers were inoperable. The updated and revised wording changes would make the Technical Specification action statements and surveillance requirements more specific and less likely for misinterpretation.

Basis for proposed no significant hazard consideration determination: The Commission has provided examples (48 FR 14870) of amendments not likely to involve significant hazards considerations. One of these examples involves a purely administrative change to Technical Specifications, for example, a change to achieve consistency throughout the Technical Specification, correction of an error, or a change in nomenclature. The proposed change by the licensee to add infrared actuation method to Table 3.7–6, to correct the action statement for 3.7.9.2 to clearly distinguish the system or component that could be damaged, and to delete reference to zones when the correct identification is quadrant are all considered the kind of changes which are directly related to this example. Another change related to this example as proposed by the licensee is the specific actions to be taken for inoperable systems or components in specification 3.7.9.5 (fire hose station) and 3.7.10 (fire doors, penetration, etc.). The action statement proposed would correct the existing specification to delineate required actions to be taken within one hour and actions to be taken if the hose station or assembles (fire doors, etc.) are not restored in a reasonable period of time. This change is also somewhat related to the following example.

The second of these examples involves a change that consitute an additional limitation, restriction, or control not presently included in the Technical Specifications; for example, a more stringent surveillance requirement. The changes to surveillance 4.7.9.1 to add pump flows and increase duration of tests and to surveillance 4.7.9.4 to list the acceptable criteria for tank weight and pressure are the kind of changes which are directly related to this example. The third example for a change of an amendment not likely to involve significant hazard consideration is the change which either may result in some increase to the probability or consequence of a previously analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan. In specification 3.7.9.2, the licensee proposed to substitute a closed circuit TV (CCTV) and hourly monitoring as an acceptable alternative to a continuous fire watch should the reactor coolant pumps preaction sprinkler fail. The reactor coolant pump areas have thermister heat detectors and the sprinklers serve a dual purpose of suppression and detection. A fire watch on CCTV monitoring will provide an alternative to detection; the CCTV has the advantage of not exposing personnel continuously to a high radiation area. The only fire load in the area is the pump lubricating oil and if it spills, the pump is no longer operable. If the oil then starts a fire, nothing else of a safety significance will be effected in the area since the pump is already inoperable. The staff has previously found in similar situations that such a substitution of alternatives is acceptable and meets the intent of 10 CFR 50.48 and Appendix R. This proposed change is directly related to the example provided by the Commission. Therefore, the staff proposes to determine that the amendments do not involve a significant hazards consideration.

Local Public Document Room location: Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

NRC Branch Chief: Steven A. Varga.

Indiana and Michigan Electric Company, Docket Nos. 50–315, and 50–316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendment request: December 15, 1983.

Description of amendment request: The amendment would delete License Conditions for both Units 1 and 2 for spent fuel pool modification, evaluations for environmental effects of operational activities and water quality standards. License Conditions on Unit 2 would be deleted for containment sump design verification and residual heat removal low flow alarm review. The amendment would also change the Technical Specifications to delete some references to Amendments 45 and 63, footnotes on Unit 1 for Emergency Core Cooling Subsystems, and footnotes on Unit 2 for Ice Condenser Doors and Containment Purge and Exhaust Isolation System. The Unit 1 Technical Specification on Containment Purge and Exhaust Isolation System would be changed to correact the surveillance reference to channels which should be monitors. The amendment would revise Technical Specifications for Unit 1 to change the containment air recirculation fan time delay to 9±1 minute and would revise

the License Condition in Unit 2 to raise the licensed power from 3391 to 3411 megawatts thermal.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether license amendments involve no significant hazards consideration by providing certain examples (48 FR 14871). One of these examples involve a purely administrative change to Technical Specifications: for example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature. All of the proposed changes relate directly to this example. The spent fuel pool modifications have been completed and the conditions are no longer applicable. The environmental evaluations and requirements for following water quality matters are now contained in Appendix B to the Technical Specifications; removing the license conditions will reduce duplicative requirements in the license. The Unit 2 containment sump design verification and the residual heat removal low flow alarm review had been submitted by the licensee and reviewed by the NRC (see NRC letter dated July 2, 1982 and Amendment No. 18 issued February 29, 1980, respectively). Due to an oversight, the license was not modified accordingly at that time; this error is being corrected here. The references to Amendments 45 and 63 were incorrectly made on pages that were not changed by those amendments. The footnotes for the Emergency Core Cooling Subsystem, the Ice Condenser Doors, and the Containment Purge and Exhaust Isolation System were all related to temporary exemptions which are no longer in effect. The reference to channels was incorrect; the proper term is monitors. The Unit 1 time delay on the Containment Air Recirculation Fan was incorrectly issued as 10±1 minute in Amendment 63 dated October 4, 1982 and Amendment 48 issued January 14, 1983 authorized the increase in power level for Unit 2 but failed to change the appropriate License Condition. On these bases, the staff proposes to determine that the amendments involve no siginificant hazards consideration.

Local Public Document Room location: Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW., Washington, D.C. 20036.

NRC Branch Chief: Steven A. Varga.

Iowa Electric Light and Power Company, Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: June 10, 1982.

Description of amendment request: The proposed amendment would modify the Technical Specifications to satisfy the staff request dated November 24, 1981 regarding the generic concerns related to the containment vent and purge system. By letter dated November 28, 1978, the Commission requested all licensees of operating reactors to respond to certain generic concerns regarding the containment purge and vent systems isolation failures at operating reactors. In that letter the Commission requested the licensees to cease purging (or venting) of containment or limit purging (or venting) to an absolute minimum. If they elected to continue to purge or vent, the licensees were requested to demonstrate that the purge/vent system met the criteria outlined in the NRC Standard Review Plan Section 6.2.4, Revision 1, and the associated Branch Technical Position CSB 6–4, Revision 1. The licensee responded to the staff's November 24, 1981 request and the follow-up correspondence by submitting the following changes to the Technical Specifications in a letter dated June 10, 1982.

1. The operation of vent/purge systems will be restricted to 90 hours per year.

2. Purge isolation valve seal is to be replaced at intervals not to exceed four years.

3. Purge system leakage integrity tests are to be conducted at intervals not to exceed once every six months.

4. If the above specifications cannot be met, the reactor must be shut down within 24 hours.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples involving no significant hazards consideration include "(ii) a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications: for example, a more stringent surveillance requirement."

The above changes constitute additional limitations, restrictions, and controls not presently included in the plant Technical Specifications, and correspond to the Commission's example (ii) involving no significant hazards consideration.

Since the application for amendment involves proposed changes that are similar to examples for which no significant hazards consideration exist, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Cedar Rapids Public Library, 426 Thrid Avenue, S.E., Cedar Rapids, Iowa 52401.

Attorney for licensee: Jack Newman, Esquire, Harold F. Reis, Esquire, Lowenstein, Newman, Reis and Axelrad, 1025 Connecticut Avenue, N.W., Washington, D.C. 20036.

NRC Branch Chief: Domenic B. Vassallo.

Northeast Nuclear Energy Company (NNECO), Docket No. 50–245, Millstone Nuclear Generating Station, Unit No. 1, New London County, Connecticut

Date of Amendment request: November 1, 1983.

Description of amendment request: The technical specification changes proposed by the amendment request would establish a Limiting Condition for Operation (LCO), consistent with the Standard Technical Specifications, based on the availability of existing instrumentation in calculating the rate of reactor coolant leakage from unidentified sources into the drywell. These proposed changes would constitute part of NNECO's resolution of Systematic Evaluation Program (SEP) Topic V–5, Reactor Coolant Pressure Boundary Leakage Detection. The purpose of the proposed change is to specify actions to be taken in the event of a loss of leakage detection capability, which fulfills staff's position in Section 4.16.1(5)(1) of NUREG–0824, Integrated Plant Safety Assessment Report for Millstone Unit 1 SEP review.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards for a no significant hazards consideration determination by providing certain examples (April 6, 1983, 48 FR 14870). One of the examples (ii) of action not likely to involve a significant hazards consideration relates to a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. The changes proposed in the application for amendment are encompassed by this example since the requested action would result in additional limitation.

The staff, therefore, proposes to determine that the requested action would involve a no significant hazards consideration determination.

Local Public Document Room location: Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut 06385.

Attorney for licensee: William H. Cuddy, Esquire, Day, Berry & Howard, Counselors at Law, One Constitution Plaza, Hartford, Connecticut 06103.

NRC Branch Chief: Dennis M. Crutchfield.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: November 16, 1983.

Description of amendment request: The amendment would incorporate administrative changes which would achieve agreement between the Fort Calhoun Station Technical Specifications and new regulations, which become effective on January 1, 1984. Specifically, section 10 CFR 50.73 entitled "Licensee Event Report System" will become effective on January 1, 1984. This rule change affects the current technical specifications in the area of reporting requirements. In addition, section 10 CFR 50.54 (m)(2) and (m)(3) will become effective and paragraph (m) of 10 CFR 50.54 will be redesignated paragraph (m)(1) on January 1, 1984. These paragraphs address licensed operator staffing at nuclear power units. This rule change affects the current technical specifications in the area of shift manning. Lastly, section 10 CFR 50.72 entitled "Immediate Notification Requirements for Operating Nuclear Power Reactors" will be revised and become effective on January 1, 1984. This rule change also affects the current technical specifications in the area of reporting requirements.

The amendment would also change to whom the Quality Control (QC) personnel report. Currently, the QC personnel report to the Maintenance Supervisor. The change would permit the QC personnel to report to the Technical Supervisor.

Basis for proposed no significant hazards consideration determination: The licensee has stated that, with the exception of the change to the shift manning requirements, all changes are purely administrative in nature. The licensee has also stated that the changes to the shift manning requirements are in response to a new rule change which will be effective January 1, 1984. The licensee has made a no significant hazards considerations determination pursuant to 10 CFR 50.92 as follows:

1. This proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed changes concerning Licensee Event and Significant Event reporting and the plant organizational change are administrative in nature and do not affect the surveillance or operability of any system which functions to prevent or mitigate the consequences of a previously analyzed accident. The proposed change to the shift manning requirements only affects the plant by requiring additional expertise in the control room. It does not change the surveillance or operability requirement of any system which functions to prevent or mitigate the consequences of a previously evaluated accident.

The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed changes to the reporting requirements and plant organization are administrative in nature and the proposed changes to the shift manning requirements do not decrease the availability of on shift operational expertise. None of the proposed changes affect the design or surveillance and operability requirements of the plant systems.

3. The proposed amendment does not involve a significant reduction in a margin of safety. The proposed change regarding shift manning requirements does not decrease the availability of on shift operational expertise and does not affect any other design, surveillance, or operability requirements which would have an effect on safety margins. The remaining proposed changes are administrative in nature and do not affect any design, surveillance, or operability requirements which would have an effect on safety margins.

The staff has reviewed the licensee's significant hazards consideration determinations presented above and, based upon this review, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room Location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

Attorney for licensee: LeBoeuf, Lamb, Leiby, and MacRae, 1333 New Hampshire Avenue, N.W., Washington, DC. 20036.

NRC Branch Chief: James R. Miller.

Pennsylvania Power & Light Company, Docket No. 50–387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of amendment request: August 22, 1983 with supplemental information provided September 15, 1983.

Description of amendment request: The purpose of the proposed amendment request is to make a schedular change to License Condition 2.C. (18)(e) of Operating License No. NPF–14 which would change the implementation of required equipment qualifications for equipment pursuant to Section 5.3 of NUREG–0803 for an SDV break environment from "Prior to startup following the first refueling outage, * * *" to "By two years or the end of the first refueling outage following the date an NRC position on equipment qualifications for equipment pursuant to Section 5.3 of NUREG–0803 for an SDV break enviromnent is finalized, whichever is later,* * *".

Basis for proposed no significant hazards consideration determination: The licensee in his letters of August 22, 1983 and September 15, 1983, stated that delaying the qualification of equipment pursuant to Section 5.3 of NUREG–0803 for an SDV break environment to two years or the end of the first refueling outage following the date the NRC position on qualification of equipment necessary to mitigate the consequences of an SDV is finalized, whichever is later, will not involve a significant increase in the probability or consequences of an accident previously evaluated because the results of the BWR Owner's Group Report NEDO 22209 demonstrate that the probability of this type of accident occurring is extremely low and that extending the time to achieve qualification does not significantly increase the probability of this type of accident occurring. Since only a time extension is involved with the proposed change and it does not change hardware or operational methodology, the licensee states that this change does not create the possibility of a new or different kind of accident from the type previously evaluated. The licensee also states that the change will not result in a significant reduction in the margin of safety since, during the period involved, no equipment changes are anticipated to be made that will reduce the margin of safety. The staff agrees with the licensee's evaluation in this regard, and accordingly, the NRC staff proposes to find that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 1800 M Street N.W., Washington, D.C. 20036.

NRC Branch Chief: A. Schwencer.

Pennsylvania Power & Light Company, Docket No. 50–387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of amendment request: October 24, 1983.

Description of amendment request: The proposed amendment would change Technical Specification 4.7.1.3 to modify the requirements for determining the spray pond operable. Modifications include changing the average water temperature of the spray pond to less than or equal to 81°F versus 88°F changing the water level at the overflow weir to be greater than or equal to 678'1", versus 677', and monitoring the water level at the overflow weir at least once per 12 hours versus 1) at least once per 12 hours when the water level is ≤677'6" Mean Sea Level USGS (MSL) and 2) at least once per 14 days when the water level is 677'6" MSL.

Basis for proposed no significant hazards consideration determination: The licensee in his letter of October 24, 1983, stated that the proposed change involves no significant hazards consideration. The current FSAR analysis is based on a starting temperature of 88°F in the spray pond for the Minimum Heat Transfer Case during a two unit Design Basis Accident (DBA) (LOCA in one unit, safe shutdown of the other unit). The proposed change revises the temperature in the conservative direction to 81°F. The current FSAR analysis for the Maximum Water Loss Case requires a minimum inventory of 19.95 million gallons over a 30-day transient. The proposed change revised the volume in the conservative direction to the equivalent of 23 million gallons. Verification of spray pond OPERABILITY on a 12-hour frequency only, as proposed in the change, is more restrictive than current Technical Specification requirements.

The Commission has provided guidance concerning the application of its standards set forth in 10 CFR 50.92 for no significant hazards considerations by providing examples (48 FR 14871). One of the examples of an amendment which will likely be found to involve no significant hazards considerations is example (ii), a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications: for example, a more stringent surveillance requirement. Example (ii) applies to the proposed change and, on this basis, the staff has determined that the change would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety, and accordingly proposes to determine the change involves no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 1800 M Street N.W., Washington, D.C. 20036.

NRC Branch Chief: A. Schwencer.

Portland General Electric Company, Docket No. 50–344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: December 28, 1983.

Description of amendment request: The amendment would revise Table 6.2–1 "Minimum Shift Crew Composition" of the Technical Specifications to allow the duties of the Shift Technical Advisor (STA) to be assumed by a licensed Senior Operator when such individual is qualified for both positions. The present shift manning table requires the STA duties to be performed by a separate individual. Under the proposed change, the licensee would have a choice to either continue its present practice or allow a licensed Senior Operator to function in a dual role of Senior Operator and STA when so qualified.

Basis for proposed no significant hazards consideration determination: The proposed change as described above involves only a minor change to the shift manning for the Trojan plant because a person fully qualified as an STA would continue to be present on shift at all times. The purpose of the STA position was not to increase the number of people on shift but to have someone available with a bachelor degree or equivalent in a scientific or engineering discipline and other specific training in the response and analysis of the plant for transients and accidents. Shift manning would still satisfy the Commission's shift manning regulations. Under the proposed change, that function would continue to be performed by a licensed Senior Operator qualified for both positions. Thus, the proposed amendment will not result in a significant increase in the probability or consequences of an accident previously considered, will not create the possibility of a new or different accident from any evaluated previously, and will not significantly reduce a safety margin since the qualifications of shift personnel would not be changed. Therefore, the NRC staff proposes to determine that the standards for determining that a license amendment involves no significant hazards consideration are met, and that operation of the facility in accordance with the proposed amendment would not involve a significant hazards consideration.

Local Public Document Room location: Multnomah County Library, 801 S.W. 10th Avenue, Portland, Oregon.

Attorney for licensee: J. W. Durham, Senior Vice President, Portland General Electric Company, 121 S.W. Salmon Street, Portland, Oregon 97204.

NRC Branch Chief: James R. Miller.

Power Authority of the State of New York, Docket No. 50–333, James A. FitzPatrick Nuclear Power, Oswego County, New York

Date of amendment request: August 20, 1979, as revised October 28, 1980 and August 9, 1982.

Description of amendment request: The proposed amendment would add a new part (3) to Section 2.D, Physical Protection, of the Facility Operating License to include a requirement to implement the security force training and qualification plan in accordance with 10 CFR 73.55(b)(4) and Appendix B to 10 CFR 73.

Basis for proposed no significant hazards consideration determination: The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commissions's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples of actions involving no significant hazards consideration include: (vii) A change to make a license conform the changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations.

The amendment application is encompassed by this example in that the proposed change modifies the license to

ensure compliance with the regulations. Therefore, the Commission proposes to determine that the proposed license amendment does not involve significant hazards considerations.

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

Attorney for licensee: Mr. Charles M. Pratt, Assistant General Counsel, Power Authority of the State of New York, 10 Columbus Circle, New York, New York 10019.

NRC Branch Chief: Domenic B. Vassallo.

Public Service Co. of Colorado, Docket No. 50–267, Fort St. Vrain Nuclear Generating Station, Platteville, Colorado

Date of amendment request: December 15, 1983.

Description of amendment request: The proposed change to the Technical Specifications would revise LCO 4.1.9 to correct for previous non-conservative assumptions used in the analyses. LCO 4.1.9 provides limitations, related to minimum acceptable helium flow rates at power levels up to 15 percent and the maximum temperature rise allowed, to ensure adequate core cooling at low power levels.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14871). The examples of actions that are considered not likely to involve significant hazards considerations include a change which either may result in some increase to the probability or consequences of a previously analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan; for example, a change resulting from the application of a small refinement of a previously used calculational model or design method.

Since the proposed change is the result of a refinement in a previously used model, it appears the above example is applicable to this request. In addition, the correction to remove the non-conservative assumptions in the analyses will provide further assurance that acceptable limitations are established. Therefore, the staff proposes to determine that this action does not involve a significant hazards consideration.

Local Public Document Room location: Greeley Public Library, City Complex Building, Greeley, Colorado.

Attorney for licensee: Bryant O'Donnell, Public Service Company of Colorado, P.O. Box 840, Denver, Colorado 80201.

NRC Branch Chief: Eric H. Johnson.

Public Service Co. of Colorado, Docket No. 50–267, Fort St. Vrain Nuclear Generating Station, Platteville, Colorado

Date of amendment request: December 30, 1983.

Description of amendment request: The proposed change to the Technical Specifications would incorporate some new inservice inspection and testing requirements, modify some testing frequency requirements, and provide numerous editorial clarifications. The proposed changes are in response to a commitment in the 1972 Safety Evaluation Report as subsequently prioritized. The higher priority items were completed by License Amendment No. 33; these are the lower priority items.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14871). The examples of actions that are considered not likely to involve significant hazards considerations include:

(a) A purely administrative change to Technical Specifications: for example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature, and

(b) A change that constitutes an additional limitation, restriction or control not presently included in the Technical Specifications: for example, a more stringent surveillance requirement.

Based on our preliminary review of the proposed changes, we feel that all of the changes fall within the categories described in the above two examples. The editorial changes and those testing frequency changes to achieve consistency are clearly within example (a) while the addition of new requirements is clearly within example (b). Therefore, we propose to determine that the amendment does not involve a significant hazards consideration.

Local Public Document Room location: Greeley Public Library, City Complex Building, Greeley, Colorado.

Attorney for licensee: Bryant O'Donnell, Public Service Company of Colorado, P.O. Box 840, Denver, Colorado 80201.

NRC Branch Chief: Eric H. Johnson.

Public Service Co. of Colorado, Docket No. 50–267, Fort St. Vrain Nuclear Generating Station, Platteville, Colorado

Date of amendment request: December 30, 1983.

Description of amendment request: The proposed changes to the Technical Specifications: (1) Incorporate electrical systems monitoring provisions being implemented to provide protection from degraded offsite and/or onsite electrical distribution systems in accordance with previous NRC approval of modifications to resolve staff concerns, and (2) upgrade the electrical systems operability and testing requirements to be more comparable to present staff positions. The proposed changes were submitted in response to numerous NRC requests for the various changes.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14871). The examples of actions that are considered not likely to involve significant hazards considerations include:

(1) A purely administrative change to Technical Specifications: for example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature, and

(2) A change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications: for example, a more stringent surveillance requirement.

Since the proposed changes will incorporate additional restrictions into the Technical Specifications in response to NRC requests and since these additional restrictions are in accordance with present NRC positions on the appropriate type of limitations which should be included in a plant's Technical Specifications, we feel that the changes are encompassed by the above two examples. Therefore, we propose to determine that the amendment does not involve a significant hazards consideration.

Local Public Document Room location: Greeley Public Library, City Complex Building, Greeley, Colorado.

Attorney for licensee: Bryant O'Donnell, Public Service Company of Colorado, P.O. Box 840, Denver, Colorado 80201.

NRC Branch Chief: Eric H. Johnson.

Rochester Gas and Electric Corporation, Docket No. 50–244, R.E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: November 10, 1983.

Description of amendment request: The proposed license amendment consists of three parts: (1) The definition of the term "Operable" as it applies to the single failure criterion, and the inclusion of the definition in the Limiting Conditions for Operation (LCO) of various components; (2) the substitution of the Technical Support Center (TSC) battery for one inoperable 1E battery bank; and (3) the deletion of references to part length control rods.

Basis for proposed no significant hazards consideration determination: The proposed change (Item 1 above) which defines the term "Operable" and includes the definition in the LCO's for various components was initiated in response to an NRC request of April 10, 1980 to revise the definition consistent with guidance provided with the request. In all cases, the proposed changes resulted in LCO's at least as conservative as the condition referenced in the current technical specifications (TS).

The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples, April 6, 1983 (48 FR 14870). One of the examples (ii) of actions involving no significant hazards consideration is a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. The changes proposed in Item 1 are encompassed by this example since the definition of "Operable" and the changes in the LCO's are additional controls which are at least as restrictive as those in the current TS. Therefore, the staff proposes to determine that the Item 1 Technical Specification changes involve no significant hazards consideration.

The licensee has also proposed a change (Item 2) which would permit the substitution of the TSC battery for one inoperable 1E battery bank for a period of seven days to provide time for repair. The TSC battery has a almost twice the amp-hr capacity of one 1E battery bank. The concern is a potential seismic event and the possible loss of the TSC battery capacity. This does not present a significant hazard concern because (1) there would remain one 1E battery capable of supplying 8 hours of emergency load, and (2) the period of time allowed for the substitution is brief so that the increase in probability of a loss of emergency D.C. power due to a seismic event is small. Therefore, the staff proposes to determine that the requested action would involve no significant hazards consideration because the proposed change to the Technical Specifications would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any previously evaluated, and (3) involve a significant reduction in a margin of safety.

The licensee has also requested the deletion of the reference to part length control rods in Section 3.10.1.1 (Control Rod Insertion Limits) (Item 3).

Pursuant to 10 CFR 50.59 the licensee performed a safety analysis regarding the removal of the part length control rods and determined that their removal would not increase the possibility of an accident. The part length control rods have been removed.

The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples, April 6, 1983 (48 FR 14870). One of the examples (i) of a change not likely to involve significant hazards consideration is a change which involves a purely administrative change to technical specifications: for example a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature. The proposed change (Item 3) is encompassed by this example. Therefore, the staff proposes to determine that the Item 3 change would involve no significant hazards consideration.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14604.

Attorney for licensee: Harry H. Voigt, Esquire, LeBoeuf, Lamb, Leiby and MacRae, 1333 New Hampshire Avenue, N.W., Suite 1100, Washington, D.C. 20036.

NRC Branch Chief: Dennis M. Crutchfield.

Sacramento Municipal Utility District (the licensee), Docket No. 50–312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of amendment request: April 11, 1983.

Description of amendment request: The requested amendment would revise Section 4.5.3 of the Technical Specifications to (1) change the allowable leakage limit for components of the Decay Heat Removal System (DHRS), and (2) include test requirements for determining leakage from the Reactor Building Spray System(RBSS). Item 1 of the proposed changes would revise the leakage limit from 0.63 gallons per hour from the DHRS components to a total of 6 gallons per hour from both the DHRS components and the RBSS components. The current Rancho Seco Technical Specifications do not include a leakage limit for the RBSS components. The Babcock and Wilcox (B&W) Standard Technical Specifications specify a 6 gallons per hour leakage limit for only the RBSS components. Item 2 of the proposed changes would revise Section 4.5.3 to include test requirements for determining the leakage of the RBSS. The test requirements are similar but will be separate from those in the current Technical Specifications for the DHRS.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples involving no significant hazards consideration include (ii), "A change that constitutes and additional limitation, restriction, or control not presently included in the Technical Specifications: for example, a more stringent surveillance requirement," and (vi), "A change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan: for example, a change resulting from the application of a small refinement of a previously used calculational model or design method."

Item 1 of the proposed Technical Specification changes would potentially allow greater leakage from those components through which contaminated water from the reactor building sump could flow after a postulated Loss of Coolant Accident (LOCA). The noble gases and some of the iodine could become airborne and be transported offsite. The licensee calculated that the doses from noble gases via this pathway are very small. The two-hour thyroid dose changed from a current value of 0.76 rem to 7.21 rem. The whole body dose was calculated to be 0.01 rem. The Standard Review Plan (NUREG–0800), Section 15.6.5, Appendix B, "Radiological Consequences of a

Design Basis LOCA: Leakage from Engineered Safety Feature Components Outside Containment," Acceptance Criterion 3, specifies that the calculated dose from this leakage pathway be added to the containment leakage dose resulting from a LOCA and that the total dose be within 10 CFR 100.11 guidelines. The Final Safety Analysis Report states that the LOCA, two-hour thyroid dose is 137 rem and the whole body dose is 3.60 rem. The 30-day dose is much smaller. The LOCA and leakage two-hour doses that result from the proposed increase in allowable leakage are 144 thyroid and 3.61 whole body. While there is a small increase in the consequences of a previously-analyzed accident, the results of the proposed change would be clearly within the acceptable criteria, i.e. 300 rem thyroid and 25 rem whole body in 10 CFR Part 100.11 and the Standard Review Plan. Item 1 of this proposed change is similar to example (vi) of the guidance provided by the Commission as not likely to involve a significant hazards consideration.

Item 2 of the proposed Technical specification changes would revise Section 4.5.3 to include test requirements for determining the leakage from the RBSS. The current Technical Specifications have test requirements for determining leakage from the DHRS but none for the RBSS. Therefore, Item 2 of the proposed amendment would add an additional limitation restriction or control not currently in the Technical Specifications. This is similar to example (ii) of the guidance provided by the Commission as not likely to involve a significant hazards consideration.

Since the two changes to the Technical Specifications are similar to examples in the guidance provided by the Commission of actions not likely to involve a significant hazards consideration, the Commission's staff proposes to determine that this amendment request does not involve a significant hazards consideration.

Local Public Document Room location: Sacramento City-County Library, 828 I Street, Sacramento, California.

Attorney for licensee: David S. Kaplan, Sacramento Municipal Utility District, 6201 S Street, P.O. Box 15830, Sacramento, California 95813.

NRC Branch Chief: John F. Stolz.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina

Date of amendment request: November 16, 1983.

Description of amendment request: The amendment would add to Technical Specifications a limiting condition for operation (LCO) concerning feedwater isolation valve (FWIV) operability and add surveillance requirements for FWIVs. Additions to the Technical Specifications Index and Bases would also be made in support of the new FWIV Technical Specification.

Basis for proposed no significant hazards consideration determination: Currently, there are no Technical Specification requirements for FWIVs. The Commission has provided certain examples (48 FR 14870) of actions likely to involve no significant hazards considerations. One of the examples relates to a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. The amendment involved here is similar in that it adds an additional requirement to Technical Specifications. Accordingly, the Commission proposes to determine that this change does not involve a significant hazards consideration.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Attorney for licensee: Randolph R. Mahan, P.O. Box 764, Columbia, South Carolina 29218.

NRC Branch Chief: Elinor G. Adensam.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina

Date of amendment request: November 16, 1983.

Description of amendment request: The amendment would add additional containment penetration conductor overcurrent protection devices to Technical Specification Table 3.8–1. These devices would be for eddy current brakes that are to be added to the non-safety reactor building cooling unit fan motors. Additionally, two administrative corrections would be made to Technical Specification Table 3.8–1 to correct typographical errors.

Basis for proposed no significant hazards consideration determination: The Commission has provided certain examples (48 FR 14870) of actions likely to involve no significant hazards considerations. One of the examples relates to a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. Another example relates to a purely administrative change to Technical Specifications such as correction of an error. The amendment involved here is similar to these two examples in that it adds additional requirements to Technical Specifications and it corrects inadvertent administrative errors in the Technical Specifications. On this basis, the Commission proposes to determine that these license changes involve no significant hazards considerations.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Attorney for licensee: Randolph R. Mahan, P.O. Box 764, Columbia, South Carolina 29218.

NRC Branch Chief: Elinor G. Adensam.

Tennessee Valley Authority, Docket Nos. 50–259, 50–260 and 50–296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of amendment request: May 25, 1977, January 4, 1979 and July 20, 1979, all superseded by amendment request dated November 12, 1982.

Description of amendment request: The proposed amendments would add new sections 3.12 and 4.12 to the Technical Specifications to reflect requirements for inservice inspection and testing of ASME Section III Class 1, 2 and 3 safety related pumps and valves. The amendments add Table 3.12.A, Inservice Testing Program for pumps, Table 3.12.B, Inservice Testing Program for Section XI valves, and Table 3.12.C, specifying testing criteria for Category A valves. Appropriate bases are added. The amendments also remove requirements to demonstrate operability of redundant safety-related equipment when a component or subsystem is inoperable. The existing definition of "operable" is amended to state that a system, subsystem, train, component or device is considered operable if the associated scheduled surveillance testing has been performed satisfactorily within the normal surveillance requirements frequency and that unless specifically required in the Surveillance Requirements, testing of redundant equipment is not required due to inoperable equipment.

Proposed removal of the requirement to demonstrate operability of redundant components is made to specifications on the Standby Liquid Control System (SLCS), the Core Spray System (CSS), the Residual Heat Removal System (RHRS), the RHR Service Water System, the High Pressure Coolant Injection System (HPCIS), the Reactor Core Isolation Cooling System (RCICS) and the Automatic Depressurization System

(ADS). The associated bases section is revised to reflect justification for the allowable out-of-service time. Specification 3.6.D/4.6.D is revised to reflect that only relief valves remain installed (safety valves have been removed) and that they shall be bench checked in accordance with Specification 4.12.A. Associated bases on relief valves is revised to reflect new 4.12.A. The amendment proposes to remove the requirement that if one train of the Standby Gas Treatment System (SBGTS) is inoperable the remaining two trains shall be demonstrated operable. The bases section on SBGTS is revised to reflect the philosophy of an allowable out-of-service time based on one-third of the normal surveillance interval. The amendment proposes removal of the requirement to demonstrate operability of Core Spary and RHR Systems when a diesel generator is found to be inoperable or when a 4-KV shutdown board is found to be inoperable.

A new Specification 4.7.D.1.e is added to state that when primary containment isolation valves are tested in accordance with Specification 4.12.A the valves shall have an isolation time within the limits specified in Table 3.7.A. The Surveillance Requirement on the primary containment isolation valves is revised to reflect the new Specification 4.12.A.

Basis for proposed no significant hazards consideration determination: Addition of Specification 3.12 and 4.12 incorporate the inservice testing requirement of Section XI ASME Boiler and Pressure Vessel Code for ASME Section III Class 1, 2 and 3 safety related pumps and valves. While the current Technical Specifications contain requirements for pump and valve testing to assure operability, the proposed changes assure the testing requirements of Section XI of the ASME Boiler and Pressure Vessel Code are met as prescribed by 50.55a(g). Therefore, the proposed changes fit example (ii) from guidance provided by the Commission in 48 FR 14870. Example (ii) of a change involving no significant hazards consideration is: "A change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications: for example, a more stringent surveillance requirement." The proposed change also fits example (vii) which states: "A change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations." This request for license amendment is submitted in response to 10 CFR 50.55a(g)(5)(ii). Since the proposed addition of Specification 3.12 and 4.12 fit two examples of no significant hazards consideration of 48 FR 14870 the Commission proposes to make a determination that this portion of the application does not involve a significant hazards consideration.

The proposed changes to remove requirements to demonstrate operability of redundant components is in accordance with the BWR Standard Technical Specifications, NUREG–0123—the Commission's guidance to licensees for preparation and revision of their Technical Specifications. The Standard Specifications contain no requirement similar to that in the Browns Ferry Technical Specifications to immediately demonstrate redundant component operability. Removal of a requirement from Specifications to perform a test may reduce a safety margin. Therefore, the changes described above are similar to example (vi) set forth by the Commission for which a no significant hazard exists in that a reduction of a safety margin could occur but the results are within all acceptable criteria specified in the Standard Review Plan (SRP), Chapter 16, endorsing generic Technical Specifications. The amended definition of "operable" is proposed for consistency with the removal of the requirement for demonstrating operability of redundant components. The amended definition will ensure that no confusion will exist regarding whether a component is operable or not. For that reason the proposed change is encompassed by Commission example (i) from 48 FR 14870 which states: "(i) A purely administrative change to Technical Specifications: for example, a change to achieve consistency throughout the Technical Specifications . . ." This amended definition is needed for consistency in the event that the removal of the requirement for demonstrating operability of redundant components is ultimately found fully acceptable to the staff. Based on the above, the staff proposes to determine that the revised amended definition of "operable" would not involve a significant hazards considerations.

The revisions to the bases section remove reference to the immediate demonstration of operability of redundant components. This change is also needed for consistency of the Technical Specifications in the event that the proposed change to remove that requirement is ultimately found fully acceptable to the staff. The revision also reflects the philosophy that the allowable out-of-service time is based on a time period which is less than one-third of the normal surveillance interval. No changes are being made to the allowable out-of-service times. Therefore, the proposed changes to the bases are encompassed by 48 FR 14870 example (i) in that they are purely administrative changes needed for consistency of the Technical Specifications. Based on the above, the staff proposes to determine that the requested changes to the bases involve no significant hazards consideration.

The proposed amendments remove reference to safety valves since these valves were removed from the reactors in previous refueling outages. (These safety valves were replaced with relief valves which have piped discharges to introduce the released steam below the water in the pressure suppression chamber or torus. The discharge from the safety valves was directly to the environment of the drywell.) This change is needed for consistency between the Technical Specifications and actual plant configuration. Specification 2.2.A specified pressure setpoints for thirteen relief valves. The proposed change is needed to achieve consistency throughout the Technical Specifications. Therefore, the proposed change is encompassed by example (i) of 48 FR 14870, which states: "(i) A purely administrative change to Technical Specifications: for example, a change to achieve consistency throughout the Technical Specifications . . ." and, on this basis, the staff proposes to determine that the change to remove the reference to safety valves involves no significant hazards consideration.

The changes to the Specification 4.7.D.1.e and the Surveillance Requirements for the Primary Containment Isolation Valves are editorial to reference new specification 4.12.A. The frequency of the test remains unchanged. The proposed change is needed to achieve consistency throughout the Technical Specifications. Therefore, the proposed change is encompassed by example (i) of 48 FR 14870 which states: "(i) A purely administrative change to Technical Specifications: for example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature" and, on this basis, the staff proposes that the above change involves no significant hazards consideration. The change adding isolation times in accordance with Table 3.7.A for the Primary Containment Isolation Valves is more restrictive and therefore is

encompassed by example (ii) of the guidance in 48 FR 14870 which states: "(ii) A change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications: for example, a more stringent surveillance requirement." On this basis, the staff proposed that the above change involves no significant hazards consideration.

Local Public Document Room location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

Attorney for licensee: H. S. Sanger, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E 11B 33C, Knoxville, Tennessee 37902.

NRC Branch Chief: Domenic B. Vassallo.

Tennessee Valley Authority, Docket Nos. 50–259, 50–260 and 50–296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of amendment request: November 5, 1982.

Description of amendment request: The amendments would revise the Technical Specifications to change the frequencies for performing a functional test of the trip channel and alarm for some of the instrumentation systems that initiate closure of the main steam isolation valves (MSIVs). The test frequency would be reduced from once per month to once per three months for main steam line high flow, main steam line isolation valve closure, main steam line low pressure and main steam line high temperature and from once per week to once per three months for main steam line high radiation.

Basis for proposed no significant hazards consideration determination: The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated? The instrumentation on which the licensee proposes to reduce the test frequency is installed to detect and mitigate the consequences of a postulated steam line break accident. Detection is provided primarily by two diverse and redundant sets of instruments—high flow in any one of the four main steam lines and 16 area temperature sensors in the main steam tunnels. Two other sets of instruments—those installed to monitor for high radiation in the main steam tunnels and those monitoring for low steam line pressure—provide backup detection capability for a postulated steam line break. The mitigating action is automatic closure of the MSIVs and other group 1 isolation valves.

Reducing the test frequency of the logic circuitry for the above instruments will have no effect—one way or the other—on the probability of a steam line break occurrence. The licensee's analysis of mean failure rates for components in the logic circuitry, coupled with the number of redundant backup monitoring systems, provides reasonable assurance that there will be no significant change in the probability that a steam line break will be detected and that the automatic mitigating action will occur as designed. Thus, there is no significant increase in the consequences from a postulated steam line break accident.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated? No. In fact, just the opposite is true. By reducing the potential for false, unnecessary scrams, reducing the test frequency will reduce unnecessary challenges to relief valves and other safety systems and thus reduce the likelihood of a stuck-open relief valve.

3. Does the proposed amendment involve a significant reduction in the margin of safety?

The licensee has performed an evaluation, as requested for NUREG-0737 Item II.K.3.16, Item 11, based on operating experience at Browns Ferry. An analysis of mean failure rates indicates that the test frequency to ensure reliable operation for the applicable trip circuits is at least once in 6 months; the licensee has conservatively proposed a test frequency of once in 3 months—half the time their analyses indicate is acceptable for testing components in the trip circuits. The licensee has concluded that there will be an "increase in the overall margin of safety by reducing the challenges to the relief valves and other systems." The licensee's analyses and evaluations provide reasonable assurance that the proposed action, if approved, is not likely to involve a significant reduction in a margin of safety.

On the above basis, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

Attorney for licensee: H. S. Sanger, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E 11B 33C, Knoxville, Tennessee 37902.

NRC Branch Chief: Dimenic B. Vassallo.

Tennessee Valley Authority, Docket Nos. 50–259, 50–260 and 50–296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of amendment request: October 27, 1983.

Description of amendment request: The amendment would permit operation after approval of changes to the Radiological Effluent Technical Specifications that would bring them into compliance with Appendix I of 10 CFR Part 50. It provides new Technical Specification sections defining limiting conditions for operation and surveillance requirements for radioactive liquid and gaseous effluent monitoring; concentration, dose and treatment of liquid, gaseous and solid wastes; total dose; radiological environmental monitoring that consists of a monitoring program, land use consus, and interlaboratory comparison program. This change would also incorporate into the Technical Specifications the bases that support the operation and surveillance requirements. In addition, some changes would be made in administrative controls, specifically dealing with the process control program and the offsite dose calculation manual. The proposed amendment would remove the current Radiological Effluent Technical Specifications from the Appendix "B" Technical Specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples (ii) of actions not likely to involve a significant hazards consideration relates to changes that constitute additional restrictions or controls not presently included in the Technical Specifications.

The Commission, in a revision to Appendix I, 10 CFR Part 50 required licensees to improve and modify their radiological effluent systems in a manner that would keep releases of

radioactive material to unrestricted areas during normal operation as low as is reasonably achievable. In complying with this requirement, it become necessary to add additional restrictions and controls to the Technical Specifications to assure compliance. This caused the addition of Technical Specifications described above. The staff proposes to determine that the application does not involve a significant hazards consideration since the change constitutes additional restrictions and controls that are not currently included in the Technical Specifications in order to meet the Commission mandated release of "as low as is reasonably achievable."

Local Public Document Room location: Athens Public Library , South and Forrest, Athens, Alabama 35611.

Attorney for licensee: H. S. Sanger, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E 11B 33C, Knoxville, Tennessee 37902.

NRC Branch Chief: Domenic B. Vassallo.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Dates of amendment requests: (1) August 19 and October 24, (2) July 1, (3) October 24, (4) July 21, and (5) October 24, 1983.

Description of amendment request: (1) *Subcooling Margin Monitor.* One subcooling margin monitor is installed at Sequoyah for each unit to assure that the operator maintains, at all times, pressurized reactor coolant system conditions and thus precludes boiling in the primary system. The licensee has requested a change in Technical Specifications to eliminate the preparation of a Licensee Event Report (LER) if the monitor is inoperable for more than two hours and a need for emergency specification change or shutdown if it is inoperable for more than 7 days. Since the subcooling margin provides information that is readily obtainable from other instrumentation, the licensee proposes to have dedicated operators assigned during the inoperable period to assure the system conditions are proper. In lieu of an LER, a special report will be submitted to the NRC for any inoperable period that extends beyond the two hours. (2) *Containment Air Temperature Changes.* The licensee requests that the primary containment average air temperature Technical Specification limits lowered from 110°F to 105°F in the upper compartment and raised from 120°F to 125°F in the lower compartment. These new values are the result of a new Loss-of-Coolant Analysis (LOCA) for Sequoyah that shows that the maximum average temperatures in the lower containment can be raised to the higher values without a change in the margin of safety previously established. Also, the changes in temperatures do not affect the reliability or environmental qualifications for safety related equipment. (3) *Diesel Generator Start and Load Shed Timers.* The Proposed Technical Specification changes would increase the tolerance in the allowable values for the DG timers to start the DGS and to shed electrical loads on the system that are not essential for the safety of the plant. The tolerance increase to ±60 seconds is acceptable since the start of DG and load shedding between 240–360 seconds is well within the period of time designated for the trip setpoints to actuate for the Sequoyah facility.

(4) *Pressurizer Spray Differential Temperature.* The licensee requests an increase in the maximum permissible differential temperature between the pressurizer spray water and pressurizer steam vapor in order to provide greater operational flexibility to handle pressure transients that occur in the reactor collant system (RCS) from time to time during power operations. The pressurizer maintains the RCS pressure within certain limits by utilizing a steam bubble in the upper portion of a vertical cylindrical vessel. The pressurizer spray water helps assist in this process by injection of water (automatically and/or manually) into the vapor space which controls the size of the bubble and subsequent system pressure. Cooler spray water during certain transient conditions would facilitate the control of pressure in the RCS. The increase of the differential temperature from 320°F to 560°F is requested and the licensee has determined that it is within the design criteria specified for component cycles or transient limits specified for the pressurizer and associated spray nozzle and piping. (5) *Snubber Surveillance.* Snubbers must be operable to ensure that structural integrity of the reactor coolant system and other safety related systems is maintained during and following a seismic or other event initiating dymanic loads. To ensure operability a surveillance program is specified. The licensee proposes to delete a table of listed snubbers that require inspection from the Technical Specifications and list the snubbers in the appropriate plant surveillance instructions. The proposed change does not reduce the number of snubbers required to be operable nor reduce the surveillance requirements.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). One of the examples of actions likely to involve no significant hazards consideration relates to a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan. Accordingly, the Commission has made an initial determination that the above changes do not involve a significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Bicentennial Library,1001 Broad Street, Chattanooga, Tennessee 37401.

Attorney for licensee: Mr. Herbert S. Sanger, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E11B33, Knoxville, Tennessee 37902.

NRC Branch Chief: Elinor G. Adensam.

The Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of amendment request: July 10, 1981 (Item 3), revised by letter dated May 2, 1983 (Item 1).

Description of amendment request: The amendment would change the Technical Specification concerning the A.C. electrical power sources monthly surveillance requirements during periods of time when the reactor is in a cold shutdown or refueling condition. Specifically, the proposed amendment would delete the requirement to verify the operability of the Safety Features Actuation System (SFAS) automatic load sequence timer during periods of cold shutdown or refueling. The automatic load sequence timer controls the order and time which the safety features are started and brought to operation during periods of time when the SFAS is actuated. The SFAS is only required to be operable during reactor operation and thus the automatic load sequence timer is only required to be operable during reactor operation. Therefore, since the automatic load sequence timer is not required to operate during cold shutdown are refueling, it is not necessary to verify its operability during these periods and it is

an error in the current Technical Specifications to require its verification of operability during these periods. However, the Technical Specifications do require the automatic load sequence timer to be verified for operability on a monthly basis during reactor operation. The amendment would also provide a change which would be a more stringent surveillance test of the A.C. electrical power sources. Specifically, the change would require verification that rejection of a load equal to the largest single emergency load connected to each diesel generator would not cause the generator to trip (for instance, on an overspeed condition). The current requirement is that the load rejection be demonstrated for a load equal to or less than 480kW. A test consisting of a very small load would satisfy the requirement by would not really fulfill the intent of the Technical Specifications. The proposed load equal to the largest single load would fulfill the intent of the Technical Specifications since it would apply a test which would simulate the severest event which would more likely occur in actual operation. The largest single emergency load connected to each diesel generator is a 600 hp Service Water Pump which during normal operation requires 448kW. The current Technical Specifications would allow a test with a load less than 448kW and, therefore, would not test the load rejection capability for the single maximum load in operation.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples of actions involving no significant hazards consideration relates to a purely administrative change to the Technical Specifications to correct an error. Another example relates to a change that consititutes an additional limitation, restriction, or control not presently included in the Technical Specifications; for example, a more stringent surveillance requirement. The change to delete the requirement to verify the operability of the automatic load sequence timer during periods of cold shutdown the refueling is to correct an error in the Technical Specifications and, therefore, is considered administrative in nature. The change to require load rejection capability for the largest connected emergency load to each diesel generator is a more stringent surveillance requirement and, therefore, is considered a change that constitutes and additional limitation, restriction, or control not presently in theTechnical Specifications. Thus the Commission proposes to determine that the application does not involve a significant hazards consideration.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: John F. Stolz.

Virginia Electric and Power Company, Docket No. 50–388, North Anna Power Station, Unit No. 1, Louisa County, Virginia

Date of amendment request: November 15, 1983.

Description of amendment request: The proposed change would make the North Anna Unit No. 1 (NA–1) Technical Specifications (TS) conform to changes in the NRC approved Standard TS and also provide consistency with the North Anna, Unit No. 2 (NA–2) TS.

Presently, the NA–1 TS Table 3.3–3 requires operability in Modes 1, 2 and 3 for the auxiliary feedwater pump actuation signals from Steam Generator Water Level-Low Low and Station Blackout. However, Table 4.3.2 of the NA–1 TS requires that surveillance testing be performed for the auxiliary feedwater pump actuations signals from Steam Generator Water Level-Low Low and Station Blackout not only in Modes 1, 2, and 3 but also Mode 4. Therefore, an inconsistency presently exists between the NA–1 TS Tables 3.3–3 and 4.3–2. In addition, the NA–2 TS require that surveillance of these actuation signals be performed in Modes 1, 2, and 3 only. Finally, as stated in NUREG–0542 Revision 3, Standard Technical Specifications for Westinghouse Pressurized Water Reactors, surveillance is required in Modes 1, 2, and 3 for these actuations signals.

Therefore, the proposed change would delete the requirement to perform surveillance of the above mentioned actuation signals from the NA–1 TS Table 4.3–2 in Mode 4. This change would provide consistency with the NA–2 TS and also conform with the NRC approval Westinghouse Standard TS.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing guidance in certain examples (48 FR 14870). One of the examples of actions not likely to involve a significant hazards consideration is a purely administrative change to the Technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error or a change in nomenclature. The proposed charge falls within the scope of this example. Eliminating required surveillance of the above mentioned actuation signals in Mode 4 as presently specified in NA–1 TS Table 4.3.2 not only provides consistency with NA–1 TS Table 3.3–3, but also provides consistency with the NA–2 TS and the proposed change is in conformance with NRC approved Standard TS. On this basis, the Commission proposes to determine that the proposed amendment does not involve a significant hazards consideration.

Local Public Document Room locations: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Attorney for licensee: Michael W. Maupin, Esquire, Hunton, Williams, Gay and Gibson, P.O. Box 1535, Richmond, Virginia 23212.

NRC Branch Chief: James R. Miller.

Wisconsin Electric Power Company, Docket Nos. 50–266 50–301, Point Beach Nuclear Plant Units 1 & 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: October 25, 1983.

Description of amendment request: Proposes changes to Technical Specifications relating to containment integrated leak rate testing. Specifically, proposes reduced duration (less than 24 hours) Type "A" testing, inclusion of purge supply and exhaust valves under Type "B" testing and, allowing one of two series, containment purge supply and exhaust valves to be open for repairs in accordance with Type "B" testing requirements.

Basis for proposed no significant hazards consideration determination. Appendix J states that Type A tests shall be conducted in accordance with ANSI N45.4–1972; Leakage Rate Testing of Containment Structures for Nuclear Reactors, March 16, 1972. Normally such tests are of 24 hour duration. However, section 7.6 of ANSI N45.4–1972 allows for a shorter test period than 24 hours provided "* * * it can be demonstrated to the satisfaction of those responsible for the acceptance of the containment structure that the leakage rate can be accurately determined during a shorter test period * * *" The staff has allowed shorter duration (less than 24 hours) Type A testing provided licensees conduct tests in accordance with the

staff approved Bechtel Topical Report, BN TOP–1.

The licensee is of the opinion that BN TOP–1 is a relatively old report and has committed to conducting Type A tests in accordance with the provisions of a recently completed Electric Power Research Institute (EPRI) funded Quadrex Corporation report which the licensee has submitted for staff review and approval. The licensee asserts that the Quadrex report criteria is very similar in concept to the staff approved BN TOP–1 criteria. The licensee's proposed Technical Specifications would require 24 hour duration Type A testing unless criteria of either BN–TOP–1 or the Quadrex Report are met. The regulation allows for reduced duration Type A testing if acceptable criteria have been developed and approved to demonstrate that the leakage rate can be accurately determined during a shorter test period. The licensee has attempted to develop such criteria and has submitted those criteria to the staff for review and approval. In the alternative, the licensee has committed to meeting staff approved criteria for a reduced duration test.

Containment purge supply and exhaust valves are currently required to be leak tested at intervals not to exceed six months. Testing is conducted in accordance with the provisions of Type C testing for measuring leakage across an individual valve or across a group of valves used to isolate a penetration through primary reactor containment. The purpose of the six month frequency is to detect excessive degradation of the resilient seals. The licensee's proposed Technical Specifications would have testing conducted in accordance with Type B testing requirements which the licensee feels are appropriate because these valves employ resilient seals and are locked closed in other than cold shutdown and refueling shutdown conditions. As such, the licensee asserts that these valves meet the definition of Type B penetrations, that is, "containment penetrations whose design incorporates resilient seal gaskets, or sealant componds * * *"

Test frequency for these valves would remain the same, every six months. Test pressure remains the same, Pa. The leakage acceptance criteria would also remain the same since the acceptance criteria is based upon the combined leakage of all Type B and Type C penetrations. The only change would be the test method, that is, substitution of Type B testing methods for Type C testing methods. The regulations allow substitution of Type B testing methods for Type C testing methods, where appropriate.

The licensee also proposes Technical Specification charges to the limiting conditions for operation to allow one of the in series purge supply and exhaust valves to be open for repairs in other than cold shutdown or refueling shutdown conditions in accordance with the Type B testing requirements; repairs would be completed and acceptable leakage criterion demonstrated within 48 hours of the determination that the valve required repair or the reactor would be placed in cold shutdown. The other in series purge supply and exhaust valve would remain locked closed. This repair duration is currently allowed by the Technical Specifications for testing of both Type B and Type C penetrations.

Based upon the considerations discussed above, the staff has determined that the proposed amendments to the Technical Specifications do not involve a significant increase in the probability or consequences of an accident previously evaluated, do not create the possibility of a new or different kind of accident from any accident previously evaluated and do not involve a significant reduction in a margin of safety. Therefore, the staff proposes changes to the Technical Specifications do not involve a significant hazards consideration.

Local Public Document Room location: Joseph P. Mann Public Library, Two Rivers, Wisconsin.

Attorney for licensee: Shaw, Pittman, Potts & Trowbridge, 1800 M Street, NW., Washington, D.C. 20036, Gerald Charnoff, Esq.

NRC Branch Chief: James R. Miller, Chief.

PREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices because time did not allow the Commission to wait for this regular monthly notice. They are repeated here because the monthly notice lists all amendments proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Connecticut Yankee Atomic Power Company, Docket No. 50–213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: October 24, 1983.

Brief description of amendment: The amendment would approve modifications to Section 6 of the Technical Specifications to reflect licensed operator staffing requirements to meet the requirements of 10 CFR 50.54(m).

Date of publication of individual notice in the **Federal Register:** December 27, 1983 (48 FR 57031).

Expiration date of individual notice: January 26, 1984.

Local Public Document Room location: Russell Library, 119 Broad Street, Middletown, Connecticut 06457

Duke Power Company, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: August 2, 1983.

Brief description of amendment: The amendments would change the Technical Specification 3.7.6 to permit changing between modes 5 (cold shutdown) and 6 (refueling) with the Control Area Ventilation Systems inoperable. These systems assure that the control room remains habitable after postulated accidents. Operation in either mode 5 or mode 6 is already permitted with these systems inoperable. Due to the general provisions of Technical Specification 3.0.4, however, operability of the Control Area Ventilation Systems is required during the transition between mode 5 and mode 6. These amendments would eliminate this unnecessary requirement.

Date of publication of individual notice in **Federal Register:** December 14, 1983 (48 FR 55649).

Expiration data of individual notice: January 13, 1984.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28242.

Duke Power Company, Docket No. 50–287, Oconee Nuclear Station, Unit No. 3, Oconee County, South Carolina

Date of amendment request: September 14, 1983.

Brief description of amendment: The amendment would authorize a proposed change to the Oconee Nuclear Station common Technical Specifications (TSs) which is required to revise a previously approved Axial Power Shaping Rod (APSR) position limit associated with

the operation of Unit 3 during fuel Cycle 7 (which is currently in progress). The proposed change would split a single position limit figure into two position limit figures for the same period of time. This specifically would be accomplished by: (1) Revising the title of TS Figure 3.5.2–4C2 from "APSR Position Limits, After 200± 10 EFPD" to "APSR Position Limits, After 200±10 to 385 EFPD (+0, −10 EFPD)"; and (2) adding a new TS Figure 3.5.2–4C3, titled "APSR Position Limits, After 385 EFPD (+0, −10 EFPD)" (*Note:* EFPD=Effective Full Power Days).

Date of publication of individual notice in **Federal Register**: December 14, 1983 (48 FR 55647).

Expiration date of individual notice: January 13, 1984.

Local Public Document Room location: Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina.

Duke Power Company, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: November 18, 1983.

Brief description of amendment: The amendments would (1) reduce by 2% the reactor coolant system (RCS) flow rate required for operation of McGuire Unit 2 at 100% power and revise the limits for safety systems setting to accommodate the RCS flow reduction and (2) provide for a 1% reduction in power for each 1% reduction in the measured RCS flow below the flow requirement for 100% power for McGuire Unit 2.

The operation of McGuire Unit 2 at 90% power, as part of the unit power ascension program, has identified a low reactor coolant flow condition that, pursuant to the existing technical specification requirement, prevents the unit from operating above 90% power. The first part of the amendment, which reduces reactor coolant system flow would not affect the probability of accidents previously evaluated nor create the possibility of a new or different kind of accident; however, lower RCS flow can have some effect on the consequences of accidents previously evaluated. The effects of lower RCS flow have been evaluated for the accidents discussed in the Final Safety Analysis Report (FSAR), Chapter 15. This evaluation shows that adequate thermal margin to Departure from Nucleate Boiling Ratio (DNBR) would be maintained (i.e. DNBR greater than 1.30). Non-DNB-limited transients were also evaluated and the results were determined to be within their respective limits. Therefore, operation under this aspect of the proposed amendments would not involve a significant increase in the consequences of accidents previously evaluated. Similarly, because the evaluation showed that the original analysis results are valid for the DNB-limited transients, the safety margins inherent in the DNBR limit of 1.30 (based on the W-3 correlation) are unaffected. Also, the non-DNB-limited transients remain within their respective limits. Therefore, this aspect of the proposed amendments does not involve a significant reduction in a safety margin.

Date of publication of individual notice in **Federal Register**: January 4, 1984 (49 FR 529).

Expiration date of individual notice: February 3, 1984.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station) North Carolina 28242.

General Public Utilities Nuclear Corporation, Docket No. 50–320, Three Mile Island Unit 2, Londonderry Township, Dauphin County, Pennsylvania

Date of amendment request: July 7, 1983.

Brief description of amendment: The amendment would delete from the TMI-2 Technical Specifications reference to requirements for Unit 1 monitoring instrumentation and valves that relate solely to the operation of Unit 1.

Date of publication of individual notice in **Federal Register**: December 1, 1983 (48 FR 54306).

Expiration date of individual notice: January 3, 1984.

Local Public Document Room location: State Library of Pennsylvania, Harrisburg, PA 17126.

Northern States Power Company, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: September 30, 1982, as supplemented November 4, 1983.

Brief description of amendment: The proposed amendment would revise the Technical Specifications to allow the Source Range Monitor minimum count rate to fall below three counts per second during full core discharge and subsequent reloading.

Date of publication of individual notice in the **Federal Register**: December 13, 1983, 48 FR 55526.

Expiration date of individual notice: January 12, 1984.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Southern California Edison Company, et al., Docket No. 50–362, San Onofre Nuclear Generating Station, Unit 3, San Diego, California

Date of amendment request: January 25, July 14 and September 23, 1983.

Brief description of amendment: Proposed changes to the Technical Specifications related to DNBR calculations associated with fuel rod bowing.

Date of publication of individual notice in **Federal Register**: December 21, 1983 (48 FR 56460).

Expiration date of individual notice: January 20, 1984.

Local Public Document Room location: San Clemente Library, 242 Avenida Del Mar, San Clemente, California.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the 30-day period since publication of the last monthly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless indicated otherwise, the Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments. If the Commission has prepared an Evironmental Impact Appraisal related to these actions it is so indicated. If indicated, this notice constitutes a negative declaration and indicates that the Commission has concluded that an environmental impact statement is not warranted because there will be no

significant effect on the quality of the human environment.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments , and (3) the Commission's related letters, Safety Evaluations and/or Environmental Impact Appraisals as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W. Washington, D.C. and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D. C. 20555, Attention: Director, Division of licensing.

Alabama Power Company, Docket No. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Unit Nos. 1 and 2, Houston County, Alabama.

Date of application for amendments: October 13, 1983.

Brief description of amendments: The amendments change the Technical Specifications to allow reactor operation with the slightly positive moderator temperature coefficient at low power levels and an increased enthalpy hot channel factor limit below full power.

Date of issuance: December 30, 1983.

Effective date: December 30, 1983.

Amendment Nos. 37 and 27.

Facility Operating License Nos. NPF–2 and NPF–8. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 22, 1983 (52805).

The Commission's related evaluation of the amendments are contained in a Safety Evaluation dated December 30, 1983.

Significant hazards consideration comments received: No.

Local Public Room location: George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303.

Alabama Power Company, Docket No. 50–348 amd 50–364, Joseph M. Farley Nuclear Plant, Unit Nos. 1 and 2, Houston County, Alabama.

Date of application for amendments: June 6, 1983.

Brief description of amendments: The amendments change the Technical Specification to incorporate the Commission guidance on overtime limitations as promulgated in Generic Letter 82–12, dated June 15, 1982. These changes are in accordance with the Commission Policy Statement in NUREG–0737, Item I.A.1.3 on overtime.

Date of issuance: December 30, 1983.

Effective date: December 30, 1983.

Amendment Nos. 38 and 28.

Facility Operating License Nos. NPF–2 and NPF–8. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 23, 1983 (48 FR 38386).

The Commission's related evaluation of the amendments are contained in a Safety Evaluation dated December 30, 1983.

Significant hazards consideration comments received: No.

Local Public Room location: George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303.

Alabama Power Company, Docket No. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Unit Nos. 1 and 2, Houston County, Alabama.

Date of application for amendments: October 25, 1982.

Brief description of amendments: The amendments change the Technical Specifications by modifying the frequency for licensee's audits of the Facility Emergency Program from every 24 months to every 12 months. The change is in accordance with § 50.54(t) of Title 10 of the Code of Federal Regulations.

Date of issuance: January 6, 1984.

Effective date: January 6, 1984.

Amendment Nos. 39 and 29.

Facility Operating License Nos. NPF–2 and NPF–8. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 23, 1983 (48 FR 38383).

The Commission's related evaluation of the amendments are contained in a Safety Evaluation dated Janurary 6, 1984.

Significant hazards consideration comments received: No.

Local Public Room location: George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303.

Alabama Power Company, Docket No. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Unit Nos. 1 and 2, Houston County, Alabama.

Date of application for amendments: April 6, 1983.

Brief description of amendments: The amendments change the Technical Specifications to correct an administrative error by deleting applicability of a footnote for Item 1.e. in Table 3.3–3. The change was made at the Commission's request to correct the error found during the NRC staff review of Multi-Plant Action Item B–32, Blocked Safety Injection Signal During Cooldown.

Date of issuance: January 9, 1984.

Effective date: January 9, 1984.

Amendment Nos. 40 and 30.

Facility Operating License Nos. NPF–2 and NPF–8. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 23, 1983 (48 FR 38385).

The Commission's related evaluation of the amendments are contained in a Safety Evaluation dated January 9, 1984.

Significant hazards consideration commets received: No.

Local Public Room location: George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303.

Alabama Power Company, Docket, No. 50–364, Joseph M. Farley Nuclear Plant, Unit No. 2, Houston County, Alabama.

Date of application for amendment: December 10, 1982.

Brief description of amendment: The amendment changes the Technical Specification to delete eight (8) non-safety related hydraulic snubbers from Table 3.7–4a.

Date of issuance: January 10, 1984.

Effective date: January 10, 1984.

Amendment No. 31.

Facility Operating License No. NPF–8. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 23, 1983 (48 FR 38384).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 10, 1984.

Significant hazards consideration comments received: No.

Local Public Room location: George S. Houston Memoral Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303.

Baltimore Gas & Electric Company, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendment: September 20, 1983 as supplemented October 12, 1983.

Brief description of amendment: The amendments revised the Technical Specifications to (1) clarify the operability requirements for the containment purge isolation valves, (2) correct typographical errors, (3) clarify the Basis for combustible gas control system, (4) change the list of safety related seismic restraints, "snubbers," which are required to be operable and undergo surveillance, (5) change the requirements for surveillance of Containment Spray Actuation Signal (CSAS) Subchannels A–3 and B–3 (Unit 2 only), and (6) change the surveillance

requirements for the control room emergency vetilation system.

Date of issuance: December 30, 1983.

Effective date: December 30, 1983.

Amendment Nos. 89 and 70.

Facility Operating License Nos. DPR–53 and DPR–69. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 22, 1983 (48 FR 52804 at 52805).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 30, 1983.

No significant hazards consideration commets received: No.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Boston Edison Company, Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth, Massachusetts

Date of application for amendment: April 5, 1983.

Brief description of amendment: The amendment revises the Technical Specifications to permit operation with increased safety relief valve (SRV) setpoints to enable an increased pressure differential between operating pressure and SRV pressure setpoints.

Date of issuance: December 29, 1983.

Effective date: December 29, 1983.

Amendment No. 73

Facility Operating License No. DPR–35. Amendment revised the technical Specifications.

Date of initial notice in **Federal Register:** August 23, 1983, 48 FR 38389.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 29, 1983.

No significant hazards consideration comments received: No.

Local Public Document Room location: Plymouth Public Library, North Street, Plymouth, Massachusetts 02360.

Carolina Power & Light Company, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Unit Nos. 1 and 2, Brunswick County, North Carolina

Date of application for amendment: December 13, 1982, as supplemented October 17 and November 11, 1983.

Brief description of amendment: This amendment authorizes changes to the Technical Specifications (1) to implement the requirements of Appendix I of 10 CFR Part 50; (2) to establish new limiting conditions for operation for the quarterly and annual average release rates; and (3) to revise envorinmental montoring programs to assure conformance with the Commission's regulations.

Date of issuance: December 27, 1983.

Effective date: December 27, 1983.

Amendment Nos. 62 and 88.

Facility Operating License No. DPR–71 and DPR–62.

Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 21, 1983 (48 FR 43129).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 27, 1983.

No significant hazards consideration comments received: No.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Carolina Power & Light Company, Docket No. 50–325 Brunswick Steam Electric Plant, Unit 1, Brunswick County, North Carolina

Date of application for amendment: June 16, 1982, as supplemented April 28 and August 10, 1983.

Brief description of amendment: The amendment modifies the Technical Specifications as follows: (1) Delete requirements for seismic snubbers on those portions of the control rod drive return line piping that have been removed, (2) add requirements regarding the operability, response time and surveillance of instrumentation installed as a result of certain NRC recommendations set forth in NUREG–0737, "Clarification of TMI Action Plan Requirements," and (3) add requirements regarding the operability, response time and surveillance of instrumentation used for signalling a condition of high water level in the scram discharge piping.

Date of issuance: December 28, 1983.

Effective date: December 28, 1983.

Amendment No. 63

Facility Operating License No. DPR–71.

Amendment revised the technical Specifications.

Date of initial notice in **Federal Register:** August 22, 1983, 48 FR 38118.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 28, 1983.

No significant hazards consideration comments received: No.

Local Public Document Room location: Southport—Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Carolina Power & Light Company, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Unit Nos. 1 and 2, Brunswick County, North Carolina

Date of application for amendment: August 16, 1982,

Brief description of amendment: Adds LImiting Conditions for Operation and surveillance requirements for the Reactor Protection System electrical power supplies.

Date of issuance: December 28, 1983.

Effective date: December 28, 1983.

Amendment Nos. 64 and 89.

Facility Operating License Nos. DPR–71 and DPR–62

Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 21, 1983 (48 FR 43128).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 28, 1983.

No significant hazards consideration comments received: No.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Carolina Power & Light Company, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Unit Nos. 1 and 2, Brunswick County, North Carolina

Date of application for amendment: October 3, 1983.

Brief description of amendment: The amendments change the technical Specifications to provide limited flexibility in scheduling containment leak testing surveillance consistent with planned outages.

Date of issuance: January 11, 1984.

Effective date: January 11, 1984.

Amendment Nos. 65 and 91.

Facility Operating License Nos. DPR–71 and DPR–62. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 17, 1983. (48 FR 52366).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 11, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Commonwealth Edison Company, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Date of application for amendment: April 25, 1983.

Brief description of amendment: The amendments approve Technical Specifications which specify the time-delay settings for high steam flow for the HPCI systems, and are designed to prevent inadvertent isolation of these systems.

Date of issuance: December 12, 1983.

Effective date: December 12, 1983.

Amendment No. 78.

Provisional Operating License No.: DRP–19.

Amendment No. 69.

Facility Operating License No.: DPR–25. Amendments revised the Appendix A Technical Specifications.

Date of initial notice in **Federal Register:** September 21, 1983 (48 FR 43131).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 12, 1983. No public or State comments were received with respect to the Commission's proposed determination that the amendments would not involve a significant hazards consideration.

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60451.

Commonwealth Edison Company, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Date of application for amendments: May 2, 1983.

Brief description of amendment: The amendments approve changes to the Technical Specifications which specify what the reactor pressure should be when conducting scram testing following a refueling outage and revise the requirement of isolating the control rod drive pumps to apply only to single rod scram testing.

Date of issuance: December 12, 1983.

Effective date: December 12, 1983.

Amendment No. 79.

Provisional Operating License No.: DRP–19.

Amendment No. 70.

Facility Operating License No. DPR–25. Amendments revised the Appendix A Technical Specifications.

Date of initial notice in **Federal Register:** October 26, 1983 (48 FR 49579).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 12, 1983. No public or State comments were received with respect to the Commission's proposed determination that the amendments would not involve a significant hazards consideration.

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60451.

Commonwealth Edson Company, Docket No. 50–249, Dresden Nuclear Power Station, Unit 3, Grundy County, Illinois

Date of application for amendment: August 25, 1983, as supplemented November 23, 1983.

Brief description of amendment: The amendment authorizes Technical Specification changes which raise the safety relief actuating setpoint of the Target Rock valve and lower the setpoint of two Electromatic Relief valves. The changes prevent excessive loadings to the torus if a relief valve actuation occurs shortly after closure by reducing subsequent actuation.

Date of issuance: January 4, 1984.

Effective date: January 4, 1984.

Amendment No. 71.

Facility Operating License No.: DPR–25. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 22, 1983 (48 FR 52808).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 4, 1984. No public or State comments were received with respect to the Commission's proposed determination that the amendment would not involve a significant hazards consideration.

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60451.

Commonwealth Edison Company, Docket Nos. 50–295 and 50–304, Zion Station, Unit Nos. 1 and 2, Zion, Illinois

Date of application for amendment: August 22, 1983, as supplemented October 31, 1983.

Brief description of amendment: These amendments will allow the transition from low-parasitic 15 x 15 fuel assemblies to 15 x 15 optimized fuel assemblies.

Date of issuance: December 23, 1983.

Effective date: December 23, 1983.

Amendment Nos. 83 and 73.

Facility Operating License Nos. DPR–39 and DPR–48. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 26,1983 (48 FR 49579).

The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated December 23, 1983.

No significant hazards consideration comments have been received.

Local Public Document Room location: Zion-Benton Public Library District, 2600 Emmaus Avenue, Zion, Illinois 60099.

Consumers Power Company, Docket No. 50–155, Big Rock Point Plant, Charlevoix, Michigan

Date of application for amendment: January 28, 1983.

Brief description of amendment: The amendment approves Technical Specification changes which increase the containment vessel reduced test pressure from 10 psig to 11.5 psig.

Date of issuance: December 27, 1983.

Effective date: December 27, 1983.

Amendment No.: 62.

Facility Operating license No.: DPR–6.

Date of initial notice in **Federal Register**: August 23, 1983 (48 FR 38398).

The Commission's related evaluation of the amendment is contained in the Safety Evaluation December 27, 1983. No public or State comments were received with respect to the Commission's proposed determination that the requested action would involve no significant hazards consideration.

Local Public Docket Room location: Charlevoix Public Litrary, 107 Clinton Street, Charlevoix, Michigan 49720.

Consumers Power Company, Docket No. 50–155, Big Rock Point Plant, Charlevoix County, Michigan

Date of applications for amendment: November 12, 1982 and December 20, 1982.

Brief description of amendment: The amendment approves changes to the Administrative Controls Section of the Technical Specifications. The major changes are the addition of a second auxiliary operator to the minimum shift staff, implementation of overtime limitations, and organizational changes associated with the company's new Nuclear Activities Plant Organization (NAPO).

Date of issuance: January 4, 1984.

Effective date: January 4, 1984.

Amendment No.: 63.

Facility Operating License No.: DPR–6. This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: July 25, 1983 (48 FR 33779) and July 28, 1983 (48 FR 34369).

The Commission's related evaluation of the amendment is contained in the Safety Evaluation. No public or State comments were received with respect to the Commission's proposed determination that the requested action

would involve no significant hazards consideration.

Local Public Document Room location: Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720.

Consumers Power Company, Docket No. 50–155, Big Rock Point Plant, Charlevoix, Michigan

Date of application for amendment: July 20, 1981.

Brief description of amendment: The amendment approves Technical Specification changes which incorporate requirements for operability, testing, and inspection of the mechanical snubbers attached to the Reactor Depressurization System.

Date of issuance: January 11, 1984.

Effective date: January 11, 1984.

Amendment No.: 64.

Facility Operating License No.: DPR–6. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 23, 1983 (48 FR 38397).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 11, 1984. No Public or State comments were received with respect to the Commission's proposed determination that the amendment would not involve a significant hazards consideration.

Local Public Document Room location: Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720.

Dairyland Power Cooperative, Docket No. 50–409, La Crosse Boiling Water Reactor, Vernon County, Wisconsin

Date of application for amendment: June 9, 1982.

Description: The amendment modifies the Appendix A Technical Specifications by adding requirements for quarterly testing of containment ventilation (purge) valves to detect excessive degradation of the resilient seats.

Date of Issuance: December 12, 1983.

Effective date: December 12, 1983.

Amendment No.: 35.

Provisional Operating License No.: DPR–45. Amendment revised the Appendix A Technical Specifications.

Date of initial notice in **Federal Register:** August 23, 1983 (48 FR 38400).

The Commission's related evaluation of the amendment is contained in its letter transmitting the amendment dated December 12, 1983. No public or State comments were received with respect to the Commission's proposed determination that the requested action would involve no significant hazards consideration.

Local Public Document Room location: La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin 54601.

Duquense Light Company, Docket No. 50–334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of application for amendment: July 14, 1983.

Brief description of amendment: The amendment changes the Beaver Valley Unit 1 Technical Specifications to clarify onsite AC power distribution configuration. This change brings Section 3.8.2.1 into conformance with Standard Westinghouse Technical Specifications.

The amendment also changes Figure 6.2–1, "Offsite Organization", to incorporate details of the organization under the Manager of Nuclear Engineering.

Date of issuance: December 13, 1983.

Effective date: December 13, 1983.

Amendment No. 75.

Facility Operating License No. DPR–66. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 26, 1983 (48 FR 49585).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 13, 1983.

No significant hazards consideration comments received: No.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Florida Power and Light Company, et al., Docket No. 50–389, St. Lucie Plant, Unit 2, St. Lucie County, Florida

Date of application for amendment: June 6, 1983, supplemented June 28, 1983.

Brief description of amendment: The amendment changes the testing frequency of the turbine overspeed protection valves from weekly to monthly.

Date of issuance: December 20, 1983.

Effective date: December 20, 1983.

Amendment No.: 4.

Facility Operating License No. NPF–16. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 15, 1983 (48 FR 41536).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 20, 1983.

No significant hazards consideration comments received: No.

Local Public Document Room location: Indian River Community College Library, 3209 Virginia Avenue, Ft. Pierce, Florida 33450.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of Application for amendments: August 19, 1983, as supplemented on September 9, 1983, September 20, 1983 and October 4, 1983.

Brief description of amendments: The amendments change the Technical Specifications to support the integrated program for vessel flux reduction to resolve the pressurized thermal shock issue and to take credit for operation with the new steam generators in an unplugged (maximum of five (5) percent tube plugging) configuration. The Technical Specification changes: (1) Increase the hot channel $F_{\Delta H}$ limit from 1.55 to 1.62; (2) increase the total peaking factor F_Q limit from 2.30 to 2.32; (3) change the overpower ΔT setpoints and thermalhydraulic limit curves; and (4) delete restrictions and limits placed on the old steam generators which allowed operation with tubes plugged in excess of five percent.

Date of issuance: December 23, 1983.

Effective date: December 23, 1983, for Unit 3 and startup of cycle 10 for Unit 4.

Amendment Nos. 99 and 93.

Facility Operating License Nos. DPR–31 and DPR–41. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 7, 1983 (48 FR 45862).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 23, 1983. Significant hazards consideration comments have been received.

Source: Center for Nuclear Responsibility, Inc. and Joette Lorion.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: May 5, 1983.

Brief description of amendments: These amendments delete the non-radiological Environmental Technical Specifications in Appendix B which address terrestrial, biological and physical monitoring programs.

Date of issuance: January 4, 1984.

Effective date: January 4, 1984.

Amendment Nos. 100 and 94.

Facility Operating License No. DPR–31 and DPR–41: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 23, 1983 (48 FR 38404).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation and Environmental Impact Appraisal dated January 4, 1984.

No comments on significant hazards consideration have been received.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

General Public Utilities Nuclear Corporation Docket No. 50–320, Three Mile Island Unit 2, Londonderry Township, Dauphin County

Date of amendment request: May 27, 1983.

Description of amendment request: This amendment deletes the requirement for reserve water tankage that would be used to store waste water from TMI–2. The reserve storage capacity was originally required by the staff because of the large volume of contaminated water that was being held in miscellaneous sumps in the auxiliary and fuel handling building and the containment building. Because of elimination of most of this volume of water and the significant reduction in the radioisotope content of the water remaining, the reserve tankage capacity is no longer necessary.

Date of issuance: December 14, 1983.

Effective date: January 1, 1984.

Amendment No.: 22

Facility Operating License No. DPR–73: Amendment revised the License.

Date of initial notice in **Federal Register:** July 18, 1983 (48 FR 32707).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 18, 1983.

No significant hazards consideration comments received: No.

Local Public Document Room location: State Library of Pennsylvania, Harrisburg, PA 17126.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Dockets Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Units Nos. 1 and 2, Appling County, Georgia

Date of amendment request: February 26, 1981, as supplemented October 1, 1981, September 19, 1983, October 3, 1983, December 14, 1983, and December 20, 1983.

Brief description of amendment: The amendments revise the Hatch Units 1 and 2 Technical Specifications to (1) add a Limiting Condition for Operation (LCO) and surveillance requirements for the Scram Discharge Volume (SDV) vent and drain valves, and (2) add the new diverse SDV high water level scram instrumentation (thermal level sensors), including trip setpoints, LCO, Action Statement and surveillance requirements, to the Reactor Protection System Instrumentation Tables.

The amendments also revise the TSs for Hatch Unit 1 to: (1) Add the SDV high water level trip instrumentation, including trip setpoint, LCO, Action Statement and surveillance requirements, to the Control Rod Block Instrumentation Tables, and (2) change the required frequency for functional testing of the SDV high water level reactor scram instrumentation from once per three months to once per month.

Date of issuance: January 4, 1984.

Effective date: January 4, 1984 for license No. DPR–57; within 30 days after issuance for License No. NPF–5..

Amendments Nos.: 97 and 34.

Facility Operating Licenses Nos. DPR–57 and NPF–5. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 14, 1983 (48 FR 51876)

Subsequent to the initial notice in the **Federal Register**, Georgia Power Company, by letters dated December 14 and 20, 1983, modified its September 19, 1983 proposed closure time requirement for the (SDV) vent and drain valves. Because of the late arrival of the December 14 and 20, 1983 submittals, the Commission has not completed its review of the proposed valve closure time requirement and therefore, has not included a closure time requirement in these amendments. It will however, provide a closure time requirement in subsequent amendment following completion of its review of the licensee's proposal. The existing Technical Specifications do not include a closure time requirement. The NRC staff will prepare a separate proposed determination and notice for the December 14 and 20, 1983 submittals.

The Commission's related evaluation of the amendment is contained in Safety Evaluations dated January 4, 1984.

No significant hazards consideration comments received: No.

Local Public Document location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

GPU Nuclear Corporation, Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: March 18, 1983.

Brief description of amendment: The amendment reflects approval of changes to the administrative organization at the Oyster Creek plant by (1) implementing a new Safety Review and Audit Program, (2) adding the position of Maintenance and Construction Director Oyster Creek to figure 6.2.2, and (3) removing the word "entire" from paragraph 6.5.3.1(b) and the word "all" from paragraphs 6.5.3.1 (a) and (c). Moreover, the amendment reissues Section 6.0 in its entirety for editorial and format purposes.

Date of issuance: January 12, 1984.

Effective date: January 12, 1984.

However, the approved changes are to be implemented 45 days after the date of issuance.

Amendment No.: 69

Provisional Operating License No. DPR–16. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 22, 1983 (48 FR 52813).

The Comission's related evaluation of this action is contained in its Safety Evaluation dated January 12,1984. No public or State comments were received with respect to the Commission's proposed determination that the requested action would involve no significant hazards consideration.

Local Public Document Room: 101 Washington Street, Toms River, New Jersey 08753.

Maine Yankee Atomic Power Company, Docket No. 50–309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of application for amendment: March 28, 1979 as superseded May 27, 1982.

Brief description of amendment: This amendment modified the Maine Yankee Technical Specifications concerning Inservice Inspection. These changes amend the Technical Specifications to conform with 10 CFR 50.55a.

Date of issuance: December 21, 1983.

Effective date: December 21, 1983.

Amendment No.: 71.

Facility Operating License No. DPR–36. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 26, 1983, 48 FR 49574 at 49588.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 21, 1983.

No significant hazards consideration comments received: No.

Local Public Document Room location: Wiscasset Public Library, High Street, Wiscasset, Maine.

National Bureau of Standards, Docket No. 50–184, Gaithersburg, Maryland

Date of application for amendment: May 5, 1983.

Brief description of amendment: The amendment approves changes to the Physical Security Plan and adds the plan to the license.

Date of issuance: December 8, 1983.

Effective date: December 8, 1983.

Amendment No.: 4.

Facility Operating License No. TR–5. Amendment revised the license.

Date of initial notice in Federal Register: August 23, 1983 (48 FR 38408).

The Commission's related evaluation of the amendment is contained in a letter dated December 8, 1983.

No significant hazards consideration comments received: No.

Public Document Room location: 1717 H Street, N.W., Washington, D.C. 20555.

Niagara Mohawk Power Corporation, Docket No. 50–220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of application for amendment: March 22, 1978, supplemented March 17, 1980, and superseded May 2, 1983.

Brief description of amendment: Revises the Technical Specifications adding Limiting Conditions for Operation, surveillance requirements and changing the bases for the Fire Protection Program at the facility.

Date of issuance: December 20, 1983.

Effective date: December 20, 1983.

Amendment No.: 53.

Facility Operating License No. DPR–63.

Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: August 23, 1983, 48 FR 38409.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 20, 1983.

No significant hazards consideration comments received: No.

Local Public Document Room location: State University College at Oswego, Penfield Library—Documents, Oswego, New York 13126.

Northeast Nuclear Energy Company, Docket No. 50–245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut

Date of application for amendment: May 9, 1980 as superseded October 15, 1980 and as supported by letter dated September 22, 1983.

Brief description of amendment: The amendment authorizes Technical Specification changes to allow integrated containment leakage rate tests without the requirement of 24-hour minimum test duration.

Date of issuance: December 19, 1983.

Effective date: December 19, 1983.

Amendment No.: 94.

Provisional Operating License No. DPR–21.

Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: September 21, 1983 (48 FR 43140). The Commission's related evaluation of this action is contained in its Safety Evalaution dated December 19, 1983. No public or State comments were received with respect to the Commission's proposed determination that the requested action would involve no significant hazards consideration.

Local Public Document Room location: Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut 06385.

Northeast Nuclear Energy Company, et al., Docket No. 50–336, Millstone Nuclear Power Station Unit No. 2, Town of Waterford, Connecticut

Date of application for amendment: June 3, 1983 as supplemented August 18 and November 17, 1983.

Brief description of amendment: The amendment changed the Technical Specifications to allow repair of degraded steam generator tubes by installing metal sleeves in addition to the current repair method of plugging.

Date of issuance: December 30, 1983.

Effective date: December 30, 1983.

Amendment No.: 89.

Facility Operating License No. DPR–65. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 28, 1983, 48 FR 34372.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 30, 1983.

No significant hazards consideration comments received: No.

Local Public Document Room location: Waterford Public Library, Rope Ferry Road, Waterford, Connecticut.

Northeast Nuclear Energy Company, et al., Docket No. 50–336, Millstone Nuclear Power Station Unit No. 2, Town of Waterford, Connecticut

Date of application for amendment: April 13, 1983.

Brief description of amendment: This amendment modified Technical Specifications necessary for plant operation in Cycle 6, including: (1) Reduced Reactor Coolant Flow Rate; (2) Reduced CEA Drop Time; (3) New Axial Shape Index Tent; (4) Revised Total Planar Peaking Factor Curve; (5) Revised Total Radial Peaking Factor Curve; and (6) Revised Auxiliary Feedwater Pump Surveillance Requirements.

Date of issuance: December 30, 1983.

Effective date: December 30, 1983.

Amendment No.: 90.

Facility Operating License No. DPR–65. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 20, 1983 (48 FR 33078 at 33083).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 30, 1983.

No significant hazards consideration comments received: No.

Local Public Document Room location: Waterford Public Library, Rope Ferry Road, Waterford, Connecticut.

Northern States Power Company, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: September 24, 1982.

Brief description of amendment: The revision to the Technical Specifications provides for an expanded Radiation Protection Program and limits the extent of required Operations Committee review of radiation protection procedures.

Date of issuance: December 30, 1983.

Effective date: December 30, 1983.

Amendment No.: 19.

Facility Operating License No. DPR–22.

Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: October 31, 1983, 48 FR 50180.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 30, 1983.

No significant hazards consideration comments received: No.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Northern States Power Company, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: September 30, 1982, as supplemented November 4, 1983.

Brief description of amendment: The revisions to the Technical Specifications allow the Source Range Monitor minimum count rate to fall below three counts per second during full core discharge and subsequent reloading.

Date of issuance: January 16, 1984.

Effective date: January 16, 1984.

Amendment No.: 20.

Facility Operating License No. DPR–22.

Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 13, 1983, 48 FR 55526.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 16, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Northern States Power Company, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, Goodhue County, Minnesota

Date of application for amendment: June 24, 1983.

Brief description of amendment: The amendments changed the exposure dependence function Bu(z) to 1.0 for all values of peak pellet exposure from 0 to 55 GWD/MTU. These amendments complete all items that were requested by letter dated June 24, 1983.

Date of issuance: December 28, 1983.

Effective date: December 28, 1983.

Amendment Nos.: 67 and 61.

Facility Operating License Nos. DPR–42 and DPR–60. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 3, 1983, 48 FR 50807.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 28, 1983.

No significant hazards consideration comments received: No.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Pacific Gas and Electric Company, Docket No. 50–275, Diablo Canyon Nuclear Power Plant, Unit 1, San Luis Obispo, California

Date of amendment request: December 29, 1982, May 2, and 23, and June 23, 1983.

Brief description of amendment: The changes allow installation of two new inverters and their associated busses to increase the capacity of the class IE instrument AC system; allow modification to the containment isolation system; require an additional firewater pump and modify the Halon system initiator replacement program; and change the time requirement for containment spray initiation.

Date of issuance: November 10, 1983.

Effective date: November 10, 1983.

Amendment No.: 7.

Facility Operating License No. DPR–76: Amendment revised the Technical Specification.

Date of initial notices in **Federal Register:** July 22, 1983, 48 FR 33574; August 18, 1983, 48 FR 37551; August 31, 1983, 48 FR 39538; and August 18, 1983, 48 FR 37553. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 10, 1983. No significnat hazards considered comments received.

Local Public Document Room location: California Polytechnic State University Library, Documents and Maps Department, San Luis Obispo, California 93407.

Pennsylvania Power and Light Company, Docket No. 50–387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of application for amendment: August 15, 1983.

Brief description of amendment: This amendment clarifies that the monthly requirement for grab samples for Gaseous Release Type "B" in Technical Specification Table 4.11.2.1.2–1 does not require grab samples for particulates and iodines. The amendment also adds fire hose stations above elevation 749'1" to Technical Specification Table 3.7.6.5–1 to ensure a proper level of surveillance on equipment that protects safety-related equipment.

Date of issuance: December 12, 1983.

Effective date: December 12, 1983.

Amendment No.: 20.

Facility Operating License No. NPF–14: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 26, 1983 (49593).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 12, 1983.

No significant hazards considered comments received: No.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Portland General Electric Company, et al. Docket No. 50–344, Trojan Nuclear Plant, Columbia County, Oregon.

Date of application for amendment: October 4, 1983.

Brief description of amendment: The amendment made several changes to the off-site and on-site organization charts in the Trojan Technical Specifications.

Date of issuance: December 27, 1983.

Effective date: December 27, 1983.

Amendment No.: 86.

Facility Operating License No. NPF–1 Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 21, 1983 (48 FR 52659).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 27, 1983.

No significant hazards consideration comments received: No comments received.

Location of Local Public Document Room: Multnomah County Library, 801 S.W. 10th Avenue, Portland, Oregon.

Power Authority of the State of New York, Docket No. 50–286, Indian Point Nuclear Generating Plant, Unit No. 3, Westchester, New York

Date of application for amendment: January 13, 1983, as supplemented December 14, 1983.

Brief description of amendment: The amendment approves plant operation with a maximum of 24% tubes plugged in each steam generator.

Date of issuance: January 13, 1984

Effective date: January 13, 1984.

Amendment No.: 48.

Facility Operating License No. DPR–64. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 21, 1983 (48 FR 43142).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 13, 1984.

Significant hazards consideration comments received: No.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Public Service Company of Colorado, Docket No. 50–267, Fort St. Brain Nuclear Generating Station, Platteville, Colorado.

Date of application for amendment: September 28, 1983.

Brief description of amendment: The amendment revised Technical

Specification SR 5.2.6 by changing the removal schedule for plateout probe assemblies from the third and fifth refuelings to the fourth and sixth. The plateout probe assemblies provide a measurement of radioactive contaminants circulating in the primary coolant which adhere (plateout) on internal surfaces.

Date of Issuance: January 3, 1984
Effective Date: January 3, 1984.
Amendment Number: 38.
Facility Operating License No.: DPR-[illegible]4.

Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 22, 1983; 48 FR 52821.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 3, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Greeley Public Library, City Complex Building, Greeley, Colorado

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Fairfield County, South Carolina.

Date of application for amendment: October 8, 1983.

Brief description of amendment: The amendment corrects administrative errors in the Technical Specifications involving typographical errors and incorrect plotting of the rod bow penalty curve data.

Date of Issuance: December 23, 1983.
Effective Date: December 23, 1983.
Amendment No: 19.
Facility Operating License No. NFP-12. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 21, 1983 (48 FR 43145).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 23, 1983.

No significant hazards consideration comments received: No.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29218.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Fairfield County, South Carolina.

Date of application for amendment: July 22, 1983.

Brief description of amendment: The amendment changes the Technical Specifications pertaining to the Condensate Demineralizer Backwash Effluent Line and the Processed Steam Generator Blowdown Effluent Line.

Date of issuance: January 5, 1984.
Effective date: January 5, 1984.
Amendment No.: 20.
Facility Operating License No. NPF-12. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 26, 1983 (48 FR 49596).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 5, 1984.

No significant hazards consideration comments received: No.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29218.

Tennessee Valley Authority, Docket No. 50-259, Browns Ferry Nuclear Plant, Unit 1, Limestone County, Alabama.

Date of application for amendment: July 13, 1983, as supplemented October 20, 1983 and November 17, 1983.

Brief description of amendment: The amendment revises the Technical Specifications to reflect the modification which added analog transmitter trip units in place of the mechanical-type switches originally used in the reactor protection system (RPS). Other requests in the July 13, 1983 application are being handled by separate amendments and evaluations.

Date of Issuance: December 16, 1983
Effective Date: December 16, 1983.
Amendment No.: 93.
Facility Operating License No. DPR-33.

Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 26, 1983, 48 FR 49947. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 16, 1983.

No significant hazards consideration comments received: No.

Local Public Document Room location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units Nos. 1, 2 and 3, Limestone County, Alabama.

Date of application for amendment: March 25, 1983.

Brief description of amendment: The amendment change the Technical Specifications to add more stringent requirements to Section 3.6.C on allowable primary coolant leakage into the drywell.

Date of Issuance: December 27, 1983.
Effective Date: December 27, 1983.
Amendment Nos.: 94, 87 and 60.
Facility Operating License Nos. DPR-33, DPR-52 and DPR-68. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 31, 1983, 48 FR 50182.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 27, 1983.

No significant hazards consideration comments received: No.

Local Public Document Room Location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

The Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: July 10, 1981 (Item 6).

Brief description of amendment: The amendment modifies Technical Specification 3.7.10, "Fire Barrier Penetrations", to be consistent with the current Standard Technical Specifications for Babcock and Wilcox plants. The amendment also modifies Specification 6.9.2 to reflect the additional reporting requirements of Specification 3.7.10.

Date of issuance: January 12, 1984.
Effective date: January 12, 1984.
Amendment No.: 65.
Facility Operating License No. NPF-3 Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 12, 1983, 48 FR 55357.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendments: December 15, 1982.

Brief description of amendments: Revised Technical Specification reporting requirements to include an additional requirement to report all challenges to pressurizer power

operated relief valves and safety valves in the annual report.

Date of issuance: December 28, 1983.

Effective date: 20 days from the date of issuance.

Amendment Nos.: 79 and 84.

Facility Operating License Nos. DPR-24 and DPR-27. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 20, 1983, 48 FR 33076 at 33093.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 28, 1983.

No significant hazards consideration comments received: No.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

Wisconsin Electric Power Company, Docket Nos. 50-266 and 50-301, Point Beach Nuclear Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendment: June 30, 1982.

Brief description of amendment: Added as part of the surveillance testing requirements a test of the automatic actuation logic circuitry for the auxiliary feedwater pumps on a monthly basis.

Date of issuance: December 29, 1983

Effective date: December 29, 1983.

Amendment Nos.: 80 and 85.

Facility Operating License Nos. DPR-24 and DPR-27. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 20, 1983 (48 FR 33076 at 33093).

The Commission's related evaluation of the amendments is contained in a letter dated December 29, 1983 and Safety Evaluation dated May 3, 1982.

No significant hazards consideration comments received: No.

Local Public Document Room location: Joseph P. Mann Public Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

Wisconsin Electric Power Company, Docket No. 50-266, Point Beach Nuclear Plant, Unit No. 1, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendment: July 5, 1983.

Brief description of amendment: Authorized operation of Point Beach Unit 1 at either 2000 or 2250 psia reactor coolant system pressure upon return to power from the steam generator replacement outage.

Date of issuance: December 30, 1983

Effective date: 20 days from the date of issuance.

Amendment No.: 81.

Facility Operating License No. DPR-24. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 23, 1983, (48 FR 38382) at 38431.

The Commission's related evaluation of the amendment is contained in a letter dated December 30, 1983.

No significant hazards consideration comments received: No.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of application for amendment: April 29, 1983, as supplemented June 24, and November 29, 1983.

Brief description of amendment: The amendment consists of changes to the Technical Specifications which are administrative in nature; clerical, changes to the rod misalignment limits and turbine overspeed protection system. The proposed change regarding the time constraint for the determination of the core peaking factors is not included in this amendment since the staff did not have adequate information to properly make a determination of this issue.

Date of issuance: December 28, 1983

Effective date: December 28, 1983.

Amendment No.: 51.

Facility Operating License No. DPR-43: Amendment revised the Technical Specification.

Date of initial notice in **Federal Register:** October 26, 1983 (48 FR 49598).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 28, 1983.

Local Public Document Room location: Kewaunee Public Library, 822 Juneau Street, Kawaunee, Wisconsin 54216.

Yankee Atomic Electric Company, Docket No. 50-[illegible], Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of application for amendment: October 3, 1977.

Brief description of amendment: The Technical Specification changes approved for the inservice inspection program reflect provisions which are consistent with the requirements of the Edition and Addenda of Section XI of the ASME Code, as specified in 10 CFR 50.55a(g).

Date of issuance: January 3, 1984

Effective date: January 3, 1984.

Amendment No.: 81.

Facility Operating License No. DPR-3. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 20, 1983 (48 FR 33096).

No comments received and no request for hearing received.

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301.

NOTICE OF ISSUANCE OF AMENDMENT TO OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the 30-day period since publication of the last monthly notice the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing. For exigent circumstances, a press release seeking public comment as to the proposed no significant hazards consideration determination was used, and the State was consulted by telephone. In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant, a shorter public comment period (less than 30 days) has been offered and the State consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of

the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless indicated otherwise, the Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment. If the Commission has prepared an Environmental Impact Appraisal related to the action, it is so indicated. If indicated, this notice constitutes a negative declaration and indicates that the Commission has concluded that an environmental impact statement is not warranted because there will be no environmental impact attributable to the action beyond that which has been predicted and described in the Commission's Final Environmental Statement for the facility.

For further details with respect to the action see: (1) The application for amendment, (2) the amendment to Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Impact Appraisal, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By February 27, 1984, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave no intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to *(Branch Chief):* petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

Carolina Power & Light Company, Docket No. 50–324, Brunswick Steam Electric Plant, Unit 2, Brunswick County, North Carolina

Date of application for amendment: December 7, 1983, as supplemented by letters dated December 16 and 20, 1983.

Brief description of amendment: The amendment revises the Technical Specifications of the operating license regarding a surveillance test requirement for the station electrical power systems for Brunswick Unit 2. The current Technical Specification in Section 4.8.2.3.2 paragraph d.2.a (battery 2A–2) requires a test of the station electrical batteries at least once per 18 months to demonstrate the ability of

battery 2A–2 to produce an electrical current (amperage) of 1211.90 amperes during the first 60 seconds of the test while maintaining a battery terminal voltage of at least 105 volts. The licensee requested that the amperage required by this test be reduced to 1074.9 amperes based on a reexamination of the amperage necessary to adequately supply power to safety-related equipment under emergency operating conditions.

The licensee has also requested the proposed Technical Specification be issued immediately to permit startup of the Brunswick Unit 2 facility. This unit has been shut down for the inspection of piping and the performance of surveillance tests. Nearly all work except for the battery test has been completed and the licensee has made every reasonable attempt to meet the requirement for battery testing.

The amendment was issued under the emergency circumstances provision since failure to act expeditiously on these changes would result in extending the shutdown of Brunswick Unit 2. Without the change proposed by the licensee, the battery surveillance test requirement cannot be met, the battery must be declared inoperable and the facility may not be started up. The licensee applied for the amendment in a timely fashion, as soon as the need for correction was identified.

Date of issuance: December 31, 1983.
Effective date: December 31, 1983.
Amendment No.: 90.
Facility Operating License No. DPR–62.

Amendment revised the Technical Specifications.

Public comments requested as to no significant hazards consideration: No.

The Commission's related evaluation is contained in a Safety Evaluation dated December 31, 1983.

Attorney for licensee: George F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Pennsylvania Power and Light Company, Docket No. 50–387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of application for amendment: October 20, 1983, as modified by licensee letter dated November 7, 1983.

Brief description of amendment: This amendment changes Technical Specification Table 4.8.1.1.2–2 to modify the start time sequence of two Emergency Service Water (ESW) pumps from 53 and 57 seconds to 44 and 48 seconds, respectively, to support two unit operation and prevent the potential concurrent starts of the Residual Heat Removal or Core Spray pumps with the ESW pumps. The amendment was issued under the exigent circumstances provision of the Commission's regulations since failure to act in a timely manner would result in delaying the startup of Unit 1 following the tie-in outage for Unit 2, and delaying the fuel load of Unit 2. The licensee applied for the amendment in a timely fashion, having identified the exigent nature of the need for the Technical Specification change during the week of October 31, 1983, followed by a formal request on November 7, 1983, to process the amendment request in accordance with 10 CFR 50.91(a)(6) (exigency basis).

Date of issuance: December 12, 1983.
Effective date: December 12, 1983.
Amendment No.: 19.
Facility Operating License No.: NPF–14 Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: Yes, press release and Federal Register Notice, November 16, 1983 (48 FR 52143).

One comment was received from a member of the public.

The Commission's related evaulation is contained in a Safety Evaulation dated December 12, 1983.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Dated at Bethesda, Maryland this 18th day of January 1984.

For the Nuclear Regulatory Commission
James R. Miller,
Chief, Operating Reactors Branch No. 3, Division of Licensing.

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49 CFR Parts 233, 235, and 236

Signal and Train Control; Miscellaneous Amendments; Final Rule

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Parts 233, 235, and 236

[Docket No. RSSI-78-5, Notice No. 9]

Signal and Train Control; Miscellaneous Amendments

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Final rule.

SUMMARY: This document amends and clarifies FRA's signal and train control rules and regulations; codifies Interstate Commerce Commission Order 29543 (Order 29543); eliminates certain rules that address obsolete equipment; revises certain rules to make them applicable to the latest technological advances; and reduces the burdens imposed by certain testing and recordkeeping requirements. This action is taken by FRA in an effort to improve its safety regulatory program and to eliminate unnecessary and burdensome regulations.

EFFECTIVE DATE: This regulation will become effective February 27, 1984.

FOR FURTHER INFORMATION CONTACT:

Principal Program Person: S. H. Stotts, Jr., Office of Safety, RRS-11, Federal Railroad Administration, Washington, D.C. 20590. Phone 202-472-4094.

Principal Attorney: Lawrence I. Wagner, Office of Chief Counsel, RCC-30, Federal Railroad Administration, Washington, D.C. 20590. Phone 202-426-8836.

SUPPLEMENTARY INFORMATION:

I. Background

On March 21, 1983, FRA published a notice of proposed rulemaking (NPRM) in the **Federal Register** (48 FR 11882-11907) to revise Parts 233, 235, and 236 of Title 49, Code of Federal Regulations. The NPRM also proposed to codify Order 29543 into Part 236. The specific objectives of the proposed changes were to clarify the existing rules, eliminate rules no longer relevant to railroad safety, modify the rules to recognize the latest technology in signaling, and to eliminate unnecessary and burdensome requirements.

As announced in the NPRM, FRA held a public hearing on April 19, 1983. At the hearing FRA received testimony from the Association of American Railroads (AAR), the Brotherhood of Railroad Signalmen (BRS), and the New York State Department of Transportation (NYDOT). Written comments were subsequently received from the AAR, the National Transportation Safety Board (NTSB), The Long Island Railroad Company (LIRR), and one railroad consulting firm. All testimony and comments have been reviewed and fully considered by FRA during the formulation of the final rules set forth in this document.

The representatives of the AAR and the BRS expressed support for the proposed changes. The NTSB and NYDOT responded with a mixture of support and opposition to particular aspects of the proposal. The railroad consulting firm strongly supported a national standard for cab signal and train control systems. The LIRR opposed certain proposed revisions.

The specific comments furnished by the commenters on particular proposed changes to individual sections of the regulations are reflected in the summary of the comments received from all commenters. This summary, which also includes FRA's response to the comments, and the basis for any change to regulatory language has been organized in a section-by-section format. With one exception only those sections on which comments were received are addressed in the section-by-section analysis. All other sections are being adopted as proposed without further analysis since they were discussed extensively in the NPRM.

II. Section-by-Section Analysis

The following paragraphs discuss major points raised by the commenters. In addition, FRA has made editorial changes to some sections of the regulation without specific explanation. However, one editorial change does warrant discussion.

In § 233.3, 235.3, and 236.0, FRA proposed to use the current language, i.e., "this Part applies to each common carrier subject to the Signal Inspection Act." Upon further reflection, FRA had concluded that a more accurate applicability provision would focus on railroads that operate on standard gage track that is part of the general railroad system of transportation.

Authority for issuance of this regulation is found in both the Federal Railroad Safety Act of 1970 (Safety Act), which vests FRA with jurisdiction over "railroads", and the Signal Inspection Act, which vests FRA with jurisdiction over "common carriers by railroad." As used in the Safety Act "railroad" is the broader term and includes all entities that are "common carriers by railroad"; therefore, FRA has reworded these sections to state that the regulation applies to all railroads. Since the Safety Act does not vest FRA with authority over rail rapid transit systems unless they operate over a part of the general system, the reworded section contains appropriate exclusionary language.

A. Part 233—Signal System Reporting Requirements

Section 233.1—Scope.—FRA proposed to revise this section to clearly identify those methods, appliances, and systems that are subject to the reporting requirements contained in this Part. One commenter objected because the requirements of this Part do not include rail/highway grade crossing warning devices. It was the commenter's view that railroad companies should be required to report failures of rail/highway grade crossing warning devices to function as intended because intrusion of highway motor vehicles upon railroad rights-of-way often results in train damage and/or crew death or injury.

Rail/highway grade crossing warning devices are not within the scope of the NPRM, which focused not on grade crossings but on block signal systems, interlockings, automatic train stop, train control, and/or cab signal devices, and/or other similar appliances, methods, and systems used for the safe operation of trains. Therefore, there is no procedural basis for including rail/highway grade crossing warning devices in this proceeding and the rule is adopted as proposed. Although this issue is beyond the scope of the notice in this proceeding, it may become an appropriate topic for future rulemaking.

Section 233.7—Signal failure reports. FRA proposed to extend from 5 days to 15 days the time allowed for a carrier to report the occurrence of a false proceed signal failure. In addition, FRA proposed to eliminate the requirement for a negative report for the months in which no such failure occurs.

One commenter opposed the proposed changes stating that all false proceed signal failures should be reported within 24 hours, the same time frame as required for those that result in accidents. In addition, the commenter opposed elimination of the negative report because it provides FRA with a good means to monitor the effectiveness of the reporting system.

Another commenter supported the proposed changes stating the additional time would eliminate the necessity for follow-up reports. In supporting the proposed elimination of the negative report, the commenter stated that there is no need to memorialize in writing the absence of an event.

FRA provided its rationale for changing the reporting requirements of this section in the preamble to the proposed rule (48 FR 11883). None of the

commenters refuted that rationale. Consequently, FRA has adopted the proposed reporting requirements without change.

A commenter questioned whether a substantive change was intended by the proposed change to this rule requiring the reporting of a failure of an appliance, device, method or system to "function or indicate as required by Part 236" instead of "indicate or function as intended." This change is an editorial one made for purposes of clarity. The requirements set forth in Part 236 establish the proper functioning of signal and train control (S&TC) systems. The failure of an appliance, device, method, or system to function or indicate as required by Part 236, which results in a more favorable aspect than intended or other condition hazardous to the movement of a train, constitutes a false proceed signal indication and must be reported to FRA. Similar language has been added to the final rule and to section 233.5 in order to clarify this intent. This change should resolve this interpretive problem.

B. Part 235—Instructions Governing Applications for Approval of a Discontinuance or Material Modification of a Signal System

Section 235.7—Changes not requiring filing of application. FRA proposed a major revision to Part 235 to, among other things, clarify the meaning of a material modification, a discontinuance, a catastrophic occurrence, and a track change. To accomplish this purpose and based on information acquired through the experience of investigating applications for changes in S&TC systems, an extensive list of changes was developed that FRA believes should not require prior approval to implement.

One commenter supported the proposed changes stating they will benefit both the industry and Federal Government by permitting the industry to proceed in a timely fashion on projects that would otherwise be delayed by the application process.

One commenter correctly pointed out that in the preamble to the proposed changes FRA did not address the proposal to permit electric or mechanical locks to be removed from hand-operated switches in automatic block signal systems (ABS) without FRA approval. The commenter is of the opinion that removal of electric or mechanical locks in ABS systems or traffic control systems (TCS) should be permitted only on a case-by-case basis. Further, it was felt that locks should be retained or installed on all switches in areas where there is a high incidence of vandalism or where high-speed passenger or commuter trains are operated. It was alleged that electric or mechanical locks on hand-operated switches would have prevented two recent serious accidents.

The purpose of electric or mechanical locks is not to secure hand-operated switches in proper position against vandalism but to preclude unauthorized intrusions of trains into ABS or TCS territory. One of the two accidents alluded to was the result of human error, the other the result of vandalism. There is no assurance a lock would have deterred the vandalism.

FRA's intent is to treat the removal of an electric or mechanical lock the same regardless of whether the hand-operated switch on which it is installed is in ABS or in TCS. This revision should clarify the procedures required for removal of such locks in ABS or TCS territory without decreasing the safety of train operation. Consequently, FRA has rejected the suggestion that electric or mechanical locks be considered as requisite devices for high speed train operation or to deter vandalism and has adopted the section as proposed.

C. Part 236—Installation, Inspection, Maintenance, and Repair of Systems, Devices, and Appliances

This Part has been informally referred to as the "Rules, Standards, and Instructions" (RS&I) since its original issuance in 1939. For clarity FRA is adding those words and is identifying the systems, devices, and appliances covered as those of the S&TC type. This Part is now recaptioned as "Rules, Standards, and Instructions Governing the Installation, Inspection, Maintenance, and Repair of Signal and Train Control Systems, Devices, and Appliances."

Section 236.0—Applicability of this Part. FRA proposed to move the provisions for relief from this section to Part 235 and to codify Order 29543 in this section thus identifying criteria used to require the installation of S&TC systems. These criteria establish certain speeds at or above which trains may not be operated without a manual block system or S&TC systems prescribed by this part.

One commenter recommended that a national standard be adopted requiring cab signaling and automatic speed control (automatic train control (ATC)) where one passenger train per track per hour is scheduled during major portions of the day, or four passenger trains per hour are operated during peak (rush) hours. That commenter stated that automatic cab signals (ACS) alone or ACS with automatic train stop (ATS) was insufficient to afford proper accident protection or minimization.

During the public hearing a commenter objected to the provision that requires ACS, ATS, or ATC devices where trains operate at a speed of 80 or more miles per hour. The commenter recommended that the requirements be based on the braking capabilities of various types of equipment and trains which would permit certain trains to operate at a speed exceeding 80 miles per hour without ACS, ATS, or ATC.

In rebuttal, another commenter stated that he was unalterably opposed to raising the speed criteria and that, if any changes are to be made, the speeds should be lowered. The commenter supported codification of the requirements into this section without change in its content or meaning.

The purpose of an ACS system is to provide continuous information to engineers about block conditions rather than their receiving such information intermittently at wayside signal locations. The ACS system functions to keep engine crew members not only informed but also alert. When the cab signal changes to a more restrictive aspect, an audible indicator is sounded in the cab until a crew member operates a button or lever to silence it. Where ATS or ATC is also used, the device will function to stop the train or reduce its speed to the prescribed rate if the crew member fails to acknowledge and/or obey the more restrictive indication within the prescribed time. These systems have long been recognized as necessary to assure safe operation of trains at high speeds.

The speed provisions contained in Order 29543 have remained unchanged since being issued in 1947. Different speeds, both higher and lower, were suggested at the time the order was being considered. During the interim years, there have been recommendations both to raise and to lower the speeds. For nearly 35 years no compelling arguments have been presented that support either change.

FRA finds that no new or significant facts have been presented here that support a change of speeds at or above which ACS, ATS or ATC systems must be installed. It has been FRA's experience that the current criteria are appropriate for the safety of train operation. Therefore, this section has been adopted as proposed.

In adopting the provisions of Order 29543 in the final rule, FRA has reworded and recaptioned § 236.0 to more clearly specify the requirements contained in the order. Although reworded and restructured, section 236.0

contains the same intent and provisions expressed in the NPRM and Order 29543.

Section 236.6—Hand-operated switch equipped with switch circuit controller. Although FRA did not propose any change to § 236.6, one commenter recommended that the section be revised to clearly require that a switch circuit controller on a hand-operated switch be connected to the normally closed switch point, and to extend the requirements of this section to switch points operated by a switch-and-lock movement.

FRA has in the past and will continue to require each switch circuit controller to be connected to the switch point over which train movements are governed by signal indications. In addition, the provisions of section 236.6 apply to facing-point locks which are hand-operated switch-and-lock movements. Power-operated and mechanically-operated switch-and-lock movements are subject to the provisions contained in Subpart C of this chapter. This information should allay the interpretive concerns of the commenter. The commenter correctly pointed out that section 236.6 is not addressed in this rulemaking proceeding, and the recommendations are rejected accordingly.

Section 236.11—Adjustment, repair, or replacement of component. FRA proposed to change this section to provide a clearer understanding of the action required where a signal malfunction occurs. The proposed changes will require carriers to investigate and determine the cause of each signal aspect that is not in accordance with known operating conditions.

One commenter stated that the term "undue delay" is used in a very specific way and recommended defining it in a footnote or in the definitions subpart of this Part (49 CFR Part 236, Subpart G) to ensure the railroads' understanding of it.

As detailed at length in the preamble of the NPRM (48 FR 11885), the phrase "without undue delay" was defined when it was adopted. Nothing proposed here changes that definition. The significant change proposed here is the requirement to determine the cause of each improper signal aspect. This is a novel requirement and one FRA believes will result in corrective action of defective conditions more promptly than in the past. Consequently, FRA has adopted the section as proposed.

Section 236.23—Aspects and indications. FRA proposed to revise this section to more clearly prohibit the use of reflective devices in lieu of lights for night aspects, permit the use of illuminated numbers in cab signals, and combine the requirements of § 236.25 as paragraph (f) of this section.

The only comment regarding this section recommended that the term "qualifying appurtenance" be defined to explain how these appurtenances may be identified.

This section requires that all aspects be shown by position of semaphore blades, color of lights, position of lights, flashing of lights, or any combination thereof. The second sentence of paragraph (a) clearly identifies what qualifying appurtenances may be used in conjunction with those aspects. Since the qualifying appurtenances set forth are well recognized in the industry, FRA does not believe there is a need to further define them. Accordingly, this section has been adopted as proposed.

Section 236.57—Shunt and fouling wires. FRA proposed to revise this section to prohibit future use of shunt and fouling wires having duplex conductors fastened to a single plug for connecting to the rail. This change would require shunt and fouling wires to be two individual conductors, each fastened to an individual plug for connecting to the rail. Therefore, if one plug of a shunt or fouling wire is broken, the other shunt or fouling wire will still remain intact and capable of providing the intended protection.

One commenter recommended other language to clarify the intent of proposed paragraph (a) and to clarify in paragraph (b) whether the switch shunting circuit selected through a switch circuit controller is exempt or whether the exemption addresses a series type circuit arrangement whereby the circuit controller opens the track circuit. The commenter also recommended that exemption of existing installations be limited to a finite time or event, such as, when existing duplex type shunt and fouling wires are replaced.

FRA believes the proposed language of paragraph (a) clearly requires that separate conductors will be required in future installations. The phrase "two discrete conductors" was purposely inserted in the proposed language to clarify that two separate and distinct conductors will be required throughout the shunt or fouling circuit.

When it becomes effective, the rule will prohibit the installation of only one duplex shunt or fouling wire with single plug at new or existing installations. However, existing installations of duplex shunt or fouling wires with single plugs may continue in service until there is a need to replace them.

The proposed exemption of paragraph (b) would permit the use of a single shunt wire where track or control circuit is selected through the switch circuit controller. In adopting the final rule, FRA has decided to reword paragraph (b) to more clearly indicate this meaning. This change and the clarification provided above should resolve the interpretive problem noted by the commenter.

Section 236.60—Shunting of track circuits. FRA proposed this new section to restrict the use of switch shunting circuits that are used to protect switches and other protective devices, such as slide fences. One commenter believes that the railroads should not be allowed to continue to use those shunt type circuits for an indefinite time as allowed by the "grandfather clause" in the proposed section, but that some limiting period or event should trigger their removal or replacement.

As indicated in the preamble to the NPRM, the requirement that existing installations be brought into compliance would impose a very severe economic burden on the industry. FRA believes such an imposition would not be realistic at this time. FRA intends to monitor this particular area of signaling closely to assure that proper maintenance of switch shunting circuits will render them capable of performing as intended. Based on this information and the carriers' new standards and practices that will ultimately indicate trends in their ability to achieve compliance, FRA will address this issue in future rulemaking proceedings. Accordingly, FRA rejects the commenter's suggestion to eliminate the "grandfather clause" at this time. However, in order to more accurately describe the intent of this section, the final rule is recaptioned to read, "Switch shunting circuit; use restricted."

Section 236.101—Purpose of inspection and tests; removal from service of relay or device failing to meet test requirements. FRA proposed to revise this section primarily to recognize the state of the art in signaling, namely, solid state devices. One commenter stated that the proposed language, "the limits within which such a device or relay is intended to operate," is not necessarily synonymous with either safe operation or safe tolerances. The commenter recommended that the rule state precisely that it is the limits of either safe operation or safe tolerances which is intended.

This section has in the past applied, and will continue to apply, only to those devices that affect the safety of train operation. It is clearly understood and accepted throughout the industry that all such signal devices and apparatus must

be so designed that the limits of their operating characteristics provide adequate safety margins. Therefore, the rule has been adopted as proposed.

Section 236.103—Switch circuit controller/point detector. FRA proposed revision of this section to require point detectors on power-operated switches to be inspected and tested as frequently as switch circuit controllers. One commenter stated that if the proposal is read alone and out of context without reference to the NPRM, it could be wrongly construed to apply only to those switch circuit controllers, point detectors, or circuit controllers that are operated by switch-and-lock movements.

In adopting the final rule, FRA decided to change the language of the rule so that it clearly identifies all of the intended apparatus to be tested at least once every three months. This change should resolve the interpretive problem expressed by the commenter.

Section 236.106—Relays. FRA proposed to revise this rule to (1) require more frequent tests of certain relays with a high failure rate that is detrimental to safety of train operation; (2) require continued testing at two-year intervals of certain relays with known, less serious problems; and (3) to permit all other relays to be tested at four-year intervals. While agreeing that some relays which might affect the safety of train operation have proven to be rugged and reliable, one commenter stated that FRA should identify in a distinct manner those non-vital relays or relays which have no record of significant failures that are to be exempt from test requirements.

So called non-vital relays have never been within the scope of this section. The rule addresses only vital relays, i.e., relays the functioning of which affects the safety of train operation. In its proposal FRA identified in technical terms those specific relays to be tested at the various intervals. By doing so, it is not necessary to identify various relays built by several manufacturers that would require testing at those intervals. Accordingly, the rule has been adopted as proposed.

Section 236.406—Indication of track circuit occupancy at controlled points, and *Section 236.409—Control machine; indication of switch operation.* FRA proposed to delete these two sections because it is generally recognized they do not address safety related issues in the new computer aided type systems. One commenter stated that indicators of track occupancy and/or switch operation are very important to control operators and these requirements should be retained for the older machines.

FRA agrees that such indications are useful in the older machines that are currently in operation. However, FRA believes the cost to remove those indication features from the older machines and the fact that those indications are necessary to efficiently operate the machines will preclude the railroads from making such changes. Consequently, these sections have been deleted as proposed.

Section 236.410—Locking, hand-operated switch; requirements. FRA proposed to amend this section by permitting the use of a signal in lieu of a mechanical or electric lock, at the option of the railroad, and by deleting the footnote which provided for removal of such locks under certain conditions. The provisions of the footnote would be revised and placed in § 235.7 of this title.

One commenter noted that FRA's interpretation, that all signaled track constitutes main track for the purpose of these requirements, will necessitate the installation of electric or mechanical locks on signaled sidings which individual railroads had previously considered exempt from such a requirement because the carrier considered them to be auxiliary tracks. The commenter did not take issue with FRA's interpretation, but requested that FRA "grandfather" those existing hand-operated switches in order to avoid the cost burden of a retrofit program. The commenter stated that the railroads could identify the locations of the nonequipped switches to assist FRA in monitoring them. Another commenter supported this position and noted FRA had acted in a similar fashion by exempting nonequipped switches installed prior to 1950.

Another commenter opposed the concept of "grandfathering" any switches and recommended that any previous exemptions have finite time frames. That commenter also suggested that the provisions of this section be extended and made applicable to ABS systems.

In adopting the final rule FRA has decided to change this section to respond to the points raised by the commenters. The commenter is correct that FRA considers all signaled track to be main track for the purposes of this section. Since the method of operation in TCS territory is by signal indication, electric or mechanical locks serve to maintain the integrity of that method of operation by prohibiting unauthorized occupancy of signaled or main track. In most instances, the ability to operate a lock constitutes authority for a train to proceed from auxiliary to main track. Therefore, the lock serves a purpose similar to a signal in that it prevents operation of the switch until it is safe to do so.

The safety goals which can be achieved through the use of such a locking device can also be achieved through other means. Two of these, slow speed and prohibiting the clearing of main track, have been contained in this section for many years. FRA proposed to add a third, the use of a signal to govern the movement, when it issued this NPRM. On further review, FRA has determined that a slightly revised approach to the slow speed concept will provide a fourth way to achieve the desired level of safety. By adding this new provision, FRA will permit use of nonequipped switches on signaled sidings that do not have intermediate signals if train speeds do not exceed 30 miles per hour. Trains entering such sidings are generally decelerating, are easier to control from a train handling perspective, and are prepared to stop on the siding for meeting or passing another train.

Because they will have occupied the switch points of the nonequipped switches, trains leaving such sidings will be permitted to accelerate up to 30 miles per hour. Thus, this increased speed over hand-operated switches of such sidings is not a significant decrease in safety. Sidings having intermediate signals or intermediate controlled points will continue to be considered main tracks that require hand-operated switches to be locked either electrically or mechanically where trains are permitted to clear the signaled track and train speeds exceed 20 miles per hour

In view of this safety rationale FRA has decided that long-term retention of the "grandfather" concept for pre-1950 installations or extension of that concept as suggested by some commenters is not warranted. Consequently, FRA had added a footnote to this section that requires existing switches to be brought into compliance over a three-year period. FRA estimates there are approximately 100 switches that were previously "grandfathered" on the basis of pre-1950 installation and roughly 200 switches that were installed on tracks that carriers had denominated auxiliary track. A three-year period either to equip these switches with locks or to modify train operations so as to place them in an exempt category should be sufficient in FRA's judgment.

Although adopting the suggestion to eliminate the "grandfather" concept, FRA has rejected that commenter's other suggestion to extend the requirements of this section to ABS systems. In contrast to the method of

operation in TCS territory, the method of operation in ABS territory is by timetable and train orders in conjunction with the signal system. A train is not permitted to proceed, except by train order, regardless of indication of a signal governing its movement. Experience has shown that the redundancy of timetable, train orders, and block signals is sufficient to ensure the safety of train operation in ABS systems, and the proposal to make this section applicable to ABS systems would impose an immense economic burden on the industry without a significant improvement in safety.

Section 236.504—Operation interconnected with automatic block-signal system. FRA proposed to clarify the provision of this section by stating in more technical terminology how continuous and intermittent inductive ATC and ATS systems must react to wayside systems.

On commenter recommeded that FRA consider "elimination" of the intermittent inductive ATS system since a restrictive wayside signal can be acknowledged but does not enforce a reduction in speed to that prescribed by the restrictive wayside signal.

The commenter is correct in its analysis of the ATS system. However, the system does serve a safety function by ascertaining if the engineer is alert. Failure of the engineer to react properly will cause the ATS system to stop the train. Two major carriers still have a total of 2440 miles of intermittent inductive ATS systems in service over which passenger trains operate at speeds up to 90 miles per hour. The elimination of this type of ATS would constitute a significant reduction in safety. Consequently, the rule has been adopted as proposed.

Section 236.552—Insulation resistance; requirement. FRA proposed to increase the minimum allowable insulation resistance from 250,000 ohms for continuous inductive ATS, ATC, and ACS systems and 20,000 ohms for intermittent inductive ATS systems to one megohm and 250,000 ohms, respectively, at the time the periodic test prescribed in § 236.588 is made. Between periodic tests, the insulation resistance would be permitted to fall not lower than that currently prescribed. As indicated in the NPRM, the environment of the modern locomotive is highly conducive to achieving these higher safety values.

One commenter opposed this change, stating it would be impossible to bring the commenter's multiple-unit cars into compliance. The ATC system provided on that commenter's M–1 multiple-unit cars is powered from a common battery bus. The commenter has 764 such cars semi-permanently coupled in 382 married pairs. According to the commenter, between April 4 and April 19, 1983, periodic tests were performed on 62 pairs of cars, of which 44 pairs needed repairs to meet the existing minimum of 250,000 ohms. Only one pair was found to meet the one megohm standard.

The commenter acknowledged that with an isolated power supply as proposed in § 236.516, the one meghohm standard can be achieved without difficulty. At the present time the commenter is testing a prototype isolated power supply for field reliability. The commenter suggested that installation of an isolated power supply on its equipment would require a five-year overhaul program and that relief from this requirement would be necessary for the duration of the time need to accomplish the overhaul.

FRA is sympathetic to the commenter's dilemma and finds it commendable that the commenter is actively pursuing a resolution to this problem. The concerns of this commenter about achieving effective compliance during a retrofit program lend themselves to resolution via the procedures of § 235.8. Since the commenter's concerns apply to one group of equipment and can be resolved in a separate proceeding, FRA has adopted the provision as proposed.

Section 236.557—Receiver, intermittent inductive; location with respect to rail. The FRA proposed to revise this section by deleting the requirement that carriers file with FRA their specifications for mounting the receivers on locomotives. One commenter noted that use of an onboard test device instead of a wayside device no longer determines that receiver heights of continuous inductive devices are in proper relationship with the rails. Thus, a device successfully tested by onboard equipment may not respond to the wayside equipment in equipped territory because one or both receivers are too far removed from the rails, or a noncoded device having receivers too close to the rails may be coupled to an extraneous signal to produce a false proceed cab signal aspect.

FRA agrees with the commenter's analysis that continuous inductive systems receivers too far removed from the rail will cause the device to display a restrictive aspect. In that event the device would be cut out and the train movement continued under provisions of § 236.587. While considered safe, such failures are undesirable. In coded continuous inductive coded systems, receivers too close to the rails present no hazards because the code rate assures that the coupling to the wayside apparatus is correct. However, as previously stated, noncoded continuous inductive systems with receivers too close to the rails could be improperly coupled to produce a false proceed cab signal.

FRA has taken the commenter's recommendation into consideration and will recaption § 236.557 and revise it to require receivers of continuous inductive ACS, ATS, or ATC devices on locomotives having onboard test equipment to be maintained at proper height above the rails.

Section 236.586—Daily or after trip test. FRA proposed to revise this section to clearly require a daily visual inspection together with a test to determine the locomotive device is properly responsive to wayside equipment. In addition, intermittent inductive non-coded ATS and continuous inductive non-coded ATS or ATC systems must be tested for sensitivity.

One commenter suggested the proposed rule does not clearly establish what tests are required and recommended the rule be restructured for clarity. In adopting the final rule, FRA decided to incorporate the suggestion that the rule be restructured into three paragraphs. FRA made this change to improve the logic of the regulatory text and to avoid any possible confusion about the required tests. This change, which should resolve the potential confusion pointed out by the commenter, has necessitated restructuring proposed paragraph (b) to make the last sentence paragraph (b) of the final rule and the first sentence paragraph (c) of the final rule.

Section 236.587—Departure test. FRA proposed to revise this section to permit the use of onboard test devices as a permissible means to perform departure tests. This and previous changes have made this section difficult to understand. Therefore, the section has been editorially restructured for clarity.

Appendix A—Civil Penalty Policy. FRA is adding a new Appendix A to Part 236 to reflect a policy determination by FRA concerning the amount of civil penalties to be assessed in the event of violation of the provisions of this Part. This policy determination was previously announced on February 23, 1978 (43 FR 7438) when FRA amended Part 209 (49 CFR Part 209) to set forth penalty schedules for those regulations that lacked individual schedules. The restatement of that policy determination as Appendix A to the revised provisions of Part 236 will place all of the relevant

information concerning that regulation in a single part and will aid all parties in understanding the full impact of this regulation.

Appendix A is based on a consideration by FRA of the seriousness of noncompliance by a railroad with one or more of the requirements of the particular sections contained in Part 236.

As stated in the prior amendment to Part 209, the penalty that will be assessed for each ordinary failure to comply with each section or part of a section of Part 236 is $1,000. If the failure to comply is intentional, a penalty of $2,000 will be assessed. For the purposes of this Part, an intentional violation is defined as a violation caused by the knowing and willful failure of the carrier, its officers or agents to comply with a provision of this part. If a violation results in death or injury or involves an immediate hazard of death or serious injury (such as the failure to properly test a new or modified installation which results in the occurrence of a false proceed signal indication), FRA reserves the authority to assess the maximum penalty of $2,500. Each day that a violation continues constitutes a separate offense.

As provided in the Federal Claims Collection Act (31 U.S.C. 951–953) and in section 209 of the Safety Act (45 U.S.C. 438), the FRA will attempt to settle these claims administratively before transmitting them to the United States Attorney. In no case, however, will a claim be compromised for less than $250.

III. Regulatory Impact

This final rule primarily contains clarifying and technical revisions to the existing regulations. In addition, some editorial changes have also been made.

In general, the final rule serves to reduce the economic burdens of the existing regulations by extending the frequencies of prescribed periodic inspections and tests which will free the carriers from unnecessary and redundant testing and permit better utilization of their forces. The final rule will also reduce the recordkeeping burdens with attendant savings in associated costs for executing, printing, and distributing recordkeeping forms. Although none of the commenters responding to the NPRM provided data on the economic impact of the proposed changes, FRA estimates that the final rule will produce annual cost savings to the industry of at least $3 million dollars.

Because the final rule is primarily technically oriented, and generally reduces the regulatory burden for railroads, FRA has concluded that the revision does not constitute either a major rule under the terms of Executive Order 12291 or a significant rule under DOT's regulatory procedures.

The final rule will have a direct economic impact only on railroads. Its primary impact is on the larger railroads which own and operate hundreds of miles of signal systems. It does not place any new requirements or burdens on the public. FRA has not identified any small railroads or other small entity which possesses a signal system. Based on these facts, it is certified that the final rule will not have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act (5 U.S.C. 601–612).

In addition, the final rule has also been considered and reviewed in light of FRA procedures for ensuring full consideration of the environmental impacts of FRA actions as required by the National Environmental Policy Act (42 U.S.C. 4321), other environmental statutes, Executive Orders, and DOT regulatory policies and procedures.

These FRA procedures require that an "environmental assessment" be performed prior to all major FRA actions. The procedures contain a provision that enumerates seven criteria which, if met, demonstrate that a particular action is not a "major" action for environmental purposes. These criteria involve disperate factors, including environmental controversiality; the availability of adequate relocation housing; the possible inconsistency of the action with Federal, state, or local law; the possible adverse impact on natural, cultural, recreational, or scenic environments; the use of properties covered by section 4(f) of the DOT Act; and the possible increase in traffic congestion. This revision meets the seven criteria which establish an action as a nonmajor action.

For the reasons above, FRA has determined that the revision of Parts 233, 235 and 236 of Title 49 of the CFR does not constitute a major FRA action requiring an environmental assessment.

IV. Paperwork Reduction Act

The final rule contains provisions concerning the collection of information that are subject to the Paperwork Reduction Act of 1980 (Pub. L. 96–511, 44 U.S.C. 3501–3520). Information collection requirements contained in §§ 233.7, 233.9, 235.5, 235.8, 235.10, 235.12, and 235.13 of this title have been approved by the Office of Management and Budget (OMB) under the provisions of this Act and have been assigned OMB control numbers 2130–0007, 2130–0006, 2130–0042, and 2130–0043 as shown in the final rules.

In further accord with the requirements of that statute, the reporting or recordkeeping provisions that are contained in §§ 233.5, 235.20, 236.110, 236.587, and 236.590 of this title have been submitted for approval to the OMB. They are not effective until OMB approval has been obtained and the public notified to that effect through a technical amendment to this regulation.

List of Subjects

49 CFR Part 233

Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 235

Railroad Safety, Administrative practice and procedure.

49 CFR Part 236

Railroad safety.

V. The Final Rules

In consideration of the foregoing, the FRA revises and amends Parts 233, 235, and 236 of Title 49 of the Code of Federal Regulations as set forth below:

A. 49 CFR Part 233 is revised to read as follows:

PART 233—SIGNAL SYSTEMS REPORTING REQUIREMENTS

Sec.

233.1 Scope.
233.3 Application.
233.5 Accidents resulting from signal failure.
233.7 Signal failure reports.
233.9 Annual reports.
233.11 Civil penalty.
233.13 Criminal penalty.

Authority: Signal Inspection Act, as amended (49 U.S.C. 26); sec. 6(e)(6)(A) of the Department of Transportation Act (49 U.S.C. 1655(e)(6)(A)); secs. 202, 208 (a) and (d), and 209, Federal Railroad Safety Act of 1970, as amended (45 U.S.C. 431, 437 (a) and (d), and 438); sec. 1(b) Pub. L. 97–449, 96 Stat. 2413 (49 U.S.C. 501(b)(2), 504 and 522(a)); § 1.49 (f), (g), and (m) of the regulations of the Office of the Secretary of Transportation (49 CFR 1.49 (f), (g), and (m)).

§ 233.1 Scope.

This part prescribed reporting requirements with respect to methods of train operation, block signal systems, interlockings, traffic control systems, automatic train stop, train control, and cab signal systems, or other similar appliances, methods, and systems.

§ 233.3 Application.

(a) Except as provided in paragraph (b) of this section, this part applies to railroads that operate on standard gage

track which is part of the general railroad system of transportation.

(b) This part does not apply to rail rapid transit operations conducted over track that is used exclusively for that purpose and that is not part of the general system of railroad transportation.

§ 233.5 Accidents resulting from signal failure.

Each carrier shall report within 24 hours to the Federal Railroad Administration by toll free telephone, number 800–424–0201, whenever it learns of the occurrence of an accident/incident arising from the failure of an appliance, device, method or system to function or indicate as required by Part 236 of this title that results in a more favorable aspect than intended or other condition hazardous to the movement of a train. (Not yet approved by the Office of Management and Budget.)

§ 233.7 Signal failure reports.

Each carrier shall report within 15 days each failure of an appliance, device, method, or system to function or indicate as required by Part 236 of this title that results in a more favorable aspect than intended or other condition hazardous to the movement of a train. Form FRA F6180–14, "Signal Failure Report," shall be used for this purpose and completed in accordance with instructions printed on the form.

(Approved by the Office of Management and Budget under OMB control number 2130–0007)

§ 233.9 Annual reports.

Not later than April 1 of each year, each carrier shall file a report for the preceding calendar year on Form FRA F6180–47, "Signal Systems Annual Report," in accordance with instructions and definitions on the reverse side thereof.

(Approved by the Office of Management and Budget under OMB control number 2130–0006)

§ 233.11 Civil penalty.

A carrier that fails or refuses to file reports as required by this Part is liable for the maximum civil penalty of $2,500 for each offense as prescribed by the Signal Inspection Act, 49 U.S.C. 26, and the Federal Railroad Safety Act of 1970, as amended, 45 U.S.C. 438. Each day a failure or refusal continues is a separate offense.

§ 233.13 Criminal penalty.

Whoever knowingly and willfully—

(a) Makes, causes to be made, or participates in the making of a false entry in reports required to be filed by this part; or

(b) Files a false report or other document required to be filed by this part is subject to a $5,000 fine and 2 years imprisonment as prescribed by 49 U.S.C. 522(a) and section 209(e) of the Federal Railroad Safety Act of 1970, as amended (45 U.S.C. 438(e)).

B. 49 CFR Part 235 is revised to read as follows:

PART 235—INSTRUCTIONS GOVERNING APPLICATIONS FOR APPROVAL OF A DISCONTINUANCE OR MATERIAL MODIFICATION OF A SIGNAL SYSTEM OR RELIEF FROM THE REQUIREMENTS OF PART 236

Sec.

235.1 Scope.
235.3 Application.
235.5 Changes requiring filing of application.
235.7 Changes not requiring filing of application.
235.8 Relief from the requirements of Part 236 of this title.
235.9 Civil penalty.
235.10 Contents of application.
235.12 Additional required information-prints.
235.13 Filing procedure.
235.14 Notice.
235.20 Protests.

Authority: Signal Inspection Act, as amended (49 U.S.C. 26); sec. 6(e)(6)(A) of the Department of Transportation Act (49 U.S.C. 1655(e)(6)(A)); secs. 202, 208 (a) and (d), and 209, Federal Railroad Safety Act of 1970, as amended (45 U.S.C. 431, 437 (a) and (d), and 438); § 1.49 (f), (g), and (m) of the regulations of the Office of the Secretary of Transportation (49 CFR 1.49 (f), (g), and (m)).

§ 235.1 Scope.

This part prescribes application for approval to discontinue or materially modify block signal systems, interlockings, traffic control systems, automatic train stop, train control, or cab signal systems, or other similar appliances, devices, methods, or systems, and provides for relief from Part 236 of this title.

§ 235.3 Application.

(a) Except as provided in paragraph (b) of this section, this part applies to railroads that operate on standard gage track which is part of the general railroad system of transportation.

(b) This part does not apply to rail rapid transit operations conducted over track that is used exclusively for that purpose and that is not part of the general system of railroad transportation.

§ 235.5 Changes requiring filing of application.

(a) Except as provided in § 235.7, applications shall be filed to cover the following:

(1) The discontinuance of a block signal system, interlocking, traffic control system, automatic train stop, train control, or cab signal system or other similar appliance or device;

(2) The decrease of the limits of a block signal system, interlocking, traffic control system, automatic train stop, train control, or cab signal system; or

(3) The modification of a block signal system, interlocking, traffic control system, automatic train stop, train control, or cab signal system.

(Approved by the Office of Management and Budget under OMB control number 2130–0042)

§ 235.7 Changes not requiring filing of application.

(a) It is not necessary to file an application for approval of the following discontinuances:

(1) Removal of block signal system. interlocking, traffic control system, automatic train stop, train control, or cab signal system from track approved for abandonment by formal proceeding;

(2) Removal of devices and associated signals used to provide protection against unusual contingencies such as landslide, burned bridge, high water, high and wide load, or tunnel protection when the unusual contingency no longer exists;

(3) Removal of an interlocking where a drawbridge has been permanently closed by the formal approval of another government agency; or

(4) Removal from service not to exceed six months of block signal system, interlocking, or traffic control system necessitated by catastrophic occurrence such as derailment, flood, fire, or hurricane.

(b) When the resultant arrangement will comply with Part 236 of this title, it is not necessary to file for approval to decrease the limits of a system as follows:

(1) Decrease of the limits of an interlocking when interlocked switches, derails, or movable-point frogs are not involved;

(2) Removal of electric or mechanical lock from hand-operated switch in automatic block signal or traffic control territory where train speed over switch does not excess 20 miles per hour; or

(3) Removal of electric or mechanical lock from hand-operated switch in automatic block signal or traffic control territory where trains are not permitted to clear the main track at such switch.

(c) When the resultant arrangement will comply with Part 236 of this title, it is not necessary to file an application for approval of the following modifications:

(1) A modification that is required to comply with an order of the Federal Railroad Administration or any section of Part 236 of this title;

(2) The installation of an automatic block signal or a traffic control system to replace manual block or non-signaled territory;

(3) The installation of a traffic control system to replace a roadway automatic block signal system (discontinuance of an automatic train stop, train control, or cab signal system is not permitted without FRA approval);

(4) The installation of an automatic train stop, train control, or cab signal system in an existing automatic block or traffic control system;

(5) The installation of a continuous inductive automatic train stop system to replace an existing intermittent inductive automatic train stop system;

(6) The installation of a continuous inductive automatic train stop system to supplement an existing automatic cab signal system;

(7) The installation of an automatic train control system to replace an existing automatic train stop system or to supplement an existing automatic cab signal system;

(8) The installation of an interlocking to replace existing stop signs, gates, or pipe-connected derails protecting a railroad crossing at grade;

(9) The installation of all relay type locking to replace existing mechanical or electromechanical locking of an interlocking;

(10) The installation of an additional controlled point in existing traffic control system;

(11) The installation of an interlocking in an existing block signal system;

(12) The conversion of a hand-operated switch, a hand-operated switch locked either electrically or mechanically, or a spring switch to a power-operated switch;

(13) The conversion of a spring switch to a hand-operated switch, or to a hand-operated switch locked either electrically or mechanically;

(14) The removal or relocation of signals associated with a spring switch converted to hand operation;

(15) The installation, relocation, or removal of signals to specifically provide adequate stopping distance;

(16) The change of aspects;

(17) The relocation of a signal to improve preview of signal aspect visibility;

(18) To replace a signal with a signal of another type;

(19) To change an approach signal to operative or inoperative signal, or remove an approach signal not required by § 236.310 of this title;

(20) The change in location of a machine from which an interlocking or traffic control system is controlled;

(21) The closing of a manual block station or the change in hours during which a manual block station is attended;

(22) The change in hours during which a manual interlocking is attended provided the interlocking operates for all routes over which train movements are permitted;

(23) The installation of devices used to provide protection against unusual contingencies such as landslide, burned bridges, high water, high and wide loads, or dragging equipment;

(24) The installation, relocation, or removal of signals, interlocked switches, derails, movable-point frogs, or electric locks in an existing system directly associated with:

(i) The installation of new track;

(ii) The elimination of existing track other than a second main track;

(iii) The extension or shortening of a passing siding;

(iv) Elimination of second main track where signal system on retained main track is arranged to provide both opposing and following protection for train movements provided second main track is physically removed; or

(v) A line relocation; or

(25) The temporary or permanent arrangement of existing systems necessitated by highway rail separation construction. Temporary arrangements shall be removed within six months following completion of construction.

§ 235.8 Relief from the requirements of Part 236 of this title.

Relief from the requirements of the rules, standards and instructions contained in Part 236 of this title will be granted upon a adequate showing by an individual carrier. Relief heretofore granted to any carrier shall constitute relief to the same extent as relief granted under the requirements of this part.

(Approved by the Office of Management and Budget under OMB control number 2130–0043)

§ 235.9 Civil penalty.

A carrier that fails or refuses to file an application required by this part is liable for the maximum civil penalty of $2,500 for each offense as prescribed by the Signal Inspection Act, 49 U.S.C. 26, and the Federal Railroad Safety Act of 1970, as amended, 45 U.S.C. 438. Each day a failure or refusal continues is a separate offense.

§ 235.10 Contents of applications.

(a) The application may be submitted by letter and shall contain the following information:

(1) The corporate name of each applicant;

(2) The manner in which applicant is involved;

(3) The location of the project, giving name of operating division and nearest station;

(4) The track or tracks involved;

(5) A complete description of proposed changes as they would affect the existing facilities or of the section from which relief is sought;

(6) The reason for proposed changes or justification for relief from the requirements;

(7) The approximate dates of beginning and completion of project;

(8) Changes in operating practices, temporary or permanent;

(9) Whether safety of operation will be affeced, and if so, how; and

(10) Whether proposed changes will conform to the Federal Railroad Administration's Rules, Standards and Instructions (Part 236 of this title).

(Approved by the Office of Management and Budget under OMB control number 2130–0042)

§ 235.12 Additional required information-prints.

(a) A print or prints, size 8 inches by 10½ inches, or 8½ inches by 11 inches, or folded to 8 inches by 10½ inches or to 8½ inches by 11 inches, shall be furnished with each application.

(b) The print or prints shall be to scale or by indicated dimensions, using Association of American Railroads graphic symbols.

(c) The following information shall be shown on the print or prints:

(1) Present and proposed arrangement of tracks and signal facilities;

(2) Name of carrier;

(3) Operating division;

(4) Place and State; and

(5) Timetable directions of movements.

(d) If stopping distances are involved, the following information shall also be shown:

(1) Curvature and grade;

(2) Maximum authorized speeds of trains; and

(3) Length of signal control circuits for each signal indication displayed.

(e) The following color scheme is suggested on prints:

(1) Installations, relocations, and added signal aspects should be colored, preferably in yellow;

(2) Removals, discontinuances, and abandonments should be colored, preferably in red; and

(3) Existing facilities not pertinent to change proposed in application should be shown uncolored.

(Approved by the Office of Management and Budget under OMB control number 2130-0042)

§ 235.13 Filing procedure.

(a) Applications or requests for reconsideration of an application shall be submitted by an authorized officer of the carrier.

(b) The original and two copies of each application with supporting papers should be filed.

(c) The application and correspondence in reference thereto should be addressed to the Associate Administrator for Safety, Federal Railroad Administration, Washington, D.C. 20590.

(d) A separate application shall be filed for each project.

(e) At a joint facility where changes are proposed in the automatic block signal system, interlocking, traffic control system, automatic train stop, train control, or cab signal system on the tracks of more than one carrier, or if more than one carrier will be affected by the proposed changes or relief sought, a joint application signed by all carriers affected shall be filed.

(f) Where only one carrier at a joint facility is affected by the discontinuance or modification of the installation or relief sought, it shall be responsible for filing the application. It shall also certify that the other joint carriers have been notified of the filing of its application.

(Approved by the Office of Management and Budget under OMB control number 2130-0042)

§ 235.14 Notice.

The FRA will post public notice of the filing of an application or a request for reconsideration of an application in the FRA Office of Public Affairs and will mail copies to all interested parties.

§ 235.20 Protests.

(a) A protest against the granting of an application shall set forth specifically the grounds upon which it is made, and contain a concise statement of the interest of protestant in the proceeding.

(b) The original and two copies of any protest shall be filed with the Associate Administrator for Safety, Federal Railroad Administration, Washington, D.C. 20590, and one copy shall be furnished to each applicant.

(c) Protests should be filed within the time limit set forth in the public notice.

(d) The protestant shall certify that service of a copy of its protest was made upon each applicant.

(e) Request for hearing must be accompanied with a showing why the protestant is unable to properly present his or her position by written statements. (Not yet approved by the Office of Management and Budget.)

C. 49 CFR Part 236 is amended as follows:

1. The title of this part is revised to read as follows:

PART 236—RULES, STANDARDS, AND INSTRUCTIONS GOVERNING THE INSTALLATION, INSPECTION, MAINTENANCE, AND REPAIR OF SIGNAL AND TRAIN CONTROL SYSTEMS, DEVICES, AND APPLIANCES

2. The authority citation for Part 236 is revised to read as follows:

Authority: Signal Inspection Act, as amended (49 U.S.C. 26); sec. 6(e)(6)(A) of the Department of Transportation Act (49 U.S.C. 1655(e)(6)(A)); secs. 202, 208 (a) and (d), and 209, Federal Railroad Safety Act of 1970, as amended (45 U.S.C. 431, 437 (a) and (d), and 438); § 1.49 (f), (g), and (m) of the regulations of the Office of the Secretary of Transportation (49) CFR 1.49 (f), (g), and (m)).

3. Section 236.0 is revised to read as follows:

§ 236.0 Applicability and minimum requirements.

(a) Except as provided in paragraph (b) of this section, this part applies to railroads that operate on standard gage track which is part of the general railroad system of transportation.

(b) This part does not apply to rail rapid transit operations conducted over track that is used exclusively for that purpose and that is not part of the general system of railroad transportation.

(c) Where a passenger train is operated at a speed of 60 or more miles per hour, or a freight train is operated at a speed of 50 or more miles per hour, a block signal system complying with the provisions of this Part shall be installed or a manual block system shall be placed permanently in effect which shall conform to the following conditions:

(1) A passenger train shall not be admitted to a block occupied by another train except under flag protection;

(2) No train shall be admitted to a block occupied by a passenger train except under flag protection;

(3) No train shall be admitted to a block occupied by an opposing train except under flag protection; and

(4) A freight train, including a work train, may be authorized to follow a freight train, including a work train, into a block but the following train must proceed prepared to stop within one-half the range of vision but not exceeding 20 miles per hour.

(d) Where any train is operated at a speed of 80 or more miles per hour, an automatic cab signal, automatic train stop or automatic train control system complying with the provisions of this Part shall be installed.

(e) Nothing in this section authorizes the discontinuance of a block signal system, interlocking, traffic control system, automatic train stop, train control, or cab signal system without approval of the Federal Railroad Administration.

4. Section 236.1 is revised to read as follows:

§ 236.1 Plans, where kept.

As required for maintenance, plans shall be kept at all interlockings, automatic signals and controlled points. Plans shall be legible and correct.

5. Section 236.3 is revised to read as follows:

§ 236.3 Locking of signal apparatus housings.

Signal apparatus housings shall be secured against unauthorized entry.

6. Section 236.4 is revised to read as follows:

§ 236.4 Interference with normal functioning of device.

The normal functioning of any device shall not be interfered with in testing or otherwise without first taking measures to provide for safety of train operation which depends on normal functioning of such device.

7. Section 236.8 is revised as follows:

§ 236.8 Operating characteristics of electromagnetic, electronic, or electrical apparatus.

Signal apparatus, the functioning of which affects the safety of train operation, shall be maintained in accordance with the limits within which the device is designed to operate.

8. Section 236.11 is revised to read as follows:

§ 236.11 Adjustment, repair, or replacement of component.

When any component of a signal system, the proper functioning of which is essential to the safety of train operation, fails to perform its intended signaling function or is not in correspondence with known operating

conditions, the cause shall be determined and the faulty component adjusted, repaired or replaced without undue delay.

9. Section 236.12 is revised to read as follows:

§ 236.12 Spring switch signal protection; where required.

Signal protection shall be provided for facing and trailing movements through spring switch within interlocking limits and through spring switch installed in automatic block signal, train stop, train control or cab signal territory where train movements over the switch are made at a speed exceeding 20 miles per hour, except that signal protection shall be required only with the current of traffic on track signaled for movement in only one direction.

Note: Does not apply to spring switch installed prior to October 1, 1950 in automatic block signal, automatic train stop, or automatic train control territory.

10. By adding a new § 236.16 to read as follows:

§ 236.16 Electric lock, main track releasing circuit.

When an electric lock releasing circuit is provided on the main track to permit a train or an engine to diverge from the main track without time delay, the circuit shall be of such length to permit occupancy of the circuit to be seen by a crew member stationed at the switch. When the releasing circuit extends into the fouling circuit, a train or engine on the siding shall be prevented from occupying the releasing circuit by a derail either pipe-connected to switch point or equipped with an independently operated electric lock.

11. Redesignate § 236.313 as § 236.17 and revise it to read as follows:

§ 236.17 Pipe for operating connections, requirements.

(a) Steel or wrought-iron pipe one inch or larger, or members of equal strength, shall be used for operating connections for switches, derails, movable-point frogs, facing-point locks, rail-locking devices of movable bridge protected by interlocking, and mechanically operated signals, except up-and-down rod which may be three-fourths inch pipe or solid rod. Pipe shall be fully screwed into coupling and both ends of each pipe shall be riveted to pipe plug with 2 rivets.

(b) Pipeline shall not be out of alignment sufficiently to interfere with proper operation, shall be properly compensated for temperature changes, and supported on carriers spaced not more than 8 feet apart on tangent and curve of less than 2° and not more than 7 feet apart on curve of 2° or more. With lever in any position, couplings in pipe line shall not foul carriers.

12. Section 236.21 is revised to read as follows:

§ 236.21 Location of roadway signals.

Each roadway signal shall be positioned and aligned so that its aspects can be clearly associated with the track it governs.

13. In § 236.23, paragraphs (a)(2), (b), and (e) are revised and new paragraph (f) is added to read as follows:

§ 236.23 Aspects and indications.

(a) * * *

(2) Reflector lenses or buttons or other devices which depend for visibility upon reflected light from an external source shall not be used hereafter in night aspects, except qualifying appurtenances.

(b) The aspects of cab signals shall be shown by lights or by illuminated letters or numbers.

* * * * *

(e) The names, indications, and aspects of roadway and cab signals shall be defined in the carrier's Operating Rule Book or Special Instructions. Modifications shall be filed with the FRA within thirty days after such modifications become effective.

(f) The absence of a qualifying appurtenance, the failure of a lamp in a light signal, or a false restrictive position of an arm of a semaphore signal shall not cause the display of a less restrictive aspect than intended.

14. Section 236.51 is amended by revising the introductory paragraph and paragraph (a)(2) to read as follows:

§ 236.51 Track circuit requirements.

Track relay controlling home signals shall be in deenergized position, or device that functions as a track relay controlling home signals shall be in its most restrictive state, and the track circuit of an automatic train stop, train control, or cab signal system shall be deenergized in the rear of the point where any of the following conditions exist:

(a) * * *

(2) As result of leakage current or foreign current in the rear of a point where a break occurs.

* * * * *

15. Section 236.54 is revised to read as follows:

§ 236.54 Minimum length of track circuit.

When a track circuit shorter than maximum inner wheelbase of any locomotive or car operated over such track circuit is used for control of signaling facilities, other means shall be used to provide the equivalent of track circuit protection.

16. Section 236.55 is revised to read as follows:

§ 236.55 Dead section; maximum length.

Where dead section exceeds 35 feet, a special circuit shall be installed. Where shortest outer wheelbase of a locomotive operating over such dead section is less than 35 feet, the maximum length of the dead section shall not exceed the length of the outer wheelbase of such locomotive unless special circuit is used.

17. Section 236.56 is revised to read as follows:

§ 236.56 Shunting sensitivity.

Each track circuit controlling home signal or approach locking shall be so maintained that track relay is in deenergized position, or device that functions as a track relay shall be in its most restrictive state if, when track circuit is dry, a shunt of 0.06 ohm resistance is connected across the track rails of the circuit, including fouling sections of turnouts.

18. Section 236.57 is revised to read as follows:

§ 236.57 Shunt and fouling wires.

(a) Except as provided in paragraph (b) of this section, shunt wires and fouling wires hereafter installed or replaced shall consist of at least two discrete conductors, and each shall be of sufficient conductivity and maintained in such condition that the track relay will be in deenergized position, or device that functions as a track relay will be in its most restrictive state, when the circuit is shunted.

(b) This rule does not apply to shunt wires where track or control circuit is opened by the switch circuit controller.

19. Section 236.58 is revised to read as follows:

§ 236.58 Turnout, fouling section.

Rail joints within the fouling section shall be bonded, and fouling section shall extend at least to a point where sufficient tract centers and allowance for maximum car overhang and width will prevent interference with train, locomotive, or car movement on the adjacent track.

20. Add a new § 236.60 to read as follows:

§ 236.60 Switch shunting circuit; use restricted.

Switch shunting circuit shall not be hereafter installed, except where tract or control circuit is opened by the circuit controller.

21. Section 236.71 is revised to read as follows:

§ 236.71 Signal wires on pole line and aerial cable.

Signal wire on pole line shall be securely tied in on insulator properly fastened to crossarm or bracket supported by pole or other support. Signal wire shall not interfere with, or be interfered by, other wires on the pole line. Aerial cable shall be supported by messenger.

22. Section 236.76 is revised to read as follows:

§ 236.76 Tagging of wires and interference of wires or tags with signal apparatus.

Each wire shall be tagged or otherwise so marked that it can be identified at each terminal. Tags and other marks of identification shall be made of insulating material and so arranged that tags and wires do not interfere with moving parts of apparatus.

23. Section 236.101 is revised to read as follows:

§ 236.101 Purpose of inspection and tests; removal from service of relay or device failing to meet test requirements.

The following inspections and tests shall be made in accordance with specifications of the carrier, subject to approval of the FRA, to determine if the apparatus and/or equipment is maintained in condition to perform its intended function. Electronic device, relay, or other electromagnetic device which fails to meet the requirements of specified tests shall be removed from service, and shall not be restored to service until its operating characteristics are in accordance with the limits within which such device or relay is designed to operate.

24. Section 236.102 is revised to read as follows:

§ 236.102 Semaphore or searchlight signal mechanism.

(a) Semaphore signal mechanism shall be inspected at least once every six months, and tests of the operating characteristics of all parts shall be made at least once every two years.

(b) Searchlight signal mechanism shall be inspected, and the mechanical movement shall be observed while operating the mechanism to all positions, at least once every six months. Tests of the operating characteristics shall be made at least once every two years.

25. Section 236.103 is revised to read as follows:

§ 236.103 Switch circuit controller or point detector.

Switch circuit controller, circuit controller, or point detector operated by hand-operated switch or by power-operated or mechanically-operated switch-and-lock movement shall be inspected and tested at least once every three months.

26. Section 236.106 is revised to read as follows:

§ 236.106 Relays.

Each relay, the functioning of which affects the safety of train operations, shall be tested at least once every four years except:

(a) Alternating current centrifugal type relay shall be tested at least once every 12 months;

(b) Alternating current vane type relay and direct current polar type relay shall be tested at least once every 2 years; and

(c) Relay with soft iron magnetic structure shall be tested at least once every 2 years.

27. Section 236.107 is revised to read as follows:

§ 236.107 Ground tests.

(a) Except as provided in paragraph (b) of this section, a test for grounds on each energy bus furnishing power to circuits, the functioning of which affects the safety of train operation, shall be made when such energy bus is placed in service, and shall be made at least once every three months thereafter.

(b) The provisions of this rule shall not apply to track circuit wires, common return wires of grounded common single-break circuits, or alternating current power distribution circuits grounded in the interest of safety.

28. Section 236.108 is revised to read as follows:

§ 236.108 Insulation resistance tests, wires in trunking and cables.

(a) Insulation resistance of wires and cables, except wires connected directly to track rails, shall be tested when wires, cables, and insulation are dry. Insulation resistance tests shall be made between all conductors and ground, and between conductors in each multiple conductor cable, and between conductors in trunking, when wires or cables are installed and at least once every ten years thereafter.

(b) Then insulation resistance of wire or cable is found to be less than 500,000 ohms, prompt action shall be taken to repair or replace the defective wire or cable and until such defective wire or cable is replaced, insulation resistance test shall be made annually.

(c) In no case shall a circuit be permitted to function on a conductor having an insulation resistance to ground or between conductors of less than 200,000 ohms during the period required for repair or replacement.

29. Section 236.109 is revised to read as follows:

§ 236.109 Time releases, timing relays and timing devices.

Time releases, timing relays and timing devices shall be tested at least once every twelve months. The timing shall be maintained at not less than 90 percent of the predetermined time interval, which shall be shown on the plans or marked on the time release, timing relay, or timing device.

30. Section 236.110 is added to read as follows:

§ 236.110 Results of tests.

Results of tests made in compliance with §§ 236.102 to 236.109, inclusive; 236.376 to 236.387, inclusive; 236.576; 236.577; 236.586; 236.588; and 236.589 shall be recorded on preprinted or computerized forms provided by the railroad. Such forms shall show the name of the railroad, place and date, equipment tested, results of tests, repairs, replacements, adjustments made, and condition in which the apparatus was left. Each record shall be signed by the employee making the test and shall be filed in the office of a supervisory official having jurisdiction. Each record shall be retained until the next record is filed but in no case less than one year. (Not yet approved by the Office of Management and Budget.)

31. Section 236.204 is amended by revising the last sentence to read as follows:

§ 236.204 Track signaled for movements in both directions, requirements.

* * * In absolute permissive block signaling, when a train passes a head block signal, it shall cause the opposing head block signal to display an aspect with an indication not more favorable than "stop."

32. Section 236.205 is amended by revising paragraph (d) to read as follows:

§ 236.205 Signal control circuits; requirements.

* * * * *

(d) When a track relay is in de-energized position or a divice which functions as a track relay is in its most restrictive state; or when signal control circuit is deenergized.

33. Section 236.207 is revised to read as follows:

§ 236.207 Electric lock on hand-operated switch; control.

Electric lock on hand-operated switch shall be controlled so that it cannot be unlocked until control circuits of signals governing movements over such switch have been opened. Approach or time locking shall be provided.

34. Section 236.302 is revised to read as follows:

§ 236.302 Track circuits and route locking.

Track circuits and route locking shall be provided and shall be effective when the first pair of wheels of a locomotive or a car passes a point not more than 13 feet in advance of the signal governing its movement, measured from the center of the mast, or if there is no mast, from the center of the signal.

35. Section 236.307 is revised to read as follows:

§ 236.307 Indication locking.

Indication locking shall be provided for operative approach signals of the semaphore type, power-operated home signals, power-operated switches, movable-point frogs and derails, and for all approach signals except light signals, all aspects of which are controlled by polar or coded track circuits or line circuits so arranged that a single fault will not permit a more favorable aspect than intented to be displayed.

36. Section 236.309 is revised to read as follows:

§ 236.309 Loss of shunt protection; where required.

(a) A loss of shunt of 5 seconds or less shall not permit an established route to be changed at an automatic interlocking.

(b) A loss of shunt of 5 seconds or less shall not permit the release of the route locking circuit of each power-operated switch hereafter installed.

37. Section 236.311 is revised to read as follows:

§ 236.311 Signal control circuits, selection through track relays or devices functioning as track relays and through signal mechanism contacts and time releases at automatic interlocking.

(a) The control circuits for aspects with indications more favorable than "proceed at restricted speed" shall be selected through track relays, or through devices that function as track relays, for all track circuits in the route governed.

(b) At automatic interlocking, signal control circuits shall be selected (1) through track relays, or devices that function as track relays, for all track circuits in the route governed and in all conflicting routes within the interlocking; (2) through signal mechanism contacts or relay contacts closed when signals for such conflicting routes display "stop" aspects; and (3) through normal contacts of time releases, time element relays, or timing devices for such conflicting routes, or contacts of relays repeating the normal position or normal state of such time releases, time element relays, or timing devices.

38. Section 236.312 is amended by adding a new last sentence to read as follows:

§ 236.312 Movable bridge, interlocking of signal appliances with bridge devices.

* * * Emergency bypass switches and devices shall be locked or sealed.

39. Section 236.327 is revised to read as follows:

§ 236.327 Switch, movable-point frog or split-point derail.

Switch, movable-point frog, or split-point derail equipped with lock rod shall be maintained so that it can not be locked when the point is open three-eighths inch or more.

40. Section 236.376 is revised to read as follows:

§ 236.376 Mechanical locking.

Mechanical locking in interlocking machine shall be tested when new locking is installed; and thereafter when change in locking is made, or locking becomes disarranged, or tested at least once every two years, whichever shall occur first.

41. Section 236.377 is revised to read as follows:

§ 236.377 Approach locking.

Approach locking shall be tested when placed in service and thereafter when modified, disarranged, or at least once every two years, whichever shall occur first.

42. Section 236.378 is revised to read as follows:

§ 236.378 Time locking.

Time locking shall be tested when placed in service and thereafter when modified, disarranged, or at least once every two years, whichever shall occur first.

43. Section 236.379 is revised to read as follows:

§ 236.379 Route locking.

Route locking or other type of switch locking shall be tested when placed in service and thereafter when modified, disarranged, or at least once every two years, whichever shall occur first.

44. Section 236.380 is revised to read as follows:

§ 236.380 Indication locking.

Indication locking shall be tested when placed in service and thereafter when modified, disarranged, or at least once every two years, whichever shall occur first.

45. Section 236.381 is revised to read as follows:

§ 236.381 Traffic locking.

Traffic locking shall be tested when placed in service and thereafter when modified, disarranged, or at least once every two years, whichever shall occur first.

46. Section 236.382 is revised to read as follows:

§ 236.382 Switch obstruction test.

Switch obstruction test of lock rod of each power-operated switch and lock rod of each hand-operated switch equipped with switch-and-lock-movement shall be made when lock rod is placed in service or changed out, but not less than once each month.

47. Section 236.383 is revised to read as follows:

§ 236.383 Valve locks, valves, and valve magnets.

Valve locks on valves of the non-cut-off type shall be tested at least once every three months, and valves and valve magnets shall be tested at least once every year.

48. Section 236.384 is revised to read as follows:

§ 236.384 Cross protection.

Cross protection shall be tested at least once every six months.

49. Section 236.401 is revised to read as follows:

§ 236.401 Automatic block signal system and interlocking standards applicable to traffic control systems.

The standards prescribed in §§ 236.201, to 236.203, inclusive, §§ 236.205, 236.206, 236.303, 236.307 and 236.309 to 236.311, inclusive, shall apply to traffic control systems.

50. Section 236.403 is revised to read as follows:

§ 236.403 Signals at controlled point.

Signals at controlled point shall be so interconnected that aspects to proceed cannot be displayed simultaneously for conflicting movements, except that opposing signals may display an aspect indicating "proceed at restricted speed" at the same time on a track used for switching movements only, by one train at a time.

51. Section 236.407 is revised to read as follows:

§ 236.407 Approach or time locking; where required.

Approach or time locking shall be provided for all controlled signals where route or direction of traffic can be changed.

52. Section 236.408 is revised to read as follows:

§ 236.408 Route locking.

Route locking shall be provided where switches are power-operated. Route locking shall be effective when the first pair of wheels of a locomotive or car passes a point not more than 13 feet in advance of the signal governing its movement, measured from the center of the signal mast or, if there is no mast, from the center of the signal.

53. Section 236.410 is amended by revising paragraph (a) and adding paragraph (c) to read as follows:

§ 236.410 Locking, hand-operated switch; requirements.

(a) Each hand-operated switch in main track shall be locked either electrically or mechanically in normal position, except:

(1) Where train speeds over the switch do not exceed 20 miles per hour;

(2) Where trains are not permitted to clear the main track;

(3) Where a signal is provided to govern train movements from the auxiliary track to the signaled track; or

(4) On a signaled siding without intermediate signals where the maximum authorized speed on the siding does not exceed 30 miles per hour.

* * * * *

(c) Where a signal is used in lieu of electric or mechanical lock to govern movements from auxiliary track to signaled track, the signal shall not display an aspect to proceed until after the control circuits of signals governing movement on main track in either direction over the switch have been opened, and either the approach locking circuits to the switch are unoccupied or a predetermined time interval has expired.

Note.—Railroads shall bring all hand-operated switches that are not electrically or mechanically locked and that do not conform to the requirements of this section on the effective date of this Part into conformity with this section in accordance with the following schedule:

Not less than 33% during calendar year 1984.

Not less than 66% during calendar year 1985.

The remainder during calendar year 1986.

54. Section 236.476 is revised to read as follows:

§ 236.476 Interlocking inspections and tests applicable to traffic control systems.

The inspections and tests prescribed in §§ 236.377 to 236.380, inclusive, and §§ 236.382, 236.383, and 236.386 shall apply to traffic control systems.

55. Section 236.504 is revised to read as follows:

§ 236.504 Operation interconnected with automatic block-signal system.

(a) A continuous inductive automatic train stop or train control system shall operate in connection with an automatic block signal system and shall be so interconnected with the signal system as to perform its intended function in event of failure of the engineer to acknowledge or obey a restrictive wayside signal or a more restrictive cab signal.

(b) An intermittent inductive automatic train stop system shall operate in connection with an automatic block signal system and shall be so interconnected with the signal system that the failure of the engineer to acknowledge a restrictive wayside signal will cause the intermittent inductive automatic train stop system to perform its intended function.

56. Section 236.508 is revised to read as follows:

§ 236.508 Interference with application of brakes by means of brake valve.

The automatic train stop, train control, or cab signal apparatus shall be so arranged as not to interfere with the application of the brakes by means of the brake valve and not to impair the efficiency of the brake system.

57. Section 236.513 is revised to read as follows:

§ 236.513 Audible indicator.

(a) The automatic cab signal system shall be so arranged that when the cab signal changes to display a more restrictive aspect, an audible indicator will sound continuously until silenced by manual operation of an acknowledging device.

(b) The audible cab indicator of automatic cab signal, automatic train stop, or automatic train control system shall have a distinctive sound and be clearly audible throughout the cab under all operating conditions.

58. Section 236.515 is revised to read as follows:

§ 236.515 Visibility of cab signals.

The cab signals shall be plainly visible to member or members of the locomotive crew from their stations in the cab.

59. Section 236.516 is revised to read as follows:

§ 236.516 Power supply.

Automatic cab signal, train stop, or train control device hereafter installed shall operate from a separate or isolated power supply.

60. Section 236.527 is revised to read as follows:

§ 236.527 Roadway element insulation resistance.

Insulation resistance between roadway inductor and ground shall be maintained at not less than 10,000 ohms.

61. Section 236.529 is revised to read as follows:

§ 236.529 Roadway element inductor; height and distance from rail.

Inductor of the inert roadway element type shall be maintained with the inductor pole faces at a height above the plane of the tops of the rails, and with its inner edge at a horizontal distance from the gage side of the nearest running rail, in accordance with specifications of the carrier.

62. Section 236.531 is revised to read as follows:

§ 236.531 Trip arm; height and distance from rail.

Trip arm of automatic train stop device when in the stop position shall be maintained at a height above the plane of the tops of the rails, and at a horizontal distance from its center line to gage side of the nearest running rail, in accordance with specifications of the carrier.

63. Section 236.532 is revised to read as follows:

§ 236.532 Strap iron inductor; use restricted.

No railroad shall use strap iron inductor or other roadway element with characteristics differing from its standard type on track where speed higher than restricted speed is permitted.

64. Section 236.552 is revised to read as follows:

§ 236.552 Insulation resistance; requirement.

When periodic test prescribed in § 236.588 is performed, insulation resistance between wiring and ground of continuous inductive automatic cab signal system, automatic train control system, or automatic train stop system shall be not less than one megohm, and that of an intermittent inductive automatic train stop system, not less than 250,000 ohms. Insulation resistance values between periodic tests shall be not less than 250,000 ohms for a continuous inductive automatic cab signal system, automatic train control system, or automatic train stop system, and 20,000 ohms for an intermittent inductive automatic train stop system.

65. Section 236.557 is revised to read as follows:

§ 236.557 Receiver; location with respect to rail.

(a) Receiver of intermittent inductive automatic train stop device of the inert roadway element type shall be maintained with bottom of the receiver at a height above the plane of the tops of the rails, and with its outer edge at a horizontal distance from the gage side of the nearest rail, in accordance with specifications of the carrier.

(b) Receiver of continuous inductive automatic cab signal, train stop, or train control device of locomotive equipped with onboard test equipment, shall be maintained with the bottom of the receiver at a height above the plane of the tops of the rails, and with its outer edge at a horizontal distance from the gage side of the nearest rail, in accordance with specifications of the carrier.

66. Section 236.560 is revised to read as follows:

§ 236.560 Contact element, mechanical trip type; location with respect to rail.

Contact element of automatic train stop device of the mechanical trip type shall be maintained at a height above the plane of the tops of the rails, and at a horizontal distance from the gage side of the rail, in accordance with specifications of the carrier.

67. Section 236.562 is revised to read as follows:

§ 236.562 Minimum rail current required.

The minimum rail current required to restore the locomotive equipment of continuous inductive automatic train stop or train control device to normal condition or to obtain a proceed indication of automatic cab signal device (pick-up) shall be in accordance with specifications of the carrier.

68. Section 236.577 is revised to read as follows:

§ 236.577 Test, acknowledgement, and cut-in circuits.

Test, acknowledgement, and cut-in circuits shall be tested at least once every twelve months.

69. Section 236.586 is revised to read as follows:

§ 236.586 Daily or after trip test.

(a) Except where tests prescribed by § 236.588 are performed at intervals of not more than 2 months, each locomotive equipped with an automatic cab signal or train stop or train control device operating in equipped territory shall be inspected for damage to the equipment and tested at least once each calendar day or within 24 hours before departure upon each trip.

(b) Each equipped locomotive shall be tested to determine the locomotive equipment is responsive to the wayside equipment and shall be cycled to determine the device functions as intended.

(c) Each locomotive equipped with intermittent inductive automatic train stop or non-coded continuous inductive automatic train stop or non-coded continuous inductive automatic train control device shall be tested to determine that the pickup of the device is within specified limits.

70. Section 236.587 is revised to read as follows:

§ 236.587 Departure test.

(a) The automatic train stop, train control, or cab signal apparatus on each locomotive, except a locomotive or a multiple-unit car equipped with mechanical trip stop, shall be tested using one of the following methods:

(1) operation over track elements;

(2) operation over test circuit;

(3) use of portable test equipment; or

(4) use of onboard test device.

(b) The test shall be made on departure of the locomotive from its initial terminal unless that apparatus will be cut out between the initial terminal and the equipped territory. If the apparatus is cut out between the initial terminal and the equipped territory the test shall be made prior to entering equipped territory.

(c) If a locomotive makes more than one trip in any 24-hour period, only one departure test is required in such 24-hour period.

(d) If a departure test is made by an employee, other than the engineer, the engineer shall be informed of the results of such test and a record kept thereof.

(Record requirement not yet approved by the Office of Management and Budget)

71. Section 236.588 is revised to read as follows:

§ 236.588 Periodic test.

Except as provided in § 236.586, periodic test of the automatic train stop train control, or cab signal apparatus shall be made at least once every 92 days, and on multiple-unit cars as specified by the carrier, subject to approval by the FRA.

72. Section 236.589 is revised to read as follows:

§ 236.589 Relays.

(a) Each relay shall be removed from service, subjected to thorough test, necessary repairs and adjustments made, and shall not be replaced in service unless its operating characteristics are in accordance with the limits within which such relay is designed to operate, as follows:

(1) Master or primary relays of torque type depending on spring tension to return contacts to deenergized position in noncoded continuous inductive automatic train stop or train control system, at least once every two years: and

(2) All other relays, at least once every six years.

73. Section 236.590 is revised to read as follows:

§ 236.590 Pneumatic apparatus.

Automatic train stop, train control, or cab signal pneumatic apparatus shall be inspected and cleaned at least once every 736 days. The pneumatic apparatus shall be stenciled, tagged, or otherwise marked to indicate the last cleaning date of the apparatus.

("Stenciled, tagged or otherwise marked" requirement not yet approved by the Office of Management and Budget)

74. Section 236.717 is revised to read as follows:

§ 236.717 Characteristics, operating.

The measure of electrical values at which electrical or electronic apparatus operate (e.g., drop-away, pick-up, maximum and minimum current, and working value).

75. Section 236.744 is revised to read as follows:

§ 236.744 Element, roadway.

That portion of the roadway apparatus of automatic train stop, train control, or cab signal system, such as

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electric circuit, inductor, or trip arm to which the locomotive apparatus of such system is directly responsive.

76. Section 236.746 is revised to read as follows:

§ 236.746 Feature, restoring.

An arrangement on an electro-pneumatic switch by means of which power is applied to restore the switch movement to full normal or to full reverse position, before the driving bar creeps sufficiently to unlock the switch, with control level in normal or reverse position.

77. Section 236.812 is revised to read as follows:

§ 236.812 Speed, restricted.

A speed that will permit stopping within one-half the range of vision, but not exceeding 20 miles per hour.

78. Add a new § 236.813a to read as follows:

§ 236.813a State, most restrictive.

The mode of an electric or electronic device that is equivalent to a track relay in its deenergized position.

79. Add a new § 236.820a to read as follows:

§ 236.820a Switch, power-operated.

A switch operated by an electrically, hydraulically, or pneumatically driven switch-and-lock movement.

80. Section 236.831 is revised to read as follows:

§ 236.831 Time, delay.

As applied to an automatic train stop or train control system, the time which elapses after the onboard apparatus detects a more restrictive indication until the brakes start to apply.

§§ 236.25, 236.27, 236.72, 236.75, 236.77, 236.78, 236.331, 236.332, 236.333, 236.385, 236.406, 236.409, 236.510, 236.530, 236.533, 236.558, 236.559, 236.561, 236.704, 236.715, 236.716, 236.748, and 236.781 [Removed]

81. The following sections are removed in their entirety: §§ 236.25, 236.27, 236.72, 236.75, 236.77, 236.78, 236.313, 236.331, 236.332, 236.333, 236.385, 236.406, 236.409, 236.510, 236.530, 236.533, 236.558, 236.559, 236.561, 236.704, 236.715, 236.716, 236.748, and 236.781.

82. By adding a new appendix to Part 236 to read as follows:

Appendix A—Civil Penalties

(a) A carrier that violates any provision of this Part is liable for a penalty of: (1) $2,500 for each such violation that results in death or serious injury or involves an immediate hazard of death or injury; (2) $2,000 for each such violation that results from the knowing and willful failure of a carrier, its officers, or its agents to comply with such provision; (3) $1,000 for each other violation of this Part.

(b) Each day that such violation continues is a separate offense.

Issued in Washington, D.C. on January 17, 1984.

John H. Riley,

Administrator.

[FR Doc. 84-1657 Filed 1-25-84; 8:45 am]

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Thursday
January 26, 1984

Part V

Architectural and Transportation Barriers Compliance Board

Standards for Telecommunication Devices for Deaf Persons in Transportation Facilities; Notice

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Standards for Telecommunication Devices for Deaf Persons in Transportation Facilities

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: An invitation to comment on the development of advisory standards for TDDs in transportation facilities.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Board) issues an invitation to comment on the development of advisory standards to address methods for providing telecommunication devices for deaf (TDDs) persons in transportation facilities, particularly airports. Section 502(d)(3) of the Rehabilitation Act of 1973, as amended in 1978, directs the Board, in consultation and coordination with other concerned Federal departments and agencies, to "develop standards and provide appropriate technical assistance to any public or private activity, person, or entity affected by regulations prescribed pursuant to (Title V of the Rehabilitation Act of 1973) with respect to overcoming architectural, transportation, and communication barriers." Since the Board's responsibilities to develop standards under Section 502(d)(3) are separate and apart from its responsibility to establish minimum guidelines and requirements for accessible design under Section 502(b)(7), this invitation to comment does not address what requirements, if any, for TDDs may be addressed in the Board's Minimum Guidelines and Requirements For Accessible Design. The Board may be addressing these requirements at a later date.

DATE: Written comments must be received or postmarked on or before March 26, 1984.

ADDRESS: Written comments should be submitted to the Docket Officer, ATBCB Docket Number 83–TDD–1, U.S. Architectural and Transportation Barriers Compliance Board, 330 C Street, S.W., Room 1010, Switzer Building, Washington, D.C. 20202. Comments received will be available for public inspection in room 1010 from 9 a.m. to 5:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For information contact Ms. Karen Smith, Office of Technical Services (202) 472–2700 (voice or TDD); or Ms. Debra Fischer, General Attorney (202) 245–1801 (voice or TDD).

For additional copies of the invitation to Comment contact Ms. Diane Pernick, Office of Administration and Management, Room 1010, 330 C Street, S.W., Washington, D.C. 20202; (202) 245–1591 (voice or TDD). Copies are also available on tapes for those with visual impairments. Tapes may be obtained at the above address or by contacting Ms. Pernick.

SUPPLEMENTARY INFORMATION:

A. Background: Section 502 of the Rehabilitation Act of 1973, Pub. L. 93–112, 29 U.S.C. 792, established the Architectural and Transportation Barriers Compliance Board (Board) as an independent regulatory agency to ensure compliance with standards issued under the Architectural Barriers Act of 1968, Pub. L. 90–480, 42 U.S.C. 4151 *et seq.*, as amended, to establish minimum guidelines and requirements for those standards, to investigate and examine alternative approaches to the architectural, transportation, communication, and attitudinal barriers confronting handicapped individuals, to develop standards and provide appropriate technical assistance, and to carry out other functions directed toward the elimination of architectural, transportation, communication and attitudinal barriers.

In November 1978, Congress enacted the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (Pub. L. 95–602) amending, in part, Section 502 of the Rehabilitation Act of 1973 (Pub. L. 93–112). The amendments added communication barriers to the Board's mandate and directed the Board to "investigate and examine alternative approaches to communication barriers confronting handicapped individuals, particularly with respect to telecommunication devices" (29 U.S.C. 792(b)(2)) and to "develop standards and provide appropriate technical assistance to any public or private activity, person, or entity affected by regulations prescribed pursuant to this title with respect to overcoming . . . communication barriers . . ." (29 U.S.C. 792(d)(3)).

The standards which will be developed under Section 502(d)(3) will be advisory in nature and may be specified by agencies which issue regulations under Title V and may be used by the Board and others in providing technical assistance to public and private entities. The standards are separate and apart from the Board's final rule, "Minimum Guidelines and Requirements for Accessible Design" (hereafter "MGRAD") issued January 16, 1981, revised January 27, 1982 (47 FR 3934) and August 4, 1982 (47 FR 33862).

The MGRAD provides a useful framework for the development of accessibility standards to be issued under the Architectural Barriers Act of 1968, as amended, by four Federal standard-setting agencies: General Services Administration (GSA), Department of Defense (DOD), Department of Housing and Urban Development (HUD), and the United States Postal Service (USPS).

During the rulemaking process for the MGRAD, the Board very carefully weighed questions related to telephone TDDs.

A telecommunication device for deaf persons (TDD) is any type of device that provides transmission, emission or reception of signals, signs, writing, images or intelligence of any nature, by wire, cable, satellite, fiber optics, laser, visual, or other electronic, electric, electromagnetic or acoustically-coupled means which does not depend upon the aural mode. One type of telecommunication device (frequently called telephone TDDs or TTY) uses a keyboard and acoustical coupler to communicate with another similar device via telephone lines. In addition to these devices, technological advances have made a number of other types of TDDs available. Examples of these devices include captioning and teletext, electronic mail, electronic information services (news, weather, sports, electronic newspapers, advertising), educational programming, financial services, library services, electronic directories, electronic payment mechanisms and telecommunication cash transfer, and interactive CRTs (*e.g.* television screens, LED message displays, and the like).

In the course of its development of the MGRAD, the Board received a wide range of comments from consumers, service providers, and manufacturers highlighting concerns on telephone TDD issues. Deaf individuals and their advocacy organizations were strongly in favor of requiring telephone TDDs at public telephones in Federal and federally-assisted buildings and facilities. One organization observed that public telephones which are amplified or are compatible with hearing aids remain useless to those with severe or profound hearing loss and noted that only telephone TDDs can benefit them. Some commentors also raised concerns over any requirement for public phones to have telephone TDDs. These concerns were threefold: problems with cost (including maintenance), vandalism, and compatibility between TDDs utilizing dissimilar codes (BAUDOT and ASCII). After extensive consideration, the Board

decided not to require the use of TDDs at public telephones until information could be acquired through research or other sources to assist the Board in answering a number of questions that had been raised regarding telephone TDD use.

In an effort to carry out its responsibilities in this area, the Board has initiated two actions. First, the Board approved, at its May 1982 meeting, a research proposal to gather technical information and data on telecommunication devices for deaf individuals. Secondly, at its July 1983 meeting, the Board accepted the Communications Committee's recommendation to issue an invitation to comment on the development of advisory standards for access to telecommunication devices for deaf persons in transportation facilities, particularly airports.

B. Invitation To Comment: The purpose of this invitation to comment is to focus public attention on issues concerning communication barriers to deaf persons in transportation facilities, and to develop advisory standards and provide appropriate technical assistance to any public or private activity, persons, or entity affected by regulations prescribed pursuant to Title V of the Rehabilitation Act of 1973, as amended, with respect to overcoming communication barriers as provided under 29 U.S.C. 792(d)(3). With particular reference to federally assisted transit facilities, including airports, applicable Title V regulations include the Department of Transportation Section 504 regulations (49 CFR Part 27). The Board wishes to emphasize that the invition to comment merely raises issues and provides some background information; none of the statements or questions should be interpreted to represent legal or policy positions of the Board.

In this context, the Board invites public comment for the next 60 days on the issues identified below. These questions are designed to elicit information regarding communication barriers in various kinds of transportation facilities. Airports, bus terminals, railroad stations, and subways may have different types of communication barriers and as a result, may require different solutions. For example, some large airports, bus or train terminals may provide "traveler's aid" information while smaller facilities may not. Some facilities are privately owneed and operated and may not be subject to Federal requirements.

In answering the following questions, commenters should pay particular attention to which devices/services should be provided in which type of facility. Comment is also invited on any additional issues related to communication barriers in transportation facilities which members of the public believe are important and whose resolution would contribute to effective accessibility and usability of the facility.

Based on comments received in response to this invitation to comment and other available information, the Board will determine if it is appropriate to develop advisory standards for telephone TDDs in transportation facilities.

The Board is most anxious to expedite its technical assistance function with respect to communication barriers under Section 502(d)(3). The Board hopes that this invitation to comment will elicit guidance in this task and promote an understanding of the issues.

Dated: July 12, 1983.

By vote of the Board.

Wm. Bradford Reynolds,

Chairperson, Architectural and Transportation Barriers Compliance Board and Assistant Attorney General for Civil Rights, Department of Justice.

Hale Zukas,

Vice Chairperson, Architectural and Transportation Barriers Compliance Board.

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C. Questions

1. Purpose: What is the primary need of deaf/hearing impaired persons for telephone TDDs or other telecommunication devices at transportation facilities? (Rate each factor from 1 to 5 as follows: 1 = Very important; 2 = Important; 3 = Desirable, but not necessary; 4 = Unimportant; 5 = Undesirable.)

____ routine calls
____ calls to note arrival/departure
____ to seek assistance/pick up
____ to obtain flight/transportation information
____ to obtain/confirm reservations
____ other (please explain)

_____

_____

2. Location in Transportation Facilities

a. How important is it to have telephone TDDs in each of these types of transportation facilities? (Rate each factor from 1 to 5.)

____ air terminal
____ transit station
____ commuter/subway system
____ bus terminal

Where should these devices be located in these facilities and why? (Rate each factor from 1 to 5 as follows: 1 = Very important; 2 = Important; 3 = Desirable, but not necessary; 4 = Unimportant; 5 = Undesirable.)

	Air Terminals	Train Stations	Commuter/ Subway Systems	Bus Terminals
information centers				
traveler's aid				
security office				
each main terminal				
each concourse				
each platform				
each transportation operators counter				
first aid station				
at bank of public pay phones				
at courtesy phone				
administration office				
station attendants kiosk				

other (be specific) _____

(Rationale for rating): _____

_____

b. Should the location be standardized for each type of transportation facility? (Check appropriate box)

	Yes	No
Air Terminals		
Train Stations		
Commuter/Subway Stations		
Bus Terminals		

c. Should telecommunication devices be provided in more than one location?

_____

Which locations? _____

_____

Why? _____

_____

What types of devices? _____

_____

What types of facilities? _____

_____

d. Rate the following factors to be taken into consideration when establishing locations and numbers of telephone TDDs or other telecommunication devices to be provided. (Rate each factor from 1 to 5 as follows: 1 = Very Important; 2 = Important; 3 = Desirable, but not necessary; 4 = Unimportant; 5 = Undesirable.)

(It is important to realize that choices may have to be made between alternative courses of action, given limited resources. Your ratings should therefore discriminate carefully among alternatives.)

	Air Terminals	Train Stations	Commuter/ Subway Syst	Bus Terminals
size of buildings				
number of scheduled arrivals and departures				
number of passengers				
number of airlines/ transportation operators				
number of personnel				
geographic considerations				
number of terminals				
distance between terminals				
number of concourses				
number of train platforms				
number of public pay phones				
number of communication impaired travelers				
television monitors				
flip boards				
other (specify)				

e. In some transportation facilities, a telephone TDD is located in the security office. When the device is so located (Check appropriate boxes):

Are hearing impaired and deaf travelers provided adequate information as to the availability and location of the device?

	Air Terminals	Train Stations	Comm/Subway Systems	Bus Terminals
Yes				
No				

Other Comments: _____

_____

Are the devices available only during certain hours?

Yes				
No				

Other comments: _____

_____

Does this location adequately satisfy the needs of hearing impaired/deaf travelers?

Yes				
No				

Other comments: _____

_____

3. Type of Device

What type of devices are needed to eliminate or reduce the various communication barriers encountered by deaf travelers in different types of transportation systems? Please rate the various types of transportation systems from 1-5 as follows: 1 = Very Important; 2 = Important; 3 = Desirable, but not necessary; 4 = Unimportant; 5 = Undesirable.

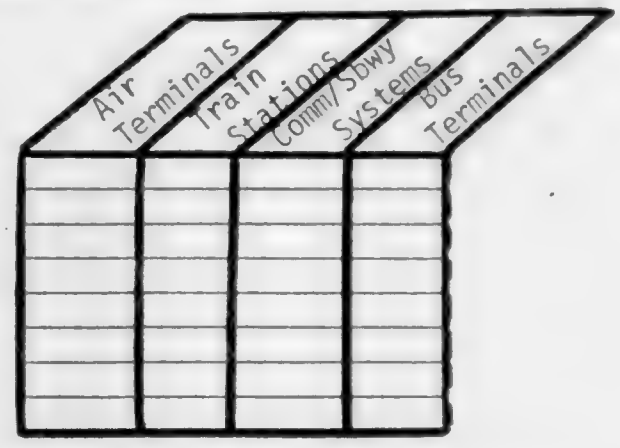

- telephone TDD/TTY
- message board/LED display
- television display
- reactive computer interface terminal
- computer maps
- visual arrival/departure signals
- visual emergency alarms
- other devices (be specific)

_____

4. Availability

a. Should telephone TDDs and other telecommunication devices be available during all hours that the transportation facility is open? (Check appropriate box)

Yes ____ No ____

Comments: _____

_____

b. Should telephone TDDs and other telecommunication devices be available only during heavy "peak" hours? (Check appropriate box)

Yes ____ No ____

If your answer is "no", during what hours are TDDs and other telecommunication devices not necessary? _____

	Heavy (Peak) hours	Light (Off-peak) hours
Bus terminals		
Train Stations		
Commuter/Subway Systems		
Air terminals		

c. Should there be a separate telephone line (number) for the telephone TDD only? (Check appropriate box)

Yes ____ No ____

What are the advantages/disadvantages of a separate line?

Comments: _____

_____

d. Should telephone TDDs be portable (i.e., movable) or installed as a permanent fixture? (Check appropriate box)

	Yes	No
Portable		
Permanent		

e. In addition to or in lieu of a telephone TDD, what alternative assistance should be considered for communication impaired persons?

Comments: _____

_____

f. Do you own a telephone TDD? _____

Do you own other telecommunication devices? _____

Is it portable? _____

Have you ever used your own telephone TDD with a public telephone?

_____

5. Service/Repair/Maintenance

a. Are personnel at the transportation facilities aware of the location of telephone TDDs and other specialized equipment?

Yes ____ No ____

b. Are personnel at the transportation facilities trained to use telephone TDDs and other specialized equipment?

Yes ____ No ____

If not, is there a need to train them?

Yes ____ No ____

Who should provide such training?

____ transit operator
____ carriers
____ building owners
____ state/local governments
____ Federal governments
____ constituent organizations
____ other (be specific) _____

_____

c. Are there any procedures at transportation facilities to ensure that telephone TDDs and other telecommunication devices are maintained?

Yes ____ No ____

If a device is out of service, is a backup device available?

Yes ____ No ____

Comments: _____

_____

d. What is the time frame for repairs/maintenance? _____

_____

e. How often do TDDs have to be repaired?

Comments: _____

_____

_____

f. In transportation facilities that have telephone TDDs, is the device compatible with other telecommunication devices in such respects as:

circuit systems _____
handset (receiver) design _____
other _____

_____

In transportation facilities that have telephone TDDs:

Is the device located near a telephone? _____

Does the telephone handset (receiver) have sufficient cord to use the TDD? _____

Is an electrical outlet located near a telephone TDD? _____

Other: _____

_____

6. Signage

a. What actions are necessary to adequately advertise and instruct on the availability, location, and use of telecommunication devices at transportation facilities:

_____

_____

_____

b. Are signs being provided?

Yes ____ No ____

c. Who is responsible for ensuring that signs are in place and maintained to direct people who wish to use telephone TDDs? (Check appropriate boxes.)

____ carriers
____ transit operators
____ building managers
____ communication companies
____ other (be specific) _____

_____

d. If signs are required, where should they be located and how many are needed? (Rate each location from 1 to 5 as follows: 1 = Very Important; 2 = Important; 3 = Desirable, but not necessary; 4 = Unimportant; 5 = Undesirable)

Location	Number	Priority rating
facility entrance		
information center		
traveler's aid		
security office		
each main terminal		
each platform		
each concourse		
each airline/train or bus operator		
first aid station		
bank of public pay phones		
at courtesy phones		
administrative office		
station attendants kiosk		
every 100 feet		
every 200 feet		
other		

e. Do such signs require any special physical characteristics? (Check appropriate box(es).)

size ____
color ____
height ____
tactile characters ____
other ____

f. Should every public pay phone or bank of pay phones have instructions to indicate on where a telephone TDD is located?

Yes ____ No ____

Would other signage be required?

Yes ____ No ____

Other: _____

_____

7. Vandalism

a. Is vandalism a problem?

Yes ____ No ____

If it is a problem, please explain: _____

_____

_____

_____

b. Who is responsible for the security of equipment? (Check appropriate box or boxes.)

____ carriers
____ operators
____ building managers/owners
____ other? _____

_____

c. Is it possible to enclose a portable telephone TDD in a similar hard plastic cover as is used on pay phones?

Yes ____ No ____

What would be the cost?

_____

_____

Who would be responsible for doing this? (Check appropriate box or boxes.)

airline	____
airport	____
phone company	____
transportation operators	____
TDD manufacturers	____
other	____

d. Is there any interest by manufacturers to develop a coin operated or charge call telephone TDD for use in public places?

Yes ____ No ____

Comments: _____

_____

e. Could a portable telephone TDD be attached by cable near the pay phone?

Yes ____ No ____

Comments: _____

_____

f. Are there any other measures that could be used to prevent vandalism without jeopardizing the use of the telephone TDD?

_____

_____

_____

_____

8. Costs

a. What is the unit cost of a public telephone TDD device?

_____

b. What is the installed unit cost of public telephone TDD device?

_____

c. What is the average monthly maintenance cost of telephone TDDs?

_____

What, if any, is the monthly service charge for telephone TDDs?

_____

d. What is the average life expectancy of a telephone TDD?

_____

_____

e. What is the average number of uses a public telephone TDD device received per month by deaf, speech and hearing impaired individuals? Please cite examples.

_____

_____

f. To what extent would anticipated revenues from public telephone devices be expected to cover installation and maintenance costs?

_____

_____

g. If telephone TDDs are provided by Federal regulation, should the Federal government participate in the net cost of:

	Yes	No
equipment purchase		
installation		
maintenance		

If Federal financial assistance should be provided, what should be the source of such funds?

_____

_____

Can funds be provided for this purpose under existing laws?

_____

h. Who else should participate in financing this equipment and in what proportions? (Rank in order of importance and assign a percentage signifying the proportion of the participant.)

Rank	%	
____	____	the airport operator
____	____	the airlines
____	____	the users
____	____	telephone companies or other utility providing the equipment
_____		others, please be specific _____

_____

i. How should cost factors be recognized in the proposed standards with respect to types of devices specified, locations, availability, service and so forth? _____

_____

_____

9. Other Questions

a. Department of Transportation regulation 49 CFR 27, Subpart D, dated 5/31/79, requires that new terminals constructed by airports that have received Federal funds be equipped with telephone TDD service to permit hearing impaired persons to communicate readily with airline ticket agents and other personnel.

- How effective has this regulation been? _____

_____

- Would the needs of hearing impaired persons be adequately met if these same (49 CFR 27) requirements were extended to all airports?

_____

- Does the wording of this regulation adequately reflect the needs of hearing impaired air travelers? _____

_____

- If not, what wording changes are appropriate? _____

_____

- What additional requirements, if any, are needed? _____

_____

- Has the lack of advisory standards and/or guidelines concerning the selection, installation, and use of such devices hampered implementation of this regulation? _____

_____

- Describe actions taken by airports/airlines with respect to type of equipment selected, located, signage, training, etc., in satisfying this regulation. _____

_____

- Did any of these actions include creation of separate information centers to provide information to hearing impaired and other handicapped travelers? _____

_____

b. At locations where air carriers own or share telephone TDDs with other airlines:

- Is the telephone TDD service requirement in the Department of Transportation regulation 49 CFR Part 27 satisfied? _____

- At how many airports do airlines provide such service? _____

- What procedure is used when airlines share telephone TDDs? _____

_____

- How many airlines regularly provide such service? _____

- If an airline is the sole possessor of telephone TDD equipment at a specific airport, is the deaf or hearing impaired traveler adequately serviced? _____

- How is the telephone TDD service provided by airlines advertised?

_____

c. At locations where transit authorities other than air carriers (i.e., terminals used by more than one bus or train company) own or share telephone TDDs with other companies?

- How many transit authorities provide such service? _____

- What procedure is used when companies share telephone TDDs? _____

_____

- If a company is the sole possessor of telephone TDD equipment at a specific transit authority, is the deaf or hearing impaired traveler adequately serviced? _____

- How is the telephone TDD service advertised? _____

_____

d. Department of Transportation regulation 49 CFR 27 also requires that terminal information systems in new airport terminals take into consideration the needs of handicapped persons. It further states that the primary mode shall be visual words and letters, or symbols, using lighting and color coding. Airport terminals shall also have facilities providing information orally.

- Does the wording adequately address the additional needs of the handicapped individual at airports for terminal information? _____

- Do television monitors and/or arrival/departure schedules and status boards meet the requirement for visual words? _____

- To what extent should color coding be required? _____

_____

- To what extent should the use of public address systems be required for announcing arrival/departure schedules, schedule changes, flight status, etc.? _____

_____

- What other terminal information should be recommended or required to comply with the regulation as written? _____

_____

e. What telecommunication systems are needed in other types of transportation systems? _____

_____

f. In many cases, considerable information (schedule changes, vehicle arrival/departure, emergency notification, paging) is conveyed by loud speaker public address systems.

- What needs to be done in terminals? _____

_____

- What needs to be done in vehicles for important announcements (e.g., next-station and door closing calls in subways, fasten seat belts in airplanes)? _____

_____

g. To what extent could the Board anticipate that adequate communication services for the deaf, hearing and speech impaired persons will be provided by the private sector without need for advisory standards being issued by the Board? _____

_____

h. What criteria, (type of service/program, use of building, size of building) should be used to determine whether telephone TDD capabilities should be incorporated in all federally supported buildings related to transportation facilities where telephone services are provided for the general public? (Check appropriate box(es).)

____ type of service
____ type of program
____ use of building
____ size of building
____ other _____

_____

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i. What are the special telecommunication needs of deaf-blind individuals in transportation facilities? _____

_____

j. Do you know of any instances in which an ASCII capable telephone TDDs available in transportation facilities, was or is used by the business community to communicate with a computer? _____

_____

k. Additional comments on related issues. _____

_____

_____

[FR Doc. 84-2068 Filed 1-25-84; 8:45 am]
BILLING CODE 6820-BP-C

federal register

Thursday
January 26, 1984

Part VI

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978; Notice

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Vol. No. 1045]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 19, 1984.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd., Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
- 102–2: New well (2.5 Mile rule)
- 102–3: New well (1000 Ft. rule)
- 102–4: New onshore reservoir
- 102–5: New reservoir on old OCS lease.

Section 107–DP: 15,000 feet or deeper
- 107–GB: Geopressured brine
- 107–CS: Coal Seams
- 107–DV: Devonian Shale
- 107–PE: Production enhancement
- 107–TF: New tight formation
- 107–RT: Recompletion tight formation

Section 108: Stripper well
- 108–SA: Seasonally affected
- 108–ER: Enhanced recovery
- 108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS
Issued January 19, 1984

VOLUME 1045

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
OHIO DEPARTMENT OF NATURAL RESOURCES									
-ALSID OIL & GAS DEVELOPMENT CO				RECEIVED:	12/20/83	JA: OH			
8412735		3409921634		107-TF		QUAY UNIT #1	GOSHEN	15.0	
-AMERICAN ENERGY DEVELOPMENT INC				RECEIVED:	12/20/83	JA: OH			
8412736		3408520489		107-TF		MICHAEL PAPARIZOS #1	MADISON	35.0	
-BERMAN J SHAFER				RECEIVED:	12/20/83	JA: OH			
8412737		3415321514		107-TF		CONSOLIDATED FREIGHTWAYS #1	RICHFIELD	1.2	EAST OHIO GAS CO
-BLAUSER WELL SERVICE INC				RECEIVED:	12/20/83	JA: OH			
8412738		3416726672		107-TF		W A MCKIBBEN #1	DECATUR TOWNSHIP	6.7	COLUMBIA GAS TRAN
8412739		3416726684		107-TF		W T JAMES JR #1	DECATUR	7.2	COLUMBIA GAS TRAN
-CHARLES L WOOD				RECEIVED:	12/20/83	JA: OH			
8412740		3459234980		103	107-TF	SNYDER #1	MONROE	12.0	COLUMBIA GAS TRAN
-CLINTON OIL CO				RECEIVED:	12/20/83	JA: OH			
8412776		3411926724		107-TF		WEISER #3-786	FALLS	10.0	
-DERBY OIL & GAS CORP				RECEIVED:	12/20/83	JA: OH			
8412741		3400523642		103	107-TF	JAMES SCHWEYER #1	MOHICAN	12.0	COLUMBIA GAS TRAN
-ENTERPRISE ENERGY CORP				RECEIVED:	12/20/83	JA: OH			
8412742		3411523273		103	107-TF	PHILLIS #1	MANCHESTER	18.2	TEXAS EASTERN TRA
-EVERFLOW EASTERN INC				RECEIVED:	12/20/83	JA: OH			
8412745		3415123984		103	107-TF	COBLENTZ #1	LAKE	0.0	
8412743		3409920917		103	107-RT	CONSERVATION CLUB #1	GOSHEN	0.0	
8412744		3413323099		103	107-TF	PEMBERTON #1	EDINBURG	0.0	
-FUTURE ENERGY CORPORATION				RECEIVED:	12/20/83	JA: OH			
8412747		3411523211		103	107-TF	DRAKE #1	MALTA	30.0	
8412746		3411523056		103	107-TF	HAZEN #2	MALTA	30.0	
8412748		3411523260		103	107-TF	PIERCE #1	MALTA	30.0	
-GASEARCH INC				RECEIVED:	12/20/83	JA: OH			
8412749		3415321480		103	107-TF	GOLDEN LINKS #20	NORTHFIELD CENTER	20.0	GAS OHIO TRANSPOR
8412750		3415321481		103	107-TF	GOLDEN LINKS #21	NORTHFIELD CENTER	20.0	GAS OHIO TRANSPOR
-GEO ENERGY INC				RECEIVED:	12/20/83	JA: OH			
8412751		3412725821		107-TF		KELBER-BELCHER #10-3	SALT LICK	18.0	
-GREEN ENERGY				RECEIVED:	12/20/83	JA: OH			
8412753		3409321222		107-TF		APPLE PARTNERSHIP #1	COLUMBIA	10.0	
8412754		3409321224		107-TF		APPLE PARTNERSHIP #2	COLUMBIA	15.0	
8412756		3409321227		107-TF		BARTTER #11	COLUMBIA	10.0	COLUMBIA GAS TRAN
8412752		3409321201		107-TF		BARTTER #7	COLUMBIA	10.0	
8412757		3410323451		107-TF		MOCON #1	HINCKLEY	15.0	COLUMBIA GAS TRAN
8412755		3409321225		107-TF		SLANSKY #1	COLUMBIA	8.0	COLUMBIA GAS TRAN
-JAMES P MOLL				RECEIVED:	12/20/83	JA: OH			
8412758		3412725998		107-TF		LLOYD-WILSON #2	READING	300.0	COLUMBIA-GAS-TRAN
-JOHN C MASON				RECEIVED:	12/20/83	JA: OH			
8412759		3407523728		107-TF		ANDY ERB #7	MECHANIC	20.0	COLUMBIA GAS TRAN
-JOHN TANSKY				RECEIVED:	12/20/83	JA: OH			
8412760		3412725080		103	107-TF	USA (SURFACE) #2	SALT LICK	5.0	
-LOMAK PETROLEUM INC				RECEIVED:	12/20/83	JA: OH			
8412762		3405520529		103	107-TF	A BARBER #3	CLARIDON	24.0	EAST OHIO GAS CO
8412761		3405520397		103	107-TF	A MOLZON #1	CLARIDON	24.0	EAST OHIO GAS CO

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8412763		3405520541		107-TF		EASTERN SPECIALTY - CHAPMAN #1	BURTON	24 0	EAST OHIO GAS CO
8412764		3405525620		107-TF		F GIEL #1	BURTON	18 0	EAST OHIO GAS CO
8412767		3413323089		107-TF		L ZALA UNIT #1	HIRAM	18 0	EAST OHIO GAS CO
8412766		3411523202		103	107-TF	OHIO POWER #7 MD	BRISTOL	35 0	
8412765		3411523155		107-TF		OPL #6-MD	BRISTOL	24.0	EAST OHIO GAS CO
-NEW FRONTIER EXPLORATION INC				RECEIVED:	12/20/83	JA: OK			
8412768		3415522303		103	107-TF	SUTTON #2	BRISTOL	0.0	YANKEE RESOURCES
-NOBLE OIL CORP				RECEIVED:	12/20/83	JA: OH			
8412769		3400722283		107-TF		FETTERS #2	NEW LYME	20 0	EAST OHIO GAS CO
8412770		3413323002		107-TF		HILLEGAS #2	PALMYRA	20 0	GENERAL ELECTRIC
-OHIO OIL & GAS CO				RECEIVED:	12/20/83	JA: OH			
8412771		3415522399		107-TF		PEARCE #1	KINSMAN	20.0	COLUMBIA GAS TRAN
-POI ENERGY INC				RECEIVED:	12/20/83	JA: OH			
8412772		3400722365		103	107-TF	MC CREADY #2	ANDOVER	36 0	
8412773		3405520553		103	107-TF	MITCHELL UNIT #GM-3	BAINBRIDGE	35.0	
8412774		3405520581		103	107-TF	ROBINSON-RUBES #GM-1	BAINBRIDGE	40 0	
-THE BENATTY CORPORATION				RECEIVED:	12/20/83	JA: OH			
8412775		3411521839		107-RT		FOX #1	BLOOM	10 0	CLINTON AMERICAN
-TWINOAKS OIL & GAS				RECEIVED:	12/20/83	JA: OH			
8412777		3410323478		103	107-TF	OSCAR PHILLIPS #1	GRANGER	12 0	COLUMBIA GAS TRAN
**********									
OKLAHOMA CORPORATION COMMISSION									
**********									
-ARCO OIL AND GAS COMPANY				RECEIVED:	12/19/83	JA: OK			
8412692	25136	3501922709		103		FORD - BOGGESS #1	N W OIL CITY	91 3	MOBIL OIL CORP
-ARKOMA GAS CO				RECEIVED:	12/19/83	JA: OK			
8412662	24035	3512120246		108		BLEVINS 1-18	NW CABANISS	16.0	ARKANSAS LOUISIAN
8412663	24034	3512120466		108		HILSEWECK 1-16	NW CABANISS	18 5	ARKANSAS LOUISIAN
8412664	24033	3512120481		108		HILSEWECK 1-8	NW CABANISS	11 2	ARKANSAS LOUISIAN
-BAILEY PETROLEUM CORP				RECEIVED:	12/19/83	JA: OK			
8412691	25192	3511124421		103		MCGUIRE #1	WEST HOFFMAN	10 8	PHILLIPS PETROLEU
-BLUE QUAIL ENERGY INC				RECEIVED:	12/19/83	JA: OK			
8412684	25235	3501722522		103		JULIETTE #1	S MUSTANG	0 0	PHILLIPS PETROLEU
-BOBBY J DARNELL				RECEIVED:	12/20/83	JA: OK			
8412785	25267	3508322283		103		HELEN #1	SOUTHEAST LOVELL	44 0	EASON OIL CO
8412786	25268	3508322284		103		TERHUNE #2	SOUTHEAST LOVELL	46 0	EASON OIL CO
-CUMMINGS OIL CO				RECEIVED:	12/20/83	JA: OK			
8412798	25265	3507323455		103		CORBIN "A" #1	SOONER TREND	0 0	NORTHWEST CENTRAL
-EL PASO NATURAL GAS COMPANY				RECEIVED:	12/19/83	JA: OK			
8412695	25049	3500935438		108		VANNERSON #1	ERICK SOUTH - BROWN D	28 0	EL PASO NATURAL G
-F C D OIL CORP				RECEIVED:	12/19/83	JA: OK			
8412671	25302	3505332101		103		LYDA #1	S E LAMONT	22.9	FARMLAND INDUSTRI
8412683	25240	3505320969		103		RUTH 1-19	SOUTH POND CREEK	16.0	FARMLAND INDUSTRI
-F HOWARD WALSH JR				RECEIVED:	12/19/83	JA: OK			
8412673	25335	3501521455		103		BRIGHT #1		29 0	ARKANSAS LOUISIAN
-HADSON PETROLEUM CORP				RECEIVED:	12/19/83	JA: OK			
8412689	25202	3508720364		108		RAY #1-33	NORTH DIBBLE	10.0	LONE STAR GAS CO
-HARPER OIL COMPANY				RECEIVED:	12/19/83	JA: OK			
8412672	25331	3504723312		103		COURTER #4	SOONER TREND	0 0	ARKANSAS LOUISIAN
-HAZELWOOD PRODUCTION & EXPL CO				RECEIVED:	12/19/83	JA: OK			
8412674	25337	3509321365		103		ARMSTRONG #14-1	AMES	51.1	TRANSOK INC
8412676	25342	3509321366		103		BARTLETT #14-1	AMES	154 8	TRANSOK INC
8412661	25285	3509321333		103		LAWHON #11-1	AMES	292 0	TRANSOK INC
-J L THOMAS ENGINEERING INC				RECEIVED:	12/20/83	JA: OK			
8412778	25275	3513921747		103		HARRISON #1-31	SOUTHEAST KEYES	108 0	PHILLIPS PETROLEU
-JORDAN OIL & GAS COMPANY				RECEIVED:	12/19/83	JA: OK			
8412698	25196	3507216210		103		WALKER NO 2-33		18.0	TRANSOK INC
-JORDAN OIL & GAS COMPANY				RECEIVED:	12/20/83	JA: OK			
8412781	25196	3506321814		103		COPPEDGE NO 1-2		274 0	TRANSOK PIPELINE
-K P EXPLORATION INC				RECEIVED:	12/19/83	JA: OK			
8412666	22552	3513921558		102-4		CARPENTER #4-8	NORTHWEST HOOKER FIEL	365 0	NORTHWESTERN CENT
8412667	22551	3513921600		102-4		CARPENTER #6-8	NORTHWEST HOOKER FIEL	365 0	NORTHWESTERN CENT
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	12/20/83	JA: OK			
8412800	25283	3501922825		103		PERKINS #3-3	TATUMS	0.0	
-KEENER OIL CO				RECEIVED:	12/19/83	JA: OK			
8412668	25289	3511124516		103		CASTATOR #4	CASTATOR FARM	6.0	PHILLIPS PETROLEU
-KELLOIL INC				RECEIVED:	12/19/83	JA: OK			
8412693	25122	3500722249		108		WATSON #1		0.0	NATURAL GAS P L C
-KEPCO INC				RECEIVED:	12/19/83	JA: OK			
8412675	25341	3508778363		103		WELLS 1-19	WASHINGTON	0 0	SUN EXPLORATION &
-LINCOLN ROCK CORP				RECEIVED:	12/20/83	JA: OK			
8412788	23027	3508520337		102-4		STATE #1	NORTHEAST MARIETTA	12.0	CIMARRON TRANSMIS
-LITTLE RIVER ENERGY CO				RECEIVED:	12/20/83	JA: OK			
8412794	24795	3503724565		103		WHEELER #2	WILDCAT	0 0	ARCO OIL & GAS CO
-MACK OIL CO				RECEIVED:	12/20/83	JA: OK			
8412779	25276	3504723413		103		STORMS #3	N W CARRIER	105.0	UNION TEXAS PETRO
-MAGIC CIRCLE ENERGY CORP				RECEIVED:	12/19/83	JA: OK			
8412670	25301	3500320248		108		ALTON #1	RINGWOOD	10.5	UNION TEXAS PETRO
-MESA PETROLEUM CO				RECEIVED:	12/19/83	JA: OK			
8412669	25298	3515300000		108		LEACHMAN 1-19	RICHMOND	10 0	MICHIGAN WISCONSI
-MEWBOURNE OIL COMPANY				RECEIVED:	12/19/83	JA: OK			
8412665	23133	3504521035		102-4		STUART UNIT NO 2 OTC 8045-7322'	STUART RANCH (MORROW	185.0	NORTHERN NATURAL
-OXLEY PETROLEUM CO				RECEIVED:	12/20/83	JA: OK			
8412796	25026	3505121129		103		ANDERS #1		0 0	PHILLIPS PETROLEU
-PAUL BOGIE				RECEIVED:	12/20/83	JA: OK			
8412799	25284	3511124529		103		ELLISON #1	SOUTHEAST MORRIS	0.0	PHILLIPS PETROLEU
-PAWNEE PETROLEUM CO				RECEIVED:	12/19/83	JA: OK			
8412680	25255	3511720784		103		FLAGOR #1	MERAMAC	0.0	PHILLIPS PETROLEU
8412679	25256	3511720804		103		FRICK #1	MERAMEC	0.0	PHILLIPS PETROLEU
8412678	25257	3511721159		103		FRICK #3	MERAMEC	0.0	PHILLIPS PETROLEU
8412682	25253	3511720723		103		GRIPE #2	MERAMAC	0 0	PHILLIPS PETROLEU
8412681	25254	3511720917		103		GRIPE #3	MERAMAC	0.0	PHILLIPS PETROLEU
-PETRO-LEWIS CORPORATION				RECEIVED:	12/19/83	JA: OK			
8412696	24843	3500722489		103		GEORGIA CUSTER 1-16	ELMWOOD WEST	0.0	PHILLIPS PETROLEU
-PETRO-LEWIS CORPORATION				RECEIVED:	12/20/83	JA: OK			
8412795	24895	3507300000		108		EBERHARDT 29-1	SOONER TREND	13.8	PARTNERSHIP PROPE
-PETROLEUM RESOURCES CO				RECEIVED:	12/20/83	JA: OK			
8412792	24322	3508321960		103		LILLIAN B GRAFF #3	CRESCENT-LOVELL	912.0	EASON OIL CO
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	12/20/83	JA: OK			
8412780	25038	3503920910		103		GOE "A" #1	NORTH CUSTER CITY	0.0	
8412789	23121	3507323674		102-4		ROTT B #1	WEST OKARCHE	0.0	ONG WESTERN INC
8412791	23124	3501722407		102-4		SCHWEITZER C #1	WEST OKARCHE	0 0	
8412790	23122	3507322813		102-4		VOSS A #1	W OKARCHE	0.0	ONG WESTERN INC
-PREMIER OPERATING CO				RECEIVED:	12/19/83	JA: OK			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8412687	25207	3507323782		103		CERNY-MUEGGENBORG #1	SOONER TREND	15.0	CONOCO INC
8412688	25206	3504723387		103		SEMRAD #1	SOONER TREND	25.0	CHAMPLIN PETROLEU
-PREMIER OPERATING CO				RECEIVED:	12/20/83	JA: OK			
8412783	25230	3500321043		103		KEIFFER #1	SOONER TREND	40.0	UNION TEXAS PETRO
-QUANTUM RESOURCES CORP				RECEIVED:	12/20/83	JA: OK			
8412784	25248	3504723096		103		POSEY #7-2	NORTH ENID	25.0	UNION TEXAS PETRO
-R & M PETROLEUM INC				RECEIVED:	12/20/83	JA: OK			
8412782	25231	3503725230		103		CHIEFTAIN #1	MANNFORD	1.0	
-RED EAGLE OIL CO				RECEIVED:	12/19/83	JA: OK			
8412694	25081	3509322666		103		ANNA #1	N W OKEENE	182.0	PIONEER GAS PRODU
-RESOURCE DEVELOPMENT CO INC				RECEIVED:	12/20/83	JA: OK			
8412797	25186	3508122012		103		ETHRIDGE #3-22	SOUTH STROUD PRUE	12.0	SWAB CORP
-RONNIE BLUBAUGH				RECEIVED:	12/19/83	JA: OK			
8412685	25219	3510321408		103		SCHULTZ #1	POLO	12.0	ARCO OIL & GAS CO
-TENNECO OIL COMPANY				RECEIVED:	12/19/83	JA: OK			
8412668	25297	3510322004		103		SOUTH LONE ELM CLEVELAND SAND #112	SOUTH LONE ELM	3.0	AMINOIL U S A INC
-TRINEHA INC				RECEIVED:	12/20/83	JA: OK			
8412787	25278	3501722557		103		GREER #1-4	S W MUSTANG (SE/4 SEC	360.0	PHILLIPS PETROLEU
-UNION TEXAS PETROLEUM				RECEIVED:	12/19/83	JA: OK			
8412698	24669	3509300000		108		JOHN HESS #1	HODGE I	58.0	PANHANDLE EASTERN
8412697	24667	3500300000		108		MARIE SMITH #1	HODGE I	15.0	PANHANDLE EASTERN
8412699	24670	3500300000		108		MILDRED O HUGHES #1	HODGE I	27.0	PANHANDLE EASTERN
-UNIT DRILLING & EXPLORATION CO				RECEIVED:	12/19/83	JA: OK		60.0	
8412686	25215	3504521134		103		BERRYMAN #1-23			
-WOODS PETROLEUM CORPORATION				RECEIVED:	12/19/83	JA: OK			
8412677	26351	3501120244		107-PE		LOOSEN UNIT #1	S E WATONGA	136.0	OKLAHOMA GAS & EL
-WOODS PETROLEUM CORPORATION				RECEIVED:	12/20/83	JA: OK			
8412793	24469	3505121445		103		KUYKENDALL #16-1	SW MINCO	657.0	TRANSOK PIPE LINE

WEST VIRGINIA DEPARTMENT OF MINES

-ALLEGHENY LAND & MINERAL COMPANY				RECEIVED:	12/19/83	JA: WV			
8412730		4704103095		108		A - 1036	COURT HOUSE DISTRICT	0.0	CONSOLIDATED GAS
8412700		4704101871		108		A - 454	FREEMANS CREEK DISTRI	0.0	CONSOLIDATED GAS
8412702		4701703051		108		A-1052	CENTRAL DISTRICT	0.0	CONSOLIDATED GAS
8412729		4708504875		108		A-887	MURPHY DISTRICT	0.0	CONSOLIDATED GAS
-APPCO OIL & GAS CORP				RECEIVED:	12/19/83	JA: WV			
8412618		4708506288		103		ROBINSON #2	UNION	0.0	CONSUMER GAS UTIL
-B&W PRODUCERS				RECEIVED:	12/19/83	JA: WV			
8412648		4710700772		108		ASA BUNNER WELL #1	WALKER FIELD	9.6	CONSOLIDATED GAS
8412650		4710700784		108		ASA M BUNNER WELL #2	WALKER	1.6	CONSOLIDATED GAS
8412652		4710700797		108		ASA M BUNNER WELL #3	WALKER	9.6	CONSOLIDATED GAS
8412651		4710700785		108		ASA M BUNNER WELL #4	WALKER	0.0	CONSOLIDATED GAS
8412655		4710700893		108		DUNLAP #2	WALKER	1.5	CONSOLIDATED GAS
8412654		4710700892		108		DUNLAP WELL #1	WALKER	1.5	CONSOLIDATED GAS
8412653		4710700816		108		LINCICOME WELL #1	WALKER	3.0	CONSOLIDATED GAS
8412647		4710700757		108		VILLERS WELL #3	WALKER FIELD	6.0	CONSOLIDATED GAS
8412649		4710700773		108		W L ROBERTS WELL #1	WALKER	2.4	CONSOLIDATED GAS
-BERRY ENERGY CONSULTANTS & MGRS INC				RECEIVED:	12/19/83	JA: WV			
8412626		4700101888		103		B-534	CHESTNUT FLATS - VALL	0.0	EASTERN PIPELINE
-BLUE CREEK GAS CO				RECEIVED:	12/19/83	JA: WV			
8412720		4703903902		107-DV		CASTLEBERRY #1	JEFFERSON	25.0	CABOT CORP
8412722		4703903875		107-DV		KAS #4	ELK	20.0	COLUMBIA GAS TRAN
8412721		4703903878		107-DV		KCS #7	ELK	25.0	COLUMBIA GAS TRAN
8412723		4703903825		107-DV		8204	ELK DISTRICT	25.0	COLUMBIA GAS TRAN
-CABOT OIL & GAS CORP				RECEIVED:	12/19/83	JA: WV			
8412704		4709900462		108		B M SPRY #1	GRANT	4.9	TENNESSEE GAS PIP
8412713		4703501577		108		BROTHERTON #1	RIPLEY	1.1	TENNESSEE GAS PIP
8412714		4700501361		108		BULL CREEK A-10	PEYTONA	2.3	TENNESSEE GAS PIP
8412711		4703903579		108		C A SHUMAN #1	WASHINGTON	4.7	TENNESSEE GAS PIP
8412709		4709900868		108		E R PRICHARD 1-872	GRANT	4.0	TENNESSEE GAS PIP
8412716		4703902248		108		HARRISON #1	UNION	9.6	COLUMBIA GAS TRAN
8412708		4707901057		108		J L MCLEAN A-92	UNION	14.9	TENNESSEE GAS PIP
8412712		4703903575		108		JOHN KOGOY #1	JEFFERSON	22.9	TENNESSEE GAS PIP
8412710		4703903768		108		M B TYLER #1	JEFFERSON	9.8	TENNESSEE GAS PIP
8412715		4704700491		108		MARY BRICKER B-1	SANDY RIVER	0.0	CONSOLIDATED GAS
8412707		4707901058		108		MCLEAN HEIRS A-103	UNION	8.3	TENNESSEE GAS PIP
8412706		4707901061		108		MCLEAN HEIRS A-104	UNION	12.4	TENNESSEE GAS PIP
8412705		4707901062		108		MCLEAN HEIRS A-107	UNION	15.6	TENNESSEE GAS PIP
8412703		4707901071		108		MCLEAN HEIRS A-109	UNION	12.4	TENNESSEE GAS PIP
-CLINT HURT & ASSOCIATES INC				RECEIVED:	12/19/83	JA: WV			
8412627		4708506463		107-DV		DAVISSON #1	UNION	19.0	COLUMBIA GAS TRAN
-COLLINS-MCGREGOR OPERATING COMPANY				RECEIVED:	12/19/83	JA: WV			
8412648		4708505651		103		SIMMONS HEIRS #2 (B-1)	UNION	1.0	CONSOLIDATED GAS
-COLUMBIA GAS TRANSMISSION CORP				RECEIVED:	12/19/83	JA: WV			
8412590		4709900817		108		TCO MIN TR #1 806879	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	12/19/83	JA: WV			
8412593		4704102055		108		ABRAM GASTON 12198	FREEMANS CREEK	9.0	GENERAL SYSTEM PU
8412607		4701702411		108		B D HELMICK 1476	GRANT	0.0	GENERAL SYSTEM PU
8412610		4704500975		108		BOONE COUNTY COAL CORPORATION 9258	LOGAN	1.0	GENERAL SYSTEM PU
8412591		4709100146		108		BOOTHS CREEK 7554	BOOTHS CREEK	0.0	GENERAL SYSTEM PU
8412641		4700100153		108		C C WARD 10513	UNION	0.0	GENERAL SYSTEM PU
8412728		4703300595		108		C E SNIDER 11425	GRANT	19.0	GENERAL SYSTEM PU
8412642		4713004140		108		CARR SHAFFER 7789	LEE	0.0	GENERAL SYSTEM PU
8412601		4703301366		108		COLUMBUS HUSTEAD 3333	SARDIS	1.0	GENERAL SYSTEM PU
8412597		4704102234		108		G D ALFRED 3120	FREEMANS CREEK	9.0	GENERAL SYSTEM PU
8412598		4704102303		108		GEO WAGONER 7834	FREEMANS CREEK	1.0	GENERAL SYSTEM PU
8412603		4703301447		108		HUGH O STOUT 6926	ELK	0.0	GENERAL SYSTEM PU
8412726		4704101813		108		ISAAC JACKSON 11390	HACKERS CREEK	2.0	GENERAL SYSTEM PU
8412608		4703300871		108		J M THRASH 11864	UNION	21.0	GENERAL SYSTEM PU
8412701		4709500669		108		J VICTOR AYERS 12563	MEADE	18.0	GENERAL SYSTEM PU
8412595		4704102229		108		JOHN DOORY 2925	FREEMANS CREEK	1.0	GENERAL SYSTEM PU
8412609		4704500374		108		LAWSON HRS INC 9850	LOGAN	21.0	GENERAL SYSTEM PU
8412604		4703300971		108		LEWIS B HIMKLE 12160	ELK	20.0	GENERAL SYSTEM PU
8412592		4709700437		108		LLOYD REEDER 9898	WARREN	0.0	GENERAL SYSTEM PU
8412602		4703301400		108		LOUSIA HARRISON 4104	CLAY	1.0	GENERAL SYSTEM PU
8412644		4704500297		108		M D COOK 9743	TRIADELPHIA	0.0	GENERAL SYSTEM PU
8412606		4701701807		108		M T WILLIAMS 12117	GREENBRIER	21.0	GENERAL SYSTEM PU
8412594		4704102200		108		MICHAEL QUINN 1613	FREEMANS CREEK	4.0	GENERAL SYSTEM PU
8412605		4700101006		108		NANCY M PAUGH 6967	ELK	0.0	GENERAL SYSTEM PU
8412645		4704700274		108		OLGA COAL CO 10561	SANDY RIVER	0.0	GENERAL SYSTEM PU
8412599		4704102248		108		PATRICK HINES 3681	FREEMANS CREEK	1.0	GENERAL SYSTEM PU
8412725		4710900851		108		POCAHONTAS LAND CORP I-27 12712	BAKERS RIDGE	17.0	GENERAL SYSTEM PU
8412646		4707700077		108		VIRGINIA SEVERE 10173	RENO	0.0	GENERAL SYSTEM PU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8412643		4703500787		108		W B BARNETT 9481	UNION	0.0	GENERAL SYSTEM PU
8412727		4704101773		108		W G BENNETT 11311	FREEMANS CREEK	21.0	GENERAL SYSTEM PU
8412600		4700100049		108		W L MORRISON ACRES 100 9068	UNION	15.0	GENERAL SYSTEM PU
8412596		4704102230		108		WILLIAM FALLON 2955	FREEMANS CREEK	3.0	GENERAL SYSTEM PU
-EAGLE GAS CO				RECEIVED:	12/19/83	JA: WV			
8412718		4703302804		108		MABLE BRENT #1	CLAY DISTRICT	8.0	LUMBERPORT-SHINNS
-FRAME & LEAMY RESOURCES				RECEIVED:	12/19/83	JA: WV			
8412658		4701500073		108		(B F PIERSON) HAYES OIL & GAS #1	B F PIERSON FARM (15	0.0	SOUTHEASTERN GAS
8412657		4701500033		108		B F PIERSON #1 (F-1234)	B F PIERSON FARM (40	0.0	SOUTHEASTERN GAS
8412656		4701500004		108		B F PIERSON F-1222 WELL #2	B F PIERSON FARM (40	0.0	SOUTHEASTERN GAS
8412659		4703500204		108		MARCELLA FISHER #1	MARCELLA FISHER FARM	0.0	COLUMBIA GAS TRAN
-HAUGHT INC				RECEIVED:	12/19/83	JA: WV			
8412631		4708506333		103		FURBEE & SWEENEY W-1382	GRANT DISTRICT	25.0	CONSOLIDATED GAS
-HYDROCARBON DEVELOPMENT CORP				RECEIVED:	12/19/83	JA: WV			
8412634		4701302627		108		LOUIS BENNETT #I-598	ORMA	16.0	CONSOLIDATED GAS
-JAMAR LAND CO INC				RECEIVED:	12/19/83	JA: WV			
8412731		4709981747		103		GLENHAYES #6	LINCOLN DISTRICT	0.0	COLUMBIA GAS TRAN
8412732		4709901745		103		KEARNS #1	LINCOLN DISTRICT	0.0	COLUMBIA GAS TRAN
-L & B OIL CO INC				RECEIVED:	12/19/83	JA: WV			
8412628		4707301569		107-DV		DON WILSON #1	ST MARYS	35.0	
-L & M PETROLEUM INC				RECEIVED:	12/19/83	JA: WV			
8412632		4707301645		103		HAMMETT #1	UNION	10.0	CONSOLIDATED GAS
8412630		4707301614		103		RAWSON HEIRS #1	UNION	10.0	CONSOLIDATED GAS
-LENORE DEEM				RECEIVED:	12/19/83	JA: WV			
8412633		4708521909		108		A H TATE #1	A H TATE	9.6	CONSOLIDATED GAS
-PALEO INC				RECEIVED:	12/19/83	JA: WV			
8412636		4700700932		108		BREWSTER #1	ARNETT	3.5	CONSOLIDATED GAS
8412639		4700701620		108		BURDETTE #1	ARNETT	6.3	CONSOLIDATED GAS
8412637		4700700956		108		KIDD #1	ARNETT	1.9	CONSOLIDATED GAS
8412635		4700700915		108		SINGLETON #1	ARNETT	5.8	CONSOLIDATED GAS
8412638		4700701128		108		TRIO WILSON	ARNETT	3.9	CONSOLIDATED GAS
-PEAKE OPERATING CO				RECEIVED:	12/19/83	JA: WV			
8412615		4708100574		103		CRAB ORCHARD #1-AC	UNION	5.0	COLUMBIA GAS TRAN
8412621		4708100596		103		CRAB ORCHARD #9-AC	UNION	5.0	COLUMBIA GAS TRAN
8412619		4708100592		103		CRAB ORCHARD 10AC	UNION	5.0	COLUMBIA GAS TRAN
8412620		4708100600		103		CRAB ORCHARD 15AC	UNION	5.0	COLUMBIA GAS TRAN
8412624		4708100601		103		JONES & GIBSON 5AJ	UNION	5.0	COLUMBIA GAS TRAN
8412625		4708100618		103		JONES & GIBSON 6AJ	UNION	5.0	COLUMBIA GAS TRAN
8412623		4708100621		103		JONES & GIBSON 8AJ	UNION	5.0	COLUMBIA GAS TRAN
8412612		4708100591		103		NEW RIVER #9 AR	UNION	5.0	COLUMBIA GAS TRAN
8412611		4708100595		103		NEW RIVER BAR	UNION	5.0	COLUMBIA GAS TRAN
8412614		4708100589		103		NEW RIVER 10 AR	UNION	5.0	COLUMBIA GAS TRAN
8412622		4708100573		103		NEW RIVER 4AR	UNION	5.0	COLUMBIA GAS TRAN
8412616		4708100560		103		NEW RIVER 6-AR	UNION	5.0	COLUMBIA GAS TRAN
8412613		4708100590		103		NEW RIVER 7AR	UNION	5.0	COLUMBIA GAS TRAN
8412617		4704302554		103		TAYLOR 1-A	UNION	5.0	COLUMBIA GAS TRAN
-PENNZOIL COMPANY				RECEIVED:	12/19/83	JA: WV			
8412719		4701302935		108		KENNY LAND & OIL COMPANY #2	HENRIETTA	0.0	CONSOLIDATED GAS
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	12/05/83	JA: WV			
8412802		4706100317		108-PB		GREER A #1		0.0	CONSOLIDATED GAS
8412803		4706100319		108-PB		GREER B #1		0.0	CONSOLIDATED GAS
8412808		4707700128		108-PB		HALBRITTER A #1		0.0	CONSOLIDATED GAS
8412801		4707700102		108-PB		HOLMES B #1		0.0	CONSOLIDATED GAS
8412805		4706100303		108-PB		PERRY A #1	SOUTH BURNS CHAPEL	0.0	CONSOLIDATED GAS
8412806		4706100226		108-PB		PIXLER A #1		0.0	CONSOLIDATED GA S
8412804		4706100322		108-PB		ROBY D #1		0.0	CONSOLIDATED GAS
8412807		4706100314		108-PB		SELLARO A #1		0.0	CONSOLIDATED GAS
-ROGERS & SON				RECEIVED:	12/19/83	JA: WV			
8412717		4701302990		108		JOHN ARTHUR #1	LEE DISTRICT	2.5	COLUMBIA GAS TRAN
-TAY RIVER MINES LTD				RECEIVED:	12/19/83	JA: WV			
8412724		4708504736		108		C W WADE #1	BEREA	0.0	CARNEGIE NATURAL
-VISTA GAS & OIL CORP				RECEIVED:	12/19/83	JA: WV			
8412734		4707301611		103		CORNELL #4	JEFFERSON	20.0	CONSOLIDATED GAS
8412733		4707301627		103		H & S MILLER #1	JEFFERSON	15.0	CONSOLIDATED GAS
-WAYMAN W BUCHANAN				RECEIVED:	12/19/83	JA: WV			
8412629		4710501001		103		GROW #4	BURNING SPRINGS	0.0	CONSOLIDATED GAS

[FR Doc. 84-2095 Filed 1-25-84; 8:45 am]

BILLING CODE 6717-01-C

[Vol. No. 1046]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 19, 1984.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capital St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS — VOLUME 1046
Issued January 19, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KENTUCKY DEPARTMENT OF MINES & MINERALS									
-ASHLAND EXPLORATION INC				RECEIVED:	12/22/83	JA: KY			
8412866	506199	1619548846		103		COLONY COAL & COKE #72 - 094551	EASTERN KENTUCKY	75.0	COLUMBIA GAS TRAN
8412865	506202	1619547626		107-DV		JAMES HATCHER LAND CO #12 - 094002	EASTERN KENTUCKY	53.0	COLUMBIA GAS TRAN
-COLUMBIA GAS TRANSMISSION CORP				RECEIVED:	12/22/83	JA: KY			
8412864	506203	1619500000		107-DV		KENTLAND CO 820169	KENTUCKY FIELD AREA C	23.8	COLUMBIA GAS TRAN
-HAR-KEN OIL COMPANY				RECEIVED:	12/22/83	JA: KY			
8412863	506194	1617700000		102-4		PEABODY COAL COMPANY (CRAIG) #6	GRAHAM SEC 2-I-27	146.0	TEXAS GAS TRANSMI
8412862	506193	1617700000		102-4		PEABODY COAL COMPANY (MOSLEY) #3	GRAHAM	146.0	TEXAS GAS TRANSMI
-KEPCO INC				RECEIVED:	12/22/83	JA: KY			
8412873	506198	1607100000		107-DV		BOBBY LEE HACKWORTH - MD K423-1536D	KENTUCKY EAST	7.0	KENTUCKY WEST VIR
8412868	506197	1611900000		107-DV		RICHARD & JOE HALL - #KL418	KENTUCKY EAST	55.6	KENTUCKY WEST VIR
8412867	506196	1607100000		107-DV		ROBERT L BURCHETT - #KL390	KENTUCKY EAST	68.2	KENTUCKY WEST VIR
-KV OIL & GAS INC				RECEIVED:	12/22/83	JA: KY			
8412870	506618	1615900000		107-DV		A L MOORE MR 203	A L MOORE	15.0	COLUMBIA GAS TRAN
8412872	506619	1615900000		107-DV		J B CLARK MR 204	J B CLARK	30.0	COLUMBIA GAS TRAN
8412871	506620	1615900000		107-DV		W J PARKS MR 202	W J PARKS	15.0	COLUMBIA GAS TRAN
-WISER OIL CO				RECEIVED:	12/22/83	JA: KY			
8412869	506195	1612100000		102-2		GILBERT JONES WELL #1	KAY JAY	0.0	COLUMBIA GAS TRAN
OKLAHOMA CORPORATION COMMISSION									
-ATKINSON J V				RECEIVED:	12/21/83	JA: OK			
8412828	24236	3510500000		102-4		LEROY PLACE CT-3		15.0	RH OPERATING
8412827	24235	3510500000		102-4		LEROY PLACE CT-4		15.0	RH OPERATING
-BAMCO OIL & GAS INC				RECEIVED:	12/22/83	JA: OK			
8412892	23238	3504723348		102-2		MARCY LANE #1-35	CANEY DEL	1.0	UNION TEXAS PETRO
-BARBOUR ENERGY CORP				RECEIVED:	12/21/83	JA: OK			
8412818	25371	3508121039		103		AMERMAN #1		0.0	ALLIED MATERIALS
8412816	25373	3508120910		103		ETHRIDGE #1		0.0	ALLIED MATERIALS
8412815	25375	3508121046		103		HUDSON UNIT #1		0.0	ALLIED MATERIALS
8412817	25372	3508121289		103		LEMASTER SHIELDS UNIT #1-H		0.0	ALLIED MATERIALS
-BENSON-MCCOWN & CO				RECEIVED:	12/22/83	JA: OK			
8412881	25343	3510321255		103		WILDE #3	WEST PERRY	0.0	ARCO OIL & GAS CO
-BONRAY ENERGY CORP				RECEIVED:	12/22/83	JA: OK			
8412878	25357	3510300008		103		DONAHUE #33-1	S LONE ELM	30.0	AMINOIL USA INC
-CMC OIL & GAS LTD				RECEIVED:	12/22/83	JA: OK			
8412880	25347	3511922255		103		JOHNSON #3	WEST YALE	250.0	PHILLIPS PETROLEU
-CORE OIL & GAS CORP				RECEIVED:	12/22/83	JA: OK			
8412891	23193	3513322188		102-4		LARNEY #2		0.0	SOUTHWEST PETROGA
-COTTON PETROLEUM CORPORATION				RECEIVED:	12/21/83	JA: OK			
8412839	24672	3505121446		103		WYATT #1	NORGE SW	0.0	PHILLIPS PETROLEU
-CUESTA ENERGY CORP				RECEIVED:	12/21/83	JA: OK			
8412838	24755	3501121803		103		FEDERAL #1-1	S W LYONS	207.0	PHILLIPS PETROLEU
-CUMMINGS OIL CO				RECEIVED:	12/22/83	JA: OK			
8412895	23256	3504521086		102-4		VAUGHN #36-1		0.0	PRODUCERS GAS CO
-DAVIS OIL COMPANY				RECEIVED:	12/22/83	JA: OK			

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8412882	25336	3501722556		103		JOHN LAUB #1	COTTAGE GROVE	35.0	
-DLB ENERGY CORP				RECEIVED:	12/22/83	JA: OK			
8412887	22837	3507323733		102-4		YOWELL #32-9	SOONER TREND	0.0	PHILLIPS PETROLEU
-GRAHAM OIL & GAS LTD				RECEIVED:	12/21/83	JA: OK			
8412820	25313	3500722498		103		BOMMER #1	GUTHRIE	0.0	PHILLIPS PETROLEU
-GRIBBLE R W JR				RECEIVED:	12/22/83	JA: OK			
8412888	23062	3508520638		102-4		KIMBELL TRUST 2-13	N PIKE	90.0	AMINOIL USA INC
-GUIDON OIL & GAS CO INC				RECEIVED:	12/21/83	JA: OK			
8412814	25381	3510500000		108		STALL #1		0.0	NORTHWEST CENTRAL
-GULF OIL CORPORATION				RECEIVED:	12/22/83	JA: OK			
8412886	7595	3505120086		108-SA		JOHN COURTNEY #1	MIDDLEBURG (OSBORNE)	9.0	MOBIL OIL CORP
-HARPER OIL COMPANY				RECEIVED:	12/21/83	JA: OK			
8412819	25349	3509321630		103		DON CHOATE #1	SOONER TREND	0.0	PHILLIPS PETROLEU
-HARPER OIL COMPANY				RECEIVED:	12/22/83	JA: OK			
8412879	25350	3507322944		103		LEITNER #1		0.0	PHILLIPS PETROLEU
-HELMERICH & PAYNE INC				RECEIVED:	12/22/83	JA: OK			
8412894	23253	3504321670		102-4		BOILEAU #2-21	(NEW FIELD)	0.0	HYDROCARBON SERVI
-HOPPES WILLIAM B JR				RECEIVED:	12/22/83	JA: OK			
8412876	25360	3503723246		103		ANTHIS #2	CUSHING	36.5	S & T TRANSMISSIO
8412877	25361	3503723227		103		UNGLESBY NO 2-A	CUSHING	82.1	S & T TRANSMISSIO
-INEXCO OIL COMPANY				RECEIVED:	12/22/83	JA: OK			
8412890	23064	3512920961		102-2		HUGHES #1-16	N W HAMMON	450.0	
8412889	23063	3503920811		102-2		UPSHER #1-23	EAST HAMMON	91.0	
-J C HESTER JR				RECEIVED:	12/21/83	JA: OK			
8412822	25309	3503120600		108		WILHELMINA #2	EAST LAWTON	27.0	MANN INDUSTRIES I
-JEFFERSON-WILLIAMS ENERGY CORP				RECEIVED:	12/21/83	JA: OK			
8412859	25110	3510321764		103		FRED KOPP #1	NORTHEAST SUMNER	114.0	NOBLE COUNTY OPER
8412857	25108	3510321803		103		K A SPAULDING #5	CERES SOUTH	90.0	ARCO OIL & GAS CO
8412858	25109	3510321970		103		K A SPAULDING #7	CERES SOUTH	76.0	ARCO OIL & GAS CO
-JOE C RICHARDSON JR				RECEIVED:	12/21/83	JA: OK			
8412840	24759	3500722430		103		KATE #1-7	MOCANE LAVERNE GAS AR	240.0	PEOPLES NATURAL G
-JONES & PELLOW OIL CO				RECEIVED:	12/21/83	JA: OK			
8412848	24904	3501922664		103		CARR #13-1		0 0	MOBIL OIL CORP
-K & P OIL CORP				RECEIVED:	12/21/83	JA: OK			
8412846	24911	3507323818		103		RUSSELL #23-1	SOONER TREND	365.0	PHILLIPS PETROLEU
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	12/21/83	JA: OK			
8412821	25310	3500700000		108		FLOYD SHEPPARD #1	S GLENWOOD	16.5	MICHIGAN-WISCONSI
-KIRKPATRICK OIL CO				RECEIVED:	12/21/83	JA: OK			
8412855	25021	3507323287		103		PHILLIPS UNIT #3		0.0	EXXON CO USA
8412854	25020	3507323443		103		STATES "A" #3		0 0	EXXON CO USA
-LEEDE OIL & GAS INC				RECEIVED:	12/21/83	JA: OK			
8412813	26480	3514920360		107-DP		GUTHRIE #1		651.9	
-MOBIL OIL CORP				RECEIVED:	12/21/83	JA: OK			
8412826	23385	3513700000		108		WILDHORSE UNIT #23-6 (FRANKLIN #6)	SHO VEL TUM	0.0	OKLAHOMA NATURAL
-O G OIL CO				RECEIVED:	12/21/83	JA: OK			
8412850	24931	3514723858		103		GUINN #B-13	GUINN LEASE	1.8	BARTLESVILLE GATH
8412849	24930	3514723961		103		GUINN #B-6	GUINN LEASE	3.0	BARTLESVILLE GATH
8412851	24932	3514724335		103		GUINN #P-4	GUINN LEASE	3.4	BARTLESVILLE GATH
8412852	24933	3514724336		103		GUINN #P-5	GUINN LEASE	2.8	BARTLESVILLE GATH
8412831	24929	3514724337		103		GUINN #P-6	GUINN LEASE	3.9	BARTLESVILLE GATH
-PETRO-LEWIS CORPORATION				RECEIVED:	12/21/83	JA: OK			
8412841	24893	3500300000		108		HUGHES #1 ID #5088101	SOONER TREND	4.7	UNION TEXAS PETRO
8412842	24894	3507300000		108		LOIS 25-1	SOONER TREND	3.0	EASON OIL CO
8412843	24896	3507300000		108		MCCANDLESS 1-1	SOONER TREND	16.8	PARTNERSHIP PROPE
8412844	24897	3507300000		108		SCHEMMER 34-1	SOONER TREND	7.7	PARTNERSHIP PROPE
8412834	25233	3513700000		108		SLEDGE A & B H M #7	SOUTH VELMA	4.9	GETTY OIL CO
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	12/22/83	JA: OK			
8412893	23244	3501722310		102-4		HUFNAGEL A #2	N CONCHO	0.0	DELHI GAS PIPELIN
-PREMIER OPERATING CO				RECEIVED:	12/21/83	JA: OK			
8412861	25115	3509322716		103		LEIERER #1	SOONER TREND	30.0	UNION TEXAS PETRO
-R & M PETROLEUM INC				RECEIVED:	12/21/83	JA: OK			
8412860	25114	3503725244		103		VICKERY 1A	STROUD	1.0	
-READING & BATES PETROLEUM CO				RECEIVED:	12/21/83	JA: OK			
8412832	24982	3504700000		103		EARLEY #1-4	KREMLIN	146.0	UNION TEXAS PETRO
-ROYE REALTY & DEVELOPING INC				RECEIVED:	12/22/83	JA: OK			
8412898	23278	3506120566		102-2		WATSON #1		153.3	ARKANSAS LOUISIAN
-SANTA FE ENERGY PRODUCTS CO				RECEIVED:	12/22/83	JA: OK			
8412896	23262	3503920679		102-2		TROXELL 1-11	E WEATHERFORD	584.0	PRODUCERS GAS CO
-SKI ENERGY				RECEIVED:	12/21/83	JA: OK			
8412829	24384	3514322546		103		SKI A1-9 #1		0.0	PHILLIPS PETROLEU
-SOONER CRUDE INC				RECEIVED:	12/21/83	JA: OK			
8412853	24956	3508322290		103		RALSTON #1	SOUTH CRESCENT 35-17N	80.0	CONOCO INC
-STANTON ENERGY INC				RECEIVED:	12/21/83	JA: OK			
8412825	25304	3503724665		103		DAVIS #1		70.0	
-TENNECO OIL COMPANY				RECEIVED:	12/21/83	JA: OK			
8412836	25294	3501922784		103		SOUTH GRAHAM DEESE SAND UNIT 9-5A	SHO-VEL-TUM	0.5	MOBIL OIL CORP
8412833	24983	3510321996		103		SOUTH LONE ELM CLEVELAND SAND #118	SOUTH LONE ELM	1 0	AMINOIL USA INC
8412837	25296	3510322011		103		SOUTH LONE ELM CLEVELAND SAND #125	SOUTH LONE ELM	1.0	AMINOIL USA INC
-TEXACO INC				RECEIVED:	12/21/83	JA: OK			
8412835	25244	3513723395		103		C E DENNY "A" #20	SHO VEL TUM	7.4	GETTY OIL CO
8412847	24916	3513921741		103		C OLSON #1	GUYMON NE	0.0	
-TEXACO INC				RECEIVED:	12/22/83	JA: OK			
8412885	24538	3502500000		108		ELLINGTON UNIT #1	GRIGGS S E	10.5	TRANSWESTERN PIPE
-TEXCO PETROLEUM INC				RECEIVED:	12/21/83	JA: OK			
8412856	25091	3511100000		103		BRUNER #1	NATURA	175.2	PHILLIPS PETROLEU
8412824	25305	3511124247		103		HENDRICKS #1	HECTORVILLE	233.0	PHILLIPS PETROLEU
-THE WIL-MC OIL CORP				RECEIVED:	12/22/83	JA: OK			
8412883	25330	3510321850		103		MOE JEROME #1	EAST POLO	6.4	
8412884	25328	3510321900		103		MOE JEROME #2	SOUTH AIRPORT	17.5	
-TOKLAN OIL CORP				RECEIVED:	12/21/83	JA: OK			
8412845	24899	3511921765		103		WEBB #2	LOST CREEK	400.0	SUN GAS TRANSMISS
-TOWNER PETROLEUM CO				RECEIVED:	12/22/83	JA: OK			
8412897	23270	3504520866		102-2		DENNETT #35-1		0.0	PHILLIPS PETROLEU
-UNION TEXAS PETROLEUM				RECEIVED:	12/21/83	JA: OK			
8412838	25119	3504723272		103		A MORAVEK #3		46.0	PANHANDLE EASTERN
-VIERSEN & COCHRAN				RECEIVED:	12/22/83	JA: OK			
8412875	25359	3504321739		103		STATE OF OKLAHOMA #2-36		55.0	PHILLIPS PETROLEU
-WARD PETROLEUM CORP				RECEIVED:	12/21/83	JA: OK			
8412823	25308	3501121823		103		GOULD #1	NW EAGLE CITY	1640.0	DELHI GAS PIPELIN
**********									
WYOMING OIL & GAS CONSERVATION COMMISSION									
**********									
-AMOCO PRODUCTION CO				RECEIVED:	12/23/83	JA: WY			
8412900	NO 134-83	4904120567		107-DP		CHAMPLIN 804 AMOCO "C" #1	WOODRUFF NARROWS	376.3	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-CHEVRON U S A INC				RECEIVED:	12/23/83	JA: WY			
8412903	NG 137-83	4904120486		102-4		PRU 24-5A	EAST PAINTER	900.0	
8412902	NG 136-83	4904120433		102-4		PRU 24-7A	EAST PAINTER	832.0	
8412904	NG 138-83	4904120455		102-4		PRU 44-7A	EAST PAINTER	1100.0	
-CHIPPEWA OIL & GAS INC				RECEIVED:	12/23/83	JA: WY			
8412922	NG 156-83	4900922200		102-4		CHIPPEWA 14-19	SCOTT FIELD	38.0	PHILLIPS PETROLEU
-ENERGETICS INC				RECEIVED:	12/23/83	JA: WY			
8412924	NG 159-83	4903722244		107-TF		LMU STATE 30-16	LITTLE MONUMENT UNIT	12.3	NORTHWEST PIPELIN
8412923	NG 158-83	4903722245		107-TF		STATE 20-16	LITTLE MONUMENT	112.9	NORTHWEST PIPELIN
-MILESTONE PETROLEUM INC				RECEIVED:	12/23/83	JA: WY			
8412921	NG 155-83	4900527031		103		BIRDSALL 32-5	PORCUPINE	16.0	PHILLIPS PETROLEU
-NATURAL GAS CORPORATION OF CALIF				RECEIVED:	12/23/83	JA: WY			
8412899	NG 86-83	4902320327		107-RT		EUBANK CATTLE CO #34-28	FONTENELLE	106.0	PACIFIC GAS TRANS
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	12/23/83	JA: WY			
8412925	NG 160-83	4900526984		103		ADON ROAD FEE #2-13	N ADON ROAD FIELD	14.2	UNDEDICATED
-TEXACO INC				RECEIVED:	12/23/83	JA: WY			
8412901	NG 135-83	4903722206		103		TABLE ROCK UNIT #70	TABLE ROCK	65.0	COLORADO INTERSTA
-TOCO CORP				RECEIVED:	12/23/83	JA: WY			
8412912	NG 146-83	4904521413		102-4		COLLIN #2	FINN-SHURLEY	1.5	MGPC INC
8412911	NG 145-83	4904521386		102-4		COLLINS #1	FINN-SHURLEY	1.5	MGPC INC
8412919	NG 153-83	4904521643		102-4		COLLINS #10	FINN-SHURLEY	1.5	MGPC INC
8412920	NG 154-83	4904521644		102-4		COLLINS #11	FINN-SHURLEY	1.5	MGPC INC
8412913	NG 147-83	4915421414		102-4		COLLINS #3	FINN-SHURLEY	1.5	MGPC INC
8412914	NG 148-83	4904521435		102-4		COLLINS #4	FINN-SHURLEY	1.5	MGPC INC
8412915	NG 149-83	4904521978		102-4		COLLINS #5	FINN-SHURLEY	1.5	MGPC INC
8412916	NG 150-83	4904521641		102-4		COLLINS #6	FINN-SHURLEY	1.5	MGPC INC
8412917	NG 151-83	4904521642		102-4		COLLINS #7	FINN-SHURLEY	1.5	MGPC INC
8412918	NG 152-83	4904521752		102-4		COLLINS #9	FINN-SHURLEY	1.5	MGPC INC
-UNION OIL COMPANY OF CALIF				RECEIVED:	12/23/83	JA: WY			
8412926	NG 161-83	4900526821		102-2		STATE #1-L16	SCHOOL CREEK	80.0	PHILLIPS PETROLEU
-WESTERN PRODUCTION CO				RECEIVED:	12/23/83	JA: WY			
8412905	NG 139-83	4904522085		102-4		COLEN 10-10	SHURLEY	4.0	M G P C INC
8412906	NG 140-83	4904522000		102-4		GRIEVES #20	FINN	4.0	M G P C INC
8412907	NG 141-83	4904521477		102-4		WESTERN PRODUCTION 1-36-K	SHURLEY	2.0	M G P C INC
8412910	NG 144-83	4904522092		102-4		WESTERN STATE 1-35-F	SHIRLEY	3.0	M G P C INC
8412909	NG 143-83	4904522084		102-4		WRENCH 2-3	SHIRLEY	4.8	M G P C INC
8412908	NG 142-83	4904522083		102-4		WRENCH 3-3	SHURLEY	3.0	M G P C INC
**********									
** DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, LOS ANGELES,CA									
**********									
-UNION OIL COMPANY OF CALIF				RECEIVED:	12/22/83	JA: CA 2			
8412874	OCS P26-83	0431120555		102-5		SANTA CLARA UNIT WELL #S-25	CALIFORNIA OFFSHORE	0.0	PACIFIC LIGHTING
**********									
** DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, CASPER,WY									
**********									
-AMERICAN QUASAR PETROLEUM CO				RECEIVED:	12/21/83	JA: WY 5			
8412810	W633-2	4903520673		107-DP		RILEY RIDGE FEDERAL 33-24	SEC 33 T30N-R114W	0.0	
-AMOCO PRODUCTION CO				RECEIVED:	12/21/83	JA: WY 5			
8412811	W644-2	4902320424		107-TF		SHUTE CREEK UNIT #8	SHUTE CREEK - FRONTIE	181.0	
-CHEVRON U S A INC				RECEIVED:	12/21/83	JA: WY 5			
8412812	W640-2	4902320394		107-DP		CHEVRON-FEDERAL 1-31M	WHITNEY CANYON - CART	4600.0	COLUMBIA GAS TRAN
-NATURAL GAS CORPORATION OF CALIF				RECEIVED:	12/21/83	JA: WY 5			
8412809	W641-2	4902320461		102-2		HORSETRAP #1 (OSTREA)	WILD CAT	234.0	PACIFIC GAS AND E

[FR Doc. 84-2086 Filed 1-25-84; 8:45 am]

BILLING CODE 6717-01-C

[Vol. No. 1047]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 19, 1984.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd., Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft. rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS VOLUME 1047
Issued January 19, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
-BENNETT PETROLEUM CORP				RECEIVED:	12/27/83	JA: NY			
8413076	1596	3105115592		102-2		KENNETH M CURRY #1	UNNAMED	0.0	COLUMBIA GAS TRAN
8413077	1598	3105115784		102-2		MILO PATRICK & SONS #2	UNNAMED	[illegible].0	COLUMBIA GAS TRAN
-EYE PETROLEUM ASSOCIATES				RECEIVED:	12/27/83	JA: NY			
8413081	5718	3102918464		103	107-TF	PEPPER #1	LAKESHORE	[illegible].0	NATIONAL FUEL GAS
8413080	5719	3102918463		103	107-TF	PEPPER #2	LAKESHORE	[illegible].0	NATIONAL FUEL GAS
-LENAPE RESOURCES CORP				RECEIVED:	12/27/83	JA: NY			
8413086	5222	3105117354		102-2		E NIXON #1 LRC #146	CALEDONIA	20.0	NEW JERSEY NATURA
8413075	5214	3105117370		102-2		E NIXON #2 LRC #156	CALEDONIA	[illegible].0	NEW JERSEY NATURA
8413071	5218	3105117380		102-2		F E ANDERSON UNIT #1 LRC #170	CALEDONIA	20.0	NEW JERSEY NATURA
8413069	5221	3105117353		102-2		H WILSON UNIT #1 LRC #145	CALEDONIA	20.0	NEW JERSEY NATURA
8413065	5286	3105117404		102-2	107-TF	K B SIMPSON #1 LRC #179	CALEDONIA	20.0	NEW JERSEY NATURA
8413067	5332	3105117403		102-2	107-TF	K B SIMPSON UNIT #1 LRC #178	CALEDONIA	[illegible].0	NEW JERSEY NATURA
8413070	5219	3105117406		102-2		K WALTON #1 LRC #181	CALEDONIA	[illegible].0	NEW JERSEY NATURA
8413068	5334	3105117377		102-2	107-TF	L P HILL #1 LRC #168	WILDCAT	20.0	NEW JERSEY NATURA
8413064	5265	3105117405		102-2	107-TF	L P HILL UNIT #2 LRC #180	CALEDONIA	[illegible].0	NEW JERSEY NATURA
8413066	5288	3105117373		102-2	107-TF	L T WALTON #1 LRC # 167	WILDCAT	[illegible].0	NEW JERSEY NATURA
8413074	5215	3105117371		102-2		S R POWELL UNIT #2 LRC #157	CALEDONIA	20.0	NEW JERSEY NATURA
8413063	5224	3105117357		102-2		STURM & WILSON UNIT #1 LRC #153	CALEDONIA	20.0	NEW JERSEY NATURA
8413072	5217	3105117375		102-2		W M DOOLITTLE #1 LRC #166	CALEDONIA	[illegible] 0	NEW JERSEY NATURA
8413073	5216	3105117372		102-2		W M DOOLITTLE UNIT #1 LRC #165	CALEDONIA	20.0	NEW JERSEY NATURA
8413078	5223	3105117355		102-2		WEEWOOD FARM UNIT #2 LRC #150	CALEDONIA	[illegible].0	NEW JERSEY NATURA
-TRAHAN PETROLEUM INC				RECEIVED:	12/27/83	JA: NY			
8413082	5929	3101312483		107-TF		FREDRICKSON NY #29 #31-013-12483	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8413083	5931	3101318490		107-TF		MANSFIELD #2 #31-013-18490	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8413085	5933	3101318491		107-TF		MANSFIELD #3 #31-013-18491	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8413084	5935	3101318504		107-TF		MANSFIELD #4 #31-013-18504	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
-UNIVERSAL RESOURCES HOLDINGS INC				RECEIVED:	12/27/83	JA: NY			
8413079	5907	3101318227		103	107-TF	HORTON UNIT #7	CHARLOTTE	20.0	COLUMBIA GAS TRAN
OKLAHOMA CORPORATION COMMISSION									
-AMADARKO PRODUCTION COMPANY				RECEIVED:	12/23/83	JA: OK			
8412995	23330	3500722014		102-4		KING "B" #1	EAST LORENA	11.0	PANHANDLE EASTERN
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	12/23/83	JA: OK			
8413010	25478	3509322713		103		ESTER SCHRAG #2	CHANEY DEL MISSISSIPP	[illegible].[illegible]	CHAMPLIN PETROLEU
-CLARK RESOURCES INC				RECEIVED:	12/23/83	JA: OK			
8413009	25470	3504723402		103		FREDA 35-1	SOONER TREND	25 [illegible]	EASON OIL CO
-CORE PETROLEUM LTD				RECEIVED:	12/23/83	JA: OK			
8412994	23358	3501521450		102-2		DUNCAN #1		[illegible].[illegible]	PEOPLES NATURAL G
8412993	23359	3501521406		102-2		TAKEWA #1		[illegible].[illegible]	PEOPLES NATURAL G
-EARLSBORO ENERGIES CORP				RECEIVED:	12/23/83	JA: OK			
8413007	25468	3515121402		103		BLH #1-35	OAKDALE	272.[illegible]	
8413008	25469	3509322721		103		GARD #1-24		[illegible].[illegible]	PHILLIPS PETROLEU
8413006	25467	3509322730		103		JAMES NOBLE #1-4		127.0	TRANSOK PIPE LINE
8413005	25466	3515121394		103		PARKER #2-2		166.0	AMINOIL USA INC

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-HOLD OIL CORP				RECEIVED:	12/23/83	JA: OK			
8412996	23389	3512121002		102-2		J C HOUCK #1	BROOKEN FIELD	250.0	ARKANSAS LOUISIAN
-JET OIL COMPANY				RECEIVED:	12/23/83	JA: OK			
8413003	25462	3508322385		103		EWING #2	ELKHORN	0.0	EASON OIL CO
8413002	25461	3508322222		103		MCNEILL #1	ORLANDO	0.0	EASON OIL CO
-RAMBLER CO				RECEIVED:	12/23/83	JA: OK			
8413000	22360	3504923158		102-4		HINTON #2-2		0.0	
-REGENCY EXPLORATION INC				RECEIVED:	12/23/83	JA: OK			
8412992	23434	3505321069		102-2		LEFORCE FARMS #2-34		0.0	UNION TEXAS PETRO
-ROYAL OIL & GAS CORPORATION				RECEIVED:	12/23/83	JA: OK			
8413001	25440	3511922260		103		H C ROBINSON #5	PRATT FIELD	36.5	ENTERPRISE DEVELO
-STANTON ENERGY INC				RECEIVED:	12/23/83	JA: OK			
8412998	23302	3514322253		103		FIXICO #1	KEYSTONE	25.0	COLORADO GAS COMP
8412997	23303	3514322423		102-4		JOSH #1	KEYSTONE	25.0	COLORADO GAS COMP
-TEXCO PETROLEUM INC				RECEIVED:	12/23/83	JA: OK			
8412991	25314	3511124194		103		JAMES CROWELL #4	HECTOR	9.9	PHILLIPS PETROLEU
-THE WIL-MC OIL CORP				RECEIVED:	12/23/83	JA: OK			
8413011	25505	3510721454		103		PRINCE #1	WELEETKA	10.0	TRANSOK PIPE LINE
-TXO PRODUCTION CORP				RECEIVED:	12/23/83	JA: OK			
8413004	25463	3501722575		103		WIEDEMANN #2	E RICHLAND	0.0	DELMI GAS PIPELIN
-WESSELY ENERGY CORPORATION				RECEIVED:	12/23/83	JA: OK			
8412999	23172	3504922029		102-4		MAMTOOTH #3 049-59990-3-1966	S STORY	10.0	NORTHWEST CENTRAL
PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES									
-ASHTOLA PRODUCTION CO				RECEIVED:	12/23/83	JA: PA			
8412940	19464	3705120287		108		HENRY MCCRACKEN #1	WALTERSBURG	0.0	COLUMBIA GAS PENN
8412939	19463	3705120283		108		LELAND B COLDREN #1	WALTERSBURG	0.0	INDUSTRIAL ENERGY
8412948	20226	3705321653		108		NATIONAL FUEL WARRANT 3188 A-14	DEADMAN CORNERS	0.0	UGI DEVELOPMENT C
8412938	19426	3705324230		108		PENNZOIL WARRANT 5102 X-14	DEADMAN CORNERS	0.0	UGI DEVELOPMENT C
-CASTLE GAS CO INC				RECEIVED:	12/23/83	JA: PA			
8412968	21561	3706327428		103		BORO OF INDIANA #1 (C-772)	CENTER TOWNSHIP	50.0	PEOPLES NATURAL G
8412970	21564	3706327431		103		V J ENDERLEIN #4 (C-770) IND-27431	WHITE TOWNSHIP	60.0	PEOPLES NATURAL G
8412969	21562	3706327380		103		WM J BROOKS #3 (C-683) IND-27380	GREEN TOWNSHIP	65.0	COLUMBIA GAS TRAN
-CNG DEVELOPMENT CO				RECEIVED:	12/23/83	JA: PA			
8412959	21523	3706327514		103		C J CLAWSON #2 CNGD #89	MONTGOMERY TOWNSHIP	40.0	
8412960	21524	3706327504		103		HAROLD R BROCIOUS #1 CNGD #88	GREEN TOWNSHIP	8.0	
8412961	21526	3706327515		103		JOSEPH D TONKIN #1 CNGD #86	GRANT TOWNSHIP	43.0	
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	12/23/83	JA: PA			
8412971	21594	3703321539		102-4		J L BROTHERS #11 WM-1981	BURNSIDE	67.0	GENERAL SYSTEM PU
-D & P DRILLING CO				RECEIVED:	12/23/83	JA: PA			
8412962	21535	3706327382		103		LEONARD UNIT #2 WELL 1	WHITE	30.0	PEOPLES NATURAL G
-DORAN & ASSOCIATES INC				RECEIVED:	12/23/83	JA: PA			
8412966	21555	3706327681		102-2		JAMES LOWE JR #1 KA-180	UPPER DEVONIAN SANDS	30.0	CONSOLIDATED GAS
-EXLEY OIL & GAS CORP				RECEIVED:	12/23/83	JA: PA			
8412944	19946	3712128191		108		WELL #1	BOOCKS FARM	0.0	NATIONAL FUEL GAS
8412946	19948	3712128183		108		WELL #2	BOOCKS FARM	0.0	NATIONAL FUEL GAS
8412945	19947	3712128184		108		WELL #3	BOOCKS FARM	0.0	NATIONAL FUEL GAS
8412943	19945	3712128185		108		WELL #4	BOOCKS FARM	0.0	NATIONAL FUEL GAS
8412947	19949	3712128187		108		WELL #6	BOOCKS FARM	0.0	NATIONAL FUEL GAS
-FAIRMAN DRILLING CO				RECEIVED:	12/23/83	JA: PA			
8412958	21522	3706322511		103		GEORGE STIFFLER #2 F-3753	CUSH CUSHION	25.0	COLUMBIA GAS TRAN
-FOX OIL & GAS INC				RECEIVED:	12/23/83	JA: PA			
8412986	21667	3703321653		102-2		ANTHONY BERNECKY #1 - FOG #288	BURNSHE TOWNSHIP	25.5	COLUMBIA GAS TRAN
-G & G GAS INC				RECEIVED:	12/23/83	JA: PA			
8412965	21551	3703121278		103		REED MILLING #1	REDBANK	9.0	COLUMBIA GAS TRAN
-HANLEY & BIRD				RECEIVED:	12/23/83	JA: PA			
8412949	21250	3700522544		103		F & A MATTILIO SHB-14 SN1726	RURAL VALLEY	11.0	APOLLO GAS CO
8412957	21520	3700522846		103		JOHN & ELVA ODOSSO #1 SHB-15 SN1727	BELKNAP	5.5	PEOPLES NATURAL G
-I L GEER & SONS				RECEIVED:	12/23/83	JA: PA			
8412989	21743	3712326601		108		LOT 614 #1	CLARENDON	1.4	UGI CORP
8412990	21745	3712326602		108		LOT 615 #1	CLARENDON	1.4	UGI CORP
8412987	21738	3712327869		108		LOT 615 #2	CLARENDON	1.4	UGI CORP
8412988	21742	3712327871		108		LOT 640 #1	CLARENDON	1.4	UGI CORP
-J C ENTERPRISES				RECEIVED:	12/23/83	JA: PA			
8412954	21400	3700522849		103		DANNY B STEELE ARM-22849 #211	PLUMVILLE	42.5	
8412978	21619	3700522848		103		DONALE E MCENTIRE JR ARM-22848 #209	PLUMVILLE	30.0	
8412955	21401	3700522847		103		HARVEY WALL ARM-22847 #208-1	PLUMVILLE	47.5	
8412977	21618	3700522863		103		MARLIN B STEELE ARM-22863 #214-2	PLUMVILLE	40.0	
-MARK RESOURCES CORP				RECEIVED:	12/23/83	JA: PA			
8412956	21480	3712135078		102-3		DEETER #1	JACKSON	50.0	NATIONAL FUEL GAS
-MERIDIAN EXPLORATION CORP				RECEIVED:	12/23/83	JA: PA			
8412983	21636	3703922014		102-2		BUNTING MERLE #714-1	ROCKDALE	0.0	COLUMBIA GAS TRAN
8412984	21637	3703922014		107-TF		BUNTING MERLE #714-1	ROCKDALE	0.0	COLUMBIA GAS TRAN
8412981	21634	3703922019		102-2		BUNTING UNIT (SHERRED) #710-1	ROCKDALE	0.0	COLUMBIA GAS TRAN
8412982	21635	3703922019		107-TF		BUNTING UNIT (SHERRED) #710-1	ROCKDALE	0.0	COLUMBIA GAS TRAN
-MICON ENERGY GROUP LTD				RECEIVED:	12/23/83	JA: PA			
8412928	19045	3708300314		108		AS #1	DANIEL CROWLEY	7.3	NORTH PENN GAS CO
8412936	19058	3708339322		108		CROWLEY #21	CROWLEY/CAUSER	7.3	NORTH PENN GAS CO
8412934	19056	3708340386		108		CROWLEY #47	CROWLEY	7.3	NORTH PENN GAS CO
8412933	19055	3708340387		108		CROWLEY #48	CROWLEY	7.3	NORTH PENN GAS CO
8412932	19054	3708339651		108		CROWLEY #60	CROWLEY	7.3	NORTH PENN GAS CO
8412931	19053	3708339653		108		CROWLEY #62	CROWLEY/CAUSER	7.3	NORTH PENN GAS CO
8412935	19057	3708339963		108		CROWLEY #64	CROWLEY	7.3	NORTH PENN GAS CO
8412930	19052	3708340373		108		CROWLEY #66	CROWLEY	7.3	NORTH PENN GAS CO
8412929	19051	3708340374		108		CROWLEY #67	CROWLEY	7.3	NORTH PENN GAS CO
8412937	19203	3708338874		108		CROWLEY #9	CROWLEY	7.3	NORTH PENN GAS CO
-PEMCO GAS INC				RECEIVED:	12/23/83	JA: PA			
8412964	21547	3700522836		103		HARRY S MARSHALL #1	W PA UPPER DEVONIAN S	28.8	PEOPLES NATURAL G
-PEOPLES NATURAL GAS CO				RECEIVED:	12/23/83	JA: PA			
8412975	21616	3706327496		103		A RICHARD KINTER #2 IND-27496	W PENNA UPPER DEVONIA	14.0	PEOPLES NATURAL G
8412976	21617	3706327479		103		LOTTIE M FLENNIKEN #4 IND-27479	W PENNA UPPER DEVONIA	40.0	PEOPLES NATURAL G
8412974	21615	3706327500		103		MAX C ALTMAN #3 IND-27500	W PENNA UPPER DEVONIA	20.0	PEOPLES NATURAL G
8412972	21612	3706327463		103		RALPH E GREENE #4-IND-27463	W PENNA - UPPER DEVON	83.0	PEOPLES NATURAL G
8412973	21614	3706327577		103		VERA TRIMARCHI #5 - IND-27577	W PENNA UPPER DEVONIA	60.0	THE PEOPLES NATUR
-PHILLIPS PRODUCTION CO				RECEIVED:	12/23/83	JA: PA			
8412963	21536	3706327568		103		BLAINE & RAYMOND C MCADOO #1	GRANT	25.0	
-S T JOINT VENTURE 82-D				RECEIVED:	12/23/83	JA: PA			
8412985	21638	3703321558		103		IDEAL FOUNDATION #1	BRADY	25.0	NATIONAL FUEL GAS
-SCOTT AMD MUSSING				RECEIVED:	12/23/83	JA: PA			
8412941	19592	3700522328		108		RUTH L KIMMEL #1 WELL #124	PLUM CREEK	20.0	BETHLEHEM STEEL C
8412942		3700522329		108		RUTH L KIMMEL #2 WELL #125	PLUM CREEK	20.0	BETHLEHEM STEEL C
-THO-JO ENTERPRISES INC				RECEIVED:	12/23/83	JA: PA			
8412927	9472	3706320424		108		ORVILLE WATSON #2	WASHINGTON	2.4	PEOPLES NATURAL G

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-TURM OIL INC				RECEIVED: 12/23/83		JA: PA			
8412950	21341	3700522858		103		KENNETH P & DOROTHY M BRICE #1	DAYTON	40.0	APOLLO GAS CO
8412951	21342	3700522862		103		RAY A FRAILEY #1	GASTOWN	36.0	APOLLO GAS CO
-VICTORY ENERGY CO				RECEIVED: 12/23/83		JA: PA			
8412967	21560	3706327485		103		CLARK #1 IND-27485	BANKS	36.0	COLUMBIA GAS TRAN
-WAINOCO OIL & GAS CO				RECEIVED: 12/23/83		JA: PA			
8412952	21374	3703921990		102-2		DWIGHT KING #1 (W-216A)	ATHENS FIELD	16.0	COLUMBIA GAS TRAN
8412953	21375	3703921990		107-TF		DWIGHT KING #1 (W-216A)	ATHENS FIELD	16.0	COLUMBIA GAS TRAN
8412979	21628	3703921977		102-2		T E HUTCHINSON #1 (W-133A)	ATHENS FIELD	16.0	COLUMBIA GAS TRAN
8412980	21629	3703921977		107-TF		T E HUTCHINSON #1 (W-133A)	ATHENS FIELD	16.0	COLUMBIA GAS TRAN
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WEST VIRGINIA DEPARTMENT OF MINES									
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-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED: 12/27/83		JA: WV			
8413060		4700101800		103		ELMER E CAMPBELL ET AL 12785	PHILIPPI	10.0	GENERAL SYSTEM PU
8413061		4701303564		103		H M BENNETT 12879	WASHINGTON	7.0	GENERAL SYSTEM PU
-ENERGY UNLIMITED INC				RECEIVED: 12/27/83		JA: WV			
8413062		4710720875		108		ELLIOTT-STEPHENS #1 UNIT	UNION DISTRICT	0.0	CONSOLIDATED GAS
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** DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, LOS ANGELES,CA									
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-TEXACO INC				RECEIVED: 12/27/83		JA: CA 2			
8413057	OCS-P-0234	0431120499		102-5		PITAS POINT UNIT WELL #A-5 LOWER	CHANNEL ISLANDS AREA	1164.0	PACIFIC INTERSTAT
8413059	OCS-P 0346	0431120499		102-1		PITAS POINT UNIT WELL #A-5 LOWER	CHANNEL ISLANDS AREA	936.0	PACIFIC INTERSTAT
8413056	OCS-P-0234	0431120499		102-5		PITAS POINT UNIT WELL #A-5 UPPER	CHANNEL ISLANDS AREA	1315.0	PACIFIC INTERSTAT
8413058	OCS-P 0346	0431120499		102-1		PITAS POINT UNIT WELL #A-5 UPPER	CHANNEL ISLANDS AREA	1076.0	PACIFIC INTERSTAT
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** DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, ALBUQUERQUE,NM									
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-DEPCO INC				RECEIVED: 12/27/83		JA: NM 4			
8413048	RNM-0554-83	3000561927		102-2		ROSE FEDERAL #6	PECOS SLOPES ABO	400.0	TRANSWESTERN PIPE
8413051	RNM-0051-83	3000561936		107-TF		ROSE FEDERAL #8	PECOS SLOPES ABO	365.0	TRANSWESTERN PIPE
-EL PASO NATURAL GAS COMPANY				RECEIVED: 12/27/83		JA: NM 4			
8413033	RNM-0050-83	3002524554		108		RHODES STORAGE UNIT #7 WDRL	RHODES-YATES 7 RV GS	38.0	EL PASO NATURAL G
-GETTY OIL COMPANY				RECEIVED: 12/27/83		JA: NM 4			
8413036	RNM 0261-83	3002527603		102-4		NORTH BILBREY 7 FEDERAL WELL #1	SOUTH SALT LAKE MORRO	329.0	EL PASO NATURAL G
-MCCLELLAN OIL CORPORATION				RECEIVED: 12/27/83		JA: NM 4			
8413030	RNM 0057-83	3000570591		102-4		COYOTE FEDERAL #4-Y WELL NM 16069	UNDESIGNATED (ABO)	109.5	TRANSWESTERN PIPE
8413052	RNM 0077-83	3000562006		102-4		MCCLELLAN FEDERAL MOC #5 NM-36409	PECOS SLOPE (ABO)	109 5	TRANSWESTERN PIPE
8413053	RNM 0076-83	3000562007		102-4		MCCLELLAN FEDERAL MOC #6 NM-36409	PECOS SLOPE (ABO)	107 6	TRANSWESTERN PIPE
8413045	RNM 0022-83	3000561838		102-4		MCCLELLAN LEEMAN FED #2 NM-13978	UNDESIGNATED (ABO)	182.5	TRANSWESTERN PIPE
-MESA PETROLEUM CO				RECEIVED: 12/27/83		JA: NM 4			
8413043	RNM 0074-83	3000561721		102-3		LEILA FEDERAL #2	WILDCAT ABO	360.0	
8413041	RNM 0071-83	3000561994		102-2		MACHO FEDERAL #5	WEST PECOS SLOPE ABO	922.0	
-PHILLIPS PETROLEUM COMPANY				RECEIVED: 12/27/83		JA: NM 4			
8413039	RNM 0500-83	3002526185		108		EILLIAMS #8	MALJAMAR-GRAYBURG/SAN	1.0	EL PASO NATURAL G
-WESTALL-MASK				RECEIVED: 12/27/83		JA: NM 4			
8413038	RNM 0080-83	3001522356		108		HINKLE B FEDERAL #9	SHUGART	0.0	CONTINENTAL OIL C
8413037	RNM 0079-83	3001522732		108		KEOHANE FEDERAL #24-1	SHUGART	0 0	PHILLIPS PETROLEU
-YATES PETROLEUM CORPORATION				RECEIVED: 12/27/83		JA: NM 4			
8413035	RNM-0105-83	3000561916		102-2		BINNON TT FED #2	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8413054	RNM 0044-83	3000561938		102-2		BINNON TT FED #6	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8413048	RNM 0059-83	3000561955		102-2		DORIS RI FED #3	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8413042	RNM 0098-83	3000561957		107-TF		FEDERAL HY #8	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8413046	RNM 0062-83	3000561917		102-2		HUCKABY TJ FED #4	UND PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8413032	RNM-0100-83	3000561952		107-TF		HUCKABY TJ FED #5	UND PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8413047	RNM-005883	3000561958		102-3		INGRAM WY FED #1	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8413031	RNM-0099-83	3000561972		107-TF		PEEK WU FED #1	UND PECOS SLOPE ABO	0.0	TPANSWESTERN PIPE
8413034	RNM 0101-83	3000561973		107-TF		RITA TZ FED #2	UND PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8413050	RMN-006183	3000561940		107-TF		SORENSON IB FED #2	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8413055	RNM-0041-83	3000561851		102-3		TECKLA MD FED #6	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8413049	RNM 0060-83	3000561948		102-2		THOMAS LN FED #7	PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
8413029	RNM-0063-83	3000561842		102-3		WITTER VW FED #1	UND PECOS SLOPE ABO	0.0	TRANSWESTERN PIPE
-ZIA ENERGY INC				RECEIVED: 12/27/83		JA: NM 4			
8413044	RNM 0819-83	3002526304		108		FEDERAL #1	EUMONT YATES SEVEN RI	21.5	EL PASO NATURAL G
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** DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, CASPER,WY									
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-BURNETT OIL CO INC				RECEIVED: 12/27/83		JA: WY 5			
8413014	W 708-2	4900526393		103		BOC FEDERAL 41-12	WEST TODD	19.0	PHILLIPS PETROLEU
8413021	W 772-2	4900526393		102-2		BOC FEDERAL 41-12	WEST TODD	19.0	PHILLIPS PETROLEU
8413015	W709-2	4904521920		103		FEDERAL 21-7	WEST TODD	46.0	PHILLIPS PETROLEU
8413028	W771-2	4904521920		102-2		FEDERAL 21-7	WEST TODD	46.0	PHILLIPS PETROLEU
-CITIES SERVICE COMPANY				RECEIVED: 12/27/83		JA: WY 5			
8413023	W 746-2	4902720625		102-2		COW CREEK FEDERAL UNIT #3	COW CREEK	14.0	
8413026	W 734-2	4900526684		103		HARTZOG DRAW UNIT TRACT 13 #5198A	HARTZOG DRAW UNIT	40 1	
8413027	W 733-2	4900526458		103		HARTZOG DRAW UNIT TRACT 75 #5207	HARTZOG DRAW UNIT	18 3	PANHANDLE EASTERN
-COASTAL OIL & GAS CORP				RECEIVED: 12/27/83		JA: WY 5			
8413019	W 729-2	4902521402		107-DP		BULLFROG UNIT #2 (7-36-86)	WALTMAN (DEEP)	297 0	
8413020	W 730-2	4902521402		102-I		BULLFROG UNIT #2 (7-36-86)	WALTMAN (DEEP)	297 0	
-CZAR RESOURCES INC				RECEIVED: 12/27/83		JA: WY 5			
8413025	W 735-2	4900526728		102-4		FEDERAL 29-2	PORCUPINE (DAKOTA)	200 0	MCCULLOCH GAS PRO
-ENSERCH EXPLORATION INC				RECEIVED: 12/27/83		JA: WY 5			
8413024	W 736-2	4900922009		103		BUSTARD FEDERAL #1-5	MANNING (EXT) (FIRST	8.0	
-HPC INC				RECEIVED: 12/27/83		JA: WY 5			
8413017	W728-2	4900922069		102-2		BARNBURNER FEDERAL #20-1	SCOTT	1.0	PHILLIPS PETROLEU
-J M HUBER CORPORATION				RECEIVED: 12/27/83		JA: WY 5			
8413016	W 713-2	4900524901		108		FEDERAL #29-1	LITTLE THUNDER	18.0	MGPC INC
-PHILLIPS PETROLEUM COMPANY				RECEIVED: 12/27/83		JA: WY 5			
8413022	W 778-2	4900922204		102-2		W GIBSON DRAW FED J #1	WILDCAT	31.3	PANHANDLE EASTERN
-SUN EXPLORATION & PRODUCTION CO				RECEIVED: 12/27/83		JA: WY 5			
8413018	W723-2	4900500005		108		UTE MUDDY SAND UNIT #1-8	UTE	8.2	MCOR OIL & GAS CO
-WOODS PETROLEUM CORPORATION				RECEIVED: 12/27/83		JA: WY 5			
8413012	W661-2	4900526577		103		PINE TREE UNIT #19-49	PINE TREE	66.0	WESTERN GAS PROCE
8413013	W 695-2	4900526590		103		PINE TREE UNIT #32-52	PINE TREE	33 0	WESTERN GAS PROCE

[FR Doc. 84-2097 Filed 1-25-84; 8:45 am]

BILLING CODE 6717-01-C

[Vol. No. 1048]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 19, 1984.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487-4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
102-2: New well (2.5 Mile rule)
102-3: New well (1000 Ft rule)
102-4: New onshore reservoir
102-5: New reservoir on old OCS lease
Section 107-DP: 15,000 feet or deeper
107-GB: Geopressured brine
107-CS: Coal Seams
107-DV: Devonian Shale
107-PE: Production enhancement
107-TF: New tight formation
107-RT: Recompletion tight formation
Section 108: Stripper well
108-SA: Seasonally affected
108-ER: Enhanced recovery
108-PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS
Issued January 19, 1984

VOLUME 1048

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS									
-BETA DEVELOPMENT CO				RECEIVED:	12/27/83	JA: NM			
8413192		3004500000		108-PB		HAMPTON D #1	BASIN	0.0	EL PASO NATURAL G
-BROWN JOE E				RECEIVED:	12/27/83	JA: NM			
8413177		3004100000		108		CHAVEROO "B" STATE #2	CHAVEROO SAN ANDRES	24.3	CITIES SERVICE OI
8413189		3004100000		108		SHACKELFORD #1	CHAVEROO SAN ANDRES	2.5	CITIES SERVICE OI
-C & E OPERATORS INC				RECEIVED:	12/27/83	JA: NM			
8413196		3004500000		108-PB		BROWN #1	AZTEC	0.0	EL PASO NATURAL G
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	12/27/83	JA: NM			
8413184		3000500000		108		STATE 5-8-33 #3	CHAVEROO - SAN ANDRES	4.2	NORTHWEST CENTRAL
-CONOCO INC				RECEIVED:	12/27/83	JA: NM			
8413190		3002509387		108		LANGLIE LYNN QUEEN UNIT #4	NMFU - LANGLIE MATTIX	1.6	PETRO-LEWIS CORP
-DUGAN PRODUCTION CORP				RECEIVED:	12/27/83	JA: NM			
8413182		3004508865		108		SOUTHWEST MOUNDS COM #1	BASIN DAKOTA	12.0	EL PASO NATURAL G
8413183		3004507801		108		SULLIVAN #4 WELL	AZTEC FRUITLAND	10.0	EL PASO NATURAL G
-EL PAMCO INC				RECEIVED:	12/27/83	JA: NM			
8413197		3004507901		108-PB		SULLIVAN #6	AZTEC	0.0	EL PASO NATURAL G
-EL PASO NATURAL GAS COMPANY				RECEIVED:	12/27/83	JA: NM			
8413186		3004510366		108		ATLANTIC A #6	BLANCO - MESAVERDE	12.0	EL PASO NATURAL G
8413185		3004511457		108		HEIZER #1	BLANCO - MESA VERDE	16.0	EL PASO NATURAL G
8413198		3003907047		108-PB		RINCON UNIT #21	BLANCO	0.0	EL PASO NATURAL G
8413199		3003906966		108-PB		SAN JUAN 27-4 UNIT MV & PC	TAPACITO - PC BLANCO	0.0	EL PASO NATURAL G
8413204		3003920613		108-PB		SAN JUAN 27-5 UNIT	TAPACITO	0.0	EL PASO NATURAL G
8413207		3003906828		108-PB		SAN JUAN 27-5 UNIT #36 PC & MV	TAPACITO PC & BLANCO	0.0	EL PASO NATURAL G
8413206		3003960067		108-PB		SAN JUAN 27-5 UNIT 29 PC & MV	TAPACITO PC & BLANCO	0.0	EL PASO NATURAL G
8413203		3003920890		108-PB		SAN JUAN 28-6 UNIT	SOUTH BLANCO	0.0	EL PASO NATURAL G
8413188		3003921637		108		SAN JUAN 28-7 UNIT #250	BASIN DAKOTA	15.0	EL PASO NATURAL G
8413200		3003907480		108-PB		SAN JUAN 29-7 UNIT	BLANCO	0.0	EL PASO NATURAL G
8413201		3003900000		108-PB		SAN JUAN 30-6 UNIT #41	BLANCO	0.0	EL PASO NATURAL G
8413202		3003907983		108-PB		SAN JUAN 32-5 UNIT #10	BLANCO	0.0	EL PASO NATURAL G
8413187		3004524196		108		SAN JUAN 32-9 UNIT #57A	BLANCO - MESA VERDE	10.0	EL PASO NATURAL G
8413208		3004508707		108-PB		SCHULTZ COM C #7	AZTEC	0.0	EL PASO NATURAL G
8413205		3004506485		108-PB		TURNER B COM B #7	FULCHER KUTZ	0.0	EL PASO NATURAL G
-HCW EXPLORATION INC				RECEIVED:	12/27/83	JA: NM			
8413172		3000500000		103		GRIFFIN #1	CHAVEROO / SAN ANDRES	6.0	CITIES SERVICE OI
8413170		3000500000		103		GRIFFIN #2	CHAVEROO / SAN ANDRES	6.0	CITIES SERVICE OI
8413171		3002500000		103		R W COWDEN "C" #9	JALMAT (GAS)	8.6	GULF OIL CORP
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	12/27/83	JA: NM			
8413178		3002527113		108		EAST VAC GB/SA UNIT TR 1904 #002	VACUUM GB/SA	0.0	EL PASO NATURAL G
-SHELL OIL CO				RECEIVED:	12/27/83	JA: NM			
8413180		3002500000		108		N HOBBS (G-SA) UNIT SEC 14 #331	HOBBS (G-SA)	4.9	PHILLIPS PETROLEU
8413181		3002500000		108		N HOBBS (G-SA) UNIT SEC 23 #412	HOBBS (G-SA)	16.1	PHILLIPS PETROLEU
8413179		3002500000		108		STATE J #6	OIL CENTER BLINEBRY	4.1	PHILLIPS PETROLEU
-SOUTHLAND ROYALTY CO				RECEIVED:	12/27/83	JA: NM			
8413195		3004508712		108-PB		MCGRATH A #1 DK	BASIN	0.0	SOUTHERN UNIOM GA
8413194		3004523067		108-PB		PAGE #2A MV	BLANCO	0.0	SOUTHERN UNION GA
8413193		3004510503		108-PB		WEST SADIE #1	BLANCO	0.0	SOUTHERN UNION GA

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-TENNECO OIL COMPANY				RECEIVED:	12/27/83	JA: NM			
8413176		3004500000		108		JACQUES #1	BLANCO MESAVERDE	15.0	SOUTHERN UNION GA
-TEXACO INC				RECEIVED:	12/27/83	JA: NM			
8413174		3004508976		108		NEW MEXICO COM "J" WELL #1	AZTEC-PICTURED CLIFFS	19.0	EL PASO NATURAL G
-UNION TEXAS PETROLEUM				RECEIVED:	12/27/83	JA: NM			
8413175		3002528198		103		POST #2	SOUTH KING (DEVONIAN	110.0	WARREN PETROLEUM
-YATES PETROLEUM CORPORATION				RECEIVED:	12/27/83	JA: NM			
8413173		3002528137		103		PALOMA "WWM" ST #1	LAZY J PENN	0.0	WARREN PETROLEUM
-ZACHARY OIL OPERATING CO				RECEIVED:	12/27/83	JA: NM			
8413191		3002500000		108-PB		MARSHALL 1 #1	EUMONT	0.0	EL PASO NATURAL G
**********									
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, METAIRIE,LA									
**********									
-APCO OIL AND GAS COMPANY				RECEIVED:	12/27/83	JA: LA 3			
8413090	G3-3531	1771140559		102-5		OCS G-2919 SHIP SHOAL BLOCK 91 #A-2	SHIP SHOAL	146	0 TRANSCO GAS SUPPL
8413087	G3-3532	1771140568		102-5		OCS G-2919 SHIP SHOAL BLOCK 91 #A-3	SHIP SHOAL	37	0 TRANSCO GAS SUPPL
8413091	G3-3533	1771140625		102-5		OCS G-2919 SHIP SHOAL BLOCK 91 #A-4	SHIP SHOAL	749	0 TRANSCO GAS SUPPL
8413092	G3-3534	1771140582		102-5		OCS G-2919 SHIP SHOAL BLOCK 91 #A-5	SHIP SHOAL	71	0 TRANSCO GAS SUPPL
8413093	G3-3535	1771140592		102-5		OCS G-2919 SHIP SHOAL BLOCK 91 #A-6	SHIP SHOAL	411	0 TRANSCO GAS SUPPL
8413088	G3-3991	1770040524		102-1		OCS G-3965 WEST CAMERON BLK 239 #4	WEST CAMERON	175	0 MICHIGAN WISCONSI
8413095	G3-3985	1770040617		102-1		OCS G-4758 WEST CAMERON BLK 212 #C5	WEST CAMERON	2500	0 CAJUN NATURAL GAS
8413094	G2-3301	1772140244		102-5		OCS-G 1608 E-9	SOUTH PASS BLOCK	47	0 SOUTHERN NATURAL
8413089	G3-3657	1772140247		102-5		OCS-G 1611 SOUTH PASS BLOCK 66 #A-1	SOUTH PASS	200.0	SOUTHERN NATURAL
-CHEVRON U S A INC				RECEIVED:	12/27/83	JA: LA 3			
8413127	G3-3897	1770740416		107-DP		OCS-G-1180 #6	SOUTH MARSH ISLAND	183.0	NATURAL GAS PIPEL
8413097	G3-3735	1770640305		102-5		OCS-G-3137 #A-6D	VERMILION	170.0	COLUMBIA GAS TRAN
-DIAMOND CHEMICAL CO				RECEIVED:	12/27/83	JA: LA 3			
8413133	G3-4021	1770540562		102-1		VERMILION BLOCK 45 WELL #1	VERMILION	0.0	
8413110	G3-4023	1770040555		102-1		WEST CAMERON BLOCK 192 WELL #1	WEST CAMERON	0.0	
8413111	G3-4024	1770040577		102-1		WEST CAMERON BLOCK 192 WELL #5	WEST CAMERON	0.0	
-GULF OIL CORPORATION				RECEIVED:	12/27/83	JA: LA 3			
8413102	G3-3518	1772040096		102-5		OCS-G 1101 WELL G-18 W/D BLK 117	WEST DELTA	117.0	TEXAS EASTERN TRA
8413112	G3-4030	1772440252		102-1		OCS-G 4127 WELL #A-7-D	MAIN PASS AREA	438.0	SOUTHERN NATURAL
8413121	G3-3879	1772440249		102-1		OCS-G 4127 WELL A-6	MAIN PASS AREA	912.0	SOUTHERN NATURAL
8413114	G3-4031	1772440252		102-1		OCS-G 4127 WELL A-7	MAIN PASS AREA	153.0	SOUTHERN NATURAL
-KERR-MCGEE CORPORATION				RECEIVED:	12/27/83	JA: LA 3			
8413132	G3-4032	1770340402		102-1		OCS G-4415 #2	EAST CAMERON	0.0	
-MESA PETROLEUM CO				RECEIVED:	12/27/83	JA: LA 3			
8413140	G2-2966	1770640493		102-5		VERMILION BLOCK 39? WELL A-16 S/T	VERMILION	1825.0	MICHIGAN WISCONSI
-MOBIL OIL EXPLORATION & PROD S E				RECEIVED:	12/27/83	JA: LA 3			
8413136	G2-2585	1772540204		102-5		MAIN PASS BLOCK 72/74 #C - 1B (ALT)	MAIN PASS	154.0	UNITED GAS PIPE L
8413137	G2-2623	1772540215		102-5		MAIN PASS BLOCK 72/74 #C - 4A	MAIN PASS	95.0	UNITED GAS PIPE L
8413143	G2-3373	1772540193		102-5		MAIN PASS 72/74 # B - 2A	MAIN PASS	168.0	UNITED GAS PIPE L
8413104	G2-3391	1772540193		102-5		MAIN PASS 72/74 # B - 2D	MAIN PASS	40.0	UNITED GAS PIPE L
8413135	G2-3376	1772540205		102-5		MAIN PASS 72/74 # B - 5A	MAIN PASS	3504.0	UNITED GAS PIPE L
8413151	G2-3393	1772540208		102-5		MAIN PASS 72/74 # B - 6C	MAIN PASS	142	0 UNITED GAS PIPE L
8413148	G2-3380	1772540276		102-5		MAIN PASS 72/74 #B - 16A	MAIN PASS	80.0	UNITED GAS PIPE L
8413138	G2-3371	1772540198		102-5		MAIN PASS 72/74 #B-1B	MAIN PASS	103.0	UNITED GAS PIPE L
8413109	G2-3372	1772540198		102-5		MAIN PASS 72/74 #B-1E	MAIN PASS	62.0	UNITED GAS PIPE L
8413107	G2-3389	1772540252		102-5		MAIN PASS 72/74 #B-13A	MAIN PASS	270.0	UNITED GAS PIPE L
8413124	G2-3379	1772540266		102-5		MAIN PASS 72/74 #B-15A	MAIN PASS	1460.0	UNITED GAS PIPE L
8413108	G2-3374	1772540202		102-5		MAIN PASS 72/74 #B-4A	MAIN PASS	86.0	UNITED GAS PIPE L
8413123	G2-2629	1772540229		102-5		MAIN PASS 72/74 #C-8B	MAIN PASS	154.0	UNITED GAS PIPE L
8413141	G2-2889	1772540262		102-5		MAIN PASS 73 #A-19A OCS-G-2947	MAIN PASS	200.0	UNITED GAS PIPE L
8413139	G2-3306	1772540230		102-5		MAIN PASS 73 #A-21A	MAIN PASS	1200.0	UNITED GAS PIPE L
8413163	G2-3386	1772540241		102-5		OCS-G-3417 #B - 10A MAIN PASS 72/74	MAIN PASS	90.0	UNITED GAS PIPE L
8413164	G2-3387	1772540241		102-5		OCS-G-3417 #B - 10C MAIN PASS 72/74	MAIN PASS	75.0	UNITED GAS PIPE L
8413152	G2-3390	1772540243		102-5		OCS-G-3417 #B - 11A MAIN PASS 72/74	MAIN PASS	187	0 UNITED GAS PIPE L
8413145	G3-3470	1772540246		102-5		OCS-G-3417 #C-13A MAIN PASS 72/74	MAIN PASS	130	0 UNITED GAS PIPE L
-ODECO OIL & GAS CO				RECEIVED:	12/27/83	JA: LA 3			
8413142	G3-3720	1770940554		102-5		OCS 044 #19A	EUGENE ISLAND	69.0	UNITED GAS PIPE L
-PLACID OIL COMPANY				RECEIVED:	12/27/83	JA: LA 3			
8413106	G3-3761	1770740338		102-5		E-9	SOUTH MARSH ISLAND	3285.0	TRUNKLINE GAS CO
8413161	G2-3221	1770740348		102-5		OCS-G-2600 WELL #E-10	SOUTH MARSH ISLAND	2737.5	TRUNKLINE GAS CO
8413162	G2-3222	1770740360		102-5		OCS-G-2600 WELL #E-12	SOUTH MARSH ISLAND	2737.5	TRUNKLINE GAS CO
8413165	G2-3223	1770740366		102-5		OCS-G-2600 WELL #E-13	SOUTH MARSH ISLAND	620.5	TRUNKLINE GAS CO
8413166	G2-3269	1770740331		102-5		OCS-G-2600 WELL #E-8	SOUTH MARSH ISLAND	2737.5	TRUNKLINE GAS CO
-SHELL OFFSHORE INC				RECEIVED:	12/27/83	JA: LA 3			
8413159	G3-3668	1770940515		102-5		EI 188 OCS 0443 #JA-1 ST	EUGENE ISLAND	0.0	MICHIGAN WISCONSI
8413158	G3-3660	1770940534		102-5		EI 188 OCS 0443 #JA-2 ST	EUGENE ISLAND	0.0	MICHIGAN WISCONSI
8413126	G3-3898	1770940513		102-5		EI 188 OCS 0443 #11	EUGENE ISLAND	0.0	MICHIGAN WISCONSI
8413131	G3-4014	1770940486		102-1		EI 33 OCS-G 3560 #1	EUGENE ISLAND	0.0	MID-LOUISIANA GAS
8413144	G2-3377	1781740120		102-5		MC BLK 196 FLD OCS-G 2638 #A-38	MISSISSIPPI CANYON	160.0	SOUTHERN NATURAL
8413157	G3-3639	1781740164		102-5		MC 196 FLD OCS-G 2638 #A-62	MISSISSIPPI CANYON	43.0	SOUTHERN NATURAL
8413168	G3-3551	1781740098		102-5		MISSISSIPPI BLK 194 OCS-G 2638 #A-2	MISSISSIPPI CANYON	536.0	SOUTHERN NATURAL
8413122	G3-3861	1770840265		102-5		OCS-G 2281 B-23	SOUTH MARSH ISLAND	383.3	TRANSCONTINENTAL
-SONAT EXPLORATION CO				RECEIVED:	12/27/83	JA: LA 3			
8413128	G3-3437	1777034036		102-5		EAST CAMERON 231 E-1	EAST CAMERON	1095.0	SEA ROBIN PIPELIN
8413129	G2-3411	1770334038		102-5		EAST CAMERON 231 E-2	EAST CAMERON	540.0	SEA ROBIN GAS PIP
-TENNECO OIL COMPANY				RECEIVED:	12/27/83	JA: LA 3			
8413160	G3-4043	1770540603		102-1		EAST CAMERON 128 A-8 ST	EAST CAMERON	730	0
8413113	G3-3636	1770240554		102-5		EAST CAMERON 370 #B-2	EAST CAMERON	730	0 TENNESSEE GAS PIP
8413115	G3-4033	1773140027		102-1		SABINE PASS 13 #B-1	SABINE PASS	1400.0	TENNESSEE GAS PIP
8413130	G3-4015	1771140495		102-1		SHIP SHOAL 170 #A-4	SHIP SHOAL	900	0 TENNESSEE GAS PIP
8413119	G3-4045	1770540364		102-1		VERMILION 122 A-1	VERMILION	100	0 TENNESSEE GAS PIP
8413117	G3-4042	1770540533		102-1		VERMILION 122 A-3ST	VERMILION	530	0 TENNESSEE GAS PIP
8413146	G3-4047	1770540537		102-1		VERMILION 122 A-5	VERMILION	480	0 TENNESSEE GAS PIP
8413147	G3-4046	1770540543		102-1		VERMILION 122 A-6	VERMILION	1550.0	TENNESSEE GAS PIP
8413118	G3-4044	1770540566		102-1		VERMILION 122 A-7	VERMILION	1900	0 TENNESSEE GAS PIP
8413156	G3-3637	1770240564		102-5		WEST CAMERON 643 #B-4	WEST CAMERON	1460.0	TENNESSEE GAS PIP
-TEXACO INC				RECEIVED:	12/27/83	JA: LA 3			
8413169	G3-3571	1770940524		102-5		OCS-G-0802 EUGENE ISLAND 196 #H-3	EUGENE ISLAND	1460.0	SEA ROBIN PIPE LI
8413116	G3-4036	1770540563		102-1		OCS-G-4785 VERMILION 30 #4	VERMILION	931.0	BRIDGELINE GAS DI
8413105	G3-3487	1770720036		102-5		SOUTH MARSH ISLAND 11 #33 ST	SOUTH MARSH ISLAND	104.0	TEXAS GAS TRANSMI
-TEXACO PRODUCING INC				RECEIVED:	12/27/83	JA: LA 3			
8413167	G3-3814	1770940542		102-5		OCS-G-0802 EUGENE ISLAND 196 #H-4	EUGENE ISLAND	1400.0	CONSOLIDATED GAS
-AMOCO PRODUCTION CO				RECEIVED:	12/27/83	JA: TX 3			
8413134	G2-3299	4271140462		102-5		OCS-G-2427 WELL #A-4	HIGH ISLAND	350.0	MICHIGAN WISCONSI
-SHELL OFFSHORE INC				RECEIVED:	12/27/83	JA: TX 3			
8413103	G3-4012	4270440081		102-1		OCS-G 3938 JA-1 (FORMERLY NO 2)	BRAZOS	3520	0 COLUMBIA GAS TRAN
8413099	G3-4011	4270440107		102-1		OCS-G 3938 JA-2	BRAZOS	5400	0 COLUMBIA GAS TRAN
8413101	G3-4010	4270440108		102-1		OCS-G 3938 JA-3	BRAZOS	3600	0 COLUMBIA GAS TRAN
8413100	G3-4009	4270440115		102-1		OCS-G 3938 JA-4	BRAZOS	1365	0 COLUMBIA GAS TRAN
8413098	G3-4013	4270440104		102-1		OCS-G 3938 JB-1 (FORMERLY NO 3)	BRAZOS	5400	0 COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-TENNECO OIL COMPANY				RECEIVED:	12/27/83	JA: TX 3			
8413096	G3-3630	4270948398		102-5		HI ISL A-414 #A-1L PER LTR 10/26/83	HIGH ISLAND	1825.0	NATURAL GAS PIPEL
8413158	G3-4065	4270940457		102-1		HIGH ISLAND A-416 #A-1	HIGH ISLAND	5500.0	CREOLE GAS PIPELI
8413149	G3-4066	4270940614		102-1		HIGH ISLAND A-416 #A-2 ST	HIGH ISLAND	1000.0	CREOLE GAS PIPELI
-TRANSCO EXPLORATION COMPANY				RECEIVED:	12/27/83	JA: TX 3			
8413155	G3-4078	4270940712		102-1		#A-1	HIGH ISLAND	1597.0	TRANSCONTINENTAL
8413125	G3-4077	4270940721		102-1		#A-2	HIGH ISLAND	1597.0	TRANSCONTINENTAL
8413128	G3-4074	4270940718		102-1		#A-5	HIGH ISLAND	1597.0	TRANSCONTINENTAL
8413153	G3-4076	4270940726		102-1		#A-6	HIGH ISLAND	1597.0	TRANSCONTINENTAL
8413154	G3-4075	4270940719		102-1		MO A-3	HIGH ISLAND	1597.0	TRANSCONTINENTAL

[FR Doc. 84-2008 Filed 1-25-84; 8:45 am]

BILLING CODE 6717-01-C

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[Vol. No. 1051]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 20, 1984.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd., Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservior
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS

VOLUME 1051

ISSUED JANUARY 20, 1984

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-ABRAXAS PETROLEUM CORP				RECEIVED:	12/27/83	JA: TX			
8413607	F-04-066526	4224931544		102-2		W C MORRIS #1	RESACA CREEK (FRIO 42	100.0	NUE-WELLS PIPE LI
-ADA OIL EXPLORATION CORP				RECEIVED:	12/27/83	JA: TX			
8413687	F-03-072169	4228700000		102-2		NEWMAN-GERDES #3	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-ALL AM INC				RECEIVED:	12/27/83	JA: TX			
8413727	F-03-073763	4205132501		102-2		MR BOB #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-AMOCO PRODUCTION CO				RECEIVED:	12/27/83	JA: TX			
8413813	F-08-074990	4200333447		103		FULLERTON SAN ANDRES UNIT #7?	FULLERTON SAN ANDRES	5.0	AMOCO PRODUCTION
-ANDERSON PETROLEUM INC				RECEIVED:	12/27/83	JA: TX			
8413613	F-7C-067829	4210534407		103	107-TF	JOE FRIEND ESTATE #2-34 A	ALDWELL RANCH (CANYON	73.0	OZONA PIPELINE CO
-APPLE NATHAN L				RECEIVED:	12/27/83	JA: TX			
8413681	F-7B-071813	4213334993		102-4		D B WARREN #1	WARREN (GARDNER)	30.0	LONE STAR GAS CO
-ATAPCO				RECEIVED:	12/27/83	JA: TX			
8413621	F-7B-069192	4235331396		102-4	103	SPIRES #1-148	SPIRES (CADDO)	5.4	SUN EXPLORATION &
-BRAZOS RESOURCES INC				RECEIVED:	12/27/83	JA: TX			
8413756	F-7B-074404	4213335291		102-4		JAMESON #2 (RRC ID #N/A)	FAIR (MARBLE FALLS LO	36.0	NORTHERN GAS PROI
-BURNETT OIL CO INC				RECEIVED:	12/27/83	JA: TX			
8413837	F-01-075086	4231131875		102-4	103	H A DISCHER #1	AWP (OLMOS)	11.0	MPI TRANSMISSIOM
-C & K PETROLEUM INC				RECEIVED:	12/27/83	JA: TX			
8413814	F-08-074992	4243131342		103		GUNTER 25-2	CONGER (PENN)	0.0	VALERO TRANSMISSI
8413710	F-08-073327	4243131337		103		GUNTER 35 - #3	CONGER (PENN) FIELD	108.0	VALERO TRANSMISSI
-C F LAWRENCE & ASSOC INC				RECEIVED:	12/27/83	JA: TX			
8413619	F-08-068548	4237134151		103		MCCOMB B-1	WILDCAT	0.0	
8413809	F-7C-074974	4210534486		103		TODD "W" #1	TODD SW (SAN ANDRES L	0.0	APACHE GAS CORP
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	12/27/83	JA: TX			
8413689	F-03-072356	4204130607		102-2		B J FUCHS #1	BRYAN (BUDA)	9.5	FERGUSON CROSSING
8413713	F-03-073464	4204100000		102-2		E M DANSBY #3	KURTEN (BUDA)	0.0	
8413638	F-04-070283	4235531999		103		G P WARDNER #159	STRATTON (6430)	0.0	TENNESSEE GAS PIP
8413646	F-02-070829	4246932058		102-4	103	MCFADDIN "A" #20	MCFADDIN	0.0	CHAMPLIN PETROLEU
-CHAPTER PETROLEUM				RECEIVED:	12/27/83	JA: TX			
8413770	F-10-074534	4217900000		103		LANGHAM #3	PANHANDLE - GRAY	0.0	COLTEXO CORP
8413769	F-10-074533	4217900000		103		LANGHAM #4	PANHANDLE - GRAY	0.0	COLTEXO CORP
-CHARLES PITTS CO				RECEIVED:	12/27/83	JA: TX			
8413654	F-7B-071223	4204933575		102-4		A A MARTIN -C- #4	GROSVENOR SW (DUFFER)	0.0	EL PASO HYDROCARB
8413632	F-7B-070168	4204933500		102-4		A A MARTIN "A" #2	GROSVENOR SW (DUFFER)	0.0	EL PASO HYDROCARB
8413631	F-7B-070167	4204933499		102-4		DUDLEY WALKER #1 (19809)	GROSVENOR SW (DUFFER)	25.0	EL PASO HYDROCARB
8413630	F-7B-070166	4204933499		102-4		EADS #1	COG (MARBLE FALLS)	300.0	EL PASO HYDROCARB
-CIRCLE SEVEN PRODUCTION CO				RECEIVED:	12/27/83	JA: TX			
8413776	F-09-074627	4223735340		103		OWEN #2	DEARING (CADDO)	0.0	SOUTHWESTERN GAS
-CLAYTON W WILLIAMS JR				RECEIVED:	12/27/83	JA: TX			
8413733	F-03-074010	4205100000		102-2		BIRCH CREEK RANCH #3	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
-COCKRELL OIL CORP				RECEIVED:	12/27/83	JA: TX			
8413774	F-03-074616	4216730936		102-4		R A WILLIAMS #1	NORTHWEST ALGOA (PROP	410.0	
-COLEMAN & JOHNSON OIL CO				RECEIVED:	12/27/83	JA: TX			
8413796	F-7B-074765	4204932587		102-4		J R DONAHOO #3	BYRD (FRY SAND)	5.0	EL PASO HYDROCARB
8413656	F-7B-071361	4204900000		102-4		LIVINGSTON #1	PITTS (FRY)	0.0	EL PASO HYDROCARB

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-COMANCHE ENERGY AGENCY						
8413624	F-7B-069718	4242933508		RECEIVED:	12/27/83	JA: TX
-CONOCO INC				102-4		BARRY 1-53 #3 (105451)
8413797	F-08-074794	4210931718		RECEIVED:	12/27/83	JA: TX
8413698	F-04-07248	4247933582		103		G E RAMSEY -10 #1 ID
8413694	F-04-072601	4247933681		102-2	107-TF	VAQUILLAS RANCH G #34
-COTTON PETROLEUM CORPORATION				102-4	103	VAQUILLAS RANCH SEA #1
8413648	F-10-070396	4229531255		RECEIVED:	12/27/83	JA: TX
-COURSON OIL & GAS INC				103		WYNN #2
8413723	F-10-073722	4235731366		RECEIVED:	12/27/83	JA: TX
-D L WHITAKER OIL CO				103	107-TF	BILL #1-663
8413806	F-7B-074943	4244733619		RECEIVED:	12/27/83	JA: TX
-DALECO RESOURCES				102-4		MASSEY B WELL #2
8413592	F-03-063881	4205131984		RECEIVED:	12/27/83	JA: TX
8413591	F-03-063880	4204130834		102-4	103	MABLE WILKINS #5
-DANIEL OIL COMPANY				102-4	103	ROBERT MOORE #3
8413625	F-03-069776	4215731374		RECEIVED:	12/27/83	JA: TX
8413633	F-03-070175	4215731387		102-4		BUCKALEW #2
8413635	F-03-070179	4215731395		102-4		MOORE #11
8413636	F-03-070181	4215731299		102-4		MOORE #12
8413634	F-03-070177	4215731350		102-4		MOORE #6
8413628	F-03-070155	4215731373		102-4		MOORE #8
8413629	F-03-070156	4215731373		102-4		MOORE #9C
-DIAMOND CHEMICALS INC				102-4		MOORE NO 9T
8413698	F-10-072675	4235731324		RECEIVED:	12/27/83	JA: TX
8413685	F-10-072003	4235731386		107-TF		DREW ELLIS #3-831
8413660	F-10-071480	4229531315		102-4		DREW ELLIS "C" #3
8413693	F-10-072469	4235700000		103		HANSHU #2
8413661	F-10-071481	4229531290		108		LIZZIE PINCKARD "A" #1
-DONALD C SLAWSON				103		LYDIA BRADFORD "D" #3
8413767	F-10-074495	4235731372		RECEIVED:	12/27/83	JA: TX
8413801	F-10-074888	4235731401		102-4		ALBERT #1-31
8413736	F-10-074025	4229531336		102-4		ALBERT #2-31
-DORE CORPORATION				102-4		MITCHELL #4-147
8413655	F-10-071226	4234130820		RECEIVED:	12/27/83	JA: TX
-DOYLE W CLAWSON JR				103		DORE FEE 2-312
8413683	F-7B-071859	4204933608		RECEIVED:	12/27/83	JA: TX
-EDWIN L & BERRY R COX				102-4		HAYNES #4
8413658	F-03-071370	4216700000		RECEIVED:	12/27/83	JA: TX
-EDWIN L COX				102-4		HALLS BAYOU RANCH "B" #1
8413674	F-04-071757	4247933592		RECEIVED:	12/27/83	JA: TX
8413626	F-04-069781	4247933536		102-4		FRANK ARMSTRONG #2
-EDWIN S NICHOLS EXPLORATIONS LTD				102-4	107-TF	LUNDELL RANCH #1
8413764	F-7B-074464	4236333150		RECEIVED:	12/27/83	JA: TX
-EMERALD PETROLEUM CORP				102-4		M W RIEBE #1
8413804	F-09-074913	4223735092		RECEIVED:	12/27/83	JA: TX
-EMPIRE EXPLORATION CORP				103		FLETCHER A #1
8413665	F-7B-071503	4222130625		RECEIVED:	12/27/83	JA: TX
8413664	F-7B-071502	4222100000		102-2		CARR GAS UNIT #1 094537
8413662	F-7B-071499	4222130638		102-2		HARRINGTON GAS UNIT #1 095588
8413666	F-7B-071504	4222130639		102-2		MAYNE "D" #6 090735
8413663	F-7B-071500	4222130623		102-2		MAYNE "E" #5 094168
-ENSERCH EXPLORATION INC				102-2		MAYNE GAS UNIT #1 095164
8413637	F-10-070211	4221131552		RECEIVED:	12/27/83	JA: TX
-ENTERPRISE ENERGY CORP				103		W S & E C JONES ESTATE #3
8413735	F-09-074018	4233700000		RECEIVED:	12/27/83	JA: TX
-EXXON CORPORATION				103		PATTERSON #1 106028
8413777	F-06-074634	4207330497		RECEIVED:	12/27/83	JA: TX
8413706	F-08-073174	4200333477		102-4	107-TF	AFTON THRASH GAS UNIT 1 #1
8413766	F-08-074485	4200333472		103		FULLERTON CLEARFORK UNIT #2015
8413754	F-08-074374	4200333517		103		FULLERTON CLEARFORK UNIT #2066
8413718	F-08-073593	4200333516		103		MEANS/SAN ANDRES/UNIT #948
8413742	F-04-074135	4226130455		103		MEANS/SAN ANDRES/UNIT 1778
8413803	F-04-074891	4226130429		102-4		MRS S K EAST 93 (107522)
8413765	F-8A-074483	4216532529		102-4		MRS S K EAST 94-D (107484)
8413808	F-03-074860	4236130438		103		ROBERTSON CLEARFORK UNIT #1703
8413755	F-8A-074384	4216531797		102-4		SABINE LAKE GAS UNIT 3 #1
-FAIRCHILD PETROLEUM CORP				103		SAM C JENKINS #6
8413673	F-7B-071731	4235303124		RECEIVED:	12/27/83	JA: TX
-FARGO ENERGY CORP				102-4		BURWICK #1
8413692	F-03-072467	4214931591		RECEIVED:	12/27/83	JA: TX
8413726	F-03-073736	4214931595		102-2		BOEHNKE "A" #1
8413678	F-03-071609	4214900000		102-2		BOEHNKE "E" #1
8413703	F-03-072992	4214931606		102-2		RIETZ D #1
-GAYLYN EXPLORATION INC				102-2		SYD #1
8413822	F-09-075027	4223735359		RECEIVED:	12/27/83	JA: TX
-GENESIS PETROLEUM CORP				102-4		HOMEPLACE #2 (N/A)
8413805	F-03-074942	4224531651		RECEIVED:	12/27/83	JA: TX
-GETTY OIL COMPANY				102-4		GRINNELL TEXAS CO WELL #1
8413627	F-04-069814	4247900000		RECEIVED:	12/27/83	JA: TX
8413768	F-7C-074530	4241300000		102-4	107-TF	DIX RANCH #100-A
-GHR ENERGY CORP				108		W W WEST #1
8413704	F-04-073009	4247933574		RECEIVED:	12/27/83	JA: TX
8413686	F-04-072084	4250531593		102-4	107-TF	CARR #9
8413614	F-04-068217	4250531628		102-4	107-TF	MCMURREY #33
-GIBBS COX & GIBBS INC				102-4	107-TF	MCMURREY #35
8413590	F-7B-063382	4208332694		RECEIVED:	12/27/83	JA: TX
-GREAT WEST OPERATING CO INC				108		M J LINEBERRY #2-B (097024)
8413675	F-09-071769	4207732956		RECEIVED:	12/27/83	JA: TX
-GULF OIL CORPORATION				103		DALTON #2
8413677	F-01-071792	4201300761		RECEIVED:	12/27/83	JA: TX
8413719	F-10-073601	4239330944		108		EMMA TARTT ET AL #5
8413707	F-08-078179	4237134364		103		JOHN HAGGARD #50
8413773	F-08-074582	4210301761		103		STATE "BC" #9
8413709	F-08-073317	4210333156		108		W H WADDELL #293
8413762	F-08-074450	4210333148		103		W H WADDELL ETAL (TR A) #1194
8413761	F-08-074449	4210333109		103		W H WADDELL ETAL (TRA) #1110
8413763	F-08-074451	4210333149		103		W H WADDELL ETAL (TRA) #1241
8413708	F-08-073315	4210333201		103		W H WADDELL ETAL #1109
-H L M OIL & GAS CO INC				103		W H WADDELL ETAL #1252
8413622	F-09-069224	4249732523		RECEIVED:	12/27/83	JA: TX
-HAMILTON BROTHERS OIL CO				103		SEWELL #2 - RRC ID N/A
8413651	F-04-071147	4204700000		RECEIVED:	12/27/83	JA: TX
-HENDERSON CLAY PRODUCTS INC				102-4		MCBRIDE #1
				RECEIVED:	12/27/83	JA: TX

FIELD NAME	PROD	PURCHASER
BARRY (MARBLE FALLS)	292.0	SOUTHWESTERN GAS
FORD WEST 6100	474.5	EL PASO NATURAL G
BARNSLEY (LOBO 10,900	703.0	E I DUPONT DENEMO
VAQUILLAS RANCH (WILC	160.0	HOUSTON PIPELINE
FOLLETT SOUTH (MORROW	0.0	CALICHE PIPELINE
ELLIS RANCH (CLEVELAN	100.0	TRANSWESTERN PIPE
KINGS CREEK CADDO	70.0	WOODSON GAS INC
CLAY M E (EDWARDS LIM	0.0	CLAJON GAS CO
CLAY M E (AUSTIN CHAL	0.0	CLAJON GAS CO
MOORES ORCHARD (YEGUA	0.0	
MOORES ORCHARD (YEGUA	0.0	UNITED TEXAS TRAN
MOORES ORCHARD (YEGUA	0.0	
MOORES ORCHARD (YEGUA	0.0	
MOORES ORCHARD (YEGUA	0.0	
MOORES ORCHARD (YEGUA	0.0	UNITED TEXAS TRAN
MOORES ORCHARD (YEGUA	0.0	UNITED TEXAS TRAN
ELLIS RANCH	365.0	NATURAL GAS PIPEL
ELLIS	0.0	NATURAL GAS PIPEL
BRADFORD	0.0	
PARNELL	2.9	SOUTHWESTERN PUBL
BRADFORD	0.0	SOUTHWESTERN PUBL
BOOKER NORTH	70.0	PRAIRIE STATES PI
BOOKER NORTH	285.0	PRAIRIE STATES PI
BOOKER NORTH	18.3	HIGH PLAINS NATUR
WEST PANHANDLE	0.0	NATURAL GAS PIPEL
HAYNES (CROSS CUT)	1000.0	EL PASO HYDROCARB
	44.0	GULFTIDE GAS CORP
SOUTH GLEN	540.0	HOUSTON PIPELINE
GATO CREEK	360.0	HOUSTON PIPE LINE
RIEBE (ATOKAN CONGL)	100.0	
RISCH	12.1	LONE STAR GAS CO
M E GRANBURY	0.0	EMPIRE PIPELINE C
GRANBURY N E	22.3	EMPIRE PIPELINE C
N E GRANBURY	0.0	EMPIRE PIPELINE C
N E GRANBURY	0.0	EMPIRE PIPELINE C
N E GRANBURY	0.0	EMPIRE PIPELINE C
SOUTH HIGGINS	271.0	TRANSWESTERN PIPE
BOEDECKER S E (CADDO	37.8	TEXAS UTILITIES F
OVERTON (COTTON VALLE	352.0	ARMCO STEEL CORP
FULLERTON	15.0	PHILLIPS PETROLEU
FULLERTON	15.0	PHILLIPS PETROLEU
MEANS	15.0	PHILLIPS PETROLEU
MEANS	15.0	PHILLIPS PETROLEU
RITA SE (N-02/10 C)	165.0	NATURAL GAS PIPEL
RITA (7-B II)	100.0	NATURAL GAS PIPEL
ROBERTSON N (CLEAR FO	15.0	PHILLIPS PETROLEU
SABINE LAKE N (HACK L	4000.0	ARMCO STEEL CORP
JENKINS NORTH (CLEAR	0.0	PHILLIPS PETROLEU
F P C (GARDNER)	52.0	PALO DURO PIPELIN
GIDDINGS (AUSTIN CHAL	73.0	PHILLIPS PETROLEU
GIDDINGS (BUDA)	73.0	PHILLIPS PETROLEU
GIDDINGS (AUSTIN CHAL	73.0	PHILLIPS PETROLEU
GIDDINGS (AUSTIN CHAL	73.0	PHILLIPS PETROLEU
GAYLYN (MISSISSIPIAN)	219.0	SOUTHWESTERN GAS
RAINBOW (HACKBERRY 93	730.0	
DIX RANCH (LOWER WILC	500.0	
CODY BELL (CANYON) FI	10.0	ARCO OIL & GAS CO
LUNDELL (LOBO)	350.0	GHR PIPELINE CORP
SOUTHWEST MCMURREY (L	800.0	GHR PIPELINE CORP
SW MCMURREY (LOBO)	750.0	GHR PIPELINE CORP
SANTA ANNA (MARBLE FA	1.0	EL PASO HYDROCARB
BUFFALO SPRINGS	40.0	TEXAS UTILITIES F
FASHING (EDWARDS LIME	4.0	NATURAL GAS P/L C
WILDCAT (WOLFCAMP LIM	157.0	NATURAL GAS PIPEL
TROPORO NORTH (QUEEN)	0.0	NORTHERN GAS PROD
WADDELL (SAN ANDRES)	230.2	
SAND HILLS (JUDKINS)	620.5	H & T GATHERING C
SAND HILLS (JUDKINS)	1210.0	H & T GATHERING C
SAND HILLS (JUDKINS)	232.7	H & T GATHERING C
SAND HILLS (JUDKINS)	1756.0	H & T GATHERING C
SANDHILLS (JUDKINS)	791.1	H & T GATHERING C
BOONSVILLE (BEND CONG	0.0	LONE STAR GAS CO
RACHAL (FRIO 6630) -	237.3	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8413748	F-06-074241	4240131724		102-3	107-TF	J W HOLT ESTATE #2	HENDERSON N (COTTON V	980.0	B & A PIPE LINE C
8413749	F-06-074242	4240131728		102-3	107-TF	WILLIE THOMPSON ET AL GAS UNIT #2	HENDERSON N (COTTON V	730.0	B & A PIPE LINE C
-HILL PRODUCTION CO-WISCONSIN				RECEIVED:	12/27/83	JA: TX			
8413642	F-03-070414	4204100000		102-2		WICKSON CREEK UNIT #1	KURTEN (BUDA)	0.0	FERGUSON CROSSING
-HNG OIL COMPANY				RECEIVED:	12/27/83	JA: TX			
8413589	F-10-060983	4248300000		103	102-2	DAVIS "19" #1-A	STILES RANCH (ATOKA)	330.0	INTRATEX GAS CO
8413589	F-10-060983	4248300000		107-DP		DAVIS "19" #1-A	STILES RANCH (ATOKA)	330.0	INTRATEX GAS CO
8413593	F-04-064570	4247933425		102-4	103	ROSA V DE BENAVIDES "1107" #1	WEST COLE (WILCOX 960	180.0	HOUSTON PIPE LINE
-HOWELL DRILLING INC				RECEIVED:	12/27/83	JA: TX			
8413669	F-03-071593	4208931363		102-4		A J BARTEK GAS UNIT #2 WELL #1	N HAMEL	0.0	EXXON GAS SYSTEMS
-HRUBETZ OIL CO				RECEIVED:	12/27/83	JA: TX			
8413739	F-7B-074055	4208333531		103		R C DAVIS #6	COLEMAN COUNTY REGULA	8.0	UNION TEXAS PRODU
-J L H ENTERPRISES INC				RECEIVED:	12/27/83	JA: TX			
8413799	F-06-074847	4220331038		102-4		HAYNES #2	L C G (PAGE)	150.0	ARKANSAS LOUISIAN
-J M HUBER CORPORATION				RECEIVED:	12/27/83	JA: TX			
8413781	F-10-074656	4223330646		108		JOHNSON "J" #1A	WEST PANHANDLE	13.0	COLORADO INTERSTA
-JAMES D RICE				RECEIVED:	12/27/83	JA: TX			
8413686	F-7B-066145	4208333303		102-4		LORENE RICE #2	TRICKHAM (CROSSCUT LO	240.0	EL PASO HYDROCARB
-JOHN L COX				RECEIVED:	12/27/83	JA: TX			
8413688	F-7C-072233	4238332582		103		ROCKEN B "P" #23 RRC #05173	SPRABERRY (TA)	10.0	EL PASO NATURAL G
-JUSTISS OIL CO INC				RECEIVED:	12/27/83	JA: TX			
8413778	F-06-074638	4220331024		102-2	107-TF	E W WASHINGTON HEIRS GAS UNIT 1	BLOCKER (COTTON VALLE	146.0	UNITED GAS PIPE L
-KAARI OIL CO				RECEIVED:	12/27/83	JA: TX			
8413671	F-10-071667	4206531426		103		W E COBB #1-19	PANHANDLE CARSON	70.0	CABOT PIPELINE CO
-KATLACO OPERATING CO INC				RECEIVED:	12/27/83	JA: TX			
8413615	F-7B-068255	4213334101		108		CITY OF CISCO AIRPORT #1 (20228)	KLEINER (LAKE SAND)	30.0	EL PASO HYDROCARB
-L & M OIL CO				RECEIVED:	12/27/83	JA: TX			
8413700	F-09-072850	4223734882		102-4		CARSON #1 107248	RUSMAG SE (CONGL 4900	0.0	LONE STAR GAS CO
-L E JONES PRODUCTION COMPANY				RECEIVED:	12/27/83	JA: TX			
8413695	F-09-072604	4209732124		102-4	103	JOHN W MAY #2	HORSESHOE BEND N (OIL	69.0	UNION TEXAS PETRO
8413711	F-09-073390	4209732276		102-4	103	JOHN W MAY #3	N HORSESHOE BEND (OIL	73.0	UNION TEXAS PETRO
-L TEXAS PETROLEUM INC				RECEIVED:	12/27/83	JA: TX			
8413641	F-04-070406	4224731478		102-4	103	MESTENA OIL & GAS CO #J-6	JARON (QUEEN CITY) FI	0.0	SUN GAS CO
-LULING OIL AND GAS CO INC				RECEIVED:	12/27/83	JA: TX			
8413818	F-01-075021	4232300000		103		BURR RANCH 1-1	LOS CUATROS	0.0	CLAJOM GAS CO
-LYRIC ENERGY INC				RECEIVED:	12/27/83	JA: TX			
8413836	F-10-075080	4217930895		108		BRALLEY #3-A	PANHANDLE GRAY	0.0	PHILLIPS PETROLEU
8413835	F-10-075079	4217931124		108		BRALLEY #4	PANHANDLE GRAY	0.0	PHILLIPS PETROLEU
8413834	F-10-075078	4217931172		108		BRALLEY #5	PANHANDLE GRAY	0.0	PHILLIPS PETROLEU
8413833	F-10-075077	4217930883		108		SCHAFFER #1	PANHANDLE GRAY	0.0	PHILLIPS PETROLEU
8413832	F-10-075076	4217931093		108		SCHAFFER #2	PANHANDLE GRAY	0.0	PHILLIPS PETROLEU
8413831	F-10-075075	4217930883		108		SCHAFFER #3	PANHANDLE GRAY	0.0	PHILLIPS PETROLEU
-M & A OIL CO LTD				RECEIVED:	12/27/83	JA: TX			
8413782	F-09-074658	4223700000		102-4		VOYLES #1-A	VOYLES (ELLENBURGER)-	22.0	LONE STAR GAS CO
-M W TAYLOR INC				RECEIVED:	12/27/83	JA: TX			
8413676	F-01071791	4228330941		103		RITCHIE "A" #2	PEARSALL (AUSTIN CHAL	7.5	TIPPERARY CORP
-M-RAY PETROLEUM CO INC				RECEIVED:	12/27/83	JA: TX			
8413791	F-7B-074708	4241735254		102-4		W L ENGLISH #1 (GAS)	M-RAY (BEND CONGL)	377.0	LONE STAR GAS CO
-MACK PETROLEUM				RECEIVED:	12/27/83	JA: TX			
8413811	F-05-074985	4239530284		103		PASNIK UNIT #2	HAROLD D ORR (HAVARRO	100.0	TEXAS UTILITIES F
-MANDARIN OIL & GAS CO				RECEIVED:	12/27/83	JA: TX			
8413684	F-02-072002	4246900000		103		CALHOUN FARMS #3	PRIDHAM LAKE WEST (46	90.0	REATA INDUSTRIAL
-MARALO INC				RECEIVED:	12/27/83	JA: TX			
8413819	F-08-075022	4200333518		103		SUPERIOR UNIVERSITY "26" #1	EMBAR (FUSSELMAN N W)	16.5	PHILLIPS PETROLEU
-MARSHALL EXPLORATION INC				RECEIVED:	12/27/83	JA: TX			
8413648	F-06-070967	4241930423		102-4	103	ELLINGTON #1-C	SHELBYVILLE (PETTIT U	300.0	UNITED GAS PIPELI
8413680	F-06-071807	4200131426		102-4	103	ELROD #1	PURT W (RODESSA 10200	180.0	ESPERANZA PIPELIN
8413720	F-06-073606	4241930460		102-4	103	HOWARD #1	MEI (PETTIT)	360.0	UNITED GAS PIPELI
8413738	F-06-074037	4241930462		102-4	103	HOWARD #2	MEI (PETTIT)	350.0	UNITED GAS PIPELI
8413715	F-03-073530	4231330458		102-4	103	M Y VICK #6	MADISONVILLE NE (GEOR	200.0	LONE STAR GAS CO
8413779	F-03-074641	4231330462		102-4	103	M Y VICK #8	MADISONVILLE NE (GEOR	200.0	LONE STAR GAS CO
-MCCORD EXPLORATION				RECEIVED:	12/27/83	JA: TX			
8413682	F-04-071853	4235500000		102-4		MCCORD-CM COOKE #4	DOUGHTY	0.0	HOUSTON PIPELINE
-MCIVER INC				RECEIVED:	12/27/83	JA: TX			
8413741	F-7B-074090	4208333601		102-4		L H LOVE #1	LOVE - MCMILLAN	0.0	EL PASO HYDROCARB
-MCMORAN EXPLORATION CO				RECEIVED:	12/27/83	JA: TX			
8413623	F-02-069536	4270330294		102-4		STATE TRACT 629-L SE/4 WELL #2L	BLOCK 630-L (PROPOSED	500.0	
-MCR OIL CORP OF TEXAS				RECEIVED:	12/27/83	JA: TX			
8413775	F-10-07462	4221100000		103		PYEATT #6-19	HEMPHILL GRANITE WASH	584.0	ARKANSAS LOUISIAN
-MICHAELSON PRODUCING CO				RECEIVED:	12/27/83	JA: TX			
8413830	F-7C-075064	4238332598		103		SCOTT #6	JOHN SCOTT (GRAYBURG)	14.6	NEW ENERGY CO
-MITCHELL ENERGY CORPORATION				RECEIVED:	12/27/83	JA: TX			
8413586	F-7B-058750	4205900000		108-ER		AC ROSS-110 #1	CALLAHAN COUNTY REGUL	0.0	LONE STAR GAS CO
8413699	F-7B-072746	4236300000		108		C C MCCLURE #1 #64304	LONE CAMP WEST (CONGL	0.0	SOUTHWESTERN GAS
8413728	F-09-073783	4249700000		108		C C MCCLURG #1 #32312	BOONSVILLE/BEND CONGL	0.0	NATURAL GAS PIPEL
8413828	F-09-075045	4249700000		108		FLOYD CLAYTON #1 #028601	BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
8413827	F-09-075043	4223700000		108		GLADYS WILLIAMS #1 #051188	BOONSVILLE (BEND CONG	0.0	SOUTHWESTERN GAS
8413826	F-09-075040	4223700000		108		L A WORTHINGTON #9 #35259	BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
8413584	F-7C-055935	4245130901		107-TF		MCWHORTER 218 #2-U	K W B (CANYON)	274.0	ESPERANZA PIPELIN
8413825	F-09-075037	4249700000		108		TARRANT CO WATER BOARD #19 #03553;	BOONSVILLE (BEND CONG	0.0	NATURAL GAS PIPEL
8413643	F-09-070523	4249732506		103		WAGGONER (MAYNARD) #25	BOONSVILLE/BEND CONGL	463.5	LONE START GAS CO
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	12/27/83	JA: TX			
8413734	F-08-074016	4230130407		102-4		F W HUCKABEE #1	MENTONE NE (UPPER BEL	19.7	
8413829	F-08-075049	4210301797		108		SHACKELFORD SPRABERRY UNIT #24-11	SPRABERRY (TREND AREA	0.4	EL PASO NATURAL G
8413816	F-08-074997	4230130430		102-4		W D JOHNSON 30-N #1	DIMMIT (CHERRY CANYON	152.0	INTRATEX GAS CO
-MONTERO OPERATING INC				RECEIVED:	12/27/83	JA: TX			
8413743	F-08-074137	4235331457		103		WALKER #1	JAMESON N (STRAWN GRE	91.3	SUN GAS CO
-MORGAS				RECEIVED:	12/27/83	JA: TX			
8413582	F-10-047780	4248300000		108		EMILY #1 - 96785	PANHANDLE EAST	54.0	EL PASO NATURAL G
8413817	F-10-075007	4248300000		108		ROSE #1 103220	PANHANDLE EAST	12.0	TRANSWESTERN PIPE
-MORROW RESOURCES INC				RECEIVED:	12/27/83	JA: TX			
8413647	F-7C-070888	4245131243		102-2		BROWN "A" #9	K W B (STRAWN)	0.0	LONE STAR GAS CO
8413716	F-7C-073537	4245131210		102-2	103	BROWN "F" #4	K W B (STRAWN)	0.0	LONE STAR GAS CO
8413668	F-7C-071525	4232730346		102-2	103	CALLAN #1	CALLAN (CISCO)	88.7	CIBOLO GAS INC
-NATURAL GAS ANADARKO INC				RECEIVED:	12/27/83	JA: TX			
8413794	F-10-074746	4239330953		102-4		R D MILL #2-3B	MCMORDIE RANCH (9700)	360.0	WESTAR TRANSMISSI
-NATURAL RESOURCES CORP				RECEIVED:	12/27/83	JA: TX			
8413644	F-03-070575	4208900000		107-TF		MRC MATTIE POOLE #1	EAST RAMSEY	0.0	AMOCO PRODUCTION
-NEWTON OIL & GAS CORP				RECEIVED:	12/27/83	JA: TX			
8413604	F-04-065964	4247933533		103	107-TF	PALAFOX EXPLORATION CO "B" #4	LAS TIENDAS (OLMOS)	182.0	LONE STAR GAS CO
-NORDIC PETROLEUM CORP				RECEIVED:	12/27/83	JA: TX			
8413649	F-04-071048	4240900000		102-4		BEUTNAGEL #2	BUETNAGEL	100.0	SOUTHERN GAS PIPE
-NORTH CENTRAL OIL CORPORATION				RECEIVED:	12/27/83	JA: TX			
8413659	F-03-071409	4219900000		102-4	103	STERNENBERG #1	WEST FORTENBERRY	0.0	ARCO OIL & GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-OUTLINE OIL CORP						
8413810	F-81-074983	4228300000		RECEIVED:	12/27/83	JA: TX
-P C BURNS				108		COOKE A 3-T
8413753	F-09-074364	4207733071		RECEIVED:	12/27/83	JA: TX
-PANGAEA RESOURCE CORP				103		DELPHIA BROWN "C" #1 204460
8413758	F-10-074424	4237500000		RECEIVED:	12/27/83	JA: TX
8413759	F-10-074425	4237500000		103		BIVINS P R #31-44
8413757	F-10-074423	4237500000		103		BIVINS P R #34-22
8413594	F-10-065144	4237500000		103		BIVINS P R #36-36
8413683	F-10-065867	4237500000		103		BIVINS PR #21-35
8413682	F-10-065866	4237500000		103		BIVINS PR #21-51
8413598	F-10-065150	4237500000		103		BIVINS PR #21-53
8413596	F-10-065146	4237500000		103		BIVINS PR #28-04
8413597	F-10-065148	4237500000		103		BIVINS PR #28-06
8413595	F-10-065145	4237500000		103		BIVINS PR #28-15
-PARTNERS OIL COMPANY				103		BIVINS PR #33-04
8413653	F-03-071219	4215731396		RECEIVED:	12/27/83	JA: TX
-PAUL DE CLEVA				103		HAMMERMILLER #1
8413815	F-09-074993	4223735167		RECEIVED:	12/27/83	JA: TX
8413807	F-09-074956	4207732694		103		BLANTON #2
-PEND OREILLE OIL & GAS CO				103		SPARKMAN "A" #1
8413701	F-02-072910	4229700000		RECEIVED:	12/27/83	JA: TX
-PETRO-LEWIS CORPORATION				102-4		STANLEY PAWLIK GU #1-L
8413793	F-08-074733	4249531499		RECEIVED:	12/27/83	JA: TX
-PETROLEUM EQUITIES CORP				103		HENDRICKS "B" #5
8413808	F-7C-074961	4210534478		RECEIVED:	12/27/83	JA: TX
-PETRUS OPERATING CO INC				103		SUTTON RANCH #1
8413618	F-06-068401	4240931656		RECEIVED:	12/27/83	JA: TX
-PHILLIPS PETROLEUM COMPANY				102-4		EVANS #1
8413587	F-06-059044	4240131424		RECEIVED:	12/27/83	JA: TX
-PLAINS RESOURCES INC				102-2	107-TF	LAIRD C #1
8413737	F-10-074036	4239330936		RECEIVED:	12/27/83	JA: TX
-Q E D EXPLORATION INC				103		MCMORDIE #127-C-2
8413812	F-7C-074988	4223532144		RECEIVED:	12/27/83	JA: TX
-R A W ENERGY CORP				102-2	103	FARMAR-SUGG #10
8413729	F-7B-073852	4236333156		RECEIVED:	12/27/83	JA: TX
8413601	F-7B-065833	4236332631		102-4		MINERAL WELLS WEST PARK #1
-R C SLACK				102-4		PILGRIM #1
8413600	F-08-065520	4249500000		RECEIVED:	12/27/83	JA: TX
-REMUDA OPERATING CO				108-ER		SUN HALLEY #5
8413609	F-06-066786	4240131535		RECEIVED:	12/27/83	JA: TX
-RIO BRAVO OIL CO INC				103		H L CROW #1
8413724	F-02-073728	4212331175		RECEIVED:	12/27/83	JA: TX
-SBC ENERGY INC				102-4		C M WIED ET AL #1
8413672	F-7B-071684	4208333169		RECEIVED:	12/27/83	JA: TX
-SCANDRILL INC				102-4		FRED HAYNES ESTATE #2
8413821	F-09-075025	4223735325		RECEIVED:	12/27/83	JA: TX
8413820	F-09-075023	4250337166		102-4		KILLEN #3
-SHELL OIL CO				103		SCAN-KING "G" #1
8413712	F-01-073456	4231131858		RECEIVED:	12/27/83	JA: TX
8413610	F-06-067118	4250531092		102-4		BRACKEN ET AL #21
8413731	F-06-073940	4240131679		102-4		G P MUZZA #1
-SNOW OIL CO				102-4		J H SPIVEY #21
8413657	F-7B-071369	4213334842		RECEIVED:	12/27/83	JA: TX
-SOUTH TEXAS DRILLING & EXPL INC				102-4		BERRY #1
8413747	F-09-074228	4207700000		RECEIVED:	12/27/83	JA: TX
-SOUTH TEXAS MINERALS INC				103		COLLIE #5
8413639	F-06-070375	4235532129		RECEIVED:	12/27/83	JA: TX
-SOUTHLAND ROYALTY CO				103		BALLARD #1
8413588	F-08-059928	4247510636		RECEIVED:	12/27/83	JA: TX
-STALEY OPERATING CO				108-ER		SOUTHLAND FEE #1
8413717	F-7C-073581	4243533005		RECEIVED:	12/27/83	JA: TX
8413752	F-7C-074318	4243533012		103	107-TF	HUNT POWELL 34 #2
-SUN EXPLORATION & PRODUCTION CO				103	107-TF	POWELL UNIT #4
8413824	F-06-075034	4242731723		RECEIVED:	12/27/83	JA: TX
8413612	F-06-067236	4242700000		102-4		D LAUREL #13
8413780	F-7C-074646	4238300000		108-ER		GEO H SPEER STATE B #5
8413645	F-06-070804	4242700000		108		UNIVERSITY C-110 #110
-SUPERIOR OIL CO				108-ER		V L DE PENA #1
8413616	F-8A-068332	4211531757		RECEIVED:	12/27/83	JA: TX
8413691	F-06-072433	4221531316		103		ACKERLY (DEAN) FIELD UNIT #1703
8413696	F-08-072648	4237134304		102-4	103	F I JOHNSON #20
8413732	F-08-07397	4247531789		102-4	103	UNIVERSITY "20-2" WELL #2
-SUTTON PRODUCING CORP				102-4	103	WILLIAMS PAUL J #1
8413688	F-01-066676	4231131806		RECEIVED:	12/27/83	JA: TX
-TARTAN RESOURCES CORP				103		WHEELER #2
8413730	F-03-073931	4208900000		RECEIVED:	12/27/83	JA: TX
-TDC ENGINEERING INC				102-4	103	HEINRICH #1
8413751	F-06-074311	4247933618		RECEIVED:	12/27/83	JA: TX
-TED TRUE INC				102-4	107-TF	H P BONUGLI #1 ID #107096
8413585	F-10-056157	4234100000		RECEIVED:	12/27/83	JA: TX
-TEXACO INC				103		BRENT 62-2
8413785	F-8A-074665	4221934055		RECEIVED:	12/27/83	JA: TX
8413795	F-8A-074750	4221934058		103		MONTGOMERY ESTATE DAVIES NCT-2 #105
8413784	F-08-074664	4238931411		103		MONTGOMERY ESTATE DAVIES NCT-2 #106
8413617	F-8A-068375	4250132282		102-4		REEVES "AD" FEE #4
8413783	F-08-074662	4243131280		103		ROBERTS UNIT #3338
8413722	F-8A-073658	4221933647		103		V E BROWNFIELD #6
8413786	F-8A-074666	4221933646		103		W T COBLE "A" NCT-1 #42
8413746	F-8A-074216	4221934824		103		W T COBLE "A" NCT-1 #43
8413745	F-8A-074215	4216532545		103		W T COBLE "B" NCT-1 #2A
8413787	F-8A-074669	4216532556		103		WHARTON UNIT #125
8413725	F-8A-073733	4216532601		103		WHARTON UNIT #126
8413746	F-8A-074214	4216532603		103		WHARTON UNIT #135
8413721	F-8A-073657	4216532604		103		WHARTON UNIT #137
-TEXAS EASTERN EXPLORATION CO				103		WHARTON UNIT #138
8413702	F-03-072991	4215731437		RECEIVED:	12/27/83	JA: TX
-TEXAS WESTERN ENERGY CORP				103		TUCKER TRUST #1
8413697	F-06-072654	4226130805		RECEIVED:	12/27/83	JA: TX
-THOMPSON J CLEO & JAMES CLEO JR				103		STEWART #1
8413823	F-7C-075030	4210534534		RECEIVED:	12/27/83	JA: TX
-TRINITY EXPLORATION CO				103	107-TF	HAGELSTEIN #4
8413790	F-7B-07470	4213335075		RECEIVED:	12/27/83	JA: TX
8413789	F-7B-074700	4213335075		102-4		JAMES A COX #4-C (GAS)
				102-4		JAMES A COX #4-T (OIL)

FIELD NAME	PROD	PURCHASER
COOKE (WILCOX 4100)	18.0	TRANSCONTINENTAL
CASS (CADDO)	0.0	SANFORD P FAGADAU
PANHANDLE (RED CAVE)	0.0	
PANHANDLE (RED CAVE)	0.0	
PANHANDLE (RED CAVE)	0.0	
PANHANDLE (RED CAVE)	0.0	
PANHANDLE (RED CAVE)	0.0	
PANHANDLE (RED CAVE)	0.0	
PANHANDLE (RED CAVE)	0.0	
PANHANDLE (RED CAVE)	0.0	
PANHANDLE (RED CAVE)	0.0	
PANHANDLE (RED CAVE)	0.0	
MOORES ORCHARD	0.0	UNITED TEXAS TRAN
GILLEY W (ATOKA CONGL	81.0	TEXAS UTILITIES F
DILLARD (SW) ELLENBUR	98.0	TEXAS UTILITIES F
FANT	900.0	VALLEY GAS TRANSM
HENDRICKS	4.8	PHILLIPS PETROLEU
INGHAM (QUEEN)	37.0	SOUTHWESTERN GAS
EVANS (5900' SAND)	8.0	HOUSTON PIPE LINE
NORTH HENDERSON	550.0	LONE STAR GAS CO
ST CLAIR (GRANITE WAS	0.0	
ROCK PEN (CANYON)	0.0	FARMLAND INDUSTRI
MINERAL WELLS	250.0	SOUTHWESTERN GAS
MINERAL WELLS S (STRA	200.0	SOUTHWESTERN GAS
WEINER (YATES UPPER)	0.0	WEST TEXAS GATHER
MINDEN (TRAVIS PEAK-M	0.0	TEXAS UTILITIES F
KAWITT (SECOND ROEDER	50.0	INTRASTATE GATHER
TRICKHAM (CROSSCUT)	19.0	EL PASO HYDROCARB
MERFF (CONGL)	159.9	LONE STAR GAS CO
STOVALL (MCLESTER)	45.6	J H TAYLOR GAS CO
A W P (OLMOS)	100.0	HPI TRANSMISSION
FANDANGO (WILCOX UPPE	900.0	UNITED TEXAS TRAN
OVERTON N E (PETTIT)	65.0	
SNOW (DUFFER)	0.0	LONE STAR GAS CO
BIRD (BRYSON)	20.0	FAGADAU ENERGY CO
CALALLEN W (7600 FRIO	170.0	HOUSTON PIPE LINE
SOUTH WARD	0.0	WARREN PETROLEUM
PHYLLIS SONORA	360.0	INTRATEX GAS CO
PHYLLIS SONORA	180.0	INTRATEX GAS CO
SUN NORTH	57.0	FLORIDA GAS TRANS
SUN	0.0	TRANSCONTINENTAL
SPRABERRY TREND AREA	3.0	EL PASO NATURAL G
KELSEY SOUTH	0.0	FLORIDA GAS TRANS
ACKERLY (DEAN SAND)	31.0	GETTY OIL CO
MONTE CHRISTO (VICKSB	3.3	
TUNIS CREEK (DEVONIAN	81.0	DELHI GAS PIPELIN
COLLIE (DELAWARE)	280.0	
DILWORTH SOUTHEAST (E	400.0	TRANSCONTINENTAL
NADA SW (4120) - PROP	0.0	HOUSTON PIPELINE
AQUA AZUL (LOBO#1)	548.0	UNITED TEXAS TRAN
PANHANDLE MOORE COUNT	0.0	PANHANDLE EASTERN
LEVELLAND	12.4	AMOCO PRODUCTION
LEVELLAND	29.2	AMOCO PRODUCTION
JESS BURNER	28.8	
WASSON	5.5	SHELL OIL CO
CONGER (PENN)	73.0	VALERO TRANSMISSI
LEVELLAND	8.4	AMOCO PRODUCTION
LEVELLAND	9.1	AMOCO PRODUCTION
LEVELLAND	3.3	AMOCO PRODUCTION
HARRIS	10.2	PHILLIPS PETROLEU
HARRIS	13.9	PHILLIPS PETROLEU
HARRIS	16.4	PHILLIPS PETROLEU
HARRIS	9.9	PHILLIPS PETROLEU
HARRIS	5.1	PHILLIPS PETROLEU
FULSHEAR (CLODINE)	600.0	
SANTA ROSA FIELD (10,	0.0	TEXAS EASTERN TRA
OZONA (CANYON SAND)	0.0	SHELL OIL CO
T F C (CADDO)	346.7	EL PASO HYDROCARB
GREEN SHOW (UPPER CAD	36.0	EL PASO HYDROCARB

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-TRINITY RESOURCES INC				RECEIVED:	12/27/83	JA: TX			
8413748	F-02-074068	4239131655		102-4		OPPENHEIMER #1	BONNEVIEW N (L-1 FRIO	365.0	LONE STAR GAS CO
-TXO PRODUCTION CORP				RECEIVED:	12/27/83	JA: TX			
8413652	F-02-071206	4228531728		102-4		BARNES C-1	RUSSEK	0.0	REATA INDUSTRIAL
8413605	F-05-066100	4216130771		102-4		HILL "L" #1	NAN-SU-GAIL PETTIT	0.0	DELHI GAS PIPELIN
8413679	F-02-071798	4212321252		102-4		KOENIG A-1	KOENIG (11000')	0.0	DELHI GAS PIPELIN
8413667	F-03-071517	4248132469		102-4		PONCIK GAS UNIT 1	HUNGERFORD N (5780')	0.0	DELHI GAS PIPELIN
8413678	F-02-071797	4217500000		102-4		TERRELL ESTATE 4	TERRELL POINT (4035')	0.0	DELHI GAS PIPELIN
-UNITED PETROLEUM CORP				RECEIVED:	12/27/83	JA: TX			
8413750	F-10-074304	4223331636		103		CROSBY-HATCHER #1	PANHANDLE-HUTCHINSON	54.0	DIAMOND CHEMICALS
-VENUS OIL COMPANY				RECEIVED:	12/27/83	JA: TX			
8413650	F-03-071141	4248132260		102-4		GOLD-ZAPP	HUTCHINS SOUTHWEST (3	0.0	DOW CHEMICAL CO
-VERNON E FAULCONER INC				RECEIVED:	12/27/83	JA: TX			
8413620	F-06-068748	4236500000		108-ER		D W MULLINS UNIT 2-T 2-C 0030281	CARTHAGE (PETTIT LOWE	0.0	ARKANSAS LOUISIAN
-W M LAUGHLIN				RECEIVED:	12/27/83	JA: TX			
8413771	F-04-074542	4224931604		102-4		ZELLA FOSTER HEIRS #6	BRAMAN	520.0	EXXON GAS SYSTEM
-WALKER OIL & GAS				RECEIVED:	12/27/83	JA: TX			
8413802	F-7B-074889	4204900000		102-4		M J BYRD #2	BYRD (FRY SAND)	5.0	EL PASO HYDROCARB
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	12/27/83	JA: ,X			
8413772	F-08-074581	4210332064		108		W A ESTES #107	SAND HILLS (WEST)	10.2	EL PASO NATURAL G
-WCS PETROLEUM CO				RECEIVED:	12/27/83	JA: TX			
8413760	F-03-074442	4228731362		102-2		DOROTHY LEHMANN #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-WEDCO TEXAS CORP				RECEIVED:	12/27/83	JA: TX			
8413788	F-7C-074679	4239932151		102-4		DICKINSON #11 08955	BALLINGER WEST (GARDN	35.0	LONE STAR GAS CO
-WERNER OIL INC				RECEIVED:	12/27/83	JA: TX			
8413611	F-10-067174	4206500000		108		URBANCZYK H #1	PANHANDLE	16.0	NORTHERN NATURAL
-WES-MOR DRILLING INC				RECEIVED:	12/27/83	JA: TX			
8413792	F-09-074717	4250336990		103		SOUTHLAND RRC ID #23429	JAMES SOUTH (CADDO)	14.6	SUN GAS TRANSMISS
-WESTERN CHIEF OIL & GAS CO				RECEIVED:	12/27/83	JA: TX			
8413599	F-09-065358	4223734783		103		BORDEN #0	GILLEY W ATOKA CONGLO	0.0	TEXAS UTILITIES F
8413705	F-7B-073125	4236732514		102-4	103	HOBSON #5	BRA STRAWN	0.0	SOUTHWESTERN GAS
8413714	F-09-073514	4223735427		102-4	103	ROBB MARLEY UNIT #2	PEARL MOSLEY (CONGL U	0.0	SOUTHWESTERN GAS
-WILLIAM PERLMAN				RECEIVED:	12/27/83	JA: TX			
8413798	F-7C-074814	4243532403		103	107-TF	DAN CAUTHORN 13403	SHURLEY RANCH (CANYON	0.0	EL PASO NATURAL G
8413583	F-7C-052678	4210500000		108-ER		LILLIAN M HUDSPETH MEM HOSP A#2	WHITEHEAD	0.0	EL PASO NATURAL G
-WOODHAM CORP				RECEIVED:	12/27/83	JA: TX			
8413581	F-01-030373	4250731364		102-4		RAINE #1	INDEPENDENCE WEST	183.0	VALERO TRANSMISSI

[FR Doc. 84-2094 Filed 1-25-84; 8:45 am]

BILLING CODE 6717-01-C

[Vol. No. 1049]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 20, 1984.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are availble for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Source data from the Form 121 for this and all previos notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd., Springfield, VA 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease.
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devolian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
ISSUED JANUARY 20, 1984
VOLUME 1049

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KENTUCKY DEPARTMENT OF MINES & MINERALS									
-ASHLAND EXPLORATION INC				RECEIVED:	12/30/83	JA: KY			
8413341	506208	1619548846		107-DV		COLONY COAL & COKE #72-094552	EASTERN KY	75.0	COLUMBIA GAS TRAN
8413344	506425	1619547956		103		J W & VICTORIA CASSADY #5 - 094221	EASTERN KENTUCKY GAS	28.0	COLUMBIA GAS TRAN
8413343	506426	1619547956		107-DV		J W & VICTORIA CASSADY #5 - 094221	EASTERN KENTUCKY GAS	28.0	COLUMBIA GAS TRAN
8413342	506201	1619547626		103		JAMES HATCHER LAND CO #12-094001	EASTERN KENTUCKY	44.0	COLUMBIA GAS TRAN
-CITIES SERVICE COMPANY				RECEIVED:	12/30/83	JA: KY			
8413351	506432	1619583268		108		CHAPMAN "A" #1	BLACKBERRY	16.5	COLUMBIA GAS TRAN
8413350	506431	1619500230		108		LAW HEIRS #26	TOLER CREEK	11.5	COLUMBIA GAS TRAN
8413349	506430	1619503726		108		RATLIFF "A" #3	TRAP FORK	17.8	COLUMBIA GAS TRAN
-COLUMBIA GAS TRANSMISSION CORP				RECEIVED:	12/30/83	JA: KY			
8413343	506423	1619500008		103		KENTLAND CO 820169	KENTUCKY FIELD AREA C	34.0	COLUMBIA GAS TRAN
-EQUITABLE LIFE ASSURANCE SOCIETY				RECEIVED:	12/30/83	JA: KY			
8413346	506427	1608537839		108		EQUITABLE - #1 JOE CLAGETT	SHREWSBERRY GAS FIELD	17.0	MIDWESTERN GAS TR
8413347	506428	1608549047		107-DV		EQUITABLE - #3 IDA LIKENS	READY	9.0	
8413364	506515	1608500008		108		EQUITABLE - DUEL SEATON #5	SHREWSBERRY GAS FIELD	0.0	MIDWESTERN GAS TR
8413367	506704	1608504015		108		EQUITABLE - HUBERT MOON #1	SHREWSBERRY GAS FIELD	20.0	MIDWESTERN GAS TR
8413368	506705	1606540442		108		EQUITABLE - LARUE COY #2	SHREWSBERRY GAS FIELD	9.0	MIDWESTERN GAS TR
8413365	506516	1608549809		107-DV		EQUITABLE - WINSTON DAVIS #2	SHREWSBERRY GAS FIELD	9.0	
8413366	506645	1608540198		108		EQUITABLE/NOVAL SEATON #2	SHREWSBERRY GAS FIELD	16.3	MIDWESTERN GAS TR
-KENMAR LTD				RECEIVED:	12/30/83	JA: KY			
8413369	506882	1615923943		108		E FIELDS HEIRS #1		0.0	COLUMBIA GAS TRAN
-KENTUCKY WEST VIRGIMIA GAS CO				RECEIVED:	12/30/83	JA: KY			
8413348	506429	1619300008		107-DV		F S STACY #7201	KENTUCKY EAST	1.5	
-KEPCO INC				RECEIVED:	12/30/83	JA: KY			
8413361	506442	1613100000		103		A H YATES - #K344-7300	KENTUCKY EAST	2.0	KENTUCKY WEST VIR
8413352	506433	1613100000		103		COOK HEIRS - #KL29-1764	KENTUCKY EAST	131.4	KENTUCKY WEST VIR
8413360	506441	1613100000		103		COOK HEIRS - #K81-1761	KENTUCKY EAST	1069.6	KENTUCKY WEST VIR
8413353	506434	1613100000		103		COOK HEIRS #KL30-1765	KENTUCKY EAST	27.6	KENTUCKY WEST VIR
8413355	506436	1613100000		103		ISAAC M DAY - #KF52	KENTUCKY EAST	4.4	KENTUCKY WEST VIR
8413358	506439	1613100000		103		ISAAC M DAY - #K65-7312	KENTUCKY EAST	8.8	KENTUCKY WEST VIR
8413354	506435	1613100000		103		LEVI BOGGS - #KF49 (7308)	KENTUCKY EAST	20.4	KENTUCKY WEST VIR
8413362	506443	1613100000		103		LEVI BOGGS - #K345-7306	KENTUCKY EAST	2.0	KENTUCKY WEST VIR
8413356	506437	1613100000		103		WILLIAM CRESS - #KF58 (7345)	KENTUCKY EAST	55.0	KENTUCKY WEST VIR
8413363	506444	1613100000		103		WILLIAM CRESS - #K347-7321	KENTUCKY EAST	8.8	KENTUCKY WEST VIR
8413357	506438	1613100000		103		WILLIAM CRESS - #K62-7302	KENTUCKY EAST	160.6	KENTUCKY WEST VIR
8413359	506440	1613100000		103		WILLIAM CRESS - #K69-7323	KENTUCKY EAST	17.4	KENTUCKY WEST VIR
-WEST VIRGIMIA KENTUCKY LTD				RECEIVED:	12/30/83	JA: KY			
8413370	506883	1615925012		108		POCAHONTAS LAND #1		0.0	COLUMBIA GAS TRAN
MONTANA BOARD OF OIL & GAS CONSERVATION									
-TRICENTROL UNITED STATES INC				RECEIVED:	12/30/83	JA: MT			
8413340	11-83-165	2504121175		108		BERGER 24-11	BULLHOOK UNIT (TIGER	3.6	NORTHERN NATURAL
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
-ABARTA OIL & GAS INC				RECEIVED:	12/30/83	JA: NY			

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8413387	5938	3102915687		107-TF		CARRIERO	LAKE SHORE	8.8	NATIONAL FUEL GAS
8413385	5936	3102915684		107-TF		PINGITORE #1	LAKE SHORE	36.0	NATIONAL FUEL GAS
8413386	5937	3102915685		107-TF		PINGITORE #2	LAKE SHORE	32.8	NATIONAL FUEL GAS
8413388	5939	3102915688		107-TF		TURNBULL	LAKE SHORE	26.8	NATIONAL FUEL GAS
-ENVIROGAS INC				RECEIVED:	12/30/83	JA: NY			
8413374	5112	3101316216		102-2		H SORENSON #1	GLYMER - MEDINA	18.0	COLUMBIA GAS TRAN
8413371	5153	3101317711		107-TF		J REDLECKI #1	CLYMER	18.0	TENNESSEE GAS PIP
8413376	5141	3101318128		107-TF		JOHENNING #1	ELLINGTON - MEDINA	18.0	
8413377	5142	3101318150		107-TF		L STEARNS #1	POLAND - MEDINA	18.0	
-KEYSTONE ENERGY OIL & GAS PRODUCTIO				RECEIVED:	12/30/83	JA: NY			
8413381	5948	3100918473		103	107-TF	DUNKLEMAN #2	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8413382	5946	3100918472		103	107-TF	H DUNKLEMAN #3	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
8413383	5944	3100918468		103	107-TF	M SALISBURY #3	SKINNER HOLLOW	18.0	NATIONAL FUEL GAS
-LENAPE RESOURCES CORP				RECEIVED:	12/30/83	JA: NY			
8413384	5942	3105117465		103	107-TF	J D SINCLAIR UNIT #1 LRC #223	CALEDONIA	20.0	JERSEY CENTRAL PO
-NRM PETROLEUM CORPORATION				RECEIVED:	12/30/83	JA: NY			
8413375	5167	3100916807		102-2	107-TF	SMITH "D" #1	RANDOLPH	0.0	COLUMBIA GAS TRAN
-TRAHAN PETROLEUM INC				RECEIVED:	12/30/83	JA: NY			
8413372	5199	3101318053		102-2	107-TF	CARPENTER #3 31-013-18053	ELLINGTON	36.0	COLUMBIA GAS TRAN
8413373	5201	3101318010		107-TF		GILBERT #3 31-013-18010	ELLINGTON	36.0	COLUMBIA GAS TRAN
8413378	5112	3101318213		102-2	107-TF	P ANDERSON #2 31-013-18213	ELLINGTON	36.0	COLUMBIA GAS TRAN
8413380	5157	3101318006		102-2		P JOHNSON #1 31-013-18006	ELLINGTON	36.0	COLUMBIA GAS TRAN
8413379	5159	3101312496		102-2		SMALLBACK MY 37 31013-12496	CHERRY CREEK	36.0	COLUMBIA GAS TRAN

OHIO DEPARTMENT OF NATURAL RESOURCES

-AKRON/OIL CORP				RECEIVED:	12/28/83	JA: OH			
8413209		3411523244		107-TF		CLEMENS #2	DEERFIELD	2.0	
-ATLAS ENERGY GROUP INC				RECEIVED:	12/28/83	JA: OH			
8413210		3415522275		103	107-TF	MCCRACKEN SCHURING UNIT #1	BAZETTA	8.0	COLUMBIA GAS TRAN
-ATWOOD RESOURCES INC				RECEIVED:	12/28/83	JA: OH			
8413211		3415723942		103	107-TF	ROSEMARY YODER #1	RAGERSVILLE	15.0	
-B & B ENTERPRISES				RECEIVED:	12/28/83	JA: OH			
8413212		3411926760		107-TF		WILLIAM D SIMS #1	STONEY POINT	90.0	
-BATH OIL & GAS EXPLORATION CO				RECEIVED:	12/28/83	JA: OH			
8413213		3415321513		107-TF		BATH CENTER ESTATES #2	BATH	18.0	
-BILL BLAIR INCORPORATED				RECEIVED:	12/28/83	JA: OH			
8413214		3402920976		103	107-TF	DYE #1	HANOVERTON	12.0	EAST OHIO GAS CO
8413215		3402920977		103	107-TF	DYE #2	HANOVERTON	0.0	EAST OHIO GAS CO
-BLAUSER WELL SERVICE INC				RECEIVED:	12/28/83	JA: OH			
8413216		3410522166		108		B D GRIFFIN #1		16.5	COLUMBIA GAS TRAN
8413217		3400922000		108		ROBERT R HARPER #1		14.3	COLUMBIA GAS TRAN
-BOBBY ANDERSON				RECEIVED:	12/28/83	JA: OH			
8413218		3416727552		103		KRIS - MAR #3	MILE RUN	5.4	RIVER GAS CO
-BOSSOW OIL MANAGEMENT INC				RECEIVED:	12/28/83	JA: OH			
8413219		3413323111		103	107-TF	SCHNEEBERGER #3	FREEDOM	0.0	
-BUCKEYE CRUDE EXPLORATION INC				RECEIVED:	12/28/83	JA: OH			
8413220		3416724420		103		DUNHAM #1	BARLOW	10.0	OHIO OIL GATHERIN
-CAMERON BROS				RECEIVED:	12/28/83	JA: OH			
8413224		3411923766		108		ALVIN MCVICKER #1		3.0	COLUMBIA GAS TRAN
8413223		3411923598		108		ALVIN MCVICKER #2		3.0	COLUMBIA GAS TRAN
8413225		3411923796		108		ALVIN MCVICKER #3		3.0	COLUMBIA GAS TRAN
8413221		3411922663		108		CARLOS HOGUE #1		4.5	COLUMBIA GAS TRAS
8413226		3411924229		108		MARY MCCORT #1		3.0	COLUMBIA GAS TRAN
8413222		3411923585		108		ROBERT & JEAN FORAKER #3		3.0	COLUMBIA GAS TRAN
8413227		3411924286		108		WILLIAM KLEIN #4		4.0	COLUMBIA GAS TRAN
-CARL E SMITH PETROLEUM INC				RECEIVED:	12/28/83	JA: OH			
8413230		3410522461		103		CRAFT #249	OLIVE	5.4	COLUMBIA GAS TRAN
8413228		3410522419		103		GORRELL #239	OLIVE	16.2	COLUMBIA GAS TRAN
8413229		3410522448		103		MOLLOHAN UNIT #248	ORANGE	18.0	COLUMBIA GAS TRAN
-CARLTON OIL CORP				RECEIVED:	12/28/83	JA: OH			
8413231		3421223074		103		BROWN #4	JACKSON	15.0	EAST OHIO GAS CO
-CAVENDISH PETROLEUM OF OHIO INC				RECEIVED:	12/28/83	JA: OH			
8413232		3411926723		103	107-TF	OHIO POWER 35-A	MEIGS	50.2	TEXAS EASTERN TRA
-CLARENCE K TUSSEL JR				RECEIVED:	12/28/83	JA: OH			
8413234		3400722361		103	107-TF	J WHITE #1	MONROE	30.0	
8413233		3400722309		103	107-TF	W DEJONG #1	CHERRY VALLEY	30.0	
-CLINTON OIL CO				RECEIVED:	12/28/83	JA: OH			
8413333		3415723888		107-TF		BESSIE V GUTHRIE	MILL	10.0	
8413332		3405520586		107-TF		EQUESTRIAN ESTATES #2-821	BURTON	10.0	
-CNG DEVELOPMENT CO				RECEIVED:	12/28/83	JA: OH			
8413235		3412123055		103	107-TF	JAMES W & EDNA A TIDD #1 CNGD #298	JACKSON	5.0	
-DOME ENERGY 83				RECEIVED:	12/28/83	JA: OH			
8413236		3409321198		107-TF		HUGHES #2	COLUMBIA	15.0	COLUMBIA GAS TRAN
-DUTY OIL CO				RECEIVED:	12/28/83	JA: OH			
8413237		3413323080		107-TF		DUBETZ #2	ROOTSTOWN	72.0	
-EASTERN PETROLEUM SERVICES INC				RECEIVED:	12/28/83	JA: OH			
8413239		3415522383		107-TF		BOLD #1	WEATHERFIELD	20.0	EAST OHIO GAS CO
8413240		3415522384		107-TF		BOLD #2	WEATHERFIELD	20.0	EAST OHIO GAS CO
8413238		3400722369		107-TF		CUSANO #1	SHEFFIELD	20.0	EAST OHIO GAS CO
-ELKHEAD GAS & OIL COMPANY				RECEIVED:	12/28/83	JA: OH			
8413242		3408924827		103		DANIELSON #1	LICKING	18.0	NATIONAL GAS & OI
-ENERGY DEVELOPMENT CORP				RECEIVED:	12/28/83	JA: OH			
8413257		3413321537		108		CARLISLE-POLLOCK #1		7.0	ANCHOR HOCKING CO
8413251		3413321159		108		CHULAINN INC #2		9.0	EAST OHIO GAS CO
8413249		3413321072		108		DENK #1		7.0	ANCHOR HOCKING CO
8413243		3413320688		108		FROST #4		8.0	EAST OHIO GAS CO
8413253		3413321253		108		JONES #1		8.0	ANCHOR HOCKING CO
8413260		3413321632		108		KNIPPER #1		9.0	ULERY GREENHOUSE
8413259		3413321630		108		KNIPPER #2		9.0	EAST OHIO GAS CO
8413247		3413321023		108		KOLODY-EVANS #1		10.0	ANCHOR HOCKING CO
8413246		3413321022		108		KOLODY-EVANS #2		6.0	ANCHOR HOCKING CO
8413244		3413320782		108		M POCHEDLY #1-A		10.0	EAST OHIO GAS CO
8413245		3413320995		108		MINER #2		9.0	ANCHOR HOCKING CO
8413250		3413321124		108		MINER #3		10.0	ANCHOR HOCKING CO
8413258		3413321599		108		NEWCOMB #1		7.0	EAST OHIO GAS CO
8413252		3413321179		108		PRICE #2		8.0	EAST OHIO GAS CO
8413248		3413321026		108		RAND #1		9.0	EAST OHIO GAS CO
8413255		3413321434		108		ROBINSON #1		6.0	EAST OHIO GAS CO
8413256		3413321446		108		ROBINSON #2		6.0	EAST OHIO GAS CO
8413254		3413321433		108		SCHUSTER-ALGER #1		9.0	EAST OHIO GAS CO
-ENTERPRISE ENERGY CORP				RECEIVED:	12/28/83	JA: OH			
8413261		3411926635		103	107-TF	OHIO POWER #20	NEWTON	18.2	TEXAS EASTERN TRA
8413263		3411926747		103	107-TF	OHIO POWER #21	NEWTON	18.2	TEXAS EASTERN TRA

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8413264		3411926753		103	107-TF	OHIO POWER #25	NEWTON	18.2	TEXAS EASTERN TRA
8413262		3411926725		103	107-TF	OHIO POWER #3	NEWTON	18.2	TEXAS EASTERN TRA
-ENVIROGAS INC				RECEIVED:	12/28/83	JA: OH			
8413266		3408922867		103	107-TF	PEABODY COAL #28D	DOVER	18.2	
8413265		3408922857		103	107-TF	PEABODY COAL #3D	DOVER	18.2	
-FARRELL OIL CO				RECEIVED:	12/28/83	JA: OH			
8413267		3416724629		108		MATHENY #2		2.0	COLUMBIA GAS TRAN
-FREDERICK PETROLEUM CORP				RECEIVED:	12/28/83	JA: OH			
8413268		3411122692		103		CAPPADONA #3	FRANKLIN	4.0	
-GENERAL ELECTRIC CO				RECEIVED:	12/28/83	JA: OH			
8413269		3415522353		103	107-TF	PRESBYTERY OF CLEVELAND #2	MESOPOTAMIA	20.0	EAST OHIO GAS CO
-GREENLAND PARTNERSHIP	34			RECEIVED:	12/28/83	JA: OH			
8413275		3412726018		107-TF		JONES COAL CO #7	COAL	15.0	
-GREENLAND PETROLEUM CO				RECEIVED:	12/28/83	JA: OH			
8413271		3412725940		107-TF		CAMERON #12	MONDAY CREEK	20.0	PARAMOUNT TRANSMI
8413273		3412725954		107-TF		CAMERON #14	MONDAY CREEK	20.0	PARAMOUNT TRANSMI
8413272		3412725941		107-TF		CAMERON #6	MONDAY CREEK	20.0	PARAMOUNT TRANSMI
8413270		3412725619		107-TF		REAM #4	MONDAY CREEK	15.0	
8413274		3412725967		107-TF		SCHORR #1	MONDAY CREEK	20.0	PARAMOUNT TRANSMI
-GREGG PRICE CORP				RECEIVED:	12/28/83	JA: OH			
8413276		3412123027		103		LARRY WOODFORD #2	OLIVE	36.0	EAST OHIO GAS CO
-HOOVER PRODUCING & OPERATING				RECEIVED:	12/28/83	JA: OH			
8413277		3411926762		103		D MCCARTY #1	MUSKINGUM	18.3	NATIONAL GAS & OI
-HOPEWELL OIL AND GAS DEVELOPMENT CO				RECEIVED:	12/28/83	JA: OH			
8413278A		3408924802		103		RICHARD LINN #3	HANOVER	0.0	NATIONAL GAS AND
8413278B		3408924802	D	107-TF		RICHARD LINN #3	HANOVER	0.0	NATIONAL GAS AND
-HURON EXPLORATION CO				RECEIVED:	12/28/83	JA: OH			
8413280		3413320207		108		BUCKMAN UNIT #1		10.0	EAST OHIO GAS CO
8413279		3413320204		108		MERRIMAN UNIT #1		3.0	EAST OHIO GAS CO
8413281		3413320228		108		SAYRE UNIT #1		4.0	EAST OHIO GAS CO
-J & J OPERATING INC				RECEIVED:	12/28/83	JA: OH			
8413282		3416120193		103		RONALD ENGEL #2	WASHINGTON	12.0	WEST OHIO GAS CO
-J. W. ALTIER GAS & OIL CO INC.				RECEIVED:	12/28/83	JA: OH			
8413283		3411522511		103		RAYMOND HIVNOR #20-1	MCCONNELSVILLE	3.5	NATIONAL GAS & OI
-JACK MORAN DRILLING CO				RECEIVED:	12/28/83	JA: OH			
8413284		3408322493		108		MCKEE #1A	ARTANA	18.0	COLUMBIA GAS TRAN
-JERRY MOORE INC				RECEIVED:	12/28/83	JA: OH			
8413287		3403123112		108		ANDREW J D YODER #1-A	NEW BEDFORD	1.0	COLUMBIA GAS TRAN
8413288		3403123265		108		BEN V BEACHY UNIT #4	KEENE	0.0	COLUMBIA GAS TRAN
8413289		3403123266		108		BEN V BEACHY UNIT #5	NEW BEDFORD	1.0	COLUMBIA GAS TRAN
8413286		3403122997		108		DAVID SHAWVER #1	CLARK	2.0	COLUMBIA GAS TRAN
8413285		3403122996		108		DAVID SHAWVER #2	CLARK	2.0	COLUMBIA GAS TRAN
8413290		3406720103		108		ROY BIRNEY #1	CADIZ	2.0	COLUMBIA GAS TRAN
8413291		3406720360		108		ROY BIRNEY #2	CADIZ	1.0	COLUMBIA GAS TRAN
8413292		3406720361		108		ROY BIRNEY #3	CADIZ	1.0	COLUMBIA GAS TRAN
-JOHN TANSKY				RECEIVED:	12/28/83	JA: OH			
8413293		3412725676		103	107-TF	ROBERT&FORREST SCHORR #1	MONDAY CREEK	3.0	
-K S T OIL & GAS CO INC				RECEIVED:	12/28/83	JA: OH			
8413294		3415321272		103	107-TF	WOOD #2	TWINSBURG	35.0	
-KENOIL				RECEIVED:	12/28/83	JA: OH			
8413295		3416923536	D	107-TF		RAY MAIRS #1	PLAIN	5.0	COLUMBIA GAS TRAN
-KINGSLY ENTERPRISES INC				RECEIVED:	12/28/83	JA: OH			
8413296		3415521567		103	107-TF	HORVAT #7	BLOOMFIELD	50.0	
-L & M PETROLEUM INC				RECEIVED:	12/28/83	JA: OH			
8413299		3412725799		107-TF		BLAIRE/SHARSHALL #7	SALT LICK	10.0	COLUMBIA GAS TRAN
8413297		3412725606		107-TF		FOWLE/COMPSTON #2	SALT LICK	10.0	OHIO OIL GATHERIN
8413298		3415122120		103		R D MAURER #2	SANDY	10.0	BONANZA GAS LINE
-LAKE REGION OIL INC				RECEIVED:	12/28/83	JA: OH			
8413300		3407524152		103	107-TF	ATLEE HERSHBERGER #1	BERLIN	10.0	COLUMBIA GAS TRAN
8413302		3407524168		103	107-TF	DAN M D YODER #1	BERLIN	10.0	COLUMBIA GAS TRAN
8413301		3407524153		103	107-TF	HENRY HERSHBERGER #1	BERLIN	10.0	COLUMBIA GAS TRAN
-LOMAK PETROLEUM INC				RECEIVED:	12/28/83	JA: OH			
8413304		3405520528		103		A FIRST #2	CLARIDON	30.0	
8413303		3405520524		103		B ARMSTRONG #2	CLARIDON	35.0	
8413305		3405520543		103		BENSON-HESS UNIT #1	CLARIDON	30.0	
8413309		3415520553		103		C BATES #2	MESOPOTAMIA	30.0	
8413310		3415522312		103		C BATES #3	MESOPOTAMIA	30.0	
8413308		3413323065		103	107-TF	KOTKOWSKI #1-L	SHALERSVILLE	12.0	
8413306		3411523154		103	107-TF	OHIO POWER #4-MD	BRISTOL	24.0	
8413307		3411523157		103		OHIO POWER #8-MD	BRISTOL	35.0	
-LUDCO INC				RECEIVED:	12/28/83	JA: OH			
8413311		3407322866		103		CARTER #1 34-073 2 2866	STARR	73.0	OHIO OIL GATHERIN
8413312		3407322871		103		MARTIN #1 34-073-2-2871 14	WASHINGTON	44.0	OHIO OIL GATHERIN
-M B OPERATING CO INC				RECEIVED:	12/28/83	JA: OH			
8413315		3415122977		103	107-RT	R & T SENFTEN UNIT #1	LAKE	127.8	REPUBLIC STEEL CO
-MARK RESOURCES CORP				RECEIVED:	12/28/83	JA: OH			
8413313		3408722348		103	107-TF	BLANK-PAGE-THOMASSON UNIT #1	KINGSVILLE	30.0	EAST OHIO GAS CO
8413314		3408722351		103	107-TF	PARKER-DRAULIS UNIT #1	KINGSVILLE	30.0	EAST OHIO GAS CO
-MORGAN-PENNINGTON INC				RECEIVED:	12/28/83	JA: OH			
8413318		3415321506		107-TF		CARPENTER #1	NORTON	18.3	EAST OHIO GAS CO
8413317		3415321505		107-TF		GEHO UNIT #1	NORTON	18.3	EAST OHIO GAS CO
8413316		3415321504		107-TF		SQUIRES #1	NORTON	18.3	EAST OHIO GAS CO
-NOBLE OIL CORP				RECEIVED:	12/28/83	JA: OH			
8413319		3413323003		107-TF		HILLEGAS #3	PALMYRA	20.0	GENERAL ELECTRIC
-NORTHEASTERN ENERGY				RECEIVED:	12/28/83	JA: OH			
8413320		3410323478		103	107-TF	KOONTZ WELL #2	WADSWORTH	20.0	EAST OHIO GAS CO
-OHIO OIL & GAS CO				RECEIVED:	12/28/83	JA: OH			
8413321		3415522348		107-TF		PRENTICE 3	FOWLER	20.0	COLUMBIA GAS TRAN
-OHIO PRODUCERS SERVICES INC				RECEIVED:	12/28/83	JA: OH			
8413322		3412726046		103		MARY E GABEL #1	HOPEWELL	4.0	NATIONAL GAS & OI
-OXFORD OIL CO				RECEIVED:	12/28/83	JA: OH			
8413334		3404520852		103		LANCASTER POULTRY #1	RICHLAND	10.0	
8413335		3411523177		107-TF		MCNEAL UNIT #1	YORK	10.0	
-PETRO EVALUATION SERVICES INC				RECEIVED:	12/28/83	JA: OH			
8413323		3408522890		103	107-TF	CAMP ROOSEVELT #1	PERRY	37.0	
-POI ENERGY INC				RECEIVED:	12/28/83	JA: OH			
8413325		3405520560		103	107-TF	C TAYLOR UNIT #GM-1	BAINBRIDGE	36.0	
8413324		3408722364		103	107-TF	MC CREADY #1	ANDOVER	30.0	
-RELIANCE ENERGY				RECEIVED:	12/28/83	JA: OH			
8413241		3408323379		103		LOUIS CLUTTER #1-B	HARRISON	3.0	COLUMBIA GAS TRAN
-SHONGUM OIL & GAS INC				RECEIVED:	12/28/83	JA: OH			
8413327		3416923625		103		FRED BUTCHER #2	DOYLESTOWN	0.0	
8413326		3410323206		107-TF		GEIG #1	DOYLESTOWN	0.0	
-SPARTA ENERGY CORP				RECEIVED:	12/28/83	JA: OH			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8413328		3400721878		103	107-TF	R WILKENS #1	NEW LYME	20.0	OHIO GAS CO
-STOCKER & SITLER INC				RECEIVED:	12/28/83	JA: OH			
8413329		3415723867		103	107-TF	DICKINSON UNIT #2	PERRY	12.0	PANHANDLE EASTERN
8413330		3415723868		103	107-TF	DICKINSON UNIT #3	PERRY	13.0	PANHANDLE EASTERN
-THE BENATTY CORPORATION				RECEIVED:	12/28/83	JA: [redacted]			
8413331		3411925224		103		W ANDERSON 21	MUSKINGUM	0.0	NATIONAL GAS & OI
-TIGER OIL INC				RECEIVED:	12/28/83	JA: OH			
8413336		3412123067		103	107-TF	HAYES UNIT #1	NOBLE	5.0	EAST OHIO GAS CO
-W E SHRIDER CO				RECEIVED:	12/28/83	JA: OH			
8413337		3408948120		103		JAMES GREEN #1	FALLSBURY	3.0	NATIONAL GAS & OI
-WILLIAMSFIELD SYNDICATE INC				RECEIVED:	12/28/83	JA: OH			
8413338		3400721875		103	107-TF	KUHN #W-1	WILLIAMSFIELD	25.0	
-ZINK PETROLEUM CORP				RECEIVED:	12/28/83	JA: OH			
8413339		3415723764		103	107-TF	CONDITION #3	UNION	10.0	M B OPERATING CO
**********									
OKLAHOMA CORPORATION COMMISSION									
**********									
-AMBASSADOR OIL CO				RECEIVED:	12/27/83	JA: OK			
8413402	25392	3513322287		103		REED #2-A		7.3	WELLHEAD ENTERPRI
-AMERICAN STAR ENERGY & MINERALS COR				RECEIVED:	12/27/83	JA: OK			
8413436	25206	3504321514		103		ROBINSON STAR #1	CANTON	32.4	PHILLIPS PETROLEU
-ANADARKO PRODUCTION COMPANY				RECEIVED:	12/27/83	JA: OK			
8413425	23298	3500722331		102-4		MATKIN B-1	EAST LORENA	73.0	PANHANDLE EASTERN
-ARCO OIL AND GAS COMPANY				RECEIVED:	12/27/83	JA: OK			
8413395	24011	3504938789		108		HALE MARRIS #1	GOLDEN TREND	7.3	WARREN PETROLEUM
-ARMSTRONG & MCLEOD CO				RECEIVED:	12/27/83	JA: OK		414.6	
8413445	22634	3510121669		102-2		SOLOMON #7			
-BENSON-MCCOWN & CO				RECEIVED:	12/27/83	JA: OK	ORLANDO	75.0	AMINOIL USA INC
8413401	25344	3510322003		103		HAGGARD #2			
-BRACKEN EXPLORATION CO				RECEIVED:	12/27/83	JA: OK	GRIGGS	11.0	PHILLIPS PETROLEU
8413439	24788	3502520549		103		MILLER #2-20			
-D & J OIL COMPANY				RECEIVED:	12/27/83	JA: OK	WEST CASHION	127.8	CONOCO INC
8413437	25261	3507323838		103		UNDERWOOD 1-14			
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	12/27/83	JA: OK	UNDESIGNATED	0.0	NONE (CONTRACT BE
8413432	23325	3504213878		102-2		RAYMOND TULLIS 1-33	RED FORK	0.0	
8413433	23326	3512920723		102-2		W L VANHOOK #1-34			
-EAGLE PETROLEUM CORP				RECEIVED:	12/27/83	JA: OK		1.2	EXXON CO USA
8413420	22933	3507323566		103		NELSON #2-18			
-EARTH ENERGY RESOURCES INC				RECEIVED:	12/27/83	JA: OK	WILDCAT	7.0	
8413419	22932	3511921618		102-4		HEADQUARTERS #1			
-EL PASO NATURAL GAS COMPANY				RECEIVED:	12/27/83	JA: OK	QUINLAN NW (CHESTER)	11.0	EL PASO NATURAL G
8413414	25439	3515320377		108		MCFEETERS #4			
-ENSERCH EXPLORATION INC				RECEIVED:	12/27/83	JA: OK	N E PUTNAM	292.0	MOBIL OIL CORP
8413440	24866	3504321734		103		IRENE GAMBREL #1-16			
-FRENCH PETROLEUM				RECEIVED:	12/27/83	JA: OK		145.0	PHILLIPS PETROLEU
8413413	25450	3509322738		103		EDWARD #1			
-GARNER-DIARAJ INC				RECEIVED:	12/27/83	JA: OK	NW HARRISBURG	0.0	GETTY CRUDE GATHE
8413421	22939	3513723256		103		GARNER #1-21			
-GEMARA OIL CO				RECEIVED:	12/27/83	JA: OK	WEST OAKMAN	395.0	ARKANSAS LOUISIAN
8413444	22608	3512322017		102-2		BROWN #1			
-GETTY OIL COMPANY				RECEIVED:	12/27/83	JA: OK	GUYMON-HUGOTON	9.1	NORTHWEST CENTRAL
8413399	25097	3513900000		108		J E WISE #1			
-GUIDON OIL & GAS CO INC				RECEIVED:	12/27/83	JA: OK	ROBINSON (S33 T29N R1	8.0	NORTHWEST CENTRAL
8413453	25316	3514700000		108		ROBINSON #1			
-H G & G INC				RECEIVED:	12/27/83	JA: OK		0.0	PHILLIPS PETROLEU
8413441	25010	3507323750		103		JOSLIN #1-30			
-HARPER OIL COMPANY				RECEIVED:	12/27/83	JA: OK	S LUCIEN	0.0	EASON OIL CO
8413394	25348	3508321267		103		JOHN #1		91.0	EXXON CORP
8413407	25409	3508322318		103		MARCELLA #1			
-HAZEN WILLIAM F				RECEIVED:	12/27/83	JA: OK	HAZEN	0.0	
8413447	22716	3514700000		102-2	103	HAZEN #1			
-HOLSHOUSER L W				RECEIVED:	12/27/83	JA: OK	NORTHEAST EDMOND	63.9	CHAMPLIN PETROLEU
8413415	25420	3510920719		103		OLSON #1			
-J WALTER DUNCAN JR				RECEIVED:	12/27/83	JA: OK	BINGER	3.7	PIONEER GAS PRODU
8413431	21672	3510521429		102-4		BOLES #1-14	BINGER	190.0	PIONEER GAS PRODU
8413430	21671	3501521392		102-4		WILLARD #1-3			
-JET OIL COMPANY				RECEIVED:	12/27/83	JA: OK	NORTH ELKHORN	0.0	EASON OIL CO
8413396	25425	3504723364		103		ANTHONY #[redacted]			
-JIM ASHLEY CO				RECEIVED:	12/27/83	JA: OK	KELLEYVILLE	73.0	COLORADO GAS COMP
8413448	22803	3503724554		102-2		MARZ #1			
-JONES & PELLOW OIL CO				RECEIVED:	12/27/83	JA: OK		455.0	NATURAL GAS PIPEL
8413423	23284	3515321326		102-4		BAKER #29-1		2.3	AMINOIL USA INC
8413424	23285	3508520620		102-3		WILSON #30-1			
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	12/27/83	JA: OK	ARMETT	386.9	
8413442	26639	3504521156		102-2		BERRYMAN #1-19	MORROW-SPRINGER	0.0	ARKANSAS LOUISIAN
8413452	25311	3505120717		108-PB		HURST #1			
-KELLOIL INC				RECEIVED:	12/27/83	JA: OK		28.0	PHILLIPS PETROLEU
8413451	25187	3513921597		103		TREECE #1			
-L E JONES PRODUCTION COMPANY				RECEIVED:	12/27/83	JA: OK		55.0	LONE STAR GAS CO
8413449	22938	3501922596		102-3		QUINTON #1			
-LADD PETROLEUM CORPORATION				RECEIVED:	12/27/83	JA: OK		4.4	TRANSOK PIPELINE
8413406	25407	3504320614		108		SCHAFER #A-2			
-LONG ROYALTY CO				RECEIVED:	12/27/83	JA: [redacted]			
8413392	25436	3503100000		103		PAUL TALIAFERRO #1-7	WILDCAT	0.0	
-MOBIL OIL CORP				RECEIVED:	12/27/83	JA: OK			
8413450	24833	3501900000		108		COUNTYLINE UT #2-1 AGATHA CREWS #1	SHO VEL TUM	0.1	OKLAHOMA NATURAL
-NATIONAL PETROLEUM CORP				RECEIVED:	12/27/83	JA: OK			
8413428	25112	3510523550		108		GREENFIELD #1	GREENFIELD (S34 T29N	12.0	NORTHWEST CENTRAL
8413418	25318	3510526183		108		GREENFIELD #3	GREENFIELD (S34 T29N	6.0	NORTHWEST CENTRAL
8413429	25317	3510526184		108		GREENFIELD #4		0.0	NORTHWEST CENTRAL
-O I L ENERGY INC				RECEIVED:	12/27/83	JA: OK			
8413446	22704	3501722420		102-2		PARKER #1-28	UNION CITY	1.0	PHILLIPS PETROLEU
-P A MCGINLEY & J R MCGINLEY JR				RECEIVED:	12/27/83	JA: OK			
8413434	23355	3514322250		102-2	103	GILBERT #1		70.0	
8413435	23356	3503724298		102-2	103	HINDS #1		70.0	
-PETRO-ENERGY EXPLORATION INC				RECEIVED:	12/27/83	JA: OK			
8413390	25432	3509322728		103		BROWN #1-18	SOUTHWEST FAIRVIEW	100.0	UNION TEXAS PETRO
-RED EAGLE OIL CO				RECEIVED:	12/27/83	JA: OK			
8413391	25435	3501121839		103		L C #1	N W OKEENE	182.0	PIONEER GAS PRODU
-REDGATE PETROLEUM INC				RECEIVED:	12/27/83	JA: OK			
8413393	25625	3515100000		108		W C OLSON #1-7	S W AVARD	14.0	PANHANDLE EASTERN
-ROBERT GORDON OIL CO				RECEIVED:	12/27/83	JA: OK			
8413422	23260	3510721559		102-4		SCHARDEIN #25-1	S WELEETKA	35.0	LINGAS CO
-SANTA FE-ANDOVER OIL CO				RECEIVED:	12/27/83	JA: OK			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8413411	25458	3510321990		103		AIGNER #1-1		50.0	AMINOIL USA INC
8413410	25459	3510321975		103		BAKER #29-1		50.0	AMINOIL USA INC
8413412	25456	3507323828		103		MEIER #9-1		130.0	PHILLIPS PETROLEU
8413409	25460	3501321980		103		NELSON #28-1		30.0	AMINOIL USA INC
8413389	25430	3507323801		103		SIMUNEK #33-3		150.0	PHILLIPS PETROLEU
8413408	25457	3507323804		103		SIMUNEK #33-4		140.0	PHILLIPS PETROLEU
-SILVER LAKE EXPLORATION				RECEIVED:	12/27/83	JA: OK			
8413417	25411	3510920711		103		WHITE FIELD #2		225.0	CHAMPLIN PETROLEU
-SRRAM OIL & GAS				RECEIVED:	12/27/83	JA: OK			
8413397	25427	3503700000		108		DORTHA RUSCO #1	NORTH SILVER CITY	7.3	ARCO OIL & GAS CO
8413398	25428	3503722416		108		DORTHA RUSCO 2A	NORTH SILVER CITY	5.8	ARCO OIL & GAS CO
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	12/27/83	JA: OK			
8413403	25395	3500722370		103		S BOYD EXT UNIT TR 14 #3	BOYD S	6.0	PHILLIPS PETROLEU
-TENNECO OIL COMPANY				RECEIVED:	12/27/83	JA: OK			
8413438	25295	3510321979		103		L SEIDS #A-3	SOUTH LONE ELM	2.0	
-TEXACO INC				RECEIVED:	12/27/83	JA: OK			
8413404	25396	3500722559		103		R G STICKLER #1	DOMBEY	137.0	K N ENERGY INC
-TEXCO PETROLEUM INC				RECEIVED:	12/27/83	JA: OK			
8413408	25320	3511124314		103		CUNNINGHAM #2	HECTOR	967.3	PHILLIPS PETROLEU
8413427	23349	3511124144		103		GOLDIE CROWELL #1	HECTORVILLE	54.8	PHILLIPS PETROLEU
8413426	23348	3511123894		103		JIM CROWELL #1	HECTORVILLE	120.7	PHILLIPS PETROLEU
-TXO PRODUCTION CORP				RECEIVED:	12/27/83	JA: OK			
8413416	25413	3504321763		103		DARLA #1	NW CANTON	0.0	
8413405	25401	3509322722		103		EDWARDS "B" #2	CHEYENNE VALLEY	8.0	DELHI GAS PIPELIN
-WORLDWIDE ENERGY CORPORATION				RECEIVED:	12/27/83	JA: OK			
8413443	21709	3500700000		108		BROWN 1-32	DOMBEY FIELD	22.0	KN ENERGY INC

[FR Doc. 84-2002 Filed 1-25-84; 8:45 am]

BILLING CODE 6717-01-C

[Vol. No. 1050]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: January 20, 1984.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
ISSUED JANUARY 20, 1984
VOLUME 1050

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION									
-KAN-EX INC				RECEIVED: 12/27/83		JA: KS			
8413456	K-83-0610	1515121284		102-4		ONSTOT #3	KAN-OPENER	18.0	KANSAS GAS SUPPLY
-LEBEN OIL CORP				RECEIVED: 12/27/83		JA: KS		0.0	KN ENERGY INC
8413455	K-80-0572	1514520222		108-PB		ROW #1			
UTAH DIVISION OF OIL,GAS, & MINING									
-COASTAL OIL & GAS CORP				RECEIVED: 12/30/83		JA: UT			
8413480	K-136-13	4304731268		103		NBU 213-36	NATURAL BUTTES UNIT	0.0	COLORADO INTERSTA
-THE ANSCHUTZ CORPORATION				RECEIVED: 12/30/83		JA: UT			
8413479	K-126-9	4304330225		102-2		CAVE CRREK #12-30	WILDCAT	900.0	NATURAL GAS PIPEL
WEST VIRGINIA DEPARTMENT OF MINES									
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED: 12/27/83		JA: WV			
8413457		4703300517		108-PB		J SLAW #11159	KENNEDY DIST	0.0	GENERAL SYSTEM PU
-PHILLIPS PETROLEUM COMPANY				RECEIVED: 12/16/83		JA: WV			
8413454		4706100311		108-PB		HARWORTH A #1	SOUTH BURNS CHAPEL	0.0	CONSOLIDATED GAS
DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, LOS ANGELES,CA									
-UNION OIL COMPANY OF CALIF				RECEIVED: 12/29/83		JA: CA 2			
8413459	OCS-P31-83	0431120557		102-5		SANTA CLARA UNIT WELL #S-27	CALIFORNIA OFFSHORE	0.0	PACIFIC LIGHTING
DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, ALBUQUERQUE,NM									
-AMOCO PRODUCTION CO				RECEIVED: 12/29/83		JA: NM 4			
8413510	NM-1635-83PB	3004520966		108-PB		A L ELLIOTT B#7	BLANCO	0.0	EL PASO NATURAL G
8413505	NM-1640-83PB	3004521014		108-PB		A L ELLIOTT C#3	BLANCO	0.0	EL PASO NATURAL G
8413511	NM-1634-83PB	3004509188		108-PB		E E ELLIOTT B#6	BLANCO	0.0	EL PASO NATURAL G
8413509	NM-1636-83PB	3004509193		108-PB		E E ELLIOTT B#7	BASIN	0.0	EL PASO NATURAL G
8413504	NM-1639-83PB	3004522303		108-PB		GUTIERREZ GAS COM #1A	BLANCO	0.0	EL PASO NATURAL G
8413508	NM-1637-83PB	3004522303		108-PB		GUTIERREZ GAS COM #1A	BLANCO	0.0	EL PASO NATURAL G
8413506	NM-1641-83PB	3004513237		108-PB		J C GORDON C#1	FULCHER KUTZ	0.0	EL PASO NATURAL G
8413501	NM-1632-83PB	3003906309		108-PB		JICARILLA APACHE A 118 #5	GAVILAN	0.0	EL PASO NATURAL G
8413500	NM-1631-83PB	3003906153		108-PB		JICARILLA CONTRACT 146 #12	OTERO	0.0	EL PASO NATURAL G
8413499	NM-1630-83PB	3003932337		108-PB		JICARILLA CONTRACT 148 #14	OTERO	0.0	EL PASO NATURAL G
8413498	NM-1629-83PB	3003905975		108-PB		JICARILLA CONTRACT 148 #16	OTERO	0.0	EL PASO NATURAL G
8413497	NM-1628-83PB	3003921999		108-PB		JICARILLA CONTRACT 148 #17	OTERO	0.0	EL PASO NATURAL G
8413503	NM-1638-83PB	3004524339		108-PB		SHANG GAS COM A #1	BLANCO	0.0	EL PASO NATURAL G
8413507	NM-1643-83PB	3004510387		108-PB		STANOLIND A#1	BLANCO	0.0	EL PASO NATURAL G
8413502	NM-1633-83PB	3004520978		108-PB		W D HEATH B #5	BLANCO	0.0	EL PASO NATURAL G
-DEPCO INC				RECEIVED: 12/29/83		JA: NM 4			
8413494	NM-1625-83PB	3003906632		108-PB		MKL #10	SOUTH BLANCO	0.0	EL PASO NATURAL G
8413493	NM-1624-83PB	3003906554		108-PB		MKL #11	BLANCO	0.0	EL PASO NATURAL G
8413495	NM-1623-83PB	3003906615		108-PB		MKL #13	SOUTH BLANCO	0.0	EL PASO NATURAL G

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8413496	NM-1622-83PB	3003906712		108-PB		MKL #14	SOUTH BLANCO	0.0	EL PASO NATURAL G
8413492	NM-1626-83PB	3003900000		108-PB		MKL #6	SOUTH BLANCO	0.0	EL PASO NATURAL G
-EL PASO NATURAL GAS COMPANY				RECEIVED:	12/29/83	JA: NM 4			
8413569	NM-1606-83PB	3004523285		108-PB		ATLANTIC #13	BLANCO	0.0	EL PASO NATURAL G
8413542	NM-1612-83PB	3004521162		108-PB		ATLANTIC C #7	BLANCO	0.0	EL PASO NATURAL G
8413588	NM-1614-83PB	3004509866		108-PB		BRUINGTON #3	AZTEC & BLANCO	0.0	EL PASO NATURAL G
8413536	NM19-83-ER	3004520789		108-ER		DAY A #13	BLANCO	0.0	EL PASO NATURAL G
8413552	NM-1646-83PB	3004521086		108-PB		HARDIE #11	BLANCO	0.0	EL PASO NATURAL G
8413553	NM-1647-83PB	3004521086		108-PB		HARDIE #11	BLANCO	0.0	EL PASO NATURAL G
8413535	NM-1643-83PB	3004521150		108-PB		HARDIE #12	BLANCO	0.0	EL PASO NATURAL G
8413567	NM-1608-83PB	3004520988		108-PB		HEATON #28	BLANCO	0.0	EL PASO NATURAL G
8413534	NM-1644-83PB	3004521036		108-PB		HUGHES #18	BLANCO	0.0	EL PASO NATURAL G
8413541	NM-1611-83PB	3003906379		108-PB		JICARILLA F #1	SOUTH BLANCO	0.0	EL PASO NATURAL G
8413577	NM-1666-83PB	3003906397		108-PB		JICARILLA G #7	SOUTH BLANCO	0.0	EL PASO NATURAL G
8413537	NM-1664-83PB	3003906528		108-PB		JICARILLA J #16	SOUTH BLANCO	0.0	EL PASO NATURAL G
8413540	NM-1618-83PB	3004507451		108-PB		JOHNSTON #4	AZTEC	0.0	EL PASO NATURAL G
8413543	NM-1617-83PB	3004521191		108-PB		JONES #4	BLANCO	0.0	EL PASO NATURAL G
8413559	NM-1603-83PB	3004521562		108-PB		LACKEY #9	OTERO	0.0	EL PASO NATURAL G
8413544	NM-1618-83PB	3004507258		108-PB		LACKEY B #9	AZTEC	0.0	EL PASO NATURAL G
8413545	NM-1619-83PB	3003922381		108-PB		LINDRITH UNIT #100	SOUTH BLANCO	0.0	EL PASO NATURAL G
8413568	NM-1607-83PB	3004509028		108-PB		LUDWICK #8	BLANCO	0.0	EL PASO NATURAL G
8413546	NM-1616-83PB	3004520848		108-PB		RIDDLE B #7	BLANCO	0.0	EL PASO NATURAL G
8413560	NM-1602-83PB	3004521156		108-PB		RIDDLE G #3	SOUTH BLANCO	0.0	EL PASO NATURAL G
8413551	NM-1645-83PB	3003906970		108-PB		RINCON UNIT #115 PC & MV	SOUTH BLANCO	0.0	EL PASO NATURAL G
8413572	NM-1658-83PB	3003906976		108-PB		RINCON UNIT #117	SOUTH BLANCO	0.0	EL PASO NATURAL G
8413571	NM-1660-83PB	3003906960		108-PB		RINCON UNIT #119	SOUTH BLANCO	0.0	EL PASO NATURAL G
8413555	NM-1650-83PB	3003906877		108-PB		RINCON UNIT #154	SOUTH BLANCO	0.0	EL PASO NATURAL G
8413538	NM-1620-83PB	3003920728		108-PB		RINCON UNIT #199	SOUTH BLANCO	0.0	EL PASO NATURAL G
8413570	NM-1605-83PB	3003907061		108-PB		RINCON UNIT #87	BLANCO & SOUTH BLANCO	0.0	EL PASO NATURAL G
8413554	NM-1648-83PB	3003960094		108-PB		RINCON UNIT #97 MV & PC	AZTEC	0.0	EL PASO NATURAL G
8413575	NM-1657-83PB	3004500000		108-PB		SAN JUAN #21	TAPACITO	0.0	EL PASO NATURAL G
8413550	NM-1654-83PB	3003921045		108-PB		SAN JUAN 27-4 UNIT #115	TAPACITO	0.0	EL PASO NATURAL G
8413562	NM-1676-83PB	3003920733		108-PB		SAN JUAN 27-4 UNIT #61	TAPACITO	0.0	EL PASO NATURAL G
8413563	NM-1675-83PB	3003920731		108-PB		SAN JUAN 27-4 UNIT #63	TAPACITO	0.0	EL PASO NATURAL G
8413565	NM-1673-83PB	3003920901		108-PB		SAN JUAN 27-4 UNIT #85	TAPACITO	0.0	EL PASO NATURAL G
8413561	NM-1677-83PB	3003920902		108-PB		SAN JUAN 27-4 UNIT #86	TAPACITO	0.0	EL PASO NATURAL G
8413548	NM-1652-83PB	3003920828		108-PB		SAN JUAN 27-4 UNIT #89	BLANCO	0.0	EL PASO NATURAL G
8413558	NM-1661-83PB	3003907012		108-PB		SAN JUAN 27-5 UNIT #10	SOUTH BLANCO	0.0	EL PASO NATURAL G
8413539	NM-1621-83PB	3003920646		108-PB		SAN JUAN 27-5 UNIT #160	BLANCO	0.0	EL PASO NATURAL G
8413549	NM-1653-83PB	3003907191		108-PB		SAN JUAN 27-5 UNIT #61	BLANCO	0.0	EL PASO NATURAL G
8413556	NM-1663-83PB	3003907432		108-PB		SAN JUAN 28-5 UNIT #31	SOUTH BLANCO	0.0	EL PASO NATURAL G
8413576	NM-1672-83PB	3003920603		108-PB		SAN JUAN 28-6 UNIT #174	BLANCO	0.0	EL PASO NATURAL G
8413564	NM-1674-83PB	3003920872		108-PB		SAN JUAN 28-6 UNIT #192	BLANCO	0.0	EL PASO NATURAL G
8413566	NM-1609-83PB	3003907125		108-PB		SAN JUAN 28-6 UNIT #24	BLANCO	0.0	EL PASO NATURAL G
8413573	NM-1656-83PB	3003907167		108-PB		SAN JUAN 28-6 UNIT #26	BLANCO	0.0	EL PASO NATURAL G
8413578	NM-1668-83PB	3003907308		108-PB		SAN JUAN 28-6 UNIT #8	SOUTH BLANCO	0.0	EL PASO NATURAL G
8413579	NM-1613-83PB	3003906906		108-PB		SAN JUAN 28-7 UNIT #123	SOUTH BLANCO	0.0	EL PASO NATURAL G
8413547	NM-1615-83PB	3003920502		108-PB		SAN JUAN 28-7 UNIT NP #161	LARGO & SOUTH BLANCO	0.0	EL PASO NATURAL G
8413533	NM-1604-83PB	3003920961		108-PB		SAN JUAN 28-7 UNIT #201	EAST BLANCO	0.0	EL PASO NATURAL G
8413557	NM-1662-83PB	3003907808		108-PB		SAN JUAN 30-6 UNIT #14	BLANCO	0.0	EL PASO NATURAL G
8413574	NM-1655-83PB	3003907992		108-PB		SAN JUAN 32-5 UNIT #7			
-GETTY OIL COMPANY				RECEIVED:	12/29/83	JA: NM 4			
8413528	NM-1036-83PB	3004506679		108-PB		CHARLEY PAH #1	SOUTH BLANCO	0.0	EL PASO NATURAL G
8413532	NM-1241-83PB	3004506679		108-PB		CHARLEY PAH #1	SOUTH BLANCO	0.0	EL PASO NATURAL G
8413529	NM-1056-83PB	3004506636		108-PB		CHARLEY PAH #4	SOUTH BLANCO	0.0	EL PASO NATURAL G
8413514	NM-1202-83PB	3004506459		108-PB		G R GENTLE #1	SOUTH BLANCO	0.0	EL PASO NATURAL G
8413521	NM-0827-83PB	3004506459		108-PB		G R GENTLE #1	SOUTH BLANCO	0.0	EL PASO NATURAL G
8413527	NM-1026-83PB	3004506459		108-PB		G R GENTLE #1	SOUTH BLANCO	0.0	EL PASO NATURAL G
8413515	NM-1236-83PB	3004506772		108-PB		J Q MARSHALL #1	SOUTH BLANCO	0.0	EL PASO NATURAL G
8413520	NM-0815-83PB	3003900000		108-PB		JICARILLA B #5	SOUTH BLANCO	0.0	EL PASO NATURAL G
8413523	NM-10-83-ER	3003905723		108-ER		JICARILLA B #5	SOUTH BLANCO	0.0	EL PASO NATURAL G
8413525	NM-0696-83PB	3003905723		108-PB		JICARILLA B #5	OTERO	0.0	EL PASO NATURAL G
8413518	NM-0775-83PB	3003905826		108-PB		JICARILLA C #24	OTERO	0.0	EL PASO NATURAL G
8413524	NM-0695-83PB	3003905826		108-PB		JICARILLA C #24	SOUTH BLANCO	0.0	EL PASO NATURAL G
8413522	NM-0825-83PB	3003905897		108-PB		JICARILLA C #3	SOUTH BLANCO	0.0	EL PASO NATURAL G
8413519	NM-0814-83PB	3003906480		108-PB		JOHN CHARLES #2	SOUTH BLANCO	0.0	EL PASO NATURAL G
8413526	NM-0697-83PB	3004506480		108-PB		JOHN CHARLES #2	SOUTH BLANCO	0.0	EL PASO NATURAL G
8413512	NM-1382-83PB	3004506452		108-PB		JOHN CHARLES #4	SOUTH BLANCO	0.0	NORTHWEST PIPELIN
8413487	NM-0813-83PB	3003905688		108-PB		L L MCCONNELL #3	SOUTH BLANCO	0.0	NORTHWEST PIPELIN
8413488	NM-1025-83PB	3003905688		108-PB		L L MCCONNELL #3	SOUTH BLANCO	0.0	EL PASO NATURAL G
8413513	NM-1383-83PB	3004506554		108-PB		MARSHALL A#2	SOUTH BLANCO	0.0	EL PASO NATURAL G
8413517	NM-1239-83PB	3004513247		108-PB		NEAH VICTORIA #1	SCUTH BLANCO	0.0	EL PASO NATURAL G
8413530	NM-1670-83PB	3004513247		108-PB		NEAH VICTORIA #1	SOUTH BLANCO	0.0	EL PASO NATURAL G
8413516	NM-1237-83PB	3004506876		108-PB		NEAH VICTORIA #2	SOUTH BLANCO	0.0	EL PASO NATURAL G
8413531	NM-1671-83PB	3004506876		108-PB		NEAH VICTORIA #2			
-HUSKY OIL COMPANY				RECEIVED:	12/29/83	JA: NM 4			
8413490	NM-1189-83PB	3004500000		108-PB		BOLACK #2-D	BASIN	0.0	EL PASO NATURAL G
8413491	NM-1188-83PB	3004500000		108-PB		BOLACK #4D	BASIN	0.0	EL PASO NATURAL G
8413489	NM-1190-83PB	3004500000		108-PB		SCHWERDTFEGER #2-D	WEST KUTZ CANYON DAKO	0.0	EL PASO NATURAL G
-LADD PETROLEUM CORPORATION				RECEIVED:	12/29/83	JA: NM 4			
8413483	NM-1296-83PB	3004509333		108-PB		BUTTE #1	BASIN	0.0	EL PASO NATURAL G
-MERRION OIL & GAS CORP				RECEIVED:	12/29/83	JA: NM 4			
8413485	NM-1651-83PB	3003922429		108-PB		EAST LINDRITH #7	SOUTH BLANCO	0.0	EL PASO NATURAL G
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	12/29/83	JA: NM 4			
8413486	NM-1195-83PB	3004511184		108-PB		SAN JUAN 32-8 UT 25	BLANCO	0.0	EL PASO NATURAL G
-R & G DRILLING CO				RECEIVED:	12/29/83	JA: NM 4			
8413482	NM-1627-83PB	3004506745		108-PB		GRAHAM #35	SOUTH BLANCO PICTURED	14.6	EL PASO NATURAL G
-SOUTHERN UNION EXPLORATION COMPANY				RECEIVED:	12/29/83	JA: NM 4			
8413481	NM-15-83-SA	3003906371		108-SA		JICARILLA "A" #6	TAPACITO PICTURE CLIF	5.0	GAS CO OF NEW MEX
-TENNECO OIL EXPLORATION AND PRODUCT				RECEIVED:	12/29/83	JA: NM 4			
8413484	NM-1284-83PB	3004506713		108-PB		RIDDLE 2 #1	BLANCO	0.0	EL PASO NATURAL G

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** DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, CASPER,WY

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-SOUTHLAND ROYALTY CO				RECEIVED:	12/28/83	JA: MT 5			
8413458	M-137-3	2507121744		108		FEDERAL 2862 #1	EAST LORING	2.8	KN ENERGY INC
-AMOCO PRODUCTION CO				RECEIVED:	12/29/83	JA: WY 5			
8413477	W646-2	4902320440		107-TF		SHUTE CREEK UNIT #10	SHUTE CREEK-FRONTIER	0.0	
8413478	W645-2	4902320440		103		SHUTE CREEK UNIT #10	SHUTE CREEK - FRONTIE	145.6	
-C & K PETROLEUM INC				RECEIVED:	12/29/83	JA: WY 5			
8413462	W706-2	4903722100		102-2		LINCOLN RD UNIT 12	LINCOLN RD	216.0	
-CELSIUS ENERGY CO				RECEIVED:	12/29/83	JA: WY 5			
8413461	W725-2	4903721511		103	107-TF	GRANGER WELL #1	BRUFF	165.0	MOUNTAIN FUEL SUP
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	12/29/83	JA: WY 5			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8413472	W710-2	4903722105		103		BRADY UNIT #34W	BRADY	2.1	MOUNTAIN FUEL SUP
8413471	W692-2	4903722134		103		DESERT SPRINGS #9A-R	DESERT SPRINGS	265.0	COLORADO INTERSTA
8413470	W760-2	4903721962		103		FEDERAL 23-26 CPC #1	TABLE ROCK FIELD	31.0	COLORADO INTERSTA
-CHEVRON U S A INC				RECEIVED: 12/29/83 JA: WY 5					
8413473	W670-2	4904120290		102-2		CHEVRON FEDERAL #1-8E	WHITNEY CANYON	1095.0	COLUMBIA GAS TRAN
-ENERGETICS INC				RECEIVED: 12/29/83 JA: WY 5					
8413474	W726-2	4903722142		102-2		FEDERAL 42-17	MONUMENT BUTTE IV UNI	175.0	COLORADO INTERSTA
8413475	W712-2	4903721660		102-2		LINCOLN ROAD UNIT #8	LINCOLN ROAD UNIT	120.0	COLORADO INTERSTA
8413476	W667-2	4903721660		103	107-TF	LINCOLN ROAD UNIT #8	LINCOLN ROAD UNIT	120.0	COLORADO INTERSTA
-FIRST ENERGY CORPORATION				RECEIVED: 12/29/83 JA: WY 5					
8413463	W812-2	4904120505		103		MARATHON FEDERAL 16-1	WILDCAT	150.0	MOUNTAIN FUEL SUP
8413464	W813-2	4904120505		102-2		MARATHON FEDERAL 16-1	WILDCAT	150.0	MOUNTAIN FUEL SUP
-HUSKY OIL COMPANY				RECEIVED: 12/29/83 JA: WY 5					
8413465	W801-2	4903722093		103		FEDERAL 11-11	SALT WELLS	225.0	MOUNTAIN FUEL SUP
-MOBIL OIL CORP				RECEIVED: 12/29/83 JA: WY 5					
8413460	W663-2	4903520522		103		FEDERAL GREENBERG T22-28G	TIP TOP	180.0	NORTHWEST PIPELIN
-NATURAL GAS CORPORATION OF CALIF				RECEIVED: 12/29/83 JA: WY 5					
8413467	W737-2	4902320510		107-TF		FONTENELLE 34-21E	FONTENELLE	270.0	PACIFIC GAS & ELE
8413466	W697-2	4902320512		103	107-TF	NGC #23-7-F	FONTENELLE	200.0	PACIFIC GAS TRANS
-TENNECO OIL COMPANY				RECEIVED: 12/29/83 JA: WY 5					
8413469	W769-2	4901920514		103	107-TF	GOVERNMENT UNIT 1-12	VERNE	100.0	NORTHWEST PIPELIN
8413468	W682-2	4903721907		107-TF		READING & BATES FEDERAL 1-18	BRUFF	30.0	NORTHWEST PIPELIN

[FR Doc. 84-2093 Filed 1-25-84; 8:45 am]

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January 26, 1984

Part VII

Environmental Protection Agency

40 CFR Part 52

New York State; Removal of Conditions on the Approval of the Implementation Plan; Final Rule

New York State; Approval and Promulgation of Implementation Plans; Revision; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. 15; A-2-FRL 2513-5]

Removal of Conditions on the Approval of the New York State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This document revokes two conditions on the Environmental Protection Agency's approval of the New York State Implementation Plan (SIP) for attainment of the sulfur dioxide national ambient air quality standard in the Niagara Frontier Air Quality Control Region (AQCR). With respect to the sulfur dioxide standard, this action fully approves the SIP as meeting the requirements of Part D of the Clean Air Act. It consequently lifts the moratorium on the construction or modification of major sources of sulfur dioxide which had been in effect in the Niagara Frontier AQCR until this time.

EFFECTIVE DATE: This action is effective on January 26, 1984.

ADDRESSES: A copy of the submittals from the New York State Department of Environmental Conservation are available for inspection during normal business hours at the following locations:

Environmental Protection Agency, Air Programs Branch, Room 1005, Region II Office, 26 Federal Plaza, New York, New York 10278.

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460.

Office of the Federal Register, Room 8401, 1100 L Street, NW., Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278, (212) 264-2517.

SUPPLEMENTARY INFORMATION:

On November 10, 1980 (45 FR 74472), the Environmental Protection Agency (EPA) conditionally approved revisions to the New York State Implementation Plan (SIP) for attainment of the national ambient air quality standards for sulfur dioxide in the Niagara Frontier Air Quality Control Region (AQCR). The conditions on EPA's approval were promulgated at 40 CFR 52.1674, "Part D—Conditions on Approval." These conditions, paragraphs 52.1674(g)(1) and 52.1674(g)(2), related to test procedures for determining compliance of coke making equipment and to the definition of coke oven batteries.

On June 24, 1983 (48 FR 29012), EPA published in the **Federal Register** the results of its review of two submittals from the State, dated March 23, 1981 and August 19, 1982. It was determined that these submittals adequately addressed the applicable conditions. The March 23, 1981 submittal consisted of an interim policy memorandum containing a procedure to be used to determine compliance with the State's coke oven gas standard. This submittal is being incorporated into the SIP by today's rulemaking action. The August 19, 1982 submittal consisted of a proposed revision to a New York regulation, 6 NYCRR 200, "General Provisions." This regulation was adopted by New York on April 7, 1983 and is being incorporated into the SIP in another rulemaking action which appears in today's issue of the **Federal Register**.

In its June 24, 1983 notice, EPA found that the two conditions were being met and proposed to revoke them. EPA received no comments on this proposed action and in today's notice is revoking the conditions.

The revoking of these conditions now provides full approval of the SIP for attainment of the sulfur dioxide standards in the Niagara Frontier AQCR as meeting the requirements of Part D of the Clean Air Act. Consequently, today's action also removes the limitation on the construction or modification of major sources of sulfur dioxide in the AQCR. This limitation had been in effect as a result of the provisions of Section 110(a)(2)(I) of the Clean Air Act, which imposes such limitations for areas which do not have in effect a SIP which meets the requirements of Part D, and as a result of a June 16, 1982 decision by the U.S. Court of Appeals for the Second Circuit. The Court indicated in *Council of Commuter Organizations vs. Gorsuch*, 672 F. 2d 998 (2d. Cir. 1982) that the construction moratorium required under Section 110(a)(2)(I) must remain in effect until a state satisfies all conditions imposed by EPA on approval of a SIP.

This action is being made immediately effective because it imposes no hardship on any affected sources, and no purpose would be served by delaying its effective date.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the U.S. Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of the Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, and Hydrocarbons Incorporation by reference.

Dated: January 19, 1984.

William D. Ruckelshaus,

Administrator, Environmental Protection Agency.

(Secs. 110, 172, and 301, Clean Air Act, as amended (42 U.S.C. 7410, 7502, and 7601))

Note.—Incorporation by reference of the Implementation Plan for the State of New York was approved by the Director of the Federal Register on July 1, 1982.

PART 52—[AMENDED]

Title 40, Chapter I, Subchapter C, Part 52 Code of the Federal Regulations is amended as follows:

Subpart HH—New York

1. Section 52.1670 is amended by adding new paragraph (c)(67) as follows:

§ 52.1670 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(67) A March 23, 1981, letter from the New York State Department of Environmental Conservation including an interim policy memorandum detailing procedures to be used by the State to determine compliance with the State's emission standard for coke oven gas.

§ 52.1674 [Amended]

2. Section 52.1674 is amended by removing and reserving paragraph (g) in its entirety.

[FR Doc. 84-2163 Filed 1-25-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[Region II Docket No. 17; A-2-FRL 2513-6]

Approval and Promulgation of Implementation Plans; Revision to the State of New York Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This document announces that the Environmental Protection Agency (EPA) is approving a request from New York to revise its State Implementation Plan (SIP) to include several State regulations for the control of volatile organic compounds from stationary sources of air pollution. As a result of the approval of one of these regulations, this notice also announces the fulfillment of a condition pertaining to the control of cutback asphalt which EPA had placed on its earlier approval of the New York SIP. The fulfillment of this condition has the effect of lifting an existing moratorium on the construction or modification of major sources of volatile organic compounds which has been in effect in the Central New York, Genesse-Finger Lakes, Hudson Valley, and Niagara Frontier Air Quality Control Regions.

EFFECTIVE DATE: This action is effective on January 26, 1984.

ADDRESSES: A copy of the State regulations is available for inspection during normal business hours at the following locations:

Environmental Protection Agency, Air Programs Branch, Room 1005, Region II Office, 26 Federal Plaza, New York, New York 10278.

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460.

Office of the Federal Register, Room 8401, 1100 L Street, NW., Washington, D.C. 20408.

No comments were received during the comment period established by EPA's notice of proposed rulemaking on this action.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 26 Federal Plaza, Room 1005, New York, New York 10278, (212) 264–2517.

SUPPLEMENTARY INFORMATION:

Background

For areas designated under Section 107(d) of the Clean Air Act as not attaining the national ambient air quality standard for ozone, Environmental Protection Agency (EPA) regulations (e.g., 44 FR 20372, April 4, 1979) require that State Implementation Plans (SIPs) contain regulations providing for the application of reasonably available control technology (RACT) to certain sources of volatile organic compound (VOC) emissions. Such sources are those which fall into categories for which EPA has published a Control Technique Guideline (CTG) document. Today's action deals with regulations adopted by New York State to provide control of a majority of the source categories addressed by the "Group II" CTG documents. It also deals with a regulation which provides for the control of a "Group I" source category, cutback asphalt.

EPA proposed approval of these regulations, which were in draft form, on February 3, 1983 (48 FR 5137). At that time it was indicated that final approval would be based on the draft regulations being adopted in final form without substantive change. The reader is referred to EPA's February 3, 1983 proposal for a detailed description of the draft regulations; changes made to the draft regulations are discussed in today's notice. The adequacy of the State's program to control "Group II" source categories not addressed by today's notice and to provide for attainment of the ozone air quality standard in the New York City metropolitan area will be discussed in a future notice.

State Submission

On July 25, 1983, the State submitted to EPA adopted additions to and revisions of Title 6 of the New York Code of Rules and Regulations (6 NYCRR) affecting the following Parts:

- Part 200, "General Provisions,"
- Part 211, "General Prohibitions," which addresses cutback asphalt,
- Part 212, "Processes and Exhaust and/or Ventilation Systems," which addresses general emission source requirements,
- Part 223, "Petroleum Refineries," which addresses fugitive emissions (leaks) from refineries,
- Part 228, "Surface Coating Processes," which addresses factory surface coating of flatwood paneling and surface coating of miscellaneous metal parts and products,
- Part 232, "Dry Cleaning," which addresses perchloroethylene dry cleaning, and
- Part 234, "Graphic Arts," which addresses graphic arts, rotogravure and flexography printing.

In addition, the following two regulations were submitted by the State on July 2, 1981:

- Part 201, "Permits and Certificates," which addresses requirements for State permits to construct and certificates to operate, and
- Part 233, "Pharmaceutical Manufacturing Processes," which addresses the manufacture of synthesized pharmaceutical products.

New York also submitted a Consent Order dated August 19, 1981 for the only rubber tire manufacturing facility in the State which is covered by a CTG. This Order was revised on January 29, 1982 and March 3, 1982 and these revisions were also submitted by the State.

In addition, EPA also received from the State two letters explaining its position on redesignation and its definition of "maximum operating heat input." These were dated November 13, 1981 and April 27, 1983, respectively.

Public Comments

No comments were received by EPA during the comment period established by its February 3, 1983 proposal.

Findings

With the exception of Parts 200 and 211, the regulations submitted by the State were adopted in the same form as those proposed for approval in EPA's February 3, 1983 **Federal Register** notice and, consequently, are being finally approved today. Parts 200 and 211 can also be finally approved. However, as compared to their draft forms, these regulations were changed as follows:

Part 200—General Provisions

In the adopted regulation, the State inadvertently deleted the last sentence from the definition of "maximum operating heat input." While this does not bear on the control of VOCs, the deletion could affect the clarity of the Code's operating limits for stationary combustion units. In a letter dated April 27, 1983, the State committed to reinsert the deleted sentence when Part 200 is again revised. EPA is satisfied with this commitment and is approving Part 200.

In addition, by approving Part 200 and specifically the definition for "by-product coke oven battery" [Part 200.1(j)], EPA can revoke a condition it promulgated at 40 CFR 52.1674(g)(2). The condition is being revoked in another rulemaking action which appears in today's issue of the **Federal Register**.

Part 211—General Prohibitions

As a result of comments received during the State's hearing on Part 211, the State changed the form of the exemption contained in § 211.4(d). This proposed exemption allowed asphalt emulsions to have a VOC content of up to 7 percent. The revised exemption now designates the maximum VOC content for only those asphalt emulsions, as specified by their American Society for Testing and Materials (ASTM) grade, which might need to contain VOCs in order to obtain properties required for their use. The exempted grades of emulsified asphalt and their maximum VOC content are contained in Table 1. The provisions of Part 211 prohibit all the remaining nonexempt asphalt paving

mixtures from containing any VOCs. EPA has reviewed this change and is satisfied that it conforms to EPA guidance.

TABLE 1. EXEMPTED GRADES OF EMULSIFIED ASPHALT AND THEIR MAXIMUM VOC CONTENT

ASTM grade	Maximum VOC content (percent)
RS-1, SS-1, SS-1h, CSS-1, CSS-1h	2
RS-2, CRS-1, CRS-2, HFRS-2, HFMS-2h	3
MS-2, HFMS-2	10
CMS-2, CMS-2h	12

No comments were received on EPA's proposed approval of the previous exemption. Since this change resulted from public comment and is consistent with EPA guidance, Part 211 is being approved.

It should be noted that the adopted regulation also fulfills a condition (40 CFR 52.1674(a)(1)) that EPA had placed on its approval of the New York SIP. This fact is discussed in detail later in today's notice under the heading, "Construction Moratorium."

Perchloroethylene (Part 232—Dry Cleaning)

The State had adopted and submitted to EPA Part 232, "Dry Cleaning," which controls the emissions of perchloroethylene from dry cleaning operations. However, in its February 3, 1983 proposal EPA indicated that is was not taking action to propose approval of this regulation pending the completion of certain technical studies. Therefore, at this time, EPA is not approving Part 232.

Consent Order—Rubber Tire Manufacturing

The State chose to regulate its only rubber tire manufacturing source, Dunlop Tire and Rubber Corporation located in Buffalo, New York, through the use of an individually determined control program based on Part 212 requirements. EPA is approving this control program as formalized in the Consent Order dated August 19, 1981 and subsequently modified on January 29, 1982 and March 3, 1982 for this source. It should be noted, however, that if a new rubber tire manufacturing source locates in the State or if the existing source installs new manufacturing lines, the source will need to meet requirements associated with New Source Performance Standards or RACT, as appropriate. RACT will need to be determined for any new source at that time and might be different from the controls required by the Consent Order being approved today.

Applicability of Regulations

The regulations adopted by the State have applicability in all ozone nonattainment areas in the State with regard to sources with potential VOC emissions exceeding 100 tons per year. However, for the New York City metropolitan area (New York City, and Nassau, Suffolk, Rockland and Westchester Counties), where the State has not demonstrated attainment of the ozone standard by December 31, 1982, the regulations also apply to smaller sources. This approach is consistent with EPA policy and guidance.

EPA has on occasion expressed concern that the State's use of the term "nonattainment areas" in determining the applicability of its VOC regulations was ambiguous. If an area were to be redesignated from "nonattainment" to "attainment," it was not clear whether the redesignation relieved sources from the need to comply with the regulations. EPA interprets the term "nonattainment areas" as referring to those areas that were not in attainment when the regulations were adopted by the State. Subsequent redesignation of a non-attainment area would not relieve a source of the need to comply with the otherwise applicable regulations.

In a letter dated November 13, 1981, the State concurred with this interpretation that continued control of emissions is necessary to maintain acceptable air quality. It further states that the dismantling of controls would be an illegal action in direct violation of the State's existing regulations and of the SIP. EPA is satisfied that any future redesignation will not relieve sources from the need to comply with applicable VOC regulations required to attain and maintain the ozone air quality standard.

Compliance Dates

• Final Compliance Date for "Group I" CTG Sources.

In its process of revising Part 228, "Surface Coating Processes," the State deleted reference to the dates when sources in the following "Group I" CTG source categories were required to comply with the provisions of the regulation:

• Large Appliance Coating Lines,
• Magnet Wire Insulation Coating Lines,
• Metal Furniture Coating Lines,
• Metal Can Coating Lines,
• Fabric Coating Lines,
• Vinyl Coating Lines,
• Paper Coating Lines,
• Automobile Assembly Coating Lines, and
• Coil Coating Lines.

This was done because the dates had already passed or would soon do so. The State also believed that most sources were in compliance, or on an approved compliance schedule, and that compliance schedules were not necessary.

However, in its oversight capacity of enforcing state regulations when necessary, EPA requires the specification of an enforceable final compliance date. Therefore, in order to clarify this situation, EPA intends to use the final compliance dates which were originally contained in § 228.1, "Applicability and Compliance," effective August 23, 1979, if federal enforcement action is necessary. Therefore, the SIP, as identified in 40 CFR 52.1670 and 52.1679, will still retain § 228.1, "Applicability and Compliance," effective August 23, 1979 for the "Group I" CTG source categories identified earlier. The new § 228.1, "Applicability and Compliance," effective August 11, 1983 will apply to all "Group II" CTG source categories.

• Compliance Extensions.

The State has included a provision in Part 228 to allow the Commissioner to extend final compliance dates under certain circumstances. These circumstances involve technological or economic considerations. However, it should be noted that EPA will not honor any compliance date extensions which are not submitted and approved as SIP revisions. Approval will be based on the effect of the proposed compliance schedule on air quality and on the ability of the facility to comply with the regulation.

Alternative Requirements

The State has included provisions in various regulations (such as § 212.7(b) and § 223.10(g)) which allow for the Commissioner to specify alternative requirements when a facility is unable to comply with the specific requirements contained in the regulation. The source must demonstrate that technological and/or economic reasons justify an alternative requirement and that the new requirement provides for RACT for the specific facility. EPA, however, will not recognize any variance or alternate requirement until it is submitted and approved as a SIP revision. Approval will be based on the effect of the proposed requirements on air quality and on the ability of a facility to comply with the existing regulation.

Construction Moratorium

Today's approval of Part 211 enables EPA to revoke a condition which it

placed on its earlier approval of the SIP for attainment of the ozone standard in the following Air Quality Control Regions (AQCRs):

- Niagara Frontier,
- Genesee-Finger Lakes,
- Central New York,
- Hudson Valley, and
- New Jersey-New York-Connecticut.

This condition, which was promulgated at 40 CFR 52.1674(a)(1), related to the requirement that the SIP contain a regulation to provide for RACT on cutback asphalt emissions. With the exception of the New Jersey-New York-Connecticut AQCR, the revoking of this condition now makes the New York SIP for attainment of the ozone standard fully approved as meeting the requirements of Part D of the Clean Air Act.

The revoking of this condition also removes the limitation on the construction or modification of major sources of VOCs in the Genesee-Finger Lakes, Central New York, Niagara Frontier and Hudson Valley AQCRs. This limitation resulted from the provisions of Section 110(a)(2)(I) of the Clean Air Act, which imposes such limitations for areas which do not have in effect a SIP which meets the requirements of Part D and as a result of a June 16, 1982 decision by the U.S. Court of Appeals for the Second Circuit. The Court indicated in *Connecticut Fund for the Environment, Inc.* v. *EPA*, 672 F.2d 998 (2d. Cir. 1982), that the construction moratorium must remain in effect until a state satisfies all conditions imposed by EPA on approval of its SIP.

Conclusion

Based on EPA's review of the material submittted, EPA is approving the SIP revision submittals discussed in today's notice and is deleting the condition on approval of the New York SIP found at 40 CFR 52.1674(a)(1).

Today's action is being made effective immediately since the regulations being approved are already in effect under New York State law and EPA approval imposes no additional regulatory burden. EPA is also responsible under the Clean Air Act to take final action as expeditiously as practicable on SIP revision requests and no purpose would be served by delay.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of the Executive Order 12291.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the U.S. Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Incorporation by reference.

(Secs. 110, 172, and 301, Clean Air Act, as amended [42 U.S.C. 7410, 7502, and 7601]).

Note.—Incorporation by reference of the Implementation Plant for the State of New York was approved by the Director of the Federal Register on July 1, 1982.

Dated: January 19, 1984.

William D. Ruckelshaus,

Administrator, Environmental Protection Agency.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40, Chapter I, Subchapter C, Part 52, Code of Federal Regulations is amended as follows:

Subpart HH—New York

1. Section 52.1670 paragraph (c) is amended by adding new paragraph (c)(68) as follows:

§ 52.1670 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(68) Regulatory information submitted by New York State Department of Environmental Conservation for controlling volatile organic compounds, dated:

(i) July 2, 1981, providing a comprehensive set of adopted regulations.

(ii) August 19, 1981, Consent Order, 81–36, 9–04.20, with Dunlop Tire and Rubber Corporation for control of volatile organic compounds.

(A) Amendment of Consent Order dated January 29, 1982.

(B) Amendment of Consent Order dated March 3, 1982.

(iii) July 25, 1983, providing final regulations to be incorporated into Title 6 of the New York Code of Rules and Regulations.

(iv) November 13, 1981 letter from Harry Hovey, Director of Air Division, New York State Department of Environmental Conservation concerning applicability of regulations in redesignated AQCR's.

(v) April 27, 1983 letter from Harry Hovey, Director of Air Division, New York State Department of Environmental Conservation concerning maximum operating heat input.

§ 52.1674 [Amended]

2. Section 52.1674 is amended by removing and reserving paragraph (a) in its entirety.

3. Section 52.1679 is amended by revising the entries for Parts 200, 201, 211, 212, 223, and 228 and adding new entries for Parts 233 and 234 to the Table in numerical order as follows:

§ 52.1679 EPA-approved New York State Regulations.

New York State regulation	State effective date	Latest EPA approval date	Comments
Part 200, General Provisions	Apr. 7, 1983	[Date and Citation of this notice].	The maximum operating heat input (200.1 (gg)) will be as specified on a permit to construct or certificate to operate as per letter of Apr. 27, 1983 from H. Hovey, NYSDEC Redesignation of nonattainment areas to attainment areas (200.1 (kk)) does not relieve a source from compliance with previously applicable requirements as per letter of Nov. 13, 1981 from H. Hovey, NYS–DEC.
Part 201, Permits and Certificates	May 10, 1981	do	
*	*	*	* * *
Part 211, General Prohibitions	Aug. 11, 1983	[Date and Citation of this notice].	
Part 212, Processes and Exhaust and/or Ventilation Systems.	do	do	
*	*	*	* * *
Part 223, Petroleum Refineries	Apr. 7, 1983	[Date and Citation of this notice].	

New York State regulation	State effective date	Latest EPA approval date	Comments
.	.	.	.
Part 228, Surface Coating Processes:			
228.1 Applicability and Compliance	Aug 23, 1979	Nov. 10, 1980, 45 FR 74472	Group I CTG sources are subject to final compliance dates as they appear in Section 228.1, effective Aug. 23, 1979.
228.1–228.8	Aug 11, 1983	[Date and Citation of this notice].	
.	.	.	.
Part 233, Pharmaceutical Manufacturing Processes	May 10, 1981	[Date and Citation of this notice].	
Part 234, Graphic Arts	Apr. 7, 1983	do	

[FR Doc. 84–2162 Filed 1–25–84; 8:45 am]

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